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PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, SECOND SESSION

SENATE—*Thursday, February 19, 1976*

The Senate met at 10 a.m. and was called to order by Hon. JESSE HELMS, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God who in quietness dost speak to listening hearts, enter our hearts with Thy love and grace that we may fitly serve Thee. May all who here speak and act for the people be patient in deliberation, fair in debate, charitable in judgment, and slow to wrath. At this our daily altar of prayer we would consecrate to Thee all that we are and all that we have—the faculties of our mind, the energy of our bodies, our emotions, and our wills, in Thy service.

As we pray for all who labor in this place, so also we beseech Thee to uphold the President in all his righteous endeavors and all others in the Government of this Nation.

In our private lives, and in our public service, help us this and every day to live more nearly as we pray.

We ask it in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U. S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 19, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JESSE HELMS, a Senator from the State of North Carolina, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. HELMS thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, February 18, 1976, be dispensed with.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HUGH SCOTT. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order the Senator from Kentucky (Mr. FORD) is recognized.

Mr. MANSFIELD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I have received word within the past several minutes that the distinguished Senator from Kentucky (Mr. FORD) will not use his time period this morning. So I ask unanimous consent that that time period be vitiated, or, if the distinguished Senator from North Carolina needs more time, that that time be used by him.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I also ask unanimous consent that the distinguished Senator from North Carolina (Mr. HELMS) be allowed to proceed at this time. Mr. HUDDLESTON, who was supposed to follow Mr. FORD, is on his way and will not be here for a few minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. But I ask that the Senator from North Carolina be allowed to complete his remarks.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair and, of course, I thank the distinguished majority leader.

ANNOUNCEMENT OF INTENT TO OBJECT TO COMMITTEE MEETINGS DURING SENATE SESSION

Mr. HELMS. Mr. President, as the distinguished majority leader and other Senators are aware, it is my intent, as of this moment, to object to any unanimous-consent request that Senate committees and subcommittees be allowed to meet today while the Senate is considering pending business. The circumstances may change, and I hope they will. In any event, such a unanimous-consent request has not yet been made, so the question is academic for the time being.

Mr. MANSFIELD. Does the Senator mean all committees?

Mr. HELMS. We will cross that bridge when we get to it. I hope, as I say, that the circumstances will change, and that there will not be any need for me to object.

Mr. MANSFIELD. All right.

Mr. HELMS. Actually I have interest in only one subcommittee.

Mr. MANSFIELD. The Senator said several committees, so there are others?

Mr. HELMS. As I say, I really am interested in only one subcommittee, I say to the distinguished Senator.

Of course, I am aware that any such prohibition would be effective only following the conclusion of morning business—that is to say, as matters now stand, at approximately 12 noon. Frankly, it is reduced, in large part, to a gesture; but I think it is a gesture that has some appreciable meaning. With the indulgence of the distinguished Presiding Officer and other Senators in the Chamber, I should like to elaborate a bit, so that my colleagues can have in the RECORD a somewhat more substantial appreciation of the meaning. I should like, if I may, to take a few minutes of the Senate's time to explain the circumstances that led to this unusual decision on my part.

I do not recall that I ever before have objected to committees meeting, because I take seriously the work of the Senate, and I do not relish having any action of mine being interpreted as obstructionism.

In the estimation of the Senator from North Carolina, there are a number of regrettable circumstances in a matter which is of considerable concern to this Senator. No doubt, these circumstances which I shall discuss arose inadvertently; and I am confident that the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from Colorado (Mr. GARY HART) were not aware of the situation. I say this because I respect these able Senators, and I am confident that they do not want in any way to abrogate the high standards of senatorial courtesy.

Mr. President, that is why, frankly, I do not understand why so much confusion and indecisiveness and delay surrounded a very simple request filed by the Senator from North Carolina with the Subcommittee on Health of the Committee on Labor and Public Welfare. The requests of a number of other Senators similarly to appear before the Subcommittee on Health this morning, so that they could present testimony respecting Senate bill 2902, until yesterday afternoon, had been rejected by staff members of that subcommittee.

Substantially in advance of the hearings on S. 2902—it was on February 5, to be exact—a request was tendered by the Senator from North Carolina and his associates, by telephone, to the Subcommittee on Health, to be allowed to appear on the first day of the hearings to present testimony. Of course, being aware of the customs and traditions of the Senate, I assumed that the subcommittee would see fit to accommodate this request.

Let me emphasize that I had not intended at any time to take very much of the subcommittee's time. As a matter of fact, it had been my intent to talk only a couple of minutes and file a written statement—no more than that. Therefore, it is obvious that I was planning to make a special effort to keep my testimony brief, asking only that certain additional material be inserted in the hearing record.

I come from a tobacco-producing State, and I felt an obligation to appear. At the same time, I am fully aware that there are many demands upon the time of Senators, and I am interested in there being equal opportunity for witnesses to testify on both sides of S. 2902.

The Senator from North Carolina has never sought an unfair advantage over and above the rights of any other Senator, and never will. But the Senator from North Carolina feels that he has an obligation to see that the rights of his people are duly protected and their story properly heard.

Moreover, Mr. President, I felt confident that the distinguished members of the subcommittee would be interested in hearing the testimony of witnesses on both sides of the question raised by the proposed legislation to which I refer, S. 2902. So the Senator from North Carolina felt that there must be some confusion, as he still believes there may have been some confusion.

Nonetheless, on February 12, a full week prior to the date of the hearings, I sent a formal letter to the distinguished chairman of the Subcommittee on Health, explaining that I had been advised that the staff of the subcommittee had disallowed my request to appear on February 19—that is to say, this morning—the first day of scheduled hearings on S. 2902. I indicated in my letter that I was concerned about the subcommittee staff denial of a Senator's request; because while I was certain that it was not intended, there nevertheless appeared to be a possibility that the public impression of these hearings might not be one of complete objectivity.

I do not know what the circumstances are at those hearings this morning, which are now going on. I cannot be two places at once. I assume that the television cameras are there, as are the newspaper reporters and that blanket condemnations of tobacco are being uttered.

In any case, Mr. President, continuing to refer to the letter that I wrote to the distinguished chairman of the subcommittee, the able Senator from Massachusetts (Mr. KENNEDY), I suggested to him that if I were not allowed to appear on the first day of the hearings, that would be all right; that he pick two Democratic Senators from tobacco-producing States. I specifically suggested the distinguished Senators from Kentucky (Mr. HUDDLESTON and Mr. FORD).

Mr. President, I seek only fairness—free speech, actually—for the tobacco economy of my State and other States. I had no particular personal interest in appearing. I just wanted our side of the story told—by somebody—on the first day of hearings, when the television cameras are grinding and when the newspaper reporters are taking it all down—not wait 7, 10, 14, or 21 days later and say, "Oh, by the way, here are some folks who do not like our bill."

Mr. President, I ask unanimous consent that a copy of my letter of February 12, 1976, be printed in the RECORD at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., February 12, 1976.

Hon. EDWARD M. KENNEDY,
Russell Office Building,
Washington, D.C.

DEAR SENATOR: I have been advised that the staff of your subcommittee which will be holding hearings on S. 2902 has disallowed my request to appear on the first day of the scheduled hearings, February 19.

Frankly, this gives me some concern because, while I am certain that you do not intend it, there nevertheless appears to be a possibility that the public impression of the hearings may not be one of complete objectivity.

I am perfectly content that you and Senator Hart of Colorado, co-sponsors of S. 2902, will have an opportunity to express your own views in opposition to tobacco. But I do hope that you will also provide an opportunity, on the first day of hearings, for an equivalent opportunity by Senators who do not share your views. If I am not to be allowed to appear, then I suggest that Senators Huddleston and Ford be granted such time.

With such a balance on the opening day of hearings, there could be no subsequent suggestion of bias in the subcommittee's approach, and your courtesy to your colleagues in this matter would be both recognized and appreciated.

Your subcommittee staff also advised that "scientists from both sides" will appear at the hearings on February 19. It would be extremely helpful if I could be supplied with the names of these witnesses at the earliest possible time. Again, I have full confidence in your desire that the substance of S. 2902 have the assessment of distinguished scientists on both sides of this issue. I am prepared to supply the subcommittee staff, or to your own good self, a list of prominent scientists who may disagree with the premise of S. 2902.

In the interest of objectivity, I hope you will agree that it would be proper for two or three such scientists to testify on the opening day of the hearings in rotation with scientists on the other side of the issue.

With that in mind, I make the formal and respectful request (1) that two Senators from tobacco-producing states be permitted to appear on the opening day of hearings to balance the appearance by you and Senator Hart, and (2) that testimony be taken on opening day from scientists in the manner stated above.

With every good wish, I am
Sincerely,
JESSE HELMS.

Mr. HELMS. It may be that changes have been made as a result of protests lodged by the Senator from North Carolina and others. It may be that the subcommittee has changed its mind. I hope it has, and I hope that Mr. FORD and Mr. HUDDLESTON, the Senators from Kentucky, may be testifying at this moment. I do not know that they are. Last night, I asked them to be ready, just in case there was a change of heart by the subcommittee.

I have just had a note handed to me which indicates that the subcommittee has indeed changed its mind at the last minute. If so, Mr. President, that proves the point I am trying to make, and I am grateful to the subcommittee.

The Senator from North Carolina certainly feels that both his able colleagues from Kentucky and my distinguished colleague from North Carolina (Mr. MORGAN) are eminently capable of providing useful and very pertinent testimony respecting this bill. If they are indeed testifying at this moment, if the subcommittee has shifted from the rather obtuse position created by its staff members, all well and good. In any case, the Senator from North Carolina did not draw any particular inference from the denial of his own request to testify personally. I simply asked by letter, on February 12, that some Senators—I really did not care which ones—some Senators representing the position shared by the Senator from North Carolina with respect to S. 2902 be allowed to testify.

However, Mr. President, that letter went unanswered until about 4:30 yesterday afternoon, when a subcommittee staff member called my office. I was in the Senate Chamber at the time. As the distinguished majority leader, I believe, will acknowledge, I spend a great deal of time on the floor of the Senate.

Mr. MANSFIELD. Yes, indeed.

Mr. HELMS. I cannot be in two places at one time.

No call was placed to me on the Senate floor. I still have not had one syllable of response from the distinguished chairman of the subcommittee. All I have received is a runaround from a staff member. If the distinguished Presiding Officer perceives that I may be a little bit disturbed about this, he is absolutely correct in his perception.

Mr. President, I have no desire to consume the Senate's time on this matter.

But, Mr. President, my letter went unanswered until, finally, at about 4:30 yesterday evening, a subcommittee staff member called my office. I was on the Senate floor at the time, as I mentioned earlier. But my administrative assistant took the call. He was advised that if I wanted to testify in today's hearings, I should respond to that staff person as soon as possible. Of course, by then the hearings were only hours away.

My administrative assistant tried to reach me as soon as he could, but, of course, some time did pass. When I did receive the message, I frankly did not understand the confusion or the reason for such a call at that late hour when the hearings were to begin the following morning.

I had repeatedly asked to be allowed to appear—or, in the alternative for other Senators of like persuasion to be allowed to appear. I had done so early—well in advance of the scheduled date of the hearings. All that was really needed was a "yes" or a "no." Had someone wished to extend a further courtesy by way of explanation for the delay or the reason for the denial of my request, I would have appreciated their kindness and consideration, but I certainly did not require a lengthy response. I simply needed to know their decision. And, my staff needed to know their decision so that my schedule could be planned—not that I am any busier, or that my time is any more valuable than anyone else's—but it simply is a convenience not only for me, but for those who depend on me, for us to plan things at least 1 full day in advance.

So my repeated requests to appear before the subcommittee about a matter that is vital to the economy of my State and to hundreds of thousands of working people all across the country was met with the question of whether I wished to appear to testify. I reiterate that I am confident that the distinguished chairman and the very able members of the Subcommittee on Health were not aware of my repeated requests to be allowed to appear, and I am equally confident that they were not aware of my letter. Otherwise, I am sure the matter would have been handled differently. Otherwise, if the subcommittee intended for me to be permitted to testify, I would have been informed of that fact in sufficient time to prepare my remarks and organize my testimony in a manner that would constitute a useful presentation. And, I believe that my colleagues will agree that late on the preceding evening is not sufficient time for such preparation.

Additionally, I am advised that other Senators and at least one very distinguished Congressman from my State received similar treatment which, however inadvertent, effectively precluded them from having an opportunity to prepare their testimony—testimony which by its very nature is technical and complex. But, the Senator from North Carolina would not presume to speak for his colleagues. They are all eminently capable of expressing their own thoughts.

Additionally, Mr. President, I wish to stress the importance of today's hearings on Senate bill 2902, the so-called National Health Research and Development Act. If enacted, that legislation would place an exorbitant tax on certain tobacco products—in some instances, there would ultimately be a tax increase of over 350 percent. And, that kind of dramatic tax increase over a space of only a few short years makes today's hearings very important. They are important because that proposed legislation, if enacted, will adversely impact upon many millions of Americans—including those thousands of farmers who grow tobacco and the additional hundreds of thousands who are employed in the manufacture and merchandising of tobacco products. These are citizens who are striving in the face of sustained inflation to provide a livelihood for their families and to educate their children so that the next generation may have a better life.

Unquestionably, any such enormous tax increase on any product might be expected to substantially reduce the ability of the American people to purchase that product. As demand for the affected tobacco products decreased as a result of this artificial Federal intervention in the marketplace, the production of the tobacco products would also decrease. That curtailed production would translate directly into a very dramatic human disaster—a spiraling increase in unemployment.

Those hearings pertain to legislation that could have the practical effect of putting literally hundreds of thousands of Americans out of work at a time when all of us are hoping that the economic recovery we have been seeking may soon become a realization. It would come at a time when continued inflation is reducing personal income and effectively increasing the Federal income tax burden. In short, Mr. President, it would come at a time when we could least afford it.

Undoubtedly, Senate bill 2902 is based on the premise the consumption of certain tobacco products clearly and demonstrably translates into certain avoidable health hazards. But, Mr. President, the simple truth of the matter is that such an assertion has not been proven. Such a connection has not been established by any evidence of sufficient conclusiveness to form a foundation for Federal legislation. Certainly, everyone would agree that Congress should not enact laws on the basis of speculation. Certainly, everyone would agree that speculation and controverted opinions among medical experts does not justify a 350-percent tax increase on a product that predates the founding of this country. Such action would be irresponsible.

It would be no more than a select few forcing their will on the millions of American consumers who have demonstrated their continued desire to purchase that product. These are important considerations. They are considerations that are fundamental to any concept of freedom and individual choice. These are matters that I felt deserved the consideration of the Senate Subcommittee on Health, and these are issues that I had hoped could be explored in today's hearings.

I feel obliged to express my view of this proposed legislation. And, frankly, I am forced to the conclusion that it is blatantly anticonsumer. It is, in actual fact, a direct assault not only upon all those citizens who are employed in the tobacco industry, but it is equally an assault on the more than 60 million consumers of tobacco products all across the country.

Over a century ago, Chief Justice John Marshall warned Americans that the power to tax is the power to destroy. Nothing could be more true. Indeed, to use a contemporary cliche, there is very little freedom without economic freedom. The subject of today's hearings in the Health Subcommittee is, in actual fact, a bill that would impose a discriminatory, regressive new tax on those 60 million American consumers. It would effectively destroy their freedom of choice in the marketplace just as it would effectively destroy hundreds of thousands of jobs. And, this debilitating taxation would, under that proposal, be accompanied by the creation of yet another Federal agency—another host of faceless Federal bureaucrats to invade the daily lives of hardworking private citizens who are asking only for their Government not to destroy their jobs and not to dictate their consumption habits.

For example, the consumers and working people of the State of Massachusetts would, under that proposed legislation, pay an additional $300 million in taxes; citizens of Pennsylvania would send another $550 million to Washington; in New Jersey the proposed legislation would cost citizens $310 million. Mr. President, perhaps a few other examples of the exorbitant cost of the unwise proposal will further illustrate the point. The cost to the citizens of Missouri would be $210 million; New York and California, $900 million each; and, in my own State of North Carolina, the increased tax burden would be to the tune of another $225 million. The fact is that such additional taxation cannot be justified, will be highly discriminatory, will increase unemployment, and will adversely impact upon millions of Americans all over the country.

Mr. President, it is certainly no secret that public confidence in this Nation's leadership has fallen to the lowest point in many years. The public feels that many of its leaders, however well-intioned, are out of touch with the people they represent.

Perhaps this proposed new discriminatory taxation is another example of what is causing such despair among the American people. In any event, the Senator from North Carolina feels that these are matters that need consideration, and he had hoped to explore these questions with the Subcommittee on Health at today's hearings.

I thank the Chair. I reserve the remainder of my time.

Mr. MANSFIELD. Mr. President, I yield my 5 minutes to the distinguished Senator from Colorado.

Mr. GARY HART. Mr. President, I thank the distinguished majority leader. I wish to respond to and comment on the observations made by the distinguished Senator from North Carolina. They seem to be of two varieties: First, that there was confusion and misunderstanding with regard to the prerogatives of Senators and witnesses at hearings; and second, that the opponents of this matter will not be heard. But, at the very time that the Senator from North Carolina was lodging his objections to that fact, Senator HUDDLESTON, Senator FORD, and Senator MORGAN were all presenting their testimony.

The Senator from Colorado is not deeply schooled in the traditions of the Senate and its committees and subcommittees, or as to protocol. But it is my understanding that the case for a proposed piece of legislation is usually laid down first and then the case against follows. The case for the measure which so deeply troubles the Senator from North Carolina is, in part, to be made by a distinguished Nobel Prize-winning research scientist in the area of cancer. Those witnesses who were scheduled a number of weeks ago to appear this morning, some of whom have come from outside this country, have now been postponed in order to hear from opponents of the bill. Those opponents of the measure that the Senator from North Carolina was so afraid would not be heard are testifying right now—all the while the television cameras are grinding. I am not sure what the television cameras have to do with the merits or demerits of a piece of legislation. My strong feeling is that this bill and all other bills stand or fall on their own merits and it does not eventually matter whether the television cameras are there or not.

The case here, however, is that the opponents of this bill, who immediately followed the principal sponsor of this legislation, the Senator from Colorado, are going to get more television time than the sponsor of the bill or the proponents of the bill. So I think the issue being raised by the Senator from North Carolina is academic at the very least. I think if any objection is lodged to these hearings going forward, the net result will be for the Senator from North Carolina to terminate the testimony of those who are presently testifying in opposition to this bill.

I thank the majority leader.

Mr. HELMS. Will the Senator yield?

Mr. GARY HART. I yield to the Senator from North Carolina.

Mr. HELMS. The Senator is not a member of the subcommittee, is he?

Mr. GARY HART. The Senator is correct.

Mr. HELMS. And the Senator is not personally aware of the absence of communication between the staff of that subcommittee and those of us who have been seeking for weeks, literally, to be accorded the right to participate in these hearings? The Senator was not aware of that, was he?

Mr. GARY HART. Only as of late yesterday afternoon.

Mr. HELMS. In other words, the Senator from Colorado was advised, the Senator from North Carolina—and Members of the House of Representatives were advised—at 4:30 on the evening of the hearings, that those of us from tobacco-producing States would be permitted to testify after all.

I can appreciate the Senator's comments, but I am not sure that he has fully grasped the point which the Senator from North Carolina is making. He expressed himself eloquently and I appreciate his comments, but I say respectfully that I fear he has missed the point.

As for my reference to the television coverage, I have been in the news business for much of my life, I know how it works and what happens. On the first day, when the extravagant statements are made, the television cameras grind and the newspaper reporters take notes—and that is it. What may be said subsequently, in rebuttal, will be ignored. The tobacco industry will again be condemned and convicted on the first day.

Sure, we can come back later, but what good will that do in offsetting the original impression?

Mr. GARY HART. If the Senator will yield, I gave the one and only statement on behalf of this bill, the testimony of the other proponents of the bill is being delayed in favor of the opponents. I made no reference whatsoever to the tobacco industry in my statement. I talked about what the bill would do. I talked about some of the health problems related to cigarette smoking and made no reference whatsoever to the tobacco industry.

Mr. HELMS. I appreciate that the Senator is a fair man; he is a gentleman. I respect him. I was not in any sense criticizing him. I want the record to show that just as clearly as may be possible, because I have great affection for the Senator from Colorado. I am talking about the subcommittee staff members.

I shall say further that until 4:30 yesterday afternoon, the only advice we had from the staff members of the Health Subcommittee was, "No, you are not going to appear. We are going to have our scientists, we are going to have our spokesmen, and you can come later." That is what we got. I have not even had a response from the distinguished chairman of the subcommittee. I assume that he never saw the letter. That is what bothers me, I would emphasize again.

The PRESIDING OFFICER (Mr. MANSFIELD). If the Senator will withhold, the Senator's time has expired.

As a Senator from Montana, I ask unanimous consent at this time that the 15 minutes allocated to the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) be used by both Senators.

Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

The able Senator from Colorado was in the midst of a comment, I believe.

Mr. GARY HART. I thank the Chair as well.

I call the attention of the distinguished Senator from North Carolina to the fact that the subject of the hearing this morning is cigarette smoking and disease. The subject was not specifically S. 2902. The fact that there were 23 congressional witnesses lined up to testify against the bill as opposed to one Senator, the Senator from Colorado, who is supporting this measure, puts the matter a little bit out of balance, insofar as we are talking about congressional prerogatives.

As I indicated when I opened my remarks, I think there are two issues here: the question of whether the Senator from North Carolina and his colleagues were dealt with by the subcommittee staff in a way that they desired; and whether the opponents of this measure were having their day in court while the television cameras were grinding.

As I indicated to the Senator from North Carolina, our distinguished colleague from Kentucky, who has just joined us, followed the Senator from Colorado and was able to make his statement. Therefore, if the Senator from North Carolina has a complaint with regard to the way in which the subcommittee staff dealt with him, he should take it up with the subcommittee staff and not close down the hearings on the subject of cigarette smoking and disease.

Mr. HELMS. If the Senator will yield, the hearings are not going to be closed down. That was taken care of. That matter was handled yesterday by a little bit of legerdemain in scheduling.

Mr. GARY HART. It was more than a little.

Mr. HELMS. The Senator may have missed one point, that not only did the Senator from North Carolina request that the Senators from tobacco-producing States be allowed to testify; the Senator from North Carolina also suggested in his letter to the distinguished chairman of the subcommittee that equally prominent scientists who disagree with the position taken by scientists scheduled by the Senator from Colorado and the Senator from Massachusetts be allowed to appear in a balanced fashion so that the public can get both sides at the same time, and thereby evaluate both sides. That is all I want.

Mr. GARY HART. The Senator, being a newsman, by experience realizes that when he talks about the same time, one cannot refute an argument that has not been made. When I left the committee room, the scientists who have been called in, the experts and the distinguished people in this field, had not even presented their testimony yet.

Mr. HELMS. I do not want the Senator to fall unconsciously into a non sequitur here. The Senator's scientists, if I may use that term, are going to appear today, but our scientists were not to be permitted until later on. That is what I was complaining about in the first place. All we wanted, Senator, and all I shall ever ask on any issue, is that both sides be given equal treatment. I trust that is not too much to ask.

Mr. GARY HART. Not at all. As the Senator is well aware, I think, the Tobacco Institute has been scheduled to testify.

Mr. HELMS. Two weeks from now?

Mr. GARY HART. No, in the first day of hearings the Tobacco Institute will have time to testify and they could allocate that time, of course, to their scientists or to their congressional delegation or however they wished. But, as the matter now stands, it is a question of more testimony being given by the opponents of this measure than by the proponents. And, of course, no congressional committee can guarantee how long television cameras are going to stay in a room.

Mr. HELMS. Well, the Senator from North Carolina never suggested a guarantee of that sort. I was just suggesting equal access to whatever the exposure.

The Senator has just given me my first information about, what is it, the National Tobacco Institute, is that the name of it?

Mr. GARY HART. The Tobacco Institute, Inc. The industry organization.

Mr. HELMS. But the Senator has given me the first information I have had on their being scheduled, which indicates, which is a measurement of the breakdown in communications. We could not get any information out of the committee except, "No, you cannot appear and your scientists cannot appear on an equal basis on the first day of hearings. You must wait until later."

Mr. GARY HART. I do not know who your scientists are, but the Tobacco Institute, the trade organization, has been scheduled to appear on the first day, so far as I know, since the beginning of time, and I think that information was readily available.

Mr. HELMS. I just conferred with my staff member who has followed this matter carefully, and he had no information about that. It would have been very simple for the subcommittee to work out something. I say again, I know the Senator from Colorado is not a member of the subcommittee nor is he a member of the full committee. I am not critical of him; I want to emphasize that.

Mr. GARY HART. I am not here to defend myself.

Mr. HELMS. I understand. He needs no defense from anything I have said. I have not been critical of him.

Mr. GARY HART. I thank the Chair.

The **PRESIDING OFFICER.** The time of the Senators has expired.

ADDITIONAL STATEMENT SUBMITTED BY SENATOR EDWARD M. KENNEDY, CHAIRMAN, SENATE HEALTH SUBCOMMITTEE CONCERNING HEALTH SUBCOMMITTEE HEARINGS ON SMOKING AND DISEASE

Mr. KENNEDY. Mr. President, I would like to respond to the remarks of my distinguished colleague from North Carolina, Senator HELMS, with regard to the Health Subcommittee's hearings on smoking and health.

This hearing was first announced in the CONGRESSIONAL RECORD on January 29, in conjunction with the introduction of S. 2902, the National Health Research and Development Act of 1976. This bill establishes a National Health Research and Development Advisory Commission whose purpose is to review the status and progress of medical research in our Nation, and to make recommendations to the President and to the Congress with regard to areas of research, or development and demonstration that are both possible and of potentially significant benefit to the American people. This Commission, which for the first time, would oversee the broad range of medical research and development activities and attempt to balance our national investment in these various areas, would be funded from revenues raised by a tax on cigarettes based on their tar and nicotine content. In other words, we would propose to tax cigarettes in order to raise funds to increase our knowledge of disease and our ability to prevent and cure disease.

This legislation is based on the assumption that cigarette smoking is a cause of cancer, heart disease, and a variety of other devastating illnesses. By taxing cigarettes according to their tar and nicotine content, we simultaneously create an incentive for the tobacco industry to produce better cigarettes with lower tar and nicotine content, and we raise funds for research in all diseases, including those caused by cigarette smoking.

Let me emphasize, Mr. President, that the tax is structured in such a way as to encourage companies to provide the American consumer with better cigarettes, that is, cigarettes with lower tar and nicotine content. Given our experience with the inelasticity of gasoline demand during the recent fuel crisis, we do not have great hopes of substantially reducing the consumption of cigarettes by Americans. We do hope, however, that a tax which raises the price of high tar and nicotine cigarettes considerably above low tar and nicotine cigarettes will result in the manufacture and consumption of cigarettes in our society less likely to cause serious diseases.

However, this entire bill hinges on the scientific evidence that cigarette smoking is a cause of these serious diseases. Therefore, the Health Subcommittee scheduled at the very outset a hearing on the scientific evidence with regard to cigarette smoking and health. We, in fact, requested all witnesses to address this scientific issue—and leave until later hearings the discussion of the bill itself, its taxing mechanisms, and its research management provisions. By early February, the committee had identified three Nobel Prize winners in the area of medical research who wished to address this scientific question. In addition, we contacted the Assistant Secretary for Health, DHEW; the Director of the National Cancer Institute; the Director of the National Heart and Lung Institute; and the Director of the Center for Disease Control—all prestigious research agencies within the Department of Health, Education, and Welfare. In addition, the American Cancer Society, the American Heart Association, and the American Lung Association agreed to present to the committee its most exhaustive scientific data.

Finally, in order that both sides of this scientific question be reviewed, the committee contacted the American Tobacco Institute and requested that they present their most compelling scientific case, and invited them to bring to the committee any and all scientific experts that they might choose.

This witness list was all but completed the first week in February. We believed then and we continue to believe that this scientific data must be thoroughly reviewed by the committee before any further consideration can be given to the provision of the National Health Research and Development Act, and we believe the witnesses invited are in the best position to inform the committee in this regard.

Senator HELMS indicated this morning that on February 5 he requested to testify at this first day of hearings, and that he followed up with a written request on February 12. That is true. Senator HELMS did make that request—and in fact within a few days we received similar requests from some 21 Senators and Congressman wishing to be heard. This presented the committee with an enormous logistics problem. The already scheduled hearing included, among others, researchers who were scheduled to fly in from Europe for the occasion—and there was little flexibility in the schedule of the witnesses. It was clearly not possible to hear all of our colleagues who requested to testify, and also complete the scheduled hearing. Therefore, the committee identified several possible hearing dates in March when hearing facilities and the schedule of the committee would permit hearings. We then called all of the Senators and Congressmen who requested to testify and asked if they would testify before the committee on one of these later days when time would specifically be set aside for this purpose. We, of course, also offered them the opportunity to file statements in the record of the first day of hearings—February 19.

Mr. President, I have myself, on many occasions testified before Senate committees on days set aside to hear congressional witnesses because of exactly the kind of scheduling problems we faced on the Health Subcommittee. I certainly meant no offense in offering this option to my colleagues, and I might point out that most of those who requested to testify accepted this alternative.

I understand, however, the feelings of my colleagues who insisted that they should be heard on an opening day of hearings. In fact, the question of the relationship between smoking and disease is of great importance to the economies of some of our States—and it should be reviewed with great seriousness. I do believe that our original plans to hear from scientific experts was both fair and very serious in its intent. However, when it became clear to me during the week before the scheduled hearing that some of my colleagues were not comfortable with this arrangement, the committee called all 21 Congressmen and Senators who had requested to testify and offered them that opportunity on the first day. We also made last minute arrangements to delay the testimony of the other scheduled witnesses to much later in the day to permit this. I frankly do not know what we would have done if all 21 of our colleagues accepted our invitation to testify. However, due I am sure to the unfortunate late notice, only 6 were able to appear before the committee this morning.

Once again, Mr. President, I regret the inconvenience caused by this logistic problem—and I am grateful for the testimony of those who did appear. We will be holding additional hearings in March, and I look forward to the testimony of other of my colleagues then on the specific provisions of the National Health Research and Development Act.

The **PRESIDING OFFICER.** The distinguished Senator from Kentucky (Mr. HUDDLESTON) is recognized for not to exceed 5 minutes.

Mr. HUDDLESTON. I thank the Chair.

TOBACCO SMOKING AND PUBLIC HEALTH

Mr. HUDDLESTON. Mr. President, the distinguished Senator from North Carolina, I think, has expressed a legitimate concern in relation to this matter and the hearing that has been scheduled relating to the question of tobacco smoking and public health and to the legislation that has been introduced.

It was not until 4:30 yesterday afternoon that those of us who have a desire to testify at those hearings were advised that we would have that opportunity today.

I think the point is well made that it is important when matters of this nature are being considered that all sides of the issue be given an opportunity to present their views in a timely manner so that the reports that reach the general public will be as balanced as is possible, and the reports that reach the Members of the Senate, and certainly the members of the subcommittee present, will be as balanced as possible.

This is a very complex, a very complicated, subject. The proposed legislation is far reaching; it is vastly different from any approach we have made up to this time. It involves placing a heavy tax on a product that is suspected as being one possible cause of certain diseases. It is a tax that reaches confiscatory proportions as it goes along.

The bill itself, in my judgment, would be self-defeating because it proposes to finance a major research project from that tax where the tax itself is so designed so as to discourage or prohibit the use of the product. So the tax should have a diminishing effect rather than continuing to produce revenue that can finance any kind of major research program.

Mr. President, so I just say I am pleased that this time has been worked out, that testimony is being taken by the committee today from those on both sides of the issue.

I think the Senator from North Carolina proceeded in a responsible way in calling that situation to the attention of not only the subcommittee and committee but of the full Senate, so this purpose could be accomplished. I ask unanimous consent, Mr. President, that the testimony which I have given to that subcommittee this morning be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Testimony

Mr. Chairman, in preparing for this hearing, I reviewed a closing statement made by my former colleague, Senator Cook, at the conclusion of hearings before the Consumer Subcommittee of the Senate Committee on Commerce on February 10, 1972. He said at that time the "question of smoking and health . . . is still a question." That, certainly, is where we commence in these hearings if we are talking about the "tar" and nicotine content of cigarettes and their effect—if there is any effect—on human health.

Those 1972 hearings were held with regard to proposed legislation to require the Federal Trade Commission to set maximum levels of "tar" and nicotine content of cigarettes. And the result was that no one wanted to set any level of smoking as "safe".

You may recall that scientific witnesses who appeared, or submitted statements, did not believe that a cause and effect relationship had been established between cigarette smoking and disease. The arguments were characterized by one doctor as a blend of logic, statistics, and emotion. Another doctor found no convincing evidence that either "tar" or nicotine or any other agent in cigarette smoke had been incriminated in relation to any human disease.

Statements were later received from at least a half dozen scientists who:

(1) did not believe that tobacco smoke condensate had been established as harmful or hazardous,

(2) concluded that reports of less disease in subjects switching to filter cigarettes were unconvincing,

(3) questioned the data on heart disease and smoking and pointed out that much of the data failed to show any link,

(4) disputed charges that smoking causes injuries to pregnant woman and their infants,

(5) reviewed animal experimentation work and found it wanting with regard to its supporting any charge that tobacco smoke is carcinogenic to human beings, and

(6) indicated that measures based on the amount of "tar" and nicotine in the cigarettes were not scientifically based.

Dr. Theodor Sterling, who I understand will be present to testify later today, has sent me a statement at my request for the hearing today. It is his concern that we will overlook, in the process of attempting to solve all our disease problems by blaming smoking. The multitude of environmental hazards that may exist in our country today. I ask that Dr. Sterling's statement be made a part of the hearing record.

An M.D. writing in the January 12, 1976 issue of the Journal of the American Medical Society took issue with a group he called "medical pests." He had this to say:

"When one considers the anti-smoking campaign, the seatbelt and seatbag campaign, the low-fat campaign, the anti-sugar campaign, the anti-hypertension campaign, the physical fitness campaign, the anti-diabetic campaign, and the myriad of smaller paternalistic campaigns, one realizes that in no field of endeavor has the Big Brother concept been pushed further than in preventive medicine."

The doctor urges those who want the Federal Government to solve all our problems for us to—and I quote—"recognize that they are trodding on other's freedom by some of their actions and by other actions are antagonizing the very individuals they wish to convert."

Dr. Domingo Aviado, a Professor of Pharmacology at the University of Pennsylvania, has submitted a statement to me in which he describes his experimentation work with the disease emphysema. He stated that in his laboratory experimental animals exposed to cigarette smoke have not developed functional or pathological signs of pulmonary emphysema.

With regard to coronary heart disease he stated, "there are marked geographical differences in its incidence that cannot be explained by smoking patterns. For example, the Japanese are among the heaviest smokers but have a low coronary heart disease rate." I ask that Dr. Aviado's statement, including his curriculum vitae and list of publications be made a part of the record.

Dr. Hiram Langston, a thoracic surgeon in the Chicago area, also submitted to me, at my request, a statement. He states, "I cannot agree with the hypothesis that cigarette smoking is the cause of cancer of the lung. I ask that Dr. Langston's statement including his curriculum vitae and bibliography be made a part of the record.

Mr. Chairman, I am aware that it is a widely held belief that "tars" and nicotine in cigarette smoke cause lung cancer. This belief is based on what I and many others feel is questionable evidence. To indicate the lack of precise knowledge regarding cigarette smoke and health I would like to call to your attention an article that appeared in the November 19, 1975 Wall Street Journal. This article indicated that one radiation expert says there is growing evidence that radioactive particles in cigarette smoke are the primary cause of lung cancer, not "tars" and nicotine. It is reported that the radioactivity gets into tobacco from super-phosphate fertilizers made from phosphate rock which naturally contains uraniums.

I ask that this article "Radioactive Particles in Cigarette Smoke Tied to Lung Cancer" by Barry Kramer which appeared in the November 19, 1975 Wall Street Journal be included in the record.

But even if we were to assume strong evidence—convincing evidence—that cigarette smoking is related to disease and that "tar" and nicotine are the culprits—would we want the bill passed that is to be considered by this committee in connection with these hearings? Do we want to tax out of existance products which we would not directly prohibit? The very purpose of the bill is to decrease smoking. There will not be an increased Federal tax on all cigarettes—it will simply be much higher on some. We will be saying to the public that while we are not willing to take direct steps to ban certain products we are willing to keep them out of the hands of those people who can't afford them.

What do we want of this bill? If we want it to produce revenue, then we want it to fail in its so-called "tar" and nicotine reducing function. Because the higher the "tar" and nicotine the more the tax. On the other hand, if the sponsors want it to succeed as a public health measure, then its revenue-producing potential would be considerably less.

Mr. Chairman, my staff has done some research and found that in your state, 11 counties rank far above the average for deaths per 100,000 as a result of cancer from all causes. So high in fact, that your state ranks among the top 10% in the nation. The average deaths per 100,000 in the United States of all cancer mortality is 174.04 for males and 130.10 for females. Your Suffolk County rates 223.3 for males and 151.1 for females. In fact, Senator, eleven counties out of your fourteen total are far above the national average. The only member on this subcommittee with a higher rate per 100,000 is Senator Williams. His Hudson County, New Jersey, with a figure of 231.8 for males and 153.5 for females leads all others. In fact taking all of the members of this subcommittee plus the state of Colorado (the home state of Senator Hart who introduced this bill), you all have 157 counties out of the 303 in the entire United States ranked highest for cancer from all causes as a percentage of deaths.

These figures were computed from the "Atlas of Cancer Mortality for U.S. Counties" published by the U.S. Department of Health, Education & Welfare, Public Health Service, National Institute of Health. Its compilation was done by a staff of doctors and statisticians from the Epidemiology Branch, National Cancer Institute.

Now, Senator, this was not done to embarass anyone—only to enlighten the subcommittee and staff that there exists a myriad of areas to be studied—a multitude of suspected causes to be analyzed.

But to impose a prohibitory tax on one suspected cause—ignoring all the others—ignoring area significance as I have pointed out—in no way promotes what the Senator said in his remarks on the floor, and I quote: "The present bill therefore proposes to deal with this problem in the most effective way known to an open and democratic society . . ." etc. . . .

If that democratic society is blind, his remarks could well be correct. My purpose in being here is to open those eyes so that when a democratic society, through its representatives, acts, it does so democratically, equitably.

I come from a major tobacco producing state—the income from which all aspects exceeds a billion dollars a year. We have taken it on the chin for many years—when others have sat back and watched us sweat—but the time has come for Congress, national organizations and research facilities to be honest enough to look at the entire picture, not one piece of the puzzle.

I ask the following be made a part of the record.

(1) Counties in the U.S. of subcommittee members plus Colorado, ranking above the national average for deaths from all forms of cancer.

(2) An article from the Bergen County, New Jersey, paper dated 12/21/75 entitled, "N.J.: Cancer Capitol".

(3) An article from the "Washington Post" dated 2/16/76 entitled, "Colorado Plutonium Safety Debate Rages."

Mr. HUDDLESTON. Mr. President, I yield back the remainder of my time.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum on the basis of the time left to the distinguished Senator from Kentucky.

The PRESIDING OFFICER (Mr. Hollings). Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 12 MERIDIAN

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 12 noon.

There being no objection, the Senate, at 10:51 a.m., recessed until 12 meridian; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Ford).

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

Mr. GARN. Mr. President, on request of the minority leadership, I object.

Mr. MANSFIELD. Mr. President, is there any particular committee which the Senator has requested to not meet today, or does it include all of the committees?

Mr. GARN. No. Just the Subcommittee on Antitrust and Monopoly.

Mr. MANSFIELD. Mr. President, I renew my request, with that exception.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, are we now in the morning hour?

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina (Mr. Morgan) is recognized for not to exceed 5 minutes.

Mr. MORGAN. Mr. President, I yield back my time.

The PRESIDING OFFICER. The Senator yields back his time.

Under the previous order, the Senator from Kentucky (Mr. Ford) is recognized for not to exceed 5 minutes.

PROPOSED TOBACCO LEGISLATION—S. 2902

Mr. FORD. Mr. President, this morning I appeared before the Subcommittee on Health of the Committee on Labor and Public Welfare and presented the following remarks:

I am extremely pleased to have the opportunity to testify on S. 2902 and to state to the members of the Subcommittee on Health the detrimental effects that this bill will have in Kentucky. Mr. Chairman, Kentucky has 164,161 farms involved in the growing of tobacco. You could take that number of farms and easily multiply by four and arrive at a figure of those involved in planting, harvesting and marketing—better than 650,000 Kentuckians—whose livelihood depends on tobacco. That crop is worth $470 million to the farm economy of my State. State, Federal, and local taxes are paid on farm income from that amount plus the fact that on the sale of the finished product, Kentuckians pay another $22,457,000,000 to the State plus a 5 percent tax on the end sale price of the amount, and Federal tax yields $59,888,000 more.

Kentuckians have spent millions of dollars on health research. They are concerned about the health of people and they are spending millions of their hard earned dollars to determine any elements in tobacco products that are detrimental to health and to find ways to remove them. This approach is positive and it is fair.

I recently received a letter from one of my constituents stressing the adverse effect that S. 2902 would have and I quote a portion of that letter:

> With taxes this high cigarette consumption would decline extremely and the end result would mean less tobacco needed which would mean less money for the tobacco farmers in Kentucky. Tobacco is a major cash crop to Kentucky farmers and we feel this bill would be very detrimental to the farmers, dealers and manufacturers of tobacco products.

I agree with that statement. Under this bill we would be requiring one product to defray a major cost of health research. No other industry has been so severely penalized. I remind the committee that the power to tax is the power to destroy. The imposition of a tax as proposed in this legislation is so great that it will destroy the tobacco industry in Kentucky and the other tobacco growing States. It will destroy the small farmers and place an economic hardship on millions. Are we taxing to regulate; taxing for revenue; or taxing in an attempt to kill the tobacco industry? Regardless of the intent, the effect will be to drive domestic tobacco producers out of business. We will drive more and more small farmers in Kentucky, North Carolina, South Carolina, Tennessee, and other tobacco producing States out of business by imposing an unreasonable tax burden on the products they produce.

The tax will not only affect the farmers but it will also have a major effect on State and Federal revenue and even an overall economic impact because of exports. The tobacco industry already bears a heavy tax burden at both the Federal and State levels. In 1975, $2,261,100,000 in Federal taxes and $3,284,660,000 in State taxes were collected from cigarette taxes. Further, the export value of unmanufactured tobacco and tobacco products in fiscal year 1974–75 was $1,234,000,000. This volume makes tobacco an economic asset both to farmers specifically and to the public in general because of its impact on the balance of trade—the import value of these products for 1974–75 was $209,200,000 leaving a surplus from tobacco in excess of $1 billion.

Some States are considering raising additional State revenue by increasing cigarette taxes. This bill would preempt an increase in State taxes planned for cigarettes because up to 50 cents per package of Federal taxes would reduce consumption to the point that it would reduce State revenues.

This bill would have an extremely detrimental effect on the tobacco farmers and it would also be a regressive tax of $180 a year on the 50 million Americans using these products. We would be asking them to pay the cost of research that may or may not affect them.

Are we establishing a precedent by taxing consumers to correct presumed health ailments? Where would this precedent lead us? A sugar or starch tax? A nonexercising tax? A tax on people living in urban areas because they have poor health rather than the affluent? An increased tax on people who live in highly industrialized neighborhoods? The precedent is there in this bill.

Mr. President, in Sunday's Washington Post on page B–10 a headline stated, "Male Lung Cancer Soars in Factory Area." The article then proceeds to state from the results of a Johns Hopkins University study, and I quote:

> Men living in a certain highly industrialized neighborhood of Baltimore had a lung cancer rate four times that of a demographically similar group of men living in a non-industrialized area of the city.

In the January 26 issue of Newsweek on page 65, we find an interesting chart entitled, "Cancer and the Environment: Ten Top Suspects." I submit a copy for the record and ask that it be made a part of my remarks. Among that suspects listed are arsenic, found in mining and smelting industries; asbestos, from brake linings, construction sites, and insulation; and other substances from almost every type of industry and segment of our environment.

The Newsweek extract lists the 10 top suspects of cancer and I see no effort to require the other 9 to share in the cost of health research. This bill has singled out the tobacco industry as though it is the only suspect and proposes to impose punitive taxes to cover research on all suspected causes.

I am extremely concerned about the health hazards and the need for research to find ways to prevent cancer, and in fact, all dreadful maladies. I am concerned about the effects that tobacco may have on health. I supported the establishment of the Tobacco and Health Research Institute at the University of Kentucky to study the effects tobacco has on health to determine the impurities and to find ways to remove them. I recognize and support this effort, but I find no justification to support a tax based upon tar and nicotine content in cigarettes.

Recognizing that I do not have a scientific background, I posed this question to three imminent scientists and asked them their opinion about it. The scientists are: Dr. Charles H. Hine, The Hine Laboratories, Inc., San Francisco, Calif.; Dr. Robert C. Hockett, Research Director, The Council for Tobacco Research—U.S.A., Inc., New York; and Dr. Ronald Okun, Director of Clinical Pharmacology, Cedars-Sinai Medical Center, Los Angeles, Calif. I will not bother the Members by reading their statements, but each of them indicates that in his opinion, no scientific basis exists to levy a tax based on tar and nicotine in cigarettes. I shall ask unanimous consent at the conclusion of my remarks to have printed in the Record their responses, qualifications, and list of publications. None of them support such an approach. I have tried to be objective in my evaluation and I find no justification from either an economic or scientific standpoint.

I ask the Members in their deliberations to consider the many dollars that are now spent on research, the precedent that this bill sets and the detrimental effect that a tax of this magnitude will have on millions of small farmers whose livelihoods depend on tobacco.

Mr. President, I ask unanimous consent that the material to which I referred be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Feb. 15, 1976]

Male Lung Cancer Soars in Factory Area

(By B. D. Colen)

A Johns Hopkins University researcher has found that men living in a certain highly industrialized neighborhood of Baltimore had a lung cancer rate four times that of a demographically similar group of men living in a non-industrial area of the city.

Dr. Genevieve Matanoski said one of the contributing factors to the high cancer rate may have been an Allied Chemical plant producing an arsenic pesticide. She added, however, that the levels of arsenic released into the atmosphere have been dramatically reduced for the past several years, and the entire neighborhood is less industrialized than it used to be.

According to the doctor's findings, most of those who contracted cancer received their exposure to pollutants during the 1940s and 1950s, and residents of the neighborhood today do not face "a lung cancer threat that great."

The large increase in lung cancer mortality was found only among males, something which Dr. Matanoski cannot explain on the basis of her preliminary research.

It is possible, she said, that the pollutants in the air produce an increased incidence of lung cancer among cigarette smokers. Two to three decades ago smoking was far more common among men than among women, she said.

Dr. Matanoski has, on the basis of her first study, submitted a proposal to the federal government for funding of a further study of the area's cancer mortality, including sampling soil for arsenic and a study of the smoking habits and working lives of the victims.

The industrialized neighborhood studied is north of the Hanover Street Bridge.

Cancer and the Environment: Ten Top Suspects

Substances, where found, and cancers they may cause

Arsenic: Mining and smelting industries; skin, lung, liver.

Asbestos: Brake linings, construction sites, insulations, powerhouses; lung, pleura, peritoneum.

Benzene: Solvents, oil refineries, insecticides; bone marrow.

Benzidine: Rubber making, dyestuffs; bladder.

Coal-combustion products: Steel mills, petrochemical industry, asphalt, coal tar; lung, bladder, scrotum.

Nickel compounds: Metal industry, alloys; lung, nasal sinuses.

Radiation: Ultraviolet rays from the sun, medical therapy; bone marrow, skin thyroid.

Synthetic estrogens: Drugs; vagina, cervix, uterus.

Tobacco smoke: Cigarettes, pipes, cigars; lung, bladder, mouth, esophagus, pharynx, larynx.

Vinyl chloride: Plastics industry; liver, brain.

Charles H. Hine, M.D., Ph. D. Comments

I have seen the letter of January 26, 1976, written by Senators Kennedy and Hart to their fellow Senators asking support for Senate Bill #2902. This letter contains extremely biased conclusions with respect to the role of cigarette smoking in health. It should be noted that the claims stated so dogmatically as fact are not supported by the scientific evidence and that many etiological questions remain unanswered.

On two previous occasions, I have presented my views to Congress. Most recently, in 1972, I prepared a statement in relation to Senate Bill #1454 and the 1972 report of the Department of Health, Education, and Welfare entitled "The Health Consequences of Smoking." A copy of this statement, which includes a list of my professional qualifications, is attached.

Since the Kennedy-Hart Bill stresses the "harmful" effects of "tar" and nicotine, I would like to quote briefly from my earlier statement:

1. "All the pharmacologic effects from smoking are due to an active alkaloid, nicotine. Due to the rapidity of absorption, metabolism and excretion, these effects are transitory and can be repeated without cumulative effects. Tolerance to these effects develops rapidly on repeated exposures. Nicotine exerts a number of beneficial effects."

2. "It would, therefore, seem most unscientific to lower arbitrarily the 'tar' content of cigarettes. We simply do not know whether cigarette 'tar' has any relationship to human disease."

I have reviewed my previous statement in view of current scientific data and find that the opinions expressed therein are certainly applicable to the present inquiry.

I have examined approximately 700 scientific papers dealing with tobacco smoke and its constituents since 1972. The continuous review of current literature by my group has enabled me to keep informed of the developments concerning "tar" and nicotine and the relationship of these materials to human disease. My earlier opinion has been reinforced by these subsequent publications.

In my 1972 statement, I discussed specifically Chapter Nine of the 1972 Report of the Surgeon General, "Harmful Constituents of Cigarette Smoke." I noted with interest (1) the avoidance of the term "known contributors" in the chapter, and (2) the reliance upon uncertain descriptors such as "probable" and "suspected." This confirmed to me that current research has failed to show any compound in cigarette smoke to be an established health hazard in the quantities which are apt to be absorbed by the average cigarette smoker.

Since 1972, I have had an opportunity to read the transcript of the one-day conference in 1970 which formed the basis for Chapter Nine. The discussion of tobacco smoke constituents greatly disappoints me. Instead of offering an informed inquiry on the subject, the conference evidenced with its indecision and disagreement the lack of data dealing with the effects of cigarette smoke on human health. As a result, Chapter Nine of the 1972 Report represents an attempt to categorize various poorly defined materials and chemical constituents into levels of supposed harmfulness to health, despite an absence of scientific evidence.

It is hoped that government publications in the future will adequately set forth a scientific data base from which critical evaluation would implicate or exonerate materials as potentially harmful or free from effect at the concentrations at which they appear in tobacco smoke.

Due to the scarcity of new developments in the cigarette smoke controversy, I question the basis for this new attempt at government involvement. Events subsequent to 1972 have failed to provide a basis for concluding that cigarette smoking causes various diseases and do not justify the proposed arbitrary taxation on "tar" and nicotine levels.

The results of animal experimentation cannot serve as a basis for determining which ingredient or ingredients might be carcinogenic for humans. Scientific doubt arises not only from the unrealistic dosages involved in these animal experiments, but also from the failure to duplicate the results in other test animals.

There are numerous reasons why a tax levied on the basis of "tar" and nicotine levels is undesirable. For example, economic pressure created by the graduated tax might well cause many people to switch to low "tar" and nicotine cigarettes. But in the final analysis, the individual smoker will ultimately decide the amount of "tar" and nicotine he inhales. Therefore, the proposed legislation might force an individual to unconsciously increase his consumption of cigarettes.

From the preceding, one is aware of the lack of certainty concerning "tar" and nicotine. Some scientists view any lowering of these substances as dangerous because of the possible removal of anti-carcinogens. Others recommend the lowering of "tar" levels, but the raising of nicotine levels. In short, there is anything but unanimity in the scientific community concerning "tar" and nicotine.

I have attempted to outline some of the problems connected with the proposed law. My purpose has been threefold: (1) to discourage any sort of decision which is not supported by sufficient scientific evidence; (2) to emphasize the unexplored repercussions which may result from any "tinkering" activity; and (3) to question the effects of forcing individuals to consume cigarettes with lower levels of "tar" and nicotine.

Quite frankly, this is not the time for Congress to use scientific blinders and unwittingly plunge into an area as complex as this.

STATEMENT OF DR. C. H. HINE

My name is Dr. Charles Hine, I am Clinical Professor of Pharmacology and Preventive Medicine in the School of Medicine, University of California, San Francisco Medical Center. I have been a staff member at that institution for the past twenty years, during which time I have engaged in teaching and research in my areas of specialty. I am Board-qualified in Preventive Medicine and Toxicology. I am the Program Director of a training grant in Toxicology sponsored by the U.S. Public Health Service and have predoctorate and post-doctorate students under my direction. I teach in the Schools of Medicine and Pharmacy. In addition, I am consultant in the areas of Pharmacology, Toxicology, Occupational Medicine and Environmental Health to a number of industrial concerns and to several State and Federal agencies. I have published over 150 papers in the fields of pharmacology, toxicology and environmental health, and have been a member of the various scientific societies organized for the promotion of scientific endeavors in the fields of pharmacology, toxicology and environmental health. I am a Fellow of the American Academy of Occupational Medicine and of the Industrial Medical Association, as well as holding membership in 15 other scientific and professional societies, and a Consultant to the California State Department of Public Health in the area of Toxicology. I am a former member of the National Research Council's Committee on Toxicology.

In 1969 I presented a statement before the Committee on Interstate and Foreign Commerce of the House of Representatives in clarification of the background for proposed legislation on Cigarette Labeling and Advertising. I should like to repeat two brief portions of that statement at this time:

1. "It has not been established that the tar and nicotine yield of cigarettes is related to human health. No safe level has even been claimed to be established by those who say there is a relationship."

2. "The majority of the publications on smoking and health have failed to indicate the extent to which smoking is beneficial. There is no question but that a great deal of pleasure, and certainly much tranquility, is obtained from the smoking of tobacco."

At this time I should like to present a further statement addressed to Senate Bill 1454 and comment on the 1972 report of the Department of Health, Education and Welfare entitled "The Health Consequences of Smoking".

In reviewing portions of the Report, one must conclude that certain misconceptions or unproven theories are presented as factual data. These biases might lend support to Senate Bill 1454 which seeks to amend the Federal Cigarette Labeling and Advertising Act to require the Federal Trade Commission to establish mandatory acceptable levels of "tar" and nicotine, (and other agents) in cigarettes.

The 1972 Report speaks of three categories of compounds in cigarette smoke, those "judged most likely to contribute to the health hazards of smoking," those "judged as probable contributors to the health hazards of smoking" and those "judged as suspected contributors to the health hazards of smoking."

The descriptions quoted avoid characterizing any compounds as "known contributors." This confirms that even after years and years of intensive research, no compound, as found in cigarette smoke, has been established as a health hazard.

Tar, nicotine and carbon monoxide are the compounds "judged most likely to contribute to the health hazard of smoking."

If the evidence for such a "judgment" is inadequate with respect to these three compounds, then the judgments on compounds in the other two categories are obviously unjustified.

NICOTINE

The Surgeon General's Report of 1964 on Smoking and Health not only failed to confirm older suspicions that nicotine might be "bad" for a smoker but expressly exonerated it as any significant health hazard.

Nicotine was first isolated from tobacco in 1828 and has been a subject of much research since then. Its biological action is still being investigated in a number of laboratories throughout the world. Nicotine possesses an unusual biphasic capacity having both stimulating and tranquilizing characteristics depending on the site of action and the amount administered and the psychic state of the subject at the time. As regards the central nervous system, nicotine acts as a stimulant, particularly on the respiratory centers, the vasomotor centers, and the central chemoreceptor site. Under certain conditions it has the ability to sedate the reaction of these centers. The cardiovascular responses to nicotine can be characterized as mildly stimulating resulting in a modest pulse pressure elevation, a slight increase in coronary arterial flow, and a somewhat decreased skin vascular flow. These responses are of limited duration in time and to the extent that they can be activated by the nicotine in cigarette smoke, last only for a moment. The action on the gastrointestinal system of a novice smoker may be such as to result in temporary nausea. The fact that this reaction is encountered only in the novice smoker shows how quickly the body adjusts to nicotine.

The absorption of nicotine is excellent over a number of routes, such as the skin, respiratory system and the gastrointestinal tract. It is rapidly degraded in the liver, kidney and lungs and excreted in the urine as cotinine. Its removal from the body is very fast and takes place at an accelerated rate when larger amounts are absorbed.

All of the pharmacologic effects from smoking are due to the active alkaloid, nicotine. Due to the rapidity of absorption, metabolism and excretion these effects are transitory and can be repeated without cumulative effects. Tolerance to these effects develop rapidly on repeated exposures. Nicotine exerts a number of beneficial effects. Suppression of appetite gives positive effect on weight control. It may exert on one occasion a tranquilizing effect and on another a stimulating effect occurs.

This transient period during which nicotine remains active in the body, coupled with its ability to be absorbed through the mucous membranes of the oral cavity makes it possible for a smoker to regulate his intake with ease. The frequency of puffs and the duration of the period during which the smoke is retained in the oral cavity can be varied to produce a greater or lesser intake. The nicotine content of a cigarette, therefore, is unlikely to prove effective as a regulator of such intake. The smoker may smoke more cigarettes, smoke more of each cigarette he uses, or vary his technique of smoking to produce whatever level he prefers. The setting of mandatory limits on nicotine content based on laboratory tests of the cigarette is likely, therefore, to be at best a vain and ineffective effort.

"TAR"

If smoke from cigarettes is artificially condensed at extremely low temperatures under laboratory conditions, the result is described as "tar".

Occasionally polycyclic hydrocarbons, which in their pure form can be demonstrated in laboratory animals to produce cancer, can be identified in these "tars." This is not surprising, however, since these materials can be produced by combustion of as simple a substance as methane gas, are found in the smoke of barbecues, and are adherent to both roasted and barbecued meats.

In fact there has been noted only a weak co-carcinogenic effect in mice which has previously been painted with the highly carcinogenic material, 3,4-benzypyrene. These reports confirmed the findings of Passey in Great Britain. Wynder found a marked difference in the percentage of animals affected by experimental cancer tests, depending on the strain used, when he tested "tars" in cigarettes from American manufacture. It is possible to produce cancer of the skin in some animals with smoke condensate; however, the amount of smoke concentrate required are enormous and not comparable to whole smoke.

Hammond and Selikoff recently demonstrated in a study of roofers exposed on a daily basis to benzypyrene contents in asphalt equivalent to that found in more than 750 cigarettes, that no increased incidence of lung cancer occurred. This would seem to exonerate the substance in cigarette "tar" which had, up to this point been under the greatest suspicion. Other agents have been identified in "tar" which might in theory have a carcinogenic effect, but the qualitative identification of a particular agent in a complex mixture does not mean that it is present in sufficient quantities to produce a biological effect; neither does the effect in a particular species mean that it may occur either quantitatively or qualitatively in man.

It has been suggested that tobacco smoke may serve as a cocarcinogen to carcinogens from other sources such as those occurring in the general atmosphere. Experimental evidence for this hypothesis is lacking.

Steiner and Falk have reviewed the literature concerning data elicited from experiments involving various combinations of chemical carcinogens, tumor-producing viruses, radiant energy and trauma. Some of these experiments showed summation of effects, others did not, and a third group showed inhibition. Simultaneous administration of two potent carcinogens, when injected together, sometimes were inhibitory. These equivocal effects suggest the desirability of reviewing the problem of anti-carcinogenesis and compounds tested in combination.

Inhibition of the action of potent carcinogens has been reported by a number of investigators. Retardation of the rate of tumor induction has resulted following application of non-carcinogenic agents, closely related compounds and agents found in tobacco smoke. Falk has demonstrated the inhibition of carcinogenic activity by administration of crude samples of cigarette smoke extracts. It is apparent from the experimental work of many investigators that the carcinogenic potency of crude mixtures is less than the sum total of anticipated carcinogens; anti-carcinogenicity as well as co-carcinogenicity must be recognized as an ubiquitous phenomenon. Inhibition of experimental carcinogenicity is related to a number of factors, including the vehicle used, the ratio of the anticarcinogen to the carcinogen, the relative structural relationship of these two substances, and the time of administration. It must be kept firmly in mind that in speaking of carcinogens, we are speaking of the effect upon the skins of mice.

The above is cited to emphasize that though carcinogenic substances may be identified in tobacco "tars," the presence of other constituents may themselves be strongly inhibitory of damaging effect.

It would therefore seem most unscientific to lower arbitrarily the "tar" content of cigarettes. We simply do not know whether cigarette "tar" has any relationship to human disease. A lower "tar" content may differ qualitatively as well as quantitatively from a higher "tar" content, and whether this difference would be disproportionately lower in anti-carcinogens or carcinogen inhibitors is unknown. Tinkering with what we do not comprehend can have unfortunate results, particularly in an area as complex as this.

CARBON MONOXIDE

Carbon monoxide is present in all urban atmospheres and is a normal excretory product of man. The effect of carbon monoxide arises from its property of combining with hemoglobin to displace oxygen and by its action on the disassociation curve of oxyhemoglobin. There are acceptable air levels of carbon monoxide recognized as being safe for continuous exposure in environmental air and for repeated interrupted exposures in the work environment.

Repeated exposures to low levels of carbon monoxide have little or no effect and the physiologic changes accompanying high exposures do not occur.

Any discussion involving man and carbon monoxide must consider the findings of Sievers *et al.* This study includes a great number of persons repeatedly exposed over a considerable length of time to relatively high concentrations of carbon monoxide. The subjects were a group of 156 Holland Tunnel traffic officers. Over the 13 years in this environment, the average carbon monoxide level was 70 ppm giving rise to levels of carboxyhemoglobin of as great as 10% with an occasional peak to 200 and 300 ppm. These men showed no evidence of injury to their health as monitored by blood and urine studies, EKG recordings, blood pressure measurements and neurological examinations. Using pistol marksmanship as a means to determine neurological integrity, a high degree of performance was maintained by these men.

Otis has called attention to the acclimitization which occurs in humans, showing that men working in garages, for example, experience no discomfort from levels of carbon monoxide which will cause in a visitor unaccustomed to these levels, dizziness and headache.

In addition, Dinman has shown the presence of hgher levels of 2,13,Diphosphoglycerate in smokers. He has suggested that this substance reverses the inhibitory effect of carbon monoxide on the ability of the blood to release oxygen to the tissues. Whether 2,3,Diphosphoglycerate establishes a complete reversal of the inhibition of oxygen release by the cells is not known at this time. The mechanism is established, and the beneficial effects of its operation are known.

The carbon monoxide content of cigarette smoke has been expressed by some authorities as equalling 475 parts per million by volume. Any contrast with the Maximum Allowable Concentration of 50 ppm for industrial exposure is, of course, inapplicable. MAC's are established on the basis of every inhalation during an eight-hour period. The cigarette smoker does not begin to approach such levels. As Kensler has pointed out, the puff from a cigarette (35 ml) is greatly diluted in inhalation. One puff per minute is regarded as standard smoking procedure, leaving the remaining inhalations free of smoking. There are substantial periods of time when even the heaviest smokers are not exposed to smoke from the cigarette at all. The carbon monoxide level falls to an average exposure of less than 1 ppm. To what is this level comparable? Many of our cities have higher levels by many multiples in the ambient air. Drivers in ordinary traffic far exceed these levels, and those who are delayed in tunnels, covered bridges, or garages experience substantially greater levels than drivers in ordinary traffic.

It should be noted, too, that the effects from different sources of carbon monoxide are not additive. If one source provides an exposure of 5 ppm and simultaneously another source provides an exposure of only 3 ppm, the carboxyhemoglobin level of the individual is not based on a level of 8 ppm, the total of the two, but only on 4 ppm, the average of the two exposures.

In demonstrating an acclimitization to carbon monoxide in animals, Nasmith and Graham, Campbell and Barbatow, et al., exposed animals to ever increasing levels of carbon monoxide eventually developing a tolerance to levels unacceptable to the control animals. The work of Clark shows the similar physiologic response between carbon monoxide and high altitude acclimitization. Animals subjected to hypoxia equivalent to 18,000 feet would accept an atmosphere of 2,500 ppm carbon monoxide without ill effects while another group raised on 1,200 ppm carbon monoxide was able to live in an oxygen deprived atmosphere equivalent to 34,000 feet while showing no discomfort.

When one considers the very high levels of carbon monoxide and the accompanying carboxyhemoglobin saturated levels that both man and animals have successfully tolerated, one cannot be impressed with effects from fleeting exposures of 40 to 60 ppm carbon monoxide. Further, exposures to peak carbon monoxide concentrations in this range and higher are a common occurrence in today's heavily mechanized world. The Maximum Allowable Concentrations for industrial exposure are 50 ppm, and it must be recalled that this allowance is based upon a forty-hour week exposure. Transient exposure to the levels found in cigarette smoke cannot begin to equal these levels.

The section of the 1972 Report dealing with possible effects on non-smokers is, in my opinion, so speculative that little more need be said. Until we have settled the questions which abound concerning possible effects on the smoker, it seems premature to consider the charges seriously.

In closing, it would be regrettable to ban certain tobacco products when our knowledge of any effect they may have is incomplete and when the effect of such a ban on smokers' pleasures, needs, or desires is too little understood.

CHARLES H. HINE, M.D., PH.D.—PROFESSIONAL QUALIFICATIONS

EDUCATION

1. St. Norbert College, Chemistry, B.A., 1937.
2. University of Wisconsin Graduate School, Chemistry, MA., 1938.
3. University of Wisconsin Graduate School, Pharmacology and Toxicology, Ph.D., 1942.
4. University of Wisconsin Medical School, Medicine, M.D., 1943.
5. Internship (Rotating) U.S Navy, San Diego Naval Hospital, 1943–1944.

ACADEMIC AND RESEARCH POSITIONS HELD

1. Wisconsin Alumni Research Fellow, 1938–42.
2. Head of Toxicology Activity, National Naval Research Institute, 1946.
3. Chief Toxicologist and Acting Head of Radiological Defense Laboratory, U.S. Naval Shipyards, San Francisco, 1947.
4. School of Medicine, University of California, San Francisco Medical Center, Lecturer in Pharmacology, 1947–48; Assistant Professor of Pharmacology, 1948–52; Associate Clinical Professor of Pharmacology and Toxicology, 1952–64; Associate Clinical Professor of Preventive (Occupational) Medicine, 1957–64; Clinical Professor of Preventive (Occupational) Medicine and Toxicology and Environmental Medicine, 1964–present.
5. University of California, School of Public Health, Assistant Professor, 1948–52; Associate Clinical Professor, 1953–62; Lecturer, 1963–66.

BOARD CERTIFICATION

1. Industrial Hygiene (Toxicology), 1962.
2. Preventive (Occupational) Medicine, 1956.

MILITARY SERVICE

U.S. Navy Medical Corps: Ensign (HCVP), 1942–43; Lieutenant (j.g.), 1944–45; Lieutenant (s.g.), 1946–47.

MEMBERSHIP IN PROFESSIONAL SOCIETIES

1. American Academy of Forensic Science (Fellow 1957), 1950.
2. American Academy of Occupational Medicine (Fellow 1960), 1957.
3. American Chemical Society, 1950.
4. American Board of Industrial Hygiene, 1962.
5. American Board of Preventive Medicine, 1956.
6. American Industrial Hygiene Association, 1949.
7. American Medical Association, 1946.
8. American Society for Pharmacology and Experimental Therapeutics, 1947.
9. American Therapeutic Society, 1965.
10. California Academy of Preventive Medicine, 1957.
11. California Medical Association, 1948.
12. American Occupational Medical Association (Fellow 1958), 1951.
13. International Association of Forensic Toxicologists, 1963.
14. San Francisco County Medical Society, 1948.
15. Sigma Xi, 1942.
16. Society for Experimental Biology and Medicine, 1947.
17. Society of Toxicology (Founding Member), 1961.
18. Western Occupational Medical Association, 1952.

PROFESSIONAL ACTIVITIES

1. Independent Medical Examiner for State of California Workman's Compensation Appeals Board.
2. Practicing Physician, licensed 1944, USN; 1946 State of California.
3. Toxicologist to the Coroner, City and County of San Francisco.
4. Consultant in Occupational Health and Toxicology.
5. Consultant to California State Department of Public Health in Toxicology.

SPECIAL HONORS AND ELECTION TO SPECIAL MEMBERSHIPS IN SOCIETIES

1. Certified by the American Board of Preventive Medicine in the field of Occupational Medicine (Founder's Group), 1956.
2. Elevated to Fellow in the American College of Preventive Medicine, 1956.
3. Elevated to Fellow in the American Academy of Occupational Medicine, 1960.
4. Elevated to Fellow in the American Occupational Medical Ass'n., 1958.
5. Board of Industrial Hygiene, certified in Toxicology, 1962.
6. Appointed to serve on International Advisory Committee of National Institutes of Health, 1970–7.

STATEMENTS OF DR. ROBERT C. HOCKETT

I am Robert Casad Hockett, a Ph.D. in the fields of organic chemistry and biochemistry and Research Director of The Council for Tobacco Research-U.S.A., Inc.

I have reviewed the Hart-Kennedy bill regarding the National Research and Development Act of 1976 and would like to offer the following comments regarding the unfounded claims that cigarette smoking is one of the principle contributors to the high incidence of cancer and other disease; and that "overwhelming scientific evidence exists that the harmful factors contained in cigarette smoke are 'tars' and nicotine":

In 1965, 1969 and 1972, I had the privilege of presenting to various Committees of Congress reviews of tobacco and health research sponsored by The Council. My statements setting forth my background and views are attached.

In 1972, when the regulation of "tar" and nicotine levels was being proposed, I stated that I could find no convincing evidence that "tar,"[*] nicotine or any specific ingredient as found in cigarette smoke had been shown to play a role in producing any human disease. Consequently, there was no scientific basis upon which to establish maximum acceptable levels of "tar" or nicotine.

My remarks to Congress in 1972 may be briefly summarized as follows:

The 1964 Report to the Surgeon General of with respect to nicotine: "The rapidity of degradation to non-toxic metabolites, the results from chronic studies on animals, and the low mortality ratios of pipe and cigar smokers when compared with non-smokers indicate that the chronic toxicity of nicotine in quantities absorbed from smoking and other methods of tobacco use is very low and probably does not represent a significant health problem." Since 1964, no data have been published which would require a change in that position. On the contrary, studies have confirmed the conclusion that nicotine in the body is rapidly coverted into other substances of much lower pharmacological activity.

It has never been scientifically established that nicotine causes or contributes to atherosclerosis or—for that matter—any other cardiovascular disease. Rather it is generally recognized that many factors must be involved in determining the rate at which atherosclerosis develops and also in influencing the precipitation of acute disease events. At least twenty such factors have been reported and some are clearly of a genetic nature, while others are environmental. To date no one has been able to define scientifically the predominant causal factors or how they interact in the production of this disease. In general, human studies on atherosclerosis still frequently appear confusing, inconsistent and contradictory.

Recently it has become possible to design more systematic and better controlled animal studies to investigate what role, if any, nicotine could play in the complex etiology of atherosclerosis. So far, such studies have not established that nicotine can be implicated in the production of this disease.

The pharmacological effects of nicotine in humans have been shown to be very transient and some are probably beneficial. While many studies have been done in this field, none have established nicotine as contributing to the causation, aggravation or precipitation of any cardiovascular disease.

With regard to tobacco smoke, over the years numerous animal inhalation experiments have been conducted. Nevertheless, all such studies have failed to produce the type of lung cancer that in humans has been statistically associated with smoking.

One experimental method that produced observable results was the painting of smoke condensates (generally but erroneously called "tars") on the skins of mice. My skepticism about the relevance of such experiments to humans is based upon the following considerations:

1. Relatively enormous doses of "tar" were used in the animal skin experiments.

2. Great differences exist between mice and primates, including man, in susceptibility to cancer-inducing chemicals.

3. There are many important differences between skin and lung tissues, including various cleansing mechanisms.

4. There are both chemical and physical differences between smoke condensate or "tar" and whole, fresh, normal smoke.

5. The role, if any, of viral agents in the skin painting experiments is unknown.

As to carbon monoxide, it is a normal constituent of human blood produced by metabolism and can be destroyed by the body, though slowly. Without any exposure at all to carbon monoxide in the air, the blood contains from 0.2% to 1.0% of carboxyhemoglobin (the combination formed by this gas with the red blood pigment). This level is equivalent to that produced by constant breathing of air containing seven parts per million of the gas.

Long ago it was found that smokers, after smoking and inhaling from 10 to 15 cigarettes within a period of two hours, showed a rise in percentage saturation of carboxyhemoglobin from 3.1% to 6.7% (average 4.3%). None of them experienced any symptoms attributable to carbon monoxide, which * * * acceptable in prolonged industrial exposures. Further, cigarette exposure is generally intermittent as compared to the day-long exposure often encountered in industries. As to long term exposure to carbon monoxide, studies of men chronically exposed (10 to 18 years) in their work to relatively high carbon monoxide levels show no earlier or more substantial circulatory abnormalities attributable to atherosclerosis than the general population. In short, no one has ever scientifically shown carbon monoxide exposures from ordinary smoking to be hazardous to humans.

Since 1972, I have followed the pertinent scientific literature but have not seen any data which would change my opinion that smoking has not been scientifically established as a "major health hazard" to humans. Nor have I seen any studies in the medical literature which establish "tar," nicotine or any other constituent of tobacco smoke as disease producing in human smokers. This is especially true with regard to the so-called epidemiological or statistical studies.

It is generally conceded that the cause or causes of disease cannot be determined by epidemiological studies alone. Such studies merely point to areas in which laboratory experiments with animals, integrated with human clinical observations, are needed to explain and interpret the real meaning of statistical relationships gleaned from human population studies.

Experts in the field have pointed out many unsolved problems relating to the epidemiological approach. Perhaps the most disturbing criticism of existing studies is that in human populations, the smoker and the non-smoker groups are self-selected to begin with instead of being assigned at random as would be the case in any competent animal experiment.

At present, we do not know about the conscious or unconscious motivations involved in the adoption or maintenance of cigarette smoking to judge fully the nature * * * populations. Nor can we determine whether these differences are themselves associated with disease predispositions apart from smoking. Nevertheless, wherever such differences have been explored at the levels of personality, body build, electroencephalography, style of life, vocational interests, or psychological make-up, they have been found to be real. It is important to look for still other differences and especially, in each case, to find out what, if any, relationship the differences themselves or any associated differences in health may have to the practice of smoking.

In view of these unresolved problems, it is obvious that epidemiological studies have not, and cannot incriminate specific components of cigarette smoke in the causation of human disease. Neither these epidemological studies, nor animal and clinical studies, have identified any ingredient or group of ingredients as found in smoke as disease producing in humans.

In conclusion, it is my opinion that there is no scientific basis for selective taxation of cigarettes, based upon their yields of "tars" and nicotine.

Curriculum Vitae of Dr. Robert C. Hockett

Dr. Robert C. Hockett, Research Director of The Council for Tobacco Research—U.S.A., Inc., 110 East 59th Street, New York, New York 10022, was born in Fayette, Missouri on July 1, 1906.

A graduate of the Ohio State University, Dr. Hockett pursued graduate study in the same institution and received the Ph.D. degree in chemistry there in 1929. As a National Research Council Fellow in Chemistry, he was a guest scientist at the National Institutes of Health, U.S. Public Health Service from 1929 to 1931 and then Associate Chemist on the Institute staff from 1931 to 1935.

In 1935 he joined the faculty of the Massachusetts Institute of Technology as Assistant Professor of Chemistry, becoming Associate Professor in 1941.

In 1943 he was granted a leave of absence from M.I.T. to serve as Scientific Director of the Sugar Research Foundation, Inc., which position he occupied until 1952. He has also been Visiting Professor at the Universities of Illinois and North Carolina.

From 1952 until 1954 he served as a consultant to industrial firms on problems relating to foods, nutrition, pharmaceuticals, fermentations and sponsored research.

In 1954 he joined the present Council for Tobacco Research's predecessor organization—the Tobacco Industry Research Committee—as an Associate Scientific director.

Dr. Hockett is a Fellow of the American Academy of Arts and Sciences, the New York Academy of Sciences, the American Public Health Association, the Royal Society of Arts, and the American Institute of Chemists. He holds membership in the American Chemical Society, in which he has served as an Alternate Councilor, member of the Nomenclature Committee, Vice-Chairman of the Division of Carbohydrate Chemistry in 1944, Chairman in 1945 and 1946, and Secretary-Treasurer from 1956 to 1960. He also holds membership in the American Society of Biological Chemists, American Association for the advancement of Science, Friends of the World Health Organization, Royal Society of Health, and the Phi Beta Kappa Associates.

He has served as a Lecturer in Switzerland for the American-Swiss Foundation for Scientific Exchange, member of the Food Industries' Advisory Committee to the Nutrition Foundation, Inc., Collaborator to the United States Department of Agriculture, member of the Advisory Committee for Advances in Carbohydrate Chemistry, as Associate to the State Department's Committee for Interamerican Scientific Publication and member of the Sugar Advisory Committee to the Administrator of the Production and Marketing Act, U.S. Department of Agriculture.

He is author of numerous research papers on chemistry of the carbohydrates, of articles and lectures on nutrition and public health, of many reviews and summaries on tobacco and health research and contributor to a book, *Beet Sugar Economics*.

Statement of Dr. Ronald Okun

I am Ronald Okun, M.D., Associate Professor of Medicine and Medical Pharmacology and Therapeutics at the University of California, California College of Medicine in Irvine, California. I am a graduate of the University of California where I received degrees of M.D., and M.S., in Pharmacology and Toxicology. After having completed a Fellowship in Clinical Pharmacology at John Hopkins School of Medicine, I became Assistant Professor of Medicine and Pharmacology at University of Caifornia, Los Angeles, School of Medicine and am now Director of Clinical Pharmacology at Cedars-Sinai Medical Center, Los Angeles, California. I am also Past-President of the American Academy of Clinical Toxicology.

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[*] The so-called "tars" are complex mixtures of condensed smoke ingredients. "Tars" vary in composition with tobacco types and treatments and with conditions of combustion, collection and storage. Equal amounts of two different "tars" can have vastly different biological effects in animal experiments.

The views I express are mine derived from over 15 years of research and training after medical school, including research on effects of environmental stress in toxicology, which have convinced me that scientific research and not guess work should settle questions of physiological and medical effects of various pharmacologic agents.

I am familiar with the bill sponsored by Senators Hart and Kennedy and called the National Health Research and Development Act of 1976. This bill indicates that "overwhelming scientific evidence exists that the harmful factors contained in cigarette smoke are tars and nicotine" and it is to this statement in particular that I address the following remarks:

I had the privilege of presenting my views on smoking and health to the Commerce Committee of the U.S. House of Representatives in 1969 and to the Consumer Subcommitee, Committee on Commerce of the U.S. Senate in 1972. On those occasions, I noted that research had not succeeded in establishing a casual relationship between smoking and diseases. Let me again state that since 1972 no research has established a causal role for smoking in the production of disease.

In 1972, I pointed out that:

The rate and amount of absorption of cigarette smoke constituents from smoke probably depends upon the following factors:

1. The number, size and frequency of puffs.
2. The length and time the smoke remains in contact with the mucocus membranes.
3. The acidity of the body fluids with which the smoke comes in contact.
4. The depth and degree of inhalation.
5. How accustomed the person is to smoking.
6. The chemical content of the tobacco smoke.
7. The moisture content of the tobacco smoke.
8. The characteristics of the tobacco.
9. The use of a filter.
10. The acidity of the tobacco smoke.
11. The agglomeration of smoke particles.
12. The amount of moisture over which the smoke travels.

All these variables must be carefully studied and held constant before a scientist can accurately predict absorption.

No one has identified disease-producing components in tobacco smoke in significant amounts or forms available to the human body.

"Tar" is something produced in a laboratory and not something in cigarette smoke to which humans are exposed. Human beings do not smoke "tar" and laboratory reports on "tar" yields have not been established as significant to human health.

A great deal of data is available concerning the acute cardiovascular effects of nicotine in man. For example, nicotine can cause liberation of catecholamines from the adrenal gland. There are many other actions known, which I need not detail here. However, the net results are transient, non-cumulative and reversible increases in heart rate, cardiac output, etc.

The Surgeon General's Advisory Committee, in its 1964 report, reviewed and analyzed the large body of data then available on nicotine and concluded that nicotine did not represent a significant health hazard. Since this report, there are still no data which would allow a person to draw any other conclusion regarding the health effects of nicotine on smokers.

Some people assume that any dose of nicotine is bad—this is scientifically not true. Many common household materials are harmful in large doses but quite acceptable and perhaps even necessary in small doses; for example, table salt in large amounts can be harmful but in small amounts is acceptable by almost every person. However, ordinary doses of salt may be harmful to certain people, such as those with heart failure or hypertension. But this is a problem of an individual patient which must be determined by the physician for each patient and no general rules can be made.

Although there have been many reports dealing with cigarette "tar" and nicotine since 1972, there are no new data which would justify a change in my then stated conclusion that no ingredient or group of ingredients as found in tobacco smoke have been established as disease producing in smokers. In fact, one such report showed that nicotine failed to influence the severity, histopathologic, ultrastructural histochemical or angiographic features of aortas and coronary arteries or serum lipids of otherwise untreated rabbits, as well as rabbits subjected to such determinants of atherosclerosis as hypercholesterolemia or hypertension or both.

Accordingly, as I stated in 1972 and continue to believe, I cannot tell the significance of nicotine or "tar" derived from cigarette smoke on human health and certainly there is no scientific basis for the claim that "tar" and nicotine have been shown to be harmful to human smokers.

In conclusion, although I favor financial support from the government for medical research, in my opinion, the discriminatory tax by the Hart Kennedy bill is unfair and has no scientific basis.

CURRICULUM VITAE—RONALD OKUN, M.D.

Date of Birth: August 7, 1932.

Marital Status: Wife, Katherine G. Okun—3 children.

[redacted].

EDUCATION

University of California, Los Angeles, California, 1950–1954, B.A.

University of California, San Francisco, California, 1954–1958; School of Medicine, 1958, M.D.; Pharmacology, 1958, M.S.

TRAINING

Teaching Assistant, University of California, San Francisco, California, Feb. 1958–June 1958.

Intern, General Medical and Surgical Hospital, Veterans Administration Hospital, Los Angeles, California, 1958–1959.

Resident, Veterans Administration Hospital, Los Angeles, California, 1959–1961.

Fellow, Cinical Pharmacology, Johns Hopkins Hospital, Baltimore, Maryland, 1961–1963.

PRESENT APPOINTMENTS

Director, Clinical Pharmacology, Cedars-Sinai Medical Center, Los Angeles, California, July 1963–present.

Assistant Professor of Pharmacology (in Residence), University of California, Los Angeles, California, Sept. 1963–present.

Assistant Professor of Medicine, University of California, Los Angeles, California, Sept. 1963–June 1970.

Associate Professor Medicine and Medical Pharmacology and Therapeutics, University of California, Irvine-California College of Medicine, July 1970–present.

Research Pharmacologist, Veterans Administration Hospital, Sepulveda, California, 1964–1971.

Consultant in Pharmacology, State of California, Department of Public Health, 1969–1971.

Attending Physician in Cardiology, Veterans Administration Hospital, Los Angeles, California, 1969–present.

Scientific Advisor to the Board of Directors, Cedars-Sinai Medical Center, 1969–Present.

Associate Editor of Annual Review of Pharmacology, 1970.

Attending Staff in Internal Medicine (Nephrology), 1970.

County of Los Angeles/Harbor General Hospital, Los Angeles, Calif. Fellow, American College of Clinical Pharmacology, 1971.

Chief, Scientific Advisory Board, Committee to Combat Huntington's Disease, 1971–Present.

Chairman, Committee on Pharmacy & Therapeutics, California Medical Assn., 1973–1974.

Pharmacist Advisory Commission to Assembly California Legislature, 1973–1975.

President, American Academy Clinical Toxicology, May 1973.

PROFESSIONAL SOCIETY MEMBERSHIPS

Sigma Xi, 1958.

American Federation for Clinical Research, 1961.

American Assn. for Advancement of Science, 1961.

New York Academy of Sciences, 1961.

Amer. Soc. for Pharmacology & Experimental Therapeutics, 1968.

Amer. Academy of Clinical Toxicology, 1968.

Amer. Soc. of Clinical Pharmacology & Therapeutics, 1971.

SPECIAL AWARDS & HONORS

Legge Preventive Medicine Award, University of California Med Cntr., Feb–June 1958.

Fellow, American College of Physicians, April 15, 1972.

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ADDITIONAL STATEMENT SUBMITTED ON PROPOSED TOBACCO LEGISLATION—S. 2902

Mr. MORGAN. Mr. President, it is really not possible for me to register the degree of shock I experienced in reading about the introduction of S. 2902. I am profoundly concerned over the impact upon the economy of North Carolina that this latest attack on tobacco would have.

My shock realy came when I saw that S. 2902 attempts to do something over and above what the Congress has previously authorized in the cancer research programs of HEW through the imposition of $9.3 billion in new tax funds levied upon only one segment of our society—the 60 million users of tobacco products. These funds would go for general research and health care. The total health research and development commitment in the United States, both in the public and private sectors, was $4¼ billion in 1974. Health is important; but we are talking about tripling spending. Tobacco contributed to the Federal Treasury during 1974 almost $3 billion in excise taxes.

I am shocked that anyone can envision that the Government can spend $9.3 billion more in health research and get the desired results. What a problem, Mr. President, would be created for the private sector and its research needs, when our manpower pool of scientists is already drained—17,000 scientists are already committed to the National Cancer Institute program.

Incidentally, the National Cancer Institute estimates that it, under present plans, will need 28,000 scientists by 1982.

In short, this bill would superimpose on the Department of Health, Education and Welfare another bureaucracy with extraordinary powers and big money of the pork barrel variety. Tripling spending is no panacea for the health riddle. Creating a new bureaucracy is not the answer. What we have got to do is spend what is already committed wisely, and use the valuable manpower judiciously.

This bill may intend to use the proceeds of a single industry to finance this tremendous spending increase, but it is more likely to destroy the industry.

It would appear, with the introduction of legislation by Senators HART and KENNEDY to tax the allegedly toxic yields of cigarette smoke, that a broad and almost limitless avenue of revenue lies ahead; one that may be perceived as so equitable that it might seriously be considered as supplanting more traditional and controversial methods of taxation.

This initial proposal is disarmingly simple, based on a need which few would question for greater health research and health care. Federal funds for these purposes would be greatly augmented—indeed, present appropriations would be dwarfed—with the realization of more than $9 billion annually by a levy on each milligram of tar and each milligram of nicotine as measured in the smoke of each cigarette in the United States by a Federal Government agency.

This tax would be paid, presumably, by the manufacturers of cigarettes and recovered at each stage of the product distribution system as a just contribution toward the social costs which they believe to be derived from the choices made by individual citizens to engage in a hazardous practice, the smoking of cigarettes.

There is little doubt that this proposal will find acceptability in a very large body of thoughtful and authoritative opinion. In fact, it embodies a principle which may very properly become the eventual standard for virtually all of the revenue requirements of the Federal Government. A few examples of the possibilities will serve to underscore the visionary significance of this modest initial proposal.

In assessing and employing these we must, of course, bear in mind the rationality of a tax on tar and nicotine. It is well known that positive correlations, statistical associations, have been reported in the scientific literature over the years between cigarette smoking and health problems including heart disease, hemorrhoids, homicides, and halitosis.

What has been less publicized but certainly is no less obvious is that there are many other such correlations involving activities selected by U.S. citizens for which research and health care needs are far-reaching indeed.

No one need be told that airplane passengers are at special risk, with annualy observed correlations between deaths or injuries and passenger-miles flown, as reported by the Civil Aeronautics Board. Thus each air carrier should be obliged to make tax payments on this basis, recovering the amounts from the passengers themselves.

Similar statistical associations exist with respect to automobile passengers. The health consequences of automobile riding are well known and there is, of course, the added factor of automobile emissions. It would appear to be relatively simple to tax manufacturers according to make-and-model emissions certifications from the Environmental Protection Agency, with an increment depending upon the number of seats per car and, finally, a direct levy on automobile owners according to mileage driven, which could be determined by the several States at the time of annual automobile inspections.

Dietary cholesterol is another recognized risk factor in illness. We should consider a levy on each milligram of meat fat, with a surtax on each milligram of nitrites used in curing, based upon Department of Agriculture inspections of meatpacking operations.

Another widespread peril is side effects incurred in the use of various medicinal products. A tax per milligram of active ingredient in such widely used pharmaceuticals as aspirin or oral contraceptives would adequately solve this problem.

Of course, the seriousness of the consequences of exposure to these risks varies greatly among them and in each case the specific degree of risk is a matter of dispute, conjecture, and lack of exact knowledge. This suggests the major obstacle to application to the Hart-Kennedy principle.

Even the best of principles are hard won in acceptance. Tenacity and courage will be severely tested as we consider this new concept of taxation. Certainly there will be deep divisions in the forthcoming views of scientists, government officials, and special interests. If the recent past is a guide, perhaps the only element of our society which will remain relatively aloof in these deliberations will be our citizens themselves—the drivers, the pill takers, the smokers, the candy eaters, the skydivers, the bacon lovers, and the countless others who have foisted such awesome responsibilities upon the Federal Government to protect them from themselves.

Mr. President, certainly we could better utilize the time of the Senate than trying to govern the morality of our citizens through prohibition.

Probably the two best known slogans in this country are "In God We Trust," and "Warning: The Surgeon General has determined that cigarette smoking is dangerous to your health." The function of Government ought to be to inform the public—but not to make the choices which are the personal right of our citizens.

ROUTINE MORNING SESSION

The **PRESIDING OFFICER.** Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 45 minutes, with statements therein limited to 5 minutes.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Marks, one of his secretaries.

GUATEMALA DISASTER RELIEF ACT OF 1976—MESSAGE FROM THE PRESIDENT

The **ACTING PRESIDENT** pro tempore (Mr. HELMS) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

On February 4th a devastating earthquake struck Guatemala. That earthquake, together with its aftershocks, has left over 22,000 dead, more than 75,000 injured, and one million homeless.

The United States has a special responsibility to help meet the urgent needs in Guatemala. Immediate aid has already been extended by U.S. agencies, both public and private, including:

- —Emergency shelters, medical supplies and food provided by the Agency for International Development.
- —Transportation and medical facilities provided by the Department of Defense.

—Food distribution, medical services, and other disaster relief activities provided by numerous private voluntary agencies.

Last week I dispatched my Special Coordinator for International Disaster Assistance—AID Administrator Daniel Parker—to Guatemala for a firsthand review of the situation. He has now reported to me and to Congressional Committees on the extent of damage and need. Both the Senate and the House of Representatives have passed resolution expressing sympathy for the people of Guatemala in their hour of distress and urging development of a comprehensive U.S. response. The Secretary of State will visit the Republic of Guatemala on February 24 to express further our support for the people of Guatemala.

I am now proposing urgent and specific action to turn these expressions of sympathy into tangible assistance. The proposed $25 million "Guatemala Disaster Relief Act of 1976" which I am sending herewith represents an immediate humanitarian response of the United States to the victims of this tragedy who have been injured or have lost their relatives, their homes and possessions, and in many cases their very means of existence.

This legislation, and the ensuing appropriation, will enable us to respond to the human tragedy in Guatemala. Our response will reflect America's concern for the people of Guatemala.

GERALD R. FORD.

THE WHITE HOUSE, *February 19, 1976.*

MESSAGE FROM THE HOUSE

At 2:20 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that, on reconsideration, and two-thirds of the House agreeing, the bill (H.R. 5247) to authorize a local public works capital development and investment program, to amend the Public Works and Economic Development Act of 1965 to increase the antirecessionary effectiveness of the program, and for other purposes, was passed, the objections of the President of the United States notwithstanding.

The message also announced that the House has agreed without amendment to the concurrent resolution (S. Con. Res. 90) to provide for a Committee on Inaugural Arrangements.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 270. An act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Elkhart, Kansas, for airport purposes; and

H.R. 11645. An act to amend the Act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building.

The enrolled bills were subsequently signed by the President pro tempore.

The message also announced that the House has passed the joint resolution (H.J. Res. 801) making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1976, the fiscal year ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes, in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. HELMS) laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation transmitting, pursuant to law, a report entitled "Activities Relating to the Deepwater Port Act of 1974, Fiscal Year 1975" (with an accompanying report); jointly, by unanimous consent, to the Committees on Commerce, Public Works, and Interior and Insular Affairs.

REPORTS OF THE ASSISTANT SECRETARY OF DEFENSE

A letter from the Assistant Secretary of Defense transmitting 41 secret selected acquisition reports and summary tables for the quarter ending December 31, 1975 (with accompanying reports); to the Committee on Armed Services.

APPROVAL OF LOAN BY THE REA

A letter from the Acting Administrator of the Rural Electrification Administration transmitting, pursuant to law, a statement in connection with the approval of an REA-insured loan to Alabama Electric Cooperative, Inc., of Andalusia, Alabama (with accompanying papers); to the Committee on Appropriations.

REPORT OF THE ASSISTANT SECRETARY OF DEFENSE

A letter from the Assistant Secretary of Defense transmitting, pursuant to law, a report relating to defense manpower requirements for fiscal year 1977 (with an accompanying report); to the Committee on Armed Services.

PROPOSED LEGISLATION BY THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT

A letter from the General Counsel of Housing and Urban Development transmitting a draft of proposed legislation to amend section 701 of the Housing Act of 1954 (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE NATIONAL RAILROAD PASSENGER CORPORATION

A letter from the President of the National Railroad Passenger Corporation transmitting, pursuant to law, a report on the activities of Amtrak during the year 1975 (with an accompanying report); to the Committee on Commerce.

REPORT OF THE SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury transmitting, pursuant to law, the Statistical Appendix to the 1975 annual report of the Secretary of the Treasury (with accompanying report); to the Committee on Finance.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A letter from the Assistant Legal Adviser of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into during the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States transmitting, pursuant to law, a list of reports of the General Accounting Office for the month of January 1976 (with accompanying papers); to the Committee on Government Operations.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Hepatitis from Blood Transfusions: Evaluation of Methods To Reduce the Problem" (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE BUREAU OF LAND MANAGEMENT

A letter from the Director of the Bureau of Land Management transmitting, pursuant to law, a report of negotiated sales contracts for disposal of materials during the period July 1, 1975 through December 31, 1975 (with accompanying reports); to the Committee on Interior and Insular Affairs.

INTERNATIONAL ENERGY PROGRAM

A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, a proposed agreement to implement the allocation and information provisions of the International Energy Program (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION BY THE DEPARTMENT OF THE ARMY

A letter from the Assistant Secretary of the Army transmitting a draft of proposed legislation to authorize an increase in the monetary authorization for certain comprehensive river basin plans previously approved by Congress (with accompanying papers); to the Committee on Public Works.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a communication transmitted by the Secretary of Transportation relative to its annual report on activities relating to the Deep Water Port Act of 1974 be referred jointly to the Committees on Commerce, Public Works, and Interior and Insular Affairs.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PETITIONS

The ACTING PRESIDENT pro tempore (Mr. HELMS) laid before the Senate the following petitions which were referred as indicated:

House Concurrent Resolution No. 341 adopted by the Legislature of the State of Michigan; to the Committee on Agriculture and Forestry:

"HOUSE CONCURRENT RESOLUTION NO. 341

"A concurrent resolution urging the Congress of the United States to adopt the Right To Food resolution as a declaration of our national policy

"Whereas, Senate Concurrent Resolution 66 and House Concurrent Resolution 393 introduced in Congress on September 25, 1975, are declarations of the right of every person to a nutritionally adequate diet, and that this right should be 'recognized as a cornerstone of U.S. policy'; and

"Whereas, Senator Mark Hatfield (R-Oregon) and Representative Donald Fraser (D-Minnesota), as sponsors of the resolutions have emphasized the need to focus on the critical issue of hunger throughout the world, and the necessity of reaching legislative and administrative decisions to deal with this issue; and

"Whereas, Approximately 460 million persons worldwide, almost half of whom are young children, suffer from acute malnutrition; and

"Whereas, President Gerald R. Ford gave as an objective for our Nation in collaboration with other nations at the World Food

Conference that 'no human being's future and capacities will be stunted by malnutrition'; and

"Whereas, The problem of hunger is not limited to foreign countries, but is very much in evidence within those areas of the United States where unemployment and poverty deny an adequate diet to many families; and

"Whereas, The spirit of 'justice' in our Bicentennial celebration should dictate and demand the articulation of the Right to Food as a public policy of the United States; now, therefore, be it

"Resolved by the House of Representatives (the Senate concurring), That the Michigan Legislature urge the Congress of the United States to adopt Senate Concurrent Resolution 66 and House Concurrent Resolution 393 now before it; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the Senate, the Speaker of the House of Representatives, and to each member of the Michigan delegation to the Congress of the United States.

"Adopted by the House of Representatives, January 26, 1976.

"Adopted by the Senate, January 29, 1976.

A concurrent resolution adopted by the General Assembly of the State of South Carolina; to the Committee on Finance:

"A concurrent resolution to Memorialize the Congress of the United States to Increase the Estate Tax Exemption and to Provide an Alternate Method of Valuing Certain Real Property for Estate Tax Purposes. Amend title to conform.

"Whereas, the present exemption of the first sixty thousand dollars of Federal estate taxes is not sufficient to keep pace with inflationary forces in the American economy; and

"Whereas, this low figure oftentimes forces the remaining family members to sell the very assets that are necessary for their livelihood to pay the estate taxes that become due when the breadwinner dies; and

"Whereas, our present law does not foster the development and maintenance of the family business as our forefathers intended because, when a husband dies it frequently is very difficult for the remaining members of a family to benefit from his lifetime labors. It is imperative that we preserve the family business and the family farm for the sake of our future generations. Both give strength and stability to our economy; and

"Whereas, outmoded estate tax laws affect us in other ways. Woodlands, farmland and scenic open space near towns are being taxed according to the development potential of the land, thereby, forcing many of these properties to be turned into developments upon the death of the owner. Such laws do not help maintain the scenic landscapes that have for so long been a part of the American heritage; instead they add fuel to the ever increasing "urbanization" of our countryside. Now, therefore,

"*Be it resolved* by the Senate, the House of Representatives concurring:

"That the General Assembly by this Resolution memorializes the Congress of the United States to raise the estate tax exemption from sixty thousands dollars to one hundred twenty thousand dollars and to provide that woodlands, farmlands or scenic open space upon the death of the owner be taxed not on its fair market value or development potential but on the value of the land as it is actually used as long as it continues to be operated as such.

"*Be it further resolved* that copies of this resolution be forwarded to the President of the Senate, the Speaker of the House of Representatives, each United States Senator from South Carolina and each member of the House of Representatives of Congress from South Carolina.

Senate Concurrent Resolution No. 7 adopted by the Legislature of the State of South Dakota; to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION No. 7

"A concurrent resolution, Memorializing the Congress of the United States and the President of the United States to amend the Internal Revenue Code with regard to the "widow's tax."

"Be it resolved by the Senate of the State of South Dakota, the House of Representatives concurring therein:

"Whereas, wives on the farm and ranch play a significant role in the farm operation by working alongside their husbands in the fields, in the homes and keeping the records; and

"Whereas, the Internal Revenue Service in reviewing joint tenancy estates refuses to recognize the "partnership-like" contributions of the wife unless she can prove that she inherited part, held off-farm jobs to meet land or machinery payments or otherwise made a legally-recognized contribution of money or "money's worth;" and

"Whereas, a federal system which requires a widow to pay an unequal share of federal estate taxes upon the death of her husband is grossly unfair and unjust; and

"Whereas, South Dakota inheritance law has long presumed that husband and wife joint tenancy property was jointly acquired resulting in the surviving spouse paying inheritance taxes only on the one-half inherited on the death of the spouse:

"Now therefore, be it resolved, by the Senate of the State of South Dakota, the House of Representatives concurring therein, that the Congress of the United States and the President of the United States and his subordinates are urged, petitioned and memorialized in this bicentennial year to recognize fully, and legally value, the wife's contributions to farm and business operations; and

"Be it further resolved, That copies of this resolution be forwarded by the Secretary of the Senate of the State of South Dakota to the presiding officers of the United States House of Representatives and the United States Senate, the South Dakota Congressional delegation, the President of the United States, the Secretary of Treasury and the Attorney General of the United States.

A resolution adopted by the Council of the County of Maui, Hawaii, relating to the return of the Island of Kahoolawe to the State of Hawaii; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 905. A bill for the relief of Eva Graciela Steinitz (Rept. No. 94–635).

By Mr. PASTORE (for Mr. BAYH), from the Committee on Appropriations:

S. Res. 392. An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.J. Res. 801. Referred to the Committee on the Budget.

By Mr. PASTORE (for Mr. BAYH), from the Committee on Appropriations, with an amendment and an amendment to the title:

H.J. Res. 801. A joint resolution making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1976, the fiscal year ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes (Rept. No. 94–637).

By Mr. HRUSKA, from the Committee on the Judiciary, with an amendment and an amendment to the title:

S.J. Res. 35. A joint resolution to provide for the designation of the second full calendar week in March 1975 as "National Employ the Older Worker Week" (Rept. No. 94-638).

THE 26TH ANNUAL REPORT OF SELECT COMMITTEE ON SMALL BUSINESS—REPORT NO. 94–636

Mr. NELSON. Mr. President, on behalf of the Select Committee on Small Business, I am submitting to the Senate today the committee's 26th annual report, covering its activities during 1975.

The select committee was created by Senate Resolution 58, agreed to in 1950, and given the duty to:

> Study and survey by means of research and investigation all problems of American small-business enterprises, and to obtain all facts possible . . . which would . . . be of public interest (and) would aid Congress in enacting remedial legislation.

The annual report is an opportunity to inform the Senate, the small business community, and the public of the results of this research.

During 1975, the Small Business Committee held 63 days of public hearings—more than in any previous year of the committee's existence. A new feature of this year's annual report is an introduction, containing in concise form the highlights of each of the 16 chapters in terms of the research conducted, the resulting findings, and legislation and administrative action which have been proposed as a result.

An example is the initial chapter on the economy, which documents the most severe recession since the Great Depression of the 1930's, and spells out its implications upon small business. The text notes a study performed by a leading small business organization, the National Small Business Association, that confirms that smaller businesses are the worst victims of recession—the downturn comes to businesses of this size first, remains with them longest, and the recovery is often slowest.

The report also cites other figures gathered by the National Federation of Independent Business for the 1974–75 recession which confirm these trends.

The report also compares diverse and often conflicting figures on small business formations, failures and total population which are produced by government agencies and private institutions, and calls upon the Small Business Administration to undertake a reconciliation of these "vital statistics" of the economy.

The report also covers the committee's extensive activities in the tax area which stem from the longstanding interest in the tax problems of small business on the part of the committee and especially its six members who are also members of the Senate Committee on Finance. The committee held 12 days of hearings on tax and other financial matters during 1975, leading to the inclusion of four small business provisions in the Tax Reduction Act of 1975, which constitute the most significant tax help for small- and medium-sized business in the past 25 years. These benefits have now been extended until mid-1976.

The diversity and extent of the additional committee studies and research are indicated by the report's table of contents, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

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PREFACE.

INTRODUCTION.

CHAPTER I. THE ECONOMY AND SMALL BUSINESS.

A. Introduction.

B. Small Business as Part of the Economy.

C. Research on Small Business Vital Statistics.

CHAPTER II. REGIONAL SMALL BUSINESS VIEWS OF THE ECONOMY AND GOVERNMENT PROGRAMS.

A. Introduction.

B. Regional Problems of Small Business.

C. Small Business Economic Problems of National Concern.

CHAPTER III. THE SMALL BUSINESS ADMINISTRATION.

A. Introduction.

B. Legislation.

C. Financial Assistance Programs of SBA.

D. Management Assistance Programs of SBA.

E. Advocacy Role of SBA.

F. SBA Economic Research.

G. Oversight on the Small Business Administration's Procurement Assistance—Timber Size Standard and Set-Aside Program.

H. Re-establishment of the Small Business Administration Technology Utilization Program.

CHAPTER IV. TAXATION.

A. History.

B. The Emergency Tax Reduction Act of 1975.

C. Long-Range Tax Reform for Small Business.

D. Pensions: The Aftermath of ERISA.

E. Small Business Advisory Committee to the Commissioner of Internal Revenue.

CHAPTER V. FINANCING.

A. Continuing Committee Study of Small Business Credit Needs.

B. Equity Capital for Small Business.

CHAPTER VI. WILL THE FAMILY FARM SURVIVE IN AMERICA?

A. Introduction.

B. Federal Reclamation Program's Effect on Family Farms.

C. Impact of Environmental Regulations on Small Farms.

D. Small Business Administration Policy on Aid to Farmers.

E. The Work to Come.

CHAPTER VII. ENERGY RESEARCH AND DEVELOPMENT AND SMALL BUSINESS.

A. Introduction.

B. Hearings on Solar Energy.

C. Legislation.

D. The Work to Come.

E. Conclusions.

F. Recommendations.

CHAPTER VII. FEDERAL PAPERWORK BURDEN.

A. Introduction.

B. Hearings.

C. Actions of the Committee and the Executive Agencies to Cut the Paperwork Burden.

D. Actions of the Committee to Establish the Commission on Federal Paperwork.

E. Legislation.

CHAPTER IX COMPETITIVE PROBLEMS IN THE DRUG INDUSTRY.

A. Government Procurement and Financing of Drugs.

B. Advertising and Misuse of Two Antibiotics: Clindamycin and Lincomycin.

C. Use of Oral Blood-Sugar-Lowering Drugs (Oral Hypoglycemics).

CHAPTER X. SMALL BUSINESS AND SOCIETY.

A. Introduction.

B. Small Business and the Quality of Life.

C. Present and Future Economic Position of Small Business.

CHAPTER XI. GOVERNMENT PROCUREMENT.

A. Foreword.

B. Procurement Review.

C. Hearings on SBA Procurement Assistance Programs.

D. Commerce Business Daily.

E. Legislation.

CHAPTER XII. ECONOMICS OF THE HEARING AID INDUSTRY.

CHAPTER XIII. HELPING SMALL BUSINESS ADJUST TO ENVIRONMENTAL AND CONSUMER INITIATIVES.

A. Introduction.

B. Social, Economic, and Physiological Problems caused by Industrial Noise.

CHAPTER XIV. CORPORATE GIANTISM AND CORPORATE SECRECY.

A. Introduction.

B. Legislation on Corporate Information Disclosure.

C. Agency and Private Activities.

CHAPTER XV. MINORITY BUSINESS ENTERPRISE.

A. Background of Federal Minority Assistance Programs.

B. Committee Investigation.

CHAPTER XVI. RETAILING, DISTRIBUTION AND MARKETING.

A. Bank Giveaways and Sale of Merchandise by Financial Institutions.

B. Proposed Repeal of the Robinson-Patman Act.

C. Proposal to Change the Name of the Wholesale Price Index.

D. Repeal of Fair Trade Laws.

E. Federal Trade Commission Regulation on Franchising Disclosure.

F. Federal Trade Commission Rule on Preservation of Consumers' Claims and Defenses.

G. Staff Conferences with Trade Association Officials.

Supplemental Views of Senator Floyd K. Haskell.

Included in the text are many statistical charts and tables containing valuable analysis. Following the text are additional informational appendices.

In my view, the report can serve valuable educational purposes. It may come as a surprise to many that small business accounts for 97 percent of the 13 million U.S. business firms, and more than half of all private employment, 43 percent of the business output, and one-third of the gross national product. In addition, it has been established that smaller business contributes more than half of the larger inventions and innovations in the economy and is a more reliable supporter of charitable and social institutions in small cities and towns than larger and often absentee corporations. Thus, a wider understanding of the problems and the potential of small business has a direct bearing upon our country's ability to increase employment, fight inflation, increase productivity and efficiency, improve work environments, and to keep alive the American dream of business ownership. All of these things strengthen the overall economy of our Nation and the fabric of our democratic society.

We therefore hope that the 26th annual report will prove to be a valuable resource for research and action on the part of the Senate, the small business community, and the general public.

The ACTING PRESIDENT pro tempore. The report will be received and printed.

DRUG ABUSE OFFICE AND TREATMENT ACT AMENDMENTS OF 1976—CONFERENCE REPORT (REPT. NO. 94-639)

Mr. HATHAWAY submitted the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2017) to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted.

By Mr. EASTLAND, from the Committee on the Judiciary:

Robert B. Fiske, Jr., of Connecticut, to be U.S. attorney for the southern district of New York.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, February 19, 1976, he presented to the President of the United States the enrolled bill (S. 270) to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Elkhart, Kans., for airport purposes.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 801) making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1976, the fiscal year ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JACKSON (for himself and Mr. STENNIS):

S. 2996. A bill to authorize the Secretary of the Interior to permit the relocation of the John Witherspoon statue, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUMPHREY:

S. 2997. A bill to amend the authorization for the Mankato-North Mankato-Le Hillier, Minnesota River, Minnesota Flood Protection project. Referred to the Committee on Public Works.

By Mr. JACKSON:

S. 2998. A bill to amend the Puerto Rico Federal Relations Act. Referred to the Committee on Interior and Insular Affairs.

By Mr. BROCK:

S. 2999. A bill to amend title 39, United States Code, to prohibit Members of Congress from sending certain mail matters as franked mail during the 60-day period prior to certain elections. Referred to the Committee on Rules and Administration.

By Mr. JAVITS (for himself, Mr. McGOVERN, and Mr. WEICKER):

S. 3000. A bill to amend the Internal Revenue Code of 1954, the Social Security Act, and other laws to provide effective welfare reform by replacing public assistance and food stamps with a system of allowances and refundable credits, and for other purposes. Referred to the Committee on Finance.

By Mr. SCHWEIKER:

S. 3001. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to provide an exemption from coverage under the social security program, through a tax refund procedure, for employees who are members of religious faiths which oppose participation in such program, and to provide a similar exemption on a current basis (pursuant to waiver certificates filed in advance) for employers engaged in farming and their employees in cases where both are members of such faiths; and to make the existing exemption for self-employed members of such faiths available to certain additional individuals. Referred to the Committee on Finance.

By Mr. HATHAWAY (for himself, Mr. MUSKIE, Mr. BROOKE, and Mr. PHILIP A. HART):

S. 3002. A bill to amend the Merchant Marine Act, 1936, and the Maritime Academy Act of 1958 to provide for an integrated system of education and training of officers for the U.S. Merchant Marine, and for other purposes. Referred to the Committee on Commerce.

By Mr. BAYH:

S. 3003. A bill to amend section 505 of title 10, United States Code, to require that qualifications for enlistment in the armed forces of the United States be the same for male and female individuals, and for other purposes. Referred to the Committee on Armed Services.

By Mr. HUMPHREY (for himself, Mr. DURKIN, Mr. MONDALE, Mr. BURDICK, Mr. NELSON, and Mr. McGOVERN):

S. 3004. A bill to establish a National Commission on Food Costs and Pricing to appraise the food marketing industry. Referred to the Committee on Agriculture and Forestry.

By Mr. CHILES:

S. 3005. A bill to provide policies, methods and criteria for the acquisition of property and services by executive agencies. Referred to the Committee on Government Operations.

By Mr. CLARK:

S. 3006. A bill for the relief of Raphael Yum Cheung Ko. Referred to the Committee on the Judiciary.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 3007. A bill to provide assistance to States for extraordinary fiscal impacts resulting from development of Federal energy resources, and for other purposes. Referred jointly, by unanimous consent, to the Committees on Commerce and Interior and Insular Affairs.

By Mr. GOLDWATER:

S.J. Res. 171. A joint resolution proposing an amendment to the Constitution limiting the eligibility of Representatives and Senators for the Presidency and Vice Presidency. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JACKSON (for himself and Mr. STENNIS):

S. 2996. A bill to authorize the Secretary of the Interior to permit the relocation of the John Witherspoon statue, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, I introduce, for appropriate reference, legislation authorizing conveyance of title to the statue of John Witherspoon, now located on a site at Connecticut Avenue and N Streets NW., to the National Presbyterian Church and authorizing relocation of this statue to an appropriate site on the grounds of the National Presbyterian Center in Northwest Washington.

The conveyance would be without compensation upon such terms and conditions as the Secretary of the Interior deems necessary. The relocation would be without cost to the United States.

The John Witherspoon statue had its genesis with the organization in March 1907 under the initiative of Dr. Teunis S. Hamblin, pastor of the Church of the Covenant—predecessor of the National Presbyterian Church—of the Witherspoon Memorial Association. The association had nine trustees with John W. Foster, Secretary of State and a member of the Church of the Covenant, as chairman and included Andrew Carnegie and John Wanamaker.

The necessary funds for a bronze statue were raised and in 1908 there was enacted a joint resolution of the Congress creating a commission to select and prepare a site on property belonging to the United States and to erect thereon a suitable pedestal for the statue of John Witherspoon for a sum not to exceed $4,000. The statue of Dr. Witherspoon was located on Government property at Connecticut Avenue and N Streets NW., Washington, D.C., across from the entrance of the Church of the Covenant, and the statue was unveiled on May 20, 1909. It has remained at the same location until the present time.

Unfortunately, Mr. President, the present site of the statue is no longer appropriate or desirable for this memorial to the great statesman and first moderator of the Presbyterian Church. The National Presbyterian Church building, which once stood adjacent to the statue, has been demolished. The statue is isolated on a small triangular plot, with limited pedestrian access, and surrounded by office buildings. Relocation of the statue to a site at the National Presbyterian Center is not only appropriate but will also permit the statue to be seen and enjoyed by the thousands who visit there each year.

Mr. President, the importance of John Witherspoon to the Presbyterian Church and to the Nation was well described by Dr. Edward L. R. Elson in a sermon at the National Presbyterian Church on October 28, 1962. I ask unanimous consent that the sermon be printed in the RECORD.

There being no objection, the sermon was ordered to be printed in the RECORD, as follows:

A PROTESTANT REFORMER AND THE AMERICAN REVOLUTION—AN APPRECIATION OF JOHN WITHERSPOON

Thou hast given me the heritage of those that fear thy name—Psalm 61:5.

(By Rev. Edward L. R. Elson, S.T.D., LL.D.)

David, the magnificent King and musician of Israel, in his prayers remembers the good land of his fathers, the achievements of Saul, and the faith which sustained the ancient people. In a high moment of devotion he says: "Thou, O God, hast heard my vows; thou hast given me the heritage of those that fear thy name."

Like David of old, these are times when we remember our heritage and thank God.

In the calendar of the Church, today is Reformation Sunday and next Wednesday, commemorated in Christendom as All Saints Day, in the Reformed Churches is also celebrated as Reformation Day. The days commemorate the dawn of the Sixteenth Century Reformation of the Church of Christ. The attention of Protestant Christians will be directed to such heralds of the truth and reformation as Martin Luther, John Calvin, Ulrich Zwingli, Thomas Cranmer and John Knox. This morning I invite you to think of a later reformer who was a lineal descendant of John Knox, who came to America eight years before the Declaration of Independence and was as thorough a rebel and reformer as his dynamic kinsman, John Knox. His name was John Witherspoon and his national monument stands in front of our Church.

Every person in this Church ought to be familiar with the fact that the monument to this great leader was unveiled on the 20th of May, 1909, and that it was the Rev. Dr. Teunis Hamlin who then occupied this pulpit who organized the Witherspoon Memorial Association, which guided the efforts to memorialize the only minister to have signed the Declaration of Independence. The Jefferson Memorial had not yet come into being and Dr. Hamlin noted that up to that time no statue or memorial had ever been erected to any signer of the Declaration of Independence in the Nation's Capital. Dr. Hamlin's untimely death occurred on a journey to New York, where he had gone to consult the sculptors and designers of the monument. Earlier he had persuaded a committee of Congress on national memorials which had planned to install General McClellan's statue at this site to move the General's monument farther up Connecticut Avenue in order that the great Church statesman's memorial might be placed in front of the Church of the Covenant. The trustees of the association which promoted the erection of the monument were a group of distinguished Americans who were members of this congregation. The chairman was John W. Foster, Secretary of State, a ruling elder in this congregation and the grandfather of John Foster and Allen Dulles. Others on the board were Andrew Carnegie, E. Southard Parker, Henry B. F. McFarland, Congressman William B. McKinley of Illinois, John Wanamaker of Philadelphia and Mrs. Stanley Matthews of Washington. The addresses at the unveiling were made by the Right Honorable James Bryce, Ambassador of Great Britain, the Embassy of which was then located across the street from this Church, and by Woodrow Wilson, then president of Princeton University. The Reverend Jeremiah Witherspoon of Richmond, Virginia, offered the prayer. The dedicatory service was held in this Church, at the end of which the congregation adjourned to the statue where a seven-year-old descendant of John Witherspoon pulled the string unveiling the monument and the Marine Band led the people in the singing of the National Anthem.

This is a brief statement of how the monument got here but what of the man who is here honored?

John Witherspoon was born in Gifford, Scotland, on February 5, 1722, and came from a family of ministers. Last year Mrs. Elson and I visited the town of his birth. Long before he became a minister he had determined to follow in the footsteps of John Knox. He studied hard and in his twenty-second year was licensed and ordained to preach. It was not long until in his homeland he was everywhere regarded as an able scholar, forceful preacher, a man of public affairs, as well as a fisherman, a golfer and an excellent horseman. He was a commanding figure, possessed of a fine sense of humor and had such an excellent memory that it is said he could reproduce with precision a two-hour sermon, the manuscript of which he had read over only once or twice. Despite the size of his last church in Paisley, Scotland, he was never a man to be confined to one parish. He was a fire-brand in the contentions of his day and his reputation spread throughout the Scottish Church. The dynamic young minister brought to the ministry in Scotland the same conviction that catapulted him some thirty years later into the forefront of the American Revolutionaries. But before he reached America he was to learn some bitter but useful lessons which in later years made him the great leader and the one whom history regards as having turned the tide for the signing of the Declaration of Independence.

In Scotland he used his pulpit to champion the cause of Popular Rights, the conservative old guard point of view. With his ancestry and background it was inevitable that this should have been his point of view. Despite all his efforts, the older and sterner generation lost out to the more comfortable philosophy of the cultured age. In this contest he learned that the old had to make way for the new in a world which, then as now, was rapidly changing.

At the beginning of his career he opposed the clergy having anything to do with politics and he minced no words about it. Yet despite his aversion to politics, he did not hesitate to stand up and be counted on the major issues confronting his country. When Charles Edward Louis Stuart, the young pretender, tried to win back the throne of England, John Witherspoon helped him—though it almost cost the young minister his life.

The young pretender was the grandson of James II of England, who had been deposed. Bonnie Prince Charlie, as the young pretender was called, was born in exile in Rome. With the help of the highland clans he determined to return as King. Witherspoon believed the course was right and determined to help him.

When the young Prince landed in England with his small army intent upon marching on London the young Presbyterian minister, Witherspoon, marched at the head of a detachment of militia to join him. Apparently he had not reckoned with the strength of the opposition, for he and many others were captured at Falkirk. Prince Charles' force was defeated at Culloden Moor and the young pretender fled to France, never to return. But Witherspoon and his compatriots were imprisoned in the highest part of Donne Castle, seventy feet above the rocks below and there was talk of hanging the rebels.

In their imprisonment the rebels were not idle. They plotted an escape and several descended the great distance on a rope made of bedding. One man, however, in an attempt to escape, fell to the rocks and was killed and the plot to escape was detected by the authorities. Witherspoon and the remaining prisoners had no alternative but to wait. Witherspoon waited with resignation but without despair. Languishing in the cold, damp, castle prison, John Witherspoon's health broke. Eventually he was brought to trial but with his broken health, his youth and his calling as a minister, the charges were dismissed and eventually he was released.

In poor health he return to the pulpit. He had had time to think it over. He had dared to rise against the British Crown and had failed. But maybe the next time it would be different. Doubtless this influenced his action and gave motivation to his leadership against the British years later in America. For like the other colonists, who were Scottish and Scotch Irish and represented about one third of all the colonists, he took up in the new world his opposition to the British Crown where he had left off in the old world. He was an avowed Calvinist and he brought his Calvinian theology into the Church, into education and into politics.

When he was forty-four (44) years of age the College of New Jersey at Princeton invited him to be its president. His wife, three years his senior, a gracious and able lady, persuaded him to decline. But the regents of the College persisted and a year later he relented and with five children, ranging from 8 to 19, he and his wife made the three-month journey in the cramped ship's quarters to brave the life of the new world and to share the duties of the struggling infant College. In August, 1768, the Witherspoons landed in Philadelphia. Distinguished persons vied with each other to welcome and receive them. Seldom had a man been welcomed with higher hopes and in the 26 years which remained to Witherspoon the American people were never disappointed. He exceeded their utmost expectations. Things were never the same wherever John Witherspoon went. The time was ripe for such a leader.

In 1776 the population of the American colonies was approximately 2,500,000. Of these, 1,500,000 were Calvinists and the only inter-colonial organization among the Calvinists was the Presbyterian Church. Indeed this Church was the first inter-colonial, ecclesiastical organization in the new world. There were about one million Anglicans, who of course were Loyalists, one half of whom were slaves. A slave was listed as having the faith of his owner. There were fewer than 25,000 Roman Catholics and fewer than 2,000 Jews. Witherspoon was the natural leader and spokesman of his fellow Calvinists, which was the dominant majority of the Americans.

Witherspoon soon made Princeton the foremost American College. The other colleges were local; Princeton was inter-colonial. Witherspoon strengthened the standards of scholarship, brought hundreds of books with him from Scotland and scoured the world to develop a substantial library. He developed a new technique, the lecture method, textbooks and new studies, especially Hebrew and Greek in which he was highly proficient. He traveled across the colonies raising money for the College and sought funds from his friends abroad.

The College day at Princeton began at 6:00 A.M. with morning prayers. No cuts were allowed from classes except with special permission of the president. Sunday was a day of study and special work in theology and Bible. There was no Christmas or Easter recess but a short recess period of three weeks in the spring and a like period in the fall were provided. Final examinations were given orally by the President and the tutors "in the presence of any other gentleman of education who shall choose to be present."

In this College Witherspoon with his love of liberty discussed with his students all kinds of public questions. Real students came from all over the colonies. His students became leaders of American life and thought and zealots in the cause of political freedom. When the war was precipitated there were more Princeton men signers of the Declaration of Independence than Yale and Harvard men put together.

Witherspoon acted as minister of the Princeton town Church which met in the College every Sunday. The College achieved an international reputation. He was undoubtedly the most sholarly man in the American churches of his day, a master of five languages, a writer and a pamphleteer of international influence.

Witherspoon's convictions about ministers in politics slowly changed from an attitude of aloofness and non-involvement to one of active participation and actual leadership. The political leaders of the time soon learned that he was the equal of any of them. He never ducked an issue or backed away from a challenge. When his proposals were challenged on the ground that he was a minister or a schoolmaster inexperienced in the ways of political blood-letting he declared, "I am God's minister both in a sacred and a civil sense."

His work in framing the State constitution for New Jersey was a rehearsal for the leadership he was to give in the Continental Congress and the government during the days of the Revolution. On June 22, 1776, he was elected as one of five New Jersey delegates to the Continental Congress meeting in Philadelphia. Already the other delegates in the twelve remaining colonies had heard of him. He lost no time in calling for a Declaration of Independence. John Adams called Witherspoon "as high a son of liberty as any man in America." Bancroft, the historian wrote: "The first voice publicly raised in America to dissolve all connections with Great Britain . . . came from the Presbyterians." Horace Walpole stood up in the British Parliament and said, "Cousin America has run off with a Presbyterian parson." During the debate over signing the Declaration, John Dickinson of Delaware suggested that the time was not ripe. Witherspoon arose and said, "In my judgment the country is not only ripe for the measure but in danger of becoming rotten for the want of it . . . there is a tide in the affairs of men, a nick of time. We perceive it now before us." It is said that it was his persistence and his eloquence which prompted the signing of the Declaration then and there.

Witherspoon believed that political emancipation, the right of self-government, the sovereignty of the people over their own destiny was the logical consummation of the spiritual freedom, the freedom of the conscience under God and the new-found dignity of the individual which emanated from the Protestant Reformation which flowered on the European continent and in the little kingdom of Scotland.

When the Declaration of Independence was signed he became a member of the Continental Congress and served on many committees. He was a member of the committee of supplies for the army, the committee on finance and the committee on foreign affairs. In fact, there was no important committee created to win the war which did not depend on the ability and leadership of John Witherspoon. He was a close confidant and friend of George Washington, who had very few close friends. Princeton was closed to students during the war for independence and became a haven for patriots. Witherspoon went up and down the country raising money and enlisting support for the cause. Whenever he went regiments sprang up in defense of freedom. During the six years he was part of the government he was absent from meetings of his Presbytery and his Synod but he still had great influence over the Church and was its chief spokesman. He was the first Moderator of the Presbyterian Church and his career as a Churchman is another story as full and powerful as his career in government.

The men who were his students joined the cause of the Revolution. So patriotic were the men of Princeton that they would not wear woolens manufactured in England. On October 4, 1777, barely fifteen months after John Witherspoon had crusaded for the Declaration of Independence, his son, Major James Witherspoon, was killed in the Battle of Germantown, just outside Philadelphia.

The redoubtable minister, educator and statesman has left us an imperishable legacy. He was a child of the Reformed Christian faith and it was this that motivated his action. He never ceased to be a minister of the Church. He continued to wear his clerical garb in and out of Congress. In his affable and courteous way he said, "I am a minister of God, and it is meet that in Congress or out of it people should know that I am."

Take a good look at that figure in front of our Church. He has dropped his pulpit gown behind him and with his Bible firmly clasped in one hand and its truths firmly planted in his whole being he strides out of the house of God into the world where men's destinies are determined. As we celebrate the continuing reformation of Christ's Church, his example might well be our guide for the days through which we live.

By Mr. HUMPHREY:

S. 2997. A bill to amend the authorization for the Mankato-North Mankato-Le Hillier, Minnesota River, Minnesota flood protection project. Referred to the Committee on Public Works.

MINNESOTA FLOOD PROTECTION

Mr. HUMPHREY. Mr. President, I am today introducing legislation which would authorize the Secretary of the Army, acting through the Chief of Engineers, to modify the existing Highway 169 Bridges over the Blue Earth River and the Main Street Bridge over the Minnesota River as part of the Mankato-North Mankato-LeHillier, Minnesota River, Minnesota flood protection project.

This is an amendment to the authorization of a flood control project now in its first phase. Before the Corps of Engineers can proceed with the second phase of this flood control project—that of raising the existing or constructed flood control barriers—they will have to be given assurances that the Main Street and Minnesota Highway 169 Bridges will be raised so that they will adequately discharge project floodwaters. I understand that the Main Street Bridge would have to be raised vertically 10 feet and the U.S. Highway 169 Bridges 16 feet.

It is important that the raising of these bridges be authorized to enable the timely completion of the project.

By Mr. JACKSON:

S. 2998. A bill to amend the Puerto Rico Federal Relations Act. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, I introduce, for appropriate reference, a bill to amend the Puerto Rico Federal Relations Act to make clear that Puerto Rico is entitled to a rebate of all taxes collected under the Internal Revenue laws of the United States on petroleum products refined in Puerto Rico and shipped to the United States.

This bill would also authorize the payment to Puerto Rico over a 5-year period of all such taxes collected but not rebated in the past. The amount involved is approximately $350 million.

Mr. President, the reason for this legislation is simple. Section 9 of the Federal Relations Act, which traces its origin to the Jones Act of 1917, 39 Stat. 951, provides that—

> All taxes collected under the internal revenue laws of the United States on articles produced in Puerto Rico and transported to the United States or consumed in the Island shall be covered into the Treasury of Puerto Rico.

This "rebate" provision is one of the cornerstones of the fiscal relationship between Puerto Rico and the United States.

For many years, U.S. Internal Revenue taxes collected on Puerto Rican rum and tobacco sold in the United States have been rebated to Puerto Rico under the above provision. Since 1956 substantial volumes of gasoline refined in Puerto Rico have been transported to the United States for consumption, but the U.S. Treasury Department has never rebated the 4 cents per gallon manufacturers excise tax. For fiscal years 1957–74, Puerto Rico is due approximately $352 million in gasoline tax rebates. Prospectively, the amount of rebates would be in the range of $25 million a year.

Puerto Rico formally instituted its claim for rebate of such taxes in September 1974. Secretary Simon refused to agree to the claim, but before finally denying it, sought the opinion of the Justice Department. The Justice Department issued an opinion in May 1975 stating that the claim should be denied based upon a narrow interpretation of section 9. Essentially, the Justice Department opinion argued that even though the statute says "all taxes collected under the Internal Revenue laws," only those taxes in effect in 1917 or subsequently imposed taxes which were substantially similar to them, should be rebated. Thus, the Justice Department said that only taxes levied on the act of manufacturing, as distinguished from those levied upon a manufacturer's sale of a particular product, were intended to be rebated. The plain language of the statute is to the contrary, as is the legislative history.

Following issuance of the Justice Department opinion and the formal denial of Puerto Rico's claim by the Treasury Department, Puerto Rico instituted suit in the U.S. District Court for the District of Columbia. However, even with expeditious consideration of this claim by the courts it is apparent that a solution to this problem may take 2 or 3 years—allowing for appeals.

Governor Hernandez-Colon has discussed with me the possibility of legislative action to resolve this matter. At his request, I am introducing this bill to clarify and confirm Puerto Rico's right to rebate of the Federal taxes collected on the output of its refineries.

I believe it is entirely appropriate that Congress take this action. Whatever the outcome of the pending law suit, it seems clear that the Justice Department's narrow interpretation of the Federal Relations Act wholly ignores the legislative history of the rebate provision. That history reflects the intent of Congress to compensate Puerto Rico for the substitution of duty-free imports from the United States for dutiable European imports. Today three-quarters of Puerto Rico's imports come from the United States duty-free. Puerto Rico consistently has a balance-of-trade deficit with the United States. The justification for rebating taxes collected in Puerto Rico remains valid.

Mr. President, it is no secret that Puerto Rico is in the midst of the worst economic crisis in a generation, a crisis caused largely by factors beyond Puerto Rico's control. The recession in the United States not only weakened tourism in Puerto Rico but also reduced demand for Puerto Rico's products. And Puerto Rico, being totally dependent on imported oil, was devastated by the abrupt quadrupling of world oil prices. It is not surprising that unemployment in Puerto Rico averaged 18.2 percent during 1975.

The Government of Puerto Rico, under the leadership of Governor Hernandez-Colon, has taken painful and stringent measures to reduce government spending and increase taxes in order to maintain a balanced budget. Prompt congressional action on the legislation I am introducing today will not only clarify the right of Puerto Rico to a rebate of gasoline taxes, but also provide important financial support for Puerto Rico at a critical time in its history.

By Mr. BROCK:

S. 2999. A bill to amend title 39, United States Code, to prohibit Members of Congress from sending certain mail matters as franked mail during the 60-day period prior to certain elections. Referred to the Committee on Rules and Administration.

Mr. BROCK. Mr. President, because of the Supreme Court's recent decision on the constitutionality of the Federal Election Campaign Act of 1971, as amended, public attention has again become focused on campaign reform efforts.

The thrust of our reform effort has been, in the main, to remove the appearance of impropriety. For example, the recent contribution limits upheld by the Supreme Court are designed to prevent any possible appearance of a quid pro quo arrangement. In its opinion, the Court realized the critical factor in election reform is to increase the confidence of the American people in the electoral process. One of the most positive steps toward this goal is to prohibit activities that can often lead to confusion or misunderstanding.

In this spirit, for the third time in 4 years I am introducing a bill that would forbid the use of the frank for mass mailings 60 days prior to an election. I hope this will be the last time. The use of the congressional franking privilege has, incorrectly perhaps, become an action that creates unnecessary apprehension over the fairness of the election process.

Recognizing this, my bill has already been accepted twice by the Senate only to fail in the House. During debate on S. 372 in July of 1973, I introduced this as an amendment and it was readily accepted by the Senate. Unfortunately, the House failed to act on S. 372. Therefore, the Senate once again took the lead in campaign reform and during debate on a new campaign reform measure, S. 3044 in March of 1974, I again offered this bill as an amendment. Again, the Senate readily accepted the provision. While the House did act on S. 3044, they unfortunately cut my amendment on prohibition of the use of the frank.

Let me stress, Mr. President, that this legislation is not based upon the assumption that the congressional franking privilege has been misused. Rather, it is based upon the reality that we must do everything in our power to remove even the slightest possible appearance of misuse.

The congressional franking privilege, which I think has been beneficial to the American public, has come under increasing scrutiny. By clearly stating that mass mailings 60 days before elections are prohibited, we will have taken another step toward removing even the shadow of suspicions. Additionally, we will clarify the positive role the franking privilege has in informing our constituents of the official business of the Senate.

By Mr. JAVITS (for himself, Mr. McGovern, and Mr. Weicker):

S. 3000. A bill to amend the Internal Revenue Code of 1954, the Social Security Act, and other laws to provide effective welfare reform by replacing public assistance and food stamps with a system of allowances and refundable credits, and for other purposes. Referred to the Committee on Finance.

Mr. JAVITS. Mr. President, today I introduce, together with the distinguished Senator from South Dakota (Mr. McGovern), a bill entitled "Tax Credits and Allowances Act of 1976."

This bill is designed to correct some of the major injustices brought about by the present system of providing assistance to the poor. These include:

Substantially different levels of assistance in different States with the result that those in need gravitate to the higher paying States;

The exclusion, in many States, of those truly in need who simply do not fit into certain categories like aged, disabled, or under 18;

The increasing proliferation of rules requiring subjective interpretation;

The simple inadequacy for even minimal subsistence of cash benefits in many States;

The injustice done to the working poor who have very little and who bear a piece of the tax burden of supporting those on welfare hardly less well off than they;

The lack of incentive to supplement assistance income which not only often disqualifies the family from such assistance but simultaneously puts them in the less desirable category of "working poor."

This bill is parallel to one introduced during the last Congress by Representative Martha Griffiths of Michigan and reintroduced last year by Robert J. Cornell and cosponsors in the House. The bill is the product of extensive studies of welfare and proposals for a new Federal role in this field which were undertaken in 1972, 1973, and 1974 by the Fiscal Policy Subcommittee of the Joint Economic Committee, on which I serve and of which Representative Griffiths was chairperson. It has never been introduced in the Senate, and I offer it for consideration at this time with the hope that it will serve as a starting point for a serious and thorough consideration by this body, of the solution of this acute national and urban and moral problem.

This bill is designed to provide a system of rebatable tax credits and cash grants so that a family of four, for example, would be guaranteed minimum annual income of $4,300. As an incentive to employment, cash grants could be supplemented by earning with the grant being reduced 50 cents for every dollar earned.

Other Federal assistance programs would be modified or abolished and assistance levels would be uniform throughout the country.

This is what the bill provides:

First. The AFDC program would be abolished and a system of Federal cash grants introduced in its place. These grants would be uniform throughout the Nation but for the first 2 years of the program, States would be required to supplement the grant up to the present level of payment so that for that period of time, no person presently receiving an AFDC grant would receive less than he does now. After 2 years, State supplementation would be optional.

Second. In the absence of any earned income, cash grants would be in the following amounts:

Single filer	$875
Head of household filer	1,750
Married filer	1,325
Spouse of filer	1,325
Dependent adult	875
Dependent child	375
Dependent child (after effective date)	275

In order to provide an incentive to family planning, the original Griffiths bill reduce the benefit for the third, fourth, and fifth child and provided no grant to children after the sixth. I believe that this penalty would be unduly harsh, especially for the numerous large families already receiving assistance, so my bill would provide the larger benefits to all children born before the effective date of the statute, and would reduce benefits for children after the third who are born thereafter. All children however, would receive a benefit. These grants are approximately 19 percent higher than those proposed by Representative Griffiths in 1974.

Third. The Internal Revenue Code would be amended to convert personal exemptions to rebatable tax credits so that the working poor would also receive some supplementation. The size of the rebate would be determined by using the table above and reducing the cash grant 50 cents for every dollar earned.

Fourth. The food stamp program for which an estimated 60 million Americans are now eligible, would be terminated and replaced, in part by this system of cash grants.

Fifth. The SSI program would remain essentially intact, but disabled children would be transferred to the new program, dependents benefits would be added to SSI and the assets test applied in that program would be liberalized.

Sixth. The duration of unemployment benefits would be reduced to 26 weeks with the new program providing for the long-term unemployed.

Seventh. Health care, medicare and medicaid would be continued, but because of the expectation that national health insurance will be available within a few years.

Eighth. As an incentive to supplementing grants with earned income, federally assisted day care centers would be prohibited from using fee schedules related to income.

Ninth. The original Griffiths bill provided that 80 percent of the subsidy received by public housing tenants would be counted as income for the purpose of determining the amount of an assistance grant. It also stipulated that basic educational grants would be offset dollar for dollar by any cash supplement received under this program. Both these programs seem to me to be highly effective and limited in scope, and both would be initially destroyed by requiring a dollar for dollar offset against an ABLE grant. I have therefore eliminated these provisions from the bill.

This program is estimated to cost $24.3 billion if the tax reduction bill now in force is allowed to expire. If the present law is extended however—since it already provides a limited system of credits—my bill would cost only an additional $15.3 billion. Because of this great cost to the Federal Government I am realistic about the chance for passage during the current session. And because of the necessary changes of some existing programs will be controversial I am not inextricably wedded to any particular provision. I propose simply that the dialogue begin and offer this bill as the starting point.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3000

A bill to amend the Internal Revenue Code of 1954, the Social Security Act, and other laws to provide effective welfare reform by replacing public assistance and food stamps with a system of allowances and refundable credits, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Tax Credits and Allowances Act of 1976".

PURPOSE

Section 2. It is the purpose of this Act to replace or rationalize the many public programs which offer support based on family and individual income (1) by establishing, as a part of the Federal income tax structure, a new system of credits and allowances to increase the equity, strengthen the administration, improve the adequacy, and restore desirable social and economic incentives to income maintenance programs; and (2) by abolishing or modifying certain existing public assistance and welfare programs accordingly.

TITLE I—PERSONAL CREDITS ALLOWANCES FOR BASIC LIVING EXPENSES, AND OTHER TAX PROVISIONS

SEC. 101. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Sec. 102. Technical and Conforming Changes.

The Secretary of the Treasury or his delegate shall, as soon as practicable but not later than 90 days after the date of the enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives a draft of any technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the substantive provision of law made by this title.

Sec. 103. Allowance of Credit in Lieu of Personal Exemption Deduction; Refund; Prepayment.

(a) Repeal of Deduction for Personal Exemptions.—Section 151 (relating to allowance of deductions for personal exemptions) is hereby repealed.

(b) Allowance of Personal Credits.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by inserting after section 44 the following new section:

"Sec. 44A. Personal Credits.

"(a) Allowance of Credits.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the personal credits provided by this section.

"(b) Taxpayer and Spouse.—There shall be allowed a personal credit of $225 for the taxpayer; and an additional personal credit of $225 for the spouse of the taxpayer if—

"(1) a joint return is made for the taxable year by the taxpayer and his spouse, or

"(2) a joint return is not made by the taxpayer and his spouse, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

"(c) Additional Credits for Dependents.—

"(1) In general.—There shall be allowed a personal credit of $225 for each dependent (as defined in section 152)—

"(A) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $750, or

"(B) who is a child of the taxpayer and who has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins.

"(2) Credit denied in case of certain dependents.—No credit shall be allowed under this subsection with respect to any individual—

"(A) who has made a joint return with his spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins; or

"(B) who has claimed a credit under subsection (b) for himself for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(3) Dependency of child to be determined on basis of custody.—For purposes of this subsection, a parent who—

"(A) but for the fact that he did not contribute over half of the support of a child would be entitled to claim such individual as a dependent for a taxable year beginning in a calendar year, and

"(B) has custody of such child for a greater proportion of the calendar year than any other individual or agency,

shall be considered as having provided more than half of the support of such child for such year.

"(4) Child defined.—For purposes of paragraph (1)(B), the term 'child' means an individual who (within the meaning of section 152) is a son, stepson, daughter, or stepdaughter of the taxpayer.

"(d) Coordination With Certain Assistance Programs.—The credit allowed by subsection (a) shall not be considered as income for the determination of eligibility for assistance under any Federal program, except that such allowances shall be considered income for purposes of determining eligibility for—

"(A) benefits under the National School Lunch Act or under the Child Nutrition Act of 1966, or

"(B) benefits under title XIX of the Social Security Act.

"(e) Cross References.—

"(1) For disallowance of credit to estates and trusts, see section 642(a).

"(2) For prepayment of estimated credits to recipients of allowances for basic living expenses provided under subtitle I, see section 6429.

"(3) For additional tax credits for certain individuals ineligible for such allowances under subtitle I, see sections 44A and 9805.".

(c) Refund of Excess Credit Available Other Than in Certain Cases.—Section 6401 (b) (relating to excessive credits treated as overpayments) is amended—

(1) by inserting "44A (relating to personal credits)," before "and 667(b)";

(2) by striking out "and 43" and inserting in lieu thereof "43, and 44A"; and

(3) by adding at the end thereof the following new sentence: "In the case of any credit allowed under section 44A for any individual confined in any penal or correctional institution throughout the taxable year, the computation of any such excess, notwithstanding the preceding sentence, shall be made by treating the amount of credit allowed under section 44A with respect to such individual as a credit allowable under subpart A of part IV of subchapter A of chapter 1 other than under section 31, 39, or 44A.".

(d) Prepayment of Estimated Personal Credits to Recipients of Allowances for Basic Living Expenses.—

(1) In general.—Subchapter B of chapter 65 of subtitle F (relating to rules of special application for credits and refunds) is amended by adding at the end thereof the following new section:

"SEC. 6429. PERSONAL CREDITS FOR RECIPIENTS OF ALLOWANCES FOR BASIC LIVING EXPENSES.

"(a) General Rule.—An individual entitled to receive an allowance provided under subtitle I (determined without regard to the recomputation required by section 9803(d)) may, at the time of application under section 9901 for such allowance, elect to receive payment in accordance with subsection (b) with respect to personal credits allowable under section 44A.

"(b) Payment of Amounts.—

"(1) Time and method of payment.—Payment under this section to any individual shall be made concurrently and in conjunction with the payment to such individual of allowances under subtitle I.

"(2) Amount of payment.—Payment under this section shall, with respect to each allowance period, be equal to one-twelfth (or one-twenty-fourth in the case of a biweekly allowance payment under section 9902(a)(2)) of the amount of the personal credits the individual reasonably anticipates, based upon the facts and circumstances at the time of election, to be entitled to under section 44A with respect to the taxable year during which such allowance period occurs. Under regulations prescribed by the Secretary or his delegate, such individual shall report, and the Secretary or his delegate shall make appropriate adjustments in future payments under this section for, changes in facts and circumstances which bear on entitlement to, or the amount of, personal credits under section 44A.

"(c) Effect of Payment.—In the case of an individual who has elected to receive payment under this section, the sum of the personal credits which such individual (but for this subsection) would be entitled to under section 44A shall be reduced by the amount paid to such individual under this section.

"(d) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(e) Denial of Credit to Estates and Trusts.—Section 642(a) (relating to credits against tax for estates and trusts) is amended by adding at the end thereof the following new paragraph:

"(4) Personal credit.—An estate or trust shall not be allowed the credit against tax provided by section 44A.".

(f) Effective Date.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1977.

Sec. 104. Repeal of Low Income Allowance.

(a) In General.—Section 141 (relating to standard deduction) is amended to read as follows:

"Sec. 141. Standard Deduction.

"(a) Standard Deduction.—The standard deduction referred to in this title is the percentage standard deduction.

"(b) Percentage Standard Deduction.—The percentage standard deduction is an amount equal to 15 percent of adjusted gross income, but not to exceed $2,000 (or $1,000 in the case of a separate return by a married individual).

"(c) Limitations in Case of Certain Dependent Taxpayers.—In the case of a taxpayer with respect to whom a credit under section 44A(c) is allowable to another taxpayer for the taxable year, the percentage standard deduction shall be computed only with reference to so much of his adjusted gross income as is attributable to his earned income (as defined in section 911(b)).".

(b) Effective Date.—The amendment made by this section shall apply with respect to taxable years beginning after December 31, 1977.

Sec. 105. Standard Employment Expense Deduction To Substitute for Existing Household and Dependent Care Expense Deduction.

(a) Section 214 (relating to expenses for care of certain dependents) is amended to read as follows:

"Sec. 214. Standard Employment Expense Deduction.

"(a) Allowance of Deduction.—

"(1) Employed spouse.—In the case of an employed spouse, there shall be allowed as a deduction—

"(A) an amount equal to 10 percent of such spouse's earned income, but not to exceed $500, or

"(B) if the employed spouse has one or more qualifying dependents, an amount equal to 10 percent of such spouse's earned income, but not to exceed $1,000.

"(2) Head of household.—In the case of a head of household, there shall be allowed as a deduction—

"(A) if such head of household has one or more related individuals, an amount equal to 10 percent of the earned income of such head of household, but not to exceed $1,000, or

"(B) if such head of household has one or more qualifying individuals, an amount equal to 20 percent of such earned income, but not to exceed $1,500.

"(b) Definitions.—For purposes of this section—

"(1) Employed spouse.—The term 'employed spouse' means—

"(A) the lesser compensated spouse, if both spouses are gainfully employed (determined on the basis of each spouse's earned income for the taxable year), or

"(B) any gainfully employed individual whose spouse is a qualifying individual referred to in paragraph (3)(C).

"(2) Head of household.—The term 'head of household' has the meaning given such term by section 2(b).

"(3) QUALIFYING INDIVIDUAL.—The term 'qualifying individual' means—

"(A) a dependent of the taxpayer who is under the age of 15 and with resect to whom the taxpayer is entitled to a credit under section 44A,

"(B) a dependent of the taxpayer who is phyiscally of mentally incapable of caring for himself and who resides as a member of the taxpayer's household for more than 180 days, or

"(C) the spouse of the taxpayer, if he is physically or mentally incapable of caring himself and is a member of the taxpayer's household for more than 180 days.

"(4) RELATED INDIVIDUAL.—The term 'related individual' means a dependent of the taxpayer who is over the age of 15 and under the age of 18 and with respect to whom the taxpayer is entitled to a credit under section 44A.

"(5) EARNED INCOME.—The term 'earned income' has the meaning given such term by section 911(b).".

(b) TECHNICAL AMENDMENT.—Section 62 (relating to definition of adjusted gross income) is amended by adding at the end thereof the following new paragraph:

"(9) STANDARD EMPLOYMENT EXPENSES DEDUCTION.—The deduction allowed by section 214.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1977.

SEC. 106. ALLOWANCE FOR BASIC LIVING EXPENSES.

(a) IN GENERAL.—The Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subtitle:

"SUBTITLE I—ALLOWANCE FOR BASIC LIVING EXPENSES

"CHAPTER 98. Entitlement to allowances.
"CHAPTER 99. Filing for allowances; administration.

"CHAPTER 98—ENTITLEMENT TO ALLOWANCES

"Sec. 9801. Allowance for basic living expenses.
"Sec. 9802. Eligibility for receipt of allowance.
"Sec. 9803. Amount of allowance.
"Sec. 9804. Allowance offset.
"Sec. 9805. Income tax reduction for certain individuals ineligible to receive A.B.L.E. allowances.

"SEC. 9801. ALLOWANCE FOR BASIC LIVING EXPENSES.

"Subject to the provisions of this subtitle, every qualified unit shall be entitled to an allowance for basic living expenses.

"SEC. 9802. ELIGIBILITY FOR RECEIPT OF ALLOWANCE.

"(a) QUALIFIED INDIVIDUAL ELIGIBLE TO FILE FOR ALLOWANCE.—Any qualified individual who for the allowance period—

"(1) is not a dependent of another individual,

"(2) is at least 18 years of age, or if under such age, is married or has actual primary custody of a dependent child, and

"(3) is not a long-term resident of any mental retardation, mental health, or medical facility, or any nursing home or custodial care facility,

may file application in accordance with section 9901 for the allowance provided under this subtitle. Such application shall be made for the qualified unit, which shall consist of the person so applying, the spouse of such person if such spouse is a qualified individual, and each qualified individual who is a dependent of such person or spouse.

"(b) QUALIFIED INDIVIDUAL.—For purposes of this subtitle, a qualified individual shall be any individual—

"(1) who has a permanent residence for the allowance period within the United States, and resides continuously during such period within the United States;

"(2) who is not confined to any penal or correctional institution during such period;

"(3) is not included within any other qualified unit applying for an allowance for such period; and

"(4) with respect to whom no cash benefit is paid for such period under title XVI of the Social Security Act.

"(c) LONG-TERM RESIDENT.—For purposes of subsection (a), a long-term resident shall be any individual admitted to any facility or institution either for an indefinite period, or for a specified period in excess of 3 months.

"SEC. 9803. AMOUNT OF ALLOWANCE.

"(a) IN GENERAL.—A qualified unit's allowance for any allowance period shall be the sum of the maximum allowances specified under subsection (c) with respect to the members of such unit, reduced by the amount of the allowance offset of such unit determined in accordance with section 9804.

"(b) AMOUNT OF ALTERNATE ANNUAL ALLOWANCE.—Notwithstanding subsection (a), the amount of the allowance provided under this subtitle in the case of any qualified unit applying for an alternate annual allowance under section 9901(b) shall be equal to the sum of the maximum allowances specified under subsection (c) for each allowance period (within the annual period) for which such unit was eligible, reduced by the amount of such unit's allowance offset, determined in accordance with section 9804, for each such allowance period.

"(c) MAXIMUM ALLOWANCES AVAILABLE.—For purposes of this section, the maximum allowance with respect to a member of a qualified unit shall be equal to one-twelfth of the appropriate annual amount shown in the following table:

"If the unit member is a—	The annual amount shall be—
Single filer	$875
Head of household filer	1,750
Married filer	1,325
Spouse of the filer	1,325
Dependent adult	875
First three dependent children	375 each
All dependent children born before December 31, 1977	375 each
Fourth, fifth and subsequent children born after December 31, 1977	275 each

"(d) ANNUAL RECOMPUTATION.—

"(1) RECOMPUTATION OF ALLOWANCE.—If for the taxable year covered by the return required to be made by section 9901(d)—

"(A) the offset income received by an individual during any allowance period during such year is more or less than the offset income which was the basis for the computation of an allowance received by or with respect to such individual, then the amount of such allowance shall be recomputed on the basis of the offset income so received; and

"(B) the actual status of any individual to whom or with respect to whom an allowance was paid for any such allowance period varied from the status on which the determination of the allowance was based, then the amount of the allowance shall be recomputed on the basis of the actual status of such individual.

"(2) EFFECT OF RECOMPUTATION.—The amount by which the allowance received for an allowance period is more than or less than the recomputed allowance shall be considered an allowance overpayment or underpayment, as the case may be.

"SEC. 9804. ALLOWANCE OFFSET

"(a) IN GENERAL.—For purposes of this subtitle, the allowance offset of any qualified unit shall be an amount equal to the sum of—

"(1) 50 percent of so much of the offset income received by members of the qualified unit during the base period as consists of—

"(A) earned income, and

"(B) loans from the commodity Credit Corporation;

"(2) 100 percent of so much of the offset income so received as consists of—

"(A) cash benefits received—

"(i) as a person provided under laws administered by the Veterans' Administration;

"(ii) under any public agricultural subsidy program; and

"(B) any overpayment of the tax imposed by chapter 1; and

"(3) 67 percent of so much of offset income so received as is not specified under paragraphs (1), (2), and (3).

"(b) CARRYOVER OF EXCESS ALLOWANCE OFFSET.—

"(1) GENERAL RULE.—The excess of the allowance offset of a qualified unit for an allowance period over such unit's maximum allowance, as specified in section 9803(c), shall be treated as an allowance offset of such unit—

"(A) in each of the 11 succeeding allowance periods, in order of time; or

"(B) in each of the 23 succeeding allowance periods, in order of time, in the case of a qualified unit any member of which was required for the last completed taxable year to file a self-employment tax return under section 6017;

but with respect to any such succeeding allowance period only to the extent of the lesser of the two following amounts:

"(i) the amount by which the maximum allowances of such qualified unit for such succeeding period exceeds such unit's allowance offset for such succeeding period (determined without regard to any carryover under this subsection); or

"(ii) in the case of the first succeeding allowance period, the amount of the excess allowance offset, and in the case of each following succeeding period, the portion of such excess allowance offset not treated under this subsection as an allowance offset for any prior allowance period.

"(2) INCLUSION AND CARRYOVER OF PREVIOUSLY RECEIVED OFFSET INCOME.—The Secretary or his delegate shall prescribe regulations which provide that so much of offset income received by an individual while not a member of the qualified unit during any calendar month in the 12-calendar-month period (or 24-calendar-month period in the case of an individual described in paragraph (1)(B)) preceding the base period as is not deemed under such regulations necessary to meet the basic living expenses of such individual for any such month or succeeding months shall (to the extent provided in subsection (a)) be considered an allowance offset in succeeding months in accordance with paragraph (1).

"(3) EXCLUSION WHERE OFFSET INCOME RECIPIENT LEAVES UNIT.—In the case of offset income which was received by an individual who is not a member of the qualified unit for the allowance period and which (but for this paragraph) would be included in the amount which would be considered in the calculation of such unit's allowance offset for such period, the amount of such allowance offset shall be determined by disregarding the offset income so received by such individual.

"(c) OFFSET INCOME.—

"(1) IN GENERAL.—For purposes of this section, the term 'offset income' means the adjusted gross income (within the meaning of section 62) reduced by any amount deducted and withheld from wages under subtitle C (relating to employment taxes), and increased by so much of the following items as is not otherwise included in adjusted gross income:

"(A) all amounts received as an annuity, pension, or any retirement benefit;

"(B) so much of the sum of all prizes and awards received as each year exceeds $250;

"(C) so much of the proceeds from life insurance contracts as exceeds $1,500 with respect to any one insured individual;

"(D) so much of the sum of all gifts as each year exceeds $250, except there shall not be included any gift from a member of the same qualified unit;

"(E) so much of the sum of the fair market value of all property inherited from any individual as exceeds $1,000, except there shall not be included the value of real property if used as the primary residence of the qualified unit, nor shall there be included the value of any property inherited from a spouse;

"(F) all support and alimony payments;

"(G) interest on any tax-exempt government obligation;

"(H) damages, insurance payments, workmen's compensation payments, or other payments, made—

"(i) for medical expenses,

"(ii) for loss of wages or income, or

"(iii) for physical, mental, or other personal injuries or sickness,

which do not constitute reimbursement for medical expenses paid;

"(I) the rental value of patronages;

"(J) combat pay and mustering-out payments to any member of the Armed Forces of the United States:

"(K) dividends, other than insurance policy dividends applied by the insurer to reduce insurance premiums;

"(L) meals and lodging supplied by an employer if and to the extent supplied at less than fair market value, without regard to whether supplied for the convenience of the employer;

"(M) any allowance for quarters or subsistence, or gratuity pay, paid to any member of the Armed Forces of the United States;

"(N) so much of the current or accumulated income of a trust or estate which could, within the discretion of any person with a nonadverse interest, be paid to an individual as beneficiary of such trust or estate as exceeds $3,000, except there shall not be included any amount in fact paid to any person other than such individual nor any amount previously included in adjusted gross income by reason of this subparagraph;

"(O) the entire net gain from the sale or exchange of any capital asset;

"(P) unemployment compensation, without regard to the source thereof;

"(Q) strike benefits from any union or other agency or organization;

"(R) cash benefits pursuant to title II of the Social Security Act;

"(S) cash benefits under the Railroad Retirement Act of 1935, 1937, or 1974;

"(T) cash benefits (including readjustment benefits) under laws administered by the Veterans' Administration;

"(U) income from foreign sources;

"(V) loans from the Commodity Credit Corporation;

"(W) imputed income from capital as determined in accordance with paragraph (2);

"(X) overpayments of the tax imposed by chapter 1;

"(Y) the amount of the reduction of such qualified unit's rental or mortgage costs under any public housing subsidy program; and

"(Z) cash benefits under the Coal Mine Health and Safety Act.

No amount of income or property given by any public agency or private charitable organization, if given on the basis of need, shall be considered a gift referred to in subparagraph (D) or a support payment referred to in subparagraph (F).

"(2) Income imputed from assets.—

"(A) In general.—The amount included in offset income under paragraph (1)(X) shall be an amount equal to one-twelfth of the annual imputed income with respect to the total value of capital (appraised in accordance with subparagraph (C)) owned or controlled by members of the qualified unit computed in accordance with the following table, reduced by the amount (if any) of actual offset income with respect to such capital which is received by such members:

"If the total appraised value of capital owned or controlled by the qualified unit is:	The annual income to be imputed with respect to such capital shall be:
Less than $10,000	0.
At least $10,000 but less than $20,000.	$100.
At least $20,000 but less than $30,000.	$200.
At least $30,000 but less than $40,000.	$300.
At least $40,000 but less than $50,000.	$800.
At least $50,000 but less than $60,000.	$1,300.
At least $60,000 but less than $70,000.	$1,800.
At least $70,000	$2,800, plus 10% of value of capital in excess of $70,000.

"(B) Capital owned or controlled by member.—For purposes of this subsection, the capital owned or controlled by any member of a qualified unit shall be all of the real or personal property owned or controlled by such member (whether tangible or intangible) wherever situated, to the extent of such member's interest therein.

"(C) Appraisal of capital.—The appraisal of capital shall be made, under regulations prescribed by the Secretary or his delegate, at the time of initial application for an allowance under this subtitle, and such other times as may be prescribed under such regulations, on the basis of all capital owned or controlled at such time.

"(D) Valuation.—

"(i) Measure of value.—Under regulations prescribed by the Secretary or his delegate, the value of capital for purposes of this subsection shall be its fair market value. In the case where fair market value is not readily ascertainable, methods shall be prescribed for approximating the value. The value of capital shall be determined without regard to any mortgage, security interest, or any indebtedness with respect to such capital.

"(ii) Capital held jointly.—In the case of capital held jointly, whether or not partitionable, such capital shall be treated for purposes of this paragraph as if owned or controlled in separate proportional shares.

"Sec. 9805. Income Tax Reduction for Individuals Eligible to Receive A.B.L.E. Allowances.

"(a) Income Tax Reduction.—If, for the taxable year—

"(1) an individual meets the requirements set forth under section 9802(a) for filing for an allowance under this subtitle,

"(2) the sum of the allowance offsets (as defined in section 9804) for—

"(A) such individual,

"(B) the spouse of such individual if such spouse is a qualified individual (within the meaning of section 9802(b)), and

"(C) each dependent of such individual who is a qualified individual (within the meaning of such section),

exceeds the sum of the maximum annual amounts indicated under section 9803 with respect to such individual, spouse, and dependents, and

"(3) the amount of liability for tax imposed under chapter 1 (computed without regard to the credit allowed under section 31) with respect to such individual, spouse, and dependents exceeds the amount of the excess determined under paragraph (2),

then such individual shall be allowed as a credit under section 44A an amount equal to the amount of the excess determined under paragraph (3).

"(b) Limitation.—No credit shall be allowed under section 44A to any individual whose spouse or dependent has claimed a credit under such section for the taxable year beginning in the calendar year in which the taxable year of the individual begins.

"CHAPTER 99—FILING FOR ALLOWANCES; ADMINISTRATION

"Sec. 9901. Filing for allowances; returns, records, and information.
"Sec. 9902. Payment of allowances.
"Sec. 9903. Regulations; overpayment or underpayment.
"Sec. 9904. Definitions and special rules.
"Sec. 9905. Coordination with other assistance programs.
"Sec. 9906. Annual reports; authorization for appropriations.

"Sec. 9901. Filing for Allowances; Returns, Records, and Information.

"(a) Application for Allowance.—Application for any allowance provided under this subtitle for an allowance period shall be made in such manner as the Secretary or his delegate shall by regulation prescribe. Such application shall be filed no later than 14 days after the first day of the allowance period with respect to which application is made.

"(b) Application for Alternate Annual Allowance.—Under such regulations as the Secretary or his delegate shall prescribe, any qualified individual eligible to file for application under section 9802(a) may, with respect to a qualified unit which—

"(1) did not receive an allowance for any period during the last taxable year ending before such application;

"(2) was a qualified unit for one or more allowance periods during such taxable year; and

"(3) no member of which was a member of any other qualified unit which received an allowance for any period during such taxable year;

apply for such allowance with respect to each of the allowance periods during such taxable year in an amount determined in accordance with section 9803. Application for such allowance shall be filed not later than the last day prescribed under section 6072 for the filing of income tax returns.

"(c) Content of Application.—Each application made under this section shall contain—

"(1) such information for determining eligibility for the allowance as the Secretary or delegate shall by regulation prescribe;

"(2) an information return reporting offset income received during the base period, and such related information as shall be prescribed by such regulations; and

"(3) such other information with respect to such period, or any preceding period, as may be required under such regulations.

"(d) Returns, Records, and Information.—Each individual who has received an allowance during his taxable year shall file in accordance with section 6012 or 6013 (without regard to the amount of income during such year) a return with respect to the income taxes imposed under subtitle A, together with a supplemental return regarding income received by members of the qualified unit with respect to which such allowance was paid. Such returns shall contain such additional information as may be required for the recomputation of allowances under section 9803(d), and shall be filed within the time indicated in section 6072 for filing income tax returns. Each individual who is receiving or has received any such allowance shall keep such records, make such other returns, and furnish such information with respect to such allowance as the Secretary or his delegate shall prescribe by regulation.

"Sec. 9902. Payment of Allowances.

"(a) Time of Payment.—

"(1) In general.—Allowances provided under this subtitle shall be paid before the end of each allowance period for which application has been properly made.

"(2) Biweekly payment.—If the individual making application elects (at such time and in such manner as the Secretary or his delegate shall by regulation prescribe) to a biweekly payment of allowance, one-half of such allowance shall be paid in accordance with paragraph (1) and one-half shall be paid before the 15th day thereafter.

"(3) Alternate allowance payment.—Alternate allowances shall be paid not later than 60 days after the last day specified under section 9901 for filing application therefor.

"(b) Form of Payment.—

"(1) In general.—Allowances under this subtitle for a qualified unit shall be paid to the individual who made application under section 9901, except that if the Secretary or his delegate deems it appropriate, such payment may be made to any other person (including an appropriate public or private agency) who is interested or concerned with the welfare of such qualified unit.

"(2) Payment in case of married individual.—

"(A) In general.—In the case of any married individual, payment of any allowance provided under this subtitle shall, subject to the exception set forth in paragraph (1), be made jointly to such individual and the spouse of such individual, if both are members of the same qualified unit.

"(B) Voluntary allocation of allowance.—An individual and his spouse who are both members of the same qualified unit, if entitled to an allowance under this subtitle may, subject to the exception set forth in paragraph (1), jointly elect (under regulations prescribed by the Secretary or his delegate) to each receive separate partial payment of such allowance in such proportion as they shall designate under such election. A separate election may be made by any married individual whose spouse has been continuously absent from the household for the four-week period preceding the week during which such election is made.

"Sec. 9903. Administration; Overpayment or Underpayment.

"(a) In General.—For purposes of administering this subtitle, the Secretary or his delegate shall prescribe such regulations as he finds necessary to carry out the purposes of this subtitle, and shall establish administrative procedures under such regulations based upon, and to the extent he deems appropriate, integrated with, the procedures existing for the administration of this title.

"(b) Overpayment or Underpayment of Allowance.—Whenever the Secretary or his delegate finds that more or less than the correct amount of allowance has been paid with respect to any qualified unit, proper adjustment or recovery shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to members of such qualified unit, or by recovery from or payment to such members (or recovery from the estate of any such member). The Secretary or his delegate shall make such provision as he finds appropriate in the case of payment of more than the correct amount of allowance with a view to avoiding penalizing any individual who was without fault in connection with the overpayment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this subtitle, or would impede efficient or effective administration of this subtitle. No reduction in any allowance payment of a qualified unit made for the purpose of collecting an overpayment of any preceding allowance may exceed one-fourth of the sum of—

"(1) the amount of such payment, and

"(2) the offset income of such unit with respect to which such payment was determined.

"(c) Hearings and Review.—

"(1) In general.—The Secretary or his delegate shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be an individual eligible for receipt of an allowance under this subtitle and is in disagreement with any determination under this title with respect to eligibility of or receipt by such individual of such an allowance, or the amount of such allowance, if the individual requests a hearing on the matter in disagreement within thirty days after notice of such determination is received.

"(2) Time of determination.—A determination on the basis of such hearing shall be made within 90 days after the individual requests the hearing provided in paragraph (1).

"(3) Review.—The final determination of the Secretary or his delegate after a hearing under paragraph (1) shall be subject to judicial review to the same extent as a decision of the Secretary of Health, Education, and Welfare may be reviewed under section 205(g) of the Social Security Act; except that the determination of the Secretary or his delegate after such hearing as to any fact shall be final and conclusive and not subject to review by any court.

"Sec. 9904. Definitions and Special Rules.

"(a) Definitions.—For purposes of this subtitle—

"(1) Adult.—The term 'adult' means any individual who has attained 18 years of age.

"(2) Child.—The term 'child' means any child, as defined in section 44A(c)(4), who has not attained 18 years of age.

"(3) Allowance period.—The term 'allowance period' means any calendar month for which application is made for an allowance under this subtitle.

"(4) Base period.—The term 'base period' means the calendar month immediately preceding an allowance period.

"(5) United States.—The term 'United States' includes the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

"(6) Dependent.—The term 'dependent' has the meaning given such term by section 152.

"(7) Head of household.—The term 'head of household' has the meaning given such term by section 2(b).

"(8) Foreign.—The term 'foreign', when applied to income, means income earned by sources outside the 50 States and the District of Columbia.

"(9) Earned income.—The term 'earned income' has the meaning given such term by section 911(b).

"(b) Special Rules.—For purposes of this subtitle—

"(1) Qualification as dependent or head of household.—Any determination of whether an individual is a dependent or a head of household shall be on the basis of the allowance period (or each allowance period) for which an allowance is sought, rather than on the basis of any other period. For purposes of any such determination, all amounts received by an individual under this subtitle shall be considered to be income of such individual although computed, in part, on the basis of any other member of the qualified unit.

"(2) Marital status.—

"(A) Period for determination.—Any determination of whether an individual is married shall be as of the beginning of any allowance period in question.

"(B) Certain individuals not considered married.—Any individual—

"(i) who is legally separated from his spouse under a decree of divorce or a decree or agreement of separate maintenance; or

"(ii) who files a statement that such individual's spouse has been continuously absent from such individual's household for the 4-week period preceding the week during which such statement is filed, and that there is no reasonable expectation such spouse will return;

shall not be considered as married.

"(C) Certain individuals considered married.—Any individual—

"(1) who shares a household with an individual who, but for this subparagraph, would not be considered his spouse, and

"(2) who, with such individual, has custody of a child born of such couple;

shall be considered married.

"Sec. 9905. Annual Reports; Authorization for Appropriations.

"(a) Annual Report.—The Secretary shall prepare and transmit to the Congress an annual report on the operation and administration of this subtitle which shall include his evaluations thereof and such recommendations for additional legislation as he may deem appropriate.

"(b) Authorization for Appropriations.—

"(1) In general.—There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this subtitle.

"(2) Research into improved administration.—There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, with respect to any fiscal year for research into improved administration of this subtitle, and for program evaluation and collection of data and statistics related to such administration, an amount not to exceed one-half of 1 percent of the amount determined by the Secretary to have been paid as allowances under this subtitle during the preceding fiscal year.".

(b) Technical Amendment Relating to Section 9805 Tax Reduction.—

(1) In general.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax), as amended by section 103 of this Act, is further amended by inserting after section 44A the following new section:

"Sec. 44B. Certain Individuals Ineligible for A.B.L.E. Allowances.

"(a) General Rule.—In the case of an individual referred to in subsection (a)(1) of section 9805, there shall be allowed a credit against the tax imposed by this chapter to the extent provided in such section.

"(b) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section and section 9805.".

(c) Refund of Excess Credit Available.—Section 6401(b) (relating to excessive credits treated as overpayments), as amended by section 103(c) of this Act, is further amended—

(1) by striking out "and 677(b)" and inserting in lieu thereof "44B (relating to certain individuals ineligible for A.B.L.E. allowances), and 677(b)", and

(2) by striking out "and 44A" and inserting in lieu thereof "44A, and 44B".

(d) Effective Date.—The amendment made by this section shall be effective on and after January 1, 1978.

SEC. 107. INDIVIDUALS RECEIVING ALLOWANCES FOR BASIC LIVING EXPENSES NOT TO BE TAXED ON INCOME

(a) IN GENERAL.—Part III of subchapter A of chapter 1 (relating to items specifically excluded from gross income) is amended—

(1) by redesignating section 124 as section 125, and

(2) by inserting immediately after section 123 the following new section:

"SEC. 124. INCOME OF RECIPIENTS OF ALLOWANCES FOR BASIC LIVING EXPENSES

"(a) IN GENERAL.—For purposes of the tax imposed under this chapter, gross income does not include amounts received which would be included in gross income (but for this section) if received by an individual during any allowance period for which he was a member of a qualified unit, if such unit—

"(1) received for such period an allowance under subtitle I, and

"(2) after recomputation as provided under section 9803(d), was entitled to such allowance.

"(b) MEANING OF TERMS.—For purposes of this section, the terms 'allowance period' and 'qualified unit' have the meaning given such terms in section 9904(a).".

(b) INCOME NOT TO BE SUBJECT TO WITHHOLDING TAX.—Section 3401(a) (relating to definition of wages for purpose of collection of income tax at source) is amended by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(17) for services, if at the time of the payment of such remuneration it is reasonable to believe that such remuneration will be excluded from gross income under section 124.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1977.

TITLE II—PUBLIC ASSISTANCE AND WELFARE REFORM

SEC. 201. MANDATORY STATE SUPPLEMENTATION FOR FORMER AFDC RECIPIENTS.

(a) IN GENERAL.—Title IV of the Social Security Act is amended by striking out all that precedes part D and inserting in lieu thereof the following:

"TITLE IV—MANDATORY STATE SUPPLEMENTATION FOR CERTAIN FAMILIES WITH DEPENDENT CHILDREN; CHILD SUPPORT PROGRAMS

"PART A—MANDATORY STATE SUPPLEMENTATION

"STATE AGREEMENT

"SEC. 401. (a) In order for any State to be eligible for payments pursuant to title XX, with respect to expenditures for any quarter beginning after December 1977, such State must have in effect an agreement with the Secretary of Health, Education, and Welfare (hereinafter in this title referred to as the 'Secretary') whereby the State will provide to individuals residing in the State who were receiving aid to families with dependent children under part A of this title as in effect immediately prior to the effective date of the Tax Credit and Allowances Act of 1976 and who would otherwise suffer a reduction in family income by reason of the amendments made by such Act, supplementary payments in the amounts needed to maintain their total family income (for any month) at the level at which it would be (for such month) if the applicable State plan approved under part A of this title as in effect in December 1977 had continued in effect, as determined under the succeeding provisions of this title.

"(b) Any agreement entered into by a State pursuant to subsection (a) shall provide that any individual who for each month in the fourth quarter of the calendar year 1977 was a recipient of (and was eligible to receive) aid to families with dependent children under the plan of such State approved under part A of this title as then in effect (including any person whose needs were taken into account in determining the need of such recipient) shall be entitled to receive from the State (for the period specified in section 403) supplementary payments determined as provided in section 402.

"ELIGIBILITY FOR AND AMOUNTS OF SUPPLEMENTARY PAYMENTS

"SEC. 402. (a) The supplementary payment referred to in section 401(b) which shall be paid for any month to any family entitled thereto under an agreement entered into pursuant to section 401(a) shall be an amount equal to the amount by which such family's 'December 1977 income' (as determined under subsection (b)) exceeds the amount of such individual's 'ABLE or SSI benefit plus other income' (as determined under subsection (c)) for such month.

"(b) For purposes of subsection (a), a family's 'December 1977 income' is an amount with respect to any month after 1977 equal to the sum of—

"(1) the amount (as determined by the Secretary) of any payments of aid to families with dependent children which would be made to such family for such month under the applicable State plan approved under part A of this title as in effect for December 1977 if such plan had continued in effect through such month;

"(2) any supplemental security income benefit paid to a member of such family for December 1977 under title XVI of this Act;

"(3) any State supplementary payments made to members of such family for December 1977 under an agreement entered into pursuant to section 1616 of this Act or section 212(a) of Public Law 93-66;

"(4) an amount equal to 80 percent of the bonus value of the family's food stamps for December 1977 (as determined under subsection (d)); and

"(5) the total amount of the other income of such family for such month after 1977

"(c) For purposes of subsection (a), a family's 'ABLE or SSI benefit plus other income' for any month (after 1977) is an amount equal to—

"(1) in the case of a family entitled for such month to a supplemental security income benefit under title XVI, the sum of—

"(A) the amount of such supplemental security income benefit for such month;

"(B) the total of the net tax credits which are allowed such family for the taxable year in which such month falls, and which are attributable to such month in accordance with regulations prescribed by the Secretary of the Treasury or his delegate, under sections 44A and 6429 of the Internal Revenue Code of 1954 (as added by the Tax Credits and Allowances Act of 1975); and

"(C) the total amount of the other income of such family for such month; or

"(2) in the case of any other family, the sum of—

"(A) the allowance paid to such family (as a qualified unit) for such month under subtitle I of the Internal Revenue Code of 1954 (relating to allowance for basic living expenses);

"(B) the total of the net tax credits which are allowed such family for the taxable year in which such month falls, and which are attributable to such month in accordance with regulations prescribed by the Secretary of the Treasury or his delegate, under sections 44A and 6429 of the Internal Revenue Code of 1954 (as added by the Tax Credits and Allowances Act of 1975); and

"(C) the total amount of the other income of such family for such month.

"(d) For purposes of subsection (b)(4), the 'bonus value of a family's food stamps' for the month of December 1977 (with respect to a family in any State) is the amount by which—

"(1) the face value of the coupon allotment made to such family's household under the Food Stamp Act of 1964 for such month, exceeds

"(2) the charge which such family paid for such coupon allotment.

The total face value of food stamps and the cost thereof for the month of December 1977 shall be determined in accordance with rules prescribed by the Secretary of Agriculture in effect in such month.

"(e) The determinations necessary for purposes of this section shall be made and published by the Secretary of Health, Education, and Welfare during the calendar quarter beginning October 1, 1977.

"PERIOD OF SUPPLEMENTATION

"SEC. 403. Supplementary payments to any family under an agreement entered into pursuant to section 401(a) shall be made for a period of 24 months, unless such family's entitlement to such payments terminates prior to the end of such period by reason of changes in its 'ABLE or SSI benefit plus other in come' (as determined under section 402(c)) or other changes in the circumstances creating such entitlement.

"LIMITATION OF FISCAL LIABILITY OF STATES FOR SUPPLEMENTATION

"SEC. 404. (a) The total amount of the supplementary payments made by a State pursuant to its agreement entered into under section 401 during the calendar year 1978 or 1979 exceeds the non-Federal share of the expenditures made by the State in 1977 as aid to families with dependent children, the Secretary shall pay to the State, at such time or times and in such manner (in advance or by way of reimbursement) as may be appropriate, an amount equal to such excess.

"(b) For purposes of subsection (a), the term 'non-Federal share of the expenditures made by the State in 1977 as aid to families with dependent children' means the difference between—

"(1) the total expenditures made in the 4 quarters in the calendar year 1977 under the plan of such State approved under part A of this title as then in effect for aid to families with dependent children, and

"(2) the total amount determined under section 403 (as then in effect) for such State with respect to such expenditures in such quarters.

"(c) There are authorized to be appropriated such sums as may be necessary for purposes of this section.".

(b) CONFORMING AMENDMENTS.—Part D of title IV of the Social Security Act is redesignated as part B; and such part is further amended as follows:

(1) Section 453(c)(3) is amended by striking out "(other than a child receiving aid under part A of this title)".

(2) Section 454 is amended—

(A) by striking out "with respect to whom an assignment under section 402(a)(26) of this title is effective" in paragraph (4)(A) and inserting in lieu thereof "with respect to whose family allowances are payable under subtitle I of the Internal Revenue Code of 1954";

(B) by striking out "with respect to whom such assignment is effective" in paragraph (4)(B) and inserting in lieu thereof "with respect to whose family such allowances are payable";

(C) by striking out "with respect to whom an assignment under section 402(a)(26) is effective" in paragraph (5) and inserting in lieu thereof "with respect to whose family allowances are payable under subtitle I of the Internal Revenue Code of 1954"; and

(D) by striking out "ineligible for assistance under the State plan approved under part A" in paragraph (5) and inserting in lieu thereof "ineligible for such allowances".

(3) Section 456 is amended—

(A) by striking out "The support rights assigned to the State under section 402(a) (26)" in subsection (a) and inserting in lieu thereof "Any right which a member of a family with respect to which allowances are payable under subtitle I of the Internal Revenue Code of 1954 may have to support from any other person"; and

(B) by striking out "assigned to a State under section 402(a) (26)" in subsection (b) and inserting in lieu thereof "constituting an obligation owed to a State under subsection (a)".

(4) Section 458(a) is amended by striking out "the support rights assigned under section 402(a) (26)" and inserting in lieu thereof "a support obligation owed under section 456(a)".

(c) CLERICAL AMENDMENTS.—Section 1106 of such Act is amended by striking out "part D" in the first sentence of subsection (a), and each place it appears in the last sentence of subsection (b), and inserting in lieu thereof in each instance "part B".

SEC. 202. BENEFITS UNDER SUPPLEMENTAL SECURITY INCOME PROGRAM FOR AGED, BLIND, AND DISABLED INDIVIDUALS AND THEIR FAMILIES.

(a) The heading of title XVI of the Social Security Act is amended by adding "AND THEIR FAMILIES" after "DISABLED".

(b) Section 1611(a) of such Act is amended to read as follows:

"Definition of Eligible Individual

"(a) Any aged, blind, or disabled individual whose income (other than income excluded pursuant to section 1612(b)), together with the income (other than income so excluded) of any other person who is a member of his or her family within the meaning of section 1614(g), is at a rate (for the calendar year involved) of not more than—

"(1) $1,752 (or, if greater, the amount determined under section 1617), plus

"(2) an amount equal to the total of the annual amounts specified in section 9803(c) of the Internal Revenue Code of 1954 for all other persons who are members of his or her family within the meaning of section 1614(g),

shall be an eligible individual for purposes of this title.".

(c) Section 1611(b) of such Act is amended to read as follows:

"Amounts of Benefits

"(b) The benefit under this title for any eligible individual shall be payable (for any calendar year) at the rate of—

"(1) $1,752 (or, if greater, the amount determined under section 1617), plus

"(2) an amount equal to the total of the annual amounts specified in section 9803(c) of the Internal Revenue Code of 1954 for all persons who are members of his or her family within the meaning of section 1614(g),

reduced by the amount of the income, not excluded pursuant to section 1612(b), of such individual and all other persons who are members of his or her family within the meaning of section 1614(g).".

(d) Section 1611(e) of such Act is amended—

(1) by striking out "or eligible spouse" in paragraphs (1)(A), (2), and (3)(A); and

(2) by striking out paragraph (1)(B) and inserting in lieu thereof the following:

"(B) In determining the rate at which the benefit under this title is payable to an eligible individual for a month in any case where such individual, or any other person who is a member of his or her family within the meaning of section 1614(g), is, throughout such month, in a hospital, extended care facility, nursing home, or intermediate care facility, there shall be substituted for the amount specified with respect to such individual or person in paragraph (1) or (2) of subsection (b) an amount equal to the lesser of $300 or one-third of the amount so specified.".

(e)(1) Section 1611(f) of such Act is amended—

(A) by inserting "or a member of a family" after "individual" where it first appears; and

(B) by striking out "(and no person shall be considered the eligible spouse of an individual for purposes of this title with respect to any month during all of which such person is outside the United States)".

(2) Section 1611(g) of such Act is repealed.

(3) Section 1611(h) of such Act is amended—

(A) by striking out "or any individual and his spouse (as the case may be)" in the matter preceding paragraph (1);

(B) by striking out "or they" in paragraphs (2) and (3);

(C) by striking out "or an eligible spouse" in paragraph (4); and

(D) by striking out "or they" in the matter following paragraph (4).

(f) Section 1612(a)(2)(A) of such Act is amended—

(1) by striking out "(and his eligible spouse, if any)" in clause (i);

(2) by striking out "(and spouse" each place it appears in clause (i); and

(3) by striking out "or his eligible spouse", "or such spouse", and "or spouse" in clause (ii).

(g) Section 1612(a)(2) of such Act is further amended—

(1) by striking out "and" after subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(G) the excess of the income imputed from capital over the actual income received from such capital, as determined under section 9804(c)(2) of the Internal Revenue Code of 1954."

(h) Section 1612(b) of such Act is amended—

(1) by striking out "(and his eligible spouse)" in the matter preceding paragraph (1) and inserting in lieu thereof "(including the eligible individual and any other person who is a member of his or her family within the meaning of section 1614(g))";

(2) by striking out "such individual (and such spouse, if any)" each place it appears in paragraph (3) and inserting in lieu thereof "the eligible individual and each such other person";

(3) by striking out "such individual (or such spouse)" in subparagraphs (A), (B), and (C) of paragraph (4) and inserting in lieu thereof in each instance "the eligible individual";

(4) by striking out "(or such spouse)" in paragraph (5);

(5) by striking out "(or spouse)" in paragraph (8);

(6) by inserting after paragraph (8) the following new paragraph:

"(9) any credit under section 42 or 6428 of the Internal Revenue Code of 1954;"; and

(7) by redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively.

(i) Section 1613 of such Act is repealed.

(j)(1) Section 1614(a)(1)(A) of such Act is amended by striking out "is blind (as determined under paragraph (2), or disabled" and inserting in lieu thereof "or has attained 18 years of age and is blind (as determined under paragraph (2)) or disabled".

(2) Section 1614(a)(3)(A) of such Act is amended by striking out "(or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity".

(k) Section 1614(b) of such Act is amended to read as follows:

"Eligible Individual and Spouse

"(b) For purposes of this title, if two aged, blind, or disabled individuals are husband and wife, only one of them may be an 'eligible individual' within the meaning of section 1611(a)."

(l) Section 1614(c) of such Act is amended to read as follows:

"Definition of Child

"(c) For purposes of this title, the term 'child' (with respect to any eligible individual) means an unmarried individual under the age of 18 who is a dependent of such individual within the meaning of section 152 of the Internal Revenue Code of 1954, and who (1) is the natural or adopted child of such eligible individual or his or her spouse and is living in the home of such eligible individual, or (2) is in the care of such eligible individual or spouse. For purposes of the preceding sentence, a child (other than a natural or adopted child) is in the care of an eligible individual or spouse if such child is living in the home of such an eligible individual and his or her natural or adoptive parents are not living in the same household.".

(m) Section 1614(f) of such Act is amended to read as follows:

"Income of Persons Other Than Eligible Individuals

"(f) For purposes of determining eligibility for and the amount of benefits under this title in the case of any individual whose household includes one or more other persons who are members of his or her family within the meaning of subsection (g), the income of each such other person shall be included whether or not available to such individual.".

(n) Section 1614 of such Act is amended by adding at the end thereof the following new subsection:

"Family Members

"(g) For purposes of this title, the family of an eligible individual shall consist only of such individual, his or her spouse (if any), and his or her children (as defined in subsection (c)); except that any child who is placed in the home of an eligible individual by a public or nonprofit private child-placement or child-care agency, and with respect to whom foster care payments are made, shall not be included as member of such individual's family.".

(o) Section 1615(c) of such Act is amended by striking out "or eligible spouse".

(p) Section 1616(e) of such Act is amended by striking out "in the case of any State" and all that follows and inserting in lieu thereof a period.

(q) Section 1617 of such Act is amended by striking out "(a)(1)(A), (a)(2)(A), (b)(1), (b)(2)" and inserting in lieu thereof "(a)(1) and (b)(1)".

(r) Section 1631(a)(2) of such Act is amended—

(1) by striking out "eligible" where it first appears;

(2) by striking out "(or spouse)" each place it appears; and

(3) by striking out "or eligible spouse".

(s) Section 1631(b) of such Act is amended—

(1) by striking out "or his eligible spouse (or by recovery from the estate of either)" in the first sentence and inserting in lieu thereof "(or his estate)"; and

(2) by striking out "or his eligible spouse" in the second sentence.

(t)(1) Section 1631(c)(1) of such Act is amended by striking out "or eligible spouse".

(2) Section 1631(e)(1)(B) of such Act

is amended by striking out "(or eligible spouses)".

(u) Section 1634 of such Act is repealed.

(v) (1) Section 211(a) (1) (A) of Public Law 93–66 is amended by striking out "subsection (a) (1) (A) and (2) (A), and subsection (b) (1) and (2), of section 1611 of such Act," and inserting in lieu thereof "subsections (a) (1) and (b) (1) of section 1611 of such Act".

(2) Section 211(a) (1) (C) of Public Law 93–66 is amended by striking out clause (ii).

(3) Section 211(a) (2) of Public Law 93–66 is repealed.

(4) Section 211(c) (4) of Public Law 93–66 is amended to read as follows:

"(4) is not the spouse of such individual or of any other qualified individual.".

Sec. 203. Services for Families and Children.

(a) Section 2002(a) (2) (D) of the Social Security Act is amended by striking out "amounts available under section 1108" and all that follows down through "1603(a) (4) and (5)" and inserting in lieu thereof "any amounts otherwise available to it".

(b) Section 2002(a) (4) of such Act is amended —

(1) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) who are members of families receiving allowances for basic living expenses under subtitle I of the Internal Revenue Code of 1954, or";

(2) by striking out subparagraph (B); and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(c) Section 2002(a) (5) (A) of such Act is amended to read as follows:

"(A) with respect to whom allowances for basic living expenses under subtitle I of the Internal Revenue Code of 1954, supplemental security income benefits under title XVI, or State supplementary payments (as defined in section 2007(1)) are being paid, or".

(d) Section 2002(a) (8) of such Act is repealed.

(e) Section 2003(d) (1) (B) of such Act is amended by striking out "the plan of the State approved under part A of title IV, the plan of the State developed under part B of that title," and inserting in lieu thereof "the program of allowances for basic living expenses under subtitle I of the Internal Revenue Code of 1954,".

(f) Section 202 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) The Secretary may develop and impose such additional requirements relating to the availability and furnishing of foster care, child welfare services, emergency services, and emergency assistance as he may deem necessary or desirable in carrying out the objectives of this title; and each State which participates in the programs established by this title shall include in its plan described in subsection (a) (as a condition of such participation) provisions for effectively satisfying any requirements so imposed."

"(g) Section 2004(2) (H) of such Act is amended by striking out "the plan of the State approved under part A of title IV, the plan of the State developed under part B of that title," and inserting in lieu thereof "the program of allowances for basic living expenses under subtitle I of the Internal Revenue Code of 1954,".

(h) Section 2007(1) of such Act is amended by striking out "means any cash payment" and inserting in lieu thereof "means (A) any supplementary payment made by a State under part A of title IV, or (B) any cash payment".

Sec. 204. Optional State Supplementation of SSI Benefits.

Section 401(a) (2) of the Social Security Amendments of 1972 is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking out "(A)", "(B)", "(i)", and "(ii)" in the matter following the introductory clause and inserting in lieu thereof "(i)", "(ii)", "(I)", and "(II)", respectively; and

(3) by adding at the end thereof the following new subparagraphs:

"(B) If an individual receiving supplementary payments described in subparagraph (A) has a spouse who is a member of his or her family within the meaning of section 1614(g) of the Social Security Act but is not an aged, blind, or disabled individual, or there are one or more children who are members of his or her family within the meaning of such section 1614(g), paragraph (1) of this subsection shall not apply (for any fiscal year after the fiscal year 1977) with respect to any portion of any such supplementary payment in excess of the portion of such payment to which paragraph (1) would apply under subparagraph (A) of this paragraph if title XVI of the Social Security Act read as it did immediately before its amendments by section 202 of the Tax Credit and Allowance Act of 1976.

Sec. 205. SSI Supplements for Certain Disabled Children Included in Able Units.

(a) In any case where—

(1) a child under the age of 18 received supplemental security income benefits for each month in the last quarter of the calendar year 1977 on the basis of disability;

(2) such child is included within a qualified unit for purposes of the allowance provided under subtitle I of the Internal Revenue Code of 1954 (relating to allowance for basic living expenses) in January 1978 in any month subsequent to December 1977 and prior to the month in which he or she attains age 18; and

(3) the sum of—

(A) the allowance paid to such unit for such subsequent month under such subtitle I,

(B) the tax credits allowed such unit with respect to such subsequent month under sections 44A and 6429 of such Code, and

(C) the other income of such unit for such subsequent month (as determined under subsection (b) (1) of this section),

is less than the sum of—

(D) the supplemental security income benefit paid to such child in December 1977,

(E) the State supplementary payment (if any) made to such child under section 1616 of the Social Security Act for December 1977,

(F) an amount equal to 80 percent of the bonus value of food stamps (as defined in section 402(d) of the Social Security Act), and

(G) the other income of such unit for December 1977 (as determined under subsection (c)),

the Secretary of Health, Education, and Welfare shall make a special supplementary payment to such qualified unit for such subsequent month in an amount equal to the difference between the sums referred to in paragraph (3).

(b) Special supplementary payments being made to any qualified unit under subsection (a) of this section shall terminate (if they have not previously terminated because of increases in family income or other changes in the circumstances creating entitlement to such payments) with the month preceding the month in which the child (referred to in such subsection) attains the age of 18.

(c) The determinations necessary for purposes of subsection (a) (3) (G) shall be made and published by the Secretary of Health, Education, and Welfare during the calendar quarter beginning October 1, 1977.

Sec. 206. Additional Technical and Conforming Amendments and Transitional Provisions.

The Secretary of Health, Education, and Welfare shall, as soon as practicable after the date of the enactment of this Act but in any event not later than January 1, 1977, submit to the House of Representatives and the Senate a draft of any technical and conforming changes in the Social Security Act and other laws which may be necessary to reflect the changes in substantive provisions of law made by this title, including any special provisions which may be necessary to assure an orderly transition from existing programs to the new or modified programs established by this title.

Sec. 207. Effective Dates.

Except as specifically otherwise indicated, this title and the amendments made by this title shall take effect January 1, 1978.

TITLE III—MISCELLANEOUS AND GENERAL PROVISIONS

Sec. 301. Optional State Supplementation of Able Units and SSI Families Not Otherwise Covered.

(a) If—

(1) any State makes cash payments on a regular basis, as assistance based on need in supplementation of allowances under subtitle I of the Internal Revenue Code of 1954 (relating to allowance for basic living expenses) or in supplementation of benefits under title XVI of the Social Security Act, to—

(A) families which constitute qualified units for purposes of the allowance under such subtitle I but which are not eligible for supplementation under title IV of the Social Security Act (as amended by section 201 of this Act), or

(B) families receiving supplemental security income benefits under title XVI of the Social Security Act which include (within the meaning of section 1614(g) of such Act) a spouse who is not an aged, blind, or disabled individual or one or more children but which are not eligible for supplementation under such title IV, and

(2) the amount of such cash payment to any family is reduced on account of earned income of family members, or (in the case of payments in supplementation of allowances under such subtitle I) on account of unearned income of family members (excluding income from sources listed in section 9804(a) (3) of the Internal Revenue Code of 1954), or both, at a rate which results in a net reduction in the family's allowance under such subtitle I or its supplemental security income benefit, plus such cash payment, in an amount exceeding 60 percent of the amount of any such earned income plus (in the case of payments in supplementation of allowances under such subtitle I) 80 perecnt of the amount of any such unearned income,

then the total of such cash payment shall be included as an allowance offset under section 9804 of the Internal Revenue Code of 1954 or counted as income under section 1612 of the Social Security Act for supplemental security income benefit purposes.

(b) The Secretary of Health, Education, and Welfare shall prescribe such regulations, and conduct such monitoring and periodic examination of State supplementation programs, as may be necessary to assure compliance with the requirements of subsection (a), and shall from time to time report thereon to the Secretary of the Treasury or his delegate.

Sec. 302. Prohibition Against Federal Assistance to Child-Care Facilities Imposing Income-Related Fees

Notwithstanding any other provision of law, no child-care center or other child-care facility which is receiving Federal assistance in any form shall impose fees (for the services it provides) which are related in any way to the income of the recipients or beneficiaries of such services or to the income of any other persons.

SEC. 303. AMENDMENTS AND REPEALS OF OTHER LAWS.

(a)(1) The Food Stamp Act of 1964 is repealed.

(2) Notwithstanding any other provision of law, no funds otherwise available for the purpose of carrying out the food distribution program for families under section 32 of Public Law 74–320 or section 416 of the Act of October 31, 1949, or for the purpose of carrying out a commodity distribution or domestic food assistance program under any other law, shall be utilized for such purpose on or after January 1, 1978.

(b) The Act of November 2, 1921 (25 U.S.C. 13), is amended—

(1) by inserting ", subject to section 2" after "education" in the first item following the colon; and

(2) by adding at the end thereof the following new section:

"SEC. 2. (a) On and after January 1, 1978, the Bureau of Indian Affairs shall not provide any aid or assistance based on need to any individual or family except as required or permitted by the succeeding provisions of this section.

"(b)(1) The Bureau shall make supplemental payments for periods after December 1977, in amounts determined under paragraph (2) of this subsection, to individuals and families who received aid or assistance under the first section of this Act for each month in the last quarter of the calendar year 1977, and whose allowance for basic living expenses under subtitle I of the Internal Revenue Code of 1954 or supplemental security income benefit under title XVI of the Social Security Act (as provided by title I or II of the Tax Credits and Allowances Act of 1976) is lower in amount than the aid or assistance so received for December 1977.

"(2) The supplemental payment to any individual or family for any month under paragraph (1) shall be in an amount equal to the difference (on a monthly basis) between the aid or assistance received by such individual or family under the first section of this Act for December 1977 and the allowance for basic living expenses or supplemental security income benefit to which such individual or family is entitled for the month involved, and, if such individual or family received food stamps under the Food Stamp Act of 1964 for December 1977 shall in any event include an amount equal to 80 percent of the bonus value of such food stamps.

"(3) As used in paragraph (2), the term 'bonus value of food stamps' with respect to any individual or family means (A) the face value of the coupon allotment which was provided to such individual's or family's household under the Food Stamp Act of 1964 for December 1977 reduced by (B) the charge which such household paid for such allotment.

"(c) The Bureau may make supplemental payments to Indians and Indian families who are not included within subsection (b) but who reside in States which make payments to non-Indian individuals and families to supplement their allowances for basic living expenses under subtitle I of the Internal Revenue Code of 1954 or their supplemental security income benefits under title XVI of the Social Security Act. The amount of any supplemental payment to an Indian or Indian family under this subsection shall not exceed the amount of the supplemental payment which the State would make to a non-Indian individual or family in the same situation.

"(d) The Bureau may continue (after 1977) to provide financial assistance based on need under the first section of this Act to meet emergency situations (as determined by the Bureau), but no such assistance shall be provided to any individual or family for more than three months during any calendar year.".

(c)(1) Section 2(b) of Public Law 87–510 (22 U.S.C. 2601(b)) is amended by adding at the end thereof (after and below paragraph (6)) the following new sentence: "Notwithstanding any other provision of this Act, no financial or other assistance shall be provided under this subsection to any refugee who has been lawfully admitted to the United States for permanent residence.".

(2) Section 2(b) of Public Law 87–510 is further amended by inserting after "necessary from time to time" in the matter preceding paragraph (1) the following: "(subject to the last sentence of this subsection)".

SEC. 304. GARNISHMENT AND SIMILAR PROCEEDINGS TO MEET COURT-ORDERED ALIMONY, CHILD-SUPPORT, AND RENT OBLIGATIONS

Notwithstanding any other provision of law, any moneys due from and payable by the United States or any agency or instrumentality thereof to any individual (including remuneration for civilian employment, military pay, allowances for basic living expenses, and benefits, aid, and assistance of any kind) shall be subject, in like manner as if the United States were a private person, to garnishment, attachment, or other legal process brought for the enforcement against such individual of his legal obligation (decreed by a court of competent jurisdiction) to provide child support or make alimony payments or to make payments of rent under a valid lease of real property.

SEC. 305. TECHNICAL AND MISCELLANEOUS PROVISIONS.

(a) Section 1101(a)(1) of the Social Security Act is amended by striking out "titles IV, V, VII, XI, and XIV" and inserting in lieu thereof "title XIV", and by striking out the second sentence.

(b) The following provisions of such Act are repealed:

(1) Titles I, X, XIV, and XVI (relating to State plans for aid or assistance), insofar as they would otherwise be applicable under section 303(b) of the Social Security Amendments of 1972.

(2) Section 705.

(3) Sections 1101(a)(8), 1108, 1109, 1111, 1118, and 1119.

(c)(1) Section 1115 of such Act is repealed.

(2)(A) If any State has any experimental, pilot, or demonstration project (referred to in section 1115 of the Social Security Act)—

(i) which (prior to the effective date of title II of the Tax Credits and Allowances Act of 1976) has been approved by the Secretary of Health, Education, and Welfare (hereinafter in this paragraph referred to as the "Secretary"), for a period which ends on or after such date as being a project with respect to which the authority conferred upon him by subsection (a) or (b) of such section 1115 will be exercised, and

(ii) with respect to the costs of which Federal financial participation would (except for the provisions of this paragraph or section 11 of Public Law 93–233) be denied or reduced on account of the enactment of paragraph (1) of this subsection,

then, for any period (after the effective date of title II of the Tax Credits and Allowances Act of 1976) with respect to which such project is approved by the Secretary, Federal financial participation in the costs of such project shall be continued in like manner as if—

(iii) such title II had not been enacted, and

(iv) such State continued to have in effect the applicable State plan.

(B) With respect to individuals—

(i) who are participants in any project to which the provisions of subparagraph (A) are applicable, and

(ii) with respect to whom supplemental security income benefits are (or would, except for their participation in such project, be) payable under title XVI of the Social Security Act,

the Secretary may waive such requirements of title XVI of such Act (as enacted by section 301 of the Social Security Amendments of 1972) to such extent as he determines to be necessary to the successful operation of such project.

(C) In the case of any State which has entered into an agreement with the Secretary under section 1616 of the Social Security Act (or which is deemed, under section 212(d) of Public Law 9366, to have entered into such an agreement), then, of the costs of any project of such State with respect to which there is (solely by reason of the provisions of subparagraph (A)) Federal financial participation, the non-Federal share thereof—

(i) shall be paid, from time to time, to such State by the Secretary, and

(ii) shall, for purposes of section 1616(d) of the Social Security Act and section 401 of the Social Security Amendments of 1972, be treated as if it constituted supplementary payments made by the Secretary on behalf of such State pursuant to such agreement.

By Mr. SCHWEIKER:

S. 3001. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to provide an exemption from coverage under the social security program, through a tax refund procedure, for employees who are members of religious faiths which oppose participation in such program, and to provide a similar exemption on a current basis—pursuant to waiver certificates filed in advance—for employers engaged in farming and their employees in cases where both are members of such faiths; and to make the existing exemption for self-employed members of such faiths available to certain additional individuals. Referred to the Committee on Finance.

Mr. SCHWEIKER. Mr. President, I am today introducing a bill to provide an exemption from the social security employment tax on wages for members of religious groups opposed to insurance on religious grounds. I first introduced this legislation in the Senate as an amendment to the Social Security Amedments of 1970, and it was adopted by the Senate Finance Committee and passed by the Senate. It was dropped in conference with the House. Since then I have introduced the measure twice, as a separate bill and as an amendment to H.R. 1, the Social Security Amendments of 1972. To date this provision has twice been passed by this body, and twice dropped in conference. Nevertheless, the issue incorporated in this bill is fundamental and I will continue my efforts to see it enacted into law.

I cite the Amish as an example of people who desire and should be afforded this social security exemption due to their religious objection to social security.

The Internal Revenue Code provides an exemption from self-employment tax, if a person can show he is a member of a recognized religious sect which follows the practice of making provisions for its dependent members. I now ask that this exemption be extended from self-employment tax to those who work for others and oppose, for religious reasons, payment of social security employment tax on wages.

As part of their religion, the Amish refuse any form of relief or what they call Government handouts. They oppose all forms of social security, including old-age pensions. Regarding it not as a tax but rather as a policy premium in a national insurance system, the Amish are opposed to participation, because of their conscientious objection to all forms of insurance. This belief is embodied in the Dordrecht confessions, which predates our Constitution. Its doctrine of the church has the visible communion of the saints may be taken as the implicit ground for rejection of insurance in the sense that the congregation of God's people are expected to live by faith and trust in providence. Otherwise it counsels obedience to the state, which is why the Amish have no objection to the payment of general taxes.

Forcing people such as the Amish to pay a tax which is a form of insurance, directly opposed by the tenets of their faith, is an infringement of their religious rights, which by implication threatens the rights of all religious groups, no matter how small.

It is difficult for me to understand why we have not been ready to permit religious groups to conscientiously object to economic regulations when we fully recognize their right to object to military service.

I feel strongly that this Government must not ride roughshod over the religious rights of a minority. Such is the case under present law. In 1961, the Federal Government seized three horses belonging to an Amish farmer in Pennsylvania, and sold them at public auction to obtain money for social security payments which the man refused to make because of his religious convictions.

At that time I began my effort to assist the Amish people to get relief from participating in the social security program to which they are opposed on religious grounds. In 1961 and again in 1963, I introduced a bill in the House which would have provided an exemption from participation in the Federal old-age and survivors insurance program for those whose religious doctrines forbid participation in such a progam.

In 1964, after the Treasury Department, as well as the Justice Department, rendered legal opinions saying that the Old Order Amish exemption embodied in a social security amendment met all constitutional requirements and was strictly a matter of legislative policy, the House and Senate conferees agreed to accept the "Amish amendment." Unfortunately, this bill died in the conference committee because of the dispute over medicare. It did, however, lay the groundwork for the first relief granted to the Amish.

On July 30, 1965, Congress amended the Internal Revenue Code, allowing a person to apply for exemption from self-employment tax if he is a member of a recognized religious sect which follows the practice of making reasonable provision for its dependent members. We must now take this one step further, and provide an exemption from social security taxes on wages.

Specifically, my amendment provides that any member of a recognized religious sect in existence since at least 1950, who can show that he is an adherent of established teachings which cause him to be conscientiously opposed to acceptance of social security benefits, may file an application to be entitled to a credit or refund of the amount of the tax.

The applicant must submit evidence to substantiate his membership in the sect and his adherence to its teachings, and would be asked to show that it has been the practice of the sect to make provision for the care of its elderly or dependent members.

In addition, the employer would continue to pay into the social security fund, thus eliminating any chance that such an amendment would make one employee more desirable than another. The objective here obviously is not to make one group of people more desirable employees than another, but instead to assist those who object to social security coverage because it is directly opposed to basic religious tenets of their faith. Since the employer would continue to pay into the social security fund, the exempted employee would offer no financial advantage over the nonexempted employee.

Mr. President, I ask unanimous consent that the bill, together with material regarding the beliefs of the Amish people on social security, and a letter I received in 1964 from the Treasury Department on the constitutional issues involved in this exemption be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 3001

A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to provide an exemption from coverage under the social security program, through a tax refund procedure, for employees who are members of religious faiths which oppose participation in such program, and to provide a similar exemption on a current basis (pursuant to waiver certificates filed in advence) for employers engaged in farming and their employees in cases where both are members of such faiths; and to make the existing exemption for self-employed members of such faiths available to certain additional individuals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) (1) section 6413 of the Internal Revenue Code of 1954 (relating to special rules applicable to certain employment taxes) is amended by adding at the end thereof the following new subsection:

"(e) Special Refunds of Social Tax to Members of Certain Religious Faiths.—

"(1) In general.—An employe who receives wages with respect to which the tax imposed by section 3101 is deducted during a calendar year for which an authorization granted under this subsection applies shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of the amount of tax so deducted.

"(2) Authorization for credit or refund.—Any individual may file an application (in such form and manner, and with such official, as may be prescribed by regulations under this subsection) for an authorization for credit or refund of the tax imposed by section 3101 if he is a member of a recognized religious sect or division thereof described in section 1402(h)(1) and is an adherent of established tenets or teachings of such sect or division described in such section. Such authorization may be granted only if—

"(A) the application contains or is accompained by evidence described in section 1402 (h)(1)(A) and a waiver described in section 1402 (h)(1)(B), and

"(B) the Secretary of Health, Education, and Welfare makes the findings described in section 1402(h)(1) (C), (D), and (E).

An authorization may not be granted to any individual if any benefit or other payment referred to in section 1402(h)(1)(B) became payable (or, but for section 203 or 222(b) of the Social Security Act, would have become payable) to such individual at or before the time of filing of such waiver.

"(3) Effective period of authorization.—An authorization granted to any individual under this subsection shall apply with respect to wages paid to such individual during the period—

"(A) commencing with the first day of the first calendar year after 1975 throughout which such individual meets the requirements specified in paragraph (2) and in which such individual files application for such authorization (except that if such application is filed on or before the date prescribed by law including any extension thereof, for filing an income tax return for such individual's taxable year, such application may be treated as having been filed in the calendar year in which such taxable year begins), and

"(B) ending with the last day of the calendar year preceding the first calendar year in which (i) such individual ceases to meet the requirements of the first sentence of paragraph (2), or (ii) the sect or division thereof of which such individual is a member is found by the Secretary of Health, Education, and Welfare to have ceased to meet the requirements of subparagraph (B) of paragraph (2).

"(4) Application by fiduciaries or survivors.—If an individual who has received wages with respect to which the tax imposed by section 3101 has been deducted during a calendar year dies without having filed an application under paragraph (2) an application may be filed with respect to such individual by a fiduciary acting for such individual's estate or by such individual's survivor (within the meaning of section 205(c)(1) (C) of the Social Security Act)."

(2) The heading of section 6413(c) of such Code (relating to special refunds) is amended by inserting "of Social Security Tax Based on Multiple Employment" after "Refunds".

(3) Section 31(b)(1) of such Code (relating to credit for special refunds of social security tax) is amended by striking out "section 6413(c)" and inserting in lieu thereof "section 6413 (c) or (e)".

(b) Sections 201(g)(2) and 1817(f)(1) of the Social Security Act are each amended by striking out "section 6413(c)" and inserting in lieu thereof "sections 6413 (c) and (e)".

Sec. 2. (a) Subchapter C of chapter 21 of the Internal Revenue Code of 1954 (general provisions under Federal Insurance Contributions Act) is amended by redesignating section 3126 as section 3127, and by inserting after section 3125 the following new section:

"SEC. 3126. EXEMPTION FOR EMPLOYERS ENGAGED IN FARMING, AND THEIR EMPLOYEES, WHERE BOTH ARE MEMBERS OF RELIGIOUS FAITHS OPPOSED TO PARTICIPATION IN PROGRAM.

"(a) In General.—Notwithstanding any other provision of this chapter (and under regulations prescribed to carry out this section), in any case where—

"(1) an employer is carrying on a trade or business in which, if it were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 3121(g),

"(2) such employer is a member of a recognized religious sect or division thereof described in section 1402(h)(1) and an adherent of established tenets or teachings of such sect or division as described in such section, and has filed and had approved under subsection (b) an application (in such form and manner, and with such official, as may be prescribed by such regulations) for an exemption from the taxes imposed by section 3111, and

"(3) at least one of the employees of such employer performing agricultural labor as defined in section 3121(g) is also a member of such a religious sect or division and an adherent of its established tenets or teachings, and has filed and had approved under subsection (b) a similar application for an exemption from the taxes imposed by section 3101,

such employer shall be exempt from the taxes imposed by section 3111 with respect to wages paid to any of his employees described in paragraph (3) for agricultural labor as defined in section 3121(g), and each such employee shall be exempt from the taxes imposed by section 3101 with respect to such wages paid to him by such employer.

"(b) APPROVAL OF APPLICATION.—An application for exemption filed by an employer under subsection (a)(2) or by an employee under subsection (a)(3) shall be approved only if—

"(1) such application contains or is accompanied by the evidence described in section 1402(h)(1)(A) and a waiver described in section 1402(h)(1)(B),

"(2) the Secretary of Health, Education, and Welfare makes the findings (with respect to such sect or division) described in section 1402(h)(1) (C), (D), and (E), and

"(3) no benefit or other payment referred to in section 1402(h)(1)(B) became payable (or, but for section 203 or 222(b) of the Social Security Act, would have become payable) to the individual filing the application at or before the time of such filing.

"(c) EFFECTIVE PERIOD OF EXEMPTION.—An exemption granted under this section to any employer with respect to wages paid to any of his employees, or granted to any such employee, shall apply with respect to wages paid by such employer during the period—

"(1) commencing with the first day of the first calendar quarter, after the quarter in which such application is filed, throughout which such employer or employee meets the applicable requirements specified in subsections (a) and (b), and

"(2) ending with the last day of the calendar quarter preceding the first calendar quarter thereafter in which (A) such employer or the employee involved ceases to meet the applicable requirements of subsection (a), or (B) the sect or division thereof of which such employer or employee is a member is found by the Secretary of Health, Education, and Welfare to have ceased to meet the requirements of subsection (b)(2)."

(b) The table of sections for such subchapter is amended by striking out the item relating to section 3126 and inserting in lieu thereof the following new items:

"Sec. 3126. Exemptions for employers engaged in farming, and their employees, where both are members of religious faiths opposed to participation in program.

Sec. 3127. Short title.".

SEC. 3. Section 202(v) of the Social Security Act is amended—

(1) by inserting "(1)" after "(v)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provisions of this title, in the case of any individual who files a waiver pursuant to section 6413(e) of the Internal Revenue Code of 1954 and is granted an authorization for credit or refund thereunder or who files an application under section 3126(a)(3) of such Code and is granted an exemption from the tax on employees thereunder, no benefits or other payments shall be payable under this title to him, no payments shall be made on his behalf under part A of title XVIII, and no benefits or other payments under this title shall be payable on the basis of his wages and self-employment income to any other person, after the filing of such waiver or application; except that if thereafter such individual's authorization under such section 6413(e) of such Code or exemption under such section 3126(a)(3) of such Code ceases to be effective, such waiver or application shall cease to be applicable in the case of benefits and other payments under this title and part A of title XVIII to the extent based on his wages beginning with the first day of the calendar year or calendar quarter for which authorization or exemption ceases to apply and on his self-employment income for and after his taxable year which begins in or with the beginning of such calendar year or calendar quarter."

SEC. 4. (a) Section 1402(h)(1) of the Internal Revenue Code of 1954 (relating to exemption from self-employment coverage for members of certain religious faiths) is amended by striking out "private or".

(b)(1) Section 1402(h)(2) of such Code (relating to time for filing application) is amended to read as follows:

"(2) TIME FOR FILING APPLICATION.—For purposes of this subsection, an application must be filed—

"(A) on or before the time prescribed for filing the return (including any extension thereof) for the first taxable year for which the applicant has self-employment income (determined without regard to this subsection and subsection (c)(6)), or

"(B) on or before the time prescribed for filing the return (including any extension thereof) for the first taxable year ending after the amendment of this paragraph in 1976,

whichever is later; except that an application filed after the time specified in subparagraph (A) or (B) (whichever is applicable) but on or before the last day of the third calendar month following the calendar month in which the taxpayer is first notified by the Secretary or his delegate that a timely application for an exemption from the tax imposed by this chapter has not been filed by him shall be deemed to be filed timely."

(2) Section 1402(h)(3) of such Code (relating to period for which exemption is effective) is amended—

(A) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(B) by adding at the end thereof (after and below subparagraph (B)) the following: "and except that no refund or credit of any amount of tax imposed by this chapter shall be due or payable by reason of any such exemption."

SEC. 5. The amendments made by the first section of this Act shall apply with respect to wages paid in taxable years beginning after December 1975. The amendments made by section 2 of this Act shall apply with respect to wages paid in calendar quarters beginning after June 1976. The amendments made by section 3 of this Act shall apply with respect to benefits paid for (and items and services furnished in) months after June 1976. The amendments made by section 4 of this Act shall apply with respect to taxable years ending after the date of the enactment of this Act.

BACKGROUND OF THE PROGRAM

The following background information indicates the basic nature of the social security program, the general character of religious objections to participation in social security, and the present situation of the Old Order Amish in relation to social security.

COMPULSORY NATURE OF SOCIAL SECURITY

The social security program is designed to provide old-age, survivors, and disability insurance protection for American families, regardless of family size, income, or other factors. Under this program workers (and their employers) and the self-employed contribute while working so that the contributor and his family may have a continuing income when earnings cease or are greatly reduced because of retirement in old-age, long-term disability, or death. About 9 out of 10 working people and their families are covered under the program.

Social security can carry out its purpose only under conditions of compulsory coverage. Compulsory coverage assures that there will be a given distribution of what might be called poor risks—those who will get considerably more than they pay in—and good risks. Under a voluntary program, there would be an unduly high proportion of poor risks. Many people could predict with reasonable certainty whether or not they would get a large return on their contributions and those choosing coverage would generally be the ones who could expect to receive benefits bargains. This would increase the cost of the program for all who participate. Those given a choice as to coverage would have an unfair advantage over those workers and employers whose coverage would continue to be on a compulsory basis and who would have to help bear the increased cost arising from the individual voluntary coverage. Moreover, under individual voluntary coverage, many who need social security protection most would not participate. Many low income workers would choose not to pay the contributions because of the press of day-to-day financial problems, although in the long run social security protection would be especially valuable to such workers and their families.

Individual voluntary coverage is now provided under social security only in respect to services performed in the exercise of the ministry (including the performance of the duties of a Christian Science practitioner). The exclusion from coverage of such services (where coverage is not elected) is not a personal exclusion but an occupational exclusion. Thus, a minister who engages in any employment or self-employment other than the exercise of the ministry—whether or not he elects coverage of his ministerial services—is covered on the same basis as all other persons. Once a minister elects coverage of his services in the ministry, the election is irrevocable and once the time for election passes, a minister who has not elected coverage may no longer do so.

RELIGIOUS OBJECTIONS TO COVERAGE UNDER SOCIAL SECURITY

Representatives of those divisions of the Amish Mennonites generally classed as Old Order Amish (with some 19,000 adult members) have objected to social security taxes on grounds that social security is a form of insurance, and that their participation in an insurance program would show mistrust in the providence and care of God to meet future needs. This basis for objection is shared by the Old Order Mennonites (about 5,000 members), by at least some of the followers of Father Divine (some 300,000 members).

and by an unknown number of small sects, such as the Hutterites (a Mennonite group with 2,300 members, who practice communal living) and the division of the Plymouth Brethren known as Exclusives.

Another religious basis for opposing participation in social security is adherence to a principle of separatism—the belief that one's sect or group should keep apart from all other persons. The Old Order Amish, for example, place great importance on the scriptural admonition: "Be ye not unequally yoked together with unbelievers; for what fellowship hath righteousness with unrighteousness? and what communion hath light with darkness?" Separatism is also a cardinal principle of some groups which have not indicated their attitudes toward social security; for example, the Black Muslims, perhaps the prime exponents of separatism, and Jehovah's Witnesses, with 287,000 members in the United States, all of whom are held by the sect to be ministers. There would seem to be considerable doubt that participation in social security is compatible with the belief of Jehovah's Witnesses that the end of the world is close at hand—1984, at latest—and objections to social security have been received from individual members from time to time.

Each of the above-mentioned groups has come into conflict with Federal or State law on questions other than social security. All oppose compulsory military service, and there have been various other conflicts with State or local laws, such as the refusal of the Old Order Amish to permit their children to attend school beyond the 8th grade, and the refusal of Jehovah's Witnesses and the Black Muslims to salute the flag.

The Christian Science Church opposed provision of disability benefits under social security on religious grounds.

Amish who do not belong to old order groups—e.g., a category known as Beachy Amish—have adopted relatively modern ways of living, and are apparently not opposed to social security. There continue to be cleavages in which Old Order Amish communities, or segments of communities, split off to adopt more modern ways of living. One-third or more of the offspring of Old Order Amish parents do not continue in the sect. As in virtually any group there are marginal members, some of whom eventually become separated from the sect. The Amish strive continually to maintain their communities against worldy temptations; an effective means of maintaining has been their stand against high school education and their doctrine of shunning,[1] with its grave economic implications for individuals who are so ill equipped to prosper outside the community.

The Old Order Amish relate practically every detail of their way of living to religious beliefs, which in turn are based on literal interpretation of scriptural texts. The Old Order Amish attempt to pursue a life similar in its course to that of the German peasants of perhaps the 17th or 18th century. The farm way of life is justified on religious grounds because being "in the country" separates the group from more worldly, less firm followers of Scripture. Consideration has been given to the use of nonmechanized farming methods as one way of differentiating (in proposed legislation) the Old Order Amish from other religious objectors to social security. But even among the Old Order Amish there have been various concessions to the changing times. For example, though a tractor may not be used in the field, it is permissible to use a tractor to furnish belt power. The Old Order Amish farmer is generally allowed to have one- or two-cylinder gasoline motors for his farm operations. The Old Order Amish make a significant distinction between owning and merely using modern conveniences. For example, in some communities it is permissible to have electric current and appliances in a mortgaged home but not after the mortgage is paid off. A significant distinction is also made between members of the sect and those who are members of the Amish community but not members of the sect—for example, Amish youngsters, who do not become members of the Old Order Amish until they are baptized (which usually occurs in their later teens). A case has been described in which a young man deferred baptism for a period of time so as to enable continued ownership of an automobile and a tractor, with which he not only provides transportation for his numerous family and neighbors but also works his father's large farm and many of his neighbors'.[2]

HISTORY OF THE PROBLEM

The problem of the Old Order Amish with social security dates mainly from 1965 when coverage of self-employed farm operators began. (However, some members of the sect who take employment in town have been covered as far back as 1937.) Although the law does not require that social security benefits must be accepted, the Old Order Amish bishops assert that required payment of social security taxes obliges their members to participate in the social security program—an insurance program—and thus to act contrary to their religious beliefs. Though the social security tax provisions are not included with the benefit provisions in the Social Security Act, but are part of the Internal Revenue Code, the bishops seem to look upon the social security taxes as in the nature of a personal premium paid for insurance. The bishops believe that their members should pay other types of taxes, pursuant to the scriptural admonition to "render unto Caesar the things that are Caesar's." In general, the creed of the sect (also held by some other groups) dictates that members should obey civil laws except where they "militate against the law, will, and commandments of God."[3]

The religious objection to the insurance principle is not clear cut. For example, the Older Order Amish make systematic arrangements for protection against property loss from fire, storm, and other causes, under which, after a loss occurs, members contribute labor and make a monetary contribution related to their net worth. One such group arrangement, known as the Amish Mutual Fire Insurance Association of Atglen, Pa., was organized by the Older Order Amish of Lancaster County in 1875 and was licensed as an insurance company in Maryland and Pennsylvania. The Old Order Amish do not consider this type of arrangement to be insurance because there is no advance funding. Liability insurance is apparently not considered to be contrary to their religious beliefs—a conclusion based on the view that liability insurance provides indemnity not to the insured but to the party suffering damages. It seems clear, however, that the Old Order Amish are strongly opposed to life insurance even though the survivors, not the insured, are protected under it.[4]

OLD ORDER AMISH

The 19,000 Old Order Amish Mennonites live in about 270 communities in 19 States. The communities are known as church districts; however, there are no meeting houses and worship is conducted in private homes. Each community is headed by a bishop. There is no hierachy above the bishops and no formal organization among the various communities. Thus each bishop is able to interpret doctrine independently of views held in other communities.

There is no question, of course, as to the sincerity of the assertion of the Old Order Amish bishops that participation in social security is contrary to their religious beliefs, and a number of the Amish farmers carry out this objection to the point of open refusal to pay social security taxes and active resistance to the execution by the Government of liens on their bank account to satisfy unpaid taxes. During many discussions with representatives of the Social Security Administration, the bishops have consistently refused to consider any compromise solution short of exclusion from social security coverage. On the other hand, a number of individual members of the sect have claimed old-age insurance benefits under social security when they became eligible for such benefits. It appears that at least some of the Old Order Amish—particularly, younger members—are undergoing a change in attitude toward social security and are coming to regard it as a good thing. This is quite consistent with their increasing acceptance of various innovations of the 20th century.

As noted, the problem of those Old Order Amish who actively resist social security coverage is related mainly (though not entirely) to the social security self-employment tax. The enforcement problem was thrust on the national scene when one Amishman, Valentine Y. Byler, of New Wilmington, Pa., who had no bank account, could not be persuaded to pay his tax for the years 1956–59. In the spring of 1961 the Government seized three of his six plow horses, sold them at public auction, and applied the proceeds against his outstanding liability. After consultation with an attorney who had become interested in civil liberties cases, Mr. Byler brought suit on the grounds of infringement of the freedom of religion guaranteed under the first amendment.

Given assurance that the constitutionality of the tax would be tested in court, and that the statute of limitations on collection of taxes would be waived by the Amish, the Commissioner of Internal Revenue agreed in October 1961, to suspend all forceful collection of tax until the issue was resolved in court. On January 21, 1963, the suit was dismissed with prejudice on motion of the plaintiffs, Mr. and Mrs. Byler. (This action was apparently based on religious objections to participating in litigation, and was taken without consultation with the plaintiff's attorney.) As an alternative course, Old Order Amish bishops appealed to the Congress and bills were introduced during the 87th Congress to exempt them from the tax. The Treasury Department and the Department of Health, Education, and Welfare pointed out objections to these bills on administrative and precedent grounds. During consideration by the 87th Congress of H.R. 10606, the Public Welfare Amendments of 1962, one of these bills (S. 2301) was adopted as a Senate amendment but was dropped in conference.

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[1] "Amish Society," by John A. Hostetler, p. 144.

[2] "Our Amish Neighbors," by William L. Schreiber, p. 77.

[3] "The Dordrecht Confession (1632)." In reference to civil government, this confession also directs believers "faithfully to pay it custom, tax, and tribute." One article of the confession forbids defense by force.

[4] The first reference to insurance in basic documents related to Amish religious background appears in "Christian Fundamentals," adopted by the Mennonite General Conference in 1921, which states that "life insurance is inconsistent with filial trust in the providence and care of our heavenly Father." A more recent commentary, in "The Mennonite Encyplopedia," explains: "This refers to commercial life insurance only. The (Mennonite) brotherhood has a growing awareness of its obligation to make systematic provision for the economic needs of its members including financial assistance for the widows and orphans in event of serious incapacity or death."

Although the suit to test the constitutionality of the self-employment tax as it applies to the Old Order Amish was never tried, the moratorium on the collection of tax has not been terminated by the Internal Revenue Service. According to the most recent report of the Service, there are some 1,500 delinquent Amish accounts, the delinquencies ranging for the most part for periods from 1 to 3 years and involving nearly $250,000 in tax liabilities.

The moratorium was intended as a temporary measure. Since tax liabilities are not satisfied but only postponed by this moratorium, it cannot be extended for too long a period of time. The 6-year period of limitation on collection of tax will expire this year in some cases. Some Old Order Amish have already indicated that they would not sign waivers to extend the collection period. The Government, therefore, in these cases soon will be forced to take action for the collection of taxes due from these individuals or else allow its collection rights to lapse.

Treasury Department,
Washington, August 12, 1964.

Hon. Richard S. Schweiker,
House of Representatives,
Washington, D.C.

Dear Mr. Schweiker: I am enclosing herewith the opinion of Mr. Berlin, the General Counsel of the Treasury Department, relating to the constitutionality of optional exemption of members of a certain religious faith from the social security self-employment tax or optional recovery of the tax paid.

Sincerely yours,
Stanley S. Surrey,
Assistant Secretary.

The General Counsel
of the Treasury,
Washington, D.C., August 6, 1964.

Constitutionality of Optional Exemption of Members of a Certain Religious Faith From the Social Security Self-Employment Tax or Optional Recovery of the Tax Paid

Legislation has been proposed in the present and the previous Congress to provide optional exemption from the social security self-employment tax for "a member or adherent of a recognized religious faith whose established tenets or teachings are such that he cannot in good conscience without violating his faith accept the benefits of insurance," upon a finding by the Secretary of Health, Education, and Welfare that his application for exemption was made in good faith and that the members of such religious faith make adequate provision for elderly members to prevent their becoming public wards.[1] Senators Clark and Scott, among the chief proponents of this legislation, have explained that the faith in question is that of those Amish Mennonites who are known as the plain people or Old Order Amish who live in relative independence and isolation in rural communities and adhere strictly to many literal biblical injunctions, including reliance on divine providence for their care. The consistency and sincerity of the sect is attested to by the refusal of most of their members to accept social security benefits or pay the self-employment tax.

In consideration of these bills in Congress, the question was raised as to whether the proposed exemption would be constitutional and the views of the Treasury Department were requested. This opinion is in response to that request. Since then, additional legislative proposals, including an alternative proposal of relief for the Amish in the form of tax recovery in place of tax exemption, have been discussed in a joint statement by the Treasury Department and the Department of Health, Education and Welfare, entitled "Request of the Old Order-Amish for Exemption from the Social Security Self-Employment Tax," which was transmitted to interested Members of Congress by a joint letter dated July 20, 1964. In connection with the earlier request, it is also appropriate to consider the constiutionality of these proposals as well as the constitutionality of the various limitations included, or suggested for inclusion in the definition of the faith whose members or adherents would be eligible for exemption. The joint statement referred to above reviews the religious tenets and modes of life of these Amish and provides an extended analysis of the social security system and the possible effects of an exemption. I will not, therefore, in this opinion cover any of this factual material. A copy of this joint statement is attached hereto.

CONCLUSION ON TAX EXEMPTION AND TAX RECOVERY

My conclusion, based upon a review of the principles of constitutional law, is that there is no valid constitutional objection to the proposed exemption and that the question of exemption is one of public policy for Congress to determine. After discussion of the grounds for this conclusion I will review in the latter part of this opinion the constitutionality of various proposed additional limitations upon the exemption.

This conclusion concerning tax exemption comprehends any provision by Congress for tax recovery, since tax exemption is the most complete relief that could be given. In the subsequent discussion, therefore, the constitutional conclusions with respect to the requirements of uniformity, of the first amendment, and of due process should be read as also extending to a provision for tax recovery.

Congress and the States have provided for the recovery of taxes in various situations where for reason of public policy the legislature has determined this to be appropriate. I have found no constitutional challenge of these provisions. For example, 26 U.S.C. 6420 provides for refund of the gasoline taxes paid for gasoline used for farming purposes. A similar provision in the Virginia Code, section 57–715 (Supp. 1964), includes refunds for gasoline used for public or nonsectarian school buses. Title 26 U.S.C. 6418 provides for refund of the Federal tax on sugar manufactured in the United States to those who use such sugar as livestock feed or in the distillation of alcohol.

If members of the designated religious faith were permitted to choose to recover in monthly installments the amount, and only the amount, of the social security taxes they have paid, they would be under a limitation which operated to their disadvantage as compared with other social security taxpayers to whom an indefinite amount of social security recovery would be available in the form of insurance. Consequently, it would seem that no other social security taxpayer would be in a position to claim that the tax recovery allowed to the Amish in any way discriminated against him or added to his tax burden.

1. The requirement of uniformity: The Constitution provides in article I, section 8, clause 1: "The Congress shall have power to lay and collect taxes, duties, imposts, and excise, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excise shall be uniform throughout the United States; * * *." This canon of uniformity has been long established to be a requirement of geographical uniformity only. *Knowlton* v. *Moore*, 178 U.S. 41 (1900); *Bushaber* v. *Union F., Co.*, 240 U.S. 1 (1916); *Fernandez* v. *Weiner*, 326 U.S. 340 (1945). Insofar as uniformity may be required as an element of reasonableness under the due process clause, the problems are dealt with in my discussion of the application of that clause.

2. The first amendment: The proposed exemption, if allowed, would represent a determination by Congress that an accommodation of the self-employment tax law to prevent offense to religious scruples against insurance would not be contrary to public policy. The first amendment provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; * * *." The question is whether an exemption from the social security tax would be constitutional as an accommodation or mitigation of a general requirement in order to permit the free exercise of a religion or whehter it would be an "aid" to the specified religion at the expense of other religions and therefore be an unconstitutional establishment of religion.

It is my conclusion that the proposed exemption would in all probability be held to be a valid accommodation of the general law to permit religious liberty under the free exercise clause. The subsidiary question whether the definition of the persons exempted may be a reasonable classification under the due process clause is discussed in a subsequent part of this opinion. I base my conclusion on the following decisions of Federal and State courts, particularly the Supreme Court, which interpret the first amendment to permit accommodations to religious beliefs. This discussion will be followed by an analysis of those cases which hold that certain government action is a violation of the establishment clause, in order to make clear that this exemption would not be an establishment of religion.

The classic example of the application of the free exercise clause is the series of cases which have upheld congressional exemption of conscientious objectors from military service. The validity of this exemption was first established by the *Selective Draft Law Cases*, 245 U.S. 366 (1919) upholding the exemption in the draft law of members of religious sects "whose tenets prohibited the moral right to engage in war." The Solicitor General had argued (p. 374) that this exemption did not establish such religions but simply aided their free eaxercise. The court considered that the Congressional authority to provide such exemption was so obvious that it need not argue the point (p. 389–390).

The present Universal Military Training and Service Act enacted June 24, 1948, c. 625, 62 Stat. 604, as amended, in section 6(j), 50 U.S.C. App. 456(j), exempts from combatant training and service in the Armed Forces a person "who by reason of religious training and belief, is conscientiously opposed to participation in war in any form." This exemption continues to be recognized as constitutional under the free exercise clause, *Clark* v. *United States*, 236 F. 2d 13 (9th Cir. 1956), cert. denied, 352 U.S. 882 409 (2d Cir. 1963), cert. granted, 32 L.W. 3385 May 5, 1964. Certiorari was granted in the Jakobson case and in two other conscientious objector cases,[2] apparently in order to reconcile the conflict between the second and ninth circuits as to whether the statutory definition of "religious training and belief" as being a "belief in a relation to a Supreme Being" may constitutionally be applied to exclude a conscientious objector whose belief is based on humanistic principles. This conflict is one essentially concerned with reasonable classification of an exemption under the due process clause, discussed below. It does not concern the constitutional right of Congress to exempt conscientious objectors under the free exercise clause.

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[1] S. 294, 88th Cong., H.R. 10606, 87th Cong., among others.

[2] *United States* v. *Seeger*, 326 F. 2d 846 (2d Cir. 1964), and the *Jakobson* case, compared vith *Peter* v. *United States*, 324 F. 2d–173 (9th Cir. 1963). The *Peter* case followed *Etcheverry* v. *United States*, 320 F. 2d 873 (9th Cir. 1963) on which certiorari was denied, 375 U.S. 320 (1963). The influence of the 2d circuit against the definition is shown in *MacMurray* v. *United States*, 330 F. 2d 928 (9th Cir. 1964).

In the Jakobson case the second circuit faced the problem whether "making exemption from military service turn on religious training and belief as stated in section 6(j) aids religions, and more particularly religions based on a belief in the existence of God" (p. 414) and thereby conflicts with the holding in *Torcaso* v. *Watkins*, 367 U.S. 488 (1961). There it was determined that Maryland could not require an oath affirming a belief in God as a prerequisite to becoming a notary public. The Jakobson court concluded that "the important distinction seems to us to be that, in contrast to Maryland's notary public oath, Congress enacted this statute, in mitigation of what we assume to be the constitutionally permissible course of denying exemptions to all objectors, for the very purpose of protecting "the free exercise" of religion by those whose religious beliefs were incompatible with military service which Congress had the right to require" (pp. 414–415).

An exemption identical with that in the 1948 military training act was specifically included in section 387(a) of the Immigration and Naturalization Act of June 27, 1952, c. 477, 66 Stat. 163, 258, 8 U.S.C. 1448(a). This statutory exemption followed the decision of the Supreme Court in *Girouard* v. *United States*, 328 U.S. 61 (1946) ruling that the naturalization law need not be, and should not be, interpreted to exclude an alien who would not promise to bear arms because of religious scruples. Justice Douglas, for the majority, reaffirming principles enunciated in early dissents by Justices Hughes and Holmes, said, "The struggle of religious liberty has through the centuries been an effort to accommodate the demands of the state to the conscience of the individual" (p. 68).

The general exemption from taxation of religious groups, activities and property is another example of the exercise by legislatures of the constitutional authority to make exemptions to aid in the free exercise of religion, which continues to be upheld against contentions that the exemption operates to establish the religions this benefited.[3] Under this exemption a unique religious doctrine may make an activity of one religious group exempt as having a religious purpose which would not be exempt when carried on by other groups not holding to the doctrine.[4] The exemption from taxation of religious activities and occupations is incorporated into the Social Security Act itself which provides optional exemptions for ministers, Christian Science practitioners, employees of religious organizations and members of religious orders (26 U.S.C. 1402 (c) and (e) and 3121(b)(8)).

A further illustration of the principle that a legislature may accommodate particular religious beliefs without violating the first amendment is the case of *Zorach* v. *Clauson*, 343 U.S. 306 (1952). Here the Supreme Court held that the New York Legislature did not violate the establishment clause by authorizing public schools to release children 1 hour early every week for religious instruction off the school grounds. It said:

"When the State encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs" (pp. 313–314).

The distinction between *Zorach and McCollum* v. *Board of Education*, 333 U.S. 203 (1948) well illustrates the distinction between the two first amendment clauses for in McCollum the released time plan was held unconstitutional as an establishment of religion as classrooms and the force of the school were used in that plan.

The most important case, for our purposes, is the recent Supreme Court decision in *Sherbert* v. *Verner*, 374 U.S. 398 (1963). In this case the Court required South Carolina to accommodate the requirements of its unemployment compensation law to the religious scruples of an adherent of a particular sect, the Seventh-day Adventists. In three separate opinions the members of the Court balanced the demands of the free exercise clause against the prohibitions of the establishment clause. The opinion and the concurring opinion determined that the denial of unemployment benefits to a person unavailable for suitable work on Saturday because, being an Adventist she could not for religious beliefs work on Saturday, was a restriction on the free exercise of her religion and, therefore, unconstitutional. The dissenting opinion contended that the accommodation of Adventists was a question of policy for the legislature and that while the legislature could constitutionally exempt the Adventist from the requirements for eligibility placed upon all other persons the legislature was not required to do so. Consequently, the full Court apparently would agree that Congress could constitutionally make an exception from the general requirements of taxation and compulsory insurance of persons who because of religious scruples are unwilling to accept social security insurance. It is solely the constitutional ability of Congress to make this exemption to which this opinion is addressed.

The reasoning in the Sherbert case needs to be examined as it bears upon the power of Congress in this area. The principle of accommodation of a general law to a particular religious scruple is the same in this situation as in Sherbert though the facts differ in that in the Sherbert case the accommodation was for the purpose of enabling the Adventist to receive welfare benefits and in the Amish situation the accommodation would be for the purpose of exempting the Amish from benefits as well as from taxation for these benefits.

First, the Court says that while "the consequences of such a disqualification to religious principles and practices may be only an indirect result of welfare legislation" and that no criminal sanctions compel work on Saturday, the indirect discrimination is nevertheless a burden on the free exercise of the Adventist's religion. It requires her to abandon her religious precept or forgo a welfare benefit generally available (pp. 403, 404). In the social security situation the employment tax is supported by civil and criminal sanctions of assessed penalties and fine, imprisonment and forfeiture, so that the justification for congressional relief is even clearer.

Second, the court points out that while the State may not discriminate invidiously between religions the accommodations required to be allowed to the Adventist would not be discriminatory, but rather would remove a discrimination based upon her religion, since the law does not disqualify persons who do not work on Sundays (at 406). An exemption for those sects which cannot in good conscience accept the insurance for which they are taxed would not be an invidious discrimination against other religions which have no such scruple and whose members are therefore able to accept the insurance for which they are taxed.

Third, the court pointed out that the administrative problems concerned and the possibility of spurious claims do not justify a restriction on the free exercise of religion (at 407).

Then the court concludes (at 409) that its holding does not foster the "establishment" of the Seventh-day Adventist religion in South Carolina for the extension of unemployment benefits to Adventists is not like the involvement of religions with secular institutions which the establishment clause is designed to forestall as shown in its decision announced the same day. *School District of Abington Township* v. *Schempp*, 374 U.S. 203 (June 17, 1963). In fact the Sherbert ruling reversed the State court ruling that allowance for the religious obligation of the Adventist would be an unconstitutional discrimination in her favor. See *Sherbert* v. *Verner*, 240 S.C. 286, 125 S.E. 2d 737, 746 (1962).

In the Schempp and its companion case, *Murray* v. *Curlett*, decided with the same opinion, the court found that the States were establishing religion in their public schools by requiring Bible reading and the recitation of prayers therein. These decisions are developments of the prior term's opinion in *Engle* v. *Vitale*, 370 U.S. 421 (1962) holding that the requirement of recitation in the public schools of a State-authored prayer was a violation of the establishment clause which prohibits the Government from placing its "power, prestige, and financial support * * * behind a particular religious belief" (p. 431). In the Schempp case the court develops the idea that Government must remain "neutral," a term derived from the 5-to-4 decision in *Everson* v. *Board of Education*, 330 U.S. 1 (1947). In its context in the several Establishment cases this term means an inability of the State to use its powers to require religious observances or to use public funds for the support of religious institutions. None of the holdings applies the establishment clause to forbid the granting of an exemption from Government coercion of a secular action to accommodate religious scruples under the free exercise clause. The latter clause is predicated, says the Schempp court, on Government coercion which impinges on religious practice, 374 U.S. at 223. The distinction between these two historic lines of decisions has permitted the Schempp case to be decided consistently with the Sherbert case on the same day.

In sum, then, an exemption removes a handicap to the free exercise of a particular religion placed upon it by force of Government; it is not a requirement by the Government that the particular religion be practiced or observed or supported by nonadherents.

The meaning of the Sherbert case is made unmistakable in its application by the court in the recent case, *In re Jenison*, 375 U.S. 14 (1933). Here the court "in the light of *Sherbert* v. *Verner*" vacated the judgment of the Minnesota Supreme Court in *In re Jenison*, 265 Minn. 96, 120 N.W. 2d 515 (1963). The Minnesota court had held a person selected for jury duty in contempt of court for refusing to serve on the jury because of a religious belief based upon the biblical injunction against judging other persons. The Minnesota court had reasoned that jury duty, being a primary duty of all citizens, was superior to a religious belief deemed by the court contrary to public order, citing *Reynolds* v. *United States*, 98 U.S. 145 (1878) which held that Congress could prohibit polygamy as a violation of the social order.

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[3] *Swallow* v. *United States*, 325 F. 2d 97 (10th cir. 1963); *General Finance Corp.* v. *Archetto* (R.I. 1961) 176 A. 2d 73, appeal dismissed, 369 U.S. 423 (1962); *Fellowship of Humanity* v. *County of Alameda*, 315 P. 2d 394 (Cal. Dist. Ct. App. 1957); *Lundberg* v. *County of Alameda*, 298 P.2d 1 (Cal. 1956), appeal dismissed, sub. nom., *Heisey* v. *County of Alameda*, 352 U.S. 921 (1956).

[4] "Golden Rule Church Association," 41 T.C. 719 (1964), (Nonacq. May 19, 1964).

Since the Supreme Court has now held that Government must accommodate even the highest duties of citizens to sincere religious scruples, it is probable that it would hold that Congress may accommodate the religious scruple against insurance by allowing for such a scruple an optional exemption, or a lesser form of relief, from social security taxation and benefits.

3. The due process clause: Under the due process clause of the fifth amendment tax statutes must provide reasonable classifications of the subjects taxed or regulated and reasonable exemptions, if exemptions are provided. But, as has been firmly established by the Supreme Court, particularly in cases upholding the various exemptions provided in the Social Security Act and State unemployment compensation acts (*Carmichael* v. *Southern Coal Co.*, 301 U.S. 495 (1937); *Stewart Machine Company* v. *Davis*, 301 U.S. 543 (1937); *Helvering* v. *Davis*, 301 U.S. 619 (1937)), the outer bounds of what is a reasonable tax or exemption classification allow a wider play of legislative judgment than many other areas of the law where the "reasonable" standard is applied. In these cases the court assured legislatures that they had the widest powers of selection and classification in taxing some at one rate, others at another and exempting others altogether, where distinctions were based upon "considerations of policy and practical convenience."

Claims of discriminatory treatment under social security continue to be rejected as not "patently arbitrary." *Flemming* v. *Nestor*, 363 U.S. 603, 611 (1960). Recently, *Smart* v. *United States*, 222 F. Supp. 65 (S.D.N.Y. 1963), upheld a higher tax on (American) employees of the United Nations, as the means employed bore a substantial and logical relation to the objective; and *Lesson* v. *Celebreze*, 225 F. Supp. 527 (E.D.N.Y. 1963), accepted differences in dependency determination for children of a deceased mother from that for children of a deceased father, based on family support experience. See also *Cape Shore Fish Co.* v. *United States*, 303 F.2d 961 (Ct. Cl. 1964), and *Abney* v. *Campbell*, 206 F.2d 836 (5th Cir. 1953) on fishing vessel employment differences and on domestic service differences respectively.

The requirement that exemptions have a reasonable basis applies as well to exemptions based upon religious scruples provided by Congress in conformity with the first amendment. In a nontax area this requirement has been recently reviewed in the second circuit decisions, pending review in the Supreme Court, on the reasonableness of the selective service definition of religious training and belief as being confined to belief in a Supreme Being, *United States* v. *Jakobson*, 325 F. 2d 409 (2d Cir. 1963) and *United States* v. *Seeger*, 326 F. 2d 846 (2d Cir. 1964); certiorari granted in both cases, 32 L.W. 3385, May 5, 1964. In these cases the court determined that an exemption from bearing arms based on religious belief was a constitutional accommodation of religion, but that a restriction of the definition of religion to a Supreme Being was too narrow in view of its conclusion that a conscience sincerely compelled to refrain from bearing arms because of a "mystical force of 'Godness'" or a "compulsion to follow the paths of 'goodness'" might be religious in nature (Seeger, p. 853). In other words, at least in the second circuit, the exemption on the grounds of religious objection must reach all who have sincere objections which could be interpreted as religious in nature.

In the social security situation, however, a classification may be as limited as circumstances require, as indicated in the Smart and other cases, supra.

In fact the Social Security Act and its amendments have characteristically carved out exemptions which are as narrow as required by the sociological facts, including differences among vocations and religious attitudes. Thus, for example, lawyers are covered by the self-employment tax, ministers, including Christian Science practitioners, are optionally covered, but doctors and persons who have taken the vow of poverty as a member of a religious order are completely exempted (26 U.S.C. 1402 (c) and (e), and 42 U.S.C. 411(c) (4) and (5)). When the self-employment tax was passed in 1950 the act excluded the performance of service by a minister of a church or a member of a religious order or by a Christian Science practitioner in the exercise of their callings, in order to avoid impairment of religious liberty (Senate Finance Committee hearings on H.R. 6000, 81st Cong., Jan. 17, 1950, pt. 1, pp. 1 and 3). The exemption was made optional in the 1954 amendment of the act for these classes of persons except the mendicant orders. These exemptions have not been challenged.

The reason for the present proposal to exempt members of religious sects, as such, is solely that they have a religious objection to receiving insurance. Accordingly, a classification of such sects, for exemption purposes, with appropriate safeguards, would reach all those whom Congress would have a reasonable ground to exempt and would, therefore, not be arbitrary nor violative of due process.

This conclusion is the basis of the opinion of the staff of the Joint Committee on Internal Revenue Taxation and that of the American Law Division of the Library of Congress provided to Senator CLARK under dates of November 9, 1962, and September 19, 1962, respectively. These opinions conclude that the proposed exemption would be constitutional as it would apply to all those who fall within the classification and that the classification is reasonable, 109 CONGRESSIONAL RECORD, 643, 464 (1963). A copy of these opinions as reproduced in the CONGRESSIONAL RECORD is attached.

Since, therefore, Congress may exempt those members of a religious faith who have scruples against receiving insurance, the next question is what practical safeguards Congress may designate to assure that only those who come within the policy of the exemption obtain the exemption, without imposing arbitrary limitations.

LIMITATIONS ON THE EXEMPTION

The joint statement by the Treasury Department and the Department of Health, Education, and Welfare reviewing the problems created by the proposed exemption for the Amish contains in section 3 suggested additional limitations upon the exemption. These limitations are proposed as possible means to protect the social security system from an unintended extension of exemptions from compulsory insurance which would weaken and dilute it. The extensions of the exception might occur, according to this joint statement, either through the formation of additional faiths claiming opposition to acceptance of benefits as one of their tenets or through the redefinition by various existing separatist groups of their tenets to include such opposition.

I shall consider each of these proposed additional limitations, designated "a" through "e," to determine whether the limitation may be considered by the courts to be a reasonable classification and consistent with the due process clause. I shall also suggest a limitation, designated "f," which was not among those proposed but which may be found to limit the exemption reasonably and realistically to the groups which Congress intends to accommodate by this exemption.

(a) An explicit limitation of the exemption to the old order Amish: This limitation would probably be considered arbitrary since the designation of one sect to the exclusion of other sects having the same scruple would be inconsistent with the congressional policy of removing the Government coercion of belief which constitutes the denial of the free exercise of religion. It would also probably constitute an invalid preference of one particular faith over those which were similarly situated. The facts presented to Congress indicate that they may be certain other sects of the Amish and possibly other religious groups who have the same religious scruple which is now being coerced. Furthermore, the exemption of a single named group will be held to be arbitrary[5] unless the relation to the public good is clearly demonstrable.[6]

(b) Limitation to members of a sect, excluding adherents who are not members; and (c) limitation to members of sects who "take care of their own": These limitations are being considered together since at least some of the bills before Congress provide that a necessary condition of exemption is a finding by the Secretary of Health, Education, and Welfare that the sect makes provision for its elderly "members." This condition would probably be considered a necessary and proper public policy consideration and, therefore, a reasonable condition upon which to base eligibility for exemption. The purpose of Congress in this legislation would be to assure the fulfillment of the welfare purpose of social security while relaxing that feature of social security which impinges on the free exercise of religion. Moreover, since individuals can seldom guarantee their own future against deprivation and need, it would be reasonable for Congress to provide that to qualify for an exemption a person must be a member of a sect which shares the religious commitment, both with respect to refusing State insurance and providing for that sect's welfare. Consequently, since the sect aspect is essential, it would seem reasonable to limit the qualification for exemption to persons who are members of a qualifying sect. As said by Justices Black and Douglas in *Board of Education* v. *Barnette*, 319 U.S. 624, 643 (1943): "No well-ordered society can leave to the individuals an absolute right to make final decisions, unassailable by the State, as to everything they will or will not do."

(d) Limitation to sects which require members to follow the occupation of farming as a matter of religious principle: This limitation, as phrased, would not be appropriate on the basis of the facts given in the joint statement. It is there stated that "most old-order Amish communities permit members to make their living as self-employed carpenters or masons" (p. 9). The possibility of limiting the exemption to sects which are established in farming communities for religious reasons is suggested and discussed below.

(e) Limitation to religious groups which were established before 1935: Any limitation which designates a cutoff date would generally be less reasonable than one which on its face shows some relationship to the public purpose of the statute. For example, a requirement that the sect shall have demonstrated over a period of years its ability to take care of its own members would probably be more acceptable as a classification. The text of certain of the legislative proposals already contain this principle in that they refer to the sect to be exempted as one which is "established." I would see no reason why the extent or the text of establishment might not be specifically spelled out. There is some authority that a "classification which draws a line in favor of existing businesses as against those later entering the field will be upheld if any reasonable and substantial basis can be found to justify the classification." *Del Mar Canning Co.* v. *Payne*, 29 Cal. 2d 380, 175 P. 2d 231, 232 (1964). The circumstances justifying such a discrimination must provide substantial reasons. *Mayflower Farms* v. *Ten Eyck*, 297 U.S. 266 (1936). It is probable that the unusual situation of the Amish with respect to social security would be considered a substantial reason for a limitation of the classification to established sects.

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[5] *Eyers Woolen Co.* v. *Gilsum*, 84 N.H. 1, 146 *Baltimore*, 289 U.S. 36 (1933).

[6] *William* v. *Mayor and City Council of Atl.* 511 (1929); *Baltimore* v. *Starr Methodist Protestant Church*, 106 Md. 281, 67 Atl. 261 (1907). Cf. *United States* v. *Department of Revenue of Illinois*, 191 F. Supp. 723 (N.D. Ill. 1961) invalidating a retail tax on sales to the Federal but not to the State government.

(f) Limitation to sect established in farming communities for religious reasons: The faith, the members of which are to be exempted, might be described not only as one whose established tenets would be violated by the acceptance of insurance, and one which provides for elderly and dependent members, but as one which for religious reasons is established in farming communities. These limitations might be reasonable if Congress found after sufficient inquiry that they were necessary to assure that the exemption would be confined to sects which were religiously motivated and responsible, and to assure that the welfare purpose of social security would be fulfilled. Congress might reasonably find that the restriction of the exemption to those sects established in farming communities would be justified on the ground that such a sect could be more certainly relied upon to identify and provide for its dependent and elderly members than those in the mobile and transient urban environment. Conversely, the limitation would have the effect of excluding sects which subsequently organize for the purpose of exemption from social security, as it is unlikely that those would or could establish themselves in farming communities for religious or other reasons. The limitation would exclude other present separatist groups whose principles might, but do not specifically include refusal of social security benefits. Legislation which distinguishes farming situations from others because of sociological and economic differences and taken many forms and has been accepted by the courts. See, for example, *Tigner* v. *Texas*, 310 U.S. 141 (1940), rehearing denied, 310 U.S. 659 (1940).

G. D'ANDELOT, BELIN,
General Counsel.

By Mr. HATHAWAY (for himself, Mr. MUSKIE, Mr. BROOKE, and Mr. PHILIP A. HART):

S. 3002. A bill to amend the Merchant Marine Act, 1936, and the Maritime Academy Act of 1958 to provide for an integrated system of education and training of officers for the U.S. merchant marine, and for other purposes. Referred to the Committee on Commerce.

Mr. HATHAWAY. Mr. President, during the 93d Congress the House Committee on Merchant Marine and Fisheries established an Ad Hoc Committee on Maritime Education and Training. That committee surveyed the principal educational institutions across the country which prepare individuals for licensing as deck or engineering officers aboard U.S.-flag vessels. The committee finalized its report last year and legislation was developed to implement the recommendations of that ad hoc committee. The bill I am introducing today is identical to the House bill which was introduced last October to implement the recommendations of the ad hoc committee, recommendations which will greatly enhance the quality of our merchant marine personnel and insure a strong merchant marine fleet.

One of the principal recommendations of the ad hoc committee was that the maritime cadet subsistence allowance for State maritime students be increased from $600 to $1,200. This allowance was originally authorized in 1958, and has remained at $600 since that time. Inflation alone justifies the increase in this allowance to $1,200. During these 17 years, for example, the Federal budget of the U.S. Merchant Marine Academy at Kings Point rose by 400 percent, and the 1958 dollar today is worth approximately 50 cents.

The House last year included such an increase as an amendment to the Maritime Administration authorization bill for fiscal year 1976, but the amendment was deleted in conference. The conference statement indicated that more background was needed and cited the fact that the ad hoc committee report was then currently pending before the full House Merchant Marine Committee. That House committee has now finalized the ad hoc committee report and background information has been developed which fully supports this increase in the State cadet allowance. The House has held hearings on an identical bill to the one I am introducing, and I hope that the Senate will also proceed expeditiously on this bill.

It should be pointed out that this increase in the ceiling allowance for State cadets does not affect the number of students who will be eligible for this assistance. The question of manpower ceilings themselves is a separate issue and the bill provides a mechanism for greater long-range planning between the Federal Government and the educational institutions for determining and meeting our manpower requirements. The increase in the cadet subsidy, then, will not affect the number of students being trained, but will simply increase the amount of subsistence allowance which the student will receive. By insuring that adequate financial support is available to these State students, the quality of both the education and the students able to attend State maritime institutions will be enhanced, and diverse academic educations will be available to our merchant marine students.

Mr. President, I ask unanimous consent that the conclusions and recommendations contained in the report of the Ad Hoc Committee on Maritime Education and Training be printed in the RECORD, together with the bill.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maritime Education and Training Act of 1976".

SEC. 2. It is the intention of Congress that the United States Merchant Marine Academy, the State maritime academies, and other institutions which educate and train individuals for initial licensing as officers of the United States Merchant Marine should continue to perform this function, and that sufficient flexibility to fulfill short-term emergency requirements for such officers should be maintained by schools other than the United States Merchant Marine Academy and the State maritime academies.

SEC. 3. (a) The Merchant Marine Act, 1936 (46 U.S.C. 1101 et seq.) is amended—

(1) by adding at the end of section 209 (46 U.S.C. 1119) thereof the following:

"(c)(1) In order that accurate information is available for determining authorizations to carry out subsection (b)(1)(6) of this section, before the beginning of each fiscal year the Secretary of Commerce shall meet with representatives of the United States Merchant Marine Academy, the State maritime academies, and any other institution which trains individuals for initial licensing as officers in the United States Merchant Marine, for the purpose of estimating the projected enrollment at all such institutions during such fiscal year and the next three fiscal years.

"(2) Not later than eight months before the beginning of each fiscal year, the Secretary shall submit a report to Congress which sets forth the enrollment estimates for such fiscal year and the next three fiscal years made by him pursuant to paragraph (1) of this subsection together with projections (prepared by him on the basis of the best information available) of the needs of the United States Merchant Marine for officers during the four-fiscal year periods for which such enrollment estimates are made."; and

(2) by inserting immediately after the first sentence in section 216(b)(1) (46 U.S.C. 1126(b)(1)) thereof the following: "The number of persons initially appointed to the Academy for any one year may not exceed the authorized number of initial appointments for that year established by law.".

(b) The amendment made by paragraph (2) of subsection (a) shall apply with respect to appointments made to the United States Merchant Marine Academy for the academic year 1976–1977 and academic years thereafter.

SEC. 4. The Maritime Academy Act of 1958 (46 U.S.C. 1381–1388) is amended—

(1) by striking out "and (5)" in section 3(a) and inserting in lieu thereof "(5) shall be manned in accordance with such standards as shall be prescribed by the Commandant of the Coast Guard, and (6)";

(2) by striking out "$600" in section 6(a) and inserting in lieu thereof "$1,200"; and

(3) by adding at the end of section 6 (46 U.S.C. 1385) the following:

"(c) If the amount of funds, authorized and appropriated by the Congress for use in accordance with the provisions of this section, in any fiscal year is not sufficient to provide payments to all students eligible under subsection (a), then the Secretary shall apportion the authorized and appropriated funds among the academies and colleges with which he contracted under section 4 of this Act in direct proportion to the total enrollment of each such academy or college at the end of the 1975 academic year.".

SEC. 5. Before the close of the six-month period beginning on the date of the enactment of this Act, the Secretary of Commerce shall submit to Congress his recommendations with respect to appropriate ways and means by which the resources and programs of the National Maritime Research Center may be made available to students at the United States Merchant Marine Academy, the State maritime academies, and any other institutions which train individuals for initial licensing as officers in the United States Merchant Marine.

Sec. 6. The Secretary of the Department in which the Coast Guard is operating shall take such action as may be necessary and appropriate to compile, and thereafter keep current, a roster of the names and addresses of all individuals who have not attained the age of sixty-five years and who are, or at any time were, licensed as officers in the United States Merchant Marine in order that the location of such individuals be readily available in the event of any national emergency. The Secretary shall prepare a report on the manner in which this section is implemented during the one-year period beginning on the date of the enactment of this Act and shall submit such report to Congress within thirty days after the close of such one-year period.

Sec. 7. The Secretary of Commerce and the Secretary of the Department in which the Coast Guard is operating shall jointly undertake a thorough review of the laws, regulations, and policies which pertain to the renewal of the licenses of merchant marine officers to determine if existing renewal procedures provide for the adequate testing of officers' retention of basic skills as well as their knowledge of current maritime technology, regulations, and procedures. A joint report on the study required by this section shall be submitted to Congress by the Secretaries before the close of the six-month period beginning on the date of the enactment of this Act, and if the Secretaries find that existing renewal procedures are inadequate, the report may include such recommendations, including proposed legislation, as the Secretaries deem necessary and appropriate.

IV. Conclusions and Recommendations

On the basis of the information developed during the course of its work, the Ad Hoc Committee concluded that:

A. Although a trained cadre of licensed merchant marine officers is necessary to the national defense and essential economic needs of the United States, the cyclical nature of the maritime industry requires the imposition of quantitative controls on the flow of licensed officers into the maritime labor market. Basic principles of fairness demand that such quantitative controls be developed through a sound system of prospective planning. This type of planning has been seriously lacking in the past. It is therefore, recommended that the Maritime Administration be directed to hold a meeting each year of representatives of all maritime schools which train individuals for initial licensing as officers for the purpose of establishing Federal support levels by discussing and relating incoming enrollment levels of these institutions to the future numerical requirements of the U.S.-flag merchant fleet for licensed officers. Results of this meeting should be reported to the Congress at least 30 days prior to the transmittal of the Maritime Administration's request for the authorization of funds for the next fiscal year for maritime education and training.

B. The Maritime Administration's Supply and Demand Study has projected a shortage of licensed officers by the end of this decade. In light of the myriad of variable conditions on which this projection is based, there is not sufficient evidence at this time to warrant the extension of additional Federal incentives to existing maritime schools to expand their enrollments. Therefore, it is recommended that there be no increase at this time in the enrollment level at the Federal Academy beyond that projected in the Maritime Administration's Study, nor in the annual $75,000 grant from the Maritime Administration to each State Academy.

C. Acute shortages of licensed officers during periods of peak demand in the past—notably during war time—would indicate the desirability of maintaining a flexible source of supply of such personnel. Industry Schools have a particularly well-suited capability to perform this function. In this connection, it is noted that the Maritime Administration's Study has concluded that near term emergency needs of the U.S.-flag merchant fleet for licensed officers can best be met by Industry Schools.

D. Today's high technology vessels require the skills of individuals of superior ability. While it is necessary to establish ceilings on the number of officers, it is also imperative to attract sufficiently qualified students into our Nation's Maritime Schools. In furtherance of this objective, it is, therefore, recommended that the annual subsistence allowance from the Maritime Administration to students at the State Maritime academies be increased from $600 to $1,200, and that admissions standards to the Federal Academy be held to standards at least as high as those which were in effect in 1964.

E. Information concerning the identity and whereabouts of all individuals in this Country who would be capable of serving as Merchant Marine officers is presently inadequate. Therefore the Coast Guard should be directed to develop, and present to the Congress within one year, a comprehensive plan for the creation of a Merchant Marine Reserve pool of officers who would be available for recall in the event of a national emergency.

F. There is a clear need for greater integration and cooperation among all of our Nation's Maritime Schools. The Federal Academy should assume a leadership role in this effort. In this connection, it is recommended that limited numbers of students from State and Industry Schools (perhaps one from each School each year) be permitted to participate in research projects at the National Maritime Research Center in the same manner in which students at the Federal Academy presently participate in such projects.

G. In view of the Federal Government's substantial investment in the training vessels on loan to each State Academy and interest in the safety of the students who use these vessels, it is recommended that the U.S. Coast Guard give further consideration to the promulgation of standards concerning the manning of these vessels during training cruises.

H. Under existing law and licensing procedures, it is possible for an individual to periodically renew his officer's license without demonstrated knowledge of or training in advanced maritime technology. The testimony of the Coast Guard has indicated the existence of serious problems in the area of retraining, particularly in certain critical skills such as collision avoidance, radar and firefighting. The recent joint effort undertaken by the Maritime Administration and the Coast Guard on this subject is endorsed. Progress of these efforts should be reported to the Committee within six months.

I. The need to retain individuals in seagoing careers for longer periods of time has been a perennial problem among this Country's maritime manpower. The Ad Hoc Committee has requested the Coast Guard to develop additional information regarding retention rates of graduates of the Federal Academy, the State Maritime Academies, and Industry Schools. Depending upon these findings, further consideration of this problem may be warranted.

J. Finally, any legislation necessary to implement the foregoing recommendations should be given early consideration by the Committee on Merchant Marine and Fisheries.

By Mr. BAYH:

S. 3003. A bill to amend section 505 of title 10, United States Code, to require that qualifications for enlistment in the Armed Forces of the United States be the same for male and female individuals, and for other purposes. Referred to the Committee on Armed Services.

Mr. BAYH. Mr. President, the United States has not only ceased to rely on the draft as a means to staff the military services, and has put into effect all-volunteer Armed Forces, but the Selective Service lottery has even been suspended, men and women throughout the country have been encouraged to join the new Army or other branches of the military in order to serve their country and to obtain training and other job benefits for themselves. Although women have been beckoned by this attractive call to service and work, the door of admittance, job placement, and promotion has often been opened only a crack. These serious inequities must be remedied so that women can have the same opportunities for training, travel and service as do young men, and so that the U.S. military can benefit from the work of all qualified individuals.

I am today introducing a bill to eliminate discriminatory treatment in enlistment, placement, and promotion in the U.S. armed services. This legislation should provide impetus to the armed services to move toward equalizing opportunities for women by assuring that they are judged on their merits as individuals. In addition, it will aid all Americans by providing a strong and effective military made up of the most qualified individuals available. The concept embodied in this legislation has been endorsed by the National Commission on the Observation of International Women's Year.

Because the first barrier to fair treatment is the discriminatory enlistment criteria which confront the applicant to the services, the bill focuses primary attention on that disparity. At present, for example, women who want the valuable training and jobs offered by the Army, and who seek to serve their country, are told at the outset that they cannot do so unless they have graduated from high school or obtained an equivalency degree, and unless they obtain a test score three or four times higher than applying males. Over 35 percent of the Army's male nonprior service enlistees this year had not obtained a high school degree, and well over half of enlisting men scored lower on the enlistment tests than the minimum which women must score in order to enlist. Therefore, women are continually faced with being turned away for less qualified men. As a result, the women are denied an important career opportunity.

Last year, Congress took the first step toward eliminating disparities in enlistment criteria. At that time, we enacted Public Law 93–290, which eliminated differences in the minimum age for enlistment of men and women in the Armed Forces. Both the House and the Senate reports provide that the purpose of that law is: "To establish uniform original enlistment qualifications for male and female persons in the armed services."

I now understand that there has been concern raised that the Army is not enforcing the provisions of that law, but is continuing to require that women be 18 before they enlist, although men are permitted to enroll at age 17. That failure to enforce has made it clear that the armed services must be directed, through legislation, that at the threshold of enlistment, men and women are to be treated with absolute equality, and that the same criteria, for age, test scores, and so forth, must apply and must be implemented. The legislation which I am introducing sets forth such a requirement for implementation.

Congress took a second step in assuring equality for women last year by passing legislation which required that all military academies open their doors to women. By taking this long overdue action, the Congress made it possible for women to gain access to the training and preparation necessary for top policy positions in our Nation's Armed Forces.

At present, once women actually enter the armed services, they are not always accorded fair and equal treatment in job placement within the services or in promotions.

In spite of the fact that women in the services face higher enlistment requirements—scoring higher on mental capacity tests and with a higher proportion holding high school diplomas—women do not share proportionately in the higher grades in the enlisted or commissioned ranks.

For example, there are roughly 860,000 people in the Army, and about 1 woman for every 66 men. There is 1 woman brigadier general for 255 men brigadier generals; 1 woman colonel for every 500 Army men colonels; 1 woman lieutenant colonel for every 100 Army men lieutenant colonels; 1 woman captain for every 140 men captains. In the rank of lieutenant, the women approach but do not reach their proportionate share. Statistics for the Navy and Air Force show even greater disparity between men and women in the matter of grade structure.

Limiting jobs for enlistees and officers within the services creates a form of discrimination against the female such that when she becomes a veteran, she is less equipped than the male for the better paying jobs in private industry. The discrimination against women in promotions also results in earlier retirement with a lesser annuity since the annuity is based on rank and length of service.

We are slowly removing all barriers to equal opportunity for women. We have enacted legislation prohibiting sex discrimination in employment in the private sector through title VII of the Civil Rights Act and in educational institutions through title IX of the education amendments of 1972. The Federal Government, including the military, has a special obligation to set strict standards for equal opportunity. My legislation will insure those standards.

I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 505 of title 10, United States Code, is amended by adding at the end thereof a new subsection as follows:

"(f)(1) The mental and other relevant standards imposed by the military department concerned for qualification for enlistment shall be the same for male and female individuals; and no discrimination may be practiced with respect to (A) the testing and evaluation of persons in the armed forces regarding fitness for service or job proficiency ratings, (B) assignment of job functions, or (C) promotions.

"(2) The Secretary concerned shall take such action as may be necessary to insure that the provisions of paragraph (1) are effectively enforced.".

By Mr. HUMPHREY (for himself, Mr. Durkin, Mr. Mondale, Mr. Burdick, Mr. Nelson, and Mr. McGovern):

S. 3004. A bill to establish a National Commission on Food Costs and Pricing to appraise the food marketing industry. Referred to the Committee on Agriculture and Forestry.

NATIONAL COMMISSION ON FOOD COSTS AND PRICING

Mr. HUMPHREY. Mr. President, I am introducing today a bill to establish a National Commission on Food Costs and Pricing to evaluate the food marketing system in the United States, from the producer to the consumer.

The bill would establish a bipartisan blue-ribbon Commission composed of five Members from the Senate, five from the House of Representatives, and five public members. The Commission would be empowered to investigate all aspects of the food marketing system, including the present state of competition in the food industry, and the extent to which it serves the needs of consumers, as well as producers, processors, and distributors.

The Commission would be similar in structure and function to the congressionally authorized National Commission on Food Marketing which conducted a broad-scale study of the food marketing industry in the mid-sixties. It would update the findings of the earlier Commission in light of significant changes in the food industry which have taken place in the intervening years. It also would be empowering to investigate new areas of current concern.

There is general agreement on the importance of food as a public policy issue. There is wide disagreement on the programs, policies, and institutions which will best assure the adequacy of our future food supplies.

A welter of voices speak with self-proclaimed authority on the ills of the food industry. Many of these have a particular ax to grind, or see the problem from the limited perspective of their own personal or functional interests.

Consumers are understandably concerned that food prices are too high in terms of inflation-fired demands on their household budgets. Farmers cite the need for adequate returns above their large and spiraling costs of production if they are to continue to fill the Nation's food needs. And the "middleman" cites the consumer's increasing demand for services and rising labor, transportation, and other costs to justify his "take" from the consumer's food dollar. Each has a credible story to tell. Where does the balance of the public interest lie?

The executive branch of the Government is off in numerous directions and has demonstrated little capability to deal with important food issues. The Department of Justice, Federal Trade Commission, Council of Economic Advisers, and Council on Wage and Price Stability have been attacking agricultural programs and institutions, citing studies by persons having little knowledge of agriculture, which have been generally discredited by knowledgeable agricultural economists. The Department of Agriculture, on the other hand, has been deficient in its study of these issues and suffers a credibility problem with consumers.

An example of the administration's lack of direction on food production and marketing issues is the current situation relating to cooperatives and marketing orders. I inserted comments in this Record on October 28, 1975, calling on the administration to clarify its intentions with respect to agricultural cooperatives, which have played so important a role in our Nation's agricultural development and which have been fostered by numerous programs of the Department of Agriculture as a matter of conscious public policy. I cited a "staff study" released by the Federal Trade Commission in late September, which was critical of cooperatives and marketing orders and generated adverse publicity in the urban press.

Since that time there have been further significant developments. Secretary Butz on December 17 belatedly replied to the Federal Trade Commission with a detailed "chapter and verse" recitation of "inaccuracies and unwarranted conclusions" contained in the FTC report. These comments, prepared by members of the USDA staff, highlighted some important agricultural policy considerations which were misrepresented in the FTC report. These have received no public attention of which I am aware.

On December 30, the Chairman of the Federal Trade Commission sent copies of the September "staff study" to key Members of the House and Senate, with recommendations for legislative review and action which would significantly affect agricultural cooperatives and marketing orders. These recommendations were based on the findings and conclusions of the "staff study," with no reference to the inaccuracies noted in USDA's December 17 reply.

Since the FTC September report has been sent to Members of the Congress, I ask unanimous consent that Secretary Butz' December 17 letter, with attachments, responding to that report, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., December 17, 1975.
Hon. LEWIS A. ENGMAN,
Chairman, Federal Trade Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: The staff report on agricultural cooperatives and marketing orders by your Bureau of Competition was prepared "as a contribution to the understanding of issues which underlie the creation and later application of the cooperative and marketing order concepts." We agree that the attention attracted by agricultural cooperatives and marketing orders suggests a need for work which would contribute to a better public understanding of the issues involved. However, I am concerned that your staff report does not accomplish this objective.

I am attaching comments prepared by our staff which point out what we consider to be inaccuracies and unwarranted conclusions contained in the report. We shall be glad to arrange a meeting to discuss these further, if you desire.

We also would welcome the opportunity to work more closely with you and members of your staff in future efforts of this nature involving matters of mutual interest. In this way, I believe, we could be more effective in achieving the improved public understanding we both seek. Though our perspectives may be somewhat different, we serve the same public interest.

Sincerely,

EARL L. BUTZ,
Secretary.

USDA COMMENTS ON FTC STAFF REPORT RELATING TO COOPERATIVES

[FCS–USDA critique of Parts I through III of the unofficial FTC Bureau of Competition Staff Reports, "A Report on Agricultural Cooperatives," Sept. 30, 1975]

INTRODUCTION

The FTC Staff Report on Agricultural Cooperatives summarizes one view of the law of antitrust applicable to farmer cooperatives. The thrust of the Report, however, is misdirected for several reasons. As a consequence of some erroneous approaches taken to farmer cooperatives, the authors of the Report have not been able to give an accurate and full description of how the antitrust laws pertaining to farmer cooperatives should be interpreted and applied to further the national goals of free and healthy competition in the American economy.

The reasons for the incorrect approaches to farmer cooperatives are threefold. First, the nature of the cooperative itself, its unique structure, the relations of the cooperative with its farmer members and its fundamental reliance on the economics of agricultural production and distribution are not fully appreciated. Second, the unique nature of the agricultural production process, the peculiarities of the agricultural distribution process and the place of cooperatives in these processes are not recognized. Finally, the author's interpretations of the statutes pertaining to farmer cooperatives, the purposes of the statutes, the judicial opinions applying the statutes, and the implications of the Report for application of antitrust laws to farmer cooperatives are incorrect in some respects, and incomplete or strained in other respects.

The lack of understanding and appreciation of the nature of farmer cooperatives has affected the analysis contained in the Report in several ways. First, the fundamental economic purposes of antitrust laws have not been fully and correctly appreciated. Second, the purposes of the special provisions for farmer cooperatives are not understood, leading to misconstruction of the statutes, the legislative history and the judicial interpretation of the statutes. Third, the scope of antitrust treatment of the farmer cooperative exemptions is narrowed too strictly in several ways. Fourth, a serious degree of uncertainty has been placed on the limits of cooperative activity, drawing into question the legality of numerous harmless activities that are traditional and necessary for effective cooperative operation. Fifth, the economic standards by which compliance with antitrust laws is often measured are misconstrued. Finally, the Report seems to suggest justification of enforcement activity by regulatory agencies which would be detrimental to agricultural production systems in the present economic structure.

These comments on the Report first summarizes key characteristics of the cooperative enterprise. Some unique features of agricultural production are then summarized. Using this as background, some of the specific issues raised in the Report are discussed. Finally, a suggested approach to understanding antitrust law and the farmer cooperative is given.

THE NATURE OF THE COOPERATIVE

Cooperatives are not late-comers in the American economy. They became a vital part of our economic system during the periods when the investment corporation (the ordinary corporation) was becoming a popular method of gathering capital into production units, and cooperatives were soon recognized as a legal form distinct enough to warrant and require State statutory recognition. Cooperatives arose quickly in response to unique economic conditions, and represented then, as now, an alternative to the pooling of all capital and the loss of ownership in assets. The cooperative then, as now, permitted retention of assets along with all entrepreneuiral decisions associated with the use of those assets.

Because the cooperative is given the status of a separate legal entity by statutes parallel to the investment corporation statutes, the similarity of the cooperative and the investment corporation can be extremely deceptive, and the fundamental differences may be completely overlooked. The purpose of this section is to outline in summary fashion some of the characteristics of the cooperative form of enterprise which must be understood to properly interpret antitrust statutes and the court cases and to correctly apply economic analysis where needed.

Structure of the cooperative

Though no single feature of a cooperative separates it from the ordinary investment corporation, the unity of (1) ownership, (2) control, and (3) use is probably the most important characteristic of the cooperative form of enterprise. The farmer owns the cooperative jointly with other farmers and controls its operation. Its purpose is to extend the farmer's operation beyond the confines of the farm, and the flow of funds is a flow of the farmer's funds, based on the farmer's use of the cooperative, not the investment.

Cooperative relationships

In addition to the organizational and operational aspects of a cooperative enterprise, several fundamental relationships exist within the cooperative that are unique and important. The cooperative is an extension of the farming process beyond the boundaries of the farm land. The cooperative itself is a mere agent of the farmer, belonging to him, controlled by him and operating for his purposes. Although the cooperative is a separate legal entity, the unified combination of ownership, control and use, coupled with the unique relationship between the farmer and his cooperative, makes the cooperative method of operation a very distinct way of doing business.

The superficial resemblance to an ordinary investment corporation may be misleading, but the differences must be recognized as significant in understanding and applying statutory regulation of cooperatives.

Other features of the cooperative method of doing business are also important of understanding correctly the application of special antitrust laws of farmer cooperatives. One of these is that membership (a combination of ownership, control and use) is voluntary, and is a farmer's decision. If a farmer finds it advantageous to extend his efforts beyond the confines of his land, he may form or join a cooperative. If he prefers to perform these functions himself individually or let others perform them, he is free to do so, no matter what decision his fellow farmers have made.

The cooperative does not set prices for the farmer independent of its function as the farmer's marketing organization. It represents the unified marketing efforts of each farmer producer acting together with other farmers to obtain in the market place a price for his product commensurate with the effort and investment he has expended in producing it. It is important to recognize that the cooperative pricing functions are performed for the farmer producer, not for the cooperative itself as an independent economic unit.

Since the cooperative does not control the farmer, but acts only as his agent, and since the cooperative transmits market forces to the farmer only as his agent, it should be clear that the farmer is the single force in all decisionmaking processes from the production process to the final market, whether or not a cooperative is used by him. Because of this, all decisions to produce, the amount to produce, the kind of product to produce and all other production related decisions are made by the farmer as the proprietor of the farm firm.

ECONOMICS OF AGRICULTURAL PRODUCTION

It should be clear that the application of any legal or economic analysis to cooperatives must take into account the peculiarities of agricultural production and distribution. Whenever antitrust laws and economic analyses are applied to a cooperative, the fundamental characteristic of agricultural production itself must be understood.

It is important to realize that the antitrust statutes, the great body of case law which has grown up around them, and the economic theory and analyses normally applied in antitrust cases have all developed almost exclusively in relation to non-agricultural economic systems. The direct application of law and economics thus developed to agricultural operations without proper recognition of the complexities and uniqueness of agricultural production and distribution processes would be a serious mistake and would have consequences beyond any predicted by traditional methods.

Some features of agricultural production critical to statutory and judicial decision interpretation are listed here. These features are not at all a comprehensive list—only the more important ones are mentioned.

1. The major production decisions take place long before the market expression of demand. The farmer decides what to plant in expectation of market conditions, but actual market conditions existing when the product is ready for market come after most production decisions must be made.

2. Uncertainties of production are an inherent element in the biological processes of agricultural production, and it is not possible to match actual output with desired or planned output.

3. The production process is not continuous and cannot be adjusted to meet changing market conditions once the season's work begins.

4. Agricultural production is a batch process, and at harvest each farmer has a fixed amount of product on hand which must be disposed of regardless of how the market responds to aggregate output.

5. Capital cannot be simply transferred

away from agricultural production to alternative production processes, and farm firm exit, a requirement for optimum resource allocation in a competitive system, is not an easy nor an efficient matter.

The responses to market forces that underlie all assumptions concerning market structure, firm behavior and market performance and pricing practices are modified considerably in the agricultural sector of the nation's economy because of these, as well as other, characteristics of the production processes of agricultural products.

SPECIFIC PROBLEM AREAS

Because the authors of the Report did not fully appreciate the nature of the farmer cooperative and the special nature of agricultural production and distribution, the Report misinterprets some of the statutory provisions and judicial decisions. It is appropriate to list a number of the more serious problems and indicate how a correct understanding of cooperatives and the economics of agricultural production would change the results of the Report.

Four problem areas can be outlined—the general purpose of the antitrust laws and the thrust of the farmer cooperative special provisions, the use and interpretation of legislative history, statutory and judicial interpretation and the use of economic information in analyzing the cooperative and the structure of the agricultural industry. The most serious errors occur in the interpretation of the statutory purposes, statutory provisions, and judicial decisions.

Antitrust law purposes and cooperative provisions generally

The antitrust laws as a group express a national economic policy and lay down broad principles to achieve and presume a system of economic activity conducive to the well-being of the nation. When special economic conditions require special treatment, the identical purposes of the statutes are reached by modification of the mechanisms normally used, but the intent is to reach the same national economic goals.

This is precisely the case with the special treatment of farmer cooperatives found in Section 6 of the Clayton Act of 1914, the Capper-Volstead Act of 1922 and the Cooperative Marketing Act of 1926. These exemptions from the ordinary rules of antitrust enforcement are not intended as special privileges granted to a class of persons, but are a recognition that because of the uniqueness of the cooperative structure and agricultural production and distribution, the ordinary rules would not further the overriding purposes of the national antitrust economic policy but would, on the contrary, hinder the free competitive system in the agricultural sector. This is borne out by the legislative history, the wording of the statutes, and judicial decisions.

The Supreme Court has stated the premises upon which the antitrust laws are based, and they include a number of goals for our economic system. The premises stated are "that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic and social institutions." (*Northern Pacific R. Co.* v. *United States*, 356 U.S. 1, 4 (1958). A typographical error in the report omits the allocation of economic resources phrase (Report, p. 11)).

The purposes of the appropriate sections of the Clayton Act, the Capper-Volstead Act and the Cooperative Marketing Act are all consistent with the basic premises of the antitrust laws. Specifically, the uniqueness of agricultural production and distribution systems and the character of the cooperative enterprise are recognized by the three acts (as well as by other laws). They should be viewed, then, not as laws permitting or encouraging anti-competitive activity on the part of a special group of producers, but as a recognition of the uniqueness of both the cooperative enterprise and of agriculture. The very goals of the three acts are "the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress." The three statutory modifications of the antitrust laws are aimed at protecting the methods chosen to achieve the economic goals of the antitrust laws.

Approaches to special treatment for cooperatives

Courts have interpreted the special statutory treatment of the farmer cooperative on a number of occasions, and in each case have given these special provisions the interpretation necessary to achieve the broad purposes of both Section 6 of the Clayton Act and the Capper-Volstead Act. Though these provisions are exemptions from the normal rules to be applied in antitrust cases, the courts have not treated them as exemptions from the underlying principles of the antitrust laws.

The comments in the Report concerning the restrictive interpretations of exemptions from the antitrust laws are essentially correct, but do not recognize the identity of purpose between the antitrust laws and the special treatment given cooperatives because of their unique nature and the critical differences between agriculture and the economics of industrial production. The cases cited in support of restricted interpretation (Report, pp. 13 ff.) are not concerned with agricultural production with the exception of *United States* v. *Borden*, 308 U.S. 188 (1939). In all cases, including *Borden*, the statute construed involves the actions of a regulatory agency and actions beyond the strict coverage of the regulatory provision. This is the situation in *Borden*, where the court pronouncements on restrictive interpretation of exemptions do not deal with cooperative provisions, but with regulatory provisions under the Agricultural Marketing Agreements Act of 1937.

Statutory interpretation

The Report's approach to statutory interpretation (pp. 19 ff.) is somewhat strained, probably as a result of the later rejection of several court opinions which do not support the view of cooperatives taken by the authors. Because of the problems the authors have with the 9th Circuit Court's decision in *Treasure Valley Potato Bargaining Assn.* v. *Ore-Ida Foods*, 497 F. 2d 203 (9th Cir. 1974), *cert. den.* 419 U.S. 999 (1974), the Report has ignored its implications by simply rejecting the Circuit Court decision and those decisions which agree with it. It is, of course, true that the Supreme Court's decisions are of paramount importance, but as is also pointed out, the "interpretation of the statute must not do violence to its express language." In addition, the express language should be interpreted in a reasonable manner giving the words ordinary meaning whenever possible, and when a Circuit Court interprets such language in a way which indicates that the underlying principles of the statutory language are well understood, it cannot be dismissed as a misinterpretation of law.

Statutory interpretation has numerous purposes, one of which is to give certainty to those who are judging their own actions, certainty to the greatest extent possible consonant with the necessary flexibility of statutory provisions intentionally written as broadly as are the antitrust laws. The goal of certainty is not served when selected statutory words and judicial decisions are rejected with the conclusion that special provisions of the law are to be strictly interpreted.

STATUTORY LANGUAGE

The Report (pp. 21 ff.) quotes and summarizes the statutory provisions which give special treatment to farmer cooperatives. In the summarization some points arise which are indications of a limited appreciation of the nature of the cooperative and the economics of agricultural production. These cause problems with judicial decisions later in the Report.

The language of the statutes demonstrates that the thrust of the statutes is toward the farmer, and they clearly recognize the farm firm as the primary decisionmaking unit, not the cooperative.

Section 6 of the Clayton Act, 15 U.S.C. § 17, provides that "Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of . . . agricultural . . . organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws."

The first part of the section reads permissively and permits the existence and operation of the organization. However, the activities protected apply to farmer producers, and the individual members of such organizations carry out its objectives. It is important to understand that the basic nature of the cooperative as described earlier in these comments is specifically incorporated into the wording of the statute itself. The last part of this section likewise applies specifically to individual farmers as well as to the cooperative entity.

The first sentence of the Capper-Volstead Act (7 U.S.C. § 291) provides that: "persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut or fruit growers, may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce, such products of persons so engaged."

This too is a statutory recognition that the farmer himself is the protected entity. Members are again included in the second sentence dealing with methods which can be used to achieve the purposes of the farmers referred to in the first sentence.

The producers are permitted to "act together in associations." The statute does not require that a single association be formed because the permission is direction to the farmers themselves. If the farmers wish to act together using various associations, the Capper-Volstead Act protects them because its purpose is to permit farmers to act together, and it gives them permission to use associations to so act.

The statutory references to relations between cooperatives are misinterpreted by the Report. First, it is difficult to see how the statement "such associations may have marketing agencies in common" is a mere "possible" pronouncement on relationships between associations. (Report, p. 23). It seems clear on its face.

Second, Congress found it necessary a third time to define modification of ordinary antitrust laws in the context of the cooperative enterprise and the agricultural process, this with the Cooperative Marketing Act of 1926. 7 U.S.C. §§ 451 to 457. Section 455 provides, in full, that producers acting in associations may "acquire, exchange, interpret, and disseminate past, present and prospective crop, market, statistical, economic and other similar information by direct exchanges between such persons, and/or such associations or federations thereof, and/or by and through a common marketing agent selected by them."

Unfortunately, the authors of the Report used an ellipsis to remove the critical phrase "past, present and prospective," which clearly goes beyond the degree of permissible interchange of information normally allowed by antitrust laws. Specifically, the statutes permit the exchange, the analysis and the dissemination of future crop, market, statistical, economic and other similar information by direct exchanges between farmers, cooperations and federations and by or through common marketing agencies.

The authors of the Report state that the statute is "relevant primarily because some courts have used it in construing the Capper-Volstead Act." (Report, p. 24). This is not an accurate statement of the significance of the provisions of the act. First, the act is relevant because it is a third act of Congress specifically recognizing the special nature of a cooperative and farm production. Second, it reaffirms the need felt by Congress to ensure strong cooperatives by modifying the usual application of antitrust laws. It cannot be dismissed as a statute "peripheral" to the protection of the cooperative enterprise.

Historical context and purpose of exemptions

The report uses an extensive quotation from *Maryland and Virginia Milk Producers Assn.* v. *United States,* 362 U.S. 458 (1960) to reach the conclusion that "the Clayton and Capper-Volstead Act simply place agricultural cooperatives in the same position under the antitrust laws occupied by ordinary business corporations . . ." (Report, p. 28).

The quotation does not say that the cooperative entity is to be treated just as an ordinary investment corporate entity, nor that the ordinary rules of antitrust are applicable to that entity. It restates the points made throughout these comments that to give full effect to the use of the cooperative enterprise form of business in the agricultural production context farm firm cooperation is given special treatment under the antitrust laws. The farm firm is recognized by the court as the decisionmaking economic unit and the modifications of the antitrust laws are aimed toward giving the farmer producer some of the options available to the busines investor, while at the same time allowing him to maintain control of the farm firm. Advantages of the ordinary corporation are to be the desired end of the farmer, not the method of antitrust law application.

Legislative history

The Report's extended discussion of the legislative history leads to the conclusion that "the legislative history may be summed up as indicating the desire to simply legitimate the cooperative form of business organization under federal antitrust laws as an entity on a par with the ordinary business corporation" (Report, p. 39). This is a correct summation. Legislative history does not, however, require that the cooperative entity be treated in an identical manner to that of an investment corporation. As has been repeatedly pointed out, the character of the cooperative and of agricultural production requires a different treatment of the cooperative entity under the antitrust laws to enable farmers to operate on a par with an investment corporation, while at the same time retaining individual ownership and control of the assets of production and the complete control of all production decisions.

One misstatement should be corrected. On page 40 the report refers to the power of the Secretary of Agriculture under Section 2 of the Capper-Volstead Act to prevent "unduly enhanced" prices which result from "the mere size of an association." The statute requires monopolization or restraint of trade, and under no circumstances is mere size of a cooperative sufficient for a finding of monopolization or restraint of trade.

Judicial interpretation and analyses of specific issues

As with interpretations of statutory purpose and language, the interpretation and analysis of judicial decisions must take place in the context of farmer cooperative enterprise and the economic systems of agricultural production. When this is done, the judicial decisions fall into place, and the analysis of prohibited and permitted farmer and cooperative practices can be based on clear and rather simple logic, instead of a strained interpretation of seemingly anomalous judicial decisions. Comments now turn to specific issues, generally following the order in which they are presented by the Report.

Cooperative relations with non-producers

The cases which deal with the relationships of farmers and their cooperatives to non-farmer entities reach conclusions which are expected, and in addition they follow the principles of the cooperative and the economics of agricultural production outlined in these comments.

It should first be pointed out that the court references to cooperative relationships refer to the actions of the farmer himself acting through his cooperative (as do the statutes). In *United States* v. *Borden,* 308 U.S. 188, 204, 205, (1939), the Court specifically uses such terminology: "The right of these agricultural producers thus to unite in preparing for market and in marketing their product, and to make the contracts which are necessary for that collaboration, cannot be deemed to authorize any combination or conspiracy with other persons in restraint of trade that these producers may see fit to devise."

This terminology does not refer to combinations with "non-cooperatives" as is so often stated, but with non-producers of agricultural products. Likewise, it does not refer to the cooperative as the conspiring unit, but to the farmer member. Both of these statements simply recognize that the cooperative enterprise is a unique entity, and that when other kinds of entities and other types of production are included, the farmer's efforts in cooperation are no longer appropriate objects of special antitrust treatment. A careful review of *Maryland and Virginia Milk Producers Assn.* v. *United States,* 362 U.S. 458 (1960) and the other cases cited in the Report will demonstrate that when the proper meaning of the statutory provisions applying to cooperatives is applied, the results follow and the reasons for the specific language of the courts are clear.

Monopolization

Monopoly power as one of the elements in the offense of monopolization is defined as "the power to control prices or exclude competition." (*United States* v. *Grinnell Corp.,* 384 U.S. 563 (1966), *United States* v. *du Pont & Co.,* 351 U.S. 377 (1956)). A brief review of what these concepts mean to a cooperative will show why the idea of "predatory practices" is so important in Sherman § 2 cooperative cases to the exclusion of price control or share of the market arguments.

The power of production rests only with the member producer. The percentage of a product marketed through a cooperative is thus minimal as a determinant of price control. The character of agricultural production also prevents the farm firm from responding to reflected market forces in a way to control prices individually using the cooperative agency as a vehicle.

Exclusion of competition in the cooperative enterprise is not possible without impermissible coercion. The production unit which would tend to enter the market in response to market forces is a unit at the level of the member farmer. The new firm can engage in the production processes independently of the cooperative, and the cooperative itself cannot exclude competition with member farmers unless it engages in some form of activity which interferes with the individual farmer wishing to produce the product marketed through the cooperative. This is commonly referred to as a predatory practice and is absolutely prohibited under the antitrust laws.

Intercooperative mergers, acquisitions and joint ventures

Finding that there is no express exemption of intercooperative merger, acquisition or joint venture from scrutiny under Section 7 of the Clayton Act and Section 5 of the FTC Act, the Report concludes (pp. 52, 53) that exemptions can exist only if there is a clear repugnancy between the cited sections and the cooperative exemption statutory provisions. The Report then concludes that there is no such repugnancy. This is incorrect. There is such a repugnancy.

It has been pointed out that the statutes are directed to the farmer. The farmer is the entity protected. It is the farmer who is permitted to associate himself with other farmers to achieve certain goals. If farmers bring themselves together through a cooperative organization, they are protected. If half of the farmers form one cooperative and the other half form another, it is inherently repugnant to the purposes and the letter of the exemption statutes to say, as the Report does, that all the farmers are now prevented from joining together by joining their associations, where the Capper-Volstead Act specifically states that they "may act together in associations" (associations is plural).

Competition among association members and among the cooperatives themselves must also be carefully analyzed in each case, and reference to the cooperative form of doing business suggests several factors to be considered.

First, the formation and use of a cooperative by a group of farmers does not destroy competitive forces among the farmers. This is because the farmer does not give the control over production necessary for the cooperative to assume the role of production determination in response to market forces. The decision to respond is still with the farm firm, and the response is not altered significantly by the intervention of the cooperative as a reflection of market forces. Competition among cooperatives is minimal because the decisionmaking powers of the cooperative at the production level are minimal. The cooperative acts only as the farmer's agent for a limited purpose.

Second, because the cooperative functions only as an instrument of the farm firm and the farm firm is the independent economic unit, the competitive nature of the farm firm is a part of the competitive nature of the cooperative. The independent response of each economic unit to market forces must be considered in the context of peculiarities of agricultural production, and the inherent obstacles to effect anti-competitive practices by farm firms are passed on to the cooperative entity. Since the characteristics of production prevent anti-competitive action on the part of farm firms short of the predatory type of practices, the cooperative cannot reflect anti-competitive forces to the market.

The Report misinterprets *Sunkist Growers, Inc.* v. *Winckler & Smith Citrus Products Co.,* 370 U.S. 19 (1962) concluding that because the Court found one entity existing in the presence of three cooperatives when the members were identical the Court implied that if the members had been different, a different result would have been obtained. This case in fact emphasizes that the wording of the Capper-Volstead Act that farmers "may act together in associations" should be carefully adhered to, and that when farmers use separate organizations there is no reason to apply the antitrust exemptions differently. The Court recognizes the minimal relevance of the cooperative entity and goes directly to the essential elements of the laws—that farmers are the target of the exemption. The Court recognizes the nature of the cooperative as a reflector of market forces, not an entity possessing market power.

The Report argues (p. 56) that a group of farmers who use two cooperatives must first dissolve those and form a new cooperative when they decide to use one cooperative.

The argument goes that this might cause administrative difficulties and thus will not be done readily. It is difficult to see how the purposes of Section 6 of the Clayton Act and the Capper-Volstead Act are served by such a requirement. These arguments miss the point of the special provisions, that of recognizing the right of farmers to act together through the use of an association, while retaining production assets and the production decisions.

Intercooperative combinations and conspiracies

Intercooperative exchanges and price agreements are particularly difficult to understand if the principles of the cooperative enterprise and the statutory words are not appreciated. To repeat once again, the cooperative acts as an agent of the farmer to reflect market forces and the individual farmer is at all times the economic unit which responds to those market forces. Second, by purpose and words, both Section 6 of the Clayton Act and the Capper-Volstead Act extend protection to farmers as the decision-making economic units. It is the farmer who is permitted to join with his fellow farmers to "act together in associations."

Intercooperative exchange of information is specifically permitted by the Cooperative Marketing Act of 1926. That Act permits transfers of numerous kinds of information including past, present, and prospective economic and statistical information directly among farmer producers and directly among their cooperatives.

Price agreements among cooperative entities are approved in *Treasure Valley Potato Bargaining Assn.* v. *Ore-Ida Foods*, 497 F. 2d 203 (9th Cir. 1974) *cert. den.* 419 U.S. 999 (1974) with which the authors have considerable trouble and which they finally dismiss as a poor case (Report, pp. 59 ff.). The holding of the case is, however, consistent with the purpose and wording of the statutes and with Supreme Court cases. The difficulty the authors have is understanding the thrust of the statutes and the nature of the cooperative enterprise.

The Capper-Volstead Act permits farmers to "act together through associations." It does not require that a single cooperative be formed, and contemplates clearly that such will not be the case by providing for marketing agencies in common between such cooperatives. Since farmers can act together, and may do so through their associations, it is difficult to see why the associations so formed could not be used for precisely such cooperation. It is still the farmers who are acting together through associations, and the farmers are the objects of the acts. It was to articulate these concepts that the court in *Treasure Valley*, as well as the Supreme Court in *Sunkist*, used the argument that if the farmers could have formed one cooperative they may achieve exactly the same results by using two together.

A comment is in order on the difficulty the authors of the Report have with the holding in *Treasure Valley* that a bargaining association is a protected association of farmers under the Capper-Volstead Act. To repeat again, it is not the cooperative that is the object of protection it is the farmer-producer. Precisely how he uses his cooperative must not be restricted to the point that his protection is destroyed when he is acting together through an association with his fellow farmers.

The Report concludes that the Court erred in holding that a cooperative does not have to perform all four functions permitted in the Capper-Volstead Act—processing, preparing for market, handling, and marketing. First, it is difficult to see why a cooperative would have to process, e.g., a farmer's product before the farmer is protected by the terms of the act. Second, by the terms of the act, it is the farmer who may collectively process, prepare for market, handle and market, and it is also difficult to see why a farmer would have to process, e.g., through his cooperative to be protected, when the very purpose of the cooperative is to allow the farmer to retain the amount of production assets and decisionmaking responsibility he wishes. The fact that the judge used an old dictionary is a less than persuasive objection to the decision.

Federations and marketing agencies in common

Cooperative associations are formed to be marketing agencies in common for all member farmers. Such associations are specifically allowed to in turn have marketing agencies in common. This is the statutory foundation for the federated cooperative. The Report (pp. 79 ff.) treats the federated cooperative as a joint venture arrangement not expressly permitted by the statutes and subject to merger control of Section 7 of the Clayton Act as a joint venture of ordinary business corporations. This is incorrect, and the "marketing agencies in common" phrase of the Capper-Volstead Act must be properly applied.

The Report also takes an overly narrow view of the "marketing agencies in common" phrase (Report, pp. 75 ff.), again rejecting the decision of the 9th Circuit in the *Treasure Valley* case. The authors look to some statements for its justification by Volstead to find a restricted view of its use, but the words of the statute, the purpose of the statute and the Court decisions must take precedence.

The Capper-Volstead Act applies special antitrust rules to farmers who joined together to act collectively in certain stages of the marketing process. Specifically, they may act together in associations. The cooperative so formed is their agent, owned, controlled and used by them. When they in turn use a marketing agency in common with farmers who are acting through another cooperative, they have formed a marketing agency in common as defined in the act. The nature of the cooperative dictates that this agency is nothing more than an agent reflecting market forces to the farmer through his respective cooperative.

Understood in this way, the possible antitrust effects of such an arrangement by farmers are no more than those permitted by the formation of the first cooperatives, and the reason specific permission to form such agencies is given by the act is clear. By making layers of cooperative entities available, the statute permits farmers to have local associations in addition to the more inclusive cooperative.

CONCLUSION

Principles of law do not operate in a vacuum, and a wise use of legal principles requires a thorough knowledge of the purposes behind the principles and how they operate in the framework of the applicable surrounding circumstances. The fundamental defect in the Report is that the nature of the cooperative form of enterprise is not thoroughly understood, and the many complexities and exceedingly peculiar features of economics involved in agricultural production and distribution are not fully appreciated.

As a result, the corporate, partnership and sole proprietorship are taken as norms, and the economic systems around which antitrust law and economics have developed are taken as given. The special provisions of the Clayton Act, the Capper-Volstead Act and the Cooperative Marketing Act are, as a natural result, viewed with a great deal of suspicion as means of circumventing the rules ordinarily applied under the antitrust laws to achieve the goals of the national economic antitrust policies. It is understandable that the authors feel very uncomfortable, as industry regulators, with the laws and judicial decisions concerning farmer cooperatives. But the hostility is unjustified.

These comments have been critical of the Report in a number of ways, emphasizing specific problems. What is needed, however, is not a reinterpretation of statutes or cases. A fresh and more encompassing approach is required. This approach would need to do several things.

First, the heritage and purposes of antitrust laws must be clearly defined.

Second, the economic foundations of the antitrust laws must be understood.

Third, the normal business enterprise must be defined and related to the development of the antitrust laws.

Fourth, the cooperative form of enterprise must be understood and its basic differences from the ordinary form of business must be defined.

Fifth, the unique nature of agricultural production must be defined and distinguished from the economic foundations upon which the antitrust laws have developed.

Sixth, the combined effects of the cooperative enterprise in an agricultural setting should be compared with the combined effects of the ordinary business enterprise in ordinary production processes, and the inappropriateness of "traditional" antitrust law application noted.

Finally, the special treatment given farmer cooperatives can be compared with the inappropriateness of normal antitrust rules under the circumstances, and the manner in which a careful interpretation of the special provisions makes them fit into place in the overall antitrust policy will be clear. The interpretation of the statutes and judicial decisions will be more accurate, and strained interpretation or rejection of the statutes and judicial decisions will not be necessary to further the principles and purposes of the national antitrust laws.

USDA Comments on FTC Staff Report Relating to Marketing Orders

INTRODUCTION

The report presents a particularly inaccurate and distorted picture of marketing orders, since it deals only with what are admitted to be the "most clearly restrictive aspects" of such programs. Further, these are portrayed in terms of what *might* happen if fully exploited to industry's advantage, without recognition of the complete control exercised by this Department in the issuance of orders and regulations.

Marketing orders continue to play a needed role in agriculture, because the vagaries of weather and biologic reproduction cannot be adequately controlled, even with today's scientific management.

Marketing orders by their nature are responsive to changing market conditions, and thus are compatible with the goal of a market-oriented economy. In issuing and administering marketing orders, our goal is to facilitate orderly adjustment to changing marketing conditions.

To the extent that marketing orders and cooperatives reinforce each other, as the report suggests, the involvement of the Secretary of Agriculture in the issuance and administration of marketing orders provides a public interest constraint that would not otherwise be available. We consider this to be an essential element of our responsibility in the administration of these programs.

We have been active on a number of fronts in evaluating the effectiveness of marketing orders and attempting to improve their administration. An interagency task force in January 1975 issued a comprehensive report on marketing orders and their price impact, which has assisted us in making a number of constructive changes in program operation. Research studies have been initiated to assist us further in evaluating the effectiveness and improving the administration of marketing orders. We welcome the suggestions you may have in this regard.

Statement (p. 116)

"Milk cooperatives further manipulate the market for milk by encouraging producers to limit production and by jointly trying to control surplus supplies through a device known as the 'Standby Pool,' which purportedly is a cooperative itself."

Comment

Effective supply control has never been achieved in milk marketing. Most cooperatives have not attempted it. Those who have have generally been in high-cost producing areas. Where production control has been tried by cooperatives, serious problems have developed. There are few cases where co-op base plans have operated successfully.

The standby pool has met a marketing need to incorporate additional supplies of milk into the marketing system. Conceptually the standby pool has the potential of assuring a reserve supply of milk to high-cost deficit producing areas at a predetermined price. Thus, high-cost deficit areas do not have to carry year-round reserves but can depend upon the standby pool for supplemental needs.

Statement (p. 117)

"The USDA has a statutory duty to maintain milk prices within a certain percentage of parity and, therefore, also has an incentive to artificially inflate milk prices."

Comment

Parity prices have never been considered an adequate standard in determining prices under Federal milk marketing orders. Section 8c(18) of the Act recognizes this and spells out a supply-demand pricing standard in establishing prices under milk orders. This enables the Secretary to establish prices lower or higher than parity prices. Every order and amended order submitted for producer approval includes a finding that, "The parity prices of milk are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, . . ." This finding has been used in practically all cases, not because parity prices are too low but because parity prices are too high.

Statement (p. 119)

"Federal marketing orders regulate one-half of all fruit, vegetable, and nut production in the United States. The total farm value of regulated commodities was $6.9 billion in 1973."

Comment

Federal marketing orders regulate considerably less than one-fifth of U.S. fruit, vegetable, and nut production. Farm value of commodities affected by marketing agreements and orders on fruits, vegetables and specialty crops was $2.5 billion in fiscal year 1973.

Statement (p. 122)

"The Agricultural Marketing Agreement Act (hereafter AMAA) is an outgrowth of the NRA. . . ."

Comment

The Agricultural Marketing Agreement Act of 1937 is an outgrowth of the Agricultural Adjustment Act of 1933, not the "NRA." The NRA (National Recovery Administration) was created by the National Industrial Recovery Act to enforce codes of fair practice for business and industry. The codes primarily aided business.

Statement (p. 122)

"[The Agricultural Marketing Agreement Act's] stated policy is to increase farm commodity prices to 'parity,' to stabilize prices to eliminate unreasonable fluctuations in supplies and prices, and to control the quality of agricultural commodities. 7 U.S.C. § 602. The Act is largely concerned with whatever effect such manipulation may have on consumers. Consumers presumably pay fair prices for regulated commodities so long as 'parity' prices (which may have little relationship to fairness) are not exceeded, and presumably benefit from 'orderly' marketing."

Comment

The statement concerning the Act's stated policy is paraphrased and garbled. The original intent of the Act was to raise prices to parity. Subsequent amendments to the Act shifted the emphasis to orderly marketing, which does provide benefits to consumers as well as producers and marketers.

Statement (pp. 124–5)

"To date we have been unable to test any of the above postulates—at this time it is unclear whether any of these arguments have validity or not."

Comment

Between these two disclaimers are a number of postulated conclusions which reflect unfavorably on marketing orders—based on unrealistic and admittedly unsupported assumptions. The decline in number of farms has not reduced the physical and economic hazards facing producers. Nor has man been able to control weather, product perishability or production timing to any significant degree. These are the kinds of variables dealt with in marketing order regulations.

Statement (p. 126)

"Regulations formulated under the Florida celery order have completely barred the entry of new producers into the industry, except for those who recently produced celery."

Comment

New producers have entered the Florida celery business, through acquisition of bases from other producers. In fact, the number of producers of celery has stabilized, in marked contrast to the continuing decline in the number of producers of other horticultural crops.

Statement (pp. 126–7)

"In such an eventuality the industry would remain cartelized under the order and would simply have to allocate the permissible supply to more producers and strengthen its 'surplus' handling devices. This would create more waste and inefficiency. Additionally, it should certainly be possible for a marketing order administrator to extract at least some monopoly profits for producers. . . ."

Comment

Comparing a marketing order to a "cartel" reveals a basic lack of understanding of program operations. The cartel concept is that of independent private enterprises supplying like commodities or services who agree to limit their competitive activities in some agreed-on fashion. Under a marketing order the government makes and enforces the rules under statutory guidelines. The marketing order administrator is a government agent. Marketing objectives—not the extraction of monopoly profits—guide his program administration.

Statement (pp. 127–8)

"Orders are used to engage in a form of price discrimination. The fresh market price is kept up by limiting supplies bound for the fresh market, and any surplus is dumped in the less lucrative processing or export markets. There are thus two prices for the same product (the 'quality' product is undifferentiated from the 'poor' product as far as the processor is concerned). It is conceivable that in some circumstances growers might lose in deflated processing market prices what they gained in artificially inflated fresh market prices."

Comment

This section is basically deficient by not distinguishing between "price" and "returns." Omitted is any reference to different costs associated with products moving to different outlets. Material going to processing outlets typically goes in bulk and is ungraded. Selling costs are minimal. In the end, a producer might profit as much or more from sales to processing than to fresh outlets.

Statement (p. 128)

"The successful use of marketing orders to maintain fresh produce prices is graphically illustrated by Cost of Living Council memoranda detailing the operation of the California-Arizona lemon order."

Comment

Data are presented to show that while lemon production fluctuated, fresh market shipments remained constant, the price of fresh lemons "steadily increased," and "surplus" lemons were diverted to processing and export markets. The implication is that this was socially undesirable and unfairly rewarded producers at the expense of consumers. This is a superficial analysis. Despite the increases in f.o.b. prices in 1971–72 and 1972–73, grower returns at the on-tree level declined each year, since the f.o.b. price increase was more than offset by increased costs of picking, hauling, packing and selling. The big jump in prices in 1973–74 was largely due to Cost of Living Council pressure for increased weekly allotments of lemons in the spring of 1973 which led to a shortage of fresh lemons during the first quarter of the 1973–74 marketing season. Thus the stabilizing effects of the marketing order were largely nullified, to the detriment of consumers.

Statement (p. 129)

Quality control may also be used to restrict the quantity of goods reaching a market."

Comment

Theoretically, this is true. Practically, there are significant built-in constraints. Individual growers' crops differ considerably in quality, which limits ability to establish a quality cut-off regulation which would significantly affect supply.

Statement (p. 129)

"Producers were able to completely exclude Mexican tomatoes from domestic markets by establising a standard of size that no Mexican tomato could meet."

Comment

This is completely false. Under regulations issued by USDA, Mexican tomatoes were required to meet the same standards as were imposed on domestic tomatoes. During the period of regulation, imports of Mexican tomatoes increased sharply to record levels.

Statement (pp. 130–1)

A public hearing on a marketing order "is completely open to all interested parties and is generally well-publicized. However, . . . the central decisions as to the extensiveness of quality control, 'surplus' control, and volume marketed are made in the course of administering an order, and these decisions are obscured from public scrutiny."

Comment

All actions taken under marketing orders are open to public scrutiny. The types of regulations to be issued and their economic impact are fully explored in the public hearing and are analyzed and discussed in the Secretary's published decision and order. For milk, all regulatory provisions are contained in the basic order. For other commodities, implementing regulations are issued pursuant to the basic order. All meetings of marketing order administrative committees, where proposed regulations are discussed and recommendations developed for the Secretary, are open to the public. And all regulations are issued under rulemaking procedures prescribed by the Administrative Procedure Act, which require opportunity for public comment before issuance except in limited situations where the Act recognizes that such procedures are inapplicable.

Statement (p. 131)

"The details of AMS decisionmaking are as yet unclear."

Comment

The details of AMS decisionmaking are available to anyone desiring to learn of them. The Interagency Task Force Report on Marketing Orders described general AMS surveillance procedures. AMS officials requested opportunity to meet with FTC staff several months before the FTC report was issued to discuss program policies and procedures, but FTC took no follow-up initiative to arrange such a meeting.

Statement (p. 133)

"After the hearing on the merits of establishing a proposed order, at which 'any interested party' may appear and present evidence, consumers have no standing to participate in subsequent order amendment or formulation of order rules and regulations."

Comment

USDA procedures provide continuing opportunity for all interested persons to have input into the decisionmaking process leading to the issuance of all orders, amendments to orders, and regulations issued pursuant to orders.

Statement (p. 137)

"It appears that the undesirable effects of marketing orders may be both more pervasive and greater in magnitude than those associated with private anti-competitive behavior."

Comment

This is an unsubstantiated statement which belies even a cursory knowledge of marketing order operations. The Department of Agriculture in its day-to-day involvement in marketing order administration applies constraints on the actions of cooperatives which could be amply documented through discussion with cooperative leaders.

Statement (p. 138)

"There is, on the other hand, no persuasive evidence that marketing order provisions of concern here, e.g., volume restriction provisions, are of benefit to consumers. In addition, marketing orders probably create inefficiencies and warp incentives to the detriment of consumers."

Comment

This typifies the double standards of logic which pervades the report—requiring "persuasive evidence" to justify orders, but no more than "possibility" or "probability" to condemn them. An equally good "apriori" case could be made to support a conclusion that the stability and orderly marketing features of marketing orders increase efficiencies and remove the warped incentives that often result from sporadic market fluctuations, thereby benefiting consumers. The Department is undertaking research to provide additional information on this subject.

Statement (p. 138)

"In practically every market where a cooperative has achieved a dominant position in its market, that market has been regulated through either a Federal or a State marketing order or both."

Comment

This is not inconsistent with the statutory objectives of the Act authorizing marketing orders. The Act directs the Secretary to "accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution." As noted elsewhere, the statutes also provide public interest constraints on such activities.

Statement (p. 145)

"More recently, dominant cooperatives have been the primary seekers of marketing orders."

Comment

This is an inaccurate statement of recent marketing order experience.

Statement (p. 148)

"Members of major cooperatives usually dominate marketing administrative committees."

Comment

This statement is untrue.

Statement (p. 148)

"That marketing orders operate to enhance an industry's market power can also be inferred from the fact that handlers or processors have often opposed such orders."

Comment

Handlers increasingly have come to recognize the broad public benefits of marketing orders, and they have contributed materially, through participation in hearings and order administration, to practical solutions to marketing problems.

Statement (pp. 150–1)

"Four orders preserve quantity limitations by imposing barriers to entry, specifically, producer allotments . . . [Thus,] the monopolistic marketer can keep price elevated above what it would otherwise be, without actually incurring the entry which would increase quantity and depress prices."

Comment

There is no empirical evidence that prices have been enhanced by the four programs cited, and little likelihood that they could be. The California brussel sprout program (a State marketing order) was terminated, partly because of limited producer interest and declining production. Producer allotment provisions of the cranberry program have never been implemented. Production of celery never has been as high as levels authorized by the program.

And, as pointed out in the Interagency Task Force on Marketing Orders, any new allotment programs issued by USDA must have "provision for new producers to enter the market and old producers to expand; transferable allotment bases containing safeguards against gaining unreasonable market values, and periodic updating of allotment bases. The intent is to assure that such authority will permit reasonable adjustment to changing market conditions."

Statement (p. 152)

"Milk marketing order regulations give tools to dominant cooperatives to help them spread their monopoly power and maintain and strengthen it where they are located."

Comment

This statement is corroborated by reference to the activities of Associated Milk Producers Inc., and Justice Department antitrust action against that cooperative. The enumerated actions of AMPI under the marketing order program were atypical and were countered by USDA actions to change order provisions to prevent further abuse. This example, plus the successful antitrust action against AMPI, support the conclusion that present authorities permit effective action against undesirable cooperative activities when they occur.

Statement (p. 156)

"Another channel for eliminating competition is the control of imports."

Comment

Section 608-e of the Agricultural Marketing Agreement Act provides that with respect to certain designated commodities, whenever grade, size, quality or maturity regulations are imposed domestically under a marketing order the same or comparable regulations shall be applied to the same commodity imported. This has been referred to as the "Golden Rule" amendment, and it does not permit discriminatory treatment of the imported commodity. Section 22 of the Agricultural Adjustment Act also permits control of imports which might undermine the operation of a government program. The three commodities used as examples in the report are almonds, tomatoes and raisins. There has been no Section 22 action with respect to almonds since 1957. Extensive investigation and litigation under the Florida tomato order have not substantiated charges of discrimination and, as noted elsewhere, tomato imports from Mexico have risen sharply to record levels during the period of marketing order regulation. Imports of raisins during the first two seasons of marketing order regulation were 7,499 tons in 1972 and 1,684 tons in 1973, compared with 1966–70 average imports of 890 tons. Imported raisins rejected for failure to meet marketing order requirements have essentially been rejected because of contamination by insects, rodent hair, stones, etc.

It should also be noted that marketing orders are consistent with existing rules governing international trade, as defined in the articles of the General Agreement on Tariffs and Trade (GATT). GATT rules prohibit administration of such programs in a discriminatory manner or so as to constitute a disguised restriction on international trade. In the current round of GATT multilateral trade negotiations, where all participating parties have been invited to notify the GATT of all import restrictive devices maintained by other countries, not one nation has mentioned U.S. marketing orders.

Statement (p. 159)

"The contrived allocation of products among markets causes allocative inefficiency."

Comment

"Contrived" or regulated allocation among markets may increase allocative efficiency by evening out short-run sporadic gyrations and adjusting supplies to longer run effective demand. These are central goals of the marketing order program.

Statement (p. 161)

"The U.S. Department of Agriculture, in its recent (1975) evaluation of various marketing orders also concludes that prices have been raised by the orders."

Comment

The study referred to was made by an interagency task force which included representatives of the Council of Economic Advisers and Council on Wage and Price Stability, as well as USDA agencies having no responsibility for marketing orders. Its mission was to evaluate marketing orders to determine what, if any, inflationary impact they might have.

It made a comprehensive order-by-order review and identified a minor number of orders under which prices had been enhanced over what they otherwise would be. In none of these instances did the task force conclude that such increases were of significant magnitude to be inflationary.

Statement (p. 161)

"The USDA also believes that milk prices are raised 'modestly' (page 21) (which word they seem to offer as a defense) by the Federal milk marketing order program."

Comment

This also is a misleading partial quote. The task force report stated: "Hence, the classified pricing system as presently and historically administered under the Federal milk marketing order program raises average prices modestly and increases stability. On balance, we conclude that this is not inflationary."

Statement (p. 162)

"A cost beyond the allocative inefficiency introduced by marketing orders' effects on prices in different markets is that of actual waste of agricultural product. . . . This cost is in terms of resources used which could have produced an alternative product."

Comment

Loss or waste of the commodities cited (cherries, cranberries and peaches) cannot be attributed to the operation of Federal marketing orders. As noted elsewhere, agricultural production cannot be closely controlled. Excess production resulting from fallible grower judgment or unusually favorable weather conditions commonly is left unharvested or otherwise "wasted," with or without a marketing order. One of the goals of a marketing order is to minimize such waste through a better alignment of market supply and demand factors.

Statement (p. 164)

"A provision of the milk orders specifies that a plant that processes Class II milk must, to 'qualify,' ship a part of the milk received to fluid milk handlers (i.e., for Class I use). . . . This transhipment requirement . . . appears to be a costly and wasteful phenomenon."

Comment

Shipping requirements are generally needed to identify handlers subject to regulation. They establish a degree of association with a market and provide the basis for determining which producers are entitled to share the proceeds of the fluid (Class I) market. Performance requirements are needed also to assure that adequate supplies of milk will be supplied for fluid use in the market. Artificial movements to meet pooling requirements are not a common or regular occurrence in most Federal order markets.

Statement (p. 169)

"If it is deemed appropriate somehow to compensate for agricultural riskiness, there are probably less expensive ways to do it. One possibility is cooperatively or publicly funded insurance schemes. Another current suggestion involves target prices, wherein the long-run equilibrium price is estimated and compensatory payments to farmers are made with respect to that. In summary, that marketing orders benefit consumers through ameliorating problems inherent in riskiness is not an argument which is sufficiently persuasive to overbalance the theoretical and empirical evidence of their harm."

Comment

The report provides no persuasive empirical or theoretical evidence of harm caused by marketing orders. The insurance alternative suggested is untried and unevaluated. Compensatory payments have been sufficiently evaluated and used to know that they would be an extremely costly alternative, subject to even greater risks of predicting equilibrium levels than are involved in marketing order administration. Marketing orders are largely self-financing and thus provide a low-cost means of reducing the risk factor in agricultural marketing.

Statement (p. 172)

"A marketing order is put into effect only upon the vote of producers and handlers. A cooperative can cast a bloc vote for all of its members. Therefore, a dominant cooperative can have a strong influence on the terms of an order."

Comment

The Secretary of Agriculture is the sole determinant of the provisions of an order based on evidence presented at a public hearing. He also determines that all the terms and conditions of an order will tend to effectuate the declared policy of the Act. Producers approve or disapprove an order in its entirety. They cannot pick and choose among the various provisions.

Mr. **HUMPHREY**. Mr. President, here in the Congress, we also have a problem of fragmentation with respect to food policy and the food industry. The House and Senate Committees on Agriculture have well-recognized interests and responsibilities relating to food and agriculture. The House and Senate Judiciary Committees have antitrust responsibilities which have caused them to raise questions concerning concentration in the food industry, the status of agricultural cooperatives, the impact of marketing orders on the economy, and similar issues relating to competition in the food industry. The interrelationship of these activities is obvious.

Recent hearings by the Senate Antitrust and Monopoly Subcommittee on S. 2028, the "Competition Improvement Act of 1975," gave particular attention to problems in the food industry. Senator KENNEDY in his remarks at the milk conference in early December stated that his Administrative Practice and Procedure Subcommittee was considering an inquiry into the Nation's milk marketing system during 1976. The House Subcommittee on Monopolies and Commercial Law held recent hearings on H.R. 9182, the "Food Industry Antitrust Reports Act of 1975," whose primary purpose would be to provide needed information concerning the food industry as a basis for public policy, primarily oriented to the activities of the Federal Trade Commission. The FTC, in its testimony supporting the bill, noted that it would give FTC the wherewithal to update the 1966 reports of the National Commission on Food Marketing to meet its particular needs.

The thrust of my bill would be to provide a forum for bringing together information and analysis concerning the food marketing industry which would provide a uniform starting point for all public policy groups. FTC, Justice, USDA, the Council of Economic Advisers, Council on Wage and Price Stability, congressional committees on Agriculture and Judiciary, and all other interested public and private individuals and groups would have input into the work of the Commission.

However, the findings, conclusions, and recommendations of the Commission would transcend all of these, and would synthesize available knowledge and expertise and attempt to determine where the balance of the public interest does lie.

The studies and reports of the National Commission on Food Marketing provide a monumental source of information concerning the Nation's food marketing system in the mid-1960's. Portions of this continue to be relevant. Others need updating. And there are voids to be filled.

The Commission proposed by this bill would yield many benefits and serve many needs:

First. It would be off to a "running start" because of the work of the earlier Commission;

Second. Because of this, it could devote more attention in a limited timeframe to weighing issues and making policy recommendations;

Third. The emergence of food as a top priority public policy issue creates a receptive environment for action on responsible policy recommendations;

Fourth. The work of the Commission could serve multiple needs and reduce existing duplication in the collection of food industry data by various executive and legislative bodies; and

Fifth. Placing responsibility for data collection and analysis in a body having no responsibility for program administration or law enforcement would assure maximum objectivity of results.

I believe there is an urgent need for a broad-based inquiry of the type proposed in this bill to provide the insight we need for intelligent policy determination and decisionmaking. Hopefully, also, it will reduce the fragmentation and duplication of effort which now characterizes our efforts to deal with the myriad problems of the food industry.

Mr. President, I ask unanimous consent that the text of the proposed "Federal Food Marketing Appraisal Act of 1976" be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Food Marketing Appraisal Act of 1976"

ESTABLISHMENT OF COMMISSION

SEC. 2. In order to appraise the costs and pricing of food in the United States, there is hereby established a bipartisan National Commission on Food Costs, Pricing and Marketing (hereinafter referred to as the "Commission").

ORGANIZATION OF THE COMMISSION

SEC. 3. (a) The Commission shall be composed of fifteen members, including (1) five Members of the Senate, to be appointed by the President of the Senate; (2) five Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and (3) five members to be appointed by the President from outside the Federal Government. Those Members appointed by the President shall, respectively and as representatively as practicable, reflect the perspectives of consumers, farm producers, labor, processors, and distributors.

(b) Any vacancy in the Commission shall not affect its original powers and shall be filled in the same manner as the original position.

(c) Eight members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS

SEC. 4. (a) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) Each member of the Commission who is appointed by the President may receive compensation at the rate of $150 for each day such member is engaged upon work of the Commission, and shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

DUTIES OF THE COMMISSION

SEC. 5. (a) The Commission shall analyze and appraise the costs, pricing, functioning and structure of the food marketing industry.

The Commission, in its report and recommendations to the President and the Congress, shall include treatment of the following:

(1) Recent changes in the various segments of the food industry, including trends in economic concentration and related anticompetitive structures and practices;

(2) The degree of responsiveness, on a timely basis of prices charged by firms at subsequent stages of the food marketing process, to changes in farm-level prices;

(3) Recent trends in the relationship between the costs and nutritional quality of food products, and market promotional activities employed for such products;

(4) The kind of food marketing system that would best achieve efficiency of production, assembly, processing, transporting, and distribution, consistent with effective services to consumers and other national objectives—including a competitive marketing system and maximum employment;

(5) The effectiveness of present statutes, public policies and programs bearing upon food marketing in serving national objectives and needs, and changes in such statute policies and programs that would render them most subservient to national needs.

(b) The Commission shall make such interim reports as it deems advisable, and it shall make a final report of its findings and conclusions to the President and to the Congress within eighteen months of the date on which the initial funds become available to carry out the Act.

POWERS OF THE COMMISSION

SEC. 6. (a) The Commission, or any three members thereof as authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to the study. In connection therewith the Commission is authorized by majority vote—

(1) to require, by special or general orders, corporations, business firms, and individuals to submit in writing such reports and answers to questions as the Commission may prescribe; such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in the case of disobedience to a subpena or order issued under this subsection to invoke the aid of any district court of the United States in requiring compliance with such subpena or order;

(5) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths, and in such instances to compel testimony and the production of evidence in the same manner as authorized under paragraphs (3) and (4) above; and

(6) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) Any district court of the United States within the jurisdiction of which any inquiry is carried on may, in case of refusal to obey a subpena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) The Commission is authorized to require directly from the head of any Federal executive department or independent agency available information deemed useful in the discharge of its duties. All departments and independent agencies of the Government are hereby authorized and directed to cooperate with the Commission and to furnish all information requested by the Commission notwithstanding any other provision of law.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conducting of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) When the Commission finds that publication of any information obtained by it is in the public interest and would not give an unfair competitive advantage to any person, it is authorized to publish such information in the form and manner deemed best adapted for public use, except that data and information which would separately disclose the business transactions of any person, trade secrets, or names of customers shall be held confidential and shall not be disclosed by the Commission or its staff: *Provided, however*, That the Commission shall permit business firms or individuals reasonable access to documents furnished by them for the purpose of obtaining or copying such documents as need may arise.

(f) The Commission is authorized to delegate any of its functions to individual members of the Commission or to designated individuals on its staff and to make such rules and regulations as are necessary for the conduct of its business, except as herein otherwise provided.

ADMINISTRATIVE ARRANGEMENTS

SEC. 7. (a) The Commission is authorized, without regard to the civil service laws and regulations or the Classification Act of 1949, as amended, to appoint and fix the compensation of an executive director, and the executive director, with the approval of the Commission, shall employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission, but no individual so appointed shall receive compensation in excess of the rate authorized for GS-18 under the Classification Act of 1949, as amended.

(b) The executive director, with the approval of the Commission, is authorized to obtain services of consultants and other part-time personnel as authorized by law (5 U.S.C. 3109), but at rates for individuals not to exceed $150 per diem.

(c) The head of any executive department or independent agency of the Federal Government is authorized to detail, on a reimbursable basis, any of its personnel to assist the Commission in carrying out its work.

(d) Financial and administrative services (including those related to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services. The regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of that Administration for the administrative control of funds apply to appropriations of the Commission.

(e) Ninety days after submission of its final report, as provided in section 5(b), the Commission shall cease to exist.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There is hereby authorized to be appropriated such sums not in excess of $2,500,000 as may be necessary to carry out the provisions of this joint resolution. Any money appropriated pursuant hereto shall remain available to the Commission until the date of its expiration, as fixed by section 7(e).

By Mr. CHILES:

S. 3005. A bill to provide policies, methods, and criteria for the acquisition of property and services by executive agencies. Referred to the Committee on Government Operations.

FEDERAL ACQUISITION ACT OF 1976

Mr. CHILES. I am today introducing S. 3005, the Federal Acquisition Act of 1976, to overhaul the Federal Government's $70 billion a year contracting activities.

OVERVIEW

The bill would consolidate and reform the 25-year-old basic laws now controlling Federal contracts and replace them with a modern statute aimed at far more intense and innovative competition; a crackdown on sole-source awards; and a severe cutback on specifications and regulations.

This proposed legislation would begin to attack the over 4,000 provisions of law currently on the books which control over 13 million contract actions each year for everything from paperclips to nuclear submarines. Huge savings can be expected by simply bringing many of those laws together into a single, modern framework. Over 80,000 workers administer Federal contracts, with the Defense Department alone accounting for $46 billion worth in 8,683,191 separate contract actions during fiscal year 1975.

OBJECTIVES

We need a new Federal acquisition statute to streamline the process, shift the roles of Government and contractors, increase effective competition, and unleash new technology.

The new consolidated Federal acquisition statute would, I believe, go right to the heart of confused Government and contractor roles. The legislation mandates functional specifications for all contracts—both sealed bid and negotiated.

Product and design specifications will be severely limited so that a wide variety of contractors and products can compete.

The new Federal acquisition statute embodies the philosophy that the public sector may have the problems, but the private sector should be free to propose the most innovative solutions and compete to prove their worth.

SUBSTITUTE COMPETITION FOR REGULATIONS

This new consolidated procurement bill directly seeks to substitute effective competition for regulation in Federal spending.

Nearly everyone shares the popular resentment over Government regulations—and in no area is the damage greater than in Federal contracting.

But, although it is popular to call for eliminating Government regulations, we have to think for a moment. Those regulations grew for an apparent reason: to gain control and accountability. In Federal spending practices, the regulatory controls grew, I believe, because effective competition was dying as the primary control mechanism.

It is not enough to eliminate regulations, we need to put effective competition back to work in their place. That is why the new contracting legislation is aimed at relieving a wide range of Government surveillance requirements—but only where effective competition is at work.

If you believe half of the business complaints about being buried under Government paperwork, private firms should welcome this approach. Contractors who do business with the Federal Government will have to stand up and be counted in the harsh light of open competition, however, and I am afraid our current contracting policies have gotten some big contractors' eyes adjusted to doing business by cost-plus candlelight.

CAPITALIZE ON NEW TECHNOLOGY

The bill also seeks to design Federal spending practices to unleash a technological offensive to meet the Nation's needs.

Unless and until we can begin to unstack the layers of managers and management from Congress on down, and unless and until we begin to put wide open competition to work instead of enforced regulatory stagnation, and unless and until we do these things—we are going to continue to crush our most invaluable and scarce national resource: the creative talent of American business.

Talk about American industrial productivity. Talk about standard of living. Talk about agricultural output. Talk about balance of trade and strength of the American dollar shifting military balance. Talk about any of these things, and the odds are that one will will constantly appear: technology. New products and new services to meet growing needs.

Federal spending practices set the economic tone for this country. They set the rules by which major corporations learn to do business, especially high technology firms which are heavily, if not totally, dependent on Federal nourishment.

The new Federal acquisition legislation is designed to convert those Federal spending practices from insensible inhibitors into positive promoters of new technology.

BACKGROUND: PROCUREMENT COMMISSION

Such sweeping legislation was not drafted overnight. Its origins date back to the 2½ years of work by the congressionally charactered Commission on Government Procurement—Public Law 91-129. The Commission was created by law and was composed of representatives from all areas of government and industry. Its principal task was to review the governmentwide procurement activity and make recommendations for reform.

In early 1973, it delivered its final six volume report recommending 149 changes to the Congress and the executive branch. This bill implements a number of key recommendations which go to the heart of the process by which the Federal Government spends more than one-fourth of its yearly budget.

The Commission was concerned about the lack of a governmentwide set of principles for dealing with industry.

The present statutory foundation is in fact a welter of disparate and confusing restrictions and of grants of limited authority to avoid the restrictions. This problem has arisen in part because Congress has never been called on to focus its attention on the overall procurement process. Furthermore, the inaction of top managers of the executive agencies has aggravated the problems.

In its review, the Commission found that there are two basic procurement systems. The procurement systems of the defense agencies, the Coast Guard, the National Aeronautics and Space Administration—and, to some extent, the Central Intelligence Agency—are governed by the Armed Services Procurement Act of 1974. The procurement systems of many civilian agencies are governed generally by title III of the Federal Property and Administrative Services Act of 1949.

I could go on for hours citing examples of restrictions, inconsistencies, areas where there are absolutely no guidance whatsoever. In fact, our studies revealed more than 30 troublesome inconsistencies between the two organic acts. For example, major inconsistencies involve:

Competitive discussions: The Armed Services Act requires but the Federal Property Act does not, that proposals for negotiated contracts be solicited from a maximum of qualified sources and that discussions be conducted with all sources in a competitive range.

Truth and negotiations: The Armed Services Act requires but the Federal Property Act does not, that contractors and subcontractors submit cost or pricing data.

Negotiation authority for research and development: Both acts require agency head approval to negotiate research and development contracts. Under the Armed Services Act someone below the head of the agency can approve contracts up to $100,000. Under the Federal Property Act, the limit is $25,000.

Negotiation of certain contracts involving high initial investments: The Armed Services Act includes, but the Federal Property Act does not, an exception to the advertising requirement for negotiating certain contracts requiring high initial investment.

Specifications accompanying invitations for bid: The Armed Services Act states that an inadequate specification makes the procurement invalid. Comparable language is not found in the Federal Property Act.

Although some of the inconsistencies stem from special problems originally encountered only by one or a limited number of agencies, most of them arise simply because there are two basic procurement statutes, and because each is amended at different times in different ways by different legislative committees. These basic inconsistencies have proliferated to an overwhelming degree in the flow-down from the statutes to agency, bureau, and local policies, regulations, procedures, and practices. This results in serious inefficiencies and adds enormously to the procurement related costs incurred by the Government and its contractors.

PROVISIONS

The statutory foundation must be changed if significant improvements in unifying procurement policies and procedures are to be achieved. Consolidation of the procurement statutes would be a major step in fostering a single regulatory system which would help rather than hamper those wishing to do business with the Government. It also would focus attention on the fact that procurement is a governmentwide operation and would discourage attempts by parochial interests to obtain special statutory treatment.

For these reasons, this bill sets forth for the first time that it is the policy of the Federal Government to—

First, maintain the independent character of private enterprise by substituting wherever practical, the incentives and constraints of effective competition for regulatory controls.

Second, encourage innovation in the application of new technology.

Third, safeguard the public interest through individual accountability of public officials and the maximum use of effective competition.

These and other principals enunciated in the preamble to this bill were used to guide the development of the proposed legislation.

One of the first provisions of my bill would be to require the Office of Federal Procurement Policy establish a single simplified set of procurement regulations to cover all agencies of the Federal Government, bringing together the regulations of the Armed Services Act of the Federal Property Act.

Greater statutory uniformity may be viewed by some as a threat to the special missions of the executive agencies. Such a fear is unfounded. This bill confines Congress to fundamental matters. The Office of Federal Procurement Policy will assume the responsibility of amplifying this congressional direction and of creating such restrictions or safeguards as may apply only to some agencies or that prove essential only for limited periods. This approach provides the best balance of congressional control and executive efficiency. It minimizes the burden on a busy Congress, it also recognizes that when feasible, administrative action by regulation is quicker, more specific, and more readily adaptable to necessary change. Such latitude is essential to the use of procurement techniques which best insure the success of a Government program.

Other titles in the bill define the proper circumstances for agency use of acquisition procedures by competitive sealed bids, competitive negotiation with an exception for single source procurement, and acquisition by competitive small purchase procedures.

It was necessary to spell out the circumstances in detail for use of each acquisition technique because of the inconsistency of agency decisions today as to which procurement technique is applicable to their own situations.

This act is structured so that first emphasis would be placed on the use of competitive sealed bids wherever possible. Agencies would be required to describe their needs by functional terms so to encourage sellers with differing technological solutions to compete. Furthermore, bid evaluation procedures would be required to be disclosed in the bid invitation.

The criteria specified will allow flexibility so that agency decisions are not held down by redtape, but yet create a more competitive environment. The application of new technologies would be encouraged by provisions to assure independence of action by the buyer and seller. Competitors would also be encouraged to submit offers which provide a wide range of alternatives with differing technological concepts. The opportunities for favoritism in the solicitation, evaluation, and award of contracts would be reduced.

Mr. President, in order to provide more detailed review, I ask unanimous consent that the full text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Federal Acquisition Act of 1976".

(b) TABLE OF CONTENTS.—

Sec. 1. Short Title; Table of Contents.
Sec. 2. Declaration of Policy.
Sec. 3. Definitions.

TITLE I—ACQUISITION METHODS AND REGULATORY GUIDANCE

Sec. 101. Acquisition Methods.
Sec. 102. Regulatory Compliance.

TITLE II—ACQUISITION BY COMPETITIVE SEALED BIDS

Sec. 201. Criteria for Use.
Sec. 202. Invitation for Sealed Bids.
Sec. 203. Evaluation, Award and Notifications.

TITLE III—ACQUISITION BY COMPETITIVE NEGOTIATIONS

Sec. 301. Criteria for Use.
Sec. 302. Solicitations.
Sec. 303. Evaluation, Award and Notifications.
Sec. 304. Single-Source Exceptions.
Sec. 305. Cost and Pricing Data.
Sec. 306. Access to Records.
Sec. 307. Government Surveillance Requirements.

TITLE IV—ACQUISITION BY COMPETITIVE SMALL PURCHASE PROCEDURES

Sec. 401. Criteria for Use.
Sec. 402. Solicitations and Awards.
Sec. 403. Review of Small Purchase Ceilings.

TITLE V—GENERAL PROVISIONS

Sec. 501. Contract Types.
Sec. 502. Warranty Against Contingent Fees.
Sec. 503. Concellations and Rejections
Sec. 504. Multi-Year Contracts.
Sec. 505. Advance, Partial and Progress Payments
Sec. 506. Remission of Liquidated Damages.
Sec. 507. Determinations and Findings.
Sec. 508. Competitive Bidding Information.

TITLE VI—DELEGATION OF AUTHORITY

Sec. 601. Delegation Within an Executive Agency.
Sec. 602. Joint Acquisitions.

TITLE VII—AMENDMENTS AND REPEALS

Sec. 701. Amendments.
Sec. 702. Repeals.

DECLARATION OF POLICY

Sec. 2. (a) FINDINGS.—The Congress hereby finds that—

(1) the laws controlling Federal purchasing have become outdated, fragmented and needlessly inconsistent;

(2) these deficiencies have contributed to significant inefficiency, ineffectiveness and waste in Federal spending;

(3) the Commission on Governent Procurement has found and recommended that a new consolidated statutory base is needed;

(4) further, existing statutes need to be modernized to focus on competition and new technology in that—

(A) national productivity rests on a base of competitive industry applying new technology in its goods and services;

(B) Federal spending practices can exert substantial leverage on the nation's business community by stimulating effective competition and the application of new technology.

(b) POLICY.—It is hereby declared to be the policy of the United States that the acquisition of property and services by the Federal Government shall be performed so as to—

(1) maintain the independent character of private enterprise by substituting for regulatory controls the incentives and constraints of effective competition;

(2) encourage innovation and the application of new technology by broadly stating public needs so that prospective suppliers will have maximum latitude to exercise independent business and technical judgments in offering a wide range of competing alternatives;

(3) promote both new and small business by permitting all qualified and interested sources to compete for and grow through government contracts;

(4) provide private contractors with the opportunity to earn a profit in government contracts commensurate with the technical and financial risks undertaken and the contribution made to meeting public needs;

(5) safeguard the public interest and through individual accountability of public officials and maximum use of effective competition; and

(6) further, to achieve these goals, it is the policy of the United States to rely on and promote effective competition, the efforts of several sellers, acting independently of each other, to respond to a government need by creating, developing, demonstrating or offering products or services which best meet that need at the lowest total cost whether that need is expressed as an agency mission need, a desired function to be performed, performance or physical requirements to be met, or some combination of these. Effective competition is present when there is—

(A) timely availability to prospective sellers of information required to respond to public needs;

(B) independence of action by buyer and seller;

(C) availability to the government of alternative offers that provide a range of concept, design, performance, price, lifetime ownership costs, service and/or delivery;

(D) absence of favoritism in the solicitation, evaluation and award of contracts; and

(E) ease of competitive entry for new sellers.

DEFINITIONS

SEC. 3. For purposes of this Act—

(a) The term "acquisition" means any relationship entered into to obtain property or services for the direct benefit or use of an executive agency through purchase, lease or barter to meet a public need, whether the property or services are already in existence or must be created, developed, demonstrated and evaluated. Acquisition includes such related functions as description of the particular need; research, development, test and evaluation; financing; solicitation; selection of sources; preparation and award of contracts; and all phases of contract administration.

(b) The term "executive agency" means an executive department as defined by section 101 of title 5, United States Code; an independent establishment as defined by section 104 of title 5, United States Code (except it shall not include the General Accounting Office); a military department as defined by section 102 of title 5, United States Code; a wholly owned government corporation as defined by section 846 of title 31, United States Code; and the United States Postal Service.

(c) The term "property" includes all services, including administrative, support-type and professional.

TITLE I—ACQUISITION METHODS AND REGULATORY GUIDANCE

ACQUISITION METHODS

SEC. 101. An executive agency shall acquire property or services in accordance with the policies specified in section 2 of this Act by utilizing—

(1) the competitive sealed bidding method as provided in title II of this Act;

(2) the competitive negotiation method, as provided in title III of this Act; or

(3) the competitive small purchase procedures; as provided in title IV of this Act.

The method of acquiring property or services shall be selected on the basis of the nature of the product or services being acquired, the circumstances of the acquisition, and the criteria set forth in titles II, III and IV of this Act.

REGULATORY COMPLIANCE

SEC. 102 (a) The Administrator of the Office of Federal Procurement Policy is authorized and directed, pursuant to the authority conferred by Public Law 93-400 and subject to the procedures set forth in such Public Law—

(1) within two years after the date of enactment of this Act, promulgate a single, simplified, uniform Federal regulation implementing the policies and procedures prescribed in this Act and insuring compliance with such provisions by all executive agencies; and

(2) to make periodic studies of the acquisition methods prescribed by this Act in order to determine whether agency implementation of this Act has been efficient and effective.

(b) The Administrator of the Office of Federal Procurement Policy shall include in his annual report required under section 8 of Public Law 93-400 a report of his activities under this section, including his assessment of agency implementation of and compliance with the requirements of this Act; specific reductions in the use of Federal specifications pursuant to section 202(b) of this Act; and recommendations for revisions in this Act or any other provision of law.

TITLE II—ACQUISITION BY COMPETITIVE SEALED BIDS

CRITERIA FOR USE

SEC. 201. Competitive sealed bids method shall be used in the acquisition of property and services when—

(1) the anticipated total contract price exceeds the amount specified in title IV of this Act for use of the competitive small purchase procedures method; and

(2) the Federal need can be practicably defined in terms not restricted by security or proprietary design; and

(3) the private sector industrial base will

provide a number of suppliers willing to compete for and able to perform the contract; and

(4) suitable products or services have been fully developed and previously supplied in comparable forms so as to warrant the award of a contract to a successful bidder selected primarily on the basis of price; and

(5) the time available for acquisition is sufficient to prepare the purchase description and to carry out the requisite administrative procedures; and

(6) the property or services is to be acquired within the limits of the United States and its possessions; and

(7) the price for the property or service has not been established by or pursuant to law.

INVITATION FOR SEALED BIDS

SEC. 202. (a) The invitation for sealed bids shall be formally advertised in such a way that—

(1) the time prior to opening of bids will be sufficient to permit effective competition;

(2) the purchase description will be accessible to all interested potential bidders, except where restricted to bidders qualified under a duly authorized set-aside program.

(b) The description will be set forth in functional terms to permit a variety of distinct products or services to qualify. Where product or performance specifications must be used, a range of acceptable characteristics shall be stipulated, except that where definitive product specifications must be used, the use of such specifications shall be subject to prior approval by the agency head.

(c) The invitation shall include a description of the method to be used in evaluating bids, including factors other than price.

EVALUATION, AWARD AND NOTIFICATIONS

SEC. 203. (a) All bids shall be opened publicly at the time and place stated in the advertisement;

(b) Award shall be made to the responsible bidder whose bid conforms to the invitation and is most advantageous to the government, price and other factors considered.

(c) Notice of such award shall be made in writing by the contratcing officer with reasonable promptness and all other bidders shall be appropriately notified.

TITLE III—ACQUISITION BY COMPETITIVE NEGOTIATION METHOD

CRITERIA FOR USE

SEC. 301. Competitive negotiation shall be used in the acquisition of property and services when—

(1) the anticipated total contract price exceeds the amount specified in title IV of this Act for use of the competitive small purchase procedures method; and

(2) the acquisition does not meet any one of the criteria set forth in clauses (2) through (7) of section 201 for use of competitive sealed bids.

SOLICITATIONS

SEC. 302. (a) Solicitations for offers shall be made from a sufficient number of qualified sources so as to obtain effective competition and shall be publicized in accordance with section 8(e) of the Small Business Act with copies of the solicitation to be provided to other interested sources upon request.

(b)(1) When the award is not expected to be made primarily on the basis of price, the solicitation shall include both the methodology and the relative importance of all significant factors to be used during competitive evaluation and for final selection. In any case, if price is included as a primary or significant factor, the government's evaluation shall be based on the total cost to meet the Federal need and not on the cost of completing any segment of activity.

(2) Any significant changes in the methodology or evaluation factors which may affect the outcome of the competition shall be promptly communicated to all competitors.

(c) Solicitations shall set forth the need in broad functional terms so as to permit the application of a variety of technological approaches and elicit the most promising competing alternatives. Solicitations shall prescribe neither performance characteristics based on a single approach nor technical characteristics transfused from any potential competitor.

(d) If inadequacies in the solicitation have caused misunderstandings of the government's needs or requirements, clarification of intent shall be made to competitors on an equal basis.

EVALUATION, AWARD, AND NOTIFICATIONS

SEC. 303. (a) Alternative offers which are selected on the basis of the factors contained in the solicitation, whether for design, development, or demonstration, shall be sustained in competition until sufficient test and evaluation information becomes available to narrow the choice to the preferred product of service.

(b) Written or oral discussions shall be conducted with all qualified and responsive competitors that remain in a competitive range solely for the purpose of obtaining clarification or substantiation of competitors' offerings.

(c) Award shall be made to the responsible offeror whose proposal is most responsive to the factors stipulated in the solicitation as required by section 302(b).

(d) Notice of award shall be made with reasonable promptness to all competitors and information concerning the award shall not be disclosed to any person not having direct source selection responsibilities prior to such notification.

SINGLE-SOURCE EXCEPTIONS

SEC. 304. (a) Compliance with the procedures prescribed in sections 302 and 303 need not be continued if—

(1) the agency head makes a determination, before award, that it is impracticable to proceed with the competitive negotiation because more than one prospective source is not available;

(2) such determination, together with the reasons therefor, is in writing and conforms with such regulations as may be prescribed or authorized by the Office of Federal Procurement Policy, pursuant to section 102(a)(1); and

(3) notice of intention to award such a contract is publicized in advance of the award, pursuant to 15 U.S.C. 637(e), and includes a description of the product or service to be acquired and the name of the prospective source.

In such cases, contracts may be made by negotiation with an offeror selected by the agency. The certification referred to in section 305(b) and the provisions of section 305(c) shall be required in the case of any single-source contract awarded pursuant to this section when the amount in question exceeds $10,000.

(b) All contracts awarded pursuant to this section shall contain provisions for the agency to acquire all necessary technical data and other information in order to allow other prospective sources to bid on subsequent solicitations.

COST AND PRICING DATA

SEC. 305. (a) Prior to any negotiated award, change, or modification of any contract or subcontract, the contractor and any subcontractor shall make available or identify in writing with his proposal cost or pricing data bearing on the reasonableness of the offered price.

(b) Each such contractor or subcontractor shall certify that, to the best of his knowledge and belief, such cost or pricing data is accurate, complete, and current as of the date agreed upon between the parties (which date shall be as close as practicable to the date of agreement on the negotiated price), except where—

(1) the price of the contract, subcontract, change or modification is less that $500,000;

(2) the price is an established catalog or a market price of a commercial item sold in substantial quantities to the general public;

(3) the price is already set by law or regulation;

(4) in the case of a competitive negotiation, price is a primary or significant factor in the negotiation; or

(5) the head of the agency determines that the provisions of this section must be waived and states in writing his reasons therefor.

(c) Any prime contract or change or modification thereto under which a certification is required under subsection (b) shall contain a provision that the price to the government, including profit or fee, shall be adjusted to exclude any significant sums by which it may be determined by the agency head that such price was increased because the contractor or any subcontractor required to furnish such a certificate, furnished cost or pricing data which was inaccurate, incomplete, or noncurrent.

(d) For the purpose of evaluating the accuracy, completeness and currency of cost or pricing data required to be certified under subsection (b), an authorized representative of the executive agency may until expiration of three years after final payment under the prime contract, examine the books, records and other data of the contractor or subcontractor relating to the negotiation, pricing or performance of the contract or subcontract.

ACCESS TO RECORDS

SEC. 306. (a) Until expiration of three years after final payment under a contract negotiated or amended under this title, the Comptroller General of the United States and an executive agency or their representatives are entitled to inspect the plants and examine any books, documents, papers or records of the contractor and his subcontractors that pertain to, and involve transactions relating to the contract or subcontract. This provision may be waived for any contract or subcontract with a foreign contractor or subcontractor, if the head of the executive agency determines that waiver would be in the public interest and a copy of his determination is forwarded to the Comptroller General.

(b) Inspections and examinations under subsection (a) shall be conducted only when necessary to insure contract performance. Multiple inspections and examinations of a contractor or subcontractors by more than one executive agency shall be eliminated to the maximum extent practicable by coordinating inspection and examination responsibilities in accordance with regulations to be issued or authorized by the Office of Federal Procurement Policy pursuant to section 102(1).

GOVERNMENT SURVEILLANCE REQUIREMENTS

SEC. 307. (a) Notwithstanding any other provision of law, the head of an executive agency may grant a waiver from government surveillance requirements for a period not to exceed two years to a contractor or that part of a contractor's operation which is separately managed and accounted for if more than 75 percent of the business activity of that contractor or part thereof, as measured by total sales volume, is being conducted under commercial or competitive fixed-price government contracts.

(b) Such a waiver shall relieve the contractor or part thereof from government surveillance requirements including, but not limited to,

(1) management, procurement system, property reviews;

(2) determinations of the reasonableness of indirect overhead costs;

(3) provisions of the Cost Accounting Standards Act (Public Law 93-379);

(4) advance agreements for independent research and development and bid and proposal activities; and

(5) provisions of Renegotiation Act (Public Law 82-9).

(c) Such a waiver shall not be granted if the agency head determines that for other reasons, the combination of commercial and government competitive activity is insufficient to insure efficient contractor activity under government contracts.

TITLE IV—ACQUISITION BY COMPETITIVE SMALL PURCHASE PROCEDURES METHOD

CRITERIA FOR USE

SEC. 401. Competitive small purchase procedures method may be used in the acquisition of property and services under regulations authorized or prescribed by the Office of Federal Procurement Policy under section 102(1) when the anticipated total contract price does not exceed $10,000 but, in lieu of this method, the contracting officer may use either of the competitive methods prescribed in titles II or III of this Act when such use would be more advantageous to the government.

SOLICITATIONS AND AWARDS

SEC. 402. The contracting officer shall use small purchase procedures to obtain effective competition to the maximum extent practicable and, thereupon, may make an award to the contractor offering the property or service most advantageous to the government.

REVIEW OF SMALL PURCHASE CEILINGS

SEC. 403. At least every three years, beginning with the third year after enactment of this Act, the Administrator of the Office of Federal Procurement Policy shall review the prevailing costs of labor and materials and may revise the figure cited in section 401, or any prior revision thereof, notwithstanding any other provision of law, to reflect an increase or decrease by at least 10 per centum in the costs of labor and materials. At least sixty days in advance of its effective date, the Administrator shall report to Congress any such revision that is 50 per centum or more of the previous figure.

TITLE V—GENERAL PROVISIONS

CONTRACT TYPES

SEC. 501. (a) Contracts may be of any type or combination of types, consistent with the degree of technical and financial risk to be undertaken by the contractor, which will promote the best interests of the government except that the cost-plus-a-percentage-of-cost contracting shall not be used under any circumstances.

(b) The preferred contract form for all contracts shall be a fixed-price type. Where the technical or financial risks of negotiated contracts are substantial, fixed-price contracts for shorter work increments are preferred to longer cost-type contracts so as to maintain greater control over government obligations.

WARRANTY AGAINST CONTINGENT FEES

SEC. 502. Each contract negotiated under title III shall contain a warranty by the contractor that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding of a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business; and that for any breach or violation of the warranty, the government may annul the contract without liability or deduct from the contract price or consideration the full amount of the commission, percentage, brokerage, or contingent fee.

CANCELLATIONS AND REJECTIONS

SEC. 503. (a) Where the contracting officer determines that it is in the best interest of the government, the contracting officer may

(1) withdraw a small purchase order prior to the consummation of a contract;

(2) cancel an invitation for sealed bids before bid opening or after bid opening but before award; or

(3) cancel a request for proposal and reject all offers.

(b) When requested, the contracting officer shall fully inform any unsuccessful offeror or bidder of the reasons for the rejection of his offer or bid.

MULTI-YEAR CONTRACTS

SEC. 504. (a) Except as otherwise provided by law, an agency may make contracts for acquisition of property or services for periods of not more than five years, when appropriations are available and adequate for payment for the first fiscal year and the agency head determines that—

(1) the government need for the property or services being acquired over the period of the contract is reasonably firm and continuing; and

(2) such a contract will serve the best interests of the United States by encouraging effective competition or promoting economies in performance and operation.

ADVANCE, PARTIAL AND PROGRESS PAYMENTS

SEC. 505. (a) Any executive agency may—

(1) make advance, partial, progress, or other payments under contracts; and

(2) insert in solicitations a provision limiting to small business concerns advance or progress payments.

(b) Advance payments under subsection (a) shall not be made in excess of the amount required for immediate contract performance and shall not exceed the unpaid contract price.

(c) When progress payments are made, the government shall have title to the progress payment inventory and, notwithstanding any other provisions of law, that title may not be divested by any action of the contractor, or proceeding in bankruptcy, or encumbered by any lien or security interest.

(d) Advance payments under subsection (a) may be made only upon adequate security and a determination by the agency head that to do so would be in the public interest. Such security may be in the form of a lien in favor of the government on the property contracted for, on the balance in an account in which such payments are deposited, or on such property acquired for performance of the contract as the parties may agree. This lien shall have priority over all other liens.

REMISSION OF LIQUIDATED DAMAGES

SEC. 506. Upon the recommendations of the head of an executive agency, the Comptroller General of the United States may remit all or part, as he considers just and equitable, of any liquidated damages provided by contract for delay in performing the contract.

DETERMINATIONS AND FINDINGS

SEC. 507. (a) Determinations, findings and decisions provided by this Act may be made with respect to contracts individually or with respect to classes of contracts, and shall be final.

(b) Each determination or decision shall be based upon written findings of the officer making the determination or decision, and shall be retained in the official contract file.

COMPETITIVE BIDDING INFORMATION

SEC. 508. (a) If the contracting officer has reason to believe that any bid or proposal evidences a violation of the antitrust laws or provisions of this Act, he shall refer that bid or proposal, through the appropriate agency official, directly to the Attorney General of the United States for appropriate action.

(b) Upon the request of the Attorney General of the United States, the agency shall make available to the Attorney General information which the Attorney General considers necessary and relevant to any investigation, prosecution, or other action by the United States under the Antitrust Laws or other statute enforced by the Attorney General.

(c) The agency shall render needed assistance to the Attorney General in any investigation and prosecution and in any investigation and prosecution flowing from information provided in subsection (a) or (b) or from other investigation and prosecution in other antitrust matters.

TITLE VI—DELEGATION OF AUTHORITY

DELEGATION WITHIN AN EXECUTIVE AGENCY

SEC. 601. Each agency head may delegate any authority under this Act except authority to make determinations under sections 304 through 307 of this Act.

JOINT ACQUISITIONS

SEC. 602. (a) To facilitate acquisition or property and services by one executive agency for another executive agency, and to facilitate joint acquisition by those agencies—

(1) the head of an agency may, within his agency, delegate functions and assign responsibilities relating to the acquisition;

(2) the heads of two or more agencies may by agreement delegate acquisition functions and assign acquisition responsibilities from one agency to another of those agencies or to an officer or civilian employee of another of those agencies; and

(3) the heads of two or more agencies may create joint or combined offices to exercise acquisition functions and responsibilities.

(b) Subject to the provisions of 31 U.S.C. 686—

(1) appropriations available for acquisition of property and services by an executive agency may be made available for obligation for acquisition of property and services by any other agency in amounts authorized by the head of the ordering agency and without transfer of funds on the books of the Department of the Treasury;

(2) a disbursing officer of the ordering agency may make disbursement for any obligation chargeable under subsection (a) of this section, upon a voucher certified by an officer or civilian employee of the acquisition agency.

TITLE VII—AMENDMENTS AND REPEALS

AMENDMENTS

SEC. 701. (a) The Agriculture Department Appropriation Act, 1923, is amended by striking out ", after due advertisement and on competitive bids," in the first proviso on the page at Forty-second Statutes at Large, page 517 (7 U.S.C. 416).

(b) Sections 101(d) and 104 of the Department of Agriculture Organic Act of 1944 (58 Stat. 734, 736; 7 U.S.C. 430, 432) are amended by striking out "in the open market".

(c) Section 2356(b) of title 10, United States Code, is amended by striking out the last sentence.

(d) Sections 4504 and 9504 of title 10, United States Code, are each amended by striking out everything after "United States" and inserting in lieu thereof a period.

(e) Sections 4505 and 9505 of title 10, United States Code, are each amended by striking out the second sentence.

(f) Clause (2) of section 502(c) of the Act of August 10, 1948 (62 Stat. 1283; 12 U.S.C. 1701c(b)(2)), is amended by striking out ", without regard to section 3709 of the Revised Statutes".

(g) Section 502(e) of the Act of December 31, 1970 (84 Stat. 1784; 12 U.S.C. 1701z-2(e)), is amended by striking out ", without regard to section 3709 of the Revised Statutes,".

(h) Section 708(h) of the Act of June 27, 1934, as amended August 10, 1948 (62 Stat. 1279; 12 U.S.C. 1747g(h)), is amended by striking out the proviso at the end.

(i) Section 712 of the Act of June 27, 1934, as amended August 10, 1948 (62 Stat. 1281; 12 U.S.C. 1747k) is amended by striking out "and without regard to section 3709 of the Revised Statutes".

(j) Section 208(b) of the Act of June 26, 1934, as amended October 19, 1970 (84 Stat. 1014; 12 U.S.C. 1788(b)), is amended by striking out the last sentence.

(k) Clause (4) of section 2(b) of the Act of July 18, 1958 (72 Stat. 386; 15 U.S.C. 634(b)(4)), is amended by striking out: "Section 3709 of the Revised Statutes, as amended (41 U.S.C., section 5), shall not be construed to apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Administrator or as a result of loans made under this Act if the premium therefor or the amount thereof does not exceed $1,000.".

(l) Section 3 of the Act of April 24, 1950 (64 Stat. 83; 16 U.S.C. 580c), is amended to read as follows:

"SEC. 3. The Forest Service is authorized to make purchases of (1) materials to be tested or upon which experiments are to be made or (2) special devices, test models, or parts thereof, to be used (a) for experimentation to determine their suitability for or adaptability to accomplishment of the work for which designed or (b) in the designing or developing of new equipment: *Provided*, That not to exceed $50,000 may be expended in any one fiscal year pursuant to this authority and not to exceed $10,000 on any one item or purchase.".

(m) Section 9 of the Tennessee Valley Authority Act of 1933, as amended August 31, 1935 (48 Stat. 1080; 16 U.S.C. 831h), is amended by striking out the first paragraph of subsection (b).

(n) Section 2(b)(1) of the Act entitled "An Act to authorize the construction of a National Fisheries Center and Aquarium in the District of Columbia and to provide for its operation", approved October 9, 1962 (76 Stat. 753; 16 U.S.C. 1052), is amended by striking out ", without regard to the provisions of section 3709 of the Revised Statutes of the United States (41 U.S.C. 5),".

(o) Subsections 2(a)(1) and 2(b)(1) of the Act of July 26, 1954 (79 Stat. 44; 20 U.S.C. 331a (a)(1), (b)(1), are amended by striking out any references to section 3709 of the Revised Statutes and to 41 U.S.C. 5.

(p) Section 224(a) of the Act of November 8, 1965 (79 Stat. 1228; 20 U.S.C. 1034(a)), is amended by striking out ", and, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5),".

(q) Section 408(a) of the Act of November 8, 1965 (79 Stat. 1235; 20 U.S.C. 1068(a)), is amended by striking out "(without regard to section 3709 of the Revised Statutes (41 U.S.C. 5))".

(r) Section 7 of the Act of December 20, 1945, as amended October 10, 1949, (59 Stat. 621; 22 U.S.C. 287e), is amended by striking out "; all without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5)".

(s) Section 707 of the Act of August 13, 1946 (60 Stat. 1019; 22 U.S.C. 1047), is amended by striking out ", without regard to section 3709 of the Revised Statutes".

(t) Section 22(e)(7) of the Act of December 29, 1970 (84 Stat. 1613, 29 U.S.C. 671 (e)(1)), is amended by striking out ", and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), or any other provision of law relating to competitive bidding.".

(u) Section 6(b) of the Act of August 31, 1954 (68 Stat. 1010; 30 U.S.C. 556(b)), is amended by striking out "and without regard to the provisions of section 3709, Revised Statutes (41 U.S.C., sec. 5)".

(v) Section 1820(b) of title 38, United States Code, is amended by striking out "section 5 of Title 41" and inserting in lieu thereof "the Federal Acquisition Policy Act of 1976", and by deleting "if the amount of such contract exceeds $1,000.".

(w) Section 5002 of title 38, United States Code, is amended by substituting a period for the comma after "work" and striking out the remainder of the section.

(x) The Act of October 10, 1940, as amended (54 Stat. 1109; 41 U.S.C. 6a, b(a), (c), (d)), is amended by striking out section 2 and subsections (c) and (d), and by striking out "without regard to the provisions of section 3709 of the Revised Statutes, as amended," in subsection (a). The Act of July 27, 1965 (79 Stat. 276; 41 U.S.C. 6a–1) is amended by striking out any and all references to section 3709 of the Revised Statutes in the sections relating to Architect of the Capitol.

(y) Section 11 of the Act of June 30, 1936 (49 Stat. 2039, renumbered section 12 in 66 Stat. 308; 41 U.S.C. 45), is amended to read as follows:

"SEC. 12. The provisions of this Act requiring the inclusion of representations with respect to minimum wages shall apply only to purchases or contracts relating to such industries as have been the subject matter of a determination by the Secretary of Labor.".

(z) Section 356(b) of the Act of July 1, 1944, as added October 18, 1968 (82 Stat. 1175; 42 U.S.C. 263d(b)), is amended by striking out the references to section 3709 of the Revised Statutes and 41 U.S.C. 5 in clause (3), and by striking out the parenthetical phrase "(by negotiation or otherwise)" in clause (4).

(aa) Section 1(b) of the Act of October 14, 1940 (54 Stat. 1126; 42 U.S.C. 1521(b)), is amended by striking out the reference to Section 3709 of the Revised Statutes in the first parenthetical phrase, and by striking out the first proviso.

(bb) Section 202(b) of the Act of October 14, 1940 (55 Stat. 362; 42 U.S.C. 1532(b)), is amended by striking out the reference to section 3709 of the Revised Statutes.

(cc) Section 309 of the Act of September 1, 1951 (65 Stat. 307; 42 U.S.C. 1592h), is amended by striking out clause (a), and amending clause (b) to read as follows:

"(b) the fixed-fee under a contract on a cost-plus-a-fixed-fee basis shall not exceed 6 per centum of the estimated cost;".

(dd) Sections 103(b)(4) and 104(a)(2) of the Act of July 14, 1955, as amended November 21, 1967 (81 Stat. 486, 487; 42 U.S.C. 1857b(b)(4), b–1(a)(2)), is amended by striking out the references to section 3709 of the Revised Statutes and to 41 U.S.C. 5.

(ee) Section 31(b) of the Atomic Energy Act of 1954 (68 Stat. 927; 42 U.S.C. 2051c) is amended to read as follows:

"(b) The Commission may make available for use in connection with arrangements made under this section such of its equipment and facilities as it may deem desirable.".

(ff) Section 41(b) of the Atomic Energy Act of 1954 (68 Stat. 928; 42 U.S.C. 2061(b)), is amended by striking out the two sentences immediately preceding the last sentence in this section.

(gg) Section 43 of the Atomic Energy Act of 1954 (68 Stat. 929; 42 U.S.C. 2063), is amended by striking out the following: "without regard to the provisions of section 3709 of the Revised Statutes, as amended, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes.".

(hh) Section 55 of the Atomic Energy Act of 1954 (68 Stat. 931; 42 U.S.C. 2075), is amended by inserting a period after United States and by striking out the remainder of the first sentence and the entire second sentence in this section.

(ii) Section 66 of the Atomic Energy Act of 1954 (68 Stat. 933; 42 U.S.C. 2096), is amended by striking out the following: "Any purchase made under this section may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes.".

(jj) Section 203(e) of the Act of April 3, 1970 (84 Stat. 115; 42 U.S.C. 4372(e)), is amended by striking out the references to section 3709 of the Revised Statutes and to 41 U.S.C. 5.

(kk) Section 703 of the Act of June 29, 1936 (49 Stat. 2008; 46 U.S.C. 1193), is amended by striking out subsection (a), by striking out "For the construction, reconstruction, or reconditioning of vessels, and" in subsection (c), and by renumbering subsections (b) and (c) as (a) and (b), respectively.

(ll) Section 8(a) of the Act of September 30, 1965 (79 Stat. 894; 49 U.S.C. 1638(a)), is amended by striking out the references to section 3709 of the Revised Statutes and to 41 U.S.C. 5 in paragraph (1), and by striking out paragraph (3).

(mm) Section 5012 of title 38, United States Code, is amended by striking out the second sentence in subsection (a) and all of subsection (c).

REPEALS

SEC. 702. The following statutes or provisions of statutes are repealed.

Chapters 135 and 137 and sections 4535, 4540, 7212, 7522, 9535, and 9540 of title 10, United States Code; section 7 of the Act of May 18, 1938 (52 Stat. 406; 16 U.S.C. 833f); section 7 of the Act of March 3, 1975 as amended (18 Stat. 450; 25 U.S.C. 96); section 3 of the Act of August 15, 1876 as amended (19 Stat. 199; 25 U.S.C. 97); sections 602(d)(3) and 602(d)(10) of the Federal Property and Administrative Services Act as amended (40 U.S.C. 474(3), (10)); sections 10(a) and 10(b) of the Act of September 9, 1959 (73 Stat. 481; 40 U.S.C. 609 (a), (b)); section 2 of the Act of October 10, 1940, as amended October 31, 1951 (54 Stat. 1110; 41 U.S.C. 6a); sections 3710 and 3735 of the Revised Statutes (41 U.S.C. 8, 13); section 3653 of the Revised Statutes, as amended by the Act of July 7, 1884 (23 Stat. 204; 41 U.S.C. 24); title III of the Federal Property and Administrative Services Act of 1949 as amended; section 10(a) of the Act of September 5, 1950 (64 Stat. 591; 41 U.S.C. 256a); section 510(a) of the Act of July 15, 1949 (63 Stat. 437; 42 U.S.C. 1480(a)); section 6(e) of the EURATOM Cooperation Act of 1958 (72 Stat. 1085; 42 U.S.C. 2295(e)); section 1345(b) of the Act of August 1, 1968 (82 Stat. 585; 42 U.S.C. 4081(b)).

ANALYSIS OF FEDERAL ACQUISITION ACT OF 1976

INTRODUCTION

The laws now controlling Federal purchasing have become outdated, fragmented and needlessly inconsistent. The result has been significant inefficiency and waste in Federal spending practices.

This bill would remedy the current situation by providing a new consolidated statutory base, bringing together existing statutes and modernizing them at the same time.

The focus of the modernization is to substitute effective competition by private enterprise for regulatory controls, thus reducing the regulatory burden on private industry. Effective competition and the encouragement of new technology would be stimulated by provisions which help assure independence of action by buyer and seller; encourage competitors to submit offers which provide a wide range of alternatives with differing technological concepts; reduce the opportunities for favoritism in the solicitation, evaluation and award of contracts; and reduce the barriers to competitive entry for new sellers.

Section 2, Declaration of Policy—self-explanatory.

Section 3, Definitions. Definition of "acquisition" is program oriented: covers all steps from establishing a need through contract administration.

Brings all executive agencies, military departments, wholly-owned government corporations, as well as the U.S. Postal Service, under this bill.

Covers all acquisition of property and services.

TITLE I—ACQUISITION METHODS AND REGULATORY GUIDANCE

Intent—to require that the policies and procedures set forth in this act are used for the acquisition of all property or services by the Federal Government and to require the development of a single, simplified set of procurement regulations.

This title requires that the acquisition of all property or services by executive agencies shall be made in accordance with the policy specified elsewhere in the act; and that Office of Federal Procurement Policy promulgate a single set of simplified regulations to implement the policies and procedures prescribed in the Act and report to the Congress thereon pursuant to P.L. 93-400.

TITLE II—ACQUISITION BY COMPETITIVE SEALED BIDS

Intent—to require agencies to give first consideration to the use of competitive sealed bids wherever possible; to require agencies to describe their needs in functional terms, so to encourage sellers with differing technological solutions to compete; to assure an understanding of the bid evaluation procedure by requiring its disclosure in the bid invitation and by requiring that the award be made and publicly explained in the context of the evaluation methodology.

Section 201, Criteria for Use. This section specifies seven criteria which *all* must be met in order for competitive sealed bids to be used.

Section 202, Invitation for Sealed Bids. This section establishes requirements for sealed bid advertising, and requires that the purchase description be written in functional terms so to permit a variety of distinct products or services to qualify. The methodology to be used in bid evaluation would be specified in the invitation for bids.

Section 203. Evaluation, Award and Notifications. This section requires that all bids be open publicly with appropriate prior notice, that the awards be made to the bidder whose bid conforms to the invitation and is most advantageous to the government considering all factors, and that notice of the awards be made in writing with reasonable promptness to all other bidders.

TITLE II—ACQUISITION BY COMPETITIVE NEGOTIATION METHOD

Intent—to encourage more competition, encourage independence of action on the part of contractors making proposals, and limit opportunities for the transfusion of technology among bidders. Regulatory controls would be reduced for contractors whose business is primarily commercial fixed-price and competitive. Broad access to a contractor's plant and records is provided primarily as a safeguard when the competitive sealed bid method is rejected under exceptional circumstances in favor of a single source contract.

Section 301. Criteria for Use. In order for a competitive negotiation to be used in the anticipated total contract price must exceed $10,000 and, equally important, the acquisition contemplated does not meet *any one* of the criteria that are established for competitive sealed bids in section 201.

Section 302, Solicitations. This section requires that solicitations for offers be made from enough sources so to obtain effective competition when awards which are made primarily on a basis other than price, the solicitation shall include the methodology and relative importance of the significant factors to be used in the evaluation of proposals. Solicitations would state only the broad functional requirements of the acquisition.

Section 303, Evaluation, Award, and Notifications. This section requires that competition should be sustained until sufficient test and evaluation information becomes available to narrow the choice to that preferred product which best meets the federal need at the lowest total economic cost. All discussions with the contractors would be contained to clarification or substantiation of a competitors offering.

Section 304, Single Source Exceptions. Exceptions to competitive negotiations are permitted when the agency head determines that there is only one prospective source and when the exception conforms with policies established by the Office of Federal Procurement Policy for reporting and when notification or intention to award such a contract is publicized in advance of the award.

Section 305, Cost and Pricing Data. This section requires that the contractor make available or identify with his proposals both cost and pricing data which bear on the reasonableness of the offered price. Actual submission of the data would not be required. A certification requirement ensures that the data is accurate, complete and current as of the date agreed upon between the parties. The exceptions to this certification would include instances where the contract does not exceed $500,000 (single source contracts threshold, $10,000), where the price is an established catalogue or market price of a commercial item, where the price is set by law or regulation, where price is not a significant factor in the negotiation, or where the head of an agency determines that the provisions of this section may be waived and states in writing his reasons for such waiver.

Section 306, Access to Records. This section applies to all negotiated contracts under the title. While blanket authority to gain access to records is provided, it is the intent of the legislation to clarify that such authority should not be abused. Further, the intent is to establish broader access to the company than just to data and pricing information.

Until after three years after final completion of a contract negotiated or amended under this title, the Comptroller General and the executive agency are entitled to inspect the plants, books, documents, papers or records of the contractor and the subcontractor's that pertain to the particular contract. A waiver is provided for contracts with foreign contractors or subcontractors. Such inspections shall be conducted only when necessary to insure contract performance. Multiple inspections and examinations of a contractor by more than one agency shall be eliminated to the maximum extent practical by coordinating inspections and examination responsibilities.

Section 307, Government Surveillance Requirements. A waiver from certain government surveillance could be granted if more than 75 percent of the business activity of that contractor is conducted under commercial or competitive government contracts.

TITLE IV—ACQUISITION BY COMPETITIVE SMALL PURCHASE PROCEDURE METHOD

Section 401, Criteria for Use. This section would allow the use of competitive small purchase procedures when the total contract price does not exceed $10,000. However, a contracting officer would still be permitted to use the competitive methods prescribed in Titles 2 and 3 of this Act should he choose to do so.

Section 402, Solicitations and Awards. This section would require that the award be made to the contractor offering the property or service being bid upon which would be most advantageous to the government through effective competition.

Section 403, Review of Small Purchase Ceilings. At least every three years the Administrator of OFPP would be required to review the $10,000 ceiling on the use of competitive small purchase procedures. He may find that the ceiling should be changed and this section provides a formula for adjusting the ceiling up or down.

TITLE V—GENERAL PROVISIONS

Intent—This title generally disallows practices and provides the flexibility to engage in practices and contracts which results in cost savings and reduced administrative burdens whatever of the contract mode.

Section 501, Contract Types. Section (a) would disallow the use of cost plus a percentage of cost contracting under any circumstance. However, any other type or combination of types consistent with the statute and the financial risk to the contractor may be used. Section (b) establishes fixed-price types as preferred for all contracts, with a preference for adjusting work content before cost-plus type would be used.

Section 502, Warranty Against Contingent Fees. A warranty is required by the contractor to assure that no person or selling agency has been employed or retained to solicit the contract upon any agreement of a commission, percentage, brokerage, or contingent fee, excepting bona fide employees of the contractor. In the event of a breach of the warrantee the government may annul the contract without liability.

Section 503, Cancellations and Rejections. The contracting officer may withdraw a small purchase order prior to the consummation of a contract, cancel invitation for sealed bids openings or after bid openings but before awards, or cancel a request for a proposal and reject all offers, if he feels that it is in the best interest of the government to do so.

Section 504, Multi-year Contracts. This section would allow multi-year contracts for periods not to exceed five years when appropriations are available and adequate for payment of the first fiscal year except as otherwise provided by law.

Section 505, Advanced, Partial and Progress Payments. Advanced payments would be allowed except that they shall not be in excess of the amount required for immediate contract performance and under no circumstances shall exceed the unpaid contract price. On making such payment the government shall have title to the progress payment inventory and that title may not be divested by any action of the contractor.

Section 506, Remission of Liquidated Damages. Upon the recommendation of the head of an executive agency the Comptroller General may remedy all or part of any liquidated damages provided by the contract for delay in performing the contract.

Section 507, Determinations and Findings. This section requires that determinations provided by this act may be made with respect to contracts individually or with respect to classes of contracts and shall be final. An official record shall be kept of such determinations and findings.

Section 508, Competitive Bidding Information. The contracting officer is required to refer any bids which he suspects show evidence of violation of antitrust laws or provisions of this Act to the Attorney General for appropriate action. The agency shall render all needed assistance and information that the Attorney General feels is necessary and relevant to this investigation of the matter.

TITLE VI—DELEGATION OF AUTHORITY

Intent—To recognize that agency heads, while being responsible for the actions of their agencies, need not personally approve every procurement-related action specified in this Act.

Section 601, Delegation within an Executive Agency. Agency heads may delegate any authority to make determinations except under certain sections of Title III on Competitive Negotiated Contracts relating to single-source awards and waivers from government surveillance requirements.

Section 602, Joint Acquisitions. To facilitate joint acquisitions, the head of an agency may delegate functions and assign responsibilities relating to acquisition. The heads of all agencies involved in the joint acquisition may, by agreement, delegate the acquisition functions and assign acquisition responsibility from one agency to another.

TITLE VI—AMENDMENTS AND APPEALS:

Intent—To modify and repeal existing legislation as may be necessary to achieve the purposes set forth in this act.

Section 701, contains necessary amendments to other legislation. Section 702 provides the necessary appeals to existing legislation.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 3007. A bill to provide assistance to States for extraordinary fiscal impacts resulting from development of Federal energy resources, and for other purposes. Referred jointly, by unanimous consent, to the Committees on Commerce and Interior and Insular Affairs.

Mr. JACKSON. Mr. President, I am introducing, on behalf of myself and Senator FANNIN, legislation transmitted to the Congress by the Secretary of Interior which would provide assistance to States for extraordinary fiscal impacts resulting from development of Federal energy resources.

I am sure that Senators will recall that the Senate has, on several occasions in the last two Congresses, passed legislation designed to assist State and local governments impacted by development of Federal energy resources. These bills include the Outer Continental Shelf Management Act (S. 521), the Federal Coal Leasing Amendments Act of 1975 (S. 391), the Coastal Zone Management Amendments Act (S. 586), and the Surface Mining Reclamation and Control Act (S. 7). The administration opposed the impact aid provisions in every one of these bills. I am delighted that they have finally seen the light, although the administration's proposal is considerably more restrictive than those proposals which the Senate has already passed.

I hope that this is an indication that the President will sign the bills which we will be sending to him soon, despite his previous objections.

Mr. FANNIN. Mr. President, the chairman of the Committee on Interior and Insular Affairs and I are introducing today, by request, a bill submitted to the Congress by the administration. Under cover of letters sent to the President of the Senate and to the Speaker of the House on February 4, the Secretary of the Interior transmitted the administration's draft Federal Energy Development Impact Assistance Act of 1976.

The purpose of the legislation is to provide Federal impact aid to States, units of local government and Indian tribes. The Federal impact aid would be related to the development of necessary public facilities to accommodate local population expansion occasioned by the rapid and expanded development of various energy forms. For example, virgin areas of the Outer Continental Shelf are slated for leasing in the not too distant future.

Expanded surface mining of coal in the West is already taking place. Other energy forms will also be developed on a relatively expedited basis as we strive as a nation for energy independence.

In each of these areas, employees of energy companies and their families will be arriving on the scene. Their arrival produces both benefits and burdens. The benefits will clearly entail a stimulation of the local economy. The burdens will be that in many instances schools, health facilities, and other essential public services presently in place will not be large enough to accommodate a population influx. These facilities will have to be expanded.

The bill is designed to deal equitably with the problem. Its features are outlined in the attachment to Secretary Kleppe's letter.

I am hopeful that the legislation will be given expeditious consideration by the committee and that hearings will be set for an early date.

Mr. President, I ask unanimous consent that the letter, attachment and the bill be printed in the RECORD at this point.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3007

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Energy Development Impact Assistance Act of 1976."

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that:

(i) In furtherance of the national goal of greater energy self-sufficiency, energy resources owned by the United States must be developed under policies consistent with protection of the environment, sound land and water use and community planning, and sound financial management by governments at the Federal, State, and local levels.

(ii) States, units of local government, and Indian tribes, may find it necessary to undertake planning and to provide public facilities to accommodate the additional population and economic activity that may result from development of such energy resources.

(iii) States, units of local government, and Indian tribes, may lack the ability to provide such planning and public facilities ahead of the time that revenues are generated by the additional population and economic activity.

(iv) To assist States, units of local government, and Indian tribes, to provide planning and public facilities on a timely basis, it is appropriate for the Federal Government to make needed loans, loan guarantees, and planning grants.

(v) Such Federal assistance should be administered to respect traditional functions of States, units of local government, and Indian tribes, to strengthen their long-term capacity to meet their responsibilities, and to provide broad discretion to the Governors of States and Chairmen of Indian tribes to determine the use of assistance.

SEC. 2 (b) The purpose of this Act is to provide for making planning grants to States and Indian tribes and loans and loan guarantees to States, units of local government, and Indian tribes, to assist them in the timely provision of the public facilities which may be necessitated by the development of Federal energy resources.

DEFINITIONS

SEC. 3. As used in this Act, the term:

(a) "Federal energy resources" means any energy resource which occurs (i) in lands in which the mineral estate is held in trust by the United States for the benefit of an Indian tribe, or (ii) in lands in which the United States owns the energy resource in its entirety, or (iii) in the Outer Continental Shelf as defined in the Outer Continental Shelf Lands Act, 43 U.S.C. § 1331 (a), and is limited to coal, oil and gas, oil shale, uranium, and geothermal steam and associated geothermal resources as defined in the Geothermal Steam Act of 1970, 30 U.S.C. § 1001 (c).

(b) "Additional direct employment" means the net increase in employment by firms conducting exploration, development, extractive, or on-site processing activities related to Federal energy resources; by firms offering specialized services to other firms conducting such activities; and by firms processing Federal energy resources to produce synthetic fuels. In cases where the exploration, development, extraction, or on-site processing activities involve both Federal and non-Federal energy resources, the additional direct employment shall include only that portion of total employment attributable on a pro rata basis to the Federal energy resources.

(c) "Provision of public facilities" means the acquisition (including acquisition of land and the costs of relocating individuals, families, businesses, organizations, and farm operations displaced by any acquisition hereunder), construction, or equipping of the following public facilities: schools, libraries, roads and related improvements, water supply and sewer systems, and facilities for storm water drainage, waste treatment, health care, fire protection, police, recreational participation, and governmental administration.

(d) "Fund" means the Federal Energy Development Impact Assistance Fund established by section 11 of this Act.

(e) "Secretary" means the Secretary of the Interior.

(f) "State" means a State of the United States.

(g) "Governor" means the chief executive of a State.

(h) "Indian tribe" means an Indian tribe as defined in section 4 of Public Law 93–638 with the exception of Alaskan Native villages.

(i) "Chairman of an Indian tribe" means the chairman of tribal council or the chief executive of an Indian tribe.

(j) "Unit of local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of the State or any special unit or district of the foregoing or of the State.

(k) "State agency" means a public corporate body authorized under State law to provide or assist in the provision of public facilities.

AUTHORIZATION OF ASSISTANCE

SEC. 4. The Secretary is authorized to provide assistance from the fund to States, Indian tribes, and units of local government which are affected, as determined by the Secretary, by the exploration, development, extraction, or processing of Federal energy resources. Such assistance shall include loans or guarantees of loans for the provision of public facilities, and grants for necessary planning and management for the provision of public facilities. The total amount of grants and of loans and loan guarantees outstanding at any one time shall not exceed $1,000,000,000. No grants may be made and no commitment to make or guarantee a loan may be entered into after September 30, 1989.

ALLOTMENTS

SEC. 5. (a) The Secretary shall allot such assistance to the States and Indian tribes based on a formula established by regulations which the Secretary shall promulgate and from time to time, revise, after consultation with the Governors, Chairman of Indian tribes, and affected Federal agencies. The formula shall include the following factors:

(1) The population growth (excluding temporary peaks, as defined by the Secretary) within the State or Indian reservation as projected by the Secretary to result from additional direct employment in exploration, development, extraction, or processing of Federal energy resources.

(2) The national average per capita expenditure necessary to provide public facilities eligible under this Act, not to exceed $5,500: *Provided*, That for remote areas, as defined by the Secretary, the per capita amount to be used in the formula may be increased by an amount not to exceed $1,500.

(3) Regional differences in the costs of construction as determined by the Secretary.

(4) A factor relating the need for additional public facilities to the rate of population growth occurring in the impact area, as defined by the Secretary, and caused by the activities in the exploration, development, extraction, or processing of Federal energy resources.

(b) An allotment shall be calculated not later than the time of the Federal approval of plans for the exploration, development, extraction, or processing of Federal energy resources, and shall be recalculated at the time of approval of any subsequent revisions of such plans: *Provided*, That such activities in exploration, development, extraction, or processing of Federal energy resources have received any other Federal, State, and local reviews or approvals which are required by Federal, State, and local law or regulations and which are determined by the Secretary to be essential to the timely conduct of such activities, and *Provided*, That such activities have been approved by the Federal Government not earlier than three years prior to enactment of this Act.

Planning grants shall be available for disbursal as soon after the calculation of an allotment as practicable. Assistance for the provision of public facilities shall be available for obligation thereafter upon request by the Governor or Chairman.

(c) The Secretary shall have discretion to increase an allotment for any State or Indian tribe by up to 5 percent on determination that such higher allotment is justified by special environmental circumstances.

(d) The Secretary shall, after consultation with the affected Indian tribe and States, adjust any allotment computed for an Indian tribe to reflect the extent to which needed public facilities would be provided from sources other than the tribe. In cases where the additional public facilities for an Indian tribe would be provided by a State or unit of local government, pursuant to an agreement between such tribe and a State or unit of local government, the Secretary shall transfer an appropriate portion of the computed allotment from the tribe to the State, *Provided*, That the Governor agrees that any amounts so transferred will be alloted by the Governor to provide such public facilities for the tribe.

USE OF ASSISTANCE

SEC. 6. (a) The Governor of a State or Chairman of an Indian tribe receiving an allotment shall determine the jurisdictions that will receive assistance under such an allotment. The Governor may designate the State, a State agency, or any unit of local government to receive assistance directly from the Fund. If the State or State agency receives such assistance from the Fund, such assistance may be used in any combination of direct expenditures by the State or State agency, and grants, loans, and loan guarantees from the State or State agency to units of local government: *Provided*, That such loan guarantees shall be subject to the provisions of section 7(d). Any allotted assistance not drawn upon within three years of its allotment shall revert to the Fund, except that the Secretary may extend the period of availability if he determines that delays in the exploitation of Federal energy resources warrant such an extension.

(b) The proceeds of loans made or guaranteed under this Act shall be used for the provision of public facilities to serve residents of any units of local government or Indian reservations expected to experience population growth as a result of exploration, development, extraction, or processing of Federal energy resources.

(c) Grants from the Fund shall be used for necessary planning and management for the provision of public facilities to serve residents of any units of local government or Indian reservations expected to experience population growth as a result of exploration development, extraction, or processing of Federal energy resources. Grants from the Fund shall not exceed the lesser of (1) 10 per centum of each allotment for a State or Indian tribe, or (2) $1,000,000 for each impact area as defined by the Secretary in regulations. A State, Indian tribe, or unit of local government may transfer part or all of the proceeds of grants made from the Fund to public planning agencies, as defined by the Secretary.

(d) Notwithstanding any other provision of any other act, financial assistance under this Act may be used for the non-Federal share of the aggregate cost of any project or program otherwise funded by the Federal Government which requires a non-Federal share for such project or program: *Provided*, That such project or program provides planning or public facilities otherwise eligible for assistance under this Act.

(e) The Governor of any State receiving assistance from the Fund or any State in which units of local government are receiving such assistance and the Chairman of any Indian tribe receiving such assistance shall certify each year that the proceeds are being used for the provision of public facilities consistent with any plans or planning required by or supported by Federal programs and that assistance received under this Act is being used in accordance with this Act.

LOAN TERMS

SEC. 7. (a) No loan guarantee shall be extended unless the Secretary finds that credit is not otherwise available on reasonable terms and that there is reasonable assurance of repayment. No guarantee shall be extended without the approval of the Secretary of the Treasury.

(b) Loans made from the Fund shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on municipal bonds but not less than (1) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus (2) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program, except that amounts forgiven under subsection (g) shall not be taken into account in determining such an allowance.

(c) Loans shall not be guaranteed if they bear interest or other charges that the Secretary determines to be excessive, taking into account the range of rates for similar loans and the risks assumed by the United States. The Secretary shall charge and collect fees in amounts sufficient in his judgment to cover administrative costs and probable losses on guaranteed loans.

(d) The interest paid on any obligation which is guaranteed under this Act, and received by the purchaser thereof (or the purchaser's successor in interest), shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954, as amended; but the Secretary may pay out of the Fund not more than such portion of the interest on such obligations as exceeds the amount of interest that would be due at the rate determined for direct loans in subsection (b).

(e) Loans made or guaranteed shall be repaid as determined by the Secretary, *Provided*, That the amortization period shall not exceed 20 years.

(f) In the event the borrower is unable to pay principal and interest when due, the Secretary is authorized to (1), with respect to a loan made from the Fund, permit deferral of part or all of such principal or interest payment, but any payment so deferred shall itself bear interest at the rate established pursuant to subsection (b), and (2), with respect to a loan guaranteed from the Fund, make a loan to the borrower in an amount sufficient to enable the borrower to make such payment. The Secretary is also authorized to extend the maturity of or renew any loan made from the fund for additional periods or consent to such extension or renewal of any loan guaranteed from the Fund if such extension or renewal will aid in the orderly liquidation of such loan.

(g) The Secretary is authorized to forgive part or all of the principal of and interest on any loan made from the Fund or to pay part or all the outstanding principal of and interest on any obligation guaranteed by the Fund to the extent that either the exploration, development, extraction, or processing activity or the population growth from such activity projected by the Secretary in making an allotment is not achieved and such forgiveness would be an appropriate recognition of any current and reasonably foreseeable future inability of the borrower to repay, *Provided*, That all feasible remedies, including deferrals and extensions authorized by subsection (f) have been exhausted; and,

Provided, That when the borrower is a State or unit of local government, and when the sum of the State per capita revenues and the per capita local revenues collected by the borrowing jurisdiction is less than the national per capita State and local revenues, the Secretary shall assume, for purposes of considering the current and foreseeable future ability of the borrower to repay, that the borrowing jurisdiction will increase its tax effort for the remaining term of the loan to a level which will make the aforementioned sum equal to the national per capita State and local government revenues.

Provided, That no loan, guaranteed obligation, or portion thereof will be forgiven if the Secretary determines that the projected activity was not achieved primarily because of actions initiated by the State, Indian tribe, or unit of local government to whom the loan or loan guarantee was made unless the Secretary finds that such actions were in the public interest; and *Provided*, That an amount shall be subtracted from the amount of principal and interest to be forgiven equal to the amount of any revenues received by a State under Sec. 35 of the Mineral Leasing Act of 1920 (41 Stat. 450) as amended (30 U.S.C. 191), from mineral leases on which the failure to achieve projected levels of activity is grounds for forgiveness of a loan or loan guarantee to such State from the Fund.

(h) In connection with any loan made or guaranteed under this Act, the Secretary may require the State, Indian tribe, or unit of local government to provide such security as he deems appropriate. The Secretary may take such steps as he deems necessary to realize upon any collateral in which the United States has a security interest pursuant to this section to enforce any claim the United States may have against the State, Indian tribe, or unit of local government pursuant to this Act.

ACCOUNTING

SEC. 8. Recipients of financial assistance under this Act shall keep such records as the Secretary shall prescribe by regulation, including records which fully disclose the disposition of the proceeds of such assistance, the total cost of the provision of public facilities for which such assistance was used and such other records as the Secretary may require to facilitate an effective audit. The Secretary and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records.

NONDISCRIMINATION

SEC. 9. No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Act, *Provided,* That Indian tribes are exempt from the operation of this section, *Provided, further,* That such exemption shall be limited to the planning and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

ENFORCEMENT

SEC. 10. Whenever the Secretary determines that a State, Indian tribe, or unit of local government which is a recipient of assistance from the Fund has failed to comply with the requirements of this Act or an applicable regulation, he shall notify the Governor of such State, Chairman of such Indian tribe, or chief executive officer of such unit of local government of the noncompliance and shall request the Governor, Chairman, or chief executive officer to secure compliance. If within a reasonable period the Governor, Chairman, or chief executive officer fails or refuses to secure compliance or to commence to secure and thereafter diligently to continue to secure compliance, the Secretary is authorized to (1) withdraw all or part of any outstanding allotments under this Act to the State or Indian tribe, (2) withhold all or part of any additional allotments of assistance under this Act that would otherwise be made, and (3) request the Attorney General to bring a civil action in a United States district court for such relief as may be appropriate, including but not limited to an action to recover the amount of assistance furnished under this Act which was not expended in accordance with this Act, or for mandatory or injunctive relief. Notwithstanding any other provisions of law, Acts making appropriations may provide for the withholding of any payments from the United States to the State, Indian tribe or unit of local government which may be or may become due pursuant to any law and offset the amount of such withheld payments against any claim the Secretary may have against the State, Indian tribe, or unit of local government pursuant to this Act.

FUNDS

SEC. 11. (a) There is hereby created within the Treasury a Federal Energy Development Impact Assistance Fund which shall be available to the Secretary without fiscal year limitation as a revolving fund for the purpose of this Act. The total of any expenses, grants, loans made, or loans guaranteed from the Fund in any fiscal year shall not exceed limitations specified in appropriation acts, except that renewals of loans or extensions of maturities, or other refinancing of existing loans made or guaranteed under this Act (other than increases in principal amounts) shall not count as additional loans under these limitations. A business-type budget for the Fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847–849)) for wholly-owned Government operations.

(b) (1) All amounts received by the Secretary as interest payments or repayments of principal on loans, fees, and any other moneys, property, or assets derived from operations in connection with this Act shall be deposited in the Fund.

(2) All grants, loans, expenses, including reimbursements to other government accounts, and repayments pursuant to operations of the Secretary under this Act shall be paid from the Fund. If at any time the Secretary determines that moneys in the Fund exceed the present and any reasonably prospective future requirements of the Fund, such excess shall be transferred to the general fund of the Treasury. All moneys in the Fund on October 1, 1989 and all amounts subsequently received under this Act shall be deposited in the General Fund of the Treasury.

(c) If at any time the moneys available in the Fund are insufficient to enable the Secretary to discharge his responsibilities under guarantees under this Act, he may borrow from the Treasury of the United States in such amounts as may be provided without fiscal year limitation in appropriation Acts by issuing to the Secretary of the Treasury notes or other obligations in such form and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Secretary from appropriations or other moneys available under subsection (b) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. There is authorized to be appropriated to provide capital to the Fund, the sum of $1,000,000,000 to be available until September 30, 1989.

INTERGOVERNMENTAL RELATIONS

SEC. 13. The Secretary is directed to establish appropriate working arrangements with the Governors, chairmen of Indian tribes, and Federal agencies affected by this Act. Such Federal agencies shall include but are not limited to the Department of Agriculture, the Environmental Protection Agency, the Federal Energy Administration, the Department of Commerce, the Department of Housing and Urban Development, the Department of Labor, and the Department of the Treasury. Further, the Secretary shall report to the President and Congress within 120 days of this enactment of this Act the procedures to be used to establish and to continue such working arrangements.

LABOR STANDARDS

SEC. 14. All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with funds received under this Act shall be paid wages of rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 as amended (48 Stat. 948; 40 U.S.C. 276(c)).

REGULATIONS

SEC. 15. The Secretary is authorized to promulgate such rules and regulations as he determines are necessary to carry out this Act.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., February 4, 1976.
Hon. NELSON A. ROCKEFELLER,
President of the U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To provide assistance to States for extraordinary fiscal impacts resulting from development of Federal energy resources, and for other purposes."

We recommend that the bill be referred to the appropriate Committee for consideration, and that it be enacted.

The proposed bill recognizes that there may be a need for public facilities to serve additional population in areas affected by the development of Federal energy resources. States and units of local government may lack the ability to finance such facilities in the period before State and local tax revenues are generated by the additional population and economic activity. The purpose of the bill is to establish the Federal Energy Development Impact Assistance Fund from which planning grants, loans and loan guarantees can be made to assist affected States and local governments in providing public facilities.

The operation of the Fund has been designed with several principles in mind. First, the impacts from the exploration, development, and production of federally owned energy resources on both the Outer Continental Shelf and onshore should be treated as consistently as possible. Second, in order to be equitable and efficient, Federal assistance should be available only: where needed, at the time of need, for appropriate purposes, and in appropriate amounts. Third, the States should have broad discretion in determining the types and locations of needed public facilities. Fourth, the extent of Federal management and the size of staff needed to administer the fund should be kept to a minimum. Finally, the States or localities, and ultimately the increased population, which benefit from the development of Federal energy resources and from the public infrastructure built pursuant to this Act should bear final financial responsibility except in cases where the projected exploration, development, extraction or processing activities are not achieved due to circumstances beyond such State or locality's control.

We believe that enactment of this bill would provide an efficient, equitable and consistent approach for assisting States and localities affected by outer continental shelf oil and gas development as well as coal and other energy resources to be developed onshore. It would meet the recognized needs of States and localities without placing a heavy burden on the Federal taxpayer and without undue Federal intrusion into the management of State and local affairs. It would encourage State and local jurisdictions to place the State and local public costs of Federal energy resource development, upon the population increases and new economic activities generated by that development. We believe that the merits of this proposal warrant its passage by the Congress and thus recommend its enactment.

The Office of Management and Budget has advised that this draft bill is in accord with the program of the President.

Sincerely yours,

THOMAS J. KLEPPE,
Secretary of the Interior.

SUMMARY OF THE PROPOSED BILL

The proposed bill establishing a Fund of $1 billion to be administered by the Secretary of the Interior. Assistance from the Fund will be allotted to the States by the Secretary using a formula based on the additional employment and population growth projected for Federally owned extractive energy resources developed under Federal approvals such as OCS development plans and coal mining plans approved by the Secretary. The formula will also include the average per capita costs of public facilities, a factor related to the rate of population growth caused by the Federally related activities, and adjustments to reflect differences in public facilities costs from State to State. The formula is intended to minimize the Federal effort required to administer the program while equitably focusing assistance on the need.

The Governor of a State receiving an allotment from the Fund would be given broad discretion to determine the manner of its use and the jurisdictions and projects to receive assistance. Up to 10 percent of the allotted assistance may be taken in the form of grants from the Fund for community facilities planning and for the planning, design and management of construction of the facilities to be financed from the Fund. The Governor may take the allotted assistance as loans or loan guarantees from the Fund directly to the State or to units of local government. Proceeds of loans or guaranteed loans to the State may be passed along to localities in the form of grants from the State.

Assistance under the proposed bill must be used for public facilities serving residents of areas expected to experience population growth as a result of Federal energy resource development. Eligible facilities include water supply, storm water drainage and sewer systems, waste treatment facilities, roads and related improvements, health care facilities, schools, libraries, public safety facilities and facilities for recreational participation. Land acquisition, construction, and equipment costs may all be covered by the Fund. Loans and loan guarantees under the Act will be made at rates equal to the higher of the rate for municipal bonds or the Federal market rate plus an allowance for administrative costs and losses.

Loans and guarantees made from the Fund will be forgiven by the Secretary to the extent that energy resource development activities fail to achieve projected levels. The amount of forgiveness will be offset by any revenues received by the State from the energy resource development under the Mineral Leasing Act of 1920. No forgiveness will be made if the failure to reach projected levels results primarily from actions initiated by the State or local governments unless these actions are found by the Secretary to be in the public interest.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that a bill introduced earlier today relative to fiscal impacts from development of Federal energy resources, be referred jointly to the Committees on Commerce and Interior and Insular Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. GOLDWATER:

S.J. Res. 171. A joint resolution proposing an amendment to the Constitution limiting the eligibility of Representatives and Senators for the Presidency and Vice Presidency. Referred to the Committee on the Judiciary.

CONSTITUTIONAL AMENDMENT KEEPING INCUMBENT MEMBERS OF CONGRESS FROM RUNNING FOR PRESIDENT

Mr. GOLDWATER. Mr. President, it is a great pleasure for me to join today with my distinguished colleague from Arizona in the House of Representatives, the minority leader, Mr. JOHN RHODES, in offering a proposed constitutional amendment to keep Members of Congress from running for the Presidency at the same time that they are serving as incumbents in either the House of Representatives or Senate.

Mr. President, I know something about this subject having campaigned for the Presidency in 1964. I recall that I had one of the worst voting records in the Senate during that period. When John Kennedy ran for President, he had an even worse voting record. The only difference is that he got elected and I did not.

Looking back on that episode and viewing the current situation in which we have numerous Members of Congress openly seeking the Presidency, I now believe it is best for the effective operation of our system of government that Members of Congress should be kept out of Presidential campaigns unless they have given up their seats. In a republic where our entire form of government depends upon the proper functioning of a representative system, as contrasted with a pure democracy in which all citizens might gather together in an enormous coliseum and speak their voice at one time, it is critical that we who have been elected as representatives of the people shall devote our fullest capacities to the faithful discharge of that responsibility. In other words, I believe it is disruptive to the leigslative process as intended by the Founding Fathers to have a sizable number of men and women elected to Congress who are running around the country on the taxpayer's time seeking support for their Presidential campaigns.

Moreover, there is involved here an important principle of preserving the separation of powers between State governments and the Federal Government and between the legislative and the executive branches. We in the Senate, of all people, should remember that it is the expectation of the framers of the Constitution that the Senate shall be an instrument for preserving the residuary sovereignty of the individual States. Madison stated in the Federalist Paper 62 that by giving each State an equal vote in the Senate, the framers meant that large and small States together would be able "to guard, by every possible expedient, against an improper consolidation of the States into one simple republic."

We might also recall the message to the House of Representatives in 1796 by President George Washington who, drawing upon his experience as presiding officer at the Constitutional Convention, admonished Congress to uphold this principle. He informed Members of Congress:

> It is a fact declared by the General Convention, and universally understood, that the constitution of the United States was the result of a spirit of amity and mutual concession. And it is well known that, under this influence, the smaller states were admitted to an equal representation in the Senate with the larger states; and that this branch of the government was invested with great powers; for on the equal participation of those powers, the sovereignty and political safety of the smaller states were deemed essentially to depend.

How, I must ask, can this fundamental design of the framers be carried out if numerous Members of this body are aiming their sights at the Presidency? Even if they should find the time to attend to their duties as a Senator, does not the mere fact of their campaigning for a distinct office with a national, rather than a State constituency, have an inevitable impact on their public positions? Whether they do so consciously or not, it is hard to believe that Senators who seek the Presidency would not act differently than they would if they were giving their full attention to upholding the interests and welfare of the sovereign people in their individual States.

Accordingly, Mr. President, I believe it is consistent with the principles of the system of Government prescribed by the Constitution of the United States and the doctrine of separation of powers, as well as with the duties and responsibilities of a Senator to the citizens of the State which he represents, to prohibit an incumbent Member of Congress from campaigning for the Presidency. The proposed constitutional amendment which Congressman RHODES and I are offering today would do exactly that by making incumbents ineligible for the Presidency and Vice Presidency, except in the case of an unnatural vacancy, for a minimum of 2 years after the conclusion of his or her congressional term.

The same objective might also be achieved with different language or even by making an amendment to the Standing Rules of the Senate and House of Representatives, respectively, and I am not wedded to this particular legislation. I do believe the issue involved should be considered and a constitutional amendment is a fitting way to have that done.

Mr. President, the proposed constitutional amendment is self-explanatory, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 171

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

"Article —

"Section 1. Except as provided in section 2 and section 3, no person who is or has been a Representative or Senator shall be eligible to become President or Vice President until the end of the 2-year period beginning on the last date on which such person was a Representative or Senator.

"Sec. 2. This article shall not prevent any person from becoming President or Vice President in accordance with the twenty-fifth article of amendment to this Constitution or in accordance with a law establishing an order of succession of officers to the Presidency; this article shall not prevent any person from discharging the powers and duties of the President in accordance with such article or such law; and this article shall not prevent any person who became President or Vice President, or who discharged the powers and duties of the President, in accordance with such article or such law, from becoming President or Vice President for the term beginning next after the term during which such person became President or Vice President, or discharged the powers and duties of the President, in accordance with such article or such law.

"Sec. 3. This article shall not prevent any person who, on the effective date of this article, is President or Vice President from completing the term which such person is serving.

"Sec. 4. This article shall take effect at the end of the 2-year period beginning on the date on which the ratification of this article is completed.".

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 2020

At the request of Mr. Ribicoff, the Senator from Colorado (Mr. Haskell) was added as a cosponsor of S. 2020, a bill to provide medicare coverage for optometric services.

S. 1223

At the request of Mr. Bayh, the Senator from Texas (Mr. Bentsen) was added as a cosponsor of S. 1223, a bill to discourage the use of painful devices in the trapping of wild and domestic mammals and birds.

S. 2510—WITHDRAWAL

At the request of Mr. Gravel, the Senator from Ohio (Mr. Taft) was withdrawn as a cosponsor of S. 2510, relating to the transportation of North Slope natural gas supplies.

S. 2812

At the request of Mr. Percy, the Senator from Indiana (Mr. Hartke) and the Senator from Vermont (Mr. Leahy) were added as cosponsors of S. 2812, the Regulatory Reform Act of 1976.

S. 2832—WITHDRAWAL

At his own request, the Senator from Illinois (Mr. Percy) was withdrawn as a cosponsor of S. 2832, a bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations.

S. 2881

At the request of Mr. Fannin, the Senator from Ohio (Mr. Taft) was added as a cosponsor of S. 2881, a bill to amend the Education Amendments of 1972.

S. 2903

At the request of Mr. Beall, the Senator from Mississippi (Mr. Eastland) was added as a cosponsor of S. 2903, a bill to permit the review of regulatory rules and regulations by the Congress.

S. 2910

At the request of Mr. Schweiker, the Senator from Tennessee (Mr. Brock) was added as a cosponsor of S. 2910, a bill to establish the National Diabetes Advisory Board and to insure the implementation of the long-range plan to combat diabetes.

S. 2911

At the request of Mr. Schweiker, the Senator from Massachusetts (Mr. Brooke) and the Senator from California (Mr. Tunney) were added as cosponsors of S. 2911, a bill to amend the Federal Election Campaign Act.

S. 2939

At the request of Mr. Schweiker, the Senator from Pennsylvania (Mr. Hugh Scott) was added as a cosponsor of S. 2939, a bill to provide a special program for financial assistance to opportunities industrialization centers.

S. 2986

At the request of Mr. Griffin, the Senator from Oregon (Mr. Hatfield) was added as a cosponsor of S. 2986, a bill to amend the Housing and Community Development Act of 1974 to provide supplemental community development assistance to areas with high unemployment.

SENATE JOINT RESOLUTION 127

At the request of Mr. Bayh, the Senator from California (Mr. Cranston) and the Senator from Minnesota (Mr. Mondale) were added as cosponsors of Senate Joint Resolution 127, to restore posthumously full rights of citizenship to Eugene Victor Debs.

SENATE RESOLUTION 392—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF HOUSE JOINT RESOLUTION 801

(Referred to the Committee on the Budget.)

Mr. PASTORE (for Mr. Bayh), from the Committee on Appropriations, reported the following original resolution:

S. Res. 392

Resolved, That pursuant to Section 303(c) of the Congressional Budget Act of 1974, the provisions of Section 303(a) of such Act are waived with respect to the consideration of H.J. Res. 801. Such waiver is necessary because the resolution contains advance appropriations of $1,226,000,000 for fiscal year 1977 for the purchase of ConRail stock. Such advance appropriation was requested by the United States Railway Association and is an essential element in the Government's presentation to a Special Court which will review the "fairness and equity" of the overall proceedings under Public Law 94–210.

SENATE CONCURRENT RESOLUTION 95—SUBMISSION OF A CONCURRENT RESOLUTION TO DESIGNATE NATIONAL PHYSICAL EDUCATION AND SPORTS WEEK

(Referred to the Committee on the Judiciary.)

Mr. BAYH submitted the following concurrent resolution:

S. Con. Res. 95

Whereas, physical activity is essential to health and the total development of all people, and

Whereas, it is essential that children have the opportunity to develop their full potential through a total education, and

Whereas, it is imperative that children learn the sports and other physical skills that lead to participation and enjoyment throughout life, and

Whereas, it is necessary for all Americans to take part in the expanding opportunities in sport and recreation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That this Nation observe National Physical Education and Sports Week, March 1 through 7, with appropriate ceremonies and activities.

Mr. BAYH. Mr. President, it has long been recognized that good physical fitness is important for the total health of people and that regular exercise or participation in a sport is one of the best ways to insure a long and healthy life. It is most essential to instill a love of sports and exercise in young people so that the habit of good exercise will be continued throughout their lives.

Having a father who was active in physical education from his work as director of physical education for the District of Columbia schools to his refereeing of basketball games in Indiana, I grew up with the recognition that exercise and participation in sports is a necessary part of being a well-rounded individual.

Through organizations such as the American Association for Health, Physical Education and Recreation, I hope that appropriate activities will be planned throughout this Nation to observe National Physical Education and Sports Week, March 1 through 7, and that participation in exercise and sports will continue to play a regular part in the lives of all our citizens throughout the entire year.

AMENDMENTS SUBMITTED FOR PRINTING

FEDERAL EMPLOYEES' POLITICAL ACTIVITIES ACT—H.R. 8617

AMENDMENTS NOS. 1408, 1409, AND 1410

(Ordered to be printed and to lie on the table.)

Mr. FONG. Mr. President, on December 15, I submitted six amendments to H.R. 8617, the proposed Federal Employees' Political Activities Act. These amendments were printed as No. 1272, No. 1273, No. 1274, No. 1275, No. 1276, and No. 1277.

Technical changes are necessary in the first three amendments, and I now submit the revised amendments for printing as substitutes to amendments No. 1272, No. 1273, and No. 1274.

The PRESIDING OFFICER. The amendments will be received, printed, and will lie on the table.

NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I wish to give notice that a public hearing has been scheduled for Thursday, February 26, 1976, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nomination:

Jean McKee, of New York, to be Deputy Administrator of the American Revolution Bicentennial Administration, vice Marjorie W. Lynch.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

HEARING NOTICE

Mr. BUMPERS. Mr. President, I announce that the Subcommittee on the Upper Atmosphere of the Committee on Aeronautical and Space Sciences will hold 2 days of hearings on matters dealing with the upper atmosphere.

On February 25 the subcommittee will examine NASA's plan for its program on upper atmospheric research, technology and monitoring. On March 1 we will hear witnesses on the effects of reduced stratospheric ozone on the Earth's biological systems and on weather and climate.

Mr. President, I ask unanimous consent that the witness list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

WITNESS LIST

Hearings on matters relating to stratospheric ozone by the Subcommittee on the Upper Atmosphere:

February 25, 1976, 9:30 AM—

Subject: NASA's plan for its program on upper atmospheric research, technology and monitoring.

Dr. Noel W. Hinners, NASA's Associate Administrator for Space Science.

Dr. Thomas M. Donahue, Department of Atmospheric and Oceanic Sciences, University of Michigan, Ann Arbor.

Dr. Frank Hudson, Sandia Laboratories, Albuquerque, New Mexico.

Dr. James P. Friend, Department of Chemistry, Drexell University, Philadelphia.

Dr. John C. Gille, National Center for Atmospheric Research, Boulder, Colo.

March 1, 1976, 9:30 AM & 1:30 PM—

Subject: The effects of reduced stratospheric ozone on the earth's living systems and on weather and climate.

Dr. William H. Klein, Director, Smithsonian Radiation Biology Laboratory, Rockville, Md.

Dr. Frederick Urbach, Chairman, Department of Dermatology, Temple University, Philadelphia.

Dr. D. T. Krizek, Plant Stress Laboratory, Beltsville Agricultural Research Center, U.S. Department of Agriculture.

Dr. Martin M. Caldwell, Dept. of Range Sciences, Utah State University, Logan.

Dr. Robert White, Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

Dr. H. Guyford Stever, Chairman, Federal Council on Science and Technology.

Dr. Robert Dickinson, National Center for Atmospheric Research, Boulder, Colo.

Dr. Joseph Smagorinsky, Director, Geophysical Fluid Dynamics Laboratory, Princeton University.

NOTICE OF NOMINATION HEARING

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Public Welfare has scheduled a hearing on Wednesday, February 25, 1976, at 3 p.m. in room 4232, Dirksen Senate Office Building, on the nomination of Daniel E. Leach, of Virginia, to be a member of the Equal Employment Opportunity Commission.

Persons wishing to testify or submit statements, please contact Donald Elisburg, General Counsel, Committee on Labor and Public Welfare, room 4233, Dirksen Senate Office Building. Telephone 224-7663.

NOTICE OF HEARINGS ON JUDICIAL TENURE ACT

Mr. BURDICK. Mr. President, I wish to announce that open public hearings will be continued by the Subcommittee on Improvements in Judicial Machinery on S. 1110, the so-called Judicial Tenure Act, a bill to establish a procedure, in addition to impeachment, for the retirement or the removal of justices and judges. The hearings will be held on February 25, 26; March 10 and 11, 1976, in room 457, Russell Senate Office Building, commencing at 10 a.m. each day.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with the subcommittee office, 6306 Dirksen Senate Office Building; telephone 224-3618.

NOTICE OF HEARINGS ON PATRIOTS POINT BID FOR N.S. "SAVANNAH"

Mr. HOLLINGS. Mr. President, I wish to announce that the Merchant Marine Subcommittee of the Senate Commerce Committee has scheduled hearings for 2 p.m., Friday, February 20, on S. 2142, South Carolina's proposal to acquire the N.S. *Savannah* at the Patriots Point Naval and Maritime Museum at Charleston.

Robert J. Blackwell, head of the Maritime Administration, has agreed to testify on his Agency's plans for the *Savannah* during the hearings.

I have called the hearings to air plans by all parties and to expedite legislation which would allow the Patriots Point Authority to acquire the nuclear merchant vessel.

I am not certain that it is economically feasible for the State to acquire the *Savannah*, but Governor Edwards feels the State ought to go ahead and acquire the ship. I want to help the Governor, so I am going to try to expedite the bill.

The main issues surrounding the State's acquisition of the ship include whether the Maritime Administration will donate the ship or lease it, who will be responsible for maintenance and whether money that would have been spent to mothball the ship can be used to ready the vessel for display.

Patriots Point officials have said that they would be ready on Friday to testify on their arrangements for transferring ownership of the *Savannah*.

Since the Maritime Administration is moving to put the *Savannah* in mothballs by the end of March, we must move quickly. I have called these hearings to iron out the final details and to move the authorization bill through the Congress as quickly as possible.

NOTICE OF ANNUAL ORGANIZATIONAL MEETING OF THE SENATE SMALL BUSINESS COMMITTEE

Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business will meet on Wednesday, February 25, at 10 a.m. in room 322, Russell Senate Office Building, for the purpose of discussing committee business and adopting its work program for the second session of the 94th Congress. The meeting will be open to the public.

ADDITIONAL STATEMENTS

ESTATE AND GIFT TAX REFORM

Mr. MONDALE. Mr. President, one of the most serious problems confronting America's farmers and small businessmen is the terribly unfair burden imposed by present estate and gift tax laws. As a result of these present conditions, thousands of small family farms and businesses are being sold because the heirs simply cannot afford the staggering costs that are involved. The present estate tax exemption of $60,000 has remained unchanged since 1942. However, since that time, prices have increased by 224 percent. Today the cost of land and the equipment necessary to operate even a small family farm is at least $300,000. The value of a small business has also increased in a similar fashion.

Mr. President, family farms and businesses are vitally important to American society. Small businessmen have been shown to pay an effective tax rate of twice that of their larger competitors. They are at the forefront in hiring additional employees during an economic upturn. The owners of family businesses and farms play significant roles in the civic affairs of their communities. This country simply cannot afford a situation in which antiquated tax policies inadvertently force these enterprises out of existence.

Last summer Senator HUMPHREY and I chaired hearings in our home State of Minnesota on this matter. The testimony we received revealed how serious this problem has become to the farmers and small businessmen of Minnesota. Often they have devoted the major parts of their lives and their resources to these endeavors, and one of their strongest desires is to transfer these businesses or farms to their heirs at their deaths. I believe it is essential that we make major changes in the estate and gift tax laws to permit these aspirations again to become possible.

Last fall I introduced a bill that would raise the level of the estate tax exemption immediately from its present $60,000 to $150,000. This increase would help to make up for the decline in its real value over the last 34 years. My bill would also permit family farms to be valued for estate tax purposes as farmland rather than for commercial development, when the intent of the heirs is to continue the farming operation. This provision prevents the imposition of an unbearable estate tax which forces sale of the farm. My bill would also return the interest rate on installment payments of the estate tax to 4 percent and create more flexible terms for the extension of this repayment period.

I am also primary sponsor of similar legislation, the Small Business Estate and Gift Tax Reform Act. This bill was recently introduced by my colleague, Senator NELSON, chairman of the Senate Select Committee on Small Business, on which I am proud to serve. I commend the committee and its distinguished chairman for their role in promoting this most important initiative.

Mr. President, a recent article in the New York Times demonstrates the severity of this problem for farmers nationwide. It documents examples of the human tragedy which the present laws inadvertently create. It also reports projections that as many as 200,000 to 400,000 family farms may disappear yearly if today's trends are not reversed. From meetings I held last week with groups of farmers and small businessmen in Minnesota, I can attest that this legislation is foremost in their minds.

I am convinced that the time for enacting major changes in our estate and gift tax laws is at hand. I urge my colleagues to consider these matters and to act favorably on them during this session.

Mr. President, I ask unanimous consent that the New York Times article to which I have referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DEATH TAXES COMPELLING HEIRS TO SELL FARM LAND

(By Roy Reed)

SPRINGFIELD, NEBR.—Lloyd Royal, 59 years old, drives a 7-year-old Chevrolet with 110,000 miles on it. He lives in an ordinary farmhouse next to a barn lot. If anyone called him rich, he would laugh.

But if he died his wife, Doris, would have to pay $32,000 to the Internal Revenue Service in Federal estate taxes. That's because their modest farm has quadrupled in value since they bought it, thanks to inflation and spiraling land prices. They have become "paper rich."

"There's an old saying that a farmer lives poor and dies rich," Mrs. Royal said this week. "If he died, I'd be in the job market and probably at the minimum wage, because the only thing I know anything about is farming."

Death taxes are making it increasingly difficult for farm families to keep their land. Children who inherit land usually pay even higher taxes than spouses. Just this week, a man near here had to sell his parents' 80-acre farm to pay the death taxes. He sold it to one of the largest landowners in the area—a pattern that has become familiar in the farm country here and elsewhere.

Farmers in New Jersey and on Long Island have also told of hardships because of the tax structure—and many are seeking change.

The inflated land prices that have caused death taxes to become a problem are also keeping young people from entering farming. It now takes at least $250,000 by many estimates to start farming after high equipment prices are added to high land prices.

From her kitchen table, Mrs. Royal has set out to change what she and many others regard as an absurdity in the tax law. She and a handful of friends have rounded up 70,000 petition signers in 42 states asking Congress to act on it.

This election year is apparently going to bring a new attack on the problems of death taxes and prohibitive start-up costs for farmers.

President Ford and several members of Congress have proposed legislation to make estate taxes more bearable for all small and middle-sized estates, including those of farmers. The proposals vary widely.

Senator George McGovern, the South Dakota Democrat, and 16 other Senators representing varied philosophies have introduced another bill to have the Federal Government buy land, lease it to young farmers, then sell it to them at a reduced price after seven years' labor.

The Young Farmers' Homestead Act, as the bill is called, has drawn favorable attention from such varied sources as the National Farmers Union and Progressive Farmer Magazine.

Progressive Farmer, a generally conservative publication, cited projections that 200,000 to 400,000 farms a year would disappear for the next 20 years if today's trend was not stopped.

"The legislation faces up squarely to what probably has to be done if not-rich but bright youngsters are really going to get into ranching or farming for themselves," it said in its January issue.

Estate taxes were no problem to farmers until a few years ago. Federal law exempts the first $60,000 of an estate from the death tax. Most farms were worth nowhere near that when that law was written in 1942.

W. Fred Woods, an economist with the Agriculture Department, estimates that the average value of farm assets in the United States was only $51,440 in 1960. By 1974 that had climbed to $169,744.

Farm values have continued to rise. Land prices in eastern Nebraska are going up more than 20 percent a year, according to observers.

TYPICAL ESTATE: $320,000

In 1960 the Royals paid $72,0000 for their 240 acres—a small farm by Nebraska standards. Today, the land alone would cost close to $300,000. The Royals have become rich in the eyes of the Internal Revenue Service, even though they live little better than they did in 1960.

Gilbert Brody, president of the Wisconsin division of the National Farmers Union, says a farmer who earns $10,000 to $12,000 a year typically leaves an estate valued at about $320,000.

His widow pays a Federal estate tax of $20,200 on that, in addition to smaller state inheritance taxes.

When she dies, the children pay $83,190 in estate taxes, their share being larger because they do not receive the 50 percent marital deduction. According to Mr. Brody, the children probably will have to sell the farm to pay the death taxes.

President Ford has proposed delaying the payment of those taxes until five years after the death of the owner. Then the heirs could elect to pay the tax over 20 years, with the addition of 4 percent interest. Heirs may now stretch the payment over 10 years, but at an interest rate of 7 percent.

Mr. Ford's 20-year proposal would apply only to the first $300,000 of an estate. Descending benefits would be allowed up to $600,000, after which the present 10-year stretch-out provisions would apply.

$200,000 EXEMPTION PROPOSED

The Royals and their friends do not think much of the Ford proposal. They regard it simply as a postponement of an unjust debt.

"What on earth good is that when you don't have that kind of money in the first place?" a California woman said in a letter to Mrs. Royal.

At least 10 bills pending in the Senate would raise the $60,000 exemption to $200,000 on all estates, farmers' included.

Other bills would require the I.R.S. to assess farmland at its agricultural value and not at the "fair market value" it would bring if sold for some other use.

Land values here are being pushed up by the growth of Omaha, which is less than 25 miles from the Royals' farm. As the city pushes out, it absorbs farmland at dizzyingly inflated prices and converts it into housing developments and shopping centers.

Many argue that farmers would be less likely to sell to developers if their land was assessed at its value for farming and not for commercial or residential use.

Arthur H. West, president of the New Jersey Farm Bureau, said that Federal estate taxes, inflation and the system of appraising property had imposed unfair burdens on farmers. He added that many New Jersey farmers were actively supporting proposed legislation that would require that the assessment of a property be based on its value for farming.

Mr. Woods, the economist, warned in a recent interview in Washington that changes in the estate tax law should be made carefully if they are not to exacerbate the problem.

Assessing land at its value for farming or as open land instead of at fair market value could result in a low-tax device for the wealthy in passing their estates on to their heirs, he said.

"That would run up farmland prices and make it more difficult for producing farmers," he said.

LETTERS OF HARDSHIP

No one knows how many farmers have had to sell land to pay estate taxes, but there are indications that this is happening more often.

Thomas Pulaski, who used to own a 25-acre potato field near Riverhead on Long Island, says he sold his farm because of his tax bill. He drives a truck for a living.

Mr. Pulaski, who lives in Coram, L. I., said: "If I had decided to stay on my farm after my father's death, I'd have spent half my lifetime paying off loans through which my taxes would have been paid." He sold his property to a real-estate developer and made $6,000 profit—after taxes.

Suffolk County, New York State's largest agricultural county because of its potato and cauliflower crops, is trying to encourage farmers to stay by means of a farmland preservation program. In a $60-million project, the county is buying development rights—not the fee title—to the existing 57,000 acres of farmland. In effect, a farmer will get the market value of the property from the county and may keep the land. But he must agree not to use the land for any purpose other than agriculture.

More than half of 258 farmers surveyed last month by the Wisconsin division of the National Farmers Union said they had known farm families that had had to sell all or part of their farms to pay estate taxes.

Many of those who have written to Mrs.

Royal have told of hardships caused by the tax. After her campaign was described by the Farm Journal last fall, the magazine received a letter from William Jones of Lakeport, Calif.

"Our orchard land has been in the family for over 100 years," he wrote, "and now because of this unfair tax in an inflationary period, the resources of the family (never more than provided a living for the family during the past 30 years) is now about to be confiscated by the Government for taxes."

Another Californian, William G. Cox of Capistrano Beach, wrote that his family had already lost its farm because of an exorbitant estate tax bill after his mother's death.

"The I.R.S. is killing the goose that lays the golden egg," Mr. Cox wrote. "The big corporations that are buying up the small farms will never pay another death tax on the land because a corporation never dies. Forming trusts and corporations within families seems to be the only way to go now."

Dixon G. Adams, a Springfield lawyer who is donating time to Mrs. Royal's campaign, estimates that 40 or 50 of Sarpy County's 600 farms have been incorporated in recent years to escape or lessen the impact of death taxes. But many farmers resent that alternative. They feel that incorporation would impose more bookkeeping and "red tape" and would diminish their independence. Mr. Adams agrees.

"I don't want to construct a scheme where a farmer has to have a lawyer and a C.P.A. riding on the tractor with him," he said. "We are doing it, though, because of necessity."

Many of the farm wives who write to Mrs. Royal complain of what they believe to be sex discrimination in the Federal tax law. These women dislike being treated in the same way as wives of city residents and millionaires.

Federal law allows a widow to deduct from her tax payment any financial contribution she has made to the family estate, but only if she can prove it with payroll check stubs or the like. Simply working shoulder to shoulder with her husband on the farm for 30 or 40 years is not enough for the I.R.S.

Resentment against that drew Mrs. Royal into her campaign. "I got started one day during the blizzard of 1975," she said. "I had been out in the snow all day helping get the cattle into the barn and then throwing hay to them and getting everything ready for the storm.

"I got back in the house after dark, worn out, and I said, 'Lloyd, do you realize that I haven't contributed a dime to this farm today, according to the I.R.S.?' If he'd have dropped dead the next day, I hadn't done anything at all the day before, as far as they were concerned at the I.R.S."

Mary Heath is a rancher in the sparse sand hills of northern Nebraska, where the grass is so thin that it takes 20 acres to sustain one cow, and where the winters are so grim that only the hardiest can survive.

Her husband, Floyd, died a year and a half ago. She inherited a $40,000 debt along with the ranch. Cattle prices have been depressed for three years.

Now she has had to borrow another $5,000 from the bank to make the first payment on her estate tax. The tax, by her figuring, is $28,000. She has been waiting for months to learn whether the Internal Revenue Service will settle for that.

"When the Government takes my place away from me, it takes my livelihood," she wrote to Mrs. Royal. "I don't know where I can get a job at my age [55] and I'm not old enough for Social Security. This is all the work I know how to do. I wouldn't even be able to get housework for I'm not much good at that, either. My work has been with cattle and hogs.

"'I had worked alongside of him from the time we got this place. I don't consider this place a gift. It makes me sick to think I'll lose everything my husband and I worked for. Unless times get better it could very well happen."

GOVERNMENT REGULATION: A TIME FOR CHANGE

Mr. FANNIN. Mr. President, Government regulation has been with us for nearly a century. What began in 1887 as an attempt to deal with the problems of monopoly through the creation of the Interstate Commerce Commission has grown, on the Federal level alone, to the use of some 63,000 people in 33 agencies and about 230 bureaus, regulating nearly all sectors of the economy, at a direct cost to the American people of nearly $4 billion per year.

The rationales for Government regulation are many. They range from the presence of a natural monopoly to the case of excessive or destructive competition. Nearly all regulation is based on the premise that economic markets are fragile and, if left alone, are sure to operate in an inefficient and inequitable manner. As a result, we in Congress have responded to the public's cries for actions by enacting laws to rectify the situation and by creating agencies to administer these laws. These agencies then go to work, acting in what they believe to be the "public interest," and in so doing they often create more and more bureaucratic redtape and delay.

Government regulation has an important role to play in America today. Certainly, regulation has helped curtail certain abuses of the free market—abuses from which the American public most certainly wants and deserves to be protected. But, regulation has been a total failure in many other respects. Not only has it often failed to meet its proponents' stated goals, but regulation itself has often created more problems and more market failure than were present in the first place.

It would be overly simplistic to state that all regulation is unnecessary and imprudent. As with almost all actions we in Congress take, the best of objectives have been behind the creation of regulatory agencies: to deal with the problems of natural monopolies and market "imperfections"; to control those "externalities" which cannot be accounted for by free markets; to prevent excessive or "destructive" competition; and, quite simply, to serve what we perceive to be the public interest. Yet, we have often been at fault in that we have failed to subject Government regulation to the continued reexamination which it merits. Whatever the rationale for regulation, once established, it has a tendency to proliferate. Now is the time for that critical reexamination to take place.

It is important to distinguish between what are really two types of regulation. There is health and safety regulation dealing, for example, with drugs or food or automobiles, and there is economic regulation, dealing with the setting of rates or the operation of certain procedures in a given industry. It has generally been our intention when legislating health and safety regulations to protect the public from dangers over which they have little or no control. And we have done so by giving to an agency or commission the power to regulate one facet of a company's operation. In marked contrast is the way in which we have handled economic regulations. Here, we have tended to create agencies and commissions with the mandate to regulate the broad range of activity in a particular industry.

The maze of Government regulations has helped to make our lives increasingly more complex. We all want to live in an orderly and well-run society, and few people honestly believe that this can be done without any regulation whatsoever. In the times of a constantly expanding economy, we could fairly easily afford to pay the price of an increasingly regulated economy. However, in a time of high inflation and unemployment, with an economy that is showing some limits, with the rapidly escalating costs of running the Government, with the ever increasing snarls and inefficiencies of the Government bureaucracy, it is high time that we in the Congress take a most critical and detailed look at what we have gotten in return for the price we must pay. We must ask ourselves, in each and every case, whether we have truly served the public interest. Regulation has grown to such an extent that it now takes a battery of lawyers, accountants, and other specialists just to keep up with what we have done, not to mention bringing companies into compliance with the maze of requirements legally binding on them. Many of the regulations now in effect are old and archaic. As such, they represent the economy as it was when they were enacted, and not necessarily as it is today. We must reduce or eliminate those regulations that no longer serve us well, either because the reasons for their original enactment are no longer valid, or because they do not have a measurable and favorable cost-benefit ratio.

Regulation is costly. The administrative costs of the army of enforcers has nearly doubled in the last few years and is now in the neighborhood of $4 billion. But that is only the tip of the iceberg. There are other "hidden" costs to the consumer that are far larger—the added expenses of complying with Government regulations. And let no one doubt that it is the consumer, rich or poor, working, on a fixed income or on welfare, in all parts of the Nation, who ultimately must bear the cost of our actions. Those indirect costs are by now quite substantial. Imagine for a moment what we now require of the businessman in America, small or large: An expensive and time-consuming process of submitting reports, filling out questionnaires, replying to orders and directives, and the appeal of some rulings in the courts. In addition, there is the cost of compliance itself. And, an often overlooked cost is the reduced rate of technological innovation, caused largely by regulatory lag.

The consequences of unnecessary or excessive regulation are becoming more and more substantial. Generally they can be characterized in four ways: The loss of jobs and wages; the lowering of our standard of living; the higher cost of goods and services; and the need for higher taxes to support the regulators and their activities. All of these are real and cannot be ignored. Each and every time a new regulation is issued, somebody must pay and somebody will lose. Workers lose because capital is diverted from its most productive uses into requirements to comply with Government regulations, thus providing for lower wages and fewer jobs. The general public suffers a lower standard of living and a higher rate of inflation. This is especially taxing on those with low or fixed incomes. Most of us would not dare to increase the taxes the American people must pay, yet we do not hesitate for 1 minute to tax them in more devious and often counterproductive ways. That is unfair and unwise. Yet we must also find a way to pay for our army of Government enforcers. If we are not willing to do this by raising taxes, then we do so in other, equally painful ways. We do so by diverting funds from other areas that may well prove more valuable and more beneficial. Are we truly acting in the public interest?

The regulators, this fourth branch of Government that we have created, have all the problems and faults inherent in any Government bureaucracy plus some peculiar ones of their own. Often, the regulators come from the industry which they are regulating or they become the captives of that industry. While the captive theory sheds light on the incentives facing a regulator, it does not provide the complete picture. More often than not the problem is just the converse of the regulators being captured by the industry. Most Government regulators have little or no experience in the areas which they are trying to regulate. This causes numerous problems. They have little or no concern for the costs, both hidden and direct, which are imposed on the consumer by regulation. Their sole concern is often getting what they consider to be the right solution, with little regard to the means of getting there or whether it is even reasonable to try to get there.

A major problem with the fourth branch of Government is that it is almost impossible to hold them fully accountable to the people or to us in Congress. We do not and cannot reasonably expect to adequately oversee the numerous independent commissions and executive agencies that we have created. There simply is not enough political sex appeal in oversight. So, this army of regulators can continue to let their rules and directives proliferate, while they are not held truly accountable for their actions. They have no need or incentive to be responsive to the needs and desires of the public. They can well afford to assume an elitist attitude of "I know what's good and right for you better than you know yourself." It should not really matter to the people at OSHA that a 90 decibel standard costs only $13 billion. And why should the people at EPA get upset when they learn that a quieter 85 decibel level would cost $32 billion? After all, the working public is entitled to a reasonable noise standard. But is that marginal difference of five decibels really worth a cost to industry of $19,828 per person? These are just the questions that must be asked, yet they are also the ones that the regulators almost always have no reason to ask.

It is high time that we in Congress placed a high priority on asking just those questions. We are the one body in the Government that was created with the purpose of acting on behalf of the American people. It is the Members of Congress who are directly accountable to the American public. It is this agency that was designed in order to make it possible for the citizens to have effective control over their Government. We have the power and the responsibility to revise any decision that those agencies have made. We have the power and the responsibility to change the structure of those agencies in any way so as to make them better serve the public.

It is time for some self-reflection on what we have done. It is time for a critical reexamination to determine if we have done more to the people than we have done for the people. We must take on the bureaucracies and start to deal with them on behalf of the people. We must begin to ask the tough questions and demand the right answers. Only then will we be able to find the right solutions for these most difficult times.

The days of wine and roses are over. We now must ask ourselves whether or not the benefits to the public of our actions are worth all their costs. Where they are, we can all agree that regulation is most worthwhile. But, equally, where they are not, we must all agree that it is time for a change. When we can do that, when we can exercise our constitutional responsibility and act on behalf of the public's interest as we are required to, then we will be serving the public in a most responsible manner.

HOUSE JOINT RESOLUTION 549—THE MARIANAS COVENANT

Mr. BURDICK. Mr. President, as a former member of the Senate Committee on Interior and Insular Affairs and as a former chairman of the Trust Territories Subcommittee, I have been very concerned about the vast and important Marianas Islands area for a number of years. I know the diversity of the peoples who inhabit those islands and have been deeply aware of American obligations to them as Administering Authority under the Trusteeship Agreement. I have followed with great interest the negotiations to determine the answer to the complex problem of future political status in the Trust Territory, and I have participated in the extensive consultations which Ambassador Williams as negotiator has had with the Congress.

I support the covenant for a Commonwealth of the Northern Marianas Islands as an important step toward the ultimate termination of our trusteeship and as solid proof of the exercise of the right of political self-determination in the best American tradition.

The covenant is essentially a Federal relations act, recognizing the Northern Marianas as a self-governing territory of the United States functioning within the bounds of the U.S. Constitution and under the traditional powers of the U.S. Congress' authority over territories. The covenant is consistent with the Constitution of the United States and with the international obligations of the United States. It comes to the Senate floor with the favorable endorsement of the people of the Northern Marianas and of the Congress of Micronesia, and of our House of Representatives and the Senate Committee on Interior and Insular Affairs, Armed Services and Foreign Relations.

For more than 25 years, the people of the Northern Marianas have been requesting a close and enduring political relationship with the United States. The painstaking negotiation of the covenant over a period of more than 2 years with their duly selected representatives was our answer to their request. The plebiscite last June, observed by a team from the United Nations Trusteeship Council, provided impressive confirmation—78.8 percent—of the peoples' desire.

The time has come for us to honor that desire in fulfillment of our moral obligation to these people for whom we are trustee and in the interests of our own national security. I urge that my colleagues support House Joint Resolution 549 as recommended.

Mr. President, I ask unanimous consent that the text of a recent resolution passed by the Congress of Micronesia be printed in the Record immediately following my remarks. Also, Mr. President, I ask unanimous consent to have printed in the Record several recent editorials discussing the merits of this important question.

There being no objection, the resolution and articles were ordered to be printed in the Record, as follows:

Congress of Micronesia, House of Representatives, Joint Resolution No. 6–119

A joint resolution requesting the U.S. Senate to take prompt and favorable action on House Joint Resolution No. 549 approving the covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States of America

Whereas, for twenty years the people of the Northern Mariana Islands have expressed a desire for close political relationship with the United States; and

Whereas, the people of the Northern Mariana Islands have freely and clearly expressed their desire for political union with the United States by the unanimous vote of the Mariana Islands District Legislature on February 20, 1975, and by 78.8% of the people of the Northern Mariana Islands voting in a plebiscite held on June 17, 1975; and

Whereas the Congress of Micronesia supports the desire of all Trust Territory citizens to exercise their inalienable rights of self-determination; and

Whereas the leadership of the Congress of Micronesia has endorsed the Covenant in open public hearings of the House of the United States Congress: Now therefore be it

Resolved by the House of Representatives of the Sixth Congress of Micronesia, Second Regular Session 1976, the Senate concurring, That the United States Senate is requested to take prompt and favorable action on House Joint Resolution No. 549 approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America; and be it further

Resolved, That certified copies of this House Joint Resolution be transmitted to the Congress of the United States, Chairman of the Senate Committees on Foreign Relations, Interior and Insular Affairs and the Armed Services of the United States Congress, the Secretary of the Department of the Interior, the President of the Trusteeship Council of the United Nations, and the High Commissioner of the Trust Territory of the Pacific Islands.

Marianas May Become the Next U.S. Territory

(By Edgar Poe)

Washington.—Now the first place in the world where the sun rises on United States soil is the tropical coconut tree-studded island of Guam in the western Pacific.

However, it appears almost certain there will be another sun-drenched U.S. territory nearby, 5,600 miles from the U.S. mainland and 2,000 miles from the China mainland, to share with Guam the first warm light when old Sol rises out of the ocean.

The House of Representatives has approved a covenant which would establish a commonwealth of the Northern Mariana Islands in political union with the United States.

A similar proposal is pending before the Senate where the Senate Interior Committee including Louisiana Sen. J. Bennett Johnston already has given it a favorable recommendation. The Senate Armed Services Committee, headed by Sen. John C. Stennis of Mississippi, and the Senate Foreign Relations Committee, chaired by Sen. John J. Sparkman of Alabama, still must pass on the merits of the covenant before making favorable or unfavorable recommendations to the full body of the Senate. Johnston has visited some of the islands and frequently has spoken out in favor of the covenant.

The people of the islands last June voted more than 3-to-1 to become associated with the United States. Thus they appear to be approaching the day they will become U.S. citizens just like the people of Virginia, the first of the 13 colonies, are citizens of the United States.

The islands, known to many thousands of World War II GIs, will have the right to self-government, and to adopt and amend their own constitutions. The constitution will be submitted to the government of the United States for approval.

United States income tax laws will be applied to the Mariana Islands as a local territorial income tax. Also the United States commits itself to provide specific annual levels of financial assistance.

Although there is some opposition in this country to the covenant, it will be a political upset if the Senate should turn it down. Some people in this country feel the Northern Marianas are not significant to the security of the United States. The Department of Defense strongly takes the opposite viewpoint.

Under terms of the covenant the Northern Marianas will become a territory like Guam—the largest, the most populous and the southernmost of the Marianas. Guam has been a territory of the U.S. since 1898, and thus is not a part of the covenant before Congress. Guamanians are Americans just like Louisianians and Mississippians.

There are 14 islands lying north of Guam. The most widely known are Saipan, Tinian and Roto only 20 minutes by air from Guam. They are about 1,400 miles from Japan. The total population of the Northern Marianas is about 14,000, of whom 11,091 live on Saipan, the seat of the Marianas district government.

David Louis Schiele, a tall blonde deputy liaison officer for the Department of State, is one of the best informed persons on the Marianas Islands.

Schiele, who has lived and worked on the islands and now is on duty in Washington, expressed the conviction that the Northern Marianas would be able to set up self-government in about 18 months after the covenant has been approved in Washington.

Schiele said that many Japanese tourists are visiting the islands. In many cases they are members of families that had relatives killed during the bitter fighting on Saipan and Tinian when the United States invaded the islands.

There are tourist hotels in operation in a few places and others are proposed.

Ninety-five per cent of the people of the Marianas registered and 95 per cent voted on the covenant questions. Of this total 78.8 voted in favor of the covenant.

Under the covenant, the U.S. government will acquire a leasehold interest in 18,182 acres of land in the islands for 50 years with an option to renew the same lease rights for a second period without additional payment. For these rights the United States will pay to the government of the Northern Mariana Islands $19,520,600.

Testifying before the Senate Interior Committee, Ambassador F. Hayden Williams said the United States established an interest in the Marianas with the acquisition of Guam some 77 years ago. However, he said Guam and the other islands in the chain were separated by an accident of history. Now he said the United States had been given the opportunity through the approval of a direct vote of the people of the Northern Mariana Islands to bring them together under one flag to enjoy common citizenship in the American family.

[From the Washington Star, Feb. 10, 1976]

Case for the Marianas

A good many Americans may be surprised to hear it, but the fact is that the United States is on the verge of taking on its first territorial acquisition since 1917. A covenant to confer commonwealth status on the northern Mariana Islands is before the Senate for final action in the near future. It is expected to pass over spirited opposition.

The covenant itself is the result of more than two years of negotiations and reflects a longheld ambition of the people of the western Pacific islands for political union with the United States. The area has been administered by the United States since World War II as part of the Trust Territory of the Pacific Islands under the United Nations. The proposed arrangement would give American citizenship to the 14,000 people of the Marianas, along with local self-government and full constitutional protections. The covenant provides for financial assistance of some $14 million a year and eligibility for federal programs and services. The United States would assume sovereignty over the 14 islands with a total land area of 183.5 miles extending northward from the American territory of Guam. Leasing arrangements under the covenant would provide for whatever defense installations might be needed now and in the future.

The proposal has already been approved without dissent by the House and by the Senate Foreign Relations and Armed Services Committees. It was unanimously endorsed by the Marianas District Legislature and by a solid majority of 78.8 percent of the islands' voters.

Naturally, however, it has also stirred up considerable opposition in this country, particularly among certain liberal-minded senators. Critics have labeled it as "an anachronistic demonstration of neo-colonialism" which is likely to draw fire from many sectors of the Third World. Others have argued that it is an example of military expansionism at a time when, in their opinion, the United States should be reducing its international obligations. Some have expressed concern that the whole arrangement might be vetoed by a permanent member of the U.N. Security Council when the present trust arrangement comes up for termination, presumably sometime after 1980.

In our own view, these objections are outweighed by the emphatically expressed wishes of the people concerned and the potential benefits to the United States. It would mark a significant step in fulfilling our obligations under the U.N. trusteeship agreement to help develop the peoples of the territory toward self-government. It would give important support for the exposed American position on Guam and strengthen the stability of the Western Pacific. And it would provide a much-needed reassertion of the fact that the United States is a Pacific power and intends to remain so. There is, in short, ample reason why the Marianas covenant should be approved by the Senate with the least possible delay.

[From the Christian Science Monitor, Jan. 19, 1976]

Heeding the Marianans

An issue of considerable importance both to the United States and to 15,000 people on some remote islands in the Pacific comes up in the Senate this week. Two groups—the Senate Foreign Relations Committee and an armed services subcommittee—will vote on an administration bill to grant the status of an American commonwealth to the Northern Mariana Islands.

Despite the objections of some senators to the legislation, the case for extending U.S. sovereignty to the islands is a strong one. The administration has not gone into this matter lightly, and all Americans ought to be aware of the points at issue:

It is unreasonable to argue that political union would implant a kind of anachronistic American neocolonialism in the area. The people of the Marianas themselves want this form of self-government. In a plebiscite last June they voted overwhelmingly (78.8 percent) to become a commonwealth under the American flag, thus rejecting any link with the rest of the Micronesian trust territory of which they are now a part.

Since the United States has a responsibility, under the United Nations trusteeship agreement, to help the people of Micronesia determine their own political future, it cannot in conscience reject the choice of the Marianans simply because it will cost more.

It is in the U.S. interest that the islands, which are of enormous strategic value, not fall into the hands of another power. A time may come when the U.S. may have to give up or reduce its military facilities in such Pacific places as Japan, Okinawa, and the Philippines. The Marianas, when new bases are built there, together with Guam would become the U.S. forward bastion in the Pacific.

To fail to tie the Marianas closely with the United States, given the uncertainties of superpower rivalry in Asia and the islanders' own wish for this, could prove shortsighted in the extreme.

The Congress of Micronesia itself has approved the covenant of commonwealth. Once the future status of the Marianas is decided upon, the other five districts of Micronesia can proceed to determine what kind of relationship, if any, they want with the United States. Failure to act on the Marianas covenant, which has been in the making since 1969, might raise doubts about America's goodwill under the UN trusteeship agreement.

The concept of "independence" for Micronesia as a whole may sound attractive but it is problematic. This is not a "nation" as commonly conceived but a scattering of more than 2,000 islands with divergent peoples, languages, and cultures. Also, there is no viable economic base for self-government.

It cannot be claimed that the United States, which acquired these far-flung islands from the Japanese in some of the fiercest fighting of World War II, has an admirable record in administering Micronesia. Much can be faulted. But it should be a source of pride to Americans that the Marianans think enough of their postwar protector to want to become an American territory.

The House has already approved the Marianas covenant making this possible and it is to be hoped that affirmative action in the Senate committees will lead to wholehearted approval by the Senate as well.

MR. JULIAN D. DUSENBURY

Mr. THURMOND. Mr. President, during the night of Thursday, January 29, 1976, the State of South Carolina and our Nation lost a hero and a gentleman by the death of Julian D. Dusenbury of Florence, S.C.

Mr. Dusenbury was a personal friend who, like Tennyson's Ulysses was made weak by time and fate, yet remained strong in will and continued to strive, to seek, to find and did not yield. His fate, like Ulysses, was that of a true patriot and hero. Mr. Dusenbury was to become one of the most highly decorated men of World War II.

After graduation from Clemson College in 1942, Mr. Dusenbury joined the Marines as a second lieutenant and participated in the bloody fighting in the Southwest Pacific. On Easter, 1945, he was one of the first to invade the enemy held island of Okinawa. Although wounded, he led his men in the assault and capture of Shuri Castle, which was the anchor of the Japanese island defense.

Two days before the total defeat of the enemy held island, a sniper bullet severed Mr. Dusenbury's spine and left him paralyzed in both legs. Such a psychological and physical tragedy suffered by Mr. Dusenbury would have devastated men of lesser character, but not Julian Dusenbury. He, like Ulysses continued to strive, to seek, to find and not yield under any circumstances.

Mr. Dusenbury returned home to Florence as a hero and retired as a major. He became an active farmer and family man. He served several sessions in the South Carolina House of Representatives before leaving to run for the State Senate.

As a member of the State House he distinguished himself by the devotion and dedication he rendered to his job. An example of such qualities can best be shown by the following: the House was about to pass a bill which to some experts would work financial disaster on the State budget. The bill provided for a bonus to all veterans of World War II. After much heated debate, Representative Dusenbury called for the floor and thereby gained the attention of all the membership. He rolled his wheelchair from his unassuming location in the rear of the chamber, positioned himself at the microphone, pulled it down to his level and opened his brief remarks with this simple statement:

> I am a veteran, but first of all, I am a South Carolinian.

In his concise, unmistakable way, he voiced his belief that South Carolina could not afford to spend such a great amount as contemplated by the bill. Needless to say, the bill was dead.

After serving two terms in the State house of representatives, Mr. Dusenbury ran for the State senate but was defeated. This defeat did not discourage him. He turned his wholehearted efforts to various civic, veteran, and political organizations. He was a post commander of the South Carolina Disabled American Veterans. He was a delegate to the National Democratic Party Convention in 1956. In 1964, he switched to the Republican Party and became an ardent supporter of Senator Barry Goldwater's bid for the Presidency.

Mr. President, the loss of Julian Dusenbury was immeasurable to those many people whose lives he touched. Yet those virtues which he displayed and the principles he stood and fought for will continue to be those qualities exemplified in men of character and integrity.

Mr. President, I wish to extend my deepest sympathy to Mrs. Martha Dusenbury on the loss of her husband and to all members of her fine family. Mrs. Dusenbury was a most devoted and attentive wife. When faced with the prospect of her husband's physical disability she responded with an unselfish dedication to the loving and caring for Mr. Dusenbury and their family. Although Mr. Dusenbury's condition became progressively worse, to the extent that he was bedridden during the last 7 years of his life, Mrs. Dusenbury did not falter in this undenying love and devotion.

Also surviving is his mother Mrs. Suanee Dusenbury of Florence, S.C., who is a fine Christian woman of strength and character. She has worked endlessly in civic activities and is a pillar of the community.

Other surviving members of his family are two daughters, Mrs. Thomas G. (Suzanne) Moore of Charleston, S.C., and Mrs. Michael A. (Roxanne) McCrory of Fayetteville, N.C.; a son, 2d Lt. Timothy A. Dusenbury, USMC, of Pensacola, Fla.; two brothers, Richard G. Dusenbury and Bernard D. Dusenbury, both of Florence, S.C., and four grandsons.

At the time of Mr. Dusenbury's death, several articles and tributes were published in newspapers of the area. I ask unanimous consent that several representative articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Columbia (S.C.) State, Jan. 30, 1976]

Former Representative Julian D. Dusenbury Dies

Florence.—Julian Delano Dusenbury, 54, a farmer and former S.C. representative from Florence County died Thursday after a long illness.

Born in Bishopville, he was a son of Mrs. Suanee Dusenbury and the late Julian D. Dusenbury. Mr. Dusenbury served in the House as a Democrat for two terms, from 1949 to 1950 and from 1953 to 1954. He was appointed by Gov. George B. Timmerman Jr. to the state Education Finance Board Committee in 1957.

He graduated from Clemson University in 1942. Mr. Dusenbury was a member of the Jaycees, the American Legion, the VFW and was a page in the U.S. Senate from 1933 to 1937. He was past state commander of the Disabled American Veterans.

Mr. Dusenbury was a Marine Corps company commander during World War II and a member of the Marine Corps League. He was awarded the U.S. Naval Cross, the Silver Star, and the Purple Heart.

Surviving are his mother of Florence; his widow, Mrs. Martha Rollins Dusenbury of Florence; two daughters, Mrs. Thomas G. Moore of Charleston and Mrs. Michael A. McCrory; a son, Lt. Timothy A. Dusenbury, USMC of Pensacola, Fla.; two brothers, Richard G. and Bernard D. Dusenbury, a former S.C. representative from Florence, and four grandsons.

Plans will be announced by Waters Funeral Home.

[From the Florence (S.C.) Morning News, Jan. 31, 1976]

Dusenbury Rites Set for Saturday

Funeral services for Julian D. Dusenbury, 54, will be held Saturday at 3 p.m. in First Presbyterian Church. Burial with full military honors will follow in Mount Hope Cemetery, directed by Waters Funeral Home.

Mr. Dusenbury, who received some of the nation's highest military awards during World War II, died at his home, 861 Park Ave., Thursday night after a long illness.

He was born in Bishopville, a son of Mrs. Suanee Dusenbury and the late Julian Dusenbury, and grew up in Claussen. He was graduated from Florence High School in 1938 and served as a page in the U.S. Senate from 1933 until 1937. He was graduated from Clemson College in 1942 where he was a member of the Cadet Corps and president of his senior class.

Mr. Dusenbury served in the State House of Representatives for two terms, from 1948 until 1950 and from 1952 until 1954. He was chairman of the Florence County Democratic Party from 1956 until 1960 and was a delegate to the National Democratic Party Convention in 1956.

In 1964, he switched to the Republican Party and supported U.S. Senator Barry Goldwater for the presidency. He was a Republican candidate for the state senate in 1966.

Mr. Dusenbury served with a number of civic, veteran and political organizations. He was a past commander of the South Carolina Disabled American Veterans.

He was commissioned a second lieutenant in the Marine Corps in 1942 and served in the Southwest Pacific as a company commander.

He joined the First Marine Division in early 1944 and was wounded while fighting in the battle for Peleliu.

On Easter, 1945, he participated in the invasion landing on Okinawa. Famed war correspondent Ernie Pyle was with then Captain Dusenbury and his men for about two weeks and wrote about their action.

Captain Dusenbury, who had again been wounded, led his men on the assault and capture of Shuri Castle, anchor of Japanese defenses on Okinawa.

Two days before the end of the Okinawa campaign, Captain Dusenbury was wounded by an enemy sniper. The bullet pierced his spine and left him paralyzed in both legs.

He came home to a hero's welcome in November, 1946, and was retired as a major.

His military awards include the Silver Star, the Navy Cross, a Presidental Unit Citation and a Purple Heart with two stars.

Surviving, in addition to his mother of Florence, are his wife, Mrs. Martha Rollins Dusenbury of Florence; two daughters, Mrs. Thomas G. (Suzanne) Moore of Charleston and Mrs. Michael A. (Rozanne) McCrory of Fayetteville, N.C.; a son, 2nd Lt. Timothy A. Dusenbury, USMC, of Pensacola, Fla.; two brothers, Richard G. Dusenbury and Bernard D. Dusenbury, both of Florence; four grandsons.

[From the Columbia (S.C.), State, Feb. 1, 1976]

Veteran and Representative Served South Carolina Well

(By W. D. Workman, Jr.)

Julian Dusenbury—distinguished Clemson graduate, dedicated citizen, Marine "par excellence," and patriotic American—is dead at the age of 54.

That he lived to that age is a tribute to his tenacity and self-discipline, for he lived most of his life crippled from war wounds suffered when he led his company in the 1945 assault on Okinawa. He emerged from World War II with the Navy Cross, the Silver Star, the Presidential Unit Citation and three Purple Hearts.

But injuries which would have side-lined an ordinary man did not stop Julian Dusenbury. In addition to his post-war farming operations at Florence, he served several sessions in the South Carolina House of Representatives.

There, he earned a distinct place in the minds and hearts of his colleagues—achieving in the process the unique distinction of single-handedly turning the tide against a pending bill which had strong support. The scene will live long in the memories of those who witnessed it:

The House was on the verge of passing a bill to provide a bonus to veterans of World War II, a step which financial experts feared would badly damage the state's budget. After several members had spoken in favor of the measure, Representative Dusenbury called out, "Mr. Speaker," gaining the floor and the undivided attention of the membership.

He rolled his wheelchair from the rear of the chamber, his customary location, positioned himself at the microphone, pulled it down to his level and opened his brief remarks with the simple statement:

"I am a veteran, but first of all, I am a South Carolinian."

In calm and concise terms, he voiced the belief that South Carolina could not afford to spend the millions contemplated by the bonus bill, thanked his colleagues for listening, and rolled his chair back down the aisle.

The bill was dead.

Later, he left the House to run for the State Senate, but his failure in that enterprise did not discourage him or lessen his interest and participation in public affairs.

Increasing physical difficulties, however, virtually immobilized him for an extended period prior to his death Thursday night. But despite the constancy and complexity of his long ordeal, he remained as a symbol of courage, patience, and fortitude.

There is no telling what service he might have rendered his county, state, and nation had he been able to retain the physical vigor which carried him into battle as a youthful captain of Marines. To those who knew him best—and, it seems fair to say, to those who merely knew of him—Julian Dusenbury was made of the stuff of heroes.

[From the Florence (S.C.) Morning News, Feb. 4, 1976]

Julian Dusenbury

Florentine Julian D. Dusenbury, who died last week at age 55, distinguished himself as soldier, legislator and civic leader.

Newly graduated in 1942 from Clemson College where he had been president of his senior class, he was commissioned a second lieutenant in the U.S. Marine Corps. He was subsequently assigned to the Southwest Pacific where some of the bloodiest combat of World World II took place.

An authentic war hero, he was awarded the Silver Star, the Navy Cross, a Presidential Unit Citation and a Purple Heart with two stars in recognition of his leadership and gallantry on the field of battle.

A spinal wound received during the Okinawa campaign where he served as a company commander left him paralyzed in both legs for life. The affliction, however, did not prevent him from leading a full and useful life and contributing in many ways to the political and civic life of his community, state and nation.

He was twice elected to the State House of Representatives—in 1948 and 1952. He served four years as chairman of the Florence County Democratic Party and was a delegate to the National Democratic Convention in 1956. He was a past commander of the South Carolina unit of Disabled American War Veterans.

His achievements, despite the handicap of paralysis, and his kind spirit and engaging personality stand as an inspiration to a broad circle of friends and acquaintances.

[From the Florence (S.C.) Morning News, Feb. 4, 1976]

Dusenbury Resolution Adopted

Columbia.—A resolution expressing the sympathy of the General Assembly to the family of the late Julian D. Dusenbury passed the legislature Tuesday.

The resolution, introduced by Sen. T. E. Garrison, D-Anderson, said "His life was exemplary, filled with activity and service to the people of his community, county and state."

Dusenbury, a Florence man who was much decorated after having been wounded and his legs paralyzed in World War II, died last Thursday night at the age of 54.

The resolution noted that he served from 1948 to 1950 and 1952 to 1954 in the S.C. House of Representatives.

It also said that he had been president of the Clemson College class of 1942 and received the Navy Cross, Silver Star, Presidential Unit Citation and three Purple Hearts.

His wounds on Okinawa left him crippled for life, "but despite the constancy and complexity of his long ordeal, he remained a symbol of courage, patience and endurance."

The people of Florence County and that state have lost an outstanding public servant, it said.

Copies of the resolution are being sent to his family and to the secretary of the Clemson Class of 1942.

[From the Charleston (S.C.), Evening Post, Feb. 5, 1976]

Julian Dusenbury

A disabled and decorated hero of World War II, Julian Dusenbury of Florence was a citizen of whom South Carolinians were proud on several counts. Paralyzed by wounds suffered while leading his company of Marines in 1945 on Okinawa, Mr. Dusenbury returned home to spend the rest of his life in a wheelchair. Undismayed by the crippling condition that would have stopped a less courageous man, he not only farmed but was elected twice to the South Carolina House of Representatives.

We remember his outspoken public service, notably an occasion when he put to rest a bill to pay a state bonus to veterans of World War II. The bill appeared headed for passage, despite the warnings of financial advisers that it would damage the state budget. Gaining the floor, Mr. Dusenbury opened his speech with the comment: "I am a veteran, but first of all, I am a South Carolinian." When he had finished, the bill was dead.

In later years his paralysis grew worse, and he was virtually immobile long before his death at age 54. His example of fortitude in war and in peace has earned for Julian Dusenbury a lasting place of honor.

[From the Charlotte (N.C.), Observer, Feb. 1, 1976]

J. D. Dusenbury, WWII Hero, Ex-Lawmaker

A paralyzed World II combat hero who became a politician on his return home was buried Saturday.

Former state Rep. Julian D. Dusenbury, nominated for the Medal of Honor for heroism on Okinawa, died Thursday at the age of 55.

Dusenbury was a Marine captain who participated in the invasion of Okinawa on Easter Sunday 1945.

He received his second wound of the war two weeks later when he led his company in an assault on Japanese positions, but within a short time he led a successful attack on Shuri Castle, headquarters of the island's defenders.

Dusenbury was awarded the Navy Cross and nominated for the Medal of Honor for the action.

Two days before the fighting ended on the island a sniper's bullet struck him in the spine, paralyzing both legs.

Upon his return home as a major, the Clemson College graduate—and senior class president—was elected to the House in 1948 and again in 1952, serving one term each time.

Dusenbury switched from the Democratic to the Republican parties in 1964 and supported GOP presidential nominee Barry Goldwater that year. He was an unsuccessful Republican candidate for the state Senate in 1966.

The past commander of the state Disabled American Veterans organization is survived by his widow, two daughters and a son.

THE CONCORDE DILEMMA

Mr. NELSON. Mr. President, Secretary of Transportation William T. Coleman's decision regarding Concorde has generally been hailed as a carefully balanced and sensible answer to a most difficult problem. After reviewing the Secretary's 61-page decision and the 49-page supplement to the Federal Aviation Administration's—FAA—environmental impact statement—EIS—I believe this assessment to be wrong.

The Secretary, in my judgment, has misread international law, misconstrued recognized scientific fact and theory, ignored this Nation's environmental policies, programs, and laws that were established by the Congress, incorrectly evaluated the impact of the proposed actions, and refused to consider vital information. Simply put, the decision is an artful and legalistic manipulation of the decisionmaking process. This decision should be overturned.

There are four major issues involved with this decision:

First, what are the long-term, worldwide implications of a technology that will further deplete the Earth's protective shield of ozone.

Second, should blatant violations of the Environmental Protection Agency's subsonic air quality and noise pollution regulations be permitted.

Third, what are the international-diplomatic implications of violating article

11 of the 1946 Chicago Convention, a treaty we have signed with 133 other nations.

Fourth, what impact continued British and French governmental subsidization of Concorde will have on domestic airlines.

In each and every instance, Concorde asks that American domestic policy be cast aside in favor of increased speed. On each and every issue, Concorde asks to be the initial exception.

A fundamental issue has been totally ignored by Secretary Coleman and the national press in the entire public dialog on Concorde, the provisions of article 11 of the 1946 Chicago Convention. Specifically, article 11 of the Convention states:

> The laws and regulations of a contracting State ... shall be applied to the aircraft of all contracting States, without discrimination as to nationality ...

One hundred thirty-three countries have become parties to this treaty including the Russians, who have their own version of the Concorde, Japan, the Peoples Republic of China, and Iran, countries that have expressed interest in purchasing Concorde.

The Secretary believes he has only approved limited SST service. The requested flights, he argues, would have a negligible impact on the environment. However, article 11 clearly provides that other member nations shall be given equal nondiscriminatory treatment in regard to landing rights. If the Soviets request permission to operate their SST within the United States, they will have to be given that right. If Japan or China or Iran obtains a Concorde then pursuant to this treaty they have the right to fly supersonic planes into this country. This interpretation is supported by the State Department and the American Law Division of the Library of Congress.

A basic underlying principle of Secretary Coleman's decision to allow Concorde to operate is the belief that this decision is, in fact, a limited 16-month experiment solely between British Airways and Air France. Our treaty obligations dispute this finding. Once Concorde begins to land, the door would be flung open for a large number of worldwide operations. The Secretary's decision is not a carefully limited trial. If initial permission is given for SST operation, the Senate will be forced to stand on its treaty obligations. Moreover, the international repercussions of prohibiting additional countries from operating their Concordes in the United States, in spite of our treaty obligations, are monumental compared to the current threats of economic retaliation being made by the French.

It seems to me those who argue the international-diplomatic imperatives of British Airways/Air France are extremely shortsighted. The real diplomatic battles will be fought once service begins and other countries, pursuant to treaty, request landing rights.

The Secretary has misconstrued scientific fact and theory as it pertains to Concorde's impact on the ozone layer. According to the National Academy of Sciences and other distinguished scientists, the Concorde will have an adverse impact on the stratosphere. There is general scientific agreement that the world's climate and food-chain systems could be disrupted by continued ozone depletion. Notwithstanding the Secretary's conclusions that Concorde's impact on the ozone does not pose "substantial and immediate danger" and is "clearly insignificant," extensive hearings by the Subcommittee on the Upper Atmosphere of the Senate Aeronautical and Space Sciences Committee have concluded: First, there is general scientific agreement, not wild speculation, that supports the theory of ozone reduction, and second, corrective action should immediately be taken.

Therefore, Concorde's impact must be viewed as a part of a larger problem, not evaluated in a decisionmaking vacuum. It must be evaluated with military flights, commercial flights, natural and fluorocarbon emissions. Delay in acting could result in the most serious worldwide consequences. The operation of only 100 SST's will deplete the ozone layer by .07 percent. This is approximately equivalent to delaying action on fluorocarbon emissions for 3 years. In addition, the EPA has submitted evidence that shows a general "decrease in total ozone in the contiguous United States. . . ." The total ozone is no longer increasing. Obviously, as the number of supersonic transport flights increase, the adverse impact on the ozone will magnify.

To buttress his position, the Secretary cites the recent refusal of the Consumer Product Safety Commission—CPSC—to ban aerosol sprays containing fluorocarbons as an official lack of concern over ozone depletion. Secretary Coleman appears to require dead bodies piled in the streets before he admits we have an ozone problem. Unfortunately, this situation does not lend itself to such black and white solutions. If the Secretary needs bodies before he acts, he will have to use the bodies of the next generation. The very nature of this problem demands immediate action to prevent disastrous consequences from occurring 20 to 30 years from now. The consequences of inaction or delayed action are not worth the risk of taking.

The failure of the CPSC to recognize the large body of evidence that describes the serious threat to the ozone layer posed by fluorocarbons does not justify Secretary Coleman from refusing to consider the data and reach an independent decision. The totality of the evidence strongly suggests that continued atmospheric pollution poses a worldwide threat with enormous serious potential consequences. Each year the scientific evidence becomes stronger. Considering the potential consequences, we should be curtailing activities that cause ozone deterioration, not exacerbating an already serious problem.

Second, opponents of Concorde have stressed, based on incontrovertible scientific evidence, that operation of the plane could cause an additional 1,500 cases of cancer a year. Both the environmental impact statement and the Secretary's opinion admit this.

Proponents of Concorde counter that military aircraft also fly in the ozone layer and cause destruction and if we are to be consistent, military flights into the ozone layer should be banned if we prohibit Concorde from landing in the United States.

The EIS puts this issue into its correct perspective. The EIS clearly states that the operation of a fleet of 10 Concordes would have the "approximately equivalent" effect on the ozone as all the military planes now flying or expected to be flying in the world by 1980. There are 16 Concordes under construction. Put another way, the EIS estimates Concorde could cause an additional 1,500 cancers. Present U.S. military operations are estimated to cause 17 new cases of cancer, 1.13 percent of the Concorde total. It should be noted that military flights at very high altitudes with the exception of the Air Force's SR–71 are extremely short compared to the duration Concorde spends in the ozone. Concorde is estimated to spend approximately 2¾ hours of its 3½-hour trans-Atlantic flight time in the stratosphere.

Since this is a long-term problem, a 20- to 30-year problem from cause to effect, unless we take corrective action we will be leaving a legacy of increased cancer and possible global climatic change for future generations. As far as the ozone aspects of Concorde are concerned, the Secretary clearly does not understand the seriousness and nature of the problem and he does not recognize the degree of knowledge we have already obtained.

The Secretary, in my view, has ignored the domestic environmental policy set by the Congress. The Clean Air Act and the new energy act clearly establish a policy that is in direct conflict with the Concorde. The EIS concludes the Concorde will exceed EPA's subsonic carbon monoxide levels by 270 percent. The Concorde's unburned hydrocarbon emission levels exceed EPA subsonic standards by four times. According to the EPA, the requested flights into Kennedy and Dulles will increase air pollution by 4.4 percent and 8.4 percent respectively. The whole thrust of this Nation's air pollution abatement effort is to reduce pollutants, not create exceptions where new sources are added. I cannot agree with Secretary Coleman that this continued degradation of air quality is "not significant for the purposes of this decision."

In addition, the Noise Control Act of 1972 declared that it is:

> The policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health and welfare.

Noise is already a serious problem around U.S. airports. Within the next few years, older planes will be phased out while newer, quieter planes like the 747–SP which comply with FAR 36 will begin service. These new planes within the next 5 to 10 years will significantly reduce airport noise. Consequently, the impact of Concorde which is already unacceptable will become worse. The Concorde is perceived to be two times as noisy as the 707 and four times as noisy as the 747's. While it is true that a large portion of the American aircraft fleet does not now comply with FAR 36, the problem is not one of lack of congressional intent, it is a lack of leadership from the FAA. Proposals for retrofitting have been languishing before the FAA since 1969. It is time action was taken.

Secretary Coleman's opinion states:

> Among the facts, the Noise Control Act requires the Administrator to consider whether a proposed standard is "economically reasonable, technologically practicable, and appropriate for particular types of aircraft (or) aircraft engines."

A closer reading of section 611 of the Noise Control Act reveals that the technological feasibility, et cetera is only one of a number of factors that must be considered. That section of law clearly states that health and welfare, one of the other bases of decisionmaking, can be an overriding factor.

Secretary Coleman's contention that such a standard must be technologically achievable and economically feasible, notwithstanding the environmental health and public welfare consequences, represents a basic and fundamental misunderstanding of the law and policy enacted by the Congress.

Finally, the Secretary has ignored the policy directives of the National Environmental Policy Act—NEPA—the keystone of this Nation's conservation and environmental effort. NEPA makes "environmental protection the mandate of every Federal agency and department." Furthermore, the courts have held that NEPA requires an extremely careful and finely tuned balancing of the adverse impacts of the proposed action against the project's alleged benefits.

It is clear that Concorde will have an adverse impact on the environment. In terms of noise pollution alone, the President's Council on Environmental Quality, the organization directed by law to oversee NEPA, has recommended that Concorde be denied landing rights. It is also clear that these adverse impacts are in direct conflict with the policy direction contained in NEPA.

Moreover, when viewing the cumulative impact of Concorde and weighing the adverse impacts against the major benefit of reduced travel time, Concorde, in my judgment, does not meet the test established by the courts. The plane should be banned until the benefits outweigh the adverse consequences.

The Secretary has refused to consider, for the purposes of this decision, the impact of Concorde operation on domestic airlines. He claims we have a free market and that such consideration would constitute an intrusion of the Federal Government into free enterprise. Nothing, in fact, could be farther from the truth. First, there is no free market where the Concorde's major airlines are national companies being subsidized by tax dollars. The open market does not exist and economic pressures that control the market can and are being manipulated to determine a preconceived decision, the operation of the Concorde despite huge losses.

Next, the administration has adopted a specific policy to help restore a sound financial base to Pan American and Trans World Airlines, both companies are in financial difficulties and would suffer losses, according to the President's Council on Wage and Price Stability, of between $30 to $60 million a year if Concorde obtains U.S. landing rights. This information deserves consideration.

The Secretary, in reaching his decision on Concorde, has broken the problem down into its component parts. He has evaluated the individual program elements and found them either insignificant or nongermane to his decision. Any major Federal action can be viewed in terms of where the impact of the program elements are individually limited. However, NEPA and prudent decisionmaking demand that the cumulative impact of the proposed action be evaluated. This has not been accomplished. Had such an analysis been performed, the evidence would point to only one conclusion, the banning of Concorde.

If the Congress does not overturn this decision, the door to a large number of daily SST flights will be flung wide open. A treaty we have ratified with over 100 other nations will bind our future course of action. Decisions will become increasingly difficult. The adverse environmental impacts will multiply.

Basically, we must ask ourselves whether or not the environmental enhancement costs that we have imposed on ourselves, costs that include their termination of our own SST program, have been worthwhile? We must ask ourselves whether a dangerous and needless precedent should be established. I believe, after all the evidence and policy is evaluated, the majority of the Congress will agree that the benefit of increased speed is a price we cannot afford to pay.

AN AMERICAN TRAVESTY

Mr. FANNIN. Mr. President, one of my deepest concerns is the health of our Indian citizens and the lack of sufficient resources to eliminate the current deficiencies in our Indian health care programs. The Senate, through the Indian Health Care Improvement Act, is committed to strengthening the capacity of the Indian Health Service in its struggle to deliver quality health care to Indian people. This commitment was not made without reason or clear justification as the hearing record bore witness to inadequate patient care services, outmoded and unsafe facilities, and limited manpower of the Indian Health Service. The issue here is whether the Federal Government is going to finally recognize these inadequacies and implement a policy which will eliminate them. A more eloquent statement of this issue is contained in a recent article appearing in the February issue of Modern Health Care. This article, entitled "An American Travesty" by senior editor, Mr. Gregg W. Downey, argues that the Federal Government has a responsibility for assuring proper health care for Indian people but is failing to meet that responsibility in a manner which is consistent with its moral, if not legal, commitments. Mr. Downey's article is important in defining the responsibility for Indian health care and the obvious need for greater efforts to overcome inadequate levels of Federal support.

Mr. President, I ask unanimous consent to have printed in the RECORD this article, "An American Travesty."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AN AMERICAN TRAVESTY

(By Gregg W. Downey)

Long ago, when the hills below the Blue Mountains were white only with winter, the Indians of old Oregon were in touch with their world. They were warm in their skin shirts as they moved on the hunt, and they could sense an elk grazing behind tangled brush in a hollow. Sometimes running for miles through thickets and bunchgrass, they would track an animal until its blood stained the snow. With reverence, they would explain to its soul the need for the killing.

Now—when the elk have retreated and the hills are a quilt of rich farmland owned by grandchildren of white settlers—an old Indian woman in a thin cotton dress hobbles into the reservation's senior citizen center. She has eyes like smoldering coal in a face less wrinkled than cracked, and she seems silently angry about the hot lunches served every Wednesday. Long tables are laden with plates of wheat biscuits and bowls of elk stew, but she seems not to notice—perhaps blinded by a studied disdain for things as they are.

Like native Americans across the country, the people of the Umatilla Indian Reservation near Pendleton, Oreg., refuse to relinquish their pride just beause old ways are vanishing. Sometimes, this leads to a defensive hostility that is out of proportions to actual circumstances. More often, it fosters brooding silence about real adversity.

Perhaps more than anything, Indian reticence explains how society has managed to ignore the urgent needs of native Americans while attending to the demands of more vocal groups. It appears our system is more attuned to the strident than to the stoic; and apart from a militant few, American Indians have chosen to safeguard their dignity at the expense of their physical well-being.

Healthcare managers, like everyone else, have focused on problems presented more forcefully. They haven't found time to worry much about a relatively small group of people who frequently won't give voice to their problems and who usually expect the worst from the white power structure, including the health system.

Yet health facilities, in cities as well as rural communities, must improve their ability to recognize and respond to the native Americans in their service areas. The expanding enclaves of American Indians that exist in cities and towns across the country have distinct, extensive health needs that are going unfulfilled. In order for hospitals, nursing homes, and related institutions to improve their service to this segment of society, health-care managers sometimes need do little more than increase their awareness of the factual history and present circumstances of American Indians. Such heightened understanding can be expected to reflect itself in the liaison programs and outreach projects that will overcome many of the barriers between Indians and better health.

In comparative terms, American Indians are a small group, numbering only slightly more than 800,000. It's worth noting, however, that the population growth rate for Indians is higher than the national rate. Between 1960 and 1970, there was a 51 percent increase in the size of the Indian population.

Indians live in every section of the country, but are most heavily concentrated in

Arizona, New Mexico, North Carolina, Oklahoma and California. In 1960, one-third of all Indians lived in cities. Today, nearly half do. The accelerating migration to urban centers is primarily the result of staggering unemployment, poor housing, and inadequate health resources on most reservations. The relocation has important implications for urban health facilities, but the trend has all but escaped the attention of the health field—even in cities such as Los Angeles, which has the nation's highest concentration of urban Indians. (See report on page 28.)

Nearly 500,000 Indians still live on or near reservations in 23 states. There, they encounter the health-care delivery system organized by HEW's Indian Health Service. IHS operates 51 general hospitals with 3,000 beds, but the private sector provides a significant share of the health services received by reservation Indians. Under contracts with IHS, more than 1,000 general medical beds in about 300 community hospitals are available to native Americans. In these institutions alone, there are more than 25,000 Indian admissions each year.

Although care from the private sector is far from flawless, it's fortunate that community facilities render so much of the service. The institutional health resources available directly from IHS are incredibly poor. According to Senate testimony, only 25 of the 51 IHS hospitals satisfy the requirements of the Joint Commission on Accreditation of Hospitals. Only 12 meet the current standards of the National Fire Protection Association. Thirty-one of these facilities were built before 1939. By HEW's own estimates, 33 of its IHS hospitals should be replaced or completely renovated. "By anyone's measure," says Sen. Paul J. Fannin (R., Ariz.), a leading advocate of Indian health-care improvement, "most of these facilities, especially the hospitals, are outmoded, unsafe or inadequate."

Nonexistent or inadequate health resources are a major problem for Indians, and one that is harshly compounded by the poverty and wretched living conditions that exist in many places, on and off reservations. Fully 40 percent of the American Indian population, as compared to 13.4 per cent of the general public, lives below the poverty level, according to the latest census report. In 1973, a study of reservation living conditions by the U.S. General Accounting Office revealed that 54 per cent of all Indian families had no source of water in their homes, 65 per cent lacked flush toilets, 48 per cent had no satisfactory liquid waste disposal facilities, and 63 per cent were using water from sources considered actually or potentially hazardous. More than half of the Indian population on reservations was living in one-room or two-room dwellings, with an average occupancy per unit of 5.4 persons.

The effect of all this is grim. The average life expectancy of Indian people is 5.7 years lower than the national average—65.1 years as compared to 70.8 years. The leading causes of death among Indians are accident, heart diseases, malignant neoplasms, influenza, pneumonia and cirrhosis of the liver. These six causes account for about 55 per cent of all Indian deaths. (Heart disease, malignant neoplasms, cerebral vascular diseases, accidents, influenza and diabetes mellitus are the major causes of death for non-Indians.) Accidents are the leading cause of death among Indians, occurring at a rate almost four times as high as the rate for the public at large—198.4 accidental deaths for 100,000 persons as compared to 53.1 deaths per 100,000. This is often explained by noting the unsafe conditions in which many Indians live.

The infant mortality rate at birth is 1.5 times higher among Indians than among non-Indians. Infant deaths occurring between the first and eleventh months are almost three times as frequent among Indians. The major causes of these deaths are respiratory and digestive illnesses, infective and parasitic diseases, accidents and congenital malformations.

Otitis media, a disease of the middle ear, is one of the most prevalent diseases among Indians of all ages. It frequently strikes young people and can cause learning disabilities by impairing the ability of children to hear. Between 1962 and 1973, the incidence of otitis media among Indians increased 218 per cent, from 3,802 cases per 100,000 people to 12,104 cases per 100,000. Although social and physiologic causes have been cited, no one knows for certain why Indians suffer such a high incidence of this disease. Sometimes the damage done by otitis media can be corrected surgically, but many Indians have no access to surgical procedures of any type. IHS estimated it was unable to authorize 20,329 necessary surgical procedures last year alone because of shortages in staffing, facilities and funds.

It might be assumed that Indian health—poor as it generally is—has nonetheless been improved by the introduction of modern medical treatment. One man, who has dedicated himself to Indian healthcare, says this probably isn't the case.

Tim Fleming, M.D., has lived with Indians in the Southwest and is now the Indian Health Service officer in charge of the Yellow Hawk Clinic on the Umatilla reservation. He says Indian health is probably poorer today, in spite of modern techniques, than it was in, say, 1500 A.D.:

"Some of the old chiefs, even today, remember a time when their people bathed in icy streams and raced barefoot through the snow after deer and never contracted the ailments now associated with Indians. Oh, they had what some people call 'tragedies of the plains'—a woman would die in childbirth or a man would fall from a running horse and crack his skull—but epidemics and social illnesses, like alcoholism, were virtually unknown before contact with white people.

"What's happened to Indian health since then can be explained partly by contact with European diseases, to which Indians had no resistance, and partly by poverty; but I think it must also be due to a loss of intimacy with their environment and to an erosion of the vitality that comes naturally to people in charge of their own destiny."

Few peoples on earth had a greater sense of self-determination than the forebearers of the people Fleming now serves. Until the closing decades of the last century, the Cayuse, Umatilla and Walla Walla tribes of northeastern Oregon and southeastern Washington lived by hunting, fishing and gathering roots and berries. With the acquisition of horses from neighboring tribes, some of them became traders and warriors. Ranging as far as California to trade and the Great Plains to hunt buffalo, these people counted their wealth by the horses in their herds, sometimes numbering in the thousands.

From the strongholds in the mountains, their warriors—the Cayuse especially—were able to dominate the more sedentary peoples below. Occasionally they plundered the camps of other tribes, taking booty and captives to increase their status as warriors.

These were fierce people—powerful, often arrogant; yet their combat was aimed at winning glory, not land. They left weaker peoples intact. They were driven by a will to power, but not by a thirst for the annihilation of others. Their raids on neighboring tribes were kindly, compared to the methodical devastation inflicted as land-hungry settlers began to flood into the territory on the Oregon Trail.

In 1836, the people of the Blue Mountains, simultaneously encountered white men and their medicine. They met Marcus Whitman, M.D., a man alive with evangelical zeal and, some later would say, a chauvinistic longing to see the Pacific Northwest annexed to the United States. A Protestant missionary as well as a physician, Whitman established a settlement for himself and his family in Washington, just over what became the Oregon border.

For 11 years he was unmolested by the Indians, in spite of his unflagging efforts to alter their way of life. Finding hunters and horsemen, Whitman sought to transform these people into farmers. He believed, according to some accounts, that farming would stabilize their lifestyle and make them more susceptible to his ministry. Besides practicing medicine and preaching among the Indians, Whitman opened his mission to the white people moving West.

Through contact with these settlers, the Indians suffered an epidemic of measles, in which as many as 200 of their people died. Some of the settlers who also had measles responded to Whitman's treatment. The Indians did not. According to Cayuse custom, incompetent medicine men were slain. Incited by the physician's encouragement of whites to settle on their lands, by knowledge of what this had meant to more easterly tribes, and by rumors that the physician had deliberately caused the fatal outbreak of disease, a handful of Cayuse outlaws killed Whitman and his family. Five Indians—delivered up to white authorities by Cayuse leaders themselves—were eventually convicted of the crimes and hanged. The Whitman "massacre," however, was seized upon by white settlers and used as one justification for a war on the Indian peoples of the area.

The ensuing bloodshed and subjugation led to the eventual extinction of the Cayuse as a discrete people. Their power broken, their freedom circumscribed after years of war with white volunteers and the United States Army, the surviving Cayuse were forced onto a small reservation in a corner of northeastern Oregon along with their allies, the Umatilla and Walla Walla. There, the Cayuse languished and finally were absorbed into the other tribes. Today, the valuable farmland of the area—including virtually all productive acreage on the reservation itself—belongs to the heirs of the white settlers. It is testimony to the tenacity of spirit possessed by the descendants of those warriors that, having survived such a destructive first encounter with American medicine, they should now be struggling to become pioneers of a new approach to healthcare.

It little profits those living today to dwell overlong on a history in which Indian people have seen their homelands usurped, their customs degraded, and their autonomy destroyed. "What's done is done," says Leslie Minthorn, chairman of the Confederated Tribes of the Umatilla reservation. Nonetheless, the health needs of Indian people cannot be properly served without at least a cursory appreciation of the heritage that has rendered some Indians hostile, suspicious or defensive toward those in authority. Contemporary jargon describes the condition some Indians experience as "cultural conflict."

"Yesterday," said Elizabeth Jones, a woman of the Walla Walla tribe, who is a community health representative for the Umatilla reservation, "we were talking with a couple of teachers about cultural conflicts and all, and I don't think it's much of a conflict anymore. I do know there are some people now who would rather have their children brought up in just their own way, in their own Indian culture, but it's kind of hard. It confuses the children. And those who are trying so hard to sort of re-live what their forefathers done. . . . It just don't seem real anymore And, well, to me it's kind of sad."

Her job is to act as liaison between her people and the health-care community in

Pendleton, where many reservation residents must go to receive medical services. Along with solving service problems that sometimes arise, her greatest difficulty, she says, is translating some of the medical terms healthcare professionals use into one of the several dialects of Wailatpuan, the mother tongue of the confederated tribes, which is still used by some older Indians.

"People are always kidding me," she remarked, "asking me when am I going to start practicing medicine, since I've been working with the tribal health department for so long. The kind of medicine they mean is like the medicine men, you know—Indian medicine. That's kind of a forgotten thing, though. There's very few people who know any medicine that the old folks used to take years and years ago, like roots and herbs and whatever. There aren't too many people that use it anymore.

"There's a few that do. And when you ask them about it, they'll say: 'Well, we don't want to interfere with your white man medicine, so we'll just let it go.' They don't want to discuss it or even use it anymore.

"I don't want you to think I'm just all for our modern culture, but it seems like that's all our kids know nowadays. I think there's more interest in the traditional ways now, but we don't have the people who want to teach. They say, 'You're going to be living in the white man's world. You learn his ways.' Maybe that's just kind of feeling sorry for ourselves."

Clinic director Fleming thinks it's regrettable that Indian medicine is being lost, not only among the people of the Umatilla reservation but among many other tribes as well: "As a physician, I believe in many of those herbal medicines and traditional healing techniques like the sweat houses, which were very effective and didn't involve injecting a lot of potentially harmful agents into the body."

Bruce Campbell, a native of the nearby town of Pendleton, and the IHS service unit director at the reservation, was asked about cultural difficulties. He said there are conflicts, all right; but not necessarily the kind that might be expected:

"The conflicts aren't always wrapped up in feathers and dancing. Frequently in communities adjacent to Indian reservations, the people feel the Indians receive government services and don't have to do anything. That just isn't true, but there's no method by which the townspeople can learn differently. The educational system just hasn't allowed the teaching of Indian history.

"Take treaty rights. When the people on this reservation were recognized as a sovereign nation, they agreed to give up their claim to eastern Oregon and eastern Washington in return for certain things the government said it would give them in payment for their land—healthcare, for instance. We don't interpret our health service as welfare. It's actually an inheritance, just the same as if someone in town inherited a wheat ranch from his great grandfather. Without the opportunity to learn these things, a misunderstanding prevails among some of the white people and it creates conflicts. There are factions in Pendleton who don't believe in services for a special group of people. They don't understand the legitimate basis for those services.

"For the Indian person, this very often leads to conflicts when he wants to become a full participant in the community. Very often, he's asking nothing more than not to be viewed as a so-called parasite on the system."

At the Pendleton airport, an otherwise congenial woman had a spontaneous reaction to the very word Indian: "Lazy," she said, and upon further discussion: "Why don't you write about Danes? I'm Danish, and there aren't any lazy Danes." Across town at the office of the "World Famous Pendleton Round-up," an $18-per-couple "thrill-packed epic of the Ol' West," the employe on duty had a different criticism: "These Indians don't do anything for nothing." Indians who take part in the four-day extravaganza each year receive a few dollars apiece for camping near the town stadium in "Teepee Village," the employe explained: "As a bonus, we give them food. One day it will be meat, one day fish. Sometimes each Indian gets a melon."

What this has to do with healthcare is illustrated by part of an interview with the administrator of a local hospital, which earns 10 per cent of its inpatient and 5 per cent of its outpatient revenue by providing care to Indians from the Umatilla reservation:

MH: How would you characterize the health status of Indian people in this area?

Administrator: "Oh, I think it's adequate. They have their own physician out there at the moment. They're very hesitant to come in and ask for assistance. Older people, especially, are hesitant to enter the health system."

MH: Have you conducted any programs to enhance communication with the Indian community?

Administrator: "We had some open forums during the past two years, nothing specific. They were for all community groups. Occasionally, the Indians complain about the service here, particularly about the emergency room. From the sessions we've had with them, it seems they don't get the kind of service they would like. Maybe they've expressed this to you. We've explained to them that it isn't because of their color. They think they don't come first; yet with our personnel, they're all treated the same, regardless of race, creed or color.

"Not having full-time physician coverage in the emergency room has limited their access. I gather that with Indians, it's not a priority to have a private physician. Perhaps it's their culture."

MH: Do you employ any Indian people here at the hospital?

Administrator: "In the hospital itself? We have some. Probably we have six here now. That's just a rough guess. I'm not sure if they're still with us or not. Again, this is not a priority with them. I gather that because of their system of federal support, they don't have to acquire jobs. Some do. We find it takes a little longer to train them. We find there's a cultural barrier.

"They've placed some of their girls in the LPN program, and they had two who completed the program. We hired one. Again, falling back on their basic, I guess, mentality that time isn't important, it was difficult for her to be here on time. If we said start at seven, she thought eight or nine would be fine. So it was difficult for her to adjust to our style of life. She did resign."

John Rohr, administrator of another local facility, the Pendleton Community Hospital, says Indians have posed no problem at his institution. "They're good employes," he remarked. He said there's been no difficulty communicating with the Indian community and that he's witnessed no special reluctance among Indian people to seek medical treatment at his hospital.

Although relatively new to Pendleton, Rohr believes there is a "chasm" between the confederated tribes and the leaders of the non-Indian community: "This is a fairly conservative community—politically, economically and socially. In many respects, this is still the Wild West. I'm not saying that these characteristics lend themselves to prejudices, racial slurs, or perhaps even bigotry, but it would seem to me that—I don't know how to express it—that perhaps a combination of these things does exist. . . . I don't feel too comfortable commenting about this, but there are some things you see that might be disquieting."

One way for Indian people to avoid unfriendly attitudes and, at the same time, increase control over their own lives is to provide services for themselves. On the Umatilla reservation this has been done with remarkable success, largely because of an energetic and sophisticated tribal government. Under the direction of Leslie Minthorn, a Tribal Board of Trustees conducts the general business of the reservation. A nine-member Tribal Board of Health answers to the trustees and sets policy for a Tribal Health Department composed of 20 employes.

Elwood Patawa is executive director of the Umatilla health department. "The department," he explained, "consists of our alcohol and drug program, maternal and child healthcare service, a family planning consultant, solid waste disposal and sanitary land fill service, a safety officer, and seven community health representatives. We're in the process of developing emergency food and medical services and a women and infants care program."

IHS unit director Campbell says the most impressive thing about the Umatilla health program is that it was developed by community initiative. "This is a tribal group without income from its own resources," he said. "Some tribes have some income-generating natural resources on their lands. The Umatilla do not, but the development of these health programs has occurred in spite of their lack of income. Because community interest in healthcare is so high, these people have been able to generate interest elsewhere that has led to some assistance grants.

"In fact, I think this community could be a model for the country. The nation as a whole is becoming more interested in health delivery and has begun to involve consumers in the health planning process. Here, this has already occurred, and it's been a very successful experience."

Perhaps the most ambitious undertaking of the Umatilla people has been construction of the Yellow Hawk Clinic. Unable to obtain funding for the project from IHS, the tribal confederation managed to secure a grant of $120,000 from the Economic Development Administration. After this initial success, however, things got tougher.

"The building has been completed for two years now," said Campbell. "Normally, IHS would respond to this sort of initiative by providing appropriate staff for the clinic, but there's been a ceiling on staff positions for a number of years." Thus, aside from periodic visits by local practitioners working under contract with IHS, the Yellow Hawk Clinic stands virtually idle.

There is no IHS hospital in the region, and while some of Pendleton's healthcare providers are less than enthusiastic about serving the reservation community, there also is a discernable resistance to supporting Indian efforts to care for themselves. Local hospitals and doctors have a financial incentive to maintain the status quo. If the Yellow Hawk Clinic becomes fully operational, the volume of service rendered by non-Indian providers could decline sharply.

"If all Indian healthcare were rendered on the reservation, it would have an impact on at least 5 per cent of our operation," hospital administrator Rohr acknowledged. "But I think here, too, we have a philosophic issue. From the standpoint of a provider, I can say this would have an adverse financial impact on our facility. From the standpoint of a person at least somewhat attuned to what the Indians are trying to do for themselves, I'd have to be in favor of it, and I am. For the Indians, it's a question of self-determination."

An important, but preliminary, step toward making the Yellow Hawk Clinic fully functional was taken when the Tribal Health Board hired Tim Fleming as physician-manager. "My job," says Fleming, "is to help these people develop a healthcare system from scratch. Their healthcare needs are being taken care of as well as can be expected in Pendleton through contract services, but IHS appropriations from Congress just have not been adequate to do what's necessary. Certain priorities have had to be set. Some elective surgery, for instance, has had to be excluded from coverage. Worse yet, IHS eligibility is on-again off-again for the 700 or so Indians who can't live on the reservation because of inadequate housing. When funds are tight we can cover only those people who actually live on the reservation. We need a direct care facility here very badly.

"What we hope to do is set up a family practice clinic emphasizing preventive medicine and using community health representatives to provide home healthcare. But to get that kind of an operation under way requires more staff, more equipment, and more supplies. All that requires money, which is not available. Even if we could get just a nurse, we could make a start."

In the current political and economic climate, the chances of obtaining funds for domestic programs are dubious at best. Spokesmen for reservations such as the Umatilla must travel to Washington, D.C., to request special congressional "add-ons" to the IHS budget. These add-ons are earmarked for specific projects on individual reservations.

Only four of the 27 necessary positions at the Yellow Hawk Clinic are presently filled, according to Fleming. To meet the guidelines established by Congress itself for staffing a clinic such as the one on the Umatilla reservation would require a special appropriation of $250,000, it is estimated. To bring the entire Umatilla health department up to optimum capacity would require an additional appropriation of $62,000, Indians say. The prospects that the Umatilla people will get that kind of money are not bright. In 1975 alone, Congress received similar add-on requests from more than 200 tribes.

Such a haphazard approach to Indian healthcare funding not only confuses congressional staff members and frustrates tribal leaders, it also is wasteful. Allowing a $120,000 facility to operate far below capacity cannot be cost effective, but there are more serious problems. "Sometimes when an add-on appropriation is finally approved," an IHS official confided, "there are only a few months left to spend the money. This results in a lot of high-speed spending without careful consideration being given to what is purchased."

Politicians in both the Senate and the House, ranging from Barry Goldwater to Edward Kennedy, declare improvements must be made. Arizona's Sen. Fannin sums it up this way: "For far too long, the Indian Health Service and the Indian people themselves have experienced government policies that resulted in inadequate funds, inadequate manpower, and inadequate facilities. In place of a comprehensive plan to meet the health needs of Indian people, government policies have had the effect of a Band-Aid."

With firm resolve, lawmakers of every political persuasion introduced the Indian Health Care Improvement Act in 1974. The measure provided for $1.6 billion to be spent on Indian healthcare over a five-year period. With unwavering determination, lawmakers introduced the bill again last year, this time calling for the $1.6 billion to be spent over seven years. Lawmakers promise the bill will be introduced this year, too.

Legislative action, more generous appropriations, an end to conscious and unthinking bigotry, heightened sensitivity, greater cooperation from community health facilities—almost anything would help, little is being done, and nothing will bring back the Cayuse or lift the bitterness from an old woman's eyes.

Indian Doctor Says Her People Get Band-Aid Medicine

California has one of the nation's largest American Indian populations. Some 118,000 Indians live throughout the state, 60,000 in Los Angeles County alone. HEW's Indian Health Service operates no hospital in California. A natural question, therefore, is: How are community nursing homes and hospitals meeting the health needs of the Indian people in California? "Not at all," says Leonard Smith, executive director of the California Urban Indian Health Council.

The typical problems Indians encounter with the urban health system involve language difficulties and cultural differences, Smith reports. Indians newly arrived in urban areas are commonly turned off when they must travel to numerous different clinics and deal with bureaucratic coldness and red tape.

"If the Indian's first impression is that he's not wanted, he'll just walk away," says Jennie Joe, a special consultant with the California Department of Health. Joe also noted that some Indian health problems may be aggravated in the urban environment. Indians have more accidents in cities, for example, she says, probably due to substandard housing and congested living conditions.

CUIHC is composed of nine health projects in cities throughout the state. In Los Angeles, which has more American Indians than any other city, there are four programs aimed specifically at the Indian community. Two deliver direct primary care, including dental service, and two focus on alcoholism. Although these grassroots programs receive more than $1 million a year, Indian leaders say healthcare for their people is inadequate.

"It's not adequate in terms of quality and accessibility for anybody," says Ed Olivas, chairman of CUIHC and director of Indian Lodge, an alcoholic rehabilitation residence program for men and women. "The problem is worse for my people because of their circumstances."

The migrating Indian comes from a simple rural life. "Most have no preparation for city life and competing on the labor market," says an official of the Los Angeles Indian Center.

"Indian values are different," says Baba Cooper, who heads an experimental alcoholism center in skid row. "There are a lot of vacancies in our lives. Survival can be our highest aspiration because we've been told all our life that we're losers. An Indian feels 'less than.' So in the city he is isolated, alone in a crowd. His only connection with survival in the city is with his own people, and it's hard to find an Indian willing or able to help because they're too busy trying to keep above water."

A second such project, Indian Free Clinic in Huntington Park, focuses mostly on outreach and on medical screening, counseling and referral. A dental clinic is open two nights per week, and a psychiatrist is available two days a month. Services include general medical, diabetic, prenatal, ob/gyn, family planning, nutrition and pediatrics. Director Juanita Connors, an Ogalala Sioux, says the clinic's future targets are preventive care (education and screening), especially for children and the aged, and expanded mental health services.

Reaching the urban Indian is difficult because Indians are sprinkled throughout Los Angeles. Though some are concentrated in South Central L.A.—Bell Gardens, Huntington Park, Maywood—Indians are outnumbered even there by other minorities. Funding agencies, mainly HEW, require direct service to be nonexclusive.

"Of the 23,000 Indians on welfare rolls, only 1,700 have Medi-Cal cards because the forms are so complex," she says. "Nobody helps the urban Indian get the healthcare he's entitled to. No Indians work in institutional social services or healthcare, so when an Indian gets insulted he walks away, whereas other minorities will fight for their rights."

Connors says 55 per cent of the Indian Free Clinic's 1,200 patients per month are non-Indian. Some of the 22 clinic staff members must be bilingual to serve Mexican-American patients.

Connie Uri, M.D., a general practitioner and anesthesiologist, who is a Choctaw/Cherokee Indian, says the free clinics are practicing "Band-Aid medicine" instead of remedying basic healthcare problems.

A $285,000 grant is being sought for a six-month program to train 50 Indians in health and dental services so they will be able to help their own people in hospitals, nursing homes, and doctor and dentist offices.

"For the dollars poured into Indian health programs, the tragedy is that a minimal amount of direct care is going to our people," says Uri. "In reality, these programs aim to give employment to Indians, but they create power structures that tear us apart. The alternative is free clinics with strict accountability to patients and funding organizations, headed by trained health administrators instead of laymen. Such an organization is able to channel its money into direct care and remedies instead of referrals."

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, some people steadfastly oppose the Genocide Convention because they see in the wording of the Convention too many traps in which the United States can become entangled. One of the major traps alleged by these people in article II, which specifies that there must be "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such." Opponents say that the inclusion of "in part" opens Government officials to charges of genocide against various minorities who have been and still be discriminated against. Article II, however, is no trap, and we need not fear its implications.

The wording of the Convention denotes that there must be a conscious intention to destroy individuals specifically because they are members of a certain group. If certain groups illegally try to take authority into their hands, then the Government can defend society against that group without fear of genocide charges. If government leaders of certain nations refuse to grant the basic right of existence to certain groups, then those responsible should and will be properly accused of genocide.

Furthermore, exclusion of the "in part" clause from article II would virtually nullify the effect of the Genocide Convention. If Hitler had said that he wanted to exterminate only three-quarters of the Jewish population, then he would not have been guilty of genocide under the Convention. We certainly could not allow this obvious loophole to remain open if we expect the Genocide Convention to have any significance.

Mr. President, the only danger inherent in article II is the danger that certain opponents of the Genocide Convention will use it without justification to block the long overdue ratification of a treaty designed to preserve the basic rights of all people.

CUBA

Mr. PEARSON. Mr. President, in 1973, both the United States and Cuba began gradually softening their intransigent policies toward each other. Along with numerous other Members of the Senate, I approved this movement toward more normal relations. Recent actions by the Cuban Government, however, threaten this embryonic rapprochement. Unless the Cubans alter their policy of exporting revolution, most recently manifest in Angola, I see no alternative but a return to our previous policy of the recent past.

Before discussing the effects of the Cuban intervention in Angola, let me briefly highlight those events that led many of us to believe that a normalization of relations was possible.

Mr. President, bipartisan efforts have been taken in the Senate to end the embargo on Cuba. Senators and staff members visited Cuba and returned with increasingly favorable reactions. In March 1975, Secretary of State Henry Kissinger declared that—

> We see no virtue in perpetual antagonism between the United States and Cuba . . . we are prepared to move in a new direction if Cuba will.

Throughout this past summer the Department of State issued similar conciliatory comments. In September, Assistant Secretary of State for Inter-American affairs, William D. Rodgers, stated that—

> We are ready. We are prepared to improve our relations with Cuba. Hostility is not part of our policy.

Last July, the United States voted along with 15 other members of the Organization of American States, OAS, to end the 11-year-old diplomatic and economic sanctions on Cuba. The resolution which passed at the San Jose meeting gave each member the right to make its own decision on relations with Cuba.

On August 21, 1975, the United States in keeping with the spirit of the OAS resolution relaxed certain aspects of its embargo on Cuba. The American Government agreed to grant licenses for trade with Cuba to foreign subsidiaries of American firms so long as they were trading in foreign made goods. The United States also dropped its prohibition against aid to nations whose ships or aircraft carry goods to and from Cuba. Regulations denying docking and refueling privileges to ships engaged in trade with Cuba were modified. And, finally, the State Department announced its intention to seek congressional modification in existing legislation which prohibits nations trading with Cuba from receiving food assistance under Public Law 480. Premier Fidel Castro publicaly acknowledged these American moves. Although he still referred to the embargo as "a dagger at our throat," Castro also stated that—

> We are willing to negotiate with the United States with absolute seriousness, frankness and responsibility.

Mr. President, the American people have also modified their anti-Cuban feelings. In an October 1974 Gallup poll 63 percent of those sampled favored normalizing relations with Cuba. And this poll was completed before the positive events of 1975.

Mr. President, the Cuban Government also undertook to improve relations. After Che Guevara's failure to lead a revolution in Bolivia in 1968, Cuba began to disengage from its previously active efforts to export revolution. In 1969, Cuba supported the reformist regime in Peru, even though its leaders had formerly led counterinsurgency units designed to combat the spread of Cuban influence. By 1971, rebel leaders like Douglas Bravo of Venezuela openly criticized Cuba for failing to provide effective support for the revolutionary movement. In 1975, Cuba even reestablished diplomatic relations with Venezuela, the very nation which had originally proposed the OAS expulsion of Cuba in 1964. Cuba also continued relations with Argentina, Colombia, Panama, and a number of Caribbean States, all of which felt reasonably confident that Cuba was not actively encouraging armed subversion in their midst. In May 1975, Deputy Prime Minister Carlos Rafael Rodriguez indicated in London that Cuba had stopped supporting guerrilla movement in Latin America.

In addition to its apparent reversal of plans to export revolution, Cuba also undertook a number of positive steps to reduce tensions with the United States. In February 1973, Cuba signed a "memorandum of understanding" with the United States for the prosecution of highjackers of aircraft or ships. Last August, Cuba returned nearly $2 million taken from Southern Airways by highjackers in 1972. Cuba also eased the restrictions on visits by Americans. Congressmen, journalists, and scholars were treated hospitably by the Cuban Government. In official and unofficial statements, Cuba exhibited an increasingly positive attitude toward the United States.

Mr. President, I believe that Abraham F. Lowenthal of the Woodrow Wilson School at Princeton University accurately summarized the state of Cuban-American relations as of last fall in an article entitled "Cuba: Time for a Change" which appeared in the fall 1975 edition of Foreign Policy. Dr. Lowenthal stated that—

> "Normalization"—mutually respectful and profitable diplomatic, commercial, and cultural relations—is at last possible, perhaps within two or three years. . . . Perhaps the most important impression I obtained on my visit was that Cuba wants and expects normalization, is striving to achieve it and is ready to compromise to gain rapprochement with the United States.

Mr. President, this era of progress suddenly halted last fall. Three main events have brought the two nations back into heated confrontation: First, Cuban support for the independence of Puerto Rico; Second, Cuba's active role in the passage of the United Nations resolution equating Zionism with racism; and Third, Cuban intervention with arms and men in Angola.

President Ford clearly stated the results of these events at a press conference on December 20, 1975:

> I want it on the record, and as forceful as I can say, that the effort of the Cuban government to get Puerto Rico free and clear of the United States and to involve itself in Angola ends any efforts at all as far as I am concerned to have friendlier relations. . . . The action of the Cuban government in sending combat forces to Angola destroys any opportunity for improvement in relations with the United States. They have made a choice which in effect, and I mean it very literally, has precluded any improvement of relations with Cuba.

Two days later, Castro answered at the First Party Congress, declaring that Cuba would not renounce its policies in support of revolutionary movements in Angola and Puerto Rico for the sake of relations with the United States. He stated that—

> At that price, there shall never be any relations with the United States. . . . We have to establish our principles, and our ideology. With our own blood we defend—we will defend Angola and we will defend Africa.

Mr. President, there are now over 12,000 Cuban troops in Angola. They have carried on a large proportion of the fighting on behalf of the Movement for the Liberation of Angola—MPLA. In fact, they are responsible for most of the MPLA's recent victories.

There are reports of over 2,000 Cuban troops in African nations other than Angola. Cubans are assisting the armed forces of President Sékou Touré in Guinea. There are contingents from Cuba in Somalia, Tanzania and in the Congo—Brazzaville. Cubans are also becoming increasingly active in the Arab world. They are training Polisario guerrillas from Western Sahara in Algeria. In South Yemen, there are reports of over 3,000 Cuban advisers and special forces, including Mig-flying pilots. The largest force of Cubans in the Middle East appears to be in Syria, where nearly 4,000 troops, including an entire armored brigade, are stationed.

Mr. President, while I continue to believe that a rapprochement with Cuba is desirable, I do not believe that this can take place under the conditions that exist today. Cuba has foreclosed this by its recent actions. I will not support any further relaxation of American policies toward Cuba until Cuba withdraws from Africa, ceases its activities in Puerto Rico, and abandons its efforts to export revolution.

DIVESTITURE

Mr. TALMADGE. Mr. President, the Georgia Oilmen's Association has expressed concern about so-called divestiture legislation, now pending before Congress, which would affect the major oil companies.

Two of the association's members, J. W. Adams III of Macon, Ga., and Dick Singletary of Thomasville, Ga., testified on this legislation on January 26 when hearings were held by the Senate Subcommittee on Antitrust and Monopoly.

I bring their testimony to the attention of the Senate and ask unanimous consent that it be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Statement of J. W. Adams III

Thank you, Mr. Chairman. My name is Billy Adams, and I am a gasoline jobber from Macon, Georgia. As one of 15,000 jobbers nation-wide. I am grateful for the opportunity to express some of the feelings my fellow jobbers and I have about this proposed legislation.

First, let me say something about the jobber's function in the market place. Many people who buy name-brand gasoline at a service station are under the impression they are buying from the company's dealer directly. Actually, most gasoline outlets across the country are served by jobbers, and not by the major oil companies.

Whether we market under a brand name or as unbranded gasoline, we are the people who most often supply the capital and the knowledge of local market conditions—responding to customer's needs on the level that meets their demands. When a new piece of property is sold or zoned for residential development, it is not the large oil companies who hear about it in their distant headquarters. It is not the large oil companies who determine the most promising locations for new service stations. Nor is it the large oil companies who put up the risk capital and open stations before the first residents move in. This is primarily a function of the jobber, who is on the scene and who is an integral part of the community in which he serves. For this reason, prior to FEA, the major oil companies constantly competed for supply relationships with aggressive, innovative jobbers.

This system has resulted in competition among jobbers to supply consumers with the best service at the lowest price, and competition among major oil companies to supply the best jobbers with their product. However, recent government intervention in the oil industry has caused an erosion of this competition, and in my judgment, any effort now to break up the supplying companies will result in even less competition, with the greatest punishment being inflicted ultimately upon the American consumer.

My own operation consists of 20 outlets, 14 of which are full-scale service stations and 6 of which sell only gasoline. My territory is primarily in Macon, a city of 150,000, with 2 service stations in Milledgeville, a city of 40,000; one in Gray, a town of 8,000 and one in Forsyth, a town of 12,000.

I am an independent jobber, which means I may contract with any supplier I wish to, but I have chosen to contract with a major oil company marketing under a nationally recognized brand name. This has enabled me to take advantage of my supplying company's national advertising and nationally-honored credit card service.

On the other hand, some of my jobber competitiors in the Macon area have chosen to build their business by marketing an unbranded product for cash at a lower price. Between the two approaches, consumers in the Macon area are given a full range of choices.

My particular brand is Amoco. That affiliation, however, doesn't restrain my freedom to deal with other companies. In addition to my Amoco outlets I own interest in a full-service carwash, which represents an investment of about $600,000. It so happened that Mobil gave us a better deal on gasoline prices than Amoco, so that particular operation flies the Mobil flag.

The point I make is this: In my operations (and I've got a pretty typical jobber operation) I have the freedom to sell unbranded or branded gasoline, and until FEA came into being, I had the freedom to choose my own supplier.

Now, on the heels of the massive problems created by FEA, comes this further government proposal to divest major oil companies of certain of their functions. Its proponents claim this will stimulate competition in the marketplace. I fear it will do just the opposite.

Under the present structure, as a jobber I have some stability assured for my business. I can be relatively assured of my supply for periods of up to five years on renewable contract. On the basis of that assurance, the banks can risk money on me, and in return I can risk money on service station locations, enabling me to offer reasonable stability in employment for those who work with me. I know I can buy somewhere in the neighborhood of 15 million gallons of fuel per year and that I can sell that much making a reasonable profit for the risks taken and the money invested.

If a divestiture bill passes, I will no longer have the assurance of any of these things. If marketing is divorced from refining, I would have no assurance that my suppliers would have adequate product to supply my operation. If refining were divorced from production, I would have no assurance that refining and distribution would have access to crude production on a stable basis. Even if I could get sufficient gasoline for my customers, there is no assurance that they would be able to pay with credit cards as before. My relationship with my customers would face drastic changes. There would also be no assurance that supplying companies would continue to have the incentive to bid against each other for the privilege of supplying my operation.

At the present time, my fellow jobbers and I represent part of the business community in Macon, Milledgeville, Gray and Forsyth. We are a part of the local flow of funds. We all have employees, we all have loans with the bank, we all supply services that make life in our area efficient and comfortable for the consumer. In short, we enjoy a stability and an orderliness in the marketing of gasoline in the Macon area.

In the face of our current economic problems, it seems to me Congress should be particularly hesitant about tampering with a system that has served us so well for so long. The time is just not right to experiment, or to even consider the implementation of any measure that has the potential of breaking up our present stability and orderliness, or that might precipitate a major disruption of the marketplace. In my opinion, divestiture would do precisely that and, frankly, I fear the damaging consequences that would be felt in the Macon area.

It would appear the primary purpose behind this proposal is to use the force of government to punish an industry—to punish an industry that, until the O.P.E.C. nations raised the price of oil, was more distinguished for its low prices and gas wars than for anything else. If the conclusion is that the major oil companies are responsible for the energy crisis, then the conclusion logically follows that the free market system is responsible for the energy crisis. I simply do not believe that to be the case, and I have to believe an overwhelming majority of the American people share that opinion, preferring instead to let competition in the market place solve our energy dilemma. After all, this is the system that has been responsible for providing us with the highest standard of living the world has ever known. Using government to break up the supplying oil companies of this nation is not consistent with the principles underlying that system. For this reason, in my judgment, the passage of divestiture legislation would only contribute to a lowering of our standard of living.

Finally, may I respectfully suggest that if Congress really wants to accomplish something constructive to help provide my customers with plenty of product, good service, and low prices, then return capital incentives to the market place by, first, eliminating unnecessary bureaucratic intervention in the oil industry, and second, by putting the brakes on inflation. A sound dollar coupled with freedom in the market place will not only solve our energy problems but will keep our nation strong and solvent.

Thank you, Mr. Chairman.

Testimony by Richard L. Singletary, Sing Oil Co., Thomasville, Ga.

Mr. Chairman, my name is Richard L. Singletary, and I am president of the Sing Oil Company, Thomasville, Georgia. Sing Oil Company is a family owned gasoline jobbership founded by my father in 1935. We supply 55 company owned gasoline stations, serve 95 other stations and 43 consumer accounts, consisting of government agencies, schools, farms, and small industries. I appreciate this opportunity to share with the members of this committee some of my views concerning the divestiture legislation that has been introduced in this Congress.

I am deeply concerned about the effect divorcement of the major oil companies would have on the ability of small gasoline marketers such as our company to survive. I know of no valid in-depth projections haveing been made that predict the effect this would have on the marketing sector of the oil industry.

Marketing of petroleum products has historically been performed primarily by small businessmen—as dealers and jobbers, both major and private brand. Because of large amounts of capital required in production and refining, the major oil companies have encouraged and assisted small businessmen to enter the marketing field. Long term relationships have been established between these companies and the independent retailers, which have greatly contributed to the success of the small businessman.

There seems to be a misconception by some people that there is a lack of competition within this industry. I have found this to be a highly competitive industry during the 19 years that I have been associated with our family jobbership. Even though we have chosen to market primarily as a private brander, underselling major brand competition, we have experienced no reluctance from major oil companies to sell us products. The integrated companies simply do not control sufficient retail outlets to market their refinery output, and have sought companies, such as ours, as customers. We are currently purchasing products from Chevron, Citgo, Tenneco, and Conoco.

As far as retail competition is concerned, I cannot remember experiencing a more competitive period than we are now encountering. As a private brander, we are posting prices 5 to 7 cents a gallon below lawful ceiling prices under current Federal regulations. This condition exists because of a diminishing total market for gasoline. It appears that the major oil companies are gradually relinquishing their position in the retail market to independent jobbers such as our company. Federal law requiring conservation of gasoline will intensify this struggle for survival over the next decade requiring a substantial adjustment by independent marketers.

I am concerned that divorcement will bring about a further shock to the marketing sector. Who will replace the majors in the market? I do not believe that the marketing arms that will be spun off from the major companies—should they be divorced—could continue to operate as they have in the past. My experience as a jobber would indicate that they would probably be forced to adopt mass merchandising techniques. If this occurs, many thousands of dealers and small jobbers will be eliminated. My best judgement is that the resulting marketing structure would be much more concentrated and less competitive than the structure existing today.

Mr. Chairman, I am unable to understand who will benefit from divorcement. I feel very strongly, however, that it will greatly damage the independent jobber such as our company.

THE ARIZONA REPUBLIC

Mr. GOLDWATER. Mr. President, one thing came through to me during my recent Lincoln Day visit in Arizona; in fact, it came through loud and clear, and that is that the people of my State, and I suspect other States, are sick and tired of expensive, unworkable Federal projects. The latest is the proposed Child and Family Service Act, and Arizonans to a man and to a woman are opposed to this approach to the regulation of our family life. There is one strength predominant in any civilizaiton; it is the strength that overrides all adversities and it overrides all attempts to throttle democratic government, and that strength is the family. In my humble opinion, this act would take a step toward the destruction of the American family, and I will oppose it as my constituents oppose it. I ask unanimous consent that an editorial on the subject from the Arizona Republic be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Arizona Republic, Feb. 11, 1976]

EDITORIAL: CONGRESS AND "CHILD CARE"

The proposed Child and Family Service Act of 1975, which is HB 2966 in the House of Representatives and S 626 in the Senate, is the sort of legislation that would expand the bureaucracy, increase the power of centralized government and weaken family ties in this country.

But it isn't the monstrosity described in flyers which have recently been appearing on bulletin boards in some Phoenix factories and business offices.

One such flyer which has reached The Arizona Republic says, "The Charter of Children's Rights of the National Council of Civil Liberties is becoming part of the Child Development Act."

The flyer then lists, as part of the charter, the provision that "All children have the right of protection from and compensation for the consequences of any inadequacies in their home and background."

Children also "have the right to protection from any excessive claims made on them by their parents," according to the flyer. An example of this right, says the flyer, is that a child doesn't have to carry out the garbage if he doesn't want to, even if his parents tell him to.

The simple fact of the matter is that the so-called Charter of Children's Rights was developed by a British group. It has nothing to do with the Child and Family Service bills now before Congress.

The Congressional Quarterly for Dec. 6, 1975, says this particular flyer, headed "Rearing Children by the Government or by Parents," has been widely circulated in the Midwest, and has resulted in a massive campaign to flood members of Congress with letters opposed to HB 2966 and S 626.

The flyer quotes from The Congressional Record, citing page numbers, but the page numbers corresponded to the 1971 volumes of the report. That's the year Congress passed and President Richard Nixon vetoed a bill similar to the one now before both houses. Nixon called it "the most radical piece of legislation to emerge from the 92nd Congress."

The current bills were introduced in 1975 by Sen. William F. Mondale, D-Minn., and Rep. John Brademas, D-Ind. Congressional Quarterly says the legislation "would authorize the federal government to designate state or local 'prime sponsors' that could provide federal grants for support of a broad range of child care programs."

Starting at $150 million the first year, the legislation would authorize the spending of $1 billion in the third year. Supervising the hundreds of thousands of "prime sponsors" would be an administrative nightmare.

The Mondale-Brademas bill provides for voluntary participation, and stipulates that policies would be set by councils on which parents would make up at least half of the membership.

That's the way most of the huge federal projects got their foot in the door. Today this sort of federal interference threatens to batter down the door and perhaps the house as well.

The Mondale-Brademas bill should not be passed, and the public is well advised to object to it. Congress should leave "child care" to parents and local authorities, but opposition to the measure is only discredited by propaganda of the type now being circulated through Arizona.

DETROIT RIVER SUCCESS STORY

Mr. GRIFFIN. Mr. President, it is safe to say, I think, that no city in our Nation has been more concerned about the problems of environmental pollution than has Detroit—and few have equaled the success of the Motor City in tackling and solving them.

Last fall, Mayor Coleman Young invited outdoor writers and editors from across the country to come and see for themselves the rebirth of the Detroit River, which in a few short years has been so cleansed of pollutants that it once again is thriving with trout, salmon, and other sport fish.

I ask unanimous consent that an editorial appearing in the Detroit News on January 23, 1976, entitled "Detroit River Success Story," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DETROIT RIVER SUCCESS STORY

A scant dozen years ago, anyone who suggested that conservationists someday would be pointing to the Detroit River as a model would have been dismissed as either a dreamer or a heavy-handed joker.

At that time, a good part of the river was little more than an open sewer for industrial waste. Thousands of gallons of waste, oil and grease were being poured into the river daily. Ducks that landed in its waters became coated with oil and died. Only trash fish were surviving.

Today the Detroit River is being hailed nationally by ecologists and conservationists and described by some as "the world's biggest trout and salmon stream."

The rebirth of the Detroit River did not happen overnight. But it came to national attention last fall when, proud of the city's achievement, the Greater Detroit Chamber of Commerce and Detroit Renaissance, Inc., brought outdoors writers from around the nation here to fish for the salmon, steelhead trout and muskellunge which are flourishing in the river.

Since then, these visitors have been writing incredulously of the Detroit River's turnaround and challenging their own cities to undertake similar cleanup projects.

Some of the data is worth repeating. In 1963, a daily average of 3,676 gallons of waste was being poured into the river. By last year, it was estimated that this flow was down to 651 gallons, a cut of 82 percent.

The 60 Detroit industries located on the waterfront have spent between $300 million and $400 million on new recycling and waste treatment equpiment. The city of Detroit has spent another $345 million to remove 90 percent of the organic waste from its sewage.

It is doubtful if any Detroit achievement in the last half-century has received such a universally favorable national reaction as its cleanup of the river.

To be sure, there are other matters in the nation, and even in Detroit, that are more important than good fishing in the shadows of the city's skyscrapers.

But few things are more important than the rebirth of a city's pride, as evidenced by the river's cleanup and the benefits that can result when government and industry work hand in hand for the public good.

COMMENDATION OF MATTHEW J. PERRY OF SOUTH CAROLINA

Mr. HOLLINGS. Mr. President, on January 28, 1976, the General Assembly of South Carolina adopted a concurrent resolution which commends Columbia attorney Matthew J. Perry for his distinguished contributions to the State of South Carolina.

Mr. Perry has recently been appointed to the U.S. Court of Military Appeals and it is a fitting honor for one who has done so much for the progress of our State. As a civil rights leader, an attorney, and as a contributor of time and talent to many worthy efforts in South Carolina, Mr. Perry has earned the respect and admiration of his fellow citizens.

It is with a sense of pride that I submit for the RECORD this concurrent resolution, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

A CONCURRENT RESOLUTION

To congratulate Matthew J. Perry upon his appointment to the United States Court of Military Appeals and to commend the Honorable J. Strom Thurmond, United States Senator, for submitting Mr. Perry's name for consideration.

Whereas, Matthew J. Perry was recently appointed by the President of the United States to serve on the United States Court of Military Appeals; and

Whereas, Matthew J. Perry has distinguished himself throughout his illustrious career as an attorney, civil rights leader and by his numerous contributions to his state and country; and

Whereas, Matthew J. Perry is a most deserving and well qualified person for this high honor; and

Whereas, the people of South Carolina are proud of Mr. Perry, and the General Assembly would like to congratulate him for his appointment to the Court and commend the Honorable Strom Thurmond for submitting

Mr. Perry's name for consideration. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

That the South Carolina General Assembly hereby expresses its hearty congratulations to Matthew J. Perry upon his appointment to the United States Court of Military Appeals and commends the Honorable Strom Thurmond, United States Senator, for submitting Mr. Perry's name for consideration for this high honor.

Be it further resolved that a copy of this resolution be forwarded to Mr. Perry and Senator Thurmond.

FEDERAL CAMPAIGN ACT AMENDMENTS OF 1976—S. 2980

Mr. BUCKLEY. Mr. President, on the day that the Supreme Court handed down its decision in the case of Buckley against Valeo, I stated my hope that the decision would focus public and congressional attention on the need to develop an approach to campaign oversight which would guarantee free, clean elections, while guarding the rights of free speech and political association.

In the 2½ weeks that have since elapsed, a number of bills have been introduced more or less as emergency measures that are intended to deal with only the most obvious gaps left by the decision. None of them addresses the full range of problems created by the Supreme Court decision—especially in congressional races.

We need to do substantially more than simply reconstitute the Federal Election Commission so that public subsidies may continue to flow to Presidential candidates. The Supreme Court's elimination of limits on individual spending has accentuated the inequities already ingrained in the Federal Election Campaign Act. They, too, must be addressed on an urgent basis. Finally, there is broad agreement, based on actual experience with the act, that a number of its provisions are unwieldy or unduly burdensome. These can easily be corrected at this time if only we will take the trouble to do so.

Yesterday, Congressman WILLIAM STEIGER of Wisconsin and I introduced in our respective Houses a bill that will restructure the Federal Election Commission along constitutional lines, reallocate its responsibilities in a more efficient manner, adjust some of the major inequities in the law as it has survived the Court's decision, and make certain modifications that we believe will simplify the administration of the Federal Election Campaign Act as amended.

In preparing our bill, we have consulted with our coplaintiffs in Buckley against Valeo. Our bill represents a consensus that cuts across partisan and ideological lines. It is the only bill before this committee that attempts to address all the major problems that have been precipitated by the Supreme Court's decision.

Our bill does not seek to change features of the act, such as the public financing of Presidential campaigns, which the plaintiffs in Buckley against Valeo found objectionable, but which the Supreme Court left standing. Rather, we seek only to make those corrections in the law that are urgently required as a result of the Supreme Court's decision, while correcting some of the widely noted defects in the law that have become apparent since its enactment.

Specifically, our bill is addressed to the following deficiencies:

First. Inequities among candidates:

The Supreme Court's rejection of limitations on expenditures by candidates and independent individuals and groups, has dramatically magnified the inequities that exist under the law between different classes of candidates. On the one hand, wealthy candidates or candidates having the support of well-organized, well-financed political action groups, such as the AFL-CIO's Committee on Political Education, can now spend unlimited sums in the promotion of their candidacies. On the other hand, candidates without private means or without the support of such groups are limited to contributions that may not exceed $1,000 from individuals or $5,000 from political action committees. In practice, this has provided enormous handicaps in raising the kind of seed money that is especially important in launching the campaign of a candidate who is relatively unknown.

Our bill will help redress this imbalance by raising the limitations on individual and committee contributions to the following levels: $50,000 in the case of a Presidential candidate, $25,000 in the case of senatorial candidates, and $10,000 in the case of a candidate for the House of Representatives. These limitations are high enough to enable middle and lower income candidates to raise the money necessary to launch successful campaigns. Any possibility of abuse will, in our opinion, be checked by the effective enforcement of the disclosure provisions.

I would at this time point out that unless we substantially raise the limits on individual contributions, candidates for the Congress run the danger of losing substantial control over their own campaigns. The $1,000 and $5,000 contribution limitations will no longer keep individuals or political committees from spending as much as they want on behalf of candidates they want to support. It will merely prevent them from coordinating those expenditures with the candidate's campaign.

Second. The Federal Election Commission:

Aside from the fact that the Supreme Court has found the method of appointing the Federal Election Commission to be unconstitutional, the Commission in practice has been found to reflect all the deficiencies that are to be found in too many other agencies that are clothed with very broad rulemaking and enforcement responsibilities. Arbitrary and at times capricious requirements impose excessive legal and bookkeeping costs on candidates without serving any apparent public service. We have vested in the Commission extraordinarily broad powers over a most sensitive area of national life.

I suppose there is some sort of poetic justice in having Members of the Congress finally made subject to the kind of bureaucratic harassment and regulatory uncertainties and costs to which the Congress routinely subjects so many others in American society. Our bill nevertheless seeks to remedy this situation by allowing the functions currently delegated to the FEC between a reconstituted Commission and a new Election Law Section to be established in the Department of Justice. Our bill would vest the enforcement powers for the Federal election laws not with an independent "election czar," but with appointive officials within the traditional enforcement arm of the Federal Government. The Election Law Section would be headed by a Director and Deputy Director of different political parties who would be appointed by the President, with the advice and consent of the Senate. They would serve for 4-year terms and could be removed only for cause.

This arrangement would leave audit, review, and certification responsibilities with the new Federal Election Commission while assigning the functions of enforcement, the issuance of advisory opinions, and the conduct of civil and criminal litigation to the new Election Law Section of the Justice Department. This is the more normal arrangement, and we believe it represents better policy.

Third. Recordkeeping and disclosure:

The current disclosure and bookkeeping provisions of the Federal Election Campaign Act impose costs that cannot be justified by any consideration of public policy. I speak of the current requirements that a record be kept of each contributor giving over $10 and that disclosure be made of each contribution in excess of $100.

With respect to the recordkeeping provisions, it is simply irrational to suppose that any candidate for national office will be influenced by a $100 contribution, let alone an $11 contribution. The only possible effect of the current provision is to discourage contributions by individuals reluctant to be identified with minor parties or unpopular causes. It does not in any way affect the problem of corruption in public office. Our bill would substantially lighten the current recordkeeping burden by limiting such records to contributions in excess of $100.

It is just as irrational to assume that candidates for national office could be bribed by the $101 contributions that must now be reported. The amount of money required to have a possible corruptive influence on a candidate for political office depends on the relative size of the contribution to the overall financial requirements of the campaign. In order to ameliorate the effect of disclosure provisions on public participation in a campaign, our bill would adopt various disclosure thresholds which would be calibrated to the office sought. Specifically, we would establish those thresholds at $1,000 in the case of a candidate for the Presidency, $500 in the case of a candidate for the Senate, and $250 in the case of a candidate for the House of Representatives.

Fourth. Miscellaneous provisions:

The present rules appear unduly restrictive with respect to contributions to and from political parties and committees. There is also a great deal of uncertainty as to what constitutes a contribution to a particular candidate. Our bill incorporates language which will, first, remove some of the arbitrary restrictions that have been placed on the traditional role of parties and committees thereby broadening the diversity of groups that can have an input on the electoral process, and second, needed statutory guidelines for determining what constitutes a contribution. This will serve to remove many of the uncertainties that now exist in the law, and will facilitate the conduct of campaigns as well as the work of the Election Law Section that would be charged under our bill with the enforcement of Federal election laws.

As I stated at the outset, the Supreme Court's decision in Buckley against Valeo requires corrective action that is significantly broader in scope than the reconstitution of the Federal Election Commission. Inequities have been magnified which the Congress must address if we are not to establish two classes of candidates facing vastly different problems in financing and launching their political campaigns. Furthermore, the fact that some legislative action is necessary at this time provides us with a unique opportunity to correct the deficiencies that have been widely noted, deficiencies which add materally to the cost and complexity of political campaigns without serving any identifiable public purpose.

The American people have a right to expect that we will utilize this opportunity to effect something more than incremental changes intended to preserve the status quo. They have a right to expect their representatives in the Congress to enact real election reform that will remove provisions whose net effect is to protect the wealthy or special interest candidate from successful challenge.

Mr. President, only the Buckley-Steiger bill attempts to meet these objectives. So that its provisions may be better understood, to ask unanimous consent that there be printed in the Record a synopsis of the bill as well as the full text of the bill.

There being no objection, the bill and synopsis were ordered to be printed in the Record, as follows:

The Buckley-Steiger Bill

SYNOPSIS OF CAMPAIGN FINANCING PROPOSAL

Section 1

Subsection (a) would raise the contribution limitations from the $1,000 figure currently in force to $50,000 for a presidential candidate, $25,000 for a Senatorial candidate, $10,000 for a candidate for the House of Representatives, and $100,000 for a party or political committee. These figures would be indexed.

Subsection (b) would remove the special contribution rules for political committees, thereby subjecting them to the standard contribution limitations, both with respect to what they can receive and what they can contribute.

Subsection (c) would raise the limitation on total contributions which an individual may make to all candidates from $25,000 to $100,000. This figure would be indexed.

Subsection (e) would repeal the expenditure limitations.

Subsection (f) would repeal the limitation on expenditures from personal wealth which may be made by a person on behalf of his own candidacy.

Section 2

Subsections (a), (b), (d), and (e) would raise the disclosure thresholds from a $100 figure currently in force. Under this amendment, a contribution would not need to be disclosed unless it exceeded $1,000 if made to a Presidentail candidate, $500 if made to a Senatorial candidate, or $250 if made to a candidate for the House of Representatives. In addition, independent expenditures in excess of $2,500 which "expressly advocate the election or defeat of a clearly identified candidate, other than by contribution" will, in accordance with the court's decision, be required to be disclosed. These figures would be indexed quadrennially.

Subsection (c) would allow a candidate to accept contributions up to $100 from a given individual without being required to keep records of the contribution. Currently, the figure is $100.

Subsections (f) and (g) would repeal the reporting requirements for persons making independent expenditures, subject to the limited reinstatement mentioned above.

Section 3

Subsection (a) redefines "contribution" to require that a transfer be made knowingly in order to come within the ambit of that term. It would also impose reporting requirements on any person who is the agent of a candidate through his written or oral consent. The 2¢ per voter contribution limitation from a party to a candidate in a Presidential or Senatorial race ($10,000 in the case of a candidate for the House of Representatives) would be retained.

Section 4

Subsection (a) would reconstitute the FEC, and provide that it be appointed by the President with the advice and consent of the Senate.

Subsection (b) would create an Election Law Section in the Department of Justice to assume the Commission's functions of enforcement, rulemaking (which would be limited to promulgation of guidelines and advisory opinions), investigation, and civil and criminal litigation in the federal courts. The Section would be headed by a Director and a Deputy Director (of a party other than that of the Director), both of whom would be appointed by the President with the advice and consent of the Senate for a term of four years. Neither could be removed without cause. The FEC would retain its powers of review, certification, and audit.

Subsection (h) would remove the bar to candidacy as one of the permissible sanctions under the act.

Section 5

Subsection (b) would eliminate the Congressional veto power over rulemaking with respect to the election laws.

Subsection (f) would reinstate the expenditure limitations in the limited instance of a candidate accepting subsidies.

S. 2980

A bill to amend the Federal Election Campaign Act to provide for the constitutional reinstitution of the Federal Election Commission, to establish the Election Law Section in the Department of Justice, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Federal Campaign Act Amendments of 1976."

Sec. 1. (a) Paragraph (b)(1) of section 608 of title 18, United States Code, relating to limitations on contributions, is amended to read as follows:

"(b)(1) No person or organization shall make contributions to any candidate, party, or political committee which, in the aggregate, exceed—

"(A) $50,000, in the case of a candidate for election to the office of President of the United States;

"(B) $25,000, in the case of a candidate for election to the office of United States Senator;

"(C) $10,000, in the case of a candidate for the office of Representative; or

"(D) $100,000, in the case of a party or political committee.

"Notwithstanding anything in this section to the contrary, the limitation of contributions for any year after 1976 shall be equal to the amount enumerated for each of the respective recipients in paragraphs (b)(1)(A), (b)(1)(B), (b)(1)(C), and (b)(1)(D), multiplied by the ratio which the Consumer Price Index for the year in which the contribution is made bears to the Consumer Price Index for 1976."

(b) Paragraphs (b)(2) and (b)(4) of section 608 of title 18, United States Code, are hereby repealed.

(c) Paragraph (b)(3) of section 608 of title 18, United States Code, is redesignated as paragraph (b)(2), and is amended by deleting "$25,000" and inserting in lieu thereof "$100,000, multiplied by the ratio which the Consumer Price Index for the year in which the contributions are made bears to the Consumer Price Index for 1976."

(d) Paragraphs (b)(5) and (b)(6) of section 608 of title 18, United States Code, are redesignated as paragraphs (b)(3) and (b)(4), respectively.

(e) Section 608 of title 18, United States Code, relating to limitations on expenditures and contributions, is amended by deleting paragraphs (c), (d), (e), (g), (h), and (i), and inserting in lieu thereof the following:

"(c) No candidate or political committee, or officer, agent, or employee thereof, shall knowingly accept any contribution made in violation of the provisions of this section.

"(d) Any person who violates any provision of this section shall be fined not more than $25,000 or imprisoned not more than one year, or both."

(f) Paragraph (a) of section 608 of title 18, United States Code, is repealed. In lieu thereof the following is inserted:

"(a) For purposes of this section, contributions made for any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made for the candidate of such party for election to the office of President of the United States."

Sec. 2. (a) Section 434 of title 2, United States Code, is amended by deleting "$100" wherever it shall appear, and inserting in lieu thereof "the threshold amount (as defined in section 435)."

(b) Section 435 of title 2, United States Code, is amended to read as follows:

"Section 435. Disclosure thresholds

"(a) Notwithstanding any other provisions in this title to the contrary, a political committee or candidate shall not be required to disclose the source of any contribution not exceeding the following threshold amounts:

"(1) $1,000, in the case of a candidate for election to the office of President of the United States, or a political committee making contributions to a candidate for election to the office of President of the United States;

"(2) $500, in the case of a candidate for election to the office of United States Senator, or a political committee making contributions to a candidate for election to the office of United States Senator; or

"(3) $250, in the case of a candidate for election to the office of Representative, or a political committee making contributions to a candidate for election to the office of Representative.

In the case of a political committee making contributions to candidates for more than one of the offices enumerated above, then the lowest applicable amount shall apply.

"(b) Every person who makes expenditures for communication that expressly advocates the election or defeat of a clearly identified candidate, other than by contribution to a political committee, party, or candidate (as defined in section 431 of this title) in an aggregate amount in excess of $2,500 within a calendar year shall file with the Commission a statement containing the information required by this section. Statements required by this subsection shall be filed on the date on which reports by political committees are filed, but need not be cumulative.

"(c) Notwithstanding anything contained in this section to the contrary, the President shall, every four years commencing four years from the effective date of this section, review the amounts contained in this section, and shall adjust each amount by multiplying it by the ratio which the Consumer Price Index for that year bears to the Consumer Price Index for 1976."

(c) Subsection (c) of section 432 of title 2, United States Code, is amended by deleting "$10" and inserting in lieu thereof "$100."

(d) Paragraph (a)(7) of section 438 of title 2, United States Code, is amended by deleting "$100" and inserting in lieu thereof "the threshold amount (as defined in section 435)."

(e) Paragraph (2) of section 302(c) of the Federal Election Campaign Act of 1971 is amended by deleting "and, if a person's contributions aggregate more than $100, the account shall include occupation, and the principal place of business (if any);" and inserting in lieu thereof a semicolon.

(f) Section 308 of the Federal Campaign Act of 1971 is repealed.

(g) Paragraph 304(e) of the Federal Campaign Act of 1971 is repealed.

Sec. 3. (a) Paragraph (e) of section 301 of the Federal Election Campaign Act of 1971, relating to definitions, and paragraph (e) of section 591 of title 18, United States Code, relating to definitions, are amended to read as follows:

"(e)(1) The term 'contribution' means:

"(A) a gift, subscription, loan, advance, or deposit of money or anything of value for the purpose of—

"(i) influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party, or

"(ii) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President of the United States
made knowingly by a person or organization or the agent thereof to a recipient who is a candidate, party, or political committee, or the agent thereof.

"(B) a contract, promise, or agreement, whether express or implied, enforceable or unenforceable, which is entered into by a person or organization, and by which such person or organization knowingly contracts to make a contribution to a recipient who is a candidate, party, or political committee, for the purpose of—

"(i) influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party, or

"(ii) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President of the United States;

"(C) funds received by a party or political committee which are transferred to such committee or party from another political committee or party;

"(D) the employment of money or anything else of value, and any agreement to so employ, made knowingly by any person at the express direction and with the consent and prior knowledge of a candidate, party, or political committee, for the purpose of—

"(i) influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party, or

"(ii) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President of the United States; and

"(E) payment, by any person other than a candidate, party, or political committee, of compensation for the personal services of another person which are rendered to such candidate, party, or political committee without charge for any such purpose.

"(2) The term 'contribution' does not include—

"(A) the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

"(B) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities;

"(C) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor;

"(D) any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate;

"(E) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of three or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or other similar types of general public advertising;

"(F) any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 610 of title 18, United States Code, would not constitute an expenditure by such corporation or labor organization; or

"(G) any payment made to a political committee not making contributions (as otherwise defined in this section).

"(3) a contribution to a person or organization authorized by the candidate to receive contributions or make expenditures on behalf of the candidate shall be deemed a contribution to the candidate.

"(A) A person shall be deemed to be authorized by a candidate to receive contributions or make expenditures on behalf of the candidate if there has been prior written or oral request or consent by the candidate or his agents that the person or organization receive contributions or make expenditures on behalf of the candidate, and if the person or organization is acting pursuant to that consent or request.

"(B) A person or organization required to file a report under section 434 of title 2, United States Code, shall state in the report the identity of any candidate who has authorized that person or organization to receive contributions or make expenditures on behalf of his candidacy."

(b) Paragraph (d) of section 591 of title 18, United States Code, relating to the definition of "political committee," is amended to read as follows:

"(d) 'political committee' means any committee, club, association, or other group of persons which makes contributions during a calendar year in an aggregate amount exceeding $1,000, and is registered in accordance with the guidelines promulgated by the Election Law Section of the Department of Justice."

(c) Paragraph (d) of section 301 of the Federal Campaign Act of 1971, relating to definitions, is amended to read as follows:

"(d) 'political committee' means any committee, club, association, or other group of persons which make contributions during a calendar year in an aggregate amount exceeding $1,000, and is registered in accordance with the guidelines promulgated by the Election Law Section of the Department of Justice."

(d) Paragraph (9) of section 9002 of the Internal Revenue Code of 1954 is amended to read as follows:

"(9) 'political committee' means any committee, club, association, or other group of persons which makes contributions during a calendar year in an aggregate amount exceeding $1,000, and is registered in accordance with the guidelines promulgated by the Election Law Section of the Department of Justice."

(e) Paragraph (8) of section 9032 of the Internal Revenue Code of 1954 is amended to read as follows:

"(8) 'political committee' means any committee, club, association, or other group of persons which make contributions during a calendar year in an aggregate amount exceeding $1,000, and is registered in accordance with the guidelines promulgated by the Election Law Section of the Department of Justice."

Sec. 4. (a) Section 310 of the Federal Election Campaign Act is amended by—

(1) deleting section 310(a)(1) and (2) and inserting in lieu thereof the following:

"(a)(1) There is established a commission to be known as the Federal Election Commission. The Commission composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and six members appointed by the President with the advice and consent of the Senate; provided, however, that no more than three members of the Commission at one time shall be of the same political party.

"(2) Members of the Commission shall serve for terms of six years, except that of the members first appointed—

"(A) two of them shall be appointed for a term ending on the April 30 first occurring more than two years after the date on which they are appointed;

"(B) two of them shall be appointed for a term ending on the April 30 first occurring more than four years after the date on which they are appointed; and

"(C) two of them shall be appointed for a term ending the April 30 first occurring more than six years after the date on which they are appointed.

"An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds."

(2) deleting subsection (b); and

(3) redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

(b)(1) Sections 311, 312, 313, 314, 315, and 316 of the Federal Election Campaign Act of 1971 are repealed.

(2) Title III of the Federal Election Campaign Act of 1971 is amended by inserting

immediately after section 309 the following new sections:

"POWERS OF THE FEDERAL ELECTION COMMISSION

"SEC. 311. (a) The Federal Election Commission shall have authority under this section to—

"(1) receive and review reports filed under this title;

"(2) certify candidates for receipt of funds under chapters 95 and 96 of the Internal Revenue Code of 1954;

"(3) conduct audits in accordance with the provisions of chapters 95 and 96 of the Internal Revenue Code of 1954;

"(4) make public information which has been provided to it under the provisions of this title;

"(5) develop forms to be employed in filing reports in accordance with the provisions of this title;

"(6) compile and maintain a cumulative index of reports and statements filed with it, which shall be published in the Federal Register at regular intervals and which shall be available for purchase directly or by mail for a reasonable price;

"(7) prepare and publish from time to time special reports listing those candidates for whom reports were filed as required by this title and those candidates for whom such reports were not filed as so required;

"(8) prepare and publish an annual report including compilations of (A) total reported contributions and expenditures for all candidates, political committees, and other persons during the year; (B) total amounts expended according to such categories as it shall determine and broken down into candidate, party, and non-party expenditures on the National, State, and local levels; (C) total amounts contributed according to such categories of amounts as it shall determine and broken down into contributions on the National, State, and local levels for candidates and political committees; and (D) aggregate amounts contributed by any contributor shown to have contributed in excess of the threshold amounts defined in section 435 of this title;

"(9) prepare and publish such other reports as it may deem appropriate;

"(10) preserve reports and statements required to be filed under this title for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt; and

"(11) report apparent violations of law to the appropriate law enforcement authorities.

"(b) The Commission shall encourage, and cooperate with, the election officials in the several States to develop procedures which will eliminate the necessity of multiple filings by permitting the filing of copies of Federal reports to satisfy the State requirements.

"THE ELECTION LAW SECTION

"SEC. 312. (a) There is established in the Department of Justice a section to be known as the Election Law Section.

"(b) The Election Law Section shall be an independent section responsible directly to the Attorney General.

"(c) The Election Law Section shall have the power—

"(1) to enforce the Federal election laws contained in this title, title 18, and the Internal Revenue Code;

"(2) to issue guidelines and advisory opinions concerning the Federal election laws;

"(3) to seek to obtain compliance with the Federal election laws by informal methods of conference, conciliation, and persuasion:

"(4) to conduct investigations concerning possible violations of the Federal election laws;

"(5) to initiate (through civil proceedings for injunctive, declaratory, or other appropriate relief), defend, or appeal any civil action in the name of the United States for the purpose of enforcing the provisions of the Federal election laws; and

"(6) to initiate criminal proceedings against persons or organizations suspected of violating the criminal provisions of the Federal election laws.

"(d)(1) The Election Law Section shall be headed by a Director, who shall be appointed by the President with the advice and consent of the Senate for a term of four years. The Director shall receive compensation equivalent to the compensation paid at level IV of the Executive Schedule, and shall be subject to dismissal during his term only for cause.

"(2) The President, with the advice and consent of the Senate, shall appoint a Deputy Director of the Election Law Section, who shall be of a party other than that of the Director, and who shall serve for a term of four years. The Deputy Director shall receive compensation equivalent to the compensation paid at level V of the Executive Schedule, and shall be subject to dismissal during his term only for cause.

"ENFORCEMENT

"SEC. 313. (a) The Election Law Section, upon the reasonable belief that a violation of the Federal election laws contained in this title, title 18, or the Internal Revenue Code has occurred, may file a civil or criminal complaint in the United States District Court for the district in which the person or organization against which the complaint is brought is found, resides, or transacts business.

"(b) In any case in which the Clerk of the House of Representatives or the Secretary of the Senate has reason to believe a violation of this title, title 18, or the Internal Revenue Code has occurred, he shall refer such apparent violation to the Election Law Section.

"(c) Upon a proper showing in a United States District Court having venue that such person has engaged in such acts or practices, the court shall grant such civil or criminal relief as this Act shall provide, or as the court in the exercise of its equitable powers shall deem appropriate.

"(d) Any action brought under this section shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than actions brought under this section).

"ADVISORY OPINIONS

"SEC. 314. (a) Upon written request to the Election Law Section by any person substantially affected or likely to be substantially affected by the operation of the Federal election laws, the Election Law Section shall render an advisory opinion, in writing, within a reasonable time with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of this Act, of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or of section 608, 610, 611, 613, 615, 616, or 617 of title 18, United States Code.

"(b)(1) Notwithstanding any other provision of law, any person who acts in good faith in accordance with the provisions and findings of an advisory opinion or guideline promulgated by the Election Law Section shall be presumed to be in compliance with the provisions of this Act, of chapter 95 or 96 of the Internal Revenue Code of 1954, or of section 608, 610, 611, 613, 615, 616, or 617 of title 18, United States Code, with respect to which such advisory opinion or guideline was promulgated.

"(2) Notwithstanding any other provision of this title to the contrary, noncompliance with an advisory or guideline promulgated by the Election Law Section shall create no presumption of compliance or noncompliance with the provisions of this Act, of chapter 95 or 96 of the Internal Revenue Code of 1954, or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code, with respect to which the advisory opinion or guideline was promulgated.

"(c) Any request made under subsection (a) shall be made public by the Election Law Section. The Election Law Section shall, before rendering an advisory opinion with respect to such request, provide any interested party with an opportunity to transmit written comments to the Election Law Section with respect to such request.

"(d) All advisory opinions and guidelines promulgated by the Election Law Section shall be made public by publication in the Federal Register within a reasonable time following issuance."

(c) Title III of the Federal Campaign Act of 1971 is amended—

(1) by striking out "Commission" in section 302(d) and inserting in lieu thereof "Election Law Section";

(2) by amending section 304, relating to reports by political committees and candidates by striking out "Commission" where it appears in paragraphs (12) and (13) of subsection (b) and inserting in lieu thereof "Election Law Section"; and

(3) by amending section 306(a), (b), and (c), relating to requirements respecting reports and statements, by striking out "Commission" wherever it shall appear and inserting in lieu thereof "Election Law Section."

(d) Section 304(a)(3) of the Federal Election Campaign Act of 1971 is amended by deleting the final sentence, and by deleting "Commission" wherever it shall appear and inserting in lieu thereof "Election Law Section."

(e) Paragraphs (b) and (c) of section 309 of the Federal Election Campaign Act of 1971 are amended to read as follows:

"(b) A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of $100 to any person in connection with a single purchase or transaction. A record of petty cash disbursements shall be kept in accordance with requirements established by the Election Law Section, and such statements and reports thereof shall be furnished to the Commission as may be required.

"(c) A candidate for nomination for election, or for election, to the office of President of the United States may establish one such depository in each State, which shall be considered as his campaign depository for such State by his principal campaign committee and any other political committee authorized by him to receive contributions or to make expenditures on his behalf in such State. The campaign depository of the candidate of a political party for election to the office of Vice President of the United States shall be the campaign depository designated by the candidate of such party for election to the office of President of the United States."

(f) Section 318 of the Federal Election Campaign Act of 1971 is amended by striking out the final sentence.

(g) Section 320 of the Federal Campaign Act of 1971 is amended by striking out "Commission" and inserting in lieu thereof "Commission and Election Law Section."

(h) Section 407 of the Federal Election Campaign Act of 1971 is repealed.

AMENDMENTS TO THE INTERNAL REVENUE CODE

SEC. 5. (a) Section 9032(4) of the Internal Revenue Code of 1954 is amended to read as follows:

"(4)(1) The term 'contribution' means:

"(A) a gift, subscription, loan, advance, or deposit of money or anything of value for the purpose of—

"(i) influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party, or

"(ii) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President of the United States

made knowingly by a person or organization or the agent thereof to a recipient who is a candidate, party, or political committee, or the agent thereof.

"(B) a contract, promise, or agreement, whether express or implied, enforceable or unenforceable, which is entered into by a person or organization, and by which such person or organization knowingly contracts to make a contribution to a recipient who is a candidate, party, or political committee, for the purpose of—

"(i) influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party, or

"(ii) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President of the United States;

"(C) funds received by a party or political committee which are transferred to such committee or party from another political committee or party;

"(D) the employment of money or anything else of value, and any agreement to so employ, made knowingly by any person at the express direction and with the consent and prior knowledge of a candidate, party, or political committee, for the purpose of—

"(i) influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party, or

"(ii) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President of the United States; and

"(E) payment, by any person other than a candidate, party, or political committee, of compensation for the personal services of another person which are rendered to such candidate, party, or political committee without charge for any such purpose.

"(2) The term 'contribution' does not include—

"(A) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

"(B) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities;

"(C) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor;

"(D) any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate;

"(E) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of three or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or other similar types of general public political advertising;

"(F) any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 610 of title 18, United States Code, would not constitute an expenditure by such corporation or labor organization; or

"(G) any payment made to a political committee not making contributions (as otherwise defined in this section).

"(3) a contribution to a person or organization authorized by the candidate to receive contributions or make expenditures on behalf of the candidate shall be deemed a contribution to the candidate.

"(A) A person shall be deemed to be authorized by a candidate to receive contributions or make expenditures on behalf of the candidate if there has been prior written or oral request or consent by the candidate or his agents that the person or organization receive contributions or make expenditures on behalf of the candidate, and if the person or organization is acting pursuant to that consent or request.

"(B) A person or organization required to file a report under section 434 of title 2, United States Code, shall state in the report the identity of any candidate who has authorized that person or organization to receive contributions or make expenditures on behalf of his candidacy."

(b) Section 9009(c) of the Internal Revenue Code of 1954 are repealed.

(c) Section 9008 is amended in subsection (d) by striking "Commission" wherever it shall appear and inserting in lieu thereof "Election Law Section."

(d) Section 9039(b) is amended to read as follows:

"(b) GUIDELINES, ETC.—The Election Law Section is authorized to prescribe guidelines and to conduct investigations relating to the enforcement of this chapter. The Commission is authorized to conduct examinations and audits (in addition to the examinations and audits required by section 9038(a)) and to require the keeping and submission of any books, records, and information which it determines to be necessary to carry out its responsibilities under this chapter."

(e) Section 9040 of the Internal Revenue Code of 1954 is amended by striking out "Commission" wherever it shall appear and inserting in lieu thereof "Election Law Section."

(f) Section 9035 is amended to read as follows:

"(a) No candidate receiving funds under this chapter shall knowingly incur qualified campaign expenses in excess of the expenditure limitation prescribed by this section.

"(b) The expenditure limitation on candidates receiving funds under this chapter shall be equal to—

"(1) $10,000,000, in the case of a candidate for nomination for election to the office of President of the United States, except that the aggregate of expenditures under this paragraph in any one State shall not exceed 16 cents multiplied by the voting age population of the State of $200,000, whichever is greater.

"(2) $20,000,000, in the case of a candidate for election to the office of President of the United States.

"(c) For purposes of this section—

"(1) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

"(2) an expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by—

"(A) an authorized committee or any agent of the candidate for the purposes of making any expenditure; or

"(B) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate to make the expenditure.

"(d) The limitations imposed by this section shall apply separately with respect to each election.

"(e) The Election Law Section shall prescribe guidelines under which any expenditure by a candidate for Presidential nomination for use in two or more States shall be attributed to such candidate's expenditure limitation in each State, based on the voting age population in each State which can reasonably be expected to be influenced by such expenditure.

"(f)(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and the Election Law Section and publish in the Federal Register the per centum difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (g) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

"(2) For purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1974.

"(g) Notwithstanding other provisions of this section to the contrary, the national committee of a political party and a State commitee of a political party, including any subordinate committee of a State committee, may, even if authorized by the candidate to receive contributions and make expenditures on behalf of his candidacy, make expenditures in connection with the general election campaign of that candidate without reducing the amount which that candidate may spend under subsection (b), provided that, the national committee of that political party may not make expenditures in excess of two cents multiplied by the voting age population of the United States.

"(h) During the first week of each calendar year, the Secretary of Commerce shall certify to the Commission and the Election Law Section and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, 18 years of age or older."

(g) Section 9009(b) is amended to read as follows:

"(b) GUIDELINES, ETC.—The Election Law Section is authorized to prescribe guidelines and to conduct investigations relating to the enforcement of this chapter. The Commission is authorized to conduct examinations and audits (in addition to the examinations and audits required by section 9007(a)) and to require the keeping and submission of any books, records, and information which it determines to be necessary to carry out its responsibilities under this chapter."

(h) Sections 9010 and 9011(b) are amended by striking out "Commission" and inserting shall appear and inserting in lieu thereof "Election Law Section."

(i) The heading for section 9010 is amended by striking out "Commission" and inserting in lieu thereof "Election Law Section."

(j) Section 9002(11) is amended by striking out "Commission prescribes by rules and regulations" and inserting in lieu thereof "Election Law Section prescribes in its guidelines."

(k) Section 9003 is amended by striking the final sentences in subsections (b) and (c) and inserting in lieu thereof the following: "Such certification shall be made within such time prior to the day of the presidential election as the Election Law Section shall prescribe through its guidelines."

ADVISORY COMMITTEE ON NATIONAL GROWTH POLICY PROCESSES

Mr. HUMPHREY. Mr. President, I requested and received recently a copy of the work plan of the Advisory Committee on National Growth Policy Processes which was established by the National Commission on Supplies and Shortages in accordance with a legislative mandate provided in Public Law 93–426.

First, Mr. President, I commend the National Commission on Supplies and Shortages for not only having fulfilled this particular requirement of Public Law 93–426, but also upon their selection of committee members. The committee named by the Commission is broadly based in terms of interest sectors, geography, and politically. Furthermore, the man named by the Commission as committee chairman, Mr. Arnold Saltzman of New York, is a man of great experience both in terms of matters relating to national governmental policymaking and those relating to our Nation's private sector.

Second, Mr. President, I commend the committee for the excellent work plan it has laid out for itself in implementing its congressional mandate. I find the work plan consistent with what I and others intended it to address when my amendment was unanimously adopted on the Senate floor.

My only disappointment with respect to the establishment of this committee and its operations, is that not enough funds or staff are being provided to it to help it accomplish the formidable task which Congress has mandated. The committee's funding authorization is currently limited to $150,000. It further is limited to a staff of two, namely an executive director and one secretary. The committee also must operate under the requirements and rules provided under the Federal Advisory Committee Act, which I agreed to when it was adopted by the Senate.

I mention this latter item, not because I find any problem or fault with it, but merely because it does place certain added financial requirements upon the committee which we did not take into account when establishing the committee's basic funding authorization. The committee currently consists of 20 members, and what funds it now has will be utilized entirely just for committee meeting expenses and for the salaries of its staff of two. What I have just alluded to takes into account the fact that many, if not most, of the committee members have apparently agreed to serve without compensation, and some even without travel reimbursement.

Mr. President, I would hope that those of us in Congress interested in the success of this important effort can agree upon expanding the funding and staff base of this committee soon enough to permit it to complete its work within the timeframe already laid down by Congress, which is December 31, 1976.

As of this moment, the committee will have no funds for hiring any additional staff or for contracting any studies to assist it in the accomplishment of its mission, which given the importance of that mission, I find unfortunate, if not absurd.

Mr. President, so that other Members of Congress and others interested in the vitally important mission of the Advisory Committee on National Growth Policy Processes can be informed of its activities and plans, I ask unanimous consent to have printed in RECORD the following: The background statement of the executive director of the committee, Mr. James E. Thornton, to committee members; the work plan adopted by the committee at its initial meeting on January 29, 1976; the budget statement of the committee; a list of committee members; and statements made by Senate majority leader MIKE MANSFIELD and Senate Republican leader HUGH SCOTT on January 28, 1976, when they formally announced the formation and membership of the committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BACKGROUND STATEMENT BY THE EXECUTIVE DIRECTOR FOR MEMBERS OF THE ADVISORY COMMITTEE ON NATIONAL GROWTH POLICY PROCESSES

The Advisory Committee on National Growth Policy Processes was created as part of S. 3523, which provided for the establishment of the National Commission on Supplies and Shortages. This particular bill, which was introduced by Senators Mike Mansfield, Hugh Scott, Robert Byrd, Griffith, Brock and Javits, eventually was adopted by the Congress as an amendment to the Defense Production Act. It was signed into law by the President on September 30, 1974, and is now Public Law 93–426. And, in accordance with the mandate contained in Subsection (i) (2) of Section 720 of P.L. 93–426, the Commission has created our special Advisory Committee.

Throughout the legislative history of P.L. 93–426, the record provides considerable evidence that the sponsors of this legislation do expect to receive from the National Commission on Supplies and Shortages specific recommendations as to the establishment of a new government instrumentality or agency for coordinating and dealing with materials and commodity information gathering and related policy matters. While the actual language of P.L. 93–426 requires the Commission to consider the "advisability" of creating such a new agency for these purposes, the weight of the legislative history on this point is so strong that the Committee should generally assume that the Commission will likely recommend the establishment of some new independent instrumentality or agency to handle future materials and commodity information gathering and related policy development matters.

My reasons for reviewing what Congress expects from the Commission relates to possible "agency" proposals that the Advisory Committee may be examining for possible establishment within the Federal Government. However, the likelihood is that the Committee would be looking at "agency" proposals which would provide for a much broader capability than those considered by the Commission as it relates to assessing general impacts of a number of specialized policies.

The provision of P.L. 93–426 relating to the establishment of our Advisory Committee, including its legislative history, adds yet two other and more comprehensive dimensions to what the Congress expects to have submitted to it by the Commission. The added dimensions to which I allude are contained in the amendment language creating the Advisory Committee. It states that the Advisory Committee is "to develop recommendations as *to the establishment of a policy making process and structure* (my emphasis) within the Executive and Legislative Branches of the federal government as a means to integrate the study of supplies and shortages of resources and commodities into the total problem of balanced national growth and development, *and a system for coordinating these efforts* (my emphasis) with appropriate multistate, regional and state governmental jurisdictions."

In his Senate Floor remarks when proposing the above amendment, Senator Humphrey discussed at some length his views regarding the need for new institutional arrangements at the Federal level "to interrelate our (nation's) planning for developments in transportation, environment, land use, and an equitable and improved social life with our analysis of the availability and management of resources." (CR 6/12/74)

Senator Humphrey summarized the concerns which prompted his amendment creating our Advisory Committee in the following two paragraphs:

"In today's world, everything relates to everything else. No problem, no policy issue, can be totally insulated from other problems and policy issues. What happens in agriculture affects our energy policy, our transportation policy, and our foreign policy. What happens in our energy policy affects our transportation policy, our economic policy and our foreign policy. And the litany of interrelationships between and among policy areas goes on and on.

"But unfortunately, our governmental institutions and policy-making processes today are not designed or equipped to reflect those interrelationships or to provide for long-range policy analysis."

In support of these same general notions of concern, Senator Mansfield reminded his Senate colleagues during the debate on S. 3523 (CR 1/12/74) of the General Accounting Office's recommendation to the Congress in April of 1974, which called on the Congress to "consider the need for legislation to establish a centralized mechanism for developing and coordinating long-range policy planning."

My reason for going into some of this legislative history is to help the Committee focus in on what the Congress intended in adopting S. 3523 including its provision relating to our special Advisory Committee and what the Congress expects to get by way of recommendations from both the Commission and our Advisory Committee.

Based upon this interpretation of both P.L. 93–426 and the legislative history alluded to above, we have prepared the proposed work plan which is attached for the Committee's consideration. The work plan is submitted for discussion and amendment by the Committee in accordance with the requirements placed upon it by P.L. 93–426. Given the extremely short time frame within which the Committee and its staff must complete its work, it will be essential that the Committee arrive at some general agreement on its work plan by the close of its January 29, 1976 meeting, or certainly no later than February 6, 1976. The work plan, of course, can later be refined and amended as the Committee gets further into its work.

Also, in finalizing its work plan, the Committee must keep clearly in mind the very limited resources that it currently has available by way of full-time staff (one Executive Director and secretary) and funds ($150,000) to carry out its work. As the budget document presented to you today indicates, little or no funds will be available for contracting any special studies or for the hiring of additional staff. Such constraints, unless changed, will mean that the Committee will also have to rely largely upon the personal inputs of individual committee members, their affiliated organizations, or whatever can be provided through agencies of the Federal Government on a non-reimbursable basis.

The constraints of time, funding and staff will have to be carefully weighed by the Committee in constructing a realistic work plan and schedule that will be both responsive to what Congress wants, and possible to complete—within a time frame that will permit proper interfacement with the work of the Commission and publication of a final report by December 31, 1976.

The draft work plan which follows was developed with the aforementioned as much in mind as possible.

PROPOSED WORK PLAN FOR THE ADVISORY COMMITTEE ON NATIONAL GROWTH POLICY PROCESSES

OBJECTIVE NO. 1-A

Conduct an assessment of existing processes, structures, and institutional arrangements within the Congress and the Executive Branch of the Federal Government for policymaking related to balanced national growth and development.

Conduct an examination of the adequacy and responsiveness of these processes, institutions, and structures in addressing both short-term and long-term impacts of individual national policy proposals, as well as addressing the impacts that such specialized policy proposals may have on our nation's economy, its natural environment and on the lives of citizens.

Conduct an assessment of the existing relationships between current policy-making processes and existing budgetary processes within the Federal Government (OMB and Congressional Budget System).

Conduct an assessment of existing materials and commodity policy-making processes and the adequacy of such processes as it relates to anticipating short-term and long-term impacts on our nation's economy, its natural environment and on the lives of citizens.

Purpose of Objective: To determine the extent to which existing policy-making processes, structures and institutional arrangements within the Congress and the Executive Branch need improvement and augmenting to produce national policies that are more coherent and reflective of long-range impacts as well as impacts on our nation's overall future growth and development. To determine the extent to which existing policy making processes need improvement or augmenting to provide for better assessment of long-range budgetary impacts at the Federal level and to insure that the budgetary process itself does not become the sole determinate in national policy making.

To determine the extent to which existing national policy making processes related to materials and commodity policy development need improvement or augmenting to take into account long-range impacts as to the continued supply, use and conservation of such materials and commodities as well as the impacts that alternative policies in this area may have on our nation's economy, its natural environment, and on the lives of citizens.

Information Needed to Achieve Objective:

Working definition of "National Policy".

Working definition of "Balanced National Growth and Development Policy".

Understanding of the U.S. Constitution and its provisions for national policy formulation.

Understanding of the existing Executive and Congressional Budgetary Processes.

Understanding of various ways national policy is developed today (role of the President; the Executive Branch agencies; independent agencies and Commissions—especially those having regulatory powers; the Congress, its committee system and other agencies—GAO, CRS, and OTA; The Judicial Branch; State and local governments; the private sector; the international environment; citizen pressure groups; and, the ballot box.)

Understanding of how materials and commodity policy-making processes operate and knowledge of previously published studies in this area (Paley Commission; Materials Commission; Food Marketing Commission; GAO Reports and numerous reports published by Congressional Committee related to these subjects.)

How Objective Can be Accomplished:

Establish a Committee task force to develop definitions required, and to evaluate the adequacy of existing national policy-making processes and institutional arrangements within the Executive Branch and the Congress (including Federal budgetary processes) as they relate to providing for long-range impact policy analyses and for assessing impacts of specialized policies.

Who is Going to Undertake Accomplishment of Objective? (Volunteer Decisions of Committee Members.)

Note: The above mentioned effort in large part, will likely have to be based upon personal knowledge and experience, contemporary studies that already have been done; or that are not in process (for instance, on this latter point, GAO is now surveying five major Departments of the Executive Branch to ascertain the extent of their short- and long-term planning efforts.)

OBJECTIVE NO. 1-B

Define and evaluate several *alternative* policy-making processes and institutional arrangements that would provide the Executive Branch and the Congress with the capacity to formulate national policies which provide for alternatives and feasible options, and that will provide for methods of assessment for determining general impacts of specialized national policies and that also would reflect long-range impacts of policy alternatives.

Specify national objectives and government role contemplated by each alternative policy-making process or institutional arrangements.

Purpose of Objective: To provide the Federal Government with the capacity it requires to formulate national policies that provide feasible options.

To provide the Federal Government with the capacity it requires to make assessments of general impacts of specialized policies.

To provide for long-range national policy analysis.

To provide state and local governments with insights and understanding of national policy alternatives and how they are likely to impact upon them and their respective policy options.

To provide the private sector of our economy and the general public with insight and understanding of national policy alternatives and how they are likely to impact upon them and their decisions or choices.

To determine the likely impact of policy alternatives on national growth and development.

To identify the national objectives to be served and government role contemplated by each policy-making process or institutional arrangement defined and evaluated.

OBJECTIVE NO. 2-A

Assess the adequacy of existing intergovernmental processes, institutional arrangements and systems for providing involvement and coordination of multi-state, state and regional governmental jurisdictions in the national policy development process, especially as it relates to national growth and development policy.

Purpose of Objective: To determine needed improvements or changes in existing processes, institutional arrangements, and systems for involvement and coordination of multi-state, state and regional governmental jurisdictions in the national policy development process, especially as it relates to national growth and development policy.

Information Needed to Achieve Objective:

Understanding of existing intergovernmental institutional arrangements (multi-state, multi-county regions, metropolitan urban regions and cities and towns).

Understanding of formal and informal methods currently employed by the Federal, State and Local Government to consult with one another on national policy matters (Governors Conference, Special State Washington, D.C. Offices; White House meetings, etc.).

How Objective Can Be Accomplished:

Conduct a study to identify existing intergovernmental institutional arrangements and evaluate the adequacy and extent to which they provide for involvement of multi-state, state and regional governmental jurisdictions in national policy development, especially those related to the nation's future growth and development as well as their own.

Who Should Undertake Accomplishment of Objective: (To be determined by volunteer decisions of Committee Members)

OBJECTIVE NO. 2-B

Define and evaluate various proposals to improve the coordination of federal policy-making processes with appropriate multi-state, regional and state governmental jurisdictions. This should be done as it relates to those alternative federal policy-making processes selected by the Committee.

Purpose of Objective: To provide for the appropriate involvement and coordination of all levels of government in the national policy development process. Also to insure that the short-range and long-range impacts of Federal policy proposals are understood and anticipated as they relate to, and impact on, multi-state, regional and state governmental jurisdictions.

Information Needed to Achieve Objective:

Understanding of how various national policies impact on various regions of the nation (east-west; North-South; rural-urban; state-local).

Understanding of how various national policies impact on various concerns of state and local government such as environmental integrity, economic opportunity and development, and on various regulatory and social programs administered by these units of government.

Understanding of differences which exist among the various states with respect to their own Constitutional and governmental structures.

Knowledge of relevant studies and organizations that deal with this subject (Advisory Commission on Intergovernmental Relations—which itself may need improvement with respect to strengthening State and local government involvement in national policy development processes).

Knowledge of multi-state regional Commissions such as Appalachia and Title V Commission.

Knowledge of Federal Regional Council System.

Knowledge of various national organizations representing Governors, State legislatures, Counties, cities, multi-county and metropolitan areas.

How Objective Can be Accomplished:

Conduct an assessment of various legislative and non-legislative proposals that have been made to provide for such improved coordination and involvement.

Hold one or two days of public hearings to solicit additional proposals or ideas for such reform.

Solicit the help and support of the Advisory Commission on Intergovernmental Relations in developing an improved system for coordinating and involving State and local governments in the national policy development process.

Develop and modify a proposal to those alternative federal policy-making processes or structure selected by the Committee for recommendation to the Commission.

Who Should Undertake Accomplishment of Objective: (To be determined by volunteer decisions of Committee Members.)

OBJECTIVE NO. 3–A

To identify and evaluate existing involvement and consultation of private sector and the general public in development of national policies, especially those affecting our nation's future growth and development.

Purpose of Objective: To determine the adequacy of existing involvement and consultation with the private sector and the general public in the development of national policies.

Information Needed to Achieve Objective:

Understanding of formal and informal ways the private sector and the general public is involved or consulted in the development of national policies (Federal Commissions, Committees, Congressional hearings; letters; lobbying, White House Conferences, Executive Branch Mini-Summit Meetings; Personnel meetings with policy decision makers themselves).

How Objective Can Be Accomplished:

Conduct a study to identify and evaluate existing involvement and consultation of private sector and general public in the development of national policy alternatives.

Who Should Undertake Accomplishment of Objective: (To be determined by volunteer decisions of Committee Members).

OBJECTIVE NO. 3–B

Identify, define and evaluate various proposals for improving the involvement and coordination of the private sector and the general citizenry in the federal policy-making process and select—or develop—a proposal to be modified to the two alternative federal policy processes related by Committee.

Purpose of Objective: To insure that federal policies considered or adopted are consistent with our nation's basic values and to insure that potential impacts of proposed national policies are understood and presented to the American people in such a manner as to provide them with a stronger voice in shaping and influencing national policy decision making.

Information Needed to Achieve Objective:

Understanding of our nation's market oriented economy.

Understanding of our nation's pluralistic free-choice value system.

Understanding of our representative form of Constitutional democracy.

Understanding of the various telecommunication systems and communication technology that is available today and their potential importance in conveying national policy issues and alternatives directly to the general public.

How Objective Can Be Accomplished:

Conduct a survey of various proposals for involving the private sector and the general citizenry in the federal policy making process.

Conduct some public hearings to solicit suggestions as to how objective might be accomplished.

Select or develop recommendations for submission to the Committee as to how greater and more effective involvement of the private sector and the general public in national policy making can be accomplished. Then modify so that recommendations made can be applied to both alternative federal policy-making processes adopted by the Committee.

Who Should Undertake Acomplishment of Objective: (To be determined by volunteer decisions by Committee Members).

OBJECTIVE NO. 4

Assess the data needs and analytical capabilities required by the two alternative Federal policy making process proposals selected by the Committee, including personnel and the use of modern information systems technology and large-scale computer simulation technology.

Purpose of Objective: To determine the data needs and analytical capabilities including personnel and modern information systems technology, that is available and would be required to improve governmental forecasting, and long-range policy development including assessment of the interrelationships that exist between and among individual national policy areas.

Information Needed to Achieve Objective:

Understanding of what data and analytical capabilities are available within the Federal government, state and local government, universities and in the private sector and how they are currently employed and made available.

Understanding of the type personnel that might be required and available to staff any new governmental capability suggested by the two alternative Federal policy making proposals selected by the Committee.

How Objective Can be Accomplished:

Commission an effort to identify the data needs and analytical capability required by the two alternative Federal policy making proposals selceted by the Committee.

Commission an effort to identify and survey the type of personnel that would be required and who would likely be available to staff any new governmental capability suggested by the two alternative Federal policy-making proposals selected by the Committee.

Who Should Undertake Accomplishment of Such an Objective: (To be determined by volunteer decisions of Committee Members).

OBJECTIVE NO. 5

Define the ways and means by which the concerns of supplies and shortages of materials and commodities can be integrated into the two federal policy making process alternatives selected by the Committee for submission to the Commission.

Purpose of Objective: To insure that the particular and important data needs, capabilities and governmental policy requirements relating to materials and commodities are properly related to other national policy areas so that any cross-impact between and among individual national policies can be considered and assessed in time to provide an opportunity for proper adjustment and consideration of alternatives.

Information Needed to Accomplish Objective:

Understanding of materials and commodity policy requirements.

Understanding of interrelationships that may exist between materials and commodity policy and other national policies, including foreign policy considerations.

Understanding of the work of the National Commission on Supplies and Shortages, including some indication as to what, if any, recommendation it may make regarding the establishment of a new independent governmental agency for information gathering and for dealing with national materials and commodity related policy development questions in the future.

How Objective Can Be Accomplished:

Conduct a study to determine the interrelationships that exist between materials and commodity policy questions and other national policy areas.

Develop recommendation as to how the federal policy making processes selected by the Committee for submission to the Commission can be integrated or coordinated with those recommendations that are likely to be adopted by the Commission regarding the establishment of an independent agency or some new process for dealing with materials and commodity policy.

Who is Going to Undertake Accomplishment of Objective?

OBJECTIVE NO. 6

Conduct an assessment of the experience of the national policymaking processes of other selected Countries to determine, what, if any, aspects of such policy-making processes or institutional structures might be relevant to the United States.

Purpose of Objectives: To learn what other Country experiences are in the use of integrated policy development mechanisms for developing national policies and to determine whether any of those experiences have any relevance or value for consideration in the United States.

Information Needed to Achieve Objective:

Understanding of what other selected countries are now relying upon regarding integrative national policy mechanisms to provide for consideration of individual national policies and to achieve long-range policy goals and objectives.

Understanding of these foreign countries governmental capabilities to provide strategic economic information and to provide their government and private decision makers with well-analyzed policy alternatives or options,

How Objective Can be Accomplished:

Conduct a survey of literature and studies that have been made which describes such foreign country experiences.

Note: Such studies are available, including a new one which has just been completed by a Mr. Hawthrone of MIT concerning several western European nations.

Visit with the officials of several foreign countries to learn first hand regarding such experiences.

Who is Going to Undertake Accomplishment of Objective? (To be determined by Volunteer Decision of Committee Members).

ADVISORY COMMITTEE BUDGET

The sum of $150,000 has been appropriated for use of the Advisory Committee. This appropriation is for the duration of the Committee's term. A tentative budget follows:

Item:	Total estimate
Salaries and Benefits	[1] $105,400
Travel	[2] 29,806
Printing	[3] 8,000
Supplies and materials	2,000
Postal	2,000
Special publications	500
Unallocated	2,294
	150,000

[1] Based on two full time committee staff through March 31, 1977, 12 paid Members, 15 meeting days, full attendance.

[2] Assumes 10 trips each by 15 out-of-town Members, plus staff travel approximately $2,000.

[3] Estimates $7,000 for publication of Committee Report.

ADVISORY COMMITTEE ON NATIONAL GROWTH POLICY PROCESSES MEMBERS

Mr. Roger Ahlbrandt, Chairman of the Board, Allegheny-Ludlum Steel Corporation, Pittsburgh, Pa.

Mr. Norman Beckman, Acting Director, Congressional Research Service, Library of Congress, Washington, D.C.

Mr. Jacob Clayman, Secretary-Treasurer, Industrial Union Department, AFL-CIO, Washington, D.C.

Ms. Carol Foreman, Executive Director, Consumer Federation of America, Washington, D.C.

Mr. John W. Gardner, Chairman, Common Cause, Washington, D.C.

The Honorable Richard Hatcher, Mayor of the City of Gary, Gary, Indiana.

Professor Wassily Leontief, Economics Department, New York University, New York, New York.

The Honorable Patrick Lucey, Governor of the State of Wisconsin, Madison, Wisconsin.

Professor Richard Neustadt, John F. Kennedy School of Government, Harvard University, Cambridge, Mass.

Mr. William S. Paley, Chairman of the Board, CBS Inc., New York, N.Y.

Mr Charles Pillard, President, International Brotherhood of Electrical Workers, Washington, D.C.

Mr. William M. Roth, Director, Pacific National Life Assurance Co., San Francisco, California.

Arnold A. Saltzman (Chairman, Advisory Committee), Chairman of the Board, Seagrave Corporation, New York, N.Y.

Mr. Richard B. Scudder, Chairman of the Board, Garden State Paper Company, Garfield, New Jersey.

Honorable Herbert Stein, Professor of Economics, James Wilson Department of Economics, University of Virginia, Charlottesville, Va.

Mr. Simon D. Strauss, Executive Vice President, American Smelting and Refining Company, New York, N.Y.

Dr. Eric A. Walker, President Emeritus, Pennsylvania State University, University Park, Pa.

Mr. Ralph Widner, Director, the Academy for Contemporary Problems, Columbus, Ohio.

Dr. Harris Wofford, President, Bryn Mawr College, Bryn Mawr, Pa.

Mr. Leonard Woodcock, President, United Automobile, Aerospace and Agricultural Implement Workers, Detroit, Mich.

James E. Thornton, Executive Director, Advisory Committee, (AC 202) 254-5817.

REMARKS OF SENATOR MIKE MANSFIELD

Ladies and gentlemen, Senator Scott and I have called today's press briefing for the following purposes:

(1) to formally announce the establishment and the membership of the new Advisory Committee to the National Commission on Supplies and Shortages; and

(2) to acquaint you with the important mission that has been assigned to this group by the Congress, under Public Law 93-426.

Two years ago in the wake of the energy crisis a joint bipartisan effort was initiated by the Senate and House leadership and by the Executive Branch to address the question: "What about next time?" How can we as a Nation be equipped to foresee the next shortage in resources or in materials or in commodities in time to take action beforehand, and not after the crisis has pounced upon us?

This effort emerged out of a deep sense of frustration with the disjointed way government has tended for decades, not so much to act, but to react—on a crash basis—to the myriad of problems that will accompany this Nation's growth and development as the economy becomes even more complex, as the world becomes even more interdependent.

As science and technology, and the other forces of economic, environmental and social change continue to reshape the world around us, it has become clear that institutions of government and the traditional processes relied upon to develop national policy do not adequately respond to new challenges.

And it is for this basic reason that Mr. Arnold S. Saltzman, an industrialist with policy level experience in Federal government, has been chosen to head up this important effort. He and his Committee of prominent American leaders, representing labor, business, state and local government, the academic world and citizen and consumer organizations, will develop recommendations regarding a new process and structure within the Nation. Hopefully, their recommendations will make it possible at the highest levels of our national life to think ahead, to think long-range, to analyze in a methodical way the full spectrum of problems and opportunities that lie before our Nation in the years and decades ahead.

Along with its parent organization—the National Commission on Supplies and Shortages chaired by Donald Rice of the Rand Corporation—this Committee will hopefully provide Congress with specific suggestions as to ways we as a Nation might improve our capacity to assess and anticipate problems associated with resources, materials and commodity issues. These recommendations are to be delivered to the Congress by the end of this year—appropriately enough, our Nation's bicentennial year.

The product of these combined efforts will be among the first presented to the 95th Congress and to the Administration which takes office in January 1977.

I wish to publicly express my own personal gratitude to Mr. Saltzman and his Committee colleagues for taking on this vitally important and historic mission. I also wish them every success in their mission and pledge them my fullest cooperation and support.

STATEMENT OF SENATOR HUGH SCOTT

I am delighted to join Senator Mansfield today in presenting to the public the members of the newly-appointed Advisory Committee on National Growth Policy Processes. This distinguished Committee is charged with the important responsibility of determining the need for a permanent government agency to plan the Nation's growth.

Over the past few years we have all seen the serious consequences which result from the ever-growing scarcity of resources. Many of these resources, such as fossil fuels, can never be recovered. What we must attempt to do, however, is to see if it is possible to manage the Nation's growth in such a way as to prevent the unbridled consumption of resources while still providing for a growing economy.

The Advisory Committee will tell the Congress this year if new government institutions are necessary to do the job. The Committee will also tell the Congress what legislative action is recommended to accomplish the same objectives. I also expect the Committee to advise the Executive Branch on the whole question of excessive government regulation in the economy—that is, do federal controls inhibit natural growth?

I am pleased to note the presence on the Advisory Committee of two distinguished Pennsylvanians—Roger S. Ahlbrandt and Eric A. Walker. Their contributions to the Committee's work will reflect their vast experience and working knowledge of this important subject. I wish them well in this work, and join with Senator Mansfield in extending to the entire Advisory Committee our hope for the presentation of a useful report to Congress later this year.

MARIANAS COVENANT SHOULD BE APPROVED NOW

Mr. FONG. Mr. President, I am gratified that the proposal to grant Commonwealth status to the Northern Mariana Islands is scheduled for consideration by the full Senate next Tuesday. The legislation has been favorably reported by three Senate committees—Interior, Foreign Relations, and Armed Services.

I am personally familiar with the Northern Mariana Islands and closely followed the negotiations resulting in the covenant which we will be considering in the form of House Joint Resolution 549, as amended. I believe that this agreement is in the mutual interests of the United States and the Northern Mariana Islands and that it should be approved by the Senate.

I am aware that some Members of the Senate have argued that the Senate cannot make an informed decision on the covenant at this time and that we should delay action until negotiations have been completed with the entire Trust Territory.

An amendment has been proposed to this effect despite the fact that the covenant has been carefully examined and endorsed by three committees. The joint report filed by the Foreign Relations and Armed Services Committees on January 27 indicates that these committees carefully considered and rejected the assertion that approval should be delayed until the Senate has reviewed an agreement or agreements resolving the political status for the entire Trust Territory.

The fact is that the future political relationship between the United States and the Northern Mariana Islands on the one hand and the United States and the other districts of the Trust Territory on the other are separate and distinct. Delay in approving the agreement with the Northern Mariana Islands because the people of the other islands have been unable to agree on their future political status desires would be an injustice to the people of the Northern Mariana Islands and run counter to U.S. interests in the area.

The Northern Mariana Islands, as well as other islands in the Pacific, came under American administration as a result of the Second World War. As early as 1950 the people of the Northern Marianas began petitioning for a close and permanent relationship with the United States. This desire has remained constant throughout the years.

The leaders of the other islands of the trust territory indicate no desire for a commonwealth arrangement and are negotiating a more distant relationship with the United States. The cultural and ethnic ties of the people of the northern Marianas are with the American citizens on Guam, rather than with the peoples of the Marshall and Caroline Islands.

The Congress of Micronesia has gone on record indicating it has no objection in principle to separation of the Marianas from the rest of the Trust Territory and its spokesmen indicated under questioning in the Foreign Relations Committee hearings that they supported Senate approval of the covenant.

In view of these facts and the finding of the Senate Armed Services Committee that "acquisition of the Marianas pursuant to the proposed covenant would help the United States maintain a credible and flexible military presence in the Pacific" and that covenant approval "would represent a natural and desirable development to enhance and support the U.S. territory of Guam," I strongly urge the Senate to reject the spurious arguments of covenant opponents that the covenant requires further deliberation and that approval is not in the interests of the United States.

I wish to take this opportunity to bring to the attention of my colleagues a statement on the Marianas Commonwealth subject written by one who has lived with and worked hard for the advancement of the Micronesians.

After serving as Governor of American Samoa from 1956 to 1961, Peter Tali Coleman went to Micronesia to become District Administrator for the Marshall Islands of the Trust Territory of the Pacific Islands from 1961 to 1965. From 1965 to 1969, he was District Administrator of the Mariana Islands. Since 1969, he has been serving as Deputy High Commissioner of the Trust Territory—the No. 2 post in Micronesia. So he knows the Micronesians from personal, close association with them during the past 15 years.

I ask unanimous consent to have printed in the Record the text of Peter Coleman's statement which appeared in the Honolulu Advertiser November 18, 1975.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Marianas Commonwealth Defended

(By Peter Tali Coleman)

(The writer is deputy high commissioner of the Trust Territory of the Pacific Islands.)

Readers of "Commentary" might welcome a clarification of the issues raised by Robert Wenkam in his article "Marianas Commonwealth Decried" (10/25).

Rather than a "dismemberment" of Micronesia, one may regard the occasion of a Northern Marianas Commonwealth as the creation of a new American self-governing community, long sought by the Northern Marianas people.

It is not fair to call the unanimous vote of the U.S. House of Representatives a "sham of democratic procedure." During the two-year period of discussions and negotiations between the United States and the Northern Marianas leadership, the Senate and House Interior Committees were step by step consulted on significant aspects. Other cognizant congressional committees were aware of the discussions. The Joint Resolution on the Commonwealth is not a surprise in congressional circles.

In separate correspondence, Mr. Wenkam expresses the anxiety of Friends of the Earth that the rights and protections of the Marianas people are not guaranteed in the covenant. It is significant that these rights and protections are precisely why the great majority of Marianas citizens seek a close political association with the United States under the covenant. They feel that under commonwealth status and with U.S. citizenship they will gain these guarantees and protection to a greater extent than under any other political status.

Under the covenant, Marianas people will have achieved self-government for the first time in over 400 years. Most Americans have never known what it is like to be ruled by outsiders so it is difficult for us really to appreciate this achievement. The people of the Northern Marianas will hammer out their own constitution and will elect their own governor. The constitution can contain the guarantees and rights advocated by the Friends of the Earth.

It is possible that the intensity of environmental concerns has caused Mr. Wenkam to underestimate the political maturity and character of the people of the Mariana Islands, the statesmanlike qualities and performance of their leaders, their determination to start their new government off in the right way, and their devotion and respect for the American system with all of its faults.

Mr. Wenkam has spoken feelingly of the effect of the Marianas separation on the unity of Micronesia. All interested persons including Marianas citizens are concerned. The policy of the United States government as reflected in the Trust Territory administration, without taking coercive measures, is to encourage the Micronesian unity that Micronesians wish, while recognizing the dangers of equating unity with uniformity. However, when the Congress of Micronesia rejected the original U.S. proposal for a commonwealth arrangement, the Marianas did not endorse that rejection and in 1972 sought separate negotiations with the U.S. in order to achieve a closer relationship than the "free association" sought by the Congress.

As a parallel development it is timely to note that the Micronesians have shown their determination for self-government in a Constitutional Convention which has just completed its work. The result is their first constitution which should be ready for submission to the Micronesian people for adoption.

The inescapable problem has been political-cultural in nature. The Marianas people are a product of their unique heritage. The influence of Guam on the Northern Marianas cannot be overestimated. Their citizens are brothers, aunts and uncles, and cousins. Ever since Guam became a U.S. possession in 1898, their Guamanian associations made Northern Marianas people keenly aware of the United States, even during the German and Japanese administrations. Only by an accident of history, an ignorance of geography and the common ethnic background did the United States fail to include the Northern Marianas with Guam in 1898. To correct this, the Northern Marianas people since 1950 have not failed to petition continually the United Nations for the U.S. association.

At this point perhaps we may note that the Northern Marianas people do not share Mr. Wenkam's apparent mistrust of U.S. governmental processes, or of the military either. Marianas citizens have every reason to be thoroughly familiar with the military, having personally suffered through the Marianas campaign of World War II and having been under U.S. naval administration for about 15 years.

Mr. Wenkam suggested that the Marianas "slow down" congressional action. But the covenant was not hastily written. There is a lot of hard work in it. It is a remarkable document. It has depth, political acumen, and a mutual recognition of both the U.S. and the Marianas situations. It is far-sighted and unique in history, representing the will both of a tiny geographic area and that of a giant superpower.

The truly great part of the document is that it belongs to the Marianas people and is a part of them. Through countless meetings, not only with the U.S. team, but also throughout the whole leadership, the Marianas group worked out among themselves the differing views on substantive issues. Outsiders did not influence them. Advice was not offered to them unless it was sought.

Mr. Wenkam is entirely wrong in stating that funds for the travel of the Marianas delegations was at U.S. taxpayers' expense. The costs came from Marianas taxpayers. The ladies even raised funds from bazaars and luncheons to cover their expenses.

I assure you there is very little that the Marianas leaders have not thought of in preparing for their new government. They are ready and capable now. No one can question that the motives and ideals of the Friends of the Earth are on a high level, but it would seem that the organization must assume a grave responsibility in attempting to delay congressional action on a matter so vital to a dependent people as their political future without having consulted them in advance as to their planning and comprehension of the issues raised.

On the question of the Micronesian viewpoint, to my personal knowledge there are thoughtful Micronesians in influential positions who understand and are sympathetic with the very special circumstances surrounding the separate action of the Marianas. They have recognized that the political separation of the Marianas formalizes a situation which already existed before the Trust Territory was first established in 1947, namely interest in close political ties with the U.S.

There is no desire on the part of Northern Marianas leaders to cut the Marianas off completely from association with Micronesia. To the contrary, they and some Micronesian leaders have spoken of the future opportunities for economic cooperation and close social and cultural relationships.

The Marianas leaders feel that the lofty objectives and concerns of the Friends of the Earth can best be attained by prompt approval of the joint resolution now before the U.S. Senate. Having waited for 400 years, they have been hurt deeply by efforts to delay the approval.

RULES OF PROCEDURE OF THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. CANNON. Mr. President, in compliance with section 133B of the Legislative Reorganization Act of 1946, as amended, I am submitting the Rules of Procedure of the Committee on Rules and Administration, which pursuant to that section shall be printed in the Record not later than March 1 of each year.

There being no objection, the material was ordered to be printed in the Record, as follows:

Rules of Procedure of the Committee on Rules and Administration

(Adopted February 4, 1971, pursuant to Section 133B of the Legislative Reorganization Act of 1946, as amended. Readopted without amendment January 17, 1973, and January 22, 1975.)

TITLE I—MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the committee shall be the second and fourth Wednesdays of each month, at 10 a.m., in room 301, Russell Office Building. Additional meetings may be called by the chairman as he may deem necessary or pursuant to the provisions of sec. 133(a) of the Legislative Reorganization Act of 1946, as amended.

2. Meetings of the committee shall be open to the public except during executive sessions for marking up bills or for voting or when the committee by majority vote orders an executive session. (Sec. 133(b) of the Legislative Reorganization Act of 1946, as amended.)

3. Written notices of committee meetings will normally be sent by the committee's staff director to all members of the committee at least 3 days in advance. In addition, the committee staff will telephone reminders of committee meetings to all members of the committee or to the appropriate staff assistants in their offices.

4. A copy of the committee's intended agenda enumerating separate items of legislative business, committee business, and re-

ferrals will normally be sent to all members of the committee by the staff director at least 1 day in advance of all meetings. This does not preclude any members of the committee from raising appropriate nonagenda topics.

TITLE II—QUORUMS

1. Pursuant to sec. 133(d) 5 members of the committee shall constitute a quorum for the reporting of legislative measures.

2. Pursuant to rule XXV, sec. 5(a) of the Standing Rules of the Senate 3 members shall constitute a quorum for the transaction of routine business.

3. Pursuant to rule XXV, sec. 5(b) 3 members of the committee shall constitute a quorum for the purpose of taking testimony under oath; provided, however, that once a quorum is established, any one member can continue to take such testimony.

4. Subject to the provisions of rule XXV, sec. 5(a) and sec. 5(b), the subcommittees of this committee are authorized to fix their own quorums for the transaction of business and the taking of sworn testimony.

5. Under no circumstances, may proxies be considered for the establishment of a quorum.

TITLE III—VOTING

1. Voting in the committee on any issue will normally be by voice vote.

2. If a third of the members present so demand, a record vote will be taken on any question by rollcall.

3. The results of rollcall votes taken in any meeting upon any measure, or any amendment thereto, shall be stated in the committee report on that measure unless previously announced by the committee, and such report or announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment by each member of the committee. (Secs. 133 (b) and (d) of the Legislative Reorganization Act of 1946, as amended.)

4. Proxy voting shall be allowed on all measures and matters before the committee. However, the vote of the committee to report a measure or matter shall require the concurrence of a majority of the members of the committee who are physically present at the time of the vote. Proxies will be allowed in such cases solely for the purpose of recording a member's position on the question and then only in those instances when the absentee committee member has been informed of the question and has affirmatively requested that he be recorded. (Sec. 133(d) of the Legislative Reorganization Act of 1946, as amended.)

TITLE IV—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN

1. The chairman is authorized to sign himself or by delegation all necessary vouchers and routine papers for which the committee's approval is required and to decide in the committee's behalf all routine business.

2. The chairman is authorized to engage commercial reporters for the preparation of transcripts of committee meetings and hearings.

3. The chairman is authorized to issue, in behalf of the committee, regulations normally promulgated by the committee at the beginning of each session, including the senatorial long-distance telephone regulations and the senatorial telegram regulations.

TITLE V—HEARINGS

All hearings of the committee shall be conducted in conformity with the provisions of sec. 133A of the Legislative Reorganization Act of 1946, as amended. Since the committee is normally not engaged in typical investigatory proceedings involving significant factual controversies, additional implementory rules for hearing procedures are not presently promulgated.

TITLE VI—SUBCOMMITTEES

1. There shall be seven, three-member subcommittees of the committee as follows:

Standing Rules of the Senate.
Privileges and Elections.
Printing.
Library.
Smithsonian Institution.
Restaurant.
Computer Services.

2. After consultation with the ranking minority member of the committee, the chairman will announce selections among the members of the committee to the various subcommittees (and to the Joint Committee on Printing and the Joint Committee on the Library) subject to committee confirmation.

3. Each subcommittee of the committee is authorized to establish meeting dates, fix quorums, and adopt rules not inconsistent with these rules.

4. Referrals of legislative measures and other items to subcommittees will be made by the chairman subject to approval by the committee members.

SENATOR HERMAN TALMADGE TALKS ABOUT AMERICA

Mr. HANSEN. Mr. President, our friend and colleague, Senator HERMAN TALMADGE, delivered a message at this week's Senate Prayer Breakfast which greatly impressed and inspired me.

Using the American Bicentennial as his theme, Senator TALMADGE began by saying that each of us may assess and commemorate our Nation's 200th anniversary in his or her own individual way.

But later in the course of his remarks, as he described a number of basic goals he felt should be pursued during our third century, I could only feel that even though the Bicentennial does, indeed, mean different things to different people, every citizen would endorse and applaud the standards proposed by Senator TALMADGE.

He called on the leaders of our Nation to set standards that Americans of every rank and file "can pick up and carry high." These included individual responsibility, good government, law, and order, respect for constituted authority, and brotherhood and fellowship among all people.

These are objectives we can all embrace, and to which we should all dedicate ourselves as America begins her third century.

Mr. President, I ask unanimous consent that Senator TALMADGE's remarks be printed in the RECORD. I believe all who read them will be as inspired as I was by his very important message.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR HERMAN TALMADGE

I would like to suggest, and express the hope, this morning that our meetings of the Prayer Breakfast Group this year will be made more meaningful by an awareness of the great moment of history now at hand.

Throughout America, celebration is fast becoming the order of the day.

One can already sense forces at work all across the land to bring the 200th anniversary of the birth of the United States of America to a magnificent crescendo this July.

The air is alive with a sense of history.

The heart of the nation beats with a sense of pride and fulfillment.

We can feel it here in Washington ... as we go about our duties in the Senate ... and as we make our way through the corridors of the capitol building—which, we are told, will very soon be teeming with millions and millions of visitors on a bicentennial pilgrimage.

Americans everywhere are getting into step with the drum and fife of patriots who sounded the birth of a new nation 200 years ago.

The spirit of celebration is coming into full sway, not just in historical cities like Boston and Philadelphia and in states that were the thirteen original colonies, but all over America, from coast to coast.

Bicentennial will mean many things to many people.

To some, it will be a time for joy and revelry ... for patriotic fervor, fanfare, and firecrackers.

To some it will be a time for quiet humility . . . for philosophical reflection on the ways of men and governments.

For some, it will signal a time for reverence.

As Americans celebrate the bicentennial—each in our own way—we will of course pay homage to the flag . . . to the venerable founding fathers . . . to the courage of men whose devotion to freedom gave us the Declaration of Independence and the Constitution . . . to the valor of the patriots who fought and died to ensure that freedom . . . and to all the glorious history of the United States.

This is as it should be.

But, as we do, it is my hope that the American people will also pay tribute to the ideal that ours was founded as a nation under God.

It grew and prospered as a nation under God.

It is now a nation under God.

So long as we have our liberty and value the dignity of man, it will always be a nation under God.

So, as the Nation celebrates the Bicentennial, I hope people will not forget to pray.

I hope people will take time to give thanks for the bountiful blessings of God upon this Nation.

The United States is the manifestation, the sum and substance, of a people whose progress from the beginning has been guided by Divine Providence.

The history of the American people is rich with evidence of His power and glory.

Thus, at this great moment in American history, I know of no force that ought to have a more prominent or potent role in the celebration of the Bicentennial than faith in God.

This is the faith that always has characterized our Nation and which made the American dream a reality.

Faith and spiritual motivation led people to these shores.

It sustained the pilgrims.

It inspired the colonists and strengthened them during the dark and uncertain days of the Revolution.

It was ever present at Philadelphia when the Declaration of Independence was written.

It was embodied in both the spirit and letter of the Constitution, which the English statesman Gladstone described as the most remarkable work every struck by the hand of man.

Indeed, a deep and abiding faith in God is indelibly recorded throughout the pages of American history, in good times and bad, in war and peace.

The historical commentator, Alexis de-Tocqueville, visited and wrote about our Nation in the mid-1800's.

He was quick to recognize this force in your America.

He wrote:

"I sought for the greatness and genius of America in her spacious harbors and her ample rivers, but it was not there ... In her rich mines and her vast world commerce, but it was not there.

It was not until I went into the churches of America and found her pulpits aflame with righteousness that I discovered the true source of America's greatness and genius.

America is great because America has been good.

If ever America ceases to be good, America will cease to be great."

It was also de-Tocqueville who said it was impossible for the American people to separate religion from their concept of freedom.

Faith constituted the cornerstone of the United States' government.

Faith made it possible for the American people to build the most productive, the most powerful, the most generous, and the freest nation on earth.

So abundantly has our nation been blessed, so much has America been granted ... perhaps we have more reason to be more thankful than any other nation in the history of mankind.

There is a lesson, and perhaps a warning, in this thought.

Jesus told the multitudes, in the 12th chapter of the gospel according to St. Luke:

"For unto whomsoever much is given, of him shall be much required."

We have so much.

In turn, we owe so much.

As we approach the bicentennial, thoughtful Americans, concerned Americans, are taking stock and measuring all that which has been bestowed upon our Nation.

They are also trying to assess the capacity of the American people—as we begin a third century—to continue to uphold our end of the covenant.

There is a story by Stephen Vincent Benet that if you stand over the grave of Daniel Webster in New England, and call his name, the earth will begin to quake and the trees shake, and you will soon hear his voice boom out:

"Neighbor, how stands the Union?"

And, according to the legend, if you do not wish to incur the wrath of the spirit of Webster, you had better give assurance that the Union stands "rock-bottomed and copper-sheathed."

From all that I am able to tell, millions of Americans today are asking the same question: How stands the Union?

After 200 years, how firm are the foundations of the Republic?

How secure is the faith and how strong are the fundamental values upon which the Nation was founded, and grew to greatness?

These are painful questions.

But just as we look to the past and honor it, we must also carefully consider the present.

That is what foretells the future.

We have this admonition from David in one of his psalms:

"If the foundations be destroyed, what can the righteous do?" (Ps.11:3)

It so happens—either through an accident of history or a rush of events beyond our control—that America's Bicentennial comes at a most critical time in the history of our Republic.

The Bicentennial is certainly a cause for great celebration.

The times in which we live also give rise to cause for great concern.

An examination of the spirit of America—that will lead to a reassessment of the goals and a strengthening of the values that are the bedrock of our society—is urgent.

It is imperative.

It is long overdue.

In no area is this more true than in government.

At no time since our Government was established on faith, has faith in government been virtually so non-existent.

Different people will ascribe different reasons for the enormity of the lack of confidence in government in recent years.

There are of course many schools of political thought on how and why so many people have come to distrust and dislike their government.

But the fact that there may be argument about how it came to pass, does not make the malaise any less serious.

The problem is severe.

I do not mean to imply it is hopeless.

I urge that we seize upon the Bicentennial not just as a time for rejoicing on things past, but also as a time for rededication to the true spirit of America that will guarantee our future.

For those of us in positions of leadership, in the Congress and in elected offices from the courthouse to the White House, the task is not ours alone.

But we make a mockery of the mandate of which we profess to be so proud, if we fail to accept the fact that ours must be a major role.

Like it or not, we must set the pace.

When the delegates were meeting in Philadelphia to draft the Constitution, George Washington, elected president of the convention, said:

"Let us raise a standard to which the wise and honest can repair."

And so they did. And, I hope, so will we at this critical juncture in American history.

I submit that our country needs an army of inspired leaders to set standards that Americans of every rank and file can pick up and carry high.

The standard of individual responsibility.

The standard of good government.

The standard of law and order.

The standard of respect for constituted authority.

The banner of brotherhood and fellowship among all people.

The hour is late.

We cannot embark upon the crusade too soon.

Let us go with the wisdom of Solomon, as he directs in the 9th chapter of Ecclesiastes:

"Whatsoever thy hand findeth to do, do it with all thy might."

And, let us be ever mindful of the thought expressed by the poet, Edgar Guest:

"I'd rather see a sermon than hear one any day,
I'd rather one should walk with me than merely show the way.

* * * * *

I can watch your hand in action, but your tongue too fast may run.
And the lectures you deliver may be very wise and true;
But I'd rather get my lesson by observing what you do
For I may misunderstand you and the high advice you give,
But there's no misunderstanding how you act and how you live."

LITHUANIAN INDEPENDENCE

Mr. BAYH. Mr. President, again this year I would like to share with my colleagues by observations on the 58th anniversary of Lithuanian independence. It seems even more important this year that we mark this occasion, as Lithuania and the other Baltic Republics, Estonia and Latvia, may well be affected by the Helsinki accords signed last year.

One of the key issues raised at Helsinki was the need for international respect for fundamental human rights. By signing the Helsinki accords, the Soviet Union has agreed to support basic international guarantees of human rights. Of course, we have heard similar pledges from that government before. The history of the Soviet occupation of Lithuania contradicts the official Soviet line. It describes to those who realistically examine the facts a Soviet policy of continuing oppression and the denial of basic freedoms. For this reason, it is essential that the United States impress upon all the signatories the absolute necessity of full compliance with the provisions of the Helsinki agreement.

In the meantime, it is appropriate now that we pause to reflect upon the accomplishments of the Lithuanian people, a people who continue to this day, despite Soviet domination, to strive to regain their freedom. Although independent for only 22 years in this century, the Lithuanian people retain a strong sense of nationhood and the marvelous community of belief in national freedom. The might of the Soviet Union has been unable to silence the voices of Lithuanians around the world calling for self-determination, and it is my hope and belief that it never will be able to.

As our Nation celebrates the 200th anniversary of our independence this year, it is fitting that we again reaffirm our dedication to the principles of equality and justice on which our Nation was founded, and express our support for a valiant people fighting against immense odds to install these very ideals in their beloved homeland. The Lithuanian people, I feel confident, will not give up this struggle until they are once again free and able to live in dignity amid their proud cultural and religious traditions. I am also certain, Mr. President, that the United States will stand by the people of Lithuania in their continuing struggle for independence.

REGULATORY REFORM: AN EFFORT TO STALL BY AFFECTED INDUSTRIES

Mr. PERCY. Mr. President, the need for substantive regulatory reform is indisputable. Estimates of the yearly net cost of excessive regulation exceed $60 billion. In addition, regulatory overkill has been linked to various social ills, including "stagflation," delays in the adoption of new technology, unresponsiveness of government to the needs of industry, and unresponsiveness of industry to the needs of the American consumers.

However, in spite of a broad consensus in favor of regulatory reforms to deal with such problems, substantive progress has lagged. A principal cause of this lag is the opposition of most of the regulated industries and their regulators to the proposed reforms. They are loathe to recognize the need for real change in the familiar environment in which they so comfortably coexist. They contest any serious questioning of the thrust and direction of regulation which was formulated for another era and intended to deal with wholly different problems. They fight reform by drawing upon a common litany of overused arguments which are beguiling but, nonetheless, often vague and misleading.

Thomas E. Kauper, Assistant Attorney General in charge of the Antitrust Division, ably discusses such tactics in an address which he delivered to the annual meeting of the antitrust section of the New York State Bar Association on January 28, 1976. He identifies six of the "rallying cries" used by the regulated industries and their regulators in an effort to stall reform, and demonstrates how they obfuscate more than they illuminate.

Thus, the claim that reregulation and wholesale review of current regulation will cause economic chaos—a claim made so casually and so inaccurately in the past—ignores the benefits of increased competition. Similarly, the argument that regulatory reform will lead to the abandonment of rural America is not only based on highly questionable data, but also obscures other, more efficient and less costly ways to insure service to small communities. In much the same manner, Mr. Kauper points out fallacies in various other antireform arguments.

Regulatory reform is a crucial issue on the national agenda. For far too long regulated industries have enjoyed a cozy relationship of mutual accommodation with their regulators. When such tranquillity reigns—when an atmosphere of reciprocal "backscratching" pervades the regulated sectors of the economy—it is certain that the consumer and the country will be the losers. As Mr. Kauper concludes, it is time for us to reform the regulatory environment in which the regulated have become so comfortable, and return to those competitive values that made this Nation the economic model of the free world. And if this is to be accomplished, we must be wary of the deceptive arguments which self-interested parties advance so readily to delay the course of reform.

We need now to move promptly from general rhetoric on regulatory reform to specific proposals in this area. My distinguished colleague Senator Robert C. Byrd and I have introduced S. 2812 to accomplish just that. The scheduled timetable, and action-forcing provisions of that bill are designed to induce the President and Congress to formulate and agree upon specific regulatory reform programs, in several key sectors of our economy, over the next 5 years. In this regard, I am pleased to note that a recent editorial, in the December 28, 1975 Los Angeles Times, discusses and endorses the comprehensive regulatory reform mechanism embodied in this legislation.

Mr. President, I take pleasure in asking to add as cosponsors to S. 2812, the Regulatory Reform Act of 1976, the distinguished senior Senator from Indiana (Mr. Hartke) and the distinguished junior Senator from Vermont (Mr. Leahy). I also ask unanimous consent that excerpts from the address by Mr. Kauper, and the complete Los Angeles Times editorial, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

With Friends Like These . . . the Case Against Regulatory Reform by Free Enterprise Advocates

(By Thomas E. Kauper)

Despite considerable public support and substantial efforts by the Administration, the movement toward regulatory reform is presently in considerable danger because of what I would regard as short-sighted opposition. Coming as it does at a time when some segments of our society are questioning the wisdom of the free market system as a whole, we are in desperate need of reasoned and principled advocacy by persons most knowledgeable in the strengths of a free economy. The antitrust bar has a unique background, and a corresponding obligation, to make an active contribution to the debate over regulatory reform going on presently throughout the country.

I.

The danger of excessive governmental intrusion upon individual freedoms and wasteful overregulation of the economy have been consistent themes of this Administration. This concern is apparently shared by the public, as demonstrated by frequent polls indicating great citizen unrest over the size and scope of governmental activities.

As columnist Louis Kohlmeier recently wrote: "Competition is acquiring a constituency."[1]

One of the most vocal pockets of support for reducing governmental regulation is the business community itself. When the President appeared before the American Hardware Manufacturers' Association in Chicago last August to proclaim his objective "to get the Federal Government as far out of your business, out of your lives, out of your pocketbook and out of your hair"[2] as he could, his announcement was met with wildly enthusiastic support.

The business community has long complained about increasing governmental control of business. Too many critical managerial decisions, they claimed, were being made in Washington by bureaucrats, rather than in response to market conditions by businessmen most sensitive to those pressures. In many basic industries, prices could not be raised or lowered, markets entered or abandoned, services increased or decreased, without slow and costly governmental approval or review. Businessmen argued that innovation and creativity were being stifled by an economic regulatory system that denied businessmen the incentives to develop new and efficient ideas.

The businessmen upon whom regulation operated directly have not been the only critics of excessive governmental control. Purchasers of goods and services, and especially business customers, have long objected to regulatory regimes that have sanctioned a wide variety of arcane or inefficient cross-subsidies that have raised prices or limited the availability of goods and services. Few individual consumers, after all, are directly aware of particular rail tariffs that simply become absorbed into the retail price of particular consumer goods. But the businessmen involved are acutely aware of excessive costs, because they come out of their pockets in the first instance. In more tranquil economic times, the hidden and excessive costs of regulation are bad enough. In times of excessive unemployment, significant unused capacity, and squeezed profit margins, these costs become intolerable.

For much of the last four decades, our free market economy has seemed to be moving inexorably toward a system of comprehensive government management and control. For many concerned citizens—including many businessmen—this trend has troublesome political ramifications as well. They believed, as Thurman Arnold stated almost forty years ago, that "A political democracy will not work unless it is founded on industrial democracy. Free and independent political organizations consisting of majority and minority leadership cannot survive when free and independent business enterprise has disappeared."[3]

And so, the broad contours of a new coalition have been taking form. The businessman wants shackles removed, and the consumer demands more value for his dollars. The President realized that both objectives could be furthered by reducing governmental interference in industries where competition will deliver the best results.

It is not surprising, therefore, that the Antitrust Division actively participated in specific regulatory reform projects directed toward reducing the level of governmental interference in marketplace decisions. The Administration sent to the Congress comprehensive legislative proposals to reform and limit the powers of regulatory agencies over the rail, financial, airline, and trucking industries. An inter-departmental task force was created to review statutory exemptions from the antitrust laws that substituted regulation for competition. Meetings have been held with representatives of various industries to solicit their views on the advisability of statutory reforms, and the task force continues its work. The regulatory reform movement was clearly building momentum.

Nothwithstanding these early signs of momentum and the broad constituency attracted by regulatory reform, we are beginning to see signs that substantive progress will come more slowly. The Wall Street Journal has already concluded that the drive for regulatory reform is lagging behind "antiregulation rhetoric,"[4] and, when we seek an explanation for this lag, we are met most often by the opposition of business interests to any tampering with the cozy regulatory environment in which they and the regulators have co-existed through mutual accommodation for so many years.

This is a paradox of no mean dimensions. Businessmen who extol the virtues of the free enterprise system in general act more like besieged wagon train drivers when specific regulatory reforms are proposed that would allow more competition in the areas in which they do business. To too many businessmen, regulatory reform has come to mean "Get rid of the regulations I don't like, but keep the regulations I do like."[5]

II.

Since the Division's responsibilities and commitments to competitive principles cut across industry lines, we have an unimpeded vantage point from which to observe the machinations of industries and governmental agencies as they seek to stem the rising tide of consumer and presidential dissatisfaction with the present level of economic regulation. Sometimes it seems that opponents of regulatory reform are guided by a common playbook. The same litany of arguments is heard over and over again, despite fundamental differences between regulatory schemes and industries. These arguments are broad, and in their generality they tend to obscure rather than educate. Review with me, if you will, the rallying cries of regulated industries and their regulators. How many times have you heard these arguments in the past year? And how persuasive are they?

1. We have the most sophisticated X (or Y or Z) industry in the world. Don't tamper with it.

Footnotes at end of article.

Virtually every industry subject to a regulatory reform initiative seeks to rely on this kind of argument, which is but one form of the traditional argument for the status quo, The fact that we have a relatively sophisticated industry—even if true—whether it be transportation or communication, insurance or agriculture, should not be the end of the inquiry but rather the beginning. I suggest to you that it would be unusual in any other context to urge that the relative sophistication of a particular product or program should itself prevent review and study. The fact that we may have a good system is no indication of how good that system could or should be.

Indeed, with regard to the major industries that have been the subject of regulatory reform initiatives, the exact opposite argument can be advanced. Regulation of these industries dates back to far different economic times. Periodic review of statutory enactments benefits the consumer because longstanding legislation, which may have reflected the public interest (or the public's perception of how that interest would best be advanced) during a particular economic period of our history, may no longer be appropriate or prudent. This is especially true of legislation that was a product of unique or transitory economic conditions. That which is old need not automatically be abandoned, but neither should longevity carry with it an exemption from reconsideration. There are signs that Congress is moving toward a similar conclusion.[6]

Sometimes, of course, "sophisticated" is combined with "best" just to make sure that everyone gets the point. But what is the proper measure? Should our airlines, or railroads, or communications systems be compared with those developed in other countries with different resources and different political systems? Or is the proper measure the frequency of service, without regard to economic cost? Or is it, as some have argued, whether we are doing the best we can within existing statutory constraints? In short, it does not seem to me that the sophistication argument proves that a particular industry is providing the best possible service or provides a meaningful defense to regulatory reform initiatives.

2. If regulatory reform initiatives are enacted, rural America will be abandoned.

The Wall Street Journal reported in November that the airline industry had been arguing with some success that regulatory reform would result in the loss of air service to small communities and remote areas because air carriers would be free to drop unprofitable routes. For reasons that are even more obscure, similar arguments have been made by the truckers as well.

From the manner in which this argument is advanced, one might be led to believe that most Americans live in towns reminiscent of the dust bowl portrayed in "The Last Picture Show." Our experiences in FCC[7] and CAB[8] matters lead us to question the demographic assumptions upon which such arguments depend. At the very least, data available to us raises the possibility that the problem of adequate service to rural America may have been slightly overstated by opponents of regulatory reform.

The fact that rural America may not be quite as large as some people have suggested does not mean that this important segment of our country's population can or should be ignored, nor will it be. Indeed, it is precisely in rural areas that the services we are talking about may be most important, because rural and small town residents generally do not have as many alternative sources of services as are available in the major urban areas.

The question, however, is not whether rural areas are going to get service, but how, in what form, and at whose expense that service is going to be provided. To be sure, the regulatory reform initiatives are not illusory exercises, and we fully contemplate that they will impact upon present practices. It may be, for example, that small or isolated communities will no longer be served by DC–9s that land and take-off with a preponderance of empty seats but instead will be served by air taxis of the kind that are now growing in popularity.

The problem in particular instances may be that regular and dependable services cannot be economically provided at prices acceptable to citizens of small communities. The regulated industries would have us believe that they provide those services at a loss which is subsidized by high returns in other markets. But much of rural telephone service in this country is not provided by the Bell System; the independent telephone companies have had to assume that responsibility. Rural broadcast service, about which we hear so much in connection with our efforts on cable television regulation, is hardly uniform and sophisticated. Yet nowhere in any documents submitted by the commercial television industry in their battle with the cable television industry can you find a proposal to provide broadcast service to the 1.2 million households that get no television, or the 2.4 million additional households that get one relatively poor signal, or the other 2.2 million households that receive only two signals.

When opponents of regulatory reform seek to rely upon the rural service argument to support continued regulation, ask yourself whether the characteristics of that particular industry require that the service be provided by firms so large that they fall within the reach of the expensive regulatory bureaucracy operating out of Washington. Small communities are diverse. Their economies do not move in lock step with the national economy, and sometimes their desires do not coincide with those of urban areas. Thus, it should come as no surprise that firms operating outside of the influence and control of federal economic regulation quite frequently provide better, more responsive, and more economical service to small markets than federally regulated firms.

Undoubtedly, in some instances small and rural communities will not be able to attract services because the costs of providing such services cannot be recovered due to limited demand. If persons living in small communities are not able to pay the costs of particularized services, and if a policy judgment is to be made that such services should be available to them nevertheless, it seems to me that such judgments should be debated in the democratic forum where we expect such determinations to be made: the Congress. The difficulty with a regulatory scheme that subsidizes below-cost services is that it does so by secretly imposing unnecessarily high rates upon other users of the service and by so doing disguises the amount and frequently the fact of the subsidy. It is about time that we brought these costs out into the open so that an intelligible cost-benefit analysis can be made.

3. Even though there is no price competition, the public enjoys the benefits of non-price competition.

One of the standard arguments against the removal of regulatory restraints on pricing is the contention that various forms of non-price competition are an adequate substitute. Perhaps it is sufficient to respond that price competition has always been thought to be the primary economic regulator. But in any event, when we look at the form this non-price competition has taken, we find that it is enough to call into doubt the desirability of any continuing emphasis on this purported substitute.

We need only recall the great airline piano bar war or the furor created when an airline started offering free drinks to its passengers to appreciate the distance we have traveled from the free enterprise norm. Considerably more important is the severe damage that can result to an industry and the public from restrictions on price competition. Left with no other alternative, members of such an industry resort to service competition which itself leads quite often to undesirable results. As the President's Council on Economic Advisers observed some years ago with regard to the airline industry: "As is true in surface transportation, the substitution of service competition for rate competition tends to result in excess capacity."[9] This leads to reduced load factors so that airlines find that they are not making a reasonable profit even at high rates; and, of course, when rates are increased even further, demand lessens. So, too, have we found in the banking industry that a flat prohibition against paying interest on demand deposits has led to bundling and tying of so-called "free" services that do not appear to be serving the interests of the industry or the public.

4. If regulation is so good for business, then why are we not making excessive profits?

To those persons who argue that the regulators have become the captives of industry, industry spokesmen invariably point out that they have not been making excessive profits. Although the consumer tends to focus on prices and profits as the most direct indicators of economic performance, the price mechanism serves a more important purpose in the long run. The public interest is ultimately served by the efficient allocation of resources, which is achieved when competitive forces determine prices. The operation of the marketplace forces businessmen, through the pricing mechanism, to seek more efficient and innovative production methods in order to reduce costs. When the market no longer sets the price, the incentives for businessmen to innovate and seek technological development are considerably reduced. No government regulator can order a company to be innovative or to be efficient.

In many respects, regulation encourages businessmen to be inefficient, because the rewards for technological improvement are not present when prices are determined without regard to market conditions. And when price levels are determined by reference to a rate base in terms of a return on invested capital, for example, regulated industries can be expected to shy away from new processes that would render existing capital equipment obsolete.[10]

Although clearly more difficult to quantify, the costs to business and the consumer of retardation of innovation by regulation cannot be ignored. The profit picture in regulated industries may well reflect technological lethargy more than the vigilance of the regulator. Indeed this may represent the most serious danger of regulation to our economic well-being.

5. The introduction of competition will destroy X (or Y or Z) industry and cause chaos.

This argument is heard most often in those industries that have a long history of regulation. In addition to the transportation and communications industries, we have heard this contention recently from insurance companies that fear any attempt to modify the McCarran-Ferguson Act. Although it is clear that the public would be harmed if any of these basic industries were severely injured, the tenor of this argument suggests that the focus of opposition has shifted subtly from the benefits of regulation to the public to the benefits of regulation for the industry.

The difficulty with crediting broad claims of imminent disaster, of course, is that they have been made so casually and proven so

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Footnotes at end of article.

false in the past. We must be very careful here not to fall into a semantic trap by equating the prosperity of particular firms with the public welfare. I am never quite clear what "chaos" means in this context. It may mean no more than uncertainty during a transitional period. It may be shorthand for "destructive" or "ruinous" competition, of which I believe there is very little.

Or, it may simply mean economic uncertainty and dislocation caused by the operation of competitive pressures for the best goods or services at the lowest prices, produced in the most efficient manner.

The securities industry provides a useful and timely example. Dire predictions followed enactment of the Securities Act Amendments of 1975. After a period of instability and anxiety within the industry, preliminary returns are coming in.[11] While some firms have had to make substantial adjustments and others have decided to go out of business, the results to consumers of brokerage services have been significantly reduced commissions and availability of new services. It does not overstate matters too much to observe that, within reasonable limits, consumer welfare increases in direct proportion to the degree of competitive pressures—and resulting instability and search for change—within an industry. It is precisely when tranquility reigns that the consumer loses.

When the Administration's airline proposal was transmitted to Congress last fall, the Airline Transport Association warned that enactment would "tear apart our national air transportation system." Not to be outdone, the truckers association reacted to the Administration's trucking bill in the following terms:

"The Administration's proposal to dismantle regulation . . . is the ultimate in government irresponsibility. Such action would not only destroy essential stability in transportation, but would completely disrupt the nation's entire marketing and distribution system. The result would be economic chaos."

Viewed from afar, it is hard to believe that the rather limited rate and route flexibility proposed for the airlines or the truckers under the Administration's proposals would fundamentally disrupt either industry. We are more inclined to believe that predictions of chaos stem from the discomfort that industry officials feel from any proposal that would modify the ground rules under which they have operated for so long. As Senator James B. Allen observed over a year ago in a guest editorial in the Washington Post:

"Truckers, major airlines, drug companies and other highly-regulated lions of industry, though they may be lithe and snarling when captured, appear to grow fat and sluggish in their federal circus cages.

"It is easy to forget the competitive jungle where you belong, if you are forced to learn to jump through hoops, let your trainer stick his head in your mouth and submit to similar experiences.

"But you can take comfort in the realization that cages also can be used to prevent your natural enemies from coming in. And if, as you grow old with the man holding the whip, you find that he considers your relationship with him his most valuable asset, it can get downright cozy."[12]

As the Chicago Tribune stated succinctly last month: "Regulation certainly should not be maintained simply because industries feel more comfortable or protected within than without it."[13] But it is just as true that it will be unless the rest of us do something about it.

Industry objections to regulatory reform would be more credible if they were less dramatic. No one in the Administration and few in the Congress are urging an immediate and complete abolition of all regulation. The Administration's proposals are precise and have been carefully drawn with the objective of restoring as much competition as is unmistakably consonant with the public interest while accommodating the legitimate interests of industry in a gradual transition from the "circus cage" to the "jungle." Congress and the public should force industry to respond specifically to legislative proposals rather than simply repeat predictions of doom.

Those of you who follow the newspapers carefully will be quick to respond that just last week an industry association specifically responded to the Administration's airline bill.[14] The Air Transport Association, in a proposal approved unanimously by the Association's directors, endorsed a two-year test during which time airlines would be permitted to raise or lower passenger and cargo rates by 15% each year without CAB approval. Strangely absent from the Association's program, however, was any mention of route exit or entry. This omission cannot have been inadvertent, especially since the Association has been one of the more vocal critics of the route flexibility concept contained in the Administration's proposal. In effect, the Association is telling American consumers that its members want pricing flexibility—provided their protected markets are preserved. Is there any doubt for whose benefit this form of regulatory "reform" is designed? Where are the entrepreneurs of America past? Have we deviated so far from our basic economic principles that we are no longer capable of coming back?

III.

There is one additional argument that I come across frequently and which, quite frankly, continues to baffle me.

Some industry spokesmen have contended that the repeal, reduction, or elimination of direct economic controls would only be superseded by another form of regulation. This contention is urged frequently by the professions which see application of the antitrust laws to their activities as simply the first step in a comprehensive plan to bring them under federal control and domination. Yet, this position is taken also by spokesmen for traditional commercial concerns. If I understand them correctly, even ICC Commissioner Gresham and CAB Commissioner Timm see the regulatory reform movement as attempts at empire building by the Executive Branch.[15]

As a preliminary matter, I can assure you that there is no motive for "empire building" within the Antitrust Division since our litigating activities, which proceeded at a healthy pace in 1975 and are expected to continue at a similar level in 1976, are more than ample to occupy our limited staff.[16] More important in this context, however, is the fact that this argument so distorts the relationship between the antitrust laws and substantive regulation as to call for a direct and unequivocal response.

The antitrust laws reflect a commitment to a free and unimpeded market. Our guiding mandate is the Sherman Act which, in the words of the Supreme Court, embodies "the premise that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic political and social institutions."[17]

The Division acts when it believes that restraints have been imposed upon the operation of that free market, and our objective is the removal of those anticompetitive restrictions. The Antitrust Division, unlike state licensing boards or federal regulatory agencies, has no control over entry or exit, no power to fix prices, and no interest in suppressing innovative newcomers. We act, as Thurman Arnold said years ago, as a referee, assuring that the parties play by the rules but having no interest in any particular contestant.

If Congress abolishes restrictive economic regulation or repeals existing statutory exemptions, the result is not another form of economic regulation in the conventional sense of that word. To the extent that regulation is thereby imposed, it is merely regulation by the marketplace, by the laws of supply and demand, and by consumer choice. This is a very different kind of "regulation" than presently prevails (regulation by rate bureaus, bureaucrats, and politicians), if it be regulation at all.

And, regulation by the marketplace is precisely the economic ideal ostensibly sought by business community advocates of the free enterprise system.

It is time that American business and professional men escape the circus cages in which they have become so comfortable and return to those values that made this nation the economic model for the free world. Professional associations have a particular obligation to this cause since they have traditionally been regarded—and regarded themselves—as leaders in public dedication and service. To argue, as they have done, that the economic laws of this country should apply to others but not to themselves is, as District Judge Smith stated, "a dangerous form of elitism."[18]

This explains the appeal that I am making to you today. The antitrust bar, more than any other segment of the legal profession, understands the advantages of the free market system. If public opinion polls show that the citizenry holds the business and professional establishments in low regard, this presents a danger not only to your clients but also to our economic system. There must be clear advocates for the free enterprise system when proposals are advanced to replace the system with governmental assumption of the responsibilities for allocating our resources. The credibility of our economic system is vitally involved in this controversy, and it does not seem to me that its cause is served by exhortations to repeal social, health, and environmental legislation in the name of regulatory reform while opposing all attempts to reduce economic regulation. The shortsightedness of such a position is becoming evident, and the result may be even more regulation—imposed without regard to costs. It need not be thus, and friends of the business and legal communities had better convey this message before the credibility of both is destroyed.

FOOTNOTES

[1] Kohlmeier, Answering the Competition Constituency, 7 National Journal 1612 (1975).

[2] 11 Weekly Compilation of Presidential Documents 891, 894 (August 25, 1975).

[3] Address by Thurman W. Arnold, Assistant Attorney General, Antitrust Division, United States Department of Justice, to the American Bar Association, San Francisco, California, at 1 (July 10, 1939).

[4] Wall Street Journal, November 25, 1975, at 1, col. 8.

[5] Id.

[6] See S. 2812, 94th Cong., 1st Sess. (1975), the so-called Percy-Byrd Bill, which would require periodic review of administrative and Executive Branch agencies "to eliminate unnecessary or harmful regulation."

[7] See Comments of the United States Department of Justice, In the Matter of Petition for Rule Making to Amend the Television Table of Assignments to Add New VHF Stations in the Top 100 Markets and to Insure that the New Stations Maximize Diversity of Ownership, Control, and Programming, Docket No. 20418 RM-2346 (1975) (73% of this country's citizens live on approximately 3% of the land).

[8] See Hearings on Oversight of Civil Aero-

nautics Board Practices and Procedures before the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, United States Senate, 94th Cong., 1st Sess. 136 (1975) (70% of total air miles in 1974 were flown between 908 city pairs).

[9] 1971 Economic Report of the President 129.

[10] See, *e.g.*, R. Kharasch, The Institutional Imperative 121–33 (1973).

[11] New York Times, January 11, 1976, § 3, p. 1, col. 1.

[12] Washington Post, December 5, 1974, p. A–26, col. 3.

[13] Chicago Tribune, December 7, 1975, § 2, at 4, col. 1.

[14] Washington Star, January 20, 1976, § C, at 7, col. 5.

[15] Remarks of Robert C. Gresham, Commissioner, Interstate Commerce Commission, Before the Oren Harris Chair of Transportation Dinner Sponsored by the Arkansas Bus and Truck Association, Little Rock, Arkansas, at 10 (July 15, 1975); Remarks of Robert D. Timm, Member Civil Aeronautics Board, to International Northwest Aviation Council Convention, Sun Valley, Idaho, at 11–12 (September 4–6, 1975).

[16] In 1975, the Antitrust Division filed 36 civil suits and 28 criminal actions, 50 of which charged price fixing. This compares with 38 civil suits and 33 criminal actions in 1974, of which 47 charged illegal price fixing.

[17] Northern Pacific Railway Co. v. United States, 356 U.S. 1, 4 (1958).

[18] *United States* v. *National Society of Professional Engineers*, 389 F. Supp. 1193, 1198 (D. D.C. 1974), vacated and remanded, 422 U.S. 1013 (1975), judgment re-entered, — F. Supp. — (D. D.C. 1975), appeal pending.

[From the Los Angeles Times, Dec. 28, 1975]

REFORMING THE REFORM PROCESS

The most promising means yet devised to surmount obstacles against regulatory reform emerged recently. A bill introduced by Sens. Charles H. Percy (R-Ill.) and Robert C. Byrd (D-W.Va.) would bring about reform by putting its process on a five-year timetable.

The proposal is important because regulatory reform is popular in general but highly vulnerable in the specific. President Ford wants to streamline regulatory agencies, increase competition in the marketplace, reduce red tape and cut costs. His idea is popular with Congress, with the public and with the business community.

But the details are something else. When it comes to the specific of changing an individual agency, virtually any proposal for overhaul evokes massive opposition from the industries and unions that are regulated and protected by that agency.

Ford's proposal to deregulate airlines is opposed by airlines. His proposal to loosen the strictures on trucking is opposed by truckers. Congressional aides fear that these worthwhile measures will be defeated—or left to die of old age—by the perseverance of these industries' opposition.

Percy and Byrd have introduced the Regulatory Reform Act of 1976, which would establish specific deadlines for reform action by the President, by committees of Congress and by the full House and Senate. The President's plan would be due in March, committee votes by September, floor action by December.

Under the bill, 1977 would be the year for banking and finance; 1978 for energy and the environment; 1979 for commerce, transport and communications; 1980 for food, health and safety, and 1981 for other areas.

If any deadline were missed—depending on who missed it—the affected agency would be stripped of its powers or the President's plan would become law. The effect of the deadlines would be to make sure that the issues are taken up, analyzed, debated in the open and resolved.

Such a measure is needed because the people who care the most about each regulatory reform idea are the regulators and the people they regulate. They can afford to fight the hardest and the longest.

In Percy's words, "We cannot afford to underestimate the ability of tenacious interest groups and plain bureaucratic inertia to delay and diffuse serious challenge to the status quo."

At least his bill would ensure a hearing for each reform proposal. For the sake of both fairness and the economy, the bill should be approved.

DISHONEST CAMPAIGN AGAINST THE CHILD AND FAMILY SERVICES ACT

Mr. BAYH. Mr. President, as the author of the Universal Child Care and Child Development Act of 1971, I have long been committed to providing quality child care for all our children. Child care legislation embodying the major principles of my bill passed the Congress in 1972, but was vetoed by an administration which did not consider the welfare of the Nation's children a priority.

The Child and Family Services Act, a bill currently pending in this Congress, is one more attempt to provide meaningful child care. Extensive hearings have been held on the implications of this legislation.

Unfortunately, Mr. President, there is a vicious and totally inaccurate propaganda campaign currently being waged against this bill in my home State of Indiana. Allegations have been raised that the child care bill would give a child the right to sue his parents if they required him to attend Sunday school. It has also been alleged that the bill would provide children with a legal right to organize in a labor union against their parents. Worst of all is the contention that this legislation would force parents to turn over their children to government-run centers — virtually making their children the wards of the State.

Mr. President, these allegations are totally false. The sponsors of the bill have carefully drafted this legislation to protect the rights of parents and their children. Participation in the program is entirely voluntary. The legislation is deliberately designed to provide parental control of any services offered. The bill requires that all programs would be selected, established and controlled by parents.

Rather than weaken the family unit, the bill specifically aims to support and strengthen families. The very beginning of the bill—section 2(a)—states that "the family is the primary and most fundamental influence on children" and that any programs funded under this act "must build upon and strengthen the role of the family." The bill also stated that—

> Nothing in this act shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians—section 504 (a).

Since the latter part of October, I have received approximately 6,000 letters from constituents who have received unsigned, mimeographed flyers which contain numerous false allegations about the Child and Family Services Act. As a result of this flyer, my constituents, understandably so, have written to voice their concern and opposition to such legislation. In order to clear up the distortions about this legislation, I welcome this opportunity to insert the following material which hopefully will clarify for my constituents the misunderstandings about this bill: First, text of the unsigned flyer which has generated the majority of my correspondence on this issue; second, a Library of Congress analysis discrediting the flyer; and third, a memorandum prepared by the Senate Subcommittee on Children and Youth which contains a brief summary of the act as well as a section-by-section analysis of the bill.

Mr. President, I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNSIGNED FLYER BEING CIRCULATED: RAISING CHILDREN—GOVERNMENT'S OR PARENT'S RIGHT?

There is before Congress legislation known as The Child & Family Service Act of 1975 (Senate: S262 & House: HR2966). If passed it would take the responsibility of the parents to raise their children and give it to the Government.

CHILD ADVOCACY CLAUSE

In the Congressional Record we read: "If, in the judgment of those who are in charge of such a program (the State by way of the Secretary of Health, Education and Welfare), parents are not doing a good job, the advocate (a "specialist" appointed by the government) would enter the home and direct the education, even within the home. And, if the parent would object, the authority in the home would, De Facto, be transferred to those advocated."

Charter of Children's Rights of the National Council of Civil Liberties is becoming a part of this Child Development Act. Following are four of the several items proposed in this charter. They can be found on page 44138 of the Congressional Record.

(1) "All children have the right of protection from, and compensation the consequences of any inadequacies in their homes and backgrounds." (Note: In other words, never punish your child because he may come back to you with a civil suit.)

(2) "Children have the right to protection from any excessive claims made on them by their parents or authority." The question was asked, by way of example, what do you mean by the fact "Excessive claim", and the example was given, "If the mother or father asked the child to take the garbage out and the child doesn't want to, the parents have no right to insist on it."

(3) "Children have the right to freedom from religious or political indoctrination." That means that you have no right to insist on taking them to church, if they do not wish to go. That also means they have the freedom to insist that they be taught nothing, or any ideas, about God.

(4) "Children shall have the freedom to make complaints about teachers, parents and others without fear of reprisals." This speaks for itself.

This piece of legislation was vetoed in 1971, but it is back on the floor of Congress and now has the votes to pass. It is our obligation to tell our legislators: Senators Bayh and Hartke and our U.S. Representatives what we think of this legislation. Only our complaints can change their minds. They take your vote seriously. Take the trouble to write or suffer the consequences of your silence.

CAN THE GOVERNMENT TAKE AWAY YOUR CHILDREN?

Comprehensive child development, the Soviet-style system of communal child rearing which almost became law in this country in 1971 is once again being pushed through Congress. The current bills H.R. 2966 (House of Repreesentatives) S626 (Senate), are virtually identical to the original act passed in 1971, but fortunately vetoed by the then president, Nixon. Now it is known as the Child & Family Services Act of 1975 and any changes are merely cosmetic.

In vetoing the original bill which would have removed children from their parent's instruction shortly after birth, Mr. Nixon said that it would weaken the American family by committing "the vast moral authority of the national government to the side of communal approaches to child rearing over against the family oriented approach."

We are in serious danger of "Sovietizing" the education of our children if we let the Child & Family Services Act of 1975 pass. Those who support this Act in the Congress are convinced that it will "Sail through the House."

According to the Congressional Record, the intent of this bill is for the government to be responsible . . . for the nutritional interests of your child, for all Psychological interests of your child."

The following excerpts are taken from the Congressional Record; "What is at issue is whether the parent shall continue to have the right to form the character of the children or whether the State, with all its power & magnitude, shall be given the decisive tools and techniques for forming the young lives of the children of this country."

"As a matter of the child's right, the Government shall exert control over the family because we have recognized that the child is not the care of the parents but the care cf the State. We recognize further that not parental, but communal forms of up-bringing have an unquestionable superiority over all other forms. Furthermore, there is serious question that maybe we cannot trust the family to prepare young children in this country for this new kind of world which is emerging."

This all smacks of Communism. This is what in fact has been and is being done in Soviet Russia. This is what can become the law of our land, if the Child & Family Service Act of 1975 is passed by the Congress. We elected this Congress, but do we know what they are attempting to do to our freedoms and our rights?

[Congressional Research Service, Library of Congress]

ANALYSIS OF "FACTSHEET" ON H.R. 2966 AND S. 626

The apparent sources for the statements in the "fact sheet" are given below. Paragraph number IV is analyzed sentence by sentence. All page numbers given are from the Congressional Record of December 2, 1971, which contains a floor debate in the Senate on S. 2007, amendments to the Economic Opportunity Act of 1964.

QUOTE FROM "FACTSHEET"

I. Child Advocacy Clause:

"In the Congressional Record the bill is described:

"If, in the judgment of those who are in charge of such a program, the State, by way of the Secretary of Health, Education and Welfare, parents are not doing a good job, the advocate (a specialist appointed by the government) would enter the home and direct the education, even within the home. And if the parent would object, the authority of the home would, de facto, be transferred to those advocated."

APPARENT SOURCE OF QUOTE

The apparent source for this paragraph is a section from a report on day care that Senator Buckley asked to be inserted in the Record during the course of his statement in opposition to S. 2007. The report, entitled "A Review and Report of the Proposed Federal Program of Child Development," was issued by the Emergency Committee for Children. The passages quoted below are found on page 44125 of the Congressional Record:

"Let us presume for a moment that a parent is against a program or unwilling to permit his child to be incorporated into it. The result will be that the parent was/is depriving the child of "rights" established by law, and could be potentially confronted by some remedial action to "restore" to the child his 'right' under the child development act. One could envision the future in which a 'child advocate' in an attempt to restore a child's 'rights' could obligate the parent to appear before some board or court for purposes of reviewing his qualifications for parenthood.

"Even if such a formal mechanism is not established, the child development act, by its nature when operational, would establish a de facto situation in which those operating the program could cause significant turmoil between the program and the parent, and between the parent and the child.

"That it is essential that such programs be undertaken as a partnership of parents, community, and State and local governments, with appropriate assistance from the Federal Government;

"But it is not at all essential that every level of government become involved in the training of the children of private citizens.

"History invariably shows that 'partnerships' with the government soon becomes greatly imbalanced. The Child Advocacy section of this bill might be a classic example of that 'partnership.' Child Advocacy Officers positions established by this bill to find and satisfy otherwise undiscovered needs of children, will seek to defend the child's right against his parents' ignorance or reluctance to submit him to Federal assistance. Professionally-trained, overzealous staffers will be no match for simple parents whose instincts are right, but who are not educators or prepared to argue with program operation. A de facto situation of coercion will be created."

QUOTE FROM "FACTSHEET"

II. "The Charter of Children's Rights of the National Council of Civil Liberties is becoming part of the Child Development Act. Following are four of the several items proposed in this charter.

Congressional Record page 44138:

1. All children have the right of protection from and compensation for the consequences of any inadequacies in their homes and backgrounds.

2. Children have the right to protection from any excessive claim made on them by their parents or authority.

(The question was asked by way of example. What do you mean by the fact "excessive claim"? The example was given: If the mother or father asked the child to take the garbage out and the child doesn't want to, the parents have no right to insist upon it.)

3. Children have the right to freedom from religious or political indoctrination.

This means parents could not insist on children attending church or Sunday school or Synagogue. It also means the parent could be reported to authorities for expressing himself in his own home before his own children regarding politics and religion if the child reported this to the authorities.

4. Children shall have the freedom to make complaints about teachers, parents and others without fear or reprisals."

SOURCE OF QUOTE

"The Charter of Children's Rights" is an excerpt from a speech by Senator Curtis (p. 44138), in which he expressed apprehension over what the adoption of S. 2007 may portend. It is not the case that the Charter "is becoming part of the Child Development Act," as the fact sheet states, nor did Senator Curtis, in his statement, claim that it was contained in the Bill. Furthermore, neither the question and answer concerning taking out the garbage (following "right" no. 2 on the fact sheet) nor the Sunday School-Synagogue example (the example given after "right" no. 3) appears in Senator Curtis' speech. (The Senator asked rhetorically, p. 44138, "Is it too much to ask that a child take the garbage out for his mother?", but he continued his speech without giving an answer. Similarly, the Senator mentioned taking the child to church but not in the manner found in the fact sheet.)

QUOTE FROM "FACT SHEET"

III. This bill passed both houses in 1971 and was vetoed by President Richard Nixon with the following remark: "This bill would weaken the American Family by committing the vast moral authority of the National Government to the side of communal approaches to Child rearing over and against the family oriented approach."

SOURCE OF QUOTE

The passage above is quoted from President Nixon's message upon his vetoing S. 2007 on December 4, 1971. The quotation is substantively correct.

QUOTE FROM "FACT SHEET"

IV. "The Congressional Record States concerning this bill: 'The intent of this bill is for the government to be responsible . . . for the nutritional interests of your child, and for all psychological interests of your child.'

"What is at issue is whether the parent shall continue to have the right to form the character of the children or whether the State, with all its power and magnitude, shall be given the decisive tools and technique for forming the young lives of the children of this country.

"As a matter of the Child's right, the Government shall exert control over the family because we have recognized that the child is not the care of the parent but the care of the State. We recognize, further, that not parental, but communal forms of upbringing have an unquestionable superiority over all other forms; furthermore, there is serious question that maybe we cannot trust the family to prepare young children in this country for their new kind of world which is changing."

APPARENT SOURCE OF QUOTE

The apparent sources for each sentence of the above paragraph are given below:

(1) "The intent of this bill is for the government to be responsible . . . for the nutritional interests of your child, and for all psychological interests of your child."

Source

(a) "Mr. Javits. And by the term 'comprehensive child development program' do not the conferees expressly contemplate programs of high quality providing the educational, nutritional, social, medical, psychological, and physical services needed for children to attain their full potential?"

Mr. Nelson. "The Senator is correct . . ." (P. 44118, Senators Javits and Nelson discussing the bill's provisions on the floor of the Senate.)

(b) "In summary, I believe this act creates a Federal bureaucracy extending nationwide which will place the educational, moral, psychological, and social character of our pre-school children under the strong influence if not control, of the HEW bureaucrats." (P. 44121, Senator Thurmond in a statement opposing S. 2007)

(c) "For those who may still be in doubt as to what these services are, I would recommend that they turn to section 512 of the bill, which lists in dizzying detail what can only be described as the most comprehensive list of educational, social, and medical services ever assembled in one place." (P. 44123, Senator Buckley in a statement opposing S. 2007.)

(d) ". . . and it is not a mere 2-minute school prayer that is in issue, but a full, comprehensive, indeed, all-inclusive curriculum designed to cover the totality of a child's existence." (P. 44124, the same source as "c" directly above.)

(e) "On the contrary, this is a bill to provide, Soviet-style, for making children virtual wards of the state. The proposed development programs would include 'comprehensive physical and mental health, social, and cognitive development services necessary for children participating in the program to profit fully from their educational opportunities and to attain their maximum potential.' Does anyone have any idea what that mush conceals?" (P. 44137, a commentary by Mr. James J. Kilpatrick, WTOP radio, November 4, 1971, on S. 2007; the commentary was requested to be inserted in the record by Senator Allen in a statement opposing S. 2007.)

(2) "What is at issue is whether the parent shall continue to have the right to form the character of the children or whether the State, with all its power and magnitude, shall be given the decisive tools and technique for forming the young lives of the Children of this country."

Source

"What is at issue is whether the parents shall continue to have the right to form the character of the child, or whether the State with all its power and magnitude should be given the decisive tools and techniques for forming the young." (P. 44121, from a statement by Senator Thurmond in opposition to S. 2007.)

(3) "As a matter of the child's right, the Government shall exert control over the family because we have recognized that the child is not the care of the parents but the care of the State."

Source

"The Bill would see, in a few years, that the Federal government will have assumed a major role in the mental, physical, and social examination, diagnosis, identification, and treatment for every child under 15 years of age in the nation. As a matter of the child's right shall the government exert this control over the family, because, as one proponent of the bill has said, 'We have recognized that the child is a care of the State.' It would seem that the supporters of this legislation are interested in a Federally-cared for and governmentally-nurtured child."

(From the same source as paragraph I, above.)

(4) "We recognize, further, that not parental, but communal form of up-bringing have an unquestionable superiority over all other forms . . ."

Source

"Recognizing that communal forms of upbringing have an unquestionable superiority over all others, we are faced with the task in the immediate years ahead of expanding the network of such institutions at such a pace that within fifteen to twenty years they are available—from cradle to graduation—to the entire population of the country.

"Dr. Urie Bronfenbrenner, a leader at the White House Conference on Children, quotes such statements in his book *Two Worlds of Childhood: U.S. and U.S.S.R.*, one of the popular authorities cited in defense of the child development proposals presently in Joint Conference . . ."

(From the same source as paragraph, I, above.)

The quotation, from Dr. Bronfenbrenner, in the manner in which it is cited by the Report inserted in the Record, implies that Dr. Bronfenbrenner approved of the need for communal upbringing for every child as expressed in the quotation. However, Dr. Bronfenbrenner, in his book, *Two Worlds of Childhood: U.S. and U.S.S.R.*, merely cites the passage referring to the need for communal upbringing as part of his presentation of a certain controversy among Soviet specialists concerning the mertits of communal upbringing. A Soviet academician, Stanislav Gustavovich Strumilin, is the author of the passage advocating collective child rearing. The manner in which Dr. Bronfenbrenner presented the quotation, is as follows: (The following are excerpts from pages 82–83 of Bronfenbrenner's *Two Worlds of Childhood: U.S. and U.S.S.R.*)

"Although the widespread expansion of institutional upbringing was enthusiastically welcomed by some Communist idealogues, there were also expressions of criticisms and dissatisfaction both on the part of professionals and the general public. A case in point is provided by the strong reaction to an article published in the popular literary journal Novy Mir by a distinguished Soviet academician, economic planner, and "old Bolshevik." Stanislav Gustavovich Strumilin. His central conceptions are contained in the following excerpts:

Under Soviet conditions it is especially noticeable how the lot of the woman worker is being lightened. She can work in one factory, her husband in another, both can eat in a communal dining facility while sending their child to nurseries, kindergartens and boarding schools . . . Recognizing that communal forms of upbringing have an unquestionable superiority over all others, we are faced with the task in the immediate years ahead of expanding the network of such institutions at such a pace that within fifteen to twenty years they are available—from cradle to graduation—to the entire population of the country. Every Soviet citizen, upon leaving the maternity home, will be sent to a nursery; from there to a kindergarten maintained day and night; then to a boarding school from which he will enter independent life. . . .

The article provoked so many critical letters from readers that the editors of Novy Mir turned to a prominent psychologist, V. N. Kolbanovsky, to summarize the popular reaction and to express his own views on the issued raised. Obviously reflecting prevailing public sentiment, Professor Kolbanovsky challenged Strumilin's position on several counts. He began by questioning whether it was necessary to deprive the family of that joy which is given by well-brought-up children."

(5) " . . . Furthermore, there is a serious question that maybe we cannot trust the family to prepare young children in this country for this new kind of work which is changing."

Source

"A key advocate of institutional intervention into child upbringing is Dr. Reginald Lourie, president of the Joint Commission on Mental Health of Children. Dr. Lourie testified before a Congressional Committee, saying that—"There is serious thinking among some of the future-oriented child development research people [himself no doubt included] that maybe we can't trust the family alone to prepare young children for this new kind of world which is emerging'" (P. 44140, from a statement by Senator Fannin in opposition to S. 2007.) Dr. Lourie's statement is cited by other opponents of S. 2007 elsewhere in the December 2, 1971, debate.

Dr. Lourie's statement appears in Part 1 of hearings entitled "Joint Hearings before the Subcommittee on Employment, Manpower, and Poverty and the Subcommittee on Children and Youth of the Committee on Labor and Public Welfare, U.S. Senate, on S. 1512: to amend the Economic Opportunity Act of 1964 to Provide for a Comprehensive Child Development Program in the Department of HEW." The hearings were held on May 13 and 20, 1971. The portion of Dr. Lourie's statement containing the passage cited is given below (from pages 183–184 of the hearings):

Dr. LOURIE. There is no question that we are asking that the schools do superman types of jobs, with almost impossible situations, very often, that are the result of the neglected early years.

In other words, we have passed the optimal period for development of many of the skills. The doors have been closed to many of these children by the time they have gotten to school.

Where this was most striking, and this is my own personal motivation to get in there and start working with the babies, were the findings that emerged from the President's Panel on Mental Retardation which John Kennedy called together. It was found that we have a higher percentage of retardation than almost any other country in the civilized part of the world—3 to 5 percent.

In other countries, where there are programs for early child care, there is reported only one-tenth of 1 percent of the population is retarded. In other words, we were creating the retardates with our lack of early life programs.

Seventy-five percent of the retardation in this country—that is, as we measure it with our inadequate tolls—is on a functional basis, on the basis of distorted experience or lack of appropriate experience in the early years.

The kind of approach you outline in this bill has the promise of moving in on that whole area of the drain on our country's resources. This is true not only of the human resources but it ends up with influence on the economic resources, because these are individuals who are the drain on the community, the uneducable; who become the unemployed, et cetera.

I am most concerned with those who become the hopeless, helpless, apathetic, passive, dependent individuals. I am not nearly as concerned about the delinquents, even though they are a problem with which the community must be concerned. At least the delinquents have enough energy, have enough capacity to try to do something about their survival needs, and to make a place for themselves.

What we often don't see until they get to our mental hospitals is the apathetic, passive, dependent, hopeless, helpless child who grows up into the hopeless, helpless, adult, and can end up as the unavailable mother or father.

Also, we have to face the fact that we are creating, with technology and scientific approaches, an increasingly complex world in which we are asking human beings to adjust. There are much more rapid types of communication, transportation, technological innovations in industry and so on.

We need more and more individuals who are flexible enough, not warped into rigid patterns, to be able to encompass and adjust to live with, contribute to, be part of, these new dimensions that are being created for them as a life style.

There is serious thinking among some of the future-oriented child development rearch people that maybe we can't trust the family alone to prepare young children for this new kind of world which is emerging. That is one of the directions in which the Soviets, too, are looking, which is one of the reasons why they felt that they needed to have access to the babies.

Maybe we need to think of education as starting in the first year of life. There is a new field evolving called infant education. Education starts really at the beginning of life. What we need to educate children for may indicate in the future that we need additional kinds of experience outside the home that babies can profit from, in addition to the fundamental learning experiences that take place within the home.

In other words, infant day care that provides a rich individualized experience for a child is possibly one of the things that we should aim for. Again, it is one of the things that would be made possible by a measure of this kind.

It is not strictly accurate that "The Congressional Record" described the bill factually as the fact sheet implies, since the quotations are taken (and transformed) from various Senators' impressions of what the Bill might portend if adopted. In regard to the concerns expressed in the fact sheet, both the 1971 Bill and the two previously before Congress (S. 626 and H.R. 2966) have provisions relating to voluntary participation and involvement of parents. Relevant sections of the Bills are cited below:

Excerpts—Statement of Findings and Purposes

Sec. 2. (a) The Congress finds that—

(1) the family is the primary and the most fundamental influence on children;

(2) child and family service programs must build upon and strengthen the role of the family and must be provided on a voluntary basis only to children whose parents or legal guardians request such services, with a view toward offering families the options they believe to be most appropriate for their particular needs;

CHILD AND FAMILY SERVICE COUNCILS

Sec. 105. (a) Each prime sponsor designated under section 104 shall establish and maintain a Child and Family Service Council composed of not less than ten members as follows—

(1) not less than half the members of such Council shall be parents of children served in programs under this Act chosen in accordance with the provisions of paragraph (1) of subsection (b) of this section;

(2) the remaining members shall be appointed by the prime sponsor, in consultation with the parent members described in paragraph (1) to be broadly representative of the general public, including representatives of private agencies and organizations concerned with or operating programs relating to child and family services. . . .

(b) (3) such Council shall be responsible for approving child and family service plans, basic goals, policies, procedures, overall budget policies and project funding, and the selection or establishment and annual renewal of an administering agency or agencies, and will be responsible for annual and ongoing evaluation of child and family service programs according to criteria established by the Secretary; and

(4) such Council shall, upon its own initiative or upon request of a project applicant or any other party in interest, conduct public hearings before acting upon applications for financial assistance submitted by project applicants under this part.

SPECIAL PROHIBITIONS AND PROTECTIONS

Sec. 504. (a) Nothing in this Act shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, physical, or other development of their children. Nor shall any section of this Act be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which are otherwise provided by law.

December 1975.

Richard Beal,
Education and Public Welfare Division.

Memorandum: Attacks on Child and Family Services Bill

1. Unsigned Flyers entitled: "Raising Children—Government's or Parents Right?

ATTACK

"There is before Congress legislation known as the Child and Family Services Act of 1975 (Senate: S. 626 and House: H.R. 2966). If passed it would take the responsibility of the parents to raise their children and give it to the Government."

FACT

This bill would in no way take the responsibility for child rearing away from parents. All programs authorized in the bill (S. 626 and H.R. 2966, Section 2(a) (2)) "must build upon and strengthen the role of the family and must be provided on a voluntary basis only to children whose parents or guardians request such services." In addition, any practice which would "infringe or usurp the moral and legal responsibilities of parents or guardians" is specifically prohibited (Section 504(a)).

ATTACK

"*Child Advocacy Clause*. In the Congressional Record we read: 'If, in the judgment of those who are in charge of such a program (the State by way of the Secretary of Health, Education and Welfare), parents are not doing a good job, the advocate (a "specialist" appointed by the government) would enter the home and direct the education, even within the home. And, if the parent would object, the authority in the home would, DeFacto, be transferred to these advocated (sic).' "

FACT

While this material may have appeared in the Congressional Record (although an exhaustive Record search has failed to discover it), it is categorically false to contend that: (a) such language appears in S. 626 or H.R. 2966; (b) such beliefs are held or advocated by any of the sponsors of S. 626 or H.R. 2966; or (c) that any "child Advocacy clause" of any kind appears in the bill (See "Special Note on the Congressional Record" below).

ATTACK

"Charter of Children's Rights of the National Council of Civil Liberties is becoming a part of this Child Development Act."

The flyers go on to list the following items in this charter, alleging that they can "be found on page 44138 of the Congressional Record":

"(1) All Children have the right of protection from, and compensation for the consequences of any inadequacies in their homes and backgrounds. (Note: In other words, never punish your child because he may come back to you with a civil suit.)

"(2) Children have the right to protection from any excessive claims made on them by their parents or authority. The question was asked, by way of example, what do you mean by the fact 'Excessive claim', and the example was given, 'If the mother or father asked the child to take the garbage out and the child doesn't want to, the parents have no right to insist on it.' "

"(3) Children have the right to freedom from religious or political indoctrination. That means that you have no right to insist on taking them to church, if they do not wish to go. That also means they have the freedom to insist that they be taught nothing, or any ideas, about God."

"(4) Children shall have the freedom to make complaints about teachers, parents and others without fear of reprisals. This speaks for itself."

FACT

No such language or "charter" has ever been proposed, included or even considered for the Child and Family Services Act or any related piece of legislation. This "charter" initially surfaced during Senate debate on December 2, 1971 on the Conference Report on the Office of Economic Opportunity Act which included child care provisions. Senator Carl T. Curtis (R-Nebraska), an opponent of this measure, said, "In England, child development advocates have gone so far as to draft a charter of children's rights." Curtis continued by reading from something he called the Charter of Children's Rights" of "the British Advisory Center of Education and the National Council for Civil Liberties." Thus, these so-called "rights", never included in this legislation, and were never advocated by sponsors of this legislation. In fact, the "Council" cited is not even an American organization. (See "Special Note on the Congressional Record" below).

S. 626 and H.R. 2966 specifically state in Section 504(a) that "Nothing in this Act shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, physical, or other development of their children. Nor shall any section of this Act be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which are otherwise provided by law."

ATTACK

"Can the Government Take Away Your Children? Comprehensive child development, the SOVIET-style system of communal child rearing which almost became law in this country in 1971 is once again being pushed through Congress. The current bills H.R. 2966 (House of Representatives) S. 626 (Senate), are virtually identical to the original act passed in 1971, but fortunately vetoed by the then president, Nixon. Now it is known as the Child and Family Services Act of 1975 and any changes are merely cosmetic."

"In vetoing the original bill which would have removed children from their parent's instruction shortly after birth, Mr. Nixon said that it would weaken the American family by committing "vast moral authority of the national government to the side of communal approaches to child rearing over against the family oriented approach.' "

"We are in serious danger of 'Sovietizing' the education of our children if we let the Child and Family Services Act of 1975 pass. Those who support this Act in the Congress are convinced that it will 'Sail through the House.' "

FACT

This charge is of course, absurd and irresponsible. The sponsors of the bill have carefully drafted it to protect the rights of parents and their children:

First, participation in the program is completely voluntary. Children cannot participate without the specific request of a parent or legal guardian. (Section 2(a) (2) and Section 106(b) (1))

Second, the bill prohibits any practice which would "infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians." (Section 504(a))

Third, a child cannot be tested unless the parent or guardian is informed and given the opportunity to exempt the child from testing. (Section 504(a))

Fourth, unlike the public school program, the child and family services programs are totally voluntary.

ATTACK

"According to the Congressional Record, the intent of the bill is for the government to be responsible . . . for the nutritional interests of your child, for all psychological interests of your child."

FACT

This statement is totally inaccurate and irrelevant to the legislation.

The intent of the bill is (Section 2(b)) "to provide a variety of quality child and family services in order to assist parents who request such services, with priority to those preschool children and families with the greatest need, in a manner designed to strengthen family life and to insure decision-making at the community level, with direct participation of the parents of the children served and other individuals and organizations in the community interested in child and family service (making the best possible use of public and private resources), through a partnership of parents, State and local government, and the Federal Government, building upon the experience and success of Headstart and other existing programs." (See "Special Note on the Congressional Record" below).

In fact, the bill specifically prohibits any medical or psychological examination or treatment unless a child's parent or guardian provides written permission. (Section 504(c)).

ATTACK

"The following excerpts are taken from the Congressional Record: 'What is at issue is whether the parent shall continue to have the right to form the character of the children or whether the state, with all its power and magnitude, shall be given the decisive tools and technique for forming the young lives of the children of this country.' "

" 'As a matter of the child's right, the government shall exert control over the family because we have recognized that the child is not the care of the parents, but the care of the state (sic). We recognize further that not parental, but communal forms of upbringing have an unquestionable superiority over all other forms. Furthermore, there is serious question that maybe we cannot trust the family to prepare young children in this country for this new kind of world which is emerging.' "

"This all smells of Communism. This is what in fact has been and is being done in Soviet Russia. This is what can become the law of our land, if the Child and Family Service Act of 1975 is passed by the Congress. We elected this Congress, but do we know what they are attempting to do to our freedoms and our rights?"

FACT

These citations, if they did in fact appear in the Congressional Record, are diametrically opposed to the purpose and intent of the bill.

First, the programs are completely voluntary. (Section 2(a)(2) and Section 106(b)(1))

Second, the precisely stated purpose of the legislation is to "strengthen family life," not weaken it. (Section 2(b))

Third, the program is to be operated locally, not by the national government. (Section 104)

Fourth, the bill contains specific prohibitions against any practice infringing on the rights and responsibilities of parents. (Section 504(a))

(See "Special Note on the Congressional Record" below).

SPECIAL NOTE ON THE CONGRESSIONAL RECORD

Throughout this leaflet, the "Congressional Record" is cited. The Congressional Record has the ring of an official pronouncement to it. But, anyone who has ever even glanced at the Record knows that it contains not only the debates in the House of Representatives and Senate but also speeches and material simply "inserted" in the Record. Any Member of Congress has the right to insert material in the Record, and therefore, the assertion that a statement is "according to the Congressional Record" is meaningless since the Record itself makes no statement of policy. Policy statements are made by the Members of Congress quoted in the Record.

This flyer provides a good example of the abuse of the citation of the Congressional Record. Senator Curtis of Nebraska included as part of his remarks on a bill considered by Congress in 1971 some material which he attributed to an organization in a foreign country. By misleading citation, the flyer implies that this material appeared in the Congressional Record this year and that it represents the contents of the bill. The bill's sponsors had never before seen this material.

CHILD AND FAMILY SERVICES ACT

(By the U.S. Senate Subcommittee on Children and Youth)

NEEDS

The infant mortality rate in the United States is higher than that of 13 other nations.

Each year an estimated 200,000 children are struck by handicaps which could have been prevented if their mothers had received early health care.

Forty percent of the young children of this country are not fully immunized against childhood diseases.

Sixty-five percent of all handicapped preschool children are not receiving special services.

There are only one million spaces in licensed day care homes and centers to serve the six million preschool children whose mothers are working.

PROPOSED SERVICES

The bill authorizes funding for local communities and parent organizations to choose among a wide variety of child and family services, including: prenatal health care; medical treatment to detect and remedy handicaps; nutrition assistance; and day care services for children of working mothers. The bill does *not* provide for compulsory preschool education.

PARENT CONTROL

Participation in all programs is totally voluntary, and limited to children whose parents request services.

All programs would be selected, established and controlled by parents whose children participate.

FAMILY STRENGTHENING

The bill states that "the family is the primary and most fundamental influence on children" and that "child and family service programs must build upon and strengthen the role of the family."

The bill has been specifically endorsed as family strengthening by a wide range of civic and religious organizations including the Catholic Church, the Baptist Church, the United Methodist Church and the Lutheran Church.

CHILD AND FAMILY SERVICES ACT OF 1975

S. 626

SECTION-BY-SECTION ANALYSIS

Section 1

Section 2

Statement of Findings and Purpose.—Finds that "the family is the primary and most fundamental influence on children; that child and family services must build upon and strengthen the role of the family and must be provided on a voluntary basis only to children whose parents request them" with priority for preschool children with the greatest economic and human need; that there is a lack of adequate child and family services; and that there is a necessity for planning and operation of programs as partnership of parents, community, state and local governments, with appropriate federal supportive assistance.

Purpose is to "provide a variety of quality child and family services in order to assist parents who request such services, with priority to those preschool children and families with the greatest economic or human needs, in a manner designed to strengthen family life and to insure decision-making at the community level" and provide decision-making with direct parent participation through a partnership of parents, State, local and Federal government.

Section 3

Authorization of Appropriations.—Authorizes $150 million for fiscal 1976 and $200 million for FY 1977 for training, planning, and technical assistance and $500 million in FY 1977 and $1 billion in FY 1978 for program operation. Headstart would be funded under separate authority, and its funding protected by a requirement that no operational funds could be appropriated for this new program unless and until Headstart is funded at the level it received in FY 1975 or FY 1976, whichever is higher.

Forward funding is authorized.

TITLE I—CHILD AND FAMILY SERVICES PROGRAMS

Section 101

Establishes Office of Child and Family Services in HEW to assume the responsibilities of the Office of Child Development and serve as principal agency for administration of this Act; and Child and Family Services Coordinating Council with representatives from various federal agencies to assure coordination of federal programs in the field.

Section 102

Financial Assistance.—Define purposes for which federal funds can be used: (1) planning and developing programs, (2) establishing, maintaining, and operating programs, including part-day or full-day child care in the home, in group homes, or in other child care facilities; other specially designed programs such as after-school programs; family services, including in-home and in-school services; information and referral services to aid families in selecting child and family services; prenatal care; programs to meet special needs of minorities, Indians, migrants and bilingual children; food and nutrition services; diagnosis of handicaps or barriers to full participation in child and family services programs; special services for handicapped children within regular programs; programs to extend child and family service gains, including parent participation, into the elementary schools; (3) rental, renovation, acquisition, or construction of facilities, including mobile facilities; (4) preservice and inservice training; (5) staff and administrative expenses of councils and committees required by the Act; and (6) dissemination of information to families.

Section 103

Allocation of Funds.—Reserves funds proportionately for migrant and Indian children, not less than 10% for services to handicapped children, and not less than 5% for monitoring and enforcement of standards.

Allocates the remainder among the states and within the states, 50% according to relative number of economically disadvantaged children, 25% according to relative number of children through age five, and 25% according to relative number of children of working mothers and single parents.

Allows use of up to 5% of a state's allocation for special state programs under Section 108.

Section 104

Prime Sponsors.—States, localities, combinations of localities or public and nonprofit organizations are eligible to serve as prime sponsors.

The bills current provisions establish performance criteria for prime sponsor; demonstrated interest in and capability of running comprehensive programs, including coordination of all services for children within the prime sponsorship area; assurances of non-federal share; establishment of a Child and Family Services Council (CFSC) to administer and coordinate programs.

Public or private nonprofit organizations can serve as prime sponsors with priority on governmental units. Any locality or combination of localities which submits an application meeting the performance criteria may be designated prime sponsor if the Secretary determines it has the capacity to carry out comprehensive and effective programs. The state may be designated prime sponsor for all areas where local prime sponsors do not apply or cannot meet the performance criteria, provided that the state meets the performance criteria and divides its area of jurisdiction into local service areas with local child and family services councils which approve the relevant portions of the state's plan and contracts for operation of programs within the local service areas.

The Secretary may fund directly an Indian tribe to carry out programs on a reservation. He may also fund public or private nonprofit agencies to operate migrant programs, model programs, or programs where no prime sponsor has been designated or where a designated prime sponsor is not meeting certain needs.

Directs the Secretary to designate an alternative to any prime sponsor discriminating against minority group children or economically disadvantaged children.

Provides opportunity for Governor to comment on prime sponsorship applications and provides appeal procedure for applicants who are disapproved.

The sponsors want to particularly emphasize that as the bill is considered they intend to invite the testimony of representatives of Federal, State, and local government, as well as other experts, with respect to the best allocation of responsibility among various levels of government which will insure parental involvement, local diversity to meet local needs and appropriate State involvement to assure coordination and maximum utilization of available resources.

Section 105

Child and Family Service Councils.—Sets forth composition, method of selection, and functions of councils. Half of members must be parents, selected by parents of children served by programs under the Act. The remaining members appointed by the prime sponsor in consultation with parent members, to be broadly representative of the general public, including representatives of private agencies in the prime sponsorship area operating programs of child and family services and at least one specialist in child and family services. At least one-third of the total council to be economically disadvantaged.

A state prime sponsor must establish councils at the state level and for each local service area. Parent members of the state council to be selected by parent members of local councils.

Council approves goals, policies, action and procedures of prime sponsors, including planning, personnel, budgeting, funding of projects, and monitoring and evaluation.

Section 106

Child and Family Service Plans.—Requires that prime sponsor submit plan before receiving funds. Plan must "provide that programs or services under this title shall be provided only for children whose parents request them"; identify needs and purposes for which funds will be used; give priority to children who have not reached six years of age; reserve 65 percent of the funds for economically disadvantaged children, and priority thereafter to children of single parents and working mothers; provide free services for children of families below the Bureau of Labor Statistics lower living standards budget and establish a sliding fee schedule based on ability to pay for families above that income level; include to the extent feasible, children from a range of socioeconomic backgrounds; meet the special needs of minority group, migrant, and bilingual children; provide for direct parent participation in programs, including employment of parents and others from the community with opportunity for career advancement; establish procedures for approval of project applications with priority consideration for ongoing programs and applications submitted by public and private non-profit organizations; provide for coordination with other prime sponsors and with other child care and related programs in the area; provide for monitoring and evaluation to assure programs meet federal standards; where possible, supplement funds provided by this Act with assistance from other sources.

Requires that the Governor, all local education agencies, Headstart and community action agencies have the opportunity to comment on the plan.

Establishes appeal procedures if plans are disapproved.

Section 107

Project Applications.—Provides for grants from price sponsor to public or private organizations to carry out programs under the prime sponsor plan pursuant to a project application approved by the CSFC.

The project applicant must establish a parent policy committee (PPC), composed of at least 10 members with 50% parents of children served by the project, at least one child care specialist, and other representatives of the community approved by the parent members. The PPC must participate in the development of project applications and must approve basic goals, policies, action and procedures of the applicant, including personnel, budgeting, location of center, and evaluation of projects.

The application must: provide for training and administrative expenses of the PPC; guarantee free services for economically disadvantaged children with fees according to the fee schedule for other children; assure direct participation of parents and other family members, including employment opportunities; provide for dissemination of information on the project to parents and the community; and provide opportunities for the participation of children, regardless of participation in nonpublic school programs.

Section 108

Special Grants to States.—Authorizes special grants to the states, on approval of Secretary, to establish a child and family services information program to assess goals and needs in state; to coordinate all state child care and related services; to develop and enforce state licensing codes for child care facilities; and to assist public and private agencies in acquiring or improving such facilities. A state must establish a Child and Family Services Council to receive a special grant.

Section 109

Additional Conditions for Programs Including Construction or Acquisition.—Allows federal funding for construction or acquisition only where no alternatives are practicable, and provides federal funding for alteration, remodeling, and renovation. Provides that no more than 15% of a prime sponsor's funds may be used for construction; that no more than half of that may be in the form of grants rather than loans, limited to public and private non-profit agencies, organizations, and institutions.

Section 110

Use of Public Facilities for Child and Family Service Programs.—Requires that federal government and prime sponsors make available for child and family service programs facilities they own or lease, when they are not fully utilized for their usual purposes.

Section 111

Payments.—Provides 100% federal share for planning in FY 1976, 90% federal share for fiscal 1977 and 1978, 80% for subsequent fiscal years. Provides 100% federal share for programs for migrants and Indians, and allows waiver of part of all of non-federal share where necessary to meet needs of economically disadvantaged children.

Non-federal share may be in cash or in kind. Revenues generated by fees may not be used as non-federal share but must be used by prime sponsor to expand programs.

TITLE II—STANDARDS, ENFORCEMENT, AND EVALUATION

Section 201

Federal Standards for Child Care.—Authorizes a national committee on federal standards, with one-half parent participation, to establish standards for all child care services programs funded by this or any other federal act. The 1968 Interagency Day Care Requirements would continue to apply until such standards are promulgated and any new standards must be consistent with the 1968 Requirements.

The Secretary must submit the proposed standards for approval to the Senate Committee on Labor and Public Welfare and the House Committee on Education and Labor. No prime sponsor or project applicant is allowed to reduce services below these standards.

Section 202

Development of Uniform Code for Facilities.—Requires a committee to develop a uniform minimum code dealing with health and safety of children and applicable to all facilities funded by this Act.

Section 203

Program Monitoring and Enforcement.—Requires the Secretary through The Office of Child and Family Services, to establish an adequately trained staff to periodically monitor programs to assure compliance with the child care standards and other requirements of the Act.

Section 204

Withholding of Grants.—Provides procedure for withholding of funds to programs which have failed to comply with standards or requirements of the Act.

Section 205

Criteria With Respect to Fee Schedule.—Requires Secretary to establish criteria for adoption of the schedule based on family size and ability to pay with considerations for regional differences of the cost of living. The criteria must be submitted for approval by the Senate Committee on Labor and Public Welfare and the House Committee on Education and Labor.

Section 206

Evaluation.—Requires the Secretary to make annual evaluations and report to Congress on federal child family services activities.

TITLE III—RESEARCH AND DEMONSTRATIONS

Section 301

Research and Demonstration.—Authorizes child and family services research and requires that the Office of Child and Family Services coordinate research by federal agencies.

TITLE IV—TRAINING OF PERSONNEL FOR CHILD AND FAMILY SERVICES

Section 401

Preservice and Inservice Training.—Provides for training of personnel, including volunteers, employed in programs assisted under this Act.

Section 402

Technical Assistance and Planning.—Provides technical assistance to child and family services programs.

TITLE V—GENERAL PROVISIONS

Section 501

Definitions.—Defines terms used in the Act.

Section 502

Nutrition Services.—Requires that procedures be established to assure adequate nutrition services in programs under the Act, including use of Section 13 (special food service programs) of the School Lunch Act and the Child Nutrition Act.

Section 503

Special Provisions.—Anti-discrimination provisions, including separate provisions on sex discrimination. Requires that programs meet the minimum wage. Prohibits use of funds for constructing, operating, or maintaining facilities for sectarian instruction of religious workshop.

Section 504

Special Prohibitions and Protections.—States that "Nothing in this Act shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, physical, or other development of their children. Nor shall any section of this Act be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which are otherwise provided by law."

Section 505

Public Information.—Requires that all applications, plans, and written material pertaining thereto be made available to the public without charge.

Section 506

Repeal or Amendment of Existing Authority and Coordination.

Section 507

Acceptance of Funds.

GRAIN DEALERS AND INTERNATIONAL INTRIGUE

Mr. McGOVERN. Mr. President, the February 19 edition of the New York Times carries a story by William Robbins outlining a new dimension to the grain scandal. Entitled "United States Warned Interpol on Fraud in Grain Exports Over 5 Years," Robbins' article states that our own representatives to Interpol warned the international police organization that grain exporters have defrauded foreign customers by about $120 million a year for the last 5 years or from 1.5 to 2 percent of all exports of wheat, soybeans, and corn.

The problem develops in "overages" discovered in audits of major grain exporters. This means that an exporter buys a certain quantity of grain, presumably sells in export a like quantity, and still retains a huge supply in position under conditions which would normally be considered "a wash."

If true, this means first of all that something is wrong at either the exporters' terminals or at the Department of Agriculture's Division of Audits. Many of us in the Congress have been concerned with determining quantity positions of major exporters at reasonably spaced intervals. We have not been successful. Now it appears that this is a position we must pursue either through voluntary disclosure or through legislation.

The next thing we must find out is what arm of our Government is ringing the bell on the other port. The whole dialog suggests the script for a late night spy thriller—U.S. Interpol spy involves his Government and his grain merchants in international swindle of sales to poor countries.

Mr. President, the recent GAO report on grain standards may be just the tip of an iceberg. I ask unanimous consent that the article I have referred to above be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 19, 1976]

U.S. WARNED INTERPOL ON FRAUD IN GRAIN EXPORTS OVER 5 YEARS

(By William Robbins)

WASHINGTON, Feb. 18.—Interpol, the international police organization, has been warned by the United States that grain exporters in this country have defrauded foreign customers by about $120-million a year over the last five years.

The warning was given by one of several American delegates to a meeting of Interpol at its international headquarters in St. Cloud, France, last Nov. 4, according to an Interpol source. Nine American delegates and observers, including high police and investigative officials, attended the international conference.

Complaints on either the quantity or the quality of shipments received when they buy American grain have been reported from customers in a long list of countries, in all parts of the world.

The American delegate's message to the Interpol international conference reportedly was that 1.5 percent to 2 percent of all exports of wheat, soybeans and corn in the last five years had been stolen.

The delegate was said to have detailed methods used for the thefts, including forged certificates of weights or grades, tampering with weighing machines and account sheets that had been fraudulently altered.

Last year $12.5 billion in grain was exported from the United States.

Delegates to the conference, were reported to have seemed baffled and surprised by the magnitude of the frauds described.

"I suppose, to get the message across, you'd have to dramatize it with pictures of starving children," the Interpol source said. "Most of that grain was stolen from poor countries. Every time somebody shortweights a shipment to those countries, some children don't eat."

Meanwhile, The New York Times has learned from Government sources that Federal auditors have found "overages" in the inventories of a number of large American grain companies, including the three giants of the industry, Cargill Inc., the Continental Grain Company, and Cook Industries Inc.

This is the first time that Cargill has been mentioned in this connection. Cargill and Continental, reportedly handle about half of all world grain shipments.

"Overages" is a term used by grain companies when they wind up with more grain, either shipped or in storage, than they have paid for.

Such overages reportedly have been found by the Government auditors in inventories of all the large grain companies checked thus far, but they are said to involve varying categories of grain. In some instances the auditors are reported to have found the overages only in higher-priced grains, with shortages sometimes occurring in grains of lesser quality.

COMPANY RESPONSES

A spokesman for Cargill said today that the company was aware of the overages and asserted that they occurred normally and "regularly appear in our accounting records," usually as a result of moisture gains when grain is transported from cold, dry climates to warm and moist regions, such as the Gulf area. He said new dust-control measures had increased the gain in inventory weights in recent years.

"There are also underages in some facilities," he said.

A Continental spokesman said, "The millions of bushels of grain received, processed and shipped each year at the Continental elevator in the New Orleans area are reflected on the records of the company. These records and the physical inventories have been regularly audited by the United States Government without any suggestion of impropriety."

Cook Industries, responding to questions through a spokesman said, "Because the whole question of grain inventories in the New Orleans area is under investigation, we must decline to comment at this time."

Last summer the Bunge Corporation, also one of the country's largest shippers and Adnac Inc., a joint venture of two other large companies, were indicted because of the methods by which such overages were acquired. Both corporations were charged with conspiracy in systematic thefts of grain from their export shipments.

Besides those companies, Continental and Cook are now reportedly among several corporate subjects of a Federal investigation that is underway in New Orleans and other major grain ports.

Sixty indictments have been returned thus far as a result of the investigation, which is being conducted by the Federal Bureau of Investigation, the Agriculture Department's Office of Investigation and the Internal Revenue Service and is coordinated in the New Orleans area by United States Attorney Gerald J. Gallinghouse and his first assistant, Cornelius R. Heusel.

The investigation in New Orleans, which has spread to other major grain ports, has concentrated primarily on overages accumulated in grain elevators and detailed the methods of grain thefts outlined to the Interpol delegates. But it has also exposed bribery, misgrading of grain and tax frauds committed by individuals who have stolen grain for their own accounts.

In addition, it has cited many cases of phantom barges and boxcars used as bookkeeping devices to account for excess inventories of grain.

Wrongdoing committed in the accumulation of overages has seemed easiest to prove when weight records showed more grain being shipped out than had been shipped in.

A defense argument used has been that such overages had been the result of careful "housekeeping" such as meticulous cleaning up when grain is spilled, but many experts contend that it is more normal for an elevator to suffer shortages than to gain overages.

Arguments become more complex when the overages occur only in the higher grades of grain. The complexity arises because of blending processes used by grain companies. The companies systematically mix grain of lower quality such as "screenings"—the residue of cleaning—to the limit allowed for each grade under their contracts.

In the case of No. 3 corn, an average grade, for example, up to 4 percent of broken kernels and foreign matter is legally permitted. If the corn to be loaded should contain only 3 percent broken kernels and foreign matter, another 1 percent of screenings could legitimately be added.

However, companies have often been accused of adding much more than the allowable limit of offgrade grain.

One accusation has been made in the case of a ship, the Rysy II, that was loaded near New Orleans. After the loading, Federal supervisors boarded the vessel, probed the surface and reported finding exceptionally high percentages of broken kernels and foreign matter.

Cook Industries, which loaded the vessel, contended that it was impossible to get representative samples by probing the surface after loading. The entire cargo, now being unloaded in Poland, is being regarded by Federal inspectors who went to Poland especially for the operation.

The investigation in New Orleans now is reportedly focusing on Cook Industries, but an inquiry into the operations of Continental also is said to have begun.

A number of high present and former officials of Cook have recently been called before a grand jury. And since about the time of the grand jury appearance of the chairman, Edward W. Cook, operations of the company's grain elevator at Reserve, La., upriver from New Orleans, has been halted, reportedly for a company review of a Government report of new inventory overages.

An audit commissioned by Mr. Cook and conducted by independent auditors is said to have found previously overages totaling more than 1.3 million bushels over a four-year period resulting from operations at the elevator.

Aside from any question of overages, an investigation at Continental's elevator in the New Orleans area is reported to focus on a blending apparatus, normally used to mix grain of varying qualities into a composition suitable to meet grades specified in the company's contracts.

The apparatus at Continental is said to be highly sophisticated and capable if an operator so desired, of injecting low-grade grain onto a ship-loading belt in a manner that could circumvent a mechanical sampler.

ADMINISTRATION PRESENTS ITS ECONOMIC POLICY PROPOSALS TO CONGRESS

Mr. HUMPHREY. Mr. President, the Joint Economic Committee began its annual hearings on the economy on January 28, 1976. Our leadoff witness was the chairman of the Council of Economic Advisers, Alan Greenspan. Mr. Greenspan was accompanied by the other members of the Council of Economic Advisers, Paul W. McAvoy and Burton G. Malkiel.

Mr. Greenspan presented an excellent summary of the administration's economic policies and their expectations for the balance of the year and for 1977.

Since it is of the utmost importance that all Members of Congress fully understand the details of the administration's economic policy intentions, and where those policies would lead our Nation, I ask unanimous consent that Mr. Greenspan's opening statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF ALAN GREENSPAN

We are pleased to appear before the Joint Economic Committee today to discuss the Annual Report of the Council of Economic Advisers. Instead of a lengthy discussion of the Report I would like to make some general remarks on behalf of the Council about current economic conditions and policy, and our expectations for the balance of the year.

As you know this is the second time that I have appeared before this Committee to present an Annual Report, and the circumstances today are much more propitious. Last year at this time the economy was in the late stages of the most severe recession of the postwar period. The very sharpness of the decline made it difficult to guage developments later that year. Final sales, following the sharp decline of late 1974, bottomed out in the first quarter of last year. Production continued downward until April, as the very heavy overhang of excess inventories which had been built up in 1974 was being worked off. The economy began to turn around decisively in the second quarter of the year as final sales began to recover. Real final sales rose at a 4.5 percent annual rate in the final three quarters of the year. As the extraordinarily rapid inventory liquidation drew to completion production and employment rose rapidly.

The economy is now in the ninth month of recovery. Production has been rising rapidly since the spring of last year. Real gross national product rose at an 8.6 percent rate in the second half of last year. Industrial production has risen at a 12.0 percent rate since the low point of last April. Total employment in December was up by 1.3 million from the low of last March. Prices, which rose by slightly more than 12 percent between December 1973 and December 1974 rose by 7 percent during last year. Increasing employment, lower inflation and the tax reductions have each contributed to significant gains in real disposable incomes.

This recovery started from very low levels of resource utilization. Hence, unemployment will almost surely remain distressingly high this year even though large gains in employment are expected during 1976. Accordingly, we must seek to lower unemployment as rapidly as is consistent with the need to ensure that the reductions will be lasting. Policies that might speed the decline in unemployment in the short run should not be so expansionary as to lead to increased instability and greater social hardships in the long run. Thus policies for 1976 must attempt to sustain the recovery now in progress but at a pace sufficiently moderate to prevent renewed imbalances and a rise in inflation. They must also continue to mitigate the hardships associated with high unemployment. At the same time, our present policies must lay the foundations for a long period of steady growth.

Because we began the present recovery with more slack than in any of the previous postwar cycles, a much longer period of above-average growth will be required for a return to full resource utilization. Even under the best of circumstances the return to full employment cannot realistically be accomplished this year or next. To ensure that we return to high levels of resource utilization—as is our objective—the recovery must therefore be a durable one.

Our best estimate is that real gross national product (GNP) will be 6 to 6½ percent higher in 1976 than in 1975. This growth rate is not a goal. Rather, it is a projected outcome of the forces of recovery that were set in motion in 1975, by stimulative fiscal measures and by a return of consumer and business confidence and by external economic factors. With real GNP estimated to grow by 6 to 6½ percent from 1975 to 1976, the unemployment rate should fall by almost a full percentage point during this year. The rate of inflation is expected to continue with little change from late 1975 throughout this year; and hence the GNP deflator, which had risen by 9 percent from 1974 to 1975, should rise by only about 6 percent from 1975 to 1976.

Thus far the recovery has been accelerated by a very sharp change in the behavior of inventories, while real final sales have shown fairly steady growth since the first quarter of last year. The sudden cessation of high rates of inventory liquidation in mid-1975 accounted for a substantial part of the growth in real GNP during the last half of that year. The bulk of excess inventories appears to have been worked off, and more normal rates of inventory accumulation should become evident in 1976. Nevertheless, year over year, almost 1½ percentage points of the growth in real GNP is still likely to be due to the inventory swing. Once inventories reach desired levels, the continued strength of the recovery will depend on the vigor of final demand for goods and services.

Personal consumption expenditures are expected to impart considerable strength to the economy. During 1976 consumption is projected to rise by almost 6 percent in real terms, compared with 3.9 percent during 1975, yielding a year-to-year increase of 5 percent. A close to 6 percent rise during 1976 is consistent with about 5 percent growth in real disposal income, because the average saving rate is projected to fall below the abnormally high 8¼ percent level registered last year. A gradual decline in the saving rate is predicated on year-over-year declines in the rate of increase in consumer prices and in unemployment and layoff rates. Even so, the saving rate for 1976 is expected to remain above its 7 percent average for the previous cycle (1969–73).

Recent experience suggests that consumers react to heightened inflationary expectations by saving more, rather than by advancing their purchases of storable commodities. Thus we expect a fall in desired saving, or a rise in the propensity to consume, as lower inflation rates are incorporated into consumer expectations. Uncertainties which tend to reduce consumption are also created by high unemployment rates and particularly by high rates of job layoffs. As the unemployment rate and layoff rate continue to recede, we would therefore expect an alleviation of concern about job security to manifest itself in reduced saving and higher consumption in the household sector. Increased consumer confidence and lower saving rates may also result from the partial restoration during 1975 of the real financial assets of households, which had eroded severely in 1973 and 1974.

Nonresidential fixed investment normally lags in economic recoveries, and it is likely to do so again. Nevertheless we expect some strength to develop in business investment in the course of 1976, on the assumption that substantial modernization in plant and facilities will be planned and readily financed. A sustained rise in profits, retained earnings, and cash flow in this year and next should allow the share of business fixed investment in GNP to continue to grow, even as debt-equity ratios are reduced toward desired levels.

According to a recent survey conducted by the Department of Commerce, businesses plan to increase capital spending by 5½ percent from 1975 to 1976. Assuming that prices of capital goods rise by about 6 to 7 percent per annum, this implies a decline in planned real business fixed investment which is inconsistent with past behavior during comparable stages of recovery. During the early stages of recoveries, businesses usually underestimate the strength of final sales. Even though the present recovery started from a lower measured rate of capacity utilization than previous recoveries, businesses are likely to spend more on new plant and equipment in 1976 than they expected at the start of this year, and the year-to-year rise could be as high as 4 to 5 percent in real terms, or approximately 8 percent from the second half of 1975 to the second half of 1976.

Housing starts in the fourth quarter of 1975 were at a 1.4 million unit annual rate, 37 percent above the depressed year-earlier rate. In the past, changes in the supply of mortgage credit rather than changes in demand have frequently dominated short-run movements in housing starts. In 1975, however, demand factors, not the unavailability of mortgage credit, hampered the recovery in housing. There were large savings inflows into the thrift institutions in 1975 and their liquidity is expected to remain high in 1976. Nevertheless, the high stock of unsold new single-family homes and rapid cost increases, particularly in the land and materials components of home prices, suggest that this is likely to moderate the rise in single-family starts. On the other hand, the recovery of multifamily starts from the extremely depressed levels of 1975 should begin to accelerate in 1976, spurred in part by the $3 billion in mortgage commitment funds at 7½ percent interest released by the Government National Mortgage Association in January 1976. Thus total housing starts should reach a level of about 1¾ million units by year-end, and the real value of residential construction is expected to rise by about 30 percent from 1975 to 1976, on the strength of an almost 40 percent rise in housing starts.

The extraordinary reduction in inventories in the first half of last year, together with the faster growth in final sales which began in the second quarter, restored inventories to more normal levels. By the end of 1975 the ratio of real business inventories to final sales was the same as the average for 1969–73 and lower than the ratio for 1974, when large inventory accumulations had occurred. The ratio of inventories to sales is expected to decline a little more in early 1976. We estimate that the stock of inventories will grow at about the same rate as final sales after the middle of 1976.

The availability of much unemployed labor and unused plant capacity requires that economic policy should continue to support an economic expansion at growth rates significantly above the long-term growth of capacity output. But our knowledge of the interdependence between real growth and inflation is not sufficiently precise to permit a direct translation from general goals to specific targets. As a consequence, policies cannot be designed to reach any particular targets with a high degree of confidence. We believe, however, that policies consistent with a moderate but sustained recovery offer a far safer and surer route to full employment than policies which attempt to engineer a very rapid return to full capacity. What we need is a durable recovery—not a boom that carries the seeds of renewed instability in prices, incomes, and employment. This view is based on several considerations.

The difficult inflationary period through which we have come makes it likely that overly expansionary policies, which risk increasing inflationary pressures, will quickly influence consumers' and producers' expectations. High rates of inflation have made price expectations a much more important determinant of consumer and business behavior than they formerly were. It is a harsh fact of economic life that expectations of inflation are built into labor and other contracts in such a way as to be partly self-fulfilling. Moreover, increased inflationary expectations could restrain both consumption and investment expenditures and thus jeopardize long-term economic goals. High and variable rates of inflation not only create imbalances and sectoral distortions by capriciously changing the real value of existing contracts, but they also raise risk premiums in investment decisions and in wage bargains.

The recovery begins with a very high rate of inflation. We expect prices to rise at about a 6 percent rate during the year. Our ability to forecast is at best imperfect and I should like to point out again, as I have on a number of previous appearances before this Committee, that economists have not done well over the years in forecasting wage and price trends. A poor understanding of the inflation process is one of the major problems in forecasting and hence in economic policy analysis. We believe that this is the largest area of uncertainty in our forecast and as such, inflation could pose a major threat to the viability of the present recovery.

Policies that are perceived to entail higher inflation risks may not, therefore, affect economic activity and employment in a way that would normally be expected. Even if such policies should succeed in accelerating the recovery in the short run, it would be difficult to decelerate from unusually rapid growth rates to sustainable rates without running the risk of amplifying future fluctuations in economic activities.

There is a lesson to be drawn from past policy mistakes. The history of monetary and fiscal policies demonstrates that we have a great deal to learn about implementing discretionary policy changes. Our ability to forecast is at best imperfect, especially in an increasingly complex and interdependent world, and the difficulties in forecasting grow larger as we extend the period for which the forecast is made. This is a significant problem because of the time lags involved in altering the pace of economic activity through discretionary monetary and fiscal actions. There is a perception lag in diagnosing the problem, a reaction lag in selecting the appropriate response, and an implementation lag in having the policy prescription accepted and put into effect through our political and administrative processes.

We also lack reliable estimates of how long it takes before the economy responds to policies once they are undertaken and how large the response will be. With respect to fiscal policy there is the additional complication that countercyclical increases in Government expenditures are difficult to check during later upswings. Because countercyclical policy changes may be slow to take hold and then difficult to reverse, their effects may extend well past the time when they are most needed. Consequently a significant danger exists that, instead of smoothing economic fluctuations, discretionary changes in policy aimed at demand management may themselves become a source of economic instability.

The proper conclusion is not that we should forswear the use of discretionary policy. Some external shocks to the economic system can and should be offset. Furthermore, provided the growth in Federal outlays becomes more moderate than in the years just past, occasional discretionary adjustments of the income tax schedules are called for in order to prevent excessive growth in Federal taxes. In fact these changes may have to be more frequent if the rate of inflation continues at a somewhat higher average level than at comparable levels of economic activity in the past. But we must be mindful of the great difficulties in successfully executing countercyclical policies.

Over the past year or so we have examined a large number of specific proposals such as public service employment programs, which are often advocated to reduce unemployment directly and rapidly. One thing that stands out in our analysis is that public service employment programs have very large displacement effects. There is, therefore, an important distinction to be made between the gross number of jobs paid for or funded under the programs and the net number of new jobs that are created. Public service employment funds tend to be used for financing employment of people who would ordinarily be hired with State and local funds. Estimates based on previous experience suggests that after the first year only about 40 percent of the jobs funded represent net new job creation, and after one or two years more the net new job figure declines to as low as 10 percent. Consequently, a public service employment job funded at $9,000 per year for example actually costs the federal government somewhere in the neighborhood of $90,000 per job eventually.

What is called for in our judgment is a steadier course in macroeconomic policies than has been followed in the past. We should set policies broadly consistent with sustainable long-term noninflationary growth and try to limit the size and duration of any policy deviations that promise short-term benefits but risk interfering with our long-run goals. The severity of the recent recession does call for maintaining stimulative economic policies to accommodate an expansion of real output at a rate above that sustainable in the long run. But departures from the policies that are appropriate in the long run should be moderate. If we do not commit ourselves to moderate policies we may increase economic instability and lose our chance for sustainable growth, which we believe offers the safest and surest route to full employment in future years.

A.A.R.P. SUPPORTS PRESCRIPTION PRICE DISCLOSURES

Mr. CHURCH. Mr. President, recently I submitted legislation (S. Res. 357) supporting prescription drug price disclosure. As I noted then, this topic is of special importance to older Americans. Representative Benjamin Rosenthal of New York has estimated that a lack of effective competition in the prescription drug industry costs American consumers between $1 and $2 billion annually. Older Americans, who purchase 25 percent of the drugs sold, are hit very hard by these overpayments.

I was pleased to see that the National Retired Teachers Association-American Association of Retired Persons—NRTA–AARP—recognizes the need for effective action to remove barriers to prescription drug price disclosure. They have endorsed my resolution and have provided some compelling reasons for passage of this measure. Mr. President, I welcome their support and ask unanimous consent that their statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Elderly Support Senate Resolution on Drug Price Disclosure

A Senate resolution introduced yesterday by Senator Frank Church (D.-Idaho) in support of the Federal Trade Commission's proposed rules to allow prescription price disclosure has the "enthusiastic endorsement" of the nation's largest organizations of older Americans.

"The Church resolution is vital to elderly persons burdened with high expenditures for prescription drugs but often prevented from being able to know or compare prices before they buy," said Harriet Miller, acting executive director of the National Retired Teachers Association-American Association of Retired Persons.

"As Chairman of the Special Committee on Aging, Senator Church is well aware of the necessity to strike down state and professional restrictions on prescription price advertising that cause many consumers to pay much higher drug prices than they would if they had accurate information.

"NRTA and AARP are also pleased that Senator Church's resolution supports requiring retail druggists to disclose prescription prices whenever requested by patients, including by telephone. Access to price information by telephone is particularly important to elderly, poor, isolated and immobile persons," concluded Miss Miller.

CHILD AND FAMILY SERVICES

Mr. MONDALE. Mr. President, as most of my colleagues are aware, the widely circulated and dishonest flyer attempting to discredit the Child and Family Services Act continues to create considerable concern among many decent Americans.

I have, in the past, inserted a number of items in the CONGRESSIONAL RECORD in direct response to the vicious and inaccurate charges being made. These include a point-by-point rebuttal of these false allegations; the complete text of the bill and a section-by-section analysis; an interreligious statement signed by 16 Protestant, Catholic, and Jewish organizations denouncing the attack and specifically endorsing the bill as family strengthening; newspaper articles from several papers across the country tracing the spread of the flyer and presenting the true facts about the bill; and a letter I received from Archbishop Roach of St. Paul and Minneapolis, clearly stating that the bishops of Minnesota deplore this attack and specifically endorse the bill's protection of the rights of parents.

Mr. President, today, in order to further clarify the erroneous and totally inaccurate nature of this flyer, I would like to bring to the attention of my colleagues and the public news releases from the United Methodist and the American Lutheran Churches in Minneapolis, Minn.

I ask unanimous consent that a copy of these releases be printed in the RECORD at this point in my remarks, and I commend them to the attention of my colleagues and the public.

There being no objection, the releases were ordered to be printed in the RECORD, as follows:

[Press release from the Office of Communication, American Lutheran Church, Minneapolis, Minn.]

DR. DAVID W. PREUS COMMENTS

MINNEAPOLIS.—Dr. David W. Preus, president of the American Lutheran Church, said here today that he found nothing alarming in Senator Walter Mondale's child care bill and suggested that persons expressing opinions on the measure should be fully informed concerning its provisions.

After studying the proposed bill, Dr. Preus said, "This is important legislation which deserves the most careful hearing; false and misleading information could handicap its consideration."

The bishop of the 2.4 million member denomination added, "Responsible citizenship calls for thorough examination of issues rather than impetuous support of anonymous accusations."

Dr. Preus' comments were prompted by unsupported attacks being widely circulated in Minnesota against the Mondale bill by unidentified persons and/or organizations.

[From the United Methodist Information News Service, Minneapolis, Minn.]

METHODIST BISHOP SPEAKS FOR CHILD CARE BILL

Reacting to charges made against Senator Walter Mondale's Child Care Bill, Wayne K. Clymer, resident Bishop of the United Methodist Church in Minnesota, says "Vicious attacks upon this bill are ill informed and dishonest. There may be ways of amending and improving the bill, but as it now stands it is legislation needed for the health of many families in our country."

The Bishop commented that the reading of the Child and Family Services Act of 1975 (Senate 626) leads to the conclusion that it is "an enlightened approach to families in need. The intent of the legislation is to strengthen the resources for family life and to provide help for families in special need."

"This help," he added, "is for those who request the assistance and does not legislate for families who do not wish to receive assistance. Careful provision is made to protect the moral and religious training of the family and in no way removes children from the care of the parents."

Replying to a question regarding the unsigned mailings now being received by churches throughout the state, the Bishop responded, "I hope that the people of our churches will read this legislation before giving credence to attacks upon it. I would especially urge members to read Vol. 121, No. 173 of the CONGRESSIONAL RECORD, dated November 19, 1975."

Rather than opening the door to governmental interference within the family, Bishop Clymer finds that the bill "is very careful to provide for the protection of the human rights of all persons concerned."

DOLLAR CHECKOFF WORKING

Mr. HUMPHREY. Mr. President, I am pleased to inform my colleagues that the dollar checkoff is working. In response to my request, the Internal Revenue Service today disclosed an increase of over 10 percent in the value of contributions to public financing through the dollar checkoff from returns processed through February 4, 1976, compared to the same period last year. Also encouraging is the fact that 26 percent of the returns processed during this period used the dollar checkoff compared to about 22 percent last year at this time.

For the period of January 1 through February 4, 1976, 323,000 returns used the dollar checkoff and 277,000 returns used the $2 checkoff, for an increase in total designations of over 12 percent. As a result, we are reducing the need for candidates to raise large sums of money privately.

Again, as one who has been over the political fundraising hurdles many times, I want to reiterate my support for the concept of public campaign financing, in general, and the dollar checkoff in particular.

The increase in response so far this year is expected to add more than $31 million to the Federal campaign funds collected in prior years. By contrast, the combined participation for 1972, 1973, and 1974 totaled $61 million. This contribution method is expected to collect a total fund of over $90 million by the end of this tax filing period, April 15, for use in this year's election.

I want to remind all Americans of this opportunity to participate in cleaning up campaign financing. The dangers of large campaign contributions have long been recognized. The checkoff method provides a way for financial support to come from as many citizens as want to take advantage of it. Nothing, in my mind, is more important than restoring our political process to a high moral level and providing our citizens with reason to renew their confidence in their Government. The report from the IRS today is encouraging news that we are moving in the right direction.

NATIONAL ENGINEERING WEEK

Mr. MOSS. Mr. President, the week of February 22 through 28 has been designated as "National Engineering Week." At this time, therefore, I would like to salute the engineers of this Nation. They have played a noble role in building this country in the past, and I trust their future will be equally as bright. Indeed, the future of engineering in this country must be bright if we as a society are to overcome the challenges of tomorrow.

The United States has become recognized as the technological leader of the world, largely because of the efforts of our engineers and scientists. They are responsible for such technological developments as atomic energy, the transistor, the computer, television, the cardiac pacemaker, communications and weather satellites, and manned exploration of the Moon. And yet engineering, and technology in general, is under attack today from those who would turn the clock back to some imaginary, 18th-century agrarian utopia. These critics of today's technology should realize that our Founding Fathers, in the 18th century, were firm believers in scientific progress. Thomas Jefferson, for instance, would have been appalled at their attempts to curb technological advances, since he was well versed in the technology of his day as well as being a great statesman and President. The critics should also realize that the underdeveloped nations of the world, for the most part, are desperately trying to acquire just the beginnings of the very technology that the critics would have us throw away.

We should, of course, be aware of the problems which advanced technology brings with it. But we should realize that these problems result, not from technology itself, but from imperfect, incomplete technology. Is our air and water polluted by industrial waste products? Then let us develop more effective technological means for pollution control than we have today. Do we have aircraft that are too noisy for the residents of communities near airports? Then let us work to perfect quieter engines and other aircraft noise abatement procedures. The solution for the problems of technology is not to turn away from technology, but to develop newer technology.

In spite of all our engineering achievements, technological innovations alone cannot fulfill our need for a nationally formulated series of goals and objectives, for a way of integrating public policy with science and technology. And yet we must have the means by which our technologists can communicate with our political leaders to a much greater degree than they do today. There is now a growing mutual realization that a sound technological foundation is as important in policy decisions as are legal, economic, and political considerations. It is the

Nation's misfortune when policy decisions are made without the benefit of the engineer's point of view.

Part of this gap between technology and public policy can be filled by the professional engineering societies. Once aloof from the legislative process, these societies are now coming to realize that they must participate in the important and vital role of advocating legislation and other action favorable to the technological advancement of the Nation as well as to the engineering profession. This new role of the professional societies is symbolized by the number of these societies which now have offices in Washington. Only a few years ago there was just one such office, that of the National Society of Professional Engineers. Now they have been joined by four others—the American Society of Mechanical Engineers, the American Society of Civil Engineers, the Institute of Electrical and Electronics Engineers, and the American Institute of Aeronautics and Astronautics. And several other professional societies which do not have Washington offices as yet have taken the first step in that direction by employing part-time Washington representatives.

Mr. President, the Senate recently passed the National Policy, Organization, and Priorities for Science, Engineering, and Technology Act of 1976. The House passed a similar bill last fall, and I expect to see a bill on the President's desk in a few weeks. This bill will reestablish a science adviser in the White House as well as a President's Advisory Committee on Science, Engineering and Technology. This new committee will have a broad mandate to examine the whole structure of science and technology policy and organization, a task which urgently needs to be done. What is important, however, is that scientists and engineers will have an unparalleled opportunity to become a part of this decisionmaking process. I am confident that they will rise to the challenge of this opportunity.

Mr. President, we here in the Congress need the engineers of this country in an active political role, not only to counter the propaganda of the antitechnologists but also to aid those of us in Congress who are more familiar with the laws of man than with the laws of nature. We need the help of these societies in the creation and promotion of positive programs for the technological betterment of our society. And so, in saluting National Engineering Week, we welcome the Nation's engineers as active participants in the political process.

A HEALTHY ENVIRONMENT

Mr. BAYH. Mr. President, during the 1960's Congress enacted landmark legislation which set in motion the first national effort to reverse the unthinking contamination of our water and air. As a member of the Senate Subcommittee on Air and Water Pollution, I helped to draft and actively supported each of these major laws.

Now the Ford administration, consistent with the attitude of the previous administration, is attempting once again to retreat from the national commitment to a healthy environment. The administration is playing a shell game with the environmental budget.

Overall, the fiscal 1977 budget appears to provide a similar level of funding as fiscal 1976. But this is so because the budget includes $10 billion in previously impounded funds for water pollution control programs—money which should have been available over the last 4 years had the Nixon and Ford administrations not withheld it illegally. The Federal courts finally forced the release of these funds.

In fact, the amount of new money available for environmental protection will be about $10.8 billion less than that provided in fiscal 1976. This phony budget approach results in reluctance on the part of State and local governments to commit their funds to water treatment projects because of the uncertainty of future availability of Federal funding.

In addition, budget slashes proposed for various specific programs are ill advised, and in many cases will create further financial hardships for hard-pressed State and local jurisdictions. For example:

The fiscal year 1977 budget proposed by the administration calls for a cutback of $53 million in the operating budget of the Environmental Protection Agency.

The budget requests no new money for the construction of water pollution control facilities. If the administration plan goes into effect, at least 21 States will run out of money needed for water treatment works programs—and will run out within 4 to 14 months.

The budget contemplates a reduction in the Federal share of future water pollution control projects—and this at a time when Federal and State governments are suffering from the fiscal double whammy of a reduced tax base and increased demands for social services.

The budget seeks to eliminate all funding for separate storm sewers, collector sewers, and sewer replacement and rehabilitation.

Water quality management planning grants are earmarked for a cut of $38 million compared to the fiscal 1976 appropriation.

The $143 million proposed for the air pollution budget represents a decrease of $2.3 million from the fiscal 1976 level.

This short-sighted administration policy is pure folly. Not only is it an unjustifiable retreat from our goal of a better environment, it is short-sighted economic policy.

The administration would have us believe that we must make a choice between environmental quality and economic well-being. The facts are otherwise and this is why I believe the time is right for an expanded—not a reduced—environmental effort. The majority of the American people agree. A 1975 Opinion Research poll indicated that 6 people out of 10 opted for a more vigorous pollution control program.

Far from jeopardizing our economic recovery, environmental protection programs will create jobs and invigorate our economy. It is productive jobs, not make-work jobs or transfer payments, that will reduce the size of Government deficits through increased tax revenues.

In short, an increased environmental effort will not only enhance the quality of life for our citizens today and future generations, it will create jobs, stimulate the economy and reduce deficit spending. This is the kind of commonsense we need in Govermnent today—not arbitrary budget slashing.

As recent studies by the Bureau of Labor Statistics, the Environmental Protection Agency, and the Council on Environmental Quality all indicate, pollution control is one of the few areas of job strength during the present continuing recession.

In 1975 alone, Federal, State, and private programs provided the Nation with more than 1.1 million jobs. While we must always be sensitive to our obligation to assist workers displaced due to environmental regulation, statistics show this will not be an overwhelming task. Plant closings partly attributable to environmental regulations have involved fewer than 4,000 jobs per year in the 4 years 1971 to 1975. Most of these plants were old and marginally productive, due to be phased out in any event. Many of the workers in these plants were shifted to other jobs within the same companies.

In 1975, total expenditures—Federal, State, and private—for pollution control were $15.7 billion. The program's great potential for employment creation can be illustrated by the following example. The California Water Resources Control Board reports that each $1 billion spent on water pollution control resulted in 25,000 construction/trade jobs a year in California. In addition, they estimate the indirect impact of these construction jobs will lead to a total of 130,000 jobs the following year—a multiplier effect of more than 5.

Environmental spending also represents a real savings in living costs for millions of people. The money which is spent by individuals to restore their health or to repaint a home because of pollution damage reduces their standard of living. Conservative estimates of the 1975 costs to the health and property of the American public due to air and water pollution are over $35 billion. Yet the estimated expense of controlling this pollution and eliminating the damage is $20 billion, a net savings of $15 billion. True savings are even greater because yearly benefits are incremental after the initial installation of equipment.

Even these figures do not accurately reflect the toll exacted by pollution, because health is a priceless commodity. We can set a price on hours lost from work due to illness and the cost of medical treatment—but for those whose health is affected, sometimes permanently, by environmental pollution, such costs are secondary.

It is urgent that we deal with the economics of unemployment in a constructive fashion—by creating jobs which will produce lasting benefits to the country. By harnessing the abilities, energy, and know-how of those now unemployed to clean up our environment, we will improve the Nation's health and standard of living.

Environmental pollution control programs can create employment in virtually all job categories ranging from unskilled labor to professionals and technicians. The programs range over all regions of the country, from agricultural and forested areas to urban centers.

Many rural and urban areas are in need of new or enlarged water treatment facilities. But under the Ford administration, funds for these programs, which were previously impounded, are being slowed to a trickle because of a shortage of EPA personnel to process the grants.

The fiscal 1977 budget proposed by the administration will result in a total shutoff to 21 States of their Federal funds for water pollution control facilities. These States are: Maine, Delaware, Virginia, Alabama, Florida, Mississippi, North Carolina, Texas, Missouri, North Dakota, Wyoming, Montana, South Dakota, Utah, Colorado, Nevada, Hawaii, Arizona, Alaska, Idaho, and Oregon.

Even though air pollution abatement and control programs are badly needed in many metropolitan areas and generate between 70,000 to 80,000 jobs per billion dollars of expenditure, the Ford administration has proposed a decrease in the air pollution budget for the next fiscal year.

Important programs which would generate employment in rural areas include: Control of agricultural runoff into waterways and storm drainage, improvement of drinking water supply—over half of our Nation's drinking water has been found to be in jeopardy of pollution, strip-mining reclamation—over 1 million acres of existing stripped land awaits reclamation and people would now be working on this project if the President had not vetoed this badly needed legislation; improvement of public lands—the Forest Service has projects now fully planned which could employ up to 47,000 people over the next year. Potential jobs include tree planting, range revegetation, erosion control, trail construction, and others. Jobs would be concentrated in the West but a number of eastern parks and forests would be improved.

Despite these facts which argue so convincingly for an expanded environmental effort, this administration appears more concerned with a policy of frugality than with the necessity of using our most precious resource—people who are willing and able to work, but cannot find jobs. The millions of person-years lost now can never be reclaimed. We Americans and those of the future will be poorer for those things that could have been created by the unemployed of today.

FOOD AND RHETORIC

Mr. CHURCH. Mr. President, during the past year there have been numerous articles about food stamp abuses. Latest accounts show that the number of ineligibles receiving food stamps increased from 4.3 to 4.9 percent during the first 6 months of 1975.

Members of Congress are fully aware of this increase. Both the House and Senate Agriculture Committees have conducted extensive hearings on the food stamp program and legislation to reform it. Six major bills have been introduced in the Senate. They all have at least one fundamental goal in common—and that is to reduce or eliminate abuses in the program. Senator TALMADGE—as chairman of the Agriculture and Forestry Committee—has made every effort to obtain complete information for the committee's consideration of food stamp reform legislation.

Therefore, I am quite disturbed by recent press accounts that the administration may propose major changes in the program through regulations, thereby totally nullifying the efforts of the Congress. The effect is to circumvent the legislative process. I was even more shocked to learn that these regulations have been developed by the White House and OMB, instead of the food and nutrition service which has responsibility for administering the food stamp program. This may indicate that the real basis for such changes center around political considerations, instead of improving the program.

Mr. President, the food stamp program, regardless of the many overstated accounts of abuse, has provided access to more nutritionally adequate diets for millions of America's needy. As chairman of the Senate Committee on Aging, I have personally heard the testimony of elderly persons throughout the country who desperately need the program. Many older Americans cannot afford the increases in their food budgets caused by continually escalating food costs. The food stamp program has helped to supplement their food budgets. And, it has proved most effective. I have heard the elderly's comments about the program and have incorporated many of their suggestions into legislation which I introduced last year, the National Food Stamp Reform Act for the Elderly.

Now we hear that the administration might negate all legislative efforts and introduce regulations making substantial changes in the program. I urge the administration to reconsider such action and join with the Congress in attempting to strengthen the program through the appropriate legislative process.

A recent New York Times editorial describes the possibility of such regulations being proposed by the administration. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 14, 1976]

FOOD AND RHETORIC

Much like the spoiled youngster who takes his bat and his ball on home when the game begins to go badly, the Ford Administration is apparently thinking about circumventing a careful Congressional legislative review of the food stamp program by issuing a set of administrative regulations which would curtail the program drastically.

When Congress enacted the food stamp legislation, it stated as its purpose the provision of a nutritionally adequate diet for all American families. Under the pressure of recession-induced unemployment and some injudicious extensions of eligibility, the program grew to include 19 million persons last year before it leveled off and began to head back downward. Public attention and political interest increased as the numbers of participants went up.

As a result of all the attention and some obvious stresses in the program, both houses of Congress began major and expensive studies pointing toward modification and reform. Six major bills including one drafted by the Administration which would significantly decrease the number of program participants, have been introduced in the Senate and have been the subject of intensive scrutiny in committee hearings. During that process, which will culminate in committee markup sessions next week, weaknesses in the Administration bill have become apparent even to Senators who were originally inclined to support it.

While Congress has proceeded toward food stamp reform in a responsible manner, the irresponsible political rhetoric surrounding the issue has escalated. Ronald Reagan, campaigning in Florida last week, for example, told his audiences that people are outraged at grocery market checkout counters when they see a "strapping young buck" purchase T-bone steaks with food stamps.

Apparently feeling that its position cannot withstand rational scrutiny in Congress and fearing the former California Governor's scorching rhetoric, the White House is now tempted to take pre-emptive action that would literally take food out of the mouths of many of the country's working poor. Such action would not only constitute the cruelest form of election year politics, but might just turn out to be the most self-defeating as well.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million. Upon such notification, the Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

OFFICE OF THE DIRECTOR,
DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., February 19, 1976.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding herewith Transmittal No. 76–39, concerning the Department of the Air Force's proposed Letter of Offer to Australia estimated to cost in excess of $25 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 76-39

(Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Foreign Military Sales Act, as amended.)

a. Prospective Purchaser: Australia.

b. Total Estimated Value: [Deleted.]

c. Description of Articles or Services Offered: [Deleted.]

d. Military Department: Air Force.

e. Date Report Delivered to Congress: 19 Feb. 1976.

PUBLIC JOBS

Mr. BAYH. Mr. President, last week President Ford vetoed the Public Works Employment Act. That bill would have provided hundreds of thousands of jobs and created lasting improvements in communities across the country. Unfortunately, the President does not appear to be concerned with the desires of over 7 million people to work rather than accept compensation or welfare.

Recently, the thoughtful and respected columnist, Clayton Fritchey, pointed out how wrong President Ford is. Mr. Fritchey notes quite forcefully that—

> There is nothing so costly, so extravagant, so utterly wasteful as unemployment and plowed-under manpower.

He further points out that while the WPA became the butt of many jokes during its brief life, it left a very important legacy, including 600,000 miles of highway, 116,000 bridges and viaducts and 110,000 schools, libraries and auditoriums.

Mr. President, the benefits from providing productive employment for those who cannot find work in the private sector through no fault of their own are tremendous. I ask unanimous consent that the text of Mr. Fritchey's perceptive article be printed in the RECORD in order that it may be made available to others interested in this issue.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNCLE SAM: EMPLOYER OF LAST RESORT?

(By Clayton Fritchey)

It is better to pay people to work than pay them to do nothing. While this simple, seemingly incontrovertible, proposition is not yet effective U.S. policy, it's finally on its way to acceptance, maybe before 1976 is over, but certainly soon after the next election.

Congress and the American people seem to be learning the hard way that even semiproductive work is better for the country than totally unproductive idleness, and less costly as well to the taxpayers.

The involuntary idleness of 8 to 10 million unemployed Americans is costing the taxpayers about $40 billion a year in unemployment compensation, welfare payments, food stamps, subsidized housing and other benefits, which is more than it would cost to put almost everybody to work through government-guaranteed full employment.

Belated recognition of that fact is changing the political scene. The idea of the government accepting the responsibility of being the employer of last resort has long been resisted on the assumption that it would be a burden on the taxpayers, but now at last it is dawning on the public that there is nothing so costly, so extravagant, so utterly wasteful as unemployment and plowed-under manpower.

So the welcome change in attitude is not so much a burst of compassion for the jobless as a realization that everybody's pocket is picked by mass unemployment. Part of the change is due to the leaders of organized labor who have discovered that the economy loses about $16 billion a year for every million out of work, to say nothing of the billions in tax revenues that are also lost through reduced payrolls.

Since President Ford has resisted most job-creating proposals introduced in Congress, it is not likely that legislation guaranteeing full employment can be put into effect while he still has the power to veto, but it may be possible to adopt a pilot plan advanced by Rep. Paul Simon (D-Ill.), which would pave the way for a subsequent national program.

Simon's novel bill would establish a two-year experimental guaranteed-jobs program in 20 high unemployment counties throughout the country, with the idea of convincing even skeptics that there can be a practical and constructive way of putting the jobless to work and rejuvenating the economy.

The legislation would require the Secretary of Labor to study the effects of public service jobs on such things as unemployment compensation, criminal activity, welfare payments, sales and income tax revenues, and a variety of other factors affected by creation of new jobs.

"We may find," Simon says, "that by making government the employer of last resort we will both save some money and eliminate or substantially reduce some of the social costs of unemployment."

Jobs would be created in several ways, one being government subsidy of new private enterprise jobs created especially for the program. There also would be federal subsidy of new state and local jobs, along with specially created federal jobs to improve community living standards.

Any employer who now employs one to 10 persons would be able to add one worker and be reimbursed by the government for one-half of the minimum wage of that person for one year. An employer with 11 to 20 people could add two employees, and this scale would continue up to a maximum of 10 who could be added. Basically the same provisions would apply to local and state governmental units.

By limiting the program to a two-year trial, and applying it to only a handful of small counties, Simon says, "we can stop it if it is a failure." The estimated cost for a year's trial would be only $45 million.

Except for the old Works Progress Administration (WPA), which tackled unemployment in a limited way during the Great Depression more than 40 years ago, the United States has had little experience with government-guaranteed full employment. The WPA effort became the butt of many pejorative jokes during its brief life, but in retrospect the record looks impressive.

It left the nation a legacy of 600,000 miles of highway (new or rebuilt), 116,000 bridges and viaducts (built or repaired), 110,000 schools, libraries and auditoriums built, 600 airports constructed, 8,000 parks and 13,000 playgrounds created, millions of trees planted, countless swamps drained, many sewer and water systems provided.

That only scratches the surface of the record. Simon says, "There is no question that we also are a richer nation culturally because of the WPA experience." And, as he might have added, we are certainly a poorer nation because of the present unemployment experience.

LATIN AMERICAN AGREEMENTS WITH U.S. CORPORATIONS

Mr. KENNEDY. Mr. President, Ambassador Alejandro Orfila, the distinguished Secretary General of the Organization of American States, recently commented on agreements reached between two Latin American governments and private U.S. corporations.

The Ambassador expressed his view that these agreements, reached in a mutually beneficial climate, hold great significance for inter-American relations.

The Ambassador suggested that these recent solutions to the problems of nationalization of the oil industry in Venezuela and to the Panama/United Brands conflict might serve as models in the hemisphere when nationalization occurs. I believe the Ambassador's comments deserve the attention of my colleagues.

I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE OAS SECRETARY GENERAL REGARDING THE AGREEMENT SIGNED BY THE GOVERNMENT OF PANAMA AND THE UNITED BRANDS CO.

WASHINGTON, D.C.—The Secretary General of the Organization of American States, Alejandro Orfila, believes that in the last few days two events of the utmost importance have taken place and that both will surely influence inter-American relations. He was referring to the nationalization of the oil industry in Venezuela and to the agreement reached between the Government of Panama and the United Brands Company to establish a regime of joint venture in the banana industry.

In our countries there is a tendency to publicize mostly the negative aspects of our relationships, such as the conflicts between the national interests and those of foreign corporations, especially transnationals. Now we can see that in two countries, Venezuela and Panama, it was possible to reach mutually advantageous agreements on complex and delicate matters.

Significant evidence of a new attitude is the case of the Venezuelan oil industry, regarding which the government led by President Carlos Andrés Pérez has succeeded in solving the issue while defending national interests and respecting the rights of foreign corporations. The formula adopted in Venezuela will ultimately benefit the Venezuelan people without harming the companies that formerly operated the petroleum industry in the country.

For many years the banana industry has been the source of conflicts between the Panamanian people and United Brands, the company that held over-all control of the country's banana industry. The Panamanian Chief of State, General Omar Torrijos, aware of the complexity of the issues and of the possibility of unfavorable repercussions, decided to look for solutions that would protect national interest and at the same time allowed for the growing and orderly export of bananas.

To take over the property would not bring benefit to the country, since Panama would still have to export fruit to obtain foreign currency. The formula, negotiated by the Vice President of Panama, Gerardo González, and United Brands President Wallace Booth, is a victory for both parties. The agreements signed on January 8 in Panama City provide for the co-participation of the Government of Panama and United Brands in the banana industry. Under the agreement, Panama will have a greater income from banana production and marketing and United Brands will have continued access to the bananas harvested in Panama.

Secretary General Orfila has followed very closely the Panama negotiations and is very pleased with the final solution adopted, which he sees as a model to solve other similar situations. For this reason, he attaches the greatest importance to the agreements signed in Panama City.

SENATOR NELSON: KEEPING FREE ENTERPRISE ALIVE AND WELL

Mr. HUMPHREY. Mr. President, as I have conducted hearings of the Joint Economic Committee in Washington and around the country, I have become increasingly impressed with the contributions to our economy of small and medium-sized independent business.

It is not well known that only about 6,000 corporations are large enough to have their stock or other securities traded actively on a national basis. The remainder of the approximately 13 million U.S. businesses fall into the smaller business classifications. These enterprises account for over half of all private employment, 43 percent of the business output, a third of the gross national product, and over half of the significant industrial innovation.

In this light, it has become increasingly difficult for me to understand the neglect that smaller business has suffered at the hands of Government policies over many years.

Although the matters in question are complex, such as taxation, financing, and regulation, the principle of fair treatment is not difficult to understand. Accordingly, the disregard and mistreatment of smaller business is particularly striking. Not only does the entrepreneurial class, with its energy and aspirations, constitute one of our prime economic assets; but these local, community-based firms are also the anchor of our social institutions and our political democracy.

In this connection, I would like to call attention to the recent remarks of the chairman of the Senate Small Business Committee, Mr. NELSON, to the National Society of Public Accountants. Senator NELSON illuminated the economic, social, and political value of smaller business in a way which deserves to be widely read and thought about in this country.

In recognition of the economic contributions of small business, the Joint Economic Committee has begun a series of hearings jointly with the Select Committee on Small Business. We held a session in August on the impact of estate and gift taxes on the preservation of smaller businesses and farms; and met again in November to hear testimony by Secretary of the Treasury Simon, New York Stock Exchange President James Needham, and others on income tax and financing problems of smaller businesses.

It seems to me that if you want to preserve the character of this Nation as the land of opportunity, the Congress and the executive branch should inform itself of the issues and of material such as Senator NELSON's remarks and hearings to which I have referred; and begin immediately to give smaller and medium-sized businesses the higher priority to which they are entitled.

Mr. President, I ask unanimous consent that Senator NELSON's outstanding statement on this subject be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

KEEPING FREE ENTERPRISE ALIVE AND WELL

(By the Honorable GAYLORD NELSON)

I am pleased to be here with you at your 1975 National Legislative Conference. This is a special opportunity to talk with the representatives of your 16,000 members, who are both professionals and individual businessmen, and who are among the closest and most trusted advisers of smaller businesses across the country.

As a member of both the Small Business Committee and the Finance Committee, I share your professional involvement in the areas of taxes and the paperwork burdens of Federal reporting. These are subjects of an in-depth study which the Small Business Committee has been conducting since April.

An encouraging sign of the growing interest in these issues in the Senate is that six members of the Senate Finance Committee have also chosen to serve on the Small Business Committee. Counting these six, plus three additional members of the Finance Committee (who sit on Senator Bentsen's Financial Markets Subcommittee), there are now nine Finance Committee members—or half of that important tax-writing Committee—who are involved in the study of the tax and paperwork problems of small entrepreneurs.

DEFINITION OF TERMS

Our threshold question in this field is: Just what is a "small business"? Much depends upon the context in which we use the phrase. Each of us might define it differently—in terms of capital invested, gross sales, number of employees, or "market share" of the total national production of a particular product. We would probably all agree that sole proprietorships, most partnerships, and corporations with 10, 50, 100, 200, or 500 employees are small businesses. Many of us, including myself, would say that a business with 1,000, 1,500, or 2,000 employees might well still be a small business. However, none of us would agree precisely where to draw the lines between small, medium and large business.

In any event, precisely where those lines are drawn does not go to the heart of the matter. When we talk about small business, we are really talking about small business that is independent. We are concerned about the entrepeneur or small group of venturers who own it, who manage it, and who control it. We are not talking about subsidiaries or branches of large conglomerates and major corporations, no matter how small the branch or the subsidiary.

THE QUESTIONS INVOLVED

The issue of independent small business involves vital economic, social, sociological and philosophic questions.

The survival of a competitive free enterprise system is directly involved.

The kind of productive efficiency and creativity that flows from personal management, personal ownership, and personal responsibility is involved.

Small business involves questions of the optimum scale of economic units.

It also involves the basic issue of preserving opportunities for free choice and individual self-expression.

As far as our family farmer businessman is concerned, there is involved the great question of "stewardship of our land". Should the man who tills the soil and produces the food and fiber own the land? Or should absentee corporate giants own the land and hired hands till the soil?

And finally, the whole matter gets down to the fundamental question: Just what is our view of ourselves and our future as a people, a society, a nation?

AMERICAN MYTHOLOGY—BIGNESS IS GOOD

We have not addressed ourselves to these issues in any thoughtful, persistent, creative fashion. We have assumed that, because the country is big and the economy is big, everything should be big. It has been the conventional wisdom that bigness is goodness. Some bigness is dictated by the nature of things; in manufacturing it can bring wider distribution of goods and potentially lower prices. But a good deal of bigness is bad for the economy and bad for the free enterprise system. The large miscellaneous conglomerates that absorb independent businesses and engage in predatory competitive practices do not serve the best interests of the economy or the country.

We all believe, I think, in the survival of the independent, owner-operated business. In one fundamental area of our economy after another—food production, home building, wholesale distribution and services—the evidence shows that small, family, and independent businesses achieve the lowest costs, the highest quality, and thus are the most efficient. The people who own the local businesses and who work in them produce the highest return to the community and are the most concerned about improving its parks, its schools and its hospitals.

Small enterprises remain a vital part of their communities and of the national economy. But they are being taken over by giant corporations which can operate branches and subsidiaries at low- or no-profit margins to drive competitors out of business, or go to the stock or the money markets to raise funds to buy them out.

CONTRIBUTIONS OF THE SMALL BUSINESS COMMUNITY

Most of you in this audience are intimately acquainted with the small businesses in the communities you serve. As you know, the national small business community consists of 97% of approximately 13 million U.S. enterprises.

These firms furnish 52% of all private employment; 43% of the business output; and one-third of the gross national product.

They are the traditional source of local and national economic growth. It may surprise you that more than one-half of all major inventions have come from small business and individual inventors. The giant companies of today began as small business firms; and new small businesses of today are producing the advanced integrated circuits, mini-computers, hand-held calculators, and computer-peripheral equipment that have kept world leadership in these industries in the United States.

These are illustrations of what small independent businesses can do, if they are treated equitably under government policy and not crowded out of the marketplace by unfair competition from giant monopolies and conglomerate businesses.

PRESENT PROBLEMS OF SMALL BUSINESS

When Congress reconvened last January, the Senate Small Business Committee began a series of hearings throughout the country looking into the condition of the small business community. To date, 47 days of testimony have been taken. Our intentions were not to give small business any special treatment, but to find and remove, if possible, the governmental and business inequities and roadblocks to the free competitive markets where smaller businesses operate best. The picture that has emerged from the testimony is one of a business community beset with serious troubles. Many would agree that the health and vigor of our entire economic system are threatened.

The worst inflation and recession since the 1930's have aggravated this deterioration. But the root cause is that small business has been placed at the bottom of the priority list of this Administration and previous Administrations, and, for that matter, of nearly everyone's priority list, including the Congress'. Many Federal policies now discourage the formation of new small enterprises, hold down the expansion of existing small firms, and tend to force small family-owned enterprises—including farms, stores, and factories—to quit the business race.

Our small businesses are sinking deeper into a morass of Federal rules, regulations, and paper. They are victimized by discriminatory Federal income tax laws. They are being driven out of business by confiscatory estate taxes.

These are some of the specific problems of American small business that have been underscored in our hearings so far this year:

Business bankruptcies in the year ending June 30, 1975, jumped 45% to 30,130—almost twice the level in 1966–1970, indicating the intensity of the pressures on small business.

Tax rates discriminate against small business and contribute to their financial weakness. The largest corporations pay effective Federal tax rates of only about 25%,[1] while according to the Federal Trade Commission's continuing studies, medium-sized firms pay effective rates of more than 50%.[2] Thus a small firm attempting to accumulate capital to grow may be paying twice as much as a giant competitor.

Paperwork is out of control, imposing a $40 billion yearly burden on the economy, more than half of it borne by small business.

Family farming, accounting for 25% of all self-employment, is in serious trouble, More than one-third of all US farms went out of business in the last 15 years. In Wisconsin, the number of dairy farms has declined by 60% since 1952.

The housing industry, composed mostly of small and independent contractors, has been forced to cut production from nearly 2.4 million units in 1972 to a rate of 1.26 million so far this year. Unemployment in construction is 21.2%. Administration policy of eliminating multi-family housing programs and encouraging high interest rates is in substantial part responsible for this depression in housing, prolonging the overall recession, and has priced 78% of American families out of the housing market.

Federal regulations, such as those contained in the 330-page document on occupational safety and health, are proliferating. They sap the time, funds, and productive energies of small enterprise. Companies frequently report to us that they are being penalized for defects without having the opportunity to correct them. We have seen numerous examples of Federal compliance officials being unfair and unrealistic.

There is an acute shortage of capital for smaller firms. Only 10 stock issues were sold by small and medium-sized businesses in the past 20 months. During the same period, some interest rates for smaller borrowers reached 15–18%.

Rules governing recovery of capital invested in equipment are so complex that these tax-saving provisions are poorly utilized by small firms.

Major economic legislation, such as the Pension Reform Act, may inflict unintended penalties on smaller firms and their employees because of unnecessary Federal paperwork.

The estate tax exemption of $60,000—set in 1942 (more than 30 years ago)—is completely out of date in this modern inflation-ridden economy. This obsolete structure is prohibiting many owners of family farms, factories, and stores from passing along their enterprises to their heirs. Adjustment for inflation would place the estate tax exemption at approximately $150,000,[3] and the lifetime gift tax exemption at about $75,000. These are, in my view, figures we should strive for as a minimum, even though Congress may not reach them immediately.

THE SOCIAL ISSUES

The broad implications of this neglect of small business are that the American free enterprise system is under attack, and that the matters that seriously affect the economic and social fabric of this nation are threatened by inattention.

For example, in 1947, a 60-year history of small business was published under the title, "Small Business as a Social Institution".[4] The author, Kurt Mayer, found that the small entrepreneur had progressively lost his power of independent decision and his freedom of action:

His elbowroom is being narrowed down; his chance to exercise initiative, courage, and energy which are the characteristics of true "enterprise" are diminishing. The small man's enterprise is being increasingly frustrated.

Mayer cited examples of automobile dealerships, whose independence is largely "a legal fiction", and many retailers who are forced to become wrappers of merchandise they are forced to stock by national advertising.

A labor analyst observed recently that "men working for themselves earned about as much as wage and salaryworkers—but they put in longer hours."[5]

Many social scientists have been telling us for some time about "loss of social identity and genuine enterprise" affecting small business. The same morale factors seem to apply to industrial labor, white collar clerical employees, and increasingly to corporation executives. The feeling of shrinking possibilities of self-fulfillment is a problem of our mass production, industrial society as a whole; but it particularly affects the person striving to be an independent entrepreneur.

In 1946, sociologist C. Wright Mills and economist Melville J. Ulmer made a study of three pairs of cities, similarly located, with similar social composition and the same population levels.[6] These pairs differed only in whether economic activity was dominated by a few large corporations, with absentee ownership, or whether the cities possessed a greater number of smaller locally-owned manufacturers.

SMALL BUSINESS AND THE QUALITY OF LIFE

The study revealed that "small business cities" had more stability, less fluctuation in employment, and more balance between manufacturing, wholesaling and retailing. Consequently, retailers were more willing to commit funds to improvements, and there was a greater variety of goods and services available in better-managed and attractive retail esablishments in the so-called small business cities.

Not only amenities, but also the basic levels of civic welfare were found to be higher in the small business cities, in such concrete and measurable ways as higher per capita expenditures for public libraries, far higher expenditures on recreational facilities, greater church membership, greater per capita school expenditures, and higher per capita health expenditures as manifested by a lower infant death rate.

The study tentatively concludes that "big business tends to depress (the quality of life) while small business tends to raise the (quality of life)."

On the basis of both statistics and direct observation, the report found that the principal reason for this difference was that the independent middle class—particularly the small business families which have traditionally been the chief participants in civic enterprises—were less numerous and weaker in big business cities.[7]

A comparable study of two California towns—one surrounded by large-scale farms and the other by family farm agriculture—comes to a similar conclusion.[8]

Other aspects of the small business situation were considered by Professor Jon Udell of the University of Wisconsin, whose report is published in our Committee's June, 1975, hearings.[9]

Professor Udell observed that mergers of locally-owned companies with out-of-state corporations resulted in a lower growth rate for the merged company, a reduction in the accounting and legal services obtained locally, and a reduced use of banking and other local services, as well as fewer purchases of local supplies. A further finding was that contributions to Community Chest and United Fund campaigns by absentee-owned companies approached ⅓ less than those made by the same companies when they were independent and locally controlled.

TABLE—EXCERPT FROM CORPORATE MANUFACTURING ASSETS AND PROFITS, BY ASSET SIZES, 1960, 1970, 1973[1]

[In percent]

	Under $10 million	$10 to $25 million	$50 to $100 million	$250 million to $1 billion	Over $1 billion
1960:					
Assets	18.6	6.0	5.3	23.6	27.6
Profits	10.9	5.1	5.0	23.5	37.1
1970:					
Assets	12.0	3.5	3.5	19.5	48.8
Profits	9.8	2.8	2.9	20.5	51.9
1973:					
Assets	12.0	3.6	3.1	17.1	52.9
Profits	13.8	3.6	2.8	16.8	52.6

[1] Statistical Abstract of the United States, 1974, p. 488.

So, it seems to me that smaller and especially medium-sized businesses are threatened as never before. Their problems in the business and economic world are growing worse as concentration steadily increases. (See table.) These are being compounded by increasing government regulation, paperwork, discriminatory tax policies and general neglect.

To explore the overall decline in the economic and social stature of smaller business, we conducted public hearings on December 2, 3 and 4, 1975. Our Committee is actively looking into the whole question of the importance of small business in our country and whether the increasing predominance of big business is reducing the quality of American life and reducing competition and freedom in the marketplace.

CURRENT EFFORTS TO HELP

Meanwhile, what is being done about the condition of small business by the Senate? I can report that quite a bit is under way.

Early this year, the Senators who share membership on the Small Business and Finance Committee were able to convince Congress to apportion a much larger share of the business section of the emergency tax package to small business. Most of you are already familiar with the 1975 rate reductions of 9% for companies earning less than $25,000, and 40% for those earning between $25,000 and $50,000, which constitutes the largest tax reduction for small- and medium-sized businesses in 25 years. We also succeeded in doubling the amount of used machinery eligible for the investment credit, and permanently increasing permissible accumulated earnings from $100,000 to $150,000.

Our small business tax reform hearings have produced a series of other legislative proposals, such a S. 2149, to make permanent the small business provisions of the emergency Tax Reduction bill (introduced July

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Footnotes at end of article.

31, 1975). Other bills would mandate simplified pension reporting, increase the estate tax exemption, and award a partial tax credit for wages.

Work is in progress on drafting a small business estate tax reform proposal which would adjust both the estate and gift tax exemptions upward for small business and farm property, allow combined use of the two exemptions, and eliminate the tax on interspousal transfer of such illiquid assets. In our view, these changes are necessary. Business people tell us they cannot afford to die owning a small business. The tax structure is forcing mergers and larger aggregations of wealth, a result exactly opposite to the purpose for which the estate tax was originally enacted. Another bill on the drawing board is simplified capital cost recovery along the lines of the Canadian system, with two-year depreciation for machinery and a lesser and more simplified number of asset classes. Finally, we will have an omnibus small business tax measure which will include a distillation of the results of the hearings and the work of the Committee in this field.

In the area of paperwork, the first session of the Commission on Federal Paperwork took place in early October. Our own continuing investigation convinces us that paperwork can be substantially reduced—if government will devote a fraction of the energy toward reducing and simplifying forms that it has to generating them in the past.

Changing the 941A employment report from a quarterly to an annual form, and a similar change on the Form 943 for agricultural employment, would eliminate a stack of paper forms over 10,700 feet high—more than 2 miles—from the annual pile of Federal paperwork.[10]

Such annual reporting was proposed in S. 2156, of which I am a co-sponsor, and was contained in my recommendations to the House Ways and Means Committee on July 31 for inclusion in Phase 1 of the tax reform bill.

Other recommendations at that time were: A simplified depreciation and capital recovery system, along the lines of the Canadian model; unified deposit schedules for the four types of Federal taxes which now have different time tables; and simplified compliance for companies doing business across state lines. For several years we have advocated ongoing bodies for the review and simplification of tax and other forms.

A good, first step in this direction was the inaugural meeting, early this month, of the Small Business Advisory Committee to the Commissioner of Internal Revenue. Your Society worked with the Senate Small Business Committee to establish the Advisory Committee, and we are pleased that its roster includes the Chairman of your Federal Taxation Committee, Minor Shirk. We feel that the Advisory Committee can be an important forum for two-way communication between the small business community and high officials of the Internal Revenue Service.

ADVERSE SIDE EFFECTS OF THE PENSION REFORM ACT

In the pension area, our Committee has heard some distressing testimony of termination of private pension plans because of additional costs and reporting burdens brought on by the Employment Retirement Income Security Act of 1974. A study submitted to the Committee shows that costs of compliance with ERISA have soared. We have received hundreds of letters which complain about the timing and duplication of information required of small plans under the proposed EBS-1 Plan Descriptions and joint form 5500 Annual Reports.

I have joined with Senator Bentsen in proposing mandatory simplified reporting for smaller plans, which was the Congressional intent when we passed the Pension Reform Act. It is believed that about 93% of all pension plans have fewer than 25 participants and 98% have fewer than 100 participants. Further, we are about to suggest to the Labor Department and the IRS that they administratively mitigate several short-notice aspects of filing these forms. We are also planning joint public hearings on these matters, in which the comments of your organization would be welcome.

FLOWS OF CAPITAL INFLUENCED BY TAX POLICIES

We are all aware of the larger context of our investigation. Tax policies certainly do determine where capital will flow, which enterprises can be born, which can grow, which will prosper, and which may fail or be merged out of existence in our economic system.

Our hearings this year have documented the regressive structure of the corporate income tax, the burdens of employment taxes, and the confiscatory effects of the outdated estate tax.

ROLE OF THE ACCOUNTING PROFESSION

As we attempt to work out legislative solutions to these problems, accountants can be of great service to the Congress and to our country by bringing their experience, research, and imagination to bear. Communication between us should be such that we can be guided in these matters by your perceptions of what is happening in the real world of small business. Your contributions to this effort should be rewarding, not only in the daily practice of your profession, but in contributing to a healthier structure of our economy and society and an increase in the quality of our common life.

SUMMARY

Those of us in Congress who are concerned with the preservation and strengthening of small enterprise are alarmed at the weakness and disrepair of the free private enterprise system in this country. Our basic aim must be to re-create a climate in which small business can flourish.

We must seek to foster conditions under which small firms can attract capital for new ventures and accumulate earnings for growth; where they can complete in the marketplace with some protection against predatory monopolisitic practices; where they can grow to be regional and national competitors; where it is still possible to preserve their independence and where the traditional American dream of business ownership can continue to be fulfilled. We hope the Administration can be won over to this viewpoint. We need your cooperation in this work, which is appropriate to the 200th anniversary of the land of the free.

Small and independent business needs help. With your assistance, we hope that more meaningful help will be on the way.

FOOTNOTES

[1] According to data submitted by the largest corporations to the Securities and Exchange Commission on Quarterly 10K Forms and surveyed by Congressman Charles Vanik, effective tax rates are as follows:

	Total companies	Effective tax rates (percent)	Industrial companies only (percent)
Tax year:			
1971	82	24.4	29.6
1972	82	----------	29.3
1973	140	23.6	27.1
1974	142	22.6	24.8

[2] Quarterly Financial Reports, FTC. For example, see 1971 data reprinted in Hearings on "Small Business Tax Needs," Select Committee on Small Business, Feb. 1975, p. 345. Manufacturing firms in all categories up to $50 million in assets showed effective Federal tax rates above 50%.

[3] $145,800 as af June, 1975.

[4] *Social Research;* Volume 14, p. 332.

[5] "A Report on Self-employed Americans in 1973," by Robert N. Ray; *Monthly Labor Review*, January, 1975, page 49.

[6] "Small Business and Civic Welfare," Report of the Smaller War Plants Corporation to the Special Committee to Study Problems of American Small Business, Feb. 13, 1946.

[7] In the big business cities, the middle class tends to be the salaried employees of the absentee-owned corporations. In the small business cities, it tends to consist more of the predominantly independent proprietors, firm members, and officials of local corporations.

[8] "Small Business and the Community," A Study in Central Valley of California on the Effects of Scale of Farm Operations, Dec. 23, 1946. Appendix I to Hearings on Role of Giant Corporations, before Select Committee on Small Business, 1971–72, Part 3A, page 4465.

[9] Social and Economic Consequences of the Merger Movement in Wisconsin, May 1969, in Hearings on "Small Business Tax Reform," p. 551.

[10] Based upon elimination of 301 million lines from Form 941A and 2 million additional lines from the Form 943. Confirmed by Staff Report of the Commission on Federal Paperwork, October, 1975.

ENERGY CONSERVATION—TESTIMONY BY FRANK G. ZARB

Mr. KENNEDY. Mr. President, the Subcommittee on Energy, which I chair, of the Joint Economic Committee, has been holding hearings on the role that energy conservation can play in a balanced national energy program. In recent testimony before the Energy Subcommittee, FEA Administrator Frank G. Zarb provided some badly needed perspective on the potential benefits that can be achieved through using energy more efficiently.

He noted that—

> Conservation measures are not only viable alternatives, but generally they represent some of the most cost-effective ways we have of dealing with energy problems. Therefore, conservation, as I view it, is not only a means to help achieve our national energy objectives; it is also in the economic self-interest of consumers and businessmen.

Mr. Zarb estimated that energy demand by 1985 can be reduced by 14 percent, or the equivalent of 7 million barrels of oil per day, from levels anticipated before the oil embargo. I would add to this forecast that it is well within our reach to do considerably better if we are prepared to increase the amount of money invested in energy conservation activities.

In his testimony Mr. Zarb indicated that over $200 billion of energy conservation investments will be required over the next 10 years. This estimate is very significant. Among other things, it suggests that the $10 billion of Federal loan guarantees authorized by S. 2932, the Energy Conservation Act of 1976, for energy conserving actions in residential and commercial buildings and in industrial processes represents only a small portion of the investments that will be needed. I want to stress that Mr. Zarb was considering only those investments that are cost-effective; that is, investments that save more money than they cost.

I believe that other Senators will find Mr. Zarb's testimony to be very helpful in evaluating the potential contribution of a serious national energy conservation program. I ask unanimous consent that his prepared testimony before the Subcommittee on Energy of the Joint Economic Committee be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Frank G. Zarb

Mr. Chairman and Members of the Subcommittee, I welcome this opportunity to discuss with you the current status and the future direction of our efforts to encourage the conservation of energy.

As I hope you will agree, the enactment of the Energy Policy and Conservation Act last month represented a small step toward the establishment of an effective national energy policy.

The compromise oil pricing provisions, while far from perfect, at least signalled an end to the long and often frustrating debate that we witnessed during the past year. The Act also incorporates other provisions that can contribute to the eventual realization of energy independence, including the establishment of a strategic oil reserve, conversion of oil and gas fired plants to coal, and emergency standby authorities. It also provides for mandatory automobile fuel economy standards, mandatory energy efficiency reporting by the ten most energy consumptive industries, energy labeling and efficiency targets for major home appliances and a technical and financial assistance program to aid the States in developing and implementing energy conservation programs.

Although passage of this law does indicate that we have made progress, we should not be lulled into believing that it alone can resolve the Nation's energy problems. There remain several pieces of pending legislation which must be enacted to effectively complete the energy program, building upon groundwork laid by the Energy Policy and Conservation Act. These hearings on energy conservation are a welcome indication that Congress also sees the need for further action.

During the past two years there has been much discussion of the need for energy conservation. However, despite the fact that conservation has been the subject of considerable public debate, several widely held misconceptions somehow still remain. These have not only delayed the enactment of important legislation but have also engendered confusion among the general public. I would like, therefore, to begin my testimony today by identifying, and hopefully dispelling, some of these myths.

First, and perhaps most widespread, is the myth that intelligent conservation of energy will hinder economic growth, increase unemployment or lower our high standard of living. There is no question that the dramatic increases in the price of imported oil instituted by the OPEC Nations during the past two years pose a threat to our economy. Because of this threat, it is absolutely necessary that individuals and businesses take steps to use energy more efficiently. Contrary to the myth, conservation is vital to our efforts to sustain our high standard of living and rekindle economic growth. Moreover, several recent analyses have shown that reducing the inefficient use of energy would not result in an employment penalty and may, in fact, create more jobs.

A second is the myth that energy conservation is only an environmental concern and that conserving energy is not an economic proposition. While energy conservation would result in a cleaner environment, the key motivation behind virtually all efforts to conserve energy is and should be economics. Saving energy is synonymous with saving dollars and can, in fact, be considered as one of the least expensive energy supplies this Nation has.

A third myth is that higher energy prices will not induce greater energy conservation. Since the dramatic rise in oil prices at the end of 1973, petroleum demand has declined markedly. In comparison to pre-embargo forecasts, 1975 petroleum demand declined by approximately 14 percent or 2.7 million barrels per day. Of that 2.7 million barrels per day, over a third or about one million barrels per day is attributable to increased awareness and response to higher prices. Thus, as energy prices climb higher, saving energy becomes more attractive—for both businesses and individuals.

A fourth myth is that conservation is only a stop-gap measure and can't really make a significant contribution to the resolution of our longer term energy needs. We estimate that anticipated increases in energy prices along with Government initiatives will result in the adoption of conservation measures that will reduce energy demand, including oil, gas, coal, nuclear power and other energy sources, by about 14 percent from levels anticiapted before the embargo—or the equivalent of more than 7 million barrels per day of oil—by 1985. This reduction is just slightly less than our current rate of production of domestic crude oil. Although a large part of these savings are likely to occur in response to higher energy prices alone, the full amount would not be achieved without Government involvement to accelerate the adoption of conservation measures. A good example of a desirable conservation measure that would result in long-term savings, if adopted, is the updating of standards for new residential and commercial buildings.

I should like also to try to dispel several myths which are often engendered by many advocates of energy conservation. This is necessary to obtain a balanced understanding of the conservation issue.

One is the myth that energy conservation alone—or in combination with the development of solar and other inexhaustible energy resources—can solve our energy problems. Even when we achieve our estimate of reduced energy demand, which I cited earlier, we would still require the energy equivalent of approximately 44 million barrels per day of oil to meet the needs of our economy in 1985. This is 24 percent more than what we use today. Even the most optimistic projection of the contribution to our national energy needs that could be made by solar and other inexhaustible energy resources is far below this figure. Obviously, unless we reverse the trend of rapidly declining domestic oil and gas production, we will be forced to rely even more heavily on imported energy.

A second myth is that the Federal Government, by enacting a law or issuing regulations can swiftly and painlessly ensure that energy is conserved. As this past year has clearly indicated, there are no such simple solutions. In fact, encouraging greater energy conservation is, in many respects, a more complex and difficult task than encouraging increased domestic energy production. While only several thousand companies produce and/or distribute our domestic energy supplies, literally millions of diverse businesses, institutions and individuals consume energy. While increased energy prices have stimulated conservation actions, in a few circumstances the President and the Congress have taken a mandatory approach. It will be no simple task to manage these complex programs; great care must be exercised to avoid the large bureaucracies and economic distortions that often are the result of Government regulation.

Finally, there is myth that energy conservation is free—or nearly free. While it is true that significant energy savings can be realized for little or no cost, it is also true that many measures that could result in large energy savings require significant investment. The installation of storm windows, heat pumps, heat recovery systems, and power recovery turbines has a cost, just like measures to increase energy supplies. The choice between whether or not to adopt any specific conservation measure must be made by the individual or firm concerned, on the basis of hardnosed economic analysis. Currently, our best estimate is that over $200 billion will be required for energy conserving investments over the next ten years if we are to achieve the savings I cited earlier. We are pursuing further studies to refine our understanding of the specific capital costs that can be anticipated.

Energy is only a means to economic well being, not the end product. If a fuel becomes overly expensive, or unavailable, then common business sense dictates that the thing to do is replace it with the lowest cost substitute. Let's consider a simple example of a consumer faced with rising fuel oil prices. The consumer has available several alternative responses. First, he could simply continue to pay the higher heating bills. Second, he might consider switching from fuel oil to some other source of heat—such as natural gas, electricity, or possibly solar energy. Another alternative, however, would be to reduce his use of fuel oil by installing insulation. How does he choose among the alternatives?

Continuing to pay the higher bills for fuel oil would cost more than $17 for each barrel of oil used. If the homeowner were able to switch to natural gas, then he would be paying only around $9 for the energy equivalent of that barrel of fuel oil. (Natural gas is still a "bargain" because it is regulated at unrealistically low prices. However, many areas, including Washington, D.C., have moratoria on new gas hook-ups. Consequently, the natural gas alternative is increasingly unlikely to be available.) If the homeowner lived in Massachusetts and chose to heat his home electrically by installing baseboard or some other form of resistance heating, he would be paying more than $30 for the equivalent of that barrel of oil. However, if this homeowner chose to install ceiling insulation to improve his home's thermal efficiency, he could effectively save a barrel of oil or $17 for every $5 that he spent on insulation. Thus, conservation turns out to be, in this case, the most economically attractive alternative.

We've performed similar analyses of several other conservation measures and we have received some actual case histories through contacts with industry leaders. Installing storm windows can range in cost from $8 to $13 or more for every barrel of oil saved, depending on the characteristics of the home. In most northern regions of the country, the cost would be less than $9 for each barrel saved.

Industrial examples include the installation of an air pre-heater on a boiler for $11 per barrel and addition of power recovery turbine, also costing $11 for each barrel saved. Naturally, in every sector conservation measures range in cost from virtually zero for "housekeeping" actions to more than the cost of simply purchasing more fuel.

The point of such examples is that conservation measures are not only viable alternatives, but generally they represent some of the most cost-effective ways we have of dealing with energy problems. Therefore, conservation, as I view it, is not only a means to help achieve our national energy objectives; it is also in the economic self-interest of consumers and businessmen.

If conservation is so attractive from an economic standpoint, why hasn't more been done? We know, for example, that at least 18 million homes are inadequately insulated—and it's probably more like 30 million—yet the insulation industry is operating with sufficient excess capacity to supply insulation for an additional two million homes per year. We also know that, on a per dollar of product basis, manufacturing paper in West Germany requires only 37 percent of the energy used in U.S. paper mills and that the German chemicals industry uses only 57 percent of the energy required, per dollar of product, in the United States. The list is almost endless.

We don't have the final answer, but we do know some of the reasons why more is not being accomplished.

First and foremost, the price of energy in the United States has been artificially low because of regulated natural gas and oil and because the external costs of our dependence on foreign oil supplies have not been reflected in the prices paid by consumers. As a result, the economic incentives for conservation have been lacking. Furthermore, basing the rates charged for electric utility service on total kilowatt hour usage rather than on the consumers contribution to peak demand encourages the inefficient use of our electric generating capacity.

Also, some conservation actions take time. We simply can't afford to renovate the entire capital plant of our economy instantaneously. Our existing buildings and industry were constructed in a time of plentiful and inexpensive energy supplies, and it will take decades to fully implement the changes that are now warranted by higher energy prices. Similarly, each of us was brought up believing that low cost energy could be taken for granted. It is difficult to change such ingrained perceptions. Sticking to old patterns may be more comfortable but it will also be expensive.

A lack of reliable information on the costs and benefits of specific conservation measures has also prevented consumers from being as responsive as they might be. This is true for both the homeowner who doesn't know how much he'll save if he installs insulation and the businessman who isn't aware of the steps he can take to improve the energy efficiency of his plant. Most energy users are aware of the need for conservation, but the detailed information necessary to make home and business investment decisions is all too often not available. Another factor that has compounded this problem is that unlike energy supply, energy conservation has not had enough advocates in the business sector. As a result, while we have regularly been bombarded with advertisements urging energy use, we have not, until recently, seen business advertisements for products which conserve energy. And, because the businesses that would benefit from increased sales of energy conserving materials and equipment are generally small and diverse, we face the difficult task of increasing awareness of energy conservation measures.

Where a combination of clear price signals and credible, easily understood information on comparative energy savings does exist, manufacturers and consumers have moved toward more energy efficient products. An excellent case study exists in the automobile industry. First, the embargo with its attendant gasoline shortages and then the substantially increased prices convinced consumers—and Detroit—that miles per gallon was a very important part of buying a new car. Moreover, as a result of the Clean Air Act emission certification procedures, this information was widely available through the EPA/FEA Gas Mileage Guide. In the 1974 model year (pre-embargo), the new car fleet averaged fourteen miles per gallon. By 1976, only two years later, that same average reflected increased fuel efficiency of 26.6 percent (to 17.6 miles per gallon) as the industry responded to market pressure.

In addition to insufficient information, there are a number of other factors which often discourage the adoption of energy conservation measures.

The undue emphasis placed upon reducing the initial cost of energy using products is one of these barriers to conservation. The energy efficiency of new appliances, automobiles, and buildings can be improved substantially. But such improvements often result in higher initial costs. Even though these costs would be recouped, with interest, in lower fuel bills within a few years, consumers continue to purchase the less efficient and lower priced alternatives. One reason for this emphasis is that banks and other lending institutions often do not take into account energy operating costs in determining the conditions under which homeowners and businessmen can obtain a loan. Another factor is that consumers rarely are given information on energy efficiency or operating costs before they purchase a product.

Uncertainty about future energy prices also discourages the adoption of conservation measures—particularly those which require large capital investments.

But where an industry has been convinced that higher energy prices are here to stay, programs have often been established to increase the efficiency of energy use. The Monsanto Corporation is a good example of what industry can do when it becomes committed to conservation. I recently presented FEA's Energy Conservation Award to Monsanto for an employee conservation program they established in early 1975. Monsanto provided an incentive for their employees to conserve energy both on and off the job by offering a $500 check to those employees who submitted the best suggestions for improving energy efficiency. As a result of this program, Monsanto was able to identify numerous opportunities for saving energy in its plants as well as in the homes of its employees.

A final factor slowing conservation efforts, however, is that the individual benefits realized through the adoption of certain conservation measures, such as improved furnace maintenance, may just be too small in many cases to arouse much enthusiasm by the consumer. On a national scale, however, the significance of all of these small individual savings is immense.

In face of these various barriers to conservation, the Federal Government needs to take action to encourage energy conservation.

During the past year, there were many who advocated that the Federal Government should force individuals and businesses to reduce consumption by instituting import quotas, allocating supplies or even by rationing. Fortunately, these arbitrary curtailment measures were eventually rejected. With the enactment of the Energy Policy and Conservation Act, more constructive alternatives for Federal action have been put into place. These included oil price deregulation, auto fuel economy standards, appliance labeling, and federally sponsored information or goal oriented programs to encourage and assist energy users to conserve.

Congress, however, has been slow to enact other vital pieces of energy conservation legislation. Four of the conservation measures initially proposed by the Administration one year ago are still pending. They are the deregulation of new natural gas supplies, the Building Energy Conservation Standards Act, the Weatherization Assistance Act, and the insulation tax credit for homeowners. Each of these measures has cleared either the House or Senate.

Another major energy initiative awaiting Congressional action is the Energy Independence Authority proposed by the President last October. This proposal, if enacted, would authorize Federal support, in the form of loan guarantees, not only for major energy supply ventures, but also for conservation projects unable to obtain private financing.

Quick action on these measures would go a long way toward the establishment of a comprehensive national program for energy conservation.

Although the enactment of these proposals would give a major boost to our conservation efforts, they would still not ensure that the full potential for conservation is realized. There are a number of areas that cannot easily be affected by Federal legislation. For example, the wide range of energy consuming processes and equipment in the industrial sector would make it impossible to design and implement effective energy efficiency standards. However, because industry is responsive to measures which lower costs and improve productivity, a Federal program to promote the adoption of cost-effective conservation techniques could result in major energy savings. The Federal Energy Administration, together with the Department of Commerce, has established such a program and we will be expanding these efforts under the provisions of the Energy Policy and Conservation Act. This is just one of many FEA programs directed at encouraging and assisting homeowners, building managers, businessmen, and all other energy users to conserve. These programs don't require new laws or regulations. They won't burden the Treasury with large revenue losses or cause disruptions in the economy. And, we believe, they have already shown themselves to be effective.

You have requested that I include in my testimony an assessment of what priority the Administration, and particularly FEA, has given to energy conservation efforts. I think the fact that our conservation appropriations request for Fiscal Year 1976 increased more than six-fold over the Fiscal Year 1975 level is a good indication that conservation has been given high priority.

Another area in which the Administration has been rapidly expanding its commitment is the research and development of more energy efficient technologies. I will defer to Dr. Seamans, who I understand is testifying before you later this month, for a detailed discussion of these efforts.

Having said that, I should reemphasize that there are no simple solutions. An effective conservation program must necessarily have many different components. Our programs are directed at saving energy in transportation, industry, residential and commercial buildings, utilities as well as the Federal Government. Some of these programs are now being expanded in response to the enactment of the Energy Policy and Conservation Act. I am submitting for the record a listing of FEA's current programs, together with preliminary estimates of the energy savings that will result. These estimates clearly indicate that the savings resulting from such programs far outweigh the cost to the Government of funding them.

Much still remains to be accomplished. Now that we have succeeded in resolving some of the more difficult issues, we must not ignore the other measures necessary to achieve our national energy goals. I believe that by continuing to emphasize that conservation is not only vital to the national welfare but also in the economic self-interest of most individuals and businesses, we are making an important contribution to the realization of these goals.

I would be happy to answer any questions.

FEDERAL PROGRAMS FOR ENERGY CONSERVATION

	1978 (MBPD)		1985 (MBPD)	
	Total Savings[1]	Import reduction[1]	Total Savings[1]	Import reduction[1]
I. BUILDINGS (RESIDENTIAL AND COMMERCIAL)				
Legislative programs:				
Building energy conservation standards—Presidential proposal (House passed as voluntary—Senate markup in December): Would establish mandatory thermal efficiency standards for all new buildings			350	315
Weatherization Assistance Act—Presidential proposal (passed House—Senate markup in December): would provide winterization assistance to low income and elderly	25	25	25	25
Retrofit tax credit—Presidential proposal (passed House—awaiting action in Senate): Would provide tax credit for 30 percent of costs to insulate existing homes up to maximum $150	130	110	130	110
Administrative programs:				
Project conserve: Provides specific energy conserving actions that can be taken by homeowner	42	35	70	58
Lighting and thermal operations: Commercial building owners are asked to adopt the FEA lighting and thermal guidelines and take other actions to reduce energy use. 50,000 buildings by fiscal year 1978, 75,000 buildings by fiscal year 1980	67	27	100	40
II. APPLIANCES				
Legislative programs:				
Consumer product energy conservation program (Energy Policy and Conservation Act): Would require energy labeling of major appliances and 20 percent improvement in energy efficiency by 1980 over 1972 levels	35	10	760	220
III. INDUSTRY:				
Legislative programs:				
Industry energy efficiency (Energy Policy and Conservation Act): Energy efficiency targets would be set for 10 most energy-intensive industries, with annual reporting, for maximum improvement by 1980. Also, energy-intensive industries participate in voluntary program which assesses potential, establishes programs and goals, and provides a reporting mechanism. (Continues previous administrative program.)	375	174	280	107
Waste oil utilization program: Designed to increase utilization of waste oil by creating market demand, assisting re-refining industries, and increasing awareness of potential	16	16	35	35
IV. TRANSPORTATION				
Legislative programs:				
Fuel economy performance standards (Energy Policy and Conservation Act): Standards are established for model year 1978 and beyond (autos and light-duty vehicles). Also includes mandatory labeling program. (Includes results of administrative program.)	100	100	1,000	1,000
Administrative programs:				
Improve CAB load factor	40	40	120	120
Vanpool program: Demonstration effort to encourage use of employer-sponsored vans for carrying employees to and from work	20	20	110	110
Voluntary fuel economy program for trucks and buses: Aims to reduce energy use in this sector by applying new fuel efficiency technologies and adopting improved operating practices	35	35	125	125
V. UTILITIES				
Administrative programs:				
Utilities conservation action now (UCAN): FEA works cooperatively with electric and gas utilities, regulatory agencies, consumers and environmentalists to develop action plans to conserve energy. FEA provides technological assistance, monitors programs and provides national coordination. (See demonstration program and buildings programs)				
Electric utility demonstration projects:[2] FEA is funding demonstrations of innovative electric rate structures and load management techniques to assess consumer response to new rate structures, show effectiveness of load management practices and technologies and promote electricity conservation. (20 demonstrations in addition to 10 original—fiscal year 1976.)		50		300
Federal intervention in State regulatory hearings: FEA intervenes, by invitation, in State regulatory hearings to promote increased efficiency in generation, transmission, distribution and end-use of electricity and natural gas				
VI. INTERGOVERNMENTAL				
Legislative programs:				
State energy conservation programs[2] (Energy Policy and Conservation Act): Federal technical and financial assistance to States in developing and administering energy conservation programs. Programs will have a target of 5 percent reduction in energy consumption by 1980	370	245	850	640
Federal energy conservation program (Energy Policy and Conservation Act): Provides for a 10-yr program for Federal agencies. Savings from President's program included	255	225	305	260
Total energy savings	1,510	1,112	4,260	3,465

[1] All savings estimates contained in these tables are based upon reductions from FEA baseline demand projections using a $13 per barrel world petroleum price.

[2] Preliminary numbers.

HAYS T. WATKINS, CHAIRMAN AND PRESIDENT OF CHESSIE SYSTEM, COMMENT ON NORTHEAST RAIL SITUATION

Mr. RANDOLPH. Mr. President, last week it was disappointing to read that the Chessie System and the Southern Railway will not be assuming control of substantial railroad operations under the Northeast rail reorganization program. As Senators know, the failure to secure a final takover agreement was due to the inability of certain railroad union representatives and these two railroads to reach accord on future contracts.

In the case of the Chessie System, these operations would have provided the most significant competition to the new Consolidated Rail Corporation. The chairman and president of the Chessie System, Hays T. Watkins, issued a statement after the negotiations failed. He discusses the commitment of this railroad to increased rail operations.

I do not assess responsibility for this critical problem that has developed. I feel, however, that the comment of Mr. Watkins, an effective advocate of expanded rail service, will be of interest to the Members of this body. It is my genuine hope that the negotiations will be continued in an effort to insure maximum participation of private rail carriers in the Northeast rail reorganization.

Mr. President, I ask unanmius consent that Mr. Watkins' statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

HAYS T. WATKINS COMMENTS ON THE NORTHEAST RAIL SITUATION

Chessie System regrets very much that the increased competitive role it was ready to undertake in the Northeast rail reorganization has been frustrated by an inability to reach agreement with some rail unions. It is a great personal disappointment to all of us who have worked long and hard over the last two years to make Congress's plan a reality.

Chessie was completely ready to undertake the risks of enlarging its system by one-fourth in the East. Our shippers favored the expanded service it would have provided. Further, as I stated at Congressional hearings, Chessie was anxious to be helpful in the regional rail reorganization by providing the competition for Conrail sought by Congress.

The $54.5 million cash price we would have paid for the acquired lines was the smallest part of Chessie's planned commitment. Over a half-billion dollars of Chessie's own funds would have been expended on the rehabilitation and re-equipping of the acquired railroad lines. Now the nation's taxpayers will have to make up the funds that private enterprise would have paid.

Untold hours were spent negotiating and discussing the acquisition with Congressional committees, the Department of Transportation, the United States Railway Association, state transportation agencies, Conrail and other interested parties. Starting in October, intensive negotiations with labor, including week-end and all-night sessions, were held in an attempt to reach mutually satisfactory agreements.

A principal Chessie objectives in the labor talks was to bring in employees from the bankrupt carriers as full-fledged Chessie employees, generally under existing contracts we now have with the unions. Further, we sought the ability to manage the activities of the acquired lines in the same way we manage our existing railroads.

Taking over the labor practices and agreements which contributed to the bankruptcy of the acquired lines would have resulted in our assuming a loss operation and would have seriously restricted the performance of efficient rail transportation service. Obviously, service to our customers and the well-being of our employees rests on Chessie's remaining a solvent, profitable railroad under the private-enterprise system.

CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER**. Is there further morning business? If not, morning business is closed.

COPYRIGHT LAW REVISION

The **PRESIDING OFFICER**. Under the previous order, the Senate will now resume consideration of S. 22, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 22) for the general revision of the Copyright Law, title 17, of the United States Code, and for other purposes.

The **PRESIDING OFFICER**. The clerk will state the pending amendment.

The legislative clerk read as follows:

The Senator from California (Mr. TUNNEY) proposes an amendment No. 1397.

The **PRESIDING OFFICER**. The bill is under time control. Who yields time?

Mr. **MANSFIELD**. Mr. President, I suggest the absence of a quorum, with the time taken out of neither side.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **MANSFIELD**. Mr. President, a parliamentary inquiry.

The **PRESIDING OFFICER**. The Senator will state it.

Mr. **MANSFIELD**. Mr. President, is there a time limitation?

The **PRESIDING OFFICER**. There is a time limitation on the pending business. It is 3 hours on the bill, 1 hour on amendments in the first degree, and one-half hour on amendments in the second degree.

Mr. **MANSFIELD**. I thank the Chair. I renew my request.

The **PRESIDING OFFICER**. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. **TUNNEY**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. FORD). Without objection, it is so ordered. Who yields time?

Mr. **TUNNEY**. Mr. President, my amendment to section 802 of the copyright bill is intended to reduce the cycle of review of the Royalty Tribunal from 10 to 8 years.

The **PRESIDING OFFICER**. Does the Senator from California yield himself such time as he may require?

Mr. **TUNNEY**. Yes.

The **PRESIDING OFFICER**. The Senator may proceed.

Mr. **TUNNEY**. Mr. President, my amendment to section 802 of the copyright bill is intended to reduce the cycle of review of the Royalty Tribunal from 10 to 8 years.

Unfortunately, when I called up my amendment earlier this week, on Monday, we had only 51 Senators in attendance, and very few of the Senators were on the floor during the debate. Therefore, we did not really have an opportunity to inform the Members of what the merits of my amendment were. I can see from the attendance in the Chamber today that there is going to be very little opportunity to inform the membership of what the merits of the present amendment are; but the amendment is very similar to the amendment that I offered on Monday, which was defeated by 5 votes, 28 to 23.

I have simply changed the review period from the 7 years that was contained in the amendment I offered on Monday to 8 years. I think that the merits of my approach are clear to anyone who has an opportunity to evaluate what this copyright legislation is all about.

Mr. **MATHIAS**. Mr. President, will the Senator yield?

Mr. **TUNNEY**. I yield to the Senator from Maryland.

Mr. **MATHIAS**. I thank the Senator from California.

Mr. President, I ask unanimous consent that Mr. Michael Cooper, of my staff, be accorded the privilege of the floor during the debate on this measure.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **MATHIAS**. I thank the Senator.

Mr. **TUNNEY**. Mr. President, the bill states that there shall be created a copyright royalty tribunal in the Library of Congress whose purpose shall be "to make determinations concerning the adjustment of the copyright royalty rates as provided in sections 111, 115, 116, and 118 so as to assure that such rates are reasonable." Section 111 concerns the cable television industry, section 115 applies to phonograph records, section 116 deals with jukeboxes, and section 118 concerns public broadcasting.

Under common law concepts and absent statutory or judicial exemption, those industries would be subject to the copyright law and liable for infringement in any case in which a license was not obtained from the copyright owner prior to using the work.

The Judiciary Subcommittee on Patents, Trademarks, and Copyrights, under the able leadership of Senator MCCLELLAN, and the full Judiciary Committee, have both seen fit to recommend that the common law concept be set aside in those four areas. Designated classes of businesses may use copyrighted works in commercial enterprises without the permission of the copyright owner without incurring liability for infringement for the use of that work. In exchange, the user must pay the royalty rate that is specified in the bill.

The McClellan subcommittee recommended that the rates be reviewed every 5 years. In the Judiciary Committee that cycle was doubled to 10 years by a vote of 7 to 6. The two Members who were absent had indicated their preference for the shorter period—for 5 years.

On Monday of this week I introduced a compromise amendment of 7 years. The amendment was tabled by a vote of 28 to 23 with the absolute minimum of 51 Senators being present for a quorum call. I do not believe that a matter of this importance should be decided by less than one-third of the Senate.

Therefore, I am calling up a second amendment, this time for an 8 year cycle of review. I wish to be clear. I believe that 8 years is still too long. In my view, it is far too long. I personally share the view of Senator MCCLELLAN that 5 years should be the maximum. Nonetheless, I offer the 8-year amendment with the hope that not only will it pass, but that the House will pass a far shorter cycle that will enable us to strike an equitable balance.

Ultimately, it is equity that I am arguing. Economic conditions can change so rapidly that an excessively long rate can amount to confiscation. I need only cite, as an example, the possibility of a rate being reviewed in 1976 for the first time since 1966. We all realize how much the economy has changed in the intervening 10 years. It makes no sense to saddle anyone with a royalty rate for that period of time.

I respectfully request that my amendment to reduce the cycle of review from 10 years to 8 years be adopted by the Senate.

Mr. **HUGH SCOTT**. Mr. President, will the Senator yield?

Mr. **TUNNEY**. I am happy to yield to the distinguished Senator from Pennsylvania.

Mr. **HUGH SCOTT**. I will say that there are some of us who felt that some area of compromise lay between 5 and 10; we felt that 5 was too short, but we felt that perhaps the committees could better agree on something closer to 10. I would have been happy with eight, had that been offered in committee. I think there is not very much difference, really, between 10 and 8. I know the Senator from California feels more strongly than I do on it; but it seems to me to be a reasonable compromise, when we consider that 5 years was the alternative principally considered in the committee.

Mr. **TUNNEY**. I thank my friend for his statement.

The 8 years does make a difference, primarily as we reach out in the future and we realize that over a 40-year period we would have 5 reviews with the 8 years instead of 4 reviews that we would have with the 10 years. Therefore, I am asking that my amendment of 8 years be favorably considered by the Senate.

We ought to realize that this is not a fight between the motion picture industry and cable television industry.

Last year the cable television industry agreed to 5 years. That was part of the negotiation between the motion picture industry and the cable television industry, and they agreed to 5 years.

I have great sympathy for the cable television industry. I have done what I can do to be supportive of that industry. I have worked with them in this copyright bill for the past 3 years, trying to assure that young growth industry that they would have every reasonable protection. I think that this legislation gives them every reasonable protection.

I am as conscious as everyone else in the Senate, who has spent time with the copyright bill, that cable television provides a very important service to those persons who live in rural areas and cannot pick up a good signal from the broadcasting of television programs, and cable is needed. It is an important industry.

But there are a lot of rights in this legislation which are going to be reviewed and acted upon by the Royalty Commission besides the rights of cable. It is clear to me, because the economic conditions in this country change so rapidly, that there is a need to have this Royalty Commission act on a regular timely basis to rectify imbalances.

One of the things that I think it is important to understand and which is not well understood by many is that when we have placed a lid, a ceiling, on the rate for royalties that can be charged we had, in effect, abrogated the common law principles that two parties to an economic transaction are able to negotiate what both parties consider to be a fair price.

But we have changed the law because we have a mandatory license, and where we have a mandatory license, the committee and Congress in the past felt that it is appropriate to have a ceiling placed upon the royalty that can be charged by the owner of the copyright. That makes perfect sense to me, but it makes more sense that Congress itself not be responsible for establishing what that ceiling is going to be.

Very few of us would have an opportunity to give time and attention to evaluating what the merits of each individual economic decision are as it relates to royalty ceilings. We simply do not have the time. So as a result what happens out here in the Chamber is that someone will ask the question: "Is this amendment being supported by cable or is it being supported by the motion picture industry?"

What is forgotten are the merits of the case. The merits are that the royalty tribunal will have the expertise to evaluate what is a fair royalty ceiling. They are not going to be bound in their decision to pay attention to who has the greatest political clout in Congress or throughout the country. It is going to be based upon what is fair and equitable, as the members of the royal tribunal see it.

Hopefully, if this royalty tribunal is set up and works the way that it should, the men and women, who will be on this tribunal, will not have any economic axes to grind. No one should be on the tribunal if they do have an economic ax to grind. They ought to evaluate what is fair based upon the evidence that comes before them, based upon the economic circumstances of that particular point in time.

If we recognize under normal contract law that the parties have a right to negotiate between themselves what they think is fair, then it would seem to me that with a royalty tribunal set up to make that evaluation for the parties in the case of a fixed royalty we should give as much flexibility to the tribunal as possible to achieve that fair rate. We give that flexibility by having it at something less than a 10-year period for reevaluation of what is fair.

How many contracts do any of us know about which extend for more than 8 years for the purchase of goods and materials? Most contracts are for a year, 2 years, or 3 years. In the case of the tribunal, the decisions they make, if my amendment passes, will last for 8 years, and that is eminently fair.

I hope that a majority of the Senate is prepared to vote favorably for this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. Mr. President, who has the time on the opposing side on this?

The PRESIDING OFFICER. The Senator from Arkansas, or his designee.

Mr. TUNNEY. I inform my friend from South Dakota that it is my understanding that the Senator from Arkansas has indicated that the Senator from South Carolina (Mr. Thurmond) would have the time because he opposes my amendment, whereas the Senator from Arkansas supports it. So he has designated the Senator from South Carolina.

Mr. ABOUREZK. He has said either myself or Senator Thurmond.

Mr. TUNNEY. Fine.

Mr. ABOUREZK. Since Senator Thurmond is not here, I shall wait until the Senator from California yields to Senator Goldwater.

Mr. GOLDWATER. Mr. President, I oppose it also.

Mr. TUNNEY. What a disappointment.

Mr. ABOUREZK. Does the Senator wish time on it?

Mr. GOLDWATER. I would rather do it on our time.

Mr. TUNNEY. I thought the Senator from Arizona was so persuaded by the merits of my case he was rising to support me.

Mr. GOLDWATER. I arrived in here so late I did not get to hear all the arguments. I must presume I am opposed to it.

Mr. ABOUREZK. Mr. President, I first of all ask unanimous consent that three members of my staff be permitted privileges of the floor during the entire debate, consideration, and voting on this bill and on all the amendments: Craig Steensland, John Thorne, and Linda Jacobson.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. I yield to the Senator from Arizona.

Mr. GOLDWATER. I thank my friend. I only have a few words to say about it.

Mr. President, I oppose the amendment offered by the junior Senator from California, which would provide that CATV operators shall be subject to review of their royalty payments each 8 years, instead of every 10 years.

It is obvious to everyone that the committee bill—the product of many years of legislative work—is the result of several compromises and balancing of interests. In the case of CATV, the bill would for the first time impose copyright liability on operators of cable television systems under a compulsory licensing arrangement. I know that in my own State of Arizona numerous citizens who are subscribers to cable systems have written to me opposing any royalty liability at all because it will increase their fees. But the compromise was made, and they will accept the royalty principle.

It is acceptable to the cable TV industry and to cable subscribers, however, only if the royalty requirement is balanced by a provision limiting review of the fee schedule to not more often than every 10 years.

Mr. President, fair is fair. I intend to vote against the amendment of the Senator from California because it violates the reasonable compromise that has been reached. Let us remember that we are establishing today for the first time that CATV shall make royalty payments to be reviewed every 10 years. Now, it is proposed we go beyond this compromise before the bill has even become law.

Mr. President, I believe that the Judiciary Committee, after years of hearings and difficult drafting, has arrived at an equitable balancing of the various interests involved, and I do not feel we should impose any greater liability on CATV than the bill already provides. I hope the Senate rejects this amendment.

I thank the Senator for yielding.

Mr. ABOUREZK. Mr. President, I oppose the amendment now before us. I have a concern over changing this particular section of S. 22 which represents a very delicate balance between rates to be paid by cable television and a period for review of the rates.

Senator Tunney is offering this new amendment, as he did his earlier amendment, as a "compromise" between the various interests on the bill. I disagree. As was brought out during debate on Monday, it is incorrect to suggest that any reduction in the review intervals is a compromise. Rather, it is a compromise that cable is included in chapter 8 and the review process at all. The review process is open ended, thus exposing cable television to future uncertainty and potential rate increases which will be paid for by the consuming public.

The Committee on the Judiciary, on which both Senator Tunney and I serve, has dealt with this matter of royalty tribunal review periods, and I believe the result as it stands in the bill before us is both fair and, indeed, most equitable.

I remind my colleagues that S. 22 imposes copyright liability for the first time on several industries, including cable television. It has been my concern that these industries not be overpowered by long established and more prominent industries who also have an interest in this bill.

Under S. 22, cable television systems are granted compulsory licenses. An initial fee is fixed on percentage of gross revenues, and a royalty tribunal is established to periodically review the fee rates to insure that the rates continue to be fair and equitable to all parties. This review process begins only 3 years after enactment of the bill and continues every 10 years thereafter.

The amendment offered by the Senator from California would reduce these subsequent review intervals from 10 years to 8 years, with the charge that 10 years is too long a period for these fees to be fixed and as such would be harmful and discriminatory against the copyright owners in Hollywood.

Mr. President, I sincerely hope that it is fully and thoroughly understood that when we speak of reviews by the royalty tribunal, we are not talking about reviewing fixed dollar amounts. To the contrary—and this is a vitally important point—we are talking about fees based on a percentage of gross revenues. As cable television grows, the payments to the copyright owners grow. From the testimony I have seen, some of which has come from the copyright owners, cable TV is said to be on the move again and is expected to grow by leaps and bounds. The fears of discriminatory treatment to the copyright owner, then, are without basis when you consider the application of this part of the bill.

What we have here is a balance of compulsory license, fees based on gross revenues, and periodic review by the royalty tribunal. It is a fair and equitable balance for all parties. However, it is a delicate balance, and one that I earnestly hope will not be upset.

I urge our colleagues to recognize the balance achieved by the Committee on the Judiciary and to reject the amendment now before us.

Mr. President, I have talked to representatives of the cable TV industry from my home State, South Dakota, and I am advised that this has been so throughout the industry—that if there is anything less than a 10-year review period following the initial review period, the ability for the cable industry to receive financing will be in jeopardy. They will not be able to obtain financing to continue their expansion at all. It will be very dangerous to adopt this amendment to decrease the number of years for review from 10 to 8.

As I said before, it really is no compromise. The compromise is the placing of a review tribunal in this bill altogether. So I urge the defeat of the Tunney amendment.

Mr. TUNNEY. Mr. President, will the Senator yield for a question?

Mr. ABOUREZK. I yield.

Mr. TUNNEY. I do not want to make this a protracted debate, because it is clear that we all have our minds made up—all three of us on the floor of the Senate, listening to this debate.

However, the Senator talks about financing and how it would do irreparable harm to the cable industry if my amendment were agreed to, because they would not be able to get the necessary bank loans for expansion.

If that is the case, why did the cable industry agree to a 5-year compromise last year? If they thought it was going to be so destructive to their industry, why did they work out a negotiation that we would have 5 years? That was what was in the legislation a year ago.

Mr. ABOUREZK. That is a very good point. That agreement by the cable industry was made before they went to their bankers and found that they would be unable to get financing on such a short period. So I am glad the Senator asked the question.

Mr. President, I yield to Senator THURMOND such time as he may require.

Mr. THURMOND. Mr. President, how much time remains in oppostion to the amendment?

The PRESIDING OFFICER. The Senator has 21 minutes remaining of the 30 minutes in opposition.

Mr. THURMOND. Mr. President, I am opposed to the amendment offered by the distinguished Senator from California. On Monday, the Senate tabled a similar amendment which would have reduced the period between rate reviews by the royalty tribunal from 10 to 7 years. Now we are asked to consider a reduction from 10 to 8 years.

The Committee on the Judiciary deliberated at length over the issue and devised a formula that automatically increases the payment to copyright owners by cable television, by tying their fees to a percentage of their gross income. The committee felt periodic reviews were appropriate, but in final consideration extended the period to 10 years in recognition of the built-in mechanism providing for increases. I concurred in the committee's action.

It should be remembered that this bill creates for the first time copyright liability for cable television as well as several other industries. The issue of cable and copyright liability has been hotly contested for over a decade, with two Supreme Court decisions declaring cable not liable under the present statutes. Nonetheless, throughout the years the Congress has wrestled with revision of the copyright laws, the cable television industry has worked with the Committee on the Judiciary in a spirit of cooperation to bring about a fair and workable bill.

I believe this spirit of cooperation is highly commendable, especially in light of the financial uncertainties these long years of debate on copyright revision have imposed on CATV systems, particularly the smaller systems which serve communities that might otherwise not have adequate availability of television signals.

In South Carolina there are many of these smaller systems, some of which are family businesses. As with any cable system, it took large sums of money and extensive financing to build these systems and wire the community. In addition, the day-to-day operation of the system is heavily regulated by the Federal Communications Commission, controlling which TV signals may be carried and even those which must be blocked out from time to time. In short, it is a tough, financially intensive business for these systems.

Through this bill, a new financial liability will be added in the form of copyright payments based on a percentage of the system's gross revenues. While I think it only fair that cable should pay its share of royalties, the industry needs rate certainty for a fixed, stable period.

The amendment now before us would reduce these intervals to 8 years following the initial third year review.

This amendment is said to be one to correct an alleged inequity to the copyright owners. This is just not the case. A schedule of payments on gross revenues coupled with periodic review leaves no room for inequities. But furthermore, who benefits from this legislation? Is it the multi-million-dollar corporate giants in Hollywood or the small family-owned CATV systems across the country that will, for the first time, be making copyright payments?

Mr. President, I submit that the payment schedule and review intervals as reported by the Committee on the Judiciary are fair and equitable for all parties. I urge my colleagues to reject the amendment before us.

Mr. President, how much time remains in opposition?

The PRESIDING OFFICER. Nineteen minutes remain in opposition.

Mr. THURMOND. How much time remains to the proponents of the amendment?

The PRESIDING OFFICER. The proponents have 17 minutes remaining.

Mr. TUNNEY. Mr. President, I am prepared to yield back the remainder of my time. No one else has asked to speak on my side. If no one else is prepared to speak on the opposition side——

Mr. THURMOND. Mr. President, I have no objection to that, provided the Senator from South Dakota does not object.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I am prepared to yield back the remainder of my time. I think we could have a division here. We are ready to vote.

Mr. TUNNEY. Mr. President, I would like to have a record vote on this one and——

Mr. THURMOND. The Senator wants a rollcall vote?

Mr. TUNNEY. Yes, I would like to have a rollcall vote.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that we have a quorum call without the time being charged to either side for the purpose of getting enough Senators here for a second.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

Mr. THURMOND. Mr. President, could I say this before he does that: As I understand, both sides have yielded back time, and it is just a matter now of calling a quorum and getting the yeas and nays.

The PRESIDING OFFICER. The Senator is not correct. The time has not been yielded back officially yet, but there is a unanimous-consent request for a quorum call with time not to be charged to either side.

Mr. TUNNEY. I am prepared to yield back the remainder of my time now in order to facilitate matters. I just think that everybody knows how they are going to vote on this one, and I think we just ought to get Senators to the floor so we can get a seconding of my request for a record vote.

The PRESIDING OFFICER. There is a unanimous-consent request now before the Senate that a quorum call be had and that neither side be charged. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. Is all time yielded back?

Mr. TUNNEY. I am prepared to yield back the remainder of my time and I do yield back the remainder of my time.

Mr. ABOUREZK. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the yeas and nays having been ordered, the question is now on agreeing to the amendment of the Senator from California. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD (after having voted in the affirmative). Mr. President, on this, I have a live pair with the distinguished senior Senator from Rhode Island (Mr. PASTORE). If he were present and voting, he would vote "nay." I have already voted in the affirmative. Therefore, I withdraw my vote.

Mr. GOLDWATER. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. GLENN). Is there anyone in the Chamber who has not voted?

Mr. GOLDWATER. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order has been called for. Is there anyone seeking to vote in the Chamber now?

Mr. GOLDWATER. Regular order, Mr. President, for the third time.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Colorado (Mr. HART), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Illinois (Mr. STEVENSON) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. PASTORE) is absent attending a funeral.

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. HRUSKA), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The result was announced—yeas 32, nays 56, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—32

Brock
Bayh
Baker
Brooke
Buckley
Bumpers
Byrd,
  Harry F., Jr.
Case
Church
Cranston
Glenn
Gravel
Hart, Philip A.
Haskell
Hathaway
Huddleston
Javits
Kennedy
Mansfield
Mathias
McClellan
Muskie
Nelson
Pearson
Proxmire
Ribicoff
Scott, Hugh
Symington
Tower
Tunney
Weicker
Williams

NAYS—56

Abourezk
Allen
Bartlett
Beall
Bellmon
Bentsen
Burdick
Cannon
Chiles
Clark
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Goldwater
Griffin
Hansen
Hartke
Hatfield
Helms
Hollings
Humphrey
Inouye
Jackson
Johnston
Leahy
Magnuson
McClure
McGee
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Nunn
Packwood
Percy
Randolph
Roth
Schweiker
Scott,
  William L.
Sparkman
Stafford
Stevens
Stone
Talmadge
Thurmond
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Byrd, Robert C., for

NOT VOTING—11

Biden
Hart, Gary
Hruska
Laxalt
Long
McGovern
Pastore
Pell
Stennis
Stevenson
Taft

So Mr. TUNNEY's amendment was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the Abourezk amendment there be a time limitation of 20 minutes, to be equally divided between the sponsor of the amendment and the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. Do I understand that is to come out of the time for the bill?

Mr. MANSFIELD. No. It is 10 minutes to a side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on final passage on the pending matter occur at the hours of 3 p.m.

The PRESIDING OFFICER. Is there objection? Does the Senator also ask that rule XII, paragraph 3, be waived?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Mr. President, I ask unanimous consent that a member of my staff, Mr. Pursley, be granted the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1395

Mr. HOLLINGS. Mr. President, together with the Senator from Florida and the Senator from North Carolina, I call up my amendment No. 1395 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS), for himself, Mr. STONE, and Mr. MORGAN, proposes an amendment numbered 1395.

On page 139, line 12, strike "116" and on line 26 strike "116".

Mr. HOLLINGS. Mr. President, are we under controlled time?

The PRESIDING OFFICER. Yes.

Mr. HOLLINGS. One hour?

The PRESIDING OFFICER. Yes.

Mr. HOLLINGS. Mr. President, this amendment is identical to one adopted by the Commerce Committee and by the full Senate when the copyright bill was last before us in 1974. It deletes the references to the jukebox royalty from the royalty readjustment provisions. It has the effect of making the jukebox royalty of $8 per machine per year a fixed statutory rate. As presently drafted, the bill would permit periodic increases in the royalty by the royalty tribunal.

This amendment is a matter of vital concern to this industry of small businessmen. It protects them by a fixed statutory ceiling against demands by powerful and wealthy organizations of musical copyright owners for periodic increases in the royalty rate. Further, it honors the agreement entered into by all interested parties when then Chairman Celler sought to resolve the issue of jukebox royalty and was successful in obtaining the $8 per box figure as the agreed upon royalty rate.

Section 116 of S. 22 imposes the agreed upon rate of $8 per jukebox, which means that jukebox operators will be paying $3,600,000 each year in direct royalties on their 450,000 jukeboxes. In addition they will be paying $3,750,000 indirectly in mechanical royalties of 5 cents per record on the 75,000,000 records they buy each year. This amendment does not disturb these payments.

S. 22 imposes a direct royalty obligation on the jukebox industry for the first time in history—an issue which was conceded by the industry as part of an agreement arrived at under the auspices of Emanuel Celler, then chairman of the Judiciary Committee. During House consideration of H.R. 2512 in 1967, a compromise was reached wherein the jukebox operators gave up their long-standing exemption from performance royalties in return for a fixed statutory royalty of $8 per machine per year. Parties to that agreement included Chairman Celler, the Register of Copyrights, the manufacturers and operators of jukeboxes, the American Society of Composers, Authors and Publishers—ASCAP—and other interested parties.

Interestingly, the idea of a review tribunal did not surface until a much later time when the Supreme Court's decision in the Fortnight case forced the CATV issue to a head and the Senate was unable to resolve conflicting views of a proposed CATV royalty. The Senate committee decided to fix a temporary rate and leave resolution of the issue to an arbitration-review tribunal. At that time, the Senate committee decided to include the jukebox royalty in the tribunal's review responsibility.

With CATV, there was no agreement among the parties. With the jukebox royalty, there was agreement, one which was intended to be a complete resolution of royalty claims against the jukebox industry. That agreement should be honored. No review panel was contemplated in that agreement. None is needed.

The fact is that the $8 per box royalty is the heaviest rate that jukebox operators can reasonably be expected to pay. Jukebox operators are small businessmen whose average gross receipts are $39,000 per year. From this figure they must pay for all maintenance and new equipment; they must buy approximately 9,000 new records per year at 75 cents each—$6,750; further they must pay these new royalties and pay for any mechanical changes to the machines necessitated thereby.

The fact is that the royalties required by S. 22 and paid by each operator are substantial and represent a far greater proportion of his income than royalties paid by a CATV operator, for example. The average jukebox operators owns and maintains 60 machines. In addition to operating costs, and other overhead, he must pay $480 in direct royalty and his $6,750 for new records includes $500 in indirect mechanical royalties.

Hence, with a gross income of $39,000 he is paying $980 in royalties or approximately 2½ percent of his gross. Under S. 22 a cable operator whose gross income is $40,000 would pay $200 in royalties, or one-half percent of his gross.

Unlike other businesses, jukebox prices are tied to the available coin denominations of 5 cents, 10 cents and 25 cents, and hence it is not possible for price increases to be proportionate to operating cost increases. Further, customer resistance to price increases has been strong. It has only been in recent years that the rates of 10 cents per play or 3 plays per quarter have been widely accepted, and the attempts of some urban operators to meet rising costs by moving to two plays per quarter have been strongly resisted by the public. Hence, the operators will have to bear a substantial portion of the new royalty, and it only seems fair that they be allowed to rely upon the fact that this liability will not be open-ended.

Unlike the cable and record industries which are financially strong businesses, the jukebox industry suffers from shrinking patronage and receipts. The total number of machines in operation has dropped from 500,000 to 450,000 in just the past few years. One of the largest and oldest manufacturers, the Wurlitzer Co., ended its manufacture of jukeboxes because of declining sales and financial losses.

Typically, the jukebox operators have had to diversify into vending machines and amusement games in order to stay in business. The jukebox aspect of the business is increasingly a supporting activity to the vending and amusement machines. Today, there is only one jukebox operator in the United States who is purely a jukebox operator.

The industry has been responsible and responsive to this issue, they negotiated and agreed in good faith to the highest rate which they can afford to pay. The Senate has recognized this fact in the past by fixing that rate without the open-ended liability of periodic reviews. It is now time for the Senate to endorse its earlier action by adopting this amendment.

Mr. McCLELLAN addressed the chair.

The PRESIDING OFFICER. The Senator from South Carolina has the floor.

Mr. HOLLINGS. I yield to the distinguished Senator from Arkansas.

Mr. McCLELLAN. I hope the Members will understand that there is a unanimous-consent agreement to vote on final passage of this bill at 3 o'clock.

The PRESIDING OFFICER. Will the Senator from Arkansas use his microphone?

Mr. McCLELLAN. I say, a unanimous-consent agreement has been entered to have the vote on final passage on this bill at 3 o'clock. I hope those who have amendments will agree to a modification of the 1-hour limitation of time so that all may be accommodated.

Mr. HOLLINGS. We will make every effort in that regard. Was it 1 hour to a side?

Mr. McCLELLAN. No, it was 1 hour on each amendment.

Mr. HOLLINGS. With a half-hour to a side?

Mr. McCLELLAN. That is right.

Mr. HOLLINGS. Well, we will talk fast.

Mr. President, at the present time there are 7,500 jukebox operators and 450,000 machines now costing up to $2,500 each, with an average of 60 machines owned and operated by each operator. The industry purchases 75 million records each year, approximately 150 per machine, at a cost of 75 cents each. Specifically, they are paying a royalty in the price of the records, and in addition under this particular measure, S. 22, they will be paying an agreed-to amount of $8 per machine.

I think, Mr. President, we ought to emphasize the fact that while we have had a copyright law, and it takes in various concerns, this particular concern was dealt with several years ago, and that agreement was reaffirmed when this bill passed the U.S. Senate in 1974.

Specifically, like Kansas City, everyone with the slightest bit of knowledge has agreed that they are paying the maximum and, in fact, it is counterproductive to raise the fee further. Wurlitzer, the largest of the companies in the United States, has now gone out of the business. What we are really talking about is not big business, big taxes, and big royalties, but, on the contrary, the small businessman. I happen to have 3 operators in my State that secured my interest in this measure, and I looked under the bill and saw that if this section were stricken, each operator would still be paying, under this law, $8 per box royalty times the average of 60 machines, which would be $480, plus the 5 cents mechanical royalty passthrough on the records themselves, of $500, for a total average royalty paid of $980. The CATV operators of comparable size, on the other hand, will pay only $200 total royalty under this bill.

So, looking for the equity, and at the main thrust of the kill, knowing where the little industry is headed, how it has had to diversify over the years to stay alive, hearing everyone talking about little business, well, here is a measure to give them not an advantage but consistent tax rate; here is a measure that will mean they will not have to come under another Federal board, with another point of view, and hire a bunch of Washington lawyers and national organizations, and the like to come in and protect themselves, to keep from going out of business.

I yield now to my distinguished cosponsor of the amendment, the Senator from Florida (Mr. STONE).

Mr. STONE. I thank the Senator from North Carolina.

Mr. President, I think Senators should realize that this is the first time the jukebox operators will have been paying these fees, and they are not taxes, they are fees, to the authors, the composers, and their agents.

But what they have every right to ask for, and the reason why this amendment has been offered, is that they have a right to some certainty. Whereas they have never paid these fees before, they need to know that they are not going to be subject to some administrative agency thing down here deciding how much more or how much different the terms are going to be. I think this is little enough to ask, since this amendment is not designed for the purpose of exempting them from these payments, but only to create a little reliability and a little certainty so that they will not become enmeshed in bureaucracy and have to hire expensive lawyers, and so forth, for appearances before administrative agencies.

Mr. President, I have joined Senator HOLLINGS and Senator MORGAN in offering the pending amendment to exempt the jukebox operators from the jurisdiction of the proposed Copyright Royalty Tribunal because I believe it would be seriously damaging to these small businesses to have their copyright fees subject to upward adjustment by an agency of the Federal Government.

In my opinion, these small businessmen would be put at an unreasonable disadvantage compared with the copyright owners in future proceedings before the proposed Copyright Royalty Tribunal. For this basic reason, the Senate voted to exclude the jukebox operators from jurisdiction of the Royalty Tribunal when it considered this same copyright legislation in the last Congress. I think the Senate was correct then and trust that it will exercise the same sound judgment this time.

Under S. 22, the jukebox operators for the first time in history will be paying a copyright fee of $8 per machine per year to the owners of copyrighted material. The jukebox industry has agreed to this payment and the pending amendment does not change in any way the liability of jukebox operators to pay this new fee.

What the amendment does is to make sure that this industry of small businessmen will not be subject to harassment and the threat of uncertain increases in this fee in the future. Of course, Congress would retain the authority to make adjustment in this fee and could do so if it determined there were any economic justification for doing so.

Mr. President, at a time when small businesses across our country are plagued by ever-increasing bureaucratic redtape, it is especially not the time to impose additional financial and procedural burdens upon a small industry which for the first time in history will be saddled with copyright fees. I urge the Senate to follow its own precedent of 1974 in helping this small jukebox industry from becoming enmeshed in the proposed Copyright Royalty Tribunal.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the name of my distinguished senior colleague (Mr. THURMOND) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I yield to my colleague.

Mr. THURMOND. Mr. President, I rise in support of the amendment by the distinguished junior Senator from South Carolina (Mr. HOLLINGS). I am very pleased to be a cosponsor of his amendment.

The amendment is very simple. It would remove the jukebox royalty from readjustment by the copyright tribunal.

Under the provisions of S. 22, the jukebox industry is subjected to an $8 royalty fee. This will amount to over $7 million per year.

Mr. President, the jukebox industry is composed of small businessmen. They are being forced to accept a great burden under this bill already. By closing the open-ended liability for the jukebox industry, the Senate will keep many small businessmen functioning and allow the American public the continuous enjoyment of the jukebox. I urge my colleagues to support this amendment.

Mr. HOLLINGS. Mr. President, I reserve the remainder of my time.

Mr. McCLELLAN. I yield 5 minutes to the Senator from Tennessee.

Mr. BAKER. I thank the Senator from Arkansas for yielding.

Mr. President, I understand the situation described by the distinguished Senators from South Carolina and the distinguished Senator from Florida. We all do our very best to represent our constituents and their interests; and it happens that many of my constituents have as their interest the writing and publication of material which is ultimately performed. Nashville is now, with the possible exception of New York, the largest music publishing center in the country.

Those who are interested in the publication and performance of these works of art are greatly concerned about this matter. They are concerned primarily because they fail to understand why it should be, as it would be under the Hollings amendment, that the compulsory license fees for jukeboxes would be the only fees exempt from periodic review by the Copyright Royalty Tribunal. The mechanical royalty fees, cable television fees and the fees to be paid by public broadcasting are subject to review by the tribunal; why not the jukebox fees?

Mr. President, I believe that in fairness to the composer, the uniqueness of his talents and the hard work and effort which he so often expends over many years before he has any reason to expect any reward, should be taken into consideration in this first effort to rewrite our copyright laws since 1909. It would be grossly unfair, in my opinion, to discriminate against a substantial number of citizens of my native State of Tennessee.

For that reason and many others, I strongly oppose the Hollings amendment. Many Senators have used the word "equitable" to characterize various provisions of our amendments to S. 22. This amendment, in my view, is the most inequitable of the lot.

The supporters of this amendment contend that the jukebox industry needs protection because of the imposition of a "crushing" liability which it never had before. They claim that the "small" typical jukebox operator is at the mercy of the powerful songwriter. They claim that, unless this amendment is adopted, the American consumer will be forced to pay a terrible price to hear a tune on a jukebox.

Mr. President, none of these contentions is true. None is supported by the facts. And an examination of the facts will show that it is the small songwriter who needs protection from the huge and profitable jukebox industry.

When the 1909 Copyright Act was written, performances on coin-operated machines were exempted from copyright liability because of their very limited nature. The machines were then found in "penny parlors" where they served only individual listeners, as a novelty device. It was not until many years later that advances in technology made possible the modern jukebox, and the multimillion dollar industry which grew up with it. Yet because of the anomaly in the copyright law, that industry has never paid 1 cent to the authors and composers of the music it plays, without whose creations it cannot exist.

For many years, Congress considered this so-called "jukebox exemption", and in 1958, the Senate Judiciary Committee concluded that a fair rate for jukebox operators to pay to authors and composers would be $19.70 per year per jukebox. We all know what inflation has been like since 1958, and I would venture to say that if Congress considered $19.70 a fair fee in 1958, a fair fee in 1976 would be much more.

Nevertheless, when the copyright revision bill was being considered in 1967, copyright owners agreed to a fee of only $8 per year per jukebox. They did so in a spirit of compromise—in fact, they had been told that without a compromise, the entire bill would be scrapped. We all know of the inflation that has existed since 1967—yet S. 22 still maintains a fee of $8.

The copyright owners are willing to stand by that compromise because the bill provides that, from time to time, an impartial body—the Copyright Royalty Tribunal—will review the economic basis for the $8 fee, and if a change in that fee is warranted by the economic conditions, the Tribunal will make that change, be it an increase or a decrease. All the copyright owners ask is equitable treatment. How can we justify placing the jukebox operator in a better position than the public broadcaster who is being partially or wholly supported by public funds.

The jukebox interests argue that a constantly changing fee will make planning their businesses difficult because of uncertainty—this was the argument that the Senate apparently accepted in 1974 when this body adopted the Hollings amendment on the floor. But this argument no longer can stand because S. 22 provides that the Tribunal will now only review rates once every 10 years.

The jukebox interests claim that, unless the license fee is frozen for all time, the consumers of America will suffer, and pay a constantly increasing price for jukebox music. Yet the Hollings amendment would not protect the American consumer against increases in the price of a tune played by a jukebox. It would not freeze the price of a jukebox play—only the price jukebox operators would pay for the property they use. And we have seen in recent years how the price of those machines has gone from 5 cents to 10 cents to two for a quarter to the point where there are machines that now take dollar bills. It is the jukebox operator who grows fat at the expense of both the creator and the consumer.

The jukebox interests claim that they are small, rural operators, who need protection from crushing financial burden. But as we all know, jukebox operations are also run by very large operators, located in urban centers, who are experienced in running businesses with enormous cash flows.

I ask my fellow Senators—where do the equities lie? Do they lie with the jukebox operators who, because of an anomaly in the law, expropriate the property of others without payment? Or do they lie with the honest songwriter, who, by the sweat of his brow and the uniqueness of his talent, makes a significant contribution to American culture and only asks a fair return for his work?

The answer is obvious. This amendment must be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, first I must state that I am not an author and I have no copyrights. I do not own a jukebox, or any interest in them, nor do I have any interest in any business that operates a jukebox, and therefore I think I can be very impartial. I am sure that I have a lot of jukebox operators and vendors in my State.

Mr. President, there is, I think, a responsibility on the Congress to deal equitably in matters of taxation and in levying fees of this kind. It has been said that they never had a tax on this industry, and no fees, before this time.

Mr. President, the copyright law was written in 1908, and has never been revised, and these folks have had the benefit of a free ride all these years. At that time, in 1908, I do not suppose the jukebox industry had developed to where anybody gave any thought to taxing it, because many other things were not taxed in those days that are now taxed.

But the only issue here is that those who support this amendment want to freeze this fee, whereas with respect to the cable copyright fees, they are to be reviewed each 10 years. This, in my judgment and as I view it, is a discrimination in favor of the jukebox industry.

Mr. President, the cable people, the owners of the cable systems, are regulated with respect to the fees they can charge.

They operate under a municipal franchise. They cannot raise their fees without approval of the local government.

Jukebox operators can raise theirs any time, and I say that the consumer, the fellow who puts his dime or quarter in that machine, is not going to get one bit of benefit from this favoritism.

I believe they ought to be treated all right. Ten years from now it comes up for review. I ask, what will the condition of the economy be 10 years from now? How much will $8 depreciate in purchasing power? How much will it erode?

We never change it, notwithstanding inflation may increase, notwithstanding price and cost of other things may increase. We freeze this for the benefit of those who have jukeboxes in their place of business. I do not believe it is fair. I think it is discriminatory as against the other provisions of the bill. I think it should be defeated.

Mr. President, again, I have no copyright and I have no jukebox industry to protect.

Mr. HOLLINGS. Mr. President, in the company of our distinguished colleague from Arkansas I attended a performance, and I enjoyed the performance.

I know the affinity, closeness, and support that he has given the performers from Arkansas because he happened to ask me to come and attend. I have not seen him yet with a small business operator that is going out of business.

I take my text from the committee chairman's report, page 94, where he says:

> While upon initial review it might be assumed that the rate established in 1909 would not be reasonable at the present time, the committee believes that an increase in the mechanical royalty rate must be justified on the basis of existing economic conditions and not on the mere passage of 66 years.

On that test, looking at it now, he ought to be decreasing the $8, in fairness and in equity at this particular moment, because under present economic conditions these small business operators are going out of business, rather than saying these operators are asking for an advantage.

In equity now I say to our friends from Tennessee—let us know our enemies and our friends. The truth of the matter is that those performers would have stayed in the dark of Nashville and never been heard had they not had the jukeboxes, and they ought to put out a promotional program to pay their $8 to make sure that they are heard all over the countryside.

Here is a facility that communicates the talents of those Tennesseans all over the countryside at a losing proposition where they cannot increase the prices. They have gone from 5 cents up to 10 cents, and they had to go to 25 cents, three plays at 25 cents. They have tried, Mr. President, to put in two plays at a quarter, without much success.

Do not worry about this crowd trying to make money. They are not just sitting around lethargically going broke and turning in machines, and diversifying in other product lines to stay economically alive. On the contrary, they tried raising the prices to two plays for a quarter and more of them went broke, which did away with more machines.

So, in fairness and equity, as the distinguished chairman agreed last year, as we passed this bill last year, with this equitable provision so should we pass it this year. They are presently having no free ride but are paying $3 million in mechanical royalties.

We are saying what we were preaching all over the land today about small business and regulation. Here is CATV. We need a copyright law. It is an emerging, thriving, multi-billion-dollar business. The jukebox operators are on the way out. Let us hold the line there and see what occurs.

If Borg were coming in here and Wurlitzer were going multinational, then I would say let us jack the $8 to $16.

The equity here mandates that the performers themselves better support the hand that is feeding them and keeping them alive, communicating their talents.

The small business operators that we will find in Arkansas and South Carolina need this particular amendment if they are going to continue to survive.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I make one observation.

Under this bill they will have this $8 for 10 years. Maybe 10 years from now it ought to be nothing. That is what the tribunal will have the authority to do.

I do not see why they should be excluded from the same procedures and the same judgment that we are applying in other instances where we are charging a copyright fee.

In my judgment, it is discrimination, and I have not heard of any of my folks operating a jukebox going broke. They do not go broke on account of a jukebox. It may be because of poor management or some other economic conditions. But a jukebox is simply that much gravy, if they have it. Someone puts a dime in there, or a quarter, and they get the profit out of it.

I do not understand that there should be two levels of equality here with respect to these fees that are being placed on copyright users.

Mr. President, I yield back the remainder of my time.

Mr. HOLLINGS. Mr. President, if we have the benefit we are going to have equity, otherwise we will not have the jukebox industry.

My distinguished friend from Arkansas says it is gravy, and he is against gravy. If that is the way he views it, I think we then ought to double tax and not give them 10 years, but not even give them 10 minutes.

I happen to look upon them as a legitimate small business, in my State, without any national organization and lawyers crowding around like ASCAP, and the like, that come in with millions of dollars to impress and imprint their particular influence on every page of this bill.

Who is going to talk for the small business operators of Arkansas and South Carolina? I am proud to talk for them. They are not receiving gravy. They are simply trying to hold on. They are resourceful. But they are in a heck of a squeeze. They are legitimate and do not receive gravy.

I hope our colleagues will support the amendment.

Mr. HUGH SCOTT. Mr. President, I oppose the amendment offered by Senator HOLLINGS, for it not only is inequitable, but also would place a heavy burden on Congress in the future.

In considering what license fee is fair, I recall that in 1958 the Senate Judiciary Committee concluded that a fair fee would be between $19 and $20 annually per jukebox. Eight years later, in 1966, the same conclusion was reached by the House Judiciary Committee. But when the House passed the general revision bill in 1967, the fee was set at $8. Authors and composers agreed to this much lower fee as a compromise—they recognized the overriding public importance of copyright revision.

In reporting on S. 22, the Senate Judiciary Committee considered this question and concluded that a higher rate than the $8 per year would be warranted. Nevertheless, the committee endeavored to facilitate the progress of this legislation by preserving the rate adopted by the House in 1967.

The Judiciary Committee stayed with the $8 fee only after providing a mechanism for periodic review and adjustment, the Copyright Royalty Tribunal. To remove the jukebox fee from consideration by the tribunal would contravene the intentions of the Judiciary Committee.

We should be wary of writing into this law any provision which may not only be unfair at the time of enactment, but which is bound to become unfair later as economic conditions change.

The copyright revision bill has been delayed since 1967 for reasons having nothing to do with jukeboxes. Yet, because of that delay, the jukebox operators have had 9 years of free use. Given the jukebox industry's estimate of 500,000 jukeboxes in operation, that amounts to a free ride of $4 million per year, or $36 million since 1967. But the jukebox interests are not satisfied with this windfall—they want a further windfall by freezing the fee for all time.

In sum, the choice is simply whether we wish to continue to bear the burden of hearing repeated arguments for changes in copyright fees, or whether it would be more efficient to adjust these fees by the tribunal mechanism. I am sure most of my colleagues agree that the latter course is clearly preferable.

This amendment should be defeated.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time. Let us vote.

Mr. HOLLINGS. Mr. President, I yield back the remainder of my time and ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Who yields time?

All time is yielded back. The question is on agreeing to the amendment.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HOLLINGS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Colorado (Mr. GARY HART), the Senator from Louisiana (Mr. LONG), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that the Senator from Illinois (Mr. STEVENSON) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. PASTORE) is absent attending a funeral.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. HRUSKA), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Nebraska (Mr. HRUSKA), would vote "yea."

The result was announced—yeas 30, nays 60, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—30

Abourezk
Allen
Bumpers
Cannon
Chiles
Church
Clark
Culver
Curtis
Durkin
Eastland
Ford
Goldwater
Hatfield
Helms
Hollings
Johnston
Magnuson
McGee
Mondale
Montoya
Morgan
Nunn
Proxmire
Scott, William L.
Stennis
Stevens
Stone
Thurmond
Young

NAYS—60

Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Case
Cranston
Dole
Domenici
Eagleton
Fannin
Fong
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Philip A.
Hartke
Haskell
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Mansfield
Mathias
McClellan
McClure
McGovern
McIntyre
Metcalf
Moss
Muskie
Nelson
Packwood
Pearson
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Symington
Talmadge
Tower
Tunney
Weicker
Williams

NOT VOTING—10

Biden
Byrd, Robert C.
Hart, Gary
Hruska
Laxalt
Long
Pastore
Pell
Stevenson
Taft

So Mr. HOLLINGS' amendment was rejected.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. MANSFIELD. Mr. President, will the Senator allow me to proceed 1 minute on the bill?

Mr. ABOUREZK. Yes, I yield.

CONSUMER LEASING ACT OF 1976

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Wisconsin (Mr. PROXMIRE), I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8835.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 8835) to amend the Truth in Lending Act to protect consumers against inadequate and misleading leasing information, assure meaningful disclosure of lease terms, and limit ultimate liability in connection with leasing of personal property primarily for personal, family, or household purposes, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MANSFIELD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. GLENN) appointed Mr. PROXMIRE, Mr. BIDEN, Mr. MORGAN, Mr. GARN, and Mr. BROOKE conferees on the part of the Senate.

COPYRIGHT LAW REVISION

The Senate continued with the consideration of the bill (S. 22) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes.

The PRESIDING OFFICER. The Senator from South Dakota has been recognized.

Mr. McCLELLAN. Will the Senator yield to me for the purpose of making a motion to reconsider the vote by which the amendment was rejected?

Mr. ABOUREZK. Yes, I yield.

Mr. McCLELLAN. I so move, Mr. President.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ABOUREZK. I call up an amendment at the desk.

The PRESIDING OFFICER. The clerk will state it.

The legislative clerk proceeded to read the amendment.

Mr. ABOUREZK. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, line 35, strike out "and fifty years after his death" and insert in lieu thereof "or fifty-six years, whichever is longer".

On page 112, lines 3–4, strike out "and fifty years after his death" and insert in lieu thereof "or fifty-six years, whichever is longer".

On page 112, lines 7–8, strike out "seventy-five" and insert in lieu thereof "fifty-six".

On page 112, lines 8–9, strike out "one hundred" and insert in lieu thereof "seventy-five".

On page 112, lines 36–37, strike out "seventy-five" and insert in lieu thereof "fifty-six".

On page 112, line 38, strike out "one hundred" and insert in lieu thereof "seventy-five".

On page 113, lines 1–2, strike out "or died less than fifty years before,".

On page 113, line 3, strike out "has been dead for at least fifty years" and insert in lieu thereof "is dead".

On page 114, line 9, strike out "75" and insert in lieu thereof "fifty-six".

On page 114, line 29, insert ", if any," immediately after "interest".

On page 116, line 3, insert ", if any," immediately after "interest".

Mr. ABOUREZK. I ask for the yeas and nays on this amendment, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. Mr. President, the time limit, I think, is 10 minutes to the side; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. ABOUREZK. Mr. President, may I wait a minute until the Chamber comes to order without being charged on my time?

The PRESIDING OFFICER (Mr. DOMENICI). The Senate will be in order.

The Senator may proceed.

Mr. ABOUREZK. Mr. President, this amendment is to chapter 3 of S. 22, and would substitute for the duration of the copyright "life or 56 years, whichever is the longer period."

The purpose of my amendment is to strike a better balance between the property interests of the copyright holder and the public interest in greater access to artistic works.

Under existing law, the length of a copyright is 28 years, which may be renewed for another 28-year period. The present 56-year term has been criticized as not long enough to insure an author the fair economic benefits from his work. I do not accept this criticism. Why, if the 56-year period is too short, are only 15 percent of all copyrighted works renewed for the additional 28 years? I can only assume from this statistic, provided by the Library of Congress, that an overwhelming majority of copyright holders do not object to their property entering the public domain after 28 years.

S. 22 extends the length of a copyright remarkably—to the life of the author plus 50 years. Thus, if a child genius publishes at an early age, the work will remain out of the public domain for over a hundred years. This is an unwarranted detriment to the public interest.

It has been argued that since most European countries have adopted the copyright term of the author's life plus 50 years, we must follow suit. Conformity is supposedly necessary to provide certainty in international business dealings. This argument ignores a fundamental difference between the European system and ours. The Europeans' principal purpose in copyright is to protect the property interest of the creator. For example, in France, every time a book is borrowed from a library, a fee must be paid that goes to the book publisher. The American interest in copyright is eloquently stated in article I, section 8, of the Constitution:

> To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

The amendment will eliminate the cumbersome renewal procedures of existing law, and will protect authors for a reasonable period of time without sacrificing greater availability of works to the public. If an artist publishes young, he may enjoy the benefits of his work for the rest of his life. If he dies soon after publication, his family will be provided for the next 56 years. This has proved a fair term under existing law and I see no reason to extend it.

Mr. President, I have a few statistics I would like to offer for the benefit of the membership that I have obtained from the Copyright Office in the Library of Congress.

The number of works in their original 28-year term of copyright is 7,076,000. That is in the original 28-year term.

There are only 602,000 copyrights in the 28-year additional renewal process, and that amounts to about 15 percent.

I also asked a couple of other questions of the Copyright Office in preparation for this amendment. I asked: What is the expected average length of copyright protection that would be available for works covered by a provision in S. 22 which is the life of the author plus 50 years. And the response I received indicated that something over 70 years would be the equivalent of a life-plus-50-year provision.

I also asked: In what proportion of cases would the life term exceed the 56-year term if the duration of the protection was the life of the author or 56 years from the first publication—which is this amendment—and the response to that from the Library of Congress is that the average age of an author when his first work is published is 32; that the average age when his last work is published is age 64; and the median age of publication is age 48. Sixty-eight is the author's average age at death.

It appears that in the great majority of cases the longer term will be 56 years from the first publication since it is only to the extent that an author's works are published while he is unusually young and to the extent that he lives beyond the average life expectancy that the life term will exceed the 56 years.

So the existing provision in S. 22 unreasonably extends the term of the copyright, keeps it out of the public domain for much too long a period. The amendment I am offering will protect the copyright owner for a reasonable amount of time, will protect him and his family, should he die at any kind of a moderate age.

I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President, I yield myself 5 minutes.

Mr. President, again I do not suppose this is a life-and-death issue with respect to this bill, but I want to point out what we are doing here, what we are undertaking to do here, conforms to what 80 other nations do today, principally, primarily, the industrial nations of the world.

I want to read from a letter I received from the State Department, the letter being dated January 27, 1976. I will omit part of it. These are the pertinent sections:

> The Department regards Section 302(a) as one of the most important, if not the most important, provision in the copyright bill from the viewpoint of international copyright relations. We have consistently supported such a provision in the various copyright revision bills over the years.
>
> A term of protection of life of the author plus fifty years would be more in accord with the practice of a large majority of other industrialized countries. Uniformity in term would facilitate international trade in copyrighted materials and thus would be of practical advantage to American authors and composers.
>
> Such a term of protection would also remove a major obstacle to the possible adherence of the United States to the Berne Convention for the Protection of Literary and Artistic Works by the United States, Article 7 of which requires States party to the Convention to provide a term of protection of at least life of the author plus 50 years.

Mr. President, we simply are conforming to what is international practice today among the most enlightened industrial nations of the world. Seventy-four nations now have the same provision of law that is in this bill that is now challenged, and six other nations have longer terms.

Mr. President, we are in line with international practices at least today. Actually, after all, Mr. President, we have 28 years now, 28 years of renewal, and only about 15 percent of the copyrights granted are renewed. It is only those important ones, those that have great value, that are renewed today, and I see no reason, Mr. President, why we should not go along with that which is established universal practice today.

Mr. President, this amendment strikes at the most fundamental section of the bill, the duration of copyright protection.

The term of copyright in the bill was not chosen by whim. The committee has examined the copyright statutes of other countries. According to the Department of State, 74 countries have adopted the term of life of the author plus 50 years after death. Several countries have longer terms, such as the Federal Republic of Germany and Spain.

During the consideration in the committee of his amendment, the Senator from South Dakota said that the United States should not blindly imitate what is done in other nations. I agree. But it appears to me that the Senate might be better advised to be guided by the experience of some 80 countries rather than the somewhat theoretical concerns advanced by the Senator from South Dakota. If undesirable consequences result from the life plus 50 term, it would appear reasonable that other countries would have abandoned that term.

The administration is opposed to this amendment. The letter from the Department of State indicates that its adoption would prevent the United States from joining the principal international copyright agreement.

Mr. President, I ask unanimous consent that the letter from the Department of State and a list prepared by the Department of State be printed at this point in the RECORD.

There being no objection, the letter and list were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C., January 27, 1976.

HON. JOHN L. MCCLELLAN,
Chairman, Senate Judiciary Subcommittee on Patents, Trademarks and Copyrights, Washington, D.C.

DEAR MR. CHAIRMAN: It has come to the attention of the Department of State that questions have been raised about Section 302(a) on duration of copyright of H.R. 2223, a bill for the general revision of the Copyright Law.

The Department regards Section 302(a) as one of the most important, if not the most important, provision in the copyright bill from the viewpoint of international copyright relations. We have consistently supported such a provision in the various copyright revision bills over the years.

A term of protection of life of the author plus fifty years would be more in accord with the practice of a large majority of other industrialized countries. Uniformity in term would facilitate international trade in copyrighted materials and thus would be of practical advantage to American authors and composers.

Such a term of protection would also remove a major obstacle to the possible adherence of the United States to the Berne Convention for the Protection of Literary and Artistic Works by the United States, Article 7 of which requires States party to the Convention to provide a term of protection of at least life of the author plus 50 years.

As you know, the United States is a party to the Universal Copyright Convention. Our membership in the Berne Convention, the other principal worldwide copyright agreement, would facilitate and simplify international copyright protection for American nationals.

Sincerely yours,

Robert J. McCloskey,
Assistant Secretary for Congressional Relations.

A Compilation of National Copyright Duration Standards for Literary, Musical and Artistic Works

BACKGROUND

The copyright duration of life of the author plus 50 years was first advanced as an international standard in the 1908 revision of the Berne Union. Although this term was not made obligatory at that time, in 1948 the Berne Convention was amended to make life of the author plus 50 years the minimum term of duration for members of the Convention. Today the "life plus fifty" standard is the most widely accepted standard for the duration of copyright protection.

The following list of national copyright durations was compiled from *Copyright Laws and Treaties of the World* or from other more recent sources.

Life of the author plus 50 years

(74 countries)

Argentina, Australia, Austria, Belgium, Bulgaria, Burundi, Cameroon, Canada, Central African Republic, Ceylon (Sri Lanka), Chad, Republic of China.

Congo (Brazzaville), Costa Rica, Cyprus, Czechoslovakia, Dahomey, Denmark, Ecuador, Republic of Egypt, Arab, Republic of El Salvador, Empire of Ethiopia.

Fiji, Finland, France, Gabon, German Democratic Republic, Greece, Guatemala, Holy See, Hungary, Iceland, India, Indonesia.

Ireland, Israel, Italy, Ivory Coast, Japan, Laos, Lebanon, Liechtenstein, Luxembourg, Madagascar, Mali, Monaco, Morocco, Nepal.

Netherlands, New Zealand, Niger, Norway, Pakistan, Paraguay, Peru, Philippines, Portugal, Rwanda, San Marino, Senegal, Sierra Leone, Singapore.

Republic of South Africa, Sweden, Switzerland, Syrian Arab Republic, Togo, Tunisia, Turkey, Uganda, United Kingdom, Venezuela, Yugoslavia, Zaire.

Life of author plus 20 years

Poland.

Life of the author plus 25 years (13 countries)

Ghana, Iraq, Kenya, Liberia, Libya, Malawi, Malaysia, Malta, Mauritius, Nigeria, Republic of Tanzania, Union of Soviet Socialist Republics, Zambia.

Life of the author plus 30 years (9 countries)

Bolivia, Chile, Dominican Republic, Iran, Kingdom of Jordan, Hashemite, Korea, Mexico, Nicaragua, Thailand.

Life of the author plus 40 years

Uruguay.

Life of the author plus 60 years

Brazil.

Life of the author plus 70 years

Federal Republic of Germany.

Life of the author plus 80 years (4 countries)

Colombia, Cuba, Panama, Spain.

Variable Copyright Term

In the following countries the duration will vary depending on the category of the author's heirs. In all the countries listed below, an author enjoys copyright protection during his lifetime. The term beyond the author's life, however, is controlled by the nature of the author's heirs. (3 countries): Albania, Haiti, Romania.

Miscellaneous categories (unrelated to life of the author)

Afghanistan—20 years.
Union of Burma—10 years.
Honduras—10, 15 or 20 years.
United States—28 years, renewable for 28 years.

Countries without copyright laws, or for which accurate information is unavailable

Algeria, Andorra, Bahrain, Barbados, Botswana, Cambodia, Peoples Republic of China, Equatorial Guinea, Gambia, Republic of Guinea, Guyana, Jamaica, Kuwait, Lesotho, Maldive Islands, Mauritania, Mongolia, Republic of Nauru.

Saudi Arabia, Somalia, Southern Yemen, Sudan, Swaziland, Trinidad and Tobago, Upper Volta, Republic of Viet-Nam, Western Samoa, Yemen.

Mr. ABOUREZK. Mr. President, to say that we have to conform to European nations, amongst which there really is no conformity because many of them are changing their terms to much longer terms, all the existing provisions in S. 22 will do is to protect those people who buy copyrights from the original creator. It really does nothing to protect the creator himself nor to encourage people to produce material that is subject to copyright, produce artistic works.

I am willing to yield back the remainder of my time if the Senator from Arkansas is.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

Mr. ABOUREZK. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, and the yeas and nays having been ordered, the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. GOLDWATER (when his name was called). Present.

Mr. MANSFIELD. I announce that the Senator from Delaware (Mr. Biden), and the Senator from West Virginia (Mr. Robert Byrd) are necessarily absent.

I further announce that the Senator from Illinois (Mr. Stevenson) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. Pastore) is absent attending a funeral.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Hruska), the Senator from Nevada (Mr. Laxalt), and the Senator from Ohio (Mr. Taft) are necessarily absent.

The result was announced—yeas 14, nays 78, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—14

Abourezk
Church
Durkin
Gravel
Hart, Philip A.
Hollings
Leahy
Long
McGovern
Mondale
Morgan
Nelson
Stafford
Thurmond

NAYS—78

Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Griffin
Hansen
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Helms
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McIntyre
Metcalf
Montoya
Moss
Muskie
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stennis
Stevens
Stone
Symington
Talmadge
Tower
Tunney
Weicker
Williams
Young

ANSWERED "PRESENT"—1

Goldwater

NOT VOTING—7

Biden
Byrd, Robert C.
Hruska
Laxalt
Pastore
Stevenson
Taft

So Mr. Abourezk's amendment was rejected.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I yield 1 minute to the distinguished Senator from New York.

PUBLIC WORKS EMPLOYMENT ACT OF 1975—VETO

The PRESIDING OFFICER (Mr. Domenici) laid before the Senate a message from the House of Representatives, which was read, as follows:

The House of Representatives having proceeded to reconsider the bill (H.R. 5247) entitled "An Act to authorize a local public works capital development and investment program, to amend the Public Works and Economic Development Act of 1965 to increase the antirecessionary effectiveness of the program, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The PRESIDING OFFICER laid before the Senate a message from the President of the United States to the House of Representatives, as follows:

To the House of Representatives:

I am returning without my approval H.R. 5247, the Public Works Employment Act of 1975.

Supporters of this bill claim that it represents a solution to the problem of unemployment. This is simply untrue.

The truth is that this bill would do little to create jobs for the unemployed. Moreover, the bill has so many deficiencies and undesirable provisions that it would do more harm than good. While it is represented as the solution to our unemployment problems, in fact it is little more than an election year pork barrel. Careful examination reveals the serious deficiencies in H.R. 5247.

First, the cost of producing jobs under this bill would be intolerably high, probably in excess of $25,000 per job.

Second, relatively few new jobs would be created. The bill's sponsors estimate that H.R. 5247 would create 600,000 to 800,000 new jobs. Those claims are badly exaggerated. Our estimates within the Administration indicate that at most some 250,000 jobs would be created—and that would be over a period of several years. The peak impact would come in late 1977 or 1978, and would come to no more than 100,000 to 120,000 new jobs. This would represent barely a one tenth of one percent improvement in the unemployment rate.

Third, this will create almost no new jobs in the immediate future, when those jobs are needed. With peak impact on jobs in late 1977 or early 1978, this legislation will be adding stimulus to the economy at precisely the wrong time: when the recovery will already be far advanced.

Fourth, Title II of the bill provides preferential treatment to those units of government with the highest taxes without any distinction between those jurisdictions which have been efficient in holding down costs and those that have not.

Fifth, under this legislation it would be almost impossible to assure taxpayers that these dollars are being responsibly and effectively spent.

Effective allocation of over $3 billion for public works on a project-by-project basis would take many months or years. The provision that project requests be approved automatically unless the Commerce Department acts within 60 days will preclude any useful review of the requests, and prevent a rational allocation of funds.

Sixth, this bill would create a new urban renewal program less than two years after the Congress replaced a nearly identical program—as well as other categorical grant programs—with a broader, more flexible Community Development block grant program.

I recognize there is merit in the argument that some areas of the country are suffering from exceptionally high rates of unemployment and that the Federal Government should provide assistance. My budgets for fiscal years 1976 and 1977 do, in fact, seek to provide such assistance.

Beyond my own budget recommendations, I believe that in addressing the immediate needs of some of our cities hardest hit by the recession, another measure already introduced in the Congress, H.R. 11860, provides a far more reasonable and constructive approach than the bill I am vetoing.

H.R. 11860 targets funds on those areas with the highest unemployment so that they may undertake high priority activities at a fraction of the cost of H.R. 5247. The funds would be distributed exclusively under an impartial formula as opposed to the pork barrel approach represented by the bill I am returning today. Moreover, H.R. 11860 builds upon the successful Community Development Block Grant program. That program is in place and working well, thus permitting H.R. 11860 to be administered without the creation of a new bureaucracy. I would be glad to consider this legislation more favorably should the Congress formally act upon it as an alternative to H.R. 5247.

We must not allow our debate over H.R. 5247 to obscure one fundamental point: the best and most effective way to create new jobs is to pursue balanced economic policies that encourage the growth of the private sector without risking a new round of inflation. This is the core of my economic policy, and I believe that the steady improvements in the economy over the last half year on both the unemployment and inflation fronts bear witness to its essential wisdom. I intend to continue this basic approach because it is working.

My proposed economic policies are expected to foster the creation of 2 to 2.5 million new private sector jobs in 1976 and more than 2 million additional jobs in 1977. These will be lasting, productive jobs, not temporary jobs payrolled by the American taxpayer.

This is a policy of balance, realism, and common sense. It is an honest policy which does not promise a quick fix.

My program includes:

—Large and permanent tax reductions that will leave more money where it can do the most good: in the hands of the American people;

—Tax incentives for the construction of new plants and equipment in areas of high unemployment;

—Tax incentives to encourage more low and middle income Americans to invest in common stock;

—More than $21 billion in outlays for important public works such as energy facilities, wastewater treatment plants, roads, and veterans' hospitals representing a 17 percent increase over the previous fiscal year;

—Tax incentives for investment in residential mortgages by financial institutions to stimulate capital for home building.

I have proposed a Budget which addresses the difficult task of restraining the pattern of excessive growth in Federal spending. Basic to job creation in the private sector is reducing the ever-increasing demands of the Federal government for funds. Federal government borrowing to support deficit spending reduces the amount of money available for productive investment at a time when many experts are predicting that we face a shortage of private capital in the future. Less investment means fewer new jobs and less production per worker.

Last month, under our balanced policies, seasonally adjusted employment rose by 800,000. That total is almost three times as large as the number of jobs that would be produced by this legislation and the jobs those men and women found will be far more lasting and productive than would be created through another massive public works effort.

I ask the Congress to act quickly on my tax and budget proposals, which I believe will provide the jobs for the unemployed that we all want.

GERALD R. FORD.

THE WHITE HOUSE, *February 13, 1976.*

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will proceed to reconsider the bill H.R. 5247 at 3:30 p.m., with a vote at 4 p.m.

COPYRIGHT LAW REVISION

The Senate continued with the consideration of the bill (S. 22) for the general revision of the Copyright Law, title 17, of the United States Code, and for other purposes.

PERFORMERS' RIGHTS

Mr. JAVITS. Mr. President, I simply wish to call to the Senate's attention that as we deal with the copyright revision bill, there is one enormous deficiency in the existing law that we are not dealing with, and that is the right of those who perform to have some royalty from their performance where it is on a recording. This is the very well known jukebox bill which Emanuel Celler sponsored here for years, and which is now sponsored in the Senate by the Senator from Pennsylvania (Mr. HUGH SCOTT). It is a separate bill, and I urge the Committee on the Judiciary to act expeditiously on it, as it concerns tens of thousands of performers who are not stars. After all, not all performers are stars; the stars are few and far between, and other performers are subjected to very grave injustices and discrimination in this particular respect. While we are taking care of everyone else, we are still not taking care of them. Therefore, I hope very much the Committee on the Judiciary will see fit to act at an early time.

Mr. President, we stand here for the second time in as many years to take the long overdue step of revising our Nation's copyright laws to accord with the technological, social, and cultural developments of the last half century. Our artists, composers, authors, and publishers have all felt the need for this legislation.

But I would like to call to the attention of my colleagues a basic inadequacy in this otherwise comprehensive revision—the bill fails, as did the prior bill passed by the Senate a year ago, to accord a performance right in sound recordings to the thousands of performing artists whose efforts in far too many instances do not receive the rewards that are their due. Very few performers get to be stars. A performance right would entitle all performers to receive royalties when the product of their creative effort—a sound recording—is broadcast or otherwise used for profit.

May I remind the Senate that most of the performers who would benefit from a performance right in sound recordings are not the stars whose names come quickly to mind, but backup musicians and vocalists, and members of bands and orchestras throughout the country who are struggling to survive.

I note with regret that the Judiciary Committee has failed to take action on S. 1111, a bill proposed by Senator HUGH SCOTT and which I am cosponsoring, to remedy this defect. The distinguished minority leader has ably led efforts toward reform in this direction for some time. It would be fitting for Senator SCOTT to be able to add the enactment of performance rights legislation to his already long list of accomplishments before he retires from the Senate at the end of this Congress.

In the Senate, we still have an opportunity to move independently toward this goal. I urge the Judiciary Committee to act expeditiously to report out S. 1111, the basic precepts of which have never been properly considered by this body. Meanwhile, I continue to hope that my colleagues in the House will act in this Congress to include the performance rights principle in H.R. 2223.

STATEMENT OF SENATOR HUGH SCOTT

Mr. HUGH SCOTT. Mr. President, I would like to add my support to the remarks just made by the distinguished Senator from New York.

Although I will cast my vote today in favor of S. 22 and a long overdue revision of this Nation's copyright laws, I would like to remind the Senate of what does not appear in this general revision bill—a provision requiring broadcasters, juke box operators, background music services, and others who use sound recordings for profit to pay a performance royalty to those whose talents are used to create those recordings. Under present copyright law, and the revision bill before this body, composers and music publishers are entitled to a royalty payment when their recorded works are broadcast. But the performing artists, musicians, vocalists and narrators, and the recording companies, whose creative contributions to sound recordings are at least equal to that of the composers and publishers, are granted not one cent of compensation under this revision bill for the commercial exploitation of their work.

I consider this discriminatory treatment unjust and unfair. That is why, for more than 30 years, I have fought for the creation of a performance right in sound recordings. But those who oppose such legislation, claiming they had not had an opportunity to be heard on the issue, succeeded in removing a performance rights provision from the copyright revision bill when it was considered on the Senate floor last year.

In order not to jeopardize or delay the enactment of badly needed copyright reform, I have promised Senator McClellan, without whose vigorous efforts this bill woulld not be before this body today, that I would not press the performance rights issue as part of this bill. Instead, I have introduced S. 1111, the Performance Rights Amendment of 1975, as an amendment to the 1909 Copyright Act.

In July of 1975, I chaired hearings on S. 1111 so that every group with an interest in the legislation would have an opportunity to be heard on its merits. The testimony at those hearings convinced me more than ever of the need for this legislation. As Barbara Ringer, the Register of Copyrights, testified:

> The Twentieth Century technological revolution in communications has had a fundamental impact on a number of forms of creative expression, but there is no case in which the impact was more drastic or destructive than that of the performing artist. Performers were whipsawed by an unmerciful process in which their vast live audiences were destroyed by phonograph records and broadcasting, but they were given no legal rights whatever to control or participate in the commercial benefits of the vast new electronic audience.
>
> The results have been tragic: the loss of a major part of a vital artistic profession and the drying up of an incalculable number of creative wellsprings. The effect of this process on individual performers has been catastrophic, but the effect on the nature and variety of records that are made and kept in release, and on the content and variety of radio programming, have been equally malign. Most of all it is the United States public that has suffered from this process.
>
> Congress cannot repair these past wrongs, but it can and should do something about avoiding or minimizing them in the future.

Similarly, Nancy Hanks, chairman of the National Endowment for the Arts, concluded:

> I heartily endorse the view that artists, musicians, and record companies who contribute their creative efforts to the production of copyrighted sound recordings should reasonably share in the income enjoyed by radio stations and other commercial organizations who use the recordings for profit. This legislation would be an important step toward achieving one of the Endowment's major goals: to encourage and sustain development of creative American talent by helping to insure that American artists will receive a just financial return for their creative work.

Significantly, the principal opponents of the bill—the broadcasters—have argued quite emphatically and successfully that cable television should pay broadcasters for cable's use of copyrighted programing. But the principle underlying section 111 of S. 22 is identical to that proposed in S. 1111—that those who use sound recordings for their profit should compensate the performers, musicians, and record companies for the exploitation of their creative, copyrighted efforts.

It is recorded music that draws radio audiences, on the basis of which stations sell advertising time, earn substantial and increasing profits and build equity value. Seventy-five percent of all radio broadcast time sold to advertisers is devoted to playing sound recordings. Indeed, broadcasters used to employ "staff" to fill their musical needs, but these performers have actually been replaced by their own recordings. It is only equitable, therefore, that the creators of sound recordings be compensated for their efforts. Sanford Wolff, president of the American Federation of Television and Radio Artists, testified that he found it incredible that he had "to beg to get paid for the use of his work when the users of his work acknowledge the value of the product and grow rich on it. This is madness—unfounded in logic, ethics or economics."

The Performance Rights Amendment of 1975 is designed to redress an inequity that has persisted for far too long. But in deference to the wishes of Senator McClellan, I do not pursue the incorporation of this legislation in S. 22 at this time. I do hope, however, that S. 1111 will be taken up promptly by the Subcommittee on Patents, Trademarks, and Copyrights, and by the Judiciary Committee, and that it will be reported out favorably in the very near future.

AMENDMENT NO. 1402

Mr. HATHAWAY. Mr. President, I call up my amendment No. 1402, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Maine (Mr. Hathaway) proposes an amendment numbered 1402.

Mr. Hathaway's amendment (No. 1402) is as follows:

> On page 92, line 34, after clause (v) insert the following: "Where actual gross receipts paid by subscribers to a cable service total less than $160,000, gross receipts for the purpose of this subparagraph shall be computed by subtracting from such actual gross receipts the amount by which $160,000 exceeds such actual gross receipts.".

Mr. HATHAWAY. Mr. President, I send to the desk a modification of that amendment, and I will explain the modification in the course of my remarks.

The PRESIDING OFFICER. The clerk will state the modification.

The legislative clerk read as follows:

> On line 3, strike "$160,000" and insert "$40,000".
>
> On line 6, strike "$160,000" and insert "$40,000".
>
> At the end of line 6, change the period to a comma, and add "except that in no case shall a cable system's gross receipts be reduced to less than $1500."

Mr. Hathaway's amendment, as modified, is as follows:

> On page 92, line 34, after clause (v) insert the following: "Where actual gross receipts paid by subscribers to a cable service total less than $40,000, gross receipts for the purpose of this subparagraph shall be computed by subtracting from such actual gross receipts the amount by which $40,000 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than $1,500."

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the name of the Senator from Georgia (Mr. Nunn) may be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, may I first say that I have nothing but the highest praise for the legislative craftsmanship of my good friend John McClellan and his Judiciary Committee colleagues, as reflected in their long, hard work on this measure. It has rarely been my lot, either as a Senator or as a Congressman, to be as confident as I am today that the Congress will be making forceful, intelligent law.

The bill is a fine substantive accomplishment, as a revision of an extremely complex and confusing area of the law. In addition, it is a literate measure, which accomplishes its objectives in understandable declarative sentences. Its authors are to be commended.

In that regard, it is only out of concern for a fine point involving national policy that I rise to offer my amendment to S. 22, based on the fact that this measure will for the first time impose copyright liability on cable television systems for the carriage of television broadcast signals.

This new copyright status for CATV will have a significant impact on the Nation's 3,400 CATV systems and in particular on the smaller "classic" CATV systems which bring television service to many areas of the country, such as rural areas, which are underserved by standard broadcasting.

I am particularly concerned—from a public policy standpoint—about the effect of copyright liability on these smaller CATV systems. Consequently, I am proposing an amendment to S. 22 which will ease the burden of copyright liability for such systems.

My amendment would determine copyright liability on a "computed" rather than actual gross revenue base for all systems with less than $160,000 annual revenues.

Before I proceed any further, I would like to note that since my intention is to affect CATV systems with total annual revenues of $160,000 or less, I have revised my amendment. Since the royalty fees are computed on the basis of quarterly income, it is not sufficiently clear that my amendment goes only to the annual gross receipts, and one of the modifications of the amendment accomplishes that. Also, to make sure that every cable system will pay a minimum fee amounting to $30 annually, I have added the additional language to my original amendment requiring that in making the computation on a quarterly basis, the computed gross income for the purpose of determining the license fee shall in no case be less than $1,500.

Copyright liability for those systems with under $160,000 in revenue, which equals $40,000 in quarterly revenue, would be determined by subtracting actual quarterly receipts from $40,000 and then substracting the resultant figure from actual receipts. The royalty liability in the current S. 22 schedule would then be applied to this computed gross. It is important to note that the royalty for systems with greater than $40,000 quarterly revenues would remain exactly as it is in the current provision in S. 22, thus maintaining both the integrity of the current bill and the great majority of total CATV industry copyright revenues.

As an example of how the system would work, take a CATV system with gross quarterly revenues of $30,000. The difference between the system's actual revenues and $40,000 would be $10,000. That amount would be subtracted from actual revenues, leaving a constructive gross of $20,000. The royalty would then be computed on the basis of $20,000, rather than $30,000.

In this way, Mr. President, small systems, with less than 2,500 subscribers—which includes most such systems in rural areas—would be protected somewhat from the effects of this additional "tax" on their already overburdened revenues. I strongly believe that such protection is a matter of urgent national telecommunications policy.

In its recent report on cable television, for example, the staff of the House Communications Subcommittee concluded:

> It should be in the federal government's policy to promote the growth of cable and translators in rural areas . . . Such a program would do much to ameliorate the second class status of viewers in these areas. Effective tele-communications can be a significant factor on halting or reversing the population trend toward even greater urban concentration by significantly improving the quality of life in rural areas.

Like many of our Nation's small businesses, the typical small CATV system today is faced with rising costs for equipment and services, high interest rates, and increased costs associated with Government regulation. For many small cable systems the added burden of copyright payments will be too great. This is particularly true in rural and semirural areas where CATV is often most essential and where potential for CATV growth is limited.

The Senate has already demonstrated this week, with its overwhelming votes on behalf of public broadcasting, that copyright laws are proper instruments of public policy.

Indeed, our Federal copyright laws have always represented a balancing of equities between the rights of copyright owners and the public interest, convenience and necessity.

Financially and symbolically, this amendment represents very little indeed to the copyright owners, whose lobbyists have in a number of forums indicated their willingness to help small systems. Even if all systems of under $160,000 gross receipts were totally exempt, less than 10 percent of the royalties would be lost.

It represents a great deal, however, to the small cable systems in rural America and to the American citizens who are the consumer of its product.

I urge my colleagues to join me in support of this amendment.

Mr. President, in conclusion, I ask unanimous consent to have printed in the RECORD a table of actual costs of running a small business cable television system, according to the national cable television system.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Income

Subscriber income	$189,000
Installation	12,000
Total income	201,000
Operating expenses:	
Salary, manager	30,000
Salary, technician	9,500
Salary-Installers	24,560
Vehicles	7,600
System maintenance	8,000
Utilities	3,700
Pole rental	12,100
Total	95,460
General and administrative:	
Property taxes	9,000
Insurance	3,000
Salary, office	18,000
Office rent	4,800
Office supplies	500
Billing and postage	5,000
Franchise tax	6,030
Payroll taxes	7,200
Travel and entertainment	4,800
Telephone	4,900
Advertising and promotion	500
Bad debt	1,000
Miscellaneous	9,000
Total	73,730
Total expenses	169,190
Operating cash flow	31,810

Mr. McCLELLAN. Mr. President, will the Senator respond to a question or two so I may be sure I understand his amendment?

Am I correct in my understanding that this affects and applies only to cable systems that have a gross income of $160,000 a year, or less?

Mr. HATHAWAY. The Senator is correct. In fact, it only benefits those that are less than $160,000.

Mr. McCLELLAN. Those that are less than $160,000. But it does require for them to pay at least $30 a year; am I correct?

Mr. HATHAWAY. The Senator is correct.

Mr. McCLELLAN. Mr. President, I could not support the original amendment because I felt it went entirely too far, but as modified, this amendment is far more palatable now than it was in its original form.

I appreciate that there are a few very small cable systems that are trying to serve an area where their potential growth is not a whole lot to begin with, but many people do receive the benefit of television who otherwise would not except for that cable system. I decided I was not going to vote for any amendment that would further reduce the fees, because we have them quite low now. We have been reducing these all along from the time we started. But since this amendment now is so modified that it will only apply to those very small stations or cable systems where there is gross receipts of only $160,000 a year, or less, I am not going to further oppose the amendment.

We may have problems in conference and may have to work out something there, but if anyone needs some further protection and consideration with respect to the provisions of this bill, in my opinion, it is certainly the little cable system that is struggling in an area where the resources are not great but where they are providing a very valuable service to that community.

Mr. President, unless someone else wishes to object to the amendment, I have concluded that I shall accept it.

Mr. HATHAWAY. Mr. President, I certainly appreciate the sympathy that the distinguished Senator has for the small stations, and I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MATHIAS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. Does the Senator wish to have the perfecting amendments considered en bloc?

Mr. MATHIAS. Mr. President, I request that the perfecting amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes certain technical amendments.

The amendments are as follows:

On page 84, line 16, insert the following: strike out "117" and insert in lieu thereof "118".

On page 103, line 17, immediately after "116" insert "and 118".

On page 104, line 11, 12 strike out the comma and all that follows up to the period.

On page 104, line 6, amend first sentence of subsection (c) to read as follows: "Reasonable royalty fees for Public Broadcasting shall be established by the Copyright Royalty Tribunal".

On page 105, line 14, amend subsection (f) to read as follows: (1) "Public Broadcasting" means the transmission over noncommercial educational broadcast stations (as defined in section 397 of the Federal Communications Act of 1934 (47 U.S.C. 397)) and the following activities incidental thereto; production and recording by, or solely for use by, distribution, sale or licensing solely to, and acquisition by, noncommercial educational broadcast stations of educational television or radio programs (as defined in section 397 of the Federal Communications Act of 1934 (47 U.S.C. 397)); and recording by, or solely for use by a nonprofit educational institution of any educational television or radio program off the air from a transmission by an educational broadcast station, provided such recording is used only by such institution as a regular part of its instructional activities for a period of one week from the date of the broadcast from which such off the air recording was made and that each such recording shall be destroyed or erased upon the expiration of such one week period. No person supplying a recording to an educational institution under this paragraph shall have any liability as a result of failure of such institution to destroy or erase such recording provided it shall have notified such institution of the requirement for such destruction or erasure pursuant to this paragraph.

On page 126, line 15, strike out "117" and insert in lieu thereof "118".

S. 22

On page 145, between lines 17 and 18, insert the following new section:

Section 113. Notwithstanding Section 802 of Title 17, as amended by this Title, not later than 30 days following the date of enactment of this Act, the Register of Copyrights shall cause notice to be published in the Federal Register to convene the Copyright Royalty Tribunal established under Section 801 of such Title 17, to establish initial royalty rates under Section 118 (of such Title 17, as amended by this Title). The royalty rates so established shall apply to compulsory licensing under such Section 118, except that payment of any royalty due during the period between the effective date of this Act and the date on which such rates become effective shall not be required until 60 days after such rates become effective.

On page 145, line 18, strike out "Section 113," and insert in lieu thereof "Section 114."

Mr. MATHIAS. Mr. President, these are perfecting amendments to the provisions of S. 22 which pertain to the compulsory license system established for the use of certain categories of copyrighted material by public broadcasting. The first part modifies the definition of public broadcasting contained in section 118(f) of the bill and is aimed at insuring that this definition more closely parallels the language in the committee report relating to this section. Certain of the remaining technical amendments provide a mechanism essential for the establishment by the copyright royalty tribunal of initial royalty rates for those categories of copyrighted materials covered under section 118. As presently written, section 118 does not contain a set of statutory royalty rates; my amendments would require the register of copyrights to convene the copyright royalty tribunal shortly after the bill is enacted for the sole purpose of establishing initial royalty rates. Furthermore, these perfecting amendments provide that public broadcasting entities are required to pay reasonable royalty rates as of the effective date of the act; however, it is further provided that payment of such amounts due shall be deferred until 60 days after the effective date of the initial rates.

Mr. McCLELLAN. Mr. President, has the Senator concluded?

Mr. MATHIAS. Yes, I have.

Mr. McCLELLAN. Am I correct that this amendment is actually a perfecting amendment which the distinguished Senator offered in committee, and it was adopted?

Mr. MATHIAS. The Senator is exactly correct. It does not in any way alter the substance of the bill but rounds out the language.

Mr. McCLELLAN. It deals with procedures; does it not?

Mr. MATHIAS. It deals with procedures and rounds out the language that is in the bill.

Mr. McCLELLAN. Mr. President, the staff has examined this amendment. I have not had an opportunity to look at it. But I am advised by the chief counsel of the committee that an examination of the amendment has been made and it is purely a clarifying and technical amendment. I have no objection to it. Therefore, I am prepared to accept it.

Mr. MATHIAS. I thank the distinguished Senator from Arkansas, the manager of the bill.

Mr. President, I move the adoption of the amendments.

The PRESIDING OFFICER. The question is on agreeing to the perfecting amendments of the Senator from Maryland.

The amendments were agreed to.

ADDITIONAL STATEMENTS SUBMITTED ON S. 22

Mr. HUGH SCOTT. Mr. President, the current provision for term in S. 22—life of the author plus 50 years—forms the cornerstone of the whole copyright revision effort.

Although there are several important reasons which bear upon maintaining the life-plus-50 term, to my mind there are two which are paramount: fairness to authors and equal footing in the international copyright arena.

The present 56-year term is not long enough to insure an author and his dependents the fair economic benefits from his works. Life expectancy has increased substantially, and more and more authors are seeing their works fall into the public domain during their lifetimes, forcing later works to compete with their own early works in which copyright has expired. A short term is particularly discriminatory against serious works of music, literature, and art, whose value may not be recognized until after many years, or those works which achieve a burst of fame then languish until a new generation comes along to discover them—F. Scott Fitzgerald, Theodore Dreiser, Sinclair Lewis, to name a few.

The United States has been, and will continue to be, in a very difficult position insofar as the international copyright field is concerned until we adopt the life-plus-50 term which is the norm, if not the minimum term for most developed countries. Some countries have expanded their term to life plus 70 or more and other nations are considering similar actions.

Since a large majority of the world's countries have adopted a copyright term of the life of the author and 50 years after his death; since American authors are frequently protected longer in foreign countries than in the United States, the disparity in duration of copyright has provoked considerable resentment and some proposals for retaliatory legislation. Publishing has always had a favorable balance-of-payments structure in the United States, and copyrighted works move across national borders faster and more easily than virtually any other economic commodity. However, in order to maintain the favorable economic status books, music, and other works of art have in the export arena, it has become increasingly clear that the United States must become a party to the Berne Copyright Union. However, the major stumbling block to our adherence to Berne is the requirement of a term of copyright of life of the author plus 50 years. Without the change in our copyright laws, the possibility of future U.S. adherence to the Berne Conventions would evaporate, but with it would come a great and immediate improvement in our copyright relations. All of these benefits would accrue directly to American and foreign authors alike.

Although limitations on the term of copyright are obviously necessary, too short a term harms the author without giving any substantial benefit to the public. The public frequently pays the same for works in the public domain as it does for copyrighted works and the only result is a commercial windfall to certain users at the author's expense. It should be remembered too, that copyright has the effect of assisting in dissemination, since publishers and other users cannot risk investing in a work unless assured of exclusive right.

It is time for the United States to take the leadership in the world copyright community, and without the life-plus-50 term of copyright, this will prove to be an impossible task.

Mr. MAGNUSON. Mr. President, few issues to come before the Congress are more complex than those contained in this copyright legislation. Few measures that we will act upon this session are more important to a special group of our fellow citizens who have that rare ability to be creative. This measure is equally important to all our citizens as it impacts the well-being of our society and is intimately involved with our free enterprise system and our economy.

I commend the members of the Senate Judiciary Committee who have labored so long on this legislation and especially Senator MCCLELLAN for his efforts in this field that started well over a decade ago.

The main reason that I feel that I must say something about this measure stems from my own involvement with the health field. Almost 40 years ago the Congress established the National Cancer Institute and authorized the Federal Government to help sponsor, as well as to conduct, research into the causes and possible cures for that dread disease. Since then the Congress has expanded that Federal commitment to support biomedical research to the point today that our research across the board in that field is the best in the world.

We can all take pride in the accomplishments of the National Institutes of Health and all of the individual "institutes" out there in Bethesda. Credit for those accomplishments must be shared with many research centers across our land, public and private, and countless individual investigators—and I know that NIH officials would be the first to acknowledge that fact.

But we do not conduct biomedical research just to keep a few people active on the frontiers of science, it is part and parcel of our concern with human suffering, the impact of disease on our fellow man and our hope of bringing better health to all.

My own support of Federal appropriations to support biomedical research has always been coupled with efforts to get the fruits of that endeavor into the hands of those on the front lines of health care delivery systems. Some of our most recent successes on that front might be impaired by what we do in this Legislation.

I need to go back over 20 years, to when the Congress expanded the mission of the medical library that the Surgeon General of the Army had maintained since 1836 and we established a new National Library of Medicine. We gave that new library a mandate to apply its resources broadly to the advance of medical and health related sciences; to collect, organize and then make available biomedical information to investigators, educators, and practitioners.

Today, the National Library of Medicine is a component of the National Institutes of Health and it is the world's largest research library in a single scientific and professional field. More importantly in recent years they have begun to make great advances in their mission of making the latest word in biomedical information available to investigators, educators and practitioners.

I could go to great lengths describing Medlars, Medline, and Toxline. Suffice it to say, the National Library of Medicine has truly become the innovator that is making it possible for those throughout the health community to have ready access to all the critical information that can help them to do a better job.

The nurse or physician with patients in remote rural areas or the investigators and technicians in the most advanced laboratories—all of them can find out just what their colleagues elsewhere have accomplished. Today, a physician in my home State has access to the latest information that might prove helpful to him in his daily practice because our regional medical library is linked directly to the National Library of Medicine. That is true in most parts of our Nation, but it is a program that is just getting underway.

It is underway because just over 10 years ago the Congress passed the Medical Library Assistance Act and since then the National Library of Medicine has helped expand and improve our Nation's medical libraries and health communications resources, technology and manpower for rendering services to the entire health community.

All of this has come about because of all that the National Library of Medicine has done, on its own and in concert with all of the regional medical libraries that have been established. Many others within the library community, along with those who are expert in the new developments of technology and computers, have helped achieve these results.

It is because of that success in bringing the latest biomedical research and health related information to the broadest possible numbers within the total health community that I have some concerns today about what the Congress might do in this copyright legislation. Under the provision of this bill that set forth limitations on the exclusive rights of a copyright owner there are two sections that could possibly impact upon what is going on today in the health field.

The judicial doctrine of fair use, one of the most important and well-established limitations on the exclusive right of copyright owners, would be given express statutory recognition for the first time in this legislation.

Although countless courts have considered and ruled upon the fair use doctrine over and over again, no definition has ever emerged and this measure merely restates the doctrine with no attempt to change, narrow or enlarge it in any way. Since the doctrine is an equitable rule of reason, no generally applicable definition is possible, and each case raising the question must be decided on its own facts and merits.

Personally, I believe that what we see taking place today in the health field, with the National Library of Medicine and the regional medical libraries, would be approved under the fair use doctrine by any court. But there is another portion of this measure, section 108, that others believe might impede, if not severely restrict much that has been accomplished thus far.

Section 108 outlines those conditions under which libraries and archives might reproduce materials and not infringe upon a copyright.

The need for Congress to even address the issues involved in section 108 is caused, in the main, by the technological revolution we've experienced over the past two decades.

Major advances in information storage and retrieval have been made, especially by those in the library field. Without those advances it would be impossible for any library to keep pace with the explosion of knowledge and continue rendering good services to the public. This is even more true for those specialized libraries in the health and scientific field.

In more commonplace settings, interlibrary loans and cooperative library networks have just recently allowed some of the smallest of public libraries to expand the services that they can render the public, especially in rural areas.

All of this has been indeed revolutionary; these developments or adaptations of technology to library services were impossible to foresee even a few years ago; and they will surely continue. With our need for efficient, economical and reliable access to information that revolution is bound to continue—it should and must.

Obviously these technological developments that are increasingly being used by libraries, as well as these procedures adopted among libraries, have raised new questions under the existing copyright law and none of this could have been foreseen by the Congress back in 1909. Just as true is the fact that Congress today cannot foresee what new developments might take place down the road that would bear upon these issues.

These issues were raised with the members of the Senate Judiciary Committee as they wrestled with this measure. The rights of creators and the rights of users are difficult enough to balance on the scales of equity. The rights of publishers and libraries, especially those public and nonprofit libraries, are often added to such questions making any solution even more difficult.

A problem that many have raised with section 108 in this bill is that these provisions would treat all printed materials in the same manner, although, in practice, the concerns of authors differ as they apply to different types of published materials.

An author who prepares a book or monograph and to whom royalties accrue in direct relation to sales of the publications opposes—and I believe with great justification—reproductions of his work in whole or in part if such reproduction compromises the level of those sales.

On the other hand, the basic medium of communication in the field of science and medicine is the published journal wherein the author desires the widest possible distribution and exposure of his article and findings. Seldom does this author receive any payment, in fact it is becoming the practice for such an author to pay a "page charge" for the privilege of having his paper published for use by his peers.

Many of those within the health community, including private practitioners, biomedical researchers, educators, and librarians have expressed strong reservations about the present wording of section 108. They do not believe that provision resolves the issues to which it is addressed and specific portions even raise additional problems. I would share their concerns, especially if those provisions might impede efforts to bring the latest results of biomedical research to all types of health personnel on the front lines of health care delivery systems.

It is equally important that all those within research laboratories and health manpower education or training programs have ready access to the findings of their colleagues. Again, it appears to me that much, if not all, of what we see today taking place in this field would fall within the fair use doctrine.

I should also point out to any critics of the present provisions of section 108 that the Judiciary Committee clearly set out in their report on this bill, page 67, that the fair use doctrine not only applies to reproduction practices of libraries, but that in no way did they intend section 108 to be a limitation upon the fair use doctrine. Let me just quote a portion of that document:

> The doctrine of fair use applies to library photocopying, and nothing contained in section 108 "in any way affects the right of fair use." No provision of section 108 is intended to take away any rights existing under the fair use doctrine. To the contrary, section 108 authorizes certain photocopying practices which may not qualify as a fair use.

At the same time I must admit that the critics of section 108 do raise a number of valid points. Some of those provisions are subject to question and a variety of interpretations which could well lead to innumerable law suits.

This is not the first time that Congress has been confronted by that technological revolution and its impact on copyrighted materials. At the end of the 93d Congress we enacted an amendment to the copyright law which established a special national commission for the purpose of studying and compiling data on the reproduction and use of copyrighted works.

The National Commission on New Technological Uses of Copyrighted Works is now addressing these problems. They have given top priority to the very issues that I am raising here and they have been meeting with authors, publishers, librarians, and user groups. They are responsible for making recommendations to the Congress that any changes in the copyright law that they feel to be necessary, it is even possible they will have some initial findings that bear upon the issues I have raised and will submit them before the Congress completes work on this legislation.

Over the past few weeks—in fact this very week—I know that the Register of Copyrights, Barbara Ringer, has been working with a representative group of authors, publishers, librarians and officials of the National Library of Medicine on this issue. They have addressed their attention to the specific provisions contained in section 108, as well as the broad issues involved, and hopefully they might reach agreement on suggestions that would prove beneficial to our deliberations.

While I would not wish to delay any action the Senate might take here today on S. 22, I would hope that those Members who will continue to work on this legislation before the Congress takes final action on this measure will keep an open mind on section 108.

Again, few issues that come before us are more complex or more important to our Nation than this one before us today. Reform and revision of the copyright laws is long overdue and I strongly support the thrust of this legislation.

We must do all that we can to nurture the creative abilities of our people and more adequately protect the work product of those among us who are creative. This legislation will do that and it should be enacted into law.

Mr. HUGH SCOTT. Mr. President, two matters have not been considered by the Senate in the debate on the copyright bill, S. 22. Both are complex issues, and time does not permit discussion at this time.

Both, however, would more fully implement a major purpose of the Copyright Act reform effort—the creation of a single, uniform body of corporate protection.

Section 301 of S. 22 is supposed to create the uniformity of the law that we seek. However, paragraph (3) of section 301(b) now provides that State law regarding "misappropriation" is not to be preempted. Misappropriation is an amorphous doctrine of unfair competition rejected in most States. The result of this reference to misappropriation is that, for example, an author who has purposefully chosen not to protect his book under the Federal Copyright Act, could stop another person from copying the book by bringing a State law suit for an injunction alleging misappropriation of the author's work.

Such an author could gain a perpetual injunction against copying the book, even though he could only get protection for a limited term under the Federal Copyright Act. Or he might obtain an injunction under a misappropriation theory where such an injunction was expressly not provided in S. 22. The purpose of a broad and uniform treatment of Federal copyright law which will be accomplished by S. 22 would all be frustrated unless the reference to misappropriation were removed from section 301 of the bill.

Therefore, if time had permitted, I would have proposed that the phrase on page 111, lines 22 and 23, reading: "rights against misappropriation not equivalent to any of such exclusive rights," be stricken from the bill.

My second point regards paragraph (4) of section 301(b) of S. 22. The intent of paragraph (4) is to allow States to prohibit tape-piracy with respect to recordings fixed prior to February 15, 1972. Tape-piracy with respect to recordings fixed on or after that date is prohibited by section 114 of the bill. As previously worded, however, paragraph (4) exempts from preemption all State laws dealing with sound recordings fixed prior to February 15, 1972. Such laws may include laws against tape-piracy, but they may also include laws against innumerable and undefined other acts with respect to those recordings.

In order to exempt from preemption only that which we feel a need to exempt, I would have proposed, had time permitted, that paragraph (4) be amended by striking, on page 111, line 27, the period at the end of the line, and inserting in its place the phrase ", that are equivalent to any of the exclusive rights specified by section 114 with respect to sound recordings fixed on or after February 15, 1972." This would exempt from preemption only those State laws that give the same type of limited protection to sound recordings that we give in the Federal Copyright Act. It would permit uniform protection for both pre-1972 and post-1972 recordings.

I feel it important that these remarks be included in the debate so that the other House might be encouraged to address them in their consideration of copyright reform. These proposals are in accord with two letters I just received from the Department of Justice in response to my inquiry in which that Department pointed out that section 301 as it stands without amendment "would likely have anticompetitive effects in this country." I ask unanimous consent that both letters from that Department be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
Washington, D.C., February 13, 1976.

Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCOTT: This letter is submitted pursuant to a request from a member of your staff that the Department consider whether the preemption provisions of S. 22, 94th Cong., 1st Sess. (1975) might have anticompetitive consequences.

This Department is opposed to certain changes made to section 301 because they would likely have anticompetitive effects in this country.

Section 301 is the preemption section of the bill. It would provide that the federal Copyright Act would preempt all state regulation of rights in the nature of copyright protection. However, certain exceptions to complete preemption would be made by subsection (b) of section 301. The bill reported out of the Senate Judiciary Committee made two significant additions to the exceptions, both of which are opposed by this Department. These additions seemingly allow (1) protection under the theory of misappropriation, and (2) less preemption than the committee intended with respect to state law regarding sound recordings made prior to 1972.

I. MISAPPROPRIATION

Paragraph (3) of section 301(b) would exempt from preemption state common law or statutory rights that are not equivalent to the exclusive rights granted by the Copyright Act. The Copyright Act would grant rights such as the exclusive right to make copies of the copyrighted work (Section 106). In addition to the rights that paragraph (3) previously specifically listed as non-equivalent rights (e.g., breach of contract and breach of trust) the committee has now added "rights against misappropriation not equivalent to any of such exclusive rights . . ." The committee report accompanying the bill asserts that there is a need for this provision because "state law should" be able to permit the misappropriation theory to apply. S. Rep. 94–473, 94th Cong., 1st Sess. 116 (1975) (hereinafter, "Senate Report").

This Department is concerned because inclusion of the above quoted phrase in section 301 would sanction use of the highly anticompetitive "misappropriation" theory, and would defeat the underlying purpose of the preemption section.

A. The Misappropriation Doctrine is Anti-competitive—

This Department strongly opposes allowance of monopolies based on the theory of "misappropriation." This term is not defined in the proposed Act, but the concept apparently stems from the much-criticized decision of the Supreme Court in *International News Service* v. *Associated Press,* 248 U.S. 215 (1918) (hereafter, the *"INS"* case). In *INS,* the Supreme Court held that the defendant news service committed an unlawful act of unfair competition by copying the plaintiff's uncopyrighted published news stories from east coast newspapers and wiring them to west coast subscribing newspapers. The Court found that even though the plaintiff would have had no rights against the public, who were entitled or privileged to copy the articles, nonetheless the defendant had "misappropriated" the published work done by the plaintiff and was therefore liable to the plaintiff. The Court's theory was that the defendant's conduct was unlawful because it sought to "reap where it has not sown" (248 U.S. at 239). This unjust enrichment theory could be used broadly to prohibit the copying of uncopyrighted published materials, the manufacture by others of unpatented goods, the use by a doctor of a surgical technique developed by another doctor, or the use of an advertising technique which another has developed at his own expense. The effect of the theory is boundless—it is potentially applicable each time a person engages in conduct that imitates some work that was developed at another's expense.

The courts generally have declined [1] to follow the suggestion in the *INS* case that the traditional unfair competition doctrine be expanded to cover so-called "misappropriation." [2] See, e.g., *G. Ricordi & Co.* v. *Haendler,* 194 F. 2d 914, 916 (2d Cir. 1952); *National Comics Pub., Inc.* v. *Fawcett Pub. Inc.,* 191 F. 2d 594, 603 (2d Cir. 1951); *RCA Mfg. Co.* v. *Whiteman,* 114 F. 2d 86, 90 (2d Cir.), cert. denied, 311 U.S. 712 (1940); *Cheney Bros.* v. *Doris Silk Corp.,* 35 F. 2d 279, 280 (2d Cir. 1929), cert. denied, 281 U.S. 728 (1930). Indeed, District Judge Wyzanski once stated his belief that the Supreme Court would follow the Brandeis dissent in *INS* and overrule *INS* if given the opportunity. *Triangle Pub., Inc.* v. *New England Newspaper Pub. Co.,* 46 F. Supp. 198, 204 (D. Mass. 1942). This view is supported by the recent *Sears* and *Compco* decisions,[3] in which the Supreme Court reversed decisions from a court of appeals that prohibited copying of unpatented products, without even attempting to distinguish *INS*. See also *Columbia Broadcasting System, Inc.* v. *DeCosta,* 377 F. 2d 315, 318 (1st Cir.), cert. denied, 389 U.S. 1007 (1967), in which the court found both that *INS* was no longer authoritative, since it occurred before *Erie R.R. Co.* v. *Tompkins,* 304 U.S. 64 (1938),[4] and that it was overruled by *Sears* and *Compco.*

The New York State courts, in a series of cases beginning with appropriation of news and artistic productions, retrived the "misappropriation" theory of *INS* from innocuous desuetude and gradually extended the doctrine into the area of unfair competition in the sale of ordinary merchandise.[5] The *INS* doctrine has also been codified in the New York General Business Law (§ 368-d). The bulk of authority elsewhere in the United States, however, is against the recognition of "misappropriation" as an independent basis for recovery in imitation cases (*West Point Mfg. Co.* v. *Detroit Stamping Co.,* 222 F.2d 581, 598–99 (6th Cir. 1955) (misappropriation is "contrary to the great weight of authority")).

This Department supports the position taken in the foregoing majority line of cases, and opposes any attempt to limit nondeceptive copying of uncopyrighted or unpatented subject matter by the general public. We believe that sound policy reasons underlie the weight of authority that opposes the *INS* "misappropriation" doctrine.

The "misappropriation" theory is vague and uncertain. The "misappropriation" provision of section 301 does not indicate what it is that is not to be appropriated. It may extend beyond an appropriation of the forms or styles of ordinary merchandise to include an appropriation of mere ideas, or technology or other know-how long in the public domain. Neither the *INS* case, other cases, nor proposed paragraph (3) adequately defines the conduct prohibited, or establishes any standard for distinguishing improper, as opposed to proper, copying.[6]

The "misappropriation" doctrine may be used contrary to copyright and antitrust policies to sustain perpetual monopolies over printed matter, and contrary to patent and antitrust policies to sustain perpetual monopolies over alleged inventions which do not qualify for patent protection. In the *Sears* and *Compco cases,* noted above, the Supreme Court set aside such grants and held the states to be without power to block off from the public the nondeceptive copying of an unpatentable article. The Court held this on the ground that such grants contravene the federal patent statutes and constitutional provisions.

Furthermore, limitation is the life-blood of competition. Mere commercial copying is neither unlawful, nor immoral; instead it is often a commercial and economic necessity. Copying very often supports and promotes competition—it spurs further invention and innovation, permits newcomers to enter markets, and generally, by bringing forward functionally equivalent products and services, is a necessary condition for the competitive forces of the marketplace acting to lower prices, satisfy consumer demand, and allocate production optimally.

B. Preemption Would Be Nullified—

Paragraph (3), as noted above, lists causes of action, such as for breach of contract, that are specifically identified in the introductory phrase as giving "rights that are not equivalent to any of the exclusive rights" that would be granted by section 106 of the proposed Copyright Act. These are causes of action different in nature from that for copyright infringement (see Senate Report, p. 115). Apparently what is meant is that, for example, one may sue to enjoin reproduction of an uncopyrighted book if there is a contract between the parties prohibiting the defendant from reproducing it. Thus, reproducing the literary expression itself may be prohibited under a cause of action for breach of contract.

Similarly, paragraph (3) exempts from preemption "rights against misappropriation not equivalent to any of such rights" specified in section 106. This apparently would permit states to prohibit the reproduction of the literary expression itself under a "misappropriation" theory. "Misappropriation" would stand in the place of breach of contract as a cause of action in the book example above. Any copyright of copyrightable subject matter that has not been federally protected could be prohibited under the amorphous theory of "misappropriation."

The Senate Report states (p. 116) that reproduction of "the literary expression" itself should be preempted and should not be able to be prohibited under the "misappropriation" theory; yet that is what inclusion of the term "misappropriation" in paragraph (3) would prohibit. The preemption sought by the omnibus Copyright Act revision bill would be nullified by paragraph (3).

C. Recommendation—

For the reasons discussed, this Department recommends that the phrase "rights against misappropriation not equivalent to any of such exclusive rights," be omitted from proposed section 301(b) (3).

II. SOUND RECORDINGS

Paragraph (4) of section 301(b) would exempt from preemption state laws with respect to sound recordings fixed prior to February 15, 1972. That date was the date that sound recordings were first made subject to federal Copyright Act protection under the "tape-piracy" amendment of 1971.[7] The legislation making that amendment specified that the protection was only to be given to recordings fixed after that date, and that the amendment was not to be "applied retrospectively or be construed as affecting in any way rights with respect to sound recordings fixed before [that date]." The protection given by that amendment (§ 1(f) of the Copyright Act, 17 U.S.C. § 1(f)) was to the owner of the copyright in the recording (e.g., the plastic disc played on phonographs) to prevent others from re-recording the work for commercial purposes. Section 114 proposed in S. 22 would continue this protection given by present § 1(f).

As explained in the Senate Report (p. 116), the intent of paragraph (4) is to ensure that "nothing in [the Copyright Act] annuls or limits the authority of states to prevent the unauthorized duplication of sound recordings fixed prior to February 15, 1972." However, rather than narrowly defining an exception to the otherwise general preemption sought by the omnibus Copyright Act revision bill, paragraph (4) as drafted may exempt from preemption much more than state tape-piracy laws. It exempts all state laws with respect to "sound recordings fixed prior to February 15, 1972," without limiting the exemption to those laws dealing with tape-piracy.

The paragraph may be amended, however, more precisely to accomplish the Committee's intent to permit states to prohibit tape-piracy with respect to recordings made before February 15, 1972.[8] Paragraph (4) may be clarified by amending it to read:

> (4) Sound recordings fixed prior to February 15, 1972, that are equivalent to any of the exclusive rights specified by section 114 with respect to sound recordings fixed on or after February 15, 1972.

III. CONCLUSION

For these reasons discussed, this Department opposes proposed section 301 unless amended as suggested above.

Sincerely yours,

THOMAS E. KAUPER,
Assistant Attorney General Antitrust Division.

FOOTNOTES

[1] See 2 R. Callman, Unfair Competition, Trademarks & Monopolies, § 60.2 at 505, 507 (3d ed. 1975).

[2] The *INS* decision predates *Erie R.R. Co.* v. *Tompkins,* 304 U.S. 64 (1938), and is thus no longer binding on federal courts.

[3] *Sears, Roebuck & Co.* v. *Stiffel Co.,* 376 U.S. 225 (1964); *Compco Corp.* v. *Day-Brite Lighting,* 376 U.S. 234 (1964).

[4] Under *Erie,* federal courts are to apply local law to non-federal causes of action.

[5] Cases reviewed in Kaplan & Brown, Cases on Copyright, Unfair Competition, and Other Topics 614–19 (2d ed. 1974).

[6] Such vague language, of course, may present serious due process problems under the United States Constitution. See *United States* v. *Cardiff,* 344 U.S. 174 (1952); *United States* v. *Evans,* 333 U.S. 483 (1948).

[7] Act of October 15, 1971, Pub. L. 92–140, 85 Stat. 391.

[8] Paragraph (4) as drafted was suggested by Deputy Assistant Attorney General Irwin Goldbloom of the Civil Division of the Department of Justice in his testimony at hearings in the House of Representatives regarding H.R. 2223, the House omnibus copyright bill. The undue scope of paragraph (4) was just recently recognized. The amendment suggested below more precisely implements the Department's concern expressed by Dep-

uty Assistant Attorney General Goldbloom at the hearings and the purpose for his suggestion at that time, that state anti-piracy laws relating to pre-1972 recordings not be preempted.

DEPARTMENT OF JUSTICE,
Washington, D.C., February 18, 1976.
Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCOTT: This letter is submitted pursuant to a request from a member of your staff for the views of the Department of Justice regarding Title II of the proposed omnibus Copyright Act revision bills, S. 22, 94th Cong., 1st Sess. (1975), as reported out of the Judiciary Committee on November 20, 1975.

The Department of Justice opposes Title II of S. 22, entitled "The Design Protection Act of 1975," as it has similar legislation in the past. The Department recently voiced its opposition to Title II of H.R. 2223, the parallel omnibus Copyright Act revision bill in the House, at hearings held on that bill on May 8, 1975.

Title II would provide a new type of monopoly protection, different from either copyright or design patent, for ornamental design features of useful articles. Protection would be given for the decorative features of almost all useful articles, such as furniture, appliances, and cars. The protection would extend for a five-year, once-renewable period. Remedies would include injunctions, damages and attorney's fees.

Design patent protection is presently afforded these designs by 35 U.S.C. 171–173 if they meet the criteria for patents including novelty and unobviousness over the prior art (35 U.S.C. 102, 103). Copyright protection is presently not afforded these designs unless they can exist separately from the useful article and may be considered a "work of art" (17 U.S.C. 5(g), 37 C.F.R. 202.10(c)).

Enactment of the proposed legislation would provide statutory protection for designs that are currently not subject to either patent or copyright protection, provide an alternate form of protection for subject matter currently subject to design patent protection, and provide an additional form of protection for copyrighted subject matter used in a useful article.

This legislation would create a hybrid form of statutory monopoly—between design patents and copyrights. In contrast, however, with the design patent law (35 U.S.C. 171–173) and the Copyright Office regulations (37 C.F.R. 202.10), protection would be afforded to registered designs without regard to the degree of creativity or the authorship involved.

Enactment of Title II would likely substantially increase the cost to the public for many useful articles. The copier may perform a number of economically useful functions which deserve encouragement. He may simply produce the useful article at a lower cost. He may achieve wider distribution. He may couple the design with some other useful article. He may do none of these, but by merely providing competition he may force lower profit margins and greater efficiency.

The protection afforded by Title II would not likely appreciably encourage the creation of ornamental designs of useful articles to the benefit of the public. Observation indicates that manufacturers are eager to create good ornamental designs. Stiffel's creation of the pole lamp was undoubtedly highly profitable and the rewards available from being first with a new design are substantial.[1] Had Sears been forced to create a new design for a pole lamp would the public have benefitted in the slightest? The individual who originates an ornamental design protected by Title II would likely rarely benefit from the protection. His corporate employer might enjoy monopoly profits, but the salaried designer is not likely to be stimulated to be more creative thereby.

Design protection would likely restrict healthy competition. An established company in a field would be in a position to harass newcomers with the claim that registered designs were being infringed. Could not General Motors have protected the tail fin, the fast back, and so many other design elements as to force its competitors to build ugly or unattractive cars? Probably even that distinctive Volkswagen styling would be protectable. If tail fins are popular, we think it very healthy that auto companies be able to make cars with tail fins. We believe monopolies on what are basically utilitarian articles should be limited to those which protect inventions meeting the requirements for patentability. The opportunities to restrict others from competing afforded by Title II are immense without any commensurate benefits to the public.

To omit federal statutory protection for the form of a useful object is not to deny the originator of that form any remedy whatsoever.

Originators of designs for useful objects receive protection for their designs when they prove that the public is damaged by the copying, *i.e.*, competitors are passing off goods as the originator's by copying the product's design. See *Crescent Tool Co.* v. *Kilborn & Bishop Co.*, 247 Fed 299 (2d Cir 1917). See also *Sears, Roebuck & Co.* v. *Stiffel Co.*, 376 U.S. 225 (1964), and *Compco Corp.* v. *Day-Brite Lighting, Inc.*, 376 U.S. 234 (1964).

In addition, there is a constitutional question as to whether the designs intended to be protected are "discoveries" or "writings" within the meaning of the Patent and Copyright Clause of the Constitution, Article I, section 8, clause 8, which would be essential to support the legislative authority in enacting this bill. Title II would protect almost any design not copied from another source, a lesser standard for protection than the standard of invention which has been required as a condition of patentability for both design and utility patents. 35 U.S.C. 171, 102, 103; see *Hotchkiss* v. *Greenwood*, 11 How. 248 (1851). The Supreme Court's recent discussion of the Patent and Copyright Clause suggested that the traditional requirement of invention as a condition of patentability reflected a limitation of power inherent in the constitutional clause itself. *Graham* v. *John Deere Co.*, 383 U.S. 1, 9 (1966). In granting statutory protection to designs not amounting to an invention, Title II might be held beyond the power granted to Congress by Article I, section 8, clause 8.

It is equally questionable whether Title II would fall within Congress' power to protect the "writings" of "authors". The question whether a *commercial* design constitutes "writings" subject to copyright protection under the Constitution has not been decided by the Supreme Court. The *Graham* opinion's recognition of the limitations on Congress' power under the Patent and Copyright Clause, and the separate opinion of Mr. Justice Douglas in *Mazer* v. *Stein*, 347 U.S. 201, 219 (1954), suggest the substantiality of this constitutional question. Since Title II is not limited to transactions in or affecting interstate commerce, it cannot be supportable under the Commerce Clause. See *Trade-Mark Cases*, 100 U.S. 82 (1879).

Quite apart from our opposition to the merits of Title II, we also oppose enactment of the design protection provisions of Title II which would provide a new class of actions against the United States. Title II proposes to amend Section 1498(a) to add the new type of design copyrights to the remedies available against the United States to inventors who have been issued United States patents when they are used by the United States without authorization of the owner. For example, by amending Section 1498(a) in this way, the Congress will be creating a completely new problem area fraught with difficulties, for government contracts would now be faced with the necessity of designing around the "packaging looks" of a product covered by a design copyright which may not rise to the stature of patentable novelty and invention under the patent laws. Thus, the "non-utilitarian looks" of a vehicle which may not be protectable as a design patent would be given copyright-type protection under Title II. We, therefore, strongly oppose the new type of protection proposed by Title II.

Section 1498(a) is also amended to provide for the first time for suits against the United States for unauthorized use of inventions, whether patented or unpatented. Thus, it would appear to permit a suit based on a trade secret containing an unpatented invention. This, also, we strongly oppose as inconsistent with limiting claims against the United States in 28 U.S.C. 1498 to those recognized by the patent and copyright laws. No adequate showing has been made that this type of protection, on balance, is in the public interest.

The provision in Section 220 of Title II whereby simultaneous suit can be filed against the Administrator who carries out the provisions of Title II (§ 230) *and* an alleged infringer of the design is believed undesirable, and deserves specific comment. It subjects an alleged infringer to suit in the same action even though the threshold question whether a certificate can issue under the provisions of the law has not been decided as between the Administrator and the applicant for registration. While it is not likely that the issuance of certificates of registration will be frequently refused if certain basic requisites of applications are met, nevertheless, if a situation should arise of a refusal of issuance of a certificate or registration by an Administrator, this should require a separate and distinctive action to secure issuance thereof. The present proposal encourages and condones harassment of competitors based on an ungranted right, and is thus highly anticompetitive. Furthermore, governmental functions should not normally be mixed with the proprietary enforcement functions of court in adjudicating private rights and remedies.

For these reasons, the Department of Justice is opposed to enactment of Title II.

Sincerely,

MICHAEL M. UHLMANN,
Assistant Attorney General.

COPYRIGHT RECOGNITION OF PERFORMANCE RIGHTS

Mr. WILLIAMS. Mr. President, while I am delighted at the prospect that copyright revision will take place this year, I am deeply disappointed that the Senate is not including a very important provision at this time.

I refer to recognition of performance rights. This is something I have championed, along with the distinguished minority leader, for many years—nearly a decade. It grieves me that this has been laid aside.

In the interest of the desire of the Senate to dispose of S. 22 as quickly as possible and because the performance right is being considered, I shall not propose an amendment to S. 22 at this time.

However, I hope that the Judiciary Committee will move rapidly to report S. 1111, which I have cosponsored, and on which the distinguished minority leader has held hearings.

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[1] See *Sears, Roebuck & Co.* v. *Stiffel Co.*, 376 U.S. 225 (1964).

It is a most serious deficiency that recording companies, artists, and musicians receive no payments when their creativity is exploited by others for profit. Recorded music is used by many to enhance their own profits. The composers and publishers of the music itself receive royalties for these uses, but the singers, instrumentalists, and record companies that make it all possible receive no payment whatever.

The National Endowment for the Arts, the Copyright Office, the AFL–CIO, American Federation of Musicians, American Federation of Television and Radio Artists, Council of Professional Employees, Actors Equity Association, Associated Councils of the Arts, and the Recording Industry Association of America all enthusiastically support the performance right and a performance royalty. They are correct. So far, the Congress has been in error in not providing a royalty for this exploitation. I hope we move to correct it as soon as possible.

COPYRIGHT PROTECTION AND PUBLIC BROADCASTING

Mr. HUMPHREY. Mr. President, with respect to legislation pending in the Senate to provide for a long overdue revision of the copyright law, serious disagreement has been expressed over the adequacy and effectiveness of section 118, which establishes a limitation on exclusive rights in copyrighted works, for public broadcasting of nondramatic literary and musical works, pictorial, graphic, and sculptural works.

An editorial in the New York Times of February 17, 1976, stated in part:

> Allowing public broadcasting stations to use literary, musical and graphic material without consent would abridge freedom of expression and introduce an unacceptable form of government control over literary and artistic works. It would not accord with the Constitution's goal of protecting, not destroying, author's rights.

However, in remarks in the Senate on February 16, Senator PASTORE presented a strong case on the other side of this issue. His basic point was that without section 118, public broadcasting stations would be at a serious disadvantage in competing with commercial stations. They would remain dependent upon limited appropriations enacted by Congress and on public contributions. But, in the view of Senator PASTORE, these limited financial resources, in the absence of section 118, would be improperly diverted and possibly exhausted over a short term, in the negotiation and payout of royalty fees to copyright owners for the use of works in public educational programs.

In his remarks, Senator PASTORE also made reference to amendment 1383 to S. 22, jointly introduced by myself, Senator CRANSTON and Senator BUCKLEY. This amendment was introduced on February 5, 1976, in the expectation that action on S. 22 was imminent and that it would not be possible to draft extensive revisions to section 118 to meet the chief objection that, as reported to the Senate, it did not provide adequate protection of a copyright owner's rights.

Therefore, our amendment only dealt with certain categories of works over which serious controversy had arisen. It proposed the deletion of "nondramatic literary works, pictorial, graphic, or sculptural works" from coverage under section 118.

There has, however, been a serious misunderstanding in some quarters about the intent of that amendment. In point of fact, the intent of the sponsors has been that the legislative machinery of section 118 remain in place. It would continue to operate with respect to nondramatic musical works, providing for a compulsory licensing system addressed to the needs of public broadcasting entities. There is an apparent consensus that musical works constitute a separate category of interest—where the number of performances of these works by communications media is a key component in establishing the quantitative value of their copyright and is therefore in the interest of composers and artists.

However, it was my further expectation that by maintaining the framework of section 118, there would be an opportunity for subsequent careful deliberation of appropriate amendments to this section to assure the effective protection of exclusive rights in copyrighted works.

Serious time constraints in legislative action on S. 22 necessitated an accommodation in the proposal of a compromise provision, whereby a copyright owner may serve notice of objection within 21 days to the use of his or her work. This would, in part, have addressed the serious concerns of many authors and publishers over what they view as a denial of adequate copyright protection under section 118 as reported to the Senate. Regretfully, the Senate failed to sustain this proposal.

It is my serious hope that prior to final enactment of S. 22, there will be in-depth consideration in Congress of the concerns of copyright owners about section 118, with a view to incorporating further corrective amendments. For this purpose, I take this opportunity to state my views on the issues surrounding section 118, and to suggest legislative changes which would represent an essential first step in feasible and practical measures toward protecting the vital interests of both public broadcasting entities and copyright owners and enabling the fair and efficient administration of section 118.

Section 118 sets up a unique limitation on exclusive rights in copyrighted works—section 106—where a public broadcasting entity would be able to broadcast any nondramatic literary or musical work, pictorial, graphic, or sculptural work, by using a so-called compulsory licensing system.

There is a somewhat similar compulsory licensing system under other sections of the bill—cable TV—section 111—phonorecord production—section 115—and "juke-boxes"—section 116. However, these sections deal with situations that are different in kind—a simple retransmission of TV signal, or phonorecord production and performance of nondramatic musical compositions, where licenses have been recorded previously with the copyright owner's consent—as distinct from licenses for the use of works in the production and origination of programs, under section 118. Moreover, these sections all deal with musical compositions, whose value and the author's compensation are directly connected with the number of performances. By contrast, the value of a nondramatic literary work cannot be equated with performance repetition.

Section 118 was originally introduced by Senator MATHIAS in the 93d Congress, but was deferred for further study. Senator MATHIAS reintroduced the amendment in the 94th Congress. The amendment was not included in the version of S. 22 reported to the Judiciary Committee by the Subcommittee on Patents, Trademarks, and Copyrights, partly in light of then current negotiations between representatives of public broadcasting and of copyright proprietors toward reaching voluntary agreements. These negotiations failed to resolve all issues. Subsequently, by majority vote, the Judiciary Committee incorporated the Mathias amendment in S. 22 as reported to the Senate.

This is how the system would work under section 118:

A public broadcasting station would file for a license to use a designated work, with the Copyright Office. It would also periodically file a statement of account of royalty fees based on predetermined royalty rates. Royalty rates would be set by a Copyright Royalty Tribunal—section 801. Provision is made for subsequent rate adjustment.

The Copyright Royalty Tribunal would be established in the Library of Congress, and it would be composed of members of the American Arbitration Association, should there be no serious objection to nominees by all parties of interest. Public broadcasting stations and copyright owners—or their agents—could reach a particular or general license agreement in lieu of the compulsory license—but, in general, the compulsory license system would be followed.

Each year, in July, every person claiming to be entitled to compulsory license royalty fees for public broadcasting of his or her copyrighted work during the preceding 12-month period, would file a claim for payment with the Register of Copyrights. The Register of Copyrights would distribute fees in August, where claims match up with public broadcasting statements of account. But if there is a controversy, the Copyright Royalty Tribunal would decide the case.

Under existing copyright law, public broadcasting stations enjoy an exemption as "not-for-profit."

Without section 118, and under S. 22 thus amended, public broadcasting stations would be required to find copyright owners of the aforementioned works and negotiate royalties with each one in the free market, as the commercial sector of communications media must do.

Section 118 establishes a midpoint for public broadcasting stations, between exemption and full-scale competition with commercial stations. Public broadcasting stations say they need this provision in order to survive economically—that with small staffs and limited budgets they cannot begin to locate copyright owners and negotiate fees. Moreover, they contend, the major purpose of their use of the above-cited works is educational—therefore, in the public interest—and that without section 118, educational programs must be severely cut back.

Throughout my service in the Senate, I have strongly supported legislation creating and encouraging the development of public broadcasting services. The educational, cultural, and information programs of public broadcasting television and radio stations have been of vital importance to our people in Minnesota and throughout the Nation. They have been an invaluable forum for creative artistic talent and for the balanced, in-depth analysis of public issues. And these stations have been committed to encouraging public participation in their financing and programing.

Therefore, I continue to believe it is in the public interest to assure a significant role for public broadcasting services in our communications media.

However, while recognizing the problems that may confront public broadcasting entities in achieving access to copyrighted materials, I have concluded that, on balance, there must be better protection afforded than under section 118, of the rights in copyrighted works.

Opponents of section 118—the Association of American Publishers, the Authors League of America, agents maintaining collections of still photographs—such as Time, Inc.—and, most recently, the National Council on the Arts—say this section is unsound, unnecessary, and unworkable.

The Register of Copyrights has stated that it seriously erodes the exclusive rights of authors and copyright proprietors.

Last year, before a House Copyright Subcommittee, the Register of Copyrights stated that while she strongly opposed the application of compulsory licensing of any kind for public broadcasting, her primary concern was quite clearly on the impact of such compulsion on literary works. She said in part:

> The Copyright Office is not convinced that any compulsory license is necessary for public broadcasting. If Congress considers that some sort of compulsory licensing is needed, we believe that it should be confined to music. . . . The loss of control by authors over the use of their works in a major mass communications medium, and the dangers of State Control and loss of freedom of expression implicit in the proposed system, would probably be too high a price to pay, even if public broadcasting were being severely hampered by the legal obligation to get clearances.

John Hersey, the president of the Authors League of America, in a statement submitted to the permanent Subcommittee on Investigations during its consideration of the American role in encouraging respect for the freedom to write and to publish in the international community, stated, in part:

> The United States cannot encourage "respect for the freedom to write and publish" if it expropriates fundamental rights of authors, if it empowers government agencies to license the use of books and poetry in various media without the permission of their authors. Yet some proposed changes in our copyright act would do just that. . . . (An amendment presented by Senator Mathias (Sec. 118 of S. 22) . . . would expropriate literary materials for use on public television and radio, with fees to be fixed by a government agency. Authors would be deprived of their rights to determine whether and on what terms their works should be used on these mass media. . . .

It is contended that this section is unnecessary because the problem can be resolved by private agreements—even though extended negotiations have left some issues unresolved.

And, section 118 is unworkable, according to the Register of Copyrights, because of "the failure to establish any statutory royalty"—in contrast to specified royalties under sections 111, 115, and 116. It may be argued that these sections have the benefit of extensive precedent, whereas section 118 deals with a totally new situation. But this argument does not address the chief complaint that guidelines for the calculation of royalty fees—"per-use, per-program, prorated or annual basis"—are vague, irrelevant to the value of individual works, and thus susceptible of extended controversy or litigation.

As an alternative to the compulsory license system of section 118, representatives of publishers and authors have offered a five-point voluntary license system:

First, the use of a standard one-page license form by public broadcasting stations;

Second, publishers and authors would establish by agreement an expediting center or clearinghouse to expedite the handling of requests for the use of copyrighted material by public broadcasting stations;

Third, a quantitative definition of "fair use" would be applied for purposes of public broadcasting;

Fourth, discussion of a standard fee schedule, provided there is statutory protection for such private agreements against antitrust violations; and

Fifth, broad exemptions would be granted for the use of copyrighted material in public broadcasting programs for the blind and the deaf.

The key argument against section 118 is that the fundamental rights of a copyright owner must be protected. The owner should have the right to say whether his or her work will be reproduced, performed, or displayed, and to negotiate a reasonable fee. Others should not derive profit, directly or indirectly, without the copyright owner's consent to their use of a work that is the product of his or her creation and labor. Freedom to write and publish, and the safeguard of due process, would for the first time have a major limitation placed upon them by law, under section 118.

It is recognized that public broadcasting television and radio stations, operating to serve the public interest rather than directly to make a profit, do confront practical problems of staff, time, and funds required to obtain clearances from, and negotiate fees with, each owner of a copyright, or agents of owners. These problems may have been overstated by public broadcasting interests, and they may be somewhat mitigated by the judicial doctrine of "fair use," given statutory recognition for the first time in section 107 of S. 22, as a limitation on exclusive rights in copyrighted works. However, in the absence of agreement after extended negotiations, certain problems do remain and must be resolved.

The issue at hand is whether section 118 as presently written is the appropriate statutory vehicle for resolving the need of public broadcasting entities to have broad access to copyrighted materials at reasonable royalties and without protracted delays in obtaining permissions from copyright owners, while at the same time preventing the erosion of exclusive rights of authors, photographers, artists and copyright proprietors. It is my view that this balance has not been acheived, and that the vagueness of proposed statutory language would make this section exceptionally difficult to administer.

There are several legislative provisions that require consideration toward facilitating the achievement of a balance of equity between public broadcasting entities and copyright proprietors, and achieving greater clarity in legislative intent.

First, section 118 should call for the achievement of a voluntary agreement, within 6 months after the enactment of S. 22, between public broadcasting entities and copyright owners or their representatives or licensing agents. This agreement would cover procedures for a system of application for license for use of copyrighted works by public broadcasting entities; the negotiation of royalty fees for each category of work; and procedures for the deposit of royalty fees with the Register of Copyrights, and the subsequent distribution of fees. An exception would be made under the antitrust laws to permit the private negotiation of royalty fees to be paid to copyright owners.

Second, if this agreement is not achieved, an alternate provision should automatically go into effect at the end of the 6-month term. This would provide for a system of compulsory licensing for the use of the previously-mentioned copyrighted works by public broadcasting entities.

However, there would be several requirements in the operation of this system.

First. A public broadcasting entity would be required to notify a copyright owner of its intention to apply for a license to use his or her work, at least 30 days in advance of the intended use. The copyright owner would have 14 days, after service of this notice, to serve a notice of objection on the public broadcasting entity and the Copyright Office.

Second. A public broadcasting entity would be required to file with the Copyright Office, at intervals and in accordance with requirements prescribed by the Register of Copyrights, a report listing each broadcast of a copyright work, the type of program in which such work was used, the applicable royalty rate, and other pertinent information. Copies of these reports would be sent to each respective copyright owner, along with a blank form, as prescribed by the Register, to facilitate the copyright owner's subsequent filing of a claim for payment of compulsory licensing fees. These reports would be in addition to the periodic statements of account to be filed with the Register by public broadcasting entities, as provided under section 118 as reported to the Senate.

Third. If a public broadcasting entity should fail to file such periodic reports, this would be treated as an infringement of copyright, entitling the copyright owner adversely affected to bring an action at law as provided under section 504 of S. 22.

These legislative improvements of section 118 can help establish a reasonable balance between the interests of public broadcasting entities and copyright owners.

Parties of interest have recommended further modifications of this and related sections—for example, with respect to the time and method of payment of royalty fees; the assessment of administrative expenses; the time of inception of royalty obligations; and broadening the scope of judicial review of actions by the Copyright Royalty Tribunal under section 809, particularly with respect to the determination of royalty fees. Subsequent committee consideration should be devoted to these recommendations.

But the legislative changes which I have described in detail represent an essential first step in feasible and practical measures.

Mr. President, let me conclude by expressing my sincere commendation to the Committee on the Judiciary for the highly significant work which has been done over many months toward accomplishing a vitally needed revision of the copyright law to address the complete requirements of these modern times.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment.

Mr. McCLELLAN. Mr. President, if there be no further amendments, I ask for third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I ask unanimous consent that my assistant, Al From, be accorded privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Illinois (Mr. STEVENSON) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nevada (Mr. LAXALT) and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—97

Abourezk
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stone
Symington
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—3

Laxalt
Stevenson
Taft

So the bill (S. 22) was passed, as follows:

S. 22

An act for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GENERAL REVISION OF COPYRIGHT LAW

SEC. 101. Title 17 of the United States Code, entitled "Copyrights", is hereby amended in its entirety to read as follows:

TITLE 17—COPYRIGHTS

CHAPTER

1. SUBJECT MATTER AND SCOPE OF COPYRIGHT.
2 COPYRIGHT OWNERSHIP AND TRANSFER.
3. DURATION OF COPYRIGHT.
4. COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION.
5. COPYRIGHT INFRINGEMENT AND REMEDIES.
6. MANUFACTURING REQUIREMENT AND IMPORTATION.
7. COPYRIGHT OFFICE.
8. COPYRIGHT ROYALTY TRIBUNAL.

Chapter 1.—SUBJECT MATTER AND SCOPE OF COPYRIGHT

Sec.

101. Definitions.
102. Subject matter of copyright: In general.
103. Subject matter of copyright: Compilations and derivative works.
104. Subject matter of copyright: National origin.
105. Subject matter of copyright: United States Government works.
106. Exclusive rights in copyrighted works.
107. Limitations on exclusive rights: Fair use.
108. Limitations on exclusive rights: Reproduction by libraries and archives.
109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord.
110. Limitations on exclusive rights: Exemption of certain performances and displays.
111. Limitations on exclusive rights: Secondary transmissions.
112. Limitations on exclusive rights: Ephemeral recordings.
113. Scope of exclusive rights in pictorial, graphic, and sculptural works.
114. Scope of exclusive rights in sound recordings.
115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords.
116. Scope of exclusive rights in nondramatic musical works: Public performances by means of coin-operated phonorecord players.
117. Scope of exclusive rights: Use in conjunction with computers and similar information systems.
118. Limitations of exclusive rights: Public broadcasting of nondramatic literary and musical works, pictorial, graphic, and sculptural works.

§ 101. Definitions

As used in this title, the following terms and their variant forms mean the following:

An "anonymous work" is a work on the copies or phonorecords of which no natural person is identified as author.

"Audiovisual works" are works that consist of a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.

The "best edition" of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.

A person's "children" are his immediate offspring, whether legitimate or not, and any children legally adopted by him.

A "collective work" is a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.

A "compilation" is a work formed by the collection and assembling of pre-existing materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship. The term "compilation" includes collective works.

"Copies" are material objects, other than phonorecords, in which a work is fixed by any method now known or later developed, and from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "copies" includes the material object, other than a phonorecord, in which the work is first fixed.

"Copyright owner", with respect to any one of the exclusive rights comprised in a copyright, refers to the owner of that particular right.

A work is "created" when it is fixed in a copy or phonorecord for the first time; where a work is prepared over a period of time, the portion of it that has been fixed at any particular time constitutes the work as of that time, and where the work has been prepared in different versions, each version constitutes a separate work.

A "derivative work" is a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications which, as a whole, represent an original work of authorship, is a "derivative work".

A "device", "machine", or "process" is one now known or later developed.

To "display" a work means to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process or, in the case of a motion picture or other audiovisual work, to show individual images nonsequentially.

A work is "fixed" in a tangible medium of expression when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds, images, or both, that are being transmitted, is "fixed" for purposes of this title if a fixation of the work is being made simultaneously with its transmission.

The terms "including" and "such as" are illustrative and not limitative.

A "joint work" is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.

"Literary works" are works, other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the materials objects, such as books, periodicals, manuscripts, phonorecords, or film, in which they are embodied.

"Motion pictures" are audiovisual works consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

To "perform" a work means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its imagines in any sequence or to make the sounds accompanying it audible.

"Phonorecords" are material objects in which sounds, other than those accompanying a motion picture or other audiovisual work, are fixed by any method not know or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "phonorecords" includes the material object in which the sounds are first fixed.

"Pictorial, graphic, and sculptural works" include two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproductions, maps, globes, charts, plans, diagrams, and models.

A "pseudonymous work" is a work on the copies or phonorecords, of which the author is identified under a fictitious name.

"Publication" is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication.

To perform or display a work "publicly" means:

(1) to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered; or

(2) to transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times.

"Sound recordings" are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work, regardless of the nature of the material objects, such as disks, tapes, or other phonorecords, in which they are embodied.

"State" includes the District of Columbia and the Commonwealth of Puerto Rico, and any territories to which this title is made applicable by an act of Congress.

A "transfer of copyright ownership" is an assignment, mortgage, exclusive license, or any other conveyance, alienation, or hypothecation of a copyright or of any of the exclusive rights comprised in a copyright, whether or not it is limited in time or place of effect, but not including a nonexclusive license.

A "transmission program" is a body of material that, as an aggregate, has been produced for the sole purpose of transmission to the public in sequence and as a unit.

To "transmit" a performance or display is to communicate it by any device or process whereby images or sounds are received beyond the place from which they are sent.

The "United States", when used in a geographical sense, comprises the several States, the District of Columbia and the Commonwealth of Puerto Rico, and the organized territories under the jurisdiction of the United States Government.

A "useful article" is an article having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article that is normally a part of a useful article is considered a "useful article".

The author's "widow" or "widower" is the author's surviving spouse under the law of his domicile at the time of his death, whether or not the spouse has later remarried.

A "work of the United States Government" is a work prepared by an officer or employee of the United States Government as part of his official duties.

A "work made for hire" is:

(1) a work prepared by an employee within the scope of his employment; or

(2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, as a photographic or other portrait of one or more persons, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.

A "supplementary work" is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes. An "instructional text" is a literary, pictorial, or graphic work prepared for publication with the purpose of use in systematic instructional activities.

§ 102. Subject matter of copyright: In general

(a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

(1) literary works;

(2) musical works, including any accompanying words;

(3) dramatic works, including any accompanying music;

(4) pantomimes and choreographic works;

(5) pictorial, graphic, and sculptural works;

(6) motion pictures and other audiovisual works; and

(7) sound recordings.

(b) In no case does copyright protection for an original work of authorship extend to any idea, plan, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

§ 103. Subject matter of copyright: Compilations and derivative works

(a) The subject matter of copyright as specified by section 102 includes compilations and derivative works, but protection for a work employing preexisting material in which copyright subsists does not extend to any part of the work in which such material has been used unlawfully.

(b) The copyright in a compilation or derivative work extends only to the material contributed by the author of such work, as distinguished from the preexisting material employed in the work, and does not imply any exclusive right in the preexisting material. The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the preexisting material.

§ 104. Subject matter of copyright: National origin

(a) UNPUBLISHED WORKS.—The works specified by section 102 and 103, while unpublished, are subject to protection under this title without regard to the nationality or domicile of the author.

(b) PUBLISHED WORKS.—The works specified by sections 102 and 103, when published, are subject to protection under this title if—

(1) on the date of first publication, one or more of the authors is a national or domiciliary of the United States, or is a national, domiciliary, or soveregin authority of a foreign nation that is a party to a copyright treaty to which the United States is also a party; or

(2) the work is first published in the United States or in a foreign nation that, on the date of first publication, is a party to the Universal Copyright Convention of 1952; or

(3) the work is first published by the United Nations or any of its specialized agencies, or by the Organization of American States; or

(4) the work comes within the scope of a Presidential proclamation. Whenever the President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States or to works that are first published in the United States, copyright protection on substantially the same basis as that on which the foreign nation extends protection to works of its own nationals and domiciliaries and works first published in that nation, he may by proclamation extend protection under this title to works of which one or more of the authors is, on the date of first publication, a national, domiciliary, or sovereign authority of that nation, or which was first published in that nation. The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection under a proclamation.

§ 105. Subject matter of copyright: United States Government works

Copyright protection under this title is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise.

§ 106. Exclusive rights in copyrighted works

Subject to sections 107 through 118, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

(1) to reproduce the copyrighted work in copies or phonorecords;

(2) to prepare derivative works based upon the copyrighted work;

(3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

(4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly; and

(5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.

§ 107. Limitations on exclusive right: Fair use

Notwithstanding the provisions of section 106, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching, scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

(1) the purpose and character of the use;

(2) the nature of the copyrighted work;

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

§ 108. Limitations on exclusive rights: Reproduction by libraries and archives

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work, or to distribute such copy or phonorecord, under the conditions specified by this section, if:

(1) the reproduction or distribution is made without any purpose of direct or indirect commercial advantage;

(2) the collections of the library or archives are (i) open to the public, or (ii) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field; and

(3) the reproduction or distribution of the work includes a notice of copyright.

(b) The rights of reproduction and distribution under this section apply to a copy or phonorecord of an unpublished work duplicated in facsimile form solely for purposes of preservation and security or for deposit for research use in another library or archives of the type described by clause (2) of subsection (a), if the copy or phonorecord reproduced is currently in the collections of the library or archives.

(c) The right of reproduction under this section applies to a copy or phonorecord of a published work duplicated in facsimile form solely for the purpose of replacement of a copy or phonorecord that is damaged, deteriorating, lost, or stolen, if the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price.

(d) The rights of reproduction and distribution under this section apply to a copy, made from the collection of a library or archives where the user makes his request or from that of another library or archives, of no more than one article or other contribution to a copyrighted collection or periodical issue, or to a copy or phonorecord of a small part of any other copyrighted work, if;

(1) the copy becomes the property of the user, and the library or archives has had no notice that the copy would be used for any purpose other than private study, scholarship, or research; and

(2) the library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(e) The rights of reproduction and distribution under this section apply to the entire work, or to a substantial part of it, made from the collection of a library or archives where the user makes his request or from that of another library or archives, if the library or archives has first determined, on the basis of a reasonable investigation, that a copy or phonorecord of the copyrighted work cannot be obtained at a fair price, if:

(1) the copy becomes the property of the user, and the library or archives has had no notice that the copy would be used for any purpose other than private study, scholarship, or research; and

(2) the library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(f) Nothing in this section—

(1) shall be construed to impose liability for copyright infringement upon a library or archives or its employees for the unsupervised use of reproducing equipment located on its premises, provided that such equipment displays a notice that the making of a copy may be subject to the copyright law;

(2) excuses a person who uses such reproducing equipment or who requests a copy under subsection (d) from liability for copyright infringement for any such act, or for any later use of such copy, if it exceeds fair use as provided by section 107;

(3) in any way affects the right of fair use as provided by section 107, or any contractual obligations assumed at any time by the library or archives when it obtained a copy or phonorecord of a work in its collections; or

(4) shall be construed to limit the reproduction and distribution of a limited number of copies and excerpts by a library or archives of an audiovisual news program subject to clauses (1), (2), and (3) of subsection (a).

(g) The rights of reproduction and distribution under this section extend to the isolated and unrelated reproduction or distribution of a single copy or phonorecord of the same material on separate occasions, but do not extend to cases where the library or archives, or its employee:

(1) is aware or has substantial reason to believe that it is engaging in the related or concerted reproduction or distribution of multiple copies or phonorecords of the same material, whether made on one occasion or over a period of time, and whether intended for aggregate use by one or more individuals or for separate use by the individual members of a group; or

(2) engages in the systematic reproduction or distribution of single or multiple copies or phonorecords of material described in subsection (d).

(h) The rights of reproduction and distribution under this section do not apply to a musical work, a pictorial, graphic or sculptural work, or a motion picture or other audiovisual work other than an audiovisual work dealing with news, except that no such limitation shall apply with respect to rights granted by subsections (b) and (c).

§ 109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord

(a) Notwithstanding the provisions of section 106(3), the owner of a particular copy or phonorecord lawfully made under this title, or any person authorized by him, is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord.

(b) Notwithstanding the provisions of section 106(5), the owner of a particular copy lawfully made under this title, or any person authorized by him, is entitled, without the authority of the copyright owner, to display that copy publicly, either directly or by the projection of no more than one image at a time, to viewers present at the place where the copy is located.

(c) The privileges prescribed by subsections (a) and (b) do not, unless authorized by the copyright owner, extend to any person who has acquired possession of the copy or phonorecord from the copyright owner, by rental, lease, loan, or otherwise, without acquiring ownership of it.

§ 110. Limitations on exclusive rights: Exemption of certain performances and displays

Notwithstanding the provisions of section 106, the following are not infringements of copyright:

(1) performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for

the performance knew or had reason to believe was not lawfully made;

(2) performance of a nondramatic literary or musical work or display of a work, by or in the course of a transmission, if:

(A) the performance or display is a regular part of the systematic instructional activities of a governmental body or a nonprofit educational institution; and

(B) the performance or display is directly related and of material assistance to the teaching content of the transmission; and

(C) the transmission is made primarily for:

(i) reception in classrooms or similar places normally devoted to instruction, or

(ii) reception by persons to whom the transmission is directed because their disabilities or other special circumstances prevent their attendance in classrooms or similar places normally devoted to instruction, or

(iii) reception by officers or employees of governmental bodies as a part of their official duties or employment;

(3) performance of a nondramatic literary or musical work or of a dramatico-musical work of a religious nature, or display of a work, in the course of services at a place of worship or other religious assembly;

(4) performance of a nondramatic literary or musical work otherwise than in a transmission to the public, without any purpose of direct or indirect commercial advantage and without payment of any fee or other compensation for the performance to any of its performers, promoters, or organizers, if:

(A) there is no direct or indirect admission charge, or

(B) the proceeds, after deducting the reasonable costs of producing the performance, are used exclusively for educational, religious, or charitable purposes and not for private financial gain, except where the copyright owner has served notice of his objections to the performance under the following conditions:

(i) the notice shall be in writing and signed by the copyright owner or his duly authorized agent; and

(ii) the notice shall be served on the person responsible for the performance at least seven days before the date of the performance, and shall state the reasons for his objections; and

(iii) the notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation;

(5) communication of a transmission embodying a performance or display of a work by the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes, unless:

(A) a direct charge is made to see or hear the transmission; or

(B) the transmission thus received is further transmitted to the public;

(6) performance of a nondramatic musical work in the course of an annual agricultural or horticultural fair or exhibition conducted by a governmental body or a nonprofit agricultural or horticultural organization;

(7) performance of a nondramatic musical work by a vending establishment open to the public at large without any direct or indirect admission charge, where the sole purpose of the performance is to promote the retail sale of copies or phonorecords of the work and the performance is not transmitted beyond the place where the establishment is located; and

(8) performance of a literary work in the course of a broadcast service specifically designed for broadcast on noncommercial educational radio and television stations to a print or aural handicapped audience.

§ 111. Limitations on exclusive rights: Secondary transmissions

(a) CERTAIN SECONDARY TRANSMISSIONS EXEMPTED.—The secondary transmission of a primary transmission embodying a performance or display of a work is not an infringement of copyright if:

(1) the secondary transmission is not made by a cable system, and consists entirely of the relaying, by the management of a hotel, apartment house, or similar establishment, of signals transmitted by a broadcast station licensed by the Federal Communications Commission, within the local service area of such station, to the private lodgings of guests or residents of such establishment, and no direct charge is made to see or hear the secondary transmission; or

(2) the secondary transmission is made solely for the purpose and under the conditions specified by clause (2) of section 110; or

(3) the secondary transmission is made solely for the purpose and under the conditions specified by clause (2) of section 110; or

(3) the secondary transmission is made by any carrier who has no direct or indirect control over the content or selection of the primary transmission or over the particular recipients of the secondary transmission, and whose activities with respect to the secondary transmission consist solely of providing wires, cables, or other communications channels for the use of others: *Provided*, That the provisions of this clause extend only to the activities of said carrier with respect to secondary transmissions and do not exempt from liability the activities of others with respect to their own primary or secondary transmission; or

(4) the secondary transmission is not made by a cable system but is made by a governmental body, or other nonprofit organization, without any purpose of direct or indirect commercial advantage, and without charge to the recipients of the secondary transmission other than assessments necessary to defray the actual and reasonable costs of maintaining and operating the secondary transmission service.

(b) SECONDARY TRANSMISSION OF PRIMARY TRANSMISSION TO CONTROLLED GROUP.—Except as provided by subsections (a) and (c), the secondary transmission to the public of a primary transmission embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, if the primary transmission is not made for reception by the public at large but is controlled and limited to reception by particular members of the public: *Provided, however*, That such secondary transmission is not actionable as an act of infringement if the carriage of the signals comprising the secondary transmission is required under the rules, regulations, or authorizations of the Federal Communications Commission.

(c) SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

(1) Subject to the provisions of clause (2) of this subsection, secondary transmissions to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission and embodying a performance or display of a work shall be subject to compulsory licensing upon compliance with the requirements of subsection (d) in the following cases:

(A) Where the signals comprising the primary transmission are exclusively aural and the secondary transmission is permissible under the rules, regulations or authorizations of the Federal Communications Commission; or

(B) Where the community of the cable system is in whole or in part within the local service area of the primary transmitter; or

(C) Where the carriage of the signals comprising the secondary transmission is permissible under the rules, regulations or authorizations of the Federal Communications Commission. (2) Notwithstanding the provisions of clause (1) of this subsection, the willful or repeated secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, in the following cases:

(A) Where the carriage of the signals comprising the secondary transmission is not permissible under the rules, regulations or authorizations of the Federal Communications Commission; or

(B) Where the cable system, at least one month before the date of the secondary transmission, has not recorded the notice specified by subsection (d).

(d) COMPULSORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

(1) For any secondary transmission to be subject to compulsory licensing under subsection (c), the cable system shall at least one month before the date of the secondary transmission or within 30 days after the enactment of this Act, whichever date is later, record in the Copyright Office a notice including a statement of the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it, together with the name and location of the primary transmitter or primary transmitters, and thereafter, from time to time, such further information as the Register of Copyrights shall prescribe by regulation to carry out the purposes of this clause.

(2) A cable system whose secondary transmissions have been subject to compulsory licensing under subsection (c) shall, during the months of January, April, July, and October, deposit with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation—

(A) a statement of account, covering the three months next preceding, specifying the number of channels on which the cable system made secondary transmissions to its subscribers, the names and locations of all primary transmitters whose transmissions were further transmitted by the cable system, the total number of subscribers to the cable system, the gross amounts paid to the cable system irrespective of source, and separate statements of the gross revenues paid to the cable system for advertising, leased channels, and cable-casting for which a per-program or per-channel charge is made, and by subscribers for the basic service of providing secondary transmissions of primary broadcast transmitters; and

(B) a total royalty fee for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during said period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

(i) ½ percent of any gross receipts up to $40,000;

(ii) 1 percent of any gross receipts totalling more than $40,000 but not more than $80,000;

(iii) 1½ percent of any gross receipts totalling more than $80,000, but not more than $120,000;

(iv) 2 percent of any gross receipts totalling more than $120,000, but not more than $160,000.

(v) 2 percent of any gross receipts totalling more than $160,000.

Where actual gross receipts paid by subscribers to a cable service total less than $40,000, gross receipts for the purpose of this subparagraph shall be computed by subtracting from such actual gross receipts the amount by which $40,000 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than $1,500.

(3) The royalty fees thus deposited shall be distributed in accordance with the following procedures;

(A) During the month of July in each year, every person claiming to be entitled to compulsory license fees for secondary transmissions made during the preceding twelve-month period shall file a claim with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation. Notwithstanding any provisions of the antitrust laws (as designated in section 1 of the Act of October 15, 1914, 38 Stat. 730, title 15, U.S.C., section 12, and any amendments of such laws), for purposes of this clause any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(B) After the first day of August of each year, the Register of Copyrights shall determine whether there exists a controversy concerning the statement of account or the distribution of royalty fees. If he determines that no such controversy exists, he shall, after deducting his reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If he finds the existence of a controversy he shall certify to that fact and proceed to constitute a panel of the Copyright Royalty Tribunal in accordance with section 803. In such cases the reasonable administrative costs of the Register under this section shall be deducted prior to distribution of the royalty fee by the Tribunal.

(C) During the pendency of any proceeding under this subsection, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(e) DEFINITIONS.—

As used in this section, the following terms and their variant forms mean the following:

A "primary transmission" is a transmission made to the public by the transmitting facility whose signals are being received and further transmitted by the secondary transmission service, regardless of where or when the performance or display was first transmitted.

A "secondary transmission" is the further transmitting of a primary transmission simultaneously with the primary transmission, or nonsimultaneously with the primary transmission if by a "cable system" not located in whole or in part within the boundary of the forty-eight contiguous States, Hawaii, or Puerto Rico: *Provided, however*, That a nonsimultaneous further transmission by a cable system located in a television market in Hawaii of a primary transmission shall be deemed to be a secondary transmission if such further transmission is necessary to enable the cable system to carry the full complement of signals allowed it under the rules and regulations of the Federal Communications Commission.

A "cable system" is a facility, located in any State, Territory, Trust Territory or Possession, that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission, and makes secondary transmissions of such signals or programs by wires, cables, or other communications channels to subscribing members of the public who pay for such service. For purposes of determining the royalty fee under subsection (d) (2) (B), two or more cable systems in contiguous communities under common ownership or control or operating from one headend shall be considered as one system.

The "local service area of a primary transmitter" comprises the area in which a television broadcast station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules and regulations of the Federal Communications Commission.

§ 112. Limitations on exclusive rights: Ephemeral recordings

(a) Notwithstanding the provisions of section 106, and except in the case of a motion picture or other audiovisul work, it is not an infringement of copyright for a transmitting organization entitled to transmit to the public a performance or display of a work, under a license or transfer of the copyright or under the limitations on exclusive rights in sound recordings specified by section 114 (a), to make no more than one copy or phonorecord of a particular transmission program embodying the performance or display, if—

(1) the copy or phonorecord is retained and used solely by the transmitting organization that made it, and no further copies or phonorecords are reproduced from it; and

(2) the copy or phonorecord is used solely for the transmitting organization's own transmissions within its local service area, or for purposes of archival preservation or security; and

(3) unless preserved exclusively for archival purposes, the copy or phonorecord is destroyed within six months from the date the transmission program was first transmitted to the public.

(b) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance or display of a work, under section 110(2) or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than thirty copies or phonorecords of a particular transmission program embodying the performance or display, if—

(1) no further copies or phonorecords are reproduced from the copies or phonorecords made under this clause; and

(2) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are destroyed within seven years from the date the transmission program was first transmitted to the public.

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization to make for distribution no more than one copy or phonorecord, for each transmitting organization specified in clause (2) of this subsection, of a particular transmission program embodying a performance of a nondramatic musical work of a religious nature, or of a sound recording of such a musical work, if—

(1) there is no direct or indirect charge for making or distributing any such copies or phonorecords; and

(2) none of such copies or phonorecords is used for any performance other than a single transmission to the public by a transmitting organization entitled to transmit to the public a performance of the work under a license or transfer of the copyright; and

(3) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are all destroyed within one year from the date the transmission program was first transmitted to the public.

(d) The transmission program embodied in a copy or phonorecord made under this section is not subject to protection as a derivative work under this title except with the express consent of the owners of copyright in the pre-existing works employed in the program.

§ 113. Scope of exclusive rights in pictorial, graphic, and sculptural works

(a) Subject to the provisions of clauses (1) and (2) of this subsection, the exclusive right to reproduce a copyrighted pictorial, graphic, or sculptural work in copies under section 106 includes the right to reproduce the work in or on any kind of article, whether useful or otherwise.

(1) This title does not afford, to the owner of copyright in a work that portrays a useful article as such, any greater or lesser rights with respect to the making, distribution, or display of the useful article so portrayed than those afforded to such works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1976, as held applicable and construed by a court in an action brought under this title.

(2) In the case of a work lawfully reproduced in useful articles that have been offered for sale or other distribution to the public, copyright does not include any right to prevent the making, distribution, or display of pictures or photographs of such articles in connection with advertisements or commentaries related to the distribution or display of such articles, or in connection with news reports.

(b) When a pictorial, graphic, or sculptural work in which copyright subsists under this title is utilized in an original ornamental design of a useful article, by the copyright proprietor or under an express license from him, the design shall be eligible for protection under the provisions of title II of this Act.

(c) Protection under this title of a work in which copyright subsists shall terminate with respect to its utilization in useful articles whenever the copyright proprietor has obtained registration of an ornamental design of a useful article embodying said work under the provisions of title II of this Act. Unless and until the copyright proprietor has obtained such registration, the copyrighted pictorial, graphic, or sculptural work shall continue in all respects to be covered by and subject to the protection afforded by the copyright subsisting under this title. Nothing in this section shall be deemed to create any additional rights or protection under this title.

(d) Nothing in this section shall affect any right or remedy held by any person under this title in a work in which copyright was subsisting on the effective date of title II of this Act, or with respect to any utilization of a copyrighted work other than in the design of a useful article.

§ 114. Scope of exclusive rights in sound recordings

(a) The exclusive rights of the owner of copyright in a sound recording are limited to the rights specified by clauses (1), (2), and (3) of section 106, and do not include any right of performance under section 106(4).

(b) The exclusive right of the owner of copyright in a sound recording to reproduce it under section 106(1) is limited to the right to duplicate the sound recording in the form of phonorecords that directly or indirectly recapture the actual sounds fixed in the recording. This right does not extend to the making or duplication of another sound recording that is an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording.

(c) This section does not limit or impair the exclusive right to perform publicly, by means of a phonorecord, any of the works specified by section 106(4).

§ 115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords

In the case of nondramatic musical works, the exclusive rights provided by clauses (1) and (3) of section 106, to make and to distribute phonorecords of such works, are subject to compulsory licensing under the conditions specified by this section.

(a) Availability and Scope of Compulsory License.—

(1) When phonorecords of a nondramatic musical work have been distributed to the public under the authority of the copyright owner, any other person may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work. A person may obtain a compulsory license only if his primary purpose in making phonorecords is to distribute them to the public for private use. A person may not obtain a compulsory license for use of the work in the duplication of a sound recording made by another, unless he has first obtained the consent of the owner of that sound recording.

(2) A compulsory license includes the privilege of making a musical arrangement of the work to the extent necessary to conform it to the style or manner of interpretation of the performance involved, but the arrangement shall not change the basic melody or fundamental character of the work, and shall not be subject to protection as a derivative work under this title, except with the express consent of the copyright owner.

(b) Notice of Intention To Obtain Compulsory License; Designation of Owner of Performance Right.—

(1) Any person who wishes to obtain a compulsory license under this section shall, before or within thirty days after making, and before distributing any phonorecords of the work, serve notice of his intention to do so on the copyright owner. If the registration or other public records of the Copyright Office do not identify the copyright owner and include an address at which notice can be served on him, it shall be sufficient to file the notice of intention in the Copyright Office. The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(2) If the copyright owner so requests in writing not later than ten days after service or filing of the notice required by clause (1), the person exercising the compulsory license shall designate, on a label or container accompanying each phonorecord of the work distributed by him, and in the form and manner that the Register of Copyrights shall prescribe by regulation, the name of the copyright owner or his agent to whom royalties for public performance of the work are to be paid.

(3) Failure to serve or file the notice required by clause (1), or to designate the name of the owner or agent as required by clause (2), forecloses the possibility of a compulsory license and, in the absence of a negotiated license, renders the making and distribution of phonorecords actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

(c) Royalty Payable Under Compulsory License.—

(1) To be entitled to receive royalties under a compulsory license, the copyright owner must be identified in the registration or other public records of the Copyright Office. The owner is entitled to royalties for phonorecords manufactured and distributed after he is so identified but he is not entitled to recover for any phonorecords previously manufactured and distributed.

(2) Except as provided by clause (1), the royalty under a compulsory license shall be payable for every phonorecord manufactured and distributed in accordance with the license. With respect to each work embodied in the phonorecord, the royalty shall be either two and one-half cents, or one-half cent per minute of playing time or fraction thereof, whichever amount is larger.

(3) Royalty payments shall be made on or before the twentieth day of each month and shall include all royalties for the month next preceding. Each monthly payment shall be accompanied by a detailed statement of account, which shall be certified by a certified public accountant and comply in form, content, and manner of certification with requirements that the Register of Copyrights shall prescribe by regulation.

(4) If the copyright owner does not receive the monthly payment and statement of account when due, he may give written notice to the licensee that, unless the default is remedied within thirty days from the date of the notice, the compulsory license will be automatically terminated. Such termination renders the making and distribution of all phonorecords, for which the royalty had not been paid, actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

§ 116. Scope of exclusive rights in nondramatic musical works: Public performances by means of coin-operated phonorecord players

(a) Limitation on Exclusive Right.—In the case of a nondramatic musical work embodied in a phonorecord, the exclusive right under clause (4) of section 106 to perform the work publicly by means of a coin-operated phonorecord player is limited as follows:

(1) The proprietor of the establishment in which the public performance takes place is not liable for infringement with respect to such public performance unless;

(A) he is the operator of the phonorecord player; or

(B) he refuses or fails, within one month after receipt by registered or certified mail of a request, at a time during which the certificate required by subclause (1) (C) of subsection (b) is not affixed to the phonorecord player, by the copyright owner, to make full disclosure, by registered or certified mail, of the identity of the operator of the phonorecord player.

(2) The operator of the coin-operated phonorecord player may obtain a compulsory license to perform the work publicly on that phonorecord player by filing the application, affixing the certificate, and paying the royalties provided by subsection (b).

(b) Recordation of Coin-Operated Phonorecord Player, Affixation of Certificate, and Royalty Payable Under Compulsory License.—

(1) Any operator who wishes to obtain a compulsory license for the public performance of works on a coin-operated phonorecord player shall fulfill the following requirements:

(A) Before or within one month after such performances are made available on a particular phonorecord player, and during the month of January in each succeeding year that such performances are made available in that particular phonorecord player, he shall file in the Copyright Office, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, an application containing the name and address of the operator of the phonorecord player and the manufacturer and serial number or other explicit identification of the phonorecord player, and he shall deposit with the Register of Copyrights a royalty fee for the current calendar year of $8 for that particular phonorecord player. If such performances are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year shall be $4.00.

(B) Within twenty days of receipt of an application and a royalty fee pursuant to subclause (A), the Register of Copyrights shall issue to the applicant a certificate for the phonorecord player.

(C) On or before March 1 of the year in which the certificate prescribed by subclause (B) of this clause is issued, or within ten days after the date of issue of the certificate, the operator shall affix to the particular phonorecord player, in a position where it can be readily examined by the public, the certificate, issued by the Register of Copyrights under subclause (B), of the latest application made by him under subclause (A) of this clause with respect to that phonorecord player.

(2) Failure to file the application, to affix the certificate, or to pay the royalty required by clause (1) of this subsection renders the public performance actionable as an act of infringement under section 501 and fully subject to the remedies provided by section 502 through 506.

(c) Distribution of Royalties.—

(1) During the month of January in each year, every person claiming to be entitled to compulsory license fees under this section for performances during the preceding twelve-month period shall file a claim with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation. Such claim shall include an agreement to accept as final, except as provided in section 809 of this title, the determination of the Copyright Royalty Tribunal in any controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b)(1) of this section to which the claimant is a party. Notwithstanding any provisions of the antitrust laws (the Act of October 15, 1914, 38 Stat. 730, title 15, U.S.C., section 12, and any amendments of any such laws), for purposes of this subsection any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(2) After the first day of October of each year, the Register of Copyrights shall determine whether there exists a controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b)(1). If he determines that no such controversy exists, he shall, after deducting his reasonable administrative costs under this section, distribute such fees to the copyright owners and performers entitled, or to their designated agents. If he finds that such a controversy exists, he shall certify to that fact and proceed to constitute a panel of the Copyright Royalty Tribunal in accordance with section 803. In such cases the reasonable administrative costs of the Register under this section shall be deducted prior to distribution of the royalty fee by the Tribunal.

(3) The fees to be distributed shall be divided as follows:

(A) To every copyright owner not affiliated with a performing rights society the pro rata share of the fees to be distributed to which such copyright owner proves his entitlement.

(B) To the performing rights societies the remainder of the fees to be distributed in such pro rata shares as they shall by agreement stipulate among themselves, or, if they fail to agree, the pro rata share to which such performing rights societies prove their entitlement.

(C) During the pendency of any proceeding under this section, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(4) The Register of Copyrights shall promulgate regulations under which persons who can reasonably be expected to have claims may, during the year in which per-

formances take place, without expense to or harassment of operators or proprietors of establishments in which phonorecord players are located, have such access to such establishments and to the phonorecord players located therein and such opportunity to obtain information with respect thereto as may be reasonably necessary to determine, by sampling procedures or otherwise, the proportion of contribution of the musical works of each such person to the earnings of the phonorecord players for which fees shall have been deposited. Any person who alleges that he has been denied the access permitted under the regulations prescribed by the Register of Copyrights may bring an action in the United States District Court for the District of Columbia for the cancellation of the compulsory license of the phonorecord player to which such access has been denied, and the court shall have the power to declare the compulsory license thereof invalid from the date of issue thereof.

(d) CRIMINAL PENALTIES.—Any person who knowingly makes a false representation of a material fact in an application filed under clause (1)(A) of subsection (b), or who knowingly alters a certificate issued under clause (1)(B) of subsection (b) or knowingly affixes such a certificate to a phonorecord player other than the one it covers, shall be fined not more than $2,500.

(e) DEFINITIONS.—As used in this section, the following terms and their variant forms mean the following:

(1) A "coin-operated phonorecord player" is a machine or device that:

(A) is employed solely for the performance of nondramatic musical works by means of phonorecords upon being activated by insertion of a coin;

(B) is located in an establishment making no direct or indirect charge for admission;

(C) is accompanied by a list of the titles of all the musical works available for performance on it, which list is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and

(D) affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

(2) An "operator" is any person who, alone or jointly with others:

(A) owns a coin-operated phonorecord player; or

(B) has the power to make a coin-operated phonorecord player available for placement in an establishment for purposes of public performance; or

(C) has the power to exercise primary control over the selection of the musical works made available for public performance in a coin-operated phonorecord player.

(3) A "performing rights society" is an association or corporation that licenses the public performance of nondramatic musical works on behalf of the copyright owners, such as the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc.

§ 117. Scope of exclusive rights: Use in conjunction with computers and similar information systems.

Notwithstanding the provisions of sections 106 through 116 and 118, this title does not afford to the owner of copyright in a work any greater or lesser rights with respect to the use of the work in conjunction with automatic systems capable of storing, processing, retrieving, or transferring information, or in conjunction with any similar device, machine, or process, than those afforded to works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1976, as held applicable and construed by a court in an action brought under this title.

§ 118. Limitations on exclusive rights: Public broadcasting of nondramatic literary and musical works, pictorial, graphic, and sculptural works

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a public broadcasting entity to broadcast any nondramatic literary or musical work, pictorial, graphic, or sculptural work under the provisions of this section.

(b) Public broadcasting of nondramatic literary and musical works, pictorial, graphic, and sculptural works by a public broadcasting entity shall be subject to compulsory licensing upon compliance with the requirements of this section. The public broadcasting entity shall—

(1) record in the Copyright Office, at intervals and in accordance with requirements prescribed by the Register of Copyrights, a notice stating its identity, address and intention to obtain a license under this section; and

(2) deposit with the Register of Copyrights, at intervals and in accordance with requirements prescribed by the Register, statement of account and the total royalty fees for the period covered by the statement based on the royalty rates provided for in subsection (c).

(c) Reasonable royalty fees for public broadcasting shall be established by the Copyright Royalty Tribunal. Such royalty fees may be calculated on a per-use, per-program, prorated or annual basis as the Copyright Royalty Tribunal finds appropriate with respect to the type of the copyrighted work and the nature of broadcast use. A particular or general license agreement between one or more public broadcasting entities and one or more copyright owners prior or subsequent to determination of applicable rates determined by the Copyright Royalty Tribunal may be substituted for a compulsory license provided in this section. Public broadcasting entities and copyright owners shall negotiate in good faith and cooperate fully with the Copyright Royalty Tribunal in establishing reasonable royalty fees in an expeditious manner.

(d) The royalty fees deposited with the Register of Copyrights under this section shall be distributed in accordance with the following procedures:

(1) During the month of July of each year, every person claiming to be entitled to compulsory license fees for public broadcasting during the preceding twelve-month period shall file a claim with the Register of Copyrights in accordance with the requirements that the Register shall prescribe by regulation. Notwithstanding any provisions of the antitrust laws (as defined in section 1 of the Act of October 15, 1914, 38 Stat. 730; 15 U.S.C. 12, and any amendments of such law), for purposes of this paragraph any claimants may agree among themselves as to the proportionate division of compulsory license fees among them, may lump their claims together, and may designate a common agent to receive payments on their behalf.

(2) On the first day of August of each year, the Register of Copyrights shall determine whether there exists a controversy regarding the statement of account or distribution of royalty fees. If the Register determines that no such controversy exists, the Register shall, after deducting reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If the Register finds the existence of a controversy, the Register shall certify to such effect and proceed to constitute a panel of the Copyright Royalty Tribunal in accordance with section 803. In such cases, the reasonable administrative costs of the Register under this section shall be deducted prior to distribution of the royalty fees by the Tribunal.

(3) During the pendency of any proceeding under this subsection, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution, an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(e) The compulsory license provided in this section shall not apply to unpublished nondramatic literary or musical works or to dramatization rights for nondramatic literary or musical works.

(f) As used in this section, the term "public broadcasting" means the transmission over noncommercial educational broadcast stations (as defined in section 397 of the Federal Communications Act of 1934 (47 U.S.C. 397)) and the following activities incidental thereto; production and recording by, or solely for use by, distribution, sale or licensing solely to, and acquisition by, noncommercial educational broadcast stations of educational television or radio programs (as defined in section 397 by the Federal Communications Act of 1934 (47 U.S.C. 397)); and recording by, or solely for use by a nonprofit educational institution of any educational television or radio program off the air from a transmission by an educational broadcast station, provided such recording is used only by such institution as a regular part of its instructional activities for a period of one week from the date of the broadcast from which such off the air recording was made and that each such recording shall be destroyed or erased upon the expiration of such one week period. No person supplying a recording to an educational institution under this paragraph shall have any liability as a result of failure of such institution to destroy or erase such recording provided it shall have notified such institution of the requirement for such destruction or erasure pursuant to this paragraph.

Chapter 2.—COPYRIGHT OWNERSHIP AND TRANSFER

Sec.
201. Ownership of copyright.
202. Ownership of copyright as distinct from ownership of material object.
203. Termination of transfers and licenses granted by the author.
204. Execution of transfers of copyright ownership
205. Recordation of transfers and other documents.

§ 201. Ownership of copyright

(a) INITIAL OWNERSHIP.—Copyright in work protected under this title vests initially in the author or authors of the work. The authors of a joint work are co-owners of copyright in the work.

(b) WORKS MADE FOR HIRE.—In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressely agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.

(c) CONTRIBUTIONS TO COLLECTIVE WORKS.—Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.

(d) Transfer of Ownership.—

(1) The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession.

(2) Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by section 106, may be transferred as provided by clause (1) and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner by this title.

(e) Involuntary Transfer.—When an individual author's ownership of a copyright, or of any of the exclusive rights under a copyright, has not previously been transferred voluntarily by him, no action by any governmental body or other official or organization purporting to seize, expropriate, transfer, or exercise rights of ownership with respect to the copyright, or any of the exclusive rights under a copyright, shall be given effect under this title.

§ 202. Ownership of copyright as distinct from ownership of material object

Ownership of a copyright, or of any of the exclusive rights under a copyright, is distinct from ownership of any material object in which the work is embodied. Transfer of ownership of any material object, including the copy or phonorecord in which the work is first fixed, does not of itself convey any rights in the copyrighted work embodied in the object; nor, in the absence of an agreement, does transfer of ownership of a copyright or of any exclusive rights under a copyright convey property rights in any material object.

§ 203. Termination of transfers and licenses granted by the author

(a) Conditions for Termination.—In the case of any work other than a work made for hire, the exclusive or nonexclusive grant of a transfer or license of copyright or of any right under a copyright, executed by the author on or after January 1, 1977, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by one author, termination of the grant may be effected by that author or, if he is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one half of that author's termination interest. In the case of a grant executed by two or more authors of a joint work, termination of the grant may be effected by a majority of the authors who executed it; if any of such authors is dead, his termination interest may be exercised as a unit by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one half of his interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow (or her widower) and children or grandchildren as follows:

(A) the widow (or widower) owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow (or widower) owns one half of the author's interest;

(B) the author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow (or widower), in which case the ownership of one half of the author's interest is divided among them;

(C) the rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of his children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of thirty-five years from the date of execution of the grant; or, if the grant covers the right of publication of the work, the period begins at the end of thirty-five years from the date of publication of the work under the grant or at the end of forty years from the date of execution of the grant, whichever term ends earlier.

(4) The termination shall be effected by serving an advance notice in writing, signed by the number and proportion of owners of termination interests required under clauses (1) and (2) of this subsection, or by their duly authorized agents, upon the grantee or his successor in title.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(b) Effect of Termination.—Upon the effective date of termination, all rights under this title that were covered by the terminated grant revert to the author, authors, and other persons owning termination interests under clauses (1) and (2) of subsection (a), including those owners who did not join in signing the notice of termination under clause (4) of subsection (a), but with the following limitations:

(1) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(2) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of subsection (a). The rights vest in the author, authors, and other persons named in, and in the proportionate shares provided by, clauses (1) and (2) of subsection (a).

(3) Subject to the provisions of clause (4) of this subsection, a further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under clause (2) of this subsection, as are required to terminate the grant under clauses (1) and (2) of subsection (a). Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under clause (2) of this subsection, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him, his legal representatives, legatees, or heirs at law represent him for purposes of this clause.

(4) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the persons provided by clause (3) of this subsection and the original grantee or his successor in title, after the notice of termination has been served as provided by clause (4) of subsection (a).

(5) Termination of a grant under this section affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(6) Unless and until termination is effected under this section, the grant, if it does not provide otherwise, continues in effect for the term of copyright provided by this title.

§ 204. Execution of transfers of copyright ownership

(a) A transfer of copyright ownership, other than by operation of law, is not valid unless an instrument of conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed or his duly authorized agent.

(b) A certificate of acknowledgement is not required for the validity of a transfer, but is prima facie evidence of the execution of the transfer if:

(1) in the case of a transfer executed in the United States, the certificate is issued by a person authorized to administer oaths within the United States; or

(2) in the case of a transfer executed in a foreign country, the certificate is issued by a diplomatic or consular officer of the United States, or by a person authorized to administer oaths whose authority is provided by a certificate of such an officer.

§ 205. Recordation of transfers and other documents

(a) Conditions for Recordation.—Any transfer of copyright ownership or other document pertaining to a copyright may be recorded in the Copyright Office if the document filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original, signed document.

(b) Certificate of Recordation.—The Register of Copyrights shall, upon receipt of a document as provided by subsection (a) and of the fee provided by section 708, record the document and return it with a certificate of recordation.

(c) Recordation as Constructive Notice.—Recordation of a document in the Copyright Office gives all persons constructive notice of the facts stated in the recorded document, but only if:

(1) the document, or material attached to it, specifically identifies the work to which it pertains so that, after the document is indexed by the Register of Copyrights, it would be revealed by a reasonable search under the title or registration number of the work; and

(2) registration has been made for the work.

(d) Recordation as Prerequisite to Infringement Suit.—No person claiming by virtue of a transfer to the owner of copyright or of any exclusive right under a copyright is entitled to institute an infringement action under this title until the instrument of transfer under which he claims has been recorded in the Copyright Office, but suit may be instituted after such recordation on a cause of action that arose before recordation.

(e) Priority Between Conflicting Transfers.—As between two conflicting transfers, the one executed first prevails if it is recorded, in the manner required to give constructive notice under subsection (c), within one month after its execution in the United States or within two months after its execution abroad, or at any time before recordation in such manner of the later transfer. Otherwise the later transfer prevails if recorded first in such manner, and if taken in good faith, for valuable consideration or on the basis of a binding promise to pay royalties, and without notice of the earlier transfer.

(f) Priority Between Conflicting Transfer of Ownership and Nonexclusive License.—A nonexclusive license, whether recorded or not, prevails over a conflicting transfer of copyright ownership if the license is evidenced by a written instrument signed by the owner of the rights licensed or his duly authorized agent, and if:

(1) the license was taken before execution of the transfer; or

(2) the license was taken in good faith before recordation of the transfer and without notice of it.

Chapter 3.—Duration of Copyright

Sec.
301. Pre-emption with respect to other laws.
302. Duration of copyright: Works created on or after January 1, 1977.
303. Duration of copyright: Works created but not published or copyrighted before January 1, 1977.
304. Duration of copyright: Subsisting copyrights.
305. Duration of copyright: Terminal date.

§ 301. Pre-emption with report to other laws

(a) On and after January 1, 1977, all legal or equitable rights that are equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106 in works of authorship that are fixed in a tangible medium of expression and come within the subject matter of copyright as specified by sections 102 and 103, whether created before or after that date and whether published or unpublished are governed exclusively by this title. Thereafter, no person is entitled to any such right or equivalent right in any such work under the common law or statutes of any State.

(b) Nothing in this title annuls or limits any rights or remedies under the common law or statutes of any State with respect to:

(1) subject matter that does not come within the subject matter of copyright as specified by sections 102 and 103, including works of authorship not fixed in any tangible medium of expression; or

(2) any cause of action arising from undertakings commenced before January 1, 1977; or

(3) activities violating legal or equitable rights that are not equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106, including rights against misappropriation not equivalent to any of such exclusive rights, breaches of contract, breaches of trust, trespass, conversion, invasion of privacy, defamation, and deceptive trade practices such as passing off and false representation; or

(4) sound recordings fixed prior to February 15, 1972.

(c) Nothing in this title annuls or limits any rights or remedies under any other Federal statute.

§ 302. Duration of copyright: Works created on or after January 1, 1977

(a) In General.—Copyright in a work created on or after January 1, 1977, subsists from its creation and, except as provided by the following subsections, endures for a term consisting of the life of the author and fifty years after his death.

(b) Joint Works.—In the case of a joint work prepared by two or more authors who did not work for hire, the copyright endures for a term consisting of the life of the last surviving author and fifty years after his death.

(c) Anonymous Works, Pseudonymous Works, and Works Made for Hire.—In the case of an anonymous work, a pseudonymous work, or a work made for hire, the copyright endures for a term of seventy-five years from the year of its first publication, or a term of one hundred years from the year of its creation, whichever expires first. If, before the end of such term, the identity of one or more of the authors of an anonymous or pseudonymous work is revealed in the records of a registration made for that work under subsection (a) or (d) of section 407, or in the records provided by this subsection, the copyright in the work endures for the term specified by subsection (a) or (b), based on the life of the author or authors whose identity has been revealed. Any person having an interest in the copyright in an anonymous or pseudonymous work may at any time record, in records to be maintained by the Copyright Office for that purpose, a statement identifying one or more authors of the work; the statement shall also identify the person filing it, the nature of his interest, the source of his information, and the particular work affected, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation.

(d) Records Relating to Death of Authors.—Any person having an interest in a copyright may at any time record in the Copyright Office a statement of the date of death of the author of the copyrighted work, or a statement that the author is still living on a particular date. The statement shall identify the person filing it, the nature of his interest, and the source of his information, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall maintain current records of information relating to the death of authors of copyrighted works, based on such recorded statements and, to the extent he considers practicable, on data contained in any of the records of the Copyright Office or in other reference sources.

(e) Presumption as to Author's Death.—After a period of seventy-five years from the year of first publication of a work, or a period of one hundred years from the year of its creation, whichever expires first, any person who obtains from the Copyright Office a certified report that the records provided by subsection (d) disclose nothing to indicate that the author of the work is living, or died less than fifty years before, is entitled to the benefit of a presumption that the author has been dead for at least fifty years. Reliance in good faith upon this presumption shall be a complete defense to any action for infringement under this title.

§ 303. Duration of copyright: Works created but not published or copyrighted before January 1, 1977

Copyright in a work created before January 1, 1977, but not theretofore in the public domain or copyrighted, subsists from January 1, 1977, and endures for the term provided by section 302. In no case, however, shall the term of copyright in such a work expire before December 31, 2001; and, if the work is published on or before December 31, 2001, the term of copyright shall not expire before December 31, 2026.

§ 304. Duration of copyright: Subsisting copyrights

(a) Copyrights in Their First Term on January 1, 1977.—Any copyright, the first term of which is subsisting on January 1, 1977, shall endure for twenty-eight years from the date it was originally secured: *Provided,* That in the case of any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further,* That in the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, or if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further,* That in default of the registration of such application for renewal and extension, the copyright in any work shall terminate at the expiration of twenty-eight years from the date copyright was originally secured.

(b) Copyrights in Their Renewal Term or Registered for Renewal Before January 1, 1977.—The duration of any copyright, the renewal term of which is subsisting at any time between December 31, 1975, and December 31, 1976, inclusive, or for which renewal registration is made between December 31, 1975, and December 31, 1976, inclusive, is extended to endure for a term of seventy-five years from the date copyright was originally secured.

(c) Termination of Transfers and Licenses Covering Extended Renewal Term.—In the case of any copyright subsisting in either its first or renewal term on January 1, 1977, other than a copyright in a work made for hire, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or of any right under it, executed before January 1, 1977, by any of the persons designated by the second proviso of subsection (a) of this section, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by a person or persons other than the author, termination of the grant may be effected by the surviving person or persons who executed it. In the case of a grant executed by one or more of the authors of the work, termination of the grant may be effected, to the extent of a particular author's share in the ownership of the renewal copyright, by the author who executed it or, if such author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's termination interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow (or her widower) and children or grandchildren as follows:

(A) the widow (or widower) owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow (or widower) owns one half of the author's interest;

(B) the author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow (or widower), in which case the ownership of one-half of the author's interest is divided among them;

(C) the rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of his children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five

years beginning at the end of fifty-six years from the date copyright was originally secured, or beginning on January 1, 1977, whichever is later.

(4) The termination shall be effected by serving an advance notice in writing upon the grantee or his successor in title. In the case of a grant executed by a person or persons other than the author, the notice shall be signed by all of those entitled to terminate the grant under clause (1) of this subsection, or by their duly authorized agents. In the case of a grant executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by him or his duly authorized agent or, if he is dead, by the number and proportion of the owners of his termination interest required under clauses (1) and (2) of this subsection, or by their duly authorized agents.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(6) In the case of a grant executed by a person or persons other than the author, all rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to all of those entitled to terminate the grant under clause (1) of this subsection. In the case of a grant executed by one or more of the authors of the work, all of a particular author's rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to that author or, if he is dead, to the persons owning his termination interest under clause (2) of this subsection, including those owners who did not join in signing the notice of termination under clause (4) of this subsection. In all cases the reversion of rights is subject to the following limitations:

(A) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(B) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of this subsection.

(C) Where an author's rights revert to two or more persons under clause (2) of this subsection, they shall vest in those persons in the proportionate shares provided by that clause. In such a case, and subject to the provisions of subclause (D) of this clause, a further grant, or agreement to make a further grant, of a particular author's share with respect to any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under this clause, as are required to terminate the grant under clause (2) of this subsection. Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under this subclause, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him, his legal representatives, legatees, or heirs at law represent him for purposes of this clause.

(D) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the author or any of the persons provided by the first sentence of clause (6) of this subsection, or between the persons provided by subclause (C) of this clause, and the original grantee or his successor in title, after the notice of termination has been served as provided by clause (4) of this subsection.

(E) Termination of a grant under this subsection affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(F) Unless and until termination is effected under this section, the grant, if it does not provide otherwise, continues in effect for the remainder of the extended renewal term.

§ 305. Duration of copyright: Terminal date

All terms of copyright provided by sections 302 through 304 run to the end of the calendar year in which they would otherwise expire.

Chapter 4.—Copyright Notice, Deposit, and Registration

Sec.
401. Notice of copyright: Visually perceptible copies.
402. Notice of copyright: Phonorecords of sound recordings.
403. Notice of copyright: Publications incorporating United States Government works.
404. Notice of copyright: Contributions to collective works.
405. Notice of copyright: Omission of notice.
406. Notice of copyright: Error in name or date.
407. Deposit of copies or phonorecords for Library of Congress.
408. Copyright registration in general.
409. Application for registration.
410. Registration of claim and issuance of certificate.
411. Registration as prerequisite to infringement suit.
412. Registration as prerequisite to certain remedies for infringement.

§ 401. Notice of copyright: Visually perceptible copies

(a) General Requirement.—Whenever a work protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed copies from which the work can be visually perceived, either directly or with the aid of a machine or device.

(b) Form of Notice.—The notice appearing on the copies shall consist of the following three elements:

(1) the symbol © (the letter C in a circle), the word "Copyright", or the abbreviation "Copr.";

(2) the year of first publication of the work; in the case of compilations or derivative works incorporating previously published material, the year date of first publication of the compilation or derivative work is sufficient. The year date may be omitted where a pictorial, graphic, or sculptural work, with accompanying text matter, if any, is reproduced in or on greeting cards, postcards, stationery, jewelry, dolls, toys, or any useful articles;

(3) the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner.

(c) Position of Notice.—The notice shall be affixed to the copies in such manner and location as to give reasonable notice of the claim of copyright. The Register of Copyrights shall prescribe by regulation, as examples, specific methods of affixation and positions of the notice on various types of works that will satisfy this requirement, but these specifications shall not be considered exhaustive.

§ 402. Notice of copyright: Phonorecords of sound recordings

(a) General Requirement.—Whenever a sound recording protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed phonorecords of the sound recording.

(b) Form of Notice.—The notice appearing on the phonorecords shall consist of the following three elements:

(1) the symbol Ⓟ (the letter P in a circle);

(2) the year of first publication of the sound recording; and

(3) the name of the owner of copyright in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner; if the producer of the sound recording is named on the phonorecord labels or containers, and if no other name appears in conjunction with the notice, his name shall be considered a part of the notice.

(c) Position of Notice.—The notice shall be placed on the surface of the phonorecord, or on the phonorecord label or container, in such manner and location as to give reasonable notice of the claim of copyright.

§ 403. Notice of copyright: Publications incorporating United States Government works

Whenever a work is published in copies or phonorecords consisting preponderantly of one or more works of the United States Government, the notice of copyright provided by section 401 or 402 shall also include a statement identifying, either affirmatively or negatively, those portions of the copies or phonorecords embodying any work or works protected under this title.

§ 404. Notice of copyright: Contributions to collective works

(a) A separate contribution to a collective work may bear its own notice of copyright, as provided by sections 401 through 403. However, a single notice applicable to the collective work as a whole is sufficient to satisfy the requirements of sections 401 through 403 with respect to the separate contributions it contains (not including advertisements inserted on behalf of persons other than the owner of copyright in the collective work), regardless of the ownership of copyright in the contributions and whether or not they have been previously published.

(b) Where the person named in a single notice applicable to a collective work as a whole is not the owner of copyright in a separate contribution that does not bear its own notice, the case is governed by the provisions of section 406(a).

§ 405. Notice of copyright: Omission of notice

(a) Effect of Omission on Copyright.—The omission of the copyright notice described by sections 401 through 403 from copies or phonorecords publicly distributed by authority of the copyright owner does not invalidate the copyright in a work if:

(1) the notice has been omitted from no more than a relatively small number of copies or phonorecords distributed to the public; or

(2) registration for the work has been made before or is made within five years after the publication without notice, and a reasonable effort is made to add notice to all copies or phonorecords that are distributed to the public in the United States after the omission has been discovered; or

(3) the notice has been omitted in violation of an express requirement in writing that, as a condition of the copyright owner's authorization of the public distribution of copies or phonorecords, they bear the prescribed notice.

(b) Effect of Omission on Innocent Infringers.—Any person who innocently infringes a copyright, in reliance upon an authorized copy or phonorecord from which the copyright notice has been omitted, incurs no liability for actual or statutory damages under section 504 for any infringing acts committed before receiving actual notice that registration for the work has been made under section 408, if he proves that he was misled by the omission of notice. In a suit for infringement in such a case the court may allow or disallow recovery of any of the infringer's profits attributable to the infringement, and may enjoin the continuation of the infringing undertaking or may require, as a condition for permitting the infringer to continue his undertaking, that he pay the copyright owner a reasonable license fee in an amount and on terms fixed by the court.

(c) Removal of Notice.—Protection under this title is not affected by the removal, destruction, or obliteration of the notice, without the authorization of the copyright owner, from any publicly distributed copies or phonorecords.

§ 406. Notice of copyright: Error in name or date

(a) Error in Name.—Where the person named in the copyright notice on copies or phonorecords publicly distributed by authority of the copyright owner is not the owner of copyright, the validity and ownership of the copyright are not affected. In such a case, however, any person who innocently begins an undertaking that infringes the copyright has a complete defense to any action for such infringement if he proves that he was misled by the notice and began the undertaking in good faith under a purported transfer or license from the person named therein, unless before the undertaking was begun:

(1) registration for the work had been made in the name of the owner of copyright; or

(2) a document executed by the person named in the notice and showing the ownership of the copyright had been recorded. The person named in the notice is liable to account to the copyright owner for all receipts from purported transfers or licenses made by him under the copyright.

(b) Error in Date.—When the year date in the notice on copies or phonorecords distributed by authority of the copyright owner is earlier than the year in which publication first occurred, any period computed from the year of first publication under section 302 is to be computed from the year in the notice. Where the year date is more than one year later than the year in which publication first occurred, the work is considered to have been published without any notice and is governed by the provisions of section 405.

(c) Omission of Name or Date.—Where copies or phonorecords publicly distributed by authority of the copyright owner contain no name or no date that could reasonably be considered a part of the notice, the work is considered to have been published without any notice and is governed by the provisions of section 405.

§ 407. Deposit of copies or phonorecords for Library of Congress

(a) Except as provided by subsection (c), the owner of copyright or of the exclusive right of publication in a work published with notice of copyright in the United States shall deposit, within three months after the date of such publication:

(1) two complete copies of the best edition; or

(2) if the work is a sound recording, two complete phonorecords of the best edition, together with any printed or other visually perceptible material published with such phonorecords.

This deposit is not a condition of copyright protection.

(b) The required copies or phonorecords shall be deposited in the Copyright Office for the use or disposition of the Library of Congress. The Register of Copyrights shall, when requested by the depositor and upon payment of the fee prescribed by section 708, issue a receipt for the deposit.

(c) The Register of Copyrights may by regulation exempt any categories of material from the deposit requirements of this section, or require deposit of only one copy or phonorecord with respect to any categories.

(d) At any time after publication of a work as provided by subsection (a), the Register of Copyrights may make written demand for the required deposit on any of the persons obligated to make the deposit under subsection (a). Unless deposit is made within three months after the demand is received, the person or persons on whom the demand was made are liable:

(1) to a fine of not more than $250 for each work; and

(2) to pay to the Library of Congress the total retail price of the copies or phonorecords demanded, or, if no retail price has been fixed, the reasonable cost to the Library of Congress of acquiring them.

§ 408. Copyright registration in general

(a) Registration Permissive.—At any time during the subsistence of copyright in any published or unpublished work, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by this section, together with the application and fee specified by sections 409 and 708. Subject to the provisions of section 405(a), such registration is not a condition of copyright protection.

(b) Deposit for Copyright Registration.—Except as provided by subsection (c), the material deposited for registration shall include:

(1) in the case of an unpublished work, one complete copy or phonorecord;

(2) in the case of a published work, two complete copies or phonorecords of the best edition;

(3) in the case of a work first published abroad, one complete copy or phonorecord as so published;

(4) in the case of a contribution to a collective work, one complete copy or phonorecord of the best edition of the collective work.

Copies or phonorecords deposited for the Library of Congress under section 407 may be used to satisfy the deposit provisions of this section, if they are accompanied by the prescri' ed application and fee, and by any additional identifying material that the Register may, by regulation, require.

(c) Administrative Classification and Optional Deposit.—

(1) The Register of Copyrights is authorized to specify by regulation the administrative classes into which works are to be placed for purposes of deposit and registration, and the nature of the copies or phonorecords to be deposited in the various classes specified. The regulations may require or permit, for particular classes, the deposit of identifying material instead of copies or phonorecords, the deposit of only one copy or phonorecord where two would normally be required, or a single registration for a group of related works. This administrative classification of works has no significance with respect to the subject matter of copyright or the exclusive rights provided by this title.

(2) Without prejudice to his general authority under clause (1), the Register of Copyrights shall establish regulations specifically permitting a single registration for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, within a twelve-month period, on the basis of a single deposit, application, and registration fee, under all of the following conditions:

(A) if each of the works as first published bore a separate copyright notice, and the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner was the same in each notice; and

(B) if the deposit consists of one copy of the entire issue of the periodical, or of the entire section in the case of a newspaper, in which each contribution was first published; and

(C) if the application identifies each work separately, including the periodical containing it and its date of first publication.

(3) As an alternative to separate renewal registrations under subsection (a) of section 304, a single renewal registration may be made for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, upon the filing of a single application and fee, under all of the following conditions:

(A) the renewal claimant or claimants, and the basis of claim or claims under section 304(a), is the same for each of the works; and

(B) the works were all copyrighted upon their first publication, either through separate copyright notice and registration or by virtue of a general copyright in the periodical issue as a whole; and

(C) all of the works were first published not more than twenty-eight or less than twenty-seven years before the date of receipt of the renewal application and fee; and

(D) the renewal application identifies each work separately, including the periodical containing it and its date of first publication.

(d) Corrections and Amplifications.—The Register may also establish, by regulation, formal procedures for the filing of an application for supplementary registration, to correct an error in a copyright registration or to amplify the information given in a registration. Such application shall be accompanied by the fee provided by section 708, and shall clearly identify the registration to be corrected or amplified. The information contained in a supplementary registration augments but does not supersede that contained in the earlier registration.

(e) Published Edition of Previously Registered Work.—Registration for the first published edition of a work previously registered in unpublished form may be made even though the work as published is substantially the same as the unpublished version.

§ 409. Application for registration

The application for copyright registration shall be made on a form prescribed by the Register of Copyrights and shall include:

(1) the name and address of the copyright claimant;

(2) in the case of a work other than an anonymous or pseudonymous work, the name and nationality or domicile of the author or authors and, if one or more of the authors is dead, the dates of their deaths;

(3) if the work is anonymous or pseudonymous, the nationality or domicile of the author or authors;

(4) in the case of a work made for hire, a statement to this effect;

(5) if the copyright claimant is not the author, a brief statement of how the claimant obtained ownership of the copyright;

(6) the title of the work, together with any

previous or alternative titles under which the work can be identified;

(7) the year in which creation of the work was completed;

(8) if the work has been published, the date and nation of its first publication;

(9) in the case of a compilation or derivative work, an identification of any pre-existing work or works that it is based on or incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered;

(10) in the case of a published work containing material of which copies are required by section 601 to be manufactured in the United States, the names of the persons or organizations who performed the processes specified by subsection (c) of section 601 with respect to that material, and the places where those processes were performed; and

(11) any other information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright.

§ 410. Registration of claim and issuance of certificate

(a) When, after examination, the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited constitutes copyrightable subject matter and that the other legal and formal requirements of this title have been met, he shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. The certificate shall contain the information given in the application, together with the number and effective date of the registration.

(b) In any case in which the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited does not constitute copyrightable subject matter or that the claim is invalid for any other reason, he shall refuse registration and shall notify the applicant in writing of the reasons for his action.

(c) In any judicial proceedings the certificate of a registration made before or within five years after first publication of the work shall constitute prima facie evidence of the validity of the copyright and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration made thereafter shall be within the discretion of the court.

(d) The effective date of a copyright registration is the day on which an application, deposit, and fee, which are later determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration, have all been received in the Copyright Office.

§ 411. Registration as prerequisite to infringement suit

(a) Subject to the provisions of subsection (b), no action for infringement of the copyright in any work shall be instituted until registration of the copyright claim has been made in accordance with this title. In any case, however, where the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused, the applicant is entitled to institute an action for infringement if notice thereof, with a copy of the complaint, is served on the Register of Copyrights. The Register may, at his option, become a party to the action with respect to the issue of registrability of the copyright claim by entering his appearance within sixty days after such service, but his failure to do so shall not deprive the court of jurisdiction to determine that issue.

(b) In the case of a work consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, the copyright owner may, either before or after such fixation takes place, institute an action for infringement under section 501, fully subject to the remedies provided by sections 502 through 506, if, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, the copyright owner—

(1) serves notice upon the infringer, not less than ten or more than thirty days before such fixation, identifying the work and the specific time and source of its first transmission, and declaring an intention to secure copyright in the work; and

(2) makes registration for the work within three months after its first transmission.

§ 412. Registration as prerequisite to certain remedies for infrigement

In any action under this title, other than an action instituted under section 411 (b), no award of statutory damages or of attorney's fees, as provided by sections 504 and 505, shall be made for:

(1) any infringement of copyright in an unpublished work commenced before the effective date of its registration; or

(2) any infringement of copyright commenced after first publication of the work and before the effective date of its registration, unless such registration is made within three months after its first publication.

Chapter 5.—Copyright Infringement and Remedies

Sec.
501. Infringement of copyright.
502. Remedies for infringement: Injunctions.
503. Remedies for infringement: Impounding and disposition of infringing articles.
504. Remedies for infringement: Damages and profits.
505. Remedies for infringement: Costs and attorney's fees.
506. Criminal offenses.
507. Limitations on actions.
508. Notification of filing and determination of actions.
509. Seizure and forfeiture.

§ 501. Infringement of copyright

(a) Anyone who violates any of the exclusive rights of the copyright owner as provided by section 106 through 118, or who imports copies or phonorecords into the United States in violation of section 602, is an infringer of the copyright.

(b) The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of sections 205 (d) and 411, to institute an action for any infringement of that particular right committed while he is the owner of it. The court may require him to serve written notice of the action with a copy of the complaint upon any person shown, by the records of the Copyright Office or otherwise, to have or claim an interest in the copyright, and shall require that such notice be served upon any person whose interest is likely to be affected by a decision in the case. The court may require the joinder, and shall permit the intervention, of any person having or claiming an interest in the copyright.

(c) For any secondary transmission by a cable system that embodies a performance or a display of a work which is actionable as an act of infringement under subsection (c) of section 111, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local service area of that television station.

§ 502. Remedies for infringement: Injunctions

(a) Any court having jurisdiction of a civil action arising under this title may, subject to the provisions of section 1498 of title 28, grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain infringement of a copyright.

(b) Any such injunction may be served anywhere in the United States on the person enjoined; it shall be operative throughout the United States and shall be enforceable, by proceedings in contempt or otherwise, by any United States court having jurisdiction of that person. The clerk of the court granting the injunction shall, when requested by any other court in which enforcement of the injunction is sought, transmit promptly to the other court a certified copy of all the papers in the case on file in his office.

§ 503. Remedies for infringement: Impounding and disposition of infringing articles

(a) At any time while an action under this title is pending, the court may order the impounding, on such terms as it may deem reasonable, of all copies or phonorecords claimed to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

(b) As part of a final judgment or decree, the court may order the destruction or other reasonable disposition of all copies or phonorecords found to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

§ 504. Remedies for infringement: Damages and profits

(a) In General.—Except as otherwise provided by this title, an infringer of copyright is liable for either:

(1) the copyright owner's actual damages and any additional profits of the infringer, as provided by subsection (b); or

(2) statutory damages, as provided by subsection (c).

(b) Actual Damages and Profits.—The copyright owner is entitled to recover the actual damages suffered by him as a result of the infringement, and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages. In establishing the infringer's profits, the copyright owner is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his deductible expenses and the elements of profit attributable to factors other than the copyrighted work.

(c) Statutory Damages.—

(1) Except as provided by clause (2) of this subsection, the copyright owner may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to any one work, for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally, in a sum of not less than $250 or more than $10,000 as the court considers just. For the purposes of this subsection, all the parts of a compilation or derivative work constitute one work.

(2) In a case where the copyright owner sustains the burden of proving, and the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than $50,000. In a case where the infringer sustains the burden of proving, and the court finds, that he was not aware and had no reason to believe that his acts constituted an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not less than $100. In a case where an instructor, librarian or achivist in a non-

profit educational institution, library, or archives, who infringed by reproducing a copyrighted work in copies or phonorecords, sustains the burden of proving that he believed and had reasonable grounds for believing that the reproduction was a fair use under section 107, the court in its discretion may remit statutory damages in whole or in part.

§ 505. Remedies for infringement: Costs and attorney's fees

In any civil action under this title, the court in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof. Except as otherwise provided by this title, the court may also award a reasonable attorney's fee to the prevailing party as part of the costs.

§ 506. Criminal offenses

(a) CRIMINAL INFRINGEMENT.—Any person who infringes a copyright willfully and for purposes of commercial advantage or private financial gain shall be fined not more than $2,500 or imprisoned not more than one year, or both, for the first such offense, and shall be fined not more than $10,000 or imprisoned not more than three years, or both, for any subsequent offense: *Provided, however,* That any person who infringes willfully and for purposes of commercial advantage or private financial gain the copyright in a sound recording afforded by subsections (1), (2), and (3) of section 106 or the copyright in a motion picture afforded by subsections (1), (3), and (4) of section 106 shall be fined not more than $25,000 or imprisoned for not more than three years, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned not more than seven years, or both, for any subsequent offense.

(b) FORFEITURE AND DESTRUCTION.—When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all infringing copies or phonorecords and all implements, devices, or equipment used or intended to be used in the manufacture, use, or sale of such infringing copies or phonorecords.

(c) FRAUDULENT COPYRIGHT NOTICE.—Any person who, with fraudulent intent, places on any article a notice of copyright or words of the same purport that he knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that he knows to be false, shall be fined not more than $2,500.

(d) FRAUDULENT REMOVAL OF COPYRIGHT NOTICE.—Any person who, with fraudulent intent, removes or alters any notice of copyright appearing on a copy of a copyrighted work shall be fined not more than $2,500.

(e) FALSE REPRESENTATION.—Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than $2,500.

§ 507. Limitations on actions

(a) CRIMINAL PROCEEDINGS.—No criminal proceedings shall be maintained under the provisions of this title unless it is commenced within three years after the cause of action arose.

(b) CIVIL ACTIONS.—No civil action shall be maintained under the provisions of this title unless it is commenced within three years after the claim accrued.

§ 508. Notification of filing and determination of actions

(a) Within one month after the filing of any action under this title, the clerks of the courts of the United States shall send written notification to the Register of Copyrights setting forth, as far as is shown by the papers filed in the court, the names and addresses of the parties and the title, author, and registration number of each work involved in the action. If any other copyrighted work is later included in the action by amendment, answer, or other pleading, the clerk shall also send a notification concerning it to the Register within one month after the pleading is filed.

(b) Within one month after any final order or judgment is issued in the case, the clerk of the court shall notify the Register of it, sending him a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

§ 509. Seizure and forfeiture

(a) All copies or phonorecords manufactured, reproduced, distributed, sold, or otherwise used, intended for use, or possessed with intent to use in violation of section 506(a), and all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced, and all electronic, mechanical, or other devices for manufacturing, reproducing, assembling, using, transporting, distributing, or selling such copies or phonorecords may be seized and forfeited to the United States.

(b) All provisions of law relating to (1) the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19, United States Code, (2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof, (3) the remission or mitigation of such forfeiture, (4) the compromise of claims, and (5) the award of compensation to informers in respect of such forfeitures, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section; except that such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the provisions of the customs laws contained in title 19 of the United States Code shall be performed with respect to seizure and forfeiture of all articles described in subsection (a) by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

Chapter 6.—MANUFACTURING REQUIREMENT AND IMPORTATION

Sec.

601. Manufacture, importation, and public distribution of certain copies.

602. Infringing importation of copies or phonorecords.

603. Importation prohibitions: Enforcement and disposition of excluded articles.

§ 601. Manufacture, importation, and public distribution of certain copies

(a) Except as provided by subsection (b), the importation into or public distribution in the United States of copies of a work consisting preponderantly of nondramatic literary material that is in the English language and is protected under this title is prohibited unless the portions consisting of such material have been manufactured in the United States or Canada.

(b) The provisions of subsection (a) do not apply:

(1) where, on the date when importation is sought or public distribution in the United States is made, the author of any substantial part of such material is neither a national nor a domiciliary of the United States or, if he is a national of the United States, has been domiciled outside of the United States for a continuous period of at least one year immediately preceding that date; in the case of a work made for hire, the exemption provided by this clause does not apply unless a substantial part of the work was prepared for an employer or other person who is not a national or domiciliary of the United States or a domestic corporation or enterprise;

(2) where the United States Customs Service is presented with an import statement issued under the seal of the Copyright Office, in which case a total of no more than two thousand copies of any one such work shall be allowed entry; the import statement shall be issued upon request to the copyright owner or to a person designated by him at the time of registration for the work under section 408 or at any time thereafter;

(3) where importation is sought under the authority or for the use, other than in schools, of the Government of the United States or of any State or political subdivision of a State;

(4) where importation, for use and not for sale, is sought:

(A) by any person with respect to no more than one copy of any one work at any one time;

(B) by any person arriving from abroad, with respect to copies forming part of his personal baggage; or

(C) by an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to copies intended to form a part of its library;

(5) where the copies are reproduced in raised characters for the use of the blind; or

(6) where, in addition to copies imported under clauses (3) and (4) of this subsection, no more than two thousand copies of any one such work, which have not been manufactured in the United States or Canada, are publicly distributed in the United States.

(c) The requirement of this section that copies be manufactured in the United States or Canada is satisfied if:

(1) in the case where the copies are printed directly from type that has been set, or directly from plates made from such type, the setting of the type and the making of the plates have been performed in the United States or Canada; or

(2) in the case where the making of plates by a lithographic or photoengraving process is a final or intermediate step preceding the printing of the copies, the making of the plates has been performed in the United States or Canada; and

(3) in any case, the printing or other final process of producing multiple copies and any binding of the copies have been performed in the United States or Canada.

(d) Importation or public distribution of copies in violation of this section does not invalidate protection for a work under this title. However, in any civil action or criminal proceedng for infringement of the exclusive rights to reproduce and distribute copies of the work, the infringer has a complete defense with respect to all of the nondramatic literary material comprised in the work and any other parts of the works in which the exclusive rights to reproduce and distribute copies are owned by the same person who owns such exclusive rights in the nondramatic literary material, if he proves:

(1) that copies of the work have been imported into or publicly distributed in the United States in violation of this section by or with the authority of the owner of such exclusive rights; and

(2) that the infringing copies were manufactured in the United States or Canada in accordance with the provisions of subsection (c); and

(3) that the infringement was commenced before the effective date of registration for an authorized edition of the work, the copies of which have been manufactured in the United States or Canada in accordance with the provisions of subsection (c).

(e) In any action for infringement of the exclusive rights to reproduce and distribute copies of a work containing material required by this section to be manufactured in the United States or Canada, the copyright owner shall set forth in the complaint the names of the persons or organizations who performed the processes specified by subsection (c) with respect to that material, and the places where those processes were performed.

§ 602. Infringing importation of copies or phonorecords

(a) Importation into the United States, without the authority of the owner of copyright under this title, of copies or phonorecords of a work that have been acquired abroad is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under section 501. This subsection does not apply to:

(1) importation of copies or phonorecords under the authority or for the use of the Government of the United States or of any State or political subdivision of a State but not including copies or phonorecords for use in schools, or copies of any audiovisual work imported for purposes other than archival use;

(2) importation, for the private use of the importer and not for distribution, by any person with respect to no more than one copy or phonorecord of any one work at any one time, or by any person arriving from abroad with respect to copies or phonorecords forming part of his personal baggage; or

(3) importation by or for an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to no more than one copy of an audiovisual work solely for its archival purposes, and no more than five copies or phonorecords of any other work for its library lending or archival purposes.

(b) In a case where the making of the copies or phonorecords would have constituted an infringement of copyright if this title had been applicable, their importation is prohibited. In a case where the copies or phonorecords were lawfully made, the United States Customs Service has no authority to prevent their importation unless the provisions of section 601 are applicable. In either case, the Secretary of the Treasury is authorized to prescribe, by regulation, a procedure under which any person claiming an interest in the copyright in a particular work may, upon payment of a specified fee, be entitled to notification by the Customs Service of the importation of articles that appear to be copies or phonorecords of the work.

§ 603. Importation prohibitions: Enforcement and disposition of excluded articles

(a) The Secretary of the Treasury and the United States Postal Service shall separately or jointly make regulations for the enforcement of the provisions of this title prohibiting importation.

(b) These regulations may require, as a condition for the exclusion of articles under section 602:

(1) that the person seeking exclusion obtain a court order enjoining importation of the articles; or

(2) that he furnish proof, of a specified nature and in accordance with prescribed procedures, that the copyright in which he claims an interest is valid and that the importation would violate the prohibition in section 602; he may also be required to post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

(c) Articles imported in violation of the importation prohibitions of this title are subject to seizure and forfeiture in the same manner as property imported in violation of the customs revenue laws. Forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be; however, the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his acts constituted a violation of law.

Chapter 7.—COPYRIGHT OFFICE

Sec.
701. The Copyright Office: General responsibilities and organization.
702. Copyright Office regulations.
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705. Copyright Office records: Preparation, maintenance, public inspection, and searching.
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707. Copyright Office forms and publications.
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710. Reproductions for use of the blind and physically handicapped: Voluntary licensing forms and procedures.

§ 701. The Copyright Office: General responsibilities and organization

(a) All administrative functions and duties under this title, except as otherwise specified, are the responsibility of the Register of Copyrights as director of the Copyright Office of the Library of Congress. The Register of Copyrights, together with the subordinate officers and employees of the Copyright Office, shall be appointed by the Librarian of Congress, and shall act under his general direction and supervision.

(b) The Register of Copyrights shall adopt a seal to be used on and after January 1, 1977, to authenticate all certified documents issued by the Copyright Office.

(c) The Register of Copyrights shall make an annual report to the Librarian of Congress of the work and accomplishments of the Copyright Office during the previous fiscal year. The annual report of the Register of Copyrights shall be published separately and as a part of the annual report of the Librarian of Congress.

§ 702. Copyright Office regulations

The Register of Copyrights is authorized to establish regulations not inconsistent with law for the administration of the functions and duties made his responsibility under this title. All regulations established by the Register under this title are subject to the approval of the Librarian of Congress.

§ 703. Effective date of actions in Copyright Office.

In any case in which time limits are prescribed under this title for the performance of an action in the Copyright Office, and in which the last day of the prescribed period falls on a Saturday, Sunday, holiday or other non-business day within the District of Columbia or the Federal Government, the action may be taken on the next succeeding business day, and is effective as of the date when the period expired.

§ 704. Retention and disposition of articles deposited in Copyright Office

(a) Upon their deposit in the Copyright Office under sections 407 and 408, all copies, phonorecords, and identifying material, including those deposited in connection with claims that have been refused registration, are the property of the United States Government.

(b) In the case of published works, all copies, phonorecords, and identifying material deposited are available to the Library of Congress for its collections, or for exchange or transfer to any other library. In the case of unpublished works, the Library is entitled to select any deposits for its collections.

(c) Deposits as selected by the Library under subsection (b), or identifying portions or reproductions of them, shall be retained under the control of the Copyright Office, including retention in Government storage facilities, for the longest period considered practicable and desirable by the Register of Copyrights and the Librarian of Congress. After that period it is within the joint discretion of the Register and the Librarian to order their destruction or other disposition; but, in the case of unpublished works, no deposit shall be destroyed or otherwise disposed of during its term of copyright.

(d) The depositor of copies, phonorecords, or identifying material under section 408, or the copyright owner of record, may request retention, under the control of the Copyright Office, of one or more of such articles for the full term of copyright in the work. The Register of Copyright shall prescribe, by regulation, the conditions under which such requests are to be made and granted, and shall fix the fee to be charged under section 708(a)(11) if the request is granted.

§ 705. Copyright Office records: Preparation maintenance, public inspection, and searching

(a) The Register of Copyrights shall provide and keep in the Copyright Office records of all deposits, registrations, recordations, and other actions taken under this title, and shall prepare indexes of all such records.

(b) Such records and indexes, as well as the articles deposited in connection with completed copyright registrations and retained under the control of the Copyright Office, shall be open to public inspection.

(c) Upon request and payment of the fee specified by section 708, the Copyright Office shall make a search of its public records, indexes, and deposits, and shall furnish a report of the information they disclose with respect to any particular deposits, registrations, or recorded documents.

§ 706. Copies of Copyright Office records

(a) Copies may be made of any public records or indexes of the Copyright Office; additional certificates of copyright registration and copies of any public records or indexes may be furnished upon request and payment of the fees specified by section 708.

(b) Copies or reproductions of deposited articles retained under the control of the Copyright Office shall be authorized or furnished only under the conditions specified by the Copyright Office regulations.

§ 707. Copyright Office forms and publications

(a) CATALOG OF COPYRIGHT ENTRIES.—The Register of Copyrights shall compile and publish at periodic intervals catalogs of all copyright registrations. These catalogs shall be divided into parts in accordance with the various classes of works, and the Register has discretion to determine, on the basis of practicability and usefulness, the form and frequency of each particular part.

(b) OTHER PUBLICATIONS.—The Register shall furnish, free of charge upon request, application forms for copyright registration and general informational material in connection with the functions of the Copyright Office. He also has authority to publish compilations of information, bibliographies, and other material he considers to be of value to the public.

(c) DISTRIBUTION OF PUBLICATIONS.—All publications of the Copyright Office shall be furnished to depository libraries as specified under section 1905 of title 44, United States Code, and, aside from those furnished free of charge, shall be offered for sale to the public at prices based on the cost of reproduction and distribution.

§ 708. Copyright Office fees

(a) The following fees shall be paid to the Register of Copyrights:

(1) for the registration of a copyright claim or a supplementary registration under sec-

tion 408, including the issuance of a certificate of registration, $10;

(2) for the registration of a claim to renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration, $6;

(3) for the issuance of a receipt for a deposit under section 407, $2;

(4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document of six pages or less, covering no more than one title, $10; for each page over six and for each title over one, 50 cents additional;

(5) for the filing, under section 115(b), of a notice of intention to make phonorecords, $6;

(6) for the recordation, under section 302(c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, $10 for a document of six pages or less, covering no more than one title; for each page over six and for each title over one, $1 additional;

(7) for the issuance, under section 601, of an import statement, $3;

(8) for the issuance, under section 706, of an additional certificate of registration, $4;

(9) for the issuance of any other certification, $4; the Register of Copyrights has discretion, on the basis of their cost, to fix the fees for preparing copies of Copyright Office records, whether they are to be certified or not;

(10) for the making and reporting of a search as provided by section 705, and for any related services, $10 for each hour or fraction of an hour consumed;

(11) for any other special service requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service.

(b) The fees prescribed by or under this section are applicable to the United States Government and any of its agencies, employees, or officers, but the Register of Copyrights has discretion to waive the requirement of this subsection in occassional or isolated cases involving relatively small amounts.

§ 709. Delay in delivery caused by disruption of postal or other services

In any case in which the Register of Copyrights determines, on the basis of such evidence as he may by regulation require, that a deposit, application, fee, or any other material to be delivered to the Copyright Office by a particular date, would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other transportation or communications services, the actual receipt of such material in the Copyright Office within one month after the date on which the Register determines that the disruption or suspension of such services has terminated, shall be considered timely.

§ 710. Reproductions for use of the blind and physically hadicapped: Voluntary licensing forms and procedures

The Register of Copyrights shall, after consultation with the Chief of the Division for the Blind and Physically Handicapped and other appropriate officials of the Library of Congress, establish by regulation standardized forms and procedures by which, at the time applications covering certain specified categories of nondramatic literary works are submitted for registration under section 408 of this title, the copyright owner may voluntarily grant to the Library of Congress a license to reproduce the copyrighted work by means of Braille or similar tactile symbols, or by fixation of a reading of the work in a phonorecord, or both, and to distribute the resulting copies or phonorecords solely for the use of the blind and physically handicapped and under limited conditions to be specified in the standardized forms.

Chapter 8.—COPYRIGHT ROYALTY TRIBUNAL

Sec.
801. Copyright Royalty Tribunal: Establishment and purpose
802. Petitions for the adjustment of royalty rates.
803. Membership of the Tribunal.
804. Procedures of the Tribunal.
805. Compensation of members of the Tribunal; Expenses of the Tribunal.
806. Reports to the Congress.
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§ 801. Copyright Royalty Tribunal: Establishment and purpose

(a) There is hereby created in the Library of Congress a Copyright Royalty Tribunal.

(b) Subject to the provisions of this chapter, the purpose of the Tribunal shall be: (1) to make determinations concerning the adjustment of the copyright royalty rates as provided in sections 111, 115, 116, and 118 so as to assure that such rates are reasonable and, in the event that the Tribunal shall determine that the statutory rate, or a rate previously established by the Tribunal, or the basis in respect to such rates, does not provide a reasonable royalty fee for the basic service of providing secondary transmissions of the primary broadcast transmitter or is otherwise unreasonable, the Tribunal may change the royalty rate or the basis on which the royalty fee shall be assessed or both so as to assure a reasonable royalty fee; and (2) to determine in certain circumstances the distribution of the royalty fees deposited with the Register of Copyrights under sections 111, 116, and 118.

§ 802. Petitions for the adjustment of royalty rates

(a) On January 1, 1980, the Register of Copyrights shall cause to be published in the Federal Register notice of the commencement of proceedings with respect to the royalty rates as provided in sections 111, 115, 116, and 118.

(b) During the calendar year 1990, and in each subsequent tenth calendar year, any owner or user of a copyrighted work whose royalty rates are specified by this title, or by a rate established by the Tribunal, may file a petition with the Register of Copyrights declaring that the petitioner requests an adjustment of the rate. The Register shall make a determination as to whether the applicant has a significant interest in the royalty rate in which an adjustment is requested. If the Register determines that the petitioner has a significant interest, he shall cause notice of his decision to be published in the Federal Register.

§ 803. Membership of the Tribunal

(a) In accordance with section 802, or upon certifying the existence of a controversy concerning the distribution of royalty fees deposited pursuant to sections 111, 116, and 118, the Register shall request the American Arbitration Association or any similar successor organization to furnish a list of three members of said Association. The Register shall communicate the names together with such information as may be appropriate to all parties of interest. Any such party, within twenty days from the date said communication is sent, may submit to the Register written objections to any or all of the proposed names. If no such objections are received, or if the Register determines that said objections are not well founded, he shall certify the appointment of the three designated individuals to constitute a panel of the Tribunal for the consideration of the specified rate or royalty distribution. Such panel shall function as the Tribunal established in section 801. If the Register determines that the objections to the designation of one or more of the proposed individuals as well founded, the Register shall request the American Arbitration Association or any similar successor organization to propose the necessary number of substitute individuals. Upon receiving such additional names the Register shall constitute the panel. The Register shall designate one member of the panel as Chairman.

(b) If any member of a panel becomes unable to perform his duties, the Register, after consultation with the parties, may provide for the selection of a successor in the manner prescribed in subsection (a).

§ 804. Procedures of the Tribunal

(a) The Tribunal shall fix a time and place for its proceedings and shall cause notice to be given to the parties.

(b) Any organization or person entitled to participate in the proceedings may appear directly or be represented by counsel.

(c) Except as otherwise provided by law, the Tribunal shall determine its own procedure. For the purpose of carrying out the provisions of this chapter, the Tribunal may hold hearings, administer oaths, and require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of documents.

(d) Every final decision of the Tribunal shall be in writing and shall state the reasons therefor.

(e) The Tribunal shall render a final decision in each proceeding within one year from the certification of the panel. Upon a showing of good cause, the Senate Committee on the Judiciary and the House of Representatives Committee on the Judiciary may waive this requirement in a particular proceeding.

§ 805. Compensation of members of the Tribunal: Expenses of the Tribunal

(a) In proceedings for the distribution of royalty fees, the compensation of members of the Tribunal and other expenses of the Tribunal shall be deducted prior to the distribution of the funds.

(b) In proceedings for the determination of royalty rates, there is hereby authorized to be appropriated such sums as may be necessary.

(c) The Library of Congress is authorized to furnish facilities and incidental services to the Tribunal.

(d) The Tribunal is authorized to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

§ 806. Reports to the Congress

The Tribunal, immediately upon making a final determination in any proceeding with respect to royalty rates, shall transmit its decision, together with the reasons therefor, to the Secretary of the Senate and the Clerk of the House of Representatives for reference to the Judiciary Committees of the Senate and the House of Representatives.

§ 807. Effective date of royalty adjustment

(a) Prior to the expiration of the first period of ninety calendar days of continuous session of the Congress, following the transmittal of the report specified in section 806, either House of the Congress may adopt a resolution stating in substance that the House does not favor the recommended royalty determination, and such determination, therefore, shall not become effective.

(b) For the purposes of subsection (a) of this section—

(1) continuity of session shall be considered as broken only by an adjournment of the Congress sine die, and

(2) in the computation of the ninety-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain.

(c) In the absence of the passage of such a resolution by either House during said ninety-day period, the final determination of royalty rates by the Tribunal shall take effect on the first day following ninety calendar days after the expiration of the period specified by subsection (a).

(d) The Register of Copyrights shall give notice of such effective date by publication in the Federal Register not less than sixty days before said date.

§ 808. Effective date of royalty distribution

A final determination of the Tribunal concerning the distribution of royalty fees deposited with the Register of Copyrights pursuant to sections 111 and 116 shall become effective thirty days following such determination unless, prior to that time, an application has been filed pursuant to section 809 to vacate, modify or correct the determination, and notice of such application has been served upon the Register of Copyrights. The Register upon the expiration of thirty days shall distribute such royalty fees not subject to any application filed pursuant to section 809.

§ 809. Judicial review

In any of the following cases the United States District Court for the District of Columbia may make an order vacating, modifying or correcting a final determination of the Tribunal concerning the distribution of royalty fees—

(a) where the determination was procured by corruption, fraud, or undue means; or

(b) where there was evident partiality or corruption in any member of the panel; or

(c) where any member of the panel was guilty of any misconduct by which the rights of any party have been prejudiced.

TRANSITIONAL AND SUPPLEMENTARY PROVISIONS

SEC. 102. This title becomes effective on January 1, 1977, except as otherwise provided by section 304(b) of title 17 as amended by this title.

SEC. 103. This title does not provide copyright protection for any work that goes into the public domain before January 1, 1977. The exclusive rights, as provided by section 106 of title 17 as amended by this title, to reproduce a work in phonorecords and to distribute phonorecords of the work, do not extend to any nondramatic musical work copyrighted before July 1, 1909.

SEC. 104. All proclamations issued by the President under section 1(e) or 9(b) of title 17 as it existed on December 31, 1976, or under previous copyright statutes of the United States shall continue in force until terminated, suspended, or revised by the President.

SEC. 105. (a)(1) Section 505 of title 44, United States Code, Supplement IV, is amended to read as follows:

"§ 505. Sale of duplicate plates

"The Public Printer shall sell, under regulations of the Joint Committee on Printing to persons who may apply, additional or duplicate stereotype or electrotype plates from which a Government publication is printed, at a price not to exceed the cost of composition, the metal, and making to the Government, plus 10 per centum, and the full amount of the price shall be paid when the order is filed.".

(2) The item relating to section 505 in the sectional analysis at the beginning of chapter 5 of title 44, United States Code, is amended to read as follows:

"505. Sale of duplicate plates.".

(b) Section 2113 of title 44, United States Code, is amended to read as follows:

"§ 2113. Limitation on liability

"When letters and other intellectual productions (exclusive of patented material, published works under copyright protection, and unpublished works for which copyright registration has been made) come into the custody or possession of the Administrator of General Services, the United States or its agents are not liable for infringement of copyright or analogous rights arising out of use of the materials for display, inspection, research, reproduction, or other purposes.".

(c) In section 1498(b) of title 28 of the United States Code, the phrase "section 101 (b) of title 17" is amended to read "section 504(c) of title 17".

(d) Section 543(a)(4) of the Internal Revenue Code of 1954, as amended, is amended by striking out "(other than by reason of section 2 or 6 thereof)".

(e) Section 3202(a) of title 39 of the United States Code is amended by striking out clause (5). Section 3206(c) of title 39 of the United States Code is amended by striking out clause (c). Section 3206(d) is renumbered (c).

(f) Subsection (a) of section 290(e) of title 15 of the United States Code is amended by deleting the phrase "section 8" and inserting in lieu thereof, the phrase "section 105".

SEC. 106. In any case where, before January 1, 1977, a person has lawfully made parts of instruments serving to reproduce mechanically a copyrighted work under the compulsory license provisions of section 1(e) of title 17 as it existed on December 31, 1976, he may continue to make and distribute such parts embodying the same mechanical reproduction without obtaining a new compulsory license under the terms of section 115 of title 17 as amended by this title. However, such parts made on or after January 1, 1977, constitute phonorecords and are otherwise subject to the provisions of said section 115.

SEC. 107. In the case of any work in which an ad interim copyright is subsisting or is capable of being secured on December 31, 1976, under section 22 of title 17 as it existed on that date, copyright protection is hereby extended to endure for the term or terms provided by section 304 of title 17 as amended by this title.

SEC. 108. The notice provisions of sections 401 through 403 of title 17 as amended by this title apply to all copies or phonorecords publicly distributed on or after January 1, 1977. However, in the case of a work published before January 1, 1977, compliance with the notice provisions of title 17 either as it existed on December 31, 1976, or as amended by this title, is adequate with respect to copies publicly distributed after December 31, 1976.

SEC. 109. The registration of claims to copyright for which the required deposit, application, and fee were received in the Copyright Office before January 1, 1977, and the recordation of assignments of copyright or other instruments received in the Copyright Office before January 1, 1977, shall be made in accordance with title 17 as it existed on December 31, 1976.

SEC. 110. The demand and penalty provisions of section 14 of title 17 as it existed on December 31, 1976, apply to any work in which copyright has been secured by publication with notice of copyright on or before that date, but any deposit and registration made after that date in response to a demand under that section shall be made in accordance with the provisions of title 17 as amended by this title.

SEC. 111. Section 2318 of title 18 of the United States Code is amended to read as follows:

"§ 2318. Transportation, sale or receipt of phonograph records bearing forged or counterfeit labels

"(a) Whoever knowingly and with fraudulent intent transports, causes to be transported, receives, sells, or offers for sale in interstate or foreign commerce any phonograph record, disk, wire, tape, film, or other article on which sounds are recorded, to which or upon which is stamped, pasted, or affixed any forged or counterfeited label, knowing the label to have been falsely made, forged, or counterfeited shall be fined not nore than $25,000 or imprisoned for not more than three years, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned for not more than seven years or both, for any subsequent offense.

"(b) When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all counterfeit labels and all articles to which counterfeit labels have been affixed or which were intended to have had such labels affixed.

"(c) Except to the extent they are inconsistent with the provisions of this title, all provisions of section 509, title 17, United States Code, are applicable to violations of subsection (a).".

SEC. 12. All causes of action that arose under title 17 before January 1, 1977, shall be governed by title 17 as it existed when the cause of action arose.

SEC. 113. Notwithstanding section 802 of title 17, as amended by this title, not later than thirty days following the date of enactment of this Act, the Register of Copyrights shall cause notice to be published in the Federal Register to convene the Copyright Royalty Tribunal established under section 801 of such title 17, to establish initial royalty rates under section 118 (of such title 17, as amended by this title.). The royalty rates so established shall apply to compulsory licensing under such section 118, except that payment of any royalty due during the period between the effective date of this Act and the date on which such rates become effective shall not be required until sixty days after such rates become effective.

SEC. 114. If any provision of title 17, as amended by this title, is declared unconstitutional, the validity of the remainder of the title is not affected.

TITLE II—PROTECTION OF ORNAMENTAL DESIGNS OF USEFUL ARTICLES

DESIGNS PROTECTED

SEC. 201. (a) The author or other proprietor of an original ornamental design of a useful article may secure the protection provided by this title upon complying with and subject to the provisions hereof.

(b) For the purposes of this title—

(1) A "useful article" is an article which in normal use has an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article which normally is a part of a useful article shall be deemed to be a useful article.

(2) The "design of a useful article", hereinafter referred to as a "design", consists of those aspects or elements of the article, including its two-dimensional or three-dimensional features of shape and surface, which make up the appearance of the article.

(3) A design is "ornamental" if it is intended to make the article attractive or distinctive in appearance.

(4) A design is "original' if it is the independent creation of an author who did not copy it from another source.

DESIGNS NOT SUBJECT TO PROTECTION

SEC. 202. Protection under this title shall not be available for a design that is—

(a) not original;

(b) staple or commonplace, such as a standard geometric figure, familiar symbol, emblem, or motif, or other shape, pattern, or configuration which has become common, prevalent, or ordinary;

(c) different from a design excluded by subparagraph (b) above only in insignificant details or in elements which are variants commonly used in the relevant trades;

(d) dictated solely by a utilitarian function of the article that embodies it; or

(e) composed of three-dimensional features of shape and surface with respect to men's, women's and children's apparel, including undergarments and outerwear.

REVISIONS, ADAPTATIONS, AND REARRANGEMENTS

SEC. 203. Protection for a design under this title shall be available notwithstanding the employment in the design of subject matter excluded from protection under section 202 (b) through (d), if the design is a substantial revision, adaptation, or rearrangement of said subject matter: *Provided*, That such protection shall be available to a design employing subject matter protected under this title I of this Act, or title 35 of the United States Code or this title, only if such protected subject matter is employed with the consent of the proprietor thereof. Such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any right to subject matter excluded from protection or as extending any subsisting protection.

COMMENCEMENT OF PROTECTION

SEC. 204. The protection provided for a design under this title shall commence upon the date of publication of the registration pursuant to section 212(a).

TERM OF PROTECTION

SEC. 205. (a) Subject to the provisions of this title, the protection herein provided for a design shall continue for a term of five years from the date of the commencement of protection as provided in section 204, but if a proper application for renewal is received by the Administrator during the year prior to the expiration of the five-year term, the protection herein provided shall be extended for an additional period of five years from the date of expiration of the first five years.

(b) Upon expiration or termination of protection in a particular design as provided in this title all rights under this title in said design shall terminate, regardless of the number of different articles in which the design may have been utilized during the term of its protection.

THE DESIGN NOTICE

SEC. 206. (a) Whenever any design for which protection is sought under this title is made public as provided in section 209(b), the proprietor shall, subject to the provisions of section 207, mark it or have it marked legibly with a design notice consisting of the following three elements:

(1) the words "Protected Design", the abbreviation "Prot'd Des." or the letter "D" within a circle thus Ⓓ

(2) the year of the date on which the design was registered; and

(3) the name of the proprietor, an abbreviation by which the name can be recognized, or a generally accepted alternative designation of the proprietor; any distinctive identification of the proprietor may be used if it has been approved and recorded by the Administrator before the design marked with such identification is registered.

After registration the registration number may be used instead of the elements specified in (2) and (3) hereof.

(b) The notice shall be so located and applied as to give reasonable notice of design protection while the useful article embodying the design is passing through its normal channels of commerce. This requirement may be fulfilled, in the case of sheetlike or strip materials bearing repetitive or continuous designs, by application of the notice to each repetition, or to the margin, selvage, or reverse side of the material at reasonably frequent intervals, or to tags or labels affixed to the material at such intervals.

(c) When the proprietor of a design has complied with the provisions of this section, protection under this title shall not be affected by the removal, destruction, or obliteration by others of the design notice on an article.

EFFECT OF OMISSION OF NOTICE

SEC. 207. The omission of the notice prescribed in section 206 shall not cause loss of the protection or prevent recovery for infringement against any person who, after written notice of the design protection, begins an undertaking leading to infringement: *Provided*, That such omission shall prevent any recovery under section 222 against a person who began an undertaking leading to infringement before receiving written notice of the design protection, and no injunction shall be had unless the proprietor of the design shall reimburse said person for any reasonable expenditure or contractual obligation in connection with such undertaking incurred before written notice of design protection, as the court in its discretion shall direct. The burden of proving written notice shall be on the proprietor.

INFRINGEMENT

SEC. 208. (a) It shall be infringement of a design protected under this title for any person, without the consent of the proprietor of the design, within the United States or its territories or possessions and during the term of such protection, to—

(1) make, have made, or import, for sale or for use in trade, any infringing article as defined in subsection (d) hereof; or

(2) sell or distribute for sale or for use in trade any such infringing article: *Provided, however*, That a seller or distributor of any such article who did not make or import the same shall be deemed to be an infringer only if—

(i) he induced or acted in collusion with a manufacturer to make, or an importer to import such article (merely purchasing or giving an order to purchase in the ordinary course of business shall not of itself constitute such inducement or collusion); or

(ii) he refuses or fails upon the request of the proprietor of the design to make a prompt and full disclosure of his source of such article, and he orders or reorders such article after having received notice by registered or certified mail of the protection subsisting in the design,

(b) It shall be not infringement to make, have made, import, sell, or distribute, any article embodying a design created without knowledge of, and copying from, a protected design.

(c) A person who incorporates into his own product of manufacture an infringing article acquired from others in the ordinary course of business, or who, without knowledge of the protected design, makes or processes an infringing article for the account of another person in the ordinary course of business, shall not be deemed an infringer except under the conditions of clauses (i) and (ii) of paragraph (a)(2) of this section. Accepting an order or reorder from the source of the infringing article shall be deemed ordering or reordering within the meaning of clause (ii) of paragraph (a)(2) of this section.

(d) An "infringing article" as used herein is any article, the design of which has been copied from the protected design, without the consent of the proprietor: *Provided, however*, That an illustration or picture of a protected design in an advertisement, book, periodical, newspaper, photograph, broadcast, motion picture, or similar medium shall not be deemed to be an infringing article. An article is not an infringing article if it embodies, in common with the protected design, only elements described in subsections (a) through (d) of section 202.

(e) The party alleging rights in a design in any action or proceeding shall have the burden of affirmatively establishing its originality whenever the opposing party introduces an earlier work which is identical to such design, or so similar as to make a prima facie showing that such design was copied from such work.

APPLICATION FOR REGISTRATION

SEC. 209. (a) Protection under this title shall be lost if application for registration of the design is not made within six months after the date on which the design was first made public.

(b) A design is made public when, by the proprietor of the design or with his consent, an existing useful article embodying the design is anywhere publicly exhibited, publicly distributed, or offered for sale or sold to the public.

(c) Application for registration or renewal may be made by the proprietor of the design.

(d) The application for registration shall be made to the Administrator and shall state (1) the name and address of the author or authors of the design; (2) the name and address of the proprietor if different from the author; (3) the specific name of the article, indicating its utility; and (4) such other information as may be required by the Administrator. The application for registration may include a description setting forth the salient features of the design, but the absence of such a description shall not prevent registration under this title.

(e) The application for registration shall be accompanied by a statement under oath by the applicant or his duly authorized agent or representative, setting forth that, to the best of his knowledge and belief (1) the design is original and was created by the author or authors named in the application; (2) the design has not previously been registered on behalf of the applicant or his predecessor in title; and (3) the applicant is the person entitled to protection and to registration under this title. If the design has been made public with the design notice prescribed in section 206, the statement shall also describe the exact form and position of the design notice.

(f) Error in any statement or assertion as to the utility of the article named in the application, the design of which is sought to be registered, shall not affect the protection secured under this title.

(g) Errors in omitting a joint author or in naming an alleged joint author shall not affect the validity of the registration, or the actual ownership or the protection of the design: *Provided*, That the name of one individual who was in fact an author is stated in the application. Where the design was made within the regular scope of the author's employment and individual authorship of the design is difficult or impossible to ascribe and the application so states, the name and address of the employer for whom the design was made may be stated instead of that of the individual author.

(h) The application for registration shall be accompanied by two copies of a drawing or other pictorial representation of the useful article having one or more views, adequate to show the design, in a form and style suitable for reproduction, which shall be deemed a part of the application.

(i) Where the distinguishing elements of a design are in substantially the same form in a number of different useful articles, the design shall be protected as to all such articles when protected as to one of them, but not more than one registration shall be required.

(j) More than one design may be included in the same application under such conditions as may be prescribed by the Administrator. For each design included in an application the fee prescribed for a single design shall be paid.

BENEFIT OF EARLIER FILING DATE IN FOREIGN COUNTRY

SEC. 210. An application for registration of a design filed in this country by any person who has, or whose legal representative or predecessor or successor in title has previously regularly filed an application for registration of the same design in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States shall have the same effect as if filed in this country on the date on which the application was first filed in any such foreign country, if the application in this country is filed within six months from the earliest date on which any such foreign application was filed.

OATHS AND ACKNOWLEDGMENTS

SEC. 211. (a) Oaths and acknowledgments required by this title may be made before any person in the United States authorized by law to administer oaths, or when made in a foreign country, before any diplomatic or consular officer of the United States authorized to administer oaths, or before any official authorized to administer oaths in the foreign country concerned, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States, and shall be valid if they comply with the laws of the state or country where made.

(b) The Administrator may by rule prescribe that any document to be filed in the Office of the Administrator and which is required by any law, rule, or other regulation to be under oath may be subscribed to by a written declaration in such form as the Administrator may prescribe, such declaration to be in lieu of the oath otherwise required.

(c) Whenever a written declaration as permitted in subsection (b) is used, the document must warn the declarant that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or document or a registration resulting therefrom.

EXAMINATION OF APPLICATION AND ISSUE OR REFUSAL OF REGISTRATION

SEC. 212. (a) Upon the filing of an application for registration in proper form as provided in section 209, and upon payment of the fee provided in section 205, the Administrator shall determine whether or not the application relates to a design which on its face appears to be subject to protection under this title, and if so, he shall register the design. Registration under this subsection shall be announced by publication. The date of registration shall be the date of publication.

(b) If, in his judgment, the application for registration relates to a design which on its face is not subject to protection under this title, the Administrator shall send the applicant a notice of his refusal to register and the grounds therefor. Within three months from the date the notice of refusal is sent, the applicant may request, in writing, reconsideration of his application. After consideration of such a request, the Administrator shall either register the design or send the applicant a notice of his final refusal to register.

(c) Any person who believes he is or will be damaged by a registration under this title may, upon payment of the prescribed fee, apply to the Administrator at any time to cancel the registration on the ground that the design is not subject to protection under the provisions of this title, stating the reasons therefor. Upon receipt of an application for cancellation, the Administrator shall send the proprietor of the design, as shown in the records of the Office of the Administrator, a notice of said application, and the proprietor shall have a period of three months from the date such notice was mailed in which to present arguments in support of the validity of the registration. It shall also be within the authority of the Administrator to establish, by regulation, conditions under which the opposing parties may appear and be heard in support of their arguments. If, after the periods provided for the presentation of arguments have expired, the Administrator determines that the applicant for cancellation has established that the design is not subject to protection under the provisions of this title, he shall order the registration stricken from the record. Cancellation under this subsection shall be announced by publication, and notice of the Administrator's final determination with respect to any application for cancellation shall be sent to the applicant and to the proprietor of record.

(d) Remedy against a final adverse determination under subparagraphs (b) and (c) above may be had be means of a civil action against the Administrator pursuant to the provision of section 1361 of title 28, United States Code, if commenced within such time after such decision, not less than sixty days, as the Administrator appoints.

(e) When a design has been registered under this section, the lack of utility of any article in which it has been embodied shall be no defense to an infringement action under section 220, and no ground for cancellation under subsection (c) of this section or under section 223.

CERTIFICATION OF REGISTRATION

SEC. 213. Certificates of registration shall be issued in the name of the United States under the seal of the Office of the Administrator and shall be recorded in the official records of that Office. The certificate shall state the name of the useful article, the date of filing of the application, the date of registration, and shall contain a reproduction of the drawing or other pictorial representation showing the design. Where a description of the salient features of the design appears in the application, this description shall also appear in the certificate. A renewal certificate shall contain the date of renewal registration in addition to the foregoing. A certificate of initial or renewal registration shall be admitted in any court as prima facie evidence of the facts stated therein.

PUBLICATION OF ANNOUNCEMENTS AND INDEXES

SEC. 214. (a) The Administrator shall publish lists and indexes of registered designs and cancellations thereof and may also publish the drawing or other pictorial representations of registered designs for sale or other distribution.

(b) The Administrator shall establish and maintain a file of the drawings or other pictorial representations of registered designs, which file shall be available for use by the public under such conditions as the Administrator may prescribe.

FEES

SEC. 215. (a) There shall be paid to the Administrator the following fees:

(1) On filing each application for registration or for renewal of registration of a design, $15.

(2) for each additional related article included in one application, $10.

(3) For recording an assignment, $3 for the first six pages, and for each additional two pages or less, $1.

(4) For a certificate of correction of an error not the fault of the Office, $10.

(5) For certification of copies of records, $1.

On filing each application for cancellation of a registration, $15.

(b) The Administrator may establish charges for materials or services furnished by the Office, not specified above, reasonably related to the cost thereof.

REGULATIONS

SEC. 216. The Administrator may establish regulations not inconsistent with law for the administration of this title.

COPIES OF RECORDS

SEC. 217. Upon payment of the prescribed fee, any person may obtain a certified copy of any official record of the Office of the Administrator, which copy shall be admissible in evidence with the same effect as the original.

CORRECTION OF ERRORS IN CERTIFICATES

SEC. 218. The Administrator may correct any error in a registration incurred through the fault of the Office, or, upon payment of the required fee, any error of a clerical or typographical nature not the fault of the Office occurring in good faith, by a certificate of correction under seal. Such registration, together with the certificate, shall thereafter have the same effect as if the same had been originally issued in such corrected form.

OWNERSHIP AND TRANSFER

SEC. 219. (a) The property right in a design subject to protection under this title shall vest in the author, the legal representatives of a deceased author or of one under legal incapacity, the employer for whom the author created the design in the case of a design made within the regular scope of the author's employment, or a person to whom the rights of the author or of such employer have been transferred. The person or persons in whom the property right is vested shall be considered the proprietor of the design.

(b) The property right in a registered design, or a design for which an application for registration has been or may be filed, may be assigned, granted, conveyed, or mortgaged by an instrument in writing, signed by the proprietor, or may be bequeathed by will.

(c) An acknowledgment as provided in section 211 shall be prima facie evidence of the execution of an assignment, grant, conveyance, or mortgage.

(d) An assignment, grant, conveyance, or mortgage shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Office of the Administrator within three months from its date of execution or prior to the date of such subsequent purchase or mortgage.

REMEDY FOR INFRINGEMENT

SEC. 220. (a) The proprietor of a design shall have remedy for infringement by civil action instituted after issuance of a certificate of registration of the design.

(b) The proprietor of a design may have judicial review of a final refusal of the Administrator to register the design, by a civil action brought as for infringement if commenced within the time specified in section 212(d), and shall have remedy for infringement by the same action if the court adjudges the design subject to protection under this title: *Provided*, That (1) he has previously duly filed and duly prosecuted to such final refusal an application in proper form for registration of the design, and (2) he causes a copy of the complaint in action to be delivered to the Administrator within ten days after the commencement of the action, and (3) the defendant has committed acts in respect to the design which would constitute infringement with respect to a design protected under this title.

INJUNCTION

SEC. 221. The several courts having jurisdiction of actions under this title may grant injunctions in accordance with the principles of equity to prevent infringement, including, in their discretion, prompt relief by temporary restraining orders and preliminary injunctions.

RECOVERY FOR INFRINGEMENT, AND SO FORTH

SEC. 222. (a) Upon finding for the claimant the court shall award him damages adequate to compensate for the infringement, but in no event less than the reasonable value the court shall assess them. In either event the court may increase the damages to such amount, not exceeding $5,000 or $1 per copy, whichever is greater, as to the court shall appear to be just. The damages awarded in any of the above circumstances shall constitute compensation and not a penalty. The court may receive expert testimony as an aid to the determination of damages.

(b) No recovery under paragraph (a) shall be had for any infringement committed more than three years prior to the filing of the complaint.

(c) The court may award reasonable attorney's fees to the prevailing party. The court may also award other expenses of suit to a defendant prevailing in an action brought under section 220(b).

(d) The court may order that all infringing articles, and any plates, molds, patterns, models, or other means specifically adapted for making the same be delivered up for destruction or other disposition as the court may direct.

POWER OF COURT OVER REGISTRATION

Sec. 223. In any action involving a design for which protection is sought under this title, the court when appropriate may order registration of a design or the cancellation of a registration. Any such order shall be certified by the court to the Administrator, who shall make appropriate entry upon the records of his Office.

LIABILITY FOR ACTION ON REGISTRATION FRAUDULENTLY OBTAINED

Sec. 224. Any person who shall bring an action for infringement knowing that registration of the design was obtained by a false or fraudulent representation materially affecting the rights under this title, shall be liable in the sum of $1,000, or such part thereof as the court may determine, as compensation to the defendant, to be charged against the plaintiff and paid to the defendant, in addition to such costs and attorney's fees of the defendant as may be assessed by the court.

PENALTY FOR FALSE MARKING

Sec. 225. (a) Whoever, for the purpose of deceiving the public, marks upon, or applies to, or uses in advertising in connection with any article made, used, distributed, or sold by him, the design of which is not protected under this title, a design notice as specified in section 206 or any other words or symbols importing that the design is protected under this title, knowing that the design is not so protected, shall be fined not more than $500 for every such offense.

(b) Any person may sue for the penalty, in which event, one-half shall go to the person suing and the other to the use of the United States.

PENALTY FOR FALSE REPRESENTATION

Sec. 226. Whoever knowingly makes a false representation materially affecting the rights obtainable under this title for the purpose of obtaining registration of a design under this title shall be fined not less than $500 and not more than $1,000, and any rights or privileges he may have in the design under this title shall be forfeited.

RELATION TO COPYRIGHT LAW

Sec. 227. (a) Nothing in this title shall affect any right or remedy now or hereafter held by any person under title I of this Act, subject to the provisions of section 113(c) of title I.

(b) When a pictorial, graphic, or sculptural work in which copyright subsists under title I of this Act is utilized in an original ornamental design of a useful article, by the copyright proprietor or under an express license from him, the design shall be eligible for protection under the provisions of this title.

RELATION TO PATENT LAW

Sec. 228. (a) Nothing in this title shall affect any right or remedy available to or held by any person under title 35 of the United States Code.

(b) The issuance of a design patent for an ornamental design for an article of manufacture under said title 35 shall terminate any protection of the design under this title.

COMMON LAW AND OTHER RIGHTS UNAFFECTED

Sec. 229. Nothing in this title shall annul or limit (1) common law or other rights or remedies, if any, available to or held by any person with respect to a design which has not been registered under this title, or (2) any trademark right or right to be protected against unfair competition.

ADMINISTRATOR

Sec. 230. The Administrator and Office of the Administrator referred to in this title shall be such officer and office as the President may designate.

SEVERABILITY CLAUSE

Sec. 231. If any provision of this title or the application of such provision to any person or circumstance is held invalid, the remainder of the title or the application to other persons or circumstances shall not be affected thereby.

AMENDMENT OF OTHER STATUTES

Sec. 232. (a) Subdivision (a)(2) of section 70 of the Bankruptcy Act of July 1, 1898, as amended (11 U.S.C. 110(a)), is amended by inserting "designs," after "patent rights,".

(b) Title 28 of the United States Code is amended—

(1) by inserting "designs," after "patents," in the first sentence of section 1338(a);

(2) by inserting ", design," after "patent" in the second sentence of section 1338(a);

(3) by inserting "design," after "copyright," in sectior 1338(b);

(4) by inserting "and registered designs" after "coyprights" in section 1400; and

(5) by revising section 1498(a) to read as follows:

"(a) Whenever a registered design or invention is used or manufactured by or for the United States without license of the owner thereof or lawful right to use or manufacture the same, the owner's remedy shall be by action against the United States in the Court of Claims for the recovery of his reasonable and entire compensation for such use and manufacture.

"For the purposes of this section, the use or manufacture of a registered design or an invention described in and covered by a patent of the United States by a contractor, a subcontractor, or any person, firm, or corporation for the Government and with the authorization or consent of the Government, shall be construed as use or manufacture for the United States.

"The court shall not award compensation under this section if the claim is based on the use or manufacture by or for the United States of any article owned, leased, used by, or in the possession of the United States, prior to, in the case of an invention, July 1, 1918, and in the case of a registered design, July 1, 1978.

"A Government employee shall have the right to bring suit against the Government under this section except where he was in a position to order, influence, or induce use of the registered design or invention by the Government. This section shall not confer a right of action on any registrant or patentee or any assignee of such registrant or patentee with respect to any design created by or invention discovered or invented by a person while in the employment or service of the United States, where the design or invention was related to the official functions of the employee, in cases in which such functions included research and development, or in the making of which Government time, materials, or facilities were used.".

TIME OF TAKING EFFECT

Sec. 233. This title shall take effect one year after enactment of this Act.

NO RETROACTIVE EFFECT

Sec. 234. Protection under this title shall not be available for any design that has been made public as provided in section 209(b) prior to the effective date of this title.

SHORT TITLE

Sec. 235. This title may be cited as "The Design Protection Act of 1976".

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 22.

The PRESIDING OFFICER (Mr. Curtis). Without objection, it is so ordered.

S. 2387—VERTICAL DIVESTITURE IN THE PETROLEUM INDUSTRY

Mr. BAYH. Mr. President, I would like to take just a minute or two to advise the Senate——

Mr. PASTORE. Mr. President, may we have order, please? I would like to hear what the advice is.

The PRESIDING OFFICER. Will those conversing in the rear of the Chamber kindly remove themselves to the cloakroom or elsewhere? The Senator is entitled to be heard.

Mr. BAYH. Mr. President, I think it is important for the Senate to know of a certain parliamentary strategy being followed right now which is very detrimental to the country; an effort to block action on oil industry vertical divestiture.

Some time ago the Antitrust and Monopoly Subcommittee scheduled a meeting for this afternoon. This was cleared with the ranking minority member of the subcommitee. The subcommittee meeting this afternoon was called to consider and, hopefully, report from the subcommittee S. 2387, which mandates the vertical divestiture by the major oil companies.

This is a matter which has been under consideration in the Congress for a lengthy period of time. This 1,300-page hearing record is a part of the study which has been conducted in the last 6 months. Ample attention has been addressed to this issue, and the time for action is upon us.

Unfortunately, action was taken this morning to prohibit the subcommittee from meeting while the Senate was in session. Steps were also taken which would prohibit the full Judiciary Committee from acting on a related matter, S. 1284, the Antitrust Improvements Act, which was sponsored by the distinguished Senator from Michigan, as well as the Senator from Massachusetts, myself and several others, this bill is designed to make improvements in the antitrust laws of this country so that the free enterprise system could really operate as it should and we can bring competition to industries where it does not now exist.

Full Judiciary Committee action on S. 1284 is being blocked by a filibuster.

I am particularly concerned about the inability of the Antitrust Subcommittee to meet because I know the country is very concerned about what is happening in the petroleum industry.

I have had an opportunity over the past several weeks to talk to a good number of people in different parts of this country. They are disturbed about what has happened to the cost of energy. They are disturbed, as I am, over the fact that a relatively few large, major multinational corporations have virtually monopolistic control over the petroleum industry of the entire world.

S. 2387, which I introduced last September, is a measure whose goal has been indorsed by the majority party of this body. The bill—the Petroleum Industry Competition Act—which is designed to break up the vertical integration of the major petroleum companies.

Unfortunately, I believe the oil companies, in league with the administration, are willing to go to any length to keep this matter from proceeding through the normal legislative process.

The time has come to face up to this issue. We are concerned about energy. But, we are never going to get competition in the oil industry unless we deal with the fact that as presently structured there is no room for meaningful competition in the petroleum industry. Also, we are not going to bring adequate pressure to bear on OPEC unless we break up the vertically integrated petroleum giants.

Energy prices have had the greatest impact on the inflationary pressure which our country is facing, and the administration, in the guise of responding to inflationary pressures, has followed a very go slow policy on economic recovery. This has resulted in an unacceptably high unemployment rate which is going to continue over the next couple of years unless present policies are changed.

Mr. President, I do not want to belabor this unnecessarily, but I think the time has come for the matter of breaking up the oil companies to be put out on the floor of this Senate for us to face up to it, as we must.

The oil companies have proclaimed that they have a million dollars in a war chest to stop this vertical divestiture movement; to stop our effort to bring competition to the petroleum industry.

Apparently that war chest is not enough to get the job done. Now they have resorted to parliamentary tactics to prohibit the Antitrust Subcommittee from even considering this matter.

I want to say—and I hope the Senate will listen and follow this—that some may feel we have lost this first battle in a war that has a long way to go. But as far as I am concerned, the issue is not going to die. We are going to continue until we bring vertical divestiture legislation to the floor of the Senate.

I think the people of this country are tired of a handful of multinational corporations dictating the energy policy of this country.

The time has come to break up those major oil companies so we will have the kind of competition in the petroleum industry that the American people demand and deserve.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC WORKS EMPLOYMENT ACT OF 1975

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time for the debate on the veto begin as of now with the time equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the veto message.

The assistance legislative clerk read as follows:

> Veto message on (H.R. 5247) entitled "A bill to authorize a local public works capital development and investment program, to amend the Public Works and Economic Development Act of 1965 to increase the antirecessionary effectiveness of the program, and for other purposes."

The message from the President to the House of Representatives is printed earlier in the Senate proceedings today.

The Senate proceeded to reconsider the bill (H.R. 5247) to authorize a local public works capital development and investment program, to amend the Public Works and Economic Development Act of 1965 to increase the antirecessionary effectiveness of the program, and for other purposes, returned to the House by the President on February 13, 1976, with his objections, and passed by the House of Representatives, on reconsideration, today.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objection of the President of the United States to the contrary notwithstanding?

The time for debate on the veto message is equally divided, controlled by the majority and minority leaders or their designees. The vote thereon will occur at 4 p.m.

Who yields time?

Mr. MANSFIELD. Mr. President, I yield the time assigned to me to the distinguished chairman of the Committee on Public Works.

Mr. GRIFFIN. If the Senator will yield, the time on this side will be under the control of the ranking minority member of the Public Works Committee, the Senator from Tennessee (Mr. BAKER).

Mr. RANDOLPH. Mr. President, I yield myself 4 minutes.

Mr. President, I ask unanimous consent that during consideration of and voting on the motion to override the veto of H.R. 5247 the following staff members of the Committee on Public Works be granted the privilege of the floor: M. Barry Meyer, John W. Yago, Philip T. Cummings, Richard Greer, Bailey Guard, Judy Parente and Richard M. Harris.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, it is imperative that the Senate override the President's veto of the Public Works Employment Act.

Earlier this afternoon, our colleagues in the House of Representatives voted their overwhelming disapproval of the President's action and now we must indicate that we have the will to commit Federal resources to providing useful jobs—and I underscore "useful jobs"—for unemployed Americans.

We recall, Mr. President, that the Congress last year gave several months to the task of developing the Public Works Employment Act. This measure was not conceived hastily, but was structured with care after a thorough examination of the nature, the ramifications, of the recession and the various alternatives that we believe necessary to reverse this trend.

The provisions of this legislation are designed specifically to attack—and we mean a frontal attack, not a timid approach—the causes of the recession, and to stimulate—and we need that today—economic recovery.

Under these circumstances, I do not understand, and I do not accept, the President's reasoning in rejecting this bill. I have indicated the House does not agree with his reasoning.

I realize that he has a responsibility as President, but I know also that the Senate and the House have a responsibility in this matter. I know that the votes here in the Senate, regardless of what shall happen, will be cast according to the conscience and the commitment to the subject matter of the Members of this body.

The President has not only refused to endorse what I believe to be a realistic and well-reasoned measure to create jobs, but he has proposed in its place, almost at the last minute, legislation that clearly would be ineffective to meet the needs.

On December 30 I sent a telegram to the President explaining why I felt he should sign the Public Works Employment Act.

I ask unanimous consent that this telegram be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Final congressional approval was given Thursday to the Local Public Works and Capital Investment Act (H.R. 5247). This measure was developed over the past year to provide a positive response to the economic recession which continues as we enter this bicentennial year.

The activities authorized by this act are varied. Each resulted from careful consideration of both the causes and effects of recession and each is intended to alleviate a specific recession-caused problem. This measure authorizes the expenditure of a substantial amount of money, but these outlays would contribute greatly to the stimulation of the economy, including the creation of 300,000 to 400,000 jobs at a time when more than eight million Americans remain unemployed. The general economic improvement that would be fostered by the programs authorized in this act also would result in a reduction of the federal budget deficit by increasing government revenues and reducing the demand for public services to the unemployed.

Mr. President, this is one of those occasions when the expenditure of money would produce benefits far beyond the sums involved. I strongly urge you to give your approval to the act to help restore strength to the economy and confidence in our fellow citizens.

With official esteem and personal best wishes, I am

JENNINGS RANDOLPH,
Chairman, Senate Committee on Public Works.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. RANDOLPH. Mr. President, I ask unanimous consent to proceed for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. In his message accompanying the veto, the President described what he called the weaknesses of the bill. I believe he has been ill-advised on both the facts and on the interpretation of the measure itself. The President has said that the activities authorized would require many months to implement. The fact is, Mr. President, that the measure specifically provides that $2.5 billion authorized for grants to State and local governments can be allocated only—and I underscore this fact—to projects that can be started within 90 days.

Another fallacy of the President's statement is his estimate of the number of jobs that would be created by this bill. The veto message says there would be a maximum of 250,000 jobs. It is, of course, impossible to be precise in these matters, but every analysis obtained by the Public Works Committee shows that this legislation would result in more than 600,000 new jobs in the next 20 months. Most of these jobs would be in the private sector while all employment under the President's proposal would be in the public sector.

One of the major objections of the President to this bill is its cost. We cannot hope to shake our national economy out of its ongoing lethargy without the stimulus of an infusion of Government funds. The recession and the hardship it brings has continued far too long for the Federal Government to sit idly by and expect the natural course of events to provide a remedy.

The high cost per job to which the President objects is based on the administration's incorrect assumption that this bill would provide employment for only 250,000 people. Our calculations show that each new job costs less than $10,000 as opposed to $25,000 in the President's analysis. At $9,538 per job, this program would be one of the most cost-efficient of Federal job-created alternatives.

The total expenditures authorized by this bill—$6.2 billion—also must be considered in relation to the cost of unemployment to Government. So long as Americans are without jobs, Federal, State and local governments are burdened with the cost of services that are unnecessary when people are working.

It is true that the vast majority of Americans remain gainfully employed and for this we are thankful. But there are many of our fellow citizens who cannot find work. The unemployment rate has finally dipped under 8 percent but all forecasts indicate that it will remain unacceptably high for some time to come. We cannot expect millions of Americans and their families to accept the hardships of unemployment indefinitely when we have the resources to place them in productive jobs. Fiscal responsibility is, of course, desirable in Government but there are times when the refusal to spend is the height of irresponsibility.

Finally, this legislation utilizes the approach of public works programs to help stimulate the total economy. This is a historic and proven mechanism that provides benefits far beyond the immediate projects. Unemployment in the construction industry throughout this continuing recession has been higher than the national average. It now stands at 15.4 percent, more than double the national average. This bill would provide jobs for construction workers but the ripple effects of these programs would be felt throughout communities.

One of the greatest assets of public works programs is that they provide facilities of lasting benefit. Public service jobs such as those proposed by the President provide short-term employment but when the money is exhausted nothing remains. Public works programs, on the other hand, create schools, hospitals, community buildings and many other facilities that are useful for many years. I cannot accept the President's description that this is a pork-barrel measure. I doubt seriously that people in communities all across America that have benefited from these projects would agree with him either.

Throughout our country, there are such facilities that were built during the Great Depression of the 1930's. We have before us now an opportunity to repeat the successes that have historically been enjoyed by public works programs at a time when they are badly needed. I urge that the Senate seize this opportunity by voting to override the President's veto.

Mr. President, I realize that we have only 15 minutes. For that reason, I shall yield the floor at this time, and then I shall recognize Senator MONTOYA and Senator MUSKIE, two members of the Public Works Committee who have handled specific projects in connection with this overall legislation.

I believe it appropriate that I yield, before we continue, to give an opportunity to Senator BAKER, the ranking minority member of the committee, to make such remarks as he may desire.

Mr. BAKER. Mr. President, I yield myself 5 minutes.

Mr. President, I thank the distinguished chairman of the Public Works Committee and I know the attention and effort he has devoted to this legislation. I believe, however, as ranking Republican on the Public Works Committee—the authorizing committee from which this legislation, in large part—and in deference to my friends and colleagues on the committee, I owe some obligation to express the reasons why I intend to support the President's veto of this measure.

I recognize that this bill—which is now a $6 billion bill—contains three different titles and presents at least three different and separate issues. It is not a single monolithic presentation that lends itself to a categorical determination on the merits. It is clearly appealing to every Senator on one side or the other of some issue contained within it.

The first of these issues is the proposal for countercyclical aid to cities and, if we should embrace and adopt such a program, what form it should take. One of the reasons it is difficult for me to oppose the bill at this time is because there is in it so much of the initiative of so many of our colleagues on the Republican side of the aisle. For instance, on the countercyclical part, the junior Senator from Tennessee (Mr. BROCK) has been instrumental in bringing this idea to legislative fruition and moving it forward in the legislative process. But this countercyclical title is an addition to and engravement onto the original public works concept, as distinguished from a separate proposal standing on its own merits, on its own bottom as it were.

In that respect, Mr. President, I might point out that I sought from the President of the United States the personal assurance, and then later his representations to me in response to a letter, that by his veto message on this bill he was not passing final judgment on the separate and component parts; rather, if the Congress in fact sees fit to send this part or other parts of this measure back to him as separate proposals, he would be willing to consider each on its own merits, separately without prejudice because of his veto of this combined $6 billion measure.

A second portion of the bill, of course, is the accelerated or local public works program, and continuation of the job opportunities program initiated last year.

Once again, Mr. President, dating from more than a year ago, there is in this proposal much legislative initiative from the minority side of the aisle. It was in this particular vein that many, such as Senator MCCLURE, Senator DOMENICI, Senator STAFFORD, and others urged that we consider a new technique for a prompt and efficient yield of job opportunities for dollars spent, by identifying those projects which could be quickly undertaken and would provide jobs in the right place at the right time.

So this question had to be resolved in my mind before I could agree, as I have agreed, to support the President's determination that this bill, at this time, in this sum, is not in the overall best interest of the United States.

In fact, I asked the President's assurance in that respect, both orally in person and later in my letter to him dated February 17.

I report now to my colleagues that the President has indicated to me that he understands the merits and the appeal of this aspect of the bill, and if it is presented to him later as a separate initiative he will give it separate consideration—without the prejudice of this veto because of the overall impact at this time of the total bill in terms of budgetary expenditures and commitments.

The third program, Mr. President, is the Talmadge-Nunn formula authorizing different and additional allocations for waste treatment facilities. My colleagues, of course, remember that the Talmadge-Nunn formula was adopted not on the recommendations of the Public Works Committee, but as an amendment on the floor of the Senate. This is a somewhat easier matter for me in that I opposed the proposal at that time. That may not be good politics in Tennessee, since Tennessee would receive a somewhat greater share of the total funds under the revised formula, but I considered it responsible support of the sound program we had established.

The **PRESIDING OFFICER**. The Senator's time has expired.

Mr. **BAKER**. Mr. President, I ask unanimous consent to proceed for 2 additional minutes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BAKER**. Notwithstanding the fact that I thought the committee's position in that respect was more attractive, I believe the President would be willing to consider that component of the bill now before us—that is, the Talmadge-Nunn allocation formula—as a separate proposal.

Mr. President, the important thing to me is that this bill at this time, in this sum, is too much. It is not the bill that was reported and recommended to the Senate by the Public Works Committee.

Possibly more important, and certainly more relevant to our consideration of this veto, it is no longer the time when this measure was proposed and considered. If Congress does anything at all well, and we do some things very well, we manage to kill a lot of time, and we surely did so on this bill. I might very well have a different view of this matter if it were at the time it was introduced, in March of 1975. Or at the time it was reported by the House Public Works Committee on May 12, 1975. Or when the House of Representatives passed it on May 20 of last year.

The Senate held hearings in May. We took up the matter and the Senate passed its bill in July. But the conference committee did not conclude its responsibilities and file its report until December 15. And it was not until early in this session that the House completed action and sent the result to the President.

Now we are almost a year beyond the time when these proposals first saw the light of day. Circumstances, the jobs situation, certainly the momentum and the direction of the economy, are entirely different.

So it is, Mr. President, that I support the President's veto: not because all of the proposals in the bill are bad—they are not; not because its objective is bad—it is not; not because I might not support them separately—if it were a different time, and I could take them separately, I might; but because in the aggregate total it is an expenditure beyond that which should be made at this time.

Therefore, I shall cast my vote in support of the President's veto.

Mr. President, I ask unanimous consent that the text of my prepared remarks be included in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR BAKER ON H.R. 5247

Mr. President, I believe I have an obligation, as the ranking Minority member of the Senate Committee on Public Works, to state my position on the motion to override the President's veto of H.R. 5247—a bill within the legislative jurisdiction of the Public Works Committee. I have read the President's message returning the bill, the reasons given for the veto, and have listened to the debate. I will vote to sustain the President's decision.

I recognize that this bill—now a six billion dollar bill—contains three different titles and presents at least three separate issues: First, counter-cyclical aid to cities and, if used, what form it should take. Second, the accelerated or "local" public works program, the proposed expansion of EDA programs in metropolitan centers, and continuation of the jobs opportunities program initiated last year. Third, the Talmadge-Nunn formula authorizing additional appropriations for waste treatment facilities.

In fact, Mr. President, two of those titles were added as amendments in the Senate, and had not been included in the bill approved last July by the Senate Committee. Further substantial changes were made in the House-Senate Conference itself. So I think it fair to say that the bill vetoed by the President, and before the Senate again today, is a far different bill than the two billion dollar local public works measure which our Committee recommended. It certainly differs also from the prompt and specific response we initiated in the Senate Public Works Committee in 1974—the Jobs Opportunities Program—when the need was great and immediate.

I acknowledge that I voted for the bill when it passed the Senate more than 6 months ago, and that I agreed to the report following a rather difficult conference with the House in December before the first session of the 94th Congress adjourned. But this history illustrates also the problems of timing, of the accumulation and agglomeration of ideas in this bill, and perhaps the failure to fashion a specific, effective, timely response to the needs of a changing economy.

I can understand the responsibility of the President when he is confronted, as in this case, with two or three large spending programs have quite different effects yet lumped together for the purpose of securing his signature for all. I am certain that many of us consider favorably different elements of the measure before us today. Separate consideration by the Congress, presenting each proposal on its own merits instead of all leaning upon and propping each other up, would I think be a more sensible course. It would be my suggestion that these programs be allowed to stand each on its own feet, and be presented separately to the President.

I have made this suggestion to the President, and have inquired whether he would consider these different programs on their respective merits if presented by the Congress separately.

I remain convinced that local public works can play an important part in providing jobs and constructive work in times and places of severe unemployment.

At the same time, stability of the economy through responsible fiscal management, confidence of the people that we do not just throw programs together and Treasury money about, and recognition that responses must be timely and respect an order of priorities, may be of greater influence and equal benefit to our nation's health and individual welfare.

Mr. **RANDOLPH**. Mr. President, I yield 4½ minutes to the able Senator from New Mexico, the chairman of the Subcommittee on Economic Development of the Public Works Committee. For more than a half-dozen years, his leadership in developing these programs has been significant. He has a thorough knowledge of the provisions of this measure, and the Senate very often overwhelmingly follows the advice and counsel of our colleague, Senator MONTOYA.

Mr. MONTOYA. I thank the Senator from West Virginia.

Mr. President, when we came to the Senate with this bill initially, it was my feeling at that time that we did have a consensus from the Public Works Committee, and that we had bipartisan support. I do not think there is any doubt about that.

There were two amendments offered on the floor of the Senate, both of which were adopted, which increased the authorization level, and I presume that that is what the President most seriously objects to. However, I cannot agree with the President on his reasons for the veto of this bill. The bill was designed to grapple directly with the unemployment in this country, and take care of it quickly, by providing jobs.

JOBS NOW

Mr. President, it should come as no surprise to this Congress that President Ford has vetoed the public works bill. Nor should his reasons for his veto be a surprise. If we were to believe the White House, the tentative economic recovery underway is the most remarkable capitalistic explosion since Adam Smith discovered his pin factory. Never mind that cities continue on a roller coaster plummeting toward bankruptcy, that more than 7.5 million Americans remain unemployed, or that wages continue to sink in the face of unrelenting inflation.

The veto is simply another reflection of economic thinking that favors corporate, banking, and investment interests over those of workingmen and workingwomen, small businessmen, farmers, consumers, the poor, and the unemployed.

We cannot afford an administration policy dedicated to the proposition that more than 7 million men and women need not find jobs in our economy. The earliest possible restoration of full employment must be our paramount goal, and a 4-percent unemployment rate our minimum objective.

Mr. Ford's own projected budget anticipates nationwide unemployment rates far above the 4-percent mark until the end of this decade. Such rates are intolerable for the jobless and a needless drain upon national output and income.

Mr. President, H.R. 5247 as passed by Congress is the product of many months of detailed hearings, discussions, and analysis—much of them before the Subcommittee on Economic Development which I chair. The legislation represents a strong bipartisan congressional consensus, adopted in the House by a margin of 321 to 80. The President's veto was overridden this afternoon in the House by a vote of 319 to 98. Surely the

President could not seriously expect Congress to abandon this entire effort and adopt in its place a wholly different, hastily introduced and only vaguely explained concept as incorporated in the Griffin-Brown bill.

I ask my colleagues to look critically at the claims contained in President Ford's message accompanying his veto of H.R. 5247.

First, the President says the bill "would do little to create jobs," and that "at most some 250,000 jobs would be created."

While it is, of course, impossible to quantify the number with absolute precision, the most authoritative analyses available indicate that the comprehensive package of programs contained in the legislation will result in more than 600,000 new jobs in the next 20 months—most of them in the private sector.

The AFL–CIO Building Trades Council estimates that title I—local public works—alone will generate some 250,000 additional job opportunities in the construction and related supply industries.

According to the Congressional Budget Office, title II—antirecession grants to local governments—will underwrite approximately 125,000 more.

Based upon a Council on Environmental Quality study, it can be anticipated that the additional water pollution grants to States will stimulate some 140,000 jobs in construction of needed waste treatment facilities.

The Commerce Department has estimated that $500 million in title X grants for necessary renovations, repairs, and minor additions to existing public facilities can provide immediate work for an additional 100,000 people. And it is estimated that the $225 million in urban economic development and business development loans and guarantees will add another 40,000 new employment opportunities.

The sum of these estimates comes to a total of 655,000 new jobs. Based upon these several analyses, the figure of 600,000 seems both reasonable and conservative.

Second, the President says the bill will create "almost no new jobs in the immediate future," and that its "peak impact" will be in "late 1977 or early 1978." Yet elsewhere in his message he scornfully refers to the program as "a quick fix" and as "little more than an election year pork barrel."

On the contrary, the bill was expressly and carefully designed to avoid the long time lag sometimes associated with public works. Projects authorized under title I are those which have been planned for some time in communities throughout the Nation and simply have been awaiting the necessary funding to move forward to immediate construction.

The bill requires, that, to be eligible, a project must be able to engage actual onsite labor "within 90 days." The bill also provides that applications must be acted upon by administrative agencies "within 60 days."

While undoubtedly much of the work will continue into 1977 and some of it into 1978, most of it can be underway during this calendar year.

Mr. President, through the economic history of this country, our national leaders have tried countless different solutions to the problem of unemployment. These remedies have ranged the entire spectrum of economic theory.

One program which has weathered the ups and downs of economic thinking is that of public works. Time after time, the Federal Government has relied upon the construction of public works to reverse high rates of unemployment.

Antirecessionary spending programs to aid the construction industry, and therefore the entire economy, have long been known by economists to be extremely effective antirecessionary measures. The construction industry is a key indicator of and contributor to this economy's well-being. Economic downturns often follow by 3 to 6 months a slump in construction activity. An economic recovery is more often than not foreshadowed by a pickup in building. All four of the most recent recoveries have been preceded by a revival in construction.

The administration and some of my colleagues have expressed concern that the impact of public works programs—due to lead-time problems—takes place after the time of greatest need. These questions are prompted by what would appear to be greater interest in drawing budget charts than in putting our unemployed back to work.

No one expects the construction industry to be anywhere near full capacity in a year's time. In addition, the President's own budget predicts unemployment to remain between 7 and 8 percent next year. Because construction unemployment is historically twice the national average, this implies an unemployment rate of approximately 16 percent. Obviously, the economy will continue to have a dismal track record—unacceptable to everyone with the possible exception of the administration.

Third, the President claims that the cost of producing jobs would be "in excess of $25,000 per job."

This conclusion obviously is based upon the same faulty arithmetic and inaccurate assumptions which led to the President's earlier claims. Estimates reached by the authorities mentioned earlier would indicate a per job cost at about half the figure cited by the President.

Fourth, the President says this bill would result in "excessive Federal spending."

Mr. President, all the programs contemplated in H.R. 5247 already have been included in the congressional budget resolution adopted by Congress. The bill does not create new and unforeseen expenditures.

For that matter, the $19.4 billion being spent this year in unemployment compensation is more than three times the cost of this bill. Does it not make sense to take 600,000 Americans off the unemployment rolls and put them onto tax rolls through useful work?

Fifth, the President says that the best way to create new jobs is to "encourage the growth of the private sector."

The originators of this legislation could not agree more. Most of the jobs created by this bill—probably somewhere in the range of 375,000 to 400,000 of them—will be jobs in the private sector. In private employment. In private construction and equipment and materials industries. And in private small businesses aided by loans and guarantees under title III.

But local governments also have legitimate employment needs—in public safety, in health, in police and firefighting. The bill also addresses this problem by public works projects which will relieve many States and localities of some of their tremendous financial burdens. Within the last year, 36 of 67 major U.S. cities postponed or canceled capital improvement projects. Two and one-half billion dollars in debt financing were canceled. Historically, debt financing is used to finance public works facilities.

Because of the combined effects of recession and inflation, many States and localities have had to cut back on these projects. Revenues have dropped and costs have soared. Tax bases, already stretched too far, cannot be relied upon for additional revenue. The result has been a growing shelf of planned and needed projects which have simply been postponed. Federal funding of some of these projects will help to relieve many areas of unmanageable financial burdens, while providing lasting social services.

The need for such spending is apparent. Appropriations for these programs are not expenditures at all. They are not for a huge relief operation. They will not create a vast boondoggle—what has been referred to as leaf-raking, or as the President expressed it, "an election year pork barrel." The dignity of millions of American men and women once again being self-supporting is the high purpose of public works projects, and this purpose makes any reasonable expenditure worthwhile.

Sixth, the President says that the bill he favors would provide "a far more reasonable and constructive approach."

Ironically, the President offers as this alternative bill a measure introduced last week in the Congress, H.R. 11860, which addresses itself entirely to aiding the public sector.

Whatever its merits, that bill would not in any sense be considered a substitute for H.R. 5247. It is not even a pale imitation.

According to its sponsors, a total year's funding would come to somewhere between $780 and $900 million. They say this would "track" the countercyclical features of H.R. 5247.

Clearly no feat of legislative legerdemain could produce more useful and constructive job opportunities with a $780 or $900 million program, all of it in the public sector, than can be generated by the $6.2 billion of carefully balanced authorizations contained in H.R. 5247.

In short, the President's veto message is disappointingly inaccurate, flawed with inconsistencies, fundamentally unresponsive to the principal provisions of H.R. 5247. It is completely unreasonable in its demand for a total legislative capitulation on a matter of such vital importance to the Nation. Accordingly, I urge my colleagues to join me in a bipartisan affirmation of our previous support of H.R. 5247.

Mr. President, I believe it would be a serious error on the part of Congress not to override the President's veto, because we have 7.5 million unemployed in this country, and we sorely need this kind of public works. We sorely need the incentive in our economy that the infusion of that additional employment would bring about.

I ask unanimous consent to have printed in the RECORD a summary of the reasons why a vote to override the veto of H.R. 5247 makes sense.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

WHY A VOTE TO OVERRIDE THE VETO OF H.R. 5247 MAKES SENSE

1. The jobs are desperately needed. More than seven million Americans still cannot find work. This is the highest for any January since World War II. How can the Administration congratulate itself on the progress of the recovery?

2. $19 billion this year was spent for unemployment compensation. Each month 200,000 more workers are exhausting their entitlement because the recession is so prolonged.

3. This bill will put 600,000 of these Americans to work in useful jobs for a fraction of the $19 billion. The jobs are mostly in the private sector.

4. The bill will keep the recovery in progress, not let it lose momentum.

5. The cost per job will be much less than the $25,000 cited in the President's veto message—probably half that amount. And remember the purpose is not simply handing out money but to build useful and needed facilities.

6. The projects built under this bill will add to the nation's wealth. We are still using thousands of the WPA facilities of 35 years ago.

7. The bill hits unemployment where the sting is greatest—in the construction industry and the building trades, where joblessness is double the national average and as high as 40% in some localities.

8. For recession-ridden inner cities, Title II gives assurance that essential public facilities—police, fire, and health protection—will not be dangerously cut back.

9. This bill takes effect immediately. It was carefully designed to avoid the same lags mentioned by the President.

Mr. BAKER. I yield 2 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, a vote to sustain the President's veto will not be a vote to deny assistance to the unemployed. A vote to sustain the veto, however, will give us an opportunity to pass a bill which will truly provide assistance to those communities that suffer from severe unemployment.

I refer to S. 2986, the Griffin bill recently introduced. The best thing about this bill is that starting April 1, of this year, funds can be distributed to communities with unemployment levels in excess of 8 percent. This program can be implemented immediately because it would use each city's community development block grant delivery system. This is a proven system that has already proven its worth. We would not have to wait 3 or 6 months to get organized. No new bureaucracies would have to be created at the Federal, State, or local levels.

The most important reason for sustaining the veto of this bill, however, is what can be accomplished with the alternative that has been proposed. The alternative can provide thousands of jobs on projects that are vitally important to communities. With the alternative proposal, new sewer and water systems could be built. Central business districts could receive a face-lifting. And, most importantly, new housing could be built and existing housing could receive much needed rehabilitation.

These are the kinds of jobs the trade unions have been fighting for. These are the kinds of jobs that will be productive—that will improve a community and will increase its tax base. Unless this veto is sustained, however, this alternative will never see the light of day and truly effective aid to communities with high unemployment will not be available.

Mr. President, as the ranking minority member of the committee which will have jurisdiction over S. 2986, I give my word to this body that I will do everything I can to expedite an early report of that bill from the Committee on Banking, Housing and Urban Affairs, so that we can get timely action on it on the floor of the Senate.

What we are talking about is immediate aid versus aid that will not come for another 9 months. If we sustain the President's veto, we can get funding immediately on community projects that are of great worth to the individual communities.

The **PRESIDING OFFICER.** The Senator's time is expired. Who yields time?

Mr. BAKER. I yield 2 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding me this time.

Mr. President, as a member of the committee and as the ranking Republican member on the EDA Subcommittee, I rise to supplement the motion to sustain the veto of the President, though some of the legislation merged into it was legislation of which I was a cosponsor. I also was a member of the conference, and saw the conferees take action which was in excess of and quite different from the thrust taken by the Senate when the bill was first passed.

I think we have had a great deal of comment and focus upon the tendency of the Congress of the United States to report out omnibus legislation which has been characterized by some as "pork barrel." If I understand that term correctly, it is intended to imply that there is a little something in it for everybody; therefore, since everyone gets a little pork out of the barrel, they vote for it.

If ever there was a bill properly so characterized, I think that is an apt appelation for this bill. As a consequence, the bill has become overblown as a result of that tendency of the conference to add a little something for everyone, and that is the reason why I shall vote to sustain the veto, with the confident expectation that if the veto is sustained, we will be able to construct out of it a much more workable bill that will really accomplish the aims of Congress in a much more precise manner.

I am concerned also that the administration has not implemented the title X program, the Jobs Opportunities Act, in the way which we had contemplated that they would.

It is obvious to me that the Department of Commerce in making their computer model made the model incorrectly, because the information that came out was obviously incorrect.

Mr. President, I will vote to sustain the President's veto of the conference report on H.R. 5247.

The total cost of the several different measures in the conference report is about $6 billion. In his message to Congress, the President provided extensive background material explaining his reasons for the veto. I do share the President's concern that the number of jobs created by the bill may fall short of the projections and that the estimated cost per job could be too high. The President's message estimates it will cost $25,000 per job. Fortunately, the economic recovery which began late last year appears to be on solid ground and still shows no signs of faltering. When the jobs generated by these funds reach their peak in late 1977 and 1978 and when outlays under these measures are being made, they would come when recovery is advanced.

The conference report would continue, with modifications, the jobs opportunities program. The program was enacted last year and we have some experience and information about the program. I have serious reservations about the direction the program has taken. It has not attained the goals I envisioned at the start of the program. It has not created the kinds of jobs, nor created them in the manner, I expected when I introduced the measure in December 1974. I continue to support the concept behind the program. I believe it would work and would be effective in helping to create productive jobs for the unemployed, particularly in the private sector of the economy.

The most effective means for creating new jobs remains a balanced economic policy, enabling sound growth without another round of inflation. Let there be no mistake made about the true culprit for our unemployment problems—inflation. If we cannot—or will not—control inflation, then there are not enough printing presses in the world to meet the demands for so-called "Government money." The Federal Government can "create" money, up to a point, but it has to ultimately come from the pockets of the people. The President believes that passage of H.R. 5247 will take more from the people than it will return. I will support that decision and will vote to sustain his veto.

Mr. President, I ask unanimous consent that a table reflecting outlay spend-out of H.R. 5247 be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

OUTLAY SPEND-OUT OF H.R. 5247

[In millions of dollars]

Year	Total	Accl.[1] public works	Job opportunities	Urban development	C-cyclic[2] revenue sharing	Business development loan	Waste water treatment
Fiscal year 1976 IV	406.0	0	25	5	370	6	
Transition quarter	517.5	25	100	10	370	12.5	
Fiscal year:							
1977	1,885.0	350	325	60	930	50.0	170
1978	1,940.0	1,250	50	25		45.0	570
1979	1,132.5	750				12.5	370
1980	275.0	125					150
1981	100.0						100
1982	50.0						50
1983	10.0						10
1984	2.0						2
Total	6,330.5	2,500	500	100	1,670	126.0	1,422

[1] Assumes historical spend-out rates for public works. Government Operations and Public Works Committees believe requirements of H.R. 5247 could shift half of total expenditure shown into fiscal year 1977.

[2] Assumes CBO "path B" unemployment rates.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Who yields time?

Mr. RANDOLPH. Mr. President, the able Senator from Tennessee had indicated that this measure, as others we have, would be one that would continue. I must make the point that this measure contains its own automatic cutoff provisions. As unemployment declines, the assistance provided is reduced.

This is a very important factor that is contained in the bill for our colleagues, regardless of their thinking on the bill, to understand.

Mr. President, I yield 4½ minutes to the distinguished Senator from Maine (Mr. MUSKIE) who has identified himself with this legislation and who has been one of the leaders in its passage. He made important contributions to this measure, particularly with respect to the sections establishing the local government assistance program.

Mr. MUSKIE. Mr. President, I thank my good friend from West Virginia. I shall try to cover a lot of ground quickly.

First of all, I say, in response to the remarks from the Senator from Idaho, that we have been working on this bill for almost a year. Essential and principal elements of it have been part of our consideration in the first concurrent budget resolution of last spring. It was considered in the conference and considered in connection with the hearings preparing for the second concurrent resolution. We have been working on this for a year

As the Senator knows, we can keep this cake in the oven for a long time, but the unemployment is now. Unemployment has been our experience for the last year and, according to the President's budget, will be our experience for the next 3, 4, or 5 years. So the problem is now, and there is a piece of legislation that has gone through the legislative route, has gone through the budget process, and is within the congressional budget.

One of the purposes of the congressional budget process is to give Congress a handle on influencing economic policy, and it has done so.

This bill contains elements that have been essential to the development of the economic policy produced by the Congressional Budget Committees.

It may not be consistent with the President's economic policy, but it is consistent with the congressional budget policy that has been established now over a period of 11 months and is reflected in the second concurrent resolution which we approved overwhelmingly last December. This is congressional priority, and it ought not to require additional defense on the floor of either House.

Mr. President, this afternoon I intend to vote to override the President's veto of H.R. 5247, the Public Works Employment Act of 1975.

In urging my colleagues to do the same, I would like to stress a couple of particularly important points.

In the first place, as in the case of the HEW appropriations veto which we overrode earlier this month, H.R. 5247 is entirely consistent with the budget ceilings adopted by this body in the second concurrent budget resolution.

That resolution allows for $3.9 billion in budget authority and $1 billion in outlays for fiscal year 1976 for antirecession programs. The bill before us is well within those limits, allowing for $3.55 billion in budget authority and not more than $600 million in outlays for fiscal year 1976.

With H.R. 5247, Congress has done its job well—setting spending targets and sticking to them as many thought we could never do. Any claims of "budget-busting" are political rhetoric and nothing more.

A second point I would like to make, Mr. President, is that too often when we discuss the budget impact of a bill like this one, we talk only about cost and we overlook the benefits to the budget of a program that will put people to work.

The Budget Committee estimates that for every 1 percent increase in the unemployment rate—for every 1 million unemployed Americans—the cost to the U.S. Treasury is $3 billion in extra benefits to the unemployed and $14 billion in lost revenues.

The bill before us is a modest proposal—estimated to produce about 650,000 jobs. This bill will not stop the incredible drain of unemployment on the Treasury. But it will reduce it. And for those of my colleagues who say they will vote to sustain this veto because they are concerned about the size of the deficit, they would do well to consider this point.

The Budget Committee staff has estimated that of the additional $6 billion in increased Federal spending in H.R. 5247, $1.8 billion will be returned to the Treasury as tax receipts. The remaining $4.2 billion will go to increase after tax incomes in the private sector.

Following this $4.2 billion as it is spent and respent through the private sector, the committee staff estimates that the total feedback of this bill to the Federal budget—in increased taxes and reduced outlays for unemployment compensation, welfare, and so forth—is even greater. So the net impact on the Federal budget of this bill will be approximately $3 billion. And for that relatively small price, we will have put hundreds of thousands of Americans back to work and gone a long way toward stabilizing the very rocky condition of many of our State and local government budgets.

I might add here, Mr. President, that the figure of 650,000 jobs produced under H.R. 5247 is taken from estimates made by the congressional committees who worked on this bill for over a year. I do not know where the President got his estimates of 125,000 jobs at a cost of $25,000 per job. But they are preposterous. And I hope my colleagues will give them the amount of attention they deserve—none.

Finally, Mr. President, I address myself to what I consider a very disturbing attitude that I hear voiced both by some Members of this body and by the current occupant of the White House. That attitude is expressed as a growing willingness to tolerate ever higher levels of unemployment.

We are told that the unemployment picture is getting better. Well, just how much better is it? In December, 23 States had unemployment over 8 percent. 36 had unemployment of 7 percent or more. Thirteen States had the same or higher unemployment rate than they had last winter.

Never before in my long career in the Senate can I recall a time when we in this body considered 7.8-percent unemployment—which we had in January—not high enough to do something about; 7.8-percent unemployment is not just high—it is very high. The President's own projection of 7.7-percent unemployment—representing nearly 7 million Americans—is not just high—it is very high. Projections for 1977 and 1978 are for unemployment at 6.9 and 6.4 percent, respectively. That is high unemployment as high as during any previous recession since the big one during the 1930's.

What have we done about it? We have enacted a tax cut, and that is all. And State and local governments are turning around and taking that money right back from consumers through tax increases.

The bill before us now is one of the few chances we will have to enact a solid complement to the tax cuts we have already passed. And yet the "ho-hum" crowd in this Chamber and at the other end of the avenue are saying there is nothing to worry about—not 7.8-percent unemployment, not 7-percent unemployment, not even 6.5 percent.

Frankly, Mr. President, I find this attitude appalling.

For those of my colleagues who plan to vote to sustain out of concern for the size of deficit, let them take this message home: that continued high unemployment only means more and bigger deficits to come.

And for those who plan to vote to sustain because unemployment is getting better, let them tell their unemployed constituents not to worry, that times will be better in 3 or 4 years.

Frankly, Mr. President, I do not want to take either of these messages home to my constituents in Maine.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I wish to endorse everything that my distinguished colleague from Maine has said. As a matter of fact, I come from a State of high unemployment.

I am not opposed to the President's program to make certain concessions to business in order to expand and create jobs. I think that is necessary. But that is the long run. That is the long-term solution. Our problem is an immediate problem. We have thousands upon thousands of people out of work. Our unemployment in Rhode Island is over 12 percent, and we need something now.

Mr. President, the programs envisioned in this bill are consistent with the congressional program of economic recovery and energy sufficiency which was formulated at the beginning of the first session of this Congress.

As the Senator from Maine has indicated, the programs in the bill are consistent with the second concurrent resolution on the budget. All of the programs in the bill have been included in the ceiling established under the new congressional budget process.

Mr. President, I believe that we are going to find it necessary to appropriate these funds in any case. Either we are going to authorize the funds to put people back to work constructing facilities of lasting value to the community—or we are going to find it necessary to appropriate similar sums in the form of unemployment compensation benefits and public assistance appropriations.

Mr. President, it is a fact that the 1977 President's budget submitted to the Congress last month included $8.5 billion for the current fiscal year to be used to shore up State unemployment compensation funds. In contrast, last year this figure was less than a billion dollars.

Mr. President, are we going to let this trend continue? I believe it is time to look at the alternatives.

Mr. President, I suggest that the vote on this bill is not a vote on public works projects or nothing. It is really a vote on whether idle workers should be given unemployment benefits to do nothing—or whether these workers should be given the opportunity to construct facilities of lasting value to the community.

Several weeks ago I asked the staff to get in touch with the Congressional Office of the Budget to find out to what extent the creation of a job under the job opportunities program is offset by increased taxes and lower Federal expenditures. Here is what I found out. The net cost for creating a $7,500 job to put a Rhode Islander back to work is only $396. In other words, 95 percent of that $7,500 job comes back to Government in terms of increased taxes and reduced expenditures.

In addition, the construction of a facility under this Federal program means that hard-pressed State and local governments will find some relief in their budgetary processes also.

Mr. President, in the final analysis, does it not make a lot more sense to provide for the activities authorized in this bill which will provide facilities of lasting value to the community; which will reemploy idle workers; which will result in most of the funds being returned to the Government in increased taxes and savings in unemployment and welfare benefits; and which will also assist hard-pressed State and local governments to restore balance to their own budgets. Is this not a sensible and compassionate way to deal with the problems of recession and unemployment?

I hope my colleagues will answer in the affirmative and vote overwhelmingly to override the President's veto of the Public Works Employment Act of 1975.

The PRESIDING OFFICER. The time of the Senator from Maine has expired. The Senator from Tennessee has 4 minutes remaining.

Mr. BAKER. Mr. President, I yield 2 minutes to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, as the Senator from Tennessee pointed out, the situation is somewhat different today than it was last year, certainly than it was last July when the Senate passed this bill.

I have seen a couple references in the press saying that this bill passed the Senate by a voice vote. The conference report passed the Senate by a voice vote, but the bill itself was passed on July 29, 1975, by a vote of 65 to 28. There were 16 Republicans and 12 Democrats who voted against this bill when it passed the Senate last July 29.

It seems to me that if there were 28 Senators who were against it last July, the economy and the situation has changed so much since then that certainly there ought to be enough votes in the Senate today to sustain a Presidential veto of this measure.

The Senator from Maine has made an important point that unemployment does cost money not only in welfare benefits but in lost taxes. He has said that for every 1 percent of unemployment there is a loss to the Treasury of $14 billion in taxes.

I challenge that point to this extent. It is true that $14 billion——

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard.

Mr. GRIFFIN. It is true that $14 billion——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAKER. Mr. President, I yield 1 more minute.

The PRESIDING OFFICER. The Senator's time is extended by 1 minute.

Mr. GRIFFIN. It is true that a $14 billion change in revenue can occur with a change in 1 percent of the employment figure if the employment increase comes from the private sector. But if we reduce unemployment 1 percent with public service jobs and pay for it out of the Treasury, then we do not by any means change the revenue by $14 billion.

The bill that has already been referred to by the Senator from Texas costs much less but it will provide more jobs in the short run than the bill that is before the Senate that has been vetoed.

I hope the Senate will sustain the President's veto. It will be good for the country and indicate that Congress is serious about being responsible concerning spending.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAKER. Mr. President, will the Senator yield me 1 minute?

The PRESIDING OFFICER. The Senator has 50 seconds remaining.

Mr. BAKER. I yield 50 seconds to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, as all of us in this body are acutely aware, the 1974–75 recession was and is severe. Its depth surprised even the most erudite students and forecasters of the economy. The decline in economic activity brought with it built-in responses and active policies first to cushion and then to combat the recession. The built-in stabilization devices included such programs, as unemployment compensation, food stamps, and a progressive income tax structure. Active policies initiated by the Congress included such actions as the extension of unemployment benefits, a sizable tax cut, and a public service jobs program. The combination of these fiscal actions with the monetary policies of the Federal Reserve served first to mitigate the recession and then to promote recovery. Recovery began some three quarters ago and is now well advanced.

Another action taken by the Congress

to promote recovery was the Public Works Employment Act of 1975, which President Ford vetoed. The act authorizes $6.3 billion to be spent on six programs, the most important of which are accelerated public works, countercyclical revenue sharing, and waste water treatment.

The public works and waste water treatment programs are always slow in getting started and once under way they cannot be quickly halted. They have their major impacts on economic activity some 2 or 3 years after they are initiated. Thus, we can expect to see a sharp increase in Federal spending for these programs in late 1977 or 1978, and continuing into 1979, a time when the economy will be completing its third year of recovery. That surely would be an inappropriate time to have further stimulus to the economy. The major effect may be to generate inflationary pressures. The lag between the initiation of public works and waste water treatment programs and the major economic impact of such programs is too great. We would be in danger of fueling inflation, not of halting recession.

Mr. President, this bill is within the ceilings of the second concurrent resolution, and I do not oppose it because of its impact upon the budget. In my capacity as the ranking minority member of the Budget Committee, I feel compelled to speak out against bills which would rupture the ceilings, even though in principle I might favor the legislation. However, since there is no budgetary impact involved in this bill, I feel free to oppose it on its substance. I feel that if this bill becomes law it would not significantly improve the unemployment situation in the short run and that there is a great danger in the long run it would generate inflationary pressures that might help put the country back in the boom-bust syndrome from which we are now attempting to recover.

Mr. President, I have great admiration for my colleague from Maine, the honorable chairman of the Budget Committee (Mr. MUSKIE), and it is true that the countercyclical revenue-sharing feature of this bill is relatively flexible. Yet there is so much else with this bill that is not helpful and I, therefore, consider the act to be an inappropriate vehicle for promoting recovery from the past severe recession. I shall vote to sustain the President's veto of the Public Works Employment Act of 1975.

Mr. President, one point to which I shall call attention is that the study that has been made shows that if traditional patterns are followed by fiscal 1978 or during fiscal year 1978 almost $2 billion of this money will be spent and during fiscal 1979 over $1 billion will be spent, and this is long after the present recession should have ended.

I am concerned that the effect of this bill may be to produce high-level Government spending at a time when inflation may again be our problem.

Mr. President, I ask unanimous consent that a table showing historic spending rates of such programs be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

OUTLAY SPEND-OUT OF H.R. 5247

[In millions of dollars]

Year	Total	Accl.[1] public works	Job opportunities	Urban development	C-cyclic[2] revenue sharing	Business development loan	Waste water treatment
Fiscal year 1976 IV	406.0	0	25	5	370	6.0	
Transition quarter	517.5	25	100	10	370	12.5	
Fiscal year:							
1977	1,885.0	350	325	60	930	50.0	170
1978	1,940.0	1,250	50	25		45.0	570
1979	1,132.5	750				12.5	370
1980	275.0	125					150
1981	100.0						100
1982	50.0						50
1983	10.0						10
1984	2.0						2
Total	6,330.5	2,500	500	100	1,670	126.0	1,422

[1] Assumes historical spend-out rates for public works. Government Operations and Public Works Committees believe requirements of H.R. 5247 could shift half of total expenditure shown into fiscal year 1977.

[2] Assumes CBO "path B" unemployment rates.

ADDITIONAL STATEMENTS SUBMITTED ON H.R. 5247

Mr. HATHAWAY. Mr. President, the legislation which the President has vetoed authorizes $2.5 billion to speed the construction of public works projects and to stimulate employment. It authorizes $1.4 billion for construction of publicly owned wastewater treatment facilities. It authorizes $500 million for the continuation of the job opportunities program, $125 million to expand the working capital loan program under EDA, and $100 million for economic development grants to cities with 50,000 or more in population.

Unfortunately, it also contains a well motivated but ill-conceived proposal, the so-called countercyclical aid proposal. I supported H.R. 5247 at the time it passed because the countercyclical aid provision was added as a Senate floor amendment to the House bill, and it seemed unlikely that the House conferees would accept it, or the House pass it on those terms.

I assumed that we in the Congress would have the opportunity to consider this countercyclical proposal at greater length, and in a more orderly fashion. Unfortunately, however, the House not only accepted this measure, but has now overridden the President's veto of this act.

Mr. President, I voted for H.R. 5247 before because I supported these other provisions in the act, but I cannot support it again unless the countercyclical aid provisions are removed. I cannot support legislation which contains a proposal conceived, designed, and drafted as this one is with so many short comings, some of which I would like to elaborate on.

The first major objection I have is that funding under this program is extremely volatile. Unemployment data for particular States and localities can vary greatly from period to period. There is no opportunity for budgeting the use of these funds on any systematic basis. It is impossible to determine whether this uncertain kind of funding will be used to finance jobs or purchase capital equipment.

As chairman of the Finance Committee's Subcommittee on General Revenue Sharing, I have chaired extensive hearings on revenue sharing. While the general revenue sharing program is not identical to this one, it is similar in that it involves grants over local governments of money to which the Federal Government relinquishes all its control. This means the decision as to the use of that money is left entirely up to the local governments who receive it.

Throughout the hearings on GRS, all the local officials who have testified before us have consistently pointed out one thing in their testimony; that is, the importance of certainty in the amount of money they are going to get over a period of time. The continuing theme was that the reason some of this money was spent on one-shot, capital expenditures, rather than on long-term social or other programs was that no one trusted the Federal Government to continue the program at the same level of funding. The uncertainty of funding made it impossible to plan. This bill, with the triggering mechanism of 6-percent unemployment at both the National, State, and local level does not provide that certainty. If the national unemployment rate drops below 6 percent, the locals are cut off. So there is no way to plan. We are encouraging frivolous spending because they will have money for an uncertain period of time.

For large States or States with high unemployment rates, the cutoff of funds once the program were in place could be disastrous. If the unemployment rate hovered around 6 percent, with a rate of 5.8 percent one quarter, 6.2 percent the following quarter, and 5.9 percent the third quarter, it is easy to see that such an on-off switch could be highly disruptive. A similar problem would be faced at the State level and at the local level.

Additionally, the way in which excess unemployment is determined causes a State with extended unemployment to actually receive less funding than States with only recent high unemployment. Alaska, for example, has had high unemployment during the base period January 1, 1967, to December 31, 1969, as well as a current 11.8 percent unemployment rate. Its unemployment factor under this program turns out to be smaller than that of Maryland's, although Maryland's present unemployment rate is only 6.2 percent. West Virginia is in a similar position. Under this program, assistance for high unemployment is geared toward unemployment that has existed since 1969.

States and localities are not subject to any requirements with respect to the expenditure of funds. The public is not required to be involved at all in setting priorities. Distributions to local units of government for which no unemployment data is available receive funds on the basis of a State-submitted formula—an invitation for an intrastate political donnybrook.

Under this formula there is no account taken of tax effort relative to income levels—only to the total taxes collected.

There is no cap on entitlements. Based on present levels of unemployment, $175 billion would be authorized for this program. Should unemployment rise to depression area levels, this program alone could call for spending of over $10 billion. That is not the kind of program we should pass when the Congress is trying to place a lid on expenditures.

Furthermore, in the first concurrent resolution on the budget—fiscal year 1976 (S. Con. Res. 32), the Budget Committee reported that it considered the possibility of emergency financial assistance to State and local governments. No funds were specifically allocated for the implementation of such a program—Senate Report 94-77, page 96. In reporting S. 1359, the Government Operations report attempted to sidestep this problem by noting that the Budget Committee has approved $2.1 billion for "additional temporary recovery programs"—see page 12 of Senate Report 94-292 and page 29 of Senate Report 94-77). Passage of this act by overriding the President's veto would mandate that we use all of that money for temporary recovery programs such as public service jobs for direct payments to State and local governments, with absolutely no direction as to how such funds should be utilized.

This is not the way to use these funds. There is already now in place the Comprehensive Employment and Training Act—CETA—a categorical program which has been designed to meet the unemployment problem. This categorical program should be allowed to work, without the threat of a cutback in funds because of the passage of this misguided countercyclical bill.

Finally, I think we have to be realistic about the possibilities for discontinuing this program when this legislation expires.

As the chairman of the Finance Committee's Subcommittee on General Revenue Sharing, I am very familiar with the group most interested in this proposal, the State and local officials who would be receiving the money. They are probably the most powerful political group in the Nation, and I think it highly unlikely the Congress will be able to terminate this program once it is enacted. A categorical program can be restricted and controlled. There is little that can be done to control a program of this type. It is a question of money or no money, and that boils down to a question of sheer political pressure. If the Congress is prepared to yield on this occasion, it had best be prepared to yield again in the future. I am not yet prepared to yield. I vote to sustain the President's veto, confident that without the countercyclical proposal the bill will pass in short order.

Mr. ROTH. Mr. President, this legislation is not a jobs bill, it is an inflation bill that would increase Federal spending and prevent further tax cuts. The only real effect of this legislation would be increased budget deficits and more, not less, unemployment. We have to stop kidding ourselves into believing that more and more deficit spending will cure the problems of unemployment. We have had budget deficits for 18 out of the last 20 years, including nearly $120 billion of red ink in the last 20 months, and this has only resulted in inflation and higher levels of unemployment.

It should be clear by now that deficit spending leads to higher unemployment, and that the only real way to provide meaningful jobs is to reduce Federal spending, cut personal income taxes, and increase consumer purchasing power. This approach will get our plants and factories going again and put the people back to work.

This bill substitutes Government demand for private demand in every aspect and is doomed to substitute inefficiency, inflation, and higher taxes for jobs and economic recovery.

The bill provides $2.5 billion for public works projects in which the real job impact lags months behind the demand for jobs in the private sector.

The projects, at best, would be temporary projects of low priority which can be put together quickly by cities in time to get in on the Federal handout bonanza.

The cost to administer the program would drain off a large share of the funds intended to help those actually unemployed.

The huge increases in Federal spending in this bill work counter to my aim of reducing taxes so people have more spendable income.

The bill also provides money to city and State governments based on the rate of unemployment. Unfortunately, the money would not be used to create jobs in the lagging sectors of the economy but would be used by local officials to bail out bloated local budgets.

This charade gives the appearance of helping the unemployed and the taxpayers without actually helping either group. In addition, New York City would get three times the amount any other city would receive.

For these reasons I believe that the practical effect of the bill is that it would be an antirecovery measure, rather than an antirecession bill.

Mr. BAYH. Mr. President, we are faced today with one of the most important votes of the year. Again, President Ford is attempting to nullify through the veto power our efforts to speed economic recovery and to provide jobs for hundreds of thousands of Americans who can find no work through no fault of their own.

Mr. President, I believe it is imperative that this veto be overridden.

There are 7.3 million people in this country who are unemployed. The mean duration of unemployment is 16.9 weeks—4 months. The unemployment rate for black workers is 13.2 percent, for teenagers 19.9 percent. There are over 3.5 million people who are not counted as unemployed but can find only part time work because of the recession.

Though we have started on the path of economic growth, Mr. President, we have a long way to go before we reach prosperity, and we cannot cower before the President and do nothing. We must not forget that the improvement we have seen in the economy to date is a result of our willingness to stand up to threats of a veto and pass a large tax cut bill. We must not now allow the President to halt the recovery in its tracks.

And let us make no mistake about it. More needs to be done if we are to make a real dent in the unemployment roles.

President Ford's own projections—and many consider these overoptimistic—indicate that the unemployment rate will average 7.7 percent throughout this year and 6.9 percent in 1977. Not until 1988 will average unemployment dip below 5 percent.

This may be acceptable to Mr. Ford, Mr. Greenspan, and Mr. Simon, but I do not believe it is acceptable to the American people or to the Members of this body. It is our responsibility to take the actions necessary to provide for a robust and sustained economic recovery. One of those actions is to enact the legislation before us today despite President Ford's objections.

The Public Works Employment Act will provide hundreds of thousands of jobs for those most in need. It offers Americans the opportunity to earn a living rather than accept unemployment and welfare. Through quick-start public works programs it will provide a stimulus to the economy which will reach far beyond those actually working on the projects as demand for construction materials and related services is increased. Further, the bill will provide lasting and worthwhile improvements in communities across the country.

The bill also contains provisions to establish a countercyclical revenue sharing program. This innovative new concept is one of the most important pieces of legislation we passed this year.

Unemployment has resulted in a severe loss of revenues for State and local governments coupled with increased demands for assistance in the form of transfer payments. To meet the financial crunch, governments have had no choice but to increase taxes and lay off employees, all at a time when we are trying to stimulate the economy by cutting taxes and creating public service jobs. The countercyclical program will ease the burdens on State and local governments in areas hardest hit by unemployment and enable us to coordinate local fiscal policies with those of the Federal Government.

Mr. President, more will remain to be done after this legislation is enacted. We will need to create more public service jobs. We will have to extend the tax reduction legislation and we will have to find a means to insure that the Federal Reserve accommodates our fiscal policy with an adequate monetary policy. But this vote is the first step in 1976 and we must act decisively.

Mr. WILLIAMS. Mr. President, I add my strongest support to the Senate's effort to override the veto of H.R. 5247, the Local Public Works Capital Development and Investment Act.

The task of putting our unemployed back to work is the number one, basic priority we face today. And I say to the President and his economic advisors who put full employment for our people in a secondary role, that they are making a mistake that could have tragic consequences for this Nation.

The public works provisions of H.R. 5247 hold out tremendous hope to the unemployed. It is estimated that this bill would provide between 600,000 and 800,000 jobs, a sound investment in our economy by any standards. At a time when millions are seeking the opportunity to work, there exists numerous vital public projects that need to be undertaken to improve the quality of life for everyone. I know that a majority of my colleagues agree that expenditures for public works, such as road construction and repair, the construction of public buildings, parks, and transportation and recreation facilities would be much more productive than merely spending money on unemployment compensation. The case for public service jobs performing vitally needed tasks in our communities is equally strong.

The administration has shown that it does not care about putting people back to work, and the country is paying a terrible price for the lack of commitment on the part of the President. The national unemployment rate remains near an unacceptable 8 percent. In my State of New Jersey, it hovers around an intolerable 13 percent.

Since every 1 percent of unemployment costs the Federal Treasury $16 billion a year in lost revenues, it greatly enlarges our national deficit; people who cannot find work cannot pay taxes, and are forced to collect unemployment compensation. It is tragic that our efforts to put people back to work have encountered such insensitive resistance from the President.

Another vital section of H.R. 5247 would provide emergency antirecession aid to financially squeezed State and local governments. While the Federal Government is trying to create new jobs through public service employment, State and local governments are forced to neutralize that goal by cutting back on job-producing capital projects and by laying off regular employees. This provision is designed to lessen the need for State and local budgetary actions that undermine Federal efforts to stimulate the economy. It would help State and local governments maintain their current level of services and jobs without raising taxes. I feel that this approach, taking cognizance of the budget crisis facing State and local governments, would provide an essential mechanism to encourage an economic recovery.

Mr. President, I am at a loss to comprehend the administration's resistance to the idea of attacking joblessness with jobs.

The President has proposed instead to fight unemployment with tax deductions for corporations which expand their production facilities in areas of high unemployment. While this proposal may have the ring of a genuine effort, the cold fact is that it will take many months for a private corporation simply to plan a large capital expansion, and many more months before it could be constructed, equipped, and put into production.

Yet, the President has taken the position that this bill, which would begin creating jobs in just a few weeks, would take too long to implement. And in the face of his own economic projections that unemployment will remain above 7 percent for all of this year and next, he contends that the job-creating impact of this bill will come after the recession is over.

Mr. President, if we were to follow the pattern of the administration's policies on joblessness, the recession might never end.

The recession has gone on for so long that thousands of Americans are exhausting their unemployment benefits each week, with no job prospects in sight. The latest estimates are that nearly 2 million persons will fall off their unemployment compensation liferafts in calendar year 1976. And this is in addition to an estimated 1 million others who exhausted their benefits in the second half of 1975.

Still, the message from the White House is the same: No more jobs.

Mr. President, I do not believe that this Congress agrees with the President, and we must demonstrate our determination to attack joblessness with jobs by voting to override the veto of this legislation.

We must demonstrate our determination by passing legislation to expand public service employment, with an eye toward creating 1 million temporary jobs.

And we must demonstrate our determination by enshrining the principle of full employment in the laws of the land, launching the Nation on a course that will make full employment a realizable goal before the end of this decade.

This is the direction that the American people want the Nation to go, and the Congress is fully aware of the people's wishes in this regard. I urge my colleagues to heed their wishes and vote to override the President's veto of this vital legislation.

OVERRIDE OF VETO OF PUBLIC WORKS EMERGENCY EMPLOYMENT ACT IS ESSENTIAL TO RECOVERY

Mr. HUMPHREY. Mr. President, I rise to urge all of my colleagues to vote to override the President's veto of this important jobs bill. Congress must reject the President's veto because this bill is the central feature of the congressional economic recovery program. It will create jobs, it will reinvigorate the construction industry, and it will provide emergency assistance to cities, counties, and States that have been devastated by the recession.

While every section of this bill is essential to economic recovery, I would like to focus my remarks on title II. This portion of the bill provides emergency antirecession grants to State and local governments, with high unemployment rates. I am particularly proud of this title of the bill because it embodies ideas that were first recommended by the Joint Economic Committee, which I chair. Back in 1971, in the last Republican recession, the JEC recommended that:

> The Federal Government should adopt a system of grant payments to compensate State and local governments for the shortfall in their own tax revenues caused by high unemployment.

Last year, in two separate reports, the committee reiterated these recommendations.

The countercyclical aid bill that I sponsored with my distinguished colleagues the Senator from Maine (Mr. MUSKIE) and the Senator from Tennessee (Mr. BROCK), and which is now incorporated in this legislation as title II, contains many of the provisions that the Joint Economic Committee has consistently recommended since 1971.

The case for this title of the bill is compelling. State and local governments have been victimized by an unprecedented budget squeeze in the last 2 years. Runaway inflation and soaring energy costs have played havoc with the cost of providing essential services. Recession has administered the second blow of the fiscal double-whammy, by causing enormous revenue shortfalls and skyrocketing demands for social services. According to the President's own Council of Economic Advisers, State and local governments lost over $27 billion in revenues in 1975 due to the recession. That is a shocking statistic.

This bill will provide a modest compensation for the devastating effect on State and local governments of Federal mismanagement of the economy. It will allow State and local governments to keep policemen, firemen and other essential workers on their payrolls. It will allow State and local governments to hold the line against regressive tax increases. And it will permit the construction of essential capital facilities.

It is time that the Congress lay the issue squarely before the American people. The question is not, as the President argues, whether we should have public jobs or private jobs. The question is whether we have jobs or waste.

We spent $20 billion on unemployment in 1975. We are going to spend at least $15 billion in 1976. Billions more will be spent for welfare food stamps and countless other income support programs. At least $50 billion in Federal Government revenues were lost in 1975. State and local governments lost another $27 billion. Over $1.5 trillion in output will be lost from 1974 to 1981, due to this recession.

Mr. President, that is the issue about which the American people are concerned. They want jobs, not the dole. It is time to put America back to work. I urge all my colleagues to vote to override the President's veto.

Mr. THURMOND. Mr. President, the still present and serious problem of excessive unemployment in this Nation demands that the Congress carefully consider H.R. 5247, the Public Works Employment Act of 1975, which has been vetoed by President Ford. Yet, if we determine that the Federal Government should act to help solve this problem, then we must also assume the responsibility of seeing that the proposed actions are wise, economical, and effective. In my carefully studied opinion, the legislation before us, H.R. 5247, does not meet these tests. President Ford made a courageous and wise decision to veto this bill, and the Senate should sustain the veto.

I opposed this legislation when it was before the Senate because of its extremely high cost—approximately $6.2 billion—and because I do not feel its programs are cost-effective. This bill would create too few jobs for the tremendous amount of money spent. The few jobs created would come too late to be of help to those who need work now, and the job programs would not be likely to reach the hard-core unemployed. In fact, when this bill is closely examined, it emerges as a big bag full of misleading promises that will mainly result in ballooning the size of the Federal bureaucracy at great cost to the taxpayers.

The unemployed need productive jobs—not empty promises. Local governments whose budgets are caught in the grips of inflation-recession need the assurance of a stable national economy—not more handouts from a deficit-ridden Federal Government that only result in further fueling the fires of inflation. It is time that Congress stopped misleading the American people. It is time we realized that the Federal Government can best promote economic recovery by creating an environment in which our tried and proven free enterprise system can prosper and increase employment opportunities. The private sector can grow and produce new jobs, as evidenced by the substantial growth of some 800,000 jobs in the past month. We should encourage further permanent job expansion in the private sector, rather than burdening taxpayers and capital markets with more temporary, make-work jobs.

However, I recognize that the public works programs authorized in this bill appear to offer many benefits in terms of community improvements and temporary jobs for the unemployed. I also realize that the "countercyclical, antirecessionary" assistance to city and county governments provided in this bill has broad appeal to local government officials who are struggling with the difficult tasks of balancing their local budgets. The faults in this legislation lie not with its purposes and objectives, but in its fallacious assumptions, faulty mechanisms, and excessive cost. There is a better way to achieve the goals we all share, and I am pleased that President Ford has come forward with specific recommendations.

Earlier this week Senator GRIFFIN introduced, at the President's request, S. 2986—identical to H.R. 11860—a bill to provide immediate jobs and financial assistance in areas of high unemployment. I welcome this initiative and am pleased to cosponsor the bill. Congress should act on it promptly, if we are truly serious about increasing employment and helping local governments through a difficult financial squeeze.

This alternative legislation would provide immediate, job-creating assistance through the existing mechanisms of the 1974 Housing and Community Development Act. This grant assistance would be made available to local governments in high unemployment areas, to be used for whatever community development projects the local governments decide are most needed.

Thus, this emergency assistance will stimulate local economies, create private sector jobs, and help finance public improvements. The program could be put into operation immediately, because it does not require a massive new bureaucracy with new Federal regulations and complicated procedures. If our goal is to put people to work as quickly as possible, then I suggest that this legislation is highly preferable to the bill President Ford vetoed, H.R. 5247. I believe this veto should be allowed to stand.

Mr. KENNEDY. Mr. President, I stand to urge the Senate to override the Presidential veto of the Public Works Employment Act, H.R. 5247, as a vital measure to help put Americans back to work, to halt the decline of vital public services in communities across the Nation, and to reduce the pressure for local property tax increases.

We should follow the House of Representatives which voted 319 to 98 to override this bill—an overwhelming endorsement of the measure.

The measure today really involves a three-fold program. First, there is a critical boost of $2.5 billion in authority for accelerated construction of permanent public facilities—from libraries to schools—throughout the Nation. Second, the bill provides an essential $1.4 billion to finance the construction for waste water treatment plants. Third, and ultimately most important, the bill establishes the first countercyclical program of direct assistance to States and local governments, a $1.5 billion revenue sharing program that will be a flexible response to economic conditions.

This measure is an antirecessionary bill, but one that has a built-in flexibility to adjust to economic realities. It also is the proper response to the current economic crisis, one which reflects our unwillingness to define 7.8 percent unemployment as positive, one which refuses to accept those levels of unemployment for the rest of the decade, and one which is determined to make the effort now to restore prosperity to our economy.

Mr. DOMENICI. Mr. President, I support President Ford's veto of H.R. 5247 and will vote in opposition to action to override the veto. I am sympathetic to the purposes of this legislation, but I believe that it provides too much too late.

We are all aware that unemployment is a "lagging" indicator and that public works money spends out over a period of years instead of months. Defeat of this veto override attempt will be a clear indication to consumers and to the business community that the recent upsurge in confidence and abatement of inflation expectations is justified, and that Congress is determined to avoid the errors of mistimed overreaction that have created "boom bust" cycles following recent recessions.

During the next few weeks we will be faced with the task of beginning to allocate a substantial part of the country's resources through the budget process. I believe it is important to preserve as much fiscal flexibility as possible for that process. Overriding the President's veto of this legislation would reduce the available "elbow room" by a substantial amount in view of the large portion of the budget which is already "locked in."

I urge my colleagues to oppose this attempt to override the President's veto and call their attention to an editorial from the January 29, Wall Street Journal. I ask unanimous consent that this editorial be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOMENICI. Mr. President, however, should the bill pass, I would like to point out one area of potential ambiguity that could affect its administration. Section 203(c)(4)(C)(i) defines "local adjusted tax" as the "amount of compulsory contributions exacted by the local government for public purposes." This definition poses what I am sure are unintended but unique problems for the State of New Mexico. In New Mexico, there is 4-percent statewide sales tax, 1 percent of which is returned to the cities. This statewide 4-percent tax replaced a prior procedure in which there was a 3-percent statewide tax with a local option for a community to add 1 percent for its own purposes. This prior scheme, in which communities imposed the 1 percent on themselves, led to an administrative nightmare for both the State and the communities involved. Accordingly, a 4-percent statewide rate was adopted to take advantage of the State's administrative resources, but with 1 percent earmarked for return to the cities.

I have reviewed the language of the bill, and its legislative history, and it appears to me that there is adequate flexibility in the law to count the 1 percent of earmarked funds as "compulsory contributions exacted by the local government for public purposes." The State is a mere middleman, and its status as the tax collector should not obscure the fact that these funds are statutorily imposed and targeted for the benefit of the cities. Accordingly, Mr. President, I urge that those administering the law use the flexibility available under the statute and compute the 1 percent earmarked funds as part of the "local adjusted tax" base.

[From the Wall Street Journal, Jan. 29, 1976]

EXHIBIT 1

THE PUBLIC EMPLOYMENT BILL

The outcome of today's scheduled House vote to reconcile differences between House and Senate versions of a public-works employment bill is just about a foregone conclusion. The conference agreement is almost certain to pass by a wide margin, but the question is whether it will pass by enough votes to make President Ford think twice about his threatened veto. Yet what is at issue beyond the usual test of wills, and beyond the $6.2 billion appropriation intended to stimulate construction and provide antirecession cash grants for state and local treasuries, is a contest over vastly different political philosophies.

Both parties to the argument agree that unemployment is too high, wasteful in human and financial terms. Moreover, unemployment represents a special handicap to an incumbent President in an election year. Yet the Ford administration insists that the surest, most lasting way to cure unemployment without sowing the seeds of future recession is by restoring the health of the private sector. The Democratic congressional majority, by contrast, continues to put its faith in the federal government's ability to intervene directly in the economy and thereby generate growth and production.

It is quite clear that the Democrats see the jobs issue as a major battleground in this election year and one where it is relatively easy to cast themselves as the good guys. In that role they are prepared to conduct some major assaults on ordinary logic. Senator Humphrey said on "Issues and Answers," for example, that even if his own jobs proposals cost $35 billion, as sone have alleged they would, they would be a "bargain" because of the economic activity they would generate.

Anyone who believes that would also have to believe that economic growth can be stimulated by robbing Peter to pay Paul, with Paul doing something less useful than Peter for his pay. It also would be difficult to justify claims that the proposed $6.2 billion bill will produce work for up to 800,000 people. A study last year by Alan Fechter, senior research economist at The Urban Institute, found that job-creation programs create at best no more than about 60,000 jobs for each $1 billion expenditure. This suggests that the proposed bill would actually generate far fewer than half the number of jobs being claimed for it. Moreover, the study found that in the long run 60% to 90% of public employment program funds would merely displace state and local funds. Concludes Mr. Fechter: "It appears that, given what we now know, a large public employment program, while attractive politically, would be an undesirable use of public resources."

Public employment is largely redistribution—that is, taking from the employed and giving to the unemployed. Unemployment insurance programs are already available for such purposes, and they have the major virtue of leaving workers free to seek jobs that have economic usefulness. Make-work invented by government does not have that merit.

The remarkable thing about the Democrats' program is that it ignores the dramatic lesson of New York City. The city's leaders for years felt that it made perfect economic sense to continue creating public sector jobs of marginal utility even if their creation involved ever larger taxation and debt. That bubble finally burst, but it obviously has not impressed Congressmen with responsibility for a federal government running a deficit close to $80 billion.

There is an end to all this. It is an economy that degenerates into low productivity, high taxes and high inflation. It should indeed be the government's goal to improve opportunities for the jobless but they should be real opportunities, not illusory ones.

Mr. DOLE. Mr. President, the Senator from Kansas will vote to sustain the veto of H.R. 5247. While the continued strong economic recovery and recent large decline in the rate of unemployment—from 8.3 percent to 7.8 percent—are encouraging, I share with my colleagues who have sponsored this legislation grave concern about the continued high level of unemployment. Both the Congressional Budget Office and the administration foresee nationwide unemployment averaging at least 6½ percent throughout 1976 and 1977—even under favorable assumptions about economic policies and private sector recovery. This is far higher than anyone desires. The Senator from Kansas would like to see the jobless put back to work as quickly as possible and practicable. So I share the sentiment expressed by H.R. 5247 and the objective it seeks to serve. However, I disagree with the method invoked for several very serious reasons.

One of the great lessons of the last decade has been the real limitations—constraints—we must face—in the area of international affairs, in personal politics, and in domestic and international economics. We must set our goals high, but they must at the same time be realistic. Otherwise, we face the likelihood that the policies we adopt will be, if not in the very short run, eventually self-defeating.

This is the immediate problem we face in seeking the right policies to cope with the high rate of unemployment. It is my judgment on the basis of the evidence and arguments I have heard, as well as past experience, that as a macroeconomic policy, H.R. 5247 is fatally deficient in two respects.

First, it is doubtful that it can deliver the quick increases in employment that are promised. In the case of title I of the act, beginning from the date of hypothetical enactment, it wil take 30 days for rules and regulations to be prescribed, further time for States and localities to apply for grants, as much as 60 days for a final determination on initial applications to be made, and then as much as 90 days for onsite labor to begin. So, while the architects of this legislation have made a sincere attempt to make this program as responsive as possible, it is in the very nature of the program that it may well be at least 6 months from enactment before the first worker is on the job. In addition, the fairly capital-intensive nature of many of the eligible projects raises doubts about the number of jobs that would be quickly created. Finally, the wisdom of inducing States and localities to accelerate existing projects and to bring others off the shelf may be seriously questioned. This would seem to invite inefficiency in design and workmanship and may impose future maintenance and repair costs for projects that are not economically viable under more sound economic conditions.

Second, it appears likely to the Senator from Kansas that many, perhaps the majority of the funds allotted to these programs will be spent after unemployment rates have declined from their critically high levels. It is significant that we do not have firm estimates from the Congressional Budget Office as to when program outlays will occur; the worst may reasonably be anticipated. These projects would then be substantial competition with demands for labor and materials self-generated by the private sector of the economy. Note that the approval of projects within the allotted funds will not terminate until the unemployment rate has declined below 6½ percent in title I and 6 percent in title II. But, it is well known that the unemployment rate is a lagging indicator of the strength of economic activity. And it can be as long as 90 days after the final grants are approved before work begins; how long the project and related Government outlays may continue after that is not specified.

Another way of raising this second deficiency is with reference to the budget impact. It appears likely to the Senator from Kansas that the outlays from H.R. 5247 would be continuing in substantial and essentially uncontrollable amounts at a time when the Congress is focusing its efforts on fiscal restraint and bringing about the long-sought balance in the Federal budget.

Enactment of H.R. 5247 now would contribute to thwarting that effort, bringing on another round of inflation and recession caused largely by inept fiscal policy.

It will be argued that there is room for this spending within the targets of the fiscal year 1976 second budget resolution. This is true because room was made—but this is surely not the full measure of the wisdom of a program. The future year budget effects require careful consideration in the manner I have just indicated.

I would note also that nearly a full year has passed since this legislation was proposed. While the Senator from Kansas had reservations about this bill at that time, they were fewer and less serious than now. As already expressed, the matter of timing is of great importance. We have lost nearly a year. This must not be ignored in a blind determination to push on.

The Senator from Kansas recognizes the highly interdependent nature of our national economy—regionally and among industries. Nevertheless, I must take strong exception to the criteria for allocation of funds in H.R. 5247. The $14.1 million out of a total $6 billion—less than 1/400—which would go to the State of Kansas is symptomatic of the regional inequity of this bill. Should a region be penalized by havng its Federal tax dollars explicitly transferred to other regions because the level of unemployment, both now and during times of prosperity, is lower than in other regions? Is a jobless person in Kansas or Iowa any less unemployed than one in New York or California? I would note that while the December rate of unemployment in Kansas is 5.1 percent—less than the 6 percent and 6½ percent cutoffs provided in H.R. 5247, and less than the national average 8.3 percent—this represents a significant increase from the 2.9-percent rate of unemployment of September 1974. People in Kansas have jobs, too. States and localities in Kansas also face financial restraints that affect the level of services they can deliver and the level of local taxes required.

If one wants to play with percentages, the unemployment rate was 75-percent higher in Kansas in December 1975 than in September 1974; by comparison the national average was only 45-percent higher. The Senator from Kansas recognizes that during economic recessions the economic policies forced on localities by circumstances beyond their control work at cross purposes to the stimulative policies of the Federal Government. Some measures of countercyclical fiscal assistance has great appeal as to a way of dealing with this policy dilemma. In addition, it is consistent with providing increased discretionary control at the local government level. I recognize that this assistance cannot logically be distributed equally on a dollar per capita basis among States. But logic—both political and economic—demands a more equitable allocation than is provided in H.R. 5247.

My vote to sustain the veto of H.R. 5247 does not mean the Senator from Kansas lacks compassion for the unemployed. Rather, it reflects the fact that continued high unemployment as economic recovery proceeds is a difficult problem to which H.R. 5247 does not provide a short term, let alone a long-term solution. That solution must lie primarily in productive and permanent jobs in the private sector of the economy. The Senator from Kansas will support any fiscally responsible measure which effectively encourages and hastens that solution.

For example, it would seem appropriate at this time to consider a joint employment effort by the private sector and the Federal Government. The Federal Government could pay a portion of the wages of previously unemployer workers who are rehired by private employers, with the Federal wage portion phasing out as the rate of unemployment declines. Such a Federal wage-sharing program would match workers with potentially permanent employment suited to their skills, would reduce unit labor costs to producers and therefore affect prices favorably, and may cost the Federal Government less than the continued cost of unemployment benefits and other income supplements. In addition, the supply of goods and services produced would be increased, with resulting favorable effects on prices. The work incentives program—WIN—is a limited program of this type which focuses on welfare recipients and seems to have been successful. A similar program applicable to the temporarily employed may be similarly successful in hastening their return to productive employment.

As the economy continues to recover, the Senator from Kansas believes it is wise policy—in terms of investment in human resources and maintenance of personal dignity—to continue with temporary programs of unemployment compensation and income maintenance that encourage prompt return to productive employment as it becomes available.

I cannot, however, support a program that promises more than it can deliver, and delivers at the wrong time. For that reason, I urge my colleagues to vote to sustain the veto of H.R. 5247.

Mr. DURKIN. Mr. President, up at the White House, Mr. President, they call it a "slack in the economy."

In one of the 20,000 homes in New Hampshire where the breadwinner is unemployed, they call it a disaster.

They are frustrated, these 20,000, because they have lost control of the most vital aspects of their lives. They are anxious about how to feed and clothe their families. They are scared that the boredom, aimlessness, and anxiety of unemployment will never end.

Congress solution, Mr. President, was innovative and fiscally responsible. The Nation cannot continue to forego $75 billion in annual economic growth because of underutilization of vast human resources. And the public works and capital construction bill puts the money and the jobs where they are most needed.

Now that Mr. Ford has vetoed the bill, in the middle of this important primary campaign in New Hampshire, I have asked him to explain his action at Keene, Dover, or Portsmouth, at those unemployment offices where dispirited citizens wait, wonder, and worry.

While he is there, maybe he can also explain his plans to end a 300,000-job program under the Comprehensive Employment and Training Act, as promised in the budget message.

Maybe he can explain at these cities why 8 years of Nixon-Ford mismanagement and nonplanning in the economic area have done so little to help so few.

Mr. Ford calls this bill a "quick fix" for the economy. I should remind the President that not all wounds heal by themselves, not all cancers disappear just by smiling and waiting. This public works bill is good medicine, neither excessive nor addictive. The public service jobs to be created have the combined advantage of putting people back to work and reducing the billions of tax-dollar outlays for relief and unemployment funds. Title II of the bill gives added money and jobs to areas especially hard hit by unemployment and recession.

Rarely, Mr. President, do we have a chance to do so much for so many—to create jobs for—600,000 jobs for good, honest, otherwise hardworking people. For their sake, and for the sake of good Government and good economics, I urge the Senate to override this senseless and heartless Presidential veto.

Mr. TAFT. Mr. President, today the Senate has before it a bill that should be investigated by the FTC, because its supporters are selling this legislation through deceptive advertising. It amounts to an old-fashioned pork barrel bill, with a lot in it for politicians, but little relief for the people.

I am convinced that the taxpayer is tired of paying for programs that the Democratic Congress states will solve our problems by pouring in Federal tax dollars. If we have learned anything in recent years, it is that Federal dollars do not solve all problems; in fact, they often make the problems more acute. This is just such a bill. This legislation will bust the budget and fuel the fires of inflation which are just now being brought under control.

Let me briefly analyze this bill, section by section.

Section I, is probably one of the greatest follies I have ever seem in my 12 years of service in the House and Senate. Let us look at what the bill says. It states that the Department of Commerce must approve each project application. This is necessary because of the lack of any other Federal control in the legislation to insure that the programs are worthwhile. But the bill says that the Department must approve an application within 60 days of its receipt, and if it has not been acted on, it will be automatically approved.

Now, I have often criticized the bureaucracy for delaying action on grants and projects coming into Ohio; but I do not see how the Commerce Department can possibly be expected to review the hundreds of applications that will flood into their offices, within 60 days. The approval process will be a complete joke and all sorts of programs that Congress never intended to be funded will be approved. The fault will not lie with the officials of Commerce. The fault will lie with the supporters if this bill who incorporated such ridiculous language.

But the foolishness does not end there. Knowing that the opponents of the bill would state that public works projects cannot be started quickly, the authors of the bill write in language that all projects approved under this title must have construction begun within 90 days of approval. I think this will only insure that the projects are awarded as political prizes, because this is not adequate time for a careful bidding process for the contracts. The contractors will slap together quickie bids that will end up with huge cost overruns, for which the taxpayer will end up paying, as always.

Since the cities and States must quickly submit their projects, they will not submit those which are most needed, they will submit those which are most readily available.

When Congress adopted revenue sharing, one of the chief arguments in its favor was that under the former grant system the Federal Government was setting local priorities and not letting local officials decide how funds should be spent. This is a classic example of this error.

This bill ignores the fact that, without massive Federal involvement, the construction industry is recovering from its depression. It should continue to improve with the rest of the economy. In fact, just yesterday, the Wall Street Journal had an article on the housing industry, and, in the lead paragraph stated:

> The fundamental trends at work in the housing industry are pointing to a good recovery this year in both housing starts and profits of building-related companies.

In this economic climate it seems wasteful to pour $2.5 billion more Federal tax dollars into the recovery.

I think it would be worthwhile to look at the rate of recovery in my State of Ohio as it is reflected in the very important unemployment figures. I have compared the July 1975 figures to the December 1975 figures for nine of the major metropolitan areas in my State.

During this period the national unemployment rate dropped from 8.7 percent to 8.3 percent. The December rate fell to 9.5 percent of the July rate. But the rate of improvement in Ohio was faster than the national average in each area I have mentioned. These figures came from the Bureau of Labor Statistics.

It is also important to note that these are the most recent figures I could get, but since then the national rate has dropped to 7.8 percent, and I feel sure Ohio is following this trend.

I would like to now turn to title II which is the so-called countercyclical program.

This title amounts to a no-strings-attached revenue sharing bill that is being pushed through without proper hearings or consideration. We need an extension of the revenue sharing program; but I am afraid that passage of this program will be used as an excuse by critics of revenue sharing to delay renewal.

Because of the haste with which this title was passed, it contains serious deficiencies. The requirements to insure that countercyclical assistance will be used to provide new jobs are too vague. The nondiscrimination provisions are inadequate.

Under this $1.5 billion provision there is no guarantee that jobs will be created. It is a bailout bill for five States which receive over 50 percent of all the funds allocated. Ohio is not one of these five States.

During the debate on the New York bailout I stated that local governments would have to tighten their belts. I and many others, believe that they would have to cut some of the fat out of their budgets. This bill allows them to loosen their belts a few notches and gain a few pounds instead.

Title III of the bill authorizes $1.4 billion for the construction of water pollution control and waste treatment facilities. I am deeply concerned that under the formula in this bill Ohio's allocation drops by over $40 million. I think that this formula, which was written by Senators TALMADGE and NUNN, helps the Southern States but shows sharp decreases for the industrial States in the Northeast in regions I, II, and V. New York, New Jersey, and Michigan, have their allocations decreased by over $200 million each, and Illinois faces a decrease of over $100 million. I think that a formula that would help the large urban States would be better.

Finally, let me say that I was one of the authors of the CETA legislation. I fully support efforts by the Congress to target funds to help the unemployed. This bill will not achieve that goal.

CETA will shortly be up for congressional review, and I strongly support a renewal of revenue sharing, which is currently under consideration. But let us address these issues in a bill that is well drafted and does not cost the taxpayers $6 billion.

I urge my colleagues to sustain the veto.

Mr. MOSS. Mr. President, now that the President has stated his lack of support for the Public Works Employment Act, it is important that the value of this measure once again be stated. Both Houses of Congress have been considering this bill for a very long time. There is no doubt in my mind that this act represents the best effort to date of this Congress to stimulate economic recovery. Though some progress has been made toward that recovery, the employment of someone else hardly calls forth celebration from those who are still without employment and without hope of employment. I am not willing to make the argument that Government "owes" its citizens jobs, but I do certainly support the notion that it's better to provide meaningful work, to get laborers off employment security and welfare rolls and into needed public works.

I support this act because it provides $2.5 billion in authority for the rapid construction of lasting and useful public facilities in every part of the country. The bill also contains $1.5 billion for antirecession grants which will go to local governments in all 50 of the States, as well as to 43 State governments. The bill also authorizes $1.4 billion for waste water treatment facilities construction. Last, it provides $500 million for the continuation of the job opportunities program, $125 million for EDA business loans and interest subsidies, and $100 million for economic development aid to cities of 50,000 or more in population. My own State of Utah will receive $26.3 million under the water pollution control funding, and $3.1 million under the emergency aid to State and local government funding. These funds will add significantly to Utah's ability to decrease its unemployment to manageable levels, and it will result in improvement of existing public works within the State.

The vast bulk of all of this money will be spent in the depressed construction industry and will have a multiplier effect in supplying jobs in industries and businesses. It will help us to increase the Nation's productive capacity, which currently stands at only 75 percent of potential, and which suffers from greater unemployment than at any time since World War II.

This bill represents a positive and necessary response to our unemployment problems. It provides further stimulus to our antirecessionary efforts. As such it deserves the support of the Representatives of this Congress.

The PRESIDING OFFICER. All time has expired.

The hour of 4 p.m. has arrived.

The question is, Shall the bill (H.R. 5247) pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are mandatory under the Constitution.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Illinois (Mr. STEVENSON) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Nevada (Mr. LAXALT) is necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. LAXALT) would vote "no."

The yeas and nays resulted—yeas 63, nays 35, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—63

Abourezk
Bayh
Beall
Bentsen
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pell
Percy
Randolph
Ribicoff
Schweiker
Sparkman
Stafford
Stone
Symington
Talmadge
Tunney
Weicker
Williams

NAYS—35

Allen
Baker
Bartlett
Bellmon
Biden
Byrd,
  Harry F., Jr.
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Garn
Goldwater
Griffin
Hansen
Hathaway
Helms
Hruska
Johnston
Long
McClellan
McClure
Packwood
Pearson
Proxmire
Roth
Scott, Hugh
Scott,
  William L.
Stennis
Stevens
Taft
Thurmond
Tower
Young

NOT VOTING—2

Laxalt
Stevenson

The PRESIDING OFFICER (Mr. BARTLETT). On this vote, the yeas are 63 and the nays 35. Two-thirds of the Senators present and voting not having voted in the affirmative, the bill, on reconsideration, fails of passage.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate and in the galleries?

The PRESIDING OFFICER. Order has been called for and order will prevail in the Senate. Those in the galleries will be quiet or the galleries will be closed. Members on the floor will take their seats. We must have quiet in the galleries.

Mr. RANDOLPH. Mr. President, the ranking minority member of the Public Works Committee, the able Senator from Tennessee (Mr. BAKER), and the Senator now speaking, as Chairman of the Senate Public Works Committee, would like to have our colleagues realize that it has been our desire to bring to the Senate legislation that would cope in substantial degree with unemployment problems in the country, place workers at gainful employment and produce programs and projects of lasting benefit to communities, and to the Nation as a whole.

The vote this afternoon reflects the approval of the Senate for a public works program but the disapproval of the Senate from the standpoint of the necessary two-thirds vote to override the President's veto. The vote was 63 to override and 35 to sustain.

It is the sense of the Senate, therefore, that we would not say, "We quit." The country would not expect us to do that. The Members of the Senate here would not desire that we do that. For that reason, I pledge to my colleagues that, hopefully, next week the Senate Public Works Commission can return to the drafting board and bring out a measure that will be agreed to by the President and by the House, a measure that, although lesser in degree in meeting this responsibility to place people at work at gainful employment, will go part way toward the effort we have made in the Senate. We made it in the conference committee, we made it in both bodies in earlier votes. We did have a broad frontal attack in this legislation on unemployment, and that is as it should be. We were not with timid legislative steps attempting to solve this important problem, but we are realists. We are Members of good purpose, and we want to go back, as I have indicated, to see what we can do within the committee to bring another measure to the floor.

I yield to my colleague from Tennessee with whom I have conferred in reference to the announcement I have just made and, insofar as I could, I touched base with other members of the Public Works Committee.

Mr. BAKER. Mr. President, I thank my colleague, the chairman of the Public Works Committee, for yielding.

I commend him for his attitude and his statement in this respect. I fully concur with it, and I assure our colleagues in the Senate that the Public Works Committee is mindful of its responsibilities and that we will go forward with dispatch.

As I stated in my remarks in opposition to the proposal to override the President's veto, it is not that this is such a bad bill; it is that the bill came to us at a bad time and under substantially different circumstances, I believe, from what was originally intended.

If we went back to what the Public Works Committee did originally, I rather speculate that we would not have had this veto on our hands. But there is room to maneuver, and I am pleased the President has indicated a flexibility, as he has, on this matter, and I pledge to my chairman that we will jointly try to find a way to provide the jobs the country so desperately needs.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. RANDOLPH. I thank my colleague from Tennessee, who has been so cooperative in these matters of consideration.

I yield to the Senator from New York (Mr. JAVITS).

Mr. JAVITS. I thank my colleague.

The bill had two parts, of course: One, the public works part, and the other the countercyclical part to deal with the ravages which have hit the cities and the heavy unemployment in many States and many communities.

I do agree thoroughly with my colleagues that the thing to do is to get together with the White House, but I do not feel, in all fairness and dignity, that you have any reason to believe we simply have to take whatever is handed to us, because 63 votes in the Senate are not very far from the necessary number to override.

I honor the President completely in the sturdiness of his convictions, and I have had lots of experience with this President and previous Presidents in just this situation where you sit down and it is a negotiation across the table, and you try to work something out in the interests of the country.

So I do not wish to in any way seem to feel that we have some trial of strength or confrontation, but I do feel our negotiators—and that is what the Senator will be, and Senator Baker and other colleagues—should have some feeling also of the strength of the fact that notwithstanding this was by no means an optimum bill—no one knew that better than the Senator from West Virginia—the fact is, Mr. President, that we are negotiating as equals.

If I know the President—and I think I do—that is exactly the way he wants it. So I hope very much these efforts will prosper. I feel very definitely the Senator is treading correctly the right course.

I was a conferee, and I know how hard it was to fight this out. But I believe the time can be greatly shortened, and it must be, because of the exigencies that we must face. There are 100,000 people exhausting their unemployment compensation benefits every month, and I certainly want to in every way cooperate with the speed of the Senator in his work.

Mr. RANDOLPH. I appreciate the comments of the Senator from New York (Mr. JAVITS), who has been a strong arm in this effort to place the arms of the American people at work. I just add this one word: I was in the State of California a few nights ago for a few hours, and in the area where I was I asked what the unemployment rate was. I was told the unemployment rate in that part of California, a considerable area of California north of San Francisco, was at 19.5 percent. This is a very high figure.

In New Jersey, in other parts of the country, these unemployment rates are running 10, 12, and 14 percent.

We do have a responsibility, as the Senator from Tennessee knows, as all the Members of the Senate, I think, know, that we must return and attempt to meet the issues realistically and, as I used the word, hopefully with the cooperation and the understanding of the President of the United States.

I yield the floor.

LEAD-BASED PAINT POISONING PREVENTION AMENDMENTS OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate now turn to consideration of Calendar No. 606, S. 1664, and that it be laid before the Senate and made the pending business.

The clerk will state the bill by title.

The second assistant legislative clerk read as follows:

A bill (S. 1664) to amend the Lead-Based Paint Poisoning Prevention Act.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert the following:

That (a) this Act may be cited as the "Lead-Based Paint Poisoning Prevention Amendments of 1976".

(b) Section 101(c)(3) of the Lead-Based Paint Poisoning Prevention Act is amended to read as follows:

"(3) development and carrying out of intensive follow-up programs to insure that identified cases of lead-based paint poisoning are protected against further exposure to lead-based paint hazards in their living environment by eliminating lead-based paint hazards from surfaces in and around residential dwelling units or houses when the owner of said units or houses is financially unable to eliminate such lead-based paint hazards. Priority for local lead elimination programs shall go to units or houses where there reside children with elevated body lead burden or diagnosed lead-based paint poisoning, or both; and".

(c) Section 101(f) of such Act is amended by—

(1) inserting immediately after "(f)" the following: "(1)"; and

(2) adding at the end thereof the following new paragraph:

"(2) No grant may be made under this section unless the Secretary determines that there is satisfactory assurance that the services to be provided will be carried out in accordance with subsections (c) and (d) of this section.".

(d) Section 401 of such Act is amended to read as follows:

"PROHIBITION AGAINST USE OF LEAD-BASED PAINT IN CONSTRUCTION OF FACILITIES AND THE MANUFACTURE OF CERTAIN TOYS AND UTENSILS

"SEC. 401. (a) The Secretary of Health, Education, and Welfare shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any cooking utensil, drinking utensil, or eating utensil manufactured and distributed after the date of enactment of this Act.

"(b) The Secretary of Housing and Urban Development shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government, or with Federal assistance in any form after the date of enactment of this Act.

"(c) The Consumer Product Safety Commission shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any toy or furniture article.".

(e) Section 501(3) is amended to read as follows:

"(3) the term 'lead-based paint' means

"(A) within six months of the date of enactment of this amendment any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolitile content of lead paints, or the equivalent measure of lead in the dried film of paint already applied, or both;

"(B) after six months from the date of enactment of the amendment, any paint containing more than six-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of lead paints, or the equivalent measure of lead in the dried film of paint already applied, or both, except that

"(C) the Consumer Product Safety Commission shall on the basis of public testimony and available scientific evidence (which shall include the recommendations of the Center for Disease Control, the American Academy of Pediatrics and the National Academy of Sciences) determine within six months of the date of enactment of this amendment whether another level of lead, not to exceed five-tenths of 1 per centum, is safe, in which case such other level shall be effective after six months from the date of enactment of this amendment.".

(f) Section 503 of such Act is amended—

(1) in subsection (a) there is hereby authorized to be appropriated to carry out the provisions of title I of this Act not to exceed $10,000,000 for fiscal year 1976; $12,500,000 for fiscal year 1977; and $15,000,000 for fiscal year 1978;

(2) in subsection (b) there is hereby authorized to be appropriated to carry out the provisions of title II of this Act not to exceed $5,000,000 for the fiscal year 1976, $15,000,000 for the fiscal year 1977, and $25,000,000 for the fiscal year 1978; and

(3) in subsection (c) there is hereby authorized to be appropriated to carry out the provisions of title III of this Act not to exceed $3,000,000 for each of the fiscal years 1976, 1977, and 1978.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 20 minutes on the bill, the time to be equally divided between the distinguished Senator from Massachusetts (Mr. KENNEDY) and the Republican leader or whomever he may designate.

The PRESIDING OFFICER. Will the Senator repeat his request?

Mr. MANSFIELD. A 20-minute limitation, the time to be equally divided between Mr. KENNEDY and the Senator from Pennsylvania (Mr. SCHWEIKER).

Mr. JAVITS. Reserving the right to object, let me find out what this is about.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MANSFIELD. Before I yield to the distinguished Senator from West Virginia, I wish to say it is the intention of the leadership, after this is disposed of, to call up S. 2017, the Drug Abuse Office and Treatment conference report, which should be considered by a voice vote.

The purpose of bringing these two measures up at this time is so that the Senate will not be in session tomorrow.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, it is a pleasure for me to present the amendment to the Lead-based Paint Poisoning Prevention Act, S. 1664, to the Senate on behalf of myself, the distinguished Senator from Pennsylvania (Mr. SCHWEIKER), and the other members of the Health Committee.

This legislation, Mr. President, is not new legislation. It is legislation which has been considered by the Congress now for approximately 7 years. It is an extension of an act we passed in 1971 and was amended in 1972. Last year the authorization expired. This amendment provides for a 3-year continued authorization.

The authorization levels are approximately the same as previously with some modest increase, about the amount of the cost-of-living increase over the period of the next 3 years.

The thrust of the legislation is in three important areas.

First of all, it provides resources for the screening of children; second, it provides for the elimination of the lead hazard in the homes of lead-sick children—recognizing that once we detect that a young child has lead poisoning, it makes very little sense to send that child back into the same kind of environment where he can ingest the flakes of paint which will make him sick again—and this has been one of the prime interests of the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) who initially proposed this amendment sometime, probably, 3 years ago; and then finally, there is a component in the area of research.

Mr. President, since the enactment of this legislation, there have been just about 1 million children that have been screened and in the screening of these children there have been 5 percent of these children who have actually been detected to have the disease of lead paint poisoning.

If we are talking about a disease like smallpox, diphtheria, scarlet fever, and we have a level of 3 percent, we call it an epidemic. Here, we have a situation where 5 percent of all the children that have been screened have been determined to be medically ill or medically sick, because they have high blood lead levels.

So there is a very important area of need, we feel, in the area of health, and health prevention, in continuing this particular program.

We are talking about extremely modest figures. A year ago the amounts that were actually being appropriated were $9 million. For fiscal year 1976 the administration requested $3.5 million, a two-thirds cut in this program.

It just seems to me that that cut was not warranted or justified, given the evaluation of the program and the fact that the unmet needs of children in this country still demand attention.

We have more than 8 or 9 million children that yet have to be tested, and when we realize what the statistics have demonstrated and shown over the period of recent times, we recognize the urgency and importance of the continuation of this program.

Let me point out, Mr. President, that the program is, of course, particularly important in many of the industrial areas around the country, and particularly in those older industrial States and older industrial cities, and where they have used paints that were developed 20, 30, 40 years ago and which are peeling off the interior walls of various homes where many little children are now living.

It is not nearly the problem in the newer residential areas, because more than 75 percent of the paints which are used in the residential areas now meet the requirement for minimizing the lead hazard and we do not believe they pose any kind of health hazard.

But lead poisoning exists not only in the old cities of this country. It is also a threat in many of the rural communities. The rural communities of Appalachia, the southern part of the Nation, in the western areas, and in other rural communities where the same old paints were used, the detection of this particular disease has shown medical experts the continued kind of deterioration in the homes of the children of older communities. The effects of mental retardation, mental illness, and general health hazards caused by lead poisoning requires that these vital programs must be extended.

There is no question about it. The medical evidence shows that the ingestion of these flakes of paint with the high content of lead has a serious, dramatic impact and, in many instances, lead poisoning actually causes the death of these children when the hazard is not reversed and remedied.

So this really is important legislation, and an extremely modest amount of money is being requested.

The local programs have been effective in the areas in which they have been utilized. Those programs have been updated now in the period of the last 2 to 3 years and they are less costly than they were 2 years ago, and the prospects of even expanded screening opportunities for young children in this country known to health authorities around the Nation. Thus, we cannot overemphasize the need to extend the program as authorized in this bill.

So I am very hopeful we can pass this legislation.

Finally, let me just make one additional point. There has been a question about what the level of paint is that ought to be approved and what level of paint actually threatens the health of the children. We have had conflicting testimony, of course, in the course of hearings.

The lower level, the .06% is completely justified in terms of this legislation, but what we have done is leave the .5% lead level in the paint authorized for a period of 6 months. And we have asked the Consumer Product Safety Commission to do a definitive study, to work closely with the American Academy of Pediatrics, the National Academy of Science, and the Center of Disease Control in HEW.

We believe those agencies have the best scientific information. They can guide us, they can steer us to the best levels. I have given assurances to those who have been interested in this issue that when their report is concluded, we will have a hearing and be prepared to consider any of the particular views that are presented there.

We are obviously interested in the facts about what particular level of paint really is a health hazard. It seems to me we should get the definitive study, maintain the existing paint levels now until we get that study, give them 6 months to do it, and then we will be able to insure adequate protection.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. KENNEDY. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3-plus minutes.

Mr. WILLIAM L. SCOTT. I just want to pose some questions.

Mr. SCHWEIKER. I am glad to yield, how much time does the Senator want?

Mr. WILLIAM L. SCOTT. I have no request for any amount of time. I just want to pose some questions.

After having heard the Senator's remarks, and I am not familiar with this bill and the background any more than having general information from the media with regard to poisoning from lead in paint, but I heard the Senator from Massachusetts refer to 5 percent of the children screened having lead-based poisoning and I just wonder, how were these children selected that were screened? Does that mean 5 percent of the population of the country or is this a select group of children that the Senator was referring to?

Mr. KENNEDY. The figures I used on the basis of information provided by HEW are the ones that established the screening programs in areas which they selected to be primarily target areas, both urban and rural communities.

Mr. WILLIAM L. SCOTT. I am wondering, is this in an underprivileged community or is this representative of the country as a whole? Is it dilapidated homes that were selected? What is the basis for the selection?

Mr. KENNEDY. The basis of the selection was the determination by HEW to review in both urban and rural areas alike where the older paints had been used and from their own studies to review where there may very well be incidents or reason to believe that lead-based poisoning may very well have occurred.

So, areas were selected in inner cities as well as in rural communities. But, as I mentioned, it is not likely to be found in the newer residential areas, particularly those that have the newer latex paints.

Mr. WILLIAM L. SCOTT. As I recall the Senator's statement, he referred to 3 percent as perhaps being epidemic proportions, and when we talk about an epidemic we might well be speaking of the general population, so this 5 percent, really, is not the general population, but it is a select group where there might be the highest degree of lead-based poisoning. Would that be a fair statement?

I do not want any child, not one, to die from lead poisoning. I am sure we would all agree on that. I am trying to understand what the Senator is saying and to put it in its proper perspective.

Mr. KENNEDY. I would say if the Senator is making an observation that in some areas there is a greater possibility for lead paint poisoning; there would be a basis for agreement in this. It is just like talking about smallpox, scarlet fever, diphtheria, or other kinds of diseases which can afflict the general population. When we talk about the Center for Disease Control using the figure of 3 percent, that is generally based upon any particular survey that is done of a particular high risk group, whether it is children or older people.

The Senator would be quite correct in concluding that the incidences of lead paint poisoning occur in areas where there are usages of older paints. Those have been in older urban areas and in older rural communities. That would be true, just as we would find the problems of malaria to be in areas where there are swamps and water.

Let me make one final point. It is the estimate of HEW that there remain between 8 and 9 million young people who have not been tested who they believe, on the basis of their surveys, should be. Also, the testimony from HEW was that they have reason to believe, based upon the surveys on 1 million children tested so far which have been done, that they will find a similar incidence of almost 5 percent of high blood lead levels.

Mr. WILLIAM L. SCOTT. If the Senator will yield further, when we speak of a child having lead paint poisoning, does this mean that there are some traces of lead in his system? We are not talking about this many children dying from lead poisoning, are we? Is the Senator in a position to say how many of these children did die, if any of them did? When we speak of lead paint poisoning, does that mean that they have a trace of lead in their system, or could the Senator tell me more specifically just what that means?

Mr. KENNEDY. I would like to be precise in terms of the number of deaths. I will get the number of deaths. I have been conducting hearings today on smoking deaths and I want to be certain that I have my figures straight between what are the cancer deaths and the lead paint poisoning deaths.

We are talking in tens of thousands who have died in the last 7 years.

Mr. WILLIAM L. SCOTT. That has been the primary cause of death?

Mr. KENNEDY. That is the primary cause. It is tens of thousands. I will get the precise figure. It is considerably more than one of the other areas, like sickle cell anemia, or Cooley's anemia, or some of the others. It is in the tens of thousands, though I believe it is somewhat higher even than that. I will get the precise figure.

Mr. WILLIAM L. SCOTT. This 5 percent that the Senator speaks of as having lead paint poisoning, does that vary from slight to a very serious condition? Is there a range or degree of poisoning?

Mr. KENNEDY. There is a definition of what is considered to be a high lead level and that is a percent of either the red or white blood count.

Mr. WILLIAM L. SCOTT. The Senator is saying if there is some slight trace of lead, that is not necessarily considered in this 5 percent?

Mr. KENNEDY. The Senator is correct.

Mr. WILLIAM L. SCOTT. I appreciate the Senator's responses.

Mr. MAGNUSON. Will the Senator yield?

Mr. KENNEDY. I yield 1 minute.

Mr. MAGNUSON. Mr. President, we have been putting some money into every HEW bill for the past 3 or 4 years for the purpose of doing something about this lead poisoning. Mainly, however, it deals with supplying clinical help, when someone contacts it. It has never been sufficient. I believe this bill will set this in focus and I hope it will pass.

I want the record to show that after lisening to reams of testimony about this I have come to the conclusion that if these cities would enforce their building codes, we would not have half of this amount going on, but many of them just do not do that. That is where most of this happens. There is loose enforcement of the building codes. I hope this bill will help encourage the larger areas in which this exists to enforce their building codes, at least for repairs and for new buildings. Then we would not have much of this problem.

Mr. WILLIAM L. SCOTT. I wonder if the Senator might agree, without in any way speaking against this bill, that perhaps the parents ought to watch their children a little more carefully and see that they do not eat the paint off the wall.

Mr. MAGNUSON. That is true. In some of these places the parents do not have as much control about what the children are doing, and in many cases they just do not watch them. That is the answer to it.

But it should not be there so they would have to watch them. That is what this bill is trying to correct.

Mr. SCHWEIKER. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. SCHWEIKER. I yield myself 3 minutes.

Mr. President, I join with my colleague from Massachusetts in strong support of this bill. He has exercised, as chairman of our Health Subcommittee, strong leadership in this area. This is an important bill. It is a worthwhile bill. I commend him as chairman of our subcommittee for working in the hearings, in the markup, and in the program of lead paint health and safety.

I also want to point out that I, too, have had a strong interest and desire to improve the health and well-being of our young people who are subjected to this health hazard. The fact that we are including in here prohibitions of lead-based paint on any toy or furniture for use of children, and the fact that we are also banning it for cooking, drinking, and eating utensils, I believe gets to the heart of the lead-based paint danger outside of the housing problem.

In the bill that passed previously, I had a notification process whereby the seller of the house would have to represent, by certification, what lead-based paint chip danger was available in the house that he was selling. I am glad to see that we are implementing this in terms of grants in aid to eliminate that condition from occurring in the future, and trying to clean up the remnants of the past.

Mr. President, I join in strong support of this bill and I urge its passage.

I do want to say that I have been requested by the administration to include a letter from the Department of HEW written when this bill was first considered last year, a letter written by Secretary Weinberger. I ask unanimous consent to have printed in the RECORD at this point their opposition.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
July 17, 1975.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of May 8, 1975, for a report on S. 1664, a bill "To amend the Lead-Based Paint Poisoning Prevention Act."

The bill would amend the existing Act by emphasizing lead hazard elimination activities under Title I grants, by mandating the establishment of a National Childhood Lead-Based Paint Advisory Board, by establishing a statutory limit on the permissible amount of lead in paint, and by authorizing increased funding for fiscal years 1976–1978.

We recommend against continuation of Title I grant authority, and recommend, instead, that these grants be provided through the disease control authority of the Public Health Service Act. S. 1756, introduced by Senator Schweiker on behalf of the Administration, would provide the necessary authority for this grant program and we recommend that it receive favorable consideration by the Committee.

The Department opposes the continuation of the separate categorical grant authority in S. 1664, and favors instead the broader and more flexible authority in S. 1756. The establishment of multiple categorical authorities causes considerable hardship on State and local health agencies trying to carry out well balanced, effective prevention programs and continues to make Federal assistance unnecessarily complicated.

We also oppose the provisions of S. 1664 which would require Title I grantees to eliminate the lead-based paint hazard in the homes of affected children if the owner of the house does not take action, and which would permit the grantee to use project grant funds to support up to 90 percent of the cost of its removal.

The Department objects to a new Federal program to eliminate lead poisoning hazards in homes, since this task is basically a local responsibility that can be adequately addressed through local housing ordinances. The Federal role should continue to be that of limited research and demonstration of new and effective techniques for hazard removal. Furthermore, we currently permit up to 10 percent of project grant funds to be used for abatement activities in emergency situations, and this has proved more than sufficient to meet such emergency needs.

S. 1664 is also objectionable in that it would specify that the paint must be eliminated, thereby ignoring other options for removing lead paint hazards. These include securing temporary or permanent housing for families with small children, and carrying out hazard abatement activities which reduce exposure significantly without eliminating the hazard.

In addition, we do not believe that it will be helpful to establish a National Childhood Lead-Based Paint Poisoning Advisory Board. All currently funded lead paint prevention programs have established or are in the process of establishing local advisory boards. Since no single consumer product varies as much as houses from region to region and community to community, the local advisory board is in a far better position to advise on methods to meet the unique needs of individual communities. Suggestions, ideas, and criticism are solicited from the local boards and are incorporated as appropriate into the management of the national program. Members of a National Advisory Board cannot be representative of all affected communities. In addition, both formal and informal working agreements have been established by all of the Federal agencies involved in the implementation of this Act in order to achieve necessary national coordination.

The original Act as amended in P.L. 93–151 placed responsibilities inappropriately with various departments and agencies. Specifically, the authorities of the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development; and the Chairman, Consumer Product Safety Commission are mixed under Section 401 of the Act, as amended by P.L. 93–151. To overcome this, we have entered into inter-agency agreements to establish appropriate responsibilities with the various departments and agencies. The Department of Housing and Urban Development should have responsibility for regulating the use of lead-based paint in federally assisted housing, and the Consumer Project Safety Commission should have primary responsibility for toys and furniture. The Department of Health, Education, and Welfare should provide consultation in these areas, and will participate directly only in those aspects of these responsibilities which are not appropriate to the mission of the above agencies such as those under the Food, Drug, and Cosmetic Act. Since the Department of Health, Education, and Welfare's role in most of the activities in Section 401 is minimal, we do not feel that it is appropriate for the Department to assume the lead responsibility for its implementation.

In summary, we oppose the enactment of this bill and recommend instead enactment of S. 1756. The funding authorization for Title I grants is not needed in view of S. 1756, and the remaining provisions of this bill which relate to the Department of Health, Education, and Welfare's responsibilities are either inappropriate or not needed.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report and that enactment of S. 1664 would not be consistent with the Administration's objectives.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

Mr. TAFT. Will the Senator yield?

Mr. SCHWEIKER. I yield.

Mr. TAFT. I thank the Senator for yielding. I have served on the committee which has considered this legislation now for the past 2 years. I want to commend the ranking member for bringing this bill to the floor and to the point where we have now arrived. I believe it can be a very effective and helpful tool in preventing avoidable cases of poisoning.

Mr. SCHWEIKER. I thank the distinguished Senator from Ohio. I appreciate his kind remarks, and yield back the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. STONE). The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTON), the Senator from California (Mr. CRANSTON), the Senator from Montana (Mr. METCALF), and the Senator from Utah (Mr. MOSS) are necessarily absent.

I further announce that the Senator from Illinois (Mr. STEVENSON) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. BROOKE) is absent due to illness.

The result was announced—yeas 84, nays 5, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—84

Allen
Bayh
Beall
Bellmon
Biden
Brock
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Culver
Dole
Domenici
Durkin
Eagleton
Eastland
Fong
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Mondale
Montoya
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—5

Bartlett
Curtis
Fannin
Garn
Hansen

NOT VOTING—11

Abourezk
Baker
Bentsen
Brooke
Cranston
Goldwater
Laxalt
Metcalf
Moss
Percy
Stevenson

So the bill (S. 1664) was passed.

DRUG ABUSE OFFICE AND TREATMENT ACT AMENDMENTS OF 1976—CONFERENCE REPORT

Mr. HATHAWAY. Mr. President, I submit a report of the committee of conference on S. 2017 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STONE). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2017) to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

The report is as follows:

CONFERENCE REPORT (S. REPT. NO. 94–639)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2017) to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes, having met, after full and free conference, have been unable to agree.

W. D. HATHAWAY,
HARRISON WILLIAMS,
JENNINGS RANDOLPH,
EDWARD M. KENNEDY,
W. F. MONDALE,
ALAN CRANSTON,
GAYLORD NELSON,
ABE RIBICOFF,
EDMUND S. MUSKIE,
SAM NUNN,
J. JAVITS,
CHARLES PERCY,
RICHARD S. SCHWEIKER,
J. GLENN BEALL,
PAUL LAXALT,
Managers on the Part of the Senate.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID SATTERFIELD,
RICHARDSON PREYER,
JAMES W. SYMINGTON,
T. CARTER,
JAMES T. BROYHILL,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2017) to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes, report that the conferees have been unable to agree.

The Senate bill and the House amendment contained an extension (with changes) of the Special Action Office for Drug Abuse Prevention established by title II of the Drug Abuse Office and Treatment Act of 1972. Under the Senate bill the Special Action Office for Drug Abuse Prevention was extended through December 31, 1975, and under the House amendment the Office was extended through June 30, 1976. The managers on the part of the House and the Senate have determined that the Office should be extended through fiscal year 1978, but such an extension is beyond the authority of the managers. Additionally, in accordance with section 104 of such Act, such Office and title were repealed effective June 30, 1975. Thus, to now extend that Office requires the reenactment of such title II—an action which is beyond the authority of the managers on the part of the House and the Senate.

The Senate bill and the House amendment also contain amendments to other titles of the Drug Abuse Office and Treatment Act of 1972. However, since such amendments were combined with the extension of the Office into a single amendment of the House and consequently may not be separated from the extension of the Office, the managers report the House amendment in technical disagreement. The managers on the part of the Senate will offer a motion to agree to the House amendment with an amendment which will provide for the following:

OFFICE OF DRUG ABUSE POLICY

The Senate bill authorized the continuation of the Special Action Office for Drug Abuse Policy until January 1, 1976, and authorizes the appropriation of such sums as may be necessary for the continuation of its functions.

The House amendment redesignated the Special Action Office the Office of Drug Abuse Policy, reduced the personnel of that Office, provided specific authorizations of $3 million for the administration of that Office, provided that the Director of the Office shall hold no office in any other department or agency of the United States, and provided for the termination of that Office and the transfer of its functions to the National Institute on Drug Abuse after June 30, 1976.

The Senate amendment will authorize a scaled-down Office of Drug Abuse Policy in the Office of the President, headed by a Director appointed with the advice and consent of the Senate. The Director will be authorized to make recommendations to the President with respect to policies for, objectives of, and establishment of priorities for, Federal drug abuse functions and make recommendations for the coordination of the performance of such functions by Federal departments and agencies. Funding for the Office is authorized at a rate of $2 million per year.

ESTABLISHMENT OF A SPECIAL FUND

The House amendment established a special fund for the use of the Director of the Office of Drug Abuse Policy for the purpose of providing additional incentives to Federal departments and agencies and other public entities (after review by health systems agencies) for the development and demonstration of more effective drug abuse prevention functions, with an authorization of $7 million for the fiscal year ending June 30, 1976.

The Senate bill extended until January 1, 1976, the special fund previously authorized under section 223 of the Drug Abuse Office and Treatment Act of 1972, with substantially similar purposes, and authorized such sums as may be necessary for its continuation.

Under the Senate amendment no additional special fund will be provided for the new Office.

TECHNICAL ASSISTANCE

The House amendment gave the Director of the Office of Drug Abuse Policy the responsibility to coordinate or assure coordination of Federal drug abuse prevention functions with such functions of State and local government. The House amendment transferred to NIDA the responsibility to provide technical assistance to State and local agencies.

The Senate bill authorized the continuation until January 1, 1976 of section 229 of the Drug Abuse Office and Treatment Act of 1972, which gives responsibility for both functions to the Special Action Office.

The Senate amendment will contain the House provision regarding transfer of State and local technical assistance programs to NIDA, with an amendment incorporating into that provision the language in Sec. 14(a)(1) of the House amendment concerning coordination between Federal, State and local governments.

RESEARCH AND DEVELOPMENT

The Senate bill transferred from the Special Action Office to the National Institute on Drug Abuse responsibility for the encouragement of certain research and development and adds "less addictive" replacements for opium and its derivatives to the list of priority areas for research.

The House amendment adopted the same policy with technical language differences, and also provided a specific authorization of $7 million per year through fiscal year 1978 for this section.

The Senate amendment will contain the House amendment with a technical amendment.

NATIONAL ADVISORY COUNCIL

The House amendment repealed the National Advisory Council on Drug Abuse and merged its functions with the National Advisory Council for Drug Abuse Prevention, expanding the membership of the latter to include at least two former drug addicts or abusers.

The Senate bill made no change in the law, except to extend the life of the National Advisory Council for Drug Abuse Prevention until January 1, 1976.

The Senate amendment is the same as the Senate bill.

DISCRIMINATION IN ADMISSIONS AND TREATMENT

The Senate bill bars hospitals receiving Federal funds from discriminating in admissions and treatment against persons who are dependent on or abusers of drugs.

The House amendment adopts the same policy, but conforms the language to the comparable section of the Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act, including a directive to the Administrator of Veterans Affairs to prescribe such regulations for veterans health care facilities.

The Senate amendment is the same as the House amendment.

METHODOLOGY

The Senate bill required the Secretary of Health, Education, and Welfare to establish a methodology to assess and determine the incidence and prevalence of drug abuse in determining the need for more effective conduct of drug abuse prevention functions under the formula for State allotments. The Senate bill also permitted the Secretary to authorize a State to use a portion of its allotment to conduct a study of such a methodology.

The House amendment required the Secretary to propose and promulgate rules setting forth the formula to be used.

The Senate amendment combines both provisions.

NEEDS SURVEY

The Senate bill made a technical change in the requirement that States survey their drug abuse prevention needs and plan for the development and distribution of facilities.

The House amendment contained and the Senate amendment contains no comparable provision.

SUB-STATE PLANNING

The Senate bill required that States establish a system of sub-State planning to provide information regarding existing and projected needs and resources.

The House amendment contained and the Senate amendment contains no comparable provisions. *Conference Agreement:* The Senate recedes, in light of the compromise under the health systems agencies provisions.

PERFORMANCE STANDARDS

The Senate bill required States to provide reasonable assurances that projects or programs have proposed performance standards or research protocols to measure their own effectiveness.

The House amendment contained no comparable provision.

The Senate amendment will require States to provide reasonable assurances that treatment or rehabilitation projects or programs supported by funds made available under this section have provided to the State agency a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such treatment or rehabilitation programs or projects.

HSA REVIEW

The House amendment required that each application for a grant under sections 409 and 410 be subject to review by health systems agencies established pursuant to section 1513(e) of the Public Health Service Act.

The Senate bill contained no comparable provision.

The Senate amendment will amend the Public Health Service Act by inserting in section 1513(e)(1)(A)(i) of that Act a direct reference to sections 409 and 410 of the Drug Abuse Office and Treatment Act. In addition, sections 1512(b)(3)(C)(ii) and 1531(3)(A) will be amended to add a reference to "substance abuse treatment facilities" in the parentheses modifying "health care institutions" in both places. It is intended that health systems agencies take into account the non-medical aspects of substance abuse treatment programs including, but not limited to, the use of non-medical treatment models, the need to coordinate with agencies of law enforcement and education as well as of health, and the need to consider new or experimental approaches.

STATE PLANS

The House amendment required each State plan to pertain to the 12-month period beginning October 1 of each calendar year, to be submitted by the preceding July 15, and to be reviewed by the Secretary not later than September 15 or 60 days after receipt by the Secretary, whichever is later.

The Senate bill contained no comparable provision.

The Senate amendment will contain the House amendment.

SPECIFICATION OF SUPPLEMENTAL FUNDS

The House amendment required each State plan to specify sources of funds which will be used to supplement funds received under this section for drug abuse prevention functions.

The Senate bill contained and the Senate amendment will contain no comparable provision.

CERTIFICATION, CREDENTIALING, AND TRAINING

The House amendments required States to provide methods for the certification, credentialing, and training of professional and paraprofessionals.

The Senate bill contained and the Senate amendment will contain no comparable provision.

ALLOCATION OF FUNDS

The House amendment required States to establish procedures for the allocation of all funds received for drug abuse prevention function, non-Federal as well as Federal.

The Senate bill contained and the Senate amendment will contain no comparable provision.

INCLUSION OF ALCOHOLISM AND MENTAL HEALTH

The House amendment permits States' plans submitted after January 1, 1976, to include provisions relating to alcoholism or mental health.

The Senate bill contained and the Senate amendment will contain no comparable provision.

PRIMARY PREVENTION

The Senate bill required the Secretary to accord high priority to primary prevention in implementing his special project grant authority.

The House amendment adopted the same policy, and in addition defined a primary prevention program as a program designed to discourage persons from beginning drug abuse.

Under the Senate amendment a primary prevention program includes programs designed to discourage persons from beginning drug abuse.

STANDARDS FOR EFFECTIVENESS

The Senate bill required and the Senate amendment will require each applicant for a treatment or rehabilitation grant under the special projects authority to propose performance standards or research protocols to measure their own effectiveness.

The House amendment contained no comparable provision.

ALLOCATION OF FUNDS

The House amendment required State agencies reviewing applications for special project grants and contracts to take into account the allocation of funds under the State formula grant section of this act.

The Senate bill contains, and the Senate amendment will contain no comparable provision.

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The House amendment required that any system of records maintained by NIDA containing information about patients (other than patients directly receiving clinical services from the Institute) be maintained and used solely as statistical records.

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W. D. Hathaway,
Harrison Williams,
Jennings Randolph,
Edward M. Kennedy,
W. F. Mondale,
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Harley O. Staggers,
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David Satterfield,
Richardson Preyer,
James W. Symington,
T. Carter,
James T. Broyhill,
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Mr. **HATHAWAY**. Mr. President, the conferees on this measure have reported to the Senate and to the House in disagreement. They have done so, however, solely because there is one small part of the agreement accepted by both the House and Senate conferees which can be said to be technically outside the scope of the conference.

That one aspect of the agreement concerns the expiration of authorizations for the Office of Drug Abuse Policy.

Both bills contained authorizations for a Federal office to oversee the creation and administration of Federal drug abuse policy. However, the Senate bill contained only a 6-month authorization, while the House bill contained a 1-year authorization. In both cases, the purpose was to be able more adequately to analyze the administration's own drug abuse policy, as embodied in its White Paper on Drug Abuse. The intention at the time the Senate bill was passed, over 6 months ago, was to review the administration proposals and then recommend whatever extension of the office we considered to be necessary.

Since the House took several months longer than the Senate to enact this measure, however, the conferees have all had adequate opportunity for such a review. For that reason, the conferees have voted to authorize funding for their compromise proposal for a Federal office for a period of 3 years, as opposed to 6 months—as in the Senate bill—or 1 year—as in the House bill.

Rather than reporting the measure, then, we must report in disagreement. After adopting the report in disagreement, we will take up the House amendment to the original Senate bill, recede from our disagreement to that amendment, and agree with a further amendment. The further amendment will be the report actually agreed to by the conference committee.

Mr. President, I ask unanimous consent that an analysis of the President's white paper, which I delivered last year as part of a speech in Columbia, S.C., be printed in the Record at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

Mr. **HATHAWAY**. Mr. President, I ask unanimous consent that a joint explanatory statement of the committee of conference, including a section-by-section analysis of the major provisions of the proposed amendment, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Joint Explanatory Statement of the Committee of Conference

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[EXHIBIT 1]

ANALYSIS OF PRESIDENT'S WHITE PAPER

I would like to turn now for a few minutes to a subject which concerns all of us greatly: this Administration's most recent indication of its concerns and recommendations for drug abuse policy in America. I refer, of course, to the White Paper on Drug Abuse prepared by the White House Domestic Council under the leadership of Vice President Rockefeller—a report which was released to the public just a few days ago.

While there are some high points in this 120 page study, on the whole it is a document that is deeply disturbing to me and to many others who have studied its contents. I tend to think of it as a "Good News"—"Bad News" report.

First, a bit of history may be in order so that this White Paper can be placed in its proper perspective. Late last Spring, Congress was considering whether to extend the Special Action Office for Drug Abuse Policy, a four year old office with broad powers to formulate and coordinate Federal policy, make grants, and conduct research and evaluation of drug abuse efforts at every level. The legislation creating the office was to expire on June 30, and the Administration announced its adamant opposition to its continued existence.

The Senate passed a bill in June which would have temporarily extended the coordinating and policy-making powers of the Special Action Office, while transferring much of its research and grantmaking authority to the National Institute on Drug Abuse. The purpose of the temporary extension was to enable us to take a closer look at the requirements in this area before the office was dismantled.

However, the House was not yet ready to pass similar legislation, and the Administration allowed the office to expire without regard to the proposed Congressional mandate that it be continued. The House subsequently passed its own bill recreating an office similar to the Special Action Office, and we will soon go to conference on our bills to iron out their differences.

Meanwhile, in April, President Ford asked his Domestic Council, under the leadership of Vice President Rockefeller, to develop a quick study of what he called "the nature and extent of drug abuse in America today." Such a study, properly done, is indeed necessary to place these issues in their proper current perspective. But the feeling in Congress in April was that the primary purpose of doing this particular study, in record-breaking time, by a hastily contrived task force was to try to create an easier political rationale for doing away with a crucial central policy coordinating body like the Special Action Office—without replacing it with any adequate substitute.

The "findings" of this task force, then, are heavy on rhetoric and light on sound policy recommendations. Unfortunately they seem to bear out our early Congressional fears. And while there is "good news" in the White Paper, the "bad news" seems all too often to eclipse and outweigh the good.

In the largest sense, the good news in the report is to be found in its candid recognition of the overwhelming—and continually increasing—scope of the drug abuse problem in our country today.

Only two years ago, President Richard Nixon and others in the bureaucracy were telling us we had "finally turned the corner" on drug abuse in America. But the White Paper repudiates those statements. We had "turned the corner" all right, the task force informs us. But we turned right into a one-way tunnel, and there doesn't seem to be much light at the end.

"Conditions are worsening, and the gains of prior years are being eroded," says the task force in its preface. And throughout the report, the word is that the signs for the future, as noted in the section concerning heroin, "are ominous."

So much for the good news . . .

The bad news, also in the largest sense, is that virtually all of the recommendations for attacking this tragic problem are in some way hedged or conditioned with bureaucratese or qualified by a characteristic broadsword cost-cutting mentality. One is left with the distinct impression that the way to successfully end drug abuse is by spraying it with a strong solution of mindless gobbledegook.

There is clearly not time left today for a full analysis of the deficiencies of this White Paper, but a few brief "good news—bad news" examples should show you what I mean.

There is good news, for example, in the findings that we need to increase our efforts on every front, with specific references to treatment, rehabilitation, prevention and research, in addition to enforcement.

The bad news is that the task force seems to expect us to do it all with mirrors. Because for all the importance assigned to upgrading functions like rehabilitation and prevention, and increasing the efforts and sharpening the focus of treatment, there is nowhere the admission that some additional federal dollars are going to have to be committed to the task. The problem is called a "management" problem, and greater efficiency, rather than additional resources, is said to be the answer.

In treatment, the conclusion is that we need more for persons who abuse the three most harmful drugs: heroin, amphetimines and barbiturates. But for the most part those slots are to be "found," not treated, by throwing out of treatment the individuals the Task Force says abuse only the "softer" drugs.

Even if you accept this simplified solution, the more comprehensive nature of the new treatment proposed—it is almost entirely residential or inpatient—costs more than twice as much per slot as the treatment that would be eliminated. But no money is proposed. And this approach seems to imply that outpatient care would just vanish for all patients. And no mention is made of more complicated problems, like those of the poly-drug abuser or combined alcohol/drug abuser. Not enough is known about poly-drug abusers, the task force says. And anyone with an alcohol problem should go to an alcohol center, or maybe a community mental health center.

Or take prevention and rehabilitation. We need them, we really do, says the task force. They say this several times. Then they tell us there's plenty of room in already existing programs to add these functions, so the federal government need only provide technical advice, evaluation services, and "seed money"—that's their term—for the development of these functions. . . . At one point they make a statement so badly ill-considered that I could never adequately paraphrase it, so I'll just quote it in full:

"The Federal government should take the lead in mobilizing the enormous potential resources available in State and local law enforcement agencies, and in State, local and private prevention, treatment and rehabilitation services."

I don't know what enormous potential resources you might have available to you in South Carolina—but Maine is so poor it's been reduced to trying to borrow money from New York City.

Other inadequacies pervade the Domestic Council report.

For example, it's good news—even great news—that the White House finds that "In the long term it is critical that drug abuse treatment services be incorporated to the general health services system," and that "we must continue to pursue the goal of including drug abuse services in national health insurance and other programs designed to meet the overall health needs."

But the kicker is the modifier "long term". Because the White Paper also states, with no supportive evidence, that "it is impractical to do so at this time."

It is clear that no current health delivery issues were considered by the authors of this report. Not considered by them was the question currently before Congress of whether to include drug abuse treatment under the new health planning legislation about to go into effect. Not considered was the question of whether to remove drug and alcohol services from the "package" of services provided by the new Health Maintenance Organizations, as some have recommended.

Not considered, quite simply, was the whole question of what to do about health service questions—and many other drug abuse questions—today and tomorrow, rather than "for fiscal year 1977" or in the "long run".

In the end, the underlying problem surrounding the recommendations of this Task Force is not what's in it. It's not even what's not in it. It really boils down to who wrote it.

And who wrote it is clear: cabinet officers and line agency administrators and close presidential advisors conceived this report, wrote this report, and recommended that they—to the exclusion of all others—be given the right to carry out its findings.

Who didn't write it is equally clear: the people out here in the field, who live daily with all the manifestations of drug abuse—the administrators, the counselors, the clients, the researchers.

Just look at the White Paper recommendations for "strong coordinative mechanisms." This Task Force wants to set up more task forces, cabinet committees and subcommittees, in-house "strategy councils", and special little offices within the Office of Management and Budget.

In short, they want to set up more new committees and offices and agencies to do the coordinating than there are institutions that need coordination.

And who will be on these committees? All you need is one guess: It's going to be the same people who brought you this report: the ministrators of DEA and LEAA and the VA same Secretaries of HEW and DOD and Ad-

and the NIDA, in a typically Washington bureaucratic alphabet soup of an arrangement, where each top bureaucrat is represented at the actual meetings by the second assistant to his deputy under administrator in charge of headache remedies—and where hard policies ultimately get made by low level functionaries in OMB, with red pencils and pocket calculators.

Mr. PERCY. Mr. President, I join in supporting the Senate's further amendment to the House amendments to S. 2017. Having introduced and sponsored the amendment, I can report that it has been carefully worked out and discussed with all of the managers of the bill from both Houses.

In our conference session yesterday afternoon, there was a clear consensus on the part of the managers from the Senate Labor and Public Welfare Committee and the Senate Government Operations Committee, as well as from the House Commerce Committee, that the type of office spelled out in this amendment would be the most desirable mechanism for assuring that Federal drug abuse policies and priorities are formulated and established at the highest levels of government and that the persons responsible for those decisions are held accountable to the Congress and to the American people.

Before going into the specifics of the amendment, I would like to express my deep appreciation for the outstanding assistance and encouragement I received over the last several months from my distinguished colleague, the senior Senator from Connecticut (Mr. RIBICOFF), the chairman of the Senate Government Operations Committee, from both Senators from the State of Maine, BILL HATHAWAY, the chairman of the Senate Subcommittee on Alcoholism and Narcotics of the Labor and Public Welfare Committee, and from ED MUSKIE a fellow conferee from the Senate Government Operations Committee. Each has had a long-term interest in the problems of drug abuse and a demonstrated commitment to overcoming these problems.

In the drafting of this proposal, I have received tremendous assistance from the ranking minority member of the Labor and Public Welfare Committee, the distinguished senior Senator from New York (Mr. JAVITS) whose unfailing efforts to address the tragic problems of drug abuse in the country are well known to all.

I also want to express sincere gratitude and appreciation to the chairman of the House Subcommittee on Health, Representative PAUL ROGERS, Democrat of Florida, whose imprint on drug abuse legislation has been evidenced over the years with respect to some of the most enlightened approaches to the drug problem that have ever been presented to the Congress. And, too, I wish to note the important role played by the distinguished chairman of the House Commerce Committe, Representative HARLEY STAGGERS, Democrat of West Virginia, whose persistence and courage in dealing with so many of the health problems attendant to drug abuse were evidenced once again in the preparation of the important legislation we have before us today.

Finally, while we found ourselves in disagreement yesterday, with respect to this particular proposal, I believe that the ranking minority member of the Health Subcommitee of the House, Dr. TIM LEE CARTER, Republican of Kentucky, has, through the years, been a leader in formulating a sound health policy for this Nation, and has been untiring in his efforts to deal effectively with the drug abuse and alcoholism problems which beset so many millions of Americans.

WHITE HOUSE OFFICE

Admittedly, the proposal set forth in this amendment would establish an Office of Drug Abuse Policy—ODAP—at the highest levels of the White House differ markedly from the proposal contained either in the bill which passed the Senate in June of last year, or that which passed the House in September of last year.

In its most simple terms, the Senate bill, S. 2017, provided for a 6-month extension of basically a treatment/prevention office—SAODAP—in the White House. The House amendment provided for a 1-year extension of that treatment/prevention office, and added a special fund of $7 million to encourage new initiatives in the treatment/prevention areas, as well as new modes of experimental research.

After considerable discussion with fellow conferees, after an exchange of views with Mr. James Cannon, Executive Director of the Domestic Council in the White House, and after thoroughly reviewing the Domestic Council "white paper" recommendations transmitted to the Congress in the early fall, I came to the conclusion that simply to renew an already defunct treatment/prevention office within the White House—as both the House and Senate bills envisioned as an interim measure—did not truly address the fundamental problems in this area nor did that approach, however relevant when first introduced over a year ago, adequately take into account the passing of events, to wit, the demise of the office to be extended and the transmittal of the Domestic Council's helpful "white paper" recommendations.

Specifically, both the House and Senate proposals fell short of the optimum goal of assuring the formulation of overall Federal drug abuse policy, priorities, long-term strategy, in that the treatment/prevention office which would have been extended—SAODAP—would not have been endowed with sufficient authority over the entire drug abuse area, to effectively establish such policies, priorities, and strategy.

But, at the same time, the structural recommendation in the Domestic Council "White Paper" was likewise deficient in that the office envisioned there lacked visibility to the public, and accountability to the Congress.

I would like to briefly address, therefore, these three factors—visibility, organizational structure, and accountability—which are simply critical to the establishment of an effective high-level drug abuse policy office for this Nation.

VISIBILITY

One of the problems of the Special Action Office for Drug Abuse Prevention—SAODAP—which we in the Congress created in 1972, was its lack of visibility. Even though ensconced in the White House, it got so bogged down in running programs, and day-to-day agency operations, that it lost sight of its principal mandate to take the lead in establishing treatment/prevention drug policy for the Federal Government. Toward the end of its 3-year life, the director of SAODAP was reporting through a series of faceless Government officials from within OMB and the Domestic Council. It was, in effect, no longer a White House office.

To simply renew SAODAP, we would have to expect the same result.

On the other hand, the Domestic Council recommendation for a relatively low-level drug abuse coordinating office within OMB amounts basically to a continuation of what now exists—with supervision at the top from persons within the Domestic Council who are for the most part unknown to members of the public and even to many members of Congress.

Nor does it help, as the white paper proposed, to set up a new Cabinet Committee on Drug Abuse Prevention Policy—as a counterpart to the now-existing Cabinet Committee on International Narcotics Control. I was reliably informed just 2 weeks ago that the existing Cabinet Committee has not met in 2 years, and everything is left to staff. We cannot expect a parallel Cabinet Committee in the treatment/prevention area to be any more responsive to the problems posed. To relegate such important decisions entirely to staff represents, in my view, an abdication of responsibility which must be corrected, and certainly should not be encouraged through the establishment of another veneer which happens to be called a "Cabinet Committee."

STRUCTURE

The bills as passed by both the House and Senate dealt only with reestablishing what amounted to a prevention/treatment office in the White House. One of the lessons of SAODAP was that prevention/treatment cannot be considered in the abstract. These problems must be dealt with consistently, and in conjunction with related problems in drug law enforcement if there is to be any sane and effective Federal policy or strategy.

The interface of law enforcement problems and prevention/treatment problems is perhaps best characterized in the current Federal policy—or lack thereof—relating to marijuana. Without addressing the question of whether or not we should decriminalize the drug, the fact remains that tremendous law enforcement resources are spent each year in the arrest of over 450,000—mostly—young persons for what health officials within HEW, and documented research, tell us is relatively harmless activity while major narcotic trafficking in heroin and wide-scale illicit distribution of barbiturates and amphetamines continue unabated. Indeed, both problems are as bad now, and perhaps worse, than they were in 1972 when we set up SAODAP, and in 1973, when we approved Reorganization Plan No. 2, establishing the Federal Drug Enforcement Administration.

For so many reasons, law enforcement must be considered alongside and together with prevention/treatment at the highest levels in a manner consistent with a Federal policy that makes sense in the context of both.

ACCOUNTABILITY

Where we in the Congress want to know about administration policy on any health or welfare plan, we can turn to the Secretary of HEW. Where we want to know about Federal policy relating to the economy, we can turn to the Secretary of Treasury or to the Chairman of Council of Economic Advisers. Where we want to know about Federal policy relating to international affairs or national security, we turn to the Secretary of State; and so on down the line.

In the case of Federal drug policy, the Congress has no one to turn to. Basically, that policy is not being determined by the Federal officials whom we confirm and who are available to testify to the Congress on the results of their programs. Neither Peter Bensinger, the just-confirmed head of DEA, nor his predecessors, really set Federal policy on drug law enforcement or international narcotics control. Nor does Dr. Robert DuPont, as head of the National Institute for Drug Abuse—NIDA—in HEW, have overall charge of prevention/treatment policy.

Instead, these decisions—to the extent they are made at all—are being made within the White House, and specifically within the Domestic Council. They are within the purview of James Cannon, the Executive Director of the Council who is not a Federal office-holder subject to confirmation, and who consistently, in accordance with a long-established White House policy, declines to testify before congressional committees as to how Federal policy is arrived at and where it is going.

Accordingly, in the drug abuse area, there is no single responsible officeholder to whom the Congress can turn for answers to the very serious questions relating to the formulation of Federal policy and priorities—and, more importantly, to the lack of such policy in certain key areas.

COMPROMISE PROPOSAL

The proposal contained in my amendment has been arrived at with the assistance and concurrence of Senators Hathaway, Ribicoff, Javits, Muskie, and the majority of Senate conferees. Its thrust is to establish a high-level White House office, relatively small in size, which will have basically an advisory status. It would formulate, and recommend to the President, drug abuse policy with respect to law enforcement and prevention/treatment programs, and the important relationships amongst and between the two.

The Office would have visibility, its focus and principal activity would relate to policy formulation and coordination and not the specific running of programs, and its director would be subject to Senate advice and consent and would be accountable to the Congress.

The thrust of the functions which the office will perform is contained in section 221 of the compromise amendment, namely:

> (a) The director shall make recommendations to the President with respect to policies for, objectives of, and establishment of priorities for, federal drug abuse functions and shall coordinate the performance of such functions by federal departments and agencies. Recommendations under this subsection shall include recommendations for changes in the organization, management, and personnel of federal departments and agencies performing drug abuse functions to implement the policies, priorities, and objectives recommended under this subsection.

In the words, the principal and fundamental role of the Office shall be an advisory one to the President, proposing Federal policies and priorities for both Federal drug law enforcement and prevention/treatment functions, and the coordination of those functions at all levels. Consistent with that, the Office would review agency regulations, guidelines, requirements, criteria, and procedures, and would conduct such evaluations of Federal agency performance in these areas as is necessary and appropriate.

The Office will be relatively lean. It is expected that a handful—or perhaps two handfuls—of professionals—which is about the same number as currently employed within OMB and the Domestic Council to perform some of these same functions—is all that would be necessary.

The compromise proposes that the Office be established for a 3-year period with funding authorized over that period not to exceed $2 million for each year, with the first year being prorated according to the amount of time left within fiscal year 1976.

In discussions with various conferees, it was felt advisable to eliminate entirely the $7 million special fund since it would only encourage the kind of day-to-day operations and programs which might take away from the ODAP's principal focus on overall Federal policy and priorities.

Whatever ODAP might be able to accomplish with those new funds, it should be able to accomplish—as the Domestic Council can now—by simply utilizing the leverage of its important White House status. That can be far more effective—and less costly—than using feed money to run an operation of its own out of the White House—which is not a proper function for a White House office.

It is my fervent hope and prayer that, with proper direction and focus at the top, and responsible oversight exercised by the Congress, we can renew our efforts toward reducing both drug supply coming into this country, and, equally important, the demand for it.

I believe that, by organizing in the manner described in this amendment, we put ourselves as a nation in a position to best accomplish those aims.

Mr. President, I ask unanimous consent to have printed in the Record the exchange of correspondence I had with Domestic Council Executive Director James Cannon, on this and related subjects.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

THE WHITE HOUSE,
Washington, October 8, 1975.

Hon. Charles H. Percy,
U.S. Senate,
Washington, D.C.

Dear Senator Percy: Senate Bill 2017, amending the Drug Abuse and Treatment Act of 1972, has passed both Houses of the Congress. Among other things, S. 2017 would create an Office of Drug Abuse Prevention Policy in the Executive Office of the President. The Administration has previously voiced its reservations about the creation of such an office, and I thought I would take this opportunity to bring our objections to your personal attention.

As you know, the Special Action Office for Drug Abuse Prevention (SAODAP), which was established in the Executive Office of the President to oversee initial development of Federal drug abuse treatment and prevention programs, expired on June 30 of this year. I am advised that many of your colleagues believe that unless SAODAP is revised, or a similar office is created in the Executive Office of the President, many of the important gains made in the drug abuse prevention and treatment area will be lost, along with much of the momentum which has been built up in this important area over the past several years.

I can appreciate the Congress' concern about the problem of drug abuse in America and its desire to make improvements in the management of Federal drug programs. The President shares this concern and desire. It is our belief, however, that this can be done in a more effective way than through the creation of the proposed Office of Drug Abuse Prevention Policy.

In May of this year, the President directed the Domestic Council, under the direction of the Vice President, to conduct a priority review of all Federal drug abuse programs and to make recommendations for ways to improve our efficiency and effectiveness in this area. A special task force, consisting of high-level representatives from eleven Federal departments and agencies, has recently completed work on this review and has prepared a White Paper on Drug Abuse for the President which will be made public within the next few weeks.

The white paper contains a number of important recommendations for improving management and coordination of the overall Federal drug program. These include:

Designation of the Assistant to the President for Domestic Affairs as Chairman of the Federal Drug Abuse Strategy Council.

Expansion of the responsibilities of the Strategy Council to include government-wide oversight and coordination of drug abuse programs.

Creation of a new Cabinet Committee on Drug Abuse Prevention, to be chaired by the Secretary of Health, Education, and Welfare, which would be required, among other things, to prepare annually a public document on the status of drug abuse in the United States.

Continuation of a small staff in the Executive Office of the President to provide the President, the Domestic Council and OMB with staff assistance on matters relating to the Federal drug program, and to provide management assistance to the various agencies having drug law enforcement, prevention or treatment responsibilities.

Additionally, the task force has made a number of internal recommendations for strengthening the National Institute on Drug Abuse, the successor organization to SAODAP.

I believe that these recommendations, and others made in the white paper, will be effective in maintaining the high priority this Administration places on drug abuse control, in continuing Executive Office leadership and oversight, and in providing for interagency coordination in the context of strengthening Cabinet management. It is for these reasons that I believe that the creation of the proposed Office of Drug Abuse Prevention Policy is unnecessary and improvident in a time of fiscal restraint.

I would greatly appreciate it if you would convey the substance of this letter to your fellow conferees.

I have enclosed a copy of the White Paper on Drug Abuse for your review and consideration.

Sincerely,

JAMES M. CANNON,
Assistant to the President for Domestic Affairs.

OCTOBER 30, 1975.

Mr. JAMES M. CANNON,
Assistant to the President for Domestic Affairs, The White House Washington, D.C.

DEAR JIM: I appreciate having your recent letter relating to the upcoming conference to take place concerning S. 2017. I have now had an opportunity to review the Domestic Council White Paper on Drug Abuse, and to consider its bearing on the pending legislation.

Many of the factual discussions in the White Paper are very much to the point. I believe, however, on the basis of personal knowledge, that the festering DEA—Customs dispute is woefully understated and can only be resolved, once and for all, by direct intercession on the part of the President.

While I concur in many of the recommendations, I disagree in one significant respect with the proposed statute intended for an ongoing unit to coordinate drug law enforcement, prevention, and treatment responsibilities. The White Paper, as I see it, intends that any ongoing function be one of staff assistance to the President and the Domestic Council, and management assistance to the relevant agencies within the Executive branch. It is my firm belief that there is absent now, and critically so, the needed presence and stature so designated within the White House not only to perform these needed functions, but also to take a lead in overseeing on a day to day basis national policy and planning direction in the drug abuse area.

In my own mind, there is no reason why those functions could not be performed by a high-level White House unit or by you yourself together with a handful of staff specifically designated to assist. I believe, however, that whoever heads up this important function—and it should be someone who has the ear of the President—that person should be subject to the Senate confirmation process and accountable to the Congress as well as to the President.

Although conferees have not yet been selected with respect to the legislation in issue, from soundings taken of other Senators likely to be participating in the Conference, it is precisely in this direction that the conference is likely to proceed. I will, at your request, make known the views reflected in your letter, although I cannot espouse them in view of the foregoing. If the thinking of the Administration changes in this respect, however, I would be happy to sit down with you and review reasonable alternatives which could result in legislation acceptable to the Congress and to the President as to this most important matter.

Warmest personal regards,

CHARLES H. PERCY,
U.S. Senator.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. JAVITS. Mr. President, the conferees did an excellent job, and I am very proud of the work done by Senator SCHWEIKER on behalf of the Committee on Labor and Public Welfare. I commend the conference report to the Senate.

The conferees have settled the problem of the Drug Abuse Office, which gives us a central coordination and a means for seeking executive responsibility for the conduct of this program.

There is no area of the country—unhappily for me—that is more deeply impacted than my State, notably the city of New York. So we have a burning interest in this.

I hope very much that the Senate will adopt this compromise. Senator HATHAWAY has described the techniques by which it may be accomplished. It is very essential, though this is a 2-year bill, to have this office for a longer period of time, because, by our very active participation in the Committee on Government Operations and the Committee on Labor and Public Welfare—I happen to serve on both—we have found the indispensability of this kind of office, which enables us to reach into all government departments, as this is a foreign policy question, a health research, and a treatment question.

In addition, of course, it is a police, a criminal question. I hope very much that the Senate will find this acceptable. It represents the consolidated best judgment of the conference.

Mr. President, the controversial issue before the conferees on the Drug Abuse Office and Treatment Act of 1975 (S. 2017)—and which I believe was reasonably as indicated by the pending measure—was how to insure continuity in the Federal effort to combat drug abuse.

The managers on the part of the House and the Senate at the conference on the disageeing votes of the two Houses on the amendment of the House to the bill (S. 2017) to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes, report that the conferees have been unable to agree.

The Senate bill and the House amendment contained an extension of the Special Action Office for Drub Abuse Prevention, which had already expired June 30, 1975.

Under the Senate bill the Office was extended through December 31, 1975; while under the House bill the Office was extended through June 30, 1976.

The managers on the part of the House and the Senate have determined that the Office—in a more limited form—should be extended for 3 years. But such an extension is beyond the authority of the managers. Hence, to so extend that Office the managers report the provision out of the conference in technical disagreement. And, the managers on the part of the Senate will offer a motion to agree to the House amendment with an amendment which it is understood will be acceptable to the House.

This was accomplished by redesignating the Special Action Office for Drug Abuse Prevention as the Office of Drug Abuse Policy, and redefining its role strictly to be that of coordination and policy direction for drug abuse functions.

The need for such an office is demontrated in Vice President ROCKEFELLER's letter of transmittal to the President of the "White Paper on Drug Abuse," the report of the Domestic Council Drug Abuse Task Force. It states:

> Drug abuse is one of the most serious and most tragic problems this country faces. Its cost to the nation is staggering: counting narcotics-related crime, health care, drug program costs and addicts' lost productivity, estimates range upwards of $17 billion a year. In addition to these measurable costs, the nation bears an incalculable burden in terms of ruined lives, broken homes, and divided communities.
>
> The Task Force believes that the optimism about "winning the war on drugs" expressed so eloquently and confidently only a few years ago was premature. It urgently recommends that the Federal Government reaffirm its commitment to combatting drug abuse and that public officials and citizens alike accept the fact that a national commitment to this effort will be required if we are to ultimately succeed.

The white paper recommends that "a new Cabinet Committee on Drug Abuse Prevention, CCDAP, be created" and during the transition until that recommendation is implemented "recommends that an Executive Office staff, consisting of three to five professionals, be maintained in OMB."

Such a solely executive coordination approach provides no focal point for Congress to question and examine what is being done with respect to the complex and challenging Federal drug abuse effort. This is deeply troubling when Congress has taken a positive role in regard to problems of drug abuse.

The key difference between the program management coordination recommendations of the task force, and the approach taken by the conferees, is that we have established legislatively such a coordinated effort in a White House Office of Drug Abuse Policy, ODAP. Thus, it is provided with accountability.

I believe that such a limited office, headed by a director who shall be appointed by the President, by and with the advice and consent of the Senate, is essential.

The issues with respect to the programatic role of the National Institute on Drug Abuse, as set forth in the bills passed by the House and the Senate, were substantially similar. Both bills confirmed and clarified its continued existence and authorized appropriations for its continued operation at the same levels—$45 million annually for 2 years for formula grants and $160 million annually for 2 years for project grants.

I am pleased to note that particular provisions which I authored or supported in the bill have been retained, to wit:

First, a provision calls for a prohibition against the Director of the Office

holding two Federal jobs—except respecting international negotiations.

Second, a provision regarding the need factor, which would require the Secretary within 6 months to propose rulemaking respecting the formula used in making allocations; and, in determining a formula's need factor, by regulation, the Secretary must establish a methodology to assess and determine the incidence and prevalence of drug abuse to be applied in determining need.

Third, a provision requiring determination of need before increasing minimum State formula allocations.

Fourth, a provision requiring grant applicants and State plans to provide proposed performance standards, or research protocol, to measure effectiveness of service.

Fifth, a provision requiring substate planning input, through modification of the appropriate provisions in the health planning law.

Mr. SCHWEIKER. Mr. President, I rise to join in support of this conference report and also of the special instructions and amendment that we are suggesting to prolong the life of the Office of Drug Abuse in the White House for 3 years. As the ranking member of the Subcommittee on Drug Abuse and Alcoholism, I commend the chairman, the distinguished Senator from Maine, for his work and leadership in this area, as well as the distinguished Senator from New York, who does serve on two committees that deal with this area.

I happen to believe that drug abuse and alcoholism are still two of our Nation's most important problems. We have come nowhere near solving either one of them. Particularly in the area of drug abuse, where we have a drug enforcement administration and a National Institute of Drug Abuse, where we have so many different functions and diverse purposes and so much fragmentation of policies relating to drug abuse in the Government, we do need a strong central policy and a clearinghouse in the White House and I think it is essential to continue that clearinghouse authority and central policy for 3 years.

I am glad to see the conferees, by and large, are together on this. I urge the adoption of the regulations.

Mr. HATHAWAY. Mr. President, I return the compliment of the Senator from Pennsylvania and commend him, also, for the excellent job he has done with respect to this bill. In fact, all of the members of the subcommittee, as well as the conferees worked together reasonably well to bring forth what I think is an excellent bill.

Mr. President, I move at this time that the Senate agree to the conference report on S. 2017.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HATFIELD. Mr. President, I move that the Senate recede from its disagreement to the House amendment to S. 2017 and concur therein with a further amendment, which I send to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill (S. 2017) entitled "An Act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes", insert the following:

That section 101 (21 U.S.C. 1101) of the Drug Abuse Office and Treatment Act of 1972 (hereinafter in this Act referred to as the "Act") is amended by adding at the end thereof the following new paragraph:

"(10) Although the Congress observed a significant apparent reduction in the rate of increase of drug abuse during the three-year period subsequent to the date of enactment of this Act, and in certain areas of the country apparent temporary reductions in its incidence, the increase and spread of heroin consumption since 1974, and the continuing abuse of other dangerous drugs, clearly indicate the need for effective, ongoing, and highly visible Federal leadership in the formation and execution of a comprehensive, coordinated drug abuse policy.".

SEC. 2. Section 102 of the Act (21 U.S.C. 1102) is amended by striking "immediate objective of significantly reducing the incidence of drug abuse in the United States within the shortest possible period of time, and to develop" and inserting in lieu thereof "objective of significantly reducing the incidence, as well as the social and personal costs, of drug abuse in the United States, and to develop and assure the implementation of".

SEC. 3. Section 103(b) of the Act (21 U.S.C. 1103(b)) is amended by changing "education, training," to read "education or training (including preventive efforts directed to individuals who are not users of drugs and to individuals who are marginal users of drugs).".

SEC. 4. (a) Section 103 of the Act is amended by adding at the end thereof the following new subsection:

"(d) The term 'drug abuse function' means any function described in subsection (b) or (c) of this section, or both.".

(b) The Act is amended by inserting after title I the following new title:

"TITLE II—OFFICE OF DRUG ABUSE POLICY

"CHAPTER	Sec.
"1. GENERAL PROVISIONS	201
"2. FUNCTIONS OF THE DIRECTOR	221

"CHAPTER 1.—GENERAL PROVISIONS

"Sec.
"201. Establishment of Office.
"202. Appointment of Director.
"203. Appointment of Deputy Director.
"204. Delegation.
"205. Officers and employees.
"206. Employment of experts and consultants.
"207. Acceptance of uncompensated services.
"208. Notice relating to the control of dangerous drugs.
"209. Compensation of Director and Deputy Director.
"210. Statutory authority unaffected.
"211. Appropriations authorized.

"§ 201. Establishment of Office

"There is established in the Executive Office of the President an office to be known as the Office of Drug Abuse Policy (hereinafter in this Act referred to as the 'Office'). The establishment of the Office in the Executive Office of the President shall not be construed as affecting access by the Congress, or committees of either House, (1) to information, documents, and studies in the possession of, or conducted by, the Office or (2) to personnel of the Office.

"§ 202. Appointment of Director

"The Office shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall not hold office in any other department or agency of the United States, whether on an acting basis or otherwise, except on such occasions as may be appropriate in connection with the performance of such duties as may be assigned to him pursuant to section 222.

"§ 203. Appointment of Deputy Director

"There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director may assign or delegate, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

"§ 204. Delegation

"Unless specifically prohibited by law, the Director may, without being relieved of his responsibility, perform any of his functions or duties or exercise any of his powers through, or with the aid of, such persons in, or organizations of, the Office as he may designate.

"§ 205. Officers and employees

"(a) The Director may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to perform the functions vested in him. At the discretion of the Director, any officer or employee of the Officer may be allowed and paid travel expenses, including per diem in lieu of subsistence, in the same manner as is authorized by section 5703 of title 5, United States Code, for individuals employed intermittently.

"(b) In addition to the number of positions which may be placed in grades GS-16, GS-17, and GS-18 under section 5108 of title 5, United States Code, and without prejudice to the placement of other positions in the Office in such grades under any authority other than this subsection, not to exceed four positions in the Office may be placed in grades GS-16, GS-17, and GS-18, but in accordance with the standards and procedures prescribed by chapter 51 of such title.

"§ 206. Employment of experts and consultants

"The Director may procure services as authorized by section 3109 of title 5, United States Code, and may pay a rate for such services not in excess of the rate in effect for grade GS-18 of the General Schedule. The Director may employ individuals under this section without regard to any limitation, applicable to services procured under such section 3109, on the number of days or the period of such services, except that, at any one time, not more than six individuals may be employed under this section without regard to such limitation.

"§ 207. Acceptance of uncompensated services

"The Director is authorized to accept and employ in furtherance of the purpose of this Act voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"§ 208. Notice relating to the control of dangerous drugs

"Whenever the Attorney General determines that there is evidence that—

"(1) a drug or other substance, which is not a controlled substance (as defined in section 102(6) of the Controlled Substances Act), has a potential for abuse, or

"(2) a controlled substance should be transferred or removed from a schedule under section 202 of such Act,

he shall, prior to initiating any proceeding under section 201(a) of such Act, give the Director timely notice of such determination. Information forwarded to the Attorney General pursuant to section 201(f) of such Act shall also be forwarded by the Secretary of Health, Education, and Welfare to the Director.

"§ 209. Compensation of Director and Deputy Director

"(a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(64) Director of the Office of Drug Abuse Policy.'.

"(b) Paragraph (95) of section 5315 of such title is amended to read as follows:

"'(95) Deputy Director of the Office of Drug Abuse Policy.'.

"§ 210. Statutory authority unaffected

"Nothing in this title shall be construed to limit the authority of the Secretary of Defense with respect to the operation of the Armed Forces or the authority of the Administrator of Veterans' Affairs with respect to the furnishing of health care and related services to veterans.

"§ 211. Appropriations authorized

"For purposes of carrying out this title, there is authorized to be appropriated $700,000 for the fiscal year ending June 30, 1976, $500,000 for the period July 1, 1976, through September 30, 1976, $2,000,000 for the fiscal year ending September 30, 1977, and $2,000,000 for the fiscal year ending September 3, 1978.

"Chapter 2.—FUNCTIONS OF THE DIRECTOR

"Sec.
"221. Concentration of Federal effort.
"222. International negotiations.
"223. Annual report.

"§ 221. Concentration of Federal effort

"(a) The Director shall make recommendations to the President with respect to policies for, objectives of, and establishment of priorities for, Federal drug abuse functions and shall coordinate the performance of such functions by Federal departments and agencies. Recommendations under this subsection shall include recommendations for changes in the organization, management, and personnel of Federal departments and agencies performing drug abuse functions to implement the policies, priorities, and objectives recommended under this subsection.

"(b) To carry out subsection (a), the Director shall—

"(1) review the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of drug abuse functions;

"(2) conduct, or provide for, evaluations of (A) the performance of drug abuse functions by Federal departments and agencies, and (B) the results achieved by such departments and agencies in the performance of such functions; and

"(3) seek to assure that Federal departments and agencies, in the performance of drug abuse functions, construe drug abuse as a health problem.

"(c) Federal departments and agencies engaged in drug abuse functions shall submit to the Director such information and reports with respect to such functions as he may reasonably require to carry out the purposes of this title.

"§ 222. International negotiations

"The President may designate the Director to represent the Government of the United States in discussions and negotiations relating to drug abuse functions.

"§ 223. Annual report

"The Director shall submit to the President and the Congress, prior to March 1 of each year which begins after the enactment of this title, a written report on the activities of the Office. The report shall specify the objectives, activities, and accomplishments of the Office, and shall contain an accounting of funds expended under this title.".

(c)(1) Section 104 of the Act is repealed.

(2) Section 302 of the Act is amended by striking out "Special Action Office of Drug Abuse Prevention until the date specified in section 104 of this Act" and inserting in lieu thereof "Office of Drug Abuse Policy".

(3) Section 302 of the Act is amended by striking out "and" before "other officials", and by striking out the period after "appropriate" and inserting in lieu thereof "and no fewer than three members from outside the Federal Government.".

(4) Section 304 of the Act is amended by adding at the end thereof the following:

"(4) from time to time make recommendations to, and coordinate with, the Director of the Office of Drug Abuse Policy with respect to the performance of his functions under this Act.".

(5) The following provisions of law are each amended by striking out "Special Action Office for Drug Abust Prevention" and inserting in lieu thereof "Office of Drug Abuse Policy":

(A) Sections 302 and 408(g) of the Act (21 U.S.C. 1162 and 1175(g)).

(B) Subsections (b)(1) and (d) of section 303 of Public Law 93-282 (21 U.S.C. 1175 note).

(C) Section 454 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750c).

(D) Section 206(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)).

(6) Sections 5316(131) and 5313(21) of title 5, United States Code are repealed.

SEC. 5. Section 305 of the Act (21 U.S.C. 1165) is amended by striking out "from time to time as the President deems appropriate, but not less often than once a year" and inserting in lieu thereof "prior to June 1 of each year".

SEC. 6. (a) Section 407 of the Act (21 U.S.C. 1174) is amended to read as follows:

"§ 407. Admission of drug abusers to private and public hospitals

"(a) Drug abusers who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their drug abuse or drug dependence, by any private or public general hospital which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency.

"(b)(1) The Secretary is authorized to make regulations for the enforcement of the policy of subsection (a) with respect to the admission and treatment of drug abusers in hospitals which receive support of any kind from any program administered by the Secretary. Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital subject to such regulations has violated subsection (a) and such violation continues after an opportunity has been afforded for compliance, the Secretary may suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which such hospital receives support of any kind, with respect to the suspension of revocation of such other Federal support for such hospital.

"(2) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under paragraph (1) of this subsection to the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from drug abuse or drug dependence. In prescribing and implementing regulations pursuant to this paragraph, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.".

(b) The Administrator of Veterans' Affairs shall submit to the appropriate committees of the House of Representatives and the Senate a full report (1) on the regulations (including guidelines, policies, and procedures thereunder) he has prescribed pursuant to section 407(b)(2) of the Act, (2) explaining the bases for any inconsistency between such regulations and regulations of the Secretary under section 407(b)(1) of the Act, (3) on the extent, substance, and results of his consultations with the Secretary respecting the prescribing and implementation of the Administrator's regulations, and (4) containing such recommendations for legislation and administrative actions as he determines are necessary and desirable. The Administrator shall submit such report not later than sixty days after the effective date of the regulations prescribed by the Secretary under such section 407(b)(1) and shall timely publish such report in the Federal Register.

(c) The item relating to section 407 in the table of sections of title IV of the Act is amended by striking out "hospitals for emergency treatment" and inserting in lieu thereof "private and public hospitals".

SEC. 7. The first sentence of section 409(a) of the Act (21 U.S.C. 1176(a)) is amended by changing "and $45,000,000 for the fiscal year ending June 30, 1975", to read "$45,000,000 for each of the fiscal years ending June 30, 1975, and June 30, 1976, $11,250,000 for the period July 1, 1976, through September 30, 1976, and $45,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978".

SEC. 8. (a) Section 409(c)(1) of the Act is amended by—

(1) inserting "(A)" immediately after "(c)(1)";

(2) adding before the period at the end of subparagraph (A) the following: ", except that in the case of a State (other than the Virgin Islands, Guam, American Samoa, and the Trust Territories of the Pacific Islands) which can demonstrate a need (determined in accordance with the methodology established under subparagraph (B)(iii)) for an allotment for a fiscal year in an amount not less than $150,000, the allotment for such State for such fiscal year may not be less than $150,000 multiplied by such fraction"; and

(3) inserting at the end thereof the following new subparagraph:

"(B)(i) Not later than June 15 of each year, the Secretary, after consultation with the Director of the National Institute on Drug Abuse, shall publish a notice of proposed rulemaking setting forth a formula to be used in making allotments pursuant to subparagraph (A) of this paragraph. Such notice of published rulemaking shall be in accordance with section 553 of title 5, United States Code, except that a sixty-day period shall be allowed for public comment.

"(ii) Not later than the first day of each fiscal year, the Secretary shall publish final regulations setting forth the allotment formula to be used pursuant to subparagraph (A) of this paragraph in making allotments during such fiscal year.".

"(iii) In determining, for the purposes of paragraph (1), the extent of need for more effective conduct of drug abuse prevention functions, the Secretary shall (within one hundred and eighty days after the date of enactment of this paragraph) by regulation establish a methodology to assess and determine the incidence and prevalance of drug abuse to be applied in determining such need."

(b) The amendments made by subsection (a) of this section shall be effective with respect to fiscal years beginning on and after October 1, 1976.

SEC. 9. (a) (1) Section 409(e) of the Act (21 U.S.C. 1176(e)) is amended—

(A) by inserting in the first sentence thereof ", not later than July 15 of each calendar year," immediately after "Secretary";

(B) by inserting in the second sentence thereof "shall pertain to the twelve-month period commencing October 1 of the calendar year in which it is required to be submitted, and" immediately after "Each State plan";

(C) by inserting "in accordance with such needs" immediately before the semicolon at the end of paragraph (5) thereof;

(D) by striking "and" at the end of paragraph (11) thereof;

(E) by redesignating paragraph (12) thereof as paragraph (13); and

(F) by inserting immediately after paragraph (11) thereof the following new paragraph:

"(12) provide reasonable assurances that treatment or rehabilitation projects or programs supported by funds made available under this section have provided to the State agency a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such treatment or rehabilitation programs or projects; and".

(2) The amendments made by paragraph (1) shall take effect January 1, 1976.

(b) (1) Section 409(f) of the Act is amended by adding at the end the following: "A State plan submitted under subsection (e) may also contain provisions relating to alcoholism or mental health. The Secretary, acting through the National Institute on Drug Abuse, shall establish procedures by which the National Institute on Drug Abuse shall review each State plan submitted pursuant to subsection (e) and under which it shall complete its review of each such plan not later than September 15 of the calendar year in which the plan is submitted, or not later than sixty days after the plan is received by the National Institute on Drug Abuse, whichever is later.".

(2) The amendment made by paragraph (1) shall take effect January 1, 1976.

SEC. 10. (a) Section 410(a) of the Act (21 U.S.C. 1177(a)) is amended by adding at the end of thereof the following: "In the implementation of his authority under this section, the Secretary shall accord a high priority to applications for grants or contracts for primary prevention programs. For purposes of the preceding sentence, primary prevention programs include programs designed to discourage persons from beginning drug abuse. To the extent that appropriations authorized under this section are used to fund treatment services, the Secretary shall not limit such funding to treatment for opiate abuse, but shall also provide support for treatment for nonopiate drug abuse including polydrug abuse.".

(b) Section 410(c) of the Act (21 U.S.C. 1177(c)) is amended by adding at the end thereof the following new paragraph:

"(4) Each applicant within a State, upon filing its application with the Secretary for a grant or contract to provide treatment or rehabilitation services shall provide a proposed performance standard or standards, to measure, or research protocol to determine, the effectiveness of such treatment or rehabilitation program or project.".

SEC. 11. Section 410(b) of the Act (21 U.S.C. 1177(b)) is amended by changing "and $160,000,000 for the fiscal year ending June 30, 1975," to read "$160,000,000 for each of the fiscal years ending June 30, 1975 and June 30, 1976; $40,000,000 for the period July 1, 1976, through September 30, 1976; and $160,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978,".

SEC. 12. (a) (1) The first sentence of section 501(a) of the Act is amended by changing "section" to read "title" both places it appears therein.

(2) Section 501(b) of the Act (21 U.S.C. 1191(b)) is amended by inserting "(hereinafter in this title referred to as the 'Director')" immediately after "Director".

(b) (1) Section 502 of the Act is amended to read as follows:

"§ 502. Technical assistance to State and local agencies

"(a) The Director shall—

"(1) coordinate or assure coordination of Federal drug abuse prevention functions with corresponding functions of State and local governments; and

"(2) provide for a central clearinghouse for Federal, State, and local governments, public and private agencies, and individuals seeking drug abuse information and assistance from the Federal Government.

"(b) In carrying out his functions under this section, the Director may—

"(1) provide technical assistance—including advice and consultation relating to local programs, technical and professional assistance, and, where deemed necessary, use of task forces of public officials or other persons assigned to work with State and local governments—to analyze and identify State and local drug abuse problems and assist in the development of plans and programs to meet the problems so identified;

"(2) convene conferences of State, local, and Federal officials, and such other persons as the Director shall designate, to promote the purposes of this Act, and the Director is authorized to pay reasonable expenses of individuals incurred in connection with their participation in such conferences; and

"(3) draft and make available to State and local governments model legislation with respect to State and local drug abuse programs and activities, and provide for uniform forms for, procedures for the submission of, and criteria for the consideration of applications of State and local governments and individuals for grants and contracts for drug abuse control and treatment programs.

"(c) In implementation of his authority under subsection (b) (1), the Director may—

"(1) take such action as may be necessary to request the assignment, with or without reimbursement, of any individual employed by any Federal department or agency and engaged in any Federal drug abuse prevention function or drug traffic prevention function to serve as a member of any such task force; except that no such person shall be so assigned during any one fiscal year for more than an aggregate of ninety days without the express approval of the head of the Federal department or agency with respect to which he was so employed prior to such assignment;

"(2) assign any person employed by the Institute to serve as a member of any such task force or to coordinate management of such task forces; and

"(3) enter into contracts or other agreements with any person or organization to serve on or work with such task forces.".

(2) The item relating to such section 502 in the table of sections of title V of the Act is amended to read as follows:

"502. Technical assistance to State and local agencies."

SEC. 13. Title V of the Act is amended by adding at the end thereof the following new section:

"§ 503. Encouragement of certain research and development

"(a) The Director shall encourage and promote (by grants, contracts, or otherwise) expanded research programs to create, develop, and test—

"(1) synthetic analgesics, antitussives, and other drugs which are—

"(A) nonaddictive, or

"(B) less addictive than opium or its derivatives,

to replace opium and its derivatives in medical use;

"(2) long-lasting, nonaddictive blocking or antagonistic drugs or other pharmacological substances for treatment of heroin addiction; and

"(3) detoxification agents which, when administered, will ease the physical effects of withdrawal from heroin addiction.

In carrying out this section the Director is authorized to establish, or provide for the establishment of, clinical research facilities.

"(b) For purposes of carrying out subsection (a) of this section there are authorized to be appropriated $7,000,000 for the fiscal year ending June 30, 1976, $1,750,000 for the period July 1, 1976, through September 30, 1976, $7,000,000 for the fiscal year ending September 30, 1977, and $7,000,000 for the fiscal year ending September 30, 1978.".

(d) The table of sections at the beginning of title V of the Act is amended by adding at the end thereof the following new item:

"503. Encouragement of certain research and development.".

SEC. 14. (a) Section 1513(e) (1) (A) (i) of the Public Health Service Act is amended by inserting "sections 409 and 410 of the Drug Abuse Office and Treatment Act," after "Community Mental Health Centers Act".

(b) Section 1512(b) (3) (C) (ii) of the Public Health Service Act is amended by inserting ", substance abuse treatment facilities" after "long-term care facilities".

(c) Section 1531(3) (A) of the Public Health Service Act is amended by inserting ", substance abuse treatment facilities" after long-term care facilities".

Mr. HATHAWAY. Mr. President, I think we have adequately explained this amendment already. I see no necessity of taking up any more time.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

ORDER FOR ADJOURNMENT UNTIL MONDAY, FEBRUARY 23, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 o'clock meridian on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PACKWOOD, A PERIOD FOR ROUTINE MORNING BUSINESS, AND CONSIDERATION OF S. 2931 ON MONDAY, FEBRUARY 23, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on Monday, Mr. PACKWOOD be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business of not to exceed 45 minutes, with statements therein limited to 5 minutes each, at the conclusion of which the Senate will proceed to the consideration of S. 2931, the daylight saving time bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday, the Senate will convene at the hour of 12 noon. After the two leaders or their designees have been recognized under the standing order, Mr. PACKWOOD will be recognized for 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 45 minutes, with statements therein limited to 5 minutes each; at the conclusion of which the Senate will proceed to the consideration of Calendar No. 602, S. 2913, the daylight saving time bill. The final vote on that bill is set for Wednesday at 12 noon. There have been some requests on this side of the aisle that the vote be rearranged for 2 o'clock that afternoon. I merely say this so that the leadership on the other side of the aisle will be alerted to it. On Monday, perhaps, if it is agreeable on both sides of the aisle, that vote can be changed from 12 noon to 2 o'clock p.m. As of now, it is set for 12 on Wednesday.

On Tuesday next, there is a time agreement on amendments and on debate on the daylight saving time bill, so votes could occur on amendments and motions in relation thereto on Monday. Also, other measures may be taken up on Monday if cleared for action by then, and votes could occur thereon, as well as on conference reports, which are privileged matters. So there is a fairly good possibility that rollcall votes will occur on Monday.

On Tuesday, the Senate will proceed to take up House Joint Resolution 549, dealing with the Northern Mariana Islands. There is a time agreement on that resolution, with a vote to occur thereon on Tuesday at 5 o'clock—I believe no later than 5 o'clock p.m.

Also, Mr. President, I think I should state that there are various other measures on the calendar that may be coming up at any time, among which are the following: S. 507, the bill to provide for the management and protection and development of national resource lands; H.R. 8650, an act to assist low-income persons in insulating their homes; S. 953, a bill to amend the Export Administration Act of 1969 to clarify and strengthen the authority of the Secretary of Commerce: Senate Resolution 356, relating to the Oklahoma Senatorial contested election; various resolutions out of the Committee on Rules; S. 2752, a bill to improve judicial machinery by reorganizing the fifth judicial district, by creating additional judgeships in that circuit; the Hatch Act, H.R. 8671, an act to restore to Federal civilian and Postal Service employees their rights to participate voluntarily as private citizens in the political processes of the Nation; H.R. 7688, providing for the continuance of civil government of the Trust Territory of the Pacific Islands; S. 287, a bill to provide for the appointment of additional district court judges, and for other purposes; S. 354, no-fault insurance. There are other measures, as Senators can see, that are on the calendar and have been on the calendar for quite some time.

ADJOURNMENT UNTIL MONDAY, FEBRUARY 23, 1976

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock meridian on Monday.

The motion was agreed to, and at 5:29 p.m., the Senate adjourned until Monday, February 23, 1976, at 12 meridian.

HOUSE OF REPRESENTATIVES—*Thursday, February 19, 1976*

The House met at 12 o'clock noon.

The Chaplain, Reverend Edward G. Latch, D.D., offered the following prayer:

Thus saith the Lord God; in returning and rest shall ye be saved; in quietness and in confidence shall be your strength.—Isaiah 30: 15.

O God, who hast taught us that in quietness and in confidence shall be our strength, give us the faith to know that Thou art with us and that with Thee is help adequate for every need.

We come with our worries seeking courage and confidence from Thee.

We come with our problems asking for wisdom and for light upon our way.

We come with our sorrows knowing Thou art able to comfort us and to strengthen the fainting heart.

We come with our sins praying for Thy forgiveness which helps us to forgive ourselves and others.

Grant us peace in our hearts, strength for the day, and courage to do what we ought to do for Thy name's sake. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 11645. An act to amend the act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 270. An act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Elkhart, Kans., for airport purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2447. An act to amend title 4 of the United States Code to make it clear that Members of Congress may not, for purposes of State income tax laws, be treated as residents of any State other than the State from which they were elected.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will take unanimous-consent requests after the disposition of the unfinished business.

PUBLIC WORKS EMPLOYMENT ACT OF 1975—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The unfinished business is the further consideration of the veto message of the President of the bill (H.R. 5247) to authorize a local public works capital development and investment program, to amend the Public Works and Economic Development Act of 1965 to increase the antirecessionary effectiveness of the program, and for other purposes.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

CALL OF THE HOUSE

Mr. WRIGHT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 61]

Alexander
Archer
Aspin
AuCoin
Breckinridge
Brown, Calif.
Cederberg
Chisholm
Conlan
Conyers
Diggs
Drinan
Eilberg
English
Eshleman
Ford, Mich.
Hébert
Hinshaw
Karth
Kazen
LaFalce
Landrum
Leggett
Matsunaga
Miller, Calif.
Mills
Mineta
Mink
Mollohan
Peyser
Rees
Riegle
Scheuer
Schroeder
Shuster
Simon
Sisk
Steiger, Ariz.
Stephens
Teague
Ullman
Waxman
Young, Alaska
Young, Ga.

The SPEAKER. On this rollcall 388 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PUBLIC WORKS EMPLOYMENT ACT OF 1975—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. HARSHA), and pending that I yield 2 minutes to the gentleman from Ohio, a member of the committee (Mr. JAMES V. STANTON).

Mr. JAMES V. STANTON. Mr. Speaker, I rise to support the override of the President's veto of H.R. 5247, the Public Works Employment Act of 1975. I believe this bill is a major commitment to congressional action that will help turn the tide of recession and unemployment that has brought so much hardship and suffering to the people of this country.

We have been told that the recession is over, that this or any other new Federal program to stimulate the national economy and create jobs for the jobless is no longer needed, that it would even be counterproductive.

That must certainly come as news, Mr. Speaker, to the millions of our fellow citizens whose unemployment benefits have run out, or are about to run out, and who still cannot find jobs.

It should also come as news to the administration's own economic experts who have budgeted some $17 billion in unemployment insurance payments alone for the coming fiscal year.

I find it all but impossible to believe that this or any other administration could question the need for a $6.2 billion program—a program that will provide at least 600,000 jobs, mostly in the private sector, that will stimulate economic recovery in some of the Nation's most depressed areas, that will enable our overburdened States and local jurisdictions to maintain their essential services. I find it hard to believe they could question this legislation while at the same time they are asking Congress to approve $17 billion to support idle workers and their families.

Passage of this legislation will reduce that burden significantly by taking hundreds of thousands of willing workers off the dole and restoring them to productive self-sufficiency.

Mr. Speaker, I urge the House to overwhelming reject the President's veto of H.R. 5247.

Mr. HARSHA. Mr. Speaker, I yield 5 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, this is a veto which should be sustained. H.R. 5247 is a bill whose time has not only come, but it has passed.

The jobs which might be created under this particular piece of legislation will not come into existence for possibly 1 year after the enactment of the bill. There will be some jobs created in a short period, but not many. The main impact of the bill itself, will not be for at least 1 year after the enactment.

Mr. Speaker, as I look at all the signs regarding the economy—and I think they reflect our actual situation—we are coming out of a very deep and serious recession. This recession, as we all know, was caused primarily by the inflation which has been put into the economy by a war, by the most expensive programs for public welfare and transfer payments ever known to man. Yet, here we are, at just about the time that we feel that we might have inflation under control, about to pass a bill over a Presidential veto which would have the effect of rekindling the fires of inflation; those very fires which, in my opinion and I think in the opinion of most people, are basically responsible for the economic problems of the country.

So, it is not just a recession which we are fighting, it is a phenomenon; a recession which came out of inflation. It is not only our unemployment which we are fighting, it is the possibility that future unemployment would be created by an unwise act on the part of this body today. That unwise act would be the adoption of this resolution and the provision that this bill would become law not withstanding the disapproval of the President of the United States.

Mr. Speaker, the Director of the Budget, Mr. Lynn, has said that the main impact of this bill upon the economy would not be in this fiscal year, it would be in the next fiscal year and in the years to come. We are playing around right now with a $60 billion deficit for fiscal year 1977, and the deficit for 1978 will be even greater unless we begin to face up to the problems which we have in the public sector.

We all place great faith in the Budget Committees of the House and the Senate. Many of us who were instrumental in the formulation of those committees are particularly proud of the fact that they are in place. But those committees alone cannot do the job. We have to anticipate that the problems which we have as far as the fiscal situation is concerned must be coped with day by day and not just by a resolution brought in by the Budget Committee. If the Budget Committee were to bring in a resolution which would cut substantially below the spending limits, which would be arrived at by totaling up the appropriation bills, I can imagine the chaos it would create. Not only on this floor, but in the country. And such cuts would have to be made initially overnight in a meat ax approach.

To me, it becomes absolutely necessary for us to anticipate the expenditures we are authorizing as we go along, and how they are totaling up. I cannot think of a better time and a better vehicle for the Members of this House to employ than to say right now, on this bill, that we will hold the line. We should accept what the President of the United States believes, that the best way to provide jobs for the unemployed—and we do have unemployed and we are concerned about them—is to get the public sector to expand and to create permanent jobs. The best thing to do is to rededicate ourselves to the private enterprise system which has made the country what it is, and to say to the people of the country, "We have concern about you. We have an unemployment compensation system which is the best in the world.

"We intend to maintain it. We intend to help you retrain, by the CETA program and others, to develop skills in other areas if your skill has become outdated. We will do all of these things as the Federal Government, but we know you do not want leaf-raking jobs. We know that you do not want jobs through the public sector. We know you do want jobs that are permanent in the private sector. That is what we want to do to help the plan. But we do not intend to take your hard-earned money to formalize and to fund leaf-raking types of jobs which will do no good for the entire country and certainly will be a harm to the unemployed and to those who pay taxes."

So it is my hope, Mr. Speaker, that we will vote overwhelmingly to sustain the veto of the President of the United States.

Mr. WRIGHT. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Oklahoma, the Speaker of the House (Mr. ALBERT).

Mr. ALBERT. Mr. Speaker, when the Great Depression of the twenties had reached its peak I was a young man, and a distinguished Republican President made the statement that prosperity was just around the corner. If there ever was a lineal descendant of Herbert Hoover, it is the minority leader of the House of Representatives. He has just said that we are on our road to recovery.

Mr. Speaker, as long as more than 7 percent of Americans are unemployed we are not close to recovery. Ask a man who does not have a job. Ask the industry that does not have its equipment at work and its employees at work.

Mr. Speaker, this is not a leaf-raking proposition. The minority leader was wrong about this. These are not Government jobs that we are talking about. We are talking about putting Federal funds into the private sector of this country so that private jobs, private projects, which are sorely needed, can be created in order to take this country out of the second deepest recession in the history of the 20th century.

Mr. Speaker, what is the situation here? We have 6 million, approximately, unemployed people in this country. We have title X of this bill. We could start paying out under that title as soon as the ink is dry on the signatures that override the most ill timed veto in the last 5 years.

Mr. Speaker, all of the money used for new construction can be—will be—ready for distribution to the various communities in the country, to the areas where this work is needed, where these jobs are needed, as soon as the plans and programs are ready. And they must be ready, if I understand the bill correctly, within a period of approximately 3 months.

This is a recession rescinding bill. This is a job-producing bill. This is a bill which reaches to the compassionate heart of every American. This is a bill which touches the heartstrings of every Member of the House of Representatives. This is a veto which will be overridden in resounding fashion when the final vote is called.

Mr. HARSHA. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Hampshire (Mr. CLEVELAND), a member of the committee.

Mr. CLEVELAND. Mr. Speaker, I think there are several points that should be made in defense of those of us who feel that this veto should be sustained. I took the liberty of sending two letters to my colleagues; I do not think it is necessary for me to repeat the subject matter of those letters verbally at this time, but I will include those letters in the Record herewith, as follows:

House of Representatives,
Washington, D.C., February 18, 1976.

H.R. 5247: Veto Should Be Sustained

Dear Colleague: This letter is in support of a vote to sustain the veto of H.R. 5247, the Public Works Employment Act.

In urging a vote to sustain, I can offer only the facts as they became evident to me as a conferee on this legislation: Whatever else H.R. 5247 may be, it is not a $6.2 billion public works jobs bill.

Title I would provide $2.5 billion for local projects under ground rules such as to practically exclude projects of real priority or lasting benefit to the community. Maintenance, as distinguished from construction, could well absorb a substantial portion of the funds available.

Title II would provide $1.5 billion for so-called countercyclical emergency support grants to state and local governments. The legislative history makes clear that it would provide no new jobs, but instead lead to a substitution of federal for state and local revenues to meet payrolls. Funds also could go for debt retirement, costs incident to welfare and food stamps, or even for a roll-back of recently enacted tax increases. Most construction would be expressly prohibited.

Title III represents a $1.4 billion buy-off of states which would gain additional water pollution funds by watering down the needs principle in allocating funds. Seventeen states which would have been ripped off by the Talmadge-Nunn amendment will not get one nickel of this $1.4 billion.

Finally, the bill creates a special $100 million economic development pot for cities of 50,000 population or over, with no requirement for eligibility based on unemployment rates.

The $1.5 billion countercyclical assistance, the $1.4 billion water pollution add-on and the $100 million in urban economic development funds were never considered by a Committee of the House.

Sincerely,

James C. Cleveland,
Member of Congress.

House of Representatives,
Washington, D.C., February 18, 1976.

Sleeper in H.R. 5247

Dear Colleague: Debate over the merits of H.R. 5247 as a job-creation measure has obscured what may be the biggest sleeper in the bill from the standpoint of your State. It will not receive a nickel of the $1.4 billion in water pollution control funds authorized by the bill.

In considering a vote to sustain or override the President's veto, you also might want to take into account the fact that in the long run, your State also could well lose funds for construction of municipal wastewater treatment facilities.

This is because the addition of $1.4 billion on construction grant authorizations in this bill can only have the inevitable result, ultimately, of reducing the level of the next general authorization for water pollution control in which your State will share.

The $1.4 billion in H.R. 5247 was a buy-off of those States which would have benefited from the Talmadge-Nunn amendment in the Senate. You will recall that this amendment would have revised the formula for allocation of EPA construction grant funds—currently based 100 percent on need—to 50-50 needs and population.

Rather than face the issue of the allocation formula squarely, the conference committee on H.R. 5247 came up with its $1.4 billion add-on, limited only to those States which would have gotten a bonus under Talmadge-Nunn.

But not a nickel of it will go to the States of California, Connecticut, Delaware, Illinois, Indiana, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont or Virginia.

It is my hope that these facts will be of some assistance in penetrating the exaggerated expectations generated with respect to this bill and suggest additional grounds for sustaining the President's veto.

Sincerely,

James C. Cleveland,
Member of Congress.

Mr. Speaker, part of this debate seems to come down on the side that anybody who is in favor of sustaining the President's veto is in some degree callous and against jobs. Certainly, with unemployment at the rate it is today, that is a very uncomfortable position. But I think, Mr. Speaker, that we should point out that besides the fact there is some question as to how quickly and how effectively this particular piece of legislation will create jobs, it is also very important that we point out that there are a good many other things that the Government is doing in connection with creating jobs. It is not a black-and-white situation. If we support the President on this point, it does not mean there is no Government help in the important matter of creating jobs.

For this reason, Mr. Speaker, at this point in the Record I include the Presidents message which accompanied this veto, as follows:

To the House of Representatives:

I am returning without my approval H.R. 5247, the Public Works Employment Act of 1975.

Supporters of this bill claim that it represents a solution to the problem of unemployment. This is simply untrue.

The truth is that this bill would do little to create jobs for the unemployed. Moreover, the bill has so many deficiencies and undesirable provisions that it would do more harm than good. While it is represented as the solution to our unemployment problems, in fact it is little more than election year pork barrel. Careful examination reveals the serious deficiencies in H.R. 5247.

First, the cost of producing jobs under this bill would be intolerably high, probably in excess of $25,000 per job.

Second, relatively few new jobs would be created. The bill's sponsors estimate that H.R. 5247 would create 600,000 to 800,000 new jobs. Those claims are badly exaggerated. Our estimates within the Administration indicate that at most some 250,000 jobs would be created—and that would be over a period of several years. The peak impact would come in late 1977 or 1978, and would come to no more than 100,000 to 120,000 new jobs. This would represent barely a one tenth of one percent improvement in the unemployment rate.

Third, this will create almost no new jobs in the immediate future, when those jobs are needed. With peak impact on jobs in late 1977 or early 1978, this legislation will be adding stimulus to the economy at precisely the wrong time: when the recovery will already be far advanced.

Fourth, Title II of the bill provides preferential treatment to those units of government with the highest taxes without any distinction between those jurisdictions which have been efficient in holding down costs and those that have not.

Fifth, under this legislation it would be almost impossible to assure taxpayers that these dollars are being responsibly and effectively spent.

Effective allocation of over $3 billion for public works on a project-by-project basis would take many months or years. The provision that project requests be approved automatically unless the Commerce Department acts within 60 days will preclude any useful review of the requests, and prevent a rational allocation of funds.

Sixth, this bill would create a new urban renewal program less than two years after the Congress replaced a nearly identical program—as well as other categorical grant programs—with a broader, more flexible Community Development block grant program.

I recognize there is merit in the argument that some areas of the country are suffering from exceptionally high rates of unemployment and that the Federal Government should provide assistance. My budgets for fiscal years 1976 and 1977 do, in fact, seek to provide such assistance.

Beyond my own budget recommendations, I believe that in addressing the immediate needs of some of our cities hardest hit by the recession, another measure already introduced in the Congress, H.R. 11860, provides a far more reasonable and constructive approach than the bill I am vetoing.

H.R. 11860 targets funds on those areas with the highest unemployment so that they may undertake high priority activities at a fraction of the cost of H.R. 5247. The funds would be distributed exclusively under an impartial formula as opposed to the pork barrel approach represented by the bill I am returning today. Moreover, H.R. 11860 builds upon the successful Community Development Block Grant program. That program is in place and working well, thus permitting H.R. 11860 to be administered without the creation of a new bureaucracy. I would be glad to consider this legislation more favorably should the Congress formally act upon it as an alternative to H.R. 5247.

We must not allow our debate over H.R. 5247 to obscure one fundamental point: the best and most effective way to create new jobs is to pursue balanced economic policies that encourage the growth of the private sector without risking a new round of inflation. This is the core of my economic policy, and I believe that the steady improvements in the economy over the last half year on both the unemployment and inflation fronts bear witness to its essential wisdom. I intend to continue this basic approach because it is working.

My proposed economic policies are expected to foster the creation of 2 to 2.5 million new private sector jobs in 1976 and more than 2 million additional jobs in 1977. These will be lasting, productive jobs, not temporary jobs payrolled by the American taxpayer.

This is a policy of balance, realism, and common sense. It is an honest policy which does not promise a quick fix.

My program includes:

Large and permanent tax reductions that will leave more money where it can do the most good: in the hands of the American people;

Tax incentives for the construction of new plants and equipment in areas of high unemployment;

Tax incentives to encourage more low and middle income Americans to invest in common stock;

More than $21 billion in outlays for important public works such as energy facilities, wastewater treatment plants, roads, and veterans' hospitals representing a 17 percent increase over the previous fiscal year;

Tax incentives for investments in residential mortgages by financial institutions to stimulate capital for home building.

I have proposed a Budget which addresses the difficult task of restraining the pattern of excessive growth in Federal spending. Basic to job creation in the private sector is reducing the ever-increasing demands of the Federal government for funds. Federal government borrowing to support deficit spending reduces the amount of money available for productive investment at a time when many experts are predicting that we face a shortage of private capital in the future. Less investment means fewer new jobs and less production per worker.

Last month, under our balanced policies, seasonally adjusted employment rose by 800,000. That total is almost three times as large as the number of jobs that would be produced by this legislation and the jobs those men and women found will be far more lasting and productive than would be creative through another massive public works effort.

I ask the Congress to act quickly on my tax and budget proposals, which I believe will provide the jobs for the unemployed that we all want.

GERALD R. FORD.

THE WHITE HOUSE, *February 13, 1976.*

Mr. Speaker, I want particularly to call the attention of colleagues to the end of the message. The President points out certain aspects of his program which are designed to create jobs. Of course, these involve tax reductions and these involve tax incentives.

Then the President goes on to point out that in the budget he submitted to us there is included more than $21 billion in outlays for important public works such as energy facilities, wastewater treatment plants, roads, and veterans' hospitals, and this represents a 17-percent increase over the previous fiscal year.

The grand total we are talking about here in this particular bill is only—I suppose I should not say "only," but it is a small amount relative to the $21 billion I have just referred to—in the amount of $6 billion.

Mr. Speaker, this is going to raise certain problems. Some of us who are now giving speeches pointing with pride to the jobs that are going to be created if the veto is overridden are going to be in the position shortly of trying to explain why more jobs were not created more quickly and why more public works were not put in place. That is going to be one of our problems. The real thing that Congress is failing to do in this particular area is to make programs that we already have work more effectively.

I attended most of the hearings on this legislation, and again and again I was impressed with the fact that we had in the pipeline; for example, in the water pollution abatement program, literally billions of dollars that had already been authorized for appropriation by contract authority, but that money was not getting out, the money was not being spent. I think it is important for Congress at a time like this to pay more attention to doing the job we are supposed to be doing and spend less time criticizing the President of the United States for trying to exercise a certain degree of fiscal restraint at this very difficult economic time. Inflation is no laughing matter.

Mr. Speaker, I think we should be realistic. I think the President has been realistic. This is one of the qualities about the President that I particularly appreciate. I think I can be realistic also. There are not too many Members whose votes are going to be changed, I realize that.

The CONGRESSIONAL RECORD of January 29, 1976, at page 1579, contains a good deal of information analyzing this bill and analyzing the four or five different sections that were put together as a sort of potpourri, I think if Members realize what some of the provisions actually did, they would find them highly objectionable.

The SPEAKER. The time of the gentleman from New Hampshire (Mr. CLEVELAND) has expired.

Mr. HARSHA. Mr. Speaker, I yield 2 additional minutes to the gentleman from New Hampshire.

Mr. CLEVELAND. To continue, Mr. Speaker, some of those sections, I think, would be highly difficult for the Members to support. I think further that some of those sections may even come back to haunt them at some time.

Mr. Speaker, I think it is important that the Members of the House realize that there are no fewer than three major segments of the bill that we have under consideration that were never once subjected to hearings in the committees of the House. There are many Members who have sworn that they will never vote for a conference report when the Senate or conference loads it up with one or more nongermane matters. Yet, in this particular situation it was loaded up not only by the Senate, but in the committee of conference with three new or nongermane types of programs. One of the programs is the countercyclical program, which is of dubious merit and threatens the whole basis of revenue sharing.

Another one of the programs was the settlement of the dispute with respect to the Talmadge amendment. I have letters from countless Members of this House representing States that were diametrically opposed to the concept of the Talmadge amendment in the Senate. Yet, now they are going to be in the process of voting for a compromise solution which threatens the long-range programs in their State.

Finally, there is a section in here that permits economic development to go to any city—no standards—any city of 50,000 or more. This could eventually lead to a gutting of the economic development program by which we have attempted to bring some balance into the economic development of our disadvantaged rural areas.

As I say, Mr. Speaker, in being realistic, we cannot expect too many Members to vote for, or even to carefully consider voting to sustain the veto. However, in the long run, I predict that a vote to support the President will be a good vote.

Mr. HARSHA. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 5247, notwithstanding the President's objections. This bill has been with the Congress for almost a year. When the House first took up this measure it was vastly different from the final product. Regardless, I support the measure then and I support it now.

Let me reiterate the highlights of the bill. Title I authorizes $2.5 billion through fiscal year 1977 for 100-percent grants to State and local governments for local public works projects, which can be initiated promptly in areas of highest unemployment. Title II authorizes approximately $1.5 billion over five calendar quarters beginning in April 1976 for grants to State and local governments to maintain essential public services. Allocation is based on an overall formula of two-thirds of the funds to local governments, one-third of the funds to States based on an allocation of unemployment times the tax effort of the respective governments.

Governments must have unemployment in excess of 6 percent to receive any funds, and payments are made by quarter. These grants are to aid State and local governments to retain municipal workers who would otherwise lose their jobs in times of recession. Lastly, title III accomplishes several things: $125 million is added to title II of EDA for interest supplements for private loans guaranteed by EDA; $100 million is authorized for a new urban economic development program under title IV of EDA to aid cities over 50,000 for general economic development; $500 million is authorized to extend the so-called job opportunities program of EDA for an additional year to fund small projects through Federal departments and agencies to create temporary jobs for such projects. Finally, $1.4 billion is authorized for the construction of waste treatment plants under the Water Pollution Control Act of 1972, with an allocation based on the so-called Talmadge-Nunn formula of one-half needs and one-half population of the States. Some 33 States would receive funds under this allocation. However, no State would lose the existing allocation of the $9 billion under the water pollution control program.

I want to express my gratitude to Chairman ROE of the subcommittee for his splendid efforts in seeing this bill through the House and through the conference.

There has been discussion of H.R. 11860 as an alternative to the Public Works Employment Act. H.R. 11860, which amends the Housing and Community Development Act of 1974, authorizes $780 million over eight quarters to cities and counties for community development programs, 75 percent going to urban areas and 25 percent to the States to be passed on to nonurban areas. Eligibility rests on unemployment; areas must have 8 percent unemployment to receive funds. H.R. 11860 is intended to replace titles I and II of H.R. 5247. The two bills are immeasurably different.

Title I and II of H.R. 5247 authorize a total of $4 billion over 1½ years for both public works projects and grants to cities and States to maintain public services. H.R. 5247 benefits the construction industry, currently experiencing an unemployment rate of 20 percent, and cities experiencing the fiscal pinch of the national economic picture. The substitute bill would provide a significantly smaller amount of money to rural communities and would not provide the stimulus to the construction industry to the extent of the public works section of H.R. 5247. H.R. 11860 would require the entire committee and congressional process before we could have a final product. We cannot afford to wait for this lengthy course of action. We need the job impact as soon as possible.

You will recall when the House considered the conference report I made available figures from the Department of Labor showing unemployment by State for October and November 1975. The December 1975 figures are now available and I would like to furnish them to you at this time. It is the unemployment figures for the last quarter of 1975 which would be used in allocating funds under title II of H.R. 5247. A chart of these 3-month figures is included. It is lamentable that over $19 billion are currently being paid. The $6.125 billion contained in H.R. 5247 will have a dual effect; it will pay wages through the private sector to the currently unemployed construction workers, thus relieving the unemployment compensation burden, and the wage earner will join the tax rolls and become a citizen contributing to Federal revenues.

I regret that I must urge an override of the President's veto. However, the present unemployment requires that the Congress act now. This measure would create a large number of jobs, give meaningful employment to a number of persons, with the total impact of a lasting stimulus to our domestic economy. This is a balanced bill and the result of placing 400,000 to 600,000 people in meaningful jobs can more than offset the effect of this Federal outlay.

I include the following:

PRELIMINARY UNEMPLOYMENT STATISTICS BY STATE FOR LAST QUARTER OF 1975

State	Unemployment rate October 1975	 November 1975	 December 1975
Alabama	8.5	8.6	8.4
Alaska	7.9	8.4	9.6
Arizona	9.7	9.4	9.4
Arkansas	7.1	7.7	7.9
California	9.1	9.6	9.4
Colorado	5.3	5.3	5.4
Connecticut	10.2	10.3	10.5
Delaware	8.1	8.2	9.5
District of Columbia	8.6	8.6	8.1
Florida	12.3	12.1	11.7
Georgia	8.5	8.8	8.7
Hawaii	8.4	8.8	8.3
Idaho	5.7	6.6	7.3
Illinois	8.7	8.7	9.3
Indiana	7.4	7.3	7.3
Iowa	5.1	5.5	6.3
Kansas	4.5	4.6	5.1
Kentucky	7.4	7.1	7.7
Louisiana	8.0	7.9	7.7
Maine	8.9	9.3	9.7
Maryland	7.1	7.4	7.3
Massachusetts	12.2	11.8	11.4
Michigan	12.4	12.2	12.5
Minnesota	4.8	5.1	5.9
Mississippi	6.0	5.9	6.0
Missouri	6.6	6.6	7.0
Montana	8.2	8.1	9.1
Nebraska	4.9	5.0	5.0
Nevada	8.8	9.1	9.7
New Hampshire	5.2	5.2	5.5
New Jersey	10.0	10.0	9.9
New Mexico	7.4	7.2	7.4
New York	10.1	10.2	10.3
North Carolina	7.1	7.2	7.5
North Dakota	3.8	4.8	5.9
Ohio	7.8	7.6	7.8
Oklahoma	6.7	6.5	6.4
Oregon	9.0	9.9	10.4
Pennsylvania	8.5	8.7	8.8
Puerto Rico	18.8	19.2	19.4
Rhode Island	12.0	12.1	12.4
South Carolina	9.6	9.7	9.5
South Dakota	3.9	4.2	5.2
Tennessee	7.6	7.7	7.7
Texas	6.6	6.0	5.8
Utah	7.5	6.9	7.0
Vermont	9.7	9.7	9.5
Virginia	6.0	5.9	6.2
Washington	8.7	9.3	9.7
West Virginia	6.6	7.0	7.3
Wisconsin	5.9	6.3	6.8
Wyoming	3.6	4.1	4.1

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding, and I rise in support of H.R. 5247, the Local Public Works Capital Development and Investment Act of 1975, notwithstanding the President's objections to this measure.

Unemployment in my congressional district in New York State has reached unacceptable levels, the intensity of which leads me to believe that the measure before us, overwhelmingly approved by the House by a vote of 321 to 80, will go a long way in providing the necessary economic relief to revitalize our sagging economy by putting people back on the payrolls and off the welfare rolls.

In my congressional district, Orange County was burdened with an unemployment rate of 8.5 percent during last December; in Rockland County, unemployment soared from 6.5 percent in December 1974 to 8.9 percent in December 1975; and in Ulster County, the unemployment rate rocketed from 8.7 to 10.5 percent between December 1974 and December 1975. During the same period—December 1974 to December 1975—New York State's unemployment soared from 7.7 to 10.3 percent.

Peter J. Savago, chairman of the Ulster County Legislature, in his recent telegram to me, noted the acute economic situation as follows:

> Since Ulster County has had an unemployment rate in double digits for eleven of the preceding twelve months and our current rate as of November 1975 is 10.5 percent, the passage of this bill is of considerable importance to Ulster county. The eligible projects we could undertake under this bill are the key to improving the economic situation of the county.

Orange County Executive Louis Mills wired:

> These funds, with their very positive impact on the operations of the county Government, will be a significant help to the economy in Orange County.

Mr. Speaker, the economic situation becomes more alarming when we look at the astronomical unemployment figures for the construction and building trades. The picture of unemployment in the heavy construction industry on a seven county region—including my three-county congressional district and the four neighboring Westchester, Putnam, Dutchess, and Sullivan Counties—reveals that 66 percent of the 3,000 operating engineers, 85 percent of the 300 laborers, and 65 percent of the 5,000 teamsters have been laid off for over an 8-month period. For those in the building trades in Rockland and Orange Counties, 70 percent of the 1,500 electricians, 85 percent of the 300 bricklayers, 65 percent of the 2,500 carpenters, and 65 percent of the 400 plumbers have been laid off for more than 16 months. For about 20 percent of these workers, unemployment benefits are beginning to run out. It is obvious that for all of these workers, a grave and serious economic condition exists.

The economic impact of this depressed condition is further dramatized when we consider that these workers annually earn between $13,000 and $18,000. The economic drain in terms of lost wages to the economy of this region runs into the millions of dollars. In order to economically sustain themselves, many of these laid-off workers have found temporary employment, side jobs, which has meant taking jobs from others who normally would be employed. And so, Mr. Speaker, the vicious cycle continues, unless we act decisively to break this economic stranglehold that is choking the 8,700 workers in the seven-county area in my region. And this grim picture exists in other parts of New York State and throughout the Nation.

It has been reported to me that only $7 million has been appropriated in the New York State budget for road restoration and preservation for the entire State for the coming fiscal year when in the past the seven-county region would ordinarily receive an average of $10 million. Moreover, more than $1 million in construction contracts in my congressional district will expire after September of this year with no new funds for the foreseeable future. There is little, if any, opportunity for public construction until 1980, unless something is done to improve this financial condition.

With regard to the adverse economic effects for federally assisted housing programs, the New York State Association of Renewal and Housing Officials, report:

> Many sections of our State are suffering from severe unemployment, particularly in the construction industry. The economy of the State and inaction have brought about this crisis situation. The failure to adequately fund and expeditiously administer the various federally assisted housing programs has contributed to the high incidence of unemployment. Our municipalities and the State and inaction have brought about much needed public works improvement programs which would help to revitalize decaying sections of our older communities. This legislation would help to alleviate some of the most severe problems.

According to the Renewal and Housing Association, this crisis situation has resulted in a loss of $207,264,000 for New York State in community development housing grants between the fiscal years 1975–77 and 1978–80.

Mr. Speaker, the benefits derived from H.R. 5247 are not limited exclusively to any one group; they are not limited to the construction and building trades industry; rather this measure will affect the economic well-being of our entire society. It is, therefore, not surprising to find widespread, bipartisan support for this measure from mayors, county executives, and town supervisors; from the U.S. Conference of Mayors to the National Conference of State Legislators; from the New York State United Teachers to the New York Association of Renewal and Housing Officials.

The American Federation of State, County, and Municipal Employees recently stated:

> Both the private sector and state and local government service will benefit enormously from the stimulations and stabilizing economic effects of this measure which will produce valuable projects and services in (my) district.

Mr. Speaker, while the alternative proposal, H.R. 11860, providing 75 percent of the financial assistance to cities and urban counties with a seasonable adjusted rate of over 8 percent and the remaining funds distributed to States to nonurban areas having employment over 8 percent, is laudable, it is nevertheless inadequate, providing an unacceptable high unemployment trigger mechanism. What is needed is legislation, providing economic penicillin to bolster our sagging economy and to reduce the double-digited unemployment that many of our communities face, to bring them to a more realistic and tolerable level. Mr. Speaker, it is not so long ago that we discussed unemployment in terms of 3 to 4 percent; unemployment at a 7 to 8 percent level in our great land with its abundant opportunities is unacceptable and unconscionable. We have a responsibility to attempt to reduce unemployment to a more reasonable level and to reduce the $19.4 billion we are currently spending in unemployment compensation. Although the measure before us is not a panacea for our economic woes, it is a step in the right direction.

Accordingly, Mr. Speaker, in the interest of improving our economy, I urge my colleagues to support H.R. 5247 and to override the President's veto.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr Speaker, this legislation's thrust is to inject needed financing in the economy to create and maintain jobs. Through the public works facilities provision, jobs in the construction industry will be created, an industry which is experiencing from 20 to 40 percent unemployment. There will be a significant return on our dollars invested through these priority projects, by putting people back to work fast on projects of lasting value to our communities.

Furthermore, private small businesses will be aided by loans and guarantees through the Economic Development Administration, and local governments will be able to maintain strong public safety and health programs.

This legislation is a vehicle whereby we can direct funds into those areas that have higher than average unemployment, thus making the greatest contribution to an antirecession program for the country. As I see it, one of the prime contributors to the inflationary problem has been the emphasis placed upon allocating funds into the areas that are the prime contributors to inflation. The thrust of this legislation is to allocate funds into the areas that are the most recession prone, and I urge my colleagues to support this goal by voting to sustain the committee's position on the bill.

Mr. WRIGHT. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Committee on the Budget, the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, I rise at this time in support of overriding the President's veto and to report to the House on the status of the pending legislation, H.R. 5247, the Public Works Employment Act which I am here to report is under the congressional budget ceilings for fiscal 1976.

In setting the fiscal 1976 budget ceilings, the conferees on the second concurrent resolution assumed $9.5 billion in budget authority and $7 billion in outlays for the community and regional development function. In setting these levels, the managers stated in the conference report that $3.9 billion in budget authority and $1 billion in outlays was provided for the public works and anti-recession assistance legislation contained in H.R. 5247.

The actual fiscal 1976 impact of H.R. 5247 is now estimated to be below the levels assumed in the second concurrent resolution on the budget. The legislation authorizes that there be appropriated only $3.5 billion in budget authority in fiscal 1976. Outlays from these appropriations, if Congress subsequently fully funds these programs, are estimated to be no more than $600 million in fiscal 1976. Thus, the potential cost of this legislation is $400 million in budget authority and outlays below the levels set for it in our present ceilings for the fiscal year.

I would also point out, Mr. Speaker, that the spending targets which the Congress has established for this year's transition period also assume full funding of the programs authorized in this legislation.

Finally, Mr. Speaker, I would remind my colleagues that enactment of this legislation and subsequent full funding of the programs involved continues to be a major assumption underlying the overall economic stimulus strategy embodied in the fiscal 1976 congressional budget. The economic stimulation, and particularly the resulting job creation, to result from this legislation is essential if we are to achieve our goal of rapid recovery and continued growth. I urge the House to override the President's veto of this important congressional initiative.

Mr. WRIGHT. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from Alabama (Mr. JONES).

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I rise in support of the override of the President's veto of the Local Public Works Capital Development and Investment Act (H.R. 5247).

The unemployment and economic situations that have plagued this Nation for the past 3 years has resulted in many attempts at remedial legislation and a great deal of rhetoric on the floor of this Chamber. Basically, all the legislation thus far has been of the "handout" type, which has accomplished nothing other than bankrupting our State unemployment compensation funds, and providing few valuable jobs.

For years, I have stood on this floor advocating the rejuvenation of programs such as the Works Projects Administration—WPA—during the late thirties and early forties. My reason for support of these types of programs is the fact that after the program is over we have a substantial and tangible benefit. We put people to work on meaningful projects and we have facilities that will serve Americans in many ways. The WPA program alone resulted in 19,000 facilities including schools, hospitals, and Federal buildings that are all still in use today.

Passage of the railroad jobs bill (H.R. 8672) was our first step in the right direction. It would create jobs on railroad maintenance of way projects to rehabilitate our Nation's deteriorated roadbeds. Unfortunately, that bill is still in conference.

The bill we have before us today is not the cure-all, but it will accomplish something more than drain our State unemployment compensation funds. This legislation will authorize 100 percent Federal funding for State and local public works projects. These funds will be used to construct public buildings, water and sewer facilities, streets and roads, recreational facilities, and social service facilities, to name just a few needs that will be filled while providing jobs at the same time.

The funds we authorize today will be directed at those sectors of the economy experiencing the highest unemployment.

In many areas the unemployment rate for the construction industry exceeds 20 percent and, unlike a public service jobs program, these funds will stimulate employment in a broad range of related industries.

This legislation would build parks, bridges, courthouses, libraries, roads, and schools. These would be projects on which the taxpayer could see a return on his investment, and it is high time that the taxpayer fortunate enough to have employment begins to realize a substantial return on his tax dollar.

In Massachusetts, the WPA built 4,000 public buildings, 65 stadiums, 565 acres of parks, and 476 acres of athletic fields. But this was 40 years ago. These and others need repair. Let us repair and build on essentially good and productive ideas such as these.

Many of these programs are in industries that badly need stimulation—the building and construction trades, for example. We do not wish to waste money, and more importantly we do not want to waste people. Let us tap the potential resources of this segment of the unemployed population and put them to work on projects that we can all use, appreciate, and value for many years to come.

In the next 18 months, this bill will stimulate more than 600,000 jobs in the private sector. This bill is designed to meet our Nation's immediate public works and employment needs. These are not leaf-raking or make-work jobs—these will be jobs that will result in a lasting benefit to the Federal Government and the locality in which the project is located. Many of the projects can be started up within 90 days. This will insure that the job assistance will begin now when they are most needed.

The authorization level is high—$6.2 billion. However, we must keep ever in mind that this level of authorization is included in House Concurrent Resolution 466, the House concurrent resolution on the budget. Hopefully, we will see the effects of this legislation take a large slice out of the $19.4 billion which is now needed in the unemployment fund.

Each month almost 200,000 Americans exhaust their unemployment entitlement.

I was a cosponsor of H.R. 5591 which was one of the original bills referred to the House Committee on Public Works. The authorization level in that legislation was higher in some respects to this bill, but I am satisfied that the final product before us is so comprehensive in nature that its effects will be as far reaching as the bill I personally cosponsored. This bill does more than create jobs, it has in title II, countercyclical measures, antirecessionary in nature. This program gets the money to where it is most needed, and stops it when the need is no longer there. I know of no means by which we can be more cost conscious, and at the same time maintain our social conscience.

Furthermore, title III provides much needed funds for the fight to save our environment through projects for wastewater treatment facilities.

Mr. Speaker, I urge my colleagues to consider the economic condition of our Nation presently, the great number of unemployed persons, and the great need for Federal legislation to answer the needs of so many people. Here is the challenge, and I wish to meet it. I urge my colleagues to adopt H.R. 5247 as a badly needed practical economic stimulant, and as a sound investment in improving the quality of life for all citizens.

Thank you, Mr. Speaker.

Mr. JONES of Alabama. Mr. Speaker, in all of my experience as a Member of the House of Representatives, I have never known a piece of legislation that was more properly and more carefully attended to than this bill that we have before us today.

I ask the House to override the Presidential veto of H.R. 5247, the Public Works Employment Act. At a time when this Nation is pouring out $19.4 billion a year to support millions of its citizens in enforced idleness, we would surely be derelict if we failed to approve an investment of less than one-third of that amount to take many of them off the dole and put them back into productive employment.

The Committee on Public Works and Transportation, which I have the honor to chair, labored long and hard to fashion legislation that would provide immediate and noninflationary assistance for victims of this disastrous recession. We drew upon all the experience of the past to avoid the errors of the past; we weighed most carefully every responsible proposal for antirecession action that was placed before us, including the "benign neglect" recommendations of the administration.

The conference report we submitted to the Congress just 3 weeks ago was endorsed by overwhelming majorities in both the House and Senate, because the elected representatives of the American people were convinced it was in the interest of the American people.

This legislation is a measured response to the desperate needs of jobless men and women in every corner of this great land. It can provide at least 600,000 productive jobs, mostly in the private sector and most especially in the terribly depressed construction industries where every dollar of public investment has a multiplier effect on the entire economy.

Frankly, I am deeply disappointed that the President would see fit to pass up this opportunity to achieve good and sound goals for the utilization of America's idle manpower through lasting capital investment in our communities.

Mr. Speaker, this legislation has the support of both Democrats and Republicans, of the Governors of our States, the mayors of our towns and cities, and, most importantly of all, the jobless men and women of this great country who rightly look to the Congress for hope and help.

The overriding of a Presidential veto is a grave responsibility, Mr. Speaker, but in this hour of national distress we have no alternative but to respond to the still graver need of our Nation's jobless millions.

Mr. HARSHA. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Speaker, I think it is well in considering this vote on the veto today, and I would preface my remarks by saying that I think there are some Members who still have an open mind, who are still willing to consider the merits of proposals and who are not going to blindly cast their vote as though they had their feet in concrete.

Mr. Speaker, I think we ought to compare what we are voting on today with what we could be voting on. Title I of H.R. 5247, as the Members know, provides for an authorization of $2.5 billion for public work projects, the funding of which, however, must be approved on a project-by-project basis and involves the lodging of discretionary approval power in a Federal agency as to which projects will be approved.

Title II of the bill before us today, H.R. 5247, authorizes between $1.5 billion and $1.8 billion for cyclical Federal financial assistance to communities based upon unemployment and another factor—based upon revenue raised in those communities. This title—contrary, if I may respectfully say so, Mr. Speaker, to what the Speaker said—prohibits the use of such funds for construction except to the extent that it can be established that such construction is essential to the basic public service jobs program which is incorporated in title II.

Let me point out to the Members in this regard that it was after we passed this public works bill that we considered CETA and the public service jobs program, and passed another bill which involved some $7.3 billion in public service jobs. That, together with this, would amount to somewhere around $10 billion in public service jobs. I wonder if that makes sense.

But continuing, in effect under title II no productive jobs in the private sector are authorized by the title. Title III authorizes $1.4 billion for waste treatment grants but denies access—denies access—to those funds by the States of California, Connecticut, Delaware, Illinois, Indiana, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and Virginia.

Title III extends the job opportunities program. It provides interest subsidies on EDA loans to business. I would suggest that neither of those two areas can create any jobs in the foreseeable future.

Finally, title III takes a step backwards by practically reestablishing the categorical urban renewal program which we eliminated in the Housing Community Development Act of 1974. Title III practically reestablishes that categorical program to the tune of $100 million at the same time that we have just increased the authorization and the President has called for an additional $447 million under the basic community development program.

In contrast, the substitute proposal which many of my colleagues and I have introduced, H.R. 11860, ties together the public works construction program of title I of H.R. 5247 and the countercyclical unemployment based program of title III of H.R. 5247, and it directs the Federal financial assistance to areas and communities based solely—and I repeat, based solely—on unemployment in the area or community as compared with the national unemployment level.

Our primary consideration should be unemployment. This is supposed to be a jobs program, something for the areas of high unemployment. There is no question that the substitute more directly attacks that problem and confronts it than does H.R. 5247. All of the funds under the substitute will be used for productive jobs primarily in construction, accelerated projects under an existing community development plan, except that 25 percent of the funds channeled to these communities could be used for other than CD programs.

The SPEAKER. The time of the gentleman has expired.

Mr. HARSHA. Mr. Speaker, I yield 5 additional minutes to the gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. I thank the gentleman.

Funds under the substitute would be channeled to communities through the existing mechanism and administration of the community development program. Funds would be distributed to communities on a block grant basis, eliminating the need for project-by-project approval by a Federal agency, since each community would decide which projects to start and which projects to accelerate.

I respectfully suggest the local community is in a much better position to know which projects to start and which projects to accelerate than a Federal agency, but nevertheless under the bill H.R. 5247 the Federal agency would make those decisions. This is an important and basic and significant difference from the bill H.R. 5247 from both priority and time-frame standpoints.

By making the funds available to communities under the structure of the community development program, not only is the desirable bloc-grant approach achieved, but also and possibly even more significantly the time delay always incurred by the project-by-project approval at the Federal level under the National Environmental Protection Act is eliminated since the NEPA function under the Housing and Community Development Act of 1974 is delegated by that act to the local communities where compliance can be achieved much more quickly.

That is a significant factor to all of the Members who have found time delays because of the project-by-project approach at the Federal level under NEPA. That was a great accomplishment we made in the Housing and Community Development Act of 1974 in delegating that function under that law to the local communities.

Another point that I think should be made with respect to H.R. 5247 is that it really does not direct its funds under title II to the high unemployment areas. We could have a group of counties with a high tax base, not tax effort, but with a high tax base with average per capita income of $4,800. The average unemployment in that area could be 8.8 percent, and each unemployment person in that area would get $160 for each person unemployed. Whereas, if we have another area with per capita income of $3,400 with an unemployment rate of over 15 percent, each unemployed person would receive only $31, or one-fifth as much as the richer area. This inequity can occur under H.R. 5247.

With respect to the overall merit of H.R. 5247, I think probably an article in the Wall Street Journal quoting Alan Fechter of the Urban Institute is significant because the Institute is not considered an exactly far right organization. The article says:

> Anyone who believes that (this legislation would create jobs) would also have to believe that economic growth can be stimulated by robbing Peter to pay Paul, with Paul doing something less useful than Peter for his pay.

The article goes on to say:

> A study last year by Alan Fechter, senior research economist at The Urban Institute, found that job-creation programs create at best no more than about 60,000 jobs for each $1 billion expenditure. This suggests that the proposed bill would actually generate far fewer than half the number of jobs being claimed for it. Moreover, the study found that in the long run 60 percent to 90 percent of public employment program funds would merely displace State and local funds. Concludes Mr. Fechter: "It appears that, given what we now know, a large public employment program, while attractive politically, would be an undesirable use of public resources."

Mr. Speaker, in summary let me just say that the substitute I have mentioned lets local communities decide what projects shall get additional funds under its bloc grant approach rather than having such projects determined project by project. The funds are channeled to the communities under a direct mechanism, eliminating the necessity for a new bureaucracy. The funds are directed to the communities solely on the basis of their unemployment and these funds could be in the hands of those communities by April 1, without confrontation with or intervention by a Federal agency.

Mr. Speaker, there is always the argument made, when we are suggesting a substitute to a bill of this nature, that it would take months to get the legislation out of the committees and before the House. Let me ask each Member to remember that about a year ago we had a similar situation before the House with respect to housing. At that time the House reached agreement on a substitute. If Members will remember, the substitute bill was on the President's desk within 48 hours after we sustained the veto on the basic legislation. There is no reason why we cannot accomplish that same thing this time. If Members are in a high unemployment area, and I am especially talking to those Members from Michigan, I ask them to sustain the veto and to support the substitute.

Mr. Speaker, I would like to make some additional comments concerning the "Fact and Fiction" letter you all have received from my colleagues, Messrs. JONES, WRIGHT, and ROE. Unfortunately, they got the fact and fiction reversed.

First. H.R. 5247 would in fact "do little to create jobs" and would be particularly ineffective in creating jobs during the current recovery from the recession.

The job creation impact of H.R. 5247 has been vastly overstated, and the impact will occur much later than the proponents have asserted. The rate and extent of job creation under title I can best be measured by the historical experience under the accelerated public works program of 1962. Based on that experience, title I of H.R. 5247 would create no jobs within 3 to 6 months; only 7,500 jobs within 1 year; about 35,000 jobs within 2 years; and a total of about 75,000 jobs over the whole course of the program.

With respect to title II, the congressional budget office originally estimated that between 60,000 and 115,000 jobs would be created "initially," and up to an additional 30,000 jobs within a year. These figures are clearly overstatements because of the time lags involved in setting up a program. Realistically, about 28,000 jobs would be created within 3 to 6 months, and at most, 71,000 within a year.

Title III contains several programs. The additional water pollution grants will create about 60,000 jobs within a year based on Labor Department figures. The job opportunity section—title X—will create about 2,500 jobs within a year, 12,000 within 2 years, and 25,000 within 3 years, again based on the accelerated public works program experience.

The cost of producing jobs will, in fact, be in excess of $25,000 per job.

Second. H.R. 5247 will, in fact, be implemented very slowly.

Most of the jobs created by H.R. 5247 will develop much later than its sponsors have asserted. The program will require new rules, regulations, and application forms, and title I allows the Commerce Department 30 days to prescribe them. After the regulations are prepared, applications must be developed and submitted to the Commerce Department, very likely requiring several months of preparation.

Under the procedures of the community development block grant, which my proposal utilizes, there already exists a 3-year local plan for community development and HUD has been able to act upon entitlement applications for the first year in an average of 49 days. With the basic plan already laid out, future approvals should be even faster. Under the old project-by-project approval method the approval time was in excess of 90 days—and that was by and large before NEPA. A similar delay could be expected under H.R. 5247 where project-by-project approval is necessary. And, this does not count the added time required to prepare a full project-by-project application.

Third. The $6-plus billion which would be expended under H.R. 5247 would result in "excessive Federal spending" because it would neither provide for orderly community development nor provide funds when and where they are needed in the short term.

Proponents of this bill claim there will be a reduction in Federal spending due to reduced unemployment compensation. Even if H.R. 5247 produced 600,000 new jobs as claimed by the Public Works Committee, the unemployment compensation reductions would total a maximum of $1.6 billion using the committee's own figures.

Using the more realistic figure of 200,000 new jobs, the unemployment level would be 7.1 million rather than 7.3 million, thereby reducing unemployment compensation costs by only 0.6 billion at a cost of ten times that amount.

The impression given by the proponents of H.R. 5247 that this bill will substantially reduce unemployment costs is totally unfounded.

Fourth. My alternative, which is supported by the President, would create jobs in the private sector because construction firms and other private sector industries will ultimately build the water and sewer lines, rehabilitate the houses, and community facilities which will be funded by H.R. 11860. In contrast, the funds provided by title II of HR. 5247 would very likely inflate local government payrolls through salary increases and additional job employment. The legacy of title II would be a serious fiscal problem for the cities in maintaining these payrolls after the recession has ended. For the proponents to claim that my alternative will create public jobs shows a distinct lack of knowledge about the community development program.

Fifth. H.R. 11860 is a more responsible and constructive approach. H.R. 11860 would build upon the successful community development block grant program. The staff for that program is already in place, and the regulations have already been issued. Under that program, communities develop their own priorities rather than have them dictated from Washington.

H.R. 11860 would, indeed, cost much less than H.R. 5247, and assistance would be concentrated in cities with high unemployment, areas least likely to benefit in the near term from the economic recovery. For those of you who are interested, I placed a list of cities in the CONGRESSIONAL RECORD yesterday showing how high unemployment cities benefit more under my proposal than title II of H.R. 5247. Copies are available here if you have not had a chance to look at the list.

Mr. WRIGHT. Mr. Speaker, I yield 4 minutes to the distinguished chairman of the Subcommittee on Economic Development, the gentleman from New Jersey (Mr. Roe).

Mr. ROE. Mr. Speaker, I rise in most strong support for the override of this Presidential veto.

Let me call attention to what I think is the fundamental issue and the decision before the House today. It is a basic decision. Either it is paychecks for work performed with dignity and respect through private sector jobs, which this bill provides, or is it to be a policy of more welfare and unemployment compensation with a deliberate intention of keeping over 8 million people in this country out of work. This is the basic question we are debating and considering—either we turn our economy around and put our people to work to rebuild America or we languish in indecision and frustration which is rampant throughout the land today.

Let me just deal with this quickly in the short time I have. There is a substitute measure that is being presented to solve all the ills of unemployment known as H.R. 11860, which the distinguished gentleman from Michigan (Mr. Brown) alluded to. Eighty percent of the funds in our public works bill that we are going to override the veto on today is for job opportunities and economic development in the private sector. It is not a public sector jobs bill. It has to do with construction workers. It has to do with plant manufacturers. It has to do with materials manufacturers and all of the manufacturing infrastructure throughout this Nation.

The substitute bill H.R. 11860 is, in effect, extracting the countercyclical measure, known as title II, out of our public works bill and saying that is the point that the President will sustain and that is the very section of the bill that provides for public service jobs, not public works-private sector jobs.

There is a complete dichotomy presented by the gentlemen from Michigan. Let us deal with it. First of all, the $2.5 billion for public works jobs in title I of our bill H.R. 5247 are legitimate jobs, where there are billions of dollars worth of public works projects sitting on shelves in every hamlet and city in America which cannot be built because the local governments cannot fund them. They cannot raise the local taxation or funding in the bonding markets to implement them. The country is going to hell in a handbasket because we refuse to act on this. Is it not better to take this $2.5 billion for our country than $10 billion in foreign aid? That is the legitimate question before us.

Let us take the urban aid section. I must differ with the gentleman from New Hampshire. We did have hearings on this issue. Every Member that has a community of 50,000 or more has a criteria of eligibility now, through this bill H.R. 5247, written into section 405 of the Public Works Economic Development Act that they did not have before. Let me tell this House what that criteria is. They have to have 50,000 people. That is the criteria.

Let me point out that if a city in a district is not designated under the economic development legislation, they are not eligible for the many programs available thereunder. Half of America in the urban centers and the cities of the Nation are without any help under the economic development legislation that presently exists because they cannot get designated. Anybody in an urban section knows if we do not pass that section of the bill, all those cities will stand still and not move ahead in the direction we are talking about.

Mr. Speaker, let me conclude on this issue, if I may, we are talking about whether or not the House of Representatives can respond to the needs of the mayors, the boards of freeholders, the judges, the people that run the national business of America. They have come here in droves. They have testified. We have gone through this legislation for one full year. Every nuance, every piece of information, every element was finehoned into this piece of legislation needed for economic development.

Mr. Speaker, I would urge with all the fiber I have as a Representative from the great State of New Jersey to override the veto and give the American people a chance to participate in their own Government.

Mr. Speaker, the issue here is a fundamental decision before the House—and it is a basic decision—either its paychecks for work performed with dignity and respect through private sector jobs which this bill provides—or is it to be a policy of more welfare and unemployment compensation with deliberate intention of keeping over 8 million people of this country out of work—That is the basic question of public policy. Either we turn it around and put our people to work to rebuild American or we languish in indecision and frustration.

Construction projects are stagnated and delayed because of the lack of municipal and State bonding capacity.

They are not "quick fix public jobs" in the President's words—absolutely the converse is true. They are private sector jobs and certainly do not cost $25,000 apiece of Federal funding. How ridiculous can you be.

This is an investment program in the future of our country—not a boondoggle pork barrel—not a paycheck for no work.

The President's policies are the opposite to what he is advocating when he vetoed the bill.

Basic decision to be made here today.

Basic decision is that this is a very comprehensive economic recovery measure.

The original bill's title before the name was changed was the Local Public Works Capital Development and Investment Act—not Public Works Employment Act—present title.

The thrust of the President's argument that the bill is too expensive and going to cost them $25,000 per job is total nonsense.

It is not, as used in the President's message, a pork barrel or quick fix. It is a very comprehensive bill.

Is it not better to invest in capital production with jobs with dignity and a paycheck instead of welfare or unemployment compensation? These are private sector jobs we are dealing with—not public service jobs.

The time element of employment—that it will take too long—sheer nonsense. We have reams of testimony that billions of dollars of projects are ready to go in every category throughout the country.

Furthermore, the unique point of this legislation provides supplemental grants to implement further construction projects already approved under other Federal programs but unable to proceed because there is not enough local financing available.

REBUILDING INFRASTRUCTURE OF OUR COMMUNITIES AND CITIES

In reference to urban aid section 405—and I quote from the President's message:

> This bill would create a new urban renewal program less than two years after the Congress replaced a nearly identical program—as well as other categorical grant programs—with a broader, more flexible community development block grant program.

Nothing could be further from the truth. The cities of America have not been able to achieve eligibility because their designation as cities with populations of 50,000 or more is not now under existing economic development law—without being so designated, they cannot participate.

It is unconscionable to me that the President would use his "election year grandstanding" against the Members of Congress to veto such a vital and critically important all-American piece of legislation so essential to our Nation's economic recovery in working toward full employment for our people and the revitalization of our cities.

Our towns and cities are facing a fiscal crisis; there is no question about it; and the question before the House is how much are we going to invest? It is time we recognized that the basic yearly fiscal cost to run local government is also caught up on the spiraling cost-of-living factors. The funds authorized by this legislation provide a long-term capital investment in the future of our country. Why do we not spend the effort, the energy and the money and make a substantive investment that will show good will and basically good faith in the resurrection of our local towns and cities.

It is time we put our local governments on at least an equal footing with overseas foreign governments in the distribution of America's tax dollars. It is inconceivable to me that the funding authorized under this legislation could be construed to be inflationary measures that, if enacted into law, would destroy the whole economic base of our country. That is sheer nonsense.

We have provided a public works program to put construction workers back to work to build facilities in our communities that do not have the capital locally now to invest in new construction renovation, and major improvements of public facilities.

Mr. Speaker, there is obviously no need to give any further lengthy explanation of a bill that the House has already debated and passed twice—first by a vote of 312 to 86, and again by a vote of 321 to 80 when we adopted the conference report 3 weeks ago. Mr. Speaker, there can be no question that these votes are conclusive evidence that the House clearly understands the need for this legislation and overwhelmingly favors its passage.

The only new element in this debate that I would comment on is the President's veto message of Friday the 13th, when he told us that he would not approve the bill because it is too expensive and would add to the risk of a new round of inflation.

Mr. Speaker, in my opinion, these are tired arguments that have long since been resolved as far as the House is concerned. Our record is absolutely convincing, not only on the floor of the House but also in the extensive hearings of both the Budget Committee and the Committee on Public Works and Transportation. In short, the administration's arguments just do not hold water—it is clear that the cost of doing nothing to provide the jobs authorized in this bill is just too high, and it is essential that we invest at least a small part of what we are spending on unemployment compensation and welfare to put people to work in the private sector to build public facilities that will provide long-term public benefits that far exceed their cost.

The President's argument that this bill would add to inflation is equally hard to accept. The question of how much fiscal stimulus is needed to meet economic growth and unemployment goals in fiscal year 1977 is being considered now by the Budget Committee but the budget authority and outlays required for this bill in fiscal year 1976 are contained in the congressional budget. As far as public works construction is concerned, our committee hearings already clearly showed that the entire construction industry is critically depressed, and there is no evidence of any surge of private borrowing for industrial plan construction next year. Spending in this sector will have no significant direct inflationary impact and there is nothing to indicate that private borrowing will be "crowded out."

Mr. Speaker, it is almost ironic that the President now proposes a watered-down substitute for the antirecession grants to States and local governments contained in title II of H.R. 5247 after the way the administration has remained silent for the past year when this approach was debated and developed in extensive hearings by the Joint Economic Committee and the Senate. The President's veto message certainly does not provide any justification for us to start this whole legislative process all over again now.

Mr. Speaker, when the House adopted the conference report on January 29, I took the time of the House to express my deep concern that we were being asked to become tolerant of unemployment rates that were unthinkable a few years ago. The record is a discouraging indictment of the way we are being asked to ignore human suffering. Full employment in the Kennedy administration implied 4 percent or less unemployment. In the Nixon years, this was raised to 5 percent. Last year, the administration economists were telling us that 6 percent is probably the lowest Government can attain without stirring up inflation.

To me the most disheartening part of the President's Friday the 13th veto message is that he has asked us again to increase the acceptable level of unemployment by proposing to use 7-percent unemployment as the "trigger" for his antirecession aid to cities. And he would give help only to cities where unemployment was over 8 percent.

Mr. Speaker, I am afraid that if we do not take the time to translate these abstract percentages into real numbers of people who desperately want to work—not exist on the dole—I cannot believe that we are willing to accept, or passively tolerate this human and economic waste.

In summary, Mr. Speaker, I can only characterize the President's alternative to H.R. 5247 as too little and too late, and urge that the Members of the House vote to override the President's untimely veto of this badly needed legislation.

Total balances in State trust funds

[Year end reserves (billions of dollars not including advances)]

1969	12.6
1970	11.9
1971	9.7
1972	9.4
1973	10.9
1974	10.6
September 1975	[1]4.6

[1] May be somewhat overstated due to possible inclusion of some advances to State trust funds.

Unemployment compensation: 19 States borrowing from the Treasury—Outstanding advances to State trust funds

[Advances as of January 1976]

	Millions
Alabama	18.0
Arkansas	8.0
Connecticut	276.2
Delaware	6.5
District of Columbia	12.6
Hawaii	2.0
Illinois	146.8
Maine	3.4
Massachusetts	180.0
Michigan	388.0
Minnesota	73.0
Nevada	3.0
New Jersey	404.3
Pennsylvania	234.2
Puerto Rico	44.0
Rhode Island	49.8
Vermont	30.4
Washington	107.6
Total outstanding advances	1,988.0

Mr. WRIGHT. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. BRODHEAD).

Mr. BRODHEAD. Mr. Speaker, the President's veto of H.R. 5247 is one which none of us—Republicans or Democrats—can allow to stand. It must be overridden for the sake of the 8 million unemployed in our country, and for the sake of our Nation's economy.

The President vetoed this bill, and has threatened to veto the emergency employment project amendments because he believes them to be "inflationary." Nothing could be further from the truth.

The administration's attempts to control inflation have been totally ineffective as witness the recent quantum jumps in consumer prices. Nevertheless, under the administration's planned unemployment, the Federal Government will spend $19.4 billion in the current fiscal year for unemployment benefits. Surely, we can afford to spend $6.2 billion for employment. This amount is well within congressional budget limitations as is the cost of the emergency employment project amendments.

To the President's charge that H.R. 5247 is "pork barrel legislation," I would reply that the countercyclical provisions of the bill make it the very antithesis of pork barrel.

To put it very simply, the bill provides Federal funds to create jobs in private industry in those parts of the Nation which are particularly hard hit by unemployment. Rather than providing "something for everyone," the pork barrel philosophy, this bill provides "something for those who need it most."

A case in point is my own State of Michigan.

Michigan which is also the home State of our President, currently leads the Nation with a disastrous unemployment rate of 12.2 percent. In my own 17th District, which encompasses part of the city of Detroit, the rate is more than 16 percent. And in the center of Detroit, among the poor and disadvantaged, nearly half the work force is unemployed.

H.R. 5247 and the public service jobs bill would provide thousands upon thousands of vitally needed jobs for my State. They would allow us to cut the burden of unemployment benefits and to prevent the further erosion of barebones municipal services. The bills would also allow us to move ahead more quickly with urgent water quality improvement programs.

The situation in Michigan is further aggravated by a shortage of Federal jobs, a shortage which I would like to call to the attention of my colleagues.

Michigan, the President's State, has the highest unemployment rate in the Nation. At the same time, it ranks 49th in the number of Federal employees per capita.

Only one State, Wisconsin, has a lower percentage of Federal employees. And I would suggest to my colleagues from Wisconsin that this is one more good reason for them to take a hard look at the President's veto.

Now, I do not mean to suggest to the President that he should favor his own State in the allocation of Federal jobs. However, I do mean to suggest that our national priorities are seriously misplaced when a State with the highest unemployment rate has the second lowest rate of Federal employment.

I do mean to suggest that a State with the Nation's seventh highest population should not trail 48 of her sister States in percentage of U.S. employees.

I suggest to my colleagues that we have before us two bills which will go a long way toward correcting this monstrous inequity. H.R. 5247 will stimulate some 600,000 private sector jobs to alleviate unemployment in the hardest hit areas throughout the Nation. We must override the President's veto of this act.

H.R. 11453, the Emergency Employment Project Amendments of 1976, will save 320,000 governmental jobs in our States and cities, and it will create 280,000 new jobs in schools and nonprofit hospitals.

Mr. Speaker, we are talking about bills that would create more than a million jobs; that would alleviate our disastrous unemployment by more than 10 percent; and that would make a significant cut in Federal unemployment expenditures.

The President has told us that we must bite the bullet and "accept" an unemployment rate which has put 8 million Americans out of work. He says that the Nation "can't afford" to stimulate jobs for the unemployed. I prefer to believe, as Senator MUSKIE said in his recent speech, that "we can't afford not to."

Mr. WRIGHT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. MCHUGH).

Mr. McHUGH. Mr. Speaker, the high levels of unemployment across this country are tragic, unjust and intolerable. I can imagine no other problem afflicting our people which requires more of our attention than this. To have millions of able-bodied Americans out of work has a much greater debilitating effect upon the economic and psychological health of our Nation than the numbers of unemployed, serious as they are, can measure.

The Public Works Employment Act is a responsible effort on the part of Congress to reduce unemployment. It could put as many as 800,000 Americans back to work, a modest enough proposal when we have at least 7 million unemployed. Many of these jobs will be in the private sector, and particularly in the construction industry which has been devastated by the current recession.

Once again the President has exercised his veto. This measure is inflationary, he says. And yet, as we have been told so often, for every 1 percent of unemployment in the country, the Federal Government loses $16 billion, simply because people out of work do not pay taxes and are generally receiving unemployment benefits or public assistance. Surely, this is inflationary—to say nothing of the impact it has upon the families who cannot support themselves.

For his part, the President proposes funneling aid to the private sector through tax incentives. The economy will gradually improve, he predicts, and joblessness will ultimately decline. This is the old "trickle down" theory—let us help business and industry now, and someday in the future the benefits will trickle down to the average working men and women. I would have hoped this rather crass approach to economics would have been discredited years ago. Certainly we must help our business community, but it need not be accompanied by the benign neglect of our most disadvantaged citizens.

Mr. Speaker, this bill will not only put people back to work. It is also designed to provide much needed assistance to our hardest pressed local and State governments. Under title II, the countercyclical provisions would be of particular significance to areas of the country where unemployment is highest. We have learned that in those areas the recession has required local governments either to raise taxes to maintain basic services or to cut back services significantly. Neither alternative is desirable. In many cases, while the Federal Government was providing citizens with cash through income tax reductions, a sensible attempt to stimulate the economy, the local governments were taking it away with increased taxes. This bill would avoid that problem by providing special help during this period of high unemployment.

I was pleased, Mr. Speaker, that the House overwhelmingly supported this bill when it was here before. The bipartisan nature of that support was testimony to the depth of the need for it. I urge my colleagues to join with me in continuing that support and voting today to override the President's veto.

Mr. BRINKLEY. Mr. Speaker, I would like to have the attention of the subcommittee chairman to ask a question about a specific instance in the State of Georgia, the county of Meriwether, which has an unemployment percentage rate of 9.2 percent, and which county lost its courthouse by fire in the past few weeks; whether or not this county would be an eligible applicant under the provisions of this act?

Mr. WRIGHT. Yes. The answer is emphatically "Yes." That county would be eligible for that project under three separate provisions of the act. Specifically, as a public works project, if work could begin within 90 days; or as a project under the title X program of the EDA legislation for renovation and repairs; and the county is eligible for general assistance under title II by reason of its high level of unemployment.

Mr. BRINKLEY. Mr. Speaker, $1.4 billion is made available for water pollution control funds. Is that not a suggestion based on the Nunn-Talmadge proposal?

Mr. WRIGHT. I would have to answer the gentleman that, "Yes, it is." It accommodates the needs of all States so that none lose money.

Mr. BRINKLEY. And in particular, it accommodates less urbanized States?

Mr. WRIGHT. Indeed it does, so that they do not suffer inequity under the provisions of the legislation.

Mr. BRINKLEY. The final question which I have deals with what provisions there are in this bill which would commit particular assistance for public works projects for those problems of cities where the overall unemployment rate of cities may be under the national average.

Mr. WRIGHT. We definitely do intend that an area of eligibility shall include a section of a city or a county, where the unemployment within that section is above the national average, even though the city or county as a whole may have lower than average unemployment.

This is intended to follow the so-called Farbstein formula in the Economic Development Act.

The Committee on Public Works and Transportation has long been aware of the need for special treatment for these pockets of distress and we specifically amended the Public Works and Economic Development Act a few years ago to permit distressed neighborhoods to be designated as redevelopment areas to become eligible for public works assistance because it was recognized that city and metropolitan area unemployment statistics did not adequately reflect the needs of these neighborhoods.

The north side of Fort Worth, for example, an area embracing two census tracts around the stockyards—is a case in point. Even though unemployment in this neighborhood is close to 20 percent, these real distressed conditions are "swallowed up" in the official unemployment statistics for the city of Fort Worth which show that we have been able to avoid the worst impact of this recession by having unemployment less than the national average. This neighborhood has been designated as eligible for EDA assistance in order that we can provide new jobs in the Old Stockyards area.

It is certainly our intent to continue this same principle in H.R. 5247. "Pockets of poverty" within a city would be eligible for assistance under this legislation authorizing grants to States and local governments for the construction and renovation of public facility projects in areas of high unemployment.

The criteria for eligibility under this act is clear. Section 107 directs the Secretary in establishing his rules, regulations, and procedures to assure that adequate consideration is given to the relative needs of various sections of the country and the Secretary must consider these factors:

First. The severity and duration of unemployment in the proposed project areas;

Second. The income levels and extent of underemployment in the proposed project areas; and

Third. The extent to which proposed projects will contribute to the reduction of unemployment.

The basic purpose of this bill is clear—to benefit and assist the unemployed in obtaining jobs and nothing in the bill is intended to make "pockets" of high unemployment ineligible for assistance under this act even though the citywide unemployment rate is under the national average.

Mr. BRINKLEY. I thank the chairman.

Mr. WRIGHT. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from New York (Ms. ABZUG) who served on the conference committee which drafted this final legislation.

Ms. ABZUG. Mr. Speaker, in the limited time I have, I would like to offer these overriding considerations which demonstrate why we should override this veto.

First, this is a jobs bill, yes, but it is also an antirecession bill. It is a bill which provides immediate jobs in areas which have projects which can move forward immediately and which have high unemployment.

There can be no doubt that this legislation represents a needed stimulus to the rapidly falling economy. Our country is now experiencing the highest rate of unemployment since the depression of the 1930's. Its impact is nationwide. No region is unaffected. In my own State, New York, the unemployment rate exceeds 10 percent. But this figure can be matched or exceeded by States throughout the country. In California, the unemployment rate is 9.6 percent. The Massachusetts rate is 11.8 percent. Michigan is suffering from 12.2-percent unemployment. Pennsylvania is experiencing an 8.7-percent rate. Alabama's figure is 8.6 percent. Oregon has nearly 10 percent unemployed. The list of States with similar figures is, sadly, very long. A number of industries, particularly the construction industry, are in a desperate situation. In a number of areas, a third of all workers in this industry are unemployed.

The Federal Government has an obligation during such periods of national economic crisis to develop programs which will result in effective and immediate relief from these crisis conditions. Using public works projects to stimulate economic activities has been a method successfully adopted in the past as an effective economic stimulant. In 1962, the Congress instituted a $900 million program to accelerate public works projects. The program supported 7,700 projects which were undertaken quickly. The majority of those on the payroll for these projects were employed within the first 12 months of the initiation of work on them.

This legislation, too, will provide a direct infusion of substantial capital into the economy, which will create hundreds of thousands of jobs in the construction industry and in supporting and ancillary industries.

Undertaking the program outlined in the bill will not only provide short-run help to the economy, but will also create a foundation for long-term economic stability.

The public works program will be especially helpful to those areas which are suffering from the highest unemployment. It gives priority to those States and local governments which have experienced unemployment rates above the national average for a 3-month period. It requires that 70 percent of funds appropriated be granted to those priority areas. This targeting of funds will provide needed capital to those areas in all parts of the country which have been hardest hit. I moved these provisions during the consideration of this legislation by the Public Works Committee, and they were adopted because the committee believed that they guaranteed the effectiveness of this measure as an economic stimulant.

The bill also provides assistance to units of government which have demonstrated that they have done everything they could, and cannot provide services such as police and fire and others without raising taxes.

There have been definitive findings compiled in a report by our own Congressional Budget Office, which indicate that countercyclical assistance creates an important employment stimulus. The very reason there is a countercyclical provision is to further a national economic policy of recovery.

The fact is that there are hundreds and hundreds of jurisdictions that are rural, that are suburban, and that are urban which are suffering as a result of the present economic conditions. There are probably thousands of counties that fall within the category of areas of government which need assistance.

This is not my statement. This is the statement of mayors. This is the statement of county officials. This is the statement of Governors which is being made all over the States and all over the country. It seems to me that if we are indeed interested in seeing what we can do about recession, there is an undeniable fact that we must take action to help State and local governments throughout the country which are being forced to raise taxes or to lay off employees in order to maintain services.

Mr. Speaker, what this bill will do is see to it that we prevent the laying off of employees, thus holding back further unemployment and maintaining important services, such as garbage collection, police and fire protection, and all other critical services.

The Congress has a responsibility to see to it that each of our localities is given the support that is needed to maintain the kind of responsible government and the kind of responsible services that the country is looking to the Congress to provide.

H.R. 5247 is also an anti-big-spending bill, because it would take away the $19 billion we must spend on unemployment this year and do something that has to be done to strengthen the economy—that is, give people work, instead of the dole.

In his veto message, President Ford said that he objected to the bill because its cost was "intolerably high." Here again, we see the kind of misplaced concerns consistently exhibited by this administration. Its policies do not reflect an understanding that it is ultimately more costly to refuse to undertake job development programs immediately, because the aggravated economic conditions which such refusal creates only result in greater costs to government.

The President is not the only one who is concerned about excessive Government spending. I and many of my colleagues have consistently voted against raising the national debt; but the way to avoid a continually increasing debt is not to avoid undertaking programs which will strengthen the American economy. I must note the study by the Congressional Budget Office which demonstrates that, for every percentage point decrease in unemployment in excess of 4 percent, there is a resultant decrease of $2 billion in Government expenditures and a $14 billion increase in Federal tax revenues. Furthermore, the able chairman of the Ways and Means Subcommittee on Unemployment Compensation has pointed out to us that half of all benefits paid out under the 40-year-old unemployment compensation program have been paid out during the last 4 years, when we have been experiencing such unacceptably high unemployment. He also noted that although only 2 States have run out of unemployment funds in the history of the program, 30 States are expected to run out of funds by the end of this year.

I submit to my colleagues that it is these costs, and the hardship which millions of our unemployed workers are now facing, which are intolerably high, and which we must overcome by overriding this veto.

This legislation is also a good business bill because it stimulates business and the construction and building industry in this country, which have the deepest unemployment and deepest sickness. By stimulating the private sector we will be generating a permanent recovery. These are the overriding considerations which demonstrate the reasons we must override this veto today, and I urge my colleagues to do so.

Mr. WRIGHT. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. Esch).

Mr. ESCH. Mr. Speaker, I come to the well in somewhat amazement because it is not very often that I find myself in agreement with the gentlewoman from New York (Ms. Abzug). But I do today. I have great respect for the initiative of my colleague, the gentleman from Michigan (Mr. Brown), and for my Senator from Michigan, as well as the initiative of the President, to recognize that jobs should be created in the private sector. I think that we should not deceive ourselves into suggesting that this bill is an alternative for unemployment compensation. We should not deceive ourselves into thinking that this legislation does more than what it does. It does provide, for the first time, an opportunity to target into those areas of highest unemployment and to do something meaningful in job creation. And that is the alternative that we face today. I think that we had better, in the Congress and in the administration, get on with that task.

So I would urge the Members to support the overriding of the President's veto.

The time has come for this Congress to address the needs of the unemployed in this country. Although unemployment, as a whole, seems to be abating somewhat, there remains, throughout the country, areas where unemployment is extremely severe. To date, neither this House nor the administration has come forward with any effective proposal to attack unemployment in these areas and among those labor groups most affected by the recession. H.R. 5247 is the only exception.

While I have strongly supported the administration's economic program—and believe that it can be credited for the current upswing in the economy, I believe that any policy to fight inflation cannot overlook the human suffering that results from persistent and concentrated joblessness.

H.R. 5247, while not perfect, is the only alternative we have that can provide the kind of productive, long-term employment the people of this country have every reason to expect. First, it would stimulate a major share, if not all of the jobs, in the private sector and a good number of new jobs in the hard-hit construction industry. Second, it would provide temporary assistance to those localities who need it—for maintaining essential services. This approach is vastly superior to the one taken in the Emergency Public Service Employment Act recently passed by the House. Third, it will distribute, on an equitable basis, billions of dollars already appropriated for continuing the Nation's efforts to clean up streams, lakes, and rivers. Fourth, it provides incentives for capital investment—and jobs development among smaller firms unable to obtain necessary capital from private sources. And fifth, it would vastly speed up the approval of public works projects which have already been planned and only need the funds to get them started.

But above all, this legislation goes to considerable length to target funds where the need exists. One area that benefits is my home State of Michigan, and in particular the beleaguered city of Detroit. More than 18 percent of that city are unemployed and in the inner city, an astronomical 36.8 percent.

These figures are only those that can be gained through "official" determinations. They do not include the additional tens of thousands of discouraged workers, the "hidden" unemployed and others not in the labor force for whom statistics are not available.

While the percentages are revealing, the stark reality of the problems are seen more in actual numbers. More than half a million of Michigan's workers are on the unemployment rolls, more than a quarter million from the Detroit area alone.

We cannot rest on the somewhat encouraging signs of last month's unemployment decline to provide these Americans with jobs—we cannot tell the Nation's unemployed that things are going to get better someday and that they should be patient. We cannot ask the youth of our Nation to take heart in the slowly declining unemployment rate—we must deliver on the promises that we made in the last campaign—to do something definitive about unemployment. Mothers cannot feed their children with promises nor can fathers pay bills with the hope of a job.

Let it be clear that this bill is not a panacea—only a beginning but coupled with last month's encouraging unemployment statistics we can start to turn the Nation's economy around. This legislation offers a small but definitive ray of hope on the Nation's economic horizon. We can accomplish much with this bill—we can provide jobs, clean up our environment, restore essential services to our communities and most importantly of all, restore the dignity of a once unemployed man.

House of Representatives,
Washington, D.C., February 19, 1976.

Dear Colleague: As you know, we will soon be called on to decide whether or not to sustain or override the President's veto of the Public Works Employment Act of 1976, H.R. 5247. After a thorough analysis of the issues involved, it is my belief that the President is mistaken on this issue and that we should override the veto.

Let me say that, as you know, on the whole I have strongly supported the President's economic policy, which has brought inflation to a virtual standstill and is bringing us out of the recession. Moreover, I have long felt that the major thrust of job creation must occur in the private sector rather than relying on short-term public employment. However, on this particular bill, I strongly believe it is in our country's best interest to override the veto. Let me explain why I feel such an override is essential.

(1) *There is no alternative.* Despite the lowering of the unemployment rate, there remains, throughout the country, substantial numbers of areas where the unemployment rate is frighteningly high. To date, neither the Administration nor the Congress has come forth with any proposal other than H.R. 5247, which targets funds into these areas. H.R. 5247 does so by targeting funds into areas where unemployment exceeds the national averages.

(2) *This bill is not pork barrel.* Unlike early public works proposals, this legislation would go for those existing, and already planned projects which promise rapid implementation and reduction in employment. Vitally needed countercyclical aid to State and local governments is authorized for five calendar quarters. And a resolution of waste water treatment funds is also accomplished in this comprehensive proposal.

(3) *This legislation can go into effect immediately.* Considerable effort has been made to assure that there won't be a delay in implementing the program. In Title I, for example, the Economic Development Administration has to make a decision within 60 days after a grant application has been submitted. The distribution of waste water treatment funds would go out immediately, as would the countercyclical assistance to states and localities.

(4) *Creates private sector jobs.* Unlike publice jobs proposals, this legislation would create the bulk of the jobs in the private sector. Included is $125 million in loan guarantees to private firms employing less than 1500 to stimulate capital investment, in addition to the large number of jobs that will be created in the hard-pressed construction industry where unemployment is four times as great as that in government.

Although the Nation is moving out of the recession, we continue to have an obligation to address those areas which continue to be hard hit by unemployment. While this legislation will not solve all the problems, it can be a major contribution to that end.

Sincerely,

Marvin L. Esch,
Member of Congress.

Mr. WRIGHT. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Corman).

Mr. CORMAN. Mr. Speaker, I recently received a letter from a young constituent that is relevant to the decision the House will make today on H.R. 5247, the Local Public Works Capital Development and Investment Act of 1975. Part of the letter went like this:

Dear Congressman Corman: My name is Jimmie Crawford of Boy Scout Troop 84. One of my merit badges is "Citizenship in the Nation." One of my requirements is to write to a Member of Congress.

I have been wondering about what is going to happen to me when I get out of school. Am I going to be able to find a job? Is the Government trying to make a long range plan so that when I do get out of school in about 8 years from now, what kind of job field can I expect?

What I'm really asking you is what is your committee doing for the unemployed? *Do you think it is more important to give people jobs or welfare?* (emphasis added)

Sincerely,

Jimmie Crawford.
North Hollywood, Calif.

Our vote today, on whether or not to override President Ford's veto of the public works bill, will provide Jimmie with an answer from the U.S. House of Representatives to his question about jobs or welfare. What are we doing for the unemployed? Does the House think it is more important to give people jobs or welfare; to provide work or unemployment compensation?

In response to the recent high levels of unemployment, Congress has enacted some important legislation aimed at expanding job opportunities, including CETA. The primary response, however, has been to expand the existing unemployment compensation programs. In December 1974, Congress enacted two temporary programs providing additional or supplemental unemployment compensation benefits. The Federal supplemental benefits—FSB—program provided additional weeks of benefits to workers covered under the permanent unemployment insurance law. The special unemployment assistance—SUA—program provided unemployment compensation benefits in areas with high unemployment for workers not covered under the permanent unemployment insurance program, including State and local government employees, farm workers, and domestic workers.

A few statistics provide rather startling evidence of the extent to which we have depended upon unemployment compensation to pull us through this recession and the tremendous financial strain this has placed on the unemployment insurance system:

Unemployment compensation expenditures have increased from $4.2 billion in 1973 and $6.6 billion in 1974 to $20 billion in 1976; 1976 expenditures include about $17 billion for regular and extended benefits provided under permanent programs, plus $3 billion for benefits paid under the temporary FSB and SUA programs enacted in December 1974.

Unemployment compensation expenditures in 1974, 1975, 1976, and 1977 together will amount to 47 percent of all expenditures under the unemployment compensation program since it was enacted in 1935.

About 30 percent of the total labor force—or almost 1 out of every 3 workers—has been unemployed and collected unemployment insurance benefits at some point during the past 18 months.

Prior to 1974, only three States had ever depleted their unemployment insurance trust funds and been forced to borrow from the Federal Unemployment Insurance Fund. In the past 18 months, 19 States have depleted their trust funds and as many as 30 will be forced to borrow Federal funds in order to continue paying unemployment insurance benefits by the end of this year. Estimated deficits in the State unemployment insurance trust funds—if current financing provisions are maintained—will amount to $14 billion in fiscal year 1977, $17 billion in fiscal year 1978, increasing to $24 billion in 1984.

The Federal unemployment insurance trust fund—which loans money to States with depleted unemployment insurance funds, pays all unemployment insurance administrative costs, and pays 50 percent of extended benefits and 100 percent Federal supplemental benefits—is broke and borrowing from Federal general revenues. It is estimated that under current financing provisions, the Federal unemployment insurance trust fund will have a deficit of $5 billion in fiscal year 1977, increasing to $6 billion in fiscal year 1978, and $10 billion in fiscal year 1984.

The necessity and basic soundness of the unemployment insurance system have been sharply demonstrated in recent months. The existing Federal-State unemployment insurance program, supplemented by the temporary FSB and SUA programs, have made it possible for millions of individuals and families to sustain themselves during the period of high unemployment, and they have been a major force in preventing the recent recession from reaching the disastrous proportions of the Great Depression of the 1930's. In other words, during the past 18 months, the unemployment insurance system has done what it was established to do: Provide income assistance to individuals during periods of temporary unemployment, and provide stabilization during periods of economic decline. It is fortunate that we had such a system in place.

At this point we have got to make some very important decisions about how we are going to deal with the continued high levels of unemployment in the near and distant future. Are we going to continue to depend primarily on the unemployment insurance system and other income maintenance programs? Or, are we going to take actions that more directly address the problem that has created the need for such high levels of unemployment insurance expenditures? That problem, of course, is a severe shortage of jobs. Expanded and extended unemployment compensation has been, and will continue to be, an appropriate and effective response to the present recession. It is not enough, however, because it does not deal directly with the basic problem that we are facing of an insufficient number of job opportunities.

There is no greater or more urgent national need than the generation of new jobs that pay adequate wages. There are people without jobs who are desperately looking for work. In the first 2 weeks after the CETA program became public, there were over 20,000 applicants for the jobs it provided in the city of Los Angeles. This amounted to a ratio of seven applicants for every CETA job opportunity. Los Angeles recently announced a job opening under the CETA program for an elevator mechanic helper and had 300 applicants lined up outside the door when the office opened at 7:30 a.m. There were 1,200 applicants for this job. The city estimates that on an average there are from 3,000 to 5,000 applicants for every unskilled job opening.

There is work that needs to be done. There are a great number of unmet needs in our cities and rural areas, including neglected public buildings, inadequate public transportation, underdeveloped parklands, and inadequate water and sewer facilities. In Los Angeles, people working under the CETA program grants have improved existing irrigation systems, roads, sidewalks, parks, and zoos; built new recreational facilities for disadvantaged or handicapped youths and senior citizens; and provided additional school crossing guards and library services. There are many unmet needs in this Nation that can provide additional productive employment opportunities and that justify programs like CETA and those provided under the public works bill we will vote on today.

If we do not override the President's veto of the public works bill, we will have voted to keep the thousands of unemployed workers on unemployment compensation or welfare instead of putting them to work. In other words, today you will cast your vote in support of either more jobs or more welfare; more work or more unemployment compensation.

Let me reemphasize my firm belief that our unemployment compensation, public assistance, and other income support programs are necessary and basically sound. Everyone should have the opportunity and incentive to work. For those who cannot work, or cannot find employment, we need adequate income supplement programs like public assistance and unemployment insurance.

As Jimmie was told in my response to his question quoted at the beginning of my statement, it is my strong belief that "it is more important to give people jobs than welfare." We desperately need more adequate and productive job opportunities and less unemployment compensation and welfare expenditures. For this reason, I will vote to override the President's veto and urge my colleagues of the House to do the same.

Mr. WRIGHT. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. MINETA), a member of the committee.

Mr. MINETA. Mr. Speaker, in his veto message on H.R. 5247, the President indicates that he would support as an alternative, H.R. 11860, a bill introduced in the House of Representatives last week. The background sheet accompanying the veto message says:

> H.R. 11860 represents a more reasonable approach in addressing the immediate needs of those areas of the country with exceptionally high unemployment rates.

Here are the facts:

Although the President calls public works projects "pork barrel" and argues that they create jobs too slowly, H.R. 11860 simply adds additional funds to the community development block grant program, a program under which 80 percent of the money must, under the law, be used for public works type construction. Further, the community development block grant program has a track record of slow spendout and project delays. For example, although we are nearly two-thirds through fiscal 1976, virtually none of the $2.5 billion appropriated for fiscal year 1976 has been spent. And only about 20 percent of the fiscal year 1975 money has been spent. The reason—community development projects are slow in conception, slow in planning and slow in construction. The result—if more money were poured into the community development program as H.R. 11860 proposes, it would not be spent in the foreseeable future because local communities are not even able to spend their existing allocations. So the immediate job impact would be little if any.

Adding funds to the community development program would not meet the real needs of State and local governments with high unemployment. Those governments are being forced to lay off policemen, firemen, and trash collectors to balance their budgets. But more community development funds will not help them balance their budgets and keep policemen or firemen employed. They do not need more categorical aid—they need general budgetary assistance.

H.R. 11860 allows local communities to keep the money they get from it until they spend it. This provision, together with the naturally slow spending rate of community development projects, means that communities would likely be spending money allocated to them in 1976 3, 4, or 5 years from now. In contrast, the countercyclical assistance title of H.R. 5247, which would enable communities to use the funds immediately to keep policemen and firemen employed, specifically requires that funds be spent within 6 months of receipt.

The formula for distribution of funds in H.R. 11860 has several failings:

First, it includes no measure of a government's capacity to put people to work. But local governments in different parts of the country provide different levels of services and have different size work forces. As a result, the formula in H.R. 11860 will give local governments which ordinarily provide low levels of service, much more money than they could possibly use. To avoid that problem, the President's own revenue sharing program uses taxes collected as a measure of a local government's service and employment capacity. And so does the countercyclical assistance title of H.R. 5247.

Second, H.R. 11860 discriminates against county governments. Because of the way the community development program defines urban counties, only 73 counties now get funds under that program. That means hundreds of counties, mostly with populations under 200,000 people, that get help under title II of H.R. 5247, would not even be eligible for help under H.R. 11860. And even those few counties that are eligible will likely be shortchanged because they would not be given credit for unemployed persons living in a city within their boundaries. Since the formula works on the number of unemployed people, in a case like Wayne County and Detroit, either the county or city, not both, must be given credit for the unemployed in the city. If both received credit, it would mean that some unemployed persons would be double counted and the formula will not work.

Third, cities with populations under 50,000 and counties with populations under 200,000 would be unlikely to receive assistance under H.R. 11860. The reason is that for those jurisdictions to get help, the States must set up programs, at their own expense, to distribute the funds. But since the bill provides neither assistance nor incentives for States that participate, it is hard to conceive of the States bothering, particularly those States that are already in great fiscal difficult. And the way the bill is written, there is absolutely no way small cities located within qualifying urban counties can get help.

The local unemployment trigger in H.R. 11860, 8 percent, is unrealistically high. During December 1975, when unemployment was at a level higher than during any other post World War II recession, more than half the States had unemployment rates under 8 percent.

Mr. Speaker, I ask that the Members not be taken in by the dangling of an alternative but that we get Americans back on the payroll and vote to override the veto of H.R. 5247.

Mr. WRIGHT. Mr. Speaker, I yield 1 minute to the gentleman from Indiana, the distinguished chairman of the Committee on Rules (Mr. MADDEN).

Mr. MADDEN. Mr. Speaker, when I listen to this debate here today, it reminds me of similar debates in 1932. In 1932 we were trying to solve unemployment problems which were the result of 12 years of three Republican Presidents, Harding, Coolidge, and Hoover when there were 10 million people idle. I remember when the election was held in 1932 that within 3 months after that election the leaders of many chambers of commerce, business, and industrial leaders were all converged down there at the White House pleading to Franklin D. Roosevelt, "My God, your program is our program. Save this Government of ours." Washington was crowded with people from over the Nation who were out of work.

Mr. Speaker, in my congressional district today we have over 30 percent of the building trades out of work. That condition applies to New York and Philadelphia, Chicago, Los Angeles and every urban area in the Nation.

We have had 41 vetoes under President Nixon in 5½ years.

We have had 46 vetoes, in 17 months under President Ford. I predict we are going to have more than 75 Democratic freshmen here in this Chamber next January. We will probably have 125 freshmen on the Democratic side of the House in the 95th Congress next January unless the Ford administration changes its policies abruptly on vetoes of necessary job and anti-inflation vetoes.

The 1976 Presidential and congressional elections will be a repetition of the Democratic landslide of 1932 unless the White House supports the programs enacted by this Congress to restore employment and prosperity.

Mr. WRIGHT. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, I have great respect for the President and for the conscientious views he has on this matter, but I cannot understand the wisdom of a national policy under which we spent almost $20 billion last year with nothing whatever to show for it.

What we propose to do by this bill is to provide jobs which would enable people to produce something that will contribute to the assets of America. What we are doing now is paying a dole to people, to nearly 8 million persons, to sit at home and twiddle their thumbs, contributing nothing to the increase in the assets and the wealth and to the progress of this country because they do not have jobs.

Mr. Speaker, let us find some way to do something better than to pay people to do nothing. That is not the spirit of America.

Mr. WRIGHT. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. MOFFETT).

Mr. DOWNEY of New York. Mr. Speaker, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from New York.

Mr. DOWNEY of New York. Mr. Speaker, I intend to support the override effort on this bill because I think the legislation is absolutely necessary for economic recovery. Indeed, we are behind schedule already in providing stimulus to the economy. If we had not had to contend with obstructionism from the White House last month, we would by now be well on the way to sensing the effects of this bill. Last month we voted overwhelmingly to pass the jobs bill, and for good reason. Instead of decisive action from the President we received a nebulous and in many cases, misleading veto message. I think Congress should exercise its responsibility and step into the void created by executive obstructionism.

My home area of Suffolk County is in desperate need of this boost. One of the prime attractions of H.R. 5247 is that it puts Federal money where it will do the most good—in the construction industry and in the building trades. I do not have to repeat for my colleagues the multiplier effect that the construction industry has on the economy in general. Right now in Suffolk County, over 40 percent of construction workers are unemployed. Given the tremendous amount of work that has to be done, it is unconscionable that our resources are idle. I would much prefer to see these men and women working and paying taxes than having to draw unemployment benefits. I think my colleagues would agree also, that every worker would rather be working and contributing to society than living on the dole. It seems to me only good commonsense to put these people back to work.

What about the young people who are trying to enter the labor market for the first time? I think we owe them the fulfillment of the promise they have been given, but I am afraid many of them who have been looking for jobs during this recessionary period will lose faith in our system. How can we explain to the apprentice or the college graduate that his skills are not needed? We cannot blame them if they become disillusioned. Our response should be to create opportunities for them. We can do so with this bill.

Time is an important factor. We have to maintain the momentum of the recovery now in progress. We have no other course before us that would provide such an immediate result as this bill. Unless we use this approach, we may well have wasted our best hope of turning the economy around.

I will vote to override.

Mr. MOFFETT. Mr. Speaker, the pain of unemployment is certainly not limited to any one age group, but many scholars, sociologists, and writers who have traveled up and down and across this country for the last several years have come out with one conclusion about young people, and that is that young people in this country have no sense of the future. We are developing an anomic class in this society, an alienated class, a class that is plagued by unemployment and one which has no faith in either the ability of themselves as individuals or in the ability of this Government to do anything productive about joblessness.

This bill is not going to change all that, but I say to those members of the Committee on Public Works and Transportation who have worked in this field that they have given us a beginning. This bill has symbolic as well as real importance because it would begin to give the young people of this country a sense of hope and the feeling that in fact the Government is aware that there are problems, that there is massive unemployment, and that we are doing something about it.

Mr. Speaker, I think an override of this veto is of overwhelming importance.

Mr. WRIGHT. Mr. Speaker, may I inquire of the gentleman from Ohio (Mr. HARSHA) whether he desires to yield further time at this point?

Mr. HARSHA. Yes. I do, Mr. Speaker, I will use some of my time now.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I rise in support of the President's veto of this legislation, and I urge that we sustain his position.

We on this side of the aisle are also concerned about unemployment, and I know the President is too. When I look back over my entire adult years, I find that at no time except for possibly one 2-year period have we achieved any sustained period of full employment during peacetime in this country. That is a tragic thing. We have no problem with unemployment during wartime, but as I look over my adult life not once have we addressed ourselves to that challenge. I certainly do not feel this is a bill that would remedy that problem.

The gentleman from Indiana (Mr. MADDEN) a few moments ago said this debate sounded like we are repeating the arguments of 1932. The Speaker of the House referred to the level of 7 percent unemployment and charged that we have not really rebounded from the recession. I submit that in 1932, if we read the record, we would find that we had 14.6 percent unemployment at that time and Democrat Members were claiming that Roosevelt had the country on the move again.

Speaking for this side of the aisle, I feel we have definitely bottomed out and are well on the road to full recovery. Yes, today we have a rate of 7.8 percent unemployment, but that figure also represents only 4.6 percent of the heads of households in this country. Furthermore 60 percent of the households in this country have more than one breadwinner today, as compared to half that figure 20 years ago.

The fact is that we have a completely new set of factors and statistics today. Forty-six percent of all eligible women are in the work force today, as against only 30 some percent 20 years ago. Many of these are supplementing a principal breadwinner in the family.

We have a completely different kind of situation; but more to the point, in just the last 2 months the private sector has created 1 million new jobs—think of it 1 million new jobs in the last 2 months.

Mr. Speaker, that is the thing we point to on this side as we ask to place a little bit more confidence in the private sector to develop these new jobs we need to achieve full employment.

When we talk about 600,000 new jobs, I heard the budget committee chairman a few moments ago talk about $600 million in outlays in the balance of this fiscal year which ends June 30th. Then he went on to talk about new obligational authority, but that is a year or two years beyond, and by that time we will be piling on when we already have the private sector creating these additional jobs.

And finally, Mr. Speaker, the last figures available for January 31, 1976, showed we have 465,000 jobs listed with the U.S. Employment Service going begging. Usually only half of the openings are reported so the figure is probably twice that number.

Mr. Speaker, I just do not think that this is the time for this bill, and I urge my colleagues to have more confidence in the private sector to do this job for us, and I urge that we sustain the President's veto.

Mr. WRIGHT. Mr. Speaker, I yield 3 minutes to the distinguished majority leader of the House, the gentleman from Massachusetts (Mr. O'Neill).

Mr. O'NEILL. Mr. Speaker, I think the No. 1 priority of this Congress and the No. 1 priority of the Nation is to stop unemployment.

This is nonpartisan legislation. The vote shows that. It was approved by an overwhelming bipartisan vote in the House, 321 to 80.

Mr. Speaker, 61 Members of the Republican Party, almost half on that side, voted for this legislation. It means nearly 655,000 new jobs. This bill means putting people back to work.

Unemployment right now is at 7.8 percent. The fact that we have 7.8 percent unemployment, meaning that about 7.5 million people are not working, costs every community in the United States a total of $65 billion. That is what it is costing for this unemployment: $65 billion annually.

We all know about the $14 billion that we lose in revenues and in anticipated taxes. The States and the cities all over America are the big losers. We know what we pay in welfare, about $2–$3 billion. The States, the cities, and the towns all have to pay for this consistently high level of unemployment.

The gentleman from Indiana (Mr. Madden) made reference to the Great Depression of 1932, when there were 10 million people unemployed. The gentleman from Illinois (Mr. Michel) made reference to the fact that 14.5 percent of the workers were unemployed at that time, and now we have 7.8 percent.

In 1932, Mr. Speaker, there were about 700,000 students attending colleges in the United States. Approximately 2 or 3 percent in that day graduated from college or went to college. Today we have 10 million people in college in America. Suppose we added those to the unemployment rate in America. What would the unemployment rate be? The unemployment rate would be 17 or 18 percent.

If we compare what was happening in 1932 to what is happening now, it is only a short year and a half ago that the unemployment rate was 9.3 percent. We brought out a program, a tax program, of $5.3 billion which the President vetoed and we failed to override. However, we came back immediately with a $3 billion program, and the consequences of those two programs together brought unemployment down from 9.5 percent to 7.8 percent.

With the tax bill that we have already passed, the program that we have today will bring unemployment under 7 percent.

Mr. Speaker, over 7 million Americans are out of work and 37 percent of them have been unemployed for at least 15 weeks. Nearly 200,000 jobless workers are exhausting their unemployment benefits each month. Eighty-two percent of the total number of unemployed Americans are jobless for reasons beyond their control—they cannot find jobs; employment is just not available.

These people are turning to their representatives in Congress to do something about their unemployment. They are not asking for a handout. But they are asking for a helping hand. How many of you go home on the weekend and are visited by constituents who are out of work, have run out of unemployment compensation, and ask for your help? This bill is one way you can help them directly.

I ask the Members to vote to override the President's veto. It means putting people back to work.

Mr. HARSHA. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER. The Chair will state that the gentleman from Ohio has 4 minutes remaining and the gentleman from Texas has 6 minutes remaining.

Mr. WRIGHT. Mr. Speaker, I might say that we have only one other speaker.

Mr. HARSHA. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Speaker, I rise merely to point out that I have a great deal of doubt that this bill is going to produce the 600,000 or the 650,000 jobs that the proponents say it will. There is reasonable doubt to believe that anybody can produce that number of jobs immediately.

The administration, which would have the responsibility of implementing the legislation, that is, seeing to it that these jobs are filled, says that this bill will only produce 100,000 to 150,000 jobs within the year.

So, we are kidding ourselves, but more important, we are misleading the American people into believing that by the passage of this legislation through the overriding of the President's veto, which to some is a fun-and-games procedure, will really only produce temporary jobs for about 100,000.

The mayors of several cities tell us that we have to have this legislation and that we will put many people back to work; that is bunk.

We are again misleading the American people into believing that this will develop jobs where they are really needed and for the people who are really hurting, but that is, of course, false.

My great disappointment with this bill is that we are lying to the American people by saying it will produce 650,000 jobs immediately, or say within 90 days. That is totally misleading. The Federal Government cannot produce jobs that fast. Tell me one agency in this Federal Government that produces jobs with that type of speed.

We are not telling our constituents the truth about this much-publicized legislation. That is where this House gets into trouble, by misleading the American people, by overpromising, and then not actually delivering. And what about those who will be taxed in order to produce the money—$6 billion to be exact—for these public works jobs. It takes an average of $250,000 to produce one Federal job.

Again I say that my disagreement with this legislation is that we are lying to the American people when we tell them that it will produce 650,000 jobs in any reasonable time. That is simply not the truth.

There are roughly 500,000 open jobs in the private sector which are now going begging for applicants. This House should be thinking of ways to find the unemployed who are able to fill these available slots.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I will vote to sustain the veto of H.R. 5247, the Public Works Employment Act. This $6.2 billion public works boondoggle is an ineffective approach to our Nation's unemployment problem.

Promoters of H.R. 5247 claim it would create from 600,000 to 800,000 new jobs. Frankly, this is absurd. The administration estimates that at best 250,000 jobs would be created. Even these would be spread out over a period of several years.

This lower figure finds support in a recent study prepared by economist Alan Fechter of the Urban Institute. According to Fechter, each $1 billion provides only 30,000 to 60,000 jobs. Furthermore, the Federal money may displace up to 50 percent of State and local funds being used to provide public services. In short, the grandiose assertions by sponsors of this bill are without foundation.

Also disadvantageous is the fact that the projects funded under H.R. 5247 would not begin until 9 to 19 months after enactment. As a result, the real impact of the bill would not be felt for almost 2 years.

This means very few jobs would be created in the immediate future—the time when those jobs are needed. Instead, the main rush would hit in late 1977 or early 1978. Consequently the bill would do little to help solve unemployment in the short run and could prove damaging to the economy in the long run.

In addition, each job created by this bill would be incredibly expensive. It is estimated that the cost would be more than $25,000 per job. Such a high price tag is hard to justify.

Mr. Speaker, the answer to our unemployment problem is not another multibillion-dollar public works bill. The only effective way to get our unemployed citizens back to work is to revitalize the private sector of our economy.

In order to do this the Congress must reduce Federal spending and start balancing the budget. Reckless budget deficits only lead to more inflation and higher interest rates. Federal borrowing to cover these deficits depletes the capital that is needed by the private sector for plant expansion and the construction of new businesses—vital elements in providing more jobs for Americans.

The Congress should also approve the Jobs Creation Act. This legislation would help create meaningful jobs in private enterprise at far less cost through a system of tax incentives. It would allow the formation of the investment capital that is needed to increase both job opportunities and productivity in business and industry.

I strongly urge that the veto of H.R. 5247 be sustained. It offers lip service rather than real solutions to the unemployment problem.

Mrs. SMITH of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am happy to yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in support of the President's veto of H.R. 5247, the Public Works Employment Act. Despite the many promises made during the lengthy consideration of this legislation, the plain truth is that is simply will not do the job.

The funds to be allocated for public works projects are not targeted to pockets of high unemployment, but are scattered anywhere and everywhere. Nor is there sufficient guarantee that the funds will be spent for projects of lasting value—thus benefiting the taxpayers footing the bill for this program—because of the provision allowing their use for maintenance as well as construction.

The public service jobs section of H.R. 5247 is a thinly disguised bailout plan for those cities and towns who, like New York City, have been caught with their fiscal mismanagement showing. There is no requirement that the title II funds be spent to provide jobs for those already unemployed. Rather, they are to be used to support existing municipal payrolls, and can even be used for debt retirement and welfare costs in lieu of job creation.

The choice before us today, however, is not between a jobs bill, however slipshod, and no program at all. A substitute—H.R. 11860—would correct most of the shortcomings of the vetoed bill and is ready for consideration. Briefly, it would make use of the Community Development Administration for the distribution of funds—avoiding the time-consuming procedures necessary for establishing a new program. In addition, fully three-quarters of the funds provided by the substitute bill would be targeted to those areas with the most need, thus eliminating much of the waste encouraged by H.R. 5247. Finally, the substitute bill would automatically shut off when unemployment drops.

All of us recognize that the unemployment rate is a serious problem. The pressure to support legislation—any legislation—to correct it is acute. But let us not forget that we have a responsibility to our constituents to enact sound laws. Make no mistake about it: When we go back to face our constituents this fall we will find that they do recognize the difference between throwing money at a problem and enacting a solution to that problem.

In keeping with that responsibility, I urge my colleagues to vote to sustain the veto.

Mr. SYMMS. Mr. Speaker, I rise in opposition to this bill and I will vote to sustain the President's veto. There is ample evidence to indicate that the type of dead-end public service jobs that are created by this legislation really do not accomplish what is purported. First of all, the unemployment rate is already dropping and we must remember that for each public sector job created at least one private sector job will be lost because of private capital starvation.

What I am getting at, Mr. Speaker, is that it is almost impossible for Government to manage the economy successfully. By the time Government can act on a recession situation the turnaround is usually underway and the Government action oftentimes proves detrimental to sound recovery. This bill will be highly inflationary; it will further deplete capital markets. I suggest, Mr. Speaker, that our economy is suffering from a capital shortage and inflation; that is, Government crowding out, and these are the real roadblocks to sound recovery.

I would also like to take this opportunity to express my disappointment as to why the administration did not endorse JACK KEMP's Jobs Creation Act as the alternative to this bill under consideration today. I am one of the 110 cosponsors of the Jobs Creation Act. The Kemp bill would get to the real cause of recession and unemployment and it would provide the necessary stimulus to the private sector to expand permanent productive employment. The Kemp bill represents, in my opinion, the commonsense constructive approach to the unemployment problem, so I am wondering why President Ford has not pushed it as the Republican counterpart to H.R. 5247 and similar legislation.

Mr. ANDERSON of California. Mr. Speaker, the Local Public Works Capital Development and Investment Act (H.R. 5247) which we are now considering was passed by the House of Representatives on May 20, 1975, by a vote of 312 yeas to 86 nays. The conference report was approved by an even more impressive margin of 321 yeas to 80 nays on January 29, 1976. With over 80 percent approval by the House, and passage by voice vote in the Senate, it would seem that the President must realize that this Congress is committed to positive action to provide jobs for unemployed Americans.

The President stated in his veto message that this bill "would do little to create jobs." While I must acknowledge that the President does possess a certain amount of expertise in "doing little" to create jobs—I must also assert that this bill will create jobs.

It is difficult to quantify precisely the number of jobs that will be created by this legislation, but based upon estimates by the AFL–CIO, the Congressional Budget Office, the Commerce Department, and the Council on Environmental Quality, an estimated 655,000 jobs could be created. My colleagues should realize that while it is difficult to precisely know the number of jobs to be created by this act, it is possible to precisely determine the number of jobs which will be eliminated by the President's proposal to terminate public service jobs in 1977. That figure is 310,000 jobs.

As I stated on the floor when we were considering the conference report to H.R. 5247, this bill provides the Congress with an opportunity to act decisively by quickly creating jobs—mostly in private industry—about half in onsite construction, and half in materials industries. The President has stated in his veto message that this bill is "little more than an election year pork barrel," and that its "peak impact would come late in 1977 or 1978." Now, I do not need to correct the President by reminding him that the election is this year and not in 1977 or 1978. I do however want to bring to the President's attention provisions in this legislation which state that actual onsite labor must begin within 90 days for a project to be eligible for Federal funding.

Mr. Speaker, I want to stress once

again that most of the jobs provided by this legislation are in the private sector. I agree with the President that we must encourage the private sector to provide additional job opportunities for Americans. I for one believe that, when possible, solutions to economic problems should be resolved in the private sector. But we are not talking simply in terms of unemployment statistics—there are human beings in this country with basic human needs—the greatest of which is the need for a job. It is my personal conviction that if an individual wants to work, then a job is a basic human right, and should not be regarded as a privilege for fewer and fewer citizens.

Mr. Speaker, the Local Public Works Capital Development and Investment Act is a sound piece of legislation which provides an effective solution to some of our economic woes by continuing construction of needed public works projects, continuing essential services by State and local governments, and by creating jobs for the unemployed. I urge every Member of this body to vote to override the President's veto and let the American public know that their elected Representatives are serious about putting Americans back to work.

Mr. PATTEN. Mr. Speaker, I will vote to override the President's veto, not only because I am one of the bill's co-sponsors, but because the more than 7 million unemployed in America need help, not vetoes.

I am a realist and am certainly aware that the Local Public Works Capital Development and Investment Act will not solve the serious unemployment problem facing the Nation, but I know it will provide the jobless with some help.

Finding work for the unemployed must be our No. 1 priority, for H.R. 5247 would help both those looking for work, and our communities. Under this legislation, capital projects could be started and completed, such as libraries, public buildings, sewer and water improvements, playgrounds, parks, and other important needs.

Mr. Speaker, H.R. 5247 would be especially beneficial to New Jersey, which suffers from more than 400,000 unemployed, and Middlesex County, N.J., where over 35,000 are out of work. They need help and they also need hope—and this bill would provide both. About 50,000 jobs would be created in New Jersey by this bill, and there is a great need for them.

Mr. GRASSLEY. Mr. Speaker, today, we are about to exercise the favorite pastime of Congress—that of throwing massive amounts of money at problems. That approach has never worked before and will not work now. It is obvious that the primary result of this endeavor will not be many more jobs but will mean more deficit spending and more inflation.

The absurdity of this legislation is emphasized by the gross exaggerations of its strengths and the blind way in which its weaknesses have been ignored.

The facts are that this bill will put only a fraction of the number of people to work that the politicians supporting it claim.

The fact is that these jobs will cost $25,000 each to create—a ridiculous amount.

The fact is that this bill will boost inflation by increasing the budget deficit by $6 billion.

The fact is that by firm economic policies our own economy increased employment in just 1 month by much more than this legislation hopes to do in its multiyear lifespan.

Yes, Mr. Speaker, the fact is that the answer to solving unemployment problems in this country is not by creating Federal make-work jobs at a price tag of $25,000 each, but to encourage capital development in the private sector. This will create meaningful and productive private employment and will increase the real output of our Nation. The Members of the House know this, and if they vote any differently today it will be for pure politics and nothing else.

Mrs. HOLT. Mr. Speaker, H.R. 5247, the Public Works Employment Act of 1975, represents another vain and useless effort to spend our way to prosperity.

This legislation, which the President has vetoed, offers the illusion of creating jobs. What it really does is create public jobs at the expense of private jobs.

This legislation will cost as much as $6.1 billion in funds transferred from the private sector of the economy to the public sector.

This is true of all Government spending, of course, and Government spending in recent years has become such a colossal burden that the growth of the private sector has been crippled.

If you want to know the reason for high interest rates, you need only to examine the record of huge Government borrowing in competition with private industry.

If you want to know the reason for general inflation, you need only to understand what happens when Government spends tens of billions of unearned dollars which have been borrowed to cover its deficits.

If you want the reason for high unemployment, you need only to know how inflation destroyed consumer purchasing power and confidence.

I have just recited the causes of the great recession of 1975, from which our economy is beginning to recover. However, these same destructive forces remain as active undercurrents that threaten to erupt again.

Massive deficit spending by the Federal Government causes inflation, and inflation causes unemployment. That is the lesson we should have learned in recent years.

But there is no evidence this Congress has learned that lesson. The deficit for this fiscal year approaches $80 billion. The deficit for the 1977 fiscal year is projected at upward of $43 billion.

The economy is recovering today only because recession slowed the rate of inflation. Consumers have started to buy again, production is reviving, employment is increasing.

The very worst thing we could do would be to add more billions to the Federal deficit. This is the time to impose stern limits on Federal spending to prevent a new surge of inflation.

I know that many Members of Congress believe that this election year is a splendid time to promise more and spend more, but we should not be playing political games with the future of the Nation's economy.

This Public Works Employment Act, and other big-spending proposals that will blossom in the Congress this year, offer nothing except a future of higher inflation and worse unemployment.

I ask the Congress to think beyond this election year. I ask the Congress to consider the future impact of taking another $6.1 billion from the private sector to pump up the public sector.

I am voting to sustain the President's veto of this act.

Mr. ZEFERETTI. Mr. Speaker, for the past several years now, the Nation has been struggling with the worst jobless situation since those still vividly recalled days of the Great Depression. Millions of Americans have been out of work now for lengthy periods and there is no swift end in sight to this nationwide problem.

No mention of the jobless problem is complete without alluding to millions of Americans who have used up all their unemployment benefits, are underemployed or who have, in discouragement, given up the work search at least temporarily. Periodically, there are news conferences or public hearings in Washington at which Government officials make appearances, laden down with complicated statistics they interpret as indicating the long recession is at an end. We have been hearing such optimistic interpretations for many dreary months. None of them have been borne out by actual events. All they have done is erode Government's credibility and further the gloom prevalent in many American homes where a breadwinner has no employment.

Since the thirties, an increasingly respectable alternative to unemployment has been the creation of public works jobs by acts of Congress and approval of the President. Millions of Americans, including many who are prosperous today, got a lift or new start through such work in years past. It is as respectable, honorable and worthy an alternative today as it was during the thirties. The Congress has tried, through legislation, to create significant numbers of these jobs, the last one being through the passage of a $6.1 billion public works employment bill the President has seen fit to veto. I opposed that veto and voted to override it because the working people of this country need that kind of assistance now to tide them over. Public works employment is no panacea, but it is a legitimate tool to use on a temporary basis.

The public works measure will now be responsible for creating upwards of 600,000 jobs, biting significantly into the Nation's almost 8 percent jobless rate. It will now provide 100 percent Federal grants of up to $2.5 billion through fiscal year 1977 for public works projects such as the construction or renovation of schools, libraries, sewer lines, roads, and bridges. All of these projects are badly needed pieces of work. For example, we know that thousands of bridges in the Nation are substandard through a recent GAO report. Virtually every city has substandard schools in need of repair. Waste disposal projects are desperately needed across the Nation. In other words, all these categories of public works as spelled out under the legislation are needed, necessary and will prove to be worthwhile from a community standpoint.

This measure will also provide countercyclical funds to State and local governments whenever the national unemployment rate is 6 percent or above. Funds will be used to rehire firemen, police and other municipal workers laid off because of the impact of the recession on State and local government budgets.

It has been a little-noticed tragedy that during this recession, municipal workers have been laid off in massive numbers in most cities across the country. Municipalities have been hard hit. Taxpayers have been deprived of basic services. These people represent a highly skilled pool of workers who deserve primary consideration when hiring commences in any area. This bill's provisions will be assisting them now in just such a manner.

A third section of the bill would authorize $500 million for projects that could be substantially completed in 1 year, and $100 million this year for economic development in cities of more than 50,000 population.

All in all, we have been able today to override the veto of a constructive piece of legislation that Congress originally passed by an overwhelming majority. Unemployment is not a respecter of political ideology. It strikes at random, and the solution to it should not become a political football in an election year. On the merits of the bill, it is necessary legislation that will help many Americans in innumerable walks of life to get on their feet again. The projects are not make-work. Rather, they will result in lasting improvements to communities where such work is undertaken.

It was sad for me to hear that the President rejected this tried and true response to unemployment. Putting people back to work should perhaps be the most basic task that any government is concerned with, except for preserving the elementary liberties of its citizens. It was therefore with deep pleasure that I viewed the move to override the President's veto of the public works bill, and that I was able to join in this move to begin getting the lifeblood of public service jobs pumping swiftly through the still stagnant American economy.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I rise to urge my colleagues to join with me in voting to override the President's veto of H.R. 5247, the Public Works Employment Act of 1975.

In his veto message, the President asserts that the public works bill would be slow to act, would create nothing like the 600,000 to 800,000 jobs that its sponsors' claim, and is "little more than election year pork barrel."

I must respectfully disagree with the President's viewpoint on this vital legislation.

These statements may make good reading for a veto message, but they are not borne out by authoritative economic analysis or by the basic facts of the matter.

Of course, it is always difficult to quantify with exact precision the number of jobs that will be generated by a given piece of legislation. However, very thorough analysis, indeed has been done on this bill. This analysis indicates that the comprehensive package of programs contained in the legislation will result in more than 600,000 new jobs in the next 20 months—most of them in the private sector.

The AFL–CIO Building Trades Council has provided an estimate that title I—local public works—alone will generate some 250,000 additional job opportunities in the construction and related supply industries.

The Congressional Budget Office indicates that title II—antirecession grants to local governments—will underwrite approximately 125,000 more jobs.

The Council on Environmental Quality has estimated that the additional water pollution grants to States will stimulate some 140,000 jobs in construction of needed waste treatment facilities.

The Commerce Department has estimated that $500 million in title X grants for necessary renovations, repairs, and minor additions to existing public facilities, can provide immediate work for an additional 100,000 people. And it is estimated that the $225 million in urban economic development and business development loans and guarantees will add another 40,000 new employment opportunities.

The sum of these estimates comes to a total of 655,000 new jobs. The economic analysis that has been utilized in deriving these estimates has been comprehensive, conservative, and complete. On the other hand, past experience has indicated that estimates emanating from the Office of Management and Budget are often unreliable.

In this case, I support the estimates that have been provided by these other responsible sources, and I believe that experience will substantiate their correctness.

Mr. Speaker, I also take issue with the President's statement that the peak impact of this legislation will not be felt until late 1977 or early 1978, and that the legislation has been simply designed to be a quick fix for our distressed economic condition.

Nothing could be further from the truth.

In fact, the bill was expressly and carefully designed to avoid the long timelag sometimes associated with public works. Projects authorized under title I are those which have been planned for some time in communities throughout the Nation and which have been awaiting the necessary funding to move forward to immediate construction.

To be eligible, a project must be able to be started up "within 90 days." The bill also provides that applications must be acted upon by administrative agencies "within 60 days."

While I do not doubt that much of the work will continue into 1977, and a portion of it will continue into 1978, most of it will be underway in this calendar year.

There is little danger that the outlays mandated by this bill would drag on long after they are needed, and thereby worsen inflation in a fully employed economy. The President's own projected budget anticipates nationwide unemployment rates far in excess of the 4 percent mark conventionally taken as a rough measure of full employment. While we all are heartened at the slight reduction in the unemployment level that occurred last month, the crisis is far from over; 7.3 million Americans are still out of work. More than $19 billion are being spent this year in unemployment compensation alone. This figure is more than three times the cost of H.R. 5247.

It simply does not make sense to want to spend more on maintaining the jobless than we are willing to spend in providing them with work.

The President's approach also ignores the tremendous burden on working taxpayers of supporting so many jobless Americans. For every 1 million Americans out of work, we all pay $3 billion more in unemployment compensation and welfare benefits, and lose $14 billion in taxes. This means that today's unemployment rate of 7.8 percent—with 7.3 million Americans out of work—costs us taxpayers more than $65 billion a year.

If we had just enough jobs this year to match the unemployment rate in 1968, we would collect enough Federal taxes to wipe out the entire Federal deficit this year and next.

This is precisely the reason why jobs-generating legislation was constructed by the Congress. H.R. 5247 was designed to interface with an extended and expanded public service jobs program to provide maximum employment opportunities across a wide job skill spectrum. As my colleagues well know, the House has adopted my bill, H.R. 11453, which extends title VI of the Comprehensive Employment and Training Act through fiscal year 1977 and authorizes necessary funding to create a new program of short-term jobs projects.

The Public Works Employment Act and the Emergency Employment Projects Amendments were specifically designed to enhance one another. They do not conflict with one another either conceptually or structurally, and they result in no duplication of effort or funding. And, it is important to remember that if fully funded, the cost of both of these bills would still add up to less than what we are paying out now in unemployment compensation.

The President's approach relying upon recovery of the economy and jobs initiatives by the private sector, ignores economic reality and the element of human suffering that attends being out of work.

Thus, not only is the President's approach penny wise and pound foolish, it is also heartless.

The President's answer to joblessness is the clichéd axiom, the "trickle down theory." If one accepts this postulate, one assumes that the rich will buy more if they have more disposable income to spend, and that the private sector will generate more jobs if it receives favorable tax treatment and other economic incentives. To a limited extent, this concept may be valid. But it is limited. And, it is hardly practical in these troubled economic times.

I am reminded of a statement that the late Franklin Delano Roosevelt made in a radio address in the spring of 1932. President Roosevelt said at that time:

> These unhappy times call for the building of plans ... that are built from the bottom up and not from the top down, that put their faith once more in the forgotten man at the bottom of the economic pyramid.

Mr. Speaker, I suggest to you that these unhappy times require that we once more turn the pointed economic pyramid on its head and put the very foundation of it—American workers—at the top of our list of priorities.

Overriding the President's veto of H.R. 5247, will accomplish this goal, and it will repudiate the administration's cruel economic strategy that asks the jobless to wait until things "get better."

We must reject this self-destructive economic approach. I maintain it as self-destructive because it robs the Nation of its precious economic and human resources, and saps the very vitality of our American system.

I would respectfully remind the President that mere parsimony is not economy. Expense, and great expense, may be an essential part of true economy.

I would further remind the administration that economy is a distributive virtue and consists not in saving, but in selection. Parsimony requires no providence, no sagacity, no powers of combination, no comparison, no judgment.

Mr. Speaker, I am sure that most of my colleagues recognize these famous words of Edmund Burke. They are as true today as they were when he wrote them in 1796.

In developing its own economic strategy to combat joblessness, Congress has replaced parsimony with priorities. I suggest to my colleagues that there is no higher priority than putting American men and women back to work—back into useful, productive lives—back into the role of responsible taxpaying citizens.

If we are unwilling to do this, then we must be willing to accept the social upheaval that will follow.

Mr. PERKINS. Mr. Speaker, while we are discussing the veto override issue, I would like to point out that I am certain the unemployment count in rural areas of the country is grossly underestimated.

The system now in use may work fairly well for industrial cities and industrial areas, but everytime I look at the reports for the counties I represent, I know that the accurate, true rate of unemployment is much higher than what the list shows.

Some time ago, I asked the General Accounting Office to look into this, and an investigation is underway which, I hope, will result in a new method of counting the unemployed in rural areas.

At any rate, inaccurate unemployment figures are all the more reason why the veto of the Public Works Employment Act ought to be overriden.

Now something has been said about deficits and inflation as the reason why this bill was vetoed, and I would like to point out that the best way to fight all of our economic problems as a whole is to make sure that people have good, productive jobs in the private sector. But when the private sector cannot yet provide the needed jobs, it is less costly and much more beneficial for government to provide funds so that private industry can construct badly needed community projects, and hire thousands of people.

What we are facing in this bill is either continue people on welfare, or provide funds for them to work at creating public facilities.

I am going to vote to keep the economy moving ahead, and to insure that people will have jobs, and I urge all of the Members to also vote for jobs for working people, instead of welfare checks.

Mr. GOLDWATER. Mr. Speaker, I rise in opposition to the motion to override the President's veto of H.R. 5247, the Local Public Works Capital Development and Investment Program Act. I do so with a great deal of reluctance for I originally voted for the bill when it first passed the House back in May of 1975.

When the House first sent this legislation to the Senate the purpose was "to provide funds to State and local governments for the construction and repair of local public facilities." The legislation authorized $5 billion. The objective was to accelerate local public works programs in targeted areas where unemployment was highest. The funds were to be spent on priority construction projects. Eligible projects were demolition and other site preparation, new capital construction, and renovation and major facility improvements. The facilities were municipal offices, courthouses, libraries, schools, police and fire facilities, water and sewer lines, streets and roads, lighting, recreational facilities, civic centers, museums, and health, education, and social facilities.

The avowed larger purpose of the legislation was to provide meaningful employment in the construction industry, an industry that in May of 1975 was experiencing almost 40 percent unemployment. Further, the projects to be funded would by their very nature substantively add to the health and vitality of the general national economy—for the projects would stimulate industrial activity, sustain and encourage labor skills, and stimulate both economic resurgence and personal income where it was needed most.

Well, the Senate then worked its will on the legislation. It added $1.5 billion to the total costs of the proposal. It specifically provided that those additional funds be applied for service jobs, jobs that do not generate capital, jobs that do not assist basic economic recovery, jobs that are not essential to economic recovery.

Worse, these additional funds were not to be provided in targeted areas of highest unemployment and the localities were not required to demonstrate that the jobs were essential to the basic operations and services of that locality.

Furthermore, the House was acting to meet an emergency. We were supposed to be acting expeditiously to provide controlled, precise stimulus to the then budding general economic recovery of the Nation.

Our legislative effort was to be compatible with the $2.5 billion we had put into the CETA program and the Emergency Jobs Act, the tax cut extension, and the upcoming extension of the general revenue-sharing program.

The actions of the Senate radically altered the scope, impact, purpose, and balance of the original House legislation.

It is no wonder that the President vetoed the legislation. Title II of this legislation, the title added by the other body, represents an entirely new concept in Federal aid. It goes outside the revenue-sharing program and its purposes. Title II, the so-called countercyclical provision, works on the idea that in a recession State and local governments periodically need a substantial infusion of Federal funds to offset the revenue losses these governments experience.

First, State and local governments derive over 80 percent of their revenues from property taxes. These sources are not recession related sources of revenue. They are not impacted in the same way sales and income taxes are.

Second, inflation is what is causing the disruption of much of our national economy. The greatest cause of inflation is deficit spending by the Federal Government, particularly spending on services and other "soft" projects that do not contribute to basic productive activity and essential employment. To add $1.5 billion in deficit Federal spending for make-work projects and to do so at a time when the economy is obviously recovering and employment is increasing serves to add fuel to the diminishing fires of inflation and work against both the original purposes of the House legislation and the general economic recovery the Nation has worked so hard to achieve.

Third, the funding contained in title II smacks of the same kind of Federal bailout that was contained in the New York City bailout. Section 204 provides that Federal funds may be used by the recipients to pay accrued interest on their debts. Not only may this serve to make the States and localities dependent on the Federal Government for their continuing financial integrity but in some cases it will actually reward local financial irresponsibility.

I originally supported the House version of the local public works capital development and investment program. The legislation now before us, though it bears the same title, is a totally different proposition that will undo much of our recent economic recovery and intelligent, measured financial cooperation between the Federal Government and the States and localities. I therefore cannot support it and I urge the House to sustain the President's veto.

Mr. LAGOMARSINO. Mr. Speaker, the debate over H.R. 5247 reminds me of the Broadway play, "Promises, Promises." If there is anyone in the United States who is unaware that 1976 is an election year, one look at this bill is enough to bring him up to date. It promises the American people that it will create 600,000 to 800,000 new jobs. It promises mayors and city councilmen that they can build new public works projects without new taxes. It promises the taxpayer new roads and bridges, better housing, and a handout from the Federal Treasury—a new program called "countercyclical aid"—to bail out" bankrupt cities.

Well Mr. Speaker, those promises are simply untrue.

First there is the claim that it will create 600,000 new jobs. In truth, the bill would create at most 250,000 new jobs—and these would be spread over a period of 4 or 5 years. The peak impact would not come until late 1977 or early 1978, and would amount to no more than 100,000 to 120,000 new jobs—an improvement of less than one-tenth of 1 percent in the unemployment rate. Why last month alone, under our present economic policy, employment rose by 800,000, without this bill. Yet this legislation proposes to spend over $6 billion to create at most 250,000 jobs—a cost of over $24,000 per job.

The second promise is that it will provide needed new public projects for our cities. The fact is that it will be a $3 billion pork barrel. In an effort to show some immediate effect, the bill provides that any project request must be approved automatically within 60 days after enactment, unless the Commerce Department disapproves. How can the Commerce Department expect to review $3 billion worth of new local public works projects in 60 days? It cannot, of course, so $3 billion will be committed willy-nilly without supervision. Yet here is the hooker; although the funds will be committed within 60 days, the project does not have to be undertaken for years, so the effect on present unemployment will be very minimal.

This in fact points up the whole problem with the bill—that it is out of phase. The bill is promoted as a solution to our present unemployment problem, yet most of the effects will not be felt until far down the road, when all indications are that the economy will be much better. Inflation will then be the worry.

The third major problem with the bill is the municipal bailout provision, the countercyclical aid section. This is the worst part of the bill, and in fact, was not in the bill as it left this House last May. It was put in in the Senate, and retained in conference, without a day of hearings in the House. Its thrust is entirely misdirected. It rewards cities which have been the most inefficient and punishes those which are well managed. All it really is is a job guarantee program for existing city employees. Why should public employees be given job guarantees not available to the private sector? The $1.6 billion proposed in this section will create few new jobs, it will simply put municipal employees on the Federal payroll.

No, Mr. Speaker, this bill is not the answer to our unemployment problem. The answer, if you really want to get the most new jobs created for your tax dollars, is a bill such as H.R. 11860, which targets funds for the areas of highest unemployment. Which uses the existing community block grant program to finance projects now without creating a new Federal bureaucracy as proposed in H.R. 5247. Which generates contracts for private jobs in the construction industry. This substitute, which I have cosponsored along with a number of my colleagues, is simple, direct, effective—and far less costly than H.R. 5247.

It does not promise more than it can deliver, and it will not set off another round of inflation a year or two down the road, eating up the real earning power of our taxpayers.

Those city officials who see H.R. 5247 as the answer to their problems are being deluded. If this bill is passed, it will mean $6 billion less that will be available for an extension of the revenue-sharing program—one of the most successful and effective of all Federal programs. It will also increase our Federal deficit and inflation which is bad news for everyone.

Mr. Speaker, I urge the Members to sustain the veto of H.R. 5247, and to enact in its place the substitute bill, H.R. 11860. The time is past when the people can be fooled by election-year promises.

Mr. BIAGGI. Mr. Speaker, I rise to indicate my intention to vote in favor of overriding the President's veto of H.R. 5247, the Public Works Employment Act of 1975. My vote is not merely based on economic or political considerations, but more importantly on the human lives it will affect, for it may mean the difference between continued unemployment, or new job opportunities for 600,000 Americans.

While we in the Congress are concerned with keeping Federal spending in check, we must not be as arbitrary as the President in our economic philosophies.

It has been estimated that the 8 to 12 million Americans who are unemployed at present, are costing this Nation some $40 billion in unemployment compensation, food stamps, and welfare. This is an average cost of $4,000 per person. This bill requests $6.2 billion to create 600,000 new jobs, a cost to the Government of approximately $10,000 per person. Surely, our money would be far better spent in restoring the health of our economy, than to perpetuate the illness of unemployment.

In addition to the positive job creating aspects of this legislation, H.R. 5247 also contains a countercyclical aid provision, giving States and localities urgently needed funds to help them restore basic services cut back or eliminated due to budgetary constraints. This is one of the most innovative economic programs ever conceived by the Congress, for it is designed to be a specific emergency grant program to meet a specific, and hopefully, short term problem: Excessive unemployment and massive cutbacks in basic municipal services.

For New York City, countercyclical aid will mean $138 million needed by the city to rehire several thousand police, firemen, and correctional personnel, laid off due to the fiscal crisis. Similar funds will be available to other States and localities to assist them in overcoming deficits in excess of $10 billion.

The tragedy of unemployment has struck millions of households throughout this Nation. Many of these people have the desire to work, only the opportunity to obtain employment has eluded them. This bill represents one of the most ambitious efforts to date, by this or any other Congress, to create jobs for the unemployed. Its importance to the current situation in this Nation cannot be minimized, nor can its future importance to stabilizing our economy be overlooked. But the most basic reason to support this override is this: It is far more prudent to pay people to work, than to do nothing. I hope my colleagues will agree with me on this point and join with me in overriding this veto.

Mr. OTTINGER. Mr. Speaker, it is regrettable that we find ourselves here today at all to discuss President Ford's veto of H.R. 5247, the Public Works Employment Act of 1975. It was my sincere hope that the administration might change its position on this bill and recognize the urgent need to provide Federal assistance and support for our State and local governments, not to mention the need to put Americans back to work on vital public works projects of lasting value.

While the President talks of cutting back on vital social services, he simultaneously has here vetoed a bill which could put 600,000 people back to work and eliminate the need for a substantial portion of those very services. And while he talks of giving State and local governments more responsibility, he has here vetoed a measure which would ease the heavy financial burden that these governments already face, much as a result of the Ford administration's economic "policy."

The contradictions in Mr. Ford's "policy" are apparent, but the substantive effects of those contradictions if this veto is not overridden would be tragic. Both New York State and Westchester County would continue to suffer unemployment at an unhealthy 10 percent—three or four times that in the construction trades. Cities such as Yonkers, which barely avoided default for the third time this week, would face complete financial collapse.

Prior to congressional passage of H.R. 5247, I wrote to the public officials and civic leaders in my district describing the bill and asking for their support. The bipartisan and overwhelming response of these men and women was most gratifying. That response should serve as a signal to every Member of this House that the issue we are discussing and voting on here today is an issue of people, jobs, and a viable economy on which there is overwhelming public consensus. Among those who wrote to President Ford or to me in support of this measure were:

LIST OF SUPPORTERS

Hon. Richard Brodsky (D-Hartsdale), County Legislator.

Hon. Joseph Carlucci (D-Port Chester), Village Trustee.

Hon. Vincent Castaldo (R-Yonkers), City Manager.

Hon. John DeRario (D-New Rochelle), County Legislator.

Hon. Wililam Davidson (R-Port Chester), Village Trustee.

Hon. Joseph Dzaluk (R-Port Chester), Village Mayor.

Hon. Nicholas Fusco (D-Port Chester), Village Trustee.

Hon. Steven Galef (D-Ossining), County Legislator.

Hon. Audrey Hochberg (D-Scarsdale), County Legislator/Minority Leader.

Hon. Daniel LaDore (R-Port Chester), Village Trustee.

Hon. J. Wilfred Manzo (D-Mount Vernon), County Legislator.

Hon. John F. McCrory (D-Port Chester), Village Trustee.

Hon. James J. McPoland (D-Yonkers), County Legislator.

Hon. Joseph Pisani (R-New Rochelle), State Senator.

Hon. Vincent Rippa (D-New Rochelle), Mayor.

Hon. Ronald C. Tocci (D-New Rochelle), County Legislator.

Hon. Edward M. Wheeler (R-Ossining), Village Mayor.

Hon. Carolyn Whittle (D-White Plains), County Legislator.

Charles Carino, President, Westchester Building Trades Council.

Mamaroneck Teachers Association.

Roger Pellaton, President, Greater Ossining Chamber of Commerce A. G. Paese, Secretary-Treasurer, Westchester County Association of Public Works Administrators.

Keith VanAntwerp, President, Briarcliff Teachers Association.

It is abundantly clear that the President has misread the mood and the wishes not only of the local public officials even in his own party, but of the entire Nation on this important and pressing issue.

It now falls to the House and Senate to exercise leadership for the Nation, for the sake of hundreds of thousands of unemployed Americans, for local governments throughout the land, and for our economy. H.R. 5247 passed the House last month by better than a three-fourths majority. I urge my colleagues on both sides of the aisle to join me in overriding the President's veto of H.R. 5247, this major public works and employment legislation.

Mr. GAYDOS. Mr. Speaker, our unemployment figures and a review of the Nation's economic condition clearly send out the alarm that we are in an emergency situation, requiring swift and effective action in Congress.

The Local Public Works Capital Development and Investment Act of 1975 is a commendable and responsible measure to counteract the many negative effects of serious unemployment levels. Regrettably, the President has refused to follow our lead. But even if the President cannot take the step of putting people back to work, we, as representatives of the American people, cannot be blind to their plight. We must muster the strength together to override the veto and combat joblessness.

Unemployment has already taken its toll not only in terms of money and production, but also in terms of the morale and spirit of our citizens.

Although the latest Labor Department statistics indicate a reduction in the ranks of the unemployed, the 7.3 million remaining unemployed must not be ignored. Overriding the Presidential veto on H.R. 5247 will accelerate further reduction in the ranks of the jobless.

A successful override will provide:

First. Jobs for 600,000 unemployed Americans;

Second. The construction of necessary public buildings and facilities; and

Third. Immediate relief for the seriously depressed construction industry where unemployment is most critical.

Additionally, title II of H.R. 5247 will provide Federal funds to assure the continuation of essential public services such as fire and police protection and health facilities.

Furthermore, contrary to the contention of the President that the cost of this legislation is too high, we must remember that not only will there be substantial savings in the unemployment benefits that these 600,000 workers now receive, but we will also see a net addition to the Nation's wealth in the form of new buildings and facilities constructed pursuant to this bill.

More specifically, the savings which will accrue from the continuation of public services provided by title II of the bill are even more significant. The value of police, fire and health services is immeasurably great, both in monetary terms as well as in the relief of human suffering caused by inadequate and unaffordable community services.

H.R. 5247 is a two-pronged endeavor to offer meaningful work to those in the construction and related industries and to fund essential public facilities. If we override the President's veto, we will have met a challenge to make an immediate positive impact on the economic scene.

Mr. SCHEUER. Mr. Speaker, President Ford's veto of the Public Works Employment Act of 1975 is yet another demonstration of his insensitivity to the critical unemployment problem facing this Nation—a problem especially critical in our urban centers. The President asserts that the cutting of both taxes and expenditures by equal amounts of $28 billion is the "best and most effective way to create new jobs * * * without risking a new round of inflation".

There is no reason to believe that the current 7.8 percent unemployment rate will be reduced by such tax cuts. But there is every reason to believe that our present slow economic recovery will act as a damper on capital investment by the private sector which would quickly respond to the needs of the unemployed. The economy has been just too unstable for the past year and a half for us to expect that capital realized from tax breaks will result in investment which would create new jobs. In addition, common sense would dictate that a tax cut yields fewer jobs then a direct jobs program.

Title I of this bill would provide funds to State and local governments for the construction, renovation, repair, or other improvement of public works projects. These funds are sorely needed by many urban centers which have had to allow their physical plants deteriorate because of the economic crunch in which they have found themselves. Also, these funds would provide relief to the crippled construction trade which has experienced a 24 percent unemployment rate for the past 2 years. Recent downward trends in the unemployment picture have not helped this industry which is usually resistant to minor fluctuations in the economy. It will take a sustained and healthy economic upswing before businesses will be willing to expand their physical plants thus providing jobs for those in the construction trades. It would seem infinitely more productive to provide jobs for those who wished to work rather than allow their income to slip from unemployment benefits to welfare benefits as is inevitable if they remain unemployed much longer.

President Ford contends that such a program would create "almost no new jobs in the immediate future" and that its "peak impact" will be in "late 1977 or early 1978." This just is not so. The bill expressly provides that the Secretary of Commerce must promulgate regulations for the implementation of this act within 30 days, that any application must be disapproved within 60 days or be deemed approved, and that the applicant must be able to demonstrate that work can commence within 90 days of approval. Such provisions insure that prompt relief for the unemployed would be forthcoming.

In addition, this provision insures that those areas which are most hard pressed —those experiencing 6½ percent unemployment—will receive priority consideration in their application for funds.

Title II of this act would provide money to States and localities so that desperately needed basic services can be maintained without an increase in taxes. Mounting unemployment has eroded the ability of many cities to continue to provide essential, even critically needed, services. The premise of title II is that it is not sound Government policy to let the quality of police and fire protection, trash collection, and public education be contingent on the state of the economy. In fact, the demand for public services increases with unemployment because, as people are less able to provide for themselves, they turn to the Government for assistance.

Contrary to President Ford's assertion, title II would not be inflationary. Its countercyclical assistance provision would trigger aid for ailing communities only when their unemployment levels were above 6 percent. Thus, instead of fueling inflation, title II would provide funding only for those localities whose tax base had been so severely eroded that their ability to provide services had been seriously impaired.

The Public Works Employment Act of 1975 is well considered legislation. Without rekindling unwanted inflation it will provide much needed assistance to our financially pressed communities and to those who are now, or may soon be, unemployed. I urge all my colleagues to join me in defeating this veto and, in so doing, speeding the movement of financial aid to this Nation's ailing communities.

Mrs. HECKLER of Massachusetts. Mr. Speaker, we face a most difficult question today in deciding whether or not to enact H.R. 5247 over the President's objections. A veto override is always a tough decision, but in this case it is even more so, because it involves the basic direction of our economic policy.

I have voted for H.R. 5247 twice before, and after careful consideration, I will vote today to override the President's veto. This bill is by no means perfect. I still have questions regarding the propriety of the Federal Government providing countercyclical aid to municipalities in fiscal straits. I am not insensitive to the argument that $6.1 billion authorization would contribute to the national debt to the extent that inflationary pressures might be increased. And I am philosophically committed to providing jobs in the long term through improvements in the business climate.

However, as the Representative in Congress from the 10th Congressional District of Massachusetts, I simply cannot ignore the paramount fact that unemployment in my home State is 11.6 percent, and in some of the cities and towns in my district, it is even higher. Massachusetts has not only suffered greater unemployment than the rest of the Nation, but it has also suffered it longer.

The people of Massachusetts simply cannot wait for a gradual recovery of private enterprise to take up the slack in employment. Indeed, even if our industries were operating at normal capacity, there still would not be enough jobs for all those who want to work. This condition is referred to by economists as a "structural unemployment" and I am all too familiar with the frustration and bitterness that this situation has produced.

The most shocking aspect of unemployment in Massachusetts is revealed in figures which I just received from the State division of employment security. At the present time, between 2,000 and 3,000 unemployed workers each week are using up the last of their Federal and State unemployment compensation, which for some totals 65 weeks. That means that each week, 2,000 to 3,000 more workers have nowhere to turn for help. How do we tell these people, who want to work, that they must wait for the business cycle to turn around? The answer is, we cannot.

As a Member of Congress, it is my obligation to represent the views of my constituents in the House of Representatives. I would not be serving the interests of my district if I voted against legislation that is so vitally needed.

The need for this jobs program was clearly demonstrated in Massachusetts last weekend, when the Joint Economic Committee held hearings in Fall River and Boston. At both sessions, witnesses pleaded for jobs. Unemployed workers spoke movingly about the utter lack of opportunity in the private sector. Reference was made to the continuing loss of jobs among Massachusetts industries, such as electronics firms and a large local brewery.

An important point to remember about H.R. 5247 is that the Federal funds would be spent for production of public facilities, and not merely to pay workers for doing nothing. This aspect of the proposal should not be overlooked, because such public works projects are vitally needed in many municipalities. For example, the cities of Taunton and Attleboro in my district desperately need Federal funds to improve their water systems. This legislation could provide the type of assistance needed, and at the same time create jobs. It is the type of proposal that can work, and I support its enactment.

Our first economic priority must be to provide more jobs. Without jobs, there can be no lasting economic recovery. Businesses will not find enough customers for their products unless more people have disposable incomes, and that will not happen unless more people are put to work. The "natural laws of economics" provide for eventual balance, but those forces work very slowly, and our society cannot wait for the millennia.

Mr. STOKES. Mr. Speaker, I rise in support of the House measure to override President Ford's veto of H.R. 5247. On January 29, 1976, 321 Members gave overwhelming approval to H.R. 5247, only to have the President callously veto this bill.

Mr. Speaker, in January of 1976 the national unemployment rate aberrationally declined from 8.3 to 7.8 percent while the unemployment rate for blacks remained at twice the national figure. Despite the 0.5-percent decline in unemployment, nearly 8 million Americans are still unemployed. Moreover, nearly 5,800,000 persons receive unemployment benefits totaling $19 billion a year. Mr. Speaker, Americans need jobs. This is clear. The Congress must continue to take positive measures to remedy the unemployment problem.

The override of the veto of the Public Works Employment Act of 1975 is a step in the right direction. H.R. 5247 creates over 600,000 jobs at a cost of $6.2 billion. And what is most significant it creates jobs at a time when Mr. Ford has proposed massive cutbacks in essential health, education, and social service programs.

Mr. Speaker, in the past few weeks the Congress has voted on measures to preserve and create over 1 million jobs. Thus, let us not be deceived by the President's veto message to H.R. 5247, for the President's veto message disregarded the need of the American people for job-creating legislation.

Mr. Speaker, in his characterization of the Public Works Act as "an election year pork barrel," the President proved himself to be economically naive. He erroneously stated that H.R. 5247 would create 250,000 jobs. The Congressional Budget Office, the Council on Environmental Quality, the AFL–CIO Building Trades Council, and the Commerce Department have jointly estimated that 655,000 jobs would be created. Thus the creation of 600,000 jobs is a cautious estimate, while the 250,000 figure is absurd.

The President has also received considerable media mileage for his misestimate that each job would cost $25,000. In fact, $6.2 billion for 650,000 jobs averages out to $9,538 per job. This represents cost efficiency and is not "intolerably high." Mr. Speaker, clearly the President's figure is the result of inaccurate assumptions. The President has also charged that H.R. 5247 would create a new "urban renewal program." Mr. Speaker, once again the President has missed the boat. What the bill does is quickly create jobs. Moreover, these jobs would continue into 1978, long after the "pork barrel" runs dry. In addition this immediate construction will provide needed services. Streets will be paved; schools, museums, and police and fire stations will be modernized, while waste treatment and pollution facilities will be installed.

One need only visit an urban community to realize that these improvements are long overdue. Or better yet, President Ford needs to visit our cities to see that these services are needed.

Obviously the President has not done this, for his alternative to the Public Works Act is woefully deficient. H.R. 11860 is the administration's substitute bill. This measure has three major faults. First, it is underfunded. An estimated $780 million to $900 million does not have the job-generating capacity of a $6.2 billion program. Mr. Speaker, the President's mathematical gymnastics should not convince us otherwise. Second, contrary to the President's statement that economic policies should encourage growth in the "private sector," the few jobs that H.R. 11860 does create, are in the public sector. The President should take a closer look at the Public Works Act which he vetoed. Nearly 400,000 of the jobs created by this legislation are in the private sector. Third, H.R. 11860 suffers from an affliction common to Ford's entire economic policy. The President's policies are linked to nonexistent legislation. The obvious result is patchwork legislation like H.R. 11860.

Mr. Speaker, in our deliberations today let us not be dissuaded from the task before us. Let us not be convinced that the President's substitute can take the place of our many months of exhaustive hearings, examination, and discussion of H.R. 5247. In passing the Public Works Employment Act of 1975, the Congress evidence its commitment to a full job economy. Let us renew that commitment today. In voting, let us say to the President that the year of the Bicentennial is not the time to look backward. Rather it is the time to look forward. It is the time to legislate rationally and responsibly. It is the time to enact job-creating legislation.

Mr. Speaker, I ask you to join with me today, as you did in the override of the President's ill-fated veto of the Labor/HEW appropriations, and as you joined me in the passage of the Railroad Revitalization and Rehabilitation Act and the emergency employment projects amendments. Let us override President Ford's veto to the Public Works Employment Act of 1975. Let us match President Ford's "pork barrel" rhetoric with the realism of an American people who want jobs.

Mr. FORD of Michigan. Mr. Speaker, we are today voting on the passage of legislation over a Presidential veto; legislation adopted by this Congress to help solve our Nation's most serious problem, unemployment. Last week, the President vetoed H.R. 5247, the Public Works Employment Act, which is aimed at putting people to work building important public projects. This legislation, which I cosponsored last year, would create more than 650,000 jobs, and provide direct financial assistance to local communities which have been hit especially hard by unemployment.

Mr. Speaker, the President of the United States may not think unemployment is a serious problem, but we know better, and the people of this Nation know better. This legislation is one of our most promising attempts to start putting America back to work.

The bill authorizes $2.5 billion for 100 percent Federal funding of local public works projects on which construction can begin within 90 days. It also provides $1.6 billion in "countercyclical" funds to help State and local governments provide basic services during the unemployment crisis.

Other provisions of the bill include $1.4 billion for construction of waste treatment facilities, to aid in water pollution control; $500 million for the job opportunities program, and $225 million for urban economic development.

Mr. Speaker, we all recognize the need for action. The economic situation is serious, and unemployment lies at the root of the problem. Passing this legislation will put the unemployed back to work. We will not see our auto workers back at work until the people who should be buying cars have paychecks. The President, in his veto message, stated that our bill would do little to create jobs, and that the cost is too high.

Let me state emphatically that he is wrong—dead wrong.

The AFL-CIO Building Trades Council has estimated that title I—the public works section of the bill—would alone create 250,000 jobs in construction and related industries.

The Congressional Budget Office has estimated that the countercyclical provision would underwrite another 125,000 jobs.

The Council on Environmental Quality estimated that the water pollution grants would stimulate some 140,000 jobs.

The President's own Commerce Department estimated that the funds for urban economic development, and the job opportunities program, would create still another 140,000 jobs.

This adds up to about 655,000 jobs. The "ripple effect" of putting this many people back to work would stimulate the economy and create still additional jobs. How can the President say our legislation will not provide work for the unemployed?

The President says the cost would be too high. Again, I say he is thoroughly, emphatically—and tragically—wrong.

The bill would create some 650,000 jobs, at a total cost of $6.2 billion. This is something over $9,500 per job. Of this, the Federal Government would recover at least 20 percent in the form of income taxes.

We are probably talking about a cost of less than $8,000 each to put these 650,000 Americans back to work—off the unemployment rolls and off the welfare rolls.

If the President really thinks this price is too high, I can only say once again that he is wrong. I am sure the 650,000 Americans who would find work—and their families—would agree with me.

Mr. Speaker, in my congressional district, some communities have had unemployment rates this past year of nearly twice the national average.

In these same communities are long delayed and badly needed public works projects, which could be carried out under this legislation—municipal buildings, community centers, jails, sewers, parking areas, and recreational facilities.

The bill is designed to put these projects into action quickly, and to put people back to work quickly. Grants would be made only for work which could be started within 90 days. The Commerce Department is required to act within 60 days on all applications, and failure to act within that time would be deemed as approval. Our local city, county, and township officials are ready, willing, and able to give us immediate action.

Mr. Speaker, I urge my colleagues here today to join me in voting to override this latest Presidential veto, and help restore jobs, and self-respect, to that growing army of unemployed Americans.

Mr. ROYBAL. Mr. Speaker, I rise in support of the motion to override the veto of H.R. 5247, the Public Works Employment Act of 1976.

This bill represents a major legislative initiative to reduce unemployment in this country. Although the economy appears to be improving, the one lagging statistic has been the continued high unemployment rate. Even with the steep decline announced last month the unemployment rate is still hovering near the 8-percent mark. By historical standards, this is an abnormally high figure, and the economists project only a modest decline in the rate for the rest of this year.

The President's veto of this bill is in line with his belief that the economic recovery has to proceed at a slow pace in order to be successful. Unfortunately, he overlooks the human tragedy involved in long-term unemployment. There are more than 7 million unemployed people. They and their families are suffering economic hardship as well as the psychological trauma associated with not having a job.

The President contends in his veto message that the bill will not provide employment opportunities until 1977 or 1978. But H.R. 5247 authorizes grants to public works projects on which onsite labor can begin within 90 days of a project's approval. Further, it specifies that applications must be acted upon by administrative agencies within 60 days. This procedure will insure that the money will be spent and that jobs will be created this year.

Second, the President contends that the funds are not well targeted. However, this criticism overlooks clear intent of the bill's provisions. The formula in title II, the antirecession grants to local governments, targets money into communities with above-average unemployment rates. These extra dollars will be pumped into the most economically depressed areas and should help hasten the economic recovery of these communities.

Next, the President declared that the bill will only provide 200,000 jobs. However, well-respected independent sources have indicated that the bill will provide jobs for 600,000 to 800,000 people. Although the exact number of jobs to be created by the bill is difficult to ascertain, we have learned that it costs the Government less in the long run to help finance a job than it does to pay for massive unemployment benefits. Last year, the Government paid out more than $19 billion for unemployment benefits. If this had financed a massive jobs bill, it would have significantly reduced the unemployment rate.

Finally, the President charged that the bill would result in excessive Federal spending. However, all of the funds authorized in this bill are included in the budget resolution passed by the Congress. If the authorized level of expenditure was not provided for in that resolution and if it really caused excessive Federal expenditures, the bill would be subject to a point of order on the floor. The President's argument is a spurious one that lacks credibility when analyzed under our budget procedures.

Mr. Speaker, the jobs created by this bill would have a salient effect on the high unemployment rate in this country. They would provide a ray of hope for millions of Americans who desperately need that hope. The President's policy of inaction is one that will lead to continued massive unemployment for the rest of this year and possibly the rest of the decade. For these reasons, I urge my colleagues to vote to override the veto of H.R. 5247.

Mr. WRIGHT. Mr. Speaker, does the gentleman from Ohio have further requests for time?

Mr. HARSHA. No, I do not, Mr. Speaker.

Mr. WRIGHT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we come to an historic moment. In a very few minutes we shall be called upon to make a fateful decision. The votes we cast and the decision we make can have a profound effect upon the direction in which this country moves.

We did not seek a confrontation with the President over this issue. We very carefully crafted this bill in such a way that it would maximize employment in the private sector with the multiplier effect that this sets in motion throughout the entire economy.

We very carefully drafted it in such a way that it would comply with the budget that has been adopted by this Congress.

These two objectives would seem to be in harmony with many of the things the President has been saying. But the bill was, of course, a congressional initiative.

When it was enacted by such an overwhelming bipartisan majority on January 29 of this year, by a vote of 321 to 80, we who had worked on this legislation pleaded with the President to sign the bill.

Now for reasons his advisers seem to feel adequate, he has vetoed the legislation.

Those advisers tell the President that this bill is not needed now. Not needed now? There are more than 7 million Americans who cannot find work. They need it now.

In the building trades and in the construction industry, unemployment is approaching 20 percent nationally and hovers above 40 percent in certain areas. They need it.

So long has the recession been prolonged that every month an additional 200,000 people exhaust their unemployment compensation benefits and go off the official rolls, but they are still unemployed. They need it. Most emphatically, they need it now.

The increasing number of communities which are having greater and greater difficulty in selling their bonds, some of which have found it necessary to lay off such essential workers as police, fire, and health workers certainly need it.

The President's advisers have told him that it is wasteful and extravagant.

Let us ask ourselves, is it more wasteful to spend $6.2 billion putting Americans to work in gainful activity from which the Nation and communities throughout the Nation will have something concrete and useful to show? Or is it more wasteful to continue the present policy which pays out $19.4 billion, three times as much, this year in unemployment compensation?

As to waste, I would direct my colleagues' attention to the wisdom of Franklin Roosevelt who said the greatest extravagance that any nation can indulge is the waste of its human resources through the debilitation of unemployment.

The President has seen fit to characterize this bipartisan effort of the Congress as a quick fix, as a gimmick, and as election year pork barrel. Yet at the same time he says it does not go into effect quickly enough. He seems to object that it will have a continuing impact into 1977 and 1978.

I do not really know which he means.

Admittedly it will produce several hundred thousand jobs this calendar year for Americans who need them. Admittedly it will have a continuing effect into 1977 and 1978. But its purpose is not to influence the election; its purpose is to abate unemployment which is a singularly nonpartisan evil.

The anguish which it visits upon its victims is no respecter of person or party.

This can be a bipartisan bill. Indeed, if those 62 Members of the President's party whose convictions led them to vote for this bill when it was passed in this House will stand firm in support of those convictions today, it will be seen as a bipartisan bill.

I will make this promise to the President, that if we enact this legislation, his objections notwithstanding, and if as a result the unemployment rate drops another percentage point, I shall not quarrel with him as to who is due the credit.

If we do our job, there will be credit enough to go around, and we all can have a hand in that today.

When the bell rings within a few minutes for our votes, ask not for whom the bell tolls. It tolls for you and it tolls for me. It tolls for America and for our 7 millions of unemployed. And it tolls for our future.

I shall simply be grateful that we in the Congress on both sides of this aisle have been able to join together and give a convincing demonstration that we are willing to make this system work, and that we are determined to make the system work, and that we are going to get this Nation on the road to recovery again.

Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 319, nays 98, not voting 15, as follows:

[Roll No. 62]

YEAS—319

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
AuCoin
Badillo
Bafalis
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Carter
Chappell
Chisholm
Clausen, Don H.
Clay
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Esch
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Gonzalez
Goodling
Green
Gude
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Jeffords
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kemp
Keys
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pike
Pressler
Preyer
Price
Pritchard
Railsback
Randall
Rangel
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Sikes
Simon
Slack
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—98

Abdnor
Archer
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Bell
Bennett
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Clancy
Clawson, Del
Cleveland
Collins, Tex.
Conable
Crane
Daniel, Dan
Daniel, R. W.
Devine
Dickinson
Duncan, Tenn.
du Pont
Erlenborn
Findley
Frenzel
Gibbons
Goldwater
Gradison
Grassley
Guyer
Hagedorn
Hansen
Harsha
Holt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Kelly
Ketchum
Kindness
Lagomarsino
Latta
Lujan
McClory
McCollister
McDonald
McEwen
Madigan
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Myers, Pa.
Passman
Pickle
Poage
Quie
Quillen
Regula
Rhodes
Robinson
Rousselot
Runnels
Satterfield
Schneebeli
Sebelius
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Stanton, J. William
Steelman
Symms
Talcott
Taylor, Mo.
Thone
Treen
Vander Jagt
Wampler
Whitehurst
Wilson, Bob
Winn
Wylie

NOT VOTING—15

Aspin
Cederberg
Conlan
Eilberg
Eshleman
Hinshaw
Kazen
Landrum
Mills
Rees
Sisk
Steiger, Ariz.
Stephens
Teague
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Eilberg and Mr. Kazen for, with Mr. Teague against.

Mr. Sisk and Mr. Rees for, with Mr. Conlan against.

Until further notice:

Mr. Aspin with Mr. Landrum.

Mr. Mills with Mr. Stephens.

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

GENERAL LEAVE

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the veto override of H.R. 5247.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPORT ON SENATE CONCURRENT RESOLUTION 88, AUTHORIZING PRINTING OF ADDITIONAL COPIES OF OPEN HEARINGS AND FINAL REPORT OF SENATE SELECT COMMITTEE ON INTELLIGENCE ACTIVITIES

Mr. BRADEMAS, from the Committee on House Administration, reported a privileged report to accompany the Senate concurrent resolution (S. Con. Res. 88, Rept. No. 94–835) authorizing the printing of additional copies of the open hearings and the final report of the Senate Select Committee on Intelligence Activities, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, MONDAY, FEBRUARY 23, 1976, TO FILE REPORT, ALONG WITH SEPARATE OR MINORITY VIEWS, ON H.R. 11893

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight Monday, February 23, 1976, to file a report, along with any separate or minority views, on H.R. 11893, a bill to increase the public debt limitation through June 30, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT TOMORROW, FRIDAY, FEBRUARY 20, 1976, TO FILE A REPORT ON JOINT RESOLUTION MAKING SUPPLEMENTAL APPROPRIATIONS FOR LEGISLATIVE BRANCH

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tomorrow night to file a report on a joint resolution making supplemental appropriations for the legislative branch for fiscal year 1976 and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MAKING IN ORDER CONSIDERATION ON TUESDAY NEXT OR ANY DAY THEREAFTER OF HOUSE JOINT RESOLUTION 811, MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE LEGISLATIVE BRANCH FOR FISCAL YEAR 1976

Mr. MAHON. Mr. Speaker, I ask unanimous consent that it may be in order in the House on Tuesday next or any day thereafter to consider House Joint Resolution 811, making supplemental appropriations for the legislative branch for fiscal year 1976 and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

VETO OVERRIDE

(Mr. ALLEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ALLEN. Mr. Speaker, following the most eloquent and persuasive statement of the Democratic Caucus on yesterday, I received a telegram from my distinguished predecessor, the Honorable Richard H. Fulton, requesting me for reasons which are stated that I vote to override the President's veto.

Mr. Speaker, the telegram is as follows:

NASHVILLE, TENN.,
February 18, 1976.

Representative CLIFFORD ALLEN,
Washington, D.C.

DEAR REPRESENTATIVE ALLEN: You are well aware, no doubt, of the vote scheduled for tomorrow to override the veto of the public works/countercyclical bill (HR 5247), debate on this important legislative proposal has been extremely thorough. The pressing need for this legislation and the assistance it would provide for cities and counties has been clearly recognized by the Congress which has given its overwhelming approval to the bill. It is necessary, however, for the Congress to again demonstrate its desire in this matter. I urge you to do so by voting to override this veto.

Sincerely,

RICHARD H. FULTON,
Mayor, Metropolitan Nashville-Davidson County, Tenn.

LET US BECOME WORK-ORIENTED

(Mr. BRINKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRINKLEY. Mr. Speaker, this afternoon in a special order I will emphasize the jobs ethic which I feel to be an important one to consider in this chapter of the life of our country. Somehow, we must reverse the process and pattern of Federal assistance without a work requirement. Somehow we must see the big picture and understand the fallacy of slashing military, postal, and civil service jobs—or even trimming them by furlough—in a time of unacceptably high unemployment. Are not jobs preferable to the unemployment benefits and welfare to which these men and women will be relegated? Will not the cost be equivalent either way to the taxpayer, and is not the better alternative the productive one?

Just this morning I heard over the radio that unemployment benefits in 1975 amounted to $19 billion. Could this be right? One billion dollars alone is a lot of money. Possession of that amount on the first Christmas, with an expenditure of $1,000 every day since would still leave the owner with $271 million today.

Earning one's livelihood is conducive to pride and character; to national backbone, when considered nationally.

I do not approve of high-salaried public works jobs. But the goal of public service as an alternative to welfare has every merit. It should be an accepted fact that individuals should render whatever work they can as a condition to receiving subsistence in the form of tax moneys.

There is something deeply wrong when the good land which is ours cannot be meshed with the good people which we have, to provide a work ethic again.

We must reverse the drift and then the rush to idleness. Let us become work-oriented once more.

DRASTIC CUTBACKS IN POSTAL SERVICES

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, this Saturday, February 21, the U.S. Postal Service will put a drastic cutback in services into effect. Branch offices, with what they claim are "low revenue and high operating costs," will now be closed on Saturdays.

In the 32d Congressional District in California, nine post offices will be closed in Long Beach alone. Other stations that will be affected include those in Harbor City, Lomita, San Pedro, Torrance, and Wilmington. As a result of this policy, only 10 offices will be open Saturdays between 9 a.m. and noon in the 906, 907, and 908 Zip code areas.

The Postal Service says that this is a necessary economy move aimed at saving manpower and operating costs. However, the public is very skeptical about the situation—and they should be. All we have heard from the U.S. Postal Service lately are trends towards higher rates and diminishing services.

If these trends continue, the Postal Service will come under even more serious question about the efficiency of their operation—and the Congress may have no choice but to take a hard look at the way the Service is being run.

ALLEGED DISCLOSURE OF INTELLIGENCE MATERIAL

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, today I am introducing a resolution calling for a complete investigation into the disclosure of the House Select Intelligence Committee report material, and if any Member should be found implicated or found guilty, it seems to me it would be the action of the House to expel such a Member as is provided under the Constitution. If any staff member were involved they should be promptly fired.

Mr. Speaker, I have had the opportunity in the last few days of talking to American citizens from around this country, and I can attest to the deep concern which they have concerning the Members of Congress and the members of the staffs who would allow such information to get out to the press after the Congress itself voted not to have it released. I think it is outrageous, and I think we must act firmly in order that the public knows we are concerned about what we do ourselves in this House to protect our national security.

FARM CENSUS REPORT REQUIREMENTS SEEN AS BUREAUCRATIC OVER-APPROACH

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DE LA GARZA. Mr. Speaker, I recently received from a farmer living in the 15th District of Texas, which I represent, a disturbing communication which I wish to share, in part, with my colleagues. This gentleman sent me a copy of the 1974 Census of Agriculture form which, as he says:

> I am being forced to complete against my wishes and under the threat of possible fine and imprisonment.

And then this farmer from my district went on to say:

> I have been a farmer most of my life, and consider myself to be a successful farmer; however, I do not have a great deal of formal education and must rely on accountants and attorneys to help me in many of my business matters. My farming operations cannot be properly conducted on the basis of records which match or make readily available the information inquired about in the enclosed census form, and I am going to have to pay my accountant for a conference which may last the better part of a day in order to complete the form in question. This is time and money which I can ill afford.

Mr. Speaker, I understand the value and necessity of the farm census. But I am wondering if this is not another case of bureaucratic over-approach. The burden of paperwork imposed upon small business enterprises—which certainly include most farms—has become almost too heavy to bear. A bill I have introduced—H.R. 323—is designed to eliminate many of the written requests from Federal agencies and the unnecessary forms demanded by them. I respectfully commend H.R. 232 to the attention of my colleagues.

PRIVILEGES OF THE HOUSE—INQUIRY INTO CIRCUMSTANCES SURROUNDING PUBLICATION BY THE VILLAGE VOICE AND DANIEL SCHORR

Mr. STRATTON. I rise to a question involving the privileges of the House, and I offer a privileged resolution.

The Clerk read the resolution as follows:

H. RES. 1042

Resolution requiring that the Committee on Standards of Official Conduct inquire into the circumstances leading to the public publication of a report containing classified material prepared by the House Select Committee on Intelligence

Whereas the February 16, 1976, issue of the Village Voice, a New York City newspaper, contains the partial text of a report or a preliminary report prepared by the Select Committee on Intelligence of the House, pursuant to H. Res. 591, which relates to the foreign activities of the intelligence agencies of the United States and which contains sensitive classified information; and

Whereas the House, pursuant to H. Res. 982, adopted January 29, 1976, resolved that the Select Committee on Intelligence not release any report prepared by it pursuant to H. Res. 591 until the report is certified by the President as not containing information which would adversely affect the intelligence activities of the CIA in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government; and

Whereas it appears that Daniel Schorr, a correspondent for the Columbia Broadcasting System, and a member entitled to admission to the Radio and Television Galleries of Congress, has allegedly admitted publicly that he had obtained a copy of the report referred to above and, as a result of his alleged personal disagreement with the action of the House in adopting H. Res. 982, allegedly took actions which resulted in the publication of portions of this aforementioned report in the Village Voice; and

Whereas it therefore appears that the aforementioned alleged actions of the said Daniel Schorr may be in contempt of, or a breach of the privileges of, this House: Now, therefore, be it

Resolved, That the Committee on Standards of Official Conduct be and it is hereby authorized and directed to inquire into the circumstances surrounding the publication of the text and of any part of the report of the Select Committee on Intelligence, and to report back to the House in a timely fashion its findings and recommendations thereon.

The SPEAKER. The gentleman from New York (Mr. STRATTON) is recognized for 1 hour.

Mr. STRATTON. Mr. Speaker and Members of the House, I would like to advise Members of the House that copies of this resolution are on the front desk and on the other desks if any individuals have not had an opportunity to get a copy.

There is one amendment in these copies, and that is that the resolution, as presented, directs the Committee on Official Standards of Conduct rather than the Committee on Rules to undertake the investigation designated in the resolution.

Mr. Speaker, I know that Members are anxious to catch planes to get back to their districts, and I hope that it will be possible to conclude this activity with dispatch; but I do believe that it is a matter of considerable concern to the House and to the people.

This resolution addresses itself to the problem of the publication of a report of the House Select Committee on Intelligence after the House had voted better than 2 to 1 on the 29th of January 1976, not to have that report published.

Surely, Mr. Speaker, this should be a matter of deep concern to Members of the House because it goes directly to the privileges of the House and to the integrity of our proceedings as set out in rule IX of the rules of the House.

Let me try to set forth before the Members of the House what we know for certain about this situation at the present time.

Mr. Speaker, what we know is that a copy of the report of the House Select Committee on Intelligence, or of a preliminary report, was published in the Village Voice newspaper on February 16, which was subsequent to the action that the House took on the 29th of January. I am not sure whether any Members have had an opportunity to see this document, but this is the February 16 issue of the Village Voice: "The Report on the CIA That President Ford Does Not Want You To Read."

Incidentally, on yesterday a second segment of this report was published in the Village Voice for February 23: "How Kissinger, the White House, and the CIA Obstructed the Investigation."

Mr. Speaker, we all know that subsequently Mr. Daniel Schorr, a correspondent of the Columbia Broadcasting System and also a man accredited to the television and radio galleries of the House of Representatives, was quoted in the press as saying that he gave a copy of this report to the Village Voice. He also was quoted in the press as saying that he did so because he disagreed with the action that this House took on the 29th of January by a 2-to-1 margin and felt a dictate of conscientious obligation to make it public in spite of what the House had done.

Therefore, Mr. Speaker, it would appear, on the surface of it at least, that this kind of conduct might be in contempt of the House of Representatives or, at the very least, a breach of the privileges of the House.

Rule X, for example, says that the privileges of the House concern the integrity of our own proceedings.

Certainly the action which we thought we took on the 29th of January was vitiated by the action which led to the publication in the Village Voice. This action of Mr. Schorr was taken, as I say, by an individual who has been granted the privilege of serving as a correspondent in the House. It is not like somebody coming in off the street.

So, those are the facts that are set forth in the resolution. The resolving clause, which, of course, is the guts of the preferential resolution, directs the Committee on Standards of Official Conduct to examine into the whole matter of the publication of the report in the Village Voice and to report back to the House in a timely fashion its findings and its recommendations on the matter.

It ought to be made clear that this resolution itself does not pass any judgment on Mr. Schorr or on anybody else. It simply directs the Committee on Standards of Official Conduct, and I believe that committee should be equipped to do this job, to examine all of the facts about the publication and determine what action might be appropriate.

The "whereas" clauses focus on Mr. Schorr simply because he is the only individual that we know for certain who was connected with this. He came forward. He is the only one who came forward and acknowledged that he transmitted the document in his possession to the Village Voice for publication.

This resolution would empower the Committee on Standards of Official Conduct to go into the whole matter. So that, if it wished, it could inquire as to where he got the report, whether he got it from the CIA, as has been suggested, whether he got it from the staff of the

Select Committee on Intelligence, whether he got it from Members, or what have you.

Let me also make it clear, again, that this resolution does not in itself make any charge with respect to Mr. Schorr, so that anybody who votes for it is not foreclosing the case. I happen to believe that his was a contemptuous action, but this can only be determined for sure when all of the facts have been presented to an appropriate committee of the Congress. We cannot proceed just on the basis of a newspaper report. So it would be up to the committee itself to examine the case and get the facts. They might want to talk to Mr. Schorr and determine exactly what happened.

Certainly we have here a prima facie case that the privileges of this House have been breached, and the committee should determine what the situation was and should also recommend to the House what action should be taken.

There are precedents in the House going back all the way to 1790 for the House to exercise contempt action over individuals on the outside. For example, two gentlemen were put in the clinker, one for about 2 weeks, and in the other case 3 weeks, for an attempt to bribe a Member. There have been other such actions.

I am not sure whether this approach is appropriate in this case or not. It should be up to the committee to decide what to recommend. Or it is possible that the committee might recommend, at the very least, that in consideration of what would appear to be at least, in commonsense language, a contemptuous action on the part of someone to whom we have extended the facilities of the radio and television gallery, that we should withdraw from him the privileges of membership in that gallery.

This is what the resolution does.

Let me just say a couple of words about why I think it is important that we should consider this resolution today and why I think we should vote in favor of it. This House of Representatives and the Senate, as well, have been spending much of the past year looking into our intelligence proceedings. We have been undertaking to examine in detail exactly how we could best exercise the necessary oversight over intelligence operations; and I certainly think that we should exercise oversight over them.

But it has also been increasingly clear, particularly in recent months, that there has been from these investigations a steady hemorrhaging of our intelligence secrets and our intelligence procedures. That hemorrhaging has certainly damaged the reputation of the Congress, and I do not doubt that it has also damaged the ability of our intelligence operations to function. This, I believe, was why the House voted rather surprisingly on the 29th of January by a vote of 2 to 1 to halt the publication of the report from the Select Committee on Intelligence until those classified items of sensitive information, which could adversely affect intelligence activities either of the CIA or other agencies, could be removed from it.

I do not think that many people expected that the House would take that action, but I think the Members took the action, somewhat unexpectedly, because we had begun to hear from the people back home that they do not want all of our secrets leaked in the newspapers and on television, and that they think it is not a very smart move at a time of some crisis that we should provide the Soviet Union, and anybody else who may wish us ill, with all of the details as to how we acquire our information.

It seems to me that this resolution begins to give us now a handle for demonstrating that we want to do more than talk about preventing these leaks, that we want to begin to move against them. This would be the beginning, it seems to me, of implementing and following on through with the action that we took on January 29 to stop the flow of these secrets.

Mr. Schorr thinks that there is a higher law apparently than the activities of the Congress of the United States, and he refers to a conscientious overriding obligation. It seems to me that this is not unlike some of the attitudes which prevailed in the White House during the Watergate matter. People down there felt that they were above the law too.

I believe that if this Congress does not vote today to undertake to seek out what happened and to see if we cannot take some kind of punitive action under the law against those who are responsible for these leaks, we will be derelict in our duty.

Mr. Speaker, I just want to conclude my remarks, and then I will be happy to yield to anyone who wants me to yield.

I would like to make it clear, Mr. Speaker, to the Members of the House that I am not challenging the principle of the freedom of the press. Before I came to this body I happened to be a radio and television news commentator myself. I think I know something about the news business, and I certainly support, and have supported, the freedom of the press. There is no question but that the presentation by Mr. Schorr of the contents of whatever document he received on his own television show is protected by the Constitution. There is no question but that the publication of the document that he gave to the Village Voice is also protected by the Constitution. But I submit, as one who is not a constitutional lawyer, that there is a difference when it comes to Mr. Schorr's handing to the Village Voice for publication the document that he obtained.

That is not in my judgment protected by the Constitution. I do not think, for example, if some individual had stolen the Pentagon papers and then given them to the New York Times, although the New York Times, as we found out, was protected in publishing the Pentagon papers, that the gentleman who, let us assume—I am not saying this is what happened but let us assume it had been brought about this way—had broken in and entered to get those papers would be immune from prosecution under the freedom of the press provisions.

Actually the press accounts of this Village Voice matter suggest that Mr. Schorr actually obtained the report which he made available to the Village Voice with the understanding that the report was going to be released very shortly by the committee. This is a procedure that is certainly not unknown in the House of Representatives. If we are going to put out a document, especially a long and complicated one, we will often issue it and say "Hold for release" and we may put a particular date on, or we may put a particular set of circumstances on, and that gives the newspaper reporter time to read the report and digest the information before the actual release date comes along. It may have been that this was the situation under which an accredited correspondent got the document; and then when the House of course decreed that the document should not be released, it would seem to me the accredited correspondent had a clear-cut obligation to respect that decision, considering the circumstances under which he had gotten the document, and that he had no right either morally or legally to go out and promote publication.

One other point I would like to mention, so that I am sure the Members have the full facts before them, is that, again according to the press reports, Mr. Schorr really wanted to get this thing made into a book and he shopped around for apparently several publishers and nobody was too much interested in it. So he finally ended up with the Village Voice. I do not know whether that is going up or going down. But at any rate, according to the press account this transaction was accompanied, as publication of the book would have been accompanied, by an exchange of money, and he got some money which was turned over to a fund, as I understand it, for protection of the freedom of the press.

I do not know whether that makes this transaction more reprehensible or not, but I would observe to Members that the New York Times, which probably takes second place to no one in its concern for freedom of the press, has already excoriated Mr. Schorr in its editorials on this particular point.

Let me make one more point, if I may, and then I will be happy to yield to my friends who want to make comments. I believe that the people themselves do favor action taken against those who are responsible for leaking some of our secrets, and according to the CIA and the intelligence people this report includes a number of highly classified items whose release can damage our intelligence capabilities.

I know that it is not particularly popular to appear to be taking on the press, and I imagine that is something that many Members are concerned about. But I have tried to suggest that this is not a matter of protecting freedom of the press. What we are dealing with here is separate action, not the publication, not the broadcasting, but something else. I believe the people of the United States who send us down here to try to protect our country for a period of 2 years want us to act to protect our secrets.

How can we exercise any kind of oversight and intelligence control under either the present arrangement or under the new arrangement that President Ford wants us to approve according to his recommendations the other day—how can we exercise any kind of intelligence oversight unless we have the capability of protecting our vital secrets themselves?

This is the first step, and I think it is an important step, and we do not have to take it on the say so of SAM STRATTON. We leave it up instead to one of our distinguished committees, up to them to determine what the facts are, up to them to report back in timely fashion. And so let us now show the American people that we in the House of Representatives do recognize the danger that these leaks pose, and that we are prepared to do our constitutional duty as a legislative body to protect our people.

Mr. Speaker, it is my understanding that if I were to yield for any other purpose than the purpose of debate I would like the floor, and therefore, I will yield only for purposes of debate, and I am happy to yield to my distinguished friend, the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Speaker, in supporting the resolution offered by colleague from New York (Mr. STRATTON), I want to emphasize that the principal impact of our House select committee should be to recommend improvements in the intelligence community, including the strengthening of our intelligence agencies consistent with the recommendations some of which have been offered by the Majority and others by Minority Members of the House Select Committee.

Mr. Speaker, it would be completely unrealistic to fail to recognize that the egregious leaks which have occurred in the course of our committee's work including wholesale divulgence of classified material entrusted to our committee—are diverting the attention of this House from its main task of restructuring and strengthening our intelligence capabilities—and from providing appropriate and responsible Congressional and Executive oversight of all foreign intelligence activities—and projects.

Mr. Speaker, it is my firm belief that unless the House supports the privileged resolution of the gentleman from New York—and establishes a mechanism for investigating the source of the leaks and the unauthorized divulgence of classified information, we will be handicapping ourselves in our efforts to restore credibility and confidence in the Congress to investigate and recommend improvements for the intelligence community.

Mr. Speaker, I question the wisdom of initiating any contempt of Congress proceedings against representatives of the media. Indeed, our efforts should be directed against those persons—who have authorized access to the classified material of our select committee—and who violated the trust reposed in him, her or them in making available to the media such classified information.

Mr. Speaker, in addition to the damage to our national security, the injury to our foreign affairs and the jeopardy in which we may have placed foreign nationals who have cooperated with our intelligence personnel there is the equally serious question as to how this House of Representatives and its committees are to handle classified material in the exercise of its investigative and oversight roles.

Mr. Speaker, the privileged resolution before us addresses itself directly to these critical problems—problems which require our immediate attention and deserve responsible and prompt answers.

Mr. Speaker, as one who has supported the establishment and activities of the Select Committee on Intelligence and as one who has served as the ranking minority member of this committee, responsible in my view, for delivery to the committee of large volumes of classified information, I have a direct individual, as well as official, interest in seeking to expose those who may have violated the trust and confidence which enabled our committee to receive such classified information in the first place.

Mr. Speaker, I support the resolution of the gentleman from New York, and I hope that following its adoption we will be able to get to the bottom of the problems of leaks which now plague us and that we can contemporaneously attend to the serious business of enacting legislation to restructure and improve the intelligence agencies—and to establish appropriate oversight in the Congress and take such other steps as may be needed to both strengthen and make more efficient our intelligence capability and establish a coordinated and responsible working arrangement between the executive and legislative branches for protecting classified information from exposure while at the same time exposing all unlawful and offensive activities which may be committed in the name of national security where national security is not, indeed, involved.

Mr. Speaker, I can see nothing but benefits following from a prompt and overwhelming adoption of this resolution.

Mr. STRATTON. Mr. Speaker, I appreciate the gentleman's remarks. The gentleman certainly deserves a great deal of credit in the vote that occurred on the 29th of January.

I would simply say to the gentleman with respect to the point he made, that we ought to find those that originally did the leaking and not concentrate on Mr. Schorr. A lot of times we look for those who leak and we do not find them. The facilities of the FBI, as I understand, have already been extended to the House for this purpose. It took them a long time to find Patty Hearst.

So I believe we must also deal with what seems to me to be very flagrant and contemptuous conduct on the part of somebody who has already been identified. I do not think we ought to ignore that while we wait to find somebody else.

Mr. Speaker, I yield to the gentleman from Missouri (Mr. ICHORD) for purposes of debate only.

Mr. ICHORD. Mr. Speaker, I rise in support of the resolution offered by the gentleman from New York. I want to emphasize, as has already been pointed out by the gentleman from Illinois and the gentleman from New York, that this is not a resolution to condemn Daniel Schorr. This is a resolution directing a committee of the House to investigate and report the facts and recommendations back to the House.

Now, I would state to the gentleman from New York that I am not so sure that a contempt has been committed, because of the peculiar circumstances under which this matter arose; but there is more involved than the actions of Daniel Schorr. What we should be greatly concerned about, what is at issue here is whether this resolution is necessary to protect the integrity and the processes of the House. Now, I happen to believe that for many years, Mr. Speaker, one of the glaring shortcomings of Congress has that it has failed to sufficiently conduct oversight proceedings over intelligence activities.

I also happen to believe that there have been too many cases of misclassification and overclassification of intelligence information, but this is not to say that in one short term of Congress that we should completely reverse ourselves, going from not conducting any oversight activity whatsoever to the complete destruction of our intelligence activities in this country. I think the article in Newsweek which came out only the day before yesterday puts the question very well, I would state to the gentleman from New York:

"Was Congress simply proving itself a leaky sieve so as not to be trusted with the effective oversight of intelligence operations?"

This is why the resolution of the gentleman from New York must be adopted by the House, so that we can protect the integrity of the House. If we are to oversee intelligence activities we must adopt this resolution.

Mr. STRATTON. I thank the gentleman for his comments. I might just say that I have, of course, researched this question in some detail. The general impression is that the only kind of thing that is suitable for contempt is a failure to answer a question before a congressional committee or a failure to produce documents in response to a subpena duces tecum, or a failure to be sworn, as in the case of Mr. Liddy.

However, the precedents indicate that there are other things, too, which have been regarded as contempt, and the only problem, as I understand it, is that under other rulings of the courts, to proceed in that kind of situation where there is no statutory law, as there is in not responding to questions before a congressional committee, we would have to proceed with due process of law; and that would perhaps require a virtual trial on the floor of the House of Representatives or something of that kind.

Mr. Speaker, I promised to yield to the distinguished gentleman from Texas, who is a member of the Intelligence Committee (Mr. MILFORD). I yield five minutes to the gentleman from Texas for the purpose of debate only.

I shall yield to those on the other side of the question, but I promised to yield to the gentleman from Texas for the purpose of debate only.

Mr. MILFORD. Mr. Speaker, I thank the gentleman for yielding.

I rise very much in favor of the resolution offered by the distinguished gentleman from New York (Mr. STRATTON).

First, let us take a look at the real questions involved here. Has Mr. Daniel Schorr violated national law? Has Mr. Schorr shown contempt for this Congress? Does Mr. Schorr's action come under the protection of the "freedom of the press" clause in our Constitution? These are questions that need to be answered. These questions will require careful study, thoughtful deliberation, and responsible answers.

Many of the Members of this House personally witnessed Mr. Schorr's appearance on the electronic media and heard him admit that he obtained a copy of the Select Committee on Intelligence report, and had in turn given that report to a print media for publication. Many of us heard him clearly state that he knew that the House had voted to restrict publication of this report because it contained information that would harm the national security of this Nation. By his own admission, he appears to be in clear violation of the will and intent of the House, which voted by about two to one majority to keep the classified portions of said report classified.

I submit, Mr. Speaker, that nowhere and at no time have Mr. Schorr's press credentials, training, or special privileges set this gentleman of the press up as a declassification board. Since when does one man get the privilege of undermining his nation's government without consequence?

One of the key amendments of our Constitution guarantees that the freedom of the press shall not be abridged, but nowhere in that amendment is "freedom of the press" translated into the right to declassify classified information.

Did Mr. Schorr go to the Speaker of the House? Did Mr. Schorr seek an audience with the President of the United States? Did he attempt in any way to say that he was morally convinced that the classified materials should be released, or did he in any way attempt to legally get them declassified? If he did, he has remained silent about it.

Instead, he admitted publicly that he turned over the classified report to a print media, the "Village Voice." I think it is very important to note that Mr. Schorr did not reveal the report himself as a reporter for the TV network, but rather passed along the classified report to a third party.

In so doing, he may have surrended any protection under the "Freedom of Press" clause.

I contend, Mr. Speaker, that the people of this Nation who carry credentials that permit them to cover and to report on the workings of this Government also have a responsibility to the public. They have a responsibility to be truthful and accurate. They have a responsibility to report all the information. And they also have a responsibility to honor the laws of this land.

If a reporter objects to the classification label on a document, then that reporter has an obligation to call it to the attention of the people who set up our legally classified information.

In my view, a document's classification is as important to honor as any law of this Nation.

Newsmen and newswomen are not above these laws, and they must be held accountable for their actions. No one quarrels with the public's right to know. However, most would quarrel with the right of our adversaries to know; and without classification proceedings, the sensitive material of our Nation would be adversary knowledge, as well as public knowledge. One man was killed because of a release of this nature. Will there be others?

I submit that the voters of this Nation did not elect Daniel Schorr. They have given him no authority to represent them in sensitive matters. What they have given him, or any reporter, is the respectful attention to the information that he or she reports.

When 246 of the elected representatives of the people have said "no" to declassifying the House Intelligence Committee's report, how can one man violate that vote, that action, and bear no consequence?

Therefore, I heartily recommend the passage of the Stratton resolution which calls for a committee investigation.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield for the purpose of debate only?

Mr. STRATTON. I yield to the gentleman from Texas (Mr. ECKHARDT) for the purpose of debate only.

Mr. ECKHARDT. I thank the gentleman for yielding.

Mr. Speaker, I would like to discuss this amendment quite seriously with the gentleman in the well. I am really not opposed to an investigation by some proper committee of the House into the circumstances surrounding the publication of the text and of any part of the report of the Select Committee on Intelligence.

I want to let the gentleman in the well know that I am not speaking as an adversary but as one who is most serious in considering this matter in its best light.

Mr. STRATTON. I welcome the gentleman's help and his special legal expertise.

Mr. ECKHARDT. I am not sure that I can support the gentleman from New York on this particular resolution, but I do want to see if there is not some area in which we may be in agreement.

In the first place, the gentleman is absolutely correct in his statement that the Supreme Court decision in the Pentagon case has nothing to do with the question of what may be done to protect governmental secrets before they reach the press. Indeed, that case only went to the question of whether or not the courts could exercise prior restraint by means of an injunction against the newspaper. It did not even go to the question of whether a newspaper could be punished. I do not think it could be, but the case did not go to that question.

But what troubles me about this amendment is that it uses a great deal of language like "it appears that Daniel Schorr," "Daniel Schorr allegedly admitted publicly," "allegedly took action which resulted in the publication," et cetera, et cetera.

I am willing to join in an inquiry, but I am not willing to join in an inquisition.

The gentleman from Texas (Mr. MILFORD) who spoke before me was largely speaking about what Daniel Schorr did wrong. Maybe he did a lot wrong. But if we are calling for an investigation of this question, we should not write into the whereas clauses in advance of the investigation what we think the investigators ought to come out with.

Let me ask the gentleman one question.

Mr. STRATTON. Let me say to the gentleman that I decline to yield further.

Mr. ECKHARDT. Will the gentleman let me ask one question?

Mr. STRATTON. I want to respond to the point the gentleman made.

It is perfectly obvious to anyone that whereas clauses in a resolution of this kind are not legally binding.

The whereas clauses simply try to set forth as clearly as it is possible to do the circumstances out of which the resolution itself emerges. No Member can vote on this without having some understanding of the circumstances. The circumstances involve the action which the House took, the circumstances involve the action which the Village Voice took, the circumstances involve the declaration of Mr. Schorr, and then finally it is important to demonstrate that these various facts themselves bear directly on the privileges of the House. So that is what the whereas clauses contain.

If the gentleman is in favor of the resolving clause, that is really all we need.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield on that point?

Mr. STRATTON. I will yield, Mr. Speaker, to the gentleman very briefly, but I must remind him there are others who want to be heard.

Mr. ECKHARDT. Mr. Speaker, I see no objection to saying what I know to be the fact, and that is that the Village Voice did print the article and that the House did agree to the resolution. But I would suggest to the gentleman that the provisions stating that certain occurrences are alleged to have happened are absolutely unnecessary to this resolution, and, therefore, I would ask the gentleman this question: Will the gentleman yield for an amendment?

Mr. STRATTON. Mr. Speaker, I will say to the gentleman that I cannot yield for that purpose. The gentleman from Texas (Mr. ECKHARDT) is a distinguished parliamentarian, and he is well aware that I cannot yield for any purpose except general debate without losing the floor.

The reference to allegations is in there because all we have now is a newspaper clipping. I have not talked to Mr. Schorr, and I do not know whether the gentleman from Texas (Mr. ECKHARDT) has talked to Mr. Schorr. From the point of view of the Committee on Standards of Official Conduct, they will have the statement that appeared in the paper, but they will want to get the full facts, so we have gone out of our way to make sure we were making no accusations against Mr. Schorr. It would simply appear that he may have been in contempt or may have breached the privileges of the House.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I cannot yield to the gentleman any further.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. Mr. Speaker, I yield for the purposes of debate only to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman from New York for yielding.

When we considered the original resolution creating the House Select Committee on Intelligence back in February of 1975, I was the author at that time of an amendment to the original resolution. That amendment specifically required the committee—and I quote:

> To institute and carry out such rules and procedures as it may deem necessary to prevent the disclosure outside the committee of any information obtained on the CIA or other intelligence agencies without the authorization of the committee.

My amendment also prohibited under the circumstances or under any circumstances the disclosure outside the committee of any information that might adversely affect our overseas intelligence activities, and it required some security clearances for committee staff under certain conditions for the employment of staff.

The question I wish to raise with the gentleman from New York is this: that since that resolution and its successor which re-created this select committee were matters of original jurisdiction of the Committee on Rules and since the Committee on Rules, under rule X of the House of Representatives, is charged with exercising oversight responsibility in all matters of original jurisdiction under the rules which have been adopted by this House, it seems to me that it would have been more fitting and proper for the gentleman from New York to adhere to his original purpose, which was to refer this entire matter to the Committee on Rules.

I say that also after reviewing rule X, the rule which is applicable to the Committee on Standards of Official Conduct and which refers to:

> Standards of official conduct for Members, officers, and employees of the House; to investigate, subject to subparagraph (2) of this paragraph, any alleged violation, by a Member, officer, or employee of the House, of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee.

Mr. Speaker, it seems to me that the gentleman would have been well advised to leave this matter in the jurisdiction of the committee that I think under our rules should have oversight relative to a question which was originally in its jurisdiction.

Mr. STRATTON. Mr. Speaker, I will say to the gentleman from Illinois that this point troubled me, and as the gentleman knows, I have pondered considerably over just which committee would be the appropriate committee.

I might say that I consulted with some members of the Committee on Rules, and I got the impression that there was a feeling that it might be more appropriate to refer it to the Committee on Standards of Official Conduct.

Certainly, the Committee on Rules is the one that stood firm in taking the lead in preventing the publication of the original report, and what the gentleman has to say about his addition to the resolution is absolutely true. It was a difficult decision for me to make; and unfortunately, my understanding of the parliamentary situation is that an amendment would not be in order.

I feel sure that the Committee on Standards of Official Conduct is a very capable committee, and it is perhaps not as heavily occupied as is the Committee on Rules. I would hope that they, therefore, might be able to undertake this matter with dispatch, perhaps acquire the necessary staff to expedite it, and carry it out.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Florida (Mr. YOUNG) for the purposes of debate only.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

I rise in strong support of his resolution.

I am filled with deep regret that it is even necessary that we be here on the floor of the House today considering such a matter. It is really a sad commentary to have to acknowledge that the Congress of the United States or people who might be associated with that Congress really no longer can be trusted with information vital to the defense of this Nation.

I regret that the only name mentioned in this resolution is that of Daniel Schorr because, as a newsman, he obviously believes he has somewhat of a professional obligation to seek out whatever facts and information he can and make them available to the public.

However, Mr. Speaker, I condemn that person or persons associated with this House of Representatives or this Congress who has access to this information through a legal jurisdiction, who has legal access to it, and who has revealed classified information in an unauthorized manner.

Mr. Speaker, I hope that the emphasis of this investigation is placed on eliminating the leaks from this Congress that there evidently are.

I would just like to say, Mr. Speaker, although it might sound a little corny, that in this hostile world in which we live today a leaky government is not going to survive in the international seas any more than a leaky ship would.

Mr. STRATTON. Mr. Speaker, I thank the gentleman from Florida (Mr. YOUNG) for his remarks.

I might simply say that I agree with him: It is incumbent upon us to proceed quickly to try to plug all of the leaks, or else we will not be able to exercise any kind of oversight over intelligence.

It was President Kennedy who used to say that a trip of 1,000 miles begins with the first step. And this resolution might be the first step, or perhaps the second step after the vote we took on the 29th of January, on the journey of bringing real protection to our vital national intelligence secrets.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield for the purposes of debate only to the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, some of the Members have been curious as to why the gentleman from New York (Mr. STRATTON) has the floor at this time and why the resolution is privileged.

It is privileged because he believes that the rules of the House and the processes of the integrity of the House have been transgressed.

The normal procedure would have been for the gentleman from New York (Mr. STRATTON) to file this resolution by dropping it in the hopper in the ordinary manner. Then the Speaker would have referred the resolution to the Committee on Rules; but Mr. STRATTON is bypassing this normal procedure, by instructing the Ethics Committee to act on this matter.

Mr. Speaker, I do not condone the action of anybody who leaks classified or privileged information, whether it is a Member of the Congress, a member of the press, or one of the staff members; but I do think that we ought to follow the normal procedure.

The normal procedure has several possibilities. For example, those in the Gallery, the Press Gallery, are there by the courtesy of this House. They have their own organization. They are granted certain privileges. They have their own offices. Sitting over there are the members of the Radio and Television Gallery. They have their own organization and they are supposed to police themselves, as I understand it.

They have an Executive Committee of the Radio and Television Correspondents' Galleries: Robert F. Foster is the chairman; Sam A. Donaldson is vice chairman; Paul Duke is secretary; Christie Basham is treasurer; Hal Walker is a member at large, as are Charles Van Dyke, G. Bradford Kress, and William Greenwood. All these members of the executive committee have an obligation to themselves, and to the integrity of their profession, to investigate the allegations covered by this resolution.

I believe that Mr. STRATTON's motion to usurp the normal procedure is transgressing on the rights of all our membership here, and especially the rights of the members of the Rules Committee which normally would have jurisdiction over this issue. We should demand the normal course. We should not just say, "Here, we will send this to the Ethics Committee and the Ethics Committee will make an investigation, because we are going to bypass the Committee on Rules." That is exactly what Mr. STRATTON desires. I want the Members to know that when the time comes, after the hour provided to the gentleman from New York (Mr. STRATTON) is over, and after that gentleman has moved the previous question, that I will rise, and I will expect that the Speaker will recognize me and I will then move, at that time, that, pursuant to clause 1 of rule XVII, that the resolution be referred to the Committee on Rules.

I think that is the proper procedure. I do not think we should just rush headlong into this. I think we should follow the normal procedure. We should let the Committee on Rules look it over. It is always a "privileged" resolution. If after due time we should believe that the Committee on Rules has not acted as it should, then Mr. STRATTON can raise the issue again. But, I repeat, I do not think we should rush headlong into this and act in haste on this matter.

Mr. STRATTON. Will the gentleman from Massachusetts then support my resolution had it designated the inquiry to be undertaken by the Committee on Rules?

Mr. O'NEILL. No, I would not have supported it, for this reason, because the gentleman's resolution reads:

> . . . that the Committee on Rules be and it is hereby authorized and directed to inquire into the circumstances surrounding the publication of the text and of any part of the report of the Select Committee on Intelligence, and to report back to the House forthwith its findings and recommendations thereon.

That is the obligation, the duty of the committee to determine whether there is merit to this legislation; the committee will then act accordingly; it is not for us, at this time, to dictate to the committee how they should handle this investigation.

Dictating instructions to committees on how to act on issues that these committees have not yet considered is an issue that has been argued in this House, and is a directive that so many Members in the Democratic caucus earlier in the year strongly opposed. But I am sure the gentleman was one of the Members who thought earlier in the year that instructions to committees in the caucus should not have taken place because that was preempting the rightful prerogatives of the committee process in the House.

That is exactly what the gentleman is doing here. It simply cannot be bad in one situation and good in another.

I believe we should follow the normal procedure. The resolution should be dropped in the hopper and the Speaker of the House would then refer the resolution to the Committee on Rules, then we should wait to see what action is taken by the Committee on Rules.

Mr. STRATTON. Then the concern of the distinguished majority leader is to try to kill the investigation. I think that would be a serious mistake.

Mr. O'NEILL. I think that is a very unfair remark. Why should the gentleman prejudge me?

Mr. STRATTON. I decline to yield further to the gentleman from Massachusetts.

I had asked the gentleman from Massachusetts whether he would favor the resolution if we had put in "the Committee on Rules"?

Mr. O'NEILL. And I answered "No, I want this resolution to be considered in the normal process."

Mr. STRATTON. Mr. Speaker, I decline to yield further to the gentleman from Massachusetts.

Mr. BOLLING. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. No, I decline to yield at this time because the "normal" procedure is that the privileges of the House have been breached. The integrity and the procedures of this House have been breached.

If the majority leader, the gentleman from Massachusetts (Mr. O'NEILL) does not know that, then maybe the gentleman ought to talk to some of the people I have been talking to and to see some of the telegrams that I have gotten in the last few days from the American people who want some control exercised. I do not think we want to send this back to the Committee on Rules for a referral and let them decide.

I think we need some action now.

If the majority leader wanted to refer this to the Committee on Rules for an investigation, I would be in favor of it, but I believe the gentleman's proposed motion is going to amount to killing off an attempt to investigate this great challenge to the privileges of the House. I hope the House will vote the gentleman's motion down.

Mr. O'NEILL. Mr. Speaker, if the gentleman will yield further, the gentleman from New York is aware of the fact that it continues to be a privileged resolution and in the event the Committee on Rules does not act within a reasonable amount of time, then the gentleman can always call up the resolution on the floor. But, in fairness to the Members, we should not try to bypass the Committee on Rules.

Mr. STRATTON. But the provisions of rule X are part of the regular procedure of the House. The Member from New York is simply taking advantage of that procedure. It does not come up very often.

Mr. O'NEILL. If the gentleman will yield further, it is not the appropriate procedure; it is an extraordinary procedure of the House.

Mr. STRATTON. Mr. Speaker, I decline to yield further.

I consulted with the Speaker; I consulted with the Parliamentarian. I think we are faced with an extraordinary situation when this House by a 2-to-1 vote voted not to release the document in print, and then an accredited correspondent of the House has it out here in print in the Village Voice tabloid within days. I think this is a most extraordinary situation which should be dealt with by the established provisions of rule X. And I believe that this is the proper way the House ought to act. Any other means of acting, in my judgment, would be a dereliction of duty.

Mr. BOLLING. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Missouri for debate only.

Mr. BOLLING. I thank the gentleman for yielding.

I have been interested in the debate because apparently the gentlemen who agree with the gentleman from New York (Mr. STRATTON) on this procedure, I am sure, already know that the only investigation that needs to be made is of the House Members and the House committee staff. It would seem to me that it is quite appropriate to consider the possibility of leaks from other sources. It seems to me clear that most of the leaks that have taken place over the last 8 or 10 years—and there have been many—have not originated in the House of Representatives; they have originated in another branch of Government.

If the gentleman will allow me to proceed a little further, the gentleman has already said that the Committee on Rules was serious in its approach to the problem of this matter of security, and although I disagree with the Committee on Rules and the majority of the House, I rather thoroughly resent the notion that to send a matter by a vote of the House to the Committee on Rules is to automatically bury it. There is no evidence of that. There is no evidence whatsoever of that, in the gentleman's own words. It would seem to me, therefore, that the proposal of the majority leader makes a great deal of sense so that the House will have the benefit of the consideration by more than one Member of the advisability of this particular resolution.

Mr. STRATTON. My time is running out.

Let me just say to the distinguished gentleman from Missouri, for whom I have a great affection and great admiration, that this was the reason that I asked the majority leader whether he would have supported the resolution had it directed the Committee on Rules to conduct the investigation, and he said, "No." What higher authority could the Committee on Rules have to proceed than in an action by this whole House on a matter of the high privilege of the House? He does not want the House to direct the Committee on Rules; he wants the committee to make up its own mind.

I think the House has its own duty to act on this matter. I think we should designate a committee, and we should say, "Get going."

As the gentleman recalls, in my own remarks I proposed that the committee that investigated this information bring up the CIA or the executive department and find out whether they in fact leaked the document.

Mr. BOLLING. Will the gentleman yield further?

Mr. STRATTON. I yield to the gentleman from Missouri for purposes of debate only.

Mr. BOLLING. I thank the gentleman for yielding.

I think the gentleman, of all people, would resent most bitterly if somebody else went to the floor on a leak that might have occurred from the Committee on Armed Services and bypassed the committee automatically. It would seem to me clearly that of all the people I have seen on the floor on a matter of privilege, the gentleman most believes in the committee system. Why not allow a committee to make a judicious decision on how it wants to proceed before the matter is brought up for the whole membership?

Mr. STRATTON. I would think that this would be the way to proceed under normal circumstances, but I deeply believe that we face a crisis situation here. I think the American people want us to take action, and I cannot think of anything that could be more reassuring than action by this House as a body on a matter of the high privileges of the House.

Take a look at the newspapers today; look at the editorials that have occurred across the Nation. These newspapers are not rallying to the freedom of the press. They are saying that it is about time for the House to do something; and I think we have got to do something.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield briefly to the gentleman from New York (Mr. PEYSER) for purposes of debate only.

Mr. PEYSER. I thank the gentleman from New York (Mr. STRATTON) for yielding.

I want to be sure to clarify one point. While I am unhappy that a member of the press may have taken this action, I am even more concerned about the necessity of this resolution addressing itself to the investigation of potential Members of the House or staff, who may have been involved, if any, in leaking this material.

I would like to say to the gentleman from Missouri who made reference to the fact that leaks have come from other places in the past, I want to be sure that the gentleman's resolution specifically intends that such an investigation disclose whether a leak came from the House or its staff here, as well as possibly from somewhere else—as I hope it did. That is the reason I introduced my resolution today calling for an investigation by the proper committee to investigate whether members of the staff or House were involved and to disclose this. I wonder if the gentleman would tell me whether the Members and the staff would be specifically addressed in this resolution?

Mr. STRATTON. If the gentleman had listened to my comments, I said the resolving clause leaves it up to the committee to examine into the entire matter of the printing of the select committee's report in the Village Voice. It is up to the committee to find out who was involved in any way at all. We know Mr. Schorr said he was involved. We do not know about anyone else, so it would be up to the committee to determine that. That is already included in my resolution.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Ohio (Mr. LATTA) for purposes of debate only.

Mr. LATTA. Mr. Speaker, I do not want the impression to get out from this Chamber today that if the matter were sent to the Rules Committee we would bury it. We are not about to do that. By a vote of 9 to 7 the Committee on Rules decided that the House should determine whether or not the classified material should be made public. As the gentleman well knows, we discussed this matter before he came on the floor and we decided the Rules Committee should have jurisdiction. I would support a motion to strike out the Committee on Standards of Official Conduct and insert the Rules Committee and I would be perfectly willing, as a member of the Rules Committee, to report this back in due time. I do not think we should leave the impression that the Rules Committee would sit on this matter because I believe a majority of the committee thinks it is most important that this matter be brought out.

Mr. STRATTON. I would not oppose that kind of motion. I am not sure of the parliamentary situation after the previous motion is moved, but I would be opposed simply referring it—majority leader would do—to the Rules Committee, not to mandate an investigation, but just to consider whether we might have an investigation.

Mr. ANDERSON of Illinois. Mr. Speaker, would the gentleman yield for purposes of amendment?

Mr. STRATTON. I cannot yield for purposes of amendment.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield for purposes of debate?

Mr. STRATTON. I yield only for purposes of debate to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, it has been said that this is not a matter of freedom of the press at all, but I believe the issue of freedom of the press is very much involved. If it were not so, we would not have the neatly typed speeches brought to the floor by the proponents of the resolution, offered by the gentleman from New York, when none of the rest of us knew that this matter was coming up.

I think by bringing it up in this particular way and by naming Mr. Schorr, there is a very large and dangerous chilling effect on the right of the reporters to receive information. Not even S. 1 or the President's legislative recommendations on intelligence information would make it a crime for a reporter to receive classified information. I urge a vote against the resolution.

Mr. STRATTON. Mr. Speaker, I thank the gentleman for his remarks.

Let me say simply as far as this matter of bringing the resolution to the floor is concerned, I consulted with the Parliamentarian and with the Speaker and I understood under the circumstances this was the only way the matter could be brought up. And I do think it is better to bring this matter before the House today, promptly, than to spend 2 or 3 more days in trying to alert Members. I do not think we ought to delay any more and I think we ought to act on this matter now.

Mr. FINDLEY. Mr. Speaker, this resolution touches some fundamental aspects of press freedom. It brings memories of the holding of the Supreme Court in the Pentagon papers case to the effect that Government cannot properly impose prior restraint on newspapers. Journalists and publishers can be held accountable for damages but cannot be denied the right to publish.

This seems to me a sound and indispensable principle of our society. Undoubtedly newspapers will make mistakes, even mistakes costly to society, but this price a free society must be willing to pay. If Government is able to tell newspapers what they can or cannot print, the cost to society is potentially far greater.

Mr. STRATTON. Mr. Speaker, I yield back the balance of my time and I move the previous question on the resolution.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

MOTION OFFERED BY MR. O'NEILL

Mr. O'NEILL. Mr. Speaker, pursuant to rule XVII, clause 1, I move to refer the resolution to the Committee on Rules.

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, a point of order.

The SPEAKER. The gentleman from Maryland will state the point of order.

Mr. BAUMAN. Mr. Speaker, I make the point of order that the gentleman's motion comes too late. The Chair has already put the previous question and it has been moved.

The SPEAKER. The motion to refer a resolution is in order after the previous question is ordered under clause 1, rule XVII.

PARLIAMENTARY INQUIRY

Mr. ANDERSON of Illinois. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ANDERSON of Illinois. Mr. Speaker, the gentleman from Massachusetts, the distinguished majority leader, has offered, in effect, a motion to recommit the original resolution. Is it not true that under the practices and procedures of this House one who is opposed to the motion and who is on the minority side of the aisle is entitled to control of the motion to recommit? Would I not be entitled to preference over the gentleman from Massachusetts in offering a motion to recommit which is, in effect, what the gentleman from Massachusetts has offered?

The SPEAKER. The gentleman is referring to the procedure under rule XVI. In this rather unique situation, the resolution has not been before a committee and the House technically cannot recommit a resolution that has never been previously referred to committee. This is a motion to commit or refer under rule XVII and not a motion to recommit under clause 4, rule XVI.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. A parliamentary inquiry has no privileged status; but the Chair will recognize the gentleman.

Mr. BAUMAN. The Chair is very indulgent and the gentleman from Maryland appreciates the courtesy of the Chair in this matter.

The question this gentleman would like to put is when a question of privilege is before the House, is a motion to refer which would, in effect, avoid a final vote on the question of privilege, in order prior to a vote on the question of privilege itself?

The SPEAKER. It is. The remedy of the House is to vote down, if the House is in opposition, to vote down the motion of the gentleman from Massachusetts.

The question is on the motion to refer offered by the gentleman from Massachusetts (Mr. O'NEILL).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. O'NEILL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 172, nays 219, answered "present" 2, not voting 39, as follows:

[Roll No. 63]

YEAS—172

Abzug
Adams
Addabbo
Allen
Anderson, Calif.
Anderson, Ill.
Annunzio
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Dellums
Derwinski
Diggs
Dingell
Dodd
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fithian
Flood
Florio
Flowers
Ford, Mich.
Fraser
Giaimo
Gibbons
Gonzalez
Hall
Hannaford
Harkin
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Helstoski
Holtzman
Howard
Hughes
Hungate
Jacobs
Johnson, Calif.
Jordan
Karth
Kastenmeier
Keys
Koch
Krebs
Leggett
Lehman
Lloyd, Calif.
Long, Md.
McCloskey
McCormack
McFall
McHugh
McKay
Macdonald
Madden
Maguire
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Murphy, Ill.
Myers, Pa.
Nedzi
Nolan
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patterson, Calif.
Pepper
Perkins
Pike
Price
Rangel
Reuss
Richmond
Riegle
Rodino
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
St Germain
Sarbanes
Scheuer
Schroeder
Schulze
Seiberling
Shipley
Simon
Smith, Iowa
Solarz
Stanton, James V.
Stark
Stokes
Studds
Sullivan
Symington
Thompson
Thornton
Traxler
Tsongas
Vander Veen
Vanik
Waxman
Weaver
Whalen
Wilson, C. H.
Wirth
Wolff
Yates
Young, Ga.

NAYS—219

Abdnor
Ambro
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Ashley
AuCoin
Bafalis
Bauman
Beard, Tenn.
Bell
Bennett
Bevill
Biaggi
Boggs
Bowen
Breaux
Brinkley
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conable
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Dent
Derrick
Devine
Dickinson
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Esch
Evans, Ind.
Fenwick
Findley
Fish
Fisher
Flynt
Forsythe
Fountain
Frenzel
Gaydos
Gilman
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hamilton
Hammerschmidt
Hanley
Hansen
Harrington
Harsha
Hays, Ohio
Hébert
Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Horton
Howe
Hubbard
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kasten
Kelly
Kemp
Ketchum
Kindness
Krueger
LaFalce
Lagomarsino
Latta
Lent
Levitas
Litton
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCollister
McDade
McDonald
McEwen
McKinney
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mosher
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nichols
Nowak
O'Brien
Passman
Pettis
Peyser
Pickle
Poage
Pressler
Preyer
Pritchard
Quie
Quillen
Randall
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rogers
Rose
Roush
Rousselot
Runnels
Ruppe
Santini
Sarasin
Satterfield
Schneebeli
Sebelius
Sharp
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Nebr.
Snyder
Spellman
Spence
Staggers
Stanton, J. William
Steed
Steelman
Steiger, Wis.
Stratton
Stuckey
Symms
Taylor, Mo.
Taylor, N.C.
Thone
Treen
Van Deerlin
Vander Jagt
Vigorito
Waggonner
Walsh
Wampler
Whitehurst
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wydler
Wylie
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

ANSWERED "PRESENT"—2

Foley
Johnson, Colo.

NOT VOTING—39

Alexander
Aspin
Breckinridge
Broomfield
Cederberg
Cleveland
Conlan
Duncan, Tenn.
Eilberg
Eshleman
Ford, Tenn.
Frey
Fuqua
Ginn
Green
Hinshaw
Jones, Ala.
Jones, Tenn.
Kazen
Landrum
Mills
Morgan
Mottl
Nix
Patman, Tex.
Patten, N.J.
Pattison, N.Y.
Railsback
Rees
Sisk
Steiger, Ariz.
Stephens
Talcott
Teague
Udall
Ullman
White
Wiggins
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Mottl for, with Mr. White against.

Until further notice:

Mr. Alexander with Mr. Rees.
Mr. Nix with Mr. Aspin.
Mr. Teague with Mr. Broomfield.
Mr. Sisk with Mr. Ginn.
Mr. Ullman with Mr. Green.
Mr. Morgan with Mr. Kazen.
Mr. Jones of Alabama with Mr. Railsback.
Mr. Breckinridge with Mr. Pattison of New York.
Mr. Eilberg with Mr. Wiggins.
Mr. Fuqua with Mr. Landrum.
Mr. Patman with Mr. Jones of Tennessee.
Mr. Udall with Mr. Cederberg.
Mr. Patten with Mr. Cleveland.
Mr. Stephens with Mr. Steiger of Arizona.
Mr. Ford of Tennessee with Mr. Conlan.
Mr. Mills with Mr. Duncan of Tennessee.
Mr. Frey with Mr. Talcott.

Mr. LONG of Louisiana changed his vote from "yea" to "nay."

Mr. SEIBERLING changed his vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The question was taken.

Mr. BAUMAN. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 269, nays 115, answered "present" 3, not voting 45, as follows:

[Roll No. 64]

YEAS—269

Abdnor
Adams
Addabbo
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
AuCoin
Bafalis
Baldus
Barrett
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Blanchard
Blouin
Boggs
Boland
Bowen
Breaux
Brinkley
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney
Carter
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conable
Conte
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Devine
Dickinson
Dingell
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Forsythe
Fountain
Frenzel
Gaydos
Gilman
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hamilton
Hammerschmidt
Hanley
Hansen
Harris
Harsha
Hébert
Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Horton
Howard
Howe
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Karth
Kasten
Kelly
Kemp
Ketchum
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Martin
Matsunaga
Mazzoli
Michel
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nowak
O'Brien
O'Hara
Passman
Patten, N.J.
Patterson, Calif.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Pritchard
Quie
Quillen
Randall
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Rooney
Rose
Rostenkowski
Roush
Rousselot
Runnels
Ruppe
Santini
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Nebr.
Snyder
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steelman
Steiger, Wis.
Stratton
Stuckey
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Treen
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Whitehurst
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wydler
Wylie
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—115

Abzug
Anderson, Calif.
Badillo
Baucus
Beard, R.I.
Biester
Bingham
Bolling
Brademas
Brodhead
Brown, Calif.
Burke, Calif.
Burton, John
Burton, Phillip
Carr
Chisholm
Collins, Ill.
Conyers
Corman
Cornell
Cotter
Dellums
Derrick

Derwinski
Diggs
Dodd
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Evins, Tenn.
Fascell
Ford, Mich.
Ford, Tenn.
Fraser
Giaimo
Gibbons
Gonzalez
Hall
Hannaford
Harkin
Harrington
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Helstoski
Holtzman
Hungate
Jacobs
Jordan
Kastenmeier
Keys
Koch
Leggett
Lehman
Long, Md.
McCloskey
Macdonald
Madden
Maguire
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Mink
Mitchell, Md.
Moffett
Moorhead, Pa.
Mosher
Moss
Myers, Pa.
Nedzi
Nolan
Oberstar
Obey
O'Neill
Price
Rangel
Reuss
Richmond
Rodino
Roncalio
Rosenthal
Roybal
Russo
Ryan
St Germain
Sarbanes
Scheuer
Schroeder
Seiberling
Simon
Smith, Iowa
Solarz
Stark
Stokes
Studds
Thompson
Traxler
Tsongas
Van Deerlin
Vanik
Waxman
Weaver
Whalen
Wirth
Wolff
Yates
Young, Ga.

ANSWERED "PRESENT"—3

Foley
Johnson, Colo.
Murphy, Ill.

NOT VOTING—45

Alexander
Aspin
Bonker
Breckinridge
Broomfield
Cederberg
Clay
Cleveland
Conlan
Eilberg
Esch
Eshleman
Frey
Fuqua
Ginn
Green
Hays, Ohio
Hinshaw
Jones, Ala.
Jones, Tenn.
Kazen
Landrum
Mathis
Mills
Morgan
Mottl
Nichols
Nix
Ottinger
Patman, Tex.
Pattison, N.Y.
Railsback
Rees
Riegle
Sisk
Steiger, Ariz.
Stephens
Talcott
Teague
Udall
Ullman
Vander Jagt
White
Whitten
Young, Alaska

The clerk announced the following pairs:

On this vote:

Mr. White for, with Mr. Mottl against.
Mr. Nichols for, with Mr. Clay against.

Until further notice:

Mr. Teague with Mr. Eilberg.
Mr. Alexander with Mr. Kazen.
Mr. Fuqua with Mr. Landrum.
Mr. Sisk with Mr. Stephens.
Mr. Udall with Mr. Whitten.
Mr. Ullman with Mr. Aspin.
Mr. Ginn with Mr. Green.
Mr. Hays of Ohio with Mr. Jones of Alabama.
Mr. Bonker with Mr. Jones of Tennessee.
Mr. Mathis with Mr. Breckinridge.
Mr. Broomfield with Mr. Mills.
Mr. Talcott with Mr. Cederberg.
Mr. Conlan with Mr. Nix.
Mr. Cleveland with Mr. Ottinger.
Mr. Esch with Mr. Rees.
Mr. Steiger of Arizona with Mr. Patman.
Mr. Frey with Mr. Riegle.
Mr. Morgan with Mr. Pattison of New York.
Mr. Vander Jagt with Mr. Railsback.

Mr. MURPHY of Illinois changed his vote from "yea" to "present."

Messrs. PRICE, RUSSO, and MEEDS changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation (H. Res. 1042) just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate insists upon its amendment to the bill (H.R. 8835) entitled "An act to amend the Truth in Lending Act to protect consumers against inadequate and misleading leasing information, assure meaningful disclosure of lease terms, and limit ultimate liability in connection with leasing of personal property primarily for personal, family, or household purposes, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the twc Houses thereon, and appoints Mr. PROXMIRE, Mr. BIDEN, Mr. MORGAN, Mr. GARN, and Mr. BROOKE to be the conferees on the part of the Senate.

LEGISLATIVE PROGRAM FOR WEEK OF FEBRUARY 23

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority leader the program for next week.

Mr. O'NEILL. Mr. Speaker, if the distinguished acting minority leader will yield I will be glad to respond.

Mr. MICHEL. I yield to the gentleman from Massachusetts.

Mr. O'NEILL. Mr. Speaker, the program for the House of Representatives for the week of February 23, 1976, is as follows.

Monday is District day. There will be a pro forma session. There are no bills.

On Tuesday we will have House Joint Resolution 811, supplemental legislative appropriations.

On Wednesday we will have H.R. 11893, temporary increase in the debt limit, subject to a rule being granted.

On Thursday and the balance of the week we will have House Resolution 868, 2-hour rule for committee report.

Mr. Speaker, conference reports may be brought up at any time, as the gentleman knows, and any further program will be announced later.

Mr. Speaker, I would like to add it certainly does not appear that we will be meeting next Friday. We have been having these light schedules because our committees this year have not built up any backlog of legislation for the floor. I want to announce at this time however that is about to come to an end. We will have a backlog for the following week, the first week in March. The Members should be advised we will be working full weeks including Fridays from after next week on. For example, the week after next we should have ready for the floor the black lung bill, the Middle East peace and international security bill, the coastal zone management bill, the medical devices bill, and the Federal Elections Commission bill, among others.

So I want the House to be plainly on notice that according to our plans next Friday should be the last Friday that we will not be working, and that from then on we anticipate that the committees will be reporting between now and May 15 and we will be having full week schedules.

ADJOURNMENT TO MONDAY, FEBRUARY 23, 1976

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DEVASTATING EARTHQUAKE IN GUATEMALA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–376)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

On February 4th a devastating earthquake struck Guatemala. That earthquake, together with its aftershocks, has left over 22,000 dead, more than 75,000 injured, and one million homeless.

The United States has a specal responsibility to help meet the urgent needs in Guatemala. Immediate aid has already been extended by U.S. agencies, both public and private, including:

- Emergency shelters, medical supplies and food provided by the Agency for International Development.
- Transportation and medical facilities provided by the Department of Defense.
- Food distribution, medical services, and other disaster relief activities provided by numerous private voluntary agencies.

Last week I dispatched my Special Coordinator for International Disaster Assistance—AID Administrator Daniel Parker—to Guatemala for a firsthand review of the situation. He has now reported to me and to Congressional Committees on the extent of damage and need. Both the Senate and the House of Representatives have passed resolutions expressing sympathy for the people of Guatemala in their hour of distress and urging development of a comprehensive U.S. response. The Secretary of State will visit the Republic of Guatemala on February 24 to express further our support for the people of Guatemala.

I am now proposing urgent and specific action to turn these expressions of sympathy into tangible assistance. The proposed $25 million "Guatemala Disaster Relief Act of 1976" which I am sending herewith represents an immediate humanitarian response of the United States to the victims of this tragedy who have been injured or have lost their relatives, their homes and possessions, and in many cases their very means of existence.

This legislation, and the ensuing appropriation, will enable us to respond to the human tragedy in Guatemala. Our response will reflect America's concern for the people of Guatemala.

GERALD R. FORD.

THE WHITE HOUSE, *February 19, 1976*.

TRIBUTE TO JOE METZGER ON HIS RETIREMENT

(Mr. **ALBERT** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **ALBERT**. Mr. Speaker, at the end of this month, the House is losing a valued employee who has contributed many years and hours of service in this Chamber and has been instrumental in facilitating the orderly conduct of business at the rostrum.

Joe Metzger has announced his intention to retire at the close of this month in his 30th year of employment with the House of Representatives. His service began in 1936 in the Office of the Clerk of the House, South Trimble; and he has served at the left hand of Speakers Martin, Rayburn, McCormack and me since 1947. He has been a tremendous help to all those called to preside over the House or the Committees of the Whole. One aspect of his job has been to be the timekeeper, and he has been fair and exacting in his use of the stopwatch. I cannot recall an instance where he failed to be at the Speaker's side when needed.

Before beginning his service here in the House, Joe served in the Pacific Theater in World War II and remained an active participant in veterans organizations thereafter. He is a past commander of the Department of Justice, American Legion Post No. 41, here in the District of Columbia.

Joe's service in the House will be missed, and I am sure all Members join me in wishing Joe and his wife, Eva, many happy and carefree years in retirement.

Mr. **NATCHER**. Mr. Speaker, it has been my privilege and honor to have been assigned by you to preside over the Committee of the Whole, during general debate on a number of bills and, in a great many instances, some of these bills have been quite controversial.

I have never presided, Mr. Speaker, in this capacity, over any legislation, when I did not have the full cooperation and assistance of Joseph F. Metzger, Clerk to the Parliamentarian. When you have called upon me I have, on many occasions called in turn upon Joe Metzger, knowing that I could rely upon his judgment and expertise. Capable and thorough, Joe Metzger is a dedicated man and his appreciation of our legislative system has earned him the respect of all who have had the opportunity to work with him. Over the years he has been a fine servant, a term I use in the most complimentary sense, of the House and, as such, a fine servant of the American people. He loves and respects the House of Representatives and all down through the years has been an able assistant to our Parliamentarian. Mr. Metzger has served with distinction and honor.

Joe is leaving at the end of this month and he will be missed in this great Chamber. Although I am sorry to see him go, I wish for him the best, the very best, of everything as he retires.

GENERAL LEAVE

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to extend their remarks on the retirement of Joe Metzger, who is leaving the House.

The **SPEAKER**. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

NO SHORTAGE OF ENERGY TO FLY GAS AND OIL COMPANY PLANES TO WASHINGTON, D.C.

(Mr. **VANIK** asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. **VANIK**. Mr. Speaker, during the first week of February when the House of Representatives considered the gas deregulation bill, the House of Representatives apparently received a tremendous amount of counsel from the gas and oil industry.

A check of private aircraft owned by the gas and oil companies which landed at National Airport from February 1 through February 3 indicates that "all of the big wheels" were here to help. It appears that there is no shortage of energy to fly gas and oil company planes to Washington to "blitz" the Congress on deregulation of higher profits.

The following list of planes at National Airport is only part of the picture, there was comparable traffic at Dulles, Friendship, and other local airports:

Private Aircraft Owned by Natural Gas and Oil Companies Which Landed at National Airport From February 1 Through February 3

REGISTRATION NUMBER, TYPE OF PLANE, AND COMPANY NAME

February 1

N320S: L-329; Texas Gulf Aviation, 200 Park Ave., New York, NY.

N511S: Falcon Jet; Petrodyne Exploration Co., Suite 3100 Fountain Sq. Plaza, Cincinnati, OH.

N888MC: SL; Manhattan Construction Co., P.O. Box 949, Muskogee, OK.

N944: F-27; Commonwealth Plane Inc., 1255 Boylston St., Boston, MA.

N503T: BAC 111; Commonwealth Plane Inc., 1255 Boylston St., Boston, MA.

N835AC: LJ; Commonwealth Plane Inc., 1255 Boylston St., Boston, MA.

N732S: FJ; Shell Aviation Corporation, One Shell Plaza, Houston, TX.

N719GA: G-2; Exxon Corporation, P.O. Box 2180, Houston, TX.

N200A: G-2; Exxon Corporation, Hangar 12, Newark Airport, Newark, NJ.

N60PC: BE 20; Southern Services, 800 Shade Creek Pkwy., Birmingham, AL.

February 2

N129K: Jet Cmndr., Oklahoma Gas & Electric, P.O. Box 321, Oklahoma City, OK.

N40PC: HS; Southern Services, Inc., 64 Perimeter Center, E., Post Office Box 72007, Atlanta, GA.

N441PS: MU2; Iowa Public Service Co., P.O. Box 778, Sioux City, Iowa.

N225CB: HS; Wiltern Investment Corp., P.O. Box 730, Ft. Stocton, TX.

N926S: BE20; Sun Oil Co. of Pennsylvania, 1608 Walnut St., Philadelphia, PA.

N75W: SL; Michigan Wisconsin Pipeline Co., One Woodward Ave., Detroit, MI.

N665P: FJ; Phillips Petroleum Company, Phillips Airport, Bartlesville, OK.

N36WC: FJ; Williams Company, National Bank of Tulsa Bldg., Tulsa, OK.

N844GA: LJ; Parker Drilling Company, 518 National Bank of Tulsa Bldg., Tulsa, OK.

N830G: G2; Continental Oil Company, Hangar G, Westchester City Airport, New York, NY.

N7374R: BE-10; Dow Cemical Co., P.O. Box 150, Louisiana Division, Pacquemine, LA; Columbia Gas.

February 3

———: Oklahoma Gas & Electric; Columbia Gas; Michigan Wisconsin Pipeline; Carbin Fuel; Gulf States Utilities.

WHO PAYS FOR VOTER REGISTRATION ACT?

(Mr. **HANLEY** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **HANLEY**. Mr. Speaker, in this our bicentennial year, I believe that we ought to make a great effort to register each eligible American to vote. I am, therefore, supporting H.R. 11552. The establishment of a Voter Registration Administration within the Federal Elections Commission can greatly assist in this admirable endeavor.

I feel that I must, however, address my attention to section 7 dealing with the distribution of voter registration forms. This section stipulates that the Administration shall not be required to reimburse the Postal Service for any transmission of such registration forms distributed pursuant to this legislation.

Very simply, that section states that we want a voter registration drive and we want the U.S. Postal Service to pay for it. I believe that this is another case of Congress wearing blinders when it comes to looking at the financial condition of the Postal Service.

We are angry when the Postal Service raises rates, outraged when it closes post offices, and frustrated by the continuing threats of cutbacks in service. At the same time, however, we refuse to deal realistically with the need for increased appropriations. We expect the Postal

Service to find a magic cure for dealing with increased costs and declining volume. Yet we anticipate ordering the Postal Service to conduct a program which we refuse to fund. Surely the time has come for us to realize that this attitude is self-serving and patently absurd.

Section 7 of H.R. 11552 requires the Postal Service to distribute registration forms at least every 2 years to all postal addresses—perhaps as high as 80 million. In addition, the Postal Service, in agreement with the administration, may perform more frequent services—all without remuneration.

There is no such thing as free mail, eventually someone has to pay the bill. In this case, we are placing a potentially large financial burden on an agency that is least able to shoulder the cost. The Postal Service estimates this bill will cost them $12,500,000 every 2 years. To pretend that the Postal Service can foot the bill and not have to look to higher rates or reductions in service to pay for the voter registration program is simply not a responsible attitude.

Again, I support the Voter Registration Act and hope that it will become law and implemented expeditiously. I believe, however, that we must take a close look at the cost of H.R. 11552, and be aware of the potential financial hardship we are placing on the U.S. Postal Service. We should require the administration to reimburse the Postal Service for the implementation of the program.

NATIONAL COMMISSION ON DIABETES

The SPEAKER pro tempore (Mr. O'NEILL). Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I want to commend the National Commission on Diabetes for their excellent report to Congress on this serious disease.

In order to carry out the Commission's long-range plan to combat diabetes I am introducing a bill to ensure that this plan is implemented. My bill establishes a National Diabetes Advisory Board and any other actions which are needed to achieve the goal of preventing and curing diabetes and its complications and to improve the care and quality of life of those individuals who now have or who will get diabetes before preventive medicine or a cure is found.

The bill I am proposing also establishes a category of awards in the National Institutes of Health as "Distinguished Scientists Awards to individual scientists who have shown continuous and outstanding productivity in research related to diabetes. This legislation, in addition, provides funds for diabetes research and training centers.

Diabetes is a major health problem that currently affects 10,000,000 Americans or 5 percent of our population. The area I come from in southwest Texas has an abnormally high incidence of this disease—as high as 17 percent. And it was indeed shocking for me to read in the Commission's report that between 1965 and 1973 the prevalence of diabetes increased by more than 50 percent in the United States; 38,000 deaths in 1974 were directly attributable to diabetes making it the fifth leading cause of death from disease, while 300,000 deaths can be related to diabetes and its complications, raising diabetes to the third ranking cause of death—behind heart disease and cancer.

While Congress has shown a great concern for the problem of diabetes by passing in the 93d Congress the National Diabetes Mellitum Research and Education Act which resulted in this Commission report, we must now continue our efforts to see that diabetes is controlled and eventually eradicated. I urge my colleagues to support me in these efforts.

THE 58TH ANNIVERSARY OF REPUBLIC OF LITHUANIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, I am pleased to join with so many of my colleagues in commemorating the 58th anniversary of the Republic of Lithuania.

On February 16, 1918, an independent Lithuania was established based on democratic principles. A permanent constitution was adopted in 1922 granting the people of Lithuania the basic freedoms of religion, speech, communication, and assembly.

These freedoms were short lived. Barely two decades after proclaiming its independence, a brave Lithuania was dragged from the company of the free world into the shadow of the Iron Curtain.

The United States does not recognize the forcible annexation of Lithuania by the Soviet Union despite attempts of the Russian Government to construe our position otherwise as a result of the Helsinki agreement. As a cosponsor of House Resolution 864 reiterating our continuing recognition of Lithuania as a free and independent nation rather than a captive vassal of the Soviet Union, I am honored to participate in this observance of Lithuanian Independence Day by the House of Representatives.

Despite Lithuania's isolation from the free world, those of Lithuanian ancestry serve as a shining example of our own Nation's unflagging patriotism and cultural pride. Their land's longstanding tradition of self-reliance is reflected in our own country by those of Lithuanian heritage. Today Lithuanian Americans are included among the leading members of our professional, business, artistic, and academic communities. Nor have they forgotten the land of their forebears—over 2,000 Lithuanian charity, scholarship, and mutual aid organizations now operate in the United States.

It is a great tragedy that the people in Lithuania are unable to outwardly celebrate this observance. However, their struggle for a free and independent Lithuanian State will never cease. I am sure that, with the support of their American descendants and, indeed, all freedom-loving peoples in this country and throughout the world, they ultimately will prevail.

SMALL BUSINESS—KEY TO ECONOMIC STABILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 10 minutes.

Mr. MILLER of Ohio. Mr. Speaker, during a period when the United States is suffering through its worst recession since the end of World War II, it has become very easy for the critics of our society to place a major portion of the blame on the free enterprise system and the business community. Very few people realize the positive contributions that are made to the economy and welfare of the country by business— and especially by small business. Instead the trend has been to impose a series of hampering regulations on small business, replacing the need for vigorous competition with this overregulation and generally ignoring the needs of the small businessman. It is time government woke up to the damage being done and took steps to correct it.

The number of small businesses in the United States has not grown at a very rapid rate in recent years, but small businesses still comprise the lion's share of the business community. The Small Business Administration counts some 9.2 million of the country's 9.7 million businesses as "small." Still, it is this size business that suffers most from Government interference in the economy. This overregulation is especially severe when recessionary times such as the recent past hit. In addition to coping with decreased sales the small businessman must shoulder the burden of complying and paying for Government regulations while larger businesses, although stung by such regulation, can usually easily afford the additional expense that such redtape inevitably entails.

Even in the best of economic times the small businessman must scrap hard to remain competitive with his larger corporate brother. When a recession sets in, the fight becomes that much more difficult. Small business feels the pinch in several ways. Most important is the need for adequate financing of their operations.

When the capital markets are tight, it is small business that feels the squeeze first. The cumulative investment needs of the United States in the next decade will range from $4 trillion to $4½ trillion—approximately three times the level of the recent past. With the current rate of increased Federal Government intrusion into the capital markets, serious questions have arisen as to how these private investment needs are going to be met. This capital crunch is especially acute for small business. As record Federal deficits continue to pile up, Government financial needs and those of large firms tend to squeeze out the small- and even medium-size businesses. Currently, total Government borrowing will soak up more than 80 percent of the net amount available in private capital markets. If credit is available at all for small firms, it is at extremely high interest rates and on shorter terms.

A second serious stumbling block to a successful small business is obtaining the supplies and materials needed to operate. This problem has become increasingly aggravated in recent years as the world supply of crucial raw materials is being depleted and the competition for the remaining portion is stiffer. The scarcity has filtered its way through all sections of the American economy, but is most noticeable with petroleum-based products. The net result of such scarcity is to drive up the price of the raw material and ultimately the finished product. For the small businessman this can be a calamity. Often he is operating on a much smaller margin than a large corporation. He cannot afford to absorb the increase himself, but on the other hand cannot really afford to pass the increase on to customers without losing a competitive edge. The dilemma is not one that is easily solved.

With these distinct disadvantages, it might seem that there is no place for the small businessman in today's economic structure. This is just not the case. Small business can compete, given the chance. There are many advantages but perhaps the greatest plus is the very size of the operation. Unlike larger enterprises, a small business can go much further in providing customer service and meeting specific needs in a small market area. In addition, its size can give it much greater flexibility to meet business trends while the corporation operating nationwide will tend to be much slower in responding to change. These advantages make it plausible for small business to survive and prosper in the modern business world.

To enhance the vital position of the small businessman there are several things the Federal Government can and should do to help. Of utmost importance is the need to put an end to overregulation by all levels of government. The proliferation of Federal alphabet agencies in recent years has added greatly to the burdens of conducting a small business.

Often the regulations and rules flowing out of the Federal bureaucracy are so complex or indecipherable that a businessman is forced to consult outside help for interpretations. Time and money spent on such activities impose a severe drain on the energy and profit margin of small business. Estimates are that the cost of regulations to the public each year now totals $130 billion. I have proposed several pieces of legislation in an effort to reduce the regulations and Federal forms now being imposed. President Ford has recognized the need for a hard look at the overregulation problem. As more and more Members of Congress wake up to the fact that overregulation is strangling our economy, we can look for successful efforts to reverse the trend.

Second, the Federal Government can take positive legislative steps to aid the small business community. Small business tax reform that reduces the overall tax burden and provides realistic incentives for expansion and renovation should receive top priority in Congress.

The third step that can be taken to aid small business is the vigorous enforcement of our antitrust laws. In a few areas of our economy there is an alarming trend toward anticompetitive practices and monopolistic concentrations of power. The answer to this threat is to update and strengthen antitrust laws and also to enforce those laws presently on the books. This will enable small and medium size businesses to retain their competitive place in a true free market economy.

Fourth, just as small businessmen and all of us learn to live within our respective financial means, so must the Federal Government. Government, particularly the Federal Government, has grown in the last 40 years at a phenomenal rate. At the present trend, in 10 years Government will tax away more than half of what people earn. Government, Federal, State, and local, currently is the Nation's largest employer, employing one out of every five Americans. It took 173 years for our Federal budget to reach $100 billion in 1962. Nine years later it reached $200 billion and in only 4 more years it reached $300 billion. For the coming fiscal year it could well exceed $400 billion. In the past 15 years there have been 14 Federal deficits, building a national debt now approaching $600 billion. By routinely spending more than it receives in revenues, Washington picks the pocket of every American. Small businessmen have been particularly victimized by this steady erosion of the dollar's real purchasing power. Government creates inflation and Government can stop it.

Rather than blaming business for everything that goes wrong in this country, a new intelligent Federal policy will insure that the incentives are present to encourage and reward the competition that produces economic growth, profits, and more jobs; all of which are essential to the strength of our economic and political freedom. The small businessman has a vital role to play in this picture. His role must be enhanced, rather than hampered as it is now.

CONDITIONS IN STATE PRISONS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, today, I shall introduce legislation, requested by the Attorney General, that would reduce the burden on the Federal courts of prisoners' suits brought under section 1983 of title 42, United States Code, and it would authorize the Attorney General to intervene and challenge, in cases of public importance, the constitutionality of conditions in State prisons.

This legislation would require individuals involuntarily confined in State institutions to exhaust any available "plain, speedy, and efficient State administrative remedy" before bringing a civil rights suit in Federal district court under 42 U.S.C. 1983. The Supreme Court has interpreted section 1983 to preclude Federal courts from requiring exhaustion of State administrative remedies. See *Steffel* v. *Thompson,* 415 U.S. 472, 473 (1974); *Wilwording* v. *Swenson,* 404 U.S. 249 (1971).

A major purpose of the draft bill is to encourage States to adopt effective inmate grievance procedures. Under current law, States have little incentive to establish such procedures because inmates can bypass them in filing section 1983 suits.

Another purpose of the bill is to reduce the burden on the Federal judiciary of prisoner suits brought under section 1983. Such suits are currently being filed at an annual rate exceeding 6,000, or approximately 5 percent of the civil caseload of all Federal district courts. The overwhelming majority of these suits are frivolous and many of the underlying disputes could be satisfactorily resolved through adequate grievance machinery. The Federal Bureau of Prisons has had inmate grievance machinery in operation since April 1974. Approximately 40 percent of the grievances filed have been resolved in favor of the inmate.

In addition, section 1983 suits filed after an unsuccessful administrative hearing would be considerably easier to decide than is typically the case now. The record created during the proceeding would sharpen the issues in dispute.

It should be stressed that the exhaustion requirement does not deny prisoners access to Federal courts in section 1983 suits. It requires only that "plain, speedy and efficient" State administrative remedies be exhausted before bringing such suits. A prisoner unsatisfied with the administrative decision would be permitted to file a section 1983 suit.

This legislation would also authorize the Attorney General to bring suit to prohibit a State or its agents from pursuing a "pattern or practice" of denying the constitutional rights of persons involuntarily confined. However, that power could not be exercised unless the State, after notice, had failed to correct the alleged constitutional violations within a reasonable time. The Attorney General would also have authority to intervene in cases of public importance challenging the constitutionality of conditions in State institutions occupied by involuntarily confined persons.

The proposed legislation would operate to upgrade State prison conditions. It would thereby help to eliminate the current distortion in the sentencing process and the breeding of career criminals which result from inhumane penal institutions. As the President observed in his crime message of June 19, 1975:

> When a defendant is convicted, even for a violent crime, judges are too often unwilling to impose prison sentence, in part because they consider prison conditions inhumane. Moreover, a cruel and dehumanizing penal institution can actually be a breeding ground for criminality. In any case, a civilized society that seeks to diminish violence in its midst cannot condone prisons where murder, vicious assault, and homosexual rapes are common occurrences.

I hope the Subcommittee on Courts, Civil Liberties and the Administration of Justice will be able to schedule hearings on this legislation as soon as possible.

LEGISLATION TO REMOVE BARRIERS TO FAIR AND EFFECTIVE PROSECUTIONS IN FEDERAL RAPE CASES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 15 minutes.

Ms. HOLTZMAN. Mr. Speaker, today I am introducing a bill that will remove a barrier to fair and effective prosecutions in Federal rape cases. My bill will amend the Federal rules of evidence to protect rape victims from unwarranted invasions of their privacy at trial and encourage them to report and testify about the crime committed against them.

At the present time, a woman who has been raped is often reluctant to report the rape or testify at trial, because if she takes the stand she may be subjected to a painful cross-examination into the intimate details of her private life. In Federal court and in most States, the trial judge decides on a case-by-case basis whether the victim can be examined about her sexual past. A woman who has been raped must take the risk that the trial will turn into a degrading public inquisition into her sexual experiences.

It is well-recognized that this potential intrusion into the victim's privacy makes women reluctant to cooperate with police and prosecutors and acts as a deterrent to effective law enforcement in rape cases. Available statistics indicate that the majority of rapes committed are never reported. The New York City Police Department's Sex Crimes Analysis Unit has estimated that only 1 out of 10 rapes in New York City are reported. Information received by the Task Force on Rape of the National Organization for Women indicates no more than a 50-percent report rate.

The trend in recent court decisions has been to limit and prevent cross-examination about a victim's prior sexual experiences, because it is irrelevant to the issue of whether the defendant committed rape. Just last month, a District of Columbia Superior Court ruled in a rape case that questions could not be asked about the victim's relations with other men. Several States have recently enacted legislation limiting cross-examination about the victim's prior sexual history.

These court decisions and legislative revisions recognize that questions about a rape victim's prior sexual experience are unduly prejudicial since they suggest to the jury that the issue is the victim's morality rather than the defendant's guilt.

My bill would prohibit cross-examining the victim about her relations with anyone aside from the defendant. With respect to the defendant, such examination is allowed only if the judge, in a private hearing, determines the testimony is relevant and is not unduly prejudicial.

I recommend swift passage of this bill.

The text follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "Privacy Protection for Rape Victims Act of 1976".

SEC. 2. (a) Article IV of the Federal Rules of Evidence is amended by adding at the end thereof the following new rule:

"RULE 412

"Rape Cases; Relevance of Victim's Past Conduct

"Evidence of an individual's prior sexual conduct or reputation is not admissible in any action or proceeding if an issue in such action or proceeding is whether such individual was raped or assaulted with intent to commit rape. The preceding sentence shall not apply to evidence of such individual's prior sexual conduct with the individual who in such action or proceeding is alleged to have committed rape or assault with intent to commit rape. Hearings on the admissibility of evidence under this rule shall in all cases be conducted in chambers.".

(b) The table of contents for the Federal Rules of Evidence is amended by inserting after the item relating to rule 411 the following new item:

"Rule 412. Rape Cases; Relevance of Victim's Past Conduct.".

LEGISLATION TO END USE OF EXCHANGE FUNDS TO ESCAPE INCOME TAXES ON REALIZED CAPITAL GAINS

The SPEAKER. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 10 minutes.

Mr. ULLMAN. Mr. Speaker, yesterday I introduced a bill to put an end as of today to the use of exchange funds as a means of escaping income taxes on realized capital gains on appreciated securities. This bill is identical with the bill introduced by Mr. CORMAN on February 5 except for the effective date. Mr. CORMAN's bill would have been applicable to transfers made after the date of enactment. However, in view of the concern of the recent activity in the promotion and advertising of these swap funds, my bill which Mr. CORMAN and other Ways and Means Committee members are cosponsoring, including Messrs. SCHNEEBELI and CONABLE, the ranking minority members of the committee, is effective with respect to transfers made after February 17, 1976.

In the 1960's, investment funds, known as "swap funds," were organized to allow taxpayers to exchange appreciated stock for shares in investment funds without any tax consequences on the appreciation of the stocks transferred to the fund. In 1966, Congress enacted an amendment to eliminate tax-free exchanges of appreciated stock for shares of an investment company. The 1966 amendment applied only to corporate funds, including real estate investment trusts and regulated investment companies. It did not apply to partnerships.

Recently, the promoters of syndicated swap funds have been using limited partnerships as a vehicle for these tax-free exchanges. This bill provides that the gain realized on a transfer of stock to a fund will be taxable. The bill also covers two other swap-fund-type transfers: first, it would make mergers of two investment companies taxable; and, second, it would cover certain reorganizations, such as where mutual funds issue their shares to acquire all of the stock or assets of family held personal holding companies. The bill, as I have already indicated, is effective for any transfer made after February 17, 1976.

GUARANTEEING EFFECTIVE, STABLE GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 10 minutes.

Mr. HARRIS. Mr. Speaker, today I am introducing a bill which, I believe, will improve the quality of our Government. The bill makes three changes in the salary-setting policy of the Federal Government: First, it repeals the "pay freeze" on those general schedule employees affected by it; second, it removes executive, legislative, and judicial personnel from the annual comparability process brought under it by Public Law 94-82; and third, it tightens up the Quadrennial Commission process for adjusting the salaries of top executives so that the Commission's recommended changes would go into effect early in 1977.

THE PAY FREEZE IS HARSH

My bill would phase out the 1969 pay ceiling on career general schedule employees over a 5-year period in $2,000 increments. It was imposed in 1969, freezing salaries at $36,000 until October 1975 when it was adjusted slightly to $37,800. Though a 5-percent increase was granted in October, the freeze is still in effect. Under my bill, it would be totally removed by 1980 for Federal employees.

The following table illustrates the types of Federal employees affected by the pay freeze:

General schedule employees affected by the pay ceiling

Type of employee:	
General schedule	9,026
Similar to general schedule	781
Foreign service	1,589
VA-medical personnel	1,980
Scientific and technical personnel	2,125
Total	15,501

What has happened under the freeze? It has now crept down as far as GS-15 employees. With the October 1975 comparability increase, almost half of the Government's GS-15 employees are now frozen. Added to this are all GS-16's, GS-17's, and GS-18's. Thus, in many cases, individuals at five levels are earning the same salary. I have heard testimony from Government officials and have seen diagrams which show agency chiefs and bureau heads all earning the same salary.

The General Accounting Office has said that a $36,000 salary set in 1969 was eroded by inflation to $24,408 by May 1975. GAO says 1969 salary rates lost almost a third of their purchasing power by May 1975. By January 1977, GAO says:

> Assuming CPI increases at the same average rate and no legislation is enacted, the purchasing power of Federal executive salaries will decrease by about 39 percent.

A 1969 salary of $36,000 would be $21,942 in purchasing power. While these salaries have remained stagnant for 7 years, the cost of living has increased by 50 percent. Non-Federal executive salaries have increased by 47 percent. Other Federal white-collar salaries, unfrozen, have increased by over 50 percent.

THE PAY FREEZE HURTS GOVERNMENT

What does this mean for Government? It has seriously hampered the Government's effort to recruit and retain high-caliber Federal officials, particularly scientific and medical personnel. What motivation is there to work for the Government when there is little hope of receiving a salary competitive with private enterprise? The Chairman of the Civil Service Commission has noted that critical jobs go unfilled because the private sector is more attractive. Executive retirements and resignations have doubled since 1969. Salary-frozen executives in the 55 to 59 age range retire at three times the normal rate than other employees in that age group.

A few examples: HEW has difficulty recruiting expert scientists and researchers. VA cannot attract top-flight physicians. Six individuals declined the Library of Congress GS-17 position of senior specialist in taxation and fiscal policy because they were all earning higher salaries in their present employment. Six of the Treasury Department's top 12 officials departed in June 1975. The Under Secretary of the Treasury for Monetary Affairs resigned his $40,000 position. Two candidates would not accept HEW's position of Director of the National Institute on Aging because of the pay limitation; four administrative law judges at the Federal Trade Commission retired because of the salary ceiling. DOD has reported that 20 executives resigned, retired, or refused promotions because of the freeze. Another 22 declined to come with the Defense Department. Now we learn the Chairman himself of the Government's personnel agency, the Civil Service Commission, is leaving partly because of the freeze.

In addition to retention and recruitment difficulties the freeze has caused serious problems of compression. Some GS-15's through GS-18's are at the same salary; thus, one can find in an office individuals earning the same salary as their immediate supervisor. Since general schedule salaries have increased annually, with no similar increase in executive salaries, more and more general schedule employees "bump up" against the ceiling each year. Says GAO—

> Salary compression seriously weakens two statutory pay principles of internal equity—equal pay for equal work and maintaining pay distinctions in keeping with work and performance distinctions.

There is no financial reward for taking on increased responsibilities, for advancing. To continue this acceleration of the freeze downward, locking in more and more GS employees, will, says GAO—

> Reduce morale within the work force and have a negative impact upon the career incentives of employees entering the career service.

The Chairman of the Civil Service Commission has said:

> Difficulties in recruiting and retraining high-caliber executives is measurable, but the effect of lost managerial talent on the quality of government is more difficult to quantify. . . . What we need is relief from an arbitrary salary ceiling on top executives, which in and of itself establishes a companion ceiling on career managers. Not just a one-time Band-Aid type of remedy, but an enduring procedure which will insure that the present conditions of salary compression do not recur.

My bill lifts the freeze from the rank-and-file general schedule employees over a 5-year period in $2,000 increments. It is my belief that it is unfair to tie career public employees' salaries to an arbitrary rate—totally unrelated to their merit or performance. An orderly equitable salary-setting process should be guaranteed. Salaries of rank-and-file Government workers should be separated from those of political appointees and free from Presidential whims. The Government must be stable; only a systematic salary system will insure that stability.

EXECUTIVE SALARIES

My bill does not "unfreeze" the 2,261 executive schedule employees in the executive branch or change the salary of other top personnel in the legislative and judicial branches. The fact that their salaries have been the same for 6 years is also unfair and severe. However, their salaries are set through a different procedure and should be treated differently. My bill makes two changes.

First, it removes these individuals from the annual comparability process which was designed to provide general schedule Federal employees annual adjustments to keep their salaries comparable with private industry. Public Law 94-82 linked these executives to the comparability procedure. I voted for it at the time because I felt it was necessary to give career Federal employees same small relief after the 6-year freeze.

However, time has shown me that it was a mistake. Including top executives, legislative, and judicial personnel in this process "politicized" the Federal salary-setting system because the salaries of Members of Congress were part of the package. Under the comparability process the President can recommend an amount differing from that of his advisers which then can be rejected by one House of Congress, thus insuring the real comparability amount. The most politically unpalatable vote an elected official ever has to cast is a vote raising one's salary. We saw Congress turn its back on Federal employees last October, when the President's 5 percent comparability adjustment was not overturned. I believe it is wrong to make rank-and-file Federal workers the victim of the cowardice of Members of Congress.

Additionally, I believe that the salaries of appointed and elected Government officials should be treated differently from those of Government employees. They are not career employees in the same sense. They take their job, in most cases, knowing it will be a political tenure Their salaries should be handled under a different system. The American Compensation Association agrees. Their organization told the President's panel—

> Executives, as a group, should be classified and compensated under a separate pay structure. The pay structure should be such as to motivate outstanding lower echelon employees to achieve promotion to the executive ranks and to attract competent, qualified and experienced personnel from the private sector.

We have the basics of such a system now, the Quadrennial Commission procedure which makes recommendations to the President for adjusting executive salaries. The President then submits his recommendations to Congress in the next budget and they become effective, unless one House of Congress rejects them. Under my bill, the Presidnt would be required to appoint the members of the Commission by July 1, 1976 and by that date every 4 years thereafter.

The Commission would be required to report its findings and recommendations to the President by January 1 and the President would then have to include his recommended adjustments in the fiscal 1978 budget, to be submitted to Congress in January 1977. Reporting to Congress in January 1977 is in line with the President's intentions as outlined in his 1977 budget. My bill slightly speeds up a process scheduled to take place next year. It would be up to the Commission to come up with an amount and a scheme for adjusting top executive salaries. The recent report of the President's Panel on Federal Compensation has recommended that executive pay rates be increased and points out—

> The appropriate body to develop precise pay rate recommendations is the Commission on Executive, Legislative and Judicial Salaries which is scheduled to be appointed in fiscal year 1977.

A PLAN FOR THE SALARY MESS

This bill rounds out my efforts to straighten out what I call the Federal salary mess. I have introduced several bills which include major revisions in the Federal salary-setting process that I believe are necessary: First, removing the President's authority to propose an alternative comparability amount, thus insulating rank-and-file Federal workers' salaries from politics (H.R. 9905); second, removing Members of Congress and Federal and judicial executives from the comparability process; third, removing the pay ceiling from general schedule employees; and, fourth, urging the Commission on Executive Legislative and Judicial Salaries to make recommendations on adjusting the salaries of top executives. I am confident that this plan will compensate all Federal employees in a fair, nonpolitical, objective, and systematic manner.

A SOUND, STABLE GOVERNMENT

With enactment of this bill, Congress would be addressing a very basic problem affecting our Government. A fair, systematic, apolitical pay system which treats people with respect is vital to effective government. Our Federal workers have little incentive to aspire upward—to perform better—if there is no reward awaiting them. A strong motivation for the public service is not enough with a ravaging inflation eating away at stagnating salaries. The Federal Government, which touches the daily lives of all our citizens, should be staffed by competent and highly motivated career professionals. We must obtain and retain the best managers, scientists, and doctors to make the decisions involving vast sums of public money and to manage complex programs affecting the Nation's economy, welfare, and security. As long as we ignore these very basic salary problems, government and the American citizens will suffer.

CONSUMER PROTECTION AGAINST UNETHICAL DEBT COLLECTORS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, under legislation I am reintroducing today, the harassment and intimidation currently being suffered by consumers in the hands of unethical debt collectors will be strictly prohibited.

This new title VIII of the Consumer Protection Act—the Debt Collection Practices Act—was originally introduced in October and would for the first time comprehensively regulate the practices of debt collection agencies, some of which have taken unfair advantage of consumers by using abusive and unreasonable tactics to collect debts.

Since October, the Consumer Affairs Subcommittee which I chair, has been receiving feedback on this legislation from both consumers and collection agencies. Revisions made in the original bill will, I am sure, calm the fears of the smaller agencies that Federal regulation would place undue time and paperwork burdens on them. But at the same time, the protection consumers so badly need against collectors who will stop at nothing to get payment has not been lost. If anything, this protection has been strengthened.

With only one-half of the States covered by any sort of collection abuse statute, the need for Federal regulation is acute in some areas. Such tactics as threatening to impound or sell a person's property, making obscene and accusatory phone calls in the middle of the night, asking an employer to apply pressure, calling an individual's friends or relatives or threatening jail or physical harm are not uncommon.

The Consumer Affairs Subcommittee has hundreds of cases in its files documenting just such mistreatment of consumers by collectors. The past 8 months has seen an influx of letters describing all types of harassment but perhaps the most tragic cases involve debts which are not even bona fide. A computer error or some other mistake has supplied an agency with a name, address and amount to be collected and an unrelenting collector—working on a percentage of what he can collect—has been set on the trail of the individual who does not even owe the money. Too many times, denial of the debt's validity or pleas to work out a reasonable repayment schedule went unheard and the harassment continued.

The legislation I am proposing provides a detailed list of prohibited practices followed by enforcement provisions strong enough to insure that such practices are stopped. As I said, I have worked on the bill closely with trade organizations as well as with consumer groups to insure that the Debt Collection Practices Act is understood as one which seeks neither to wipe out the debt collection business nor to protect deadbeats from having to pay legitimate debts.

Debt collection agencies whose policies do not allow humiliation and intimidation need not worry. Their businesses are not jeopardized in any way by this bill. Debts which consistently go unpaid deserve to be pursued on a reasonable basis and the professional collection of such debts is a legitimate business. It is unfortunate, but a widespread need for debt collection agencies does exist in this country and I seek only to insure that such businesses operate within a framework of fairness.

The Federal agencies already have the power to regulate financial institutions and other creditors and it is my belief that the incentives of the Debt Collection Practices Act for unscrupulous debt collection agencies to either reform or get out of the business will provide all of the tough but fair protection the consumer needs against debt collector abuse.

I am including a copy of the bill because the Consumer Affairs Subcommittee has received an unusually large number of requests for the legislation and circulation here will help meet these requests.

WORK ETHIC REPLACED TODAY BY HANDOUT SYNDROME

The **SPEAKER.** Under a previous order of the House, the gentleman from Georgia (Mr. BRINKLEY) is recognized for 30 minutes.

(Mr. **BRINKLEY** asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. BRINKLEY. Mr. Speaker, I thank my colleagues for allowing me this time today to address a most critical issue and the long-term implications of the evolution which has taken place over the past few decades. I am speaking about the work ethic and the fact that it has been replaced by the handout syndrome. I hesitate to call it welfare because there are many, many decent and honorable people who are deserving of helpfare, and as a compassionate people it is our wish to supply their needs. But the able-bodied recipient of Federal assistance should be required, as a matter of course, to give what he has in terms of useful work in exchange for the unemployment, welfare, housing, food stamps, or other Government benefit for which he or she applies. Most would wish to do so.

There are many areas which we should consider. First is the public service job in the job sector. Many of us still remember quite vividly the WPA and CCC of the depression years. These programs worked effectively because they were not high-salaried positions and were a stopgap and bridge to commercial employment at higher wages. But the benefits were not free. The sweat of the brow was required. Today, public works all over the Nation testify to the effectiveness of these programs. They are monuments to the working man and woman everywhere.

The need still exists today, whether on our public highways, in our hospitals, our school grounds, water and sewerage, library facilities, or, specifically, the Greenville, Ga., courthouse which has just been gutted with fire. There is a need; we have hands to meet that need and it is the responsibility of Government to supply the catalyst.

In another area we should take care not to have tunnel vision, and in the name of economy reduce existing jobs in the military, civil service, or postal fields. It is penny wise and pound foolish to simply shift a segment of our people from the employed pool to the unemployed pool and continue to provide them with Federal benefits—all in the name of economy. That is poor business, for the man or woman affected would clearly prefer to work and would perform work useful to the country. It is mighty inconsistent to embrace jobs legislation on the one hand, and on the other hand pare and prune existing jobs to the bone. This is exactly what is being proposed by those who would reduce our military establishment because, to them, it may seem the popular thing to do. Even were it not to endanger the national defense, that course of action is wrong under the fabric of job need.

To be sure, the cost is high but there is something deeply wrong, Mr. Speaker, when the good land which is ours and the good people which we have cannot be merged into a work ethic. On jobs legislation and on existing Government jobs, the aim is accurate if we retain what we have and amplify job opportunity as the proper alternative to unemployment and welfare.

Workfare provides productive returns, builds pride and character in the individual and collectively imbues the Nation with backbone.

I have with me two news articles, an editorial, telegrams from Gov. George Busbee and the Georgia Municipal Association, and a letter which is typical of the sentiment of the people whom I have the privilege of representing in the Third District of Georgia. Let us soberly consider shifting gears to move back to the basic principle where work is honorable and desirable.

I understand, and appreciate, the concern of several individuals who have communicated with me in opposition to the jobs bill considered today. The claim is made, and with some legitimacy, that workers cannot be obtained under existing circumstances. But that is not in conflict with the principle which I advocate. It is an indictment, rather, against a present system of unemployment compensation without a really meaningful work requirement with teeth in it. I believe that philosophically most of us are in agreement when it comes to workfare.

This is the faith of our fathers.

[From the Daily Sun, Feb. 13, 1976]

CONGRESS AND JOBS

If President Ford vetoes the $6.2 billion jobs bill, as he has indicated he will, the Congress should pass the measure over his veto.

It is expected that the bill could create 600,000 or more jobs—not many, considering the nation has eight million unemployed, including a million in California.

President Ford's own economic plans call for unemployment to continue at 7 per cent or higher for the next two years and remain at 6 per cent for a couple of years thereafter.

Something must be done to alleviate the hardship of the unemployed. Many are now beginning to run out of their extended unemployment benefits. Soon their only alternative will be to go on welfare.

Whatever the causes of our economic predicament, which appears to be a worldwide phenomenon, the unemployed are not to blame. Yet they are having to bear the heaviest burden during this period of gradual economic recovery.

It is true that government pump-priming does not produce permanent jobs in private industry, but the unemployed cannot wait for the economy to produce such jobs. They need something now, not in 1980, and a temporary public works project job is better than none.

The bill would provide $2.5 billion for state and local public works construction jobs which could be started within 90 days of approval. The projects would be to build or repair local public facilities such as parks, sewers or public buildings.

It would provide $500 million for the Job Opportunities Program, another labor-intensive public works program designed to fight the high unemployment rate, and $1.4 billion for waste water treatment grants.

This is the kind of emergency help the federal government can give to the unemployment.

Fear of inflation has caused a few congressmen to shrink from supporting this legislation but the jobs program would not contribute significantly to inflation. The cost would not be more than welfare payments. And the useful work performed would be of lasting value to the country.

[From the Robins Review, Feb. 12, 1976]

Congressman Brinkley Asks for Your Letters and Editorials

In a letter to the Review, Congressman Jack Brinkley asked for letters and editorials for use in a special order he will take to the House of Representatives to focus attention on a policy of workfare rather than welfare.

Brinkley is supportive of H.R. 5247, which authorizes a local public works capital development and investment program and amends the public Works and Economic Development Act of 1965 to increase the anti-recessionary effectiveness of the program.

Coupled with that action, Brinkley feels there should be a freeze on any reduction in civil service or postal jobs during a period of high unemployment. Brinkley said, "It is far better to let the man or woman continue on the job with a productive benefit rather than add further to the unemployment rolls and unemployment compensation which have reached enormous proportions. The individuals affected would prefer to work and I submit we need them to work. It is false economy and undermines the national security, for example, to run the nation's defense activities with a skeleton crew."

So let your voice be heard by writing your Congressman. Brinkley urges, "Join with me and let's do our part—Robins Air Force Base is important business."

[From the Ledger-Enquirer, Feb. 15, 1976]

Job Hunting Difficult—Especially for City's Youngsters

(By William Rowe)

Job hunting is the toughest kind of work, especially for young people without experience.

Hardest to find are paying jobs for 15- and 16-years-old seeking short-time summer work during school vacation. And girls with limited job skills and no prior experience are at the bottom of the list.

"It's always easier for a boy to get a job," said a Columbus mother of six children. She herself failed to find work, after an interruption for family reasons, even though she had 10 years experience. The number of children in her family seemed to be the deciding factor against her.

Cathy Bush, 20, is a Columbus High School graduate attending Chattahoochee Valley Community College in Phenix City at night. Her two-year job hunt has been in vain, although she had typing and shorthand in high school. Now she's studying criminal justice, stands high on the list of eligibles for training as a Police Cadet and employment with the Columbus Police Department. But still, no job.

Her sister Elizabeth spent 15 months seeking a job in the clerical field, without success. Finally she went on her own to an office where she found work she is now performing.

Boys seem to have it easier. Glenn Bush got a job on his first outing—stock clerk and sack boy in a grocery operation.

Wesley Lowe, 19, a graduate of Phenix City's Central High School, got his first paying job through his brother, found another job when the first folded, now is in his fourth month as a copy clerk in Columbus. The latter two were landed by hearing about them and applying. He figures most boys who really want to work can find something. Not an ideal job, perhaps, but work that pays.

With national unemployment around eight million, high school dropouts and even graduates without job experience find it tough to land a job. Some are ruled out by laws prohibiting minors from doing certain work. Given a choice, many employers will hire the person with more maturity and work experience. Still, Columbus and Phenix City area young people can find programs designed to help them.

"We've been successful in finding jobs for young people," says James Scoven, manager of the Georgia State Employment Service in Columbus. "In the six months from July through December, we had 5,537 applications for work in the 16–21 age range. We found jobs for 3,304 of them, which is 59.7 per cent, a high figure."

"Job Service" is now the key in placement work, says Lester Balentine, manager of the Alabama State Employment Service in Phenix City.

His office is starting a class for 15 auto mechanics trainees on March 15 and will give a licensed practical nurse course at Cobb Hospital in June.

"It's not enough to have general education," Balentine said. "Special skills is where the jobs are. For girls, office and hospital-related training may enable the applicant to be fitted to available job opportunities."

Employment services in Columbus and Phenix City share a job bank in Alabama, Georgia and adjoining states. Both participate in a CETA—Concentrated Employment Training Act—program.

Richard M. Leukhardt, director of operations under Director William F. Meadows Jr., for CETA in Columbus, said this federally-funded program is primarily designed to help with employment of individuals under 21 in the summertime Columbus Youth Opportunities program, and to provide some training and education for school dropouts and high school graduates, on basis of need. Contact with CETA can be made at State Employment Service or the Columbus city building across Ninth Street from Columbus Government Center.

For the unemployed young person not qualified as being needy enough, the lack of a job can be grim.

One avenue of job hunting is to consult the private employment agencies. One Columbus woman said these agencies seem to grab off some jobs for their clients before the state employment services do, because they perform so much service for the employer involved. This results in some frustration for the job-seeker who applies for the free aid given by the tax-supported service. But, this woman added, the private employment service charges fees that take a large bite out of the pay of the person starting on the new job.

The old sad story is that lack of experience is a main obstacle to the young. And how can they get experience unless someone gives them a job?

"Take any honest job you can get, to start with," Balentine advises. "Then, while working, get some special training. Go to night school. Learn something that will help you move up to something better. It's easier to get another job when you have one already. The desire to improve yourself is an acceptable reason for changing jobs."

[Mailgram]

Congressman JACK BRINKLEY,
House Office Building,
Washington, D.C.

I understand the leadership plans for H.R. 5247 to go to Rules Committee on Wednesday and to the floor for final vote on Thursday, January 29. As you know, This bill contains a compromise on the Senates Talmadge/Nunn amendment which provides authorization/allocation for additional water and sewer facilities funds.

I appreciated your help and support when you originally co-sponsored legislation reallocating the impounded water and sewer funds. The compromise accomplishes our original intent but does not harm any State. I hope you will support this compromise provision and H.R. 5247.

GEORGE BUSBEE,
Governor of Georgia.

[Mailgram]

Congressman JACK BRINKLEY,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN: As you know, the President vetoed House Resolution, H.R. 5247, the public works bill. I would like to imagine that this bill contains the compromised language for the additional waste water treatment facilities fund. We have worked long and hard this year to gain this compromise, which authorizes an equitable funding of waste water treatment facilities according to need and without detriment to any State. I hope you share my belief that the principals of this compromise ought to become Federal law.

Sincerely,

GEORGE BUSBEE,
Governor of Georgia.

[Telegram]

GEORGIA MUNICIPAL ASSOCIATION.

Congressman JACK BRINKLEY,
House of Representatives,
Capitol One D.C.:

The Georgia Municipal Association strongly endorses conference report on local public works capital development and investment at (H.R. 5247) report includes reallocation of water pollution funds greatly increasing Georgia's share. However, we strongly urge you not take any action which jeopardizes or delays reenactment general revenue sharing respectfully.

JOHH P. ROUSAKIS,
President.
W. ELMER GEORGE,
Executive Director.

WARNER ROBINS, GA.,
February 8, 1976.

DEAR MR. BRINKLEY: I wish to commend you on the article you had printed in the Warner Robins Sun-Sunday paper!

Workfare rather than welfare should well be the motto of all our leaders. Only through adequate jobs will our economy ever recover.

Why not divert some of those billions of dollars we are giving away to countries who are kicking us out and limiting action from bases there, to our own military and civilian work force?

Sincerely yours,

MARCEL D. BREI.

SPEEDY ACTION NEEDED ON EXTENSION OF GENERAL REVENUE-SHARING PROGRAM

The SPEAKER pro tempore (Mr. O'NEILL). Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

Mr. BEDELL. Mr. Speaker, when the 94th Congress convened over 13 months ago, we all knew that one of the major tasks before us was to decide what to do about the general revenue-sharing program. We knew that the authorization and funding for the program is scheduled to expire on December 31, 1976, and that 39,000 local governments are depending on the Congress to consider and dispense with the renewal question in a timely fashion.

During much of 1975, we were told that the House Government Operations Committee's Subcommittee on Intergovernmental Relations was collecting necessary background information on the subject of general revenue sharing. Then we heard that such information has to be carefully analyzed and digested, and that this takes time. Meanwhile, many local communities and, I might add, many proponents of the revenue-sharing program here in Congress, began to grow increasingly uneasy about the seemingly casual pace of the revenue-sharing extension effort.

As a strong supporter of the general revenue-sharing concept, I am very disappointed by the lack of substantive action produced to date in the Congress on the renewal question. Local governments need to know what to expect from the revenue-sharing program if they are to plan effectively for the upcoming year. Yet, despite clear evidence that there is overwhelming support for the program within the Congress, progress on the extension issue remains slow. As a new Member, I find this to be a very frustrating and disquieting proposition, and I know that my concern is shared by many of my colleagues in the House.

My original understanding was that the Subcommittee on Intergovernmental Relations would proceed to mark up an extension bill last November. It is now the middle of February, and the subcommittee still has not held 1 day of markup.

Mr. Speaker, it is not my intent to disparage the subcommittee's handling of this matter. I am aware that they held numerous hearings and took volumes of testimony on the revenue-sharing issue during the first session of the 94th Congress. I commend them for their thoroughness and diligence in this regard.

However, I do not believe that we can afford to minimize the importance of prompt action on this question. The timing element is critical.

Work on developing spending and revenue estimates for the upcoming year has been in progress at the State and local level for some time now. Yet, the lack of a clear indication of what Congress will do about general revenue sharing has made it extremely difficult if not impossible for local governments to prepare meaningful budgets for fiscal year 1977. The uncertain fate of the general revenue-sharing program injects an element of unpredictability into their calculations which threatens to throw the fiscal processes of State and local governments into disarray. This situation is a cause of concern for all recipient governments. And it is particularly acute for those communities who operate on a fiscal year rather than a calendar year basis.

Consider the facts. There are approximately 39,000 local governments now participating in the general revenue-sharing program, over half of which have fiscal years beginning in either June or July. In most cases, the general revenue-sharing entitlement constitutes anywhere from 3 to 8 percent of a local government's annual budget. And, to further compound the problem, most State constitutions prohibit State governments, or local units of government, from employing deficit financing. It is not difficult to put this picture together. As budget deadlines approach, many local governments are faced with a very serious fiscal dilemma. I am fearful that, if Congress doesn't act reasonably soon on the revenue-sharing extension question, many of these local governments will be left with the Hobson's choice of either raising taxes or cutting back basic services, thus placing an unjustifiable burden on the local populace and retarding economic recovery.

I do realize that the Congressional Budget and Impoundment Control Act of 1974 prohibits any new Federal spending until the Congress approves a tentative ceiling for the Federal budget. The timetable for approval of such a ceiling is May 15.

Nevertheless, the Budget Control Act does not preclude the possibility of moving an extension bill through committee in a timely manner. I believe that such action is imperative, for it would at least provide local officials with a general idea of what entitlement they might expect. And it would thus allow them to develop their budgets on a contingency basis.

Mr. Speaker, I recognize that there are some differences of opinion within the Congress about certain aspects of the revenue-sharing program. However, I am confident that there are more than enough votes to pass an extension bill once these issues are resolved. It is clearly time to make substantive progress on these issues. As we proceed in this regard, we would all do well to reflect on the potential consequences of further delays on the extension question.

INTRODUCTION OF FEDERAL FOOD MARKETING APPRAISAL ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. VIGORITO) is recognized for 10 minutes.

Mr. VIGORITO. Mr. Speaker, today I am introducing, with cosponsors, a bill to establish a temporary National Commission on Food Costs, Pricing, and Marketing, which will have the responsibility of analyzing and appraising the food marketing system in the United States.

The bill provides for a bipartison, 15-member Commission, composed of 5 Members of the House of Representatives appointed by the Speaker, 5 Members of the Senate appointed by the President of the Senate, and 5 persons appointed by the President of the United States from outside the Federal Government.

The Commission is directed to conduct an overall analysis and appraisal of the domestic food marketing system in the United States, and to make a final report with recommendations to the President and Congress within 18 months of its initial funding. The bill provides that the Commission shall be abolished 90 days after submission of its final report.

The Commission, in its report and recommendations to the Congress and the President, is directed to include treatment of:

First, any trends in economic concentration and related anticompetitive structures and practices in the food industry;

Second, the degree of responsiveness, on a timely basis, of prices charged by firms at subsequent stages of the food marketing process, to changes in farm-level prices;

Third, recent trends in the relationship between the costs and nutritional quality of food products, and market promotional activities employed for such products;

Fourth, the kind of food marketing system that would best achieve efficiency of production, assembly, processing, transporting, and distribution, consistent with effective services to consumers and other national objectives—including a competitive marketing system and maximum employment; and

Fifth, the effectiveness of present statutes, public policies and programs bearing upon food marketing in serving national objectives and needs, and changes in such statutes, policies and programs that would render them most subservient to national needs.

Judging from the amount of attention that has been directed to food marketing in recent years and months, I am convinced that now is the proper time to conduct the kind of serious examination of food marketing which such a Commission can provide. Food from U.S. farms cost American consumers $159 billion in 1975, and $102 billion—64 percent—of that cost was added in the form of marketing costs after the produce left the farms.

In other words, every man, woman, and child in the United States in effect spent $754 for food last year, and almost two-thirds of that was strictly marketing costs.

I personally do not want to imply that there are any easy answers to food marketing problems, or that billions of dollars necessarily can or should be shaved from the Nation's food marketing bill. Indeed, when we take into consideration the need for special services to consumers, maintenance of a competitive production and marketing system in agriculture, meaningful employment opportunities and other national objectives, we must be careful not to take steps that prove counterproductive from an overall vantagepoint. Food marketing is a complex system, which warrants deliberate adaptation, not hasty tampering.

The merit of establishing a temporary Commission of the type provided in this bill is that the Commission is designed to achieve a balanced, unbiased approach to food marketing problems. For information, the Commission will combine data gathered by its own staff and secured from other cooperating agencies, with input from all interested parties who will be afforded an opportunity to present testimony at public hearings conducted by the Commission.

The result should be that the Commission on Food Costs, Pricing and Marketing will hear the full range of facts and views on food marketing, and that its final report will be balanced and useful.

I am convinced that the single, temporary Commission to be established by this bill is the necessary and proper approach, because the multitude of agencies now looking at bits and pieces of the food marketing system often result in conflicting findings and recommendations.

Mr. Speaker, this legislation is timely, and I would hope that it can be enacted before the end of the 94th Congress.

The bill follows:

H.R. 11998

A bill to establish a National Commission on Food Costs, Pricing and Marketing to appraise the food marketing industry

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Food Marketing Appraisal Act of 1976".

ESTABLISHMENT OF COMMISSION

SEC. 2. In order to appraise the costs and pricing of food in the United States, there is hereby established a bipartisan National Commission on Food Costs, Pricing and Marketing (hereinafter referred to as the "Commission").

ORGANIZATION OF THE COMMISSION

SEC. 3. (a) The Commission shall be composed of fifteen members, including (1) five Members of the Senate, to be appointed by the President of the Senate; (2) five Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and (3) five members to be appointed by the President from outside the Federal Government. Those Members appointed by the President shall, respectively and as representatively as practicable, reflect the perspectives of consumers, farm producers, labor, processors, and distributors.

(b) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner as the original position.

(c) Eight members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS

SEC. 4. (a) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) Each member of the Commission who is appointed by the President may receive compensation at the rate of $150 for each day such member is engaged upon work of the Commission, and shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

DUTIES OF THE COMMISSION

SEC. 5. (a) The Commission shall analyze and appraise the costs, pricing, functioning and structure of the food marketing industry.

The Commission, in its report and recommendations to the President and the Congress, shall include treatment of the following:

(1) Recent changes in the various segments of the food industry, including trends in economic concentration and related anticompetitive structures and practices;

(2) The degree of responsiveness, on a timely basis, of prices charged by firms at subsequent stages of the food marketing process, to changes in farm-level prices;

(3) Recent trends in the relationship between the costs and nutritional quality of food products, and market promotional activities employed for such products;

(4) The kind of food marketing system that would best achieve efficiency of production, assembly, processing, transporting, and distribution, consistent with effective services to consumers and other national objectives—including a competitive marketing system and maximum employment;

(5) The effectiveness of present statutes, public policies and programs bearing upon food marketing in serving national objectives and needs, and changes in such statutes, policies and programs that would render them most subservient to national needs.

(b) The Commission shall make such interim reports as it deems advisable, and it shall make a final report of its findings and conclusions to the President and to the Congress within eighteen months of the date on whic the initial funds become available to carry out the Act.

POWERS OF THE COMMISSION

SEC. 6. (a) The Commission, or any three members thereof as authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to the study. In connection therewith the Commission is authorized by majority vote—

(1) to require, by special or general orders, corporations, business firms, and individuals to submit in writing such reports and answers to questions as the Commission may prescribe; such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in the case of disobedience to a subpoena or order issued under this subsection to invoke the aid of any district court of the United States in requiring compliance with such subpoena or order;

(5) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths, and in such instances to compel testimony and the production of evidence in the same manner as authorized under paragraphs (3) and (4) above; and

(6) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) Any district court of the United States within the jurisdiction of which any inquiry is carried on may, in case of refusal to obey a subpoena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) The Commission is authorized to require directly from the head of any Federal executive department or independent agency available information deemed useful in the discharge of its duties. All departments and independent agencies of the Government are hereby authorized and directed to cooperate with the Commission and to furnish all information requested by the Commission notwithstanding any other provision of law.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conducting of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) When the Commission finds that publication of any information obtained by it is in the public interest and would not give an unfair competitive advantage to any person, it is authorized to publish such information in the form and manner deemed best adapted for public use, except that data and information which would separately disclose the business transactions of any person, trade secrets, or names of customers shall be held confidential and shall not be disclosed by the Commission or its staff: *Provided, however,* That the Commission shall permit business firms or individuals reasonable access to documents furnished by them for the purpose of obtaining or copying such documents as need may arise.

(f) The Commission is authorized to delegate any of its functions to individual members of the Commission or to designated individuals on its staff and to make such rules and regulations as are necessary for the conduct of its business, except as herein otherwise provided.

ADMINISTRATIVE ARRANGEMENTS

SEC. 7. (a) The Commission is authorized, without regard to the civil service laws and regulations or the Classification Act of 1949, as amended, to appoint and fix the compensation of an executive director, and the executive director, with the approval of the Commission, shall employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission, but no individual so appointed shall receive compensation in excess of the rate authorized for GS–18 under the Classification Act of 1949, as amended.

(b) The executive director, with the approval of the Commission, is authorized to obtain services of consultants and other part-time personnel as authorized by law (5 U.S.C. 3109), but at rates for individuals not to exceed $150 per diem.

(c) The head of any executive department or independent agency of the Federal Government is authorized to detail, on a reimbursable basis, any of its personnel to assist the Commission in carrying out its work.

(d) Financial and administrative services (including those related to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of Commission and the Administrator of General Services. The regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of that Administration for the administrative control of funds apply to appropriations of the Commission.

(e) Ninety days after submission of its final report, as provided in section 5(b), the Commission shall cease to exist.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There is hereby authorized to be appropriated such sums not in excess of $2,500,000 as may be necessary to carry out the provisions of this Act. Any money appropriated pursuant hereto shall remain available to the Commission until the date of its expiration, as fixed by section 7(e).

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

Mr. DRINAN. Mr. Speaker, due to a longstanding commitment I was unable to be present for rollcall votes on Monday, February 9, and Tuesday, February 10. As a strong supporter of legislation to protect our animal population against exploitation and abuse, I would have voted for final passage of H.R. 5808, the Animal Welfare Act amendments. I would also have voted for the committee amendment to include live birds within the definition of animals utilized for fighting.

On Tuesday, I would have voted against an amendment to H.R. 11665 offered by Mr. MICHEL to rescind $97.3 million in Federal aid to education in impacted areas. I would have voted for House Resolution 1025 to provide for the consideration of H.R. 11453, the emergency employment projects amendments. I also would have voted for final passage of this most important component of our battle to reduce unemployment. I would have voted against an amendment to H.R. 11453 offered by Mr. BLOUIN to revise the formula for allocating funds to prime sponsors and Indian tribes. I would have also voted against an amendment in the nature of a substitute offered by Mr. QUIE to reduce the level of authorized funding under the act.

Earlier this week, I had the honor of participating in the International Conference on Soviet Jewry in Brussels. As a result, I missed recorded votes on Tuesday, February 17, and Wednesday, February 18. Had I been present, I would have voted for H.R. 11455, H.R. 11645, and H.R. 11233, all under suspension of the rules on February 17.

Had I been present yesterday, I would have voted for House Joint Resolution 801 to provide funding necessary to keep our Nation's railroads in operation for the next several years.

INDIAN POINT, N.Y., NUCLEAR POWERPLANTS SHOULD BE SHUT DOWN PENDING SAFETY INQUIRY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 5 minutes.

Ms. ABZUG. Mr. Speaker, the numerous dangers inherent in operating nuclear powerplants are now so apparent that even the people most committed to nuclear power are risking their reputations and their livelihoods to force long-suppressed information into view.

Robert Pollard, former project manager for safety evaluations at the Nuclear Regulatory Commission, has charged that the Indian Point, N.Y., nuclear plants threaten the health and safety of millions of people in the Greater New York Area. Because of the utmost seriousness of these revelations, Governor Carey and other State officials have an immediate responsibility to protect the people living within radiation reach of these plants.

Until these questions have been resolved, Indian Point No. 2 should be shut down, and Indian Point No. 3 should not be licensed for operation.

I have been in close contact with Mr. Pollard since mid-January. After he submitted his resignation at that time, officials at the NRC denied the importance of his charges and immediately limited the scope of his inquiry. Initially, Mr. Pollard had been promised access to all files necessary to substantiate his charges of unexamined safety problems, both at Indian Point No. 2 and No. 3 and at many other nuclear reactors throughout the Nation. An attempt was made to restrict the topics of his final report. Mr. Pollard then consulted with the House Government Operations Subcommittee on Information and Individual Rights, which I chair. After the subcommittee counsel telephoned Peter L. Strauss, counsel for the NRC, Mr. Pollard was allowed greater access to NRC files for the remainder of his period of employment.

However, Mr. Pollard has charged the crucial evidence of the agency's withholding of information on safety problems exists in the NRC internal files. On January 30, citing the provisions of the Freedom of Information Act, I formally requested the NRC to provide me with certain material, including the technical safety activities report, an updated compendium of several hundred continuing unresolved nuclear safety problems. Last week, the NRC made this document public. This quarterly publication finally demonstrates the extent of the NRC's willingness to license plants now and ask questions about safety later.

Mr. Pollard has stated that his focus on three principal safety areas at Indian Point does not preclude the existence of safety problems in other systems which he did not examine at these plants.

I have questioned the safety and the economics of these plants since their inception. Beginning in April 1975, I attempted to block the sale of Indian Point No. 3 to the Power Authority of the State of New York—PASNY. In general, the State authorities involved took Con Edison's word about this plant, and they failed to consider my objections, as well as those of many other elected officials and concerned citizens. On January 19, before Mr. Pollard's story became known, I called upon the State Legislative Commission on Energy Systems to investigate the circumstances surrounding the sale of this plant. The need for such an investigation is even greater at this time. Moreover, the cost to the State, including financing, may reach $600 million before the plant goes into operation. For this reason, I have asked PASNY and Con Edison to renegotiate their purchase agreement, so that, in the event the plant never goes on line, and it can be demonstrated either that Con Edison neglected important safety considerations or concealed them from State officials, the utility will return a substantial portion of the funds to the State.

Con Edison is now operating Indian Point No. 3 in its preoperational phases under PASNY supervision. Con Edison has already applied to the NRC for a "full-term full-power license" for Indian Point No. 3. At some time after the plant becomes operative, PASNY will apply for a license to operate the plant. Several problems in this transfer are still unknown to the public, including the reluctance of insurers to write separate insurance policies for three adjacent nuclear plants—Indian Point No. 1 is still shut down as unsafe—operated under different authorities. And this spring, the glossed over problems of dangers from nearby geological faults will again be examined.

Therefore, I have called upon the NRC and PASNY to suspend the application for operating licenses for Indian Point No. 3. And I have called upon Con Edison to close down Indian Point No. 2, all pending an investigation of all charges by an independent board of scientists and engineers. I have urged Governor Carey to establish such a board immediately. Mr. Pollard is not the only individual with serious charges. Recently, three General Electric senior engineers on the west coast resigned, asserting that nuclear powerplants could not be built safely. And it is rumored that a number of Con Edison employees at Indian Point have terminated their employment in recent years under similar circumstances, but with no public attention.

These recent revelations also raise serious questions about the success of the Nuclear Regulatory Commission in regulating our proliferating atomic powerplants and waste treatment or storage plants. They suggest the need for congressional action to insure that we are informed of the actual scope of present and potential dangers.

The revelations of these courageous scientists and engineers immeasurably strengthen the broad case against nuclear power. The facts they have brought to light prove the need to bring H.R. 6870, The Nuclear Energy Reappraisal Act, of which I am a cosponsor, before this session of Congress. The measure would halt the construction of additional atomic plants until the completion of a thorough impartial review of the impact of this new technology.

I believe that within the next few years, the overwhelming dangers of atomic powerplants and the long-term dangers of storage of atomic wastes will become apparent. Those who now favor carefully planned development of atomic energy should recognize that the most serious accidents so far have been those that the computer simulations never anticipated. And they should understand that the ante in this game of mindless technological progress will continually be raised. Once the limited development of atomic power is conceded, the arguments for the development of the infinitely more dangerous breeder reactors begin to seem reasonable. And once we are saddled with a few of these juggernauts, it would be argued that we have too much to lose from turning back.

We are at a significant turning point. In New York State, Con Edison Chairman Henry Luce has recently conceded that closing down Point No. 2 could still be done without demand outrunning present supply. Indian Point No. 1 is already closed down because it does not meet present environmental requirements. Indian Point No. 3 has not yet begun operations. The planned Jamesport twin reactors on Long Island are under challenge, not only by opponents of all atomic powerplants, but also by those who contend that this project is uneconomical and unnecessary.

Various forms of moratoriums on construction of atomic powerplants are in progress in over 20 States, and the issue may soon become significant in this year's Presidential campaign. I hope that we can take the lead in Congress to enunciate a new national policy, both to examine the present problems and dangers of atomic power and to encourage the development of all feasible alternatives to this threatening technology.

HEARINGS ON AUTHORIZATION FOR INCREASED APPROPRIATIONS FOR ANTITRUST ENFORCEMENT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Rodino) is recognized for 5 minutes.

Mr. **RODINO.** Mr. Speaker, I wish to announce that the Subcommittee on Monopolies and Commercial Law will hold 1 day of hearings on Thursday, March 4, 1976, to consider S. 1136, the Antitrust Enforcement Authorization Act of 1975. The hearing will be held in room 2141, Rayburn House Office Building, commencing at 9:30 a.m.

This act, with 45 Senate cosponsors, authorizes substantially increased appropriations to the Federal Trade Commission and the Department of Justice for antitrust enforcement. Witnesses will be officials from the Federal Trade Commission and the Department of Justice.

U.S. SECTION, INTERNATIONAL BOUNDARY AND WATER COMMISSION CONTINUES OUTSTANDING ACHIEVEMENTS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. de la Garza) is recognized for 5 minutes.

Mr. **de la GARZA.** Mr. Speaker, representing as I do the 15th District of Texas, located on the border between the United States and Mexico, I have a special interest in the achievements of the U.S. section of the International Boundary and Water Commission. These achievements continue to be outstanding.

The basic responsibility of the Commission, as charged by boundary and water treaties and by acts of Congress, is to divide the boundary waters between the United States and Mexico, to conserve the waters for their use, to protect the people on both sides of the border from floods, and to resolve boundary location problems. Under the leadership of U.S. Commissioner J. F. Friedkin—who first came with the Commission 40 years ago—these responsibilities are met in such a way that the welfare of the peoples on both sides and, in turn, the good relations between the United States and Mexico are enhanced.

Consider the Commission's achievements in 1975.

Agreement was reached on the manner of relocating the channel of the Rio Grande to include 9.5 miles in the Presidio-Ojinaga sector and 2 miles in the Hidalgo-Reynosa sector, thus implementing the 1970 Boundary Treaty.

Agreement was reached for the long-needed levee protective works and floodway in the 15-mile-long Presidio Valley.

Agreement was reached for the construction by Mexico at the expense of the United States of a 35-mile-long extension of the Wellton-Mohawk bypass drain to implement a part of the Colorado River Salinity Control Agreement with Mexico. Construction began in December.

Agreement was reached for, and there were installed, 248 markers between monuments along the 140-mile land boundary between the Californias. These markers more clearly define the boundary in urban areas to guard against problems arising from uncertainty about the exact location of the boundary between monuments.

In addition to these international agreements, the first complete maps of the location of the boundary along the Rio Grande and the Colorado River since 1853 neared completion in 1975.

In construction, the Lower Rio Grande flood control project improvements, to guard against another flood in my area like Beulah in 1967, neared completion in 1975, with works constructed totaling $5,511,511 in the year. Construction started on four contracts late in 1975 for most of the remaining works needed. Also, about 50 percent of the construction work for relocation of the Rio Grande under the 1970 treaty and for levee works authorized by Congress in the Presidio-Ojinaga Valley was completed in 1975. Cost of the U.S. works built amounted to about $4.7 million.

During the year, the measurement and accounting with Mexico of the national ownership of waters of the boundary rivers was carried out in accordance with the treaty provisions.

Fortunately, 1975 was marked by the absence of any major floods on the Rio Grande. As the flood season began the conservation storage in both reservoirs was full. As the year ended the conservation storage was more than full with a total of 6,306,000 acre-feet in storage in Falcon and Amistad Reservoirs. This assures a full 2-year supply of water for the vast irrigated areas in the two countries.

The Commission's operation and maintenance forces continued to maintain effectively the levees along the river in the El Paso area and in the lower valley. Operations under the agreement with Mexico for solution of the international problem of the salinity of the Colorado River were in compliance with that agreement.

Plans for 1976, as reported by Commissioner Friedkin, include essential completion of the improvements to the Lower Rio Grande flood control project, channel relocations in the Presidio-Ojinaga Valley and near Hidalgo-Reynosa, and the flood control levees in the Presidio Valley.

Needed improvements will be initiated during the year to the Rio Grande canalization project. The Commission hopes to get started on the long-delayed U.S. part of the Tijuana flood control project and works for preservation of the river boundary downstream from Fort Quitman to near Presidio. It is expected that necessary preliminary works will be completed in 1976 to undertake designs for construction of a U.S. hydroelectric power plan at Amistad Dam to utilize the falling water there to generate electric energy. The amount will be small, but any addition to the Nation's energy supply cannot be regarded as insignificant.

Mr. Speaker, the work of Commissioner Friedkin and the dedicated staff of the International Boundary and Water Commission is outstanding and deserves to be commended. The Commission, in operation almost continuously for the past 87 years, has an important place in the 200-year history of our country. And I venture to say it will have a continuingly important place in the years ahead.

SAVING FAMILIES IN AMERICA

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. **KOCH.** Mr. Speaker, there are two bills which I have introduced, one bearing upon the need to assist juveniles and the other on the need to assist the elderly. The thrust of the two bills is similar: It is to prevent institutionalization of the young or the old whenever possible. My bill, H.R. 10383, is entitled "A Bill To Provide Day Treatment and In-Home Services for Children and Families in Trouble." And my bill for the elderly, H.R. 9829, is entitled "Home Health Care for the Elderly." A superb paper prepared by Richard S. Morris, president of Public Affairs Research Organization, Inc., entitled "Saving Families in America" discusses the adverse effects of institutionalization and why it is that we should assist those who can and want to remain in their own homes and with their own families. The paper follows:

Saving Families in America

We have become institution-happy in late twentieth century America. Find a problem and we meet it with an impressive building, an expensive staff, and a heavy administrative bureaucracy.

Nursing homes, mental hospitals, institutions for the retarded and other edifices are the manifestations of our social commitment. But as we divert more and more of our resources to feed expanding institutional appetites for public funds, we have forgotten about the most important tool for social cohesion—the family unit.

We make it easy for families to shed their burdens and rely on public institutional care. But we make it almost impossible for them to shoulder these responsibilities themselves, without sending their problems away behind institutional doors.

Consider the family with a retarded child.

It is confusing, frustrating, and baffling to care for a mentally retarded child at home. To handle retardation, parents often need day care aid, special training, visiting professional assistance, counselling during crisis periods, and occasional respite from the stress.

To provide this aid would cost several thousand dollars, often beyond the ability of the family with a retarded child. But we begrudge them the funds. Pitifully few programs aid the family attempting to cope with retardation at home.

If the child is sent to an institution, we gladly pay $8,000–$14,000 a year to care for him. But not one-third that amount is available to help the family seeking to spare its retarded son or daughter the horrors of institutionalization.

It is the same where the elderly are concerned. We are quite willing to spend $25 to $100 a day to keep a senior citizen in a nursing home, but show no similar willingness to spend the $5 or $10 a day many elderly need to live by themselves or with their families.

It is often hard for a woman of 80 to shop, cook or keep house for herself. With a visiting homemaker or nurse, she could manage, but, without one, she must enter a nursing home. Only if she is totally destitute—in which case she probably cannot live alone anyway—will we help meet the bill for supportive home care services. We literally force such people into institutions. Once behind the doors of a nursing home, their assets are quickly depleted and they must face the prospect of living out their days as a public charge in an institution.

We follow a double standard. Our government helps people in institutions, but not in families.

It would be hard to find a more graphic example than the foster care program. Where child abuse or neglect is discovered, we can offer only foster or institutional care. While most governments stand ready to pay $3,000 to $6,000 per child per year for foster care, most refuse to spend even a fraction as much on counselling to keep the family together. Preventive services are entirely lacking in many states and mere shams in others. We are willing to take children away, as often we must, but not to work to keep them at home.

Our day care program has developed along much the same lines. Most expansion has been in institutional day care places—day care centers. Family day care, where children are left with neighbors or relatives with government subsidy, is barely developed in most states. We trust the institution, not the neighbor.

Some of our programs even encourage family dissolution. Most dramatic is the welfare program which supports single mothers and their children. This program confronts every poor family with a vicious dilemma. Should a father stay with his family and try to stretch his inadequate paycheck, or should he leave, qualifying them for Aid To Dependent Children and yielding more in benefits (often supplemented by his covert contributions) than he could earn in pay.

In such situations, one profits quite literally from family separation. Basic welfare aid, medicaid coverage, rent supplement, and food stamps come to between $5,000 and $7,000 in most states—far more than most uneducated wage earners can bring home to their families.

How did this system emerge? When did we place such a value on the walls of institutions? When did our program priorities become so muddled?

The fifties and sixties saw a desperate search for social solutions. Finding a void of protection for the poor, the New Frontier and Great Society led us to develop programs for the poor. Programs which rested on three assumptions:

That large sums of money could be committed

That costs of service were low

That utilization would not rise dramatically

None of these assumptions proved accurate.

With the Nixon and Ford Administrations, the social commitment which impelled the creation of most social programs ran out. The willingness to fund rapid growth lapsed and opportunities for expansion dried up.

At the same time, the costs of service rose rapidly. Per diem costs in nursing homes more than tripled since 1968. Labor costs rose, construction became more expensive, program content became more substantial. Efforts that were once inexpensive now became vastly more costly. A year of treatment in a mental hospital in New York cost four times in 1974 what it cost in 1967.

Finally, the rise in expectations caused by the creation of new social programs drove demand ever higher. People came out of the woodwork and presented for solution social problems on a scale we never dreamed possible in the heady days of the 1960's.

When rising expectations, limited budgets, and high unit costs collided, something had to give. Something did. A clear priority for institutional care emerged. Any efforts to extend care or assistance to those outside current institutions and programs were rebuffed.

Sensing the danger to their jobs and institutions, the social service industry united to protect its budget. Funds for nursing home care rose rapidly, but funds for home care remained about the same. Expenditures for mental health and retardation institutions rose, but little was left for outpatient care.

Often fewer and fewer people were served. While 80,000 mental patients were in New York State mental hospitals in 1968, only 35,000 were in them in 1974. Nevertheless, the budget rose by 80% in the same period.

We stopped serving people with problems and we started running institutions to benefit the people they employed.

There are 6 million mentally retarded people in America. We do nothing for the 97% of them not in institutions—only for the 200,000 lucky enough to get in.

One-third of all women work. That would indicate a market for day care much larger than the fewer than 100,000 children now cared for in publicly funded day care centers throughout the nation. Do we provide facilities for them? No, we are too busy spending between $1500 and $3200 per child in day care centers we now have.

Meanwhile, the quality of institutional care dropped. We are now used to press reports of vicious, horrible conditions in nursing homes, mental hospitals, and residential schools for the retarded. We sometimes condemn the inhuman attitudes which lead to such conditions. We miss the point. It is not the attitudes, nor the funding, nor the administration which leads to abuse. It is the very nature of institutionalization. It is the process which happens to a senior citizen when he is sent to a home or to a child taken from his parents, or to a mentally retarded son or daughter locked away. It is here that the dehumanization begins. Here, we lose that essential social fabric which holds us to our humanity, the family unit.

We must recast our programs to support the family instead of replacing it. Helping people to help themselves should be the liberal goal, not the intercession of programs and institutions between people and their families. Children should be supported in their efforts to help their aged parents and parents in theirs to help their retarded children. Day care at home should be encouraged for women who work. Preventive counselling should receive most of our attention so we minimize the demands for foster care. Let us spend as much on life services such as adoption and counselling to help those who seek to keep their children. Let us end the welfare structured incentives which encourage family dissolution and help the low income wage earner to make a decent income and to keep his family.

This should be the liberal credo. Not mere programs, or buildings, or bureaucracies.

WHY ARE WE ASSISTING GUYANA?

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I have been exploring the rationale for our providing economic aid to various countries. With the thought that it might be of interest to my colleagues, I am appending correspondence with the State Department concerning the nature of the government in Guyana and our role in its economic development. The correspondence follows:

House of Representatives,
Washington, D.C., January 13, 1976.

Daniel Parker,
Administrator, Agency for International Development, Washington, D.C.

Dear Administrator: I should like to ask you to provide me with information concerning Guyana and Trinidad-Tobago.

With respect to Guyana, I would appreciate having your appraisal of Forbes Burnham, the Prime Minister, in terms of his political outlook. He has been described to me as a Marxist-Leninist, antithetical to the United States.

I would appreciate your appraisal of that description and if that is, in fact, accurate, what are the reasons that cause the State Department to advocate Guyana in the AID program?

Secondly, I have been advised that Trinidad-Tobago has, at the present time, in its foreign exchange account a surplus of approximately $12 billion. Is that correct? And if it is, what are the reasons that cause the State Department to include Trinidad-Tobago in the AID program?

Sincerely,

Edward I. Koch.

House of Representatives,
Washington, D.C., February 10, 1976.

Mr. Denis M. Neil,
Assistant Administrator for Legislative Affairs, Department of State, Agency for International Development, Washington, D.C.

Dear Mr. Neil: I should like to pursue my inquiry of January 13 and in particular Guyana. Would you provide me with the State Department's definition of what is meant when a government is described as Marxist-Leninist. I would appreciate knowing what such a government's attitudes normally are vis-a-vis its own population and what such a description means in terms of the foreign policy of such a government, e.g. expansionism, etc. Please provide me with as much by way of detail in the definition that our State Department uses as you can.

Sincererly,

EDWARD I. KOCH.

DEPARTMENT OF STATE,
Washington, D.C., February 19, 1976.

HON. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KOCH: Thank you for your letter of February 10th concerning Guyana.

The State Department does not have a standard defintion for a "Marxist-Leninist" government. In the case of Guyana, the descriptive term is employed by Guyanese government leaders themselves. In late 1974 Prime Minister Burnham began publicly declaring himself a Marxist-Leninist. His political and economic policies appear to be a mixture of his own "cooperative socialism" and ideas borrowed from Cuba and some other Communist countries.

Burnham in recent years has indicated that his governing party should play a more important role than the government itself. Apparently adopting Communist models, he is attempting to reorganize his PNC Party into a disciplined, elite group which will mobilize Guyanese society for rapid development.

Burnham has said publicly that private enterprise has only a limited future in Guyana, and all major segments of the economy have either been or are about to be nationalized. The government also controls the media, with the exception of one opposition newspaper—which is, however, Communist.

The Guyana government is writing a new constitution, saying that the present document is "a replica of the ethics and ideologies of the former colonial masters". In this effort and in defining party and government roles, Prime Minister Burnham is seeking help from Cuba: the ruling PNC Party has established formal relations with the Cuban Communist Party, and Cuban advisers have visited Guyana to advise on the constitution.

The government has sent key civil servants to indoctrination courses which are believed to include Marxist-Leninist ideology and a period of residence with Guyanese peasants. Guyanese youth, ages 14 to 24, are reportedly slated for "compulsory national service". Now operating on a voluntary basis, the national service program involves sending youth to camps in the hinterland for land clearing, agricultural pursuits, and some para-military training.

Burnham has tried to bring about an economy characterized by distribution of wealth in a socially equitable manner, primarily through cooperatives. PNC ideology claims that both capitalism and traditional communism centralize power, the first in the hands of business oligarchs, the second in the hands of civil servants. But through the cooperative, Burnham claims, "the little man can become a real man" as he enters into economic planning and decisionmaking.

In 1970 Burnham established a National Cooperative Bank to provide credit to cooperatives. Since then, he has awarded cooperatives tariff privileges, monopoly privileges, and government contracts. By 1973 over 1,000 cooperatives with a capitalization of $9 million had been formed.

The cooperative idea draws on both British socialist thought and the "friendly and burial societies" created by Guyanese former slaves and indigenous inhabitants. Under the British, from 1945 on, cooperatives were given government assistance. But the British believed that cooperatives would operate on the fringes of the public and private sector, while Burnham believes they can be central to the economy.

Burnham defines the cooperative as an organization in which the consumers own the means of production, which are managed "by direct and indirect representatives of the consumers and producers" in association with the state. In fact, a wide variety of organizations have been created under the loose title "cooperative".

We have no reports of political prisoners or of the use of torture by the Guyana government. Although apparently moving toward more authoritarian models in its pursuit of socialism, the human rights record of the GOG is good.

In foreign policy, Guyana maintains friendly ties with the United States and other western powers. At the same time, Guyana's connections with communist nations, notably Cuba, the Soviet Union, and the People's Republic of China, have grown ever closer in recent years.

Guyana has taken a leading role in the Third World group, and is active in promoting a New International Economic Order (NIEO). Advocates of the NIEO demand an international redistribution of wealth in favor of the poor, raw material producing counties, a position argued strongly by Guyanese spokesmen in international fora.

Guyana usually votes with the non-aligned and Third World members of international organizations. As a result, we are frequently on opposite sides of many important issues in the U.N. and other international fora.

Guyana has maintained friendly relations with its neighbors in the hemisphere. With a population of only a little over ¾ of a million people, and a very small, lightly armed military establishment, Guyana is not in a position to threaten its large neighbors.

Development goals of the Government of Guyana place heavy emphasis on national self-reliance. High priority is being accorded to achieving self-sufficiency in food production and in improving education and health services. The Government has indicated that the small farmer will play an essential role in the expansion and modernization of the agricultural sector. A.I.D.'s proposed FY 1976 food crop loan would help reinforce a GOG commitment to continuing a key role for the small farmer.

Please let us know when this office can be of further assistance.

Sincerely yours,

DENIS M. NEILL,
Assistant Administrator for Legislative Affairs.

RICHARD B. FOSTER III IS ILLINOIS VOICE OF DEMOCRACY WINNER

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, as you know each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary sponsor the national Voice of Democracy program. This year nearly 500,000 secondary school students in over 8,000 schools participated in the broadcast scriptwriting competition, the top five entrants to be awarded national college scholarships.

The winners of the State competition have been announced, and I am particularly pleased to say that the Illinois representative in the national competition is Richard Brandon Foster III of Belleville, Ill., a resident of my 23d Congressional District.

Rick will be in Washington the week of March 5–10 to take part in the national competition and to observe the workings of the Federal Government firsthand. I know all my colleagues in the House and especially my fellow Members of the Illinois delegation join me in wishing Rick the best of luck. I would also like to congratulate Rick's parents, Mr. and Mrs. Richard B. Foster, and the rest of his family at this time. I know they are all justly proud of his accomplishments.

This year's theme for the Voice of Democracy program was "What Our Bicentennial Heritage Means To Me". I am including Rick's award-winning remarks, in hopes that others will find them as thought provoking as I did.

WHAT OUR BICENTENNIAL HERITAGE MEANS TO ME

(By Richard Brandon Foster III)

Many feel that our nation's Bicentennial should be a celebration of the great ideals behind our heritage. And yet . . . the basis of all great ideals are the men who live their lives around them. Ideals have no impact or importance until they are given meaning by people who use them. Thus, to view the true value of this celebration, we should look to the people, and to the way of life they have shaped.

The Bicentennial is Nugyen Su Lin, 17, Vietnamese-American. Nugyen fought in the South Vietnamese Army, until Saigon was taken by the Communists. He then sailed on a rundown barge to the evacuation fleet, and through a series of steps to California. He didn't want to leave his country, his mother and father were still in Saigon. But he was afraid of reprisals. Nugyen knows, now, that he can never return to his old country and his parents. He has applied for American citizenship. Nugyen can now appreciate the freedom of choice we Americans possess. He will never again have to fear a so-called "liberation army".

The Bicentennial is Vicktor Labna, who was 20 when he came here from Hungary in 1956. Vicktor helped organize the resistance against the Communist regime in that year. When the uprising failed, Vicktor knew his name would be on the execution list. No trial, no jury, just a sentence. Yet, he knew the risks when he started. Vicktor weighed those risks against the freedom to be gained, those freedoms we Americans constantly possess. He thought these things worth dying for. Fortunately, Vicktor was one of the lucky few escaping through the Iron Curtain. Vicktor Labna is 37 now, and is actively involved in town politics here in the United States. He has two sons, who both enjoy the freedoms their father almost died for.

The Bicentennial is Mario Alanza, 36 when he came to America in 1903. Mario had been trying to organize fellow workers for a union in the Italian textile mill where he worked. He was beaten by management thugs, and then fired. All of the textile manufacturers blacklisted him. Mario couldn't find a job. In poverty, hunger, and desperation, he volunteered as a seaman so his family might sail to the United States. When they arrived, Mario got a job in the textile mills and his family settled in the slums. Mario worked hard, and before his death in 1940, he was influential in forming one of the first labor unions for textile workers. Mario treasured our freedoms of assembly and association until the day he died.

Su Lin . . . Labna . . . Alanza . . . countless others.

The Bicentennial is all of these people . . . America is a nation of many nations . . . many cultures, ideals, philosophies. Why do men and women like these constantly flock to our country? They are united under one common goal . . . A goal which we must strive for, and die for if necessary: The right to be free, independent men and women.

Perhaps this is what the Bicentennial means to me and what it should mean to all Americans. A rerealization of the principles on which our democracy stands. A time not only of speeches and celebrations, but of thoughtful meditation. A time when we may each carefully evaluate our ideals, and in looking to the past . . . plan for the future. So as we progress through the next year, let us consider our freedoms: The massive price we have had to pay for them, and what we are willing to do to guarantee them in the future. Each of the men I discussed earlier lost their freedom at some time—it is our God-given duty to them and to ourselves to see they do not lose them again.

PROPOSED ELIMINATION OF SOCIAL SECURITY LIMITATIONS: THE RETIREMENT TEST AND THE RECENCY OF WORK TEST

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I was pleased to submit testimony to the Subcommittee on Social Security of the Ways and Means Committee urging congressional approval of H.R. 807, a bill I introduced to remove the limitation upon the amount of outside income which an individual may earn while receiving social security, and H.R. 1669, a bill I cosponsored which will qualify an individual for disability insurance benefits if he has earned 40 quarters of coverage, regardless of when those quarters were earned.

I commend the subcommittee for holding hearings to consider proposals to revise and reform the administration of our social security program, and urge my colleagues' careful consideration of and reflection on the proposals for reform which I have presented in my testimony. I request permission to insert in its entirety at this point my testimony in the Record:

Statement of Congressman Claude Pepper Before the Subcommittee on Social Security of the House Ways and Means Committee, February 10, 1976

Mr. Chairman and distinguished members of the Subcommittee I am pleased to have the opportunity to present testimony in support of H.R. 807, a bill I introduced to remove the limitation upon the amount of outside income which an individual may earn while receiving Social Security, and H.R. 1669, a bill I cosponsored which will qualify an individual for disability insurance benefits if he has earned 40 quarters of coverage, regardless of when those quarters were earned. First, I would like to commend the Subcommittee for holding these hearings to consider proposals to revise and reform the administration of the Social Security program. I believe we are all well aware of the difficulties our senior citizens are currently facing with limited incomes and the high cost of living, and hopefully these hearings will help to identify and eliminate those determined sources of inequity for them.

In keeping with the Subcommittee's concerns—and, having identified several sources of inequity for the elderly population—I have introduced H.R. 807, a bill which will completely eliminate the earnings limitations for all social security beneficiaries who are 65 and over. I have come to believe that this test has become little more than a coercive contract encouraging people to quit work.

The purpose of Social Security benefits is to furnish a partial replacement of earnings which are lost to a family because of death, disability, or retirement in old age. In line with this purpose the law provides that, generally speaking, the benefits for which a worker, his dependents, and his survivors are otherwise eligible are to be withheld if they earn substantial amounts.

Thus, the 1965 Advisory Council on Social Security supported the reasoning behind the retirement test, or the so-called "earnings limitation."

The retirement test was then, as it is now, regarded by many as consistent with the basic purpose and principles of social security: a replacement, in part, of earnings lost because of retirement in old age, disability, or death. Briefly stated, it works like this: Social Security beneficiaries under the age of 72 (except disabled workers or disabled children of retired, disabled, or deceased workers—to whom the test is not applicable) may earn as much as $2,760 for 1976 without any reduction in Old-Age, Survivors, and Disability Insurance (OASDI). If a beneficiary exceeds this limit, his benefits will be reduced by $1 for every $2 of annual earnings.

Ideally, the OASDI system has been designed since its inception in 1935, to protect against one specific risk: the loss of earnings caused by death or retirement of the head of the family. In other words, the program is designed to provide social insurance against loss of earnings rather than provide annuities at a fixed age, as in private insurance.

Put this way, the argument sounds persuasive. However, as laudable as the reasoning behind the retirement test may sound—there is another side to the coin which must be viewed.

First, the underlying implications of the retirement test are obviously manipulative, coercive and discriminatory. It is manipulative and coercive to the extent that those who qualify for benefits by making social security payments all their lives are penalized if they wish to remain a productive member contributing to our nation's labor force. It is discriminatory to the extent that it denies an individual the option to exercise his right to work—by contracting with him to do otherwise.

Secondly, if the purpose of the OASDI is to provide insurance against loss of earnings after the age of 65—in accordance with the retirement test provision—why is the retirement test removed after the age of 72? Retirement comes at age 65, not at 72. However, under current law, older Americans between the ages of 65 and 72—who have made years of contributions out of their hard-earned salaries and who are eligible for benefits—are penalized if they continue to work—while those who are over 72 are rewarded for making that same choice.

Thirdly, the earnings limitation only applies to "wages" and "net earnings" from "self-employment." Income which is neither wages or net earnings from self employment are not counted. (i.e., interest, dividends, etc.)

The 1975 Advisory Council provides the rationale behind this provision:

The test applies only to income from work, benefits are payable regardless of income from investments and other nonwork sources—savings, investments, insurance, and the like . . . Furthermore, doing so would make the retirement test similar to the means test used to determine eligibility for payments under public assistance programs, and would thus tend to subject the social security program to the same sort of criticisms that have been leveled at the assistance programs.

I agree that nonwork income, should not be included under the earnings ceiling for retirement purposes. To do so, as implied above, would reduce OASDI benefits to the level of a public assistance/charity program based on an index comparable to a means test. Why then, should earnings from self-employment be subject to scrutiny? By setting a ceiling on earned income an individual can make, we are providing ourselves with the very standard which this program has specifically stated it wishes to avoid. OASDI benefits are available only to those whose income reflects a loss and therefore a need. In essence, the retirement test or "earnings limitation" provides us with a charitable giveaway program under which beneficiaries receive benefits more as a matter of charity, than as a matter of right.

Mr. Chairman, this is not a charity program, but rather, repayment of our own earnings which have been deducted from our salaries and employers. By preserving the retirement test we work the greatest hardship on those who have thriftily saved for their retirement their entire lives—but, had no way of predetermining our current inflationary trend. These people must reject social security benefits—the average annual benefit of which is slightly higher than the poverty level—and continue working to supplement their depleted savings.

Approximately, 1.4 million social security beneficiaries lose benefits to which they would otherwise be entitled when they continue to work after the retirement age of 65—if they earn in excess of $2,760. As of January, 1976, those over 65 who choose not to work and receive full benefits will receive a maximum amount of $4,400 a year. The average retirement benefit is $2,500 and the minimum is $1,216 a year. The average benefit is only slightly higher than the poverty level of $2,364.

The cost to eliminate the retirement test is estimated to cost about $2.7 billion. However, I do not believe that the net cost will ever approach this figure. Older Americans over the age of 65 could continue to work, pay income tax and social security—which they would otherwise not be paying. In this manner they will more directly provide for their own entitlement. In the past, people used to work up to or prior to their deaths—living productive and healthy lives. However, twenty years ago, the life span was shorter. Today, technology has made it possible for many people to live beyond 65, yet technolgy has not yet devised an alternative contribution for society's elderly to make after they've reached the golden age of retirement and their rights to productivity have been removed. A recent Harris survey has shown that retired workers said they believed that "work makes people feel useful, that retirement brings about illness and the effects of old age, and that people should be able to work as long as they want. The cost of society if its Older Americans are coerced and manipulated into retirement "before their time" is incalculable—and not justifiable under any terms. I believe we should restore this program to its original form as it was wisely reported out of the Ways and Means Committee in 1935—with no earnings test attached.

In addressing myself to another source of inequity, I introduced H.R. 1669—a bill designed to amend Title II of the Social Security Act to provide that an individual may qualify for disability insurance benefits and the disability freeze if he has 40 quarters of coverage, regardless of when such quarters were earned.

Under the current provisions of the Social Security law, "you do not have to be completely helpless to be labelled disabled, but your disability must be so severe that it prevents you from doing any substantial gainful work and it must last at least 12 full months or result in death. The law (with several exceptions) pays benefits to such disabled individuals who have worked under covered employment not less than 20 quarters (5 years) during the 40-quarter period (10 years) immediately preceding his total disability.

For those who have looked beyond the rhetoric and into the substance of this limitation—they are faced with its harsh realities. What happens to the individual who has worked for many years and has accumulated the required quarters of coverage only to be denied benefits solely on the basis of a "recency of covered employment" limitation. In other words, a person may have worked the required 5 out of 10 years necessary for coverage, but those five years of employment may not have fallen within the 10 year period prior to his total disability.

The rationale behind the legislative history of the "recency of work" provision, again, briefly stated, is as follows: The purpose of disability benefits is to provide a replacement for earnings lost for those who are totally unable to work. Therefore, it follows, according to the rationale, that a person who hasn't worked for five years prior to total disability suffers no income loss.

The "recency of work" provision is clearly unfair and as a prerequisite for disability insurance benefits it discriminates against those who: (1) have worked under social security for many years, but change to a job not covered by Social Security, (2) those who are not totally disabled, but rather, experience progressive disability enabling them in periods of good health to work only sporadically prior to permanent and total disability; and (3) those who have not worked in the last 6 years—but, who have in their past paid for their benefits through compulsory social security taxation.

It is clear that this provision for disability insurance benefits overlooks segments of our society which the law specifically intended to protect.

Mr. Chairman, the current limitations in the Social Security law which I have discussed with you today must be eliminated. It is abundantly clear that the law must provide, at least, equal treatment—instead of working a severe hardship on our nation's neediest citizens.

If Social Security benefits continue to be tied to such limitations as the "retirement test" and "the recency of work" test, respectively—some of our senior citizens and disabled workers can look forward to being excluded from benefits which they have earned. Certainly, this was not the original intent of the law when enacted, nor should it remain so today.

It is my hope that the Subcommittee will act promptly in remedying these inequities by providing for the necessary reform which I have outlined in this testimony. I urge that you recommend the passage of these two bills.

TO RUSSIA WITH LOVE

(Mr. **PEPPER** asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. **PEPPER**. Mr. Speaker, I wish to share with my colleagues an interesting and possibly significant development in our relations with the peoples of the Soviet Union which occurred last Christmas.

The Greater Miami Inspirational Concert Series, under the able leadership of its founder and director, the Honorable John Stembridge, sponsored a tour to Russia in which 50 persons affiliated with various Christian churches participated. Twenty-four members of the group were artists and the purpose of the tour was to provide inspirational concerts in the churches of Russia.

The group visited Baptist Churches in Moscow and Leningrad, and the finest service was in Kalinin where the Russian pastor brought a deeply moving greeting from their church to the American visitors. There was not a dry eye in the church when he said:

> This is the first Christian group that has ever visited us from the U.S.A.

I commend Mayor Stembridge and all the members of the inspirational concert group for their dedication and efforts to serve God in this way. The communication of one religious group with another religious group certainly is needed to support the efforts of diplomats toward achieving world peace, and love and understanding among all peoples. This mission was accomplished despite some almost insurmountable obstacles, and I request permission to insert in its entirety at this point in the Record the full account of the tour, published in the Good News for January 1976:

To Russia With Love—Mission Accomplished

(By John Stembridge)

Our "To Russia With Love At Christmas" concert tour was prompted by an appearance of Brother Andrew on the 700 Club on July 3rd, 1975. The Florecks, Wortens and several others of us from the Miami Inspirational Concert Series were visiting with the Fallis's in Floridana Beach when we heard Brother Andrew telling of the miraculous events which took place as he and his colleagues had taken Bibles into the countries of the U.S.S.R. Most impressive about his testimony was hearing about the tears of joy which came to the eyes of the Pastors and Christians when they received a personal copy of the Bible.

From that, we began praying about presenting one of our Inspirational Concerts in the Churches of Russia. Intourist, the Russian Travel Agency, was contacted. They said that we would have to make our own arrangements with the individual churches there. Having been to Moscow in 1963, and having sung in the Baptist Church there, I was able to write to Rev. Ilia Orlov, who had accompanied me on the organ at that time. Later I called the church in Moscow and spoke to Rev. Michael Zhidkov, the Senior Minister, who invited us to come and sing in their service on December 16th.

Interest in the trip was extremely high when it was first announced at our North Dade Concert held at the Fulford United Methodist Church. Fifty people finally made the trip. Twenty-four of this number were Artists. Before our departure on December 14th we had many trying times. We were notified by our Tour Company that Intourist would not accept us as a concert group—only as tourists. We were told not to attempt to attend or to sing in the churches. After a sleepless night, I sent a telegram to our Tour Company at 3:46 a.m. on Saturday, December 13th, stating that unless we were allowed to attend and to sing in the churches in Russia that we would publicly announce that our Concert Tour had been rejected by Intourist and General Tours. Also, the same morning I spoke to Jean Davis in the National Security Council at the White House about our problems. She, in turn, spoke to the State Department and they advised us that normally there is no problem for tourists to worship in their churches and that there should not be any problem with regard to singing or speaking in their churches, since it would be one religious group communicating to another religious group. Also, the State Department sent the following telegram to the American Embassy in Moscow:

"Subject: Travel of Stembridge Group to Moscow.

Mr. Stembridge has arranged for a group of 52 persons affiliated with various Christian churches to travel to Moscow. Tour is sponsored by Greater Miami Inspirational Concert Series and is being handled by General Tours of New York. Group arrives in Moscow on December 15th 16:30 Aeroflot 5316.

Stembridge has previously made informal plans for group which includes several professional musicians to play at services at Moscow Baptist Church, however, General Tours received word from Intourist that concerts would not be allowed but group would be accepted as normal tourists.

Based on information from Intourist, General Tours has decided that they will allow no musical instruments to be taken on chartered aircraft. Stembridge has been advised by Department and General Tours that Soviets would not normally interfere in attendance at Baptist services and possible participation in services.

Stembridge has been given Embassy phone number and name and will contact on arrival.

White House interested."

With the involvement of the White House and the State Department, we felt easier about going and were assured that the Lord was in charge.

Our group finally departed New York City at 10:45 p.m. on December 14th for our transatlantic flight, making a refueling stop in Preswick, Scotland. We arrived in Moscow the early evening on Monday, the 15th. The next morning we toured through the Kremlin, seeing the Armory Museum which featured the jewels, coaches, clothing and artifacts from the time of the Czars. Afterwards, we went through the Assumption and Annunciation Cathedrals, which are testimonies to the living God. Then, we saw the Palace of Congresses, where the 25th Congress of the Communist Party will be meeting in February, 1976.

At lunch, Intourist again refused to allow their bus to take us to the church that evening, in an effort to discourage us from going. After they were told that we would have to miss our evening meal at the hotel in order to go, they did consent to let the drivers drop us off at the church after our afternoon tour. This decision still meant that our group would have to walk a mile and a half back to the hotel in freezing weather after the service.

But, our group was willing to pay that price in order to sing and worship with our brothers and sisters in Christ. Some of the members from their church guided us back to the hotel; for which we were grateful.

During the service that evening in the Moscow Baptist Church our group sang a medley of Christmas Carols, which many of you may have seen December 20th on Ralph Renick's Christmas Program "Montage" on Channel 4.

His Folk, a quartet from Miami Christian College sang "Take My Life and Let It Be"; and Barbara Murphy sang the theme song of our group "I'll Tell The World That I'm A

Christian." The Russian Baptist Church choir sang in Russian several times and was as fine a choir as any of us have heard in the U.S.A.

Two of their Ministers spoke briefly. Michael Spangler, Chaplain of the American Embassy, spoke and was there as a liaison between the membership and ourselves. Rev. Dan Anderson of the Bethany Evangelical Church in Miami led in prayer, and I brought greetings from our group and the Christians of America to our brothers and sisters in the U.S.S.R.

After the service, we met for a short fellowship with the Ministers, their choir and some of their members. Marguerite Worten sang "To Be With Him Will Crown It All", and then all of us sang "Blessed Assurance" in Russian and English simultaneously.

Our next service was in Kalinin where we were able to sing and speak much more freely. Many thought that this was our finest service. Art Nicholas sang "Birthday Of A King"; Jean Pfair sang "I Trust In God"; His Fold sang "Shine". Their choir and male quartet sang. Then all of us joined together and we sang "Let The Beauty Of Jesus Be Seen In Me".

Bob Fallis brought greetings to them from the Indian River Inspiration Concert Series. The Russian pastor then brought a deeply moving greeting from their church to us. There was not a dry eye in the church when he said "This is the first Christian group that has ever visited us from the U.S.A."

After another six hour train ride we arrived in Leningrad, where we sang in the service Saturday evening, December 20th, and Sunday morning, December 21st. At first the pastor there said we could not sing, but God turned all the "no's" on our trip into "yes's". It was absolutely beautiful to see His hand at work literally moving mountains out of our path!

Even coming home demonstrated His handiwork. We stayed an extra night in Leningrad because our plane was snowed in at Moscow. We stayed an extra night in New York (both at the airlines' expense) when no flights were available. Finally, after group prayer, on the morning of December 24th Eastern dusted off an old Electra prop plane to fly our group, and about 40 others, home in time for Christmas.

All we can say is "To God Be The Glory—Great Things He Has Done"!

TAXPAYER CONTRIBUTIONS TO REDUCE NATIONAL DEBT

(Mr. MILFORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILFORD. Mr. Speaker, distinguished colleagues, today I want to permit this House the privilege of considering an idea of one of my constituents.

I am proud to pass on this idea in the form of an amendment to the Internal Revenue Code of 1954.

My amendment would provide a way in which people who want to—and can afford to—may contribute on their income tax returns for the specific purpose of reducing the national debt.

Ladies and gentlemen, this is one of those ideas which has the simplicity and clarity to evoke the response, "I wonder why I did not think of that."

But instead, I must confess that the idea came from a motel manager in Dallas, Mr. G. W. Cage.

Mr. Cage wrote me, saying:

> Why couldn't each taxpayer, upon paying his income tax, pay an additional $5 or $10 to be designated toward the retirement of our national debt? I feel that there are enough people in this country who love this country enough to make this small sacrifice toward seeing our national debt reduced. With such a plan as this, along with a firm commitment from each Member of Congress to work toward reducing our national expenditures, I believe that the problem of our national debt could be solved.

I agree. It could be solved by dedicated citizens such as Mr. Cage, so long as we in Congress keep faith with them.

Certainly, there can be no quibbling over the propriety of this amendment.

We have a precedent, the dollar checkoff now present which sends tax dollars to election funds.

I submit, Mr. Speaker, that there are plenty of people in this great land who can afford and would be willing to allot a few dollars of their tax money—over and above what they must pay—to retiring the national debt.

These are the men and women in our Nation who understand that the tremendous national debt is the culprit of inflation, is the culprit which is drying up mortgage money, capital investment-expansion moneys, and, therefore, the culprit for reducing our gross national product.

I would urge the distinguished members of the Ways and Means Committee to consider carefully this idea from Mr. Cage which I now introduce as an amendment to the tax law.

MILITARY MANPOWER ASSESSMENT AND RECRUITING RESULTS FOR FIRST HALF OF FISCAL YEAR 1976

(Mr. DAN DANIEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, preliminary results covering the first 6 months of fiscal year 1976 show that the total active strength of the four military services at the end of December 1975 was 2,084,000. This was 99.6 percent of the December objective of 2,090,000. Actual strengths and service objectives for December are shown below:

ACTIVE MILITARY STRENGTH, END OF DECEMBER 1975 (PRELIMINARY)

[In thousands]

	Objective	Actual	Percent of objective
Army	768	767	+99
Navy	526	525	+99
Marine Corps	196	193	+99
Air Force	600	599	+99
DOD total	2,090	2,084	+99

It has also been announced that the services recruited 27,000 men and women in December for 109 percent of the services' recruiting objective of 24,700. All services essentially met or exceeded their objectives for December.

During the first half of fiscal year 1976, the military services recruited 215,400 men and women to slightly exceed their total recruiting objectives of 214,600. The recruiting total was equal to 51 percent of the total objective for the fiscal year:

BLACKS AND WOMEN AS A PERCENT OF NON-PRIOR-SERVICE ACCESSIONS

[July through December]

	Nonprior service			
	Blacks		Women	
	Fiscal year 1975	Fiscal year 1976	Fiscal year 1975	Fiscal year 1976
Army	26	23	11	10
Navy	13	8	6	5
Marine Corps	21	16	2	2
Air Force	17	11	13	12
DOD total	20	16	9	8

The total Selected Reserve strength at the end of November was 2,000 below the strength totals at the end of October. Each component except the Army National Guard and the Army Reserve showed an increase in end strength over October:

SELECTED RESERVE STRENGTHS

[In thousands]

		Average strength 1976	
	End-strength November 1975 (preliminary)	Fiscal year 1976 through November	Fiscal year 1976 authorized (Public Law 94-106)
Army National Guard	386.8	389.8	400.0
Army Reserve	219.2	221.8	219.0
Navy Reserve	99.2	98.9	106.0
Marine Corps Reserve	31.4	31.3	32.5
Air National Guard	93.5	93.8	94.9
Air Force Reserve	51.1	50.8	51.8
Total DOD	881.2	886.5	904.1

ENLISTED ACCESSIONS (ALL SOURCES)

Service	July–December, fiscal year 1976			Percent of fiscal year 1976 objective
	Objective	Actual	Percent	
Army	92,400	92,800	100	48
Navy	55,900	55,600	+99	54
Marine Corps	28,000	28,200	100	55
Air Force	38,200	38,700	101	51
DOD total	[1] 214,600	[1] 215,400	100	51

[1] Numbers may not add due to rounding.

Seventy-nine percent of all nonprior service enlistees in the first 6 months of fiscal year 1976 were high school graduates and 96 percent were in Mental Categories I–III, which are the average and above average mental groups. Each service registered an increase in the proportion of high school graduates over the corresponding period last year.

High school graduates and Mental Category I–III enlistees for the first 6 months of fiscal year 1976 along with percentages for last year are shown below:

HIGH SCHOOL GRADUATES AND MENTAL GROUPINGS—NON-PRIOR-SERVICE MEN AND WOMEN

	High school graduates			Mental groups I–III		
	Number, July-December—fiscal year 1976	Percent of total, July-December—fiscal year—		Number, July-December—fiscal year 1976	Percent of total, July-December—fiscal year—	
		1975	1976		1975	1976
Army	62, 800	61	70	83, 200	86	93
Navy	44, 200	68	87	48, 500	94	95
Marine Corps	19, 700	54	73	26, 600	95	98
Air Force	36, 700	89	96	37, 900	99	99
DOD total	163, 400	66	79	[1] 196, 400	92	96

[1] Numbers may not add due to rounding.

Statistical data supplied to me shows that the black proportion of new enlistees in the first half of fiscal year 1976 was lower than last year but was still above the proportion of blacks in the general population. Women continued to account for about 8 percent of all nonprior service accessions.

TAX ON TAR AND NICOTINE IN CIGARETTES FOR NATIONAL HEALTH RESEARCH AND DEVELOPMENT ADVISORY COMMISSION

(Mr. DAN DANIEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, the Health Subcommittee of the Senate Labor and Public Welfare Committee is holding a hearing today on S. 2902. It would establish a National Health Research and Development Advisory Commission with broad powers to do research, provide treatment, make studies, or otherwise inject itself in the field of medicine to a degree never before conceived in this country. The Commission, under this bill, would have provided to it all moneys derived from a confiscatory tax based upon the tar and nicotine content in cigarettes. This tax would be on a graduated basis, running from 1977 to 1980, and in that year and succeeding years, the average increase in the Federal tax would be 30 cents a pack. Some cigarettes, with a high degree of tar and nicotine content, would be taxed at the level of 50 cents per pack.

A number of Members of this body and of the other body who are vitally concerned about this matter sought permission to testify in today's hearing, but this was denied since only the sponsoring Member, representatives of the American Cancer Society, the American Heart Association, and the Tobacco Institute were scheduled as witnesses. Supposedly Members of Congress will be heard late next month.

Since we were unable to personally deliver our comments to the committee, I am bringing this matter to the attention of the House and include herewith a statement which I have submitted to the subcommittee:

REMARKS OF THE HONORABLE DAN DANIEL OF VIRGINIA, BEFORE THE HEALTH SUBCOMMITTEE OF THE SENATE LABOR AND PUBLIC WELFARE COMMITTEE ON THURSDAY, FEBRUARY 19, 1976

Mr. Chairman and Members of the Subcommittee, it is a privilege for me to appear today in opposition to S. 2902, which is pending before you.

I represent the Fifth Congressional District of Virginia, one of the largest flue-cured tobacco producing areas in the country. Thousands of people in my District have made their living for many years by growing tobacco. Other thousands work in related industries. Tobacco is one of the principal sources of income in Virginia and its impact on the economy of our state is considerable.

However, I am not here today because of this fact, important though it may be to the constituency I represent. A careful reading of S. 2902 troubles me greatly, because the potentially dangerous results of such legislation defy imagination. Like many attempts to deal with a so-called "public problem", the bill seeks, through punitive means, to regiment society, raise vast sums through new taxes and spend these monies without regard to what already is being done to deal with the problem.

As an advocate of less governmental interference in our society, I am vigorously opposed to creating a new bureaucracy with the potential for unrestricted regulation and harassment of the type set forth in this bill. The proposed National Health Research and Development Advisory Commission would duplicate work already being done by the National Institutes of Health. Monies derived from the massive new taxes could not be effectively spent without creating a gigantic bureaucracy which eventually would reach into every home in America.

One might recall the lofty purposes stated at the time Congress enacted the Occupational Safety and Health Act—only to find that once the bureaucrats got hold of that relatively simple bill, the results were astounding. In more recent time, we remember what happened when Congress created the Privacy Act. The ripple effect of the never-ending regulations is still difficult to believe.

This has happened with the creation of most new Federal programs—and it would happen with this one too.

S. 2902 is dangerous enough on its face—but who knows what lies behind the printed page.

The bill addresses itself to some of the major health problems in the nation—and this is commendable. But to attribute their cause primarily to cigarette smoking is neither proven nor fair.

The bill purports to deal with the problem by raising vast new taxes—estimated to be $9.3 billion in 1980 and succeeding years—and spending this money in a search to prove its thesis.

It gives lip service to the $2.1 billion now being spent annually by the Federal government in these problem areas and presumes that there would be no reduction in this when the new windfall becomes available. In fact, it assumes that other research programs would be unaffected. This too defies the experience we have had with other Federal programs.

The bill cites cigarette smoking as the main reason for the massive new Federal program—which is a punitive attack on one industry, without similar concern about other areas from which equal or greater danger comes. This sets up the obvious question of whether this bill is a direct attack on the tobacco industry exclusively or simply a fore-runner to similar assaults on other so-called health hazard areas.

This is not the first time the tobacco industry has been singled out for attack—and it will not be the last.

Extensive hearings have been held on this side and in the other Body, with a vast array of statistics and health information put on the public record. Each time, the causal effects of cigarette smoking, as related to various health problems, has been worked over minutely—without proving much. Nothing that I have read or heard leads me to believe that there has been any dramatic change in the substance of this information.

The tobacco industry is not unaware of these studies and conducts many of its own. When new information is available, one can expect that the industry will be in the forefront of efforts to make the truth known.

Others more scientifically capable than I will speak of the specific issue which brings this matter into public discussion. We must remember, however, that a statistic is not necessarily a fact—and we need facts if ever there is to be a massive government program of this type.

It is interesting that among supporters of this bill are some who have been telling us for years that the government has no business legislating morality. Of course, they will say that the bill does not prohibit smoking—it simply raises the cost to a confiscatory level.

This bill will price cigarette smoking out beyond the reach of the poor who have the same right to exercise freedom of choice as the rich.

Even if the purposes and need for the legislation were obvious—and they are not—the method of reaching the stated objective is unacceptable in our system. Are we to embark on a system of taxation where every program will have to raise its own support?

And, under terms of the bill, regardless of how much money is raised, it would all be held for expenditure in such programs whether needed or not.

The inescapable conclusion in the bill is that if there were no cigarette smoking, there would be none of the health problems to which the bill addresses itself.

We might ask then—what about the other habits which some consider dangerous in which some of us indulge? Will we be told later that a tax may be added on excessive eating, drinking, exercising, etc.

The bill would add additional taxes of upwards of $9 billion annually on those who smoke—a group which is already paying each year $2.4 billion at the Federal level and $3.3 billion at the state level. Since states and localities frequently turn to cigarettes as a source of new revenue, enactment of this bill would effectively cut off still another source of taxes for other divisions of government.

In summary, in my opinion, this is a bad bill. It springs from good motivation, but it is ill conceived, would create more problems than it would solve and would establish a precedent which I do not feel we can ignore.

Thank you, Mr. Chairman.

IT IS TIME TO PROVIDE REAL PROTECTION FOR OUR LEGITIMATE NATIONAL SECURITY SECRETS

(Mr. McCLORY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. McCLORY. Mr. Speaker, in the wake of an increasing rash of unauthorized disclosures of classified information, and especially the outrageous publication of an entire House report which was supposedly protected by this own body's rules of confidentiality as well as the executive's classification system, I say that it is well past time for this Congress to get serious about providing real protection for our legitimate national security secrets.

Mr. Speaker, I am today introducing a measure designed to provide an effective means of policing the integrity and ensuring the confidentiality of our foreign intelligence security system. As proposed by the President in his package of intelligence community reforms earlier this week, this bill would amend the National Security Act of 1947 to provide real, enforceable penalties for the unauthorized disclosure of legitimately classified information relating to intelligence sources and methods by Government employees, contractors, and all others in authorized possession of such sensitive information. As you will recall, the 1947 act vested responsibility in the Director of Central Intelligence for protecting foreign intelligence sources and methods from unauthorized disclosure. This legislation will amend that act to provide the DCI with a carefully delineated means for fulfilling that responsibility. In other words, the National Security Act of 1947 directed the DCI to provide security for intelligence gathering sources and methods, but did not grant him adequate authority to enforce his directives in an effective and reasonable way, and it is about time—some 29 years later—that we take appropriate legislative action to remedy that defect in the original statute.

Mr. Speaker, I am attaching a copy of this proposed legislation to my statement here along with a section-by-section analysis of its provisions. The Members will note that this is an eminently reasonable approach to the serious problem of unauthorized disclosures of legitimately classified information. This bill, if enacted, will hit directly at the source of the problem—providing stiff penalties for the so-called leaker—without, in any way, jeopardizing any of the first amendment freedoms and other constitutional safeguards which are rightly enjoyed by the press or the American people generally.

Mr. Speaker, I am pleased to have several of my colleagues from the House Select Committee on Intelligence, as well as several other distinguished Members of this House, join me in introducing this important legislation today. I certainly intend to solicit further cosponsors for this necessary improvement in our laws as soon as possible. Let us make enactment of this legislation an important first step toward better cooperation between the Congress and the Executive in support of an effective, law-abiding, and secure U.S. foreign intelligence capability designed to further the best national interests of our country.

The material referred to follows:

H.R. 12006

A bill to amend the National Security Act of 1947, as amended, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 102 of the National Security Act of 1947, as amended (50 U.S.C.A. 403), is further amended by adding the following new subsection (g):

(g) In the interests of the security of the foreign intelligence activities of the United States, and in order further to implement the proviso of section 102(d)(3) of the Act that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure—

(1) Whoever, being or having been in duly authorized possession or control of information relating to intelligence sources and methods, or whoever, being or having been an officer or employee of the United States, or member of the Armed Services of the United States, or a contractor of the United States Government, or an employee of a contractor of the United States Government, and in the course of such relationship becomes possessed of such information imparts or communicates it by any means to a person not authorized to receive it or to the general public shall be fined not more than $5,000 or imprisoned not more than five years, or both;

(2) For the purposes of this subsection, the term "information relating to intelligence sources and methods" means any information, regardless of its origin, that is classified pursuant to the provisions of a statute or Executive order, or a regulation or a rule issued pursuant thereto as information requiring a specific degree of protection against unauthorized disclosure for reasons of national security and which, in the interest of the foreign intelligence activities of the United States, has been specifically designated by a department or agency of the United States Government which is authorized by law or by the President to engage in foreign intelligence activities for the United States as information concerning—

(A) methods of collecting foreign intelligence;

(B) sources of foreign intelligence, whether human, technical, or other; or

(C) methods and techniques of analysis and evaluation of foreign intelligence.

(3) A person who is not authorized to receive information relating to intelligence sources and methods is not subject to prosecution for conspiracy to commit an offense under this subsection, or as an accomplice, within the meaning of sections 2 and 3 of title 18, United States Code, in the commission of an offense under this subsection, unless he became possessed of such information in the course of a relationship with the United States Government as described in paragraph (1): *Provided, however,* That the bar created by this paragraph does not preclude the indictment or conviction for conspiracy of any person who is subject to prosecution under paragraph (1) of this subsection.

(4) It is a bar to prosecution under this subsection that:

(A) at the time of the offense there did not exist a review procedure within the Government agency described in paragraph (2) of this subsection through which the defendant could obtain review of the continuing necessity for the classification and designation;

(B) prior to the return of the indictment or the filing of the information, the Attorney General and the Director of Central Intelligence did not jointly certify to the court that the information was lawfully classified and lawfully designated pursuant to paragraph (2) at the time of the offense;

(C) the information has been placed in the public domain by the United States Government; or

(D) the information was not lawfully classified and lawfully designated pursuant to paragraph (2) at the time of the offense.

(5) It is a defense to a prosecution under this subsection that the information was communicated only to a regularly constituted subcommittee, committee or joint committee of Congress, pursuant to lawful demand.

(6) Any hearing by the court for the purpose of making a determination whether the information was lawfully classified and lawfully designated, shall be in camera;

(A) at the close of any in camera review, the court shall enter into the record an order pursuant to its findings and determinations;

(B) any determination by the court under this paragraph shall be a question of law.

(7) Whenever in the judgment of the Director of Central Intelligence any person is about to engage in any acts or practices which will constitute a violation of this subsection, the Attorney General, on behalf of the United States, may make application to the appropriate court for an order enjoining such acts or practices, and upon a showing that such person is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted. In the case of an application for an order under this paragraph;

(A) the court shall not hold an in camera hearing for the purpose of making a determination as to the lawfulness of the classification and designation of the information unless it has determined after giving due consideration to all attending evidence that such evidence does not indicate that the matter has been lawfully classified and designated;

(B) the court shall not invalidate the classification or designation unless it finds that the judgment of the department or agency, pursuant to paragraph (2), as to the lawfulness of the classification and designation was arbitrary, capricious and without a reasonable basis in fact.

SECTIONAL ANALYSIS AND EXPLANATION

This bill by adding a new subsection (g) to the National Security Act of 1947 further implements a proviso of that Act imposing a duty upon the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure. The new subsection draws upon existing concepts of law found within 18 U.S.C. 798 (relating to communication intelligence) and 42 U.S.C. 2204 *et seq.* (relating to atomic energy Restricted Data).

Paragraph (1) of the new subsection identifies the special and limited class of individuals having privity of access to the sensitive information defined in paragraph (2) below and proscribes their culpable communication of such information to an unauthorized recipient.

Paragraph (2) *of the new subsection* defines the special category of information relating to intelligence sources and methods which is subject to the new provisions. It also recognizes the authority of the Director and heads of other agencies expressly authorized by law or by the President to engage in intelligence activities for the United States, to provide for the appropriate designation of such information.

Paragraph (3) *of the new subsection* assures that only the special and limited class of individuals identified under paragraph (1) above will be subject to prosecution as a result of the violation of the new subsection. This is in keeping with the intent that the new provision penalizes as unlawful only the conduct of those whose access to the designated information is dependent upon understandings arising out of a relationship involving trust and confidence. Collateral prosecution related to the violation of any other provision of law, however, is not vitiated by this paragraph.

Paragraph (4) *of the new subsection* provides that no prosecution may be instituted unless the Attorney General and the Director of Central Intelligence first jointly certify to the court that the information was lawfully classified and lawfully designated for limited dissemination; the information was not placed in the public domain by the Government; an agency review procedure existed whereby the defendant could have secured a review of the information in question for a determination on public releasability; and the information was lawfully classified and lawfully designated pursuant to paragraph (2) at the time of the offense.

Paragraph (5) *of the new subsection* provides a defense to prosecution if the information was only provided to a regularly constituted committee, joint committee or joint committee of Congress, pursuant to lawful demand.

Paragraph (6) *of the new subsection* provides that any hearing by the court to determine whether the information was lawfully classified and lawfully designated shall be *in camera* and such determination shall be a question of law.

Paragraph (7) *of the new subsection* permits the Attorney General to petition a court to enjoin injunction any act which the Director believes will violate any provision of the new subsection. This authority is intended to provide prompt judicial action to avoid damage to the U.S. foreign intelligence effort in circumstances where punitive criminal action alone, being necessarily ex post facto, may be inadequate in achieving the underlying objective of the legislation which is to protect intelligence sources, methods and techniques from unauthorized disclosure. This paragraph also provides that in any hearing for such an order the court shall not hold an *in camera* hearing to determine the lawfulness of the classification and designation of the information unless it has first considered all attending evidence and determined that the evidence does not indicate that the matter has been lawfully classified and lawfully designated. The paragraph further provides that the court may invalidate a classification or designation if it finds the judgment of the department or agency head was arbitrary, capricious and without a reasonable basis in fact.

FORMER CONGRESSMAN EMORY PRICE

(Mr. BENNETT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BENNETT. Mr. Speaker, it is my sad duty to report that former Congressman Emory Price of Jacksonville, Fla. recently passed away. He served in Congress for three terms during World War II and many of you in Congress remember him as a warm and kindly man with whom you once served here. He was an attorney and real estate businessman, and active church and civic leader, and held many public offices. He served in Jacksonville's city council, and as supervisor of registration and as Jacksonville's police commissioner. He was also at one time clerk of the civil and criminal courts. Certainly few men have served their country and home communities in more varied and important positions. I know all Members of Congress join me in expressing the hope that his widow and children may take comfort in his many achievements for his area of residence and for his beloved country.

CYPRUS NEGOTIATIONS

(Mr. FOUNTAIN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. FOUNTAIN. Mr. Speaker, the United Nations has announced that the Cyprus intercommunal talks resumed Tuesday, February 17, in Vienna under the personal auspices of U.N. Secretary-General Waldheim. I commend both sides for agreeing to pursue these negotiations, and hope and pray that the meetings will progress toward a Cyprus solution which is fair and just to all.

It must be recognized that the negotiations will not be easy and probably not as speedy as many would wish. There are genuine and honest differences between the parties on how to approach some of the critical issues.

The Turks, for example, emphasize that the history of the island does not begin with 1974. They point to the 1960's, for example, when intercommunal strife on Cyprus created a large Turkish/Cypriot refugee situation. They stress with some bitterness that there was no international outcry at that time over their compatriots who were displaced. While this should in no way diminish our concern with the present refugee situation on the island, we should be aware that there has been suffering on both sides and that these experiences affect the present day attitudes and negotiating strategies.

The Greeks for their part feel that they are the aggrieved party and that the Turks have shown bad faith despite a Greek willingness to negotiate. On Cyprus, they say, the Turks failed to withdraw after invading as a guarantor power and instead engaged in a further military operation whose objective was conquest and which created a huge refugee problem. The Greeks have accused the Turks of hindering negotiations despite Greek willingness to accommodate most Turkish demands.

In view of the complexities and conflicting claims in this situation, Mr. Speaker, I hope that we will not be attempting to pin blame for a lack of negotiating progress to date solely on one side or the other. Each side has deeply and genuinely held views and, I am convinced, honest differences over how to go about seeking a permanent solution.

The fact that the negotiations are getting underway again should in itself be regarded as evidence of an even more important consideration—a sincere desire, which I believe is held by both sides, that we must achieve an enduring peace for Cyprus. I note too that Turkey has withdrawn another 2,000 troops, bringing the total she has removed from Cyprus to 12,000. These developments are illustrative that the will to move toward a final solution to the Cyprus problem exists, which I think is shared by both sides.

I had the opportunity to travel to the area recently and I came to appreciate more fully the legitimate concerns and interests of both sides. Mutual suspicions exist and can only be dispelled in the negotiating process. While I became aware of the difficulties and hurdles to be faced, I also came away with strong feelings that both sides want a peaceful settlement.

There is a recognition this process will be difficult and probably at a pace which will frustrate those who most want a settlement. All of us that want a just and enduring settlement must lend our assistance to these efforts. Too many irresponsible public statements and charges have been made which do not serve the efforts of those who genuinely seek to move ahead on the Cyprus issue. Such statements and actions will not contribute to the goal of peace.

I believe that we in the Congress bear a special responsibility to refrain from actions which would adversely affect the delicate negotiating process which has finally been reestablished after months of painstaking effort.

EXPLANATION AS TO VOTE

(Mr. DANIELSON asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DANIELSON. Mr. Speaker, on Tuesday, February 10, 1975, I was present and voted "yea" on rollcall No. 50, when the vote was taken on the rule under which H.R. 11453, the Emergency Employment Projects Amendments of 1976, was considered. Thereafter, my attention was called to the failure of the electronic voting system to record my vote. This was confirmed by the tally as printed in the Record, which shows me as not voting.

Mr. Speaker, I would like the Record to show that, had the voting system not failed, it would have reflected that I voted "yea" in this instance.

TOXIC SUBSTANCES CONTROL—A CRITICAL NEED

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. I would hope that the action of Congress in the coming weeks, as we consider the toxic substances legislation now before the Committee on Interstate and Foreign Commerce, will prove that the time for control of toxic substances has really come.

I recommend to my colleagues an article from the February 13 issue of Science by Nicholas Wade on this subject. I particularly hope that you will share my agreement with Dr. Umberto Saffiotti that the public has the right to assurance that chemicals are safe before they are introduced into the human environ. We cannot assume that such chemicals are innocent until proven guilty.

The premarket screening notification process called for in H.R. 10318, whereby public disclosure of the name of the chemical, the molecular structure, the proposed quantities and categories of use and the description of by-products is required, is basic information that should be readily available from manufacturers without undue expense. If there are indications that such chemicals could be hazardous, further testing should be required.

It is past time for the country to have this legislation. There have been far too many outrageous examples like the recent PCB, DES and Red Dye No. 2 disclosures where the public received no protection from chemicals hazardous to human life until widespread use was introduced and thousands of people were jeopardized.

I am inserting the Wade article for the benefit of my colleagues:

Control of Toxic Substances: An Idea Whose Time Has Nearly Come

(By Nicholas Wade)

Working in a chemical laboratory is said to reduce your life expectancy by about 5 years according to some rough estimates. Despite the vast number of exotic chemicals that are dispersed each year in ever-increasing tonnages, the environment has not become quite that hazardous. But nor is it entirely without risk. Medical authorities seem to agree that between 60 and 90 percent of all cancers have an environmental cause. New instances are regularly discovered of yet another widely used but inadequately tested chemical or substance—mercury, asbestos, polychlorinated biphenyls, haloethers, vinyl chloride—that proves by some tragic accident to be harmful to life.

There is now a wide measure of agreement, in industry as well as elsewhere, that the right place to test chemicals is in the laboratory, not the environment. After a 5-year legislative stalemate, Congress may at last be about to reach agreement on a Toxic Substances Control Act under which chemicals would be screened and tested before coming to market. Versions proposed by House and Senate committees seem less far apart, at least, than in previous years. Environmentalists hope that the accumulating record of chemical accidents will foster a sentiment for action. Yet even if Congress gets together on a bill this session, industry lobbyists say they will push for a presidential veto if the law is not to their liking. The industry contends that a strict bill would cause plant closures and the loss of tens of thousands of jobs, a proposition which the White House may not wish to put to the test in an election year.

An ingenious speculation holds that the fall of the Roman Empire was occasioned not by barbarian hordes or loss of soil fertility or even moral decadence, but by simple lead poisoning. The modern citizen of an industrialized country is inadvertently exposed to an array of exotic chemicals, many of which may influence his physiology in degrees ranging from the subclinical to the mutagenic and cancerous. By 1968 the chemical industry was producing about 120 billion pounds of the 9,000 snythetic chemicals in large-scale commercial use. Only a small proportion of these substances are exhaustively tested against the possible hazards contingent on wide dispersion in the environment. For instance, only 3,000 of the 2 million known chemical compounds have been adequately tested for cancerous propensities, and 1,000 of these have in fact shown some sign of being carcinogenic, according to Umberto Saffiotti, the National Cancer Institute's associate director for carcinogenesis.

It is not surprising, but inevitable, that certain of these chemicals should now turn out to be far from innocuous. It is unfortunate that some of the substances involved in recent accidents are as widely used as vinyl chloride, the 23rd leading chemical by weight of production, or as ubiquitous as asbestos, another carcinogen, which occurs in everything from aprons, blankets, cements, lagging, stove mats, twine, wallboard, and wicking to the drinking water of communities near the Lake Superior plant of the Reserve Mining Company. It is also unfortunate that many of the problem chemicals are insidious in ways that remain undiscovered until considerable damage has been done. Polychlorinated biphenyls, for example, were used for 40 years before being recognized as an enduring environmental poison, by which time an estimated 30,000 tons had been dispersed to the atmosphere above the United States, 60,000 tons had been lost in waters, and 300,000 tons had ended up in dumps. Carcinogens, because of their long latency in man, are another hazard which tends to be discovered late in the game. An example is that of asbestos workers at the former Pittsburgh Corning plant in Tyler, Texas. "We expect 350 of the 825 workers to die of cancer. That is a massacre, not only a tragedy. You are dealing with almost 50 percent of a particular work force and this particular situation is going to be repeated in many other places," says Anthony Mazzocchi, representative of the Oil, Chemical and Atomic Workers International Union. (A spokesman for Pittsburgh Corning said the company would not comment on Mazzocchi's figures because of litigation in process.)

Many chemicals are already to some extent controlled by the laws relating to pesticides, drugs, clean air, and water pollution. Many more are unleashed on the market with no more precautionary testing than that dictated by the manufacturer's resources and sense of responsibility. One of the first acts of the newly created Council on Environmental Quality was to recommend in 1971 that chemicals be tested for harmful qualities before being put into commercial production. Both House and Senate passed toxic substance control bills in 1972, the Senate's version stipulating a blanket premarket screening of all new chemicals, the House's requiring only selected substances to come under regulation. The sponsors of the House bill refused to compromise and the two chambers failed even to arrange a conference committee. The next Congress followed the same pattern in 1973, and the session again ended without an agreed bill. The bills now being engendered in House and Senate are closer in key areas; one lobbyist reckons a 75 percent chance that Congress will agree on legislation of some kind.

The vexed gestation period of the measure is not surprising for an act that attempts to bring a large, complex, and powerful sector of the chemical, mining, and manufacturing industry under government regulation, and companies concerned have somewhat naturally been putting up stout resistance. Another sticking point, perhaps reflecting a general district of government, is that neither the industry nor the environmentalists and unions are content with a general law allowing the administrator of the Environmental Protection Agency the discretion to deal with each problem as he thinks best. Both sides act as if the believed that the best way to ensure the administrator is even-handled is to nail down his hands in law and allow him no freedom of maneuver of which the other side might take advantage. Anita Johnson, for example, of the Public Citizen's Health Research Group, told the House Consumer Protection and Finance subcommittee that she favored a strict bill because it would "render EPA immune from the overwhelming anti-testing pressures industry can and does bring to bear. The corps of lobbyists, indentured scientists, the $100-an-hour Washington lawyers, the years of industry advocacy by the White House and key members of Congress may, under the [language of this bill], fail to stymie safety testing for the public."

Similarly the industry is kicking up a considerable fuss about the legislation even though it is generally in a company's own interest to test chemicals strictly and discover hazards before going into production. Part of the reason for the industry's resistance to the stricter versions of the legislation is the fear that "back pressure" from citizens' suits will compel the Environmental Protection Agency to demand more tests than are necessary. "The administrator could be pushed away from a reasonable, selective position," says George W. Ingle of the Manufacturing Chemists Association.

The Senate bill, sponsored by Democrat John Tunney of California, is the version the industry likes least. It would have manufacturers notify the Environmental Protection Agency annually of all chemicals being produced and of new chemicals 90 days before start of production. The maker would have to supply three salient pieces of information: the uses of the chemical, the estimated quantity to be manufactured for each such use, and any health and safety data the manufacturer had developed himself or could cull from the literature.

The Tunney bill, which has yet to be approved by the Senate Commerce Committee, gives the administrator wide powers for action on the basis of the information he receives. If he thinks that a chemical might present an "unreasonable risk to health or the environment," he can order the manufacturers to conduct whatever tests he deems necessary. If the tests show the risk indeed exists, the administrator can limit or ban the manufacture of a substance for all or some of its uses.

In the House, a proindustry and proenvironmentalist bill have been merged into a compromise but nevertheless stringent document by the Subcommittee on Consumer Protection and Finance. The bill will be considered by the parent Interstate and Foreign Commerce Committee, maybe as early as this month. According to the subcommittee majority counsel Janie Kinney, a tough fight is expected.

The present House bill shares two of the crucial features of the Senate bill, a requirement for premarket notification and authorization for the government to require testing. Both bills are generally opposed by the industry, although there is a wide spectrum of opinion. Rohm and Haas, a Philadelphia company which has recently lost some 25 workers to the potent lung carcinogen bis (chloromethyl) ether, supports the Senate bill. On the other hand Dow Chemical is opposed to the passage of any toxic substances bill. "If Dow produced a product we thought severely hazardous to people, we would stop producing it; we are that kind of a company," Dow general counsel James H. Hanes told the House subcommittee. Most producers of primary chemicals, however, as represented by the Manufacturing Chemists Association, accept the legislation in principle, including the cardinal feature that the onus should be on the manufacturer. "We accept the responsibility for adequately screening and testing products the company makes and sells," says Du Pont's research director Theodore L. Cairns.

A major concern in the chemical industry is that the administrator may mandate impossibly strict testing requirements. According to Du Pont, a full battery of toxicity tests can take more than 4 years and cost over $500,000 for just a single chemical. Chemicals that generate a few thousand dollars worth of sales annually could not be produced economically if they had to carry this kind of overhead. The position of the Environmental Protection Agency is that the administrator would obviously be able to go easier on a small volume chemical because it would probably be less widely distributed in the environment than one produced by the ton.

One approach the industry is backing is that of "selective" screening, according to which the Environmental Protection Agency would have to draw up a list of categories of chemicals likely to be hazardous. A manufacturer would be obliged to notify the agency of a new chemical only if it were on the list. Environmentalists counter that it would be almost impossibly arduous for the agency to decide in advance which new chemicals should be screened and which shouldn't.

Another point of contention is the cost of the legislation. If the bills become law, "There is no doubt this would severely damage and possibly cripple America's chemical industry," Dow Chemical's health and environmental research director Etcyl H. Blair wrote in a recent article in the *New York Times*. Blair presumably had in mind a Dow study predicting that the Senate bill would cost industry about $2 billion a year. Dow's estimate exceeds all others by a considerable factor. A voluminous assessment commissioned by the Manufacturing Chemists Association puts the annual cost of the Senate bill at $360 to $1300 million, whereas the Environmental Protection Agency calculates that the law will cost the industry from $80 to $140 million a year. Called in to arbitrate between these conflicting estimates. Congress's General Accounting Office dismissed Dow's figures as "highly questionable" and ruled that half of the Manufacturing Chemists Association's estimate constituted an illegitimate cost. The GAO auditors supported the accounting principles followed by the Environmental Protection Agency but suggested their estimate should be raised to a cost range of $100 to $200 million a year.

An annual cost of $200 million, to take the upper limit of the GAO estimate, could be a considerable burden, particularly if it should fall more heavily on producers of low volume chemicals, such as dyestuffs. On the other hand it is not exactly obvious how it could cripple an industry which, according to the Environmental Protection Agency, enjoyed sales of $72 billion in 1974, posttax profits of $5.5 billion, and spent $2 billion on research and development.

At a recent briefing on Capitol Hill to discuss the House bill, the requirement for premarket screening of chemicals came under criticism as an abandonment of the constitutional principle that people should be presumed innocent until found guilty. Cancer expert Umberto Saffiotti offered the counterargument that with chemicals, which have no such constitutional rights, it should be the other way around. Congress seems nearer than ever before to endorsing that principle in legislation that could become a keystone.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. TEAGUE (at the request of Mr. O'NEILL), for February 18 and 19, 1976, on account of illness.

Mr. KAZEN (at the request of Mr. GONZALEZ), for February 19, 1976, on account of official business in the District.

Mr. LANDRUM (at the request of Mr. O'NEILL), for February 19, 1976, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COCHRAN) to revise and extend their remarks and include extraneous matter:)

Mr. MILLER of Ohio, for 10 minutes, today.

Mr. WHALEN, for 5 minutes, today.

Mr. RAILSBACK, for 5 minutes, today.

(The following Members (at the request of Mr. CORNELL) to revise and extend their remarks and include extraneous material:)

Ms. HOLTZMAN, for 15 minutes, today.

Mr. ULLMAN, for 10 minutes, today.

Mr. GONZALEZ, for 5 minutes today.

Mr. HARRIS, for 10 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PATMAN, for 60 minutes, today.

Mr. BRINKLEY, for 30 minutes, today.

Mr. BEDELL, for 5 minutes today.

Mr. VIGORITO, for 10 minutes, today.

Mr. DRINAN, for 5 minutes, today.

Ms. ABZUG, for 5 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. DODD, for 5 minutes, today.

Mr. DE LA GARZA, for 5 minutes today.

Mr. RODINO, for 5 minutes, February 23, 1976.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Appendix of the RECORD, or to revise and extend remarks was granted to:

Mr. UDALL, and to include extraneous matter.

Mr. MADDEN.

Mr. MCCORMACK, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,215.50.

(The following Members (at the request of Mr. COCHRAN), and to include extraneous matter:)

Mr. ANDREWS of North Dakota.

Mr. BELL.

Mrs. PETTIS.

Mr. MCKINNEY.

Mr. PEYSER.

Mr. ANDERSON of Illinois in two instances.

Mr. SYMMS in three instances.

Mr. GRADISON in two instances.

Mr. RHODES in two instances.

Mr. MILLER of Ohio in four instances.

Mr. COHEN.

Mr. FINDLEY.

Mr. VANDER JAGT.

Mr. ARCHER.

Mr. ASHBROOK in two instances.

Mr. HYDE.

Mr. DERWINSKI in two instances.

Mr. JOHNSON of Pennsylvania.

(The following Members (at the request of Mr. CORNELL), and to include extraneous material:)

Mr. STARK.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. NATCHER.

Ms. HOLTZMAN in 10 instances.

Mr. HARRIS in 10 instances.

Mr. TRAXLER in two instances.

Mr. CLAY in 10 instances.

Mr. BYRON in 10 instances.

Mr. HELSTOSKI in five instances.

Mr. FRASER.

Mr. MCDONALD of Georgia in five instances.

Mr. MURPHY of Illinois in two instances.

Mr. ROGERS in five instances.

Mr. RANGEL.

Mr. FOUNTAIN.

Mr. SATTERFIELD.

Mr. MATSUNAGA.

Mr. HAMILTON.

Mr. O'HARA in two instances.

Mr. VANIK in two instances.

Mr. GINN in two instances.

Mr. EDWARDS of California.

Mr. HUNGATE.

Mr. MOTTL.

Mr. PIKE.

Mr. SEIBERLING in 10 instances.

Mr. SANTINI.

Mr. HOWE.

Mr. MOORHEAD of Pennsylvania.

Mr. SIMON.

Mr. HIGHTOWER.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2447. An act to amend title 4 of the United States Code to make it clear that Members of Congress may not, for purposes of State income tax laws, be treated as residents of any State other than the State from which they were elected; to the Committee on the Judiciary.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 270. An act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Elkhart, Kansas, for airport purposes.

ENROLLED BILL SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 11645. An act to amend the Act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On February 18, 1976:

H.R. 5512. An act to amend the National Wildlife Refuge System Administration Act of 1966, and for other purposes.

On February 19, 1976:

H.R. 11645. An act to amend the Act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building.

ADJOURNMENT

Mr. CORNELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 54 minutes p.m.), under its previous order, the House adjourned until Monday, February 23, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2575. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report covering the first quarter of fiscal year 1976 on receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, material, and for expenses involving the production of lumber and timber products, pursuant to section 812 of Public Law 93-437; to the Committee on Appropriations.

2576. A letter from the Secretary of Defense, transmitting the annual report on real and personal property of the Department of Defense as of June 30, 1975, pursuant to 10 U.S.C. 2701; to the Committee on Armed Services.

2577. A letter from the General Counsel of the Department of Defense, transmitting a proposed amendment to the Uniformed Services Retirement Modernization Act (H.R. 7769; to the Committee on Armed Services.

2578. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken for the Army Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

2579. A letter from the Deputy Assistant Secretary of the Interior, transmitting a proposed concession contract providing for the operation and maintenance of facilities and services for the public within the El Portal Administrative Site of Yosemite National Park during a term ending December 31, 1978, pursuant to 67 Stat. 271 and 70 Stat. 543; to the Committee on Interior and Insular Affairs.

2580. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense articles to Australia (Transmittal No. 76-39), pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

2581. A letter from the Attorney General, transmitting a draft of proposed legislation to improve the administration of State institutions holding persons involuntarily confined, and for other purposes; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BRADEMAS: Committee on House Administration. Senate Concurred Resolution 88. Concurrent resolution authorizing the printing of additional copies of the open hearings and the final report of the Senate Select Committee on Intelligence Activities (Rept. No. 94-835). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO (for himself, Mrs. Fenwick, Mrs. Sullivan, Mrs. Spellman, Mr. Barrett, Mr. Gonzalez, and Mr. Fauntroy):

H.R. 11969. A bill to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors; to the Committee on Banking, Currency and Housing.

By Mr. BIAGGI (for himself, Mr. de Lugo, Mr. Won Pat, Mr. Ottinger, Mr. Roybal, Mr. Rodino, Mr. Scheuer, Mr. Addabbo, Mr. Helstoski, Mr. Koch, Mr. Solarz, Mr. Zeferetti, Mr. Richmond, Mr. Anderson of California, Mr. Badillo, Mr. Cleveland, Mr. Howard, Mr. Fraser, Mr. Downey of New York, Mr. LaFalce, Mr. Murphy of New York, Mr. McKinney, Mr. Roe, Mr. Oberstar, and Mr. Blouin):

H.R. 11970. A bill to promote services and programs designed to assure the opportunity for adoption for all eligible children; jointly, to the Committees on Education and Labor, and Ways and Means.

By Mr. BRADEMAS (for himself, Mr. Badillo, Mrs. Boggs, Mrs. Chisholm, Mr. Gude, Mr. Harris, Mr. Hechler of West Virginia, Mr. Holland, Ms. Keys, Mr. LaFalce, Mr. McKinney, Mrs. Meyner, Mr. Ottinger, Mr. Pattison of New York, Mr. Scheuer, Mr. Solarz, Mrs. Spellman, Mr. Thompson, and Mr. Vander Veen):

H.R. 11971. A bill to establish a series of six regional Presidential primaries at which the public may express its preference for the nomination of an individual for election to the Office of President of the United States; to the Committee on House Administration.

By Mr. BROWN of Michigan (for himself, Mr. Vander Jagt, Mr. Martin Mr. Jeffords, Mr. Quie, Mr. Quillen, Mr. Bafalis, Mr. Lagomarsino, Mr. Kindness, and Mr. McClory):

H.R. 11972. A bill to amend the Housing and Community Development Act of 1974 to provide supplementary community development block grant assistance to communities with high unemployment due to adverse national economic conditions, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. BURKE of Massachusetts:

H.R. 11973. A bill to amend title 38 of the United States Code to remove the time limitation within which programs of education for veterans must be completed; to the Committee on Veteran's Affairs.

By Mr. DRINAN (for himself, Mr. Conyers, Mr. Eilberg, Mr. Fraser, Mr. Harrington, Mr. Hawkins, Mr. Hechler of West Virginia, Mr. Helstoski, Mr. Jenrette, Mr. Koch, Mr. Riegle, Mr. Roybal, Mr. Scheuer, Mr. Waxman, and Mr. Charles Wilson of Texas):

H.R. 11974. A bill to establish an independent agency to administer the internal revenue laws; to the Committee on Ways and Means.

By Mr. DUNCAN of Tennessee:

H.R. 11975. A bill to reform residential electric utility rates; to the Committee on Interstate and Foreign Commerce.

By Mr. FISH:

H.R. 11976. A bill to provide an additional 26 weeks of benefits under the emergency unemployment compensation program; to the Committee on Ways and Means.

By Mr. FISH (for himself, Mr. McHugh, and Mr. Rosenthal):

H.R. 11977. A bill to terminate the granting of construction licenses of nuclear fission powerplants in the United States pending action by the Congress following a comprehensive 5-year study of the nuclear fuel cycle, with particular reference to its safety and environmental hazards, to be conducted by the Office of Technology Assessment, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. GOLDWATER (for himself, Mr. Abdnor, Mr. Bowen, Mr. Burgener, Mr. Don H. Clausen, Mr. Cochran, Mr. Hechler of West Virginia, Mr. Lent, Mr. Lloyd of California, Mr. Montgomery, Mr. Ottinger, Mrs. Pettis, Mr. Rinaldo, Mr. Stark, Mr. Steiger of Wisconsin, Mr. Talcott, and Mr. Taylor of Missouri):

H.R. 11978. A bill to establish an independent Federal Aviation Agency, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. HEINZ:

H.R. 11979. A bill to amend the Internal Revenue Code of 1954 to provide tax assistance to small businesses; to the Committee on Ways and Means.

By Ms. HOLTZMAN:

H.R. 11980. A bill to amend the Federal Rules of Evidence to permit fair and effective prosecution for rape by providing that evidence of an individual's prior sexual conduct is not admissible in any action or proceeding if an issue in such action or proceeding is whether such individual was raped or assaulted with intent to commit rape; to the Committee on the Judiciary.

By Mr. HYDE (for himself, Mr. Burgener, Mr. Byron, Mr. Collins of Texas, Mr. Erlenborn, Mr. Hechler of West Virginia, Mr. Kindness, Mr. Madigan, Mr. Michel, Mr. Robinson, Mr. Sebelius, and Mr. Treen):

H.R. 11981. A bill to repeal the Presidential Primary Matching Payment Account Act, and for other purposes; to the Committee on House Administration.

By Mr. LUJAN:

H.R. 11982. A bill to authorize the addition of certain lands to Bandalier National Monument in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 11983. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for the expense of filing forms required by Federal law; to the Committee on Ways and Means.

By Mr. McDADE:

H.R. 11984. A bill to provide for congressional Bicentennial scholarships; to the Committee on Education and Labor.

Mr. MILFORD:

H.R. 11985. A bill to amend the Internal Revenue Code of 1954 to provide a procedure by which persons may make contributions with their income tax returns for purposes of reducing the national debt; to the Committee on Ways and Means.

By Mr. MOAKLEY:

H.R. 11986. A bill to ban the manufacture, sale, distribution in commerce, and importation of certain electric weapons until certain determinations are made by the Consumer Product Safety Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. MOTTL:

H.R. 11987. A bill to amend title 18 of the United States Code to prohibit corporate bribes of foreign officials; to the Commitee on the Judiciary.

By Mr. PEPPER:

H.R. 11988. A bill to amend title XVIII of the Social Security Act to provide coverage for services which may be performed by a dentist on the same basis as presently allowed for physicians under the medicare program, and to authorize payment under such program for all inpatient hospital services furnished in connection with dental procedures requiring hospitalization; to the Committee on Ways and Means.

H.R. 11989. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; to the Committee on Ways and Means.

H.R. 11990. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; to the Committee on Ways and Means.

By Mr. PEYSER (for himself, Mr. Mottl, Mr. Koch, Mr. Patten, Mr. Rodino, Mr. Thompson, Mr. Downey of New York, Mr. Eilberg, Mr. Udall, Mr. Addabbo, Mr. Harrington, Mr. Helstoski, Mr. Ottinger, Mr. Moorhead of Pennsylvania, Mr. Bingham, Mr. Benitez, Mr. Richmond, Mr. Hawkins, Mr. Dent, Mr. Dominick V. Daniels, Mr. Gilman, and Mr. Won Pat):

H.R. 11991. A bill to amend the Elementary and Secondary Education Act of 1965 to provide emergency financial assistance to local education agencies in order to maintain essential elementary and secondary education services at a quality level; to the Committee on Education and Labor.

By Mr. ROGERS:

H.R. 11992. A bill to amend the Federal Election Campaign Act of 1974 to establish an independent establishment of the executive branch of the Government of the United States, a commission to be known as the Federal Election Commission, and for other purposes; to the Committee on House Administration.

By Mr. ROONEY (for himself and Mr. Perkins):

H.R. 11993. A bill to amend title 15 of the United States Code for the purpose of regulating interstate commerce in wagering on horse racing, maintaining the stability of the horse racing industry, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 11994. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; to the Committee on Ways and Means.

By Mrs. SULLIVAN (for herself, Mr. Murphy of New York, Mr. Leggett, Mr. Mosher, and Mr. Forsythe):

H.R. 11995. A bill to extend the Marine Protection, Research, and Sanctuaries Act for 2 years; to the Committee on Merchant Marine and Fisheries.

By Mr. UDALL (for himself, Ms. Abzug, Mr. Badillo, Mr. Boland, Mrs. Burke of California, Mrs. Chisholm, Mr. Danielson, Mr. Drinan, Mr. Duncan of Oregon, Mr. Edwards of California, Mr. Harrington, Ms. Holtzman, Mr. Howard, Mr. Koch, Mr. Krebs, Mr. Long of Maryland, Mr. Mitchell of Maryland, Mr. Moss, Mr. Ottinger, Mr. Pattison of New York, Mr. Roybal, Mr. Sarbanes, Mr. Scheuer, and Mr. Studds):

H.R. 11996. A bill to allow certain individuals who were given or administered a drug as part of an experiment to bring an action for damages against the United States; to the Committee on the Judiciary.

By Mr. ULLMAN:

H.R. 11997. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of certain divestitures of assets by bank holding companies; to the Committee on Ways and Means.

By Mr. VIGORITO (for himself, Mr. Bergland, Mr. Breckinridge, Mr. Brown of California, Mr. D'Amours, Mr. Findley, Mr. Harkin, Mr. Jeffords, Mr. Jenrette, Mr. Jones of Tennessee, Mr. Litton, Mr. McHugh, Mr. Nolan, Mr. Peyser, Mr. Richmond, Mr. Sisk, Mr. Thone, and Mr. Weaver):

H.R. 11998. A bill to establish a National Commission on Food Costs, Pricing and Marketing to appraise the food marketing industry; to the Committee on Agriculture.

By Mr. DRINAN (for himself, Mr. Scheuer, Mr. Oberstar, Mr. Long of Maryland, Mr. Mitchell of Maryland, Mr. Metcalfe, and Mr. Waxman):

H.R. 11999. A bill to provide for a Special Prosecutor for Federal criminal offenses related to security functions and intelligence gathering; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H.R. 12000. A bill to establish the National Diabetes Advisory Board and to take other actions to insure the implementation of the long-range plan to combat diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. HAWKINS:

H.R. 12001. A bill to amend the Internal Revenue Code of 1954 to allow individuals a deduction for expenses incurred in contiguous less-developed countries; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. Bonker, and Mr. Roncalio):

H.R. 12002. A bill to incorporate the National Ski Patrol System, Incorporated; to the Committee on the Judiciary.

By Mr. LUJAN:

H.R. 12003. A bill to declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands; to the Committee on Interior and Insular Affairs.

H.R. 12004. A bill to declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands; to the Committee on Interior and Insular Affairs.

H.R. 12005. A bill to declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands; to the Committee on Interior and Insular Affairs.

By Mr. McCLORY (for himself, Mr. Treen, Mr. Kasten, Mr. Michel, Mr. Anderson of Illinois, and Mr. Broomfield):

H.R. 12006. A bill to amend the National Security Act of 1947, as amended, and for other purposes; to the Committee on Armed Services.

By Mr. METCALFE (for himself, Ms. Burke of California, Mr. Dellums, Mr. Diggs, and Mr. Stokes):

H.R. 12007. A bill to amend the State and Local Assistance Act of 1972; to the Committee on Government Operations.

By Mr. RAILSBACK:

H.R. 12008. A bill to reduce the burden on the Federal courts of prisoners' suits brought under section 1983 of title 42, United States Code, to improve the administration of State institutions holding confined persons, and for other purposes; to the Committee on the Judiciary.

By Mrs. SMITH of Nebraska:

H.R. 12009. A bill for the relief of innocent victims of the occupation of Wounded Knee, S. Dak.; to the Committee on the Judiciary.

By Mr. SYMINGTON:

H.R. 12010. A bill to provide for certain payments to be made to State or local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such State or locality; to the Committee on Interior and Insular Affairs.

By Mr. TREEN:

H.R. 12011. A bill to grant the consent of Congress to the construction of certain causeways in connection with highway construction in the State of Louisiana; to the Committee on Public Works and Transportation.

By Mr. VANIK:

H.R. 12012. A bill to amend titles II and XVIII of the Social Security Act to make improvements in the end stage renal disease program presently authorized under section 226 of that act; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. BAUCUS (for himself, Mr. Anderson of Illinois, Mr. Andrews of North Dakota, Mr. Aspin, Mr. Bedell, Mrs. Boggs, Mrs. Burke of California, Mr. John L. Burton, Mr. Conlan, Mr. Downey of New York, Mr. Duncan of Oregon, Mr. Fauntroy, Mr. Florio, Mrs. Fenwick, Mr. Forsythe, Mr. Frey, Mr. Hefner, Mr. HOLLAND, Mr. HORTON, Mr. JOHNSON of Colorado, Mr. KREBS, Mr. MCFALL, Mr. MAZZOLI, Mrs. MEYNER, and Mr. MILLER of California):

H.J. Res. 814. Joint resolution to authorize and request the President to issue a proclamation designating the fourth Sunday in September annually as National Good Neighbor Day; to the Committee on Post Office and Civil Service.

By Mr. CLEVELAND (for himself, Mr. BADILLO, Mr. BURKE of Massachusetts, Mr. DUNCAN of Oregon, Mr. EILBERG, Mr. HEINZ, Mr. HOWE, Mr. KETCHUM, Mr. MCCLORY, Mr. MEEDS, Mr. REUSS, Mr. STARK, Mr. SYMMS, Mr. TSONGAS, and Mr. WALSH):

H.J. Res. 815. Joint resolution to authorize the President of the United States to designate National Ski Week; to the Committee on Post Office and Civil Service.

By Mr. KEMP (for himself, Mr. BAFALIS, and Mr. PATTERSON of California):

H.J. Res. 816. Joint resolution to clarify and reaffirm Government purchasing policies; to the Committee on Government Operations.

By Mr. KEMP (for himself and Mr. DUNCAN of Oregon):

H.J. Res. 817. Joint resolution to clarify and reaffirm Government purchasing policies; to the Committee on Government Operations.

By Mr. KEMP:

H.J. Res. 818. Joint resolution to clarify and reaffirm Government purchasing policies; to the Committee on Government Operations.

By Mr. LEVITAS (for himself, Mr. GILMAN, Mr. RODINO, Mr. HARRINGTON, Mr. AMBRO, Mr. HECHLER of West Virginia, Mr. SOLARZ, Mr. FASCELL, Mr. EDGAR, Mr. HUGHES, Mr. NOLAN, Mr. KOCH, Mr. GINN, Mr. STOKES, and Mr. MARTIN):

H.J. Res. 819. Joint resolution to establish a National Commission on Social Security; to the Committee on Ways and Means.

By Mr. PATTEN:

H.J. Res. 820. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. RHODES:

H.J. Res. 821. Joint resolution proposing an amendment to the Constitution limiting the eligibility of Representatives and Senators for the Presidency and Vice Presidency; to the Committee on the Judiciary.

By Mr. SLACK:

H.J. Res. 822. Joint resolution authorizing the President to proclaim the week beginning on November 7, 1976, as National Respiratory Therapy Week; to the Committee on Post Office and Civil Service.

By Mr. STUDDS:

H.J. Res. 823. Joint resolution proposing an amendment to the Constitution of the United States to limit the number of terms Senators and Representatives may serve; to the Committee on the Judiciary.

By Mr. ROSENTHAL:

H. Con. Res. 554. Concurrent resolution disapproving the proposed letter of offer to sell certain defense services to Saudi Arabia (transmittal No. 76-25); to the Committee on International Relations.

H. Con. Res. 555. Concurrent resolution disapproving the proposed letter of offer to sell certain defense articles to Saudi Arabia (transmittal No. 76-27); to the Committee on International Relations.

H. Con. Res. 556. Concurrent resolution disapproving the proposed letter to offer to sell certain defense articles to Saudi Arabia (transmittal No. 76-28); to the Committee on International Relations.

H. Con. Res. 557. Concurrent resolution disapproving the proposed letter to offer to sell certain defense articles to Saudi Arabia (transmittal No. 76-29); to the Committee on International Relations.

H. Con. Res. 558. Concurrent resolution disapproving the proposed letter of offer to sell certain defense articles to Saudi Arabia (transmittal No. 76-30); to the Committee on International Relations.

H. Con. Res. 559. Concurrent resolution disapproving the proposed letter of offer to sell certain defense articles to Saudi Arabia (transmittal No. 76-31); to the Committee on International Relations.

H. Con. Res. 560. Concurrent resolution disapproving the proposed letter of offer to sell certain defense services to Saudi Arabia (transmittal No. 76-32); to the Committee on International Relations.

By Mr. PEYSER:

H. Res. 1041. Resolution establishing a select committee to investigate the release of material contained in the report of the House Intelligence Committee in contravention of the express will of the House of Representatives; to the Committee on Rules.

By Mr. HANNAFORD:

H. Res. 1043. Resolution to develop a multilateral code of conduct to eliminate bribery and other practices which burden multinational corporations; to the Committee on Banking, Currency and Housing.

By Mr. HAWKINS:

H. Res. 1044. Resolution disapproving the deferral of budget authority relating to the juvenile justice and delinquency prevention program which is proposed by the President; to the Committee on Appropriations.

By Mr. RODINO:

H. Res. 1045. Resolution to provide funds for the Committee on the Judiciary; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

299. The SPEAKER presented a memorial of the Legislature of the State of South Dakota, relative to the equal rights amendment to the U.S. Constitution; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HANSEN:

H.R. 12013. A bill for the relief of Meeja Sa; to the Committee on the Judiciary.

By Mr. MADIGAN:

H. Res. 1046. Resolution to refer the bill (H.R. 4048) for the relief of J. L. Simmons Co., Inc., to the Chief Commissioner of the Court of Claims; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

401. The SPEAKER presented a petition of Myrtle Peck, and others, Cement, Okla., relative to reinstating the House Committee on Internal Security; to the Committee on Rules.

EXTENSIONS OF REMARKS

"TONY" GENTILE, CITIZEN OF THE YEAR

HON. WAYNE L. HAYS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. HAYS of Ohio. Mr. Speaker, on January 21, 1976 the chamber of commerce of the village of Wintersville recognized Mr. Anthony "Tony" Gentile as Citizen of the Year.

Tony Gentile was born in Italy in 1920. He emigrated to the United States as a child, attended the public schools of Youngstown, Ohio, and graduated from the University of Youngstown.

Since 1946 Tony has been successful in numerous business ventures. Several major publications have listed him as a leader in the business world. Among these are the 13th edition of Who's Who in the Midwest, the 15th edition of the World's Who's Who in Commerce and Industry, the 17th edition of Who's Who in Finance and Industry and the 1969 Royal Blue Book of Leaders of the English Speaking World.

In addition to his success in the business world, he was honored by his community, not for his business achievements, but for his accomplishments as a leader in his community. He is a member of the board of advisors of the College of Steubenville, the board of trustees of Ohio Valley Hospital and the executive council of the Boy Scouts of America, Fort Steuben Council. He has also served on the board of advisors of the St. John Medical Center, the American Institute of Mining and Metallurgical Engineers in Washington, D.C., the Ohio Academy of Science in Columbus, and the advisory board of the Small Business Administration in Cleveland. In 1965 he was honored by Gov. James A. Rhodes with the Executive Order of Ohio Commodore and in 1967 was recipient of the Civil Leader Award of the Weirtonian Lodge of the Italian Sons and Daughters of America.

Tony is married to the former Nina Di Scipio of Youngstown. They are the parents of four children, all of whom continue to live in southeastern Ohio.

WIRTH HOSTS CHAMBER OF COMMERCE SEMINAR

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 18, 1976

Mr. WIRTH. Mr. Speaker, this week my office and I are welcoming to Washington some 40 Coloradans associated with chambers of commerce in the second district. They are here not for the usual round of sightseeing, but for a learning experience. In a series of meetings from February 19 through February 21, they will participate in seminars on a variety of critical national issues, given by experts both inside government and out.

I am especially pleased that my distinguished colleagues from Michigan, Mr. DINGELL, and Illinois, Mr. ANDERSON, will be on hand to discuss aspects of congressional policymaking. I am also glad that the chamber members are being given a chance to learn more about the Federal budget and the new congressional budget process from our Budget Office's able Director, Dr. Alice Rivlin.

The speakers and their topics are as follows:

LIST OF SPEAKERS AND TOPICS

John G. Veneman, Counselor to Vice President Rockefeller, "Social Programs in the Next Decade"; Dr. Alice Rivlin, Director, Congressional Budget Office and Paul O'Neill, Deputy Director, Office of Management and Budget, "Government Spending—How Big is our Future Mortgage?"; Paul McAvoy, Member, Council of Economic Advisers to the President and Joan Claybrook, Director, Congress Watch, "How Free is the Hand of Adam Smith?"; Morton Halperin, former Assistant to Henry Kissinger, Director, Project on National Security and Civil Liberties, and Fred Hitz, Deputy Assistant Secretary, Department of Defense, "Foreign Affairs—From Independence to Interdependence"; John A. Hill, Deputy Administrator, Federal Energy Administration and Hon. John D. Dingell (D-Mich.), Chairman, Subcommittee on Energy and Power, House Commmittee on Interstate and Foreign Commerce, "Energy—Will the Arabs Turn out our Lights?"; Hon. John B. Anderson (R-Ill.), Chairman, Republican Conference, House of Representatives, "Comments on the 94th Congress"; Suzanne Stoiber, Health Analyst, Congressional Budget Committee, "National Health Insurance—When and in What Form?"; and Elmer Smith, Associate Commissioner, Program Policy and Planning, Social Security Administration, "Social Security—Is the Trust Fund Sound?".

This is the second Wirth Washington Seminar. The first took place last April, and was by all accounts a great success. The public indifference to matters of public policy that we hear so much about is certainly nowhere present in the group of Coloradans in town this week. It is heartening for me to see such interest in the issues, and a pleasure for me to have such people here.

The participants in the seminar are the following men and women:

SEMINAR PARTICIPANTS

From Arvada, Colo.: Chet Grubin, Don Rogers, Dick Tuers, Duane Youse.

From Boulder, Colo.: Rod Benson, Bob Gibson, Edward and Sally Irwin, John C. Rudolph.

From Broomfield, Colo.: Sherry Collins.

From Denver, Colo.: Robert Alexander, Charles D. Burg, Robert Coffman, Bill Miller, Gary Potter, R. G. Rothmeier.

From Federal Heights, Colo.: Mildred Earley, Nellie Zimmerman.

From Lakewood, Colo.: Thelma Adams, Pearl Alperstein, John Bowers, Lloyd Clements, John and Helen DeJong, Melvin Harmel, Bill Heinrich, Thomas H. Howard, Earell Kissinger, Betty Law, James Murray, Tom Murray, Judy Ness, Duane and Marge Pearsall, William H. Phillips, Dave and Alice Sellards, Frank Starr, Maury Strait.

SIXTH DISTRICT QUESTIONNAIRES

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. BYRON. Mr. Speaker, I recently sent out a questionnaire on many of the important issues facing the Congress to citizens in the Sixth District of Maryland. I thought the results of this questionnaire would be of interest to our colleagues.

The questions and the tabulated results follow:

SIXTH DISTRICT QUESTIONNAIRE RESULTS, JANUARY 30, 1976

NOTE.—All figures expressed as percentages.

1. Do you favor or oppose the easing of environmental restrictions on auto exhausts and coal burning facilities?

Favor	57
Oppose	39
Undecided	4

2. Do you favor or oppose the busing of students to achieve racial balance in our public schools?

Favor	4
Oppose	94
Undecided	2

3. Negotiations are underway between the U.S. State Department and the government of Panama to draft a treaty which would transfer control over the Panama Canal Zone from the U.S., which has held this control since 1904, to the government of Panama. Would you favor or oppose giving control over the Canal Zone to Panama?

Favor	16
Oppose	82
Undecided	2

4. The Mid-East peace agreement provides for $3.2 billion in U.S. foreign aid to Israel, Egypt, Jordan and Syria this year. Secretary of State Kissinger claims the aid is necessary as an alternative to war in the Middle East. What do you think? Would you favor or oppose the $3.2 billion foreign aid package?

Favor	23
Oppose	72
Undecided	5

5. Would you favor or oppose a national, compulsory health insurance program financed by higher social security taxes?

Favor	23
Oppose	75
Undecided	2

6. Do you favor or oppose an increase in the number of public service jobs financed by federal taxes?

Favor	18
Oppose	80
Undecided	2

7. Would you favor or oppose a constitutional amendment requiring an annual balanced Federal budget, unless a national emergency was declared by the President and Congress?

Favor	83
Oppose	12
Undecided	5

8. There has been a continuing national debate over economic priorities. In this regard, what do you view as the more serious economic problem facing our country: inflation or unemployment?

Inflation	67
Unemployment	29
Undecided	4

VOICE OF DEMOCRACY

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. COHEN. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct a contest for secondary school students. Entitled "Voice of Democracy," the contest offers major scholarship awards to students for the best essays on the subject, "What Our Bicentennial Heritage Means to Me."

Nearly half a million students entered this year's competition. From among these contestants, 50 State winners have been selected. These students will come to Washington as guests of the Veterans of Foreign Wars in March to participate in the final judging.

I am particularly proud that this year's Maine winner is one of my constituents, Susan Debra Moore of Turner, Maine. A 16-year-old student at Leavitt Area High School, Susan wrote an articulate and moving tribute to America and the principles that have made our Nation great.

In view of the cynicism that has infected so many Americans, young and old alike, it is heartening to find one so young who sees so clearly the strength and resiliency of the United States and her people. I commend Miss Moore's prize-winning essay to the attention of my colleagues, and I include it at this point in the RECORD for their benefit.

VOICE OF DEMOCRACY SCHOLARSHIP

America and her heritage may be thought of as a vast outstretched hand reaching towards perfection for her people. The open hand portrays friendship, generosity and peace. The palm represents the real heart of America. It holds the health, luck and fate lines but most important of all it contains the life line of America. Our life line of the United States has threaded itself in each one of us and we in turn are a part of it. It has matured and deepened in meaning as we sincerely understand what an honor it is to be able to celebrate our two hundredth year of independence for it is much more than just another celebration. Our anniversary is a tribute to all who have elongated this life line and made it our America of today. The wrinkles on the American hand symbolize America's age, wisdom and perseverance through these two hundred years.

The fingers and their separate divisions depict the sections and states of America. The unalienable rights of Life, Liberty and Pursuit of Happiness, spoken about in the Declaration of Independence, are the knuckles which link the individual states into forming the United States. Each of us is joined in the common cause of protecting these rights.

It is said that you can tell your past and future by looking at your palm. In the hand of America, our past history is clearly marked. The cuts on our American palm, reveal the battles fought, the men sacrificed, and the war wounds. They remind us that our liberty did not come easily but that we have had to fight for it. It should not be taken for granted. The deep grooves embedded in her hand tell of the brave men such as John Hancock, Patrick Henry, George Washington, and Thomas Jefferson and their hard struggle for independence. With their help, though, it is America's hand which guides her own people—steady, strong and loving. Our independence is fully acknowledged by the speech beginning, "When in the course of human events . . ." America's hand has held solid and firm enabling her to withstand and overcome her hardships, notably the Revolutionary and Civil Wars. They have left their scars on her but there is still the ever-present fact that these scars have healed and we have become richer in wisdom.

Our future is also very clear and again it is represented by hands. This time it is our own hands which will form the future of America. We, as Americans, have been raised to believe in our country and to fight for it if necessary. The men of the past have done their share in molding America, now it is up to us to be the hands.

I am proud to belong to this American hand—the outstretched hand. One which is ready to accept what the world has to give and willing to offer to others what it has learned. America is a place where freedom, liberty and equality have room to expand and prosper; where we have hands to choose our own way to live, work and worship.

Most of all, America is a place for people; for people who remember all those who made this country what it is today—a truly free and beautiful land.

Although America's hand may be rough, calloused, wrinkled and scarred, it only proves that she has worked and toiled to create something magnificent. This she did in producing the United States.

LITHUANIA

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. RHODES. Mr. Speaker, it is most appropriate that during this Bicentennial time that we Americans, who enjoy the blessings of freedom, take a moment to consider the plight of millions of the world's people who live under tyranny and oppression. February 16 was the 58th anniversary of independence for Lithuania. In 1940 it was forced into the Communist net along with other Baltic States. This tragic loss of freedom never has been remedied.

Repression and censorship, suppression of ideas and communications are the order of the day in Red Lithuania. Many Americans, of Lithuanian descent, hope for a future day when their homeland may once more rise to rule itself in liberty.

The struggle goes on, and we should pay tribute to the brave people in that country who continue to oppose forced rule by their Communist masters. Here in Congress, we also, as free men, should be aware of their efforts, and should work with our Government to exert international influence toward restoration of sovereignty to Lithuania, and all illegally dissolved self-governments.

The fight now is but a candle glow in the darkness—but we must hope to see that day when it will become the bright light of freedom for a courageous, liberty-loving people.

CONRAIL: INEFFICIENCY AT GOVERNMENT EXPENSE

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. GRADISON. Mr. Speaker, with the consideration of H.J. Res. 801, the House is asked to give financial approval to the ConRail plan, the dubious cure-all for the plight of Northeast freight operations.

In its final system plan, submitted to Congress in July of last year, the U.S. Railway Association foresaw a total Government involvement of $1.841 billion over 4 fiscal years. This amount has been increased by $75 million by the Appropriations Committee as a "margin of safety" for the corporation, although the process by which the committee arrived at this margin is left to one's imagination.

Recent developments in the rail reorganization scenario, however, only serve to fuel already well-grounded doubts regarding ConRail's cost to the Government and the viability of competitive rail traffic in the Northeast. Both the Chessie System and the Southern Railway have pulled out of the reorganization scheme. They were unable to negotiate new labor agreements, along much the same lines as agreements their employees currently operate under, with the workers they would have picked up had they acquired certain properties from the Erie Lackawanna, the Reading, and the Penn Central Railroads.

I believe this inability to reach a working agreement because of work rule problems underscores the need for reform in this area of railroading. The chairman of the Chessie System indicated that if they had been forced to operate their newly acquired lines under the same labor practices the old roads had labored under, the Chessie would have been "assuming a loss operation." The Chessie is a profitmaking railroad, and by declining deals like this, they obviously intend to remain that way.

That the question of outmoded and overpadded railroad labor practices could scuttle a major part of the reorganization scheme is sad but not surprising. Until Congress deals with this issue, in a way other than what we have now, which creates no incentive for the rail workers to bargain with Chessie or Southern, any solution to railroad problems can only be termed a partial one.

With the Chessie and Southern eliminated from the reorganization plan, ConRail will have to assume the operation of approximately 2,200 additional miles of track. Consequently, the cost of ConRail to Federal taxpayers will rise. In its final system plan, the USRA estimated the total cost of the so-called unified ConRail system—ConRail without the involvement of the Chessie and Southern—at $2.026 billion, up approximately $185 million from their original estimate. This does not include the $75 million "margin of safety" which the Appropriations Committee includes in House Joint Resolution 801, or the increased costs of maintenance, rehabilitation and equipment purchases. An increase of $810 million for the upgrading of track, equipment, and facilities is contemplated, along with an additional $150 million in new equipment purchases.

Without the expanded Chessie and Southern Systems, ConRail will practically become the sole railroad serving the New York market from the West. The Interstate Commerce Commission, in its evaluation of the final systems plan last summer, could not endorse this so-called unified ConRail plan. They stated that "The monopolistic nature of unified ConRail precludes effective regulation of ConRail by the forces of a free market environment and will require increased regulation by the Commission in order to protect the region's rail users and solvent railroads." The ICC even raises the specter of "additional bankruptcies" if the viability of the region's other carriers is not protected. This runs completely counter to what seems to be a glaring need at this point in the transportation field—the need for reform and simplification of Federal regulatory efforts.

In an earlier statement on ConRail and its attendant problems, I cited the question of railroad operating efficiency and work rule reform. This problem was ignored in the rail legislation passed by the Congress.

Not only has Congress not addressed the problem, but it has effectively prevented more efficient railroads—Chessie and Southern—from participating in the reorganization. One of the few good points in the entire USRA plan was the provision for competitive service. Without participation by Southern and Chessie, ConRail amounts to Government sanctioned inefficiency and monopoly. I will not vote to spend massive amounts of tax money to support an operation like ConRail with deliberate built-in inefficiencies.

ST. JOSEPH PARISH OF MOUNT CARMEL CELEBRATES FIRST ONE HUNDRED YEARS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. YATRON. Mr. Speaker, on May 2, 1976, the St. Joseph Parish of Mount Carmel, Pa., will celebrate its first 100 years.

The people of Mount Carmel, who live in the small portion of southern Northumberland County which I represent, are a proud, God-fearing people, who live each day with the knowledge that their hard work on behalf of their Nation and their undying faith in the Maker, will build a better life for them and their fellow Americans.

I am proud to represent these citizens who are proof that the St. Joseph Parish, under the pastoral and religious direction of Father John Bambol, molds men and women of fine stock.

When Bishop Joseph Daley celebrates Mass on May 2, my thoughts and prayers will be with these constituents for the continued strength of the parish and the many great citizens who worship within.

GIFTS FOR THE COMMUNIST CONQUERORS: FRIENDSHIPMENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. McDONALD of Georgia. Mr. Speaker, the American Friends Service Committee—AFSC—an organization which is not under the control of the Religious Society of Friends, is fronting for several groups active in the U.S. support apparatus for the Vietnamese Communists in seeking funds for its program of material assistance to the Communist conquerors of Vietnam.

The assistance program, Friendshipment, operates from 235 East 49th Street in New York City. It was publicly inaugurated at a press conference on October 2, 1975, which was attended by a North Vietnamese Communist official, Nguyen Van Luu, who assured the "peace activists" that their goods would be put to good use by the Communists.

The Friendshipment program received a great deal of media publicity during November 1975, with protest vigils outside the White House aimed at pressuring the administration and the State Department into granting export licenses for the Hanoi supplies. The State Department duly granted the export licenses and Hanoi radio in December hailed the arrival of the first shipment.

The Friendshipment program has announced that contributions are tax deductible if made out to the Bach Mai Hospital Relief Fund, Inc. of Cambridge, Mass. The Bach Mai Hospital Relief Fund is a project of the Young Workers Liberation League, youth arm of the Communist Party, U.S.A., and various YWLL and CPUSA members active in the Medical Committee for Human Rights—MCHR. While claiming to collect funds to rebuild Bach Mai Hospital in Hanoi, the money and medicines collected were simply turned over to the Vietnamese Communists whose army had a much higher priority than did the civilian population.

The principal organizer of the Friendshipment project is Cora Weiss, long a leader of Women Strike for Peace—WSP—a Communist-dominated women's organization which follows the line of the international Soviet-controlled fronts such as the World Peace Council and the Women's International Democratic Federation. Mrs. Weiss served as a leader of the Communist Party, U.S.A.-dominated New Mobilization Committee and its successor, the People's Coalition for Peace and Justice, and has met many times with representatives of the North Vietnamese Communist government in Paris and Hanoi.

Mrs. Weiss' most noted failure as an organizer of pro-Vietnamese propaganda came when the three carefully selected U.S. POW's she and self-identified "communist, although not of the Soviet variety" David Dellinger brought back from Hanoi refused to make the antiwar statements she hoped they would make in return for their release.

Mrs. Weiss was prominent at the January 30–February 1 meeting in Chicago of the National Hard Time Conference, organized by the overt supporters of the Weather Underground terrorists. At the urging of Cora Weiss, the conference goers agreed to support the Friendshipment "reparations" program.

Daniel Ellsberg and Frances Fitzgerald, author of Fire in the Lake, have recently circulated an appeal for additional, tax-exempt, funds for the Friendshipment. The Ellsberg/Fitzgerald appeal states that "we do not believe today's diplomatic war waged by our Government represents us," and denounces the more responsible American voluntary agencies like CARE and the American Red Cross for not allocating assistance to the Communists.

The Friendship fund appeal lists an odd variety of sponsors. The sponsors range from the Cuban-backed Marxist-Leninists of the Puerto Rican Socialist Party—RSP—and the National Interim Committee for a Mass Party of the People—through the Communist Party's Bach Mai Hospital Relief Funds, Inc. to the militant revolutionary pacifists of the War Resisters League.

Other sponsors include disarmament lobbyists who follow the line of the Soviet's World Peace Council including SANE and the Women's International League for Peace and Freedom—WILPF. Another sponsor is the Inter-Religious Foundation for Communist Organization—IFCO—a Ford Foundation project which in the past has provided funding for African Marxist guerrilla movements. And a large number of other sponsors were formerly members of the People's Coalition for Peace and Justice and its predecessors.

I am distressed to see a number of real religious institutions listed as sponsors. It is always unfortunate to see apparently well-meaning people of conscience manipulated by those hostile to the cause of freedom. When I see these people brought into pro-Communist "peace" organizations, I am reminded of the comments of James Cannon, the American Trotskyist leader, who described the "peace movement" as coalition "of professional fellow travelers, congenital stooges and moon-struck clergymen steered * * * by hard-faced jockeys from the Stalinist riding stables."

That is probably the most accurate description of the "peace movement" ever written.

A recent press report from Saigon, now called Ho Chi Minh City, revealed that in the past 9 months since the Communists captured the city, some 475,000 persons have been deported to the countryside by the Communist government. The mass deportations have been to break up remaining resistance to the Communists, to send suspected anticommunists to isolated rural areas, and to form huge forced labor brigades to work in the fields and rice paddies under Communist cadre control.

Reports indicate that the Mekong Delta rice-growing region is experiencing considerable armed resistance to the Communists. The North Vietnamese are struggling to gain firm control over the South before the scheduled "reunification" on April 30.

The Friendshipments of 22 tons of blankets, antibiotics, plows, etc cetera are designed to aid the Communist conquerors, not the freedom-loving resistance movement in the South.

The Friendshipment lists its sponsors as including:

LISTS OF SPONSORS

Ad Hoc Coalition for a New Foreign Policy (formerly the Coalition to Stop Funding the War).
Another Mother for Peace (AMP).
American Friends Service Committee (AFSC).
Bach Mai Hospital Relief Fund, Inc.
Church World Service (Fund for Reconstruction and Reconciliation in Indochina).
Clergy and Laity Concerned (CALC).
Committee of Responsibility.
Disciples Peace Fellowship.
Episcopal of Reconciliation (EOR).
Friends of Indochina Organizing Committee (described by its national staff member, Carol Clifford, as "a newly formed group working to build a broad and activist friendship association").
Health-PAC.
Indochina Mobile Education Project (IMEP).
Indochina Resource Center (IRC).
International Children's Fund.
Inter-Religious Foundation for Community Organization (IFCO).
Medical Aid for Indochina.
Mennonite Central Committee.
The Thomas Merton Center.
National Council for Churches, Division of Church and Society.
National Council for Universal and Unconditional Amnesty (NCUUA), a coalition of leftist and "religious" groups organizing amnesty for draft dodgers and deserters. NCUUA includes many of the groups supporting the Friendship program.
National Interim Committee for a Mass Party of the People (NIC).
New York Women's Union.
People to People Program, Christian Church (Disciples of Christ).
Puerto Rican Socialist Party (PSP).
SANE.
S.O.S. Vietnam, International Committee.
Union of Vietnamese in the U.S.
United Methodist Church, Board of Global Ministries—Women's Division, World Division.
Bishops' Call for Peace and Self-Determination of Peoples, United Methodist Church.
Vietnamese-American Reconciliation Center.
Vietnam Resource Center.
War Resisters League (WRL).
Women Strike for Peace (WSP).
Women's International League for Peace and Freedom (WILPF).

Americans are being asked to give money, obstensibly for civilian purposes, to the Communist forces which this weekend attacked a Saigon church. There is no moral reason to assist the Marxist-Leninist terrorists in Vietnam.

DR. CARL McINTIRE'S DEPORTATION FROM KENYA

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. FRASER. Mr. Speaker, a petition and supporting documents received from Dr. Carl McIntire, president of the International Council of Churches, were referred by you to the Subcommittee on International Organizations. We have referred these materials to the Department of State for comment.

These materials deal with the deportation of Dr. McIntire from Kenya on July 25, 1975.

The subcommittee has received an account of this incident from the Department of State.

While I do not often agree with Dr. McIntire's views and clearly I do not share his opinion of Ian Smith, McIntire's right to express what he thinks is manifest. Dr. McIntire has been a public irritant to many public officials. The Kenyans, outraged by Dr. McIntire, probably should have been more tolerant of his views. But it is clear that the manner is in which Carl McIntire was deported from Kenya violates the minimum protection he should have received as a legal visitor to Kenya. The way the Kenyans handled this case, including the cavalier way they dealt with U.S. officials, is not the sort of conduct we expect from friendly nations. The provocation may have been great, but the response was out of proportion to the situation.

Our subcommittee's exchange with the State Department follows:

NOVEMBER 13, 1975.

Hon. HENRY A. KISSINGER,
Secretary, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: Enclosed is a petition and supporting documents which the Speaker of the House has received from Dr. Carl McIntire, President of the Ninth World Congress, International Council of Christian Churches. The Speaker has referred the petition to my subcommittee for consideration.

The Ninth World Congress of the ICCC took place in Kenya in July of this year. Reverend McIntire indicated that he was deported from Kenya on July 25. He alleged that the Government of Kenya deported him because it objected to some of the views he expressed during his stay in Kenya.

The subcommittee would appreciate a full account of this incident. What were the grounds for his deportation? Did the U.S. Embassy intercede on behalf of Reverend McIntire? Did the U.S. Embassy protest the deportation to the Government of Kenya?

Your kind attention in this matter would be most appreciated.

Sincerely yours,

DONALD M. FRASER,
Chairman, Subcommittee on International Organizations.

DEPARTMENT OF STATE,
Washington, D.C., December 9, 1975.

Hon. DONALD M. FRASER,
Chairman, Subcommittee on International Organizations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary has asked me to thank you for your letter of November 13, requesting a full account of the deportation of Dr. Carl McIntire, President of the International Council of Christian Churches, from Kenya.

According to our Embassy in Nairobi, from the beginning of the International Council of Christian Churches' Conference in Nairobi, Kenya on July 16, Kenyan Government officials become increasingly irritated over the substance of public statements issued by Dr. McIntire and other conference participants. The Kenyans seemed particularly upset over Dr. McIntires' attacks on the rival World Council of Churches which he repeatedly claimed was Communist influenced. A statement in a conference background document indicating that Rhodesian leader Ian Smith was "an upholder of civilization" was another irritant. Dr. McIntire's attempt to bring Alexander Solzhenitsyn to Nairobi, turned down by the Kenyan Government further complicated the situation. The Kenyan decision to act came on July 24 following a press conference held by Dr. McIntire in response to the Kenyan Vice President's broadcast on radio and television urging Dr. McIntire to apologize for remarks attributed to his organization on Ian Smith. The Vice President had said that Dr. McIntire "must apologize or pack up and go." However, Dr. McIntire, in his press conference, said that "if there is any apology to be made, it is Kenya's Ministry of Foreign Affairs that should apologize to us for the way the people there treated us."

At 9:30 a.m. on July 25 Dr. McIntire's lawyer phoned our Charge d'Affaires, a.i. to say that the chief Kenyan Immigration Officer had arrived at their hotel and insisted that Dr. McIntire accompany him to his office. The Charge asked them to wait until the Embassy's consular officer could get to the hotel and accompany Dr. McIntire to the Immigration Office. The consular oficer did accompany Dr. McIntire to the steps of the Immigration Office, where the latter was served with a deportation order and then taken directly to the airport. He was not permitted to return to his hotel to see his wife or get his baggage, nor was our consular officer permitted to accompany him to the airport. In fact, she was forcibly removed from his car and obliged to take a taxi to the airport where she was still not permitted to see him. Following Dr. McIntire's abrupt deportation, an Embassy officer stayed with Mrs. McIntire until she left the country.

On July 25, the day of Dr. McIntire's deportation, our Charge protested vigorously to the Acting Kenyan Foreign Minister regarding the precipitous manner in which the Kenyan Government had deported Dr. McIntire. The Charge further protested the forcible entry by three Kenyan officials into the room of Dr. McIntire's brother, who had been told that he was under arrest until he produced identification showing that he was not Dr. Carl McIntire; and the fact that a consular officer was forcibly pulled from the car transporting Dr. McIntire to the airport. We have not received a response from the Kenyan Government to our protest.

While we, of course, recognize the inherent right of each sovereign state to exclude or expel an alien at any time and for any reason, such expulsions, of course, should not be effected in a manner which deprives the alien of minimum protection. We deeply regret that Dr. McIntire was subjected to such an unpleasant experience. We hope, however, in future situations of this sort that the Kenyan Government will meet the requirements of international law.

Dr. McIntire wrote to me in late September asking that the Department of State intercede with the Government of Kenya to obtain permission for him to attend, as a reporter, the assembly of the World Council of Churches in Nairobi in late November. Upon instruction from the Department of State, our Embassy in Nairobi contacted the Kenyan Foreign Ministry to ascertain whether the Kenyan Government would agree to grant Dr. McIntire a visa to permit him to return to Nairobi for the World Council of Churches Assembly. A high-level Kenyan official stated that it would be "premature" for him to apply for removal of his prohibited immigrant status. Given the limited time that has elapsed since Dr. McIntire was last in Kenya, we do not think, from a practical standpoint, that there is a possibility of getting the Kenyans to permit Dr. McIntire's return to Kenya so soon. It is, of course, within the Kenyan Government's prerogative to refuse to permit him to return.

I hope you will call on me if you believe we can be of further assistance.

Sincerely,

ROBERT J. McCLOSKEY,
Assistant Secretary for Congressional Relations.

58TH ANNIVERSARY OF LITHUANIA'S INDEPENDENCE

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. HELSTOSKI. Mr. Speaker, since February 16, 1975, marked the 58th anniversary of the independence of Lithuania, I feel it is a time to consider the hopes and dreams of the people who long for the freedom they have been denied as residents of this oppressive state.

The Republic of Lithuania was established as an independent nation on February 16, 1918. These honest, hard working, and freedom-loving people were to reap the benefits of such a nation for only 22 years. In June, 1940 the Soviet Union invaded and occupied the Baltic States and Lithuania was to be governed, once more, by an onerous rule.

Although approximately one-fourth of its citizens were removed from the homeland in an attempt to destroy their unity and identity, the Lithuanians would not accept this foreign occupation. Resistance and sacrifice became a part of every day life. Their heroic and inspiring struggle proved the determination to restore their nation to a free and sovereign state.

1976 is the year of America's Bicentennial. It is also a year that may show the progress being made toward an eventual restoration of freedom in Lithuania through the policy of détente. This policy must be effective and enduring in order to relax the tensions between the United States and the Soviet Union. The creation of such a new and positive relationship will be to the advantage of those now living in Eastern Europe.

I call upon my fellow colleagues to join me in commemorating the culture and heritage of these people and support the efforts to continue a policy of peaceful coexistence.

COD A CHIP ON BRITAIN'S SHOULDERS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. DERWINSKI. Mr. Speaker, too often we become engrossed in the dramatic headlines of world trouble spots and forget the lingering problems that should be of major concern to us. One such ongoing controversy is the so-called cod war between Iceland and Great Britain in which the major loser may be the United States if the Icelanders, in their frustration, close down the NATO base on their island.

Michael Kilian, a Chicago Tribune columnist, is a perceptive student of the international scene, and in a recent hard-working, fact-finding mission in Europe, he analyzed the cod war in a very dramatic fashion.

The article follows:

COD A CHIP ON BRITAIN'S SHOULDERS

(By Michael Kilian)

LONDON.—Would America go to war over the cheeseburger?

Would we commit our naval forces to action to preserve the hot dog?

Actually, considering the craven manner in which Congress has been voting on military aid and defense measures, it is doubtful that we'd go to war over the seizure of Los Angeles by Panama.

But the same cannot be said of once Great Britain, which has gone to war over the cod.

For those of you who have not kept up with this thrilling saga, the cod is an unlovely but edible fish which could once be found in large numbers swimming about the waters surrounding Iceland.

Because so many other nations have been taking cod from these waters, its stocks have become dangerously depleted. So Iceland, which depends heavily on cod fishing for its economy, last year extended its territorial fishing waters from 50 to 200 miles and ordered everyone else out.

The Germans, who are a sensible people in between world wars, agreed to reduce their catch, but Great Britain wouldn't stand for it. British trawlers continued to fish in these waters and all manner of tugs and Royal Navy warships were sent in to protect the trawlers from Iceland's mighty fleet of five little gunboats.

Though hardly a Battle of Jutland, the rammings, bumpings, slashings, and occasional shellings that ensued have been called the Anglo-Icelandic Cod War. The Icelandic prime minister came to Britain for talks, but these concluded with, as one British headline writer put it: "The Codfather Departs in Icy Mood."

Ho ho. Being typically American, I have sided with the little guy. Noting that a British triumph in the Cod War could wipe out Iceland's entire economy, I have wondered in my column and elsewhere in print why a big nation of 56 million people would be so rough with a tiny one with only 210,000.

To explain things—which is to say, persuade me to stop writing such columns—the Great British government arranged a luncheon here for me with a Foreign Office fishing official [FOFO].

It was a splendid meal. I had eggs and the FOFO had fish—not, thankfully, cod, but another species called Buckley, perhaps because it bears a surprising resemblance to an American newspaper columnist of the same name.

And explain things the FOFO did. Britain took the action it did, he said, because Iceland was acting illegally in violation of a ruling by the World Court. This is true, although the World Court has as much to say about what goes on in the world as the mayor of Muncie, Ind.

And the Icelanders are behaving unreasonably, he said. This also is true. Part Irish but mostly Viking, the Icelanders, when angry, can be the most unreasonable people in the world.

But, finally he got to the meat [or fish] of the matter. The reason the British must continue taking cod from Icelandic waters, he said, is that cod is the fish used for Great Britain's ubiquitous fish n' chips.

"Actually, we could use mackerel, which abound in British waters," he said. "But it would taste quite different and the people just wouldn't stand for it."

So there it is. Though the Icelanders might be driven to subsisting on sheep meat and moss, the British man in the street must have the right tasting fish n' chips—a situation analogous to America going to war over the cheeseburger.

I think I shall volunteer for the Icelandic navy.

FIGHT FOR LITHUANIAN INDEPENDENCE CONTINUES

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. MADDEN. Mr. Speaker, it is very fitting and proper that our Nation again be alerted to the fact that many countries over the globe are today under the heel of international communistic tyranny and being deprived of a free and independent government. Lithuania is one of these nations, who over the centuries has possessed at various long intervals freedom and self government, but unfortunately, over the years has been enslaved by stronger neighboring nations who aggressed upon the liberty loving people of Lithuania and robbed them of their heritage and independence.

Our Nation must in the future keep to the forefront in fighting for the cause of enslaved nations, such as Lithuania, and use our powers, not necessarily our Armed Forces, but it can effectively help nations like Lithuania through our powerful economic position, especially the European situation which the Communist leaders and especially the Soviet Union is and has been on the verge of internal trouble because of its complete failure of its agricultural industry.

Lenin, the pioneer leader of the Communist movement, over 50 years ago, proclaimed that some day communism would rule the world, but the only dark cloud facing their goal was the problem of food production and agriculture. We have been witnessing during the last 4 or 5 years Lenin's prophecy coming true. In 1972–73 the urban areas of the Soviet Union were on the verge of food riots and it is very difficult to predict what might have been the outcome had the United States through our executive and agriculture departments not negotiated with the Soviets and sent multimillions of tons of grain and foodstuffs to relieve the situation. Only 2 weeks ago, dispatches have come from the Soviet Union that another hard year may be in store for the Russian people on account of the possible failure of food crops in the hinterlands of Soviet Russia. Secretary of Agriculture Earl Butz, recently made a statement about a long-term contract now under negotiations with the Soviets to save them from complete failure of the Communists as far as the food production to feed its enslaved populus and prevent a possible insurrection from within. I mention this today as Lithuanians over the country are commemorating the 58th anniversary of their independence.

I think it is time that the Russian leaders admit that their system of food production in the vast land domain has been a failure. If nations like Lithuania and other nations under the Russian tyranny were given the freedom which they enjoyed for so many years and this would apply to the population in the rural areas of Russia, there is no reason why the Soviet leaders would be crying to the United States and other free nations for help to feed its unfortunate subjects and population.

The Republic of Lithuania was forcibly occupied and illegally annexed by the Communists back in 1940 in violation of all existing treaties and principles of international law. Lithuania today after having enjoyed all the freedom and exhibiting all the intelligence and competency to govern its own people through education, religious teachings, progress and government cooperation could within a very short time resume its place as one of the great nations of central Europe if the Kremlin would withdraw from its borders. I firmly believe that the time has come when our Nation as leader of the free world through the power of our economic position and the flagrant failure of the Communist position in depending on food from the free world that we should make forward steps on some international bargaining toward freeing Lithuania and other nations which were so willfully and maliciously conquered and enslaved back in the days of World War II.

UNITED STATES MUST WORK TO PREVENT PARTITION OF CYPRUS BY TURKEY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. BIAGGI. Mr. Speaker, as the new round of intercommunal talks between representatives of Greece and Turkey resume in Vienna, I wish to inform my colleagues of a most disconcerting article published in the Cyprus Bulletin discussing Turkey's alleged aim to partition Cyprus as a means to restoring peace to the island.

Our Nation must oppose this plan. We, who were in the forefront of opposition to Turkey's invasion and occupattion of Cyprus, and who led the fight to cut off arms to Turkey, must now call upon the Congress and the administration to prevent, still another abuse of the Cypriot people's rights by Turkey. Partitioning of Cyprus would be against the will of the people, as well as many of us in the Congress, who remain in unequivocable support of maintaining the territorial integrity of Cyprus.

More than 1½ years have passed since the illegal Turkish invasion and occupation of Cyprus, and the island is still ravaged by poverty, despair and suffering. It was felt that the agreement signed by Greece and Turkey on August 2, 1975, would be beneficial in relieving the plight of the 200,000 Greek refugees on the island. Among other provisions, this agreement called for the reunification of enclaved Greek Cypriot families living in Turkish held areas. This provision has not been honored by Turkey. Consider the fact that 937 applications were filed by Greek Cypriots for reunification of their families. Of these, only 398 were accepted, another 310 were rejected for security reasons, while the remaining 229 applications are still under "consideration."

What's more, to this day, there is still no Greek doctor in one of the largest Greek communities controlled by Turkey, Karpass. This, combined with continued reports of violations of basic human rights, casts serious doubt on Turkey's sincerity in working for lasting peace on Cyprus.

It has now been more than 3 months since the Congress voted to lift the arms embargo against Turkey. This action was taken, in the hope that it would provide new incentives for Turkey to negotiate seriously for peace. Regrettably, this has not been the case. While Turkey has made a number of cosmetic gestures, they have not proposed any meaningful terms for peace. In fact, they have made a mockery of the attempts in that direction.

It is imperative that the Congress, and particularly the International Relations Committee, follow the events in Vienna very carefully. At present, the Committee is marking up the Security Assistance Act of 1976, which may eventually contain military aid for both Greece and Turkey. While it is true that we have lifted the arms embargo against Turkey, she should not believe for a moment, that this is irreversible. If she shows no signs of seriously working for peace, or fails to adhere to agreements, then we in turn, should reconsider future aid requests from Turkey.

The situation in Cyprus has been permitted to continue for far too long. We have attempted to respond to the plight of the Cypriot refugees. My amendments to the Foreign Assistance Act of 1975 provided $25 million in emergency aid to Cyprus. This year, the figure will be at least $30 million. Those close to the scene, realize that no lasting peace can be achieved until Turkey withdraws her illegal occupational forces, and begins to respect the territorial integrity of Cyprus. I urge all of my colleagues to carefully read the following article entitled, "Partition Turkey's Firm Aim":

[From Cyprus Bulletin, February 4, 1976]

PARTITION TURKEY'S FIRM AIM

The Minister of Foreign Affairs, Mr. Ioannis Christophides, spoke on Turkey's policy on Cyprus and the prospect of the forthcoming intercommunal talks, during a Lions gathering in Nicosia on Monday, January 26. He said:

As you are aware efforts are still being made for the resumption of the intercommunal talks, which had been interrupted in September last year, following the failure of the Turkish Cypriot Representative to submit at the New York round of talks overall proposals for the solution of the Cyprus problem, despite his previous promises given to the Secretary-General in Vienna and in spite of the fact that the Greek-Cypriot Representative had already tabled his side's proposals. There is a possibility that, following strenuous efforts by Dr. Waldheim and others, the talks will soon be resumed under the auspices and direction of the Secretary-General. Therefore, I consider it opportune to make an assessment of the prospects of these talks, having regard to Turkey's policy on Cyprus, as is clearly shown by past history and her recent relevant actions and conduct.

In the foreign policy of states on any important issue there are to be found constants and variants. Constants are those unchangeable principles, which guide their policy on a particular issue whilst variants are those aspects which vary from time to time and can affect the constants. It is important to state at this juncture that in the pursuance of the constants, Governments exert every effort to change, by suitable manoeuvrings, those variants which in their opinion affect the constants adversely.

It has been sought to represent the Turkish policy over Cyprus as based on two constant principles:

1. To prevent Cyprus from coming under the soverignty of Greece; and
2. to safeguard the life and property of the Turkish Cypriots.

It is in our view true that one of Turkey's objectives with regard to the Cyprus problem is to block ENOSIS, but Turkey's claim that her troops came to Cyprus to secure the life and property of the Turkish Cypriots is flagrantly untrue and intentionally misleading. The real objective of Turkey over Cyprus is the partitioning of the island, based on geopolitical and strategic considerations.

PARTITION THE AIM

That partition has been Turkey's aim for many years past, there can be little doubt. Statements by responsible Turkish leaders and official documents provide ample evidence of this.

As early as 1955, the then Foreign Minister of Turkey, the late Zorlu, made no secret at the Tripartite Conference on Eastern Mediterranean and Cyprus, held in London in August-September 1955, that Turkey had claims on Cyprus. Mr. Kemal Satir, former Prime Minister of Turkey, in a public statement in 1964 said "Cyprus will be divided into two sections one of which will join Turkey". In June 1964, Mr. Erkin, then Foreign Minister of Turkey, was clearly spelling out the real intentions of Turkey when he said in a newspaper interview "The radical solution would be to cede one part of Cyprus to Greece and the other closest to the Turkish Asiatic coast to Turkey".

Hardly three months later, on 8th September 1964, the then Prime Minister of Turkey the late Ismet Inonu, addressing the Turkish National Assembly, with reference to the Geneva talks of that year, said "officially we promoted the federation concept, rather than the partition thesis so as to remain within the provisions of the Treaties", meaning the Treaties by which the Republic of Cyprus was established.

In a secret document issued on the 18th April 1964 by Ankara the partitionist plan of Turkey, named since then the ATTILA PLAN, is clearly laid out. This plan was submitted in 1965 by the then Vice-President of the Republic, Dr. Fazil Kutchuk to the United Nations Mediator Dr. Galo Plaza and appears in Dr. Plaza's report of 26th March 1965, to the United Nations Secretary-General. The plan as can be seen in Dr. Plaza's report, covers essentially the same area which is now under the occupation of the invading forces. It is the very same area always coveted by Turkey.

TURKISH CYPRIOTS PAWNS

As I have already mentioned, Turkey's allegation that her troops came to Cyprus to safeguard the life and property of the Turkish-Cypriots is entirely false and grossly misleading. Turkey's policy and conduct with regard to the Turkish-Cypriots, both before and after her aggressive invasions, have nothing to do with their welfare. These, she has been using only as pawns in an unsavoury game. The policy of self-segregation imposed by Ankara since 1963 on the Turkish-Cypriots, through their leadership, had caused them a number of deprivations, and had no other reason than the pursuance of Turkey's partitionist designs. It is also in pursuance of this policy of partition that Turkey uprooted and is uprooting the Greek-Cypriot population from the occupied areas and has embarked upon a process of systematic colonization of the area in question by importation of mainland Turks. This colonization has been at the expense not only of the uprooted indigenous population but also to the immense detriment of the Turkish-Cypriots, for whose sake she allegedly invaded Cyprus.

The purport of this colonization is to change the demographic character of the island and pave the way for the annexation by Turkey of the occupied area as part of her expansionist policy over Cyprus.

In this respect, it is revealing that the so-called "Constitution of the Turkish State of Cyprus" provides that the "Turkish Cypriot Community constitutes the inseparable part of the Great Turkish Nation". It is also characteristic that the oath to be taken in the so-called Turkish Cypriot Assembly is one of allegiance to the "principles of Ataturk" and not to those of the Republic of Cyprus. And it is significant to note that in all relevant provisions, the members of the Turkish Cypriot Community are described as "Turkish Citizens", whilst the expelled indigenous Greek Cypriot population are defined as "aliens". The Greek Cypriots are also divested of all rights to their properties. It is a sad reality that for all intents and purposes Turkey and her instruments in Cyprus are building up in the occupied area of Cyprus a new province of Turkey at the expense of the Cypriots, Greek and Turkish alike, both communities suffering alike under the boot of the Anatolian soldier.

INTERCOMMUNAL TALKS

It has also been for the purpose of consolidating her position in the occupied area, that Turkey had rendered devoid of any substance the intercommunal negotiations which had started in January 1975. It is for the same reason that she chose to ignore the United Nations resolutions on Cyprus, which provide the basis for a just and equitable solution of the Cyprus problem to the benefit of all the people of Cyprus.

The facts to which I have referred cannot give rise to optimism that Turkey will proceed to meaningful and constructive negotiations, unless certain aspects surrounding the Cyprus problem—the variants to which I referred at the beginning of my speech—would acquire such momentum and importance for the wider national interests of Turkey as to influence her basic policy on Cyprus.

ARMS EMBARGO

One of these variants is the American arms embargo. Congress in February 1975, despite the opposition of the United States Administration, imposed an arms embargo on Turkey because she had illegally used the U.S. weapons to invade Cyprus. There is no doubt that the embargo did hurt Turkey's wider national interests, as understood by her military overlords. Prior to that, Congress had put off the embargo for nine months to give the U.S. Administration time to persuade Turkey to hold talks for the peaceful settlement of the Cyprus problem but Ankara refused to give in. In October, 1975, Congress lifted the embargo and gave another chance to President Ford and Dr. Kissinger to prove that they could influence Turkey to negotiate meaningfully and constructively. Turkey was then put on notice that if she "adopts an unconstructive or inflexible attitude" in the Cyprus talks, the Administration would not be in a position to avert the re-enactment of the embargo. Such a failure, solemnly stated before Congress by Under-Secretary of State Joseph Sisco, "would go to the heart of the American-Turkish relationship".

Over three months have elapsed since the lifting of the embargo and Turkey has not shown any sign of wishing to negotiate meaningfully. Would it be that she does not take seriously the warnings of the U.S. Administration? Would it be that she believes that she can continue to blackmail the United States by using the American military bases in Turkey as hostages in order to force the U.S. to change its principles of arms sales? Or is Turkey following a policy of brinkmanship? The date of reckoning is approaching. The Turkish side's attitude at the intercommunal talks will show which way Turkey wishes to go and President Ford's relevant report to Congress will demonstrate how Turkey interprets the wishes of the American Congress.

INTERNAL REPERCUSSIONS

The problem of Cyprus has also its internal repercussions in Turkey where student unrest is prevalent and tempers among the political parties run high. Cyprus becomes the object of exploitation among opposing factions and parties, thus diminishing the ability of the Turkish Government to deal effectively with internal unrest.

Another aspect is the cost involved in keeping a large army in Cyprus. It may be argued that the extra cost of maintaining the Turkish troops in Cyprus is not much. But even such comparatively small additional expenditure becomes important to a country with an ailing economy.

Yet another variant which logically speaking must have an influence on the Turkish Government's attitude towards the Cyprus problem, is Turkey's international isolation. The last vote on Cyprus at the United Nations must have brought home to the Turkish Government that it cannot ignore for long world public opinion and continue to behave scandalously. The moral force of the non-aligned world, the positive stand of the Soviet Union and other countries and the urges and appeals by Turkey's constructive negotiations, constitute factors, which Turkey has to take into serious consideration. Furthermore, the relevant views of the European Economic Community must be another influencing factor in Turkey's policy on Cyprus.

PRESSURE

It remains to be seen to what extent the countries to which I have referred will be prepared or able to put effective pressure on Turkey for the purpose of showing reason and moderation in the negotiations for the solution of the Cyprus problem.

It also remains to be seen whether Turkey accepts the negotiating process as the best means through which a just solution to the problem can be found or whether she will only be using the talks as a means to come out of her international isolation and guard off world pressures.

Despite the pessimistic outlook of the forthcoming intercommunal talks, we shall proceed to these in good faith and goodwill, aiming at a just and viable solution in accordance with the relevant United Nations resolutions.

ELECTION YEAR ABSENTEEISM IN CONGRESS

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. RHODES. Mr. Speaker, the work of Congress is being damaged by the absence of duly elected Members of this body who neglect their duties while engaged in pursuing the nomination for President.

This problem is not unique this year. The Library of Congress reports that this has been an election year practice for many years. To remedy this shortfall in legislative function, I am today introducing a joint resolution which proposes a constitutional amendment that would preclude any Member of the Congress from taking office as President or Vice President until 2 years after the last date of service in the Congress.

Going back to 1960, the fall-off in participation has been severe among those seeking Presidential consideration. One major candidate dropped from 77 percent to 35 percent of rollcall votes. In 1968, one candidate dropped from 66 percent the year before to 5 percent during his election year quest. A rundown of the major candidates during this period indicates that the failure to answer rollcalls ranged anywhere from a 30- to 80-percent drop.

I believe this is unfair to the constituencies that elected these people to do a job of representing them. Certainly, roll-call votes are the ultimate measure of decision by the Congress. One or two votes often are decisive, and good legislation can be defeated, or poor legislation passed simply by the absence of Members who are off in the hustings trying to line up delegates.

Since many of the aspirants have considerable seniority in the House and Senate, they often hold key committee chairmanships. Their protracted leave hampers the work schedule of the committees affected, and can hold back serious consideration of vitally needed national legislation.

In short, the state of affairs we have witnessed this year should not be the general rule of operation for the legislative branch of government. My resolution is aimed at a more effective and businesslike Congress. It also would prevent much of the superfluous and unwholesome hearing process which some candidates have used as a publicity springboard, without due regard to the subject matter covered, or the national interest.

All of us who serve in this great body should be involved in devising means to improve its deliberations and processes. The election year slump has been of great concern to me for some time. In my book, "The Futile System" which will be published in May, I am proposing several reforms which I believe will rectify some of the shortcomings of congressional procedure. Among them is the proposal I am submitting to my colleagues today.

The Nation cannot afford election year letdowns by the Congress. Its proceedings should not be reduced to a carnival of charges and revelations. My resolution would strengthen its functions by removing the temptation for any candidate to use the leverage of an influential position in the House or Senate for personal political gain.

As a constitutional amendment it would, of course, need to be ratified by three-fourths of the States, and would take effect 2 years following such approval. It also provides for operation of the 25th amendment, since that would not involve elective office.

Recent polls have revealed that public respect for the Congress has deteriorated markedly over the past decade. I believe that we should exert every effort to regain the confidence of the American people in the actions and judgment of this lawmaking branch. My resolution would be a firm step in that direction. I urge my colleagues to give it thoughtful consideration, to approve it, and send it along to the States, so that the American people may express their views on how Congress should conduct its operations during the preelection season.

VOICE OF DEMOCRACY CONTEST

HON. MARK ANDREWS

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. ANDREWS of North Dakota. Mr. Speaker, I want to share with my House colleagues an inspiring message written by one of my young constituents, Kim Marshall of Burlington, N. Dak. Kim, a 17-year-old high school senior, was one of 50 State winners in the 29th annual Voice of Democracy Scholarship program sponsored by the Veterans of Foreign Wars and its Ladies Auxiliary.

Nearly a half-million students from more than 8,000 secondary schools participated in this year's contest. The VFW is to be commended for its continued sponsorship of this very worthwhile effort which affords young Americans an opportunity to express, in their own words, a patriotic feeling for our country and for the principles which make it great.

Kim, who plans to become an elementary school teacher, expresses her love for America in clear, concise and meaningful terms. The text of her winning speech follows:

VOICE OF DEMOCRACY

America the Beautiful! America the Great! What more could I ask of my country. I am so proud of and thankful to all those people who have made America what it is today. I must realize how fortunate I am to be able to choose the religion I want for myself. Someday I will be indeed grateful that this privilege will be granted to my children. What a privilege it is to have the right to freedom of speech and press. Only when I infringe on the rights of others will this right be denied.

It took the "guts" and patriotism of many men to develop America. Many people take advantage of their privileges and, yes, some even abuse them. Others understand the many situations and the hard endurances which were encountered by many forefathers. These people, truly great American citizens, did what they could to formulate and enrich our country. We must recall our forefathers who worked diligently and fought courageously to uphold the rights we seem to "take for granted." Perhaps, we need to "go without" just one right before we will realize the importance of their struggle.

Looking at other countries, I realize that I am very fortunate to have been born and raised in The United States of America. Some people have limited freedoms and some have no freedom at all. Our country has been free for 200 years! Why aren't people showing patriotism and loyalty to THEIR country? It is the PEOPLE'S country! Why don't they care? Many foreigners would "love" to live in America but cannot seem to escape from their country. People have to care. Personal concern by citizens will provide stability in our government. A strong government makes it impossible for foreign countries to attack and seize control. We are free and we must continue to be free. We do not wish or want to lose our freedom of religion, speech, and press. People have to get involved! Not just people, in general, but every citizen in this great nation. Apathy is what we must overcome.

There are many ways that I, a 17 year old high school senior, can demonstrate my patriotic feelings for my country. I am willing to participate in Bicentennial celebrations. Perhaps I can take part in a historical play, or maybe—I could sing "Happy Birthday, America." A visit with an elderly person who can convey a first hand report on the history of my homeland might also be interesting. Raising the U.S. flag in our farm yard might increase a feeling of patriotism among my family members.

We must strive to be people with positive attitudes. Each of us must think positively about our great nation. Negative thoughts will not bring positive actions. We must be willing to "do our part." We, as young citizens, must strive to become involved in the various aspects of government. We must become or continue to be informed of the numerous concerns which face the people of the U.S. It is the responsibility of each individual to study the platforms of each member of a slate of candidates for any political office, whether it be of the local, state or federal level. A well-informed voter is surely a better voter. Yes, indeed, there are many ways to show patriotism for the United States of America. America is Beautiful! America is Great!

JANET DAVIS—ARIZONA'S VOICE OF DEMOCRACY WINNER

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. UDALL. Mr. Speaker, it is the common citizens of the U.S. who have made ours an uncommon country.

This is the proud message of Janet Louise Davis of Tucson, the Arizona winner of this year's Voice of Democracy contest sponsored by the Veterans of Foreign Wars and its Ladies Auxiliary.

Janet, a Rincon High School senior, writes optimistically on the theme, "What Our Bicentennial Heritage Means to Me." She salutes the strength of the American character that enables us to prevail in times of stress and crisis.

Janet, herself, is a tribute to the American character. For 2 years she has participated in the Amigos de Las Americas program to provide immunization and medical assistance in Latin America. She spent the summer of 1974 vaccinating children along the Amazon River in Colombia and last summer in the rural areas of Nicaragua. Her own personal goal in life is medicine and she has the determination to achieve it.

I am proud to commend to my colleagues the winning essay of Janet Davis:

VOICE OF DEMOCRACY

On May 18, 1776, an article appeared in the Pennsylvania Evening Post making it known to the citizens of Philadelphia that the American Army was in desperate need of lead to be used as ammunition in defense of our country. Philadelphians responded with lead from every imaginable source. Many colonists even volunteered the lead weights from the clocks that had kept pace with their lives and the lives of their parents before them.

When God made these early Americans, he did not break the mold!

This richness of character is our Bicentennial heritage. This sense of responsibility, pride, loyalty, respect, self-denial, and patriotism is inherited by every American at birth. Our magnificent history proves this to be true, for never have Americans failed to respond to the needs of their country.

Of course, we have all heard of the heroics and contributions of the big name Americans: George Washington, John Paul Jones, Thomas Jefferson, Ben Franklin, and countless more. These men played a tremendous role in the development of our country; but the people like these Philadelphians, the common citizens, are what have made the United States of America an uncommon country. Where else in the world can we find a country of people of such diversity of background living peacefully under the roof of one democratic government? Where else can we find a people willing to sacrifice so much for the common cause, paying whatever price necessary to preserve human rights?

And our list of rights guaranteed by the United States Constitution goes on and on: freedom of religion, speech and the press, security, free enterprise, life, liberty and the pursuit of happiness. But may we never become so obsessed with these rights that we forget about the duties that we have to preserve and defend them. We must remember our inherited strength of character and realize the obligation to give as well as take.

An article from *Life* magazine, February 21, 1918, expressed this sentiment in a clever way. It suggested:

"Do not permit your children to take a bite or two from an apple and throw the rest away; nowadays even children must be taught to be patriotic to the core."

It was these Americans that had little if any sugar or wheat on their tables during the World War I years so that the United States could support its troops and allied nations at war. It was the children of these same Americans that during World War II participated in what has been called "the biggest scavenger hunt in history," ransacking old fields and attics for items that could be used in making armaments. The united efforts of common people like you and me resulted in the collection of 5,000 tons of car tires from Los Angeles, 6 tons of rubber shoe heels from Seattle, thousands of empty toothpaste tubes, rusty baby carriages, and even the rubber mat that supported the favorite spittoon of Senator "Cotton Ed" Smith of South Carolina.

And now it is the grandchildren of those young, apple-eating patriots, my own generation, that is being called to incorporate the character traits that our Bicentennial heritage offers us.

One evening in 1970 I was thumbing through one of my father's business magazines, and I came across a commentary printed in an advertisement of the Warner and Swasey Company. It had such a profound effect upon me, even as a sixth grader, that I was compelled to cut and save it. It read:

"Heaven seems so beautiful. But the path there is long and hard, maybe we can't make it there from here . . . until we're willing to *give* as much as we *get*."

These two sentences express what our Bicentennial heritage is all about. And I am confident that if each one of us will put our inherited character strengths to complete use, the United States will be as heavenly an inheritance for future generations as it is for me.

ANGOLA'S STRATEGIC IMPLICATIONS FOR THE UNITED STATES

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. BELL. Mr. Speaker, I recommend for the attention of my colleagues in the Congress a very provocative assessment of the strategic implications of Angola for the United States made recently by Mr. Eugene W. Murphy, vice president international of the Lifesaver Products Corp., in an address delivered to the Los Angeles Chamber of Commerce.

Mr. Murphy's analysis of the ramifications of U.S. actions in Angola for the future of our foreign policy and his discussion of the Angola situation as it relates to our foreign trade will be of great interest to Members concerned with this critical situation.

The complete text of Mr. Murphy's address follows:

[Los Angeles Chamber of Commerce, Feb. 4, 1976]

"ANGOLA—ITS STRATEGIC IMPLICATIONS FOR THE UNITED STATES"

(By Eugene W. Murphy, vice president international Lifesaver Products Corp.)

When Mr. Bandt was kind enough to ask me to speak to you today on Angola, I jumped at the opportunity because not only is it very much in the news, but it is a subject about which very little is known. It seems also that we have jumped to a number of conclusions regarding the United States' interest in this area and in the present conflict taking place there. Therefore, I would like very much to discuss Angola, but in the context of several premises and on a much broader scale than just a treatise on Angola itself.

The first premise that I would like to develop is that our foreign trade represents an important contribution to the gross national product in terms of millions of jobs, foreign exchange earnings, and many other intangible benefits. Equally, that foreign trade can only be carried out under the umbrella of a coherent long-range foreign policy with its attendant requirements, historic perception, military capacity and diplomatic initiatives. Also, equally, that a national moral commitment be developed to support our political persuasions, and certainly, there is ample evidence that there is confusion in the latter area. To this end, Angola serves as an excellent contemporary model as it impacts directly and tangentially to all of these points.

When I returned to America late in the past year, after three trips totalling five months in the country, I discovered Angola was slowly surfacing in the consciousness of the American people. However, I found our legislative, bureaucratic and media personnel taking hard line positions and making unreal and invidious parallels to Vietnam and Korea and many others which are not germane to the true considerations of the problem.

Many of the opinions I wish to express today are conditioned by my exposure over the last 25 years in international activities. Before you come to the conclusion that you have another 'hawk' on your hands, let me put that to rest. 293 combat missions in World War II in the R.A.F. and in the American Air Force, a year flying the Berlin air lift, Korea, as a civilian observer in Vietnam, Cambodia, and Laos, plus assorted adventures in India, Pakistan, Indonesia, guerrilla warfare in Malaysia, Thailand, Algeria, under personal conditions which can only be characterized as total terror, give me gainsay to becoming a sincere peace-lover. Fortunately, or unfortunately, these activities have given me a close-hand view of the extension of the alien philosophy known as communism in substantial areas of Eastern Europe, Europe, Africa, the Middle East, Asia and South America.

But first let us discuss Angola—what it is, where it came from and where it appears to be heading.

Angola is a country in the state of transition, striving to find its proper place in modern Africa. But what happens in Africa is happening in Angola. Its first contact with the outside world, the first important contact, was through a Portuguese explorer who (in 1482) was searching for a new water route to India. That certainly has a familiar ring to it. When he sailed into the mouth of the Congo River, Diogo Cao found the land under the rule of an African monarch, the king of the Congo, whose capital is the present day city of San Salvador.

The initial contacts between Angola and Portugal were friendly, characterized by mutual respect. Slaving activities soon, however, led to the deterioration of the Portuguese relations with King Alphonso and his successors. Internal revolts hastened this decline. Meanwhile, the Portuguese expanded their contacts southward along the coast, founding Luanda in 1576.

In 1641 a Dutch fleet seized the rich slave ports of Luanda and Buenguela. The Portuguese retreated to the interior. They held out until 1648 when a powerful expedition from Brazil restored the coast to Portuguese control. The slave trade continued to dominate the scene until the middle of the 19th century, with Angola serving as a major source of supply for Brazilian plantations. It has been estimated that three million Angolan Africans were transported to the new world during the three centuries of the slave trade activity. More than one million of them to Brazil alone.

Angolans are almost entirely Bantu in origin and composed of numerous tribal groupings, but three-fourths of them are accounted by four important tribes: the Ovim Bundu in central and southern Angola is the largest under the control of the Unitas—a pro-Western political party, headed by Doctor Savimbi, almost 33% of the African population. The Bakongo in the northwest, covering two Congo republics and Cabinda, are more than 25% of the Angolan-African population. These, in large part, are committed to the F.N.L.A., also a pro-Western political faction headed by Holden Roberto. The Kimbundu, who occupy the terrain inland from Luanda, are culturally (though not ethnically) related to the Bakongo. These are committed to the M.P.L.A., a Marxist-dominated group, headed by Dr. Neto and they comprise about 25% of the total population. The others, Chokwe and so forth, break down into minority groups, but suffice it to say that about 70% of the population are in commitment to groups which are primarily anti-Communist.

Portuguese is the lingua franca today, because no one African language extends beyond the tribal area.

I make no reference to ideological separation deliberately. With the 15% literacy in the total population, most people would not know an ideology if they fell over it.

It is a thoroughly delightful country to visit and to tour. Imagine a country more than twice the size of Texas—a land border in excess of 3,000 miles—a coast line stretching for 1,000 miles. It is bounded on the north by the Congo River, on the eastern borders by Zaire and Zambia, and to the south, Southwest Africa. It has a small narrow strip to the north called Cabinda, surrounded by Congo (Brazzaville) (Communist), Zaire and the Atlantic Ocean. Angola is fourteen times the size of Portugal, and parenthetically, when Portugal surrended to Angola, they gave up one-sixth of their entire gross national product! Imagine the chaos if we were to make the same sacrifice!

Angola proper is largely a plateau ranging in elevation from 3,000 to 5,000 feet above sea level. The coastal strip along the Atlantic is generally narrow, rising sharply toward the interior. In the west-central region is a highland area with elevations going up to 7,000 feet above sea level and a very temperate climate. The Mocamedes Desert is in the south. Cabinda is covered by a dense rain forest with a tropical climate.

Angola itself is situated in the equatorial and tropical climate zone but because of the altitudes and the length of the country and cold ocean current which flows past the southern half, the climate varies extensively. You really need a sweater in the mountains and tropical clothes by the sea. It has ample rain and very arable land over great portions of its terrain.

With the cries of our politicians ringing in my ears, claiming parallels to Vietnam and other places in the world that there is no strategic interest for the United States in Angola, I am reminded of several factors:

(1) Wars are basically economic in origin.

(2) As I reminded you earlier, America is a trading nation. It behooves us in every instance to have a trading relationship with the minimum number of nations in the western world or rather in the entire world.

(3) That we live in a hostile environment.

I would like to point out that we are trying as a trading nation, to do business under an umbrella of coherent foreign policy and we find ourselves on a diminishing list of 146 countries of which only 24 are democratically elected.

I find it fascinating that the last available figures for the first nine months of 1974, relative to the gross national product and export record of Angola, totalled $1.8 billion. These comprised 5½ million tons of oil exported primarily to the United States, earning for the country, $625 million! Coffee, once the principal export, still exceeded $200 million in earnings. Incidentally, did you know that Angola has been the fourth largest producer of high quality coffee in the world? And we bought nearly 100% of it? Diamonds, $100 million. Iron ore, $50 million and varieties of other products making up the difference—sisal, textiles, cotton, some manufactured goods.

It might shock you that in the world market, Angola exported approximately $150 million a year in commercial gem quality and industrial diamonds. It might also astonish you to discover that there are proven reserves at that rate of production in excess of 100 years. The oil production came, by the way, from proven areas already exploited by the Gulf Oil Corporation. But last year, while I was visiting Angola, five new major oil discoveries were made. A little shopping list of what else exists in the country should be of interest to you: copper, manganese ore, gypsum, salt, gold, cement, mica, uranium, bauxite, lumber, and fish, to name but a few, and these reserves are not yet identified. As I pointed out, the country is under-populated and under-explored and we therefore have no idea of the potential wealth.

Conceivably, however, Angola might possibly be one of the richest nations in the world and certainly in Africa. More importantly, to me, one of the fascinating riches of Angola is its geographical position.

When one looks at Africa, and particularly the position of Angola in Africa in relation to South America, you discover that it is possible to foresee a whole new trade route—one never explored before, or at least not since the 17th century, and that is the country of Brazil and its relationship to Angola. Brazil, of course, as I told you, has over one million Angolans as part of its population base, Brazil, in effect, can really speak for South America because it is the richest country—one that is dynamically developing itself and will obviously take a leadership position for the whole of South America. Imagine then, that there is a cousin—a step-brother, a half-brother, just across the seas of the South Atlantic—Angola—only 8 hours flying time away, with which they have cultural, language, ethnic and blood relationships. It is not difficult to foresee, with the advent of the long-range jet airplane, a new trade route developing between Brazil to Angola and thence into the Middle East and to Europe.

This is a concept of the future. Let us look at today's problems vis-a-vis Angola's geographic position.

Angola, at this very moment, because of its difficulties, is disrupting transport throughout the whole of central Africa, hitting hundreds of black businesses and industries which need that transport for markets or supplies. In Angola today, everything is paralyzed. Coffee plantations have been closed down—oil production has been closed down. As you have read in the papers recently, there is no longer any mining or exploitation of the diamond potential. The vital Bengvela Railroad has for several months, halted its operations. Even Mozambique, also by the way under Communist domination, is deteriorating as an organized state.

The sufferers from this entire problem are the blacks who benefited from the schools, hospitals and infrastructure which had existed during colonial times. I am not, however, suggesting that we return to colonialism.

Some would also list the near collapse of the O.A.U., the Organization of African Unity, as another misfortune in the growing list of economic and political catastrophes taking place in Africa today. Zambia and Zaire, contiguous states of Angola, were in difficulties before the Angolan troubles, but now they have reached an extremely dangerous economic point, making them more vulnerable to subversion.

Copper prices have plummeted from 1500 pounds sterling a ton in 1974 to less than 500 pounds a ton today, which is lower than the cost of production.

Transport is at the root of many of these problems. It may seem paradoxical that the closing of the port of Lobito in Angola adds to congestion at the port of Dar Es Salaam in Tanzania, on the far side of the continent. The railways in southern Africa form a grid. With traffic blocked in one direction, it flows in another. With ports and railways already overtaxed, the traffic shift means long delays, added costs and, in the case at this moment of Zambia, economic disaster. Moreover, troubles are not confined to one area. The chief casualty is the Benguela railroad, which runs between Lobito on the Atlantic and the Zaire border on the east. There it joins the Zaire system which in turn meets the Zambian system that connects with the Rhodesian railroads, and recently the Tanzam railway across Tanzania to Dar es Salaam.

Unfortunately in Angola, the Russian dominated MPLA have been attacking the Benguela railway with great frequency. The towns change back and forth. Portuguese managers and technicians have been abandoning their jobs in droves. When I was in Luanda, I watched people by the thousands packing into 747's to flee.

Both Zambia and Zaire are in a desperate situation because of the crisis in Angola. Normally, Zaire exports about 300,000 tons a year of manganese and 200,000 tons of copper through Lobito. Its other outlet proceeds by train, riverboat and trains. This route is slower and much more expensive and you cannot even handle the back haul supply shipments needed by the miners in Zaire. Zaire is practically bankrupt. In fact, they don't have enough foreign exchange on hand to finance three weeks of normal import. It is evident that economic considerations play an important part in Zaire's opposition to a Communist-backed regime in Angola. I feel this myself and maybe even add an unspoken thought that they also covet the marvelous resources of Angola. In any case, Mobutu is not liked by the Russians but he understands a Red Angola would be in a position to use the control of transport arteries to squeeze Zaire into whatever shape Russia desires. They are already trying to undermine Zaire through support of the long-dormant rebels in the eastern provinces. Imagine, therefore, a Red Angola. Don't you think it can be strategic?

Zambia has nearly the same problems. It is not really going to come out of it unless the copper market suddenly picks up. The whole copper industry is being cut back. The country is experiencing difficulty in shipping its 60,000 tons a month, which is its only major foreign exchange earner.

Mozambique is already a leftist state. It has its own problems trying to carry out an indoctrination drive, making good communists of the local citizens. They lack the basic infrastructure and intelligencia to operate a logical economy. If one makes a major tour-de-force across Africa, you find an enormous incursion into the continent—Mali, Guinea, even Nigeria, Libya, Egypt, Sudan, Somalia, Uganda, Mozambique and soon Angola. How many other countries can resist these Russian pressures?

When I review the competitive pressures that I encounter in the conduct of international business, I can't help in a sense, but admire the communist attitude. They are more religious than we. Most communist-oriented children are familiar with Marx. How many of us, and for that matter our children, have ever read Adam Smith?

I am being constantly reassured by my legislative leaders that Russia will surely fail in its effort in Angola and parallel our failure in Vietnam. I wonder about the implication of the fact that the Cubans have two divisions, 400 tanks, Mig fighters, ground to air misiles, ground to ground missiles, and rapid-fire automatic equipment. A probable investment of $200 to $300 million. I wonder if they really think, in spite of world criticism, that this isn't a very modest investment to take the entire sub-Sahara continent through subversion. But I really ask that question not rhetorically, but rather as a businessman.

All of you, in one way or another, are involved in business whether you are bankers or brokers, or executives. If the whole continent of Africa becomes red, where are the markets? As I said before, wars are economic in origin. Yes, I understand the weariness of the American people because of our defeat in Vietnam and our sufferings, but as a Frenchman once was chastised during the 1956 Suez invasion for sending off the last remaining French battleship, Foster Dulles remonstrated the French government by saying "The Day of Gunboat Diplomacy is Over" and the Frenchman responded by saying, "But Sir, what are Gunboats for?"

I do not bring you today, any panacea or any quick solutions for these problems but I am certain that if we enter a second or third century of our development, surely our moral postures and our positive attitudes must be sufficiently strong to withstand the challenges which we are receiving and not meeting all over the globe. I only bring you a quarter of a century of exposure to these problems and regrettably, I bring you a report of retreat and defeat.

I will add one last statement. There are many people who feel that we should withdraw totally from the confluence of events in the world and that we should stay on our own land, which is rich and blessed by God. But I also read enough history to remember that in medieval times and subsequently, that when you close the gates of the fortress against the hostile people, the only way the fortress can effectively operate is through a dictatorial, monolithic control. I don't think I would like to live here like that either.

H.R. 5247: WRONG DIRECTION AT THE WRONG TIME

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. GRADISON. Mr. Speaker, voting against a bill which on its face value would provide thousands of jobs during a period of high unemployment is not an easy task. However, I believe there are serious difficulties with H.R. 5247, the Public Works bill, which would make it counterproductive in the long run. Therefore, I will vote today to sustain the President's veto of this bill. I would like to discuss the principal provisions of this bill to explain the reasons for my opposition.

First of all, the bill is very inflationary. Because of the extended time needed to find applicants and allocate funds for the public works projects, the full impact of this bill would not hit until late 1977 or 1978. At this time, the economy should be well on the way toward a full recovery and providing $6.2 billion in Federal spending for public sector jobs will put a powerful inflationary pressure on the economy.

In addition, these public works jobs are very expensive because of the administrative paperwork needed to process them. The administration has estimated that these jobs will cost the taxpayer $25,000 per man-year of employment.

Second, the jobs provided in this bill are temporary, make-work employment. Rather than providing meaningful permanent employment, H.R. 5247 is an inefficient, stop-gap measure which merely throws Federal money at the problem. I believe we should pursue policies which allow the economy to continue its broad-based, solid recovery and provide productive jobs in the private sector.

Recent unemployment figures indicate the scope of the economic upsurge. January figures show a 1 month increase of 800,000 jobs, unaided by any public sector programs as provided in H.R. 5247.

Third, I am disturbed at the inclusion of title II, countercyclical assistance to State and local governments, without adequate consideration by the House. This title was a separate bill passed in the Senate and tacked onto the conference report of H.R. 5247, without any hearings or committee action in the House. I believe this title has a number of ramifications on the general revenue sharing program which have not been examined fully. Therefore, this title should not be adopted so cavalierly.

Specifically, this title provides grants to State and local governments experiencing financial difficulties due to the recession. However, this concept could be used as an argument against the need for the general revenue sharing program, implying that countercyclical assistance would be adequate.

I am a strong supporter of the general revenue sharing program, having testified in favor of its early extension, and believe that countercyclical assistance should be studied carefully to make certain it does nothing to interfere with or undermine congressional support for the concept of general revenue sharing.

Mr. Speaker, H.R. 5247 takes a step in the wrong direction at the wrong time. This bill would provide far fewer jobs at a greater expense than its supporters claim and the strength of the recovery to date indicates that this legislation is unnecessary and potentially inflationary.

WARNING TO CONSUMERS

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. PEYSER. Mr. Speaker, the USDA's revised beef grading standards will go into effect on February 23, despite growing criticism of the new system from consumers throughout the country.

Sylvia Porter, long time consumer advocate, has written an article summarizing what the new system will really mean to consumers—higher prices for lower quality beef.

The article follows:

YOUR MONEY'S WORTH—CHANGES IN MEAT GRADING

(By Sylvia Porter)

On Feb. 23, beef at your supermarket counter that previously carried the U.S. Department of Agriculture's "choice" label well may be tagged "prime"—and you will be paying the higher price the prime label commands.

After prolonged court battles with consumer groups and various livestock associations, the USDA is going ahead with changes in its nationwide meat grading standards. Under the new regulations, some beef now graded as choice will be upgraded to prime and some beef now graded as "good" will be upgraded to choice.

You cannot grasp how heated is the dispute over the wisdom of such a grading revision without understanding how the USDA's grading system works. The standards were developed in 1926 by the USDA as a selling device for cattlemen, packers and wholesalers—and as a way to telegraph to producers swings in consumer preferences. Retailers also used the standards to increase sales—pushing the higher quality and more costly grades and downgrading the "good" label.

Beef is graded according to its maturity and its amount of marbling—or flecks of fat within the meat. The marbling increases with the amount of grain an animal is fed and is considered desirable because it makes meat more juicy and tender. The older the steer, the greater marbling is required. Thus, the more marbling meat has, the higher its grade and its cost.

The new USDA regulations would raise the grade of the top third of beef now tagged as good to choice and the top third of choice up to prime. They also would tighten the standards for good grade beef, requiring such meat to contain more marbling.

The slight change in marbling requirements should cut the costs of producing choice and prime grade beef, the Agriculture Department argues. Cattlemen would be discouraged from adding excess fat to the animals by heavy feeding of expensive grains; much of the cost of shipping and trimming excess fat could be avoided; such lower production costs would encourage an increase in the supply of these high-grade meats and would thereby help to keep price increases under control.

Generally, consumer groups, representatives of restaurants and hotels, nutritionists and other experts agree that production of leaner, less expensive beef should be encouraged—but they object to the USDA's method for attaining this goal. Under the USDA changes, consumers anxious to buy leaner meat won't be able to distinguish it from beef that meets previous standards, these groups argue. And while it will be cheaper for producers to bring leaner beef to market, shoppers won't receive any savings, because all prime or choice beef is apt to be priced identically.

A new grade—called budget or thrifty—should be created, some consumer spokesmen suggest, so that if you wanted to buy leaner, more nutritious, less costly beef, you could understand and could identify what you were getting. This grade would be made up of the top third of good and the bottom third of choice. This proposal was supported by the USDA's consumer adviser, Nancy Steorts, and presidential consumer adviser, Virginia Knauer. The National Livestock and Meat Board, consumer information arm of the meat industry, also had no objections to the idea.

But the USDA turned thumbs down.

Now, therefore, the Consumer Federation of America, plus representatives of labor and cattle feeders have taken the issue to the courts—and actually have filed a request that the Supreme Court hear the case. (Slim chance though they have.) Congress also has moved into the dispute, with Rep. Peter Peyser, R-N.Y., introducing a bill at the last session to prevent the USDA from making any changes in beef grade designations allowing for upgrading and to spur new and more descriptive grades. Peyser intends to resubmit his bill this session.

In the meantime, be on guard! Examine the "choice," "prime," "good" grades, doublecheck your prices. Ask questions about new grades and supermarket labels. And do all you can to encourage your local market to stock leaner, less costly, "good" grade beef.

IKE WILLIAMS—OUTSTANDING YOUNG CITIZEN

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. GINN. Mr. Speaker, on many occasions it is one of our Nation's young citizens who is the one to show us the way through difficult times. These young people are our Nation's greatest resource, and they are our brightest hope for the future.

I am proud that Mr. Ike Williams, one of my constituents, is counted among these outstanding citizens. Mr. Terry Bunton of the Savannah News-Press, is the author of a fine news story about Mr. Williams' accomplishments. I ask that it be reprinted in the RECORD at this point.

[From the Savannah News-Press, Sunday, Feb. 8, 1976]

IT'S IKE: FORMER PIRATE STAR DUE UNIQUE HONOR BY SCHOOL

(By Terry Bunton)

Ike Williams' accomplishments on the basketball court are hardly a secret. In fact he's something of a legend in the history of Savannah basketball.

What's generally not well known is Ike Williams' accomplishments off the basketball court. Specifically, Ike's value to the athletic program—indeed, the school itself—as a student and leader at Armstrong State College.

Williams, who is currently finishing up work at Armstrong on a degree in education, will be honored Monday night at halftime of the Armstrong State College-West Georgia game at the Civic Center.

The honor to be bestowed on Williams is totally unique. Williams' jersey number, number 20, will be officially retired, that is, will never be worn again by a Pirate basketball player.

As far as is known, no Armstrong player, dating back to the school's founding in 1935, has ever been so honored.

The signal honor is being bestowed on Williams not only for his basketball heroics but for his work, by example and action, in the area of human relations.

Williams and Sam Berry were the first two Savannah blacks to play for Armstrong State College and as such broke barriers once thought—and not so long ago—impregnable.

"Ike was a pioneer. He was one of the first blacks ever signed by Armstrong, and no one can question his accomplishments both as a student and as an athlete," said Coach Bill Alexander.

"This (retiring his jersey) is our small token of appreciation. He was always an ambassador of good will for us. A totally outstanding individual. When you have people like Ike, it helps you in so many ways," said Alexander.

Williams' eligibility at Armstrong ran out last year and he was promptly drafted by Detroit of the NBA. Unfortunately, Williams was in the wrong place at the wrong time. Short on guards when he was drafted, the Pistons promptly acquired two all-pro guards, through trades, Archie Clark and Kevin Porter. And with Dave Bing still in the picture at guard, as well as two other no-cut rookies, Williams found himself out in the cold.

To make matters worse, Williams wasn't cut until the last cut came, and it was too late for Williams to make a connection with some other pro team.

Through Williams' contributions to racial rapport at Armstrong, Williams also contributed his vast basketball talent to the Pirate program and helped transform the ASC program into one of national prominence.

The Armstrong record book is dotted with Williams' name. Heading the list of Williams' honors is his three selections as All-American. Williams was named to the National Association of Basketball Coaches All-America team and the UPI All-America team his junior year then made the AP squad his senior year.

Williams held the all-time ASC scoring record until Berry broke it this season. Williams scored 2,116 points during his four-year career at Armstrong. Williams missed starting only five games during his four years at ASC. He didn't start his freshman year until the fifth game of the season and missed only one game after that. Williams sat out the Valdosta State game in his sophomore season with a sprained ankle and, predictably, Armstrong lost, 103–89.

Among the records Williams still holds are: most career field goals, 826; single game best field goal percentage, 92.3 per cent; best field goal percentage for a season, '71–'72, 61.6 per cent; best career field goal percentage, 56 per cent; most free throws attempted in a game, 25 against Columbus College in 1974; tied for most free throws made, Columbus College, 1974, 19 of 25; career free throws attempted and made, 454 of 625; most steals in a game, eight against Savannah State in 1972; most steals in a season, 86, 1971–72; most career steals, 262.

Williams, who quickly made fans wherever he played, toured Brazil the summer of 1973 with a team made up of Georgia collegiate stars and coached by then-Georgia Tech coach Whack Hyder who had nothing but praise for Williams' conduct both on and off the court.

Armstrong's rise to prominence closely parallels Williams' development as a player. Three of the four years Williams played for the Pirates, ASC saw post-season action. Twice during Williams' tenure Armstrong went to the District 25 playoffs and once, in 1975, the Bucs went as far as the NCAA South Regionals.

If for some reason—and it certainly won't be lack of talent—Williams doesn't make a career as a professional basketball player, pro basketball's loss will certainly be coaching's gain since Williams would like to coach some day.

Other Armstrong players may gain more fame than Williams some day, but Williams will always have the distinction of being the first superstar, both as athlete and human being, to play for the Pirates.

DO YOU REMEMBER?

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. SYMMS. Mr. Speaker, I'd like to offer my colleagues a bit of nostalgia from the pages of a Pacific Northwest newspaper. While some will search their memories with only an occasional flicker of interest, I trust that a good many of the men and women who serve with me will become downright homesick for the kind of America this little test brings to mind.

Do you remember when:

Attending college was a privilege rather than a right?

A farmer could plant what he wished?

Taxes were a nuisance rather than a burden?

The Supreme Court protected society rather than the criminals?

The aged were cared for by their children?

Evenings at home were with the family—not watching cops and bad guys on TV?

Foreign officials visited the White House without asking for money?

We entered a war to win it?

A life sentence didn't mean "parole in 10 years?"

Our flag was respected—at home and abroad?

America conducted her foreign affairs without consulting the U.N.?

A person went on welfare only out of desperation and got off as soon as possible?

Charity was a virtue instead of big business?

The doctor's first question was, "Where does it hurt?" instead of "Do you have insurance?"

U.S. Grant was the name of a president rather than a federal handout?

Giving aid to the enemy was treason? (Now it is called foreign aid).

Fighting for your country was considered an honor and not something to dodge?

Saturday afternoon at the movies was a national habit?

We had prayers in our schools?

The churches preached religion instead of politics?

You were safe on the streets and in your home?

The news media presented the truth rather than propaganda?

A policeman was a human being instead of a fascist pig?

The three R's were reading, writing and 'rithmetic?

A radical had to have a soap box to reach 40 people? Now the news media provides him with a microphone to reach 40 million. and, there are more.

Do you remember?

MOUNTING COSTS OF PEANUT PROGRAM

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. PEYSER. Mr. Speaker, nearly 2 years ago in June 1974, I made an effort in behalf of beleaguered taxpayers to curtail the costs of an outdated peanut subsidy program.

That peanut program—geared to a 1940 acreage and a parity loan level based on a 1910–14 yardstick—is completely outdated. It is a program that our own watchdog, the GAO, warned Congress about—twice in 5 years—that a change must be made or the costs would be prohibitive. Since that last warning in 1973, the taxpayers have shelled out $121 million in the 1975 fiscal year and over $212 million in this fiscal year, with another $145 million estimated in fiscal year 1977.

Two years ago, we were promised that a change of programs was coming; again last year in July 1975 when this body was considering the appropriations for USDA, we were promised that we would get a lower cost peanut program.

Taxpayers need more than political promises—particularly when the delay in performance has already cost hundreds of millions of dollars. Therefore, I simply wish to notify my colleagues on the Committee on Agriculture and the Committee on Appropriations, that my effort to prevent unnecessary spending and wasteful use of tax funds will continue. It is my belief that the present peanut program falls into both the above categories—it is too expensive and it is wasteful.

WHAT OUR BICENTENNIAL HERITAGE MEANS TO ME

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. NATCHER. Mr. Speaker, I have just read a young man's tribute to his country—a tribute which is in itself a revelation of a young man's faith.

We are all wont to ponder the future of our Nation. We take critical measure and wonder at times if the youth of our country can be equal to the awesome responsibilities and tasks that most surely will be theirs. Steven Reed Armstrong, of Fort Knox, high school student, Kentucky State winner of the VFW "Voice of Democracy" contest, has quelled any doubt I might have entertained. In his prize-winning speech "What Our Bicentennial Heritage Means to Me," Steve speaks eloquently of his national heritage and of his deep gratitude for what he has as an American.

At this time I submit for your reading his moving and inspiring words.

Voice of Democracy

As I sit here in a nice warm room with a full stomach . . . fairly decent clothes . . . and a full mind and spirit, there is only one thing my bicentennial heritage can truly and sincerely mean to me—overwhelming gratitude. Even the ability to write this note, or even to read it fills me with the greatest meaning and purpose one can have: the love as expressed through gratitude.

Not only do I have the ideals created by my forefathers in an idealless world, not only do I have the ability to read in an environment where forty percent of the inhabitants cannot read and can barely communicate, not only am I the inheritor of well-being in a nation in which the poor are indeed rich; but I have a country (or should I say a country has me) that cultivates in me the love for my God and my brother—that allows me to experience true happiness in a world filled with misery.

My heritage in ideals, tradition, and even blood are indeed great and to a large degree meaningful, but those ideals seem so slight, so insignificant, when placed in the scope of the tangible material benefits that are mine as a result of my mere existence as an American. Twenty million persons died last year in underdeveloped countries and lesser-developed countries as a result of malnutrition. Few, if any died here in the United States of the same cause. Thousands of foreign refugees live in tents, or more accurately under pieces of shredded cloth and newspaper. I doubt if anyone lives in near that state in America, and if they do, it won't be long until someone from the Department of Health, Education and Welfare discovers and aids them. Not only am I thankful for the fact that we have such a high standard of living, but I am oh so thankful to live in a country that, despite its riches, cares enough to aid those nations that have not with literally billions of dollars every year.

However, I intend in no small way to slight my heritage as expressed in ideals and tradition . . . for I know, and you know that it is these very ideals and feelings expressed by our forefathers and passed down through tradition that make America what it is. America wasn't just born with grandeur and majesty! It took industrious, loving and idealistic persons. It took poverty, hunger, labor and even *death* . . . to make America the most honored and envied nation in the world.

And so, as I look back on my heritage on this, its 200th anniversary, I can only thank God and my predecessors for what they have given me in both ideals and material wealth. And I can only strive now to make America what they dreamt it to be.

What does my bicentennial heritage mean to me? EVERYTHING—my God, my ideals, my happy life. I can only humbly say, *I'm thankful.*

THE RIGHT JOBS BILL

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. VANDER JAGT. Mr. Speaker, legislating to curb unemployment is one of the most challenging and exacting of congressional endeavors. Indeed, it is extremely difficult to legislate into place a comprehensive national program that will create jobs through massive Federal funding of public works projects while avoiding establishment of a foundation for a new round of inflationary pressures. Congress goal at times such as the present should be balance. We should seek dependability and stability in the economy, avoiding the "hot shot" actions of symbolic impact which will lead us from our proper objective.

The trouble with much Federal anti-recession policy is that its effect comes too late. It spurs the economy when the Nation is already getting itself back on the right track, thus only creating artificial forces that contribute to economic instability.

At a time of nationwide high unemployment, it is tempting to set conscience aside, altering perspective to vote in favor of "jobs" bills simply because public opinion overwhelmingly and indiscriminately supports governmental action. A Member of Congress representing a district of extraordinarily high unemployment might be expected to be especially sensitive to appeals in support of such bills, for anything that gives some promise of stimulating employment is likely to prove politically popular. He may cease to exercise the caution of asking what the actual impact of a specific proposal will be on his district or on the Nation as a whole. He may disregard the future. Why worry about tomorrow? Why should one not seek credit for responding to today's problems, even if only symbolically?

One might also ask about the test properly demanded of bills when they are initially considered in Congress as compared to their consideration subsequent to a Presidential veto. The Local Public Works Capital Development and

Investment Act of 1975 was vetoed by President Ford not because he generally opposes legislation to stimulate employment, but because he had concluded after careful analysis of this measure that its approach would not achieve its objective. The bill's flaws outweighed its strengths. In his judgment, the cost to the Nation stemming from this bill was greater than the benefit. Yet, can anyone seriously doubt that an incumbent President, seeking a new term of office, would veto popular legislation without the soundest of reason and conviction?

I believe that in voting to pass a bill over Presidential veto a Member of Congress must be convinced that it is well conceived, of assured public benefit and preferable to existing alternatives. Along with approximately 80 percent of the House, I voted in favor of H.R. 5247 when it was before the House last month. But at that time there was no practical alternative before us. We heard only of the jobs its sponsors projected. We were told that the measure would create jobs quickly, primarily in areas suffering extraordinarily high unemployment.

But today the situation is markedly different. In my judgment, the facts call for enactment of a substitute measure introduced by Congressman GARRY BROWN of Michigan, H.R. 11860, in lieu of the vetoed bill. The substitute is a far more effective weapon with which to fight the recession and to provide employment opportunities in the private sector. It will lead to greater public confidence in the economy and to peace of mind in American homes.

Let me share with you my reasons for backing the Brown bill over H.R. 5247 at this time. These bills are of common intent, but distinctive in terms of genuine employment potential that they can deliver. They also differ in their timeliness and thus in the nature of their permanent effects upon the economy. Finally, and perhaps most significantly in the minds of my western Michigan constituents, the bills differ with respect to their capacity to create jobs in our employment starved cities.

First, while appearing to meet our needs, H.R. 5247 actually would fall far short of its promise as far as my constituents are concerned. The legislation's primary tool, its title II countercyclical aid program, is of uncertain value to the cities of Muskegon and Muskegon Heights, where unemployment is extremely high. A committee print of the Senate Government Operations Committee showing the distribution of title II funds to State and local governments includes no funding for these municipalities. They would be left to battle for funds through the State from the residual category.

Furthermore, the basis of distribution under H.R. 5247 is considerably more complex than the method employed in the Brown bill. H.R. 5247 calls for distribution of two-thirds of the total title II funds under a formula utilizing both the amount of unemployment in excess of 6 percent and adjusted local taxes. Under H.R. 11860, three-fourths of the countercyclical dollars would be distributed to localities solely on the extent to which unemployment exceeds 8 percent.

Second, H.R. 11860 establishes a program of countercyclical aid to be administered by the Department of Housing and Urban Development through the existing mechanisms of the Community Development Act. This is an immediately available conduit through which funds could be passed on an accelerated basis to achieve prompt economic stimulation. In contrast, there is substantial indication that funds under H.R. 5247 would not be available to localities for many months. The funds impact thus would be delayed until well into 1977, when most economic forecasts anticipate recovery to be substantially in progress. Remember, timing is the key to sound anti-recession policy. In this instance, timing appears to be on the side of the Brown proposal. And furthermore, rather than creating administrative overhead and building bureaucracy, H.R. 11860 would employ existing administrative capacity and thus avoid unnecessary startup expenses.

Estimates suggest that H.R. 11860 will create 38,000 jobs during the quarter beginning April 1 and another 25,000 jobs within the next 6 months, at a cost of $780 million. In contrast, H.R. 5247 would cost $6 billion to produce perhaps 28,000 jobs during the first quarter after implementation—an uncertain date. While H.R. 5247 presumably could provide more extensive economic stimulation over its lifetime, much of the impact would be tardy, missing the time when Federal assistance is most required.

The timeliness essential to sound economic policymaking requires that Congress take into account the latest trends. As we weigh the alternatives before us, we should bear in mind that in the last month 800,000 new jobs were filled. Unemployment dropped a full one-half percent during the month, the sharpest decline in 16 years. Employment has increased by 2.1 million over the rate of a year ago. Recovery is substantially underway. Federal policy evolving today must be tailored to these facts.

Thus, for prompt economic recovery, H.R. 11860 is the best approach. In my judgment, H.R. 5247 does not pass the test properly given to vetoed bills, and I will vote accordingly. In my view, this is the responsible course. It may not be immediately popular politics, but it is sound politics for western Michigan and for America. That should be our common goal.

A FOOTNOTE TO THE STRATTON RESOLUTION

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. HARRINGTON. Mr. Speaker, I simply want to state for the RECORD that my vote today against referring the Stratton resolution to the Rules Committee was not in any way intended as an endorsement of that resolution, as my vote on final passage should make clear. My objection to handing this matter over to Rules only reflects my feeling that the House should not be engaging in this charade in any forum. Although Mr. STRATTON's "whereas" clauses attempts to justify an investigation in terms of the behavior of Daniel Schorr, this resolution really panders to those who want to see the Congress itself discredited as an overseer of U.S. intelligence agencies. I will have no part in such an effort, and I don't believe we should grace it with parliamentary niceties.

A MESSAGE FROM MOBUTU: ZAIRE NEEDS U.S. HELP

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. DERWINSKI. Mr. Speaker, Members of the House and Senate have been going to great pains to explain their votes in December by which absolute prohibition against any assistance to pro-Western forces in Angola was voted. Now that they see a communist dictatorship imposed on Angola, they are struggling to muddy the record. Perhaps those Members ought to read the article by the eminent columnists Roland Evans and Robert Novak which appeared in the Chicago Sun-Times on Saturday, February 14, 1976, and which I insert in the RECORD at this point.

[From the Chicago Sun-Times, Sat., Feb. 14, 1976]

A MESSAGE FROM MOBUTU: ZAIRE NEEDS U.S. HELP

(By Roland Evans and Robert Novak)

WASHINGTON.—In sending a special emissary here to plead to Congress for help, Zaire's President Mobutu Sese Seko has warned that the now-certain Soviet victory in Angola could escalate into far worse defeat for the West elsewhere in southern Africa.

That somber message, carried to a score of key senators and representatives by Mobutu's foreign minister, Nguza, has had some impact. But it is conjectural whether Congress, in its election-year isolationist mood bred out of Vietnam, is now prepared to vote help for Zaire, Zambia and other nations of southern Africa after its flat veto of President Ford's plan to aid Angola.

Nguza, who spent 10 days roving Capitol Hill, carried this message: U.S. failure to compete with brazen Soviet intervention would threaten not only his own country and neighboring Zambia; it would endanger Africa's entire southern salient down to the Cape of Good Hope.

The reason is Angola's unique strategic position, which gives it immense economic leverage over landlocked Zambia and nearly landlocked Zaire. If Moscow retains its present power in Angola, both Zaire and Zambia could be economically decimated.

Zaire (the former Belgian Congo) is the largest fertile country in Africa, equal in size to the United States east of the Mississippi. It is also one of the world's richest sources of copper, manganese and other valuable minerals.

The critical geographical fact is Zaire's dependence on rail transport across Angola to the Atlantic "That is our lifeline," Nguza told us here this week. "Close it and our people in Shaba (formerly Katanga, the copper-rich part of Zaire) will be ruined."

Moscow has coveted the riches of the old Belgian Congo for decades. Antoine Gizenga, a key pro-Soviet figure on the losing side of the Congolese civil war a decade ago, is now in Angola for possible troublemaking in his old homeland. Also in Angola are some 5,000 anti-Mobutu troops from the old civil war—military pawns for use back in Zaire.

What frightens Zaire, Zambia and other nonaligned nations of southern Africa even more is U.S. refusal to help. As Nguza warned. "The Africans, I am sorry to say, are losing their confidence in the United States. Whenever there is any trouble, the U.S. says, 'No more Vietnams.' That is hard for us to understand."

That confirmed what Europeans, far better informed on once-colonial Africa than Americans, have been privately warning: The mere existence of Soviet-backed Angola, coupled with the congressional refusal to compete, could automatically generate pro-Communist movements, without pressures from the Kremlin.

Can Congress, as some tenuous signs now indicate, finally rid itself of the costly illusion that every U.S. involvement is a candidate for "another Vietnam"? Unless the answer is yes, the political outlook in southern Africa is dangerous.

Whether Congress understands that will not be known until it takes up the military and economic aid program for Zaire. It amounts to a piddling $42 million, but the congressional attitude toward it could foretell the fate of southern Africa.

DOROTHY HAMILL, THE WIZARD OF ICE

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. McKINNEY. Mr. Speaker, last Friday evening, I watched with awe as a constituent, Ms. Dorothy Hamill, brought beauty, grace, skill—and an Olympic gold medal—to millions of American viewers. I ask my colleagues to join me in expressing deep thanks and congratulations to Ms. Hamill for her dedication and self-sacrifice in her pursuit of that goal.

I think it fitting, Mr. Speaker, that we acknowledge her great accomplishment as both a personal and national triumph. For her, that medal-winning performance was the culmination of a still young skating career. For us, it was a beautiful and inspirational example of one young woman's fulfillment of the American dream—success as the product of hard work.

Two years ago, I invited you to join the people of Greenwich, Conn., in celebrating "Dorothy Hamill Day" honoring her second-place finish in the World Figure Skating Championships. I am happy to note today that she was not satisfied with that result, but continued to develop her talents toward her ultimate goal. As a result of that determination, Dorothy Hamill is the master of her art at the age of 19.

Thus, I rise to voice the appreciation of sports enthusiasts, as well as those of us who merely sit and watch, for the efforts of Ms. Hamill and our entire Olympic contingent for representing the United States at Innsbruck with a smile and a winning spirit.

JACK ANDERSON DEFENDS KGB AGENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. McDONALD of Georgia. Mr. Speaker, the syndicated smear artist Jack Anderson has continued his unabated attack on America's intelligence agencies, combining in his column of February 6, 1976, an attack on the Central Intelligence Agency with some warm praise for a Communist intelligence agent who masquerades as a journalist, Wilfred G. Burchett.

Anderson's bias shows in the slender story he used as the hook on which to hang his anti-CIA attack. The story is that an unnamed newsman who is Anderson's source said that during the Korean truce negotiations in 1953 at Panmunjom, a U.S. negotiator asked the newsman whether he thought Burchett might defect if offered money and security. The newsman source, a former OSS officer, went to the CIA which suggested that since the newsman was acquainted with Burchett he should be the one to approach Burchett with the offer. When Burchett "gave the U.S. newsman no encouragement" the matter was dropped.

In its outline, the story is not worthy of column space. But Anderson the propagandist loads the story with unsupported overtones of evil-doing on the part of the CIA. Anderson calls the incident "a wild journalistic caper missed by congressional investigators." First the "wild caper" was a routine querry to see whether an enemy agent might want to defect. Anderson's suggestion that the affair should have received a congressional investigation is laughable.

But look at the treatment Anderson gives the KGB agent, Wilfred Burchett. Anderson terms Burchett, a long-time Australian Communist Party member who assisted in the interrogation of American POW's held captive by the Communist Chinese—interrogations which were actually brainwashing sessions involving the use of threats and torture to extract germ warfare confessions—and who at the Panmunjom truce talks was one of the most active propagandists spreading the lie about American germ warfare—"the Communist world's most famous newsman," and "a globetrotting Communist star reporter," and hails him as "the talented Australian whose byline is familiar all over the Communist world."

Anderson smears the approach to Burchett as a "bizarre idea" and gratuitously notes that Burchett "had a wife and newborn child in Peking" at that time. Anderson could have stated that Burchett's second wife, Olga, had been a dedicated member of the Bulgarian Communist Party before she settled in Peking with her husband. Anderson also could have noted that the Australian Government has refused Burchett a passport for his three children by his second marriage who were born in Peking, Hanoi, and Moscow, and revoked Burchett's own passport in 1955.

The point Anderson was trying to make is clear. He is implying that the defection approach to the Communist secret agent was either illegal or "immoral" and that the incident somehow "missed" exposure by the House or Senate Intelligence Committees. Anderson then combined this effort with a brazen whitewash job on Burchett, transforming him from a KGB interrogator of American POW's to a "globetrotting Communist star reporter" loyal to his principles—totalitarian communism—and his "wife and newborn child in Peking."

Let us take a second look at the story of Anderson's anonymous "U.S. newsman." Supposedly this person was asked by an American general who was one of the negotiators to devise a plan by which Burchett could defect. Anderson said that the newsman then "sat down with the CIA and drafted a plan in which the $100,000 would be offered to Burchett as he and the newsman walked down a Panmunjom path." Anderson asserted that the newsman's motive "in serving as intermediary was to force the CIA to get information for him on two captured friends. The friends, correspondents Don Dixon and Richard Applegate, had been seized in a yacht off Hong Kong by Red China."

This fantasy does not hang together. First U.S. generals do not use newsmen to get the CIA to check on whether or not a KGB agent might want to defect. Second, the source for information on the fate of newsmen kidnapped by the Red Chinese would have been Burchett, not the CIA. The story of the newsman's "forcing" the CIA to cough up information on his captured buddies has the earmarks of the Anderson disinformation service.

Anderson's fairytale has yet another glaring inconsistency. First he has the newsman taking the initiative, going with the general's inquiry to the CIA. Anderson said his newsman source "sat down with the CIA and drafted a plan." Then Anderson provides two journalistic "justifications" for his newsman source's former cooperation with the CIA—extracting information on the kidnapped correspondents and having been "promised the scoop on the defection as part of the agreement." Anderson quotes his source as saying, "Besides, don't forget, in those days, we all felt differently about the CIA."

The question to ask Jack Anderson and his anonymous newsman is, since you feel "differently" about the CIA, do you also feel "differently" now about the KGB and its agents?

The American Maoist Communists have hailed the Anderson puff piece on their hero, Wilfred Burchett. The Guardian, the Peking propaganda organ which runs Burchett's articles as "news" each week, reprinted the Jack Anderson column in its entirety together with a statement by Wilfred Burchett confirming that he had been asked whether he wanted to defect. The Communist press immediately recognized the Anderson article for the pro-Communist flattery it was. Hopefully most of the American citizens who saw it have seen it in that light also.

WHAT OUR BICENTENNIAL HERITAGE MEANS TO ME

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. SANTINI. Mr. Speaker, I want to share with you and my colleagues one of the most succinct and impressive commentaries about our precious American system of Government and history. The following remarks were composed by the State VFW Voice of Democracy speech winner, Mary Elizabeth Coleman of Las Vegas, Nev. She certainly demonstrates a mature and perceptive appreciation of some basic precepts and concepts inherent in our Constitution and governmental form that many adults seem oblivious about today.

Her prize winning speech on the topic of "What our Bicentennial Heritage Means to Me" follows:

VOICE OF DEMOCRACY

Happy Birthday, America!

Blow out the candles and make a wish. Make the same wish you made two hundred years ago and a wish that will be made two hundred years from now. A wish, a hope, a want, and a love of freedom.

This country's foundation was built oh-so-many years ago on pain, blood and tears, and endless suffering. Today we unite, young and old, to celebrate this freedom.

But my peers and I have not known real war in which the struggle for these rights comes before personal needs and even life itself. We are handed this history, but we have not experienced and do not understand the senseless death caused by greed and fear. But this does not mean that America's initial wish is lost in her youth. The foundation still stands, but the battle-scarred columns have been smoothed by gentle hands—tired of war.

We, unlike too many other Americans, are not rejoicing in the blind and ignorant pomp and circumstances of 1976, but we share a genuine interest in what two hundred years of life has meant.

At this birthday party, America's youth join not in a hate of dictatorship, but a love for democracy—a love for the freedom in which we can say what we want, be what we can be, and change if we choose.

We love the feeling of faded levis, and appreciate that we are not wearing blood-stained khaki. We love the casualness of borrowing *Mein Kamph*, *The Communist Manifesto*, and *The Bicentennial Celebration* all on the same library card.

We understand that freedom is not free, so we give of ourselves and fulfill our obligations, upholding our responsibilities so that we may keep this freedom from slipping away.

And so, our birthday gift to these United States is a simple promise. We vow on our past and on our unmarked future to continue America's open policies of vitality, elasticity, resilience, tolerance, growth, and quiet, yet sometimes not-so-quiet caring that make America a land truly of the People, by the People, and for the People.

Our young country's heritage is one of struggle—a constant fight in the protection of personal freedom. My hope for America is that the struggle continue, but without bloodshed.

Nathan Hale said, "I regret that I have but one life to give for my country." I regret that life has to be given at all.

So, when we blow out the candles and make our wish in the Bicentennial year, let us not smother the spark for freedom, but rather clear the air so that more can breathe.

A DRY-HOLE ENERGY POLICY

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. ARCHER. Mr. Speaker, as one Member of Congress who is both shocked and deeply disappointed by the February 5 vote of the House increasing the regulation of natural gas, I would like to commend to the attention of my colleagues an editorial which appeared in the February 11 issue of the Houston Post. It presents an accurate description of our energy situation today and outlines the basic national energy policy that must be adopted. The editorial follows:

DRY-HOLE ENERGY POLICY

It is often said that this country has no national energy policy. That is not true. We do have a policy—one that has already led us to the brink of disaster. It is a policy which continued and extended, will surely lead us to economic disaster and destroy our national security. Yet the House of Representatives voted specifically to continue and extend that policy when it voted out, 205–201, a bill which would not only continue price controls on natural gas but extend them to the intrastate market.

Our national energy policy directs that our most precious fuel—natural gas—be squandered and that no economic incentive be provided for its renewal. Our national energy policy directs that natural gas flow out of the ground in Texas, Louisiana, Oklahoma and Kansas and at a great cost in energy be pumped thousands of miles to the coal-rich Northeastern and north Midwestern states, there to be used as boiler fuel. And when natural gas is used as boiler fuel, more than half the energy is wasted into the atmosphere.

Many other fuels can fire boilers. But those other fuels—coal, atomic energy, municipal waste—cannot substitute for natural gas as the feedstock for the petrochemicals on which our society depends. Atomic energy is a marvelous source of power, but we can't make the fertilizers and herbicides we need to feed a good portion of the world from uranium. Natural gas, replaceable as fuel, is irreplaceable as a raw material from which to make petrochemicals.

But leave aside, if you will, the logical and economic folly of our national energy policy and consider only the national security aspects. In 1973, for political reasons, the Arabs turned off the tap on us, throwing this country into crisis and revealing just how dependent we are on imported oil.

Did we learn from that? Did we then take steps to reduce our dependence on foreign supplies? Did we then bend every effort to increase domestic exploration and production? We did not.

Having observed how price controls on natural gas led to the waste of that resource, we promptly put price controls on "new" as well as "old" oil. So, naturally, oil exploration and production continues to drop. And, most tragic of all, our reliance on foreign sources has increased by 10 per cent in three years. In 1973 we were importing about 34 per cent of our needs. That figure is now 37 per cent.

That is how well we learned the lesson of 1973. But that is not all. One of the bright ideas to come out of the 1973 crisis was that we need a national strategic oil reserve. Indeed, the creation of such a reserve, at a cost of uncounted billions, was ordered by the Congress in the disastrous energy bill passed by the Democratic Congress and signed by a Republican President. But we already have a strategic oil reserve, set aside by Congress for naval use half a century ago, specifically against the day of an oil shortage. Now that day has arrived.

So what are we going to do? Why, we're going to produce oil from the Elk Hills Naval Reserve for civilian use! But criticizing our national energy policy is not enough. That can safely be left to the Henry Jacksons and the John Dingells of the world.

What, in fact, should be the objectives of a national energy policy? First, it should conserve energy. Perhaps by the end of the century, other energy sources will be significant. But for the next few years, conservation is the only way to manage our energy problem.

Second, it should encourage the development of our remaining oil and gas. We have found and produced most of the cheap oil and gas. Significant new deposits will no doubt be in high cost areas such as the Arctic, the outercontinental shelf and the outer-continental slope. Advanced techniques for recovering more oil from currently producing reservoirs are expensive.

Third, it should encourage the development of alternate energy sources and assist in the transition to these sources. The 20th century will go down as a golden age of prosperity based on cheap energy from oil and gas. Nearly all the oil and gas in the world has been discovered in this century, and most of it will be burned up by the end of the century. To avoid economic catastrophe, governmentally coordinated research efforts to develop the full potential of nuclear (fission and fusion), coal, solar, geothermal and wind power are necessary.

How can these basic policy objectives be achieved? By letting the free market system work, by eliminating price controls that have done so much to put us in our present fix. Increased energy prices will conserve fuels, give incentive to find and develop remaining reserves and make presently untapped energy sources economic. If we continue our present course, the lights are going to go out.

HISTORICAL SOCIETY OF MOUNT PLEASANT, OHIO

HON. WAYNE L. HAYS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. HAYS of Ohio. Mr. Speaker, on January 24, 1976 the Historical Society of Mount Pleasant, Ohio held its first monthly Bicentennial meeting. This was a highly important occasion in the community and I include the program of the meeting in the proceedings of the House of Representatives:

THE HISTORICAL SOCIETY OF MOUNT PLEASANT, OHIO, INC.

(Mt. Pleasant, Ohio, 1st Bicentennial Meeting, Buckeye West Jr. Hi Auditorium, 7:30 p.m.)

Master of Ceremonies: Rev. Lloyd G. Smith.

Invocation: Rev. Lloyd G. Smith, United Presbyterian Church.

The pledge to the Flag: led by American Legion McCook Post 529 Dillonvale.

The National Anthem by Moffet.

God Bless America by Irving Berlin.

Bicentennial (1776–1976) by Hopkinson, Billings.

The Buckeye West Jr. Hi Band and under the direction of Mr. Luikart.

America the Beautiful, by Sam Ward.

Introduction of Congressman Wayne L. Hays by Toni Bedway of Bedway Coal Co.

The Address: America Envisions—the honorable Mr. Hays.

Favorite songs of Mr. Hays sung by all: Yankee Doodle and The Battle Hymn of the Republic.

Benediction: Rev. Robert Mattern, United Methodist Church.

NORTH CAROLINA VOICE OF DEMOCRACY CONTEST WINNER—1975–76

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. FOUNTAIN. Mr. Speaker, the North Carolina winner of the 1975–76 Voice of Democracy Contest is a citizen of the Second Congressional District, which I have the honor to represent. She is Miss Carol Anne Lehman of 3628 Colonial Lane, Rocky Mount, N.C.

The citizens of North Carolina are proud of Miss Lehman and wish her well when she comes to Washington, D.C. next month to compete in the national finals. She is an accomplished young lady and her winning entry demonstrated a depth of knowledge and dedication to the best of the American tradition.

Each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct the Voice of Democracy Contest. This year nearly 500,000 secondary school students participated in the contest competing for the five national scholarships which are awarded as top prizes. First prize is a $10,000 scholarship, second price is $5,000, third prize is $3,500, fourth prize is $2,500, and the fifth prize is $1,500. The contest theme this year is "What Our Bicentennial Heritage Means To Me."

Miss Carol Anne Lehman, our North Carolina winner, is a tenth grade student in the Rocky Mount Senior High School, Rocky Mount, N.C. She is the daughter of Dr. and Mrs. Gaylord L. Lehman.

An outstanding student, Miss Lehman is a straight A honor roll student in the 10th grade. She also was on the honor roll in the 8th and 9th grades. While in the 6th and 7th grades, Miss Lehman won the English award for creative writing. She also was the recipient of the music award in the 7th grade.

Her extracurricular activities include service as secretary of the student organization in her freshman year in high school. Her hobbies include playing the piano, singing and reading.

Upon completion of her high school studies, Miss Lehman plans to attend Duke University, Durham, N.C., and is interested in a career in the field of psychology.

Miss Lehman's winning script is thought provoking and meaningful, and I would like to call it to the attention of my colleagues. The text of it is as follows:

WHAT OUR BICENTENNIAL HERITAGE MEANS TO ME

(By Carol Lehman)

It is impossible to avoid the American Bicentennial. It has been thrown at us from television, radio, and newspapers. We are urged to participate by wearing Bicentennial shirts, drinking from Bicentennial mugs and sporting Bicentennial license plates. We are asked to drink Coke, buy flags and colonialize our houses with latext paint to prove how American and patriotic we are. Kids crowd around cash registers to exchange their coins for Bicentennial quarters. I think that the American Bicentennial Commission has made their point. In our highly commercialized society, producing and executing things on a grand scale is the perfect way to get everyone involved. But to me, the year 1976 is more than a monogrammed coffee mug or an inscription on a class ring. It is a symbol.

It is a symbol of security. It marks the end of two centuries in which Americans have alternately feared and prospered. Behind each bad experience was a solid rock, the democracy of our nation.

1976 is a symbol of justice. Where else in the world can one find a truer spirit of kindness and generosity toward all people? Where else can I, as a young person, follow a better example of brotherhood and equality? Lincoln said that we were to have "a government by the people, of the people and for the people." What an understatement that was! People are what America is all about. More and more, we, as Americans, are beginning to cease pitting people against people and concentrate on people with people, people helping people. How different our government is from other governments which observe a system of social priority, where not everyone can speak out. Here everyone has a voice. We, you and I, count, and we always have.

Sometimes it is very difficult for me to understand where I fit in and where things concern me today, but not in this case. The American Bicentennial speaks to each citizen and especially to the young people. It seems to be almost shouting, "What a record! 200 years! Now it is your turn!" And I realize that it is my turn.

Finally, 1976 symbolizes hope, a burning hope that has kindled and rekindled coals for years. In some way, it is up to the youth of today to keep the fires of hope burning brightly. We must prove that two centuries of hope have not been in vain.

1976 symbolizes 200 very special years of security, justice, and hope. My generation owes something to those men, who, with quill and parchment, laid a foundation of principles for all men and especially Americans. It is up to us to make a supreme effort to keep this United States of America alive and well for another 200 years.

WHAT OUR BICENTENNIAL HERITAGE MEANS TO MS. MIA M. STATHIS OF HIGHLAND, CALIF.

HON. SHIRLEY N. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mrs. PETTIS. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct a Voice of Democracy Contest. This year nearly 500,000 secondary school students participated in the contest competing for five national scholarships which are awarded as the top prizes. The voice of democracy scholarship program is a national broadcast scriptwriting program which provides an opportunity for 10th, 11th, and 12th grade students in our public, private, and parochial schools to think, write, and speak up for freedom and democracy.

"What Our Bicentennial Heritage Means to Me," theme for the VFW's 29th annual voice of democracy scholarship program, focused the attention of youth on the ideals on which our Nation was founded—ideals that have endured for 200 years—and called for a personal evaluation of their meaning today in maintaining democracy as a way of life in our Republic.

Mr. Chairman, I do think that this body should commend the Veterans of Foreign Wars and its Ladies Auxiliary for their outstanding contribution in bringing such a program into our high schools.

I would also like to take this opportunity, Mr. Chairman, to announce that Ms. Mia M. Stathis of Highland, Calif., a student in the 37th Congressional District, has been selected by the VFW as the California State finalist in this contest.

On behalf of the people of the 37th Congressional District, I would like to say how proud we are of Ms. Stathis. Her broadcast script is inserted today, so that my colleagues may have the opportunity to read one of the most inspirational Bicentennial pieces I have come across this year.

The broadcast script follows:

1975–76 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM CALIFORNIA WINNER

"Give me your tired, your poor, your huddled masses yearning to be free." How these words must have impressed my grandfather as he stood on the deck of a small vessel after 42 days at sea, finally reaching New York Harbor—America—his destination. I wonder what thoughts must have been in his mind that cold March morning? A nineteen year old boy who had dreamed and saved for ten years, a fatherless, motherless, homeless youth, but he was sustained and nurtured by a Dream. This is my heritage. Not two hundred years old, but starting that March morning when my grandfather began the odyssey of his New World. Sitting back and thinking about it, now I realize that his story is not unique. This pattern has been repeated over and over and over again throughout history. It must be true. Our history books, our very heritage has taught us this. True, my heritage as an American does not go back to the *Mayflower;* in fact, it hardly goes back to the *Titanic*. It started that morning in 1919 when this young lad met the Lady of the Harbor. He didn't understand her words then. He couldn't even read them. But they were written for him and young lads like him who came in search of their destiny. But isn't it interesting to think about—this is why we all came—the first few settlers to Jamestown Colony, the Pilgrims, the Puritans, the Quakers, all came in little ships seeking their destiny—creating our heritage. They looked for something more, an illusiveness, that intangible yet magnetic force that led them here—that dream of kings. In this year of the Bicentennial, we are given another chance to look into our scrapbooks and see what the beginnings were all about. America is the land of opportunity and my grandfather is the first to admit it. We have all been touched by this strength, that Dream of Kings:

Into this land the young men came.
Strong, unafraid and eager to look for that Dream of Kings
Young lads with strength in their hands and desire in their hearts.
A few dreamed of their return with wealth and fame.
But far more were content to stay and buy land and begin their lives here.
They all had their dream.
They knew of the hunger and poverty of the boy in the field who tended the sheep or gathered the harvest.
They wanted something more for their children.
They wanted something more.
So their dream returned and they looked to the stars—not as shepherds but as Kings.
And that dream manifested itself in their children and in their children's children.
And they sat back, content with their dreams fulfilled.
Kings that they were.

This, then, is what it is all about. This is what our Bicentennial Heritage Means to me. Thank you, Grandpa.

PRIVILEGED RESOLUTION

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. DERWINSKI. Mr. Speaker, I believe that the circumstances under which this privileged resolution is brought to the floor this afternoon and the confusing, contradictory debate which developed make it difficult for most observers to appreciate what really went on. Since a number of questions to which the resolution does not address itself, as well as the issue of Mr. Daniel Schorr to whom it does address itself, pose so many unanswered questions, I have decided to cast my vote against the resolution.

As I understand the proponents of the proposed resolution, they feel it necessary that the Committee on Standards of Official Conduct conduct an inquiry specifically into the publication of the preliminary report of the Select Committee on Intelligence of the House. The question now seems to be how Mr. Daniel Schorr, in his capacity as a correspondent for CBS, came into possession of a copy of the report and made it available to a New York City newspaper. The House Committee would be limited to investigating Members and employees.

If the allegations against Mr. Schorr are correct, necessary action provided for by House rules or under whatever law could be applied would be in order. But the alleged action by Mr. Schorr is merely another dramatic episode in an ongoing pattern of leaks by House and Senate committee staff members and individual Senators and House Members that has been growing over the years.

There have been instances of leaks of classified material by Members of the House and Senate, and appropriate committees of the House or Senate have not taken any action.

I believe that there should be a special House investigation into all alleged leaks of classified material by committee personnel, Members' office staffs, the Members themselves, as well as an investigation into the publishing of this report by a New York City newspaper. Mr. Schorr may well be in contempt of Congress and may well have breached the privileges of the House. But if he did, it is part of an unfortunate pattern that has been condoned or swept under the rug for too long. Is Mr. Schorr to be made an expedient martyr and others who may have perpetrated similar alleged acts ignored?

Since the privileged resolution does not address itself to the overall problem that has developed and since it was thrust upon us unexpectedly this afternoon for a decision, I will vote against it.

CONDEMNS RUSSIAN INTERVENTION IN ANGOLA

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. FINDLEY. Mr. Speaker, an important omission in the congressional dialog with Angola was corrected yesterday by the action of the House International Relations Committee. The committee unanimously adopted an amendment I proposed condemning Soviet intervention in Angola. My amendment to the international security assistance legislation labeled the Soviet role in Angola as "completely inconsistent with any reasonably defined policy of détente" and requires that such intervention be taken explicitly into account in U.S. foreign policy planning and negotiations with the Soviet Union.

The amendment puts Moscow on notice that détente must be a two-way street. Continuing Soviet aggressiveness in Angola might powerfully affect congressional consideration of impending agreements such as Salt II. These agreements must, in the final analysis, rest on the confidence we have in one another's word and ultimate intentions. If the Congress should be asked to consider concessions such as unverifiable range constraints on cruise missiles or Russian "assurances" regarding their intended role for the Backfire bombers, we will no doubt keep the events of Angola uppermost in mind.

Some have said that détente does not hang on Angola. It was similarly said that it did not hang on Russian intervention in Portugal, or the Middle East; now Angola, perhaps next Zambia. The trend is unsettling and argues in favor of increasingly stern U.S. responses, perhaps a searching evaluation of the purpose of our policies as well.

The text of the amendment follows:

AMENDMENT OFFERED BY MR. FINDLEY

> The Congress views the large-scale and continuing Soviet intervention in Angola, including the active sponsorship of Cuban forces in Angola, as being completely inconsistent with any reasonably defined policy of detente, as well as with Articles I and II of the United Nations Charter, the principle of non-interference in the affairs of other countries agreed to at Helsinki in 1975, and with the spirit of recent bilateral agreements between the United States and the Union of Soviet Socialist Republics. Such intervention should be taken explicitly into account in United States foreign policy planning and negotiations.

PRESIDENT FORD MISSES MARK WITH REFORM PROPOSALS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. RANGEL. Mr. Speaker, yesterday the President sent to the Congress legislation that he said would provide the necessary reforms of the intelligence operations of this Nation so as to prevent any infringement upon individual rights by these organizations. He said in his message that the methods these agencies use should—

> Conform to the standards set out in the Constitution to preserve and respect the privacy and civil liberties of American citizens.

After reading the proposed legislation and listening to his press conference at which the issue was raised, I don't believe that the rhetoric matches with the actual contents of the bill.

At the outset, let me state that I am not so naive as to believe that the United States does not require an intelligence system. It is essential to our functioning as a member of the world community. However that system should be properly controlled so that it doesn't engage in highly suspect activity, causing embarrassment to it and more importantly to the Nation.

The Ford proposal for reform of our intelligence activities raises some very serious constitutional questions. His proposal would impose criminal penalties upon Government employees for releasing information relating to intelligence sources and methods, irrespective of whether or not our national security was in fact harmed. Another provision calls for the prosecution of those people who disclose legally restricted material, regardless of whether or not they knew the material was restricted. I am certain that my colleagues will have great difficulties with these provisions, especially the latter.

Anthony Lewis wrote a column in the New York Times of Thursday, analyzing the Ford proposal. He reaches the conclusion that it does very little to allay the fears of those of us who rightfully insist on having all agencies abide by the letter of the law in carrying out their operations. Although I am tired of hearing all the talk about the CIA's activities abroad and would much prefer establishing a viable congresisonal oversight mechanism, I believe Lewis' comments are worth reading and I therefore insert his remarks in the RECORD at this point:

IN SHEEP'S CLOTHING

(By Anthony Lewis)

WASHINGTON, Feb. 18—What was advertised as a sweeping reform of the intelligence community turns out, on examination, to be a blueprint for more secrecy, greater executive power and less Congressional oversight. That is the gist, the amazing gist, of the orders and proposed legislation unveiled today by President Ford.

The Ford package is so massive, and so full of obscurities, that thorough analysis would require a lawyer's brief. Mr. Ford's own legal, political and intelligence aides had difficulty giving clear answers to questions at a briefing. But some of the more remarkable provisions can be quickly sketched.

On secrecy, a proposed statute would introduce into America law, for the first time, criminal punishment of past or present Government employees for disclosing "information relating to intelligence sources and methods." Everything in that vague category would be swept under the ban, regardless of whether disclosure did any actual harm to U.S. security, or was intended to.

The effect of such a law could be to legitimize some of the legally dubious actions of the Nixon Administration. Consider, for example, the case of the Pentagon Papers. Today, no one would seriously argue that their publication harmed the national security. But in 1971 John Mitchell and Robert Mardian argued vehemently that it would damage security—and disclose intelligence methods.

After the Nixon lawyers failed to prevent publication of the Pentagon Papers, they brought reporters and others before grand juries and demanded their sources; one professor went to jail for contempt. Then Daniel Ellsberg was prosecuted under flimsy legal theories that were never tested because the case failed on other grounds.

The Ford secrecy act would provide a solid statutory basis for a future Nixon or Mitchell or Mardian to do all those things. The Ford draft does exclude those who receive leaks from criminal punishment or injunctions; it is said to be aimed at the leakers. But if anyone published information arguably related to "intelligence sources and methods," the reporter or editor could be taken before a grand jury and asked for his source. Grand juries have power to ask anyone about possible crimes—and here would be a whole new category of crime.

Or consider Watergate. Mr. Nixon tried to keep the investigation away from a key money transaction in Mexico, arguing that this might compromise C.I.A. sources. A law like Mr. Ford's proposal might have given him greater leverage with the bureaucracy to declare that whole area out of bound.

Mr. Ford's secrecy bill is actually more restrictive than a draft submitted last April by William E. Colby, then Director of Central Intelligence. That is among the more astonishing facts of the day.

The Colby draft, for example, required that anyone prosecuted must have known that what he disclosed was legally restricted. This requirement of *scienter*, as the lawyers call it, is dropped from the Ford bill. The bill also raises more difficult obstacles than the Colby draft to private hearings by judges on the lawfulness of classifications.

On the executive power, the basic thrust of the Ford plan is to lay out in published rules who must approve what in the intelligence business. Getting those procedures out in the open is a step forward, as Mr. Ford's aides said because bureaucrats do tend to worry about what is on the books.

But Mr. Ford has neither imposed nor proposed any substantive limitations on the kinds of dirty tricks our intelligence agencies may play abroad—with the sole exception of prohibiting assassinations in peacetime. A future Nixon could order the C.I.A. to bring about a military coup in Chile, or pay vast sums to Italian rightists, or intervene in an African civil war.

In the past, it has been regarded as doubtful whether there was any legal authority for covert operations abroad. Under the Ford approach, that authority would be assumed—and would have almost no statutory restraints. According to the new C.I.A. chief, George Bush, the legal basis would be the President's "inherent powers"—an imperial doctrine that the Supreme Court condemned a generation ago.

As for Congress, it would have one oversight committee instead of six; and it would hear about covert operations only after the President approved them. In short, the hope of preventing executive abuses would be left largely to the executive. For example, there would be a new monitoring board of three private citizens. But the President's Foreign Intelligence Advisory Board has existed and has not prevented abuses.

The basic thrust of the Ford "reform" is made clear by one passage in the President's message to Congress. The right way to deal with "questionable activities," it suggests, is to report them to "appropriate authorities." That is what Gerald Ford and his men have learned from Vietnam and Watergate.

BAY SHORE LANDMARK

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. DOWNEY of New York. Mr. Speaker, it is my pleasure today to join with the Chamber of Commerce of Bay Shore, N.Y., in saluting my constituents, Al and Regina Freedman and their wonderful family. I am proud of these citizens, who exhibit the very best in our free enterprise system, and surely their example shows all of us the importance of small businesses to the American economy and our local communities. In recognizing the hard work and success of neighbors such as the Freedmans, we are reawakening our citizens to the virtues they exemplify.

The following article appeared in the Islip Town Bulletin of February 12, 1976. I gladly honor the Freedman family for its dedication to our Nation's highest ideals.

[From the Islip (N.Y.) Town Bulletin, Feb. 12, 1976]

FREEDMANS BUILT A STORE INTO A BAY SHORE LANDMARK

Morris Freedman had a hardware business in Philadelphia in 1906 and that was the start of one of the oldest businesses in Bay Shore. A couple of years later he opened a bicycle shop in Atlantic City, but a persuading brother owned Freedman's Department Store on the corner of Maple and Main, and in 1912, Morris came to Bay Shore and opened Morris Freedman Hardware. His store was across the street from the Carlton Opera House in a store that now houses an appliance repair shop. Mrs. Freedman had a bicycle store in Islip up to World War I and this is still one of the few hardware stores which has a bicycle shop in the back.

With a need for expansion, Morris bought the building at 7 West Main Street in 1914 where they are still doing business although the words "and Appliances" has been added to Morris Freedman Hardware.

Sons Al and Leon and daughter Henrietta were about the store during their childhood and continued until they were grown. When World War II came, Al and Leon went into the service; Al in the Army Artillery and Leon as a bomber tail gunner. Leon was killed over the North Sea, one of our local heros listed on the Legion Honor Roll at the Memorial Building.

Morris, Henrietta and Al's wife, Regina, kept the store going during the war years and our personal memories of Morris are still vivid. When it was a particularly nice day, he would put a camp chair on the sidewalk and enjoy it comfortably. If a customer was known to him you could help yourself and pay him in the sunshine. Morris died in 1947 and Bay Shore oldsters still miss him.

After the war, Al returned to Bay Shore and the store, and has been giving prompt personal attention to his many satisfied customers. Regina is still helping when needed after raising three children; Leon, who is a pediatrician; Mark, a psychologist; and Marjorie, a social worker; their children also a success story to make the Freedmans proud.

The Chamber of Commerce salutes them for their past and present as good merchants and residents.

TRAGEDY CAUSES FATHER TO APPEAL TO NATION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. SIMON. Mr. Speaker, I am attaching a letter which Mr. Norbert J. Moorleghen, Regional Superintendent of Schools in Clinton and Washington Counties in Illinois, has sent to me.

It is the anguished letter of a father. It speaks both of personal tragedy and public policy.

His 13-year-old son and 15-year-old son were killed when a train hit a camper truck in which they were riding.

Mr. Moorleghen has been an outspoken and effective leader for the cause of education in Illinois. We are fortunate to have his services. My hope is that this body and the executive branch of Government will act to provide greater protection for railroad crossings before too many more people go through the pain and suffering that the Moorleghen family is now experiencing.

The letter follows:

N. J. MOORLEGHEN,
Carlyle, Ill., February 8, 1976.

The United States House of Representatives:

An open letter to the President of the United States, the Congress, the Governor of Illinois, the General Assembly, our County,

Township, and City Governments, our Courts, and the Boards of Directors of our railroads:

While I await the arrival of the funeral director, to finalize funeral arrangements for my sons, Robert, 13, and Allen, 15, this eighth day of February, 1976, I sorrowfully contemplate the following: We have spent billions of dollars to support and fight a useless war with a tremendous loss of life. We have spent billions to bail out banks and big business. We have spent billions to subsidize our railroads, but we cannot provide the dollars to erect gates and warning lights at railroad crossings because it would cost too much money. We have spent billions to provide arms to sustain governments which exist through force and oppression rather than popular support of the governed. We have spent billions to build highways to replace existing good highways which are adequate while neglecting those that are most hazardous, contributing to additional loss of life. We squander millions on ridiculous, and sometimes immoral, research such as that proposed on "pot" and sexual responses at Southern Illinois University. But, we cannot spend dollars for safety devices to preserve life itself.

In attempts to console the anguished, we will be told over and over that what will be will be. When has there been action taken to control the speed of trains through our communities? Seventeen years ago, I clocked a train on this very same track that took the lives of my boys, nine additional children, and a most loving and concerned grandfather, traveling through Clinton County communities in excess of seventy-five miles an hour.

I petition everyone to act now to demand action *now* to spare other parents and relatives the agony, the anguish, and the unbearable sorrow that has beset the parents, brothers, and sisters of the eleven children and the family of the grandfather (who so loved children) who were killed last night, February the seventh, 1976, by the train at Beckemeyer, because it costs too much for adequate safeguards at rail crossings. May God protect and preserve you from such an experience as I and others have suffered.

You have found money for almost everything. Won't you find just a little money to help guarantee to the people of this nation our constitutional provisions for the pursuit of life, liberty, and happiness for our citizens?

Sorrowfully,

Norbert J. Moorleghen.

P.S. I understand that an official of the B&O has said, "With conditions as they are, signals at crossings are too expensive." I wonder if this would be so if his family would have suffered a like tragedy?

Transcribed February 12, 1976, from a letter drafted early Sunday, February 8th. Postscript added Monday, February 9th, following a public statement by an official representative of the Baltimore and Ohio Railroad.

COMMENCEMENT ADDRESS BY G. WILLIAM WHITEHURST

HON. DAVID E. SATTERFIELD III

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. SATTERFIELD. Mr. Speaker, recently a distinguished colleague, G. William Whitehurst, made an outstanding commencement address to the Armed Forces Staff College in Norfolk, Va. His comments received wide distribution in the Commonwealth of Virginia, and because of the significance of what he said, I would like to bring Mr. Whitehurst's remarks to the attention of my colleagues in the House.

I am pleased to associate myself with his views.

The commencement address follows:

Few nation confrontations in history contain the elements of drama found in the Mediterranean basin between Rome and Carthage in the Third and Second Centuries before Christ. Hannibal's destruction of the Roman army at Cannae is still regarded as *the* classic envelopment of an enemy army, and similar battles in the Twentieth Century have been compared to it.

But all of the other components of struggle between rival states were present as well. There is a dangerous tendency for each generation to believe that the forces at work in its own time are peculiar to it. A study of the Punic Wars reveals clearly that the adversaries employed or experienced all of the techniques and strategy with which we are familiar.

Indeed, Pierre Louÿs once said that since the days of classical antiquity, only one new pleasure has been given to man: the cigarette. "In political and military matters he has been given new problems, arising out of applications of the use of energy, and nonapplication of measures to control the increase of populations." Such are the words of Sir Gavin deBeer, the biographer of Hannibal. Otherwise, he notes, "the stock-in-trade of governments has remained remarkably constant. There is nothing new in spheres of influence, trade restrictions, cold war, so-called liberation of peoples, psychological warfare, or terror tactics. All were employed in the days of Hannibal, and have been ever since."

Nothing more graphically demonstrates this than the events immediatley preceding the Third Punic War in 149 B.C. Rome, by that time, had determined upon the destruction of her rival, but the Carthaginians clung to the notion that they could buy peace at the end, and the Romans encouraged this belief.

Faced with invasion by a Roman army, Carthage sent a delegation, which was assured that they would be left alone if they delivered 300 hostages. But no sooner had these terms been complied with when the threat of attack by a Roman army was made again. To the Roman consuls in command of it, the Carthaginians sent another peace commision. It was received in the open air, with the entire Roman army displayed in a tremendous show of military power. Censorinus—the better orator of the consuls—spoke for the Romans. What he had to say was simple and to the point. If the Carthaginians sincerely desired peace, what need had they of arms? "Come now, hand over to us all your arms, public and private, both weapons and war-machines."

The Carthaginians agreed, and under the supervision of Roman commissioners turned over an immense quantity of armaments. Listen to the inventory—complete armor for 200,000 men, spears and javelines too numerous to count, and 2,000 catapults.

And once effectively disarmed, the Romans then revealed their final terms. Carthage was to be razed to the ground.

The outcome of the story is known, but the brief final chapter bears recounting. When the fearful message was carried back to Carthage, there was outrage and fury without parallel in the city's history. Pro-Roman Senators were literally torn to pieces by the citizens, and, in a last act of defiance, those Senators left intact declared war on Rome.

Emerging from their despair, the people made a feverish attempt to make good the arms they had surrendered. They reached a daily production of 100 shields, 300 swords, 500 spears and javelins, 1,000 missiles for catapults, and as many catapults as they could make, for which the women cut off their hair to make the strings.

But it was all for naught. Carthage fell after a two year siege, its people either killed or sold into slavery, and Rome emerged with her deadliest rival eliminated.

In this year, when we celebrate and take stock of two centuries of American independence, there is an inclination—and a wise one, I think—to reflect upon the future as well as upon the past. We are far from old as the history of nations is measured. If the thesis of Frederick Jackson Turner is accurate, then over half of our national life was spent, and our energies consumed, in overcoming successive frontier challenges.

Without any wish to demean the efforts of those earlier generations of Americans in achieving their goals, I must nevertheless state that wearing the cloak of Manifest Destiny in subduing a continent proved a simpler role than the one the present generation of Americans has tried to define for itself.

No great nation has ever endured without a goal or sense of mission. And those men who awaken and articulate the consciousness of a people with regard to their national calling are soon followed. Some have pursued false paths and nations have been led to self-destruction. And sometimes goals have been indistinct and the nation's pursuit of them frustrated. History is a fluid thing and it is a rare state that does not occasionally find itself at a crossroads, not knowing which way the forces of history are moving or how to accommodate itself to them.

Consider the American record in the Twentieth Century. Two great wars were fought as crusades. They brought to full flower the American nation as a global power with a conscious and willing acceptance of the role of guardian of Western freedoms. It was a noble pursuit and although a third war occurred, following on the heels of the second, and with a different enemy, it only confirmed the vision Americans had of themselves.

As recently as 15 years ago, a young American President-elect, reflected the boundless self-confidence of his people with a rhetoric that still has a tug of nostalgia. Do you recall those words? "Let every nation know whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, in order to assure the survival and the success of liberty."

Has it really been 15 years since those words were cheered so loudly on the steps of the Capitol of the United States? Who would dare utter them today?

No review of the tortuous and painful Sixties need be recited here. Neither do we need to poison ourselves into paralysis by continuing to drink from the cup of bitterness. Our allies, older and more experienced, and unfettered by self-doubt regarding their motives for national policy, are understandably out of patience with us often. At the worst they think we have a streak of masochism, and at the least, that we are immature. Recent events related to the CIA give credence to both of these views.

It is significant that the withdrawal and ultimate loss of South Vietnam has not produced a strong identifiable counter current toward abandonment of all international responsibility. Most Americans are too knowledgeable about the world to take that option. But the enormous sacrifice in blood and treasure in Southeast Asia in an effort that ultimately proved futile has had perhaps a more insidious and deleterious effect.

Compounded by unhealthy economic conditions, by demands upon our resources to satisfy the requirements for a host of new

government services, the nation is acting with uncertainty.

It need not be so.

Uncertainty need not fill the gap between the role of the dauntless crusader on the one hand and an isolated fortress on the other.

Indeed, the very changes that have occurred in the world, changes which we have sometimes resisted, or failed to act in concert with, are not necessarily hostile to the interests of the United States. For too long we delayed in reaching an understanding with China, until logic overcame blindness, but we have yet to fully comprehend and adapt a policy to the national forces that motivate much of the non-Western world.

Perhaps it is asking too much to expect bold new initiatives at a time when there is a deep suspicion toward those who normally make foreign policy and further division as to what that policy should be. It is possible that the political events this year will result in a fresh start being made with a firm mandate from the people.

But we can ill afford an indefinite delay. For over a quarter of a century, in spite of the ebb and flow of other world forces and political mutations which have occurred, it has still been the armed strength of the United States that has been the most effective shield of freedom.

In a very real sense, it has been America's strength that has made possible the uninterrupted developments elsewhere in the world. The Soviet variable in the world equation has been limited by that strength.

But the role we so willingly assumed in 1946 is now discomfiting. While we are not willing to abandon it overtly, we are allowing the mantle to slip slowly from our shoulders, and it's beginning to show—to everyone else first—and at the end we may at last realize it, but it will be too late to recover.

What was once vital and whose protection was regarded as sacrosanct, is not necessarily so clear now. Each year, the debate grows in the Congress as to the wisdom of preserving the force levels in Korea or Europe. Last year offered a respite, but I am certain only because of the fall of South Vietnam and the brief crisis of the *Mayaguez*. We are certain to face the question again this year.

A decision as to whether a modest appropriation should be made to improve the logistical facilities on Diego Garcia in the Indian Ocean was put off and perhaps killed last year because it was feared that such a move would set in motion a confrontation between the United States and the Soviet Union in that part of the world. In spite of the eyewitness evidence brought back by a Congressional delegation, of which I happened to be a member, of a Soviet base in Berbera, Somalia, the Senate refused to budge.

Other examples can be cited, but the important thing to note is that a pattern of indecisiveness or reluctance to act will, in the long run, be destabilizing and counterproductive.

More ominous, because it strikes at the very source of our strength, is the erosion of our military power. I know that this is an oft-repeated theme and the Defense Department is accused of crying "Wolf!" whenever the defense budget is brought before Congress. But as one who sits daily on the Armed Services Committee, I can assure you that the cry is not false.

The critics of defense spending cite the overkill capability of the superpowers. Their thesis is that since we both have sufficient nuclear power in our arsenals to destroy each other many times over, we need not continue to spend at the levels of the past or recommended for the future. Just a few weeks ago, I heard several witnesses from various study groups around the country which reflect this point of view.

You know very well that there are many more scenarios than a nuclear one in the event of armed conflict with the USSR. Indeed, because of what is at stake, both belligerents would seek to avoid the use of nuclear weapons, or at least the strategic variety. Even so, we have a substantial number of critics who would deliberately withhold further development of the Maneuvering Re-entry Vehicle (MARV) for the reason that it will only encourage the Soviet Union to develop it and thereby add a new dimension to the arms race.

I must confess that I have never heard of an instance where our adversaries were inhibited from developing a new weapon because they feared what the consequences might be from the other side. The area where we enjoyed technological superiority has steadily shrunk, yet if this point of view prevails we will deny ourselves what little edge is still left to us.

It is in the equally vital category of conventional weapons that the need is now critical. We have pared and pared in the support areas until our operational capability is in jeopardy.

Some weeks ago, I heard—not from my colleague from Wisconsin—but in my Committee, that one-third of all Navy aircraft are either not flying or are in the air without full operational capability. Recently, in Miramar, California, 8 of 12 F–14's had been partially cannibalized so that the remaining 4 could be flown. Imagine this, an inability to provide adequate spare parts for the newest combat plane in the Navy's inventory!

Again, last month, I requested an investigation into the operational condition of the SARATOGA following a very adverse report which I had received. The charges were unfortunately true, and while there was some personnel responsibility, the basic difficulties stemmed from a shortage of funds to complete the necessary overhaul plus the fact that the ship is 19 years old and was driven unusually hard in the Vietnam War, which shortened its lifespan.

We may think, or the public may think, in terms of nuclear strategy, but the hard fact is that we still have a nuts and bolts armed force to defend us and our interests abroad. Provision must be made to replace equipment as it wears out, from 20 years for helicopters to 40 years for some of our support ships. The average life span of all of our fighting equipment lies somewhere between 20 and 30 years.

Nor can we sacrifice expenditures in research and development. To develop and produce a new piece of fighting equipment normally takes 10 to 15 years.

To meet our replacement and new weapons needs will mean a modest growth rate of 2% a year, according to Leonard Sullivan, Assistant Secretary of Defense, who recently appeared before the Armed Services Committee. His presentation, which I regard as the best analytical briefing that I have heard in my 7 years in the House, drove home the point that we are slipping further and further behind our Russian adversary.

"The momentum of their real military growth has proceeded unabated at roughly 3% a year," he notes, "despite 'peaceful coexistence,' and despite 'detente'." Ours, on the other hand, as a result of inflation and Congressional cuts, has been declining by more than 1% a year. Ominously, he concluded by warning that we have less than a decade left to come to grips with federal fiscal policy and less than a decade left to come to grips with the requirements of a strong and stable defense posture.

I commenced this address with a reference to the Punic Wars. You may have concluded that I meant to substitute America for Carthage and Russia for Rome. Not at all. We should make our own historical record with an eye to the past.

But before sitting down, I think it worth while to refer to one last incident in that life and death struggle between those two ancient powers.

Following his defeat at the Battle of Zama, which ended the Second Punic War, Hannibal returned to his seat in the Carthaginian Senate. Rome's peace terms called for handing over prisoners and burning Carthage's navy.

No objection was heard until the Senators were presented with the first installment of a large indemnity levied by Rome. This produced cries and sobs, at which Hannibal scandalized them all by bursting into laughter. Rebuked for laughing when everyone else was weeping, Hannibal replied that they had felt misfortune only when it impinged on private interests. When Carthage was being disarmed, nobody raised a groan. Now that contributions had to be wrung from private purses, they were behaving like mourners.

The time for weeping, Hannibal said, had been when their arms and ships were being taken from them.

SELF-DESTRUCTION OF THE UNITED STATES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. McDONALD of Georgia. Mr. Speaker, many observers of the current scene have noted our recent trend toward self-destruction and many have commented upon our lemming like rush to the edge of the cliff. On December 28, 1975, the most prominent Spanish language newspaper in America, Diario Las Americas, treated this same topic in an excellent editorial which pointed out the terrible dangers confronting us unless the trend is reversed.

The editorial follows:

[From the (Miami, Fla., America, Diario) Las Americas, Dec. 28, 1975]

Self-Destruction of the United States

That the alien enemies of the United States may try to destroy this country, is explicable. That the Soviet Union, Red China, the countries under communist rule and the communist parties from all the nations of the world may try to destroy morally and materially the Government and people of the United States, is something that logically has to be part of the goals and programs of those who see in this great North American nation an obstacle to enslave the world with Marxism-Leninism. What has no explanation at all, because it is suicidal, because it is unfair, because it is illogical and because it is treason, is that within the national U.S. territory citizens of this country holding important positions, whether in the government or in the information media, may devote to cruelly discredit the institutional and moral values of the country, including the revealing of its secrets of State to be used by its enemies.

One thing is liberty and another, very different, is libertinism. There are limits set by dignity, patriotism and even the minimum instinct of self-preservation. And, painful is to admit it, not few are those who, enjoying the citizenship of this Republic, go beyond those limits in the United States of America with the pretext of "objectivity" and of freedom of information. It is very hard to conceive liberty in terms that are suicidal for the fatherland and, in final analysis, in terms of slavery for its people.

There are responsibilities of a moral and patriotic sense that cannot be easily by-passed without incurring in immorality and in the severe condemnation of history. There is still time to put a stop in the United States of America to that happy-go-lucky "liberalism" of liberaloids who every day are supplying the enemy information, guesses, secrets, truths and lies that are destroying the national image before the conscience and opinion of the rest of the world. This must be stopped with prudence and patriotism not only for the sake of the United States of America, but also for the benefit of the western civilization, that has in this great North American nation its maxmum bulwark of defense.

It can not be that only in the United States of America it may be possible to do and say certain things that bring harm to the country without all this being the object of a firm repulse by the citizenry. In the rest of the world, except in cases categorically defined as treason, such attitudes do not happen within the national territory and out in the international camp to discredit one's own country, especially when there are enemies who want to destroy it completely.

In the last fifteen years the American people have been so confused by their leaders and by some of their information media, that not lacking are those who, in good faith, believe that all this that is being done is, in the end, beneficial to the country, because they appear before the world as sincere denouncers of its faults. That is what those from the outside in bad faith make those inside believe, so that they may continue on that path, which is the path of moral self-destruction, that could lead to the chaotic extremes of the material, political and military destruction of the United States of America which communist imperialism needs.

A EUROPEAN VIEW OF 1975

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. ASHBROOK. Mr. Speaker, it is instructive to take a backward look at what happened in 1975. A sober review appeared in the British newspaper the Daily Telegraph on Wednesday, December 31, 1975.

The year 1975 saw a further retreat of the West before the forces of Communist totalitarianism. The weakness of the West is not only seen in American foreign policy but also in the policies of the West European countries.

While the Soviets continue their drive for total world domination in Africa and throughout the world, the United States is in the process of dismantling its intelligence agencies. The KGB continues its activities while CIA agents have their names published and their lives put into danger from such disclosures.

The enemy is standing at the gates and too many who are inside those gates are trying to remove the hinges.

At this point I include in the RECORD an article entitled "Survival Calls for Self-Defense" by Robert Moss from the Daily Telegraph.

[From the Daily Telegraph (Britain), Wednesday, Dec. 31, 1975]

SURVIVAL CALLS FOR SELF-DEFENCE

(By Robert Moss)

The year now passing sounded another chord in the West's slow recessional, a further abdication of world power by the United States, and a deeper doubt about whether the affluent but self-centered democracies of Western Europe were willing to bestir themselves to do anything to check the rising tide of Soviet influence beyond their shores.

It was the year that began with the fall of South Vietnam, a country that was so quickly swallowed up into the totalitarian night that the battles that were once fought for it already seem to belong to a different age. The newspapers were full of atrocity stories about other far-flung provinces, ruled by Right-wing dictators, like Chile. But little was heard about the cost of revolution in Vietnam—largely because the new masters of Saigon kept the Press out, but partly, too, because Communist regimes excite less wrath in the United Nations and among the civil rights establishment than pro-Western ones.

But despite the conspiracy of silence, Vietnam cast a long shadow over world politics in 1975. The fear of getting bogged down in another Vietnam—combined with a deep-seated distrust of the Presidency and of intelligence agencies that stemmed from Water-gate and the CIA hearings—explains why the Senate voted in December to cut off American support for the anti-Soviet forces in Angola, where the stakes, in economic and strategic terms, are arguably higher than they ever were in Vietnam.

The Senate voted that way despite the evidence of massive involvement by the Soviet bloc, and its Cuban hirelings, in the contest for an immensely rich country that could supply Russia with vital naval and air bases on the Atlantic coast. But before we complain about how post-Vietnam America has become the "lost leader" of the Western world, we should pause to ask: why did no other Western Power try to fill the vacuum in Angola? Why was it left to the South Africans to step into the breach—for doing which, of course, they were promptly execrated as "racist aggressors" by every racist, tyrannical regime in the Soviet bloc and the Third World?

The sad answer is that the Social Democrat Governments of the Western Europe—even when conscious of the issues at stake—were oblivious to the connection between force, or the threat of force, and foreign policy. They were increasingly unready to defend their own frontier, let alone support the allies of freedom in Africa. Even the need to fight a bloody internal war in Northern Ireland did not deter Mr. Wilson from hacking away at Britain's armed forces on the pretext of curbing public expenditure.

But the roots of this paralysis lay deeper still. There was a greater reluctance than ever, among Europe's Social Democrats, to accept that Soviet-style Communism" is irreconcilable with democratic institutions, or that the Soviet Union itself is still embarked on a plan for world domination. This "no-enemies-on-the-Left" psychology was symbolised by two extraordinary events in 1975: the red-carpet reception offered by Britain's TUC to the former KGB boss who was then running the Soviet trade union federation—which, fortunately, provoked the uproar it merited—and the signing of the Helsinki agreements in August.

The Western Heads of Government who assembled at Helsinki signed a piece of paper confirming the enslavement of Europeans living east of the Iron Curtain in return for a few unenforceable pledges about freer movement of people and ideas that the Russians clearly had no intention of keeping. The West explicitly accepted the frontiers that were drawn up as a result of the Soviet land-grabs of 1940 and 1945, and added to the despair of those who have to live behind them. It may well be true that there is nothing we can do to change the state of things in Eastern Europe. But that was no reason for openly endorsing it.

A NEW OFFENSIVE

Even for those who were blinkered, the issuing of what later became known as the "Zarodov doctrine" within a week of the Helsinki agreement should have made things plain. It was first stated in an article published in *Pravda* by Konstantin Zarodov, a prominent Soviet ideologue, on Aug. 6. He argued that Communist parties abroad should go all-out for proletarian revolution and should not enter into dangerous compromises for the sake of Social Democrat allies. His article, which was personally endorsed by Mr. Brezhnev, was part of a stream of public statements which suggested that the Russians had become convinced that the "crisis of capitalism"—and the widespread confusion in the West about the nature of Communist power—provided a favourable climate for a new offensive by Moscow-line Communist parties, especially through the instrument of the political strike.

That this kind of Communist offensive failed, at least temporarily in Portugal, was one of the few bits of good news in 1975. Even by the end of the year—after the failure of a putsch inspired by the extreme Left in November—Portugal's Communists were still exploiting the gullibility of the Socialists to cling to a foothold in the Cabinet, so that nothing had been securely resolved.

But the way that the Communists had been beaten back in Portugal held important lessons for some of its West European neighbours. It was the mobilisation of the silent majority, above all in the traditionally conservative north, that spurred hesitant moderates in the Portuguese Army to act before it was too late.

The other good news of 1975 (apart from the things that did *not* happen, like a new Middle East war, or a decision by OPEC to double oil prices) was the radical swing against the Left-wing consensus in Australia and New Zealand, and the grass-roots stirrings that could be detected in the rest of the Anglo-Saxon world. The important thing about the victory of Mr. Malcolm Fraser, Australia's Liberal Party leader, in December, was not that it came about as the result of an idiosyncratic constitution, but that it brought to power a group of *thinking* conservatives who understood something about the monetary causes of inflation and the need to roll back from frontiers of State intervention in the economy.

Others stood up in the course of 1975 to state the obvious things that have too recently gone unsaid. Mr. Daniel Patrick Moynihan, America's splendid envoy to the U.N., stood up to point out that the delegates of racist dictators in the General Assembly have no right to condemn Zionism as a "racialist doctrine" or to pass judgment on the way other countries conduct their affairs. Western values may have a diminishing appeal in the Third World (witness Mrs. Gandhi's dismantling of Indian's democracy) but that is no reason why the West's own spokesmen should cease to defend them.

Mr. George Meany, the doughty old warrior of the AFL–CIO, stood up to point out that East-West trade union contracts subvert the meaning and purpose of free trade unions. Alexander Solzhenitsyn issued more sombre warnings that we had all better wake up to the fact that we have been fighting the Third World War since 1945, and losing ground from year to year.

The failure of the Russian grain harvest brought it home that the Soviet threat is founded on nothing more than brute military strength and the naked will to power. In every other sense, it again showed itself to be vastly inferior to its Western rivals. The question that remained open at the end of 1975 was whether the NATO countries, absorbed in their domestic problems, would rediscover the fact that survival depends on self-defense, and that the survival even of far-flung provinces like Angola is bound up with our own.

DEMANDS FINES AND PRISON SENTENCES FOR AMERICAN BUSINESSMEN WHO BRIBE FOREIGN OFFICIALS

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. MOTTL. Mr. Speaker, the entire world is seething with indignation over recent revelations that a small minority of American businessmen have been dishing out lavish bribes to corrupt officials throughout the world.

I think the people of other nations are entitled to an emphatic declaration that such crooked tactics are not representatives of the moral concepts of the average American.

As a matter of fact, such payoffs are abhorrent and repugnant to most Americans—including the overwhelming majority of honest businessmen.

To make this clear to the entire world, I am introducing a bill that would impose severe penalties on corporations and their executives which persist in polluting international commerce with improper payoffs.

It is more important for the people of all nations to have a healthy and merited respect for the moral integrity of America than for any corporation to obtain a contract by bribery and corruption.

It is especially shocking that several companies which have admitted bribing foreign officials are manufacturers of military weapons.

It is particularly perturbing that one major corporation which was only recently "bailed out" by the Federal Government managed to find millions of dollars to pass under the table in crooked deals throughout the world, despite its financial embarrassment.

Such tactics are intolerable and indefensible.

They are giving America a black eye in the court of public opinion throughout the world.

The bribe-givers are as criminal and culpable as the bribe-takers.

Their corrupt practices have dealt our country's international prestige a cruel blow. If we are to recover from the damage, we must quickly repudiate the bribe-givers and tell the world that they do not represent "normal American business methods."

My bill would punish the perpetrators of international bribes with both substantial fines and prison sentences.

The proposed bill reads:

H.R. 11987

A bill to amend title 18 of the United States Code to prohibit corporate bribes of foreign officials.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 11 of title 18 of the United States Code is amended by adding at the end the following new subsection:

"§225. Bribery by Corporations of Foreign Officials.

"(a) Whoever, being a domestic corporation, or its subsidiary, directly or indirectly corruptly gives, offers, or promises anything of value to any foreign official, or offers or promises such foreign official to give anything of value to any other person or entity, with the intent to influence an official act of that foreign official, shall be fined not less than $500,000 nor more than $25,000,000.

"(b) Whoever, being an officer, employee, or agent, of a domestic corporation, directly or indirectly corruptly gives, offers, or promises anything of value to any foreign official, or offers or promises such official to give anything of value to any other person or entity with the intent to influence an official act of that foreign official affecting such domestic corporation shall be imprisoned not less than 1 nor more than 10 years, or fined not less than $10,000 nor more than $25,000, or both.

"(c) For the purpose of this section—

"(1) the term 'domestic corporation' means a corporation incorporated under the laws of the United States, or any State, district, or other territory of the United States;

"(2) the term 'foreign official' means an officer or employee or person acting for or on behalf of a foreign state or nation or any governmental department, agency, or entity thereof in any official fuction;

"(3) the term 'official act' means any decision or action on any question, matter, cause, suit, proceeding, or controversy which may at any time be pending, or at any time be brought before a public official, in his official capacity, or in his place of trust or profit."

SEC. 2. The table of sections for chapter 11 of title 18 of the United States Code is amended by inserting at the end the following new item:

"225. Bribery by corporations of foreign officials."

THE SST AND THE CONCORDE

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. HUNGATE. Mr. Speaker, as the SST and the Concorde is much in the news, perhaps the following article by Mike Royko will provide helpful guidance:

DON'T KNOCK A SUPER PLANE

(By Mike Royko)

Everybody is jumping all over William Coleman, the secretary of transportation, because he wants to let the supersonic Concorde into this country.

The critics say Coleman has sold out millions of ordinary Americans, whose ears will be exposed to the terrible noise of the new jetliner.

And they say he and the Ford administration did it only to satisfy the British and French governments, which foolishly spent billions developing a plane that nobody needs and is environmentally dangerous.

But I disagree. Once we cut through the emotional rhetoric and look at Coleman's decision calmly, we find that it makes sense and represents progress.

Consider the question of sound. There is no doubt that the Concorde is noisy. They say it is four to eight times as loud as conventional jetliners.

But how many people will actually hear it? The way the critics talk, you would think the entire country would be disturbed.

In truth, only half a million people in New York, and even fewer near Washington, will be exposed to the noise every time the jets rev up.

Is that too great a price to pay to provide greater speed for the 120 passengers who can ride the Concorde?

We have our priorities confused if we are willing to sacrifice the convenience of 120 people to satisfy the comfort of 500,000 others.

It may be true that the Concorde's noise can make people nervous, upset, and cause them actual suffering.

But for all we know, many of them are nervous and upset anyway. So what's a little more suffering?

And remember this: Most of the people who will hear the noise of the Concorde are New Yorkers.

So if they don't want to be nervous and upset, why are they living in New York?

The critics fail to mention how the Concorde can make the lives of many people more meaningful and rewarding by permitting them a more fulfilling use of their leisure time.

Let's say a person has a two-week vacation and wants to go to England.

By the time he gets on a conventional jet in New York and gets off in London, he has used up about seven hours of his vacation.

Then he has to use another seven hours on his return trip.

Little wonder that so many people return from trips not fulfilled or even adequately tanned.

But by riding the Concorde, he will get there in only 3 hours and 45 minutes.

So he will have about three hours of extra vacation. By the time other, slower travelers arrive, he will already have seen the Tower of London and eaten some fish and chips.

And we should also remember the needs of the busy person who gets only a one-day vacation.

By the time he gets out to the airport and flies to London, he barely has time for a glass of ale in the terminal before he must board a plane for his return flight to New York.

He returns to his job without having unwound.

But with the Concorde, he can fly to London in half the time, which permits him to take a fast cab through Picadilly Circus, have his ale in a pub, buy a genuine English raincoat, and fly back to New York with his emotional battery recharged.

I'm sure that many people in other parts of the country believe that they won't be able to take advantage of the Concorde's speed because it will be limited to New York and Washington. But that's not true.

Let's take Chicagoans. Using conventional jets, we can fly nonstop to London in about eight hours.

But because of the Concorde, we will have a faster alternative.

All we have to do is fly from Chicago to New York on a regular plane, allowing an hour to transfer luggage and change planes.

Then the Concorde will take us on to London. And we will get there in about seven hours, over-all.

Thus, we will have saved one full hour in our busy schedules.

Of course it will cost a little more. Flying the old-fashioned way will cost about $250, more or less, depending on the season and the kind of round-trip ticket you buy.

The new, faster way will cost $725.

But time is money, so I'm sure most Chicagoans would be willing to spend about $500 to save an hour. (And, remember, $1,000 will save you two hours, round trip.)

You get free caviar and champagne, too. So if you eat and drink enough of it, you might break even.

Listening to the critics go at Coleman, I remember the story of the humble beer can.

Years ago, if a man wanted the simple pleasure of sitting in his backyard and drinking some beer, it wasn't easy.

He had to get his bucket and walk down the street to a tavern, probably a block or two away. The bartender had to fill the bucket, and the man had to carry the bucket back to his backyard.

Then somebody invented the beer can and the traditionalists scoffed and said, "What good is it?"

But today if a man wants to sit in his backyard and drink beer, all he has to do is get the keys to his car, go out to the driveway and start the engine up, drive to the nearest shopping center, go into the liquor mart, get a six-pack out of the cooler, stand in the checkout line, get back in his car, start the engine up, return to his driveway, and sit down in the backyard.

Then, with a leisurely twist of his wrist, the top pops right off.

It's in this tradition of progress that Coleman made his decision. I'll bet he has a top that pops off, too.

SAGINAW STUDENTS CALL FOR GREATER OVERSIGHT OF PRESIDENT

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. TRAXLER. Mr. Speaker, the students involved in the Saginaw Constitutional Convention have taken much time to review the powers of the President within their proceedings. They have also been very involved in the consideration of the method of electing our President and the determination of candidates for the Presidency.

Today, article II of the Saginaw Student Constitution presents us with their proposal for a modified Executive. Most notably, the students have mandated a national primary to be held in August of each year, and all nominating petitions must be reviewed by the Congress.

In a new fashion, the students propose direct nomination of the Vice Presidential candidate. The scene at our party conventions in which the Presidential candidate has ample influence in the selection of the Vice Presidential candidate will be eliminated.

Interestingly, the students have mandated that registered voters must participate in the elections, and they provide that a voter remains registered unless he does not vote. Even more significant is that the students provide for a direct election by majority vote.

Presidential duties and congressional oversight are clearly extended. It is included in the Constitution that a President must have a two-thirds agreement from Congress for any executive agreement. I am certain that my colleagues will find noteworthy the provisions which mandate that the President provide us with at least semi-annual State of the Union addresses. These students want the President and Congress to work together, and I am confident that we share their sentiments.

Mr. Speaker, this has been an admirable exercise in democratic action that these Saginaw students have taken. I am certain that all of my colleagues will be very interested in these provisions of the Saginaw Student Constitution.

The provisions follow:

ARTICLE II

SECTION 1

1. The executive power shall be vested in a President of the United States of America. He shall hold office during the term of four years and can be elected to this office twice. The Vice President will be chosen for the same term.

2. The election of the President and Vice President shall involve a national primary with a national election involving all the states, registered voters and independent parties.

The primary shall proceed in a fashion where those interested have a petition with one per cent of the registered voters signatures to qualify for the race. This must be submitted to Congress by April 13th unless it falls on a national holiday in which case it will be moved ahead one day of the election year.

The national primary will be held on August Seventh unless it falls on a national holiday or Sunday in which case it will be moved ahead one day, with registered members of each party voting.

A national election will be held on November Seventh unless it falls on a national holiday or Sunday in which case it will be moved ahead one day, of each successive four-year term of office. This election will involve all registered voters and independent parties, and the outcome will be determined by majority vote.

The process for the election of the Vice President will be the same as for President. The Vice President will be nominated separately from the President in the National Primary, but in the same party column. The Vice President will then run with the President in the National Election.

3. No person except a natural born citizen of the United States shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained the age of thirty-five years and had been a resident for fourteen successive years prior to the election.

4. In case of the removal of the President from office or by death or resignation, the Vice President shall become President.

5. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

6. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

7. Whenever the Vice President and a $\frac{2}{3}$ majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives, their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon, Congress shall decide the issue, assembling within forty-eight hours for that purpose, if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

8. The President shall, at stated times, receive for his services, a compensation which shall be determined by a majority of both Houses. This compensation can neither be increased or diminished during the period for which he shall have been elected, and he shall not receive any other emolument from the United States, foreign nations, private industry, or any other sources as Congress may dictate within his term of office.

9. In the event of the removal, death, resignation or inability of both President and Vice President, the Speaker of the House, President pro tempore and cabinet members in order of their establishment, will fill the vacancy of the President in that order provided they meet the qualifications of the President of the United States.

10. Before he enters on the Execution of his Office, he shall take the following oath or affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States and the people thereof."

SECTION 2

1. The President shall be Commander in Chief of the Armed Forces of the United States, and of the Militia of all States; when called into the actual service of the United States, he may require the opinion, in writing, of the principal officers in each of the executive departments, upon any subject relating to the duties of their respective offices. The President must report to Congress after thirty days of any employment or use of any employment or use of military troops. And he shall have the power to grant reprieves and pardons, with two-thirds approval of Congress, for offenses against the United States, except in cases of impeachment.

2. He shall have power by and with the advice and consent of the Senate to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with advice and consent of the Supreme Court, and all other officers of the United States whose appointments are not herein provided for, and which shall be established by law: but the Congress may by law, vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law or in the heads of departments. The President shall have the

power to create, reshape and abolish executive offices.

The President shall have power to fill all vacancies that may occur during the recess of the Senate by granting Commissions which shall expire at the end of their next session. A Congressional yearly committee will be established to investigate and present evidence to the Senatorial party.

3. The President of the United States must inform Congress of any and all executive agreements. Any and all executive agreements made by the President must have a two-thirds majority of Congress.

SECTION 3

1. He shall, at least twice yearly, give to the Congress, information of the State of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he shall receive ambassadors and other public ministers, he shall take care that the laws be faithfully executed and shall commission all the officers of the United States.

SECTION 4

1. The President, Vice President and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery or other high crimes as the House of Representatives sees fit.

CONSUMER CONCERNS

HON. ALLAN T. HOWE

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. HOWE. Mr. Speaker, one of the problems in drafting, implementing, and understanding consumer legislation is the mystery which surrounds who a consumer really is and what exactly is the elusive "consumer interest." In representing my Utah constituency in Congress and dealing with individual problems, I have discovered that there is no single consumer interest. There is, in fact, a host of often conflicting, or ill-defined consumer interests. For example, is the consumer interest that of an individual seeking affordable housing or is it the interest of one seeking a durable investment? Is it the woman demanding high quality nutritious foods or the woman trying to meet the bulk requirements of a family of five children in the face of inflation? More often than not, it is both, which further complicates any substantive legislation in the consumer area.

In my capacity as your Representative from Utah, I have tried to respond to what I consider some of the more important and urgent needs of my constituency. My directions have been primarily based on the mail I have received which I believe is a good indicator of local concerns. One of these is the effect of big Government on consumer interests. My activities have centered on reform of big Government which is an area on which I hope to have legislative impact through a bill I recently introduced, The Federal Regulatory Review Act (H.R. 10507), which provides for a review of the structure of independent federal regulatory agencies. Much pruning should take place, I believe. A related measure I endorse is H.R. 15, a bill to regulate lobbying practices and provide for the disclosure of sources and backing by those who contact the legislative and executive branches with the intent of influencing legislation. I am also a member of a Task Force on the Abuse and Concentration of Power which was organized by the 94th Congress New Members Caucus. We are now in the process of preparing a final report which will blueprint several routes to be followed in an attempt to identify and devise legislation to abolish, overhaul, and reform various sections of the Federal Government.

I am cognizant of the tremendous paperwork burden placed on businesses, as consumers, through the creation of new agencies and the implementation of new acts. Among these are environmental impact statements from the Environmental Protection Agency, extensive forms from the Real Estate Settlement and Procedures Act, and reporting requirements and filing of forms with the Occupational Safety and Health Administration. Relief of this burdensome paperwork is a high priority in my consumer action plan and I am cosponsoring H.R. 3740, a Paperwork Reform Act, which empowers the General Services Administration to study and revise records management procedures. This action is to simplify the methods of creating, using, maintaining, and disposing of public records and will undoubtedly have a positive effect in the private sector. I also intend to support these kinds of measures to reduce paperwork for both consumers and businesses.

I have cosponsored legislation, as part of my effort to improve product standards for consumers, and believe these bills directly attack specific areas of abuse. H.R. 2079, the Consumer Class Action Act, of which I am a cosponsor, would allow consumers to sue as a class action for "unfair consumer practices" as defined in the act. Many have had experiences of buying a product, later realizing that they were a victim of fraud and then suffering the frustration of having no vehicle for adequate legal action to air grievances or recover damages unless one can afford an individual expensive lawsuit. This bill would provide appropriate channels for redress, and give consumers the necessary legal support to take action against unfair and illegal practices. I believe the inclusion of stronger court action is paramount in any drive toward consumer protection.

I have long had concern that a major burden for consumers is the high cost of medicine, especially for elderly citizens on fixed incomes. I was pleased the Utah Legislature recently repealed the sales tax on drugs for senior citizens. Studies show that American consumers are forced to pay over $1 billion annually in unnecessary prescription drug costs because of prohibitions on retail advertising, overprotective patent laws, and unreasonable markups. I have tried to protect consumers from abuses in this area through cosponsoring several pieces of legislation such as H.R. 3545, H.R. 3546, H.R. 3548, and H.R. 3549. These bills relate to drug freshness and require expiration dates for effectiveness, to be clearly marked. They require labeling of pharmaceuticals by generic name to clarify content, and posting of prices for the 100 most commonly prescribed drugs. Another major piece of legislation I am cosponsoring is H.R. 3547, a bill to amend the Federal Food, Drug and Cosmetic Act and the Fair Packaging and Labeling Act. This legislation would require labels on food products to disclose all of the ingredients, nutritional content, weight data, storage information, manufacturers, packers, distributors, and the unit prices.

The most publicized consumer-related activity of this Congress has been the passage of the Agency for Consumer Protection. I voted against this bill not because I don't believe consumers should be protected, but because the establishment of another agency did little to do so. This legislation would establish an independent body to represent and advocate consumer interests before Government agencies and the courts, and was heavily lobbied by both sides during its consideration in the Congress. I was doubtful that this type of super-agency in Washington would be able to meet any consumer needs commensurate with the cost and effort it would take to establish it.

While the benefits of such an agency were questionable, the certainties that it would result in higher production costs, higher prices, standardized market products, probably greater unemployment and an increased Federal deficit due to expanding Government, were realities. To try to temper what I considered counterproductive legislation, I voted in favor of several amendments, all of which passed, that qualify the scope of the agency. One includes an exemption for small businesses, with few employees or production, from having to answer interrogatories from the new agency; another exempts agricultural products from the jurisdiction of the agency because they are already regulated, and a third amendment transfers to the agency several existing consumer-related programs throughout the executive branch whose functions would be duplicated.

This amendment will unify Government efforts in consumer protection and cut costs of overlapping jurisdictions. Last, I voted in favor of the automatic termination of the agency at the end of 7 years when it must again be acted on by Congress. The Senate and House versions of this bill will soon go to conference to work out the differences. President Ford has said he may veto the bill when it reaches his desk.

As an alternative to this agency, I would favor using materials, staffs, and organizations to reinforce and strengthen existing consumer advocacy centers within agencies to make them more responsive to consumer problems. Instead of adding another layer to our already rampant bureaucracy, efforts should be made toward increasing the clout of consumer advocates in government now and not simply amplifying their voice.

In addition to my own efforts, many pieces of consumer legislation were passed earlier by previous Congresses and have gone into effect in 1975. Among these are the Fair Credit Billing Act which protects consumers from prolonged billing disputes and requires creditors to acknowledge consumer inquiries and explain charges before resorting to collection agencies. The truth-in-lending amendments entitled consumers to receive an itemized listing of charge transactions on monthly statements. The Equal Credit Opportunity Act now makes it illegal for creditors to discriminate on the basis of sex or marital status in lending policies. Congress has also made warranties mean something and indicated that they must be readily understandable through the Magnuson-Moss Warranties Act. Another change in credit laws is now effective by way of the Housing and Community Development Act and single women who are regularly employed no longer need cosigners, unless similarly qualified men need like guarantors. I support reasonable efforts toward protecting consumers such as those preventing discrimination in credit and opportunity, yet often feel that such "protective" legislation backfires and adds more to the quicksand of regulation than improves the consumer's plight.

Overall, I view the outlook for consumers in 1976 as one of the most healthy perspectives around. In addition to legislation which has just gone into effect, there are some other very major consumer issues nearing completion in Congress. Although I have not formed definite positions as yet on these bills, congressional committees will be holding hearings on legislation for some form of national health insurance and possibly Federal no-fault auto insurance, and legislation to create a National Consumer Cooperative Bank. These are all currently pending before Congress. This bill for the National Consumer Cooperative Bank would make it easier for individual groups to start cooperatives of any kind with the necessary capital provided by this bank fund. I generally support the cooperative concept and I am a cosponsor of legislation to enable farmers' markets to obtain self-help and technical assistance from the Department of Agriculture.

These major and many other lesser consumer measures are being undertaken to improve the status of American consumers. I have pledged myself to be an outspoken consumer advocate and have directed my efforts toward an effective legislative impact on this front by promoting various consumer issues. I would like to emphasize that federally initiated efforts are probable but realistically take a long time to be enacted legislatively. Therefore, I hope that I can be of service to individuals in my constituency who have immediate difficulties of a consumer-oriented nature and would hope that my office could be a contact point for grievances and starting place for action. I feel any congressional office should act as a liaison between constituents and the Federal Government. I encourage and welcome feedback on this and other issues and would hope that you, the citizens of Utah, will feel free to contact me if I may be of service to you in dealing with the Federal Government or in resolving individual problems. Momentum toward consumer protection must be continued, but I need your help, comments, and suggestions on the best solutions to the problems.

LET US HELP MR. ZONA

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. STARK. Mr. Speaker, in these disquieting times of recession, unemployment seems to be becoming an accepted fact of life. The Labor Department declared on February 6, 1976, that there had been a half-point decline in the unemployment rate, dropping from 8.3 percent to 7.8 percent. This news was greeted with jubilation. Expressing happiness about people going back to work is certainly appropriate, but we cannot forget the 7.29 million Americans who remain without work.

The Ford administration budget projects that the economy will not even begin to approach full-employment level of 4 percent until calendar 1981 when unemployment might drop to 4.9 percent. In the meantime, according to the Ford plan, millions of Americans are to remain out of work and the American economy is to continue in a state of recession.

This plan is unacceptable. The economy influences both the strength of our Nation as well as the spirit of the people. Indeed, the social implications of joblessness affects the very fiber of American life.

Recently, I received a letter from a constituent, Mr. Theodore M. Zona, concerning his own frustration and sense of helplessness as a member of the unemployed. The letter is from one who fiercely desires to pursue his occupation but has been rejected in his attempts to find work. This letter is representative of a multitude who have been unable to secure employment in each of our districts.

I commend this letter to my colleagues and urge them to support the Equal Opportunity and Full Employment Act. The act, which I've cosponsored, would require that the President submit to Congress an annual full employment and balanced growth plan. This plan, to be supported in the President's annual budget, would recommend in quantitative and qualitative terms "the number of jobs to be provided for adult Americans in order to relieve unemployment." The bill would also establish a goal of reducing unemployment to 3 percent within a certain, definitive time frame. I believe the Equal Opportunity and Full Employment Act is in the best interest of millions of Americans whose names lie on unemployment lists throughout the Nation. Let us help Mrs. Zona.

February 5, 1976.

HON. FORTNEY H. STARK,
U.S. Congressman, House Office Building, Washington, D.C.

DEAR SIR: Sometimes our government has referred to a certain percentage of unemployed Americans as "acceptable", as if we were just so many pawns on a chess board. This letter contains some of the thoughts of an angry, unemployed human being. I have become a statistic. Such an existence is not acceptable to me. And it isn't acceptable to the overwhelming majority of people who are without work. We are not robots. We have all of the human emotions in this mortal soul—this constant battle for survival—from the cradle to the grave.

This letter contains some of the thoughts of an angry, unemployed American:

I'm trying to communicate. If we cannot or will not communicate, there can be no real understanding. Without understanding, nothing worthwhile can be accomplished. And if we don't accomplish anything worthwhile, then I ask you—what other reason is there for our existence on this earth?

The figures or percentage on the number of unemployed people doesn't accurately reflect the number of people without jobs. Many are working only part time, making just barely enough money to survive and avoid unemployment compensation and welfare.

Mr. Stark, we send trouble shooters all over the globe, in trying to solve problems. We poured astronomical billions of dollars into a bottomless quagmire in Vietnam. I didn't hear any of the war hawks and the ultra conservatives complaining about this wasteful expenditure for death and destruction being inflationary. Why is it that virtually every expenditure appropriated to help create jobs in America is termed "inflationary" by the current administration in Washington? Why is it that we become paralyzed when it comes to getting the unemployed back to work?

Of course, America cannot be an island unto itself. There must be foreign aid and foreign affairs. Right now we need some domestic aid. We need some trouble shooters traveling around America to consult with the unemployed, the aged, the sick, and the handicapped. Keeping America a first rate power doesn't begin and end with military expenditures and foreign military aid. A nation of creative, contributing, gainfully-employed, tax-paying people should be given top priority in keeping America strong.

Recently, a well known newscaster and syndicated columnist expressed an opinion that plenty of good paying jobs were going begging. It was stated that most of the unemployed people didn't want to work and would rather be on the dole. I don't believe this is true.

However, if it is true, I'm grossly misinformed about the availability of jobs. I've been in close contact with my union and also the Employment Development Department in this area. In fact, I had a lengthy phone conversation with an official at the Unemployment Insurance Office in Hayward today. He isn't aware of any abundance of good paying jobs. I'm trying to find one of these good paying jobs. I would like to find a need and fill it. If I'm not qualified for one of those illusive jobs, I'll at least determine what is needed. Then I can take some definite course of action; I can retrain or go back to school and become a useful, needed citizen again.

I happen to be a 52 year old printer. My wife and I have lived in the same home for over 16 years. Our children (two sons and a daughter) grew up and received their education in this area.

What with computers and various other forms of automation being rapidly introduced into the printing trade, there are only a limited number of jobs available. The employes with high seniority or priority with a given employer, are being retained and given on-the-job training. Those with lesser priority—regardless of skills or willingness to work—are relegated to the "extra" or "substitute" board. After nearly 30 years as a printer (specifically a compositor or floorman) I'm labeled as an "extra" or "substitute", which sort of carries the stigma of being unneeded and unwanted.

Currently, I make myself physically available for work at a newspaper on a seven-day-per-week basis. Last week, for example, I managed to get three shifts of work for my seven days of effort. I've also prepared lengthy, comprehensive resumes of my background in applying for jobs. On most of them I didn't even receive the courtesy of a reply. The replies I have received were negative. Evidently many employers must feel that after a person passes the half-century mark, their brain suddenly transforms into concrete.

Being available or on call seven days per week, is much like actually working seven days, except you only get paid for the days you are hired. Under such circumstances, one has virtually no social life. You can't really plan any trips, because the telephone might ring. And you must be available to the employer every day. I often manage to get two shifts of work for seven days of effort. There is no compensation for the days of futile travel, inconvenience and expense.

One way or another, I intend to contact every potential printing employer in the bay area and beyond. I hope to determine if good paying jobs are going begging. I certainly don't want to be counted as one who is unemployed because of an unwillingness to work. I'm trying to conduct a little private survey on available work. I'm enclosing a copy of the message for your perusal.

Right now, I would even accept a job digging ditches. I dug quite a few fox holes and latrines while in the U.S. Army. Unfortunately, even ditch digging has been automated in the name of progress.

I've tied a knot in the end of the rope and I'm hanging on, but the knot is slipping. I've been advised by the current administration in Washington to "tighten my belt". . . "clean my plate" and to wear a "win button". I've been advised the economy is just about to turn the corner and the light is now visible at the end of the tunnel. The unemployed have been praised for their steadfastness, courage and sacrifices. For years we have been assured that inflation will soon be arrested.

We have been told that the logical place to create jobs is in private industry. But no definitive program has been launched to create jobs in private industry or anywhere else.

Employers in the printing industry, for example, tell the public they are introducing automation in order to produce more at less cost. There isn't any evidence of savings being passed on to the consumer. Prices continue to skyrocket as unemployment increases.

We are told that big business needs an additional investment tax credit. This, we are told, will enable busines to expand, invest in new machinery and create jobs. In the vernacular I can only say: Oh yeah? It's the old "trickle down" theory. And the only thing trickling down is more unemployment. In fact, it's more of a raging torrent than a trickle.

Right here in the bay area, for example, newspapers are rapidly becoming automated. Printers are being tossed on the slag heap in wholesale lots. And while they are being laid off, editorials appear in those same newspapers about the problems of unemployment, inflation, foreign policy and the sluggish economy. They also tell the subscribers about the fine product being produced by automation. It's all being done in the name of progress.

True progress involves people. People pay taxes. People buy goods and services. Like love and marriage, or a horse and carriage; in any kind of weather, people and progress go together. Automation doesn't automatically spell progress until it is translated in terms of more jobs, more paychecks and more purchasing power. We cannot continue relegating human beings to the slag heap while at the same time we tell these people they must pay taxes to keep America powerful and strong.

I respectfully submit there is nothing wrong with America which millions of contributing, gainfully employed people cannot cure. One cannot live and meet their obligations on unemployment compensation or welfare unless they are willing to live under some freeway overpass. Personally, I want to work and contribute whatever talents I may possess. There is plenty of work which needs to be done in America.

I grew up during the depression of the thirties, in a family of eight children, back in Nebraska. We all shook hands with abject poverty. But having lived through indescribable misery and hard times in the past, doesn't make it any easier or more enjoyable to face the same prospect again. Having gone through one depression and subsequently experiencing some of the horror of a world war, is quite enough for one lifetime. How much dues must one pay before being entitled to live in dignity, with a rightful place in the sun? I'm one of millions who need a job right now. If I'm not entitled to a job now, then when? My creditors do not make allowances for my being out of work. They don't particularly care for logical explanations. They won't accept the fact that the unemployed are being ignored while the administration explores various cures for inflation. The super markets have not agreed to wait for payment until inflation is arrested.

Virtually every proposal to create jobs by federal spending is promptly termed "inflationary" and threatened with veto. Our president believes that private industry must create the jobs. Fine, but how do you motivate them to do this? What is big business currently doing to create employment? What programs are business and industry proposing to create employment? What will motivate business and industry to create jobs? If big business is to be given an investment tax credit, will it create employment? How and where will it create jobs? Nobody has spelled this out!

Management in the printing industry has been investing heavily in computers and other forms of automation, for the purpose of reducing the payroll, cutting costs, and increasing profits. Labor is by no means receiving a fair share of the fruits of automation. People are simply being liberated from their jobs in the name of progress.

Will the government and private industry work together to create jobs? If so, what will be done? What can be done? Where and how do we start a program of putting people back to work? Even a journey of a thousand miles must begin with a single step. How many more must be unemployed before we become recognized as human beings rather than numbers or statistics?

I don't know who will ultimately be nominated as the democratic presidential candidate. Whoever it is, many of your constituents out here hope he will not simply acknowledge unemployment as a serious, human problem, but also spell out a definite program for solving the problem. If we cannot have a program now, then when?

A government of the people, by the people, and for the people? Or are we to remain simply a dormant body of people through which politicians elevate and perpetuate themselves in office? How does the problem look from where you are sitting, sir?

In the meantime, if someone I know should spot me shifting from foot to foot in the long unemployment lines, it's because I'm very uncomfortable and angry to be forced into such a position.

Sincerely yours,

THEODORE M. ZONA,
San Leandro, Calif.

HELPING OLDER AMERICANS TO PREPARE THEIR INCOME TAX RETURNS

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. O'HARA. Mr. Speaker, we are once again at that time of year when millions of Americans must sit down with Internal Revenue Service forms, instructions, and guidelines in order to calculate their Federal income taxes.

For all Americans, this annual chore is difficult. The tax returns are complex; so is the law. The instructions are not always easily understood, and many taxpayers get the idea that you have to really be a tax lawyer in order to understand the Internal Revenue Code.

The burden of preparing income tax returns falls particularly hard on the elderly. Not only are there the normal deductions which are available to help them save their precious dollars, but there are also a number of special tax relief measures for older Americans—the retirement income credit, for example; the total or partial exclusion of a gain on the sale of a personal residence; and others. Because the elderly simply do not have the financial resources to go out and hire a tax consultant, they often end up needlessly overpaying their taxes each year.

For several years now, the Senate Committee on Aging has published a checklist of itemized deductions for individual taxpayers. It is geared to meeting the problems of older Americans in preparing their tax returns. It is a most useful guideline for retirees who are engaged in this annual task of reporting their income to the Federal Government and paying their taxes on that income. Because this checklist performs such a useful function, Mr. Speaker, I am incorporating it into my remarks at this point so that its publication in the RECORD will help bring this information to the attention of the maximum number of elderly Americans:

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses (unreimbursed by insurance or otherwise) are deductible to the extent that they exceed 3% of a taxpayer's adjusted gross income (line 15, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 15, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expense (subject to 3% limitation):

Abdominal supports (prescribed by a doctor).

Acupuncture services:

Ambulance hire.

Anesthetist.

Arch supports (prescribed by a doctor).

Artificial limbs and teeth.

Back supports (prescribed by a doctor).

Braces.

Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.

Cardiographs.

Chiropodist.

Chiropractor.

Christian Science practitioner, authorized.

Convalescent home (for medical treatment only).

Crutches.

Dental services (e.g., cleaning, X-ray, filling teeth).

Dentures.

Dermatologist.

Eyeglasses.

Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as substitute for, regular diet; physician's statement needed).

Gynecologist.

Hearing aids and batteries.

Home health services.

Hospital expenses.

Insulin treatment.

Invalid chair.

Lab tests.

Lip reading lessons (designed to overcome a handicap).

Neurologist.

Nursing services (for medical care, including nurse's board paid by you).

Occupational therapist.

Ophthalmologist.

Optician.

Optometrist.

Oral surgery.

Osteopath, licensed.

Pediatrician.

Physical examinations.

Physician.

Physical therapist.

Podiatrist.

Psychiatrist.

Psychoanalyst.

Psychologist.

Psychotherapy.

Radium therapy.

Sacroiliac belt (presented by a doctor).

Seeing-eye dog and maintenance.

Speech therapist.

Splints.

Supplementary medical insurance (Part B) under Medicare.

Surgeon.

Telephone/teletype special communications equipment for the deaf.

Transportation expenses for medical purposes (7¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.).

Vaccines.

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).

Wheelchairs.

Whirlpool baths for medical purposes.

X-rays.

TAXES

Real estate.

State and local gasoline.

General sales.

State and local income.

Personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of five classes of items: automobiles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security, Veterans' pension or compensation payments, Railroad Retirement annuities, workmen's compensation, untaxed portion of long-term capital gains, recovery of pension costs, dividends exclusion, interest on municipal bonds, unemployment compensation and public assistance payments).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20% of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, State or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value for property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 7c per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.

Auto loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charges as interest if no part is for service charges, loan fees, or credit investigation fees, or similar charges.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

Other charge accounts for installment purchases—may deduct the lesser of (1) 6% of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) or (2) the portion of the total fee or service charge allocable to the year.

CASUALTY OR THEFT LOSSES

Casualty (e.g., tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

CHILD AND DISABLED DEPENDENT CARE EXPENSES

A taxpayer who maintains a household may claim a deduction for employment-related expenses incurred in obtaining care for a (1) dependent who is under 15, (2) physically or mentally disabled dependent, or (3) disabled spouse. The maximum allowable deduction is $400 a month ($4,800 a year). As a general rule, employment-related expenses are deductible only if incurred for services for a qualifying individual in the taxpayer's household. However, an exception exists for child care expenses (as distinguished from a disabled dependent or a disabled spouse). In this case, expenses outside the household (e.g., day care expenditures) are deductible, but the maximum deduction is $200 per month for one child, $300 per month for two children, and $400 per month for three or more children.

When a taxpayer's adjusted gross income (line 15, Form 10404) exceeds $18,000, the deduction is reduced by $1 for each $2 of income above this amount. For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

MISCELLANEOUS

Alimony and separate maintenance (periodic payments).

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income-producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees under certain circumstances.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—Taxpayers may now claim either a deduction (line 33, Schedule A, Form 1040) or a credit (line 51, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State, or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) State committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $100 ($200 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $25 ceiling ($50 for couples filing jointly).

Presidential Election Campaign Fund.—Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) to help defray the costs of the 1976 Presidential election campaign.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

Other tax relief measures for older Americans

Filing status	*Required to file a tax return if gross income is at least—*
Single (under age 65)	$2,350
Single (age 65 or older)	3,100
Qualifying widow(er) under 65 with dependent child	2,650
Qualifying widow(er) 65 or older with dependent child	3,400
Married couple (both spouses under 65) filing jointly	3,400
Married couple (1 spouse 65 years or older) filing jointly	4,150
Married couple (both spouses 65 or older) filing jointly	4,900
Married filing separately	750

Additional Personal Exemption for Age.—Besides the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age.

You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1976, you will be entitled to the additional $750 personal exemption because of age for your 1975 Federal income tax return.

Tax Credit for Personal Exemptions.—In addition to the $750 personal exemption, a tax credit of $30 is available for a taxpayer, spouse, and each dependent. No additional $30 credit is available, however, because of age or blindness.

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met. (1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10% of the mutual dependent's support, *but only one of them*, may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers.—A taxpayer may elect to exclude from gross income part, or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least 5 years within the 8-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $20,000, an election may be made to exclude part of the gain based on a ratio of $20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within 18 months before or 18 months after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

Retirement Income Credit.—To qualify for the retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received earned income in excess of $600 in each of any 10 calendar years before 1975, and (c) have certain types of qualifying "retirement income." Five types of income—pensions, annuities, interest, and dividends included on line 15, Form 1040, and gross rents from Schedule E, Part II, column (b)—qualify for the retirement income credit.

The credit is 15% of the lesser of:

1. A taxpayer's qualifying retirement income, or

2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxable pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62, the $1,524 figure is reduced by the amount of earned income in excess of $900. For persons at least 62 years old but less than 72, this amount is reduced by one-half of the earned income in excess of $1,200 up to $1,700, plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer if he has requested that IRS compute his tax, he answers the questions for columns A and B, and he completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayer should also write "RIC" on line 17, Form 1040.

CONGRESSMAN OTIS G. PIKE REPORTS TO HIS CONSTITUENTS ON FIRST SESSION, 94TH CONGRESS

HON. OTIS G. PIKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. PIKE. Mr. Speaker, the time involved during the past 7 months with the work of the House Select Committee on Intelligence made it impossible for me to prepare my annual report to my constituents until the Committee's work was completed. That job having been finished last week, herewith is my 15th annual report to the First Congressional District for the State of New York.

1975 was, if nothing else, the hardest working year for the Congress of the United States and for this Congressman. During the session which began on January 14 and ended only on December 19, the House took 612 recorded votes, 71 more than the previous high set in 1973.

While it will be impossible to catalog all of the 612 votes (and in fact it would be pretty boring!) some general observations are in order. First, the percentage of votes on which I was present and voting "yea" or "nay" slipped a little last year down to only 98 percent. This was due to two factors. First, because of possible conflicts of interest, I voted "present" on a few votes—second, I missed a few votes.

As to how the votes were cast—generally, they were cast in support of the President's position 39 percent of the time and in opposition to his position 61 percent of the time. Most of the votes we cast in Congress are bipartisan. When both the majority of the Democrats and the majority of the Republicans agreed on issues, I agreed with them 86 percent of the time, but even when they both agreed I disagreed with them 12 percent of the time.

To review the legislative history of a year as full of issues as 1975 is not easy. Once we had elected a Speaker and adopted our rules, one of the first orders of business was to create a House Select Committee on Intelligence which we did on February 19 in our ninth vote of the year. In February the major concern of the administration and the Congress was our very sick economy and both agreed that Federal taxes should be reduced even at the cost of larger Government deficits in order to help the economy. We passed a bill which cut individual taxes by $16.2 billion and business taxes by $5.1 billion over a 2-year period. In March, still deeply concerned with the economy we passed legislation seeking to reduce interest rates and the first of several bills providing emergency employment opportunities. Despite our economic problems at home we also in the same month appropriated $3.5 billion for foreign economic and military aid.

In April, the most controversial issue before the House was the question of providing additional assistance to South Vietnam for humanitarian purposes and evacuation programs and in a series of 16 votes over a 3-day period it was finally agreed to do so to the extent of approximately $325 million.

One of the new innovations in our congressional procedures instituted this year is the adoption of an overall congressional budget within which all actions of Congress in the appropriation of money must fit. In May we voted for the first time on such a budget resolution setting overall targets for the year beginning on July 1, of $368.2 billion in budget expenses, only $298.1 billion in revenues and a resulting deficit of approximately $70 billion.

The Vietnam situation deteriorated rapidly and only 3 weeks after we had approved $325 million to help evacuate people from Vietnam, we approved $507 million to care for and resettle those refugees. In May we failed for the first time in 1975, but far from the last time, to override a Presidential veto—this for the price support program for wheat, cotton, corn, and other feed grains and dairy products. On this one I thought the President was right and voted against overriding the veto.

We spent 2 days and had 11 recorded votes on various issues in our Defense Department procurement bill before authorizing $26.5 billion in weapons procurement and research for the Department of Defense.

In June another attempt to override a Presidential veto failed—this one by just five votes. At issue was a $5.3 billion appropriation to provide more than 1 million emergency jobs. This vote and a series of other votes like it illustrated more than anything else the difference between the President and the Congress on the issue of our economy. The President's basic position being that Federal job programs didn't work and weren't worth the cost and the Congress feeling that something had to be done by the Federal Government in view of the continuing high unemployment rates.

In June, also, the House considered for 10 days and through 22 separate recorded votes on amendments what was perhaps the most controversial legislation of the year—the so-called energy tax bill which sought to use our tax code to conserve energy through a combination of subsidies for things like solar energy and insulation installed in homes and taxes on the manufacturers or importers of gas guzzling cars.

The House amended the bill so long and weakened it so much that this Congressman felt that by the time we were through with it, it was not worth having and voted against it on final passage. During the course of the year there were probably more votes on energy than any other subject and at the end of June we authorized a total of $5.9 billion for energy research and development projects from the period beginning July 1, 1975 and ending September 30, 1976.

At the end of the fiscal year in June, we passed in rapid order bills appropriating $51.4 billion for housing, our space program and the Veterans' Administration, $7.2 billion for public works, water and power development and energy research programs and $44.9 billion for the Departments of Labor and Health, Education and Welfare. We also failed by 16 votes to override a Presidential veto of an emergency housing assistance bill.

In July the old House Select Committee on Intelligence was dissolved because of internal difficulties and a new and larger one was created to take its place. This Congressman was asked by the Speaker to assume the chairmanship of that committee and did so. The Congressional Quarterly for that period described the debate on this issue as follows:

> After three sessions of often acrimonious debate and several votes on alternative proposals, the House July 17 by voice vote passed a resolution (H. Res. 591) abolishing the 10-member Select Intelligence Committee created by the House Feb. 19 and replacing it with a 13-member panel having an identical mandate to investigate the U.S. intelligence establishment.

From July 17 when that resolution was passed until last week when the committee filed its final recommendations that investigation occupied most of my time, my efforts, and my energies. In view of the controversy which had surrounded the committee before I got on it, I knew the job would not be easy. The controversy remained throughout our work, but that is another subject on which I could write a book, but probably won't.

Another acrimonious issue coming to the floor in July was the question of whether Americans would continue to provide arms to Turkey, a NATO ally, when those arms had apparently been used by Turkey in an invasion of Cyprus to the detriment of Greece, another NATO ally.

Through most of August the House took a summer vacation, but our Intelligence Committee continued to work during part of that period.

September saw the passage of a bill which had been very controversial in the past but which this year passed by a wide margin because it was wholly voluntary and educational instead of mandatory — the conversion of the United States of America from our present system to the metric system of measurement. Also, in September we undid something we had done a few years ago—putting Veterans Day back to November 11 (people my age still think of it as Armistice Day) instead of trying to create another 3-day weekend by making it the fourth Monday in October.

October showed the passage of what is annually always our biggest appropriation, $90 billion for the Department of Defense. October also showed passage of a long-awaited bill sponsored by this Congressman and supported by most—(but not all) of the Congressmen from the State of New York—the bill to establish a 200-mile fishing limit area for the purpose of conserving our fishery resources in the United States of America. As this is written, the Senate has also passed this legislation in somewhat different form and final action, hopefully and at long last, will take place in the Congress this year.

Another major issue resolved in October involved the implementation of the peace agreement worked out between the Egyptians and the Israelis in the Sinai Desert stationing up to 200 American technicians in the Desert to monitor the fact that the agreement was being kept.

November saw the passage of a very controversial consumer protection bill creating an independent agency for that purpose with the power to represent consumers in the courts and before other Federal agencies.

Finally, just 1 week before Christmas, Congress adjourned after addressing at least three other very controversial bills. First, the bill authorizing Federal loans of up to $2.3 billion a year to help New York City meet its financial crisis. Second, a bill both continuing the tax reductions voted at the beginning of the year permanently and also closing quite a few loopholes (the loophole part died in a House-Senate Conference), and lastly, voting to prohibit federally funded airports from permitting the landing of supersonic transports for a 6-month period.

As I said at the outset, the voting record appended hereto cannot possibly include all of the votes. I have tried to include the ones on which I got the most mail or criticism. To include all of the votes would make not only terribly small print, but terribly dull reading. As an example, on July 31 the House had 6 consecutive record votes on motions to adjourn. That does not read like much, but they were very controversial votes nonetheless. Those of us who voted "yea" (and this Congressman voted to adjourn six times) were trying to get the House NOT to consider the resumption of arms sales to Turkey.

To close with a personal note, the Congressman grew at least a year older during the year, stayed healthy, took a lot of raps, gave some out, got some praise, worked very, very hard, and continued to enjoy the high honor of representing over half a million people in the Congress of the United States.

My voting record follows:

VOTING RECORD, 1975

DATE, ISSUE, AND PIKE VOTE

January 14

For election of the Speaker of the House of Representatives for the 94th Congress the nominees were Rep. Carl Albert, Speaker since 1971, and Rep. John J. Rhodes, minority leader since 1973. Albert was elected 287–143 Albert.

February 19

Passage of the bill to authorize additional financial assistance totaling $347 million in the form of operating grants and federally guaranteed loans to financially ailing railroads in the Northeast and Midwest being reorganized under the Regional Railroad Reorganization Act of 1973. (yea 270; nay 137). Yea.

Adoption of the resolution to establish a Select Committee on Intelligence for determining whether federal law enforcement and intelligence agencies had engaged in "illegal or improper activities." (yea 286; nay 120). Yea.

February 27

Passage of the bill to cut federal taxes by $16.2 billion for individuals over 2 years and $5.1 billion for businesses over 3 years and repealing the percentage depletion allowance for most oil and gas income retroactive to Jan. 1, 1975. (yea 317; nay 97). Yea.

March 4

Adoption of the concurrent resolution expressing the sense of Congress that the Federal Reserve should conduct monetary policy in the first half of 1975 so as to lower long-term interest rates. (yea 367; nay 55). Yea.

March 12

Passage of the bill to make emergency fiscal 1975 appropriations of $5,941,636,000 for several federal departments and agencies to stimulate the creation of jobs and to aid the depressed auto and construction industries. (yea 313; nay 113). Yea.

March 13

Passage of the bill making appropriations of $3,498,420,000 for fiscal 1975 for foreign military and economic aid. (yea 212; nay 201). Nay.

March 18

Passage of the bill to provide minimum federal standards for the regulation of surface mining and the reclamation of strip-mined lands. (yea 333; nay 86). Yea.

March 20

Passage of the bill to raise target prices and loan rates for 1975 crops of cotton, wheat and corn, and to provide for quarterly production cost adjustments in the dairy price support level. (yea 259; nay 162). Nay.

March 24

Adoption of the conference report on the bill to appropriate $3,674,346,982 for fiscal 1975 for foreign economic and military assistance. (yea 193; nay 185). Nay.

April 8

Motion to suspend the rules and pass the bill to authorize $2.6 billion in fiscal 1976–79 for programs assisting the elderly under the Older Americans Act and for senior volunteer programs run by ACTION. (yea 377; nay 19). Yea.

April 15

Adoption of the joint resolution to appropriate $638 million in additional funds for VA programs in fiscal 1975. (yea 386; nay 0). Yea.

April 17

Passage of the bill, as amended by the Education and Labor Committee's substitute, to set up a program for federal assistance to states that developed and enforced federally approved safety standards for youth camps, and to provide for federal inspection and enforcement of minimum federal standards in states that did not develop their own. (yea 197; nay 174). Nay.

April 24

Passage of the bill to authorize funds for humanitarian assistance and evacuation programs in Vietnam and to clarify the restrictions on the availability of funds for the use of U.S. Armed Forces in Indochina in an evacuation. (yea 230; nay 187). Yea.

May 1

Passage of the resolution, as amended, setting over-all targets for the fiscal 1976 budget of $368.2 billion in budget outlays and $298.1 billion in revenues, with a resulting deficit of approximately $70 billion. (yea 200; nay 196). Yea.

May 13

Passage, over the President's May 1 veto, of the bill to raise target prices and loan rates for 1975 crops of wheat, cotton, corn and other feed grains and to set dairy price supports at 80% of parity with quarterly adjustments. Rejected (thus sustaining the President's veto). (yea 245; nay 182). Nay.

May 14

Adoption of the conference report to make emergency fiscal 1975 appropriations of $5,306,508,000 for several federal departments and agencies to create more than one million jobs. (yea 293; nay 109). Yea.

May 19

Motion to suspend the rules and pass the bill to authorize appropriations for fiscal 1976 to carry out provisions of the Marine Protection and Sanctuaries Act of 1972, specifically to continue federal regulation of ocean dumping and to establish marine sanctuaries. (yea 377; nay 17). Yea.

May 20

Passage of the bill to authorize $26,545,023,000 in fiscal 1976 appropriations for Defense Department weapons procurement, research and development programs and $5,479,017,000 for the budget transition period, and setting active duty strength at 2,100,000 men. (yea 332; nay 64). Yea.

June 4

Passage over the President's May 29 veto of the bill to make emergency fiscal 1975 appropriations of $5,306,508,000 for several federal departments and agencies as a means of creating more than one million jobs. Rejected (thus sustaining the President's veto). (yea 277; nay 145). Yea.

Passage of the bill to extend Voting Rights Act of 1965 through August 1985, and to expand the voting protections of the act to citizens of language minority groups, including citizens of Spanish heritage, Alaskan natives, Asian-Americans and American Indians. (yea 341; nay 70). Yea.

June 5

Motion to recommit to the House Interstate and Foreign Commerce Committee the bill to authorize $1.4 billion in fiscal 1976–77 for health services programs, including formula grants to the states, family planning, community mental health centers, migrant health centers, and community health centers for the medically underserved. (yea 9; nay 352). Nay.

June 19

Passage of the bill setting quotas on oil imports, providing tax incentives for energy conservation and investments in energy saving devices, and creating a trust fund to finance development of conservation and alternative energy sources. (yea 291; nay 130). Nay.

June 20

Passage of the bill to authorize $4.7 billion for energy research and development projects in fiscal 1976 and $1.2 billion in the transition quarter from July-Sept. 1976. (yea 317; nay 9). Yea.

June 24

Passage of the bill to appropriate $51,429,024,000 in fiscal 1976 for the Department of Housing and Urban Development, National Aeronautics and Space Administration, Veterans Administration and several other independent agencies and to appropriate $5,434,617,000 for the 3-month transition period between fiscal 1976 and fiscal 1977. (yea 391; nay 25). Yea.

June 24

Passage of the bill to provide $7.2 billion for public works, water and power development and energy research and development programs in fiscal 1976 plus additional funds for the transition quarter (yea 377; nay 28). Yea.

June 25

Passage over the President's June 24 veto of the bill to provide temporary subsidies for purchases of homes by middle-income families and to provide federal loans to unemployed homeowners unable to meet mortgage payments. Rejected (thus sustaining the President's veto) (yea 268; nay 157). Yea.

Passage of the bill to make appropriations of $44.9 billion for fiscal 1976, and the subsequent 3-month transition period, for the Dept. of Labor, the health and welfare divisions of the Health, Education, and Welfare Dept. and related agencies (yea 368; nay 39). Yea.

June 26

Passage of the bill to appropriate $5,987,605,000 for the State, Justice and Commerce Depts., the federal judiciary and related agencies for fiscal 1976 and $1,555,373,208 for the transition period (yea 395; nay 4). Yea.

July 10

Passage of the bill to provide fiscal 1976 appropriations of $3,654,354,775 and advance fiscal 1977 appropriations of $90,059,000 for transportation programs operated by the Dept. of Transportation and related agencies (yea 392; nay 13). Yea.

July 14

Passage of the bill to appropriate $11,047,263,000 for the Dept. of Agriculture and related agencies for fiscal 1976 and $2,037,545,000 for the transition period (yea 353; nay 38). Yea.

July 17

Passage of the bill to provide fiscal 1976 appropriations of $6,265,532,152, plus $1,276,222,038 for the 3-month transition period, for Treasury, postal service and general government operations, including funds for the White House and the Executive Office of the President (yea 393; nay 18). Yea.

July 22

Adoption of the resolution disapproving and thereby blocking, the proposed plan of President Ford to gradually lift price controls on domestic oil (yea 262; nay 167). Yea.

July 23

Amendment to increase appropriations for acquisition of wetlands as a habitat for migratory birds to $10 million from $1 million. (yea 220; nay 203). Yea.

Passage of the bill to appropriate $4,101,962,000 for fiscal 1976 and $1,143,572,900 for the July 1–Sept. 30, 1976, transition period for the Interior Dept. and related agencies. (yea 417; nay 8). Yea.

July 24

Passage of the bill to permit a partial resumption of shipments of U.S. arms to Turkey. (yea 206; nay 223). Nay.

July 25

Passage of the bill to amend the National Labor Relations Act to allow labor unions in the construction trades to strike and picket contractors and subcontractors engaged on the same construction job at a common site. (yea 230; nay 178). Yea.

July 28

Passage of the bill to authorize $4,067,523,000 for military construction projects in fiscal 1976 and the 3-month transition period. (yea 369; nay 47). Yea.

July 30

Adoption of the resolution to provide for agreement to the Senate amendments to the bill to authorize work safety programs for postal workers and provide for automatic yearly cost-of-living pay increases for members of Congress and top officials of the executive, legislative and judicial branches. (yea 214; nay 213). Yea.

July 31

Passage of the bill to extend until March 1, 1976, from Aug. 31, 1975, the price control and allocation authorities of the Emergency Petroleum Allocation Act of 1973. (yea 303; nay 117). Yea.

Passage of the bill to extend the Council on Wage and Price Stability through Sept. 30, 1977, and to give the council power to require reports and subpoena business records on wages, costs and other information for each product line. (yea 235; nay 188). Yea.

September 5

Passage of the bill to authorize $160 million in fiscal 1976–80 for a research and demonstration project aimed at promoting the use of electric vehicles by individuals, businesses and government. (yea 308; nay 60). Yea.

Passage of the bill to establish a 25-member national board to plan and coordinate voluntary conversion to the metric system of measurement in the U.S. (yea 300; nay 63). Yea.

September 8

Passage of the bill to provide a program of federal grants to assist low-income persons in winterizing their dwellings and to encourage state and local governments to include energy conservation standards in their building codes. (yea 258; nay 130). Yea.

September 9

Passage over the President's July 25 veto of the bill making fiscal 1976 and advance fiscal 1977 appropriations of $7,480,312,952, plus $464,683,000 for the 3-month transition period, for education programs operated by the Dept. of Health, Education, and Welfare and related agencies. Passed (thus overriding the President's veto). (yea 379; nay 41). Yea.

Motion to suspend the rules and pass the bill to designate commemoration of Veterans Day on Nov. 11, effective in 1978, instead of the current designation of the 4th Monday in October. (yea 410; nay 6). Yea.

September 10

Passage of the bill to authorize $2.9 billion for foreign economic and development assistance for fiscal 1976 and 1977. (yea 244; nay 155). Nay.

September 11

Adoption of the resolution to establish a select committee to investigate U.S. servicemen missing in action in Indochina. (yea 394; nay 3). Yea.

September 23

Passage of the bill to provide the President with emergency energy standby authority, to authorize creation of a national civilian strategic oil reserve, to extend price controls on domestic oil, to establish a mandatory gasoline allocation program and to set fuel economy standards for domestic automobiles. (yea 255; nay 148). Yea.

October 2

Passage of the bill appropriating $90,219,045,000 for the Dept. of Defense for fiscal 1976 and $21,674,571,000 for the budget transition period, July-Sept. 1976, for Dept. of Defense activities and all armed services and weapons programs. (yea 353; nay 61). Yea.

Passage of the bill to authorize fiscal 1976 funds for the Board for International Broadcasting, including Radio Free Europe and Radio Liberty, and to provide a partial lifting of the embargo on U.S. arms shipments to Turkey. (yea 237; nay 176). Nay.

October 6

Motion to suspend the rules and pass the bill to terminate veterans' education benefits for persons entering the military after Dec. 31, 1975. (yea 298; nay 106). Yea.

October 7

Passage over the President's Oct. 3 veto of the bill to amend and extend the federal school lunch and other child nutrition programs. (yea 397; nay 18). Yea.

October 8

Passage of the bill to appropriate $3,518,723,000 for Defense Dept. construction projects in fiscal 1976 and $359,100,000 for the budget transition period. (yea 353; nay 51). Yea.

Passage of the joint resolution to implement the U.S. proposal for the early warning system in the Sinai, which included the assignment of up to 200 American civilians to monitor Egyptian and Israeli forces. (yea 341; nay 69). Yea.

October 9

Passage of the bill to extend the U.S. fishing limit to 200 miles from 12 miles under current law, and to establish a federal management program for certain species of fish. (yea 208; nay 101). Yea.

October 21

Passage of the bill to give federal employees the right to participate in partisan political campaigns and to run for local, state or federal office. (yea 288; nay 119). Yea.

October 22

Passage of the bill to authorize $193 million for the Consumer Product Safety Commission in fiscal 1976–78 and amend the Consumer Product Safety Act. (yea 313; nay 86). Yea.

October 23

Passage of the bill to authorize $240 million in federal grants to provide unemployed railroad workers with jobs rehabilitating the Nation's railroads. (yea 261; nay 129). Yea.

October 28

Passage of the bill to require companies leasing consumer goods to disclose fully the terms and costs of the lease. (yea 339; nay 41). Yea.

October 30

Passage of the bill to require the U.S. Postal Service to go to Congress each year for all its appropriations—thus taking away the financial independence given it in the Postal Reorganization Act of 1970—and reducing the Postal Service's proposed first-class rate increase to 2 cents, raising the postage on a first-class letter to 12 cents instead of 13 cents. (yea 267; nay 113). Yea.

November 6

Passage of the bill to create an independent Agency for Consumer Protection to coordinate federal consumer protection activities and represent consumer interests before other federal agencies and the courts. (yea 208; nay 199). Yea.

Passage of the bill to establish an Office of Science and Technology Policy in the Executive Office of the President to be headed by a director who would serve as the President's personal adviser on federal science policy. (yea 362; nay 28). Yea.

November 10

Passage of the bill to authorize $634 million in long-range funding for fiscal years 1976–80 for the Corporation for Public Broadcasting. (yea 336; nay 26). Yea.

November 11

Adoption of the resolution to condemn the United Nations' approval of a resolution classifying Zionism as a form of racism. (yea 384; nay 0). Yea.

November 12

Adoption of the budget resolution to set ceilings of $374.9 billion on fiscal year 1976 outlays and $409 billion on budget authority; set a floor of $301.8 billion on revenues and $73.1 billion as the budget deficit and $620.5 billion as the public debt. (yea 225; nay 191). Yea.

November 13

Passage of the bill to increase the temporary federal debt limit to $595 billion and extend it through March 15, 1976. (yea 213; nay 198). Yea.

December 2

Passage of the bill to authorize federal loans of up to $2.3 billion a year to help New York City meet seasonal cash flow needs. (yea 213; nay 203). Yea.

December 4

Passage of the bill to reduce 1976 individual and business taxes by $15.5 billion by extending the temporary 1975 tax cuts—making the cuts permanent for individuals—establish a limitation on artificial losses used to curb tax shelters, strengthen the existing minimum income tax on preference income, simplify individual income tax computation, restrict existing business expense deductions, limit various tax benefits on foreign income, restrict tax deferral preferences for domestic international sales corporations, revise tax treatment of capital gains and losses, expand use of retirement account deductions, and make other revisions in federal tax laws. (Yea 257; nay 168). Yea.

December 8

Passage of the bill to extend for 10 years the federal program insuring the public against damages up to $560 million resulting from a nuclear accident and limiting the liability of the nuclear power industry, in such event, to that amount. (Yea 329; nay 61). Yea.

December 17

Passage of the joint resolution to provide quarterly adjustments in the support price of milk until March 31, 1978, and increase the support price to a minimum of 85% of parity. (Yea 307, nay 111). Nay.

December 18

Passage over the President's Dec. 17 veto of the bill to cut federal taxes approximately $8.4 billion in 1976 by extending 1975 tax reductions through June 30, 1976. Rejected (thus sustaining President's veto). (Yea 265; nay 157). Yea.

Amendment to prohibit federally funded airports from permitting the landing of supersonic aircraft for a period of 6 months. (Yea 199; nay 188). Yea.

NFL COACH OF THE YEAR

HON. ALBERT W. JOHNSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I am pleased to announce that Mr. Ted Marchibroda of Franklin, Pa., located in my 23d Congressional District, has been named the "NFL Coach of the Year" by the Associated Press. He has also been named the "National Football League Coach of the Year" by the correspondents of the Sporting News. I would like to offer my congratulations to this fine head coach of the Baltimore Colts, and bring his career to the attention of my colleagues.

Since becoming head coach of the Baltimore Colts last February, Marchibroda improved the team's record from 2–12 in 1974 to 10–5 in 1975. The Colts won the eastern division title in the American Football Conference in Marchiboda's first year as head coach. He has been described by the New York Daily News as an offensive genius.

Marchibroda graduated from Franklin High School, Franklin, Pa., in 1949, where he was outstanding in both football and basketball. He was the star quarterback for St. Bonaventure in 1950 and 1951, the last 2 years that the school played intercollegiate football. Transferring to the University of Detroit for the 1952 season, he became one of the Nation's leading passers. He returned to St. Bonaventure in 1953 and graduated.

Marchibroda's professional football career began in 1953 when he was the Pittsburgh Steeler's top draft choice, but his career was interrupted by military service in his rookie year. Returning to professional football in 1955, he was the No. 2 passer in the NFL in 1956. He concluded his playing career in 1957 with the Chicago—now St. Louis—Cardinals.

After 4 years in the sports equipment business in Pittsburgh, Marchibroda returned to professional football in 1961 as an offensive backfield coach for the Washington Redskins. After 4 years with the Redskins, he joined George Allen and the Los Angeles team, returning to

Washington in 1971, with George Allen, as the team's offensive coordinator.

Marchibroda became head coach of the Baltimore Colts in February 1975. He is the fifth head coach that the Colts have had in the last 4 years. The Colts won their last nine regular-season games under Marchibroda last season, and he started to win support that resulted in the "NFL Coach of the Year" honor.

Marchibroda is married to the former Henrietta Ann Schossler of Oil City, Pa. They and their four children now reside in Falls Church, Va.

THE DANGERS OF REGIONAL GOVERNMENT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. HYDE. Mr. Speaker, two organizations in my district, the West Suburban Property Owners Association and the Save Our Suburbs Organization, have taken an active interest in the problems of regional government movement.

Their concerns are expressed in a resolution affirming their faith in the U.S. Constitution, and I request that this resolution be set forth at this point in the RECORD.

AFFIRMATION OF FAITH IN THE UNITED STATES CONSTITUTION

Whereas, Our form of government is based on the philosophy that our rights are God-given—inherent and unalienable; and

Whereas, Our Founding Fathers in seeking to preserve this concept of God-given rights deliberately limited the powers of the Federal Government by: (a) guaranteeing to each State a Republican form of government—State Sovereignty (Article IV, Section 4, U.S. Constitution), (b) reserving to the People and to the States powers not specified to the Federal Government (Amendments IX and X, U.S. Constitution); and

Whereas, These far-sighted provisions have guaranteed to the People: (a) individual freedom, (b) private property rights, (c) local government supervised by elected officials, (d) control over taxation/limited taxation, (e) the free enterprise system; and

Whereas, These blessings of freedom have served this Nation well for two hundred years; and

Whereas, We have been witnessing the subtle but nevertheless systematic subversion of these freedoms and of our form of government as a result of legislation, court rulings, executive orders and bureaucratic guidelines; and

Whereas, This subversion can now be documented and identified as the Regional Government Movement; and

Whereas, This new form of government is: (a) forcing the fusion of the fifty Sovereign States into ten federally-controlled regions, (b) eliminating local governments by mandating the transfer of their functions to areawide agencies as a prerequisite for qualifying for federal funding, (c) transferring the power over government from the people and their elected officials to appointees at regional levels, (d) destroying private property rights and the freedom of choice through the imposition of "quota" economic, racial and social integration in housing, education and employment and federal control/ownership of all land, (e) destroying the free enterprise system through the nationalization of the housing, transportation and energy industries, (f) creating financial instability, rampant inflation, excessive taxation and deficit spending; therefore, . . .

QUESTIONING THE VALIDITY OF THE CONSUMER PRICE INDEX

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. GINN. Mr. Speaker, Mr. Victor Mereski has prepared an analysis of the validity of the Consumer Price Index. This carefully prepared document merits the consideration of us all, and I include it in the RECORD at this point:

THE CONSUMER PRICE INDEX: A NUMBER THAT STEALS MONEY

(By E. Victor Mereski)

OVERVIEW AND SUMMATION

The Consumer Price Index (CPI) has generally been intended as a cost-of-living index. But the cost-of-living has never been what the CPI has actually shown. This means that the understatement of the true rise in inflation causes money which should be going to the lower income groups to go to the higher income groups. Vigorous citizen action is necessary to reform the CPI to perform its function of fair adjustment of income to the rise in prices.

CPI functions and importance

An article by Julius Shiskin, Commissioner of Labor Statistics, states the functions of the CPI. "It serves two major functions; it is a yardstick for revising wages, salaries, and other income payments to keep in step with rising prices, and it is an indicator of the rate of inflation in the American economy."[1] Most of the population of the United States is affected by the CPI. The incomes of the following people are tied to the CPI:

5 million union workers, 29 to 31 million social security recipients, 13 to 18 million food stamp users, 2 million retired military and Federal Civil Service employees and survivors, 600,000 postal workers, 24 million children served school breakfast or lunch (these rates are adjusted by the change in the CPI series "Food away from home"), many people with rental and/or royalty contracts, many people with child support agreements, many millions indirectly tied to the CPI (For these workers the change in the CPI is referred to in determining what wages will be paid. Other workers, particularly those in smaller businesses, have their wages set by reference to wages in larger businesses, which were tied to the CPI.), and dependents of any of the above.[2]

Mr. Shiskin also points out ". . . it is clear that an accurate Consumer Price Index is of utmost importance. At present, a 1 percent change in the index triggers at least a $1 billion increase in income under escalation provisions. An error of only 0.1 percent can thus lead to the misallocation of over $100 million."[3] In "Figures Do Lie" Shirley Schiebla tells us, "How much even a slight change in the CPI can mean was pointed up in December [1974] when BLS [Bureau of Labor Statistics] announced an error of one-tenth of an index point for the yardstick on the high side. Kennecott Copper Corp., for example, said it meant overpayment of one-cent-an-hour for its 10,000 hourly employees and would cost the company more than $200,000, if extended over a full year."[4]

Semantic Juggling

Many sources claim the major unsolved problem of the CPI is quality changes in products. I say the major problem is the semantic juggling used to the disadvantage of the majority of people. The CPI is *not* a cost-of-living index but it is referred to and used as if it were. How thoroughly misinformed the general population is can be well illustrated by a *Wall Street Journal* article containing this semantic confusion.

"Over history's ample spread, there have been some real declines in the cost of living. But not in modern times—not in almost half a century. The nation's consumer price index fell in the Great Depression, hitting bottom in 1933. With some slight and rare pauses, it has risen ever since, for a climb of some 322%. . . . [Price behavior] can be observed in annual increases (% gains from a year earlier) recorded by the Labor Department's monthly consumer price index (cost of living). . . . Those 10%-plus gains of last year are what the economists mean by 'double-digit' inflation."[5]

Repeatedly the reporter confuses or equates different concepts. Not only has *he* confused and equated "cost-of-living" and "CPI" but also this confusion has passed the editorial staff of one of the most prestigious financial journals in America. One can only suspect that promoting this semantic confusion is in the interest of American business.

Another example which clearly illustrates the semantic juggling between the CPI and cost-of-living involves military retirement. In 1958, when Congress revised the military retirement system, it abolished recomputation of retired pay. Recomputation was a system by which the retiree's pension was a fixed percentage of active duty pay, so that pensions increased when active duty pay increased. Recomputation had been used for about 150 years and was an inducement to enlist. Congress refused to admit a contractual obligation to continue recomputation for personnel who had enlisted and reenlisted while it was in effect, or even had retired under that system. Starting in 1958 retirees received only a fixed percentage of the *basic* pay for their grade or rank at the time they retired. In 1963 Congress admitted a moral obligation to increase retired pay to keep up with the cost-of-living. In doing this Congress tied increases in retired pay to increases in the CPI, thereby equating the CPI with the cost-of-living. About 1968 Congress added an additional 1% boost to compensate for the roughly 6 month time lag in receiving the CPI adjustment. This 1% add-on is now under attack as being too generous, when in reality retired personnel already are receiving much less than they were promised.

Factors of Underestimation

The cost-of-living underestimation is the result of using the CPI as a cost-of-living index, not including taxes, and biased population coverage. This underestimation in the cost-of-living is further compounded by the fact that the CPI actually underestimates even the increase in consumer prices themselves. When the distortions in the CPI are multiplied by confusion of the CPI with the cost-of-living, gross underestimates occur. Underestimates of the CPI are caused by the effect of weighting, by problems in quality adjustments, by lack of quantity adjustments, by the inaccuracy of price information, by deliberately delaying inclusion of price changes, and by linking procedures.

Weighting and Quality Adjustments

The majority of adjustments and weighting changes appear to result in an index that understates the true rise. Stigler and Kindahl compared BLS weighted vs. un-

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Footnotes at end of article.

weighted prices. They found that over a ten year period the weighted indexes fell in relationship to the unweighted indexes.[6] In other words, weighted indexes reduced the amount of the rise in prices.

Perhaps more complex than the problem of fairly weighting the contributors to the CPI is the problem of adjusting prices to allow for increases or decreases in the quality of a product. Some studies of the new automobile component of the CPI for the period before 1960 reach contradictory conclusions. More recent studies for the period since 1960 agree in finding automobile price increases understated by 16 to 20%.[7] At least two studies on refrigerator prices also point to price increases being understated.[8]

Jack E. Triplett made these perceptive observations: "The reader may wonder, however, how it is possible that quality error can cause price indexes to be biased downward. Clearly downward bias can result when deterioration in products and services is not fully allowed for in the indexes. . . . Elsewhere it has been shown that even when the quality of a product is improving rapidly, the quality errors that get into the index may give it a downward error instead of the upward bias so frequently assumed." [9]

The October 1975 *Monthly Economic Letter* by the First National City Bank of New York shows a graph of the BLS New-car prices and Used-car prices. The New-car prices are at a low (about 90) in 1955, essentially unchanging from 1958 thru 1968, and rising to 125 in 1975. Used-car prices go from about 70 in 1955 to 140 in 1975. The accompanying report mentions that sticker prices have risen an average of $1,200 in just the last 5 years.[10] Common sense tells us if a new car cost $2,000 in 1955 and a 3 year old used car cost $1,000 in the same year, then in 1975 the relative prices of new and used cars should be approximately the same. The BLS graph indicates that the new car price in 1975 was about 39% higher than in 1955 while the used car price rose about 100%. This means the 1975 new car price would be about $2,780 and the 3 year old used car, $2,000. It is probably true that used car prices have risen faster than new car prices have in the recent past (partly because the older cars get better gas mileage). But saying as the BLS graph does, that new car prices were the same in 1968 as they were in 1958, is obviously ridiculous. It is my belief that if the 1955 prices were correct then the BLS has distorted the 1975 prices to indicate new car prices about 60% lower than they should be, which would be about $4,000.

This abuse of the public is compounded by the CPI *not* being increased for decreases in quality and quantity of products. Is there any adult who has not bought something for years only to suddenly find the manufacturer has substituted something that costs the manufacturer less and now the item is not as good as it was? The quality and quantity of service at service stations is currently being reduced drastically. For example, gas station owners increasingly are saving payroll expenses by having customers pump their own gas, check their own tires, and wash their own windshields. The savings, between full and mini-service, are minimal to the consumer. But use of consumer labor causes the gas company profits to soar.

Lack of quantity adjustments

The distortion in the CPI due to quantity reductions is fairly clear. Steve Babson and Nancy Brigham tell us in *Why Do We Spend So much?* "Government statistics don't tell half the story. For one thing, they fail to take into account the numerous invisible price increases companies pass on to consumers, things you don't catch unless you carefully weigh or inspect the product. The Hershey ten cent candy bar is a good example. The price of their candy bar hasn't changed for decades. But the amount of chocolate in the bar has dropped from 2.0 ounces in 1965 to 1.2 ounces in 1973. That's 37% less chocolate in 1973 for your dime than in 1965. But as far as the government statistics are concerned, the price of the Hershey chocolate bar hasn't gone up." [11]

The Wall Street Journal carried a very revealing article entitled "Short Counts Mean That the Consumer Pays More for Less." It tells about Art Merrill, a radio show host, who enlisted his listeners' help in counting stationery, foods, drugs, household supplies, hardware items and other countable items. Products averaged 10 to 30% short, but going as high as 50% short. *The Wall Street Journal* confirmed Mr. Merrill's findings by conducting their own three state survey of over 500 randomly selected products. They found office supplies to be short 53% of time time and overcounted 14% of the time. Foodstuffs were shorted 40% and overcounted 5% of the time. 33% of houseware items were shorted and there were no overcounts. The most frequently shorted houseware item was facial tissues. 18% of prescription and over-the-counter drug items were short while 6% were overcounted. A chain store manager said, "Customers cheat by stealing. We get even by shorting them." [12]

In the United States during the second quarter of 1975 an annual rate of $204 billion was spent on food.[13] Using the data that 40% of foodstuffs were short and 5% were over, by approximation we can say the consumer will end up shorted over 1/3 of the time. I am understating the amount of shortage by subtracting the percentage overcounted from the percentage short. Generally shorts are greater in amount than overages by a significant amount. 1/3 of 204 billion is 68 billion. Multiplying by a common shortage of 15% we come up with the conservative figure of over $10 billon that is being stolen from consumers on food items only, every year.

Pricing Inaccuracy

The accuracy of the CPI is also compromised by inadequacies in the collection and selection of prices that border on the incredible. In the article titled "Figures Do Lie" *Barron's* tells us that, "For the first 11 months of 1973, the Wholesale Price Index showed that gasoline prices went up 82%, while the CPI indicated they rose only 15%." [14] Reasons for the difference involve use of industry figures and use of only domestic production prices.[15]

Delaying Price Changes

Due to a 1948 cut in appropriations a switch from monthly to quarterly sampling of prices was made for most cities. Estimates were used between quarterly pricings for these cities. The BLS admitted this procedure caused errors in monthly price movements but there were no long-term errors because the next pricing in each city made an automatic correction. The 1964 revision of the CPI stopped using these estimates. The Bureau decided to hold prices constant for all cities not actually priced. The BLS again admits this introduces a lag in price changes, but feels that is satisfactory because now they don't have to correct for overestimates. In other words, the designers of the CPI feel it is better *always* to have *another* error on the low (or lagging) side than occasionally to have an overestimate.[16]

Linking Procedure

Sidney A. Jaffe informs us, "There are varying practices employed in the CPI for the comparison of prices when products change. . . . In the absence of information on price and cost difference due to quality, the BLS uses either direct comparison procedures . . . or linking procedures. The first procedure, on the *assumption* [emphasis added] of higher quality, introduces an upward bias in the index. The linking procedure . . . by introducing a new item at the index level of the old item which it replaces can be presumed to cause a downward bias when the price trend is upward." [17] And the price trend is upward most of the time, while the quality trend is generally downward.

Taxes and population coverage

The inadequacy of the present CPI as a measure of consumer prices becomes even more unacceptable when the CPI is used as if it were a measure of the cost-of-living. At least two major adjustments would have to be made in order for the CPI to measure cost-of-living. The effect of taxes would have to be figured into the index, and the population on which the index is based would have to be made more representative.

The inclusion of income taxes into the CPI would cause a much steeper rise in the CPI. With our graduated scale for income tax, as inflation causes a rise in the number of dollars received, a person has to pay a larger percentage of those dollars back to the government. Mr. Shiskin puts it this way, ". . . the CPI does not include income and and social security taxes since (unlike sales taxes) these costs are not directly associated with retail prices of specific goods and services, whereas a *true* cost-of-living index would explicitly include them." (Emphasis added) [18]

In another article by BLS personnel a table is presented showing that from Sept. 1939 to Aug. 1951 the CPI rose from 100.0 to 180.1 while an index of prices an income tax combined would have risen from 100.0 to 210.8.[19] This added 30% increase in just 12 years is only from including income taxes. They didn't add in social security taxes. They then proceeded with typical juggling of the figures—called "adjustments" and "weighting"—and came up with another typical understatement of the true rise. This time they said the combined index would rise only 10% more than the CPI rose.[20]

The average newspaper reader probably does not realize that the CPI is based on the living costs of only a selected group of consumers.[21] The last revision of the CPI raised the population coverage to less than 45% of the total population.[22] The current CPI revision has placed emphasis on deciding who would be counted in the index population.[23] The BLS appears to have taken a step in the right direction by deciding to increase coverage to 80% of the noninstitutional population. I have not found a reason for the Bureau excluding military personnel. But since military income is below average, the effect is to help ensure a higher income level being used for the index. The present population's income level ($10,500 in 1971), which is used as a basis for figuring the CPI, is well above average. We need to use a median income of all people, not just an average income, as the basis. Using average income makes one Rockefeller count the same as 1000 ordinary people.

New CPI

Our government is planning to introduce a New CPI which is expected to show that the old CPI *overstated* the rise in consumer prices.[24] One of the various methods used to accomplish this neat trick is to use the price of new products (which are notoriously overpriced) saying, as the price drops, "See consumer prices are going down." The electronic calculator is a recent example.

By using the cost of prototypes and experimental models we can always show that prices are falling, after we get an order to build 10,000 of them. We can ignore, as unimportant, the cases where prototype costs increase and finally the project is shelved as unfeasible. An interesting comparison is the projected cost of a plan backed by Theodore

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Footnotes at end of article.

Roosevelt for turning water power at the Bay of Fundy into electric power (dismissed as unfeasible at a cost of tens of millions of dollars) with today's projected cost (in the billions of dollars).[25] The hundred-fold, or 10,000%, increase would give a truer picture of the increase in inflation and cost-of-living between then and now. This may help give a clearer perception of the enormity of the distortion in the CPI.

Needed legislation

We need legislation to prevent the use of any new product prices in the CPI until the product has stabilized in price. This should be about 20 years after introduction, and certainly only after patent protection has run out. Competition is essential for setting fair prices on new products in our free enterprise system. Legislation is also needed to increase the manpower and funds available to the BLS to help ensure a more accurate CPI. Legislation without adequate funding can be meaningless, except for appearances. Even though legislation appears to be the answer to obtain an accurate cost-of-living index, we should recognize that most politicians work for the wealthy,[26] primarily due to a need for large amounts of campaign money to get elected.

If people wish to protect their hard-won wage contracts and retirement benefits they should write their congressmen urging support for corrective legislation. They can also spread the word to others. Legislative action should include indexing (the process of changing prices to agree with a cost-of-living index) of all prices and wages so that changes in inflation produce less hardship. Some people fear that indexing of wages and prices will increase inflation. Recent experience in other countries refutes this. Some countries that have the lowest rate of increase in their CPI have had extensive indexation of wages for a long time. Examples are Luxembourg which had an average price increase of 2.9% and Belgium with 3.3%.[27]

As the comment by the chain store manager indicates, we should be spending as much money to fight crime by managers as we spend to fight crime by shoplifters. In addition to the $10 billion per year stolen by shorting consumers on food items, there is another $5 billion per year stolen, on food items only, by means of price fixing by agribusiness resulting in overcharges to the consumer estimated at $100 per year per family.[28] Since $5 billion works out to $100 per year per family, then the $10 billion mentioned before is an additional $200 per year per family. We should ask our congressman for legislation which would do something about saving that $300 per year stolen from every family's food budget. As a beginning we should pass legislation requiring just 1% of all law enforcement funds be used to fight crime against the consumer. Perhaps it needs repeating that the consumer pays all law enforcement costs since the consumer pays all the taxes, including corporate taxes.

FOOTNOTES

[1] Julius Shiskin, "Updating the Consumer Price Index—an overview," *Monthly Labor Review*, 97 (July 1974), 3.

[2] Shiskin, p. 3, and James P. Gannon, "The Idea Shortage," *The Wall Street Journal*, May 9, 1975, p. 25.

[3] Shiskin, p. 4.

[4] Shirley Schiebla, "Figures Do Lie," *Barron's*, Jan. 6, 1975, p. 5. Correction in *Barron's*, Jan. 13, 1975, p. 24.

[5] John O'Riley, "The Outlook," *The Wall Street Journal*, Nov. 17, 1975, p. 1.

[6] George J. Stigler and James K. Kindahl, *The Behavior of Industrial Prices* (New York: Columbia University Press, 1970), p. 55.

[7] Jack E. Triplett, "Determining the Effects of Quality Change on the CPI," *Monthly Labor Review*, 94 (May 1971), 29.

[8] Ibid.

[9] Ibid., p. 31.

[10] "Detroit begins its big overhaul," *Monthly Economic Letter*, First National City Bank of New York, October 1975, pp. 5–6.

[11] Steve Babson and Nancy Brigham, *Why Do We Spend So Much?* (Somerville, Mass.: The New England Free Press, 1975), p. 45.

[12] Michael L. Geczi, "Short Counts Mean That the Consumer Pays More for Less," *The Wall Street Journal*, No. 4, 1974, p. 1.

[13] *Survey of Current Business*, U.S. Department of Commerce, 55 (Washington, D.C.: GPO, Sept. 1975), S1.

[14] Schiebla, p. 5.

[15] Ibid.

[16] *The Consumer Price Index: History and Techniques*, Bulletin No. 1517, U.S. Department of Labor, Bureau of Labor Statistics, 1966, p. 10.

[17] Sidney A. Jaffe, "Consumer Price Index," *Economic Analysis and Policy*, 3rd ed., ed. Myron L. Joseph and others (Englewood Cliffs, N.J.: Prentice-Hall, 1971), pp. 19–20.

[18] Shiskin, p. 4.

[19] "Taxes and the Consumers' Price Index," *Monthly Labor Review*, 76 (January 1953) 57.

[20] Ibid.

[21] Harold S. Taylor, "What Price Data? Distortions Noted," *The New York Times*, Aug. 21, 1966, Sec. F, p. 13.

[22] Shiskin, p. 8.

[23] Ibid., p. 11.

[24] Ibid., p. 13.

[25] From an ETV program about Theodore Roosevelt.

[26] Ferdinand Lundberg, *The Rich and the Super-Rich* (New York: Bantam Books, 1968) I highly recommend this book to anyone who wants to start understanding our complex system.

[27] Howard S. Carpenter, "European Experience: Linking Wages to Cost-of-Living Indexes," *Monthly Labor Review*, 98 (Sept. 1975), 55.

[28] *Food for People, Not for Profit*, ed. Catherine Lerza and Michael Jacobson (New York: Ballantine Books, 1975), p. 10.

ADDRESS BY SENATOR CHURCH IN BRUSSELS AT THE SECOND WORLD CONGRESS ON SOVIET JEWRY

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. DRINAN. Mr. Speaker, I know that my colleagues will want to read the brilliant address which Senator Frank Church delivered on February 17 in Brussels at the Second World Congress on Soviet Jewry.

As a participant in that Congress in Brussels I witnessed the tremendous ovation accorded to Senator Frank Church by the more than 1,200 delegates from some 35 nations who attended this very significant conference.

One of the most important statements made by Senator Church related to the enforcement of the Helsinki declaration entered into on August 1, 1975, by Russia and 34 other signatories, including the United States. Senator Church spoke of the promise made by the Soviets at Helsinki to allow free emigration for those who desire to leave Russia. He reminded Russia in a statement widely covered in the European press—"We expect compliance not only with those provisions that suit the Russian conscience, but with all provisions."

The full text of Senator Church's address follows:

Soviet Jewry: A Call to Conscience

(By Senator Frank Church)

I am honored to be with you today, for this meeting provides an opportune moment to reaffirm the shared values which have brought us together to consider the plight of Jews in the Soviet Union. This is not a parochial, but a universal concern. And it is particularly appropriate that we meet in Brussels. For Belgium is the country through which the Nazis began their drive to subjugate all of Western Europe and extinguish the very values which we gather here to commemorate. And no people more than the Jewish people have contributed to these shared values. For if it is through learning, through books and literature and legends that we transmit the wisdom of the ages from one generation to another, that we achieve continuity of culture, of nationality and religion, of values and ethics, then, who more than the people of Israel, the children of the book, have contributed to this ancient process?

Because these values remain so precious, we must consider how to preserve them in this dangerous world. In these circumstances, I believe as an American Senator, that I should speak to the basic premises which ought to govern relations between the United States and the Soviet Union.

For we should view the subject of this conference, not as a topic apart, but within the framework of the overall relationship between the American and Russian Governments. Détente has become a subject of controversy. Its meaning is murky, often depending upon the predilections of individual commentators.

But it need not be so. There are several elementary principles which must govern American policy toward the Soviet Union. It is tragic but true that no nation any longer can be made safe from savage destruction hurled down upon it from the most hidden and remote regions on earth. Soviet submarines silently traverse the ocean floors carrying transcontinental missiles with the capacity to strike at the heartland of North America and Western Europe. The nuclear arms race threatens to continue its deadly spiral toward Armageddon.

Thus, while we vigorously pursue nuclear arms talks with the Soviet Union, we must retain a position of military strength sufficient to constitute a strong deterrent against aggression. We must leave the Soviet Union in no doubt that we are committed to the defense of Western Europe in the same way we are committed to that of our own land. And we must be equally firm that a valued ally, Israel, however beleaguered or seemingly isolated, will, without question, be provided with the means to defend itself against threatening enemies.

Second, it is imperative for the United States to maintain a strong and effective intelligence service. On this proposition we can ill afford to be of two minds. We have no choice other than to gather, analyze, and assess—to the best of our abilities—vital information on the intent and prowess of foreign adversaries, present or potential.

Without an adequate intelligence-gathering apparatus, we would be unable to gauge with confidence our defense requirements; unable to conduct an informed foreign policy; unable to control, through satellite surveillance, a runaway nuclear arms race. "The winds and waves are always on the side of the ablest navigators," wrote Gibbon. Those nations without a skillful intelligence service must navigate beneath a clouded sky.

Third, and most important to those of us gathered here, we must be firm that when we enter into a comprehensive international agreement with the Soviet Union we expect compliance not only with those provisions that suit the Russian convenience but with all provisions. Specifically, I am referring to the 1975 conference on Security and Cooperation in Europe, the Helsinki Agreement as it is popularly known. That Agreement is explicit in the commitments undertaken by the signatory states to ease the restrictions on travel and emigration of citizens. As a senior member of the United States Senate Committee on Foreign Relations, I intend to ensure that we effectively monitor compliance with these commitments.

I want to dwell on this last point for a moment because I consider it fundamental to the evolution of improved relations between the Soviet Union and the Western world. As Prime Minister Rabin reminded us in his address to the Joint Session of the United States Congress, it was Thomas Jefferson who said: "Our ancestors possessed a right which nature has given to all men, of departing from the country in which chance—not choice—has placed them, on going in quest of new habitations and of their establishing new societies. . . ."

Thus, it should come as no surprise to the Soviet Union or others that Americans accord a special priority to this covenant in the Helsinki Agreement and that we intend to closely monitor its implementation. It is imperative to be absolutely clear on this point. For if there is one thing which has troubled the American public about detente, it is the sense that it is a one way street in favor of the Soviet Union, that American leadership does not hold the Soviet Union to commitments solemnly undertaken, particularly where human rights and Soviet Jews are concerned. So it is best, in my opinion, that we not paper over differences where they exist, that we not obscure fundamental disagreement merely for the sake of accomodation. This is especially true in our relationship with the Russians. For there are profound differences between the United States and the Soviet Union. Unlike the disputes between the Russians and Chinese, which are primarily territorial in nature, the differences between the United States and the Soviet Union are qualitative, reflecting divergent views of the purposes for which society is organized.

Moreover, these differences are not of recent origin. More than a century ago, the perceptive French observer, Alexis de Toqueville, in his classic work, *Democracy in America*, perceived the distinction between Americans and Russians: "The American struggles against the obstacles which nature opposes to him; the adversaries of the Russian are men. The former combats the wilderness and savage life; the latter, civilization with all its arms. The conquests of the American are therefore gained by the plowshare, those of the Russian by the sword. The Anglo-American relies upon personal interest to accomplish his ends and gives free scope to the unguided strength and common sense of the people; the Russian centres all the authority of society in a single arm. The principal instrument of the former is freedom; of the latter, servitude. Their starting-point is different and their courses are not the same."

This is fundamentally what the struggle in the world is all about and why we meet here today. It is a struggle which reflects opposite views over the value of man, freedom and individual worth, concepts which antedate communism and capitalism as we know them today.

Why, after all, did de Toqueville come to the United States? In his own words:

"I confess that, in America, I saw more than America; I sought there the image of democracy itself, with its inclinations, its character, its prejudices, and its passions, in order to learn what we have to fear or to hope from its progress."

What I hope that we have learned from America's progress is that free citizens have a duty to declare their compassion for oppressed minorities wherever they may exist, that we must be passionate in opposition to injustice and adamant, where we can by our actions affect the result, in opposing abominable practices which offend the human spirit. It is an abomination to incarcerate in a hospital for the insane, a mentally competent man merely because he holds dissident views or manifests his desire to leave the Soviet Union. There is nothing to be gained and much to be lost by pretending that we are not offended by such cruelties.

Almost 200 years ago, when we were far weaker than we are today, the Founding Fathers of the American Republic made the basic decision that they would not fight evil with evil, crime with crime, or delinquency by becoming delinquents. They committed themselves against a closed society by becoming an open society; they sought to escape the terror of a police state by establishing a government subservient to the law. At a time when there was far less democracy in the world than there is now, they chose their weapons and they chose them well. They chose to fight wrong with right.

Since that time, the United States has been at its best when true to itself, when it placed principle above profit or pragmatism even in the conduct of foreign policy. On December 19, 1911, for example, President Taft abrogated a lucrative trade agreement with Czarist Russia which was shortly to go into effect because the latter refused visas to American Jews. In May, 1885, the United States was informed by the Austrian Government that Mr. Anthony Reiley would be unacceptable as envoy extraordinaire and minister plenipotentiary in Vienna, "the position of a foreign envoy wedded to a Jewess by civil marriage would be untenable and even impossible in Vienna." Then Secretary of State Bayard replied in these terms:

"It is not within the power of the President nor of the Congress nor of any judicial tribunal in the United States, to take or even hear testimony, or in any mode to inquire into or decide upon the religious belief of any official, and the proposition to allow this to be done by any foreign government is necessarily and a fortiori inadmissible.

"To suffer an infraction of this essential principle would lead to disfranchisement of our citizens because of their religious belief, and thus impair or destroy the most important end which our Constitution of Government was intended to secure."

Would that we had today a President and a Secretary of State equally sensitive to the "most important end which our Constitution of Government was intended to secure." For it is when we uphold our own principles that the United States is most effective as a world leader. Only then do our words and example carry conviction and moral force.

I believe that President Ford and Secretary of State Kissinger could, if they wished, more affirmatively manifest to the Soviet Government the concern of the American people for more humane treatment of Soviet Jews, just as I believe that, concern with human rights, more generally, is a necessary component of a United States foreign policy. Authoritarian governments like the Soviet Union are not wholly insensitive to world opinion. Communist movements in Western European countries are being held to account for oppressive practices in the Soviet Union. It is not without significance that recently the French communist party felt compelled to condemn conditions in Soviet prison camps. Thus results, as well as idealism, are involved when we act in accordance with our own convictions.

To do so, it is sometimes necessary to stand alone. Israel, in many respects, stands alone today, just as the United States did in its early years. In his introduction to the Federalist Papers, Clinton Rossiter, the American historian, noted that one of our early leaders, James Madison, won his honored place in our history as Secretary of State by guiding the then friendless republic through the dangerous waters of international hostility. It is difficult to conceive today of the United States standing alone. But as an anomoly in a world composed of entrenched autocracies, the new Republic was, at first, suspect and then feared, not because of its power, for it had none, but because of the force of the ideas which impelled its creation. I suspect that much of the venom directed against Israel today in the United Nations is a reflection of the resentment that this small nation engenders because it is an oasis of freedom in the midst of a desert of authoritarian governments. As Prime Minister Rabin observed, "There are all too few nations in the world that uphold these democratic forms and objectives. We are a rather small family." Therefore, where a U.N. majority hurls its imprecations "Zionism as racism" at this valiant democracy, I am proud, as an American, to stand beside it, though a minority we may be.

When I appear here to declare that I believe that Soviet Jews have a right, not just a privilege, to leave the Soviet Union, to live as Jews unhampered and not subject to discrimination, when I come here to affirm that Israel lives not by sufference but by right, I stand not on alien ground but in the great tradition of Western democracies. To shrink from these affirmations, to hesitate to fear to offend, is to deny the most precious part of our common heritage and, I daresay, that vital part of the human heritage which gives courage to the oppressed everywhere and hope to all men and women who yearn to be free.

OUTSTANDING COMMUNITY WORK OF LOCAL CONTRACTORS ASSOCIATION

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. EDWARDS of California. Mr. Speaker, I want to take this opportunity to call to your attention a nonprofit trade association chapter in my district that has been quite active in community affairs.

I am referring to the Santa Clara District chapter of SMACNA, the Sheet Metal & Air Conditioning Contractors' National Association, and their employer's trust fund representing some 70 member firms in Santa Clara, Santa Cruz, and San Benito Counties.

Member contractors of the Santa Clara District chapter of SMACNA—all licensed union shops—last year had a total business volume of approximately $80 million, a figure which amounts to over three-fourths of all work done in this field in the three-county area.

The chapter worked very hard donating time and expertise for the public good in conducting an outstanding multimedia consumer education campaign about air pollution control, energy conservation, and efficient heating and cooling methods—this at a time when contractor hours were off nearly 30 percent.

Other activities the Santa Clara District chapter of SMACNA was involved in in 1975 include:

Conducting monthly meetings between concerned businessmen and civic and community leaders to work for healthy progress for my district;

Supervising an aggressive apprentice training program to produce more skilled workers for the sheet metal industry and help ease unemployment;

Participating actively in labor relations through Sheet Metal Workers International Association No. 309;

Promoting continuing in-plant safety inspections;

Promoting industry concerns through such bodies as the Better Business Bureau, the San Jose Chamber of Commerce, and the construction industry's new anti-theft program.

I should like to recognize the directors of the Sheet Metal and Air Conditioning Employers Trust Fund of Santa Clara County, headed by Chairman J. D. O'Brien, Jr.; trustees Clarence N. Russo, Joseph Parisi, George Rodriguez, James A. Pearce, and Dick McDonald; and Executive Manager Gary W. Ehlert;

I should also like to recognize the directors of the Santa Clara District Chapter of SMACNA, headed by President James A. Pearce, Vice-President Robert W. Woodall, Directors Lawrence T. Andrade and Henry Buffalow, Jr., Secretary-Treasurer Clarence N. Russo, and Executive Manager Gary W. Ehlert.

I have chosen this occasion to commend the sheet metal and air conditioning industry to call attention to their continuing efforts to promote healthy growth in my district even in the face of last year's heavy unemployment among their members and to bring to your attention their continuing efforts in educating the public about such vital concerns as energy conservation and air pollution; two issues to which this country must work hard to find effective and fair solutions for the good of us all.

SENIOR CENTERS: KEY TO MEANINGFUL LIFE TO AMERICA'S ELDERLY?

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. MATSUNAGA. Mr. Speaker, those of us who are fortunate enough to be leading active and productive lives are often oblivious to the fact that many of our elderly, for either economic or social reasons, find themselves in virtual isolation from other people.

The activities of my Subcommittee on Federal, State, and Community Services of the House Select Committee on Aging, have uncovered for me many of the daily obstacles encountered by our senior citizens; One of which, I am sorry to report, is the futility and monotony they sometimes feel about their existence. But this need not be the case.

Recently an encouraging article in the Honolulu Star-Bulletin described a senior center in Maui. The article adds credence to the notion that our elderly do not have to be isolated. They can socially interact with others and, as a result, lead more enjoyable and active lives.

Mr. Speaker, I submit this article for insertion into the CONGRESSIONAL RECORD at this point.

[From the Honolulu Star-Bulletin, Dec. 25, 1975]

MAUI ELDERLY CENTER'S SUCCESSFUL FIRST YEAR

(By Robert McCabe)

KAHULUI, Maui.—Because of their enrollment in a day care center, 1975 has been a particularly fulfilling and enjoyable year for a small group of Maui senior citizens.

The group celebrated the center's first aniversary Monday with a special pre-Christmas party. They spoke happily of the fun and activities they participated in during the past 12 months.

The center, the first of its kind on Maui, is viewed by the medical profession and others concerned with the care and treatment of the elderly as a superb vehicle with which to improve the morale and mood of the aged.

Established by the Maui Evangelical Church in their Kahului facilities, the center provides a variety of services aimed at satisfying the sociological and psychological needs of the elderly.

According to David Murata, the center's project manager, the program plays a dual role by providing the participants with an opportunity to escape from lonely, boring hours at home while offering their families periods of respite.

Murata said that although the center is still in an experimental state, it is meeting a need and providing the aged with new avenues of activity and interest.

"We are still seeking ways to evaluate the program objectively, but the idea is to provide for the maintenance of the elderly within the community and provide them with social, physical and other activities," he said.

Those in need of the program most are people who cannot participate in other senior citizen activities because of their advanced age and limited physical abilities, he added.

Viewed as a comparatively new concept, the project uses County sources and involves the participation of volunteers, including college students who assist at the center for work experience and study credits.

Murata said each participant at the center pays a monthly fee of $175 which is largely provided by the Department of Social Services.

"Since it is mostly public welfare, the cost doesn't affect the individual, but we do operate on the lowest cost per person basis," he said.

He hopes that other centers will be established around the County to provide similar services for the aged in different communities.

At the Kahului center, only 14 persons can be accommodated. All but one are over 70 years old. They are looked after by a staff of four regular employes and one or two volunteers.

Program director is Maggie Rabasan.

The atmosphere at the center, according to Mrs. Eldean Scott, a therapist and staff member, is "pleasant and happy."

She said the participants look forward to attending the center each day.

"Their coming here means so much to them and their families since it makes things that much more pleasant at home," she said.

"It has eased their boredom because now they have something to talk about and they often share their experiences with their families when they get home, chatting about what they've seen and done," she added.

The center is operated Monday through Friday from 7:30 a.m. to 5 p.m., except on designated State and national holidays.

Activities are arranged on an interest and ability basis. Although the staff includes a full-time nurse's aide, medical services are not provided, except for the administering of prescribed medications.

According to Asa Morimoto, 80, the participants enjoy their days at the center.

"It's good fun," she said. "We have lots to do. We can have talk-talk anytime and it makes everyone happier."

SPECIALIZED FINANCIAL ASSISTANCE SOURCE LIST

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. VANIK. Mr. Speaker, in these times of escalating costs for education, I am concerned that my constituents may not be aware of all the avenues which are open to them for the purpose of obtaining financial assistance, particularly as they relate to more specialized areas of interest.

Following is a source list which includes military, health and health-related scholarships, science, higher education, journalism, graphic arts, law enforcement and computer training:

MILITARY ASSISTANCE

1. Reserve Officers Training Corps Scholarships:

Type and amount of assistance

Scholarships are offered on a two, three, and four year basis, and generally cover tuition, textbooks and a monthly miscellaneous expense allowance. Details differ somewhat for each service.

Eligibility

Students must be at least 17 years old, and enrolled or planning to enroll in a school where a Reserve Officers Training Corps (ROTC) Program is offered. A standard military physical examination is taken upon entering the program.

Application

For further information, write:

Army ROTC, Fort Monroe, Virginia 23651.

Air Force ROTC, Advisory Service, Maxwell AFB, Alabama 36112, or the Air Force detachment on a particular campus.

The Commander, Navy Recruiting Command (Code 314), 4015 Wilson Boulevard, Arlington, Virginia 22203, or visit a Navy or Marine Corps Recruiting Station.

2. United States Service Academies:

Type and Amount of Assistance

Students follow a four-year tuition-free course of study leading to a Bachelor of Science degree at the U.S. Air Force Academy, the U.S. Military Academy (Army), the U.S. Naval Academy, and the U.S. Merchant Marine and the Maritime Academies (two of the five Marine Academies offer a three year program of study). Students at all of the academies receive medical care and room and board. At the Air Force, Military, Naval, and Coast Guard Academies students also receive a monthly allowance to cover personal expenses. At the maritime academies they receive a subsidy of not more than $600 per year and at the Merchant Marine Academy they receive a $400 allowance for the first three years and $1700 for the final year. All students receive a commission in their respective service upon graduation and must serve five years of active duty.

Eligibility

Applicants must be between 17 and 22 years of age by July 1st of their entering year, U.S. citizens, and unmarried. Except for the Merchant Marine, all services are available to both men and women. If you are interested in being considered for nomination and appointment to one of the service academies, please contact my Congressional Office, U.S. House of Representatives, Washington, D.C. 20515.

Application

For further information write my Congressional Office, or:

The Registrar, U.S. Air Force Academy, Colorado Springs, Colorado 80840;

Director of Admissions, U.S. Military Academy, West Point, N.Y. 10966;

Dean of Admissions, U.S. Naval Academy, Annapolis, Maryland 21402;

Director of Admissions, U.S. Coast Guard Academy, New London, Conn. 06320;

Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230;

Director of Admissions, U.S. Merchant Marine Academy, Kings Point, N.Y. 11024.

HEALTH EDUCATION ASSISTANCE

1. Undergraduate Training in Psychiatric-Mental Health Nursing:

Type and amount of assistance

Grants which cover tuition and fees plus a living allowance of $1800.

Eligibility

Students in basic nursing programs may apply. They should be fulltime trainees, and must be planning to study psychiatric-mental health nursing at the graduate level.

Application

For further information write the nursing school of your choice, or the Psychiatric Nursing Training Branch, Division of Manpower and Training Programs, National Institute of Mental Health, 5600 Fishers Lane, Rockville, Maryland 20852.

2. The Nursing Student Scholarship Program:

Type and amount of assistance

Scholarships of up to $2000, depending upon the availability of funds and the extent of need.

Eligibility

Evidence of financial need, as determined by the individual nursing school, the applicant must be enrolled in an accredited school of nursing at the undergraduate or graduate level.

Application

For further information write to the nursing school of your choice, or the Student Loan and Scholarship Section, Bureau of Health Resources Development, Health Resources Administration, Bethesda, Maryland 20014.

3. The Nursing Student Loan Program:

Type and amount of assistance

Loans of up to $2500 per year with a limit of $10,000 total assistance. Repayment of the loan begins nine months after studies are either completed or discontinued. An interest rate of 3% is charged, beginning with the commencement of the repayment period. Nursing students who go into public service after training may have some part of their repayment obligation cancelled.

Eligibility

Financial need, as determined by the individual nursing school.

Application

For information write to the nursing school of your choice, or to the Nursing Education Branch, Division of Nursing, Bureau of Health Resources Development, Health Resources Administration, 9000 Rockville Pike, Bethesda, Maryland 20014.

4. Health and Allied Health Personnel Training:

Type and amount of assistance

Training with pay (including a living expense allowance), offered by the U.S. Navy, Army, and Air Force.

Eligibility

Usually, at least two years of college study are required.

Application

Write the U.S. Army Recruiting Command, Fort Monroe, Hampton, Virginia 23369; Office of the Surgeon General, Department of the Army, Forrestal Building, Washington, D.C. 20314; Bureau of Naval Personnel, Navy Department, Attn: Pers-B623, Washington, D.C. 20370.

5. The Health Professions Scholarship Program:

Type and amount of assistance

Scholarships are available of up to $3500 per year, covering a portion of tuition, fees, living expenses and books. The individual school determines the exact amount, based upon its evaluation of the applicant's need.

Eligibility

Full-time students in good academic standing, whom the school determines are in need of such aid. Medical students who agree to practice primary care in certain disadvantaged areas can "repay" their scholarships at the rate of one year of service for each year of financial aid.

Application

For further information write to the attention of Mr. Richard Liniger, Department of Health, Education, and Welfare, Region 9, Federal Office Building, 50 Fulton Street, San Francisco, California 94102. Applications are available from the individual medical schools.

6. Public Health Training Awards:

Type and amount of assistance

The awards pay for tuition and fees, a travel allowance, and an allowance of $500 per dependent.

Eligibility

Students who need graduate or specialized training in order to prepare for a career in public health.

Application

For further information write to the attention of Mr. Richard Liniger, Department of Health, Education, and Welfare, Region 9, Federal Office Building, 50 Fulton Street, San Francisco, California 94102.

7. National Medical Fellowships:

Type and amount of assistance

Scholarships from $500–$2400 (1973 average was $1400), depending upon the extent of financial need as established by the application. They are renewable for one year.

Eligibility

Black students, mainland Puerto Ricans, Mexican Americans, and American Indians, entering their first or second year of study in medical school.

Application

For further information, write the National Medical Fellowships, Inc., 3935 Elm Street, Downers Grove, Illinois 60515.

8. Dental Scholarships for Undergraduate Disadvantaged Minority Students:

Type and Amount of Assistance

Five-year scholarships, which begin in the final year of pre-dental studies and continue through the four years of dental school. Amounts of up to $2500 are awarded, depending upon the individual school's determination of the extent of the applicant's financial need. There is a $12,500 maximum for the entire five year period.

Eligibility

Minority students from disadvantaged backgrounds who are interested in a dental career.

Application

Write to the dental school of your choice, or to the American Fund for Dental Education, 211 East Chicago Ave., Suite 1630, Chicago, Illinois 60611.

9. The Health Professions Student Loan Program:

Type and Amount of Assistance

Loans are made of up to $3500 per year. They are repayable over a ten year period which begins one year after the termination or completion of full-time studies. An interest rate of 3% is charged from the beginning of the repayment period. In some cases the repayment may be deferred, or the obligation to repay canceled.

Eligibility

Students who need financial assistance in order to pursue their health-related studies.

Application

For further information, write to the attention of Mr. Richard Liniger, Department of Health, Education and Welfare, Region 9, Federal Office Building, 50 Fulton Street, San Francisco, California 94102. Applications are available from the medical schools themselves.

10. Student Work Experience and Training Program (SWEAT):

Type and Amount of Assistance

Living expense allowances which permit full-time student employment in the field of developmental disabilities.

Eligibility

Completion of the junior year of high school.

Application

For further information write to the attention of Mr. Dale Williamson, Assistant Regional Commissioner for Rehabilitation Services, S.R.S., Department of Health, Education and Welfare, Federal Office Building, 50 Fulton Street, San Francisco, California 94102.

ASSISTANCE FOR SCIENCE-RELATED EDUCATION

1. Undergraduate Scientific Research Participation:

Type and amount of assistance

Up to twelve weeks of full-time summer study which involve students in research topics of a publishable nature. Living expense allowances are available.

Eligibility

Full-time undergraduate students familiar with the basic concepts and methods of science are eligible. Preference is given to those who are planning careers in teaching and research.

Application

For further information write to the Division of Undergraduate Education in Science, National Science Foundation, Washington, D.C. 20550. (The Foundation also awards a number of fellowships for work in a science-related field. Write to the above address for details.)

2. University Research and Training in Urban Mass Transportation:

Type and amount of assistance

Living expense allowances of up to $6500 a year, plus allowances for dependents and for travel, may be awarded to qualified applicants.

Eligibility

Students enrolled in an undergraduate or graduate program relating to mass transportation management or research. Recipients of a research grant may not receive other Federal financial assistance.

Application

For further information write to the Administrator, Urban Mass Transportation Administration, U.S. Department of Transportation, Washington, D.C. 20591.

3. Student Originated Studies in Science:

Type and amount of assistance

Expense allowances of up to $80 a week for ten to twelve weeks are awarded for summer student-originated projects.

Eligibility

Full-time undergraduate or graduate students, who should in most cases be natural science or science-related majors. Participants are required to devote full-time attention to their projects.

Application

For further information, write the Undergraduate Education in Science Division, National Science Foundation, Washington, D.C. 20550.

FINANCIAL ASSISTANCE FOR TRAINING IN THE FIELD OF EDUCATION

1. Preparation of Professional Personnel to Educate Handicapped Children:

Type and amount of assistance

Expense allowances of up to $800 per year are available for full-time undergraduate students who want to train with handicapped or exceptional children.

Eligibility

Applicants must be junior or senior undergraduate students enrolled full-time in a program with primary emphasis on work with the handicapped. All applicants must be employed, or planning employment, in the education of the handicapped or exceptional children.

Application

For further information write the Division of Training Programs, Bureau of Education for the Handicapped, U.S. Office of Education, Washington, D.C. 20202.

2. Teacher Corps:

Type and amount of assistance

After training, teacher-interns are employed by schools at the lowest starting salary, or with an expense allowance of $75 per week plus an additional allowance for dependents. Teacher Corps members serve for two years while also continuing their university studies toward a degree and/or teacher certification.

Eligibility

The applicant must have already completed two years of undergraduate study and be interested in a teaching career.

Application

For further information check with the school you atend, or the local or state education agency, or write the Corps Member Branch, Teacher Corps, Bureau of Educational Personnel Development, U.S. Office of Education, Washington, D.C. 20202.

2. Higher Education Personnel Fellowships:

Type and amount of assistance

Training assistance fellowships, which are awarded by the schools themselves.

Eligibility

Persons serving or preparing to serve as teachers, administrators, or education specialists can apply.

Application

For further information, a booklet listing the various programs and the participating schools may be obtained from the Division of Training and Facilities, Bureau of Post Secondary Education, U.S. Office of Education, Washington, D.C. 20202.

FINANCIAL ASSISTANCE FOR EDUCATION IN OTHER AREAS

(NOTE.—Only several major programs are listed here. For a more complete survey, refer to the Bibliography and Sources of Career Information.)

1. The Newspaper Fund:

Description

The Fund operates two internship programs, as well as journalism workshops and special summer workshops. It offers its own scholarships, publishes the "Journalism Scholarship Guide", and offers counseling to students interested in journalism careers. For more information on these programs, write The Newspaper Fund, P.O. Box 300, Princeton, New Jersey 08540.

2. The Council of the Graphic Arts Industry:

Description

The Council offers services similar to those mentioned above, for those students interested in the graphic arts. For further information, write The Educational Council of the Graphic Arts Industry, Inc., 4615 Forbes Ave., Pittsburgh, Pennsylvania 15213.

3. The National Wildlife Federation:

Description

The Federation offers a limited number of fellowships for graduate study in the field of natural resources conservation. For further information write the Executive Vice President, National Wildlife Federation, 1412 16th Street, N.W., Washington, D.C. 20036.

4. The American Association for Health, Physical Education and Recreation:

Description

The Association sponsores a program of scholarship assistance for high school seniors of unusual promise who desire to enter the field of physical education. A special program for women is also available. For more information, write to the American Association for Health, Physical Education and Recreation, 1201 16th Street, N.W., Washington, D.C. 20036.

5. Students with a particular interest in a foreign language:

Description

The Institute of International Studies offers the Summer Languages and Area Program, which awards expense allowances for undergraduate and graduate study in an intensive language program. Students are first accepted by a particular program, and then apply for a National Defense Foreign Language Fellowship. For further information about the programs offered write the Language and Area Centers Section, Division of Foreign Studies, Institute of International Studies, U.S. Office of Education, Washington, D.C. 20202. For information about the fellowships write the Fellowships Section, Division of Foreign Studies, same address as above.

6. Law Enforcement Program:

Description

Grants, at a maximum of $400 per semester, and loans at a maximum of $2200 per academic year, are extended to selected individuals who attend an institution designated by the Law Enforcement Assistance Administration, and who are following a program related to law enforcement. Only persons employed by a law enforcement-related agency may be eligible for a grant; full-time students are however eligible for loans. For more information write the Law Enforcement Education Program, Manpower Development Assistance Division, U.S. Department of Justice, 633 Indiana Avenue N.W., Washington, D.C.

7. Computer Training:

Description

The National Science Foundation offers salaried training in computer-related activities. Interested students contact colleges or other organizations which submit the project proposals themselves. For further information contact the school of your choice, or write the Office of Computing Activities, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

NUCLEAR BREEDER SUBCOMMITTEE REPORT

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. McCORMACK. Mr. Speaker, last Spring the Joint Committee on Atomic Energy created a special Subcommittee to Review the Nation's Breeder Reactor Program. It was the mission of this subcommittee to study all aspects of the breeder program, to examine the need for the breeder, the potential benefits which can be realized from it, all health, safety and environmental questions associated with commercial application of breeder technology; and to report these findings to the full Committee, the Congress, and the American people.

As Chairman of that Subcommittee, it is my privilege to inform my colleagues that the Subcommittee has completed its work, has presented its report to the Full Committee, and is now releasing its findings. I am inserting an edited version of the letter of transmittal, and the Executive Summary of this report in the RECORD at this point. I hope my colleagues will take the time to read the conclusions and recommendations of the Subcommittee. I believe they are definitive and represent a responsible analysis of the questions related to the nuclear breeder program.

NUCLEAR BREEDER SUBCOMMITTEE REPORT

LETTER OF TRANSMITTAL

Hon. JOHN O. PASTORE,
Chairman, Joint Committee on Atomic Energy.

DEAR MR. CHAIRMAN: The Joint Committee on Atomic Energy's Subcommittee To Review the National Breeder Reactor Program has completed its review and prepared a final report. As chairman of this subcommittee, I am pleased to submit the report herewith for your consideration. As you know, all members of the full committee served on the subcommittee.

The purpose of the subcommittee's review was to examine the various concerns that have been expressed and questions that have been raised within the Congress and outside by members of the public with respect to several fundamental issues such as the need for the breeder program, the potential benefits to be realized from it, and the attendant risks associated with ultimate widespread commercial use of breeder reactor technology as a means of generating electricity.

The subcommittee's review was conducted over a period of several months and included the preparation of a questionnaire on several energy issues that was sent to over 90 organizations and individuals, and analysis of the responses thereto, the holding of public briefings and hearings on selected energy and nuclear power topics, and an on-site review of the breeder reactor programs in several foreign countires.

The subcommittee's findings are embodied in the enclosed report, which includes consideration of energy trends, alternative energy options, and uranium resource availability as factors impacting the need and timing of the Nation's breeder reactor program. While I shall not attempt to summarize all the conclusions and recommendations reached, foremost in my mind and deserving of special attention are the following:

1. Continuation of the breeder development program, as a high priority effort, is essential to the energy future of this Nation.

2. The breeder is needed no later than it will become commercially available under current development plans, that is, the early 1990's.

3. Vigorous pursuit of Liquid Metal Fast Breeder Reactor (LMFBR) development at this time, including construction of demonstration plants, is essential to provide adequate information on which to base future decisions concerning commercialization of breeder technology. The collection of this information does not constitute a commitment to future commercialization.

4. An aggressive program of research and development on the safety and environmental impacts of breeder commercialization must be continued as a top priority effort. Our present knowledge and understanding of these issues suggests no reason for delaying the breeder program.

5. Substantial reliance on foreign technology beyond the establishment of information exchange agreements is not a satisfactory substitute for development of a breeder reactor industry in the United States.

6. A very substantial review effort on breeder development plans, approach and strategy has been and continues to be made by advisory groups and others. The conduct of such studies should not be allowed to occasion delay in the program.

It should be observed that a number of industrial nations (France, United Kingdom, U.S.S.R., and West Germany), in developing their breeder programs, have reached a policy consensus that is consistent with these conclusions.

The subcommittee's report also makes several recommendations in line with the above conclusions. In essence, these recommendations are that the development of the breeder should be continued with a new sense of urgency, and that the Liquid Metal Fast Breeder Reactor should remain the focal point of this program. The Subcommittee wishes to emphasize that the LMFBR program has been repeatedly designated as this nation's top priority energy program. This has been enunciated by the Executive Branch and confirmed by the Congress. The Subcommittee would like to observe that repetitive studies on this issue will serve little purpose. In fact, they tend to distract Members of Congress and the public from the important challenge facing us, to wit, the solution of problems inherent in the development of the breeder as an essential part of our nation's energy policy.

As a final note I would like to assure you that the Subcommittee in the conduct of its review has made every effort to draw upon all available sources of information, and to provide every reasonable opportunity to those wishing to present oral testimony or furnish written statements for the record of our hearings. In my judgment, the material and testimony presented to the Subcommittee afforded us the opportunity to consider all points of view. Our extensive schedule of public hearings provided the members with the opportunity to explore in depth the views and rationale underlying the positions expressed by witnesses from government agencies, private industry, the scientific community and the public at large.

Of course, it is never possible to evaluate the future potential of very large programs without being influenced by some subjective judgments. However, a detailed examination of the testimony received and the treatment by the Subcommittee will demonstrate clearly that this report deals with engineering and scientific fact. The Subcommittee members were dedicated to developing the fairest and most rational projections and assumptions that the Subcommittee was able to devise based on the information presented and available to it.

EXECUTIVE SUMMARY

A. ENERGY TRENDS

In its consideration of the subject of energy trends, the Subcommittee focused its attention on total U.S. energy demand in 1985, 2000 and 2020, on corresponding percentage energy growth rates and the expected impact that conservation of energy might have on reducing such growth rates. Of special interest to the Subcommittee was consideration of the electrical energy component of the expected total energy growth rates. The information received in response to the Subcommittee questionnaire and in the oral testimony on this subject was remarkably diverse, perhaps because widely differing scenarios of energy growth over the period studied can be constructed using only a few essential factors. Consideration of even the very reduced rate of energy growth that some witnesses believe may occur makes it evident that because of our dwindling supplies of domestic oil and natural gas a gap in energy supply of considerable magnitude would be projected.

The uncertainties in projections of future electric power consumption were even greater than those of total energy but the electrical component can be expected to grow more rapidly than total energy demand. The great advantage in filling the projected energy gap is that electricity can be produced by using domestic resources of coal and uranium. It seems evident that significant efforts must be undertaken to convert many end uses from petroleum fuels to electric power in order to reduce heavy dependence on imported oil. The extent to which such programs will result in electric power consumption growing more rapidly than total energy is difficult to determine.

Conclusions

After having carefully reviewed the information submitted to it on the subject of energy trends, the Subcommittee concludes that:

1. Although forecasting national energy consumption is an imprecise science, and at present only marginally useful in forecasting energy consumption patterns and production levels for various technologies, there are trends which taken along with a realistic appraisal of what can be accomplished to alter them within a given time frame, provide a valuable tool for understanding energy requirements for the future.

2. Energy growth rates, both total and electrical, may in the near term be lower than has been seen in the past. However, substantial forces do exist which will prevent these growth rates from declining precipitiously from historical levels, and for sustained periods during the balance of this century. These realities are fundamental to energy planning.

A glossary of terms and a list of abbreviations appear on pages 146 and 148 respectively.

3. A minimal compounded energy growth rate of slightly less than 3.0 percent per year represents a reasonable "best guess" for energy planning purposes. Adjustments in this estimate may be necessary as further data are accumulated.

4. A minimal compounded electrical growth rate of about 5.5 percent per year should be used for planning purposes. This would result in an electrical generating capacity of 550 gigawatts in 1985 and 1230 gigawatts in the year 2000 (average capacity 65%). Recognizing again that these projections are imprecise, they nevertheless provide a basis by which energy policy can be established. (The present U.S. capacity is 430 gigawatts.)

B. THE ENERGY GAP—HOW TO FILL IT

In order to find ways in which to fill the projected energy gap and to determine the possible role of nuclear power in that process, the Subcommittee focused its attention on projected demands for total energy and electrical energy, including the mix of energy sources, the principal limitations for conversion into electricity, the extent to which the U.S. should rely on energy resources imported from abroad, forecasts of nuclear generating capacity in the period 1985 through 2020, and the possible mix of reactor types during that period.

The United States is currently relying on oil and gas for 77 percent of its energy needs, yet these fuels account for less than 5 percnt of the Nation's estimated energy resources. There was general agreement in the information and testimony presented to the subcommittee that heavy reliance on oil and gas will have to be curtailed and substitute sources utilized to meet future demands. There was agreement that the major resources available to meet these demands were domestic uranium and coal. Uranium will make its energy contribution through the generation of electricity while coal can make a significant contribution in a number of energy forms, including the generation of electricity.

In addition to the foregoing, most respondents and witnesses agreed that there was need to pursue solar heating and cooling, solar electric power, geothermal energy and the production of energy from waste materials. Further, most concluded that these potential sources could make a significant contribution only after development and commercialization occurs, and thus they would not reduce significantly major reliance on nuclear and coal generated electric power during the remainder of this century.

There was clear recognition that if the generation of nuclear electric power is limited to reactors now in commercial use, then our Nation's estimated uranium resources will suffice only for the remainder of this century. In order to obtain full utilization of our uranium energy resource, breeders must be developed in a form suitable for commercialization.

The role that nuclear power will play in closing the energy gap will depend on many factors, including the demand for electricity, the availability of coal and its environmental acceptability, and factors limiting the growth in nuclear capacity.

Conclusions

The material reviewed by the Subcommittee indicates that (1) the Nation will be forced to substantially decrease its dependence on oil and gas because these fuel resources will continue to dwindle dramatically even when reinforced by off-shore and synthetic programs; (2) electrical energy will as a result be substituted for direct use of oil and gas wherever practicable; and (3) coal and nuclear power will be the major sources of energy used to generate the increasing amounts of electricity required for the balance of the century.

Recommendations

Because nuclear power must play a significant role in meeting electric demands in the very near future, the Subcommittee believes that every effort should be made now to ensure that nuclear power will be able to fulfill its potential contribution.

C. ALTERNATIVE ENERGY OPTIONS

In its review of the National Breeder Reactor Program, the Subcommittee believed it important to conduct its review in the context of examining which alternative energy options are available or could be made available to satisfy national energy needs. Most persons and organizations who have studied the energy supply/demand situation recognize the need for this country to utilize a variety of existing energy sources as well as to develop potential sources for future use.

From the inception of the civilian nuclear power program, the Joint Committee on Atomic Energy has always undertaken to evaluate the utilization of nuclear power in the light of other energy options, either existing or under development. This approach is probably most notably exemplified by the Joint Committee's review of the Atomic Energy Commission's 1962 report, "Civilian Nuclear Power—A Report to the President". This comprehensive program evaluation and plan for the future was reviewed in depth by the Joint Committee during public hearings held in the Spring of 1963*. The Committee considered it important to determine the need for and feasibility of the civilian nuclear power program before embarking on an extensive development program with the concomitant expenditure of large sums of public funds.

A principal conclusion of the AEC study which was endorsed by the Joint Committee was that:

> We have seen from earlier discussions * * * that even absorption of the total power industry by nuclear installations would still leave no dearth of markets for fossil fuels. . . . Furthermore, the electric industry itself is growing at such a rapid rate that no possible growth of nuclear installations could prevent power generation from consuming greatly increasing amounts of fossil fuels for several decades * * *

In similar fashion the Subcommittee in this recent review has sought information from respondents and received oral testimony concerning alternate energy sources.

The principal alternate energy sources reviewed by the Subcommittee were solar and geothermal power. Support for development of these energy options was given by those responding to the Subcommittee's question set and by those giving oral testimony, including both supporters and opponents of the U.S. civilian nuclear power program. The projected contributions that these energy sources could make in meeting the energy demand for future years varied widely depending on those making the projection. Virtually all witnesses agreed that the range for the year 2000 was between 4 percent and 10 percent of our total energy needs.

Various problems were noted that would need resolution before widespread use of a new energy option would be possible. Problem areas noted for solar power were the need to develop cheaper, more durable collectors, heat transfer and storage systems; the need to reduce the cost of the photovoltaic conversion systems by a factor of 100 to 1000; and the protection of collector systems from storm damage and collection of dust and dirt. The large commitment of land for collection systems was also noted. These are all areas being pursued in the development program.

With respect to geothermal energy, the different methods of providing and using geothermal energy were discussed. Environmental effects such as surface and ground water quality impairment and air emissions were noted. Other factors hindering early development of geothermal power that were noted were lack of assurance of the feasibility of profitable production of electricity over the life of the plant, capital requirements and legal problems over ownership rights. These areas are also being addressed in the ERDA R. & D. program. From discussions with government officials in charge of the program, solar advocates and nuclear critics, the general view was that both the breeder and other energy options, such as solar and geothermal, should be developed and that funds for development of all feasible energy sources are expected to be available.

Conclusions

Based on testimony from the ERDA and from a number of other experts, the Subcommittee concludes that energy production will be as shown in Fig. 3 on page 39.

The Subcommittee strongly endorses the substantial increases in funding for alternative energy options, including solar and geothermal power, recently approved by the Congress. The Subcommittee accepts the ERDA projections for the rate of commercialization of alternative energy sources for meeting future energy needs. The Subcommittee notes, however, that even if these projected energy contributions from solar, geothermal and other alternative technologies were to be doubled our fundamental conclusions regarding the need for nuclear power would not change significantly. (Waste conversion is not included in this assumption as waste is a finite resource and cannot be arbitrarily doubled.)

Recommendations

The Subcommittee recommends continued vigorous research and development and funding of alternative energy options, maintaining at all times a realistic perspective of their potential.

D. URANIUM RESOURCE AVAILABILITY

Uranium is the primary fuel used by present day light water reactors. Its availability is a critical element in the debate over the need for breeder reactors and the timing of their introduction into commercial use by the electric utility industry.

In the material reviewed by the Subcommittee only ERDA and EPRI presented independently developed numerical projections. ERDA projects that 3.6 million tons of uranium will be available, at a production cost of $30 a pound or less. ERDA also projects there is another 13 million tons of uranium at economic and environmental costs which ERDA and others believe might well preclude the use of this material. ERDA engineers and geologists independently develop resource projections based on such inputs as industry data, field examinations and available geologic reports. The majority of those presenting information to the Subcommittee cited ERDA's projection as the most reliable and the one that should be used to plan our energy programs.

If ERDA's recent estimates prove correct, the size and composition of the resource base have serious implications for the non-breeder reactor power program. Information provided to the Subcommittee indicates that more than the approximately 700,000 tons (620,000 of reserves and 90,000 of byproduct) of reasonably assured reserves will be needed over the lifetime of reactors presently operating, under construction, or on order. Plants that will be contracted for from now on will depend for fuel on "potential resources" which have not as yet been discovered or verified. Several respondents reported that at some time during the 1990's all of the "potential resources" will also have been committed to the lifetime needs of new reactors. If converter reactors are to be built after that time, they will depend for fuel on either uranium which has not yet been projected to exist as "potential resource", higher cost uranium from low grade ore deposits, or recycled plutonium.

In an analysis done for the Electric Power Research Institute (EPRI) Milton F. Searl projected that there is a 50 percent chance that there are more than 13.2 million tons and a 5 percent chance that there are more than 28.9 million tons of uranium in the United States. His forecast is based on an extrapolation from ERDA data to obtain the expectation of finding a given amount of uranium below a cost of $100/pound. Searl's forecast is mentioned in the NRDC publication "Bypassing the Breeder" as the forecast which NRDC subscribes to. "Bypassing the Breeder" is frequently cited by those opposed to the breeder as part of their basis for believing the breeder should be postponed or abandoned.

Several witnesses expressed their subjective view that uranium resources will exceed the amounts which ERDA projects. These estimates did not include numerical projects and did not appear to be based on independent analysis.

Since the ERDA and Searl estimates suggest different decisions on the need and timing of breeder reactors, there is a need to determine which of these two estimates is closer to being correct. Unfortunately mineral forecasting techniques are not reliable enough to be able to project with certainty which projection is more nearly correct.

The policy maker, working with imperfect knowledge, must select the resource estimate he will rely upon based on the reliability of the forecasting technique, the track record of mineral forecasting, and the consequences of an erroneous choice. EPRI, for whom Searl made his forecast, believes the ERDA projection is prudent and a reasonable basis for long-range planning. Most of those who expressed views on this topic to the Subcommittee agree with EPRI in this regard. In relation to the track record of forecasting techniques, the recent 75 percent reduction of forecast oil reserves at a time when rising oil prices and the embargo made the existence of these reserves so important, indicates how risky it can be to base policies upon imprecise resource predictions. The consequences of an incorrect decision such as postponing breeder development based on a high estimate of uranium resource which later turns out to be unavailable, would probably include reduced economic growth, increased unemployment, and more costly energy production.

Conclusions

The Subcommittee believes that the ERDA forecast of 3,600,000 tons of uranium at a cost of $30 or less per pound is the most prudent projection on which to base energy plans. It is recognized that these numbers may change as the findings of the National Uranium Resource Evaluation program become available.

The Subcommittee concludes that the uranium supply forecast by ERDA will be inadequate to provide for the nuclear power projected in this report beyond the mid 1990's. The utilization of the breeder concept would increase the energy potential of the presently projected 3.6 million tons of uranium such that it would become equivalent in energy output to about 126 million tons of low cost uranium, an amount of nuclear fuel sufficient to supply nuclear powerplants for centuries.

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*Development, Growth, and State of the Atomic Energy Industry, Joint Committee Print, Parts 1 and 2, February and April 1963.

See also the 1967 Supplement to the 1962 Report to the President, appendix 13, p. 253, Joint Committee print, Nuclear Power Economics—1962 through 1967, February 1968.

See also Understanding the National Energy Dilemma, Joint Committee print, August 1973.

Recommendations

The Subcommittee recommends that the ERDA vigorously pursue its National Uranium Resources Evaluation Program to establish projections of the uranium resource of this Nation with the greatest possible accuracy.

This Nation should also pursue technological options which will extend the energy potential of our uranium supply.

E. NEED AND TIMING OF THE BREEDER PROGRAM

In recognition of the likely inability of uranium supplies to economically support the future energy load projected for nuclear power, this Nation has had a breeder reactor development program underway for over 25 years. The type of breeder reactor that is generally considered the most advanced and to possess the greatest likelihood of commercial development is the Liquid Metal Fast Breeder Reactor (LMFBR). An LMFBR development program is in progress with the objective of establishing a broad technological base leading to a competitive commercial industry. An essential element of this program is the construction of a mid-sized demonstration plant, the Clinch River Breeder Reactor (CRBR).

In view of the concerns that have been expressed in Congress and by the public with respect to various aspects of the LMFBR program, the Subcommittee undertook to examine the need for the program, and its potential benefits and risks. In the public hearings and other information collection activities conducted by the Subcommittee, the overwhelming consensus was that the LMFBR is needed, and that this need is urgent. A minority group, generally known to oppose nuclear energy, asserted that the breeder was not needed.

The Subcommittee was impressed that those Government agencies with responsibilities for planning or providing for the Nation's energy needs supported the urgent development of the breeder, as did almost all industrial or utility organizations queried. The main reason offered in support of the need for a commercial breeder on a timely basis was its ability to provide sufficient fuel for future electrical generating requirements. In addition, many proponents of the breeder noted its attractiveness from a cost-benefit basis, i.e., future projected savings in fuel costs by the breeder are expected to far outweigh development costs.

With regard to uranium reserves, the basic argument is that the limited amount of "assured" and "potential" reserves (3,600,000 tons of U_3O_8 in the United States) will be fully committed to "burner" reactors, such as the light water reactor, by perhaps the mid-1990's depending on the energy growth rate, plant capacity, and other factors. No additional reactors of this type could be built after this date unless additional uranium resources are found or low grade ores with their accompanying higher costs and environmental impacts are used. A breeder reactor, on the other hand, would permit the extraction of up to 50 times as much energy from these uranium resources, thereby extending our nuclear fuel supplies from decades to centuries.

With regard to cost-benefit analysis, the basic argument is that the use of breeder reactors will avoid reliance on low grade, high cost uranium ores, with substantial resultant savings in fuel costs which will be passed on to consumers. These savings are estimated, under all but the most pessimistic conditions, to be considerably greater than development costs of the LMFBR program. The net savings would, according to these arguments, reach $150 billion by the year 2020, as well as substantially reduce the requirements for mining and enriching uranium.

The Subcommittee also heard testimony and received information to the effect that the need for the breeder had been overstated, and that the projected benefits were not to be had. In general, those groups or individuals opposing the breeder were found to do so based on the same arguments that proponents cite to favor its development, but the opponents generally place a different interpretation on the factors cited above. For example, the opponents suggest that development costs will outweigh savings in fuel costs, (i.e., that cost benefit analysis supports the abandonment of the breeder rather than its development), that AEC–ERDA estimates of uranium resources are too conservative, and that substantial quantities remain to be discovered at economical prices in this country, that energy demand will be less than projected by breeder proponents in future years, and that safety and environmental problems are beyond man's control.

A corollary question considered by the Subcommittee was, assuming a breeder reactor is needed, whether or not this country should continue to put its major effort on the LMFBR, or if more (or less) effort should be devoted to alternate breeder reactor concepts. Again, respondents were essentially unanimous in agreeing that the LMFBR should continue to be the focus of breeder efforts and receive top priority.

The Subcommittee also examined whether or not the overall LMFBR program objectives, content and approach are correct, and what steps can be taken to minimize the costs of the program, and improve performance with respect to program schedules. With regard to overall objectives and approach, the great majority of respondents was again enthusiastic about the program goals and the means proposed to achieve them. A few respondents who as noted before, are generally viewed as opposing nuclear energy, found the whole program premature and ill-advised. They recommended steps such as successful operation of the FFTF before a demonstration plant is built, if at all.

The placement of greater reliance on foreign technology was suggested as a means of improving program performance and reducing costs. While the surface advantages of this approach are evident, several disadvantages were also pointed out, such as the state of dependence the U.S. might be placed in (such as now exists on foreign oil), failure of the U.S. to develop its own industry, undesirable impact on our balance of payments situation, and the need for foreign designs to be modified to meet U.S. safety and licensing requirements.

Other questions examined by the Subcommittee included the total R. & D. costs for the LMFBR and their means of recovery, the predicted capital costs of commercial LMFBR's and the methods to provide that capital, and the overall issue of whether or not the LMFBR would be economically viable. The general consensus of information presented was that the $10.6 billion ERDA figure for the total LMFBR research, development and demonstration program was a reasonable estimate, although a few respondents voiced strong feelings that previous inabilities to meet cost estimates meant the figures would go much higher.

With regard to timing for the LMFBR, the consensus was that the breeder is needed by about the time it would become commercially available under current development plans, i.e., the early 1990's. Several witnesses suggested this timing should be accelerated, noting that if energy demand returns to near-historical levels, the breeder may already be too late. A substantially different minority view was also presented to the Subcommittee, specifically that based on the premise that future energy demand would be lower than that proposed by AEC-ERDA, and that since there is a reasonable "likelihood" of additional uranium resources being identified, the need and timing for the LMFBR is uncertain at best.

With regard to the subject of LMFBR commercialization, the Subcommittee examined the issue of whether or not proceeding with the LMFBR R. & D. program now, specifically with the CRBR project, represents an irreversible commitment to commercialization. It was found that any judgement on whether or not a technology option is exercised (i.e., a number of plants of that type are built) will depend on the relative technical and economic merits of that option in comparison with other available options. The *decision* on exercising an option will rest primarily with the utility industry, rather than the Government, and it was therefore reported that proceeding with the current LMFBR program does not present a commitment to commercialization, nor does it prejudge any decision concerning the eventual commercialization of the technology.

Conclusions

The Subcommittee concludes:

1. Continuation of the breeder development program, as a high priority effort, is essential to the energy future of this Nation.

2. The breeder is needed no later than it will become commercially available under current development plans, i.e., the early 1990's.

3. Vigorous pursuit of LMFBR development at this time, including construction of demonstration plants is essential to provide adequate information on which to base future decisions concerning commercialization of breeder technology. The collection of this information does not constitute a commitment to future commercialization.

4. An aggressive program of research and development on the safety and environmental impacts of breeder commercialization must be continued as a top priority effort. Our present knowledge and understanding of these issues suggests no reason for delaying the breeder program.

5. Substantial reliance on foreign technology beyond the establishment of information exchange agreements is not a satisfactory substitute for development of a breeder reactor industry in the U.S.

6. A very substantial review effort on breeder development plans, approach and strategy has been and continues to be made by advisory groups and others. The conduct of such studies should not be allowed to occasion delay in the program.

Recommendations

1. The breeder program should be continued with a new sense of urgency, and the LMFBR should remain the focal point of this program. In addition, other breeder options should be pursued.

2. The LMFBR development schedule should be reexamined by the ERDA and continually reoptimized in accordance with projected need dates. Urgent consideration should be given now to final steps and facility requirements for bringing the breeder program to commercialization at the earliest possible time.

3. The Subcommittee believes that the time has come to end the discussion over whether or not this Nation should have a breeder research and development program. Rather, national attention should be turned toward solving the outstanding problems associated with the program and its eventual commercialization.

4. The ERDA should lend greater emphasis to the establishment of technical information exchange agreements with foreign countries who are also actively developing the LMFBR.

5. The tendency within the Federal Government towards duplicative and redundant reviews of nuclear power and the need for the breeder reactor should be recognized and held to a minimum. Further reviews should

be on narrower issues, such as means for improving cost and schedular performance. Their emphasis should not be on the issue of "should we do the job", but on "how best to get the job done."

F. CLINCH RIVER BREEDER REACTOR (CRBR)

The Clinch River Breeder Reactor project has been undertaken with the intention of demonstrating technical performance, reliability, maintainability, safety, environmental acceptability, and economic feasibility of a liquid metal fast breeder central station electric power plant in a utility environment. It is to be a 350 MWe (net) reactor plant intermediate in thermal size between the Fast Flux Test Facility now under construction and the Near-Commercial Breeder Reactor planned for construction and operation later in the overall LMFBR program.

Some witnesses before the committee suggested a delay in schedule for the CRBR which they point out would allow for redesign of the plant to bring it more in line with current technology. They would first have ERDA complete the Fast Flux Test Facility, an irradiation and components testing reactor, and carry out the two projects in series rather than on the present overlapping schedules. Others suggested that the CRBR be cancelled and that this country pursue the use of foreign breeder technology as illustrated by LMFBR demonstration plants now operating in France and elsewhere. Proponents of the CRBR and ERDA's overall LMFBR program warned that there had already been schedule slippage in the CRBR project and any restudy of design would result in additional delay, placing us even further behind other nations. They believe that much will be learned by operation of the reactor as currently designed.

Some witnesses before the Subcommittee questioned the propriety of the size selected for the CRBR, suggesting that it might be made larger. Proponents of the CRBR point out that in thermal rating it is about two and one-half times the size of FFTF and would be about one-third to one-fourth the size of the NCBR. In their view it would provide a proper intermediate step between the FFTF and the NCBR.

In the summer of 1972 when the AEC furnished the Program Justification Data Arrangement for the CRBR the total cost of the project was estimated to be $699 million. In March of this year ERDA submitted revisions to that arrangement, including a new estimate of cost—$1.736 billion. ERDA attributes the increase in cost to be primarily the result of a better definition of project scope, including design changes, the effects of inflation, cost trends in the utility supply and manufacturing industry, and increased environmental and licensing constraints.

Conclusions

The Subcommittee emphasizes that the CRBR is an important and necessary element in the orderly progression of research, development and demonstration for a responsible LMFBR program. The Subcommittee also believes that the projected operational schedules of the FFTF and the CRBR project permit a proper use of design experience and allow for an efficient utilization of scientific and engineering manpower.

Recommendations

The Subcommittee recommends that the ERDA and its industry partners in the CRBR project make every reasonable attempt to adhere to the present schedule for design, construction and licensing review of the CRBR. If any future turn of events indicates to the project participants an opportunity for improvement in the schedule for the CRBR's availability date, the matter should be pursued and the Joint Committee so notified.

G. SAFETY AND ENVIRONMENTAL CONCERNS

The main safety and environmental issues addressed were reactor safety, plutonium toxicity, radioactive waste management, nuclear material safeguards and environmental effects of alternate energy sources.

1. Reactor Safety

The principal safety issue dealt with the likelihood and potential consequence of a major nuclear accident. Opponents of nuclear power expressed the view that the consequences of a major nuclear accident would be so severe that development of the breeder should be slowed or halted. Proponents argued that the low probability for initiating and completing an accident sequence leading to major equipment failure, coupled with the design of the plant to provide protection to the public over a wide range of assumed accident conditions, made nuclear power safer than other means of producing economic energy today.

Conclusions

Reactor safety questions noted during the Subcommittee's study appear amenable to technical resolution. The Subcommittee notes with satisfaction that a comprehensive research program is being carried forward to assure that every conceivable hazardous circumstance or condition that might arise in a Liquid Metal Fast Breeder Reactor is being considered in advance, and that no credible situation or accident has been hypothesized to date for which adequate design and safety features are not under consideration.

Recommendations

The Subcommittee recommends that the ERDA, NRC, reactor vendors and utilities continue to give close attention to the development of safe breeder reactor designs and carry out the necessary experimental programs to substantiate all important elements of those designs.

2. Waste Management

Possible dangers from high-level radioactive wastes and postulated deficiencies in waste disposal technology, together with the moral issue of imposing control of these wastes on future generations, are reasons frequently advanced in opposition to nuclear power in general and to the breeder in particular. On the other hand, the AEC and now ERDA have had programs underway for some time to further develop and demonstrate economically attractive, environmentally acceptable and technologically feasible long-term approaches to waste management.

Conclusions

The Subcommittee concludes that, on the whole, the potential difficulties which may be encountered in the radioactive waste management program do not pose risks to the public of such magnitude that this Nation should forego its nuclear energy program, including the development of a breeder reactor. Clearly much remains to be done to demonstrate and finalize the technology for long-term waste management, but the problems involved are not insurmountable.

Recommendations

1. In view of the fact that radioactive waste management requirements for breeder reactors will be essentially similar to those for light water reactors, the Subcommittee recommends that the ERDA vigorously pursue its research, development, and demonstration program for waste management and storage. In making this recommendation, the Subcommittee recognizes that the technology required for waste management is largely in hand and that the critical delays being experienced today are primarily administrative and regulatory. Public understanding of the nuclear energy program and the closing of the fuel cycle including waste management are critically important factors which must be addressed at once.

2. The Nuclear Regulatory Commission should maintain close cognizance of waste management research, development, and demonstration programs and provide, in timely fashion for the use of the nuclear industry, approved criteria intended to guide the users and the public as to the acceptability, from a public health and safety viewpoint, of the proposed methods of waste storage and disposal.

3. Safeguards

Among the issues raised concerning nuclear power and the development and utilization of the breeder that of nuclear safeguards is the most subjective. The Subcommittee sees safeguards as having the potential to keep dangers feared by some analysts within bounds acceptable to society. Developing this capability will require continuing support and attention by both the Federal agencies and the Congress. As for zero risk from theft and sabotage, this cannot be assured any more than for other human activities. There will always be some residual risk.

Conclusions

The Subcommittee concludes that:

1. The chances of successful diversion of a significant quantity of plutonium from the nuclear fuel cycle by an individual or small group for terrorist purposes are extremely small.

2. There can be no absolute guarantee against theft of nuclear materials by a well-organized and equipped group willing to accept casualties and possible radiological injury incurred by inadequate handling of these materials.

3. Because of the potential consequences of diversion of nuclear materials for clandestine purposes safeguard systems must be devised and implemented in a manner which will minimize the possibility of success of such an undertaking.

4. The suggestion that the imposition of appropriate safeguards measures for the nuclear fuel cycle threatens the civil liberties of the people of this or any other country does not appear warranted.

Recommendations

The Subcommittee recommends that the ERDA and the NRC work closely together to define precisely safeguards risks and the goals to be accomplished in order to ensure the security of nuclear materials. In so doing, the ERDA and the NRC should make maximum use of the expertise and knowledge resident in sister Federal agencies.

4. Plutonium toxicity

The most serious problem raised regarding plutonium toxicity was the claim that the radiation protection guide for plutonium should be made more conservative by a factor of 115,000 (the hot particle hypothesis). Witnesses appearing on this topic reported on a considerable number of reviews that had been undertaken on this issue by experts in the field. The overwhelming consensus of these groups is that the present analytical methods are satisfactory and that a reduction of 115,000 in the protection guide for plutonium is without justification.

Conclusions

The Subcommittee finds that:

1. Since its discovery more than three decades ago, countless man years of diligent research work have been brought to bear on the subject of plutonium toxicity, both in this country and throughout the world. It is well recognized that carcinogenic properties of inhaled plutonium require that the high standards of care in the handling of this material which have been traditionally practiced for the past 30 years must be maintained.

2. The capability of inhaled plutonium

within a specific particle size range to produce lung cancer has been demonstrated in experimental animals. There are no cases on record of human lung cancer attributed to exposure to plutonium notwithstanding the fact that a number of early workers in the U.S. military program were accidentally subjected to lung doses significantly above levels prescribed in radiation protection guides.

3. Approximately five tons of plutonium-239 have been injected into the atmosphere primarily in the Northern Hemisphere by atmospheric weapons testing. About four tons of this have fallen to the surface of the earth. Every human being in the Northern Hemisphere is carrying a measurable amount of this plutonium in his body. Although these atmospherilc weapons tests occurred more than a decade ago, there is no indication that this plutonium deposition has caused any untoward health effects.

4. The theory that plutonium would be extraordinarily dangerous in the form of "hot particles" in the lungs has been thoroughly analyzed by competent and independent scientific bodies both in Great Britain and the United States and found to have no substance in scientific fact.

Recommendations

The Subcommittee recommends that:

1. The ERDA in the conduct of its activities and the NRC in its licensing and enforcement actions continue to require the high standards of plutonium protection that have been maintained in the past.

2. The ERDA and other agencies of Government concerned with the conduct of health research continue efforts intended to improve our understanding of the biological effects of human and animal exposure to plutonium and other transuranic elements.

5. Environmental Effects of Alternate Energy Sources

The Subcommittee reviewed information submitted and testimony received on the environmental effects of alternate energy sources. The projected expanded use of coal was cited as the alternative likely to pose the most severe environmental impacts. The use of oil shales and tar sands were also noted as having potential environmental impacts of some formidable proportions.

Conclusions

The Subcommittee concludes that any alternative energy source is likely to bring with it environmental effects objectionable to some part of our society. Therefore, it would be unwise to assume that alternative energy technologies which have not yet been fully studied will be without environmental impacts of some consequence.

Recommendations

The Subcommittee recommends that the ERDA and other elements of the Federal Government concerned with potential detrimental public health effects resulting from energy generation and usage continue to pursue, and in some relatively new areas initiate pursuit of, programs which will permit proper assessment of the environmental impact of the generation of energy from all sources and by all mechanism which may affect the general public.

6. Energy Centers

The idea of energy centers has attracted interest and support as one way to reduce risks of theft of nuclear materials and to increase protection of nuclear facilities against sabotage. The concept is one of collecting in one location the industrial operations involving fissionable materials and radioactive waste processing so that risks can be reduced through decreased transportation, common physical security, and other savings in management and control.

Conclusions

The Subcommittee concludes that:

1. Certain benefits can be reasonably expected to accrue from the establishment of Federally-owned energy centers in various electric distribution regions throughout the country.

2. This concept does not envision requiring that all energy production from nuclear energy or other sources be limited to production from such centers.

3. Energy centers would be ideal centers for development of alternative energy concepts and might prove attractive sites for the production of energy from these sources.

Recommendations

The Subcommittee recommends that serious consideration be given to legislation that would create energy centers. Careful study and examination of this concept by State and Federal governments and industry is warranted.

KNOX TRAIL MARCHERS TRAVEL PROUDLY THROUGH SPRINGFIELD AND WILBRAHAM

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. BOLAND. Mr. Speaker, the people of New England and the United States were recently stirred by 40 hardy volunteers who reenacted Col. Henry Knox's grueling journey of 200 years ago. Knox and his men delivered cannon and artillery from Fort Ticonderoga in New York to Gen. George Washington in Cambridge. This strenuous trek occurred in the dead of winter, 1775–76. The cannon played an important role in forcing the British evacuation of Boston in March of 1776.

The reenactment was faithfully executed under harsh conditions that included below-zero temperatures, snow and ice storms, breakdowns in equipment and 1976-style traffic jams. The Bicentennial volunteers, led by William Wilbur acting the part of Colonel Knox, performed bravely and made the 160-mile journey in 17 days.

The Knox trail marchers were met with pageantry and ceremony everywhere they went, including Springfield and Wilbraham. These Bicentennial communities and their celebration coordinators are to be commended for their efforts in helping make the Knox march a success. I would like to personally thank Irene A. Donovan of Wilbraham for keeping me posted on local Bicentennial events of interest.

Mr. Speaker, I believe Bicentennial events, such as the Knox trail march, are truely worthwhile celebrations of our Nation's history that gave us valuable insight into the past. There is a lot of tinsel, trinkets and temporary commercialism connected with this Bicentennial year, but it is thoughtful, meaningful and worthwhile events that will endure in our memories.

For the RECORD, I would like to insert three articles that recount the Knox trail reenactment. They are: "Wilbraham Set to Greet Knox Trekkers," by Fred Reidy from the Springfield Daily News of January 13, 1976; "The Knox Trail Reenactment * * * A Proud Reality," from page 1 of the Massachusetts Bicentennial Times of February–March 1976; and "General Knox Hauls the Cannon," from a fine booklet entitled "Wilbraham and the American Revolution."

GENERAL KNOX HAULS THE CANNON

On May 10, 1775, Ethan Allen and his Green Mountain Boys captured Fort Ticonderoga which contained a number of cannon and other useful war supplies. It is said that General Henry Knox himself conceived the idea of moving them to the Boston area, received Washington's blessing, and was given the job. Knox had to wait for ice to form on the Hudson and snow to blanket the roads in order to haul the cannon on his "42 exceedingly strong sleds" with his 80 yoke of oxen as far as Springfield, where he planned to obtain fresh cattle to haul them to camp near Boston.

He reached Ticonderoga on Dec. 5, 1775, and the next day started loading about 60 of the cannon and some supplies for the long journey across Lake George, four times across the Hudson to Albany, again across the Hudson to Kinderhook, and thence easterly entering Massachusetts into Great Barrington approximately along our present Route 71. From there his travel was somewhere near our Routes 23 and 20, through "Blanford", Westfield, Springfield and into Wilbraham.

Knox passed through our town on January 15 or 16, 1776. He came along the Boston Road, passed Nine Mile Pond to Maple Street. Since that portion of present Boston Road from the foot of Maple Street leading through the underpass to the bend in the Chicopee River was not in existence at that time, he went up Maple Street and Mountain Road to the point where the latter makes a sharp turn southerly, and from that point his road lead northeasterly downhill, over a stone bridge spaning Spear Brook, and onto our Boston Road near the foot of Butler Hill.

He reported to General Washington on January 24, 1776. The cannon were in position by March 5th, and on March 17, 1776, the British evacuated Boston. Knox's achievement was that important to the American cause. At the time of his trek he was only 25 years old, but a colonel in command of the colonial artillery. He rose to the rank of major general, and later became the first secretary of war.

THE KNOX TRAIL REENACTMENT * * * A PROUD REALITY

(By Massachusetts Bicentennial Commission, Boston, Mass.)

Alford is a long way back.

Seventeen days and 160 miles back.

The journey became equally as arduous for the Knox reenactment principals—a band of 40 hardy, dedicated volunteers—who retraced the journey as that of Col. Henry Knox 200 years ago when he completed the near impossible task of delivering cannon and artillery to Gen. Washington at Cambridge.

Despite the weather, unparalleled for decades in Massachusetts (18 below zero at the start of the trek on January 10), the determined band moved their "train of noble artillery" through communities across the state.

The success of this mission, the largest undertaking of the Massachusetts Bicentennial Commission, was preordained despite the constant necessity to repair sleds and to rest the animals who were streaming steam on macadam roads. Through village, city and town; through traffic in Springfield and Worchester; the trekkers forged their weary way toward Cambridge, through snow and rain and ice and gale.

Community bicentennial committees and people broke the drudgery with celebrations along the way. There were balls, luncheons, greetings, and overnight lodgings in unusual places. And, it was with some reluctance that the vigorous trekkers eyed Cambridge as the finish neared. It was with much pride that they marched the final miles.

History had repeated itself because of the sincere effort, the selfless dedication, the contributions of so many. And what better way to commemorate Henry Knox, the great patriot, than to reenact the famous trek of cannon across that route of 200 years ago.

Those who made the journey will undoubtedly enjoy the warmth that comes from accomplishing significant deeds. And the reenactment itself has become a bicentennial offering which future generations can look back on with pride.

Those volunteer trekkers who performed so admirably under trying conditions should be recorded.

They were:

Richard Raymond, Trek Master.
James R. Lambirth, Group Leader I.
William Arba, Livermore, Group Leader II.
William Wilbur, Col. Henry Knox.
Robert J. Cote.
Peter Fitzpatrick.
George Gatzogiannis.
Walter A. Himmen.
Paul F. Horstman.
Craig Lewis Howland.
James J. Kandrotas.
Thomas Vincent Keane, III.
Robert Lyon.
James Martin.
Geoffrey Norcross.
George F. Peloquin.
Robert G. Peloquin.
Joseph P. Sharky.
Robert Markell Simpson, Jr.
John D. Taudel.
George Tichy.
Roger Winkelman.
John P. Brown.
Robert J. McQueston, III.

TEAMSTERS

Leon Tuthill.
William Aquaviva.
William H. Schotte.
Harry Prescott.
Harold Pelkey.
David Norman.
Archie McCarty.
John Buzzell.
Granville Rideout.
Al Robbins.

COMMISSION STAFF

Edward A. McColgan.
Susan Schruth.
Patricia Harrington.
Paula Gartland.

[From the Springfield (Mass.) Daily News, Jan. 15, 1976]

WILBRAHAM SET TO GREET KNOX TREKKERS

(By Fred Reidy)

WILBRAHAM.—The Wilbraham U.S.A. Bicentennial Committee has prepared a well-arranged program for participants in the Knox Trail re-enactment when they arrive here Friday.

The trekkers and horse-drawn vehicles carrying cannon and other equipment will be met at the town line at 1 p.m. on Boston Road by a delegation including members of the Board of Selectmen, the Bicentennial Committee, veterans groups, Boy Scouts and other units.

The official welcome and a memorial service will be held at 2:30 p.m. at Knox Trail Park near Pond Road.

Receptions and dinners open to the public will be held at 6:30 p.m. at St. Cecilia's social center and Wilbraham United Church Fellowship Hall.

Postmaster Edward W. Irla said the postal service will provide a mini mobil Post Office at Knox Trail Park from 1 to 4 p.m.

Irla said the postal service will furnish coffee and doughnuts to the marchers when they arrive at the park for the welcoming ceremonies.

The purpose of the mini post office, Irla said, is to give people the opportunity to have stamped letters and other mailing material receive a special cancellation which bears the message "Through this place passed Henry Knox—1775–1776."

This special cancellation service will only be provided Friday. People unable to visit the mini post office during the hours announced may receive that service at the Wilbraham Post Office which will remain open beyond the regular closing hours.

Irla said he has more than 1,000 letters from all parts of the country and Canada awaiting the special cancellation which will become a collectors item.

After the reception and dinners, sleeping accommodations for the women in the group will be provided in the old St. Cecilia's Church and at Spec Pond pavilion for the men.

The horses will be stabled in the town highway garage.

The trekkers will be served breakfast Saturday morning in St. Cecilia's social center and then assemble to resume their trip. Palmer will be their next stop.

CAROL ANN HOFFMANN TO REPRESENT PENNSYLVANIA IN VFW BICENTENNIAL ESSAY COMPETITION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I am proud to report to this Chamber that Pennsylvania's candidate in the Voice of Democracy contest, sponsored by the Veterans of Foreign Wars and its Ladies Auxiliary, is Carol Ann Hoffmann, a constituent of mine, who lives in Pittsburgh's Mount Washington district.

Carol's speech on "What Our Bicentenial Heritage Means to Me" was judged the best of all entries from Pennsylvania. She now will compete with high schooler winners from every other State for five VFW scholarships, ranging from a first prize of $10,000 to a fifth place scholarship worth $1,500.

I am very proud that my district and our State will be so ably represented in this national event by Carol Ann Hoffmann, whose list of achievements and extracurricular activities at St. Mary of the Mount High School is indeed impressive.

Carol is the daughter of Mrs. Clare Hoffmann and the late Joseph Hoffmann. She has six brothers and sisters and hopes to go on to medical school after graduating from high school.

My hopes and those of my entire district will be with Carol as she competes on March 9, 1976, here in Washington, with the many other bright young men and women who are finalists in the VFW contest.

I would like to put into the RECORD now her winning essay on "What Our Bicentennial Heritage Means to Me":

VOICE OF DEMOCRACY

When I look at the foundation of America, I can see that it is basically a mosaic, pieces of various countries inlaid to form one unique pattern. Immigration and colonization occurred long before a separate government had been formed. By the time the French Revolution occurred, Irish, Scotch, German and Swedish immigrants had settled into a gradually expanding area and were in the process of formulating a set of ideals and values which were to be contained in the single, most important document in the history of the United States—the Declaration of Independence.

Once the United States had been formed, an indelible heritage began—a history passed on from generation to generation with each generation serving as a stepping stone toward betterment.

For the past few years, as we have neared the two-hundredth birthday of these United States, we have been bombarded with historical replicas, artifacts, films reviewing historical events and portraits of famous persons. All of these serve to remind us of where, when, how and why we have achieved. However, to fully understand and appreciate our heritage, we must look at the people: those who are called Americans and who are accredited with accomplishment, and are responsible, I believe, for the very essence of America.

Noah Webster defines an American as an inhabitant of North America, an American citizen. However, if we were to analyze this one man's definition as a summary of the contributions of a people for over two hundred years, most of us would have a very profound concept of an American.

But how can we truly define an American? Are Americans those who fought and lost their lives at Brandywine, Trenton, Bunker Hill and Lexington?

Are Americans those who struggled to achieve power and success, but only after a democracy had been established?

Are Americans those who achieved individual success, but used their achievement to benefit all?

The answers to these questions must be "Yes!" because, had not the themes of these questions existed, neither would have existed Americans nor their heritage.

As each war erupted, as each battle took its toll in lives, the will to attain and preserve what is rightfully ours continues.

From the small bands of men led by Washington and Greene, the strife has been buried and a new government has risen: a government providing justice, freedoms of communication and religion.

Our heritage did not end simply with a declaration of freedom. Freedom has been a catalyst used in advancement. The United States has grown into an influenial giant more than capable of providing for the needs of its people and negotiating with surrounding powers in order to get what it doesn't have. Advancements in science and technology, the arts and humanities have all contributed to the growth of America. From a vast, underdeveloped country, through depression and recession, a prosperous country has been maintained, and the spirit of progress has called all men to do something for their country. Whether it be one man's cure for polio or an entire research team looking for a cure for cancer; be it a group of men constructing a complex aircraft, or those one or two men who actually walked on the moon; whether it be the farmer, the student, the housewife or the Wall Street broker, the point is, we are all part of achievements. We have been the recipients of these achievements, and we have watched individuals achieve. We are ALL Americans.

When I look at my country's heritage, this is what I see—Americans. A people uniue as individuals but united as one in a common cause—a cause dedicated to the maintenance of the freedoms and justice we have struggled to attain.

If I, as an American, am to continue with America on the road of success, I must, as all Americans should, look at this point of our two-hundredth birthday as a point of reflection—a point where we can look at the past without reliving it, and a point where we can gain incentives to continue in the future.

IN DEFENSE OF LOCKHEED

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. McDONALD of Georgia. Mr. Speaker, one of the clever ploys of the propaganda artists and the news twisters is the gradual changing of our vocabulary. For example, our defense capability in World War II, of which we were justifiably proud, was called the "Arsenal of Democracy." But today this defense capability is termed the "military-industrial complex." The former term was said with pride, but in a triumph of propaganda and semantics the latter label is now repeated with a sneer as though our defense capability is something to be hated and feared.

Consider one of the latest attacks on an element of our defense production. On February 13 the two top executives of the Lockheed Corp., chairman Daniel J. Haughton and vice chairman A. Carl Kotchian, resigned under obvious pressure from the company's board of directors. This marked the end of two very distinguished careers. Mr. Haughton, for example, joined Lockheed in 1939 and worked his way up to board chairman 28 years later. He is a man of great energy whose working day starts at 5:30 a.m. and whose style of management is to pay attention to all the details of a project. But despite hard-driving ways, he is so well-liked that many Lockheed employees call him "Uncle Dan."

Obviously Mr. Haughton and Mr. Kotchian are being made the scapegoats—but for what? What momentous wrongdoings has Lockheed been engaged in that its top executives are forced to resign?

At the least, one would expect that Lockheed has been doing something illegal. But a check with the staff of the Subcommittee on Multinational Corporations, one of the two Senate committees that have been investigating Lockheed's activities and leaking information to the press, reveals that they are aware of no laws that Lockheed has broken, although they are continuing to check in minute detail every regulation of the Internal Revenue Service, the Securities and Exchange Commission and the Customs Bureau in the hope something might turn up.

No, the trial being conducted by congressional committees and by the press is not for illegal conduct, but for what is alleged to be unethical conduct—namely, engaging in "bribery" of any "kickbacks" to foreign officials to obtain sales contracts, notwithstanding the fact that paying commissions of this sort has been standard business practice for a long time for anyone dealing with officials of foreign governments.

For some action or practice to be unethical or immoral, freedom of choice must be possible. If someone has no choice, but is in effect forced to follow a certain course of action, he cannot be held responsible.

Now what choice did Lockheed have with respect to securing foreign sales contracts? Over two-thirds of the foreign airlines are government-owned and operated. Thus there is no free market, where the most productive and efficient aerospace company would win. The choice of which company is granted a contract is not determined by economic forces, but by government officials who hold a monopoly over the aerospace industry. If, therefore, accepted procedure is to pay a certain "commission" to certain officials as a condition to winning a contract, what should a company like Lockheed do?

And let us face it, Lockheed executives did not travel around the world asking local politicians and officials to dip into Lockheed's bank account. These gentlemen were, quite literally, shaken down. They were told to grease the palms of local bigwigs or forget about doing business. In principle, this is no different from the innocent student being forced to pay the school thugs for "protection" from having his face bashed-in. Except that the innocent student usually is not denounced for "bribing" the bullies.

Keep in mind Lockheed's commitments and responsibilities, which include 58,000 employees and many investors, not to mention Government loans which must be paid back. By complying with the foreign demands, Lockheed got the orders, saved the company and kept thousands of their people off unemployment and relief rolls.

Well, it might be argued, Lockheed surely did have a choice. It could have fought against such practices, denouncing them as unethical. But can you imagine the reaction of our Department of State? Would it have stood behind Lockheed and used diplomatic pressure to encourage foreign governments to live up to certain standards of business practice? Or would it have denounced Lockheed for creating an "international incident" that is embarrassing to the United States because some petty foreign big shots have been made uncomfortable? If anyone has any doubts, consider that when some socialist country nationalizes American companies our State Department repsonds with appeasement, apologies, negotiations for the "best possible" reparations, and then more foreign aid.

Let us consider another standard by which we can judge Lockheed's conduct. If payments to foreign governments in order to gain favor are unethical, then how are we to judge the billions of dollars of taxpayer's money that our government gives in foreign aid each year? If foreign aid payments are not "bribes" to gain favor with foreign governments, then what are they?

One of the worst injustices is a double standard. But by what stretch of the imagination can 'bribes" by our Government be ethical, progressive action in our national interest, but payments by a private company be unethical "bribes"? Yet it is my guess that those screaming loudest at the "unethical" conduct of Lockheed are the same hypocrites who gleefully support the squandering of billions on foreign aid.

Without necessarily endorsing such practices, it is interesting to note that at least Lockheed has obtained some benefits from its payments—the sale of many airplanes, the boosting of our economy and the provision of thousands of jobs, not to mention keeping in business a company for the antidefense lobby to kick around. But what rewards do we get for foreign aids?—vilification and scathing attacks by so-called third world countries who denounce us as the cause of their poverty.

Now I realize it is considered bad form to question the motives of public officials. So I will simply observe that Lockheed is one of our best defense contractors and that the attacks on Lockheed are coming from the same antidefense lobby which is determined that we shall be No. 2 instead of No. 1.

It is important to grasp, and to grasp now, that the attack on Lockheed is only the beginning. The real target is our entire defense production capability. In fact, just today a U.S. Senator is announcing the formation of a national coalition of 25 "labor, church, and environmental" organizations to knock out funding for the B-1 bomber this year. The same Senator has been attacking Lockheed for years, virtually making a career out of denouncing the C-5.

Again without directly questioning anyone's motivation, it is of interest to note that certain political leaders gave speeches that our enemies in Vietnam used in attempts to demoralize our POW's. And it is some of these same "leaders" who are leading the attack on our defense capability, as evidenced in the current Lockheed affair and the upcoming B-1 bomber fight. Apparently some of these "leaders" are not even going to take a short time-out after their campaign to handcuff the CIA and the FBI.

I might also point out that certain officials have predicted for years that Lockheed would never be able to repay its Government loans. Now what better way to see such prophesy fulfilled than to drive Lockheed into bankruptcy by means of worldwide publicity that will surely discourage any company or foreign government from granting further contracts to Lockheed?

Lockheed is a well-operated American company engaged in aerospace production and has been one of the foremost contributors to our magnificent defense capability. Its officials and thousands of loyal employees deserve far better treatment from their public officials.

COWS DO NOT GIVE MILK

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. SYMMS. Mr. Speaker, it is a fact that where I come from, cows do give milk. Chickens give eggs. And the farmer gives 40 percent of his income or better to government. His role in this country has gotten somewhat battered in the process. I think "Paul Harvey Comments" puts this in perspective rather well, and I would like to enter Mr. Harvey's comments on the phenomena of milk in the RECORD at this point:

COWS DO NOT GIVE MILK

(By Paul Harvey)

Cows don't give milk.

City children are taught that cows give milk. Cows don't give milk. Somebody has to go out there to the barn and take it away from them—twice a day!

And those somebodies are getting fed up with having to work seven-day weeks, dark to dark, for two generations for less than the national legal minimum wage!

Twenty years ago our nation had 2 million dairy farms; today a quarter of a million.

They're still able to nourish our nation because they have become so phenomenally efficient that our dairy farmers have doubled per-man productivity in the last 10 years. And increased per-cow production another 150 pounds last year.

A hundred years ago one dairy farmer could supply himself and four other people.

Today one dairy farmer supplies himself and 54 other people.

Yet he's going out of business—because of higher wages, higher taxes, higher fuel costs.

And because farms are being crowded out of city areas where milk is most needed—by expanding housing developments, schools and golf courses.

If the dairy farmer's son is left with a handful of udder and less than a dollar an hour, you'll drive that boy into our asphalt jungle. That won't help our problems, and won't solve his.

But he's fed up. He helped build a $6 billion industry; he increased his productivity three times faster than workers in other industries. Yet he's fed up with shoveling for nothing what city-itian lawnscrapers pay a dollar a bag for in the store.

So in desperation he's tried bigger herds on less acres and went backward.

He's tried dumping milk in ditches and piecemeal boycotts and local co-ops, and he's still at the mercy of a merciless cost-price squeeze.

Recently I visited the Royer dairy farm on Oregon Pike out of Lancaster, Pa.

Holsteins, 60 heifers and calves. Efficient. Last year 15,485 pounds of milk and 576 pounds of butterfat.

Fine herd. Won Outstanding Breeder Award six times.

But that farm's being squeezed out of business.

Americans, we all have a stake in this. Every depression in our nation's history has been farm bred and farm led.

You starve the farmer you starve our nation's largest supporter of heavy equipment—and all related industries.

Dairy farms—only 260,000 left in our entire nation, scattered over all 50 states—have no clout in Washington where the name of the game is numbers.

But they are, through regional dairy co-ops, getting together to negotiate some fairer prices with the bottlers and processors of milk.

The story goes that American prisoners of war were being broken to harness by a cunning torture. Starving, they were seated at a fully prepared banquet table—but the food was in deep dishes—and their hands were tied behind their chairs.

All that food to smell and no way to eat.

Hours later the tormentors returned to discover each man had a fork in his teeth and was feeding the guy nearby.

They'd have starved to death if they'd not got organized. But together, each helping the other, they managed.

FORGET THE LEAKS, GIVE US THE FACTS

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 19, 1976

Mr. MURPHY of Illinois. Mr. Speaker, hundreds of newspaper columns have been written about the final report of the House Select Committee on Intelligence. The Ford administration hopes the American people forget all about it and concentrate on the so-called headline-seeking, money-grubbing leakers who wanted to see the report in print. Then there are people like me who feel the American people deserve to see the fruits of the select committee's labors. More importantly, I think they deserve to know the committee's rating of the job our intelligence community has been doing.

Bob Wiedrich of the Chicago Tribune recently cut out all the excess verbiage and outlined a "no-nonsense" case for the right to know what the report says. I recommend this February 18 article to the attention of my colleagues, particularly those who voted to keep this report under wraps.

The article follows:

FORGET THE LEAKS, GIVE US THE FACTS

(By Bob Wiedrich)

Hey, you fellas in Washington!

How about cutting out all the recrimination, accusations, acrimonious debate, and cornball rhetoric about that leaked House Intelligence Committee report and getting down to hard cases?

Whether you know it or not, Americans are big boys and girls. They can face up to the truth far more easily than dog paddling through a flood of partisan hyperbole over who let the cat out of the bag.

That kind of stuff strains credulity and fosters distrust at a time when we least need it. So why not stop the baloney and publish the final draft of the committee report and be done with it.

Quite possibly, some of the contents will sting or even hurt a little. Some may also draw blood in high places.

But for once, fellas, start treating the American people like responsible citizens. Stop trying to hide every distasteful thing behind whatever frantic facade is at hand.

And stop feeding us a conflicting, confusing garble of malarkey that is driving Americans up a tree in an election year when faith in government is needed perhaps more than ever before.

Let's stop worrying about who leaked the report and bring the thing out in the open so that the American public can make its own independent judgment of the facts.

Bring all this crud to a halt and print the report in its proper context. Don't let it continue leaking in dribs and drabs until the original intent of the congressional inquiry into intelligence gathering methods is totally destroyed.

After all, there have been leaks from every direction. Everybody—the Congress, the executive branch, and the CIA and other investigative agencies—all have flies on their backs. There are no virgins in this burgeoning game of back alley politics. Even Daniel Schorr of CBS–TV couldn't keep his nose clean.

So, for Pete's sake, just this once, how about leveling with the voters and getting the facts out straight?

Ever since Watergate, there have been reports of one sort or another framed and then buried because somebody in authority decided the American people couldn't be trusted to face up to reality.

That's contrary to the purpose of the congressional inquiries. And undoubtedly, some of the burials have been accomplished with partisan protective mantles in mind.

This time, though, the foolishness ought to come to an end. A big bundle of taxpayer dollars has been spent carrying out the Capitol Hill inquiries and the people who paid the bills are entitled to the truth.

Secretary of State Henry Kissinger has denounced the House Committee and declared that piecemeal leaking of its document constitutes "a new version of McCarthyism."

He is absolutely right. That kind of out-of-context, obviously orchestrated dissemination of serious and vital information is the kind of grist of which character assassinations are made.

But, neither Kissinger nor the White House can prove Congress is to blame for the leaks at the moment. Nor can Congress or committee chairman Rep. Otis Pike [D., N.Y.] prove charges that the executive branch—most likely the CIA—leaked copies of the report.

Further, we think it is ridiculous—however sincerely motivated—for President Ford to offer House Speaker Carl Albert [D., Okla.] the investigative resources of the federal government to hunt down the leaks.

Because of the White House stance that Congress is responsible for the leaks, such a move would place the executive branch in the position of investigating the legislative branch just after the Congress had completed doing the reverse.

That might smack of intimidation. And that is the kind of nonsense we don't need at the moment. What we do need is facts.

The administration says it wants to keep the report bottled up until all possible jeopardy to national security and individual CIA agents is removed.

We have been assured none of the names of CIA agents or station chiefs abroad appear in the report. Nor are any current or future covert operations discussed, only past deeds under several administrations, both Republican and Democratic.

The committee furnished drafts of the report to the White House, the CIA, FBI, IRS, and the military intelligence agencies. All submitted deletions, exceptions, and corrections and well over a hundred were made in the final draft. Everybody has had their say.

So now, fellas, how about giving the American people their say, too. But let them do so with the facts in hand, not a lot of rhetorical garbage.

SENATE—*Monday, February 23, 1976*

The Senate met at 12 o'clock meridian and was called to order by Hon. JOHN SPARKMAN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, whose servants we are, whose will we would discover and whose work we would do, make ready our souls and minds for this new week. Keep our vision clear, our minds keen, our judgments sound, our motives pure. When this day has ended grant us the rest of those who are at peace with Thee.

Through Him who is the Way, the Truth and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 23, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JOHN SPARKMAN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. SPARKMAN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent to dispense with the reading of the Journal of the proceedings of Thursday, February 19, 1976.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

Mr. HUGH SCOTT. Mr. President, reserving the right to object—and I have no personal objection, but by request—I am asked to object to the meeting of the Judiciary Committee and of its subcommittees.

Mr. MANSFIELD. With that exception, I renew my request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations under "New Report."

The ACTING PRESIDENT pro tempore. The clerk will state the nominations.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of Robert B. Fiske, Jr., of Connecticut, to be U.S. attorney for the Southern District of New York.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Coast Guard and in the National Oceanic and Atmospheric Administration.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I request that the President be notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar for unobjected-to measures be waived under rule VIII.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL EMPLOY THE OLDER WORKER WEEK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 609, Senate Joint Resolution 35.

The ACTING PRESIDENT pro tempore. The clerk will state the resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 35) to provide for the designation of the second full calendar week in March 1975 as "National Employ the Older Worker Week."

The Senate proceeded to consider the joint resolution which had been reported from the Committee on the Judiciary with an amendment on page 1, in line 5, strike "1975" and insert "1976", so as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the second full calendar week in March of 1976 as "National Employ the Older Worker Week", and calling upon employer and employee organizations, other organizations officially concerned with employment, and upon all the people of the United States to observe such week with appropriate ceremonies, activities, and programs designed to decrease employment discrimination because of age.

The amendment was agreed to.

Mr. RANDOLPH. Mr. President, the enactment of Senate Joint Resolution 35, which would designate the second full week in March as "National Employ the Older Worker Week," is a meritorious measure.

As the sponsor of this resolution, I thank Senators HRUSKA and MCCLELLAN—the chairman and ranking member of the Judiciary Subcommittee on Federal Charters, Holidays, and Celebrations—for their assistance and leadership in bringing this legislation to the Senate.

The purpose of Senate Joint Resolution 35 is to educate the public on the many advantages of hiring older workers.

Unfortunately, many false stereotypes exist about the desirability and feasibility of employing middle-aged and older persons.

Several studies reveal, however, that these people perform as well on the job as their younger counterparts, and in some cases noticeably better.

Older workers typically usually have better judgment and more experience. They are also less likely to be absent for trivial reasons.

Advancing age is a serious employment barrier. Several clearly discernible trends become evident for Americans in their late forties and early fifties:

Unemployment increases;

Labor force participation declines;

Duration of joblessness rising sharply;

Occupational mobility is seriously limited; and

Poverty begins to rise.

Senate Joint Resolution 35 would help to provide a more favorable climate for employment of middle-aged and older workers.

Moreover, it would build on the effective efforts of the American Legion to encourage the private sector to hire seasoned workers. The American Legion has properly for many years designated a particular week each year as "Employ the Older Worker Week." At this time the American Legion presents awards to employers who have demonstrated leadership in hiring older workers.

These efforts have proved to be most successful, and they should be continued.

Senate Joint Resolution 35 takes on added importance now because the United States is slowly recovering from a serious recession. Some people feel it is the worst since 1937.

The economic upturn, though, has produced few concrete improvements for persons in the 45-plus age category.

In fact, unemployment averaged nearly 1.6 million in 1975 for middle age and older workers—the highest level in history.

More than 1.4 million persons 45 or older are now unemployed. Joblessness level in this bracket is likely to continue at an unacceptably high level in 1976.

We need a new national attitude to encourage job opportunities for older workers. Senate Joint Resolution 35 can be helpful in implementing this goal.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

Joint resolution to provide for the designation of the second full calendar week in March 1976 as "National Employ the Older Worker Week".

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. HUGH SCOTT. Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oregon (Mr. PACKWOOD) is recognized for not to exceed 15 minutes.

PRESIDENTIAL PRIMARIES

Mr. PACKWOOD. Mr. President, tomorrow we will have the first of 30 primaries in this election year. Thirty times in the next 5 months Americans will be inundated with "definitive" election results as to who is the front runner and who has fallen irretrievably behind. The number of Presidential primaries continues to increase, and we have yet to find an acceptable means of controlling this needless proliferation. In 1964 we had 15 primaries, in 1968, 17, and in 1972 we had 23. At the rate primaries are increasing, soon all 50 States may have individual State primaries vying for national attention. This is a needless waste of energy, money, and time.

We are using a Presidential nominating process which is outdated and inefficient. This is not to say that the principle is outdated. Far from it. The right to freely determine our leaders is one of the cornerstones of our Nation. No one would deny that the principle behind primaries—the exposure of candidates to the public and the judging of them by the public—is a good thing. But our present system of patchwork individual State primaries is inefficient. We are not making maximum use of the candidates' or the public's time and energy. Not all candidates enter all primaries. We do not have a logical, consistent way to compare various candidates. What we end up with is a situation where someone "wins" in New Hampshire without really winning, or "loses" in Florida without really losing.

With better planning and more efficient organization we could maximize the exposure of candidates. We could give the public a better comparison and turn our present endurance contest and process of attrition into a meaningful preselection statement of who are indeed the best candidates.

This is a good year to look at the primary process. First, it is an election year and the campaign trail of jet exhaust is well underway. Second, it is our 200th birthday, and we might well benefit from the lessons of the past.

Two hundred years ago we broke from the British and had to decide how to govern ourselves. Initially we had a loose confederation which was unsuccessful because each unit was too vulnerable. The separate units could not withstand the enormous pressures placed upon them. These autonomous States then sought something more durable, a more structured union, and a United States of America was born. Individual States still have individual histories, but our greatness as a nation lies in that decision to join together. Otherwise, we would have become a baker's dozen of small nation-states to be plucked off one by one by the nearest eager superpower.

Two hundred years later we are again at a time of choice, a turning point. It is a time to select carefully and judiciously those who will be responsible for forging toward our future goals. We would do well to apply the lessons of the past to our present.

If we joined together, if we brought our piecemeal primary process under close scrutiny and were willing to make the necessary changes and adjustments, we could develop more effective election procedures, and hence make a positive contribution to insuring that the public would be best served by the primary election process.

Major reform of the Presidential nominating process would not be the death of New Hampshire. Americans will still remember the State of New Hampshire, even if they do not hold the first primary. From Mount Washington, and the White Mountains, to the stormy sea coast, the fierce independence of this little State has been proven time and time again. We do not need the New Hampshire primary to remind us where New Hampshire is, and what it stands for.

Look at Oregon. Every President of the United States elected from 1924 through 1972—the last 13 elections—first won his party's primary in the State of Oregon. Some would say that Oregon's primary has now decreased in importance. However Oregon is better known and more highly regarded than ever before.

We have established a solid reputation as a forward-thinking environmentally conscious State. We have not "lost" our reputation by having a lower priority primary; indeed we have built it on more solid ground.

The same could be said of all the other 29 States planning to hold primaries this year. The individuality of each State is not determined by its primary, or when it held its primary. What is important in the primary election process is the aggregate. A single State's primary has never "determined" a national election. National politics, while always volatile, is based more on the composite of all the separate individual factions. The candidate who does well in New Hampshire and in Florida may still not be nominated. Conversely, a candidate who does not do well in the early primaries, or even one who does not enter the early primaries stands a good chance of receiving his party's nomination.

We must not get bogged down in the process of making the momentous decision of selecting the candidates for the Office of President of the United States. It is the epitome of the democratic process which was cultivated on our shores two centuries ago. To turn that process into a Barnum and Bailey traveling sideshow is to denigrate the most important elective office in the world. The means should not denigrate the ends.

During the next 5 months the American people will observe the results of 30 Presidential primaries. We will watch exhausted candidates wasting time on the cumbersome process rather than focusing on the issues. Hopefully, we will reach the inescapable conclusion that there must be a better way to capture the political will of this Nation.

Mr. President, during the 92d, 93d, and 94th Congresses I have proposed legislation to establish five regional Presidential primaries. Public support for this concept is now more prevalent than ever, and I am hopeful that hearings can be held this spring before the Subcommittee on Privileges and Elections.

I ask unanimous consent that a summary of my proposal, as well as a copy of the bill itself, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRESIDENTIAL REGIONAL PRIMARIES ACT

1. Establishes five regional presidential primaries. One regional primary would be held each month between March and July.

2. Directs the Federal Elections Commission to:

(a) Provide general administrative supervision of regional primary elections.

(b) Determine by lot the order in which the primaries would be held.

(c) Include on the ballot the names of all individuals who were, according to a majority of the Commission, "generally recognized in national news media throughout the United States" as candidates for President.

3. An "unrecognized" candidate could still place his name on the ballot by:

(a) Filing a petition, signed by one per cent of all registered voters in the region, or

(b) Paying a filing fee of $10,000 which would be returned if the candidate received more than 5 per cent of the vote.

4. A candidate could remove his name from the ballot if he stated unequivocally in writing that he was not and did not intend to become a candidate for President.

5. Abolishes the current method of selecting convention delegates. A candidate who received 5 per cent of the regional vote would be entitled to appoint delegates to the national convention. The number of delegates would be proportional to the percentage of the vote which the candidate received in that State.

6. A delegate to the national convention would be required to support the candidate who supported him until:

(a) 2 ballots had been taken; or

(b) Such candidate received less than 20 per cent of the vote on a ballot; or

(c) Such candidate released him.

S. 1831

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That this Act may be cited as the "Presidential Regional Primaries Act".

FINDINGS

Sec. 2. The Congress finds that—

(1) the proliferation of elections held by States for the expression of a preference for the office of President subjects candidates for the nomination of individuals for election to nomination for election to such office to physical exhaustion, danger, and inordinate expense;

(2) there is no uniformity among State laws with respect to the effect of such elections on delegates to the nominating conventions held by political parties;

(3) the confusion caused by this lack of uniformity in State laws gives rise to cynicism, frustration, and distrust of the nomination process;

(4) the national nominating conventions held by political parties constitute an integral part of the process by which the President is chosen by the people of the United States; and

(5) in order to protect the integrity of the Presidential election process and provide for the general welfare of the Nation, it is necessary to regulate the part of the process relating to the nomination of candidates for election to the office of President.

ESTABLISHMENT OF REGIONAL PRIMARIES

Sec. 3. (a) No State shall conduct an election for expression of a preference for the nomination of individuals for election to the office of President except in accordance with the provisions of this Act.

(b) Five regional primaries shall be held during each Presidential election year. The first regional primary shall be held on the second Tuesday of March, and an additional regional primary shall be held on the second Tuesday of each of the four succeeding months. Seventy days before the date of the first regional primary, the Commission shall determine by lot the region in which that primary is to be held. The Commission then shall determine by separate lot, conducted seventy days before the date of each subsequent regional primary except the last, the region in which each subsequent regional primary is to be held.

(c)(1) At each such regional primary, there shall appear on the ballot, together with the name of the political party with which he is affiliated, the name of each individual who is generally recognized in national news media throughout the United States as a candidate for nomination by a national political party for election to such office, as determined by a majority of the members of the Commission.

(2) An individual whose name is not placed on a regional primary ballot by the Commission under paragraph (1) may have his name and the name of the political party with which he is affiliated appear on the ballot, if he is eligible for election to the office of President, by notifying the Commission in writing that he is a candidate for nomination by a political party (specifying which political party) for election to the office of President, and—

(A) presenting the Commission with a petition supporting his candidacy for such nomination, signed by 1 per centum of the registered voters in the region in which he wishes to appear on the primary ballot (not more than 25 per centum of the signatures necessary shall come from any State within that region); or

(B) paying a filing fee of $10,000 which shall be refunded if he receives 5 per centum or more of the total number of votes cast by members of his political party in the regional primary. The notification and presentation or payment shall be made to the Commission by such date before the primary as the Commission may prescribe, but not earlier than forty-five days or later than thirty-five days prior to the date on which the primary is to be held in that region.

(3) The Commission shall announce—

(A) a tentative list of individuals for whom votes may be cast at a regional primary seventy days before the date of that primary; and

(B) a final list of individuals for whom votes may be cast at a regional primary thirty days before the date of that primary.

(d) The Commission shall not include on the ballot of any regional primary the name of any individual who executes and files with the Commission the following affidavit, executed under oath:

"I, ———, being duly first sworn, do depose and say that I am not, and do not intend to become, a candidate for nomination for election, or for election, to the office of President of the United States.

"State of ------

"County or city of --------

"Subscribed and sworn to before me this ——— day of ———, 19———.

"______

"[Seal] "Name

"______

"Title

"My commission expires ———, 19———."

(e) Subject to such guidelines as the Commission may promulgate, the regional primary shall be conducted in each State by officials of that State charged with conducting elections. Voters in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature. Each voter shall be eligible to vote only for a candidate for nomination by the party of that voter's registered affiliation. If the law of any State makes no provision for the registration of voters by party affiliation, voters in that State shall register their party affiliation in accordance with procedures promulgated by the Commission.

(f) The chief executive officer of each State shall certify the results of the regional primary held in his State to the Commission within a period of time after such date, not exceeding fifteen days, prescribed by the Commission.

APPOINTMENT OF CONVENTION DELEGATES

Sec. 4. (a) A candidate who receives 5 per centum or more of the votes cast by members of his political party in a regional primary shall appoint delegates from States within the region within which the primary was held to the national nominating convention held by the political party whose nomination he seeks.

(b) The number of delegates which a candidate shall appoint in any State within that region is a number which is a percentage of the total number of delegates from that State to his party's national nominating convention equal to the percentage of the votes cast by members of his party in that State received by him in the primary.

(c) If a candidate receives less than 5 per centum of the votes cast by members of his political party in a regional primary, he may not appoint a delegate from any State within that region. The percentage of the votes cast for such a candidate by members of his political party in any State within that region shall be (1) apportioned among the other candidates of the same political party who received votes in that State on the basis of the number of votes received by each of such other candidates and (2) added to the percentage of the votes received by each of such other candidates in that State for the purpose of determining the number of delegates they may each appoint under subsection (b).

(d) If a candidate fails or refuses to appoint delegates to which he is entitled in any State within a reasonable time, as prescribed by the Commission, the Commission shall appoint delegates pledged to support such candidate at the national nominating convention held by his party. Such delegates shall be bound to support such candidate at the convention to the same extent as if they had been appointed by that candidate.

CONVENTION BALLOTING

Sec. (a) A delegate to a convention held by a political party for the nomination of a candidate for election to the office of President shall vote for the nomination of the candidate who appointed him or for whom he was appointed until—

(1) two ballots have been taken; or

(2) such candidate receives less than 20 per centum of the vote on a ballot; or

(3) such candidate releases him.

(b) If an individual receives a majority of the votes cast on a ballot, he shall be the nominee of that party for election to the office of President. A subsequent ballot may be taken to reflect the support of the entire convention for such candidate, but the result of the subsequent ballot shall not, in such case, result in the nomination of a different individual for election to such office.

(c) The individual who will be the candidate for a political party for election to the office of Vice President shall be selected by the convention held by that party in accordance with such procedures as it may adopt.

REIMBURSEMENT OF STATES FOR COSTS OF PRIMARY

Sec. 6. Upon application therefore, the Commission shall reimburse each State for the costs it incurs in conducting a regional primary held in accordance with the provisions of this Act. Such applications shall be submitted at such times and in such form, and shall contain such information, as the Commission shall require.

DUTIES OF THE FEDERAL ELECTIONS COMMISSION

Sec. 7. (a) The Commission shall meet prior to each regional primary and at such other times as it deems necessary, and shall—

(1) publish tentative and final lists of the individuals for whom votes may be cast in each regional primary ballot and furnish a certified final list of such individuals to the appropriate officials of each State thirty days before a regional primary is to be held in that State;

(2) determine the sufficiency of any petition presented to the Commission under section 3(c);

(3) prescribe the date, after the date of a regional primary, on which the chief executive officer of each State shall certify the results of the regional primary held in his State to the Commission;

(4) promulgate guidelines and procedures to be followed by the States in conducting regional primaries;

(5) review applications for reimbursement submitted under section 6, prescribe the time of submission, from, and information content of such applications, and determine and pay the amount to be reimbursed to each State under such section;

(6) consult and cooperate with State officials in order to assist them in conducting regional primaries;

(7) determine by lot in accordance with section 3(b) the order in which the regional primaries are to be held;

(8) receive and hold any filing fee paid under section 3(c)(2)(B) and—

(A) refund that fee to the candidate who paid it if he receives a number of votes in the regional primary with respect to which he paid it equal to 5 per centum or more of the total number of votes cast by members of his political party in that primary; or

(B) pay the fee into the general fund of the Treasury if it is not refundable under clause (A) of this paragraph;

(9) appoint delegates when necessary under section 5(d); and

(10) take such other actions as may be necessary to carry out the provisions of this Act.

(b) The Commission shall report to the Congress and the President not later than one hundred and eighty days prior to the date of the first regional primary to be held under this Act on the steps it has taken to implement the provisions of this Act, together with recommendations for additional legislation, if any, which may be necessary in order to carry out the regional primary system established under this Act.

DEFINITIONS

SEC. 8. As used in this Act, the term—

(1) "Commission" means the Federal Elections Commission;

(2) "region" means any of the following five regions:

(A) Region 1 comprises Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Connecticut, New York, Pennsylvania, New Jersey, and Delaware.

(B) Region 2 comprises Michigan, Illinois, Indiana, Ohio, West Virginia, and Kentucky.

(C) Region 3 comprises the District of Columbia, Maryland, Virginia, North Carolina, South Carolina, Tennessee, Mississippi, Alabama, Georgia, Florida, the Commonwealth of Puerto Rico, the Virgin Islands, and the Canal Zone.

(D) Region 4 comprises North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, Nebraska, Kansas, Missouri, Oklahoma, Arkansas, Texas, and Louisiana.

(E) Region 5 comprises Washington, Oregon, Montana, Idaho, Wyoming, California, Nevada, Utah, Colorado, Arizona, New Mexico, Alaska, Hawaii, and Guam.

(3) "regional primary" means an election held in accordance with the provisions of this Act for the expression of a preference for the nomination of individuals for election to the office of President;

(4) "national political party" means a political party whose Presidential electors received in excess of 35 per centum of the total number of votes cast for all Presidential electors in the most recently held Presidential election;

(5) "candidate" means an individual who is a candidate for nomination by a political party as its candidate for election to the office of President;

(6) "national nominating convention" means a convention held by a political party for the nomination of candidates for election as President and Vice President; and

(7) "State" means the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, and each of the United States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. PACKWOOD. Mr. President, I yield the floor.

Mr. MANSFIELD. Mr. President, will the Senator yield to me?

Mr. PACKWOOD. I yield.

Mr. MANSFIELD. Mr. President, will commend the Senator for calling to the attention of the Senate once again a subject which has come to be an affliction as far as this country is concerned.

To me, it is a little demeaning to have candidates for the Office of the Presidency run around on a helter-skelter basis trying to keep track of the primaries. It is especially demeaning when we have the President of the United States having to undergo such a procedure to retain his office, to be renominated, and to attend to the duties of the Chief Executive of the United States.

So, I commend the Senator again.

I approve thoroughly of his idea of the regional primaries. I hope in time we have a national primary and in that way be able to do away with the conventions.

Mr. HUGH SCOTT. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. HUGH SCOTT. I would like to say that I rather like the idea of regional primaries if we can adjust them so that the proper grouping, or fair grouping, of States could be brought about.

I think the present process is demeaning, not only to the incumbent in office, but also to the numerous Presidential candidates who come from this body and at least one from the other body.

It is extremely difficult on some days to get time agreements because of the fact that some presidential candidate or other is out of the city—usually all of them—and then someone else, to protect them, objects to a vote.

As a result, we can only vote very late on Mondays while the candidates are recovering from their weekend exertions, and we can hardly vote on some Fridays unless we can fix a date which will enable all of the candidates to make the first of several meetings that evening.

I do think the Senate ought to be victimized for the convenience of all of our Presidential candidates. I think that we ought to expect them to be here doing their job if they want to be nominated to be President of the United States. They can hardly be heard to complain about the absence of any existing President at any time.

It seems to me that we ought to throw a little more spotlight on their own absenteeism. I venture to say that as of this period of time, 12:15 p.m. Monday, with the Senate in session, probably there is not a single Presidential candidate in town and will not be until a few minutes before the first vote.

This is unfortunate. It makes it very difficult for us to get any work done. I certainly hope they will not discuss the importance of diligence on the job they seek while they are being so extraordinarily undiligent with regard to the job they hold.

I congratulate the Senator.

Mr. MANSFIELD. If the Senator will yield, may I say that the criticism which the distinguished Republican leader directs against Members of Congress could also be directed against the President because he has got to leave his proper functions to engage in the primaries which occur in these various States.

So it is something which goes all the way around. I would say that our senatorial candidates for the Presidency had an excellent record last year and this year up to this time.

Mr. PACKWOOD. I respond to both the majority leader and the minority leader in this fashion. I cannot blame our candidates if they want to be President. I have to greatly admire Senator MONDALE who simply said that he decided not to go that route, he had more important things to do.

They have no choice but to enter these primaries if they want to reach for the ring, but these primaries are a test of physical endurance and not of mental capacity.

A candidate can fly to Florida, to New Hampshire, to Illinois, on 1 day, and give rational speeches, hold intelligent press conferences in California, with the time difference, but that is not a test of whether or not he is going to be a good President of this country. It may be a test of whether one should enter the Olympics, but certainly not running for President.

When we had six or eight primaries in this country 30 years ago and they were scattered reasonably geographically around the country at reasonably different times, that might be a reasonable process for selecting nominees.

Mr. HUGH SCOTT. Will the Senator yield briefly?

Mr. PACKWOOD. Yes.

Mr. HUGH SCOTT. I must say an awful lot of candidates sound to me like they have not had enough sleep.

Mr. PACKWOOD. I can foresee in 1980 we will have 35 or 40 primaries if there is no change. This, literally, a traveling sideshow, a Barnum & Bailey Circus, is going to repeat and repeat and repeat itself until we will get to the point where others, like the Senator from Minnesota, will simply say that it is not worth just the 5 months, it is not worth the year and a half or 2 years traveling this country, sleeping in motels, being separated from families in the slight hope—in the slight hope—that when the 5 or 6 months, by 1980, passes, he might be selected to be the nominee of his party.

Many of those in politics are simply saying that it is no longer worth the price.

I yield the floor, Mr. President.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 45 minutes, with statements therein limited to 5 minutes.

EVA GRACIELA STEINITZ

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar 607, S. 905.

The bill (S. 905) for the relief of Eva Graciela Steinitz, was read by title, considered by unanimous consent, ordered to be engrossed for a third reading, read a third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That, for the purposes of the Immigration, and Nationality Act and section 21(e) of the Act of October 3, 1965, Eva Graciela Steinitz shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to special immigrants as defined in section 101 (a)(27)(A) of the Immigration and Nationality Act.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. Sparkman) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE NATIONAL SCIENCE BOARD—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. Sparkman) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I am pleased to submit to the Congress the Seventh Annual Report of the National Science Board entitled, "Science Indicators 1974." It has been prepared in accordance with Section 4(g) of the National Science Foundation Act, as amended by Public Law 90–407.

This report is a part of a continuing effort by the National Science Board to develop a statistical and comparative picture of the status of American science and technology. On balance, the data in this report and other evidence indicate that the nation's research and development enterprise continues to be productive and competitive. The report also shows the unfortunate fact that inflation and the recent recession have affected adversely the level of effort and the resources that are devoted to the nation's research and development activities—much the same as other programs have been affected. Fortunately, we are making solid progress in correcting these problems and the prospects for the future are very good.

The nation's research and development efforts are important to the growth of our economy, the future welfare of our citizens, and the maintenance of a strong defense. The nation must also have a strong effort in basic research to provide the new knowledge which is essential for scientific and technological progress. My 1977 Budget now before the Congress reflects my views on the importance of science and technology in achieving our national objectives.

I commend this report to your attention.

Gerald R. Ford.

The White House, *February 23, 1976.*

PROPOSED FINANCIAL ASSISTANCE FOR COMMUNITY SERVICES ACT—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. Sparkman) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Finance:

To the Congress of the United States:

Today the Secretary of the Department of Health, Education, and Welfare is transmitting my proposed Financial Assistance for Community Services Act to the Congress.

This proposal is in keeping with my philosophy of reducing unnecessary and burdensome Federal restrictions while increasing State and local flexibility and responsibility in the administration of social programs.

This reform proposal will improve and strengthen the program of social services established under Title XX of the Social Security Act. It will provide a $2.5 billion block grant annually to the States on a population basis. It will eliminate the requirement for State matching funds, as well as most Federal requirements and prohibitions on the use of Federal funds.

These changes are an important step toward an improved Federal-State relationship in the social services field. Enactment of Title XX in January, 1975, was a beginning. That law eliminated many of the problems of the past by giving States broad authority to allocate resources within a general framework. Rather than making States responsible to the Federal government, accountability for social services was made a matter between each State and its citizens through an open planning process—a process which has shown great promise.

Title XX, however, did not go far enough. It added new restrictions which interfere with effective delivery of services. Officials at State and local levels of government indicate that they are willing and able to assume greater responsibility to gain greater flexibility in meeting local needs.

The proposed Financial Assistance for Community Services Act will:

—Eliminate the requirement that States must match one State dollar for three Federal dollars.

—Eliminate numerous restrictive conditions on how Federal funds may be used: burdensome Federal requirements for child day care; limitations on social services funding for health and institutional care; and procedures for the imposition of fees and the determination of eligibility.

—Concentrate Federal dollars on people most in need, those under the poverty threshold and those receiving public assistance.

—Assure that no State will receive less money as a result of this legislation than it received in fiscal year 1976.

—Decrease Federal monitoring and oversight of State plan requirements and expenditures of funds with the States assuming greater responsibility in this area.

—Improve the public planning process by which citizens and local governments participate in identifying needs and establishing priorities.

I ask Congress to enact this legislation promptly so that States may begin to use Federal and local money more effectively.

Gerald R. Ford.

The White House, *February 23, 1976.*

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro temport (Mr. Sparkman) laid before the Senate the following letters, which were referred as indicated:

Comments on the 10th Fiscal Year 1976 Special Message From the President Pursuant to the Impoundment Control Act of 1974

A letter from the Comptroller General of the United States, transmitting, pursuant to law, comments on the 70th fiscal year 1976 Special Message transmitted by the President on January 23, 1976, pursuant to the Impoundment Control Act of 1974 (with accompanying papers); to the Committee on Appropriations, the Committee on the Budget, the Committee on Interior and Insular Affairs, the Committee on Labor and Public Welfare, the Committee on Agriculture and Forestry, the Committee on the Judiciary, the Committee on Commerce, the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Finance, jointly, pursuant to the order of January 30, 1975.

Report of the Federal Crop Insurance Corporation

A letter from the Secretary of Agriculture, transmitting, pursuant to law, a report of the Federal Crop Insurance Corporation for the 1975 crop year (with an accompanying report); to the Committee on Agriculture and Forestry.

Report of Property, Supplies, and Commodities Provided by the Berlin Magistrate

A letter from the Assistant Secretary of Defense, reporting, pursuant to law, on the value of property, supplies, and commodities provided by the Berlin Magistrate, and under German Offset Agreement for the quarter October 1, 1975, through December 31, 1975; to the Committee on Appropriations.

Report of Receipts and Disbursements Pertaining to Disposal of Surplus Military Supplies, Equipment, and Material and Lumber or Timber Products

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a report of receipts and disbursements pertaining to disposal of surplus military supplies, equipment, material, and for expenses involving the production of lumber and timber products (with an accompanying report); to the Committee on Appropriations.

Report of Violations of the Revised Statutes

A letter from the Assistant Secretary for Congressional Relations, Department of State, reporting, pursuant to law, two violations of section 3679 of the Revised Statutes as amended for assistance to refugees from the Soviet Union, State, 1975, 1951146, and International Narcotics Control, Economic Assistance, Executive, 1975, 1151022; to the Committee on Appropriations.

Report of the Department of Defense

A letter from the Secretary of Defense, transmitting, pursuant to law, the Department of Defense report for fiscal year 1977 (with an accompanying report); to the Committee on Armed Services.

Report of Real and Personal Property of the Department of Defense

A letter from the Secretary of Defense, transmitting, pursuant to law, a report on fixed property, installations, and major equipment items, and stored supplies of the Military Departments maintained on both a quantitative and a monetary basis, as of June 30, 1975 (with an accompanying report); to the Committee on Armed Services.

Proposed Amendment of the Uniformed Services Retirement Modernization Act

A letter from the General Counsel of the Department of Defense transmitting a draft of a proposed amendment to the Uniformed Services Retirement Modernization Act (with accompanying papers); to the Committee on Armed Services.

Proposed Construction Projects by the Air Force Reserve and the Army Reserve

Two letters from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, proposed construction projects to be undertaken by the Air Force Reserve and the Army Reserve (with accompanying papers); to the Committee on Armed Services.

Federal Power Commission Reports, Opinions, Decisions and Orders, Volume No. 39

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a publication entitled "Federal Power Commission Reports, Opinions, Decisions, and Orders," Volume No. 39, covering January 1, 1968 through June 30, 1968 (with an accompanying document); to the Committee on Commerce.

Proposed Authorizations for Certain Maritime Programs

A letter from the Secretary of Commerce, transmitting proposed legislation to authorize appropriations for the fiscal years 1977 and 1978 for certain maritime programs of the Department of Commerce, and for other purposes (with accompanying papers); to the Committee on Commerce.

Proposed Amendment of the Natural Gas Pipeline Safety Act

A letter from the Secretary of Transportation transmitting a draft of proposed legislation to amend the Natural Gas Pipeline Safety Act of 1968, as amended, to authorize additional appropriations (with accompanying papers); to the Committee on Commerce.

Exemption From Coastwise Prohibitions for Certain Barges of Foreign Registry

A letter from the Secretary of the Treasury, transmitting, pursuant to law, a memorandum on exemption from coastwise prohibitions for certain barges of foreign registry (with an accompanying document); to the Committee on Commerce.

Action by the Council of the District of Columbia

A letter from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on January 13, 1976, and signed by the Mayor on February 10, 1976 (with an accompanying document); to the Committee on the District of Columbia.

Proposed U.S. Relief and Rehabilitation of the Victims of the Guatemala Disaster

A letter from the Administrator, Agency for International Development, transmitting, for the information of the Senate, explanatory material on proposed U.S. relief and rehabilitation of the victims of the Guatemala disaster (with accompanying papers); to the Committee on Foreign Relations.

Reports of the Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on action needed now to protect our fishery resources, National Marine Fisheries Service, National Oceanic and Atmospheric Administraiton, Department of Commerce (with an accompanying report); to the Committee on Government Operations.

Report on Energy Conservation Policies and Practices By the Civil Aeronautics Board

A letter from the Chairman, Civil Aeronautics Board, transmitting, pursuant to law, a report on energy conservation policies and practices by the Civil Aeronautics Board (with an accompanying report); to the Committee on Interior and Insular Affairs.

Report on Energy Conservation Policies and Practices By the Federal Aviation Administration

A letter from the Administrator, Federal Aviation Administration, transmitting, pursuant to law, a report on energy conservation policies and practices by the Federal Aviation Administration (with an accompanying report); to the Committee on Interior and Insular Affairs.

Proposed Concession Contract for El Portal Administrative Site, Yosemite National Park, Calif.

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed concession contract under which Rodger Freitas, Martin V. Warren and Esther M. Warren, a new partnership, doing business as El Portal Inn, will be authorized to provide accommodations, facilities, and services for the public within the El Portal Administrative Site of Yosemite National Park for a term of approximately three and a half years from the date of execution through December 31, 1978, when executed by the Director of the National Park Service (with accompanying papers); to the Committee on Interior and Insular Affairs.

Report of the Atomic Energy Commission

A letter from the Controller, Energy Research and Development Administration, transmitting, pursuant to law, the final financial report of the Atomic Energy Commission (with an accompanying report); to the Joint Committee on Atomic Energy.

Freedom of Information Act Implementation by the General Services Administration, 1975

A letter from the Deputy Administrator, General Services Administration, transmitting, pursuant to law, 1975 annual reports relative to the implementation of the Freedom of Information Act by the General Services Administration and by its National Archives and Records Service regarding accessioned records (with accompanying papers); to the Committee on the Judiciary.

Third Preference and Sixth Preference Classifications

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports concerning third preference and sixth preference classification of certain visa petitions (with accompanying papers); to the Committee on the Judiciary.

Proposed Legislation To Improve the Administration of State Institutions Holding Persons Involuntarily Confined

A letter from the Attorney General, transmitting a draft of proposed legislation to improve the administration of State institutions holding persons involuntarily confined, and for other purposes (with accompanying papers); to the Committee on the Judiciary.

Postal Rate Commission Report Covering the Administration of the Freedom of Information Act

A letter from the Secretary, Postal Rate Commission, transmitting, pursuant to law, a report covering the administration of the Freedom of Information Act by the Postal Rate Commission (with an accompanying report); to the Committee on the Judiciary.

Proposed Extension of the Public Health Service Act

A letter from the Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to extend provisions of title XIV of the Public Health Service Act for one and one quarter years (with accompanying papers); to the Committee on Labor and Public Welfare.

Final Priorities and Criteria for Applications for Awards Under Vocational Education Act

A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final priorities and criteria for fiscal year 1976 for applications for awards under section 142(c) of part D of the Vocational Education Act of 1963, as amended (20 U.S.C. 1302 (c)) (with accompanying papers); to the Committee on Labor and Public Welfare.

Final Regulations Governing Confidentiality of Data Under Part B, Education of the Handicapped Act

A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final regulations governing confidentiality of data under part B, Education of the Handicapped Act (with accompanying papers); to the Committee on Labor and Public Welfare.

Report of the National Aeronautics and Space Administration

A letter from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report with respect to certain civilian positions established pursuant to section 3104(a)(8), United States Code, during calendar year 1975 (with an accompanying report); to the Committee on Post Office and Civil Service.

PROSPECTUS FOR PROPOSED LEASE UNDER THE PUBLIC BUILDINGS ACT

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for proposed lease extension and a lease renewal for space presently occupied at 201 East 69th Street, New York, N.Y., and 96–05 Horace Harding Expressway, Queens, N.Y. (with accompanying papers); to the Committee on Public Works.

ACQUISITION OF REAL PROPERTY FOR PUBLIC IMPROVEMENT

A letter from the Federal Highway Administration, Federal Highway Administration, Department of Transportation, transmitting, for the information of the Senate, a publication entitled "Acquiring Your Real Property for Federal-Aid Highways" (with an accompanying document); to the Committee on Public Works.

PETITIONS

The ACTING PRESIDENT pro tempore (Mr. SPARKMAN) laid before the Senate the following petitions which were referred as indicated:

A petition for hearing from Clifton Cloudy, Crown Point, Ind.; to the Committee on the Judiciary.

Resolutions adopted by the Massachusetts State Senate; to the Committee on Agriculture and Forestry:

"MASSACHUSETTS STATE RESOLUTION

"Resolutions memorializing Congress to seek restoration of funding for the women's, infants' and children's nutrition program, known as W.I.C. program

"Whereas, The Congress of the United States passed the child nutrition bill and appropriated two hundred and fifty million dollars per year for the W.I.C. program; and

"Whereas, This program is designed to provide medical services and nutritional foodstuffs to maintain the health of infants, children and pregnant and lactating women considered nutritional risks; and

"Whereas, Thirty-nine million dollars of unexpended nineteen hundred and seventy-five funds and twenty-five million dollars of nineteen hundred and seventy-six funds are available to the United States department of agriculture to expand the W.I.C. program nationally including approval of twenty-six new programs in Massachusetts; and

"Whereas, A recent United States department of agriculture decision will result in the reallocation of W.I.C. funds to other supplemental feeding programs not available in New England; and

"Whereas, Such reallocation will have the effect of providing more economic aid to states that have suffered far less than Massachusetts from these past years of recession; now therefore, be it

"Resolved, That the Massachusetts Senate hereby urges the Congress of the United States to take whatever steps are necessary to reverse these reallocations and to make funds available to start the twenty-six programs planned for Massachusetts; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the presiding officer of each branch of the Congress and to each member thereof from the Commonwealth."

A resolution of the City Council of the City of Lakewood, Calif., requesting the President and Congress to expedite and insure the passage of appropriate legislation continuing the general revenue sharing program; to the Committee on Finance.

Senate Concurrent Resolution No. 8, adopted by the Legislature of the State of South Dakota; to the Committee on Interior and Insular Affairs:

"SENATE CONCURRENT RESOLUTION NO. 8

"A concurrent resolution, memorializing Congress to make Federal funding available to assist in the construction of the proposed Sioux Indian Cultural Center at Rapid City, S. Dak.

"Be it resolved by the Senate of the State of South Dakota, the House of Representatives concurring therein:

"Whereas, in this Bicentennial year our Nation's attention is rightly focused on the heritage of our history; and

"Whereas, South Dakota was, and still is, the heartland of the Sioux nation; and

"Whereas, plans have been formulated for construction and operation of a Sioux Indian Cultural Center of a magnitude and scope befitting the people and the traditions that project seeks to honor; and

"Whereas, no more appropriate location for the Sioux Indian Cultural Center could be sought than the Black Hills of South Dakota, the holy ground of the Sioux nation; and

"Whereas, only the arrangement of the necessary funding is staying the construction of this very significant bicentennial project:

"Now, therefore, be it resolved, by the Senate of the Fifty-first Legislature of the State of South Dakota, the House of Representatives concurring therein, that Congress and the President of the United States of America be memorialized to review the plans for the Sioux Indian Cultural Center and then to make a commitment of Federal funds appropriate to the needs and scope of the project; and

"Be it further resolved, that the Governor and the South Dakota Congressional Delegation be memorializd to exert their influence to promote the Center and to procure the necessary funding; and

"Be it further resolved, that the Secretary of the Senate send a copy of this Resolution to the President of the United States of America, the President of the Senate and the Speaker of the House of Representatives, the Governor of the State of South Dakota and the South Dakota Congressional Delegation."

Legislative Resolution 113, adopted by the Legislature of Nebraska; to the Committee on the Judiciary:

"LEGISLATIVE RESOLUTION 113

"Whereas, the Legislature has taken the position that there should be protection for the life of the unborn child whenever possible; and

"Whereas, the Legislature expressly deplores the destruction of unborn human lives which has and will occcur in Nebraska and throughout the United States; and

"Whereas, there is a pitiful lack of legal protection for the right to life of the unborn child in Nebraska and throughout the United States as a result of the United States Supreme Court decision of January 22, 1973.

"Now, therefore, be it resolved by the members of the eighty-fourth Legislature of Nebraska, second session:

"1. That the Legislature of the State of Nebraska hereby request the Congress of the United States to hold hearings on proposed amendments to the Constitution of the United States protecting the right to life of the unborn child.

"2. That Congress be urged to submit the best such proposed amendment protecting the right to life of the unborn child to the legislatures of the several states for the purposes of ratification.

"3. That such hearings and submission of the proposed amendment to the legislatures of the several states be accocmplished by the Congress of the United States in an expeditious manner.

"4. That copies of this resolution duly certified by the Secretary of State with the Great Seal of Nebraska attached thereto be forwarded by the Secretary of State to the Administrator of General Services, Washington, D.C., and to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States."

Resolution adopted by the Teachers of English to Speakers of Other Languages, Washington, D.C., relating to compensatory education as it applies to ESL and bilingual programs; to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCLELLAN, from the Committee on Appropriations, with an amendment, together with the views of the Committee on the Budget:

H.R. 11665. A bill to rescind certain budget authority recommended in the message of the President of January 23, 1976 (H. Doc. 94–342), transmitted pursuant to the Impoundment Control Act of 1974 (Rept. No. 94–640).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. GARN:

S. 3008. A bill to amend the Equal Credit Opportunity Act to prescribe administrative procedures for the Board of Governors of the Federal Reserve System. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. HUMPHREY:

S. 3009. A bill for the relief of Mr. Allen Yan Quan Chow. Referred to the Committee on the Judiciary.

By Mr. HANSEN:

S. 3010. A bill to amend Public Law 92–500, the Water Pollution Control Act Amendments of 1972. Referred to the Committee on Public Works.

By Mr. BAKER:

S. 3011. A bill to reform residential electric utility rates. Referred to the Committee on Commerce.

By Mr. HASKELL:

S. 3012. A bill to redesignate the boundaries of Colorado National Monument in the State of Colorado, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. PERCY:

S. 3013. A bill to amend the Federal Advisory Committee Act. Referred to the Committee on Government Operations.

By Mr. HATHAWAY:

S. 3014. A bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution. Referred to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. GARN:

S. 3008. A bill to amend the Equal Credit Opportunity Act to prescribe administrative procedures for the Board of Governors of the Federal Reserve System. Referred to the Committee on Banking, Housing and Urban Affairs.

DUE PROCESS AMENDMENT TO THE EQUAL CREDIT OPPORTUNITY ACT

Mr. GARN. Mr. President, I am today introducing an amendment to assure due process under the Equal Credit Opportunity Act by requiring the Federal Reserve Board in issuing rules and regulations under that act to provide a full hearing. It also affords a review by the court of appeals to determine whether a rule or regulation is supported by substantial evidence.

The Federal Reserve Board is currently subject to section 553 of the Administrative Procedure Act which requires a general notice of the proposed rule and an opportunity for interested parties to participate in the rulemaking through the submission of written data, views, or arguments with or without opportunity for oral presentation. When the Board for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, it may be dispensed with. The present standard under which the Board's rules are reviewed when challenged in court is the "arbitrary and capricious," or "rational basis" test. This procedure is totally inadequate when an agency is called upon by Congress to decide complex issues and questions of fact as is done under the Equal Credit Opportunity Act.

Informal rulemaking at best leaves tremendous discretion in the agency conducting the rulemaking as to the procedures to be utilized. There is no statutory requirement that an oral hearing be held. There is no requirement that a record be maintained, and consequently there is no requirement that the rule be based on the record of the agency's proceeding. In addition, an agency is permitted under section 553 to waive notice requirements for good cause.

My amendment remedies these deficiencies by establishing a procedure which will achieve the dual goal of maximum input by affected parties, both in carrying out its statutorily mandated requirements.

It provides a procedure and review structure containing five basic characteristics:

First. An oral hearing;

Second. An opportunity for interested parties to question other parties and Government employees who have made written or oral presentations with respect to disputed issues of material fact;

Third. Clear discretion in the Board to limit and otherwise control the extent of questioning and the length of the hearings;

Fourth. A review of the regulation in the court of appeals if sought by an aggrieved party; and

Fifth. A determination by the court as to whether the rule or regulation was based on substantial evidence.

This procedure not only provides a minimum of due process for affected parties but will result in the promulgation of better rules by the Board. Many of the issues before the Board will involve complex and technical issues which may have major economic consequences for creditors and unforeseen ramifications as to the availability of credit for consumers. Only through the participation of experts and the ability of these experts to question the assumptions of other participants will the Board be able to develop the best rule possible consistent with an expeditious proceeding.

There has been an increasing trend on the part of Congress to mold administrative procedures to fit the needs and goals of a given agency. In the Consumer Product Safety Act enacted in the 92d Congress, a procedure was adopted for the development of consumer product safety standards which varies from the traditional 553 rulemaking approach. The committee report on that bill makes it clear that the modified procedure was developed to outline a process for the maximum use of experts available in the private section.

In the last Congress, the Magnuson-Moss Warranty/Federal Trade Commission Improvement Act was enacted. Title II of that act provides a detailed procedure for the promulgation of trade regulation rules by the Federal Trade Commission. That procedure goes considerably further than this amendment in providing a right of cross-examination.

In the current session, many bills have procedures designed to meet the particular circumstance involved in the rulemaking required. For example, the provisions of Public Law 94-163, which deal with the labeling of appliances as to their energy efficiency, provide for an administrative procedure very similar to the one proposed in this amendment. The same type of procedure as proposed here is also mandated for the EPA in air quality drafts presently before the Senate Public Works Committee.

The procedures are particularly appropriate for the regulation required of the Federal Reserve Board because they will act on a subject outside of their main area of expertise. The procedure will produce better regulations and will not unduly lengthen the proceeding involved.

When the Senate considered H.R. 6516, the Equal Credit Opportunity Act amendment, on February 2, 1976, I offered this proposal as an amendment to that legislation. The chairman of the Senate Consumer Affairs Subcommittee (Mr. BIDEN) indicated that he shared some of my concerns with the procedures that are followed by the administrative agencies and was disposed to support an amendment of this nature. However, he requested that I withdraw the amendment with a promise of hearings because a number of questions had been raised by the Federal Reserve Board and there was some opposition from other groups. With the Senator's assurances that he would hold hearings in order to provide for greater input on this proposition, I withdrew my amendment. Because of the desirability of assuring the confidence of the public in the integrity of the rulemaking procedure at the Federal Reserve Board, I urge the Consumer Affairs Subcommittee and this body to take prompt action on this bill.

Mr. President, I request unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3008

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title VII of the Consumer Credit Protection Act is amended by adding at the end thereof the following:

"§ 708. Administrative procedure and judicial review

"(a)(1) Subject to the provisions of paragraph (3), regulations implementing this title and amendments thereto shall be prescribed in accordance with section 553 of title 5, United States Code, except that the Board shall afford interested persons an opportunity to present data, views, and arguments with respect to the proposed regulation, orally as well as in writing. In addition, the Board shall, by means of conferences or other informal procedures, afford any interested person an opportunity to question, with respect to disputed issues of material fact—

"(A) other interested persons who have made oral presentations, and

"(B) employees of the United States who have made written or oral presentations.

Such opportunity shall be afforded to the extent the Board determines that questioning in accordance with the procedures prescribed in this paragraph is likely to result in a more effective resolution of such issues. A transcript shall be kept of any proceeding under this paragraph.

"(2) The Board may prescribe such rules and make such rulings concerning proceedings under paragraph (1) as may be appropriate to avoid unnecessary costs or delay. Such rules or rulings may include reasonable time limits on each interested person's oral presentations, and requirements that questioning to which a person may be entitled under paragraph (1) be conducted by the Board on behalf of that person in such manner as the Board determines.

"(3) This section shall not apply to any nonsubstantive amendment to a regulation prescribed pursuant to this title if the Board determines that notice and public proceedings are impractical, unnecessary, or contrary to the public interest and publishes notice of such determination, together with the nonsubstantive amendment, in the Federal Register prior to the effective date of the amendment.

"(b)(1) Any person who will be adversely affected by a regulation or amendment thereto prescribed under this title when such regulation or amendment becomes effective may at any time prior to the sixtieth day after such regulation or amendment thereto is prescribed, file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Board. The Board thereupon shall file in the court the written submissions to, and transcript of, the proceedings on which the regulation or amendment thereto was based as provided in section 2112 of title 28, United States Code.

"(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the regulation or amendment thereto in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. No regulation or amendment thereto under this title may be affirmed unless supported by substantial evidence.

"(3) The judgment of the court affirming or setting aside, in whole or in part, any such regulation or amendment thereto shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code."

(b) The analysis of such title is amended by adding at the end thereof the following new item:

"708. Administrative procedure and judicial review.".

By Mr. HANSEN:

S. 3010. A bill to amend Public Law 92–500, the Water Pollution Control Act Amendments of 1972. Referred to the Committee on Public Works.

Mr. HANSEN. Mr. President, I am introducing today a bill that will amend the Water Pollution Control Act Amendments of 1972—Public Law 92–500.

The bill will amend section 402 to recognize discharges from certain agricultural activities as point sources but to exempt these sources from the permit requirements of section 318 or 402. The Administrator will determine the effects on the receiving waters of discharges from irrigation areas greater than 50,000 acres when the receiving water standards are violated. If the removal of those effects would leave the receiving waters with no violation of standards, then those irrigating operations would be required to obtain a permit under section 318 or 402.

The National Commission on Water Quality in their staff draft report stated: "There is little doubt that Congress intended to include irrigation return flows as a point source subject to effluent limitations and NPDES permits, but the BPT and BAT limitations concepts, even with all the problems their application has encountered, are more simply and easily applied to industrial than to irrigation discharges." The Commission was created by Congress in Public Law 92–500. The Commission's charge, described in section 315 of the law is to:

> . . . make a full and complete investigation and study of all of the technological aspects of achieving, and all aspects of the total economic, social, and environmental effects of achieving or not achieving, the effluent limitations and goals set forth for 1983 in Sections 301(b)(2) of this Act.

The Commission's estimates of the costs of treating the drainage water from one acre of irrigated land by desalting technologies are startling. The costs were computed to be up to $130 per year per acre. The cost of collection and transport of return flows plus the disposal costs from ponds have not been included. The increased production expenses of ranching and farming operations are already estimated to have risen $24 billion from 1972, which is about a 68 percent increase, by the USDA. Adding to these production expenses the treatment costs for runoff water would make total production expenses unbearable and would eliminate any return on investment an agriculturalist might have in many instances.

The report also notes:

> Sometimes efficient application of irrigation water may decrease pollutants, but it can also reduce the quantity of water stored in the soil that later percolates into surface water course or groundwater aquifers to provide a sustained supply to downstream or downslope users.

In semiarid sections of the country, such as Wyoming, where the average rainfall is about 15 inches per year, the accumulated snowfall in the higher areas is most important. There is no water to spare in these regions and most of the major streams are heavily appropriated. Many a rancher irrigates at least part of his irrigated fields by the runoff from his neighbor's field which cannot be used again by his neighbor. To decrease this runoff through desalting techniques to remove a relatively small quantity of pollutants would be damaging to the economy of these agricultural operations.

Certainly, Congress did not intend the impossible. It would seem with present technology and costs requiring the desalting of all the drainage water, complete desalting would be economically impossible.

EPA recently recognized this lack of pollution control technology and on this basis has proposed regulations to give a blanket permit to those agricultural runoffs which are considered to be point sources. However, EPA considers this blanket permit only to be a temporary solution and ultimately regulation to decrease the amount of pollutants from runoff will probably be imposed.

Given EPA's eventual regulation of this area, it is important to establish Congress intent on this economically critical area. In this context, I understand that the National Commission on Water Quality will complete its work and report to the Public Works Committees this year and that the committees expect to be addressing water quality issues during this session of the Congress. I welcome cosponsors to this and will look forward to prompt hearings by the responsible committees.

By Mr. BAKER:

S. 3011. A bill to reform residential electric utility rates. Referred to the Committee on Commerce.

LIFELINE RATE ACT OF 1976

Mr. BAKER. Mr. President, I send to the desk for introduction and appropriate referral a bill entitled the Lifeline Rate Act of 1976. This bill is identical to H.R. 11449 introduced in the House of Representatives by Congressman Clifford Allen of Tennessee.

I commend Congressman Allen for his earnest concern and attention to this matter of extraordinary interest to the people of my State. In recent months increasing electric rates and the need for energy conservation incentives have spurred thoughtful criticism of existing electric rate structures. Certainly this is as it should be. I am pleased at the development of progressive concepts such as "lifeline rates" and "peakload pricing" intended to aline the economic impact of electric rates with the social and energy needs of the country.

In addition to Mr. Allen's proposal, Senator Bill Brock of Tennessee has introduced a proposal for a joint TVA–FEA study of "peakload pricing." I commend the Senator's perspicacity in recommending careful study of this concept. The impacts and implications of rate reform are complex and far reaching. The study called for in his bill will aid understanding of the ramifications of this specific rate concept.

I hope that all of these measures and the general subject of rate reform will receive careful consideration in Congress.

By Mr. HASKELL:

S. 3012. A bill to redesignate the boundaries of Colorado National Monument in the State of Colorado, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

EXPANSION OF THE COLORADO NATIONAL MONUMENT

Mr. HASKELL. Mr. President, today I am introducing legislation to expand the Colorado National Monument near Grand Junction, Colo., by approximately 3,000 acres. This monument, established by Presidential Proclamation No. 1126, on May 24, 1911, by President Taft and increased by Presidential proclamations signed in 1933 and 1959 by Presidents Hoover and Eisenhower, respectively, possesses many natural, scientific, and recreational resources. It displays scenery typical of canyon country, blended with the colorful features of the Colorado plateau. Of particular interest are its geological features which provide outstanding examples of erosion and views of rocks representing numerous eras of geologic time. In recognition of the monument's values, annual visitation has increased from 100,000 people in 1957 to 500,000 in 1972.

Last year, a special resources evaluation study undertaken by the U.S. Park Service highly recommended that the portion of No Thoroughfare Canyon not now within the Colorado National Monument be added to it. Presently, only the mouth of the canyon lies within the monument. Most of the land—approximately 67 percent—recommended for addition to the monument, is owned by the United States and administered by the Bureau of Land Management. I have made local inquiries to assure myself that the owners of the approximately 700 acres of land which remain in private ownership do not oppose the expansion.

The canyon with its tall, sheer, red-and-buff walls tells an outstanding geological story. It displays vast horizontal layerings of dark crystalline rocks and colorful sandstones. A small permanent stream with its spectacular waterfall presents an excellent example of secondary erosion, which plays such an important part in the story of the monument. In all, No Thoroughfare Canyon suggests vastness and solitude, a silent pocket of time almost untouched by man.

A separate tract outside of No Thoroughfare Canyon is also proposed for addition to the monument. This tract—the Fletcher tract in the mouth of Red Canyon—145 acres—is in the process of being acquired by exchange for public land managed by the BLM elsewhere in Mesa County.

Mr. President, I am convinced that

the addition to the Colorado National Monument which my bill would permit will greatly enhance the beauty and scientific values possessed by the monument. My bill would also provide a statutory base to a national asset, which for 65 years has owed its existence to Presidential proclamations only.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3012

A bill to redesignate the boundaries of Colorado National Monument in the State of Colorado, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the boundaries of Colorado National Monument, Mesa County, Colorado, shall hereafter include the lands, waters, and interests therein as depicted on the map entitled "Boundary Map, Colorado National Monument, Colorado", numbered 119–20,008, and dated October 1974, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to acquire lands, waters, and interests therein within the boundaries of the monument by duration, purchase with donated or appropriated funds, or exchange.

SEC. 2. The Secretary of the Interior shall administer the area within the Colorado National Monument in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–24), as amended and supplemented.

SEC. 3. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. PERCY:

S. 3013. A bill to amend the Federal Advisory Committee Act. Referred to the Committee on Government Operations.

Mr. PERCY. Mr. President, I am today introducing legislation to amend and improve the Federal Advisory Committee Act. This legislation is intended to supplement legislation introduced by Senator METCALF, the Federal Advisory Committee Act Amendments of 1976—S. 2947. Hearings on amendments to the Federal Advisory Committee Act will be held before Senator METCALF's Subcommittee on Reports, Accounting, and Management during the week of March 8.

My legislation is intended to address two specific issues arising in the course of a recent oversight initiative by the Senate Government Operations Committee regarding the 82 advisory committees under its legislative jurisdiction. These amendments are intended as oversight tools, and as such relate to reporting requirements under the act.

The first problem with which my legislation deals is that of advisory committees being funded or supported by private interests. At least 17 advisory committees, the Business Advisory Council on Federal Reports, the National Petroleum Council, the National Advisory Committee on Banking Policies and Practices and the 14 regional such advisory committees are entirely supported by non-Federal source funding. However, by present reporting standards, there is no way to determine if, or how many, other advisory committees receive such support.

The consideration of this factor is important because the existence of such private support creates at least the appearance of possible conflict of interest. My legislation requires the reporting of all outside support and its sources, as well as centralized listing of advisory committees receiving such support.

A further issue raised in the course of the committee's oversight initiative concerned how advisory committees are to be evaluated. In response to this problem, my legislation provides useful and concrete means for more accurately measuring the contribution of an advisory committee to its sponsoring agency.

Advisory committee evaluation reports are often vague and difficult to interpret. Only formal written reports issued by advisory committees are noted in annual reports. Other informal or oral recommendations are not. In addition, there is no indication as to what ever becomes of advisory committee recommendations. Under these circumstances, it is well nigh impossible to measure accurately the real output of any single advisory committee.

My legislation remedies this problem by requiring agencies to record all advisory committee recommendations as defined in the legislation, and the status of such recommendations. This information would then be noted in the annual report of each advisory committee.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Federal Advisory Committee Act is amended by adding at the end thereof the following:

"(5) The term 'committee recommendation' means a communication, presented by or on behalf of an advisory committee after consultation with and approval by a majority of a quorum of such advisory committee, for the purpose of encouraging an agency to adopt a general or specific policy or program or to adopt or pursue a specific course of conduct.".

SEC. 2. Section 6 of the Federal Advisory Committee Act is amended—

(1) in the second sentence of subsection (c), by inserting after "members," the following: "the receipt and disposition of any non-appropriated funds or any thing of value for the support, operation, or maintenance of any advisory committee and the source and amount of any such non-appropriated funds or any thing of value received,"; and

(2) by adding at the end thereof the following new subsection:

"(d) The President shall include in the annual report required by subsection (c) from records maintained by the Advisory Committee Management Officer under section 8(b)(4) of each agency which has an advisory committee and from such other similar records as may exist, for each advisory committee which makes any committee recommendations to any agency or to the President—

"(1) the number of committee recommendations presented;

"(2) the number of committee recommendations adopted;

"(3) the number of committee recommendations rejected; and

"(4) the number of committee recommendations pending or not acted upon and the length of time each committee recommendation was pending or not acted upon.".

SEC. 3. Section 7 of the Federal Advisory Committee Act is amended by adding at the end thereof the following new subsection:

"(f) The Director shall compile and publish in the Federal Register and transmit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate an annual list specifically identifying all advisory committees which have reported or should have reported the receipt of nonappropriated funds or any thing of value required to be reported under subsection 12(b) together with the source and amounts of such nonappropriated funds received or thing of value furnished and the disposition thereof.".

SEC. 4. Section 8 of the Federal Advisory Committee Act is amended—

(1) in subsection (a)—

(A) by striking out "and operations" and inserting in lieu thereof "operations, and committee recommendations";

(B) by adding at the end thereof the following new sentence: "Each agency head shall maintain a complete and current file of all committee recommendations of every advisory committee which reports to such agency. Such systematic information and the contents of such file shall be made publicly available for inspection and copying subject to the provisions of section 552 of title 5, United States Code."; and (2) in subsection (b)—

(A) by striking out "and" at the end of clause (2);

(B) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new clause:

"(4) collect and maintain all records of committee recommendations necessary to supply such information as the President may require for purposes of section 6(d).".

SEC. Section 12 of the Federal Advisory Committee Act is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) Records required to be kept by subsection (a) shall clearly, completely, and conspicuously disclose the receipt and disposition of any nonappropriated funds or any thing of value received for the support, operation, or maintenance of any advisory committee and the source and amount of any such nonappropriated funds or any thing of value received.".

By Mr. HATHAWAY:

S. 3014. A bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution. Referred to the Committee on Rules and Administration.

Mr. HATHAWAY. Mr. President, I introduce a bill to require that the members of the Federal Election Commission be nominated by the President and confirmed by the Senate in accordance with the Supreme Court decision in Buckley against Valeo handed down on January 30, 1976.

In that case the Court found the method of nominating members of the Commission by which four of its six members were chosen directly by Congress to be in violation of the Constitution. Accordingly the Court ordered that unless this defect were corrected within 30 days in the rendering of its decision, the Commission would be stripped of its enforcement powers. It would no longer be able to bring civil actions against violators, to issue regulations or advisory opinions, to temporarily disqualify Federal candidates for failing to file required reports, to sign checks for matching funds to Presidential candidates.

The congressional intent behind the establishment of the Federal Election Commission and the other provisions of the Federal Election Campaign Act will be effectively frustrated unless Congress acts now to reconstitute the Commission in accordance with the mandate of the Supreme Court. Today is February 23; we have only until the end of the week to meet the Court's deadline.

The legislation I introduce today is an appropriate vehicle to meet this very tight timetable. It is narrowly drawn to provide that all six members of the Commission shall be appointed by the President subject to confirmation by the Senate. Unlike other bills introduced in both Houses it does not state that the Secretary of the Senate and Clerk of the House of Represenattives shall be ex officio members of the Commission without right to vote. I determined to exclude these individuals from membership, even in a nonvoting capacity in order to insure that the spirit as well as the holding of Buckley against Valeo would be met. In order to avoid even the appearance of a conflict of interest and to conform with the constitutional requirement of separation of powers it would seem desirable to exclude officers of Congress from a Commission established to regulate the election of its members.

I would hope, though, that the Secretary and the Clerk would be consulted on a regular basis regarding the Commission's administration of the Federal Election Campaign Act in order that the Commission might have benefit of the expertise of these officers and the Members of both Houses of Congress would be informed of the actions of the Commission by virtue of this consultation.

The bill is different from many of the others recently introduced with the goal of preserving the Federal Election Commission in that it excludes any provisions relating to public financing of congressional elections. This too is an intentional omission motivated by the Court-established timetable. While there are a number of compelling reasons to apply public financing provisions similar to those in effect for Presidential elections, there are also valid concerns over the impact such a change in financing would have upon our political system. The vast amount of resources necessary to mount an effective campaign for President offers a particularly strong case for matching public funds. At the same time, critics of the law have raised questions regarding whether expenditure ceilings coupled with matching funds might give incentives an unfair advantage over lesser known candidates who nonetheless are able to generate financial support. Given this background of controversy and taking into account the predominant constraint of shortness of time it seems inappropriate and potentially disastrous to link any public financing provisions to legislation relating to the survival of the Commission. Such a comprehensive package could become hopelessly bogged down and passage would be a practical impossibility within the mandated time.

Rather, I urge my colleagues to support this simple approach to meet the issue at hand. Any provision relating to public financing of congressional elections can and should await full hearing and debate over a more extended period of time than the remaining few days. Further, we ought to be aware that any legislation which the Senate deems appropriate must also be acceptable to the Members of the House of Representatives to ultimately become law. If in the identical legislation we would avoid the first instance both bodies could pass necessity of a conference and further deliberation. Further, the congressional proposal must also be acceptable to the President, or, in the event of a veto, be capable of generating the votes necessary to override. In view of the Court's timetable, I do not believe Congress ought to risk sending to the President any measure which could conceivably be vetoed. There would not be time to consider an override.

The President in his February 16 message to Congress had indicated he would accept a proposal which changes the method of appointment of Commissioners but has not issued any such guarantee regarding these other proposals. With the fate of the Commission at stake, I do not believe we should risk sending to the President anything which bears the remotest potential of being vetoed.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the text of paragraph (1) of section 310(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c) is amended to read as follows: "There is established a commission to be known as the Federal Election Commission. The Commission is composed of six members appointed by the President by and with the advice and consent of the Senate. No more than three of the members appointed by the President shall be affiliated with the same political party.".

(b) Paragraph (2) of section 310(a) of such Act is amended—

(1) by striking out "under paragraph (1) (A)" in subparagraph (A) and subparagraph (D),

(2) by striking out "under paragraph (1) (B)" in subparagraph (B) and subparagraph (E), and

(3) by striking out "under paragraph (1) (C)" in subparagraph (C) and subparagraph (F).

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 2881

At the request of Mr. FANNIN, the Senator from Nebraska (Mr. CURTIS) and the Senator from Wyoming (Mr. McGEE) were added as cosponsors of S. 2881, a bill to amend the Education Amendments of 1972 to provide that Boys State, Boys Nation, Girls State, and Girls Nation conferences conducted by the American Legion shall not be subject to title IX of such act, and for other purposes.

S. 2941

At the request of Mr. ABOUREZK, the Senator from Hawaii (Mr. INOUYE), the Senator from California (Mr. CRANSTON), the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Iowa (Mr. CLARK) were added as cosponsors of S. 2941, a bill that would provide emergency aid to Lebanon.

S. 2950

At the request of Mr. ROBERT C. BYRD (for Mr. MONDALE), the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 2950, a bill relating to the construction and operation of a natural gas pipeline from the North Slope of Alaska across Canada to domestic markets and for other purposes.

S. 2986

At the request of Mr. GRIFFIN, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 2986, a bill to amend the Housing and Community Development Act of 1974 to provide supplemental community development assistance to areas with high unemployment.

SENATE JOINT RESOLUTION 6

At the request of Mr. HELMS, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of Senate Joint Resolution 6, to restore the right to life to the unborn.

SENATE JOINT RESOLUTION 166

At the request of Mr. ROBERT C. BYRD (for Mr. MONDALE), the Senator from Colorado (Mr. GARY HART) was added as a cosponsor of Senate Joint Resolution 166, a joint resolution to establish a Bicentennial Commission on Presidential Nominations.

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. HUMPHREY, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of Senate Concurrent Resolution 70, relating to the observance of Thanksgiving.

SENATE RESOLUTION 393—ORIGINAL RESOLUTION REPORTED WITH RESPECT TO CONSIDERATION OF THE REHABILITATION ACT EXTENSION CONFERENCE REPORT

Mr. RANDOLPH, from the Committee on Labor and Public Welfare, reported the following original resolution (S. Res. 393), which was referred to the Committee on the Budget:

S. RES. 393

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of the conference report to accompany H.R. 11045, the "Rehabilitation Act Extension of 1976." Such waiver, with respect to so much of such provisions of that conference report, as would provide new budget authority, and new spending authority under section 401(c)

(2)(C) of the Congressional Budget Act of 1974 for fiscal years 1977 and 1978 prior to adoption of the first concurrent resolution on the budget for such years (by extending the State allotment formula in the Rehabilitation Act of 1973 (Public Law 93–112, as amended, through fiscal year 1978 to be determined, pursuant to section 110 of such Act, based on a nationwide allocation level equal to the amount authorized to be appropriated for making grants to the States for basic vocational rehabilitation services), is necessary because the authorization of appropriations in the Rehabilitation Act of 1973, as amended, for the State grant vocational rehabilitation program, on which authorization level the State-by-State allocation formula is based, expires on June 30, 1976. The 20 per centum matching requirement for such allotments to States is determined on the basis of funding decisions by State legislatures which generally meet and adjourn prior to May 15, the date by which the first concurrent resolution on the budget must be adopted under the Congressional Budget Act of 1974. During such sessions of State legislatures, commitments are made to provide each State's share, on the basis of which the Federal 80 per centum allotment is then paid to each State with an approval State plan. If legislation authorizing a nationwide allotment level for the program for fiscal year 1977 is not enacted at an early date, many State legislatures will be unable to authorize the funds needed for vocational rehabilitation programs for such year.

Further, the authorization of appropriations and the nationwide allotment level for fiscal years 1977 and 1978 for State grants for basic vocational rehabilitation services in the conference report to accompany H.R. 11045, the "Rehabilitation Act Extension of 1976," would not increase substantially the currently authorized and congressionally approved program level for fiscal year 1976 but would maintain continuity in the vocational rehabilitation program and permits the States to continue such programs at reasonable levels.

For the foregoing reasons, pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the conference report to accompany H.R. 11045, the "Rehabilitation Act Extension of 1976."

AMENDMENTS SUBMITTED FOR PRINTING

DAYLIGHT SAVING TIME ACT OF 1976—S. 2931

AMENDMENT NO. 1411

(Ordered to be printed.)

Mr. FORD (for himself, Mr. HUDDLESTON, and Mr. TALMADGE) proposed an amendment to the bill (S. 2931) to provide for daylight saving time on an 8-month and 1-week basis, beginning with the first Sunday in March and ending with the second Sunday in November, for a 2-year period beginning with the first Sunday of 1976, and to require the Federal Communications Commission to provide certain daytime broadcast stations to operate before local sunrise.

FEDERAL EMPLOYEES' POLITICAL ACTIVITIES ACT OF 1975—H.R. 8617

AMENDMENT NO. 1412

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill (H.R. 8617) to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

ANNOUNCEMENT OF HEARINGS

Mr. HASKELL. Mr. President, in accordance with the rules of the Committee on Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 2 weeks:

February 23—Energy Research and Water Resources Subcommittee, 10 a.m., room 3110, hearing, the ERDA authorization for fiscal 1977 legislation.

February 24—Parks and Recreation Subcommittee, 10 a.m., room 3110, hearing, S. 2561, to establish the Potomac River Historial Area; S. 397, Goddard Rocket Launching Site bill.

February 25—Energy Research and Water Resources Subcommittee, 10 a.m., room 3110, hearing, the ERDA authorization for fiscal 1977 legislation.

February 26—Environment and Land Resources Subcommittee, 10 a.m., room 3110, hearing, S. 101, S. 155, S. 301, S. 1365, S. 1872, S. 2004, S. 2286, S. 2511, S. 2798, S. 2837, H.R. 1466, H.R. 4941, miscellaneous land conveyance bills.

February 27—Energy Research and Water Resources Subcommittee, 10 a.m., room 3110, hearing, the ERDA authorization for fiscal 1977 legislation.

March 2—Parks and Recreation Subcommittee, 10 a.m., room 3110, hearing S. 72, S. 1092, to designate land in the Pinnacles National Monument as wilderness; S. 1093, S. 2472, to designate certain lands in the Point Reyes National Seashore as wilderness; S. 97, S. 1099, to designate certain lands in Yosemite National Park as wilderness.

March 2—Energy Research and Water Resources Subcommittee, 10 a.m., room 4221, hearing, the ERDA authorization for fiscal 1977 legislation.

March 3—Full committee and National Fuels and Energy Policy Study, 10 a.m., room 3110, hearing, S. 1864, Energy Information Act.

March 4—Indian Affairs Subcommittee, 10 a.m., room 3110, hearing, S. 2010, repeal of Public Law 280 which allows the Federal Government and Indian tribes to reassume jurisdiction of civil and criminal matters in Indian country.

March 5—Indian Affairs Subcommittee, 10 a.m., room 3110, hearing, S. 2010, repeal of Public Law 280 which allows the Federal Government and Indian tribes to reassume jurisdiction of civil and criminal matters in Indian country.

NOTICE OF HEARINGS

Mr. McINTYRE. Mr. President, I am pleased to announce that the Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs, will begin hearings on S. 2631, the National Consumer Cooperative Bank Act, a bill to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes.

The hearings will be held on March 16 and 18, 1976. They will begin each day at 10 a.m., room 5302, Dirksen Senate Office Building.

Anyone who wishes further information regarding these hearings should contact Mr. William R. Weber, room 5300, Dirksen Senate Office Building, 202–224–7391.

NOTICE OF HEARINGS

Mr. McINTYRE. Mr. President, I am pleased to announce that the Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs, will hold a hearing beginning at 9:30 a.m., on March 10, 1976, on the proposals contained in S. 1475, introduced in the Senate on April 18, 1975, dealing with the restructuring of the National Credit Union Administration. The hearing will be held in room 5302, Dirksen Senate Office Building.

Anyone who wishes further information regarding this hearing should contact Mr. William R. Weber, room 5300, Dirksen Senate Office Building, 202–224–7391.

NOTICE OF HEARINGS

Mr. HASKELL. Mr. President, the Subcommittee on the Environmental and Land Resources has scheduled a hearing for Thursday, February 26, 1976. The purpose of the hearing is to receive testimony on several land conveyancing bills currently pending before the Interior and Insular Affairs Committee. For the benefit of my colleague, I wish at this point to list the measures to be considered at the hearing and a brief description of each bill:

S. 101—a bill to direct the Secretary of the Interior to convey certain lands in Geary County, Kans., to Margaret G. More;

S. 155—a bill to authorize the Secretary of the Interior to convey all right, title, and interest of the United States in and to a tract of land located in Scotts Bluff County, Nebr., to Robert L. Summerville of Scotts Bluff County, Nebr.;

S. 301—to clear title to certain lands in the Middle Rio Grande Conservancy District, New Mexico;

S. 1365—to authorize the Secretary of the Interior to convey to the city of Haines, Alaska, interests of the United States in certain lands;

S. 1872—to enlarge the boundary of the Cibola National Forest;

S. 2004—a bill to eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Okla.;

S. 2286—to amend the act of June 9, 1906, to provide for a description of certain lands to be conveyed by the United States to the city of Albuquerque, N. Mex.;

S. 2511—a bill to authorize the Secretary of Agriculture to convey certain lands in the State of Idaho;

S. 2798—for relief of the city of Yukutat, Alaska;

S. 2837—a bill to amend the act of August 30, 1890, to except a tract of ground located in Carbon County, Wyo., from its restrictions;

H.R. 1466—a bill to convey certain federally owned land to the Twentynine Palms Park and Recreation District; and

H.R. 4941—an act for the relief of Oscar H. Barnett.

The hearing will be held in room 3110 of the Dirksen Senate Office Building beginning at 10 a.m. For further information regarding the hearing you may wish to contact Mr. Thomas Williams, of the subcommittee staff on extension 4-9894.

NOTICE OF HEARING ON GROWTH AND THE ENVIRONMENT

Mr. CULVER. Mr. President, as chairman of the Panel on Environmental Science and Technology of the Senate Public Works Committee, I wish to take this opportunity to announce that on February 27, 1976, the panel will conduct the second hearing in its ongoing series on the importance of long-range forecasting and futures analysis in public policy. These hearings will be held periodically over the next several months and are entitled "Choosing Our Environment: Can We Anticipate the Future?" The first session, wihch occurred on December 15, 1975, examined the need for and effectiveness of futures analysis.

The second hearing, "The Future of Growth and the Environment," will begin at 10 a.m. on February 27, 1976, in the public works committee hearing room, 4200 Dirksen Senate Office Building. It will investigate the interrelationship of such factors as economic growth, technological innovation, and the environment. More specifically, we will analyze the future directions and prospects of national growth, desirable changes in our priorities and institutions affecting national growth, what constitutes a satisfactory rate of growth, and the nature of trade-offs that can and should be made between the quantity of goods and the quality of life.

The following witnesses are scheduled to testify before the panel on February 27, 1976:

Dr. Jay W. Forrester, Germeshausen Professor of Management at the Sloan School of Management, Massachusetts Institute of Technology, and author of "World Dynamics";

Mr. Graham T. T. Molitor, director of government relations for General Mills, Inc., and former Director of Research for the White House Conference on the Industrial World Ahead; and

Dr. Gar Alperovitz, Co-Director of the Exploratory Project for Economic Alternatives.

In addition, subsequent hearings will explore the potential for more effective foresight by assessing the impact on the environment of such major factors as energy and natural resources, and the quality of life. Attention will also be given to citizen participation in the planning process, the environmental protection agency's capacity to anticipate problems, and the ramifications of forecasting for the Congress.

ADDITIONAL STATEMENTS

PROPOSAL TO REDUCE NAVAL RESERVE FORCE FROM 102,000 TO 52,000

Mr. THURMOND. Mr. President, the Defense Department has forced upon the Navy a reduction of its paid drill strength in the Naval Reserve equal to one-half the size of that force.

This action directly contradicts a high level study by the Chief of Naval Operations and the action of the Congress last year.

There is a real question in my mind as to whether or not the Navy study was even considered by the Defense Department when it recommended slicing the Naval Reserve in half.

This shortsighted policy is the work of the Defense Department Program and Analysis Office, a re-creation of the old Systems Analysis chamber of horrors under former Defense Secretary Robert McNamara.

This type of wide ranging and arbitrary action certainly tends to shake the faith of the Congress in the total force policy enunciated by the Department of Defense. Events in the last 2 years tend to make the total force policy a total disaster or a total farce.

HIGH LEVEL STUDY

After spending considerable time in past years to assure a viable Naval Reserve Force, I was impressed with Admiral Holloway's willingness to give his personal attention to a review and strengthening of the Reserve Forces under his command. This interest and other factors prompted a high level study under the direction of Admiral Holloway for the Secretary of the Navy. This study, issued October 31, 1975, determined the Selected Naval Reserve should be maintained at a strength of 102,000.

In the conclusions of that study it was stated:

> This is the minimum requirement if the Navy is to make maximum use of its available equipment in time of war.

Mr. President, this study was manned by individuals of high rank and responsibility. In addition to establishing a required strength level, it found that Navy experience had shown that 95 percent of the Selected Reserve would respond to a mobilization or callup.

STUDY IGNORED

It is inconceivable that all of this time could be spent in determining the makeup and requirements of the Naval Reserve by a highly competent team and, as soon as this finding is made, arbitrary action by the Defense Department reduces Naval Reserve drill strength by nearly one-half.

The Navy witnesses to date have pointed out the reduction involves the elimination of drill pay for the affected 40,000 Reservists, but that they will continue to be eligible for 2 weeks active duty training. My information is that the cut includes 9 of the 17 Naval Reserve Seabee battalions and that these units will not be authorized 2 weeks annual training.

DEFIES CONGRESS

This action flies in the face of a decision by Congress just recently confirmed by passage of the defense appropriations for fiscal year 1976. This bill authorized a pay drill strength of 102,000 for the Naval Reserve and explicitly restores the Naval Reserve Seabee battalions which were proposed to be eliminated. The Congress should demand of the Defense Department an accounting for this action, which defies the judgments of this body, the ultimate decisionmaker in Federal funding and military manpower levels.

Furthermore, these Seabee battalions, unlike many Reserve units, have the required equipment and are ready to deploy, if needed. The contention that their mission could be undertaken by civilian construction companies was disproven during hearings in the last Congress.

Mr. President, this proposal will surely further demoralize the Naval Reserve. This force has already been reduced from a strength of 129,000 several years ago down to the request for 92,000 in fiscal year 1976 and now 52,000 in fiscal year 1977. The Defense Department claims that most of these Reservists can remain a mobilization asset without monthly drill pay. The fact is they have requested appropriations to support less than 80 percent of these forces for the 2 weeks annual training.

This lower appropriations request is an admission that these Naval Reservists, especially the lower paid enlisted personnel, will drop out of the program and the Naval Reserve strength will fall well below the 102,000 Admiral Holloway has determined to be the minimum requirement for the Selected Reserve.

In conclusion, I trust the Congress will realize that these dedicated Reservists provide a low cost mobilization force in a period of rising personnel expenses. They should be maintained at the level approved by the Congress just a few weeks ago, and confirmed by the Navy study in October of 1975.

LIFELONG LEARNING

Mr. MONDALE. Mr. President, the Lifelong Learning Act, which I introduced in the Senate, is being considered by the Labor and Public Welfare Committee as part of the 1976 Education Amendments.

The legislation, which was the subject of hearings before the Subcommittee on Education in December, was developed from a broad base of knowledge and expertise in the field of adult learning. Among the programs the subcommittee examined during the bill's development were those at the College of St. Thomas, which has gained wide recognition for its comprehensive approach to the education of older adults. At this time, I would like to call to the attention of my colleagues, a series of articles from the St. Paul Pioneer Press which explains a bit about the activities at St. Thomas, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the St. Paul Pioneer Press, Dec. 28, 1975]

Retirement Planning Can Help Later Years

(By Carol Lacey)

When Etta Saloshin talks of aging, she says "we" and "us," not "they" and "them."

Dr. Saloshin, professor emeritus of social work at the University of Minnesota, considers herself one of the "young-old" group between 60 and the mid-70s. She calls those from 70 to 90 "middleaged aging" and those older than that in "advanced late years."

She is one of the resource people in a retirement planning program that has been offered at various times and locations for the past three years by the colleges of St. Thomas and St. Catherine. On Jan. 5 at 6 p.m. and continuing on Mondays through March 8, it will be aired on KTCA–TV (Channel 2) and on its affiliate, KWCM–TV (Channel 10) in Appleton.

Saloshin isn't surprised by the stereotyping of all older people as the same. "There's a human tendency always to lump 'the other' together, to see those who are different at first in global terms."

"As we cut off older people from the mainstream, we tend to assume they are all alike except for one or two exceptions whom we know," she said. Yet, aging is a part of living and the aged are part of society, not a group apart.

Dr. M. A. Selim, director of the Center for Senior Citizens Education at St. Thomas—and also chairman of the college's economics department—is concerned that "senior citizens are excluded from the mainstream."

"We justify this by saying they are happy," he said, "but I am not so sure that is so."

It isn't like that in his native Egypt, he said. There "we enrich our lives by having the older people with us. There are no nursing homes. Older people are never, never excluded."

Sheer economic factors are responsible for some of the isolation of the American elderly. "On the average, the American older person has to make more adjustment to retirement income than the native European. The difference between retirement and earned income is greater in the U.S., than in other countries," said Saloshin, who was born in Austria.

American society and its values are also to blame. "We say look forward, not backward," Saloshin said. "That very often pushes the older person out."

Older persons have brought some of this upon themselves, too, she continued, by accepting these stereotypes and living by them. "There's a feeling, for example," she said, "that older people are obsolete, that they're incapable of sound judgment."

"Some are, particularly in the more advanced years . . . but by and large we're functioning on a much higher level now than we were at the same age 20 years ago," she said. "Today's 65-year-old is like the 50–55 year old then, while those in their late 70s and mid-80s are as capable as the mid-60s person was. They're both physically stronger and mentally alert."

Persons who have never married seem to make a better adjustment to retirement, while widows find it most difficult. On the other hand, retirement is easier for the housewife whose role changes little and is harder for the employed person who finds herself or himself lost without the social relationships of work.

"The sales force . . . work gang . . . office grapevine, all imply relationships that are lost in retirement," Saloshin said.

Ideally, the time to plan retirement is not after retirement, but from kindergarten age on, to develop the interests and capacities that will serve one throughout life, she said.

It's important now to help young children establish "positive friendly relationships with older people . . . then there won't be that horror of growing old," she said.

For the older person, it's important to pursue some personal interests, and some interests that are also of interest to other people. It's also a good idea to build friendships among different age groups.

"The needs for solitude or society will vary," she said. "I need both . . . and I'm lucky to have both personal and professional interests. My friends also are not entirely an 'old age group' . . . some are in the same boat, some aren't."

But, whether one is a long way from retirement, soon to retire or already retired, the resource people for the retirement planning series are convinced that planning can be helpful.

It won't solve all the problems, Selim cautioned. "As an economist I can see that it's likely that inflation is going to continue. So those who plan early for retirement may be shocked to find it doesn't work."

"On the other hand, with the increased tendency toward early retirement, it's even more important to consider long-range planning."

Adding to that the increased life expectancy and the continued state of inflationary economy, "it's wise to do at least a bit of planning."

He hopes that the television series will help get this badly needed information out to the home-bound, to those out of the Twin Cities area.

To get as directly as possible to the needs of senior citizens, shows were taped immediately after morning sessions with several hundred senior citizens at St. Thomas.

Still, he and his resource people are aware that it's not always easy for many older persons to seek such help, even when they know about it.

There's a feeling, Saloshin explained, that "if you ask for or accept help it is degrading . . . it means you have lost your independence, your value as a person."

Further, especially among those more advanced in years, there is still a "strong suspicion of everything government."

This makes it hard also for those reaching out to help older persons. It's often hard to know whether one is "reaching out or violating privacy," she said.

This makes it particularly important for older persons to understand themsleves and their position in society, indicated Eugene Jax of Catholic Social Service.

"The old person is a survivor. He continues on and persists while others haven't," he said. Solitude for him is a state of natural existence, at least part of the time. And, this solitude is not the same as isolation.

Further, Jax continued, physically, a person's body wears out and gets used up. "That's what it is supposed to do," he said.

"Social ties are more difficult, but it's not impossible to have good social involvement or affectional involvement."

It's very important, he said, that the older person decide his own values—what he wants, where he wishes to concentrate his energies.

"The important thing is to decide your own values, to watch out for dependency on outside agencies and people."

"Aging is becoming popular," he said. "A lot of people are going in and doing things for the elderly. Some of these are short term; if older persons depend on them, they are then cut off and left in dependent status."

This doesn't mean the older persons should stay away from these efforts out of fear of losing their independence. Rather, he says, "If you need them, take advantage of them, but realize that they are limited. Be sure you're not giving up pieces of freedom that you don't want to give up.

"If they're abusing your dignity or self respect, refuse to get involved. If they're running you around like an object and you find this offensive, stay away."

He sees "Interdependence" as the key to healthy and successful new relationships for senior citizens, a willingness to depend on other people who are in turn willing to depend on you."

Service programs and agencies are moving in this direction, he indicated. "They are more willing to involve people in decisions," he said.

[From the St. Paul Pioneer Press, Dec. 29, 1975]

Retirement Is Just Beginning of Living for Countless Seniors

(By Carol Lacey)

"Time is life and life is time." As director of RSVP (Retired Senior Volunteer Program), Larry White helps those who find their retired life and time hanging heavy on their hands.

He also is one of the resource people who will suggest ideas for creative use of time in a 10-week television series on retirement planning. The series, sponsored by the College of St. Thomas, will be shown on KTCA–TV, Channel 2, and KWCM–TV, Channel 10, at 6 p.m. Mondays from Jan. 5 through March 8.

Minnesota retired persons might do well to think about some of these ideas, because, according to White, the state has the second highest life expectancy—72.96 years (exceeded only by Hawaii).

It's not easy for the retired generation to find new ways to use their time, according to Etta Saloshin, a retired gerontologist in the University of Minnesota school of social work.

"The generation who grew up in the Depression has very little in terms of leisure time habits. They're not free to explore," she said. "They never had the time to develop such interests . . . or if they did, they felt guilty about it."

"This generation feels very dissatisfied if they don't do something utilitarian," she said.

Perhaps this explains in part the appeal of new "education for seniors" programs at public and private state institutions.

It is a myth, Saloshin said, that people lose their brain as they grow older, although she conceded that "there are changes in the cells and in memory."

"Calling people senile is what we do if we don't want to bother to understand or help them."

"The mind is so live," she said, "that people shouldn't just use it to play bingo or take a trip on the St. Crox River."

She shares with many senior citizens enthusiasm for the new education programs that are offering "means to keep the mind alive."

It was about three years ago that Prof. M. A. (Mo) Selim, chairman of the economics department at the College of St. Thomas, went to the presidents of his institution and the College of St. Catherine and asked, "Wouldn't it be great to bring senior citizens into the mainstream?"

He outlined the educational program he had in mind—and the presidents gave their approval. Since then, more than 250 persons aged 55 and older have taken regular college level courses in art, music, foreign languages, history, geology, economics free of charge and without examinations or college credit. While on campus, the older students are welcome to use the college facilities and to participate in college-sponsored activities.

Still other "seniors" have attended the lecture series on "Intelligent Investing for Retirement Planning" and the more general retirement planning course which was the springboard for the television series.

Persons who wish to take advantage of these opportunities don't have to fight a maze of red tape. They simply call a special number (647–5221) at the college and the phone is answered, "Center for Senior Citizen Education."

Selim is pleased with the growth of the program. He sees the small campus as an advantage and believes it is more easily "tuned to the needs" of senior citizens.

It's not just a one-way street, though. "These people are part of the campus and they add a great deal," he said.

Senior citizens also are participating free of charge whenever space is available in educational opportunities of public institutions. Thirty-one "seniors" were enrolled in regular daytime classes at the University of Minnesota fall quarter; about half of these took the courses for credit. Although languages were popular, class topics ranged widely.

In extension 192 senior citizens enrolled, 30 for credit. An additional 72 took "sampler classes" and another 50 attended informal courses (which last about four weeks). Ethnic studies, particularly those focusing on Jewish and Scandinavian immigrants, were especially popular. Classes which dealt with Guthrie plays and with investments also drew considerable interest.

In addition, 127 participated in classes offered by the Center for Continuing Education for Women and 10 attended community programs held at various city locations.

Employment is another avenue increasingly sought by the elderly. Some work because they simply enjoy working. They may not really need the money but they don't go the volunteer route because they would find it insulting to work for nothing.

But for many, the average Social Security allotment of $189 a month is simply inadequate. For them, "a job becomes a vital necessity," and Robert Taylor, director of the Management Center at the College of St. Thomas. "For at least 50 per cent, work is not optional. They have to work to get by."

Yet jobs are hard to find, "Quite frankly, when the economic climate is bad, everybody suffers," said Bea Kersten of the Senior Aid Project sponsored by the Minneapolis Central Labor Union Council and retired director of community services for the AFL–CIO.

"Seniors, like youths, are hit especially hard. If you don't have the experience, they won't hire you and if you're older, they won't hire you," she said. "It all boils down to whether there are enough jobs to go around."

Some seniors on the job hunt even suffer criticism from their peers, who figure they ought to stay home and leave the limited jobs available for the younger people who have families to raise.

Federal law and city ordinances in St. Paul prohibiting discrimination on the basis of age help to open some doors to the middle-aged job seeker, particularly those in their 50s. Some of them, however, are finding that while the law helps them land the job, it is not giving them equal consideration in promotion, firing, benefits or wages.

"Many of these people with high skills are being offered jobs at much lower salaries than someone else in that organization might be paid for the same work," Taylor indicated, and added that, in such cases, it might be effective to go to court to win equal treatment.

On the other side, more widespread compulsory retirement is making it harder and harder to find companies that are able or willing to hire the person 65 or older. Persons working with senior citizens at the Minnesota State Employment Service are finding that banks and small businesses are almost the only places left that will take someone in this older age bracket.

Employment experts agree, however, that age alone is not the only job barrier.

Some do not have the educational qualifications. They may have 30 years of experience, but because they lack a college diploma, they can't get the job. Or they may have obsolete skills. Some retraining programs exist, but many are not very open to older persons because employers don't want to invest in someone who may be in the labor force a few years.

Further, older persons often begin job hunting with unrealistic expectations.

They find it hard to accept that they're no longer going to be hired as experts at top scale; rather that they are going to be making at best the starting salary in the new job. They may begin to feel that they're not valuable because they're not making big money.

Or, they may make rigid demands of the hours or type of job they will accept, even greater will be their chances of finding employment.

Some stay away from seeking employment altogether, even though their situation may be desperate, because they fear complications with Social Security. Rather than seeking help to find out how much they can earn under Social Security provisions, they make do with meager income.

But for those who are seeking jobs, employment counselors like Kersten or those at the state agency—try to build self-confidence, to put the older persons' apprehension about age in perspective with their reliable work habits, the skills, the judgment they have to offer.

"When you take the time and draw people out in terms of what they have done in their lifetime—not necessarily how they made their living, it helps them regain their confidence and improve their self-image," Kerstein said. "One of the greatest tools I have found is to encourage these people to develop a biographical sketch giving all kinds of information, hobbies, skills, work experience. If they go in to apply for a job cold, they may not have all that information at the tip of their tongue. Doing it in the comfort of home helps the prospective employe feel better and gives employers a better impression."

For those looking beyond their homes or apartments for other kinds of activities White offered a sampling:

Senior citizens groups of various kinds, in locations from churches to community centers;

Volunteer opportunities—RSVP (Sharing skills with non-profit organizations doing whatever what one is able or interested in doing), Senior companion program (older low income persons working on one-to-one basis with older isolated elderly), foster grandparent program (Peace Corps);

Senior power—political involvement in various groups and activities to promote interest of older persons;

Recreational activities—discounts on tours, trips, entertainment, restaurants, hunting licenses; free entry into state parks and free fishing licenses.

"In this community," White said, "we have some of the most sophisticated and advanced programs in the country for senior citizens. There's a goldmine here and people should start digging in."

[From the St. Paul Pioneer Press, Dec. 30, 1975]

Retirees Can Find Help Conserving Health, Money

(By Carol Lacey)

It's hard to enjoy retirement years with poor health or constant worry that one major blow—whether it be municipal assessments or medical bills—will force one out of house and home.

Experts in the 10-week television retirement planning series which begins Jan. 5 offered some practical ideas on maintaining physical and material assets in the older years. The course, sponsored by the College of St. Thomas, will examine various topics related to retirement at 6 p.m. Mondays through March 8 on Channel 2 (KTCA–TV) and Channel 10 (KWCM–TV).

Such a "conservation" program need not be expensive. Nor does it involve necessarily drastic changes in life-style. Older people don't have to give up their favorite foods, turn control of their purse strings to an outsider or take hefty doses of Vitamin E in order to manage resources well. But it does take some planning.

For older people, whose independence may already be threatened by the new uncertainties that seem often to accompany the later years, the notion of help to manage one's resources may seem just one further encroachment on their dwindling self-confidence. Or they might feel it's no use, that it makes little sense to keep in good shape physically and mentally or to manage economic assets wisely when there's no job calling them daily, when there are no longer the financial responsibilities of their earlier years.

But experts in various aspects of retirement planning agree that whether it is a matter of health or money, taking care of things before they turn into crises can save suffering and money—not to mention helping older persons to continue control over their lives.

They offered some specific guidelines in health and nutrition and pointed out some sources of help for senior citizens:

"All should be part of mass screening programs for diabetes and hypertension," said Virginia Clardy of the Minnesota Public Welfare Department. Not only do such conditions need to be discovered, but they and the medications prescribed for them need monitoring as sometimes too much of these drugs cut off some of the oxygen to the brain and make such persons seem mentally confused.

Then, she continued, routine health maintenance is essential. It may not seem like a life and death matter, but it should not be put off. For example, poor teeth or ill-fitting dentures may be much more than an irritation; they might lead to nutritional imbalance.

Prevention is the focus of the health education for senior citizens program that has been operating since July in Model Cities Health Clinic, 270 N. Kent St., she said.

Referrals started and still continue from Ramsey County Nursing Service, which is notified whenever patients are discharged from St. Paul-Ramsey Hospital. For lesser problems which don't require the nursing service the clinic is notified. However, referrals are coming from other sources as well—clergy, Volunteers in Blue, neighbors, sometimes even the older people themselves. In the few months the program has operated it has served several hundred older persons.

Clardy stressed the importance of the corps of Volunteers in Blue. They are trained, both in home nursing or first aid, and in understanding their limitations. They make home visits, acquainting older persons in the area with the clinic's services. Most of the Volunteers are senior citizens themselves; a special effort has been made to recruit former health-care professionals as volunteers. In one hi-rise, Clardy said, an 82-year-old retired nurse serves as a volunteer.

Older persons welcome this because they realize that "if they participate in this, they may not have to go to a hospital so much."

And, she said, the clinic, working together with the county nursing service, makes sure that once a person has been identified as needing such services "he or she is never lost."

Such a clinic is an important development for, while Medicare takes some edge off worry over who will pay for health care, it increasingly covers a smaller portion of medical costs. Yet, for such clinics to be effective, they must keep in mind the psychological needs of their clients, pointed out Etta Saloshin, retired gerontologist in the University of Minnesota school of social work.

"Older people badly need their own doctor, a physician who will listen and not cut them short, who will listen and feel," she said. "For some, it's almost a case of the physician's laying on of hands."

It's also important for older people to keep mentally healthy, said Dr. Lucille Poor of the Ramsey County Mental Health Center. The list of ideas for this is endless, she said, but mentioned several. "Feel comfortable about yourself . . . feel right about others . . . Keep able to meet the demands of everyday life . . . Read the newspapers . . . Continue with your church and clubs . . . Pursue a handicraft . . . Have a pet . . . Get a job."

For those who find it hard to manage a healthy mental state on their own, or who need someone with whom they can discuss their problems, there are resources at the mental health center or at various community and social service agencies.

Josephine Lottsfeldt of St. Paul Catholic Social Service recalled the case of one woman who had been robbed, assaulted and badly hurt. "She would hardly poke her head out the door," she said. Through the help of various agencies and persons, however, she was able to move to a different location. Phone surveillance was installed; medical care, meals on wheels and homemaking service were provided. "Now, just because of environmental changes and trust relationships her life is totally different."

Nutrition for the elderly is also a consideration, observed Betty Carruth and Vincent Hegarty of the Department of Food Sciences and Nutrition at the university.

Yet it's important to remember that nutrition is relatively new. "Those who are 75–80 are older than the science of nutrition," Carruth said.

Further, there isn't as much information as one might like about nutrition and the older person. Nutritionists aren't sure what is or isn't a nutritious diet for older people or what the effect of nutrition on the aging process really is. In some parts of the world, economic conditions and sanitation may be poor, yet people have high life expectancy.

Nutrition research has broken down into finely divided categories the pre-50 group. But, despite rising life expectancy, those 51 years and up are all lumped together.

Carruth and Hegarty are concerned that older persons are "fair game for a lot of faulty information . . . that they're susceptible to things for better health."

For example, Hegarty pointed out, nutritionists don't yet know the exact effect of Vitamin E on aging or sex vigor. And they won't know until "the current generation of young people grows older." But, Hegarty added, "Only in very rare circumstances do we presently find Vitamin E deficiency."

Further, the nutritionists cautioned, some older persons look at recommended dietary allowances, then figure that if the minimum is needed, more is a good idea. Or they use a basic dietary allowance for many years when it was really intended as a guide for just a few years.

Still, while nutritionists don't have all the answers, they can offer older persons some help.

For whatever reasons—limited income and transportation, or simply because it's more difficult to cook for one—older persons find it more difficult to make wise food buys, the nutritionists indicated.

They hope that through such resources as the various county agricultural and home extension services older people can obtain more information about the food choices they have so they can get the best buys and the most satisfaction for their money.

For example, Garruth said, soy protein substitutes for meat or meat extenders may be less expensive. Yet some of them contain high sodium levels, which could lead to kidney damage and hypertension in the older person.

In general, the nutritionists said, older people need the same nutrients as everyone else. And the best way to get them is to eat a variety of foods in a well-balanced diet.

The resource people for the retirement planning series offered other avenues of help for older people:

Day Care for senior citizens which offers pickup and delivery, lunch, recreation, even therapy to a limited number of older persons who are living with family members who must work during the day.

Conservators, appointed by the court at the person's request, help preserve assets. No judgment of incompetency is required and the conservator must report regularly to the court on how he or she is managing these assets.

Shopping and homemaking services for the elderly;

Hot meal services, either meals on wheels or congregate dining facilities;

Governor's Council on Aging, which offers information as well as avenue for help with particular problems;

Senior Citizens centers;

St. Paul-Ramsey Hospital and Mental Health Center—information and help for medical and mental health questions.

In all cases, Clardy said, "older people must be viewed as individuals who are coming to old age with different abilities, incomes and needs."

HEARING-EAR DOGS: A MINNESOTA RESPONSE TO PROBLEMS OF THE DEAF

Mr. HUMPHREY. Mr. President, I would like to bring to the attention of my colleagues a program begun in Minnesota by the Minnesota Humane Society 2 years ago: The hearing-ear dog program. It is an innovative response to the needs of the deaf and has been so successful that it has generated national and international interest.

The world of silence can be a very lonely and dangerous one for those who have lost their hearing and no longer receive comfort or warning through sound. A mother unable to hear the cries of her child. A youngster who cannot play outdoors because he is unable to detect oncoming danger until it is upon him. Simple, yet necessary warning-convenience systems we take for granted such as the phone, alarm clock, doorbell, even news programs, are all lost to the person who cannot hear them.

This is the bleak picture the deaf have had to face. All this may be in the past, however, since many dedicated, highly talented people, guided by Mrs. Ruth Deschene of the Minnesota Society for the Prevention of Cruelty, began training hearing-ear dogs for the deaf.

Since the program started in 1974, the State Humane Society has trained and placed six dogs with hearing-impaired persons. In its preliminary stages, the project was aimed toward training dogs through hand signals to distinguish between different sounds, alert their owners to the noise and lead them to the source. The special training requires using intelligent breeds, though the dogs do not need the level of intelligence seeing-eye dogs require. Where seeing-eye dogs must often make decisions for their owners, the hearing-ear dog will not have to make ultimate decisions. He will simply have to be able to alert his owner to an existing situation which requires action.

The program has generated so much demand for trained dogs to act as ears for the deaf that it has outgrown the State Humane Society's ability to respond. On February 13, 1976, Mr. John Betzendorfer, Jr., President of the American Humane Association, the national federation of some 1,100 humane agencies in the United States and Canada, accepted the program and will make every attempt to train animals for this purpose. The Minnesotoa Society for Prevention of Cruelty plans to continue coordinating the hearing-ear dog training for the people of Minnesota.

Mr. President, I ask unanimous consent that a recent article from the Baltimore Evening Sun and a letter from the Minnesota Society for Prevention of Cruelty explaining this program and its future be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Evening Sun, Baltimore,
Dec. 16, 1975]

HEARING EAR DOGS TRAINED AS COMPANIONS FOR DEAF

(By Ellen Hawks)

A baby is crying in the night and the mother, who is deaf, doesn't hear. But the family dog awakens her and leads her to the child.

Once again, a totally deaf person has been helped by a hearing ear dog.

There are only six known hearing ear dogs in the world, according to Ruth Deschene, director of the Minnesota Society for the Prevention of Cruelty, where the program began in October, 1973.

In a telephone conversation from the society's office in St. Paul, Mrs. Deschene explained how the program began and vowed, "The day will come when a deaf person will be able to apply for a hearing ear dog just as a blind person can now apply for a seeing eye dog.

"A deaf St. Paul resident named Elva Jahnke wrote to a local TV station's action news program asking for help in locating someone who could train a dog to help her hear. Her reasons? She had owned a dog that had instinctively learned to detect sounds for her, but it had been killed. Afraid she would never find another one as smart, she wanted help. Her letter was forwarded to us.

"We became interested and called several services for the deaf, representatives of a hearing society, and a highly qualified obedience dog trainer and we gathered to discuss Mrs. Jahnke's potentially exciting request. The result was that we volunteered to take on an experimental program of training.

An SPC board member, a dog trainer with 20 years of experience, found a trainer named Agnes McGrath who took on the entire job, Mrs. Deschene said. Local organizations and clubs paid for the trainer's salary because the SPC could not afford it.

During the two years that the Minnesota SPC was initiating the program—"before it outgrew us"—six dogs were trained and given to deaf persons. Five are in St. Paul and, "One dog went to Lexington Ky., with a person who heard about our work and came to St. Paul to inquire."

Four of the dogs were small and of mixed breed, taken right from the humane society shelter. A purebred Shetland sheep dog was donated as was a golden retriever.

The small mixed breeds train as well as, if not better than the purebreds, says the director.

Puppies are chosen for their instinctive curiosity. When one out of a gathering of puppies 9 to 10 weeks old breaks from the group to follow a ball that has been rolled, it is chosen for training. Also, when a mirror is placed in the middle of the group, the puppy that looks into the mirror, then goes behind it to see where that other puppy, is, is an excellent candidate for a hearing ear dog.

"First the dogs were trained in obedience at an age depending upon their readiness to train. Then sound keying began," said Mrs. Deschene.

"In obedience training, a dog is taught never to touch the trainer. With hearing ear training we had to accomplish the obedience, then teach the dog to alert its owner to sounds."

Working with the dog and the prospective master, the trainer went into the home and, depending upon the needs there, would add additional training or might concentrate on a particular need.

Hearing ear dogs are trained to hear every sound that its deaf owner should but does not hear.

A knock on the door, a crying baby, a car accident, a fire siren, or a pan boiling over in the kitchen are some of the sounds. In addition, a deaf person, like anyone else, might step off a curb onto the street unaware of an oncoming car, but he would not hear a warning horn.

A small black mutt named Jody was trained for Mrs. Jahnke, and Mrs. Deschene recalls the momentous day "for us all" when Mrs. Jahnke came to the society with her son and husband to officially accept Jody. "The trainer brought the small black dog into a room filled with those people who were so vitally interested in the program.

"There was only one deaf person—Mrs. Jahnke—and Jody had not at that time worked with her. The trainer put down the dog's leash and motioned it to relax. We couldn't believe it when Jody relaxed, then got up and walked over to Mrs. Jahnke, putting his head on her lap."

Mrs. Deschene's calm, cultured voice begins to bubble over the telephone wires as she recalls the next encounter with Jody.

"Jody had lived with Mrs. Jahnke only five days when they returned to the office to demonstrate the success we had scored. We were in a room with several people, Jody, the trainer and Mrs. Jahnke. A planned knock on the door took Jody to Mrs. Jahnke, not the trainer. "That was almost unbelievable to us, that the dog would go to a deaf master of only five days when its trainer of many weeks was standing right there.

"Our work was so successful that we outgrew it," the director repeated. "On December 11, we are turning our training manual, films and all information about our hearing ear dog program over to the American Humane Association in Denver. The executive director of the program for AHA will be Milton Searle.

Mrs. Deschene hopes the AHA will develop a national "or even international" training center. She feels certain that hearing ear dogs dogs will be given the same courtesy as seeing eye dogs and will be able to travel anywhere with their owners. "Deafness is not readily apparent; some proof may be necessary," she added.

As Mrs. Deschene ended her conversation about the program that "thrills me each time I see it demonstrated," she added a very interesting animal dimension to help for the deaf: "We also believe that cats can be trained to hear for their deaf owners and to lead them to certain sounds."

MINNESOTA SOCIETY FOR
PREVENTION OF CRUELTY,
MINNESOTA HUMANE SOCIETY,
St. Paul, Minn., February 6, 1976.

DEAR FRIEND: We appreciate your interest in our Hearing Ear Dog Program. I regret that I have not been able to answer each letter personally. However, our Board of Directors has now voted to turn the program over to The American Humane Association, the National Federation, with which we affiliate. It has become necessary for us to do this because the program has out-grown us! We have neither the money nor the personnel to handle this on a national and international basis, and the need is great, if the number of letters we have received is any indication.

We hope to continue to train for the people of our own State or rather to coordinate the training.

We are a bureau of the State of Minnesota and our Governor Wendell Anderson will be presenting the Hearing Ear Dog program to AHA, for us, at his earliest possible convenience. Mr. Milton Searle of AHA and AHA President Joseph Q. Betzendorfer, Jr., will be accepting the program for AHA.

Please bear with all of us. Getting the National Program set up will take time but your letter is being given to AHA, so you will be kept advised of the progress of the program. We have proven that dogs can be trained to act as ears for the hearing impaired. It is only a matter of time until persons desiring such an animal will find it possible to obtain one.

Thank you for your patience and interest in the program. Our very best wishes to you. Together, I know we can make this a most rewarding program.

Most sincerely yours,
(Mrs.) RUTH DESCHENE,
Executive Director.

MULTIPLE USE BUILDINGS

Mr. BUCKLEY. Mr. President, the Washington Post carried an editorial last Friday that I would like to share with my colleagues. It discusses the advantages of multiple-use buildings, whether offices and apartments or offices and stores. And the article discusses the need for legislation such as S. 865, which passed the Senate last year, and which is now pending along with several companion bills in the House.

It is my hope that legislation such as this can be considered and enacted by the Congress during this session of the Congress.

I ask unanimous consent that a copy of the editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MULTIPLE USE BUILDINGS

Until fairly recently, it was not considered particularly chic to live above a candy store. It was, in fact, forbidden to live in a building tainted by commercial use, because that violated the notion that lawful and orderly urban life ought to be properly zoned and segregated. The notion originated earlier in the industrial revolution, when glue factories and such invaded residential districts and offended the nostrils of the inhabitants. Once they started restricting factories to industrial zones, there was no stopping the zoners. We now have zones for work and play, for people with high incomes, middle incomes, moderate incomes and low incomes, and for all manner of special uses. The result is that urban and suburban life is often dull, fragmented and wasteful. Business districts are dead at night. The fragmentation of people and activities leads to polarization and overspecialization. Most of us spend far too much time on the road flitting from one zone to another.

It has only been in the past decade or two that the absurdity of segregating the various functions of life began to be recognized and planners and builders started to mix things up a bit. At Penn Center in Philadelphia, Prudential Center in Boston, Century City in Los Angeles, Peachtree Center in Atlanta, Watergate in Washington, D.C. and a few other places, they dared a horizontal mix of office buildings and apartment houses and even included some stores in the cluster. In these places it became acceptable to live above a store because both, the apartments and the store were high-priced luxury establishments. In public housing projects, grocery stores and the like are still prohibited, even if the tenants have to walk miles for a carton of milk.

From horizontal integration the high-rent, high-rise developers went on to vertical integration; first in Chicago's Marina Twin Towers and John Hancock Building and, more recently, at United Nations Plaza and Olympic Towers on Manhattan. These skyscrapers stack a layer of apartments on top of offices and multi-story shopping centers and include restaurants and other amenities, so that residents hardly ever have to leave the building.

Now we read that New York's Museum of Modern Art plans to build a 40-story luxury apartment tower above a new gallery wing. The condominium apartments are supposed to pay for the much needed new exhibition space. This method of augmenting museum funds would hardly be appropriate on the Mall, or for most other museums, for that matter, but on Manhattan's West 53rd Street, we think it is a spendid idea. We hope, in fact, that the Museum of Modern Art's initiative will encourage the government to move on with the multiple use idea. It will make cities more lively and save the government money if federal offices, schools and other public facilities are combined with private, income-producing uses. A bill authorizing and encouraging the General Services Administration to build new buildings—or adapt old ones—for multiple use has already passed the Senate; its author is Sen. James L. Buckley (Con.-R., N.Y.). Similar bills introduced by Rep. Bella S. Abzug (D.-N.Y.) and by Rep. Hamilton Fish, Jr. (R.-N.Y.) are now before the House public buildings and grounds subcommittee. We hope Congress will soon approve the idea. It is not as bold a departure as you might believe: The city hall in Elgin, Ore., which was built in 1910, before America was over-zoned, includes not only private offices, a jail and a police station, but also a 400-seat, ornately decorated movie theater that brings in good money—when the city council is not holding its meetings on the stage.

SENATOR HENRY JACKSON'S POSITION PAPER ON AMERICAN SEAPOWER AND THE U.S. NAVY

Mr. STONE. Mr. President, during my campaign for the Senate, one of the major issues debated was the present and future quality and role of the U.S. Navy in our defense posture. I then expressed my concern with the rapidly changing balance of naval power between our country and the Soviet Union which has been manifested by the fact that Soviet naval power has grown rapidly while, in contrast, our naval forces have been drastically reduced.

Last Wednesday, our distinguished colleague, Henry M. Jackson laid before the American public one of the most timely and forthright statements that I have seen in a position paper entitled "American Seapower and the U.S. Navy." In this paper he has accurately described the dangerous gamble which is being taken with our national security and presents possible solutions to the growing imbalance of naval power. The very next day, the Wall Street Journal editorialized upon Senator Jackson's paper and strongly stated that the U.S. Navy should be an issue in the Presidential campaign calling our Navy "a leading sympton of the changing total military balance."

Our colleague from Washington has ably pointed out that our Navy now has its smallest number of ships since 1939 while the Soviet Navy leads us in the number of surface combat ships and submarines. He accurately concludes that this growing imbalance is alarming, particularly because it gives the Soviets new capability to sever or disrupt sea communications and sea lanes.

I urge all of my colleagues to review this paper and its meaning. New potential Soviet naval presence in Somalia could mark the beginning of a growing Soviet effort at establishing itself in ports throughout the world.

The Florida Times Union in Jacksonville, quoting wire service reports, said U.S. Secretary of the Navy, William Middendorf, speaking in Munich, West Germany on Saturday, February 21, 1976, warned of the growing Soviet naval strength in the Mediterranean. Middendorf said that in 1964, the Soviet Union had an average of five warships in the Mediterranean. Today, the average is between 80 and 90.

I ask unanimous consent that the complete text of Senator Jackson's position paper be printed in the Record, together with the editorial entitled "Raising the Navy" from the Wall Street Journal of February 19, 1976.

There being no objection, the material was ordered to be printed in the Record, as follows:

Position Paper on American Seapower and the U.S. Navy

(By Senator Henry M. Jackson)

A generation ago, the United States was the world's preeminent seapower by every measure. We developed a strong navy and a flourishing merchant marine because we understood that effective seapower is vital to the economic well-being and national security of the United States.

Today, the oceans of the world are more important to us than ever before. They house vast energy resources and an abundance of raw materials which can help keep our industrial base secure. They hold enormous food resources which can help spare the globe the crisis of hunger which menaces two-thirds of the world's population. They are the vast water highways which carry the products we produce and must import. They are the physical links which tie the industrial democracies together—links which can be served only at the peril of the survival of freedom in an uncertain world.

THE CRISIS OF AMERICAN SEAPOWER

But just as the oceans have become ever more vital to us, our position as a seapower has declined to a critical point.

We are falling behind, and other countries are gaining rapidly at our expense. If we do not act effectively to restore our position in this important global competition, the tenure of the United States as the world's foremost power will inevitably end—and soon. It will end in the lifetime of our children.

The signs are there for everyone to see. The Soviet Navy, once a force designed primarily for coastal defense, has now become a major force on the high seas. Many experts believe that the Soviet Navy is already the predominant naval power in the Eastern Mediterranean, in the Sea of Japan, and off the northern coasts of Europe. The Soviet fleet now operates in ever-growing force in the Western Mediterranean in the North Atlantic, in the Caribbean Sea, off both the east and west coasts of Africa.

A striking example of the new global reach of Soviet seapower was the Soviet naval exercise "Okean '75." Over 220 Soviet ships and submarines were deployed throughout the world in far-flung, closely co-ordinated operations—a convoy exercise in the North Atlantic, a cruiser group in the Western Mediterranean, local squadrons in the Black Sea-Turkish Strait area, a force in the Arabian Sea, and four groups in the Western Pacific. Support was given by naval strike and reconnaissance aircraft in the Pacific and North Atlantic from bases in the Soviet Union, in the Central Atlantic by planes based in Guinea and Cuba, and in the Indian Ocean by aircraft from Somalia and the U.S.S.R.

The problems are not distant ones. We can literally see them from our own shores. Just a few miles off our coasts Soviet fishing fleets harvest the resources of our continental shelf with arrogant disregard for conservation. Our own fishermen bring in a shrinking share of those marine resources.

In the all-important effort to develop the resources of the deep oceans, the United States lags behind in oceanographic research.

Slowly but surely, all around the world our naval frontier is being pushed back. Our allies already feel the political and psychological pressure of growing Soviet naval power, and watch in alarm as the Soviet Union relentlessly increases its ability to project naval power thousands of miles from its own borders. For our allies know that such power can be employed not only in direct intervention, but can also be used to extract economic or political concessions.

Because America's merchant marine has been allowed to decline, our ability to maintain commercial sea communications both with trading partners and allies is in doubt. In the three decades since 1946, the world standing of our merchant marine has slipped from first place to eighth. In the same thirty years, the Soviet Union has raised its position from twenty-third to sixth. This dramatic growth in Soviet merchant shipping has allowed the Soviets to mount a worldwide offensive to undermine Western shipping. Indeed, the evidence of Soviet attempts to make use of both their national monopoly and enormous state subsidies to drive Western shipping from the high seas is overwhelming.

In this endeavor, they have been aided by the ill-considered policies of the Nixon and Ford Administrations. In 1972, the Administration opened some forty U.S. ports to Soviet shipping—resulting in a damaging loss of business and jobs. In September 1975, *Business Week* magazine reported that, "in the past year Soviet merchant ships have moved in strongly to tap U.S. foreign cargoes, especially those moving from the West Coast to Japan, but also to some extent those on North Atlantic and Gulf Coast routes. U.S. ship owners charge that the Soviets drastically cut freight rates to obtain cargoes, sometimes by as much as 40%."

Lenin's oft-quoted prediction that we would sell the Soviets the rope they would use to hang us is nowhere better illustrated than contributions to the Soviet merchant marine. According to a study done at Stanford University, all but two of the Soviets' forty-four marine diesel engine designs are of Western origin. In fact some 68% of Soviet merchant ships have been built in the West; for marine diesel engines it is about 80%.

In the meantime, our own shipbuilding industry, once a world leader, is in serious trouble. In the past ten years many of our naval shipyards—in Brooklyn, San Francisco, and Boston, for example—have closed down, and others are in jeopardy. For the past several years the funds provided for the remaining yards for ship maintenance or upkeep have been consistently reduced. As of this time between 10–15% of the ships in our active fleet are overdue for overhaul, maintenance or upkeep. Many private shipyards face the prospect of becoming idle for lack of work. Less than ten percent of our exports and imports move in ships flying the American flag.

THE DECLINE OF THE U.S. NAVY

There are fewer ships in the U.S. Navy today than at any time since 1939. Over the last decade alone, more ships have been dropped from our fleet each year than were lost at Pearl Harbor.

In fiscal year 1968 the Navy had 976 ships. We now have 477.

The Soviet Union—not the United States—now has the world's largest naval force. In the last ten years the Soviet Union has built four times as many naval ships as the U.S. Soviet fleets now have aircraft carriers, highly sophiscated surface ships, the world's largest ballistic missile submarine force, and the world's largest attack submarine force. In surface combatant ships, the United States is now outnumbered by 225 to 177. In submarines, we are now outnumbered 330 to 116. By mid-1977, under the terms of the 1972 SALT agreement, we will be outnumbered in ballistic missile submarines 62 to 41. There is no indication that the Soviets are slowing their ship construction programs. Every month, the balance tips further in favor of the Soviet Union.

The strategic implications of this increasingly adverse naval balance are alarming. The Soviet Union need only have the capability to sever or disrupt communications by sea; but the job of the Western nations—keeping the sea lanes open—is a far more difficult task. Moreover, the industrial democracies are far more dependent on maritime communication than is the Soviet bloc.

Much of the petroleum supply of Western Europe and Japan must pass through the narrow straits of the Persian Gulf. And yet, no serious observer disputes the fact that the Soviet Navy could effectively block the vital energy supplies that originate in the Persian Gulf.

A similar situation exists in the Eastern Mediterranean. Democratic friends such as Israel rely on the West for secure access to the tools of self-defense. America's ability to resupply Israel at the height of the October 1973 conflict was a crucial factor in checking the Soviet-supplied aggressors. But today, we are in serious danger of losing this ability to supply timely assistance to hard-pressed friends—if the Soviets make a determined effort to prevent us from doing it.

We must also be concerned by the growth

of Soviet naval power in the seas around northern Europe for it could allow the Soviet Union to exert significant political pressure around Europe's northern flanks.

THE DISTURBING NAVAL BUDGET TRENDS

It is time to be honest with the American people. The Ford Administration, by continuing to make public claims about America's naval superiority, is perpetrating a dangerous misconception. These claims are untrue and they obscure a dangerous reality.

The President's defense budget does not guarantee adequate naval strength for America's future. A conscious decision has been made to place our national security in grave peril because of a failure to face up to our realistic defense requirements. The Administration is in full retreat from an already inadequate naval construction program.

The President is recommending a naval force of approximately 500 ships for the mid '80's—a number far below that which concerned authorities believe necessary. Without question the inadequate Ford program will concede—or at best place in grave doubt—our position in the Norwegian Sea, the Eastern Mediterranean, the Northwest Pacific, and the entire area from the South China Sea through the Sea of Japan.

The Ford budget will also cut the selected Naval Reserve program in half, a cut which will deprive us of the citizen sailors who can flesh out our Navy in times of emergency. The Naval Reserve has demonstrated time and again it is the only dependable immediate source of manpower in emergency or crisis situations.

A NATIONAL COMMITMENT TO NAVAL AND MARITIME STRENGTH

Theodore Roosevelt had some advice for the American people as sound today as it was in his time: the American nation, he said, should "speak softly, and yet build, and keep at a pitch of the highest training, a thoroughly efficient navy" . . .

The naval forces we need cannot be created overnight. The decisions we make today will determine the kind of Navy we will have in the 1980's.

The problem, as I see it, is not one of accumulating larger numbers of ships just for the sake of larger numbers. We must develop a naval force containing the proper balance of capabilities to insure that the Navy can meet each of its missions.

As President of the United States, I will not take irresponsible risks which the country cannot afford. I will aim for a Navy of 650–700 ships, the minimum number that can provide us with adequate security.

It is no secret that there have been intense debates within the Navy and within the Department of Defense concerning the kinds of ships our Navy should have. I am firmly convinced that we cannot get carried away with building overly-expensive, highly prestigious ships at the expense of a properly balanced naval force. We must explore ways of obtaining the most effective ships and airplanes, given the important competing demands on the federal budget.

I believe our foreign policy should be more assertive in the defense of American maritime interests. Successive Administrations have failed to bargain hard for international agreements which give our own merchant marine proper reciprocity.

As long ago as 1936, Congress established fundamental policy guidelines for "fostering development and maintenance of the merchant marine." But after four decades, the federal government is still not properly organized to achieve these objectives. Departments, commissions and agencies are still working at cross-purposes. And national maritime policy will never be implemented so long as responsibility remains in the hands of obscure, sub-Cabinet officers without ready influence in the higher reaches of government.

In my view maritime policy is too important to remain buried in the federal bureaucracy. We need to get people back to work in America's shipyards. We need to maintain and improve the skills required by our shipbuilding industry. We need to expand the industrial and technological base of our maritime industries to insure that we remain a leader in maritime innovation.

What is needed is determination at the highest level of government to cut through the bureaucratic inertia which inhibits the revitalization of the maritime industry. Accordingly, I will work to establish within the White House new procedures for achieving effective coordination and genuine integration of all government activities concerned with our national maritime resources.

I will, in sum, work for the enhancement of all aspects of American seapower including our Navy, our fishing fleet, our merchant marine, and our oceanographic research efforts—to insure that America regains its place as the world's leading seafaring nation.

[From the Wall Street Journal, Feb. 19, 1976]

Raising the Navy

In a position paper released the other day, Senator Henry Jackson staked out the U.S. Navy as an issue in the presidential campaign. It certainly should be, not only in itself but as a leading symptom of the changing total military balance.

Senator Jackson pointed out that the navy now has only 477 ships, the smallest number since 1939 and down from 976 eight years ago. Meanwhile, the Soviet navy has grown rapidly. The Soviets now have 225 surface combat ships to 177 for the U.S. and 330 submarines to 116 for the U.S.

The Senator called this balance alarming, especially because "The Soviet Union need only have the capability to sever or disrupt communications by sea; but the job of the Western nations—keeping the sea lanes open—is a far more difficult task."

Finally, Mr. Jackson complained that present plans would not redress the situation. President Ford's budget, which may be subject to upward revision but also to congressional cuts, contemplates about a 500-ship navy in the mid 1980s. Senator Jackson would instead aim for a navy of 650–700 ships.

Senator Jackson has of course long been an advocate of a strong defense, but it is nonetheless significant that he is raising such issues as part of his presidential campaign. They are honest issues that need to be raised, and apparently the Senator feels no overwhelming pressure to back away from his long-held positions in order to be a viable candidate for the Democratic nomination. Indeed, if the mood of the country is changing the way it sometimes seems to be, perhaps his stand on defense will help distinguish him from the pack of Democratic contenders.

It's notable, too, that someone in Congress is suggesting that in an important respect the presidential budget request may be too low. In recent years even defense advocates on Capitol Hill have seen the Pentagon request as something to cut; the only question was how much. Civilian requests, by the same token, are automatically taken as something to increase.

It apparently never occurred to Congress that the military requests could be too low. In view of what is in fact happening to the military balance, and of the historical evidence that wars are caused not by arms but by imbalances, Congress had better start taking this possibility seriously. At least Senator Jackson is willing to start.

REPORT ON THE STATE OF BLACK AMERICA

Mr. HUMPHREY. Mr. President, I call to the attention of our colleagues the recently released report on the state of black America by the National Urban League. It is a proper, detailed indictment of this administration's failure to pursue effectively a policy to achieve social justice and human dignity for every American.

The report documents the severe adverse impacts of recent years on America's poor. The statistics demonstrate a consistent retreat in national policy—an economic and social retrenchment for the "not so fortunate" Americans who have borne the brunt of our economic recession.

The league's director, Mr. Vernon Jordan, Jr., with sharp insight has noted that the widening income gap, growing unemployment and deteriorating social conditions afflicting black families have been accompanied by a political rhetoric that clearly sounds a retreat in national policy that can leave millions of Americans in economic despair and dashed hopes.

Writing in a national news publication, Mr. Jordan asks where the "anti-Government," "lower-your-expectations" philosophy—so in vogue today—leaves America's millions of jobless, her financially strapped cities, poor people, and blacks and other minorities?

"Less Government," writes Jordan, "means less protection for people without resources; less spending means fewer desperately needed social programs and stark hunger for those in poverty; fewer Government employees means fewer public services, and less interference means abandonment of civil-rights enforcement."

Mr. Jordan calls this philosophy a "new minimalism," which "is a blueprint for rolling back progressive social policies and laying waste the hopes of those who look for a more just, more equal America. It is a shoddy program to peddle in a year dedicated to recalling a revolution that raised mankind's hopes for justice and equality."

While it may be convenient rhetoric for some, Mr. Jordan and the league's report explode the myth that Government is incapable of fostering a better society. With a mixture of pride and frustration, he can note that the retreat taking place today is only possible because only a decade ago, this Nation had a commitment backed up by the moral, legal and financial force of the Federal Government to advance the general welfare of all its citizens.

Mr. Jordan understands only too well that the report's statistics mark the withdrawal of that commitment under the umbrella of the new minimalism.

The devastating conclusions of the league's report are not the bleatings of some dispassionate observer trying to build a perfect model. No, these conclusions are the blood and guts of American life for millions. They are well substantiated and buttressed by the findings of the Joint Economic Committee, which I chair. The statistics, and the status of the human beings they represent, are deeply disturbing to me, and deservedly so.

So the message, for me, is clear. It is not changes in administration or program that elicit objection. No, the issue is simply whether the policy of this Government will be to continue the slide backwards and rationalize the consequences until the breaking point is found.

Writing on the lack of understanding about the rightful place of National Government, Mr. Jordan states that the National Government "is the only institution we have capable of uniting the strands that make up America, and capable of setting national policies and implementing them."

I strongly agree with Mr. Jordan that we must not institutionalize intolerable living conditions for the black and the poor, and perpetuate continued decay of America's cities and rural poverty pockets.

We dare not continue to sound full retreat for this Nations' economically disenfranchised citizens.

Mr. President, I ask unanimous consent that a February 2, 1976, New York Times editorial, discussing the report of the National Urban League on the state of black America, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 2, 1976]

DISTRESS SIGNAL

The report on the state of black America released last week by the National Urban League is a profoundly depressing document. Beyond the statistics it contains—gloomy enough by themselves—the report dramatizes a substantial failure of political leadership.

Vernon Jordan Jr., the league's executive director, noted that the State of the Union Message by President Ford omitted all mention of the plight of black Americans while Senator Edmund S. Muskie in his reply on behalf of the Democrats, omitted the promise of racial equality from his list of endangered American promises.

The report is replete with facts backing up the league's conclusion that no recent year "has been more destructive to the progress of blacks than 1975." Among them are:

After narrowing the income gap during the economic surge of the nineteen sixties, black median family income fell back in 1974 to only 58 percent of white family income.

When account was taken of discouraged workers and workers holding part-time jobs as well as people looking for jobs they could not find, more than one-quarter of the black work force was unemployed throughout 1975. By the same standard, the league found that "over half of all black workers in many poverty areas were unemployed during the past year, while over two-thirds of the teen-agers could not find jobs."

The number of black families with two breadwinners—the principal factor supporting many of the hopeful analyses of black advances made earlier in this decade—has declined significantly during the current recession.

Disparities in health remained great: White women have a life expectancy 5.4 years longer than black women; the corresponding gap for men is a full six years. The death rate related to childbirth and pregnancy is four times greater for blacks than for whites.

The list is longer, but the message is clear. In aspects of life that can be measured statistically, the gains made in the sixties by America's largest minority group have been decimated. And in intangible terms—those relating to the demands for equality urged on the nation's conscience by its leaders—all gears have been thrown into reverse.

In addition to the moral failures this report underscores—which by themselves are highly significant—it dramatizes unwholesome and even frightening social policy trends. Such severe distress in any single segment of society is bound to have large consequences throughout all of American life. Nothing demonstrates this quite so well as the current precarious financial plight of so many of the nation's cities.

In the end, then, the conditions described by the Urban League constitute a substantial challenge to the country's political leadership, not simply to redeem a central aspect of American idealism, but to reverse a dangerous disintegration in the social fabric of the entire nation.

BREAK IN DIPLOMATIC RELATIONS BETWEEN ICELAND AND BRITAIN

Mr. THURMOND. Mr. President, it was with considerable regret that I learned last Friday of the break in diplomatic relations between two of our NATO allies, Iceland and Great Britain, over the 200-mile fishing conservation zone declared by Iceland last October.

As Members of the Senate know, it was just for such reasons that I opposed the unilateral extension of a similar fishing conservation zone by the Congress, until my amendment extended the enforcement date until July 1, 1977.

This unfortunate development represents one of the most serious NATO crises since the Greek-Turkish dispute over Cyprus in 1974.

It once again points up the pressing need for fishing agreements to be reached at the Law of Sea Conferences prior to July 1, 1977, when enforcement of the U.S. action will begin.

This development, which to some degree came about because of unilateral action by the U.S. Congress, could lead to more serious developments for NATO. Specifically, the denial to the United States of the use of the Kreflavik Air Base in Iceland would create serious problems in our surveillance of Soviet naval movements and flights in the Arctic Ocean area.

Mr. President, this is a sad development for the free world and it is my hope that Iceland and Britain could enter into negotiations in an effort to solve this severance of diplomatic relations.

Further, it might be well for our Government to consider offering our good offices as a mediator in this dispute, which undoubtedly is having and will have an adverse effect on the national security interests of the United States.

Mr. President, in closing I ask unanimous consent that an article appearing in the February 20, 1975, issue of the New York Times entitled "Iceland Breaks Relations With Britain Over Fishing" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 20, 1976]

ICELAND BREAKS RELATIONS WITH BRITAIN OVER FISHING

LONDON, Feb. 19.—Iceland broke off diplomatic relations with Britain today over their long-standing dispute about fishing limits off the Icelandic coast.

This was the first formal breach between two members of the North Atlantic Treaty Organization. Reports from the headquarters of the alliance in Brussels said, however, that diplomats there felt the break would not affect the American-operated NATO air base at Keflavik, at least for the time being.

The break came as British trawlermen continued to defy the 200-mile fishing limit declared by Iceland last October as a conservation measure. Iceland relies on fish and fish products for nearly 90 percent of its exports.

BRITAIN OPPOSES LIMIT

Most of the cod and haddock eaten in Britain comes from the waters off Iceland, and the British Government maintains that Iceland had no right to impose the 200-mile limit unilaterally.

When British trawlers continued to fish within 200 miles of Iceland, Icelandic Coast Guard vessels cut their lines. Britain responded by sending in frigates to protect the trawlers but withdrew them last month while the Icelandic Prime Minister, Geir Halgrimsson, came here for talks with Prime Minister Harold Wilson.

Nothing came of the talks, and two British frigates returned to within 200 miles of Iceland on Feb. 5 to protect the trawlers.

This is the third confrontation between Iceland and Britain, and the British have used frigates in each. The first began in 1958 over Iceland's extension of its fishing limits from four miles to 12, and it lasted until 1961. The second occurred in 1972–73 after Iceland extended the limits to 50 miles.

Both were settled with agreements giving British trawlers limited rights to fish in what Britain says are its historic fishing grounds.

NO ACTION AGAINST BASE

But before each settlement, there was talk in Iceland of breaking relations and even of withdrawing from NATO. [In Reykjavik, the Icelandic capital, Foreign Minister Einar Agustsson said after an emergency Cabinet meeting at which the break in relations was decided upon that the ministers had also discussed the issue of the Keflavik base but that the Government had decided to take no action against the 3,300 American servicemen there, United Press International reported.]

Defense experts here said if NATO was deprived of the use of Keflavik, which represents Iceland's contribution to the alliance, the surveillance of Soviet naval movements and flights in the Arctic Ocean area could be carried out in a pinch from the Shetlands, the northernmost Scottish islands, or the Faeroes, the Danish islands farther north.

The break in relations today was regarded as the most serious NATO crisis since the Greek-Turkish dispute over Cyprus in 1974.

PRIVATE MAIL SERVICE

Mr. GARN. Mr. President, Congress has been struggling for years to find a workable solution to the complaints about the inefficiency of the U.S. Postal Service. When the Postal Reorganization Act was passed in 1970 it was hoped that this would provide the needed overhaul to modernize the Nation's mail delivery system. Unfortunately, 5 years later we find the U.S. Postal Service severely in debt and have recently witnessed the third increase in postage rates in the last 5 years.

A recent Deseret News editorial suggests that private firms be allowed to compete for delivery of first class mail. I support this concept and feel it certainly deserves serious consideration by this body.

I ask unanimous consent that the Deseret News editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Salt Lake City (Utah) Deseret News, Feb. 17, 1976]

WHY PRIVATE MAIL SERVICE SHOULD BE PUT TO THE TEST

Should private firms be allowed to go into competition with the U.S. Postal Service in delivering first-class mail?

Even though this suggestion has been made repeatedly in recent years, the Postal Service has pooh-poohed it so long and loudly that the idea hasn't gotten anywhere.

But now that the same proposal is being pushed not by private interests with an axe to grind but by influential voices from within the federal establishment itself, it should be harder to shrug off the plan.

By law, private firms are now forbidden from delivering first-class mail for profit and from using letter boxes or mail slots.

Because it believes that permitting private competition in first-class mail service "probably would result in significant benefits to the economy and to the mail user," the U.S. Council on Wage and Stability suggests that this prohibition be lifted.

The Postal Service's long-standing argument against such a move is that private firms would "skim off" the deliveries that are easy and inexpensive to make and leave the Postal Service with the more difficult and less lucrative assignments.

But that contention keeps looking less impressive as time goes by. The same argument was raised against letting private firms compete with the Postal Service in delivering packages. Yet after private parcel service was permitted, one firm's business grew to the point where it is now carrying just about as many packages each year as the Postal Service.

If this trend continues, the so-called "cream" that's being skimmed off can soon become more bulky than the milk.

Considering that the trend to private parcel service has increased as the Postal Service's rates have increased, the demand for private delivery of first-class letters no doubt is expanding as rates for this kind of mail increase, too.

Since 1971 first-class postal rates have risen 63%; for the same period, the Consumer Price Index's service index has increased 35%, or about half as rapidly.

Wage rates for Postal Service workers have gone up 60% in the 1970–75 period; during the same time wage rates for federal civilian workers have gone up 38%.

Moreover, through provisions limiting the use of part-time employes and a no-layoff clause, the agreement between the Postal Service and its unions limits management's ability to utilize the postal labor force in the most efficient way.

On the basis of such facts, the Council on Wage and Price Stability concludes that "the prod of competition . . . would retard or reverse the upward rush of postal rates" and lead to more prompt and efficient delivery of first-class mail.

Even if the Postal Service weren't prodded into improving, a more efficient private alternative to the present system of first-class deliveries is a desirable option on its own merits.

Let's put private mail service to the test at least on a limited basis and see how it works.

JUDGING NEW HAMPSHIRE AND THE NEW HAMPSHIRE PRESIDENTIAL PRIMARY

Mr. McINTYRE. Mr. President, every 4 years the people of New Hampshire make the first ballot box appraisal of the field of Presidential candidates, and every 4 years they are told by the pundits, the commentators, and the columnists that our State is the wrong State to lead off the Presidential primaries because it is too small, atypical, and out of step with the rest of the Nation.

This year is no exception. But out of the reams of copy about the alleged folly of making New Hampshire that first political barometer, a few balanced judgments have found their way into print.

Mr. President, for the sake of perspective about New Hampshire the State, and New Hampshire the site of the first Presidential primary, I ask unanimous consent for the following recently published articles to be printed in order in the RECORD: "Inside New Hampshire," a profile of the Granite State by the Boston Globe's Richard H. Stewart; and "A Bumpy Test Track That Works," by the Wall Street Journal's Albert R. Hunt.

Though I do not agree with every thought expressed in these articles, they are on balance, fair and objective assessments and analyses, and I congratulate Mr. Stewart and Mr. Hunt.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Boston Globe]

INSIDE NEW HAMPSHIRE

(By Richard H. Stewart)

In one of its flights of whimsy, nature created a granite sculpture on a New Hampshire mountain that resembles the profile of a man. "Up in the Franconia Mountains," Daniel Webster proclaimed, "God Almighty hung out a sign to show that in New Hampshire He makes men."

The Old Man of the Mountain is New Hampshire's symbol, proclaiming the state's individualism and independence. But the ravages of time are threatening to disassemble the Great Stone Face and send its rocky visage crumbling to the valley floor.

Man's symbols are important, so all man's engineering skills have been summoned to the mountain aerie to keep the symbolic profile in its place. As the symbol goes, so goes the state.

Like its symbol, New Hampshire's social and economic profile is undergoing slow but relentless change, which a touring band of presidential aspirants is trying to understand in advance of the nation's first presidential primary here Feb. 24. It is appropriate that the stone face looks south from the White Mountains, for it is there, between the mountains and the Massachusetts border, that its stoic countenance has witnessed the greatest transformation.

That special breed of men whom Webster insisted God made only in New Hampshire are finding their landscape peopled by men created in lesser jurisdictions. Since 1960, New Hampshire's population has been swollen by 200,000. More than half of the newcomers are from other states, 40 percent from Massachusetts. In that 15 years it has become, on a percentage basis, the 10th fastest-growing state in the nation, increasing from 737,681 to 825,500. Projections indicate another 475,000 people by the year 2000.

Percentages tend to exaggerate, especially when used in a small state like New Hampshire, where a few thousand people can create sharp shifts in population percentages. New Hampshire's population increases reflects trends in other parts of the country, especially the Mountain States, where urban dwellers have sought a better quality of life in more rural settings. Likewise, business and industry, under pressure from employes, have been moving out of the large urban areas.

But New Hampshire still remains a small state, ranking 41st in population in the nation. If it were a city, it could also rank 41st among the nation's cities. New Hampshire, in effect, is experiencing the early stages of the spread of megalopolis, that vast urban sprawl covering the northeast from Washington, D.C. to southern New England. The tentacles of megalopolis have reached into southern New Hampshire with an ever-tightening grip. State population projections underscore the problems of growth. The three southern New Hampshire counties of Cheshire, Hillsborough and Rockingham are expected to show a combined growth of 420,000 people by the year 2000. At the same time, the rest of the state can expect only 55,000 additional residents.

Efforts to move industry and jobs to the northern reaches of the state have been unsuccessful for two reasons. First, both employer and employee want to be in some proximity to the urban centers, such as Boston, for both social and economic reasons. Second, the White Mountains that stretch across the center of the state form a natural barrier against northwest expansion. Enormous pressures will have to be exerted in the south before there will be a leap over the mountains.

Aside from the appeal of the environment, taxes are another lure to those moving to New Hampshire. New Hampshire is the only state in the nation with neither an income nor a sales tax. Its state government is solvent and has a surplus in the treasury. Its fiscal solvency stems primarily from its eminently successful policy of inducing nonresidents to pay for the state's functions. The state motto, "Live Free or Die," has been translated by critics as, "Let Someone Else Pay the Bills."

In New Hampshire it is the wages of sin that pay the bills. More than half of its current budget of $164 million has been gleaned from the pockets of those who smoke, drink and gamble—mostly tourists. It was the first state to introduce a lottery as a revenue producer in 1963.

Several years ago, members of the Legislature seriously debated constructing gambling casinos around the state as another effort to attract the out-of-state buck. Opponents, with tongue in cheek, suggested the revenue would not be sufficient. Instead, they proposed "all purpose sin centers" that would offer prostitution, aborations and drugs. That proved to be too much sin and the casino idea stalled and died.

A state that depends so heavily on tourism as a source of income must deal heavily in promotion. Circus showman P.T. Barnum once stood atop Mt. Washington, and gazing across the state, declared it to be "the second greatest show on earth." If New Hampshire is No. 2 in salesmanship, it is not for lack of trying to be No. 1.

One of the principal reasons it so zealously guards its status as the state with the first presidential primary is the promotional value it gives to the state. The primary may be the first step in the democratic process of selecting a President, but in New Hampshire it is equally an exercise in hucksterism. Promotional and financial rewards to the state from the quadrennial primary have been estimated to range from $5 to $10 million, nearly all of it spent by nonresidents.

New Hampshire's promotional efforts appear to have the greatest appeal among the "sinners" of Massachusetts. In many ways, Massachusetts is the best thing New Hampshire has going for it. New Hampshire's state-operated liquor stores sell an estimated 50 percent of their stock to Bay Staters. Profits from liquor sales contribute the largest single amount to the state's general fund. This year it will be about $32 million.

Newspaper advertisements appear in Massachusetts border communities touting the cheaper liquor prices in New Hampshire, where many of the stores are conveniently located near the Massachusetts border. Retail advertisements also appear in Massachusets newspapers reminding the readers that there is no sales tax on merchandise bought in New Hampshire. When Massachusetts raised the state liquor tax 20 percent last July, New Hampshire liquor sales, partly reflecting this, climbed eight percent.

On any Friday night during the summer or ski seasons, the principal arteries from Massachusetts to New Hampshire are literally clogged with Bay Staters rushing to their second homes or tourist spas. They are met by toll booths that extract from them money that is used to construct and maintain New Hampshire highways. The gasoline they purchase in New Hampshire includes a tax that goes to the same purpose. Such collections are so lucrative that New Hampshire's highway fund is self sustaining.

Massachusetts serves a dual purpose. If it is New Hampshire's financial angel, it is also its fiscal devil. When proposals for broadening New Hampshire's regressive tax system are advanced in the Legislature, fiscal conservatives point south to Massachusetts—they call it "Taxachusetts"—and, like a parent warning his children against keeping bad company, offer a "do-you-want-to-end-up like them" argument.

Interestingly, 30,000 residents of New Hampshire work in Masachusetts and pay income taxes to Massachusetts on their earnings there. Massachusetts's pay scales are higher than New Hampshire's and many of the jobs require higher skills than New Hampshire jobs.

Since July, 1970, New Hampshire has managed to collect $13.5 million from residents of Maine, Massachusetts and Vermont who work in New Hampshire. The U.S. Supreme Court last year declared the action illegal.

The New Hampshire legislature had approved a commuter tax that assessed at four percent earnings of any non-resident in excess of $2000. It amounted to an income tax on outsiders that New Hampshire has refused to apply to its own populace. The Battle is continuing. The three states are now trying to get a reluctant New Hampshire to give back its ill-gotten gains and the case is now awaiting a U.S. Supreme Court judgment on the refund.

New Hampshire gets another plus from the neighbor its politicians frequently castigate. Businesses that move into New Hampshire find the proximity of Boston an added incentive for the employees they bring with them. When Wheelabrator-Frye, a multinational company, decided to move its corporate offices to the Hampton-Exeter region, it produced a 16-page color brochure for its employees outlining the advantages of the new location. It included four color photos of Boston—including a night shot of the city's Combat Zone—and gave considerable space to the attractions of Massachusetts as a cultural and social center.

Some who have moved to New Hampshire to escape taxes in other states are finding the experience somewhat less satisfying than they thought. Local property taxes are becoming a critical burden in many communities. New Hampshire depends on the property tax as a source of revenue more than most states. While the state budget is sound, many of the state's 234 communities are hard-pressed to meet the growing demands of skyrocketing populations, especially in the southern tier. This is the result of the state providing only minimal aid to the communities, which must bear most of the burdens themselves, especially in the area of education. The state ranks 50th in the nation in its share of public education costs.

However, in terms of the total funds spent on education in the state, the state ranks about 30th. This reflects the 96 percent share of the education costs raised from property taxes in the local communities.

While improvements are being made, New Hampshire is not the best place to live if you are poor, old or have mental problems. Despite its rather liberal attitude toward raising money, New Hampshire has been traditionally conservative about spending it. Its welfare regulations are among the most stringent in the nation. Aid to dependent children funds are denied to any family with an able-bodied male in the home, an especially rigid rule during current high employment. It encourages divorce and separation.

Aid to retarded children is minimal and the state mental hospital has lost its accreditation, although improvements are underway in both areas.

Politics in New Hampshire is closely allied to fiscal restraint, especially at the state level. This is not a recent phenomenon. It was born in the colonial past. While new trends are emerging, New Hampshire continues to operate its government with an 18th Century approach.

The committees are strong and the central government, the state, is weak. There is a traditional fear of central authority, of a powerful executive. During the late 1700s, the people of the area around Hanover in northwestern New Hampshire were in rebellion against the state. They threatened to secede and form a new state. They were angered when the second of the state's three constitutions failed to provide each town with a representative to the General Court. Most had come from Connecticut where such representation was the rule. In 1793, when the final constitution was drawn, its designers included a provision for a legislator from each town, to assuage the rebel anger.

It was that action that makes the New Hampshire House of Representatives, with 400 members, the third largest legislative assembly in the English-speaking world. Only the Congress of the United States and the British Parliament exceed it in size. It was the basis for the independence of the communities and the fiscal autonomy that has now placed many of them on the edge of financial difficulty.

Supporters of the system argue that it is more democratic because it places the decision-making at the grass-roots level. But new pressures, created by urbanization and Federal regulations, are building on New Hampshire. They are pressures that it cannot avoid and that are likely to force a revamping of government policies, especially in the areas of taxation.

Increasingly, new residents from other states are seeking more of the services that they became accustomed to in their old surroundings, such as sewage treatment plants, water supplies, full-time police and fire departments, and expansion of schools. At the same time, as communities grow in size, Federal regulations impose demands for improvements in water quality, pollution problems and safety regulations. Planning boards now are being forced to keep detailed records to cope with the growing trend to court actions.

A ban on open-burning dumps mandated by the state to prevent leaching of pollution into water supplies is a case in point. Many of the smaller communities, especially in the north, find the edict ridiculous. They have always done it that way. While the state has insisted dumps be closed, it has not provided funds for the cost and that will bring added burdens on the communities.

Federal revenue sharing also has delayed the day of reckoning for New Hampshire's tax policies. Since its inception in 1973, Uncle Sam has given New Hampshire $70.3 million in revenue sharing funds. The local communities have received $40 million of this total. Congress currently is reviewing the wisdom of extending the program beyond its termination date at the end of 1976. Elimination of revenue sharing would have close to catastrophic results for the state and the communities. It would require either a cutback in already minimal services or a new method of taxation.

New taxes would likely take the form of an income tax or a sales tax, the latter appearing more likely, in keeping with the state's tradition of getting tourists to pay the bills. There is a small but growing number of supporters of a new tax policy in the Legislature.

Prof. Richard Winters of the Dartmouth College government department conducted a survey of legislators last year on the subject of taxes. It was a random sample of 212 of the 400 House members. The preliminary results indicate that 44 percent of those sampled would be disposed toward a "broad base" tax of some sort if faced with a short-fall in state revenue of $20 million.

Prof. Winters explains: "This indicates there is a hard group favoring new revenue burdens but there is no agreement among the others. What happens is liberals favor new revenue burdens but there is no agreement among the others. What happens is liberals favor an income tax but never favor cutting services so they join that splinter group in the middle that favors gambling, room and meal taxes and taxing tourists. "Solutions, therefore, become solutions which are piecemeal, incremental, splinter, imposing burdens on people from out of state, because they can't agree on a new tax."

The more prosperous residents of the state admittedly do not pay their fair share of the costs of government. However, they are the group that has repeatedly proposed an income tax, with exemptions for those earning less than $10,000. But it has been those in the lower income brackets who have repeatedly worked to defeat the tax idea, although they would be the ones to benefit most.

An unresolved question is what effect the new residents will have on changing the political and economic structures of the state. There is general agreement among scholars and state officials that the newer residents tend to be more liberal and are likely to be Democrats rather than Republicans. But at the same time, since many of them came to the state for reasons of taxation, they also are likely to be fiscally conservative. This is likely to create some schizophrenia among the new arrivals, whose growing demands for life's amenities as provided by the government come into conflict with their concern over tax increases.

But the greatest mental conflicts appear to reside in those presidential candidates who come to New Hampshire seeking votes. New Hampshire scares hell out of them because of the myth that somehow the state is abnormal and not representative of the nation.

Pollster Patrick Cadell of Cambridge, Mass., who has repeatedly surveyed the population, does not view it as an abberation. "It is an unfair rap," says Cadell. "It is not some weird strange place. It is as representative as any other small state and perhaps more so. Its voting patterns since 1964 have not been unusual. In terms of attitudes, New Hampshire is not that much different from any place around the country. Its views on national issues are the same. Its internal state attitude about taxes is really not that much different from that of a lot of other small states looking at large states."

A profile of the typical New Hampshire voter would look something like this:

A married woman who lives in the town of Pembroke, the population center of the state. Her husband is likely to work in manufacturing. As a married women, she too, is likely to work, but in a clerical job. She is 43 years old and has a high school education. The family income is between $10,000 and $15,000. They own their own home, which is more than 20 years old, and is valued at about $19,000.

Part of the mythology about New Hampshore surrounds the stereotype of northern New England, the quaint villages, spacious greens surrounding lovely white churches and rolling farms on isolated dirt roads. Most of populated New Hampshire does not fit the stereotype. That is perhaps the reason that jokes about New Englanders usually are directed toward Maine fishermen and Vermont farmers, for New Hampshire is basically a manufacturing state, despite the emphasis on tourism. A visitor is more likely to encounter a French-Canadian accent than a Yankee twang.

As one student of New England remarks, "It is very difficult to become romantic about New Hampshire the way you can become romantic about Maine and Vermont. New Hampshire is really a very fragmented society in which a huge industrial center like Manchester changes the image of an entire state. Vermont has no such mar upon its escutcheon."

Foreign stock in 1970 represented 23.1 percent of New Hampshire's population, of 170,550 people. Canadians account for more than half the total, 96,834. While New Hampshire's population grows larger, the average age of its population gets younger. Between 1960 and 1970 the median age dropped from 31 to 28. Despite the population climb, New Hampshire has managed to maintain the lowest unemployment rate in New England, averaging 7.2 percent last year.

Service industries such as finance, insurance and real estate accommodate a growing share of the state's work force, while manufacturing is declining. This accounts for the clerical force that provides jobs for many of New Hampshire's married women, 45 percent of whom are employed. It is the service industries that are responsible for the state's employment performance.

Also contributing to the employment rate in New Hampshire is the ability of the state to attract new business and industry. Government policies that hold taxes to a minimum, attractive natural landscapes, a labor force with a high work ethic and production record, and a weak labor movement all are attractive to new firms and the expansion of those already in place.

When an insurance company moved its office to New Hampshire from Boston it found that the absentee record for Monday morning among its women clerks was only 2 percent. In Boston it had been as high as 20 percent. Employees also tend to stay with one company for long periods of time, reducing the demands for training new employees as a reult of constant employee turnover.

Wages in New Hampshire tend to be lower than the national average. At $3.90 per hour, the state's hourly wage is well below the nation's hourly wage of $4.73 and the New England average of $4.36.

Businesses also find acceptable New Hampshire's tax on business profits, a tax of seven percent on NET profit which allows operators of some businesses to take their salaries from the profits before the tax is levied.

State government in New Hampshire, according to business and professional people who deal with it, enjoys a high integrity rating. Also rated highly by the same people is the competence of professional employees in the middle and upper echelons, despite the fact that government wages are comparatively low.

One business firm that moved into the state from a Middle Atlantic state was liberally aided by agents from the state Department of Resources and Economic Development. Several months after the move, agents from the department returned to determine if there was anything else they could contribute. To their astonishment, they received a cold reception that bordered on insult.

It wasn't until sometime later that they learned the reason. Officers of the firm had received a similar visit from government employees in their former location. Those employees were looking for bribe money. They expected no less in New Hampshire.

COMPARISON OF UNITED STATES VERSUS NEW HAMPSHIRE[1]

	New Hampshire	United States
Population characteristics:		
Percent of United States population	0.4	....
Urban residence (percent)	56.5	68.6
Foreign stock (percent)	23.1	16.5
Negro (percent)	0.4	11.1
Median age	28.2	28.1
Median voting age	43.2	43.0
Per capita income	$4,578	$4,918
Median school years completed	12.2	12.1
Low income families (percent)	6.7	10.7
Aged 65 and over (percent)	12.0	10.0
Aged 45 to 64 (percent)	22.0	20.0
Aged 18 to 44 (percent)	35.0	38.0
Aged 17 and under (percent)	30.0	32.0
Military veterans (percent)	49.7	45.8
Employment characteristics:		
Percent of U.S. labor force	.4	....
Manufacturing (percent)	31	26
White collar (male percent)	38.7	40.0
White collar (female percent)	53.8	61.7
Average unemployment (1975 percent)	7.2	8.5
Average hourly wage	$3.90	$4.37
Housing characteristics:		
Owner occupied (percent)	68.2	62.9
Median number of rooms	5.2	5.0
Lacking some or all plumbing	4.3	5.5
Persons per housing unit	2.7	2.7
Median value owner occupied	$16,657	$17,100
Median rent	$99	$108

[1] Based on 1970 U.S. Census or more recent data where available.

[From the Wall Street Journal]

A BUMPY TEST TRACK THAT WORKS

(By Albert R. Hunt)

CONCORD, N.H.—Once more the politicians and the press are stomping through the snow up here, engaging in the quadrennial ritual that begins another presidential election year.

And with the first presidential primary of the season only two weeks away, once more one hears the customary argument that whatever this state's voters decide on Feb. 24 will be basically meaningless. New Hampshire is a tiny, atypical state, it's said so beset by its own difficulties that it's ill-suited to make any national declarations.

Perhaps there's a little truth to this, but only a little. For a strong case can be made that New Hampshire is as good a place as any to begin the process of selecting a President.

The simple fact is that no state or area is the perfect microcosm of the nation. "New Hampshire has its imperfections, but we don't fit into any nice little patterns," says William Treat, a Hampton, N.H., bank president and former Republican national committeeman. "I don't think we are any less of a cross section than New York City or Mississippi or Texas."

Furthermore, New Hampshire voters over the years have rendered many judgments that have turned out to be remarkably representative of the sentiments of huge, and often majority, segments of the national electorate. Consider:

In 1952, the Granite State launched the presidency of Dwight Eisenhower by picking him solidly over the late Sen. Robert Taft. Before that vote, the war hero had never faced a political test.

In 1964, Sen. Barry Goldwater quickly displayed in campaigning here the sort of suicidal candor that contributed to dooming his presidential hopes. Sen. Goldwater's huge early lead here rapidly dwindled and he finish a distant second to write-in candidate Henry Cabot Lodge.

Four years later, the New Hampshire vote began President Lyndon Johnson's downfall. He came in first, thanks to a well-orchestrated write-in effort, but the surprisingly strong showing of Sen. Eugene McCarthy revealed the President's vulnerability; several weeks later Mr. Johnson withdrew as a candidate for reelection.

—That same year, Richard Nixon demonstrated in the New Hampshire primary that he was far from being a washed-up loser. The Nixon victory here began his amazing political comeback.

—In 1972, the softness in support that eventually destroyed Maine Sen. Edmund Muskie's campaign was evident first in New Hampshire. Although he edged Sen. George McGovern, the fact that Mr. Muskie won so unimpressively in a neighboring state slowed his momentum; soon, he dropped out of the race.

All this supports the contention of Hugh Gregg, former New Hampshire governor and now Ronald Reagan's campaign manager, that "the record belies the argument this is a bad testing ground." By no means is the record perfect: Democrats here twice went for Sen. Estes Kefauver. But the chief role of early primaries is to "window out" the weak; over the years, New Hampshire has done that well.

The process may be repeated here on Feb. 24. Whoever loses the Ford-Reagan contest will be weakened, though not fatally. But New Hampshire voters could effectively eliminate several contenders in the large Democratic field.

Still, some criitcs say, this is a bad place to start the presidential race. "Now is the time—long before the results are in—to suggest we might well ignore New Hampshire," political analyst Neal Peirce wrote recently. "The reason: The state is so paralyzed in creating decent policies for its own citizens that any verdict it renders on potential Presidents is deeply suspect."

No doubt, New Hampshire has problems. Many of its public services are inferior and the state seems to elect more than its share of second-raters to state office. But New Hampshire, nevertheless, has managed to avoid the severe economic difficulties facing some of its neighboring states. And as for its political climate, a New Hampshire political climate, a New Hampshire politician remarks, "We take a much higher road to presidential politics than we do to state elections."

One exception to this generality is the uninhibited performance of erratic William Loeb, publisher of the Manchester Union Leader, who has earned national notoriety with his abusive attacks on the families of candidates he dislikes. But Mr. Loeb's influence probably is overrated, though the Union Leader is the state's largest newspaper. Besides, anyone who is qualified to occupy the Oval Office should be able to weather the likes of William Loeb.

Finally, there's the notion that New Hampshire is inhabited by a parochial population unlike the melting pot of America. "The myth holds that New Hampshire is full of twangy, skinflint Uncle Ephs or Uncle Calebs who make their living by whittling antiques, milking cows and fleecing tourists," presidential campaign chronicler Theodore White has written. "Nothing, however, could be more wrong."

Actually, New Hampshire is one of the most industrialized states in the country; blue collar workers comprise 42% of the work force, compared to only 34% in neighboring Massachusetts. Less than 1% of the state's population are blacks, but otherwise there's a decided ethnic mix that makes for interesting politics.

Moreover, New Hampshire citizens take their political responsibilities seriously. They attend many political sessions and then turn out to vote in impressively large numbers.

This, of course, necessitates a lot of personal, even door-to-door, campaigning. "This state really requires candidates to go to the people and listen and respond," says Joseph Grandmaison, who ran George McGovern's 1972 presidential campaign here. "For the opening primary, I think that's much better than going into some big state and running a media campaign."

Unquestionably, the entire system of nominating Presidents needs some overhaul. A way should be found, for instance, to shorten the ever-lengthening period of time in which the contests are waged.

But as long as the nation is saddled with the present system, New Hampshire, with its imperfections, really isn't a bad place to start.

TRIBUTE TO CECIL E. NEWMAN, DECEASED

Mr. MONDALE. Mr. President, earlier this month one of Minnesota's outstanding civil rights leaders, Cecil E. Newman, died. Throughout his life, Cecil Newman was instrumental in efforts to secure equal opportunity and human dignity for blacks and other minorities in Minnesota.

Newman came to Minnesota in 1922. He took a job as a Pullman car porter on the railroad, where he wrote editorials for different newspapers in between runs. In 1934, with only $65 and a rented typewriter he launched two newspapers of his own—the Spokesman and the Recorder—which were to become the chief sources of black-community news in the Twin Cities area.

Through his journalism Mr. Newman embarked on a constructive and never-ending campaign for justice and equal opportunity for all, using his position to articulate demands for better housing for blacks and to urge the establishment of a Federal fair employment practices commission in the State of Minnesota to investigate charges of hiring discrimination.

By the 1950's Newman was recognized as the outstanding leader in the black community although he eschewed the nonviolent direct action of other civil rights leaders of the time. Like Roy Wilkins, a close friend and executive director of the NAACP, Newman has demonstrated a tolerance, patience, and steadfast perseverance in moving toward freedom and equal opportunity for all.

In 1974 Cecil Newman was honored by the National Conference of Christians and Jews for 40 years of promoting racial harmony and equality and brotherhood. Cecil Newman has been a spiritual leader, friend, and adviser to many people and many communities in Minnesota. His death is a great loss and has saddened all of those who knew and respected him. Minnesota has lost a great friend.

THE NORTHERN MARIANAS

Mr. McGEE. Mr. President, tomorrow the Senate is scheduled to debate and vote upon House Joint Resolution 549, the covenant to establish a Commonwealth of the Northern Marianas. I support Senate approval of the covenant.

The Northern Marianas consist of 14 small islands of 183.9 square miles of total land area and a population of 14,000. The peoples of the Northern Marianas are united with the people of Guam, which is U.S. territory, by language, culture, religion, and common family ties. The islands have been administered by the United States since World War II and as a part of the Trust Territory of the Pacific Islands since 1947.

Under article 6 of the Trusteeship Agreement, the United States obligated itself to develop the peoples of the territory toward self-government or independence and to recognize the freely expressed will of the people in an act of self-determination. For more than 25 years, the people of the Northern Marianas have expressed their desire to enter into a permanent political relationship with the United States.

After advance consultation with the Congress and acknowledgment by the Joint Committee of Future Status of the Congress of Micronesia, negotiations on the status of the territory were undertaken. Throughout the 2½-year period of the negotiations, Congress was continuously consulted. On June 17, 1975, in a United Nations observed plebiscite, 95 percent of the registered voters cast their ballots with a 78.8 percent majority supporting Commonwealth status for the Northern Marianas. The United Nations Trusteeship Council was kept fully informed before and during the Marianas status negotiations.

In order to assure that Congress was kept fully informed of developments relating to the negotiations, the covenant was not signed until after it had been reviewed by key members of the House and Senate Interior Committees.

Mr. President, the covenant is essentially a Federal Relations Act establishing a new Commonwealth of the Northern Marianas Islands in permanent political union with the United States. The covenant provides that the Northern Marianas will be a self-governing territory of the United States, functioning within the bounds of the U.S. Constitution and under the traditional powers of U.S. congressional authority over territories.

I cannot overemphasize the scrupulously honest and open fashion in which the plebiscite was conducted. The people of the Northern Marianas had a choice either to remain with the Carolines and Marshalls in either an independent status or some form of free association with the United States, or to support the covenant and the extension of U.S. sovereignty over their islands.

Once agreement has been reached with the remainder of the trust territory and after all of the peoples concerned have had the right to express freely their wishes as to their future political status, our Government then intends to bring the matter of termination of our trusteeship before the United Nations Security Council.

Mr. President, I believe prompt approval of House Joint Resolution 549 is in the interest of both the United States and the peoples of the Northern Marians. Approval of the covenant tomorrow will demonstrate the adherence of the United States to the principle of political self-determination to which this country has long been dedicated. Our vote will demonstrate the respect of our Nation for the overwhelming wishes of the people as expressed in a U.N.-observed plebiscite. It will provide concrete evidence of the determination of the United States to fulfill our responsibilities as administering authority under the trusteeship agreement.

A vote in support of the covenant will provide an incentive for the other districts of the Trust Territory of the Pacific Islands to move ahead in negotiations with the United States in order to work out their future political status and thus speed up orderly progress toward termination of the trusteeship and the responsibilities which it entails for the United States.

And, finally, a favorable vote will provide a structure for the building of the institutions of self-government long desired by the people. This will be accomplished through funds already authorized by the Senate pending approval of the covenant.

On the other hand, deferring approval of the Marianas Covenant is not in the interest of any of the parties concerned. Failure on the part of the Senate to approve the covenant now would create uncertainty as to the political future of the northern Marianas and thereby create tension and deep frustration on the part of the peoples of that area. It would contribute to a potentially unstable political situation by forcing the northern Marianas to participate in the political process of other districts when both parties desire to go their separate ways.

Defeat of the covenant would raise serious questions as to U.S. credibility and make the future negotiating environment for the termination of the U.S. trusteeship over the Pacific islands much more strained and difficult. It would also undermine confidence in our Nation and raise doubts as to whether agreements can be reached even when they have been worked out over a period of years with the full blessing and advice of those committees of the Congress charged with legislative responsibility for the Trust Territory of the Pacific Islands.

Support for the covenant is widespread. By nearly an 80 percent majority, the people of the northern Marianas approved the covenant last June. Joint resolutions have been passed by both the House and Senate of the Congress of Micronesia. A unanimous resolution was passed by the Guam Legislature. Last July, the U.S. House of Representatives passed House Joint Resolution 549. The Senate Interior Committee, the Senate Foreign Relations Committee, and the Senate Armed Services Committee have all favorably reported House Joint Resolution 549. Needless to say, the relevant departments of the executive branch have all expressed unanimity in support of the covenant.

What do the people of the northern

Marianas, through their elected representatives, have to say about the covenant? Here are some examples taken from testimony before the U.S. Congress.

Hon. Pedro A. Tenorio, senator, Congress of Micronesia:

> The people of the Marianas regard very highly the principles of democracy that have sustained the United States of America for almost 200 years; this, in short, is the basic underlying factor leading toward the negotiations and the approval of the commonwealth in the plebiscite.
>
> Our islands are developed under the American flag. Our children are educated under the American system of education; our economic development is patterned after the American economic philosophy. My people cannot comprehend any other political alternative more realistic and consistent than an association with the United States. The 25 years of exposure to the American system of government is singular in nature, and it embraces all aspects of the American system of government prevailing and widely accepted by my people.

Mr. Jose Cruz of the island of Tinian:

> The views of the people of Tinian about the Covenant were expressed clearly and finally in the free and democratic vote in the plebiscite. Over two-thirds of the voters on Tinian supported the Covenant—a gratifying vote to those of us who had long desired Commonwealth and a strong showing of support from the island which may be called upon to make available a large portion of its land for defense purposes, if the Congress believes it necessary. The vote on Tinian in favor of the Covenant came after a full and complete political education program which provided all sides of the argument to the people.
>
> We in the Marianas have, by approving the Covenant, justly recognized that the United States has certain responsibilities for the maintenance of peace and security in the Western Pacific. We have recognized further that, as a member of the American political family, the Marianas will have certain obligations to assist the United States in meeting its defense requirements. The people throughout the Marianas well understand these points.

Mr. Joannes Ramos Taimanao from the island of Rota:

> When 98 percent of the people of Rota voted in favor of the Covenant on June 17, 1975, it was truly an informed decision.
>
> The people of Rota cherish and regard with high respect the principles and doctrines of the United States where human rights are respected and the rights to life, liberty and the pursuit of happiness are guaranteed.
>
> The people of Rota fully realize that U.S. citizenship carries obligations and responsibilities as well as benefits, and are ready, willing and able to accept the obligations and responsibilities as a part of the Commonwealth of the Northern Mariana Islands.

Dr. Francisco T. Palacios, president of the Territorial Party of the Marianas:

> Our relationship with the United States goes back to 1944. As soon as our islands were secured from hostility, with great loss of life among the Americans as well as among the innocent islands, the United States established social-economic justice and political advancement.
>
> Under the U.S. tutorship we have recaptured our human dignity and basic rights. Today, justice and freedom are realities on our islands in all sectors of our community. For these reasons, and many others, the United States of America has gained our love and respect. Therefore we freely expressed our aspirations on June 17th of this year to join the U.S. political family as provided in the Covenant.

Mr. Edward DLG. Pengelinan, chairman, Marianas Political Status Commission:

> What will bind the people of the Marianas to the United States is the shared goals of our peoples—the shared view of the role of the individual in the society, the shared respect for law, the shared belief that the democratic way, even if the harder way, is the right way. The people of the Marianas now stand ready to accept the benefits that the United States bestows upon its people as well as the responsibilities and obligations that go with the right of citizenship.

Mr. President, it is evident the facts strongly support Senate passage of House Joint Resolution 549. For the past 500 years, the people of the Northern Marianas Islands have been tossed back and forth by outside influences—from one foreign power to another.

Tomorrow we will have an unprecedented opportunity, consistent both with our U.N. obligations and our national interests and tradition, to recognize the decision by the people of the Northern Marianas to exercise their right as a free people to choose their own future—a future, I might add, which they wish to share with us as we celebrate our 200th birthday and look forward to our third century as a land of hope and opportunity for all our citizens—both new and old.

THE AIR FORCE B-1 BOMBER

Mr. GOLDWATER. Mr. President, last week the Senate Armed Services Committee, of which I am a member, heard the testimony of the Secretary of the Air Force and the Chief of Staff of the Air Force concerning Air Force requirements for the coming fiscal year.

As we all know, a major issue before Congress this year is whether to authorize procurement funds for the B-1 aircraft. In this regard, I thought both Secretary Reed and General Jones presented outstanding rationale in support of the B-1 as to the critical need to proceed with the development and production of this strategic weapons system. I sincerely wish that all my colleagues could have heard that testimony.

Mr. President, in this presentation to the committee, Secretary Reed remarked as follows:

> The B-1 program continues to be our most important single development effort. Last year we outlined the need for the manned bomber and its contributions to the Triad of strategic forces, as well as its essential role in maintaining a credible and flexible deterrent posture. I would like to reiterate briefly several of the most important points about the B-1.
>
> There are unique and essential contributions that the bomber force makes to deterrence. It is the most clearly perceivable element of our strategic forces—it can be used visibly to signal changes in our strategic posture in response to international events, yet its use provides substantial assessment and decision time, which thereby avoids rapid and irreversible escalation of crises.
>
> Another unique characteristic of the manned bomber is that human judgment is exercised in its use, from launch through the final weapons delivery, an advantage that enhances flexibility, control, and discrimination in weapons application.
>
> The bomber force today is the only element of our strategic strike forces that has been tested and proven in combat. Its ability to carry large weapons loads, its ability to penetrate enemy defenses, and its precise delivery capabilities give us high confidence today in our ability both to deter and to respond if required. We believe that today's bomber force will be effective into the 1980s, with the incorporation of the relatively modest modifications now programmed. However, the projected threat, as well as uncertainties about future Soviet strategic initiatives, require that our strategic bomber force be modernized to ensure that it remains a viable part of the nation's deterrent force through the 1980s and beyond.
>
> Our commitment to the B-1 program reflects a strong conviction that the manned bomber will continue to be a necessary element of our strategic offensive forces for the foreseeable future. The B-1 possesses the essential characteristics to counter projected threats and is designed to be insensitive to future increases in the threat.
>
> The progress of the B-1 program has been especially encouraging. We are now engaged in an extensive and exhaustive test program to verify that the aircraft can perform up to our expectations. Our tests to date show that it can. We have completed over 119 hours of flight time, in both the subsonic and supersonic regimes, and we are expanding the flight envelope regularly.
>
> By the time a production decision is made in November 1976, three B-1s will be flying and I believe we will have adequately demonstrated the capability of this unique aircraft to perform its designed mission. We also expect to have completed engine qualification endurance testing, and to have progressed in our airframe fatigue testing to an endurance of approximately two lifetimes. We have begun to build the fourth test aircraft, which the Congress authorized last year. This aircraft will be used to test the defensive avionics systems. It will also maintain needed continuity between RDT&E and the production phase, because it will be the first B-1 in essentially production configuration.

Mr. President, supplementing the testimony of Secretary Reed the Chief of Staff, General Jones, stated as follows:

> Maintaining the nuclear equilibrium with the Soviets is the most critical US strategic requirement, one which no other nation or group of nations can fulfill. The U.S. Congress clearly expressed its support for this principle of strategic equivalence in passing its Joint Resolution on the Interim Offensive Agreement in 1972. In order to assure continued equilibrium within the context of SALT numerical limits, the Department of Defense has opted to maintain each leg of the TRIAD fully modernized. Thus, the strengths of each reinforce one another synergistically while the unique features of each compensate for the potential vulnerabilities of the others to create a secure whole. Within the Air Force's areas of responsibility, we have been modifying the Minuteman and the bomber forces with state-of-the-art improvements to assure their continued capability and effectiveness. We are also requesting funding for Advanced ICBM technology incident to development of the M-X missile. However, there is no US strategic program with a more profound potential impact on the real and perceived strategic balance than the B-1.
>
> Although the purely military capabilities of the B-1 will not accrue to the US for a number of years, the decisions on this critical program will have significant near term implications. The most important is the political message the US conveys to an attentive world regarding our priorities and our will. The DOD and Air Force rationale in support of the B-1 program is widely known, but I would like to summarize the key premises which underlie our views:

The B-1 will provide a hedge against failure of other strategic systems;

A modernized bomber force introduces extraordinarily difficult complications for Soviet attack planning; the combination of bombers and ICBM's presents a would-be attacker with an infinitely complex first-strike timing problem;

The B-1 deployment will further the national policy of modernizing our strategic deterrent without pursuing a disarming first-strike capability;

The manned bomber permits a visible show of resolve through rapid changes in the alert posture of the force;

The B-1 will be a flexible system with high unit performance and multi-purpose capability, including both conventional and nuclear mission contributions; and

The B-1 will be highly cost effective and will incur lower life cycle costs than would be a necessarily larger force of less capable aircraft.

The B-1 development program is on schedule and the system continues to meet or exceed our expectations. As you know, we face the major production decision this year and, if the development program continues as successfully as it has so far, I remain confident of a favorable decision. However, I want to reiterate Secretary Rumsfield and Secretary Reed's assurances to the Committee that none of the appropriated production money will be spent on the B-1 until and unless the Secretary of Defense certifies his production decision to Congress.

I have followed the development and testing of the B-1 aircraft very closely through the years, and I can assure the Senate that there is no question that the testing program is one of the most comprehensive ever undertaken for a military aircraft. It has been specifically aimed at determining that the aircraft has been developed according to specifications, and verifying that it will be operationally effective and supportable.

In the first year of testing, the airplane successfully demonstrated virtually all of its critical design points, including high-speed, low-altitude penetration, flying and handling qualities, sustained supersonic speed at high altitudes, heavy weight takeoffs and compatibility with operational Air Force KC-135 tankers in aerial refuelings.

Specific achievements include full wing sweep, engine air-starts, simulated manual terrain following, flight at 50,000 feet, supersonic speeds up to 1.6 mach, 0.38 mach at 200 feet, 0.85 mach at 500 feet, and flutter evaluations. Aircraft No. 1 has completed 25 flights which have totalled 119 hours and 19 minutes—4 hours and 36 minutes supersonic. I submit that those are significant achievements.

Mr. President, even with all the testing accomplished thus far, additional ground tests, as well as flight tests, are scheduled. The ground tests encompass wind tunnel, propulsion, structural integrity and subsystem tests, while the major flight tests include structures, propulsion, avionics, and operational effectiveness.

The aircraft design configuration has been subjected to extensive wind tunnel testing to define, develop, and verify B-1 airframe and engine characteristics. Over 5 years, more than 23,000 hours of wind tunnel tests have been performed in 17 different tunnels, using 43 models. By first flight, 22,000 heours were completed compared to 12,500 in the XB-70, 7,000 in the B-52, and 5,500 in the F-111 programs prior to their first flights.

Thorough programs have been carried out to develop and verify designs of subsystems such as avionics, hydraulics, electrical power, fuel distribution, and flight controls. The offensive avionics have undergone 3 years of extensive testing at Boeing's System Development Laboratory and almost a full year of performance evaluation aboard a C-141 flight-control and landing gear simulator were used in design and development of those systems.

Fracture mechanics technology was used for the selection of optimum B-1 materials in 1970. Since then, over 680 static tests of aircraft specimens and sections of various size established basic design concepts, checked specific configurations, and verified analytical results. The next major series of ground tests, the design verification tests—DVT's—subjected full scale sections of structurally critical elements to extensive static and fatigue tests. An additional series of fatigue testing began in June 1975 and eventually will subject structural specimens to the equivalent of four lifetimes of testing. Prior to its first flight, aircraft No. 2 will have completed an 8-month limit and proof load test prior to further structural testing in the air.

General Electric began propulsion testing of the B-1 engine in October 1971. The engine has completed nearly 6,000 turbofan test hours and nearly 14,000 component test hours. All design reviews have been completed and product verification is underway.

Mr. President, this has been an outstandingly comprehensive and successful test program. The B-1 has been subjected to a testing program that no other aircraft has ever undergone. Production decisions on other aircraft have been made with far less data and, while more testing is scheduled for the B-1, I am convinced that there is now adequate data to make a production decision. However, I will accede to the judgment of the experts in the Department of Defense and wait until November.

In conclusion, Mr. President, I hope that my distinguished colleagues who oppose the B-1 will study carefully the testimony of Secretary Reed and General Jones and the data derived thus far from the B-1 test program. If they do that objectively, I do not believe they can fault the B-1 on the basis of an inadequate testing program or the results that have come from that test program. To the contrary, just the opposite conclusion must be drawn.

NO-FAULT AND MEDICAL MALPRACTICE INSURANCE

Mr. HOLLINGS. Mr. President, a very distinguished South Carolinian and a colleague of mine for many years, Gov. John C. West, has returned to the practice of law after many years' service to our State. Governor West recently addressed the American Trial Lawyers Association on the twin isues of no fault and medical malpractice insurance. I am sure Governor West is well known to many Members of the Senate and that they are aware of his formidable knowledge of the law and its application in our society. Knowing that they would find Governor West's remarks of interest, I ask unanimous consent that his address to the American Trial Lawyers Association be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY HON. JOHN C. WEST

Let me say at the outset how good it feels to be a trial lawyer again. During my four years of leave from the active practice of law, I discovered that there were two basic differences between being a trial lawyer and being a governor. First of all, governors are always on trial themselves; and secondly, they never get to collect a fee. I might add to that a third reason; it's now possible for me to attend a convention in Las Vegas without worrying about public criticism in the newspaper the next day. Obviously—if for no other reason than these three—it's great to be a trial lawyer again, and it's very nice to be with so many of my good friends again.

There's yet another reason that this is a particularly auspicious and happy occasion for me. Several days ago, I was discussing with a friend the remarks I was planning to make to you today. We were chatting about several rather pertinent issues and I was cautioned that I might not wish to stray too far from the kind of objective comments I might have made as governor. I found myself in the happy situation of saying that I was a private citizen again and, by golly, I was going to indulge myself fully and freely in those First Amendment rights I had spent so much time trying to protect for other people.

So that's how I come to you tonight—first of all as a colleague who is very glad to be back in the field; and secondly as a liberated ex-governor who has a few observations to share with you. These observations have to do with two subjects of great social importance—no-fault and medical malpractice insurance. In each of these the trial lawyer has been made the scapegoat—the heavy—the bad guy—when in actuality his role is that of the prober, the diagnostician—yes, the seeker of truth in the attempt to find solutions to these two great social problems.

Let's examine the first of those sacred cows which has been a rather unwelcome companion of trial lawyers for the last few years. I am talking about no-fault automobile insurance, and I am also talking as a governor who ran on a platform of reforming the liability insurance and succeeded in some modest way only after labeling it a "modified no-fault plan". It is not—and I repeat, NOT—the panacea for economic injustice in the field of automobile insurance. It does not protect the consumer from economic exploitation of others. It does not stabilize the insurance market and bring down the overall rates charged to the public.

It has not fulfilled these expectations because it was based on two faulty premises. First of all, there was the usual enticement that somehow, someone was going to get something for nothing. With no-fault, premiums would be less and the automobile owner could be protected forever from the hobgoblin of escalating rates, insurance cancellation, and disastrously high claims for damages. It sounded a little bit like the old snake oil salesman peddling his wares to the public a hundred years ago. And it had just about as much truth to it.

Secondly, the so-called "heavy" in all of this was the trial lawyer. It was said quite freely that the real reason for high settlements, and high premiums was the lawyer charging high fees, and encouraging clients to go to court. The fact is that this was—only a part of the snake oil pitch—the attempt to find a convenient scapegoat for a difficult and complex social problem. As we have all discovered through experience, there were many causative factors tending to inflate the premiums for automobile liability insurance. If anything, the two primary factors were the enormous increase in the cost of automobile repairs, coupled with the sky-rocketing expense of medical care in our nation today. No-Fault has done nothing to reduce the total cost of automobile insurance and that's what it was supposed to be all about. It was, as it turned out, the wrong medicine for the wrong disease.

And while we're on the subject of medicine, let's cast our eyes across the state line for a little while into California. That's where doctors are avoiding their practice as much as possible to provide what good risks they are for malpractice insurance. Of course, the cost of malpractice insurance is not their fault. You know who's fault it is—that's right—the whipping boys—or perhaps I should say, the whipping persons, for any multitude of sins. They blamed the high automobile insurance rates on us—now it's the high rates of malpractice insurance for doctors. What's next? Maybe tney'll blame the lawyers for ingrown toenails and the high cost of bacon. It seems that a great many people are taking to heart the suggestion Shakespeare made three conturies ago when he wrote that the first thing we should do is kill all the lawyers. If words could kill, we'd all be dead by now.

The fact is that we are witnessing a rather severe case of rhetorical malpractice in the analysis of this issue, and it may be time for the medical profession to get a second opinion in this case. Alas, they have spent their time treating the symptoms, and not the cause of the illness at all. And if I'm guilty of practicing logic without a license, then I'll run that risk. But it seems to me that blaming the legal profession hardly constitutes a sensible diagnosis of this illness; if, indeed, there is an illness. It seems to me that lawyers are no more to blame for high settlements or awards in malpractice cases than doctors are to blame for the outbreak of epidemics of flu. We are both brought in to treat a condition which exists.

The fact is, ladies and gentlemen, that the entire field of health and medical care in this nation is expensive, and the claims paid for malpractice verdicts are but a part—a single part—of that very, very expensive business. A business which in all frankness is not only expensive but is not very efficient or effective in dealing with that most precious of all things—human life. If this judgment may be questioned or dismissed as a partisan reaction to criticism of our profession, I submit the following more objective but, I believe, harsher judgment. This week's issue of Business Week Magazine has this to say:

"With the possible exception of the American Medical Assn., which staunchly maintains that the American health system is the best in the world, everyone knows that something is wrong with America's system of delivering medical care. At $118.5 billion a year, or about 8.3% of the gross national product, it is the most expensive in the world. It has gone up from $40.5 billion, or about 6% of the GNP, in only 10 years. More Americans are suing their doctors—for larger amounts—than ever before. People complain they cannot find a physician when they need one. Even life expectancy in this country is not better than in many countries where health care is a lot cheaper. U.S. infant mortality—running about 16.5 deaths per thousand births—is worse than in 17 other nations."

In Tuesday's New York Times there is an article relating the results of a two-year self-study by the surgical profession. The records of 1493 patients who suffered serious complications following surgery were examined. Nearly one-half of those complications were preventable according to the doctors who reviewed the cases. Of 245 deaths which occurred, fully one-third were unnecessary and preventable.

According to a congressional sub-committee's findings, also cited in the article, last year in the United States there were 11,900 surgery-related deaths which were entirely avoidable because the surgery was unnecessary to begin with.

I cite these facts not to be unduly critical of our fellow professionals but hopefully in a constructive way to help them to diagnose what I and many others believe to be an illness which if not diagnosed and treated may well destroy the medical profession itself. Only this week a distinguished member of the medical profession stated that our health care system should be more properly called a "sickness care system." I must confess that I concur in that judgment—in fact I've often felt that there was substantial merit in the old Chinese system where the patient paid the doctor only as long as he was well—when he became sick, the payments stopped. My doctor friends tell me that they consider such a system unethical—too much like the lawyer's contingent fee system—they say!

I would also point out to our medical colleagues that we of the legal profession are performing perhaps the finest diagnostic consulting service which can be had with respect to the maladies of the medical profession, then they're not smart enough either to recognize it or appreciate it.

Let me elaborate on that point—my 30 years experience as a trial lawyer—broken somewhat by a 4-year sabbatical as Governor, has convinced me that the adversary system as it relates to and is a part of our system of justice is the best instrument for determination of truth ever devised in the history of man's life on this earth.

And in today's consumer oriented society, the highest premium is placed on truth.

Trial lawyers are today bringing home to the medical profession in the forum of the Court room the basic shortcomings and deficiencies of our Health Care Delivery System. Like so many other wrongs that exist, they aren't remedied until financial pressures require it—and that's why the doctors in California and elsewhere are screaming—they don't want to admit their personal or professional shortcomings—but they are being prodded and pressured into doing so—whether they like it or not—by the American judicial system—spearheaded by the American trial lawyer whose skill, capabilities and expertise represent the biggest force for social progress to be found in any group or any profession in the world today.

Despite what impression I may have left with you, however, I am not here to attack the medical profession, or the automobile industry, or to defend the lawyers and the legal profession for that matter. After all, we lawyers did have our Watergate, didn't we. I am here, however, to defend, if it in truth needs a defense, a system in this country, a system which has been an indispensable part of our government for these 200 years—whose roots go back not just to our English heritage but to our Judeo-Christian concepts of concern for our fellow man. It has many parts, many features.

I have referred to it as our adversary system—meaning essentially that the best way to get at the truth is in a court of law through the process of cross-examination—but the ultimate determination of truth is the verdict of a jury of one's peers. Under this system, lawyers are the advocates and are bound by their ethical code to do all in their power on behalf of their clients. To suggest that lawyers are to blame for high automobile insurance rates, or high malpractice rates, is to insult every judge and every jury in this country. Lawyers do not make the laws; lawyers do not reach the verdicts; lawyers do not pronounce sentences; lawyers do not determine awards. The legal profession is nothing more and nothing less than a part of the system which determines and dispenses justice in this nation. Those who criticize lawyers for the problems of either liability or malpractice insurance are either fooling themselves or being fooled by those who would subvert for selfish purposes our system of justice.

I happen to believe that the American system of jurisprudence has withstood more challenges, survived more tests, and emerged stronger than ever before in our nation's history. That doesn't means I always agree with it. Every now and then I lose a case, too. That doesn't mean I think it's perfect. I've been known to have a few opinions myself about how we could be better and stronger. But I have spent enough time in our courtrooms and as a public officer to know a little bit about how this great process works. I have seen hour after hour and day after day of testimony being taken to establish what is fact and what is fiction; what is true and what is false. I have seen the system fail; but I have seen it work in such an overwhelming preponderance of cases that I cannot conceive of a better way to get the job done.

I have an ax to grind, but not on behalf of trial lawyers, or the legal profession itself. I have an ax to grind on behalf of a system of justice which was conceived in the early days of this nation after the principles and precedents of centuries of experience in other nations. I have an ax to grind on behalf of a system in which those early concepts were shaped, modified and perfected through years and years of experience, wisdom and judgment. I have an ax to grind on behalf of a system of justice which itself becomes the scapegoat for the frustrations of those who misunderstood it. The American experience would have a rather empty one, however, over these last two hundred years had it not been for that ornery and cantankerous creature known as justice, which refused to be mastered by the other branches of government, which refused to submit to the economic appeals of the special interests, and which refused to me manipulated even by the lawyers themselves. Nothing has preserved our system of free government any more than an independent judiciary and an active trial bar of conscientious dedicated practitioners—and nothing will insure the continued good health of our nation's freedoms than the preservation and strengthening of this absolutely essential part of our American heritage.

Thank you.

THE FACES OF AMERICA

Mr. HUMPHREY. Mr. President, as the Nation celebrates the 200th anniversary of its independence, many original creative projects are underway. During this Bicentennial period, it is important that our projects keep the American people in focus for they are the repository and source of all that makes our Nation great and meaningful.

One official program of the American Revolution Bicentennial Administration was a nationwide contest for amateur photographers. It resulted in the bringing together of 12 great American faces which best project the character, personality, emotion, uniqueness, and warmth that characterizes the American people.

The photos already have been exhibited by museums in New Jersey and California and shown abroad by the U.S. Information Agency. The faces of America will be photographed again for a special exhiit in Washington, D.C., this summer.

Mr. President, I ask unanimous consent that an article published by the American Revolution Bicentennial Administration in the Bicentennial Times about this program be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

"GREAT AMERICAN FACES" DEPICT NATION'S CHARACTER

A national search begun in the midsummer of 1975 for "memorable" American faces has resulted in 12 outstanding "family" portraits selected from over 5,000 eligible entries submitted by Americans from all walks of life and all parts of the nation in the Kinney Shoe Corporation's "Great American Face Bicentennial Photo Contest.

Thirty-six other winners were selected on a regional basis.

The winners—dubbed the "Great American Faces"—range in age from a five-month old boy, to a 90-year-old keen-witted grandmother. Every geographical region of the country and all generations of Americans, young and old, male and female, are represented in the collection.

Kinney Shoe Corporation says it undertook sponsorship of this photo quest as a way of demonstrating America's "still vital spirit", and as a way of "involving" Americans in the Bicentennial rather than as mere spectators.

The 12 "family category" national winners, so judged because of facial qualities of character, personality, strength, emotion, warmth and humanity, are—Milton Blackstone, "Father", Short Hills, N.J.; John D. Dorian, "Grandfather", Poway, California; Amie Willis, "Teenage Girl", Grandview, Mo.; Sue Brady, "Pre-Teen Girl", Westchester, California; Nancy Cowan, "Mother", San, Diego, Calif.; Mark Gridley, "Young Adult Male", Columbus, Ohio; Keziah Patterson, "Grandmother", Marshalltown, Iowa; Jason Jardine, "Pre-teen Boy", Gaithersburg, Maryland; Paul Wagner, "Teenage Boy", San Antonio, Texas; Matthew Marchese, "Baby Boy", Grosse Point Woods, Michigan; Tracy Joy Schneider, "Baby Girl", Centereach, New York; Ruthie Scott, "Young Adult—Female", Mansfield, Ohio.

"The results frankly are dazzling and emotionally overpowering," Cameron I. Anderson, Kinney Vice President for U.S. retail, says. The judge committee, co-chaired by John Durniak, picture editor of TIME, and Charles Reynolds, picture editor of Popular Photography, included Robert U. Akeret, author of "Photoanalysis"; Irving Destor, photography columnist for the Associated Press; David Finn, fine arts photographer; Arnold Newman, award-winning portrait photographer; and Regina Reynolds, photographic consultant.

THE CIGARETTE TAX LESSON

Mr. HOLLINGS. Mr. President, a recent editorial in the Wall Street Journal has some practical advice on running a government, managing a budget, and the perils of well-intended but misguided legislation. The column refers to the impact in New York City of the combined State-city cigarette tax, which presently amounts to an exorbitant 26 cents a package. In its clever and perceptive way, the Journal analyzes how such a tax redounds to the distinct disadvantage of the municipality, costing it money, exacerbating illegality, and compounding the problems of governing.

There are several lessons here which are self-evident upon reading the column. I recommend this piece highly, and for that reason, I ask unanimous consent that "The Cigarette Tax Lesson" from the February 5, 1976, Wall Street Journal be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE CIGARETTE TAX LESSON

The City of New York has a new budget director, Donald David Kummerfeld, a 41-year-old financier out of First Boston Corporation. He comes bright-eyed and eager to face the challenge of "helping restore the city's fiscal health." We like his looks so much that we are willing overlook the fact that he studied at the London School of Economics and offer him some free advice.

As a first step in reviving the city's economy and financial condition, he should campaign to cut the combined state-city cigarette tax to 10 cents a pack from the current 26 cents. In itself, admittedly, this would not solve all of the city's problems. But from the experiment, both he and the people of the city would learn a big reason why New York is in such poor health. Indeed, the cigarette tax lesson could be applied not only by officials in New York but also those in Washington.

Though our browsings in the United States Tobacco Journal we have learned of estimates that half the cigarettes smoked in New York City are smuggled in from North Carolina, where the tax is two-cents a pack. State Sen. Roy M. Goodman, a Manhattan Democrat, says the state and city are losing $93 million a year in this fashion. The smugglers load 40-ft. trailers with 60,000 cartons purchased legally at $2.40 each and peddle them in the city via the organized-crime network for $3.75, which is $1.25 or more below legitimate retail.

Mr. Goodman, recommends a one-year suspension of the city's eight-cent-a-pack tax in order to break up the smuggling, plus an increase in the state enforcement field staff to 250 from the current 50, plus five years in jail for anyone caught smuggling 20,000 cartons or more. Last year only nine smugglers were jailed, each for a few months, with the common penalty $10 or $15.

If Mr. Goodman's solution were adopted, at the end of the year the smugglers would be back, and the state would have a bigger bureaucracy. More smugglers would be caught, more judges and bailiffs and clerks would have to be hired, more jails would have to be built and more jailers hired. The wives and children of the jailed smugglers would go on welfare.

Cutting the tax to 10 cents avoids all that. It immediately becomes uneconomic to smuggle. The enforcement staff of 50 can be assigned to more useful work, the state saving $1 million a year on that count alone. The courts would be less clogged with agents and smugglers and the taxpayers would save court costs, as well as the costs of confining convicted smugglers and caring for their families.

The city and state would *appear* to face a loss of $50 million or $60 million in revenues, but of course smokers would now buy their cigarettes through legitimate channels and the 10 cents a pack would yield about as much in revenues as 26 cents a pack yields now. But that's not all. Legitimate wholesalers would double their cigarette sales, earning higher business profits and personal income that the city and state then taxes.

And don't forget the impact on the millions of cigarette smokers who would save 16 cents a pack. At a pack a day, that's $58.40 per year. At average marginal tax rates, a smoker has to earn more than $80 before federal, state and city taxes are deducted to get that amount. He can thus maintain his or her standard of living on $80 less in gross wage demands per year, which means it becomes economic for the marginal employer to do business in New York, increasing the number of jobs of all varieties and reducing cost and tax pressure on social services.

Among other benefits, the industrious smugglers would have to find legitimate employment. It might be argued that they would be thrown on the welfare rolls. But if we know New York City, they are already on the welfare rolls, and would be forced to get off once they have visible jobs.

Of course, once these general principles are learned from experimenting with the cigarette tax, they can be applied to all the other taxes. You're welcome, Mr. Kummerfeld, and good luck.

PRESIDENT'S BUDGET AND TAX POLICY—A BLOW TO RECOVERY

Mr. HUMPHREY. Mr. President, testimony by administration officials and private economists before the Joint Economic Committee in our series of annual hearings on the President's Economic Report have revealed some sharp differences of opinion.

On Friday, February 6, we were privileged to receive outstanding testimony from Dr. Walter Heller, regents professor of economics, University of Minnesota, and former Chairman of the Council of Economic Advisers. In his remarks to the committee, Dr. Heller emphasized the importance of differentiating between the direction and the level of economic activity. He agreed with administration officials that the upward course of the U.S. economy in 1976 is not in doubt. However, he also pointed out that full acceptance of President Ford's budget proposal would hit the economy "with a sickening thud later in 1976"—and it should be underlined—"mostly after the election."

Dr. Heller emphasized his growing concerns over what he terms "the misguiding of the American public." In this regard he noted "the distressing tendency in recent years to miseducate and, wittingly or unwittingly, mislead the American people on vital issues of economic policy and fact."

More specifically he dealt with misrepresentation relating to the growth in the Federal budget, the burden imposed by the Federal debt, the impact of the Federal deficit, the financial soundness of the social security system, the role of Congress in controlling Federal spending, and investment and productivity in the United States.

As one of our Nation's most respected economic statesmen, Dr. Heller's observation that if the President's budget and tax proposals are enacted "the recovery would be dealt a severe blow while the economy was still operating far below target levels," warrants the most serious consideration of every Member of Congress.

Therefore, Mr. President, I ask unanimous consent that Dr. Heller's truly important statement and the article mentioned be printed in the Record.

There being no objection, the statement and the article was ordered to be printed in the Record, as follows:

Opening Statement Before the Joint Economic Committee, U.S. Congress

(By Walter W. Heller, Regents' Professor of Economics, University of Minnesota, Washington, D.C. February 6, 1976, 10:00 a.m.)

Mr. Chairman, Members of the Committee:

With your permission, I should like to handle part of my testimony by reference to the attached article I wrote for yesterday's Wall Street Journal on the economic outlook for 1976–77 and Ford's budget.

Let me highlight a few points in that analysis and then go on to consider some desirable policy moves in the 1976 setting before winding up with an expression of concern over what might be called "the misguiding of the American public" on a number of key economic issues and economic facts. As for the 1976 economic scene, one cannot stress too strongly the importance of differentiating between the direction and level of economic activity. Unless that distinction is constantly borne in mind, the signals for economic policy are likely to be read incorrectly.

The upward course of the U.S. economy in 1976 is not in doubt. Given the lags in the impact of economic policy, the first six-months' performance is pretty well foreordained. It is true, however, that the pace of recovery in the second half would be imperiled if (a) the Federal Reserve were to hit the economy in the solar plexus with a sharp shift toward tighter money and rising interest rates and (b) the White House and the Congress fail to find a mutually acceptable formula for extension of the temporary $18 billion tax cut. Also, full acceptance of President Ford's budget proposals would hit the economy with a sickening thud later in 1976—mostly after the election.

On the somewhat perilous assumption that these policy mistakes will not be made, George Perry and I project a somewhat more vigorous rise in real GNP—7% year-over-year—than the consensus forecast (a little below 6%) and the Administration's forecast (6.2%).

We project a somewhat stronger rise in both consumption and business capital spending than most forecasters. Consumer spending will be buoyed by rising real disposable income as payrolls increase faster than inflation, by growing confidence as inflation and layoffs recede, by the "catch-up factor" on delayed durable goods purchases, and by an improved asset and liquidity position resulting from the over-$100 billion rise in consumer liquid assets in 1975, lowered levels of installment debt relative to income, and the surge in the stock market.

On business fixed investment, it is true that the Commerce and McGraw-Hill surveys do not yet show a significant upswing in planned spending on plant and equipment. But the explosion of corporate profits and the accompanying rise in internal cash flows should change all that—and the sensitive index of capital goods orders, which has been rising impressively since April, provides some support for this view.

Corporate profits, which hit a postwar low of 8% of corporate product in 1974, have been zooming ever since. The newly revised Commerce Department figures show that after-tax profits rose from $60 billion in the first quarter in 1975 to an estimated $88 billion in the fourth (annual rates). We estimate that they will continue to rise to over $100 billion by the fourth quarter of this year.

Comparing 1976 with 1974 profits and allowing for the improvements in "quality" of profits by making the IVA adjustment—that is, allowing for replacement of inventory at current prices—one finds that profits in 1976 will be half again as high as in 1974.

Coupling generous cash flows with the enlarged investment tax credit and better access to capital markets, one can foresee repeated upward revisions of capital spending plans.

But even if the economy, under favorable policy assumptions, achieves the above-trend pace of expansion we project, can one settle for this—let alone, accept restrictive fiscal and monetary policies in 1977—in light of the present and prospective levels of economic activity?

As 1976 began, the unemployed labor pool equalled well over 9 million workers (the 7.8 million "officially" unemployed, plus nearly 1 million "discouraged workers" and 3 million part-time workers available for full-time work).

Total output is running at least $150 billion a year below the economy's high-employment potential.

Even after a 7% gain in output during 1976, the year will end with recession-like levels of unemployment, at 7¼%; of capacity utilization rates in manufacturing, at about 80%; and of economic slack, with actual output still running some $125 billion below the economy's potential (conservatively measured at 5% unemployment).

I say "recession-like" advisedly:

In the four previous recessions since 1950, the unemployment rate at the bottom (the trough quarter of real GNP) of the four recessions averaged 6.2%.

Capacity utilization in manufacturing averaged 77%.

In other words, we will be entering 1977 at unemployment rates and excess capacity levels comparable to those at the bottom of our previous recessions in this generation.

What of the prospects for inflation? High as it is by historical standards, inflation will continue to moderate in 1976. With a good 1975 harvest in hand and average crude oil prices coming down moderately, neither food nor fuel should add materially to the rate of inflation this year. And pervasive slack in the U.S. economy, plus the moderate pace of recovery in the rest of the industrial world, should hold in check the pressures of rising demand on raw materials prices and price margins. Thus, for 1976 at least, the inflation outlook boils down largely to the behavior of wage costs.

The outcome of the major wage negotiations involving 4½ million workers this year will be critical in determining price performance in 1976 and the later 70's. There will be some large settlements. But it should be recognized that cost-of-living escalators have given several of the unions involved in the upcoming negotiations recent wage increases outstripping the economy-wide average. A pattern of moderation in these settlements would be a logical way to begin a gradual unwinding of the wage-wage and price-wage spirals. A reasonable expectation—even assuming that the big contracts, front-loaded as usual, will average 10%-plus in the first year—is that economy-wide compensation per manhour will rise about 8% this year.

Coupling the abatement of food and fuel inflation with the modest impact of demand pressures and an 8% average pay increase, one can reasonably project a 5¾% rise in the GNP price deflator this year, or about 6% in the cost of living.

POLICY CONSIDERATIONS

If the President's budget and tax proposals were enacted, the recovery would be dealt a severe blow while the economy was still operating far below target levels. The high-employment surplus would rise by $19 billion for the fiscal year 1977, with restrictive pressure becoming particularly sharp during calendar 1977 when the proposed payroll tax increases would go into effect. Rather than accept a budget and economic policy that resolves all doubts in favor of go-slow expansion, a more prudent course would be to follow monetary and fiscal policies that will step up the rate of expansion in 1976 and continue it in 1977 until the corrosive waste of human and material resources has been brought back within tolerable bounds. Let me suggest several components of such a policy.

1. Put Mr. Ford's budget on the course of economic, social, and political responsibility. It would be well within that course of Congress to bring budget spending at least up to a maintenance-of-services level of $414 billion. From a purely economic point of view, the minimum task of Congress is to prevent the budget—expenditures and taxes from turning restrictive in the face of rescission-like levels of unemployment and unused capacity. Perhaps Congress will want to put more tax cuts and less spending in the economic mix that I might prefer. But, one way or another, it must overcome the $19 billion swing toward economic restriction.

2. The Congress should do what it can to prevent monetary policy from swinging toward restriction long before high employment and full prosperity are within striking distance. I find it passing strange that the Federal Reserve—whose Chairman has not been bashful in making known his distaste for monetarist formulas—and the congressional banking committees—whose objectives would be far better served by emphasis on moderate levels of interest rates than by lock-step limits on money supply increases—should have coalesced on monetary policy targets stated exclusively in money supply terms. Interest rates should be brought back into their proper place in setting policy targets.

3. Social security payroll tax increases are the wrong medicine at the wrong place and at the wrong time. It seems particularly paradoxical to consider further cuts in the income tax, our best tax, at the same time that we would boost the payroll tax, which bears hard on the poor, raises business costs and boosts the cost of living. With contingency reserves of some $45 billion, the social security system is in no immediate need of added revenues. And when that need materializes, it is high time to supplement the resources of the system with general revenues rather than cutting income taxes while boosting payroll taxes.

4. On income taxes, an adjustment of the proposed cuts to maintain the credits and tax breaks for the lowest income groups—who are still at the bottom of a very deep job barrel and have been hit hard by the amount and composition of inflation this time around—would be very much in order.

6. Finally, just a word on wage-price policy. Although it seems beyond the political pale in 1976, the Congress should never forget that a balanced program for full employment must contain some kind of restraint on excessive price increases exacted by concentrated industries and excessive wage increases exacted by overly powerful labor unions. Anti-trust cannot cope with this problem. A more effective system of flagging down excessive wage and price increases in areas of the economy where competition is not an effective policeman must be part of a balanced program to overcome intolerable unemployment without incurring intolerable inflation.

THE MISGUIDING OF THE AMERICAN PUBLIC

I cannot conclude these opening remarks without expressing my growing concern over the distressing tendency in recent years to mis-educate and, wittingly or unwittingly, mislead the American people on vital issues of economic policy and fact. This process, calculated or not, is contributing to misunderstanding of basic economic relationships, unnecessary anxiety on many fronts, and a loss of faith in the American economy and its public institutions. Let me cite a few examples.

The federal government is depicted as expending like some monstrous protoplasmic blob that threatens to snuff out economic freedom and initiative. Yet, the facts will show that the federal budget as a proportion of GNP held virtually steady at about 20% from 1953 to 1973. It is projected to rise to 21½% in fiscal year 1977—but adjusted to a full-employment basis, the figure would be right back at 20%.

Or take the supposed "crushing burden of federal debt." A striking chart included in last year's budget documents (but omitted this year) shows that the federal debt held by the public dropped from 82% of annual GNP in 1950 to 26% in 1974. Seen in this perspective, the public debt is quite a different and more manageable problem than the general impression abroad in the land.

A third area of widespread misapprehension of the real problem centers on the large deficits in the federal budget. Here, two misimpressions are being fostered:

The $70-75 billion deficit is being identified with profligacy in spending and fiscal irresponsibility when, in fact, it is almost entirely a hostage to recession. If we were operating at full employment, tax revenues would be $50-55 billion higher than they are; unemployment compensation would be about $15 billion lower; and other cyclically-responsive outlays like food stamps, Medicare and Medicaid, and the like, would be about $5 billion lower. So almost all of the deficit is a product of the recession. Ironically, the selfsame monetary and fiscal authorities whose disastrously tight policies in 1974 helped aggravate the recession and hence the deficit are the ones who are loudest in decrying it as an example of the loss of fiscal discipline.

A related charge is that government deficits are the root of all inflationary evil. How is it, then, that inflation is ebbing in the face of the largest deficits in history?

A fourth area of anguished misapprehension relates to the Social Security System. The impression has been given that it is about to go broke. I need not tell this committee how far this is from the truth. Again, the recession is partly the culprit in cutting revenues and increasing the flow of benefits. The financing problems of the Social Security System can clearly be met.

A fifth example is the mistaken belief that Congress is an instrument of irresponsible and loose spending—an impression that totally ignores the responsible new procedures and spending limits that it is observing.

Finally, a continuing barrage of statements and studies—for example the April 1, 1975 release by the Treasury entitled "U.S. Ranking in Investment and in Real Economic Growth is Among Lowest of Industrialized Countries, Treasury Study Says"—is giving the public a false image of the true strength of the American economy. Only the fine print brings out that

U.S. productivity is still the best in the world, with even the high-growth countries like France and West Germany having achieved only 80% of the American level of productivity;

that the United States has been growing steadily more competitive, with its unit labor costs rising only about 10% from 1970-74, with Canada showing the next best performance at 28%, Germany at 90%, and Japan at 100%.

One hesitates to fix the blame for this retrograde movement in the economic education of the American public. Much of it stems, as it has from time immemorial, from the self-serving efforts of particular groups to "sell" particular policies, positions, preferences, and prejudices. Note how many of these positions serve a bias toward smaller government, cutbacks in federal spending, tax reductions for business, preferential tax treatment of capital investment, and restrictive fiscal and monetary policies.

Clearly, this is not a suggestion that we should be Pollyannas or put our heads in the sand about persistent and troublesome economic problems. But the misunderstandings that are being fostered threaten to thwart rather than facilitate solutions.

To be candid about economic shortcomings and government problems is a virtue. But to denigrate the U.S. economy, and exaggerate its problems and misidentify their sources is certainly a vice. The sooner policymakers talk economic sense instead of nonsense to the American people, the better our economic health.

Ford's Budget and the Economy

(By Walter W. Heller)

Policy developments of the past few months have cleared the track for a respectable rate of recovery this year. Interest rates have backed down, the 1975 tax cuts have been extended, gradual rather than abrupt decontrol of oil prices is in prospect and New York City has been pulled back from the brink of bankruptcy.

Rising business and consumer liquidity, ebbing inflation, accelerating retail sales and a surging stock market all contribute to the atmosphere of expansion. All told, it is an encouraging backdrop for reaffirming the bullish forecast of a 7% advance in real GNP in 1976 that George Perry and I first ventured in October.

But President Ford's budget and economic policy messages cast an ominous shadow over late-1976 and 1977 economic prospects. His Economic Report resolves all economic doubts in favor of subdued expansion in 1976 lest we agitate the inflationary beast within us. And his budget sets the fiscal dials to "hard astern" for 1977. If Congress and the Federal Reserve respond with fiscal and monetary restriction this year, recovery could be imperiled next year long before the country reaches anything resembling full prosperity.

So the outcome of the Bicentennial battle of the budget will have profound implications not only for social policy but for economic performance. Where are the battle lines drawn for fiscal 1977? Given increasing budgetary caution and discipline in Congress and a conservative but not Neanderthal President in the White House, one can safely say that the range of outcome is not bounded by wild election-year spending on one hand and a $90 billion cut on the other. Much more likely—giving proper weight to the President's budget cutting initiatives (and veto powers) and the shift toward sobriety-in-spending in Congress, both reinforced by the public's anti-spending mood—is a battle arena bounded at the upper end by a maintenance-of-services or hold-the-line budget of $414 billion and at the lower end by the President's $20-billion-cutback budget of $394 billion.

When the President first proposed his 28–28 program last October, he was operating from a "current services budget" benchmark of $423 billion. But after downward revisions in the light of more accurate information and "congressional increases threatened but not passed," the figure was scaled down to $414 billion. That is the level of spending that would be required in fiscal 1977 (starting Oct. 1, 1976) to maintain services and commitments at fiscal 1976 levels. Mr. Ford would whittle $20 billion off this revised "current-services budget" by holding social programs $10.5 billion below prevailing levels; civilian and military pay, $3.5 billion below; other defense, $1.5 billion; and "all other," $4.5 billion.

A COMPARISON

Another way of looking at the 1977 Ford economy-model budget is to compare it with "normal" budgetary growth. The $21 billion increase over the fiscal 1976 budget is just half the average increase of the three preceding years. (After factoring in the three months' hiatus—with its own "transition quarter" budget—before fiscal 1977 begins, the applicable rate of increase comes to only $17 billion.)

Some $15 billion of the $21 billion increase represents the actual growth in defense and interest costs. This seems to leave only $6 billion for all other programs. But, as recovery continues, an added $5 billion becomes available through the automatic shrinkage of unemployment compensation and other "cyclical" transfer payments. Thus $11 billion is available to finance increases in all other "non-cyclical" civilian programs. Normal growth in these programs, consisting of a 6% allowance for inflation and 4% real expansion, would come to $31 billion. By this measure, too, the Ford budget represents a $20 billion scaling back of government programs. So both the overall cutback and its impact on the level of social services are severe by any recent budgetary standards.

On the tax side, the President proposes extending the present $18 billion tax cut, plus another $10 billion cut in personal and corporate taxes effective July 1, 1976—all conditional on appropriate cuts in projected spending. His proposed increases in payroll taxes, effective next Jan. 1, will offset nearly $8 billion (at annual rates) of the additional $10 billion.

The combined tax and spending changes in the Ford budget would add up to a withering fiscal drag on economic expansion during fiscal 1977. The high-employment surplus would rise by $19 billion for the fiscal year, with the restrictive pressure growing sharply and steadily during calendar 1977.

The the Congress will fully accept either the restrictive economic policy or the Spartan social policy implicit in Mr. Ford's budget is highly unlikely. True, no spending spree is in prospect. But a reasonable working assumption is that the pulling and hauling on the budget will bring spending up to about $410 billion for fiscal 1977. And after another noisy struggle, a further extension of the present $18 billion cut seems to be a good bet.

This policy projection implies little fiscal constriction until after the election. But even if spending winds up at $410 billion, fiscal policy will tighten in fiscal 1977. The tightening would be very modest if the proposed income and payroll tax changes are not enacted. But if the payroll tax cuts are accepted while the added income tax cuts are rejected, the net result would be an $11 billion restrictive impact on a 1977 economy still operating far below reasonable target levels.

Monetary policy, after a year of puzzles and surprises, is even more difficult to sketch into the mosaic of the 1976 outlook. But a reasonable person, with fingers crossed, could assume that the Federal Reserve would not overreact to a strengthening recovery unless the inflation outlook suddenly darkens. In other words, a monetary policy that produces a mild rather than sharp rise in interest rates is a reasonable projection. This implies that short-term rates, after some further easing, will move up only moderately as the year progresses. Long-term rates are not likely to rise until later in the year, and then only after giving some further ground in the next few months, especially in the mortgage area.

Given only moderately accommodative fiscal and monetary policy for 1976, where do Perry and I find the expansionary strength to support a forecast of 7% real GNP growth? Primarily in a more upbeat view of consumption and business capital spending (and, in the accompanying year-over-year advance of $25 billion in inventory investment) than most forecasters are projecting.

The sparkling preformance of corporate profits will be the chief spur and lubricant for the revival of business fixed investment. Productivity advances and rising sales should generate a one-third rise in after-tax profits in 1976 on top of a striking jump during 1975. From 1975's first quarter to 1976's fourth, they should rise from $60 billion to over $100 billion at annual rate.

In a little longer—and "quality-corrected"—perspective, the profits boom is even more impressive. After inventory valuation adjustment (IVA)—that is, allowing for inventory replacement at current prices—profits in 1976 will be half again as high as in 1974. This will go a long way toward restoring corporate profitability, which had hit a postwar low of 8.1% of corporate product in 1974.

Led by the profit surge, internal cash flow this year will reach historically high levels relative to business fixed investment. Add to this the incentive of a more generous investment credit and the ability to draw on reinvigorated capital markets and upward revisions of capital spending plans should be the order of the day. They are not yet reflected in plant and equipment surveys and capital appropriations. But the sensitive index of capital goods orders has been rising impressively since April. In "optimistic-realistic" expectation for this year, then, is an 11% rise in business fixed investment. Barring unexpected setbacks in the consumer sector, this advance should accelerate during 1976 and into 1977 and become a primary driving force for expansion.

FOUR PLUSES

The rise in consumer spending that started after the first quarter of 1975, stimulated first by tax reductions and then by rising payrolls, will continue during 1976 in response to (1) a continued rise in real disposable income as employment rises and wage gains outpace the inflation in living costs, (2) an improved consumer buying mood as buying power grows and the threat of layoffs recedes, (3) stock market advances and the rising backlog of demand for durable goods and (4) strengthened consumer liquidity growing out of a $100 billion-plus rise in consumers' liquid assets for 1975, together with only modest increases in installment debt. A rise of 11.5% in overall consumption—with autos and other durables as the star performers—is in the cards.

Housing at 1.5 million starts, a moderately declining net export balance, and a lackluster government sector—especially at the state-local level—round out the 1976 prospects. It all adds up to a 1976 GNP advance of $196 billion, to a total of $1,695 billion (using the new Commerce Department GNP benchmarks). For the first time in four years and only the second time since 1968, more than half of the advance will represent a real gain, less than half, inflation.

Inflation will continue to moderate in 1976. With a good 1975 harvest in hand and average crude oil prices scheduled to come down moderately, neither food nor fuel should add materially to the rate of inflation this year. And although rising demand will generate some added pressures on raw materials prices and on price margins, the moderate pace of recovery in the industrial world in 1976, coupled with pervasive slack in the U.S. economy, should hold these pressures in check this year. Thus the crux of the matter is the behavior of wage costs.

With 4½ million workers involved in major wage negotiations this year, the outcome will be crucial in determining price performance in 1976 and the later '70s. As a result of cost-of-living escalators, several of the unions involved in the forthcoming negotiations have enjoyed wage advances considerably above the economy-wide average. If the government could influence these negotiations to set a pattern of moderation, the national goal of slowing the rate of inflation would be well served. These settlements would be a logical place to begin a gradual unwinding of the wage-wage and price-wage spirals. A reasonable expectation—even assuming that the big contracts, front-loaded as usual, will average 10% in the first year—is that economy-wide compensation per manhour will rise about 8% this year.

Given the abatement of food and fuel inflation, the modest impact of demand pressures, and an 8% average pay increase, the rise in the GNP price deflator this year should ease to about 5¾%, or three points less than last year.

An inflation rate of less than 6%, coupled with a 7% advance in real output, is cause for considerable satisfaction but no complacency. Despite the above-trend gain in output, the end of the year will still see recession-like levels of unemployment at 7¾%; of capacity utilization rates in manufacturing at about 80%; and of economic slack, with actual output still running nearly $125 billion below the economy's potential (as measured at 5% unemployment).

DEFINING "FISCAL RESPONSIBILITY"

Congress rightly prides itself on its more prudent fiscal posture, and procedures. But if the new politics of fiscal responsibility, or austerity, simply leads to budget parsimony and willy-nilly economic restraint, its benefits will be swamped by its costs. Congress should vividly bear in mind that massive swings toward fiscal restraint in 1959–60 and 1973–74 exacted a huge toll in lost jobs and output.

To hit the fiscal brakes, as Mr. Ford proposes, when unemployment and economic slack are still legion and inflation is ebbing would be fiscally irresponsible. "Fiscal responsibility" is not synonymous with "fiscal restraint." Rather, it calls for an intelligent fitting of tax and spending positions to the needs of the economy. With its new budget procedures and staff, the Congress is now equipped to do this. Given the will, it can become a major force in effecting a new fiscal policy of responsible net stimulus in a lagging or sagging economy, and responsible net restraint in a prosperous but inflation-prone economy.

THE TALKS ON MUTUAL FORCE REDUCTIONS

Mr. GARN. Mr. President, a few weeks ago, I joined 15 of my colleagues in sending a letter to President Ford, the primary purpose of which was to urge caution in the negotiation of any further strategic arms limitation agreements. Our letter was prompted by the unseemly haste we have seen on the part of our Secretary of State to conclude an agreement, with almost no regard for the condition of the agreement.

Now we see the same sort of haste prevailing in Vienna, at the talks between NATO and Soviet bloc nations on mutual force reductions in Europe. The very title of the talks is of some concern, Mr. President. Until about a year ago, we had always talked about mutual and balanced force reductions. We appear now to have dropped our concern about balance, and to be bent on reduction which, while superficially balanced, is really advantageous to one side at the expense of the other.

This point was made very well in a column in Sunday's Washington Post by Mr. Jeffrey Record, formerly with the Brookings Institution's defense analysis project. Mr. Record is critical of the impact of détente on our strategic posture in general, and on the mutual force reduction talks in particular. The numbers in question are 1,000 tactical nuclear weapons and 29,000 American troops, as opposed to 1,700 tanks and 65,000 troops by the Soviets. Mr. Record points out that in percentage terms, that means a 15-percent cut for us and a 12-percent cut for them, but more importantly, since our troops would be withdrawn to the United States, they are effectively out of any action for as long as 45 days, while the withdrawn Soviet troops are less than 500 miles away. In his words, "what would be for the United States a strategic redeployment would be for the Soviet Union little more than a tactical repositioning."

I realize that this is an election year, Mr. President, and that the President desires to demonstrate his abilities in both foreign and domestic policy. Nor would I like to be considered as opposed categorically to any decrease in our advanced troop positions. I believe that there are indeed circumstances under which mutual withdrawals would be highly desirable. The point is simply that we seem to be in too much of a hurry. We are dealing here with the security of the free world, and we have an obligation to exercise due caution. Any political advantage purchased at the cost of a weakening of the world's defenses is too dearly bought.

And, of course, as so often is the case, international security is a matter of psychology. Our haste in concluding disadvantageous agreements sends signals to friend and foe about our will to act for the defense of the West. For that reason, I urge the President and Secretary Kissinger to slow down. Let us stop running after détente as if it were the Holy Grail and the pot of gold rolled into one. Agreement and accommodations are certainly desirable, but let us chase them with restraint, making certain that they are grounded on sound defensive positions.

Mr. President, I ask unanimous consent that Mr. Record's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Toward Imbalanced Force Reductions

(By Jeffrey Record)

Secretary of State Henry Kissinger's desire to forge a more stable relationship between the United States and the Soviet Union—on terms unsatisfactory to a growing segment of the American public—is inescapably evident in NATO's latest proposal at the mutual force reduction (MFR) talks in Vienna. The Secretary's personal interpretation of detente so far has encompassed controversial U.S. concessions on strategic arms control issues, Russian access to much of the West's advanced technology, and a U.S. commitment to make good over a half-century of Soviet incompetence in agriculture.

If press reports are accurate, detente apparently also embraces a readiness to recast American military power in Europe in a manner no less favorable to the Kremlin. The NATO proposal, to which Dr. Kissinger was midwife if not mother, calls for withdrawal to the United States of 1,000 tactical nuclear weapons, 29,000 troops, and a publicly unspecified number of combat aircraft now stationed in Europe. In exchange, the Soviet Union is to pull back to its own borders one of its tank armies in East Germany containing an estimated 1,700 tanks and 65,000 soldiers.

People only casually acquainted with the present military balance in central Europe may well be disturbed by the imbalance of such a proposal. Admittedly, the removal of 1,000 tactical nuclear weapons probably would not diminish the deterrent capabilities of a 7,200-weapon deployment that is widely regarded as excessive and of questionable advantage to NATO should war actually occur. But the withdrawal of 29,000 ground troops would reduce manpower currently assigned to U.S. Army forces in West Germany by 15 per cent, compared with a 12 per cent cut represented by the removal of 65,000 soldiers from the Soviet Army's 525,000-man garrison in Eastern Europe. Indeed, the ratio of U.S. to Soviet forces in central Europe following reductions would be more unfavorable to NATO than it is today.

Such a prospect, particularly if accompanied by cuts in European-based U.S. tactical aircraft, would accelerate trends in the continental military balance that have been inimical to the Atlantic Alliance since 1968. For example, although authorized U.S. ground force levels in Germany over the past eight years have remained relatively constant at about 195,000 men, Soviet forces in East Germany, Poland and Czechoslovakia have expanded by an estimated 38,000 men and 3,600 tanks. These figures do not include the even larger increases in both categories attributable to the introduction of five Soviet divisions into Czechoslovakia following the U.S.S.R.'s invasion in 1968.

Equally disquieting are the imbalances in the concept of withdrawal. American forces withdrawn to the United States would be separated from the Continent by 3,000 miles of ocean. Their redeployment to Europe, in the event of a future military crisis there, would take at least 30 to 45 days, assuming their retention in a high state of readiness and the availability of sufficient shipping. In contrast, Soviet forces would be removed *overland* a minimum of 500 miles from their locations in East Germany. Their continuing proximity to NATO's central front, together with the absence of significant geographical barriers to their swift return to central Europe, would make them ideal ready reinforcements. Thus, what would be for the United States a strategic redeployment would be for the Soviet Union little more than a tactical repositioning.

In short, under Dr. Kissinger's MFR proposal, Soviet ground forces in Eastern Europe, already 2½ times the size of American forces in Germany, would be required to withdraw proportionately fewer men one-sixth the distance designated for U.S. forces slated for withdrawal. Apparently rejected by the Secretary of State was the idea of trading withdrawals of U.S. forces for pullbacks of proportionately larger Soviet forces or for the complete disbandment of selected Soviet units, two approaches long supported by many experts as the only means of achieving a true reduction of forces in Europe.

From a purely military standpoint the Kissinger proposal is decidedly unattractive. This judgment presumes that the MFR talks, deadlocked for more than two years, still are intended to bring about significant reductions in U.S. and Soviet forces in central Europe without upsetting the present ratio of effective military power on the Continent. If, however, Kissinger's aim is simply to break the deadlock, in order to offset similar lack of progress on SALT II or to forestall renewed congressional pressures for troop withdrawals, his proposal seems well-designed indeed.

OUR MAJOR ECONOMIC PROBLEMS

Mr. FANNIN. Mr. President, the Senate is now involved in efforts to review our tax structure and to make modifications in our economic policies to assure that recovery continues and that we can meet the extraordinary needs of the United States for goods, services, and employment during the last quarter of this century. How we proceed will have a great impact on the future of the Nation. Because of this, I would like to make a number of observations about our major economic problems and what we must do to correct the deficiencies.

There is hardly a periodical or daily newspaper today which does not express concern over the rate of inflation. In a State like my own where there are so many retired citizens, every increase in the rate of inflation substantially affects their standard of living. The performance of the economy of this Nation over the last 2 years has been a serious concern not only to this Congress but to the Nation as a whole. The combination of a prolonged decline in real gross national product, unemployment in excess of 8 percent, and a continued inflation gives us reason for concern and points to the immediate necessity for us to take steps to combat these problems.

A brief look at the history of our Federal budget is in order, especially in light of the fact that we have experienced only one balanced budget since 1960. The deficits were quite small until they jumped to $25 billion in both fiscal 1971 and 1972, in good part as a consequence of the recession at that time. Then after declining with recovery to a recent low of $3.5 billion in fiscal 1974, the deficit soared to the current "horrendous" levels of $43.6 billion in fiscal 1975, about $70 billion in the current fiscal year and an unknown but big amount expected in fiscal 1977. There can be little doubt that the continuation of such deficits must certainly feed a fiercely burning inflation. Not only the elderly and the retired will be ruined by such reckless spending, but every citizen will suffer.

If we look at the relationship of the deficit to inflation we find that the inflationary impact of a budget deficit depends in large part on how it is financed. If private investors buy the new Treasury debt, there is no more spending power in the economy than there was before and the deficit is not inflationary. But, if the Federal Reserve System directly or indirectly finances the deficit, it adds to the Nation's money supply and thus sets the stage for inflation. Inflation diminished in 1975 since the Treasury was able to raise a record amount of slightly over $80 billion by selling new securities. It is possible that Treasury may be able to meet its demands in 1976 out of total national savings and a somewhat enlarged supply of bank credit, but we cannot be certain at this time that such borrowing will not be at the expense of productive private borrowing, chiefly by business. Some analysts indicate that a large Federal deficit this year will be harder to finance without a crowding out effect on business as normal business short-term borrowing resumes.

Of further concern is the impact of a budget deficit on capital formation. Over the past year studies have shown that the United States faces a huge shortage of capital in the years ahead and that the need for capital could be met provided the Government began to run a budget surplus once reasonable full employment is restored. However, it appears that the continuing high rate of unemployment and large budget deficit projected for 1976 are inflationary and should be avoided.

While U.S. economic growth may be more modest than that of our European trading partners, it should be pointed out that in addition to the slowing down most have more recently experienced, their continued expansions have been at the expense of price stability. Our inflation rate has been considerably below those of other major industrial countries. The United States has had to devote a far greater share of its real resources to national defense since World War II than those of other nations.

INFLATION RATES[1] IN SELECTED COUNTRIES

[Percent increase]

	1960–72 average	1970	1971	1972	1973	1974
United States	2.9	5.5	4.5	3.3	5.6	10.2
Canada	3.4	4.8	3.1	4.8	7.6	13.0
Japan	4.8	6.7	4.6	5.0	12.1	24.0
United Kingdom	4.9	7.3	8.9	7.8	7.4	11.0
France	4.5	5.6	5.4	5.7	7.6	10.0
West Germany	4.0	7.0	7.9	6.0	5.8	6.5
Italy	4.8	6.7	6.7	6.0	10.3	15.2

[1] Entries refer to GNP deflators.

Source: "International Economic Report of the President, 1975" table 4.

In light of this trend and its adverse effects upon our economy, it is imperative that we require a balanced budget or set a spending ceiling before any further tax cuts such as the extensions of individual income tax reductions provided for in sections 401 and 402 of title IV of H.R. 10612, the Tax Reform Act of 1975 are considered.

I voice the same opposition to these tax cuts as I did to the extensive tax cuts passed by Congress in Public Law 94–164, the Revenue Adjustment Act of 1975. Those resulted in a $7.4 billion reduction for individuals and a $1 billion reduction for corporations for the 6-month period January 1 through June 30, without being tied to a spending ceiling. The additional extension of those reductions as provided in H.R. 10612 once again is not tied to a spending ceiling and, as a result, will merely increase the rate of inflation.

During the years that I have been a Member of the U.S. Senate I have observed with increasing alarm the spending figures of our National Government which go higher and higher while the deficit has grown bigger and bigger. I wonder how far this spending and these deficits can go before the American taxpayers rise up in anger and the economy of the richest nation on Earth collapses. Those who did not live through the Thirties may find it hard to imagine that the events of a decade could work such profound and lasting change in social attitudes developed over centuries.

Having experienced those years I have no trouble doing so. What I recall most vividly is the sense of shock and despair that colored social thought. The hardship of the moment was bad enough, but even worse was fear of what the uncertain future would bring.

Confidence was hardly inspired by looking elsewhere. Bad times were spread throughout the world, and societies most akin to ours were coping badly.

In a word, things were a mess, and we sought a way out by creating a welfare state at record speed. Let the size of Government, in the sense of its power to command the Nation's resources, be measured by the fraction of national income accounted for by Government spending of all types at all levels. That fraction doubled in 10 years, rising from 12 percent in 1929 to 24 percent in 1939, when the real national product had roughly recovered to its 1929 level. During the next decade, the size of Government moved up and down with the demands of war, demobilization and subsequent threats to national security. At its peak in 1944, Government spending had risen to 56 percent of national income. Between 1929 and 1949, the fraction of national income attributable to total Government spending rose, but that net rise encompassed a decline for domestic spending. In other words, the growth of Government was more than accounted for by expansion of the defense effort.

GOVERNMENT SPENDING AS PERCENTAGE OF NATIONAL INCOME

	Total spending (A)	Defense spending (B)	Domestic spending (C)
1929	11.9	0.8	11.1
1933	26.6	1.5	25.1
1939	24.2	1.6	22.6
1944	56.4	47.9	8.5
1949	27.2	6.1	21.1
1953	33.2	16.0	17.2
1959	32.8	11.5	21.2
1960	32.8	10.8	22.0
1961	34.9	11.2	23.7
1962	34.9	11.3	23.7
1963	34.6	10.5	24.1
1964	33.9	9.7	24.2
1965	33.1	8.9	24.2
1966	34.2	9.8	24.4
1967	37.2	11.1	26.1
1968	38.0	11.0	27.0
1969	37.6	10.2	27.3
1970	37.8	9.3	28.5
1971	37.5	8.3	29.1
1972	39.1	7.9	31.2
1973	38.6	7.0	31.6

(A) Expenditures of Federal, State, and local government as defined in national income accounts.

(B) Purchases of goods and services for national defense as defined in national income accounts.

(C) Total spending minus defense spending.

Source: Economic Report of the President, 1974, pp. 249, 265, and 328.

Until 1958, domestic spending by Government represented a smaller share of national income than in 1949. But not for long. Beginning with the early Sixties, a fundamentally new, almost revolutionary, trend had established itself. Regardless of what happened to the defense effort, domestic spending by Government steadily rose faster than national income. Only in 2 years—1962 and 1965—had that relatively upward movement faltered. And the pace accelerated. From 1963 through 1968, the percentage of national income represented by domestic spending of Government rose from 24 to 27, or by 12 percent, from 1968 through 1973, it rose from 27 to 32, or by 17 percent. Despite the Vietnam war, introduction of the all-volunteer armed forces, and mounting problems of national security, the fraction of national income spent for defense has been lower in every year since 1959 than it was then.

Today, the fraction is lower than in any year since 1950. Correspondingly, the proportion of national income devoted to the welfare state has assumed revolutionary proportions. Larger and ever larger proportions of the income of each citizen are being removed from the area of his personal decision. A government elite is increasingly making the decision as to how the income of the citizen shall be spent. The present tax bill offers little hope for any reversal, or even slowing down of what I regard as a disastrous trend.

As you well know, I am a fiscal conservative. I am also an economic realist. I realize full well that in a period of recession, particularly when unemployment is high, the Government has an obligation to do what it can, reasonably and within certain fixed limits, to stimulate and expand the national economy. Such a result can be best accomplished by overhauling our tax system and focusing on the encouragement of capital formation. There are a variety of tax policies available to alter the profitability of business investment and potentially to increase aggregate savings and investment in the economy. The creation of real jobs can and ought to be the result. Several major approaches including: First, liberalization of the investment credit; second, liberalization of depreciation allowances; third, integration of the corporate and individual income taxes; fourth, a cut in corporate income tax; fifth, more favorable treatment of net operating losses; sixth, more favorable treatment of personal savings; and seventh, consideration of an investment reserve fund could be used to improve business return on investment by reducing business taxes.

President Ford urged this Congress to stimulate the private sector so that we can create productive and lasting jobs instead of following a welfare state philosophy of deadend, nonproductive and inflationary Government-manufactured jobs. I look forward to considering the details of his proposals to encourage capital formation. At a time when we are faced with the continued increase in the rate of inflation, it is astounding that some people believe that the cure is to provide even more Government spending. There are those among us who would urge this Congress to reduce the high unemployment rate by having the Government provide more sterile jobs.

There are some individuals who scoff at the attempt to provide for a balanced budget. As I have before, I urge again that we consider providing the incentives for business so that our free enterprise system can be given a breath of fresh air. I say that by encouraging capital formation we will provide jobs for the unemployed and we may yet stem the effects of excessive Federal spending.

Federal spending encourages exorbitant wage increases in key industries. When contractors dealing with the Government can pass increased costs on to the Government, they have little incentive to resist unrealistic wage increases. Increases in wages should be related to increases in productivity—not Government subsidy. Inflationary wage increases cause American industries to flee abroad. Domestic producers find their goods being undersold by foreign competition in the U.S. marketplace. We have seen it happen with textiles, shoes, so many American products that used to be sold in a world market. We are right now watching it happen with automobiles.

Let me say, furthermore, Federal spending robs capital from the private sector. When the Government borrows heavily, interest rates soar. This has been a disaster for the retired citizen and low-income families who once had a hope of owning their own homes. The more the Federal Government spends, the less likely we are to meet our Nation's housing needs. Increases in Government building programs means a cutback in private construction.

Government spending certainly distorts our economy, and it brings some painful readjustments when national priorities are changed. Some people think that the Government should absorb these unemployed persons by creating new Federal programs.

I believe the only sound answer to current unemployment and to fiscal soundness is to get people back into productive jobs in the private sector. There is no need to use the Government as an employer of last resort if we will only provide the atmosphere for private industry to operate at the maximum.

Many of our industries are faced today with the necessity to acquire new plants and equipment or will have to expand their current facilities in order to keep up with the economy but are faced with the problem of being unable to utilize an investment credit since it must be offset against profits. For those companies that are necessary to our national welfare I would recommend that any additional increases in the rate of investment credit also provide for the liberalizing of the method of calculating the credit so that industries such as those faced with losses rather than profits at this time can benefit and will be able to purchase new plant and equipment and thus stimulate the economy and provide more employment.

Section 801 of title VIII of H.R. 10612 fails to provide adequately for such problems and merely extends for 4 years the 10-percent investment credit and $100,000 limitation on such property. We have several industries necessary for our national security such as the electric utilities, the railroads and the airlines which have been and are still experiencing substantial losses. Each of those industries must purchase new plant and equipment and continue to expand in order to best support our national effort. In addition to providing them with investment credit relief we should consider the deferral of tax on dividends paid by such companies to shareholders who elect to take additional stock in lieu of a cash dividend. By recent estimates over 200 dividend-paying corporations—utilities and nonutilities—have taxable dividend reinvestment plans now in operation.

A tax-free dividend reinvestment plan would allow those companies to retain a significant portion of their annual earnings needed for plant and equipment expansion and modernization which otherwise would have to be paid in dividends. This would still allow those who need cash dividends to receive them. Dividend reinvestment programs will make the stock of those companies more appealing to other investors who normally invest in growth stocks.

With the modernization of current plant and equipment and the purchase of new facilities the Government will benefit not only by increasing employment and building stronger industrial complexes but will also substantially make inroads in solving our energy crisis. Utilities will be able to expand and modernize, utilizing improved technologies and alternate resources which will conserve our water consumption, reduce pollution, and conserve fuel. It is imperative that we move along with our program for energy conservation. In the 93d Congress we enacted a geothermal loan guarantee program and the Energy Research and Development Administration completed regulations to implement that program last year. To further enhance geothermal development, I have proposed tax incentives which are awaiting your consideration when we take up H.R. 6860, the Energy Conservation and Conversion Act of 1975.

I join with President Ford in urging this Congress to provide changes in the Federal estate tax laws to make it easier for small farmers and small businessmen to bequeath their assets to future generations. We must assure that family businesses and family farms can be handed down from generation to generation without having to be sold to pay taxes. Such a proposal would permit the heirs of small estates to defer their initial estate-tax payment for 5 years beyond the date it would otherwise be due. After that 5-year period, the tax could be paid over the next 20 years at 7 percent annual interest. At present taxes on smaller estates may only be spread over 10 years; a 9 percent interest charge, which will drop to 7 percent on February 1 is assessed on the deferred payments.

This proposal would apply in full only to the first $300,000 in value of the family farm or business. Between $300,000 and $600,000 there would be a dollar for dollar reduction in the value of the farm or business, qualifying for the payment moratorium and the extended payment provisions. The portion that does not qualify would continue to be subject to 10-year installment payments with the 7 percent interest rate. The conservation of the small family farm and small family business is essential to the spiritual as well as the economic wealth of our country.

I find that the provisions of H.R. 10612 providing for limitations on artificial losses and recapture of depreciation on real property will substantially affect the real estate industry and I am deeply concerned over the impact of those provisions. I will work to assure that this entire industry is not jeopardized.

It is important at this time that we take no steps that would jeopardize our recovery from the recession of the past few years. Viewed in the context of the need to encourage our troubled real estate industry and to encourage building and construction, we must carefully scrutinize any tax legislation that will affect that industry. Likewise, I plan a careful examination of each of the other tax shelter proposals to determine whether the harms to the industry involved outweighs the revenue gain.

At the recent annual meeting of the International Monetary Fund and the World Bank in Washington, the fund's managing director, Johannes Witteveen took the unusual step of calling explicitly on the United States, Germany, and Japan to press harder to get their domestic production up to normal levels. With demand slack in the world's markets, prices have been down for the commodities that the poorer countries sell. Economic development requires stable commodity markets without which all else fails. The United States, for its part, is now more heavily dependent upon foreign demands than ever before in its modern history. Most Americans are unaware of the speed with which our foreign trade has grown in recent years. American exports have grown from $20 billion in 1960 to over $100 billion in 1975.

The tremendous surge of foreign sales meant more jobs and profits in this country and certainly helped our economy during a period when we were experiencing a steady and destructive increase in the rate of inflation. The growth in foreign exports has given this country an opportunity to reflate its economy unilaterally and to carry through a world recovery by stimulating growth.

When we consider legislation with regard to the treatment of foreign income we must carefully analyze the effect such legislation will have on American companies doing business abroad since we do not want to place them in the position of being unable to compete with foreign businesses. We must carefully analyze the competitive business relationship between American companies and foreign companies in areas of economic concern to this country before eliminating the per country limitation in the foreign tax credit. If we are to provide any assistance in this area that, we first should consider our possessions and assist them in stimulating their economy and giving them incentives to attract new businesses.

We might well provide that the income received from these possessions not be subject to the foreign tax credit limitation but be accounted for under a new and separate foreign tax credit. In this way companies which are in an excess foreign tax credit position will consider establishing new businesses and investing in these areas which will have the overall effect of assisting our possessions in meeting their budget commitments without having to come to this Congress for handouts. This will also strengthen business since it will have incentive to build in those areas rather than going abroad to foreign countries.

We are still faced with what I consider the double taxation feature of our present tax system in that currently income is subject to taxation when first earned by corporations and also after being received by stockholders in dividends. Once again in order to stimulate our economy I would propose to give companies a tax deduction for a portion of dividends paid out and also give stockholders a tax credit for this income. Clearly, some action is necessary in the tax field to encourage a greater rate of savings and investment in the Nation's future.

The Treasury Department has presented a tax program to achieve those goals involving gradual elimination of the double tax on corporate profits. When we consider the treatment of long-term capital gains and losses, we should realize that a decade of inflation has turned the capital gain tax into a concealed capital levy. A substantial portion of the so-called gain reflects simply the rise in the general price level over the holding period. The payment of taxes on such fictitious appreciation can only result in a reduction of the real capital of the taxpayer.

Much is made of the deprivations imposed by inflation on the poor consumer. Almost totally ignored is the crushing effect of inflation on the poor consumer's savings. Consider the individual who may put $1,000 into a passbook savings account at 5¼ percent a year ago, with more than a 10-percent increase in the price level over the past year, at the end of the year his real savings are worth less than $956. It is as if he had invested his money at a negative yield at 4.325 percent.

For many households, thanks in part to Government regulations, there are few realistic opportunities to shift their savings to higher yield securities. Their own efforts to provide financial shelter for temporary emergencies, reserve for retirement, for investment in children's education, et cetera, are viciously sapped by inflation. It would be desirable both as a short range measure and as an initial step toward long range tax reform to provide a tax credit for increases in the amount of saving. Such a credit could be designed so that it would treat all bracket taxpayers equally. It would have a major advantage over many other tax relief proposals in that it would offset any revenue losses involved by increases in personal savings.

Inflation is the most potentially destructive, the most dangerous, problem we face. Intelligent tax policy can do much to alleviate and to decrease this danger. We owe it to those on fixed incomes—the elderly, the retired—to provide protection from this danger. We owe the coming generation a country of promise and expanded possibilities, not a land in which all solid values have melted away in the fires of inflation.

It is not merely whether prices have gone up or down during the past few months that should engage our attention, it is the overall upward trend of inflation. Our tax policy, well considered, can be a major, perhaps, a critical factor, in reversing the direction of this trend.

USDA USE OF REMOTE SENSING DATA

Mr. HUMPHREY. Mr. President, Congress Office of Technology Assessment recently completed hearings on its food information system assessment. One of the expert panels devoted its time and attention to the potential role that advanced technology, such as remote sensing, may play to help us improve the world's agricultural crop forecasting.

At the same time, my colleague and friend, Senator Moss, was chairing hearings before the Senate Committee on Aeronautical and Space Sciences. One of the witnesses was Dr. Don Paarlberg, Director of Economics at the U.S. Department of Agriculture, who presented a summary of the Department of Agriculture's use of remote sensing. Dr. Paarlberg noted that since 1971 USDA has been cooperating with the research and development agencies and universities which have been working to develop remote sensing. Dr. Paarlberg pointed out that USDA's remote sensing activities include a joint project with the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration entitled "Large Area Crop Inventory Experiment"—LACIE. LACIE is a quasi-operational test to determine the feasibility and cost-effectiveness of using project landsatellite data in conjunction with collateral data to predict wheat production.

The Department of Agriculture has established a Remote Sensing User Requirement Task Force, which will be presenting a report to the Secretary of Agriculture in the near future cataloging the Department's requirements for Earth resources data. This report should be a key tool to help USDA assess the specific uses to which their technology may be applied.

USDA's remote sensing efforts to exploit LANDSAT data have thus far been directed to research and development, and USDA has not been able to make operational use of Earth resources satellites in carrying out its activities. I am glad to note that Dr. Paarlberg evidences a high degree of optimism that ongoing research and development will result in techniques which can be used to enhance the Department's ability to carry out its responsibilities in a changing agricultural world.

Mr. President, I wish to share Dr. Paarlberg's statement which provides a good understanding of the activities being undertaken in the Department of Agriculture, the status of these activities, and the obstacles that need to be overcome in order for this technology to increase our knowledge of the state of the world food situation. I ask unanimous consent that Dr. Paarlberg's statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Don Paarlberg

In carrying out its broad responsibilities, the USDA must maintain an extensive information system. The collection, analysis, and distribution to departmental and other users of a broad range of information is essential.

The Department makes extensive use of remote sensing (R/S) carrying out its responsibilities and is continually interested in improving its capability.

USDA is directing substantial resources toward determining the extent of utility of all kinds of remotely sensed data to the Department in carrying out its assigned missions. It is actively exploring ways of exploiting the advantages of spacecraft in acquiring many kinds of data.

R/S work carried out in support of Department programs in FY 1977 is expected to cost the Department about $9.2 million. In many cases the funds are not directly identified as R/S related since the R/S activity is integral to a larger operational or research program. Table 1 at the end of this statement provides greater detail.

Currently, the Department is not making operational use of earth resources satellite data in carrying out its activities.

Its efforts to exploit data are directed at research and development (R&D). However, the ongoing R&D is expected to result in techniques which will enhance the Department's ability to carry out its responsibilities in a changing world.

The Department in committing resources to use of Landsat data has made certain assumptions:

1. Landsat is not a universal data source, and does not fulfill all USDA requirements, particularly those requiring a high resolution capability.
2. Maximum utilization of the data can be achieved through computer processing.
3. Landsat data must be delivered to the user in near real-time if it is to be used in operational programs.
4. USDA program managers would be reluctant to develop operational systems which use multispectral data from space until they are assured that the data will continue to be available.

The Department's space related programs and activities are described below. Except for Department level efforts such as the Remote Sensing User Requirements Task Force and the Large Area Crop Inventory Experiment (LACIE) activities are summarized by USDA agency.

REMOTE SENSING USER REQUIREMENTS TASK FORCE

In mid-1973, as part of the Department's continuing efforts to apply advances in technology to improving the information available to decision makers both within and outside the Federal government, the Secretary created a Remote Sensing User Requirements Task Force with representation from eight Department agencies which use R/S in carrying out their programs. Representatives from several other Department agencies and NASA were also appointed to the Task Force to provide technical assistance in such areas as benefit assessment, information systems requirements, integration with research programs, and technical hardware capabilities.

The Task Force was directed to catalog the Department's requirements of earth resources data, determine those requirements that would return maximum benefits, and develop a coordinated plan for acquiring, processing, analyzing, and distributing data to meet those requirements. The coordinated plan will evaluate the potential for incorporating R/S-acquired data into ongoing programs and information systems, and will provide information on benefits and costs, resource requirements, technology capabilities, and other information needed by the Department on how to make effective use of R/S technology to obtain needed information.

The Task Force has now completed its cataloging of the Department's R/S information requirements. More than 2,500 items of information were identified as being needed by the Department's user agencies. Information items included such diverse items as information on timber species, wildlife migration, volume of sediment in waterways, soil features, world agricultural crop production, and others. These requirements were entered in an automated data base which allows the Task Force to identify commonality of requirements among USDA agencies and to provide management with information on data essential to decision making.

Task Force implementation analysis teams made up of specialists from the USDA, NASA, Department of the Interior and universities have analyzed these requirements in terms of priority of need and available technology. Requirements were grouped according to technological status (research, development, operational) and types of platforms (satellite, aircraft or other), sensors, resolution and data volume. Those requirements which show near-term promise of satisfaction and maximum net benefits will receive first consideration for being filled.

The Task Force will next study the cost-effectiveness of applications which are identified as being technically feasible to implement, and having a potential for significant benefits. Finally, an integrated research, development, and implementation plan will be submitted to the Secretary.

The Task Force expects to complete its assignment during CY 1976.

LARGE AREA CROP INVENTORY EXPERIMENT (LACIE)

LACIE is an experiment to test the technical feasibility and cost effectiveness of utilizing data from an earth resources satellite along with meteorological, climatological, and historical data to predict production of a major agricultural crop. The experiment is being carried out jointly by the Aeronautics and Space Administration (NASA), National Oceanic and Atmospheric Administration (NOAA), and the U.S. Department of Agriculture (USDA). Each agency brings its unique capabilities to this project and seeks, in turn, to fulfill some part of its overall mission responsibilities. USDA is participating in this experiment primarily as a prospective user of an operational crop reporting and forecasting system. Wheat, a food crop of major importance, has been selected as the test crop for LACIE.

Canada has been invited to participate in the LACIE. No formal reply has been received as yet. However, the United States and Canada are continuing to exchange ground truth data and research results under the terms of the ongoing US/Canada Spring Wheat Study project agreement. The spring wheat study project negotiated in 1973, is a cooperative effort by the two countries to determining the feasibility of identifying and measuring wheat through use of Landsat data. A reply concerning Canada's participation in LACIE is expected shortly.

Within USDA, LACIE is a multiagency effort. Six agencies are participating, and have contributed professional staff with specialized skills to the experiment. The Foreign Agricultural Service (FAS) has been designated as the lead agency; other participating agencies are Agricultural Research Service (ARS), Agricultural Stabilization and Conservation Service (ASCS), Economic Research Service (ERS), Soil Conservation Service (SCS), and Statistical Reporting Service (SRS).

LACIE will be carried out in three phases. Phase I, carried out in 1975, tested acreage estimating capabilities in selected wheat producing areas of the United States. Wheat yields models were developed during this phase. Phases 2 and 3 will test LACIE capabilities to estimate wheat area, yield, and production in the United States and other wheat producing regions. Phase 2 began in October 1975 and Phase 3 begins the following October. Monthly crop forecasts will be prepared during the growing season. Associated research and development and tests of new techniques for crop identification measurement and yield estimation will be conducted throughout the experiment.

The project is being monitored by the participating agencies; however, USDA has lead responsibility for evaluating crop estimates in relation to USDA requirements and for analyzing costs and benefits of an improved crop forecasting capability. Because of its position as the eventual user agency of an operational system, USDA has broad responsibility for defining output requirements and for integrating this output, as appropriate, with ongoing programs.

USDA also has lead responsibility for designing a user system for post-LACIE implementation. We foresee application of LACIE-proven techniques by analyst teams that use readily available hardware and software. Design of the user system was started recently with the target of completing design and testing in time to implement LACIE at the end of the present schedule, if experimental results support that course of action.

Although LACIE now is limited to wheat, it is expected that programs and techniques developed during the experiment can be applied to the estimation of other agricultural crops and land use. If successful and if found to be cost-effective, a crop forecasting system utilizing the earlier mentioned technologies would provide better and more timely crop estimates as inputs to the Department's international crop information collection and reporting system.

LACIE is providing an environment both for testing technology—including future technology relevant to crop identification and yield forecasting—and for determining how best to utilize modern analytic capabilities in carrying out an information function.

It is important to stress that LACIE is an experiment, and recommendations for future program use will be based on the outcome of evaluations that are made as the experiment proceeds.

The eventual implementation of a system with a capability to provide routine repetitive international crop forecasts is contingent on assurance of a continuing flow of earth resources and meteorological data which are available to the user within a short time after acquisition and repeated at frequent intervals throughout the growing system, and are suitable for computer processing and analysis. Of course, a decision to implement a crop forecasting system at the end of LACIE would depend upon the outcome of analysis of cost-effectiveness and the availability of funds for such a system.

Joint US/USSR study of agricultural uses for remote sensing

Recent discussions between NASA and the Soviet Academy of Sciences provide the basis for a proposed joint US/USSR vegetation, soils and lands identification using R/S and aerospace technology.

This particular cooperative effort by NASA and the Soviet Academy is one of several undertaken following an agreement reached in 1971 and formally endorsed at the May 1972 Moscow summit meeting. Scientific representatives of the two countries have agreed on the terms of the proposed study of vegetation and soils, and have selected study sites.

The U.S. team will include members from NASA, USDA, and universities.

The experiment is planned to continue over six years, consisting of three 2-year phases.

Test sites in the United States and the Soviet Union with similar soils, climate, and agricultural practices have been agreed upon. The U.S. sites are in Hand County, S.D., and the Soviet sites are in the Kursk Oblast. Winter and spring wheat, corn, summer fallow, native grasses, and oak woods are selected for study. Sunflowers may be added later.

Phase 1 will be devoted to the acquisition by each country of aircraft and space data together with on-site observations and measurements (ground truth). The data will be exchanged and scientists in the two countries will perform independent but parallel analysis.

Based on results obtained in Phase 1, a 2-year Phase 2 plan will be developed. It is expected that the plan will call for cooperative attempts to identify agricultural crops and other land uses; and to begin exploring the use of R/S to locate and map areas where vegetation is drastically affected by climatic and/or biological conditions.

In the final phase, the experiments in crop and land use identification and measurement will be concluded. In addition the investigators will attempt to assess vegetation vigor, condition and potential yield, including efforts to remotely detect vegetative diseases, pests and nutrition, and to assess their effects.

Research and analysis reports will be prepared at the conclusion of each phase. These reports will be furnished to experimenters of both countries.

Food and Agriculture Organization (FAO)

At the World Food Conference held in Rome in November 1974, it was recommended that FAO, in cooperation with the World Meteorological Organization (WMO) develop a Global Information and Early Warning System on Food and Agriculture. The proposed system should be sufficiently comprehensive to meet the needs of the world situation.

As a first step, the FAO commissioned the drafting of a Program Plan for the development of a capability to forecast world crop production.

A proposal, prepared by Dr. A. B. Park, Earth Satellite Corporation, was presented to the FAO and its expert consultants at a meeting in Rome in September 1975. USDA participated in the evaluation, subsequent discussions and recommendations to the FAO. Basically, the Earth-Sat proposal was to use its agrometeorological model, which is currently being evaluated for the LACIE.

A revised plan is being prepared for FAO, but has not yet been approved.

There is no direct connection between the FAO's planned Early Warning System and the LACIE, since LACIE is experimental. However, the two groups are keeping informed of each other's plans and progress. It is expected that in the future techniques evolving from LACIE and from the FAO system will prove mutually beneficial. USDA plans to keep in close touch with FAO.

AGRICULTURAL RESEARCH SERVICE (ARS)

Primarily, ARS is investigating R/S application which shows potential for helping the agency meet its research responsibilities. Much of the research is directed toward a better understanding of the interaction of radiant energy with plant tissue, soils and water:

Soil and water conservation unit, Weslaco, Texas

(1) Study of the absorptance, reflectance, and transmittance characteristics of irrigated and nonirrigated crops.

(2) Determining reflectance and emission characteristics of land cover which permit their multispectral observation and subsequent identification from the field and from airplane and satellite heights.

(3) Mapping and identification of soil surface characteristics and major soil boundaries.

(4) Determination and mapping of soil moisture content, and mapping of soil and water temperatures.

(5) Identification of salinity and moisture stress in plants.

(6) Assessments of crop vigor and determination of causes contributing to vigor deficiency.

(7) Development of the capability to successfully and automatically classify these various agricultural parameters by data processing techniques and in a highly reliable and timely manner.

Citrus Insects Investigations Laboratory, Weslaco, Tex.

(1) Previsual detection and determination of extent and severity of incipient crop insect, pest, and pathogen damage.

(2) Studies to provide timely, less costly, and more precise and more effective methods for determining insect and other pests population densities, seasonal distribution patterns, environmental influences, and the implementation and effectiveness evaluation of control measures.

Northwest Watershed Research Center, Boise, Idaho

Investigations involve upgrading hydrometeorological data sensing at snow course sites and data storage and retrieval systems, utilizing R/S data collection platforms, in order to improve water supply forecasts both in accuracy and in near real-time.

Southern Great Plains Watershed Research Center, Chickasha, Okla.

Studies involve the utilization of R/S microwave technology and methodology for measuring the hydrological characteristics of watersheds to achieve greater accuracy and precision in measuring and predicting water runoff.

USDA Sedimentation Laboratory, Oxford, Miss.

Studies include the utilization of R/S techniques for determining sedimentation and sedimentation flow patterns in water reservoirs.

U.S. Water Conservation Laboratory, Phoenix, Ariz.

R/S techniques are being utilized to measure soil surface temperature as it relates to soil moisture content and evaporation.

ARS has detailed three scientists to the USDA LACIE staff.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)

The APHIS has been acquiring and using color infrared (IR) aerial photographs since 1971 and has been involved in the use of satellite imagery since the launch of the NASA's first earth resources technology satellite in 1972. Our efforts have been directed at the survey and detection of plant and animal diseases, host plants and animal ecology, and evaluation of control applications. Due to limits of current technology applicable to our programs, we have made progress on only about four of over a dozen pest survey programs where remote sensing potential is indicated. Most of our activity during the past few years has been concentrated on the following.

Screwworm

NASA has been engaged in intensive research and development of a Screwworm Eradication Data System (SEDS) to predict outbreaks of screwworms and to plot release patterns of sterile screwworm flies. Mean air temperature, together with ground moisture data, is used to determine environmental conditions favorable to the development and spread of this cattle pest. Two technical problems may prevent the system from becoming operational: (1) the development of a biological model for screwworms to be integrated with NASA's weather model, and (2) the prevalence of winter cloud cover in much of the Mexican host range. This system is still being evaluated. Evaluation will be finished in about one month.

Gypsy Moth

Starting with low altitude photography, APHIS determined that heavily and moderately defoliated forests can be detected and mapped. High altitude photography by NASA's U-2 aircraft in 1974 provided higher accuracy than the aerial visual survey method we normally use. Satellite coverage has been rather spotty, but we have proven that an operational program of mapping at least two classes of defoliation within a relatively solid forest is feasible if coverage can be assured within our rather restrictive time frame of June 15 to July 15.

Citrus Blackfly

The sooty mold which develops on citrus leaves covered with the excretion of the blackfly is easily discernable on color IR photography. While a relatively heavy infestation on a given tree is required before the mold shows up, the infestation is often still restricted to a few trees at that time. An operational approach could save considerable survey time and money since many groves no longer require ground checking.

Boll Weevil

The success of our proposed eradication program depends upon locating, identifying, and measuring every cotton field. We did this to a limited extent with black and white (BW) photography during the 1972 Mississippi eradication trial. NASA is cooperating and anticipates improvements in identifying cotton fields by using image scanner equipment aboard their C–130 aircraft.

General

Within a month, a team of scientists from APHIS, ARS, and NASA expects to complete an evaluation of the SEDS regarding operational feasibility. Continuation of research, particularly in spectral signatures of host crops and stress conditions, is required for further improvement of our plant pest survey program. Considerably greater sums are required for the further study of possible adaptations of remote sensing techniques to APHIS action programs.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (ASCS)

Historically, ASCS has been a user of R/S. It has used aerial photography for crop and farmland measurements since the mid-1930's. More recently, ASCS has investigated uses of more advanced R/S technology. Its direct research efforts have now largely been merged into the Department's LACIE effort. ASCS has assigned nine persons to the USDA LACIE staff.

In 1972, the Aerial Photography Field Office (APFO) in Salt Lake City, Utah, then known as the "Western Laboratory" was designated as a repository for all Landsat imagery. In 1973, the APFO also was made a repository for Skylab imagery. This NASA produced imagery is used by APFO to provide photographic reproductions of the imagery on a reimbursable basis to agencies of this Department, other Federal agencies, State and local governments, private industry, and the general public.

In 1975, the APFO entered into a cooperative arrangement with NASA under which APFO will produce space and aircraft acquired imagery to NASA's follow-on investigators into applications of remotely sensed data. The imagery is produced by APFO on a reimbursable basis.

Also in 1975, the APFO agreed to reproduce on a reimbursable basis, substantial amounts of Landsat imagery to support the LACIE experiment.

In addition to the APFO, R/S activities, ASCS is supporting LACIE by providing through its county office network, ground truth needed to support the LACIE research, development, testing, and evaluation processes.

ECONOMIC RESEARCH SERVICE (ERS)

Primarily, ERS is interested in R/S as a useful tool in its various research activities. The agency is now using existing R/S products such as aerial photography and Landsat imagery, and interpretive techniques. ERS has used aerial photography in its land inventory studies and its research into land use changes over time. Examples include studies on shifts from agricultural to nonagricultural uses, and shifts between different agricultural uses such as from forest to cropland. Sequential photographic coverage is used to derive acreage trends. We propose to use Landsat imagery in conjunction with aerial photography to identify and quantify development of cropland in selected areas in the Southeastern United States and Great Plains.

ERS also is providing support to the Department's LACIE project. Currently, ERS has five professionals detailed to LACIE. In addition, we are devoting a substantial number of man-hours, some of which is reimbursable, to the supplying of data needed to support the LACIE. This effort includes collection analysis and preparation of statistics for non-U.S. areas on cropping practices, crop growth stages, and crop calendars.

ERS has membership on and supports the Department's R/S committees and working groups. These include the Earth Resources Survey Committee and the Task Force.

The principal ERS/NASA interface is through LACIE. However, from time-to-time, we have assisted and/or advised and provided ERS data to NASA contractors. We are presently considering a cooperative research agreement proposed by NASA to determine land use patterns in foreign areas.

FOREST SERVICE (FS)

The FS has historically used aerial photography for planning, resource inventory, mapping, and engineering. The scales and emulsions are dependent on the primary requirements for the photography. Except for small areas, most of the photography is obtained through contract with commercial aerial photography contractors.

Although aerial photography has been the major source of remotely sensed data, the FS is actively involved with NASA in the investigation of applications for satellite remotely sensed data. This involvement ranges from direct working agreements, such as the Forestry Applications Project, to indirect support, such as furnishing ground data for verification, sampling, etc. to NASA's principal investigators:

Major direct involvements are:

(1) Johnson Space Center, Houston, Texas. Joint FS/NASA Forest Applications Project (FAP). This project makes use of LANDSAT and aircraft data in four principal areas:

a. Soils Resource Inventory,
b. Timber Resource Inventory,
c. Tri-County Resource Inventory, and
d. Land Use Planning Assistance Progress.

FAP has recently been expanded to include a number of test areas throughout the country.

(2) Pacific Southwest Forest and Range Experiment Station, Berkeley, California. Investigations into the use of LANDSAT–2 data to stratify land uses and forest types for use in multistage sampling approaches improve forest inventory methods.

Other activities with NASA interfaces:

(1) Support of non–FS R/S investigators by furnishing ground data. These investigators are associated with universities, institutions, other Federal agencies, and government contractors. The support may involve on-site observations or a search of FS records.

(2) A team at Fort Colorado is involved in the assessment and inventorying of about 1.3 billion acres of National Forest and other lands. The group is using many data sources including NASA imagery. The team is applying multistage sampling approaches to the inventory.

(3) FS is engaged in continuing NASA interfaces in evaluating new sensor developments. The FS also represents the Department in the Advanced Applications Flight Experiment Program to define future space systems.

(4) NOAA Satellite Communications Study contract for fire weather monitoring carried out by the Forest Fire Research Unit, FS. (Although not directly relating to NASA, this activity is another use of satellite data.)

Except for programs which operationally use aerial photography, and the FAP which is developmental, all other NASA interface activities with the FS are in support of research. Until testing and evaluations are complete, we cannot predict whether the projects will become operational. Developmental and operational applications will require timely access to digital data from Landsats–2 and C.

SOIL CONSERVATION SERVICE (SCS)

The SCS uses a variety of R/S technologies and techniques. It uses high resolution imagery for soil surveys, flood plain mapping, resource inventorying and similar applications. It uses automated platforms to measure snow and to predict water yield in Western States. It is investigating ways to use data from the Landsats in meeting its mission responsibilities.

State SCS offices are cooperating with NASA principal investigators and scientists in the testing of digital products, aircraft underflights, and other tools to evaluate their potential utility to SCS.

SCS, under NASA contract, prepared a mosaic of Landsat–1 scenes which covered the 48 conterminous States and Alaska for use by planners, educators, and other users. SCS is using the mosaic as a tool in its update of the Major Land Resource Map of the United States.

SCS cooperated with the Environmental Protection Agency (EPA), the Laboratory for Application of Remote Sensing (LARS) (Purdue University), and the International Joint Commission to measure and map land use on 82 million acres that drain into Lake Michigan from the U.S. side. Using ERTS–1 scenes and computer compatible tapes, LARS classified the land use with assistance from SCS specialists. The results were partially adequate for the study but inadequate for SCS inventory and monitoring needs. Ancillary high resolution photography provided by NASA and others are highly effective tools for accelerating the soil survey and for other related inventories.

SCS supports the Department's LACIE Project and has assigned three specialists to the project. SCS participated in and assisted with NASA symposiums held at universities and other locations.

The present resolution and geometric fidelity of Landsat products are not adequate for many SCS applications, even with the improved resolution planned for Landsat-C. Also, to be effectively used in resource damage and condition assessments, the satellite data must be made available in a timely manner.

Working relationships with NASA are good at the field, State and national levels.

STATISTICAL RESEARCH SERVICE (SRS)

SRS has two primary involvements with NASA: (1) Acquisition of Landsat imagery in the form of computer compatible tapes, and (2) utilization of the ILLIAC-IV computer located at the NASA Ames, California facility. Presently and through FY 1977, SRS is dependent, for research purposes, on imagery from Landsat satellites and use of the ILLIAC-IV computer.

Computer software is being developed by evaluating Landsat data, and some specialized hardware has been acquired to support research.

SRS research into Landsat data has two primary objectives both associated with the SRS land area sampling frame. Data from this sampling frame are the primary basis for the Department's crop and livestock estimating system.

(1) SRS is investigating the use of Landsat data to stratify land by its use of area sampling frame construction purposes. Presently, SRS uses medium altitude aerial photography obtained from the ASCS of the USDA. Much of this photography is not current, flight dates within a state vary, and the area covered by a photograph is quite limited. Landsat, with its wide area coverage, repeated at frequent intervals offers the potential for up-to-date broad area land use classifications.

SRS research involves land use classification from Landsat imagery as well as developing the methodology for its incorporation in frame construction. Preliminary research indicates there is potential for substantial improvement in stratification which would result in a greater precision in estimation. SRS will also determine whether it would be cost-effective to incorporate this procedure into SRS operating programs.

(2) SRS is investigating the use of Landsat data to improve crop acreage estimates from the existing SRS land area sampling frame. The land area sampling frame, although constructed by state, provides its most precise estimates at the national level.

SRS research indicates that present Landsat technology does not offer a way of improving the precision of estimates of crop acreage at the national level. However, for crop estimates at the state and county level, the censuslike coverage of Landsat does offer potential for greater precision in smaller geographic areas. By utilizing ground data from probability samples of the land area sampling frame, researchers are able to: (1) train for classification, and (2) evaluate classifications and adjust for errors.

Previous research indicates that with an 80 percent classification accuracy from Landsat data, a sampling error reduction of 50 percent from current levels for state and county data could be expected. This projection is dependent on the correlation between computer classified acres and ground enumerated acres of the same crop. The research methodology must also be proved cost effective as compared with conventional procedures.

SRS plans to process about 50 Landsat frames in FY 1977. Plans call for acquiring Landsat imagery of California, Kansas and Illinois. Presently, SRS is analyzing Landsat data from Illinois, Kansas and 44 counties in Texas.

SRS is supporting the LACIE and has assigned five professionals to the USDA staff.

Currently, SRS is providing estimates with a turn around time of 4 to 5 weeks from the beginning of data collection to publication. Therefore, if Landsat data is ever to be incorporated into an operational system, the data must be available to the agency in very nearly real-time.

TABLE 1.—U.S. DEPARTMENT OF AGRICULTURE, REMOTE SENSING

[In thousands of dollars]

Agency	Program level, fiscal year— 1975 actual	1976 estimate	1977 budget
LARGE AREA CROP INVENTORY EXPERIMENT (LACIE)			
Foreign Agricultural Service		2,000	2,850
Agricultural Stabilization and Conservation Service	950		
Economic Research Service			
Statistical Reporting Service			
Agricultural Research Service			
Soil Conservation Service			
Total, LACIE	950	2,000	2,850
OTHER REMOTE SENSING			
Animal and Plant Health Inspection Service	50	22	51
Agricultural Research Service	380	349	508
Agricultural Stabilization and Conservation Service	2,722	2,610	2,646
Cooperative State Research Service	143	160	177
Economic Research Service	30	14	35
Forest Service	1,590	1,770	1,925
Soil Conservation Service	120	152	174
Statistical Reporting Service	215	796	799
Total, other remote sensing	5,250	5,873	6,315
Total, USDA remote sensing	6,200	7,873	9,165

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DAYLIGHT SAVING TIME ACT OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 602, S. 2931.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (S. 2931) to provide for daylight saving time on an eight-month and one-week basis, beginning with the first Sunday in March and ending with the second Sunday in November, for a two-year period beginning with the first Sunday in March of 1976 and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 3 hours, to be equally divided and controlled by the majority and minority leaders, or their designees, with 1 hour on any amendment in the first degree and with 30 minutes on any amendment in the second degree, debatable motion, appeal, or point of order.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum with the time to be taken out equally from both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I yield the time under my control to the distinguished chairman of the committee, the Senator from Washington (Mr. MAGNUSON).

Mr. MAGNUSON. Mr. President, I submit an amendment which is technical in nature and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

> On page 2, line 9, after the words "except that", strike all through line 13, and insert the following:
>
> "(1) any State that lies entirely within one time zone may by law exempt itself from the provisions of this subsection providing for the advancement of time, but only if that law provides that the entire State (including all political subdivisions thereof) shall observe the standard time otherwise applicable during that period, and (2) any State with parts thereof in more than one time zone may by law exempt either the entire State as provided in (1) or may exempt the entire area of the State lying within any time zone."
>
> (2) On page 2, strike the text appearing on lines 14 though the words "other State," on line 19, and insert in lieu thereof the following:
>
> "(b) Any law in effect on February 1, 1976, adopted by a state pursuant to section 3(a) of the Uniform Time Act of 1966".

Mr. MAGNUSON. Mr. President, this is a technical amendment which has been agreed to by both the majority and the minority.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

Mr. FORD. Mr. President, the Senator says it is just a technical amendment. May I have the technical changes explained?

Mr. MAGNUSON. I am glad to do so.

This amendment corrects a drafting error contained in the bill as reported by the committee. The committee intends that this legislation should in no way change existing State authority to exexempt all or any part of a State lying entirely within one or more time zones from the provisions for daylight saving time. Unfortunately, the current wording of the bill could be interpreted to not achieve this committee purpose. The drafting error resulted from the effort to convert the initial bill being considered by the committee from a permanent bill to a temporary bill which supersedes the underlying Uniform Time Act of 1966 for 2 years. The amendment that I have sent to the desk uses the existing wording in the Uniform Time Act with regard to States' ability to exempt themselves from daylight saving time.

Under this new wording, there will be no ambiguity as to a State's ability to exempt itself by law from the period of daylight saving time for 1976 and 1977. This ability will apply to every State if it acts for the entire State. It applies to States divided by one or more time zone lines, if the State acts with respect to one or more portions of the State lying within particular time zones. The new wording also grandfathers existing State laws which have already been passed to exempt those States from the period of daylight saving time under the Uniform Time Act of 1966.

As the Senator knows, we intended to allow the States to do what they wish.

Mr. FORD. If that is what the amendment would do, I have no objection, Mr. President.

The ACTING PRESIDENT pro tempore. The amendment is agreed to.

Mr. MAGNUSON. Mr. President, today we are considering an original bill reported by the Committee on Commerce, to provide daylight saving time on an 8-month-and-1-week basis, beginning with the first Sunday in March and ending with the second Sunday of November, for the next 2 years.

This is an original bill reported by the committee. It is a bill that has been worked out by the committee itself. I must say that certain members of the committee took a very active part in the bill, including the Senator from Illinois (Mr. STEVENSON), who, unfortunately, cannot be here; the Senator from Kentucky, and others.

A suggestion was made in the committee that we make the bill permanent legislation, but the committee decided, as a whole, to proceed with another 2-year extension of daylight saving time into the spring months.

The bill parallels legislation suggested by the Department of Transportation based upon their study of the Nation's experience under the Emergency Daylight Saving Time Energy Conservation Act of 1973.

This bill is necessary to keep the Nation on the 8-month daylight saving time system in 1975. Failure to act on this bill will result in the loss of several significant benefits to the Nation—so the majority of the committee thought—which daylight saving time during the months of March and April offers.

During 1973, this Nation was jolted by the realization that we were heavily dependent upon foreign oil. We learned for the first time, although there were a lot of warning signals, that there is a limit to cheap energy. It was and continues to be a traumatic experience. But, it has had beneficial effects. The Arab oil embargo caused us to reevaluate not only our use of energy but the use of all our natural resources. In time, this reevaluation will lead to a more realistic and prudent approach to the consumption of scarce resources. I think that it is encouraging that, within the last 2 years, a number of new conservation programs have been undertaken to reduce the demand for energy. These measures include voluntary conservation campaigns, the reduction of the highway speed limit, new energy initiatives and conservation research, and other such legislative measures.

The Senate will recall that the Emergency Daylight Saving Time Energy Conservation Act of 1973 was originally put forward in the context of the overall national effort to conserve energy. The Senate passed that bill with the hope that the extension of daylight saving time in the spring and fall months would conserve on electrical energy consumption. The Senate enacted the law for a 2-year trial period and ordered the Department of Transportation to study the effects of the time change and report its findings to Congress.

The Department of Transportation filed its final report on the Nation's experience under the 2-year experiment in August 1975. The Senate Commerce Committee held hearings on that report and took testimony from independent statistical authorities on the reliability of that report on November 13, 1975. In its testimony before the committee, and in the text of its report, DOT stated that the Nation's experience under daylight saving time was much as Congress anticipated when it enacted the emergency daylight saving time bill. Even more important, the Department of Transportation report shows that 8-month daylight saving time is extremely popular—it is favored almost 2 to 1—and that the fears aroused by the extension of daylight saving time beyond the existing 6-month system were unfounded. In fact, DOT's study presents data that indicates the extension of daylight saving time into the fall and spring months appears to save lives and they suggest that it has reduced street crime.

The Department of Transportation concluded that placing the 2 spring months of March and April on daylight saving time would result in probable electricity savings of approximately 1 percent, motor vehicle fatalities of about 0.7 percent—approximately 50 lives and 2,000 injuries—and potential reductions in violent crimes in large urban areas of 10 to 13 percent, for each day of extended daylight saving time.

Mr. President, I ask unanimous consent that a summary of the results of the Department of Transportation analysis appear in the Record at this point in my remarks

There being no objection, the summary was ordered to be printed in the Record, as follows:

Results of Daylight Saving Time Impact Studies: the Experimental Eight-Four System Versus the Historical Six-Six System

AREA, DST IMPACT, AND COMMENTS

Travel—None perceived by our techniques; Technique would not perceive effect of less than 1.0 percent—Seasonal changes in travel obscure DST effects at DST transitions.

Electricity Usage—Approximate saving of 1% or 49,200 megawatts per day for March and April; No evidence of significant peak shaving—Savings related to DST measured at transitions in October (1973 and 1974), in April (1973), and in January (1974).

Gasoline Consumption—None perceived by our techniques. Estimated maximum possible *undetected* impact of 0.5%—Statistical analysis revealed a small DST effect (0.4%) which was not statistically significant.

Home Heating Fuel Consumption—Saving of less than 0.1%—A maximum saving of 3000 barrels of oil and the equivalent of 5000 barrels of natural gas per day might occur in south and southwestern states only.

Fatal Motor Vehicle Accidents—Reduction of approximately 0.7% or about 50 lives and 2000 injuries for March and April—Reduction is observed in a comparison between March and April 1974 (DST) and March and April 1973 (non-DST). Also, spring and fall transition analysis of 1973 provide consistent results.

Motor Vehicle Fatal Accidents of School-Age Children—No special hazard to children compared to the total population at any time of day—Two studies were conducted. The findings were that during the DST period of January to April, 1974, school-age children did not suffer greater fatalities than those of the total population in accidents involving pedestrian/pedal-cyclists, motor vehicles and their total, at any time of day.

A.M. Radio Broadcasting—0.01% loss per station.

Crime—Evidence of 10 to 13% reduction in violent crimes in Washington, D.C.

Advance in School—Essentially No Change—A few schools in two west and midwest states advanced hours where bus routes were long.

Election Day—Increases daylight during existing polling hours in almost all states—A nine month system of DST would be required to cover all election days.

Mr. MAGNUSON. It is also important to note that the Department of Transportation found no statistically significant daylight saving time impact on fatal accidents involving school-aged children. Nor was there indication of any significant economic harm by daylight saving time in March and April. Further, the public opinion polls commissioned by the Department of Transportation in 1974 and 1975 indicated widespread public acceptance of daylight saving time for the months of March and April. The Department of Transportation study also noted that a daylight saving time transition date of the second Sunday in November would cover all election days and would increase daylight during existing polling hours in more than 90 percent of the Nation's polling places. So it will bring out more voters.

I am often asked the question, why the extra week? The extra week is almost purely a political matter, Mr. President. We do not want to change the time during the week of the national elections. As the Senator from Kentucky said, in a great pun, "it might keep the voters in the dark." We do not want that to happen.

Mr. FORD. Mr. President, may I also add that the pun was made by the committee that some jurisdictions preferred to count the ballots in the dark. The comment was not made on our side of the aisle.

Mr. MAGNUSON. But that is the reason for the extra week.

Having the transition date on the second Sunday in November would cover all election days and would increase daylight available during polling hours.

Emergency daylight saving time legislation has now lapsed and the Uniform

Time Act of 1966 is again in force. Under the Uniform Time Act, the Nation spends 6 months of each year on daylight saving time and 6 months on standard time. However, this period of daylight time is skewed around the shortest days of the year. The Nation goes off of daylight saving time 2 months before the shortest daylight periods of the year. But it returns to daylight saving time 4 months after the shortest days of the year in late December have passed.

There is little rationality for this difference in hours of daylight, which causes different lifestyles between the fall and spring months, even though the hours of total daylight available are relatively similar. This system will remain the law of the land unless Congress acts to appropriatey balance the period of daylight saving around the shortest days of the year.

The committee's reported legislation would take advantage of the benefits pointed out in the Department of Transportation's study and avoid the inconveniences of year-round advance time. It would not significantly affect the time the Nation now goes off daylight saving time in the fall. But it would allow an additional hour of daylight during the polling hours of the first week in November. More importantly, it would balance the months of daylight saving time evenly over the calendar year and provide uniformity in lifestyles in spring and fall months.

The committee's bill will not affect States' current legal rights to exempt themselves from daylight saving time if the State has already acted by State law or acts in the future to exempt itself, provided that the exemption extends to the entire State lying within any time zone.

The purpose of the perfecting amendment was to make sure this exemption will be allowed to the States. Arizona is a good example. It has exempted itself from daylight saving time. In Indiana, the northwest corner of the State has daylight saving time, and all the rest of the State does not.

But this bill would allow the States flexibility, and I think the committee unanimously suggested that we pursue the matter with the Department of Transportation to see if they could not review the time zone boundaries and act to adjust them where States so desire, and where the needs of commerce warrant a change.

Mr. President, I believe this is responsible legislation; it is in the public interest. It is strongly supported by the Nation as a whole, and I hope Congress will not disappoint the expectations of the Nation that daylight saving time will be in effect in March and April of this year. Extended 8 months daylight saving time is extremely popular across the land.

People like daylight saving time for recreational purposes, additional shopping hours in the evening, for the feeling of security of walking and driving home in daylight in the evening, for all kinds of reasons, and they would be very unhappy if we did not have a reasonable daylight saving time period in effect this calendar year.

Mr. President, I ask unanimous consent that Mr. Nick Miller and Mr. Jim Graf of the Senate committee have the privileges of the floor during the discussion of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. The distinguished Senator from Illinois (Mr. Stevenson), is on an important mission away from the Senate and he will not be back until Wednesday night, I understand. He played an important part, a yeoman part, in shaping this committee bill, and spent a great deal of time on it. He informed us that he has no objection to our going ahead with the bill, at least making some start today. I ask unanimous consent that his statement be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Stevenson

In December, 1973, Congress passed the Emergency Daylight Saving Time Energy Conservation Act to conserve energy following the OPEC oil embargo. Testimony presented to the Senate Commerce Committee indicated potential energy conservation, crime reduction and traffic safety benefits, in addition to the greater convenience of longer days for most Americans as a result of year-round Daylight Saving Time. To provide data to verify these projections, the Congress enacted a 2-year trial period to assess the impact of year-round Daylight Saving Time.

In October, 1974, the Congress reduced the second year of daylight saving to 8 months beginning with the last Sunday in February and ending with the last Sunday in October. Standard Time was resumed during the four winter months, thus avoiding the public inconvenience associated with dark mornings. The two additional months of DST under the 8-month plan—March and April—have the same number of daylight hours as September and October, two months during which we have traditionally experienced the benefits of DST without the adverse consequences of dark mornings.

In July of this year, the DOT released its first report on the impact of the 8-month program. DOT concluded that more data was needed before any final recommendations could be made concerning permanent changes in the Uniform Time Act. However, on the basis of the available evidence it found that Daylight Saving Time resulted in electrical energy savings of at least one percent, a drop in fatal motor vehicle accidents of almost one percent (saving approximately 50 lives and 2,000 injuries in the months of March and April) without any adverse impact on the safety of school children, and a ten to thirteen percent reduction in violent crimes in Washington, D.C.

Independent analysis of the DOT study verify the accuracy of these findings.

On January 23, 1975, the Library of Congress stated in its analysis of the DOT study:

"... clever sophisticated methodology has been brought to bear ... The Department of Transportation has approached these questions in a workman-like manner, and (validly, in our opinion) found statistically significant benefits accruing to Daylight Saving Time extension in three areas. These are energy savings from residential electric savings, reduced motor traffic accidents, and some indication of reduced crime levels."

In testimony assessing the DOT study before the Commerce Committee, Dr. Marvin Kahn of the Mitre Corporation stated:

"These findings in fact do indicate that changing from 6 to 8 month DST may result in modest reductions in electricity use, overall traffic fatalities and violent crime. At the same time, little or no support is given for several of the feared costs in the form of increases in motor vehicle fatalities for school aged children and disruption in business patterns."

The report recommended that—

"in view of the evidence suggesting favorable impact of an 8-month DST system, we recommend using an 8-month system for two more years to permit further analysis and tion analyses of 1973 provide consistent receptance and response."

At hearings last November DOT testified that a shift forward of one week in the spring and fall changeover times, would maximize the daylight available for human activity. Since the shortest day of the year occurs in the first week of January, DOT recommended that any extension of the 8 and 4 system provide for an equal number of days on either side of this shortest day of the year. The Department also suggested the addition of one week of DST in November to provide an added hour of daylight for general election days. Its study indicated that such action would positively affect voter turn out in 90 percent of the nation's polling places by making more daylight available during polling hours. It is that formula which produces the change over on the first Sunday in March and the second Sunday in November which are incorporated in this bill.

The bill would extend the basic 8 and 4 month DST experiment for two more years, with Daylight Saving Time from the first Sunday in March through the second Sunday in November in calendar years 1976 and 1977. This extension will enable the Department of Transportation to gather additional data to verify its initial conclusions with regard to energy conservation, traffic safety and crime reduction benefits of extended DST while providing more daylight for the convenience of most people. At the end of this two-year extension, DOT believes the Congress will have all the information it needs to determine whether any permanent changes in the Uniform Time Act are Warranted.

A poll conducted by the Department in March, 1975, indicated public support of better than 2 to 1 for continuation of 8-month DST.

The Emergency Daylight Saving Time Energy Conservation Act expired last April. Unless Congressional action is taken, the country will have to wait until the last Sunday in April to return to Daylight Saving Time.

I urge my colleagues to approve S. 2931, reported by the Committee on Commerce so the nation may yet avail itself of the benefits associated with extended Daylight Saving Time this year. I doubt if there is any other action this body could take which would provide so many benefits at no cost—and be popular, too.

Mr. STEVENS. Mr. President, I yield myself such time as I may need.

Mr. President, 3 years ago Congress enacted the Emergency Daylight Saving Time Energy Conservation Act of 1973. The act provided for a 2-year experimental period during which daylight saving time would be observed on a year-around basis as an energy conservation measure. The act was subsequently amended to provide that, during the second year, daylight saving time would be observed for a period of 8 months. The Emergency Daylight Saving Time Energy Conservation Act has now expired and unless the Congress takes further action, the provisions of the Uniform Time Act of 1966, establishing a 6-month period for the observance of daylight saving time, will again be in effect.

The Emergency Daylight Saving Time Energy Conservation Act was enacted with the expectation that by focusing a greater amount of daylight upon daily activities, the Nation would reduce its consumption of energy. In order to access the actual benefits and disadvantages of an extended period of daylight saving time, the act required the Secretary of Transportation to submit to the Congress a report detailing the effects of the act.

The report concluded that there was evidence suggesting favorable impacts of an 8-month daylight saving time system. Specifically, the report found that the extended period of daylight saving time resulted in: First, a probable electricity savings of approximately 1 percent in March and April, the equivalent of 100,000 barrels of oil per day; second, a reduction in total motor vehicle fatalities for March and April of about 0.7 percent, or approximately 50 lives and 2,000 injuries; third, no increases in fatal accidents involving school-age children; fourth, a 10 to 13 percent reduction in violent crimes during March and April in Washington, D.C.; fifth, no significant disbenefits; and sixth, general public acceptance of daylight saving time during the months of March and April.

In view of the evidence indicating that an 8-month period of daylight saving time would be beneficial to the Nation, the Department of Transportation recommended that the 8-month system be extended for another 2 years in order to permit further analysis and more effective measurement of public acceptance and response.

The bill before the Senate today, S. 2931, the Daylight Saving Time Act of 1976, would carry out the recommendations of the Department of Transportation. It would provide for the observation of daylight saving time from the first Sunday in March of this year and the next until the second Sunday in November of each year. As reported by the Commerce Committee, the bill actually provides for a daylight saving time period of 8 months and 1 week in order to place the general election day in November on advanced time to allow 1 additional hour of daylight during polling hours. As under the Uniform Time Act of 1966, State would continue to have the authority to exempt themselves from the period of advanced time by State law. Such an exemption would apply either to a State in its entirety or that part of a State entirely within one or more time zones for the full period of advanced time each year. Inasmuch as the bill provides for a further 2-year experiment, the Department of Transportation would be directed to conduct a further study of the effects of an 8-month daylight saving time system.

Mr. President, while the Department's report regarding the first 2-year's experiment indicates that a permanent change to an eight and four system in the Uniform Time Act might be desirable, I strongly believe that at this time we should only provide for an additional temporary period of experimentation. While available evidence indicates that such a change would be beneficial overall, such evidence is not conclusive.

Further, there is significant public opposition to extending the period for the observation of daylight saving time. The bill as reported by the Committee on Commerce provides only for an additional 2 years' experiment in order to collect more information regarding the benefits of an 8-month system. At the conclusion of the experiment, we will have the benefit of the Department of Transportation's additional study and report, and we will then be in a better position to make a decision as to the desirability of making a permanent change in the law affecting daylight saving time.

Let me say to my good friend from Washington that I am delighted the committee did adopt the amendment I offered which continues this on the basis of another 2-year period.

It seems to me that there are a great many things that have occurred in the 2-year period under the Emergency Daylight Saving Time Energy Conservation Act. I think the Department of Transportation's study shows that, on balance, it appears the extended period resulted in a great many savings, but I am not certain that any one of them is a conclusive finding because of the changes we have gone through, changes in our lifestyle relating to energy, and changes in the economy. We are all hopeful that those problems are solving themselves now.

I do not think we can conclude yet that an 8-month daylight saving time system can be shown to be on an overall basis absolutely, conclusively in the best interests of the country. So the 2-year period, I think, is necessary for us to analyze what happens in a period of more nearly normal times as we try to find out whether we want to make this a permanent concept for our country.

With regard to my friend from Kentucky, I point out that this really has very little effect on the north country. We are going to be counting our ballots in the dark anyway, and they have seemingly counted them correctly in the past. In at least the last few elections, I would say, they were counted correctly, and I am hopeful that the issue of that extra week will not be a significant one before this body, because it just makes sense to continue that system for the extra week. If we are going to have the 8-month system we might as well have the extra week to take care of the election day. But I do believe—and I did support the Senator from Kentucky, in the committee—we could draw the opposite conclusion on the facts that are before us and that really it would be in the best interests of the country to return to the 6-month system.

I hope Congress will act and establish the certainty of what will be the daylight saving time concept for the next 2 years so that those who rely upon this decision, those who have to print the timetables for the airlines, railroads, and buses will know what direction Congress wishes to go with regard to daylight saving time.

I will say I intend to support the Senator from Kentucky again because I think he has a unique problem and, coming from a State which has an extremely unique problem with regard to time, I believe we should listen to him with regard to his problem.

I thank the Chair.

Mr. FORD. Mr. President, I thank the Senator for those kind remarks.

Mr. President, may I have time yielded to me by someone to oppose the bill? I have no control of the time unless I can get to my amendment, and that would give me a few minutes.

Mr. STEVENS. I am happy to yield to the Senator such time as he may need prior to the introduction of his own amendment.

Mr. FORD. Ten minutes are all I need, may I say to the Senator, and I will try to keep it within the time zone. I thank the distinguished Senator from Alaska.

Today we are taking up, and will vote finally on Wednesday, something that apparently will not go away, that is, daylight saving time.

In the remarks we have heard here in the Senate Chamber, the remarks we hear in the halls of this great building, it is a reasonable daylight saving time, or some kind of daylight saving time, and 8 months and 1 week of daylight saving time and 3 months and 3 weeks of standard time is some kind of daylight saving.

I think six and six is reasonable. There is great sentiment on the floor, I think, when the vote comes to defeat this bill, to put us back on six and six.

Let me try to analyze my feeling for this bill and why I think we are making a mistake to go to eight and one, three and three. These are some of the facts.

A group of people who have been responsible for $22 billion in our balance of payments, who have helped us so greatly in our greatest surplus and balance of payments ever, are the farmers.

Yet as we listen to the Department of Transportation, they are a minority. They are a small percentage of the people to be considered. They talk about the urban dweller. No one here is against the urban dweller, but why can we not think about the farmer that produces food and fiber?

We talk about helping the farmer with his costs. Yet the only thing we do with 8 months and 1 week of daylight saving time is increase the cost to the farmer because he goes to the urban areas to find help. They come to his farm, they sit in the barn or do menial tasks until it is daylight, or the dew is off the crops, so they can go to work.

At 4 o'clock sun time and 5 o'clock clock time, that man is ready to go back to town and the farmer still has hours of work to do.

We also have to think about the farmer. He likes to participate more than ever before in the social life of his community, church, civic clubs. But with daylight saving time the urban dweller is off work, the worker in industry is already off, and at 6:30 they are in church, or with their civic club in the evening, and the farmer is still working.

This is a minor point, maybe, but it is important in the lives of those people.

Let us get off the farmer and talk about the construction workers.

Construction workers do not want to go on high buildings during the dark. They want to work in daylight.

So, what does this mean? The contractor makes a bid. On daylight saving time his workers are there and they do not want to go on the construction job until daylight.

What occurs then? They sit on his pocketbook and increase the cost for the construction of that building. This is increased cost.

Again, daylight saving time is increasing the cost to the consumers across the country by daylight saving time.

Then we talk about the saving of energy. Even in the Department of Transportation they said it was so minute they could not factor in the savings of energy.

I can understand why. Because one of those they surveyed was TVA and TVA does not serve the western end, or side, of any time zone. They serve the eastern side. Therefore, their consumption in all probability would not be affected.

I think the Department of Transportation, as testified before the committee, indicated it would not be a factor, and if it had gone into the other end of that time zone, in all probability it would have cut a little bit.

The president of Louisville Gas & Electric, which serves over a million customers, says daylight saving time costs energy because they turn up the lights in the dark and turn up the heat in the morning for the employees to go to work. So it uses more energy in this area, rather than saving.

Talk about safety. Not one person can refute, I think, that it is more dangerous for children walking in the dark, in the mud, in the rain, than walking in daylight. I do not think that statement can be refuted.

We have heard about the Department of Transportation saying there is no difference in the death rate under daylight saving time than otherwise.

In Florida, they attributed the increase in deaths of our young children to inclement weather, but when is most of the inclement weather in Florida? When they try to back up daylight saving time to February and March. I asked the National Safety Council representatives who appeared before the committee, "Is it safer when we have fog and drive in the dark or when we have fog and drive in the daylight?" They said, "Driving in the daylight is much safer."

So I think the fact is reasonable then that daylight saving time in the earlier months is wrong for young people.

In at least one State because of court-ordered busing, now school children who were never bused before are going to school in buses. Tens of thousands of our young people are going to be in school at 7 o'clock in the morning, and legislation is being introduced in States saying that children shall not be picked up before 1 hour before daylight or brought home later than 1 hour after dark.

That is what daylight saving time is doing to us in forced busing, or court-ordered busing areas—call it whatever we like.

And the DOT study says daylight saving time has reduced crime. I asked where the study was made. They said, "We had a brief study in Washington, D.C."

Now, if the crime rate has gone down in Washington, D.C., I do not think the study made was indepth, or those who made the survey made an indepth study.

We do not have to go to the police department to get any figures. All we have to do is read the papers or watch television to understand that crime is increasing in this city—or talk to some of the Senators who have had their aides or someone from their office robbed or mugged in this town.

I do not see where daylight saving time has done much for the reduction of crime in Washington, D.C.

Mr. President, I could go on and on. I think it is evident that there will be a great deal of support for this amendment that I am going to offer.

Second, I think there will be a lot of Senators who will take a different view of daylight saving time and they will be against this bill in toto and, at least, send us back to 6 and 6.

Let me add one final item, small radio stations. We talk about helping industry, talk about helping small business. Think about the rural radio station. When do they make their money? When people go to work and when they come home listening to their car radio, primarily.

What is their time of airing? Sunup—sundown. So if we move the time of the Sun back or up, they lose the time that factory work or clerk is going to the store or people are traveling in the early hour.

We had testimony before the committee, and I think DOT says they want to refute that, but we had representatives of four small radio stations testify that they increased their income last year by $400 and it should, under the normal circumstances, have gone up tenfold, or 10 times that.

So not only are we increasing the cost to the consumer, placing a hardship on the farmer, but also we are placing a hardship on the consumer by placing a hardship on the construction worker. I think we are placing a hardship on our children and parents, and with this new item injected, this school busing, the court-ordered busing, that the problem now is not rural, the problem now is urban.

Mr. President, I thank the Senator from Alaska for the time he has allowed me on this bill.

Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. Ford), for himself, Mr. Huddleston, and Mr. Talmadge, proposes an amendment.

The amendment is as follows:

On page 2, line 4, strike out: "first Sunday in March" and insert in lieu thereof "last Sunday in April."

On page 2, lines 5 and 6, strike out: "second Sunday of November" and insert in lieu thereof "last Sunday in September"

Mr. FORD. Mr. President, I shall discuss the amendment later but as of now I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. What is the parliamentary situation now, Mr. President, in terms of time?

The PRESIDING OFFICER. If neither side yields time it runs against both sides equally.

Mr. STEVENS. The Senator from Kentucky has 1 hour on his amendment?

The PRESIDING OFFICER. A half hour to a side.

Mr. FORD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE PROGRAM

ORDER TO TAKE UP S. 507 AFTER 2 P.M. TODAY

Mr. MANSFIELD. Mr. President, for the information of the Senate, it is anticipated that some time after 2 o'clock the pending business will be laid aside and the Senate at that time will turn to the consideration of Calendar No. 561, S. 507, a bill to provide for the management, protection, and development of the national resource lands, and for other purposes. I ask unanimous consent that an order to make that measure the pending business at that time be agreed to at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Tomorrow, of course, we have House Joint Resolution 549, the covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes. I believe the unanimous-consent agreement indicates that we will vote on that measure no later than 5 o'clock tomorrow afternoon, and I believe that an order has been entered to come in at 10 o'clock tomorrow morning.

The PRESIDING OFFICER. The order is for 9:30.

ORDER THAT IT BE IN ORDER TO ASK UNANIMOUS CONSENT TO PROCEED TO THE CONSIDERATION OF H.R. 8617 UPON THE DISPOSITION OF THE PENDING BUSINESS

Mr. MANSFIELD. Then we will go back on the daylight saving bill, which is now the pending business, and when that is disposed of, I ask unanimous consent that it be in order to ask unanimous consent at this time that the Senate then turn to the consideration of calendar No. 496, H.R. 8617, an act to restore the Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from political solicitations, and for other purposes. I have cleared this request on the other side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. After that is disposed of, we will consider the rest of the schedule.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL RESOURCE LANDS MANAGEMENT ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and the Senate now proceed to the consideration of Calendar No. 561, S. 507, and that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 507) to provide for the management, protection, and development of the national resource lands, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

That (a) this Act may be cited as the "National Resource Lands Management Act".

(b) TABLE OF CONTENTS.—

Sec. 2. Definitions.
Sec. 3. Declaration of policy.
Sec. 4. Rules and regulations.
Sec. 5. Public participation.
Sec. 6. Advisory boards and committees.
Sec. 7. Annual report.
Sec. 8. Director.
Sec. 9. Appropriations.

TITLE I—GENERAL MANAGEMENT AUTHORITY

Sec. 101. Management.
Sec. 102. Inventory.
Sec. 103. Land use plans.

TITLE II—CONVEYANCE AND ACQUISITION AUTHORITIES

Sec. 201. Authority to sell.
Sec. 202. Disposal criteria.
Sec. 203. Sales at fair market value.
Sec. 204. Size of tracts.
Sec. 205. Competitive bidding procedures.
Sec. 206. Right to refuse or reject offer of purchase.
Sec. 207. Reservation of mineral interests.
Sec. 208. Conveyance of reserved mineral interests.
Sec. 209. Terms of patent.
Sec. 210. Conforming conveyances to State and local planning.
Sec. 211. Authority to issue and correct documents of conveyance.
Sec. 212. Recordable disclaimers of interests in land.
Sec. 213. Acquisition and exchange of land.
Sec. 214. Omitted lands.

TITLE III—MANAGEMENT IMPLEMENTING AUTHORITY

Sec. 301. Studies, cooperative agreements, and contributions.
Sec. 302. Service charges, reimbursement payments, and excess payments.
Sec. 303. Working capital fund.
Sec. 304. Deposits and forfeitures.
Sec. 305. Contracts for cadastral survey operations and resource protection.
Sec. 306. Unauthorized use.
Sec. 307. Enforcement authority.
Sec. 308. Cooperation with State and local law enforcement agencies.
Sec. 309. California desert area.
Sec. 310. Mineral revenues.
Sec. 311. Recordation of mining claims.

TITLE IV—AUTHORITY TO GRANT RIGHTS-OF-WAY

Sec. 401. Authorization to grant rights-of-way.
Sec. 402. Rights-of-way corridors.
Sec. 403. General provisions.
Sec. 404. Terms and conditions.
Sec. 405. Suspension or termination of rights-of-way.
Sec. 406. Rights-of-way for Federal agencies.
Sec. 407. Conveyance of lands.
Sec. 408. Existing rights-of-way.
Sec. 409. State standards.
Sec. 410. Effect on other laws.
Sec. 411. Interagency coordination.

TITLE V—CONSTRUCTION OF LAY, PRESERVATION OF VALID EXISTING RIGHTS, AND REPEAL OF LAWS

Sec. 501. Construction of law.
Sec. 502. Valid existing rights.
Sec. 503. Repeal of laws relating to disposal of national resource lands.
Sec. 504. Repeal of laws relating to administration of national resource lands.
Sec. 505. Repeal of laws relating to rights-of-way.

SEC. 2. DEFINITIONS.—As used in this Act:

(a) "The Secretary" means the Secretary of the Interior.

(b) "National resource lands" means all lands and interests in lands (including the renewable and nonrenewable resources thereof) now or hereafter administered by the Secretary through the Bureau of Land Management, except the Outer Continental Shelf.

(c) "Multiple use" means the management of the national resource lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including recreation and scenic values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment, with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(d) "Sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of land without permanent impairment of the quality and productivity of the land or its environmental values.

(e) "Areas of critical environmental concern" means areas within the national resource lands where special management attention is required to protect important historic, cultural, or scenic values, or natural systems or processes, or life and safety as a result of natural hazards.

(f) "Right-of-way" means an easement, lease, permit, or license to occupy, use, or traverse national resource lands granted for the purposes listed in title IV.

(g) "Holder" means any State or local governmental entity or agency, individual, partnership, corporation, association, or other business entity receiving or using a right-of-way under title IV.

SEC. 3. DECLARATION OF POLICY.—(a) The Congress hereby declares that—

(1) the national resource lands are a vital national asset containing a wide variety of natural resource values;

(2) sound, long-term management of the national resource lands is vital to the maintenance of a livable environment and essential to the well-being of the American people;

(3) the national interest will be best realized if the national resource lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts; and

(4) except where disposal of particular tracts is made in accordance with title II, the national interest will be best served by retaining the national resource lands in Federal ownership.

(b) The Congress hereby directs that the Secretary shall manage the national resource lands under principles of multiple use and sustained yield in a manner which will, using all practicable means and measures: (i) assure the environmental quality of such lands for present and future generations; (ii) provide for, but not necessarily be limited to, such uses as provision of food and habitat for wildlife, fish and domestic animals, minerals and materials production, supplying the products of trees and plants, human occupancy and use, and various forms of outdoor recreation; (iii) include scientific, scenic, historical, archeological, natural ecological, air and atmospheric, water resource, and other public values; (iv) continue certain areas in their natural condition; (v) balance various demands on such lands consistent with national goals; (iv) assure payment of fair market value by users of such lands; and (vii) provide maximum opportunity for the public to participate in decisionmaking concerning such lands.

SEC. 4. RULES AND REGULATIONS.—The Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the Administrative Procedure Act (60 Stat. 237), as amended. Prior to the promulgation of such rules and regulations, the national resource lands shall be administered under existing rules and regulations concerning such lands.

SEC. 5. PUBLIC PARTICIPATION.—In exercising his authorities under this Act, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for, and the management of, the national resource lands.

SEC. 6. ADVISORY BOARDS AND COMMITTEES.—In providing for public participation in the planning for and management of the national resource lands, the Secretary, pursuant to the Federal Advisory Committee Act (86 Stat. 770) and other applicable law, may establish and consult such advisory boards and committees as he deems necessary to secure full information and advice on the execution of his responsibilities. The membership of such boards and committees shall be representative of a cross section of groups interested in the management of the national resource lands and the various types of use and enjoyment of such lands.

SEC. 7. ANNUAL REPORT.—The Secretary shall prepare an annual report which he shall make available to the public and submit to Congress no later than 120 days after the close of each fiscal year. The report shall describe, in appropriate detail, activities relating or pursuant to this Act for the fiscal year just ended, any problems which may have arisen concerning such activities, and other pertinent information which will assist the accomplishment of the provisions and purposes of this Act. The report shall contain a detailed list and description of all transfers of national resource lands out of Federal ownership for the fiscal year just ended. It shall include such tables, graphs, and illustrations as will adequately reflect the fiscal year's activities, historical trends, and future projections relating to the national resource lands.

Sec. 8. Director.—Appointments made on or after the date of the enactment of this Act to the position of the Director of the Bureau of Land Management, within the Department of the Interior, shall be made by the President, by and with the advice and consent of the Senate. The Director shall have a broad background and experience in public land and natural resource management.

Sec. 9. Appropriations.—There is hereby authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act.

TITLE I—GENERAL MANAGEMENT AUTHORITY

Sec. 101. Management.—The Secretary shall manage the national resource lands in accordance with the policies and procedures of this Act and with any land use plans which he has prepared pursuant to section 103, except to the extent that other applicable law provides otherwise. Such management shall include:

(1) regulating, through permits, licenses, leases, or such other instruments as the Secretary deems appropriate, the use, occupancy, or development of the national resource lands not provided for by other laws: *Provided, however,* That no provision of this Act shall be construed as authorizing the Secretary to require any Federal permit to hunt or fish on the national resource lands;

(2) requiring appropriate land reclamation as a condition of use, and requiring performance bonds or other security guaranteeing such reclamation in a timely manner from any person permitted to engage in an extractive or other activity likely to entail significant disturbance to or alteration of the national resource lands;

(3) inserting in permits, licenses, leases, or other authorizations to use, occupy, or develop the national resource lands, provisions authorizing revocation or suspension, after notice and hearing, of such permits, licenses, leases, or other authorizations, upon final administrative finding of a violation of any applicable regulations issued by the Secretary under any Act applicable to the national resource lands or upon final administrative finding of a violation on such lands of any applicable State or Federal air or water quality laws or regulations: *Provided,* That any such suspension shall be terminated no later than the date upon which the cause of said violation has been rectified: *Provided further,* That the Secretary may order an immediate temporary suspension prior to a hearing or final administrative finding if he determines that such a suspension is necessary to protect public health or safety or the environment: *Provided further,* That, where other applicable law contains specific provisions for suspension, revocation, or cancellation of a permit, license, or other authorization to use, occupy, or develop the national resource lands, the specific provisions of such law shall prevail; and

(4) the prompt development of regulations for the protection of areas of critical environmental concern.

Sec. 102. Inventory.—(a) The Secretary shall prepare and maintain on a continuing basis an inventory of all national resource lands, and their resource and other values (including outdoor recreation and scenic values), giving priority to areas of critical environmental concern. Areas containing wilderness characteristics as described in section 2(c) of the Act of September 3, 1964 (78 Stat. 890, 891), shall be identified within five years of enactment of this Act. The inventory shall be kept current so as to reflect changes in conditions and in identifications of resource and other values. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change in the management or use of national resource lands.

(b) As funds and manpower become available, the Secretary shall provide (i) means of public identification of national resource lands, including signs and maps, and (ii) State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in the proximity of national resource lands.

Sec. 103. Land Use Plans.—(a) The Secretary shall, with public participation, develop, maintain, and, when appropriate, revise land use plans for the national resource lands consistent with the terms and conditions of this Act and coordinated so far as he finds feasible and proper, or as may be required by the enactment of a national land use policy or other law, with the land use plans, including the statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), as amended, of State and local governments and other Federal agencies.

(b) In the development and maintenance of land use plans, the Secretary shall:

(1) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and social sciences;

(2) give priority to the designation and protection of areas of critical environmental concern;

(3) rely, to the extent it is available, on the inventory of the national resources lands, their resources, and other values;

(4) consider present and potential uses of the lands;

(5) consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(6) weigh long-term public benefits; and

(7) consider the requirements of applicable pollution control laws including State or Federal air or water quality standards, noise standards, and implementation plans.

(c) Wherever any proposed change in the permitted uses on any national resource lands would affect authorization for use of such lands, persons holding leases, licenses, or permits concerning the use to be affected and State and local governments with jurisdiction in the affected area shall be given written notice by the Secretary of such proposed change sufficiently in advance to permit such persons to initiate such administrative review processes available to them under the authorization before such change is put into effect.

(d) Areas identified pursuant to section 102 as having wilderness characteristics shall be reviewed within fifteen years of enactment of this Act pursuant to the procedures set forth in subsections 3(c) and (d) of the Act of September 3, 1964 (78 Stat. 890, 892–893): Provided, however, That such review shall not, of itself, either change or prevent change in the management or use of the national resource lands.

TITLE II—CONVEYANCE AND ACQUISITION AUTHORITIES

Sec. 201. Authority To Sell.—Except as otherwise provided by law, and subject to the requirements of section 3 of this Act, the Secretary is authorized to sell national resource lands. Any tract of the national resource lands may be sold if the Secretary, in accordance with the guidelines he has established for sale of national resource lands and after preparation pursuant to section 103 of a land use plan which includes such tract, determines that the sale of such tract will not cause needless degradation of the environment and meets the disposal criteria of section 202.

Sec. 202. Disposal Criteria.—(a) Except as to conveyances under sections 208, 213, and 214, a tract of national resource lands may be transferred out of Federal ownership under this Act only where, as a result of land use planning required under section 103, the Secretary determines that—

(1) such tract, because of its location and other characteristics, is difficult to manage as part of the national resource lands and is not suitable for management by another Federal agency; or

(2) such tract was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or

(3) disposal of such tract will serve objectives which cannot be achieved prudently or feasibly on land other than such tract and which outweigh all public objectives and values which would be served by maintaining such tract in Federal ownership.

(b) Where the Secretary determines that land to be conveyed under clause (3) of subsection (a) is of agricultural value and is desert in character, such land shall be conveyed either under the sale authority of section 201 or in accordance with existing law.

Sec. 203. Sales at Fair Market Value.—Sales of national resource lands under this Act shall be at not less than the appraised fair market value as determined by the Secretary.

Sec. 204. Size of Tracts.—The Secretary shall determine and establish the size of tracts of national resource lands to be sold on the basis of the land use capabilities and development requirements of the lands; and, where any such tract which is judged by the Secretary to be chiefly valuable for agriculture is sold, its size shall be no larger than necessary to support a family-sized farm.

Sec. 205. Competitive Bidding Procedures.—Except as to sales under sections 208 and 214, sales of national resource lands under this Act shall be conducted under competitive bidding procedures to be established by the Secretary. However, where the Secretary determines it necessary and proper (i) to assure equitable distribution among purchasers of national resource lands, or (ii) to recognize equitable considerations or public policies, including but not limited to a preference to users, he is authorized to sell national resource lands with modified competitive bidding or without competitive bidding.

Sec. 206. Right To Refuse or Reject Offer of Purchase.—Until the Secretary has accepted an offer to purchase, he may refuse to accept any offer or may withdraw any land or interest in land from sale under this Act when he determines that consummation of the sale would not be consistent with this Act or other applicable law. The Secretary shall accept or reject, in writing, any offer to purchase made through competitive bid at his invitation no later than thirty days after the submission of such offer.

Sec. 207. Reservation of Mineral Interests.—All conveyances of title issued by the Secretary under this Act, except conveyances under section 213, shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe: *Provided,* That, where prospecting, mining, or removing minerals reserved to the United States would interfere with or preclude the appropriate use or development of such land, the Secretary may (1) enter into covenants at the time of conveyance of such land or thereafter which provide that such activities shall not be pursued for a specified period, or (2) convey the minerals in the conveyance of title in accordance with the provisions of section 208(a) (1) and (2).

SEC. 208. CONVEYANCE OF RESERVED MINERAL INTERESTS.—(a) The Secretary may convey mineral interests owned by the United States where the surface is in non-Federal ownership, regardless of which Federal agency may have administered the surface, if he finds (1) that there are no mineral values in the land, or (2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate nonmineral development of the land and that such development is a more beneficial use of the land than mineral development.

(b) Conveyance of mineral interests pursuant to this section shall be made only to the record owner of the surface, upon payment of administrative costs and the fair market value of the interests being conveyed.

(c) Before considering an application for conveyance of mineral interests pursuant to this section—

(1) the Secretary shall require the deposit by the applicant of a sum of money which he deems sufficient to cover administrative costs including, but not limited to, costs of conducting an exploratory program to determine the character of the mineral deposits in the land, evaluating the data obtained under the exploratory program to determine the fair market value of the mineral interests to be conveyed, and preparing and issuing the documents of conveyance: *Provided*, That, if the administrative costs exceed the deposit, the applicant shall pay the outstanding amount; and, if the deposit exceeds the administrative costs, the applicant shall be given a credit for or refund of the excess; or

(2) the applicant shall have conducted, and submitted to the Secretary the results of, such an exploratory program, in accordance with standards promulgated by the Secretary.

(d) Moneys paid to the Secretary for administrative costs pursuant to subsection (c) of this section shall be paid to the agency which rendered the service and deposited to the appropriation then current.

SEC. 209. TERMS OF PATENT.—The Secretary shall insert in patents or other documents of conveyance he issues under this Act such terms, covenants, conditions, and reservations which he deems to be essential to insure proper land use and protection of the public interest: *Provided*, That such terms, covenants, conditions, and reservations shall not require or permit the land conveyed to be used in conflict with Federal or State law or State land use plans.

SEC. 210. CONFORMING CONVEYANCES TO STATE AND LOCAL PLANNING.—At least ninety days prior to a sale or other conveyance of national resource lands under this Act, the Secretary shall notify the Governor of the State within which such lands are located and the head of the governing body of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which such lands are located in order to afford the appropriate body or bodies the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning, the use of such lands prior to such conveyance. The Secretary shall also promptly notify such public officials of the issuance of the patent or other document of conveyance for such lands.

SEC. 21. AUTHORITY TO ISSUE AND CORRECT DOCUMENTS OF CONVEYANCE.—Consistent with his authority to dispose of national resource lands, the Secretary is authorized to issue deeds, patents, and other indicia of title, and to correct such documents where necessary. In addition, the Secretary is authorized to make corrections on any documents of conveyance which have heretofore been issued on lands which would, at the time of their conveyance, have met the description of national resource lands.

SEC. 212. RECORDABLE DISCLAIMERS OF INTERESTS IN LAND.—(a) After consulting with any affected Federal agency, the Secretary is authorized to issue a document of disclaimer of interest or interests in any lands in any form suitable for recordation, where the disclaimer will help remove a cloud on the title of such lands and where he determines (1) a record interest of the United States in lands has terminated by operation of law; or (2) the lands lying between the meander line shown on a plat of survey approved by the Bureau of Land Management or its predecessors and the actual shoreline of a body of water are not lands of the United States; or (3) accreted, relicted, or avulsed lands are not lands of the United States.

(b) No document of disclaimer shall be issued pursuant to this section unless the applicant therefor has filed with the Secretary an application in writing, notice of such application setting forth the grounds supporting such application has been published in the Federal Register at least ninety days preceding the issuance of such disclaimer, and the applicant has paid to the Secretary the administrative costs of issuing the disclaimer, as determined by the Secretary. All receipts shall be credited to the appropriation from which expended.

(c) Issuance of a document of disclaimer by the Secretary pursuant to the provisions of this section and regulations promulgated hereunder shall have the same effect as a quitclaim deed from the United States.

SEC. 213. ACQUISITION AND EXCHANGE OF LAND.—(a) The Secretary is authorized to acquire, by purchase, exchange, or donation, lands or interests therein where necessary for proper management of the national resource lands: *Provided* That lands or interests in land may be acquired pursuant to this title by eminent domain only if necessary in order to secure access to national resource lands: *Provided further*, That any such lands or interests acquired by eminent domain shall be confined as to narrow a corridor as is necessary to serve such purpose.

(b) Acquisitions pursuant to this Act shall be consistent with applicable land use plans prepared by the Secretary under section 103.

(c) In exercising the exchange authority granted by subsection (a) of this section, the Secretary may accept title to any non-Federal lands or interests therein and in exchange therefor he may convey to the grantor of such lands or interests any national resource lands or interests therein which are located in the same State as the non-Federal land to be acquired, and (1) which he finds proper for transfer out of Federal ownership pursuant to section 202, or (2) the values of which and the objectives which such lands or interests may serve if retained in Federal ownership he finds to be out-weighed by the values of the non-Federal lands or interests and the public objectives they could serve if acquired. The values of the lands or interests so exchanged either shall be equal, or if they are not equal, shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require: *Provided*, That such payment shall not exceed 30 per centum of the total value of the lands or interests transferred out of Federal ownership.

(d) Lands or interests in lands acquired pursuant to this section or section 301(c) shall, upon acceptance of title, become national resource lands, and, for the administration of public lands not repealed by this Act, shall become public lands. If such acquired lands or interests are located within the exterior boundaries of a grazing district established pursuant to section 1 of the Taylor Grazing Act (48 Stat. 1269), as amended, they shall become a part of that district.

(e) Lands or interests in lands acquired under this section or section 301(c) which are within the boundaries of the national forest system may be transferred to the Secretary of Agriculture for administration as part of, and in accordance with, the laws, rules, and regulations applicable to, the National Forest System. Such transfer shall not result in the reduction in the percentage of in-lieu payments receivable by State and local governments. Lands or interests in lands acquired under this section or section 301(c) which are within the boundaries of the National Park, Wildlife Refuge, Wild and Scenic Rivers, or Trails System, or any other system established by Act of Congress, may be transferred to the appropriate agency head for administration as part of, and in accordance with the laws, rules, and regulations applicable to, such system.

SEC. 214. OMITTED LANDS.—(a) The Secretary is hereby authorized to convey to States or their political subdivisions under the Recreation and Public Purposes Act (44 Stat. 741), as amended, but without regard to the acreage limitations contained therein, unsurveyed islands determined by the Secretary to be public lands of the United States. The conveyance of any such island may be made without survey: *Provided, however*, That such island may be surveyed at the request of the applicant State or its political subdivision if such State or subdivision donates money or services to the Secretary for such survey, the Secretary accepts such money or services, and such services are conducted pursuant to criteria established by the Director of the Bureau of Land Management. Any such island so surveyed shall not be conveyed without approval of such survey by the Secretary prior to the conveyance.

(b) (1) The Secretary is authorized to convey to States and their political subdivisions under the Recreation and Public Purposes Act, but without regard to the acreage limitations contained therein, lands other than islands determined by him after survey to be public lands of the United States erroneously or fraudulently omitted from the original surveys (hereinafter referred to as "omitted lands"). Any such conveyance shall not be made without a survey: *Provided*, That the prospective recipient may donate money or services to the Secretary for the surveying necessary prior to conveyance if the Secretary accepts such money or services, such services are conducted pursuant to criteria established by the Director of the Bureau of Land Management, and such survey is approved by the Secretary prior to the conveyance.

(2) The Secretary is authorized to convey to the occupant of any omitted lands which, after survey, are found to have been occupied and developed for a five-year period prior to January 1, 1975, if the Secretary determines that such conveyances is in the public interest and will serve objectives which outweigh all public objectives and values which would be served by retaining such lands in Federal ownership. Conveyance under this subparagraph shall be made at not less than the fair market value of the land, as determined by the Secretary, and upon payment in addition of administrative costs, including the cost of making the survey, the cost of appraisal, and the cost of making the conveyance.

(c) (1) No conveyance shall be made pursuant to this section until the relevant State government, local government, and area-wide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262) and/or title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103–4) have notified the Secretary as to the consistency of such conveyance with applicable State and local government land use plans and programs.

(2) The provisions of section 210 of this Act shall be applicable to all conveyances under this section.

(d) The final sentence of section 1(c) of the Recreation and Public Purposes Act shall not be applicable to conveyances under this section.

(e) No conveyance pursuant to this section shall be used as the basis for determining the baseline between Federal and State ownership, the boundary of any State for purposes of determining the extent of a State's submerged lands or the line of demarcation of Federal jurisdiction, or any similar or related purpose.

(f) The provisions of this section shall not apply to any lands within the National Forest System, as defined in the Act of August 17, 1974 (88 Stat. 480), the National Park System, the National Wildlife Refuge System, and the National Wild and Scenic Rivers System.

(g) Nothing in this section shall supersede the provisions of the Act of December 22, 1928 (45 Stat. 1069), as amended, and the Act of May 31, 1962 (76 Stat. 89) or any other Act authorizing the sale of specific omitted lands.

TITLE III—MANAGEMENT IMPLEMENTING AUTHORITY

SEC. 301. STUDIES, COOPERATIVE AGREEMENTS, AND CONTRIBUTIONS.—(a) The Secretary may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the management, protection, development, acquisition, and conveying of the national resource lands.

(b) The Secretary may enter into contracts or cooperative agreements involving the management, protection, development, acquisition, and conveying of the national resource lands.

(c) The Secretary may accept contributions or donations of money, services, and property, real, personal, or mixed, for the management, protection, development, acquisition, and conveying of the national resource lands, including the acquisition of rights-of-way for such purposes. He may accept contributions for cadastral surveying performed on federally controlled or intermingled lands. Moneys received hereunder shall be credited to a separate account in the Treasury and are hereby appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function toward the administration of which the contributions were made and for refunds to depositors of amounts contributed by them in specific instances where contributions are in excess of their share of the cost.

SEC. 302. SERVICE CHARGES, REIMBURSEMENT PAYMENTS, AND EXCESS PAYMENTS.—(a) Notwithstanding any other provision of law, the Secretary may establish filing fees, service fees and charges, and commissions with respect to applications and other documents relating to national resource lands and may change and abolish such fees, charges, and commissions.

(b) The Secretary is authorized to require a deposit of any payments intended to reimburse the United States for extraordinary costs with respect to applications and other documents relating to national resource lands. The moneys received for extraordinary costs under this subsection shall be deposited with the Treasury in a special account and are hereby appropriated and made available until expended. As used in this subsection, "extraordinary costs" include but are not limited to the costs of special studies; environmental impact statements; monitoring construction, operation, maintenance, and termination of any authorized facility; or other special activities.

(c) In any case where it shall appear to the satisfaction of the Secretary that any person has made a payment under any statute relating to the sale, lease, use, or other disposition of the national resource lands which is not required or is in excess of the amount required by applicable law and the regulations issued by the Secretary, the Secretary, upon application or otherwise, may cause a refund to be made from applicable funds.

SEC. 303. WORKING CAPITAL FUND.—(a) There is hereby established a working capital fund for the management of national resource lands. This fund shall be available without fiscal year limitation for expenses necessary for furnishing, in accordance with the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and regulations promulgated thereunder, supplies and equipment services in support of Bureau of Land Management programs, including but not limited to, the purchase or construction of storage facilities, equipment yards, and related improvements and the purchase, lease, or rent of motor vehicles, aircraft, heavy equipment, and fire control and other resource management equipment within the limitations set forth in appropriations made to the Bureau of Land Management.

(b) The initial capital of the fund shall consist of appropriations made for that purpose together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as he deems appropriate in connection with the functions to be carried on through the fund.

(c) The fund shall be credited with payments from appropriations and funds of the Bureau of Land Management, other agencies of the Department of the Interior, other Federal agencies, and other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and accrued annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursement.

(d) There is hereby authorized to be appropriated not to exceed $3,000,000 as initial capital of the fund.

SEC. 304. DEPOSITS AND FORFEITURES.—(a) Any moneys received by the United States as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill the requirements of his contract or permit or does not comply with the regulations of the Secretary, or as a result of a compromise or settlement of any claim whether sounding in tort or in contract involving present or potential damage to national resource lands, shall be credited to a separate account in the Treasury and are hereby appropriated and made available, until expended as the Secretary may direct, to cover the cost to the United States of any improvement, protection, or rehabilitation work on the national resource lands which has been rendered necessary by the action which has led to the forfeiture, compromise, or settlement.

(b) The Secretary may require a user or users of roads, trails, lands, or facilities under the jurisdiction of the Bureau of Land Management to maintain such roads, trails, lands, or facilities in a satisfactory condition commensurate with the particular use requirements and the use made by each user, the extent of such maintenance to be shared by the users in proportion to such use or, if such maintenance cannot be so provided, to deposit sufficient money to enable the Secretary to provide such maintenance. Such deposits shall be credited to a separate account in the Treasury and are hereby appropriated and made available until expended, as the Secretary may direct, to cover the cost to the United States of the maintenance of any roads, trails, lands or facilities under the jurisdiction of the Bureau of Land Management: *Provided*, That nothing in this subsection shall be construed to require a user to provide maintenance or deposits to repair any damages attributable to general public use rather than the specific use of such user.

(c) Any moneys collected under this Act in connection with lands administered under the Act of August 28, 1937 (50 Stat. 874), as amended, shall be expended for the benefit of such lands only.

(d) If any portion of a deposit or amount forfeited under this section is found by the Secretary to be in excess of the cost of doing the work authorized under this Act, the amount in excess shall be transferred to miscellaneous receipts.

SEC. 305. CONTRACTS FOR CADASTRAL SURVEY OPERATIONS AND RESOURCES PROTECTION.—(a) The Secretary is authorized to enter into contracts for the use of aircraft, and for supplies and services, prior to the passage of an appropriation therefor, for airborne cadastral survey and resource protection operations of the Bureau of Land Management. He may renew such contracts annually, not more than twice, without additional competition. Such contracts shall obligate funds for the fiscal years in which the costs are incurred.

(b) Each such contract shall provide that the obligation of the United States for the ensuing fiscal years is contingent upon the passage of an applicable appropriation, and that no payment shall be made under the contract for the ensuing fiscal years until such appropriation becomes available for expenditure.

SEC. 306. UNAUTHORIZED USE.—The use, occupancy, or development of any portion of the national resource lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

SEC. 307. ENFORCEMENT AUTHORITY.—(a) Any violation of regulations which the Secretary issues with respect to the management, protection, development, acquisition, and conveying of the national resource lands and property located thereon and which the Secretary identifies as being subject to this section shall be punishable by a fine of not more than $1,000 or imprisonment for not more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

(b) At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from using, occupying, or developing the national resource lands in violation of laws or regulations relating to lands or resources managed by the Secretary.

(c) For the specific purpose of enforcing any law or regulation relating to lands or resources managed by the Secretary, the Secretary may designate any employee to (1) carry firearms; (2) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; and (3) make arrests without warrant or process for a misdemeanor the employee has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

SEC. 308. COOPERATION WITH STATE AND LO-

CAL LAW ENFORCEMENT AGENCIES.—In the administration and regulation of the use, occupancy, and development of the national resource lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subsidivision thereof. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of the use, occupancy, and development of national resource lands.

SEC. 309. CALIFORNIA DESERT AREA.—(a) The Congress finds that—

(1) the California desert contains historical, scenic, archeological, environmental, biological, cultural, scientific, and educational resources which are unique and irreplaceable;

(2) the desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed;

(3) the desert environment and its resources, including certain rare and endangered species of wildlife, plants, and fishes, and numerous archeological and historic sites, are seriously threatened by air pollution, inadequate Federal management authority, and pressures of increased use, particularly recreational use;

(4) because of the proximity of the California desert to the rapidly growing population centers of southern California, these threats are certain to intensify;

(5) the Secretary has initiated a comprehensive planning process and established an interim management program for the California desert; and

(6) to insure further study of the relationship of man and the desert environment and preserve the unique and irreplaceable resources of the California desert, the public must be provided more opportunity to participate in such planning and management, and additional authority must be provided to the Secretary to enable effective implementation of such planning and management.

(b) It is the purpose of this section to provide for the immediate and future protection, development, and management of the California desert within the framework of a balanced program of multiple use, sustained yield and maintenance of environmental quality as provided in this Act.

(c)(1) For the purpose of this section, the "California desert area" is the area generally depicted on a map entitled "California Desert Area—Proposed", dated April 1974, and on file in the Office of the Director of the Bureau of Land Management.

(2) As soon as practicable after this Act takes effect, the Secretary shall file a map and a legal description of the California desert area with the Committees on Interior and Insular Affairs of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal description and map may be made by the Secretary. To the extent practicable, the Secretary shall make such legal description and map available to the public promptly upon request.

(d) The Secretary, in accordance with section 103, shall prepare and implement a comprehensive, long-range plan for the management, use, and protection of the national resource lands within the California desert area. Such plan shall be completed and implementation thereof initiated on or before June 30, 1980.

(e) During the period beginning on the date of enactment of this Act and ending on the effective date of implementation of the comprehensive, long-range plan, the Secretary shall execute an interim program to manage and protect the national resource lands, and their resources now in danger of destruction, in the California desert area, provide for the public use of such lands in an orderly and reasonable manner, and establish a uniform desert ranger force.

(f)(1) The Secretary, within sixty days of enactment of this Act, shall establish a California Desert Area Advisory Committee (hereinafter referred to as "advisory committee") in accordance with the provisions of section 6.

(2) It shall be the function of the advisory committee to advise the Secretary with respect to the preparation and implementation of the comprehensive, long-range plan required under subsection (d) of this section.

(g) The Secretary shall administer the national resource lands in the California desert area in accordance with the provisions of this Act and such other Acts as may be applicable. The Secretaries of Agriculture and Defense shall manage lands within their respective jurisdictions located in or adjacent to the California desert area, in accordance with the laws relating to such lands and wherever practicable in a manner consonant with the purpose of this section. The Secretaries of the Interior, Agriculture, and Defense are authorized and encouraged to consult among themselves and take cooperative actions to implement this subsection.

(h) The Secretary shall report to the Congress no later than two years after the enactment of this Act, and annually thereafter in the report required in section 7 of this Act, on the progress in, and any problems concerning, the implementation of this section, together with any recommendations, which he may deem necessary, to remedy such problems.

(i) There is authorized to be appropriated for fiscal years 1977 through 1981 not to exceed $40,000,000 to effect the purpose of this section, such amount to remain available until expended.

SEC. 310. MINERAL REVENUES.—(a) Section 35 of the Act of February 25, 1920 (41 Stat. 437, 450), as amended, is further amended by—

(1) deleting "52½ per centum thereof shall be paid into, reserved" and inserting in lieu thereof: "30 per centum thereof shall be paid into, reserved"; and

(2) inserting after "direct;" and before "and" the following language: "an additional 22½ per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after December 31 and June 30 of each year to the State within the boundaries of which the leased lands or deposits are or were located; said additional 22½ per centum of all moneys paid to any State to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act, for (1) planning (2) construction and maintenance of public facilities, and (3) provision of public services;".

(b)(1) The Secretary is authorized to make loans to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of minerals leased in such States pursuant to the Act of February 25, 1920, as amended. Such loans shall be confined to the uses specified for the 22½ per centum of mineral revenues to be received by such States and subdivisions pursuant to section 35 of such Act. All loans shall bear interest at a rate not to exceed 3 per centum and shall be for such amounts and durations as the Secretary shall determine. The Secretary shall limit the amounts of such loans to the portion of the 22½ per centum of anticipated mineral revenues to be received by the recipients of said loans pursuant to said section 35 for any prospective ten-year period. Such loans shall be repaid by the loan recipients from that portion of the 22½ per centum of minerial revenues to be derived from said section 35 by such recipients, as the Secretary determines.

(2) The Secretary, after consultation with Governors of the affected States, shall allocate such loans among the States and their subdivisions in a fair and equitable manner, giving priority to those States and subdivisions suffering the most severe impacts.

(3) Loans under this subsection shall be subject to such terms and conditions as the Secretary determines necessary to assure that the purpose of this subsection will be achieved. The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this subsection.

SEC. 311. RECORDATION OF MINING CLAIMS.—(a) Each mining claim under the Mining Law of 1872, as amended (Revised Statutes 2318–2352; 30 U.S.C. 22), shall be recorded by the claimant with the Secretary within two years after the date of enactment of this Act or within thirty days of location of the claim, whichever is later. Any claim not so recorded shall be conclusively presumed to be abandoned and shall be void.

(b) Any claim recorded pursuant to subsection (a) for which the claimant has not made application for patent within ten years after the date of recordation of the claim shall be conclusively presumed to be abandoned and shall be void: *Provided, however*, That upon a showing that a mineral survey cannot be completed within said ten-year period, the filing of an application for a mineral survey, which states on its face that it was filed for the purpose of proceeding to patent, shall be acceptable for the patent application purpose of this subsection if all other applicable requirements under the general mining laws have been met and if the applicant subsequently prosecutes diligently his application for patent to completion.

(c) Such recordation or application shall not render valid any claim which was not valid on the date of enactment of this Act, or which becomes invalid thereafter.

TITLE IV—AUTHORITY TO GRANT RIGHTS-OF-WAY

SEC. 401. AUTHORIZATION TO GRANT RIGHTS-OF-WAY.—(a) The Secretary is authorized to grant, issue, or renew rights-of-way over, upon, or through the national resource lands for—

(1) reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) pipelines and other systems for the transportation or distribution of liquids and gases, other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, or water, and for storage and terminal facilities in connection therewith;

(3) pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) systems for generation, transmission, and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the Federal Power Commission under the Act of June 10, 1920 (41 Stat. 1063), as amended;

(5) systems for transmission or reception of radio, television, telegraph, and other electronic signals, and other means of communication;

(6) roads, trails, highways, railroads, canals, tramways, airways, livestock driveways, or other means of transportation; and

(7) such other necessary transportation or other systems or facilities which are in the

public interest and which require rights-of-way over, upon, or through the national resource lands.

(b) (1) The Secretary is authorized to provide for the acquisition, construction, and maintenance of roads within and near the national resource lands in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management of such lands and the other resources thereof. Financing of such roads may be accomplished (A) by the Secretary using appropriated funds, (B) by requirements on purchasers of timber and other products from the national resource lands, including provisions for amortization of road costs in contracts, (C) by cooperative financing, or (D) by a combination of these methods: *Provided*, That where roads of a higher standard than those needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed, the purchaser of timber and other products from the national resource lands shall not be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate: *Provided further*, That it is understood that when timber is offered with the condition that the purchaser thereof will build roads in accordance with standards specified in the offer, the purchaser of the timber will be responsible for paying the full costs of construction of such roads.

(2) Copies of all instruments affecting permanent interests in land executed pursuant to this subsection shall be recorded in each county where the lands are located.

(3) Whenever the agreement under which the United States has obtained for the use of, or in conection with, the national resource lands a right-of-way or easement for a road or an existing road or the right to use an existing road provides for delayed payments to the Government's grantor, any fees or other collections received by the Secretary for the use of the road may be placed in a fund to be available for making payments to the grantor.

(c) (1) The Secretary shall require, prior to granting, issuing, or renewing a right-of-way pursuant to this title that the applicant submit and disclose any or all plans, contracts, agreements, or other information or material reasonably related to the use, or intended use, of the right-of-way which the Secretary deems necessary to a determination, in accordance with the provisions of this title, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in such right-of-way.

(2) If the applicant is a partnership, corporation, association, or other business entity, the Secretary, prior to granting, issuing, or renewing a right-of-way pursuant to this title, shall require the applicant to disclose the identity of the participants in the entity. Such disclosure shall include, where applicable: (1) the name and address of each partner in the entity; (2) the name and address of each shareholder owning 3 per centum or more of the shares of such entity, together with the number and percentage of any class of voting shares which such shareholder is authorized to vote; and (3) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

SEC. 402. RIGHTS-OF-WAY CORRIDORS.—(a) In accordance with section 28(s) of the Mineral Leasing Act of 1920 (41 Stat. 437, 449) as amended by the Act of November 16, 1973 (87 Stat. 576, 582), and the report submitted by the Secretary pursuant thereto, the Secretary shall, consistent with applicable land use plans, designate transportation and utility corridors on national resource lands and, to the extent practical and appropriate, require that rights-of-way be confined to them. In designating such corridors and in determining whether to require that rights-of-way be confiined to them, the Secretary shall take into consideration national and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transportation and utility corridors may be designated as transportation and utility corridors pursuant to this subsection without further review.

(b) In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way across national resource lands, the use of rights-of-way in common shall be required to the extent practical, and each right-of-way granted, issued, or renewed pursuant to this title shall reserve to the Secretary the right to grant additional rights-of-way for compatible uses on or adjacent to such right-of-way.

SEC. 403. GENERAL PROVISIONS.—(a) The Secretary shall specify the boundaries of each right-of-way granted, issued, or renewed pursuant to this title as precisely as is practicable. Each right-of-way shall be limited to the ground which the Secretary determines: (1) will be occupied by facilities which constitute the project for which the right-of-way is granted, issued, or renewed, (2) to be required for the operation or maintenance of the project, and (3) to be necessary to protect the eenvironment or public safety. The Secretary may authorize the temporary use of such additional lands as he determines to be reasonably necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

(b) The Secretary shall determine the duration of each right-of-way or other authorization to be granted, issued, or reneweed pursuant to this title. In determining the duration the Secretary shall take into consideration, among other things, the cost of any facility placed on the right-of-way and its useful life.

(c) Rights-of-way shall be granted, issued, or renewed pursuant to this title under such regulations or stipulations, in accordance with the provisions of this title or any other law, and subject to such terms and conditions as the Secretary may prescribe regarding extent, duration, survey, location, construction, maintenance, and termination.

(d) The Secretary, prior to granting or issuing a right-of-way pursuant to this title for a new project which may have a significant impact on the eenvironment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way which shall comply with stipulations imposed or with regulations issued by the Secretary. The Secretary shall issue regulations or impose stipulations which shall include, but shall not be limited to: (1) requirements to insure that activities on the right-of-way will not violate applicable air and water quality standards or applicable transmission, powerplant, and related facility siting standards established by or pursuant to law; (2) requirements designed to control or prevent (A) damage to the environment (including damage to fish and wildlife habitat), (B) damage to public or private property, and (C) hazards to public health and safety; and (3) requirements to protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes. Such regulations shall be regularly revised. Such regulations shall be applicable to every right-of-way granted or issued pursuant to this title and to any subsequent renewal thereof, and may be applicable to rights-of-way not granted or issued, but renewed pursuant to this title.

(e) Mineral and vegetative materials, including timber, within or without a right-of-way granted, issued, or renewed pursuant to this title may be used or disposed of in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws.

(f) No right-of-way shall be granted, issued, or renewed pursuant to this title for less than the fair market value thereof as determined by the Secretary. The Secretary may, by regulation or, prior to promulgation of such regulations, as a condition of a right-of-way, require an applicant for or holder of a right-of-way to reimburse the United States for all reasonable administrative and other costs incurred in processing an application for such right-of-way and in inspection and monitoring of construction, operation, and termination of the facility pursuant to such right-of-way: *Provided, however*, That such costs need not be reimbursed in any cooperative cost share right-of-way program between the United States and the holder of the right-of-way: *Provided further*, That rights-of-way may be granted, issued, or renewed to State or local governments or agencies or instrumentalities thereof, or to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profitmaking corporations or business enterprises, for such lesser charge as the Secretary finds equitable and in the public interest.

(g) (1) The Secretary shall promulgate regulations specifying the extent to which holders of right-of-way granted, issued, or renewed pursuant to this title shall be liable to the United States for damage or injury incurred by the United States in connection with the right-of-way. The regulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liabilities, damages or claims arising in connection with the right-of-way.

(2) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

(h) Where he deems it appropriate, the Secretary may require a holder of a right-of-way granted, issued, or renewed pursuant to this title to furnish a bond, or other security, satisfactory to the Secretary to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or by any rule or regulation of the Secretary.

(i) The Secretary shall grant, issue, or renew a right-of-way pursuant to this title only when he is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested, and in accord with the requirements of this title.

SEC. 404. TERMS AND CONDITIONS.—Each right-of-way granted, issued, or renewed pursuant to this title shall contain such terms and conditions as the Secretary deems necessary to (1) carry out the purposes of this Act and rules and regulations hereunder; (2) protect the environment; (3) protect Federal property and monetary interests; (4) manage efficiently national resource lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the national resource lands adjacent to or traversed by said right-of-way; (5) protect lives and property; (6) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes; and (7) protect the public interest in the national resource lands.

SEC. 405. SUSPENSION OR TERMINATION OF RIGHTS-OF-WAY.—Abandonment of a right-of-way granted, issued, or renewed pursuant to this title or noncompliance with any provision of this title, condition of the right-of-way, or applicable rule or regulation of the Secretary may be grounds for suspension or termination of the right-of-way if, after due notice to the holder of the right-of-way and an appropriate administrative proceeding pursuant to section 554 of title 5, United States Code, the Secretary determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time. If the Secretary determines that an immediate temporary suspension of activities within a right-of-way for violation of its terms and conditions is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding. Prior to commencing any proceeding to suspend or terminate a right-of-way the Secretary shall given written notice to the holder of the ground or grounds for such action and shall give the holder a reasonable time to resume use of the right-of-way or to comply with this title, condition, rule, or regulation as the case may be. Failure of the holder of the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period shall constitute a rebuttable presumption of abandonment of the right-of-way: *Provided, however*, That where the failure of the holder to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period is due to circumstances not within the holder's control the Secretary is not required to commence proceedings to suspend or terminate the right-of-way.

SEC. 406. RIGHTS-OF-WAY FOR FEDERAL AGENCIES.—(a) The Secretary may reserve for the use of any department or agency of the United States a right-of-way over, upon, or through national resource lands, subject to such terms and conditions as he may impose. The provisions of this title shall be applicable to any such right-of-way.

(b) Where a right-of-way has been reserved for the use of any department or agency of the United States, the Secretary shall take no action to terminate, or otherwise limit, that use without the consent of the head of such department or agency.

SEC. 407. CONVEYANCE OF LANDS.—If under applicable law the Secretary decides to transfer out of Federal ownership, by patent, deed, or otherwise, any national resource lands covered in whole or in part by a right-of-way, including a right-of-way granted under the Act of November 16, 1973 (87 Stat. 576), the lands may be conveyed subject to the right-of-way; however, if the Secretary determines that retention of Federal control over the right-of-way is necessary to assure that the purposes of this title will be carried out, the terms and conditions of the right-of-way complied with, or the national resource lands protected, he shall (1) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (2) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents.

SEC. 408. EXISTING RIGHTS-OF-WAY.—Nothing in this title shall have the effect of terminating any rights-of-way or rights-of-use heretofore issued, granted, or permitted by the Secretary. However, the Secretary may cancel such a right-of-way or right-of-use with the consent of the holder thereof and in its stead issue a right-of-way pursuant to the provisions of this title.

SEC. 409. STATE STANDARDS.—The Secretary shall take into consideration and, to the extent practical, comply with State standards for rights-of-way construction, operation, and maintenance if those standards are for similar purposes as, and more stringent than, applicable Federal standards and if the national resource lands are adjacent to lands to which such State standards apply.

SEC. 410. EFFECT ON OTHER LAWS.—(a) After the date of enactment of this Act, no right-of-way for the purposes listed in this title shall be granted, issued, or renewed over, upon, or through national resource lands except under and subject to the provisions, limitations, and conditions of this title: *Provided*, That any application for a right-of-way filed under any other law prior to the date of enactment of this Act may, at the applicant's option, be considered as an application under this title or the Act under which the application was filed. The Secretary may require the applicant to submit any additional information he deems necessary to comply with the requirements of this title.

(b) Nothing in this title shall be construed to preclude the use of national resource lands for highway purposes pursuant to sections 107 and 317 of title 23, United States Code.

SEC. 411. INTERAGENCY COORDINATION.—Applicants before any Federal agency other than the Department of the Interior seeking a license, certificate, or other authority for a project which will involve national resource lands shall simultaneously apply to the Secretary for the appropriate authority to use national resource lands and submit to the Secretary all information furnished to such other Federal agency.

TITLE V—CONSTRUCTION OF LAW, PRESERVATION OF VALID EXISTING RIGHTS, AND REPEAL OF LAWS

SEC. 501. CONSTRUCTION OF LAW.—(a) Except as provided in section 410, the authority conferred upon the Secretary by this Act is in addition to all other authority vested in him by law, and nothing in this Act shall be deemed to repeal any such other authority by implication.

(b) Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States, or—

(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on national resource lands;

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two or more States and the Federal Government;

(4) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereto;

(5) as modifying the terms of any interstate compact;

(6) as a limitation upon any State criminal statute or upon the police power of the respective States, or as derogating the authority of a local police officer in the performance of his duties, or as depriving any State or political subdivision thereof of any right it may have to exercise civil and criminal jurisdiction on the national resource lands;

(7) as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national resource lands; or

(8) as amending, limiting, or infringing the existing laws providing grants of lands to the States.

SEC. 502. VALID EXISTING RIGHTS.—All actions by the Secretary under this Act shall be subject to valid existing rights.

SEC. 503. REPEAL OF LAWS RELATING TO DISPOSAL OF NATIONAL RESOURCE LANDS.—(a) The following statutes or parts of statutes are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. Homesteads:				
Revised Statute 2289				161, 171.
Mar. 3, 1891	561	5	26:1097	161, 162.
Revised Statute 2290				162.
Revised Statute 2295				163.
Revised Statute 2291				164.
June 6, 1912	153		37:123	164, 169, 218.
May 14, 1880	89		21:141	166, 185, 202, 223.
June 6, 1900	821		31:683	166, 223.
Aug. 9, 1912	280		37:267	
Apr. 6, 1914	51		38:312	167.
Mar. 1, 1921	90		41:1193	
Oct. 17, 1914	325		38:740	168.
Revised Statute 2297				169.
Mar. 3, 1881	153		21:511	
Oct. 22, 1914	335		38:766	170.
Revised Statute 2292				171.
June 8, 1880	136		21:166	172.
Revised Statute 2301				173.
Mar. 3, 1891	561	6	26:1098	
June 3, 1896	312	2	29:197	
Revised Statute 2288				174.
Mar. 3, 1891	561	3	26:1097	
Mar. 3, 1905	1424		33:991	
Revised Statute 2296				175.
Apr. 28, 1922	155		42:502	
May 17, 1900	479	1	31:179	179
Jan. 26, 1901	180		31:740	180.
Sept. 5, 1914	294		38:712	182.
Revised Statute 2300				183.
Aug. 31, 1918	166	8	40:957	
Sept. 13, 1918	173		50:960	
Revised Statute 2302				184, 201.
July 26, 1892	251		27:270	185.
Feb. 14, 1920	76		41:434	186.
Jan. 21, 1922	32		42:358	
Dec. 28, 1922	19		42:1067	
June 12, 1930	471		46:580	
Feb. 25, 1925	326		43:981	187.
June 21, 1934	690		48:1185	187a.
May 22, 1902	821	2	32:203	187b.
June 5, 1900	716		31:270	188, 217.

Act of	Chapter	Section	Statue at Large	43 U.S. Code
1. Homesteads—Continued				
Mar. 3, 1875	131	15	18:420	189.
July 4, 1884	180	Only last paragraph of sec. 1.	23:96	190.
Mar. 1, 1933	160	1	47:1418	190a.

The following words only: "Provided, That no further allotments of lands to Indians on the public domain shall be made in San Juan County, Utah, nor shall further Indian homesteads be made in said county under the Act of July 4, 1884 (23 Stat. 96: U.S.C. title 43, sec. 190)."

Revised Statutes 2310, 2311.				191.
June 13, 1902	1080		32:384	203.
Mar. 3, 1879	191		20:472	204.
July 1, 1879	60		21:46	205.
May 6, 1886	88		24:22	206.
Aug. 21, 1916	361		39:518	207.
June 3, 1924	240		43:357	208.
Revised Statute 2298				211.
Aug. 30, 1890	837		26:391	212.

The following words only: "No person whoshall after the passage of this act, enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall not operate to curtail the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry or settlement, is validated by this act."

Mar. 3, 1891	561	17	26:1101	

The following words only: "and that the provision of 'An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes,' which reads as follows, viz: 'No person who shall alter the passage of this act enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate under all said laws,' shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands and not to include lands entered or sought to be entered under mineral land laws."

Apr. 28, 1904	1776		33:527	213.
Aug. 3, 1950	521		64:398	
Mar. 2, 1889	381	6	25:854	214.
Feb. 20, 1917	98		39:925	215.
Mar. 4, 1921	162	1	41:1433	216.
Feb. 19, 1909	160		35:639	218.
June 13, 1912	166		37:132	
Mar. 3, 1915	84		38:953	
Mar. 3, 1915	91		38:957	
Mar. 4, 1915	150	2	38:1163	
July 3, 1916	220		39:344	
Feb. 11, 1913	39		37:666	218, 219.
June 17, 1910	298		36:531	219.
Mar. 3, 1915	91		38:957	
Sept. 5, 1916	440		39:724	
Aug. 10, 1917	52	10	40:275	
Mar. 4, 1915	150	1	38:1162	220.
Mar. 4, 1923	245	1	42:1445	222.
Apr. 28, 1904	1801		33:547	224.
Mar. 2, 1907	2527		34:1224	
May 29, 1908	220	7	35:466	
Aug. 24, 1912	371		37:499	
Aug. 22, 1914	270		38:704	231.
Feb. 25, 1919	21		40:1153	
July 3, 1916	214		39:341	232.
Sept. 29, 1919	64		41:288	233.
Apr. 6, 1922	122		42:491	223, 272, 273.
Mar. 2, 1889	381	3	25:854	234.
Dec. 29, 1894	14		28:599	
July 1, 1879	63	1	21:48	235.
Dec. 20, 1917	6		40:430	236.
July 24, 1919	26	Next to last paragraph only.	41:271	237.
Mar. 2, 1932	69		47:59	237a.
May 21, 1934	320		48:787	237b.
May 22, 1935	135		49:286	237c.
Aug. 19, 1935	560		49:659	237d.
Mar. 31, 1938	57		52:149	
Apr. 20, 1936	239		49:1235	237e.
July 30, 1956	778	1, 2, 4	70:715	237 f, g, h.
Mar. 1, 1921	102		41:1202	238.
Apr. 7, 1922	125		42:492	
Revised Statute 2308				239.
June 16, 1898	458		30:473	240.
Aug. 29, 1916	420		39:671	
Apr. 7, 1930	108		46:144	243.
Mar. 3, 1933	198		47:1424	243a.
Mar. 3, 1879	192		20:472	251.
Mar. 2, 1889	381	7	25:855	252.
June 3, 1878	152		20:91	253.
Revised Statute 2294				254.
May 26, 1890	355		26:121	
Mar. 11, 1902	182		32:63	
Mar. 4, 1904	394		33:59	
Feb. 23, 1923	105		42:1281	
Revised Statute 2293				255.
Oct. 6, 1917	86		40:391	
Mar. 4, 1913	149	Only last paragrapn of section headed "Public Land Service."	37:925	256.
May 13, 1932	178		47:153	256a.
June 16, 1933	99		48:274	
July 26, 1935	419		49:504	
June 16, 1937	361		50:303	
Aug. 27, 1935	770		49:909	256b.
Sept. 30, 1890	J. Res. 59		26:684	261.
June 16, 1880	244		21:287	263.
Apr. 18, 1904	25		33:589	
Revised Statute 2304				271.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 1, 1901	674		31:847	271, 272.
Revised Statute 2305				272.
Feb. 25, 1919	37		40:1161	272a.
Dec. 28, 1922	19		42:1067	
Revised Statute 2306				274.
Mar. 3, 1893	208		27:593	275.

The following words only: "And provided further: That where soldier's additional homestead entries have been made or initiated upon certificate of the Commissioner of the General Land Office of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land; but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate."

Aug. 18, 1894	301	Only last paragraph of Section headed "Surveying the Public Lands."	28:397	276.
Revised Statute 2309				277.
Revised Statute 2307				278.
Sept. 21, 1922	357		42:990	
Sept. 27, 1944	421		58:747	279-283.
June 25, 1946	474		60:308	279.
May 31, 1947	88		61:123	279, 280, 282.
June 18, 1954	306		68:253	279, 282.
June 3, 1948	399		62:305	283, 284.
Dec. 29, 1916	9	1-8	39:862	291-298.
Feb. 28, 1931	328		46:1454	291.
June 9, 1933	53		48:119	291.
June 6, 1924	274		46:469	292.
Oct. 25, 1918	195		40:1016	293.
Sept. 29, 1919	63		41:287	294, 295.
Mar. 4, 1923	245	2	42:1445	302.
Aug. 21, 1916	361		39:518	1075.
Aug. 28, 1937	876	3	50:875	1181c.
2. Sale and Disposal Laws:				
Mar. 3, 1891	561	9	26:1099	671.
Revised Statute 2354				673.
Revised Statute 2355				674.
May 18, 1898	344	2	30:418	675.
Revised Statute 2365				676.
Revised Statute 2357				678.
June 15, 1880	227	3, 4	21:238	679, 680.
Mar. 2, 1889	381	4	25:854	681.
Mar. 1, 1907	2286		34:1052	682.
June 1, 1938	317		52:609	682a-e.
July 14, 1945	298		59:467	
June 8, 1954	270		68:239	
Revised Statute 2361				688.
Revised Statute 2362				689.
Revised Statute 2363				690.
Revised Statute 2368				691.
Revised Statute 2366				692.
Revised Statute 2369				693.
Revised Statute 2370				694.
Revised Statute 2371				695.
Revised Statute 2374				696.
Revised Statute 2372				697.
Feb 24, 1909	181		35:645	
May 21, 1926	353	The two provisos only.	44:591	
Revised Statute 2375				698.
Revised Statute 2376				699.
Mar. 2, 1889	381	1	25:854	700.
3. Townsite Reservation and Sale:				
Revised Statute 2380				711.
Revised Statute 2381				712.
Revised Statute 2382				713.
Aug. 24, 1954	904		68:792	
Revised Statute 2383				714.
Revised Statute 2384				715.
Revised Statute 2386				717.
Revised Statute 2387				718.
Revised Statute 2388				719.
Revised Statute 2389				720.
Revised Statute 2391				721.
Revised Statute 2392				722.
Revised Statute 2393				723.
Revised Statute 2394				724.
Mar. 3, 1877	113	1, 3, 4	19:392	725-727.
Mar. 3, 1891	561	16	26:1101	728.
July 9, 1914	138		38:454	730.
Feb. 9, 1903	531		32:820	731.
4. Drainage Under State Laws:				
May 20, 1908	181	1-7	35:171	1021-1027.
May 1, 1958	P.L. 85-387		72:99	1029-1034.
Jan. 17, 1920	47		41:392	1041-1048.
5. Abandoned Military Reservation:				
July 5, 1884	214	5	23:104	1074.
Aug. 21, 1916	361		39:518	1075.
Mar. 3, 1893	208		27:593	1076.

The following words only: "Provided, That the President is hereby authorized by proclamation to withhold from sale and grant for public use to the municipal corporation in which the same is situated all or any portion of any abandoned military reservation not exceeding twenty acres in one place."

Aug. 23, 1894	314		28:491	1077, 1078.
Feb. 11, 1903	543		32:822	1079.
Feb. 15, 1895	92		28:664	1080, 1077.
Apr. 23, 1904	1496		33:306	1081.
6. Public Lands; Oklahoma:				
May 2, 1890	182	Last paragraph of sec. 18 and secs. 20, 21, 22, 24, 27.	26:90	1091-1094, 1096, 1097.
Mar. 3, 1891	543	16	26:1026	1098.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Aug. 7, 1946	772	1, 2	60:872	1100–1101.
Aug. 3, 1955	498	1–8	69:445	1102–1102g.
May 14, 1890	207		26:109	1111–1117.
Sept. 1, 1893	J. Res. 4		28:11	1118.
May 11, 1896	168	1, 2	29:116	1119.
Jan. 18, 1897	62	1–3, 5, 7	29:490	1131–1134.
June 23, 1897	8		30:105	
Mar. 1, 1899	328		30:966	
7. Sales of Isolated Tracts:				
Revised Statute 2455				1171.
Feb. 26, 1895	133		28:687	
June 27, 1906	3554		34:517	
Mar. 28, 1912	67		37:77	
Mar. 9, 1928	164		45:253	
June 28, 1934	865	14	48:1274	
July 30, 1947	383		61:630	
Apr. 24, 1928	428		45:457	1171a.
May 23, 1930	313		46:377	1171b.
Feb. 4, 1919	13		40:1055	1172.
May 10, 1920	178		41:595	1173.
Aug. 11, 1921	62		42:159	1175.
May 19, 1926	337		44:566	1176.
Feb. 14, 1931	170		46:1105	1177.
8. Alaska Special Laws:				
Mar. 3, 1891	561	11	26:1099	732.
May 25, 1926	379		44:629	733–736.
May 29, 1963	P.L. 88-34		77:52	
July 24, 1947	305		61:414	738.
May 14, 1898	299	1	30:409	270.
Mar. 3, 1903	1002		32:1028	
Apr. 29, 1950	137	1	64:94	
Aug. 3, 1955	496		69:444	270, 687a–2.
Apr. 29, 1950	137	2–5	64:95	270, 270–5.
July 11, 1956	571	2	70:529	270–6, 270–7, 687a–1.
July 8, 1916	228		39:352	270–8, 270–9.
June 28, 1918	110		40:632	270–10, 270–14.
July 11, 1956	571	1	70:528	
Mar. 8, 1922	96	1	42:415	270–11.
Aug. 23, 1958	P.L. 85–725	1,4	72:730	
Aug. 17, 1961	P.L. 87–147		75:384	270–13.
Oct. 3, 1962	P.L. 87–742		76:740	
Apr. 13, 1926	121		44:243	270–15.
Apr. 29, 1950	134	3	64:93	270–16, 270–17.
May 14, 1898	299	10	30:413	270–4, 687a to 687a–5.
Mar. 3, 1927	323		44:1364	
May 26, 1934	357		48:809	
Aug. 23, 1958	P.L. 85–725	3	72:730	
Mar. 3, 1891	561	13	26:1100	687a–6.
Aug. 30, 1949	521		63:679	687b to 687b–4.
July 19, 1963	P.L. 88–66		77:80	687b–5.
9. Pittman Underground Water Act:				
Sept. 22, 1922	400		42:1012	356.

(b) Section 7 of the Taylor Grazing Act (48 Stat. 1269, 1272), as amended by section 2 of the Act of June 26, 1936 (49 Stat. 1976), is further amended to read as follows:

"The Secretary of the Interior is authorized, in his discretion to examine and classify any lands withdrawn or reserved by Executive order of November 26, 1934 (numbered 6910), and amendments thereto, and Executive order of February 5, 1935 (numbered 6904), or within a grazing district, which are more valuable or suitable for any other use than for the use provided for under this Act, or proper for acquisition in satisfaction of any outstanding lien, exchange or land grant, and to open such lands to disposal in accordance with such classification under applicable public land laws. Such lands shall not be subject to disposition until after the same have been classified and opened to disposal.".

(c) Section 2 of the Act of March 8, 1922 (42 Stat. 415, 416), as amended by section 2 of the Act of August 23, 1958 (72 Stat. 730), is further amended to read:

"The coal, oil, or gas deposits reserved to the United States in accordance with the Act of March 8, 1922 (42 Stat. 415), as added to by the Act of August 17, 1961 (75 Stat. 384), and amended by the Act of October 3, 1962 (76 Stat. 740), shall be subject to disposal by the United States in accordance with the provisions of the laws applicable to coal, oil, or gas deposits or coal, oil, or gas lands in Alaska in force at the time of such disposal. Any person qualified to acquire coal, oil, or gas deposits, or the right to mine or remove the coal or to drill for and remove the oil or gas under the laws of the United States shall have the right at all time to enter upon the lands patented under the Act of March 8, 1922, as amended, and in accordance with the provisions hereof, for the purpose of prospecting for coal, oil, or gas therein, upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal, oil, or gas deposits in any such land, or the right to mine, drill for, or remove the same, may reenter and occupy so much of the surface thereof incident to the mining and removal of the coal, oil, or gas therefrom, and mine and remove the coal or drill for and remove oil and gas upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: *Provided*, That the owner under such limited patent shall have the right to mine the coal for use on the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: *Provided further*, That nothing in this Act shall be construed as authorizing the exploration upon or entry of any coal deposits withdrawn from such exploration and purchase.".

(e) Section 3 of the Act of August 30, 1949 (63 Stat. 679), is amended to read:

"Notwithstanding the provisions of any Act of Congress to the contrary, any person who prospects for, mines, or removes any minerals from any land disposed of under the Act of August 30, 1949 (63 Stat. 679), shall be liable for any damage that may be caused to the value of the land and tangible improvements thereon by such prospecting for, mining, or removal of minerals. Nothing in this section shall be construed to impair any vested right in existence on August 30, 1949.".

SEC. 504. REPEAL OF LAWS RELATING TO ADMINISTRATION OF NATIONAL RESOURCE LANDS.—The following statutes or parts of statutes are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. Mar. 2, 1895	174		28:744	176.
2. June 28, 1934	865	8	48:1272	315g.
June 26, 1936	842	3	49:1976, title 1.	
June 19, 1948	548	1	62:533	
July 9, 1962	P.L. 87-524		76:140	315g–1.
3. Aug. 24, 1937	744		50:748	315p.
4. Mar. 3, 1909	271	2d proviso only.	35:845	772.
June 25, 1910	J. Res. 40		36:884	
5. June 21, 1934	689		48:1185	871a.
6. Revised Statute	2447			1151.
Revised Statute	2448			1152.
7. June 6, 1874	223		18:62	1153, 1154.
8. Jan. 28, 1879	30		20:274	1155.
9. May 30, 1894	87		28:84	1156.
10. Revised Statute	2450			1161.
Feb. 27, 1877	69	1	19:244	
The following words only: "Section twenty-four hundred and fifty is amended by striking out in the fourth line the words 'Secretary of the Treasury' and inserting the words 'Secretary of the Interior' ".				
Revised Statute	2451			1162.
February 27, 1877	69	1	19:244	
The following words only: "Section twenty-four hundred and fifty-one is amended by striking out, in the first and second lines, the words 'Secretary of the Treasury' and inserting the words 'Secretary of the Interior' ".				
Revised Statute	2456			1163.
Sept. 20, 1922	350		42:857	
The words: ". . . and sections 2450, 2451, and 2456 be amended to read as follows:" and all words following in the Act.				
Revised Statute	2457			1164.
11. Mar. 3, 1891	561	7	26:1098	1165.
12. Revised Statute	2471			1191.
Revised Statute	2472			1192.
Revised Statute	2473			1193.
13. July 14, 1960	P.L. 86-649	101–202(a), 203–204(a), 301–303.	74:506	1361, 1362, 1363–1383.
14. Sept. 26, 1970	P.L. 91–429		84:885	1362a.
15. July 31, 1939	401	1, 2	53:1144	

SEC. 505. **REPEAL OF LAWS RELATING TO RIGHTS-OF-WAY.—(a) The following statutes or parts of statutes are repealed insofar as they apply to national resource lands:**

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statutes 2339				661.
The following words only: "and the right-of-way for the construction of ditches and canals for the purpose herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injuries or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage."				
Revised Statutes 2340				661.
The following words only:", or rights to ditches and reservoirs used in connection with such water rights,".				
Feb. 26, 1897	335		29:599	664.
Mar. 3, 1899	427	1	30:1233	665, 958 (16 U.S.C. 525).
The following words only; "that in the form provided by existing law the Secretary of the Interior may file and approve surveys and plats of any right-of-way for a wagon road, railroad, or other highway over and across any forest reservation or reservoir site when in his judgment the public interests will not be injuriously affected thereby."				
Mar. 3, 1875	152		18:482	934-939.
May 14, 1898	299	2-9	30:409	942-1 to 942-9.
Feb. 27, 1901	614		31:815	943.
June 26, 1906	3548		34:481	944.

Act of	Chapter	Section	Statute at Large	U.S. Code
Mar. 3, 1891	561	18-21	26:1101	946-949.
Mar. 4, 1917	184	1	39:1197	
May 28, 1926	409		44:668	
Mar. 1, 1921	93		41:1194	950.
Jan. 13, 1897	11		29:484	952-955.
Mar. 3, 1923	219		42:1437	
Jan. 21, 1895	37		28:635	951, 956, 957.
May 14, 1896	179		29:120	
May 11, 1898	292		30:404	
Mar. 4, 1917	184	2	39:1197	
Feb. 15, 1901	372		31:790	959 (16U.S.C. 79, 522).
Mar. 4, 1911	238		36:1253	961 (16 U.S.C. 5, 420, 523).
Only the last two paragraphs under the subheading. "Improvement of the National Forests" under the heading "Forest Service".				
May 27, 1952	338		66:95	
May 21, 1896	212		29:127	962-965. 2.523).
Apr. 12, 1910	155		36:296	966-970. te is

(b) Notwithstanding the provisions of subsection (a) of this section, the following statute is repealed in its entirety:

Act of	Chapter	Section	Statute at Large	U.S. Code
Revised Statute				43 U.S.C. 932

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I ask unanimous consent that Sunny Nixon, of my staff, and Harrison Loesch, of the staff of the Committee on Interior and Insular Affairs, be accorded privileges of the floor during the debate and any votes which might occur on this bill or on amendments to it this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM CLOSE OF BUSINESS TUESDAY UNTIL 9 A.M. WEDNESDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow it stands in adjournment until the hour of 9 a.m. Wednesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HASKELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GARN). Without objection, it is so ordered.

Mr. STENNIS. Mr. President, will the Senator yield to me for what I hope will be just 1 or 2 minutes for the passage of a bill?

Mr. HASKELL. I am pleased to yield.

ASSISTANT COMMANDANT OF THE MARINE CORPS

Mr. STENNIS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2117.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 2117) to amend section 5202 of title 10, United States Code, relating to the detail, pay, and succession to duties of the Assistant Commandant of the Marine Corps, as follows:

(1) Page 2, line 8, after "officer", insert: or medical officer of the Air Force.

(2) Page 2, strike out line 9, and insert: any provisions of this title by reason of age or length of service—

Amend the title so as to read: "An Act to amend section 5202 of title 10, United States Code, relating to the detail, pay, and succession to duties of the Assistant Commandant of the Marine Corps and to amend title 10 of the United States Code in order to make certain disability retirement determinations by the Secretaries of the military departments subject to review by the Secretary of Defense.".

Mr. STENNIS. Mr. President, are we in legislative session?

The PRESIDING OFFICER. We are.

Mr. STENNIS. Mr. President, this bill's sole purpose was to permit the Assistant Commandant of the Marine Corps to have a 4-star general. This has been considered by the Committee on Armed Services, was reported out unanimously, passed here unanimously, and went to the House of Representatives, where it was passed, but with amendments largely technical, both of them. One is to insert, after the word "officer," "or medical officer of the Air Force." Another was to strike out line 9 and insert "any provisions of this title by reason of age or length of service."

I am advised and I believe, Mr. President, that these amendments are purely technical and do not change the purpose or the real substance of the bill.

I move that the Senate concur in the House amendments. This has been agreed to by the minority.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

Mr. STENNIS. Mr. President, I thank the Senator from Colorado for yielding.

NATIONAL RESOURCE LANDS MANAGEMENT ACT

The Senate continued with the consideration of the bill (S. 507) to provide for the management, protection, and development of the national resource lands, and for other purposes.

Mr. HASKELL. Mr. President, I ask unanimous consent that during the consideration of S. 507, Messrs. Steven Quarles, Michael Harvey, Daniel Dreyfus, Harrison Loesch, and Thomas Williams be given privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. I add to that list Sam Ballinger.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 507, The National Resource Lands Management Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. I wish to point out to my colleagues that this bill does provide cohesive management authority to the Department of the Interior for its national resource lands, which comprise two-thirds of all Federal land and one-fifth of our Nation's entire land base.

Mr. President, S. 507, often called the BLM Organic Act, would provide the first comprehensive statement of congressional goals, policies, and authority for the use and management of 451 million acres of federally owned lands administered by the Secretary of the Interior through the Bureau of Land Management.

The Bureau of Land Management is the only major Federal land agency without a modern statutory mandate.

Over the years, the Congress has established a comprehensive statutory base of goals, objectives, and management authority for the newer and smaller land systems: the national park, forest, and wildlife refuge systems. Yet no similar legislative foundation exists for the national resource lands. The existence of the Forest Service's Organic Act of 1897 and Multiple Use-Sustained Yield Act of 1960 and the Park Service's Organic Act of 1916 not only makes the lack of a BLM Organic Act more conspicuous in its absence, but also provides convincing evidence of the embarrassing failure of Congress to complete the legislative task of providing a comprehensive statutory base for the management of all our public lands.

The only management tools available to the BLM remain some 3,000 public land laws which have accumulated over the last 170 years. A goodly proportion of these laws were written in the last century at a time when the disposal policy prevailed. Not unexpectedly, therefore, these laws are often conflicting, sometimes truly contradictory, and certainly incomplete and inadequate. S. 507, as ordered reported by the Interior Committee, would consolidate these laws, remove conflicts, and provide missing authority.

Mr. President, I have twice spoken on the Senate floor concerning the importance of this bill—during the last Congress as floor leader for S. 507's predecessor, and this Congress upon the introduction of S. 507. I believe those statements summarize my position on this bill; I need not repeat them. However, I do ask unanimous consent that a summary of the bill's provisions excerpted from the committee report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HASKELL. I would like to pay tribute to two men whose untiring work has led to this proposal. One of these men has returned to private life in my home State after 24 years of service to the Nation. No man has devoted more time or accomplished more in the effort to provide a truly effective statutory base for public land management than has Representative Wayne Aspinall. To list his legislative accomplishments as chairman of the Committee on Interior and Insular Affairs of the House of Representatives would be an exhaustive task. Yet, Mr. Aspinall did not simply author legislation as exigencies required; rather he was a true reformer. The Public Land Law Review Commission may be his greatest lasting monument. Mr. Aspinall conceived of the Commission, argued forcefully for its need both in the Congress and with the President, and wrote and the Congress. It contained over 137 which created it. The first act of the Commission was to name Mr. Aspinall its chairman. Six years later the Commission submitted its report, entitled "One-Third of the Nation's Land" to the President and the Congress. It contained over 137 numbered recommendations and several hundred unnumbered recommendations. So comprehensive and so innovative was this report that we on Capitol Hill are still digesting its contents. I am proud to note that S. 507 embodies over 100 of the Public Land Law Review Commission's principal recommendations; it is a strong beginning—a worthy start toward completing the heady agenda Representative Aspinall has bequeathed to us.

Second, tribute should be paid to the distinguished chairman of the Committee on the Interior. He introduced the first National Resource Lands Management Act on February 4, 1970, the year the Public Land Law Review Commission's report was submitted. Senator JACKSON has since been the principal proponent for this legislation. He has now succeeded in having it reported three times from the Interior Committee and passed twice by the Senate. Under his effective leadership, each successive version of the legislation has become stronger and enjoyed wider support. The chairman deserves plaudits for his outstanding dedication to the enactment of this legislation.

Mr. President, I cannot stress enough the urgent need for this long overdue legislation. This measure is a truly bipartisan effort. Both last Congress and this, the measure was reported unanimously by the Interior Committee. Last Congress it passed the Senate by a 71-to-1 vote. It contains virtually every provision of S. 1292, the President's proposal; it enjoys the full support of the administration. It is also favored by most conservation organizations and many user groups. It deserves prompt enactment.

EXHIBIT 1

I. PURPOSE OF S. 507, AS ORDERED REPORTED

The purpose of S. 507, as ordered reported, the National Resource Lands Management Act, is to provide the first comprehensive, statutory statement of purposes, goals, and authority for the use and management of about 448 million acres of federally-owned lands administered by the Secretary of the Interior through the Bureau of Land Management.

These lands—designated as "national resource lands" in S. 507—constitute the largest system of Federal lands—comprising 20 percent of America's land base and 60 percent of all federally-owned property. Over the years, the Congress has established statutory bases for the management of other, smaller Federal land systems: the National Forest, National Park, and National Wildlife Refuge Systems. No similar legislative foundation exists for the national resource lands.

While the Nation has come to regard the national resource lands as a permanent national asset which, for the most part, should be retained and managed on a multiple use, sustained yield basis, the only management tools available for this purpose remain some 3,000 public land laws which have accumulated over the last 170 years. Most of these statutes were written at a time when Federal ownership of the national resource lands was expected to be shortlived and, consequently, the Federal Government was regarded as only a temporary custodian of those lands. In comparison with the organic acts of the other Federal land management agencies, these laws are often conflicting, on occasion truly contradictory, and, to a serious extent, incomplete and inadequate. S. 507, as ordered reported, would consolidate these laws, remove conflicts, and provide missing authority.

II. SUMMARY OF MAJOR PROVISIONS

The introductory sections of S. 507, as ordered, establish the basic management policies; Titles I, II, III, and IV provide the tools to implement those policies; and Title V repeals a number of the 3,000 public land laws which either are obsolete or conflict with the provisions of S. 507, as ordered reported.

The introductory sections require that the national resource lands be managed in accordance with the principles of multiple use and sustained yield and define these principles. In addition, they establish the policy that, except where disposal is consistent with the purposes and conditions of the Act, the national resource lands will be retained in Federal ownership. Among other policies elucidated in these sections are a fair return to the United States for the use of the national resource lands; full public participation, including hearings and the use of advisory boards, in decisionmaking concerning those lands; and coordination of the decisionmaking with State and local land use planning.

Title I provides the general management authority. It directs the Secretary of the Interior to prepare and maintain an inventory of the national resource lands, review those lands for potential wilderness areas, develop land use plans, and manage the lands in accordance with the plans.

Title II provides the basic authority and guidelines for both conveying and acquiring national resource lands or interest in lands. Consistent with the retention policy, the guidelines for disposal of national resource lands limit such disposals to instances in which the public interest to be served by disposal clearly outweighs the interest to be served by retention. (Disposals could still occur under certain other statutes such as the Desert Land Act (10 Stat. 377), the Recreation and Public Purposes Act (44 Stat. 741), and the various laws providing for grants of lands to the States. (The title requires that, with certain exceptions, lands to be conveyed must be sold at fair market value, under competitive bidding, and with the mineral interest retained in Federal ownership. Authority is provided to sell reserved mineral interests when the reservation interferes with non-mineral development which constitutes a more beneficial use of the land than mineral development. The Secretary of the Interior is required to notify the appropriate State and local governments to permit them to plan for and zone or otherwise regulate lands to be conveyed out of Federal ownership. The Secretary is also authorized to insert in the patents of conveyed lands conditions to insure proper land use and protection of the public interest. A specific program is established to survey and convey to State and local governments for public purposes so-called "omitted lands"—lands erroneously or fraudulently omitted from original public land surveys. Title II also provides authority to issue documents of disclaimer when the United States has no interest in certain lands and to correct documents of conveyance. Finally, the title provides guidelines for the exchange of national resource lands for non-Federal lands and for the acquisition of additional national resource lands, but sharply circumscribes acquisition by condemnation to the single purpose of providing access to national resource lands.

Title III provides a number of specific management and enforcement authorities and makes selective changes in the General Mining Law of 1872 (17 Stat. 91), as amended, and the Mineral Leasing Act of 1920 (41 Stat. 437), as amended. In part, this title reenacts the Public Land Administration Act (74 Stat. 506), omitting provisions which are obsolete. It contains provisions concerning studies; investigations; cooperative agreements; contributions of money, services, or property; service charges; reimbursement payments; and excess payments. Perhaps, the most important management provisions provide for the establishment of a working capital fund; the posting of bonds or other security by resource developers or permittees to insure compliance with contracts or regulations and to protect national resource lands; and the maintenance, or payment for maintenance, of roads, trails, lands, or facilities by their users. In addition, Title III establishes a specific management program for one of the most fragile and heavily used areas of the national resource lands: the California desert. A particularly difficult and chronic land management problem for all public lands subject to mining concerns "stale claims" under the 1872 Mining Law and the lack of a central record keeping system for claims and patents. Title III contains a provision which would remove the stale claims and establish that record keeping system.

The enforcement provisions include criminal penalties for violation of national resource lands regulations; arrest authority for departmental personnel to enforce laws and regulations relating to lands or resources managed by the Secretary of the Interior; and authority for the Secretary to contract with State and local officials to provide more general law enforcement on the national resource lands. Finally, title III would amend the 1920 Mineral Leasing Act by providing States and local governments with an additional share of mineral revenues from public lands to be used by those governments for the full range of governmental services. As these services are normally required in advance of the payment of the mineral revenues, title III also establishes a program of loans to State and local governments based upon prospective payments of those revenues.

Title IV provides uniform and comprehensive authority to the Secretary to grant rights-of-way on the national resource lands for such purposes as roads, trails, canals, and powerlines. It is patterened after the Act of November 16, 1973 (87 Stat. 576); but it does not provide new authority to grant rights-of-way for oil and gas pipelines as this authority is contained in that Act. The title contains provisions concerning, among other things, rights-of-way corridors and the granting of rights-of-way in common; terms and conditions of rights-of-way including extent of liability of rights-of-way holders and the Federal Government; divulgence of information by rights-of-way applicants; suspension or limitation of rights-of-way; and grants of rights-of-way to other Federal agencies. In addition this title permits the Secretary to establish a cost-share roadbuilding program for timber harvesting on national resource lands similar to the program which the Forest Service administers under the National Forest Roads and Trails System Act (78 Stat. 1089).

Title V contains a list of laws to be repealed or amended. It explicitly preserves rights existing under these laws at the time of enactment of S. 507, as ordered reported. In addition, it contains a series of savings clauses to insure that water rights and water resources projects, interstate compacts, State criminal statues and police power, and State wildlife and fish responsibilities are not affected by the bill.

The list of laws to be repealed is specific. The bill would not repeal or or modify any law or segment of law not specifically contained in that list. For example, S. 507, as ordered reported, does not repeal the Desert Land Act (19 Stat. 377), the Recreation and Public Purposes Act (44 Stat. 741), the Color of Title Act (45 Stat. 1069), the grazing provisions of the Taylor Grazing Act (48 Stat. 1269), laws affecting the reverted Oregon and California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands, the mining laws, the Outer Continental Shelf Lands Act (67 Stat. 462), or laws concerning other Federal lands systems such as the National Forest, Wildlife Refuge, Park, Wild and Scenic Rivers, and Wilderness Preservation Systems.

Mr. HANSEN. Mr. President, let me join with the distinguished Senator from Colorado, the floor manager of the bill, in paying tribute to the work that has gone on before. Certainly, those persons whose names he listed have, indeed, played a very important and meaningful role in the final draft that is now before us. Not everything in the draft is necessarily pleasing to the junior Senator from Wyoming, but it is a fact, and I think it is well recognized, that this bill, that addresses the overall issues, that lay out the organic law, as this does, has been called for for a long, long time by a number of people who are students of the public land problems of the West.

The distinguished Senator from Colorado mentioned the work that the Public Land Law Review Commission had done on this legislation. While I am certain those members, many of whom are still with us—would probably take exception to particular deficiencies they might note or condemn other things that have been included in it but, I am quite confident I can say, they would applaud the fact that the Senate finally, at long last, is taking some action on a subject that they consider very important and certainly long overdue on the priority of the pieces of legislation that deserve the attention of the Senate of the United States.

Mr. HASKELL. Mr. President, I ask unanimous consent that a statement of the Senator from Montana (Mr. METCALF) be printed in the RECORD at this point. The Senator has long been a strong and able proponent of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR METCALF

Once again I wish to express, in the strongest possible terms, my support for the National Resource Lands Management Act. The Senate Interior Committee has reported this bill three times. Last year, the Senate passed it by a vote of 71–1. If the Congress fails to enact this bill this year, it will be a national disgrace. Twelve years ago, we enacted the Classification and Multiple Use Act (P.L. 88–607) and the Public Lands Sales Act (P.L. 88–608). These two laws provided what we then described as urgently needed management and disposal authority for the lands administered by the Secretary of Interior through the Bureau of Land Management. At that time, it was our express intention to enact more comprehensive legislation after the Public Land Law Commission filed its report. The Commission report, "One Third of the Nation's Land", was filed in June of 1970 and, unfortunately, the two 1964 statutes expired by their own terms. Our failure to enact permanent legislation during the last five years has left a gaping hole in our national natural resources policy.

The House of Representatives has been working on a companion bill to S. 507 for many months. I hope that Senate passage of the National Resource Lands Management Act will stimulate favorable action in the House of Representatives. I know that all Americans who are concerned about our public lands will be focusing their attention on this measure, I am sure that my former colleagues in the House will not let them down.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. HASKELL. I yield.

Mr. HATFIELD Mr. President, I wish to pose one question to the distinguished floor manager of the bill, the Senator from Colorado, so that the legislative history will be clear.

During the hearings on this measure and similar measures in recent years, I have sought to insure that this act will not affect the management of the Oregon and California grant lands and the formula by which funds are received from those lands are distributed.

For the purpose of clarification, I again ask the Senator this question: Will this legislation affect the management of the O. & C. lands or the O. & C. formula?

Mr. HASKELL. No, the Senator is correct. The management of these lands and the O & C. formula are not affected by this legislation.

Mr. HATFIELD. I thank the Senator.

Mr. HASKELL. Mr. President, I send an unprinted amendment to the desk and ask that it be considered by the Senate.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to read the amendment.

Mr. HASKELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 90, lines 12 through 25, and page 91, lines 1 and 2, strike clauses (1) and (2) of subsection 310(a) and insert in lieu thereof the following new clauses:

"(1) striking '52½ per centum' in both places and inserting in lieu thereof '30 per centum';

"(2) striking '37½ per centum' and inserting in lieu thereof '60 per centum';

"(3) striking 'December 31 and June 30' and inserting in lieu thereof 'March 31 and September 30'; and

"(4) striking 'or subdivisions thereof for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, as the legislature of the State may direct;' and inserting in lieu thereof 'and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act, for (1) planning (2) construction and maintennace of public facilities, and (3) provision of public services;'."

(2) On page 91, lines 8, 13–14, and 17, strike '22½ per centum' each time it occurs and insert in lieu thereof '60 per centum'.

Mr. HASKELL. This amendment, Mr. President, is a perfecting amendment to section 310 of the bill. Last January I introduced S. 507. At that time section 310 contained a provision concerning the disposition of revenues from the development of shale oil on the public lands.

During the markup session the distinguished Senator from Wyoming (Mr. HANSEN) increased the percentage of revenues from all minerals to go from public lands to be distributed to the States from 37.5 percent to a total of 60 percent. The Senator's amendment also provided that the additional 22.5 percent of revenues could be used for general public purposes by the State and local governments.

My amendment, which I introduce now, would provide that the entire amount, not just the additional 22.5 percent, go for general public purposes.

The law as it now stands says the 37½ percent of revenues going to the States can only be used for roads and schools. I think, Mr. President, as all of us are well aware, when the States experience the impacts of a so-called energy boom—and, of course, this is what will happen in the West—their needs will far exceed roads and school buildings. They will require planning, construction of public facilities such as water and sewer lines, provision of public services such as police and fire protection, and a multitude of other public matters which were not envisaged when the Mineral Leasing Act of 1920 was enacted.

So I urge upon my colleagues the merits of this amendment.

Mr. HANSEN. Mr. President, I rise in support of the amendment proposed by the Senator from Colorado.

There is no gain saying the fact that the in way the amendment is drafted and the way roads and schools are construed in the minds of most people there will be no reason for any State to fear an adverse impact from this amendment if it becomes law because of the possibility that something might be taken from either roads or schools.

I know we have heard in my State from some members of the teaching profession who are concerned about the possibility that they will lose funds, Federal funds, that heretofore have been depended upon for paying the costs incidents to the operation of the schools.

I think it fully conforms with the concept that is embodied in revenue-sharing to give the States the right, as this amendment would, to determine if a broader spectrum of needs is important to consider all of those needs, and to select from those needs from time to time specific requirements that, in the opinion of the State legislatures, are more important than other considerations. That is exactly as I understand, what this amendment does. It still gives the State legislatures full authority. Am I right about that?

Mr. HASKELL. The Senator is correct. The amendment provides full authority, but suggest that priority should obviously be given to the affected locales. In other words, take my State: The impact is going to come primarily west of the Continental Divide, and it would be improper under the amendment for my State to spend most of the moneys for a locale on the Kansas border, for example.

Mr. HANSEN. Yes.

When I introduced the amendment to increase the share of Federal royalties to be returned to the States from their present 37.5 percent to 60 percent, I spelled out in that amendment, and I am very pleased that the Senator from Colorado joined in support of it, I recognized that we must give first consideration to the impact, social and economic impact, that will result from the development of energy.

Wyoming has oftentimes been referred to as the Energy State. That comes about because of all the States producing oil and gas I think we rank about fifth or sixth, someplace in that rank, in the production of oil and gas. Our coal reserves may be as great as are found in any other State. We are an important producer of uranium. I think only the State of New Mexico exceeds the production that annually occurs in the State of Wyoming. There are predictions that before long the State of Wyoming may eclipse the State of New Mexico in the production of uranium.

Three States, Colorado, Utah, and Wyoming, have about all of the important oil shale deposits that are considered to be producible in the United States, as I understand it. While it seems now that the production of energy from oil shale may be a little slower in coming than was earlier anticipated, there can be no doubt that some time down the road in the future, if we exhaust or if the competitive advantage of oil shale would make it economically feasible to produce it, we would have activity in this yet largely untapped source of energy. There have been ongoing projects in the State of Colorado for some two decades or more, I guess, have there not, may I ask the Senator?

Mr. HASKELL. The Senator is correct.

Mr. HANSEN. A lot of work has been done. The technology is far closer to being feasible today than at any previous time, and yet most people, as I understand it, are in agreement that there still are some obstacles, some roadblocks, to be overcome before the energy companies get on with full scale development of the oil shale resources.

But this is just still another example of what the potential is. When we talked about energy, I mentioned that Wyoming is oftentimes referred to as the Energy State. The fact is when we reflect upon the situation that is extant today, with America importing about 40 percent, I believe—roughly that—of all of the oil we use in the United States from foreign countries, when we consider the impact that would result if another oil embargo were to be imposed, we cannot disregard the importance of shoring up our own domestic energy reserves in every feasible, practical way.

I think the amendment by the distinguished Senator from Colorado moves clearly in this direction in assuring that.

As the States that have the energy respond to the Nation's call to produce and to make that energy available for all 50, there is certainly no doubt that there will be new people coming in. They will be coming in very quickly. They will arrive before there is much of a reflection upward on the tax base that later on will occur as activities get under way.

The first thing that happens is that these new people bring problems with them. They have children and their children need schools. Some from time to time become ill, the need for hospitals is a very real one. The requirement that cities, with a population that might double in a year or two being a very real one, may want to take steps to expand other facilities than roads or schools—sewers, new water systems are important.

The city of Gillette very probably will have to go 42 miles to find water that will be suitable for the purposes of that municipality.

Police forces are going to have to be increased and augmented.

The amendment by the Senator from Colorado addresses all of these concerns. It calls for planning and it calls for the construction of capital improvements. That is not restricted simply to roads and schools. It goes further in assuring, to the extent that these funds are available, that the cities and municipalities can also provide greater personal services with the expanded use to which these funds may be put.

I want to assure my friend from Colorado that I wholeheartedly support his amendment. I hope it may be adopted.

Mr. HASKELL. I think the Senator from Wyoming very much, indeed, and I appreciate his very perceptive observations on what is necessary on the local scene.

Mr. President, I introduced S. 507 on January 30 of last year. At that time section 310 contained a provision concerning the disposition of revenues from the development of oil shale on the public lands. As my colleagues know section 35 of the Mineral Leasing Act of 1920 provides that 37½ percent of the revenues from mineral leasing on public lands are paid to the States in which the lands involved are located. The law requires that the States use this money "for the construction and maintenance of public roads or for the support of public schools or other public educational institutions as the legislature of the State may direct." The original section 310 would have amended section 35 with respect to revenues from oil shale leases. It would permit each State and local government to use its share of oil shale revenues for: First, planning; second, construction and maintenance of public facilities; and third, provision of public services. I also introduced the provision as a separate bill, S. 834, which passed the Senate on April 22, 1975. A similar bill of mine, S. 3009, passed the Senate last Congress. I also added the provision to a second bill, S. 3869, which also passed the Senate last Congress.

These several efforts manifest my view of the importance of reform of section 35 of the Mineral Leasing Act to the future of Colorado and the other Western resource States.

The oil shale reserves in the Green River formation in Colorado, Utah, and Wyoming contain the equivalent of 600 billion barrels of oil—a quantity approximately equivalent to the entire known world reserves of oil. Others estimate the reserves may be as high as 1.3 trillion barrels, a total which would be 47 times the total U.S. reserves. The vast majority of these deposits—approximately 80 percent—is on public lands.

This Nation has recently embarked on a program of leasing those public lands for the development of our shale resources. Through its prototype leasing program the Department of the Interior has leased two 5,000-acre tracts in Colorado and two 5,000-acre tracts in Utah. Two more tracts in Wyoming were offered for lease but were not accepted.

If, as seems likely, there is a substantial oil shale boom, State and local governments will have to provide a wide range of community services to large numbers of new residents. Roads and schools are just a few of such services. Water and sewer treatment plants, health and emergency services, police and fire protection, all must be considered, planned, and funded.

Once the Federal law is changed, local governments in the affected area can immediately begin using available funds to plan and provide the entire range of services growth will demand. My State, Colorado, has already made the comparable change in State law.

The need to provide the necessary flexibility to State and local governments to use funds derived from sales, bonuses, royalties, and rentals of public lands for oil shale development is obvious. The local people will bear the often severe, localized adverse impacts of the development of minerals which will be of national benefit in meeting our energy needs. The magnitude of these impacts were brought home dramatically to me when I chaired a hearing on the economic and social consequences of oil shale development in Grand Junction, Colo., on January 19, 1974. It was on the record of this hearing that section 310 and its predecessors were developed.

During the markup of S. 507, section 310 was viewed favorably by the committee. However, at the suggestion of Senator HANSEN, the section was expanded to cover all Mineral Leasing Act revenues, not just oil shale revenues. Furthermore, an additional 22½ percent of the revenues would be provided to the States.

This amendment is similar to one the Senate has already agreed to this Congress in S. 521, the Outer Continental Shelf bill, and S. 391, the coal leasing measure. I am particularly delighted to note that on January 21, the House adopted its own version of a Coal Leasing Act and, in doing so, for the first time accepted a provision reforming section 35 of the Mineral Leasing Act.

The committee amendment to section 310 of S. 507 recognizes two things: First, the so-called energy boom will not be limited to oil shale; instead, it will require rapid increases in coal and oil and gas production in the West placing similar strains on the economy of communities adjacent to coal, oil, and gas fields. Second, the impacted communities will require a higher percentage of the mineral revenues from Federal lands if they are to meet the sudden surge in growth pressures which had heretofore increased only incrementally.

I believe section 310 in S. 507, as reported, had one flaw: Only the 22½ percent of revenues newly made available to the States can be devoted to the wider permissible uses. The 37½ percent of revenues which the States have been receiving under the Mineral Leasing Act would continue to be usable only for schools and roads. The States and local governments must have the flexibility to use all the revenues they receive under the Mineral Leasing Act for any public services or facilities if they are to succeed in accommodating the inevitable, extraordinary economic, social, and environmental effects of the "energy boom."

My amendment would permit all 60 percent of mineral revenues which are to be made available to the State and local governments to be used in this flexible manner.

I move the adoption of the committee amendment and ask that it be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HASKELL. I now move the adoption of my amendment. I yield back all my time.

Mr. STEVENS. Is there controlled time?

The PRESIDING OFFICER. There is no controlled time.

The question is on agreeing to the amendment.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I intend to ask a series of questions about any amendment concerning this bill. I hasten to point out to the Members of the Senate that are here that this bill deals with federally owned lands of the United States and at the present time 55 percent or more of those lands are in my State.

We have some serious reservations about this bill going back over a period of years. We tried to work out those reservations the last time the bill was before the Senate.

Apparently, there is some question about being able to work those out this year, so we will just have to talk about them. Let me point out that of the Federal lands I am talking about; that is, Federal lands left after the land claims are settled—that Land Claims Act permits our native people to select 40 million acres of land—and after our State selects 103.5 million acres of land. Neither of those processes is complete yet.

I do not think we should proceed in haste with a bill that could be interpreted to, in any way, impede on the rights of our native people of our State or upon some of the very critical problems our State must face in the future.

In regard to this amendment, as I understand it, it has no impact at all upon the provision that deals with the distribution of revenues from the Federal lands in the State of Alaska to our State which, as the manager of the bill knows, is different from those that affect the 17 Western States because Alaska has never been a beneficiary of a reclamation program.

I ask the manager of the bill if that is correct, that this amendment will not in any way impede upon the present distribution of funds, any way change the present distribution of funds as they are derived from Federal lands in the State of Alaska?

Mr. HASKELL. The Senator is correct. It will not affect the distribution of funds to the State of Alaska.

I might mention that the Governor of Alaska met with the Interior Committee staff in the Joint Commission's offices in Alaska and indicated that the early adoption of a BLM Organic Act was an important step to be taken for the purpose of considering the d-z lands legislation for Alaska.

Mr. STEVENS. I happen to have correspondence from the State that deals with the bill in total and, as I understand it, those provisions are not changed from the last time this bill was before the Senate. But am I correct, I ask the manager of the bill, that the impact of this amendment is to increase participation of the 17 Western States to 60 percent and to remove, to the extent possible, the current limitations upon the use of those moneys within those States? Is that the intent of this bill?

Mr. HASKELL. The Senator is in part correct and in part incorrect. He is correct when he says that the amendment broadens the use of the money. He is incorrect when he says the amendment increases the percentage of the money.

Mr. STEVENS. Maybe I am misinterpreting that and that is what I am trying to seek.

I understand it strikes 37½ percent and goes up to 60 percent.

Mr. HASKELL. The Senator is incorrect. That is in the basic committee amendment and not my amendment.

Mr. STEVENS. Then I suggest the absence of a quorum and I would like to have a copy of the amendment. I ask for a copy of the amendment.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to temporarily lay aside the pending amendment so that I might call up an amendment of my own.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1360

Mr. PACKWOOD. Mr. President, I call up an amendment No. 1360.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an amendment No. 1360.

The amendment is as follows:

On page 65, lines 6 and 7, strike "Act and coordinated" and insert in lieu thereof "Act. The Secretary, in".

On page 65, line 7, strike the comma.

On page 65, line 9, between "law," and "with" insert "coordinate such plans".

On page 65, line 12, strike the period and insert in lieu thereof "and consider current use and zoning patterns of land affected by the use of national resource lands.".

Mr. PACKWOOD. Mr. President, this amendment will require the Secretary to give some weight to local and State land use planning in the administration of this bill. The critical words in the amendment are as follows: "and consider current use and zoning patterns of land affected by the use of national resource lands."

I ask unanimous consent to have printed in the RECORD a letter of endorsement from the National Association of Counties.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., February 16, 1976.

Hon. ROBERT PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: The National Association of Counties (NACo) supports your efforts on behalf of state and local governments to amend the proposed "BLM Organic Act". Your amendments would require much needed coordination of actions on federal lands with state and local land use plans.

The BLM Organic Act (S. 507) entitled, "The National Resources Lands Management Act" would establish policies and directions for The Interior Department's Bureau of Land Management in the administration of more than 400 million acres of federal lands.

It is important that this act include provisions to guarantee federal/state/local coordination in the land planning and management process. State and local governments represent the people and institutions who will be most directly affectde by federal plans and actions on these lands.

The amendments you offer would go a long way toward implementing the recommendations of the Public Land Law Review Commission who after thorough study of the federal lands, recommended that:

"State and local governments should be given an effective role in federal agency land use planning. Federal land use plans should be developed in consultation with these governments, circulated to them for comments, and should conform to state or local zoning to the maximum extent feasible."

The federal land use decisions and actions on these lands have significant economic and environmental impacts at the state and local level. It is imperative that congress take action to require the coordination specified by your proposed amendments.

Sincerely,

RALPH L. TABOR,
Director of Federal Affairs.

Mr. PACKWOOD. Mr. President, I have nothing further to say upon the amendment. It is just a request to the Secretary that he consider what States and counties are planning when he does his own land use planning with public lands. I have talked with the manager of the bill and I believe he has no objection. I believe the Senator from Wyoming has no objection.

Mr. HASKELL. Mr. President, the Senator from Oregon is correct. I personally consider the amendment meritorious. I think it would be a mistake for the Federal Government with lands right next to counties and municipalities, and without consideration of their plans, without taking their views into consideration, to unilaterally proceed with activities on the public land. The Senator from Oregon has perceived this situation. I will support his amendment.

Mr. HANSEN. The Senator from Wyoming has no objection to the amendment, Mr. President. I know that there were other Senators planning to be here. Because some Senators had not known very long in advance that this bill would be called up, I would not presume to speak for everyone else, but I personally have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Colorado.

Mr. HASKELL. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, so I can explain my difficulty to the Senator from Colorado, the provisions of existing law that provide that Alaska is treated differently from the western States and receives 90 percent of the revenue from Federal lands under this act that are located in Alaska, came about because Alaska was not the beneficiary of the reclamation fund. That provision that currently provides the 90 percent is part of the Statehood Act of Alaska. It says that the funds that Alaska receives shall be distributed according to the disposition of the State Legislature of Alaska. There is no limitation of any kind on the distribution of those funds within our State.

I am trying to ascertain whether the limitation provision of subsection 4 in the amendment that is before us now, which permits the legislature of the State to use the funds but directing it to give priority to certain aspects, such as the subdivisions in the State that are socially or economically impacted by the development of minerals, for planning, construction or maintenance of public facilities, the provision of public services, in any way applies to the distribution of funds in our State.

I do not think it is the intention of the author of the amendment to do that, but I am not clear in terms of the way it would be codified in the existing law, in the Mineral Leasing Act of 1920, as it would be amended by this amendment.

Again I say to the Senator from Colorado that the provision that we take our funds under is in our Statehood Act. That says that our legislature has the absolute discretion to determine how those moneys are used. I would like to be assured that this amendment does not in any way impact the distribution of funds within the State of Alaska as we are increasing the amount of funds available to the other 17 Western States. I applaud that. I have no objection to the intent of the amendment with regard to the other Western States. I want to make certain that as we increase the funds available to the other Western States, we are not at the same time impeding the discretion of our State legislature in the use of the funds that come from the 90 percent of the Federal receipts on Federal lands in the State of Alaska.

Again, I would ask the Senator from Colorado if he would tell me whether this amendment that he has presented would affect the provision of the Mineral Leasing Act, as amended, which gives the State of Alaska's Legislature the jurisdiction to use its funds without the restrictions that are contained in this amendment.

Mr. HASKELL. Mr. President, as the distinguished Senator from Alaska said, the percentage going to the State of Alaska of such funds is in the Statehood Act. Therefore, first, I would say this cannot, and second, I will say it does not, affect the distribution to the State of Alaska.

Mr. STEVENS. I might say to my friend I hope he is right. The provision of section 28 of the Statehood Act amends a prior act of Congress and specifically states that 90 percent thereof shall be paid by the Secretary of the Treasury to the State of Alaska for disposition by the legislature thereof.

With that understanding——

Mr. HASKELL. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. HASKELL. Staff has just informed me that there may be some ambiguity. I want to assure the Senator there was never any intention that there be an ambiguity. I am going to ask for a quorum call while we make certain the amendment does not adversely affect the flexibility of the Alaska Legislature to make use of the revenue it receives. It certainly was not the intention to diminish that flexibility.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BARTLETT ON TUESDAY AND ON WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow and on Wednesday, after the two leaders or their designees have been recognized under the standing order, the Senator from Oklahoma (Mr. BARTLETT) be recognized for not to exceed 15 minutes on each day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL RESOURCE LANDS MANAGEMENT ACT

The Senate continued with the consideration of the bill (S. 507) to provide for the management, protection, and development of the national resource lands, and for other purposes.

Mr. STEVENS. Mr. President, it is my understanding that the way that this amendment will be placed into the Mineral Leasing Act of 1920, as amended, it would permit the State legislature still to have the unfettered right to control 52.5 percent of these funds, that the remaining 37.5 percent would be guided by the amendment that is now being offered by the Senator from Colorado, and that that 37.5 percent would be subject to the priority that is defined in subsection (4) of his amendment.

I have conferred with the staff of the Committee on Interior and Insular Affairs, and if the Senator from Colorado is prepared to agree that that is the proper way this amendment is to be codified, I am prepared to agree with him and accept the amendment.

Mr. HASKELL. Mr. President, may I say there was no intention in the basic bill as it came out of the Interior Committee, in the amendment in the nature of a substitute, or in my amendment to alter the basic distribution of the State of Alaska. If the Sentaor from Alaska is satisfied with the draftsmanship, I can certainly speak for the intent.

Mr. STEVENS. I thank the Senator.

Mr. HASKELL. I move the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HASKELL. Mr. President, I have some technical amendments to the bill which I send to the desk. I believe a copy has been provided to the minority.

The PRESIDING OFFICER. The clerk will state the amendments.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) proposes certain technical amendments.

Mr. HASKELL's amendments are as follows:

On page , line , insert the following:

Page 58, line 17, strike "means" and insert in lieu thereof "includes".

Page 61, line 16, between "to" and "Congress" insert "the".

Page 63, line 4, strike "performance bonds" and insert in lieu thereof "a performance bond".

Page 63, line 20, between "which" and "the" insert "the Secretary determines".

Page 66, lines 5 and 6, strike "or water quality standards, noise standards," and insert in lieu thereof "and water quality and noise standards".

Page 71, line 15, strike "(c)" and insert in lieu thereof "(c) (1)".

Page 71, lines 22 through 25, strike the proviso in its entirety from "*Provided*" through and including "plans." and insert in lieu thereof: "*Provided*, That a conveyance of lands by the Secretary, subject to such terms, convenants, conditions, and reservations, shall not exempt the grantee from compliance with applicable Federal or State law or State land use plans.".

Page 75, line 11, strike "lands" and insert in lieu thereof "land laws".

Page 79, line 2, between "(76 Stat. 89) "and "or" insert a comma.

Page 79, line 20, strike "He" and insert in lieu thereof "The Secretary".

Page 89, line 4, strike "(1)".

Page 89, lines 6 and 7, strike "(hereinafter referred to as advisory committee)".

Page 89, strike lines 7, 8, and 9 in their entirety and insert in lieu thereof: "in accordance with the provisions of section 6. The committee shall advise the Secretary concerning the preparation and".

Page 89, line 18, between "and" and "wherever" insert a comma.

Page 89, line 19, between "practicable" and "in" insert a comma.

Page 91, line 1, between "planning" and "(2)" insert a comma.

Page 92, line 17, between "That" and "upon" insert a comma.

Page 92, lines 19 and 21, strike the commas.

Page 95, line 2, between "That" and "where" insert the phrase ", except when the provisions of the second proviso of this subsection apply,".

Page 96, line 9, strike "should" and insert in lieu thereof "shall".

Page 97, line 5, between "(449)" and "as" insert a comma.

Page 102, line 3, strike the period and insert in lieu thereof a comma.

Page 102, line 8, between "to" and "(1)" insert a colon.

Page 104, lines 8, and 9, strike the second sentence of subsection 406(a).

Page 104, line 15, between "If" and "under" insert a comma.

Page 104, line 16, between "law" and "the" insert a comma.

Page 104, line 21, strike "right-of-way: however, if" and insert in lieu thereof "right-of-way. Of, however,".

Page 104, line 24, strike "carried out" and insert in lieu thereof "implemented".

Page 105, line 18, strike "practical" and insert in lieu thereof "practicable".

Page 109, item 1, remove space between the line beginning "Revised Statute 2289" and the line beginning "March 3, 1891".

Page 110, in the line beginning "July 30, 1956" delete "237 f, g, h." and insert in lieu thereof "237f, g, h.".

Page 112, item 4, between the line beginning "May 20, 1908" and the line beginning "May 1, 1958" insert the following new line with the figures aligned in the proper columns: "March 3, 1919", "113", "40:1321", and "1028".

Page 113, item 8, in the right hand column delete "270, 270–5." and "270–6, 270–7, 687a–1." and insert in lieu thereof "270–5, 270–6, 270–7, 687a–1." and "270–7.", respectively.

Page 116, strike the numbers "1" through "15" which begin each of the lines below line 6.

The PRESIDING OFFICER. The question is on agreeing, en bloc, to the amendments of the Senator from Colorado.

The amendments were agreed to.

Mr. STEVENS obtained the floor.

Mr. HASKELL. Mr. President, will the Senator from Alaska yield for a question?

Mr. STEVENS. I yield.

Mr. HASKELL. I think we have some further amendments. I know the Senator from Alaska has one, and I do not know who else may have amendments. Would it be possible to agree on a time certain at which we will start voting on all amendments, and then subsequently on the bill?

For example, would 4 o'clock this afternoon be acceptable as a time after which we could unanimously agree there would be no further amendments, but we could start voting on the amendments that I know the Senator from Alaska wants to offer? I think the Senator from Wyoming has an amendment, and I think the Senator from Idaho (Mr. MCCLURE) has one.

I am just trying to establish a time for voting.

Mr. HANSEN. Mr. President, if I may respond, let me say it is not my intention at all to try to delay final action on the legislation before us. We had not had it scheduled, though, as I understand, on the calendar; am I right about that?

Mr. HASKELL. That is my understanding.

Mr. HANSEN. As a consequence, I am trying my best to see that everyone who has expressed an interest one way or the other has an opportunity to be on the floor. Some Senators are attending other meetings, and we are trying to get in touch with them. As quickly as they can be notified and are able to come to the floor or make their wishes known, I should think we could move forward. But I would have to object until we can hear from them. It may be that in another 10 minutes I will have heard, and they can either come in or say what they would like to have done, and I would then have no objection; but right at the moment, not knowing what their plans may be, I would have to object, and I do so reluctantly.

Mr. HASKELL. I understand. Mr. President, I wonder if the Senator from Alaska would agree to vote on his amendment not later than 3:30.

Mr. STEVENS. I do not think I could make that agreement, Mr. President. The Senator from Colorado has just informed me of something I had not been informed of before, and that is an apparent change in the position of the State of Alaska, or its administration, at least, with regard to this bill. I would say I could make no agreement until that matter is straightened out. The Governor happens to be in town; perhaps we might be able to vote on that section tomorrow. But I have a series of amendments I would be happy to outline to the Senator.

Mr. HASKELL. No; I thank the Senator from Alaska, but I think perhaps it would be just as well to take them as they come up.

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 117, beginning with line 4, delete subsection (b).

Mr. STEVENS. Mr. President, this amendment deals with a subsection that would repeal Revised Statute 2477.

Our State has taken the position that this repealer is unnecessary, since that section refers to "public lands," and the definition of "public lands" is now changed by this bill, and that act would not be applicable to the new natural resources lands.

But the past administration in my State urged us to oppose the repealer because of the manner in which it would be applied to our State. It would affect our State adversely, we believe, because it would be difficult to establish valid rights-of-way over existing public roads which have historic uses.

I might state to the Senate that again this year I was informed that the State of Alaska had deep concern over this provision. I shall quote from a letter that I received from the commissioner of highways, Walter B. Parker. He stated:

> However, of critical concern to us is repeal of the act providing for section line rights of way. It is, and has been, the adamant position of Alaska that repeal of the law is unconstitutional. The grant was made by Congress and constructively accepted by the State. To void this action now is a taking of property rights without due process of law.
>
> These rights of way have historically provided a base for both public and private access. The existence of these rights has been well recognized and played a significant role in both land development and transportation planning. We cannot emphasize too strongly our position that repeal of the rights of way, though unconstitutional, would create a chaotic situation.
>
> It is also disconcerting to see the Federal Government entering into competition with the populace in land sales.

That goes into another section, I might say to the Senator from Colorado, that we will have an amendment on.

The commissioner of highways has also expressed concern with the part of the bill that gives BLM enforcement authority and states:

> This may be a problem in other States, but in Alaska they are exercising almost autonomous authority as it is.

He questions whether statutory authority is necessary or appropriate.

With regard to the particular amendment, I am sure that the Senator from Colorado will recognize what the problem is, because the old revised statute 2477 has been used and has been used excessively in the West. It has been used in many ways, and we feel that since it applies only to those areas in the future, if the Senator from Colorado would be willing to devise an amendment which would make certain that it does not repeal the revised statute 2477 but states that prospectively the rights that could accrue in the future under revised statute 2477 are terminated, I think the State of Alaska's interest could be protected.

But we are a State in its infancy. We are still now getting to the point where we are putting roads across where the trails were, and the trails were laid out under a revised statute 2477 which, as the Senator knows, provided a procedure under which one did not have to tell anyone he was going to do it. He simply had to do it. If he did it under public authority and crossed public lands, he created a right.

Now we are saying that that is repealed. Further use of those lands, that have been used admittedly by a very sparse population, and are needed for continued public access according to our State, is in jeopardy if 2477 is repealed.

I am sure the Senator from Colorado would have no intent of leaving our State in the position where this would happen. I say that probably in all the other Western States where 2477 was used that use has ripened now into some sort of a road that has standing in a State roads system. Ours unfortunately has not in all circumstances.

Mr. HASKELL. Mr. President, will the Senator yield for a comment?

Mr. STEVENS. Yes.

Mr. HASKELL. The section in 2477 that the Senator refers to says:

> The right of way for the construction of highways over public lands not served for public uses is granted.

The bill before the Senate repeals that section, but there is absolutely no intention to repeal it retroactively and to take away any right that any person may have acquired prior to the enactment of this legislation, pursuant to the section I read. It is a prospective repealer.

Mr. STEVENS. I say to the Senator from Colorado that I am happy to have that statement, and I think perhaps we could, if he would be willing to do so, make that plain by a proviso on section (b), if that is the situation. Again, there has been no mapping of the roads, or rights-of-way, which are in some areas merely trails at the present time. In order to prove the existence of the public's claim under 2477 at some time in the future, when 2477 is repealed, it appears to our Highways Department as if we are giving them an impossible task, and they have taken the position that the repealer could be interpreted retroactively, and if it were interpreted retroactively it would be unconstitutional.

I appreciate the statement of the Senator from Colorado. Does he object to what I shall call a savings clause to the effect that nothing in this repealer shall affect the rights of any State, or person, who is acting pursuant to that statute prior to the date of this act?

Mr. HASKELL. Mr. President, will the Senator yield?

Mr. STEVENS. Yes.

Mr. HASKELL. Mr. President, I have no objection.

I call the Senator's attention to page 105 of the bill, section 502, which states:

> All actions by the Secretary under this act shall be subject to valid existing rights.

Maybe that is not quite good enough. I do not think it is.

No. I am very pleased to put in section 405(b) after the word "section" the following:

> The following statute is repealed in its entirety subject to valid existing rights:

If that satisfies the Senator, I shall be pleased to put it in there, or put it at the beginning of subsection (b). But there is no intention to jeopardize preexisting rights.

Mr. STEVENS. Mr. President, I appreciate the Senator's courtesy, and I am trying to figure out whether that offer, which is graciously given, meets the request that came to me from the State administration. It raises the question of when does the exercise of the grants under 2477 give rise to that phantom phrase "valid existing right."

It is my understanding that a State or a local subdivision under 2477 did not have to give notice to the Federal Government of the exercise of the power of that statute.

Mr. HASKELL. Mr. President, if the Senator will yield further, I think that there is no way we can take care of every conceivable factual situation here. I can see that the question as to whether there is a valid preexisting right is a matter of litigation. But I do not know how else to do it except to say that we are not taking away any rights the folks may have gotten under that section and simply leave it at that.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I am sure the Senator from Colorado and I are both acting in very good faith in trying to protect the rights that have accrued under 2477 prior to the date of this act, and that is our sole intent. We understand that the future will be different, but we want to make certain that however those rights were instituted in the past, they are protected. I state to the Senator that it is my understanding that until recent years, it was possible to acquire rights under 2477 without notice. At some time in recent history, there has been a procedure whereby the notice would have to be given in order to have a valid right under 2477.

I just wish to state—and I hope the Senator will agree—that if a notice is required to prevent the actual occupancy of land, that is a pro forma thing that would not affect the utilization of lands which previously have been utilized for public purposes under 2477 in the Western States, and particularly in Alaska.

Mr. HASKELL. Mr. President, I feel very strongly that we should make clear legislative history that we are not attempting to take away any pre-existing legal rights. I hesitate to make a statement such as the Senator from Alaska wants me to do, because, perhaps by virtue of making that statement, I may be redefining what is a valid, existing legal right.

So I prefer merely to say that this repealer does not affect any validly existing legal rights acquired prior to the enactment of this law.

Mr. STEVENS. It is my understanding that this bill has not passed the House yet.

Mr. HASKELL. That is my understanding, too.

Mr. STEVENS. It would normally leave about 90 days for such matters to be filed.

I agree with the Senator's statement. I just want to make certain that we have time to get whatever notices or declarations have to be placed on file with respect to rights that have been used under tradition in the vast areas of my State, without compliance with the technical notice provisions.

Under the circumstances, I thank the Senator.

Mr. President, is the modification at the desk in order?

The PRESIDING OFFICER (Mr. FANNIN). If the Senator has withdrawn his amendment, he may send another amendment to the desk, or he may modify his amendment.

Mr. STEVENS. I modify my amendment to incorporate the words used by the Senator from Colorado.

The PRESIDING OFFICER. The Chair advises the Senator that it would be better to withdraw the amendment and send another amendment to the desk.

Mr. STEVENS. Very well.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I withdraw the amendment, and I send to the desk another amendment.

The PRESIDING OFFICER. The amendment is withdrawn. The clerk will state the new amendment.

The assistant legislative clerk read as follows:

> The Senator from Alaska (Mr. STEVENS) proposes an amendment: On page 117, line 5, after the word "entirety" add the following: ", subject to valid existing rights"

Mr. HASKELL. Mr. President, I would support that amendment.

Mr. STEVENS. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I have another amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Alaska (Mr. STEVENS) proposes an amendment: On page 108 after line 19, insert the following:
>
> (9) as amending, limiting or infringing on existing laws providing grants of land to the individual states.

Mr. STEVENS. Mr. President, this is another item that was raised by the State administration. We take the position that the definition of "natural resources lands" as it appears in the bill raises questions about the lands that will be available for selection by Western States, particularly by our State.

Under this definition, the lands include not only those lands which are currently administered through the Bureau of Land Management but also those which hereafter will be administered by the Secretary through the Bureau of Land Management.

Mr. HASKELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I withdraw that amendment.

The amendment was withdrawn.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McCLURE. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 92, strike out lines 13 through 25.
>
> On page 93, line 1, strike out "(c)" and insert in lieu thereof "(b)".

Mr. McCLURE. Mr. President, this amendment simply deals with the second section of the section dealing with the question of the steel mining claims. This question was debated at some length in the committee, and I raised some of the doubts that I have about this language in the discussion in committee.

In essence, what the bill does is say that if there is an unpatented mining claim on the public domain—this refers only, of course, to the public lands that are not within some other management unit, particularly the Forest Service lands that would not be affected by this bill, as I understand it—they would have to proceed to patent within 10 years or relinquish the claim. The language says they will be presumptively concluded at the end of that 10-year period if they have not applied for and gone to patent on the land.

This to me is wrong for two reasons: One is that we do need to look at the question of stale claims, but we need to do it in the broad context of general public policy that applies to all of the national resource lands, not just those that are managed by the Bureau of Land Management. It should not be addressed piecemeal by applying a comprehensive change that applies only to about half of the public lands. If it is a good policy it ought to be applied to all, and if it is not a good policy, it should not be applied to any.

Second, I think it errs in two directions: One, that it would force people to go to patent who hold unpatented claims that might otherwise not go to patent, and that would then foreclose us of the possibility of dealing in a much more constructive way with the issue of minerals rights in public lands.

I believe we ought to be moving in the direction of revising the mining statutes of the United States so that people who have minerals rights in the public lands can be protected in those minerals rights without necessarily being forced to go to a fee simple patent on the land, which is the case that exists now, and would be forced into that action by this section of the bill.

I think that is exactly the direction we do not want to go. We should be trying to preserve to the people the right to the minerals interests for a variety of public policy reasons, and also perhaps for a constitutional reason in regard to the vesting of property rights.

We also ought to be trying to avoid their using the mineral rights route to gain title to public lands to be used for other purposes. Most of the people whom I know, who are involved in this sort of problem on the public lands, do not really want to have to go to patent on a fee simple basis or they would have done so a long time ago. But we will force them to do that, and then the land can be converted to any other use they desire. That, I believe, even the critics of the mining laws would find an undesirable result.

The only thing that can be said for this provision of the pending bill on the other side is well, at least, it will only happen for the next 10 years. But an awful lot of barns will be broken into and an awful lot of horses will be out of the barns within the next 10 years, in my opinion, if we persist in this approach in trying to force a change.

The other side of it, I think, is that it betrays a fundamental misconception of the mining industry in this country. The thing I have been groping for in the 10 years I have been in the Congress of the United States in this regard is to find a way in which we can recognize the legitimate minerals interest on a fluctuating market, and recognizing that at some periods of time that minerals interest may justify a mining operation, and in a different condition of the minerals market there would have to be a suspension of the mining operation.

This will require us to cut off some mining claims that in different market conditions would be obviously a very appropriate claim upon the minerals resources of this country. So I think it moves in the wrong direction for a variety of reasons.

I know in the committee my arguments were turned down because there was a stronger thrust on the side of, "Well, let us get a finality, let us get to an end, to this question. Let us bring about a conclusion."

Instead I think what we are doing is moving in the wrong direction and removing one of the greatest pressures that I know of for a basic revision of the mining laws. I do not know of anyone in this body who does not recognize the need for a basic revision of the mining laws of this country. We ought to be holding hearings instead on that question.

I know the Senator from Montana (Mr. METCALF), who has been very active in this for a number of years, has urged that we do the same thing, that we move towards looking at all of the problems that are involved in the mining statutes, and to resolve them in a piece of comprehensive legislation that does not simply look at a narrow part of the problem but looks at the much larger problem and solves it not just for a portion of the public lands but for all of the public lands.

So, for a variety of reasons, it seems to me we can constructively delete this particular portion of this bill and leave that question to a better discussion and a better context and come up with a better answer than the rather arbitrary and, I think, very imprecise bludgeon that is being used here against the problem of unpatented mining claims on the public domain.

Mr. HASKELL. Mr. President, of course I could join with the distinguished Senator from Idaho in saying the mining laws of this country need revision and, indeed, the Senator from Montana (Mr. METCALF) has introduced a bill for that purpose, and I am sure, he will have hearings on it as soon as time permits.

This, on the other hand, is a rather simple housekeeping measure to keep the title to public lands reasonably uncluttered. It merely says that within 2 years an unpatented mining claim should be filed with the Bureau of Land Management so that you can go to some central place and find out what the state of the title in public lands is rather than having to go to every county courthouse within the area.

Secondarily, it says within a 10-year period you should proceed from claim to patent, but gives an out that says if you cannot obtain a mineral survey, why, you can get an extension.

To me it is a very simple housekeeping measure. I would oppose the Senator's amendment, but I certainly would support his statement that the general impact of the mining laws of this country should be reviewed.

Mr. McCLURE. Mr. President, might I just respond in this way: I think to say it is a simple measure is simply to avoid confronting the complexity of the minerals industry. We want, and always have wanted, and I do not think anyone yet has said that we do not want, to have private interests explore for and locate the minerals values on our public lands. We have not yet gotten to the point of saying that all of the minerals on the public lands are going to be developed by the Federal Government, period, and I hope we do not get to that point.

But if we are not moving in that direction, if that is not our ultimate aim, then we ought not to be in the position of denying the incentives, the motivation to the individual enterprise person who may be out there looking.

Most of the mineral discoveries on the public land in the history of our country have been made by small prospectors. Their exploitation, their development, may be made by one of the minerals giants. But very nearly all of the major finds have been made by some individual looking on his own time and investing his own time and money to discover whether there was something there. He had to do it under the context that if he discovered something, and there was an economic value, he was going to have the opportunity to get a return on the investment of his time, effort, and money and, for those reasons, it seems to me we ought not to move in the direction of discouraging that but we ought to move in the direction of encouraging it.

I would also say to the Senator from Colorado that my amendment does not delete the provision that calls for recordation of the claim. I have some doubts as to whether it is necessary, but I do not believe it is burdensome, sufficiently burdensome, upon the claimant that we ought to avoid taking that step when there is a very clear value to the Federal Government and the land manager in having them filed in one place. I am willing that we take that step.

But again I think the other provision is counterproductive rather than productive. The Senator has made reference to the legislation introduced by the Senator from Montana (Mr. METCALF). I would call his attention also to S. 309 which I have introduced, which is similar to legislation I have introduced periodically over the last 9 years in either the House or the Senate.

I hope that sometime Congress will address itself to the fundamental problems involved rather than looking at some of the superficial ones and dealing with them piecemeal.

Mr. HASKELL. I merely mention to the Senator from Idaho that the 10-year provision is far more liberal than the administration's suggested 3-year provision or the original S. 507 version, which placed a 5-year cutoff on claims.

I guess the Senator and I look at it differently. I look at it as a housekeeping measure and he looks at it as something of substance, that is all.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HASKELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I know that the Senate as a whole will probably follow the lead of the committee. If we have a rollcall on this, I would anticipate that the majority of them walking through these doors would never have heard of this question before and would be very apt to follow the lead of the committee under those circumstances.

Under those circumstances, I think it is likely that the result can be forecast.

In the expectation that this matter might be considered somewhat differently in the other body and with the full confidence that we can move forward on a comprehensive bill, perhaps before this bill has passed and becomes law, I am suggesting, therefore, it might be varied by subsequent legislation or conference between the Senate and the other body on the organic act, and I will withdraw the amendment at this time.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. McCLURE. Mr. President, I have an amendment that I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. MCCLURE) proposes an amendment:

On page 94, line 12, after the period add following: "Congress further directs, notwithstanding any other provisions of this Act, neither the Secretary nor any agency head by regulation, by stipulation or conditions for right-of-way grants or renewals, or by any other means, shall, except as expressly authorized by statute, use the position of the Federal Government as landowner to accomplish, indirectly, public policy objectives unrelated to protection or use of the national resource lands."

Mr. McCLURE. Mr President, this is not a matter of first impression on the floor of the Senate. It has been offered on two other pieces of legislation in the past, was adopted on one and rejected on the other.

It was adopted on the one because the opponents of this language were unaware that there would be substantial support for it. With Senator BUCKLEY offering on the last bill, supported by Mr. Stevens and others, we were able to get this amendment adopted.

What it simply says is that the power of the Federal Government to manage the lands or to grant or withhold certain privileges on the lands shall not be given by that power to manage the authority to do things which are not provided by statute.

In many of our States where the Federal Government is a dominant landholder, or a majority landholder, or a substantial minority landholder, they can affect public policy in ways which are not provided for by statute simply by granting or withholding the conditions under which the public land may or may not be used.

Mr. President, there has been a great deal said on the floor of this Senate in the last 2 or 3 years about misuse of Executive authority. If ever we saw an example of an administrative agency that has in the past been willing to use authority to attain arbitrary ends, it seems to me it is true in this area.

While we may in some instances like the results of that abuse of authority, we should guard against granting that kind of power to executive agencies.

The argument has been used, and I am always amazed by it, that this would somehow hamstring the Executive. We do not know what it is the Executive might want to do and, therefore, this might keep him from doing it.

Yet, all the amendment says is that we cannot abuse the authority granted here to achieve something that is not specifically provided for by statute somewhere else. That is all it says.

Everyone then tries to come in and say that is some kind of a pernicious amendment seeking to deprive them of some legitimate power they might want at some time in the future to use for good ends.

I have always asked the question, "What power is it that you want the administration to use that is not provided for by statute, what aims do you want the administration to achieve that are not provided for by statute? If, as a matter of fact, you want the administration to have the authority to achieve things that are not provided for by statute, to exercise authority not provided for by statute, what you are really asking for is a dictatorship."

I cannot for the life of me understand why it is that people are afraid of circumscribing the authority of the Executive.

We are, I would hope, in this year of the Bicentennial, looking back at what the revolution was all about. If I understand, the thing that motivated the framers of the Constitution, the people that revolted against the Crown of England, it was the abuse of authority by the Government and the Constitution was written as a limitation on the power of a central government.

Here we have seen on the floor of the Senate a majority voting to give the administration an unbridled authority to do things which they cannot even imagine now that they might want to do, and they have said so specifically. "We do not want you to pass this amendment because it might deprive them of doing something they want to do in the future and we do not know what that might be."

I hope that on the argument, in the spirit of '76 and applying it to 1976 as well as 1776, we would try again to make the administration the administrator of laws passed by Congress, and not the executive authority exercising their discretion to do good as they see good to be in the absence of authority given by the Congress and in the absence of a goal prescribed by Congress.

This is a recommendation which was made by the Land Law Review Commission as they filed their report, that this kind of a limitation ought to be placed upon the authority of the executive agencies.

It is in that spirit I offer it. Not at all to take away any legitimate authority of the executive, but to precisely and definitely state that the executive agency cannot misuse authority in the guise of management of public lands.

Mr. HASKELL. Mr. President, I should point out that this particular amendment is opposed by the administration, by the American Public Power Association, and by a list of 17 environmental organizations.

It was defeated in committee, I believe, six times.

It was defeated on the floor in the debate on S. 507's predecessor last Congress. The Senator said it was adopted at one time as part of the Alaska pipeline bill but I believe it was removed in conference. Am I correct in that, on the Alaskan pipeline?

Mr. McCLURE. Yes.

Mr. HASKELL. It seems to me we have to give the Secretary some discretionary authority. We cannot spell everything out ahead of time.

I would point out that one of the very inhibiting factors in the Senator's amendment is it would prevent the wheeling of public power across private powerlines and cause considerable confusion.

With that brief analysis of the situation, I would have to oppose the Senator's amendment.

Mr. HANSEN. Mr. President, I would like to speak in favor of the amendment proposed by the Senator from Idaho. It seems to me that if there has been an abuse of Federal authority, this is one of the areas in which that abuse has occurred. It has occurred repeatedly.

The amendment, as I understand it, states that the Federal authority shall administer the laws as they have been spelled out by the Congress as they have become law.

The Senator from Idaho (Mr. McCLURE) seeks to make certain that there is not an abuse, that there is not any capriciousness displayed by a Federal administrator or authority in applying the law of the land. A lot of times someone in a position of power, maybe the Secretary of Interior, the Secretary of Agriculture or anyone else—and this law, of course, would apply primarily to the Secretary of the Interior—may be approached by any number of people who have some specific goal or ideal in mind that they find very laudatory. Indeed, it could very well be that it sounds fine to the average person, until one understands and examines all of the facts.

This is to make certain that in that kind of a situation a person vested with the authority of the Federal law does not take an action that, in his own mind and own conscience, he could justify as being good, as being in the public interest and having wide public support, without any law calling for such an action being taken.

I believe that is what the distinguished Senator from Idaho is trying to achieve, to make sure that Federal administrators follow the Federal law. I just believe that if we were to follow that rule more closely we would have less frustration being exhibited by citizens generally. There would not be the dilemma that oftentimes faces an individual when he is caught up in redtape and somebody says, "You have to do thus and so before you can do what you want to do," which is called for in the law.

I would hope that the Senator from Colorado might be persuaded to take this amendment to conference, to give our colleagues on the other side of the Capitol an opportunity to deal with it and let them participate with us in deciding whether or not it should be included. It seems to me there is much merit in the amendment by the Senator from Idaho.

Mr. HASKELL. I appreciate the statement of my friend from Wyoming, but in view of the remarks I previously made as to the opponents of this amendment, plus the necessity of vesting what I consider some discretion within the Secretary, I reluctantly have to oppose the amendment of the distinguished Senator from Idaho.

Mr. McCLURE. Mr. President, I wonder if the Senator from Colorado might agree to letting us have a voice vote. I think by historical precedent in this body, and by looking around the body, I can confidently predict we would win by a 3-to-1 margin.

Mr. HASKELL. By looking around the body I confidently predict the Senator would win also. For that reason, and with tremendous reluctance, the Senator from Colorado would have to oppose a voice vote.

Mr. McCLURE. That is another example of the fact, Mr. President, that if we can get the people here who are informed on the legislation, they would win. The only way the Senator from Colorado would win on this issue is to make sure the people who would come through the door would not know what the amendment is about and, therefore, he could prevail.

Mr. HASKELL. I could not agree with the Senator from Idaho on that proposition, though normally I agree with him on all others.

Mr. McCLURE. Mr. President, let me not burden this discussion interminably, but I do want to underscore one thing which I think is wrong in the argument offered by the Senator from Colorado. First of all, he has identified among the list of those people who are opposed to this amendment the Public Power Association of America. It has also been suggested in his argument that this would prevent the wheeling of public power over public lands. That, of course, is the reason why the American Public Power Association is opposed to the legislation. As a matter of fact, that is absolutely and totally false unless, of course, the agreements which have forced wheeling are counter to the law.

There is an argument about whether the law provides for those wheeling agreements. There are court decisions. There is a court decision, however, that says that that can be and is a legitimate authority of the Secretary in the management of the public lands, to require wheeling over privately owned lands.

If that case is correct, and it has not been appealed—and it is the law of the land so far as that district is concerned—then it is provided for by law and this amendment would not alter that fact. The only way in which this amendment could alter that fact is if, as a matter of fact, there is no provision in law to allow it and, therefore, it becomes an absolute illustration of the abuse of authority in the Federal land manager. If it is provided for by law, there is no abuse of authority and this amendment would not touch it.

It seems to me that if people are really sincere about the desire of getting the Government back into the business of administering the law instead of exercising their own discretion of what the law ought to be, there should be no embarrassment and no reluctance to accept this amendment. It is obvious to me that we are getting a lot of lip service in the Congress on this subject with a lot of people who say they would like to get the Government off the backs of the people, who say they would like to get the Government back into the business of administering laws instead of making laws. But when they have the opportunity to vote on it, they go the other direction because they really want more government by fiat; they want more arbitrary discretion vested in the hands of governmental officials because they think they desire the results that they see coming from it.

I recognize the realities of the situation under which we operate here. I also recognize the Senator from Colorado is trying to uphold the mandate of the committee because the committee has discussed this in the past and they did turn it down. The Senator from Colorado is correct in his recitation of the record on that point. So it is consistent on his part to say he cannot accept it on a voice vote or otherwise and would have to oppose it.

I recognize, too, that under those circumstances the likelihood of the adoption of the amendment is very slight, in spite of the fact, as I said in my opening remarks, that if we had anything of the Spirit of 1776 left in our blood, it would pass.

In 1776 the people of this country rebelled against an authoritarian government; they did something about it. In 1976 we see endless speeches by countless politicians berating what happens, but they do nothing about it; and so we have a proliferation of government, a growth of the authority of government, a growth of suppression of the people by the weight of government, and yet when we have the opportunity to do something about it we say, "No, we cannot do that; we have to give them greater discretion."

Mr. President I withdraw the amendment.

Mr. STEVENS. Mr. President——

The PRESIDING OFFICER. The amendment is withdrawn. The Senator from Alaska is recognized.

Mr. HASKELL. Mr. President, will the Senator from Alaska yield for a question, to find out how many amendments are coming up and see if we can arrive at some timing?

Mr. STEVENS. I yield.

Mr. HASKELL. Does the Senator from Alaska have more than one amendment?

Mr. STEVENS. I have one. That is all I have left.

Mr. HASKELL. Does any other Senator have amendments? The Senator from Wyoming, I know, has.

Mr. HANSEN. I have two.

Mr. HASKELL. Does the Senator from Idaho have any further amendments? I wonder if we could obtain unanimous consent, if we will have only one amendment by the Senator from Alaska and two amendments by the Senator from Wyoming, to limit the time on each of the amendments to 20 minutes to be equally divided, and then, following the disposition of those amendments have a vote on passage?

Mr. HANSEN. Mr. President, regretfully I have to object. I do not have any reason to think that there will be more amendments offered than that, but, repeating what I said earlier, this bill was called up without advance notice, and in order to be accommodating to the leadership and to cooperate as well with our good friend from Colorado, it was laid down this afternoon. If someone should come to the floor, as there have been instances in the past, Senators who have other amendments, I do not want to rule them out.

Having said that, I do not know how much time the Senator from Alaska may need, but it will not take me very long. I regret that there are so few Senators present, because I think the amendment I have to offer on determining the manner in which grazing fees shall be set from year to year has much merit. It has bipartisan cosponsorship, and I just regret that, as so often happens, we will probably be voting on this issue without most of those Senators who will be voting having had the opportunity to hear what discussion may have preceded it.

Mr. HASKELL. Mr. President, I withdraw my request.

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 62, line 24, insert the following after laws and before the colon: "including long term leases to permit individuals to utilize national resource lands for habitation, cultivation, and the development of small trade or manufacturing concerns:"

Mr. STEVENS. Mr. President, on the last day of last year I sent the bill that we have before us to the city managers of all the major cities of Alaska, to the managers of our borough governments, which is the same as county governments down here, or quite similar at least, and to the State agencies involved, and also to all of the people who are heading up the management entities that are governing the 12 large regional corporations that were formed under the Alaskan Native Land Claims Settlement Act—entities which will guide the destiny of our native peoples with respect to managing over 40 million acres of land.

We have had several objections, ranging from the Kenai Peninsula Borough in absolute opposition, to a qualified endorsement of some of the provisions the managers of the bill have already adopted.

One of the great problems I have had with the bill is that in an area such as Alaska, which is one-fifth the size of all the United States, that has close to 60 percent of all these national resource lands, there is no specific provision for acquiring an interest or at least a right to use this Federal land by what I call "sweat equity." The concepts of the Homestead Act, the Trade Manufacturing Site Act, the Small Tract Act—all of the great land laws that applied to the south 48 States, as we call them, have not really come into their time in Alaska, because we have been slow in developing our State, due to a lack of population and a lack of capital.

Unfortunately, the net result of this act—I do not think it is an intentional result, but I say it would be a result of the act—would be that in Alaska, where the lands would be disposed of by the Federal Government, they would go to the highest bidder. In other words, money will make the determination rather than guts, determination, and the will to settle a new land.

It bothers some of us who remember what Alaska was in years gone by that there is not a provision that would give inducement to those who seek to carve a livelihood out of the wilderness, and do so consistently with our reemphasis on environmental concerns.

Mr. HASKELL. Mr. President, will the Senator yield?

Mr. STEVENS. Yes.

Mr. HASKELL. On this particular amendment that the clerk has just read, as far as this Senator is concerned I am willing to accept it.

Mr. STEVENS. I am delighted to hear that. I shall finish in just a minute, because I understand the Senator wishes to push along with the bill.

This is different from the amendment I offered last year, which was adopted because last time my amendment preserved the homestead laws until the time came when all our land had been divided under the Land Claims Act and the selections of the Alaska Statehood Act. This amendment provides a new concept, which I have discussed with our Governor in the past, and that is the concept of long-term leases to enable an individual to develop a home or a farm, a small sawmill, or a small manufacturing site, whatever it might be, bricks or anything else that is needed in some of the smaller areas, and do so consistently with the objective, which is now apparent, that the United States retain the title to the land.

So under the circumstances involved, I am delighted to hear that the manager of the bill will accept it, because this is really what I think is necessary to keep open the hope that we can devise a system which will meet the needs of those isolated areas for some type of incentive for people to come in and create a whole new life for themselves and for the community in which they will live.

If the Senator from Colorado is willing to accept the amendment, that is what it does. It, in effect, gives the Secretary of the Interior discretion to establish a new system of habitation, cultivation, trade, and manufacturing concepts under a leasing procedure, with all the stipulations and conditions that might be necessary to make this type of use compatible with the surroundings and with the environmental concerns that might be involved as far as the national interest lands are concerned.

I would say to the Senator that we now have, I am told, some 12 to 14 million acres of land that could be cultivated if a system were devised to provide the incentive for that type of cultivation. In many instances, it would not require habitation. In many instances, the lands are such that no one would want to live there the year around, but the right to the use of the land over a period of time is essential to provide the financing for that kind of cultivation.

I think that the lands of Alaska could be utilized to produce a considerable amount of agricultural products, not only for our own country but for export to the Pacific rim, which one of these days will be very much in demand of land that can be cultivated, even if only for 2 or 3 months a year.

I am delighted. If the Senator is willing to accept the amendment, I move the adoption of the amendment.

Mr. HASKELL. I am very pleased to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. **HANSEN**. Mr. President, I call up my unprinted amendment and ask that it be stated.

The **PRESIDING OFFICER**. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment as follows:

On page 85, line 22, insert the word "Federal" after the word "any," and immediately before the word, "law".

Mr. **HANSEN**. Mr. President, what this amendment does is to make clear that, insofar as the powers of those persons charged with enforcing any law or regulation relating to lands and resources managed by the Secretary, it shall be the Federal law or regulation that is to be interpreted. It is simply to clarify what the grant of authority and power is.

There has been concern. I have had letters from constituents in my State saying, "Are we going to make cops out of every single Bureau of Land Management employee?" It was not the intention in this section of the bill to do any such thing.

I hope that the Senator from Colorado, the manager of the bill, might accept this amendment. It simply clarifies what the situation is.

Mr. **HASKELL**. Mr. President, I agree with my distinguished friend from Wyoming, and I am very pleased to accept his amendment.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1392

Mr. **HANSEN**. Mr. President, I call up my amendment No. 1392, and ask that it be stated.

The **PRESIDING OFFICER**. The amendment will be stated.

The second legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes Amendment No. 1392.

Mr. **HANSEN**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

SEC. 6. (b) Notwithstanding any other provision of law and except where a smaller fee is necessary to meet the objectives of other federally sponsored programs and except where the cost of collection of the fee would exceed the amount collected, the Secretary, with respect to the commercial grazing of domestic livestock on the public lands under the Taylor Grazing Act (43 U.S.C. 315) and the Act of August 28, 1937 (43 U.S.C. 1181a–1181j), and the Secretary of Agriculture, with respect to the commercial grazing of livestock on lands within the national forest system in the eleven Western States, shall charge an annual fee per animal unit month for such grazing which shall be computed for group I land by multiplying $1.70 by the beef price index minus the cost-of-production index plus one hundred, and for group II land, by multiplying $1.40 by the beef price index minus the cost-of-production index plus one hundred, where:

(a) Lands will be designated as group I land or group II land as determined by the district manager in the case of the Bureau of Land Management, and the forest supervisor in the case of the Forest Service, using the immediate preceding year or the most recent range survey to determine the amount of forage required for one animal unit month.

(1) Group I land shall be that which requires less than eleven acres to provide sufficient forage for an animal unit month.

(2) Group II land shall be that which requires eleven acres or more to provide sufficient forage for one animal unit month.

(3) The land classifications described in paragraphs (1) and (2) shall be carried to the district or forest unit level. Existing allotment management plans shall be classified as group I land or group II land. All future allotment management plans shall be classified as group I land or group II land.

(b) The beef price is the price reported to the Statistical Reporting Service, United States Department of Agriculture, representing average prices received for beef cattle in the eleven Western States.

(c) The beef price index for any fee year is computed by dividing the simple average of the beef prices for the preceding three years by the simple average of the base years 1964–1968.

(d) The cost-of-production index is an index of prices paid by farmers for commodities and services, interest, taxes, and farm wages as collected and published by Statistical Reporting Service, in Agricultural Prices, United States Department of Agriculture.

(e) The cost-of-production index for any fee year is computed by adding the cost-of-production index for each of the three preceding years and dividing by three.

(f) The term "animal unit month of grazing" as used in this section means the forage required by the grazing of one cow and calf or its equivalent for a period of one month. One cow shall, for the purpose of this definition, be considered the equivalent of one horse or five sheep or goats.

Mr. **HANSEN**. Mr. President, the purpose of this amendment is to come to grips with a very real problem.

I hope that my good friend from Colorado is willing to accept this amendment.

People who raise the feeder cattle, as well as the sheep, in the United States understand that certainly with respect to cattle a very unusual situation has characterized the market for several years. The price of meat, beef specifically, in the marketplace has gone up almost every year. There may have been a few little variations in fluctuations but generally the price of meat has continued to go ever higher. Yet the amount of money that is received by the man who runs the breeding herds in the United States has been a smaller and smaller part of that dollar that the housewife pays for a steak, a roast, or whatever it may be that she purchases in the marketplace.

As a consequence, there have been a great many cattle producers and, to a lesser degree, sheepmen, as well, go out of business because of the fact that their product did not bring a sufficient return to keep them liquid and able to stay in business. It is just that simple.

For a long time the U.S. Forest Service has included this basic concept in the setting of grazing fees on national forest lands, which, in essence, simply says that among the factors that are to be considered in arriving at the grazing fee charged for an animal unit month—that means the amount of grass necessary to take care of a cow and calf for 1 month's grazing—will consider among other things the costs of producing an animal on the public lands.

There has been no objection of which I know by people who have studied this problem and are skilled in the science of agriculture economics in recognizing that it works both ways. When the price of livestock is depressed the grazing fee should be lower. If good times, that are certainly long overdue for the average livestock man today, come along and the price of that kind of livestock goes up in the marketplace it should be reflected in an increase in the grazing fee on an animal-unit-month basis.

Let me say that our colleague, the distinguished Congressman from Nevada, Mr. SANTINI, has offered this amendment on the House of Representatives side. The various livestock organizations, who have been wrestling with the problem of how to stay in business, have recommended the inclusion of this amendment into the bill now being considered by the Senate.

I hope very much that the Senator from Colorado will be able to accept this amendment and take it to conference. It seems to me that by doing that we increase the probability that livestock operations in the West, that are very tenuous at best and certainly are in a very precarious situation now for the most part, can remain in business.

We have talked about the strip mining bill, and I know my friend from Colorado will agree with me that one of the concerns most of us had in trying to wrestle with the strip mining legislation that we had before us was to see that those honest-to-goodness ranchers could stay in business. That, I am certain, provided much of the motivation that sparked and stimulated a lot of the debate, and many of the amendments that were presented in this strip mining bill.

I say to my good friend from Colorado, and all Senators present, that this amendment offers yet another opportunity to keep small ranchers in business. The small rancher has a fairly close to marginal operation at best. With the way grazing fees have been skyrocketing in the last couple of years—and they are scheduled to go up I think another 50 or 60 percent this year—if that goes through that could well be the straw that breaks the camel's back.

I suggest that to have a number of these small operators go out of business would be in the interest of not one American.

This was the concern and this was the recognition of fact that prompted the extensive study and the intensive interest that generated the concept that is written into this amendment.

I ask my good friend from Colorado if he is able to accept the amendment and take it to conference.

Mr. **HASKELL**. Mr. President, reluctantly I have to tell my friend from Wyoming that I cannot accept the amendment, but I wish to say a few things. In the first place, a group of cattlemen and woolgrowers visited me 2 or 3 weeks ago and fully briefed me on their problems with the existing fee structure. This, however, is a reasonably complex formula which my colleague proposes and I do not know where it comes out economically.

For example, when we talk about group I land, multiplying $1.70 by the beef price index, minus the cost of production index, plus 100, and so forth, I do not know where it comes out economically.

I am thoroughly in sympathy with the Senator from Wyoming with respect to the absolute necessity of keeping the small rancher in business.

I would be pleased to do this, if it would be of any assistance to the Senator from Wyoming: I would be pleased to hold a hearing on the Senator's amendment, which I assume he would introduce as a bill if it is not adopted here; and I hope that the Senator would divide the chairing duties with me in case it went on too long. I would be very pleased to hold a hearing on this matter.

Then, if the House put this provision in the House bill, there would at least be a hearing record on the Senate side. I would expect that the Senator from Wyoming would be a conferee and that I might be a conferee. I do not think the Senator from Wyoming needs any education, but at least I would be educated at that time.

However, because I do not know what this amendment really would do and because it is somewhat complex, I would have to resist this amendment by the Senator from Wyoming.

Mr. HANSEN. Mr. President, I certainly do not want to do anything to delay action on this bill.

I must say, however, that I find myself at a disadvantage and in a dilemma, as I have tried to map out what I believe might be the best action to take in order to deal fairly with the constituents I represent, on the one hand.

The least I would have to do would be to ask for a rollcall vote. I regret that what will happen, as I indicated earlier, is that Members will come in, just as they always do, and they will be voting, and the situation will be one which often prevails. Oftentimes, I find myself in the situation that I am on the wrong side of the aisle to get the support of a majority of Senators when they do not understand an issue. I do not say that in any way derogatory of Senators. I know we do that on many issues. We will accept the recommendations of the leaders on our side.

Yet, I have to say that this amendment has much more merit than might be reflected just on a rollcall vote that would be taken without most Senators having heard the debate.

My distinguished colleagues from Wyoming, Mr. McGEE, is a cosponsor. The distinguished Senator from Alaska (Mr. GRAVEL) is a cosponsor. I have heard from staff members of a number of western Senators who have indicated that they would like to cosponsor the amendment. Unfortunately, because we cranked up the operation so quickly this afternoon, I did not have an opportunity to follow through and to talk personally with the Senators whose staffs had indicated their finding merit in this amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—S. 507

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the vote on the Daylight Saving Time Act of 1976, S. 2931, on Wednesday next, the Senate then return to the consideration of the pending business, the Hansen amendment; that there be a time limitation of 30 minutes on that amendment, the time to be 20 minutes to the distinguished Senator from Wyoming (Mr. HANSEN), and 10 minutes to the distinguished Senator from Colorado (Mr. HASKELL); that at the expiration of that time or no later than that time a rollcall vote occur on the Hansen amendment, to be followed immediately by third reading.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HASKELL. Mr. President, I ask for the yeas and nays on final passage of S. 507.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, I ask for the yeas and nays of my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DAYLIGHT SAVING TIME ACT OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair again lay before the Senate S. 2931.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2931) to provide for daylight saving time on an 8-month and 1-week basis, beginning with the first Sunday in March and ending with the second Sunday in November, for a 2-year period beginning with the first Sunday in March of 1976 and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise.

The Senate resumed the consideration of the bill.

ONE HUNDRED AND THIRTEEN COUNTRIES OWE $50 BILLION TO THE UNITED STATES

Mr. HARRY F. BYRD, Jr. Mr. President, a subcommittee of the Committee on Finance, namely, the Subcommittee on International Finance and Resources, met today. The purpose of the hearing was to ascertain the status of the debts owed by foreign nations to the United States.

The witnesses were James G. Lowenstein, Deputy Assistant Secretary of State for European Affairs; and Paul H. Boeker, Deputy Assistant Secretary for International Finance and Development.

Mr. President, it was brought out at the committee hearings this morning that 113 foreign governments owe varying sums of money to the United States. The total indebtedness of foreign governments to the United States is now slightly over $60 billion.

During the October 1973 hearings, some slightly over 2 years ago, the amount owed by foreign countries to our country was $58 billion, so there has been an increase of $2 billion during this period of time.

Among the countries owing large sums to the United States is India, which now owes $4 billion. Incidentally, the administration is seeking, is urging, additional grants and loans to India despite the fact that that country owes the United States more than $4 billion at the present time.

I want to emphasize that the debts totaling $60 billion from foreign nations are in addition to the untold billions of dollars given away to foreign countries.

I am particularly concerned at the way the debt owed by Russia to the United States was handled. Russia owes the United States $2.6 billion. Secretary Kissinger agreed to settle this for $48 million, plus another $674 million, provided the United States granted Russia most-favored-nation tariff treatment, which Congress refused to do.

Despite Russia's refusal to pay her just debt to the United States, our Export-Import Bank at Secretary Kissinger's urging has approved additional loans to Russia totaling $468 million.

The outstanding loans to Russia today are $120 million by the Export-Import Bank. This, in addition to the $2.6 billion that I just mentioned.

The Senate and the Congress, for that matter, wrote into both the trade bill and into the extension of the Export-Import Bank an amendment which was introduced by the Senator from Virginia to limit new loans to Russia by the Export-Import Bank to $300 million.

The witnesses stated today that there is no intention on the part of the Government to go beyond that $300 million figure. Even though $468 million additional loans have been approved to Russia, that ceiling of $300 million will be adhered to, the committee was informed today.

Incidentally, when Secretary Kissinger appeared before the Finance Committee a little over 2 weeks ago, I recall that he had opposed strongly the Byrd amendment limiting Export-Import Bank loans to Russia, and I asked him whether he had any thoughts in regard to asking Congress to increase that ceiling, whether he or the State Department would.

He replied that he had opposed the ceiling, but that he had concluded that he would not ask for an increase in the ceiling because of the attitude of Russia in Angola, by injecting itself into the affairs of Angola, and because of that he would not seek an increase of these Export-Import Bank loans to Russia.

So it seems to me the Congress in adopting that ceiling a year or so ago did the State Department a great favor. I am glad that for the time being, at least, there will be no effort made to change that ceiling.

In regard to these vast debts owed by foreign nations totaling $60 billion owed by 113 different countries, I am not at all satisfied with the efforts by the State Department to collect these debts. I think greater attention needs to be given to these debts by the responsible officials in the executive branch.

Frankly, I feel the time has come to give some consideration to the American taxpayer and for our country to cease being a world Santa Claus and a world banker.

At a later date, I shall put into the Record additional information obtained from the State Department officials today, but I wanted to make this preliminary statement this afternoon.

Mr. HANSEN. Mr. President, will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I was not able to be with the subcommittee during the full hearing this morning, but I was there for part of the hearing. I simply want to compliment our distinguished colleague from Virginia for the very excellent service he is providing the Nation in delving into this problem.

It is just strange, indeed, that our country does some of the things that we learned it does. We write off old debts, we arbitrate over them, we loan them first and then they talk about regularizing them, or something—I think that was the word, by which they mean maybe they are going to get payments started on a certain schedule—and it is not uncommon, or, at least, I gather from what I heard this morning, it is not uncommon to have the first payment not become due and payable until maybe 5 years down the road. Then, in the meantime, we may be making grants to these nations that are our debtors.

If we owe them anything, oftentimes I guess we try to keep current on what our payments may be, certainly balance of payments would be one such situation. I really think that if the typical American understood what the situation was insofar as the way our country does business, he would have to conclude we are not very good businessmen.

Would the Senator from Virginia agree with me that that is a fair deduction, at least?

Mr. HARRY F. BYRD, JR. I certainly agree with the able Senator from Wyoming. I think it is a very appropriate deduction.

Mr. HANSEN. I hope Senators will avail themselves of the opportunity to read the hearing record because if they do this, I think we are going to be able to vote on issues that are going to be coming up that will be important to all of us in a much more knowledgeable fashion than would otherwise be the case were not the Senator from Virginia calling the hearings and having the witnesses who were there this morning.

I thank my colleague from Virginia.

Mr. HARRY F. BYRD, JR. I appreciate very much the comments of the able Senator from Wyoming.

I point out that in the hearing this morning the Senator from Wyoming emphasized a very important point; namely, that the loans which the committee was discussing and about which the witnesses were testifying dealt entirely with the $60 billion in loans which are supposed to be repaid and did not touch at all the untold billions of dollars which our Nation has given away without any request at all for repayment.

I thank the Senator from Wyoming.

CHANGE OF VOTE—ROLLCALL NO. 583 OF DECEMBER 12, 1975

Mr. DOLE. Mr. President, on rollcall vote No. 583 of December 12, 1975, dealing with State law requirements for the wearing of motorcycle safety helmets, I am recorded as having voted "nay."

While I did indeed vote in the negative on that amendment, I should like to state that I was misinformed at the time as to its nature and intent. Had I been present for the debate on the provision and fully understood its purpose, I would have chosen to vote in the affirmative.

I hope my colleagues can appreciate the fact that I rushed into the Chamber from the airport to make that vote at the last minute, having just returned from my father's funeral the day before. Not only had I missed the first three votes that morning, but every other one that week, and was present then under the most difficult and anguishing of circumstances.

With due apologies to everyone involved, therefore, I would like to request now that the permanent record be changed to show me voting "yea" on the rollcall in question. I ask unanimous consent, Mr. President, that the clerk be allowed to make that correction.

The PRESIDING OFFICER (Mr. Glenn). Without objection, it is so ordered.

COMMENT BY PRESIDENT OF TOBACCO INSTITUTE CONCERNING HEARINGS ON S. 2902

Mr. HELMS. Mr. President, as I mentioned this past Thursday morning in remarks in this Chamber, some confusion surrounded the scheduling of witnesses to testify before the Subcommittee on Health in its February 19 hearings respecting the use of certain tobacco products.

And, since that confusion was reiterated by a statement inserted in the Record of that date by a distinguished colleague, I asked Mr. Horace Kornegay, president of the Tobacco Institute, Inc., to advise me of his understanding of the invitation issued to him by the subcommittee respecting the presentation of testimony on that date.

I am certain that the confusion was not intended by the distinguished members of the subcommittee, and I appreciate the fact that Mr. Kornegay and two distinguished scientists were ultimately permitted to testify, even though that invitation was extended to include the scientists less than 48 hours prior to the hearings.

Subsequent to the hearings I also submitted testimony for the hearing record, and I thank the subcommittee for accepting it.

Mr. President, I ask unanimous consent that a letter dated February 20, 1976, from Mr. Horace Kornegay, president, The Tobacco Institute, Inc., be printed in the Record, together with the text of the telegram to which Mr. Kornegay refers in his letter.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Tobacco Institute, Inc.,
Washington, D.C., February 20, 1976.

Hon. Jesse Helms,
U.S. Senate,
Washington, D.C.

Dear Senator: I am pleased to respond to your telephone inquiry this morning about that portion of Senator Kennedy's remarks in the *Congressional Record* of February 19th at page 3719 which stated:

"Finally, in order that both sides of this scientific question be reviewed, the committee contacted the American Tobacco Institute and requested that they present their most compelling scientific case and invited them to bring to the committee any and all scientific experts that they might choose."

The following sequence of events occurred:

On the morning of February 4, 1976, I received a Western Union telegram signed by Edward M. Kennedy, Chairman, Senate Health Subcommittee, which stated in part that "This will invite The Tobacco Institute to testify at the hearing on Cigarette Smoking and Disease before the Subcommittee on Health of the Senate on February 19, 1976, at 9:30 a.m. . . ." (Copy attached.)

A few minutes before noon on Tuesday, February 17, I received a telephone call from Dr. Arthur Silverstein of the subcommittee staff and he told me that he hoped that I understood under the terms of the invitation to The Tobacco Institute that I could bring with me medical and scientific witnesses if I wanted to. I told Dr. Silverstein that I appreciated his call but that it was of such short notice I did not know about the availability of expert witnesses; however, I would look into the matter and if I found any who were available in less than 48 hours notice, I would advise him in order that he might put them on the witness list. The following day between the hours of 2 and 3 p.m., I attempted to reach Dr. Silverstein and upon learning that he was not in the office, I advised a staff member of the subcommittee that Dr. Sheldon C. Sommers and Dr. Theodore Sterling should be placed on the witness list.

At no time has the committee contacted The Tobacco Institute and "requested that they present their most compelling scientific case or invited them to bring to the committee any and all scientific experts that they might choose." The statement made to me by Dr. Silverstein was neither a request nor an invitation, but merely a statement that it would be permissible for me to be accompanied by scientific experts.

At the very outset, Dr. Silverstein, on January 27, advised me that only one day of hearings would be devoted to the question of smoking and health, which struck me as grossly insufficient time to spend on such a complex and controversial scientific issue. During the course of my conversation with him, I called his attention to the two most recent Congressional hearings dealing with the issue of smoking and health, both of which consumed more than one day. Senator, for your information, I am attaching hereto a copy of the indices of these two hearings which indicate the substantial number of scientific and medical experts who testified. I would suggest, Senator, that in the pursuit of objectivity, the staff might well have called several on the list to determine their availability for testimony.

I am grateful to you for your inquiry and for this opportunity to reply.

Sincerely yours,

Horace R. Kornegay.

Washington, D.C., *February 3, 1976.*

Mr. Horace Kornegay,
President, Tobacco Institute,
Washington, D.C.

This will invite the tobacco institute to testify at the hearing on cigarette smoking and disease before the Subcommittee on Health of the Senate on February 19, 1976, at 9:30 a.m. in room 4232, Dirksen Senate Office Building. While a bill on this subject, S. 2902, is currently before the subcommittee, this initial hearing will explore the possible relationship between smoking and disease, and consideration of the details of the bill will be deferred.

The Legislative Reorganization Act of 1970 requires that you submit five copies of your prepared statements; however, it would be appreciated if you would submit 25 copies of your prepared statement plus one short biography to the Senate Health Subcommittee, room 4228, Dirksen Senate Office Building, Washington, D.C. 20510, no later than the close of business on February 16, 1976. Also, please bring seventy copies of the testimony with you to the hearings. For any further information, please call Dr. Arthur Silverstein at (202) 224-7958.

Edward M. Kennedy,
Chairman,
Senate Health Subcommittee.

UNANIMOUS-CONSENT AGREEMENT—VOTE ON S. 2931

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on passage of S. 2931, the daylight saving time bill, be changed from 12 noon on Wednesday next until the hour of 3 p.m. on that date, and that paragraph 3 of rule XII of the Standing Rules of the Senate be waived.

Mr. DOLE. Reserving the right to object, and I shall not object, the Senator from Kansas has not been able to be on the floor today since he has been working on the food stamp bill in the Committee on Agriculture and Forestry. Would we still have the right to offer amendments prior to passage and have some time for debate on those amendments?

Mr. ROBERT C. BYRD. Mr. President, as I recall the agreement, any Senator would have the right to offer amendments and at least get a vote on them. I do not recall precisely what the agreement was. Perhaps the Chair should respond.

The PRESIDING OFFICER. The agreement was that time for debate on this bill is limited to 3 hours to be equally divided and controlled by the majority and minority leaders or their designees with 1 hour on any amendment in the first degree and with 30 minutes on any amendment in the second degree, debatable motion, appeal, or point of order.

Mr. DOLE. It is the understanding of the Senator from Kansas that we would have that morning from the time we came in until 3 o'clock to offer an amendment.

Mr. ROBERT C. BYRD. Yes. The Senator would certainly have more of an opportunity to offer such an amendment if this request is agreed to than if the 12 noon vote were permitted to stand.

Mr. DOLE. I withdraw my reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITON OF SENATOR LEAHY ON WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday, after Mr. Bartlett has been recognized under the order previously entered, Mr. Leahy be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF H.R. 8617

Mr. ROBERT C. BYRD. Mr. President, following the vote on final passage of S. 2931, the daylight saving bill, on Wednesday, the Senate will resume consideration of S. 507, the national resource lands bill, and will dispose of that measure during the afternoon.

I ask unanimous consent that upon the disposition of S. 507, the national resource lands bill, the Senate then proceed to the consideration of H.R. 8617, an act to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation to protect such employees from improper political solicitation, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, tomorrow the Senate will convene at the hour of 9:30 a.m. After the two leaders or their designees have been recognized under the standing order, Mr. Bartlett will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m., with statements limited therein to 5 minutes each.

At the hour of 10 a.m. the Senate will proceed to the consideration of Calendar Order No. 571, House Joint Resolution 549, the Mariana Islands bill. There is a time agreement thereon. A vote on passage of that measure will occur no later than 5 p.m. tomorrow. So there will be rollcall votes tomorrow.

Upon the disposition of the Mariana Islands bill, whether or not any other measure is called up for action tomorrow remains to be seen.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9:30 a.m. tomorrow.

The motion was agreed to; and at 5:04 p.m., the Senate adjourned until tomorrow, Tuesday, February 24, 1976, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate on February 23, 1976:

Department of Housing and Urban Development

James L. Young, of Washington, to be an Assistant Secretary of Housing and Urban Development, vice H. R. Crawford, resigned.

Federal Trade Commission

Calvin Joseph Collier, of Virginia, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1975, vice Mayo J. Thompson.

Department of State

Marquita M. Maytag, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Nepal.

Council of the North Atlantic Treaty Organization

Robert Strausz-Hupé, of Pennsylvania, to be the U.S. Permanent Representative on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 23, 1976:

Department of Justice

Robert B. Fiske, Jr., of Connecticut, to be U.S. attorney for the southern district of New York for the term of 4 years.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

In the Coast Guard

Coast Guard nominations beginning Crook Stewart, Jr., to be captain, and ending Donald L. Frantz, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on February 4, 1976.

Coast Guard nominations beginning Daniel J. Elliott, to be lieutenant (jg.), and ending Victor M. Jarnegan, to be lieutenant (jg.), which nominations were received by the Senate and appeared in the Congressional Record on February 4, 1976.

In the National Oceanic and Atmospheric Administration

National Oceanic and Atmospheric Administration nominations beginning Wesley V. Hull, to be captain, and ending John C. Bortniak, to be ensign, which nominations were received by the Senate and appeared in the Congressional Record on February 5, 1976.

HOUSE OF REPRESENTATIVES—*Monday, February 23, 1976*

The House met at 12 o'clock noon.

Rev. A. Reid Jepson, vice president, Public Ministries, Far East Broadcasting Co., Whittier, Calif., offered the following prayer:

Eternal God, Father of all who trust Thee, we approach Thy throne of grace admitting our need of your mercy and guidance. With King David of old we pray: *Who are we, and what is this house, that thou has brought us this far.*—II Samuel 7: 18—for us, 200 years from our Nation's birth.

Among us there may be unbelievers, scoffers, blasphemers, but there are believers in God, servants of Jesus Christ, lovers of mankind—a product of freedom and righteousness.

We know that you call us as a nation to repent of sin; personal and corporate; to accept forgiveness, then yield the right-of-way to You. We thank You for 200 birthdays but beg of You a "new birth" day spiritually for our leaders and our citizens.

With millions behind curtains—we evaluate our God-given freedom, and turn first to the Lord of the Bible, then to the people of Earth with a person-to-person message of hope through Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Heiting, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate having proceeded to reconsider the bill (H.R. 5247) entitled "An act to authorize a local public works capital development and investment program, to amend the Public Works and Economic Development Act of 1965 to increase the antirecessionary effectiveness of the program, and for other purposes," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved that the said bill do not pass, two-thirds of the Senators present not having voted in the affirmative.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2017) entitled "An act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes," and that the Senate agreed to the House amendment with an amendment to the foregoing bill in which concurrence of the House is requested.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 22. An act for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes;

S. 1664. An act to amend the Lead-Based Paint Poisoning Prevention Act; and

S. 2662. An act to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

STATUS OF THE FISCAL YEAR 1976 CONGRESSIONAL BUDGET

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, on behalf of the House Committee on the Budget I wish to inform the House on the status of the fiscal year 1976 congressional budget. As you know the Budget Committee has been notifying the House on a weekly basis about where Congress stands in relation to the ceilings on budget authority and outlays and the revenue floor adopted in House Concurrent Resolution 466.

As of close of business last week there has been no change in the current level of spending since our last notification to the Speaker on February 4, 1976. At that time $11.3 billion in budget authority and $3.9 billion in outlays remained below the budget ceilings and $300 million remained above the revenue floor. Congressional action last week sustaining the veto of the accelerated public works-countercyclical bill did not affect the ceilings because this bill was an authorization bill, which required subsequent appropriations. The vetoed bill itself did not provide budget authority.

Although funds still remain below the ceilings, caution must be advised. As you remember Congress has already approved the $2.3 billion New York seasonal financial fund which was not assumed in the budget resolution. Furthermore, a number of additional factors are putting pressure on the ceilings.

I shall place a detailed analysis of the status of the congressional budget in the Extensions of Remarks in today's Congressional Record.

Thank you, Mr. Speaker.

PERSONAL EXPLANATION

Mr. OTTINGER. Mr. Speaker, last Thursday afternoon I moderated a special briefing for members of the Environmental Study Conference on the nuclear power safety concerns which were raised by three engineers who recently resigned from the General Electric Co. at San Jose, Calif.

Unfortunately, the bells announcing the vote failed to ring in the hearing room, and I was unable to get to the floor of the House in order to cast my vote on rollcall No. 64, the adoption of House Resolution 1042, requiring the Committee on Standards of Official Conduct to inquire into the circumstances surrounding the publication of the House Select Intelligence Committee report. Had I been present I would have voted against this measure.

I have made a strong criticism of this resolution which appears separately in the Record today.

PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS TO FILE REPORT ON H.R. 11963

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on International Relations may have until midnight tonight to file a report on the bill (H.R. 11963), to authorize appropriations for the International Security Assistance Act for fiscal year 1976.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

LITTLE BUSINESS BEING DESTROYED BY OUR EFFORTS TO SAVE LITTLE BUSINESS

(Mr. POAGE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous material.)

Mr. POAGE. Mr. Speaker, for a good many years we have had two prices for gas, intrastate and interstate. This has served to confuse things. Then when we had a chance to correct that situation the other night, we did not do so, but we passed legislation which was supposed to help the "little man."

I have a letter from a "little man" here who is required to sell his propane gas at some 8 cents less than his competitor because of present regulations.

He says:

> This situation has caused us to lose a multitude of good old time customers whom we have served for the past 20 years. This has caused us to lose our reputation of having a fair and competitive priced product. Also, it has caused much suspicion among our customers. We lose more on bad accounts because the people thought we were robbing them. If this condition continues our company will continue to go down hill.

Mr. Speaker, this is a "little business" being destroyed by our efforts to save "little business." We are literally "saving" these people to death. Cannot we ever learn that free enterprise will work, but only when it is left free?

I include the full letter in my remarks:

KILLEEN BUTANE GAS CO., INC.,
Killeen, Tex.

HON. W. R. "BOB" POAGE,
House Office Building,
Washington, D.C.

DEAR MR. POAGE: On May 15, 1973 our company and our competitor (Smith & Smith Propane Service) whose office is located approximately five blocks away and services all the same area we serve with propane gas service were selling propane gas at the same price. I happen to know at this time we both had the same amount of markup per gallon because we were among the first to be audited by F.E.A. We are buying our product from Northern Propane Gas Company as we were then. Smith & Smith is buying gas now as they were then from Lone Star Gas Company (Now ENSEARCH).

Our legal markup is 14.227¢ per gallon; our price is 38¢ per gallon. Smith & Smith Company is now selling at 30¢ per gallon and they are taking the maximum markup. We are now within 8¢ of each other and we have been as far apart as 12¢ per gallon. This condition has existed for approximately six to eight months. I have talked with the people at Lone Star Gas Company; they tell me they are held down by the F.E.A. The people at Northern Propane say they are selling legal. I have talked with Ralph Swoboda at the Dallas F.E.A. office. He sympathizes and tells me each time he will investigate and let me know what caused this problem. We have never had a report from him to this date.

This situation has caused us to lose a multitude of good old time customers whom we have served for the past twenty years. This has caused us to lose our reputation of having a fair and competitive priced product. Also, it has caused much suspicion among our customers. We lose more on bad accounts because the people thought we were robbing them. If this condition continues our company will continue to go down hill.

I realize our company is not the only one that has this same condition but the companies that have the cheap gas are in the minority. Why can't the F.E.A. let those suppliers like Ensearch increase their price so we can compete at the retail level.

I would like to see the F.E.A. completely get out of the pricing of all oil products but stay in the allocation of the products so the old historical users will have gas to cook, heat water, and warm their homes with, in the future as in the past.

I am on my knees begging you to give us some relief from a situation that is ruining our company day by day.

Sincerely,

A. D. ROBINETT.

NATIONAL LEAGUE OF UNITED AMERICANS CITIZENS WEEK

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, it was my privilege and my pleasure to participate last week in observance of "National League of United Americans Citizens Week," marking the 47th anniversary of the largest nonprofit civic organization in the United States serving the Spanish-speaking people of our Nation.

Through many years, approaching half a century, the League of United Latin American Citizens—LULAC—has been a service and action organization of great force.

It has been effectively involved in many issues affecting our Spanish-surnamed population. Its work has focused on education improvement, employment opportunity, raising the quality of health care, advancing civil rights, and active participation in community affairs.

In all of these areas gratifying progress has been made and continues to be made.

Now, in this Bicentennial Year of U.S. independence, a national spotlight is being thrown on the contributions made by Spanish-speaking people in that struggle for independence, beginning early, and in the time since freedom was won.

The contributions have been many in number and outstanding in value.

Most Americans have known from their schooldays about the valuable support given the Revolution by France, exemplified in the person of the Marquis de Lafayette.

Valuable leadership also came from the Polish patriot, Thaddeus Kosciusko, and many Americans know about that.

Knowledge of the assistance provided during the Revolution by Spain and citizens of her American colonies is less widespread. That lack is being remedied. In this Bicentennial period, Americans generally are being forcefully reminded of the significance and richness of our Spanish heritage. It is a heritage that goes far back, to the very discovery of the New World.

The very discovery of the New World was a Spanish undertaking, Christopher Columbus having been financed on his voyage by the Queen of Spain.

On last Thursday, I was given the opportunity of discussing this heritage at a luncheon of the Washington Council of the League of United Latin American Citizens. It was a truly outstanding commemorative occasion, during which attention was called to Hispanic-American projects and events being undertaken by States, cities, counties, communities, educational institutions, and private organizations in connection with the Nation's 200th birthday.

One of the men who played a vital role in the American struggle for independence was Bernardo de Galvez, a Spanish Governor of Louisiana during most of the Revolutionary period. In recognition of his contribution to American victory the Spanish Government has proposed to present to the United States a statue of Galvez. This is most fitting. A bill I have cosponsored with my colleagues would provide for acceptance of this appropriate Bicentennial gift and authorize the selection of a site for its erection in our Capital City.

Mr. Speaker, it is well during the Bicentennial celebration for all of us to remember our origins. The assistance given by foreign countries and foreign nationals played no small part in the success of the American Revolution. We have a right to take pride in where our forebears came from—and where we are today as citizens of the United States of America, the leader of the free world.

WHO IS ACTUALLY RUNNING OUR FOREIGN POLICY?

(Mr. RIEGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIEGLE. Mr. Speaker, I think that all Americans should be outraged at the tasteless behavior of former President Nixon for his obvious meddling in American foreign policy with his trip to China.

And what business does President Ford have in providing Secret Service protection to a crook like Nixon—who is so shameless he still has not been man enough to say he is sorry to the American people?

This is another $250,000 ripoff of the American taxpayer—for a man who ought to be in jail—instead of traveling the world with Secret Service protection.

Is Nixon still pulling the strings in the Ford administration? If not, why did President Ford not have the good sense to block this trip? I think the American people have a right to know who is actually running foreign policy in the Ford administration.

I think President Ford ought to be ashamed of himself for remaining silent and letting an outrage like this take place.

LEGISLATION TO IMPLEMENT PAY INCREASE POLICY FOR FEDERAL WHITE COLLAR WORKERS

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, I want to take this opportunity to advise Members I have introduced legislation which makes a clear commitment to economy in Government. My bill is designed to implement the pay increase policy for Federal white collar workers, as outlined in President Ford's budget, for fiscal 1977. It places a 5-percent ceiling on pay increases for white collar employees.

Although my bill is only five lines in length, it provides the basis for a realistic and effective approach to a critical and costly area of Federal Government. As President Ford's Panel on Federal Compensation pointed out:

> When we realize the United States Government employs some 2.8 million civilians at an annual personnel cost of over $40 billion, the importance of compensation should be self-evident.

Consistent with the President's policy of fiscal restraint, the budget assumes pay increases for white-collar employees will be limited to 5 percent. Under the budget formula, all employees will receive at least a 3-percent increase, and the estimated average increase will be 4.7 percent.

I realize there will be a lot of sound and fury over the need for percentage increases of much more costly proportions, but the din will not camouflage the fact there is just so much "give" in the Federal budget. The budget does contain $2.4 billion to cover the average 4.7-percent increase contemplated by the President. I think it is worth noting that each 1-percent increase in Federal pay costs the Government $500 million—$255 million for civilian pay and $245 million for military pay.

My bill covers all employees under the General Schedule, the Foreign Service, Veterans' Administration Department of Medicine and Surgery, the military—uniformed services, congressional employees, Members of Congress, those under the executive pay schedule, and last, but not least, Federal judges.

When Members' salaries are at issue in public debate, there does seem to be an added incentive for fiscal restraint. We adhered to that principle last year, and I see no reason for jettisoning it in 1976.

A PRIVATE CITIZEN HAS A RIGHT TO TRAVEL

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I rise in response to the remarks we just heard. I think when the day comes that the President of the United States or anybody else can control the actions of a private citizen, it will be a sorry day. I think to call for a mandatory blockage of anybody's trip, whether of somebody convicted or not convicted, is not the point. The point is an individual citizen should not be deprived of his right to travel. I think any suggestion that he should be so deprived is contrary to his rights.

Mr. RIEGLE. Mr. Speaker, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Michigan.

Mr. RIEGLE. I thank the gentlewoman for yielding.

Does the trip by President Nixon have any connection at all with the conduct of the foreign policy of the United States? If not, why has Secretary Kissinger indicated he may want to talk to former President Nixon after this trip?

Mrs. FENWICK. I do not know what Secretary Kissinger's motives were. I would suggest that anybody who travels might be interesting to listen to, but I certainly do not think Mr. Nixon's trip has anything to do with the foreign policy of the United States. This is my conviction.

Mr. RIEGLE. If the gentlewoman will yield further, I disagree with the gentlewoman, and I thank the gentlewoman for yielding.

A POINT OF PERSONAL PRIVILEGE

Mr. BAUMAN. Mr. Speaker, I rise to a point of personal privilege.

Last month I was attacked by Jack Anderson in a column. He subsequently, upon being presented with facts, retracted the charges against me completely. I would like to answer them at this point.

(Mr. BAUMAN asked and was given permission to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, in the January 15, 1976, issue of the Washington Post and many other newspapers across the Nation the daily column entitled "The Washington Merry-Go-Round," written by Jack Anderson and Les Whitten contained the following brief paragraph:

> Arch-conservative Congressman Robert Bauman (R-Md.) has been raising money for Ronald Reagan. But Bauman pocketed $2,626.52 of the money, according to a voucher, "for out-of-pocket expenses."

Mr. Speaker, obviously, on its face, this item implied many things, including the possibility that I had in some manner acted dishonestly. On the same day I sent the following letter to Mr. Anderson:

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 15, 1976.

MR. JACK ANDERSON,
MR. LES WHITTEN,
Washington, D.C.

DEAR MR. ANDERSON and MR. WHITTEN: In your daily column, "The Washington Merry-Go-Round," which appeared in the Washington Post and other newspapers today, January 15, 1976, you have written the following item:

"Arch-conservative Congressman Robert Bauman (R-Md.) has been raising money for Ronald Reagan. But Bauman pocketed $2,626.52 of the money, according to a voucher "for out-of-pocket expenses."

This statement is totally untrue in every detail and could have been proven so had you or your staff contacted me. Quite obviously you have either published this falsehood with the malicious intent of damaging my reputation or you are so grossly negligent in writing your column that your action amounts to malice.

I have never raised any money for Ronald Reagan, even though he is in fact a good friend of mine. Neither have I ever "pocketed" any money which belongs to him or anyone else. Nor do I know of the existence of any voucher which indicates that I received any such amount for "out-of-pocket" expenses or for any other purpose.

On August 24, 1974, at my invitation, Governor Reagan appeared on my behalf before several thousand people at my annual "bull roast" at the Queen Anne County 4-H Fair Grounds near Centreville, Maryland. As Governor of California he was accompanied by two aides and a security guard. The event was billed as a fund raiser for my congressional campaign and all proceeds went to that purpose. All money raised and expended was fully reported by the Bauman For Congress Committee, Box 1408, Easton, Md. 21601, according to Federal law and timely reports have been filed periodically with the proper Federal and Maryland State officials including the Clerk of the U.S. House of Representatives.

On October 8, 1974, my office received a bill signed by Michael Woodson of Governor Reagan's staff in Sacramento detailing the travel expenses for the Governor and his three staff members. The total amount of the travel expense was $2,626.52, oddly enough, the exact amount which you have accused me of "pocketing" or, in effect, stealing.

By mutual agreement with Jeffrey Bell of the Governor's staff the payment of this bill was delayed since I was in the middle of the Congressional campaign and all funds were needed for that effort. The entire amount was paid by three checks drawn on the Bauman for Congress Committee Account (#01–107267–01) at the Talbot Bank of Easton, Maryland, in the following sequence: February 24, 1975, $858.83; February 26, 1975, $454.43; March 6, 1975, $1,313.26. The three checks total $2,626.52, and were made payable to "Governor Reagan Travel Fund" as we were instructed by the Governor's staff. At no time was there any problem about this payment arrangement and each and every one of these transactions are a matter of public record in Federal Reports filed by me with the Clerk of the House on the following dates: January 31, 1975; March 10, 1975; and April 10, 1975. The latter report showed clearly that the entire amount had been paid and no balance owed remained. We have in our possession cancelled checks in the amounts indicated.

In view of the fact that you have deliberately published a false statement concerning me I ask that you immediately publish a full retraction in your next daily column. I also request that you forward such a retraction to me personally at my office, 118 Cannon House Office Building, Washington, D.C. 20515.

Sincerely,

ROBERT E. BAUMAN,
Member of Congress.

Mr. Speaker, several days later, Mr. Anderson personally called me and apologized for the statement in his January 15, 1976, column. He told me that it had been written by a Bob Owens of his staff who had misread certain reports filed by the "Committee To Administer the Governor Reagan Travel Fund" to which I had made payments for the Governor's travel expenses when he visited my district in 1974. Mr. Anderson also said that Mr. Owens had made an attempt to contact me by telephone and had failed.

It would have been very easy for Mr. Anderson, Mr. Owens, or any other reporter to contact me prior to the publication of this article since I was in my congressional district throughout the recess of the House which ended on January 21. My Washington and Easton offices remained open and anyone truly wishing to contact me could have done so. In addition, my home telephone is listed in the Maryland directory.

As a result of my own investigation, I found that in various reports filed by the Governor Reagan Travel Committee there indeed did appear entries which showed that my campaign committee owed the amount in question. The same reports when fully examined also showed that the full amount had been paid over a period of months, as I indicated in my letter to Mr. Anderson, a fact which any careful researcher would have easily discovered.

Mr. Speaker, as a result of my letter to Mr. Anderson, he published the following retraction of his original story, which appeared in his column on January 26, 1976:

> Apology to Bauman—We recently reported that Rep. Robert E. Bauman (R-Md.) had pocketed $2,626.52 of funds he had raised for Ronald Reagan. The information came from a Reagan campaign voucher, and we were unable to reach Bauman for comment before going to press. Now Bauman has convinced us that the voucher completely misconstrued the payment. Bauman didn't collect $2,626.52 from Reagan but paid this amount to Reagan for travel expenses. It was a belated payment for a campaign appearance,

which Reagan made in 1974. We apologize to Bauman for the mistake.

Mr. Speaker, I appreciate the retraction of the original false statement; but as so often happens in public life, one can wonder whether damage once done is ever undone. At least Mr. Anderson has made an attempt to set the record straight, and I hope this has indeed been the result.

MR. NIXON'S TRIP TO CHINA

(Mr. HAYS of Ohio asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. HAYS of Ohio. Mr. Speaker, I did not hear all of the remarks of the gentleman from Michigan (Mr. RIEGLE) but I did hear the remarks of the gentlewoman from New Jersey. I agree that nobody should be restricted from traveling, but I just think one point ought to be made—at least this is my view—I do not think Mr. Nixon went to China to enhance or to attempt to enhance the foreign policy of the United States. I think he went there to try to enhance Mr. Ronald Reagan's chances to be nominated on the Republican ticket. That is what I think he went over there for.

It is kind of an ungrateful action, because it was not Mr. Reagan who pardoned Mr. Nixon.

RESTRICTIONS ON TRAVEL

(Mr. DENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DENT. Mr. Speaker, I am glad to hear the gentleman who is on the Committee on International Relations state that he thinks there should not be any restrictions on a citizen who wants to travel. We have some restrictions about travel, and they are pretty rigid.

I wanted to go to Rhodesia to see just what the conditions were that have so much to do with the industry of my district in the matter of chrome and the availability of chrome and prices. I was refused a visa. Two other Members of Congress were with me, and they were refused visas to go to Rhodesia. We got the visas from the South African Government because we could go to South Africa. However, I think I am an ordinary citizen, and I do not have too many black Members against me. I have had some letters written to me by acquaintances I made whom I hope to turn into friendships in Rhodesia. Yet their letters that are sent to me are picked up in Customs. I never get to see them.

They sent me a book on Rhodesian history which never arrived, so I made some inquiry and learned that no one can send a letter, no one can send any kind of a notice or any kind of a gift out of Rhodesia to an American citizen. It is confiscated in the mails.

I do not know whether that has anything to do with Mr. Nixon's going over to China or not. But I notice that our delegation from this House went over there, the women, and I never read a line in the paper outside of a picture. They were never given the kind of treatment being given to Mr. Nixon today.

I have a lot of people in my district asking how this has happened. I cannot answer; maybe some of the Members can.

SEVENTH ANNUAL REPORT OF NATIONAL SCIENCE BOARD—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–377)

The SPEAKER laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, referred to the Committee on Science and Technology and ordered to be printed with illustrations:

To the Congress of the United States:

I am pleased to submit to the Congress the Seventh Annual Report of the National Science Board entitled, "Science Indicators 1974." It has been prepared in accordance with Section 4(g) of the National Science Foundation Act, as amended by Public Law 90–407.

This report is a part of a continuing effort by the National Science Board to develop a statistical and comparative picture of the status of American science and technology. On balance, the data in this report and other evidence indicate that the Nation's research and development enterprise continues to be productive and competitive. The report also shows the unfortunate fact that inflation and the recent recession have affected adversely the level of effort and the resources that are devoted to the Nation's research and development activities—much the same as other programs have been affected. Fortunately, we are making solid progress in correcting these problems and the prospects for the future are very good.

The nation's research and development efforts are important to the growth of our economy, the future welfare of our citizens, and the maintenance of a strong defense. The Nation must also make a strong effort in basic research to provide the new knowledge which is essential for scientific and technological progress. My 1977 Budget now before the Congress reflects my views on the importance of science and technology in achieving our national objectives.

I commend this report to your attention.

GERALD R. FORD.

THE WHITE HOUSE, *February 23, 1976.*

CALL OF THE HOUSE

Mr. CONABLE. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 65]

Abzug
Adams
Addabbo
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Archer
Ashbrook
Aspin
Badillo
Barrett
Baucus
Bell
Biaggi
Boland
Bolling
Bowen
Breaux
Breckinridge
Brinkley
Brodhead
Cederberg
Chisholm
Clancy
Cleveland
Conyers
Corman
Cotter
Crane
Daniels, N.J.
Davis
Dellums
Diggs
Dingell
Dodd
Downing, Va.
Eckhardt
Erlenborn
Esch
Eshleman
Evans, Ind.
Fary
Foley
Ford, Tenn.
Fraser
Frey
Fuqua
Gonzalez
Green
Hanley
Harkin
Harrington
Harsha
Hayes, Ind.
Hébert
Hefner
Heinz
Helstoski
Henderson
Hinshaw
Holtzman
Howard
Hungate
Hyde
Jarman
Jenrette
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kindness
Koch
Lagomarsino
Landrum
Lent
Levitas
Litton
McDonald
Macdonald
Madden
Mathis
Metcalfe
Milford
Mills
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Nix
O'Hara
Patman, Tex.
Patterson, Calif.
Pepper
Pickle
Quillen
Railsback
Risenhoover
Roberts
Rodino
Rostenkowski
Roush
Ryan
Sarbanes
Scheuer
Shuster
Skubitz
Smith, Nebr.
Snyder
Spellman
Staggers
Stark
Steelman
Stephens
Stratton
Sullivan
Symington
Talcott
Taylor, Mo.
Teague
Thornton
Udall
Van Deerlin
Vander Jagt
Vigorito
Walsh
Waxman
Wiggins
Wilson, Bob
Wydler
Zeferetti

The SPEAKER pro tempore (Mr. MCFALL). On this rollcall 295 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5727, PAROLE REORGANIZATION ACT OF 1975

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 5727) to establish an independent and regionalized U.S. Parole Commission, to provide fair and equitable parole procedures, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CONFERENCE REPORT (H. REPT. NO. 94–838)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5727) to establish an independent and regionalized United States Parole Commission, to provide fair and equitable parole procedures, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Parole Commission and Reorganization Act".

UNITED STATES PAROLE COMMISSION; PAROLE PROCEDURES, CONDITIONS, ETC.

SEC. 2. Title 18 of the United States Code is amended by repealing chapter 311 (relating to parole) and inserting in lieu thereof the following new chapter to read as follows:

"Chapter 311—PAROLE

"Sec.
"4201. Definitions.
"4202. Parole Commission created.
"4203. Powers and duties of the Commission.
"4204. Powers and duties of the Chairman.
"4205. Time of eligibility for release on parole.
"4206. Parole determination criteria.
"4207. Information considered.
"4208. Parole determination proceeding; time.
"4209. Conditions of parole.
"4210. Jurisdiction of Commission.
"4211. Early termination of parole.
"4212. Aliens.
"4213. Summons to appear or warrant for retaking of parolee.
"4214. Revocation of Parole.
"4215. Reconsideration and appeal.
"4216. Young adult offenders.
"4217. Warrants to retake Canal Zone parole violators.
"4218. Applicability of Administrative Procedure Act.

"§ 4201. Definitions

"As used in this chapter—

"(1) 'Commission' means the United States Parole Commission;

"(2) 'Commissioner' means any member of the United States Parole Commission;

"(3) 'Director' means the Director of the Bureau of Prisons;

"(4) 'Eligible prisoner' means any Federal prisoner who is eligible for parole pursuant to this title or any other law including any Federal prisoner whose parole has been revoked and who is not otherwise ineligible for parole;

"(5) 'Parolee' means any eligible prisoner who has been released on parole or deemed as if released on parole under section 4164 or section 4205(f); and

"(6) 'Rules and regulations' means rules and regulations promulgated by the Commission pursuant to section 4203 and section 553 of title 5, United States Code.

"§ 4202. Parole Commission created

"There is hereby established, as an independent agency in the Department of Justice, a United States Parole Commission which shall be comprised of nine members appointed by the President, by and with the advice and consent of the Senate. The President shall designate from among the commissioners one to serve as Chairman. The term of office of a commissioner shall be six years, except that the term of a person appointed as a commissioner to fill a vacancy shall expire six years from the date upon which such person was appointed and qualified. Upon the expiration of a term of office of a commissioner, the commissioner shall continue to act until a successor has been appointed and qualified, except that no commissioner may serve in excess of 12 years. Commissioners shall be compensated at the highest rate now or hereafter prescribed for grade 18 of the General Schedule pay rates (5 U.S.C. 5332).

"§ 4203. Powers and duties of the Commission

"(a) The Commission shall meet at least quarterly, and by majority vote shall—

"(1) promulgate rules and regulations establishing guidelines for the powers enumerated in subsection (b) of this section and such other rules and regulations as are necessary to carry out a national parole policy and the purposes of this chapter;

"(2) create such regions as are necessary to carry out the provisions of this chapter, but in no event less than five; and

"(3) ratify, revise, or deny any request for regular, supplemental, or deficiency appropriations, prior to the submission of the requests to the Office of Management and Budget by the Chairman, which requests shall be separate from those of any other agency of the Department of Justice.

"(b) The Commission, by majority vote, and pursuant to the procedures set out in this chapter, shall have the power to—

"(1) grant or deny an application or recommendation to parole any eligible prisoner;

"(2) impose reasonable conditions on an order granting parole;

"(3) modify or revoke an order paroling any eligible prisoner; and

"(4) request probation officers and other individuals, organizations, and public or private agencies to perform such duties with respect to any parolee as the Commission deems necessary for maintaining proper supervision of and assistance to such parolees; and so as to assure that no probation officers, individuals, organizations or agencies shall bear excessive caseloads.

"(c) The Commission, by majority vote, and pursuant to rules and regulations—

"(1) may delegate to any commissioner or commissioners powers enumerated in subsection (b) of this section;

"(2) may delegate to hearing examiners any powers necessary to conduct hearings and proceedings, take sworn testimony, obtain and make a record of pertinent information, make findings of probable cause and issue subpenas for witnesses or evidence in parole revocation proceedings, and recommend disposition of any matters enumerated in subsection (b) of this section, except that any such findings or recommendations shall be based upon the concurrence of not less than two hearing examiners;

"(3) delegate authority to conduct hearings held pursuant to section 4214 to any officer or employee of the executive or judicial branch of Federal or State government; and

"(4) may review, or may delegate to the National Appeals Board the power to review, any decision made pursuant to subparagraph (1) of this subsection except that any such decision so reviewed must be reaffirmed, modified or reversed within thirty days of the date the decision is rendered, and, in case of such review, the individual to whom the decision applies shall be informed in writing of the Commission's actions with respect thereto and the reasons for such actions.

"(d) Except as otherwise provided by law, any action taken by the Commission pursuant to subsection (a) of this section shall be taken by a majority vote of all individuals currently holding office as members of the Commission which shall maintain and make available for public inspection a record of the final vote of each member on statements of policy and interpretations adopted by it. In so acting, each commissioner shall have equal responsibility and authority, shall have full access to all information relating to the performance of such duties and responsibilities, and shall have one vote.

"§ 4204. Powers and duties of the Chairman

"(a) The Chairman shall—

"(1) convene and preside at meetings of the Commission pursuant to section 4203 and such additional meetings of the Commission as the Chairman may call or as may be requested in writing by at least three commissioners;

"(2) appoint, fix the compensation of, assign, and supervise all personnel employed by the Commission except that—

"(A) the appointment of any hearing examiner shall be subject to approval of the Commission within the first year of such hearing examiner's employment; and

"(B) regional commissioners shall appoint and supervise such personnel employed regularly and full time in their respective regions as are compensated at a rate up to and including grade 9 of the General Schedule pay rates (5 U.S.C. 5332);

"(3) assign duties among officers and employees of the Commission, including commissioners, so as to balance the workload and provide for orderly administration;

"(4) direct the preparation of requests for appropriations for the Commission, and the use of funds made available to the Commission;

"(5) designate three commissioners to serve on the National Appeals Board of whom one shall be so designated to serve as vice chairman of the Commission (who shall act as Chairman of the Commission in the absence or disability of the Chairman or in the event of the vacancy of the Chairmanship), and designate, for each such region established pursuant to section 4203, one commissioner to serve as regional commissioner in each such region; except that in each such designation the Chairman shall consider years of service, personal preference and fitness, and no such designation shall take effect unless concurred in by the President; or his designee;

"(6) serve as spokesman for the Commission and report annually to each House of Congress on the activities of the Commission; and

"(7) exercise such other powers and duties and perform such other functions as may be necessary to carry out the purposes of this chapter or as may be provided under any other provision of law.

"(b) The Chairman shall have the power to—

"(1) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

"(2) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes of the United States (31 U.S.C. 665(b));

"(3) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

"(4) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the parole process;

"(5) carry out programs of research concerning the parole process to develop classification systems which describe types of offenders, and to develop theories and practices which can be applied to the different types of offenders:

"(6) publish data concerning the parole process;

"(7) devise and conduct, in various geographical locations, seminars, workshops and training programs providing continuing studies and instruction for personnel of Federal, State and local agencies and private and public organizations working with parolees and connected with the parole process; and

"(8) utilize the services, equipment, personnel, information, facilities, and instrumentalities with or without reimbursement therefor of other Federal, State, local and private agencies with their consent.

"(c) In carrying out his functions under this section, the Chairman shall be governed by the national parole policies promulgated by the Commission.

"§ 4205. Time of eligibility for release on parole

"(a) Whenever confined and serving a definite term or terms of more than one year, a prisoner shall be eligible for release on parole after serving one-third of such term or terms or after serving ten years of a life sentence or of a sentence of over thirty years, except to the extent otherwise provided by law.

"(b) Upon entering a judgment of conviction, the court having jurisdiction to impose sentence, when in its opinion the ends of justice and best interest of the public require that the defendant be sentenced to imprisonment for a term exceeding one year, may (1) designate in the sentence of imprisonment imposed a minimum term at the expiration of which the prisoner shall become eligible for parole, which term may be less than but shall not be more than one-third of the maximum sentence imposed by the court, or (2) the court may fix the maximum sentence of imprisonment to be served in which event the court may specify that the prisoner may be released on parole at such time as the Commission may determine.

"(c) If the court desires more detailed information as a basis for determining the sentence to be imposed, the court may commit the defendant to the custody of the Attorney General, which commitment shall be deemed to be for the maximum sentence of imprisonment prescribed by law, for a study as described in subsection (d) of this section. The results of such study, together with any recommendations which the Director of the Bureau of Prisons believes would be helpful in determining the disposition of the case, shall be furnished to the court within three months unless the court grants time, not to exceed an additional three months, for further study. After receiving such reports and recommendations, the court may in its discretion: (1) place the offender on probation as authorized by section 3651; or (2) affirm the sentence of imprisonment originally imposed, or reduce the sentence of imprisonment, and commit the offender under any applicable provision of law. The term of the sentence shall run from the date of original commitment under this section.

"(d) Upon commitment of a prisoner sentenced to imprisonment under the provisions of subsections (a) or (b), of this section, the Director, under such regulations as the Attorney General may prescribe, shall cause a complete study to be made of the prisoner and shall furnish to the Commission a summary report together with any recommendations which in his opinion would be helpful in determining the suitability of the prisoner for parole. This report may include but shall not be limited to data regarding the prisoner's previous delinquency or criminal experience, pertinent circumstances of his social background, his capabilities, his mental and physical health, and such other factors as may be considered pertinent. The Commission may make such other investigation as it may deem necessary.

"(e) Upon request of the Commission, it shall be the duty of the various probation officers and government bureaus and agencies to furnish the Commission information available to such officer, bureau, or agency, concerning any eligible prisoner or parolee and whenever not incompatible with the public interest, their views and recommendation with respect to any matter within the jurisdiction of the Commission.

"(f) Any prisoner sentenced to imprisonment for a term or terms of not less than six months but not more than one year shall be released at the expiration of such sentence less good time deductions provided by law, unless the court which imposed the sentence, shall, at the time of sentencing, provide for the prisoner's release as if on parole after service of one-third of such term or terms notwithstanding the provisions of section 4164. This subsection shall not prevent delivery of any person released on parole to the authorities of any State otherwise entitled to his custody.

"(g) At any time upon motion of the Bureau of Prisons, the court may reduce any minimum term to the time the defendant has served. The court shall have jurisdiction to act upon the application at any time and no hearing shall be required.

"(h) Nothing in this chapter shall be construed to provide that any prisoner shall be eligible for release on parole if such prisoner is ineligible for such release under any other provision of law.

§ 4206. Parole determination criteria

"(a) If an eligible prisoner has substantially observed the rules of the institution or institutions to which he has been confined, and if the Commission, upon consideration of the nature and circumstances of the offense and the history and characteristics of the prisoner, determines:

"(1) that release would not depreciate the seriousness of his offense or promote disrespect for the law; and

"(2) that release would not jeopardize the public welfare;

subject to the provisions of subsections (b) and (c) of this section, and pursuant to guidelines promulgated by the Commission pursuant to section 4203(a)(1), such prisoner shall be released.

"(b) The Commission shall furnish the eligible prisoner with a written notice of its determination not later than twenty-one days, excluding holidays, after the date of the parole determination proceeding. If parole is denied such notice shall state with particularity the reasons for such denial.

"(c) The Commission may grant or deny release on parole notwithstanding the guidelines referred to in subsection (a) of this section if it determines there is good cause for so doing; provided, that the prisoner is furnished written notice stating with particularity the reasons for its determination, including a summary of the information relied upon.

"(d) Any prisoner, serving a sentence of five years or longer, who is not earlier released under this section or any other applicable provision of law, shall be released on parole after having served two-thirds of each consecutive term or terms, or after serving 30 years of each consecutive term or terms or more than 45 years including any life term, whichever is earlier; *Provided*, however, that the Commission shall not release such prisoner if it determines that he has seriously or frequently violated institution rules and regulations or that there is a reasonable probability that he will commit any Federal, State or local crime.

"§ 4207. Information considered

"In making a determination under this chapter (relating to release on parole) the Commission shall consider, if available and relevant:

"(1) reports and recommendations which the staff of the facility in which such prisoner is confined may make;

"(2) official reports of the prisoner's prior criminal record, including a report or record of earlier probation and parole experiences;

"(3) presentence investigation reports;

"(4) recommendations regarding the prisoner's parole made at the time of sentencing by the sentencing judge; and

"(5) reports of physical, mental, or psychiatric examination of the offender.

There shall also be taken into consideration such additional relevant information concerning the prisoner (including information submitted by the prisoner) as may be reasonably available.

"§ 4208. Parole determination proceeding; time

"(a) In making a determination under this chapter (relating to parole) the Commission shall conduct a parole determination proceeding unless it determines on the basis of the prisoner's record that the prisoner will be released on parole.

"Whenever feasible, the initial parole determination proceeding for a prisoner eligible for parole pursuant to subsections (a) and (b)(1) of section 4205 shall be held not later than thirty days before the date of such eligibility for parole. Whenever feasible, the initial parole determination proceeding for a prisoner eligible for parole pursuant to subsection (b)(2) of section 4205 or released on parole and whose parole has been revoked shall be held not later than one hundred and twenty days following such prisoner's imprisonment or reimprisonment in a federal institution, as the case may be.

"An eligible prisoner may knowingly and intelligently waive any proceeding.

"(b) At least thirty days prior to any parole determination proceeding, the prisoner shall be provided with (1) written notice of the time and place of the proceeding, and (2) reasonable access to a report or other document to be used by the Commission in making its determination. A prisoner may waive such notice, except that if notice is not waived the proceeding shall be held during the next regularly scheduled proceedings by the Commission at the institution in which the prisoner is confined.

"(c) Subparagraph (2) of subsection (b) shall not apply to—

"(1) diagnostic opinions which, if made known to the eligible prisoner, could lead to a serious disruption of his institutional program;

"(2) any document which reveals sources of information obtained upon a promise of confidentiality; or

"(3) any other information which, if disclosed, might result in harm, physical or otherwise, to any person.

If any document is deemed by either the Commission, the Bureau of Prisons, or any other agency to fall within the exclusionary provisions of subparagraphs (1), (2), or (3) of this subsection, then it shall become the duty of the Commission, the Bureau, or such other agency, as the case may be, to summarize the basic contents of the material withheld, bearing in mind the need for confidentiality or the impact on the inmate, or both, and furnish such summary to the inmate.

"(d)(1) During the period prior to the parole determination proceedings as provided in subsection (b) of this section, a prisoner may consult, as provided by the director, with a representative as referred to in subparagraph (2) of this subsection, and by mail or otherwise with any person concerning such proceeding.

"(2) The prisoner shall, if he chooses, be represented at the parole determination proceeding by a representative who qualifies under rules and regulations promulgated by the Commission. Such rules shall not exclude attorneys as a class.

"(e) The prisoner shall be allowed to appear and testify on his own behalf at the parole determination proceeding.

"(f) A full and complete record of every proceeding shall be retained by the Commission. Upon request, the Commission shall make available to any eligible prisoner such record as the Commission may retain of the proceeding.

"(g) If parole is denied, a personal conference to explain the reasons for such denial shall be held, if feasible, between the prisoner and the Commissioners or examiners conducting the proceeding at the conclusion of the proceeding. When feasible, the conference shall include advice to the prisoner as to what steps may be taken to enhance his chance of being released at a subsequent proceeding.

"(h) In any case in which release on parole is not granted, subsequent parole determination proceedings shall be held not less frequently than:

"(1) eighteen months in the case of a prisoner with a term or terms of more than one year but less than seven years; and

"(2) twenty-four months in the case of a prisoner with a term or terms of seven years or longer.

"4209. Conditions of parole

"(a) In every case, the Commission shall impose as a condition of parole that the parolee not commit another Federal, State, or local crime. The Commission may impose or modify other conditions of parole to the extent that such conditions are reasonably related to—

"(1) the nature and circumstances of the offense; and

"(2) the history and characteristics of the parolee; and may provide for such supervision and other limitations as are reasonable to protect the public welfare.

"(b) The conditions of parole should be sufficiently specific to serve as a guide to supervision and conduct, and upon release on parole the parolee shall be given a certificate setting forth the conditions of his parole. An effort shall be made to make certain that the parolee understands the conditions of his parole.

"(c) Release on parole or release as if on parole may as a condition of such release require—

"(1) a parolee to reside in or participate in the program of a residential community treatment center, or both, for all or part of the period of such parole;

"(2) a parolee, who is an addict within the meaning of section 425(a), or a drug dependent person within the meaning of section 2(q) of the Public Health Service Act, as amended (42 U.S.C. 201), to participate in the community supervision programs authorized by section 4255 for all or part of the period of parole.

A parolee residing in a residential community treatment center pursuant to subparagraphs (1) or (2) of this subsection, may be required to pay such costs incident to residence as the Commission deems appropriate.

"(d)(1) The Commission may modify conditions of parole pursuant to this section on its own motion, or on the motion of a U.S. Probation Officer supervising a parolee, provided that the parolee receives notice of such action and has ten days after receipt of such notice to express his views on the proposed modification. Following such ten day period, the Commission shall have 21 days, exclusive of holidays, to act upon such motion or application.

"(2) A parolee may petition the Commission on his own behalf for a modification of conditions pursuant to this section.

"(3) The provisions of this subsection shall not apply to modifications of parole conditions pursuant to a revocation proceeding under section 4214.

"4210. Jurisdiction of Commission

"(a) A parolee shall remain in the legal custody and under the control of the Attorney General, until the expiration of the maximum term or terms for which such parolee was sentenced.

"(b) Except as otherwise provided in this section, the jurisdiction of the Commission over the parolee shall terminate no later than the date of the expiration of the maximum term or terms for which he was sentenced, except that,

"(1) Such jurisdiction shall terminate at an earlier date to the extent provided under section 4164 (relating to mandatory release) or section 4211 (relating to early termination of parole supervision), and

"(2) In the case of a parolee who has been convicted of a Federal, State, or local crime committed subsequent to his release on parole, and such crime is punishable by a term of imprisonment, detention or incarceration in any penal facility, the Commission shall determine, in accordance with the provisions of section 4214(b) or (c), whether all or any part of the unexpired term being served at the time of parole shall run concurrently or consecutively with the sentence imposed for the new offense, but in no case shall such service together with such time as the parolee has previously served in connection with the offense for which he was paroled, be longer than the maximum term for which he was sentenced in connection with such offense.

"(c) In the case of any parolee found to have intentionally refused or failed to respond to any reasonable request, order, summons, or warrant of the Commission or any member or agent thereof, the jurisdiction of the Commission may be extended for the period during which the parolee so refused or failed to respond.

"(d) The parole of any parolee shall run concurrently with the period of parole or probation under any other Federal, State, or local sentence.

"(e) The parole of any prisoner sentenced before June 29, 1932, shall be for the remainder of the term or terms specified in his sentence, less good time allowances provided by law.

"(f) Upon the termination of the jurisdiction of the Commission over any parolee, the Commission shall issue a certificate of discharge to such parolee and to such other agencies as it may determine.

"§ 4211. Early termination of parole

"(a) Upon its own motion or upon request of the parolee, the Commission may terminate supervision over a parolee prior to the termination of jurisdiction under section 4210.

"(b) Two years after each parolee's release on parole, and at least annually thereafter the Commission shall review the status of the parolee to determine the need for continued supervision. In calculating such two-year period there shall not be included any period of release on parole prior to the most recent such release, nor any period served in confinement on any other sentence.

"(c)(1) Five years after each parolee's release on parole, the Commission shall terminate supervision over such parolee unless it is determined, after a hearing conducted in accordance with the procedures prescribed in section 4214(a)(2), that such supervision should not be terminated because there is a likelihood that the parolee will engage in conduct violating any criminal law.

"(2) If supervision is not terminated under subparagraph (1) of this subsection the parolee may request a hearing annually thereafter, and a hearing, with procedures as provided in subparagraph (1) of this subsection shall be conducted with respect to such termination of supervision not less frequently than biennially.

"(3) In calculating the five-year period referred to in paragraph (1), there shall not be included any period of release on parole prior to the most recent such release, nor any period served in confinement on any other sentence.

"§ 4212. Aliens

"When an alien prisoner subject to deportation becomes eligible for parole, the Commission may authorize the release of such prisoner on condition that such person be deported and remain outside the United States.

"Such prisoner when his parole becomes effective, shall be delivered to the duly authorized immigration official for deportation.

"§ 4213. Summons to appear or warrant for retaking of parolee

"(a) If any parolee is alleged to have violated his parole, the Commission may—

"(1) summon such parolee to appear at a hearing conducted pursuant to section 4214; or

"(2) issue a warrant and retake the parolee as provided in this section.

"(b) Any summons or warrant issued under this section shall be issued by the Commission as soon as practicable after discovery of the alleged violation, except when delay is deemed necessary. Imprisonment in an institution shall not be deemed grounds for delay of such issuance, except that, in the case of any parolee charged with a criminal offense, issuance of a summons or warrant may be suspended pending disposition of the charge.

"(c) Any summons or warrant issued pursuant to this section shall provide the parolee with written notice of—

"(1) the conditions of parole he is alleged to have violated as provided under section 4209;

"(2) his rights under this chapter; and

"(3) the possible action which may be taken by the Commission.

"(d) Any officer of any Federal penal or correctional institution, or any Federal officer authorized to serve criminal process within the United States, to whom a warrant issued under this section is delivered, shall execute such warrant by taking such parolee and returning him to the custody of the regional commissioner, or to the custody of the Attorney General, if the Commission shall so direct.

"§ 4214. Revocation of parole

"(a)(1) Except as provided in subsections (b) and (c), any alleged parole violator summoned or retaken under section 4213 shall be accorded the opportunity to have—

"(A) a preliminary hearing at or reasonably near the place of the alleged parole violation or arrest, without unnecessary delay, to determine if there is probable cause to believe that he has violated a condition of his parole; and upon a finding of probable cause a digest shall be prepared by the Commission setting forth in writing the factors considered and the reasons for the decision, a copy of which shall be given to the parolee within a reasonable period of time; except that after a finding of probable cause the Commission may restore any parolee to parole supervision if:

"(i) continuation of revocation proceedings is not warranted; or

"(ii) incarceration of the parolee pending further revocation proceedings is not warranted by the alleged frequency or seriousness of such violation or violations;

"(iii) the parolee is not likely to fail to appear for further proceedings; and

"(iv) the parolee does not constitute a danger to himself or others.

"(B) upon a finding of probable cause under subparagraph (1)(A), a revocation hearing at or reasonably near the place of the alleged parole violation or arrest within sixty days of such determination of probable cause except that a revocation hearing may be held at the same time and place set for the preliminary hearing.

"(2) Hearings held pursuant to subparagraph (1) of this subsection shall be conducted by the Commission in accordance with the following procedures:

"(A) notice to the parolee of the conditions of parole alleged to have been violated, and the time, place, and purposes of the scheduled hearing;

"(B) opportunity for the parolee to be represented by an attorney (retained by the parolee, or if he is financially unable to retain counsel, counsel shall be provided pursuant to section 3006A) or, if he so chooses, a representative as provided by rules and regulations, unless the parolee knowingly and intelligently waives such representation;

"(C) opportunity for the parolee to appear and testify, and present witnesses and relevant evidence on his own behalf; and

"(D) opportunity for the parolee to be apprised of the evidence against him and, if he so requests, to confront and cross-examine adverse witnesses, unless the Commission specifically finds substantial reason for not so allowing.

For the purposes of subparagraph (1) of this subsection, the Commission may subpena witnesses and evidence, and pay witness fees as established for the courts of the United States. If a person refuses to obey such a subpena, the Commission may petition a court of the United States for the judicial district in which such parole proceeding is being conducted, or in which such person may be found, to request such person to attend, testify, and produce evidence. The court may issue an order requiring such person to appear before the Commission, when the court finds such information, thing, or testimony directly related to a matter with respect to which the Commission is empowered to make a determination under this section. Failure to obey such an order is punishable by such court as a contempt. All process in such a case may be served in the judicial district in which such a parole proceeding is being conducted, or in which such person may be found.

"(b)(1) Conviction for a Federal, State, or local crime committed subsequent to release on parole shall constitute probable cause for purposes of subsection (a) of this section. In cases in which a parolee has been convicted of such a crime and is serving a new sentence in an institution, a parole revocation warrant or summons issued pursuant to section 4213 may be placed against him as a detainer. Such detainer shall be reviewed by the Commission within 180 days of notification to the Commission of placement. The parolee shall receive notice of the pending review, have an opportunity to submit a written application containing information relative to the disposition of the detainer, and, unless waived, shall have counsel as provided in subsection (a)(2)(B) of this section to assist him in the preparation of such application.

"(2) If the Commission determines that additional information is needed to review a detainer, a dispositional hearing may be held at the institution where the parolee is confined. The parolee shall have notice of such hearing, be allowed to appear and testify on his own behalf, and, unless waived, shall have counsel as provided in subsection (a)(2)(B) of this section.

"(3) Following the disposition review, the Commission may:

"(A) let the detainer stand; or

"(B) withdraw the detainer.

"(c) Any alleged parole violator who is summoned or retaken by warrant under section 4213 who knowingly and intelligently waives his right to a hearing under subsection (a) of this section, or who knowingly and intelligently admits violation at a preliminary hearing held pursuant to subsection (a)(1)(A) of this section, or who is retaken pursuant to subsection (b) of this section, shall receive a revocation hearing within ninety days of the date of retaking. The Commission may conduct such hearing at the institution to which he has been returned, and the alleged parole violator shall have notice of such hearing, be allowed to appear and testify on his own behalf, and, unless waived, shall have counsel or another represenative as provided in subsection (a)(2)(B) of this section.

"(d) Whenever a parolee is summoned or retaken pursuant to section 4213, and the Commission finds pursuant to the procedures of this section and by a preponderance of the evidence that the parolee has violated a condition of his parole the Commission may take any of the following actions:

"(1) restore the parolee to supervision;

"(2) reprimand the parolee;

"(3) modify the parolee's conditions of the parole;

"(4) refer the parolee to a residential community treatment center for all or part of the remainder of his original sentence; or

"(5) formally revoke parole or release as if on parole pursuant to this title.

The Commission may take any such action provided it has taken into consideration whether or not the parolee has been convicted of any Federal, State, or local crime subsequent to his release on parole, and the seriousness thereof, or whether such action is warranted by the frequency or seriousness of the parolee's violation of any other condition or conditions of his parole.

"(e) The Commission shall furnish the parolee with a written notice of its determination not later than twenty-one days, excluding holidays, after the date of the revocation hearing. If parole is revoked, a digest shall be prepared by the Commission setting forth in writing the factors considered and reasons for such action, a copy of which shall be given to the parolee.

"§ 4215. Reconsideration and appeal

"(a) Whenever parole release is denied under section 4206, parole conditions are imposed or modified under section 4209, parole discharge is denied under section 4211(c), or parole is modified or revoked under section 4214, the individual to whom any such decision applies may have the decision reconsidered by submitting a written application to the regional commissioner not later than thirty days following the date on which the decision is rendered. The regional commissioner, upon receipt of such application, must act pursuant to rules and regulations within thirty days to reaffirm, modify, or reverse his original decision and shall inform the applicant in writing of the decision and the reasons therefor.

"(b) Any decision made pursuant to subsection (a) of this section which is adverse to the applicant for reconsideration may be appealed by such individual to the National Appeals Board by submitting a written notice of appeal not later than thirty days following the date on which such decision is rendered. The National Appeals Board, upon receipt of the appellant's papers, must act pursuant to rules and regulations within sixty days to reaffirm, modify, or reverse the decision and shall inform the appellant in writing of the decision and the reasons therefor.

"(c) The National Appeals Board may review any decision of a regional commissioner upon the written request of the Attorney General filed not later than thirty days following the decision and, by majority vote, shall reaffirm, modify, or reverse the decision within sixty days of the receipt of the Attorney General's request. The Board shall inform the Attorney General and the individual to whom the decision applies in writing of its decision and the reasons therefor.

"§ 4216. Young adult offenders

"In the case of a defendant who has attained his twenty-second birthday but has not attained his twenty-sixth birthday at the time of conviction, if, after taking into consideration the previous record of the defendants as to delinquency or criminal experience, his social background, capabilities, mental and physical health, and such other factors as may be considered pertinent, the court finds that there are reasonable grounds to believe that the defendant will benefit from the treatment provided under the Federal Youth Corrections Act (18 U.S.C., chap. 402) sentence may be imposed pursuant to the provisions of such Act.

"§ 4217. Warrants to retake Canal Zone parole violators

"An officer of a Federal penal or correctional institution, or a Federal officer authorized to serve criminal process within the United States, to whom a warrant issued by the Governor of the Canal Zone for the retaking of a parole violator is delivered, shall execute the warrant by taking the prisoner and holding him for delivery to a representative of the Governor of the Canal Zone for return to the Canal Zone.

"§ 4218. Applicability of Administrative Procedure Act

"(a) For purposes of the provisions of chapter 5 of title 5, United States Code, other than sections 554, 555, 556, and 557, the Commission is an 'agency' as defined in such chapter.

"(b) For purposes of subsection (a) of this section, section 553(b)(3)(A) of title 5, United States Code, relating to rule-making, shall be deemed not to include the phrase 'general statements of policy'.

"(c) To the extent that actions of the Commission pursuant to section 4203(a)(1) are not in accord with the provisions of section 553 of title 5, United States Code, they shall be reviewable in accordance with the provisions of sections 701 through 706 of title 5, United States Code.

"(d) Actions of the Commission pursuant to paragraphs (1), (2) and (3) of section 4203(b) shall be considered actions committed to agency discretion for purposes of section 701(a)(2) of title 5, United States Code.

SEC. 3. Section 5005 of title 18, United States Code, is amended to read as follows:

"§ 5005. Youth correction decisions

"The Commission and, where appropriate, its authorized representatives as provided in section 4203(c), may grant or deny any application or recommendation for conditional release, or modify or revoke any order of conditional release, of any person sentenced pursuant to this chapter, and perform such other duties and responsibilities as may be required by law. Except as otherwise provided, decisions of the Commission shall be made in accordance with the procedures set out in chapter 311 of this title."

SEC. 4. Section 5006 of title 18, United States Code, is amended to read as follows:

"§ 5006. Definitions

"As used in this chapter—

"(a) 'Commission' means the United States Parole Commission;

"(b) 'Bureau' means the Bureau of Prisons;

"(c) 'Director' means the Director of the Bureau of Prisons;

"(d) 'youth offender' means a person under the age of twenty-two years at the time of conviction;

"(e) 'committed youth offender' is one committed for treatment hereunder to the custody of the Attorney General pursuant to sections 5010(b) and 5010(c) of this chapter;

"(f) 'treatment' means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youth offenders; and

"(g) 'conviction' means the judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere."

SEC. 5. Sections 5007, 5008, and 5009 of title 18, United States Code, are repealed.

SEC. 6. Section 5014 of title 18, United States Code, is amended to read as follows:

§ 5014. Classification studies and reports

"The Director shall provide classification centers and agencies. Every committed youth offender shall first be sent to a classification center or agency. The classification center or agency shall make a complete study of each committed youth offender, including a mental and physical examination, to ascertain his personal traits, his capabilities, pertinent circumstances of his school, family life, any previous delinquency or criminal experience, and any mental or physical defect or other factor contributing to his delinquency. In the absence of exceptional circumstances, such study shall be completed within a period of thirty days. The agency shall promptly forward to the Director and to the Commission a report of its findings with respect to the youth offender and its recommendations as to his treatment. As soon as practicable after commitment, the youth offender shall receive a parole interview.".

SEC. 7. Section 5017(a) of title 18, United States Code, is amended to read as follows:

"(a) The Commission may at any time after reasonable notice to the Director release conditionally under supervision a committed youth offender in accordance with the provisions of section 4206 of this title. When, in the judgment of the Director, a committed youth offender should be released conditionally under supervision he shall so report and recommend to the Commission.".

SEC. 8. Section 5020 of title 18, United States Code, is amended to read as follows:

"§ 5020. Apprehension of released offenders.

"If, at any time before the unconditional discharge of a committed youth offender, the Commission is of the opinion that such youth offender will be benefited by further treatment in an institution or other facility the Commission may direct his return to custody or if necessary may issue a warrant for the apprehension and return to custody of such youthful offender and cause such warrant to be executed by a United States probation officer, an appointed supervisory agent, a United States marshal, or any officer of a Federal penal or correctional institution. Upon return to custody, such youth offender shall be given a revocation hearing by the Commission.".

SEC. 9. Chapter 402 of title 18, United States Code, is amended by deleting the term "division" whenever it appears therein and inserting in lieu thereof the word "Commission.".

SEC. 10. The table of sections for chapter 402 of title 18, United States Code, is amended to read as follows:

"Sec.
"5005. Youth correction decisions.
"5006. Definitions.
"5010. Sentence.
"5011. Treatment.
"5012. Certificate as to availability of facilities.
"5013. Provision of facilities.
"5014. Classification studies and reports.
"5015. Powers of Director as to placement of youth offenders.
"5016. Reports concerning offenders.
"5017. Release of youth offenders.
"5018. Revocation of Commission orders.
5019. Supervision of released youth offenders.
"5020. Apprehension for released offenders.
"5021. Certificate setting aside conviction.
"5022. Applicable date.
"5023. Relationship to Probation and Juvenile Delinquency Acts.
"5024. Where applicable.
"5025. Applicability to the District of Columbia.
"5026. Parole of other offenders not affected.

SEC. 11. Section 5041 of title 18 United States Code, is amended to read as follows:

"§ 5014. Parole.

"A juvenile delinquent who has been committed may be released on parole at any time under such conditions and regulations as the United States Parole Commission deems proper in accordance with the provisions in section 4206 of this title."

SEC. 12. Whenever in any of the laws of the United States or the District of Columbia the term "United States Parole Board", or any other term referring thereto, is used, such term or terms, on and after the date of the effective date of this Act, shall be deemed to refer to the United States Parole Commission as established by the amendments made by this Act.

SEC. 13. Section 5108(c)(7) of title 5, United States Code, is amended to read as follows:

"(7) the Attorney General, without regard to any other provision of this section, may place a total of ten positions of warden in the Bureau of Prisons in GS-16".

SEC. 14. Section 3655 of title 18, United States Code, relating to duties of probation officers, is amended by striking out "Attorney General" in the last sentence and inserting in lieu thereof "United States Parole Commission".

SEC. 15. There is hereby authorized to be appropriated such sums as are necessary to carry out the purposes of the amendments made by this Act.

SEC. 16. (a) There are hereby transferred to the Chairman of the U.S. Parole Commission, all personnel, liabilities, contracts, property and records as are employed, held, used, arising from, available or to be made available of the U.S. Board of Parole with respect to all functions, powers, and duties transferred by this Act to the U.S. Parole Commission.

"(b) This Act shall take effect sixty days after the date of enactment, except that the provisions of section 4208(h) of this Act shall take effect 120 days after the date of enactment.

"(c) Each person holding office as a member of the United States Board of Parole on the day before the effective date of the Parole Commission and Reorganization Act shall be a Commissioner whose term as such shall expire on the date of the expiration of the term for which such person was appointed as a member of the Board of Parole.

"(d) For the purpose of section 4202 of title 18, United States Code, service by an individual as a member of the United States Board of Parole shall not constitute service as a Commissioner."

ROBERT W. KASTENMEIER,
GEORGE DANIELSON,
ROBERT F. DRINAN,
HERMAN BADILLO,
EDWARD W. PATTISON,
TOM RAILSBACK,
CHARLES E. WIGGINS,
Managers on the part of the House.

QUENTIN BURDICK,
ROMAN L. HRUSKA,
JOHN L. MCCLELLAN,
CHARLES MCC. MATHIAS, Jr.,
EDWARD KENNEDY,
Managers on the part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5727)

To establish an independent and regionalized United States Parole Commission, to provide fair and equitable parole procedures and for other purposes

submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Nearly all men and women sent to prison as law breakers are eventually released, and the decision as to when they are released is shared by the three branches of government. Wrapped up in the decision to release an individual from incarceration are all of the emotions and fears of both the individual and society.

Parole may be a greater or lesser factor in the decision to release a criminal offender. It depends upon the importance of parole in the complex of criminal justice institutions. In the Federal system, parole is a key factor because most Federal prisoners become eligible for parole, and approximately 35 per cent of all Federal offenders who are released, are released on parole. Because of the scope of authority conferred upon the Parole Board, its responsibilities are great.

From an historical perspective, parole originated as a form of clemency; to mitigate unusually harsh sentences, or to reward prison inmates for their exemplary behavior while incarcerated. Parole today, however, has taken a much broader goal in correctional policy, fulfilling different specific objectives of the correctional system. The sentences of nearly all offenders include minimum and maximum terms, ordinarily set by the sentencing court within a range of discretion provided by statute. The final determination of precisely how much time an offender must serve is made by the parole authority. The parole agency must weigh several complex factors in making its decision, not all of which are necessarily complementary. In the first instance, parole has the practical effect of balancing differences in sentencing policies and practices between judges and courts in a system that is as wide and diverse as the Federal criminal justice system. In perfoming this function, the parole authority must have in mind some notion of the appropriate range of time for an offense which will satisfy the legitimate needs of society to hold the offender accountable for his own acts.

The parole authority must also have in mind some reasonable system for judging the probability that an offender will refrain from future criminal acts. The use of guidelines and the narrowing of geographical areas of consideration will sharpen this process and improve the likelihood of good decisions.

The parole authority must also take into consideration whether or not continuing incarceration of an offender will serve a worthwhile purpose. Incarceration is the most expensive of all of the alternative types of sentences available to the criminal justice system, as well as the most corrosive because it can destroy whatever family and community ties an offender may have which would be the foundation of his eventual return as a law-abiding citizen. Once sentence has been imposed, parole is the agency responsible for keeping in prison those who because of the need for accountability to society or for the protection of society must be retained in prison. Of equal importance, however, parole provides a means of releasing those inmates who are ready to be responsible citizens, and whose continued incarceration, in terms of the needs of law enforcement, represents a misapplication of tax dollars.

These purposes which parole serves may at times conflict and at the very least are complicated in their administration by the lack of tools to accurately predict human behavior and judge human motivation.

Because these decisions are so difficult from both the standpoint of the inmate denied parole, as well as the concerns of a larger public about the impact of a rising crime rate, there was almost universal dissatisfaction with the parole process at the beginning of this decade. As a result, both the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the House Judiciary Committee, and the Subcommittee on National Penitentiaries of the Senate Judiciary Committee began seeking legislative answers to the problems raised. In the case of both Subcommittees a major effort was mounted to make parole a workable process.

Following the appointment of Maurice H. Sigler as Chairman of the U.S. Board of

Parole in 1972, a working relationship developed between the Board and the two Subcommittees. As a result of this relationship, and with the support of the two Subcommittee chairmen, the Parole Board began reorganization in 1973 along the lines of the legislation presented here.

The organization of parole decision-making along regional lines, the use of hearing examiners to prepare recommendations for action, and, most importantly, the promulgation of guidelines to make parole less disparate and more understandable has met with such success that this legislation incorporates the system into the statute, removes doubt as to the legality of changes implemented by administrative reorganization, and makes the improvements permanent.

It is not the purpose of this legislation to either encourage or discourage the parole of any prisoner or group of prisoners. Rather, the purpose is to assure the newly-constituted Parole Commission the tools required for the burgeoning caseload of required decisions and to assure the public and imprisoned inmates that parole decisions are openly reached by a fair and reasonable process after due consideration has been given the salient information.

To achieve this, the legislation provides for creation of regions, assigning a commissioner to each region, and delegation of broad decision-making authority to each regional commissioner and to a national appellate panel. The bill also makes the Parole Commission, the agency succeeding the Parole Board, independent of the Department of Justice for decision-making purposes.

In the area of parole decision-making, the legislation establishes clear standards as to the process and the safeguards incorporated into it to insure fair consideration of all relevant material, including that offered by the prisoner. The legislation provides a new statement of criteria for parole determinations, which are within the discretion of the agency, but reaffirms existing caselaw as to judicial review of individual case decisions.

The legislation also reaffirms caselaw insuring a full panoply of due process to the individual threatened with return to prison for violation of technical conditions of his parole supervision, and provides that the time served by the individual without violation of conditions be credited toward service of sentence. It goes beyond present law in insuring appointment of counsel to indigents threatened with reimprisonment.

SECTION-BY-SECTION ANALYSIS

Section 4201. Definitions

This section defines certain terminology which is used throughout the Conference Report.

Subparagraph (6) provides that certain rule-making procedures in section 553 of title 5, United States Code, apply to rules and regulations promulgated by the full Commission pursuant to section 4203(a)(1). Guidelines for parole decision making promulgated by the full Commission are rules and regulations within the meaning of this definition.

Section 4202. Parole commission created

This section establishes a nine-member U.S. Parole Commission as an independent agency in the Department of Justice. The Commission is attached to the Department solely for administrative purposes. It is the intent of the Conferees that parole decision-making be independent of, and not governed by, the investigative and prosecutorial functions of the Department of Justice. Commissioners serve a term of six years under Presidential appointment by and with the advice and consent of the Senate. The President shall from time to time designate one commissioner to serve as Chairman. Each commissioner appointment shall be for a full six year term with commission members continuing to serve until their successors have been qualified, except that no one may serve more than twelve years as a commissioner. The rate of pay for a member of the Commission shall be the highest step of G.S. level 18.

Section 4203. Powers and duties of the Commission

(a) The full Commission shall meet at least quarterly as a policy making group to: (1) establish guidelines and procedural rules for parole determinations so that the administration of parole throughout the Federal system will be uniform; (2) set boundaries for the nation's five parole regions; and (3) act upon budget recommendations, which shall be separate from other agencies of the Department of Justice.

(b) The Commission by majority vote and pursuant to procedures set out in this chapter has the authority to: (1) grant or deny parole to any Federal prisoner who is eligible for parole; (2) impose conditions under which any prisoner may be released on parole; (3) modify or revoke the parole of any individual who violated the conditions of his release; and (4) request probation officers to perform certain duties with respect to parole supervision.

It is the intent of the Conferees that subparagraphs (1) through (3) of this subsection vest authority for parole decision making in the discretion of the U.S. Parole Commission, and that parole decisions made under other sections of this Act are pursuant to authority delegated from section 4203(b)(1)–(3).

The Conferees do not intend that subparagraph (4) of this subsection be construed as a reduction of Commission authority provided in section 3655 of title 18, United States Code, as amended by this Act. Subparagraph (4) simply reflects Congressional policy encouraging U.S. Probation Officers to consult with the Parole Commission to ensure that parole supervision is geared to the protection of the public as well as the needs of the parolee.

(c) Subparagraph (1) enables the Commission to delegate its decision making workload to regional commissioners who are responsible for initial parole determinations and to the three commissioners on the National Appeals Board who review these decisions on appeal.

It is contemplated by the Conferees that the Parole Commission will delegate decision-making power to the regional commissioners, and when so delegated, the regional commissioner may adopt the recommendation of the hearing examiners and enter a decision, or make a decision of his own. The Commission should provide appropriate review procedures for delegated decision-making, particularly where the regional commissioner's decision deviates from the recommendation of the two-member panel of hearing examiners, in order to carry out the national parole policies required by this Act. An appropriate procedure might, for example, provide that a regional commissioner's decision that deviates from the recommendation of the hearing examiners would not become effective until the expiration of the time for appeal or until the regional commissioner's reasons for such decision have been reviewed by a member of the National Appeals Board and such member has declined to certify the case to that body for decision, whichever occurs first. Such a procedure would recognize the authority and responsibility of the regional commissioners while providing appropriate appellate oversight of the regions. Review procedures should be designed to identify and resolve decision patterns involving significant inconsistencies between regions or involving departures from national parole policies promulgated by the Commission.

Although the statutory language is flexible enough to permit the Commission by regulation to reserve special categories of cases for initial parole decision by the Commission as a whole, it is contemplated that the normal procedure to be followed will involve an orderly process of decision making delegated to regional commissioners, subject to review by the National Appeals Board. In appropriate cases, en banc consideration of cases will be held by the full Commission. The necessity of decision by the full Commission, whether as a matter of original jurisdiction or on appeal, should occur only in cases involving special circumstances.

Subparagraph (2) sets out the responsibility of hearing examiners for compiling the information upon which the decisions of regional commissioners are based. In performing this function, hearing examiners conduct proceedings and hearings, take sworn testimony, make a record of the pertinent evidence presented at parole proceedings and hearings, make findings of probable cause and issue subpenas in parole revocation hearings, and make specific recommendations for each parole decision to be made by the regional commissioner. In decisions involving the grant or denial of parole under section 4206, or the revocation of parole under section 4214 (a) and (c), findings and recommendations must be based upon the concurrence of at least two examiners. In the event of a split between the two examiners concerning such findings or recommendations, however, another examiner may cast the deciding vote based upon a review of the case record, findings and recommendations. Parole determination proceedings and revocation hearings are to be conducted in the federal institutions on a regular schedule by panels of two examiners. However, other situations will from time to time arise involving the duties of the Commission where it is appropriate for one examiner to conduct the examination, with the concurrence requirement met by review of the case record, findings and recommendations. An exception to this is findings of probable cause in local revocation hearings, which may be made by an individual hearing examiner upon the record before him.

It is recognized that in most instances the recommendation of the hearing examiners will be followed by the regional commissioner. This recognizes the crucial role of hearing examiners in the parole process without detracting from the regional commissioner's executive responsibility for the actions of those under his supervision. Since most recommendations will probably fall within the guidelines for decision-making promulgated by the full Commission the regional commissioner's primary obligation in such cases is to ensure that the guidelines have been properly interpreted and followed. It is the intent of the Conferees that the hearing examiners may recommend a disposition notwithstanding the guidelines only when they determine that there is good cause to do so and that the regional commissioner shall review the case and determine whether such good cause exists which justifies this exception to the guidelines.

Subparagraph (3) permits the Commission to delegate power to conduct hearings and make findings and recommendations in certain parole revocation proceedings to Federal and State officials. This provision is in response to the time limitations and administrative problems involved in holding local preliminary and revocation hearings pursuant to section 4214 of this Act. The reference to judicial branch officers is a recognition that under the Federal system, the executive function of parole supervision is carried out by U.S. Probation Officers who are court employees. Under present law and practice, certain U.S. Probation Officers from time to time conduct probable cause hearings for parolees supervised by other officers. This language permits the practice to continue, to the extent that the court employees involved are not judges who might at some later date consider litigation arising from the revocation proceedings.

Subparagraph (4) enables the Commission to review any delegated decision on its own motion and permits the Commission to delegate this review authority to the National Appeals Board.

(d) In promulgating guidelines and other regulations, creating regions and acting on the agency's budget pursuant to subsection (a) of this section, the Commission shall operate by majority vote. Records of the final vote of the commissioners on these policy making actions shall be available for public inspection. In such determinations, each member shall have an equal voice, be provided with all necessary information, and have one vote.

Chairman

(a) The Chairman, who functions as the chief executive officer of the Commission, is authorized to: (1) preside at the regular meetings of the full Commission as well as special meetings that are called upon his own request or that of any three commissioners; (2) make all personnel decisions except that the full Commission must confirm the appointment of any hearing examiner before his probationary status as a first-year government employee terminates and each regional commissioner will be responsible for the appointment and supervision of certain clerical personnel employed in his region (except that this provision is not intended to exempt the Commission from such Civil Service regulations as are presently applicable); (3) delegate work among the Commissioners and the various units and employees of the Commission; (4) carry out fiscal responsibilities including preparation of appropriation requests and oversight of Commission expenditures; (5) designate three commissioners to serve on a National Appellate Board, one of whom shall also serve as Vice Chairman, and designate one commissioner to serve in each of the parole regions as regional commissioner, except that in making any such designation the Chairman must consider certain pertinent criteria and must obtain the concurrence of the President or his designee (in recognition of the need for effective and swift administrative action due to the heavy workload of the Commission, the concurrence process should be prompt); (6) serve as spokesman for the Commission and report annually to each house of Congress on its activities (except that such annual report shall be approved by the Commission and shall contain such additional views of commissioners as may be submitted); and (7) perform such other duties as are necessary to carry out any other responsibilities and functions of the Commission.

(b) In addition to above duties, the Chairman has responsibility for a research and training component in the Commission which may provide studies and information concerning the parole process to public and private agencies, and has certain other conventional administrative powers. These include procuring, contracting, utilizing and accepting services, including the use of Federal, State and other governmental resources as well as private agencies.

(c) The Chairman shall carry out his administrative duties and responsibilities in line with the national parole policies promulgated by the Commission.

Section 4205. Time of eligibility for release on parole

(a) This subsection provides that a prisoner serving a sentence of more than one year is eligible for parole consideration after having served one-third of his sentence; or in the case of a prisoner sentenced to life or more than 30 years, after serving 10 years of his sentence.

(b) Existing provisions of law are reenacted to enable the court to: (1) direct that the prisoner be eligible for parole at any time up to one-third of his maximum sentence, or (2) specify that the Commission shall decide when the prisoner shall be considered for parole.

(c) Existing provisions of law are reenacted to allow judges to have the Bureau of Prisons conduct a study of the individual before the final sentencing disposition is made.

(d) Existing provisions of law are reenacted relating to the preparation of a progress report by the Bureau of Prisons which is considered by the Commission during the parole release determination. In addition to the material provided by the Bureau of Prisons, the Commission is authorized to make such other investigations as it may deem appropriate.

(e) The Commission is authorized to seek information from other government agencies such as the U.S. Probation Service and the Federal Bureau of Investigation. Upon request, these agencies shall furnish available information, and, where appropriate, their views and recommendations with respect to Commission matters.

(f) Individuals sentenced to a maximum term or terms of more than six months, but not more than one year, shall be released at the expiration of their sentence less good time earned. The sentencing court may, however, at the time of sentencing, authorize release of the offender as if on parole after service of one-third the sentence. The phrase "at the time of sentencing" includes the 120-day time period for sentence modification provided by Rule 35 of the Federal Rules of Criminal Procedures.

(g) This subsection provides a means by which the minimum term of any federal prisoner may be reduced to make the individual eligible for parole consideration.

(h) Existing powers of the sentencing court and certain special provisions relating to eligibility for parole are preserved.

Section 4206. Parole determination criteria

This section provides the standards and criteria to be used by the Parole Commission in making parole release determinations for federal prisoners who are eligible for parole.

It is the intent of the Conferees that the Parole Commission make certain judgments pursuant to this section, and that the substance of those judgments is committed to the discretion of the Commission.

First, it is the intent of the Conferees that the Parole Commission reach a judgment on the institutional behavior of each prospective parolee. It is the view of the Conferees that understanding by the prisoner of the importance of his institutional behavior is crucial to the maintenance of safe and orderly prisons.

Second, it is the intent of the Conferees that the Parole Commission review and consider both the nature and circumstances of the offense and the history and characteristics of the prisoner. It is the view of the Conferees that these two items are most significant in making equitable release determinations and are a viable basis, when considered together, for making other judgments required by this section.

It is the intent of the Conferees that the Parole Commission, in making each parole determination, shall recognize and make a determination as to the relative severity of the prospective parolee's offense and that in so doing shall be cognizant of the public perception of and respect for the law. It is the view of the Conferees that the U.S. Parole Commission is joined in purpose by the Courts, the Congress and the other Executive agencies in a continuing effort to instill respect for the law. The Parole Commission efforts in this regard are fundamental and shall be manifested by parole determinations which result in the release on parole of only those who meet the criteria of this Act.

Determinations of just punishment are part of the parole process, and these determinations cannot be easily made because they require an even-handed sense of justice. There is no body of competent empirical knowledge upon which parole decision-makers can rely, yet it is important for the parole process to achieve an aura of fairness by basing determinations of just punishment on comparable periods of incarceration for similar offenses committed under similar circumstances. The parole decision-makers must weigh the concepts of general and special deterrence, retribution and punishment, all of which are matters of judgment, and come up with determinations of what is meant by "would not depreciate the seriousness of his offense or promote disrespect for the law" that, to the extent possible, are not inconsistent with the findings in other parole decisions.

The phrase "release would not depreciate the seriousness of his offense or promote disrespect for the law" involves two separate criterion and there may be situations in which one criterion is met but the other remains unsatisfied. For example, if a public official was convicted of fraud which involved a violation of the public trust and was sentenced to three years imprisonment, his release on parole after one year might satisfy the depreciate the seriousness criterion but the Commission could justify denying release on the grounds that such release "would promote disrespect for the law."

The use of the phrase "release would not jeopardize the public welfare," is intended by the Conferees to recognize the incapacitative aspect of the use of imprisonment which has the effect of denying the opportunity for future criminality, at least for a time. It is the view of the Conferees that the Parole Commission must make judgments as to the probability that any offender would commit a new offense based upon considerations which include comparisons of the offender with other offenders who have similar backgrounds. The use of predictive devices is at best an inexact science, and caution should be utilized. Such items as prior criminal records, employment history and stability of living patterns have demonstrated their usefulness in making determinations of probability over a substantial period of time. These are not written into the statute, however, as it is the intent of the Conferees to encourage the newly created Parole Commission to continue to refine both the criteria which are used and the means for obtaining the information used therein.

Further, this section provides that Parole Commission guidelines, shall provide a fundamental gauge by which parole determinations are made.

It is the intent of the Conferees that the guidelines serve as a national parole policy which seeks to achieve both equity between individual cases and a uniform measure of justice. The Parole Commission shall actively seek the counsel and comment of the corrections and criminal justice communities prior to promulgation of guidelines and shall be cognizant of past criticism of parole decision making.

Further, this section provides that when parole is denied, that the prisoner be given a written notice which states with particularity the reasons for such denial.

The phrase "shall be released" includes release at expiration as if on parole or without parole supervision as provided in section 4164 of title 18, United States Code. The term "holidays" as used in this section refers to congressionally declared Federal holidays.

This section also permits the Commission to grant or deny parole notwithstanding the guidelines only when the Commission has determined that there is good cause to do so, and then requires that the prisoner be provided "with particularity the reasons for the Commission's determination, including a summary of the information relied upon." For example, if a prisoner who has served the time required to be released on parole according to the guidelines is denied parole and this denial results in delaying his release beyond the time period recommended by the guidelines, he shall receive a specific explanation of the factors which caused the Commission to reach a determination outside the guidelines.

For the purposes of this section "good cause" means substantial reason and includes only those grounds put forward by the Commission in good faith and which are not arbitrary, irrational, unreasonable, irrelevant or capricious.

The definition of what constitutes good cause to go outside the established guidelines can not be a precise one, because it must be broad enough to cover many circumstances.

For example, in making a parole release determination above the guidelines, the Commission would consider factors which include whether or not the prisoner was involved in an offense with an unusual degree of sophistication or planning, or has a lengthy prior record, or was part of a large scale conspiracy or continuing criminal enterprise.

On the other hand, the Commission would consider factors such as a prisoner's adverse family or health situation in deciding to make a parole release determination below guidelines. By focusing on the justifications for exceptions to the guidelines, subsequent administrative review by the National Appellate Board will be facilitated and there will be more uniformity and greater precision in the grant or denial of parole.

If decisions to go above or below parole guidelines are frequent, the Commission should reevaluate its guidelines.

Lastly, this section provides more liberal criteria for release on parole for prisoners with long sentences after they have completed two-thirds of any sentence or thirty years, whichever occurs first. In calculating two-thirds of a term, all sentences imposed consecutively should be considered separately and the time on each sentence added together. The purpose of this provision is to insure at least some minimum period of parole supervision for all except those offenders who have the greatest probability of committing violent offenses following their release so that parole supervision is part of their transition from the institutional life of imprisonment to living in the community. For any prisoner whose parole, once granted pursuant to subsection (d), has been revoked any future parole consideration would be based upon subsections (a), (b) and (c) of this section, and he would not be considered under subsection (d) until two-thirds of his remaining term had been served.

Section 4207. Information considered

The Commission shall consider the following information, if available and relevant, in parole release determinations: (1) reports and recommendations of prison staff; (2) prior criminal record; (3) pre-sentence investigation reports; (4) recommendations of the sentencing judge; (5) reports of physical, mental, or psychiatric examination; and (6) such other additional relevant information as is available, including information submitted by the prisoner.

It is also the intent of the Conferees that availability and relevance act as limitations on the Commission's responsibility to consider this material. In terms of availability, for example, if a judge has not commented on the sentence or parole of the offender, the Commission is under no duty to solicit such commentary.

The relevance of material before the Commission is a determination committed to the agency's discretion. Moreover, this provision should not be construed as setting out priorities or assigning weights to the information before the Commission in the parole release process. The Conferees are in complete agreement with the Fifth Circuit holding in *Scarpa* v. *U.S. Board of Parole*, 477 F.2d 281 (1973), vacated as moot, 414 U.S. 809, that the weight assigned to individual factors (in parole decision making) is solely within the province of the (commission's) broad discretion.

It would not be practical or desirable for the Commission to make a record of the relevance or weight accorded to each piece of information before it. This section in combination with the requirement for reasons for denial of parole under subsection (b) of section 4206 or the requirement for reasons "including a summary of the information relied upon" under subsection (c) of section 4206 should not be construed as requiring the Commission to make a written evaluation of every piece of information considered.

The phrase "at the time of sentencing" in subparagraph (4) includes the 120-day time period for sentence modification provided by Rule 35 of the Federal Rules of Criminal Procedure.

Section 4208. Parole determination proceeding; time

(a) A parole determination proceeding shall be held, unless the Commission decides to grant release on the basis of the prisoner's record. The phrase "prisoner's record" refers to the information considered by the Commission in parole determination proceedings.

In the case of a prisoner with a minimum sentence, the parole determination proceeding shall be held, whenever feasible, not later than 30 days prior to the expiration of the minimum sentence. In the case of a prisoner with no minimum sentence or who has been reimprisoned following a revocation proceeding, the parole determination proceeding shall be held, whenever feasible, not later than 120 days following imprisonment or reimprisonment, as the case may be, in a federal institution. It is the intent of the Conferees that the Commission attempt, whenever feasible, to give prisoners serving all or any part of their sentences in State or local prison facilities prompt parole determination proceedings.

In addition, this subsection permits a prisoner to waive any parole determination proceeding. The phrase "knowingly and intelligently" requires the prisoner to acknowledge in writing that he understands what it is that he is waiving and that he do so consciously and intentionally and without coercion.

(b) Notice of pending release proceedings and access to information considered by the Commission in such proceedings must be given to the inmate at least 30 days prior thereto. Where an inmate has just arrived at an institution, however, it may be impossible to meet this time period. Provision is made therefore for waiver, at the inmate's option, of the time requirement. But, if an inmate refuses to waive notice, the Commission is under no duty to schedule special sessions to make up for such proceedings, although they may. In such cases, the inmate shall be heard by the Commission at the next regularly scheduled parole proceedings at that institution. The phrase "report or other documents" in section 4208(b)(2) refers to those materials in the institution's files which the Commission looks at in making its parole release determinations.

(c) An eligible federal prisoner shall have reasonable access to certain documents which are utilized by the Commission in determining parole eligibility. Three categories of documents, however, may be excluded: (1) diagnostic opinions such as psychological or psychiatric reports which if revealed to the individual might cause a serious disruption of his institutional program; (2) documents which contain information obtained upon the basis of a pledge of confidentiality, or (3) any other information which, if revealed, might result in harm, physical or otherwise, to any person.

Subparagraphs (1), (2) and (3) of this subsection closely parallel the provisions of Rule 32 of the Federal Rules of Criminal Procedure relating to the court's power to refuse disclosure of certain information in the presentence investigation report. The Commission, the Bureau of Prisons, or any other agency which deems the document excludable under subparagraphs (1), (2), or (3) of this subsection shall be responsible for preparing a summary of such document. Such summary should give the inmate an idea of the basic contents of the excluded material, but should not reveal information which might violate any need for confidentiality involved. The phrase "bearing in mind the need for confidentiality" includes consideration of possible harm to any person. In addition, in summarizing material excluded under subparagraph (1) of this subsection, an effort shall be made to avoid unnecessary disruption of the prisoner's institutional program.

(d) Subparagraph (1) permits the prisoner to consult by mail, or otherwise, with a representative or any other person concerning his forthcoming proceeding. The phrase "as provided by the Director" simply acknowledges that such communications must be in accordance with institutional policies and regulations promulgated by the Bureau of Prisons for prisoner mail, visiting, etc.

Subparagraph (2) permits the inmate to select a representative to assist him both before and during the parole determination proceeding. The Commission is authorized to promulgate rules and regulations as to who a representative may be. It is the intent of the Conferees that the use of the term "representative" not be construed as support for analogizing the parole determination process to formal judicial proceedings.

(e) This subsection permits the prisoner to appear and testify in his own behalf at the parole determination proceeding. The term "testify" is not intended to require testimony under oath, and should not be construed as analogous to formal judicial process.

(f) The Commission must maintain and make available upon request a complete record of every parole determination proceeding. Availability of the record does not entail preparation of a transcript in every case. When the Commission has prepared a transcript for its own use, a copy shall be provided the inmate if he so requests. If, however, the proceeding was tape recorded and never transcribed, or written notes of the proceeding were retained, then the availability requirement is satisfied if the agency forwards a copy of the tape to the institution where the inmate is permitted to listen to it, or, in the case of notes, forwards a copy of such notes as it has retained.

(g) If parole is denied, the hearing examiners shall, where feasible, personally explain to the eligible prisoner the reasons for their recommendation. The phrase "if feasible" simply acknowledges that every hearing examiner recommendation is subject to review by the regional commissioner, the possibility of a split recommendation requiring a third hearing examiner's vote who may not be present, and that there is no requirement that the inmate listen to such explanation if he chooses not to. Also, when feasible, the hearing examiners shall advise the prospects for parole. The Conferee's intend that this requirement for advice on future parole prospects be narrowly construed. In situations in which the prisoner has been convicted of a serious offense, there may well be nothing that he can do to enhance his parole potential until service of some period of time has been completed. Moreover, promises of parole should not be used to coerce inmate participation in institutional programming.

(h) If a prisoner is denied parole, he shall receive additional parole determination proceedings not less frequently than every 18 months if he is sentenced to a term or terms of imprisonment of more than one year but less than seven years, or every 24 months if he is sentenced to a term or terms of imprisonment of seven years or more.

It is the intent of the Conferees that all of the items which bear upon the parole decision are considered at the initial determination proceeding, but that the subsequent proceedings required by this section focus upon those items which have changed, or which may have changed, in the intervening time.

Section 4209. Conditions of parole

(a) Every parolee shall have as a condition of parole that he not commit any criminal offense during his parole. The Commission may impose or modify any other condition of parole only to the extent that there is a reasonable relationship between such condition and the nature and circumstances of the offense and the history and characteristics of the parolee, except that, the Commission may impose conditions of parole that limit the parolee's liberty (short of incarceration) if in the Commission's judgment such conditions are reasonably necessary to protect the public welfare. The phrase "Federal, State or local crime" excludes such petty violations as minor traffic offenses except where a pattern of such violations indicates disrespect for the law.

(b) Conditions imposed by the Commission must be specific so that they can serve as a guide to behavior. In addition, upon release the parolee is given a certificate setting forth in writing his conditions. An effort shall be made to ensure that parolees understand the nature and limitations involved in such conditions. It is the intent of the Conferees that when feasible such services as translation to a language other than English should be made to assist in the understanding of conditions of parole.

(c) As provided under present law, the conditions of parole may require that an individual reside in or participate in the program of a community treatment center or addict treatment program.

(d) This subsection provides a process by which the condition of parole may be modified in accordance with the standards established in this section.

Should a probation officer wish to modify conditions of parole of a parolee under his supervision he may apply to the Commission for such modification. He shall give the parolee notice of proposed modification, and the parolee shall have 10 days in which to comment on or object to the proposed modification. The Commission shall then review the application and consider any relevant information which the parolee may present.

The proposed modification shall take effect within 21 days following the 10 day period in which the parolee may object or comment if the Commission has determined that the modification is warranted.

Further, the Commission may modify parole conditions on its own motion provided the parolee has been given 10 days in which to comment on the proposed modification.

Also, the parolee may petition the Commission in his own behalf for a modification of his parole conditions. The Commission shall act with due deliberation on such petitions, but shall not be required to respond within the 21 day period required for petitions of parole officers, in order to deter parolees from submitting repeated or unwarranted applications.

The Commission may not modify the provision that all parolees shall have as a condition of parole that there be no violation of criminal law.

Parole modification pursuant to a revocation proceeding under section 4214 is not governed by the provisions of this subsection.

Section 4210. Jurisdiction of the Commission

(a) An individual released on parole remains in the legal custody of the Attorney General until expiration of the sentence or the Commission terminates parole supervision pursuant to this Act.

(b) This subsection provides that the jurisdiction of the Parole Commission over a parolee terminates no later than the date of the expiration of the sentence imposed by the court except under circumstances cited in this section. Section 4164 of Title 18 and section 4211 of the bill establishes means for termination of jurisdiction over persons released on parole or as if on parole prior to the expiration of the sentence.

This subsection also provides that an individual whose parole has been revoked upon conviction of any new criminal offense that is punishable by a term of detention, incarceration or imprisonment in any penal institution shall receive no credit for service of his sentence from the day he is released on parole until he either returns to Federal custody following completion of any sentence of incarceration or upon the Commission determining that the sentence run concurrently with any new sentence that may have been imposed, pursuant to section 4214 (b) or (c) of this Act. In computing the date of expiration of the sentence, the Commission shall take into account the time the parolee previously served in connection with the original offense at commitment prior to his release on parole together with the time served for such offense following his revocation and the time together shall not be longer than the maximum term for which he was sentenced in connection with the original offense.

The phrase "punishable by a term of imprisonment, detention or incarceration in a penal facility" is intended by the Conferees to mean any term of confinement which may be levied upon adjudication of guilt or delinquency and does not include detention prior to adjudication. For example, a person convicted of any offense punishable by even one day of imprisonment would not automatically receive credit toward service of his sentence, even if no sentence of imprisonment was imposed.

This subsection also provides that an individual whose parole has been revoked for the violation of any condition of release other than commission of any Federal, State or local crime punishable by any term of imprisonment, detention or incarceration shall receive credit toward service of his sentence for time previously served in prison and for time spent on parole prior to the date that a warrant or summons is issued pursuant to Section 4213 of this Act.

(c) This subsection provides that the Commission may extend its jurisdiction over any parolee who is an absconder or who has refused or failed to respond to any reasonable request, order, summons, or warrant of the Commission or any member or agent thereof for such time as the parolee refused or failed to respond. In calculating time under this subsection, the Parole Commission shall consider the length of time the parolee served prior to his release on parole and may consider all time which he served while released on parole prior to refusing or failing to respond to the Commission or any of its agents, and any continuous period of time thereafter during which the parolee did not refuse or fail to respond to the Commission or any of its agents.

(d) Parole shall run concurrently with any other term of parole or probation.

(e) This subsection protects the eligibility of any prisoner remaining in the federal system who was sentenced prior to June 29, 1932, in order to preserve the possibility that he may be released under applicable provisions of law.

(f) When the Commission's jurisdiction over a parolee terminates or otherwise expires, it must issue a certificate of discharge to the parolee and may provide such additional copies of the document to other agencies as it may deem appropriate.

Section 4211. Early termination of parole

This section provides that the Parole Commission may upon its own motion or upon petition of a parolee terminate supervision over the parolee at any time.

This section also provides for periodic reviews of the status of each parolee in order to determine if continued supervision on parole is necessary. Such reviews will take place two years after each parolee's release on parole and annually thereafter.

This section further provides that after 5 years of parole supervision each parolee shall be released from further supervision, unless the Parole Commission determines that there is a likelihood that the parolee will engage in criminal behavior.

The phrase "likelihood that the parolee will engage in conduct violating any criminal law" is a phrase closely related to the term "release would not jeopardize the public welfare" from section 4206. Both rely on the use of probability in making the judgments required of the Commission by this section. Likelihood is a higher standard upon which the judgment is to be based, but this is only recognition by the Conferees that the Commission has five continuous years of supervision in the community on which to base its comparisons with other offenders who have similar backgrounds.

Periods of parole supervision occurring prior to the most recent release on parole as well as periods of confinement on any other sentence shall not be included in the calculation of the two and five year periods of continuous parole supervision used in this section.

Section 4212

The conference report provides that existing law with respect to delivery of convicted aliens for deportation is reenacted under a new section number.

Section 4213. Summons to appear or warrant for retaking of parolee

This section provides that the Commission may initiate revocation proceedings using either a summons or a warrant procedure. It is the intent of the Conferees that the Commission should minimize the disruption of the parolee's life in any revocation proceeding. One means by which this intent has been implemented is giving the Commission discretion to use either a summons or warrant when a condition of parole has alleged to have been violated. However, the Conferees recognize that use of a summons for parolees with prior adult or juvenile records may simply be inappropriate.

The phrase "except when delay is deemed necessary" in subsection (b) of this section recognizes that the decision as to when the revocation process should be initiated is committed to the Commission's discretion. It is the intent of the Conferees that it shall not be a defense to a revocation that previous parole violations were either ignored or not acted upon.

Any summons or warrant issued pursuant to this section shall provide the parolee with written notice of the conditions of parole he is alleged to have violated, his rights, and possible action which may be taken by the Commission, except that the Commission may satisfy the last two notice requirements with a printed form that sets forth the necessary information. Any federal correctional officer or other federal officer authorized to serve criminal process within the United States shall execute warrants under this section if so directed by the Commission.

Section 4214. Parole revocation

This section provides a process for the consideration of parole revocation following the issuance of a summons or warrant. The process established by this section reflects certain due process safeguards required by the Supreme Court in *Morrissey* v. *Brewer*, 408 U.S. 471 (1972) and *Gagnon* v. *Scarpelli*, 411 U.S. 788 (1973) and Congressional cognizance of the potential for deprivation of liberty in parole revocation and the resultant need for procedural safeguards.

The process established by this section for individuals whose revocation is not based on a new criminal conviction involves two hearings: (1) a preliminary hearing held near the place of the alleged violation to determine if there is probable cause to believe that the parolee has violated a condition of his parole, and if such a finding is reached, (2) a revocation hearing to determine if a violation has taken place, and, if it did, whether or not there are circumstances in mitigation which suggest that the violation does not warrant revocation. The probable cause hearing must be held without unnecessary delay.

After a finding of probable cause at the preliminary hearing, the Commission may release the parolee to supervision, if the Commission believes that continuation of revocation proceedings is not warranted, or that incarceration is not warranted by any of the following considerations: the alleged frequency or seriousness of a violation, the degree of likelihood that the parolee will not appear at the revocation proceeding, or the degree of danger that the parolee represents to any person.

Both the preliminary and revocation hearing shall be conducted in accordance with the following procedures:

(a) notice to the parolee as to the allegations and the time, place, and purpose of the scheduled hearing;

(b) The right to be represented by retained counsel or if he is unable to retain counsel, counsel shall be provided pursuant to the Criminal Justice Act (18 U.S.C. 3006A) or another representative as provided by rules and regulations.

(c) opportunity for the parolee to appear and testify and present witnesses and relevant evidence on his own behalf;

(d) opportunity for the parolee to be apprised of the evidence against him and to confront and cross-examine adverse witnesses, unless the Commission specifically finds substantial reason for not allowing confrontation. The phrase "apprised of the evidence against him" shall be construed in accordance with the disclosure requirements of present law with respect to parole revocation proceedings. In addition, the Conferees acknowledge that there is often simply no adequate alternative to live testimony, but recognize that in some cases it may be appropriate for the Commission to use conventional substitutes for live testimony including affidavits, depositions and documentary evidence. *Gagnon* v. *Scarpelli*, 411 U.S. 783 n.5 (1973). The phrase "substantial reason" includes but is not necessarily limited to situations involving the potential of harm to any person, physical or otherwise, testimony which is irrelevant or duplicative, and considerations of availability such as illness or distance.

This section also makes provision for the Commission to subpena witnesses and evidence for parole revocation proceedings. In exercising its discretion to issue a subpena the Commission shall take into consideration factors which include relevance of the testimony, or evidence sought, and whether or not such testimony or evidence is duplicative.

If the Commission determines that a preponderance of the evidence indicates that the parolee has violated a condition of his parole, the Commission may restore the parolee to supervision, reprimand the parolee, modify any condition of his release, refer him to a halfway house, or revoke his parole.

Provision is also made for abbreviated revocation proceedings in cases in which the parolee has a new criminal conviction. It is the intent of the Conferees that the new criminal conviction satisfies the probable cause requirement in parole revocation proceedings. *U.S.* v. *Tucker*, 524 F2d 77 (Fifth Cir. 1975).

A procedure is provided for Commission review of detainers placed against parolees who have been imprisoned after conviction for a crime committed subsequent to their release on parole. After being notified that a parole detainer has been lodged against a parolee in an institution where he is serving his new sentence, the Commission shall review such detainer within 180 days. It is the intent of the Conferees that notice of the pending review be sent to the parolee as soon as practical after notification to the Commission that a detainer has been lodged. No dispositional hearing shall be required to determine the existence of mitigating circumstances. However, if the Commission decides that more information is necessary for the detainer review, a dispositional hearing may be held at the institution in which the parolee is serving his new sentence. Legal representation, as described in subsection (a)(2)(B) of this section is provided to assist the parolee in the dispositional process.

Following the dispositional review, the Commission may let the detainer stand or withdraw the detainer. If the detainer is withdrawn, the case can be closed. The Commission may also withdraw the detainer and reinstate the parolee to supervision; thus permitting the federal sentence time to run uninterruptedly from the time of the parolee's original release on parole or mandatory release.

Any alleged parole violator who waives his right to revocation proceedings under subsection (a) of this section or who admits to a violation at a preliminary hearing held under subsection (a)(1)(A) of this section, or who is retaken under subsection (b) of this section shall receive a parole revocation hearing within 90 days of being retaken in Federal custody. The alleged parole violator shall have notice of such hearing, be permitted to appear and testify on his own behalf and has the right to counsel or a representative as provided in subsection (a)(2)(B) of this section.

Section 4215. Reconsideration and appeal

This section provides that action imposing conditions of parole or modifying or denying release or revoking parole, may be appealed not later than 30 days after receiving written notice of such action. The regional commissioner shall decide the appeal within 30 days after receipt of the appellant's papers and shall inform the appellant in writing of his decision and the reasons therefor.

Appeal from an adverse decision on the part of the regional commissioner may be taken to the National Appellate Board within 30 days of the decision of such regional commissioner and such appeal will be decided within 60 days by a majority vote of the three commissioners on the National Appellate Board.

Also this section provides that the National Appellate Board may review any decision of a regional commissioner upon the written request of the Attorney General.

Section 4216. Young adult offenders

This section provides that existing law which permits certain offenders to be sentenced under the provisions of the Youth Corrections Act is reenacted under a new section number.

Section 4217. Warrant to retake Canal Zone offenders

This section provides that existing law with respect to revocation of Canal Zone offenders is reenacted under a new section number.

Section 4218. Applicability of Administrative Procedure Act

This section brings the Commission's rulemaking process within the coverage of the Administrative Procedure Act, including the Chapter 7 judicial review procedures. In this regard the Conferees recognize the principles established in *Pickus* v. *United States*, 507 F.2d 1107 (1974).

It is the intent of the Conferees that Commission decisions involving the grant, denial, modification or revocation of parole shall be considered actions committed to agency discretion for the purpose of section 701(a)(2) of title 5, United States Code. It is the Conferees understanding that the exclusion of such decision from the judicial review provisions of Chapter 7 of title 5, United States Code, reflects the present law with respect to limitations on judicial review of individual parole decisions.

Sec. 3. Section 5005 of title 18, United States Code, is amended to make certain parole procedures for individuals sentenced under the provisions of the Youth Corrections Act parallel with those provided under Chapter 311 of title 18, United States Code, as amended by this Act.

Sec. 4. Section 5006 of title 18, United States Code, is amended to reflect the change in name from Youth Division to U.S. Parole Commission.

Sec. 5. Sections 5007, 5008 and 5009 of title 18, United States Code, which conflict with the provisions of Chapter 311 of title 18, United States Code, as amended by this Act, are repealed.

Sec. 6. Section 5014 of title 18, United States Code, is amended to provide that parole interviews for individuals sentenced under the provisions of the Youth Corrections Act are conducted in the same manner as prescribed for other eligible prisoners.

Sec. 7. Section 5017(a) of title 18, United States Code, is amended to provide for parallel parole release criteria for all eligible prisoners.

Sec. 8. Section 5020 of title 18, United States Code, is amended to provide that parole revocations for individuals sentenced under the provisions of the Youth Corrections Act are conducted in the same manner as prescribed for other parolees.

Sec. 9. Chapter 402 of title 18, United States Code, is amended to reflect the change in name from Youth Division to U.S. Parole Commission.

Sec. 10. This section amends the Table of Sections of Chapter 402 of title 18, United States Code.

Sec. 11. Section 5041 of title 18, United States Code, is amended to provide for parallel parole release criteria for all eligible prisoners.

Sec. 12. This section provides that wherever the term "United States Parole Board" is used in any law it shall be replaced with the term "United States Parole Commission."

Sec. 13. Section 5108(c)(7) of title 5, United States Code, is amended to delete from the control of the Attorney General the salary of members of the U.S. Parole Commission which shall be set by the Congress under the provisions of section 4202 of title 18, United States Code.

Sec. 14. Section 3655 of title 18, United States Code, is amended to replace the term "Attorney General" with the term "United States Parole Commission."

Sec. 15. This section authorizes the appropriation of such sums as are necessary to carry out the purposes of this Act.

Sec. 16. (a) This subsection transfers personnel, liabilities, etc., of the U.S. Board of Parole to the Chairman of the U.S. Parole Commission.

(b) This legislation takes effect 60 days after enactment, except that the provisions of section 4208(h) shall take effect 120 days after enactment.

(c) All members of the U.S. Board of Parole on the effective date of this legislation would become commissioners entitled to serve for the remainder of the terms for which they were appointed as members of the U.S. Board of Parole.

(d) The purpose of this section is to insure that service as a member of the United States Board of Parole prior to the effective date of this Act shall not be counted toward the twelve-year limitation on terms of U.S. Parole Commissioners provided by this Act. It is the intent of the Conferees that this provision be liberally construed so that a person who has two years of his term as a U.S. Parole Commissioner, be eligible for reappointment for a six-year term as a member of the U.S. Parole Commission and be eligible again for reappointment for whatever period of time would be necessary so that he would be entitled to twelve years of service as a U.S. Parole Commissioner.

Robert W. Kastenmeier,
George Danielson,
Robert F. Drinan,
Herman Badillo,
Edward W. Pattison,
Tom Railsback,
Charles E. Wiggins,
Managers on the Part of the House.

Quentin Burdick,
Roman L. Hruska,
John L. McClellan,
Charles McC. Mathias, Jr.,
Edward Kennedy,
Managers on the Part of the Senate.

HEARING ON AGENCY REPORTS ON COMPETITION IN THE FOOD INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Rodino) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, I wish to announce that the Subcommittee on Monopolies and Commercial Law will hold its final day of hearings on H.R. 9182, the Food Industry Reports Act of 1975. The hearing will be held on Thursday, March 11, 1976, in room 2141, Rayburn House Office Building, commencing at 9:30 a.m.

Witnesses will include officials from the Department of Justice and the Department of Agriculture.

A GUIDE TO THE FEDERAL RESERVE'S CORPORATE FRIENDS

The SPEAKER pro tempore (Mr. McFall). Under a previous order of the House, the gentleman from Texas (Mr. Patman) is recognized for 60 minutes.

Mr. PATMAN. Mr. Speaker, last week, I reported to the House that more than 20 percent of the directors of the Federal Reserve District banks were interlocked with the Business Roundtable—the fat cat lobbying outfit.

The Business Roundtable—as my colleagues know—is the lobbying group that has actively fought—with the assistance of Dr. Arthur Burns—the proposals to audit the Federal Reserve System. They have flooded the Hill with telegrams and telephone calls and they have been effective in blocking consideration of this legislation.

Mr. Speaker, we have continued our research into the Business Roundtable and it is becoming more and more apparent why this outfit is so powerful, so convincing, when it fights progressive legislation—bills ranging from the audit of the Federal Reserve System to antitrust legislation.

The reason is obvious—the Business Roundtable represents the wealth, the power, the economic might of the United States. It is the biggest of the big and its voice represents at least $550 billion in annual sales! in addition, there are two insurance companies with assets of $60 billion—28 percent of the total assets of the 50 largest life insurance companies in the United States. The list also includes four of the 26 largest commercial banks in the United States and the deposits in these four banks represents 42 percent of the total deposits of the 26 largest commercial banks in the United States. It is little wonder that the White House and the Capitol shake when this mammoth group demands action—or, as in the case of the audit—inaction.

Mr. Speaker, the Federal Reserve's friends—the Business Roundtable—includes 117 of the 500 companies on Fortune's famous list of the 500 top corporations, and this includes 63 of the top 100.

On February 11, I placed in the Congressional Record, page 3047, a list of the interlocks between the Federal Reserve and the Business Roundtable. These interlocks included 23 Federal Reserve district bank directors—and this covered all 12 district banks. In addition, six directors from Federal Reserve district branch banks were interlocked with the Business Roundtable. More importantly, this list showed that 11 of the 40 members on the Business Roundtable's Policy Committee were tied into the Federal Reserve System. As I pointed out at that time, it is often difficult to distinguish between the Federal Reserve System and the Business Roundtable—they appear to be one and the same, representing wealth and economic power in the most massive terms.

Mr. Speaker, at this point in the Record, I would like to insert the following series of industrial classification breakdowns showing the rank of Business Roundtable member corporations and dollar figures by rank—nine tables:

A-I.—Business Roundtable Members Who Appear on Fortune 500 List of Industrial Corporations

Fortune 500 rank, corporate name, and annual sales volume (1974)[1]

1. Exxon Corporation, $45,021 million.
2. General Motors, $31,550 million.
3. Ford Motor Company, $23,620 million.
4. Texaco, $23,255 million.
5. Mobil Oil Corporation, $20,491 million.
7. Gulf Oil Corporation, $18,500 million.
8. General Electric, $13,413 million.
9. International Business Machines (I.B.M.), $12,675 million.
11. Chrysler Corporation, $11,500 million.
12. U.S. Steel, $9,186 million.
13. Standard Oil (Indiana), $10,025 million.
14. Shell Oil Company, $8,418 million.
16. Continental Oil Company, $7,041 million.
17. E. I. duPont de Nemours, $6,910 million.
18. Atlantic Richfield, $7,167 million.
19. Westinghouse Electric, $5,799 million.
21. Bethlehem Steel, $5,381 million.
22. Union Carbide, $5,320 million.
23. Goodyear Tire & Rubber, $5,256 million.
24. Tenneco, $5,001 million.
25. Phillips Petroleum, $4,981 million.
26. International Harvester, $4,966 million.
27. Dow Chemical, $4,938 million.
28. Proctor & Gamble, $4,912 million.
30. Esmark, $4,627 million.
31. RCA (S&P), $4,600 million.
33. Kraftco, $4,471 million.
35. Rockwell International, $4,409 million.
36. Caterpillar Tractor, $4,082 million.
37. Sun Oil Company, $3,825 million.
39. The Boeing Company, $3,731 million.
40. Firestone Tire & Rubber, $3,675 million.
41. Xerox Corporation, $3,576 million.
43. Monsanto Corporation, $3,498 million.
45. Greyhound Corporation, $3,469 million.
46. United Aircraft Corporation, $3,320 million.
51. Armco Steel Corporation, $3,190 million.
52. Continental Can, $3,087 million.
55. Ralston Purina, $3,070 million.
56. International Paper, $3,042 million.
58. General Foods Corporation, $3,675 million.
59. Minnesota Mining and Manufacturing Corporation (3M), $2,937 million.
61. Cities Service Company, $2,806 million.
63. Republic Steel, $2,741 million.
64. National Steel, $2,728 million.
65. Aluminum Company of America (Alcoa), $2,750 million.
67. American Can Company, $2,658 million.
68. Honeywell Corporation, $2,626 million.
72. Champion International, $2,500 million.
73. Weyerhauser, $2,529 million.
74. Coca-Cola, $2,522 million.
75. Deere & Company, $2,490 million.
76. TRW, Inc. (S&P), $2,490 million.
78. Inland Steel, $2,450 million.
81. Burlington Industries, $2,320 million.
82. Uniroyal, $2,301 million.
88. Owens-Illinois, $2,100 million.
91. FMC Corporation (S&P), $2,070 million.
92. American Home Products, Inc., $2,049 million.
94. General Mills, $2,300 million.
95. Reynolds Metals, $1,990 million.
96. B. F. Goodrich, $1,966 million.
98. General Dynamics, $1,968 million.
106. Nabisco, $1,793 million.
108. Borg-Warner, $1,768 million.
109. Crown-Zellerbach, $1,766 million.
110. Eaton Corporation, $1,760 million.
113. PPG Industries (S&P), $1,740 million.
115. General Tire & Rubber, $1,726 million.
118. The Anaconda Company, $1,673 million.
119. Kennecott Copper, $1,664 million.
134. N. L. Industries (S&P), $1,600 million.
125. Bristol Myers, $1,590 million.
126. Texas Instruments, $1,572 million.
133. Hercules, Inc., $1,525 million.
136. Campbell Soup Company, $1,468 million.
137. Boise Cascade, $1,450 million.
139. H. J. Heinz Company, $1,650 million.
142. Ingersoll Rand, $1,400 million.
143. Anheuser Busch, $1,410 million.
146. Dresser Industries, $1,390 million.
147. White Motor Company, $1,390 million.
148. Clark Equipment, $1,371 million.

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[1] Sales volume figures from *Dun & Bradstreet Million Dollar Directory, 1976*, where available. S&P notation indicates sales volume figure from *Standard & Poor's Register of Corporations, 1976*.

151. ASARCO, $1,344 million.

152. Merck & Company, $1,330 million.

156. Babcock & Wilcox, $1,277 million.

158. Allis Chalmers, $1,260 million.

161. Olin Corporation, $1,240 million.

164. Dart Industries, $1,214 million.

167, Amax, Inc., $1,200 million.

176. Eli Lilly, $1,110 million.

178. Scott Paper, $1,110 million.

181. Johns-Manville, $1,106 million.

184. Pennzoil, $942 million.

186. Kaiser Industries, $1,097 million.

190. Corning Glass Works, $1,050 million.

194. Wheeling-Pittsburgh Steel Co., $1,040 million.

207. Carrier Corporation, $984 million.

214. GAF Industries, $949 million.

217. Koppers Company, $914 million.

219. Union Camp, $910 million.

220. McGraw Edison, $910 million.

224. Armstrong Cork, $889 million.

225. Hewlett-Packard, $884 million.

233. Stauffer Chemical, $859 million.

238. Owens-Corning Fiberglass, $828 million.

273. Libbey-Owens-Ford, $655 million.

274. Cyclops Corporation, $653 million.

304 Texasgulf, Inc. (S&P), $568 million.

305. A. O. Smith, $567 million.

310. Certain-Teed Products Corp., $559 million.

311. Norton Company, $558 million.

325. General Cable, $519 million.

334. Hoover Corporation, $503 million.

336. Utah International, $501 million.

367. Sundstrand Corporation, $457 million.

391. Rohr Industries, $419 million.

Annual Sales Volume Accounted for by Business Roundtable Members of the Fortune 500 List, $472,346 million.

Number of Business Roundtable Members in the Fortune 500 list, 117.

Number of Business Roundtable Members in the first 100 ranking of the Fortune 500, 63.

A-II.—BUSINESS ROUNDTABLE MEMBERS WHO APPEAR ON SECOND FORTUNE 500[1] LIST OF INDUSTRIAL CORPORATIONS (501–1000)

Second 500 Fortune rank—corporate name, and annual sales volume[2]

515. Hanna Mining, $272 million.

543. Ideal Basic Industries, $259 million.

586. Illinois Tool Works, $224 million.

920. Cleveland Cliffs, $122 million.

Number of Business Roundtable Members in the 2d Fortune 500 List, 4.

Annual Sales Volume Accounted for by Business Roundtable Members of the 2nd Fortune 500 List, $877 million.

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[1] "The 2d 500 Largest Industrial Corporations in the United States Ranked by Sales in 1974", published in the May, 1975 issue of *Fortune* Magazine.

[2] Sales volume figures from *Dun & Bradstreet Million Dollar Directory 1976*.

A-III.—BUSINESS ROUNDTABLE MEMBERS WHO APPEAR IN THE LIST OF 26 LARGEST COMMERCIAL BANKS IN THE UNITED STATES, RANKED BY DEPOSITS AS OF DECEMBER 31, 1975.[1]

Rank in top 26, corporate name, and deposits

1. Bank of America, $57,274 million.

2. First National City Bank, $44,976 million.

3. Chase Manhattan Bank, $33,777 million.

13. Irving Trust Company, $8,563 million.

Total Deposits of Business Roundtable Members who appear in list of 26 Largest Commercial Banks in the United States, $144,590 million.

This deposit total represents 42% of the total deposits of the 26 largest commercial banks in the United States.

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[1] Rank and Deposit figures from the *American Banker* of February 4, 1976, "Largest Commercial Banks in the United States."

A-IV.—BUSINESS ROUNDTABLE MEMBERS WHO APPEAR IN THE LIST OF 50 LARGEST RETAILING COMPANIES IN THE UNITED STATES.[1]

Rank in top 50 retailers, corporate name, and annual sales volume[2]

1. Sears, Roebuck & Company, $13,100 million.

3. J. C. Penney, $6,200 million.

7. Marcor, $4,667 million.

9. Federated Department Stores, $2,960 million.

27. R. H. Macy, $1,242 million.

30. Carter, Hawley, Hale Stores, $1,122 million.

Total Sales Volume represented by Business Roundtable Members of the 50 Largest Retailing Companies in the United States, $29,291 million.

The 6 Business Roundtable Members who appear in the list of 50 largest Retailers account for 26% of the Annual Sales Volume generated by the 50 companies.

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[1] "The 50 Largest Retailing Companies" as published in *Fortune* Magazine of July, 1975.

[2] Sales volume figures from *Dun & Bradstreet Million Dollar Directory, 1976*.

A-V. BUSINESS ROUNDTABLE MEMBERS WHO APPEAR IN THE LIST OF 50 LARGEST TRANSPORTATION COMPANIES[1]

Rank in top 50 transportation companies, corporate name, and annual sales volume.[2]

1. Trans World Airlines, $2,515 million.

6. Union Pacific Railroad (S&P), $1,599 million.

7. Burlington Northern, $1,552 million.

8. Eastern Airlines, $1,250 million.

20. Roadway Express, $477 million.

Sales Volume represented by Business Roundtable Members of the 50 Largest Transportation Companies in the U.S., $7,363 million.

The 5 Business Roundtable Members who appear in the list of 50 Largest Transportation Companies in the United States account for 21% of the Annual Sales Volume generated by the 50 companies.

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[1] "The Fifty Largest Transportation Companies" as published in *Fortune* Magazine of July, 1975.

[2] Sales volume figures from *Dun & Bradstreet Million Dollar Directory, 1976*, where available. S&P notation indicates sales volume figure from *Standard & Poor's Register of Corporations, 1976*.

A-VI BUSINESS ROUNDTABLE MEMBERS WHO APPEAR IN THE LIST OF 50 LARGEST UTILITIES IN THE UNITED STATES.[1]

*Rank in top 50 **utilities**, corporate name, and operating revenue*

1. American Telephone & Telegraph Co., $26,174 million.

4. Pacific Gas & Electric, $1,727 million.

5. Southern Company, $1,489 million.

6. Southern California Edison, $1,483 million.

8. Public Service Electric and Gas, $1,456 million.

10. Columbia Gas System, $1,279 million.

18. Detroit Edison, $898 million.

25. Middle South Utilities, $822 million.

28. Texas Power & Light (Texas Utilities), $727 million.

43. Union Electric, $469 million.

44. Cleveland Electric Illuminating, $464 million.

45. Carolina Power & Light, $461 million.

48. Gulf States Utilities, $370 million.

50. Pacific Power & Light, $247 million.

Total Operating Revenues of Business Roundtable Members who appear in the list of 50 Largest Utilities, $38,066 million.

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[1] "The Fifty Largest Transportation Companies" as published in *Fortune* Magazine of July, 1975.

The revenue total for these 14 Business Roundtable members who appear in the top 50 list accounts for 53% of the total revenue generated by the 50 companies.

A-VII. BUSINESS ROUNDTABLE MEMBERS WHO APPEAR IN THE LIST OF 50 LARGEST LIFE INSURANCE COMPANIES IN THE UNITED STATES[1]

Rank in top 50 life insurance companies, corporate name, and assets[2]

1. Prudential Insurance, $30,000 million.

2. Metropolitan Life, $30,000 million.

Total Assets of two Business Roundtable Members who appear in 50 largest list, $60,000 million.

The asset total for these two Business Roundtable members represents 28% of the total assets of the 50 largest life insurance companies in the United States.

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[1] "The Fifty Largest Life Insurance Companies" as published in *Fortune* Magazine of July, 1975.

[2] Assets totals from *Standard & Poor's Register of Corporations, 1976*.

A-VIII. BUSINESS ROUNDTABLE MEMBERS WHO APPEAR IN THE FORBES' "DIMENSIONS OF AMERICAN BUSINESS: A ROSTER OF THE UNITED STATES' BIGGEST CORPORATIONS"[1]

Forbes rank, corporate name, and annual sales volume[2]

68 (by sales). Halliburton, $3,090 millions.

357 (assets). Public Service Company of Colorado, $364 millions.

376 (assets). Cincinnati Gas & Electric, $416 millions.

404 (assets). Public Service of Indiana, $260 millions.

408 (by sales). Texas Gas Transmission, $693 millions.

419 (assets). Arizona Public Service, $274 millions.

443 (net profits). Dayton Power & Light, $300 millions.

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[1] "Dimensions of American Business: A Roster of the U.S.'s Biggest Corporations", *Forbes Magazine*, May 15, 1975.—An alphabetical directory of the 830 companies ranked on one or more of the Forbes 500 lists (i.e., by sales, market value of stock, assets, or net profits) including key operating statistics and the remuneration of officers and directors.

[2] Sales volume figures from *Dun & Bradstreet Million Dollar Directory, 1976*.

A-IX. BUSINESS ROUNDTABLE MEMBERS NOT APPEARING IN FORTUNE OR FORBES ANNUAL RANKINGS AND SALES VOLUME FIGURES

Corporate name and annual sales volume[1]

Deering-Milliken,[2] $1,000 million.

International, Nickel,[3] $400 million.

Iowa-Illinois Gas & Electric, (S&P)[4] $175 million.

Sifco Industries,[4] $30 million.

Public Service Co. of Oklahoma,[4] $195 million.

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[1] Sales volume figures from *Dun & Bradstreet Million Dollar Directory, 1976*, where available. S&P notation indicates sales volume figure from *Standard & Poor's Register of Corporations, 1976*.

[2] Closely held corporation; not ranked.

[3] Subsidiary of International Nickel of Canada, which is ranked 115 in "The 300 Largest Industrial Corporations Outside the United States", *Fortune Magazine*, August, 1975.

[4] Not Ranked Nationally.

MILLIONS MISSING OUT ON EARNED INCOME CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, the IRS recently released figures which indicate that thousands of American taxpayers are not claiming a valuable tax benefit on this year's tax return. The earned income credit, enacted into law as part of the Tax Reduction Act of 1975, entitles taxpayers with earned income of less than $8,000 in 1975 to claim a tax credit of up to $400. Yet IRS has compiled statistics that reveal that of 813,000 returns processed as of the end of January, 5 percent of the returns, or almost 41,000, did not claim the earned income credit for which the taxpayers appeared to be eligible.

To qualify for the earned income credit, a taxpayer has to respond affirmatively to three questions: First, did he pay over half the cost of maintaining a household in the United States which is his principal residence; second, did he have a dependent child under 19 years of age or a full-time student; and third, was his adjusted gross income and his earned income less than $8,000. Because the face of the return does not generally include all of the necessary information, IRS is in the process of sending notices of the availability of the credit to all taxpayers who have filed returns and appear to be eligible but have not claimed the credit. IRS sent out 41,000 notices as of January 23.

From a sample of notices generated, service centers called and questioned taxpayers, finding that of those called, 83 percent could in fact answer affirmatively to the requisite questions and were thus entitled to claim the earned income credit. If omissions of the credit in tax returns continue at the present rate, it is predicted that 3.6 million notices will be mailed to potentially eligible taxpayers before the end of the filing season. Based upon the 83 percent eligible rate, at an expected IRS administrative cost of $3.67 per earned income adjustment, it is estimated that the IRS's processing cost for errors in the earned income credit alone could run as high as $10,965,960.

A more serious problem is that even those low-income taxpayers who would not be required to otherwise file a return must file a Federal tax return in order to claim the earned income credit. In an effort to locate taxpayers who might qualify for the credit, many Federal agencies who provide services to low-income individuals, as well as many community service organizations, have promised to assist in a mass publicity campaign. I was therefore appalled to learn from recent Ways and Means Oversight Subcommittee staff visits in the field that the local social security, welfare, food stamp, veterans, and unemployment offices are not publicizing the credit as their officials promised us in Washington. If we are to reach the thousands or millions of low-income taxpayers who are entitled to this valuable tax benefit this year, it will require a concerted and unified effort. I urge all agencies and organizations to assist in making the earned income credit available to all eligible taxpayers.

INTERRELIGIOUS STATEMENT ON THE CHILD AND FAMILY SERVICES BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 5 minutes.

Mr. MATSUNAGA. Mr. Speaker, during the past several weeks I have received numerous inquiries from my constituents regarding H.R. 2966, the child and family services bill, as a result of a pervasive, but anonymous, campaign directed against this bill. Since I am a cosponsor of H.R. 2966, the serious charges made against this bill are a source of great concern to me. If H.R. 2966 in fact contained any of the provisions detailed in the hate campaign literature, I certainly would not have added my name to it as a cosponsor.

I would like to reiterate my commitment to the basic principle behind H.R. 2966: That the American family will be strengthened by the availability of health, education, and other services which might not otherwise be affordable. The child care, prenatal health care, aid for handicapped children, and food and nutrition programs are all designed to enable families to provide for their children the best possible environment regardless of financial limitations. These programs are all voluntary, but I think we can all agree that the services covered are crucial to the well-being of all children.

The National Council of the Churches of Christ recently provided me a copy of a recent "Interreligious Statement on the Child and Family Services Bill," issued by many national religious organizations. In an effort to present the truth about H.R. 2966, I am requesting that this statement be inserted in the RECORD at this point:

INTERRELIGIOUS STATEMENT ON THE CHILD AND FAMILY SERVICES BILL

In December of 1971 both the House and the Senate passed the Comprehensive Child Development Act of 1971. Supported by a coalition of poverty and civil rights groups, labor unions, women's groups, churches, educators, and community and citizens organizations, the bill would have amended Title V of the Economic Opportunity Act "to provide every child (through age 14) with a fair and full opportunity to reach his full potential by establishing and expanding comprehensive child development programs." This bill was vetoed by President Nixon.

In February of 1975, Sen. Mondale (D-Minn.) introduced a very similar bill, S. 626, The Child and Family Services Act of 1975. Rep. Brademas (D-Ind.) introduced a companion bill (H.R. 2966) in the House. This bill would establish programs of part-day and full-day child care, prenatal care, special services for minority group children, food and nutrition programs, aid for handicapped children, and various types of assistance to families with special needs.

The Child and Family Services Act is now under attack by groups and individuals charging that it would give government undue authority over family life. In fact, some groups have charged that the proposed legislation would make the "government responsible for . . . the religious interests of your child," give "children the right to protection from any excessive claims made on them by their parents," and make preschool education "compulsory" for all children beginning at age three.

These charges are totally inaccurate. There is nothing in this legislation that relates to religious preferences or religious instruction; nothing that relates to or alters the existing legal relationship between parents and their children; and nothing that provides for compulsory preschool education, or for compulsory service of any kind.

What it seeks to do instead, is to strengthen and support families in their efforts to provide their children—on a totally voluntary basis—with the basic health, education and other services they want for them but too often cannot afford. Thus, it authorizes funding for a variety of child and family services including prenatal health care, medical treatment to detect and remedy handicapping conditions, and day care services for children of working parents.

Most importantly, any and all of these programs are totally voluntary, and limited to children whose parents request the services. Parent control is further assured by requirements that all programs would be selected, established and controlled by parents whose children participate in them.

A careful reading of the bill reveals that it will support families, not weaken them. The bill states, for example, the "family is the primary and most fundamental influence on children" and that "child and family service programs must build upon and strengthen the role of the family."

The need for legislation of this kind is clear. The infant mortality rate in the United States is higher than that of thirteen other nations. Each year an estimated 200,000 children are struck by handicaps which could have been prevented if their mothers had received early health care. Forty percent of the young children of this country are not fully immunized against childhood diseases. Sixty-five percent of all handicapped preschool children are not receiving special services. There are only one million spaces in licensed day care homes and centers to serve the six million preschool children whose parents are working.

Debate over legislative proposals such as this Child and Family Services Act should be based on the facts, and decided on the merits. To do otherwise—to misrepresent the purpose and provisions of the legislation under discussion—is a disservice to all Americans concerned about families and children.

American Jewish Committee: Ms. Anne Wolfe, Director, Social Welfare.

Christian Church (Disciples of Christ) Disciples Peace Fellowship.

Christian Church (Disciples of Christ) Department of Church in Society, Division of Homeland Ministries.

Church of the Brethren, Washington Office.

Friends Committee on National Legislation

Lutheran Family and Children's Services, St. Louis, Missouri.

Lutheran Welfare Services of Illinois.

Lutheran Social Service of Minnesota.

National Council of Churches.

National Conference of Catholic Charities.

National Council of Jewish Women: Mrs. Esther R. Landa, National President.

Network.

Synagogue Council of America.

Tressler-Lutheran Service Associates, Camp Hill, Pa.

United Church of Christ Center for Social Action.

United Methodist Church, Women's Division, Board of Global Ministries.

United Presbyterian Church, USA, Washington Office.

MISS SARAH A. KRAUSS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, I would like to bring to the attention of my colleagues an outstanding and devoted public servant, Miss Sarah A. Krauss.

Miss Krauss, who has served in the District of Columbia's Office of the Corporation Counsel for almost 30 years, has recently retired at the age of 84. She served the District of Columbia with distinction and dedication, performing as an invaluable member of the support staff in a variety of areas. It was often said that, although she is not a lawyer herself, she knows more about the laws with which she has worked than most lawyers do.

Long after most people retire to rest from their labors, Miss Krauss remained in the public service to share her expertise and knowledge with others.

Mr. Speaker, I wish to commend to my colleagues Miss Sarah A. Krauss, for her invaluable assistance and devotion to the people of the District of Columbia.

HEARINGS ON WESTERN HEMISPHERE IMMIGRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary will hold 1 day of hearings on Thursday, February 26, to consider H.R. 981 and H.R. 367, legislation which would impose the same preference system on the Western Hemisphere that is currently in effect in the Eastern Hemisphere.

The hearing will be held in room 2237, Rayburn House Office Building and will commence at 10 a.m.

Testimony will be received from Members of Congress and Dr. Conrad Taeuber, Director, Center for Population Research, Georgetown University.

A COMEUPPANCE FOR COMMON CAUSE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the Playground Daily News of Fort Walton Beach, Fla., has as its masthead this statement:

> This newspaper is dedicated to furnishing information to our readers so that they can better promote and preserve their own freedom and encourage others to see its blessings. Only when man is free to control himself and all he produces, can he develop to his utmost capabilities.
>
> We believe that freedom is a gift from God and not a political grant from government. Freedom is neither license nor anarchy. It is self-control. No more. No less. It must be consistent with the truths expressed in such great moral guides as the Coveting Commandment, the Golden Rule and the Declaration of Independence.

I quote this statement to give additional credence to a column printed on its editorial page in the Daily News of February 4 from the pen of James J. Kilpatrick. It is entitled, "A Comeuppance for Common Cause." I submit it for reprinting in the RECORD. The column speaks for itself:

A COMEUPPANCE FOR COMMON CAUSE

(By James J. Kilpatrick)

WASHINGTON.—The old rule prevails: When man bites the dog, that's news. Former Senatory Eugene McCarthy, may the saints preserve him, is thereby making a little news. He has his teeth into Common Cause.

In case the matter had slipped your mind, McCarthy is a candidate for president of the United States. He is the most refreshing candidate in years. He is the candidate of No Party. His nomination is therefore assured. While the more conventional candidates are skittering across the land, desperately wooing the voters, McCarthy is at home, finishing a book on the ideas of Alexis de Tocqueville. Seriously speaking, the two of them deserve each other.

Back in November, McCarthy received a letter from John Gardner, chairman, and David Cohen, president, of Common Cause. These two eminences, in their high and mighty way, wished to remind McCarthy that many political campaigns had become mere exercises in "image manipulation and issue evasion." Their supremacies told McCarthy that new standards of integrity, responsiveness and accountability must be introduced. Messrs. Gardner and Cohen had prepared such a list of standards. Copy enclosed.

"We will be calling on our members, the public and the media," warned the two exalted ones, "to measure candidates' performance against the enclosed standards." They asked McCarthy for a written response.

The identical letter went to other avowed candidates for the presidency. Their flatulent responses soon came pouring in. Birch Bayh wrote that he had no hesitancy in subscribing in full to the Common Cause checklist. Lloyd Bentsen assured their nobilities that his conduct would be consistent with their goals. Jimmy Carter delivered his wholehearted endorsement. Fred Harris sent three single-spaced pages of agreeable response. Henry M. Jackson said he had directed his staff to see that the goals were achieved. Governor Milton Shapp declared his strong endorsement and delivered his pledge of adherence. Sargent Shriver sent two pages of fulsome alegiance. Mo Udall sent three.

Alas, the royal highness of Common Cause got no such response from McCarthy. Clean Gene turned the letter over to his campaign chairman, Ronald Cocome, who responded to John Gardner by return mail as follows:

"I find this communication insulting. I don't mind telling you that if any citizen controls are needed, they are controls over your arrogance. I don't know who the blazes you think you are. As a campaign we are responsible to the voters directly. We will let them interpret our actions and motives. We do not need you to do so, and we do not believe the people of the country do.

"In short, you can take your enclosed standards and stuff them in your ear!"

Well! Lese majeste! King John was not amused. Gardner delivered himself of a portentous conclusion: McCarthy "must disagree with the standards or he cannot live with them politically." No other possibilities had occurred to El Supremo.

Said McCarthy: "John Gardner has the distinction of being the first person in 25 years of public life to question my honesty." And he challenged Gardner to meet him "in any public forum to discuss Common Cause's campaign standards, his record and my record—and my standards." There, for the moment, the matter stands.

Clean Gene has taken the same blunt approach to demands from other quarters that he make public his income tax returns for the past six years, along with his medical reports. He proposes to be the judge of his own integrity. If John Gardner is so hipped on reports, disclosures and standards, let him inspect his own; or shove them in his ear.

It is high time, it seems to me, that a few men and women in public life stood up to the arrogant demands of the new inquisitors—including the inquistors of the press. The only other political figure to do so, at least in recent memory, was Senator James L. Buckley of New York. He once told The New York Times where it could go with its impudent interrogatories.

Right on, McCarthy! There are some of us who doubt that it is truly necessary to know all about the bladder of Senator Humphrey or the lower bowels of President Ford. Even presidential candidates are entitled to some privacy. McCarthy's tax returns may be of interest; it's more interesting to know that he's deep in Tocqueville's ideas.

FLORIDIAN RECEIVES NATIONAL MASONIC RECOGNITION

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. SIKES. Mr. Speaker, during last week a distinguished son of Florida, the Honorable William A. Whitcomb, grand secretary of the Masonic order in Florida, was installed as president of the Conference of Grand Secretaries of North America. The conference embraces all of the grand lodges of the United States, Canada, Mexico, and Puerto Rico, and represents more than 4 million Masons. We are especially proud of the fact that Mr. Whitcomb is the first Floridian upon whom this singular honor has been bestowed in the 48-year history of the Conference of Grand Secretaries.

Mr. Whitcomb has served as grand secretary of Florida since 1960. He has contributed greatly to the sound status and the deserved recognition given to the organization of Masonry in Florida.

Masonry in the United States has always associated itself with the patriotic ideals of our Nation and with the historic foundations upon which our Nation's strength has been built. In Florida, the order has consistently gained in strength and much of this is due to the services of dedicated members like Bill Whitcomb. Those services continue year after year and provide inspiration not only for the officials of the grand lodge of Florida but every member who is privileged to share his friendship.

A TRIBUTE TO GENERAL BERNARDO DE GALVEZ

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the American Revolution was, in many respects, a conflict of international proportions, supported as it was by democratic sentiment in every land. Wherever there existed a spark of democratic feeling—in every monarchy, in every duchy, in every principality throughout the world—the American Revolutionary cause was granted support to the fullest practicable extent.

It has long been recognized by scholars in the field that our victory at Yorktown and the fall of General Cornwallis was not the result of American endeavors alone. We had allies, and they were vital to our cause. We had independent volunteers—von Steuben, for example; Pulaski and Kosciuszko. We had the sanction of the French and the formidable aid of Lafayette and Rochambeau, d'Estaing and DeGrasse.

And, to a very considerable extent, we had the help of Spain, centering largely on the contributions of the highly capable General Bernardo de Galvez, Governor and Intendant of the Spanish province of Louisiana in the period embracing our Revolutionary War. Surprisingly, the assistance to the American cause by Spain under the leadership of General de Galvez, while considerable in extent and importance, is not widely known.

As a Representative of Florida and a student of the American Revolution, I have developed great interest in General de Galvez, the victor in the Battle of Pensacola in 1781, often cited as the "southernmost battle of the Revolution."

I am happy to state that proper tribute will be paid to General de Galvez as a part of the Fiesta of Five Flags in this year's Bicentennial program. A statue dedicated to the general will be unveiled during the fiesta by His Excellency Jaime Alba, the Ambassador to the United States from Spain. This mark of the warm and close friendship between our two countries is very appropriate and the people of Pensacola and Florida are highly honored by the presentation which is planned by the distinguished Ambassador.

It is appropriate that the ceremony be held as a part of the Fiesta of Five Flags which commemorates each year the landing of Don Tristan de Luna in 1559 for the founding of a settlement at Pensacola. Unfortunately, the settlement failed and it was a number of years before Pensacola was reestablished. In the interim period, St. Augustine had been established and thus is the oldest European settlement with continuous existence in the United States.

Bernardo de Galvez was born into a family of ancient lineage that distinguished itself during his lifetime in the Spanish colonial service. He saw military service in Portugal in 1762 and in New Spain against the Apache Indian before being stationed in Algiers and trained at the military school at Avila. He then was ordered to the Spanish province of Louisiana as colonel of the fixed regiment, and in July 1776—4 days following release of the American Declaration of Independence—he was appointed governor and intendant of the province, a post he assumed in February 1777.

During the next 2 years, preceding Spain's entry into the war, Galvez did everything within his power to weaken the British in his area. He was energetic in seizing British ships engaged in the contraband trade, and especially active in support of the American supply agent Oliver Pollock.

At the opening of the Revolution, ammunition was greatly needed by the American Army, especially for frontier protection and for winning the friendship of the Indians. In the summer of 1776 Pollock secured, with Spanish help, some 10,000 pounds of powder, the greater portion of which was taken to Fort Pitt and the remainder to Philadelphia. Upon taking up the reins of government in Louisiana in 1777, Galvez became the staunch defender and supporter of Pollock in all such enterprises. A demand by the British for Pollock's surrender was flatly rejected by Galvez and by the close of 1777 arms, ammunition, and provisions valued at $70,000 had been forwarded by Pollock, with the wholehearted assistance of General Galvez, to American outposts on the upper Mississippi and to frontier positions in Pennsylvania and Virginia.

When Spain entered the war on our side, Galvez proved himself even more capable in the field of overt action than he had been in covert operations. In 1779, forces under his command took the British river posts of Manchac, Baton Rouge, and Natchez. Mobile fell to his assault in 1780 and at the outset of 1781 he set forth with a sizable fleet with the object of taking Pensacola.

The city was a Tory refuge at the time, under the influence of William Panton, America's first millionaire and merchant prince, and his formidable ally the halfbreed Gen. Alexander McGillivray, chief of the great Creek Confederation. When Galvez arrived, surrender was demanded and refused, whereupon siege operations were at once established. Enemy surrender was effected in May 1781. In three campaigns, General Galvez had managed the successful reduction of every British post in west Florida, thus making it possible for Spain to obtain both Floridas in the peace settlement of 1783 and to control the mouth of the Mississippi and the Gulf of Mexico.

Bernardo de Galvez was in many ways antithetical to the spirit of America. Born to wealth and position, he belonged to that class that was to bitterly oppose the spirit of American independence.

Yet the fact remains, he was one of the most successful soldiers engaged in America's behalf, and there are grounds for contending that without his assistance the war would, at the very least, have been longer, and our prospects of ultimate success far less brilliant than they proved to be as a result of his shining contribution.

SOLAR ENERGY—HERE, NOW, AND FOR THE FUTURE

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, today I am pleased to insert in the RECORD an excerpt from Dr. Barry Commoner's article in the February 9 issue of the New Yorker discussing the great potential of solar energy for the United States. He demonstrates that solar energy can and should be our principal source of energy expansion in the future from the viewpoint of cost, energy efficiency, preservation of resources, and protection of the environment.

I commend the article to all of my colleagues who share my interest in the development of a viable alternative energy source program for the future.

The excerpt follows:

EXCERPT FROM DR. BARRY COMMONER'S ARTICLE OF THE NEW YORKER

It is precisely the fact that solar radiation is spread so diffusely across the surface of the earth that makes it uniquely capable of being thermodynamically matched to a wide range of tasks by being concentrated to the degree desired. The practical value of concentrating solar energy is nicely illustrated by the only solar-power technology that is now in regular use—hydroelectric power. The energy that drives the giant turbines at hydroelectric power stations is, of course, generated by water falling from a height to which it has been raised by solar radiation.

Like sunlight, the energy of falling rain is widely diffused across the earth, and its gentle force might seem to hold no promise of delivering power sufficient to perform the energy-hungry tasks of modern society. Yet it is this seemingly ineffectual force that generates the considerable amounts of high-quality electric energy produced by hydroelectric plants. What transforms the diffuse, "impractical" energy of the rain into the eminently useful power of the hydroelectric plant is the process of concentration. The flow of water that drives hydroelectric turbines is the collective result of rain falling over a large watershed, which, like a vast funnel, gathers the water in the impoundment that feeds the power plant. The hydroelectric plant at Hoover Dam, which has a capacity of one billion three hundred and fifty-four million watts, achieves this output with a flow of four trillion two hundred billion gallons of water per year. This is the amount of rainfall collected by about a hundred and sixty-eight thousand square miles of watershed.

What emerges from these considerations is an exceedingly simple and quite practical principle for delivering solar radiation to an energy-requiring task at whatever temperature is most appropriate to it thermodynamically: light is gathered and concentrated from an increasingly large area as the required temperature becomes greater. The temperature that can be achieved when solar radiation is absorbed in a collector—the absorbing device—depends on how intensely the collector concentrates the energy. The simplest type of collector does not concentrate the radiation at all. Such a collector is a flat plate painted black and encased in an insulated, glass-covered box. As the black plate absorbs light and heats up, it tends to lose some of its heat as infrared radiation. The glass cover prevents this loss (through the "greenhouse effect") without impeding the entry of light energy. Such a collector can reach temperatures up to about 200° F. Equipped with a suitable method of transferring the heat (by circulating water through a pipe attached to the black plate, or by passing air over it), it can readily provide space heat and hot water.

For somewhat higher temperatures—to drive a heat-operated air-conditioner, say—the light is concentrated by means of a curved mirror, and the device is rotated by means of a clockwork motor, for example, to track the daily movement of the sun.

Such devices can reach temperatures up to about 1,000° F. To generate high-pressure steam and, from it, electricity, light can be further concentrated—for example, by focusing an array of mirrors on a central tower containing the boiler. Temperatures in the range of 4,000 F. can be achieved in this way; a steam turbine can operate quite efficiently at 1,000° to 2,000° F.

The amount of energy absorbed from solar radiation (as distinct from the temperature achieved) is determined only by the overall area of the collecting surface and by the angle between the plane of the surface and the direction of the sun's rays. Maximum energy is absorbed when the surface is at right angles to the direction of the sun, so that the collector squarely intercepts a beam of light of a cross-section equal to the collector's area. If the collector is tilted off the perpendicular area it receives correspondingly less solar energy. This means that for maximum absorbtion a collector should track the daily and seasonal movements of the sun so that it constantly faces directly toward it.

The amont of solar energy received by a given area of collector varies, of course, with the time of day, the season, and the weather. As a general worldwide average, about eleven and eight-tenths watts of power (expressed in terms of electricity) is received per square foot, year-round. The relation of this amount of power to the amounts needed for, say, household tasks can be judged from the following facts. An average American household uses about sixty-four hundred watts of power—about fifty-seven per cent (or thirty-six hundred watts) of the total for space heat, about fifteen per cent (or nine hundred and sixty watts) for heating water, and the rest for other household tasks. A flat solar collector will readily provide energy of the quality (temperature) suitable for space heat and hot water. To provide enough power for the household's space heat under the most demanding conditions (December in the central part of the United States), W. E. Morrow, of M.I.T., estimates that thirteen hundred square feet of collector would be needed, or a square about thirty-six feet on edge. This is slightly more than the roof area of a typical suburban two-story home.

Of course, the situation is complicated by the shape of the building and its position relative to other buildings, to trees, and to nearby obstructions. Nevertheless, these numbers tell us, in general terms, that for most present-day one-story or two-story residential and commercial buildings there would be sufficient space available on the roof, on the south walls, and on surrounding areas to install solar collectors capable of supplying the low-quality energy needed for space heat and hot water. Tall buildings that are suitably designed can be provided with a good deal of their low-quality energy needs by installing collectors on the south walls. This is true on the average, but ignores the problem of storing heat for nighttime use or when the sky is cloudy.

The remaining household energy needs are largely for tasks involving mechanical motion (washing machines and so forth) and therefore require energy of a high thermodynamic quality. This is most effectively supplied as electric power. It is of interest, therefore, to determine the collector area that would be required to meet the nation's need for electric power. According to Morrow, if the entire present United States output of electric power were to be produced by solar-powered steam-electric generators of the central-tower design, operating at thirty-percent efficiency (an attainable figure), about fifty-two hundred square miles of collectors would be needed. This represents about three-hundredths of one per cent of the land area used for farming, or about two per cent of the land area used for roads. There is room enough.

The objection is sometimes raised that such large areas of collectors would use vast amounts of materials, such as glass and metal, which themselves demand considerable energy in their production. Several points are relevant here. First, it should be noted that light can be effectively reflected by a mirror made by depositing a film of metal no more than a few molecules thick. Such a film, supported on a plastic base and protected from the weather by a glass or plastic covering, would make an extremely lightweight reflector that could be used, in numbers, to concentrate considerable solar energy—on, for example, a steam boiler. Flat-plate collectors that are suitable for space heat and hot water are readily made from aluminum and glass. So are the huge numbers of throwaway containers produced in the United States. If these were replaced by returnable glass bottles, enough glass would be made available each year to equip eight per cent of the nation's homes with solar collectors and enough aluminum would be made available for about one and a half percent of the nation's homes. With additional metal obtained by, say, reducing the size and number of cars in use, material for solar collectors for all American homes could be available over a fifteen-year period, even without any increase in the total output of aluminum and glass.

I have refrained from describing in even slight detail the design and construction of actual solar devices for supplying space heat, hot water, and steam-generated electric power because there is really nothing novel about them. In these applications, all that is done is to link up a suitable solar collector with an already well-known device—a hot-water plumbing system, a forced-air home-heating system, a heat-operated air-conditioner, a steam-driven electric generator. The engineering problems that need to be solved are straightforward, and involve no insuperable technical barriers. In the setting up of one experimental installation, in which an array of mirrors is used to focus light on a steam boiler for electric-power generation, the most difficult technical problem faced was how to keep the mirrors clean; it was solved by designing a tank truck that intermittently travelled around the array and sprayed the mirrors with a cleaning solution. In general, the most difficult task in developing such devices is to keep the price of manufacturing the mirrors low enough so that the cost of the system is within competitive reach of present power plants. Morrow has understated the case this way: "It is fair to say that the engineering problems to be solved in making solar energy practical are considerably simpler than those of the breeder reactor."

It appears, then, that rather uncomplicated devices could take care of the national energy requirements for space heat, hot water, and, if the devices were built on a sufficiently large scale, electric power—a total of perhaps thirty-eight percent of the entire national energy budget. But the remaining energy-requiring tasks could not be easily accommodated by such devices, for these tasks largely involve transportation, which, except for electrified railroads, requires a portable, preferably liquid fuel. With greater engineering effort, this need, too, could be met by solar energy.

Hydrogen is the key to converting solar energy into a widely useful transportable energy source. Solar-generated electricity can produce hydrogen when it is passed through water in which a relatively small amount of sodium chloride is dissolved. The water molecules are split, and hydrogen and oxygen are produced. Hydrogen has a number of advantages as a fuel: it can be made from water, which is everywhere available; compared with other fuels, it has a high energy content; when it is burned in air, the only waste product is water; it can be used to drive various types of engines. (In the National Urban Vehicle Design Competition of 1972, two of the winning entries were designed for hydrogen fuel.) On the other hand, the Hindenburg disaster is a reminder of the serious hazards involved in handling hydrogen. However, according to one recent engineering analysis, with suitable precautions hydrogen used as a fuel "should not be more hazardous . . . than conventionally applied fossil fuels." Hydrogen is usually stored as a gas or a liquid; in either case, storage facilities may be expensive. However, experimental methods of storage based on the reversible formation of an easily stored hydrogen compound are being developed.

The conversion of solar power into a liquid fuel also helps solve the problem of storing solar radiant energy to provide for energy needs during times when the sun does not shine. Hydrogen stores can be built up when the sun shines, and used to maintain power production when light is not available. This can be done with the aid of a remarkably simple and efficient device—the fuel cell, which, if it is supplied with streams of hydrogen and oxygen gas, produces electricity, with water the only by-product. The fuel cell has no moving parts and is simply constructed. It is also the most efficient means of converting fuel energy into electricity. Conventional systems (using diesel engines or turbines) can convert fuel energy into electricity with a maximum efficiency of about thirty-eight percent, as described by the First Law of Thermodynamics. The maximum efficiency practically attainable with a fuel cell is about sixty percent. Conventional power plants can achieve their optimal efficiency only when they have a high power output. For that reason, there is a tendency to build large power stations, and their size places a serious limitation on their location. While the efficiency of fuel cells also falls at lower output, the effect is less marked than in conventional systems. Fuel cells therefore promise a way to operate small-scale power stations efficiently, thereby enhancing the organizational flexibility of a power system.

Other ways of storing solar energy once it has been converted into electricity are known, and some are in use: Water may be pumped to an elevation during daylight hours and allowed to run downhill to produce power when it is needed. (Several such "pumped storage" plants are now used to store conventionally produced electric power for periods of peak demand.) Other suggested power-storage devices include the compression of air in underground cavities and large flywheels. For the storage of solar energy as low-temperature heat, insulated tanks of water or piles of gravel or rock are often used.

In the common methods of converting heat into electricity, the power is derived from the difference between a high input temperature and a lower output temperature, which is achieved by cooling the generator with ambient air or water. What is crucial in determining the amount of work that can be got out of such a system is the difference between the two temperatures. Thus, if a temperature reservoir that is colder than ambient temperature can be found, it is possible to construct a heat engine to convert that difference into work. The impact of solar radiation on the ocean creates such an opportunity by heating the surface water to a temperature well above that of deep water. In the Caribbean Sea, for example, water at two thousand feet is about 40° F. colder than the surface water—a difference sufficient to power a heat engine. Designs of such devices have been proposed; they would float in the sea and generate electricity that could be used to produce hydrogen (and oxygen) for shipment to shore. A study by the physicist Clarence Zener points out that the temperature differences in the Gulf Stream are enough to generate a hundred and eighty million billion watts of power per year, or about six times the total amount of energy that the United States is expected to use in 1980.

All this gives substance to Farrington Daniels' claim that the technical means for converting sunlight into useful work exists. Examples of most of the different kinds of solar devices have been built and successfully operated—some of them a long time ago. A solar still for producing fresh water from salt, covering fifty thousand square feet, was built and operated in Chile in 1872; a solar steam engine ran a printing press at a Paris exhibition in 1878; a four-and-a-half-horsepower solar steam engine was operated in Pasadena, California, in 1901; a twenty-horsepower engine was operated in St. Louis in 1908; and a fifty-horsepower engine pumped irrigation water from the Nile in 1913. Solar collectors for home heating have been common in many places (including Florida and California in the United States) for a number of years, and research to improve them was going on at M.I.T. and the University of Colorado in the nineteen-forties.

Such accounts are often regarded as quaint sidelights on the history of industrial technology—a kind of museum of devices that have been left behind in the march of energy technology because they were not commercially feasible. However, with the economics of energy production changing rapidly, these devices or their technological descendants do become practical. That functioning examples already exist is an important step toward making them so, for they give the engineer something to work on—to modify and improve.

OIL SPILL LIABILITY MUST BE ASSESSED

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, in recent days we have learned of a massive and tragic oil spill in the Chesapeake Bay, the largest in the history of that body of water. It has been estimated that approximately 75,000 gallons of heavy No. 6 fuel oil was spilled in the bay, resulting in the deaths of over 5,000 water birds which had wintered along a 20-mile stretch of shore. These birds include the horned grebe, old squaw ducks, and the scarce canvasback ducks and whistling swans.

In addition to the severe damage to wildlife, this oil spill will cost hundreds of thousands of dollars to clean up and will surely result in economic dislocation for the various commercial ventures which depend on this section of Chesapeake Bay. Unfortunately, this incident is just another tragic event in a long series of similar oil spills, such as the one which created considerable harm along the California coast near Santa Barbara several years ago and numerous oil spills in the Gulf of Mexico. All too often, those who have been harmed by such oil spills have had great difficulty in securing prompt and equitable compensation.

The potential for oil spills increases daily, particularly as more supertankers are constructed, deepwater oil receiving facilities are developed, the Alaska pipeline becomes operable, and the Outer Continental Shelf is exploited. While there are a wide variety of State and Federal statutes governing the liability for oil spills and the provision of compensation for those damaged by such incidents, they amount to nothing more than a legal hodge-podge. Clearly there is a need for some uniformity in this field.

Last fall our distinguished and able colleague from Massachusetts (Mr. STUDDS) authored legislation which would establish a comprehensive domestic oil spill liability fund. Such a fund is envisioned to furnish a standard and operative method for cleaning up both accidental and intentional discharges of oil into marine and land environment. In addition, this mechanism would bring some order out of chaos by serving as the source for prompt and equitable compensation for damages to property, businesses or loss of income as a result of oil spills.

I am especially troubled by this state of affairs, Mr. Speaker, as one entire border of my district runs along the Long Island Sound and in view of the fact that some of the oil traffic from New England traverses this route, the potential for disaster is obvious. Furthermore, I represent the Hudson River community of Ossining, just below which a disastrous oil spill recently occurred. Certainly those who are injured by oil spills should be able to obtain restitution without bureaucratic delays.

The measure introduced by Mr. STUDDS which I am pleased to cosponsor today, would permit a claimant to secure aid directly from a domestic oil spill liability fund. The fund, in turn, would secure compensation from the spiller for any payments made by the fund to individual claimants. The damage liability limit is set at the realistic level of $150 per ton. Also, the oil spiller would be required to pay for the full costs of cleaning up an oil spill, such as is the case at present with offshore oil driller operators. Under this legislation, States are able to continue implementing their own oil spill liability laws. Finally, oil spills on land could be included just the same as oil spills in the water.

Mr. Speaker, until effective laws such as this are enacted, we will continue to see careless operations in which oil spills are frequent occurrences. The spillers and polluters must be held fully accountable; those who are injured must be able to obtain reparations as promptly as possible. I urge, therefore, that this legislation be given expeditious and favorable consideration.

STRATTON'S ACTIONS, NOT SCHORR'S, THREATEN OUR SECURITY

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, the gentleman from New York (Mr. STRATTON) without prior notice which would have permitted reasoned consideration, offered and got passed last Thursday a resolution falsely describing CBS correspondent, Daniel Schorr, as in "contempt of Congress," threatening his House gallery press credentials and calling for an inquisition by the House Committee on Standards of Official Conduct into his actions of turning over to the Village Voice for publication a copy of the report of the House Select Committee on Intelligence. This is a naked, raw attack on the first amendment designed to intimidate the press from exercising its right and duty of free expression. It threatens to undermine the first amendment.

The debate on this issue was sparse and the threats to our security from the chilling effect on free speech arising from this action were not explored because of the lack of opportunity for its consideration. The resolution had not been available to Members of the House in advance, and the resolution was brought up, without prior notice, just before the House was to recess. This is a most unfair procedure for consideration of such an important matter. As appears elsewhere in the RECORD today, I had a conflicting heavy schedule which prevented my participation in the debate and caused me to miss the vote on the resolution.

Let us examine first the supposed threats to security which the gentleman from New York uses as the justification for his drastic actions. Mr. Schorr made available for publication a House document the salient facts of which had already appeared in the Nation's press. It was a document that the majority of the committee, which prepared it, had voted for release, but which the House had voted against releasing until the President and the CIA could excise matters which they considered security materials—despite their prior release.

There is here no question of disclosure of secrets by Mr. Schorr that might damage the United States. No names were named that could put anyone in jeopardy. If any potential damage could have come from release of the report, the damage was already done. At any rate, concern about the release of secrets was not the basis of the House vote to withhold release of the document, as was made clear by speaker after speaker; the principal basis for the House vote was stated to be the need to honor a supposed agreement between the select committee and the President with respect to the procedure for disclosure of classified materials given to the committee.

Mr. Schorr was clearly not a party to the alleged agreement between the committee and the President. He was exposing no secrets not previously published. His actions therefore, manifestly presented neither a breach of faith nor any damage to the United States.

Mr. STRATTON's rash resolution, on the other hand, poses a clear and present danger to the security of the United States. Knowing Mr. Schorr was protected by the first amendment in his disclosure—and, therefore, no legal action would lie against him for exercise of his constitutional rights of publication, the gentleman from New York (Mr. STRATTON) sought to achieve an unconstitutional result by resorting to a bullying and threatening congressional resolution. He sought thereby to intimidate reporters in the future from exercising their constitutional rights. Acquiescence in this scheme certainly threatens our basic freedoms.

Furthermore, the gentleman from New York has allied himself with the President and the CIA in diverting public attention from the grave abuses of our intelligence agencies against the security of our citizens, in violation of its constitutional limits and their constitutional rights, revealed in the excellent report of the Select Committee on Intelligence. Mr. STRATTON instead puts this body on record as being more concerned about the circumstances of publication of this report than its grave substance. This is an added travesty.

The culpability, if any, in this saga, lies, not with Mr. Schorr, but with the person or persons who "leaked" the information in the committee report to the press prior to authorization. Indeed, even the President's proposed "reforms" of intelligence procedures just submitted to Congress, seek—albeit inadequately—to protect the publisher of "leaks" of classified information in the future, proposing to punish only the official "leaker." The ultimate irony is that there is considerable evidence that the leaks here come from the CIA itself in an effort to discredit the committee and not from committee sources.

There has been considerable press criticism of Mr. Schorr, not for causing the leaked report to be published, but for arranging that a contribution be made to the Reporter's Committee for Freedom of the Press in "payment" for release of the report. Mr. Schorr explained this situation convincingly and well in a letter printed in yesterday's—Sunday, February 21—New York Times, which I submit herewith for insertion in the RECORD:

OF SECRET DOCUMENTS

To the Editor:

Let's look more closely at the issue of commerce in secret documents, raised in the form of an attack on me in your Feb. 15 editorial, "Selling Secrets." What you are really accusing me of is *not* selling secrets in the customary, or Times way.

Distribution of information, like other economic activities in a capitalist society, generates profit. That is true of information derived from governmental sources. It is especially true of information whose value is enhanced because it is not generally available.

The Times, having had access to the same unreleased report of the House Intelligence Committee which is now a subject of controversy, reported extensively on its contents, reaping profit in prestige, and possibly circulation.

Do you consider that The Times was "selling secrets"?

Or, do you wish to narrow the question (though why?) to the text of the report, published elsewhere than in one's place of usual employment?

Then we are talking about something like the paperback book published on the Pentagon Papers after they had been so brilliantly covered by The Times. Did that book represent "selling secrets?"

My problem, which seems to have landed me in so much trouble, at least on The Times editorial page, was how to *void* making a profit.

I found myself unexpectedly, because of a surprise action by the House, in possession of possibly the only available copy of a report, bearing no classification on its face, its principal sensations already divulged, tied up in a confused parliamentary situation.

My problem was that doing nothing would mean that I would be suppressing a report that might be interesting as a matter of public record. It had nothing more of national security significance, certainly nothing that would endanger any individual.

But, because of the current climate about "secrets," I was advised that finding a book publisher would be difficult. I was told that the one clear opportunity for publication was offered by Clay Felker, publisher of The Village Voice.

I had them to consider, since taking money was unthinkable to me, whether Felker should be the sole beneficiary. If our system inevitably creates profits, should Felker enjoy them exclusively?

So, I suggested it would be appropriate for him to make some gesture to the free press idea which had animated me by a "voluntary" contribution to the Reporters' Committee, which provides legal defense in First Amendment cases.

Is it not really unbecoming, if not downright hypocritical, for a paper that has so successfully profited from secrets to apply a term like "laundering" to one who is trying to avoid a profit and divert it to a cause he believes in?

DANIEL SCHORR.

Washington, February 16, 1976.

In my opinion, the resolution of the gentleman from New York, (Mr. STRATTON) passed without adequate opportunity for consideration by this body, does a great disservice to our Constitution, this body, the people of America, and a fine reporter, Mr. Daniel Schorr.

"AFTER FRANCO, FRANQUISMO?: THE ARMED FORCES, THE CROWN AND DEMOCRACY," AN ESSAY BY JOAQUIN ROMERO-MAURA

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, the changing political situation in Spain is of keen interest to all those concerned with developments in Western Europe.

I believe that Members of the House of Representatives and the Senate will find invaluable an essay entitled "After Franco, Franquismo?: The Armed Forces, the Crown and Democracy," by the distinguished Spanish historian, Dr. Joaquin Romero-Maura.

The essay was published in the winter 1976 issue of the journal, Government and Opposition.

Dr. Romero, formerly director of the Iberian Studies Center at St. Antony's College, Oxford University, England, is now a fellow of the Woodrow Wilson International Center for Scholars of the Smithsonian Institution.

I might note, Mr. Speaker, that the main points of Dr. Romero's article were the basis for a lecture on the Iberian Peninsula delivered by the author in Barcelona on August 27, 1975, to a group of Members of Congress under the chairmanship of the distinguished Speaker of the House, the Honorable CARL ALBERT.

Mr. Speaker, I insert Dr. Romero's essay at this point in the RECORD:

AFTER FRANCO, FRANQUISMO?: THE ARMED FORCES, THE CROWN AND DEMOCRACY

(By Joaquin Romero Maura)

Having spent more than one-third of a century in the tall and narrow dungeon of Franco's authoritarian regime, Spain now stands on the threshold of an uncharted future. Not even those who say that the 35-odd million inhabitants mostly enjoyed the shade and the miasma can deny that the silhouette there for all to see is, unsurprisingly, that of a hesitant convalescent. Anxious questions concerning the future of Spain do not owe their acuity to the dread of what appears inevitable, but rather to the wide range of apparently equally probable alternatives.

In the pages below, I shall not attempt to prophesy: prophecies are assertions of final outcomes and as such uninteresting unless the prophet is held to be infallible. Rather, I shall try to formulate a persuasive forecast, namely one which will show the reasons for expecting what I am convinced it is reasonable to expect. Needless to say, the author's own preferences are in this instance irrelevant, not only to the reader but also to the argument and to the thinking by which the conclusions presented are reached. To a degree, of course, the forecaster seeks the foundations of his premonitions in models he finds useful and credible when trying to understand past sequences of events. But a cardinal difference resides in the fact that, while intention is mostly deduced from action in the analysis of past behaviour (and often irrelevantly so), the social and political forecaster can—and often must—predict future action on the basis of known present intentions.

When venturing predictions regarding the probable aftermath of authoritarian regimes, one cannot afford to neglect any data whatsoever, any shred of circumstantial evidence, for the future in such cases is made of the least phosphorescent of substances. We can hardly claim to know everything about even the most immediate future of Western democracies, for instance; but where the rules of a given political game have on the whole been freely accepted, or when collective political actors have no means of easily reversing intentions and policies, considered predictions are often borne out by events, at least in the short term and when they are circumscribed to areas where the link between stated intentions and the necessity to behave accordingly is most rigid. In Spain we are faced with that familiar feature of dictatorships, namely the state of crass ignorance of their own society in which both the rulers and the ruled live by virtue of the rulers' deliberate choice of presenting knowingly as true both information considered true and information considered false, while forswearing such knowledge as can only be obtained by relinquishing a measure of that total stifling control. The blurred picture of the present which results further dims the image we have of the future; and yet we can only clarify the latter by looking as perceptively as possible at those aspects of the former which may in our opinion be crucial.

WHERE POWER LIES

Analysts of Franco's regime, using the models of political science or the Marxist frameworks, have all along been exaggerating the supposed pluralism of the regime. This, the first of a series of questions to which I shall attempt to provide a plausible answer, is of the greatest importance, for an accurate analysis of where power lies in the regime as it is constituted will tell us who is likely to have a say whenever Franco disappears from the political stage.

When one looks at a given problem from an angle one has previously ignored, one is often struck by glaring mistakes in one's earlier analysis. If one considers the origins of the regime, surely the existence therein of such pluralism would be more surprising than its absence. When the Cold War started, in July 1936, the rebel officers failed to take Madrid. In the course of three years of war, Franco organized and made himself the undisputed chief of the most centralized of all Western countries, in terms of effective state control, and the one where centralization was subjected to the highest degree of personal concentration. This came about inexorably: first, at the very beginning of the war, he managed to take over command of the Spanish forces in Morocco; before long, he managed to become the unquestionable head of the Nationalist Armed Forces (the colonial army he controlled was initially the only strong and organized combat force to pit against the Republican government); in due course, with government offices and the Bank of Spain still in Republican hands, Franco had to create *ex nihilo* all the instruments he needed, not only to control the administration and the economy of his zone, but to keep them going at all. He forged these at a time when most of what was then industrialized Spain was still in the Republican sector, and when the armed forces had a monopoly, both obvious and unquestionable, of all political and economic decision-making in the Nationalist zone. Just as the Russian Civil War gave birth to 'war communism', we can talk in the context of the Spanish Civil War of 'war capitalism'. Both have left their hitherto indelible imprints. Since then the Spanish economy has changed, but the centralization, the concentration of power, and the will to perpetuate both, have generally remained intact.

Observers—whether friendly or hostile to Franco—who admire the cleverness of his political game and the magician's touch with which he has played off different groups against each other have overlooked the disproportion between his might and the lightweight calibre of competitors vying not for his power, but for his favours. Witness the many examples of his high-handed manner in dispensing with those who were merely the occupants of ministries of executive positions in nationalized industries because he had once summoned them to such posts. Witness especially the Hudibrastic fall of the Opus Dei, thought by many at the time to be mightily strong because it was so enormously fat.

It is a similar mistake to suppose that because of its prominence in the Spanish economy the banking system has political strength. In the early years, and for a long time at that, the regime's economic policies failed by a long way to come up to what businessmen considered a minimum threshold of economic rationality; in later years successful growth has nonetheless been accompanied by the accumulation of great personal and corporate wealth. The new economy does of course require that certain facts be taken into account, and the environment in which political and economic decisions are taken has changed accordingly, but the attending consequences apply as much to Franco himself as they do to leading businessmen: the demands made on government and on management for the servicing of this economy are different, but that is all. And since Franco never did owe his strength to any economic sector, nothing has happened to alter the fact that Franco always could and still can easily prevent men in key positions of even the private sector from either remaining there against his will or from persisting in what he considers a hostile stance. Difficulties with refinancing, delays in the granting of authorizations even when they have been promised, the manipulation of credit and other discreet moves of that kind can swiftly drive a company to the wall or turn a board-room aaginst an otherwise cherished chief executive. Whether men in such positions enjoy their predicament or resent it does not matter here; what does matter is that the economy does not suffer thereby, while they remain politically hamstrung.

A similar misapprehension of indicators is at the root of certain fashionable interpretations of the regime's absorption of some of its more moderate opponents, which assume that such phenomena are tokens of pluralism. But new recruits to the regime are not absorbed because they are moderate, but rather because they are accommodating enough to be digestible. The fact that so many who spent years, indeed decades in open opposition to the regime have eventually joined the ranks of the beneficiaries of sinecures merely tells us something about them personally or how wearying opposition can be in Franco's Spain; they may still proclaim their loyalty to their past ideals—and some may be very sincere—but those who can dislodge or destroy them with ease know full well that their teeth and their clutches are sore and turn a deaf ear to their protestations. And moderate opponents are not alone on the list of what are effectively political pensioners: many of their fellows are known for their very radical views.

Throughout the history of the regime, an almost almightly state has been presided over by an almost almighty Generalisimo Franco, who may not have used all the time all the political and administrative resources at his disposal, but who never found them lacking whenever he wanted to make use of them. At the helm, he summoned and sacked ministers at will, made and unmade, and never had to account for his actions or decisions. What use he made of such powers is not what concerns us at this point, but rather how this state of affairs could come about and what the foreseeable effect may be on the future.

Positions of truly extraordinary personal power are usually explained in terms of some bottomless stock of trust and prestige in the country at large. The frequent discussions as to whether Franco is mostly beloved or mostly hated by his fellow countrymen is beside the point, however. He never required widespread affection or support to stay where he has been so long, nor could an at times almost generalized combination of indifference, hostility and hatred ever unseat him. He always drew his power from another source, the same throughout.

When the Nationalists had won the Civil War, the armed forces held all power in Spain. No political or pressure group could prevail against them, however enthusiastically such groups may have fought on the winning side. Neither could they oust or prevail again Franco, because he was the undisputed chief of the armed forces. Given such power and the fact that he had to consult none but his own conscience with regard to the exercise thereof, France could easily force his civilian opponents—whatever their ideology or temper—into a situation where they ultimately had to choose between giving in or fighting him, literally arms in hand, with the certainty of losing. What is historically remarkable is that the armed forces should have given him nearly unconditional *carte blanche*. The head of an army can normally count on discipline for the enforcement of decisions taken within the scope of normal military matters, but field commanders do not usually win a Civil War in order to hand over all the political power that goes with victory to a single military man. In order to understand why the Spanish armed forces allowed Franco to avail himself of their immense power *vis-a-vis* the rest of the country and to use it as he saw fit with practically no interference from the military themselves, it is necessary to turn to the essentials of contemporary Spanish military history and to the shaping of certain basic institutional attitudes concerning politics.

THE SPANISH ARMED FORCES AND THEIR POLITICAL ATTITUDES

The rules of the officer corps' political game have in a sense remained fundamentally unaltered for about a century. The widely held view that the Spanish military have throughout that period meddled constantly in all political affairs is mistaken, and only those who stubbornly refuse to read even the elementary standard bibliography still take it to be true. It is clear all along that every time the officers reacted politically, they reacted collectively and because they felt threatened *en bloc*. The tenor of the reaction was first originated, and then fed by bitter political experience, to the effect that whenever they found themselves politically divided they were preyed upon by civilian or indeed uniformed politicians and political groups wanting either to lay their hands on resources earmarked for military purposes or to use military leverage for their own ends. The officers thus developed an extremely strong, deeply-rooted *espirit de corps*, the like of which has perhaps never been equaled outside the Prussian Army. It did not necessarily go together with comradeship. Neither should one assume that officers had no political ideas of their own. Certainly there were some professional soldiers who were politicians also, but on the whole they kept the two activities totally apart. Very occasionally military figures led the armed forces into subjectively defensive but politically meaningful action with an eye to their own personal political ambitions and aims. But the acknowledged and acceptable rationale for *collective military action in politics* has almost invariably been that of the defense of military institutions themselves. Rare sublimations of this may be found, but they appear to have been of a slight and superficial nature.

The Primo de Rivera coup of 1923 does not invalidate this view of an officer corps reluctant to enter the political arena. The general's uniform gave the dictator the appearance of being above politics; but the coup was the King's, not the army's. Instead, the army actively helped to bring him down when he tried to transform and give a political bias to certain mechanisms of promotion. And what we know of the prelude to the Civil War fits perfectly into this picture. Initially, the military conspirators were relatively few. They knew they could not count on the bulk of their fellow officers for a coup with exclusively political aims, and they also knew that the Republic had not reached a state of disorder such as to make a majority of officers fear the imminent dissolution of the army, as had been the case a century ago in the days of Pi y Margall. Efforts of the government of the time to republicanize the army and by Left-wing organizations to enlist soldiers and NCOs filled many officers with alarm but had not gone far enough as yet to be deemed intolerable by a majority of them.

For all these reasons the conspirators had no choice but to burn their boats, their own and their units', which they proceeded to do by liquidating many recalcitrants among their superiors, thus making later compromise totally impossible. Initially, the moment the Civil War had become a contest to the finish, armies on either side fought at least as much for their own institutional survival as for outright victory. Clearly, any affirmation to the contrary would imply that each officer in either camp was even at the beginning fully committed to the respective official ideologies, or else a cynical mercenary or a coward fearing to stand up for his genuine convictions, none of which can be said to apply in the light of available evidence.

Naturally, as the Civil War developed, both armies soon adopted coherent systems of high ideals. Nationalist officers and volunteers and those of their soldiers who fought on that side by conviction rather than because of 'geographical loyalty' gave or risked their lives for their country: an ideal they had always cherished. Whether or not they were right to suppose that Spain's survival and national independence were at stake is not relevant in this context. More relevant is the fact that the army which won the war and ended up with all power in its hands was in a very real sense the same kind of an army as before.

It will be noted that, if this interpretation of what has been invariant in the attitudes of a majority of officers throughout the best part of a century is correct, it can be said to show minimum rather than maximum intervention in politics. While it may be objected that intervention was no simple matter in the climate of massive civilian political mobilization which prevailed in the lifetime of the Second Republic of 1931–36, it should be remembered that if the army resisted the temptation of doing away with the constitutional monarchy of 1875–1923, it was not because the monarchy enjoyed wide organized support. Given the scarcity of resources at that time, the large number of professional officers inherited from recent wars, the difficulty of finding alternative employment in an underdeveloped economy, the hostility or at least the indifference of so many civilians and politicians towards the armed forces and the acute awareness that in a country with few demanding allies or dangerous enemies they lacked an urgent and tangible mission—given all that and more, the Spanish military could hardly be expected to refrain from evolving potentially troublesome ideologies. All the more remarkable, then, that they did resist the temptation of meddling in politics.

That many civilians, particularly the politicians, would have preferred to see the armed forces reduced in size and less demanding is understandable to be sure, but one should not infer that the military asked for much more than the very preservation of their existence as a professional body required. The strain the military imposed on the budget may have been deemed excessive by those responsible for making few state resources go a long way, but the officers were never any better off than the less privileged among the lower middle classes. If they regularly over-reacted—and it is true that they were hypersensitive even in the context of prevailing Spanish culture—to anything they considered an aspersion on their honour, their behaviour must strike us as inevitable under the circumstances rather than perverse or wanton. Since their material rewards were minimal, in the absence of a tangible function, a lofty mission or what is nowadays called job satisfaction at least, the military could be expected to be extremely punctilious in their demands for recognition and respect. Again, this may have given rise to many an unwelcome problem, but the military—as distinct from guard-dogs or guardian angels—cannot be expected to differ from other categories of people struggling for psychological adaptation in a difficult environment.

Collective action by the military, as by any other social group, requires the existence of spokesmen. Speaking out politically on behalf of the armed forces was never an easy matter, precisely because they were disciplined and there were no rules in the code to govern such representation, and also because the military would balk at following anyone down a given political road who was not totally above the suspicion of attempting to use them selfishly for ends alien to the moral and material interests of the institution itself.

Franco knew his armed forces very well and was keenly aware of the mechanisms described, since that is the home ground of any experienced officer. If there is any single key to the 'secret' of his staying power, it is this. For all his apparently genuine infatuation with fascist ideas at the beginning of his dictatorship (witness the stated motives for his economic legislation at the time), and for all his huge prestige among the forces at the end of the war, he never pressed for political militancy or made it a short-cut to a successful military career. Political control was as all-prevailing within the armed forces, needless to say, as within the country at large, and officers may have been discouraged even more forcefully than civilians from ventilating the least anti-Franco sentiment.

But while civilians intent on gaining or preserving a hold on positions as ministers, subsecretarios or even directores generales, heads of regional diputaciones, mayors of large cities and so forth, were obliged to sing the praises of Franco and his regime in tones reaching remarkable heights of sycophancy, the average military man's feelings toward his chief were mostly his private affair. Even ostentatious political indifference never prevented anyone from rising to the rank of Colonel, and many were promoted to general without ever having been required to give themselves political airs.

Franco has throughout been the officers' generalísimo. They considered him their proper representative because they felt certain that he would in no way hamper the institution and would at all times protect it. His political actions as Head of State and pivot of government have been largely irrelevant to them, because he has always taken pains not to commit them in that field. While they may have felt privileged to have so effective a representative and caretaker, the reason why they gave him political carte blanche was none other than that they considered all political action unconnected with the direct concerns of the armed forces to be outside their province.

Of course it may be argued that the forces could hardly fail to see that Franco's might was derived from them and from no other source, and to observe what use he made of the borrowed attributes of power. But it is to be doubted whether any officers apart from a handful of military courtiers ever felt that they were themselves in power or that they were exercising power by proxy, particularly since the advent of a consumer society with values often contrary to what the military cherish. It should be remembered that official propaganda, a censored and sycophantic press, years of wholehearted and vociferous support by the Church and by accommodating jurists, all tended to confirm the military in the comfortable conviction that Franco's power was legitimate, that he was where he was because all Spaniards good and true wanted him there and that the rule of law obtained in Spain. The officers had no privileged vantage point from which to see through the smoke-screen. People who see no reason to spend their time looking for what is concealed from them fall easy prey to persuaders who have the means and the will to prevent contradiction. If the bulk of the middle classes proved to be rather gullible for so long, how could men closeted in barracks be expected to know any better? Entrenched in an unassailable position, Franco did not need most of his officers or civil servants to lend him any positive political assistance.

Through an ubiquitous political police helped by paid, blackmailed or volunteer informers, and through a handful of strategically placed members of the judiciary, he and his top political officials controlled a country of some thirty million inhabitants with considerable but unsurprising ease. Since the early 1950s the military were only called upon to play an active repressive role on the rare occasions when political activists were tried by military tribunal, rather than by special civilian courts like for instance the Public Order Tribunal. However, it must be said that the Spanish military have always disliked being involved in matters of this kind except when they felt clearly faced with military subversion.

Lately, Franco has jeopardized the military's faith in his unswerving commitment to the preservation of the institution against political interference. Thus, while some years ago nobody seemed to mind Franco's ungracious sacking of Lieutenant-General Muñoz Grandes from the Vice-Presidency, a political post he held in a personal capacity, the equally ungracious recent sacking on blatant if unacknowledged political grounds of the last but one chief of the General Staff gave rise to military apprehension, compounded by widespread rumours concerning Franco's mental fitness and independence of judgment. Therefore, it would not be totally unconceivable now that the military might be provoked by further incidents of a similar nature into feeling called upon to put an end to their Chief's long reign. But even if they do not feel compelled to step in, they will be faced with the necessity of making choices when he is no longer at the helm. From what we have seen so far it is reasonable to expect that the choices will be made without undue violence being done to the attitudes and mechanisms just described.

The organizational chart of the armed forces and the existence of the fully operational and highly professional para-military Civil Guard, which has throughout the one and a quarter centuries of its existence invariably obeyed the government in situ in accordance with the original statutes, make any attempt by an isolated group of officers to seize the initiative on their own extremely hazardous to say the least. But apart from that, the very frame of mind we have discussed makes it improbable that the military will in the near future act politically in any but a collective way, triggered off by and in tune with the traditional approach. No sympathy for Right-wing or Left-wing solutions which may conceivably be felt by individual members of the armed forces could easily crystallize into active factions prepared to take initiatives which do not conform to the military's collective psychology.

Thus the first problem is to determine who might be in a position to speak for the armed forces, with sufficient personal authority and sufficient propriety from the officer corps' point of view. No name springs to mind on account of outstanding personal prestige. But a number of Lieutenants-General, Divisional Commanders and Captains-General may find themselves, on account of their position in the hierarchy, with the required loudspeakers at their disposal. Rank, however, is not enough. From what we have seen it is plain that it will not be easy to set the right tone and to hit on a proper content for the message to be heeded: high-ranking commanders may be the only ones in a position to raise a political issue, but it is not they who are in actual command of units. Operational units are to all effects and purposes controlled by colonels, and not by generals. No colonel would move on the political chess-board just to please his general, while it is hard to imagine majors disobeying their colonel's orders in the first instance. Therefore the colonels hold the crucial lever. Individual colonels may easily not have an opportunity to consult with a sufficient number of their colleagues; exhortations from above with obvious political content and implications will only be followed if the colonels sense that the armed forces are not called upon to take a political stand which in the predominant army view might be considered foolish, pointless or abusive.

Mistakes in this game can be deadly and such matters are thus taken seriously.

Whether any one military man among those in a position to speak up will do so, and do so in a manner likely to be effective, and what political direction he would opt for, cannot possibly be guessed in advance with any precision. But one thing clearly follows from the above, namely that the forces will no more willingly tolerate anything smacking to them of passivity directly or indirectly, but evidently dangerous to themselves and especially to their unity, than they will accept to follow to the extreme Right some Captain-General calling for their support on what they would consider inappropriate, glaringly ideological, or simply selfish grounds. Such a mistake might be committed by one or other high-ranking officer, but he would most probably find himself in awkward isolation, abandoned even by officers sharing his political views who are unwilling to put the cohesion of the military institution at risk by involving it in a political adventure.

The preceding analysis entails a further consequence, namely that whoever speaks up first and does so appropriately, thereby setting the military body in motion, automatically reduces the capacity for manoeuvre of any of his dissenting peers. The extraordinary importance in this framework of taking the initiative rests on the fact that critics of previous moves already accepted are all too easily dismissed as being motivated by selfish political ambitions and as being potentially divisive. This adds greatly to the difficulties faced by anyone attempting a forecast, since it is highly likely that there will be several political avenues open to the armed forces if ever the occasion arises for some high-ranking officer to speak effectively on behalf of the military. Obviously, each and any of these political avenues would have to offer the armed forces a possible solution and solid guarantee, but the choice of one over another could greatly change the impact of the future of Spanish society and Spain's political system. Although there is no overriding reason why the Spanish armed forces should find a Western-style democratic system unacceptable, such an avenue could in the short run at least be blocked by one or another politically ambitious senior officer adept at using the military's preoccupation with the preservation of unity and moral status.

Since the rules laid down for Franco's succession establish that formal power at least will pass on to Prince Juan Carlos, who is not primarily a military man, much will depend on what happens outside the military sphere in the initial stages of Franco's definitive absence. We must therefore now turn to the wider context and to the non-military protagonists who will almost certainly have some degree of political initiative in the new beginning, and who must provide the forces with the possibility of shedding the political burdens which rest on them.

THE CROWN AND THE MILITARY: THE CONTINUISTA OPTION

Prince Juan Carlos has been appointed to the central position. Insofar as anything lying in the future can be certain, he will succeed Franco as head of state. Supposing that he wished to rule the country along lines perpetuating as much as possible the present state of affairs, it is unlikely that he could avoid taking a road to premature retirement. For sooner rather than later he would be bound to commit one of various mistakes, which neither the Civil Service nor a police whose responsiveness will naturally wane in proportion to waxing expectations for change throughout the country could easily patch up. The armed forces would be called upon to intervene in the last resort. But the military cannot be expected for long to identify opposition to the Prince with opposition to themselves.

Opponents of the Prince and his political appointees would not need to be endowed with more than average perspicacity to see what mileage they could get out of the military's unwillingness to clap down on them for the Prince's sake alone, and their resulting behaviour would in turn increase the degree of violent repression required. Initially, the armed forces would be quite strong enough to stop any process of democratization at the Prince's behest, if he could but manoeuvre them into a position where they would feel compelled to dig themselves in at the top. But if he comes to rely totally on them for total power, they will soon find him superfluous. And he would not be helping himself by appointing an all-military government, because the armed forces would even then, and rightly in my opinion, perceive the opposition as opposition to the Prince and to the Prince's government—not to the army as an institution.

The prince is an unknown entity to all except perhaps some of his closest friends. None can predict his intentions with the slightest confidence. But it is clear where the crown's interest lie. Even if he were an authoritarian at heart, it is clearly in the interest of the crown that he should promote democratization. There would appear to be political leeway and a role for the crown in a calculated democratic wager. The armed forces have no particular love for or vested interest in oppression for its own sake, and would only hold on to certain areas of political power not concerning them directly if they came to feel that disengagement from such areas would entail a serious danger of institutional disintegration.

The Prince will need to gain for himself some immediate political leverage upon his accession if he cares to free himself from absolute military control over the crown and rescue the armed forces from such a hitherto uncharacteristic role. The only way open to him to get such leverage is for him to take upon himself—publicly and courageously—a number of heavy personal responsibilities. Traditionally, the Spanish armed forces have always responded obediently when asked by non-military statesmen to quell disorders and to apply military law and military courts against the excessively unruly, as long as the politicians giving them such orders were widely thought to be doing their job and to be taking a fair part of the toll. The forces knew and accepted that some of the inevitable tasks corresponding to the military cog in the social and political machine, as constituted, were unenviable and even nasty. Their ideas of what was fair and what was criminal were on the whole in accordance with those of the Spanish middle classes generally. If any odium was incurred, they were prepared to take their share as long as the politicians, too, bore their responsibilities with fortitude.

There is no reason to suppose that this attitude has undergone any substantial change. And that is highly relevant. The armed forces are prepared to repress, even to oppress, if they believe themselves to be in a situation of self-defence—like most other social groups when given half a chance. They may also favour repression and lend themselves to repression when they feel that such is their duty. But never have they dispassionately defined as part of their duty to imprison, or to gag, or to shed the blood of fellow-countrymen capriciously, or for the sake of some stubborn or incompetent despot. The appalling list of what can only be called legal and moral crimes to the debit of Franco's regime are not directly imputable to the bulk of the armed forces as opposed to individual members thereof—any more than they are imputable to the bulk of the civil service or the bulk of the upper and middle classes. And one might add that the same applies to the bulk of the Civil Guard and to the several police forces. Franco and his 'political' appointees in the upper echelons made the basic decisions. *They* made it possible for a reduced number of henchmen to carry out the crimes, to hide them or make them appear none-events, accidental exceptions or regrettable measures of Spanish society's self-defence. When officers, like the overwhelming majority of middle-class civilians above a certain age, deny all or some of such facts or attempt to minimize them out of existence, they do so sincerely on the whole. It may be wrong of them to belittle the ferocity of their rulers, but they simply cannot on the whole be suspected of having aided and abetted consciously and deliberately.

The armed forces, by giving *carte blanche* to Franco, gave him the power to hide from them all he needed to hide in order to spare them the choice of either becoming direct accomplices or of doing away with a man who was disgracing his uniform in a way the vast majority of officers would under no circumstances have accepted to imitate.

Let us suppose—to return to the foreseeable relationship between the new monarchy of Juan Carlos and the military—that whenever he becomes the head of state, the Prince, by inclination or calculation, chooses to use the crown to tip the scales of political balance. His very first steps in public, the first decisions he announces and the collaborators he chooses must all be acceptable to the armed forces. For if the forces are seen to be wavering in their support of the head of state, the police will lose credibility and public order will at once become a very serious problem. The forces know that their staying power is sufficient to let the Prince flounder and sink and then salvage the ship of state in what they would consider good time since they are by no means royalists *de coeur*. Therefore, the Prince will have to give the forces good reasons why they should give him their backing. That will not be as easy for him as it is often said to be, since the vast allocation of initiative earmarked for the Prince by the established succession procedures will make him very patently responsible for the choices he makes, and especially for any mistakes, while strong popular reactions coupled with the probable demoralization of the police not accustomed to handling genuinely difficult situations will focus the limelight on the forces and their attitudes.

THE PSEUDO-DEMOCRATIC OPTION

Were he to reject the purely *continuista* avenue, Prince Juan Carlos would be faced with two broad alternatives, the first being that of attempting some form of pseudo-democratization, which would consist of keeping the flood-gates of full democracy closed while allowing sufficient genuine support to trickle through to give him and his regime a degree of independence from the military and a measure of bargaining power. This would amount to an attempt at carrying out a smooth transition from *franquismo* to a system where everything would be very much as before, except that the facade would look slightly more respectable, with the Prince enthroned as head of state and some of Franco's political appointees of former times returned to positions as ministers and high officials, but this time under their own steam. Understandably, a number of persons who have held or are still holding key positions within the regime are enamoured of such a prospect. They have even convinced some Spaniards and many foreign journalists that that is what the future holds in store. The other alternative would be full democratization, and that—given the latitude and the longitude and the fact that the time is the late 20th century—means universal suffrage and a Western-style democracy in keeping with the culture and traditions of modern Spain. But let us first pause to consider the first alternative, that of a pseudo-democracy.

The afore-mentioned political officials and ex-officials of the regime who favour such a solution, along with their friends and partisans in a few salons scattered throughout the country, will tell you in all seriousness and with conviction that they have made a momentous discovery. Spaniards, they say, are so well fed now and such fervent consumers, that they have become altogether tame. Like the boa on a hot afternoon in Africa sleeping off a delicious gazelle, Spaniards are drowsy and only too glad to show gratitude for cars and washing machines received. Those who dream of continuing in political office or of climbing back to former heights, seem to be looking forward to the purely intellectual challenge of concocting rump parliaments, to summoning a few friendly public-spirited citizens to beautifully stage-managed snap elections, to obtaining dutiful rounds of decibels whenever they feel they could do with a tot of applause. They keep mentioning the fact that nothing startling happened when another appointee, Premier Carrero Blanco, was actually killed, and put it down to the political apathy of present-day Spaniards. They fancy the Mexican model—a false analogy if ever there was.

Theirs is not the optimism of the innocent abroad. They are afflicted with the blind gullibility ascribed to the species of *prétendant* by Reinhardt-Peter Dozy in his History of the Arabs in Spain. One need not suppose that they have suddenly come to yearn for the glow of the people's approbation. Their attitude reflects a keen sense that they might soon need to show some evidence of political support in order to keep or recover the posts which had formerly been handed to them on a platter. They are quite right in their assessment of what would be minimum requirements, if Prince Juan Carlos were to choose one or several of their number to form the first government of his reign, since the armed forces would have to be persuaded that his choice was not arbitrary, the mere selection of a favoured *camarilla*.

If the *prétendants* took the trouble to acquaint themselves with their own country's past history, they would remember with more concern than they have hitherto shown, the telling example of Primo de Rivera's stillborn *Unión Patriótica*. Political mobilization cannot happen in a political vacuum, just as Kant's pigeon could not fly without the air's resistance. The basic methodological assumption that people may be prejudiced and ignorant but are not altogether stupid is even more useful to the politician than to the historian or social scientist. There is no point in holding out sham rewards for political mobilization. Mobilization implies an effort which people are only prepared to make for something tangible. One cannot expect to tap it merely to oil the machine. The eager aspirants to major or minor political office do not amount to a political party. The very notion of a situation where only approved candidates are allowed to measure their relative strength in public competition is nonsensical in our day and age: whoever has and retains the power to prevent unwelcome contestants from entering the political arena, thereby retains control of the outcome. In other words, either maximum mobilization is allowed to evolve or there will be no meaningful mobilization. If an institutional framework is set up to accommodate partial but yet genuine mobilization, it will have to be made clear that those who get the most votes will get corresponding political strength as a result—and if that comes about, the electorate will respond but no one will be able to prevent it from moving on to imposing candidates of its own choice.

Liberalization is one thing; as in Russia, it can be taken back as easily as it is given. But democratization is something altogether different a process not easily decelerated. Uneventful quasi-democratization is not possible in a modern European context. If Prince Juan Carlos were tempted to embark on such a course, he would soon be made aware of how limited his options are: either he could hand retrievable ministerial portfolios to men of his own choice but otherwise lacking in political substance, or else he would have to give in to pressure for genuine democratization. The men of his choice might enjoy a degree of sympathy in certain narrow areas of Spanish society, but that kind of support does not generate any politically useful impetus, and the Prince's own freedom to pick and appoint would be clearly seen to be derived from the armed forces' monopoly of power, temporarily entrusted to the head of state, but likewise retrievable at a moment's notice. In such circumstances, the composition of the cabinet would not really matter; opposition would be directed against the Prince personally and the armed forces would find themselves on the horns of a dilemma: to adopt a subservient, royalist stance or to withdraw their support, which would leave the Prince in an untenable position and the way open for a straight military regime.

THE DEMOCRATIC OPTION

A democratic process can begin the moment Prince Juan Carlos is head of state, either because the Prince himself directly and willingly opens the flood-gates, taking a calculated risk, or else because they are pushed wide open by the logic of unmanageable quasi-democratic schemes. Whether this process—if it is not blocked instantly by the military—starts in the one way or the other is important in at least two obvious ways. The difference between the two alternatives is that a first attempt to elaborate a kind of restricted democracy could easily lead to disorders of such magnitude that they would provoke an antidemocratic military move at an early stage, while a direct democratic experiment allowing for general political mobilization would make such a move more problematical, in the short run at least. Except with regard to military reactions, the difference between the two alternatives mainly concerns the future of the crown itself: democrats may not necessarily be passionate republicans, but if they see the King opposed to the advent of democracy, they will certainly abandon any blueprint they might have had in mind, which saw Spain as a constitutional monarchy.

Whatever the circumstances, it is clear that a certain span of time must elapse between the moment of the Prince's accession as Franco's heir and the moment of Spain's first free elections in over forty years. At the outset of such an interim period, Prince Juan Carlos would be confronted with two quite separate problems. First, a decision must be taken as to how long a moratorium would be required prior to elections. Conventional arrogance would claim that such a period should be quite long because people are so inexperienced. But if he allows too long a time span, even if his commitment to subsequent elections is firm and public, the prince would still have to cope with most of the problems which would beset the authoritarian solution described earlier in this article. Modern media permit a rapid and extensive transmission of views, personalities and programmes. Any extension of the pre-election moratorium beyond three or four months would appear self-seeking and make the public suspect the intentions of a head of state whose origins cannot, after all, inspire total confidence in his democratic commitment. Moreover, in the course of a longer period, certain decisions with long term effects in the economic and social spheres would have to be taken, and if they had to be taken by a handpicked provisional government, some partisan colouring would be bound to rub off on the crown, which would be detrimental to the Prince's chances of ever being accepted as a constitutional monarch above party-politics.

The second problem clamouring to be solved immediately after the transfer of power to the Prince is a simpler one if it has been considered well in advance. When it comes to assembling the caretaker government appointed to take charge until the first elections, will preference be given to well-known *ex-franquistas*, to candidates short-listed by various groups representing a wide political spectrum, or to a purely 'technical' team of notables? The relative merits of the three possibilities are directly related to the expected lifespan of such a government. One can only surmise that the first of the three would prove the most dangerous; we shall return to this point and discuss it in some detail further along; the second would be fraught with all the well-known problems of provisional coalition governments, where governments, where cabinet soldarity is virtually impossible in practice. The third option—if the period prior to an election is brief—would appear the least dangerous from the crown's point of view and the most likely to guarantee a genuinely democratic outcome; furthermore, if the Prince were to take it upon himself to act as 'Prime Minister' of such a government of notables, after having committed himself irrevocably to firmly scheduled elections, he would thereby give notice of his determination to preside impartially over the election campaign and could expect to be believed—and respected.

Let us now proceed from the analysis of how democratization might come about to an assessment of whether, in the light of what we know, democratic institutions are likely to take root, and of what Spain might then look like.

DEMOCRACY: THE LEFT

Though one cannot, of course, be certain of particulars the general prospects of the Left would appear fairly predictable. One has some idea of what will be the major forces and what they will tend to do. The working classes will emerge from the years of Francoism with their own workers' commissions. These are effective factory-based organizations, and Communist Party members probably constitute the largest single element within them. But they do not in any way control the commissions nationwide. The commissions will provide an experienced, battle-tried and highly militant trade union leadership, which will almost certainly give rise quickly to a strong trade union movement averse to excessive interference from political parties including the Communist Party itself.

The Communist Party, of course, is the most talked about among the political formations on the Left. In spite of its anti-revolutionary role during the Civil War and of the confusing policies propounded by its present Secretary General, it has attracted under clandestinity an unknown number of committed revolutionaries. Historical analogies and the party's own publications suggest two very different scenarios which appear to be about equally plausible.

According to one scenario, which is full of reminiscences of what the Spanish socialists experienced in the 1930s, the present Secretary-General of the SCP will certainly not be able to stick for long to the bland, forgiving line he now publicly advocates. The present strategy of offering to collaborate along reformist lines even with the regime's own transhumant politicians and of tolerance towards all comers is only possible because he is willing and able to deal intolerantly with dissidents within the party. But if the party grows rapidly, as it surely will, when it emerges into legality, it may take some time before reformist attitudes can be filtered downwards and before discipline can be imposed. Faced in the first instance with the alternative of heading a large extremist party or a tiny reformist organization unattractive both to revolutionaries because of its reformism and to reformists because of its revolutionary overtones, the Secretary-General, for all his bureaucratic skills, will be pushed by his own cadres and followers towards the former alternative. The catalytic role played in this process by thousands of skilled and dedicated militants of the now atomized non-anarchist extra-parliamentary Left could be very significant.

But another plausible scenario exists, which precludes the former, and which has been exemplified recently in Portugal. According to this version of what might happen, the reformist line and cadre discipline propounded by the Secretary-General is bound to attract large numbers of opportunists along with genuine converts through the front door, many of whom come from the tertiary sector of the economy, while old-time revolutionary militants quietly abandon the CP through the back door to join the extra-parliamentary Marxist Left or the anarchists. If the party continues to pursue a policy of maximum infiltration in the civil service and the media, that process will be accelerated until the infiltration of the party by opportunistic careerists begins seriously to sap its strength. The party's apparent ubiquitous character would then be a token of its isolation from the revolutionary working class.

Anarcho-syndicalism is almost certainly bound to come back in a democratic Spain under one form or another and forcefully. The methods to which the workers' commissions are accustomed are very much akin to the traditional anarcho-syndicalist practice, and the Spanish movement has a record of efficient decentralized organization under conditions of liberal government. The light-heartedness with which prospects of a return of anarchist influence among Spanish workers are usually shrugged off is astonishing. Even if the anarchist movement has lost most of its organization in the years of Francoism, it has a bottomless mine of political capital in the form of past heroism and performance, which experience tells us will be quickly remembered if and where its record and traditions were really forgotten.

The reemergence of anarchism is likely to radicalize working-class politics, but paradoxically it is at the same time likely to have a stabilizing effect in the short term: the anarchists do not have the reputation of being infiltrators or putschists, and anyone who care to find out that it is precisely because of their deep revolutionary commitment that they refuse even to attempt to seize power with Blanquiste or bolshevik methods. Since they are unlikely to organize in the short run more than a large minority of the overall working class, they are unlikely to provoke on the Right unwarranted panic or imminent revolutionary takeover at every moment of crisis.

Although it is difficult to say what its composition will turn out to be in terms of class, one can expect to see a sizeable Socialist Party emerge. Its leaders will probably have more opportunities than anyone else on the Left for making mistakes which could be disastrous for them and for democracy—but at least they now can look to (and may be able to follow if there is an appropriate Right) the example of the Portuguese Socialist Party's endeavours since the April 1974 Revolution, as an alternative to the Chilean model which has led to Pinochet. Spanish socialists will have to be lucid, courageous and intelligent if they do not want to remit ad calendas a fruitful future for themselves. Their ingrained anti-communism, born of painful experience, will probably help them to stay on course and to avoid hasty alliances which merely create an illusion of strength.

Given the acuity of regional problems in Spain, the intense centralization of the last few decades and the uses made by successive Franco governments of such centralization, we can expect to see a radicalization of a great proportion of the middle classes on the periphery of the country, reminiscent of and with all the ambiguities inherent in movements of a populist character. Catalan and Basque nationalisms would not be the only movements with these characteristics—all the Spanish regions have grievances born of centralism to air, and all but the Castilians (who will obviously have to find some other banner) are already showing signs of militant regionalism.

The nationalists represent the most obvious and immediate danger to democratic developments because, things being what they are, they cannot help but arouse suspicion in the armed forces. This is an inbuilt seed of conflict, independent of whether nationalist aims are short-term or long-term, independent of how legalistic may be their approach. Profanations of the Spanish banner, insults to the military, hollow threats to seize independence forthwith, could be the corollary of intense political feelings and campaigns in certain regions where the particularly flagrant cultural oppression, over and above the measure dealt out by Franco to other parts of Spain, is very deeply resented. It is unlikely that an army with vast resources for reaction would quietly tolerate such affronts.

Even some terrorism, nationalist or otherwise, would probably be less of an irritant to the armed forces, for some time at least. Of course, the main unanswerable question concerning the forces is to what degree their inexperience of democracy—which they share with all Spaniards—will make them misconstrue the situation and the seriousness of threats to them or to the territorial integrity of Spain. An army such as the Spanish army has considerable resilience and can afford to remain cool; only the military themselves could destroy the army in the short run. As for territorial armed secession of certain regions, that is simply out of the question in the context of contemporary Spain and contemporary Europe. But at what point might not the military mistake disorder for a power vacuum—two things so different and yet so often held to be synonymous?

Initially, and for a relatively protracted period, there is bound to be considerable social entropy in Spain. Not necessarily in the form of grave disturbance of public order, though there will probably be instances of that too. Rather, a high degree of disorganization and stridency must be expected to surface at the beginning of a democratic process. We may expect political and social mechanisms to be affected at least as profoundly as has happened in Portugal, as a result of the overall contemporary scepticism concerning a number of abstractions, which have traditionally played a significant role in cementing modern society. As first evidenced massively in France in May 1968, and then in Portugal, the degree to which conceptual constructs such as legitimacy, authority, work discipline, and duty have lost their previous driving force can be very great in Western societies, regardless of the aims pursued. Until recently, authority was more often challenged than considered an empty notion, and people at work did not think of denying that they had a clearly defined set of duties. In situations such as the changes that have occurred in Portugal, it was reasonable to expect a push in salaries and an increase in the negotiating capability of workers and wage-earners generally; less foreseeable was the almost total collapse of discipline, e.g. on the factory floor, in offices of all kinds, and the demise of respect for authority as distinct from rear of authority.

The collapse of these and other abstractions, and of the ensuing norms for behaviour, need not produce effects that are dramatically dangerous, because individuals do not discard the sense of their short-term interests and are usually acting within the context of an established framework which gives effectiveness to their aggregated claims. But the effects can be very great in situations and at times when these conceptions can no longer be relied upon, while there is still a total absence of broadly based grass-roots political organizations. This lack was of course in Portugal—and would be in Spain—the result of the previous repression of any attempts to organize.

Its immediate foreseeable consequences in Spain are likely to be similar to those found now in Portugal, i.e. that in the absence of effectively local middlemen and political brokers, minor local grievances cannot easily find a quick solution and the immediate common interest of people in similar situations cannot be first discussed and then defended with coincidental behaviour. Under such circumstances, people take to the streets in order to attract the government's attention. Also, in such situations it becomes increasingly hard for people to focus their sense of grievance in ways that allow for quick, concerted and effective political action. Such a state of affairs produces an atmosphere of economic insecurity, lends an ungraspable fluidity to political formations, delays the crystallization of organizational and social cleavages and of a hierarchy of issues; although all talk a language understood by their fellows, concerns are fragmented to such an extent that no one listens for long to anyone, questions remain unanswered or answers are found inappropriate.

This Tower of Babel effect cannot last for any great length of time. The major political actors and reference groups necessarily emerge after a few months as permanent features in the landscape, organizations grow their roots and become effective, while certain issues force themselves to the fore, to a position where there is at least some agreement about the urgency to give them priority as subjects for negotiation. Such a journey is fraught with hazards and the arsenal of familiar time bombs left behind by long-lasting dictatorships makes the first part of the journey the most perilous.

Viability will depend on more things than can be listed or know in advance, but one clear requirement stands out already, one *sine qua non* condition, if the trip, once undertaken, is not to end in a bloody massacre. It is to the Right that we must look, because that is where it is located.

DEMOCRACY: THE RIGHT

When observers now look towards the right hand side of the political spectrum, they see practically nothing there but a number of ex-Franco ministers who put themselves forward as candidates for the leadership of the Right, should a truly democratic system emerge in Spain after all. It is understandable that they should be so keen to play that part and equally understandable that they appear to have no rivals. The passage of time has eliminated obvious past alternative leaders either physically or at least politically, and the parties are gone, along with the leaders. Perhaps the very nature of what we may broadly call liberal parties precludes them from surviving long in conditions of total clandestinity. They do not have the kind of long-term strategies which demand underground organizations or make underground activities meaningful or indeed possible. A dictatorship such as Franco's turns such liberals into isolated individuals, in exile by choice or of necessity, or else publicly silent residents inside Spain, internal exiles who in an individual capacity help (and sometimes join) opposition groups to their left, or who simply withdraw in disgust and criticize. Their names are not widely known and they do not usually have a precise party tag, whose luminous past is appreciated after so many years in the wilderness.

But this is not sufficient to prevent their reappearance. The people who have refrained from any contact, or at least from superfluous or clearly political contact with the dictator and his political appointees, have behind them, for them, one and a half centuries of Spanish history and the Weltanschauung of Western Europe. These are considerable assets. But they have more: expediency, if nothing else, will oblige the Spanish Right-wing middle classes and big business in a democratic Spain to drop publicly, to detach themselves visibly from all those tarred with the brush of having accepted office from Franco.

That so many in the upper economic strata of Spain and a few among the middle class should at this time take the side of such exappointees is quite unsurprising: they think that democracy is around the corner and fear a situation where they will be confronted with an organizational vacuum on the Right, a power vacuum at the top and a strong and well-organized Left. But the regime will not fall suddenly as a result of a push from below. The armed forces are there, intact, to prevent any takeover of the state. The change of regime may become inevitable once elections are announced, and much may happen in the country at large before elections; but a caretaker government will most probably not want to, and at any rate will almost certainly not be able to upset the country's underlying administrative and economic system deliberately and fundamentally. This means that the natural Right, so to speak, will have time to choose its leaders, and to pick them from amongst candidates most likely to be effective.

This time, unlike what applied at the time of the Spanish Second Republic, when the Church was wholeheartedly committed to the most reactionary and uncompromising attitude and when it offered the only nationwide, effective political organization which the Right could resort to, no institutions of similar magnitude and significance exist with a similar commitment to persuading the middle-class Right that it needs policies and a leader as anti-democratic and hostile to liberalism as the CEDA's programme and Gil Robles. This time holders of such views will not be able to persuade any Western country of their respectability. The general philosophy of liberal democracy will provide the only ready-made set of political conceptions available to the Right. I am not only saying that after a democratic start much of the middle class will find it relatively easy to adjust to the more agreeable and dignifying aspects of freedom and democracy. I am also saying that it will see the need for and the obvious advantages of participating actively in the democratic process, so as not to leave all to its opponents; and that it will therefore need some instant global ideology because familiar ideologies implicitly help people to understand much that is and must remain unspoken in day-to-day political intercourse, where everything cannot be explained all the time, and where outside some accepted ideological framework separate actions often become distressingly meaningless isolated facts.

The liberal ideology, its categories and articulation, are widely known to the Spanish middle classes—the regime itself had to resort frequently to making use thereof, after the complete failure of its own initial attempt to impose an alternative conception. Democratic liberalism does not demand from its outward adherents that they should be forgetful of their interests, nor that they should be on the Left—it recognizes quite clearly that the revolution is the revolutionary's business, not the conservative's. Democratic liberalism does not even demand profound democratic and liberal conviction of its outward adherents. It is considered sufficient that they accept to play the game pragmatically according to such rules. Whether the Spanish middle classes will become enthusiasts of that game is beside the point here. The relevant point now is this: for the foreseeable future there is no other democratic game to play in Western Europe; if there is to be a democracy, refusal to abide by certain rules in the name of some other set of rules would be disadvantageous to the conservative classes, even playing the game with the stated intention of breaking the rules whenever possible would amount to a self-imposed handicap for the conservative sectors who would thereby lose any chance of finding the allies they might and probably would need. Once this is realized, it is clear that such sectors, however opportunistic their moves, will need leaders who have a different image from the one projected by Franco's ex-appointees.

Why? The answer is simple. A free press (which none can prevent from coming into being unless he also has the power to prevent elections and uses it) will be pouring our daily accounts of the turpitudes of the *ancien régime*. Every injustice and every violence suffered in the past decades will be news. Documents will be published—they have been treasured for years for just such a moment; witnesses will accuse—they remember. Anti-fascism will be the omnipresent rallying cry. The many members of the upper and middle classes who are now much richer than they were when Franco came to power may owe part of their wealth to social inequalities perpetuated by the Spanish regime over and above what is considered inevitable or acceptable in other Western countries. But most of them will feel that they worked hard for what they gained, and even those who may have set their own moral standards aside in order to obtain or preserve what they have accumulated under Franco will be able to say without lying that they were never asked their opinion—and to think sincerely that they never did anything wrong themselves.

The regime may have provided a cosy economic environment for them—but most will genuinely be able to believe that they were not the ones who set or exacted themselves the price from those who suffered. Many will come to think that they too paid an unacceptable price, in cultural and moral terms if not in economic terms. Will they suddenly become the *active* defenders of the dictator and the dictator's men when the former is gone and the latter have become a handicap? Notice that more would be required from the volunteer defenders than effusions of gratitude and identification with power; adopting such an attiude could be very costly and the torrent of suddenly available information about what the regime really stood for behind the glitter would have meanwhile robbed them of their innocence.

The Right will need leaders with personal authority, who will be able to take a tough stand without being immediately suspected of trying to bring back the past or of hiding their own past, who will not make it simply unthinkable for the centre and the reformist Left to consider tactical alliances with the Right, who will be able to talk to journalists because they were demonstrably not instrumental in censoring or imprisoning those selfsame journalists some time previously, who will be able to sit at a negotiating table with trade unionists, because they were never compromised with those who condemned labour leaders to prison for attempting to organize, not terrorist groups, but straightforward, peaceful trade unions. Leaders who will be heeded when they personally draw the line between those on the one hand who from political positions and in the exercise of political functions held the country hostage and all those on the other hand who did not give the orders, who could not choose what orders they received, who could not disobey without risking harm to themselves or to their families. Leaders who will not be suspected by the Left of being involved with the organized and violent extreme Right for unavowed personal reasons, nor suspected by their own followers of being soft on the revolutionary Left in exchange for silence about themselves. Leaders who can demand discipline from the armed forces and the police and demand that their legitimate place in a modern Western society be respected—leaders, in short, who on account of their record will not be sensed by all to be seeking confrontation. In other words, the leadership of the Right must be openly, committedly and credibly 'antifascist'.

For this role the political appointees of the Franco regime can obviously not qualify. At present they may think, rightly, that many ugly things that went on when they were sitting on the footstools of power are the secrets of an inner circle, but such secrets tend to emerge. They may feel that some of the accusations that already are or will be formulated against them are overstated—but who will waste precious time and effort to defend them on a political platform? Those who are not guilty of any acts proscribed by the laws of the regime they served may take comfort from this, and indeed that may protect them against future prosecution, but more will be required from men presenting themselves as practising politicians. As a group, they will be accused of having indulged with fervour in all the pleasures and opportunities offered by total power, in all but one—and that is clemency. They will not even be able to claim with the slightest conviction that they were possessed by some great idea, some grand design. Neither will they be able to defend themselves by saying that what they did was customary in the constitutional Spain of their fathers and grandfathers where, in case anyone needs to be reminded, politicians did not become rich in office, where generals and other officers never killed other generals except on the field of battle, where trade unions were left well alone while they did not launch violent revolutionary movements and where the political police did not make a habit of using torture.

Some of the political hopefuls left over from the past may even now be going through history books in search for worse examples of repression than they may be called upon to account for; but whatever the background, they will fail to wring benevolence from those who will choose to blame them for the kind of activities repressed by them or their colleagues. Some may even have felt that they served their God and country well while in office, and that may be true in certain cases, but if they really failed to see what it was their job to see and prevent, they will be ill-advised to try and resume public life, because they will then be asked why on earth they stayed on in the ministries with some of their more notorious colleagues and they will not be able to reply that they had been put there by the implacable logic of a political *rapport de forces*, asked to stay on by a sector of Spanish opinion, which is the only satisfactory justification in such cases. They may hope to convince the Right that they are indispensible because they are experienced—an argument that will fall on barren ground because everyone knows that it is quite a different matter to boss people around under a dictatorship or to govern in a democracy, so that their experience is not likely to be of much use, and also because Spain has all the lawyers, civil engineers, tax specialists and cadres she needs. They may point out finally that they turned against Franco well before the last moment—but they will hear in reply that many a misguided opportunist has turned his coat prematurely, at least since news of the battle of Stalingrad reached Spain, that they have few if any scars to show and that their very latest attempt to prolong their political life could be held against them as evidence of second thoughts. Some will perhaps admit mistakes and apologize more or less humbly—if it is forgiveness they are after, they may get satisfaction, but let them not expect too much: if they are ignored, they should try not to complain, lest they be reminded that the regime they served was not known for forgiving anyone on any account whatsoever.

Credible, committed, conservative but 'antifascist' leaders of the Right will emerge if a democratic avenue is open to them. A preoccupation with effectiveness will coincide with moral feelings among conservatives throughout the land, who will be glad of the opportunity to back such men.

Even within the circles now orbiting around the transhumants who play the liberal democratic card, ambitious young men will realize that turning against their present leaders will be one way of accelerating upward mobility in the leadership stakes. The logic of the situation is inescapable: anyone, but anyone can properly and profitably accuse the top men of a dictatorship that has passed away of having misused power, since power was a monopoly of the dictatorship and its servants. They alone are sitting in that particular glasshouse. They are condemned to wandering pointlessly across the political stage, shunned by all, with collective memories of the past attracting only unwelcome attention, like the lepers' bells of old, but irremovable. Only a tempest can give such men another chance.

None should expect the present regime to allow unblemished prospective leaders of the Right to emerge in its lifetime. They would need to name names, to level precise personal charges, to be totally uncompromising, and though the regime may appear to be tottering, it is far from powerless to stop such attacks and not suicidal enough to allow them. But there should be no doubt in anyone's mind that even the long civic drought of franquismo has been unable to destroy the potential for leadership among those who have stood aloof. Their moral scruples are compatible with a determination to be firm when necessary and as firm as necessary. If iron bars and fences cannot be dispensed with in the armoury of government, they are determined to use them to keep trespassers off a few dangerous and thus forbidden areas, rather than to herd millions and generations of their countrymen into one large, cramped cage. They will constitute a key element in making democracy viable in Spain, because both the majority of the Right and the majority of the Left can, in the foreseeable future, find enough that is attractive in a liberal-democratic Spain to understand that they have a common interest in at least the survival of the democratic system.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HARRIS) to revise and extend their remarks and include extraneous material:)

Mr. PATMAN, for 60 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. MATSUNAGA, for 5 minutes, today.

Mr. DIGGS, for 5 minutes, today.

Mr. EILBERG, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BRADEMAS, to revise and extend his remarks and include extraneous material notwithstanding an estimated cost of $1,859.

(The following Members (at the request of Mr. COHEN) and to include extraneous matter:)

Mr. SEBELIUS in two instances.

Mr. MCKINNEY.

Mr. MCCLORY.

(The following Members (at the request of Mr. HARRIS) and to include extraneous material:)

Mr. KRUEGER.

Mr. NOWAK in 10 instances.

Mr. RODINO.

Mr. VANIK in two instances.

Mr. TEAGUE in 10 instances.

Mr. ULLMAN in five instances.

Mr. LEHMAN.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. ANNUNZIO in six instances.

Mr. DERRICK.

Mr. WEAVER.

Mr. MADDEN.

Mr. RIEGLE in 10 instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 22. An act for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes; to the Committee on the Judiciary.

S. 1664. An act to amend the Lead-Based Paint Poisoning Prevention Act; to the Committee on Interstate and Foreign Commerce.

ADJOURNMENT

Mr. HARRIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 33 minutes p.m.), the House adjourned until Tuesday, February 24, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2582. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report of violations of the Antideficiency Act by the Department of State, pursuant to section 3679(i)(2) of the Revised Statutes (31 U.S.C. 665); to the Committee on Appropriations.

2583. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report on the value of property, supplies, and commodities provided by the Berlin Magistrate, and under the German offset agreement for the quarter October 1, 1975 through December 31, 1975, pursuant to section 719 of Public Law 94–212; to the Committee on Appropriations.

2584. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects to be undertaken for the Air Force Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

2585. A letter from the General Counsel of the Department of Housing and Urban Development, transmitting a draft of proposed legislation to amend section 701 of the Housing Act of 1954 to provide for authorization of appropriations thereunder for fiscal years 1977 and 1978; to the Committee on Banking, Currency and Housing.

2586. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1–92, "To provide for certain protections for consumers purchasing memberships in health clubs in the District of Columbia, and for other purposes," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2587. A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations governing confidentiality of data under part B of the Education of the Handicapped Act, pursuant to section 431(d) of the General Education Provisions Act; to the Committee on Education and Labor.

2588. A letter from the Secretary, Postal Rate Commission, transmitting a report on the Commissions activities under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2589. A letter from the Deputy Administrator of General Services, transmitting a report on the activities of the General Services Administration and its National Archives and Records Service under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2590. A letter from Assistant Secretary of State for Congressional Relations, transmitting notice of the intention of the Department of State to consent to a request by the Government of Australia to transfer certain U.S.-origin military equipment to the Government of Thailand, pursuant to section 3(a) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

2591. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by Edward W. Mulcahy, Ambassador-designate to Tunisia, and Marquita M. Maytag, Ambassador-designate to Neal, and their families, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2592. A letter from the Administrator, Agency for International Development, Department of State, transmitting an explanation of the proposed U.S. relief and rehabilitation of the victims of the Guatemala earthquakes; to the Committee on International Relations.

2593. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112(b) of Public Law 92–403; to the Committee on International Relations.

2594. A letter from the Chairman, Civil Aeronautics Board, transmitting a report on energy conservation policies and practices instituted by the Board since October 1973, pursuant to section 382(a)(1) of Public Law 94–163; to the Committee on Interstate and Foreign Commerce.

2595. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting a report on the facts in each application for conditional entry of aliens into the United States under section 203(a)(7) of the Immigration and Nationality Act for the 6-month period ending December 31, 1975, pursuant to section 203(f) of the act; to the Committee on the Judiciary.

2596. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended to the Committee on the Judiciary.

2597. A letter from the Secretary of the Treasury, transmitting the annual report on exemptions from coastwise prohibitions for certain barges of foreign registry, pursuant to section 2 of Public Law 92–163; to the Committee on Merchant Marine and Fisheries.

2598. A letter from the Secretary of Commerce, transmitting drafts of proposed legislation to authorize appropriations for the fiscal years 1976, 1977, and 1978 for certain maritime programs of the Department of Commerce, and for other purposes; to the Committee on Merchant Marine and Fisheries.

2599. A letter from the Assistant Attorney General for Adminisration, transmitting a report on positions in the Department of Justice in grades GS–16, 17, and 18, pursuant to 5 U.S.C. 5114(a); to the Committee on Post Office and Civil Service.

2600. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on scientific and engineering positions established in NASA during calendar year 1975, pursuant to 5 U.S.C. 3104(c); to the Committee on Post Office and Civil Service.

2601. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a supplement to the first annual report recommending deauthorization of certain projects, pursuant to section 12 of Public Law 93–251 (H. Doc. No. 94–378); to the Committee on Public Works and Transportation and ordered to be printed.

2602. A letter from the Federal Highway Administrator, Department of Transportation, transmitting copies of a publication entitled "Acquiring Your Real Property for Federal-Aid Highways"; to the Committee on Public Works and Transportation.

2603. A letter from the Assistant Secretary of the Treasury (Enforcement, Operations, and Tariff Affairs), transmitting a determination waiving the imposition of countervailing duties on imports of emmenthaler and gruyere cheese from Switzerland for a temporary period not to extend beyond January 3, 1979, pursuant to section 303(e) of the Tariff Act of 1930, as amended (88 Stat. 2051) (H. Doc. No. 94–379); to the Committee on Ways and Means and ordered to be printed.

RECEIVED FROM THE COMPTROLLER GENERAL

2604. A letter from the Comptroller General of the United States, transmitting his review of the deferrals and proposed rescissions and the supplementary reports revising previously reported deferrals and proposed rescissions contained in the message from the President dated January 23, 1976 (H. Doc. No. 94–342), pursuant to subsections 1014 (b) and (c) of Public Law 93–344 (H. Doc. No. 94–380); to the Committee on Appropriations and ordered to be printed.

2605. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during January 1976, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

2606. A letter from the Comptroller General of the United States, transmitting a report on the need for action now to protect our fishery resources; jointly, to the Committees on Government Operations, and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on Feb. 19, 1976, the following report was filed on Feb. 20, 1976]

Mr. MAHON: Committee on Appropriations. House Joint Resolution 811. Joint resolution making supplemental appropriations for the legislative branch for the fiscal year ending June 30, 1976, and for other purposes (Rept. No. 94–836). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Feb. 23, 1976]

Mr. ULLMAN: Committee on Ways and Means. H.R. 11893. A bill to increase the temporary debt limit until July 31, 1976; with amendment (Rept. No. 94–837). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee of conference. Conference report on H.R. 5727; with amendment (Rept. No. 94–838). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CORMAN (for himself, Mr. Rangel, Mr. Scheuer, Mr. Hawkins, Mr. Ottinger, Mr. Biaggi, Mr. Richmond, Mr. Badillo, Mr. Stark, Mr. Downey of New York, Mr. Bingham, Mr. Addabbo, Mr. Hannaford, Mr. Charles H. Wilson of California, and Mr. Pattison of New York):

H.R. 12014. A bill to amend title XX of the Social Security Act to give the States greater authority and flexibility in determining the eligibility of individuals and families for federally supported social services thereunder; to the Committee on Ways and Means.

By Mr. HAYS of Ohio (for himself, Mr. Dent, Mr. Hawkins, Mr. Annunzio, Mr. Gaydos, Mr. Jones of Tennessee, Mr. Minish, Mr. Rose, and Mr. John L. Burton):

H.R. 12015. A bill to amend the Federal Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes; to the Committee on House Administration.

By Ms. ABZUG (for herself and Mr. Preyer):

H.R. 12016. A bill to provide that meetings of Government agencies shall be open to the public, and for other purposes; to the Committee on Government Operations.

By Mr. BLANCHARD (for himself, Mr. Mineta, Mr. Lloyd of California, Mr. Sharp, Mr. Lujan, Mr. Hefner, Mr. Vander Veen, Mr. Stark, Mr. Dominick V. Daniels, Mr. Patterson of California, Mr. Evans of Indiana, Mr. Sarasin, Mr. Beard of Tennessee, and Mr. Andrews of North Dakota):

H.R. 12017. A bill to provide for the elimination of inactive and overlapping Federal programs, to require authorizations of new budget authority for Government programs and activities at least every 4 years, to establish a procedure for zero-base review and evaluation of Government programs and activities every 4 years, and for other purposes; to the Committee on Rules.

By Mr. BRADEMAS:

H.R. 12018. A bill to amend the Rehabilitation Act of 1973 to provide that the center for deaf-blind youths and adults established by such act shall be known as the Helen Keller National Center for Deaf-Blind Youths and Adults; to the Committee on Education and Labor.

By Mr. BURKE of Massachusetts (for himself, Mr. Barrett, Mr. Brademas, Mr. de Lugo, Mr. Duncan of Oregon, Mr. Koch, Mr. Lent, Mr. McHugh, Mr. Matsunaga, Mr. Nolan, Mr. Oberstar, Mr. Patterson of California, Mr. Perkins, Mr. Riegle, Mr. Thompson, and Mr. Wright):

H.R. 12019. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the social security program, with a substantial increase in the contribution and benefit base and with appropriate reductions in social security taxes to reflect the Federal Government's participation in such costs; to the Committee on Ways and Means.

By Mr. CARNEY:

H.R. 12020. A bill to provide that a summons to serve as a juror of the Superior Court of the District of Columbia which is issued to a congressional employee shall no longer have any force or effect if the individual with authority to appoint such congressional employee files a notice of disapproval; to the Committee on the District of Columbia.

By Mr. CARTER (for himself, Mr. AuCoin, Mr. Frey, Mr. Hechler of West Virginia, Mr. Haley, Mr. Drinan, Mr. Melcher, Mr. Yatron, Mr. Broyhill, Mr. Pepper, Mr. Ottinger, Mr. Minish, Mr. Brodhead, Mr. Mollohan, Mr. Rodino, Mr. Moorhead of Pennsylvania, Mr. Jenrette, Mr. Metcalfe, Mr. Badillo, Mr. Roe, Mr. Downey of New York, Mr. Eilberg, Mr. Eshleman, Mr. Bob Wilson, and Mr. Waxman):

H.R. 12021. A bill to establish the National Diabetes Advisory Board and to take other actions to insure the implementation of the long-range plan to combat diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. CARTER (for himself, Mr. Smith of Iowa, Mr. Danielson, Mr. LaFalce, Mr. Jones of North Carolina, Ms. Abzug, Mr. Fascell, Mr. Charles Wilson of Texas, Mr. Leggett, Mr. Mitchell of Maryland, Mr. Koch, Mr. Corman, Mr. Riegle, Mr. Gilman, Mr. Burke of Florida, Mr. Sarasin, Mr. Preyer, Mr. Howe, and Mr. Winn):

H.R. 12022. A bill to establish the National Diabetes Advisory Board and to take other actions to insure the implementation of the long-range plan to combat diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. DERWINSKI:

H.R. 12023. A bill to limit Federal pay increases to 5 percent; to the Committee on Post Office and Civil Service.

By Mr. DRINAN:

H.R. 12024. A bill to conserve the use of energy in residential housing, commercial and public buildings, and industrial plants through federally supported State energy conservation implementation programs, and to establish an Energy Conservation Extension Service; jointly to the Committee on Banking, Currency and Housing, and Science and Technology.

By Mr. HANNAFORD (for himself and Mr. Mikva):

H.R. 12025. A bill to require that Government forms be discontinued or revised every 5 years and that new or revised forms shall be used only when necessary; to the Committee on Government Operations.

By Mr. McDade:

H.R. 12026. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. MATSUNAGA (for himself and Mr. Mikva):

H.R. 12027. A bill to amend chapter 73 of title 10, United States Code, to provide that no reduction shall be made in the retired or retainer pay of any person who elects to provide an annuity under the survivor benefit plan during any full month in which there is no beneficiary eligible to receive such annuity; to the Committee on Armed Services.

By Mr. OTTINGER:

H.R. 12028. A bill to establish a uniform and comprehensive legal regime governing liability and compensation for damages and cleanup costs caused by oil pollution, and for other purposes; jointly to the Committees on Public Works and Transportation, and Merchant Marine and Fisheries.

By Mr. PERKINS (for himself and Mr. Pressler):

H.R. 12029. A bill to authorize a career education program for elementary and secondary schools, and for other purposes; to the Committee on Education and Labor.

By Mr. ROGERS (for himself, Mr. Bell, Mr. du Pont, Mr. Dominick V. Daniels, Mr. Florio, and Mr. Treen):

H.R. 12030. A bill to amend title 18 of the United States Code to provide criteria for the imposition of the death penalty for certain explosives related offenses; to the Committee on the Judiciary.

By Mr. ROONEY:

H.R. 12031. A bill to amend the Tariff Schedules of the United States to repeal the special tariff treatment accorded to articles assembled abroad with components produced in the United States; to the Committee on Ways and Means.

Mr. St GERMAIN (for himself, Mr. Allen, Mr. Beard of Rhode Island, Mr. Brown of California, Mr. Cornell, Mr. Dominick V. Daniels, Mr. Gilman, Mr. Helstoski, Ms. Keys, Mr. Koch, Ms. Mink, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Ottinger, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Scheuer, Mr. Yatron, and Mr. Zeferetti):

H.R. 12032. A bill to amend the Federal Power Act to provide that public hearings shall be held prior to the Federal Power Commission granting rate increases for the interstate sale of electricity; to the Committee on Interstate and Foreign Commerce.

By Mr. SCHNEEBELI:

H.R. 12033. A bill to continue until the close of June 30, 1979, the existing suspension of duties on manganese ore (including ferruginous ore) and related products; to the Committee on Ways and Means.

By Mr. SKUBITZ:

H.R. 12034. A bill to increase the authorization for the Fort Scott National Historical Site; to the Committee on Interior and Insular Affairs.

By Mr. TEAGUE (for himself, Mr. Brown of California, and Mr. Esch):

H.R. 12035. A bill to authorize appropriations for environmental research, development, and demonstration; to the Committee on Science and Technology.

By Mr. VIGORITO:

H.R. 12036. A bill to amend the U.S. grain Standards Act to improve the U.S. grain inspection system, and for other purposes; to the Committee on Agriculture.

By Mr. WHALEN:

H.R. 12037. A bill to improve existing tertiary eye centers, to examine the delivery of eye care to the general public, and to study the feasibility of implementing a system of tertiary eye care centers throughout the United States; to the Committee on Interstate and Foreign Commerce.

H.R. 12038. A bill to amend title 38 of the United States Code to remove the time limitation within which programs of education for veterans must be completed; to the Committee on Veterans' Affairs.

By Mr. RANDALL:

H. Res. 1047. Resolution to provide for the further expenses of the investigations and studies to be conducted by the Select Committee on Aging; to the Committee on House Administration.

By Mr. ROBERTS (for himself and Mr. Hammerschmidt):

H. Res. 1048. Resolution providing for funds for the further expenses of investigation and studies to be conducted by the Committee on Veterans' Affairs; to the Committee on House Administration.

By Mr. STAGGERS:

H. Res. 1049. Resolution providing for the expenses for the second session activities of the Committee on Interstate and Foreign Commerce; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

300. By the SPEAKER: Memorial of the Legislature of the State of South Dakota, relative to the National Guard; to the Committee on Armed Services.

301. Also, memorial of the Legislature of the State of Rhode Island and Providence Plantations, relative to revenue sharing; to the Committee on Government Operations.

302. Also, memorial of the Legislature of the State of South Carolina, requesting Congress to propose or call a convention for the purpose of proposing an amendment to the Constitution of the United States requiring that the Federal budget be balanced; to the Committee on the Judiciary.

303. Also, memorial of the Legislature of the State of South Dakota, relative to deregulation of certain major modes of transportation; jointly, to the Committees on Public Works and Transportation, and Interstate and Foreign Commerce.

PETITIONS, ETC.

Under clause 1 of rule XXII.

402. The SPEAKER presented a petition of the Kenai Peninsula Borough Assembly, Soldotna, Alaska, relative to the Harding Ice Field/Kenai Fjords National Monument proposal, which was referred to the Committee on Interior and Insular Affairs.

EXTENSIONS OF REMARKS

FRANK ROBL, NOTED CONSERVATIONIST

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. SEBELIUS. Mr. Speaker, in today's fast pace of busy living and computers, many people believe that one individual cannot contribute much to our society. However, time and time again, that theory is proven incorrect. Such is the case of Frank Robl of Ellinwood, Kans., a man who by pursuing an avocation for more than 50 years, left his mark on wildlife conservation throughout the world.

Frank Robl, the "Duck Man" as he was known, dedicated his life to learning about wildlife, especially birds, and how to conserve and preserve it.

Upon his death, January 29 of this year, newspapers throughout Kansas paid tribute to him for his work in wildlife conservation. As an example of what one person can still do, I would like to share this article from Mr. Robl's hometown newspaper, the Ellinwood Leader, with my colleagues:

DEATH TAKES AREAS' BEST KNOWN CITIZEN

Frank Robl, who probably had more interests and contacts, local, statewide, countrywide and world-wide than any other county resident, died at the Ellinwood District Hospital Saturday evening at the age of 79.

Known as the duck man Mr. Robl had a lifelong interest in wildlife, but his activities covered numerous other fields. He was a stamp collector and a mover in the Cheyenne Stamp club, he was a charter member of the Ellinwood Hospital board and was instrumental in getting the hospital built, he served as secretary of that board from its formation to his death, he was a loyal member of the Knights of Columbus and of St. Joseph's church, he served as secretary of the Ellinwood Chamber of Commerce for several years, he was a farmer, a seed salesman, a member of the Elks lodge, of the Inland Bird Banders association, the National Audubon society. Ducks Unlimited a director of the Larned Federal Land Bank, and active in several other organizations. He also was active in erecting the Father Padilla Cross west of Lyons.

It was as a conservationist that he attracted national attention and he was known from coast to coast as the Duck Man. Mr. Robl's father, Franz Robl, who farmed on the edge of the Cheyenne Bottoms, was keenly interested in the great flocks of waterfowl that courses up and down the Central Flyway, with the Bottoms as a principal stopping place. Frank Robl inherited that interest.

In 1924, as an amateur conservationist, he banded his first ducks and geese. During his life he banded more than 25,000 ducks, 500 geese, 1,350 starlings and 700 crows. His farm was an avian zoo with wild birds using his farm pond and living in his farm yard. He received returns on the birds he had banded from both coasts, South America and Europe.

Much of Mr. Robl's time, in later years, was devoted to programs in which he told of wildfowl. He talked to grade school children, college classes and scientific bodies. His farm was the target of countless field trips and he always had time to initiate a class of children, or a lone youngster who would hike to his place north of town, in the lore of the birds, from starlings to peacocks, that surrounded his house.

Mr. Robl was born March 5, 1896, here and graduated from Ellinwood high school. He wed Miss Gertrude Demerath in June, 1923. The couple took a keen interest in all community activities, were always present for ball games, or special meetings of any kind, and were active members of the old Band Parents organization. Mrs. Robl died in 1961.

Survivors are a son, Frank W. of Westport, Conn., a daughter, Mrs. Nicholas LoBurgio of Ellinwood, a brother, George Robl of Ellinwood, two sisters, Mrs. Mary Schartz of Ellinwood and Mrs. Leonard Schartz of Wichita, seven grandchildren and one great grandchild.

Mr. Robl was active almost to the day of his death. Last Christmas he flew to Connecticut to spend the holidays with his son and family. Upon his return he was active in planning for the next Cheyenne Stamp show, and Monday, feeling under the weather, he entered the hospital and his condition did not improve. His heart simply wore out, according to his friends.

WHO OWNS STATE AND LOCAL TAX-EXEMPT BONDS?

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. VANIK. Mr. Speaker, presently, the Ways and Means Committee is studying the issue of the revision of (1) taxation of State and local "tax-free" bonds, and (2) the estate and gift tax laws. Reviewing the Statistics of Income for Estate Tax Returns filed in 1973—the latest year for which the IRS has data available—provides some interesting insights into which groups in our society hold tax-exempt State and local bonds.

According to the table on page 12 of the IRS study, there were 89 taxable returns filed in 1973 which had a gross estate of $10 million or more. Sixty-five percent, or 58 of these estates, included in their holdings State and local bonds. The value of the bonds held by this super-rich group was $71,418,000 for an average tax-free bond holding of $1,231,345. Assuming a 5 percent interest rate, the average tax-free income from these bonds holdings was about $61,006 per year to these multimillion-dollar estates.

Small estates were much less likely to report bond holdings. For example, gross estates of between $60,000 and $70,000—a relatively small estate given today's housing costs, and so forth—numbered 4,799 returns, of which 60, or only 1.2 percent, held tax-free State and local bonds. The average size of the bond holding in these 60 returns was $12,550.

In short, tax-free bonds are disproportionately held by the very rich. In 1973, 3,935 estate tax returns were filed on behalf of gross estates of $1 million or more. Forty-five percent of these returns—or 1,790 returns—listed State and local bonds in their portfolios. In the same year, 30,588 returns were filed for estates of less than $100,000. Only 479 of these returns—or 1.6 percent—listed State and local bonds among their assets.

The tax-exempt State and local bond provision is a subsidy to our Nation's governments—but it is equally a subsidy to the very rich. I believe we can and we must devise a method to help our Nation's cities and States without providing a windfall to the millionaires and gigantic estates.

STATUS OF THE FISCAL YEAR 1976 CONGRESSIONAL BUDGET

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. DERRICK. Mr. Speaker, I wish to inform my colleagues in the House that there has been no change in the status of the congressional budget adopted in House Concurrent Resolution 466 since our last notification to the Speaker on February 4, 1976. That report is still in effect, and I shall insert it at this point:

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1976 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 466

REFLECTING COMPLETED ACTION AS OF FEB. 4, 1976

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	408,000	374,900	300,800
Current level	396,705	370,957	301,100
Amount remaining	11,295	3,943	300

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $11,295 million for fiscal year 1976, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 466 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which result in outlays exceeding $3,943 million for fiscal year 1976, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 466 to be exceeded.

REVENUES

Any measure that would result in a revenue loss exceeding $300 million for fiscal year 1976, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 466.

Although the budget aggregates have not yet been breached, caution must be advised since two regular fiscal year 1976 appropriations bills yet remain to be funded, along with the spring supplemental. Funding for a substantial amount of these appropriations bills are already covered under the estimate for the current level, which includes items funded under the continuing resolution and enacted entitlement legislation still requiring financing.

Several factors, however, are placing pressure on the ceilings. Congress is steadily moving through final stages of consideration of certain bills that were assumed in the second concurrent budget resolution. Funding for these bills will count against the amount remaining. In future weeks we may have before us the appropriations for H.R. 11453, the CETA jobs program.

Aside from these pressures on the ceiling, there exists the potential threat of shifts in the economy and necessary adjustments in spending that may follow, as well as regular fiscal year 1976 reestimates. In his recent budget submission the President has reestimated his entire fiscal year 1976 budget column, account by account. The Congressional Budget Office is now reviewing those reestimates. In a matter of a few weeks the Budget Committee of the House and the other body will determine which of those reestimates validly apply against the ceiling for fiscal 1976.

I cite, for example, receipts for leasing on the Outer Continental Shelf. Since these are business receipts of the Government they are regarded as offsets to actual outlays. You will recall the President last year estimated $8 billion in receipts for fiscal year 1976. The congressional budget assumed receipts of $4.5 billion. In his budget submission the President has revised his fiscal year 1976 estimate to $3 billion. If that estimate appears to be valid, then an addititonal $1.5 billion would apply against the outlay ceiling for fiscal year 1976. The Budget Committee is attempting to keep the House informed on these matters in these weekly reports on the ceilings.

While the budget ceilings and revenue floor apply only to aggregate totals, I am including with these remarks a functional analysis of the budget authority and outlay totals which reflect the building blocks of the budget resolution. As you can see there are three functions where totals have substantially exceeded the amounts targeted in the second budget resolution. Function 850—revenue sharing and general purpose fiscal assistance, reflects the $2.3 billion cost in budget authority of the New York seasonal financing fund. The other two items reflect reestimates of uncontrollable programs in the National Defense function—$400 million; and $333 million in the Agriculture function for the Commodity Credit Corporation.

In summary Mr. Speaker, I must warn my colleagues in the House that the current level leaves little room for new spending legislation of either the President or Congress which was not contemplated in this year's budget resolution.

A table on the functional analysis follows:

STATUS OF FISCAL YEAR 1976 BUDGET CEILINGS, BY FUNCTION AS OF FEB. 4, 1976

[In millions of dollars]

	Function	Current level (as of Feb. 4, 1976)		2d budget resolution		Difference over (+) under (−) 2d budget resolution	
		Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
050	National defense	100, 578	92, 184	101, 000	91, 900	−422	284
150	International affairs	4, 056	4, 534	6, 000	4, 900	−1, 944	−366
250	General science, space, and technology	4, 653	4, 572	4, 700	4, 600	−47	−28
300	Natural resources, environment, and energy	17, 999	10, 946	18, 700	11, 400	−701	−454
350	Agriculture	4, 120	2, 883	4, 100	2, 600	20	283
400	Commerce and transportation	15, 760	17, 367	19, 000	18, 300	−3, 240	−933
450	Community and regional development	5, 416	5, 903	9, 500	7, 000	−4, 083	−1, 097
500	Education, training, employment, and social services	18, 529	19, 561	21, 300	20, 900	−2, 771	−1, 339
550	Health	33, 278	32, 809	33, 600	32, 900	−322	−91
600	Income security	137, 531	128, 251	137, 500	128, 200	31	51
700	Veterans benefits and services	19, 675	18, 886	19, 900	19, 100	−226	−214
750	Law enforcement and justice	3, 211	3, 325	3, 300	3, 400	−89	−75
800	General government	3, 418	3, 295	3, 300	3, 300	118	−5
850	Revenue sharing and general purpose fiscal assistance	9, 553	7, 252	7, 300	7, 300	2, 253	−48
900	Interest	35, 401	35, 400	35, 400	35, 400	1	0
	Allowances	625	890	500	800	125	90
950	Undistributed offsetting receipts	−17, 100	−17, 100	−17, 100	−17, 100	0	0
	Total	396, 705	370, 957	408, 000	374, 900	−11, 295	−3, 943

Note: Detail may not add to totals due to rounding.

MEDICARE PROPOSALS

HON. ROBERT (BOB) KRUEGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. KRUEGER. Mr. Speaker, in his state of the Union address, President Ford proposed changes in the medicare and medicaid programs that provide care for the elderly, the specially ill, and the poor. His goals are laudable: to reduce costs of catastrophic illness for the elderly, to redistribute the burden of paying for medical services, and to limit the cost of medical service. Only the first of these goals can be accomplished under the President's program, however, and then at increased cost to the elderly and to the poor. President Ford proposes to increase the out-of-pocket costs for short-term care, and that's the kind of care most older Americans require, in order to pay for the catastrophic insurance program he favors.

Medicare was established by the Congress in 1965 as a federally-supported health insurance program for the elderly. Since then it has been expanded to provide coverage for disabled beneficiaries of the social security program and for kidney dialysis patients under 65. The program was conceived as a solution to the problems of people on fixed income who faced, along with the rest of society, steadily increasing medical costs, and who, in ever increasing numbers, saw their savings wiped out by illnesses that visit the elderly more frequently than younger people. It was hailed as a humane social experiment, but the economics were not carefully considered and the financing base became quickly inadequate.

The 10 years of its history have been scarred by regular increases in deductibles, rapid inflation of medical costs, questionable accounting and control procedures, and an increased disposition to hospitalized patients who could have been treated on an outpatient basis, resulting in the exceptional inflation in hospital charges. Now President Ford, in an attempt to defend the elderly against catastrophe, proposes to increase their exposure to financial distress that will almost surely reduce preventive or early treatment for many of our older Americans.

He proposes to force greater numbers to turn to medicaid for assistance, thereby increasing the administrative costs by increasing the overlap in clientele in the two programs. To reduce the cost of catastrophic illness by making the beneficiaries spend more for the normal medical conditions that accompany aging is neither sensible nor humane and I cannot support Mr. Ford's proposals, although I support his goals.

If we are to keep faith with the original design of the medicare program, Americans must be prepared to accept the burden of higher medical costs through increased social security taxes and through general tax revenues if that should become necessary. Older Americans whose income is fixed and who have almost no opportunity to improve their economic status cannot be asked to absorb the runaway costs of their health care.

A healthy population of older Americans, Americans who are encouraged to share their skills and experience for the benefit of their Nation, is one of our finest and least utilized resources; we cannot afford not to invest in their health, anymore than we can afford to continue to ignore the skills and experience they have to offer us.

LITHUANIAN INDEPENDENCE DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. RODINO. Mr. Speaker, this past Monday, February 16, 1976, was the 58th anniversary of Lithuanian Independence Day.

It is ironic that this year Lithuanian Independence Day coincided with the American holiday which we have designated to observe George Washington's birthday. As we pause to honor that preeminent American freedom fighter, we must also reflect upon the freedom-loving citizens of Lithuania who once enjoyed this same liberty we Americans take for granted.

We cannot forget that others around the world continue to struggle for the same rights and privileges which we celebrate in this Bicentennial Year. We can do no less than use the occasion of Lithuanian Independence Day to salute those who fought and died for freedom. We must reaffirm our commitment to those in the Baltic Nations and elsewhere whose long journey toward independence and liberty has not ended. I am certain our Founding Fathers would expect no less from us than to cherish liberty and seek it for all mankind.

UNIVERSITY OF OREGON'S VICTORY OVER UCLA BROKE UCLA'S 98-GAME WINNING STREAK

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. WEAVER. Mr. Speaker, I am very sparing of the comments I make in the CONGRESSIONAL RECORD. These should be reserved for events and issues of real importance.

The victory of the University of Oregon's basketball team over UCLA Saturday night is such an event. This victory—I would like to tell my colleagues in the Congress—is sweet indeed, for it broke a 98-game winning streak by UCLA on their home court.

If Members from California will close their ears, I will mention the score. Let me warn you it was not close. Into every life some rain must fall. We Oregonians have had our share. And 65 to 45 is not the end of the world. UCLA was simply beaten by the best team in the Nation.

On this last point I will not yield the floor to Members from Indiana. As far as the Member from the Fourth District of Oregon is concerned, the debate is closed.

Mr. Speaker, let it be known through the Halls of Congress that a great team has emerged, that we in Oregon are proud of our Ducks, and that we are prepared to take on all comers, at home or on their own courts.

CHICAGO ITALICS CLUB HONORS MAYOR ANTHONY VACCO

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. ANNUNZIO. Mr. Speaker, on February 14, 1976, the Italics Club honored the distinguished mayor of Evergreen Park, Ill., Hon. Anthony Vacco, as the "Man of the Year 1976," for his outstanding service to his community and his leadership in civic affairs.

Over 500 people attended the Italics Club annual award dinner dance, including a number of mayors from surrounding Chicago suburbs, Illinois State senators and representatives as well as trustees and elected officials of Evergreen Park. Club President Mary M. Mento presented a plaque to Mayor Vacco in recognition of his dedication to the highest principles and his community services, especially to the young people, and also presented him with an album containing letters of tribute from Mayor Daley, Senator Stevenson, Senator Percy, Governor Walker, and Mayor Vacco's many, many other friends and admirers.

The mayor was also presented with the Evergreen Park Bicentennial Commission Gift by Chairlady Melanie J. Balderman, with Illinois House Resolution 232 by Illinois State Representative Harry "Bus" Yourell, with Illinois Senate Resolution 795 by Illinois State Senator Frank M. Ozinga, as well as with a gold honorary lifetime membership in the Italics Club by general dance chairman and first vice president Carmello A. Blacconeri. The mayor's wife, Mrs. Patricia Ann Vacco, was presented with a bouquet of roses by Marietta Brazausky, the youngest member of the Italics Club.

The Italics Club gave donations in the name of Mayor Vacco to Villa Scalabrini Development Fund, the Grand Lodge Order of the Sons of Italy in Illinois Scholarship Fund, the American Cancer Society, United Cerebral Palsy, and the March of Dimes. Italics Club assistant treasurer Mrs. Mary Capizzi, made the presentation of the Italics Club contribution to Father Lawrence Cozzi for the Sacred Heart Seminary.

I extend my warmest congratulations to Mayor Anthony Vacco for meriting the Italics Club "1976 Man of the Year Award," and at this point in the Record include his biography:

Anthony Vacco, Mayor of Evergreen Park, Illinois

Anthony Vacco, fulltime mayor and president of the Village of Evergreen Park, was born in Chicago, Illinois, the son of Carmen and Rose (Esposito) Vacco, immigrant parents born in Naples, Italy. He was graduated from Crane Technical High School in June, 1942, entered the United States Army Medical Corps in April, 1943, and was honorably discharged December, 1945, after serving overseas in the South Pacific areas.

Mayor Vacco has devoted much time to public service having been appointed Village President in October, 1968, to fill a vacancy until April 30, 1969. He was elected Village president in 1969, and was re-elected Village President in 1973, being the first Italian-American to serve as fulltime Mayor-Village President of Evergreen Park, Illinois, since its incorporation in 1893.

Prior to taking office May 1, 1969, Mayor Vacco was employed by Field Enterprises, Inc., Chicago Sun-Times newspapers for sixteen years as home delivery district manager.

His civic and community activities have included the following: . . . Chairman of the Zoning Board of Appeals of Evergreen Park 1961–65; elected and served as Village trustee 1965–68; Deputy Sheriff Cook County 1966–68 with Sheriff Woods; elected trustee Worth Township Schools 1967 for a 6 year term; reelected April, 1973, for a second year term; and elected president Worth Township trustee April, 1975. He served on the Board of Council of Governments of Cook County, January, 1973. He is a member of the American Legion Evergreen Park Post #854; past senior vice-commander, Veterans of Foreign Wars; member of Most Holy Redeemer Catholic Church; director and past president Evergreen Park Republican Organization; and a member and past president Worth Township Regular Republican Organization. Mayor Vacco is also a member of these organizations: United Home Owners of Evergreen Park Executive Board; Southeast Improvement Association;! Oak Lawn Elks Lodge; Mustang Boosters; Rotary Club of Evergreen Park; Northwest Boosters Improvement Association; Mustang Boosters-Parents Association Evergreen Park High School; Evergreen Park Chamber of Commerce; Garfield Manor Bowling League; and an honorary member of Kiwanis of Evergreen Park. He is a former member of Evergreen Park Athletic Association active in youth development in Junior and Little League Baseball. In 1968 he served as general chairman of Evergreen Park 75th Diamond Jubilee Anniversary Committee.

Mayor Vacco is a member of the Order Sons of Italy of Illinois Evergreen Park Lodge #2200 and was elected treasurer 1968–74. Presently he is Assistant Venerable. At the state convention in June, 1975, he was elected grand trustee for the State of Illinois and was also elected alternate supreme delegate to the national convention.

He is a member of the Illinois Municipal League and was elected one of the vice-presidents to the Executive Board of the League for the year 1975–76.

He is listed in Who's Who in the Midwest and Who's Who in American Politics.

Mayor Vacco and his wife, Patricia Ann (Nelson) have been residents of Evergreen Park since 1955 and have three children: Sandra (Mrs. Gregory Johnson); Anthony Jr.; and Darlene. They also have two grandchildren, Debbie and Scott Johnson.

ON THE ROAD TO GOLD

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. McKINNEY, Mr. Speaker, recently I and my colleagues congratulated Ms. Dorothy Hamill, a constituent from Riverside, Conn., for her gold medal winning performance at the Winter Olympic Games. But that medal is only the most well-known facet of Dorothy Hamill's 11-year career of ups and down on the way to Innsbruck.

Recently, Mr. Francis Xavier Fay, Jr., writing for one of Connecticut's best daily newspapers, the Norwalk Hour, provided an insight into the unique mixture of precision and personal charm which guided Dorothy Hamill along her road to success. With your permission, Mr. Speaker, I would like to enter Mr. Fay's article in the Record at this time.

The article follows:

Dorothy Hamill's Olympic Gold Medal

(By Francis X. Fay, Jr.)

(Editor's Note: Dorothy Hamill's Olympic gold medal doesn't surprise Reporter Francis X. Fay Jr. who told of her prediction in a feature after observing her in an impromptu exhibition April 10, 1974, at the Darien Ice Rink.)

It wasn't supposed to be a big thing.

A 17-year-old girl from Riverside had been invited to do a turn with her old gang—the Southern Connecticut Figure Skating Club, a collection of adults and children who love figure skating so much they rent four hours, three nights a week at the Darien Ice Rink.

Eight years ago, the 17-year-old Riverside girl, Dorothy Hamill, had joined the club for no particular reason except that some friends enjoyed to figure skate. Like thousands of girls who had preceded her and thousands who will come after, the Riverside girl began to do figures for "the fun of it" several times a week, mostly in winter.

Time went by and she began to find herself winning first prizes for her age group. But she wasn't really "hyped" on the sport and was lucky to have parents who weren't pushing her toward any ultimate goals. She didn't go out of her way to practice, but she was interested enough to concentrate during the time she did spend on the ice. And she kept on winning until five years ago, after taking the National Novice Ladies title, she suddenly realized she really wanted to be a figure skater.

THINGS CHANGE

Life changed at that point as figure skating gradually encroached upon every aspect of her daily routine and that of her parents. It reached the point two years ago where she and her mother had to take an apartment in Denver, Colo., so that she could practice six days per week, six hours per day with the famed skating coach, Carlo Fassi, who is credited with developing Peggy Fleming.

FIVE HUNDRED TURN OUT

So, though it wasn't supposed to be a big thing, there were 500 spectators in the Darien Ice Rink when Miss Hamill, queen of U.S. figure skating, stepped on the ice at 7 P.M. Although there were 100 other skaters of the club on the ice at the time doing their own turns, every eye at rinkside followed the petite, dark-haired champion as she darted in and about them during a 20-minute warmup.

Applause answered every one of her practice spins and jumps as she moved about the large ice surface with a graceful power which grew in dimension as she proceeded. Every five minutes or so she would skate over to the boards for a breather. There to be besieged by the young girls of the club eager to hear of her recent trip to Europe and a silver medal in the World Figure Skating Championship.

Mrs. Jean Cole of Riverside, chairman of the junior skaters, skated over.

"The girls would love you to do a number," she said.

"Oh, fine," answered Dorothy, smiling.

"Yea!" squealed the girls.

Mrs. Cole came off the ice and walked around the rink to where Dorothy's father was talking to reporters.

"Did you bring some music?" she asked.

Mr. Hamill grinned while reaching into his overcoat pocket, removing a small casette and handing it to Mrs. Cole without a word.

The ice was cleared of skaters and Dorothy went down to the far end. The classical music began and a pixie in lavender pink floated into view, moving from patch to patch on the barren expanse occasionally touching the gleaming surface for more power.

It was over much too soon and Dorothy smiled appreciatively to the applause. She skated over to the boards for a brief rest then returned for a jazz routine in which she displayed the high jumps, spins and camels that have convinced most judges in the world that she is the best outside the compulsory figures.

When it was over George Cook, president of the club, thanked her over the public address system while annnouncing that the club was donating $100 to the U.S. Figure Skating Memorial Fund in her name. The fund was established more than a decade ago after an air crash over Belgium wiped out the entire U.S. Figure Skating team and took America out of top-flight figure skating competition for several years. He reminded his audience that the fund could use their support, too. Mrs. Cole gave Dorothy a lovely silk mantilla.

SHE'S SURROUNDED

The U.S. champion was surrounded for 20 minutes afterward by young girls seeking her autograph. Then she was led to a quiet locker room where the press interviewed her.

There she confided that she is looking forward to winning the Olympic title in 1976. As for the future beyond that point, she would someday like to be a skating instructor.

How does she learn all those tricks she does on the ice?

"There's no easy way. You just have to go through all the falls it takes to perfect them."

"There have been plenty of falls," interjected Mr. Hamill.

Mr. Cook was asked if Dorothy was anything special when she began skating at eight.

"Oh, sure. There was never any question about her. She had an innate sense of balance, a posture and a skating edge that you rarely see. There was never a question of talent."

Dorothy then threw an overcoat over her shoulders and walked out, smiling to everyone and leaving a wake of utterly beguiled people—young and old alike.

LITHUANIAN INDEPENDENCE

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. MADDEN. Mr. Speaker, on this past weekend, I was home in my district and attended a meeting and also a banquet of the people of Lithuanian descent who are not only observing and celebrating the 200th Anniversary of our free Nation but also commemorating the 58th Anniversary of their victorious fight for free government in their mother country and their release from the tyranny of a powerful neighbor nation.

The Lithuanian people of my district as well as all freedom loving Lithuanians in every section of the United States are to be commended for their outstanding examples of patriotism and Americanism that they always exhibit not only on our national holidays but on events that will show the world that their fight for freedom of their mother country will not be terminated until the yoke and shackles of the Communist tyranny will be overthrown in the homeland of their ancestors and fellow countrymen.

Mr. Speaker, I ask unanimous consent to include in my remarks a copy of the resolution which was passed at a gathering yesterday of the Lithuanian Americans in East Chicago.

The resolution follows:

RESOLUTION 1976

Whereas, Two Hundred Years ago in America, the good people of those Thirteen colonies solemnly published and declared,—"that these United Colonies are, and of Right, ought to be Free and Independent States; absolved from all allegiance to the British Crown, and that all political connection between them and the state of Great Britain, is and ought to be totally dissolved; and as Free and Independent States, shall have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and things which Independent States may have the right to do."

Wheras, February 16, 1976 marks the Fifty-eight Anniversary of the restoration of Independence to the more than seven hundred year-old Lithuanian State, which was won and protected by the blood sacrifices of the Lithuanian people during the Wars of Independence of 1919–1920, and duly recognized by the international community of States, and

Whereas, The Republic of Lithuania was forcibly occupied and illegally annexed by the Soviet Union in 1940, in violation of all existing treaties and principles of international law, and

Whereas, that subjection of peoples to alien domination and exploitation, constitutes a denial of the right to self determination and other fundamental human rights, it is conflict with the Charter of the United Nations, and contrary to the stipulations of the Helsinki Agreement; and also an impediment to the promotion of World Peace and Cooperation. And

Whereas, So many countries under foreign colonial domination, in recent times, have been given the opportunity to establish their own independent states, while Lithuania, which enjoyed the blessings of freedom for centuries, is now subjugated to the most brutal Communist oppression, and is nothing but a colony of the menacing Soviet empire.

Now therefore be it resolved, that the Lithuanian-American Council, of Lake County, Indiana, hereby makes demand that the Soviet Union withdraw its military forces, its administrative apparatus and imported Russian colonists, from Lithuania, and allow the people of Lithuania to govern themselves freely, and

Be it further resolved—that the immediate release of all Lithuanians who are political and religious prisoners be effected, including those who linger in concentration camps, or detained in psychiatric institutions, and

Be it further resolved—that the Soviet Union, in seeking a policy of détente with the United States, should be required to demonstrate its good faith and good will by restoring freedom and national independence to Lithuania and the other Baltic States, and

Be it further resolved—that we of the Lithuanian-American Council of Lake County, Indiana, hereby express our deep and grateful appreciation to the President of the United States, Gerald R. Ford, for his firm declaration of July 25, 1975, "that the United States will not recognize the incorporation of Lithuania into the Soviet Union;—and we are sincerely grateful to the U.S. House of Representatives for passage of a new resolution expressing their support for restoration of freedom to the Baltic States;—and we further express gratefulness of the Latvians, Estonians and Lithuanians to Americans of other ethnic backgrounds who support the cause of freedom espoused herein.

Finally be it resolved,—that upon passage of this resolution, copies shall be forwarded to the President of the United States, to the Secretary of State, to the United States Senators and Congressmen representing Indiana, and to the representatives of the news-media which normally serve the general community of Indiana for dispatchment of this action to all parts of the World.

THE LITHUANIAN-AMERICAN COUNCIL
OF LAKE COUNTY,
ALBERT G. VINICK, *President.*
BIRUTE VILUTIS, *Secretary.*

DON WOODWARD SPEAKS AT WHEAT GROWERS 26TH ANNUAL CONVENTION

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. ULLMAN. Mr. Speaker, the events of recent years have focused increasing attention on American agriculture and its importance to our economic and social well-being. The problems and prospects of a key segment of the industry were set forth recently in a speech by Don A. Woodward, Pendleton, Oreg., president of the National Association of Wheat Growers. I am certain his remarks will be of interest and use to my colleagues.

The speech follows:

TWENTY-SIXTH ANNUAL CONVENTION, BILLINGS, MONT., JANUARY 20, 1976

(By Don A. Woodward, President, National Association of Wheat Growers)

My fellow wheat growers and friends, welcome to the 26th Annual Convention of the National Association of Wheat Growers. On behalf of the membership, I would like to thank the various representatives of the state wheat commissions, Western Wheat Associates, and Great Plains Wheat for attending the meeting and sharing their thoughts with us. To the delegations of wheat producers from North Dakota and Minnesota, and other producers from nonmember states, we welcome you, and extend an invitation to you to participate fully in the convention and the discussions. Hopefully, next year, your states will be well on their way in organizing your own state associations and joining the National in a mutual effort in behalf of wheat growers everywhere.

I would also like to take a moment to welcome the wheat producers from Canada, France, and Australia to our meeting and the representatives from several importing countries who keep us all in business as customers for U.S. wheat. I hope all growers here will help honor our foreign visitors by attending the International Breakfast meeting on Tuesday morning.

Someone once said that it would be a cold day in January when farmers got together in agreement on anything.

Well, here we are in Billings, Montana. Before we leave this convention, I hope we'll be agreed on a great many things—and that we'll go forth from this annual meeting speaking with one strong voice for the most important food grain in the world: WHEAT.

The time has come for wheat growers to unite—to clearly state our goals, and then to push forward in cooperation with our friends and allies to transform our goals into realities.

It is your responsibility as individual

producers and members to establish the goals and objectives for the Association so that we have the right to speak with one strong voice for wheat. Through the democratic process you will set goals for the wheat industry at this meeting. It would be presumptuous of me to try to state these goals for you. But I would be amiss if I did not take this opportunity to share with you some suggestions and ideas that have come my way during the past year. Some have crystallized into conviction. All are worthy of your consideration, in my opinion.

There is no doubt that the overriding concern of wheat growers—indeed, of all farmers—is, who will control American agriculture Specifically, we are concerned with who will control the wheat industry.

This is a complex issue, and there are no easy answers, but we can draw parallels. Argentina is a prime example.

There is a nation whose people recognized and developed their agricultural resources to the point that Argentina became the South American Breadbasket by the 1930's. Performance faltered however, when the Government began to transfer resources from agriculture to other sectors of the economy.

This policy came with the Peron regime in the mid-40's and the strong development of trade unionism. This led to high taxes on agriculture, controlled exports and artifically low farm prices. The result was virtually a no-growth policy which actually brought declines in agricultural production that have only recently been rebuilt to 1930 levels.

We've seen similar political developments in our own system. This past year we experienced Government involvement in our markets to the point that a mockery was made out of earlier assurances of "unfettered exports".

One of the early and priority goals of this Association, in my opinion, must be to make certain that what has happened last year will never happen that way again.

As a first step, your Association contracted for an analysis of the legality and constitutionality of Government intrusions into the marketplace. The findings and recommendations of this study will be presented to you shortly by representatives from one of the largest and most prestigious law firms in Washington, D.C. I urge you to give deep consideration to the report and seriously weigh your future prospects in today's political environment if we acquiesce to Government manipulation of agriculture. I believe in a free marketing system and believe it is worth fighting for. You must decide the correct course of action.

I believe that wheat growers should also insist on an active role in decision making that affects agriculture. Administration officials at high levels are quoted as stating that food policy is too important to leave to USDA, and now they all want to be in the act. I also feel food policy is too important to leave to USDA. It is also too important to leave to a consortium of Government officials, agencies, bureaus and divisions, or what have you. We have made the investment in land, seed, fertilizer, and the numerous items that go into producing a crop—and all at a highly inflated cost. We have made the management decisions, we have taken all the risks, and own the wheat. We must have a strong voice in policy decisions effecting our vital industry. Together we shall have such a voice.

As individual producers making individual decisions, we must practice orderly marketing of our crop. It has worked and it is working. We tightened up our marketing practices at harvest and it worked. We balanced our sales through the year, and this has worked—and it would have worked even better if our Government hadn't tightened the spigot at export points. We restrained our end-of-year and our early-January sales and this has worked. We now must plan our sales the balance of the year and plan to carryover stocks not needed in the market. Price is the best indicator of market need, and no producer should sell his crop below the cost of his production plus a reasonable profit.

Orderly marketing is dependent on orderly production. Produce for the market not for a burdensome surplus that triggers low prices. If we can keep Government involvement at a minimum, I am willing to take an average market price based on sales throughout the year, but if the Government reduces my average price or your average prices by effecting prices on the top side, I want and I believe we should have price protection on the low side.

I also believe producers should ask for a meaningful loan level to assist orderly marketing and to help with the costs of carrying over food supplies for the market from one year to the next. Loan levels should not be at levels where they are used as price props or as incentives to produce for storage. Our future lies in producing for real market need.

If we are to be successful, we must create understanding and support among consumers. This year, I am glad to report, we have had a great deal of success. I think especially of the "Hot Line" and other projects of the Agriculture Council of America, which is helping consumers understand agriculture. NAWG was one of the founders of this organization, and many of our associations and commissions also support ACA directly. I would like to commend "Shug" Hatcher for his role in representing wheat producers on the Board of ACA. "Shug", as many of you know, is their newly elected Chairman. Your Association staff has also spent many hours assisting the ACA program and many individual producers have manned "Hot Lines", participated in press conferences and TV programs. Thank you, all.

By the way, don't miss seeing the three TV programs being shown by video tape in the lobby. The programs feature your spokesman on national broadcasts dealing with critical food issues. Also see the premier of the National Wheat Institute film directed to consumer-understanding of the importance of wheat exports to the nation.

I am proud of our Association, but I also recognize the growing demands upon our Association both in the areas of issues and finance. I am recommending to this convention that we support a special one-year comprehensive study of our organizational and financial structure. The study will be conducted by a committee of producers assisted by the staff and advisory committee from the agri-business community. I have asked agri-business for their support and have been notified by Cargill, FAR-MAR-CO, John Deere & Co., Extension Service, Farm Credit Administration, National Rural Electric Cooperative Association, and North Pacific Grain Growers of their willingness to provide key personnel and assistance as needed. I believe this is a workable approach to strengthen NAWG, and I will make it a priority this coming year, if adopted.

In conclusion, let me stress again that it is your responsibility as wheat producers and members to establish the goals and objectives for the Association. This provides NAWG the right to speak with One Strong Voice for Wheat.

THE SLOW, SORROWFUL DEATH OF GRATIOT AVENUE

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. NEDZI. Mr. Speaker, a large number of our cities are in decline. Some are dying. The outlook is bleak.

Day by day, our cities slowly decay before our eyes. Anyone who drives the five or six arterial roads into the downtown of Detroit, for example, can see and feel the sad, slow, ever-downward drift.

What the average Detroiter encounters as a daily, insistent fact seldom seems to be reported on TV's "happy news" news shows. Much of the print media also seems to operate on a different level of "reality."

Perhaps this is why a recent article by Pete Waldmeir, the Detroit News columnist, hit home with especially heavy impact. He wrote of "once-proud Gratiot Avenue," a main artery, which begins in downtown Detroit and proceeds out northeast to the city limits and beyond. For at least 5 of its 8 miles within the city it lies abandoned, destroyed, without hope. For 2 more miles it is distressed.

And Gratiot Avenue's troubles are no worse than the other once-famous arterial "spokes" of the city—Michigan, Grand River, Woodward, and Jefferson.

Why?

Crime. Above all, crime.

Detroit, like most of the country suffers from a heartbreaking lack of adequate jails and corrections facilities. Hundreds, thousands, of juvenile and adult offenders, many incorrigible, roam the streets. Ricidivism rates are very high. The dangerous are too often both uncorrected and undetained.

The natural instinct is to move out of harm's way, and this is being done, in Detroit as elsewhere.

Mr. Waldmeir tells what happened to his one-time neighborhood. Gratiot was once his street, and he still travels it, measuring instinctively the decay.

In his column, which is printed below, he captures the mood, not only for one city's avenue, but for the avenues of many cities. It is profoundly depressing.

Under leave to extend my remarks in the Record, the February 9, 1976, column from the Detroit News follows:

Once-Proud Gratiot Dying A Slow Death

(By Pete Waldmeir)

Gratiot Avenue sleeps like a derelict in a doorway.

It huddles with its gloveless hands between its knees, back arched against the bitter cold.

Its face is dirty, its beard ragged and unkempt, its hair matted and snarled with the dirt of three generations.

It is a sorry sight.

Gratiot was my street for many years. Even now, I drive it from Conner to midtown Detroit, sometimes twice a day, sometimes more, on my way to and from the office.

When you're on a street that often, it's like living with someone who has cancer and is dying a slow, withering death.

The same decay is evident on Grant River, Michigan, East Jefferson, Woodward—once-proud arteries through which the lifeblood of a civilization pumped day and night for a century.

But I mourn for Gratiot because it was my street.

There were the DSR car barns at Harper, where the trolley wires wove an intricate maze against the sky. The Roosevelt Theater named for a Depression hero.

The Cunningham Drug Store at the corner of Pennsylvania, where I sold newspapers on those cold, war-threatened Sunday mornings in 1943.

There was the hardware store at McClellan; the Mark Twain branch of the public library farther down toward town. And, still farther, the Sears-Roebuck store at Van Dyke.

UGLY SCARS ABOUND

Almost all of it is gone now. One by one, the stores have been abandoned, boarded up or torn down, ugly scars on the gray landscape.

Gratiot sleeps.

That hardware store has been bricked up. A motorcycle gang occupies the storefront next door.

The Mark Twain library fights the neighborhood's general dilapidation. It is a valiant but losing struggle.

We would trudge to the massive building with its great, high-ceilinged rooms and smoking fireplaces each Saturday morning in winter and huddle on the warm tile floors as the children's librarian read stories of adventure.

Now, for the librarian, walking to her car is a challenge and some of the things which happen inside the building and around it would never sell to a publisher because he wouldn't believe the stories.

A few months back, for instance, the last of the library's copper rain downspouts was stolen by scavengers who sell such things for scrap. The final blow was struck when a guard caught a man with a ladder at the back of the building, trying to steal the gutters from the roof in broad daylight.

EVEN SEARS DESERTED

Still, the library persists—an outpost in a hostile land which refuses to be overrun. Not so with the Sears store.

The workmen were there over the weekend, hammering plywood sheets over the windows, emptying the aisles of the last remaining merchandise.

Sears gave up. The company operated the store at Van Dyke in good years and bad. They blame high crime and flagging sales for making the operation too unprofitable for a responsible business to continue.

My emotions tell me that to quit is wrong; that Sears should have stayed and taken its lumps because there is a need for commitment in the areas of the city's most severe blight.

The people in the surrounding neighborhood are bitter and disappointed. Many of them are old and infirm, many more do not have the means to travel to suburban shopping centers.

They complain that they have been betrayed.

But business has deserted Gratiot for good reason. It simply has become too much of a risk to trade in that area any more.

There is more than dollars and cents involved. Lives are at stake. Customers and employes alike have been ripped off, beaten, raped. Incidents occur in daylight, in front of witnesses.

But it is the rare witness who ever "sees" anything.

The neighborhood which made a sleeping bum out of Gratiot Avenue is populated with honorable people. But they allow a small coterie of hoodlums to ruin their lives, drive away their services.

Someday, perhaps, they'll realize that they cannot live forever in fear and depravation. And the decent people will gather their nerve and make a stand and face down the riffraff.

Maybe then the sleeping derelict will awaken.

Maybe.

HISTORIC POLISH CONSTITUTION AND HUMAN RIGHTS ASSAILED BY COMMUNISTS

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. ANNUNZIO. Mr. Speaker, last December 5, a group of 59 prominent Polish intellectuals, in respose to plans announced by the Polish Communist Party to amend the historic Polish Constitution, published an appeal for constitutionally guaranteed civil liberties. Those signing the appeal included poets, economists, academic figures, and cultural personalties, and they demanded guarantees of freedom of conscience and religion, free trade unions, the right to strike, freedom of speech and information, and freedom to carry out scientific work.

This brave and courageous act should not go unnoticed by the Congress of the United States and it would also be a tragedy if this appeal were to be ignored by the people of the United States and of other democratic nations. Free people everywhere must remain vigilant in defense of freedom and speak out on behalf of those in the captive nations who are endangering their lives to regain the privileges of individual liberty for their nations.

Mr. Aloysius A. Mazewski, president of the Polish American Congress, has written to President Ford regarding this crucial issue, urging that the United States review "trade and loan programs with Poland and decide whether 'most favored status' should be retained or not, in the event the Polish Government pursues its intended action in negating the Declaration of Human Rights." He also urges the President "to have the State Department thoroughly review this impending development and render whatever assistance within the purview of our policy and the Helsinki agreement."

Mr. Mazewski's letter to President Ford follows:

Hon. GERALD R. FORD,
President of the United States,
The White House,
Washington, D.C.

Mr. President:

Poland appears to be headed for an open confrontation between its communist government and the majority of the people it rules by means of suppression of human rights and a monopoly of all mass media of communications.

A very significant event, which underscores the growing struggle of the people of Poland for human rights and civil liberties is a statement signed on December 5, 1975, by 59 Polish intellectuals demanding that the four basic freedoms:

Freedoms of faith and religious practice
Freedom of work
Freedom of speech and information
Freedom of scientific pursuits

be restored and guaranteed by the constitution.

The statement refers to plans, announced at the VII Congress of Polish United Workers Party a cryptonym for the Polish Communist Party to amend Poland's Constitution by officially sanctioning the leading role of the Polish United Workers Party in the political structure of Poland and assigning to it the supreme authority in the affairs of the state.

Such constitutional amendment would in effect invest the party with the attributes of government and legalize usurpation by the party of legislative, judicial, and administrative functions of government. This may be the first step toward assimilation of Poland and its people with Communist Russia completely, and in turn the annihilation of Poland.

The Intellectuals, signatories of the aforementioned appeal, boldly assert that these basic freedoms are non-existent in today's Poland. They warn that "Lack of respect for civil liberties may lead to the destruction of the nation's resourcefulness, breakup of social cohesiveness, to gradual loss of national awareness and thus an interruption of continuity of national tradition. This constitutes the threat to national existence."

"In absence of the freedom of speech, there can be no free development of national culture."

The statement goes on to condemn preventive censorship and state monopoly of all forms of mass media.

The Polish government has signed the Helsinki declaration, which confirmed the Universal Declaration of Human Rights, and the Polish government should comply with its terms and not flagrantly violate it.

Poland in the Soviet bloc, represents a most western and democratic oriented society, a veritable thorn in the fabric of Russian colonialism. It is inevitable then, that Russia demands the complete eradication of these vestiges of Poland's free spirit to assure complete subservience of its domination.

It is requested that our Department of State seriously review the declarations made by the 59 Polish Intellectuals who have signed this statement, knowing full well of the possible consequences to their safety as well as the proposed changes.

We should also review our trade and loan programs with Poland and decide whether the "most favored status" should be retained or not, in the event the Polish government pursues its intended action in negating the Declaration of Human Rights.

We whole-heartedly commend the 59 Polish Intellectuals and will support their declaration by all means that are available to us.

On behalf of the Polish American Congress we urge you, Mr. President, to have the State Department thoroughly review this impending development and render whatever assistance within the purview of our Policy and the Helsinki agreement.

Further, that the Administration and Congress inform both governments in Moscow and Warsaw of the negative effect of such developments on the future East-West cooperation and detente.

ALOYSIUS A. MAZEWSKI,
President.

PRESIDENT FORD'S BILL TO GUARD NATIONAL SECURITY INFORMATION PRAISED

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. McCLORY. Mr. Speaker, in the wake of unauthorized and damaging disclosures of secret information impinging on the national security and welfare of our Nation, it is highly appropriate that we should understand clearly and discuss fully and fairly the proposal of President Ford which a number of my colleagues and I introduced in this

Chamber last Thursday. This measure (H.R. 12006) has been both misunderstood and misrepresented by some who should have known better—but who failed to examine the legislation before uttering their public criticisms.

Mr. Speaker, today's Washington Post presents a fair and balanced analysis of this legislation which I call to the attention of my colleagues and which I hope will be followed by other thoughtful comments and analyses. The editorial follows:

[From the Washington Post, Feb. 23, 1976]

THE PRESIDENT'S SECRECY LEGISLATION

If you agree with Philip Agee, whose letter appears on this page today, you will find the reforms of the Central Intelligence Agency and the secrecy legislation proposed by President Ford wholly inadequate. Mr. Agee—and some others—believe the CIA is an organization whose agents and activities should be publicly identified and exposed because, in their view, its operations are wholly inimical to our true national interest. On the other hand, if you believe, as we do, that there is a place in this imperfect world for secret government activities—as long as they are properly directed and controlled—you may find the President's proposals a reasonable starting point. We have already expressed some views on those reorganization proposals. Today we intend to focus on the details of the President's secrecy legislation which is aimed—rather precisely—at people like Mr. Agee.

The secrecy legislation, as we understand it (it is printed on the opposite page so that you can judge for yourself how narrowly it is drawn) attempts to deter or discourage leaks of information relating only to the sources and methods of collecting foreign intelligence and the methods and techniques used to evaluate it. It is not a proposal to create an Official Secrets Act (which would punish anyone for revealing any government secrets) or, even, to protect the general run of secret intelligence information, as Mr. Ford seemed to suggest in his press conference. It is not, for example, directed at the content of foreign intelligence or information that relates to past or future government policies (except as the publication of a specific piece of intelligence might, by itself, reveal the method by which the information was obtained). Thus, it does not appear to cover such material as the nation's negotiating position on the SALT talks or most of the contents of the Pentagon Papers. It would cover, however, such information as the names of CIA officers and agents, the ways in which they gather information, and such techniques as the use of submarines for intelligence purposes. As fascinating as this kind of information is, it is information we think the government has a legitimate need and, as far as secret agents are concerned, a moral obligation to keep secret. The public identification of such an agent, as in the case of Richard Welch, not only destroys his effectiveness but also may endanger his life. This is a point which Mr. Agee disputes in his letter but which he seems to concede tacitly by suggesting that Mr. Welch should have come in from the cold once his cover was blown. In any case, in a democratic system there is a better way, we think, to work out one's antipathy toward CIA operatives, and that is for Congress to bring them home by outlawing their activities and/or refusing to vote the necessary funds.

In many ways, President Ford's proposal can be regarded as the modernization of a law that went on the books 25 years ago to protect the government's cryptographic and communication intelligence activities. That law made it a crime for anyone—in or out of the government—knowingly to communicate to unauthorized persons any information concerning codes, ciphers and methods of intercepting communications and analyzing them. Mr. Ford's proposal puts other ways of gathering intelligence on an equal footing with code-breaking and communications interception, but with some differences. The most important of these is that Mr. Ford does not propose to try to punish private citizens, such as journalists, who have no relationship with government, for revealing this kind of information; the old code statute does.

Once this much is said about the general thrust of Mr. Ford's secrecy legislation, some specific problems need to be recognized. One is that, while agencies like the CIA need to protect legitimate sources and methods, they should not be able to hide illegitimate secrets under so stringent a secrecy statute. Missing from the President's proposal is anything to make legal, indeed to encourage, low level personnel's revealing information concerning illegal or unauthorized activities, such as some of those undertaken by the CIA in the past. Congress should put such a provision into the statute and, to make it workable, spell out in more detail than does the new executive order, what the limits are to be on intelligence-gathering methods.

A second troublesome area that the proposed legislation does not address is the old bureaucratic trick of placing a small amount of highly classified material in a document made up mostly of unclassifiable but embarrassing information—and giving the whole package the highest classification. That can perhaps be best handled in terms of this statute by broadening the scope of judicial review of the legitimacy of the classification of the specific information that was or is about to be revealed. Similarly, Congress needs to broaden somewhat, and clarify, the part of this proposal that says revelation of information already in the public domain cannot be punished.

Unlike most other secrecy statutes that have been proposed in recent years or adopted in the past, the President's version, if modified as we have suggested, would balance reasonably well the conflicting needs for some secrecy and much freedom of information. It is sharply limited in the kind of information that can be kept secret and it avoids First Amendment problems by placing its barriers on those who chose in the first place to engage in secret work. There may come a time in the history of the world when distrust and aggression among nations diminish so much that the need for government secrecy will disappear. But that time is not yet. And until it arrives, the government can quite properly take stringent steps to protect at least the sources and methods by which it learns what is going on elsewhere in the world.

"BUBBLING BROWN SUGAR"

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. RANGEL. Mr. Speaker, I would like to share with my colleagues an enjoyable evening I recently had attending a performance of "Bubbling Brown Sugar," which just finished a successful run at the National Theatre.

It has been said by some individuals that our Nation's Bicetennial has no significance for the black community. But Media House Ltd.'s production of "Bubbling Brown Sugar" brings the Bicentennial to the very heart of the black community by recreating an era of black American history which is noted as a time of major cultural achievement in Harlem.

Since the Harlem rennaissance was indeed a rebirth of culture in this Nation's most famous black enclave, "Bubbling Brown Sugar" is the Bicentennial reincarnation of some of the very best in black entertainment.

I enthusiastically recommend "Bubbling Brown Sugar" to my colleagues and for a thought-provoking narrative of the era upon which this musical revue is based, I respectfully submit an article written by Howard Coffin which appeared in the National Theater magazine entitled "Those Days . . .". The full text of the article follows:

"THOSE DAYS . . ."

(By Howard A. Coffin)

"When you hear old folks reminscing about Harlem way back then, It kind of makes you wonder . . . If those days will come again."—From the song "Bubblin' Brown Sugar."

"Those days" are long gone, and they're no more likely to come again than 1776 or Harry Truman's presidency. But what with all those "old folks reminiscing"—and a lot of younger ones imagining—about Harlem "way back then," it was probably inevitable that someone would come up with a show built around the music and feeling of that place and time.

"Those days" were times of hard realities and even firmer romance—when integrated jazz bands lit up the marquees of Harlem as though there were no such things as "honkies". Elsewhere in the United States, racial barriers stood strong and impenetrable, but Harlem was another country—certainly whenever live music was played.

"Those days," white sophisticates plunged without fear into Harlem's blackness to pay homage to the music of Duke Ellington, Count Basie, Louis Armstrong, Jimmy Lunceford and other greats. Blacks and whites sat elbow-to-elbow in the smoky ambience of places like the Cotton Club, the Savoy and Connie's Inn—drawn there by the egaliarian magic of jazz and blues.

On a good night of club-hopping through Harlem, you could take in Billie Holiday, Ella Fitzgerald, Cab Calloway, Pearl Bailey, Hazel Scott, Billy Eckstein, Ethel Waters and dozens of extraordinary instrumentalists whose artistry transcended petty notions of race. And, oh, what music they created.

"Those days" composers wrote songs that lasted, wrote them as though they knew in their hearts that generations later would treasure them as "classics." Is there any other word for songs like *Sophisticated Lady, Honeysuckle Rose, Memories of You, Some of These Days,* and *It Don't Mean a Thing* (*If It Ain't Got that Swing*)*? Or Take the "A" Train, Stompin' at the Savoy and Sweet Georgia Brown?*

They emanated from the minds and souls of Harlem's great poets and musicians, black geniuses whose melodic gifts and turns of phrases raised popular music to legendary heights. Few of them ever achieved the wealth and recognition of the late Duke Ellington—only musicians themselves and a relative handful of afficionados immediately remember such names as Earl Hines, Noble Sissie, Eubie Blake, J. C. Johnson, Andy Razaf, Maceo Pinkard, Irving Mills and Billy Strayhorn—but their music has stayed with us for 30 years and more, too fine, too durable to die with its era.

Most new musicals these days are lucky if they contain two or three songs an audience can remember after they've left the theatre. *Bubblin' Brown Sugar* contains—with the exception of the title tune—*only* songs that people remember, not just for a few days but for generations. And all of them are by black composers. There are no fewer than two dozen of them in the score, including all the songs mentioned earlier.

Though music is the show's main ingredient, it does have a book, written by black playwright and cultural historian Loftten Mitchell. As choreographer Billy Wilson explains it, "the story is about some oldtimes, taking some young kids on a tour of Harlem to give them a sense of their heritage—that's the thread that all this wonderful music hangs on."

REVENUE SHARING: ON THE ROAD TO A MORE EFFICIENT FEDERAL SYSTEM

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. PRITCHARD. Mr. Speaker, the reenactment of general revenue sharing should be of the highest priority for this 2d session of the 94th Congress. One of my colleagues on the House Government Operations Committee shares this belief. In a recent speech before local government officials in Milwaukee, Wis., Representative BOB KASTEN stated:

> Revenue Sharing is the substance that fuels the Federal System.

Representative KASTEN correctly and articulately outlined the major issues confronting the reenactment. His remarks deserve consideration by his colleagues and the public.

The speech follows:

SPEECH BY HON. ROBERT W. KASTEN, JR.

Revenue sharing is the substance that fuels the Federal systems . . . makes it run smoothly (or less roughly, perhaps) and moves it along on the road toward an effective system.

Since its inception, some basic policy questions about the program have arisen. Answers to these questions will shape any action by Congress to extend or modify the revenue sharing program. I'd like to ask a few of these policy questions and try to answer them briefly.

Are general revenue sharing funds being used wisely and for the most essential needs of our citizens?

The answer is "Yes". Among a vast array of Federal programs, revenue sharing is a landmark.

Studies of the program across the country and in Wisconsin have shown that without revenue sharing funds to invest in the public's future, public service on the community level would have deteriorated, and taxes would have risen.

A General Accounting Office study of the program in Milwaukee concluded that the city had handled its funds well, and that the program had fulfilled its purpose. The study found no instance where services provided with revenue sharing funds benefited one segment of the population more than another.

Revenue sharing has enabled Milwaukee, and hundreds of other cities in the seven counties represented here today, to funnel funds into areas where city officials felt they were needed—fire protection, refuse collection, health and library services and school crossing guards.

Policy question number 2: Does the general revenue sharing program represent the best means of assisting state and local governments?

The answer is "yes".

GAO case studies of revenue sharing in 26 local governments concluded that the program is an effective and efficient way to return Federal funds to local and State governments . . . much more effective and efficient than categorical grant-in-aid programs, where Washington bureaucrats determine local policies and priorities and funding levels.

But while most people in Washington agree that the program has been successful, there are still some who worry that Washington doesn't have enough control over what State and local officials do with revenue sharing funds.

I'm going to fight that attitude in Washington. In fact, I'm going to work to remove all restrictions on how you spend Federal revenue sharing funds.

I am a firm believer in the concept that the closer a government unit is to the people, the more responsive, efficient and effective it is apt to be.

Wisconsin State and local officials are closer to the people. You are acutely aware of local problems and needs. You should be determining policies and priorities . . . not the bureaucrats in Washington:

While the answer to the question—does revenue sharing represent the best means in assisting State and local governments—is yes, it could be better.

I have proposed that we eliminate restrictions on the use of funds to what Washington has deemed "priority expenditures."

Such dictates undermine the whole purpose of revenue sharing—to allow state and local governments to decide, based on their superior familiarity with local conditions, how funds can best be spent to accomplish local goals.

Priority expenditure classifications have also created additional layers of bureaucratic red-tape here in Washington. They have increased administrative costs and caused unnecessary delays.

When Congress says, "we will send you back some money to take care of some local problems as you see fit," then that's exactly what it should do—no strings attached.

Policy question number 3: Many critics have asked, "Without any Federal oversight or controls, where are the safeguards to prevent misuse of Federal funds?"

While resisting Federal restraints on the use of funds, we must acknowledge a legitimate desire to see that revenue sharing funds continue to be spent wisely.

A provision of my bill would require that state and local governments give citizens the opportunity to comment on and be involved in the preparation of planned use reports.

Most communities in the ninth district already provide public forums through which citizens are given a chance to actively participate in setting priorities and allocating funds.

Policy question number 4: How far should the program be extended beyond 1976, and should it be funded by permanent appropriations or by regular annual appropriations?

The bill I have introduced will extend the program eleven and three fourths years. The new expiration date would be September 30, 1987. And appropriations would be permanent.

A lengthy extension will maximize the benefits of revenue sharing by allowing local governments to make their plans and establish their priorities with the knowledge that they can count on a smooth, continuous flow of revenue sharing funds.

Right now, you can't do that. With an expiration date of only ten months away, Congress's inaction has stopped the wheels of progress.

Long-range planning is something Washington doesn't seem to understand.

In recent testimony in Washington, author Alvin Toffler commented that "The American future is being stolen, dribbled and bumbled away by a government that does not plan for the long-range, does not know how to plan, and is afraid to talk about the need for long-range planning . . .

Our meeting here today shows that State and local governments are trying to plan, are trying to anticipate their needs for the future.

But Washington is still dribbling the ball. Its inaction on revenue sharing has left State and local governments dangling, unable to make long-range plans, unable to plan for the future.

We have been told that the House Subcommittee on Intergovernmental Relations will begin to mark up a bill February 23 to extend the program. By the end of March, the bill is expected to be before the full Government Operations Committee, of which I am a member.

While I am optimistic that the committee will report it to the House floor in a timely manner, I am reminded that Congress debated the usefulness of revenue sharing for nearly a decade before finally acting in 1972.

Fortunately, the success of the revenue sharing program insures a less timely debate.

I want to assure all of you here today that I will do everything that I can to speed the legislative process so that you can continue to progress in solving the problems of your communities.

America was only a few years old when Congressman Fisher Ames of Massachusetts made what turned out to be a prophetic statement about the way we govern ourselves.

He said a monarchy is like a great ship—"you ride with the wind and tide in safety and elation, but by and by you strike a reef and go down. Democracy is like a raft: You never sink, but damn it, your feet are always in the water."

It is true that revenue sharing is not a perfect system. Our feet are in the water now and then. There are problems and adjustments which must be made.

But the system is working, it is helping to improve our Federal system, and it deserves our continued enthusiastic support. It is one of the truly bright spots as we move into our third century.

Thank you.

THE NEED FOR A NEW JUDICIAL SYSTEM IN TAX CASES: REMARKS OF IRS CHIEF COUNSEL MEADE WHITAKER

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. VANIK. Mr. Speaker, at present, the taxpayer may use several different avenues in litigating a tax question—the Tax Court, the Court of Claims, the U.S. District Courts, and the appellate systems which rise above these courts.

The Chief Counsel of the IRS, the Hon. Meade Whitaker, delivered a very thoughtful analysis of our present tax justice system before the Tax Section of the American Bar Association last May 17. In his remarks, Mr. Whitaker pointed out many of the problems created by the present system. For example, he stated:

> Costs are further maximized by the wasted manpower involved in repeatedly relitigating the same issue in order to obtain a conflict, and thus a vehicle for Supreme Court review. And finally, as pointed out, the uncertainty as to the law severely handicaps the Service.

This creates inefficiency where none need exist.

I might add that this uncertainty can be as equally inefficient and unfair to the taxpayer as it is to the Service. It should be noted that smaller taxpayers who cannot forum shop are particularly discriminated against.

Mr. Whitaker goes on to discuss the possibilities of a national court of tax appeals and other reforms of the present, inadequate system.

While I find some of the proposals highly debatable, I would like to enter the full text of his remarks in the RECORD at this point. I would be very interested in receiving comments from members of the bar and others on his ideas, since it would be my hope that late this year or early in the 95th Congress the Ways and Means Oversight Subcommittee could commence studies and hearings on these suggestions:

[Reprinted from Tax Lawyer, Fall 1975]

BEFORE THE SECTION OF TAXATION SPRING MEETING, WASHINGTON, D.C.

(By the Honorable Meade Whitaker, Chief Counsel, Internal Revenue Service, May 17, 1975)

The atmosphere in Washington today encourages, if it does not mandate, a reexamination of many aspects of the tax system, both procedurally and substantively. Legislative enactments, Congressional inquiries and changes in the attitude on the part of the Executive Branch are exposing for public examination more of the operational detail of Government, including the Internal Revenue Service, than ever before. Congressional investigations, the current study by the Administrative Conference, and our own self-examination provide a current impetus for reexamination of tax administration procedures. It is to be expected, therefore, that the Office of Chief Counsel should use this opportunity for reexamination of tax litigation.

There are factors which make this reexamination imperative. In common with the Internal Revenue Service, the workload of Chief Counsel increases in relation to the number of taxpayers and the complexity of the tax system. Growth in Audit and Intelligence manpower correlates with growth in litigated cases. In addition, under the direction of Commissioner Alexander, the Internal Revenue Service is making greater demand than ever before on its lawyers for early advice in the development of civil and criminal cases, in the collection of delinquent taxes, and in personnel and labor relation matters. We are, however, constrained by the budget to operate at least through fiscal 1976 with relatively insignificant increases in manpower. We are logically looking for greater efficiency and greater effectiveness. A reexamination of tax litigation becomes, therefore, not a choice but a necessity. However, we in Chief Counsel have only limited power to effect changes in this area.

I propose, therefore, to share with you some thoughts about our system for the trial of tax cases and especially to urge a new examination by you as members of the tax bar of some of the positions taken by the Section in the past. I must emphasize that the thoughts I express are my own. They do not purport to be the positions of the Treasury Department, much less of the Administration. In the course of my remarks, I will touch on areas sensitive to both the Government and the Section. I speak to you today as a member of this Section with the knowledge that free and frank expression of views has always been an attribute of Section membership.

This subject is not new. Suggestions for changes in tax litigation structure have been debated for years. Extensive consideration was given in 1969, but that resulted in only one improvement, though a major one, in the change in status of the Tax Court to a constitutional court. That does not mean however, that further change is foreclosed. Study of and improvements in the court structure as it pertains to tax cases should be a continuing goal of this Section, of the Internal Reveune Service, and of the Congress.

Tax litigation has clearly a dual function. For most taxpayers, it is the ultimate resolution of differences of opinion with the tax administrator. This aspect of tax litigation is obviously of the utmost importance to any individual taxpayer-litigant and his counsel. Tax litigation also functions as an aid in the development of the tax law. This second function is of far greater significance to the Service and to the public. The system will continue to operate whether the Service or the taxpayer wins any particular case and irrespective or revenue loss or gain. But under a tax system which is based on the theoretical premise that the tax liability of every taxpayer is an ascertainable fact, determined in accordance with standards established by Congress, there must be a forum for testing the tax administrator's interpretations for the benefit of all taxpayers. I think it worthwhile, therefore, to question once again whether, and how well, our trifurcated system of tax litigation accomplishes this objective.

From the standpoint of the taxpayer whose sole concern is to win his tax dispute, the present system probably has more advantages than disadvantages. One of the advantages is forum shopping. The Tax Court, the district courts or the Court of Claims may be selected entirely within the discretion of the taxpayers. There are a number of reasons for choosing one court over another. Trial techniques and tactics in many instances can be tailored to fit the type of issue. the personality and situation of the taxpayer and of his counsel, and the strengths and weaknesses of both parties' positions. Differences in court procedures can thus be utilized to gain a significant advantage. As an obvious example, in the Tax Court the taxpayer can maximize his discovery and limit that of the Service. The availability of a jury as a fact finder may be a controlling factor in the taxpayer's choice. Especially under our present system, moreover, settlement opportunities vary with the forum as a result of participation by the Department of Justice in district court and Court of Claims cases and Chief Counsel attorneys in Tax Court cases. Furthermore, the taxpayer may select that forum where the trend of prior decisions seems most conducive to success. Finally, if delay is to the taxpayer's advantage, he can select a forum with a clogged docket.

Forum shopping, therefore, maximize the opportunities on the part of the taxpayer to win his case. From the standpoint of the Government, however, forum shopping has limited utilization. It does provide the opportunity to retry the same issue in another circuit in order to offset a bad decision. But this opportunity is not always available and at best is slow and cumbersome to achieve. These, then, are the advantages offered, principally to the taxpayer, by our trifurcated system of tax litigation.

Clearly, it has serious disadvantages. From the taxpayer's standpoint, there appear to be at least two. First, it is inequitable that an unsuccessful taxpayer in one circuit cannot take advantage of a subsequent favorable decision in another circuit. The system simply does not always treat similarly situated taxpayers in the same fashion either prospectively or retroactively. Second, all too frequently the taxpayer will find himself forced to relitigate what he thought was a settled issue because we in the Service concluded that an earlier decision is wrong. Sometimes court decisions are wrong; more often, litigants simply are unwilling to accept the adverse decision. But perhaps the major disadvantage remains the undue delay in obtaining a certainty in tax results, a plague upon all taxpayers as well as on the Government.

From the Service standpoint, there appear to be many disadvantages embodied in this trifurcated system. Stated simply, it maximizes the cost to the Government of tax litigation. In part this results from the division of responsibilities between the Department of Justice and my office, a division, I suggest, that represents almost the epitome of inefficiency. While my office and the Tax Division do not have a complete duplication of effort, every case tried in the district court or the Court of Claims does require two docket attorneys, one in my office and one in the Tax Division or in a U.S. Attorney's office (or both). There is a duality of supervision and review. But the most troublesome aspects lie in achieving uniformity in position. With Tax Court cases being tried by Chief Counsel attorneys in 38 different offices (including the National Office), uniformity is difficult enough. The problem is vastly multiplied where trial responsibility is also assigned to the Tax Division and U.S. Attorneys.

Costs are further maximized by the wasted manpower involved in repeatedly relitigating the same issue in order to obtain a conflict, and thus a vehicle for Supreme Court review. And finally, as pointed out, the uncertainty as to the law severely handicaps the Service. This creates inefficiency where none need exist.

There is a further disadvantage which is unique to the district courts. The Board of Tax Appeals was created in 1924 somewhat as an experiment. It was readily perceived that one of its important functions was to assist in the development of the tax law for the benefits of all taxpayers. The legislative history underlying the 1926 and 1928 Revenue Acts emphasizes the importance attributed to the explanation by the Board of Tax Appeals of the basis for its decisions, not for the benefit of the litigants in the particular case, but for the guidance of "taxpayers, accountants and lawyers engaged in tax work throughout the country." By way of contrast, the primary, in fact almost the sole, contribution of the district courts has been to decide a particular tax controversy. District courts are not required to issue opinions. All too often a decision is of no value as a precedent. Statistics reveal that Tax Court decisions are cited as authority three times for every cite to a district court tax case.

It is perhaps impossible to fully assess the Tax Court and district courts in terms of their respective contributions to federal tax law without focusing on the advantages and disadvantages of restricting tax cases to judicial specialists as opposed to "generalists." Few would argue, however, that use of district courts in federal tax litigation is justified by the fact that district court judges are generalists. Rather, district court jurisdiction is supported by arguments that in certain cases it is more expeditious, but this is certainly not uniform; that a jury is available, but that is of considerably less importance in civil than in criminal cases; and that it is a local court and therefore more accessible. It is true that district courts are clearly more accessible to taxpayers and in fact to Government lawyers in a decentralized system such as we have in the Office of Chief Counsel. Convenient access to the court by the trial attorney effects economies of time and manpower.

And what of the appellate court system? Is it really in the best interest of tax administration for appeals from the Tax Court and the District Courts to be decided by ten different circuit courts of appeals plus the Courts of Appeals for the District of Columbia? There is no way within this system to insure uniformity of treatment of taxpayers and prompt finality in the decision of tax issues except over a long span of years. As long as we have the present system, we will of necessity continue litigation in circuit after circuit until either we agree that we are wrong, the Solicitor General decides we are wrong, or the Supreme Court has had the final say. And subject to economics, taxpayers will do likewise.

While we normally try to adhere administratively to a two-circuit rule, neither the Commissioner nor myself, nor the two of us together, necessarily has the final decision as to whether or not to accept or appeal a decision by a court of appeals. I suggest that it is time to consider once more whether or not the cost and delay inherent in this system is in the interest of any of us. The anomaly of the tax treatment of a transaction being dependent on the residence of the taxpayer is ridiculous.

Let us look, therefore, to see whether there is some way to achieve the desired uniformity throughout the United States at the trial level and at the appellate level, without losing too many of the advantages of the present system. Leaving aside for a moment the Court of Claims, I readily agree that it is a waste of time to advocate ouster of jurisdiction in the district courts. We are not ready to turn the clock that far ahead. Neither is it necessary to deprive taxpayers of the convenience of trial in local courts by local judges and juries. In many cases fact finding by judges and juries familiar with local ways of doing business may be more effective than by tax specialists. There is much to be said for a fact finding forum in or near the residence of the taxpayer.

Except as a theoretical proposition, it makes little sense today for the district courts to be confined to refund cases and for the Tax Court to be confined to deficiency cases. There is, however, serious question whether or not it is in the interest of tax administration, either from our standpoint or that of the public, to go the route of full concurrent jurisdiction in this trifurcated system. There is every reason to believe that concurrent jurisdiction would seriously reduce the number of cases tried before the Tax Court with a concomitant increase in district court tax cases. Few refund suits would be filed in the Tax Court and thus the overall effect would be fewer Tax Court cases. Since, in the words of former Commissioner Thrower, "the preeminent value [of the Tax Court] has been in its development of the tax law," enlarging the jurisdiction of the district courts and of the Court of Claims and reducing the workload of the Tax Court would detract from the systematic development of the tax law. Concurrent jurisdiction is not the answer and I would strongly urge the Section to reconsider its position in this regard. However, I see no reason for excluding the Tax Court from refund suits. It is doubtful that this would add appreciably to the workload of that court. It does have the clear advantage of enabling the Tax Court to apply its tax expertise in this important facet of tax litigation.

If the best of all worlds were to have the tax law developed by court with recognized tax expertise, and yet preserve the real advantages of the district court system, I suggest for consideration two propositions:

(A) That district courts should be required by legislative mandate to follow as precedents decisions of the Tax Court, except in those instances where there is an outstanding appellate court decision otherwise binding on the particular district court, and

(B) In those cases where there is no Tax Court decisional authority, there should be a mandatory procedure for the certification of the substantive tax issue to the Tax Court for an advisory position.

I recognize that these changes in the system would not be a panacea. In many cases questions of fact merge into questions of law. Decisions of the Tax Court itself, even though it is a national court, are not universally consistent. Moreover, a certiorari procedure would cause delay in some cases, would add to the burden of the Tax Court and would tend to downgrade the stature of the district court in this area of its jurisdiction Those disadvantages, however, do not appear to outweigh the desirability of having the federal tax law interpreted by a single national court. Because decisions of the Tax Court are already accorded great weight, and have been since the *Dobson* case,[1] the formal recognition of the controlling effect of Tax Court decisions would not be monumental.

SECTION OF TAXATION

The right of either party or the district judge himself to use a certiorari procedure might be of even greater benefit. It would help to insure that the Tax Court would be the initial decision-maker in new tax issues. While it may be argued that this is a pro-Government philosophy, it is not. Our record in the Tax Court is not that good. In fact, often the Service does better in terms of percentage of deficiencies sustained in the district courts than in the Tax Court. This certiorari procedure is simply a way to achieve a greater degree of uniformity at the trial level without restricting jurisdiction of tax cases to the Tax Court alone.

There may be barriers that would have to be overcome in order for these two suggestions to be implemented. But I do not believe that any problems that may exist would be insurmountable. Legislation should be enacted to establish, in effect, a common law of federal taxation in the form of the opinions of the Tax Court. At the very least, Tax Court decisions should be accorded a presumption that they reflect the proper interpretation of the federal taxing provisions and therefore, absent unusual circumstances, should be followed by the district courts.

Several possibilities present themselves for achieving greater uniformity and more rapid determination of tax issues at the appellate level. A National Court of Tax Appeals is perhaps the most obvious.

There exists continuing differences of opinion as to the desirability of a specialist versus a generalist appellate court for tax cases. The Commission on Revision of the Federal Court Appellate System has focused on this issue and has concluded against the specialized appellate court. That conclusion has been concurred in by this Section as recently as last month. The Commission in its preliminary report[2] has suggested the following as controlling disadvantages:

(A) A National Court would delete or eliminate regional influence;

(B) The breadth of experience of the specialized judges would be narrow;

(C) There would be less incentive to write thorough opinions;

(D) There would be a tendency for the judges to substitute their own policy views for impartial analysis of the law.

Experience with the Tax Court appears to demonstrate the fallacy of these arguments. And I suspect that a major factor in the opposition of tax practitioners is the unwillingness to accept as the final disposition of an issue the decision of a single appellate court.

I recognize that the creation of a new type of appellate court might be difficult to achieve legislatively, especially if the Commission and the practitioners adhere to their opposition. However, if the pattern suggested for the proposed National Court of Appeals were followed, that is, that the judges have prior appellate court experience and that they serve for fixed terms, the most compelling argument against a single purpose appellate court would be eliminated. That system would, however, present geographic problems, either travel time and expense for taxpayers or circuit riding for the court. My preference, and Don Alexander's, is for a National Court of Tax Appeals. But are there any alternatives?

A one-circuit rule might be created by statute. The first circuit court to decide a tax issue could establish the law on that point, binding on all other courts, subject only to certiorari to the Supreme Court (or to reversal by the Congress). Were this the only alternative to the present cumbersome process of appellate determination, I would support it. I do not believe we can or should continue to afford the cost and delay of the present system. But perhaps a more reasonable approach would be to accord to the first court of appeals decision something like a conclusive result only in certain circumstances. For example, an appellate decision affirming or following a Tax Court decision might be conclusive but a reversal of a Tax Court decision might be conclusive only if the decision is thereafter accepted by the Tax Court (either on reconsideration in the same case or in the next case involving the same issue).

Another alternative might be a two-circuit rule which would be quite satisfactory when the circuits agreed or when the Supreme Court granted certiorari to resolve the conflict. Where the circuits agreed, all courts would be required to follow the precedent unless and until reversed by the Supreme Court or the proposed National Court of Appeals. The proposed creation of a National Court of Appeals probably would resolve more inconsistent appellate tax decisions than at present. But a better solution would be an appeal of right, rather than certiorari, to the National Court of Appeals to resolve a conflict between the Tax Court and an appellate court, or in a two-circuit rule to resolve a conflict between circuits.

I have so far said little of the Court of Claims. I suggest that its jurisdiction in tax cases is unnecessary and probably undesirable. This conclusion leads me to a third alternative for change in appellate tax jurisdiction, As an alternative to a National Court of Tax Appeals, and as probably a better choice than a one-circuit or a two-circuit rule, the Court of Claims' original jurisdiction in tax cases could be replaced with appellate jurisdiction—hearing appeals from the Tax Court as well as the district courts. The judges on the Court of Claims to a large extent function in an appellate capacity under their present rules, and thus a similar role in tax cases would not be that much of a substantive change. Under this proposal, the courts of appeals would lose their appellate tax jurisdiction. In effect the Court of Caims would become a National Court of Tax Appeals but at the same time it would retain its jurisdiction over non-tax cases.

There are disadvantages to any type of centralized appellate court such as here proposed. An undue burden of responsibility would be placed on the taxpayer with a new issue, but greater freedom to intervene and to file amicus briefs would serve in part to offset that. Also, there should be clear recognition of the right of either the Government or a taxpayer to take up through the system a new test case, at least when neither the Supreme Court nor the proposed National Court of Appeals had reviewed the issue.

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[1] Dobson v. Comm'r, 320 U.S. 489 (1943), *rehearing denied*, 321 U.S. 231 (1944).

[2] U.S. Comm'n on Revision of the Federal Court Appellate System, Structure and Internal procedures; recommendations for change: A preliminary report (Comm'n Print 1975).

There might well be efforts by various taxpayers and by the Government to be the first to get to the appellate tribunal in order to be the first to be heard on a new issue. That is not all bad and its dangers could be and should be offset by consolidating appeals and scheduling cases so as to await, if necessary, oncoming appeals which should be heard together. These questions are not unique.

I strongly support a two-circuit rule simply as a matter of administrative restraint. But being the lawyer and not the client, I feel that the Chief Counsel has an obligation to defer to the views of the Commissioner where he feels continued litigation is essential. Taxpayers, of course, exercise no such restraint. Therefore, administrative restraint is not the answer.

Generally, I think tax administration is better served by an early end to litigation, leaving to the Congress the final decision as to whether or not the law as interpreted by the courts is correct. That, however, presupposes that the positions taken by lawyers on both sides in tax litigation effectively present the tax issues fully and completely in each case that is tried. It mandates a strong influence by the client—the Service—in the trial process, especially on appeal, an objective which I favor but which is often difficult to achieve under our present division of responsibility within Government.

To the extent that it is sound to recognize a dichotomy between fact finding and the interpretation of tax law, should the Tax Court take another look at its procedures? It is inevitable that the number of tax cases will continue to increase in all courts, including the Tax Court. Its new jurisdiction in declaratory judgments is an additional workload. And there is the hope, and perhaps the probability, of declaratory jurisdiction in exempt organization determinations. The backlog of cases can only be kept manageable by increasing the number of Tax Court judges or in some fashion increasing their decisional capacity. A look at history suggests the answer.

In the hearings on the 1928 Act, the then Committee on Federal Taxation of the Amercan Bar Association recommended to the Congress that the Board of Tax Appeals in its discretion be authorized to use special masters in particular cases "for the taking of testimony and reporting of findings thereon for consideration of the Board." We also have the procedures of the Court of Claims as an example. I suggest that you join me in urging upon the Tax Court consideration of a more formalized system for the use of Commissioners to make findings of fact in tax cases except where the facts are fully stipulated. This past week, this Section's representatives to the Tax Court Judicial Conference urged upon the court greater use of the pretrial procedure. I share that view but with the modification that pretrials be handled by Commissioners in most cases and be used as vehicles both for the delineation of the legal issues and the making of proposed findings of fact, to the extent that we and taxpayer's counsel are unable to stipulate fully. If this process were accomplished in advance of calling of cases for trial, disputes as to proposed findings of fact would be decided by the Tax Court judge, with opportunity for oral argument on the application of the law to the facts as found. And great improvement in convenience to all concerned would be achieved by the appointment of regional officers for the Commissioners, who then would be available to hear motions and to hold pretrials more frequently and with less expense to all parties.

Were these suggestions, or anything like them to be adopted, would any change in the division of responsibility between the Department of Justice and Chief Counsel be necessary or desirable? There is not much to justify the present system except history and the fear that in any change someone may lose prestige or position.

Prior to the Revenue Act of 1926, legal services were provided to the Commissioner by a Solicitor of Internal Revenue under the Department of Justice, and it is perhaps largely if not entirely the origin of the Board of Tax Appeals as an administrative tribunal which now permits the Commissioner to have his own law firm try a majority of tax cases.

Unquestionably, the Chief Counsel must have a satisfactory working relationship with the Commissioner, and his job is so specialized and of such magnitude that it must, for all practical purposes, be independent of all but cursory supervision. Probably this is also true with the several Assistant Attorneys General. Certainly the relationships of the Treasury General Counsel to the functioning of the Office of Chief Counsel is and must be perfunctory. Moreover, the attorneys for the Internal Revenue Service must be full time in that responsibility and closely identified with the Service. I feel very strongly that the Service lawyers must recognize the Service as their client, with all the prerogatives of a client except that neither one of us can fire the other. Whether or not that relationship would be any different if the Chief Counsel were an Assistant Attorney General instead of an Assistant General Counsel of Treasury is problematical, assuming that the individual were selected in substantially the present fashion and with the same independence. There is, however, considerable advantage in both the Commissioner and the Chief Counsel being responsible to the same Cabinet officer. That suggests the need for the present allegiance to the Treasury Department. It is seriously questionable whether dual responsibility, at least at the trial stage, should be continued.

In civil cases, I suggest it makes no sense to continue the division of responsibility. Its elimination would save substantial manpower. In criminal tax cases, there are other considerations, especially in matters relating to organized crime. Appellate litigation presents somewhat different considerations. If my initial premise is sound, that one office should try all tax cases, criminal cases and appellate responsibility should certainly be reviewed, but one would not necessarily reach the same decision for either one.

The analysis should be made, but it must be made with the clear understanding that the question should not be which office has the best present capability. The trial of tax litigation for the Government is too important to be decided on the basis of personalities, present incumbents, interdepartmental rivalries or the precedent of a 1934 delegation of authority.

I am sure most people agree with this conclusion. Differences could lie only as to which Department should end up with the responsibility. The only excuse for not facing up to the issue is the difficulty of the decision, not from a theoretical standpoint, but purely on the basis of practicalities.

Quoting again from former Commissioner Thrower,

"We are concerned with the total tax system and feel compelled to evaluate any proposed changes in our court structure by the standard of what is best for all taxpayers. This must be distinguished from a determination of what may be preferred by those directly involved in litigation, consisting of the courts, the Commissioner, the Chief Counsel and the Tax Division of the Department of Justice, and the taxpayers and their counsel."

These then, are a few thoughts that I believe would serve to improve our entire tax litigation system. I have others, some of which are within my authority to implement. What can be done to improve tax litigation within the Office of the Chief Counsel will be done. Beyond that, I would hope that some of the proposals that I have offered to you today—if not in specifics then in spirit—could be implemented in the near future. We may disagree on particulars, but we must not disagree that now is the time for affirmative change—both administratively and judicially—in our antiquated mechanisms for resolving tax disputes in litigation.

WE ARE NOT BLOWING AWAY

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 23, 1976

Mr. SEBELIUS. Mr. Speaker, for several weeks now, quite a number of my colleagues have been making thoughtful and concerned inquiries about the weather problems we are experiencing in western Kansas and the High Plains.

I am both pleased and gratified that so many folks are concerned about our welfare. Now that we are "blowing away," the national media has finally discovered us. However, I wish to point out that, in fact, we are really not blowing away, way out there. In fact, our farmer's conservation practices over the years have prevented any return to the dust bowl days of the 1930's.

To be sure, we are experiencing severe drought. Many farmers have lost this year's wheat crop. However, the coverage by the national media would tend to make one think we have returned to the "dirty thirties." The real news is that the farmer has a remarkable ability to overcome great difficulty. If we can provide assistance in terms of appropriations for disaster loans, as opposed to interference in terms of embargoing grain, the farmer will take his chances with Mother Nature.

So that my colleagues do not think we are in danger of repeating the trip taken by Dorothy in the Land of Oz, I commend to their attention the following editorial written by Fred Brooks, editor of the Garden City Telegram—way out there:

We Are Not Blowing Away

No, America, Kansas is not blowing away.

But we fear that is the distorted picture they may be getting back in the concrete canyons of New York and other megalopolises because of all the television coverage about our drouth and wheat losses.

(What really prompted this piece was the remark passed on by our photographer after a long distance conversation with a representative of a national magazine in New York. The New Yorker had the distinct impression dust bowl days had returned.)

That's disturbing. The picture is way out of focus. Too many Americans have a narrow view of Kansas anyway. The tornado that lifted Dorothy into the Land of Oz is the rule, rather than the exception. The wind blows constantly and farmers stand around picking their teeth with wheat straw. That's a stereotype that is hard to erase.

So it is inevitable when the national media focuses on wind erosion and crop damage, that those with tunnel vision about Kansas conjure up pictures of the dirty 30s, the dust bowl, tattered children and grim farmers in patched overalls, dirt piled against shanties, barren fields and general hopelessness.

It is nothing like that, and never will be again unless we run out of water.

Conditions are not the same. Conservation practices, such as stubble mulching, have cut losses from wind erosion. Sprinkler irrigation, a development of the past decade, provides moisture when Mother Nature fails and keeps the ground in place. Irrigation has also brought crop diversity with corn and milo acreage increasing by the year. (In Finney County alone there are more than 600 center-pivot sprinklers.)

Doomsday journalism, which focuses on adversity, ignores the general well-being and quality of life in this area. Some balance to the reporting would help educate viewers who are used to seeing only our bad side. For example, we would like the cameras to show our $6 million hospital addition, the new clinic being built for 10 physicians, the radiation therapy center, the many recreation and cultural activities.

And we'd like to hear the TV commentators talking about the air that is clean 98 percent of the time, the lack of crime and the streets that are safe to walk alone at night. We'd like them to mention the influx of young professional people in the past few years—the lawyers, doctors, dentists, accountants, architects and business executives who used to turn up their noses to life in small rural communities. They now find the best of both worlds here.

This is a side of western Kansas that few people outside the Sunflower State know about. But, of course, that's the good news, and the bad travels farther and faster.

All of this is not to discount the seriousness of the drouth and wind damage to wheat. The crop is in trouble, much wheat has been lost and some farmers have been hurt. On top of that, the cattle market is in a slump. Some businesses are feeling the effects worse than others. This could have a domino effect on the economy, which has been a pocket of prosperity.

But we are not blowing away and comparisons with the dust bowl days are ludicrous.

HOUSE OF REPRESENTATIVES—*Tuesday, February 24, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord is the strength of my life.—Psalms 27: 1.

Almighty God, our heavenly Father, who art the Creator of our lives and the Companion of our way, to Thee we come at the beginning of a new day. Early in the morning Thou dost greet us with Thy loving kindness, at noontime Thou dost steady us with Thy spirit, and when the evening comes Thou art our refuge and our strength. May the consciousness of Thy presence support us all the day long.

Bless us now as we set out upon the work of these hours. Help us to make wise decisions in a good manner and to carry our responsibilities steadily with high hopes for better times. Deepen our faith, widen our sympathies, heighten our aspirations, and give us strength to do what we ought to do for our country.

In the mood of the Master, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 2117. An act to amend section 5202 of title 10, United States Code, relating to the detail, pay, and succession to duties of the Assistant Commandant of the Marine Corps.

The message also announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 905. An act for the relief of Eva Graciela Steinitz, and

S.J. Res. 35. Joint resolution to provide for the designation of the second full calendar week in March 1976 as "National Employ the Older Worker Week."

PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS TO FILE REPORT ON H.R. 11963, INTERNATIONAL SECURITY ASSISTANCE ACT FOR FISCAL YEAR 1976

Mr. MORGAN. Mr. Speaker, I ask unanimous consent that the Committee on International Relations may have until midnight tonight to file a report on the bill (H.R. 11963) to authorize appropriations for the International Security Assistance Act for fiscal year 1976.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. COHEN. Mr. Speaker, reserving the right to object, could I inquire of the gentleman from Pennsylvania whether the filing of the report was cleared with the minority?

The SPEAKER. Has the gentleman's request been cleared with the minority?

Mr. MORGAN. Yes, it has, Mr. Speaker.

Mr. COHEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONFERENCE REPORT ON S. 2017, DRUG ABUSE OFFICE AND TREATMENT ACT AMENDMENTS OF 1976

Mr. STAGGERS filed the following conference report and statement on the Senate bill (S. 2017) to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 94-839)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2017) to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes, having met, after full and free conference, have been unable to agree.

Harley O. Staggers,
Paul G. Rogers,
David E. Satterfield,
Richardson Preyer,
J. W. Symington,
T. L. Carter,
James T. Broyhill,
Managers on the Part of the House.

W. D. Hathaway,
Harrison A. Williams, Jr.,
Jennings Randolph,
Edward M. Kennedy,
W. F. Mondale,
Alan Cranston,
Gaylord Nelson,
Abe Ribicoff,
Edmund S. Muskie,
Sam Nunn,
Jacob K. Javits,
Charles Percy,
Richard S. Schweiker,
J. Glenn Beall, Jr.,
Paul Laxalt,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2017) to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes, report that the conferees have been unable to agree.

The Senate bill and the House amendment contained an extension (with changes) of the Special Action Office for Drug Abuse Prevention established by title II of the Drug Abuse Office and Treatment Act of 1972. Under the Senate bill the Special Action Office for Drug Abuse Prevention was extended through December 31, 1975, and under the House amendment the Office was extended through June 30, 1976. The managers on the part of the House and the Senate have determined that the Office should be extended through fiscal year 1978, but such an extension is beyond the authority of the managers. Additionally, in accordance with section 104 of such Act, such Office and title were repealed effective June 30, 1975. Thus, to now extend that Office requires the reenactment of such title II—an action which is beyond the authority of the managers on the part of the House and the Senate.

The Senate bill and the House amendment also contain amendments to other titles of the Drug Abuse Office and Treatment Act of 1972. However, since such amendments were combined with the extension of the Office into a single amendment of the House and consequently may not be separated from the extension of the Office, the managers report the House amendment in technical disagreement. The managers on the part of the Senate will offer a motion to agree to the House amendment with an amendment which will provide for the following:

OFFICE OF DRUG ABUSE POLICY

The Senate bill authorized the continuation of the Special Action Office for Drug Abuse Policy until January 1, 1976, and authorizes the appropriation of such sums as may be necessary for the continuation of its functions.

The House amendment redesignated the Special Action Office the Office of Drug Abuse Policy, reduced the personnel of that Office, provided specific authorizations of $3 million for the administration of that Office, provided that the Director of that Office shall hold no office in any other department or agency of the United States, and provided for the termination of that Office and the transfer of its functions to the National Institute on Drug Abuse after June 30, 1976.

The Senate amendment will authorize a scaled-down Office of Drug Abuse Policy in the Office of the President, headed by a Director appointed with the advice and consent of the Senate. The Director will be authorized to make recommendations to the President with respect to policies for, objectives of, and establishment of priorities for, Federal drug abuse functions and make recommendations for the coordination of the performance of such functions by Federal departments and agencies. Funding for the Office is authorized at a rate of $2 million per year.

ESTABLISHMENT OF A SPECIAL FUND

The House amendment established a special fund for the use of the Director of the Office of Drug Abuse Policy for the purpose of providing additional incentives to Federal departments and agencies and other public entities (after review by health systems agencies) for the development and demonstration of more effective drug abuse prevention functions, with an authorization of $7 million for the fiscal year ending June 30, 1976.

The Senate bill extended until January 1, 1976, the special fund previously authorized under section 223 of the Drug Abuse Office and Treatment Act of 1972, with substantially similar purposes, and authorized such sums as may be necessary for its continuation.

Under the Senate amendment no additional special fund will be provided for the new Office.

TECHNICAL ASSISTANCE

The House amendment gave the Director of the Office of Drug Abuse Policy the responsibility to coordinate or assure coordination of Federal drug abuse prevention functions with such functions of State and local government. The House amendment transferred to NIDA the responsibility to provide technical assistance to State and local agencies.

The Senate bill authorized the continuation until January 1, 1976 of section 229 of the Drug Abuse Office and Treatment Act of 1972, which gives responsibility for both functions to the Special Action Office.

The Senate amendment will contain the House provision regarding transfer of State and local technical assistance programs to NIDA, with an amendment incorporating into that provision the language in Sec. 14 (a)(1) of the House amendment concerning coordination between Federal, State and local governments.

RESEARCH AND DEVELOPMENT

The Senate bill transferred from the Special Action Office to the National Institute on Drug Abuse responsibility for the encouragement of certain research and development and adds "less addictive" replacements for opium and its derivatives to the list of priority areas for research.

The House amendment adopted the same policy with technical language differences, and also provided a specific authorization of $7 million per year through fiscal year 1978 for this section.

The Senate amendment will contain the House amendment with a technical amendment.

NATIONAL ADVISORY COUNCIL

The House amendment repealed the National Advisory Council on Drug Abuse and merged its functions with the National Advisory Council for Drug Abuse Prevention, expanding the membership of the latter to include at least two former drug addicts or abusers.

The Senate bill made no change in the law, except to extend the life of the National Advisory Council for Drug Abuse Prevention until January 1, 1976.

The Senate amendment is the same as the Senate bill.

DISCRIMINATION IN ADMISSIONS AND TREATMENT

The Senate bill bars hospitals receiving Federal funds from discriminating in admissions and treatment against persons who are dependent on or abusers of drugs.

The House amendment adopts the same policy, but conforms the language to the comparable section of the Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act, including a directive to the Administrator of Veterans Affairs to prescribe such regulations for veterans health care facilities.

The Senate amendment is the same as the House amendment.

METHODOLOGY

The Senate bill required the Secretary of Health, Education and Welfare to establish a methodology to assess and determine the incidence and prevalence of drug abuse in determining the need for more effective conduct of drug abuse prevention functions under the formula for State allotments. The Senate bill also permitted the Secretary to authorize a State to use a portion of its allotment to conduct a study of such a methodology.

The House amendment required the Secretary to propose and promulgate rules setting forth the formula to be used.

The Senate amendment combines both provisions.

NEEDS SURVEY

The Senate bill made a technical change in the requirement that States survey their drug abuse prevention needs and plan for the development and distribution of facilities.

The House amendment contained and the Senate amendment contains no comparable provision.

SUB-STATE PLANNING

The Senate bill required that States establish a system of sub-State planning to provide information regarding existing and projected needs and resources.

The House amendment contained and the Senate amendment contains no comparable provisions.

Conference Agreement: The Senate recedes, in light of the compromise under the health systems agencies provisions.

PERFORMANCE STANDARDS

The Senate bill required States to provide reasonable assurances that projects or programs have proposed performance standards or research protocols to measure their own effectiveness.

The House amendment contained no comparable provision.

The Senate amendment will require States to provide reasonable assurances that treatment or rehabilitation projects or programs supported by funds made available under this section have provided to the State agency a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such treatment or rehabilitation programs or projects.

HSA REVIEW

The House amendment required that each application for a grant under sections 409 and 410 be subject to review by health systems agencies established pursuant to section 1513(e) of the Public Health Service Act.

The Senate bill contained no comparable provision.

The Senate amendment will amend the Public Health Service Act by inserting in section 1513(e)(1)(A)(i) of that Act a direct reference to sections 409 and 410 of the Drug Abuse Office and Treatment Act. In addition, section 1512(b)(3)(C)(ii) and 1531 (3)(A) will be amended to add a reference to "substance abuse treatment facilities" in the parentheses modifying "health care institutions" in both places. It is intended that health systems agencies take into account the non-medical aspects of substance abuse treatment programs including, but not limited to, the use of non-medical treatment models, the need to coordinate with agencies of law enforcement and education as well as of health, and the need to consider new or experimental approaches.

STATE PLANS

The House amendment required each State plan to pertain to the 12-month period beginning October 1 of each calendar year, to be submitted by the preceding July 15, and to be reviewed by the Secretary not later than September 15 or 60 days after receipt by the Secretary, whichever is later.

The Senate bill contained no comparable provision.

The Senate amendment will contain the House amendment.

SPECIFICATION OF SUPPLEMENTAL FUNDS

The House amendment required each State plan to specify sources of funds which will be used to supplement funds received under this section for drug abuse prevention functions.

The Senate bill contained and the Senate amendment will contain no comparable provision.

CERTIFICATION, CREDENTIALING, AND TRAINING

The House amendment required States to provide methods for the certification, credentialing, and training of professional and paraprofessionals.

The Senate bill contained and the Senate amendment will contain no comparable provision.

ALLOCATION OF FUNDS

The House amendment required States to establish procedures for the allocation of all funds received for drug abuse prevention function, non-Federal as well as Federal.

The Senate bill contains and the Senate amendment will contain no comparable provision.

INCLUSION OF ALCOHOLISM AND MENTAL HEALTH

The House amendment permits States plans submitted after January 1, 1976, to include provisions relating to alcoholism or mental health.

The Senate bill contains and the Senate amendment will contain no comparable provision.

PRIMARY PREVENTION

The Senate bill required the Secretary to accord high priority to primary prevention in implementing his special project grant authority.

The House amendment adopted the same policy, and in addition defined a primary prevention program as a program designed to discourage persons from beginning drug abuse.

Under the Senate amendment a primary prevention program includes programs designed to discourage persons from beginning drug abuse.

STANDARDS FOR EFFECTIVENESS

The Senate bill requires and the Senate amendment will require each applicant for a treatment or rehabilitation grant under the special projects authority to propose performance standards or research protocols to measure their own effectiveness.

The House amendment contained no comparable provision.

ALLOCATION OF FUNDS

The House amendment required State agencies reviewing applications for special project grants and contracts to take into account the allocation of funds under the State formula grant section of this act.

The Senate bill contains and the Senate amendment will contain no comparable provision.

STATISTICAL RECORDS

The House amendment required that any system of records maintained by NIDA containing information about patients (other than patients directly receiving clinical services from the Institute) be maintained and used solely as statistical records.

The Senate bill contained and the Senate amendment will contain no comparable provision.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID E. SATTERFIELD,
RICHARDSON PREYER,
J. W. SYMINGTON,
T. L. CARTER,
JAMES T. BROYHILL,
Managers on the Part of the House.

W. D. HATHAWAY,
HARRISON A. WILLIAMS, Jr.,
JENNINGS RANDOLPH,
EDWARD M. KENNEDY,
W. F. MONDALE,
ALAN CRANSTON,
GAYLORD NELSON,
ABE RIBICOFF,
EDMUND S. MUSKIE,
SAM NUNN,
JACOB K. JAVITS,
CHARLES PERCY,
RICHARD S. SCHWEIKER,
J. GLENN BEALL, Jr.,
PAUL LAXALT,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, WEDNESDAY, FEBRUARY 25, 1976, TO FILE REPORT ON H.R. 11700

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight, Wednesday, February 25, 1976, to file a report on the bill (H.R. 11700) relating to the application of certain provisions of the Internal Revenue Code of 1954 to specify transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions, along with any separate or minority views.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *February 23, 1976.*

Hon. CARL ALBERT,
The Speaker,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 3:58 P.M. on Monday, February 23, 1976, and said to contain a message from the President concerning the Financial Assistance for Community Services Act being submitted by the Secretary of Health, Education, and Welfare.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

CALL OF THE HOUSE

Mr. HAGEDORN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 66]

Abzug
Ambro
Andrews, N.C.
Aspin
Badillo
Barrett
Bell
Bolling
Bonker
Breckinridge
Brodhead
Cederberg
Chisholm
Cleveland
Collins, Ill.
Conlan
Conyers
Crane
Diggs
Dingell
Downing, Va.
Drinan
Edwards, Calif.
Erlenborn
Esch
Ford, Mich.
Ford, Tenn.
Green
Harsha
Hayes, Ind.
Hébert
Heckler, Mass.
Heinz
Helstoski
Henderson
Hinshaw
Howard
Hughes
Karth
Kastenmeier
Landrum
Lent
McDonald
Macdonald
Metcalfe
Mikva
Mink
Moakley
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Nix
Patman, Tex.
Reuss
Rosenthal
Satterfield
Scheuer
Shuster
Spellman
Stuckey
Udall
Van Deerlin
Vander Jagt
Walsh

The SPEAKER. On this rollcall 368 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PROPOSED FINANCIAL ASSISTANCE FOR COMMUNITY SERVICES ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–381)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

Today the Secretary of the Department of Health, Education and Welfare is transmitting my proposed Financial Assistance for Community Services Act to the Congress.

This proposal is in keeping with my philosophy of reducing unnecessary and burdensome Federal restrictions while increasing State and local flexibility and responsibility in the administration of social programs.

This reform proposal will improve and strengthen the program of social services established under Title XX of the Social Security Act. It will provide a $2.5 billion block grant annually to the States on a population basis. It will eliminate the requirement for State matching funds, as well as most Federal requirements and prohibitions on the use of Federal funds.

These changes are an important step toward an improved Federal-State relationship in the social services field. Enactment of Title XX in January, 1975, was a beginning. That law eliminated many of the problems of the past by giving States broad authority to allocate resources within a general framework. Rather than making States responsible to the Federal government, accountability for social services was made a matter between each State and its citizens through an open planning process—a process which has shown great promise.

Title XX, however, did not go far enough. It added new restrictions which interfere with effective delivery of services. Officials at State and local levels of government indicate that they are willing and able to assume greater responsibility to gain greater flexibility in meeting local needs.

The proposed Financial Assistance for Community Services Act will:

—Eliminate the requirement that States must match one State dollar for three Federal dollars.

—Eliminate numerous restrictive conditions on how Federal funds may be used: burdensome Federal requirements for child day care; limitations on social services funding for health and institutional care; and procedures for the imposition of fees and the determination of eligibility.

—Concentrate Federal dollars on people most in need, those under the poverty threshold and those receiving public assistance.

—Assure that no State will receive less money as a result of this legislation than it received in fiscal year 1976.

—Decrease Federal monitoring and oversight of State plan requirements and expenditures of funds with the States assuming greater responsibility in this area.

—Improve the public planning process by which citizens and local governments participate in identifying needs and establishing priorities.

I ask the Congress to enact this legislation promptly so that States may begin to use Federal and local money more effectively.

GERALD R. FORD.

THE WHITE HOUSE, *February 23, 1976.*

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO FILE CERTAIN PRIVILEGED REPORTS

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may have until midnight tonight to file reports on several privileged money resolutions.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. MADDEN. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ALL BILLS AND RESOLUTIONS AUTHORIZING NEW BUDGET AUTHORITY TO BE REPORTED BY MAY 15, 1976

(Mr. MADDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MADDEN. Mr. Speaker, I have requested this time to remind all Members that section 300 of the Budget Act, Public Law 93–344, imposes an obligation on all committees to report all bills and resolutions authorizing new budget authority by May 15, and section 402 of that act prohibit consideration of such bills and resolutions by the House unless they have been reported on or before that date. If they are not so reported, they may be considered only if the Committee on Rules determines that emergency conditions require a waiver of the reporting deadline requirement and reports a resolution waiving the requirement which is adopted by the House.

Mr. Speaker, as chairman of the Committee on Rules, I would like to encourage all committees to proceed as expeditiously as possible with respect to their authorization bills. I would hope that some committees may be able to report such bills 2 or 3 weeks prior to the May 15 deadline. Such action would enable the Rules Committee to schedule hearings on these bills in an orderly manner and not be presented with numerous requests for hearings just prior to May 15.

If such bills are not reported by May 15, a waiver is necessary in order for the House to consider those bills. The law requires that a request for a waiver be supported by a showing that emergency conditions make the waiver necessary. While I do not wish to imply that requests for waivers will not be considered, the Rules Committee will closely examine the conditions necessitating the waiver pursuant to the obligation imposed on the committee by section 402 of the Budget Act.

PERMISSION TO REVISE AND EXTEND REMARKS IN BODY OF RECORD

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in the body of the Record in three instances, and to include extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I would like to inquire of the gentleman from New York whether or not he is seeking to insert in the Record any personal attacks on any individual Member of the House, which might violate the rules, in view of what he inserted yesterday attacking the gentleman from New York (Mr. Stratton).

Mr. OTTINGER. Mr. Speaker, my remarks contain no references to other Members of the House. My criticism yesterday was to the action of a Member of the House, not to a Member of the House himself.

Mr. BAUMAN. Mr. Speaker, with that assurance, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

CANADA'S PARLIAMENT HONORS "DOC" MORGAN

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, I would like to bring to the Members' attention unique recognition of international service recently given to one of our colleagues.

Every Member of the House is aware of the distinguished service which Thomas E. Morgan has given to the House during his 32 years as a Member and his 18 years as chairman of the Committee on International Relations. We are appreciative of his untiring leadership and are saddened to see him departing this body.

But the U.S. Congress is not the only legislative body in the world to take note of the departure of the longest-sitting chairman of the Committee on International Relations.

I have had the pleasure of serving for the past 2 years as a member of the Canadian-United States Interparliamentary Group, which is cochaired by "Doc" Morgan.

As has occurred both on the floor of the House and at the Committee on International Relations, the meeting in January of the Canadian-United States Interparliamentary Group was highlighted by accolades to Chairman Morgan. It was noted that he was one of the founding fathers of the Group in 1957 and has provided outstanding leadership for the Group, particularly since he assumed the cochairmanship of the U.S. delegation at the urging of his colleagues in 1973.

In recognition of his service to the Group, the Canadians awarded to Chairman Morgan the Canadian Parliamentary Medallion, established in 1972 to recognize distinguished parliamentarians who have contributed to interparliamentary relationships. This award is most deserved and brings well-deserved recognition to "Doc Morgan."

SUPPLEMENTAL FOR LEGISLATIVE BRANCH APPROPRIATIONS, 1976

Mr. MAHON. Mr. Speaker, pursuant to the order of the House on Thursday last, I move that the House resolve itself into the Committee on the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 811) making supplemental appropriations for the legislative branch for the fiscal year ending June 30, 1976, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania (Mr. Coughlin) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 811), with Mr. Flowers in the chair.

The Clerk read the title of the joint resolution.

By unanimous consent, the first reading of the joint resolution was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Texas (Mr. Mahon) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. Coughlin) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, earlier this year the gentleman from Texas (Mr. Casey) left the House of Representatives. He was the chairman of the Legislative Subcommittee of the Committee on Appropriations. He has now been succeeded by the gentleman from Illinois (Mr. Shipley), one of the very distinguished Members of the House, a man who is a senior member of the Committee on Appropriations, a man who has done an outstanding job for his district and the country throughout his tenure here, a man who has reflected credit on the Committee on Appropriations during his long service on the committee.

Mr. Chairman, I wish to salute the gentleman from Illinois as he makes his first presentation of legislation in his capacity as chairman of the Legislative Subcommittee of the Committee on Appropriations.

I am now pleased and honored to yield to the gentleman from Illinois (Mr. Shipley), who will control the time on this side of the aisle for the consideration of this measure.

Mr. SHIPLEY. Mr. Chairman, I thank the gentleman for the very kind remarks, and I thank the gentleman for yielding.

Mr. Chairman, the resolution before us today provides a total of $33,000,000 to complete construction of the Library of Congress James Madison Memorial Building. The authorization for this appropriation was contained in H.R. 11645 which increased the total limit of cost from $90,000,000 to $123,000,000. That bill passed the House on February 17 and the Senate on February 18.

This project has been subject to several delays which have contributed to the escalated cost—from $75,000,000 contemplated in 1965 when it was first authorized to the current limit of cost of $123,000,000. These delays stem from a number of reasons. The original authorizing legislation required clearances and approvals from numerous groups, both congressional and nongovernmental. Funds requested for plans and specifications were denied without prejudice in both fiscal years 1968 and 1969 due to the budget situation at that time. The most recent delay, since July 23, 1975, when bids were opened and it was determined that existing authorization was not sufficient to complete the project, revolved around the issue of use of portions of the building for additional office space for the House of Representatives. The authorizing legislation, as amended by Public Law 91–214, contains the following prohibition:

> SEC. 2. Nothing contained in the Act of October 19, 1965 (79 Stat. 986), shall be construed to authorize the use of the third Library of Congress building authorized by such Act for general office building purposes.

That prohibition is still on the books. H.R. 11645 as passed by the House and Senate last week did not delete that provision. That bill merely increased the limit of cost from $90,000,000 to $123,000,000. The resolution before us today is to fund that increase in cost so that the building can be completed in accordance with the authorization as amended.

Work on the building is being performed in four construction phases of which three have been substantially completed. Phase IV, which relates to interior work, remains to be contracted and performed. There is an urgency to passage of this resolution. Several extensions of time for acceptance of bids have been received. The latest one expired last Saturday, February 21, though the contractors have been asked to extend the date for several more days pending prompt action on this resolution. Otherwise new bids will have to be requested which would further delay the project and no doubt would contribute to an additional cost escalation as well as incurring the cost of going through the bidding procedure again.

Of the $33 million in the resolution, $16,928,700 relates to excess costs of work included in the original approved program and $16,071,300 is for construction work not in the original program such as extension of the automated book conveyor system into existing buildings, an increase in the sophistication of the security system, as well as utilization of technological advances in fire protection and smoke detection systems. This latter amount includes additional architectural and engineering fees related to these new items and a contingency allowance of almost $6 million to cover change orders, unforeseen job conditions, et cetera. The Architect advised the committee that if such changes are not needed, the entire amount available for contingencies will not be spent. I want to assure the House that our subcommittee will keep a close watch on the use of these funds and will ask the Architect to advise the committee whenever situations arise necessitating the use of the contingency.

Mr. Chairman, the exterior of the building is almost completed. The interior is only a shell. The Library is leasing approximately 900,000 square feet of space that can be released on completion of the new facility, which will also alleviate overcrowded conditions throughout the Library.

Mr. Chairman, I urge passage of the joint resolution.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. SHIPLEY. I yield to the gentleman from Alabama.

Mr. COUGHLIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the chairman of the subcommittee has made a very good statement, for which I commend him.

I rise, on behalf of the minority, in support of the resolution. While I have reservations about the appropriation, certainly the fact is that we just simply have no choice.

Mr. Chairman, we have no choice because we have a shell sitting out there that we just cannot leave empty unless we really want to look foolish. We have no choice because by completing that shell and having the library go into that building, there is a potential saving of up to $6.8 million a year from the presently leased space that will no longer be needed and that can be consolidated into the library.

Second, Mr. Chairman, we have no choice because the firm bids that we have for completion of phase 4, which is the interior of the building, will expire very shortly.

In fact, February 21 is the final date, but we understand that the bidders will extend that date another week or so. But if it is necessary to rebid these contracts, then the price will undoubtedly go up and again we will look foolish. So we have no choice but to complete the building.

Mr. Chairman, I said that I had reservations about this proposition. Let me state them very plainly.

There has been a great deal of discussion of the use of the James Madison Memorial Library Building by this House as office space and the library lobby has indeed prevailed. But to me to portray the use of that building as a library as being good whereas its use by Congress would be bad, is something with which I disagree because I think the work of this House is indeed important. I do not like to see it denigrated in this way. The gut question in all of this is who can best operate at some more remote location, like the old FBI Building, the Library of Congress, or Congress itself? So I take exception to saying that anything that libraries do is good and anything that the Congress does is bad.

Second, I have a reservation because during the hearings it was indicated that two-thirds of the space in this new building will be used for people and only one-third of the space for the books. So the arguments for the library itself can be turned against it.

It is very hard, at least it is for this member of the subcommittee, to evaluate just how far do we go in acquiring and preserving almost every document known to mankind. What does this mean to the taxpayers? Is this all necessary?

Finally, Mr. Chairman, I have a reservation about the $78 million cost to complete the building. Is it reasonable? We know this is based on competitive bids, but are there frills? Well, that is also hard to evaluate, but we in the House of Representatives have our own architect who has assured us that this is a reasonable proposition.

So, Mr. Chairman, I say that we do not have any choice, we have to go ahead and complete the building before the price rises even more.

Mr. SHIPLEY. Mr. Chairman, I would inquire if the gentleman from Pennsylvania (Mr. Coughlin) has further requests for time?

Mr. COUGHLIN. Yes, I have one request for time. I yield such time as he may consume to the gentleman from Ohio (Mr. Miller) who desires to ask some questions.

Mr. MILLER of Ohio. Mr. Chairman, I heard the remarks stating we would have a savings of some nearly $4 to $6 million because we would not be leasing space throughout the city in order to store what may be presently stored in that space from the Library of Congress.

As far as the savings are concerned, would the gentleman from Illinois (Mr. Shipley) indicate what that figure would be?

Mr. SHIPLEY. Mr. Chairman, if the gentleman will yield, there will be a definite savings because we will pull in, as I understand from the testimony that was given, everything that we have stored in other locations, and all of the employees who are spread throughout the city will be brought into the new building. There is one exception, and that is the facility at the Wright-Patterson Air Force Base where they do store nitrate film. There they have a facility for which we have just recently appropriated funds to upgrade, so that those films can be safely stored there. It is expected that there will be $1,996,000 in savings.

Mr. MILLER of Ohio. $1.9 million?

Mr. SHIPLEY. That is correct.

Mr. MILLER of Ohio. Is that with first deducting the cost of the 355 employees that will be in the new Library of Congress building for the purpose of protection service and maintenance for the building and grounds?

Mr. SHIPLEY. Yes. The answer to that question is yes.

Mr. MILLER of Ohio. So, we are agreed that there is at least a savings of more than $1 million. However, included in that do we have the cost of the utilities for air-conditioning and the rest?

Mr. SHIPLEY. Of course, the heating, air-conditioning and other utilities will come through the Capitol Power Plant appropriation.

Mr. MILLER of Ohio. And I understand that that plant was expanded so as to accommodate the new James Madison Memorial Library Building?

Mr. SHIPLEY. Yes. We are in the process of expanding the powerplant to take care of chilling the water for the air-conditioning and for heating the building.

Mr. MILLER of Ohio. So that the savings would not necessarily be over $1 million?

The CHAIRMAN. The time of the gentleman has expired.

Mr. COUGHLIN. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio.

Mr. SHIPLEY. I must mention, too, that the moneys to be spent on the expansion of the powerplant are for other new buildings, besides the library.

Mr. MILLER of Ohio. What I am attempting to do is find out exactly what the savings would be, because I have been asked this. We have not had a net savings figure when we add the additional expense to protect, service, and maintain the building plus the utility charges. So what I am really after is the net savings, if there is a savings, after the new building is completed and the Library of Congress occupies that building.

Mr. SHIPLEY. I would say to the gentleman that the best figure the subcommitte could come up with is $1,996,000. I am sure there are probably areas with regard to the heating and air-conditioning, and so on, along with the cost of expansion of the powerplant which are to be subtracted and deducted from this amount, but the best figure this committee could come up with was almost $2 million.

Mr. MILLER of Ohio. But again, this would not include the cost of the utilities, including the lighting.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield 3 minutes to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

I wonder if my good friend and colleague, Mr. Shipley, can enlighten us and give us any more information on the rather lavish executive dining room. Do we have any more information on that?

Mr. SHIPLEY. If the gentleman will yield, it is my understanding that it is not an executive dining room; it is a public dining room.

Mr. ROUSSELOT. The public will be allowed to buy meals there and it will not be used exclusively for Library of Congress employees?

Mr. SHIPLEY. The public and employees, that is my understanding.

Mr. ROUSSELOT. The gentleman is convinced that this will not be an excessively lavish dining room?

Mr. SHIPLEY. The subcommittee is going to do the best we can to see that it is not too lavish; I promise the gentleman that.

Mr. ROUSSELOT. But, of course, this is an appropriation. This is the appropriate time to raise the questions about the cost of the proposed dining room and employee cafeteria.

Mr. SHIPLEY. I have to go back, of course, to the authorization with regard to this. They determined the amount of moneys that would be required to complete the building to their satisfaction, and, of course, what we are considering today is simply providing the funds to complete the building.

Mr. ROUSSELOT. Knowing the gentleman's desire to keep expenditures in a restrained framework, can the gentleman assure me that this appropriation will in no way provide for any kind of extravagant executive dining room?

Mr. SHIPLEY. I think I can assure the gentleman of this, and, yes, I will be glad to.

Mr. ROUSSELOT. I notice the chairman of the Committee on Public Works is standing. Does he want to comment on this matter?

Mr. JONES of Alabama. If the gentleman will yield, I just want to reaffirm what the gentleman from Illinois just stated to the genleman from California. Why does the gentleman bring up these questions? I cannot understand the gentleman's inquiries to be solid and useful when we have the proposition of having hanging up there probably $200 or $300 million worth of portrait paintings. Is it necessary to put these in the corridor? Why does the gentleman want to bring up those things? He knows they are useless questions.

Mr. ROUSSELOT. I appreciate my colleague's comments. We have several reasons for bringing up these questions.

Mr. JONES of Alabama. If the gentleman will yield further, he knows about the debate over Dolley Madison's purchase of a $6 golden frame to put a mirror in.

So consequently it did not bankrupt this country. So what the gentleman from Illinois is saying to the gentleman is that we will build a building and it will be commensurate with the requirements of the Library of Congress. It will be totally useful for all the projects and it will be what we sense will be useful.

Mr. ROUSSELOT. I appreciate my colleague's comment. Obviously, the reason we are interested in this is because we are utilizing the hard-earned taxpayers' money for this facility and we want to be sure they are within the framework of prudent use of Federal funds. That is all.

Let me quote from the Appropriation Subcommittee hearings of February 10, 1976, page 32. My colleague, Mr. Coughlin, a member of the subcommittee, asked Mr. White, the Architect of the Capitol, questions about this very subject:

ADDITIVE ITEMS

Mr. Coughlin. Yes, Mr. Chairman, if I might, I just received and read a copy of the various additives that I had not been aware of before and since we will have to answer some of these on the floor I do have some questions on them.

FOOD SERVICE FACILITIES

Additive No. 7 is for kitchen, dining rooms, and related spaces and the total amount is $1,900,000. Is that a $2 million dining room?

Mr. White. No.

Mr. Coughlin. It will be asked on the floor I am sure.

Mr. White. That item is for all of the food service facilities in the building as I recall, and includes employees' cafeteria areas. There are no private dining rooms in this building as I recall.

None at all.

Mr. Coughlin. These are all public dining rooms?

Mr. White. We have 4,500 people about to live in this building and they need places to eat and that is what this is for.

Mr. Coughlin. Will it cost $2 million to put in the dining facilities?

Mr. White. That is correct.

Two million dollars sounds like a mighty expensive dining room and cafeteria.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I would like to reply to the distinguished chairman of the Public Works Commitee. It is not within the purview of any of us to question the reason for another Member raising these questions.

I know as one who was contacted by members of the press and asked about this that I tried to look into the matter. There were no printed hearings available from the committee of the gentleman or the authorizing committee. I had allegations made to me that certain contracts for the subflooring were irregular and that cost overruns had resulted and that payments of fees to achitects were overdone and wasted money. There have been no answers.

The bill then comes to the floor. Someone asks a question, and this is fluffed off.

The thing that bothers me is that this is our own House of Representatives housekeeping matter about which we should be more strict in accounting than on any other matters.

I know the gentleman is on the Operations Subcommittee and has tried to look into this situation, but this is, as I said the other day, an incestuous situation, where we are building more and more for the Hill, and we really do not subject these projects to the scrutiny that would be given to the Defense Department or that others would be given. These questions have to be asked.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Chairman, I do not think that any building has had more thorough examination than we have given this in the Public Works Committee. It was initiated by Mr. Howard Smith of Virginia and I do not know any Member who would have been more prudent than he and this is really pursuant to what he suggested.

Mr. ROUSSELOT. Mr. Chairman, could I ask my colleague if this appropriation is included in the control budget?

Mr. SHIPLEY. In a supplemental to the last budget that was submitted.

Mr. ROUSSELOT. In the 1976 or 1977 budget?

Mr. SHIPLEY. It is a supplement to the 1976 budget.

Mr. ROUSSELOT. This amount of money is included in the congressional process for the budget for 1976?

Mr. SHIPLEY. It is.

Mr. ROUSSELOT. The 1977 budget has not been received, as I understand it.

Possibly we can ask our budget chairman this question? Mr. Adams is here. He knows. I know he pays very careful attention to these kinds of items. Is this supplemental appropriation included in the congressional budget?

Mr. SHIPLEY. Does the gentleman from Washington (Mr. ADAMS) want to answer the question? The gentleman has asked this question and asks the gentleman from Washington to reply.

Mr. ADAMS. If the gentleman will yield, yes, it is in the supplemental.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's reply.

Mr. MIKVA. Mr. Chairman, as the repository of the Nation's intellectual, cultural, and historical tradition, the Library of Congress should be housed in facilities which protect the Library's collection and provide adequate room for research and reading. Nevertheless, like all other Government buildings, the Library is built with public money and the Congress is under an obligation to insure that tax revenues are not spent wastefully or inefficiently. Unfortunately, the history of the Library of Congress James Madison Memorial Building indicates that Congress has not properly exercised its oversight responsibility.

I frankly admit that my "no" vote on House Joint Resolution 811 is symbolic. In fact, at this stage in the construction of the Madison Building, it would be impossible to do more than cast a symbolic "no" vote. In 1965, Congress authorized the appropriation of $75 million to construct the Madison Building. In 1970, the estimate was increased to $90 million. Today, we are asked for an additional $33 million, and we still have not authorized any appropriation for furnishing the building. Once construction began and the initial appropriation ran out, Congress has been forced to expend additional funds or else be satisfied with the permanent presence of a half-finished building on Independence Avenue.

The vote to appropriate additional funds for completion of the Madison Building is an opportunity for Congress to indicate concern over the inaccurate estimates of Federal buildings costs which have plagued so many Federal projects.

As of 1973, 54 percent of the Federal buildings constructed pursuant to the Public Buildings Act of 1959 exceeded the original cost estimates. For example, in the District of Columbia alone, the actual cost of the Department of Labor buildings exceeded the original estimate of $47 million by $40 million. Similarly, the actual cost of the South Portal Site Federal Office Building rose from a $28 million estimate to $40 million. And, the J. Edgar Hoover FBI Building cost an astronomical $126 million as compared to the original $60 million estimate.

However, the issue of the Madison Building represents more than merely the need for improved cost estimating procedures. An equally significant factor in the cost overruns has been the alarming trend in America toward constructing public office buildings more appropriate to monarchies then democracies. Through 1974, spending for public office buildings at all government levels increased from $500 million annually to over $3 billion annually, and these figures do not even include the higher operating and maintenance costs that accompany the glass-and-steel edifices which public officials have erected.

This trend is alarming because the growth of public buildings over the past decade appears to be directly proportional to the growth of public mistrust and disillusionment with public servants. The relationship of physical size to public unhappiness is important.

When public buildings were of modest size, they served to remind people that the role of a democratic government is subservient to the interests of the people. Now, however, the mammoth size of public buildings has, in a symbolic and literal sense, reversed those roles and reduced the ordinary citizen to a subservient position in relation to the Government.

In addition, the size of public buildings is a clear demonstration of the burgeoning size of Government. Small buildings can only accommodate small numbers of people; large buildings can accomodate large numbers of people. Therefore, the public building projects undertaken by Congress, various State legislatures and municipal councils are variations on that favorite legislative enactment—Parkinson's Law. That is, public employment will rise to fill all the additional space that is created in new public office buildings.

The Congress ought to begin to demonstrate to the American people that the offices in which public officials work were constructed with the intent of serving the citizens of the Nation and not to serve as monuments to government power. Commitments would no longer be made unless scrupulously accurate estimates have been prepared. Projects should no longer be planned which go beyound providing servicable quarters for government employees to carry on their work. Large and elaborate buildings do not reflect the respect which the public has for government, but rather, stand as physical testaments to the widely held belief that government has become too big and has forgotten why it exists.

Mr. SHIPLEY. Mr. Chairman, this side has no further requests for time.

Mr. COUGHLIN. Mr. Chairman, we do not have any further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read the joint resolution.

Mr. SHIPLEY. Mr. Chairman, I move that the Committee do now rise and report the joint resolution back to the House, with the recommendation that the joint resolution do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FLOWERS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 811) making supplemental appropriations for the legislative branch for the fiscal year ending June 30, 1976, and for other purposes, had directed him to report the joint resolution back to the House, with the recommendation that the joint resolution do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 336, nays 52, not voting 44, as follows:

[Roll No. 67]

YEAS—336

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashley
AuCoin
Bafalis
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cochran
Cohen
Collins, Ill.
Conte
Corman
Cornell
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Forsythe
Fountain
Fraser
Frenzel
Fuqua
Gaydos
Giaimo
Ginn
Goldwater
Gonzalez
Gradison
Green
Gude
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harrington
Harris
Harsha
Hébert
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Horton
Howe
Hubbard
Hungate
Hutchinson
Hyde
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Leggett
Lehman
Levitas
Litton
Lloyd, Calif.
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Michel
Milford
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.

Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schulze
Seiberling
Sharp
Shipley
Shuster
Simon
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Vander Veen
Vanik
Vigorito
Waggonner
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—52

Anderson, Calif.
Archer
Ashbrook
Bauman
Beard, Tenn.
Byron
Clancy
Collins, Tex.
Conable
Cotter
de la Garza
Devine
Duncan, Tenn.
Eshleman
Evans, Ind.
Frey
Gibbons
Gilman
Goodling
Grassley
Guyer
Hansen
Harkin
Hays, Ohio
Hechler, W. Va.
Holt
Holtzman
Ichord
Jacobs
Kasten
Kelly
Latta
Lloyd, Tenn.
Lott
McCollister
McDonald
Mathis
Mikva
Miller, Ohio
Montgomery
Mottl
Myers, Ind.
Obey
Quillen
Randall
Rousselot
Schneebeli
Schroeder
Spence
Steiger, Ariz.
Symms
Wydler

NOT VOTING—44

Aspin
Badillo
Baldus
Barrett
Bell
Bolling
Breckinridge
Brodhead
Cleveland
Conlan
Conyers
Crane
Downing, Va.
Erlenborn
Esch
Ford, Tenn.
Hagedorn
Hawkins
Hayes, Ind.
Heinz
Hinshaw
Howard
Hughes
Karth
Landrum
Lent
Macdonald
Metcalfe
Mink
Moakley
Nix
Patman, Tex.
Sebelius
Shriver
Sikes
Skubitz
Stuckey
Udall
Van Deerlin
Vander Jagt
Walsh
Wampler
Wilson, C. H.
Winn

The Clerk announced the following pairs.

Mr. Barrett with Mr. Baldus.
Mr. Sikes with Mr. Downing of Virginia.
Mr. Patman with Mr. Ford of Tennessee.
Mr. Nix with Mr. Cleveland.
Mrs. Mink with Mr. Hagedorn.
Mr. Badillo with Mr. Erlenborn.
Mr. Hawkins with Mr. Hughes.
Mr. Moakley with Mr. Bell.
Mr. Udall with Mr. Heinz.
Mr. Charles H. Wilson of California with Mr. Landrum.
Mr. Macdonald of Massachusetts with Mr. Esch.
Mr. Metcalfe with Mr. Sebelius.
Mr. Breckinridge with Mr. Lent.
Mr. Conyers with Mr. Conlan.
Mr. Van Deerlin with Mr. Shriver.
Mr. Hayes of Indiana with Mr. Stuckey.
Mr. Howard with Mr. Crane.
Mr. Karth with Mr. Skubitz.
Mr. Brodhead with Mr. Vander Jagt.
Mr. Aspin with Mr. Walsh.
Mr. Wampler with Mr. Winn.

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHIPLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution (H.J. Res. 811), just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DISCHARGING COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE FROM FURTHER CONSIDERATION OF H.R. 11664 AND REFERRING THE BILL TO THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be discharged from further consideration of the bill (H.R. 11664) to amend the Interstate Commerce Act by including independent owner-operator truckers as an exempted class under section 203(b) of that act, and for other purposes, and that the bill be rereferred to the Committee on Public Works and Transportation.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. COHEN. Mr. Speaker, reserving the right to object, has the chairman of the Committee on Interstate and Foreign Commerce cleared this with the minority?

Mr. STAGGERS. If the gentleman will yield, no, I have not. I think it is just a matter of course. I do not think that it has anything to do with either party. It is just a matter of being referred to the proper committee.

Mr. COHEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

INTRODUCTION OF GRAIN STANDARDS ACT AMENDMENTS

(Mr. VIGORITO asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VIGORITO. Mr. Speaker, yesterday I introduced H.R. 12036, which is designed as a response to the corruption that has occurred in the export marketing of grain through New Orleans and other U.S. ports.

My bill would, for the most part, enact the recommendations made by the General Accounting Office, as elaborated in the GAO's February 17 "Report on Irregularities in the Marketing of Grain."

The GAO's conclusions regarding irregularities in grain marketing might be summarized as basically twofold: First, there are dual, and equally serious, problems of inaccurate quality grading of grain products destined for foreign markets, and of dishonest weighing of such grain; and second, these problems in grading and weighing are endemic to, and an inherent part of, the present diffused arrangement of Federal-State-private responsibility for grain inspection.

The legislation which I introduced yesterday attempts to correct those shortcomings of the present arrangement, by making at least three major changes in existing law.

First, H.R. 12036 provides that all grain exported from the United States to foreign buyers must be quality graded by authorized employees of the U.S. Department of Agriculture.

Second, the bill provides that the weighing of all grain destined for export from the United States to foreign buyers must be physically and continuously supervised, upon both entering and leaving our export elevator, by authorized employees of the U.S. Department of Agriculture.

Third, it authorizes the Secretary of Agriculture to contract with States and private parties to conduct inspection and grading of grain other than grain destined for export, at locations where such inspection and grading is deemed necessary.

My bill deviates from the GAO recommendations on the extension of direct Federal inspection beyond export points. The GAO recommended Federal inspection at major interior terminals in addition to export points; whereas H.R. 12036 provides for State-private contracting, not direct Federal inspection, at all interior terminals where official inspection is performed. There is some rationale for the GAO's position in this regard, but in my judgment the extra complexity encountered when one moves beyond export elevators and the greater element of public interest involved with export sales warrants restriction to the export elevators, at least for the present time.

In short, my bill is designed to provide a somewhat more systematic handling of grain inspection, which will concentrate responsibility and accountability. It will not result in centralization, because the functions will still be performed at local points around the country, but it will replace the no-man's-land of confused responsibility that has invited abuse and frustrated any effective pinpointing of accountability with more concentrated responsibility through the Agricultural Marketing Service and the Secretary of Agriculture.

H.R. 12036 particularly seeks to make grain weighing, and the physical supervision of weighing, an integral part of the grain inspection system. It provides that the official inspection certificate, to be furnished by Department of Agriculture employees in the case of grain destined for export, must contain a designation of the grade and weight of each lot of grain.

The extent to which the identity of grain can be preserved "upstream" from the export elevators, so that officially certified weights of incoming grain at the ports can be meaningful to inland handlers and producers, is somewhat ambiguous. I am convinced, nevertheless, that a more coordinated weighing-and-grading inspection system can give greater confidence in the integrity of our grain marketing system to both foreign buyers and domestic producers and handlers.

My bill would also make other changes in existing law that are intended to complement those already mentioned, including provisions for regulation of conflict-of-interest situations; assessment of fees to finance the inspection system; authorization for the U.S. Department of Agriculture to hire, under specified conditions, grain inspection personnel who are currently employed by private inspection firms the functions of which would be absorbed by the Department of Agriculture; and strengthening of both civil penalties and criminal sanctions to be imposed against violators of the U.S. Grain Standards Act.

Mr. Speaker, I am convinced that the situation currently surrounding grain marketing requires that we take meaningful action to correct the abuses, and that my bill is a substantial step in the right direction. I urge its serious consideration.

MINIMUM TAX ON INDIVIDUAL INCOME

(Mr. GIBBONS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GIBBONS. Mr. Speaker, I have today introduced a bill (H.R. 12049 to impose a minimum tax at a rate of 14 percent on an individual's economic income. This alternative tax only applies to an individual's economic income above $40,000 per year. The tax applies only if it produces a greater income tax liability than that imposed under existing law. The tax is not an additional income tax—if imposed, it is in lieu of the existing regular tax and the existing minimum tax on items of tax preference.

I have introduced this bill because I believe each person receiving income and benefiting from the privilege of being a resident or citizen of the United States should pay a fair share of the cost of Government. This is not a soak the rich tax. It will only require those who have very high personal incomes and who pay little or no Federal income tax to pay at least as much as those at very low income levels.

It is common knowledge that some wealthy individuals in this country pay little or no Federal income taxes. This can occur because the existing income tax is not based on an individual's actual income—his economic income—but on his taxable income as defined in the Internal Revenue Code. Taxable income as so defined eliminates tax on many items of economic income, such as interest on State and municipal bonds and gains on the exercise of stock options granted to corporate executives; and only one-half of long-term capital gains are included in taxable income. In addition, deductions are allowed in computing taxable income for personal expenses which are unrelated to the production of income and for some items which are not economic losses—such as the cost of drilling a successful oil well, and percentage depletion on oil and other mineral royalties.

My bill will insure that no individual with a large economic income can avoid the payment of Federal income taxes. In his book "The Rape of the Taxpayer," Phil Stern relates that Mrs. Horace Dodge—of the Dodge auto family—for a number of years had an annual income of $5 million from tax-exempt State and local bonds, and was not even required to file a Federal income tax return. Under my bill, such an individual would be required to file a return and pay a tax of $694,400.

Since no tax is imposed under my bill unless the economic income is over $40,000, most individuals will not be concerned with the minimum tax. Of the approximately 80 million individuals who are now required to file income tax returns, less than 1 percent of them would be required to compute the minimum tax to determine if it is higher than the regular income tax.

The enactment of my bill will achieve a much needed reform, for no person with a large income would be able to shelter all of his income by use of tax loopholes. I realize it would be preferable to enact a reform bill which dealt directly and effectively with each and every loophole in the Internal Revenue Code. But in view of the recent experience of the Ways and Means Committee with its tax reform bill (H.R. 10612), I have reluctantly concluded that item-by-item tax reform cannot be achieved now or in the near future. The beneficiaries of existing tax loopholes have demonstrated again—often with the help of the Treasury Department—that they can exert so much pressure that proponents of tax reform simply cannot muster enough votes to close the loopholes head on. My bill, however, does not repeal any existing tax loophole. It merely provides for a reasonable minimum tax on an individual's aggregate economic income.

Experience with such a tax can hopefully lead to the adoption of a simple basic tax at low graduated rates on economic income, without the deduction of personal expenses, to replace the existing complicated system—with rates to 70 percent—riddled with loopholes and preferences. The average taxpayer would benefit from such a change, and the Treasury need not be the loser. Perhaps it is significant that the Secretary of the Treasury stated recently that a tax on all income—without exemptions or the deduction of personal expenses—would be preferable to what we now have.

EXPLANATION OF BILL

The minimum tax is computed on the amount of the economic income in excess of an exemption of $40,000. In the case of a separate return by a married individual, the exemption is $20,000 so that a husband and wife cannot achieve an aggregate exemption of $80,000.

The minimum tax imposed by this bill applies only if it is greater than the liability for income taxes under existing law—including the minimum tax on items of tax preference. The tax liability under existing law is determined by deducting from the tax the credit for foreign income taxes, the retirement income credit, the investment credit, and the credit for contributions to political parties. No deduction against the minimum tax imposed by the bill is allowed for such credits.

The tax is based on the taxpayer's economic income which, in the ordinary case, will be greater than the taxable income subject to the regular income tax. The principal reasons why economic income—as defined in the bill—will be greater than taxable income are the following:

First, interest on State and municipal bonds is included in economic income. Such interest is excluded from taxable income and is not even treated as an item of tax preference under the existing minimum tax on preference items.

Second, the entire amount of capital gains is included in economic income, whereas only one-half of long-term capital gains is included for purposes of the regular income tax.

Third, no deduction is allowed for percentage depletion in computing economic income.

Fourth, no deduction is allowed for intangible drilling costs in the case of a productive well, although such costs are fully deductible in computing taxable income.

Fifth, depreciation on buildings and other property must be computed under the straight line method and on the basis of actual useful life—without the benefit of ADR.

Sixth, losses from business or investment ventures—including real estate limited partnerships—cannot be deducted in excess of the amount with respect to which the taxpayer is at risk. A similar restriction does not apply in computing taxable income.

Seventh, gain upon the exercise of a qualified stock option will be included in the economic income of the corporate executive.

Eighth, compensation paid by an employer into an exempt trust under a pension, profit-sharing, or stock bonus plan will be included in the employee's economic income when his rights to the compensation are vested. No deduction will be allowed for the taxpayer's contribution for his own benefit to a trust under a Keogh or IRA plan.

Ninth, no deduction is allowed for charitable contributions.

Tenth, no deduction is allowed for interest except for interest on business indebtedness and investment indebtedness.

Thus, interest on a home mortgage is not deductible in computing economic income.

Eleventh, no deduction is allowed for taxes unless it is a business tax, an investment tax, or an income tax—other than the Federal income tax. Taxes on the taxpayer's home will not be deductible in computing economic income.

Twelfth, no deduction is allowed for medical expenses, or for dependents or for other personal exemptions.

Under existing law, a number of special items are excluded from gross income in computing taxable income for the regular income tax. In addition to the items already mentioned, the following are excluded from gross income for the regular income tax, but they are not excluded under the bill in computing economic income: salaries and other income earned in foreign countries; the $100 dividend exclusion; scholarship and fellowship grants; prizes and awards in certain cases; certain income from discharge of indebtedness; certain recovery of bad debts and prior taxes; certain amounts received under insurance contracts for living expenses; a limited amount of group term life insurance premiums paid by an employer for his employees; certain compensation received for personal injuries or sickness and amounts received under accident and health plans; the rental value of, or rental allowance for, a parsonage; the value of improvements received by a landlord on termination of a lease; and certain combat pay and mustering out payments to members of the Armed Forces.

Existing law also excludes from gross income the value of meals and lodging furnished to an employee on the premises of the employer. The bill includes such amounts in economic income, except in the case of a member of the Armed Forces serving outside the United States or in such other circumstances as may be provided for under Treasury regulations.

There are provisions of Federal law outside of the Internal Revenue Code which exclude certain income from taxation, such as retirement payments under the Railroad Retirement Act and benefits paid under laws administered by the Veterans' Administration. The bill provides that these exclusions will not apply in computing economic income.

Retirement and other benefits under the Social Security Act, food stamps and other welfare payments are now treated by the Internal Revenue Service—without any express statutory provision—as exempt from the Federal income tax. Under the bill all such payments—other than lump sums payable on account of death—will be included in economic income.

The bill provides that all amounts which are included in gross income in computing taxable income for the purposes of the regular income tax shall also be included in gross income in computing economic income. Thus, if income of a trust is taxable to the grantor of the trust under section 671—even though the income is distributed to his children or other beneficiaries of the trust—such income will be included in computing the grantor's economic income. Likewise, undistributed income of a foreign personal holding company which is taxable to a shareholder under section 551 will be taken into account in computing the shareholder's economic income.

Some exclusions from gross income are provided for in the bill. Life insurance and other death benefits now excluded under section 101 of the Internal Revenue Code will not be included in economic income. Nor will gifts and inheritances which are excluded from gross income under section 102 of the code.

As a general rule, gain realized on the sale or exchange of property will not be taken into account if the gain is not recognized under any provision of the code. Thus if fire insurance proceeds are reinvested in replacement property pursuant to section 1033 of the code, any gain will not be included as economic income. The bill contains two exceptions to the general rule. Gain on the sale of low-income rental housing will be included in economic income even though the gain is not recognized under section 1039 of the code because it is reinvested. While tax-free exchanges of stock in corporate reorganizations will not be included in economic income under the general rule, an exception is made where the shareholders of a company turn in their shares for the stock of a larger company and acquire less than 20 percent of the stock of the larger company. In such a case the gain is taken into account as economic income since it is more realistic to treat such a transaction as an outright sale of stock rather than a reorganization of the smaller company.

Any gain on the sale of a residence by a taxpayer over the age of 65, which is now excluded from gross income under section 121 of the code, will be included in economic income under the bill unless the gain is not recognized under section 1034 because the gain is reinvested in a new residence.

It is not intended that the imputed rental value of a taxpayer's residence be subject to tax. Since some economists treat the rental value of a residence owned and occupied by an individual as part of his economic income, and some foreign countries have imposed an income tax on such imputed value, the bill provides that the imputed rental value of property owned and used by a taxpayer shall be excluded in computing economic income under the bill.

The bill specifies what deductions from gross income are allowed in computing economic income. Ordinary and necessary expenses allowable under section 162 of the code in carrying on a trade or business are deductible. However, a business entertainment expense is not treated as allowable under section 162 if it is disallowed under section 274 of the code. Expenses which are allowed as deductions under section 212 of the code in the production of investment income, or incurred in connection with the determination of the amount of any tax, will be allowed as deductions in computing economic income. Interest paid to purchase tax-exempt bonds would be deductible under section 212 for purposes of the minimum tax, notwithstanding section 265 of the code which would otherwise disallow the deduction, since the interest on the bonds is includible in gross income in determining economic income.

Deductions allowable under section 165 of the code for losses will be allowed in determining economic income. However, capital losses will be allowed in full—deductible against ordinary income as well as against capital gains. Also taken into account in computing economic income are the deductions allowable under section 166 of the code for bad debts and the deduction allowable under section 611 for cost depletion—but not percentage depletion. A deduction will also be allowed for alimony payments if they are deductible under section 215 of the code.

There are a number of business-related items which are allowable as deductions in computing taxable income for the regular income tax but are not deductible under the bill in computing economic income.

Research and experimental expenditures, for example, are not deductible in computing economic income since they are capital expenditures not deductible under section 162 as an ordinary and necessary business expense. No deduction is allowed for net operating losses incurred in other taxable years. If the minimum tax is imposed for a year, that year will not be treated as a taxable year for purposes of any computation under section 172, relating to net operating losses. Thus, if a minimum tax is imposed for 1978, and there is a net operating loss for that year computed in accordance with the regular rules applied under section 172, the net operating loss for that year is ignored and cannot be carried back or forward for purposes of the regular income tax. Likewise, if a net operating loss for 1980 is being carried forward to 1983, and a minimum tax is imposed for the year 1981—but not for 1982—the amount of the net operating loss carryover to 1983 will be reduced by the taxable income for 1982 but not by any of the income for 1981.

The bill provides that gain from installment sales shall be taken into account in the same manner as the gain is treated for purposes of the regular income tax. Income from annuities shall be included in gross income as provided in section 72 of the code.

If the taxpayer has a distributive share of profits or losses of a partnership, or of an electing small business corporation, his distributive share for purposes of the minimum tax—but not the regular tax—shall be determined by reference to the economic income, as defined in the bill, of the partnership or electing small business corporation.

The minimum tax will apply to an estate or trust. However, the economic income of the estate or trust will be allocated between the estate or trust and the beneficiaries on the same basis as the income of the estate or trust is allowable to each. If one-fourth of the economic income is allocated to the estate or trust, then the $40,000 exemption is reduced to the same fraction of $40,000, that is, the estate or trust would have an exemption of only $10,000 for the year.

ADMINISTRATIVE RULEMAKING ACT OF 1976

(Mr. FLOWERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLOWERS. Mr. Speaker, as chairman of the Judiciary Subcommittee on Administrative Law and Governmental Relations, I am happy to introduce today the Administrative Rulemaking Reform Act of 1976. Other members of the subcommittee join me in introducing the bill, as do Mr. LEVITAS of Georgia and Mr. DEL CLAWSON of California, the principal sponsors of rulemaking bills considered by the subcommittee.

This bill would provide the Congress with a mechanism for overturning rules and regulations promulgated by Federal agencies and departments, thus giving the American people and their elected Representatives more control over the vast and powerful bureaucracy. I am sure my colleagues will agree that all too often we find the executive branch making rules and regulations that contravene the intent of laws passed by the Congress.

Under the bill I have introduced, either House of Congress could institute action against a rule. The rule would be overturned if the first House to act disapproved the rule within 60 days and the other House voted either similarly or not at all within the next 30 days. Short of overturning a rule, the Congress, by a simple resolution, could send a rule back to the originating agency for reconsideration. The agency then would have 60 days to resubmit the rule to the Congress, which would decide whether to accept or overturn it.

The bill also provides that the Congress could overturn existing rules as well as new ones and that the President could not veto the overturning of a rule.

Another part of the bill deals not with congressional review of rules but with the actual process of rulemaking used by agencies and departments. This section would lengthen from 15 to 45 days the minimum period for public comment on proposed rules and regulations.

This bill, which would require several changes in the Administrative Procedure Act, is the product of several months' work by members and staff of the subcommittee. Last fall we held extensive hearings on administrative rulemaking bills and we were grateful that so many Members of Congress either appeared before us or submitted statements. We also received valuable testimony from representatives of executive departments and agencies, from legal scholars, and from the public at large.

The rules and regulations about which we speak have the force of law and often carry criminal penalties, heavy fines, or jail terms. Yet they were never approved by the elected representatives of the people, and thus there has been no real accountability to the people.

Mr. Speaker, the bill introduced today affords us the opportunity to change all of this, to put the responsibility where it belongs and to help restore the people's faith in their Government. I think we dare not pass up this opportunity. I respectfully ask my colleagues to support this important legislation.

A MEANINGFUL GI BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, the biggest mistake we made in Vietnam was to pour into it the lives of thousands of our young men and more than $100 billion and try to measure our success in terms of body counts.

Right now, we are pouring billions of dollars into a readjustment assistance program for Vietnam veterans and measuring the success of the program also in terms of body counts. But, as in Vietnam, what are we accomplishing? The VA tells us that 62 percent of Vietnam veterans have at one time used the GI bill—but is that an indication of a successful readjustment assistance program? Look at current unemployment figures for Vietnam veterans. They are a staggering 10 percent for all Vietnam vets, 36.5 percent for minority vets, and 20.8 percent for veterans between the ages of 20 and 24.

There is a very hard core of veterans for whom the GI bill is meaningless because it is inaccessible. Yet, press reports tell us that there has been nearly a billion dollars in overpayments in GI bill benefits. Since enactment of the GI bill, Congress has tried to correct shortcomings in the program by simply increasing the monthly subsistence payment to keep pace with inflation. We have done nothing, if little, to correct the basic structural inequities inherent in the GI bill that both render it inaccessible to millions of veterans and open the door to abuse.

The GI bill provides a single veteran with $270 a month. The program does not provide him with a supplemental payment if he happens to reside in a high cost public tuition State. It does not allow him to accelerate his benefits if he has only 2 years of school left or if he wants to attend a 2-year trade or technical school. Both of these options were available under the World War II GI bill. For a veteran with no dependents, who is financially stable in his own right and who is attending a low cost tuition school, the $270 a month is adequate. Indeed, in some cases, the $270 a month becomes supplemental income, not readjustment assistance. Thus, of the 25.8 percent of veterans now enrolled in school under the GI bill, 17.2 percent are enrolled in college, the majority in low cost tuition States like California. GI bill use in high cost tuition States like New York or Pennsylvania is dramatically lower, yet these States have just as many, and in some cases more, veterans than low cost tuition States. Only 3.4 percent of veterans using GI benefits are enrolled in vocational schools.

What has happened to the 75 percent of Vietnam veterans not using the GI bill—628,000 of them are on the unemployment rolls. Countless others are underemployed. Eighty-three percent of Vietnam veterans surveyed in a Harris poll said they would like to use their GI benefits, so why are they not? Let me try to answer the "why" with the help of two stories that, I think, will sound familiar to millions of vets:

> Carl J. is a 27-year-old veteran, married, one child. He is from a blue collar background, completed a vocational high school education before being sent to Vietnam. He would have been a prime candidate for a 2-year trade school when he got back from Vietnam, but tuition at the average trade or vocational school was a little over $2,000—a little less than he would receive under the GI Bill. His immediate priority was the support of his family, and secondly, a recovery from the debts he had incurred while in service. Having no marketable skills, he found the job market tight. He did manage to find work on an assembly line for a year and a half, but lacking seniority, he lost it when his plant was forced by economic conditions to cut back. He is now unemployed; the GI Bill has been meaningless to him as a readjustment assistance program.
>
> David S. is a 24-year-old married veteran with a child. He had one year of college education before going to Vietnam, and planned to finish when he returned. By then, tuition at his state university had increased to $1,000 a year; he would get $3,294 a year under the GI Bill, leaving him $254 a month to support his family, buy books, etc. For awhile, he managed to stay in school with the help of a part-time job; but in a year, the cost-of-living had risen another 12%, his school announced that it would have to increase tuition, and David was forced to quit school. For him, the GI Bill simply fell short as a meaningful readjustment assistance program.

Mr. Speaker, there are hundreds of thousands of Vietnam veterans like Carl and David who need GI education benefits but cannot use the GI bill. They are for the most part married veterans with families—two-thirds of all Vietnam veterans are married—blue collar veterans, undereducated and minority vets—many of the same veterans who show up as a statistic on the Nation's unemployment and underemployment rolls. Besides the intolerable and tragic waste in human potential, the Nation's unemployed Vietnam veterans are costing American taxpayers over $10 billion annually. The Congressional Budget Office estimates that one unemployed person costs the country $17,000 in unemployment and welfare payments and in lost taxes. Our 628,000 Vietnam vets out of work are adding $10.6 billion to the Federal deficit each year.

At the beginning of the 94th Congress, I introduced H.R. 7355 which would provide unemployed and underemployed Vietnam veterans with a realistic opportunity to use the GI bill. This legislation incorporates a provision in the World War II GI bill which allowed a veteran to accelerate his monthly entitlement, while reducing his overall entitlement proportionately. Thus, my bill would give a veteran the option of drawing $540 a month for 2 years, instead of $270 a month for 4 years. It is an option which would enable many veterans to get off the unemployment rolls, acquire a 2-year vocation or trade education or finish their college education and return to a productive role in the economy.

Acceleration of entitlement is not a new spending program; rather, it is a more effective use of an existing entitlement. I consider it to be without question fiscally responsible. It has the potential of providing our neediest young veterans realistic readjustment assistance, while providing the Nation a cost effective, socially rewarding economic recovery program.

An earlier OMB cost estimate of an accelerated entitlement provision that included none of the safeguards of H.R. 7355 was $600 million. Senator TAFT, who has introduced an identical bill (S. 2789) to H.R. 7355, called this cost estimate—

> (One) based on questionable assumptions about the purpose and effect of accelerated entitlement and . . . an over estimate of cost. Applying VA and OMB cost calculation criteria to the accelerated entitlement legislation . . . realistic figures would be $200 million for fiscal 1976 and a 5-year cost of possibly $550 million in the VA budget.

Whether we use Senator TAFT's $200 million figure or OMB's $600 million, we are talking about a possible solution to a problem that is currently costing us $10 billion. Studies have indicated that the Government gets back $3 to $6 in taxes for every $1 spent in veterans assistance leading to employment. IRS estimates that the $14 billion we invested in the World War II GI bill was returned six times over in increased tax revenues. H.R. 7355, and Senator TAFT's companion measure, not only recognize the need to control new spending programs, but, I feel, are part of the solution to curbing inflationary spending.

In order to preclude abuse of the accelerated entitlement option, safeguards have been written into H.R. 7355 and its companion measure. The bill requires that a veteran must be able to attain a recognized and predetermined educational, vocational, professional, or technical objective within the time period benefits are accelerated. It would provide veterans with educational and vocational counseling to insure that they are enrolled in a program suited to their needs and objectives.

The bill would allow only those veterans who can demonstrate need to be eligible for the accelerated entitlement option. The bill stipulates the benefits cannot be accelerated beyond twice the amount a veteran is normally entitled to receive, and the bill contains safeguards to prevent abuses by nonaccredited programs and correspondence courses.

Accelerated entitlement is one option that would help to make the GI bill a meaningful readjustment assistance program. It enjoys the support of major veterans organizations and education associations and was recently endorsed by the AFL–CIO. It has been cosponsored by 44 Members of the House, a list of whom follows my remarks. I invite other Members to join us in working for enactment of a program that can significantly increase the productivity and earnings capability of the Vietnam veteran, while contributing to the economic

COSPONSORS OF H.R. 7355

Mr. Carney, Mr. Edgar, Mr. Edwards of California, Mr. Ford of Tennessee, Mr. Hannaford, Mr. Mottl, Mr. Murtha, Mr. Price, Mr. Rangel, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Seiberling, Mr. Solarz, Mrs. Spellman, Mr. Walsh, Mr. Charles H. Wilson of California, Mr. Wirth, Mr. Won Pat, Mr. Yatron.

Ms. Abzug, Mr. Addabbo, Mr. Badillo, Mr. Brown of California, Mr. John Burton of California, Mr. Cleveland, Mr. Conte, Mr. Conyers, Mr. Downey of New York, Mr. Eilberg, Mr. Fithian, Mr. Gilman, Mr. Harrington, Mr. Hechler of West Virginia, Mr. Howard, Mr. Jenrette, Mr. Koch, Mr. Lehman, Mr. Long of Maryland, Mr. Miller of Ohio, Mr. Mitchell of New York, Mr. Mitchell of Maryland, Mr. Ottinger, Mr. Pepper.

MERGER OVERSIGHT HEARINGS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, I wish to announce that the Subcommittee on Monopolies and Commercial Law will hold its initial hearings on merger oversight on Wednesday, March 10, 1976, in room 2141, Rayburn House Office Building, commencing at 9:30 a.m.

While the purpose of the hearings is general oversight, the subcommittee will focus initially on the issues of premerger notification, jurisdictional problems raised by the American Building Maintenance decision, and divestiture as an appropriate remedy in private section 7 Clayton Act actions.

Initial witnesses will be officials from the Federal Trade Commission and the Department of Justice.

SERIES E SAVINGS BOND AMENDMENT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. STARK) is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, in today's RECORD I have inserted an amendment I intend to offer tomorrow to H.R. 11893, the debt ceiling bill.

This is an amendment to guarantee holders of series E savings bonds an interest rate of 4 percent annually. At present, nearly one-third of all purchasers of savings bonds in 1974 earned no interest at all. Another 12 percent of holders earned only 3.7 percent interest. The reason for this is quite simple:

Under current Treasury policy, interest on E bonds is only computed every 6 months. Therefore, a person who buys a bond and holds it, for example, for 5½ months, would collect no interest when he redeems it. For those who hold the bonds for between 6 months and 1 year, interest of 3.7 percent accrues at the 6-month mark, and only rises above 4 percent if the bonds are held for longer than 1 year.

In this debt ceiling extension bill, the Treasury has also asked for authority to increase the number of long-term bills it issues, at very high interest rates. Yet these bills are only offered in high denominations—so high that they are out of the financial reach of most people who buy the E bonds. What we would be doing in this bill, then, without my amendment, is expanding the Treasury practice of offering high-return investments to middle- and upper-income individuals, while continuing to deny the small investor a decent return for his patriotic purchases of series E savings bonds.

The estimated cost of this amendment in fiscal year 1977 is at most $26 million. When you think that this body considered giving $15 million to Ross Perot, alone, just a few months ago, it seems incredible that we cannot give $26 million to all the holders of the approximately 600 million bonds outstanding today.

Many owners of these bonds are strongly encouraged to buy them by their employers, and in many cases the employer is the Federal Government. Armed service enlistees and all Federal civil service employees constitute a large percentage of E bond owners, and one of the reasons is that this is an automatic "savings" deduction from their paychecks arranged by the Treasury. When these individuals find, a few months or even weeks later, that they in fact need to cash them in, they discover that they earned no interest on this savings. It is the classic "forced savings" plan, only unlike those offered by commercial banks and savings and loans, the holders do not even earn pennies in interest.

This amendment has the broadest possible bipartisan support. Six of my colleagues on the Ways and Means Committee expressed their support for having the Rules Committee make this amendment in order today: Representatives VANIK, KETCHUM, RANGEL, ARCHER, STEIGER, and HELSTOSKI joined me in appealing to the Rules Committee that this amendment belongs as a subject of consideration on the debt ceiling bill.

My colleagues and I chose the rate of 4 percent not just because it is more generous than the current rates of 0 and 3.7 percent available now for short-term holders; it is also a full percentage point below the regulation Q for commercial banks' passbook savings accounts. It will not, therefore, cause any problems of competition for the banks or savings and loans.

This amendment requires no new budget authority, since the Treasury currently has the authority to establish this 4-percent minimum yield. It simply forces the Treasury to use some of the authority it already has.

Furthermore, there is no reason why this amendment should necessarily increase budget outlays, since the additional interest cost on bonds redeemed in the initial year could be offset by reduced rates on bonds held for longer periods.

NEW APPROACHES NEEDED BY U.S. POSTAL SERVICE TO ACCOMPLISH WORTHWHILE GOALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, as the U.S. Postal Service attempts to improve service and cut costs, it must try new approaches to accomplish these worthwhile goals. It is understandable that changes will cause postal employees concern, but for the last several months I have received numerous serious complaints from postal workers and their families about the productivity improvement program—PIP—as it is being implemented in Hartford. These complaints demanded a complete answer.

Therefore, I contacted the Postmaster General asking for his evaluation of the complaints made by the postal workers. Further, because of the complexity of this issue, I asked Chairman CHARLES H. WILSON of the House Subcommittee on Postal Facilities, Mail, and Labor Management to consider oversight hearings on PIP and its resulting problems.

At this point, I would like to insert copies of my letters to the Postmaster General and of his reply. I shall continue to vigorously pursue this matter. The letters follow:

HOUSE OF REPRESENTATIVES,
Washington, D.C., February 10, 1976.
Mr. BENJAMIN F. BAILAR,
Postmaster General,
Washington, D.C.

DEAR MR. BAILAR: Further reference is made to my letter of January 14, 1976 concerning the complaints of postal employees in Hartford regarding the Productivity Involvement Program.

To date, I have received nearly one hundred individual letters from postal employees which reflect dissatisfaction and extremely low morale. The enclosed petition brings to light yet another matter—security of job for veterans and disabled veterans.

Please comment on these concerns.

Sincerely,

WILLIAM R. COTTER,
Member of Congress.

(Enclosure was a petition signed by 75 veterans/postal employees concerning job security of veterans and disabled veterans.)

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 14, 1976.
The POSTMASTER GENERAL,
U.S. Postal Service,
Washington, D.C.

DEAR MR. BAILAR: Thank you for your letter of August 19, 1975 in reply to my inquiry concerning the Productivity Improvement Program in the Hartford Post Office.

As the program advances, individual postal employees as well as the local union (American Postal Workers Union) representatives continue to write me in large numbers. In this letter, I will attempt to highlight some of the specific complaints and allegations made about the program and why it will not work, will not save the USPS money, and will not increase its efficiency.

1. The Hartford Postmaster reported that overnight delivery of first class mail increased from 88% in FY74 to 93% in FY75. The union points out that this was before the implementation of PIP.

2. PIP may actually end up costing the USPS additional money in the following ways:

a. Salaries of PIP employees, $250,000.

b. Cost of moving 71 employees to night shift ($1400 night differential per person), $184,000.

c. Cost of moving clerks to Sunday with 25% premium pay, $136,000.

d. Retraining clerks for window jobs, $21,000.

e. Training employees for LSM, $48,000.

(The above figures were provided by representatives of the union.)

3. Large mailers in Hartford (Travelers, Aetna, G. Fox's) send their mail to the post office in the morning. This mail is not worked until the evening.

4. Over 50% of managed mail arrives in the post office between the hours of 7AM and 1PM. It is shipped to satellites in the morning, re-sent and re-worked in Hartford in the evening.

5. A mail sorter (referred to by employees as the "octopus") was purchased in June 1975. After a loss of money and after grievances were filed to show its inefficiencies, it was "quietly" removed and the losses suffered.

6. The overall morale of the employees in the Hartford Post Office is at an "all time low." The employees believe that increased efficiency is impossible as long as the workers are not consulted before drastic changes such as these are put into effect.

These are very serious charges and I would appreciate an immediate and detailed investigation.

Sincerely,

WILLIAM R. COTTER,
Member of Congress.

THE POSTMASTER GENERAL,
Washington, D.C., February 23, 1976.
Hon. WILLIAM R. COTTER,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN COTTER: Thank you for your letters of January 14 and February 10, requesting an investigation with respect to observations made to you about the Productivity Improvement Program at Hartford.

A detailed investigation was made with reference to the points outlined in your letter. The findings have been compiled and are set forth in the attachment to this letter.

We have dealt in good faith with the National and Local unions on this matter. While the concern of union officials is understandable, the provisions of the National Collective Bargaining Agreement have been followed.

Grievances have been filed regarding the implementation of the Productivity Improvement Program in Hartford, and are being processed in accordance with the grievance-arbitration procedures of the National Agreements.

While there may be union disagreement over the Productivity Improvement Program, we must schedule manpower in keeping with mail processing needs and the overall interests of postal efficiency.

Sincerely,

BENJAMIN F. BAILAR.

RESPONSE TO COMPLAINTS AND ALLEGATIONS AS STATED IN REPRESENTATIVE COTTER'S LETTERS OF JANUARY 14 AND FEBRUARY 10, 1976

(NOTE.—Complaints and allegations italicized.)

1. *The Hartford Postmaster reported that overnight delivery of first-class mail increased from 88% in FY 1974 to 93% in FY 1975 before the implementaion of PIP.*

The statement is true.

2. *The figures provided to you by APWU Local 147 on the cost of implementing the PIP Program at Hartford are not factual.*

A. *Salaries of PIP Employees.*

All PIP team members were Postal Service employees detailed from Headquarters, Region, District and local offices who were drawing their regular salaries. To utilize engineers from Headquarters, region and district offices on field assignments is a normal course of business and their salaries are paid from normal budgets. Local management personnel utilized were given temporary assignments on PIP teams by rescheduling vacations and by distributing the work among other management personnel. There is no basis for a $250,000 figure.

B. *Cost of Moving 71 Employees to Night Shift.*

Mail arrival patterns and the hourly percent flowing through mail processing operations were analyzed over a three week period. People were assigned to those hours where mail was available to be worked. The maximum estimated cost of night differential pay would be approximately $79,000 per year. On the basis of less hours worked annually per employee, the minimum cost would be approximately $63,500. By matching employee workhours with mail availability, we eliminate much overtime pay. There is no basis for the $184,000 figure.

C. *Cost of Moving Clerks to Sunday with 25% Premium Pay.*

Ninety-six employees will work Sunday hours for an annual cost of approximately $57,000. Additionally, by working regular employees on Sundays, we will eliminate 65 casuals (limited term work force) for a savings of $194,000. This action will also considerably reduce Sunday overtime. There is no basis for the $136,000 figure.

D. *Retraining Clerks for Window Jobs.*

Forty bids are assigned to window and central mark-up. Training for employees will cost approximately $10,000. There is no basis for the $21,000 figure.

E. *Training Employees for Letter Sorting Machines.*

Thirty-five additional operators are required to man the letter sorting machines. The LSM training will create a significant savings and will cost approximately $18,500. There is no basis for the $48,000 figure.

3. *Estimates supplied by the union indicate that the PIP program may cost the USPS an additional $639,000.*

The PIP study has indicated a savings of $1.1 million in the Hartford office due to rescheduling and staffing with an expenditure of approximately $164,500 to achieve that savings.

4. *Large mailers in Hartford send their mail to the post office in the morning. This mail is not worked until the evening.*

Mail which comes in before 1:00 PM is insufficient in volume to warrant full staffing at that time. The bulk of the insurance mail is received three times per month (5th, 15th and 25th). This mail is scheduled to be worked as it arrives on those days.

5. *Over 50% of managed mail arrives in the post office between the hours of 7:00 AM and 1:00 PM. It is shipped to satellites in the morning, resent and reworked in Hartford in the evening.*

It is true that 50% of the managed mail

does arrive between 7:00 AM and 1:00 PM. This mail is scheduled to be worked as it arrives. During 1975 mail was sent outside the Hartford Post Office for processing, once to Waterbury (June 7) and four times to New Britain to meet service standards.

6. *Mail sorter (octopus) was "quietly" removed and losses suffered after grievances were filed to show its inefficiencies.*

The above Mail Distribution Ring was purchased for the new building which will be occupied in August. A Regional Headquarters decision was made that the system would be given a trial in the present building. It was obvious from the start that there was not sufficient room for the system in the present building, and four union safety grievances, a management decision was made to remove the system to storage. The Distribution Ring System has had considerable success in several offices around the country. There is presently a distribution ring operating efficiently at the Murphy Road Annex. There will be adequate space at the new facility for this unit. The Distribution Ring will be operating in the new building.

7. *The morale of the employees is at an "all time low," and increased efficiency is impossible as long as workers are not consulted before drastic changes are put into effect.*

During regular Management-Union meetings held at the Postmaster's office, progress of the PIP team was given as a point of discussion.

8. *Several planned meetings were held between the PIP Team Leader/Postmaster and local union representatives to discuss the up-to-pate progress of the program. Specific meetings were:*

May 1, 1975—Meeting was held to give a complete explanation of the PIP program (results of the study and procedure used to get the savings). The local president and vice-president walked out of the meeting, the regional union vice-president stayed for the complete meeting.

July 10, 1975 (10:00 AM)—Meeting was held with local APWU representatives to discuss minor adjustments which had been made in the scheduling and staffing plan.

August 8, 1975 (10:00 AM)—Meeting was held in Washington between Headquarters officials and APWU national officers and staff to discuss impact of Hartford study. APWU requested to examine the basic data in the Hartford study. Permission was granted.

December 3, 1975—Meeting was held at Hartford office between Headquarters, region, district and local postal officials and national APWU staff consultants and local representatives to discuss the Productivity Improvement Program. A complete overview and program update was given. APWU representatives requested and were given access to information concerning the following activities:

Productivity Rate—Operational Analysis A/P 1 through 4, 1975.

Mail Arrival Pattern—Test Data.

PIP Base Volumes—Oper. Analysis A/P 4 through A/P 6, 1975.

Current Surface and Air Transportation Schedules.

Management Operating Data Systems Handbook.

Present Schedule of Clerical Employees.

MPLSM—Performance Evaluation Report, A/P 6, week 3.

Present number of LSM operators, categorized by tour, scheme and position, and number of employees in training.

List of Operations studied in PIP, and not studied in PIP.

Copy of Original Operation Detail Reports.

Copy of Current Operation Detail Reports.

Proposed Staffing and Scheduling Plan:

December 17, 1975—Meeting was held in Washington between Headquarters postal officials and the APWU national officials and consultants to discuss their analysis of the Hartford based data.

January 2, 1976—Meeting was scheduled at 9:00 AM with Hartford Post Office management and Local 147 representatives to discuss PIP implementation. Union representatives did not show up. Meeting was rescheduled for 1:30 PM, but again Union representatives did not appear. After repeated attempts to get representatives to accept bid package, it was sent via Certified Mail to the local Union office.

January 2, 1976—Letters were sent to homes of 71 employees who were being excessed from Tour 2.

January 5, 1976—Letters were sent to all remaining Tour 2 employees advising them of their status.

January 8, 1976—Meeting was held between the Postmaster, PIP Team and APWU representatives to discuss the status of Tour 2 employees.

January 10, 1976—The complete bid package was mailed to the homes of all bargaining unit employees.

January 12, 1976—The bid package was officially posted on all bulletin boards at the Main Post Office, stations and branches.

February 5, 1976—List of successful bidders was posted for Tour 2 positions. Approximately 45 successful bidders were placed in their new positions effectve February 14, 1976.

9. *Security of jobs for veterans and disabled veterans.*

All changes in Hartford personnel will be handled in accordance with the National Collective Bargaining Agreement.

LEGISLATION TO CLARIFY TAX CODE PROVISION THAT COULD HARM MANY CHARITIES IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. Matsunaga) is recognized for 10 minutes.

Mr. MATSUNAGA. Mr. Speaker, today I am introducing legislation to clarify a provision in the Internal Revenue Code which, if the current IRS interpretation is permitted to stand, could prove extremely harmful to charitable organizations across the country.

I refer to the position taken by the IRS that liens securing assessments for offsite improvements are "acquisition indebtedness," thus making the charitable organizations holding the assessed property liable for taxes on the income produced from the property.

It is my understanding, Mr. Speaker, that the intent of Congress in enacting section 514 of the code was to prevent tax-exempt organizations from, in effect, trading on their exempt status in transactions involving the sale or lease of property held for activities unrelated to the charitable function. Quite clearly, an assessment by a municipal or State government to defray the costs of offsite improvements such as curbs or sewers is not subject to the kind of manipulation toward which section 514 was rightly directed.

It is especially noteworthy that the IRS has concluded, in its applicable regulations, that real estate taxes are not "acquisition indebtedness" within the meaning of the code, unless the charitable organizations have defaulted in paying those taxes. Yet there is little substantive or procedural difference, for this purpose, between real estate taxes and assessments for local benefits. Some State and local governments use both devices to finance similar projects and, in pure economic terms, real estate taxes due in future years are just as concrete an obligation as assessments due in future years to cover the costs of local benefits.

The Bishop estate in Hawaii, which operates the entire system of Kamehameha Schools, is one of the entities that would suffer substantially if the IRS position is allowed to stand. Kamehameha Schools not only provides quality education to its own student body, but is also developing a number of exciting new programs for the Hawaii public school system. If the estate's income from numerous pieces of property is subjected to Federal income tax because of the IRS misinterpretation of section 514, it is the children of Hawaii who will suffer, for these innovative programs would surely be curtailed.

This is a matter which would involve minimal revenue loss to the Federal Government; its impact, however, on the charitable activities of thousands of organizations in Hawaii and across the country, would be substantial.

I trust, Mr. Speaker, that the bill I introduce today will receive favorable and timely attention by the Ways and Means Committee and the House as a whole. At this point I include the text of the bill:

H.R. 12052

A bill to amend the Internal Revenue Code of 1954 to provide that indebtedness arising out of taxes or special assessments imposed by State or local governments will not be treated as acquisition indebtedness for purposes of the tax on unrelated business income

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (6) of section 514(c) of the Internal Revenue Code of 1954 (defining acquisition indebtedness) is amended to read as follows:

"(6) Certain financing.—For purposes of this section, the term 'acquisition indebtedness' does not include—

"(A) an obligation to the extent that it is insured by the Federal Housing Administration, to finance the purchase, rehabilitation, or construction of housing for low- and moderate-income persons, or

"(B) any indebtedness to the extent that it arises out of a tax or special assessment imposed by a State or any political subdivision thereof."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969.

THE PEOPLE'S "NEED TO KNOW"

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. Abzug) is recognized for 10 minutes.

Ms. ABZUG. Mr. Speaker, I am today introducing a bill to amend the Privacy Act of 1974 to require that Federal agencies maintaining files on individuals or organizations who were subjected to illegal surveillance be informed of that fact and of the fact that they have certain rights under the Privacy Act and the Freedom of Information Act. The bill also gives the subject the right to require that every copy of the file be destroyed.

In all of the furor in the past few weeks over "leaks" of classified information, we are losing sight of the fact that we have done virtually nothing to remedy the wrongs done to innocent victims by the intelligence agencies in the name of national security. The first step in affording a measure of justice to the people and organizations which were subjected to snooping and harassment is simply to advise them that the Government still maintains files about their perfectly legal activities. The next step is to allow them the option of having every trace of such files destroyed.

No one should have to guess whether he or she was the object of illegal, unconstitutional, or improper activity by the intelligence agencies. Many people may not even be aware of the fact that the Government opened their mail or tapped their phone or otherwise had them under surveillance for doing nothing more than exercising their constitutional rights. These people have the right to be informed, to obtain their files under the Freedom of Information Act, and, if necessary, to seek legal remedies. It is for these reasons that I offer this bill which I believe answers the people's "need to know." The requirement of notice and the right to destroy one's file would apply to the following programs or operations:

First. Central Intelligence Agency and Federal Bureau of Investigation mail openings: As a result of the work of various House and Senate committees, the public has become aware of the shocking program of mail openings carried on by the CIA and the FBI for 20 years with the conscious knowledge that they were acting illegally. According to testimony before the Senate Select Committee on Intelligence, the New York program alone involved the opening of over 200,000 individual letters. Although "watch lists" were supplied by the CHAOS program and by the FBI, mail openings were not confined to those on the lists. Many innocent people, including Members of Congress, were subjected to this indecent invasion of privacy under the guise of national security when they had neither committed nor were they suspected of committing any crime. Every person or organization subjected to a mail opening should be informed that there is a file or an index resulting from that event, and should be given the right to have every trace of this invasion of privacy removed from the public record.

Second. National Security Agency monitoring of international communications: According to the Rockefeller Commission report, part of the CHALS program conducted by CIA included the monitoring of international communications of individuals and organizations. In hearings held by the House Subcommittee on Government Information and Individual Rights which I am privileged to chair, information was developed that commercial cable companies had been cooperating with the FBI and the National Security Agency for over 30 years in monitoring cable and telex traffic. Subsequently, the Senate Select Committee on Intelligence released a report on Operation Shamrock, the cover name given to this message-collection program, indicating that international cables were routinely turned over to NSA. The Shamrock report states that "telegrams to or from, or even montioning, U.S. citizens whose names appeared on the watch list in the late 1960's and early 1970's would have been sent to NSA analysts, and many would subsequently be disseminated to other agencies." Mr. Speaker, these people have a right to know that the Government read their private communications without court order, and my bill will require that they be so informed.

Third. Burglaries: Both the FBI and CIA have stated publicly that they engaged in illegal burglaries and it is clear that many of these were directed against domestic dissident organizations. The FBI conducted some 238 entries in connection with the investigation of 12 "domestic security targets" in just one program. The Rockefeller Commission report states that the CIA conducted at least 12 unauthorized entries. Surely, the victim of a burglary ought to be informed that it was the Government itself which engaged in this incredible behavior.

Fourth. Warrantless wiretaps: By now it is well known that the FBI conducted a large number of electronic surveillances where the object of the tap was not a foreign power or its agents. In fact, the objects of the "Kissinger taps" appear to be restricted to newsmen and former employees of the NSC. Mr. Speaker, as a spinoff of Watergate and its penumbra, we have learned of a substantial number of these taps, but how many more were there about which we know nothing? My bill would require that every sender and receiver of an intercepted communication conducted without warrant must be informed that there exists a file on him or her as a result of the surveillance. Perhaps more important, it would give the subject of the file the right to have the contents destroyed. Why, for example, should the Government continue to maintain the logs of private conversations conducted over a period of almost 2 years on the home telephone of someone like Morton Haperin? It is clear that it should not perpetuate such a grievous invasion of personal privacy by continuing to maintain the fruits of wrongful surveillances.

Fifth. Operation CHAOS: This CIA program, which began as a survey of the extent of any foreign connections with domestic dissident events, evolved into a massive collection of data on American citizens and organizations. The Rockefeller report concluded:

> The Operation became a repository for large quantities of information on the domestic activities of American citizens. . . . Much of the information was not directly related to the question of the existence of foreign connections with domestic dissidence.

Mr. Speaker, the Rockefeller report concludes that the files of the CHAOS project which have no foreign intelligence value should be destroyed at the conclusion of the current congressional investigations. I agree, but not before the subjects of the files are made aware that they exist.

Sixth. COINTELPRO: From 1956 to 1971, the FBI engaged in a "Counterintelligence program" targeted against five domestic groups, including "the new left, white hate groups, and black extremist organizations." The recent revelations about the harassment and invasion of the Reverend Martin Luther King, Jr.'s, privacy was shocking to almost all Americans. Yet we do not know how many others were subjected to similar disruptive tactics which the FBI admits having engaged in. Some of these tactics include, dissemination of false or fictitious material about individuals or groups; use of informants to disrupt a group's activities; informing employers and credit bureaus of members' activities; establishing sham organizations for disruptive purposes; informing family or others of radical or immoral activity; and more. Once again, Mr. Speaker, there are people in America today who are not aware of the fact that the troubles which were visited upon them a few years ago was the work of the FBI. Is it not our duty to so inform them?

Seventh. Internal Revenue Service special service staff. In 1969, the IRS created this unit focused on "ideological, militant, subversive, radical, and similar type organizations." By 1973 there was a total of 11,458 SSS files on 8,585 individuals and 2,873 organizations. Many of the organizations and individuals targeted by IRS were antiwar and "new left" groups and their leaders and members. There are also a number of files on "liberal establishment" organizations such as church groups. Clearly, these files were collected so IRS could provide "special" tax treatment to these individuals and organizations. Would it not now be proper to inform people that the tax audit they had several years ago was a result of the file kept by the Special Service Staff of IRS?

Mr. Speaker, as I indicated previously, the Rockefeller Commission recommends that files of the CHAOS project be destroyed after the completion of the current Congressional investigations into intelligence agencies. Senator FRANK CHURCH, chairman of the Senate Select Committee on Intelligence, has obtained agreement from the intelligence agencies that nothing will be destroyed until his committee has reported and gone out of business. That day will soon be here and the shredders may be warming up right now to destroy and bury forever the record of one of the sorriest chapters in American history. Accordingly, I am today requesting that all intelligence agencies refrain from destroying any files or records until such time as Congress has acted on the bill I am today introducing.

Finally, the bill I am introducing would eliminate the virtual blanket exemption which the Privacy Act now gives to the CIA. It is my view that no agency should be exempt from the operation of the Privacy Act, but that the CIA should be required to show serious damage to national defense or foreign policy before it may withhold an individual's file.

The text of the bill follows:

H.R. 12039

A bill to amend the Privacy Act of 1974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 552a of title 5, United States Code, is amended—

(1) by striking out subsection (d)(2)(B)(i) and inserting in lieu thereof the following:

"(i) correct, expunge, update, or supplement any portion thereof which the individual believes is not accurate, relevant, legally maintained, timely, or complete; or";

(2) by striking out "and" at the end of paragraph (10) of subsection (e), by striking out the period at the end of paragraph (11) of such subsection and inserting in lieu thereof "; and", and by inserting immediately thereafter the following new paragraph:

"(12) inform each person who was—

"(A) the sender or receiver of any written communication, or communication by wire, cable, radio, or other means which was intercepted, recorded, or otherwise examined, by such agency, or any officer or employee thereof, without a search warrant, or without the consent of both the sender and receiver; or the occupant, resident, or owner of any premises or vehicle which was the subject of any search, physical intrusion, or other trespass, by such agency, or any officer or employee thereof, without a search warrant, or without the consent of such person;

"(B) the subject of a file or named in an index created, maintained, or disseminated by such agency, or any officer or employee thereof, in connection with an operation or program known as "CHAOS", which operation or program is described in the Report, dated June, 1975, to the President by the Commission on CIA Activities Within the United States;

"(C) the subject of a file or named in an index created, maintained, or disseminated by such agency, or any officer or employee thereof, in connection with an operation or program known as "Counterintelligence Program" or "COINTELPRO", which operation or program is described in the Statement of Hon. William B. Saxbe, and the hearings of Subcommittee of the House Judiciary Committee on November 20, 1974;

"(D) the subject of a file or named in an index created, maintained, or disseminated by such agency, or any officer or employee thereof, in connection with an operation or program of the Internal Revenue Service known as "The Special Service Staff", which operation or program is described in the Joint Committee on Internal Revenue Taxation Committee Print entitled "Investigation of the Special Service Staff of the Internal Revenue Service" dated June 5, 1975; that he, she, or it is or was such a person, provide each such person with a clear and concise statement of such person's rights under this section and section 552 of this title, and provide each such person with the option of requiring that agency to destroy each copy of such file or index in its possession.".

(3) by striking out "(e) (6), (7), (9), (10, and (11)" in subsection (j) and inserting in lieu thereof "(e) (6), (7), (9), (10), (11), and (12)";

(4) by striking out paragraph (1) of such subsection; and

(5) by striking out paragraph (3) of subsection (k) and redesignating the following paragraphs accordingly.

SPECIAL ORDER INVESTIGATING THE LEAK OF THE HOUSE CIA REPORT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. Dodd) is recognized for 5 minutes.

Mr. **DODD**. Mr. Speaker, I would like to address myself to the serious issues raised by the passage of Mr. Stratton's privileged resolution, which requires that the Committee on Standards of Official Conduct investigate the leak of the House Intelligence Committee report.

I do not mean to sound overly pessimistic, but I am very much upset by the vote to sustain House Resolution 1042, and I feel that it is one that many respected Members of this House may come to regret.

I say this only after long moments of uncertainty and reflection. My decision to vote against this resolution was a difficult one, and I think that it is my duty to share the reasons for this decision with my constituents and my colleagues.

Much of my concern was aroused by the fact that the issue that we all faced last Thursday was not at all a clear-cut one. Unquestionably, a wrong-doing had occurred, and a majority decision of the House to withhold the publication of the committee report had been violated.

I do not choose to ignore this violation, or its origin, but I do dislike the solution that was put before this Congress and that was subsequently adopted after a single hour of floor debate.

Specifically, I question the method in which the House decided upon this investigation, the thrust of this investigation, as well as its potential consequences.

First of all, I very strongly support the responsible position voiced by the majority leader, Mr. O'Neill. Indeed, Mr. Stratton's resolution should have been referred to the Committee on Rules, and not brought directly to the floor in an atmosphere of emotional fervor.

If regular procedure had been followed, we would have had time to weigh in our own minds the best manner in which to conduct an investigation, and time to consider other reasonable alternatives, including Mr. Peyser's resolution.

As it stands now, the Committee on Rules has been bypassed, and the House has dictated who will conduct the investigation and how.

Second, I am uncomfortable with the text of the resolution, which specifically mentions by name both Mr. Daniel Schorr and the Village Voice.

Frankly, I am worried that the focus of attention will prove to be the press, rather than the circumstances which resulted in the report being disclosed to the press without the assent of the Members of the House.

I do not condone Mr. Schorr, but the issue of concern to the Congress is not who publicized the leaked material, or in what newspaper, but who instigated the leak in the first place.

This is an internal problem and it must be solved internally. Any party guilty of this breach of confidence should be held accountable for his or her acts. Clearly, some form of disciplinary action must be taken in order that the credibility of this House be fully restored.

The question, again, is how we go about this; and I am not sure that this particular resolution can accomplish these goals without serious repercussions.

I do not think that the manner in which the investigation is handled should result in obscuring the underlying issues that are involved here. The real issues remain the overclassification of a great many governmental documents, the second-class status of Congress in the eyes of the intelligence community, and the extent of the powers of this community.

If we become carried away with a single violation, we will be further contributing to the counterproductive backlash that is already taking place in the administration.

Sadly, the revelations of business and Government wrongdoings have not resulted in a decrease in the number of these wrong-doings. In fact, we are now being confronted with an increasing volume of executive and legislative proposals that actually broaden the powers of our largely unaccountable intelligence agencies.

I am not certain if, and how, we can turn this tide around. I am certain, however, that if we allow this action to follow its present course, we will see the civil liberties of the American public suffer a notable setback. There will be more Government secrecy rather than less, and less public accountability rather than more.

Thus, given this state of affairs, I feel that it is incumbent upon this Congress to restore a climate of moderation and fairness to a debate that has already become far too inflammatory.

It is precisely because I do not perceive the Stratton resolution as furthering such an effort that I cast my vote against it. I hope that, despite its passage, the House can succeed in reestablishing its own integrity and return to the business of restructuring our intelligence system in a constructive fashion.

SOVIET SPENDING ON ARMS UNDERESTIMATED

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Dominick V. Daniels) is recognized for 10 minutes.

Mr. **DOMINICK V. DANIELS**. Mr. Speaker, I wish to bring to the attention of my colleagues an article that appeared in yesterday's New York Times regarding revised estimates on military spending by the U.S.S.R.

For many years, it has been generally estimated that the Soviet were spending 6 to 8 percent of their gross national product on defense. In contrast, the United States has been spending 5.5 to 6 percent of its GNP for defense.

However, new investigations by the CIA and the Defense Intelligence Agency conclude that Soviet spending is probably much closer to 10 to 15 percent of GNP.

Soviet defense spending has been rising at a rate of about 3 percent per year, while concomitant spending by the United States has declined, with the exception of this year.

Thus, on a dollar basis, it has been concluded that the Soviet Union is outspending the United States on defense by a factor of 35 percent.

Mr. Speaker, there has been much discussion lately on the value of our détente policy with the Soviet Union. If détente is simply being used by the Soviets to buy time while they increase their military edge over the United States, then our policies should be carefully reexamined.

I believe it is unfortunate when legitimate questions concerning détente are raised by the Congress, the Secretary of State replies that such questions are destructive. The distinguished secretary implies that the only alternative to détente is cold war. Thus, he would have those of us in Congress who raise such questions to be placed in the role of warmongers and disturbers of the interna-tion peace.

I suggest to my colleagues that an alternative stance is achievable for American foreign policy—a stance that avoids the press without the assent of the Mem- and stark cold war on the other.

Prof. Warren G. Nutter of the University of Virginia, formerly Assistant Secretary of Defense for International Security Affairs, recently published an analysis of our détente policies. His analysis, prepared for the American Enterprise Institute for Public Policy Research concludes that—

> Such a new foreign policy stance by the U.S. would involve the restoration of Western confidence and resolve, reconstituting deterrence, basing negotiation firmly on the principles of reciprocal concession and unimpaired security, and bargaining accordingly.

I share Professor Nutter's belief that détente has lulled this Nation into a state of complacency about the ultimate intentions of the Soviets. This relaxation mode in our foreign policy does not serve the best long-range interests of the United States. Some serious reevaluation needs to be conducted, and Congress should have an opportunity to make recommendations and express concerns about the direction of United States-U.S.S.R. relations without being maligned as diplomatic neanderthals by the State Department.

Mr. Speaker, I would like to share with my colleagues the article from the New York Times on the Soviet arms buildup, together with another article that appeared in the February 23 issue of the Wall Street Journal. This article by Dr. Paul McCracken on "the future of United States-Soviet trade," also concludes that the military balance between the United States and the Soviets exercises a great influence on the economic and political directions of the U.S.S.R. As Dr. McCracken points out—

> A stronger U.S. defense capability, which makes political gains for them harder going, could strengthen their interest in economic relationships.

I do believe there is a value of increasing the economic relationship that exists between the United States and the Soviet Union; however, I would inject a continuing note of caution against the sharing of technologies which might conceivably be used against us.

Mr. Speaker, the articles from the New York Times and the Wall Street Journal are included at this point in my remarks:

[From the New York Times, Feb. 23, 1976]

SOVIET ARMS OUTLAY MAY BE BIGGER SLICE OF PIE THAN ONCE THOUGHT

(By John W. Finney)

WASHINGTON, February 22.— The Central Intelligence Agency is coming to the conclusion that it has been underestimating, perhaps by more than 50 percent, the share of Soviet economic resources being devoted to defense.

In the past, the C.I.A. generally estimated that the Soviet Union devoted 6 to 8 percent of its total output of goods and services to defense. It now appears that this estimate considerably understated the burden of military effort on the Soviet economy, as the Defense Department has long contended.

While the C.I.A. is still reviewing and revising its estimate, officials involved in the study said it now appeared that the intelligence agency would conclude that 10 to 15 percent of the Soviet gross national product was going to defense.

In contrast, the United States in recent years has been devoting 5.5 to 6 percent of its much larger gross national product to national defense. The Soviet Union has an estimated gross national product of about $900 billion, while that of the United States comes to $1.5 trillion.

RECENT DATA REFLECTED

The revised, higher estimate now being adopted within the intelligence community does not reflect any previously undetected rise in Soviet defense spending, according to officials. Rather, it reflects recent intelligence information about the size and sophistication of the Soviet military forces, as well as changes in the methods used within the C.I.A. for assessing the cost of the Soviet defense program.

At the same time, defense officials suggested that the higher estimate provided a deeper insight into the high priority Soviet leaders were willing to assign to defense, despite the strain that it imposes upon the Soviet economy.

Over the past decade or so, the C.I.A. has developed two basic models for analyzing the relative magnitude and trends of the Soviet defense effort.

One is the dollar model in which the intelligence analysts take all the Soviet forces, weapons and research programs and attempt to determine how much a comparable program would cost the United States.

COSTS CONVERTED TO RUBLES

The other is the ruble model in which the estimated costs of the Soviet program are converted into rubles. Its purpose is to indicate how much of a burden, in the eyes of Soviet policy makers, the defense effort may be imposing upon the Soviet economy. From this model estimates have been derived as to how much of the Soviet gross national product has been going into defense.

By the dollar model, Soviet defense spending has been rising steadily for the past decade at a rate of about 3 percent a year. Defense spendingy by the United States until this year has been declining.

As a result, Soviet defense spending, as measured by dollar cost, has been exceeding that of the United States since 1970, according to the C.I.A. estimates. In dollar cost terms, the C.I.A. has estimated that the Soviet Union is outspending the United States by about 35 percent on defense.

While Soviet defense spending has been growing, the Soviet gross national product has been increasing at a somewhat faster rate. For that reason, the percentage of the Soviet gross national product going to defense has remained relatively stable and even declined slightly, according to past C.I.A. estimates.

Differences have developed between the C.I.A. and the Defense Department, however, over what share of the Soviet gross national product is allocated to defense.

ESTIMATES ON SPENDING

In testimony last July before the Joint Congressional Economic Committee, Lieut. Gen. Daniel O. Graham, the former director of the Defense Intelligence Agency, estimated that at least 15 per cent of the Soviet gross national product was being spent on defense. In an analysis supplied to the committee in October, Andrew W. Marshall, director of the Office of Net Assessment in the Pentagon, suggested that the "likely range" was from 10 to 20 per cent.

General Graham and Mr. Marshall said that the methods used by the C.I.A. had serious shortcomings that tended to substantially understate the cost of the Soviet program as well as its burden on the Soviet economy.

One of the principal criticisms made by Mr. Marshall was that the C.I.A. practices overestimated the efficiency of Soviet military production and thus underestimated the amount of rubles being devoted to defense.

Mr. Marshall also noted that past C.I.A. estimates had understated the size of the Soviet military and border security forces by about 600,000 persons. A recent reassessment has raised the estimate to 4.5 million to 5 million people.

While Director of Central Intelligence in 1973, James H. Schlesinger repeatedly objected that with 15 percent of the nonagriculture work force in the Soviet Union employed directly or indirectly by the Soviet Ministry of Defense, it seemed illogical to conclude that only 6 to 8 percent of the Soviet gros national product was going to defense.

With support from Mr. Marshall, a longtime academic colleague, Mr. Schlesinger continued to object when he became Secretary of Defense. By last spring, according to officials, the large C.I.A. bureaucracy agreed to review and revise its estimates.

[From the Wall Street Journal, Feb. 23, 1976]

THE FUTURE OF UNITED STATES-SOVIET TRADE

(By Paul W. McCracken)

Can the U.S. and the U.S.S.R. make much out of their economic relationships with each other? This may seem to be a leading candidate for the era's most ill-timed question. Detente is having hard going, and visibility about its specific meaning and content is blurred for most Americans. The U.S.S.R. seems politically to be more on the move than at any time in the last decade or so. The obvious answer to the question would seem to be, "No." It is, however, more complex than this.

That in some ultimate sense the potential is there for trade seems clear enough. The volume of our trade with other countries not surprisingly is heavily influenced by the size of the other economy. U.S. exports to Germany are about 10 times those to Norway. Our imports from Korea are double those from Malaysia. While many factors influence the volume of inter-country trade, the size of the economies involed is a key factor. Korea's gross national product is double that of Malaysia. Norway's GNP is less than one-tenth of that for Germany. Suppose that we were to have trade with the U.S.S.R. in proportion to the size of their economy. What would our U.S.S.R. exports and imports be? The arithmetic, of course, produces absurd figures—something up as high as $10 billion—and that country would probably then be our third most important trading partner. (Canada and Japan would still remain comfortably in first and second position.)

The actual figures have been a bit below this, and the large shortfall itself suggests that the realization of a "normal" volume of trade with that economy is so far down the road as to be irrelevant to this world. Our exports to the U.S.S.R. in 1973 did reach $1.2 billion, about the same as our exports that year to Korea or Taiwan and well below those to Iran. In 1974 they slumped sharply to about $600 million, but recovered to the $1 billion zone in 1975.

The figures for imports are even less impressive. Our imports from the U.S.S.R. have been of about the same order of importance as those from Angola or Peru. The U.S.S.R. as a market for exports or a source of imports has, in short, been of petty cash fund proportions. That trade could drop out of our picture entirely, and it would hardly be missed in trade statistics.

CUMBERSOME PROCEDURES

The reasons for this low volume of trade are far more fundamental than that the two countries have some political rivalries and tensions. For one thing state organized economies tend to be self-sufficiency-minded in their thinking. The ratio of external trade to GNP for the U.S.S.R. is about half that for the U.S. and one-third of that for Japan (whose GNP is about two-thirds of that for the U.S.S.R.). And there are logical reasons for thinking that this would be the inevitable result. Government-managed economies tend to have arthritic, heavy-handed, and cumbersome decision-making procedures. Once a five-year plan's pattern of production is battled out and set, it is not readily and quickly changed in spite of the annual adjustment process. Taking advantage of better or cheaper products through imports, whose only requirement is performance in a competitive market, has no meaning in a state-organized economy. Moreover, the probing and testing of markets, either foreign or domestic, with new and better products and services are much more apt to be stifled if trying out the product requires an affirmative answer from a bureaucratic process than if the requirement is the ability to out-compete in open markets. This makes it difficult for state-organized economies to bring to their export markets the rich diversity of advanced products which can be attractive to the increasingly affluent consumers in the liberal, market-organized economies.

Moreover, state-organized economies tend to think bilaterally. If the U.S. sells to the U.S.S.R., what will the U.S. buy from the U.S.S.R. to balance out? In part, this may reflect the heavy primacy of political considerations. In part, it may reflect the habits of thinking of those who have never thought in terms of or understood the concept of market. Thus the more sophisticated multilateral trading systems of liberal market-organized economies is often not really comprehended. It is, therefore, no surprise that our imports from the U.S.S.R. tend to trail our exports to them, and this reflects more fundamental matters than a bad harvest. By the time a bilateral deal with such an economy, worth a few million dollars, can be bargained out, trade will have occurred among liberal, market-organized economies worth a few billion dollars.

In a remarkably perceptive paper delivered to the American Economic Association three decades ago Jacob Viner warned that the advent of state-managed economies would have undesirable consequences for international economic relations "with a certain degree of inevitability." He cited among others three major reasons. A political element tends to be injected into international economic transactions. International business disputes tend to become inter-governmental frictions, thereby leaving the domain of orderly judicial resolution. And trade is converted from a predominantly competitive to a predominantly monopolistic basis.

While Viner's first two points may be of more Olympian significance, the latter is visible to the naked eye of anyone traveling in the U.S.S.R. The treatment of the individual as a customer and the quality of service this individual gets is unbelievably bad. The ordinary customer spends his income, and a great deal of time, in a shopping environment about as exciting as a Christmas line at the post office or the purchase of license plates here on the last legal day. Yet this is no mystery. In both cases the customer is dealing with a monopoly, and monopolies tend to act like monopolies—only for government monopolies more so. The vendor is under no competitive pressure to shape up or close up. Whatever the problems this may pose at home, and people are patient to a degree that amazes one from a liberal economy where there is considerable solicitude for the customer, this all is not an economic environment that produces standards of quality and creativity such that products can make headway in international markets.

In spite of all this there are some things Americans need to keep in mind. For one thing the seemingly obsessive inward-lookingness so exasperating to outsiders has some roots in history. Russia has been the casualty of repeated invasions—the Tartars, Napolean, Hitler. And in World War II Russian casualties did exceed 20 million, or about 12% of the population. That a people with this history would have considerable suspicion of the outside world seems understandable enough.

Moreover, those "over there" who survey the American literary wasteland for clues as to what our society is all about receive considerable support for the view that ours is an economy whose beneficiaries are the rich and whose casualties are common people—though the evidence is quite clear the liberal, market-organized economies have far outstripped state-organized systems in lifting material levels of living of people. We perhaps have the advantage of a first-hand knowledge which suggests that this wasteland and the reality bear remarkably little relationship with each other, but confusion about these matters is pervasive even here at home.

A MISHANDLED ISSUE

We handled the most-favored-nation issue badly by ourselves over-reaching. The issue was not whether as we see the matter the world would be a better place if any Soviet citizen were free to emigrate. The point is quite simply that this is a decision which any government will reserve to itself, just as we do also. While the quantitative significance of MFN is probably not all that great, it is a bone in the throat of relationships and we put it there.

The most important point, however, is that the U.S.S.R. economy, like Mt. Everest, is there. Its GNP is 50% or so of ours. It is the world's second-largest economy. It is providing more goods and services and higher material levels of living to the people, even though the pace is slow and the pattern has an unattractive sameness. Women are more smartly dressed than a few years ago. Cars are more numerous and of better quality. Hesitantly and perhaps erratically its economic relationships with the liberal, market-organized economies are going to enlarge.

The record of refusing to develop economic relationships with a country in order to limit its pace of development is not an encouraging one. The usual result is that other economies get the markets or an even more dangerous self-sufficiency will be developed. Though the U.S. economy is vastly larger than that of West Germany or Japan. Germany's trade with the U.S.S.R. exceeds ours and Japan-U.S.S.R. trade is about equal to ours.

We must, of course, be hard-nosed about our own self-interests, as they will fully be regarding theirs. Trade, for example, is one thing, but sale of technology in the sense of successful application to basic scientific knowledge is another, and here a tough U.S. stance is in order. Indeed, it is precisely this technological and product development that liberal, market-organized economies do well, and state-organized systems do poorly. There are still profitable export markets here, however, if our American firms will show some innovativeness about going after it.

It seems clear that the combination of demand for better menus in the U.S.S.R., the low productivity of their capital and labor inputs into agriculture, and uncertain climate conditions will produce a growing through erratic Russian demand for food imports. Here a longer-run basic trade relationship is possible between the U.S. and the U.S.S.R. on a regularized basis so that grain is stockpiled there in good years. In that way the episodic heavy U.S.S.R. purchases that have maximized both political problems and market strains could be reduced.

TWO QUALITIES NEEDED

Down the road there may even be growing opportunities for "joint ventures" to develop the resources of the U.S.S.R.'s Great East, a vast sparsely populated land reminiscent of our Great West. Russian capital and management must be supplemented if these resources are to be developed vigorously and this is increasingly recognized there. The patience of Job and the wisdom of genius will seem to be required, but the opportunities may be substantial. The only question is whether we deal ourselves out overtly or by default.

There can be mutually beneficial economic relationships even between political rivals. Indeed, renewed concern for our national defense capability to improve our international political effectiveness and broadened economic relationships may have a certain complementarity. With our weakened defense posture we have given the U.S.S.R. the opportunity to score political gains, and political gains are more important to them than economic progress (regardless of what the catechism may say). A stronger U.S. defense capability, which makes political gains for them harder going could strengthen their interest in economic relationships. This is all far from a strategy for U.S.-U.S.S.R. relationships. But then neither were the blueprints for an automobile drawn the day the wheel was invented.

IMPRESSIVE BICENTENNIAL CELEBRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Rooney) is recognized for 10 minutes.

Mr. ROONEY. Mr. Speaker, on Washington's Birthday, the Church of the Immaculate Conception in the District of Columbia held an impressive Bicentennial celebration. One of the highlights of this patriotic celebration was the talk by the Reverend John Harper, rector of St. John's Episcopal Church, Lafayette Square, the historic church called the Church of the Presidents. Dr. Harper demonstrated the spirit of loyalty to the ideals of the Founding Fathers which unites members of every religious faith. Dr. Harper is one of the most articulate of the religious leaders of the District and is noted for his sermons. He is a pioneer along with my own pastor, Msgr. Joshua J. Mundell of Immaculate Conception who presided at the Bicentennial celebration, in developing ecumenical programs such as the Bicentennial one. Earlier in the day, the Reverend Harper had given a sermon at St. John's at a service attended by President Ford, in which he spoke of the importance of George Washington in our history and what the meaning of his life should be for us in this Bicentennial Year. I found Dr. Harper's comments thoughtful and inspiring and would like to share them with my colleagues:

Heroes Who Inspire Us

A sermon preached at St. John's Church, Lafayette Square, Washington, D.C., by the Rector, the Reverend John C. Harper, D.D., on the Seventh Sunday after the Epiphany, February 22, 1976.

I

Long ago a prophet in Israel, Isaiah, cautioned about being so caught up in the past that one could not read the signs of the times. "Cease to dwell on days gone by," he said, "and to brood over past history." Dwelling on the past to the exclusion of the present is foolishness, just as it is futile to brood over what has already been. But Isaiah recognized that breaking in upon men was something new—"Here and now I will do a new thing," he wrote; "this moment it will break from the bud. Can you not perceive it."

The bud has been nurtured by the past, and from our past a new American may arise. From our heroes a new nation emerges among those who have the heart and the courage to make it happen. We honor the past and our heroes, but we do not let them become the sole reason for our existence; we are grateful for the two hundred years of American history, for what has been good in it and regretful for its failures. But we allow neither the past glories or the failures, neither the men and women who made this nation of ours what it is, to keep us from our own part today in forging a new tomorrow.

II

For some reason America has few authentic heroes, and although George Washington is certainly one of them he lacks some of the appeal of an Abraham Lincoln or a Lindbergh or John Glenn. He has suffered in part because of distance but more probably for the man himself and the impossible legends that have grown up around his life. While Lincoln, for instance, was a major national figure for only seven years (from the Douglas debates to his assassination), Washington who lived eleven years longer was for twenty-four years the most conspicuous and influential man in America.

He exists, as his biographer James Flexner writes, "within the minds of most Americans as an active force. He is a multitude of living ghosts, each shaped less by eighteenth-century reality than by the structure of the individual brain in which he dwells . . . Washington is for private reasons sought out or avoided, loved or admired, hated or despised."

He was a fallible human being, not a statue of marble; he possessed great power which he used gently and self-effacingly; he was an exemplary leader of men, and yet it is fair to say that no public American figure has been more misunderstood than George Washington, the founder of our country and one of the truly authentic heroes of these United States.

That is perhaps the way it is with real heroes. Their lives—their personalities, motives, words and deeds—have often been misunderstood by their contemporaries and by those who come afterwards. Certainly it was true of Jesus, for the record of the four Gospels not to mention that of two thousand years of history provide evidence of how a great personality can be neglected at times in favor of imagined and legendary accounts about him. Like the spiritual founder of Christianity, the founder of our country was someone who was often ridiculed by those who knew him. His personality has over the years receded into the mists of history, much as the loving, living Jesus of Nazareth has sometimes been lost in the unthinking veneration that has been built around him.

"Washington's character," Flexner writes, "comprised that pull of opposites which give color and depth." There, it seems to me, lies his primary qualification for being a great American hero, someone who by the variety of his life and the depth of his personality commands our attention.

"His heart was warm; his emotions fierce; his gentleness both deep and the result of control; his prudence due as much to self-education as to temperament; his intentions (although he sometimes slipped) altruistic; his force tremendous; his feelings oversensitive; his charm usually overwhelming. His motions were graceful although he had the physical strength of a giant. Conscious of an inadequate education, he was always slow of speech, seeking the right word. If he became sometimes self-righteous, he was always self-demanding. Although he was an aristocrat by temperament and achievement, his kindness knew no class or economic bounds."

I suggest to you this morning that in George Washington we see two authentic marks of true heroism. One is a character which has color and depth to it, character which however it may be sometimes pulled in opposite directions nevertheless possesses real flavor and is never tasteless or dull. It is character which shows itself to others, which is not afraid to be itself rather than hide behind some mask in order to win popular acclaim. Our would-be heroes of the present, no less than those of the past, do well to learn the simplicity of honesty in front of those vaster audiences who look for the real person beneath the make-up of some suggested manner of man.

A hero, in short, is completely himself and not the product of some advisor or popularity poll, and when the self is, like George Washington, richly complex and varied, possessing faults and weaknesses as well as obvious qualities of strength, we have good reason to admire them and to praise with gratitude the person before us.

The second mark likewise is that of openness, only here the quality is somewhat different from the first. If the first concerns the person's own ideas about himself—his willingness to be himself, warts and all—the second concerns his attitude towards other people. Washington's kindness, we are told, knew no class or economic bounds in spite of the fact that by temperament and achievement he was every inch an aristocrat.

Aristocrats are people who are so secure in their own estimation of themselves, of their defeats and their victories, that they can afford to share themselves with other people. They aren't afraid of giving to others whatever it is others need from them—their friendship, their concern, their love. Kindness to others isn't limited only to those who do us good or those with whom we believe we need to win favor or esteem. Kindness that is born of aristocracy comes from the very simple belief that such feeling lies at the heart of the good life itself.

We have seen during the past few years a national attitude that is suspicious of such people, of those whose lives are deep and complex and of those who are basically kind, decent people without any special pretense to them. "A wave of national self-abasement" writes one commentator, "has viewed everything that had seemed noble in our history as suspect, hypocritical, provably evil." What has been true of our attitude to our past has certainly been demonstrated within the past two years or so of our present. Yet in this Bicentennial year we seem to be reaching out to find aspects of our civilization, of our past and of our future as well, of which we can be proud.

In 1976 we can give thanks for heroes who have brought us to this day, for George Washington, called "the indispensable man" precisely because his qualities of leadership and the personality that made those qualities come alive in the dark days of the eighteenth century remain now a part of what we are. Washington merges today as one of history's great people, for unlike some men after him, he saw his first responsibility to his country, and the country for him was people. It was to the citizens of the United States that he devoted his life, not to self-aggrandizement nor to getting as much as he could nor enjoying the honors men heaped upon him. Rather, he described himself "as a man who always walked on a straight line and endeavored as far as human frailties and perhaps strong passions would enable him, to discharge the relative duties to his Maker and fellow men without seeking any indirect or left-handed attempts to acquire popularity."

III

Visit today that small vault on the hillside just below Mount Vernon, and you will see in the simplicity of Washington's final resting place the symbols of a man who was both straight-forwardly honest and also considerate of others. That famous summary of Washington spoken at the request of Congress by Henry Lee two days after the President died rings in our ears: "First in war, first in peace, first in the hearts of his countrymen."

The third of Lee's contentions—"first in the hearts of his countrymen"—has been blurred over the years, simply because we have forgotten Washington the man and allowed the legends and myths to hide him from us. Today as we see in his burial place greatness without ostentation and the reminder of one who denied the temptations of power as few other men in history, preferring not awe or obedience but love, we are reminded of what makes greatness, of what makes a genuine hero to whom we can still look for inspiration and indeed for hope in our present world.

Those two qualities ascribed to Washington are important for us now to remember as we move into a new era: the depth and color of personality and the kindness which does not permit pride of place or personal ambition to keep us from sharing what we have with our fellow Americans.

Do not, Isaiah says, dwell solely on days gone by nor brood neurotically over past history. Instead, alive to what has gone before and grateful to what we learn from departed heroes, let us resolve to create in ourselves "a new thing" so that the year into which we move may be filled with that quality of life which was embodied by the Founder of our faith. In the example of Jesus Christ we now may enter a new era in which personal depth and personal kindness will be perceived as the identifying marks of those of us who call ourselves Christians.

KOSCIUSZKO HOMESITE DEDICATED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I am both proud and happy to announce that the Thaddeus Kosciuszko National Memorial Homesite was dedicated in Philadelphia on February 4. The ceremony marking the dedication was an extremely impressive one where both Senator HENRY M. JACKSON and John Cardinal Krol made major addresses.

The contributions by the Polish hero Kosciuszko to the American Revolution are widely recognized and valued. He is remembered as the "Father of the American Artillery." He was a skilled military engineer whose fortifications at Saratoga and West Point had considerable influence on the American success in the battlefield.

The Philadelphia home of Kosciuszko was acquired and renovated by Mr. Edward Piszek, the president and founder of the Copernicus Society of America. The Copernicus Society, established in 1972, is dedicated to the expansion of cultural and educational achievements of mankind. During the ceremonies Mr. Piszek turned over the deeds to the house and an adjoining structure to the National Park Service, which will maintain the edifice in perpetuity.

The house was reconstructed with the help of Federal funds authorized by legislation of which I was a cosponsor. It is 1 of the 10 major construction or renovation projects added to the Independence National Historical Park for the Bicentennial.

We all owe a debt of gratitude to Ed Piszek and to the Copernicus Society for their extraordinary efforts which have underscored an important part of our American history in this our Bicentennial Year. Ed Piszek is in his own way just as much of a patriot as Kosciuszko himself.

Mr. Speaker, I would like at this time to include an editorial from the Philadelphia Inquirer dated February 5, 1976. The editorial highlights the impressive dedication ceremony and the personal contributions of Mr. Piszek:

A Polish-American Heritage

With impressively appropriate ceremony, the splendidly restored 18th Century house at the northwest corner of 3d and Pine Streets was turned over to the National Park Service yesterday by Edward J. Piszek. It and its immediate neighbor to the north, which will operate as one memorial, are a welcome and attractive addition to Philadelphia's Revolutionary period heritage.

The house's historic significance derives from the fact that for a few months in 1797 and 1798, Thaddeus Kosciuszko boarded there. It has been rightly noted that that is a rather tenuous connection. But Gen. Kosciuszko's connection to the American Revolution was far from tenuous. He was a distinguished military engineer who threw his lot with the colonies, and did great service—including designing the defenses at West Point and making a decisive contribution to the revolutionary victory at Saratoga.

Gen. Kosciuszko, born 230 years ago yesterday, was a Pole, one of millions who have contributed their strength, their imagination, their hard work and their blood to America. Mr. Piszek, one of the country's most outspokenly proud Polish-Americans, deserves warm gratitude for his contribution of the two houses, and for his tireless efforts to bring the shrine to reality.

WHAT IS BEST FOR PUERTO RICO?

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the Congress now has before it legislation to approve the proposed Compact of Permanent Union Between Puerto Rico and the United States. This compact has been drawn by the Ad Hoc Advisory Group on Puerto Rico whose members were appointed by the President of the United States and the Governor of Puerto Rico. The compact proposes to strengthen the ties of Puerto Rico with the mainland and clarify and expand the jurisdiction of the Commonwealth Government. It would give the island the official name of the Free Associated State of Puerto Rico.

There is a great deal of controversy concerning the proposal. I would like to have the benefit of my constituents' opinion on whether I should support or oppose provisions of that compact. The easiest way for me to do that is to set forth major provisions which appear in the agreement and ask people to vote "yes" or "no."

My questions to constituents follow:

SPACE IS PROVIDED FOR RESPONSES BY 2 INDIVIDUALS IN EACH HOUSEHOLD. PROVISIONS OF THE COMPACT

	Occupant			
	1		2	
1. Expand Puerto Rico's self-governing powers.	Yes	No	Yes	No
2. Continue the President's exemption of Puerto Rican Citizens from U.S. U.S. income tax laws.	Yes	No	Yes	No
3. Continue today's common U.S. citizenship, common currency, common market, and common defense.	Yes	No	Yes	No
4. Allow Puerto Rico to establish its own minimum wage laws and occupational health and safety standards.	Yes	No	Yes	No
5. Allow Puerto Rico to establish its own environmental quality standards.	Yes	No	Yes	No
6. Give Puerto Rico 1 Member in the House of Representatives and 1 Senator.	Yes	No	Yes	No
7. Allow Puerto Rico to restrict immigration of aliens when economic conditions call for such limitations.	Yes	No	Yes	No
8. Transfer to Puerto Rico all land in Puerto Rico held by the United States, except that currently used by the United States for public purposes.	Yes	No	Yes	No
Some general questions: Should I—				
1. Vote for the Ad-Hoc Advisory Group's Commonwealth Compact substantially in its present form.				
2. Vote for complete national independence for Puerto Rico.				
3. Vote for Statehood for Puerto Rico.				
4. Vote to hold a referendum in Puerto Rico on the above three so as to allow the people of Puerto Rico to decide their own status and agree that whatever the outcome, to support that proposal.				
5. Other:				
(Occupant 1)				
(Occupant 2)				

If you have other suggestions on ways the United States Congress might deal with this issue and other matters relating to Puerto Rico, please advise me.

It would be helpful to me in ascertaining the sentiments of my constituents to know whether those writing to me are of Puerto Rican descent either by birth or ancestry. Therefore, I am providing additional boxes to indicate that information. There may be some who feel that such information is not necessary and don't want to provide it. If you feel that way, please simply check the box below indicating that you "prefer not to give identification." My interest is in knowing if there is a significant statistical difference in opinion between those who have a cultural identification with Puerto Rico and those who do not. We are all Americans and in a pluralistic society, we are entitled to different feelings on different subjects.

Please check one:

☐ Puerto Rican birth.
☐ non-Puerto Rican.
☐ Puerto Rican heritage (if not birth).
☐ Prefer not to give identification.

CORRECTING INEQUITIES IN THE SOCIAL SECURITY SYSTEM

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I would like to express my concern about the financial integrity of the social security system. While projections differ on the severity and timing of short- and long-range underfinancing, one key issue is apparent—the regressive nature of the funding mechanism. It cannot be denied that viewed as a proportion of total earnings the relative burden of the payroll tax is heavier on the lower salaried worker. To deal with the projected shortfall, the President has made several proposals, chief among them an increase in the tax rate for old age, survivors, and disability insurance, OASDI, of 0.3 percent each for employers and employees. While undoubtedly increasing the trust fund, this proposal would only compound the inequity of the system.

Hopefully, the Committee on Ways and Means will handle the short- and long-range problems as part of a single integrated package. As I understand the problems, the May 1975 report of the trustees of the social security trust fund forecast a rapid decline of OASDI funds which threaten to deplete the reserves in the early eighties due to the combination of rapid inflation, which triggered large cost-of-living increases in benefits during conditions of low-wage growth and high unemployment. While the trustees are in the process of developing new projections, the Congressional Budget Office *and others* have reported another range of forecasts. All foresee future actuarial problems for the long-run based on demographics that indicate a proportionately larger number of beneficiaries will be supported by fewer workers.

A correction of the regressive nature of the social security tax should be a major factor in any long-run financing solution. I propose that this tax be restructured to operate like the Federal income tax, with a progressive but lower tax rate and broaden sources of taxable income. The revenues from this tax would be segregated strictly for use by the social security trust fund. Pending such a change I would favor the approach of Congressman JAMES BURKE, in H.R. 33, which would roll back the payroll tax and utilize general revenues for one-third of social security financing.

Several justifications exist for more broadly based financing for social security. One important reason would be the reduction of taxes for lower income families, many of whom pay more for social security than income taxes. Former head of the Social Security Administration, Robert M. Ball, argues for general revenue payments to restore confidence in the social security program should demographic changes cause long-term deficit. He elaborated on this in a National Journal article, February 14, 1976:

> The general revenue contribution . . . can well rest on the rationale of paying for that part of the program which is not directly wage-related—the social element in giving a weighted benefit to those with low wages, those with dependents, and those who were no longer young when the program started.

It is also interesting to note that this same National Journal article points out that financing by employers, employees, and central government general revenues has been used successfully in all major foreign social insurance systems.

Finally, I wish to draw attention to several of the bills which I have introduced in the Congress to remove various inequities in title II of the Social Security Act:

First. H.R. 7640 would increase from $2,520 to $8,000 the amount of outside income which—subject to further increases under the automatic adjustment provisions—is permitted each year without deductions from benefits. It would end the inequities of regulations that reduce the benefits of the individual who has to work after 65 and not the wealthy individual who has other sources of income by including those other sources in the formula that determines benefits;

Second. H.R. 7158 would reduce from 20 to 10 years the length of time a divorced woman's marriage to an insured individual must have lasted in order for her to qualify for wife's or widow's benefits on his wage record. This would not affect benefits to which a second wife and family are now entitled. If a divorced wife remarries, she would not be eligible for these benefits; and

Third. H.R. 580 would provide that the remarriage of a widow, widower, or parent shall not terminate or reduce his or her entitlement to widow's, widower's, or parent's insurance benefits. I urge that these bills be considered as part of any revision of the social security system.

ONE DAY ESTONIA WILL BE FREE

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, today, February 24, 1976, commemorates the 58th anniversary of the Declaration of Independence of the Republic of Estonia. It is an important day, not only to the many Estonian-Americans, but to all people who knew repression and cherish freedom. The mere existence of an independence day celebration in the hearts of Estonians should serve as inspiration to all oppressed people.

The story of Estonia is a story of determination. Independence was finally won from the Soviets after centuries of subjugation, when the Russian czar's empire fell in 1918, but self-government was to last only briefly. The year 1940 marked World War II and the forcible incorporation of Estonia into the Soviet Union. Deportations and other manifestations of the imposed rule reduced the Estonian population by an estimated 10 percent, and the Nazi rule of 1941 through 1944 proved to be the same kind of repression. When the Allies drove the German forces out of Estonia, the Red Army reoccupied.

The Estonian experience yields not only the symbolic version of liberty, but the real, continuing struggle to regain the freedom that was lost. The community of nations has long condemned the illegal Russian occupation of the Estonian nation in 1940 and the continued Soviet control of Estonia represents a gross contravention of international law. But the issue is not simply one of political sovereignty. It has become a question of the right of a people to ethnic and cultural identity. For 50 years, the Soviet Union has made a concerted effort to destroy the Estonian nation by the systematic diffusion of its population.

It has been estimated that 140,000 Estonians were deported from 1940 to 1954. Since then, the Soviet Government has conducted a massive settlement of Russians in Estonia and a corresponding dispersal of Estonians over the hinterlands of the U.S.S.R. Stalinist terror tactics have been replaced by the application of administrative and economic pressure, but the policy remains methodically effective. According to U.S.S.R. census statistics for 1970, Estonians constituted only 68.2 percent of the population of Estonia, as opposed to 88.2 percent in 1939. Demographic studies published in 1973 show that the proportion of Estonians has declined even further since the 1970 U.S.S.R. census. The Estonian struggle has truly become one for national and cultural survival.

However, the people have not forgotten their past; they keep their heritage alive, awaiting the return of freedom to their homeland. All sorts of gatherings and congresses have taken place over the years in exile since World War II. The largest one was in Toronto, Canada, in 1972 where about 20,000 Estonians from all over the world were united under the banner, "Freedom for Estonia."

Estonian Independence Day is particularly significant this year for we see a concurrent struggle for the principles of self-determination and freedom from oppression. This month, in Brussels, about 1,400 persons from 60 countries attended sessions designed to make concerted efforts on behalf of Soviet Jews. Diversity, whether cultural or religious, is not tolerated in Soviet-dominated nations. The continued destruction of freedom-loving groups like the Estonians is part of this policy of repression.

Today unfortunately it appears that most countries are willing to accept the status quo by having signed the Helsinki Agreement. But the Congress does not accept the Helsinki Agreement, notwithstanding President Ford. The United States has a moral commitment to lend our active support to the causes of freedom and humanitarianism, as stated in this recent House resolution passed on November 13, 1975:

> Notwithstanding any interpretation which the Soviet Union or any other country may attempt to give to the Final Act of the Conference on Security and Cooperation in Europe, signed in Helsinki, it is the sense of the House of Representatives (1) that there has been no change in the longstanding policy of the United States on nonrecognition of the illegal seizure and annexation by the Soviet Union of the three Baltic nations of Estonia, Latvia, and Lithuania, and (2) that it will continue to be the policy of the United States not to recognize in any way the annexation of the Baltic nations by the Soviet Union.

It is incumbent upon us to act with concern for all mankind, never forgetting the plight of oppressed citizens around the world as we negotiate with the Soviet Union in pursuit of détente. In pursuit of that goal, we must never put our imprimatur on the extinguishing of liberty for any people. One day Estonia will be free.

ENERGY UNCONSCIOUSNESS—A DIFFICULT HABIT TO BREAK

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, the temporary energy crisis of 1973 and 1974 dramatically brought to the Nation's attention the fact that our fossil and nuclear fuel reserves are not infinite—they will be exhausted one day. However, energy unconsciousness is a persistent habit which will be difficult to break.

As a sign of constructive progress in this effort, I would like to take this opportunity to excerpt from two articles in the January 1976, National Bureau of

Standards Dimensions magazine. The statements demonstrate how energy conservation is playing an important part in the final decision on certain Federal purchases:

> Recently, the Federal Supply Service purchased 7,700 gas and electric water heaters for military housing units. What makes this interesting is that the government, long noted for buying from the lowest bidder, bought the heaters for $110,000 above the lowest bid.
>
> Faced with high utility bills, the government is beginning to place more emphasis on energy efficiency in its purchases and less on low purchase price.
>
> The heating units purchased use 11 percent less energy than the units offered as "low bid," and over their expected 10-year life span they will save the government an estimated $320,000 in energy costs, even considering the initial purchase investment.

The second article advised of the purchase of energy-efficient kitchen ranges. Some 22,200 gas ranges and 3,720 electric ranges were purchased by the Federal Supply Service primarily for the Department of Defense. The gas ranges are estimated to be 7 percent more energy efficient and will save approximately $620,000 in net costs as compared with the lowest bidder. The electric ranges are also 7 percent more energy-efficient and will save some $120,000 in net costs. The life expectancy of the ranges is 12 years.

Both purchases were made in coordination with a small office in the National Bureau of Standards called the experimental technology incentives program, ETIP. This office is also conducting experiments on window air-conditioners, lawn mowers, and other such consumer products. ETIP believes that—

> The general low bid policy tends to restrict the application of new ideas and products that cannot compete with older, cheaper products.

I believe this program should be continued and expanded. Recently I wrote Russell Train, Administrator of the Environmental Protection Agency, to encourage the Agency to look into application of energy conservation decisions in a wider variety of Government procurement actions.

UNITED ITALIAN-AMERICAN LABOR COUNCIL

(Mr. DENT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DENT. Mr. Speaker, I recently received a copy of a resolution adopted by the United Italian-American Labor Council at its 34th Annual Conference held in New York on December 6, 1975. The resolution, which I understand was also sent to your office, concerns American-based multinational corporations and the international trade union movement.

As many Members of this House are aware, I have been a consistent critic of the economic and political activities of U.S. multinational corporations. Their policy of exporting advanced American technology—much of which has been developed by U.S. tax dollars—new plant facilities, and industrial production capacity has had a devastating effect on the U.S. economy and American jobs. Many Members are also aware that the Federal Government, through its tax, trade, and international investment policies, is contributing to and encouraging this destruction of our job economy.

Recently the Congress has uncovered the apparently widespread practice of multinationals paying millions of dollars in brides and payoffs to foreigners in order to protect corporate profits and self-interest. We also know of certain U.S. multinationals who have engaged in unwarranted political activities in foreign countries.

Mr. Speaker, the multinational corporate phenomenon has become a Frankenstein monster, running rampant and out of control. These companies freely admit that they are beyond national considerations, that they have no country, that they are "transnational" and therefore, consider themselves above the national interest.

I feel that the membership should be informed of the attitude and concern of the United States Italian-American Labor Council. Therefore, at this point I would like to insert into the RECORD the complete text of the IALC resolution.

RESOLUTION: MULTI-NATIONAL AND THE INTERNATIONAL TRADE UNION MOVEMENT

Whereas American based multi-national firms continue to destroy American jobs through their exports of advanced technology, new plants and industrial production, and

Whereas these firms are encouraged by tax loop-holes for their foreign operations and are conducting a world wide search for exploitable low wage labor, thus draining the economic strength of the United States, and

Whereas the inept national economic policies have encouraged these multi-nationals to ship their manufacturing operations outside of this country, thus undermining America's ability to maintain a healthy and growing economy, and

Whereas new investments by U.S. firms in foreign plants and equipments have jumped from 3 billion in 1960 to 30 billion in 1975, while at the same time American corporate executives and their government's spokesmen complain of an acute shortage of domestic investment capital, and

Whereas when these new plants and productions are moved overseas the jobs are taken along—based on the latest information, over 5 million workers are employed by these multi-nationals overseas. This number does not involve those workers used for building plants or supplying the item for final production. When you consider the more than 8,500,000 unemployed in the United States, if this work was produced in the United States, this figure would be reduced by almost 40%. As the overseas workers have found out, the multi-nationals use the threat of international relocation to weaken the workers' position in collective bargaining. This is happening to the workers of Leyland-Innocenti in Milan and to the Pirelli plants in Italy. Further, if the workers dare to strike for economic benefits in one country, the multi-nationals merely increase their production in other countries, thus undermining the position of the worker, and

Whereas the multi-nationals pose a major challenge to the trade unions today, the challenge is going to become more and more serious, therefore be it

Resolved that the IALC urges Congress to implement policies to insure that the operations of multi-national corporations are consistent with the growth of domestic industry and employment in America, and be it further

Resolved that we urge the AFL–CIO to support, through the International Trade Secretariats and such other international labor organizations as a counterweight to the multi-national corporations' disregard for workers' interest, and further be it

Resolved that we support the creation of international codes of fair labor standards so that the workers may exercise their rights to organize and collectively bargain throughout the world.

ESTONIAN INDEPENDENCE

(Mr. DENT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DENT. Mr. Speaker, as we prepare to celebrate our 200th birthday, I think we might be wise to pause for a moment to recognize the birthday and achievements of another proud nation, Estonia, which celebrates its 58th year on February 24, 1976.

Estonia, which is the northernmost of the Baltic countries, is comparable in size to the combined areas of New Jersey, Connecticut, Delaware, and Rhode Island. The Estonian people belong to the family of Finno-Ugric nations, and their language is listed as being one of the principal languages in the world.

The Estonians have inhabited their present territory at the strategically important shores of the Baltic Sea for at least 5,000 to 6,000 years. Throughout this time the country has been subjected to numerous foreign invasions. In 1721, as a result of czarist Russian military might, Estonia became a province of Russia. In 1918 Estonia declared its independence and fought a 2-year "war of independence" against the Soviet Army whose superior force finally subjugated the Estonian people.

Throughout their history the Estonians have excelled in art, education, literature, culture, and sports. The University of Tartu was founded in 1632, the first book in the Estonian language was published in 1535, the current illiteracy rate is only 0.4 percent, and the Estonians are noted for their excellence in chess, track, and field sports, and marksmanship.

During its period of independence, and before, Estonia had an advanced industrial and agricultural economy. In addition to a highly developed agricultural sector, Estonia had advanced manufacturing industries including those of cellulose and textiles. However, the greatest Estonian industrial achievement was the development of the oil shale industry.

At this point I would like to call the attention of my colleagues to the fact that the Estonians have been in the oil shale business since 1918, using the oil shale to produce fuel oil, gasoline, asphalt, and scores of chemical products. The Estonians were pioneers in the development of processes to convert oil shale into usable fuel. For some 58 years the Estonians have been drawing upon their 5,500 million ton oil shale reserve while we in the United States have been foundering; spending millions of research dollars, and being gouged by the OPEC nations. The Estonian example seems to have escaped our "energy experts" in the U.S. Government.

It is inconceivable that we, in the United States, either by deliberate plan or ignorance, are allowing ourselves to be bound by an energy policy that has put a stranglehold on the American economy.

It is time we in the Congress start looking into the scandalous handling of the energy crisis. Who benefits from a policy of refusing to gasify coal with processes already developed and used in many countries of the world? To date we are still in the experimental stages of coal gasification, liquifaction, and oil shale development. The Bureau of Mines has had research authority since the passage of the first Coal Research Act in the early sixties sponsored by myself and the late Congressman John P. Saylor of Pennsylvania. When are we going to stop spending these millions of dollars on research when the processes for developing gas and oil from coal are already known? Somewhere, in the executive branch of this Government, someone is interested in keeping this Nation from becoming self-sufficient in energy production.

Estonia, as a nation, has had its own bitter history of fighting for independence. The determination of the Estonian people to remain free under all kinds of adversity is one that should be an example to this generation of Americans.

I am proud to have as my constituents Americans of Estonian descent. I know them to be good citizens, as proud of their American citizenship as they are of their Estonian heritage. I admit that I knew little about these people, their country and history, until so informed by Philip Kibena of Latrobe, Pa.

Of all that I have learned about Estonians, one thing stands out: Even though the Estonians are now under Soviet domination, they do not plan to spend their future in bondage. I subscribe wholeheartedly to the views expressed in the following statement:

> Estonians may feel much satisfaction and even pride in everything they have been able to attain in the prosperous climate of freedom and independence. However, at present time their lot is of the conquered and they can but pray to God that justice will prevail in the world, and their ancient native country shall enjoy freedom and independence soon again.

As a Representative of American citizens of Estonian descent I can only say "amen, and God bless your efforts."

SOLAR ENERGY—HERE, NOW, AND FOR THE FUTURE

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, today I am pleased to insert in the RECORD an excerpt from Dr. Barry Commoner's article in the February 9 issue of the New Yorker discussing the great potential of solar energy for the United States. I commend the article to all of my colleagues who share my interest in the development of a viable alternative energy source program for the future.

In this excerpt, Dr. Commoner discusses the relative cost-efficiency and effectiveness of solar energy and nuclear fusion. He demonstrates clearly that solar power would provide the most economical energy base for the United States.

The excerpt follows:

SOLAR ENERGY

The usual reason advanced for the remarkable failure to make practical use of what we already know about solar energy is that the devices are so expensive as to be uncompetitive with conventional sources of energy. (It might be noted that this argument has never been advanced relative to nuclear fusion, although it is clear from theory alone that the capital costs of fusion devices—if they ever work—will be much greater than the costs of solar devices of the same capacity. Fusion depends on the release of energy when two atoms of a heavy isotope of hydrogen fuse; it would, if it worked, provide an essentially inexhaustible source of energy.) However, unlike physical realities, the realities of economics, particularly as they apply to energy, are far from eternal. For example, the overall price of energy in the United States has increased by more than a hundred and twenty-five per cent since 1970. And economic changes have rapidly altered the competitive positions of nuclear and coal-fired power plants. Thus, it would seem worthwhile, given the fact that solar-power devices do exist and can perform useful tasks, to find out what it would cost to bring them into commercial operation.

Such an assessment has been made by a panel of government experts assembled in the summer of 1973, and headed by Dr. Alfred Eggers, of the National Science Foundation, in order to conduct a study on "The Nation's Energy Future," under the direction of Dr. Dixy Lee Ray (head of the A.E.C. at the time), in response to a Presidential directive. The results of the study, which were published in December of that year, recommended a five-year, ten-billion-dollar research program, of which two hundred million dollars, or two per cent, was to be devoted to research on solar energy. One billion four hundred and fifty million dollars was assigned to research on fusion, and the breeder reactor received two billion eight hundred and forty-four million dollars, or twenty-eight per cent of the entire budget. Nuclear energy as a whole received forty-one per cent of the total research budget.

The study was supposed to plan a research program to develop new sources that might alleviate the energy crisis. It is appropriate, therefore, to examine the research priorities assigned to the breeder, to nuclear fusion, and to solar energy (as indicated by the proposed expenditures) with a view to what the contrbution each of these three new sources of energy might make to the nation's future energy budget—if the research actually succeeded.

To begin with, we can dismiss nuclear fusion from this evaluation. Since no one knows whether or not it will work, no one has had the temerity to assign any part of a future energy budget to this source. On the other hand, the A.E.C. has made such an estimate of the expected contribution of the breeder program in its environmental-impact statement, which it prepared in support of the breeder program, published in 1974. The A.E.C. estimated that in the year 2000 the breeder program would produce four hundred and thirty-four million kilowatts of electric power, or 23 percent of the projected demand for electricity in that year. According to the Ray study, the investment of ten billion dollars in the proposed research might be expected to increase the total amount of energy available from all sources from the equivalent of about thirty-four million barrels of oil per day to the equivalent of about fifty-seven million barrels per day. The investment of 41 per cent of the research funds in nuclear power (largely for the breeder) was expected to account for 32 per cent of this increase. Solar energy (together with geothermal and hydroelectric power) was expected to contribute 1.7 per cent of the anticipated increase in domestic energy. Since solar energy was assigned 2 per cent of the research budget, there seemed to be a reasonable match between the study's research priorities and the expected results.

When the report appeared, I was surprised and troubled by the smallness both of the proposed solar-research budget and of the expected results. Accordingly, I attempted to obtain a copy of the report of Solar Subpanel IX, which, I knew, comprised a list of ten distinguished experts in the field, assisted by fifty-six equally distinguished consultants. In response to my first inquiries, I was told that there was no such thing as a subpanel report.

Since such an omission would have meant a revolution in bureaucratic procedure that was hardly credible in the Washington of 1973, I asked for help from someone whose inquiries might perhaps receive a more precise response from the A.E.C.—Senator James Abourezk, of South Dakota, who is vitally interested in solar energy. His efforts also failed. When the White House, at Senator Abourezk's request, asked the A.E.C. for the subpanel report, all that that supremely powerful institution (Richard Nixon was President at the time) received and sent on to Senator Abourezk (and eventally to me) was another copy of the basic report, to add to my own. Finally, the Senator was informed that the solar report did indeed exist and that a copy was available in the A.E.C. document room. This turned out to be a dim photocopy of a hazy carbon, but it has brilliantly illuminated the obscurities of solar energy.

The subpanel report describes in meticulous detail what it would cost in research expenditures to bring the various types of solar devices into practical operation and how much they could contribute to the national energy budget. If the various solar technologies were developed according to the subpanel's recommendation for "an accelerated, orderly program having a high probability of early success," at a cost of a billion dollars, they would contribute a total of twenty-one per cent of the nation's electrical demand, or about five and a half per cent of the total energy budget, in the year 2000. Dr. Ray's report recommended an expenditure of two hundred million dollars, or half the amount that the subpanel recommended for a "minimum viable" research program.

The contrast between the A.E.C.'s attitude toward solar energy, revealed in the Ray study, and the subpanel's conclusions is worth some further consideration. A particular solar device, the solar cell, is a good testing ground. This device (technically known as the photovoltaic cell) is remarkably simple in its operation but has thus far been difficult and costly to produce. It consists of a thin slice of a crystal of treated silicon (the element that, together with oxygen, makes up the chief chemical constituent of sand—silicon dioxide) sandwiched between two electrical connections (electrodes), the upper one an open grid. When light strikes the upper layer, the photons (units, or packets, of radiant energy) raise certain electrons in the crystal to higher energy levels, allowing them to move through the crystal. As a result, an electric current flows from one electrode to the other. Large arrays of such solar cells are used to power space satellites; a panel a few inches square will drive a toy electric motor and whirl a small propeller. These cells have been made by a series of rather delicate hand operations and have been so expensive to produce that it would cost about twenty thousand dollars for one kilowatt of electric-generating capacity, compared with present costs of four hundred and sixty dollars per kilowatt for nuclear reactors and three hundred dollars per kilowatt for coal-fired plants. Citing such disparities, the A.E.C. assessment of solar energy as an alternative to the breeder claimed that useful solar electric power could not be achieved in "the foreseeable future."

The subpanel approach to the potential of the photovoltaic cell was to investigate how much effort would be needed to reduce the manufacturing costs—for example, by producing thin silicon crystals in a continuous ribbon instead of slicing up a thick one by hand. This approach was in keeping with earlier experience with the manufacture of transistors (which are quite similar to photovoltaic cells in structure and operation); mass-production methods reduced the price of transistors to about one-hundredth of what the early ones cost. On this basis, the subpanel proposed an "accelerated orderly milestone schedule" for the development of solar power from photovoltaic cells: by 1977, cell-manufacturing technology developed to bring costs to five thousand dollars per kilowatt; by 1979, costs reduced to five hundred dollars per kilowatt and a design for a completed central power station; by 1985, ten-million-watt photovoltaic systems installed in communities and large industrial plants; by 1986, completion of a pilot plant to manufacture photovoltaic cells to provide power at three hundred dollars per kilowatt; by 1990, construction of photovoltaic power systems of hundred-megawatt capacity for use in towns and power networks. In sum, the subpanel report declared:

". . . the achievement of the cost goals of this program will result in the production of economically competitive electrical power (cost of 10 mills per KWH) by the year 1990. The projected rate of implementation of this solar energy conversion technology will produce more than 7% of the required U.S. electrical generating capacity by the year 2000."

To reach this goal, the subpanel proposed research expenditures of about two hundred and fifty million dollars; this was reduced to thirty-five million eight hundred thousand in Dr. Ray's final report. Thus, whereas the breeder was assigned two billion eight hundred million dollars in research funds in the hope (now abandoned) that it would contribute twenty-one per cent of the electrical demand in 2000, the photovoltaic cell, which was capable of achieving one-third of that power output, was assigned about one per cent of that amount. For approximately the same expected contribution to the energy budget, the breeder was assigned more than fourteen times the research support given to solar energy. Such gross disparities in the effort being made to develop nuclear and solar energy—which persist, even though Congress has recently tried to redress the balance—help explain why, despite its inherent practicality, solar energy remains a dream in the United States.

There is, to be sure, a considerable air of unreality about such reports, which predict that x millions of dollars will be transmuted by scientists and engineers into a device that—if it is manufactured and installed—will produce y millions of kilowatts of power. However accurate and perceptive, the reports about solar energy that emanate from government agencies and academic institutions tend to be remote from the realities of the energy crisis as they are experienced not by the people who study energy but by the people who use it. In the real world, energy is perceived not in British thermal units but in dollars—the cost of buying the energy required to do some needed work. In the real world, it is more informative to think about how best to perform a particular task than about how best to produce a particular source of energy—even one as inherently beneficial as solar energy.

Let us consider how best to perform a task that figures prominently in every householder's budget—producing space heat and hot water. *All* the present sources of energy are unsuited to such low-quality tasks; the thermodynamic efficiencies for existing space-heat and hot-water processes are extraordinarily poor. And although the waste heat of power plants can be efficiently used for space heat and hot water, this is difficult to arrange except as new communities are built. So there remains the problem of providing a thermodynamically suitable form of energy for these uses in the homes that people live in now.

The simplest, most easily constructed solar collectors can quite reliably produce the low-temperature heat needed. The collectors are now available on the open market in the United States—although they are not yet manufactured on a mass scale—or they can readily be built by local craftsmen or even as a do-it-yourself project. What can the householders expect to gain by using solar energy for space heat and hot water?

Bernard Yudow, a graduate student at Washington University, in St. Louis, has recently studied how solar energy might contribute to part of this task—providing a steady supply of hot water in amounts sufficient for household uses, at a minimum cost. Electricity is one of the energy sources commonly used to perform this task, especially in new homes, and Mr. Yudow worked out how a solar collector might serve as an alternative, and at what cost. A conventional hot-water heater of suitable size, operating on electricity supplied at three cents per kilowatt hour (the current rate in St. Louis), would cost about a hundred and five dollars. The solar collector would cost twelve dollars a square foot (commercial units are available at that price), and would be bought through a fifteen-year loan at an eight-percent interest rate. Data on variations during the year of the temperature of the tap water that enters the heater and of the daily amount of sunshine are available. Taking these and other relevant data into account, Yudow computed the cost of hot water to the St. Louis householder for a series of designs in which electricity and solar energy provide varying proportions of the total hot-water heat. The results are instructive. The cost of producing a unit of hot water (representing one million B.T.U.s of heat) by electricity alone is nine dollars and ninety cents. If the householder were to invest in a thirty-square-foot solar collector and a six-cubic-foot storage tank (at a combined cost of about six hundred and sixty dollars), the solar collector would provide about forty-six percent of the hot-water supply, the remainder being supplied electrically. This mixed system would supply hot water at a cost of eight dollars and ninety cents per million. B.T.U.s—a ten-per-cent saving over the cost of hot water produced only by electricity. If a sixty-square-foot solar collector and a twenty-four-cubic-foot storage tank were installed (at a combined cost of eleven hundred and ninety-six dollars), the solar collector would supply seventy-five per cent and electricity twenty-five per cent of the hot-water heat, at a cost of eleven dollars and twenty-five cents per million B.T.U.s. In order to provide all the hot water, the solar collector would need to be expanded to a hundred and twenty square feet; the system would then cost nineteen hundred and sixteen dollars and produce hot water at fourteen dollars and fifteen cents per million B.T.U.s. Thus, it would pay the householder to install a solar water-heating system, but only one whose size would produce about half the needed heat.

If the price of electricity should increase to four cents per kilowatt hour (given present trends, this is likely to occur in the next few years), the hot water produced by electricity alone would cost thirteen dollars per million B.T.U.s, and in the most favorable mixed system (forty-six per cent solar, fifty-four per cent electric) hot water would cost ten dollars and thirty-four cents per million B.T.U.s—a saving of twenty per cent. However, even with electricity at this price, the mixed system would become uneconomical when the proportion of solar heat exceeded about eighty-five per cent. An all-solar system would become economical only if the price of electricity rose to about six cents per kilowatt hour—about double the present rate.

These computations give us a valuable insight into the origin of some of the common beliefs about the supposed impracticality of solar energy. At first glance, the study seems to confirm the conventional wisdom that except in unusual circumstances solar energy is more expensive than conventional sources, for it is indeed true that it would cost more to operate a completely electrical one, given the present price of electricity and of solar collectors. But, taking a more flexible approach, task-oriented rather than source-oriented, we can see that by suitably combining the solar and electrical sources the householder can save ten per cent of his hot-water bill right now and more later as the price of electricity continues to rise.

The computations also help to answer the conventional complaint that solar energy is unreliable because it is available only intermittently. On its surface, the objection has merit; after all, water should be hot (and rooms warm) at all times, but the supply of solar energy rises and falls with day and night and fluctuates with the weather. The daily variations can be accommodated by including a modest storage tank in the system. But if the sun is to be the sole source of heat then the collector and the storage tank must be large enough to maintain the needed energy supply during the relatively few days in the year when a stretch of bad weather prevents the collection of any solar energy. Since this extra capacity is not needed during the rest of the year, it contributes very little energy relative to its cost. Therefore, the productivity of invested capital (that is, the amount of hot water produced per dollar invested in the system) will fall sharply as the capacity of an all-solar system approaches a hundred per cent. The answer to this fault is, then, obvious: Use solar radiation to produce not quite all the needed heat, relying on the conventional energy source as a standby to take care of the short periods in which the solar source is insufficient.

This type of analysis also illuminates the interplay of private and social concerns. The private concern of the householder is to have a reliable supply of hot water at the lowest cost. One social concern is for saving energy—making the most efficient use of the non-renewable fuels that are now burned to produce electricity. Mr. Yudow's computations show that the water-heating methods that best satisfy the private concern and the social one are not the same: a water-heating system that is forty-six per cent solar and fifty-four per cent electrical will be best for the householder's pocketbook, but a one-hundred-per-cent solar system will save the most fuel.

Another social concern is to make better use of the increasing amount of capital that is needed to produce and use energy. At first glance, the solar method of heating water seems to require a large capital expenditure than the conventional one. Even the smallest solar water-heating system costs considerably more than a comparable electric heater: six hundred and sixty dollars compared with a hundred and five dollars. Although the investment in the long run is an economical one for the householder, one might question whether it serves society to tie up such a seemingly large sum of money in solar equipment. In reality, the difference is not as large as it seems, for the cost of the solar collector should be compared not only with the cost of the electric heater but also with the capital cost of producing the electricity. A typical hot-water heater operates at a power of five thousand watts; since the heater is ordinarily on about a tenth of the time, it calls on five hundred watts of the power plant's generating capacity. At present, the capital cost of a coal-fired power plant is about three hundred dollars per thousand watts. (It is higher for a nuclear plant.) When we add to the cost of the power plant the capital required to support the heater's demand for electricity, the capital needed to produce the necessary coal, and the cost of the heater itself, the total capital invested in producing the householder's hot water electrically is about three hundred and twenty dollars. Considering that mass production is certain to reduce the cost of the solar water-heating system, it appears that the total amount of capital involved would not differ much from the capital needed to produce hot water by electricity. What is different is that the capital cost of the solar water-heating system is borne by the householder, while the cost of the electrical system is borne by the coal company and the power company. This illustrates the decentralizing effect of solar energy; the capital needed to provide domestic heat would be broadly held by householders rather than concentrated in large power companies.

"REFORMING" THE CIA

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, if the congressional investigations into the conduct of our Nation's intelligence establishment have taught us anything, it is that we cannot allow either our foreign or domestic intelligence-gathering organizations to remain unsupervised by Congress. Unfortunately, in our zeal to plug up leaks, we have lost sight of the flood which threatens to break the dam.

I cannot condone any leaks which damage our national security, but I cannot condone either a coverup under the cloak of security of the classification of abuses of our intelligence activities which threaten our basic constitutionally guaranteed freedoms.

The proposals which President Ford has submitted to Congress to deal with future Executive oversight of the CIA, the FBI, and other intelligence agencies are fundamentally deficient. Simply put, why should we expect self-policing efforts to work now when they have failed miserably for the last 30 years?

Until Congress can independently and fully review the activities of the intelligence community and influence policy decisions, the citizens of the United States will never be guaranteed their freedom from abuse of the Bill of Rights.

Tom Wicker, on the New York Times Op-Ed page of Sunday, February 22, expounded upon this issue quite well in an article entitled "Protecting the Culprits, Punishing the Accusers." In light of the points which Mr. Wicker raises, it is most distressing to realize that the only choice that President Ford could offer us is one between ignorance or fear. For the benefit of my colleagues, I am inserting the Wicker article in the Record:

[From the New York Times, Feb. 22, 1976]

Protecting the Culprits, Punishing the Accusers

(By Tom Wicker)

One day after President Ford sent legislation to Congress proposing the criminal prosecution of Government employees who disclose certain kinds of classified information, the Department of Justice announced that it would not prosecute Richard Helms, the former Director of Central Intelligence, for his role in a 1971 burglary.

The Helms decision is being defended on two grounds—that there was "insufficient evidence" and that the break-in might have been within the C.I.A.'s authority. The contrast between this judgment and Mr. Ford's proposed legislation is nevertheless striking and symbolic of the instinct for self-preservation that seems to pervade the Government's actions, no matter what President or which party dominates it.

The net effect of Mr. Ford's proposals for "reforming" the C.I.A.—an effect dramatized by the Helms decision—is to give greater protection to those known to have abused their statutory powers, while proclaiming that those who disclosed those abuses will be prosecuted as felons if they do it again. The next time the C.I.A. exceeds its authority, anyone who "blows the whistle" in the public interest will be committing a criminal offense, while those who perpetrate the abuse will be protected by enforced secrecy and, in most cases, will be guilty only of violations of an executive order rather than of the criminal law.

They may not even be guilty of that limited transgression. For what this President orders today—that, for example, the C.I.A. should not open and read your mail—he or some other President can revoke tomorrow, and in secrecy at that, under pain of criminal prosecution of anyone who might make an unauthorized disclosure of this development in the collection and evaluation of information.

White House briefers contend that it will not be necessary in future for public-spirited intelligence officials who want to prevent abuses to make public disclosures. Instead, they argue, such officials could make authorized complaints to the new oversight board appointed by the President to act as a brake on the C.I.A. and other agencies.

But there's been a somewhat oversight board—the Foreign Intelligence Advisory Board—since the early 1960's, without noticeable effect on massive illegitimate domestic operations by the C.I.A. Look what would happen, moreover, if in the future some C.I.A. man took a complaint about illegal activities to the new oversight board:

The board, receiving such a complaint, is supposed to recommend to the Attorney General that he punish or prosecute those involved.

But the Attorney General could decide only to report the matter to the President.

In that event, sanctions—if any—would be decided upon within the executive branch.

The case of Richard Helms tells us a great deal about the likelihood that an Attorney General appointed by a President would prosecute rather than turn the matter over to the President—who would have an obvious interest in keeping as secret as possible abuses carried out by an agency for which he was responsible, perhaps by officials he had appointed, and—witness Richard Nixon—in which he himself might be deeply implicated. It is not even certain that the oversight board—itself appointed by the President—would act on complaints of abuses by others of his appointees.

At his news conference, Mr. Ford assured us that he would never tolerate abuses by intelligence agencies. Even if that is taken at face value, it cannot bind future Presidents—Mr. Ford said he "hoped" only trustworthy types would be elected, as if hopes were safeguards—nor even cover Ford Administration appointees who might misguidedly insulate him from knowledge of what was happening in his own house.

If intelligence abuses are to be prevented, narrowly defined missions for and limitations on the agencies involved must be set forth in legislation, not revocable Presidential guidelines; oversight powers must be firmly vested in a Congressional body neither appointed by nor beholden to the executive branch, and capable of influencing policy decisions not just reviewing them; and the right of a public servant, if all else fails, to make public disclosure of secret abuses must be maintained. The Ford proposals fail all three tests so thoroughly that they can only have been designed to do so.

Mr. Ford has contrived, moreover, the strategic myth that the real problem is "the irresponsible and dangerous exposure of our nation's intelligence secrets." Its purpose is to divert opprobrium from the culprits to their accusers, and the culmination of the strategy is in these Kafkaesque "reforms" that would largely prevent further disclosure while doing little about what was actually exposed—not vital secrets but the blunders, abuses and crimes of the CIA.

THE PRESIDENT'S BUDGET IS THREAT TO THE ECONOMY

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, the dangers posed by the President's budget proposals to the Nation's economy are very succinctly and perceptively examined in a recent article by Prof. Walter W. Heller of the University of Minnesota.

The distinguished former Chairman of the Council of Economic Advisers under Presidents Kennedy and Johnson quite properly observes that—

To hit the fiscal brakes, as Mr. Ford proposes, when unemployment and economic slack are still legion and inflation is ebbing would be fiscally irresponsible.

He reminds us that attempts at fiscal restraint during the periods 1959–60 and 1973–74—exacted a huge toll in lost jobs and output.

Professor Heller's well-written and very timely article in the Wall Street Journal of February 5, 1976, deserves close consideration and attention by us all and I insert it herewith for inclusion in the Record:

Ford's Budget and the Economy

(By Walter W. Heller)

Policy developments of the past few months have cleared the track for a respectable rate of recovery this year. Interest rates have backed down, the 1975 tax rates have been extended, gradual rather than abrupt decontrol of oil prices is in prospect and New York City has been pulled back from the brink of bankruptcy.

Rising business and consumer liquidity, ebbing inflation, accelerating retail sales and a surging stock market all contribute to the atmosphere of expansion. All told, it is an encouraging backdrop for reaffirming the bullish forecast of a 7% advance in real GNP in 1976 that George Perry and I first ventured in October.

But President Ford's budget and economic policy messages cast an ominous shadow over late-1976 and 1977 economic prospects. His Economic Report resolves all economic doubts in favor of subdued expansion in 1976 lest we agitate the inflationary beast within us. And his budget sets the fiscal dials to "hard astern" for 1977. If Congress and the Federal Reserve respond with fiscal and monetary restriction this year, recovery could be imperiled next year long before the country reaches anything resembling full prosperity.

So the outcome of the Bicentennial battle of the budget will have profound implications not only for social policy but for economic performance. Where are the battle lines drawn for fiscal 1977? Given increasing budgetary caution and discipline in Congress and a conservative but not Neanderthal President in the White House, one can safely say that the range of outcomes is not bounded by wild election-year spending on one hand and a $90 billion cut on the other. Much more likely—giving proper weight to the President's budget cutting initiatives (and veto powers) and the shift toward sobriety-in-spending in Congress, both reinforced by the public's anti-spending mood—is a battle arena bounded at the upper end by a maintenance-of-services or hold-the-line budget of $414 billion and at the lower end by the President's $20-billion-cutback budget of $394 billion.

When the President first proposed his 28–28 program last October, he was operating from a "current services budget" benchmark of $423 billion. But after downward revisions in the light of more accurate information and "congressional increases threatened but not passed," the figure was scaled down to $414 billion. That is the level of spending that would be required in fiscal 1977 (starting Oct. 1, 1976) to maintain services and commitments at fiscal 1976 levels. Mr. Ford would whittle $20 billion off this revised "current-services budget" by holding social programs $10.5 billion below prevailing levels; civilian and military pay, $3.5 billion below; other defense, $1.5 billion; and "all other," $4.5 billion.

A COMPARISON

Another way of looking at the 1977 Ford economy-model budget is to compare it with "normal" budgetary growth. The $21 billion increase over the fiscal 1976 budget is just half the average increase of the three preceding years. (After factoring in the three months' hiatus—with its own "transition quarter" budget—before fiscal 1977 begins, the applicable rate of increase comes to only $17 billion.)

Some $15 billion of the $21 billion increase represents the actual growth in defense and interest costs. This seems to leave only $6 billion for all other programs. But, as recovery continues, an added $5 billion becomes available through the automatic shrinkage of unemployment compensation and other "cyclical" transfer payments. Thus $11 billion is available to finance increases in all other "non-cyclical" civilian programs. Normal growth in these programs, consisting of a 6% allowance for inflation and 4% real expansion, would come to $31 billion. By this measure, too, the Ford budget represents a $20 billion scaling back of government programs. So both the overall cutback and its impact on the level of social services are severe by any recent budgetary standards.

On the tax side, the President proposes extending the present $18 billion tax cut, plus another $10 billion cut in personal and corporate taxes effective July 1, 1976—all conditional on appropriate cuts in projected spending. His proposed increases in payroll taxes, effective next Jan. 1, will offset nearly $8 billion (at annual rates) of the additional $10 billion.

The combined tax and spending changes in the Ford budget would add up to a withering fiscal drag on economic expansion during fiscal 1977. The high-employment surplus would rise by $19 billion for the fiscal year, with the restrictive pressure growing sharply and steadily during calendar 1977.

That the Congress will fully accept either the restrictive economic policy or the Spartan social policy implicit in Mr. Ford's budget is highly unlikely. True, no spending spree is in prospect. But a reasonable working assumption is that the pulling and hauling on the budget will bring spending up to about $410 billion for fiscal 1977. And after another noisy struggle, a further extension of the present $18 billion cut seems to be a good bet.

This policy projection implies little fiscal constriction until after the election. But even if spending winds up at $410 billion, fiscal policy will tighten in fiscal 1977. The tightening would be very modest if the proposed income and payroll tax changes are not enacted. But if the payroll tax cuts are accepted while the added income tax cuts are rejected, the net result would be an $11 billion restrictive impact on a 1977 economy still operating far below reasonable target levels.

Monetary policy, after a year of puzzles and surprises, is even more difficult to sketch into the mosaic of the 1976 outlook. But a reasonable person, with fingers crossed, could assume that the Federal Reserve would not overreact to a strengthening recovery unless the inflation outlook suddenly darkens. In other words, a monetary policy that produces a mild rather than sharp rise in interest rates is a reasonable projection. This implies that short-term rates, after some further easing, will move up only moderately as the year progresses. Long-term rates are not likely to rise until later in the year, and then only after giving some further ground in the next few months, especially in the mortgage area.

Given only moderately accommodative fiscal and monetary policy for 1976, where do Perry and I find the expansionary strength to support a forecast of 7% real GNP growth? Primarily in a more upbeat view of consumption and business capital spending (and, in the accompanying year-over-year advance of $25 billion in inventory investment) than most forecasters are projecting.

The sparkling performance of corporate profits will be the chief spur and lubricant for the revival of business fixed investment. Productivity advances and rising sales should generate a one-third rise in after-tax profits in 1976 on top of a striking jump during 1975. From 1975's first quarter to 1976's fourth, they should rise from $60 billion to over $100 billion at annual rates.

In a little longer—and "quality-corrected"—perspective, the profits boom is even more impressive. After inventory valuation adjustment (IVA)—that is, allowing for inventory replacement at current prices—profits in 1976 will be half again as high as in 1974. This will go a long way toward restoring corporate profitability, which had hit a postwar low of 8.1% of corporate product in 1974.

Led by the profit surge, internal cash flow this year will reach historically high levels relative to business fixed investment. Add to this the incentive of a more generous investment credit and the ability to draw on reinvigorated capital markets, and upward revisions of capital spending plans should be the order of the day. They are not yet reflected in plant and equipment surveys and capital appropriations. But the sensitive index of capital goods orders has been rising impressively since April. An "optimistic-realistic" expectation for this year, is an 11% rise in business fixed investment. Barring unexpected setbacks in the consumer sector, this advance should accelerate during 1976 and into 1977 and become a primary driving force for expansion.

FOUR PLUSES

The rise in consumer spending that started after the first quarter of 1975, stimulated first by tax reductions and then by rising payrolls, will continue during 1976 in response to (1) a continued rise in real disposable income as employment rises and wage gains outpace the inflation in living costs, (2) an improved consumer buying mood as buying power grows and the threat of layoffs recedes, (3) stock market advances and the rising backlog of demand for durable goods and (4) strengthened consumer liquidity growing out of a $100 billion-plus rise in consumers' liquid assets for 1975, together with only modest increases in instalment debt. A rise of 11.5% in overall consumption—with autos and other durables as the star performers—is in the cards.

Housing at 1.5 million starts, a moderately declining net export balance, and a lackluster government sector—especially at the state-local level—round out the 1976 prospects. It all adds up to a 1976 GNP advance of $196 billion, to a total of $1,695 billion (using the new Commerce Department GNP benchmarks). For the first time in four years and only the second time since 1968, more than half of the advance will represent a real gain, less than half, inflation.

Inflation will continue to moderate in 1976. With a good 1975 harvest in hand and average crude oil prices scheduled to come down moderately, neither food nor fuel should add materially to the rate of inflation this year. And although rising demand will generate some added pressures on raw materials prices and on price margins, the moderate pace of recovery in the industrial world in 1976, coupled with pervasive slack in the U.S. economy, should hold these pressures in check this year. Thus the crux of the matter is the behavior of wage costs.

With 4½ million workers involved in major wage negotiations this year, the outcome will be crucial in determining price performance in 1976 and the later '70s. As a result of cost-of-living escalators, several of the unions involved in the forthcoming negotiations have enjoyed wage advances considerably above the economy-wide average. If the government could influence these negotiations to set a pattern of moderation, the national goal of slowing the rate of inflation would be well served. These settlements would be a logical place to begin a gradual unwinding of the wage-wage and price-wage spirals. A reasonable expectation—even assuming that the big contracts, front-loaded as usual, will average 10% in the first year—is that economy-wide compensation per manhour will rise about 8% this year.

Given the abatement of food and fuel inflation, the modest impact of demand pressures, and an 8% average pay increase, the rise in the GNP price deflator this year should ease to about 5¾%, or three points less than last year.

An inflation rate of less than 6%, coupled with a 7% advance in real output, is cause for considerable satisfaction but no complacency. Despite the above-trend gain in output, the end of the year will still see recession-like levels of unemployment at 7¾%; of capacity utilization rates in manufacturing, at about 80%; and of economic slack, with actual output still running nearly $125 billion below the economy's potential (as measured at 5% unemployment).

DEFINING FISCAL RESPONSIBILITY

Congress rightly prides itself on its more prudent fiscal posture and procedures. But if the new politics of fiscal responsibility, or austerity, simply leads to budget parsimony and willy-nilly economic restraint, its benefits will be swamped by its costs. Congress should vividly bear in mind that massive swings toward fiscal restraint in 1959–60 and 1973–74 exacted a huge toll in lost jobs and output.

To hit the fiscal brakes, as Mr. Ford proposes, when unemployment and economic slack are still legion and inflation is ebbing would be fiscally irresponsible. "Fiscal responsibility" is not synonymous with "fiscal restraint." Rather, it calls for an intelligent fitting of tax and spending positions to the needs of the economy. With its new budget procedures and staff, the Congress is now equipped to do this. Given the will, it can become a major force in effecting a new fiscal policy of responsible net stimulus in a lagging or sagging economy, and responsible net restraint in a prosperous but inflation-prone economy.

COMPARISON OF H.R. 10850 AND S. 1

(Mr. **KASTENMEIER** asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. **KASTENMEIER**. Mr. Speaker, the controversy surrounding S. 1, the bill pending in the Senate to revise and reform the Federal Criminal Code, has, by now, become apparent to us all. Innumerable questions have been raised about the effect of this legislation on individual rights, on the availability of Government information, and on the extent of Government control over individual Americans.

On November 20, 1975, along with my colleagues Don Edwards and Ab Mikva, I introduced H.R. 10850, the Criminal Law Revision and Constitutional Rights Preservation Act of 1975. We have offered this measure to provide an alternative to S. 1. Our bill proposes a revised Criminal Code which protects the rights of the individual in our society at the same time it more readily guarantees equality of treatment for all who come under our criminal justice system.

Since our introduction of this measure, there has been considerable interest expressed by many in and outside of the Congress in how H.R. 10850 differs from S. 1. A detailed comparison of the two bills has finally been completed. I would like to insert that comparison at this time, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,644.50.

The citations noted are to S. 1 as it has been marked up and published as a committee print dated August 15, 1975.

The material follows:

Comparison of H.R. 10850 and S. 1

GENERAL DEFINITIONS

(§ 111 in both bills)[*]

Abet: H.R. 10850 eliminates "encourage" and "counsel" from the definition of "abet."

Consent: H.R. 10850 provides that assent induced by economic coercion does not constitute "consent." The result of this change can be illustrated by an employer who unreasonably compels employees to work under dangerous conditions by means of threatening economic retaliation. Under H.R. 10850, such an employer could not raise the affirmative defense of consent to an assault charge.

Property: H.R. 10850 specifies that property does not include information of any sort in the possession of the United States. This prohibits prosecuting someone under the variout theft offenses when the gist of the act is disclosure of government *information*. If it is believed that there should be criminal penalties for disclosing classified information, this change ensures that the only applicable sections will be those specifically designed to deal with such conduct.

War: S. 1 does not define the term "war," although the Draft Report on S. 1 indicates at one point that the term "war" in S. 1 includes both declared and undeclared war (see p. 242 no. 50). H.R. 10850 defines "war" as "a state of war declared by Congress pursuant to Article I, section of the Constitution."

GENERAL PRINCIPLES OF CONSTRUCTION

(§ 112 in both bills)

S. 1 proposes the general rule that criminal statutes are to be strictly construed—that is, that only conduct clearly prohibited by the express terms of the statute will be deemed to be included in the offense defined by the statute.

H.R. 10850 takes the somewhat more limited approach recommended by the National Commission on Reform of Federal Criminal Laws (the "Brown Commission") that the provisions of a criminal code should be interpreted in accord with the general purposes of the criminal law as set forth in § 101. H.R. 10850 directs the court to balance the need for appropriate sanctions for conduct which is harmful to society with the need to provide fair notice that the conduct is prohibitd by the criminal law.

H.R. 10850 also strikes a provision in S. 1 that a term used in the present tense includes both the future and past tenses. It is believed that such a provision may cause unintended consequences in various sections of the code.

COMPLICITY

(Chapter 4 in both bills)

H.R. 10850 and S. 1 differ significantly in their treatment of accomplice liability in two respects.

(1) H.R. 10850 distinguishes between those persons who knowingly aid or abet a crime with a "stake in the outcome" and those who provide assistance but who are indifferent with respect to the criminal objective. This distinguishes, for example, between (a) the look-out man for a bank robbery who is equally culpable with the others for the robbery itself (although he never enters the bank) and (b) the person who sold the robbers the car they used for the getaway knowing when he sold the car that it would be so used. It is believed that the criminal law should recognize the commonsense difference in blameworthiness of the two situations and provide lesser penalties for the latter. Present law is judge-made on this point and prevents a split of authority. The Brown Commission proposed to distinguish between accomplices and facilitators. The American Bar Association also supports the distinction.

(2) S. 1 proposes to retain the rule that a co-conspirator is liable for all crimes that are the reasonably foreseeable result of the conspiracy. This rule was announced by the Supreme Court in *Pinkerton* v. *United States*, 328 U.S. 640 (1946).

H.R. 10850 follows the recommendation of the Brown Commission and abolishes the *Pinkerton* rule. It provides instead that a co-conspirator is liable for the offenses of his associates only to the extent that he meets the normal requirements for accomplice liability. The American Bar Association supports the abolition of the *Pinkerton* rule, stating that by punishing "negligence liability" the rule "goes too far," and "does not easily admit of rational application."

APPLICATION AND SCOPE OF BARS AND DEFENSES

(§ 501 in both bills)

S. 1 provides that to the extent that the criminal code covers the general subject matter of a bar or defense, it precludes any common law development by the courts of additional bars or defenses.

H.R. 10850 provides that unless additional bars or defenses are expressly precluded by a particular section of the code, additional bars or defenses may be developed by the courts "in the light of reason and experience."

The significance of this change is discussed in connection with "Exercise of Public Authority" (§ 541 of S. 1).

TIME LIMITATIONS

(§ 511 in both bills)

S. 1 provides no time limitation for the commencement of a prosecution for a crime punishable by death, a 5 year limitation for a felony or a misdemeanor, and a 1 year limitation for an infraction.

H.R. 10850 provides a 5 year limitation for any felony, a 2 year limitation for a misdemeanor, and a 1 year limitation for an infraction. (H.R. 10850 contains no crimes punishable by death).

DOUBLE JEOPARDY

(§§ 514–20 in H.R. 10850)

These sections are essentially similar to those proposed by the Brown Commission and implement and codify the Constitutional prohibition against double jeopardy. S. 1 contains no similar provisions.

There are two situations. First, Federal prosecution for conduct previously prosecuted by a State. The Supreme Court has said that this does not constitute double jeopardy. *Abbate* v. *United States*, 359 U.S. 187 (1959). Section 517 of H.R. 10850 reverses this decision and bars subsequent prosecution.

The second situation is State prosecution for conduct previously prosecuted by the Federal government. Section 518 of H.R. 10850 also bars subsequent prosecution in this circumstance.

INSANITY DEFENSE

(§ 522 in both bills)

S. 1 abolishes the traditional insanity defense—insanity will only prevent conviction if mental disease or defect negates the state of mind required by the offense. The Draft Report on S. 1 (p. 110) cites the example of a "madman who believes that he is squeezing lemons when he is actually choking his wife."

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[*] All section, chapter and rule references are to sections, chapters and rules that each bill proposes to put in Title 18, United States Code. Thus, § 111 means § 111 of Title 18, United States Code, as both bills propose it to read, not to § 111 of present Title 18 or to § 111 of either bill.

According to the Draft Report, the madman would not be guilty of murder, but not because of the defense of insanity. Rather, he is not guilty because he did not knowingly cause the death of another person as required by the crime of murder.

H.R. 10850 retains the traditional insanity defense as codified by the American Law Institute's Model Penal Code § 4.01 (P.O.D. 1962). Insanity is a defense if, as a result of mental disease or defect, the defendant either lacked substantial capacity to appreciate the criminality of his conduct or was unable to conform his conduct to the requirements of the law. This formulation of the defense is now widely used throughout the Federal courts. *See United States* v. *Brawner*, 471 F.2d 969, 979–81 (D.C. Cir. 1972). The same formulation was recommended by the Brown Commission and has the support of the American Bar Association.

EXERCISE OF PUBLIC AUTHORITY

(§§ 541 in S. 1)

S. 1 provides that it is a defense to Federal prosecution that the conduct charged was required or authorized by law (1) to carry out the defendant's authority as a public servant or as a person acting at the direction of a public servant, or (2) to make an arrest as a private person.

This defense is available even though the defendant was mistaken in his belief, if he reasonably believed that the "factual situation was such that the conduct charged was required or authorized as set forth in the section describing the defense."

This section of S. 1, which has come to be called the "Ehrlichman defense," has been the subject of much criticism. While a law enforcement officer making an arrest, for example, should not be subject to criminal sanctions for conduct authorized by law, the formulation of the defense in S. 1 may lend itself to an interpretation that would insulate public officials from accountability for their actions if they reasonably believed that their conduct was lawful, even though they were mistaken.

Federal courts have not at present accepted this kind of defense. Rather than codifying this kind of defense, H.R. 10850 permits the courts to develop it on a case-by-case basis "in light of reason and experience" (see discussion of "Application and Scope of Bars and Defenses" above).

USE OF FORCE TO MAKE AN ARREST

(§ 543 in H.R. 10850 and § 541 in S. 1)

S. 1 deals with this subject in its public authority defense (§ 541). H.R. 10850, as noted above, has no general public authority defense; it has a specific provision dealing with use of force to effect an arrest.

Under both bills, it is a defense to Federal prosecution that the force used was required by law in order to make an arrest, prevent an escape from arrest, or prevent an escape from official detention.

The bills differ somewhat in their treatment of the use of deadly force. Where such force is used to make an arrest or prevent an escape from arrest, both bills reach the same result—there is a defense if the deadly force was reasonably required under the circumstances and if the suspect committed an offense involving the risk of serious bodily injury or death (including rape and kidnapping) or if the suspect attempted escape by the use of a dangerous weapon. The bills differ, however, when the deadly force was used to prevent the escape of someone in official detention. S. 1 permits the defense if the deadly force was reasonably required under the circumstances. However, the defense is unavailable if the person using the deadly force knew that the prisoner was being held for a crime other than one involving a risk of death, serious bodily injury, rape or kidnapping. H.R. 10850 permits the defense if the deadly force was reasonably required and if the person who used it knew that the prisoner was charged with a crime involving a risk of death, serious bodily injury, rape or kidnapping.

The difference between the two bills can be illustrated by the example of an escaping prisoner who is killed by a guard who doesn't know what charge the prisoner is held on. Under S. 1, the guard has a defense if the deadly force was reasonably necessary. Under H.R. 10850, the guard does not have a defense.

UNLAWFUL ENTRAPMENT

(§ 513 in H.R. 10850 and § 551 in S. 1)

The Supreme Court, by divided votes, has adopted the view that the entrapment defense requires a determination of whether the defendant was inclined to commit the crime, apart from the solicitation of the government agent. If he was, there is no defense. *See, e.g., United States* v. *Russell*, 411 U.S. 423 (1973). S. 1 adopts this view.

H.R 10850 adopts the recommendation of the Brown Commission. Rather than focusing on the predisposition of the defendant to commit the crime, H.R. 10850 focuses on the conduct of the Federal agent. The focus of the inquiry is whether the agent used methods of persuasion or inducement that would lead normally law-abiding citizens to engage in criminal activity. The defense is treated primarily as a curb upon improper law enforcement techniques, rather than as a test of the "blameworthiness" of the particular defendant.

S. 1 treats entrapment solely as a defense. H.R. 10850, however, provides the defendant with the alternative of raising the issue before trial as a bar to prosecution. Such an issue is decided by the judge rather than the jury. H.R. 10850 provides that evidence given in such a pre-trial proceeding is inadmissible at trial, so this procedure allows the defendant to raise the issue of entrapment without sacrificing his right against self-incrimination.

Under both S. 1 and H.R. 10850, entrapment must be disproved by the prosecution beyond a reasonable doubt if there is evidence in the case which might support a reasonable belief as to its existence. In S. 1, Rule 25.1 of the Federal Rules of Criminal Procedure mandates this result for all defenses. H.R. 10850 reaches a similar result in Rule 25.1 of the Federal Rules of Criminal Procedure. However, it also includes specific language in § 513 because there is no corresponding section dealing with burdens of proof for bars to prosecution.

OFFICIAL MISSTATEMENT OF LAW

(§ 552 in H.R. 10850 and § 551 in S. 1)

S. 1 provides that it is an affirmative defense that the defendant acted in accord with an official, written interpretation of the law issued by the head of a government agency charged with responsibility for administration of such law.

H.R. 10850 eliminates this provision out of concern for its possible abuse and out of a belief that the courts must have the ultimate responsibility for determining the law.

CRIMINAL ATTEMPT

(§ 1001 in both bills)

S. 1 provides that a person is guilty of an attempt if he engages in conduct which, in fact, amounts to *more than mere preparation* for, and that *indicates his intent to complete,* the commission of the crime.

H.R. 10850 adopts the formulation that the conduct must be *a substantial step* towards commission of the crime. The difference is one of emphasis but reflects a two-fold intent. One part is the desire to permit the courts to develop further the basic interpretation of the offense. The other part is to require an act falling closer to a completed offense than to mere preparation.

S. 1 provides that legal or factual impossibility is not a defense to criminal attempt. H.R. 10850 does not so provide, but leaves it to the courts to decide whether legal or factual impossibility should be a defense to criminal attempt. In certain circumstances, such a defense seems to be necessary and in the best interests of justice. For example, a defendant is charged with attempt to receive stolen property. The property is not actually stolen, even though the defendant believes it to be. In such a case, the court held that the impossibility defense required a finding of not guilty. *United States* v. *Hair*, 356 F. Supp. 339 (D.D.C. 1973).

CRIMINAL CONSPIRACY

(§ 1002 in both bills)

A conspiracy is not complete until one of the conspirators engages in an overt act. The purpose of the overt act requirement is to manifest that the conspiracy is at work and is "neither a project still resting solely in the minds of the conspirators nor a fully complete operation no longer in existence." *Yates* v. *United States*, 354 U.S. 298, 334 (1957). H.R. 10850 requires that the overt act "substantially tend to effect" the criminal objective. S. 1 merely requires that the act be done with intent to effect such objective.

Both bills provide that it is an affirmative defense to a charge of criminal conspiracy that the defendant withdrew from the conspiracy. H.R. 10850 requires that the defendant prove that he, in fact, did withdraw. S. 1 goes further and requires that the defendant prevent the commission of every crime that was an object of the conspiracy.

S. 1 provides that it is not a defense to a charge of criminal conspiracy that one or more of the persons with whom the defendant allegedly conspired has been acquitted. H.R. 10850 deletes this language and permits the courts to deal with particular situations on a case-by-case basis. A conspiracy requires that at least one other person participate in the agreement. If only two persons are charged with conspiracy and one is acquitted, how can the other be convicted?

CRIMINAL SOLICITATION

(§ 1003 in S. 1)

S. 1 provides that a person is guilty of an offense if, intending that another person commit a crime, he "commands, entreats, induces or otherwise endeavors to persuade such other person to engage in such conduct."

H.R. 10850 does not provide a solicitation offense of general applicability. When a crime has been committed, the solicitor of it will be liable as an accomplice or facilitator. See §§ 401–02 in H.R. 10850. When no crime does, in fact, occur, it would seem that insufficient harm has occurred to society's interests to justify creating a general crime punishing pure speech. Further, certain crimes within the code are defined in terms of incitement to engage in criminal conduct, and the general attempt provision may also be used (where not expressly made inapplicable) to reach what would otherwise be solicitation.

INSTIGATING OVERTHROW OR DESTRUCTION OF THE GOVERNMENT

(§ 1103 in S. 1)

This offense in S. 1 incorporates the Smith Act offenses: (1) inciting overthrow of the government; (2) organizing, leading or recruiting members for an organization whose purpose is inciting overthrow of the government; and (3) active membership in a group with that purpose.

H.R. 10850 eliminates these offenses. This section of S. 1 may be used to suppress constitutionally protected speech. Its mere existence may tend to chill first amendment freedoms. Under H.R. 10850, persons who actually engage in conduct directed toward the forcible overthrow of the government are subject to prosecution under § 1102 (Armed Rebellion or Insurrection) and § 1103 (Engaging in Para-Military Activity). Further, certain preparatory acts can be prosecuted under the general attempt and conspiracy sections in H.R. 10850.

SABOTAGE

(§ 1111 in both bills)

Both bills require that the destructive act be done with an intent to impair, interfere with, or obstruct the ability of the United States or an associate nation to prepare for or engage in war or defense activities.

H.R. 10850 confines the applicability of this offense to those instances of greatest harm to the national defense. It defines more narrowly than S. 1 the property or production facilities whose damage is covered by the sabotage offense. It should be noted that H.R. 10850 makes damage to the other property criminal but subjects it to lesser penalties under other provisions of the criminal code.

IMPAIRING MILITARY EFFECTIVENESS

(§ 1112 in S. 1)

This offense is a companion to the sabotage offense and differs from it in the *scienter* requirement. A person is guilty of this offense if he acts "in *reckless disregard* of the risk that his conduct could impair, interfere with or obstruct the ability of the United States or an associate nation to prepare for or engage in war of defense activities" (emphasis added). (The sabotage offense requires that he act intentionally.

H.R. 10850 does not contain this offense. An offense based on recklessness poses substantial dangers of abuse against persons engaged in demonstrations and other constitutionally protected activities. Given the broad definition of defense property and facilities in the sabotage offense of S. 1, almost any demonstration entails some risk that damage to such property could occur.

IMPAIRING MILITARY EFFECTIVENESS BY A FALSE STATEMENT

(§ 1114 in S. 1)

Under this section of S. 1, a person is guilty of an offense if, with intent to aid an enemy or to harm the Untied States in time of war, he communicates (including publishes), in reckless disregard of its falsity, a statement of fact concerning conduct of the military forces of the United States, a civilian or military catastrophe, or "any other matter of fact which, if believed, would be likely to affect the strategy or tactics of the military forces of the United States or would be likely to create general panic or serious disruption."

H.R. 10850 eliminates this offense out of a concern that it would have a chilling effect on the ability of the news media to keep the public informed during times of national crisis.

OBSTRUCTING MILITARY RECRUITMENT OR INDUCTION

(§ 1114 in H.R. 10850 and § 1116 in S. 1)

In order to protect mere speech, H.R. 10850 requires that incitement to evade military or alternate civilian service must be incitement to *immediate* unlawful action. This is in compliance with the Supreme Court decision in *Brandenburg* v. *Ohio*, 395 U.S. 444 (1969).

INCITING OR AIDING MUTINY, INSUBORDINATION OR DESERTION

(§ 1115 in H.R. 10850 and § 1117 in S. 1)

For the reasons above, H.R. 10850 requires incitement to *immediate* unlawful action, in this case, mutiny, insubordination, refusal of duty or desertion.

H.R. 10850 rquires a specific intent to bring about mutiny or desertion in order to be guilty of aiding or abetting such offenses. S. 1 requires only "knowing" aid.

H.R. 10850 also adds a new provision rendering the general accomplice, attempt and conspiracy offenses inapplicable to this section. This will prevent prosecution of conduct too far removed from actual harm to society's interests. Thus, for example, an attempt to incite desertion is relatively meaningless because the completed crime of incitement does not require that desertion actually occur.

AIDING ESCAPE OF A PRISONER OF WAR OR AN ENEMY ALIEN

(§ 1116 in H.R. 10850 and § 1118 in S. 1)

For the reasons above, H.R. 10850 requires that the defendant have a specific intent to bring about the escape of a prisoner of war or enemy alien in order to be guilty of aiding or abetting such offense.

Also for the reasons above, H.R. 10850 makes the general accomplice, attempt and conspiracy offenses inapplicable to this section.

Espionage and Related Offenses

S. 1 contains the following offenses:

§ 1121: Knowing that "national defense information" could be used to the prejudice of the safety or interest of the United States or to the advantage of a foreign power, the defendant communicates (including publishes) such information to a foreign power; obtains or collects such information "knowing that it may be communicated to a foreign power;" or enters a restricted area for the same purpose. The offense is a Class A felony (death penalty) during war or national emergency or for particular information, and a Class B felony (30 years) in any other case.

§ 1122: Knowing that "national defense information" could be used to the prejudice of the safety or interest of the United States or to the advantage of a foreign power, the defendant communicates (including publishes) such information to a person he knows is not authorized to receive it. It is a Class B felony (30 years) if the information is "restricted data" (pertaining to atomic energy), a Class C felony (15 years) during war or national emergency, and a Class D felony (7 years) in any other case.

§ 1123: Someone in *authorized possession or control* of national defense information (*e.g.*, a government employee) who recklessly causes its loss, destruction, theft or communication to a person not authorized to receive it; fails to report such loss, etc.; or intentionally fails to deliver it on demand to a Federal public servant who is authorized to demand it, is guilty of an offense under subsection (1).

Someone with *unauthorized possession or control* of national defense information (*e.g.*, a reporter) who recklessly causes its loss, destruction, theft or communication (including publication) to another person not authorized to receive it, or who fails to deliver it promptly to a Federal public servant entitled to receive it, is guilty of an offense under subsection (2). The person need only be "reckless" with regard to the fact that the information is national defense information.

The offenses in subsections (1) and (2) are Class D felonies (7 years).

§ 1124: If a person in authorized possession or control of *classified information* (*e.g.*, a government employee) or who has obtained such information as a result of being or having been a Federal public servant, communicates such information to a person not authorized to receive it (*e.g.*, a reporter), that person is guilty of a Class E felony (3 years). The person is guilty of a class D felony (7 years) if the recipient is the agent of a foreign power.

The section provides that the recipient of the information (*e.g.*, a reporter) cannot be prosecuted as an accomplice or co-conspirator or for solicitation of this offense.

The section also provides a bar to prosecution if the information was not lawfully subject to classification. The provisions of Executive Order 11652, 37 Fed. Reg. 5209 (1972), would govern whether the information was properly classified. The court would review the materials *"in camera"* (in a closed session). The Draft Report on S. 1 also indicates (pp. 252–53) that, to the extent possible, the hearing should be *"ex parte"*, that is, without the participation of the defense.

This section further requires that there be in existence a procedure whereby a government employee can obtain administrative review of the propriety of classification.

In addition, in order to initiate a prosecution under § 1124, the head of the government agency that classified the material and the Attorney General (or his delegate) must certify that the classification was proper.

The section is made inapplicable to a communication to Congress made pursuant to a lawful demand (*e.g.*, a subpena).

It should be noted that this section makes the conduct criminal even if the information has already been made public by another person. Only if the information has been formally declassified will this section not make the conduct criminal.

§ 1125: A person is guilty of a Class D felony (7 years) if, being an agent of a foreign power, he obtains or collects classified information that he is not authorized to receive. "Foreign power" includes international organizations, such as the United Nations, the International Cotton Institute, the World Health Organization and others designated by executive order. *See* Section 1 of the International Organizations Immunities Act, 22 U.S.C. § 288.

§§ 1126–27 pertain to registration of foreign agents. These provisions are identical to comparable provisions of H.R. 10850.

§ 1128 provides definitions for the terms used in the above offenses.

"National defense information" includes information not previously made public pursuant to authority of Congress or by the *lawful* act of a public servant. The information must relate to:

(1) the military capability, planning, operations, communications, installations, weaponry, weapons development or research of the United States;

(2) the intelligence operations activities, plans, estimates, analyses, sources or methods of the United States;

(3) intelligence concerning a foreign power (see discussion of § 1125 above for definition of foreign power);

(4) communications intelligence information or cryptographic information; or

(5) restricted data (pertaining to atomic energy).

H.R. 10850 contains the following offense:

§ 1121. A person is guilty of an offense if, with intent that classified national defense information be used by a foreign nation to injure the national defense of the United States, he knowingly communicates such information directly (thereby excluding publication) to a foreign power or agent; obtains such information in order to communicate it directly to a foreign power or agent; or enters a restricted area for the same purpose. The offense is a Class A felony (15 years) in time of declared war, and a Class B felony (7 years) at any other time.

H.R. 10850 does not contain sections comparable to §§ 1122–25 of S. 1.

"National defense information" means:

(1) technical details of tactical military operations in time of war;

(2) technical details of weaponry;

(3) defensive military contingency plans in respect of foreign nations; *provided* that such information would be used by a foreign power to injure significantly the national

defense of the United States and that the information has not previously been made public in any form.

"Classified" means properly classified, and misclassification constitutes a defense.

OBSTRUCTING A GOVERNMENT FUNCTION BY FRAUD

(§ 1301 in S. 1)

A person is guilty of a Class D felony (7 years) if he "intentionally obstructs or impairs a government function by defrauding the government in any manner."

H.R. 10850 eliminates this offense. Since "government function" and "defrauding" are nowhere defined in S. 1, this section of S. 1 fails to give adequate notice as to prohibited conduct. Accordingly, it grants wide prosecutorial discretion to harass the press or government employees for "impairing" efficient operations by revealing embarrassing facts about official decision-making.

OBSTRUCTING A GOVERNMENT FUNCTION BY PHYSICAL INTERFERENCE

(§ 1302 in S. 1)

A person is guilty of a Class A misdemeanor if he intentionally obstructs or impairs a government function by means of physical interference or obstacle.

H.R. 10850 eliminates this offense for many of the same reasons as above. By use of broad and ill-defined terms, this section invites abuse of the rights to associate and petition the government. Almost any demonstration necessarily entails some disruption. Under the culpability provisions of § 302–03 of S. 1, the defendant must have intended to cause an obstruction, but he need only be reckless with regard to the fact that a government function was thereby disrupted. Such an offense does not give adequate breathing room to First Amendment rights.

HINDERING LAW ENFORCEMENT § 1311

(§ 1311 in both bills)

This section contains the offense commonly referred to as "obstruction of justice." The two bills differ in only one respect. S. 1 precludes the defense that the record or document destroyed, altered, concealed, etc., was legally privileged or otherwise inadmissible in evidence. H.R. 10850 does not expressly preclude this defense. The S. 1. provision overrules *Neal* v. *United States,* 102 F. 2d 643 (8th Cir. 1939), cert. denied, 312 U.S. 679 (1941) and may lead to inequitable results under certain circumstances. The matter is better left to continued development by the courts, as H.R. 10850 proposes.

Identical language concerning defense of privilege or inadmissibility has been eliminated from section 1325 (Tampering with Physical Evidence).

Since §§ 1315, 1322, and 1323 require acts of flight, and attempts to corrupt and to intimidate by force, language precluding the defense of inadmissibility is appropriate and is found in H.R. 10850.

CRIMINAL CONCEPT

(§ 1331 in both bills)

S. 1 makes criminal contempt a Class B misdemeanor (6 months). H.R. 10850 makes it a Class C misdemeanor (30 days).

MAKING A FALSE STATEMENT

(§ 1343 in both bills)

S. 1 makes criminal false, unsworn *oral* statements made to a law enforcement officer during the course of an investigation. The opposite result is recommended by the Brown Commission and the American Bar Association. H.R. 10850 adopts the Brown Commission-A.B.A. position.

PROOF OF PERJURY OR FALSE SWEARING

(§ 1347 in H.R. 10850 and § 1345 in S. 1)

Existing Federal law contains the so-called "two-witness rule" as a prerequisite to conviction for perjury. Section 1345(b)(1) of S. 1 overturns this rule.

H.R. 10850 takes the somewhat more limited approach recommended by the Brown Commission. It provides in § 1347(b)(1) that no person can be convicted solely upon the contradiction of one person. It does not necessarily require two contradictory witnesses, however. One such witness whose testimony is corroborated by additional evidence, including circumstantial evidence, is sufficient.

H.R. 10850 eliminates the provision, found in S. 1, that proof of two inconsistent statements is *prima facie* evidence of perjury or false swearing.

EAVESDROPPING

(§ 1521 in both bills)

S. 1 requires that only one party to a conversation must consent to the interception of a private oral communication. H.R. 10850 requires consent by all parties to the conversation, thus making it an offense for one person surreptitiously to record his conversation with another person.

EXTORTION

(§ 1722 in both bills)

By omitting the word "wrongfully" from the definition of this offense, S. 1 overturns the decision of the Supreme Court in *United States* v. *Enmons,* 410 U.S. 396 (1973). *See* Draft Report on S. 1 at 644–45. In that decision, the Supreme Court held that the Hobbs Act extortion provision could not be applied to labor activities, even if such activities involved "extortionate" conduct, as long as the objective of that conduct was to secure a benefit that legitimately could have been obtained through collective bargaining. The Court's decision was based upon its reading of congressional intent underlying the Hobbs Act.

H.R. 10850 uses the critical word "wrongfully" and preserves the Court's decision. While in no way condoning violent or threatening conduct by labor unions, there seems to be little reason to extend Federal jurisdiction to such activity whenever the United States mail is involved or whenever "the offense in any way or degree affects, delays or obstructs interstate or foreign commerce or the movement of an article or commodity in interstate or foreign commerce." Further, S. 1 makes the offense a Class C felony carrying a maximum of 15 years imprisonment, which seems wholly inappropriate for what may in many instances amount to minor acts of property destruction incident to strike activities.

TRAFFICKING IN AN OPIATE

(§ 1811 in both bills)

S. 1 requires a mandatory minimum sentence of 10 years for this offense under certain circumstances and a mandatory minimum sentence of 5 years in all other circumstances. The maximum authorized sentence is 30 years.

H.R. 10850 provides a maximum sentence of 15 years and does not restrict the discretion of the sentencing court by imposing a mandatory minimum sentence.

TRAFFICKING IN DRUGS

(§§ 1812–13 in H.R. 10850 and § 1812 of S. 1)

H.R. 10850 makes trafficking in marihuana a separate offense and reduces the maximum authorized sentence to no more than one year for the most serious offense specified, selling marihuana to a person less than 18 years old. Sale of marihuana to an adult is not prohibited under H.R. 10850.

POSSESSION OF MARIHUANA

(§§ 1814 in H.R. 10850 and § 1813 in S. 1)

S. 1 punishes simple possession of marihuana as a Class C misdemeanor (30 days, $10,000).

H.R. 10850 makes simple possession an infraction, which carries no prison sentence and a maximum fine of $100.

USING A WEAPON IN THE COURSE OF A CRIME

(§ 1823 in both bills)

H.R. 10850 changes the grading of the offense by eliminating the mandatory minimum term of 5 years and by eliminating the requirement that the term imposed under this section run consecutively with any other term imposed for the underlying offense.

LEADING A RIOT

(§ 1831 in both bills)

H.R. 10850 incorporates the holding of *Brandenburg* v. *Ohio,* 395 U.S. 444 (1969), by requiring that a defendant charged with inciting a riot must be found to have caused a riot by incitement to *immediate* unlawful action.

H.R. 10850 also eliminates provisions found in S. 1 that provide Federal jurisdiction if "movement of a person across a state or a United States boundary occurs in the execution or consummation of the offense" or "the riot obstructs a federal government function." Thus, under H.R. 10850, Federal jurisdiction exists over riots only if the offense is committed within the special jurisdiction of the United States (see § 203 of H.R. 10850) or if the riot involves persons in a Federal prison. The jurisdiction under § 1833 (Engaging in a Riot) has been similarly limited under H.R. 10850.

DISSEMINATING OBSCENE MATERIAL

(§ 1842 in S. 1)

H.R. 10850 eliminates this offense. If there should be any crime of obscenity at all, it is best left to the individual States and is not properly a function of the Federal Government. The resources of Federal law enforcement officers should not be expended on such activity.

The American Bar Association supports the position that there should be no Federal offense of disseminating obscene material. It supports the provisions of S. 1 that make it criminal, in a Federal enclave, to disseminate material to a minor or in a manner affording no immediately effective opportunity to avoid exposure to it.

CONDUCTING A PROSTITUTION BUSINESS

(§ 1843 in S. 1)

H.R. 10850 eliminates this offense for many of the same reasons as above. The American Bar Association supports the deletion of this provision.

DISORDERLY CONDUCT

(§ 1861 in both bills)

H.R. 10850 eliminates provisions that make it a Federal offense to obstruct vehicular or pedestrian traffic or the use of a public facility; to persistently follow a person in a public place; or to "engage for no legitimate purpose in any other conduct that creates a hazardous or physically offensive condition."

FAILING TO OBEY A PUBLIC SAFETY ORDER

(§ 1862 in S. 1)

S. 1 provides that a person is guilty of an infraction (5 days, $1,000) if he disobeys an order of a public servant to move, disperse or refrain from specified activity in a particular place and if the order is, in fact, lawful and reasonably designed to protect persons or property.

H.R. 10850 eliminates this section and contains no comparable offense. A discretionary provision like § 1862 invites arbitrary and discriminatory enforcement. In addition, the section has been criticized for providing no guidance as to how to determine the lawfulness of the public servant's order. Further, it is questionable that there should be Federal jurisdiction whenever the order is that of a Federal public servant (regardless of the location of the offense) or whenever the offense does or would obstruct a Federal government function.

SENTENCING PROVISIONS

1. AUTHORIZED TERMS

	S. 1	H.R. 10850
Felony:		
Class A	Death [1]/life	15 yr.
Class B	30 yr	7 yr.
Class C	15 yr	4 yr.
Class D	7 yr	2 yr.
Class E	3 yr	
Misdemeanor:		
Class A	1 yr	1 yr.
Class B	6 mo	6 mo.
Class C	30 d	30 d.
Infraction	5 d	No authorized term of imprisonment.

[1] For some class A felony offenses. See discussion of death penalty below.

AUTHORIZED EXTENDED TERMS FOR DANGEROUS SPECIAL OFFENDERS

(§ 2301(b) in **H.R.** 10850 and § 2301(c) in S. 1)

S. 1 provides extended terms for a felony committed by "dangerous special offenders". The extended term may be up to twice the authorized term or 25 years, whichever is less.

H.R. 10850 also provides extended terms for "dangerous special offenders". For a Class A felony, the extended term is no more than 30 years; and for a Class B felony, not more than 15 years.

Who are "dangerous special offenders?" They fall into 3 categories—recidivists (repeat offenders), "professional" criminals, and participants in organized criminal acivity.

Recidivists: S. 1 requires conviction of 2 or more felonies committed on different occasions, at least one of which resulted in a term of imprisonment, and at least one of which occurred or resulted in imprisonment within 10 years of the current offense. H.R. 10850 shortens the time requirement to 5 years.

"Professional" criminals: S. 1 requires that the current felony constitutes a part of a pattern of criminal conduct and that the defendant *either* derived a substantial portion of his income from such criminal activities or has shown special skill or ability in such conduct. H.R. 10850 requires that the defendant must have gained a substantial portion of his income *and* shown special skill or ability.

Participants in organized criminal activity: Both bills require that the current felony be a part of a conspiracy with three or more persons to engage in a pattern of criminal conduct and that the defendant either exercise a leadership position or use bribery or force in the course of such conduct.

MULTIPLE SENTENCES OF IMPRISONMENT

(**§ 2304 in both bills**)

S. 1 provides that terms shall run concurrently unless the court affirmatively orders otherwise. If the terms are ordered to run consecutively, the maximum aggregate term may not exceed the maximum authorized term for an offense one class higher than that of the most serious offense of which the defendant was convicted. A consecutive sentence may *not* be imposed (1) if the offenses consist of Chapter 10 offenses (attempt, conspiracy or solicitation) and another offense which was the sole object of the attempt, conspiracy or solicitation; (2) if the offenses consist of an offense and a lesser offense included within it; or (3) if the offenses involve violation of a general prohibition and a specific prohibition encompassed within it.

H.R. 10850's provisions are similar to S. 1's. However, H.R. 10850 does not in every instance permit aggregation of all offenses to create a maximum term one class higher than the most serious offense for which the defendant was convicted. A person found guilty of 2 or more Class C felonies may be sentenced to the maximum auhorized for a Class B felony *if* each offense was committed as part of a different course of conduct or if each involved a substantially different criminal objective. Class D felonies may be similarly aggregated to the maximum authorized for a C felony, and Class A misdemeanors may be aggregated to the maximum authorized for a D felony. No other offenses are subject to aggregation beyond the maximum authorized for the most serious offense involved. This approach was recommended by the Brown Commission.

4. Probation

S. 1 denies probation to persons convicted of a Class A felony. H.R. 10850 permits probation for all offenses.

H.R. 10850 provides a *presumption in favor of probation.* Unless the court finds that there is an undue risk that the defendant will commit another crime during probation or that a sentence to probation will unduly depreciate the seriousness of the defendant's crime or undermine respect for law, the court must order probation.

S. 1 is *neutral* with respect to whether probation should be granted. The court is directed to consider the same factors as it does in all sentencing decisions under S. 1: (1) the nature and circumstances of the offense; (2) the history of the defendant; (3) punishment; (4) deterrence; (5) incapacitation; and (6) rehabilitation.

TERMS OF PROBATION

	S. 1 (Sec. 2101(b))	H.R. 10850 Sec. 2102
Felonies	Not less than 1 nor more than 5 yr.	Class A: Not more than 4 yr; all other felonies, not more than 1 yr.
Misdemeanors	Not more than 2 yr	Not more than 1 yr.
Infraction	Not more than 1 yr	Not more than 30 d.

S. 1 allows the term of probation to be extended at any time if less than the maximum authorized term had originally been imposed. H.R. 10850 allows an extension only if a violation of a condition of probation has occurred, but allows the imposition of an additional term of probation, even if the maximum had originally been imposed.

Revocation of Probation. S. 1 does not contain a section giving procedures for revocation. H.R. 10850 provides full procedures, identical to those for revocation of parole (see below).

5. Parole

Parole Ineligibility. S. 1 authorizes the court to set a minimum term of imprisonment for *any* felony of up to one-fourth of the maximum authorized sentence or 10 years, whichever is less.

H.R. 10850 authorizes a minimum term, *for Class A or B felonies only,* of up to one-third of the prison term actually imposed.

Criteria. S. 1 permits parole if the parole commission is of the opinion that release at that time would not (1) prevent the administration of just punishment; (2) undermine the deterrent impact of the sentence; (3) subject the public to an undue risk of future criminal conduct; (4) deprive the prisoner of needed rehabilitative treatment; or (5) undermine institutional discipline.

H.R. 10850 provides that after the first year or any minimum term imposed by the court has been served, the prisoner *shall* be released on parole unless there is a high likelihood that he will engage in future criminal conduct, thereby endangering society and creating disrespect for the law.

TERMS OF PAROLE

	S. 1 (sec. 3834(b))	H.R. 10850 (sec. 3834(b))
Felonies:		
Class A	Not less than 1 nor more than 5 yr.	Not less than 1 nor more than 5 yr.
Class B	Same as class A	Not less than 1 nor more than 3 yr.
Class C	Not less than 1 nor more than 3 yr.	Not less than 1 nor more than 2 yr.
Class D	Not less than 1 nor more than 2 yr.	Not less than ½ nor more than 1 yr.
Class E	Not less than ½ nor more than 1 yr.	
Misdemeanors:		
Class A	Not less than 3 nor more than 6 mos.	Not less than 3 nor more than 6 mos.
Other misdemeanors and infractions.	No parole authorized	No parole authorized.

6. Granting Parole

(§§ 3831–33 in both bills)

Interview: Both bills require the parole commission to grant an interview to the prisoner unless it is waived. H.R. 10850 requires a "knowing and intelligent" waiver.

Notice and Opportunity for Representation: H.R. 10850 requires at least 30 days prior notice of the interview; S. 1 specifies no time limit. H.R. 10850 allows the prisoner to be represented by an attorney and to have an attorney appointed if necessary; S. 1 does not provide for appointed counsel. H.R. 10850 explicitly requires adequate opportunity to consult with counsel prior to the hearing.

Access to Reports: H.R. 10850 requires access to materials to be used by the parole commission at least 30 days prior to the interview; S. 1 provides no time requirement. Both bills provide that a prisoner shall not have access to materials contained in the presentence investigation which would not be revealed under Rule 32 of the Federal Rules of Criminal Procedure. H.R. 10850 requires the commission to state on the record its reasons for non-disclosure. Both bills require a summary of withheld portions, and in addition, H.R. 10850 requires the commission to reveal any reasonably segregable portion of the exempt material.

Interview Procedure: H.R. 10850 requires that the prisoner be present during the questioning of witnesses, with the right to cross-examine them. The prisoner may also call witnesses and present evidence on his own behalf, subject to the commission's determination of relevancy.

S. 1 does not specify the hearing procedures.

Record: Both bills require that a full record of the interview be maintained and made available to the prisoner.

Notification of Determination: Both bills require that notification of the commission's decision be made within 15 working days. H.R. 10850 requires a detailed statement of reasons in support of the decision; S. 1 requires a less detailed explanation. If parole is denied, S. 1 requires a rehearing within 1 year (unless clearly inappropriate, in which instance it shall be held within 2 years). H.R. 10850 requires rehearing within 1 year.

7. Revoking parole

(§ 3835 in both bills)

Initiation of Proceedings: S. 1 provides that the parole commission may issue a warrant for the arrest of a parolee who is alleged to have violated a condition of his parole. The parolee is returned to prison pending the hearing.

H.R. 10850 provides that an arrest warrant may issue only if the parolee fails to appear for a hearing after being ordered to do so or if he is unlikely to comply with such an order. Only a parolee who is arrested is reimprisoned pending the hearing.

Preliminary Appearance: Both bills require a preliminary hearing to determine if there is probable cause to believe that the parolee has violated a condition of parole. H.R. 10850 requires this hearing to be held within 48 hours of arrest; S. 1 requires that the hearing shall be held without "unnecessary delay." Under H.R. 10850, no preliminary hearing is necessary if the parolee has been ordered to appear rather than arrested. Further, under H.R. 10850 an arrested parolee may only be kept in prison after the preliminary hearing if there is reason to believe that he will not appear for his final hearing if released or if he constitutes a danger to himself or others.

S. 1 does not specify the procedures to be followed at the preliminary appearance. H.R. 10850 requires full due-process rights, including right to counsel, appointed if necessary, cross-examination, presentation of witnesses and evidence, and a full record of the hearing.

Final Revocation Hearing Procedure: S. 1 requires the hearing to be held within 60 days of the preliminary appearance; H.R. 10850 requires the hearing to be held within 30 days of the order to appear or date of arrest, whichever is later.

H.R. 10850 requires that the hearing may be waived only if done "knowingly and intelligently."

Both bills provide for appointed counsel if necessary. H.R. 10850 explicitly assures the right to consult with counsel and to examine evidence to be used at the hearing. S. 1 permits denial of cross-examination for "good cause." S. 1 permits any evidence to be received regardless of its admissibility under the Federal Rules of Evidence; H.R. 10850 requires that the evidence be lawfully obtained.

Disposition: H.R. 10850 requires that the commission notify the parolee of its decision within 14 days of the hearing; S. 1 provides no time limit. H.R. 10850 requires a detailed statement of reasons for the decision, whereas S. 1 requires a more abbreviated statement.

S. 1 provides a contingent term of imprisonment which the defendant may be ordered to serve if, prior to violation of a condition of parole, he had served his entire term. The contingent term is 90 days for a felony, 30 days for a Class A misdemeanor. H.R. 10850 contains no comparable provision.

8. Judicial Review of Parole Commission Determinations

In addition to an administrative appeal to a National Parole Commission, H.R. 10850 explicitly provides for a judicial review of violation of constitutional rights or of procedural rights granted by statute or regulation. In addition, H.R. 10850 provides that the reviewing court may set aside a parole commission determination if it is not supported by "substantial evidence" (the standard used for review of agency adjudications under the Administrative Procedure Act).

S. 1 does not authorize judicial review, although the Draft Report on S. 1 (p. 1082 n.48) recognizes that violations of constitutional rights will be subject to judicial review.

9. Revocation of probation

The Supreme Court has held that a revocation of probation must be conducted under the same procedures as a revocation of parole. *Gagnon* v. *Scarpelli*, 411 U.S. 778 (1973).

H.R. 10850 provides detailed procedures, essentially identical to those for revocation of parole. S. 1 contains no comparable section.

10. Appellate review of sentencing decisions

(§ 3725 in both bills)

S. 1 permits the defendant to appeal from a sentence for a felony if the sentence exceeds 1/5 the maximum authorized fine or term of imprisonment. The government may appeal if the fine or term of imprisonment is less than three-fifths the authorized. An appellate court has the right to increase sentence if the government appeals. The standard of review is "clearly unreasonable."

H.R. 10850 permits only the defendant to appeal, and he may do so regardless of the fractional amount of the maximum authorized sentence which has been imposed. An appellate court may not increase the sentence. The standard of review is "excessive, having regard for the opportunity of the district court to observe the defendant."

Under S. 1, a death sentence is always subject to appellate review. H.R. 10850 does not provide for a death sentence.

H.R. 10850 requires that the sentencing court give a statement of its reasons for the sentence imposed at the time of sentencing. S. 1 does not require such a statement.

11. Death penalty

(§§ 2401–03 of S. 1)

S. 1 provides a mandatory death penalty for treason, sabotage, espionage and murder if the certain aggravating circumstances are found to exist and if certain mitigating circumstances are found not to exist.

H.R. 10850 does not authorize the death penalty.

INTERCEPTION OF COMMUNICATIONS

(§§ 3101–09 of S. 1)

S. 1 essentially reenacts the provisions of existing law relating to the use of wiretaps and other means of electronic surveillance for law enforcement purposes.

H.R. 10850 eliminates these sections, thereby making all wiretaps without prior consent of all parties to the communication unlawful. See § 1521 of H.R. 10850 (Eavesdropping).

IMMUNIZATION OF WITNESSES

(§§ 3111–15 in both bills)

S. 1 carries forward the "use" immunity provisions of existing law. As enacted in 1970 in the Organized Crime Control Act, 18 U.S.C. §§ 6001–6005, these provisions have been upheld against a Fifth Amendment challenge. *Kastigar* v. *United States*, 406 U.S. 441 (1972).

Adopting the position of the dissenters in *Kastigar* that "use" immunity does not fully protect Fifth Amendment rights, H.R. 10850 provides full "transactional" immunity. In addition, H.R. 10850 provides that notwithstanding a grant of immunity, no person may be compelled to testify to matters which would tend to incriminate the witness.

USE OF JUVENILE DELINQUENCY RECORDS

(§ 3605 in both bills)

H.R. 10850 provides that 5 years after attaining his majority, if the juvenile has not been convicted of any additional felonies during that period, all records regarding juvenile proceedings of an individual shall be destroyed.

S. 1 contains no provisions for destruction of juvenile records.

DETERMINATION OF MENTAL COMPETENCY TO STAND TRIAL

(§ 3611 in both bills)

Motion to Determine Competency. Both bills allow the prosecution, defense, or court on its own motion to initiate a hearing to determine the defendant's competency to stand trial. H.R. 10850 expressly provides for an opportunity by counsel to oppose such a hearing.

Examination and Report: H.R. 10850 allows the defense the right to choose one of the two psychiatrists appointed by the court to conduct the examination. Further, H.R. 10850 provides that the appointed psychiatrists may not be from the institution to which the defendant may be sent for treatment if found incompetent.

Both bills provide for a 60 day period of hospitalization to determine competency. H.R. 10850 specifies that the place of commitment *must* be a medical facility, whereas S. 1 permits the court to choose a "suitable" facility.

H.R. 10850 requires that the examining psychiatrists file a detailed, non-conclusory report as to their findings. In addition, it requires that defense counsel be permitted access to all medical records made in the course of the examination, together with a videotape of any staff conference held in the course of the examination. This requirement is a relatively practical and unobtrusive way to preserve the defendant's right of confrontation and cross-examination of witnesses. S. 1 contains no comparable provision.

H.R. 10850 requires that the report be filed within 7 days of the end of the examination period, whereas S. 1 provides no time limit.

Hearing Procedures: Both bills are identical in this respect.

Determination and Disposition: S. 1 incorporates the holding of the Supreme Court in *Jackson* v. *Indiana*, 406 U.S. 715 (1972), but chooses not to deal with the issues left unresolved by the Court. Thus, under S. 1 an accused found presently incompetent to stand trial may be committed for a "reasonable period of time" to determine if there is a substantial probability that he will, in the foreseeable future, attain the capacity to stand trial.

The commitment may continue for an additional "reasonable period of time" for treatment to render the accused competent to proceed. If at any time it is determined that there is no substantial probability that the defendant will regain sufficient competency in the foreseeable future, the defendant is subject to the provisions of § 3616 (Hospitalization of a Person Due for Release but Suffering from Mental Disease or Defect). Thus, S. 1 does not deal with the issue of disposing of pending charges, nor does it set any time limits on the process.

H.R. 10850 deals with both of these matters. For a person charged only with a misdemeanor, after the 60 day initial examination period has expired, he must be released if he has not attained the capacity to stand trial. All charges must be dismissed. Such a person would be subject to State civil commitment proceedings, but Federal jurisdiction ceases after the charges have been dismissed.

The procedure differs for those charged with one or more felonies. If, after the 60 day examination period, the court finds that there is a substantial probability that the defendant may be restored to competency in the foreseeable future, the court may commit the defendant for treatment for a period not to exceed 6 months. After the 6 month period, if the defendant remains incompetent to stand trial, then all charges must be dismissed and the defendant released. Release may be delayed pending transfer to State authorities for possible State civil commitment proceedings. Unlike S. 1, H.R. 10850 established no Federal civil commitment, and Federal jurisdiction ceases upon dismissal of all pending charges.

DETERMINATION OF THE EXISTENCE OF INSANITY AT THE TIME OF OFFENSE

(§ 3612 in both bills)

The changes made by H.R. 10850 in the preceeding section dealing with the psychiatric examination and report are applicable to this section as well.

In addition, while H.R. 10850 follows S. 1 in establishing for the first time in Federal law a special verdict of not guilty by reason of insanity, H.R. 10850 requires that the jury find beyond a reasonable doubt that the defendant has committed the acts charged in order to return such a verdict. If the jury makes no such finding, the appropriate verdict is not guilty.

FEDERAL CIVIL COMMITMENT

(§§ 3613–16 in S. 1)

S. 1 provides expanded Federal authority and responsibility for hospitalization and treatment of persons found not guilty by reason of insanity and of persons convicted of an offense who are due for release but suffering from mental disease or defect.

H.R. 10850 provides instead for a transfer procedure whereby such persons are referred to the appropriate officials in the State of their domicile for possible initiation of State civil commitment proceedings. There are essentially three reasons for this change: (1) doubts about the constitutional basis of Federal authority to commit persons not guilty of any Federal offense; (2) questions of equal protection if the standards for commitment differ in State and Federal proceedings; and (3) practical questions associated with securing appropriate treatment for persons in need of hospitalization, including an absence of necessary Federal facilities and a desire for community-based treatment, which must be done on a local level.

ADMISSIBILITY OF CONFESSIONS AND EYEWITNESS TESTIMONY

(§§ 3713–14 in S. 1)

S. 1 reenacts provisions found originally enacted in 1968 as part of the Omnibus Crime Control and Safe Streets Act (P.L. 90–351). The provisions are designed to overrule a variety of Supreme Court decisions dealing with the rights of criminal suspects under the Constitution.

Believing that these sections conflict with the Constitution, H.R. 10850 does not carry them forward.

ADMISSIBILITY OF EVIDENCE IN SENTENCING PROCEEDINGS

(§ 3715 in S. 1)

This provision of S. 1, which was originally enacted in 1970 as part of the Organized Crime Control Act (18 U.S.C. § 3577), permits the court to consider any evidence, including evidence illegally obtained, in its sentencing decision.

H.R. 10850 deletes this provision, thereby leaving to the courts the issue of whether the exclusionary rule extends to sentencing proceedings.

EFFECTIVE DATE OF THE LEGISLATION

S. 1 provides that the new criminal code shall take effect one year after enactment. Due to the substantial changes that this act makes in existing law and the need for the courts to have time to prepare for its implementation, including devising new jury instructions, H.R. 10850 extends the period to three years after enactment.

NEW SECTIONS ADDED BY H.R. 10850

Several generic sections have been added to complete the process of codification of all crimes that S. 1 begins. Thus, under H.R. 10850, there would be no offenses with a criminal sanction outside of Title 18, United States Code. It is estimated that under S. 1, approximately 800 non-Title 18 criminal offenses remain.

The sections added by H.R. 10850 to achieve this objective are §§ 1304 (Misusing Governmental Authority); 1345 (Information Disclosure Offense); 1765 (Prohibited Trade Practices); 1766 (Solicitation or Acceptance of an Unlawful Fee); 1862 (Failing to Obey a Public Safety Order); and 1864 (Regulatory Procedures Offense).

H.R. 10850 also creates several additional offenses not found in S. 1.

§ *1346* makes it an offense for a non-elected public servant to make a false, fictitious or fraudulent statement about a matter within the jurisdiction of an agency or department of the United States, if the statement is made with the specific intent to deceive the public. The offense is a Class D felony (2 years).

§ *1704* relates to knowing acts of environmental spoliation in violation of a Federal statute, rule or regulation. It thereby incorporates many non-Title 18 offenses.

§ *1705* makes it an offense to knowingly cause, create a risk of, or fail to prevent or stop a "catastrophe". The term "catastrophe" is defined as serious bodily injury to 10 or more persons or substantial damage to 10 or more separate habitations or structures, or property loss in excess of $500,000. A comparable offense was proposed by the Brown Commission.

§ *1738* is a consumer fraud offense, also used to incorporate various non-Title 18 provisions prohibiting such activity.

CONGRESSMAN GEORGE E. BROWN, JR. DISCUSSES ENERGY AND NUCLEAR POWER

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, last Friday George Brown, our colleague from California, delivered a major speech on nuclear power as a future energy source. Since this is a topic that is of interest to this body, and Mr. Brown's remarks were about the dilemma facing the policymaker who is concerned about energy issues, I found this speech especially illuminating. Personally, I feel that Mr. Brown has minimized the role which coal must play in meeting the Nation's short-term energy needs. I also feel that he has overstressed the difficulties with coal.

While I am certain that many Members, on both sides of the nuclear energy debate, will disagree with at least part of Mr. Brown's remarks, I believe that all parties would agree that the nature of the dilemma is presented fairly in the following address:

Energy Policy and the Future of Nuclear Power: The Policymaker's Dilemma

(Remarks of the Hon. George E. Brown, Jr., American Association for the Advancement of Science, Boston, Mass., February 20, 1976)

I very much appreciate the opportunity to discuss the subject of energy and nuclear power with the audience and panelists here today, and the opportunity to present my own views about the dilemma an elected official faces with this issue.

It's perhaps appropriate that I have no particular expertise in this subject; I don't serve on the main Congressional watchdog committee, the Joint Committee on Atomic Energy, and I have previously expressed no strong views about the good or evil that nuclear power can bring. My main political concerns have been the issues of world peace, social and economic justice, and a vast array of issues best listed under the heading of "limits to growth." I've recently spent a great deal of my time attempting to deal with energy and environmental issues in a manner which I believe would promote the general welfare of all human beings both at home and abroad, and in this generation and generations to come. I have no illusions about the prospects of achieving substantial change during my lifetime. Nevertheless, I believe one must contribute their best efforts to the struggle, and hope for the achievement of some modest progress.

With this preamble to my remarks, I'll address the subject at hand, energy policy and nuclear power. I hope to describe the various choices that face a decision-maker, especially an elected official, and through this description place in context the issue of domestic nuclear power for the generation of electricity.

Let me say at the outset that I feel the entire development of nuclear energy has been historically cloaked in excessive secrecy. The involvement of informed non-nuclear energy specialists in the nuclear energy debate is an improvement, but is only very recent. A still more recent event has been the introduction of nuclear energy into electoral politics, and I am glad that this is finally happening. Today politicians may be labeled for their votes on such issues as research funds for the breeder reactor, export restrictions on light-water reactors, and the extension of the Price-Anderson Act, as well as their votes on taxes and foreign policy. In addition nearly half the States in the Union have initiative campaigns underway to put various types of nuclear issues on the election ballot. My own State of California has an initiative measure on this June's ballot which could, under certain circumstances, lead to the phase-out of fission energy for electric power production in the State of California. No matter what impression you receive from the rest of my remarks, I think the ballot initiative and the public debate are very healthy measures. I think it is long overdue that the public should be made more aware of the fundamental values which are involved in a selection of energy policy choices, and that both the public and policy makers should be forced to think hard about the alternatives and their consequences.

At this point, if I am before any audience in California, I am confronted by one or more emotional citizens who say "quit beating around the bush, tell us how you stand on the nuclear initiative." So my first dilemma is explaining why I have not yet taken a public stand on this important issue.

Perhaps these remarks will suffice as an answer to my own constituents in California, if I can persuade enough of them to read this statement.

I must say that it's difficult for me and many others to feel comfortable advocating any of the available energy supply alternatives. There are few who wouldn't admit to some misgivings about a "full speed ahead" nuclear policy, even though the supposed promise of an effortless transition to the post-fossil fuel era might seem tempting. On the other hand, one would have to be blind not to see grave problems in "stopping it dead now", even in the hope of an eventual change to a new age of benign energy source. There are also, of course, many difficulties in supporting most of the "compromise" positions, like mixing nuclear slow-downs with conservation or more rapid development of alternative technologies such as hydrogen fusion.

What I'd like to do is start from a basic, underlying idea about the origin of the energy predicament, and try to tell you where this seems to lead me. This will be as much in the hope of being corrected and educated by some of the many energy experts here as it will be in the intention of telling you anything you haven't heard before.

The underlying idea is simply that we have now been forced into choosing among a set of very nasty alternatives, because of having followed for a century or more policies of over-dependence on oil and natural gas, coupled with massive energy waste and the foolish abandonment of diversity in maintaining other sources of energy. Like any relatively unadaptable biological species, we will now have a hard time adjusting to the fundamental change in the conditions under which we live. In our case, this fundamental change is the approaching exhaustion of those energy sources on which we have become overly-dependent.

My feeling about the long-run need to maintain diversity and to correct this overdependence on any one energy source colors the rest of what I will say.

"THE NATURE OF THE DILEMMA"

What are some of the elements of the energy dilemma confronting the policymaker in the Congress? First are the demand and supply curves. From a current total energy demand of about 70 quads we expect to reach about 150 quads by the year 2000. Domestic production of oil and natural gas has already peaked and probably will continue to decrease from current levels, even considering off-shore and Alaskan supplies. The increase in supply must come from increased imports, greater use of domestic coal, including production of synthetic fuels from coal, and nuclear sources. All known exotic sources—solar, ocean thermal, geothermal, fusion—are not expected to make a significant net contribution within this time frame.

What can we say about these supply options? Increased imports at OPEC prices will bankrupt the U.S. economy, and render us vulnerable to political blackmail.

Massive increases in coal production will have massive adverse effects on the environment at every stage of the fuel cycle, from mining to combustion, and will require new capital facilities currently difficult or impossible to obtain.

Synthetic fuels from coal, or large scale oil shale production, again will be environmentally destructive, place huge demands on capital, and pre-empt scarce water supplies.

Nuclear plant design and construction is plagued by huge cost over-runs, lengthening delays from a variety of causes, an increasingly skeptical climate of public opinion about plant safety and waste disposal, and many other problems.

If we look at the other side of the coin, and choose the policy approach of reducing demand, to ease the pressure on the very unattractive supply options, we face other problems.

Voluntary conservation doesn't work, or doesn't work very well. Compulsory conservation requires rationing, or mandating of energy efficiency in transportation, homes and businesses, together with other forms of regulation, all politically unattractive in the absence of an immediate and obvious crisis.

Conservation by the use of market forces requires greatly increased consumer prices whether by deregulating oil and natural gas prices, or by a very large consumer tax on all forms of energy. This is at least as unpalatable a policy choice as rationing.

Long-range conservation of energy will require investment in new conserving technologies (again requiring capital in a capital-scarce market) as well as new designs for buildings, transportation systems, energy conversion processes, and the layout of cities.

Even in the best of all possible worlds, with an ideal mix of short- and long-range energy supply and demand strategies, chosen by a perfectly informed and absolutely unselfish Congress, there will be traumatic short-term adjustments required by large segments of the population. There will be suffering for some, both economic and physical, and obscene profits and greater economic power for others.

In an imperfect world, those problems will be accentuated.

These are some of the factors in the policymaker's dilemma.

ISSUES OF THE NUCLEAR DEBATE

Let me speak briefly now to some of the specifics of the nuclear debate. I don't have too much doubt that the remaining technical problems of a nuclear powered economy can be solved in some fashion. Insuring plant operating safety may involve more rigid operating procedures and training than we've been used to in non-military operations, but it seems reasonably possible. Reaching an adequate level of security in the over-all fuel cycle seems a similar challenge. Waste disposal would require great care in site selection and raises philosophical problems of our relation to future generations. However, I imagine that, in analogy to some of our past actions in the industrial age, we could manage to find both a site at least worth gambling on, and rationale for our legacy to the future. Ejection of nuclear wastes into the sun is always available as a last, and very expensive resort.

I must hurry to add, however, that though solutions to these problems all seem possible, they certainly don't combine to give a desirable portrait of an energy system. It's hard to know the technical details of reactor emergency cooling systems, or the plasticity of salt bed deposits. It's not hard to know, however, that all the elaborate technologies involved would remove energy production a giant step further from local control, or even the understanding of the average citizen.

This, in my mind, is a critical flaw in even an imagined "safe and secure" nuclear energy economy. A nuclear energy system meshes, most naturally, with a tightly organized, centralized industrial and political system, with all the potential for coercive and authoritarian tendencies which these systems have historically demonstrated. Adding all the necessary nuclear safeguard and security "solutions" together does not present a picture of the kind of peaceful, stable, and democratic world that I and, I think, most others would like to see. I hope very much that the public debate on nuclear power will begin to address this much more general problem. The selection of an energy system involves questions more important than some of the detailed safety matters on which so much effort has been expended so far. I'm very gratified that the nuclear power issue has given the public the chance to reflect on, and vote on, an issue which involves the kind of long-term organization of society which they want.

PROSPECTS FOR ALTERNATIVES TO NUCLEAR POWER

The ordinary alternatives to nuclear power do not provide me with much comfort. Certainly many of the derogatory things I've said about a nuclear economy apply to a coal economy. Just as one example, when I imagine the legacy to future generations of a massive coal combustion system, with health effects resulting from unknown emission products, and climate effects of ever increasing CO_2 emissions, it seems just as forbidding as the nuclear legacy. The organization of a complex coal powered energy system will have many of the same problems of centralization which I've cited for the nuclear cases. I could also imagine that if we let our technocratic tendencies work their will on something as appealing as solar energy we would be able to convert it as well, to a highly bureaucratized system, overly complicated and centralized, and far from being in equilibrium with natural systems.

As for which energy system is best to bet on in economic terms, I find myself even more confused than on questions of relative technological merit or safety. Certainly nuclear economics are disappointing to those who hoped for an endless source of inexpensive power, but no matter how expensive nuclear systems become we need only wait awhile to find fossil fuel energy even more dear. It appears to me also that we've been learning lately that costs of energy systems depend most strongly, not on hardware and simple development and operating costs, but on a complex of other factors. These may include the private and public division of indirect costs, on regulatory and tax decisions, and on the role of public grants, loans, and guarantees in raising capital. In estimating the economics of technologies not yet commercially exploited we then have all the technical and cost uncertainties, plus a great many related to public policy. What this comes down to is a feeling that we cannot gamble on the collective Congressional judgment on the relative merits of photovoltaic vs. thermal or biological solar conversion, or on any of the other myriad technological-economic trade-offs in energy decisions. Moreover, though the judgment of an ERDA analyst or the total wisdom of the executive branch may be somewhat more sophisticated, the chance of their correctly predicting the optimum energy technology fifty years from NOW is probably also rather small. Historically, we have simply not been very effective in guessing economic and technological trends in a climate of rapidly changing conditions.

THE NONREADINESS OF ALTERNATIVE ENERGY SOURCES

Amidst all the unanswered questions, there is one thing we can unfortunately say with some certainty. We are not ready for a massive conversion to a non-nuclear, non-fossil, alternative energy system. Some of these new energy technologies may be promising or even proven totally feasible. Unhappily, however, in our concentration on the use of inexpensive gas and oil, we have lost any semblance of diversity and adaptability in energy production as I indicated at the beginning of my remarks. The systems for manufacturing, marketing, installation, maintenance and consumer education for any of the newer and more promising energy technologies simply do not exist, and will take years to evolve. The channeling of capital for application to any of the new systems will depend on the marginal benefits in operating costs, but these will only become apparent in a gradual sense as operating experience is slowly acquired.

THE CONSERVATION AND ENERGY EFFICIENCY STRATEGY

Where does all this lead? I've said that I wouldn't be surprised if all the technical and safety problems of nuclear power could be solved, but that I don't like the looks of the likely solutions. On the other hand, I obviously don't take much comfort in a coal energy economy and I see no other supply alternative ready to fill the gap. I've indicated before that I see our best immediate step as that of moving in every way possible to an energy conserving and energy efficient life style. As a key first step we must begin to allocate more of our scarce investment resources in this direction. I said that I had a hard time seeing the future of some energy supply technologies relative to others—but I have little trouble in drawing the conclusion that an energy conservation strategy is far superior to all of these. It's the one where the returns, in BTU's not needed, will be fastest, far faster than trying to generate new BTU's from undeveloped technologies. It's also the one where the unfavorable impacts on the social and environmental structure will be least. Just as important, it's the one in which the returns on energy investment, in the form of conservation energy savings by individual homeowners, tenants and businessmen, will flow most equitably through society. Most important of all, it's the one which will permit the most flexibility and time to design new energy systems with the greatest diversity—and may enable us to think of the decentralized approaches which I feel are so vital.

THE NEED TO REESTABLISH A SET OF OPTIONS

Even with my conservation strategy, I can't fool myself that we will not need some new forms of energy supply, at least in a thirty to fifty year period required for evolution to a non-petroleum based steady-state energy economy. So I have to face the energy supply problem, and I have to face the "future of nuclear power" which lurks in the title of this symposium.

What I cannot see our nation doing is abandoning completely the nuclear power option at this time. I think, as I said at the outset, that we have made a serious historical mistake in narrowing our energy options to the point we find them now. It is very difficult to justify narrowing them further. I would like, in say thirty years, to see us emerge from the current position of having to choose among two or three distasteful energy possibilities. Instead, I want to have a set of choices, which can suit the varied needs of particular segments of the world community, under a range of future conditions which we can't now accurately predict. In our defense strategy the public has long accepted the notion that a considerable financial investment is justified simply to preserve a set of options for the future, and a flexibility in responding to varied problems. This is done even in the knowledge that many of the options will never be used. I think our energy strategy is as important as our military strategy, and I would like to see us understand the need for options in energy policy as well. Looking for a single will-o-the-wisp optimum energy technology is a vain effort, I fear. It may also be dangerous, because of our inability to judge future needs.

Thus, from our current nuclear power deployment, I would like to see us go as slowly as possible, pushing for energy conservation and more benign technologies to take up the slack. I don't want nuclear development at a rate which will comfortably satisfy demand, but instead at a foot-dragging pace which will force consideration of other options and enforce conservation. Over-reliance on nuclear development can restrict growth of alternatives and I think it is critical that we avoid that situation.

Further, I hope that our planning and development for a long-range breeder economy will all go to waste—in roughly the same sense that I hope all our aircraft carriers and hardened missile silos and every other piece of military hardware will become obsolete without ever seeing a moment of action. I hope we'll be surprised by the rapid emergence of the more benign energy technologies, those within human and local community reach, and those which are harmless not because they're guarded by armies and embedded in concrete, *but because they are inherently safe and secure.* Nonetheless, I can't justify to myself a total break with the nuclear option because I don't have the foresight to know that the better alternatives will be there when needed. Hopefully, the use and development of nuclear power will be a fleeting and half-hearted exercise of the next twenty years or so, until the more attractive options are available.

Feeling, however, that we got into this fix by blindly narrowing options too greatly in the last century, I can't advocate actions which may repeat the mistake.

So, as with all good dilemmas, I find no comfortable solutions. I do console myself that the dialectic processes of human cultural development require that from each confrontation of thesis and antithesis there must arise a new and hopefully better, synthesis. This is the challenge of the nuclear policy debate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Landrum (at the request of Mr. O'Neill), for this week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. Cohen) and to revise and extend his remarks and include extraneous matter:)

Mr. Kemp, for 30 minutes, today.

(The following Members (at the request of Mr. Levitas) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 5 minutes, today.
Mr. Wolff, for 5 minutes, today.
Mr. Rodino, for 5 minutes, today.
Mr. Stark, for 5 minutes, today.
Mr. Cotter, for 5 minutes, today.
Mr. Matsunaga, for 10 minutes, today.
Ms. Abzug, for 10 minutes, today.
Mr. Vanik, for 5 minutes, today.
Mr. Dodd, for 5 minutes, today.
Mr. Dominick V. Daniels, for 10 minutes, today.
Mr. Rooney, for 10 minutes, today.
Mr. Rostenkowski, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Passman in four instances.

Mr. Kastenmeier, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $1,644.50.

(The following Members (at the request of Mr. Cohen) and to include extraneous matter:)

Mr. Peyser in 10 instances.
Mr. Archer.
Mr. Fish.
Mr. Hagedorn in five instances.
Mr. Derwinski in two instances.
Mr. Steiger of Wisconsin.
Mr. Abdnor in two instances.
Mr. Treen in two instances.
Mr. Guyer.
Mr. Gilman.
Mr. Lott.
Mr. Ketchum.
Mr. Symms.
Mr. Rinaldo.
Mr. Wydler.
Mr. Quillen.
Mr. McClory.

(The following Members (at the request of Mr. Levitas) and to include extraneous matter:)

Mr. Gonzalez in three instances.
Mr. Anderson of California in three instances.
Mr. Fauntroy in two instances.
Mr. Lehman in two instances.
Mr. Nowak.
Mr. Eilberg in two instances.
Mr. Mazzoli.
Mr. Cotter in three instances.
Mr. St Germain.
Mr. Addabbo.
Mr. Rouse in three instances.
Mr. Milford in two instances.
Mr. Wright.
Mr. Gibbons.
Mr. Blanchard.
Mr. Jones of Alabama.
Mr. Meeds.
Mr. Traxler in two instances.
Mr. Bingham in 10 instances.
Mr. Duncan of Oregon.
Mr. Matsunaga in two instances.
Mr. Cornell in five instances.
Mr. Rosenthal in 10 instances.
Mr. Murtha in two instances.
Mr. Edwards of California.
Mr. Vanik.
Mr. O'Hara.
Mr. McDonald of Georgia in four instances.
Mr. Neal in two instances.
Mr. Rangel.
Mr. Nolan.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 905. An act for the relief of Eva Graciela Steinitz; to the Committee on the Judiciary.

S.J. Res. 35. Joint resolution to provide for the designation of the second full calendar week in March 1976 as "National Employ the Older Worker Week"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2117. An act to amend section 5202 of title 10, United States Code, relating to the detail, pay, and succession to duties of the Assistant Commandant of the Marine Corps and to amend title 10 of the United States Code in order to make certain disability retirement determinations by the Secretaries of the military departments subject to review by the Secretary of Defense.

ADJOURNMENT

Mr. LEVITAS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly at 1 o'clock and 18 minutes p.m.) the House adjourned until tomorrow, Wednesday, February 25, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2607. A letter from the President of the United States, transmitting an amendment to the request for appropriations for fiscal year 1976 for Foreign Assistance under Funds Appropriated to the President; to the Committee on Appropriations and ordered to be printed.

2608. A letter from the Deputy Assistant Secretary of Defense (Military Personnel Policy), transmitting a report that the authority for special pay to officers holding positions of unusual responsibility and of critical nature was not exercised during calendar year

1975, pursuant to 37 U.S.C. 306(f); to the Committee on Armed Services.

2609. A letter from the Assistant Secretary of the Army (Research and Development), transmitting a report on Army research and development contracts for $50,000 or more awarded during the 6 months ended December 31, 1975, pursuant to 10 U.S.C. 2357; to the Committee on Armed Services.

2610. A letter from the Acting Assistant Deputy Chief of Naval Material (Procurement and Production), transmitting a report on Navy research and development contracts for $50,000 or more awarded during the 6 months ended December 31, 1976, pursuant to 10 U.S.C. 2357; to the Committee on Armed Services.

2611. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank during December 1975, to Communist countries; to the Committee on Banking, Currency and Housing.

2612. A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting a proposed regulation on the final priorities and criteria for fiscal year 1976 for applications for awards under section 142(c) of the Vocational Act of 1963, pursuant to section 431(d) of the General Education Provisions Act; to the Committee on Education and Labor.

2613. A letter from the Secretary, Federal Trade Commission, transmitting a report on the Commission's activities under the Freedom of Information Act for calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2614. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to amend the act of October 15, 1966 (80 Stat. 915), as amended, to extend the authority for appropriations for U.S. participation in the activities of the International Centre for the Preservation and Restoration of Cultural Property, and for other purposes; to the Committee on Interior and Insular Affairs.

2615. A letter from the Secretary of the Interior, transmitting a report of activities carried on by the Geological Survey during 1975, pursuant to 43 U.S.C. 31(c); to the Committee on Interior and Insular Affairs.

2616. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with FMC Corp., Santa Clara, Calif., for a research project entitled "Intermediate Drive Belt Conveyor," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

2617. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to offer to sell certain defense articles and services to Iran, pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

2618. A letter from the Secretary of Health, Education, and Welfare, transmitting the fifth annual report on marihuana and health, pursuant to section 502 of Public Law 91–296; to the Committee on Interstate and Foreign Commerce.

2619. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Natural Gas Pipeline Safety Act of 1968, as amended, to authorize additional appropriations; to the Committee on Interstate and Foreign Commerce.

2620. A letter from the Chairman, Federal Power Commission, transmitting a report on the Commission's energy conservation policies and practices initiated since October 1973, pursuant to section 382(a)(1) of Public Law 94–163; to the Committee on Interstate and Foreign Commerce.

2621. A letter from the Chairman, Federal Power Commission, transmitting a copy of the publication entitled "Federal Power Commission Reports; Opinions, Decisions, and Orders," volume No. 39, covering January 1–June 30, 1968; to the Committee on Interstate and Foreign Commerce.

2622. A letter from the Secretary of Transportation, transmitting the annual report for fiscal year 1975 on urban area traffic operations improvement programs (TOPICS), pursuant to 23 U.S.C. 135(c); to the Committee on Public Works and Transportation.

2623. A letter from the Acting Administrator of General Services, transmitting prospectuses which propose entering into a lease extension and a lease renewal for space in New York, N.Y., pursuant to section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Public Works and Transportation.

2624. A letter from the Acting Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend title XX of the Social Security Act to strengthen the ability of the States to support social services in their communities; to the Committee on Ways and Means.

2625. A letter from the Attorney General, transmitting a draft of proposed legislation to amend chapter 2, title 18, United States Code, and sections 101 and 902 of the Federal Aviation Act of 1958, to implement the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation and for other purposes; jointly, to the Committees on the Judiciary, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee of conference. Conference report on S. 2017 (Rept. No. 94–839). Ordered to be printed.

Mr. EVINS of Tennessee: Committee on Small Business. Report on selected Small Business Administration programs and activities (Rept. No. 94–840). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 1053. Resolution providing for the consideration of H.R. 11893. A bill to increase the temporary debt limit until July 31, 1976 (Rept. No. 94–841). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 970. Resolution providing funds for the expenses of the Committee on Ways and Means (Rept. No. 94–842). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 974. Resolution to provide funds for the expenses of the investigations and studies to be conducted by the Committee on Agriculture (Rept. No. 94–843). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 975. Resolution to provide for the further expenses of the Committee on Education and Labor for the investigations and studies to be conducted pursuant to rule XI of the Rules of the House of Representatives (Rept. No. 94–844). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 1015. Resolution to provide funds for the expenses of investigations and studies to be conducted by the Committee on Banking, Currency and Housing (Rept. No. 94–845). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 1020. Resolution to provide funds for the expenses of the investigations and studies by the Committee on House Administration (Rept. No. 94–846). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 1039. Resolution to provide funds for the further expenses of the investigations and studies of the Committee on Small Business (Rept. No. 94–847). Referred to the House Calendar.

Mr. MORGAN: Committee on International Relations. H.R. 11963. A bill to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act to authorize international security assistance for fiscal year 1976, to provide for the termination of grant military assistance programs at the end of fiscal year 1977, and for other purposes (Rept. No. 94–848). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. ABZUG:

H.R. 12039. A bill to amend the Privacy Act of 1974; to the Committee on Government Operations.

By Mr. BALDUS (for himself, Mr. Obey, Mr. Aspin, Mr. AuCoin, Mr. Baucus, Mr. Bergland, Mr. Brown of California, Mr. Cleveland, Mrs. Collins of Illinois, Mr. Cornell, Mr. Dominick V. Daniels, Mr. Danielson, Mr. Downey of New York, Mr. Emery, Mr. Fraser, Mr. Hannaford, Mr. Jenrette, Mr. Jones of North Carolina, Mr. Kindness, Mr. Lagomarsino, Mr. Leggett, Mr. Mazzoli, Mr. Mollohan, Mr. Murphy of New York, and Mr. Ottinger):

H.R. 12040. A bill to amend the Internal Revenue Code of 1954 to revise and improve certain provisions thereof relating to estate and gift taxes; to the Committee on Ways and Means.

By Mr. BELL (for himself, Mr. Biester, and Mr. Gude):

H.R. 12041. A bill to direct Government instrumentalities not to require nonessential declarations of marital status or the nonessential use of prefixes indicating such status; to the Committee on Government Operations.

By Mrs. BOGGS (for herself, Mr. Cochran, and Mr. Roberts):

H.R. 12042. A bill to authorize the erection of a statue of Bernardo de Galvez on public grounds in the District of Columbia; to the Committee on House Administration.

By Mr. BRODHEAD:

H.R. 12043. A bill to require Armed Forces medical facilities and public and private medical facilities receiving Federal financial assistance to permit women to be accompanied by a person of their choice while undergoing childbirth; jointly to the Committees on Armed Services, and Interstate and Foreign Commerce.

By Mr. CORNELL (for himself, Mr. Blouin, Mr. Danielson, Mr. Dellums, Mr. Downey of New York, Mr. Hughes, Mr. Nolan, and Mr. Pattison of New York):

H.R. 12044. A bill to amend the Internal Revenue Code of 1954, the Social Security Act, and other laws to provide effective welfare reform by replacing public assistance and food stamps with a system of allowances and refundable credits, and for other purposes; to the Committee on Ways and Means.

By Mr. de LUGO:

H.R. 12045. A bill to amend title 28 of the United States Code to authorize the establishment of U.S. magistrate positions in the

District Court of the Virgin Islands; to the Committee on the Judiciary.

By Mr. DIGGS (for himself, Mr. Morgan, Mr. Buchanan, Mrs. Collins of Illinois, Mr. Fascell, Mr. Gilman, Mr. Hechler of West Virginia, Mr. Nix, Mr. Solarz, and Mr. Zablocki) (by request):

H.R. 12046. A bill to provide for relief and rehabilitation assistance to the victims of the earthquakes in Guatemala, and for other purposes; to the Committee on International Relations.

By Mr. EILBERG (for himself and Mr. Conte):

H.R. 12047. A bill to amend the Public Health Service Act to promote the health and welfare of children in need of adoption by facilitating their placement, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FLOWERS (for himself, Mr. Danielson, Mr. Mazzoli, Mr. Pattison of New York, Mr. Moorhead of California, Mr. Kindness, Mr. Levitas, and Mr. Del Clawson):

H.R. 12048. A bill amending title 5 of the United States Code to improve agency rulemaking by expanding the opportunities for public participation, by creating procedures for congressional review of agency rules, and by expanding judicial review, and for other purposes; jointly, to the Committees on the Judiciary, and Rules.

By Mr. GIBBONS (for himself and Mr. Corman):

H.R. 12049. A bill to impose a minimum tax on individuals, based on economic income; to the Committee on Ways and Means.

By Mr. HAGEDORN:

H.R. 12050. A bill to amend title 13, United States Code, to require the Secretary of Commerce to use sampling methods in taking agricultural censuses; to the Committee on Post Office and Civil Service.

H.R. 12051. A bill to amend the Internal Revenue Code of 1954 to increase the exemption for purposes of the Federal estate tax, to remove the 50-percent limitation on the marital deduction, and to provide an alternate method of valuing certain real property for estate tax purposes; to the Committee on Ways and Means.

By Mr. MATSUNAGA:

H.R. 12052. A bill to amend the Internal Revenue Code of 1954 to provide that indebtedness arising out of taxes or special assessments imposed by State or local governments will not be treated as acquisition indebtedness for purposes of the tax on unrelated business income; to the Committee on Ways and Means.

By Mr. MIKVA (for himself, Mr. Beard of Tennessee, Mrs. Burke of California, Mr. Bowen, Mr. Broomfield, Mr. Long of Maryland, Mr. McCormack, Mr. Waxman, Mrs. Sullivan, Mr. Lott, Mr. Harkin, Mrs. Meyner, Mr. Fisher, Mr. Patterson of California, Mrs. Schroeder, and Mr. Hefner):

H.R. 12053. A bill to correct inequities in certain franchise practices, to provide franchisors and franchisees with even-handed protection from unfair practices, to provide consumers with the benefits which accrue from a competitive and open market economy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MONTGOMERY (for himself, and Mr. Krebs):

H.R. 12054. A bill to amend section 1362 of title 18, United States Code, relating to the injury or destruction of communication lines, stations, or systems; to the Committee on the Judiciary.

By Mr. NEAL:

H.R. 12055. A bill to provide for the elimination of inactive and overlapping Federal programs, to require authorizations and new budget authority for Government programs and activities at least every 4 years, to establish a procedure for zero-base review and evaluation of Government programs and activities every 4 years, and for other purposes; to the Committee on Rules.

By Mr. NEAL (for himself, Mr. Allen, Mr. Hefner, Mr. Henderson, Mr. Rose, and Mr. Taylor of North Carolina):

H.R. 12056. A bill to require a health warning in the labeling and advertising of certain alcoholic beverages; to the Committee on Interstate and Foreign Commerce.

By Mr. OBERSTAR:

H.R. 12057. A bill to amend the Endangered Species Act to provide compensation to persons suffering losses due to predators protected under the Endangered Species Act; to the Committee on Merchant Marine and Fisheries.

By Mr. O'NEILL (for himself, Mr. Fascell, Mr. Macdonald of Massachusetts, Mr. Moorhead of Pennsylvania, Mr. St Germain, Ms. Abzug, Mr. Harrington, Mr. Drinan, Mr. Moffett, Mr. Udall, Mr. Rose, Mr. Brown of California, Mr. Ottinger, Mr. Boland, Mr. Seiberling, Mr. Helstoski, Ms. Heckler of Massachusetts, Mr. Mineta, Mr. Minish, Mr. Nix, Mr. Moakley, Mr. Burke of Massachusetts, Mr. Conte, Mr. Cotter, and Mr. Scheuer):

H.R. 12058. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the disposal of surplus real property to States and their political subdivisions, agencies, and instrumentalities for economic development purposes; to the Committee on Government Operations.

By Mr. O'NEILL (for himself, Mr. Giaimo, Mr. Beard of Rhode Island, Mr. Charles Wilson of Texas, Mr. Stark, Mr. Sarasin, Mr. Gaydos, Mr. Dodd, Mr. Early, Mr. McKinney, Mr. Koch, Mr. Bevill, Mr. Tsongas, Mr. Downey of New York, Mr. Studds, Ms. Meyner, and Mr. Edwards of California):

H.R. 12059. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the disposal of surplus real property to States and their political subdivisions, agencies, and instrumentalities for economic development purposes; to the Committee on Government Operations.

By Mr. PERKINS:

H.R. 12060. A bill to provide a special program for financial assistance to Opportunities Industrialization Centers in order to provide 1 million new jobs and job training opportunities, and for other purposes; to the Committee on Education and Labor.

By Mrs. PETTIS:

H.R. 12061. A bill to designate certain lands in the Joshua Tree National Monument, Calif., as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. PRESSLER:

H.R. 12062. A bill to amend title 18 of the United States Code to increase the penalty for committing certain crimes with a firearm or while unlawfully carrying a firearm; to the Committee on the Judiciary.

By Mr. PRITCHARD:

H.R. 12063. A bill to promote the development of American handcrafts; to the Committee on Education and Labor.

By Mr. RICHMOND (for himself, Ms. Abzug, Mr. Rangel, Mr. Scheuer, Mr. de Lugo, and Mr. Hechler of West Virginia):

H.R. 12064. A bill to prohibit new rules and regulations from becoming effective under the Food Stamp Act of 1964 until the Congress enacts new legislation with respect to such act; to the Committee on Agriculture.

By Mr. ROUSH (for himself, Mr. Baucus, Mr. Corman, Mr. Downey of New York, Mr. du Pont, Mr. Frenzel, Mr. McKinney, Mr. Mikva, Mr. Mitchell of Maryland, and Mr. Ottinger):

H.R. 12065. A bill to amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes; to the Committee on the Judiciary.

By Mr. SISK:

H.R. 12066. A bill to amend section 520 of the Housing Act of 1949 for the purpose of mandating that the Secretary of Housing and Urban Development consider only the availability of credit to lower- and moderate-income families in determining whether an area with between 10,000 and 20,000 people is a rural area as defined in such section; to the Committee on Banking, Currency and Housing.

By Mr. STAGGERS (for himself and Mr. Devine):

H.R. 12067. A bill to amend section 305 of the Federal Power Act; to the Committee on Interstate and Foreign Commerce.

By Mr. KETCHUM:

H.J. Res. 824. Joint resolution to designate the first Monday of March of each year as Presidents Day and to make such day a legal public holiday in order to honor Presidents of the United States; to the Committee on Post Office and Civil Service.

By Mr. KETCHUM (for himself, Mr. Del Clawson, Mr. Dan Daniel, Mr. Devine, Mr. Kindness, Mr. Lujan, Mr. Roe, Mr. Treen, and Mr. Symms):

H.J. Res. 825. Joint resolution to designate February 22, May 30, and October 12, as Washington's Birthday, Memorial Day, and Columbus Day, respectively, and to make such days legal public holidays; to the Committee on Post Office and Civil Service.

By Mr. STEELMAN (for himself, Mr. Lott, Mr. Badillo, Mr. Cochran, Mr. Cotter, Mr. Helstoski, Mr. Mann, Mr. Ottinger, Mr. Pepper, Mr. Pressler, and Mr. Wolff):

H.J. Res. 826. Joint resolution authorizing the President to proclaim the week beginning on November 7, 1976, as National Respiratory Therapy Week; to the Committee on Post Office and Civil Service.

By Mr. METCALFE:

H. Res. 1050. Resolution to recognize the heritage of black citizens; to the Committee on Post Office and Civil Service.

By Mr. PATTISON of New York (for himself, Ms. Abzug, Mr. Brown of California, Ms. Chisholm, Mr. Conyers, Mr. Fraser, Mr. Murphy of New York, Mr. Roe, Mr. Rosenthal, Mr. Stark, Mr. Waxman, and Mr. Wolff):

H. Res. 1051. Resolution to create a Select Committee on the Fiscal Problems of Cities; to the Committee on Rules.

By Mr. ROUSSELOT:

H. Res. 1052. Resolution to authorize the President to issue a proclamation designating the week beginning April 4, 1976, as National Rural Health Week; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN:

H.R. 12068. A bill for the relief of Irma Victoria Bolarte Alvarado; to the Committee on the Judiciary.

H.R. 12069. A bill for the relief of Freda L. Costa; to the Committee on the Judiciary.

By Mr. JOHN L. BURTON:

H.R. 12070. A bill for the relief of Ma Ho Lui; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

403. The **SPEAKER** presented a petition of H. L. Grant, Houston, Tex., relative to activities of the U.S. Geological Survey in competition with private industry; to the Committee on Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 11893

By Mr. STARK:

At the end of bill, add the following new section:

"SEC. 4. Section 22(b) of the Second Liberty Bond Act (31 U.S.C. 757c(b)) is amended by adding at the end thereof the following new sentence: 'The investment yield on series E savings bonds shall in no case be less than 4 per centum per annum compounded semiannually for the period beginning on the first day of the calendar month following the date of issuance (or, beginning on October 1, 1976, if later) and ending on the last day of the calendar month preceding the date of redemption.' "

SENATE—*Tuesday, February 24, 1976*

The Senate met at 9:30 a.m. and was called to order by Hon. SAM NUNN, a Senator from the State of Georgia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, giver of every good and perfect gift, we bow in gratitude for mercies beyond our reckoning—for the joys and privileges of life in this Nation, for our heritage of freedom under law, for the sacrament of friendship and the opportunity to serve in this place. We crave a wisdom beyond our own for the task set before us. Spare us from doing too little or too much or from doing the wrong thing; but guided by Thy Spirit, lead us to the best solution of each vexing problem. Give us the long view and the deeper faith in the kingdom of God yet to come. Baptize us with Thy Spirit and keep us faithful to the end.

Through Him who is Lord of all life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER**. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 24, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. SAM NUNN, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. NUNN thereupon took the chair as Acting President pro tempore.

The **ACTING PRESIDENT** pro tempore. Does the Senator from Montana wish to be recognized?

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, February 23, 1976, be dispensed with.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The second assistant legislative clerk read the nomination of Constance B. Newman, of the District of Columbia, to be an Assistant Secretary.

TOWARD LESS BUREAUCRACY

Mr. HELMS. Mr. President, I do not support this nomination, not because of the nominee, but because I object to creating the position to which the nominee is named. Indeed, I was very impressed with Ms. Newman during her nomination hearing.

What I object to is creating another layer of bureaucracy in an agency that is notoriously noted for its redtape and delays. It is my understanding that the newly created office is designed not so much as being an advocate of consumer supported issues, but as being sure that such consumer views are made known to the proper HUD officials at the appropriate time.

This is a noble mission, but do we need to create a new Assistant Secretary position, with appropriate staffing, to accomplish this? Why does not each Assistant Secretary for the respective program areas perform this function? Have they not done this in the past? If not, then they probably were not properly fulfilling their role. When mobile home safety standards, minimum property standards for housing, or condominium standards are developed, I should think that existing HUD policy would call for consumer input into these areas before the final regulations and standards are issued. The Banking Committee was not presented with any evidence that consumers had no chance to have their views considered during HUD's development of such regulations.

This being the case, I see no need for creating this new position. Consumers of HUD programs—and this can include end-users as well as financial institutions and industry users—should make their views known to the appropriate HUD official administering the particular program. This seems to be a more direct route than making your views known to an Assistant Secretary for Consumer and Regulatory Functions, who will pass your views along to another HUD assistant secretary. Perhaps all we have achieved here is to increase the distance between the consumer and the HUD policymaker.

The **ACTING PRESIDENT** pro tempore. Without objection, the nomination is confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

COMMITTEE MEETING DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

CHILD AND FAMILY HEALTH SERVICES

Mr. MANSFIELD. Mr. President, I am sure that a great majority if not all the Members of Congress are receiving letters concerning the Child and Family Health Services Act of 1975, introduced in the Senate by the distinguished Senator from Minnesota (Mr. MONDALE), and in the House of Representatives by the equally distinguished Representative from Indiana (Mr. BRADEMAS). The Senate number is S. 626 and the House number is H.R. 2966.

I do not know where the initiative for all the correspondence which I am receiving—and, I am sure other Members of the Senate are receiving—comes from, the flood of mail which has hit our offices; but to the best of my knowledge these bills are still in committee in both the House and the Senate. As to whether or not any action will be taken, it would be my assumption that it would be extremely doubtful. But in order to set the record straight and to show the other side of the coin, I ask unanimous consent to have printed in the RECORD a commentary entitled "False Alarm" written by Howard Flieger and published in the issue of U.S. News & World Report dated March 1, 1976.

There being no objection the article was ordered to be printed in the RECORD, as follows:

FALSE ALARM

(By Howard Flieger)

Every now and then a reader writes us in words of terror to warn that a Marxist plot is afoot in Congress to "nationalize" our children—take them away from the protection or control of their parents and destroy the American family, utterly and forever.

The volume of mail received here is not a patch on the sacks of it that have been hitting some congressional offices.

The writers are alarmed over what they've been informed is an insidious scheme to give youngsters the legal right to disobey their parents, and thus become pawns of Government—an all-powerful Big Brother to mold their training, conduct and beliefs.

Strange.

It is strange because there isn't a word of truth in it. No such legislation is before this Congress, or ever has been.

The specific bill that has so many people disturbed is "The Child and Family Services Act of 1975." Its authors are Sen. Walter Mondale (Dem.), of Minnesota, and Rep. John Brademas (Dem.) of Indiana. It is "S. 626" in the Senate, "H.R. 2966" in the House. Read it before you panic.

In its present form, the legislation is both innocent and impotent: innocent because it would do none of the things attributed to it; impotent because it isn't going anywhere.

Briefly stated, the proposal is to make federal funds available to help States and communities provide certain public services for children and their families.

These would include such things as prenatal care, food where needed, part or full-time day care for children of working mothers, tutoring at home where deemed useful, medical examination and treatment for certain handicapped children, and training for parents and about-to-be-parents.

There is nothing compulsory about the legislation now before the Congress. Even if the bill were enacted, anyone who felt like it could ignore each and all of its provisions.

Nothing in it says—or implies—that youngsters have a legal right to disobey their parents or guardians.

Nowhere does it forbid parental guidance advice or preference in religious training. The subject isn't mentioned.

In fact, it says in specific words:

"Nothing in this act shall be construed or applied in such manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents."

So why all the excitement? It is puzzling to Senator Mondale, one of the chief sponsors, who says the measure "is being subjected to one of the most distorted and dishonest attacks I have witnessed in my 15 years of public service."

There is another practical thing to keep in mind about The Child and Family Service Act: It would cost a lot of money. Estimates are that an initial annual expense of 150 million dollars would grow to almost 2 billion by the third year of operation.

This present Congress is in no mood to add such a burden on taxpayers who already are making angry noises about waste and the high cost of Government. Since this is election year, the measure probably has less chance now than a year ago, when it was introduced—and that means practically none.

Also, remember the President is demanding that Congress do more to hold the line on spending. It is a keystone of his campaign to be against this bill, and any like it.

So everybody can stand at ease.

The bill doesn't provide all those wild things the letter-writers fear. It has no realistic chance of adoption. And even should it overcome its rating as one of the longest shots in history and somehow be enacted by Congress, it would be vetoed almost the minute it reached the White House.

The furor is a false alarm. Forget it.

THE MEDICAL MALPRACTICE CRISIS

Mr. MANSFIELD. Mr. President, another matter which is of concern to me has to do with the medical malpractice crisis. We all are aware of the fact that slowdowns have occurred in various parts of the country because of the exorbitant rates which doctors have to pay, in all too many cases, and because of the exorbitant legal fees which all too many lawyers receive because of their participation in suits of this nature.

It is understanding that a number of bills have been introduced to face up to this matter. The Senator from Wisconsin (Mr. NELSON), for example, has proposed a medical malpractice insurance program to protect insurance companies from catastrophic malpractice claims losses. Senators KENNEDY and INOUYE have suggested consideration of several means of protecting physicians against the threat of malpractice suits, and assuring the public of quality health care standards.

S. 215 proposes a voluntary program of medical injury compensation insurance, under which injured patients would receive automatic compensation without having to demonstrate negligence. Patients would still have recourse to the courts should they wish to pursue a malpractice claim. There is also legislation to establish a plan for the arbitration of medical malpractice claims.

The problem of excessive legal expenses has been addressed by Senator ROTH, who has proposed specific limitations on the fees which may be charged by an attorney who brings a medical malpractice action before a Federal court. It is my understanding that similar legislation to that discussed here has also been introduced in the House.

This is a matter which, I think, calls for national attention, so that some degree of stability and continuity can be achieved in this crisis situation.

I had intended to introduce legislation covering this matter, but because of the number of bills already introduced, which will in time be heard before the committees to which they have been referred, I have decided not to do so; but I ask unanimous consent to have printed in the RECORD at this point a statement which I had intended to make, and which will guide my consideration, in large part, of any bill covering medical malpractice which may be reported out of committee.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY SENATOR MANSFIELD ON THE MEDICAL MALPRACTICE CRISIS

I. INTRODUCTION

The sensational aspects of the medical malpractice crisis, the huge settlements and skyrocketing insurance premiums, tend to obscure the basic problem—thousands of patients each year receive medical injury through the incompetence and/or negligence of health care providers. Efforts must be directed toward: one, upgrading health services; two, providing patients with an equitable means of compensation for iatrogenic injury, and three, protecting physicians from exorbitant malpractice insurance rates and capricious malpractice claims. It has become increasingly obvious that existing malpractice protection mechanisms work toward the benefit of neither doctors nor their patients.

II. PATIENTS

Patients, who receive medical injuries because of negligence and whose only redress is through a costly and time-consuming legal process, are often discouraged from ever filing a malpractice claim. While it is true that the number of claims has increased (from 18,200 in 1966 to 32,900 in 1970), it is also the case that only a fraction of medical injuries result in malpractice claims. It is also to be noted that despite increasing claims the number of settlements has remained relatively constant (20,300 in 1966, and 22,100 in 1970). Patients have little hope of rapid compensation for their injuries and frequently must wait long periods of time, during which medical and legal costs are likely to be substantial, without relief. In those cases which are not settled out of court, the average time of settlement is five years; and it has been estimated that it takes ten years to settle the malpractice claims made in any one year.

Despite the publicity given large settlements (there were seven for $1,000,000 or more in 1970), the average of claims settlements in this year was $5,000—one-half of all payments were for less than $2,000; three-fifths for less than $3,000. Trends do indicate an increase, however, as the average settlement by 1973 had risen to $8,000. Of all claims made, about 45 percent result in payment to the plaintiffs. This corresponds with the findings of insurers that 46 percent of all medical malpractice claims are meritorious. Despite a significant increase in the amount spent on malpractice insurance (from $61,100,000 in 1960 to $370,600,000 in 1970), only a small amount of this sum ever reaches the injured patient or his legal representatives. Only 16–17 cents out of every insurance premium dollar is being paid out in compensation.

III. THE LEGAL SYSTEM

There is evidence that the legal community is well served by the current medical malpractice system. Patients do not often pursue claims because of the prohibitive cost of doing so. The HEW Commission Report on Medical Malpractice revealed that of all claims rejected by lawyers who specialize in malpractice litigation, 23 percent were turned down for economic reasons. A significant portion of malpractice insurance premiums goes toward payment of court costs and legal fees.

If a case is accepted on a basis of hourly cost, claimants can expect to pay, on the average, $63 per hour for legal services. As was indicated, claims take a great deal of time to reach settlement. There is no limit on the time which the case might take and, of course, no guarantee that compensation will be forthcoming. If legal services are rendered on the basis of contingent fees, plaintiffs can expect to pay one-third of their settlement to lawyers. Lawyers frequently will not accept a case if small claims are involved. In hearings before the Congress, it was reported: "The lion's share of the total cost to insurance companies of malpractice suits and claims goes to the legal community."

IV. DOCTORS AND HEALTH CARE PROVIDERS

The recent doctors' strike in California dramatized the concern of health care professionals with the existing malpractice situation. Premiums for hospital medical malpractice increased by more than four times in the period from 1960 to 1972. The most dramatic increase has been for surgeons whose rates are up approximately 950 percent, as compared with 540 percent for physicians, and 115 percent for dentists. In some states, for some specialists, malpractice insurance can cost $45,000. Factors which affect the determination of rates are: the type of practice engaged in by the physician; the claims experience of that physician; and the geographic area in which he practices. A physician who frequently performs complex surgery, who has a record of malpractice, and who, for example, chooses to practice in California, rather than in Wyoming (where rates are 8 times higher), will pay the highest insurance premiums. Obtaining malpractice insurance has posed a problem for some doctors. Recent trends have indicated a concentration of companies insuring individuals (10 companies had between 47.8 percent and 86.2 percent of the market) and a growth of group insurance. Continuation of these tendencies pose future problems for doctors, as reported by the Secretary's Commission:

"Evolution of the market towards total reliance on group plans vests sponsoring organizations with an undesirable high degree of monopoly power over hospitals or physicians. . . . In the market for individual insurance, any single company can be notoriously capricious about whom it declines to underwrite. So long as the individual market place is truly competitive, this capriciousness is of no great concern because qualified buyer who is turned down by one insurer can always find another willing seller without great difficulty. In a restricted market, however, a capricious refusal to sell can become a significant barrier to limit or restrict the practice of medicine by qualified individuals."

The increasing threat of being sued for malpractice (in 1966, 1.7 per 100, and in 1970 3 per 100 physicians were sued) has caused doctors to practice what has been called "defensive medicine." According to a Medical Economics Malpractice Survey of 1973 many physicians increase the use of services, or substitute more expensive for less expensive services as a means of protection against malpractice claims. While in some cases the quality of medical care is improved by this practice, it is also reasonable to assume that not only are the increased costs of malpractice insurance passed on to patients, but also additional expenses result from what, in many cases, are unnecessary medical procedures.

V. APPROACHES

Approaches to the medical malpractice crisis must be directed toward: A) elimination of iatrogenic injuries; and B) reduced administrative costs (a comparison of total dollars required to settle claims and the actual amount received by claimants reveals the present method to be exceptionally wasteful) and speedier resolution of malpractice claims.

A. There has been an increase in educational programs to reduce injuries, and these programs should be encouraged. The Medical Malpractice Commission concluded that injury prevention programs should focus initially on hospitals where 74 percent of alleged malpractice events occur. PSRO's represent one means of improving health standards. I might add here that the PSRO program in Montana has been highly sucessful. It was one of the first in the country to be fully operational and serves as a model for the rest of the nation. Aproximately two dollars have been saved in reduced health costs for every one dollar spent on the program. Medicaid expenses have been significantly lowered. Statistics have not been compiled, but indications are that the potential is great for reduced costs to patients through elimination of unnecessary treatment and for a reduction in malpractice claims. The Commission also recommended review of licensure and certification standards for health personnel and special attention to monitoring drug prescribing; increasing the numbers of nurses and expanding their clinical training; granting qualified immunity from suits to hospital committees who appropriately suspend, revoke, or curtail privileges of physicians to practice in the hospital in question; and empowering all state licensing boards to suspend, revoke, or curtail medical licenses based on professional incompetence.

B. One way of improving the present mechanism is to encourage out-of-court settlements. Encouragement should be given to organizing screening panels composed of both lawyers and physicians who can look at the facts of a case for both parties involved and decide on the merits of the claim. The cost of resolving disputes has been lessened approximately 49–60 percent through this approach. But in states which have utilized physician/lawyer panels, there have been only minimal reductions of court actions. Another potential method of settling malpractice claims is through arbitration. Patients and health care providers agreed to arbitration of any malpractice claims by an impartial party prior to performance of health services. Little data is available on arbitration; however, preliminary indications are that court dockets can be reduced. Many cases are settled before reaching arbitration; however, the arbitration proceedings are lengthy and cost between 55 and 85 percent of the mid-range of an action at law. To date, these alternatives to litigation have settled in the claimants' favor in the same ratio as do actions at law. The time saved has not been substantial, with the average time of settlement being: for arbitration—36 months, for screening panels—35 months, for actions at law—40 months, and for actions at law with verdicts by jury—60 months.

VI. NO-FAULT INSURANCE

Serious consideration should be given to encouraging no-fault medical injury compensation systems. Such a program would eliminate medical malpractice as it is currently understood. The concept of strict liability is substituted for negligence. Compensation would be contingent upon demonstration of injury only, not of injury through negligence. Compensation would be made for medical expenses, immediate or future loss of earnings and rehabilitation. Such a program would go into effect only after all other forms of coverage have been exhausted. Such a program would likely include:

1. All medical claims handled within the system.
2. Claim initiation is the responsibility of the patient with the assistance of an impartial review process.
3. Informal claim screening could eliminate non-meritorious claims, but findings would not be binding.
4. Compensability determination performed by panel of referees.
5. Appeals would be limited to the mechanism of the system.

A no-fault mechanism would likely result in increased claims, and therefore, greater costs in payment for meritorious claims. It has also been argued, however, that on "total social accounting, there may be no net increase in real costs at all, and moreover, that the quality gains to be anticipated would justify some increased cost in any event." Another area of difficulty with such a proposal is, with the absence of negligence as a basis for settling malpractice claims, how can compensable injuries be identified? Determining cause of injury may prove to be a significant problem with the no-fault approach.

VII. LEGISLATION

A number of bills have been introduced concerning the medical malpractice problem, several simply calling for further study of the issue. However, the proposed approaches have been sufficiently varied so as to generate an examination of medical malpractice from many perspectives, and hopefully to produce a consensus as to how the situation might be improved. Senator Nelson has proposed a medical malpractice insurance program to protect insurance companies from catastrophic malpractice claims losses. Senators Kennedy and Inouye have suggested consideration of several means of protecting physicians against the threat of malpractice and assuring the public of quality health care standards. S. 215 proposes a voluntary program of medical injury compensation insurance, under which injured patients would receive automatic compensation without having to demonstrate negligence. Patients would still have recourse to the courts should they wish to pursue a malpractice claim. There is also legislation to establish a plan for the arbitration of medical malpractice claims. The problem of excessive legal expenses has been addressed by Senator Roth, who has proposed specific limitations on the fees which may be charged by an attorney who brings a medical malpractice action before a Federal court. It is my understanding that similar legislation to that discussed here has also been introduced in the House.

I. INTRODUCTION

The problem of malpractice in the legal profession has not reached the crisis point which exists in the area of health care. Law is the fastest growing profession in the country. There are currently 375,000 lawyers, up from the 221,000 of 1950, and a figure which could double by 1985. The earnings of lawyers have increased from $2 billion in 1955, to $4 billion in 1966, and to $9.7 billion in 1972 (of which $5.2 billion was kept by lawyers as net profit). Growth and prosperity have not always been accompanied by corresponding increases in the quality of service provided. Malpractice suits are increasing. As was the case in health care, the fundamental issue is the provision of adequate service at reasonable cost. If this need can be met in the area of legal services, a malpractice crisis can be avoided.

II. CLIENTS

Evidence indicates that the general public is not benefiting from the current system of legal service delivery. Addressing this problem before a Senate Subcommittee, Orville H. Schell, president of the New York City Bar, remarked: "The delivery of legal services—Is it adequate? The answer is definitely No! . . . a high percentage of people in this country are not receiving adequate legal services. The estimated percentages run from 60 to 90 percent of the population. Whatever the estimate you take the numbers are staggering." Prohibitive cost is the most frequently cited factor putting legal services out of the reach of many Americans. Only 10 percent of the population can afford legal counsel. Perhaps one in five can qualify for government-subsidized legal aid. The *New York Times* quotes American Bar Association president Chesterfield Smith, "I have to represent only wealthy people. . . . This is capitalism. Our standard of living is high. We're selling time just like a store sells a shirt. If you don't like the shirt, you buy another."

The merchandise offered by the legal profession is often faulty, and can result in substantial loss to the buyer. Settlements are lost because claims have not been filed correctly or on time; children are left unprotected through errors in wills; defendants are convicted because of poor trial performance. Chief Justice Burger has estimated that anywhere from one-third to one-half of all lawyers engaged in serious litigation are unqualified to do so, which may only be the tip of the iceberg. Trial lawyers are highly visible; the abuses of lawyers who are not involved in litigation are likely to go unnoticed.

A poll of judges in the Second Circuit revealed estimates of from one- to four-fifths of lawyers as being unfit to practice.

III. LAWYERS

Indications are that lawyers have not satisfactorily maintained professional standards. Of 3,000 claims filed against lawyers in Manhattan and the Bronx in 1974, only 50 resulted in formal disciplinary action of any kind. The existing mechanism for grievance review is monitored solely by bar associations themselves. Despite the contention of several ABA presidents that, "The bar is guided by a desire to serve the country and not itself," the public has little evidence of this altruism.

In 1967 a committee under Justice Tom C. Clark found pervasive evidence of lawyers continuing practice after disbarment, of the reluctance of lawyers to report breaches of ethics or malpractice by fellow lawyers, of a hesitancy on the part of bar associations to take action against prominent attorneys, and of serious undermanning and insufficient financing of disciplinary agencies. The response of the legal community to these findings was summarized by Mr. Schell: ". . . the organized bar has recognized the existence of a problem and has taken an important step in the direction of its solution. This step, however, deals only with the procedural problems, the mechanics of grievances, and does not offer solutions to the many substantive criticisms of the handling of lawyer discipline." Thomas Erlich, former dean of the Stanford University Law School and now head of the new Legal Services Corporation, has not expressed "any hesitancy in saying that enforcement mechanisms throughout the country are not nearly tough enough."

IV. THE MALPRACTICE PROBLEM

The evolution of the malpractice problem in the legal profession has not reached the crisis stage which exists in the health service. However, there are indications of a growing problem. Companies insuring lawyers report that the number of malpractice claims has doubled in the past five years, and estimate that as many as 7 percent of all insured lawyers may face a malpractice claim this year.

Although most lawyers did not carry malpractice insurance until recently, 90 percent of urban attorneys and 60 percent of those in smaller communities now carry some type of insurance. Premiums are rapidly increasing. One of the largest legal malpractice underwriters increased rates 50 percent last year and expects to have similar increases this year. Insurance rates in Wisconsin increased an average of 300 percent last year. Clearly, more effective methods of insuring quality legal services and stronger enforcement by bar associations and judges must be developed if a malpractice crisis is to be averted.

V. APPROACHES

The approach to the situation which exists in the legal profession must be directed toward: A) increasing the availability of legal services to those of all incomes; B) identifying and preventing legal incompetence; and C) improving mechanisms for settling malpractice claims.

A. An important means of increasing the availability of legal services to those of limited income is adequate funding of the Legal Services Corporation. Moderate income families will benefit greatly from the expansion of legal insurance plans. Such plans could be modeled upon the prepaid legal service plans being tried by some unions and organizations. Under these plans a moderate yearly fee entitles participants to legal counsel services—in closed plans from any of a group of lawyers included in the program, in open plans from an attorney of the participant's choice.

According to the *New York Times*, "bar associations have fought legal insurance only slightly less vigorously than medical associations fought health insurance as 'socialistic'." The ABA has only recently modified its stance against prepaid plans. The costs of these services could be reduced by utilizing paralegal personnel to perform routine work. The concept of legal clinics, which has also been opposed by the ABA, can be expanded to make expertise in a number of areas available to the public.

B. Identifying legal malpractice can pose a number of difficulties. To date malpractice suits have been successful primarily in the area of omission by lawyers; i.e., failing to do something which should have been done. However, consideration must also be given toward developing criteria for assessment of malpractice in which, through lack of skill or knowledge, cases are mishandled to a client's detriment.

Establishment of stricter peer view processes is one means of preventing malpractice. In a recent sequence of articles in the *ABA Journal*, Paul Wolkin has urged adoption of a monitoring system "to investigate complaints of incompetence, to determine whether there was a basis for them, to determine the extent and character of the lack of competence, and to prescribe and require fulfillment of remedial measures." A system of this sort would benefit from the membership of non-lawyers. Laymen would cause the legal profession to be more alert to public concerns and would aid in enforcement of proceedings which are in the public interest—for example, the disciplining of legal incompetence.

It is frequently charged that existing grievance review mechanisms of bar associations have little motivation for actively investigating claims. (This charge of self-interest has been leveled at most committees of the ABA. For example, in 1972 a Special Committee on Automobile Insurance Legislation was formed and strongly opposed no-fault insurance. Accident litigation produces one-fourth of the gross legal income and all ten committee members had been involved with and collected fees from auto accident litigation.) The Chief Justice has also recommended pre-practice training and recertification requirements for lawyers. Several states have implemented programs of continuing legal education which should be expanded. Furthermore, law school curricula can be modified to improve the practical performance of law.

C. Lack of data on the malpractice problem and the complexities involved make any recommendations on improving malpractice settlement procedures tenuous at best. The use of ombudsmen, arbitrators and other methods of solving disputes outside of the courts should be explored. It is possible that the no-fault concept could be expanded to client compensation in cases of legal malpractice; however, this raises a number of questions, including cost. If sufficiently clear malpractice guidelines could be developed, a no-fault program similar to that discussed in conjunction with medical injuries could be implemented.

VI. LEGISLATION

There has been little legislation directly addressing the problem of legal malpractice, and there is need for further study of the problem. Some action has been taken to facilitate the growth of prepaid legal service plans. The Taft-Hartley Act was amended to allow the inclusion of such benefits in union contracts. Legislation is pending in the House to encourage individual participation in group plans. With this proposal (H.R. 3025) an employee's gross income under the Internal Revenue Code would not include: the amounts received as reimbursement for legal services under a group plan; the value of legal services rendered under such a plan; or the contributions of employers to such a plan.

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania wish to be recognized?

Mr. HUGH SCOTT. Mr. President, I think Congress ought to address itself to the malpractice situation, where there has been a most enormous increase in malpractice actions, occasioning an even greater increase in insurance premiums, and probably the same thing can be said about the very heavy legal charges which are involved. Medical colleges, universities with medical schools, and hospitals are paying premiums, some of them, actually in the millions of dollars—the premiums alone in the millions of dollars. I have some firsthand knowledge of a part of this problem as a member of the board of visitors of a university.

Individual physicians practicing alone either have to become self-insured or contribute a very large part of their income to malpractice premiums.

There ought to be some kind of protection against catastrophic recoveries, because juries nowadays think nothing in the world of awarding six and seven figures. I think, however, there should be in all of these cases the requisite showing of negligence; otherwise, we have simply moved into socialized medicine, which would in my view be unthinkable for this country. But I do think we ought to approach this, and we ought to do it in this session of Congress if we can.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma (Mr. BARTLETT) is recognized for not to exceed 15 minutes.

UPDATE ON NEW YORK CITY

Mr. BARTLETT. Mr. President, President Ford said that New York City bailed itself out of the financial hole in which it had put itself over the past many years. Based on that assertion, President Ford proposed legislation for Federal financial assistance to New York City. In debate in the Chamber, however, several of our colleagues and I raised some pertinent questions about the adequacy of the President's proposal. These questions are now more important than ever, particularly due to recent reports which must be clarified before we in Congress consider spending any more of the taxpayers' money on this scheme. Whether or not New York in fact has "bailed itself out" is now a question for debate.

My desire has always been and is to achieve a solution to the New York City crisis—a real solution which will correct the underlying problems facing the city. My opposition to the President's legislation was based on four points:

First. The President's proposal to assist only one American city and exclude all the rest was unfair;

Second. I pointed out that the President's proposal might not work; it might not solve the underlying problems;

Third. If in fact the program failed, then the taxpayers of the entire United States would be stuck with picking up the tab on the guaranteed loan, while the problems in New York City would be greater than before the loan program started;

Fourth. Given all the uncertainties and political constraints on achieving an effective solution any other way, it seemed to me that the surest and most equitable solution was orderly reorganization under municipal bankruptcy statutes.

The Senate obviously disagreed with my contention that it was unfair to pass legislation benefiting only one American city, when others might be just as deserving—or undeserving, depending on how you look at it. However, I believe it is fair to say that a majority of Congress would have opposed the bill if it had not contained certain procedural and financial commitments to safeguard the taxpayers' money. Those of us who opposed the legislation raised questions at that time about those safeguards. In light of recent reports coming out of New York City concerning the adequacy of their finances and the future of the bailout program, I shall review at this time the questions which were raised.

First of all, we asked what were the guarantees that New York City would carry out the tough decisions that have to be made to balance its budget. We believed that there was in fact no guarantee. We knew the key decisions rested ultimately with political leaders who had in the past failed to make the difficult but right decisions because of political pressures. On the other hand, we knew that orderly reorganization under bankruptcy statutes would provide a fair, impartial, nonpolitical guarantee of a solution.

Second, even with the assurances that New York Leaders would agree to meet certain targets and take certain actions, given the questionable record of New York's financial and political leadership over the past few years, we in Congress doubted the revenue income and expenditure estimates which were provided.

In the end, the overall question remained: Were we not merely postponing an inevitable day of default because the real necessities of a balanced budget and debt amortization would not be carried out? And, at some future time at which New York City realized that the Federal bailout was inadequate, would they not be in a worse position than when they started? In such a situation, the Federal taxpayers might get stuck with another bill for another New York default on the loans.

Unfortunately, there are disturbing indications that our concerns were justified. A mid-January report by the Treasury Department shows that, with only about 5 months to go, New York City had accomplished only about 10 percent of the scheduled budget cuts, and had targeted only about 40 percent more. Apparently, about $50 million in required budget cuts have yet to materialize. Despite the protestations that New York City has reached the limit of its budget cuts, one notices that in the interim, the free open admissions policy at the City University remains intact, the city continues to support its municipal broadcasting system, and Yankee Stadium sparkles from the results of an expensive refurbishing program.

At the same time, since mid-January I have heard repeated reports of deficiencies in the revenue and cost estimates presented to Congress when we approved the New York City financial assistance legislation. In a February 14 report, Mayor Beame said that the deficit may be as much as $297 million more than previously estimated. The previously mentioned January treasury report identified $571 million in revenue losses over the 2½ years. Additionally, the city has apparently relied on a series of inadequate cost forecasts in planning the 3-year bailout program.

Though Mayor Beame blames the state of the economy for these problems, such a charge is absurd. The economy is certainly no worse off today than it was in December; in fact, the recovery continues to advance. Any changes in revenue estimates made by New York officials because of unanticipated changes in the economy would have had to have been for more tax revenue, not less.

Instead, I see only three ways for such a discrepancy to have occurred: badly mistaken forecasting; an inability of the city to come to grips with its own financial problems; or a deliberate distortion of the facts in order to win congressional approval for the bailout legislation. The clear but frightening inference of Mayor Beame's comments is that New York City leadership is laying the groundwork for a "longer period of convalescence" of up to 5 or 10 years.

We are well beyond the first step and into the second step of putting New York City on a perpetual Federal dole. In such an event, the traditional Federal-State relationship, which we are proudly celebrating during the Bicentennial, is badly distorted.

Finally, we must consider whether we have opened a Pandora's box by nationalizing local government financing. New York State is also having trouble obtaining access to the municipal financial market, just as New York City had problems several months ago. Is the next move Federal legislation to bail out New York State to save New York City?

Throughout the country, politicians of both parties are recognizing that big Government has its limitations—that there is no such thing as a free lunch. This year, Congress must review the funding of the New York City loans to which we have committed $2.3 billion of taxpayers' funds. But before we even consider reviewing the funding for this legislation, it is appropriate that we demand the New York City bankers, Mayor Beame, and Governor Carey to provide us all of the facts. We must know the truth about New York City's ability to "bail itself out" under the original 3-year parameters set by Congress last fall. It is time that New York's political and banking leaders quit trying to "bail out" themselves. Congress must know if the revenue and expenditure estimates provided Congress last fall are wrong; and if so, why are they wrong and who is responsible for their being wrong.

The stature and prestige of New York City as the world's financial center demands an immediate, candid, and complete explanation of New York City's financial condition to Congress by the bankers and mayor of New York City and Governor Carey.

If the city does not live up to all the conditions of the loans, especially the budget-balancing provisions, then Congress must say "no" to a continuation of the funding. Of course, if New York City attempts to get around the loan payback provision, the entire program should be immediately stopped. From my knowledge of the concerns of our colleagues during last year's debate, I am confident Congress will insist that these questions be answered.

Mr. President, I ask unanimous consent that two newspaper items be printed in the Record. One is a United Press International report appearing in the Tulsa Tribune; the other is a Wall Street Journal editorial appearing on Thursday, February 19, 1976.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Tulsa Tribune, Feb. 19, 1976]

RECOVERY TO BE SLOWER: NEW YORK CITY "SICKER" THAN EXPERTS BELIEVED

New York.—Gov. Hugh Carey says New York City, financially sicker than experts thought five months ago, may need a decade instead of three years to get well.

Carey said Friday the plan to balance the city's books in three years—the basis for a crucial federal loan—was running $297 million behind schedule and might have to be extended to five or 10 years.

"We may need a longer period of convalescence," Carey said after learning the city's projected deficit had mushroomed about 40 per cent, from $724 million to $1.021 billion, since the three-year plan was drawn up last October.

"It is quite evident we have a shortfall for the three-year period of the plan which was not anticipated when the plan was constructed," Carey said, despite an over-all cutback of 15 percent in city services.

The $2.3 billion loan from the federal government, which saved the city from default last year, was premised on a plan whereby the deficit would be erased by fiscal 1977–78.

Both Carey and Mayor Abraham Beame attributed the growth in the deficit to such "factors beyond our control" as inflation, recession and the continued loss of jobs and busineses to surrounding communities.

Additional cuts in services must be considered, Carey said, since "we cannot pass new taxes."

He has also, "there is no immediate occasion for layoffs at this time," but he left open the possibility for further cuts in the city's payroll in the second and third years of the original plan.

The fiscal plan called for spending cuts of $200 million this fiscal year and $262 million in each of the two years. With the increased deficit, the cuts for fiscal years 1976–77 and 1977–78 will climb to a total of $821 million.

Meanwhile, Yonkers, the state's fourth largest city, went into technical default today, but the long holiday weekend gave state fiscal officials additional time to raise $15 million needed before the banks reopen Tuesday morning.

"We didn't get all the financing together," Deputy State Controller John J. Feeney said. "We're in technical default."

By going into technical default, Yonkers became the first city in the nation to suffer the fiscal fallout caused in large measure by New York City's financial problems. . .

The roots of the crisis go back to last October, when bankers indicated they would be reluctant to provide the city of 225,000 with additional credit because New York City's fiscal problems had scared investors away from the municipal bond market.

[From the Wall Street Journal, Feb. 19, 1976]

HERE WE GO AGAIN

Mayor Beame and Governor Carey admitted last week that New York City isn't living up to the three-year financial plan on which current federal loans are based. New York being New York, the admission naturally means that the mayor and the governor are gearing up for a new run at the federal taxpayer.

As recently as January 30, Mayor Beame was publicly telling municipal union leaders that no further layoffs would be necessary. But last week he announced that since November, when the three-year plan for a balanced budget was promulgated, the city budget has deteriorated by an additional $297 million. The budget, $12.9 billion this year, will have to be cut by over $1 billion if income and expenses are to match in 1978.

"The basic cause of our problem is that we've been carrying the problems of the state and federal governments on our backs," the mayor pontificated. The governor talks about "stretching out" the three-year plan—in other words pushing a balanced budget even further into the future, contriving some way the city can live a bit longer off someone else's money.

That the three-year plan was unrealistic was perfectly apparent from the start. It assumed, for example, no increase in welfare costs. The deterioration announced last week represents an increase in welfare costs, and higher debt service costs. Other unrealistic assumptions remain to be corrected. The new figures, for example, give no weight to a $300 million reduction in aid to the city currently budgeted by the state and federal governments. Nor to the costs of dealing with the city's underfunded pension plans.

The city has made some progress under the financial plan. The handful of executives it has recruited from industry has made a difference, particularly in cleaning the Augean stables of the city's financial records. The report to the Treasury also released last week shows evidence of meaningful numbers being generated. The city payroll has been trimmed. But no amount of trimming or attrition will salvage a crisis of this dimension. Fundamental political decisions have to be faced.

Yet as the mayor and governor proclaimed the impossibility of the goals they boasted three months ago, the city still operated its own municipal broadcasting service. The tuition policy of the city university remained unchanged. The city still operated its own hospital network, despite an excess of hospital beds and the availability of Medicare and Medicaid to the poor. (The mayor's suggested answer to this problem is to decertify some of the private hospitals.)

The proclamation that the whole trouble is inflicted from the outside means that the fundamental political decisions will again be postponed, pending the outcome of a new campaign for permanent federal aid. It still has not sunk in that the longer the ultimate correction is postponed, the more painful it will be.

Actually, the matter is rather simple. The longer the city operates with a budget deficit the larger its debts become. Therefore, when the truth must finally be faced, the fewer assets will remain. During the first campaign for federal aid, the city spent huge sums redeeming the principal of its short-term notes—$1.8 billion between the time these columns suggested bankruptcy and the debt moratorium took effect in December. This is $1.8 billion no longer available to cushion the shock.

Ultimately, the $1.8 billion paid to noteholders was raised chiefly by raiding the pension funds for city employes. A new campaign for further aid will be financed the same way. Indeed, the remaining assets of the pension funds are probably the chief reason the federal Treasury can still certify its seasonal loans as having a "reasonable prospect of repayment." By the end of the fiscal year those assets will also be depleted, by law the Treasury should be forced to cut off the loans. It would be far less painful to face the shocks now, saving at least some of the pension funds.

The city's gamble is that it can avoid further shocks by persuading Congress to extend permanent aid. But we see no reason why the rest of the country owes New York a special debt. There are of course urban problems, but New York, not an especially poor city as cities go, has far more resources than most for dealing with them. Yet Chicago, St. Louis, Cleveland, Detroit are not faced with bankruptcy. New York's problem is not that it is poorer than these other cities, but that it alone has lived beyond its means, building an unmanageable burden of short-term debt.

A Senate-House conference committee is currently considering a bill to iron out the federal law's provisions for municipal bankruptcy, and Congress could do the city a favor by speeding such legislation pending the day when some bondholder, some supplier or some court leaves it with no alternative to official bankruptcy. It would be far easier if the city faced reality on its own, but that step seems beyond its political competence.

Mr. BARTLETT. Mr. President, I yield to the majority leader the remainder of my time, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 10 a.m., with statements therein limited to 5 minutes each.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. NUNN) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees, and the withdrawal of the nomination of Isabel A. Burgess, of Arizona, to be a member of the National Transportation Safety Board.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:30 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the Speaker has signed the enrolled bill (S. 2117) to amend section 5202 of title 10, United States Code, relating to the detail, pay, and succession to duties of the Assistant Commandant of the Marine Corps and to amend title 10 of the United States Code in order to make certain disability retirement determinations by the Secretaries of the military departments subject to review by the Secretary of Defense.

The enrolled bill was subsequently signed by the President protempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. NUNN) laid before the Senate the following letters, which were referred as indicated:

PROPOSED ACT BY THE COUNCIL OF THE DISTRICT OF COLUMBIA

A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of a proposed act passed by the Council (with accompanying papers); to the Committee on the District of Columbia.

THE GUATEMALA DISASTER

A letter from the Administrator of the Agency for International Development transmitting explanatory material entitled "Proposed U.S. Relief and Rehabilitation of the Victims of the Guatemala Disaster" (with accompanying papers); to the Committee on Foreign Relations.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Action Is Needed Now To Protect Our Fishery Resources" (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE CIVIL AERONAUTICS BOARD

A letter from the Chairman of the Civil Aeronautics Board transmitting, pursuant to law, a report relating to energy policies and practices instituted by the Board subsequent to October 1973 (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORT OF THE FEDERAL AVIATION ADMINISTRATION

A letter from the Administrator of the Federal Aviation Administration transmitting, pursuant to law, a report relating to energy conservation policies and practices instituted by the Federal Aviation Administration since October 1973 (with an accompanying report); to the Committee on Interior and Insular Affairs.

PROPOSED CONCESSION CONTRACT IN YOSEMITE NATIONAL PARK

A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a proposed concession contract for certain facilities within El Portal Administrative Site of Yosemite National Park (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ABOUREZK, from the Committee on Interior and Insular Affairs, with amendments:

S. 2493. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Pollock-Herreid unit, South Dakota pumping division, Pick-Sloan Missouri Basin program, South Dakota, and for other purposes (Rept. No. 94–641).

By Mr. McCLELLAN, from the Committee on the Judiciary, with amendments:

S. 2255. A bill for the general revision of the Patent Laws, title 35 of the United States Code, and for other purposes (together with additional and supplemental views) (Rept. No. 94–642).

By Mr. CANNON, from the Committee on Commerce:

S. 3015. An original bill to provide for the continued expansion and improvement of the Nation's airport and airway system, to streamline the airport grant-in-aid process and strengthen national airport system planning, and for other purposes (together with minority views) (Rept. No. 94–643).

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 395. An original resolution to pay a gratuity to Jacqueline C. Buck.

S. Res. 396. An original resolution to pay a gratuity to Dennis C. Lordan and Mary Alice Hurlbert.

S. Res. 384. A resolution authorizing the printing of the report entitled "Special Bridge Replacement Program, Fifth Annual Report to Congress," as a Senate document (Rept. No. 94–647).

S. Res. 383. A resolution authorizing additional expenditures for the Committee on Appropriations for routine purposes (Rept. No. 94–646).

S. Res. 348. A resolution authorizing the printing of additional copies of the committee print entitled "Our Nation's Schools—A Report Card: 'A' in School Violence and Vandalism" (Rept. No. 94–645).

S. Con. Res. 85. A concurrent resolution authorizing the printing as a Senate document of a report by a special consultant to the Administrative Conference of the United States on some administrative procedures of the Internal Revenue Service (Rept. No. 94–644).

PAROLE COMMISSION AND REORGANIZATION ACT—H.R. 5727—CONFERENCE REPORT (REPT. NO. 94–648)

Mr. BURDICK submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5727) to establish an independent and regionalized U.S. Parole Commission, to provide fair and equitable parole procedures, and for other purposes, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

Mr. SYMINGTON. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nomination of 7 temporary promotions in the Naval Reserve to the grade of rear admiral (list beginning with Horton Smith); and in the Marine Corps, 10 temporary appointments to the grade of major general (list beginning with Edward A. Wilcox) and also in the Marine Corps and Marine Corps Reserve, 16 temporary appointments to the grade of brigadier general (list beginning with David M. Twomey). I ask that these names be placed on the Executive Calendar.

The ACTING PRESIDENT pro tempore (Mr. NUNN). Without objection, it is so ordered.

Mr. SYMINGTON. In addition, Mr. President, there are 70 for promotion in the Army to the grade of colonel and below (list beginning with Eugene C. Archer); Capt. William D. Rusinak, USMC, for appointment to the grade of major, and, in the Air Force there are 1,177 for promotion to the grade of first lieutenant (list beginning with John R. Adams). Since these names have already appeared in the CONGRESSIONAL RECORD again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of January 29, and February 5, 1976, at the end of the Senate proceedings.)

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, February 24, 1976, he presented to the President of the United States the following enrolled bill:

S. 2117. An act to amend section 5202 of title 10, United States Code, relating to the detail, pay, and succession to duties of the Assistant Commandant of the Marine Corps and to amend title 10 of the United States Code in order to make certain disability retirement determinations by the Secretaries of the military departments subject to review by the Secretary of Defense.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MAGNUSON (for himself, Mr. CANNON, and Mr. PEARSON):

S. 3015. An original bill to provide for the continued expansion and improvement of the Nation's airport and airway system, to streamline the airport grant-in-aid process and strengthen national airport system planning, and for other purposes. Referred to the Committee on Commerce.

By Mr. LAXALT:

S. 3016. A bill to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. Referred to the Committee on Labor and Public Welfare.

By Mr. DOLE:

S. 3017. A bill for the relief of Lee Young Soo. Referred to the Committee on the Judiciary.

By Mr. SPARKMAN (by request):

S. 3018. A bill to further amend the Foreign Service Act of 1946 to provide protection to medical personnel of the Department of State against certain malpractice suits, and for other purposes. Referred to the Committee on Foreign Relations.

By Mr. SPARKMAN (by request):

S. 3019. A bill to complement the Vienna Convention on Diplomatic Relations. Referred to the Committee on Foreign Relations.

By Mr. SPARKMAN (by request):

S. 3020. A bill to authorize appropriations for the U.S. Information Agency, and for other purposes. Referred to the Committee on Foreign Relations.

By Mr. ROTH:

S. 3021. A bill to create a catalog of Federal assistance programs, and for other purposes. Referred to the Committee on Government Operations.

By Mr. DOMENICI:

S. 3022. A bill for the relief of Arthur Y. Dunn, of Hobbs, N. Mex. Referred to the Committee on Armed Services.

By Mr. CANNON (by request):

S. 3023. A bill to amend section 501 of title 44, United States Code, to provide immunity for the Government Printing Office, the Public Printer, the Superintendent of Documents, and other officers and employees of the Government Printing Office from civil or criminal liability for printing, binding, and distribution services required by law or otherwise ordered in accordance with law or be executed at or through the Government Printing Office, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. JOHNSTON (for Mr. JACKSON):

S. 3024. A bill to amend the Emergency Petroleum Allocation Act of 1973. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. HELMS (for himself and Mr. FANNIN):

S. 3025. A bill to amend title 39, United States Code, to eliminate certain provisions relating to private carriage of mail, to permit free competition in the delivery of mail, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. BURDICK:

S. 3026. A bill for the relief of Monchito C. Entena, Antonia V. Entena, Robert Entena, Cathleah Entena, Arvin Entena, and Eliza R. Ayala. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILL AND JOINT RESOLUTIONS

By Mr. LAXALT:

S. 3016. A bill to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. Referred to the Committee on Labor and Public Welfare.

Mr. LAXALT. Mr. President, I am today introducing legislation to reaffirm the intend of Congress, through specific language, that basic medical research into the causes, prevention, and cure of alcoholism be a chief function of the National Institute of Alcohol Abuse and Alcoholism.

Today, there are almost 10 million alcoholics in the United States; but when one considers all the people whose lives are affected by the excessive use of alcohol in our society—alcoholics, their families, business associates, and employers; the occasional but dangerous abusers of alcohol; the victims of automobile accidents caused by intoxicated drivers; the victims of crime in which alcohol was a factor—one is talking about 50 million people in our Nation.

Alcoholism is not a new problem, but an old one that has often been politely avoided or emotionally attacked with overtones of self-righteousness and disdain. From the earliest recorded history, alcohol abuse and alcoholism have been major problems of mankind. The prevention and treatment programs that we have had to date have been admirable attempts to deal with the problem. But they have been simply stop-gap measures. Alcohol abuse may well be America's No. 1 health problem; it is certainly our No. 1 health neglect.

The best treatment is prevention; but before there can be effective prevention, there must be research. We must know the specific physiological causes of alcoholism, and we must investigate the sociological and psychological factors, as well.

Catch-as-catch-can is poor medicine. We need an ongoing, thorough research program in alcohol abuse. The National Institute on Alcohol Abuse and Alcoholism is doing a remarkable job on a very limited research budget. The legislation that I am proposing would strengthen their hand. It would give them encouragement to know that the U.S. Congress stands behind them in their attempts to find some real answers to the problem of our greatest drug abuse—alcoholism.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited the Alcohol Abuse and Alcoholism Research Act of 1976.

SEC. 2. Section 101 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by adding at the end thereof the following new subsection:

"(d) The National Institute on Alcohol Abuse and Alcoholism shall serve as the focal point within the Public Health Service for both basic and applied research in the field of alcoholism, including research on the causes, diagnosis, prevention, treatment, and rehabilitation of alcoholism and alcohol abuse. Such research shall be conducted on both an extramural and intramural basis, including the use of research grants and contracts, collaborative research efforts and the direct conduct of research in laboratory, clinical and community settings.".

By Mr. SPARKMAN (by request):

S. 3018. A bill to further amend the Foreign Service Act of 1946 to provide protection to medical personnel of the Department of State against certain malpractice suits, and for other purposes. Referred to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, by request, I introduce for appropriate reference a bill to further amend the Foreign Service Act of 1946 to provide protection to medical personnel of the Department of State against certain malpractice suits, and for other purposes.

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when it is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill and an explanation be printed in the RECORD at this point, together with the letter from the Assistant Secretary of State for Congressional Relations to the President of the Senate dated February 5, 1976.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3018

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title X of such Act (22 U.S.C. 803 *et seq.*) is amended by adding at the end thereof the following new part:

"PART J—MALPRACTICE PROTECTION

"SEC. 1091. (a) The remedy—

(1) against the United States provided by sections 1346(b) and 2672 of title 28, or

(2) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of title 28—

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, nurse, pharmacist, or paramedical (for example, medical and dental assistants and technicians, nursing assistants, and therapists) or other supporting personnel of the Department of State (including the Agency for International Development) in furnishing medical care or related services while in the exercise of his or her duties in or for the Department of State or any other Federal department, agency, or institution shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist or paramedical or other supporting personnel (or his or her estate) whose act or omission gave rise to such claim.

"(b) The United States Government shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his or her estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or her or an attested true copy therefore to whomever was designated by the Secretary to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

"(c) Upon a certification by the Attorney General that the defendant was acting within the scope of his or her employment in or for the Department of State or any other Federal department, agency or institution at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State Court: *Provided,* That where such a remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in that event, the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

"(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28 and with the same effect.

"(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to any tort enumerated therein arising out of negligence in the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations.

"(f) The Secretary may, to the extent he deems appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of this section apply (as described in subsection (a) of this section), for damages for personal injury, including death, negligently caused by any such person while acting within the scope of his or her office or employment and as a result of the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, if such person is assigned to a foreign area or detailed for service with other than a Federal agency or institution, or if the circumstances are such as are likely to preclude the remedies of third persons against the United States provided by sections 1346(b) and 2672 of title 28, for such damage or injury.

"(g) For purposes of this section, any medical or related service covered by this section and performed abroad by a covered person at the direction or with the approval of the United States ambassador or other principal representative of the United States in the area shall be deemed to be within the scope of employment of the individual performing the service."

DEPARTMENT OF STATE,
Washington, D.C., February 5, 1976.

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill to protect medical personnel of the Department of State against certain malpractice suits which the Department recommends for early favorable consideration.

With the increasing incidence of suits alleging malpractice, the rising cost of malpractice insurance and its unavailability at any cost in many foreign areas, it is urgent that Department of State medical personnel be given protection against such suits which may arise in connection with the performance of official duties.

The proposed bill is similar to legislation already enacted for medical personnel of the Public Health Service and Veterans Administration and which is under consideration in H.R. 3954 for civilian and uniformed medical personnel in the Department of Defense.

A detailed explanation of the bill is attached.

We are sending a similar letter to the Speaker of the House of Representatives.

The Department has been informed by the Office of Management and Budget that there is no objection from the standpoint of the President's program to the submission of this proposal.

Sincerely,

ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

Enclosures: Draft bill and explanation.

EXPLANATION—MALPRACTICE PROTECTION

This amendment would add section 1091 to the Foreign Service Act to extend to Department of State medical personnel protection against civil suits for acts of alleged medical malpractice performed while acting within the scope of their employment. The proposed language is similar to language in existing legislation at 38 U.S.C. 4116 and 42 U.S.C. 233 which provides such protection to medical personnel in the Veterans Administration and the Public Health Service, respectively. Similar language is also under consideration in H.R. 3954, a bill to extend such protection to both civilian and uniformed personnel providing medical services for the Armed Forces.

The present propensity of individuals to more actively pursue alleged medical malpractice, and the attendant alarming increase in the cost of malpractice insurance and the increasing reluctance of companies to sell such insurance at any price cause medical personnel in the Department great concern over their exposure to civil liability for alleged malpractice. This threat of personnel liability is causing medical personnel in the Department to practice defensive medicine—to carry out tests and procedures well beyond those normally indicated under the circumstances. This obviously increases costs of the Foreign Service Medical program.

This section would provide the desired protection by making the remedy against the United States provided by the Federal Tort Claims Act the exclusive remedy for individuals sustaining losses because of malpractice by medical personnel of the Department while acting within the scope of their employment. In situations not covered by the Federal Tort Claims Act, such as when suits are instituted abroad, the amendment would give the Secretary authority to hold medical personnel of the Department harmless with respect to claims alleging malpractice in the performance of medical and related functions within the scope of their employment.

Physicians and other medical personnel assigned abroad by the Department occasionally are required to provide medical services on an unofficial basis to both citizens and noncitizens either in an emergency or as a courtesy. This may occur, for example, when official travelers become ill abroad and request that Foreign Service medical personnel provide necessary medical care.

Foreign Service medical personnel also provide emergency first-aid to alien employees for on-the-job injuries and illnesses. In order to protect Foreign Service medical personnel from personal liability against malpractice claims which may arise in connection with such necessary but unofficial acts, paragraph (g) of this section would define any medical service performed abroad by a person otherwise covered by the section at the direction or with the approval of the United States ambassador or other principal representative of the United States in the area as being within the scope of their employment.

In addition to medical personnel of the Department, the section would cover medical personnel employed by the Agency for International Development who serve abroad as medical advisers. The advisers occasionally provide medical care in emergencies and need this protection. The Secretary of State would delegate authority to the Director of the Agency for International Development to carry out this program for personnel of that Agency.

This amendment will retain the right of an aggrieved person to seek compensation for a legitimate malpractice claim against medical personnel of the Department and, at the same time, will insulate such personnel from frivolus lawsuits. It will also relieve medical personnel of the Department from the great concern they now have over the possibility, that in connection with their assigned duties, they may be held personally liable for catastrophic damages for which insurance, if obtainable at all, is prohibitively expensive.

There have been no actual cases to date of medical personnel of the Department being personally sued for malpractice in connection with their official duties. Since it is impossible to predict the number of claims that may arise in the future, it is not possible to prepare a cost estimate for this amendment. The danger is always present that a case will be filed with an ensuring catastrophic loss to an employee. There is urgent need to enact this legislation before such a case is filed.

By Mr. SPARKMAN (by request):

S. 3019. A bill to complement the Vienna Convention on Diplomatic Relations. Referred to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, by request, I introduce for appropriate reference a bill to complement the Vienna Convention on Diplomatic Relations.

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when it is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD at this point, together with the letter from the Assistant Secretary of State for Congressional Relations to the President of the Senate dated February 6, 1976.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Diplomatic Relations Act of 1976."

STATEMENT OF PURPOSE

SEC. 2. The purpose of this Act is to promote the conduct of the foreign relations of the United States by specifying the privileges and immunities to which foreign diplomatic missions and the personnel thereof are entitled and by authorizing the President to regulate, consistent with treaties and other international agreements of the United States, customary international law and practice and this Act, the granting of such privileges and immunities.

DEFINITIONS

SEC. 3. As used in this Act, the phrase "foreign diplomatic mission and the personnel thereof" includes—

(a) any duly accredited permanent or special diplomatic mission of a sending state to the United States, including special envoys, and the members of the staff of the mission, the members of the families of such members of the staff, the private servants of the members of the mission, and diplomatic couriers.

(b) the head of a foreign state or the head of the government of a foreign state, and, when they are on an official visit to or in transit through the United States the foreign minister of a foreign government, and those members of the official party accompanying such officials.

AUTHORITY OF THE PRESIDENT

SEC. 4. (a) The President is authorized, upon a basis of reciprocity and under such terms and conditions as he may from time to time determine—

(1) to apply the treatment prescribed by the Vienna Convention on Diplomatic Relations, or any part or parts thereof, to those foreign diplomatic missions and the personnel thereof not otherwise entitled to such treatment;

(2) to extend more favorable treatment than is provided in the Vienna Convention on Diplomatic Relations to foreign diplomatic missions and the personnel thereof with respect to—

(A) exemption from Federal taxes; and

(B) immunity from civil and criminal jurisdiction of the United States or of any State, territory, or possession thereof for those persons defined in the Vienna Convention on Diplomatic Relations as the members of the administrative and technical staff and the service staff of the mission.

(b) The determination of the President as to the entitlement of a foreign diplomatic mission and the personnel thereof to diplomatic privileges and immunities under the Vienna Convention on Diplomatic Relations or under this Act, shall be conclusive and binding on all Federal, State and local authorities.

(c) The President shall from time to time publish in the Federal Register of the United States a list of the permanent foreign diplomatic missions and the personnel thereof entitled to diplomatic privileges and immunities.

JUDICIAL MATTERS

SEC. 5. Whenever any writ or process is sued out or prosecuted in any court, quasi-judicial body, or administrative tribunal of the United States, or of any State, territory, or possession thereof, against a person or the property of any person entitled to immunity from such suit or process under the Vienna Convention on Diplomatic Relations or pursuant to this Act, such writ or process shall be deemed void.

EXERCISE OF FUNCTIONS

SEC. 6. The President may exercise any functions conferred upon him by this Act through such agency or officer of the United States Government as he shall direct. The head of any such agency or such officer may from time to time promulgate such rules and regulations as may be necessary to carry out such functions, and may delegate authority to perform any such functions, including, if he shall so specify, the authority successively to redelegate any of such functions to any of his subordinates.

EFFECTIVE DATE AND REPEALS

SEC. 7. (a) This Act shall be effective immediately.

(b) Section 4063, 4064, 4065, and 4066 of the Revised Statutes (22 U.S.C. 252–254) are repealed upon the effective date of this Act.

(c) The repeal of the several statutes or parts of statutes accomplished by this Act shall not affect any act done or right accruing or accrued, or any suit or proceeding had or commenced in any civil cause, before such repeal, but all rights and liabilities under the statutes or parts thereof so repealed shall continue, and may be enforced in the same manner as if such repeal had not been made, subject only to the applicable immunities heretofore flowing from customary international law and practice.

Department of State,
Washington, D.C., February 6, 1976.
Hon. Nelson A. Rockefeller,
President of the Senate,
Washington, D.C.

Dear Mr. President: Enclosed is a draft bill "to complement the Vienna Convention on Diplomatic Relations" which was ratified by the United States on November 13, 1972. The purpose of the bill is to promote the conduct of the foreign relations of the United States by specifying the privileges and immunities which foreign diplomatic missions and their personnel may be accorded in the United States. This bill is virtually identical to S. 1577 which was passed by the Senate in the 90th Congress except that, upon the recommendation of the Department of Justice, Section 5(b) dealing with criminal penalties for a knowing violation of the statute has been eliminated. Bills identical to S. 1577 have been introduced in subsequent years, the latest such bill in 1974 during the 93rd Congress. A sectional analysis of the proposed bill is enclosed.

The primary purpose of reintroducing the bill at this time is to bring about uniformity in United States practice relating to diplomatic privileges and immunities following the entry into force of the Vienna Convention (TIAS 7502). At present, there are two distinct standards, one international and one domestic, for determining the scope of privileges and immunities which may be accorded foreign diplomatic missions and their personnel. The Vienna Convention, which is in force for 115 countries, including the United States, embodies in most material respects customary rules of international law in this area. In addition, Sections 4063–4066 of the Revised Statutes (22 USC §§ 252–254) provide a separate and, in some respects, broader standard of immunity for various classes of diplomatic mission personnel.

One reason for the bill is that as a matter of domestic law, the Vienna Convention does not repeal or supersede 22 U.S.C. §§ 252–254 in situations in which both are applicable. This is made clear by the text of the Convention (Arts. 38 and 47) and the legislative history of its consideration (Ex. Rep. No. 6, 89th Cong. 1st Sess., Ex. H. 88th Cong. 1st Sess., p. 11 (1965)). This view has been confirmed by an opinion from the Office of Legal Counsel, Department of Justice, dated May 4, 1973.

In addition to bringing about conformity between the international and domestic legal standards on immunities through repeal of the above-mentioned sections of the Revised Statutes, the bill will serve the following major purposes:

(1) authorize the President, upon a basis of reciprocity and at his direction to accord the privileges and immunities specified in the Vienna Convention on Diplomatic Relations to diplomatic missions and their personnel of states not parties to the Convention;

(2) authorize the President to extend on the basis of reciprocity more favorable treatment than required by the Vienna Convention to diplomatic missions and their personnel with respect to:

(a) Federal taxes, and

(b) the civil jurisdiction of the United States, or of any State, territory or possession over persons who are members of the administrative and technical staff of the diplomatic mission, as defined in the Vienna Convention, and the civil and criminal jurisdiction over members of the service staff of the diplomatic mission, as also defined in the Vienna Convention;

(3) make binding and conclusive on all Federal, State and local authorities any determination by the President as to the entitlement of a foreign diplomatic mission or its personnel to privileges and immunities under the Vienna Convention or the subject Act;

(4) direct the President to publish from time to time in the Federal Register a list of the foreign diplomatic missions and their personnel entitled to diplomatic privileges and/or immunities; and

(5) make void any writ or process sued out or prosecuted in any court, quasi-judicial body, or administrative tribunal of the United States, or of any State, territory or possession thereof, against a person or the property of any person entitled to immunity from such suit or proceeds.

The Department of Justice concurs in the submission of this proposed legislation and recommends its enactment.

The Office of Management and Budget advises that enactment of the enclosed draft bill would be consistent with the Administration's program.

In view of the continuing potential for undesirable consequences stemming from the existing legal framework, prompt action is urged on this legislation.

Sincerely yours,
Robert J. McCloskey,
Assistant Secretary for
Congressional Relations.

Enclosures: As stated.

Section-By-Section Analysis

SECTION 1. TITLE

This may be cited as the "Diplomatic Relations Act of 1976".

SECTION 2. STATEMENT OF PURPOSE

This states the purpose of the bill, which is to promote the conduct of the foreign relations of the United States by specifying the privileges and immunities to which foreign diplomatic missions and the personnel thereof are entitled, and by authorizing the President to regulate, consistent with treaties and other international agreements, customary international law and practice, and this proposed legislation, the granting of such privileges and immunities.

SECTION 3. DEFINITIONS

This defines the phrase "foreign diplomatic mission and the personnel thereof" as including not only members of permanent diplomatic missions, their families, and their private servants, but also heads of foreign states and heads of foreign governments, whether in the United States for official or personal reasons, foreign ministers when on an official visit to or in transit through the United States, and persons on special diplomatic mission to the United States, together with the members of the official parties accompanying all such persons. The definition also includes diplomatic couriers. This broad definition is desirable for several reasons. The Vienna Convention on Diplomatic Relations has reference only to permanent diplomatic missions, and, in limited respects, to diplomatic couriers. The privileges and immunities that are everywhere accorded to visiting heads of state and heads of government should have some basis in the statutory law of the United States.

SECTION 4. AUTHORITY OF THE PRESIDENT

Paragraph (a) of this Section authorizes the President, on a basis of reciprocity and under such terms and conditions as he may from time to time determine,

(1) to apply the treatment prescribed by the Vienna Convention on Diplomatic Relations, or any part or parts thereof, to those foreign diplomatic missions and the personnel thereof not otherwise entitled to such treatment;

(2) to extend more favorable treatment than is required by the Vienna Convention on Diplomatic Relations to foreign diplomatic missions and the personnel thereof with respect to (a) exemption from Federal taxes, and (b) immunity from criminal and civil jurisdiction for members of the administrative and technical staff and the service staff of the mission. The taxes to which Section 4 applies will be those imposed by or pursuant to Acts of Congress. This provision will enable the United States to continue to accord, in return for an appropriate quid pro quo by the sending state, (1) the exemption from Federal taxes presently enjoyed by duly accredited diplomatic officers and members of the administrative and technical staff who are nationals of the appointing state, (2) complete immunity from criminal jurisdiction to members of the service staff who are not nationals or residents of the United States, and (3) immunity from civil and criminal jurisdiction in respect of official acts to members of the administrative and technical staff who are nationals or residents of the United States.

Paragraph (b) of Section 4 reaffirms the primacy of the Executive branch's determination with respect to entitlement of a particular foreign diplomatic officer or employee to diplomatic privileges and immunities. The making of a determination of diplomatic immunity from civil or criminal jurisdiction would presumably be delegated to the Department of State pursuant to Section 6, would be exercised by the Secretary of State or his designee in the light of the purpose set forth in Section 2 and the certificate of the Secretary of State or his designee would be transmitted by the Attorney General to the appropriate court.

Paragraph (c) of Section 4 adopts the notice feature of 22 U.S.C. 254, with these changes: the names of persons in the permanent foreign diplomatic missions entitled to immunity, instead of just those persons presently listed in the so-called "White List", will be required to be made of public record; these names will be published in the "Federal Register" rather than posted in the office of the Marshal for the District of Columbia.

SECTION 5. JUDICIAL MATTERS

This provides that any writ or process sued out or prosecuted against a person or the property of any person entitled to immunity from such process shall be deemed void.

SECTION 6. EXERCISE OF FUNCTIONS

This is a standard delegation of authority provision.

SECTION 7. EFFECTIVE DATE REPEALS

Paragraph (a) provides that the "Diplomatic Relations Act of 1976" will be effective immediately. Paragraph (b) provides for the repeal of Sections 4063, 4064, 4065, and 4066 of the Revised Statutes (22 U.S.C. 252–254), upon the effective date of the Act. Paragraph (c) is a clause regarding legal acts done or rights accrued, or proceedings commenced in any civil cause, before the repeal of the several statutes referred to in paragraph (b) above.

By Mr. SPARKMAN (by request):

S. 3020. A bill to authorize appropriations for the United States Information Agency, and for other purposes. Referred to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, by request, I introduce for appropriate reference a bill to authorize appropriations for the U.S. Information Agency and for other purposes.

The bill has been requested by the U.S. Information Agency and I am introducing it in order that there may be a specific bill to which members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose

this bill, as well as any suggested amendments to it, when it is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD at this point, together with the letter from the Director of the U.S. Information Agency to the President of the Senate dated February 11, 1976.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Information Agency Authorization Act, Fiscal Years 1977 and 1978."

SEC. 2. (a) There are authorized to be appropriated for the United States Information Agency for fiscal year 1977, to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Number 8 of 1953, and other purposes authorized by law, the following amounts;

(1) for "Salaries and Expenses" and "Salaries and Expenses (special foreign currency program)", $256,925,000;

(2) for "Special International Exhibitions", $4,841,000;

(3) for "Acquisition and Construction of Radio Facilities", $2,142,000; and

(4) such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, or other nondiscretionary costs.

(b) There are authorized to be appropriated for the United States Information Agency for fiscal year 1978, such sums as may be necessary to carry out the authorities and purposes stated in subsection (a).

(c) Amounts appropriated pursuant to this section are authorized to remain available until expended.

SEC. 3. Any unappropriated portion of the amount authorized under any clause of section 2(a) of this Act is authorized for appropriation under any other clause or clauses of said section, provided that the amount authorized under any such other clause is not increased by more than 10 per centum.

PURCHASE OF UNIFORMS

SEC. 4. Section 804 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1474), is amended by deleting the word "and" at the end of subsection (12); changing the punctuation at the end of subsection (13) from a period to a semi-colon; inserting the word "and" following the semi-colon at the end of subsection (13); and adding the following:

"(14) purchase of uniforms, when funds are appropriated therefor."

EXCHANGE ALLOWANCES OR PROCEEDS FROM THE EXCHANGE OR SALE OF PASSENGER MOTOR VEHICLES

SEC. 5. Title VIII of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1471–75), is amended by adding the following new section:

"SEC. 806. The exchange allowances or proceeds derived from the exchange or sale of passenger motor vehicles used abroad for purposes of this Act and the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451, et seq.), in accordance with section 201(c) of the Act of June 30, 1949 (40 U.S.C. 481(c)), shall be available without fiscal year limitation for replacement of an equal number of such vehicles."

U.S. INFORMATION AGENCY,
Washington, D.C., February 11, 1976.
Hon. NELSON A. ROCKEFELLER,
President of the Senate.

DEAR MR. VICE PRESIDENT: I have the honor to transmit to the Senate for its consideration a draft of a proposed bill to authorize appropriations for the United States Information Agency and for other purposes.

The proposed bill would authorize appropriations to be made to this Agency for fiscal years 1977 and 1978. Section 701 of the United States Information and Educational Exchange Act of 1948, as amended, requires that appropriations be previously authorized by legislation. The draft bill also proposes several administrative changes to the United States Information and Educational Exchange Act of 1948, as amended.

A section-by-section analysis is enclosed to explain the proposed legislation.

The Office of Management and Budget advises that the submission of the proposed legislation is in accord with the President's program.

Sincerely,

JAMES KEOGH,
Director.

SECTION BY SECTION ANALYSIS

The proposed Act may be cited as the "United States Information Agency Authorization Act, Fiscal Years 1977 and 1978." Authorization of Agency appropriations is required by Section 701 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1476).

SECTION 2

Subsection 2(a)(1). Authorizes appropriations to be made for salaries and expenses, including the special foreign currency program, necessary to carry out international informational activities and programs under the United States Information and Educational Exchange Act, the Mutual Educational and Cultural Exchange Act, and Reorganization Plan No. 8 of 1953, for the fiscal year ending September 30, 1977. The $256,925,000 requested is the amount now included in the President's budget for fiscal year 1977.

Subsection 2(a)(2). Authorizes appropriations to be made for expenses necessary to carry out functions under Section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, for the fiscal year ending September 30, 1977. The $4,841,000 requested is the amount now included in the President's budget for fiscal year 1977.

Subsection 2(a)(3). Authorizes appropriations to be made for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and the purchase and installation of necessary equipment for radio transmission and reception; and acquisition of land and interests in land by purchase, lease, rental or otherwise. The $2,142,000 is the amount included in the President's budget for fiscal year 1977. The request will cover maintenance and repair of existing facilities and continued technical research.

Subsection 2(a)(4). Authorizes appropriations for increases in Federal pay, retirement, and other employee benefits as authorized by law which occur from time to time. This subsection further provides authorization of appropriations to meet nondiscretionary cost increase items which cannot be forecast accurately at the time the basic budget estimates are being prepared, and which have a material impact upon the operations and fiscal resources of the U.S. Information Agency. This authorization would permit more rapid and responsive action to meet increased costs resulting from overseas wage and price increases and adverse currency exchange fluctuations.

Subsection 2(b). This section provides authorization of amounts for fiscal year 1978 necessary to support the activities described in the paragraphs of Section 2(a). A request for fiscal year 1978 is in keeping with the provisions of the Congressional Budget and Impoundment Control Act of 1974 requiring advance fiscal year authorization of appropriations (P.L. 93–344). The rapidly changing world situation imposes demands for a wide range of information and cultural program responses. The level and mix that will be necessary in fiscal year 1978 cannot now be explicitly forecast. Under these circumstances a flexible authorization of appropriations is required.

Subsection 2(c). This section authorizes funds to remain available beyond the end of the fiscal year, to the extent provided for in appropriation acts. Such availability currently applies to the "Salaries and Expenses (Special Foreign Currency Program)", "Special International Exhibitions" and "Acquisition and Construction of Radio Facilities" accounts.

SECTION 3

This section provides that any unused, i.e., unappropriated authorization for any category may be transferred to any other category. The amount to be transferred may not exceed 10 per cent of the receiving category's original authorized amount. This will permit flexibility in the management of our financial resources to respond to urgent needs.

SECTION 4

This section adds the authority to purchase uniforms to the Agency's basic authorities as stated in Section 804 of the United States Information and Educational Exchange Act of 1948, as amended. Local custom in many countries abroad indicates that employees wear uniforms when performing certain duties such as driver, guard and messenger. Such requirements are recognized in Section 636(a)(12) of the Foreign Assistance Act of 1961, as amended and in Section 2(e) of the Act of August 1, 1956, providing certain basic authority for the Department of State. Foreign national employees of the U.S. Information Agency have long been disadvantaged in relation to other personnel employed by the United States since the Agency has not had authority to purchase uniforms. With the addition of this provision the Agency will be able to purchase uniforms where customary and when funds are provided in an appropriation act.

The Agency also employs a number of security guards in the United States. The purchase of uniforms for these guards would also be authorized by this provision. At present separate detailed wording is contained in the Agency's annual appropriations to meet this need. The appropriation language could be simplified with the enactment of this new authority.

SECTION 5

This section adds to the United States Information and Educational Exchange Act of 1948, as amended (P.L. 80–402), authority for the use of exchange allowances or proceeds derived from the exchange or sale of motor vehicles used abroad by the United States Information Agency, in accordance with Section 201(c) of the Act of June 30, 1949 (40 U.S.C. 481(c)). This new section, making exchange allowances or proceeds available for use without fiscal year limitation for the replacement of an equal number of vehicles, is the same authority provided the Department of State in Section 7 of the Act of August 1, 1956, as amended (P.L. 84–885). At present, authority for Agency use of exchange allowances and proceeds is repeated in detail in each annual appropriation act. Addition of this section to P.L. 80–402 will simplify the appropriation language in the future and make the allowances or proceeds available without fiscal year limitation. There are circumstances when it is difficult to utilize, within usual time limits, proceeds of sale derived from the disposition overseas of motor vehicles. Under such circumstances it would be helpful to have proceeds of such sales available without fiscal year limitation.

By Mr. CANNON (by request):

S. 3023. A bill to amend section 501 of title 44, United States Code, to provide immunity for the Government Printing Office, the Public Printer, the Superintendent of Documents, and other officers and employees of the Government Printing Office from civil or criminal liability for printing, binding, and distribution services required by law or otherwise ordered in accordance with law to be executed at or through the Government Printing Office, and for other purposes. Referred to the Committee on the Judiciary.

Mr. CANNON. Mr. President, by request, I am today introducing a bill to amend section 501 of title 44, United States Code, to provide immunity for the Government Printing Office, the Public Printer, the Superintendent of Documents, and other officers and employees of the Government Printing Office from civil or criminal liability for printing, binding, and distribution services required by law or otherwise ordered in accordance with the law to be executed at or through the Government Printing Office.

This bill has been recommended by the Public Printer to counteract the decision of the Supreme Court in *Doe* v. *McMillan*, 412 U.S. 306 (1973). In that 5-to-4 decision, that Court held that—

> ***the Printing Office is immune from suit when it prints for an executive department for example, only to the extent that it would be if it were part of the department itself or, in other words, to the extent that the department head himself would be immune if he ran his own printing press and distributed his own documents.
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> * * * * *
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> *Congress has conferred no express statutory immunity on the Public Printer or the Superintendent of Documents * * * We thus face no statutory or constitutional problems in interpreting this doctrine of "judicial making."* (Emphasis added.)

That decision has recently been reinforced by the U.S. Court of Appeals for the D.C. Circuit in *McSurely* v. *McClellan*, No. 73–1991, decided October 28, 1975, wherein the court held that, with or without congressional authorization, the Public Printer would be required to respond to private suits resulting from dissemination of materials to the public. Similarly, Judge Gesell, in Anonymous against T. F. McCormick, et al., argued November 17, 1975, before the U.S. District Court for the District of Columbia cited both Doe and McSurely with approval.

It is such omission of statutory immunity which the proposed bill is intended to correct for, as Mr. Justice Blackmun has so aptly pointed out in a footnote to his dissenting opinion—

> *Thus, the Court has placed the Public Printer and Superintendent of Documents in the untenable position either of accepting the risk of personal liability,* whenever a congressional document officially is printed and distributed, *or of violating the specific command of a congressional resolution* ordering the printing and distribution (Emphasis added.)

By Mr. JOHNSTON (for Mr. JACKSON):

S. 3024. A bill to amend the Emergency Petroleum Allocation Act of 1973. Referred to the Committee on Banking, Housing and Urban Affairs.

DEALER'S FAIR RENT ACT OF 1976

Mr. JOHNSTON. Mr. President, I introduce, for the Senator from Washington (Mr. JACKSON), the Dealer's Fair Rent Act of 1976.

I ask unanimous consent that Senator Jackson's statement and the bill be printed in the RECORD.

There being no objection, the statement and bill were ordered to be printed in the RECORD, as follows:

DEALER'S (FAIR) RENT ACT OF 1976

(Statement of Senator HENRY M. JACKSON)

I am introducing legislation today that will give the Federal Energy Administration authority to control the rents which service station dealers may be charged by petroleum suppliers.

On November 11, 1975, the Temporary Emergency Court of Appeals held that the FEA had no authority to regulate rents under the Emergency Petroleum Allocation Act of 1973. Until that decision, Mr. President, the FEA had limited rents to the level prevailing on May 15, 1973, after incorporating by reference the rent regulations originally promulgated by the Cost of Living Council under Phase IV of the Economic Stabilization Program.

On December 31, 1975, the FEA announced that it would not appeal this decision and revoked its rent regulations. Although the FEA has held a public hearing for the purpose of developing possible rental guidelines no specific action has been taken by that agency to protect dealers from exorbitant rent demands.

The purpose of the bill I am introducing is not to freeze all rents at their May 15, 1973 levels. I believe all concerned recognize that some rent increases may be economically justified. However, many of the rent increases which are now being demanded of dealers are enormous, going far beyond a mere effort by suppliers to keep pace with inflation. In some cases rents have been doubled and tripled.

These sharp and sudden rent increases threaten the survival of many small independent dealers. And this threat to competition is a threat to the American consumer. Major oil companies are attempting to gain control of retail markets by switching to company operated stations and opening secondary brand self-service stations.

If rents are not controlled at equitable levels, major oil companies may circumvent price controls by doubling and tripling the rents which independent service station dealers must pay. This means that consumers will not receive the benefit of the petroleum price rollback Congress passed last year, and that independent dealers will earn less. The sole beneficiary of this loophole will be the major oil companies.

The Allocation Act itself specifically speaks of the need "to preserve the competitive viability" of independent marketers. I believe the bill I am introducing today will help achieve that purpose.

S. 3024

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 8 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(i) Not later than 15 days following the date of enactment of this subsection, the President shall promulgate and make effective an amendment to the regulation under section 4(a) of this Act which regulation shall prohibit a lessor or lessee of real property used in retailing gasoline from increasing the rent for such property above the level which prevailed May 15, 1973, except in an amount justifiable in each case by changed economic conditions and circumstances related to the use of such property."

By Mr. HELMS (for himself and Mr. FANNIN):

S. 3025. A bill to amend title 39, United States Code, to eliminate certain provisions relating to private carriage of mail, to permit free competition in the delivery of mail, and for other purposes. Referred to the Committee on Post Office and Civil Service.

POSTAL REFORM ACT OF 1976

Mr. HELMS. Mr. President, the U.S. Postal Service has become one of the biggest boondoggles of the Federal Government. It is a classic example of Federal waste and mismanagement. Among the friends of free enterprise, it serves as a constant reminder that Government ownership and control of the means of production is a recipe for economic failure. The time has come for a genuine reform of the Nation's postal system.

No one understands the plight of our postal system more than the employees themselves, many of whom are constantly frustrated by ridiculous and inequitable personnel policies which interfere with the efficiency of the operation. There are fine, hard-working men and women in the postal service; dedicated, career employees. They are trying to do a good job, but they are entangled in a web of bureaucratic snarls and mismanagement practices. It is no wonder that the morale of postal employees is so low.

When Congress enacted the Postal Reorganization Act of 1970, it was hoped that the mail service would, at long last, operate on an efficient, fiscally sound basis. There would be an end to mounting postal deficits. Future rate increases would be substantially curtailed. The post office operation would be self-sufficient.

None of these goals, of course, has been reached. Indeed, we are further from them today than we were in 1970. Since passage of the Postal Reorganization Act, first-class rates have been increased three times, by approximately 30 percent; postal rates as a whole have been increased by 26 percent. But even with these increases, the Postal Service has continued to operate in the red.

During its first full year of operation, the Postal Service ran up a deficit of $13 million. In fiscal 1975, the deficit was $825 million. It is estimated that the deficit for fiscal 1976 will reach the staggering sum of $1.4 billion.

Meanwhile, the quality and efficiency of the mail service continues to deteriorate. From the standpoint of modern management techniques and sophisticated mail processing and delivery, the Postal Service often takes on the appearance of organizational chaos. It is said that postal employee morale is low; that proven techniques have been replaced by unworkable ones; and that experienced managers are being replaced by individuals who lack the necessary skills to move the mail efficiently. Smaller postal facilities are threatened with extinction, and many rural post offices have already been terminated or merged. Since July 1971, 1,193 post offices have been closed in the United States, 21 of which are in my own State of North Carolina. And the Postmaster General has announced that future cost-reductions will include possibly the elimination of Saturday deliveries, restrictions on the hiring of part-time help, and the closing of more rural post offices.

In large measure, these attempts at cost reduction will have a limited impact because the labor costs of the Postal Service are so high that there is really little room for cost cutting. Labor costs for the U.S. Postal Service account for 86 percent of the postal budget. In the period between 1970–75, wage rates for Postal Service employees went up 60 percent; during this same period, however, wage rates for Federal civilian workers rose 38 percent. In addition, 85 percent of the Postal Service employees are protected by a no-layoff clause in their union contract.

As it is presently structured, Mr. President, the U.S. Postal Service is obviously incapable of providing efficient, economical mail service to the American people. The Postal Reorganization Act has proved to be a failure. In recognition of the need for greater managerial efficiency and productivity in the postal service, and concerned about the highly inflationary pace of postal rate increases, the President's Council on Wage Price Stability has recently recommended that Congress abolish the private express statutes which prohibit competition in the carriage and delivery of first-class letter mail. This recommendation comes on the heels of a formal notice of the Postal Rate Commission, which was published in the Federal Register on October 22, 1975, for the purpose of soliciting comments on the impact and administration of the private express statutes. In a 66-page report released earlier this month, the Council expressed the view:

> That permitting competition to the Postal Service's first-class mail service probably would result in significant benefits to the economy and to the mail user.

The Council concludes that:

> In addition to promoting allocative efficiency, relaxation or repeal of the Private Express Statutes might be expected to promote operating efficiencies within the postal system. It would likely stimulate managerial efficiency, stimulate inovation and changes in postal technology, and restrain increases in postal labor costs reflecting improved productivity.

At present, the private express statutes make it illegal to carry a letter for profit, to "knowingly convey" anyone carrying letters for profit, to give anyone letters to be carried for profit, or to use a letter box or mail slot for privately carried mail for profit. If these statutes were repealed, or relaxed, the nature of the postal industry would change, of course, as new competitors entered the field. Although we cannot precisely predict the variety and extent of this competition, it is reasonable to assume that high volume businesses in the metropolitan areas would be particularly attractive to private carriers. According to the Council on Wage and Price Stability, about 51 percent of all first-class mail is generated by businesses, one-fourth of which is strictly local mail, consisting of bills and statements. Most of this is sent by high-volume businesses, such as utility companies, and "it is generally expected that this is the segment of first-class business that would be the initial target of new entrants."

Adjustments would have to be made concerning the Postal Service's loosely constructed classification schedule; and there would have to be some relaxation of the uniform first-class rate so that all segments of the population would be assured of continued service and equitable treatment. In this regard, we must be especially mindful of the possibility that private carriers would be less attracted to rural delivery than urban delivery, and that there may be a need to continue the free delivery of mail in the rural areas on a subsidized basis. Likewise, we must be on guard to protect the rights and interests of the postal employees themselves. If there is job dislocation or the threatened loss of employment benefits or pensions as a result of this legislation, then we must stand ready to take corrective action.

During the early phases of demonopolization, there will surely be problems, given the size and complexity of the postal operation. Not being omniscient, I cannot predict with accuracy each and every problem; but I am confident that we can deal with these problems as they arise, and take the necessary steps to correct them, so that all individuals and communities affected are assured of uninterrupted service and fair treatment. Without exploring in detail all of the changes that would have to be made if the private express statutes were repealed, suffice it to say that the Council on Wage and Price Stability expresses no serious reservations about the feasibility of making the mail more competitive.

As my colleagues are aware, there are already 11 privately owned postal services, carrying second-, third-, and fourth-class mail in various parts of the country. These firms are continuing to attract business. The privately owned United Parcel Service, for example, has attracted so many customers away from the U.S. Postal Service that it now delivers more packages than the Postal Service. And no wonder! It damages only one package for every five damaged by the Postal Service, and its rates are lower. What is more, the United Parcel Service continues to make substantial profits, producing more revenue to the Government.

In retrospect, we should bear in mind, Mr. President, that there is nothing radically new or bizarre about competition in the delivery of the Nation's mail. During the first half of the 19th century, for example, private carriers flourished in America. In 1844, Senator James Simmons of Rhode Island estimated, while speaking on the floor, that 20 letters were sent by private carriers for every letter carried by the Post Office, so extensive was the practice of private delivery at that time. The private express statutes are of relatively recent origin.

It is also noteworthy that the British House of Commons almost passed a bill this month that would have removed the government monopoly on first-class mail. The vote taken on February 4, 1976, was just 11 votes short of a majority. Such a close vote, in a country that is avowedly Socialist, indicates, that the citizens of Great Britain, like those of the United States, have become increasingly disenchanted with government-operated enterprises that incur huge deficits and provide inadequate, costly service.

It is time that the Senate took a look at the sorry state of affairs in our postal system in realistic terms. In my view, we have only two alternatives. The first—and this will only increase and prolong the agony—is to maintain our present course by accepting the fact that the quality of service will continue to decline and the deficits and rates will continue to rise.

But I reject this alternative, Mr. President, because it is really no alternative at all. It would be preferable, in my judgment, to follow the recommendations of the Council on Wage and Price Stability, and allow private enterprise to tackle the problem. Not only have private carriers already shown that they can do the job better and cheaper, but their entry will undoubtedly spur the Postal Service to improve its operation. More than anything else, the U.S. Postal Service needs a good dose of competition.

With the hope of changing the present system, and stimulating interest and concern about true reform of the Nation's mail service, I am today introducing, on behalf of the distinguished Senator from Arizona (Mr. FANNIN) and myself, a bill to repeal the private express statutes. This bill will allow private carriers to carry and deliver first-class mail, and it will abolish the principle of public ownership and control of mailboxes and mail slots, making them the private property of their respective owners.

This bill repeals sections 601 and 602 of title 39 of the United States Code, which prescribe certain criteria for letters not carried through the U.S. mails. It also establishes a new section 605, and expressly permits the carriage of mail by private express.

With respect to provisions of the Federal criminal code that have the effect of prohibiting the private carriage of mail, section 1694 of title 18 of the United States Code makes it a crime to carry mail by private express; section 1695 makes it a crime to carry any mail on board a vessel other than through the postal service; section 1696 makes it a crime to carry mail by private express over an established postal route; and section 1697 makes it a crime for any one to transport a person who is carrying mail by private express. Section 1725 of title 18 of the United States Code makes it a crime for any one to deposit any mail on which U.S. postage has not been paid in any mailbox established to receive U.S. mail. This bill repeals sections 1694, 1695, 1696, and 1697, thereby eliminating these criminal penalties regarding the private carriage of the mail. It also repeals section 1725,

in order to permit private express carriers as well as U.S. postal carriers, to deposit mail in mailboxes and mail slots. It is well to remember that mailboxes are bought and paid for by American citizens, and not by the Government, and that repeal of this section does not, therefore, involve any loss of Government property.

Finally, my bill makes technical, conforming amendments to sections 1698 and 1699 of title 18, which relate to the delivery of mail carried by vessel. These amendments simply exempt private carriers from the requirements imposed upon vessels carrying U.S. mail. The rationale, of course, is that the private carrier will henchforth negotiate with shipowners through contract, thereby eliminating the need for Federal law to set out the specifications for delivery.

Mr. President, I urge the Senate Committee on Post Office and Civil Service to take prompt action on this legislation, and urge my colleagues to support it.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3025

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Postal Reform Act of 1976".

SEC. 2. (a) Chapter 6 of title 39, United States Code, is amended—

(1) by striking out sections 601 and 602;

(2) by redesignating section 603 through section 606 as section 601 through section 604, respectively; and

(3) by adding at the end thereof the following new section:

"§ 605. Carriage of mail by private express permitted

"Notwithstanding any other provision of law, the carriage of mail, or other licit matter, by private express or carrier for compensation, or otherwise, is expressly permitted.".

(b) (1) The table of chapters for part I of title 39, United States Code, is amended by striking out the item relating to chapter 6 and inserting in lieu thereof the following:

"6. Private carriage of mails---------- 601".

(2) The caption for chapter 6 of title 39, United States Code, is amended to read as follows:

"Chapter 6—PRIVATE CARRIAGE OF MAILS"

(c) The table of sections for chapter 6 of title 39, United States Code, is amended to read as follows:

"Sec.
"601. Searches authorized.
"602. Seizing and detaining letters.
"603. Searching vessels for letters.
"604. Disposition of seized mail.
"605. Carriage of mail by private express permitted.".

SEC. 3. (a) (1) Chapter 83 of title 18, United States Code, is amended by striking out sections 1694, 1695, 1696, 1697, and 1725.

(2) The table of sections for chapter 83 of title 18, United States Code, is amended by striking out the items relating to sections 1694, 1695, 1696, 1697, and 1725.

(b) Section 1698 of title 18, United States Code, is amended by inserting "(other than letters or packages carried by private express)" immediately after the word "cargo".

(c) Section 1699 of title 18, United States Code, is amended by inserting "except where carried by private express and" immediately after the phrase "nearest post office," and inserting the same language immediately after the phrase "under my power or control,".

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 595

At the request of Mr. BARTLETT, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 595, a bill to amend Public Law 88-482.

S. 2903

At the request of Mr. BEALL, the Senator from North Dakota (Mr. YOUNG) was added as a cosponsor of S. 2903, a bill to permit the review of regulatory rules and regulations by the Congress.

S. 2905

At the request of Mr. PHILIP A. HART, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. CLARK), the Senator from West Virginia (Mr. RANDOLPH), the Senator from New Jersey (Mr. CASE), and the Senator from South Dakota (Mr. ABOUREZK) were added as cosponsors of S. 2905, the Commodity Supplemental Food Program Act of 1975.

S. 2910

At the request of Mr. SCHWEIKER, the Senator from North Dakota (Mr. YOUNG) and the Senator from Ohio (Mr. TAFT) were added as cosponsors of S. 2910, a bill to establish the National Diabetes Advisory Board.

S. 2939

At the request of Mr. SCHWEIKER, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 2939, to provide a special program for financial assistance to Opportunities Industrialization Centers.

S. 2930

At the request of Mr. BUMPERS, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Idaho (Mr. CHURCH), and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of S. 2930, to prevent civil supersonic transports from landing in the United States unless they meet noise standards of subsonic aircraft.

S. 2941

At the request of Mr. ABOUREZK, the Senator from Colorado (Mr. GARY HART) was added as a cosponsor of S. 2941, a bill to provide emergency relief to the people of Lebanon.

SENATE JOINT RESOLUTION 76

At the request of Mr. DOLE, the Senators from Alabama (Mr. SPARKMAN and Mr. ALLEN), the Senators from Delaware (Mr. ROTH and Mr. BIDEN), the Senator from Missouri (Mr. SYMINGTON), and the Senator from North Carolina (Mr. MORGAN) were added as cosponsors of Senate Joint Resolution 76, to designate a "National Beta Sigma Phi Week."

SENATE JOINT RESOLUTION 162

At the request of Mr. DOMENICI, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of Senate Joint Resolution 162, a joint resolution to designate National United Latin American Citizens (NULAC) Week.

SENATE JOINT RESOLUTION 165

At the request of Mr. HATFIELD, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of Senate Joint Resolution 165, to designate National Food Day.

SENATE RESOLUTION 319

At the request of Mr. CURTIS, the Senator from Ohio (Mr. GLENN), the Senator from Pennsylvania (Mr. HUGH SCOTT), and the Senator from Minnesota (Mr. MONDALE) were added as cosponsors of Senate Resolution 319, relating to the occupation of certain Baltic nations by the Soviet Union.

SENATE RESOLUTION 381

At the request of Mr. CANNON, the Senator from Tennessee (Mr. BAKER), the Senator from California (Mr. CRANSTON), the Senator from Arizona (Mr. FANNIN), the Senator from Kentucky (Mr. FORD), the Senator from Utah (Mr. GARN), the Senator from Ohio (Mr. GLENN), the Senator from Michigan (Mr. GRIFFIN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of Senate Resolution 381, relating to the 50th anniversary of commercial aviation.

SENATE RESOLUTION 394—SUBMISSION OF A RESOLUTION WAIVING SECTION OF CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT WITH RESPECT TO THE CONSIDERATION OF A BILL

(Referred to the Committee on the Budget.)

Mr. CANNON submitted the following resolution, which was referred to the Committee on the Budget:

S. RES. 394

Resolved, That the prohibition of section 303(a) of the Congressional Budget and Impoundment Control Act of 1974 as to the consideration by the Senate of legislation authorizing new budget authority for a fiscal year beyond the current fiscal year is waived with respect to the Airport and Airway Development Act Amendments of 1976, S. —— reported to the Senate by the Committee on Commerce on February 24, 1976. This bill contains advance obligational authority for airport development grants for fiscal years 1976 through 1980.

The advance obligational authority contained in this bill for airport-grants-in-aid is essential to a well functioning Federal assistance program. Airport development is, by its nature, a long-term proposition with projects taking from one to eight years to complete. In order for the Federal program to be effective, airport sponsors must know that there will be a certain level of Federal assistance over a period of not less than five years. Without this advance obligational authority, no airport sponsor would know for more than a year, or two, at most, whether Federal grants-in-aid would be forthcoming This is inadequate since the sponsor must arrange his financial program prior to commencing any development program. Under a five-year program, both the airport sponsor and the Federal Aviation Administration as well as the Congress will know with certainty the extent to which the Federal program may assist in making money available for airport development. Without advance obligational authority as contained in S. ——, the airport development aid program will be of little use to the Nation's publicly owned airports who are entitled to funds under this program.

SENATE RESOLUTION 395 AND SENATE RESOLUTION 396—ORIGINAL RESOLUTIONS REPORTED TO PAY GRATUITIES

(Placed on the calendar.)

Mr CANNON, from the Committee on Rules and Administration, reported the following original resolutions:

S. Res. 395

Resolution to pay a gratuity to Jacqueline C. Buck

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Jacqueline C. Buck, widow of John R. Buck, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

S. Res. 396

Resolution to pay a gratuity to Dennis C. Lordan and Mary Alice Hurlbert

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Dennis C. Lordan, son and to Mary Alice Hurlbert, daughter of Frederick J. Lordan, an employee of the Senate at the time of his death, a sum to each equal to five and one half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I wish to give notice that a public hearing has been scheduled for Tuesday, March 2, 1976, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nominations:

Henry F. McQuade, of Idaho, to be Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration, vice Richard W. Velde, resigned.

Paul K. Wormeli, of California, to be Deputy Administrator for Administration of the Law Enforcement Assistance Administration, vice Charles R. Work, resigned.

Any person desiring to offer testimony in regard to these nominations, shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

NOTICE OF HEARING

Mr. PROXMIRE. Mr. President, I wish to announce that the Committee on Banking, Housing and Urban Affairs will hold a 2-day hearing, on March 2 and 3, 1976, on S. 2986, introduced by Senator Griffin (for himself, Mr. Thurmond and Mr. Tower) to amend the Housing and Community Development Act of 1974 to provide supplementary community development block grant assistance to communities with high unemployment due to adverse national economic conditions, and for other purposes.

The hearing will begin at 3 p.m. each day and will be held in room 5302, Dirksen Senate Office Building.

ANNOUNCEMENT OF HEARINGS ENERGY INFORMATION ACT

Mr. JOHNSTON. Mr. President, I wish to announce that the Senate Committee on Interior and Insular Affairs will hold hearings on S. 1864, the Energy Information Act, on Wednesday, March 3, Monday, March 8, Tuesday, March 9, and Friday, March 12. The hearings will be held in room 3110, Dirksen Senate Office Building, and will begin at 10 a.m. on each of the days.

Members and ex officio members of the National Fuels and Energy Policy Study authorized by Senate Resolution 45 of the 92d Congress are invited to participate in these hearings.

For further information, please call Ben Cooper at 224-0611.

ADDITIONAL STATEMENTS

FARM WIFE LEADS ESTATE TAX FIGHT

Mr. McGOVERN. Mr. President, a Nebraska farm wife, Doris Royal of Springfield, Nebr., wants to get something done on the Federal Estate and "Widow's Tax" problem. Showing native midwestern initiative, intelligence, and commonsense, she and her organization have enlisted the support of powerful agricultural organizations and have circulated petitions numbering over 50,000 signatures to influence Congress. On Sunday, Feburary 22, her campaign was featured on the evening CBS newscast.

The Land O'Lakes Mirror for February 1976 contains a short article on the efforts of Doris Royal and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Farm Wife Leads Estate Tax Fight

A working farm wife has her dander up. She's campaigning to convince Congress and the President that the present $60,000 federal estate tax exemption should be raised to $200,000 and the marital deduction increased by $100,000. She's doing it, she says, because the present law threatens the future ownership of family farms and small businesses and because it discriminates against women who work on their family farms. And she's right.

For 30 years, Doris Royal has worked with her husband, Lloyd, on the 400 acres they farm near Springfield, Neb. They own 240 acres and rent the rest.

Doris is no woman's libber, and she has never been active in politics—until now. She always felt more comfortable on the tractor. But when it came to the inheritance tax issue, she said, "I decided someone should get up in arms and I waited for someone else to do it, but they didn't so I decided I had to."

For the past year, Doris Royal has spent more than 40 hours a week carrying out her decision. She's spearheading an intense petition drive to change state and federal inheritance tax laws.

Her work involves going door to door with petitions, contacting people elsewhere and asking them to pass her petitions on to other people, speaking to groups, testifying before her state legislature, making phone calls, and paying the cost of her activity from her own pocket.

But Doris has some good help. Mrs. Jerry Knapp and Mrs. Robert Wulf, both from Springfield, are active campaigners. Support also comes from the Governor's Commission for the Status of Woman, National Livestock Feeders Assn., Nebraska Livestock Feeders Assn., Farm Bureau, Grange, and the Nebraska Federation of Democratic Women, to mention just a few.

Extension club women are duplicating her petition and distributing it to every single Extension club in the Corn Husker state.

As the law now stands, for a wife to avoid paying federal and state estate taxes on a property which has been held in joint tenancy, she must be able to show a legally recognized contribution to the property—and working side by side with a husband isn't generally recognized by the courts, according to tax experts. Doris wants the contribution of women who work as homemakers or in a family farm or business to be legally recognized.

The issue affects more than just farm wives. The experts say that 25 to 40 per cent of a family's assets can go to pay the costs of settling a farm estate. Inflation is responsible for part of the problem. It has raised the value of much property, especially land, giving many farmers huge estates of a half million dollars or more.

"The thing that concerns me is that if something happens to by husband I might have to mortgage the farm to pay the taxes," Doris said.

She said this has happened to women she knows. Others have had to sell some of their land, she said.

"To me the only fair answer to the problem is to raise the exemptions according to the rate of inflation," Doris said. "Also, there should never be an inheritance tax between spouses. Both work all of their lives to accumulate the estate."

As the spring season is about to come to the midwest, Doris has a major concern about her campaign. It's almost time to start working in the fields and that's when she gets really busy.

THE ENERGY CRISIS

Mr. PACKWOOD. Mr. President, in this present state of national and international uncertainty and complexity, it has become extremely difficult to derive optimum strategies which will address the energy crisis facing our society. Hardly a day goes by without an article in the papers or magazines commenting on some aspect of the energy crisis which has been confronting us over the past 2 years and which will continue to remain a major issue during the next decades.

The emphasis on most proposed programs for the solution of our energy dilemma has been toward the development of new or additional energy sources and supply technologies, and not a great deal has been proposed toward the development of an integrated and comprehensive energy policy with its primary focus on the search of solutions to the problems.

The critical energy problems plaguing this Nation, and which will continue do do so during the remainder of this century, cannot be solved by a single energy source or by a single technological development or solution. The solution to these problems must consist of multiple energy sources or alternatives interfaced into a complex but integrated total energy system. This integrated system must take into consideration complete system management including technological, economic, social, environmental, political, and institutional interactions. In addition, it must consider such interrelated factors as material resources, water resources, food production, weather, technical production efficiency, and conservation as well as end-use efficiency and conservation, and total system reliability. Energy can no longer be considered as an isolated technical and economic problem, but rather as an integrated element of the ecosphere and the society-technology complex.

In the search for future energy alternatives it is vital to realize that as global population and material standards of living continue to grow, it becomes necessary to understand the consequences of growth within the context of finite resources in a finite world. Society is becoming increasingly aware that growth cannot continue unchecked and must in time give away to equilibrium. Furthermore, let us not lose sight of the fact that in our search for energy alternatives the desired goal toward a relevant energy system is better quality of life.

It is important to understand that the problem of energy seems to appear in time phases with leadtimes constituting a major factor toward realizable and practical solutions. These phases are commonly classified as near term or short range, from now to 1985; intermediate range, from 1985 to 2000; and long range, from 2000 and on. The years given here are only approximate and there is considerable overlapping between phases, but will be used here as a basis for discussion. Problems of the immediate future will be the most difficult to solve, because of the time lead required to develop new technologies and implement new policies. The most obvious problem, of course, during this short range phase will be the supply of additional oil and gas. There is little hope for significant discoveries of new resources of oil and gas, and if such discoveries do occur they will require an uncommonly large amount of capital.

Energy conservation will, therefore, be a prevailing theme in the years to come. However, conservation can merely reduce, but not eliminate, the problem of oil and gas shortages. Hence, during the short range phase the United States has no choice but to import the necessary amounts of oil. More detail information on conservation is presented in the "Energy Conservation Program."

During the intermediate range, coal utilization and coal conversion can provide a stopgap in the energy crisis. However, coal presents some different problems. Coal in its present form is a dirty fuel and does not meet environmental standards. Furthermore, the large coal sources are so far from major cities and industrial centers that transportation of coal becomes a prohibitive problem. One promising solution is to change coal to a liquid or gas near the mines. Then it will be a cleaner fuel that can be more easily transported through pipelines.

Economically, however, if the prices of oil were to fall below about $7 per barrel, it will not be profitable to gasify or liquefy coal. More detail information on coal is presented in the "coal energy systems" section of this paper. Nevertheless, the intermediate range phase will be undoubtedly characterized by conversion of coal to synthetic fuels as the major industry, and by the extensive development of new energy sources such as shale oil, geothermal energy, solar cooling and heating, and biomass conversion. In addition breeder reactors may approach commercial readiness during this period, expanding the potential of nuclear energy as a source of electrical power.

However, energy conservation and energy efficient systems will remain a prevailing theme during this period, with technological development and system integration playing a major role in helping society to new conditions and constraints in the energy problem. The long-range phase will be characterized by essentially no shortage of potential energy sources. Fusion and solar energy will probably become two prime sources of energy during this period provided that the necessary technologies can be developed, made economically competitive, and environmentally acceptable. Energy will probably be consumed predominately in the form of electrical power with hydrogen becoming the prime synthetic fuel for transportation and other secondary sources of energy and will probably fill in the void left by the depletion of oil, gas and other synthetic fossil fuels.

However, even during this period of supposedly inexhaustible energy sources we may still be faced with some grave problems. For example, the fusion reactor which generates energy by combining hydrogen isotopes, has not yet been declared a scientific and engineering success. In fact, some skeptics doubt that it will ever succeed, mainly because it may consume unacceptable amounts of molybdenum, vanadium, beryllium, and other precious metals used in structural parts.

Furthermore, solar energy though inexhaustible, of high thermodynamic quality, and not subject to foreign embargo, does have characteristics which make it difficult to harvest economically on large scale. Some of these difficulties are due to the relatively low power density at the Earth's surface and subject to the diurnal cycle—daily cycle—seasonal variations and the multiple effects of weather and climate. Analysis and studies of these future energy alternatives must include such additional considerations as land use, water requirements for cooling, capital investment, infrastructure requirements; that is, basic installations and facilities, as roads, powerplants, transportation systems, et cetera, environmental impact, and social acceptability.

The combination of probable prudent and practical alternatives that will be required to make for a future comprehensive but complex energy system is listed below:

ENERGY PRIORITIES, PRACTICALITIES, AND ALTERNATIVES

I. A viable Energy Conservation Program.
II. Clean power from coal—
A. Coal gasification.
B. Coal liquefaction.
C. The "in situ" methods.
D. Magneto hydrodynamic power (MHD).
III. Nuclear Fission Energy—
A. Conventional reactors.
B. Breeder reactors.
IV. Shale oil energy—
A. The "in situ" production methods.
V. Geothermal energy.
VI. Solar energy—
A. Heating and cooling.
B. Thermal conversion.
C. Photovoltaic direct conversion—solar cells.
VII. Nuclear fusion—
A. Magnetic containment systems.
B. Laser fusion systems.
C. Hydrogen fusion systems.
VIII. Biomass fuels.
IX. Hydrogen energy fuels.
X. Ocean power—
A. Ocean tides.
B. Ocean thermal gradients.
XI. Wind power.
XII. Other energy sources.

COAL ENERGY SYSTEMS

It was stated earlier that during the intermediate range, coal can provide a stopgap in the energy crisis. However, recently a number of national programs on energy have pointed out that although coal is the Nation's largest fossil fuel resource, we are not currently prepared to use this resource to its fullest potential. At the same time, these same programs have been predicting unrealistically optimistic projections of the coal energy supplies that can be realized from new technologies in the near-term, that is by 1985.

The reason that some of these predictions may prove unrealistic is that, aside from the technical, nontechnical, institutional, environmental, political, and social constraints, it takes time to develop and demonstrate new technologies and to conduct a commercial industry based on these technologies and within these constraints.

Three major problem areas that contribute to these difficulties are:

First. The scale-up of a technology such as the coal conversion or direct utilization technology from the laboratory scale, through a pilot plant, then to a demonstration plant, and on to a full commercial scale consists of a multitude of technical problems, decisions, and alternative solutions.

Second. A number of multiple technical approaches are needed, and though some of these are potentially available for conversion of coal to many fuel forms, they are not ready for commercial scale production. Furthermore, the technical tradeoffs among these alternative technical approaches and their cause-and-effect relationships on society are not very well understood, and further analysis is needed before logical decisions can be made.

Third. The private sector has been considerably hesitant to invest in coal energy research and technology due to the complexities of coal conversion processes, financial risks, uncertain markets, unstable Government regulations and tax structures, and environmental and societal impacts.

The public does not sense it, but the energy crisis is far from over. We are going to have to explore all our energy sources and weigh their potential. Coal is one of these, and the following discussion addresses some of the problems we face in using coal and provides some bases for possible action.

COAL FACTS

The U.S. Coal Reserve Base—known to exist—as of January 1974 is about 435 billion tons of coal, which constitutes more than half of the known coal deposits on earth. Assuming an average heating value of 10,000 Btu per pound, this U.S. coal reserve has an energy value equivalent to about 120 times the total U.S. energy consumption in 1974. This is a somewhat conservative estimate since some authorities estimate the world's known coal deposits to be in the order of 6 trillion tons with the United States holding more than half of that amount or about 3.2 trillion tons. Nevertheless, taking the more conservative estimate, about 298 billion tons of the U.S. reserves coal exists underground and the remaining is surface coal. Most of the surface coal exists in the Western United States.

Approximately 60 percent of the Nation's coal reserves contain 1 percent or less sulfur by weight and most of this is found in the coal in the Western United States. Only about 50 percent of underground and about 90 percent of surface coal can be adequately recovered by present mining methods. The reason being that about half of the underground coal must remain in the mines in order to provide support for the mines, and some surface coal is inaccessible because of natural or people-made surface obstructions.

The present annual rate of coal consumption in the United States is about 600 million tons; however, 60 million tons of this amount is exported. The remaining 540 million tons constitutes about 17 percent of the Nation's annual energy consumption.

At this present rate of consumption, our known reserves are capable of supplying coal for approximately five centuries. However, if we were to convert to a 100 percent coal energy economy, these supplies could be reduced to less than 100 years.

TYPES OF COAL ENERGY TECHNOLOGIES

A. DIRECT COAL UTILIZATION TO UTILITIES AND INDUSTRY—DIRECT COMBUSTION

Present status.—The goals set forth last year by President Ford were for switching the Nation's powerplants from oil and gas to coal and nuclear fuels in order to save 1 million barrels of oil per day by 1980.

This is an unrealistic goal, and since then it has been scaled down by the Interagency Task Force on Synthetic Fuels headed by the Federal Energy Administration, to 825,000 barrels per day by 1981. In 1974 the United States consumed about 17 million barrels of oil per day.

In order to implement such an ambitious program it will be necessary to require a mandatory powerplant conversion from burning oil and natural gas to burning coal. This concept has been generally supported by the National Coal Association and utility companies. Furthermore, Carl E. Bagge, National Coal Association president, is in support of mandatory use of coal and predicts significant short- and long-term growth in coal production. He predicted that the coal industry can produce enough coal to meet the projected demand and the President's goal of 1.2 billion tons by 1985. This expansion is twice the present production rate. In order to accomplish this demand a 9 percent annual growth rate must be maintained.

Potential increases.—The interagency task force in its proposal is estimating that 12 to 15 existing electric powerplants can be converted to coal this year and more than 50 by the end of 1978. Furthermore, the FEA estimates that the electric utilities could save a maximum of 61.3 million barrels of oil and about 65.7 billion cubic feet of natural gas annually by late 1976 by converting to the use of coal. These constitute 1.6 percent of the total oil and 3.0 percent of total gas consumed by the electric utilities in the United States during 1975. By 1977, utilities could increase these savings to 159 million barrels of oil and 138 billion cubic feet of natural gas per year, and by 1980 it is possible to increase the oil savings to 181 million barrels. This will amount to about 3.5 percent of the total oil consumed by the electric utilities during that year.

The following table shows how coal conversion and increased use of nuclear fuels could cut oil usage:

Strategy:	*Barrels of oil saved per day*
Convert existing and planned powerplants to coal	542,000
Prevent future conversion of powerplants to oil	57,000
Increase use of nuclear plants	83,000
Build new nuclear plants	143,000
Total barrels saved per day	825,000

A better grasp of the magnitude of the increase in coal to meet the saving demands described above may be shown by translating these quantities to physical facilities and personnel required by 1985:

First. Develop 140 new 2 million ton per year eastern underground mines;

Second. Develop 30 new 2 million ton per year eastern surface mines;

Third. Develop 100 new 5 million ton per year western surface mines;

Fourth. Recruit and train 80,000 new eastern coal miners;

Fifth. Recruit and train 45,000 new western coal miners;

Sixth. Manufacture 140 new 100-cubic yard shovels and drag lines; and

Seventh. Manufacture 2,400 continuous mining machines.

In contrast to these projections, during the 10-year period between 1960 and 1969 only 13 mines of greater than 2 million tons per year production were opened, and in 1971 there were only 25 mines operating that were larger than 2 million tons per year and only 3 exceeded 5 million tons per year production.

Problems.—The magnitude of the projected increase in coal production and coal burning plants will create a number of environmental, transportation, and economic problems which have to be faced and resolved. The most pressing of these are:

First. The violation of the EPA's ambient air standards. Senator BUCKLEY's regional limitation provision, and Senator MUSKIE's Clear Air Act.

Second. The assumption that coal producing companies can boost up their production to provide an additional 54 million tons of coal per year for the next 2 years before new mines are open and have become operational. Coal companies agree that there exists certain "surge" capacity but they estimate this increase cannot be more than 17 million tons per year.

Third. The assumption that the railroads are capable of transporting this additional amount of coal, or that other transportation systems will be available.

Presently more than 50 percent of all coal moves by rail, mostly in trains of 10,000-ton capacity, and usually over distances of less than 500 miles. The flow per rail track reaches about 2 to 3 million tons per year. An additional 20 percent of the coal is transported from mine to market by inland waterways, and a very small amount is transported by slurry pipelines.

Eastern coal will probably continue to move by rail; however, the problem of transporting western coal to markets 1,000 miles or more away by rail is a formidable one. The reason for this is that for distances of greater than 500 miles the cost increases linearly with distance. Nevertheless much of the coal produced in the West will move by train and train-barge systems. However, it does not seem likely that railroads and barge systems alone can accommodate this large increase in coal flow. Hence, pipeline systems will become strong competitors to rail systems.

Fourth. The concerns of the power companies that the switching to coal will be an economically unfavorable situation because they will have to make conversions without relaxation of environment laws which would make these conversions very expensive.

Costs.—In order to increase the coal mining capacity from its present level of about 600 million tons per year to a level of about 1.2 billion tons per year would require large capital expenditures by the industry. It is estimated that this type of expansion cost would be on the order of $21 billion. It is further estimated that to recover such capital cost the average coal cost needs to rise by $4 to $6 per ton, and the market outlook needs to be stable and promising for a long period of time, such as 30 years. For comparison, present day coal mining costs range from an average of $3 per ton for surface mining with reclamation to an average of $7 per ton for underground mining.

In addition to these costs, capital costs for conversion of oil and gas utilities to coal could be from $15 to $19 per kilowatt-hour of electricity, or the capital cost for conversion of such utilities by 1977 would range from $96 million to $180 million. Assuming that by 1980 74 powerplants have converted, the industry capital costs will have risen to 1.14 billion. Approximately 70 percent of this cost will be for pollution control equipment. Furthermore, railroads have indicated that they plan to spend about $1 billion over the next 5 years on new hopper cars, extra locomotives, and on new coal freight yards in order to accommodate the shift to coal.

Goals, recommendations, and possible actions:

First. A commitment to the production and consumption of coal must be made immediately in order to assure the Nation's utilization of this energy source. If such a commitment is made in 1975, the coal industry could produce up to 1.2 billion tons annually by 1985. Such expansion would result in about 30 percent of the Nation's annual energy supply.

Second. A major effort over the next 15 years must be directed toward a fourfold increase in coal production both in direct utilization and conversion to synthetic fuels. Because of the high levels of capital investments involved and the financial risks, this goal can be achieved only by a sustained favorable economic climate and cooperative regulatory attitude by the Government.

Third. Mine operators should be expected to assume economic and technological risks; but, if they are to be encouraged to increase coal production at such a large scale, they must have early definition and stability in laws and regulations.

Fourth. Federal coal-bearing lands would need to be opened for leasing. Mechanized surface mining of western low sulfur coals using box-cut methods for minimum environmental problems perhaps offers the fastest way of increasing domestic coal production.

Fifth. Compromises in the standards and criteria for design and operations of mines would have to be made to meet short-term demands. Some relaxation of desired air and land quality may have to be considered now, with corresponding timetables for improvements later on to achieve the country's long term environmental goals.

Sixth. To the degree possible, policies to modify demand should be designed for function through market mechanism rather than through direct governmental controls and allocations. If private capital is to be used, the energy market would need to set a coal price that is sufficient to encourage needed investments in new coal mines.

Seventh. Expansion of the transportation system will be necessary in order to move the large quantities of coal. Financial assistance will be needed to improve railroad trackage and related systems. Rights of eminent domain should be established to insure that industry will be able to obtain rights of way for railroads and pipelines. Also, a program should be established to insure that inland waterway systems have sufficient capacity to absorb the additional load.

B. COAL GASIFICATION AND LIQUEFACTION

Present status.—The process of producing liquid fuel from coal is not new. It was first developed in Germany during the period of 1930–45. Even though the technology for this process exists it is estimated that truly commercial production of synthetic coal-based fuels will not be available in less than 10 years.

Coal-based synthetics will probably have significant importance in setting future prices in the energy economy. Commercial production of coal-based synthetic gases or liquids could set a ceiling on the price of imports or even marginal domestic wells; however, haste toward synthetics could cause premature commercial production, which could lead to unnecessary high costs for these fuels.

Potential increases.—High-Btu gas, having a Btu value of approximately 950 Btu per cubic foot, that is having a high heat content, can be produced by the gasification process which is a process of converting coal to gas. There exists a number of processes of German origin and additional ones developed in the United States that can accomplish this conversion. However, there is no U.S. process that can be considered for full scale commercial use until it has been demonstrated at nearly full scale, and this cannot be accomplished in less than 4 to 5 years. The interagency task force on synthetic fuels estimates that full scale methane from coal conversion based on existing or new processes can contribute to the energy supply significantly by 1985.

In addition to high-Btu gas there is a medium Btu gas that can be produced by the gasification process. This leaner gas may be used to serve the present natural gas market. This medium-Btu gas could be used in powerplants now fired by oil or gas; however, there exists economic problems in piping this gas over long distances, and also in loss of thermal efficiency for gasification compared to direct coal burning. In high-Btu gasification processes, efficiencies range from 54 to 68 percent. Low-Btu gasification processes overall efficiencies average from 65 to 80 percent.

Another, and perhaps most important, process is the conversion of coal to liquid fuel, a process known as liquefaction of coal or hydrogenation. However, the interagency task force has concluded in its study that even though there may be a number of demonstration plants each producing 20 to 40 barrels of oil from coal by 1985, there is no way that any large-scale production can be achieved by that date. An intensive development program initiated immediately can by the early 1990's produce oil from coal in the order to a million barrels per day.

Problems.—The general problems to be faced during this program are:

First. There is no logical way to develop the synthetic fuel industry fast enough to relieve energy problems in the 1970's or in the early 1980's;

Second. There is no practical way developed to introduce coal into a high pressure system;

Third. There exists a problem in finding construction materials that can withstand high pressures and severe temperatures;

Fourth. There exists a problem in developing equipment to achieve satisfactory solids separation from liquids and gases at high temperature; and

Fifth. Define and solve environmental problems.

Cost.—The interagency task force in its study has estimated that each prototype liquefaction project will cost anywhere between $75 and $125 million. Furthermore, the task force predicts that substantial governmental support in addition to providing capital will be required for the development of the program. This is due to high risks involved. Nevertheless, it is the opinion of the task force that an aggressive liquefaction development program should be the major thrust for the development of long-range liquid fuels.

Goals, recommendations, and possible actions:

First. Develop and demonstrate currently developing technology for converting domestic coal into gaseous fuels;

Second. Develop and demonstrate currently developing technology for converting domestic coal into chemical feedstocks, distillate heating oil, boiler fuels, and gasoline;

Third. Develop acceptable Federal policy compromises before 1980 between the conflicting demands of gasification development, environmental integrity, price regulation, and social welfare;

Fourth. Develop appropriate incentives for commercialization;

Fifth. Provide Government assistance through cost sharing development of those liquefaction and gasification processes most promising for meeting projected national fuel demands;

Sixth. Provide a stable Government regulatory policy for coal derived liquids;

Seventh. Develop the "in situ" coal gasification methods for making high Btu gas, methane and synthetic petroleum; and

Eighth. Provide a means whereby proprietary data, patent rights, and knowhow is safeguarded. This procedure will attract the best technical and managerial talents to the creation of a vigorously competitive synthetic fuels industry.

MORE EVIDENCE IN SUPPORT OF A NEW HOOVER COMMISSION

Mr. PEARSON. Mr. President, the sponsors of the Government Economy and Spending Reform Act of 1976 (S. 2925), which was introduced earlier this month, are to be commended for their initiative in bringing before this body a proposal to require regular and more thorough congressional review of all Federal programs and activities. I concur with the sponsors of this legislation that we must maintain more effective control over the services which the Federal budget is intended to buy.

In an era of tight budgets, it is critically important, if we are to deliver essential services to the public, that scarce tax dollars not be wasted on overlapping or outdated government activities. One of the few proven methods of accomplishing this goal is the subject of S. 61, a bill which I introduced earlier in the 94th Congress and which would establish a new commission on the operation of the executive branch of the Government. My bill closely parallels the laws which created the highly successful Hoover commissions of the 1940's and 1950's. It has been estimated that the adoption of the recommendations of these two commissions has saved the U.S. taxpayer as much as $4 billion, and that the adoption of the remaining recommendations could yield an additional $3 billion in savings.

Mr. President, it has now been 20 years since the last comprehensive public study of the executive branch of Government. And the evidence continues to mount that far more dramatic savings could be effected by such a study today than those significant savings brought about by the first and second Hoover commissions.

During these two decades, the Federal budget has increased from $70 billion to nearly $400 billion.

The Federal Government is now so large that it takes a manual of over 800 pages to describe its structure. Its nearly 3 million employees work in 11 Cabinet departments, 44 independent agencies, and 1,240 advisory boards, committees, commissions, and councils. And we continue to add more Government bodies to this total all the time. Since 1968, more than 70 new executive agencies have been established by acts of Congress, reorganization plans, executive orders, and executive directives. In 1974 alone, 85 separate governmental bodies were created.

Today, we have nearly 1,000 Federal programs dealing with literally every aspect of life in the United States. In the health field alone, there are 228 different Federal programs administered by 10 separate agencies. There are 156 income security and social service programs. There are 83 housing programs. The list seems endless.

Mr. President, in the past 20 years, we have authorized hundreds of new programs, established many executive agencies, and created layer after layer of duplication and uncoordinated bureaucracy.

The Bicentennial era provides a unique opportunity to reassess our system of government and make recommendations for improvement. My bill contains the same formula for success as that contained in the legislation authorizing the earlier Hoover commissions. It is my hope that the Senate will move expeditiously with this proposal. The times demand action that can make government more responsive, more open, and more efficient.

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

Mr. SPARKMAN. Mr. President, in accordance with section 133B of the Legislative Reorganization Act of 1946, as amended, I ask unanimous consent that the rules of the Committee on Foreign Relations be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

(Adopted February 18, 1975 and amended May 20, 1975.)

COMMITTEE AND SUBCOMMITTEE MEETINGS[1]

1. The regular meeting day of the Committee on Foreign Relations for the transaction of Committee business shall be on Tuesday of each week, unless otherwise directed by the Chairman. All meetings shall be open unless the Chairman and the ranking minority member determine otherwise. A closed meeting may be opened by a majority vote of the Committee.

2. Six members shall constitute a quorum for the purpose of transacting Committee business.

3. Proxy voting will be permitted on all matters, except that no measure or recommendation shall be reported unless a majority of the Committee were actually present.

4. The Chairman of the Committee on Foreign Relations, or the chairman of any subcommittee thereof, is authorized to fix the number of members who shall constitute a quorum for the purpose of taking testimony.

5. Except when funds have been specifically made available by the Senate for a subcommittee purpose, no subcommittee of the Committee on Foreign Relations shall hold hearings involving reporting expenses without prior approval of the chairman of the full Committee or by decision of the full Committee.

6. Unless otherwise authorized by law or Senate Resolution, subcommittees shall be created by majority vote of the Committee and shall deal with such legislation and oversight of programs and policies as the Committee directs. The funds for the subcommittees shall be made specifically available by the Senate.

7. Each Member of the Committee may designate a member of his personal staff for whom such Member assumes personal responsibility who may be present at executive meetings of the Committee: *Provided*, That such staff member holds a Top Secret security clearance; *Provided further*, That the Committee by majority vote or the Chairman may limit such attendance at specified meetings.[2]

COMMITTEE TRAVEL

1. No member of the Committee on Foreign Relations or staff shall travel abroad on Committee business unless specifically authorized by the Chairman, who is required by law to approve vouchers and report expenditures of foreign currencies, and the ranking minority member. Requests for authorization of such travel shall state the purpose and when completed, a full report shall be filed with the Committee.

2. A member of the personal staff of a member of the Committee may travel with that member with the approval of the Chairman and the ranking minority member of the Committee. During such travel, the personal staff member shall be considered to be an employee of the Committee.

3. When the Chairman and the ranking minority member approve the foreign travel of a member of the staff of the Committee not accompanying a member of the Committee, all members of the Committee are to be advised, prior to the commencement of such travel, of its extent, nature, and purpose. The report referred to in the first paragraph of this section shall be furnished to all members of the Committee and shall not be otherwise disseminated without the express authorization of the Committee.

NOMINATIONS

1. Unless otherwise directed by the Chairman, the Committee on Foreign Relations shall not consider any nomination until six days after it has been formally submitted to the Senate.

2. Nominees for any post who are invited to appear before the Committee shall be heard in public session, unless a majority of the Committee decrees otherwise.

3. No nomination shall be reported to the Senate unless the nominee has been accorded security clearance on the basis of a full field investigation by the Federal Bureau of Investigation, and, in appropriate cases, has filed a confidential financial statement with the Committee.

TRANSCRIPTS

1. The Committee on Foreign Relations shall keep verbatim transcripts of all Committee and subcommittee meetings and such transcripts shall remain in the custody of the full Committee, unless a majority of the Committee decides otherwise.

WITNESSES

1. The Committee on Foreign Relations will consider requests to testify on any matter or measure pending before the Committee.

2. If the Chairman so determines, the oral presentation of witnesses shall be limited to ten minutes. However, written statements of reasonable length may be submitted by witnesses and other interested persons who are unable to testify in person.

TRANSCRIPT REGULATIONS

1. Maintenance and security of classified transcripts.

a. The chief clerk of the Committee shall have responsibility for the maintenance and security of the classified transcripts.

b. A record shall be maintained of each use of the classified transcripts.

c. Classified transcripts shall be kept in locked combination safes in the Committee offices except when in active use by authorized persons. They must never be left unattended and must be returned to the chief clerk promptly when no longer needed.

d. Classified transcripts shall be permitted to leave the Committee offices only in the possession of authorized persons. Delivery and return shall be made only by authorized persons. They shall not be permitted to leave the city or the country, unless adequate assurances are made to the Chairman for their security.

e. Transcripts classified secret or higher shall not be permitted to leave the Committee offices.

f. Extreme care should be exercised to avoid taking notes or quotes from classified transcripts. Their contents must not be divulged to any unauthorized person.

2. Persons authorized to use classified transcripts.

a. Members and staff of the Committee, in the committee rooms, or, by permission of the Chairman, in their offices.

b. Senators not members of the Committee, in the Committee's Capitol office, by permission of the Chairman.

c. Members of the executive departments in the departments, or, in the Committee's Capitol office, by permission of the Chairman.

3. Declassification of executive transcripts and other executive records.

Executive transcripts and other executive records of the Committee shall be released to the National Archives and Records Service for unclassified use in accordance with the policies of that Agency: *Provided*, That no such transcripts or other executive records shall be declassified within a period of 12 years except by majority vote of the Committee and with the permission of surviving members of the Committee at the time such transcripts or records were made and with the permission of the Executive Department, if any, concerned; and *Provided further*, That after 12 years from the date such transcripts or records were made, they shall be declassified unless the Committee by majority vote shall decide otherwise.

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[1] Committee rules with regard to open and closed meetings have been superseded by S. Res. 9, agreed to Nov. 5, 1975.

[2] See also S. Res. 60, agreed to June 12, 1975.

REGULATIONS FOR THE USE OF CLASSIFIED MATERIAL—OTHER THAN TRANSCRIPTS

Receipt and distribution of classified material.

1. All classified material received or originated by the Committee shall be keyed in at the Committee's offices in the Dirksen Senate Office Building, and except for material classified as "Top Secret" shall be filed in the Dirksen Senate Building offices for Committee use and safekeeping.

2. Each such piece of classified material received or originated shall be card indexed and serially numbered, and where requiring onward distribution shall be distributed by means of an attached indexed form approved by the Chairman. If such material is to be distributed outside the Committee offices, it shall, in addition to the attached form, be accompanied also by an approved signature sheet to show onward receipt.

3. Distribution of classified material among offices shall be by Committee members or staff only. All classified material sent to members' offices, and that distributed within the working offices of the Committee, shall be returned to Room 4229, Dirksen Senate Office Building. No classified material is to be removed from the offices of the members or of the Committee without permission of the Chairman. Such classified material will be afforded safe handling and safe storage at all times.

4. Material classified "Top Secret," after being indexed and numbered, shall be sent to the Committee's Capitol office for use by the members and staff in that office only.

5. The Chief of Staff is authorized to make such staff regulations as may be necessary to carry out the provisions of these regulations.

STAFF REGULATIONS

The Committee recommends that the following concepts serve to guide the staff in its activities:

1. The staff works for the Committee as a whole, under the general supervision of the Chairman of the Committee, and the immediate direction of the Chief of Staff.

2. Any member of the Committee should feel free to call upon the staff at any time for assistance in connection with Committee business. Members of the Senate not members of the Committee who call upon the staff for assistance from time to time should be given assistance subject to the overriding responsibility of the staff to the Committee.

3. The staff's—as, indeed, the Committee's—primary responsibility is with respect to bills, resolutions, treaties, and nominations.

4. The staff and the Committee also have a responsibility under section 136 of the Legislative Reorganization Act which provides that ". . . each standing Committee . . . shall review and study, on a continuing basis, the application, administration, and execution of those laws or parts of laws, the subject matter of which is within the jurisdiction of that committee." In the case of foreign relations, there is an additional responsibility deriving from the advice and consent clause of the Constitution. By the same token there are limitations deriving from the President's special constitutional position in regard to foreign relations.

5. In addition to carrying out assignments from the Committee and its individual members, the staff should feel free to originate suggestions for Committee or subcommittee consideration, making it clear in every case that the decision lies with the Committee or subcommittee concerned. The staff should also be free to make suggestions to individual members regarding matters of special interest to such members.

It is part of the staff's duty to keep itself as well informed as possible in regard to developments affecting foreign relations and in regard to the administration of foreign programs of the United States. Significant trends or developments which might otherwise escape notice should be called to the attention of the Committee, or of individual Senators with particular interests.

6. In carrying out the responsibilities in paragraph 5, the staff should bear in mind the workload of Senators and attempt not to deal in trivia but to limit itself to broad questions of basic policy or specific matters which point up a question of basic policy.

7. The staff should pay due regard to the constitutional separation of powers between the Senate and the executive branch. It should, therefore, try to help the Committee bring to bear an independent, objective, judgment of proposals to the executive branch and when appropriate to originate sound proposals of its own. At the same time, the staff must avoid impinging upon the constitutional prerogatives of the executive branch in the day-to-day conduct of foreign affairs.

8. In those instances when Committee action requires the expression of minority views, the staff shall assist the minority as fully as the majority to the end that all points of view may be fully considered by members of the Committee and of the Senate. The staff much bear in mind that under our constitutional system it is the responsibility of the elected Members of the Senate to determine legislative issues in the light of as full and fair a presentation of the facts as the staff may be able to obtain.

9. The staff should regard its relationship to the Committee as a privileged one, in the nature of the relationship of a lawyer to a client. In order to protect this relationship and the mutual confidence which must prevail if the Committee-staff relationship is to be a satisfactory and fruitful one, the following criteria are suggested:

a. The staff must be completely nonpartisan and responsible only to the Committee. Staff members should be hired and fired by the Committee solely on the basis of merit and without regard to political considerations.

b. Members of the staff must not be identified with any special interest group in the field of foreign relations or allow their names to be used by any such group.

c. Members of the staff must not accept public speaking engagements or write for publication in the field of foreign relations without specific advance permission from the Chief of Staff, or in his case, from the Chairman and the ranking minority member. In any event, such public statements should avoid the expression of personal views and should not contain predictions of future, or interpretations of past, Committee action.

d. The staff must in no circumstances discuss with anyone the proceedings of the Committee in executive session or conversations with individual Senators without specific advance permission from the Committee or the Senator concerned.

PROVISIONS OF LEGISLATIVE REORGANIZATION ACT

In addition to the foregoing, the Committee on Foreign Relations is governed by the standing rules of the Senate and the rules and procedures set forth in the Legislative Reorganization Act of 1946 as amended.

Rules of Procedure of the Subcommittee on Multinational Corporations

(Adopted by the subcommittee, Jan. 29, 1973.)

1. No hearing, public or executive, connected with an investigation shall be held without the approval of a majority of the subcommittee. The ranking minority member shall be kept fully informed on investigations and hearings. Members of the subcommittee shall, on request, be briefed by the staff with respect to such investigations. Preliminary inquiries may be initiated by the subcommittee staff with the approval of the chairman of the subcommittee and the ranking minority member.

2. Subpenas for the attendance of witnesses and the production of documents shall be issued by the subcommittee chairman with the approval of the ranking minority member. Other members of the subcommitee will be advised in advance (majority members by the chairman, minority members by the ranking minority member) of the intention to issue subpenas. If a member files a written objection with the chairman in 2 working days the matter shall be decided by a majority vote of the subcommittee.

3. The chairman shall have the authority to call meetings of the subcommittee. This authority may be delegated by the chairman to any other member of the subcommittee when necessary.

4. For public and executive sessions one member of the subcommittee shall constitute a quorum for the administering of oaths and the taking of testimony.

5. All witnesses at public or executive hearings who testify to matters of fact shall be sworn.

6. Counsel retained by witnesses shall be permitted to be present during the testimony of the witnesses at any public or executive hearings and to advise the witnesses of their rights.

7. Witnesses who wish to read a prepared statement in executive or public hearings shall file 20 copies of the statement with the subcommittee at least 24 hours in advance of the hearing at which the statement is to be presented unless the chairman and the ranking minority member waive this requirement.

8. A stenographic record of a witness' testimony whether in public or executive session shall be made available for inspection by the witness and his counsel under committee supervision.

9. Interrogation of witnesses at subcommittee hearings shall be conducted on behalf of the subcommittee by members and authorized subcommittee staff personnel only.

10. Any person whose name is mentioned in public hearings or who is specifically identified and who believes that testimony presented at a public hearing or comment made by a subcommittee member or counsel tends to defame him or otherwise adversely affect his reputation may appear before the subcommittee to testify in his own behalf or file a sworn statement of facts relevant to the testimony or other evidence or comment complained.

11. Testimony taken in executive session shall be kept secret and will not be released without approval of the majority of the subcommittee.

12. Any corporation which has delivered documents to the subcommittee by request or under subpena and which wishes to have the documents treated in a confidential manner shall within 2 weeks after the documents are submitted provide the subcommittee with a written request that the documents be kept confidential including a detailed statement of the reasons and the possible damage which may result from disclosure. The chairman with the approval of the ranking minority member shall be empowered to schedule an oral presentation of the request for confidentiality in a duly noticed executive session. Following full presentation the matter shall be decided by a majority vote of the subcommittee which shall be recorded and made public.

13. Nothing in the foregoing rules shall be construed as contradicting or superseding the rules of the full Committee on Foreign Relations.

ED REDDITT—ACHIEVING EQUALITY OF OPPORTUNITY

Mr. BAKER. Mr. President, I recently had the pleasure of participating in a program sponsored by the Memphis Chapter of the National Business League honoring Ed Redditt, an outstanding black citizen of Memphis. Throughout his lifetime, Ed has been a leader in community affairs, as a police officer, as director of a community relations office established by Senator BROCK, Congressman Dan Kuykendall and myself, and in his current capacity as deputy director of the Memphis Department of Community Development. Ed's goal has been to help the black citizens of Memphis to help themselves through improving and expanding opportunities for business development, education, and health care in the urban community.

At this time, I would like to share with my colleagues in the Senate Ed Redditt's remarks on achieving equality of opportunity. I believe they will be an inspiration for us all.

Mr. President, I ask unanimous consent that Mr. Redditt's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

LET ME LIVE IN A HOUSE BY THE SIDE OF THE ROAD AND BE A FRIEND TO MAN

Distinguished platform guests, friends from all over Tennessee and other States. No man can really succeed without his God and without the patience, loving care and understanding of his family. To my wife, Bobbie, and my children, I love you and thank you for making it possible for me to be receiving honors tonight.

To the officers and the staff of Memphis NBL, and especially to the small businessmen who have expressed to me their desire to aid in alleviating such pressing social problems, such as: crime, employment, housing and other problems. The project outreach program benefits such institutions as: St. Jude's Research Hospital, Lemoyne-Owen College, Lane College. I cannot say thank you enough, I am completely overwhelmed and left speechless.

Some time ago, way back in 1947, while running track for old Manassas High School, I was in the blocks, at the starting line for the finals in the Tennessee State high school 220 yard dash championship. I can remember glancing toward the opposite side of the finish line, thinking how far it seems I have to run and how stiff the competition would be.

When that gun finally went off, it was like it had been pointed right at me. I don't think I had ever gotten a faster start. And, as we rounded that curve the wind stood me straight up. You've got to have a certain something, a peculiar determination at that point, because speed alone won't whip that wind and all the coordinating conditioning and preparation in the world won't stop that burning in your chest or that stiffening in your legs.

But, I reached within me for all the strength that the Good Lord had given me and when I leaned toward the tape sending my arms straight out in back of me, no one had to tell me that I was the first one there. Those thoughts go through my mind now as I reflect on the journey that blacks have traveled in our struggle for equality.

We knew all along that the distance would be great and the finish line was far away and even though we have made significant strides and despite the congressional and judicial assistance we've received, the winds of resistance to change smacks us time and time again with the reminder that it will take a special something, a renewed determination, to get us to the finish line of equality and parity.

I am particularly thankful tonight that the proceeds for this affair will be divided into three areas which I believe are crucial to the survival of black people. The areas of business development, educational opportunity, and health care are essential components for the transformation of our ghettos and slums into prosperous communities.

Our task is by no means simple. The responsibility for meeting our objectives rests equally upon the federal, city, county and state governments, big business and small businesses. Therefore, small businesses must be increased and expanded.

Business development organizations such as the Memphis National Business League must be expanded by government and private funds because, if NBL can generate over $10,000,000 in loans, contracts and gross receipts in the past year with 10 professional employees, then, think of the tremendous impact, if the budget was larger.

There is no place better to begin than right here in the mid-South to increase and expand small businesses. So much of our history is tied to this land.

The South has been the region which has provided for our essential needs, as well as our most bitter memories.

Today, this land is undergoing a transformation. Ever so slowly we are moving from an agrarian based economy to industrialization.

We are preparing ourselves for this challenge. No longer must our business community be satisfied with providing services and producing goods without being concerned about the total community problems.

With the assistance of Federal dollars, one of the most massive construction projects ever to affect the mid-south area is currently under development. The Tombigbee waterway project, a gateway to the Gulf of Mexico, will have a new shipping lane through the middle of the cotton belt. In those same states where we have historically planted and picked king cotton, more than a billion dollars will be spent to construct a major shipping lane through Tennessee, Alabama and Mississippi. Under executive order 11246, the Federal government is required to ensure that minority contractors and subcontractors are involved in federally-assisted construction projects.

In light of this responsibility we are currently involved in negotiations to ensure the utilization of minority contractors in the Tombigbee project. Our goal calls for $300,000,000 worth of prime contracts to be set aside for minority contractors and an additional $150 million provided in jobs for minorities.

Blacks must be ready to accept this challenge and expand our vision beyond plantin' and pickin' to contractin' and constructin'. (Applause.)

Our race is far from over and the finish line is not yet in sight.

We must always be vigilant that the doors of opportunity remain open and we must be prepared to seize those opportunities.

We must equip ourselves with the tools necessary to do this by demanding the type of education which will ensure our children a truthful historical perspective which defines the family of man only as extensions of ourselves.

In this regard, our higher educational institutions, whose responsibility for decades, has been to ensure the growth and development of our people, must survive. Black colleges must survive and prosper if we are to survive and prosper.

Their level of instruction must be second to none. They must produce the kinds of leaders who think as men and women of action and act as men and women of thought.

These institutions must survive. However, unless black people begin to develop a tradition of giving. It is naive to assume that foundations and federal support will be enough. We will either take an active role in our institutions development or take a passive role in our destruction.

Too often our administrators and faculty become complacent before the crucial task which is theirs and become immersed in efforts to simply hold their ground. Let them be guided by the persistent cry of our people for competent and effective leadership and by the never ceasing need for us to finally take charge of our destiny in national and international affairs.

We as a people have historically had a tradition of providing for the elderly and the sick.

It is a tradition which reaches beyond this continent and finds its roots in the homeland of our ancestors.

Yet, we have strayed far afield from the practice of ensuring that health care is within the reach of all citizens.

By providing the best health care available within the means of all citizens we may once again rekindle that spirit. Working towards this end must be the responsibility of our government, our institutions, and ourselves.

When all is said and done, our survival, be it in business, education, or health, is linked unshakeably to one another and the personal commitment which we make. I believe there is an appropriate African proverb which defines how we must relate to one another. It says simply that, "I am because we are and as we are therefore I am."

Only until we have realized how far we have come and how far we must go and only until we begin to reach within ourselves for that certain something, that peculiar determination to succeed will we truly be in sight of the finish line of equality.

Again, I thank you from the bottom of my heart. I will continue to work and not retire.

Again, thank you so very much and I love you all.

(Applause)

REPLY ON FOREST HAVEN

Mr. HUMPHREY. Mr. President, on February 19, I brought to the attention of the Senate the most recent situation at Forest Haven, the government of the District of Columbia's residential facility for the mentally retarded.

At that time I pointed out the serious shortage of staff and other problems at the facility and the fact that although Congress had appropriated funds for some additional staff, most of the funds never reached the facility.

I now have received a letter from Mr. Joseph P. Yeldell, Director of the Department of Human Resources of the District of Columbia, concerning the present situation and the need for additional funds for the center.

Mr. Yeldell advises me that recruitment actions have been effected on each of the 52 positions allocated in fiscal year 1975 but that additional funds are needed for the remaining unfilled positions at Forest Haven.

I am bringing Mr. Yeldell's letter to the attention of the Senate and House District of Columbia Committees and the Appropriations Subcommittees on the District of Columbia.

I have responded to Mr. Yeldell's letter with my assurances of full cooperation. I ask unanimous consent that Mr. Yeldell's letter of February 17 and my response of February 23 be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of Human Resources,
Washington, D.C., February 17, 1976.
Hon Hubert H. Humphrey,
U.S. Senate,
Washington, D.C.

Dear Senator Humphrey: Please accept my apology for the delay in responding to your letter dated November 12, 1975, regarding Forest Haven.

I welcome this opportunity to provide additional information on the status of the eight year plan of improvement and on the outstanding needs of the institution. In FY 75, Forest Haven received 52 new positions and $900,300. The increase resulted in the development of a sliding pay scale and payment to 225 residents working at Forest Haven. In 1975, educational services were substantially increased and diversified. Career Development, Horticultural, and Work Training programs, funded from appropriated and federal funds, are presently serving persons in a variety of training areas. Title One funding made possible the provision of educational services to school age children whose handicap restricts them to the various cottages. The effect of this at Forest Haven was a 12% increase in the number of school-age children in educational programs. The number of Forest Haven residents attending public schools increased by ten to fifty.

A Business-Men's Advisory Board has been sanctioned and given the direction necessary to impact favorably on our deinstitutionalization program. This volunteer organization has made substantial progress in establishing two community-based residences and installing on-the-job training by the private sector on the grounds of the Institution.

Currently, approximately one-half of the resident population is actively engaged in a developmental program. In addition to the regular public school curriculum, residents are receiving training in horticulture, landscape gardening, housekeeping, food service, general clerical skills, and building maintenance. Behavior modification and infant stimulation are provided to more severely handicapped residents.

I am pleased to advise that recruitment actions have been effected on each of the 52 positions allocated in the first year of the eight year plan. There remains, however, numerous unfilled positions at Forest Haven, due in large measure to funding shortages.

Fiscal restraints have forced us to delay the launching of the second year of the eight year plan of improvement. That phase of the eight year plan was included in the 1976 District of Columbia Budget request, as amended, again, due to our fiscal posture, to include $830,000 with no additional positions. Our request for additional positions and supporting funds is contained therefore, in the 1977 District of Columbia Budget request. These funds and positions will be allocated for the following purposes:

a. Increased Direct Care.
b. Community Based Day Treatment.
c. Community Based Sheltered Workshop.
d. Community Based Residences.
e. Employee Training.
f. Developmental Services Center.
g. Inflationary Increases.

In the second year of our eight year plan, we envision 20 additional residents attending community schools. We also envision 100 additional profoundly retarded children receiving training in developmental skills, and approximately 50 more residents returning to the community. Additionally, as part of our Capital Improvements Program, scheduled to begin February 1, 1976, we anticipate renovation of our food services.

Further, we are prepared to accelerate the incrementally planned stages toward the goals of the eight year plan, should you decide to go forward with a special request. Funding shortages continue to plague Forest Haven. They are needed for equipment and supplies as well as for personnel increases ranging from physicians to maintenance workers. An increase in staff, which has been diminished by funding shortages, would enable us to better provide the kinds of services that are essential in promoting the health and well being of all residents and in meeting at least the minimum standards of health and safety.

New programs utilizing this increased staff would be introduced, as well as the expansion of present programs that would involve therapeutic and remedial activities for all residents. For example, we would increase therapeutic recreation, behavior modification, infant stimulation, physical therapy and other activity programs for the profoundly retarded and multiply handicapped. Also, benefitting from such increases would be our educational and training programs for the more moderately handicapped persons. Moreover, these gains would serve as a moving force toward increasing our deinstitutionalization program. Additionally, funds would be used to purchase special equipment used in training basic educational skills, special vocational skills, as well as therapeutic recreational equipment, buses, and new furnishings to provide more comfortable cottage life.

Your sustained interest and vigorous campaign within Congress on behalf of Forest Haven last year is very much appreciated. Your support of the second year of the plan as it is outlined in the 1976 budget would also be very much appreciated.

Sincerely,

Joseph P. Yeldell,
Director.

Committee on
Agriculture and Forestry,
Washington, D.C., February 23, 1976.
Mr. Joseph P. Yeldell,
Director, Department of Human Resources,
Government of the District of Columbia,
Washington, D.C.

Dear Mr. Yeldell: Thank you for your letter of February 17, 1976, concerning the serious problems at Forest Haven.

I am especially heartened to note that you are now recruiting to fill the 52 positions allocated for the first year of the eight year plan I hope this can speedily be accomplished as I understand the need for these additional personnel is urgent. I would hope also that with these positions staffed, the reported overtime by present staff will be considerably reduced.

Regarding the need for funds for the remaining unfilled positions at Forest Haven, I assume you are referring to those requested in the 1976 District of Columbia Budget now being considered by the Senate Appropriations Subcommittee on the District of Columbia. You may be assured of my support and I will follow-up with Senator Chiles, especially to consider the request for increased direct-care personnel at Forest Haven as this seems to be the area of most urgent need as expressed to me by citizens of the District of Columbia.

With respect to the goals of your eight year plan, I am bringing this to the attention of the respective Congressional Committees for the District of Columbia to consider as the District Government sends up its Fiscal Year 1977 budget.

If there is anything further I can do to help, you will have my full cooperation.

Sincerely,

Hubert H. Humphrey.

PROGRESS ON THE VLA

Mr. DOMENICI. Mr. President, in one of the most beautiful areas in my home State of New Mexico one of the marvels of the scientific world is now under construction. Out where the air is so pure that atmospheric interference is at an absolute minimum, the National Science Foundation, Associated Universities, Inc., and others are working on the very large array telescope project.

Another phase of the construction is now beginning and we all hope that the VLA, as it is called, will be completed on schedule. First functioning of the VLA is set for 1977 at the present rate of construction and all looks well.

New Mexico is proud of the enormous impact our State's million people have had in the world of science. Scientists and technologists at Sandia Laboratories in Albuquerque, Los Alamos Scientific Laboratory in Los Alamos, White Sands Missile Range near Alamogordo and Las Cruces, Holloman Air Force Base near Alamogordo, Kirtland Air Force Base in Albuquerque, and our great universities have made New Mexico the richest scientific State, on a per capita basis, in our Nation.

The VLA will be a welcome addition to this impressive array of scientific brainpower. As has been the case with so many New Mexico located projects, it will be pioneering in spirit and effect. New Mexico stands ready to aid the Nation in other fields, too, drawing upon its unparalleled proven ability to meet scientific challenges quickly and brilliantly.

Mr. President, I ask unanimous consent that an article detailing progress on the VLA, an article which appeared in the February 1976, issue of "Physics Today," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Progress Report on the VLA

Work goes on at the Very Large Array telescope project's site on the arid Plains of San Rugustin, fifty miles west of Socorro, New Mexico. A $2.9-million subcontract for the third phase of construction of the giant radio telescope has been awarded to the Burn Construction Company.

The VLA telescope, which is expected to be fully in operation some time in 1981 (see Physics Today, May 1972, page 17), had its origin in studies initiated in the early 1960's, to improve the performance of radioastronomy instruments in general. The essential concepts and design of the facility now under construction were developed between 1964 and 1971. Design and construction of the array is the province of Associated Universities Inc., the non-profit corporation of nine universities that operates the National Radio Astronomy Observatory under contract to the National Science Foundation. AUI also operates Brookhaven National Laboratory.

When it is completed, at an estimated cost of $76 million, the telescope will consist of 27 fully steerable dish-shaped antennas, 82 feet in diameter and 90 feet tall, distributed along three sets of railroad tracks arranged in an equiangular Y configuration. The northward arm will stretch 11.8 miles across the plain, and the others will extend for 13 miles southeast and southwest.

Phase three in the project's construction consists of ten miles of railroad embankment to be prepared, 8.1 miles of double trackage to be laid, 49 radiotelescope antenna foundations to be built, and the installation of railroad switchings and turnouts, as well as an underground electrical system. The Burn company had previously been awarded, in June, 1974, a $605,000 contract for the first phase of the construction. This phase, which involved the setting up of one mile of trackage and six foundations, plus assorted site services, was successfully completed in Spring 1975. Phase two construction consisted of the permanent buildings, site work, and utilities; it has been undertaken by the George A. Rutherford Construction Company for about $2.4 million. Launched in December, 1974, this second stage is about three-quarters finished.

When the Burn company wraps up its work, there will be nine miles of double railroad trackage and 55 antenna bases ready for use. The Very Large Array is scheduled to begin functioning as an instrument for serious scientific work in late 1977, when its first ten antennas will already have made it one of the most powerful tools for radioastronomy in the world. The facility's nearest competitors will be the six-element array at Cambridge, England, and the 12-element system in the Netherlands, at Westerbork. Both will be kept busy even after the VLA is in operation.

Resolving power for the completed VLA will be equivalent to that of a conventional radio telescope consisting of a steerable paraboloidal dish 17 miles in diameter. Such a Brobdignagian antenna would be unwieldy, difficult to situate, exceedingly vulnerable to disturbed weather conditions, and incredibly costly; in addition, it would be quite unnecessary. Aperture synthesis, the principle on which all such arrays as the one taking shape in New Mexico are based, was developed conceptually in the late 1050's to obviate the need for such monsters. Martin Ryle won a Nobel prize for this and other contributions to the field of radioastronomy.

The VLA radio telescope employs ordinary aperture synthesis techniques as follows: Signals received at each of the 27 antennas are to be relayed to a central control building, where a computer will combine each message from any given antenna with each of the other antennas' signals. The first antenna has already been successfuly used to send signals from a radio source to the computer. A final total of 351 interfering antenna pairs distributed over the Y of the tracks will generate a radio map of any portion of the sky. Moreover, the rotation of the Earth will steadily move these 351 interferometers to new points while the same patch of sky is under observation, a refinement known as "supersynthesis."

The result will be higly detailed radio "pictures" produced in times from a few minutes up to 12 hours. Typical resolutions for areas several arc-minutes across will be 0.6 seconds of arc at an observing wavelength of six cm, or 2.1 seconds of arc cm, the well-known neutral hydrogen wavelength. At first only four observing wavelengths will be available, but these will be broadly representative of the radio spectrum: 18–21 cm, 6 cm, 2 cm, and 1.3 cm. The resolving power of the Very Large Array at these bands will make the facilty comparable in the sharpness of its results to the 200-inch optical telescope on Mount Palomar. Plans among other nations for building VLA-scale radio telescopes are unknown, but the US facility will be available to qualified foreign users.

SUPPORT FOR A FEDERAL GRAIN INSPECTION SYSTEM

Mr. McGOVERN. Mr. President, the report of the General Accounting Office on bribes, swindles, misconduct in grading grain produced by American farmers has triggered almost immediate comment on the editorial pages of newspapers in South Dakota and other grain-producing States.

Tired of reading about adulterated shipments in international commerce and complaints of foreign buyers, these newspapers take the position that integrity of the product coming from producing areas must be protected at every step in the commercial channels.

Mr. President, because of the interest in both bodies on the subject and because of the timely nature of the comments, I ask unanimous consent that an editorial from the Sioux Falls Argus Leader on February 18, 1976, entitled "Senators Act in Grain Scandal" and a similar editorial from the Mitchell Daily Republic on February 19, 1976, entitled "A Federal Grain Inspection System" be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Sioux Falls Argus Leader, Feb. 18, 1976]

Senators Act in Grain Scandal

The General Accounting Office's (GAO) report on the nation's grain inspection system confirmed what national legislators and the nation's farmers already knew: criminal abuses in some ports have cheated foreign buyers from getting the amount and kind of American grain they paid for.

One result of the abuses last year was to cause a decrease—the amount of which is unknown—in sales by United States firms to foreign buyers. Last year, foreign purchases of grain totaled $12.5 billion.

U.S. Sen. Hubert Humphrey, D-Minn., chairman of the Senate agriculture subcommittee which requested the investigation of grain shipments, said the GAO report "documents far too many instances of misgrading and short weights for us to conclude that anything short of wholesale overhaul will restore our credibility in the eyes of our customers."

Humphrey and Sen. Robert J. Dole, R-Kan., the ranking Republican on the Agriculture Committee, were expected to offer a bill today that will require an all-federal system of weighing and inspecting U.S. grain. U.S. Sen. George McGovern, D-S.D., and U.S. Sen. Richard Clark, D-Iowa, cosponsored a comprehensive bill last year and expect to have a new bill ready shortly.

WHAT AGENCY RECOMMENDS

The GAO recommended that the Department of Agriculture be authorized to control sampling, grading and weighing at all ports and major inland terminals.

GAO recommended that Congress take action in three phases: to provide the Department of Agriculture with authority (1) to take over supervision now from firms where serious grain grading problems were discovered; (2) assume complete responsibility at the earliest possible date at all ports and (3) to extend the federal inspection system to the main inland terminals after effective experience with the new system at the ports. The department would provide inspection service on a request basis later, to minor inland terminals or country elevators. The latter would be handled under standards and procedures prescribed by the department.

While the objective and the need for a federal system are clearly defined, the practical matter of enfolding present grain inspection agencies and employes, now working for states or private firms, into a new setup presents some problems for Congress. How to resolve employes' fringe benefits, whether to put them into Civil Service, etc., are real sticklers.

FAIR TREATMENT SOUGHT

McGovern, commenting on the GAO report, said: "It has been my long standing view that it is essential that both our grain producers and foreign customers are treated fairly and accurately. Both parties must get the grade, quality and quantity for which transactions are made. Anything less reflects poorly on the producer."

That is well stated. The American farmer, who has fed the world in peace and war, does not deserve what has happened to the image of this country abroad, because some grain firms, some inspectors and some individuals defrauded foreign buyers. In their eyes, the land of the free and home of the brave has condoned cheating.

What's on the record doesn't show the real extent of the problem. Grand juries have returned 38 indictments charging 61 persons and four companies with more than 280 criminal acts. Unfortunately, foreign discontent with American shipments is much more widespread. Some buyers have not complained, because they hesitated to tilt against this country's bureaucracy or a faraway consignor.

It's encouraging that McGovern, Humphrey, Clark and Dole are all working on the problem. What specific measure is chosen isn't important, so long as the problem is met. If stopping the cheating requires putting most inspectors into federal service, it should be done—and quickly.

[From the Mitchell Daily Republic, Feb. 19, 1976]

A Federal Grain Inspection System

Stressing that the intergrity of both the export purchaser and our grain farmers are in serious jeopardy, Sen. George McGovern has indicated he is in "substantial agreement" with a recent Government Accounting Office (GAO) study that urges congress to set up an inspection system to control sampling, grading and weighing of grain at all export major terminals and ports.

In a news release Tuesday our South Dakota leading Senator said, "It is essential that both our grain producers and foreign customers are treated fairly and accurately, both parties must get the grade, quality and quantity for which transaction are made—anything less reflects poorly on the producer." McGovern was referring to the Senate Agriculture Committee's recent investigation at New Orleans, Houston and Dallas which surfaced corruption in our current inspection system. He pointed out that to date grand juries have returned 38 indictments charging 61 persons and four companies with more than 280 criminal acts.

In order to correct the inspection abuses, he has co-sponsored legislation aimed at making the grain inspection system a function supervised and operated by the USDA. "Without proper supervision, these private firms resorted to short weighing, adulteration, bribes and other illegal acts," he said. "Such scandalous behavior tends to down grade the integrity of U.S. agriculture and must be prevented from reoccuring."

McGovern continued by saying that the U.S. exported $21.9 billion worth of agricultural products of which earnings from these commercial exports made an important contribution to farm income in grain producing states like South Dakota. He further supported his backing of government control by exposing, a portion of the report that found incorrect grade on 10 of 30 per cent of grain samples rechecked by ag department inspectors.

We—as have other people—have strongly opposed the government trend on the state and federal level of taking control of many of our programs which should be handled on the local level or under our private enterprise. However, under these circumstances where greed has taken precedence, resulting in unfair prices to our farmers, revamping of our grain inspection system is necessary to avoid additional corruption. If independent companies continue to take advantage of our grain producers, then possibly the only other alternative is for the Department of Agriculture to federally supervise inspection at all terminals and ports.

WILLIAM W. SCRANTON TO THE U.N.

Mr. HUGH SCOTT. Mr. President, the Philadelphia Inquirer today has an outstanding editorial about the appointment of my good friend William W. Scranton as Ambassador to the United Nations. I certainly agree with the Inquirer that "it is a first-rate appointment."

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MR. SCRANTON TO THE U.N.

The name of William W. Scranton has been brought up regularly for one public office or another ever since 1967 when Mr. Scranton ended his term as Republican governor of Pennsylvania with a vow never again to run for public office.

Mr. Scranton would consent only to take an occasional special assignment. One such was his post as chairman of the Commission on Campus Unrest, which President Nixon appointed in 1970 in the wake of the widespread protests over his Cambodian "incursion."

In its report, the commission called on Mr. Nixon to "exercise his reconciling moral leadership as the first step to prevent violence and create understanding." Mr. Nixon responded by repudiating the report and unleashing that great moral leader Spiro T. Agnew, who called it "pablum for the permissivists." Mr. Nixon, who had once urged Mr. Scranton to become his secretary of state, did not call on Mr. Scranton for further services.

Now, President Ford has called on him to serve as U.S. ambassador to the United Nations, and Mr. Scranton has accepted. It is a first-rate appointment.

Mr. Scranton is no Daniel Patrick Moynihan, who has just left the post to return to Harvard. The word that comes to mind to describe Mr. Moynihan is flamboyant. The word for Mr. Scranton is cool. Yet if his personal style is different, Mr. Scranton can be relied upon to carry out the same U.S. policy, that is, as he put it the other day, to "stand up and speak strongly on behalf of the United States."

The U.N. is a diplomatic and political body and Mr. Scranton has plenty of diplomatic and political experience, as a top State Department official, congressman, governor, presidential candidate in 1964, and adviser to Mr. Ford.

The U.N. is also a body whose own "reconciling moral leadership" is at the lowest level in 30 years, as exemplified by the General Assembly resolution equating Zionism with racism. No single individual can be expected to accomplish miracles, but Mr. Scranton can certainly be relied upon to remind the members of what the U.N. ought to stand for.

BRAZIL-U.S. BUSINESS COUNCIL

Mr. McGEE. Mr. President, last month a significant event occurred in Washington, D.C. The Chamber of Commerce of the United States and a Brazilian Joint Commission signed an agreement establishing a Brazil-U.S. Business Council. The purpose of this council is to provide a channel for direct dialog between business leaders and key commercial decisionmakers of the two countries.

This is a very important development. As was noted in the chamber's news release: "Total United States-Brazilian trade in 1975 amounted to approximately $4.5 billion. The United States is Brazil's largest trading partner while Brazil ranks as the seventh largest trading partner of the United States. Brazil has the single largest amount of U.S. investment in Latin America."

During the signing ceremonies, Minister Joao Paulo dosReis Velloso, Head of the Brazilian Secretariat for Planning to the Presidency of the Republic, delivered a speech describing the current state of the Brazilian economy.

I ask unanimous consent that Minister Velloso's speech and the chamber news release announcing the signing ceremonies be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BRAZIL-U.S. BUSINESS COUNCIL, SIGNING CEREMONY AND LUNCHEON, JANUARY 30, 1976, WASHINGTON, D.C.

Mr. President, Mr. Chairman, Mr. Under-Secretary of State, Mr. President of the Eximbank, Mr. President of the Inter-American Bank, Mr. Charge d'Affaires. Ladies and Gentlemen, let me start by trying to tell you what the Brazilian economy is now and what it is trying to do. We are trying to consolidate a modern market economy that, as I said before, not just because of efficiency but because it is the way to reconcile efficiency with economic freedom. We are trying to reach a balance between the Government, on the one hand, Brazilian private sector and foreign private companies in Brazil.

What we expect from foreign capital in Brazil besides capital, of course, is technology. More sophisticated technology and management, and now some contribution to the Balance of Payments: import substitution, exports and a higher percentage of direct investment in comparison with loans that they get from abroad.

Economically what determines a country's capacity to develop is her opportunity for investment coming from natural resources, from the market, the size of the market, her human resources, technology and so forth. This has not been changed in Brazil because of the world turbulence but, on the other hand, we have to be aware of the short run problems of a transition period. A period in which the constraint for growth is the Balance of Payments and particularly the availability of imports. So, what we are trying to do essentially is to reconcile these two views: the ample opportunities for Brazil in the long run and the management, the good management of the economy in the short run to maintain the country's creditworthiness.

Let me make some remarks about this basic idea.

The first remark is that the situation we have to face is not just the increase in the price of oil and its consequence on the Brazilian economy. In fact, in recent years, mainly in the last two years, we have been seeing a very important structural change in Brazil without changing the model, so to speak, without changing the philosophy of a market economy. Even, in the Balance of Payments there were other factors.

In 1974, besides increase in the price of oil, we had raising prices of raw materials and of capital goods. In 1973 we paid US $2.6 billion for our imports of raw materials, in 1974 we paid US $5.7 billion. The case of oil is obvious: in 1972, we paid US $300 million for oil, in 1974 we paid US $3 billion.

The energy problem.—Of course we do not need oil for heating or for generating electric power. We have plenty of certain sources of energy, hydroelectric power sources and we have scarcity of oil. That is why we import 80% of the oil we consume.

We have just found out that four or five rivers of the Amazon region have a new potential of 40 million kW which is four times the Itaipu project which you may have heard about. This shows that nuclear energy will become important ten years from now that quantitatively is not so important now, what is important is the absorption of that new technology.

There have been changes in comparative advantages in our competitive power in different items because of the energy situation. For example, we are now very competitive in aluminum but we still import aluminum. We are competitive because we have plenty of bauxite and plenty of electric power. We have had to recycle the economy to change the structure, the industrial profile of the economy putting more emphasis on capital goods, on basic inputs like non-ferrous metals, fertilizers, petrochemicals, more emphasis on agriculture, mining, changing the priorities within the transport sector, paying more attention to railroads vis-a-vis highways, etc.

The second remark is the basic option that we had to make when we prepared the Second Development Plan. Would we follow the trend of the industrialized countries or would we try to avoid importing recession and importing unemployment.

We had the rate of growth of 10% in 1964, of practically 5% in 1974 and of practically 5% in 1975. The level of investment in the country is very high and I will comment on that later.

What we tried to do was to make one type of adaptation as fast as we could, that is, to change the structure of the economy to adapt it to the new world conditions. The other type of adaptation that is the curtailing of imports we tried to do in a gradual way. In fact, we like gradualism in Brazil, we treat inflation in a gradual approach as you know.

The results so far have been: 1) visible normality of the economy. As I said before, we have had growth, we have had growth and employment so far; 2) we have had a normal inflow of capital. In 1975 we received around US $820 million of direct investments, that was three times what we got in 1972. We received US $4.6 billion of financial credits and US $2.3 billion of credits from international institutions and long-term suppliers' credits; 3) we expect a reasonable rate of growth of 1976, whatever reasonable means, particularly now that it seems the world economy in really recovering: 4) we have had a balanced budget for some years, even in 1975, and we expect to have a balanced budget in 1976.

The third remark is about the Balance of Payments and that 'transition period' I talked about earlier. We have had a diversification of exports and a general diversification of the various elements in our Balance of Payments and now the Brazilian economy is less vulnerable to an external turbulence than, let us say, ten years ago. In 1963, coffee accounted for 53% of our exports, now it accounts for 10 to 12%. Manufactured goods accounted for 3% in 1963, now they account for 30 to 35%. Minerals and non-traditional agricultural products accounted for 15% now they account for 50 to 55%.

We have diversified our sources of financing, our sources of direct investments. In 1975 we completed the year with a level of reserves of the order US $4 billion which is higher than we had in August last year. We reduced our trade deficit by 25% and we maintained the level of imports constant and we raised our exports by 8%.

We have to point out that Brazil has been one of the countries with the highest rate of growth of imports in the last five or six years. I have mentioned that from 1969 to 1973 we expanded imports by 25% a year and in 1974 by 120%. But last year we decided that it was necessary to maintain the level of imports constant, infact, there was a slight reduction of about 3% in value and a much more significant reduction in volume for consumer goods and for raw materials.

This is a transition period in the sense that what we are trying to do is to reduce our trade deficit to the minimum we can in 1976 and try to eliminate it in 1977 in order to sustain our level of reserves.

There was a remark in a newspaper here about the restrictions that Brazil approved on imports late last year. For one, these restrictions are temporary, they work through the market mechanism, we do not have quotas, there is no system of quotas. We set a prior deposit, we raised the price of imports, we raised tariffs and we set that prior deposit.

In order to show that we are being very austere in the management of our Balance of Payments and particularly in the management of our trade account. Of course we are still a capital-importing country and credit countries, investor countries should be glad that we are doing this.

We do not want other people to tell us what we have to do about our Balance of Payments because we are doing what it has to be done; to try to reconcile maintaining a positive rate of growth, the highest possible positive rate of growth with the creditworthiness of the country.

There was also a comment on loans by commercial banks here to industrializing countries in general. The only problem with that kind of comment is that there are countries and there are countries.

If we compare Brazil's indebtedness, total indebtedness with other magnitudes, other economic magnitudes, like the Gross National Product and exports, what we will find is that the country's indebtedness has been growth but these other magnitudes have been growing faster. For example, if we take the ratio of total indebtedness of the country to exports of goods, just goods not including services, and here we have really total indebtedness, that is, public and private and public external indebtedness in Brazil account for 50 to 60% of the total. That ratio of total indebtedness to exports was of the order of 2 by 1968, it was much higher in 1963 and it was of the order of 2.2 in 1974. There is practically no change.

If we take the net ratio, that is, if we exclude the country's reserves from total indebtedness, that ratio was 1.9 in 1968 and 1.4 in 1974. If we include services in exports; that is if we take a ratio of indebtedness to exports of goods and services the ratio was 1.6 in 1968 and 1.2 in 1974.

At the same time I should point out that Brazil has no "hot money". The minimum maturity we accept for any financial credit if five years. This is the minimum maturity and the maturity structure of the debt has been improving.

These are just certain aspects of the problem which I am emphasizing to show that we are very aware of the importance of a good management of the country's external debt.

Now let me make just a brief remark about opportunities and development. Differently from Europe and even from the U.S., Brazil is just scratching her potential of natural resources. The fact is that we do not even know what we really have, we are finding out what we really have. Just to give an example, we have found an iron deposit for 18 billion tons of high grade ore, we have found phosphate rock deposits in Minas Gerais estimated in 500 million tons which will allow Brazil to become self-sufficient in phosphate fertilizers in one or one and a half years, we have the hydroelectric power reserves in the Amazon region, also the opportunities for expansion for cultivating the land. Just in the area of Brazilia, which we call the central plateau, we have about 50 million hectares to incorporate to the country's agricultural frontier in the coming years.

We have been expanding our reserves of oil, coal, phosphate, iron ore, bauxite, hydroelectric power and many other minerals. The result of this is that we can talk about self-sufficiency in all basic inputs leaving aside oil.

So we have two strategies: one is if we can become self-sufficient in oil in the medium run and the second one is, if we have to accept some 60% of internal production of the oil we consume. But in the second alternative we can become self-sufficient in steel, non-ferrous metals, petrochemicals, fertilizers, basic pharmaceutical products, etc. The programs for self-sufficiency in those areas account for an investment of the order of US $25 billion until 1980, and a gross savings of foreign currency of the same order of magnitude, that is US $25 billion.

Two years ago we imported 4 million tons of steel due to the expansion programs which we started in 1971, this year we will import 1.2 million tons of steel, so the results come fast.

The rate of investment in 1974 was 25% of the GNP—of course, part of that is due to a larger current account deficit in the balance of payments. In 1975 the rate of investment was 27%.

Now let me make a remark about bilateral relations between Brazil and U.S. You know that we have had a deficit in the trade account with the US of the order of US $1.3 billion in 1974. The level of trade between Brazil and the US has been around US $5 billion in recent years, imports less exports. We had an even higher current account deficit of the order of US $1.9 billion in 1973.

It is natural that we have a deficit in current account, we are a capital-importing country, but we consider the deficit we have been having too high. We have a positive approach to the solution of the problem: more trade, more investment, more financing.

We think that the United States should differentiate in her economic relations with other parts of the world, treating them differently because the Trade Act and other instruments allow it—different partners, according to whether the US has a deficit or a surplus and other economic considerations.

On our side we have been trying to diversify our economic relations with the various regions of the country, the West Coast, the South, and in fact we are thinking of creating consulates in Dallas and in Atlanta just for that purpose.

Ladies and Gentlemen, I am not going to cover the social area, just to say that Brazil has been very active in social development in recent years. Wage adjustments have been consistently above the rate of growth of prices, of the cost of living. For example, in December wage adjustments were of the order of 37% and the increase in the cost of living in the previous twelve months was of the order of 29 to 30%. We are transferring productivity gains to the workers.

A U.S. former Secretary of the Treasury said once about Brazil and it is a country where it seems that the future is happening in the present because things happen very fast.

What we are trying to do in this transition period, in these two years—1976 and 1977—when we may have lower rates of growth—by lower rates of growth I mean 4 or 5%—is to prepare the economy to boom again towards the end of the decade.

Development is a sociological and a political factor, mainly because development depends essentially on the country's will to develop, on the country's determination to do what has to be done.

We like to say that we are trying to develop Brazil on our image, we like to say that we are a cordial people and we want Brazil to be a cordial country. That is why we use to say that we like to do business but we like to make friends too.

Agreement Establishes Brazil-U.S. Business Council

Washington, Jan. 30.—The Chamber of Commerce of the United States and a Brazilian Joint Commission, representing four Brazilian business organizations, today signed an agreement establishing a Brazil-U.S. Business Council, providing a channel for direct dialogue between business leaders and key commercial decision-makers of the two countries.

The signing ceremony was held at U.S. Chamber headquarters here.

The Brazilian Joint Commission represents the Confederation of Industry of Brazil, the Confederation of Commerce of Brazil, the Brazilian Exporters' Association and the Confederation of Commercial Associations of Brazil.

The co-signers of the agreement were Marcus Vinicius Pratini de Moraes, chairman for the Brazilian Joint Commission and executive president of Grupo Peixoto de Castro, and Dr. Richard L. Lesher, president of the Chamber of Commerce United States.

Witnessing the signing were H. E. Joao Paulo dos Reis Velloso, Brazilian Minister of State and Secretary of Planning to the Presidency and U.S. Under Secretary of Commerce James A. Baker, III. Also on hand were over 150 guests including representatives of business, government and international organizations and 20 chief executives of Brazilian companies who traveled to Washington with Minister Reis Velloso for the occasion.

Dr. Lesher said the Council would "be a major step to strengthen trade and industrial cooperation between the two countries."

Total U. S.-Brazilian trade in 1975 amounted to approximately $4.5 billion. The United States is Brazil's largest trading partner while Brazil ranks as the seventh largest trading partner of the United States. Brazil has the single largest amount of U. S. investment in Latin America.

ESTONIAN INDEPENDENCE DAY

Mr. BEALL. Mr. President, today marks the 58th anniversary of the proclamation of Estonia's independence. The proclamation was issued on February 24, 1918, in the midst of great turmoil which marked the closing months of World War I.

Estonia is the smallest and northernmost of the three Baltic States. The land is rich and the economy reflects a solid balance between the industrial and agricultural sectors. The Estonians were originally derived from Asian stock but they have extensively intermarried with their Swedish, Germanic, and Slavic neighbors.

The pride and fierce independence of the Estonian people has been a hallmark of their national character. The people of Estonia resisted Viking invaders in the ninth century, Danish and Swedish missionaries during the 11th and 12th centuries, and German missionaries toward the end of the 12th century. Failing to dislodge paganism by peaceful means, the German missionaries decided to use military force. To carry out this mission the Bishop of Buxhoevden established the Order of the Knights of the Sword and based it in Riga—Latvia.

The Order recruited soldiers for its crusade and then proceeded to invade Estonia from the south. To complicate matters, the Russians attacked from the north and east at about the same time. By 1217 the Germanic Knights had conquered the southern region of Estonia.

The King of Denmark, in alliance with the Order of the Knights, invaded Northern Estonia in 1219; followed by the Swedes in 1220. In spite of this overwhelming opposition, Estonia was not completely conquered until 1227.

A rebellion in 1343 drove the Danes from Northern Estonia, and caused them to transfer their sovereignty over that area to the Teutonic Knights. Rule by the German barons was harsh and an inflexible form of feudalism was imposed upon the Estonian peasants. Between 1560 and 1629, Estonia was slowly conquered by Sweden which governed it in a far more humane way. Serfdom was discontinued and the Estonians still refer to this era as "The good old Swedish days."

In 1703, Tsar Peter the Great launched a war against Sweden, so as to secure an outlet on the Baltic Sea. The Northern War gave Peter his "window to the west"—St. Petersburg—as well as sovereignty over Estonia. Russian rule, at first restored the harsh feudalism of the German barons. In 1811 serfdom was abolished in Estonia, and the peasants gained additional rights in 1863 and 1866.

Slowly conditions improved as peasant ownership of land, urbanization, industrialization, and education spread.

Estonian culture, language, and national identity increased until 1882, when the Russians launched the policy of Russification. This attempt to make all of the Tsar's subjects into "Russians" was a direct result of spreading nationalism among the Empire's ethnic minorities. This cultural repression fueled Estonian participation in the 1905 revolution which shook Tsarist Russia to its very foundation.

World War I placed intolerable strains on the Petrograd regime and a provisional government was formed in March of 1917. In April the weak provisional government granted political reforms and greater autonomy to national minorities. In November 1917, Lenin overthrew the provisional government and established a Communist regime. The leaders of the Estonian National Movement wanted to separate their homeland from Soviet Russia but Lenin was able to install a puppet Communist government in Tallinn. The resulting "Red terror" continued until Germany invaded Estonia on February 23, 1918. In the ensuing confusion, independence was proclaimed on February 24. In spite of the German occupation, major Western nations recognized Estonian independence. The end of World War I in November 1918 brought about the withdrawal of German forces and renewed Communist aggression.

The heroic people of Estonia, under the able leadership of Col. Johan Laidoner, mobilized their resources to prevent a return of Russian control. British and Finnish assistance helped to insure the success of Estonian independence. On February 24, 1919, the first anniversary of the proclamation of independence, Colonel Laidoner announced that Soviet forces had been driven out of Estonian territory. On February 2, 1920, the Soviet Union and Estonia signed a peace treaty in which Russia renounced "forever" its sovereignty over Estonia.

Independent Estonia established a republican form of government and actively participated in international affairs. But the rise of Nazi Germany was to bring about the end of freedom and independence for all three Baltic nations. On August 23, 1939, the Soviet Union and Nazi Germany divided Eastern Europe between them in a secret protocol. On the same day, the U.S.S.R. forced Tallinn to sign a mutual defense treaty that allowed Soviet military bases to be constructed on Estonia territory. The Estonian Government could no longer operate independently of Soviet wishes.

In early June 1940, the Soviets engineered an incident to justify their seizure of Estonia. A "friendly" government was imposed on June 16 and full Russian military occupation occurred the following day. A puppet assembly was elected in July and Estonia was incorporated into the Soviet Union on August 6, 1940, thus ending 22 years of independence.

Soviet imperialism brought with it Stalinist purges which were designed to destroy the Estonian political, cultural, and intellectual elite.

Between June 1940 and August 1941 approximately 60,000 Estonians were imprisoned or exiled to Siberia, 30,000 fled to Sweden, and an additional 33,000 fled to Germany. By the time Nazi forces reached Estonia, the Stalinist repression had reduced the tiny nation's population by 10 percent.

Nazi domination was just as brutal as Communist rule and the purging of local leadership continued. In October 1944, the Red Army drove Hitler's forces out of Estonia and resumed their massive deportations. The Soviet Commissar of Public Security decreed that all the inhabitants of the coastal region of Estonia would be deported to Siberia and replaced with people from Asian-Russia. Land and industry were taken over by the government, total press censorship imposed, and individuals were forbidden to emigrate or even move about freely within the country.

As in the days of Tsarist Russia, Estonians were once again forced to jealously guard their language, customs, traditions, and national identity. The Soviets have encouraged a massive Russian migration into the Baltic States which is rapidly making the Balts a minority in their own countries. In addition, the Kremlin has allowed the Baltic States to maintain a higher standard of living in an effort to quell resistance. Neither tactic has worked.

It is a great compliment to the Estonian spirit that 35 years of Communist oppression have failed to crush the desire to be free. I believe that the human spirit can never be completely vanquished no matter how severe the repression. The torch of freedom still burns within the hearts of the Estonian people. By celebrating the anniversary of Estonian independence we can hold out the hope that they have not been forgotten.

Mr. President, I am a cosponsor of Senate Resolution 319 which states—

> That, notwithstanding any interpretation which the Soviet Union or any other country may attempt to give to the final act of the conference on security and cooperation in Europe, signed in Helsinki, it is the sense of the Senate (1) that there has been no change in hte longstanding policy of the United States on nonrecognition of the illegal seizure and annexation by the Soviet Union of the three Baltic Nations of Estonia, Latvia, and Lithuania, and (2) that it will continue to be the policy of the United States not to recognize in any way the annexation of the Baltic Nations by the Soviet Union.

The House of Representatives approved a similar resolution by a vote of 407 to 0 on December 2, 1975.

The Senate resolution is pending before the Foreign Relations Committee, where no action has yet been scheduled. I would take this opportunity to urge the committee to give prompt and favorable consideration to Senate Resolution 319.

Mr. President, in 1972, 20,000 Estonians from all around the world gathered in Toronto, Canada, for the first worldwide Estonian Festival. I am pleased that the second worldwide festival—ESTO '76—will be held in Baltimore, Md., from July 5 to 11, 1976. The theme of this festival will be "The Estonian Salute to Our Bicentennial." In addition to preserving Estonian customs and traditions, ESTO '76 will also highlight Estonian contributions to our own great Nation. I would like to give special recognition to Mr. Kaljo Popp of Baltimore, the executive chairman of ESTO '76, for his tireless efforts in organizing this summer's festival.

Mr. President, I ask unanimous consent that additional information on ESTO '76, including the tentative schedule of events, be printed in the RECORD.

I take this opportunity to invite all of our colleagues in both the House and the Senate, their families and their staffs to participate in the ESTO '76 festival. ESTO '76 has been endorsed by the Amercan Revolution Bicentennial Committee and the Baltimore City Council.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ESTO '76

"The Estonians have found the answer!" wrote an American engineer in a guestbook, after attending his first Estonian party. And his friend declared "Life as it should be!"

What makes an Estonian party different? Or to quote a famous poster from Toronto, Canada: "Is it true Estos have more fun?"

An Estonian gathering differs from the typical suburbanite cocktail party first of all because any *good* Estonian party always has a theme, even if it is only to celebrate the first snowfall or the first butterfly. The theme is developed through a humorous impromptu speech, moves into a group song-fest, and culminates in an enthusiastic dancing session. The whole affairs is vibrating with a remarkable zest for life.

"What is an Estonian Festival?" is a much harder question to answer. A purist might claim that such a festival cannot be explained, it must be experienced—and survived! But the Committee for ESTO '76 tries to explain it—anyway. If we raise more questions than we perhaps answer, come to see us in July 1976—and see for yourself by experiencing this galaxy of events.

The basic tradition of Estonian Festivals was established over a hundred years ago, when the first singing festival of Estonian massed choirs (800 singers and tens of thousands of spectators) was held in Tartu in 1869. Many came to see this historic event walking hundreds of miles, according to old newspapers. A tradition was created, it caught on and in our century it is not uncommon that a crowd of 200,000 or 300,000 would gather for such a festival held in Tallinn, the capital of Estonia.

The tradition of large folk festivals has also been kept alive in the Western World by Estonians who were able to escape the Soviet rule in their homelands.

The first Worldwide Estonian Festival which was held in Toronto, Canada in 1972 lasted over a week. The 20,000 participants and spectators came this time in jet planes, covering—in some cases—distances of many thousands of miles.

The Second Worldwide Estonian Festival—ESTO '76—will take place in Baltimore, July 5–11, 1976. It is sponsored by the City Council, its theme is "the Estonian Salute to our Bicentennial" and it will feature our contributions to the multiethnic background of our "Land of the Free."

What will ESTO '76 bring to Baltimore? First of all, a large number of Estonians (estimated between 15 and 20,000) from all corners of the free world will arrive for the weeklong festivities.

Choirs, who have practiced in their home towns all over the planet, will meet here for the first time, to present a concert of modern Estonian compositions in the Baltimore Civic Center. The Baltimore Symphony Orchestra (under Estonian conductor Dr. Taavo Virhaus from the University of Rochester) will present an evening of Estonian symphonic music.

Numerous concerts and plays in the Morris Mechanic Theater and smaller halls and/or stages in the Monumental City will be held throughout the week.

There will be athletic and chess competitions; an exhibit of modern Estonian art; a literary exhibit with readings by Estonian authors from all over the free world; an enthnographic exhibition of national dress and handicrafts; a special store with Estonian folk art, handicrafts and souvenirs; philatelic and numismatic meetings; and much more.

All week long a large variety of Estonian foods (did you know the original hamburger came in the Middle Ages from Tallinn to Hamburg?!) and Estonian drinks ("Esto Extra"—the drink that gives both vitamins and warmth on a cold Estonian night through a careful mixture of vodka and cranberry juice) can be sampled.

There will be a large Friday night party for Estonians and their guests (7,000 attended the party in Toronto!) with lots of music, dancing and refreshments.

To top off the week's activities, an "Evening Under the Stars"—a festival of some 500 folk dancers in authentic national dress, followed by an estimated 1,000 modern gymnasts in a harmony of movement, music and lights—will be presented in the Baltimore Staduim. In its gigantic size and kaleidoscopic change of patterns this "Evening Under the Stars" is sure to present the most picturesque presentation of Estonian cultural heritage and to capture the imagination of all spectators, young or old.

Finally, Estonian church services—featuring a large concert of religious music by Estonian composers and interpreters—will be held on Sunday.

All in all, the salute of Estonians—who gave to this country the "as-American-as-apple-pie" hamburger and the great-grandparents of an American president (FDR)—promises to be an eventful week in the bicentennial celebrations of Baltimore and the State of Maryland.

We invite you all to participate in this festival dedicated to the country that gave us a new home, a home where we all have found our new "life, liberty, and pursuit of happiness"!

ESTO '76 will welcome you.

TENTATIVE ESTO 1976 SCHEDULE

Monday, July 5: Opening Ceremonies at at Ft. McHenry; Opening of Exhibits.

Tuesday, July 6: Conferences of Med. Doctors, Teachers, Youth; Exhibits.

Wedensday, July 7: Youth Festival; Chess Competitions; Miss Estonia Pageant.

Thursday, July 8: Athletic Events; Estonian Symphony; Theaters.

Friday, July 9: Song Festival at Civic Center.

Saturday, July 10: Parade; Modern Gymnastics and Folkdance Pageant at the Stadium.

Sunday, July 11: Ecumenical Service—Church Music Concert.

NOTE.—Book, art, philatelistic, religious, various interest and hobby exhibitions and handicraft displays as well as a special Estonian Arts and Crafts Store are open throughout the week.

ESTO '76 Headquarters: Estonian House, 1932 Belair Road, Baltimore, Md. 21213.

Telephones: Koljo Popp—Executive Chairman (301) 665–5295 Baltimore.

Meeta Liiv—Executive Secretary (301) 254—9032 Baltimore.

Maido Kari—Finance Chairman (301) 869–3275 Gaithersburg.

Jyri Kork—Director of Publicity (301) 474–7786 Greenbelt.

THE RANCH SCENE

Mr. McGOVERN. Mr. President, the respected farm publication Grain Producers News for February 1976, carries an outstanding article telling of the efficient range operations of one of my constituents, Robert Schnell of Lemmon, S. Dak. Mr. Schnell runs 150 Herefords and 350 commercial Herefords on 4,400 deeded and 2,000 leased acre ranch.

Living in the same area where his parents homesteaded in 1907, Mr. Schnell utilizes the finest technology, crop rotation and natural irrigation in his operation. His ranch is described as a showplace in the area and he utilizes native grasses as well as 1,600 acres of improved grasses developed under tried and tested conditions. Schnell says he cannot afford weeds on the ranch. "We want 100 percent of the plants on the ranch to be useful," he says.

Mr. President, in the interests of informing other Members of the body on how scientific and efficient a modern ranch can operate, I ask unanimous consent that the article entitled "Proper Grazing Increases Cattle Numbers," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROPER GRAZING INCREASES CATTLE NUMBERS

(By Jerry Sinise)

Robert Schnell is no believer in the "take half, leave half" school of range management. "Cattle always take the best half, giving competitive weeds and grasses time to take over. We graze heavily but not until the grass has its maximum growth and then we'll rest the pasture an entire year. Our grasses have improved and we're grazing more cattle per acre than we ever have before."

Schnell's 4,400 deeded and 2,000 leased acres north of Lemmon, S. D., are close to the ultimate in grass and cow management. The ranch is a show place of native and introduced grasses, registered and commercial Herefords. "The most single profitable thing we do to increase cattle production is in proper grazing."

A member of the American Society of Range Management, Schnell says he can't afford weeds on the ranch. "We want 100% of the plants on the ranch to be useful." He has 1600 acres of improved grasses and 4800 acres of native grass. "A good native pasture in the best condition will produce about the same pounds of beef as tame grasses. Ranchers tend to underrate and abuse their native grazing here and in the area during the past 15 years has brought the pastures back and we're getting tremendous production from them."

Schnell's ranch is divided into 16 pastures from 100–700 acres each. "They're divided mainly into cool season grasses and warm season (native) grasses to facilitate grazing."

Cool season grasses include Crested Wheat, Russian Wild Rye, Western Wheat and Green Stipe Grass. Most all of the pastures have Teton or Travois, a yellow blossom alfalfa imported from Siberia, planted in them. "The first plantings in the United States were in North and South Dakota, and 40 years ago plantings were made on the ranch. Yellow blossom alfalfa is extremely winter-hardy. We haven't been able to destroy it. It has a spreading crown and gets washtub in size. It is competitive with introduced grasses and native grasses."

Schnell's main pastures include 30% Crested Wheat, 30% Russian Wild Rye, 10% each of Western Wheat and Green Stipe Grass and 20% Yellow Blossom Alfalfa. "We will alter this somewhat. On two irrigated pastures we will mix in warm and cool season grasses and change the mixtures to make them better full season pastures." He will include sideoats gramma and brome and on some low land areas, subject to occasional flooding, Schnell will put in reed canary grass. "I'm partial to Russian Wild Rye, though. It greens early, it's all leaves, cures on the stem with more protein than any other grass we have and it's good during any season."

Russian Wild Rye, Schnell believes, is the most valuable introduced grass on the ranch. It withstands heavy grazing and drouths. "It should be fertilized, especially on sandy soils."

Schnell, a North Dakota State University graduate, runs 350 commercial Herefords of Anxiety 4th breeding, and 150 Registered Herefords of Pioneer Shadows and Tex Real Onward breeding. He does no AI work in the ranch. His father, the late Ray Schnell, started the commercial herd in 1942. The ranch, the first in that section of South Dakota, was established in 1899, and Schnell has been operating it since 1955. His parents homesteaded in the area in 1907, the same year Lemmon was founded.

"We don't graze our native pastures before July 1. This allows the grass to reach its full growth, set seed and develop a good root system. Then when we graze it heavy, we don't hurt it because the plants have a root reserve and good strength. The key to maximum production on the Northern Plains is allowing native grass to get a growth."

Russian Wild Rye, alfalfa and Crested

Wheat are grazed beginning in April, with cattle taken off in July. "The cool season pastures provide the best grazing for that time of year. The native pastures are valuable for winter grazing." Pastures, Schnell believes, should have a homogenous mixture of grasses throughout. Palatability also is a factor considered in selecting mixtures.

He will keep from 40–50 heifers for replacement in his commercial herd. He culls on the basis of the first calf. If the heifer produces a calf of low weight or poor quality, this probably will be the story from then on. "If she doesn't have a good calf, she goes. It's a 60–40 chance that if she has a poor calf she'll come through with poor calves down the line."

Replacement heifers are bred as yearlings using Angus and some Hereford bulls. All bulls are performance tested, a practice Schnell has used for years. "We no longer can afford the luxury of buying bulls we know nothing about." As a result he weans better than 90% calf crop from first-calf heifers. "We may pull some calves, but not too many. The heifer is selected for size and capacity. We don't want a heavy calf dropped so we don't overfeed our heifers. We'll stay away from the coarse-boned bull. The type of bull rather than the breed is important here."

He runs three bulls per 100 cows in his commercial herd and a bull to 30–35 head in registered herd. Bulls are turned out the first week in June. "We want calves to drop about March 10 or a little earlier. This gives them more time for the next calving and gives time to build them nutritionally. We used to have trouble getting 3-year-olds to settle, but now they calve with the older cows the next go round. The older cows calve April 1. Bulls are left in for three heat periods, about 60–65 days."

Schnell doesn't feed grain or concentrates to his two year olds. They are fed on hay and grass. Heifers do go on 4–5 lbs. of high energy cake after they calve to start them cycling well. "We don't have those dry three year olds and we do have better calves. On pasture, realizing 185 lbs. of beef per acre for 2½ months a year. The steers go weighing from 500–550 lbs. and will gain 2 lbs. per day during the entire period. We're getting more than a $60 return per acre off this land." He also runs a cow-calf to two acres 2½ months each year on another pasture. Schnell has a 37-acre bull pasture he keeps 20–25 bulls in all year long.

Bulls are rotated. Two are turned out to give one a week rest, alternating bulls during the breeding season. As a result Schnell gets 70% of his cows bred in the first heat period, 25% in the second and 5% in the third heat period. "We have a 98–99% conception rate among our cows and because of this we don't pregnancy test. Herefords are a fertile breed so we don't have to." He will wean a 90–96% calf crop annually.

His steers will average 470 pounds weaned and heifers 450 in his commercial heard. He is on the American Hereford Association's TPR program in his registered herd.

Replacements are selected on weight and conformation and are weighed in the fall, the spring and the next fall. "Replacements have to have both weight and conformation. We want quality and won't select on just one of the two."

When calves are weaned they get 3 lbs. of whole oats per day their first winter. They gain about a pound a day and go onto grass weighing close to 550 lbs. Schnell says they're not fat and are ready to gain and in shape to breed early. At breeding time they will weigh from 600–650 lbs.

Our cheapest source of protein is alfalfa hay, and our usual program is to start feeding 10 lbs. of alfalfa hay per head per day about January 1. They will have grazing, too. With a heavy snow cover we'll put out 20 lbs. of alfalfa hay per head per day. That'll pretty well take care of their nutrition."

Under his deferred grazing, spraying and grass management program, Schnell, for the past five years has been running a steer to the acre.

He has healthy cattle. He has had some pinkeye, and where he once used to treat it with everything he could, he now lets it run its course. "They get over it just as fast it seems. When you begin treating cattle for something, you put them close together and they'll spread it among themselves. We have a good fly control program, spraying 3–4 times a season. We will check cattle for worms occasionally and do worm some calves. but we have very little trouble with parasites here. We have had no bloat problems at all."

Cattle are marketed at different times of the year. Heavy steer calves are sold in November. Light steers and yearlings are sold in the spring. Bred heifers are sold in December and culled heifers in March or April. They all go through the auction. Schnell has been an auctioneer for 18 years and was honored as the 1968 world champion auctioneer.

The ranch is well watered. He has about four miles of frontage along the Cedar River. Duck Creek runs through the ranch. And he has flowing wells throughout that act as artesian wells. "We don't have to pump them and they flow at 8–13 gallons per minute. No ice problems either. The water table is 100 feet down. "

STATEMENT OF CHARLES R. JACKSON BEFORE THE SENATE SUBCOMMITTEE

Mr. THURMOND. Mr. President, recently Mr. Charles R. Jackson, an oil jobber from Cheraw, S.C., testified before the Subcommittee on Antitrust and Monopoly. In order that our colleagues may have an opportunity to examine oil company divestiture from the standpoint of an independent businessman, I ask unanimous consent that Mr. Jackson's testimony be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF CHARLES R. JACKSON

Mr. Chairman, I am Charles Jackson. My home is in Cheraw, South Carolina—a small town located in rural Chesterfield County, which lies in the Northeastern part of my state. I earn my living and support my family of five working as President of Jackson Oil Company, Incorporated, a small branded jobbership founded by my father in 1936 and presently owned in equal shares by myself, my brother, and my sister.

Jackson Oil Company is an independent branded distributor (jobber). We have been in this business nearly forty years. Our company employs eleven people who have families averaging 3.8 per household. We are proud that our little company, through meaningful and productive employment, can support eleven families with income, health and life insurance and retirement benefits.

I appreciate the opportunity to testify here today, to attempt to express our views on S. 2387 and the issue of vertical divestiture of the petroleum industry. In particular, I hope to convey our grave concern about the impact of such legislation on our business, the impact on the business of our customers, and the impact on the consumer in our market.

We market principally in Chesterfield County, a rural county of 793 square miles and 34,000 in population. Cheraw is the largest town with a population of 6,000. The next largest towns are Chesterfield and Pageland with populations of about 2,000 each. There are a number of smaller townships with several hundred people each and the rest of our people are scattered about the county. You can see that we are very rural.

Our business is principally gasoline, most of which is sold to retail gasoline dealers who in turn sell to the retail consumer at the gasoline pump. We also sell gasoline and diesel fuel directly to farmers, heating oils directly to the home heating customers, and lubricating oils and greases to industrial customers.

During the forty years we have been in business, we have managed to grow steadily—improving operations and profits, and today we have a small but sound company. We believe we are an asset to our community. Over the years we have vigorously participated in and supported the civic and political affairs of our town and county, and I hope we have made and will continue to make some lasting contributions to the social and economic development of this area. If so, we must give a large part of the credit to the economic viability of our business.

We choose to operate our business as a major branded distributor. Our supplier is Exxon from whom we buy under contract, the terms of which are standard buy-sell contract provisions. You hear charges today that the major oil companies plan to take the jobbers over and put the jobbers out of business or that the majors really control the jobbers. We don't believe that is true, for the reason that the majors cannot serve the rural markets. It is simply too expensive for them to do so. Also, they know we can do a better job of serving the consumer in our market. We know the people, the customers. The major knows the best way to serve this market is through the jobbers.

We haven't asked our supplier to do our work for us, or to eliminate business risk for us. What we do expect is a supply of a quality product at competitive prices and certain technical assistance and service. Our supplier, on the other hand, expects us to promote and represent its brand and trademark and operate our business in such a way that its brand image is enhanced. I see nothing coercive or sinister about this kind of relationship. Any sort of productive relationship, business or otherwise, is a two-way street requiring confidence, integrity, the ability to perform, and a willingness to negotiate points of difference. We have never expected our supplier or the government to protect us from failure; rather, we are willing to take our risk with the discipline of the free marketplace.

Rather than our supplier being a detriment to our growth, we feel we have enjoyed a number of advantages as a result of associating ourselves with a major branded product.

1. We have operated with the assurance of a supply of quality products at competitive prices.

2. We have benefited from a national advertising program and sales promotional activities resulting in immediate identification and acceptance by the consumer.

3. We have had a national retail credit card program to offer our customers.

4. Our supplier has provided financing for expansion projects and credit terms for our product purchases.

5. Our supplier has provided us assistance in business counseling and assistance in developing some of our management techniques.

6. Our supplier has provided us with professional technical assistance in the area of engineering, planning and surveys of oil and lubrication requirements for some of our industrial customers.

We have a lot of years, a lot of hard work, and a lot of our investment dollars in associating our suplplier's brand name with our sales, our services and our company image. It is vital to us and to most of our customers that this relationship with our supplier continue.

Let me tell you about our customers. Eighty percent of our volume consists of gasoline sold to thirty-six retail dealers who in turn sell to the retail consumer at the gasoline pump. Ten of these dealers operate full-service gasoline stations and their business is providing products and service to the motoring public. Six of the thirty-six dealers are convenience food store operations who also offer gasoline for sale on a self-service basis. One of the dealers is a truck stop operators. Nineteen (or more than one-half of the thirty-six dealers) are rural grocery stores—general merchandise type country stores—who also offer gasoline for sale. You sometimes hear these called "Mom and Pops" because they are usually operated by a man and his wife. You may have heard that these Mom and Pops or rural country stores are passing from the scene. Well, this is not true in our rural market because they continue to serve an important economic need.

Each of our retail dealer customers owns and operates his business as a small independent family enterprise. Many of them own the land and building where they operate.

Twelve percent of our sales are direct sales to farmers. In all but one case, these people are small farmers—some farming less than one hundred acres of land. Most of these farm customers work at regular jobs—usually in an industrial plant—but the part-time farming activity is important to them. About eight percent of our sales volume is to five hundred home heating oil customers scattered about our county who expect us to supply their home heating requirements in an efficient manner and at competitive prices.

Why are we concerned about the impact of S. 2387 on our company's business, the business of our principal customers, and the consumer? We believe that such legislation may gravely jeopardize the economic viability of our small company and the livelihood of its employees. We believe such legislation may do irreparable harm to the business of our principal customers, the small retail dealers who sell to the consumer at the pump. Further, should such legislation be enacted, we are convinced that the consumer, served by our retail dealer customer, and the farmers and home heating oil consumers served directly by us, would all bear the burden of higher prices, inefficient and inferior service and questionable supply of their petroleum requirements.

First, regarding the impact on our company's business, the question arises: Given divestiture, who is going to supply us?

Supplying distributors like those of us in rural markets may be unprofitable, and may not fit into the scheme of the new marketing companies. We can't seem to get an answer to this question. I think the answer is, at the least, that our supply would be in jeopardy. We also believe our brand identification, which we value so highly, may be lost. We may have no national advertising program to support us. We may have no credit card program to offer our customers. The financing and credit terms presently extended by our supplier may not be available to us. The technical assistance provided us at no cost by our supplier may be lost.

Further, we believe our cost of goods would increase at least by the amount of the cost savings that vertical integration provides. Product costs to the distributor are bound to increase. There is no way to avoid this.

In addition, if some suppliers do withdraw from the rural market, we see the potential for giant chain operators to enter our market and others like it by taking over available retail properties. If this happens, the result will be fewer companies—not more companies—in the marketplace. As these new, larger retail marketing companies look for growth, they could force small distributors, such as my company, out of business.

Our small branded independent jobbership will lose with divestiture.

Second, regarding the impact of divestiture on our principal customers, the thirty-six retail dealers mentioned previously, we believe, given divestiture, their small independent, family-owned businesses may be in great jeopardy. If Jackson loses his supply, who is to supply Jackson's dealers? If Jackson loses the benefits of brand identification, so do Jackson's retail dealer customers.

Many of these dealers have very small storage, varied credit needs and buying habits, and are widely scattered over our county. The new retail marketing companies, being highly profit-oriented, will be interested in the "cream" of the marketplace. The "cream" will not be the Mom and Pops and corner service stations of rural Chesterfield County.

Our retail dealer customers will lose with divestiture.

Finally, what of the impact of divestiture on the consumer? During the embargo and the horrendous experience of the gasoline lines, we were reminded of something.

The retail consumer in Chesterfield County, or any rural county, is totally dependent upon the automobile. We have no alternate transportation. You drive your car or ride with a neighbor or you don't go.

I won't go into the details of the hardship of the embargo on those of us in rural areas. We did learn that most of our people who work in our industrial plants drive twenty or more miles per day to work and back home. On a per capita basis, we use a lot of gasoline in Chesterfield County. The impact of divestiture on the consumer will be one of less competition in the marketplace, fewer places to buy gasoline, increased prices for gasoline; and all of this to contend with when one is totally dependent upon the automobile for his livelihood.

Regarding the farmers and home heating consumers we serve directly, given divestiture, much of the above applies to them. Who is going to deliver to the small farmer who has a 280 gallon tank and wants to pay his bill once a year? Who is going to deliver to the heating oil customer who refuses to buy more than a 100 gallon storage tank and probably can't afford to? We have many such examples.

Would the new marketing companies, with stockholders demanding marketing profits, be sensitive to the needs of these customers? I think not.

The consumer will lose with divestiture.

In summary, I feel our jobbership and thousands like it will lose by divestiture, our retail dealer customers will lose with divestiture, and the consumer will surely lose.

As a citizen of this great country of ours, as a consumer, as a voter, as a taxpayer, as a holder of public office I ask these questions—

Who is to gain by this dismemberment of the oil industry? What is to be gained from this most serious proposal of divestiture? What is the economic gain? What is the social gain? Who is to benefit?

I can find no benefit—no gain—and some potential grave consequences.

I do not pretend to be an expert on every phase of the complex oil industry—however, we have operated this family jobbership for forty years and I do know my business, I know my marketplace, and I know that my rural market is typical of many across this great land—and if my projections about our marketplace are correct—then S. 2387 spells the doom of thousands of small independent businesses and spells only increased hardship for the consumer.

Thank you for this opportunity to present our views of this question.

CONSOLIDATION OF BANK REGULATION

Mr. PROXMIRE. Mr. President, two editorials appearing in the March issues of Financial World lend strong support to consolidation of bank regulation into a single agency outside the Federal Reserve. Financial World points out that—

> The FDIC, the Comptroller of the Currency and the Federal Reserve have enmeshed our banks in a miasma of complexities and inconsistencies.

The editorials also make recommendations for strengthening the Federal Reserve. I commend these thoughtful editorials to my colleagues for consideration on the urgent need to reform the bank regulatory structure at the Federal level. I ask unanimous consent that the two editorials be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

WASHINGTON AND OUR BANKS: THE FEDERAL RESERVE

In our last issue we endorsed congressional recommendations that would endow a new federal banking commission with all the regulatory powers now exercised by the Federal Reserve, the Comptroller of the Currency and the Federal Deposit Insurance Corp. And we indicated why we believe such a step would be the most beneficial in resolving a number of problems.

The Federal Reserve would remain to fulfill its prime function as our central bank. However, a variety of reforms have been suggested, and legislation introduced, that would alter its structure and, we think, its effectiveness.

We are pleased that the original recommendations of the FINE study in the House regarding the centralizing of Federal Reserve powers in setting monetary policy have been abandoned. Admittedly, in some ways the present structure is an anachronism. For example, while the Federal Reserve district banks' presidents initiate recommendations for changes in the discount rate, it is the Board of Governors that acts upon these suggestions and that, in reality, has been making the changes. There are other examples as well.

But the power resting in the Federal Reserve System to set monetary policy is awesome. And the participation in the decision-making process by the non-Board members of the Open Market Committee and regional bank presidents makes a valuable contribution in preventing an unwarranted concentration of power in Washington.

The present system, with all its faults, insures that a dialogue and an interchange of ideas continues between Washington and the regional bankers and their regulators in all parts of our country. This is important to preserve.

We endorse the deletion of the earlier FINE study proposals to reduce the Board of Governors in number. It had been argued that with the regulatory activities removed from the governors' hands, only five governors, or fewer, were needed.

It has been our observation that the smaller the number on a commission or on a board, the more homogeneous and ingrown is its point of view. There must be a broad diversity of opinion in the setting of national monetary policy, and our reading of the Open Market summaries suggests that a full seven-man board would aid in achieving this objective.

We also endorse the maintenance of each governor's term for fourteen years. And we emphatically reject the suggestion that has arisen on the Senate side that the Secretary of the Treasury be added to the Board of Governors. We have often commented that the nation is well-served by an "independent" Federal Reserve. By "independent" we don't mean superseding congressional directives, but we do mean immune from shorter-term political sentiments. We doubt that there is a congressman, senator or Administration official who, in a reflective moment, will not concede that most of today's economic difficulties had their inception when election-year politics took precedence over sound economics.

Who then will concern themselves with the longer-term consequences of our short-term political decisions? Or must we go the way of Brazil, where one-third or more of its output goes to service its debt? It is a devastating example of central bankers being overridden by political leaders.

We think it mandatory that the revision of the Federal Reserve regulations made in 1936, removing the Treasury Secretary from the Board of Governors, be maintained. And we can think of no better way to insure the kind of independent thinking that is required than the current fourteen-year term for Reserve governors.

Obviously, nothing will work without the very best men on the Federal Reserve Board and the proposed federal banking commission. It is time, we think, to amend the law so as to allow the President to appoint the seven Federal Reserve governors without regard to the Federal Reserve district in which they live. We believe that this nation can afford to dispense with that sort of provincialism. The retention of the Open Market Committee, the regional bank presidents and the Federal Advisory Council should allow all viewpoints to be presented.

Finally, every effort should be made to insure a broad representation of opinion on the Board of Governors. The Federal Reserve staff has just reason to be proud. But the composition of the Board should be diverse in occupation and experience. We don't believe there should be a predominance of staff promotions. We don't believe there should be a predominance of academic economists. We don't believe there should be a predominance of one political or even economic persuasion.

The only requirements that are mandatory in all cases are intelligence and integrity. We charge the President and the Senate to see that these conditions are met.

While there are many more recommendations that have been made and can be made to revamp the nation's banking regulators, we feel that those discussed in these editorials would go a long way toward restoring confidence, not only on the part of the public toward the banks and those who regulate them, but on the part of the banks themselves toward their own regulation. And that, we submit, would count the most in putting our banking system on a sound and stable footing.

Alfred H. Kingon,
Editor-in-chief.

Washington and Our Banks: The Regulators

The headlines concerning "problem banks" that have appeared on various regulators' lists could not possibly be a surprise to any regular reader of Financial World.

Last year had barely begun when, in our issue of Jan 8, 1975, we put this quote from our exclusive interview with Comptroller of the Currency James E. Smith on the cover: "I see this being a year in which we will have quite sizable loan losses." Later in the year we carried several related stories.

But today's headlines are telling you of last year's problems. For us, it is time to look ahead.

Two congressional investigations are currently underway that go to the heart of our bank regulatory system: one, under the helm of Chairman Reuss and subcommittee Chairman St Germain on the House side, and the other under Chairman Proxmire in the Senate. Legislation has now been proposed that would radically alter the way our nation's banks are supervised.

At the outset, it ought to be clearly understood by all—bankers, regulators and legislators—that none of the recommendations that we or others make are nearly as important as fulfilling the fundamental prerequisite. And that, simply stated, is that the Federal Reserve governors and the commissioners of a proposed new federal banking commission must be tough-minded, independent individuals of the highest integrity. Indeed, we believe any system, even the one now in existence, can function effectively when this requirement is met.

It is sadly evident that many of the problems now being exposed to public scrutiny are clearly the result, at the very least, of errors of omission by certain bank regulators.

The time has long passed when the "competition in laxity" among our regulatory institutions, as Chairman Burns put it, should have ended. The FDIC, the Comptroller of the Currency and the Federal Reserve have enmeshed our banks in a miasma of complexities and inconsistencies.

By this time, it should be obvious to everyone that the supervior of a bank's holding company must also be the supervisor of the bank itself. It ought to be obvious to everyone that the banks cannot continue to have the option of changing regulators by changing from a state bank to a federal bank in order to obtain a more congenial supervisory climate. There is no defensible reason for one regulator to have the most modern equipment to supervise the banks under its aegis and another not even to have a computer. These are but a few of many compelling arguments for change born in the unfortunate experience of recent years.

So the first recommendation must be, and is, that all bank regulators—the relevant Federal Reserve staff, the Comptroller of the Currency and the FDIC—be merged into one strong and effective unit.

There are many reasons to fold this new regulatory authority over all banks into the Federal Reserve. By all accounts, the Fed's supervisors have been the most effective. Indeed, it has been from the Federal Reserve that banks have fled.

And how can bank regulators function without the knowledge of overall money and credit conditions that exist not only in this country, but throughout the world? West Germany has the banking system that perhaps most nearly resembles our own. There is some evidence to suggest that the debacle concerning the collapse of Bankhaus Herstatt was in part due to the lack of coordination between the independent bank regulator and the central bank, the Bundesbank. In our own country, we apparently came perilously close to some major difficulties in the Franklin National Bank episode because of differences between the Federal Reserve and the Comptroller of the Currency.

Finally, it would be the Fed that would be called upon to provide the funds to alleviate any difficulties in the system.

On the other hand, almost daily new fears about the banking system are atriculated. It matters not that these expressions are not well-founded. And it is a commentary on our times that reassurances from those in authority tend to aggravate rather than ameliorate. The truth is that the credibility of our banks, our banking system and its regulators have been dealt serious blows. Our banking system, in the final analysis, rests on confidence, and restoration of confidence is the paramount objective.

Therefore, notwithstanding the very valid reasons for allowing the Fed to become the principal regulator, we believe that, on balance, a fresh start is the best path. We endorse the House and Senate proposals that would establish a new federal banking commission, to be composed of five or more independent members appointed by the President and confirmed by the Senate serving staggered terms. We endorse the proposals that would amalgamate all of the regulatory powers now vested in the Fed, the Comptroller of the Currency and the FDIC into this commission.

At the same time, it becomes mandatory that the Federal Reserve and this new agency maintain effective liaison. It is not necessary that governors of the Fed be commissioners of the new agency, but an effective mechanism will have to be created to insure a continuous flow of information and dialogue between both agencies.

Finally, we recommend in the strongest possible terms that the nucleus of the new agency be the current regulatory system and staff now employed at the Federal Reserve.

Sefred H. Kingon,
Editor-in-Chief.

ANGOLA

Mr. BARTLETT. Mr. President, each Member of Congress has received a copy of this letter. It outlines succinctly the situation in Angola, and the type of support the UNITA forces want from the United States.

I ask unanimous consent that the letter from the National Union for the Total Independence of Angola be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.N.I.T.A.,
New York, N.Y., February 18, 1976.

To: The Honorable Members of the Congress of the United States of America.

From: The National Union for the Total Independence of Angola.

Subject: A Statement on the War in Angola.

The war in Angola continues. We have moved from one form of armed struggle to another in our determined search for a just, legitimate and democratic Government of National Unity.

We cannot accept minority rule—whether by Blacks or by Whites—imposed upon the Angolan people purely by the massive military presence of the Soviet Union and Cuba. We shall support a government only after the people have expressed their opinions through a general election. Freedom of the people to choose democratically their leaders and policies is one of the fundamental rights for which we fought against Portuguese colonialism. We have not yet achieved this right because our country has been invaded by foreign armies deploying highly sophisticated weapons, promoting fire power instead of the ballot box.

1. THE SOVIET UNION AND CUBA

Fifteen thousand Cuban troops, three thouand ex-Katangese secessionist troops, hundreds of Russian advisors, vast quantities of 122 mm rockets and multiple-rocket launchers (the Stalin Organs), SA–7 heat-seeking missiles and wire-guided missiles, modern rifles and machine guns, heavily armored full-tracked vehicles, amphibious tanks, T–34 and T–54 tanks, coastal freighters, warships, helicopters, aircraft bombers, etc. These are the formidable forces the Soviet Union has amassed in Angola to protect the MPLA (Popular Movement for the Liberation of Angola) from possible ballot losses had general elections been held to choose the nation's true leaders. These foreign forces have ravaged and subdued cities, killing people, displacing hundreds of thousands of families, and fostering misery.

U.N.I.T.A., committed to resist this aggression, finds it impossible to carry out this resistance by conventional warfare. We have nothing to match those frightening "Stalin Organs" with a range of 35 miles and capable of saturation bombing of forty 122 mm rockets per minute per "Stalin Orgin" over a one-mile radius. We have no air striking capabilities, no tanks, nothing for the sea. SO WE MUST NOW RESIST BY GUERRILLA WARFARE.

We must continue to fight because the objectives for which we fought against Portuguese colonialism have not yet been achieved—the Angolan people are not yet free to choose their own government. They drove the Tiger (Portuguese colonialism) out the front door, and immediately in came the Wolf (Soviet imperialism) through the back door. So the struggle must continue until Angola is free, peaceful and DEMOCRATIC.

2. THE THIRD WORLD

At present many countries and organizations, including the Organization of African Unity, certain of Russian military victory, have recognized the Popular Movement. These countries however fail to realize that the formation of a GOVERNMENT OF NATIONAL UNITY in Angola that includes all three parties—MPLA, FNLA and UNITA—is the safest, most reliable way to maintain the territorial integrity and the unity of the people. These three parties have fought patriotically against colonialism. It is demeaning to the Angolan people to see Russians and Cubans forcing the populations to disavow allegiance to the party of their choice. It smacks of colonial oppression still fresh in our minds. Indeed the Popular Movement does not represent the majority of the Angolan people. It is the government of a minority, as much representative of Angolans as was the Taiwan government of the Chinese.

3. THE UNITED STATES OF AMERICA

The United States is a powerful nation where democratic principles are valued highly and upheld. When the collective interests of democracy around the world are threatened, naturally those concerned will count on United States participation and leadership. Effective participation in the solution of problems does not necessarily require military esacalation on a tit-for-tat basis with the Soviet Union. It does however signify that America should take a stand. Unfortunately, the United States Government has not stated its position on such pertinent issues as (1) promotion of general cease-fire, (2) formation of a government of national unity, and (3) guarantee of general elections.

4. UNITA'S APPEAL AND PROPOSAL: PEACE, NATIONAL UNITY AND DEMOCRATIC ELECTIONS

UNITA's struggle is against all forms of tyrannical minority rule. It is directed against any foreign aggression or invasion, be it by South Africa, Russia or Cuba. With every major city or town now under Soviet-supported Cuban occupation, the struggle has already entered a new phase, starting from the countryside where 90% of the Angolan population lives. The struggle will go on until justice is done, popular democracy established and all Cubans, Russians or any other foreign aggressors are removed from our country.

But this war need not go on, taking its enormous toll of lives. UNITA, in fact, has all along called for a lasting and peaceful, just solution. We have asked for an end to this unwanted war, for the immediate and unconditional withdrawal from Angola of all foreign forces. We have asked for the formation of a Government of National Unity.

We ask for your support in bringing about an early cessation of hostilities. We ask you, a Member of the United States Congress, to take another look at the problem of Angola and help us achieve a stable and democratic solution.

Therefore we request that you support us to promote the following points: (1) an effective ceasefire, (2) the formation of a Government of National Unity with all three parties, UNITA, FNLA and MPLA represented, (3) guarantee of general, democratic elections, (4) economic cooperation in national development programs after the war, (5) humanitarian assistance, including medical aid, clothing and shelter for the hundreds of thousands of families displaced by this war.

We hope that you will give this your fullest attention. With your support we shall succeed in building a prosperous, peaceful and democratic Angola.

Respectfully yours,

JEREMIAS K. CHITUNDA,
UNITA Observer at the United Nations and Member, UNITA Political Bureau of the Central Committee.

SHARING THE REVENUE

Mr. HOLLINGS. Mr. President, on February 17, 1976, the General Assembly of the State of South Carolina adopted a concurrent resolution expressing their desire to have the U.S. Government provide that States or other political entities where the Federal Government owns real property shall receive a percentage of any revenue derived from such property.

The General Assembly of South Carolina believes that since the States and other political entities provide police protection, fire protection, sanitation and other protections and services at no expense to the Federal Government for these properties, that these States and other political entities should receive, in lieu of taxes, a percentage of any revenue derived by the Federal Government from the sale or lease of any such property, from the sale of timber harvested on such property, from the sale of electricity generated on such property or from any other source.

Mr. President, on behalf of the South Carolina General Assembly, it is a pleasure for my distinguished colleague from South Carolina, Senator THURMOND, and me to endorse their request and on behalf of myself and the senior Senator from South Carolina, I ask unanimous consent that the concurrent resolution adopted by the General Assembly of the State of South Carolina be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

A CONCURRENT RESOLUTION

(Memorializing the Congress of the United States to provide that States or other political entities where the Federal Government owns real property shall receive a percentage of any revenue derived from such property)

Whereas, the Federal Government owns real property in the several states of these United States on which it pays no taxes; and

Whereas, the states and other political entities in which these properties are situated can ill afford to give up any of their property without receiving revenue therefrom; and

Whereas, it is incumbent upon the states and other political entities to provide police, fire, sanitation and other protection and services to such properties at no expense to the Federal Government; and

Whereas, it seems only fitting and proper that the states or other political entities where the Federal Government owns real property should receive, in lieu of taxes, a percentage of any revenue derived by the Federal Government from the sale or lease of any such property, from the sale of timber harvested on such property, from the sale of electricity generated on such property or from any other source. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

That the Congress of the United States is hereby memorialized to take such action as may be necessary to require that states or other political entities where the Federal Government owns real property receive, in lieu of taxes, a percentage of any revenue derived by the Federal Government from the sale of lease of any such property, from the sale of timber harvested on such property, from the sale of electricity generated on such property or from any other source.

Be it further resolved that a copy of this resolution be forwarded to each member of the Congress of the United States from South Carolina.

U.N. DAY 1975

Mr. JAVITS. Mr. President, the United Nations General Assembly has provided a forum recently for actions and activities that most of us have found extremely disheartening.

The United Nations, nevertheless, plays a vital role in the world community and I believe that these remarks by the Honorable Francis T. P. Plimpton, made at the New York State-New York City observance of U.N. Day are a most useful reminder of what the world would be like if there were no U.N.

Mr. President, I ask unanimous consent that Mr. Plimpton's observations be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

U.N. DAY, OCTOBER 28, 1975

(Remarks by Francis T. P. Plimpton, New York City Chairman)

Madame Chairperson, Governor Carey, Mayor Beame, ladies and gentlemen:

This is obviously not an occasion for unalloyed joy about the U.N., but I suggest that we do some supposing.

Suppose that in October 1945, thirty years ago in San Francisco, no Charter was agreed to and nothing was signed.

The East River between 42nd and 49th Streets would still be lined with slaughterhouses, and the air to Second Avenue would still be redolent with the smell of drying blood. To be sure, DPL cars would not be blocking traffic and fire hydrants, tax exempt real estate would not have burgeoned beyond belief, uncounted policemen would not be protecting that real estate and its inhabitants—but, this City would be without an international community of some 8,000 permanent spenders and 141 spending missions; there would be no yearly influx of the world's leading statesmen and their staffs, nor 1,000,000 visitors a year to the U.N.; the City would be short U.N. connected expenditures of $200,000,000 a year and it would not be the capitol of the world.

World War II Russian troops might still be in northern Iran; Dutch soldiers and Indonesians might still be fighting in Java and Sumatra; there would be no partition of Palestine and no Israel; no Nobel Peace Prize Winner Ralph Bunche to produce Israeli-Arab armistices and no one to supervise them.

Kashmir might still be a battlefield, with no observers to keep Indians and Pakistanis apart—then, or later in the Rann of Kutch when the tanks ran out of fuel; thirty nine countries would not have joined the U.S. in Korea under a U.N. flag; the 1956 war for Suez might never have been cut short or a precarious 10-year peace in the Sinai Peninsula preserved by blue helmets; there would be no unified Zaire—only a fragmented ex-Belgian Congo riven by a separatist Katanga, a separatist Orientale and a separatist Kasai; Netherlands and Indonesia might still be quarreling over West Iran.

Heaven only knows what could have come out of the Cuban missile crisis without U Thant's formula which let Khrushchev withdraw his ICBM's without too much loss of face; Greek Cypriots and Turkish Cypriots would be at each other's throats; U.N. peacekeepers would not again be standing in Sinai and on the Golan Heights.

There would be no International Court of Justice, ready and waiting for more use; no declaration of human rights; no convention against racism; no World Bank; no I.D.A. (International Development Association); no U.N. High Commissioner for Refugees or UNRWA for Palestinians; no Nobel Peace Prize winning UNICEF with its millions for the world's children.

There would be no International Atomic Energy Agency, no agreement on the peaceful uses of outer space, no Conferences on Trade and Development or on the Environment or on the Law of the Sea or on Population, and no Food and Agricultural Organization. Abu Simbel would have been drowned by the Nile with no UNESCO; there would have been no World Meteorological Organization and, if you please, perish the thought, no International Women's Year.

Perhaps I can sum up my supposing by reminding you of the late Senator Greene of Rhode Island. On his 93rd birthday a reporter asked him: "Senator, how does it feel to be 93 years old and still alive?" He replied, "Not so bad, considering the alternative!"

ICEBREAKERS SHOW THEIR VALUE

Mr. PROXMIRE. Mr. President, a dispatch in the New York Times from a Finnish icebreaker indicates that the Great Lakes of North America could be kept open to maritime traffic 12 months of the year.

Study of the question of year-round operation of commerce in the lakes is nearing an end. At least one icebreaker may be needed to insure a winter navigation season in the Great Lakes.

The economic value of such a venture is indicated in the Times dispatch from Christopher S. Wren. I believe that Mr. Wren's story can add much information for consideration as Congress again considers the pros and cons of year-round navigation in the Great Lakes.

Mr. President, I ask unanimous consent that the dispatch be printed in the RECORD.

There being no objection, the dispatch was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 21, 1976]

ICEBREAKERS CUT A PATH FOR FINNISH TRADE

(By Christopher S. Wren)

ABOARD THE ICEBREAKER URHO.—A weak winter sun hung somewhere over a horizon obliterated by the vast monotony of snow and white sky. The Finnish icebreaker Urho rumbled as the steel bow sliced cleanly at 15 knots through nearly two feet of snow-crusted ice on the frozen Gulf of Bothnia.

The ice rippled, cracked and floated away in the Urho's broad wake. Mist—called "sea smoke"—wafted from the fresh channel of black water as the colder air came in contact with it.

The Urho had escorted a Soviet and a Norwegian freighter down to the Baltic. Now the icebreaker was cruising home to the Finnish port of Kemi, some 60 miles below the Arctic Circle. "If the ice is thicker, you can feel more trembling. But in this ice it goes very quietly," explained Capt. Tom Artela in softly accented English.

SHOWPIECE OF THE FLEET

The icebreaker that Captain Artela commands is the showpiece of a 10-ship fleet that Finland relies upon to keep its economy going in the long winter months. During the Helsinki summit conference last July, President Ford lunched aboard the 345-foot ship with Finland's President, Urho Kekkonen. Now the Urho—it took its name from Mr. Kekkonen—does harder work, convoying up to 25 ships a month through the Gulf of Bothnia.

Commissioned only last March, the Urho is equal to the task, with 22,000 shaft horsepower from five huge diesel-electric engines, twin propellers both fore and aft and a "heeling system" that can flip the ship to a 13-degree tilt by shifting some 600 tons of water in ballast tanks from one side to the other in under a minute. The ship needs such devices to charge the wind-blown ice ridges, ram, churn, back off and charge again.

EYES ON GREAT LAKES

The Urho is one example why Finland has led in icebreaking technology. The builder, the Wartsila Shipyards, has turned out more icebreakers since World War II than the rest of the world combined. The Soviet Union has already bought or ordered 43 Finnish icebreakers and Sweden and West Germany have purchased others. Argentina has just ordered one and Canada is reported interested.

Christian Landtman, managing director of Wartsila's shipyard division, says he would like to see the United States buy some Finnish icebreakers to keep the Great Lakes open in winter. "We Finns can't understand why you close traffic on the Great Lakes for nearly three months," he said. "In Finland, with more severe ice conditions, we are keeping our harbors open the year round."

Given their experience, the Finns say they could build an icebreaker for half what it would cost the Americans. The United States Coast Guard has opposed such purchases on grounds that the Finnish ships do not meet certain safety provisions. In reply, Wartsila has offered to install whatever American-made equipment the Coast Guard stipulates.

The American Ambassador to Finland, Mark E. Austed, has also been trying to persuade Congress to finance the purchase of Finnish icebreakers. Mr. Austed estimated that the Great Lakes freeze affects 60,000 American jobs, resulting in a wage loss of $1.8 million a day. "In three months, you've paid for a Finnish icebreaker," the Ambassador said.

Though he feels such purchases would enhance the American image in Finland, Mr. Austed also noted: "It is as sensible for us to make an icebreaker as it is for the Finns to make a DC-10. No doubt we can do it, but at what price?"

Finns making the same point note that their airline. Finnair, buys only American planes.

SOVIET GETS FINNISH HELP

The Soviet Union, also dependent on ice-free ports, has displayed no such reticence. The Russians have their own icebreakers, like the nuclear-powered Lenin, but they have expanded their fleet with Finnish ships, the largest now being the 443-foot polar icebreaker Yermak.

"The Russians long ago understood that they have to do something about the Arctic regions," said Wartsila's president, Tankmar Horn. "Their policy is reflected in our order book. They have evidently had good experience with our icebreakers, because they come back time after time."

Wartsila has pioneered other icebreaking innovations, like an air bubbling system that prevents sticking in polar ice by forcing up water to lubricate the hull. The Finns have carried out experiments on ice as far away as the Soviet and Canadian Arctic. Future plans include icebreaking merchant ships and nuclear-fueled icebreakers.

"Existing technology can cope with any ice in the world," said Bengt Johansson who heads Wartsila's Arctic research department. "You can always design an icebreaker that can go through."

A ride on a modern icebreaker like the Urho bears little resemblance to the usual sea voyage. The ice prevents waves. Even from the bridge seven stories above the deck, the sensation is much like riding a train over a frozen white desert.

The crew of 45 lives in individual staterooms above deck to escape the clatter of scraping ice and the deafening scream of the engines, which are monitored from a control room by closed-circuit television. An indoor swimming pool, two saunas and even modern art hung over the imitation wood paneling complete the illusion of a cruise ship. "Harbor pilots tell me they enjoy sleeping on this ship because their cabins are so quiet," Captain Artela said.

Despite its 78-foot width, the Urho is so maneuverable that Jan Ahlors, the ship's electrical engineer, reported it takes just six seconds to shift from forward to reverse and that the icebreaker will come to a standstill in less than a minute. By contrast, according to Mr. Ahlors, a supertanker would take 15 to 20 minutes to reach a standstill over four or five miles.

Captain Artela, who has spent 12 years aboard icebreakers, said that he has encountered ice up to four feet thick in the Gulf of Bothnia, with wind-battered ridges of broken ice some times rising over 60 feet. "We can go through the ridges. We use the heeling system, but slowly of course," Captain Artela explained. "We are never stuck in the ice. We can get loose every time."

On its afterdeck the Urho carries a small reconnaissance helicopter that flew a visiting reporter out to the ship sweeping low across the ice at 110 miles an hour to look for "leads" or ice-free channels. "In March when the weather is good and ice starts to move, we look for a better passage and the helicopter can tell where the leads are," said the captain. "It's always faster to go where there is less ice."

SALUTE TO ESTONIA AND LITHUANIA

Mr. ROTH. Mr. President, February 24 marks the 58th anniversary of the independence of Estonia. On February 16, Lithuanians celebrated the 58th anniversary of their country, although Lithuania has a much longer history and was one of Europe's most powerful nations in the Middle Ages.

It is a great tragedy that Estonia,

Lithuania, and Latvia were absorbed by the Soviet Union at the beginning of the Second World War. Many patriotic and freedom-loving people of these small Baltic countries were sent to prison camps or killed. Last year, on this occasion, I quoted a moving passage from Aleksandr Solzhenitsyn's book "The Gulag Archipelago," about his encounter on a prison train with one young Estonian and that man's passionate devotion to his country and its democracy.

The United States should stand firmly in support of the millions of Estonians, Lithuanians, and Latvians who fervently hope that their nations will once again enjoy independence. This is why I have joined Senator Curtis in sponsoring Senate Resolution 319 to reaffirm the longstanding American policy supporting the independence of the three Baltic nations.

At a time that all Americans are celebrating the 200th anniversary of our own free institutions, it is all the more appropriate to remember and reaffirm our support for the aspirations for freedom of others.

Estonians and Lithuanians in Delaware and throughout the United States are justifiably proud of their nations and their great traditions. I join them in saluting the 58th anniversaries of Estonia and Lithuania.

SOCIAL SECURITY: NO BANKRUPTCY IN SIGHT

Mr. HUMPHREY. Mr. President, I am disturbed by the alarming reports from the administration about the financial condition of the social security trust fund.

There are 32 million people who get checks from the social security system—about 15 percent of the U.S. population. Exaggerated reports about the financial situation of the fund have unnecessarily misled and alarmed these people.

Let me say right now to those 32 million people, that there is no danger of exhausting that fund. Our studies at the Joint Economic Committee indicate that even in the face of the current recession, the fund will have $23 billion by 1981.

What we have to remember is that the trust fund, like many other institutions, is a victim of the worst recession that we have had since the depression of the 1930's. Just as the recession is causing a serious dropoff in Federal revenues, so too, has it sharply curtailed the trust fund receipts. At the same time, more people are forced into retirement through loss of jobs, and the disbursements of the funds are thereby increased. That is the basic problem.

However, proposals to increase payroll taxes require the sharpest scrutiny by Congress. Employees are already paying almost 6 percent of their income to this fund, up to a maximum of $15,300 a year, and their employers are paying a like amount. Some workers are paying almost $900 a year and their employers another $900 a year toward their retirement benefits. Obviously, this tax has become a major burden for low-income workers.

Clearly, we need to take a long, hard look at this system and the way in which it is financed. I believe such an inquiry should be given high priority by the Federal Government. But I do not think we can solve the problem by burdening the worker even more.

We shall have something to say about this in the forthcoming report of the Joint Economic Committee in March. At that time the committee will file its annual report on the economy and on the President's economic program. Meanwhile, I offer for the Record a most interesting and illuminating article, which appeared in a recent issue of Time magazine, entitled "No Bankruptcy—But a Need for Money." I call it to the attention of my colleagues and ask unanimous consent that it be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Time magazine, Feb. 16, 1976]

Social Security—No Bankruptcy—But a Need for Money

Nearly four decades of half-truths have finally caught up with Social Security. The system is as sound today as it has ever been, but Social Security Administration officials are trying to convince a suddenly skeptical public that the program is not on the edge of bankruptcy. They are having a hard time because for so many years boosters pretended that Social Security is an insurance plan.

The immediate source of concern is the Social Security trust fund, which in the popular mind has become analogous to the reserves insurance companies set aside to make sure that they can pay claims in the future. The Social Security trust fund now stands at $44 billion, but last year it dropped by $1.8 billion as Social Security tax collections fell behind benefits paid out. This year benefit payments of $78.2 billion are expected to run $4.4 billion ahead of income, pulling the trust fund down to less than $40 billion. By 1981, according to projections in the President's budget, the fund will be depleted to $23.4 billion. Many of the 32 million people who get Social Security checks—15% of the entire U.S. population—are afraid that the fund will become exhausted and their benefits at some future date stopped.

Supporting Strength: There is no such danger, the system is exactly as sound as the U.S. Government itself. Its ability to keep the benefit checks flowing rests not on the amount of money in the trust fund, but on the Government's unquestioned power to collect taxes—and on Social Security's overwhelming political support among the people who pay those taxes. The system does need more money, from somewhere. But no lucid analysis of its requirements is possible so long as the idea that Social Security is insurance, rather than a federal tax, dominates debate.

Under a straight insurance plan, an individual pays premiums and gets in return a policy promising to pay a certain sum to his heirs if he dies early, or to himself if he lives long enough to retire. The payments are determined strictly by the size of the premiums paid. The original Social Security Act of 1935 set up the system in much the same way workers would pay taxes that would be a kind of premium and "earn" the right to receive benefits when they retired.

But in 1939, before the first benefits were paid,* Congress amended the act to base payments partly on need—a concept foreign to true insurance. Low-income workers get retirement benefits that replace a larger proportion of their former earnings than the benefits of high-income workers do. A retired worker with dependents collects more than one without, even if both have paid exactly the same amount of taxes into the system, and there is a minimum level of benefits available to someone who has paid very, very little.

As a result, Social Security has become not insurance, but what economists call an "intergenerational transfer program." Today's workers pay taxes to support yesterday's workers who are retired or disabled. In turn, today's workers must rely on the willingness of their children's and grandchildren's generations to continue to make this sort of transfer. Thus the trust fund is not, never has been, and never can be large enough to meet all potential claims on the system: that would require several trillion dollars. Its true purpose is to provide a cushion out of which benefits can be paid while Government officials decide how to meet financial needs.

Those needs are enormous—because Social Security has become far more generous than any private insurer would ever be. Today the system pays more in benefits to some people in a single year than they have contributed in taxes through their entire working careers. Also, in the '50s and '60s, the Government expanded the system so much that the only major group of employees not covered now are those who work for the Federal Government and some state and local government workers. Congress has never seen fit to include them, and they now have their own, separate pension plan. Benefit levels have been greatly increased, and a 1972 law tied them to movements in the consumer price index so that they are automatically lifted every year by inflation. Among other things, Social Security pays the Medicare hospitaliaztion benefits of the elderly and picks up bills for kidney dialysis treatments for patients of all ages.

But Social Security is still financed as if it were insurance. Virtually no general tax revenues, such as those raised by individual and corporate income taxes, go into the system. It relies almost exclusively on a special payroll tax levied equally on employer and employee: currently each pays 5.85% of a worker's earnings up to $15,300 a year. The tax has risen sharply. As recently as 1965, the maximum Social Security tax that any worker paid was $174 a year; now it is $895.05. The tax has become a major burden on many low-income workers: an employee earning $7,999 a year may well pay more in Social Security taxes ($467.94) than he does in income taxes ($463). Still, that is not enough to cover the greatly expanded benefits.

Boost Proposed: What to do? President Ford proposes raising the payroll tax to 6.15% on employer and employee alike, beginning in 1977. That would cost someone making $10,000 a year an additional $30. By Ford's calculations, the boost would increase tax collections above anticipated benefit payouts, so that the trust fund would swell to $65 billion by 1981.

Critics in and out of Congress doubt that that is the best way to cover benefits. The payroll tax is regressive: it takes a bigger bite out of the wages of a low-income worker, relative to his ability to pay, than out of the earnings of a high-salaried employee. There are no deductions; anyone earning more than $50 in a quarter pays 5.85%, period.

Also, an increase in the tax would be inflationary, because it would add directly to employers' costs: a company would have to send more of its own money to Washington for every worker on its payroll. An increase in the income tax does not have the same effect. Arthur Okun, a member of Time's Board of Economists, calls Ford's proposal "a perverse fiscal policy of the worst sort."

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*Congress decided that taxes had to be collected for several years before any benefits could be paid.

Explaining Ford's proposal to a House Social Security subcommittee last week, David Mathews, Secretary of Health, Education and Welfare, ran into similar flak. Asked Representative Abner Mikva, an Illinois Democrat: "How do you explain to a factory worker that money withheld from his paycheck, over which he has absolutely no control, is not a tax?" Mikva says that the time has finally arrived "to blow the whistle" on the ideas that Social Security is an insurance program and that the payroll tax is somehow different from other taxes.

The Democratic majority in the subcommittee plans to weigh Ford's proposal against other alternatives. Two major ones:

(1) Raise the wage base on which taxes are levied, perhaps to $25,000 in 1977. That would make the tax less regressive by hitting higher-paid workers more heavily.

(2) Finance benefits partly out of general tax revenues. A Social Security advisory council recommended last year that Medicare hospitalization benefits be paid for out of general funds.

The subcommittee chairman, Representative James Burke of Massachusetts, has lined up more than 100 cosponsors for a bill that would raise the wage base, use general revenue money, and cut the payroll tax rate from the present 5.85% to 3.9%. But he faces stiff opposition. President Ford at his budget briefing argued that with any use of general revenues to finance Social Security, "you are in effect losing the concept that a person working is paying for his or her retirement." Social Security Commissioner James Cardwell fears that reliance on general revenues instead of payroll taxes would be "an open invitation to enlarge the program." As the financial burden of a larger program began to pinch, Cardwell believes, the idea of an "earned right" to benefits would be dropped.

The Burke subcommittee, disliking Ford's plan and knowing that an alternative is unlikely to pass, may well report no bill at all this year. That would leave even Social Security's short-term financing problems unbroaching too, mostly because of demographic trends. After approximately the year 2005, when large numbers of people born during the post-World War II baby boom begin retiring, there will be a rapid increase in the number of individuals receiving benefits relative to the number of people working. Between 2005 and 2035, the combined payroll tax on employer and employee would have to rise from about 12% of covered earnings to more than 16% of covered earnings, according to the Social Security advisory council. Should birth rates turn upward again, this long-range financing problem would be smaller. But if they decline or turn up less than the council assumed in making its projections, the problem would be worse.

Expensive Question. None of the system's difficulties are likely to be resolved as long as the idea that Social Security is insurance persists. The system is largely a tax-financed welfare program—worthwhile and indeed essential, but very expensive. The question, as Cardwell puts it, is: "How much are the American people willing to pay for what level of benefits?" That is a question that the nation must face up to—and soon.

THE GENOCIDE CONVENTION

Mr. **PROXMIRE**. Mr. President, often we get so caught up in the activities of our daily lives that we fail to examine ourselves and our world in a larger, more comprehensive perspective. We tend to lose sight of our ideals and goals which should guide our actions. All of us here acknowledge the primacy of the right of existence. Without this most basic of human rights, human beings, societies, and nations could not possibly coexist. All of us have the responsibility to do everything in our power to insure the sanctity of that right of existence.

The Genocide Convention represents an international effort to protect against the perversion of that basic right. As President Kennedy said:

> The day-to-day unfolding of events makes it ever clearer that our own welfare is interrelated with the rights and freedoms assured the peoples of other nations . . . There is no society so advanced that it no longer needs periodic recommitment to human rights . . .

Some have said that the Genocide Convention is vague, unenforceable, meaningless. I say that all ideals are necessarily vague, unenforceable, perhaps "meaningless." Does that mean that we should not strive to achieve our ideals? Look around you, above the daily crises and temporary solutions, and you will see that certain fundamental, unattainable ideals form the very fabric of all of our lives. I do not believe that we as a nation have lost the ability to see ourselves in the larger perspective. I am confident that if we allow ourselves to rise momentarily from the problems of daily life, we will not hesitate to endorse the Genocide Convention and recommit ourselves to the ideals of human rights which it symbolizes.

ESTATE TAXES FORCE SALES OF FAMILY FARMS

Mr. **HRUSKA**. Mr. President, definitive action has not yet been taken to reform our estate tax laws, yet this is a very serious matter. There are several measures now before the Committee on Finance which would deal with the problem. It is essential that these bills be evaluated so the committee can apprise the entire Senate with its recommendations.

All too often, when one of the coowners of a family-owned farm dies, be it the husband or wife, the survivor must put out a "For Sale" sign in order to pay the taxes. The current estate tax exemption of $60,000, set in 1942, is far too low. After years of inflation the capital required to operate even a modest farm is much higher than $60,000. An article which appeared in the February 15, 1976 New York Times by Roy Reed, "Death Taxes Compelling Heirs to Sell Farm Land," reports that many estimate $250,000 is required to begin farming. The same article also mentions an estimate made by Gilbert Brody, president of the Wisconsin division of the National Farmers Union, that a farmer making as little as $10,000 to $12,000 a year typically leaves an estate of $320,000. When Congress set the exemption at $60,000, in 1942 it did so with the intention of allowing family-owned farms and businesses to continue in operation, passed by one generation on to the next, without interruption. At that time, $60,000 was a realistic figure. After an increase in the price level of 225 percent, it is no longer realistic. The exemption needs to be increased, and increased substantially.

For similar reasons, the marital deduction from the adjusted gross estate needs to be raised.

Mr. President, like many laws, the actual effect of the estate tax laws is proving to be directly opposite of that intended. Rather than preventing the concentration of economic power, these laws are encouraging such concentration. In those cases where the heirs find that they must sell the farm to pay the taxes, all too often it is a large corporation which makes the best offer. A corporation, of course, need not pay estate taxes because in the eyes of the law a corporation never dies.

I have heard from many of my constituents on this very point. Many family farms in Nebraska already have been sold to corporations or turned into housing subdivisions. Many other farms are facing imminent extinction unless the law is changed, As the article by Mr. Reed points out, the same conditions hold true in other States.

Mr. President, people who are already truly wealthy are often able to hire expert tax advice to keep the bulk of their estates intact. Yet, the estate tax laws are making it difficult for people of even modest means to pass on to their wives or husbands or children the results of many years of hard struggle. This is all the more unfair when it is considered that the heirs have often contributed heavily of their own time and effort to building the farm.

It is high time that the estate tax laws be recognized for what they are: not so much a tax on the rich, but more a tax on members of the hard-working middle class. It makes it almost impossible for them to provide their children the farms and businesses they have spent a lifetime in building. As a result, far too many family-owned farms and businesses are being systematically eliminated. We can ill-afford to lose the vitality which these enterprises contribute to our economy.

To bring the article by Mr. Reed to the attention of my colleagues, I ask unanimous consent that, "Death Taxes Compelling Heirs to Sell Farm Land," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Death Taxes Compelling Heirs To Sell Farm Land

(By Roy Reed)

Springfield, Neb.—Lloyd Royal, 59 years old, drives a 7-year-old Chevrolet with 110,000 miles on it. He lives in an ordinary farmhouse next to a barn lot. If anyone called him rich, he would laugh.

But if he died his wife, Doris, would have to pay $32,000 to the Internal Revenue Service in Federal estate taxes. That's because their modest farm has quadrupled in value since they bought it, thanks to inflation and spiraling land prices. They have become "paper rich."

"There's an old saying that a farmer lives poor and dies rich," Mrs. Royal said this week. "If he died, I'd be in the job market and probably at the minimmu wage, because the only thing I know anything about is farming."

Death taxes are making it increasingly difficult for farm families to keep their land. Children who inherit land usually pay even higher taxes than spouses. Just this week, a man near here had to sell his parents' 80-acre farm to pay the death taxes. He sold it to one of the largest landowners in the area—a pattern that has become familiar in the farm country here and elsewhere.

Farmers in New Jersey and on Long Island have also told of hardships because of the tax structure—and many are seeking change.

The inflated land prices that have caused death taxes to become a problem are also keeping young people from entering farming. It now takes at least $250,000 by many estimates to start farming after high equipment prices are added to high land prices.

From her kitchen table, Mrs. Royal has set out to change what she and many others regard as an absurdity in the tax law. She and a handful of friends have rounded up 70,000 petition signers in 42 states asking Congress to act on it.

This election year is apparently going to bring a new attack on the problems of death taxes and prohibitive start-up costs for farmers.

President Ford and several members of Congress have proposed legislation to make estate taxes more bearable for all small and middle-sized estates, including those of farmers. The proposals vary widely.

Senator George McGovern, the South Dakota Democrat, and 16 other Senators representing varied philosophies have introduced another bill to have the Federal Government buy land, lease it to young farmers, then sell it to them at a reduced price after seven years' labor.

The Young Farmers' Homestead Act, as the bill is called, has drawn favorable attention from such varied sources as the National Farmers Union and Progressive Farmer Magazine.

Progressive Farmer, a generally conservative publication, cited projections that 200,000 to 400,000 farms a year would disappear for the next 20 years if today's trend was not stopped.

"The legislation faces up squarely to what probably has to be done if not-rich but bright youngsters are really going to get into ranching or farming for themselves," it said in its January issue.

Estate taxes were no problem to farmers until a few years ago. Federal law exempts the first $60,000 of an estate from the death tax. Most farms were worth nowhere near that when that law was written in 1942.

W. Fred Woods, an economist with the Agriculture Department, estimates that the average value of farm assets in the United States was only $51,440 in 1960. By 1974 that had climbed to $169,744.

Farm values have continued to rise. Land prices in eastern Nebraska are going up more than 20 percent a year, according to observers.

TYPICAL ESTATE: $320,000

In 1960 the Royals paid $72,000 for their 240 acres—a small farm by Nebraska standards. Today, the land alone would cost close to $300,000. The Royals have become rich in the eyes of the Internal Revenue Service, even though they live little better than they did in 1960.

Gilbert Brody, president of the Wisconsin division of the National Farmers Union, says a farmer who earns $10,000 to $12,000 a year typically leaves an estate valued at about $320,000.

His widow pays a Federal estate tax of $20,200 on that, in addition to smaller state inheritance taxes.

When she dies, the children pay $83,190 in estate taxes, their share being larger because they do not receive the 50 percent marital deduction. According to Mr. Brody, the children probably will have to sell the farm to pay the death taxes.

President Ford has proposed delaying the payment of those taxes until five years after the death of the owner. Then the heirs could elect to pay the tax over 20 years, with the addition of 4 percent interest. Heirs may now stretch the payments over 10 years, but at an interest rate of 7 percent.

Mr. Ford's 20-year proposal would apply only to the first $300,000 of an estate. Descending benefits would be allowed up to $600,000, after which the present 10-year stretch-out provisions would apply.

$200,000 EXEMPTION PROPOSED

The Royals and their friends do not think much of the Ford proposal. They regard it simply as a postponement of an unjust debt.

"What on earth good is that when you don't have that kind of money in the first place?" a California woman said in a letter to Mrs. Royal.

At least 10 bills pending in the Senate would raise the $60,000 exemption to $200,000 on all estates, farmers' included.

Other bills would require the I.R.S. to assess farmland at its agricultural value and not at the "fair market value" it would bring if sold for some other use.

Land values here are being pushed up by the growth of Omaha, which is less than 25 miles from the Royals' farm. As the city pushes out, it absorbs farmland at dizzyingly inflated prices and converts it into housing developments and shopping centers.

Many argue that farmers would be less likely to sell to developers if their land was assessed at its value for farming and not for commercial or residential use.

Arthur H. West, president of the New Jersey Farm Bureau, said that Federal estate taxes, inflation and the system of appraising property had imposed unfair burdens on farmers. He added that many New Jersey farmers were actively supporting proposed legislation that would require that the assessment of a property be based on its value for farming.

Mr. Woods, the economist, warned in a recent interview in Washington that changes in the estate tax law should be made carefully if they are not to exacerbate the problem.

Assessing land at its value for farming or as open land instead of at fair market value could result in a low-tax device for the wealthy in passing their estates on to their heirs, he said.

"That would run up farmland prices and make it more difficult for producing farmers," he said.

LETTERS OF HARDSHIP

No one knows how many farmers have had to sell land to pay estate taxes, but there are indications that this is happening more often.

Thomas Pulaski, who used to own a 25-acre potato field near Riverhead on Long Island, says he sold his farm because of his tax bill. He drives a truck for a living.

Mr. Pulaski, who lives in Coram, L.I., said: "If I had decided to stay on my farm after my father's death, I'd have spent half my lifetime paying off loans through which my taxes would have been paid." He sold his property to a real-estate developer and made $6,000 profit—after taxes.

Suffolk County, New York State's largest agricultural county because of its potato and cauliflower crops, is trying to encourage farmers to stay by means of a farmland preservation program. In a $60-million project, the county is buying development rights—not the fee title—to the existing 57,000 acres of farmland. In effect, a farmer will get the market value of the property from the county and may keep the land. But he must agree not to use the land for any purpose other than agriculture.

More than half of 258 farmers surveyed last month by the Wisconsin division of the National Farmers Union said they had known farm families that had had to sell all or part of their farms to pay estate taxes.

Many of those who have written to Mrs. Royal have told of hardships caused by the tax. After her campaign was described by the Farm Journal last fall, the magazine received a letter from William Jones of Lakeport, Calif.

"Our orchard land has been in the family for over 100 years," he wrote, "and now because of this unfair tax in an inflationary period, the resources of the family [never more than provided a living for the family during the past 30 years] is now about to be confiscated by the Government for taxes."

Another Californian, William G. Cox of Capistrano Beach, wrote that his family had already lost its farm because of an exorbitant estate tax bill after his mother's death.

"The I.R.S. is killing the goose that lays the golden egg," Mr. Cox wrote. "The big corporations that are buying up the small farms will never pay another death tax on the land because a corporation never dies. Forming trusts and corporations within families seems to be the only way to go now."

Dixon G. Adams, a Springfield lawyer who is donating time to Mrs. Royal's campaign, estimates that 40 or 50 of Sarpy County's 600 farms have been incorporated in recent years to escape or lessen the impact of death taxes. But many farmers resent that alternative. They feel that incorporation would impose more bookkeeping and "red tape" and would diminish their independence, Mr. Adams agrees.

"I don't want to construct a scheme where a farmer has to have a lawyer and a C.P.A. riding on the tractor with him," he said. "We are doing it, though, because of necessity."

Many of the farm wives who write to Mrs. Royal complain of what they believe to be sex discrimination in the Federal tax law. These women dislike being treated in the same way as wives of city residents and millionaires.

Federal law allows a widow to deduct from her tax payment any financial contribution she has made to the family estate, but only if she can prove it with payroll check stubs or the like. Simply working shoulder to shoulder with her husband on the farm for 30 or 40 years is not enough for the I.R.S.

Resentment against that drew Mrs. Royal into her campaign. "I got started one day during the blizzard of 1975," she said. "I had been out in the snow all day helping get the cattle into the barn and then throwing hay to them and getting everything ready for the storm.

"I got back in the house after dark, worn out, and I aid, 'Lloyd, do you realize that I haven't contributed a dime to this farm today, according to the I.R.S.?' If he'd have dropped dead the next day, I hadn't done anything at all the day before, as far as they were concerned at the I.R.S."

Mary Heath is a rancher in the sparse sand hills of northern Nebraska, where the grass is so thin that it takes 20 acres to sustain one cow, and where the winters are so grim that only the hardiest can survive.

Her husband, Floyd, died a year and a half ago. She inherited a $40,000 debt along with the ranch. Cattle prices have been depressed for three years.

Now she has had to borrow another $5,000 from the bank to make the first payment on her estate tax. The tax, by her figuring, is $28,000. She has been waiting for months to learn whether the Internal Revenue Service will settle for that.

"When the Government takes my place away from me, it takes my livelihood," she wrote to Mrs. Royal. "I don't know where I can get a job at my age (55) and I'm not old enough for Social Security. This is all the work I know how to do. I wouldn't even be able to get housework for I'm not much good at that, either. My work has been with cattle and hogs.

"I had worked alongside of him from the time we got this place. I don't consider this place a gift. It makes me sick to think I'll lose everything my husband and I worked for. Unless times get better it could very well happen."

U.N. REPRESENTATIONAL EXPENSES

Mr. McGEE. Mr. President, last Friday a news item appeared in the Washington Post concerning private donations used by our Ambassador to the United Nations to assist in defraying the cost of representational expenses of that important post.

In my estimation, it was a nonstory. Yet, it did appear on the front page of a newspaper which normally prides itself on journalistic integrity.

As a Senate delegate to the 27th General Assembly and an individual who has been concerned for many years over the low priority we accord the United Nations in our foreign policy considerations, I was somewhat astonished by the insinuation that this longstanding and traditional practice, which dates back to Adlai Stevenson's service at the U.N., somehow impugned the integrity of both the individuals making the contributions and the Ambassadors who used the fund for perfectly legitimate purposes.

The article impugned the integrity of John Scali, who served as our Ambassador to the United Nations from January 1973 to May 1975. Having worked very closely with John Scali and previous Ambassadors to the United Nations, I can say that John's integrity is and always has been unquestioned. He was extremely dedicated to the responsibilities of his position as our Nation's representative to a vital international forum.

The article also impugned the integrity of Joseph M. Segal, who served as chairman of the Board of Governors of the United Nations Association of the United States in 1973–75 and was a delegate to the United Nations during the 1974 General Assembly. It is laughable that the author of the article would insinuate that for $1 million in contributions to the UNA over a 5-year period—of which $45,000 a year was spent by the UNA for mission activities during John's tenure—somehow Joe Segal bought a delegate position to the U.N. General Assembly which, I might add, totals 3 months of service. On the contrary, Joe Segal should be commended and applauded, rather than subjected to public ridicule, for his commitment to the U.N. Where Congress has consistently failed to do so, Joe Segal put his commitment to the U.N. on the line—as a private citizen he put his money where his beliefs are. Until the Congress itself provides adequate representational allowances, we cannot sit here and complain that it just is not right to rely on private contributions for such purposes. On the contrary, I would encourage the continuance of this practice.

Mr. President, the United Nations has always been given short-shrift by the Congress and the executive branch. We are the host country of a vital institution. Many nations, who cannot afford to maintain embassies in Washington, D.C., maintain missions at the U.N. where they can be heard by the most important member of that institution—the United States.

As a delegate who moved to New York for the 3 months of work during the 27th General Assembly, I can personally attest that representing this country is not an 8-hour-a-day job. It means getting together for luncheon meetings; it means getting together for evening meetings and dinners, and, yes, even cocktail hours, to do business. It is clear from the article that the author apparently has never been exposed to the United Nations and most probably has never even visited it.

Following my service as a delegate to the 27th General Assembly, one of my priorities was to assure that a living allowance was made available to USUN employees. Many of our career Foreign Service officers were going into debt, some even running through $10,000 and $15,000 savings accounts, to live in New York. Many of our brightest people were leaving the mission because they could not afford the expense of New York. The living allowance item passed the Congress in 1973. My point is this: we have made the major criteria for service not only as Ambassador to the U.N. but other USUN employment as well, that of being rich. It is not our ability to attract the most qualified personnel to fill vital positions that has become the overriding consideration. It has become one of whether or not a person can afford to live in New York.

John Scali was not a rich man. Yet, he had an important job to do. Thank goodness we had a Joe Segal and the UNA around to enable him to do the best job possible. The only tragedy is that the Congress has not yet awakened to this problem.

THE CITY

Mr. TAFT. Mr. President, our distinguished colleague from Maryland (Mr. MATHIAS) recently addressed the Cleveland, Ohio City Club dealing thoughtfully, as ever, with many of our national urban challenges.

I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR CHARLES McC. MATHIAS, JR., CLEVELAND CITY CLUB, CLEVELAND, OHIO, FEBRUARY 6, 1976

My topic today—The City—is more than mere punning on the name of your club. As I considered the word "city", it came to me that in this one word is encapsulated the most civilized concept ever devised by man.

If word origins interest you, as they do me, the word comes from the latin "civis" meaning "citizen." So a city, by definition, is a group of citizens who have thrown in their lot together. A city is a family of men and women who believe their life will be better and more worthwhile if they live together in one community than if they live separately and abide by the law of the jungle. A city is a place where people pool their talents and their resources to improve the general quality of life.

What noble connotations this little word discloses: From it we derive our notions of comity of States and of nations. It suggests to us what civilization means—the turning toward one another in friendship.

But does it? Certainly, the impulse to live in cities, the desire to group together peaceably was a giant step up on the scale of civilization. At one time, the word "city" was almost synonymous with the word "civilization."

But today the word "city" conjures up few positive connotations other than the lexical ones. To most of us "city" has become an ugly word.

In reading about the city club, I was struck particularly by the fact that it "was founded by a group of concerned citizens who were disturbed by the deteriorating quality of urban life . . ."

It is hard to believe that the very problem which prompted the founding of this club more than 60 years ago—the deteriorating quality of urban life—is still one of the most serious problems facing America today. It is hard to believe. It is discouraging. But, nonetheless, it is true.

A look at almost any major urban area in America reveals that despite great advances in the arts and in science, despite enormous technological achievements, despite a generally rising standard of living, the quality of urban life is steadily declining.

Consider Cleveland for a moment. Here you have one of America's most brilliant symphony orchestras: you have an art museum that delights the spirit, and your municipal park system is the envy of most cities. With such riches at hand to enhance the quality of urban life, how can it possibly be deteriorating?

The answer, of course, is that Cleveland, like other American cities, is in the grip of what is called the "urban crisis." During the 1960's a variety of problems, under this rubric, became the focus of national attention. Our cities, after years of neglect, were suddenly and literally in flames—in Cleveland it was the Hough District, in Washington the 14 Street Corridor. In each case the causes were the same—physical deterioration and social disintegration had driven inner city residents to desperation. Some expressed their hopeless alienation by putting their neighborhoods to the torch.

When we recovered from our shock and began to sift through the burning rubble of our central cities to find the causes of this destruction, we came face to face with the deterioration in the quality of urban life, with the alienation, the racial tension, the unemployment, the substandard housing, the congestion, the segregation, the crime, and the disease that we now identfiy as the "urban crisis."

We talked then of rebuilding our cities, of binding up the wounds of racial conflict, but the Vietnam war intervened to deflect national attention from domestic problems. An end to our involvement in Vietnam, it was thought, would allow us to turn our energies to solving problems here at home.

But today some of our downtown areas still look little better than combat zones. Our urban renewal efforts have been ineffective and often totally misguided. The deterioration in the quality of life in our central cities continues unchecked.

Not only have we tragically failed to improve life in urban America, we have watched while urban renewal has torn up neighborhoods and repackaged slums in glass and concrete cages where no birds sing. Technocrats, oblivious to the human need for a human dimension, blandly project cities of the future with artificial grass underfoot and giant domes overhead. They promise us controlled environments and push button efficiency. But without trees, without grass, without birds, without buildings on a human scale, life will not be enriched.

Long ago, John Keats described man's primordial yearning for contact with nature in words that cannot be improved. He wrote:

To one who has been long in the city pent,
'Tis very sweet to look into the fair
And open face of Heaven,
To breath a prayer
Full in the smile of the blue firmament.

How sweet indeed. Every weekend our highways are filled with people trying to savor this sweetness, trying to escape the sterile, dehumanizing life of the city, trying to restore their tranquility by communion with nature.

Unfortunately, the urban rot is not visible from the windows of Air Force One. President Ford, in his State of the Union message, made no mention of our cities and the problems confronting them. In the year of the near collapse of New York, this omission is incredible. And the experience of New York is not unique. Many other cities face similar budgetary problems on a smaller scale. Of 67 cities surveyed by the National League of Cities, 43 anticipated revenue shortages in 1975. With more than three-quarters of the American people now living in urban areas, urban problems are a national problem. Indeed, it is by the quality of urban life, and by our ability to solve the problems associated with living in the urban environment, that we must measure our success or failure to provide for the life, liberty and pursuit of happiness of the American people.

As we enter this bicentennial year, it is well to remind ourselves that the agricultural nation that was born here 200 years ago long since has transformed itself into a predominantly urban nation.

Now that we have become an urban nation, we cannot tolerate the concept that our cities are disposable. We must find a way to remake the old city and to halt the uncontrolled sprawl of urban development into the countryside. We must encourage a renaissance of the central city. We must make our central cities good, attractive and healthy places to live.

Creating liveable cities demands a two-dimensional approach. Physical renewal of deteriorating areas alone will not produce a human urban environment. The human problems of poverty, racial tensions, crime, unemployment and inadequate education themselves must be solved. Urban revitalization, efforts must recognize that the city is not just buildings, streets, and parks: It is people.

Our aim must be to create urban environments which take their character from the human needs of the people who live in them. We must make cities where people can live and raise their children in dignity—where they can find work and entertainment—where they can shop and browse, or visit a museum, or listen to a concert, or just take a walk with pleasure—where they can walk their dogs at night and sit in the sun by day, and where they can do all this in peace and safety.

We are not doing this now. There is no doubt that the people of Cleveland realize it. I am told that here as in other cities at the first sign of dark your parks echo with their own emptiness, and that while 80,000 people crowd to the Sunday afternoon football games, attendance at night baseball games has plummeted. Has crime then become our national sport? Sometimes it seems that way.

I bring you cold comfort when I tell you that you are not alone. Crime is so widespread in this country that unless we do something about it very soon, we might as well close up shop as an urban society.

Repeated failures of national leadership—by both parties—have brought us to this point and I see few signs that things are improving. For example, consider the fact that in the year following the busing turmoil in south Boston and Louisville, the President did not see fit to mention race relations in his State of the Union Message. I am sure many of us would prefer not to talk about race relations, but the disturbing conditions in south Boston and in Louisville are not just local. I do not have to tell you that they are symptoms of racial tension that exists equally here in Cleveland and throughout the country. Admittedly, there are no clear solutions, but there will be no solutions at all if we simply ignore the problem.

I realize that individuals and even groups often feel powerless in the face of what are really very complex, interdependent problems. But it has become imperative that we shake off our lethargy and demand that something be done about these problems which deprive us of domestic tranquility and threaten our very existence as a nation. We must insist on leadership. And if we don't find it in our present party structure, then we must seek it elsewhere.

What do we see if we—unlike the President—look at the conditions of our cities. We find them in the same familiar budgetary vice we're in ourselves—inflation is outstripping income. Some younger, growing cities are doing pretty well, but, like many of our senior citizens living on fixed incomes, the older declining cities, particularly those in the northeast and midwest, are being driven to the brink of bankruptcy by rising prices and shrinking revenues.

The ability of local governments to cope with the growing gap between costs and revenues is undermined further by the continuing migration of people, and jobs. Out of the central city.

The flight from the cities is precipitated by the failures of the cities. People are driven away by:

Inadequate supply of decent housing at affordable prices.

Inadequate employment opportunities.

Inadequate public education.

Crime and lack of a sense of personal security from violence.

Dangerous levels of air and water pollution.

Inadequate health care services.

While the national unemployment rate in 1975 hovered around 8 percent, it was dramatically higher in the central cities. Among young blacks it runs as high as 30 percent. The crime rate is higher in the central city, housing starts are fewer and the air is so bad in major urban areas that health officials attribute as many as 4,000 deaths and 4 million sick days a year to pollution.

If present trends continue, our central cities eventually will be populated primarily by those who cannot afford to move out.

I well remember spending the night following Martin Luther King's assassination on the streets of Washington. I remember with horror the people trapped in burning buildings, the people separated from their families in the confusion, the people who ransacked stores and the people who tried to defend those stores. I remember helping the police disarm a wild and drunken marauder and I remember the bitter sadness of the next day.

But out of that terrible, irrational experience came the most creative force to hit the American city in our generation. The fury of the riots compelled local government, Federal Government and private business to face up to America's urban problems in a way that nothing before had done. The tragedy was that it took that experience to open our eyes. As Whitney Young asked then: "How many riots will it take before we face the problems of the American cities?"

But that is nearly 10 years ago, and now we face the upheaval of the 70's. It is the prospect, which although no longer in the headlines, still exists. That the wealthiest city in the world, in fact, the Capital of the world, may go bankrupt.

We could not sweep the riots of the 60's under the rug, we must not sweep the financial crisis of New York City under the rug. This is not New York's problem alone. It could happen to almost any big American city and no other big American city can command the same attention as the Capital of the world. Other cities to whom this happens may be on their own.

It should be clearly understood that New York's problem is not merely a credit problem. The question of credit is on the tip of the iceberg and underneath are all of the physical, social and environmental issues that are driving people and business out of New York. When will we begin to face the problems that underlie the problem of New York's credit?

Any attempt to put a cap on the problem can't be successful. Any formula that is imposed on cities which exacerbates all of the symptoms of their disorder can only hasten their collapse. We can only hope that New York makes it through the time period contemplated by the Federal loan agreement. But I wouldn't count on it!

But from the New York experience, as from the riots of 1968, some good can come. But it is only going to come if we address the problem fully, frontally and fast:

At present, the Federal Government offers a patch-work quilt of programs to combat urban broblems. We respond to specific problems with specific programs. We have not sought a rational approach to urban problems that adequately reflects the nature of the urban system as a complex organism. As a result, Federal programs directed to urban problems have often worked at cross purposes.

As a member of the Senate Appropriations Committee, I am called upon to help decide how to invest enormous amounts of the taxpayers' money. Investments in housing programs, transportation systems, public works projects, sewer systems, airport development and social service programs can have a significant impact on urban development. But at present, there is no process to insure that our Federal funds are being coordinated to achieve coherent national goals, because we have no coherent national urban plan.

I have no formula to give you today that will solve the urban crisis, nor does any other member of the United States Senate, nor does the secretary of HUD nor, with all respect, does the President of the United States. But there is something that all of us together can do and that is to face the real issues.

Here we sit with the most highly developed management skills and problem-solving capability in the history of the world while our most severe domestic problem is screaming for attention. Our task is to put that problem-solving capability to work—earnestly, systematically and comprehensively. There could be many ways of doing it but certainly the process must begin with the President of the United States. Our next President must face up to the reality of our cities. It will not necessarily be easy—tough thinking can be painful. It will not be cheap—programs cost money. But, if we can stem the spiraling costs of crime, of unemployment, of welfare, the investment will more than pay off.

We have a precedent. In 1953, a new administration, headed by President Eisenhower, devoted itself intensively for 3 months to the development of new urban policies. Those new programs were right for their time and they worked. But they are outdated now.

I challenge the next President of the United States to follow this example. America has emerged from the most dangerous decade of her entire history. We have lost a President by assassination. We have seen our cities burning. We have lost a war. We have experienced corruption in the National Administration, resulting in the first resignation of a President, and we have survived all of this. We are, in fact, a wonder of the world. And we are still the most powerful Nation in the world. There is no reason we cannot solve the problems of the cities, there is every reason to start the job now. I know we can do it, but whether we will remains to be seen.

The handwriting is on the wall. In Cleveland you can read it by the fires of pollution that occasionally light the surface of your Cauhoga (Ki-ya-hoga) River. It's already late—but not too late if we are willing to work together.

VA SYSTEM APPEARS TO BE INCONSISTENT WITH DEMOCRACY

Mr. GARY HART. Mr. President, there are few groups in the United States to whom all citizens owe such a debt as to the veterans of military service who gave so much to their Nation. In recognition of this debt, the Congress has through the years provided many programs which were designed to help the veteran adjust to civilian life. There is a problem, however, in the administration of the benefits which a grateful people have asked their Congress to legislate for those who have served their country. Despite the clear intent of Congress, there is evidence that some veterans are being denied benefits to which they are probably entitled. This happens because the agency administering the programs, the Veteran's Administration, also is the final review for all appeals concerning denied benefits. Judicial review after completion of all administration remedies is the rule for nearly every agency of the Government, but the law allows the VA to deny veterans the opportunity for an impartial hearing of their claims of injustice.

The February 8, 1976, Rocky Mountain News, Denver, Colo., contained an article suggesting remedies for the problems veterans face in obtaining balanced resolution of their appeals. It was written by Dean K. Phillips, who has long been active in Colorado and nationally in veterans' matters. Himself a veteran of the Vietnam war, he is also a member of the National Advisory Council to the U.S. Senate Veterans Affairs Committee.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VA SYSTEM APPEARS TO BE INCONSISTENT WITH DEMOCRACY

As the nation braces itself for its 200th birthday, some of its citizens are reflecting on the "balance of powers" concept developed by our forefathers in which the executive, judicial and legislative branches are designed to keep each other in check.

And an increasing number of Americans are viewing with trepidation what many have labeled a fourth branch of government, elected by no one, and rapidly gaining both power and responsibility—the federal administrative agencies.

These agencies were given life by Congress and charged with specific responsibilities by federal statutes. Some government agencies administer and adjudicate benefits applied for by its citizens, such as the Social Security Administration.

When applications for Social Security benefits are denied, applicants then have a right to appeal the decision of that agency within the agency framework. If the final agency decision is not in their favor, citizens have the right to appeal that decision to a court of law, and this amounts to an outside review consistent wtih the basic "check and balances" system envisioned by the founding fathers.

However, one agency remains completely immune from any outside judicial review—the Veterans Administration (VA), third largest government agency, which has a budget of $18.1 billion in fiscal 1977.

Under Title 38 of the U.S. Code, . . . "the decision of the administrator on any question of law or fact under any law administered by the Veterans Administration providing benefits for veterans and their dependents or survivors shall be final and conclusive and no other official or any court of the United States shall have power or jurisdiction to review any such decision by an action in the nature of mandamus or otherwise."

(The few sections of the law which are excluded from this no-review provision deal with National Service Life Insurance, and home, farm, and business loans.)

Government agencies like the VA are charged with administering benefits as mandated by Congress in specific statutes. VA officials write rules and regulations that are supposed to be consistent with these federal statutes passed by elected representatives.

However, since there is no judicial review permitted, the VA rules and regulations may differ significantly from the original statutes. One example is a section of Public Law 93–508 which allows a student veteran who has exhausted his or her 36 months of educational assistance ". . . an additional number of months, not exceeding nine, as may be utilized in pursuit of a program of education leading to a standard undergraduate college degree."

Nowhere in the federal law had it previously stated that the original 36 months must have been exhausted in the pursuit of a "standard undergraduate college degree." The law reads: ". . . he shall be entitled to educational assistance under this chapter for a period of 36 months . . ." The resulting VA regulation was consistent, however, with Public Law 93–508 because applicants for the additional nine months were required to spend time in pursuit of a standard undergraduate college degree.

However, under a subsequent VA regulation: "The veteran (who applies for the additional nine months) or in-service student must have been enrolled in a standard undergraduate college or first professional degree program at an institution of higher learning at the time that original (36 month) entitlement was exhausted."

Based upon this legally untestable VA regulation, thousands of Vietnam era veterans who were enrolled in educational programs other that those leading to a standard college degree when their 36 months were exhausted have been deprived of their additional nine months of G.I. Bill educational assistance which the law on its face clearly does not deny them.

Not only does the VA write its own rules—which may or may not be consistent with federal statute but which are not subject to judicial review—but the VA also adjudicates claims for benefits and these decisions are also not subject to judicial review.

The individual veteran's application for benefits might be rejected at one of the 58 VA regional offices. If his appeal to that office is denied, the ultimate appeal would be to the Board of Veterans Appeals in Washington, which is comprised of 31 permanent members—all of whom are VA employes "bound in its decisions by the regulations of the Veterans Administration, instructions of the administrator, and the precedent opinions of the chief law officer."

Furthermore, under rules covering hearings before the Board of Veterans Appeals: "Hearings conducted by and for the board are ex parte in nature and nonadversary. Cross-examination by parties to the hearing will not be permitted."

Clearly, the present system in which VA regulation and adjudication are immune from judicial review appears to be a denial of due process of law under the Fifth Amendment to the Constitution.

But every veteran that has his or her initial claim for benefits denied at the regional office level need not go crashing directly into U.S. District Court. Veterans should be required to exhaust administrative remedies up through the Board of Veterans Appeals. The board which decided 30,000 cases in fiscal 1973, should be expanded and this expansion could reduce the total time required to exhaust administrative remedies with the VA, ideally to a maximum of 60 to 90 days.

If the veteran is not satisfied with the Board decision, he should have the right to file a civil action in Federal District Court, or file an action with the Court of Veterans Appeals which could be established independent of the VA much like the Court of Military Appeals is independent of the military.

The VA should be also required to subject its proposed rules and regulations interpreting federal statutes to outside review under the strict provisions of the Federal Administrative Procedure Act rather than merely printing them in the Federal Register, commonly known as "notice-and-comment rule making."

Thus, proposed rules which are inconsistent with federal statutes could be challenged by interested parties in formal hearings where the VA would bear the burden of proof and resolved before they had the force of law.

VA spokesmen have stated: "The interest of the majority of the veteran population would not best be served by court review. This is particularly true in the event of an individual decision becoming precedent and then being applied to the veteran population resulting in action not in the best interest of the veteran or claimant concerned."

Precedent, however, is a double-edged sword and could indeed serve the best interests of many veterans. For example, if the nine month extension issue ever got to court, there is a more than reasonable chance that the questionable VA regulation would be found more restrictive than the law passed by Congress and nullified. This would result in thousands of veterans finally becoming eligible for retroactive educational assistance that Congress had originally approved when it passed Public Law 93–508 in December 1974.

The knowledge that their decisions might ultimately be subject to outside judicial review would have an immeasurable effect on those VA officials who write rules and regulations that are presently virtually unchallengeable. No less affected would be the decisions of VA officials that deal with veterans on a day-to-day basis at the regional office level. No longer would VA adjudication officers be assured that their findings were subject to review only by fellow VA employes.

No longer would the Board of Veterans Appeals decisions, the overwhelming majority of which are just and legally sound, be vulnerable to the present criticism that it functions in a closed system unlike the myriad of other federal bureaucracies. No longer could it be said that the VA system is inconsistent with the basic principles of a representative democracy.

OMNIBUS DISTRICT COURT JUDGESHIP BILL

Mr. BURDICK. Mr. President, leadership has given notice that S. 287, the omnibus district court judgeship bill which was reported by the Committee on the Judiciary last September, may be reached for floor action in the near future. Judging by the calls and correspondence which I have received, this bill is of great interest and so I thought it would be helpful if I were to offer to my colleagues an analysis of the bill and an explanation of the methodology employed by the Committee on the Judiciary in its consideration of the legislation.

The omnibus district court judgeship bill, contains the recommendation of the Judiciary Committee that 45 new district judgeships be created in 40 judicial districts, located in 28 States and the Commonwealth of Puerto Rico. While this seems like a large number of new judgeships, it is, in fact, some 16 judgeships less than were created 7 years ago, in 1969, when the last judgeship bill was passed.

But the importance of this legislation lies not in the number of new judgeships, but rather in the method employed by the Judiciary Committee in arriving at its recommendations.

Mr. President, some explanation of my last statement is in order. Let me begin by quoting from a report of the Judiciary Committee in 1967 when the Senate was asked to create the Federal Judicial Center. In 1967, we said:

> The number of federal judges has almost doubled since 1941. * * * [in a] five year period from 1959 to 1964 * * * a 25% increase in the number of Federal district judges, resulted in but only a 3% increase in the number of civil and criminal dispositions.

Moving on to the year 1969, in the committee report on the omnibus district judgeship bill, which was under consideration at that time, the committee noted and I quote:

> Since 1959 there has been a 40% increase in the number of federal district court judges, but only a 9% increase in the number of civil and criminal dispositions.

I now move on to the year 1974, and as a result of the statistical study made by the Subcommittee on Improvements in Judicial Machinery, which I am privileged to chair, we have now arrived at this comparison:

> In 1952, our district court system, with only 215 judges, was able to terminate cases at an average rate of 423 per judge per year. Also, in 1974, with a total of 400 district judges, the average rate of terminations was only 348 per judge per year.

It is because of these statistical comparisons, Mr. President, that indicate a definite inverse ratio between the number of judges and the average rate of terminations per judge, that I made the statement that S. 287 is a piece of legislation that has greater importance then the mere number of new judgeships which would be created by this proposal. I think one is justified in drawing the conclusion from these comparative statistics which I have just recited, that in the past the Congress has been asked to create jugdeships without having either an adequate factual support for its action or without having in mind a long-range goal for improving the efficiency of our Federal court system.

In the past we were asked to create new judgeships in districts where a backlog of cases existed. One need pause only one moment to see that a backlog of cases can exist in a particular court for several reasons. For example, a backlog may exist because neither the lawyers retained in these cases nor the judges which we have commissioned to preside over the work of that court are applying themselevs diligently to their responsibilities. Thus, if the backlog exists for this reason, I submit that the mere existence of the backlog does not justify the creation of new judgeships. On the other hand, a backlog may exist because the new cases filed in that court are far in excess of the workload which even the most diligent judge, working with the cooperation of the attorneys, can reasonably be expected to handle in a year's time. If the latter be the reason why the backlog exists, then I submit that we should give serious consideration to the need of the court for additional judgeships. When the Subcommittee on Improvements in Judicial Machinery embarked on this study back in January of 1973, the distinction which I just made became readily apparent to the members of the subcommittee. Therefore, the task of the subcommittee became one of determining whether the bench and the bar of a particular court were working in a diligent fashion to handle the judicial business of the court. It became the task of the subcommittee to determine what is the reasonable capacity which could be handled by a diligent judge.

In devoting itself to this task, the subcommittee conducted 17 days of hearings, most of them in the early months of 1973. During these hearings, the subcommittee received the testimony of the chief judges of 45 judicial districts. This in itself was somewhat of a novelty because in the years past it had been the practice merely to receive the testimony from the chief judge of a circuit concerning the needs of the districts within his circuit for additional manpower. The advantage of having the chief judge of the trial court appear before the subcommittee was that it afforded the subcommittee an opportunity to explore in some detail the workings of the particular court.

During the hearings, we developed evidence not only as to the number of cases filed in a particular court but also the types of cases; whether they were simple cases or were complex cases that required lengthy trials. We explored the number of cases that were settled without a trial; we explored the number of cases that were settled after a pretrial conference but before a trial. On the criminal side we explored the number of cases in which the defendant pled guilty and was sentenced without the necessity of a trial. We also examined the reports which are customarily filed with the Administrative Office of the U.S. Courts which account for the number of days that the judges are actually engaged in trial work and the number of days that the judges are not actually engaged in open court activities, such as arraignments, sentencing, arguments of pretrial motions, and similar activities.

As a result of these hearings, the committee came to the conclusion that a fair evaluation of the amount of judicial business in a particular court could not be based simply upon the number of cases which were filed in that court. The committee recognizes that it must make a distinction between the caseload of the judge and the workload of the judge. After making this distinction, the committee evolved the three-part statistical standard to measure the workload on a per judge basis. Each of the three parts of this standard was either recommended or expressly approved by the Judicial Conference of the United States through the witnesses who appeared at our hearings.

The first standard required that the new case filings in a court must equal or exceed 400 per judge per year. This standard of 400 filings was recommended by the Judicial Conference.

The second standard adopted to assess workload was that the judges of the court be able to dispose of cases equal to or in excess of the national average of 358 cases terminated per judge. This standard was adopted as one of the indicia of workload because it afforded a yardstick to measure whether the judges of the court were performing up to the national average as far as the terminations were concerned. As a matter of fact, it is a very fair standard because our studies disclosed that in one-third of the 94 judicial districts the rate of terminations exceeded 400 cases per judge. On the other hand, one-third of the districts were not able to terminate as many as 358 cases per judge.

The third standard adopted by the committee as an indicia of the workload required that the judges of the court spend approximately 110 days or more per year actually on the bench as distinguished from working in chambers. If you exclude Saturdays, Sundays, vacation time and holidays, there are approximately 220 working days in a year. Again, the witnesses representing the Judicial Conference conceded that 110 days or half of the available working days was a fair standard or a fair yardstick for the committee to adopt. Under this standard the judge would still have one-half of his time available for work in chambers, including research, study, writing opinions, et cetera.

A fourth standard adopted by the committee was not a numerical standard—rather it simply is a standard which says that the district in question must make efficient use of existing judges, supporting personnel and procedural devices in order to cope with its existing workload.

Having adopted this three-part standard, the committee applied the standard to all districts in an objective fashion and the report which has been filed with the Senate recommends additional judgeships in those districts which meet all or most of the standards and rejects any additional judgeships in the districts which fall below the standards adopted by the committee.

Mr. President, I have previously stated that this method employed by the committee in assessing the need for additional judgeships was a very important aspect of this legislation. In the first place, it is important because, if approved by the Senate and if the House of Representatives concurs, this method of determining judgeship needs will establish a basic congressional policy for determining judgeship needs. Our action will say to the judicial branch of Government that new judgeships will not be created on partisan political grounds. Our action will say that such a question will not be decided on the basis of friendship, squeaking wheel or any other terminology you might want to use. In the report which we have filed with the Senate, we recommend that the basic policy for determination of the manpower requirements of our Federal Court System should be, and I quote:

> Before additional judgeships will be created by Congress, a district court of the United States must demonstrate that the workload of that court exceeds the workload which the public has a right to expect that an efficient bench of a given size can reasonably handle.

Approval of this legislation will mark a significant advance in the oversight of the judicial branch of Government.

We will be saying to each of the 500 or more Federal judges that the Congress expects them to maintain a reasonable level of productive work, in an efficient manner. We will be saying that the courts must use the supporting personnel and procedure which the statutes and the rules of the court have made available to them. We will also be saying that the chief judges, the judicial councils, the judicial conference, the circuit executives and others charged with the responsibility of overseeing efficiency in the judicial branch of government, must exercise the authority, which the Congress has previously given to equalize the workload among all Federal judges by assigning underworked judges to overworked courts.

Mr. President, before I yield I would like to comment upon the length of time that the committee has studied this legislation.

The Judicial Conference of the United States made its recommendations based upon the 1972 Quadrennial Survey in October of 1972, at the tail end of the 92d Congress. At the outset of the 93d Congress we held the 1st of 17 days of hearings on January 23, 1973. In these hearings we considered the judicial statistics for fiscal year 1972 and for 4 prior years going back to 1968, the time of the last judgeship bill. By the time the subcommittee reached markup stage, the statistics for fiscal year 1973 were available and were studied by the subcommittee. A bill was reported to the full committee in September of 1973, but further action in the 93d Congress was impossible because the time of the Judiciary Committees of both houses was preempted by Watergate related matters.

In the current Congress we reintroduced this measure on January 21, 1975. Since the judicial statistics for fiscal year 1974 were then available, the four-part standard evolved by the subcommittee was applied to each of the 94 judicial districts. The subcommittee then filed its report with the full Judiciary Committee on April 18, 1975. Before the matter was considered in executive session, the judicial statistics for fiscal year 1975 became available during the August recess. Again, each of the 94 judicial districts was reexamined in the light of the most recent statistics.

With reference to the 1975 statistics it should be noted that in the Federal district courts as a whole the average terminations increased to 371 cases per judge. If this record of terminations can continue to be achieved, the 45 new judgeships provided in S. 287 will give the total complement of 445 district court judges the capacity to handle 165,000 cases per year which is in excess of the total filings in fiscal year 1975.

JOINT ECONOMIC COMMITTEE HOLDS FULL EMPLOYMENT HEARING IN LOS ANGELES

Mr. HUMPHREY. Mr. President, last month the Joint Economic Committee held the fourth in its series of regional hearings on full employment, and why we have failed to fully meet the goals established in the Employment Act of 1946 in the last 30 years. The committee convened in Los Angeles on January 12 to hear first from Mayor Tom Bradley of Los Angeles, and then from individuals representing other jurisdictions and major groups in the economy. We received testimony from union officials, businessmen, economists, public officials, leaders of community action groups, and private individuals.

In the opening statement, Mayor Bradley stated the theme of our meeting and then went on to underscore the depth and intensity of employment problems. Mayor Bradley said:

> Full employment is not just a matter of social justice. It makes good economic sense, and we in this country are going to have to face up to it.

In underscoring unemployment problems and discussing the 11.5-percent unemployment rate in Los Angeles he said:

> Even these figures, as staggering as they are, don't really tell the whole story. Underemployment is also a very serious factor in this area.

As at our previous regional meetings in Chicago, New York and Atlanta, I was particularly pleased by the commitment of all the groups represented, to achieving full employment. I was also pleased at the realization of many witnesses that the Federal Government must serve as an employer of last resort when the private sector cannot provide the necessary number of jobs.

We received testimony from a number of witnesses expressing fear and concern that the administration was fighting inflation at the expense of jobs. Jack Henning, executive director of the California Labor Federation, AFL–CIO, stated:

> The national Administration's rationale is that high unemployment is essential to the control of inflation. That is like telling a man who is in the critical stage of emphysema that the cure is cancer of the lungs.

Mervyn Dymally, lieutenant governor of California emphasized this same point in his statement when he said:

> But to the person who is unemployed, unemployment is not 10 percent. It is 100 percent. Inflation is something that he does not understand. He does not know what it means because he does not have money to buy anything.

Several witnesses offered constructive criticism of current Federal programs and suggested ways in which they could be improved to help meet full employment objectives.

Mr. Donald Vial, director, California Department of Industrial Relations, in discussing general revenue sharing, stated:

> From a State perspective, the realization of a higher level of economic policy relationship between the Federal Government and the State must rest in the final analysis on funding the ways and means of providing the States with greater access to discretionary funds made available to implement full employment objectives.

He added:

> General revenue sharing as currently being implemented, without links to more effective Federal intervention in the economy, is not responsive to this requirement.

Mr. Vial concluded that—

> Without linkages to national full employment objectives and priorities, general revenue sharing can be terribly reactionary in its outcome.

We also received constructive suggestions for broadening and strengthening the CETA training and employment programs to increase their effectiveness. Eunice Elton, director of Manpower Planning and Research for San Francisco, suggested that a new allocation formula be developed for the program. She said San Francisco's allocation has declined from 100 percent 2 years ago to 82 percent this year and projects it to be only 57 percent 2 years hence. She concluded by saying:

> We are badly in need of change in the allocation formula, primarily for the Title I programs, the Manpower Training Programs.

Mayor Doris Davis of Compton, California addressed herself to broadening CETA to deal with long-term unemployment. She said:

> We have a problem in terms of Title VI versus Title II wherein we see political expediency addressing itself to the short-term 36 week type unemployment of the aerospace and newly unemployed—we are not touching the real problem of long-term unemployment.

The committee also heard requests for increased funding of CETA and for a greater degree of coordination in CETA programs.

The effect of recession on the housing industry was discussed by several witnesses. George Weyerhaeuser, president of Weyerhaeuser Co., said:

> 1975 was a recovery year in housing. But I would have to say if that is recovery, give us something else because we are stale in the housing market of about 68 percent of the '72 levels in single-family housing and 26 percent of the multi-family levels four years ago. So not only are we not providing jobs—we are only a very small portion of the way back to previous levels.

Mr. Weyerhaeuser's statement was supported by Kenneth Hahn, County Supervisor, Los Angeles County Board of Supervisors. He said:

> I put down homes as number one priority. Homes. Look at what we could do in building better homes, and housing, and little businesses. . . .

Mr. President, I cannot emphasize too strongly the need for and value of these meetings. In these regional meetings, we have the opportunity to meet with people who might not be able to present testimony if we remained in Washington. As I have said before, many times people like Jack Henning, Doris Davis, George Weyerhaeuser, and the other union officials, businessmen, public officials, and concerned private citizens are more in touch with the realities and effects of economic policy and programs than many of the so-called experts who testify. Without these hearings we would lose valuable insight into the effect of current policies and programs. I only wish it were possible to print the statements of each witness who testified before the committee. Each witness made a valuable contribution to our understanding of the economic problems Americans face. The Joint Economic Committee will publish the record of these hearings as soon as possible.

S. 2930—PROPOSED LEGISLATION TO PROHIBIT LANDING OF SUPERSONIC AIRCRAFT NOT MEETING APPROPRIATE NOISE STANDARDS WITHIN THE UNITED STATES

Mr. BUMPERS. Mr. President, on February 4, I introduced, for myself, Mr. Nelson, Mr. Gary Hart, and Mr. Buckley, S. 2930, a bill to prohibit the landing within the United States of civil supersonic aircraft that do not meet appropriate noise standards. The introductory statement with respect to the bill appears on pages 2230–32 of the Record for that day. I inadvertently failed to ask that the text of the bill also be printed in the Record. I therefore ask unanimous consent at this time that the text of S. 2930 be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2930

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 19 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1719) is amended by—

(1) inserting "(a) Offer and Acceptance.—" immediately before the first sentence;

(2) striking out the second sentence and inserting in lieu thereof the following: "An offer shall include a condition that the sponsor or sponsors of the airport at which such airport development is to be accomplished shall not permit the landing, except for emergency purposes, of any civil supersonic aircraft engaged in commercial service which aircraft generates noise at a level in excess of the level prescribed from time to time for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator of the Federal Aviation Administration. In addition to the condition set forth in the preceding sentence an offer shall be made on such other terms and conditions as the Secretary considers necessary to meet the requirements of this part and the regulations prescribed thereunder,"; and

(3) adding at the end thereof the following new subsection:

"(b) Violation of Grant Agreement Condition.—If any sponsor permits any aircraft to land at any airport at which such sponsor has expended funds received pursuant to a grant agreement containing the condition set forth in the second sentence of subsection (a) of this section in violation of such condition, then (1) such sponsor shall immediately repay to the United States all funds received pursuant to such grant agreement, and (2) the Secretary shall not make any other grant to either (a) such sponsor for any project for airport development at the airport at which such aircraft landed or at any other airport, or (B) any other sponsor for any project for airport development at the airport at which such aircraft landed.".

Sec. 2. It shall be unlawful, except for emergency purposes, for any civil aircraft capable of flying at supersonic speed which aircraft generates noise at a level in excess of the level prescribed from time to time for new subsonic aircraft in regulations issued by the Secretary of Transportation acting through the Administrator of the Federal Aviation Administration, to land at any place under the jurisdiction of the United States. The Secretary of Transportation shall adopt and enforce appropriate rules, regulations, and practices to insure the observance of this section.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million. Upon such notification, the Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the Record at this point the notification I have just received.

There being no objection, the notification was ordered to be printed in the Record, as follows:

Office of the Director Defense
Security Assistance Agency,
Washington, D.C., February 23, 1976.

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding herewith Transmittal No. 76-40, concerning the Department of the Navy's proposed Letter of Offer to Iran for Supply Support Program estimated to cost $96.5 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. Fish,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

Transmittal No. 76-40

(Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Foreign Military Sales Act, as amended.)

a. Prospective Purchaser: Iran.

b. Total Estimated Value: $96.5 million.

c. Description of Articles or Services Offered: Supply Support Arrangement for repair parts to support F-14 aircraft program.

d. Military Department: Navy.

e. Date Report Delivered to Congress: 23 Feb. 1976.

SPEECH DELIVERED BY SECRETARY MIDDENDORF, IN MUNICH, WEST GERMANY ON SATURDAY, FEBRUARY 21, 1976

Mr. STONE. Mr. President, yesterday I introduced into the Record, on pages 4009 through 4011, a position paper by our colleague, Senator Henry M. Jackson of Washington, concerning itself with American sea power and the U.S. Navy. In that statement I mentioned that our Secretary of the Navy, J. William Middendorf II, speaking in Munich, West Germany at the 13th International Wehrkunde Conference on Saturday, February 21, 1976, representing Secretary of Defense Rumsfeld, expressed concern with broadened naval capabilities of the Soviet Union.

I believe that Secretary Middendorf's speech is a vital statement which I would like to make available to my colleagues. I therefore ask unanimous consent that his statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Speech By J. Williaim Middendorf II

It is an honor for me to be here today representing Secretary of Defense Donald Rumsfeld, the former Ambassador of the United States to the North Atlantic Treaty Organization. It was my pleasure, as U.S. Ambassador to the Netherlands, to work with Secretary Rumsfeld in numerous matters relating to the NATO alliance. The defense and preservation of Europe as we know it has always been a matter of great concern to Americans. The actions of my Government have demonstrated that concern over and over again, and it is my intention today to stress that the United States continues its policy of support for Europe through a common defense.

While this is not a NATO conference, I feel compelled to point out that during the past 27 years the North Atlantic Treaty Organization has been eminently successful in acomplishing its designed task. The collective defense to deter aggression and preserve peace provided by NATO is more and more important to us today, for reasons which I shall describe in detail.

I strongly believe that NATO and its military capabilities are perhaps the single most important factor in deterrence of great disruption in Europe at a time when the Soviet Union and Warsaw Pact countries continue to increase their capabilities. Here are some of the facts about this increase in Soviet capabilities:

The key fact is that over the past dozen years, Soviet defense spending has increased by about 35 percent.

In this period, the Soviet military establishment (not counting border guards and internal security forces) expanded from 3.4 to 4.4 million men.

Intercontinental ballistic missiles (ICBM's) increased from 224 to 1,600.

Sea launched ballistic missiles (SLBM's) went up from 29 to 730.

Stategic warheads and bombs were up from 450 to 2,500.

And between 1964 and 1974 the Soviets produced 249 new major combatant ships, establishing themselves as a naval power and adding a new dimension to the problem of defending Europe—an oceanic dimension.

The Soviet strategic buildup unfortunately seems to be gaining momentum, with qualitative improvements such as:

The development of four new ICBM's, two of which are currently being deployed with multiple independently targetable re-entry vehicles (MIRV's).

The production of a new generation of ballistic missile submarines, one class of which has recently deployed with the 4,200 mile SS-N-8 missile.

Improvements which could give their ICBM's significantly better accuracy.

Large MIRV's with high-yield warheads.

Development of a mobile IRBM.

The Soviet general purpose forces have not been without their expansion also:

The number of divisions has increased from 141 to 169 with an increase in numbers of tanks, artillery, and armored personnel carriers.

An addition of nearly 2,000 tactical aircraft, combined with the introduction of more sophisticated fighter/attack aircraft.

As the Secretary of the Navy I have a particularly keen interest in the Soviet navy and its capabilities. Soviet naval presence in peacetime is becoming a very significant factor throughout the world. Nowhere has the new direction of the Soviet Navy been more apparent than in the Mediterranean—NATO's southern flank. In 1964 this presence averaged five ships. The present Soviet average is between fifty and sixty. During the 1973 Middle East crisis the Soviet Mediterranean squadron reached some ninety-five units. The new Soviet navy now has one vertical and short take off and landing (VSTOL) aircraft carrier undergoing sea trials, a second under construction and a third in the planning stages. Their sea denial ability has been enhanced through the addition of powerful new surface combatants, such as KARA-class cruisers.

The Soviet navy has new ships, modern weapon systems, and access to facilities in the Black Sea and to a limited extent along the Mediterranean coast. This increased Soviet strength has led some to question the capability of NATO and the U.S. Sixth Fleet. At best we are maintaining adequacy. Even this could be in jeopardy as unsettled conditions in several countries threaten to increase our logistics problems. I feel that today the allied NATO partners are still the dominant force in the Mediterranean as long as there are aircraft carriers capable of sustained action. But we no longer have a monopoly. For this reason, I feel that it is imperative that the NATO nations be as supportive as possible to the new government in Spain. Spain has a valuable role to play in the European community and should not be prevented from doing so because of policies of a previous era.

What have we seen outside the Mediterranean? Recently Soviet units have made unprecedented deployments and conducted exercises indicating a change in the basic mission of defense of the homeland to one of sea denial. This change has serious meaning for Europe. The Soviets are now capable of significantly threatening vital overseas areas and the sea lanes. The NATO countries are dependent on the sea for overseas trade, just as is the United States. In fact, the very existence of Western Europe as we know it today depends on the unimpeded flow of oil and other strategic materials which can only be supplied in the proper quantities by ocean going vessels.

The latest Soviet presence on the African continent in such places as Nigeria, Guinea and Angola could in the time of hostilities literally cripple Europe. Approximately 80% of the NATO alliance's oil and 70% of the strategic materials move through the waters along the west coast of Africa, now vulnerable to the air and naval bases of Soviet supported governments.

During OKEAN 75, a Soviet naval exercise observed by NATO units, more than two hundred Soviet nuclear submarines and surface ships and 400 aircraft, in three oceans, were assembled for coordinated maneuvers.

These maneuvers were controlled through a sophisticated world-wide communication network, including satellites. Soviet aircraft operated from bases not only in the Soviet Union, but also from air facilities made available to them in Cuba, Guinea, and Berberra in the Somali Republic.

Putting this altogether, it is apparent that the numbers of new ships and weapon systems which the Soviet navy is acquiring and the experience it is gaining from its continuing high level of operations in distant areas, are giving the Soviet navy the level of capability, professionalism, and importantly, self-confidence to explore new naval strategies which could be applied against NATO in various stages of hostilities ranging from an economic blockade to an all-out nuclear war.

OKEAN 75 saw Soviet naval units operating in more or less traditional areas such as the Norwegian sea but also in areas such as the sea approaches to Europe, in the approaches to the Persian Gulf, off the west coast of Africa and off the coasts of Japan. In much of the exercise activity, the Soviets displayed a remarkably sophisticated and well-integrated capability for surveillance of the surface of the oceans, making extensive use of sophisticated systems. Having located ships on the high seas with this system, Soviet surface, air, and submarine forces exercised in convoy and anti-convoy operations, reconnaissance of vital sea lines of communication, and the control of key chokepoints throughout the world. These new departures were in addition to the normal exercising of Soviet navy anti-carrier and anti-submarine missions, as well as a simulated strategic strike at the culmination of the exercise.

You may ask "so what?" Well, quite frankly it is a question of survival. Geographically, Western Europe is a peninsula. But in reality, the NATO countries of Western Europe and Southern Europe are virtually an economic island. They maintain tremendous dependence on the sea. The food, raw materials, and energy consumed and needed for survival are in large part imported. Many important markets are overseas, whether in the United States or elsewhere.

The question today is whether the West is capable of recognizing the realities that confront it: a burgeoning Soviet military capability that includes a new element of sea denial, which has the potential to threaten a standard of living that is the envy of many; and a feeling of euphoria that comes with détente. To make détente work, we must have strength; and military and economic strength are the essence of détente.

In order to maintain détente and a credible NATO deterrence we must continue our joint operations, training, technology exchanges, logistics support, intelligence and mutual support. However, a major stumbling block which causes the alliance to waste money each year due to duplication of effort thereby sacrificing military effectiveness, is the lack of standardization and rationalization.

This should make it obvious that there is a need for standardization not only in weapon systems, but also in areas like training, communications doctrine and force structures, and the very important logistics field. Of late there has been an increased realization of this problem by senior officials and a genuine desire to correct it.

We also see a situation where defense expenditures as a percentage of the gross national product are not the same for all NATO partners. The United States' percentage for last year, as estimated by NATO, was 6.7. That figure is down significantly from the 1971 U.S. figure, which was 7.7 percent. Even so, it is well above that estimated for the average of European NATO countries, which was an estimated 4.3 percent of GNP as a defense expenditure in 1975. I realize of course that a good part of the "extra" American expenditure goes for U.S. strategic forces.

During the past few years, as an Ambassador and as U.S. Secretary of the Navy, I have personally visited key maritime officials and been aboard naval units of the navies of the Federal Republic of Germany, the United Kingdom, Italy, the Netherlands, Belgium, and Spain. From my firsthand observations, I can tell you that their professionalism is outstanding, and that they make a valuable contribution to security in Europe.

Today, no less than in the past, U.S. military strategy, and hence the structure of our forces, must continue to support the NATO alliance. To do otherwise would be seen by friend and foe as a step toward withdrawal to that outmoded concept of isolation. It would undermine the very strength and confidence that we have in Western Europe, while encouraging the Soviet Union and her Warsaw Pact allies to exploit any weakness or division in Europe or in the world.

The United States will remain a friendly ally as long as leaders in America (like Senator John Tower of Texas who by his very presence at the Wehrkunde conference this year and in past years shows his dedication to the Atlantic Alliance) recognize the importance of mutual support. Few things could be more damaging to the future of Europe than any of us on either side of the Atlantic to lose sight of the continuing value of the Atlantic Alliance and the cooperation which underlies it. To do so would be an undercutting of those American leaders who support the alliance, and encouragement of the emergence of other leaders—isolationists—with little understanding of the inter-relationships of the alliance, and little concern for Europe. Therefore, our concern today should be for maintaining a full partnership of strength that is perceived on both sides of the Atlantic to be essential to our very survival.

S. 2849—THE INVESTMENT ADVISERS ACT AMENDMENTS: CLOSING A REGULATORY GAP

Mr. WILLIAMS. Mr. President, the Wall Street Journal of February 19 contained an article entitled, "Almost Anyone Can Peddle Stock Advice; SEC Moves To Tighten up Qualifications," which points out one of the more serious deficiencies in the Investment Advisers Act of 1940—that act's failure to give the SEC authority to establish minimum standards of qualification.

As the article vividly illustrates, today any person can become a registered investment adviser regardless of age and regardless of whether that person has ever had any experience or education in financial matters. The article is humorously subtitled, "I Was a Teen-Age Tipster," but, I assure you that, after reading the article, you will not treat this problem lightly.

The lack of national qualification requirements for investment advisers is in sharp contrast to the requirements under the Securities Exchange Act of 1934 for stock brokers, who are required to pass an examination administered by the National Association of Securities Dealers, the New York Stock Exchange, or the Securities and Exchange Commission before they can give investment advice to customers or take brokerage orders.

This regulatory gap would be closed by S. 2849, a bill which I introduced on January 20, 1976. The amendments to the Investment Advisers Act contained in S. 2849 are far from revolutionary. They do no more than extend the act's authority to allow the Securities and Exchange Commission to adopt, after public notice and comments, minimum qualifications and financial responsibility requirements of the type that broker-dealers have lived with for many years.

The need for this authority has been acknowledged over the years by a number of distinguished Members of the Congress and securities lawyers, as well as by SEC Commissioners. I believe that the moderate approach represented by S. 2849 to solving these regulatory problems will greatly benefit investors and deserves our full support.

Mr. President, so that all Members of this body may be aware of the need for this legislation, I ask unanimous consent that Mr. Burt Schorr's excellent Wall Street Journal article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

I WAS A TEEN-AGE TIPSTER: ALMOST ANYONE CAN PEDDLE STOCK ADVICE; SEC MOVES TO TIGHTEN UP QUALIFICATIONS

(By Burt Schorr)

WEIRTON, W. VA.—Hunched over his small rolltop desk, the investment adviser fills the lined paper with impressive-sounding phrases:

Last week, the catchphrase on Wall Street was "year-end crosscurrents." The market was caught between the opposing forces of tax-loss selling and year-end bargain-hunting.

From posters on the walls, a strange assortment of personalities looks on: Begoggled rock singer Elton John. Gap-toothed Alfred E. Neuman of Mad magazine. The gang from the comic flick, Young Frankenstein.

Stock comment . . . Much has been said concerning the rising possibility of severe, world-wide food shortages . . . Modern science has come to the rescue with new farming methods (such as) high-yielding seeds . . . Ring Around Products is a small but fast-growing company which derives about 80% of its earnings from the seed business.

Downstairs, an electric mixer begins to whir; the adviser's mom is whipping up a batch of chocolate-chip cookies. Upstairs, his brother slips a rock record on the turntable and the sound of "I've Been Searching For So Long" fills the bedroom where the adviser labors.

THE SEC IS NOT AMUSED

The scene is not from some youthful fantasy of financial wizardry but straight from real life. The industrious writer, Robert DeLaMater, is only 16 years old. Age notwithstanding, Bob is an investment adviser registered with the Securities and Exchange Commission—though that agency is not a bit amused by the picture of youthful precocity.

Bob proclaims his official status on the masthead of The Stock Market Trader, the four-page advisory letter he mails out each Sunday. So far Bob's advertisements for The Trader—which give no hint of his age—have brought more than a score of $1 trial subscriptions. "It looks like a good way to make money," the teen-age adviser says.

But at SEC headquarters in Washington Seymour Spolter, an unsmiling lawyer who helps oversee investment advisers, is decidedly unenthusiastic. He says, "We're concerned about the ability of a 16-year-old to perform as an investment adviser."

There isn't much Mr. Spolter and his SEC colleagues can do about it, though. The agency's powerful regulatory thumb is pressed down hard on almost everyone else connected with securities, from corporation directors to stockbrokers. Yet the commission is almost powerless when teen-agers or others with dubious qualifications decided to sell investment advice to the public.

That may not be true for long, however. The SEC is close to final action on a proposed rule that would require advisers to tell their clients a lot more about their training, experience and sources of information. More important, it's asking Congress for authority to establish qualifications for advisers, as it does now for broker-dealers, for example. A number of professional advisers endorse both moves. But SEC critics in the securities business and elsewhere contend that there's no way to protect investors from bad advice and that the SEC has no business trying.

Under the Investment Advisers Act of 1974, the commission now merely requires advisers to fill out a fairly simple registration form and to keep certain records. It also can refuse to register those with records of criminal convictions or securities-law violations, and it can penalize registered advisers who perpetrate fraud.

To SEC Commissioner A. A. Sommer Jr., this limited authority makes control of advisers the "stepchild in the whole process of securities regulation." That bothers Mr. Sommer and others at the commission because the number of firms and individuals registered as advisers has grown to more than 3,600 from fewer than 1,400 as recently as 1969; the investments they now manage or help to manage are estimated at over $130 billion.

THE BIG AND THE SMALL

Generalizations about SEC-registered advisers can be tricky. Scudder, Stevens & Clark, headquartered on New York's Park Avenue and with 280 professionals to manage "in excess of" $5 billion in capital, including the assets of eight mutual and closed-end investment funds, is one name on the list. Another is Irving Hynd of "five miles north of" Midland, Tex. Mr. Hynd, an electrical supplier, says he registered three years ago intending to advise neighbors on their securities speculations, only to see speculative interest wither in the long bear market.

As far as the SEC knows, Robert DeLaMater is the youngest adviser ever to register. But the agency hasn't always asked registrants how old they are.

Thus, as it reported in its 1963 study of the securities markets, the commission learned only belatedly that "the entire staff" of The Trading Floor, a daily stock tip sheet that appeared briefly on lower Manhattan newstands in 1962, was "a 19-year-old boy." The youthful adviser, whose registration was quite in order, told SEC investigators that his knowledge of securities had been "sort of assimilated . . . from the surroundings that I have been in in the brokerage business." He had spent two months as a mail clerk with one securities firm and two months as a beginning clerk with a second firm.

Of greater concern to advisory-service clients, perhaps, was a statistic reported in the same 1963 study: Out of 79 firms registered as advisers during a three-month period in 1961, the SEC found that over half lacked partners or other principals with any prior experience in the securities business.

MUTUAL-FUND DEBACLE

More recent cases from the SEC's enforcement files indicate that the inexperience of mutual-fund portfolio managers employed by registered adviser firms was partly to blame for disastrous declines in some funds' assets.

Last year, the SEC concluded that one such firm, Financial Programs Inc., in 1969 and 1970 permitted "inexperienced and incompetent" persons to make investment decisions for mutual funds it served. As a result, the funds lost most of the $21 million they paid for "speculative, unseasoned" stocks bought "without adequate, independent study." Under a settlement agreement, Financial Programs (98% owned by Gates Rubber Co., which wasn't named in the SEC complaint) agreed to pay the funds $2.5 million, though the commission noted that the adviser firm had completely overhauled its management since the questionable transactions occurred.

The $21 million included more than $5 million that the funds invested in nearly 130,000 shares of Richard Packing Co., a small Minnesota producer of hamburger patties with purported plans to enter the fast-food business. The president of Richard Packing and two securities consultants involved in the purchase of the stock later were convicted of fraud. (The consultants are appealing the verdict.)

BACKGROUND IN COMPUTERS

The lengthy trial disclosed significant facts about John R. Hurley, the Financial Programs portfolio manager chiefly responsible for the decision to invest in Richard Packing. It showed that Mr. Hurley, whose experience chiefly was in computer programming, was given responsibility for the quick investment of $45 million for Financial Program's Venture Fund despite his scant securities experience. And it showed that the purchase of Richard Packing stock was heavily influenced by a growing report on the company's fast-food prospects written by a neophyte securities analyst who prepared the report purely as "an education process." The report's author testified that he relied on the fraud defendants for most of his information. (Mr. Hurley wasn't accused in the fraud case, but he consented to an SEC order barring him from all aspects of the securities business.)

The additional legislative authority that the SEC is seeking from Congress could be used to establish bonding or other financial requirements designed to discourage such loose practices, agency staff members say. And, although advisers to mutual funds would be exempt from the SEC's pending disclosure proposal, advisers to private clients would be required to tell them "the general sources" of their information as well as their "education and business background."

A FUTILE EFFORT

Securities-industry witnesses appeared to have no major objections to the SEC proposal when they testified at Senate hearings on the legislation last month. More than a few skeptics dispute the value of such regulation, however. Robert G. Kleckner, house counsel for Goldman, Sachs & Co., calls the proposed disclosure rule "of little practical benefit" to clients and "a wholly unnecessary burden" on advisers.

James S. Mofsky, who teaches securities law at the University of Miami law school, takes the more radical stance that all adviser regulation is futile. Studies have shown that "advisers can't predict future stock prices from past behavior of the markets," Mr. Mofsky says. "So, if anybody can guess what market prices will be, what difference do standards make?"

Mr. Mofsky's contention that investors can decide the value of investment advice for themselves would appear to apply here in Weirton where Bob DeLaMater is hard at work.

The straight-A high school junior has managed his own portfolio since he was 12 (its current value of around $5,000 is down from the high of $6,100 reached last July.) After school and on Saturdays, Bob can be found in the local library or at his bedroom desk, digesting publications like Business Week and The Wall Street Journal and books like "How to Make Money in Wall Street."

The research hasn't helped Bob's forecasting much, though. In early January, at the outset of the current upsurge in stock prices, Bob was warning his readers that a decline of the Dow Jones Industrial Average, then nearing 900, "into the middle 800s or possibly quite lower" was imminent. "Now is the time not to buy."

Perhaps it's understandable, then, why only one reader of The Stock Market Trader has signed up for a $50 annual subscription—he is Bob's grandfather.

U.S. VOLUNTARY AGENCIES AT WORK IN GUATEMALA

Mr. KENNEDY. Mr. President, on February 4 a massive earthquake struck the people of Guatemala—leaving behind an awesome trail of destruction, death, and human misery. It was one of the most devastating earthquakes of this century, and will become, when the final toll is fully known, one of the most tragic natural disasters ever to befall Latin America.

The Guatemalan Government and international disaster relief agencies all report a tragic toll in human life—over 22,000 dead, 74,000 injured, and over 1 million homeless. As more rubble is cleared, the death toll will surely climb even higher.

Fortunately, American and international voluntary relief agencies were quick to respond to the urgent humanitarian needs of the Guatemalan people. U.S. voluntary agencies are in the vanguard of relief efforts in Guatemala—once again truly reflecting the humanitarian traditions of the American people.

Over 20 U.S. private relief organizations are currently involved in relief operations in Guatemala. And as the process of rehabilitation and reconstruction proceeds—the American voluntary agency will assume the major burden of restoring the shattered lives of the Guatemalan people.

Their work warrants the commendation of Congress and the American people and deserves the continuing support of our Government so as to insure that the difficult task underway in Guatemala today is successful.

Last week the Subcommittee on Refugees, of which I am chairman, received a report from Dr. Daniel Parker who is the President's Special Coordinator for International Disaster Assistance in Guatemala as well as Administrator of the Agency for International Development, and who just returned from touring the disaster-stricken regions of Guatemala. In his testimony, Dr. Parker reserved special praise for the contributions of the voluntary agencies. I am hopeful that this cooperation will continue.

Mr. President, I would like to share with my colleagues the progress and status of voluntary relief operations in Guatemala and ask unanimous consent that two earthquake disaster relief reports prepared by the American Council of Voluntary Agencies for Foreign Service and AID be printed in the Record.

There being no objection, the reports were ordered to be printed in the Record, as follows:

Disaster Response Efforts By U.S. Voluntary Agencies, Guatemala Earthquake

Situation: Major earthquake measuring 7.5 on Richter Scale struck Guatemala in early morning 4 February 1976. Number dead now estimated to be over 22,000, another 74,000 injured and over 1,000,000 displaced.

The following is a list of voluntary agencies now involved in emergency relief operations in Guatemala. Information concerning voluntary agency efforts not included in this report is requested for subsequent reports.

American Friends Service Committee *; Miss Judith Glass/Miss Corrine Johnson, 1501 Cherry Street, Philadelphia, Pennsylvania 19102 (215/241–7000). Field Director in Guatemala, James Bradford. Budgeted $200,000 for long term support of self-help efforts. Robert Hinshaw, with long experience in Guatemala, making 10 day assessment to determine most effective role of the AFSC. Guatemala City address—Apartado 2148 Cuidad Guatemala.

*American Friends Service Commitee**; *mittee**; Rev. Robert T. McGlasson, 1445 Boonville Avenue, Springfield, Missouri 65802 (417/862–2781). Cabled $25,000 with another $75,000 to be dispatched in immediate future for direct relief. More funds will be forthcoming as needs are assessed. 12 staff in Guatemala headed by Mr. Walter Haydus. Mr. Triplet to return to U.S. 17 February 1976 to make assessment report.

*Baptist World Alliance**; Dr. Carl Tiller, 1628–16th Street, N.W., Washington, D.C. 20009 (202/265–5027). Cabled $2,000 for local Baptists organizations with an additional $4,000 given to the Brother's Brother Foundation. Other financial assistance to be rendered as needs are assessed. A fully equipped disaster mobile unit is ready for shipment from Texas when requested.

*CARE**; Mr. Bertran Smucker, 660 First Avenue, New York, New York 10016 (212/686–3110). In cooperation with Government of Guatemala, distributed food commodities available in country. Other commodities being shipped from nearby countries, and the U.S. Coordinator of relief in Guatemala is Bill Salas. Purchased and shipped medical supplies valued at $20,000. Authorized expenditures of $100,000 for local and area purchases of need supplies. Another $100,000 has been made available from CARE/Canada. As of 10 February 1976 some 1.8 million pounds of food commodities had been distributed especially in the area around Chimaltenango. CARE/Honduras is shipping 350 hand corn grinders. 10,000 pounds of beans now in process of being shipped. First aid kits and some 480 blankets have been distributed at a value of over $26,400.

*Catholic Relief Services-United States Catholic Conference**; Mr. James Noel, 1011 First Avenue, New York, New York 10022 (212/838–4700). Established Guatemala Earthquake Relief Fund with initial allocation of $10,000 for purchase of local needed supplies. On 10 February 1976 chartered Boeing 707 and Lockheed Electra to fly 105,000 pounds of critically needed supplies valued at over $294,000 bringing to total value of commodities shipped somethiing over $560,000. An additional $90,000 was made available for local purchases. Commodity CRS stocks being shipped from Nicaragua, Honduras and El Salvador as part of overall goal of some 27,500 tons to be shipped into Guatemala. European agencies augmenting CRS disaster program as follows: British Children's Aid group pledged $10,000, and German Catholic Charities $29,000. CRS disaster coordinators in Guatemala are Elaine Edgcomb and Ken Brown.

*Christian Reformed World Relief Committee**; Mr. Louis Van Ess, 2850 Kalamazoo Avenue, S.E., Grand Rapids, Michigan 49508 (616/241–1691). Relief coordinator, Peter Limberg. Cabled $10,000 for food purchase distribution. Airlifted 2000 pounds of blankets and 2400 pounds of clothing. Total costs of efforts made thus far is approximately $25,000.

*Church World Service**; Mr. H. D. Swartzendruber, 475 Riverside Drive, New York, New York 10027 (212/870–2200). Kirk Alliman serves as the major CWS representative in Guatemala. He also serves the cooperative committee of Protestant churches. Helicopters being used for distribution of supplies, CWS appealing for $1,000,000 from constituents. On 9 February 1976 a charter flight carried 30,000 pounds of commodity valued at $87,028. The cost of the charter was $18,697. During last weekend an additional 10,000 blankets shipped. CWS continues to assess situation to determine how it can best use its supplies and services.

*Interchurch Medical Assistance**; Mrs. Esther Jacoby, 475 Riverside Drive, New York, New York 10027 (212/870–2525). IMA is preparing to respond to requests by other voluntary agencies and missions for medical supplies and other materials.

*Lutheran World Relief**; Pastor Ove Nielsen, 315 Park Avenue South, New York, New York 10010 (212/677–3950). LWR is sending 5000 blankets and $20,000 for emergency needs in Guatemala.

*Medical Assistance Programs (MAP)**; Mrs. Beth Knighton, 327 Gunderson Drive Box 50, Wheaton, Illinois 60187 (312/653–6010). Relief coordinator in Guatemala, Kirk Alliman. Dispatched via charter aircraft 126.5 tons of materials consisting of medicines and high protein supplements valued at $550,000. 2 charter flights containing 77,100 loaves of Guatemalan bread to arrive by Saturday February 14 accompanied by Rev. Billy Graham. MAP director, Ray Knighton in Guatemala making necessary survey.

*Mennonite Central Committee**; Mr. Doug Snyder, 21 South 12th Street, Akron, Pennsylvania 17501 (717/859–1151). Paul Landis sent to disaster area to coordinate efforts of the MCC. A missionary survey team is now assessing what needs to be done. $300,000 has been budgeted for MCC activities in Guatemala. It is envisioned that the allocated funds will be used with Indian programming in remote villages over a period of one year. Commodities contributed by the MCC shipped with material from CWS. The Mennonite Disaster Service to meet weekend of 14 February 1976 to determine future actions.

*The Salvation Army**; Col. George Nelting, 120 West 14th Street, New York, New York 10011 (212/243–8700). Coordinator in Guatemala is Brig. G. Newton McClements. Salvation Army team in Guatemala making assessment of the best way for the Army to be of assistance. Considering being involved with emergency housing. Will be purchasing blankets, tents, folding cots and cooking utensils. Army has accepted request of Guatemalan Government to serve as coordinator of clothing distribution. Instigated airlift from Miami on basis of "space available" with Pan American. International headquarters in London shipped 23 cases of medical supplies valued at over $10,000.

*Save the Children Federation**; Mr. David Guyer, 58 Wilton Road, Westport, Connecticut 06880 (203/226–7272). Instigated the Guatemalan Emergency Fund for helping needy children in Guatemala.

*Seventh-Day Adventists World Service**; Mr. Howard Burbank, 6840 Eastern Avenue, N.W., Washington, D.C. 20012 (202/723–0800). SAWS has chartered a plane to ship 50,000 pounds of relief materials to Guatemala City, including clothing, tents, blankets, gas lanterns, medical supplies, rescue blankets, bandages and splints. SAWS people in Guatemala will cooperate with CRS in the distribution of PL 480 Title II commodities on hand in the CRS warehouse, which will then be replenished by AID/Food for Peace.

Southern Baptist Convention, Foreign Mission Board; Dr. Eugene Grubbs, 3806 Monument Avenue, Richmond, Virginia 23230 (804/353–0151). The agency has arranged to airlift 270 tents and 250 sleeping bags to Guatemala, and based on local mission requests, will ship a large amount of medicines through Medical Assistance Programs (MAP). Six doctors are on the way to Guatemala, four from the U.S. and one each from Honduras and Colombia. An agency staff member has gone to Guatemala to assess the situation and report on further needs. The agency appropriated $25,000 for the local purchase of food which will be distributed by local Baptists, through the coordination of the Baptist Cultural Association.

World Relief Commission; Mr. Frank Edinger, P.O. Box 44, Valley Forge, Pennsylvania 19481 (215/783–0556). WRS coordinator in Guatemala, Rev. Donald Hawk. Dispatched initial funds of $60,000. Making use or 2 Mission Aviation Fellowship planes to fly personnel and materials. Funds to be used to purchase needed supplies determined by surveys.

*World University Services**; Dr. K. B. Rao, 20 West 40th Street, New York, New York 10018 (212/563–1736). WUS has sent information and an appeal for funds to U.S. universities, and is expecting to hear from the Guatemala WUS Committee with specific requests.

World Vision International; Dr. Donald Warner, 919 West Huntington Drive, Monrovia, California 91016 (213/357–1111). World Vision has sent $15,000 for relief work through the Latin American Mission and has provided two barrels of vitamins through Operation Handclasp. The agency is considering further measures.

Additional information regarding development programs in Guatemala by U.S. nonprofit organizations is available in the September 1974 Guatemala Country Report by the Technical Assistance Information Clearing House (TAICH).

VOLUNTARY AGENCY ASSISTANCE FROM A.I.O.

The following is a list of the Volunteer Agencies and information on their activities as currently known:

Assemblies of God—Cash—$25,000 sent; $75,000 pledged.

Baptist World Alliance—Cash—$6,000.

CARE—9 mil. lbs.—Title II food; 5,000 blankets; 95 first aid kits, and miscellaneous medicines (total value $46,000); Cash—($100,000 authorized for local purchase) ($100,000—CARE/Canada); (350 Hand corn grinders CARE/Honduras); 10,000 lbs. Beans Shipped.

Catholic Relief Services United States Catholic Conference—Cash—$100,000; 46½ tons Shelter material, blankets, emergency kits, tools, clothing (total value, $560,000); 27,500 tons Food commodities from Nicaragua, Honduras and El Salvador CRS Program; Cash—$10,000—British Childrens' Aid; Cash—$29,000—German Catholic Charities.

Christian Reformed World Relief Committee—Cash—$10,000; 2,000 Blankets; 2,400 lbs.—(total value $25,000); Clothing.

Church World Service—80,000 lbs.—relief suppiles (total value $105,725); 10,000—blankets.

David Livingston Foundation—Specifics unknown.

Food for the Hungry—Specifics unknown.

Interchurch Medical Assistance—Specifics unknown.

Lutheran World Service—Cash—$20,000; 5,000—blankets.

Mennonite Central Committee—Cash—$300,000 pledged for reconstruction; 2 flights (77,000) loaves bread.

Medical Assistance Program—126.5 tons—Medical supplies and high protein supplements (value, $550,000).

Salvation Army—1,000 lbs.—powdered milk; 1,000 lbs.—miscellaneous medical supplies; On order 60,000 lbs.—canned food; $10,000—medical supplies.

Seventh Day Adventists World Service—40,000 lbs.—food; 2,000 lbs.—medicine; 3,000 lbs.—blankets; 5,000 lbs.—clothing; 200—tents (have medical team in Tecpan); *On order* 50,000 lbs.—corn; 50,000 lbs. beans; 50,000 lbs.—rice; 16,000 lbs.—medicine; 100 bed—hospital; 5,000—blankets; 1,000 tents (working in: Guatemala City and four outlying towns.)

Southern Baptist Convention, Foreign Mission Board—cash—$25,000; 270—tents; 250—sleeping bags; 6—doctors sent.

World Neighbors, Inc.—Support of 23 medical personnel from U. of Miami in cooperation with Save the Children Foundation.

World Relief Commission—cash—$60,000.

World University Service—Specifics Unknown.

World Vision International — Cash — $15,000.

American Friends Service Committee — cash—$200,000 pledged for self-help reconstruction.

American National Red Cross—cash—$100,000; 3,400 — tents; 5,000 — blankets; 1,000 — cots; 20,000 lbs. — medical supplies; 60,000 lbs.—Food. *On Order* 3,000—tents; 6—¾-ton pickups; 5—ambulances. (Working in: Zones 3 and 6 Guatemala City and six outlying towns).

Christian Aid—30,000 lbs.—food.

Help the Aged — 10,000 — blankets; 5,000 lbs.—food.

British Red Cross—22 tons—medicine.

Mormon Mission — $5,000 — food; 6,000 lbs.—blankets and tents; 500 lbs.—clothing; 500 lbs.—medical supplies.

Total voluntary Agencies—25.

Total Contributions Computed—$2,477,125 (plus additional in-kind contributions).

International Organizations Assistance—as of February 16, 1976.

Relief assistance from International Organizations has been reported to date as follows:

Cash contributions:	*U.S. dollars*
Organizations of American States (OAS)—Cash for the purchase of roofing materials, medical supplies and other commodities	$700,000
League of Red Cross Societies (LICROSS)—Contributions of goods and cash from National Societies	1,500,000
European Economic Community (EEC)—Cash donation	250,000
Pan American Health Organization (PAHO)—Cash donation	50,000
United Nations System	1,180,936
World Health Organization (WHO)—Cash donation	100,000
World Food Program (WFP)—Food for Work allocation	985,936
United Nations International Childrens Fund (UNICEF)—Cash donation	75,000
United Nations Disaster Relief Organization (UNDRO) through United Nations Development Programme (UNDP)	20,000
Total International Organizations	3,680,936

Other contributions:

Pan American Development Foundation: 6 ea. packaged disaster hospitals.

(Three states, Alabama (through the Alabama Partners—Partner of Guatemala), South Carolina and Oregon have contributed 2 hospitals each.)

NO MORE DISHPAN HANDS

Mr. BUMPERS. Mr. President, we are continually told that "progress" cannot be stopped, that man must go as fast as he can go, and that those who oppose the Concorde are modern-day Luddites, bent on mindlessly destroying technological improvements.

As I have said before, I am fundamentally at odds with this philosophy. Sometimes the best answer to pretension is humor, and Russell Baker has recently proved that this is true in the case of the Concorde.

Mr. President, I ask unanimous consent that a column by Mr. Baker entitled "No More Dishpan Hands," appearing in the New York Times of Tuesday, February 10, 1976, be printed in the RECORD.

Mr. President, small can be beautiful. So can slow.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NO MORE DISHPAN HANDS

(By Russell Baker)

The philosophical principle underlying the Concorde is that progress consists in going places twice as fast. By cutting trans-Atlantic travel time in half, Concorde makes it possible to have breakfast in London, take off at 8 A.M. and arrive in New York at 6 A.M., in time for another breakfast.

Opponents of progress argue that this is no progress at all, since the traveler could have stayed in London and had a second breakfast right there without the added expense of flying the Atlantic. This is a silly argument.

The progress, which it speciously ignores, lies in the fact that Concorde gets the traveler out of the messy business of having to wash the breakfast dishes. They can be left in the sink at London with the justification that he must hurry to catch the Concorde, and at New York he can pass up the American breakfast, with its concomitant stack of egg-stained plates, by using the argument that he has already eaten in London.

When all routes become supersonic, as surely they will, he can then get out of doing all sorts of dishes. Let's suppose he stops an hour at New York to pass up the East Coast breakfast, thus getting out of his second batch of breakfast dishwashing in less than four hours, and hops the 7 a.m. Concorde for California.

He arrives at Los Angeles at 5:30 A.M., much too early to have breakfast. Once again, he gets out of doing breakfast dishes. Having been five hours and a half in transit, however, he is ready for lunch.

Lunch time in California, unfortunately, is still hours away, and it will do no good to fly on to Hawaii. If he catches the 6 A.M. to Honolulu, he will arrive at the islands at 4:30 A.M., too early even to get breakfast.

The trick is to fly back to New York. The 7 A.M. Concorde will put him there at 11:30 A.M., the very start of the lunch hour. Allowing an hour to eat and an hour to wash the lunch dishes, he can still catch the 1:30 P.M., Concorde back to London. It arrives at 9:30 P.M., when the last of the dinner dishes are just being dried and put back in the cupboard. Thanks to Concorde, he has gotten out of washing three sets of breakfast dishes and one grease-clotted batch of dinner dishes.

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*Member of ACVAFS.

This may not seem like much progress, considering the cost, but we must bear in mind that Concorde is only a primitive machine foreshadowing days to come. As opponents of Concorde point out, it makes little sense to cross the Atlantic in three hours if it takes another three hours to travel from the airport to Manhattan.

Progress requires a 50 percent cut in the time needed to go every place. If the principle that faster is better is faithfully followed, we shall soon get to the office twice as fast, travel twice as fast on elevators, walk twice as fast to the corner drugstore, vacation twice as fast, and so on.

This will inexorably force us to fall in love, marry, reproduce and divorce twice as fast, and to rise to the top of the ladder twice as fast.

A world geared for the twice-as-fast life will be filled with people who have lived entire 65-year lifetimes in 32½ years. These people will look forward to years and years and years of leisure time, which they will doubtless use to create new schemes for using the Concorde to get out of washing dishes.

Engineering will not stop at Concorde, however. Progress can never cease. Eventually, machines will be built to move us at four times the speed of sound, then ten times the speed of sound.

It will be possible to take off at London at 8 A.M., fly westward around the world and arrive home at 8:30 A.M., with the unwashed breakfast dishes still warm in the sink, thus rendering the trip completely pointless. Humanity will not put up with this. It will demand more progress, and technology will finally give us a plane on which we can take off from London at 8 A.M., fly westward around the world and arrive back at London thirty minutes before we ate breakfast to find the dishes still undirtied in the cupboard.

In this era, of course, life will be moving at such a pace that 3-year-olds will be long-forgotten has-beens, and the cry for more progress will be irresistible.

The French, I believe, will be the people who will provide it. One day a great French visionary, a new de Gaulle, will declare that progress consists in going places very slowly. He will unwrap a miracle of French engineering. It will be a boat a thousand feet long, which contains the finest restaurant on earth and travels no faster than 35 miles an hour. It will be called the S.S. France.

This is the ultimate goal of modern progress toward which the Concorde now points us. What a pity that most of us alive today will not live to see it.

PROCLAMATION FROM BREWSTER, MASS.

Mr. KENNEDY. Mr. President, I ask unanimous consent to print in the RECORD a proclamation from the town of Brewster, Mass., which I received yesterday. On February 18 Brewster celebrated its 173d anniversary as a town. Brewster is taking this opportunity to renew the pledge to build a better community for all its citizens, and we commend them this day for all that they have shared with us in the past, and we look forward to working with them in the future to assure a better quality for future generations.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

[Town of Brewster]

A PROCLAMATION 1976

Whereas, By a special act of the Massachusetts legislature in the year 1802 Chap. 76 of the General Laws, and approved in the year of our Lord one thousand eight hundred and three, on the nineteenth day of February, the northern part of the Town of Harwich was set aside, and because so many of the inhabitants were descendants of Elder Brewster, it was incorporated as the Town of Brewster.

Whereas, the said Town of Brewster is celebrating its One Hundred and Seventy-third anniversary on February 19, 1976. An invitation is extended to everyone to visit us.

Now, therefore we The Board of Selectmen of the Town of Brewster in the County of Barnstable, Commonwealth of Massachusetts do hereby proclaim as Brewster Founders' Day, February 19, 1976, in memory of and as tribute to those whose efforts founded said Town of Brewster.

Be it further proclaimed that this day be celebrated by holding appropriate historical exhibits at the Brewster Town Hall between the hours of 1 p.m. and 7 p.m.; and be it further proclaimed that we, this Board of Selectmen, dedicate ourselves to the task of incessant progress, aimed at building a better community for ourselves and our posterity.

Given in the Selectmens Office in Brewster this 1st day of February in the year of our Lord one thousand nine hundred and seventy six, and of the Independence of the United States of America, the two hundredth.

THE PRUDENTIAL INSURANCE CO.: FORWARD LOOKING MANAGEMENT IN THE PUBLIC INTEREST

Mr. WILLIAMS. Mr. President, over the years, the Prudential Insurance Co., our Nation's largest life insurer, has made great contributions not only in providing innovative and forward looking programs in the field of insurance but toward the well-being of the citizens of the State of New Jersey and the city of Newark as well.

Donald S. MacNaughton has been chairman and chief executive officer of the Prudential for the past 7 years. During his term, the Prudential has expanded its activities, not only in the field of insurance, but in providing mortgage money and real estate loans which have benefited many of our State's low-income citizens. These activities have gone a long way toward improving life for the citizens of Newark, as well as in other areas.

Mr. President, the February 9, 1976 issue of Business Week contains an excellent article on the Prudential and the leadership provided by its chairman, Mr. MacNaughton. So that all Members of this body may be able to apprise themselves of the Prudential's outstanding achievements, I ask unanimous consent that this article be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Business Week, Feb. 9, 1976]

THE NO. 1 INSURER GETS BIGGER AND RICHER

On the television screen, two cars collide in a supermarket parking lot. One driver asks the other for the name of her insurance company. "Prudential," she responds.

"Not life, car insurance," the man retorts. To his surprise, and presumably that of the TV audience the woman explains that she has a "piece of the Rock" protecting her car.

In fact, Prudential Insurance Co. of America, the nation's largest life insurer with some $39 billion in assets, and $232 billion of life insurance in force, will be writing protection for autos and homes nationwide by yearend. That is just five years after it first launched its Prudential Property & Casualty Co. (PRUPAC) subsidiary.

The move into the property-casualty business is the most dramatic example of how the Pru is using its vast wealth to diversify far beyond the traditional confines of a mutual life company: life and health insurance and pension fund management. In doing so, it is charting a path that other big insurers will have to follow or else risk losing more ground to the Pru.

The Pru, under the leadership of Donald S. MacNaughton, an affable, unpretentious, 58-year-old lawyer who has been chairman and chief executive since 1969, had already poured some $650 million into its shell holding company subsidiary, PRUCO,—the prime vehicle for diversification. Today the Rock of Gibralter logo is on commercial reinsurance and on equipment leasing—not just in the U.S. but all over the world. It has broadened its reach in real estate, owns its own clinical laboratory, and for five years has had its own seat on the Philadelphia-Baltimore-Washington stock exchange. And through the purchase of a 10% equity interest in, and a $25 million loan to, Hambros Ltd. late in 1975, it has gained a board seat on a London-based holding company ($2.4 billion in assets) that owns both a major British life insurance company and one of the world's largest merchant banks.

At a time when life companies are running into hard selling in the U.S., the Pru, through its stake in Hambro Life Assurance Ltd., is in a fine position to learn about selling insurance abroad. Its stake in Hambros Bank Ltd. gives it entree into the world of London merchant banking, where some of the biggest financial deals are put together. "Hambros is our window on the world," says Frank J. Hoenemeyer, the Pru's executive vice-president in charge of investments.

EXPANSIONIST INFLUENCES

Given its position as the nation's No. 1 life insurer, what is happening at the Pru must certainly force a major change in the life insurance industry—and, perhaps, in the whole U.S. financial system as well.

Life insurers are uniquely situated in the hurly-burly of the financial marketplace, with a combined pool of assets—nearly $300 billion—exceeded only by the nation's commercial banks and its savings and loan associations. No other lender can match the $100 billion in corporate bonds that life companies hold—making the Pru and its fellows the largest single source of long-term business capital. Beyond that, the life companies hold $30 billion in corporate stocks, $90 billion in mortgages, and another $10 billion in real estate loans. S&Ls are essentially small institutions, operating locally and making only mortgage loans. Life companies can operate almost anywhere and lend to finance almost anything. Life company assets are modest compared with the $900 billion in commercial bank assets. But the life insurers operate under fewer restrictions than banks. There is no federal regulation of insurance companies, only state regulation that ranges from fairly tough in some states to almost nonexistent in others. And few life companies—and certainly not the Pru—have been hit by either the huge loan losses, or the squeeze on capital that has forced the banks to play it conservative today.

Whatever fields they choose to enter, from property insurance to leasing, here or abroad, the life insurance companies instantly become tough, rich competitors. With the public bond market closed to all but top-grade corporate names, for instance, the life companies have become the only source of long-term capital to a vast slice of U.S. business. And whatever fields the life companies do enter, MacNaughton wants his Pru to get there first.

Outwardly, at least, it is hard to see MacNaughton as a driving leader, pushing so vast an enterprise onto new turf. He maintains a calm facade; the only clue to his inner dynamism is the constantly fidgeting fingers, drumming the desk, toying with a cigarette lighter, jabbing the air to make a point. MacNaughton, who stands a towering 6 ft. 4 in., studied law at Syracuse University and joined the Pru in 1955. He gained the inside track to the CEO post in 1963 when, as a senior vice-president in the legal department, he headed a committee to study the organization of the Pru's home office. By the time the study was done, he knew more about the Pru than anyone except then-President Orville E. Beal. MacNaughton was named executive vice-president in charge of corporate services in 1965 and chief executive in 1969.

MacNaughton quickly set a new tone at the Pru with a speech—now known as the "Pumpkin Papers," for the color of the cover of the statement. The Pru's primary goal, he said, would be to stay first in individual life insurance sales. But the company would also seek out new products, and new markets for its products.

If it succeeds, MacNaughton's expansionist strategy will at the least widen the gap between the Pru and its competition. The Pru is already $4 billion bigger than its arch rival, Metropolitan Life Insurance Co., and twice the size of third-ranked Equitable Life Assurance Society of the U.S. Moreover, the Pru, which first passed the Met in assets in 1966, keeps pulling further ahead. By all estimates, 1975 was the 19th of the last 20 years when the Pru has sold more life insurance than the Met. For the first nine months, its life sales totaled an estimated $23 billion—$9 billion more than the Met. And this enabled it to widen the lead it gained for the first time in 1974 over the Met in total life insurance in force to about $8 billion. That is a lot of business for a Newark (N.J.) company that began life in 1875 as the Widows & Orphans Friendly Society.

A TWO-TIER INDUSTRY

It is in part because it has no more life insurance worlds to conquer that the Pru is so anxious to diversify today. More central to MacNaughton's thinking is a change in the nature of the life insurance business so fundamental that it promises to split the whole industry into two tiers: a handful of broadly diversified giants and a larger number of specialized insurers that sell to selected markets or in limited geographic areas. The plain fact is that the life insurance business just is not what it used to be, and the huge, mass marketers—the Pru, the Met, Equitable, John Hancock Mutual Life—are feeling it most keenly.

Inflation has made the fixed-payout feature of life insurance less attractive to many would-be buyers. Inflation, the huge jump in the Social Security tax, and company pension plans, have further dampened the ability and often the willingness of people to buy life insurance in quantity. The dispersal of the population to the suburbs and the intense mobility of the American public have hit hard at the traditional long-standing relationship between insurance agent and customer. Life company assets grew by 87% between 1950 and 1960, by 83% between 1960 and 1970. At the present rate, they may grow only by 70% or so between 1970 and 1980.

So John Hancock agents are selling property and casualty products through a marketing and reinsurance agreement with Sentry Insurance of Stevens Point, Wis. Last year the Met and Equitable also entered the property and casualty business. And Equitable recently has jumped into leasing with the purchase of IDS Leasing, subsequently renamed Equico Leasing. "Historically, insurance people put their assets into bonds, stocks, and real estate," observes Richard R. Shinn, president of the Met. "Today they see these other avenues open for the use of corporate assets."

Diversification fever has not hit all the life companies. Such big mutual life companies as Connecticut Mutual Life Insurance Co. and Northwestern Mutual Life Insurance Co. still limit their selling efforts to the high-income market. "We want to be a specialty company that does a superb job of what we do," says Francis E. Ferguson, NML jresident. "Property and casualty may fit the Prudential purposes and needs, but they don't fit ours."

It is still not 100% certain that the property field fits the Pru, either. The difficult task of developing sophisticated financial controls that can be used to compare performance among operations in, say, real estate, leasing, and life insurance is barely under way. Yet these controls are the *sine qua non* for controlling far-flung financial enterprises successfully.

The dangers inherent in the Pru's product, investment, and geographic diversification are considerable. Diversification among such stock companies in INA, Continental Corp., and CNA Financial has led to significant drains on both capital and management talent. At once high-flying CNA, for example, losses of more than $200 million in 1974—largely from noninsurance subsidiaries—led to the company's takeover by Loews Corp.

PROPERTY AND CASUALTY

Nowhere are the problems bigger or the stakes greater than in the Pru's venture into property and casualty. The Pru has poured $195 million into the PRUPAC subsidiary since 1971, and during that period the subsidiary has lost $73 million.

The last two years have been terrible for the entire casualty industry, which rang up a $4 billion underwriting loss in 1975. But the Pru is piling up more than its share of deficits. During 1975, when it nearly doubled its premium volume to $140 million, it lost an estimated $29 million. Further, the property-casualty field can leave a company open to sudden disaster losses. The 1974 tornadoes that swept Xenia, Ohio, and other towns in the Midwest and South, for example, cost the Pru $1.4 million.

One reason for the deficits is the huge training costs involved in getting the Pru's life agents ready to pass state qualifying examinations to sell property-casualty. But the Pru's competitors also blame the newcomer's poor showing on a pricing strategy that is aimed at getting into the market fast rather than making a fast profit. "They've made some terrible mistakes," says John J. Byrne, executive vice-president of Travelers Corp. "They underpriced their homeowners' product very badly in an effort to steal our market away. They did steal part of it away. But they are losing a ton of money at it."

MacNaughton argues that PRUPAC's losses have not changed his master plan, which calls for the subsidiary to start earning money in 1978. And while mutual life companies do not report anything that can be used to establish total profitability, the Pru obviously can afford to absorb those losses. Finally, MacNaughton, who never sold an insurance policy himself, acknowledges that the Pru's move into property-casualty insurance was done less to make money than to protect his 20,000 district agent selling force. Last year these small armies of agents based around the U.S. and working only for the Pru earned $12 million in additional premiums for selling the new products. "The district agency method of marketing insurance products will not be sustained in the long run if something is not done to increase the number of products available to our agents," he explains.

BREAKING NEW GROUND

It is this willingness to break with old practices and assumptions, and to take some risks, that has set the Pru apart from an otherwise conservative industry.

Shortly after World War II, for example, the Pru broke ranks with the other big life companies and decentralized its operations. It opened huge regional home offices in such places as Los Angeles, Chicago, and Atlanta—a move that continues to bolster the company's marketing and service capabilities, because whatever the territory the Pru has a staff around that knows it well.

At the same time, the Pru decided to make a fundamental change in its investment strategy: accepting increased risks to get a higher rate of return on the billions of dollars in reserves in its general account. While its major competitors were still limiting their investments to blue-chip companies, the Pru broadened its portfolio to include less than Aa-rated borrowers, opening up a vast reservoir of potential borrowers willing to pay handsomely for money. Then, in 1950, the Pru began to channel a portion of its policyholders' money into common stocks—a decision not followed by the superconservative Met until 1964.

In the early 1960s the Pru again led the industry by shifting its huge mortgage portfolio from single-family homes to commercial real estate ventures where deals were bigger, competition less, and the return higher. The company also went after corporate retirement fund business, which most insurers let slip to bank trust departments, with newly permitted "separate accounts"—mutual fund-type investment vehicles for pension fund managers that were largely invested in common stock. The Pru broadened its assault on the pension fund market with the introduction in 1970 of the first separate investment account involving equity positions in real estate and, late last year, with the first separate account involving privately placed corporate debt.

The over-all result is that in most years, the Pru wrings a decidedly better-than-average return from a pool of invested assets that today comes to an estimated $35 billion. The company, of course, suffered during the general stock market decline of 1974: Its stock portfolio dropped 30%, or $415 million. But the portfolio jumped by about $400 million in 1975, and when that gain is added to the huge capital gains it realized during the long bull market of the 1950s and early 1960s—when the rival Met was still avoiding equities—the Pru's rate of return on its stock investments is a more respectable 9.7%.

Besides that, the company's bond and mortgage portfolios have consistently outperformed the industry. In 1975 the Pru wrote off one-tenth of 1% of its $13 billion bond portfolio. And thanks in part to its decision not to create a real estate investment trust or lend to REITs, only $141 million (1.4%) of its mortgage loans are in foreclosure. Only an additional 1.7% of the portfolio is delinquent for more than 90 days.

The result was that while the life insurance industry averaged a 6.29% return on invested assets in 1974, the Pru's return was 6.44%. Last year the Pru's return rose to an estimated 6.6%—again a good deal better than its rivals. Over the past decade, the difference between what the Pru has earned on its assets and the average industry return has come to a tidy $655 million. This impressive performance has been an important selling feature in winning pension business, and the Pru's pension assets have more than doubled to $10.5 billion during the decade. About 20% of total premium income—about $1 billion—now comes from the Pru's corporate pension fund and other institutional clients, which is triple what it was a decade ago.

NONLIFE VENTURES

But that was all inside the life insurance business. What the Pru needed was a vehicle to use in diversifying outside the life business, and in 1970, the Pru created PRUCO. Into PRUCO the company has put all its nonlife-related ventures.

In 1971, for instance, the Pru moved against the then-existing New York Stock Exchange ban on negotiated stock market commissions by establishing PRUCO Securities Corp. to buy a seat on the PBW stock exchange. "Our concern was competing against brokers who were also money managers and who were offsetting part of their commissions with lower management fees," says Edgar F. Bunce Jr., senior vice-president in charge of the Pru's $5 billion common stock portfolio. In time, the NYSE went to fully negotiated rates, and Bunce never channeled much business through the PBW. "But," he says, "it was a nice club to have."

The most visible part of PRUCO today is PRUPAC. The oldest unit of the holding company, though, is PIC Realty, established in 1968 to take the Pru beyond the traditional business of supplying residential and commercial mortgages.

PIC today has some $176 million in equity investments in a variety of projects around the country—sometimes doing it on its own but more often in partnership with someone else. It has, for instance, a 500-room hotel in Hawaii in partnership with Del E. Webb and a retirement village near Los Angeles done with American-Hawaiian Steamship Co. The emphasis is now on more modest projects—small shopping centers, warehouses, and suburban office buildings—most of them done by PIC alone.

When the Pru founded PRUPAC five years ago, it also used the subsidiary to handle its new commercial reinsurance business—insuring other insurance companies against extraordinary loss. In 1973 the reinsurance business was broken out of PRUPAC with the creation of Prudential Reinsurance Co. (PruRe)—a venture considered important enough to warrant making the Pru's president, Robert A. Beck, chairman of PruRe as well. Today PruRe's annual premium income of more than $100 million a year makes it the seventh-largest reinsurer in the world.

At the start of 1974, the Pru moved into still another new business—equipment leasing—through the purchase of CNA Nuclear Leasing from the then-troubled CNA Financial Corp. Renamed PruLease, the unit has some $430 million in leases outstanding—92% of this with utilities and most of it representing atomic fuel cores for utility reactors.

The rationale for PRUPAC was to give the Pru's sales force yet another product to sell. The over-all goal for PRUCO, however, is a bit more complex, focusing on where the Pru can get the greatest return on its investment dollars—in stocks and bonds, or in reinsurance, leasing and the other new fields it has entered.

DEFENDING DIVERSIFICATION

True, the Pru's aggressive moves to diversify have come under criticism by industry analysts. In its seven years of existence, PRUCO has never remitted a dime in cash dividends to Prudential policyholders. Yet Pru officials bristle at the suggestion that the money might better have been invested in bonds or mortgages, where it could be earning 9% more in interest.

"It is no different than buying a low dividend or nondividend stock," says Hoenemeyer. Policyholder dividends are calculated as if the Pru's entire common stock portfolio, including PRUCO, was earning roughly the average rate of return on the general account, or currently 6.5%, says Jack T. Kvernland, senior vice-president and chief actuary.

So far, at least, the Pru expresses delight with its diversification. Not only did the outstanding leases and supply contracts of PruLease grow by 88% in its first year and a half under the Pru, but it also returned 16% on its equity. The return on the Pru's investment in PIC Realty is virtually impossible to measure because of the front-end load effect of accelerated depreciation. But company officials insist that the performance of the portfolio is in line with the Pru's computer model, which projects an annual rate of return of 12% over the next 15 to 20 years.

At the same time, the formation of PruRe gave the Pru its first opening into the international marketplace. The commercial reinsurance market represents a virtually unregulated, worldwide market that can be tapped with a relatively small staff and capital. Currently, PruRe has policies in 29 countries outside the U.S. and written in 25 currencies. "PruRe has given us the chance to be international in scope," says Beck. "We are now involved in virtually every major disaster in the world."

There are a number of reasons why the Pru wants to go abroad. For one thing, many of the companies it has invested in or lent to have gone abroad. "Maybe 30% or more of their earnings are coming from their overseas business," says Hoenemeyer. "In order to properly evaluate these companies, you have to know what's happening abroad."

But more important, the overseas insurance needs of these multinational companies represent an untapped market for the Pru. Typically, the foreign subsidiaries of U.S. companies have been given short shrift by U.S. insurers. To the extent that a domestic insurer can also handle a company's foreign business, it stands a good chance of picking up a fat share of that company's total insurance business. Alan DeMuro, corporate benefits manager of Baxter Laboratories Inc., agrees. "It would be much better if we could deal with several American companies on a worldwide basis," he says.

MacNaughton really warms up to the subject. "This organization," he says with fervor, "cannot continue to be a successful domestic company if it doesn't know a hell of a lot more about what's going on abroad than it does now. If we get so that we don't understand multinational business, then multinational business will eventually find someone else who does."

STEP BY STEP OVERSEAS

The Pru's buy into Hambros is an important step toward meeting that goal. Its immediate interest in the company is the profitable Hambro Life Assurance Ltd. The 4½-year-old company is one of the fastest-growing insurers in Britain, with premium income up last year by 34% and with $520 million in assets as of the start of 1975. Currently, the Pru and Hambro are exploring possible joint ventures outside of Britain and North America. The biggest break may come within the next few years when the Common Market is expected to allow its insurance companies to operate in each other's now-protected markets.

MacNaughton also hopes to learn more about investment opportunities overseas in marketable securities, direct bond placements, and new businesses. He says: "The opportunities are much broader than our traditional lines."

For all that the Pru has done, MacNaughton still is not a man to rush into things. With the Hambros deal under his belt, he sees this as a time to think through his diversification strategy. Right now, he has his top managers mulling over such questions as what geographic and product limitations should be applied to subsidiaries, what proportion of surplus should be risked in subsidiaries, and when to close down a subsidiary. "So far we have approached the formation of each subsidiary by feeling our way on a case-by-case basis," he admits. "And while we are acquiring some expertise on how to get into subsidaries, we know nothing about how to get out of them."

The debate among top managers will give the Pru organization a chance to devise procedures to guide management through diversification. "MacNaughton is one of the great leaders of this industry," says Northwestern Mutual's Ferguson. "He thinks broadly and deeply, and he thinks of things not only as they are today but also as they might be tomorrow."

UNEMPLOYMENT BENEFITS RUNNING OUT, TRUST FUNDS IN TROUBLE

Mr. HUMPHREY. Mr. President, the latest statistics on the number of Americans who exhausted their unemployment benefits each month during 1975 have just been made available to me by the Labor Department. What they tell about the tragic effect this recession has had on American workers and their families is very disturbing.

Between January and October 1975, 3.7 million American workers exhausted 26 weeks of benefits paid under regular State, Federal employee—UCFE, and exservicemen—UCX—programs, as table I shows. During periods of high unemployment, 13 additional weeks of benefits are provided under extended unemployment insurance programs, and table I shows that 1.9 million workers ran out of these benefits between January and October, 1975.

In addition, between January and November 1975, 95,600 workers exhausted 39 weeks of compensation paid under the supplemental unemployment assistance—SUA—program enacted by Congress late in 1974 to help some 12 million workers who were not covered by regular programs—household, farm, and local government workers.

Finally—the most tragic figure of all—between January and November 1975, over 930,000 Americans saw an end to their Federal supplemental benefits—FSB, which gives an additional 26 weeks to those who exhausted the 39 weeks of regular and extended benefits, or a total of 65 weeks altogether.

This means that there were almost 1 million American workers who had been unemployed so long that they ran out of 65 weeks—1 year and 3 months—of unemployment benefits in 1975. What a tragedy for these Americans, who lost their jobs, their job skills, and now their incomes, and for the Nation that lost their services and their productivity.

The monthly exhaustion data for these unemployment insurance programs is provided in table I, and the characteristics of those starting and exhausting their FSB benefits is provided in table 2. I am unanimous consent that these tables be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—PRELIMINARY EXHAUSTION DATA—UNEMPLOYMENT INSURANCE

	Regular program			Regular extended			FSB			
	State	UCFE	UCX	State	UCFE	UCX	State	UCFE	UCX	SUA
1975										
January	228,900	6,100	6,800	52,300	1,300	700	100			
February	230,000	5,200	6,800	50,300	1,500	800	6,300	100		
March	278,100	5,300	8,700	96,100	2,400	1,500	29,700	400	200	1,000
April	368,800	6,100	10,200	161,500	4,100	2,700	86,500	3,000	1,200	6,400
May	405,600	5,800	10,000	206,000	5,200	5,300	56,800	1,000	900	7,400
June	436,000	5,500	10,400	205,500	4,700	5,100	76,500	1,400	800	7,500
July	482,700	6,600	11,000	247,700	4,400	5,500	180,500	3,500	2,000	16,500
August	408,000	5,600	9,900	244,600	4,100	6,500	98,300	2,400	2,700	10,000
September	363,400	5,500	9,600	256,300	4,000	6,800	121,000	3,200	4,100	15,400
October	337,100	5,600	8,800	294,600	5,000	6,800	155,800	4,600	5,500	20,200
November							82,100	2,900	4,400	11,200
January–November	3,538,600	57,300	92,200	1,814,900	36,700	41,700	893,600	22,500	21,800	95,600
Total		3,688,100			1,893,300			937,900		95,600

Source: U.S. Department of Labor.

TABLE 2.—CHARACTERISTICS OF FEDERAL SUPPLEMENTAL BENEFIT RECIPIENTS, JANUARY TO OCTOBER 1975

[Percentage of those reporting information]

	Claimants receiving 1st FSB payment	Claimants exhausting FSB benefits
Total	100.00	100.00
Male	55.95	48.15
Female	44.05	51.85
White	84.15	83.06
Nonwhite	15.85	16.94
Age:		
Under 22	11.93	11.81
22 to 44	46.67	40.55
45 to 64	25.10	26.74
65 plus	9.76	10.57
Not available	6.54	10.23
Occupation:		
Professional, technical, and managerial	10.22	10.17
Clerical, sales	21.32	22.06
Service	11.48	12.92
Agriculture/fisheries/forestry	1.02	1.71
Processing	6.27	6.66
Machine trades	9.43	7.66
Bench work	11.29	16.60
Structural work	15.20	11.18
Miscellaneous	13.78	11.05
INA		
Industry:		
Mining	.42	.48
Contract construction	11.49	11.07
Manufacturing	40.32	37.79
Durable goods	(22.63)	(18.42)
Nondurable goods	(17.67)	(19.10)
Transportation, communication and public utilities	4.49	4.84
Wholesale and retail trade	20.39	20.78
Finance/insurance/real estate	4.11	4.90
Services	13.86	14.65
State and local government	2.63	2.20
All other	2.28	3.28

Source: U.S. Department of Labor.

Mr. HUMPHREY. Mr. President, the prolonged high unemployment rates during 1975 have also had a serious financial effect on the State unemployment insurance trust funds. By the end of 1975, 15 States were able to pay unemployment benefits only by borrowing from the Federal Government, and by the end of 1976, the number is expected to reach 30.

A February 19, 1976, story in the Washington Star lays out the problems faced by the trust funds in Maryland and the District of Columbia, and I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

D.C. AND MARYLAND JOBLESS FUNDS GO BROKE—CITY ALREADY OWES U.S. $17.6 MILLION, STATE ASKING FOR $19 MILLION

(By Timothy Hutchens)

The District, its unemployment fund drained, is borrowing money from the federal government to pay weekly compensation benefits to idle workers.

Maryland has applied for similar loans because its unemployment compensation fund will run out next month.

In the entire Washington area, only Virginia's fund remains healthy.

Since November, the District has borrowed $17.6 million in interest-free money from Uncle Sam while the D.C. Unemployment Compensation Board considers increasing the levy employers now pay into the city's fund.

Maryland has applied to federal authorities for $19 million as its unemployment fund dips toward bankruptcy in March.

Since 1972, Puerto Rico, the District and 17 states have borrowed $2.84 billion to replenish their unemployment funds.

Employers are taxed on the first $4,200 of each employee's salary. Under federal legislation that the House Ways and Means Committee has voted out, that level would rise to $8,000. The full House is expected to vote in May.

If federal law raises the taxed level to $8,000, the District figure would rise to that amount. However, even if the legislation passes, the District's fund would probably remain in the red for several more years, according to William Wilkerson, director of the city's compensation board.

"We're still paying out at quite a high rate," he said.

Last year, the District's pay-out from the fund was $60 million. Altogether, $100.1 million was paid out in the District for unemployment programs. That figure included approximately $25 million that the federal government paid for extended benefits, and about $15 million in other, smaller programs.

Approximately 24,750 persons filed 123,769 claims in the District between Jan. 1 and Feb. 7 of this year, compared to 13,500 people filing 67,611 claims during the first five weeks of 1975—an increase of 83 percent.

The city's unemployment rate was 8.6 percent in December, compared to 6.7 percent the previous December.

Usually the rate at which employers pay into the fund depends on how many employes they have laid off. However, because of the city fund's depleted state, all employers on Jan. 1 were required to start paying the maximum 2.7 percent.

Wilkerson said the board is considering raising the tax, although he said no firm amount has been proposed.

In addition to the local tax, employers pay 0.5 percent for federal unemployment benefits, which currently extend insurance in the city to a maximum 65 weeks from the normal 34 weeks because of the city's high unemployment rate.

The federal tax would remain constant until January 1979 even if the city did not repay the money it has borrowed from the U.S. Treasury to keep its fund solvent. However, after that date, in order to pay back the loans, the government would get its money back by reducing a 2.7 percent tax credit that employers get for paying into the local fund.

In Maryland, the state unemployment fund, which had $160 million at the start of 1975, entered the current year with about $25 million as it headed toward bankruptcy.

The jobless rate in Maryland at the end of 1975 was 7.3 percent—or 134,500 people—compared to 6.1 percent at the end of 1974.

At present, employers in Maryland pay up to 3.6 percent of wages toward the state fund, but Gov. Marvin Mandel's administration has proposed legislation in the current session of the General Assembly that would add a 1.5 percent surtax for one year and enlarge the taxable base from the first $4,200 to the first $5,000 of employes' annual wages.

In Virginia, the fund has about $125 million, although the state employment commissioner, William L. Heartwell, has said he expects to pay out about $20 million more than he takes into the trust fund this year. The fund had $247 million in 1974.

Virginia's unemployment rate was 6.6 percent last month compared to 6.8 percent in January 1975.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now proceed to the consideration of House Joint Resolution 549, which will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 549) to approve the covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs, with an amendment; and subsequently reported from the Committees on Armed Services and Foreign Relations, with an additional amendment.

The amendment of the Committee on Interior and Insular Affairs is:

On page 41, beginning with line 13, strike out:

SEC. 2. There is hereby authorized to be appropriated such amounts as may be necessary (in addition to amounts previously authorized to be appropriated) for the purpose of making full payments of awards under title II of the Micronesia Claims Act of 1971, Public Law 92-39.

SEC. 3. (a) The President is hereby authorized to extend to Puerto Rico, the Virgin Islands, Guam, American Samoa, the Mariana Islands District and the other Districts of the Trust Territory of the Pacific Islands, all Federal programs providing grant, loan, and loan guarantee or other assistance to the States unless he determines that such extension is inconsistent with the purposes of the statutory authorization under which such assistance is provided or unless such extension is disapproved by resolution of either House of Congress as provided in subsection (b).

(b) The President shall transmit to the Congress notice of any extension action taken under subsection (a) and any such action shall take effect at the end of the first period of sixty calendar days of continuous session of Congress after the date on which the notice is transmitted to it unless, between the date of transmittal and the end of the sixty-day period, either House passes a resolution stating in substance that that House does not favor such extension. For purposes of this subsection, passage of such resolution shall be subject to the same procedure as apply in the case of resolutions disapproving government reorganization plans under Chapter 9 of Title 5, United States Code.

The amendment of the Committee on Armed Services and Foreign Relations is:

On page 42, beginning with line 15, insert:

SEC. 2. It is the sense of the Congress that pursuant to section 902 of the foregoing Covenant, and in any case within ten years from the date of the enactment of this resolution, the President of the United States should request, on behalf of the United States, the designation of special representatives to meet and to consider in good faith such issues affecting the relationship between the Northern Mariana Islands and the United States as may be designated by either Government and to make a report and recommendations with respect thereto.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be charged against both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on the Interior have the privileges of the floor during the debate on House Joint Resolution 549: Grenville Garside, Daniel A. Dreyfus, D. Michael Harvey, James P. Beirne, Jeanne Delsener, and Paul Friedenberg.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I make a similar request with respect to Robert Turner of my staff, during the debate and the votes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I yield myself 10 minutes on the bill.

The PRESIDING OFFICER (Mr. PELL). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, in 1965, the Congress of Micronesia requested that consultations with the U.S. Government begin with respect to future status. The first action of the U.S. Congress was in July of 1966, when the Committee on the Interior of the Senate held formal hearings on the question of the status of Micronesia. These hearings were continued in February of 1967. The negotiating process with the Marianas began with briefings and hearings in 1971 and hearings have been held annually, sometimes twice a year, since that time. In other words, the question of Marianas status has been heard many times formally before the Senate, and I know a number of times before the House as well, over a period of 6 years.

Mr. President, the question now before the Senate is whether the fruits of those years and years of work shall be approved by the Congress of the United States, whether we shall approve a compact between the United States and a group of islands in the Western Pacific known as the Northern Marianas. This compact has been approved by the House Committee on Interior and Insular Affairs, by the full House of Representatives, by the Senate Committee on Interior and Insular Affairs without objection by the Committee on Foreign Relations of the U.S. Senate, by the Committee on Armed Services of the U.S. Senate, by the Congress of Micronesia—the full Congress of Micronesia—in testimony before the Senate Committee on the Interior, and again, by resolution on February 12 of this year, and finally, by the people of the Marianas themselves, over 95 percent of whom turned out for this compact, voting freely in favor of the same by a margin of 78.8 percent.

The Northern Marianas, part of the island grouping known as "Micronesia," contains a population of 14,000. The two chief islands, Saipan and Tinian, are located 150 miles north of Guam, already a territory of the United States. During World War II, Saipan was the scene of bloody battles, and Tinian was the take-off point for the Enola Gay, the plane which dropped the atomic bomb on Hiroshima. All of Micronesia is administered by the United States as a strategic trust, pursuant to a 1947 resolution of the United Nations Security Council.

But Micronesia has the distinction of being the last remaining trusteeship created by the United Nations still in existence, all the rest having been terminated over the last 30 years. The terms of the trusteeship require the United States "to move these islands toward self-government." And this compact for the Northern Marianas constitutes the final step toward that goal, reserving to the United States only the powers of defense and foreign policy. The people of the Northern Marianas are presently citizens of a U.S. Trust Territory, but this compact would make them U.S. citizens.

Why, one might ask, should the United States enter into this new relationship with a group of islands so distant? Does it not, as some of the critics have charged, project an image of colonialism, just at a time when we are trying to end every vestige of this practice? The answer to that assertion is an unqualified no. Rather, it is the opposite of colonialism.

Though they should not be wholly ignored, U.S. policy should not be guided solely on the basis of whether the Afro-Asian bloc will approve or disapprove of any particular policy we adopt. Our first responsibility is to the people of the Northern Marianas themselves, who voted overwhelmingly—78.8 percent—for commonwealth status within the United States, and to the people of the United States. We have a profound moral obligation to these people. Through years of American administration, they have not only learned American-style democracy but have been, in every way, members of the American family. They fought and died for us in our wars, and like their neighbors, the Guamanians, they are among the most staunchly pro-American people anywhere on the face of the Earth. Moreover, they have been told repeatedly that their relationship with us would ripen into permanency, but, of course, within the context of self-government.

The strategic argument for approval of the compact is no less compelling. In the hands of a hostile or unfriendly power, these islands would pose a great strategic disadvantage to the United States. Such control would intimidate not only their near neighbor, Guam, but everyone in the area. And while there is the potential of significant income from the development of tourism, fishing, and agriculture, the islands, owing to their small land area and sparse population—some 14,000—would have little hope of self-sufficiency should the United States abandon them by giving them an unwanted "independence." Undoubtedly, they would quickly become dependent upon another power. This would be disastrous to us in an era when we rely more than ever before on foreign sources of energy and raw materials, since the Marianas flank major shipping lanes from the Mideast and East Asia.

It is neither morally right nor strategically sound to reject this compact. But it may be just as bad to unduly delay final approval. Some Members of the Senate have proposed delaying final approval so that Congress will have an opportunity to consider all agreements with Micronesia at the same time. This would serve no useful purpose. In terms of their ethnic grouping, language, and political preferences, the people of the Northern Marianas are quite distinct from the rest of Micronesia, which stretches across 3,000 miles of ocean. It would, however, frustrate the pro-American leadership in the Marianas and encourage the small but vocal anti-American minority. Moreover, it would throw future negotiations with the rest of Micronesia into confusion, since the fate of the Northern Marianas would remain unclear. It would also force the cancellation of an American-funded constitutional convention, which is contingent on the passage of the compact.

After years of negotiation, after almost a decade, after an overwhelming vote of confidence by the people of the Northern Marianas, and after months of scrutiny by four different House and Senate committees, the time has come for final Senate approval.

Mr. President, if the U.S. Senate should reject this compact, how can any group in the Marianas or in Micronesia rely upon negotiations with the United States? Hearings have been held, as I say, over a period of almost a decade, counting those hearings on Micronesian status. Hearings have been held over a period of 5 years on the Marianas' status. Congress has been involved, we have invited comments, we have had public hearings. The House has approved, three Senate committees have approved, and if now we turn this down, then whither do we go from here?

With all the reams of testimony, with all the articles that have been written, Mr. President, not one person has suggested a viable alternative. We will debate this matter today for some hours. I will confidently predict no one can give any alternative that makes any sense. The only alternative proposed is delay.

Mr. President, we have delayed the matter now for some 30 years since the creation of the trusteeship. This is the last United Nations trusteeship still remaining. We have negotiated it over a period of 5 years and have it approved by the people of Northern Marianas by almost 80 percent. Mr. President, the time has come for action, the time has come for approval.

I think the Senate of the United States should, like the House, like the Senate Interior Committee, like the Senate Armed Services Committee, like the Senate Foreign Relations Committee, give overwhelming approval to the compact now before us.

Mr. President, House Joint Resolution 549 would provide congressional approval for a Covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States of America.

The Covenant is the final product of U.S. obligations assumed pursuant to a trusteeship agreement with the United Nations. The United States obligated itself to allow the various peoples of the area to freely choose their future. The Covenant before the Senate today is the product of that choice. For over 25 years, since the very beginning of the U.S. trusteeship, the population of the Northern Mariana Islands have requested this status. The desires of the Northern Marianas have not only been recognized by the peoples of the other districts, but have been endorsed by them. As long ago as 1969 when the Congress of Micronesia's Future Political Status Commission completed its report on future status, the desires of the Northern Marianas were recognized. That Commission stated:

> It will not oppose a political union which reflects the freely-expressed desire of a majority of the residents of the district.

As recently as February 12 of this year, the Congress of Micronesia enacted a joint resolution reiterating their endorsement of the desires of the Northern Marianas and calling upon the U.S. Senate to "take prompt and favorable action on House Joint Resolution 549."

The term "Micronesia" has been generally used as synonymous with the area encompassed by the trusteeship. Geographically the term is incorrect for the trust territory excludes Guam—a part of the Marianas and a territory of the United States since 1898—the Republic of Nauru, and the Gilbert Islands. Anthropologically it is also incorrect; for on the islands of Kapingamarangi and Nukuoro—Ponape District—the trust territory includes peoples of Polynesian rather than Micronesian extraction.

The use of the term "Micronesia" has prompted an assumption that a homogeneous Micronesian people exist, while, in fact, the first indigenous association of the various trust territory peoples occurred only in 1965 with the creation by the United States of the Congress of Micronesia. Until the creation of the Congress in 1965, the only unifying factor had been the series of dominations by foreign powers. The fact that enormous areas of the Pacific had been controlled successively by Spain, Germany, Japan, and the United States provides the illusion of unity, but does not support the presumption of unity among the islands.

The islands of the trust territory are spread over 3 million square miles of the North Pacific Ocean to the east of the Philippines and southwest of Hawaii. The islands lie in three chains or archipelagoes: the Marianas, the Carolines, and the Marshalls. The 2,100 islands in the trust territory have a total population of only 115,000.

The peoples themselves speak at least nine mutually unintelligible languages and are divided into at least six distinct ethnic groups. Although the vast distances between islands and the different physical and cultural environments assured isolation, this was not always the case. From the 16th century development of Guam by Spain to the present, the Marianas have lost most of their original Oceanic character. The 14,335 residents of the Northern Marianas are today a blend of the original Micronesian Chamorro, Mexican Indian, Filipino, and Spaniard. The end result is a race, language, and culture more Hispanic-Filipino than Oceanic in most respects, and it is the same ethnic group which predominates in Guam, a U.S. territory whose citizens are also U.S. citizens.

Mr. President, there have been repeated statements in the media and elsewhere that the Congress was not consulted in these negotiations. Those comments are unfounded, and, moreover, reveal an appalling lack of awareness of the history of these negotiations.

Upon its creation in 1965, the Congress of Micronesia called upon the United States to begin negotiations for future status. Several resolutions were introduced in both the Senate and House over the next few years. The Interior Committee conducted formal hearings on July 21, 1966, and on February 2, 1967. The administration submitted Senate Joint Resolution 106 which was introduced by Senators JACKSON, MANSFIELD, KUCHEL, BURDICK, HATFIELD, and INOUYE to establish a 17 member joint commission. That resolution was subjected to hearings in Washington and discussions in Micronesia by both Senate and House Interior Committees.

Throughout the entire negotiation process, there have been repeated briefings, hearings, and visits to the trust territory by both Interior Committees. Formal discussions on the Senate side consisted of briefings in November 1971, by Ambassador Williams of the Subcommittee on Territories and Insular Affairs, in 1972 by Ambassador Williams of the Interior Committee, on September 29, 1973, by James Wilson, Deputy U.S. Representative of the Subcommittee on Territories and Insular Affairs, on September 12, 1974, by Ambassador Williams before the Interior Committee, and on September 25, 1974, by James Wilson, again before the Subcommittee on Territories and Insular Affairs.

All of these hearings took place prior to the actual signing of the Covenant in February of 1975.

Even more appalling is the lack of awareness of the Marianas' desires. This is not some 11th hour proposal sprung on the Congress like a magician's rabbit out of a hat.

Since 1950—when the first United Nations Visiting Mission toured Micronesia—Mariana Islanders at every opportunity have sought a close political relationship with the United States. The United States and the United Nations have been deluged with petitions and resolutions backed by plebiscites. In 1961, after one plebiscite, the United Nations' Visiting Mission reported to the Trusteeship Council that "there is an almost unanimous desire among the people in regard to seeking U.S. citizenship."

In November 1971, both Senate and House Interior Committees conducted hearings to review the progress of the status talks which had run into considerable problems due to discussion among the districts after the third round. Ambassador Williams brought the situation of the Northern Marianas to the attention of both bodies in his statement to the committee.

Mr. President, I have heard occasionally that it is all well and good that the people of the Marianas desire to join their relations in Guam and enter the U.S. political family, that they have requested this for over 25 years, that in a United Nations observed plebiscite they overwhelmingly approved this covenant, that the Congress of Micronesia supports this covenant, but so what. Why should the United States agree?

Aside from the fact that it would be the right thing to do, and I recognize that doing the right thing, to fulfill our obligations to the United Nations, the peoples of the trust territory, and to ourselves, does not carry much weight in certain circles, there is an element of history which critics seem to conveniently overlook. It was in December 1941 that an attack was launched on Pearl Harbor from the trust territory, and at the same time Guam was invaded and occupied from Saipan. Guam was and is an unincorporated territory of the United States and for 3 years it was occupied. But Saipan was not the only island in the Marianas which had military significance, for it was from the island of Tinian that the United States launched the two nuclear raids on Japan which ended World War II.

No one is proposing the establishment of military bases on Saipan or Tinian, and none are authorized by this covenant. The Department of Defense has repeatedly indicated that it has no present plans to ask for such an authorization, but I would caution my colleagues to remember that these islands once were very significant and approval of this covenant would insure that they will never again be significant to another power.

Mr. President, the joint resolution before us today would grant congressional approval to a Covenant to establish a Commonwealth of the Northern Mariana Islands.

When the United States assumed administrative responsibility for the various peoples who live in the Trust Territory of the Pacific, we promised the United Nations and the peoples concerned that we would, and I quote from article 6 of the agreement:

> Foster the development of such political institutions as are suited to the trust territory and shall promote the development of the inhabitants of the trust territory toward self-government or independence as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned.

Today's vote will determine whether we will keep that commitment. Disapproval or delay of this covenant would deny the aspirations of the inhabitants of the Marianas, disregard the freely expressed wishes of the people of the trust territory, and deny all of the people their right to self-determination.

There should be no misunderstanding over the desires of not just the Northern Marianas, but the entire trust territory on this issue. The people of the Northern Marianas have been requesting precisely this status for a quarter of a century, since 1951. In a United Nations observed plebiscite over 95 percent of the registered voters participated and approved this covenant by a vote of 78.8 percent. The Congress of Micronesia has formally recognized the desires of the Marianas several times. The 1969 final report of the Congress of Micronesia's Future Political Status Commission stated that it would not oppose the desires of the Northern Marianas. In testimony before the Senate committee, representatives of the Congress of Micronesia endorsed this covenant.

As recently as February 12 of this year, the Congress of Micronesia passed a joint resolution urging the U.S. Senate to approve this covenant. There should be no mistake about the freely expressed wishes of all the peoples of the trust territory about this covenant. They all want approval.

Some have claimed that the U.S. Congress was not consulted on the negotiations, that we are being presented with a fait accompli. Those claims are nonsense. The committees charged with the administration of the trust territory have been deeply involved. We have reviewed every proposal, discussed every section, and at times required changes so that the final agreement would be fair and equitable. This issue is not new, nor has it been a dark secret. Every Interior Committee hearing since 1965 on the question of future status or during the actual negotiations was announced in the CONGRESSIONAL RECORD, and the members of the committee and the staff have always been ready to discuss concerns with anyone interested. We have been to Micronesia and discussed status there; we have discussed status here.

There are no hidden traps in this covenant. Every provision is reflected in established policy.

I urge my colleagues to support this measure now and without delay.

I ask unanimous consent that the background section from the Interior Committee report be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

III. BACKGROUND

The Covenant is the final product of United States obligations assumed pursuant to a trusteeship agreement with the United Nations to "foster the development of such political institutions as are suited to the trust territory and . . . promote the development of the inhabitants of the trust-territory toward self-government or independence as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned".[1]

HISTORY AND DESCRIPTION OF THE AREA

The term "Micronesia" has been generally used as synonymous with the area encompassed by the trusteeship. Geographically the term is incorrect for the Trust Territory excludes Guam (a part of the Marianas and a territory of the United States since 1898), the Republic of Nauru, and the Gilbert Islands. Anthropologically it is also incorrect for on the islands of Kapingamarangi and Nukuoro (Ponape District) the Trust Territory includes peoples of polynesian rather than micronesian extraction. The use of the term "Micronesia" also has prompted an assumption that a homogenous micronesian people exist, while, in fact, the first *indigenous* association of the various trust territory peoples occurred only in 1965 with the creation by the United States of the Congress of Micronesia. Until the creation of the Congress in 1965, the only unifying factor had been the series of dominations by foreign powers. The fact that enormous areas of the Pacific had been controlled successively by Spain, Germany, Japan and the United States provides the illusion of unity, but does not support the presumption of unity among the islands. Given these limitations, the term Micronesia will be used as synonymous with the area encompassed by the Trusteeship.

Micronesian geography

In more than one sense "Micronesia" ("tiny islands") is a geographic expression. In the broadest sense it includes all of the islands of Oceania not embraced by Melanesia (e.g. New Guinea) or Polynesia (e.g. Samoa, Tahiti). It embraces the Trust Territory of the Pacific Islands, as well as the U.S. Territory of Guam, the Republic of Nauru, and the Gilbert Islands (the northern half of the British Gilbert and Ellice Islands Colony). The peoples of all of these islands are ethnically linked, and trace their ancestry to migrations from Asia.

Micronesia is at once enormous and miniscule. Its 2,100 islands are scattered over three million square miles of the North Pacific Ocean to the east of the Philippines and southwest of Hawaii, but have a land area of only 700 square miles—a total area only about ten times the size of the District of Columbia or a little more than half the size of Rhode Island. All the islands could easily fit into Chesapeake Bay, or into Lake Erie, or into Long Island Sound; yet the Carolines and the Marshalls are scattered over an area greater than the distance from Seattle to Boston. The Marianas stretch northward over a distance equal to that from Atlanta to Chicago.

The islands lie in three chains or archipelagoes: the Marianas, the Carolines, and the Marshalls. Only five islands are of significant size: Babelthuap in the Palau Islands of the Western Carolines, Saipan and Tinian in the Mariana Islands immediately to the north of Guam, and Ponape and Kusaie in the Eastern Carolines.

All of the islands lie in the tropics just north of the equator; many are often devastated by typhoons with rainfall in some areas exceeding 200 inches per year. Geologically, the islands fall into three categories: high islands, atolls, and combinations of the two. The high islands are peaks of submerged mountains which rise thousands of feet from the ocean floor and jut fairly abruptly above the ocean surface. The atolls are submerged plateaus which form the tops of submerged mountains, around the fringes of which encircling coral reefs have grown up to form lagoons. Sometimes high islands rise within the lagoon area, but the normal atoll formation consists of low-lying islands scattered along the reef which fringes the lagoon. Some of the lagoons are large enough to be classified as huge mid-ocean seas. The Truk lagoon is approximately equal in size to the State of Rhode Island, and is larger than the total land area of all of Micronesia.

With very minor exceptions, all the Marshall Islands are atolls, all the Marianas are high islands, and throughout the Carolines there are atolls, high islands, and combinations of the two. Over half (about 1,150 atoll islets) of Micronesia's 2,100 islands are in the Marshalls, but have a land area of only 70 square miles.

Footnotes at end of article.

Micronesia's geographic relationship to its Pacific environment is important, especially since all points in Micronesia are closer to Asia than to the Continental United States. Saipan (the territorial capital) and Tinian in the Marianas are 1800 miles from Shanghai, 1260 miles from Tokyo, and 1480 miles from Manila, but are 3300 miles from Honolulu and 5400 miles from San Francisco. Palau, to the southwest of the Mariana Islands, lies only 500 miles due east of Mindanao Island in the Philippines, but about 4000 miles southwest of Honolulu. The area lies generally between Hawaii and Guam. Parts of the Marshall Islands do lie closer to Hawaii and Wake Island than to the Asian mainland, and Rota, the southernmost of the northern Mariana Islands can be seen by the naked eye from Guam.

The peoples and their cultures

Micronesia's population of 114,973 inhabits only 97 of the Territory's 2,100 islands and is concentrated (about 50 percent) in and around the district centers of the six administrative districts: the Marianas, Palau, Yap, Truk, Ponape, and the Marshalls. The remaining Micronesians are scattered throughout "the outer islands," for the most part living much as did their ancestors. The population is young (over 50 percent under age 15), and population densities are high—350 persons per square mile on the inhabited islands (most are uninhabitable owing to lack of water and size). In the Marshall Islands, the population density is 750 persons per square mile. These data alone tend to explain the importance attached to land by Micronesians:

DISTRICT, DISTRICT CENTER, AND DISTRICT POPULATION

Mariana Islands, Saipan Island, 14,335.
Palau, Koror Island, 12,674.
Yap, Yap Island, 7,869.
Truk, Moen Island, 31,600.
Ponape, Ponape Island, 23,251.[2]
Marshall Islands, Majuro Atoll, 25,044.

Speaking nine languages (some argue more) and divided into at least six distinct ethnic groups, the Micronesians are not a homogenous people. In the past, distances between the islands and their differing physical environment assured isolation and the emergence of differing cultural patterns. Contact with Melanesia and Polynesia in some areas brought ethnic and cultural influences from other parts of Oceania. Successive Spanish, German, Japanese, and U.S. administrations added to the potpourri of race and culture, as did the presence of foreign missionaries and visiting whaling and trading ships in the 19th century.

The most extreme case is the Mariana Islands. The 14,335 Chamorros of those islands are today a blend of the original Micronesian Chamorro, Mexican Indian, Filipino, and Spaniard. The end result is a race, language and culture more Hispanic-Filipino than Oceanic in most respects and is the same ethnic group which predominates in Guam, a U.S. territory whose citizens are also U.S. citizens. Aside from acculturation processes, contact with the west had another devastating impact; the introduction of firearms, measles, pneumonia, venereal disease, smallpox, and other "agents of western change" decimated the population, especially in the 18th and 19th centuries. Some small island populations literally were wiped out; almost all were reduced by over two-thirds. As one writer put it, "the major credit for smallpox is usually ceded to Spain, for leprosy to Germany, for dysentery to England, for venereal diseases to the United States, and for tuberculosis to Japan. Firearms constituted a joint effort." [3] Micronesia's population today still does not approach precontact levels.

With the exception of the Marianas Chamorros, most Micronesians have managed to retain remarkably intact the essential elements of their traditional cultures and social values, especially their attachment to land, and societies based on kin ties, complex class distinctions, and a strong (but declining) traditional leadership system. Beyond these common characteristics, cultures vary enormously within and between island groups, both in their traditional character and their degree of acculturation to foreign influences.

The older generation of Micronesians, for example, still reflects the influence of Japanese rule and employs Japanese as their *lingua franca,* while the younger generation has been influenced primarily by American education and values and employs English. The older generation also tends to look to the past for sources of authority and value, while the younger generation who have been educated in American schools are torn between the traditional past and western institutions and values. Economically, there is a significant difference between the outer islanders who live at a subsistence level outside the cash economy and the residents of the district centers who are dependent upon cash incomes.

In sum, Micronesians are being subjected to traumatic transitional change of modernization and resultant crises in identity and role conflicts. Some older Micronesians can remember all four alien administrations, and speak some of the languages of each. Yet, compared to other developing nations, Micronesia has remarkably high literacy rates, and a high enrollment in schools at all levels.

In 1973 more than a third of Micronesia's population (about 39,000 students) was in school within the territory and outside of it, including some 1,000 engaged in post-secondary studies. At least several thousand Micronesians have completed post-secondary studies, and many have received university degrees.[4]

History of area

Micronesia has the dubious distinction of being the first of the Pacific islands to be colonized and was among the first colonies in the modern world. The islands now have the longest history of unbroken foreign domination. Our authority on Micronesia recently wrote that the U.S. (in considering its relationships with Micronesia) "would do well to remember . . . that the Marshall Islands were explored by the British, mapped by the Russians, influenced by the Spanish, annexed by the Germans, seized by the Japanese, and conquered by the Americans." At the present rate of progress toward resolution of Micronesia's future political status, it may be among the last dependent areas to achieve self-government or independence.

The early Western history of the Pacific area begine in 1493 when Pope Alexander VI settled the dispute between Spain and Portugal to ownership of newly discovered lands. All lands to the west of the Meridian 100 leagues west of the Cape Verde Islands and Malaysia to Portugal, which controlled were granted to Spain. This left India, Africa, passage around Africa, and all of the New World and the Pacific to Spain (except Brazil). The general principles of the Papal Bull were followed in the Treaty of Tordesillas in 1494 between Spain and Portugal.

The Spanish period began with Magellan's discovery of the Mariana Islands in 1521. Spanish settlement and governance followed in the mid-1500's. During the same period the Philippines were subjugated and by 1592 the most important islands in the Philippines had been brought under effective control. The conquest of the Philippines opened important galleon trade between Manila and Acapulco.

The Spanish developed Agana, Guam as a major port to provide a stopping place for the Acapulco-Manila galleons, but aside from the other islands in the Marianas, paid little attention to the other islands in the region.

The Carolines were known to the Spanish as a scattered group of islands to the south of the Marianas, but were not extensively explored during the early period of Spanish rule. The galleons proceeding from Agana to Manila generally avoided them due to the dangerous navigational hazards of the area. Spain was not represented by civil government in the Carolines until 1886 when the Carolines were incorporated into the Philippine colonial administration.

Except for the Marianas where Spanish ethnic, cultural, and linguistic influences remain dominant today, the Spanish islands were lightly governed. The primary Spanish activities in the Carolines were the conversion of the heathen to Catholicism and the maintenance of small garrisons to protect the missionaries.

During the eighteenth and nineteenth century the entire Caroline Islands area was largely unsettled and lawless. Japanese traders arrived from the major Japanese port of Nagasaki, Chinese junks were frequent callers in the western portion of the Carolines; and as early as 1842 New England whalers had arrived. During the Civil War, a Confederate cruiser, the *Shenandoah* caught several Yankee whalers in Ponape harbor and burned them. In the late nineteenth century, David O'Keefe ("His Majesty O'Keefe") built a large copra empire based out of Yap.

Spanish interest in the islands increased as Germany began to expand its commercial bases in the Marshalls and Gilberts.

German influence in Micronesia began in the mid-19th century with the arrival of missionaries in the Marshalls. The primary emphasis of Germany was, like that of Spain, commercial, and a coaling station was secured at Jaluit in 1878. Friction developed between Germany and Spain which climaxed in 1885 when Germany took possession of Yap in the Western Carolines despite the presence of two Spanish men-of-war. Spain relied on the 1493 Treaty of Tordesilas and claimed sovereignty over not only the Carolines, but also over the Marshalls where German claims were supported by Great Britain. The dispute was referred to Pope Leo XIII for arbitration. The Pope confirmed Spanish rights to the Carolines and Palaus and Germany was accorded freedom of trade and fishing, a naval and coaling base, and equal rights with Spain to purchase land for plantations. Germany and Spain signed a protocol employing the terms of the decision and on February 19, 1886, Maria Christina of Spain signed a decree establishing government in the Carolines and Palaus under that of the Philippines.

The formation of the Jaluit Company by Germany in 1887 was patterned after the British East India Company giving broad administrative authority to the commercial enterprise.

The Spanish period ended in 1898 with the Spanish-American War and the Treaty of Paris. Guam was ceded to the United States and became a U.S. territory. The remainder of the Mariana Islands and the Carolines were sold to the Germans in 1899 under a separate agreement. The German administration which was centered at Rabaul in New Guinea was efficient, far more intensive than Spain's, and directed toward one end: commercial exploitation.

The Japanese in 1914 at the outset of World War I seized the Micronesian islands from Germany. On December 17. 1920, the League of Nations formally mandated their administration to Japan. The Japanese actively encouraged colonization, and by the late 1930s some 70,000 Japanese settlers had developed Micronesia into a breadbasket for Japan, and had established a major physical infrastructure. Roads, towns, commercial plantations, and other evidences of a devel-

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Footnotes at end of article.

oped society appeared everywhere, but they were almost totally destroyed during World War II.

Koror (in the Palau Islands) became a stylish Oriental metropolis with a population of thirty thousand, and factories that manufactured beer and fireworks. Koror had public baths, laundries, dressmakers, tailors, masseurs, barber shops, butcher shops, and drug stores. There were forty-one ice dealers, seventy-seven geisha girls, one fortune teller, and fifty-five restaurants, thirteen of them considered upper-class. Palauans had never seen anything like it before, and they haven't since, either.[5]

Micronesia was developed largely by and for Japan; little attention was given to the Micronesians who became a minority (50,000) in their own islands. But economic activity was sufficiently intense that they did benefit economically. One official U.S. report notes that annual per capita Micronesian cash income was in the years before World War II treble what it was under the U.S. administration in the early 1960s. Whatever the cause, some Micronesians today look back with nostalgia on the Japanese era.

But the 1930s also saw Japanese fortification of the islands, and World War II brought death and devastation. Japanese cities and roads were destroyed and thousands of Micronesians were used as forced labor; thousands also died from malnutrition or U.S. bombardment. The islands were, in some instances, shelled nearly into the stone age in battles that became household words in the U.S.: Kwajalein, Saipan, Peleliu, Truk, and Tinian. "One of the first postwar requests that the Trukese made of their new administering authority was that if there had to be a Third World War, would the United States please hold it somewhere else."[6]

At the end of the war the Navy administered the islands until 1951 when administration was transferred to the Department of the Interior. At this point Guam was made an organized territory and the Chamorro population on Guam were granted citizenship. This prompted the first of the continuing movement by the remainder of the Marianas population to achieve either reunification with Guam or a similar status. (The Northern Mariana Islands were turned back to a separate Navy administration between 1952–1962). In 1947 the U.S. placed Micronesia under the international trusteeship system by an agreement with the United Nations Security Council which obligates the United States to develop the islands politically, economically, and socially toward self-government or independence.[7] This was the only strategic trusteeship within the U.N. trusteeship system.

Under the Navy and Interior administrations inadequate attention was characterized by some critics as "benign neglect" and application of a "zoological park theory" of administration until the mid-1960s. Non-official visitors were seldom permitted to enter Micronesia and the islands crept backward in time. Remnants of the Japanese Pacific empire and U.S. military encampments crumbled under the onslaught of climate and vegetation. In the mid-1960s, the Trust Territory was aptly referred to as the "rust territory". Indeed, the rusting scrap of World War II was then Micronesia's second most important source of export income. Annual U.S. appropriations for the administration of its new Pacific responsibilities between 1947 and 1962 ranged between $4–7 million, enough to pay and house a small administration, provide rudimentary health and education services, and link the islands together with a few aircraft and ships. Micronesia slept—except for nuclear tests in the Marshall Islands which left devastated (and even missing) islands, displaced Micronesians, and health problems of islanders inadvertently dosed with radioactive fallout.

Government was by an absentee administration. Only in 1963 was the Trust Territory headquarters established on Micronesian soil in Saipan. Previously it had been quartered in Honolulu and then on Guam. In the 1960s concern for United Nations' attitudes, President Kennedy's own interest in the islands, and a revived Defense Department interest heralded a new Micronesian era. The first significant moves toward self-government were introduced and annual appropriations for Micronesia edged up from less than $7 million to $60 million. In the mid-1960s and early 1970s a host of new programs was introduced: the Peace Corps, OEO legal services and community development programs, and a wide range of Health, Education and Welfare, Transportation, Labor, and Agriculture Department activities.

The introduction of these changes, and in particular, the establishment of an elected territory-wide Congress of Micronesia in 1965, brought about a political awakening which began the still continuing quest for a new political status for Micronesia.

The creation of the Congress of Micronesia provided the first consolidated, elected, representational government and administration of the Trust Territory area. Spanish, German, Japanese, and pre-1965 U.S. administrations, whether headquartered within or outside of the islands, had governed individual districts rather than an area-wide entity. Indirect administration either through traditional leaders or local councils or legislatures had allowed the historic patterns of non contact between districts to continue. Thus, although a single, unified policy characterized German administration through the imperial administrator and the Jaluit Company, the policy was implemented on a district-by-district or island-by-island basis. Outer islands were either ignored or treated comparably with the major islands when necessary for economic development. Japanese administration followed the same pattern except that the Japanese made an effort to make the different peoples learn and use Japanese and to spread Japanese culture. Again, many of the outer islands remained untouched. Early U.S. administration followed the same pattern. Democratic self-government was developed on a local, rather than on a regional basis. The form of local self-government was altered through the creation of District legislatures and the beginnings of a slow erosion of traditional authority structures, but the inter-island attitudes remained unchanged. So, although both the Marshall islands and Yap district have similar governmental forms, there is little or no communication between the indigenous peoples of the Marshalls and of Yap District. Individual identification is still conceived of in terms of kinship ties or at best on an island or atoll basis.[8]

For example, the traditional male dress on Yap district is the thu (loincloth). As the male grows he adds colors to the basic white which symbolizes childhood. Outer islanders when on Yap are required by custom to wear the white of childhood to indicate their traditional submission to the authorities on Yap. This custom, and the identification of oneself as a Yapese or a Ulithian continues. Similarly, considerable difficulty has been experienced in many areas in placing trust territory residents in administrative positions due to traditional concepts. District Administrators or Magistrates have been able to transmit policy only when traditional leaders agree or when the policy seems irrelevant to the traditional government.

Traditional forms of government have eroded considerably, but the basic non-interaction between districts remains with the one exception of the Congress of Micronesia. The Congress of Micronesia, composed of representatives from each of the districts, has itself been only rarely able to agree on legislation affecting local issues although there has been a considerable degree of unity on matters affecting the U.S. responsibilities.

Underlying these specifics are broader and more basic forces operating against Micronesian political, economic, and social intergrasian—facets of history and culture which must be overcome or at least offset by countervailing forces if Micronesia (with or without the Marianas) is to emerge from the trusteeship intact, and remain intact in the years thereafter.

Not a natural political unit, Micronesia was brought together as a single political entity only at the turn of the century; thereafter the various districts still had little contact with each other until the 1960s. Their cultures and languages developed in the isolation reinforced by vast distances. Even acculturation has varied from district to district in degree of intensity and character. For those who have not learned Japanese or English, language remains a barrier to communication not only between districts, but even within some districts. Although sea and air transport now link all major population centers, social integration remains at a low level except among a few political and administrative elites. Intermarriage between Micronesians of differing district backgrounds is exceedingly rare, and few Micronesians reside or do business outside their own districts. Economic integration (in terms of private sector inter-district Micronesian economic ventures) is in its infancy. Other than periodic meetings of traditional leaders from some districts, administrative links, and the Congress of Micronesia, political interaction between the districts remains rare. Inter-district political parties, trade unions, chambers of commerce and similar institutions are non-existent, as are leaders with a cross district power base.

Within districts the political and social horizons of the average islander seldom extend beyond a clan or extended family system; the average Micronesian identifies himself not as a Micronesian or even in normal circumstances as a "Trukese" or "Ponapean." At best he sees himself as a "Mortlockese," as a "Mokilese," or as a "Kusaiean". Elites travelling outside their districts will identify with a district, but seldom as a "Micronesian". It has been said that the only Micronesians are Palauans, Trukese, Marshallese, etc. in temporary and uneasy alliance in relation to the U.S. administration of Micronesia.

Put another way, xenophobia operates at all levels. Group identification beyond and between closed societies at the kin group, clan, or island level flows in the main from perceptions of common threats from without. Mutually antagonistic clans and leadership factions in Palau unite as Palauans against other Micronesians; the same Palauans and Marshallese and other islanders form temporary alliances as "Micronesians" against a perceived common adversary. But as external threat perceptions decline or change, temporary alliances and group identification tend to break up or shift. Thus Marshallese, Palauans, and Marianas Chamorros having little in common but a real or potential capacity for generating sizeable internal revenues unite against the Yapese, Trukese, and Ponapeans over the issue of tax rebates. Similarly, horizontal alliances of expedience are formed by rival leadership groupings, i.e. traditional leaders from throughout Micronesia meet in an effort to shore up their declining authority vis-a-vis the new political elites.

The structure of the U.S. administration and its operations have tended to reinforce district as against "Micronesian" identification. Other than Micronesians serving at the

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administration headquarters on Saipan, most administratve elites move through the ranks of the public service within their home districts and remain there. Administrative and program decentralization has in recent years tended to reinforce sentiment for the view that the key governmental level in the future should be the district as against the central or "national" government. The uneven distribution of population, land, and revenue potential also tends to reinforce inter-district suspicions and fear of domination of each by others. The attachment of the various groups to their traditional island or atoll homes makes the option of relocation of populations—an inter-island bussing—a dubious proposal. The former inhabitants of Bikini and Enewetak atolls have maintained their identification with their former homes despite twenty years of relocation and continue to press for permission to return to the atolls which provide their personal identity. They are Bikinians not Marshallese or Micronesians.

There are also forces for unity which, at the least, will necessitate cooperation between the districts and with Guam in the future. Though Micronesian cultures differ from each other, there are sufficient common traits between the various cultures to assure significant shared values and concerns as against outside forces, i.e. a common concern for protection and control of Micronesian lands, marine resources, and cultures. Acculturation and modernization also have brought to Micronesia a shared experience, a common "revolution of rising expectations" coupled with common dependence on external support for fulfillment of those expectations. Coupled to the latter point, all districts have become used to (and desire expansion of) common services, i.e. transportation, public works, public health services, education, disaster relief (in connection with periodic typhoons), and a plethora of other amenities which only be provided by a larger political unit or by a "common market" arrangement.

Among the educated elites, English is a shared language resource, while the Congress of Micronesia and employment in the Territory's central administration have provided shared concerns and experiences which tend to operate as unifying factors. Common educational experiences in boarding high schools (which remove students from their native cultural environment and required them to forgo their traditions and language) and at the Universities of Hawaii and Guam have also tended to "Micronize" the attitudes of many of the elites.

In the words of Dr. Leonard Mason, "whatever semblance of unity exists for the more than two thousand islands (of Micronesia) must be credited to three centuries of colonial dominance by a succession of foreign powers." And in that long period only the U.S. has "attempted to forge this conglomeration of cultures into a plural society or nation-state." [9]

Ironically this effort has been most successful in those areas where the U.S. has been perceived as threatening Micronesian values (e.g. land), restraining Micronesian aspirations (e.g. for self-government), and disappointing Micronesian aspirations (e.g. particular economic development projects).

Throughout most of the Trust Territory land questions and issues are more often than not a major factor negatively affecting Micronesian/American relationships. Local politics, economic development, cultures, and societal ties are all so intimately linked to land that none of the former can be separated from the latter. In Palau, as an example, control of land and of its use is the dominant political, economic, and social issue. Conflict with the U.S. administration, internal clan and political rivalries, and concerns relating to the political status question all swirl around land questions.

In every sense of the word, the peoples of the Trust Territory are a *part* of their land. Their standing in society, their rights and responsibilities, their communal and kin relationships, and the political power of individuals and of clan or kin groups are determined by land—by identification with and control of specific land areas, or by possession of usufruct rights. A Yapese takes his name from a tract of land placed in trust with him at birth. In some areas of the Trust Territory an individual without land or deprived of land is almost a nonperson or is consigned to a traditional slave caste. At the other extreme (especially in the Marshall Islands) the political power of traditional leaders and their hold on a community flows from their ability to assign, withhold, and retract land use rights, and to control the distribution of income from the land. In the circumstances, it is the rare Marshallese who will cross his traditional leaders.

Concepts of land ownership outside the Marianas bear no relationship to those of the west. Almost everywhere ownership is communal and posessed by a kin group or clan lineage embracing past, present, and future generations. The living are merely the trustees for the lineage, including the dead and the yet-to-be-born, and as such have no rights to transfer title from the lineage, though they may lease use rights. Even the lease of land to non-Micronesians is often resisted, if only because too often in the past temporary use rights have become transfers of title. The political and social importance of land also assures that western land value concepts have little validity in the area, and can enormously complicate land lease negotiations.

History of Marianas

The separation of the Marina Islands District (the Northern Marianas) of the Trust Territory from Guam (the southernmost of the Marianas (Chain) is an accident of modern colonial history. They had been governed for nearly 300 years as a single unit by the Spanish until the U.S. annexed Guam in 1898 at the conclusion of the Spanish American War, Germany in 1899 purchased the remainder of the Marianas (and the Carolines) from Spain. Japan seized these Germany possessions in 1914 at the outset of World War I.[10]

Throughout the 20th century political separation of Guam and the Northern Marianas, the Chamorro people of these islands retained their common culture and language, and their close kin ties. No such relationships ever existed by the Marianas with the other islands and districts of Micronesia (except for a small Carolinean community in the Northern Marianas which retains cultural and other links with the Carolines). Especially differentiating the Chamorros from other Micronesians are their respective histories.

Spanish suppression of Chamorro rebellion in the Marianas in the 17th and early 18th centuries climaxed with the slaughter of much of the population and transplantation of the remnants from one island to another. Between the ravages of revolt, introduced disease, and several devastating typhoons, the Chamorro population declined in the last 30 years of the 17th century from 50,000 to 4,000. These events, coupled with Chamorro intermarriage with the Mexican, Filipino, and Spanish soldiery that garrisoned the islands, produced a new Chamorro race with a culture more Hispanic-Filipino than Oceanic. The later German, Japanese, and American administrations in these islands were more intensive than in most other areas of Micronesia, with resultant further cultural inroads and "westernization".

Unlike the Marianas, the other islands of Micronesia were largely untouched by the outside world until the mid-19th century. The Spanish established a weak administrative and religious presence in some of the Caroline islands only at that time under the administrative Jurisdiction of Manila in the Philippines, while the Marshalls received a foreign (German) administrative presence only in 1885. Significant resident Western influence came to these islands only with the German, Japanese, and American administrations of the 20th century, and with the arrival of American missionaries in the Marshalls in the mid-19th century.

History thus deprived the Chamorros of much of their Oceanic culture, and replaced it at an early date with many essentially Western political, economic, and social values and institutions. History assured to the other Micronesians retention of the essential characteristics of their original cultures. The differences between the Marianas and the rest of Micronesia today can be summarized in a few words: the Marianas seeks to become more Western and American; the Carolinean and the Marshallese seeks to remain Micronesian while selectively accepting certain facets of "modernization". Reinforcing Chamorro attitudes have been perceptions of Guam's relative prosperity and sophistication under the American flag. Reinforcing Micronesian attitudes toward their future are their perceptions of what "Americanization" has meant to whatever remained of the Chamorro culture prior to the American presence on Guam.

Guam was ceded to the United States by Spain, in 1898 by the Treaty of Paris, which concluded the Spanish-American War. The United States governed Guam until 1941 through a naval governor. Guam was recaptured in 1944 in the same campaign which took Saipan and Tinian. Guam remained loyal to the U.S. during the Japanese occupation, and at the close of WWII continued their earlier appeals for citizenship and self-government. On August 1, 1950, the Organic Act of Guam was signed, granting citizenship to the Guamanians. The granting of citizenship to the Chamorro population on Guam became an early incentive to the remainder of the Chamorro population in the Northern Marianas to reunify with Guam.

Beyond these considerations, the North Marianas since World War II have been the most prosperous of the Micronesian districts. The U.S. Navy presence and accompanying generosity were significant until the early 1960s and included administrative separation between 1951 and 1962 at a time when the rest of Micronesia was under the impecunious jurisdiction of the Interior Department. The Navy administration provided roads, power, water, and other physical infrastructure, as well as education, medical, and employment opportunities still not equalled in any other district.

With the departure of the Navy administration in 1962, the Trust Territory headquarters moved to Saipan from Guam and provided new employment opportunities and services not enjoyed by the other districts. Today the Marianas have a wholly monetized economy as against the mixed subsistence/monetized economies of the other districts. United Nations Visiting Missions have noted that all of these factors have encouraged a "feeling of separateness from the rest of the Trust Territory".[11]

United States trusteeship

The trusteeship system had its origins at Yalta where President Roosevelt, Prime Minister Churchill and Marshall Stalin agreed it should apply to League of Nations mandated territories, "territory detached as a result of World War II", and "such other territories as would be voluntarily placed" under such a system. These principles were

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implemented at the San Francisco Conference as Articles 75 through 91[12] of the United Nations Charter which provide for the establishment of an "international trusteeship system", and of the United Nations Trusteeship Council. The basic objectives of the trusteeship system are provided for in Article 76,[13] the words "progressive developments towards self-government or independence" are considered the heart of that article.

Of special importance to the U.S., Article 82 provides for the designation of "strategic" trust territories, while Article 83 provides that "all functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council." The same article affirms that the above-cited and basic Article 76 also applies to strategic trust territories, and that the Security Council "shall avail itself" of the assistance of the Trusteeship Council with respect to all trusteeship functions "without prejudice to security considerations". In this respect, the Trusteeship Council was invited to observe the conduct of the plebiscite in the Northern Marianas and did send representatives.

All other Charter articles relating to the trusteeship system (except Article 85 which places non-strategic trust territories under the jurisdiction of the General Assembly) also are applicable to strategic and non-strategic territories alike.

Eleven territories were placed under the trusteeship system between 1946 and 1950—four of them in the Pacific: New Guinea under Australian administration, Western Samoa under New Zealand administration, Nauru under a joint Australian, British and New Zealand trusteeship (but with administration exercised solely by Australia), and the various islands and peoples of the Trust Territory of the Pacific Islands (Micronesia) under U.S. administration. The latter was the only trust territory designated as "strategic".

From the initial securing of Japanese-held islands in Micronesia in 1944, there was universal agreement in Washington that under no circumstances would they be returned to Japan at the conclusion of the war. Inter-service rivalries and inter-departmental differences on the question of their ultimate political disposition dragged on through the end of 1946. The Navy and Army argued over who should administer them, the former arguing for naval administration and the latter for civil administration—as did the Interior and State Departments. The Navy and War Departments, and the Joint Chiefs of Staff (supported by a considerable number of Congressmen and Senators), also argued for outright annexation and extension of U.S. sovereignty to Micronesia. The Departments of State and of the Interior, recalling Atlantic Charter pledges of no territorial aggrandizement as a result of the war, and the principles of the United Nations Charter (especially those of the trusteeship system which the U.S. had sponsored) opposed annexation and proposed trusteeship.

Throughout the debate over a people who were themselves at no time consulted on their future, President Truman tilted toward States' and Interior's position. At a press conference in January, 1946, he announced for trusteeship and against annexation. The debate continued, but now over the character of the trusteeship and whether the islands would be administered by the Army, the Navy, or by Interior. In November, 1946, the President announced that the U.S. was prepared to place Micronesia under a strategic trusteeship; subsequently he delegated civil administration of the islands to the Navy on an "interim basis."

The draft trusteeship agreement was formally submitted to the Security Council on February 26, 1947, by Ambassador (and Senator) Warren Austin. After debate and several amendments, it was unanimously approved on April 2, 1947. In presenting the draft to the Council, Ambassador Austin stated the U.S. position that all of the fundamental objectives of the trusteeship system would apply to Micronesia.

The only significant amendments adopted by the Council were the deletion of words in the U.S. draft of Article 3 which would have permitted the U.S. to govern the islands "as an integral part of the United States", and the expansion of Article 6(1) to include independence as an alternate goal to self-government. The U.S. draft spoke only of development of the territory toward self-government.

The Soviet-sponsored amendment, accepted by the U.S. and the Council, added language similar to that of Aricle 76 of the Charter, i.e., like all other trust territories, Micronesia was to be developed toward "self-government or independence as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned." In accepting the Soviet amendment, Ambassador Austin declared that: "The United States feels that it must record its opposition not to the principle of independence, to which no people could be more consecrated than the people of the United States, but to the thought that it could possibly be achieved within any foreseeable future in this case."

On July 3, 1947, President Truman sent the trusteeship agreement to Congress, asking for action to enable the U.S. to approve the agreement. On July 18, 1947, the Congress by joint resolution authorized approval of the trusteeship agreement. That same day President Truman formally approved the agreement to be effective immediately.

NEGOTIATIONS FOR FUTURE STATUS

Prenegotiation history in United States

The question of Future Status for the Trust Territory, although pending since the establishment of the Trusteeship, was actively addressed during the 1960's with negotiations beginning in 1969.

As each of the Japanese-held Micronesian islands was secured in the 1944–45 Pacific Islands campaign, U.S. military government was introduced with local naval officers exercising full governmental authority. This system was replaced by a Navy Department civil administration on July 18, 1947, which continued until 1951 when Micronesia's management was transferred to the Department of the Interior. Under the Navy administration, the Commander in Chief Pacific (CINPAC) was designated as High Commissioner; under the Interior Department all High Commissioners have been civilian political appointees. The most recent, Edward E. Johnston of Hawaii, has served since May, 1969.

From the outset of the trusteeship an important U.S. objective has been the establishment of formal institutions of self-government to replace the traditional chains of authority, institutions nonexistent under previous administrations. In the late 1940's and 1950's this policy was characterized by the establishment of elected district legislatures. This policy, while providing a recognizable Western form of government, did not alter the extent of traditional self-government nor require inter-island communication. In 1965 the territory-wide Congress of Micronesia was established. (Until that event the High Commissioner exercised not only full executive authority, but also full legislative authority at the territorial level; he governed by decree.) Since the establishment of the Congress of Micronesia, there have been no further fundamental changes in the framework of Micronesia's government.

United States movement towards the resolution of the future status of the Trust Territory began with the decision of President Kennedy on April 18, 1962, to establish a policy of bringing the Trust Territory into a permanent relationship with the United States. President Kennedy established an inter-departmental Micronesian task force (Departments of the Interior; State; Defense; Health, Education and Welfare; the National Security Council, and the Bureau of the Budget) to consider alternatives and advise the Secretary of the Interior.

The task force proposed the creation of a survey mission to conduct a thorough survey of the area's major problems. President Kennedy concurred and on May 9, 1963, instructed a nine member U.S. Government mission to survey and make recommendations on the political, economic, and social problems of Micronesia. The mission, under the chairmanship of Anthony Solomon completed its survey and submitted its report on October 9, 1963.

The report proposed significant increases in the Trust Territory budget and emphasized the need for a territory-wide legislature among many specific recommendations. The assassination of the President a month later probably terminated direct Presidential involvement in bringing the trusteeship to an end before the end of the decade.

Several of the mission's recommendations were implemented on a piecemeal basis. Budget requests and appropriations increased steadily (the proposed budget for fiscal year 1976 is $80 million), a central legislature composed of representatives from each of the administrative districts was established, and various federal programs were extended to the Trust Territory.

In 1964, the Secretary of the Interior issued Secretarial Order 2882 establishing the Congress of Micronesia. Elections for the new Congress were held on January 19, 1965. The constituency of the new Congress was (and remains) to a degree unrepresentative of the various districts represented. Traditional leaders viewed the concept with skepticism and distrust. Either the new entity would do nothing or it would threaten traditional forms of leadership. Inter-island distrust still makes unified action all but impossible on purely internal matters such as revenue sharing. The necessity for a knowledge of the common language of English eliminated many traditional leaders and most of the population from effective eligibility for congressional membership. Eighty-eight percent of the members of the first Congress had an equivalent of high school or higher education, 66 percent had a college education, 75 percent had served previously in a district legislature, 75 percent were employed by the U.S. administration, 100 percent had travelled outside of the Trust Territory (a rather significant feature since relatively few of the population ever leave their home island or atoll), 94 percent were fluent in English, and the median age was 33 years.

The Congress of Micronesia almost immediately focused on the political status question and in 1966 passed House Joint Resolution 47 calling on President Johnson to establish a "Commission to ascertain the political desires of the people of Micronesia, and to develop and recommend procedures and courses of political education and action, with such alternatives as may be applicable and appropriate, and to lead to the attainment of such desires and determination of the political status of Micronesia".[14]

On August 18, 1965, Senator Fong formally introduced Senate Concurrent Resolution 50 cosponsored by Senators Yarborough and Gruening (and later by Senator Inouye) that "it is the sense of Congress that the Trust Territory be included in the State of Hawaii if the people of Hawaii and the Trust Territory of the Pacific Islands

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agree." The Resolution did not move out of Committee, but it did focus the attention of Congress on the question of future status in a formal manner.

Various proposals were considered by the Interior Committees in both Houses. In 1967 Representative Bingham submitted House Joint Resolution 594 calling for a Presidential Commission along the lines requested by the Congress of Micronesia. Senate Concurrent Resolution 24 was introduced by Senator Fong on June 15, 1967, to establish a bipartisan commission to review the relations with the United States of all overseas insular areas under U.S. administration. On July 18, 1967, Senator Mansfield introduced Senate Joint Resolution 96 calling for a political status commission along the lines of the Ad Hoc Puerto Rican Commission.

Formal hearings related to future status were conducted by the Interior Committee on July 21, 1966, and on February 21, 1966, and on February 2, 1967. The similarity of the Bingham and Mansfield resolutions prompted the submission of Senate Joint Resolution 106 by the Administration. The Resolution was introduced on August 23, 1967, by Senator Jackson together with Senators Mansfield, Kuchel, Burdick, Hatfield, and Inouye. The proposal called for a 17 member commission composed of representatives of the Federal Executive and Legislative branches.

S.J. Res. 106 was subjected to hearings before the Interior Committee in Washington and was the subject of discussions with the Congress of Micronesia's Future Political Status Commission in Micronesia by both Senate and House Interior Committees. The resolution was considered, and with minor amendments, was adopted by the Senate on May 29, 1968. No formal with minor amendments, was adopted by action was taken on this measure, or the companion measure, House Joint Resolution 805, by the House.

Various other measures were introduced in the House in response to requests from the Congress of Micronesia. Congresswoman Mink introduced House Resolution 16183 to provide for an organic act for the Trust Territory, and in 1969, Congresswoman Meeds, who together with Congresswoman Mink had been a part of the House discussions in Micronesia of future status, introduced legislation calling for a Constitutional Convention.

Direct Congressional involvement in status negotiations ceased in 1969 due to the opposition of the Chairman of the House Interior Committee, Congressman Aspinall, and of the Territories Subcommittee, Congressman Carey. In a floor debate on December 18, 1969, with Congressman Bingham who continued to press for a Commission, Congressman Carey stated:

"The House Committee on Interior and Insular Affairs has consistently taken the posture that the executive departments involved, State, Interior, and Defense, should present a unified position on the question of political status to the Congress in order that Congress through the House Committee on Interior and Insular Affairs can take that position or alternatives to the people of the trust territory.

"Because the executive departments were not able to agree on such a position or the alternatives, they fostered an executive communication during the 89th and 90th Congresses which was introduced by the gentleman from New York (Mr. Bingham) to establish a Commission on the Future Political Status of the Trust Territory of the Pacific Islands. *To those of us who have been closely involved with the administration of the trust territory, it is clear that this executive communication was and is requesting the Congress to take the responsibility for making a decision which is properly the function of the executive branch of Government.* In this instance the executive branch chose not to rely on the axiom of the executive proposes and the legislature disposes. *The Status Commission proposal is merely a ruse for the executive departments to avoid their responsibility.*" [Emphasis added.]

In light of the opposition in the House and continuing requests from the Trust Territory to begin substantive negotiations, the Administration began general discussions through a Micronesian Interagency Committee on Political Status established in 1969 under the Chairmanship of the Assistant Secretary of the Interior for Public Lands Management (who was in charge of the Office of Territorial Affairs) and then under the Office for Micronesian Status Negotiations under Dr. Franklin Haydn Williams who was designated as the "President's Personal Representative for Micronesian Status Negotiations" on March 13, 1971, with the personal rank of Ambassador.

Subsequent involvement by the Congress included formal briefings before the Senate and House Interior Committees on progress in the negotiations and informal discussions with interested members. Formal discussions on the Senate side consisted of briefings in November, 1971, by Ambassador Williams of the Subcommittee on Territories and Insular Affairs, in 1972 by Ambassador Williams of the Interior Committee, in September 29, 1973, by James Wilson, Deputy U.S. Representative of the Subcommittee on Territories and Insular Affairs, on September 12, 1974, by Ambassador Williams before the Interior Committee and on September 25, 1974, by James Wilson, again before the Subcommittee on Territories and Insular Affairs. Formal involvement by the House has been more extensive. Since November 15, 1971, there have been nine formal hearings on the House side including one before the House Armed Services Committee and one before the Appropriations Committee. In addition, there have been extensive briefings of various Senators and staff during the course of the negotiations.

Prenegotiation history in Trust Territory

Subsequent to the initial request in 1966 for status negotiations, the Congress of Micronesia passed Senate Joint Resolution 25, on August 8, 1967, providing for a six member Micronesian Future Political Status Commission to be appointed from the Congress of Micronesia by its presiding officers. The Commission was empowered to study and present to the Congress the various political status alternatives open to the Trust Territory, including independence, and to recommend procedures by which the Micronesian people might determine their future status. The Commission was specifically directed to examine three political precedents: Puerto Rico's commonwealth relationship with the United States, Western Samoa's independence and close treaty relationship with New Zealand, and the Cook Islands' free association relationship with New Zealand.

The Commission was formed on October 15, 1967, and submitted an Interim Report to the Congress [15] on July 8, 1968. Although providing no firm conclusons or recommendations, it did identify in some detail for the first time possible political alternatives for the Trust Territory: independence, free association, a commonwealth relationship with the United States, U.S. unincorporated territory status, U.S. incorporated territory status, and continuation of the status quo.

Beyond identification of these possible approaches, comparative analysis was offered of the political status of Puetro Rico, Western Samoa, the Cook Islands, the Philippines, and Guam. The status of Puerto Rico and that of the Cook Islands were cast in the most favorable light.

The Interim Report was considered by the Congress of Micronesia and the Commission continued to explore alternatives. During the next year, the Commission traveled extensively throughout the Pacific, including to American Samoa, Western Samoa, New Zealand, Fiji, Australia, and to Papua New Guinea. Individual members also visited Puerto Rico and the Virgin Islands. The Final Report of the Commission [16] was submitted in July, 1969.

The Report recommended that a free association relationship with the United States be negotiated. The Commission did not offer a detailed description of the proposed free association relationship, holding that the structuring of that relationship was a task for Micronesian and U.S. negotiators. The Commission offered broad comments regarding the structure of future Micronesian government, levels of assistance, political education, and procedures for implementation of a new status. The Commission noted that elected traditional leaders, not individual citizens, normally make most political decisions.

Of importance to later developments, the Commission gave full recognition to the "freely-expressed wish of many Marianas residents to immediately unite with the United States Territory of Guam," and that the "call for Marianas integration includes a powerful emotional component as well as some specific practical motives." It concluded that "unless the projected harm to minorities in the Marianas or to Micronesia at large is intolerable, it will not oppose a political union which reflects the freely-expressed desire of a majority of the residents of the district." and that "ultimately the question of reintegration must be resolved by the United States and the United Nations for it was they, not the Political Status Commission, which brought the districts of Micronesia together." The Commission did express the hope that Marianas separation not take place "until all possibilities for partnership have been explored." [17]

On independence, the Commission suggested the primary disadvantage was financial: the difficulty of having an assured source of adequate external assistance. "In view of this, but also of the grim realities of conditions in Micronesia today," the Commisssion recommended independence only as a second alternative, and then only as a long-range goal involving "indefinite prolongation of the trusteeship system and of the United States' stewardship as administering authority."

The Commission assumed that "an independent Micronesia would be likely to have close treaty relations with a major power—presumably the United States—and to remain dependent on foreign funds, both by way of grant and of rental for areas leased for military purposes. These ties might be almost as close as those existing under self-government in free association with a major power.[18]

Finally, the Commission briefly outlined several other possible alternatives—integration with Japan, integration with the United States, and union with Guam—but dismissed them all.

The Congress considered the Report in executive session behind closed doors and accepted the Report. Senate Bill 55, approved by the High Commissioner on August 29, 1969, established a Political Status Delegation to replace the Commission, to be composed of not more than ten members of the Congress, to negotiate with the United States the future political status of Micronesia. The Delegation was instructed to adhere to the desires and policies of the Congress of Micronesia, "as expressed by resolutions or other-

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Footnotes at end of article.

wise," and its actions would be "subject to subsequent ratification" by the Congress of Micronesia.[19]

The form of subsequent negotiations revolved around the nature of "free association". It was not until mid 1970 that the concept of unilateral termination was raised by the Micronesian negotiators. There is considerable evidence that the various peoples of the Trust Territory throughout the 1950s, and even until 1969, were prepared for and even desired a close and perhaps permanent political relationship with the United States. This was commented on by every United Nations Visiting Mission throughout that period.[20] As early as 1950 the Mariana and Marshall Islands had petitioned the United States and the United Nations to become part of the United States. Similar sentiments were expressed by traditional leaders and legislative bodies of other districts on later occasions. Even Truk (later to become the center of the independence movement) through its District Legislature in 1964 petitioned for a commonwealth relationship with the United States.[21]

In May of 1969, the then Secretary of the Interior, Walter Hickel, visited Spain and met with various leaders from throughout the Territory.[22] On May 9, he addressed the Congress of Micronesia and other leaders with a major policy statement including an invitation to the Congress of Micronesia to enter into negotiations with the United States on future status.

Early rounds of negotiations

At the conclusion of the 1969 summer session of the Congress of Micronesia (acting under authority of Senate Bill 55 and in response to Secretary Hickel's invitation) the President of the Senate and the Speaker of the House had appointed a ten-man Future Political Status Delegation to meet with a U.S. delegation in Washington. Most of its members had participated in the original Future Political Status Commission.

The delegation arrived in Washington in late September, 1969, where it met a U.S. delegation chaired by Interior Assistant Secretary Harrison Loesch with representatives from the State and Defense Departments.

The Micronesians brought with them an eleven-point proposal that a future political relationship be based on the following principles:

(1) That the people of Micronesia will draft and adopt their own constitution;

(2) That the Micronesians will be assured that there will be no confiscation of their land and no military bases will be established in the islands without full consultation, the consent of the Government of Micronesia, and fair compensation; that land currently held, controlled or possessed by the United States under lease or other arrangements will be renegotiated;

(3) That the United States, subject to certain exemptions, limitations, and conditions, will conduct Micronesia's external affairs and provide protection from outside aggression and consult with Micronesia before entering into interational obligations with respect to Micronesia;

(4) That Micronesia will agree not to allow any other country to enter into Micronesia for miltiary purposes;

(5) That the United States will agree to an early settlement of Micronesia's postwar damage claims;

(6) That the United States will remove all barriers to the free movement of Micronesians into the United States;

(7) That the United States will also agree to remove all barriers to the free movement of goods from Micronesia into the United States;

(8) That the United States will seek full consultation with the Government of Micronesia in matters of shipping, civil aviation and communication;

(9) That Micronesians will have access to the United States Ninth Circuit Court and the United States Supreme Court;

(10) That Micronesia will continue to have access to banking facilities in the United States, to the use of United States currency and postal services; and

(11) That the United States will guarantee financial aid to Micronesia.[23]

Noticeably absent from the proposed agenda was any suggestion that a new political relationship be unilaterally terminable or otherwise revocable. The subject of unilateral termination was, however, raised during the course of the negotiations.

According to the subsequent report by the Future Political Status Delegation, no conclusions or decisions were reached during their informal talks, but the "U.S. delegation generally agreed in principle with the basic positions put forth by the Micronesians," except in the areas of control of land and termination provisions for a future relationship.[24]

The Micronesian delegation reported the following summer that the people of Micronesia should have unqualified control of land in Micronesia and that any United States use of land for military purposes should be subject to negotiation between the Governments of Micronesia and the United States, while the United States delegation presented a formula for the acquisition of land which gave the President of the United States the ultimate power to acquire land in Micronesia. The two delegations also failed to reach agreement on another important point—whether any association between Micronesia and the United States will be permanent or in the form of a revocable compact.[25]

Although the next round of formal status talks did not take place until May, 1970, Interior Assistant Secretary Loesch informally met with the Micronesia delegation on Saipan in January, 1970, to provide the latter a draft organic act establishing Micronesia as a U.S. territory on the pattern of Guam and the Virgin Islands. The proposed organic act that "such a bill is in manifest conflict with the intent of the positions taken by the Micronesians during the October talks, i.e. those relating to Micronesian control of Micronesian lands, and a Micronesian constitutional convention. The Micronesian delegation reported to the Congress of Micronesia, with reference to the proposed organic act that "such a bill is in manifest conflict with the intent of the Trusteeship Agreement, with the direction pointed by the Congress of Micronesia in its mandate to your delegation, and with the basic premises upon which the delegation had opened discussions in Washington. Your delegation indicated its total opposition to any United States act which would provide for the internal government of Micronesia—its design, its administration, and its control—should be reserved solely to the people of Micronesia."[26]

The United States reevaluated its position in light of the rejection and offered a modified unincorporated territorial status proposal labeled as a "commonwealth" relationship at a second round of formal negotiations on Saipan between May 4–8, 1970. The proposal satisfied the essential elements of the eleven-point Micronesian proposal of October 1969, with the exception of the eminent domain provision.

The Micronesian delegation countered with a "free association" proposal based on four principles:

(1) That sovereignty in Micronesia resides in the people of Micronesia and their duly constituted government;

(2) That the people of Micronesia possess the right of self determination and may, therefore, choose independence or self-government in free association with any nation or organization of nations;

(3) That the people of Micronesia have the right to adopt their own constitution and to amend, change or revoke any constitution or governmental plan at any time; and

(4) That Free Association should be in the form of a revocable compact, terminable unilaterally by either party.

In the May, 1970, talks the U.S. delegation was unable to discuss seriously any form of political status which went beyond the essential framework of its commonwealth offer while the Micronesian delegation was unprepared to discuss any relationship not based on the four "non-negotiable" principles. There were, however, significant areas of agreement that the Micronesian people were entitled to a constitutional convention and a plebiscite on their future status, and that both sides favored political association. Beyond that, the two delegations did not even agree on whether the U.S. had rejected free association and the four principles.

On July 22, 1970, the Micronesian delegation issued its Report to the Congress of Micronesia on the October, 1969, Washington talks, an informal January, 1970, meeting, and on the May, 1970, Saipan talks. Only five pages were devoted to the first two events. The balance was devoted to the May talks and recommendations for follow-up actions.[27]

Most of the Report provided the delegation's description of the positions taken by both delegations in May together with a critique of the U.S. commonwealth proposal, and a defense of free association. The possibility of independence, its advantages and disadvantages, was addressed at some length, and defended as the only alternative to free association. A close treaty relationship with the United States was suggested as a natural component of Micronesian independence.[28]

Congressional debate and action on the Report during the July/August, 1970, session of the Congress of Micronesia was vehement. The U.S. position was angrily attacked by members of both Houses, and for the first time some legislators openly called for Micronesian independence. In the end, the Congress overwhelmingly endorsed the positions taken by its delegation. Commonwealth was rejected, and free association and the four principles were endorsed in lieu of independence with only one dissenting vote in the Senate, and two in the House. Two of these three votes were from the Marianas.

However, the discussion of independence, either immediately or via a short-term free association status, together with subsequent legislative proposals precipitated immediate reaction in the Marianas to reject the position adopted by the Congress.

Events leading to Marianas status

Up to the August 1970 session, the Marianas delegation had participated in negotiations with the remainder of Micronesia on the assumption that their basic demands, citizenship and permanent affiliation with the United States would be met.

Events in the Marianas unfolded rapidly and violently following the Congress of Micronesia's August, 1970, decisions and the May, 1970, political status negotiations.

Since 1950 (when the first United Nations Visiting Mission toured Micronesia) Mariana Islanders at every opportunity had sought a close political relationship with the United States. The preferred means of achieving that association varied from time to time, and differences continue to exist on this issue among the political leaders of that district.

With the establishment of municipal councils in the Marianas in the late 1940s and a district legislature in 1963, the U.S. and the United Nations have been deluged with petitions and resolutions directed at political

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association with the U.S.[29] These have been backed up by plebiscites from time to time, the earliest in 1961 and the most recent in 1969 (more below)—not including the June 17, 1975 plebiscite to approve the Commonwealth. Some resolutions sought political association with the United States as part of a larger Micronesian U.S. territory. Most envisaged secession from Micronesia. From the early 1960s through 1969 U.S. territorial status generally was sought through "reintegration" of Guam and the Northern Mariana Islands. This apparently was seen as the most logical and direct route to U.S. citizenship and political association.[30]

A United Nations Visiting Mission in early 1961 reported that on February 5, 1961, a plebiscite was held on Saipan and Tinian Islands in which 2,404 out of the 2,847 registered voters had participated. 1,642 voters favored reintegration with Guam, 875 favored separate territorial status for the Northern Marianas, 27 favored the status quo (the then Navy administration), and 8 votes were declared invalid. The Mission subsequently reported to the United Nations Trusteeships Council that "there is an almost unanimous desire among the people in regard to seeking U.S. citizenship."[31]

In another plebiscite on November 9, 1969, than half of Saipan's 3,015 registered voters participated; 1,231 favored reintegration with Guam, 9 independence, and 32 separate territorial status.[32]

In another plebiscite on November 9, 1969, held throughout the Mariana Islands District, 3,233 out of 4,954 registered voters participated. 1,942 favored reintegration with Guam, 1,116 free association, 107 a separate territorial relationship, 19 independence, and 9 "other" forms of status.[33] (This plebiscite was conducted only a few months after the publication and distribution of the Congress of Micronesia Political Status Commission's final report recommending a free association relationship for all of Micronesia and prior to any discussion of termination.)

Each of the plebiscites was organized by either Marianas municipal councils or the District Legislature. None were encouraged or sanctioned by the U.S. administration; U.S. policy remained opposed to fragmentation of Micronesia and a separate status for the Mariana Islands through late 1971. This position was made known by U.S. administrators to Marianas leaders throughout the 1950s and 1960s and was acknowledged by United Nations Visiting Missions and the Trusteeship Council throughout the same period.[34] Several United Nations Visiting Missions did note that the U.S. administration had unintentionally fostered separatist attitudes in the Marianas through the Navy's separate administration in the 1950s, and throughout the trusteeship by the inadequacy of political education programs and political institutions which might have stimulated a greater interest in Micronesian unity.

Aside from the U.S. position in opposition to "secession", Guam rebuffed the reintegration concept in a plebiscite on November 4, 1969. Of the approximately 18,000 registered voters on Guam, only 6,408 cast ballots. Of these, 3,700 rejected reintegration while 2,688 voted in favor of such political action.[35] Guamanian politicians (including a Governor of Guam) later explained that the Guam plebiscite was poorly organized and inadequately publicized with the result that the issues were not for the most part understood. Most Guamanian political leaders now maintain that a properly presented plebiscite would result in a significant majority vote for reintegration.

The Northern Marianas did believe they had been rebuffed, perhaps in part because of World War II when some Chamorros from Saipan had served as local police and administrators for the Japanese on occupied Guam. Sentiment in the Northern Marianas for political association with the United States nevertheless remained strong and emotional.

In 1957 two political parties had emerged in the Northern Marianas: the Territorial and the Popular Parties. The former tended to draw its support from some employees of the Trust Territory administration, the local business community, and the Carolinean community whose ancestors for the most part came from Truk and Yap. The Popular Party represented most other elements of the Northern Marianas population, including some administration employees, and generally has dominated the Saipan municipal council and the District Legislature. Both parties have supported close political association with the United States, but the former usually in the past has favored achieving such status in union with the remainder of Micronesia. The Popular Party favored the secessionist approach. At all times personalities, kin ties, and other non-political factors have also differentiated the two parties, sometimes more so than political issues.

The publication of the Future Political Status Delegation's Report in July, 1970, created new concerns and possibilities. Those in the Marianas favoring close political association within the United States were especially concerned by one aspect of the proposed free association relationship. Free association with the remainder of Micronesia could someday (in their view) result in a break from the United States even should the people of the Marianas be overwhelmingly against such action. (The Marianas have only 10 percent of Micronesia's population.) Beyond this, the U.S. commonwealth offer was far more attractive than either separate territorial status or reintegration into the larger territory of Guam.

In the same weeks the Congress of Micronesia was by resolution rejecting commonwealth status and endorsing free association and the four "non-negotiable" principles, the Mariana Islands District Legislature also was in session and adopted resolution offering precisely opposite conclusions.

Resolution No. 11–1970, adopted on August 21, 1970, endorsed the U.S. commonwealth proposal and urged that the U.S. submit that proposal to the people of the Mariana Islands District for approval, and "to proceed with its implementation in the Marianas until the people of the other districts are ready to decide their future political status".

Resolution No. 13–1970, adopted on August 24, 1970, asked the United Nations to recognize the cultural differences between the districts of the Trust Territory and to allow each district to choose its own political future.

Indicative of the mood of the Northern Marianas were the results of the November, 1970, Congress of Micronesia elections. Political status was a key campaign issue. The incumbents from the Marianas (all from the Territorial Party) were accused of misrepresenting or inadequately representing their district's desires and interests in the Congress. All but one were defeated by Popular Party candidates advocating early and separate commonwealth status for the Mariana Islands. Although one Territorial Party senator remained in office (his term had two more years to run), he had endorsed commonwealth status during the Congress of Micronesia's status debate, and subsequently transferred his allegiance to the Popular Party. Local political observers interpreted the election results as a popular mandate not only for commonwealth status, but also for early "secession".

Linked to this sentiment was a feature of political life in the Marianas reaching back at least ten years. The more sophisticated and politically aware Chamorros (almost universally literate, and for the most part at home in English) had long felt that they were ready for self-government, and for the decisions required to achieve that status. They resented the slow pace of political change in the Trust Territory which they attributed to the "backwardness" of the Carolines and the Marshalls. Marianas leaders believed that progress toward close political association with the U.S. was not only being delayed, but also thwarted by the other districts.

Beyond political status considerations, a disproportionate share of territorial tax revenues is raised in the Marianas; it was (and is) believed that less than a fair proportion of the total fiscal pie was being returned. Moreover, the Marianas felt that economic development policies favored by the other districts tended to retard development in the Marianas.

By late 1970, the political leadership of the Marianas was feeling frustrated and cornered. The High Commissioner (acting on existing U.S. policy) was openly discouraging Marianas separatist initiatives. His actions were especially resented because of personal animosities existing between him and elected Marianas leaders at the municipal, district, and congressional level. A feature of Marianas District Legislature sessions of that period were resolutions demanding the replacement of the High Commissioner. Compounding this problem, the Marianas district administration, the executive branch of the district government, was staffed at the upper levels with appointees of the High Commissioner from the opposition Territory Party.

Despite burgeoning separatist sentiment in the Marianas, there may have remained in late 1970 and into early 1971 some preparedness on the part of key Marianas leaders to consider remaining with the rest of Micronesia provided common political status arrangements could be promptly arrived at which would: (a) assure a high level of political and economic autonomy to each of the districts; (b) provide for U.S. citizenship or nationality; and (c) assure that the Marianas at some future date would not have their ties with the U.S. severed by the actions of the other districts. The prospects for arrangements along these lines were sharply reduced in the first half of 1971 through a series of incidents which probably made inevitable the subsequent separate political status negotiations between the United States and the Marianas.

In early 1971 the Congress of Micronesia had as a primary item on its agenda, an income tax bill designed to increase significantly internal revenues. Many features of the bill were objected to by the Marianas delegation which also assumed a disproportionate share of the revenues would come from the Marianas' monetized economy.[36] (The other principal, and in fact greater source of revenue would be the Kwajalein missile range complex in the Marshall Islands.) Looking to the future, the Marianas were additionally concerned that they alone (among Micronesia's districts) were eager to develop their islands with private foreign capital investment and by encouragement of a major tourist industry. Some also sought the presence of U.S. military bases for their perceived economic benefits. The Marianas leadership thus foresaw an expanding Marianas economy subsidizing other districts which tended to reject or resist those aspects of development which would lessen requirements for such subsidies.

The Congress in adopting the new tax legislation on February 12, 1971,[37] apparently ignored pleas from the Marianas congressional delegation for amendments which might have made it more palatable. During Congressional consideration of the legislation, the High Commissioner had continued to discourage the growing sentiment for secession and made little effort to encourage the Congress to heed the concerns of the Marianas with respect to the tax legislation.

Footnotes at end of article.

By mid-February tempers were high throughout Saipan; harassment of members of the Congress of Micronesia from other districts was a frequent occurrence on that island.

The catalyst for the events that followed appears to be the action of the Mariana Islands District Legislature on February 19, 1971. Resolution Number 30 of that date declared that the Mariana Island's District would "secede from the Trust Territory, if necessary by force of arms, and with or without the consent of the United Nations" to achieve its goal of close association with the United States.[38] The following day, in the pre-dawn hours of February 20, 1971, the Congress of Micronesia's legislative chambers were totally destroyed by fire, while the offices of the President and of the Clerk of the Senate were seriously damaged in what clearly had been the work of an arsonist.[39] Although subsequent investigation never adequately identified the arsonists, suspicions centered upon secessionist leaders. The Congress adjourned *sine die* the day of the fire with most key legislation incomplete.[40]

Since the fire had interrupted much of the work of the Congress, a special session was called for May, 1971, at Truk, the first to be held away from Saipan. The Marianas Popular Party leadership caucused and instructed the Marianas congressional delegation to boycott the special session as a demonstration of the Marianas' determination to seek a separate political arrangement with the United States. Several Marianas leaders had also gone to Washington in the interim, between the fire and the May special session on Truk, where they advocated within the U.S. Congress and the Interior Department their views on the future political status of the Mariana Islands. No commitments were entered into by U.S. officials other than that the Marianas representatives were assured their concerns and views would be taken into full account in negotiating a future political status for Micronesia. They were urged to continue to "work within the system", i.e., to participate in the work of the Congress of Micronesia, and its new Joint Committee on Future Status (JCFS).

Although the background to the events that followed is not entirely clear to this day, the Marianas boycott remained in effect only until the eighth day of the 18-day special session. What seems clear is that at some point the Micronesian congressional leadership agreed to modify the recently-enacted tax legislation. The Marianas congressional delegation apparently agreed to support fully the political status objects of the other five districts of Micronesia, if the Congress in turn would accept and support a separate political relationship for the Mariana Islands during forthcoming status negotiations. There also appeared to be an agreement that the Marianas congressional delegation would work with the rest of the Congress in seeking increased congressional authority vis-a-vis the U.S. administration of the Territory.

The tax legislation was amended.[41] The new Joint Status Committee gave recognition to the special aspirations of the Mariana Islands at the next round of negotiations.[42] The Marianas delegation did work with the Congress in its efforts (occasionally even spearheading them) to strengthen the political and fiscal authority of the Congress.

Forces within the Marianas operating in favor of continuing unity have thus far been in a minority. Undoubtedly many in the Carolinean community (about 18 percent of the total population of the Mariana Islands District) would prefer a status settlement which would assure to them the protection of a larger political unit with which it has cultural links. There is concern among the Carolineans that they will suffer abuse within a smaller and separate Chamorro-dominated political unit. Nevertheless, even the Carolinean community has supported the principle of close political association with the United States.[43] The only stated concern of the Carolinean groups to the Covenant was the level of U.S. assistance and the degree of local autonomy. Some members of the Saipan business community have opposed political association with the United States in any form which opens the Marianas to unrestrained U.S. (especially Guamanian) competition. Finally, some employees of the Trust Territory administration are concerned that separate status and an ultimate transfer of a Micronesian capital to another district will mean fewer government jobs in a smaller Mariana political unit.

By the time the Congress reconvened in its May 5–22 special session at Truk, the events of the preceding months assured a tense political atmosphere. The absence of any substantive U.S. response to the free association proposals of the preceding May was generating suspicion and concern.

The U.S. maintained its position that it was unwilling to consider separate status for the Marianas. This U.S. position was restated publicly and in more forceful form a month later during the annual meeting of the United Nations Trusteeship. The U.S. representative told the Council that the U.S. was "committed to discussions on a territory-wide basis at this time and could not contemplate separate discussions with the Marianas." He also urged the Marianas to participate in the overall discussions and to avoid "precipitate actions" which would make more difficult the attainment of a satisfactory agreement.[44] The Council, in its own report to the Security Council, expressed the hope "that the course of separation would not be considered until all other possibilities for partnership had been explored, and urged all the people of the Mariana Islands District to cooperate with the Congress of Micronesia and the Administering Authority in the search for a mutually acceptable solution." [45]

Unity within the Congress of Micronesia was itself becoming strained during the Truk Session. The main basis for territory-wide unity had been opposition to one aspect or another (usually land) of U.S. administration. Aside from the Marianas' boycott, floor statements, committee meetings, and backroom sessions were characterized by acrimonious debate over issues relating not only to the nature of Micronesia's future relationships (if any) with the United States, but also among the districts themselves.[46]

CONTINUATION OF STATUS NEGOTIATIONS

The U.S., now represented by Ambassador Williams and the Office of Micronesian Status Negotiations, met the delegation from the Joint Committee on Future Status for a third round of negotiations on October 4–12, 1971, at Hana, Maui Island, Hawaii. Possibilities for progress were bleak. The prior two rounds had been characterized by a generally well prepared and unified Micronesian delegation and an uncertain U.S. delegation. At Hana, the U.S. now had a separate office working full time under Ambassador Williams rather than an Assistant Secretary with extensive other responsibilities. The Joint Committee was, on the other hand, seriously divided. Secession movements in Palau and the Marshalls were growing, an independence movement from Truk was also being felt, and the Marianas had made clear their intention not to accept any status within the parameters of the Joint Committee's mandate.

The U.S. still preferred a single status for the entire Trust Territory, but it was becoming clear that this was unrealistic. The U.S. offered to discuss four issues: (1) control of land, (2) application of laws, (3) modification of relationship, and (4) financial assistance. The Joint Committee refused to discuss the issues separately and, partly due to internal differences, did not engage in extensive discussions.

The relative degree of discussion is illustrated by the fact that during the course of the Hana talks the U.S. delegation consumed 111 pages of the transcript, while the Joint Committee filled only 29 with its responses.

The most eloquent evidence of the Joint Committee's internal disarray during and after the Hana talks was its report to the next session of the Congress of Micronesia at Koror, Palau, in January, 1972. A "draft report" had been prepared in December which summarized the positions taken by both delegations at Hana, and offered a measurement of the U.S. proposals against the four principles. Also included was the transcript of the Hana talks, but no recommendations were offered and the Joint Committee was unable to arrive at a consensus even on the factual character of the draft report. It was thus submitted unsigned and in that form to the Congress.[47]

The Congress considered the Report amid some dissension and passed a resolution granting the Joint Committee greater latitude in discussions. The inability to reach internal agreement prompted Senator Ambilos Ieshi (Ponape) to remark "maybe we should introduce a resolution urging the members of the Committee to negotiate among themselves before going into negotiations with the United States Government".[48]

As the future outline of a new relationship with the United States had begun to emerge, Micronesians began to focus on the future character of their internal relationships. This issue came to the fore via tax legislation adopted in 1971 which in turn brought the Congress face to face with an issue only slightly less divisive than that of the relative merits of commonwealth, free association, and independence: the division and distribution of internal revenues. The Marshall Islands under the new tax legislation was contributing well over half of all Micronesian internal revenues, with the Mariana Islands running second. Looking to the future, the Congress could envisage enormous revenues being generated in three districts (the Marshalls, the Marianas, and the Palau Islands) and relatively few in other districts which among them contained well over half of Micronesia's population (Ponape, Truk, and Yap).

With this in mind, members of the Marshall Islands delegation, supported by the Marianas and Palau delegations, introduced into the House a bill providing for a 50 percent rebate of all internal revenues to the districts of origin. After a bitter, highly emotional debate, the bill was effectively killed through referral back to committee.[49]

The Marshallese reaction was swift; Congressman Charles Domnick, a key figure in that delegation, introduced a resolution which would allow each district to negotiate its own future separately. He stated:

"I introduce this resolution to bring out into the open what we have all been privately thinking and talking about. The 'nation of Micronesia', like the Trust Territory of the Pacific Islands, is nothing but an illusion that has been fostered by the administering authority".[50]

Though the resolution was referred to committee and remained there, the Marshallese had the support of the Marianas delegation (who had hoped for a similar resolution endorsing separate Marianas negotiations with the United States) and of some members of the Palau delegation. Congressman Timothy Olkeriil (Palau) commented:

"If no arrangement satisfactory to all can be arrived at between our status committee and the status delegation representing the

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United States, then each district must be permitted to seek any terms and conditions it desires in unilateral negotiations with the U.S." [51]

Senator Roman Tmetuchi, one of the several most influential leaders in Palau and a member of the JCFS, argued that the only means of holding together Micronesia appeared to be the establishment of a "federation of relatively independent states".[52]

The battle lines were drawn between the districts; those having or foreseeing prospects of increased tourism, deepwater ports, or defense installations, were seeking or considering separation from the rest of Micronesia or, at best, a loose political federation. Those having no such source of income would continue to favor unity, and oppose efforts directed at greater district autonomy—either in separate relationships with the United States, or among themselves with respect to revenue sharing.

Both House and Senate Interior Committees conducted hearings after the breakdown in the third round. Ambassador Williams briefed both Committees during November 1971 and formally brought the issue of whether the United States should recognize the Marianas requests for separate status or continue to discourage them. In his testimony he stated that:

"The talks also brought to the fore the desire of the Marianas for a close and permanent association with the U.S. This was acknowledged by the Micronesian Delegation and the prospect that a separate status will be negotiated for the Marianas was openly recognized by their Chairman."

The fourth round of status negotiations took place five weeks later in Koror between April 2–3, 1972. Although some progress was made in the negotiations, the most significant event occurred outside the formal context of the talks. On April 12, 1972, the two Mariana Islands representatives on the Joint Committee (Senator Edward Pangelinan and Congressman Herman Guerrero) with the approval of the Joint Committee presented a letter dated April 11, to Ambassador Williams covering a Marianas "Statement of Position". The latter requested separate political status negotiations between the Mariana Islands and the United States with a view to a Marianas' political union with the United States. The U.S. delegation had anticipated the request and the same day informed the JCFS that the U.S. Government "is willing to respond affirmatively to the request that has been formally presented to us today to enter into separate negotiations with the representatives of the Marianas in order to satisfy a desire which the Joint Committee has already recognized." [53] Eight months later the separate negotiations, directed at commonwealth status for the Northern Mariana Islands, opened on Saipan.

Since the talks in Koror, there have been three more rounds of negotiations to determine a compact of free association. The increased perception of the withdrawal of U.S. administration, opposition to which has been the primary force for unity during the negotiations, has led to increased movement towards separation. Having resolved, for the most part, questions of U.S. sovereignty, land issues, and assistance—questions on which the various districts could present a unified position—internal frictions and distrust brought conflicts into the open.

Events of 1972–74

Although there was some discussion in the Palau and Marshall Islands District Legislatures in March and April, 1972, of establishing district political status commissions which could explore possible status courses for those districts, enabling legislation died in committee. The revenue distribution issue came alive again early in 1973 at the next regular session of the Congress when the Marshallese delegation (supported by the Marianas and Palauan delegations) pressed for adoption of the 50 percent rebate legislation that had been defeated in 1972. The measure was buried in committee by Trukese and Ponapean parliamentary maneuvers, prompting a temporary walkout from the House by some members of the Marshallese delegation.[54]

In reaction to the U.S. decision to enter into separate negotiations with the Marianas (which had in fact begun a few weeks earlier in December, 1972) and sensing what might be coming in the Marshall Islands and possibly elsewhere, the Congress of Micronesia did adopt Senate Joint Resolution 38. That resolution declared that only the Congress of Micronesia and its Joint Committee on Future Status was legally empowered to negotiate the future status of Micronesia and of any of its districts. The possibility that the Marianas might have a separate relationship with the U.S. after termination of the trusteeship had been recognized by the JCFS, but it was believed even the Marianas' future status should be a matter for negotiations by the JCFS. This seeming contradiction apparently flowed from a hope that the Marianas might still be enjoined to remain with the rest of Micronesia, and from a realistic appraisal of the leverage such a negotiating mandate might provide to the JCFS and the Congress with respect to the future of Micronesia other than the Marianas.[55]

The reaction of the Marshallese leadership to the Congressional failure to adopt the revenue rebate legislation was swift and not wholly unexpected.

On March 23, 1973, the Marshall Islands District Legislature adopted a resolution demanding that the Congress at its next regular session in early 1974 enact the desired 50 percent tax rebate legislation. If the Congress should fail to heed that demand, "the Marshall Islands shall . . . promptly commence seperate negotiations with the United States on the future political status of the Marshall Islands.[56] Adding teeth to the measure, the Legislature on April 13, 1973, adopted legislation providing for a Marshall Islands Political Status Commission empowered to: (a) examine status alternatives; (b) recommend thereon to the legislature; (c) negotiate with the United States on the future status of the Marshalls; and (d), failing U.S. agreement to negotiate with the Commission, negotiate with other nations.[57] Coincidently on the same day the Palau District Legislature by resolution instructed one of its standing committees to study and recommend whether Palau should enter into separate status talks with the U.S.[58]

With Micronesia slipping to the edge of possible total fragmentation, Ambassador Williams visited Majuro in the Marshall Islands in mid-May 1973, to address a conference of district administrators from throughout the territory. While briefing the administrators on the status negotiations (in suspense owing to the public lands confrontation), he offered remarks which since have become the public policy position of the U.S. Government with respect to Micronesian unity and separatist movements.

"Many Micronesians consider the question of Political unity to be the most important issue faced by Micronesia today. The problem is basically one which the Micronesians must resolve for themselves. However, the United States has pursued the future status negotiations with the Joint Committee on Future Status in the hope and expectation that a common status will be forthcoming for the Marshalls and the Carolines. The United States will continue to hope that out of these negotiations and, more importantly, out of the deliberations within Micronesia regarding the nature of your future government, will come a united Micronesia. We continue to believe that despite considerable cultural diversity and differing local problems and interests, a unified Micronesia would best meet the economic, social and other needs of the people concerned."

The statement made clear that Micronesian unity was a Micronesian problem requiring Micronesian solutions.

Marianas status

The negotiations with the Marianas proceeded without major disagreement and the final Covenant was negotiated in slightly over two years. Formal and informal Congressional briefings occurred more frequently.

In April, 1972, only days after the Marianas representatives on the JCFS presented to Ambassador Williams a statement of position requesting separate political status negotiations directed at a political union of their islands with the U.S., key Marianas elected leaders delivered a letter to the Ambassador endorsing that position and pledging:

"Loyalty and dedication to the principles for which America stands, and to accept the responsibilities of the freedom that the United States of America guarantees and defends." [59]

On May 13, 1972, the Marianas District Legislature by resolution further endorsed the call for separate negotiations and political union with a resolution which stated:

"We advocate our present position for the sole reason that we desire membership in the United States political family because of the demonstrated advantages of such a relationship. More than any other nation with which we have had contact, the United States has brought to our people the values which we cherish and the economic goals which we desire. Continued affiliation with the United States offers the promise of the preservation of these values and the implementation of these goals." [60]

The resolution cited human and political rights as the values "cherished", and economic development as the goal "desired".[61]

Six days later the District Legislature established a fifteen member Marianas Political Status Commission (MPSC) empowered to negotiate the future status of the Marianas. The enabling measure provided for representation from the district legislature, each of the three municipal councils in the Marianas, the district's two political parties, the local Carolinean community, the chamber of commerce, and for membership by the two members of the Mariana congressional delegation participating in the Congress of Micronesia's JCFS. Senator Edward Pangelinan, a member of the Congress of the Micronesia and of the JCFS, was selected as Commission Chairman, Vincente Santos, President of the District Legislature, was named Vice Chairman.

In May, 1972, a Marianas delegation attended the United Nations Trusteeship Council session to report to the United Nations on steps taken toward a separate political status and to plea for Council understanding. In making their case, the Marianas representatives laid before the Council the results of three Marianas plebiscites endorsing political union with the United States, petitions calling for such status dating back to 1950, and the text of twenty District Legislature resolutions relating to that goal adopted between 1963 and 1971. The representations were thorough and persuasive. Seven months later in mid-December, 1972, the Marianas status negotiations began on Saipan.

The first round of negotiations was largely ceremonial. The talks were held in Saipan on December 13 and 14, 1972, and primarily established only that some form of permanent union between the Mariana Islands and the United States was contemplated. The primary issues of form of status, land, financial

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Footnotes at end of article.

assistance, and transition were outlined, but detailed discussion was left to a later round.[62]

In early 1973 both delegations refined more thoroughly their objectives and concerns. All negotiations thereafter—at intervals of approximately six months—were purposeful, highly substantive, and given over to negotiation of specific issues rather than debate of broad principles.

At the next round of negotiations between May 15 and June 4, 1973, agreement in principle was reached on the establishment of a future territorial relationship characterized as commonwealth status, full U.S. sovereignty, and complete U.S. control of the foreign affairs and defense of the Marianas. A Marianas commonwealth would be locally self-governing under a constitution drafted by a Marianas constitutional convention and approved by the people of those islands in a referendum. U.S. defense land requirements in the Marianas were described and acknowledged by the MPSC, with negotiation of specifics left to a later date.[63]

Specifically the second round reached tentative agreements printed as Appendix IV herein.

The summary was transmitted to the U.S. Congress, as had summaries of all prior rounds with the Joint Committee, and formal briefings and discussions were held with members of Congress prior to the negotiation of specific issues. Interested members had been routinely briefed both prior to and after each of the negotiations with the Joint Committee. The Subcommittee on Territories held a formal hearing on the progress in the negotiations on September 29, 1973, and reviewed the details of the tentative agreement. In addition, the staffs of the Senate and House Armed Services and Appropriations Committees were briefed prior to the beginning of negotiations on land requirements in the Marianas.

After the hearing and subsequent discussions, the third round of negotiations was held in Saipan from December 6 to December 19, 1973. On the basis of the Congressional discussions, specific issues including land requirements were addressed. The tentative agreements which were reached are set forth in Appendix IV.

Again the documents were published and submitted to the U.S. Congress, and the details discussed with interested Committees and members. The primary subject of discussion in the fourth round would be the question of lease versus purchase of land in the Marianas together with acreage. The details of the agreements were again reviewed.

The fourth round of negotiations focussed, as expected, on the land issues. The tentative agreements are set forth in Appendix IV.

With a tentative agreement on virtually all aspects of the agreement, detailed review of the Covenant, which in draft form was available, was held by the U.S. Congress. Issues on which Congressional views were specifically sought included, inter alia, those set out below:

A. LOCAL SELF-GOVERNMENT

1. The future Marianas Commonwealth would be established under a locally adopted constitution. This would include a bill of rights and provide for the separation of powers, a popularly elected chief executive and local courts on the Guam pattern in addition to a federal court. The Marianas constitution would be submitted for approval by the United States on grounds of consistency with the relevant provisions of the United States constitution, legislation establishing the commonwealth arrangement and any other relevant federal legislation. Marianas constitutional amendments would not require approval by the federal government although federal courts would be competent to pass on the consistency of such amendments with relevant provisions of the United States Constitution and of federal law.

In this regard, the following issues of Congressional concern are currently under discussion:

Whether approval of the Constitution by the United States should be by Congress or the President (As to the latter, it has been suggested that the Constitution would become effective automatically if after the President notifies the Congress of his intent to approve the Constitution the Congress does not act within thirty days).

Whether Constitution should be submitted for U.S. approval at the same time as approval of the status agreement.

Whether the authority of the local government should extend to all matters of "local application" or to all matters of "rightful subjects" of legislation (old or new Virgin Islands formula).

Whether the Marianas may follow the U.S. Congressional bicameral example with a Senate that does not have membership based strictly on population.

2. It was agreed during the third session of the status talks that the U.S. would exercise full sovereignty over the Marianas and hold full plenary powers. It was also agreed that certain specifically designated provisions of the new agreement designed to assure maximum self-government for the future Commonwealth of the Marianas would not be amended or repealed except by mutual consent of the parties. To this extent the exercise of United States plenary authority in the Marianas would be voluntarily limited. The Status Agreement would be drafted so as to reflect clearly the intention of the United States and the Marianas Political Status Commission that this undertaking be enforceable in the federal courts.

The following specific provisions are under discussion for possible inclusion in such a mutual consent limitation:

The basic commonwealth relationship between the U.S. and the Marianas.

The right of Marianas citizens to become U.S. citizens or to select U.S. national status in lieu of U.S. citizenship anytime within six months after the end of the trusteeship.

The right of the Marianas to adopt a locally drafted constitution and to amend it without specific U.S. approval so long as it is compatible with the status agreement approved by Congress and U.S. law (as interpreted by U.S. courts).

The right of the Marianas to establish and maintain local courts.

The application of only certain specified provisions of the U.S. Constitution to the Marianas.

The ability and duty of the Marianas to prohibit the alienation of local land to persons not of Marianas ancestry.

Specified safeguards attached to the exercise of federal powers of eminent domain.

The initial seven year U.S. financial commitment.

Representatives of the Marianas have further suggested that the U.S. Congress not extend federal legislation specifically to the Marianas if such legislation does not also apply generally to the states and unless the Marianas are not included by name and there is no "national interest" involved.

B. APPLICABILITY OF FEDERAL LAWS

1. Federal laws to be applied to the new territory

The parties have agreed to look for a general formula to cover the interim application of existing federal laws to the future Commonwealth of the Marianas. Such a formula would have to be consistent with other provisions of the Status Agreement now being negotiated and should take into account the body of federal legislation presently applicable to the Trust Territory. The U.S. suggested that those federal laws of general application to Guam apply to the Northern Marianas but only to the same extent as they apply to the states, though specific exceptions might be necessary to cover special circumstances. At an appropriate time after the Status Agreement is signed, a Joint Commission would undertake a detailed study of relevant federal legislation and make specific recommendations to the United States Congress for a permanent arrangement on the applicability of such legislation in the Marianas.

With regard to the suggested interim formula the following issues are being examined:

(1) Whether or not the following laws applicable to Guam should be inapplicable to the Northern Marianas:

(a) Jones Act on intercoastal shipping.

(b) Fair Labor Standards Act minimum wage provisions.

(c) Requirements in U.S. Banking acts that would confer certain benefits on U.S. banks in the Marianas they do not have in the U.S. and in some territories such as requirements that local banks join the federal reserve system and be subject to its auditing, loan reserve levels and cash on hand requirements.

(d) The U.S. Internal Revenue Code.

(2) Whether or not the following laws inapplicable to Guam should be applied to the Northern Marianas:

(a) Federal Crop Insurance Act to protect against typhoon damage to local crops.

(b) Consolidated Farmers Home Administration Act.

(c) Public Health Service Statutes for U.S. grants for hospital construction and preventative medical programs.

(3) Whether or not Social Security Titles 1, 10, 14 and 16 which do apply to Guam but which are not applied generally to the states and thus not extended under the general formula would be made applicable to the Marianas. (Marianas representatives also propose that the Marianas share of TTPI Social Security funds be phased into U.S. funds and that Marianas employee salary deductions and employer contributions be limited to 1% each the first year and increased by 1% a year until it matches U.S. deduction requirement of 5% each).

2. Provisions of the U.S. Constitution to be applied to the Northern Marianas

It has been agreed that Article IV Section 2, Clause 1 of the United States Constitution relating to "privileges and immunities" would apply in the Marianas. An appropriate limitation to its application would be made elsewhere in the formal status agreement to assure that the ability and duty of the future Marianas Government to preserve control of the land of the Marianas in the hands of Marianas citizens will not be compromised and to recognize that this authority may flow also from the 14th amendment and other federal statutory sources as well. Citizens of the Marianas as U.S. citizens would be entitled to all privileges and immunities of citizens in the several states. Article IV, Section 1 of the United States Constitution relating to "full faith and credit" would apply with respect to the Marianas as if it were a state. The requirements in the United States Constitution of indictment by grand jury and of a jury trial in civil cases need not be made applicable in the Marianas. The Marianas Political Status Commission undertook to study further which additional provisions of the United States Constitution should be made expressly applicable in the Marianas.

Pursuant thereto, the following additional provisions of the U.S. Constitution are now under discussion for possible extension to the Marianas:

Article I § 9 cl. 2, 3, 5, 6.

Article I § 10 cl. 1, 3.

Article VI.

Footnotes at end of article.

Amendments 1–4.
Amendment 5.
Amendments 6, 7.
Amendments 8, 9, 13, 14 § 5.
Amendments 15, 19, 26.
Amendment 27 (if adopted by the states).

C. WASHINGTON REPRESENTATIVE

Recognizing that the question of Marianas representation in the United States Congress is ultimately a matter for decision by that body, the United States delegation agreed to support a request by the Marianas for its own non-voting delegate in Congress. The parties agreed to explore a common approach to the United States Congress on this subject. Informal soundings in the House on this subject have been negative thus far.

In this regard, the following issues are now being discussed:

Whether this subject should be made part of status agreement or left entirely to the Congress.

Whether Guam's representative could also represent the Marianas Commonwealth in the U.S. Congress.

Whether the U.S. Congress would agree to give the Marianas a non-voting delegate when the local population equals 50,000 per the Virgin Islands precedent.

D. FINANCIAL SUPPORT

The two delegations tentatively agreed on an initial 7-year program of U.S. financial assistance to begin following the installation of a new Government of the Northern Marianas in accordance with a popularly approved constitution. This could be as early as July 1976. Under this tentative agreement the U.S. will provide $13.5 million for each of these years in direct financial grants as follows: a grant of $8 million a year to help meet the cost of government operations; a grant of $1.5 million a year to the future Government of the Northern Marianas to be used for economic development loans, with $500 thousand a year of this amount to be reserved for small loans to farmers and fishermen and to agricultural and marine cooperatives; and a grant of $4 million a year for Capital Improvement Projects of which at the Marianas Political Status Commission request $500 thousand a year will be reserved for Rota and $500 thousand a year for Tinian because of the urgent development needs on those islands. U.S. assistance will be provided in constant 1975 dollars.

In addition, a wide range of services and assistance now available generally to all U.S. territories under regular federal programs will also be available to the Marianas. The United States estimates the value of federal services and assistance at $3 million a year. The total annual assistance is thus estimated at $16.5 million.

In these matters the following issues are being addressed:

Whether there should be a commitment for U.S. to continue funds beyond first periodic review (at first seven years).

Whether Marianas should be permitted to use its federal monies for Marianas contribution for "matching funds" required under some federal programs.

Whether the U.S. Congress will be willing to provide a multiyear appropriation vice an annual appropriation.

Whether financial assistance funds are part of status agreement and could not be changed once the status agreement is ratified by the U.S. Congress.[64]

Throughout the negotiations the Marianas, as well as, Ambassador Williams, sought Congressional advice. Before the negotiations began, the Marianas retained the services of the Washington Law Firm of Wilmer, Cutler, and Pickering, and James R. Leonard Associates, Inc., also in Washington and who participated in the Robert Nathan economic study. Prior to and after each round. Howard Willens of the firm of Wilmer, Cutler, and Pickering or his Associates, briefed interested Committees and members and discussed the position of the Marianas. Congressman Philip Burton stated in testimony before the Committee, "I, myself, have had at least as many or probably more consultations and discussions with the political leadership of the Northern Marianas in this respect than even countless number of consultations I get with our Ambassador."[65] Senator Johnston was likewise prompted to remark, "We have had consultations which have not approached the status of ad nauseum, but certainly ad infinitum. We had had so many consultations on this thing, we have almost worn out the subject."[66]

The Full Interior Committee reviewed the provisions of the draft Covenant on September 12, 1974, and the Subcommittee on Territories again discussed the draft Covenant and the work to date on a Compact of Free Association with the remaining five districts on September 25, 1974, as a part of hearings on the supplemental authorization request for the Trust Territory.

The full Committee hearing and subsequent discussions permitted nearly full agreement to be reached during the first part of the Fifth Session held in Saipan from December 5 to December 19, 1974. The importance of Congressional views was alluded to by Ambassador Williams in his opening statement at the Fifth Session. "In the interim [since the fourth session] you have had your internal consultations and so have we since we recognize, as I am sure you do, that our work is ad referendum in nature and that our success will depend upon the ultimate acceptance of our product by the people of the Northern Marianas and by the Congress of the United States."[67]

Both parties agreed on the terms of a Covenant to Establish a Commonwealth and agreed to meet again in February of 1975. The Covenant, together with the statements, was printed and distributed to the Congress to determine if any problems remained. The parties met again in February in Saipan and on February 15, 1975, the Covenant was signed by Edward Pangilinan and Vincente Santos and the other members of the Marianas Political Status Commission for the people of the Northern Mariana Islands and by Ambassador F. Haydn Williams for the United States.

The process for final approval and implementation of the Covenant required approval by the Marianas District Legislature and by plebiscite prior to submission to the United States Congress which would have to approve it as with the Organic Acts for Guam and the Virgin Islands, Commonwealth of Puerto Rico, and Statehood Acts for Hawaii and Alaska.

The Marianas District Legislature approved the Covenant unanimously on February 20, 1975. The resolution approved the Covenant "for submission to the people of the Northern Mariana Islands in a plebiscite." The resolution noted that "only the people of the Northern Mariana Islands can decide whether the Covenant embodies the political relationship which they desire to achieve by their sovereign and inalienable right of self-determination."

The plebiscite was conducted on June 17, 1975, pursuant to Secretarial Order 2973 (April 10, 1975) which included, as an appendix, a proclamation outlining the duties of a plebiscite commissioner. The Plebiscite Commissioner, Erwin D. Canham, was appointed by President Ford on April 11, 1975. The Trusteeship Council of the United Nations was invited by John Scali, U.S. Ambassador to the United Nations, to observe the conduct of the plebiscite. The invitation was accepted by James Murray, Chairman of the Trusteeship Council (U.K.) John Melhuish (Aust.) and Bertrand de Guilham de Latillade (France).

The plebiscite commissioner outlined his activities during Committee hearings.[68] Concerning political education he indicated that "To that end, we published the text of the Covenant in English, Chamorro, and Carolinian, the texts of the secretarial order and proclamation in English and Chamorro, a simplified version of the Covenant in English, The Technical Agreement, which accompanies the Covenant in English and Chamorro, and a Questions and Answers booklet, which I wrote myself in English, Chamorro, and Carolinian.

"In addition I appeared on radio and television a number of times to explain the technical details and support the registration. . . .

"The campaign was lively, and had gone on for a long time before this spring. The people had received extensive information, pro and con."[69]

"The registration drive produced a total registration of 95 percent of those eligible. Of those registered, 95 percent voted on June 17, 1975. The final vote as certified by the Plebiscite Commissioner was 78.8 percent in favor of the Commonwealth Covenant. Mr. Canham described the reaction of the United Nations Mission: "While the report of the visiting Mission has not yet been made public, we had ample assurances from its Chairman—both personally and on radio and television—that the Mission found the conduct of the plebiscite satisfactory."[70]

Upon the certification of the vote, that the Marianas people had approved the Covenant, the Covenant was formally transmitted to the Congress for approval.

FOOTNOTES

[1] Trusteeship Agreement for the United States Trust Territory of the Pacific Islands, Article 6(1).

[2] Kusaile Island, presently part of Ponape District, will become a separate and seventh administrative district in 1977.

[3] E. J. Kahn, Jr., *A Reporter in Micronesia* (New York: W. W. Norton & Co., 1966), p. 20.

[4] Department of State, *Trust Territory of the Pacific Islands*, 1973 (Washington, D.C.: Government Printing Office, 1974).

[5] Kahn op. cit., p. 25.

[6] Ibid, p. 27.

[7] U.N. Trusteeship Agreement, Appendix II.

[8] See *Political Development in Micronesia* ed. Daniel T. Hughes and Sherwood G. Lingenfelter, Ohio State University Press, Columbus, Ohio, 1974.

[9] Ibid, pp. 196, 203 [emphasis added].

[10] c.f. Alice Shorett, *Micronesian Backgrounds, Historical and Social Settings* (Saipan: Education Department, Trust Territory Administration, 1970). *Briefing Materials, Trust Territory of the Pacific Islands* (Saipan: Public Information Division, Trust Territory Administration, 1974), pp. 1–7, 118–160. *Handbook on the Trust Territory of the Pacific Islands* (Washington, D.C.: Office of Naval Operations, Navy Department, 1948). Also Daniel T. Hughes and Sherwood G. Lingenfelter, editors, *Political Development in Micronesia* (Columbus: Ohio State University Press, 1974). The latter source also contains materials on Marianas separatism far more current than in any other recent book on Micronesia.

[11] United Nations, Trusteeship Council Official Records (TCOR). *Report of the UN Visiting Mission to the Trust Territory of the Pacific Islands*, 1961, T/1582, p. 3.

[12] Printed in the Appendix of this report.

[13] Article 76 of the UN Charter follows:

The basic objectives of the trusteeship system, in accordance with the purposes of the United Nations laid down in Article 1 of the present Charter, shall be—

(a) to further international peace and security;

(b) to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples concerned, and as may be provided by the terms of each trusteeship agreement;

(c) to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and

(d) to ensure equal treatment in social, economic and commercial matters for all members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

[14] House Joint Resolution 47. Second Regular Session, Congress of Micronesia, 1966: *Laws and Resolutions of the Congress of Micronesia* (Saipan: Congress of Micronesia, 1966).

[15] Future Political Status Commission, *Interior Report to the Congress of Micronesia* (Saipan: Congress of Micronesia, July, 1968).

[16] The Future Political Status Commission. *Report to the Congress of Micronesia,* Third Congress, Second Session, July, 1969 (Saipan: Congress of Micronesia, 1969).

[17] Ibid, pp. 33–37.

[18] Ibid, pp. 25, 45–48.

[19] *Laws and Resolutions of the Congress of Micronesia,* Third Congress, Second Regular Session, 1969.

[20] c.f. TCOR, *Report of the U.N. Visiting Mission to the Trust Territory of the Pacific Islands, 1964,* T/1620, 1964, p. 161. Also see Norman Meller, *The Congress of Micronesia,* (Honolulu: University of Hawaii Press, 1970) pp. 393–400 for citations of these sentiments and of pertinent documentation.

[21] Ibid.

[22] Walter J. Hickel, *Who Owns America?* (Englewood Cliffs, New Jersey: Prentice-Hall, Inc. 1971), pp. 203–205.

[23] Political Status Delegation, *Report of the Political Status Delegation to the Congress of Micronesia, Third Congress, Third Regular Session, July, 1970* (Saipan: Congress of Micronesia, 1970), pp. 2–3.

[24] Ibid, pp. 3–4.

[25] Ibid.

[26] Ibid, p. 4.

[27] Ibid.

[28] Ibid.

[29] c.f. Testimony of Honorable Vincente N. Santos, President, Mariana Islands, District Legislature, before Committee on Interior and Insular Affairs U.S. Senate, July 24, 1975, pp. 128–133.

[30] A summary of Marianas petitions, resolutions, and other actions of the Character described in this paragraph is provided in: TCOR, T/PV. 1391, May 25, 1972, pp. 42–67.

[31] TCOR, *U.N. Visiting Mission Report, 1961,* T/1582, p. 9–10.

[32] TCOR, *UN Visiting Mission Report, 1964,* T/1620, Annex VIII, p. 1.

[33] TCOR, *UN Visiting Mission Report, 1970,* T/1713, Annex XV, pp. 171–172.

[34] c.f. *UN Visiting Mission Reports,* supra.

[35] TCOR, *UN Visiting Mission Report, 1970,* T/1713, par. 566.

[36] Objectionable features included the absence of provisions which would take into account family size (i.e. dependent deductions), and the application of the tax law to clergy. Although these may seem to represent minor issues, the unwillingness of the Congress of Micronesia to compromise in these areas was considered a major issue, and confirmation of Marianas concerns regarding a future political relationship which embraced the Marianas in a larger political unit.

[37] Public Law No. 4C–2. *Laws and Resolutions, Congress of Micronesia, Fourth Congress, First Regular Session,* January/February, 1971 (Saipan: Congress of Micronesia, 1971).

[38] Resolution No. 30–1971, adopted by the Mariana Islands District Legislature on February 19, 1971.

[39] "Congress of Micronesia Buildings Burn," *Hightlights,* Saipan, Mariana Islands, February 22, 1971, pp. 1–4.

[40] Story headlines in the Honolulu press of that period give some flavor of the charged atmosphere on Saipan: "Saipan Uprising Could Shatter Trust Territory Unity", "Trust Territory Shaken by Arson and Rebellion", "Trust Territory Lives in Distrust".

[41] Public Law 4C–14. *Laws and Resolutions, Congress of Micronesia, Fourth Congress, Fourth Special Session, May, 1971* (Saipan: Congress of Micronesia, 1971).

[42] The JCFS, in its opening statement at the next round of political status negotiations in October, 1971, said: "We recognize the aspiration of the people of the Marianas District to share in the benefits that independence bestows on your great country by becoming more closely affiliated with the United States. And we recognize that the people of the other districts will prefer to live in a Micronesia state."

[43] c.f. Tesimony of Francisco T. Palacios, member of the Marianas Political Status Commission, President of the Territorial Party, and tradition leader to the Falson State House of the Carolinian Community, before the Committee on Interior and Insular Affairs, U.S. Senate, July 24, 1975, pp. 156–159.

[44] United Nations, Security Council Official Records (SCOR), S/10237, 1971, p. 64.

[45] Ibid, p. 65.

[46] These differences were noted by Congressman Timothy Olkerill of Palau:

My constituents, of course, note the incompetency and lack of development in Palau and grow increasingly impatient for an opportunity to determine their own affairs and correct the mistakes of the past. My people are not noted for their patience. They watched with intense interest the progress of the Mariana Islands District in its unilateral effort to attain its political aspirations. Indeed, a very substantial number of Palauans have no doubt of the success and permanent stability of an independent Republic of Palau, and are prepared, should Micronesia attain the status of independence, to consider opting for such a government, should they find this to be in their interest.

For the immediate future, I fervently hope we can find some point of compromise that will satisfy the status desires of all six districts. In this regard we should all heed the words of Matthew in Chapter 12, Verse 25, "Every kingdom divided against itself is brought to desolation; and every city or house divided against itself shall not stand."

Realistically, however, I seriously doubt whether such a mutually satisfactory position can ever be achieved and I think that the history of the last three weeks cogently underscores this fact of political life in Micronesia. It is about time the Congress of Micronesia and the United States recognized the probability that when the dust clears, there will unquestionably be more than one political status for the former districts of the Trust Territory of the Pacific Islands.

(*Journal of the House of Representatives, Congress of Micronesia, Fourth Special Session, Fourth Congress, May 22, 1971.*)

[47] *Draft Report of the Joint Committee on the Third Round of Negotiations in Hana, Maui, Hawaii to the Congress of Micronesia, Second Regular Session, 1972, Fourth Congress (Saipan:* Congress of Micronesia, 1971).

[48] *Journal of the Senate, Congress of Micronesia, Fourth Congress, Second Regular Session,* February 19, 1972, p. 207.

[49] *Journal of the House of Representatives, Congress of Micronesia, Fourth Congress, Second Regular Session, 1972,* pp. 307–312, 330.

[50] Ibid, February 26, 1972, p. 382.

[51] Ibid, February 28, 1972, pp. 440–441.

[52] *Journal of the Senate op cit,* February 28, 1972, p. 315.

[53] Office for Micronesia Status Negotiations, *The Future Political Status of the Trust Territory of the Pacific Islands, Official Records of the Fouth Round of Micronesian Political Status Talks, Koror, Palau, April 2–13, 1972* (Washington, D.C.: Office for Micronesian Status Negotiations, 1973), p. 63.

[54] House Bill 72. See: *Journal of the House of Representatives, Congress of Micronesia, Fifth Congress, First Regular Session, 1974,* pp. 240–242.

[55] These considerations surfaced in Senate debate of SJR 38, and in a committee report on the resolution. See: *Journal of the Senate, Congress of Micronesia, Fifth Congress, First Regular Session, 1973,* including Special Committee Report No. 62 of February 16, 1973, provided at pp. 461–462.

[56] Resolution No. 40 of March 23, 1973, Marshall Islands District Legislature.

[57] Resolution No. 82 of April 13, 1973, Marshall Islands District Legislature.

[58] Resolution No. 73(1)–2 of April 13, 1973, Palau District Legislature.

[59] Office for Micronesian Status Negotiations, *Marianas Political Status Negotiations, Opening Round, December 13–14, 1972* (Washington, D.C.: OMSN, Department of the Interior, 1973), p. 7.

[60] *Ibid,* pp. 19–20.

[61] *Ibid.*

[62] Office for Micronesian Status Negotiation, *Marianas Political Status Negotiations, Opening Round, Saipan, December 13–14, 1972* (Washington, D.C.: OMSN, printed in Appendix IV).

[63] Office for Micronesian Status Negotiations, *Marianas Political Status Negotiations, Second Session, May 15–June 4, 1973* (Washington, D.C.: OMSN, 1973) pp. 1–11.

[64] Office for Micronesin Status Negotiations, August 12, 1974, copy in Committee files.

[65] Committee on Interior and Insular Affairs, U.S. Senate. *Hearings on S.J. Res. 107 to Approve a Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the U.S.A.,* transcript, p. 13.

[66] Ibid., p. 5.

[67] Office for Micronesian Status Negotiations. *Marianas Political Status Negotiations, Fifth Session, December 5–December 19, 1974* (Washington, D.C.: OMSN)

[68] Hearings on S.J. Res. 107, op. cit., pp. 46–51.

[69] Ibid., pp. 48–49.

[70] Ibid., p. 51.

Mr. FANNIN. Mr. President, I wish to commend the distinguished Senator from Louisiana for his diligent work on this matter. He has held many meetings with the representatives from Micronesia; he has been very diligent in his work with the committee, getting all of the matters in order. He has traveled out to Micronesia.

Mr. JOHNSTON. That is correct.

Mr. FANNIN. He has been very faithful in trying to work out and has, I think, accomplished a goal I feel is very beneficial.

Mr. President, the covenant was carefully negotiated over a period of more than 2 years, and reflects in important respects the guidance of the Interior Committees of both the Senate and the House.

The Interior Committee of the House is on record as expressing the extensive communication, consultations and guidance sought by the executive branch in developing the covenant.

The Senate Committee on Interior and

Insular Affairs shares the views that the executive branch did indeed establish a fine record of consultations with the two committees responsible for territorial affairs in both Houses of Congress.

The Interior Committees of both the House and the Senate reviewed the Marianas Covenant before it was signed in February 1975. The covenant now has been before the Senate since July 1975. It has been examined in detail by three committees.

Therefore, any suggestion that Congress was not consulted on the development of the covenant ignores the facts of the matter.

The covenant is in the best traditions of our country. It is something certainly that I feel is very much in order. The covenant is within the framework of the U.S. Constitution and within the powers of the Congress over territories, and those rights will be preserved.

The covenant provides for full local self-government. The people of the Northern Marianas will be able to draft their own Constitution, elect their own Governor and legislature, and establish a local judiciary under the Federal judiciary system.

The representatives, both the Members of the House and Senate, who traveled to the Marianas have all been very much impressed with the dedication of the people, and the leaders in the Marianas in their determination to go forward with self-government.

It is the judgment of the Interior Committee that the people of the Northern Mariana Islands are ready for self-government.

The District Administrator today is a Marianan. They have their own district legislature and their own municipal councils.

A number of their young people are going to our schools and universities in search of degrees in public administration, business administration, science, engineering, public health, and medicine. It is a very impressive array of young people who are preparing themselves for the duties they will be called upon to perform.

To force the Northern Mariana Island people, who voted 80 percent in favor of commonwealth, to remain a part of Micronesia would be a violation of our trust and responsibility.

Approval of the Marianas covenant will not deny to others in Micronesia the right of self-determination.

Therefore, I urge the Members of the Senate to vote against any effort to act against the express will of the people of the Northern Mariana Islands, and vote today for approval of House Joint Resolution 549, as amended.

The distinguished Senator from Louisiana has very capably brought out the many other benefits that will accrue, and I certainly commend him for his efforts in this legislation.

Mr. JOHNSTON. I thank my distinguished colleague from Arizona for his very kind comments.

Mr. President, I move that we adopt the amendment of the Committee on Interior and Insular Affairs.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Committee on Interior and Insular Affairs.

The amendment of the Committee on Interior and Insular Affairs was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Committee on Foreign Relations.

Mr. JOHNSTON. Mr. President, will the Chair repeat that?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Committee on Foreign Relations.

Mr. JOHNSTON. Mr. President, I do not believe there was a Foreign Relations Committee amendment.

The PRESIDING OFFICER. The clerk will state the amendment of the Committee on Foreign Relations.

The legislative clerk read as follows:

On page 42, after line 14, insert a new section 2.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Committee on Foreign Relations.

The amendment of the Committee on Foreign Relations was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, and I ask that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11:15 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11:15.

There being no objection, the Senate, at 10:24 a.m., recessed until 11:15 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. McINTYRE).

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

The Senate continued with the consideration of the joint resolution (H.J. Res. 549) to approve the covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States of America, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. Prtsident, I yield such time as the Senator from Hawaii desires.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. FONG. Mr. President, this is an important day in the history of Micronesia and in America's relationship with the people of the Pacific Trust Territory.

When the Senate votes to approve House Joint Resolution 549—as I earnestly hope it will today—it will signify the first time that the Senate of the United States will have acted to make a part of Micronesia a part of the American family. It will be the first time the Senate will be approving a covenant freely negotiated between the United States and the Micronesians to embrace the Northern Mariana Islands. It will be symbolic of our country's desire to keep faith with the Micronesians by formally recognizing the political status the people themselves chose.

So there is good reason for both Americans and Micronesians to regard this day as one of unprecedented significance in the history of their relationship.

I am deeply gratified with the progress of the Northern Marianas Covenant. I make this observation as one who has a personal knowledge of the people of the Northern Mariana Islands and their long-held aspirations for political union with the United States.

Because my home State of Hawaii is the closest of all States to the Pacific Trust Territory of the Pacific Islands; because so many Micronesians have come to Hawaii to study and to prepare themselves to develop their islands; because Hawaii has sent numerous of her own people to Micronesia to help them develop skills to advance their political, economic, and social welfare—for these and other reasons of common concern, I have, for many years, associated myself with the history and growth of the people of the trust territory.

It was in 1965 that I first offered a proposal on the subject of the future political status for the Micronesians. I recommended a study of the feasibility of including the Pacific Trust Territory in the State of Hawaii. It was an innovative concept, primarily intended to call attention to the special status of Micronesia and to awaken Congress and the American people to the responsibilities we assumed as the administering authority of the Micronesian islands under a United Nations trust trusteeship.

At that time, more than a decade ago, there was scant knowledge and even less appreciation among the American public of the role of Micronesia, its history, its peoples, or even its geographic location. Reflecting this ignorance, the story has often been told of two Members of Congress who met on the steps of the Capitol. One asked the other, "Have you heard anything recently from Micronesia," The other replied, "Mike who?"

I recall how difficult it was at the time to stir much interest in Congress about Micronesia. I made numerous speeches, statements, and remarks on the subject in the hope of starting a dialog in Congress on the problems, challenges, and opportunities in our relationship with the Micronesians. It was my hope that, through such a dialog, both Americans and Micronesians might become better prepared for the time when the Micronesians would seek a new political status and the United States would be required to respond to such a petition from the Micronesians.

Since then, much has transpired. Micronesian leaders have studied and restudied the several alternative and political options available to them. They have been negotiating on this matter with representatives of our Government.

In the case of the Northern Marianas, the people there have made their choice loud and clear. They are overwhelmingly in favor of a commonwealth status. By a 78.8 percent majority in a plebiscite last year, the people approved the covenant to establish a commonwealth of the Northern Mariana Islands in political union with the United States of America.

This is the covenant the U.S. Senate is now called upon to approve. I urge my colleagues to give their approval without further delay. Prompt action on our part will act as an incentive to the other parts of the trust territory to move ahead with decisions on their future political status.

Even though not a member of the Senate Interior Committee which monitored the progress of the negotiations and periodically conducted hearings on the provisions of the covenant, I have closely followed developments in the negotiations and visited the Northern Marianas midway through the period of negotiations.

The document that is before the Senate reflects, in many important respects, the close consultations between the executive and legislative branches of the U.S. Government.

I am much impressed with the sincerity of the Northern Marianas people in wanting to be a part of the American family. For over 400 years, the people of the Northern Marianas have been governed by foreigners without their consent. Now they themselves have decided, without any undue influence, that they wish to become American citizens and assume the responsibilities of being members of the American political family. This is indeed a tribute to the American system and democracy.

The desire of the the Northern Marianas for political union with the United States did not just suddenly emerge. As early as 1950, the people of the Northern Marianas began petitioning the United States for a close and permanent relationship and only after several years of waiting was the Commonwealth Covenant negotiated.

From the American point of view, let us not forget that the United States is a two-ocean nation. The Mariana Islands do not lie in a remote part of the Pacific far removed from the United States. The United States is a Pacific nation as well as an Atlantic nation. Our interests and responsibilities do not end at the Golden Gate Bridge.

Two of the 50 States—Hawaii and Alaska—extend deep into the Pacific. My native State of Hawaii is about 2,100 miles from San Francisco and the American island of Midway is another 1,000 miles into the Pacific. Guam, "where America's day begins," is about 5,400 miles from America's western shore.

To fail to bring the Mariana Islands into the American family would be shortsighted, given our position as a Pacific nation and a Pacific power.

I wish to draw special attention to the relationship of the Northern Mariana Islands to Guam. The people of the Northern Marianas have cultural and ethnic ties with the American citizens of Guam. Guam and the Northern Marianas are part of the same island chain separated by only 40 miles.

The United States acquired Guam from Spain in 1898, thereby splitting up the Mariana Islands. We now have the opportunity to reunite the peoples of the Northern Marianas with Guam under the same flag and thereby embrace and support not only the U.S. Territory of Guam, but U.S. security interests throughout the Western Pacific.

I have received numerous letters from the people of Guam—Americans all—who implored through their legislative leaders that the U.S. Congress speedily approve the covenant and grant commonwealth status to the Northern Marianas.

I urge that the Senate approve the covenant without delay. The covenant fulfills our international obligations to promote self-government and give the people a choice as to their future political status and unites the peoples of the Marianas with a common citizenship under one flag.

It strengthens U.S. security interests in the Western Pacific, increases the security of Guam and adds to U.S. military flexibility in the Western Pacific without further international agreements or treaty commitments. The land options provided for in the covenant are highly important to the military readiness of our U.S. forward mobile forces. Land areas for unrestricted combined training operations are becoming scarce. The Navy and Marine Corps are using the areas now for training and only last week conducted a small unit exercise on Tinian Island.

The covenant was carefully negotiated over a period of 2½ years, in full consultation with the Senate Interior Committee and other interested Members of the Congress.

All the facts are in. Therefore, I urge that we act now to approve the Marianas Commonwealth Covenant and welcome with pride the people of the Northern Marianas into the American family.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield whatever time the Senator from Idaho desires.

Mr. McCLURE. Mr. President, I thank the Senator for yielding his time.

I take this time at this particular moment not to argue the merits but to commend the Senator from Hawaii for the very fine statement he has just concluded. I would hope Members of the Senate, indeed the people of the United States, would listen very carefully to what the Senator from Hawaii has just said.

I think it has been said on the floor before, and I am certain it is true, that people who come from the islands have a peculiar affinity for each other. They understand each other's problems. They understand each other's points of view perhaps more than those of us who live on the mainland of the United States.

I think, for that reason, the Senator from Hawaii is in a unique position to tell us how the people of the Marianas have reacted over the past several years.

I know, too, of the Senator's deep and abiding interest in this territory and the problems that are inherent in our administration of the Trust Territory of the Pacific Islands. That again should give the Senate reason to listen with particular interest and particular care to the remarks of the Senator from Hawaii.

Mr. FONG. Mr. President, I wish to thank the distinguished Senator from Idaho for his very laudatory remarks.

We who live on an island in the Pacific have great affinity with our cousins in the western part of the Pacific.

Last year I had the good fortune to make a visit to the Northern Mariana Islands, Guam, Truk, Kwajalein, and Ponape. I discussed the question of political status with the peoples of these islands, and especially with the chiefs who came from various small islands to meet with me.

At that time I found there was tremendous interest in their political status. I found that in the Northern Mariana Islands, where there are approximately 14,500 people, they are almost unanimously for commonwealth status with the United States. A plebiscite last year showed 78.8 percent of the people voted for close association with the United States. In other words, they are overwhelmingly in favor of being a part and parcel of the United States.

I believe this covenant—giving the Northern Mariana Islands the right to be a commonwealth so that their people could be American citizens—is a wonderful convenant.

After speaking to the various chiefs and the various peoples of the islands I visited, especially the people on Truk, Kwajalein, and Ponage, I believe that this covenant being negotiated and being approved by the Senate of the United States will give the other peoples of the trust territory second thoughts about their own political status. I think we will find there will be increasing interest by the other peoples in the various islands comprising Micronesia for a closer relationship with the United States than the relationship they are now talking about.

I believe there is a lot of sentiment in Micronesia to be a part and parcel of the United States, and I do hope when we approve this covenant that it will be a forerunner of other covenants with other parts of Micronesia.

I thank the distinguished Senator from Idaho for his very kind remarks.

Mr. McCLURE. I thank the Senator from Hawaii for those additional remarks.

I think one of the things we might look at for a moment, in terms of our responsibilities to those people, is the fact that in 1898, at the end of the war with Spain, Spain ceded the Island of Guam to the United States. Probably the United States was unaware of the fact that Guam was only one of a chain of islands;

that the Marianas were one people of mixed racial background, but one people, and had we realized that at the time we would probably have asked that the entire Marianas be ceded to the United States by Spain rather than just the island of Guam.

Mr. FONG. That is a very good point. Had our statesmen realized these people were of the same cultural and ethnic background, they would have brought this people in with Guam.

I want to make a further observation: when I was in Kwajalein, the general said to me, "Do you want to see a missile coming in from Vandenberg Air Force Base tonight?" I said, "When is it coming in?" He said, "At 3 o'clock in the morning." He said, "If you will stand here and look toward that direction, the missile will come in from Vandenberg Air Force Base 26 minutes from the time it is fired, and this missile will be dropped from an airplane and it will land in that lagoon."

So about 5 minutes prior to 3 a.m. in the morning, my telephone rang, and the General said, "Senator, the missile will be coming in in 5 minutes. Will you get out there and take a look at it."

I got up from my bed and looked in the direction he told me to look, and in about 3 or 4 minutes there was a big fireball that came out of the sky, and within 2 seconds there was one dot that went this way, and after about 2 seconds another dot went that way, and another dot 2 seconds later went still another way. It was a MIRV, a three-headed MIRV, and it came from Vandenberg Air Force Base approximately 5,400 miles away.

I was told that the three-headed MIRV hit the target, which gives you an idea of how close the world is now, and how close the Marianas are to the United States.

So when some of our people say that the Northern Marianas are too far away, I say, "Look at this MIRV that came in 26 minutes and hit three targets in that lagoon." It was a tremendous sight for me to witness the shooting of that MIRV into that lagoon.

Mr. JOHNSTON. Will the Senator yield?

Mr. FONG. Yes.

Mr. JOHNSTON. I join my distinguished colleague from Idaho in commending the distinguished senior Senator from Hawaii for his leadership in this area.

I know the Senator has long been interested in all Micronesia, and has followed with great interest and participation the negotiations in not only the Marianas, but Micronesia in general. The Senator contributed greatly to the understanding of the Senate in this very important, very strategic area to the United States in the Western Pacific.

One of the problems, as the Senator knows, which we face on this bill is not difficult arguments, but simply lack of understanding about what is going on in the Pacific, how we got to where we are with the Marianas, and the fact that we are not creating a colony out there, but rather, giving voice and giving effect to the freely expressed wishes of the people.

I only wish every Member of the Senate could have the understanding, the knowledge, and the personal identification with the Marianas and Micronesia which the distinguished Senator from Hawaii has. If every Member of the Senate had that kind of understanding, I am satisfied we would pass the measure 99 to 1.

Mr. FONG. I thank the distinguished Senator from Louisiana for his most generous remarks. This is the first time in 400 years that the people of the Northern Marianas have had a voice in what their government should be. When they were given this voice they voted 78.8 percent to be associated with the United States as a commonwealth.

The germ of the idea actually came from the late distinguished Senator from Alaska, Mr. Ernest Gruening. He was the one who talked to me and told me that the Micronesian Islands in the Pacific ought to be part of the State of Hawaii.

It was because of him that I submitted a resolution asking that the whole of Micronesia be made part of the State of Hawaii, only for the purpose of dialog, so that the American people could understand what we have out there and to give them an understanding of the Micronesian Islands.

I am glad that with that resolution I submitted, we have now come to the point where we are ready to take in the Northern Marianas as part and parcel of the United States.

I do hope that with this initial covenant, there will be further covenants with other parts of Micronesia, so that the other parts of Micronesia could become part and parcel of the United States.

Mr. FANNIN. Mr. President, I join my colleagues in commending the distinguished Senator from Hawaii for the services he has performed in sharing information he has gained over years of investigation by expressing his experiences of actually visiting on the islands and working with the people.

No one in this body has greater knowledge of this subject than the distinguished Senator from Hawaii.

Before he made the trip, it was my pleasure to talk to him about what he planned to do. After the distinguished Senator returned from the trip, it was the pleasure of the Senator from Arizona to again visit with him and have a report.

Since some of our colleagues allege that they did not know just what negotiations, visits, and meetings were being held over a long period of time, I would like the record to show that the distinguished Senator from Hawaii did give a report. It was in the RECORD. In fact, he made several reports, as I recall, about his trips.

He has been a wonderful emissary to that part of the world, and in other parts of the world, too, I might say, but his vast experience in that part of the world, has been especially beneficial through his reports.

I feel that we do have the knowledge and information regarding the Northern Marianas because he took the tremendous interest he did in gathering together the factual information.

As he stated, the Marianas electorate voted 78.8 percent in approval of the covenant, with a 95 percent voter turnout—it is almost unbelievable. If we could have voter turnout in this country like that, we certainly would all benefit.

It shows the interest they have in the Northern Marianas on this issue.

As he stated, this would be a first step in the accomplishment that certainly would come forward in the future.

I feel he has rendered a great service. I am very thankful he has given his time and efforts in this program.

Mr. FONG. I thank the distinguished Senator from Arizona for his very gracious remarks.

I want to say, also, that when I visited the Micronesian Islands, I had just returned from a visit to the People's Republic of China. I, subsequent to that, had just returned from a visit to Korea, to Taipei, Taiwan, to Okinawa, and I spoke to many of the leaders in these places. In the People's Republic of China, our delegation was told that there would be very little peace in the world, that there will be war.

I talked to the people in Korea, the Prime Minister, the Speaker of the House, the Secretary of Defense. I spoke with the Prime Minister of Taiwan. I spoke to our people in Okinawa. All seemed to feel that peace is really not there yet.

When I visited the people of Micronesia, I told them what I had witnessed in the world after my trips to the People's Republic of China, to Taiwan, Korea, Okinawa, Hong Kong. I told them that this was a very turbulent world. Speaking as a citizen of Hawaii—formerly an independent monarchy, which came into the U.S. orbit as a territory, and finally became a State after 60 years of being a territory—that that was an evolution through which we passed and which they could expect to experience also in their own particular way, depending on their special situation. I thought the fact that Hawaii is now a part and parcel of the United States as a State, might encourage Micronesia to such a status of its own so that some day the Micronesians might enjoy a status which I, for instance, was enjoying as a U.S. citizen.

I told them that to some the United States was a symbol in Micronesia, Kwajalein, the Northern Marianas; that the greatest thing a person can have is American citizenship; that in this world where there is food scarcity, especially out in the Pacific where the people are dependent so much on the importation of food from the United States; that the question of food was a very big question that should be of concern to them; that if they were hungry, the United States would not hesitate to send ships and airplanes to supply them; that if there was a hurricane or a big crisis in their part of the world, the United States would be right there to protect its citizens; and that citizenship in the United States is one of the greatest blessings that can come to any individual.

I told them that the North American Continent was the greatest grain exporting area in the world, that in 1974 Canada and the United States accounted for

91 million tons of grain exported to the world. The next largest exporting area was Australia and New Zealand with only 6 million tons.

With a situation in the Micronesian Islands where land is so limited, where 100,000 people live on 2,000 islands, and when we put them all together they only constitute approximately 70 square miles, we can see that food will be a very important problem for the people of Micronesia. Where can they look for food? Where can they look for sustenance except to the United States?

I can foresee, Mr. President, that with this Northern Marianas covenant negotiated, approved by the Congress and signed by the President, it will be a forerunner of what will happen with the other parts of Micronesia.

While I foresee great benefits for Micronesia in a close relationship with the United States, the trust territory has economic potentials of its own for the mutual benefit of its people and of the American people.

The ocean in the Western and Central Pacific, of which Micronesia is a vast part, abounds in skipjack tuna—a largely undeveloped resource which scientists estimate as having a potential harvest of 900,000 tons a year, which can amount to an income of about half a billion dollars.

The ocean also has rich mineral resources which have yet to be tapped. And tourism is expected to flourish in the years ahead.

So, in addition to its strategic value, Micronesia represents a huge area whose future growth and development have only now begun to show its economic potential.

Mr. McCLURE. I thank the Senator from Hawaii, Mr. President.

Without burdening the Record unduly, I think it might be noted at this point that once again we regret the fact that the Senator from Hawaii has indicated that this is his last year in the Senate. I know there can be no more fitting reward for his long years of effort here, nothing that would please him more, than to see the Senate take some affirmative action on a matter that has been of such great interest to him over the years.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 1330

Mr. PELL. Mr. President, I yield myself such time as may be necessary.

Mr. President, I call up the amendment proposed by myself, Senator Harry F. Byrd, Jr., Senator Mansfield, Senator Church, Senator Stevenson, and Senator Gary Hart.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. Pell), for himself and others, proposes an amendment.

Mr. PELL. Mr. President, I ask unanimous consent to dispense with the further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, beginning with line 3, strike out all through line 14 on page 42 and insert in lieu thereof the following: "That the Congress hereby recognizes the desires of the people of the Northern Mariana Islands to enjoy self-determination, but declares that it is the sense of the Congress that the obligation of the United States to promote the development of the peoples of the Trust Territory of the Pacific Islands toward self-government or independence can best be accomplished by the submission to the Congress for its consideration of an agreement or agreements resolving the political status of all of the Trust Territory of the Pacific Islands rather than on an individual basis.

Amend the title so as to read: "Joint resolution relating to self-government or independence for all of the Trust Territory of the Pacific Islands.".

The PRESIDING OFFICER. The Chair understands that 2 hours have been allotted for this amendment, to be divided between the sponsors of the amendment, the Senator from Rhode Island, the Senator from Virginia, and the Senator from Arizona.

Mr. PELL. Plus there is time on the bill.

The PRESIDING OFFICER. The Senator is correct.

Mr. PELL. Mr. President, the administration's request that the Congress give its approval to a covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States raises the vital question of whether, regardless of the desires of the people of the Marianas, it is in the interest of the United States to enter into such a relationship. I have serious doubts that it is in the interest of this country to do so for the following reasons:

By taking on a new territory, the first since 1917 when the United States acquired the Virgin Islands, we would be exchanging a temporary responsibility for the welfare and security of the Marianas, under a United Nations trusteeship agreement, for a permanent responsibility whose implications have not been adequately thought through.

Advocates of the covenant have stressed the historic responsibility of the United States for the welfare of the people of the Marianas and the clear mandate for annexation reflected by the plebiscite held in the Marianas on the covenant. What those advocates overlook, however, is the fact that the United States has actively—and in my view wrongly—encouraged separatist sentiments in the Marianas. The advocates of the covenant also overlook the fact that the plebiscite was not a true expression of the will of the people of the Marianas, as alternatives such as independence or free association were not offered; and the financial benefits to be provided to the Marianas were tied to acceptance of the covenant.

More important and more disturbing, however, is the administration's emphasis on the strategic value of the Northern Marianas and the inclusion in the covenant of provisions for the acquisition on a long-term basis of property which could be used for military purposes. While the administration has declared that there are no current plans to establish a military complex in the Northern Marianas, an option to do so is being developed without a full explanation of what role is envisioned for the Northern Marianas in America's Far Eastern Policy. The Senate has seen other instances, notably in the Indian Ocean regarding Diego Garcia, where an initially small and purportedly limited American military presence has grown like Topsy without the implications of that action being fully explained or justified. And I wish to recall the administration's earlier plans to build a $300 million base on Tinian.

Finally, there is the question of the propriety of engaging in a clearly expansionist act which flies in the face of the view of the United Nations as expressed in General Assembly resolutions 1541 and 1514 of 1960.

The first of these two resolutions sets forth 12 principles for determining whether trust territories have achieved self-government or independence as intended under the United Nations Charter. Principle VIII dealing with whether integration with an independent state qualifies as achieving self-government, states the following:

> Integration with an independent state should be on the basis of complete equality between the people of the erstwhile Non-Self-Governing Territory and those of the independent country with which it is integrated. The peoples of both territories should have equal status and rights of citizenship and equal guarantee of fundamental rights and freedoms without any distinction or discrimination; both should have equal rights and opportunities for representation and effective participation at all levels in the executive, legislative and judicial organs of government.

Since under the terms of the proposed covenant the people of the Northern Marianas will not be able to vote for President or elect Senators and Representatives to the Congress of the United States, it cannot be said that they have been accorded "equal rights and opportunities for representation and effective participation at all levels" of government. While today, Marianans seem prepared to accept second-class status as part of receiving American citizenship, what will be the attitude of future generations of Marianans?

The second resolution cited above expresses the view of the General Assembly that in providing self-government or independence to trust territories the "partial or total disruption of the national unity and the territorial integrity" of such areas is incompatible with the United Nations Charter. The proposed covenant would, of course, begin a process of dismemberment and perhaps extensive fractionalization of Micronesia.

It is for these reasons that I believe the Senate should give more thoughtful consideration to the covenant and not be rushed into a decision. The administration has already declared its intention to delay the formal establishment of the Marianas Commonwealth until it has developed arrangements governing the future status of the rest of Micronesia and has submitted to the United Nations Security Council a proposal or proposals for all areas of the trust territory. The target date for accomplishing that objective is 1981.

I see no reason why the Congress should not have the same opportunity as the Security Council will have to examine a complete package for all of Micronesia rather than proceeding in a piecemeal manner. Only through a comprehensive approach can the Congress intelligently weigh the implications involved and decide what it is in the interest of the United States to do.

That is why I continue to advocate an alternative approach declaring that it is the sense of the Congress that the obligation of the United States to promote the development of the peoples of the Trust Territory of the Pacific Islands toward self-government or independence can best be accomplished by the submission to the Congress for its consideration of an agreement or agreements resolving the political status of all of the trust territory rather than on an individual basis.

Mr. President, I ask unanimous consent that during the consideration of House Joint Resolution 549, a joint resolution to approve the covenant to establish a Commonwealth of the Northern Mariana Islands, Mr. Geryld Christianson, a member of my staff be extended the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I yield the floor, Mr. President.

Mr. JOHNSTON. Will the Senator yield for a moment to ask for a quorum call? The majority leader wanted to propound a unanimous-consent request. The quorum call will be a signal to come to the floor.

Mr. HARRY F. BYRD, JR. I yield.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, with the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I am about to propound a unanimous-consent request asking that the Senate stand in recess until 1:30 p.m.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator withhold that request temporarily?

Mr. MANSFIELD. Yes, surely.

Mr. HARRY F. BYRD, JR. Could we have a short quorum call?

Mr. MANSFIELD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that beginning at 1:30 p.m. the Senate turn to the consideration of the Byrd-Pell amendment, which I understand is now pending.

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. That debate be carried on until the hour of 3 o'clock, the time be equally divided between and controlled by the manager of the bill and the sponsors of the amendment, and the vote on that amendment occur at that time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on passage of the bill—I know of no other amendments—occur not later than 4 o'clock.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator will yield, there is a possibility that there may be another amendment. That is a possibility. What about 4:30? Say not later than 4:30.

Mr. MANSFIELD. And that the vote on passage occur not later than 4:30 p.m., under the usual rule.

The PRESIDING OFFICER. In addition, with rule XII waived, is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. HARRY F. BYRD, JR. I yield myself 15 minutes.

Mr. President, I shall discuss simultaneously the pending amendment offered by the Senator from Rhode Island (Mr. PELL), the Senator from Montana (Mr. MANSFIELD), the Senator from Colorado (Mr. GARY HART), and myself, on House Joint Resolution 549, which the amendment seeks to amend.

The proposed legislation would approve the covenant to establish a commonwealth of the Northern Mariana Islands in a political union with the United States—that is, give U.S. citizenship to the inhabitants of that area.

The amendment offered by the Senator from Rhode Island and the other Senators I have named says this:

> That the Congress hereby recognizes the desires of the people of the Northern Mariana Islands to enjoy self-determination, but declares that it is the sense of the Congress that the obligation of the United States to promote the development of the peoples of the Trust Territory of the Pacific Islands toward self-government or independence can best be accomplished by the submission to the Congress for its consideration of an agreement or agreements resolving the political status of all of the Trust Territory of the Pacific Islands rather than on an individual basis.

Mr. President, the finest argument I have heard for this amendment was made by the Senator from Hawaii (Mr. FONG), although he is against it. Mr. FONG knows Micronesia well. In his concluding remarks, he stated:

> What happens to the Marianas is a forerunner of what will happen to the rest of Micronesia.

That is exactly the position taken by the Senator from Virginia—that what is done in regard to the Marianas will be a forerunner of what will happen to all of Micronesia.

We must bear in mind that Micronesia covers three groups of islands, spread over 3 million square miles in the far Pacific. The Marianas represent only one island group. The other groups are the Carolines and the Marshalls. There are 2,100 islands in all, and they are spread over 3 million square miles of ocean.

The Senator from Virginia became interested in this question because I happened to live in the Marianas for a while, as well as in the Marshalls. I operated as an executive officer of a patrol bombing squadron throughout that area, and for that reason I became greatly interested in this question of giving U.S. citizenship to the people of the Marianas in the Far Pacific.

As chairman of the General Legislation Subcommittee of the Committee on Armed Services, I presided over two subcommittee meetings to consider House Joint Resolution 549.

After carefully listening to the presentations of the many distinguished witnesses who testified before the committee, and after reviewing their arguments, I feel there is no compelling reason for the United States to enter into a commonwealth arrangement with the Northern Marianas at the present time, and many reasons why we should not.

Proponents of the proposed Covenant for Commonwealth, who testified before the Armed Services General Legislation Subcommittee, stated that alleged U.S. defense interests argued for the United States entering into a commonwealth arrangement with the Northern Marianas.

These defense interests were defined as denying foreign powers access to Micronesia for military purposes; a need to improve the U.S. military capability in the Pacific and Asia; a means to provide an additional flexibility to the already existing U.S. presence in Pacific Asia; and a way to contribute to U.S. force readiness.

The construction of U.S. military bases in the Northern Marianas would not significantly enhance American military credibility in the Pacific.

In fact, as the Department of Defense witnesses testified, the primary role of any future military installations—

should they ever be constructed—would be for training and logistical support.

Mr. President, at this point I wish to quote from a statement made by Mr. Robert Ellsworth who at the time he testified was Assistant Secretary of Defense for International Security Affairs. Here is what Mr. Ellsworth said and I quote him.

> . . . under no circumstances could the, even under the most favorable circumstances, could the land that is being contemplated for lease for defense purposes in the Northern Marianas be considered as a substitute for Clark and Subic Bay and for any of the bases or deployments in Japan or in Korea either, as far as that is concerned.

So this area, if it is ever developed, could not be a substitute according to the Assistant Secretary of Defense for International Security Affairs for any other bases in the Pacific.

The United States is a Pacific power, with Pacific interests, but the proposed arrangement with the Marianas, as Defense Department officials conceded, could not significantly offset any possible base losses in other areas of the Pacific, nor would it significantly contribute to our existing ability to protect other U.S. possessions in the Pacific.

The Defense Department's claim that bases in the Marianas would improve U.S. combat readiness, by providing an appropriate environment for military training exercises, cannot be considered an essential defense need. Such facilities might be convenient, but they are not crucial, and clearly a variety of alternative sites could provide adequate training facilities.

The most important U.S. defense interest in the Marianas, and indeed in all of Micronesia, according to Defense Department officials, is denying third powers access to that area for military purposes. But, as these officials themselves testified, denial of the area to other military powers can be accomplished satisfactorily through a variety of means, such as a direct defense treaty, or specific agreements on U.S. basing rights.

It deserves to be emphasized that the U.S. defense interest of denying foreign military powers access applies to all of Micronesia, not just the Marianas.

The Covenant for Commonwealth that the United States is now considering, however, applies only to the Marianas.

To the extent, then, that the United States has interests in the Marianas, these interests are common to all of Micronesia.

The able Senator from Hawaii (Mr. Fong) made that clear in his comments. Indeed, if in fact some areas in Micronesia are more important militarily for the United States than others, I would think that the Kwajalein missile range in the Marshall Islands—where the United States has already invested over $700 million—is one of the more important U.S. defense assets.

Mr. President, in that connection, I have a newspaper article from the Richmond Times Dispatch of Sunday, February 15. The headline is "Détente Neutralizing Missile Range." And this article by the United Press International says:

> As part of the détente with Russia, thousands of dollars have been spent on this remote atoll to destroy some of the Kwajalein missile range, where America perfected its defense against atomic attack.

Then it goes on to say that:

> Others, like the missile launching pads and cells, are being deliberately destroyed as a result of Strategic Arms Limitation talks accords and détente with Russia whereby the two countries agree to neutralize specific installations in their countries.
>
> The launching cell in Kwajalein that has been filled with debris and cemented over was used in some of the early tests by the population of the atoll during a firing.

So what we are proposing to do and what we are doing is taking an installation that we already have on Kwajalein in the Marshall Islands, and according to this news report which I assume is correct—I have not had a chance to verify it but I assume it is correct; it is by an excellent news organization, United Press International—we are destroying what we built up there and now we are proposing to take over another group of islands, the Marianas, and establish training bases there. All of that, to me, suggests that Mr. Kissinger in his zeal for détente has little concern about cost to the American taxpayers.

U.S. defense interests, then, provide no justification for granting Commonwealth status to the Northern Marianas.

Such an agreement would not provide the United States with strategic or tactical advantages that could not be met in other ways; nor does it provide any additional benefits for military installations and conventional forces that could not otherwise be met.

The Marianas, according to administration witnesses, could not serve as an area for major strategic or conventional operating bases. In particular, the islands could not provide an alternative to other existing U.S. bases in the Pacific and Asia.

The primary U.S. defense interest in Micronesia, according to proponents, is denying third powers access to the area, and this can be accomplished in many ways, as the administration witnesses themselves testified.

In contrast, by concluding a separate agreement with the Marianas, before a decision has been made on the rest of the trust territory, the United States could promote the sentiment for further fragmentation in Micronesia. This could lead to an erosion of stability and make the area more sensitive to foreign intrusion.

I reiterate, then, alleged U.S. defense interests in the Marianas do not provide justification for establishing a new American Commonwealth.

Furthermore, if in fact the argument is accepted that U.S. defense interests require that a special relationship between the United States and the Northern Marianas be established, it does not follow that the Northern Marianas become a new U.S. Commonwealth.

I asked Mr. Ellsworth if it is necessary to give commonwealth status to the Marianas in order to deny foreign powers access to that area. Secretary Ellsworth replied:

> Certainly it would be true that this (commonwealth) would not be the only mode by which denial can be achieved.

I further asked Secretary Ellsworth if a Compact of Free Association would be adequate for U.S. interests.

Secretary Ellsworth replied:

> No doubt.

I also asked Ambassador Haydn Williams, the President's personal representative for the Micronesian status negotiations, if a Compact of Free Association would meet U.S. security needs, and he answered:

> . . . in the draft compact of free association that we have with the Congress of Micronesia, as a Joint Committee on our future status, Title 3 of that compact does provide for denial of the area to the military forces of any third country in the Carolines and in the Marshalls.

It is clear, then, that U.S. security interests cannot be used as a justification for the United States entering into Commonwealth with the Northern Marianas.

Similarly, there is no persuasive economic argument to justify granting the Mariana Islands Commonwealth status.

On the contrary, economic reasoning would argue against it.

Micronesia is not self-sufficient. It has no industries, and few natural resources.

Micronesia's biggest industry is the government, generating over 60 percent of all economic activity.

The administration has no detailed proposals to reverse this situation, if in fact, it can be reversed.

The cost to the United States of granting Commonwealth status to the Marianas will be high, and the proponents, in my opinion, have failed to make an adequate case to justify the cost.

Under the Commonwealth proposal, the Northern Marianas will get $19.5 million for a 50-year lease for land on Tinian, Saipan, Rota, and Farallon de Medinilla, and the U.S. Coast Guard will incur one-time construction costs of $13.9 million.

The United States will also pay the Northern Marianas an annual grant of $14 million, in constant 1974 dollars.

This grant will run for at least 7 years, after which time a new level of aid is to be negotiated. Should there be difficulty in negotiating a new level of grant assistance at that time, the proposed grant of 14 million constant 1974 dollars would be continued until such time as a new agreement is reached.

The U.S. Senate by approving this covenant would be insulating the Marianas from inflation, and it would deny Congress the option of cutting off aid, should it so desire at some point in the future.

The annual grant provided to the Marianas by the United States will furthermore be considered local funds for the purpose of making up the local share to obtain Federal matching funds, thus increasing the cost further.

In addition to these costs, three Federal departments—the Departments of Transportation, Agriculture, Health, Education, and Welfare—estimate a yearly cost of $12 million to provide the full range of assistance program to the people of the Marianas.

The Senate Armed Services General Legislation Subcommittee requested a detailed cost estimate to the United States resulting from the proposed Commonwealth, but without success.

The best estimate that the subcommittee has available is that as a result of passage of this bill the United States will provide the Marianas with a total aid package that amounts to a per capita contribution of $1,923 a year for every man, woman, and child.

This figure is incomplete, and conservatively estimated. It is based on a population figure of 14,000, an annual grant of $14 million—which is based on July 1974 constant dollars at an already inflated 11 percent, and the cost estimates of the three Federal departments—have just been cited.

By comparison, per capita spending for American Samoa in fiscal year 1975 was $730 per capita; for Guam it was $334 in fiscal year 1974; and for the entire Trust Territory in fiscal year 1975 it was $719.

On a per capita basis, the annual contribution of almost $2,000 for every resident of the Marianas represents approximately 10 times more the average annual per capita Federal payments to the States of the Union.

The cost to the United States, then, will indeed be high, and no information has been presented to the Congress which would indicate that the economic dependence of the Marianas on the United States will decrease.

To illustrate my point, of the roughly 2,500 families in the Northern Marianas, 1,700 individuals are employed by government—500 by the U.S. Government and 1,200 by local government.

These employment figures reveal to what extent the Marianas are dependent on government for generating economic activities.

The cost of this proposal to the United States is, then, a significant one. And the cost could multiply even further should the Marshalls and Carolines decide to seek commonwealth status.

Ambassador Haydn William, the U.S. senior representative in the strategic trusteeship negotiations, revealed in testimony that he would recommend that the United States accept the Marshalls and Carolines in commonwealth, should they seek such status.

If we accept the alleged defense interests as a justification for the proposed commonwealth with the Mariana Islands, then that same reasoning could be applied to the Carolines and the Marshalls.

While it is true that the United States is already tied to Micronesia, the relationship is a temporary one, not a permanent one, as proposed in the Covenant for Commonwealth.

It is also true that the United States is committed to terminating the strategic trusteeship arrangement, and promoting Micronesian self-government.

But, the Micronesians themselves have indicated that they are not ready for total independence at the present time, and there is no termination date for the trusteeship arrangement.

Additionally, the United States has stated publicly that our Government will submit the proposal to terminate the strategic trusteeship before the United Nations as an entire package, at one time, rather than in piecemeal fashion, and it is not expected that the United States will be ready to submit this proposal to the U.N. before 1981.

There is, therefore, no need for the United States to rush into an agreement that could represent a blunder of historic proportions.

I, consequently, submit that it would be in the best interest of the United States and the islands of the Northern Marianas to delay consideration of this proposal until an agreement—or agreements—has been submitted to Congress resolving the political status of all of the Trust Territory of the Pacific Islands, rather than on an individual basis.

I think such an approach would be consistent with the interests of both the United States, the Marianas, and the rest of the strategic trust territory. It would also be consistent without international obligations.

Such an approach would also give the administration the opportunity to respond to some of the many questions that still need to be addressed, and it would give Congress and the American people the opportunity to devote the attention to this proposal that it merits.

For this reason I have sponsored, with Senator PELL, Senator MANSFIELD, and Senator GARY HART, Amendment No. 1330.

This amendment would defer congressional action on the covenant proposal until the administration has submitted to Congress a plan for the future status of all areas of the trust territory.

The administration has set a target date of 1981 for drawing up arrangements for the other trust areas and has declared its intention to implement only parts of the covenant immediately and to delay the establishment of the Commonwealth until proposals dealing with all of the trust territory have been submitted to the United Nations Security Council for approval.

I see no reason why the Congress should not have the same opportunity as the Security Council to examine a complete package in order to weigh the implications involved in the administration's plans for all of Micronesia and decide what it is in the interest of the United States to do.

Mr. President, let me also say, I do not blame the people of Micronesia for wanting to become citizens of the United States. We have the greatest country in the world, and I think that many persons in many parts of the world would like to be citizens of the United States.

However, as the Senator from Rhode Island pointed out, it is important in considering this new covenant that it be considered from the point of view as to what is in the best interests of the United States, rather than what might be in the best interests of some other area of the world.

Mr. President, the purpose of the amendment is to delay the compact until such time as the entire matter of Micronesia can be handled simultaneously. As I mentioned earlier, the Northern Marianas are only a part of Micronesia, and the other large groups there are the Carolines and the Marshalls.

Mr. GARY HART. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield to the Senator from Colorado.

Mr. GARY HART. Mr. President, will the Senator from Virginia be kind enough to yield me 10 minutes of his time on the amendment?

Mr. HARRY F. BYRD, JR. I yield 10 minutes to the Senator from Calorado.

Mr. President, do I have time remaining from the time I yielded myself?

Mr. PELL. There is time on the amendment, in any case.

Mr. HARRY F. BYRD, JR. I previously yielded myself 15 minutes.

The PRESIDING OFFICER. The Senator went 2 minutes over his 15 minutes.

Mr. HARRY F. BYRD, JR. I yield 10 minutes to the Senator from Colorado.

Mr. GARY HART. I thank the Senator from Virginia.

Mr. President, as with all other legislation before the Senate, it is important to determine what is at issue here and what is not. It would be extremely unfortunate if we divided ourselves here today on the ground that those who support the covenant care for the people in the Marianas and those who oppose it do not. That is not an issue.

The Senator from Rhode Island, the Senator from Virginia, the Senator from Colorado, and others who oppose the immediate passage of this measure care just as much about what happens to the people of the trust territory as do the proponents of this covenant.

What is not at issue here is the competence of the committees involved in this matter or of the negotiators who represented the administration. There have been suggestions that those who oppose immediate passage of the covenant have something personal or political against members of the committee or felt there was an attempt to deal unfairly with this body. That is not an issue. We need to lay that aside.

Third, there has been a suggestion that those who oppose immediate approval of this covenant are neoisolationists who do not care about the position of the United States in the world. The record is clear that that is not the case.

What the people of the Marianas want is not an issue, but it has been discussed at length by proponents of this measure. If we were to use that standard for all our foreign policy actions, the United States and the U.S. Senate would be committed to do things around the world not in the best interests of the United States of America.

We are not here today to debate or talk about what the people of the Marianas want. It is a fact which has been established. But that is not the primary consideration. As the able Senator from

Virginia and the Senator from Rhode Island have pointed out, the issue before the Senate today is what is in the best interest of the United States. That is what we should be discussing here, not who is working the hardest to do what the people of the Marianas want. That is not the issue. The issue is, what is in the best interest of the United States.

It is important to point out—and it has been pointed out throughout the course of the last few months—that this covenant is not the only approach or the only solution to the problem of the future status of the Marianas. There are other alternatives. Some have been touched upon, but they have been inadequately explored.

To ask the Senate of the United States to vote on this covenant on the ground that it is the only alternative available to the U.S. Senate and to the Government of the United States restricts our options too narrowly. It excludes all the other options available to the people of this country.

When the Senator from Colorado first became interested in this matter last spring, one of the issues I was concerned about was the intent of the Department of Defense. At that time, we were given assurances that the covenant was not a vehicle to disguise base expansion plans. It had nothing to do with the military. The record was almost devoid of any suggestion of what the military wanted.

Through the effort of the Senator from Virginia and others, the Committees on Armed Services and Foreign Relations held hearings on the covenant as did the Committee on Interior and Insular Affairs.

We encountered a new phrase called deniability. We were told that the military's interest in this area was to deny the islands to other powers.

Still, we did not hear a clear explanation of how deniability could best be assured nor did we get a clear understanding of possible base plans.

The question of the military's intention in the Marianas remains confused.

It behooves the Members of the Senate, before they blithely sail on with this covenant, to pin this down. What is the strategic interest of the United States of America in the Northern Marianas and how can it be protected?

Another issue should be addressed before we vote on this covenant. It is whether we have complied with the terms of the trust territory agreement with the United Nations and our obligation to the United Nations. It seems clear to some of us that the obligations of trusteeship require us to present to the United Nations a package resolution of the status of the entire Micronesian trust territory, not just a part of it.

The proponents of this covenant do not make clear what they think we should do with the remainder of the trust territory. The distinguished Senator from Hawaii has suggested that he feels we should let the other islands in the trusteeship have a similar commonwealth arrangement as is proposed for the Northern Marianas. Is that the intent? Is that the purpose of the proponents of the covenant? Is that the feeling of the Senator from Hawaii, of the Senator from Arizona, and others? Do they intend to come back in a year or two, and suggest to the Senate that we approve commonwealth status for the other islands—the Carolines, Marshalls, and the rest of them?

What is our plan? What is our goal out there? It is important to know now, because not all the natives of those islands agree that they want commonwealth status. In fact, some of them are set against it. Some of them, even in the Northern Marianas, are suspicious of the intent of the United States.

Much has been said about the percent of the vote in the Marianas, the population was not given, at the time of that plebiscite, a range of alternatives. "Do you want commonwealth status or do you not?"—that was the choice.

We have to comply with the procedures of the United Nations. The Government of the United States and the Senate of the United States have to seek a vote in the Security Council. Have we thought about what we do if there is a veto of our plans?

Then there is the question of cost. It has been suggested in a "Dear Colleague" letter that we are talking about $3 million or $5 million in Government services as a top figure. The facts are otherwise. Estimated yearly obligations by HEW are $5 million plus. Estimated expenditures by the Department of Transportation are $3.25 million. Estimated expenditures by the Agriculture Department are $3,781,000—for a total for three departments of the U.S. Government alone of $12,027,000. In addition, there could be many other Federal programs that the people of the Marianas could take advantage of.

Furthermore, the Federal Government would also make a yearly grant of $14 million to the Marianas, multiplied by the implicit price deflator. Under this measure the $14 million is already up 11 percent or more. For the current year the $14 million would be $15,540,000 for the first year.

The minimum estimate of Federal obligations becomes $27,567,000 for the first year alone. Dividing that by the population figure of 14,335 people in the Northern Marianas, it comes to $1,923 plus per inhabitant. That, it seems to me, is only a beginning figure; it does not include one-time payments and so on. So when it is said that the covenant will not cost much, the true costs are not being considered. That should not be the only consideration, but it should be a serious consideration. We cannot approve this covenant on the grounds that 78 percent of the people who turned out to vote in the Marianas voted for the covenant. That is insufficient reason to approve it.

I reserve the remainder of the time for the sponsors of the amendment.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself 5 minutes and yield it to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, I wish to say frankly, at the outset of my comment, that I had some considerable initial doubts about the value to the United States of the Marianas Covenant. I also thought it might be better to delay final approval until a future political status agreement or agreements covering the rest of Micronesia had been negotiated. My experience as a delegate to the United Nations made me wonder if we were not perhaps bringing unnecessary difficulties on ourselves by moving ahead in this manner.

Because I regard the creation of a new American commonwealth in the Western Pacific as an extremely important matter, I have spent a considerable amount of time studying the implications of this bill. With my distinguished friend from Rhode Island (Mr. PELL), I participated actively in our Foreign Relations Committee hearings. On several occasions, I met with representatives of the Marianas and the Congress of Micronesia to see if the problem of separate administration for the Marianas could be solved in an equitable manner.

I have studied the excellent briefing papers which Ambassador Haydn Williams and his staff have prepared for me.

I might say I perhaps gave Ambassador Williams some cause for deep concern at the number of hours we spent trying to reason together on this matter. He was extraordinarily patient and helpful in the effort to resolve some of the difficulties I had in my mind. I did request that a member of the staff of the Committee on Foreign Relations interview Japanese and American officials in Tokyo and Congress of Micronesia members, Marianas leaders, and members of the Carolinian minority on Saipan. Mr. Peter Poole of the committee staff carried out this assignment and did so in a very thorough and admirable fashion.

Finally, I weighed the advantages of the covenant against the disadvantages. These are my basic conclusions: One, our real interest as a nation in Micronesia is not to build a forward base or a fallback base; it is to resolve the future political status of these islands.

Second, self-determination for all the peoples of the trust territory is long overdue and a necessary basis for stable relations between the United States and this Pacific region in the future.

Third, the peoples of the Marianas have repeatedly demonstrated their desire for close association with the United States, most recently in their referendum on the covenant last June. I have spent considerable time, also, talking with the very distinguished American who carried out that referendum, Mr. Erwin D. Canham, former editor in chief of the Christian Science Monitor, former president of the U.S. Chamber of Commerce, a very distinguished American who continues, in his so-called retirement, to carry on, I think, in a magnificent fashion. He certainly performed a great service for our country in the way he conducted the referendum.

Fourth, approving the Marianas covenant need not detract from the ongoing efforts of the other Micronesian people to decide their future political status.

The fifth and final conclusion I reached was that approving the covenant is an important means of demonstrating to Japan and the other powers that we intend to maintain our position in the western Pacific.

I think we cannot overlook the fact that what happened in South Vietnam—an area where our vital interests were not involved—has had impact in countries whose friendship we greatly value. It has caused deep concern, whether it is down in Australia or in New Zealand or Japan. There is concern, certainly in South Korea, as to whether the United States intends to remain a Pacific power. I became convinced, after talking to our friends in Japan, in the government of that great nation, that this symbolic step by us would not indicate our desire or intention to retreat one bit as a Pacific power. On the contrary, it would demonstrate that we intend to remain a Pacific power because that is in our own national interest.

Mr. President, I believe that approving the covenant now will underscore our intention to maintain and broaden our range of interests in the Pacific Basin. Delaying or rejecting the covenant might give an impression of confusion in our policy.

Approving the covenant does not involve us in additional defense commitments. We have been responsible for the defense of all of Micronesia since World War II. We have been responsible for Guam's defense since 1898. And we will remain so.

Farther to the west, we have historic ties with the Philippines, also dating from 1898, that remain significant to us and to them even 30 years after Philippine independence.

Finally, and most important, our close defense ties with Japan and South Korea have helped to keep the peace in Northeast Asia for 23 years. These ties are essential to the world balance of power.

Last December, President Ford made a sound, balanced, and objective statement of U.S. Far Eastern policy when he stopped in Honolulu on his return from Peking. The essence of that statement is that we will stay in the western Pacific and play a role in the development of the area.

Mr. President, I should like to interject that I have worked very closely with the distinguished Senator from Virginia (Mr. HARRY F. BYRD, Jr.) for many years and have a very high regard for his judgment. Thus, when I learned that the Senator from Virginia was concerned about this matter, I knew it deserved a great deal of time. Because there is no man who has done more for the defense of this country, and yet he always tries to make our defense efforts cost effective. He tries to make certain we are not just spending money for the purpose of spending money but to look underneath to see what it is being spent for, whether it is in our defense interest. And my first concern about this covenant was that it was far too costly. Put on a per capita basis, it is very, very high indeed.

However, because of the five overall reasons I have given, particularly the concern about U.S. resolve after Vietnam, which I detected during my visit to Japan last year, I finally concluded that this was in the broad foreign policy interests of the United States.

For that reason, and because of our specific interest in resolving the future status of Micronesia, I would like to put a few specific questions to the floor manager of the bill, the distinguished Senator from Louisiana, so as to be absolutely certain that the Senator from Illinois fully understands some of the human implications of this covenant.

My questions cover a broad range: From the Carolinian minority and the economic future of Tinian Island, to the effective date of the covenant, what happens in the interim period between approval and full implementation of the covenant. I have some questions about certain agreements reached between representatives of the Congress of Micronesia and the Mariana Islands. I am interested in the trusteeship obligations of the United States. And finally, I would like to discuss what we would recommend to our negotiators at the Micronesian status negotiations, particularly with respect to the obligation they have to resume negotiations with the remaining districts at the earliest possible date to finally once and for all resolve this issue.

So I would like to ask, first, Mr. President, of the distinguished Senator from Louisiana whether he can tell us what sort of role the Carolinian minority could expect to play in the Marianas if the covenant is approved.

Mr. JOHNSTON. Yes. I thank the distinguished Senator for his question.

The Carolinian minority in the Northern Marianas, about 3,000, has participated all along in these negotiations. A majority of them did approve the plebiscite, and they will be covered by the protections of the U.S. Constitution, particularly the Bill of Rights, and particularly the fifth amendment protections which will apply to them; also the guarantee of a republican form of government; also the Constitution of the Northern Marianas, when approved by the Northern Marianas and the United States.

We will be assured that not only the Carolinians but each and every individual citizen, as well as every minority group in the Northern Marianas, will be entitled to the full constitutional protection which American citizens enjoy.

Mr. PERCY. Mr. President, can my distinguished colleague tell me whether the history of their relations with the Chamorro people offers grounds for concern about social and political discrimination?

Mr. JOHNSTON. There are differences between the Carolinians—but I will say there is no cause for deep concern. There is cause to watch, to be careful, but not cause for deep concern.

Mr. PERCY. What safeguards, for instance, does the covenant offer for the rights of this particular minority?

Mr. JOHNSTON. Well, there is the right of—all of the rights of the first 10 amendments, the right to vote, to participate, to be involved in the Government; freedom of speech, assembly, et cetera, the full panoply of rights guaranteed by the first 10 amendments.

Mr. PERCY. What about the economic future of the people of Tinian Island? If the United States decides not to build a base on this island, will the use of this island for agricultural purposes be restricted?

Mr. JOHNSTON. I do not believe so. Tinian is being used right now for agricultural purposes. As a matter of fact, it is being used as a dairy farm. It is not expected that Tinian will be used as a base. There may be intermittent Marine amphibious landings there, but that would not interfere at all with the agricultural uses because they would be on the beach area, and the agricultural area is on more or less the high plateau area which is, as I say, now being used successfully for a dairy farm. So we would not expect any interference with the present use of the agricultural lands.

Mr. PERCY. If there are any restrictions, is there a mechanism available for removing those restrictions?

Mr. JOHNSTON. I believe there is, yes. I am not aware of any restrictions, and there could be very—to the extent that there would be restrictions, to the extent that the land would be used for intermittent amphibious training exercises, then this would be only for a limited period of time in areas that are not needed for agricultural purposes, and it would be a simple matter of negotiation between the United States and the Marianas Government.

Mr. PERCY. I ask unanimous consent to insert in the RECORD at this point the "Technical Agreement Regarding Use of Land To Be Leased by the United States in the Northern Mariana Islands," signed at Saipan, February 15, 1975.

There being no objection, the agreements were ordered to be printed in the RECORD, as follows:

TECHNICAL AGREEMENT REGARDING USE OF LAND TO BE LEASED BY THE UNITED STATES IN THE NORTHERN MARIANA ISLANDS

The duly authorized representatives of the United States and the people of the Northern Mariana Islands,

Considering that they have today entered into a formal Covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States;

Recognizing that Sections 802 and 803 of that Covenant contain provisions relating to the use of land to be leased by the United States in the Northern Mariana Islands for defense purposes;

Noting that the extent of land required for use by the United States has been determined and the precise boundaries agreed upon by both parties hereto; and

Desiring that all basic arrangements relative to land be reduced to a formal land agreement;

Have now entered into the following Technical Agreement which will be deemed to have been approved when the District Legislature of the Mariana Islands District of the Trust Territory of the Pacific Islands approves the Covenant, and which will become effective on the date that Sections 802 and 803 of the Covenant come into force.

PART I. MATTERS TO BE INCLUDED IN LAND LEASES WITH THE UNITED STATES

1. Description. Lands to be leased by the United States for defense purposes are set

forth in Section 802 of the Covenant and are further described and depicted on the maps attached as Exhibits A, B, and C.

2. Acquisition. The Government of the Northern Mariana Islands or the legal land entity established by the Marianas District Legislature to receive and administer public lands in the Northern Mariana Islands, immediately upon request, will execute the lease for the lands being conveyed to the United States Government as described in paragraph 1, above, with the duly authorized representatives of the United States under the terms set forth in Section 803 of the Covenant.

Payment under the lease will be made as soon as practicable after the appropriation of funds by the Congress of the United States. The United States may enjoy full and unrestricted use of the land immediately upon making the above payment. The amount to be paid will be adjusted at the time of payment by a percentage which is the same as the percentage change, up or down, in the United States Department of Commerce composite price index from the date of signing of the Covenant.

Should payment not be made within five years from the date that Sections 802 and 803 of the Covenant come into force, then this Agreement will automatically terminate and both parties will be released from all liability or obligations created by this Agreement and Sections 802 and 803 of the Covenant.

3. Settlement of Claims and Encumbrances. Lands leased by the United States Government defined in paragraph 1, above, are subject to the lease of the Micronesian Development Corporation, which will be allowed to continue in accordance with its terms. All other encumbrances on or any adverse possession of lands described in paragraph 1, above, will be removed and all existing claims will be settled by the Government of the Northern Mariana Islands or by the legal entity at no additional cost to the United States Government. The United States Government will, however, pay all Title II benefits due under the Uniform Relocation and Real Property Acquisition Policies Act of 1970.

The United Statess Government and the Government of the Northern Mariana Islands will consult and coordinate on specific actions by either party that may affect or involve possible adjustments or termination of the Micronesian Development Corporation lease. Both parties will render full assistance to the other towards achieving specific needs with respect to the Micronesian Development Corporation lease, to include either compliance with the terms of the lease, amendments to the lease, or action to terminate the lease. In no event will either party impede the action of the other with respect to the Micronesian Development Corporation lease. The United States Government will be responsible for damages resulting from a breach or early termination of the Micronesian Development Corporation lease resulting solely from United States initiatives. The Government of the Northern Mariana Islands will be responsible for damages resulting from a breach or early termination resulting solely from its initiatives. Both the United States Government and the Government of the Northern Mariana Islands, or its legal entity will hold the other harmless from all claims arising by reason of such breaches or termination.

4. Disposal. Should the property leased to the United States on Tinian not be required for the needs or the discharge of the responsibilities of the United States Government, or otherwise become surplus property under United States law, the Government of the Northern Mariana Islands or the legal entity will be given first opportunity to acquire the interest of the Government of the United States in such property in accordance with United States law.

5. Leasebacks.

A. *Tinian.*

(1) General. A total of approximately 6,458 acres (2,614 hectares) out of a total of approximately 17,799 acres (7,203 hectares) on Tinian will be leased back from the land on Tinian described in paragraph 1, above, at such time as the lease to the United States Government for the land on Tinian becomes effective. All leasebacks on Tinian made pursuant to this Agreement will be subject to the following restrictions which will be contained in the leases and will be incorporated in any subleases executed by the Government of the Northern Mariana Islands or by the legal entity:

a. Uses of land must be compatible with planned military activities;

b. There will be no permanent construction without prior consent;

c. Federal Aviation Administration safety zone areas apply with respect to land use;

d. Uses that damage or have a detrimental effect on subsequent use of the land will not be permitted;

e. All leasebacks will be subject to cancellation upon one year's notice, or sooner in the event of urgent military requirement or national emergency; and

f. Provisions for fair compensation in the event of cancellation or early termination will be included.

(2) Area South of Present West Field. Approximately 1,335 acres (540 hectares) lying south of West Field including the harbor area, as indicated in Exhibit A, will be made available to the Government of the Northern Mariana Islands or the legal entity under leaseback. This leaseback will be for a term of ten years with renewal rights for an additional ten years upon the approval of the United States Government, except for the harbor area which will be on a five year basis renewable with United States Government approval. These leasebacks will be for the sum of one dollar per acre per year. The Government of the Northern Mariana Islands or the legal entity may in turn sub-lease these lands on terms compatible with the leaseback, with such sub-leases subject to immediate revocation in the event of violation of their terms. Permissible uses are grazing, agriculture that does not interfere with flight safety, and other possible uses that may be approved from time to time by the United States Government.

(3) Area North of Present West Field and East of Broadway. The lands north of West Field and east of Broadway, indicated in Exhibit A, will continue to be used in accordance with the terms and conditions of the current lease with the Micronesian Development Corporation. This includes approximately 4,010 acres (1,623 hectares).

(4) Military Maneuver Area on Tinian—Grazing Leases. The United States will lease back the land within all but two of the existing grazing leases in the proposed maneuver area north of West Field shown in Exhibit A.

Substitute grazing leases will be made available within areas set aside for maneuvers north of West Field for the two leases indicated in Exhibit A which are presently located in areas with a high probability of their being used by United States forces, which renders them unsuitable for leaseback. This agreement is limited to accommodation of persons actually using this leased land for grazing purposes as of December 19, 1974. All such leases will be for five years at one dollar per acre per year, renewable with United States Government approval for additional periods of up to five years and subject to immediate revocation in the event of violation of their terms. Grazing will be the only use permitted unless authorized by the United States Government. Approximately 610 acres (247 hectares) will be leased back in this category.

(5) Military Maneuver Area on Tinian—Present Private Owners. There are 38 deeded homestead parcels and six pending homesteads in the maneuver area as indicated in Exhibit A. The Government of the Northern Mariana Islands or the legal entity will acquire the land at no additional cost to the United States Government and will provide an opportunity for the owners of these homesteads who may be eligible for new homesteads as a result of their displacement to exchange their land with comparable lands outside the military area. The homestead owners will be fully compensated by the Government of the Northern Mariana Islands or by the legal entity if they do not choose this exchange and will, in addition, receive from the United States Government whatever relocation compensation and assistance to which they would be entitled under United States law. After this land now held as homesteads is acquired by the United States Government by lease from the Government of the Northern Mariana Islands or from the legal entity the United States Government will, on a case-by-case basis and on request, lease it back to those former owners who wish to continue to farm the land for periods of five years at one dollar per acre per year, renewable with United States approval for additional periods of up to five years. Approximately 503 acres (204 hectares) are involved in this category.

(6) Civilian Aviation Terminal Facilities, West Field. The present existing civilian air terminal may remain until its relocation is determined to be necessary by the United States Government. Sufficient land will be made available at nominal cost adjacent to the present or a future runway for civilian terminal facilities, including aprons, aircraft parking, terminal building(s), automobile parking and roadways. If a future relocation becomes necessary, the United States will reimburse the Government of the Northern Mariana Islands for fair value of the then-existing terminal building and make alternate land available at nominal cost as near to the runways and related taxiways as practicable for construction by the Government of the Northern Mariana Islands of new terminal facilities. The costs of again relocating the terminal facilities, along with construction costs for necessary replacement of apron and parking areas, will be borne by the United States Government. Ample land provision will be made, also at nominal cost, for necessary growth and expansion of the civilian facility.

B. *Saipan-Tanapag Harbor.*

The United States Government will make available to the Government of the Northern Mariana Islands without cost 133 acres (53.8 hectares) out of the 177 acres (71.6 hectares) leased to the United States Government at Tanapag Harbor, as indicated in Exhibit B. This area will be set aside for public use as an American memorial park to honor the American and Marianas dead in the World War II Marianas campaign. Two million dollars ($2,000,000) of the total funds paid by the United States Government will be placed in a trust fund by the Government of the Northern Mariana Islands, or by the legal entity, with income from the fund used to develop and maintain the memorial park. Income from this trust fund may be utilized for other purposes only with the concurrence of the United States Government. The United States will assist in this development by providing assistance in planning and technical advice. Adequate space will be provided the United States Government to construct at its expense a memorial to the Americans who died in the Marianas campaign. In addition, the Government of the Northern Mariana Islands may erect its own memorial to Marianas war dead at its expense. The remaining 44 acres (17.8 hectares) will be made available to the Government of the Northern Mariana Islands or to the legal entity by leaseback on the same terms and conditions named in paragraph 5A(1), above, as appropriate. Uses of the 44 acres must be harbor-related as determined by the United States. The definition of harbor-related activities will be made available to the Government of the Northern Mariana Islands on request and incorporated in subleases in the area. Leases will be for ten years and will be automatically renewable.

C. *Other Leasebacks*. The Government of the United States may from time to time lease back other land temporarily in excess within the land described in paragraph 1, above, to the Government of the Northern Mariana Islands or to the legal entity in accordance with applicable laws and regulations.

PART II. JOINT USE

The Government of the United States or its duly authorized representative will enter into joint use agreements with a duly authorized agency or agencies of the Government of the Northern Mariana Islands, when such agency or agencies have been established by the Government of the Northern Mariana Islands, which will cover among other things the following:

1. *San Jose Harbor, Tinian*. San Jose Harbor will initially be under Government of the Northern Mariana Islands control under specific terms of the leaseback. If a decision is made by the Department of Defense to implement plans for an operational joint service base on Tinian, appropriate joint control arrangements will be agreed upon for the construction and subsequent periods to accommodate the needs of the civilian community along with military needs. At such time as joint control arrangements become necessary, the feasibility of adopting standards which will permit uninterrupted commercial shipping operations during fuel transfer operations will be investigated so as to minimize the possible interference with civilian activity. When the United States upgrades the existing harbor the Government of the Northern Mariana Islands will upgrade its approximately 600 feet of wharf space or reimburse the United States for having such services performed as part of the United States construction project.

With respect to the two plots totalling approximately nine acres (3.6 hectares) immediately adjacent to the 600 foot civilian wharf shown in Exhibit A, the Government of the Northern Mariana Islands will place appropriate restrictions on their use for harbor-related activities only.

2. *West Field, Tinian—A. General Use*. For aviation purposes the Government of the Northern Mariana Islands and the civilian community of Tinian will have continuous joint use of West Field with exceptions for safety of flight and priority military operations. The Government of the Northern Mariana Islands will have operational responsibility for West Field, except during periods of military use, until the United States assumes permanent operational responsibility. During such periods the Department of Defense will assume operational responsibility and control.

B. *Development Costs*. The cost of improving and maintaining present civilian terminal facilities and future civilian terminal facilities will be borne by the Government of the Northern Mariana Islands.

C. *Fuel Supplies*. After the United States military takes over control and management of the field standard military aviation fuels and oils will be supplied as soon as they become available, subject to Federal Energy Administration allocation, on a cost basis by the Government of the United States to the Government of the Northern Mariana Islands for civil and compatible commercial aviation needs on Tinian. It is understood that provision of such fuels and oils will not be permitted to compete with private commercial enterprises performing this service.

D. *Terminal Utilities*. The Government of the United States during its planning of future base facilities will take into consideration the needs of the future civilian terminal area for water, power, telephone and other utilities applicable to a terminal facility so as to make available to the civilian terminal appropriate utility hookups at the closest practicable locations to allow for civilian development of these utilities and joint use thereafter on a reimbursable basis.

E. *Use of Present Facilities*. The use of facilities presently in existence at the West Field location and the use of the present air strip will continue on an uninterrupted basis prior to, during and subsequent to initial construction upgrade and during any future improvement program to the greatest extent possible. There will be close coordination with the Government of the Northern Mariana Islands to insure as little hardship as possible should interruptions of the use of the present West Field and its terminal facilities be necessary for military operations such as maneuvers. The use of a runway and taxiway may be curtailed from time to time to allow appropriate and adequate construction and repair work to be accomplished. This construction and repair work will at all times be coordinated with the civilian community so as to minimize any hardships involved.

F. *United States Facilities*. When an operational military airfield is established at West Field, Tinian, the United States Government will provide such aircraft and structural fire protection services and aircraft crash rescue services as are available. The cost of such services shall be borne by the United States Government, subject to charging appropriate fees for users of these services.

G. *Landing Fees*. At such time as the military forces permanently take over operation of West Field, commercial aircraft will be charged the minimum allowable landing fees according to the standard policy of the appropriate military department, and collection will be in accordance with the terms of the formal joint use agreement. In the interim the Government of the Northern Mariana Islands may establish and collect landing fees from all non-United States Government aircraft.

H. *Access, Security and Customs*.

(1) Access to the present and future civilian air terminal area will be unrestricted.

(2) Security in and around the present and future civilian air terminal and operation and maintenance of the civilian facilities will be the responsibility of the Government of the Northern Mariana Islands or its representative.

(3) Customs inspections of all persons, baggage and freight will be in accord with all applicable laws and implementing regulations with the general principle established that whenever and wherever possible this customs inspection shall be performed in the military area by customs inspectors arranged for by the military and in the civilian area by customs inspectors arranged for by the Government of the Northern Mariana Islands.

PART III. SOCIAL AND CIVIL INFRASTRUCTURE ARRANGEMENTS

The following provisions, unless modified in writing by mutual agreement of the duly authorized representatives of the United States Government and the Government of the Northern Mariana Islands, will govern the future relations between the United States military forces in the Northern Mariana Islands and the civil authorities thereof. Coordination on these arrangements will be accomplished through a Civil-Military Advisory Council organized as soon as required after implementation of this Agreement.

1. *Civilian Responsibilities*. It is understood that the Government of the Northern Mariana Islands has full responsibility for planning, as well as developing, all facilities and services for the Tinian civilian community.

2. *Fishing and Shoreline Activities, Tinian*. All shoreline areas in and around the northern two-thirds of Tinian will remain open to fishermen at all possible times except for those limited areas that must be closed to comply with safety, security and hazardous risk requirements as may develop from either military activities or commercial activities.

3. *Beaches, Tinian*. Marianas citizens will have the same access to beach areas in the military areas of Tinian for recreational purposes as military personnel and their dependents. During times of military maneuvers, operations or related activity the use of certain beaches or areas of the beach will be restricted. Closure for such purposes, however, will be kept to a minimum consistent with military requirements in the interest of safety and security. Conduct of all personnel within the beach areas and use of these areas will be subject to applicable military regulations.

4. *Utilities*.

A. Utilities planning will be undertaken for Tinian on an island-wide basis, taking into account reasonable projections of civilian population at the time development by the military becomes necessary. Planning accomplished by the United States will be closely coordinated with planning by the Government of the Northern Mariana Islands. The Government of the Northern Mariana Islands will bear the cost of civilian planning by either undertaking the planning work or reimbursing the United States for planning services.

B. The Government of the Northern Mariana Islands will take necessary action to obtain such federal funds as are available for planning pursuant to the Housing and Community Development Act of 1974 and other relevant laws.

C. When utilities are constructed for military purposes the United States Government will make excess capacity of utilities available to the civilian community on Tinian on an appropriate fee basis if desired. Use of this excess capacity by the civilian community is to be without contribution into the development costs of the capacity, and the United States Government will not be expected to create or to insure any such excess capacity for the civilian community on Tinian.

D. When utilities are constructed for military purposes, additional capacity can be added subject to full payment for the incremental costs by the Government of the Northern Mariana Islands.

5. *Water*. Potable water will be made available to the United States military base by the Government of the Northern Mariana Islands at a mutually agreed cost.

6. *Medical Care*. In accordance with applicable guidelines and regulations, emergency care in military facilities established on Tinian will be provided by the military to all residents of Tinian when available on the island. In addition medical care in military health facilities on Tinian on a non-emergency basis will be provided residents of Tinian where civilian capacity is non-existent, subject to the capacity and capability of the military and professional staff and availability of such Tinian military health facilities. Costs for all medical care will be at the prevailing reimbursement rates.

7. Fire Protection. When military firefighting facilities become necessary a mutual fire protection aid agreement similar to that type of agreement presently provided voluntarily by the military services in other locations will be entered into between the military facility on Tinian and the local community.

8. Base Exchange, Commissary and Movies. At such time as an operating base is established purchasing of commodities by the civilian community from the base exchange and commissary will be prohibited, but use of base movies by the civilian community as guests in accordance with existing regulations will be permitted.

9. Schools. Prior to the arrival of significant numbers of school age dependents of military personnel, appropriate local and federal officials will initiate such advance consultation and school development programs as necessary to secure federal assistance as may be required for an integrated local school system adequate to provide for all stages of Tinian's development. The Department of Defense will consult with and advise the appropriate officials of the Northern Mariana Islands as soon as possible regarding such programmed arrivals.

10. Assistance to the Community. The United States Government will consider sympathetically all bona fide requests from the community or its residents for materials or technical assistance, from resources on the base, in the event local resources are insufficient to meet the community needs.

11. Economic Opportunity. To the extent practicable appropriate United States military and civilian authorities or contractors executing United States Government contracts will attempt to utilize the resources and services of people of the Northern Mariana Islands in construction, development, supply and maintenance activities in the Marianas. Further, United States military and civilian authorities will, whenever practicable, provide technical and training assistance to the people of the Northern Mariana Islands in accordance with applicable United States law to assist in their achievement of necessary skills.

PART IV. IMPLEMENTATION

This Technical Agreement will become effective when Sections 802 and 803 of the Covenant come into force. Subordinate formal implementing agreements are to be executed as soon as possible.

Mr. JOHNSTON. Yes, I think that will be useful.

Mr. PERCY. Mr. President, am I right in my understanding that if the covenant is approved it will not become fully effective until a constitution for the Marianas is drafted and ratified?

Mr. JOHNSTON. It will not become fully effective in the sense that citizenship is finally bestowed only when the trusteeship is ended, and that American sovereignty in the sense of a territory, as opposed to a trusteeship, will not be fully extended until that time. Otherwise the compact will be fully implemented. The relationship with the Northern Marianas will be fully implemented under the terms of the compact, aside from those two technical points.

Mr. PERCY. During the interim period between approval and full implementation of the covenant, does the Secretary of the Interior have the authority to establish a separate administration in the Marianas by secretarial order?

Mr. JOHNSTON. Yes, and the compact so contemplates. Yes, sir, that will be done. The terms of the compact will be fully carried out immediately upon the approval of this compact.

Mr. PERCY. In view of the possibility of a separate administration, I would like to call attention to certain agreements reached between representatives of the Congress of Micronesia and the representatives of the Mariana Islands District Legislature on the subject of separate administration. These agreements were forwarded to me by members of the Marianas leadership. They have been introduced in the Congress of Micronesia in the form of a resolution, and will be similarly introduced in the Mariana Islands District Legislature.

If the Secretary of the Interior issues an order establishing a separate administration in the Marianas, I would urge the Secretary to implement these agreements and to seek an equitable resolution of the issues on which the parties were unable to reach agreement.

Does my distinguished colleague concur in this view?

Mr. JOHNSTON. I certainly concur, and I would go a step further to say it is not only a possibility that we will have a separate administration pursuant to the terms of the compact but that is the total contemplation of the entry into this compact, and I would say there is no possibility that we would not have that separate administration, and these resolutions I would expect would be implemented.

Mr. PERCY. It is my understanding that the trusteeship obligations of the United States cannot be terminated until an agreement on the future political status is reached with the remaining districts of Micronesia; is this correct?

Mr. JOHNSTON. That is the intention of the United States not to do so. Under previous U.N. trusteeships it has been done. The Trusteeship of the Cameroons was terminated piecemeal and independent nations created. The same took place with Togoland. There is no language that I can find in the trusteeship to prevent the United States from doing it.

However, we made it very clear all along that it was our intention to terminate the trusteeship for all of Micronesia at the same time, and I know of no plan to change that modus operandi.

Mr. PERCY. In view of this continuing U.S. obligation, would the Senator agree it is incumbent upon the Office of Micronesian Status Negotiations to resume negotiations with the remaining districts at the earliest possible date?

Mr. JOHNSTON. Yes. I think it is contemplated, that those negotiations will be pursued as they have been in the past.

There has never been any problem of the United States not wanting to negotiate, but as the Senator, I am sure, is aware, there are difficulties with the different island groups.

We have got nine different languages, different races involved, and some have different ideas.

So I am sure those negotiations will be, and certainly should be, pursued.

Mr. PERCY. Finally, Mr. President, I note with approval that the Micronesian Constitutional Convention has completed its work, and that a Constitution of the Federated States of Micronesia will soon be presented to the people of Micronesia. This Constitution represents an enlightened exercise of the right of self-determination, and a commitment to the unity of Micronesia. If ratified, the Constitution will become the supreme law of Micronesia. In negotiating a compact governing the future status of the remaining districts, the United States should, in my view, consider the Micronesian Constitution to be the expression of the will of the Micronesian people until the formal referendum, since the Constitution results from an exercise of the inherent right of the Micronesian people to determine their future status.

Does my distinguished colleague, the manager of the bill before us, share these views?

Mr. JOHNSTON. I feel the terms of the Micronesian Constitution can be implemented in most of the important respects.

The compact, however between the rest of Micronesia and the United States that was contemplated was one of free association. It involves such things as financing and America's long-term commitment to build a structure in the rest of Micronesia. Until that compact is approved by the Congress and until it is first approved by plebiscite of the people of the rest of Micronesia, then we should not consider ourselves bound by more or less a contract of financing, but rather, that financing should come through the ordinary congressional processes.

I would see no difficulty, however, in considering the Constitution in its important phases, protection of human rights, the right to vote, and that sort of thing, as applicable.

Mr. PERCY. But it is really a move in the direction we have encouraged them to move, taking unto themselves their own government, and that is really fulfilling the effect of our trusteeship in our relationship.

Mr. JOHNSTON. That is correct.

I think we may have made occasional mistakes in Micronesia. I think one of the finest chapters in American history is our treatment of the Micronesians, in building them from a Pacific Island people with a subsistence economy, schooling them, bringing health facilities, bringing them into the best tradition of American democracy. I think we have a great deal to be proud of in what we have done in Micronesia. We have a step or two to finish. One of those important steps, hopefully, will be taken today. The other steps with Micronesia will soon be taken.

Mr. PERCY. Mr. President, I began my consideration of this covenant with some concern that we might be placing ourselves in a position where we would be accused of creating another colony.

But after exhaustive study of this matter, hundreds of hours of testimony and consultation, I have concluded that no rational man, no reasonable person, can accuse the United States of this.

I am totally and completely satisfied with the answers the distinguished manager of the bill, the Senator from Louisiana, has provided to me.

I, for one, am fully satisfied that the covenant is a positive step toward resolving the future political status of Micronesia. I supported the covenant in committee and, with the responses I have had today from my distinguished friend, I will vote for it today. And, if it is adopted, as I hope it will be, I will warmly welcome our good friends from the Northern Marianas Islands as future citizens of the United States with all the responsibilities, duties, and obligations imposed upon them.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Illinois.

His investigation into this matter has been, I know from personal experience, extensive. It was deep and thoughtful. I know he has talked to the representatives of the Northern Marianas not once, but many times. I know he has spent hours with our Ambassador Haydn Williams, asking the tough questions, considering the matter not on the surface, tangential way, but in a very full and deep way.

To have his support is, I think, after the kind of study and with his reputation for thoroughness and fairness, a great endorsement of this compact.

I thank the distinguished Senator for having taken that time and having made the thoughtful endorsement of it he has made here on the floor today.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER (Mr. HATHAWAY). The Senator from Virginia is recognized for 3 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, having lived in Micronesia, having lived in the Marianas, this is the reason that I have taken an interest in this matter.

The cost is a secondary consideration with me. The primary consideration is, why should the United States assume permanent responsibility for the Mariana Islands, nearly 9,000 miles away from Washington, D.C., populated by 14,000 people, when, as the able Senator from Hawaii (Mr. FONG) has pointed out—and he knows the area well, and takes a position on this matter contrary to my own—what is done with the Marianas, and I quote him, "will be a forerunner of what will happen to the rest of Micronesia."

Now, the residents of the Marianas would be made citizens of the United States by this legislation; and then, that will lead to the citizenship for the residents of Carolines and for the residents of Marshalls. Thus, we will have undertaken the permanent responsibility for 3 million square miles of territory, mostly ocean, in the far Pacific.

How in the world is that going to be beneficial to the United States?

There is no way in the world that can be beneficial to the United States.

The amendment which has been offered by the Senator from Rhode Island (Mr. PELL), the Senator from Montana (Mr. MANSFIELD), the Senator from Colorado (Mr. GARY HART), and the Senator from Virginia, merely urges the Senate to postpone this action on the Marianas until we can consider the entire question of all of Micronesia.

The Marianas represent only one part, one group out of three large groups, the Marianas, the Carolines, and the Marshalls.

Those are wonderful people. As I say, I have lived among them. They are fine people. I am not in any way critical of the people. As a matter of fact, I am flattered they would want to become U.S. citizens, and I think that shows great wisdom on their part.

But I think the Senate of the United States has a responsibility to vote for what is best for the United States.

Mr. JOHNSTON. Will the Senator yield?

Mr. HARRY F. BYRD, JR. I cannot see any advantage whatsoever to the United States in making the inhabitants of the Marianas citizens of the United States; to take permanent responsibility for 3 million square miles of ocean in the far Pacific.

We are a Pacific power, we want to continue to be a Pacific power, but——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARRY F. BYRD, JR. I yield myself 2 minutes.

But when the State Department demands that we give away Okinawa, the greatest military base in the far Pacific, which we did, that causes one to question the wisdom of Secretary Kissinger who engineered the Okinawa giveaway and now seeks this new acquisition.

It brings to mind that while Dr. Kissinger wants to give away the Panama Canal where we have sovereignty, he wants to go out in the far Pacific, nearly 6,000 miles from the continental United States, and take permanent responsibility for a vast territory that can be of little advantage to the United States, if any.

As a matter of fact, in the colloquy between the Senator from Louisiana and the Senator from Illinois, it was emphasized that Tinian, which is the main island there, has virtually no military value.

Mr. JOHNSTON. Will the Senator yield for one question before the recess?

Mr. HARRY F. BYRD, JR. Yes.

Mr. JOHNSTON. I just want to spread this on the record: Is it true that the Senator has no plan for Micronesia other than to delay?

Mr. HARRY F. BYRD, JR. It is not a question of delaying. It is a question of handling all of Micronesia as one package rather than taking one part of it, namely the Marianas, considering that today, and at some future date considering what shall happen to the rest of the trust territory, namely the Carolines and Marshalls.

Mr. JOHNSTON. Do I take it that the Senator wants to treat this compact at some later date altogether; that the Senator has no plan for all of Micronesia? If the Senator does have a plan for it, I wish he would tell the Senate today.

Mr. HARRY F. BYRD, JR. The Senator from Virginia has no responsibility for developing the plan. It is the responsibility of the administration to bring in a plan applying to all of Micronesia. We have a trust mandate for all of Micronesia, not just for the Marianas. We have it for all of Micronesia and the matter should be handled as a whole.

Mr. JOHNSTON. Recognizing that the Senator has no responsibility to come in with a plan, I would submit that our Committee on Interior and Insular Affairs does have that responsibility because we have jurisdiction. We have come in with a plan which I think is a good one. Nevertheless, does the Senator have any advice to the administration as to what his plan might be? Is he suggesting independence for Micronesia?

Mr. HARRY F. BYRD, JR. I am suggesting that to give permanent citizenship and to take permanent responsibility for that vast area in the far Pacific is an unwise proposal. Two-thirds of Micronesia is not involved in this covenant. There is no reason why the Marianas could not be treated the same way as the rest of Micronesia is being treated.

Mr. JOHNSTON. I thank the Senator.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield to the Senator from Virginia.

Mr. JOHNSTON. I believe I have the floor. How much time does the Senator wish?

Mr. WILLIAM L. SCOTT. I just want to take a moment or two to agree with my colleague from Virginia.

Mr. JOHNSTON. I was going to ask for a recess until 1:30. However, I will yield 2 minutes to the Senator.

Mr. WILLIAM L. SCOTT. I thank the Senator for yielding. I do want to associate myself with the views of my colleague from Virginia, serving with him on the general legislation subcommittee.

The Senator from Louisiana was speaking about our obligations. Is it true that under the mandate of the United Nations we have no obligation insofar as providing for any type of commonwealth or anything of that nature? Are we sort of custodians under the mandate of the United Nations? This covenant that we have arrived at is something that is not mandated by the United Nations, is that correct? It is not a part of the United Nations mandate. It may even be in conflict with the concept of providing for the independence of these islands. There are 3,100 islands in these three chains.

Mr. HARRY F. BYRD, JR. It is 2,100.

Mr. WILLIAM L. SCOTT. It is 2,100 and we have picked out just a small portion of them in one of the three groups of islands, the Northern Marianas. Is this something that was contemplated when we received the mandate from the United Nations? It is my understanding that it was not.

Mr. HARRY F. BYRD, JR. It is my understanding that this was never contemplated. The mandate gives the United States a trust position over Micronesia until such time as it can be worked out with the Micronesians to handle their own problems themselves.

Until recently it was never envisioned that citizenship would be granted to the residents of those islands, to do so would require the United States to assume the total responsibility, permanently, for that vast area of the western Pacific.

Mr. WILLIAM L. SCOTT. I believe the Senator would agree with me that it is our obligation as Members of the Senate when we advise and consent to an agreement such as this to know what is in the best interest of the United States and the citizens of the United States. Is it in our interest to give American citizenship to 14,000 people 6,000 miles from our shore who will not even pay taxes to the Federal Government, who will recoup their taxes? As citizens they will have the right to get on welfare, if they choose to. It will be a drain upon our economy.

If we look at it in that light, what is in the best intesest of the U.S. Government rather than what these people of the Northern Marianas may want—and we are not talking about American citizens and we are not talking about people we are obligated to—I believe it is in the interest of our Government to reject the matter that is before us and to give further study to the entire Micronesian area, as the distinguished Senator from Virginia has suggested. This was the decision of the Subcommittee on General Legislation of the Armed Services Committee. I certainly hope that the Senator's amendment will be agreed to by the Senate.

Mr. HARRY F. BYRD, JR. I thank the Senator from Virginia. I point out that the Armed Services Committee came within one vote of approving the amendment which is the pending business before the Senate today.

Mr. WILLIAM L. SCOTT. If the Senator would indulge me for a half a moment, at first the Armed Services Committee did approve it, and then there was some shuffling of votes because some of the members were not present. It was a very tight decision, I am sure the Senator would agree.

Mr. JOHNSTON. The vote was 9 to 6, was it not?

Mr. WILLIAM L. SCOTT. Not originally.

Mr. HARRY F. BYRD, JR. The vote on the amendment, the one now pending, was 8 to 7. It was a one-vote difference. It was an 8 to 7 vote. The other vote on reporting out the covenant after the amendment failed was a 9 to 6 vote.

RECESS UNTIL 1:30 P.M.

Mr. JOHNSTON. Mr. President, I move that the Senate stand in recess until 1:30 p.m. today.

The motion was agreed to, and at 12:58 p.m., the Senate recessed until 1:30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. GLENN).

The **PRESIDING OFFICER.** Who yields time?

Mr. GOLDWATER addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Arizona is recognized.

Mr. GOLDWATER. I ask unanimous consent that I may proceed for 2 minutes.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

WHO IS IN CHARGE

Mr. GOLDWATER. Mr. President as much as I admire the writing genius of Mary McGrory, it is rare that I find myself in agreement with what she is writing but, today is one of those days. She has written in a very sensible way an article that questions why citizen Nixon made the trip to China that he has made, why he made it when he did, and why he feels that he can presume to discuss foreign policy in a way that would make the Red Chinese think that he is speaking for our foreign policymakers. These questions do not necessarily need an answer because Mr. Nixon is a private citizen, and thanks to the generosity of President Ford, this has been possible. Under the Logan Act, a private citizen is not allowed to conduct foreign policy discussions with other countries, and neither is a Member of the House or Senate, for this is the sole responsibility of the President of the United States and the Secretary of State. I have a question, however, because after then-President Nixon's first trip to Peking, I asked him twice whether he had promised formal recognition of Red China, and he assured me that he would never request that. Now, as a citizen, he sounds like he thinks it might be a good idea; But from another citizen—me—I do not think it is a good idea.

I ask unanimous consent that Mary McGrory's column, appearing in today's Washington Star be printed at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SO WHO'S IN CHARGE: FORD OR PREDECESSOR?

(By Mary McGrory)

The Chinese care nothing for Gerald Ford. No friend of detente is a friend of theirs.

But should not Richard Nixon, their honored guest, have him somewhat in mind? Is he not beholden? Gerald Ford, after all, pardoned him, unconditionally and untimely, at enormous and at enduring cost to himself.

Could he not have postponed what has been called a sentimental journey—and it requires a great leap forward in imagination to attribute sentiment either to him or his hosts—out of consideration for primary politics?

What was required on both sides was the obliteration of the immediate past. For Nixon it was easy. It was easy, easier for him than for most Americans, especially Republicans.

"We just want to forget him," said a New Hampshire Republican, struggling to coax voters out of their warm homes to vote for the pardoner.

But Richard Nixon will not have it that way. He will extract homage at any price. He is determined to have his party see him as he sees himself—as a master politician and a foreign policy wizard who was deserted by politicians in an hour of petty political crisis.

The Chinese have chosen to honor him as a Western sage. Some think that his pardon and his pension and the attentions paid to him from time to time by the President and the secretary of state indicate his true value and relevance.

Others, however, think that the Chinese, as cynical as Richard Nixon, see in him the perfect instrument to torture his successor, to bully him out of detente and to force him into withdrawing U.S. recognition from Taiwan, which was for 20 years a sacred cause with the former and domestically discredited President.

Richard Nixon's motives are, to use one of the more misleading catch phrases of his presidency, "perfectly clear." He views the Forbidden City as the route back to recognition. How can the befuddled and unnerved Republicans look upon him as a black sheep when they see him on their television sets clinking glasses with Oriental dictators while the band plays "America the Beautiful?"

Richard Nixon's gnawing needs have always come first with him, as many of his countrymen realized long before the publication of the Watergate tapes, which have received no circulation at all in Peking. Gratitude and loyalty, as the other Watergate conspirators can bear witness, are not prevailing strains in that character.

What are Gerald Ford's chances in the early primaries compared to his in history?

It was not, of course, enough for him to go there, to be enfolded in official honors and special privileges not granted to Gerald Ford. He had, as always, to go a step further. He stood before the microphones in The Great Halls of the People and hinted heavily that since he left the White House, it had been amateur night for world peace. The Helsinki pact, Gerald Ford's one accomplishment, had been a mistake.

Any other man might have delayed the many-squalored thing until Gerald Ford, under strong challenge from Ronald Reagan, could have had a clear run in the New England primary. But it was a question of disappointing the Chinese and disappointing Gerald Ford. Richard Nixon unerringly opted for the Chinese. They can do more for him. Sure, Gerald Ford had spared him indictment, trial, possible prison, and even admission of anything graver than "errors in judgment."

But what has he done for him lately?

Gerald Ford's problem here is that some members of his own party who like him very much are not sure that he could run a two-car funeral. Richard Nixon's return to Peking has reinforced that sinking feeling. The memory of the pardon is like the smell of escaping gas over this first effort.

Ronald Reagan has made leadership the issue. Gerald Ford has been visibly unable to prevail over a man who owes him everything. He is not even able to exert influence with his secretary of state, Henry Kissinger, who is himself an issue here: any candidate of either party who suggests that he will replace Kissinger is assured of applause.

Ford, writhing in the familiar Nixon meshes, said that Nixon's was a "private visit" and that there were no plans to have him report to the administration. He was contradicted from South America by Kissinger, who said that he could hardly wait to hear Nixon's news.

So who's in charge? That's what Ronald Reagan, without ever violating the 11th commandment, keeps asking. If you can't manage a man whom you've kept out of jail and a man who nominally works for you, who does salute when you give the orders?

The pardon, every loyal Republican in New Hampshire and Massachusetts will tell you, is not an issue. Richard Nixon, however, has done his best to invite it. It was nothing personal. As ever, he just has his own concerns in mind.

Gerald Ford officially forgave him for reasons of loyalty and gratitude. He still does not seem to understand that Richard Nixon, who required loyalty from everybody but himself and still expects gratitude from his party and his country, will never learn the meaning of those words.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

The Senate continued with the consideration of the joint resolution (H.J. Res. 549) to approve the covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States of America, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself 5 minutes.

A number of matters were touched on in the debate before the lunch recess. I wish to address myself to those matters. Let me mention that debating and participating in debates on this matter of the Marianas is, in many ways, like fighting in a fog, because you attempt to come to grips with what the real argument is and the argument seems to vanish.

I think the colloquy right at the end of the discussion, when I asked the distinguished Senator from Virginia what plans he had for Micronesia, is typical of this whole debate about the Northern Marianas. Over a period of a decade, we have—through negotiation, through discussion, through hearings, involving not only Congress but the people involved in Micronesia—hammered out what I think is an excellent agreement with the Marianas in the interest of the United States and in their interest. Yet we are met with these arguments here, on the floor of the Senate, that say, let us not do that; let us wait. Then, when we ask the proponents—whether they be on the liberal side or on the conservative side, or in the middle—no one can give us any satisfactory alternative, other than wait.

Mr. President, it has been 30 years that we have had this trusteeship. Of the many trusteeships created under the United Nations Charter over the last 30 years, this is the last remaining one. What good it would do to wait further totally escapes me, particularly when we have absolutely no plan, not even a suggestion, as to what the alternative might be to this union with the Marianas.

Mr. President, we have been told that this is not the only way that we can deny these islands to a foreign power. The Senator from Virginia suggested that we might consider a compact of free association. Mr. President, typically, again, the Senator from Virginia did not tell us what a compact of free association is and in what respects it differs from the instant compact. The fact of the matter is that a compact of free association would cost just as much money, would bind the United States just as permanently. It would, perhaps, give the Northern Marianas, if we had a compact of free association, the ability to opt out of the compact. But as far as the cost is concerned, it would be identical. They would not have American citizenship, perhaps, but if we have the cost, if we have the obligation, why should not these people, who, for 30 years, have been brought up in the American tradition, have fought in our wars, are more patriotic than the average person on the continental United States—why should they not be rewarded with citizenship?

I yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. I thank my friend. I intend to support his effort in this and to oppose the amendment that has been proposed to prolong this.

I listened with great interest to the discussion this morning and I am afraid that, once again, we are missing the important part of this whole thing. Back in 1867, we purchased Alaska. Shortly thereafter, we acquired the Hawaiian Islands. This established what has always been, to me, our prime point of foreign policy interest—namely, the Pacific Ocean. To me, at the present time, it is the future of the world, the economic future and, I think, the cultural future. I think that that will some day, maybe in a few hundred years, be taken away by the emergence of South Africa as a great power—certainly not now. But the important countries that we have around the perimeter of the Pacific we seem to forget about. We have had our heads in the sands of Europe for so long that we think that is foreign policy and the only thing that we should be interested in.

I remind my good friend that we gave away Okinawa. Okinawa was never owned by the Japanese, but we turned it back. So if we want to get selfish about this whole Mariana business and realize that it is just about all that is left in the Pacific that we could use if the need ever arises again for the defense of the continental United States and other countries surrounding the Pacific, the Marianas are about the only place that now offers it to us.

On top of that, as the Senator has recognized, they have been, for 30 years, acting and believing that they were the same as citizens of this country. We used their islands in World War II and, I would say, abused them rather roundly. These people have been expecting this; they have been promised this. I think that promises should be kept, certainly in a case like this.

It was my pleasure, a few years ago, to have visited Guam and traveled over to Saipan and Tinian, once again, just to see what might be there. I am convinced that it would be in the best interests of the United States and all of our people if we would keep our promise to these people and allow them to come in as citizens of the country, with the restrictions that this bill places on them.

Again, I get back to my basic thesis, that the perimeter of the Pacific is our point of major interest. We fought a war in Korea to see that we held that base. I disagree with my friend from Illinois, who said that the war in Vietnam was useless. The way we fought it was useless, I might say, but we have since lost that bastion in Southeast Asia, due entirely to the stupidity of civilians in this country, who tried to run a war instead of letting the men in uniform do it. But that is beside the point. It is the only break now in our friendship around the perimenter of the Pacific and to cement this all together, I think we need to continue friendship with these people in the Marianas. We certainly need whatever bases there might be out there to take care of any of our strategic needs that might arise in any future conflict that we do not want.

I think this very move itself would be a move that would say to the rest of the world, "Watch out. Don't tread on us. We have our bases and we can go any time."

I congratulate the Senator for the splendid job he has been doing in defending this bill, and I sincerely hope that the amendment is soundly beaten and that we get on to voting these people what I feel is due them.

Mr. JOHNSTON. I thank the distinguished Senator from Arizona. I point out one thing which I think is of absolutely critical importance here. That is the fact that if these islands came into the possession of a foreign power—Russia or China—they would be an immense menace to the United States and our interests in the Pacific. They would leapfrog over Taiwan, leapfrog over the Philippines, and be right smack in the middle of the Pacific, with a base for radio communications, for submarine warfare, for refueling, for all of those things that these islands, so strategically located, could furnish.

I think that therein lies the most critical importance. We have no plans, either now or for the foreseeable future, to put a base on Tinian or a base on Saipan. It is conceivable that circumstances could arise with new hostilities somewhere in the Pacific where that would be possible. I hope that new hostilities in the Pacific are inconceivable in themselves. But to the extent they are, it is conceivable that we could need a base. But if these islands came into the possession of a foreign power, it would be absolutely, critically harmful to the interests of the United States.

The Senator from Idaho was asking for time.

Mr. McCLURE. Two minutes.

Mr. JOHNSTON. Mr. President, I yield 2 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding his time, and I commend the Senator from Louisiana and the Senator from Arizona for the comments they have made.

It has been suggested that these islands, the Northern Marianas, have no strategic value to the United States. Yet the same persons making that statement say the precise treatment given to the Northern Marianas should be given to entire Micronesia and, I assume, from what they are saying that all of the islands in Micronesia are of no strategic importance to the United States at all.

I think that will come as a great shock to a great many people in this country who, during World War II, watched the progression of battles in the Pacific as we fought our way through the same area of the world.

We do have a forward base at Guam. We have had that possession since 1898, and it is a crucial and important peg in the perimeter of defenses for the United States, vital to the security of the United States. And yet what would happen to Guam if in that 2,500 miles between Guam and Kwajalein or the 5,000 miles between Guam and Hawaii the entire area were occupied and fortified by some force hostile to the United States?

I think it becomes patently obvious that this would be a matter of grave and extreme concern to the security of the United States. So we do have an interest in all of Micronesia, not just the Northern Marianas but in all of Micronesia, in the exclusion of the military activity of foreign powers, and that is absolutely consonant with and carries out the intention of the mandate of the United Nations in providing the trust status oversight.

I think if we are to do that, then we have certain responsibilities. Those responsibilities we are trying to carry forward in all of Micronesia not just the Northern Marianas. But there is adequate reason here to treat the Northern Marianas in a way separate from the balance of Micronesia.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. McCLURE. Mr. President, will the Senator yield 1 additional minute?

Mr. JOHNSTON. One additional minute.

Mr. McCLURE. I thank the Senator.

I think we must recognize that you cannot separate the discussion of strategic value and simply compartmentalize it in terms of the Northern Marianas as distinguished from all of the rest of Micronesia. I do not mean by that statement to indicate we have to find precisely the same formula for all of Micronesia as will be applied in the Northern Marianas. There are differences. There are differences of approach. There is a difference of interest to the United States as well as to the parties that are involved. But I think we should lay to rest, and lay to rest early in this discussion, any notion that these entire 3 million square miles in the Pacific are of no strategic value to the United States, and the security of the United States is in no way affected by what happens out there. Such a claim, I think, is obviously ridiculous.

Mr. PELL. Mr. President, I yield myself 5 minutes.

The Senator from Louisiana, in his able presentation, asked whether there had been any other alternatives, if any of those who opposed the covenant had an alternative, to offer different from that provided by the covenant.

Well, I would most respectfully suggest that there is an alternative, and that is if we offered the inhabitants of the Marianas the opportunity to achieve independence.

Every other trust territory that was set up after World War II has already achieved independence. The only trust territory remaining is Micronesia, which is a strategic trust territory under the special provisions of the charter in that regard.

I would like to read into the RECORD the exact text of what the Marianas were asked to vote on. They were asked to vote either:

> Yes, I vote for commonwealth as set forth in the covenant to establish a Commonwealth of Northern Mariana Islands in political union with the United States.

Or:

> No, I vote against commonwealth political union with the United States as set forth in the covenant, recognizing that if commonwealth is rejected, the Northern Mariana Islands will remain as a district of the trust territory with the right to participate with the other districts in the determination of an alternative future political status.

Now, in facing up to this vote the Marianas were also perhaps influenced by the thought that they would be receiving what amounted to $1,000 a year per head for the indefinite future, and up to $2,000 a year in services provided by Uncle Sam.

The fact remains they were not offered the alternative, any other alternative, but, yes, for a commonwealth, or no.

The question in this regard, too, has been raised with regard to the plans for a base. I agree there is no plan on the drawing boards at this moment for a military base at Tinian. But we all know, particularly the members of the Armed Services Committee, that several years ago there were plans for the development of a base on Tinian, plans which have temporarily disappeared. Nobody is more aware of this than the able Senator managing the bill, who is also a member of the Armed Services Committee.

Finally, I ask unanimous consent to have printed in the RECORD an editorial which appeared in the Washington Post today entitled "Not Another American Colony."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From The Washington Post, Feb. 24, 1976]

NOT ANOTHER AMERICAN COLONY

The Senate is to decide today whether to follow the House and make a "commonwealth" out of the Northern Marianas, a 12-island group of 14,000 souls in the Western Pacific which the United States has administered as a United Nations trust since capturing it from the Japanese in World War II. Unlike too many other obscure international issues, this one has been thoroughly debated. More's the pity, then, that this new venture in well-meaning colonialism may well be approved.

To be sure, the people of the Marianas want in. They voted three to one last year for the commonwealth compact now before the Senate. American sovereignty would be conferred on the islands and a special brand of American citizenship and a pledge of indefinite (and handsome) subsidy would be conferred on the islanders. In return, Washington could lease land for military bases if it chose. For the natives it's a good deal. They apparently feel little kinship with the five other districts in the Pacific Micronesia trust territory. They are earnestly putting into practice the United States' own preachments of democracy. They are said to be an engaging people fully deserving the status they seek.

The deal is nonetheless unacceptable. The strategic considerations for annexation are simply unpersuasive. At least Sen. Harry Byrd (Ind.-Va.), no unilateral disarmer, finds them unpersuasive. Who needs more? True, the United States has an obligation to the Marianas. But it is an obligation that can best be met by caring for them until they find a better future of their own devising, not an obligation to take them into the family. In this regard, it is crucial that commonwealth would split the Marianas from the five other Micronesia districts which, though diverse, farflung and laggard in their planning ahead, remain the Marianas' natural partners in any future political arrangement. Finally, it is unthinkable, or it should be, for the United States to be adding a colony—granted, a voluntary one—to its territory and polity. That the people, as of now, are pleasant and pliant is not sufficient cause to go that much against the century's grain.

Sen. Byrd and Sen. Claiborne Pell (D-R.I.) suggest postponing a decision until the administration submits a plan for the future status of all parts of the trust territory. That's a better idea. It will be a blow to the Marianas. But the Senate, in weighing the first extension of sovereignty and citizenship in half a century—to a very remote place and people—has got to put American interests first. By asking their colleagues to delay, of course, Mr. Byrd and Mr. Pell take on the burden of assuring fair and expeditious treatment of the administration's large plan once it's produced.

Mr. JOHNSTON. Mr. President, we have had it suggested here that somehow the Marianas, in spite of a 78.8 percent vote in the plebiscite, want to have independence. Mr. President, nothing could be further from the truth, as the distinguished Senator would learn if he went to the Marianas, as I have done frequently.

It is also not true, Mr. President, that this is the only time they have had a chance to have a plebiscite. A United Nations visiting mission in early 1961 reported that on February 5, 1961 a plebiscite was held on Saipan and Tinian, which are the two major islands in the Northern Marianas, in which 2,404 out of the 2,847 registered voters had participated.

Reintegration with Guam was favored by 1,642 voters: 875 favored separate territorial status for the Northern Marianas; 27 favored status quo—then it was Navy administration; and 8 votes were declared invalid.

The mission subsequently reported to the United Nations Trusteeship Council that, "There is almost unanimous desire among the people in regard to seeking U.S. citizenship."

Now, in early October 1963 a plebescite with slightly less than half of Saipan's 33,015 registered voters occurred. Reintegration with Guam was favored by 1,231; 9 favored independence; and 32 favored separate territorial status.

In another plebescite on November 9, 1969 held throughout the Mariana Islands district, 3,233 out of the 4,954 registered voters participated. Reintegration with Guam was favored by 1,942; 1,116 free association; 107 separate territorial relationship; 19 favored independence; and 9 other forms of status.

Mr. President, the point is this: They have had lots of plebiscites. You cannot interview every single person and give him a whole range of choices, 20 or 30 different choices, and have a mini-election with each individual person.

What you have to do is have a representative republican form of government, which they have there. We have had many plebiscites. This one was fairly conducted. Everyone admits it was fairly conducted. Over 95 percent of the people voted, and they gave voice to what the people of the Northern Marianas want.

Now, Mr. President, the people of the Northern Marianas want this compact. There is not any doubt about that. They do not want independence.

The distinguished Senator from Rhode Island is saying, "I think we ought to give them the independence whether they want it or not, and then give them, then extend to them, foreign aid.

Well, even if we were willing to do that—and I submit this Senate would not want to bind itself to an unlimited amount of foreign aid to a foreign power which they would then become—but, Mr. President, they do not want that, and I believe the Senator will admit the people of the Northern Marianas do not want independence.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes, certainly.

Mr. PASTORE. I am a little bit concerned about the argument that is being made as to what the people on the Marianas want.

What I would like to hear more about is what is good for the United States of America in this particular case.

Should this bill pass, would that mean that the inhabitants of the Marianas will now become citizens of the United States, would be entitled to social welfare?

Mr. JOHNSTON. The citizens of the Northern Marianas would be entitled to such Federal programs as the U.S. Congress in its wisdom desires to extend to them.

In the case of Guam, we extend to them certain benefits and others we do not extend. But the cost on Guam with 100,000 people is some $29 million. If we extrapolate that with 14,000 people for the Northern Marianas, we would get something on the order of $3 million a year. We have estimated it somewhere between $3 million and $5 million a year for Federal programs.

Mr. PASTORE. The minute they become citizens of the United States, does the Senator not think we are duty bound to extend these emoluments to them?

Mr. JOHNSTON. No more than with Guam, Puerto Rico, the Virgin Islands, or American Samoa.

Some of the programs are not totally suited.

But it is up to the Congress to determine which of those programs to apply. I would think we would extend the same benefits as we do on Guam, which is 110 miles away and has the same ethnic group.

Mr. PASTORE. Another question or two.

Have there been any overtures by the Russians or the Chinese to the people of the Marianas?

Mr. JOHNSTON. Well, the Marianas are, with a United Nations' trusteeship, under our authority and, of course, not being an independent nation——

Mr. PASTORE. Let me ask this question, let me put it in another form.

What do we stand to lose insofar as the United States of America is concerned if this measure does not pass?

Mr. JOHNSTON. If this resolution does not pass, then I would think our whole negotiating stance with respect to the Northern Marianas, with respect to all of Micronesia, would be put in serious trouble.

We would beg the question, Are we really giving them the independence they are talking about? And if, in fact, they got that independence, or we forced it upon them, I should say, then these islands must be dependent upon someone.

We have got over 3,000 islands spread over 3 million square miles. They cannot be self-sufficient.

Perhaps the island of Palau in the Palau group down in the southwest corner could be self-sufficient with a superport for Japan. But we have got some islands that must be dependent upon someone and, if not the United States, who else has an interest there?

I guarantee that the Russians, Chinese, or any naval power, would love to have this territory to have a refueling station, a repair station, or to have a communications antenna. It is only 110 miles from Guam. It would be a marvelous area to put a big radar facility on the island of Tinian and monitor all of the flights and all of the radio broadcasts that come from anywhere in the Pacific.

Mr. PASTORE. The Senator has said, "I guarantee"——

Mr. MANSFIELD. If the Senator will yield, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PASTORE. The Senator said, "I guarantee that maybe the Russians or the Chinese would be interested."

Do we have any intelligence on that?

Mr. JOHNSTON. No, of course not.

Mr. GARY HART. Will the Senator yield?

Mr. JOHNSTON. On the Senator's time.

Mr. GARY HART. Will the Senator from Rhode Island yield me 2 minutes?

To respond to the question of the Senator from Rhode Island, the Senator from Colorado said a few minutes ago that according to the testimony before the Senate Armed Services Committee, people of the Northern Marianas could be eligible for 1,010 different Federal programs.

We have asked three departments of the U.S. Government for their estimates of expenditures in the first year under this covenant.

HEW estimates yearly obligations, $5.23 million; DOT, $3.223 million; Agriculture Department, $3.781 million.

That is $12 million plus, in addition to the $15 million first year cash grant. That totals, $27 million, adding those two figures together.

We have to protect coastal waters of commonwealth territories. The Coast Guard estimates their one-time costs to protect the waters around these islands at $31-plus million.

We incur certain obligations when we take on new territory.

Now, one cannot say the cost is going to be $3 million to $5 million. The record does not support it.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I think with all due respect to my colleague, for whom I have great respect and affection, that statement is just simply not true.

There are 1,010 Federal programs which benefit American citizens of one kind or another, directly or indirectly.

This covenant does not extend 1,010 programs to the people of the Northern Marianas.

We currently extend 116, or about 110 percent of those programs, to Guam. Only 79 Federal programs are now extended to the Northern Marianas. It is up to the Congress. These programs are not automatically extended to the Northern Marianas and I would like for the Senator to tell me what his authority to the contrary is.

Mr. INOUYE. Will the Senator yield?

Mr. JOHNSTON. Certainly.

Mr. INOUYE. As a member of a new State, I support the statement the chairman just made.

While we were citizens of the Territory of Hawaii, paying all of the taxes that he is paying, every single amount, we were being denied many, many of the benefits the people of Colorado, the people of Louisiana, were taking for granted.

One big one was the highway funds. We paid all the highway taxes, but since we were separated from the Mainland we were not receiving any of the benefits.

It took statehood and a special law to make Hawaiians become eligible for that type of benefit, and there were hundreds of others. We Hawaiians were paying all the taxes and were being denied.

As far as the 1,010 benefits that potentially are available to American citizens, they will be up to us.

As I was discussing this matter this morning, every so often I would introduce a measure for the island of Guam, to make Guam citizens beneficiaries of the Clean Air Act. These benefits are not automatically bestowed upon citizens or members of territories of the United States. It will take an act of Congress to do this. I have absolute faith in the wisdom of this body to decide whether certain benefits should be extended. I doubt if this Congress will extend all of the 1,010 benefits.

Mr. JOHNSTON. I thank the Senator from Hawaii.

Mr. BARTLETT. Will the Senator yield?

Mr. JOHNSTON. Yes; I yield 4 minutes to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 4 minutes.

Mr. BARTLETT. Mr. President, today the Senate has turned to the consideration of House Joint Resolution 549, the convenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States of America.

The Trust Territory of the Pacific Islands is the only trust territory remaining in the United Nations trusteeship system today, and it has been under the control and administration of the United States since the end of World War II. The Northern Marianas island group is one of the three groups making up the Trust Territory of the Pacific Islands.

There has been much concern expressed in both the Armed Services Committee and the Committee on Foreign Relations regarding this convenant and I personally have been an outspoken critic of parts of the agreement that has been presented to this body for consideration.

I shall say initially that I intend to support the covenant without amendment, although I do so reluctantly.

My concern about this covenant is not caused by national security conclusions or a disregard for the people of the Northern Marianas Islands. I am concerned, however, whether the United States is doing what is right for the people of the Northern Marianas by bringing the Federal role and programs to their doorstep without requiring them to be Federal taxpayers. It may appear to be the "pot of gold" at the end of the rainbow, but I have my doubts.

I am equally concerned about granting U.S. citizenship and its concomitant benefits to those who qualify in the Marianas without the full obligations of that citizenship. The people of the Northern Marianas will retain the taxes that would ordinarily be paid into the Federal treasury, and will not pay one dime of "taxes" to the U.S. Government. There is not a lot of money involved nor is the arrangement peculiar to the Northern Marianas; our other territories and commonwealths enjoy the same approach. But it is a particularly bad arrangement, however.

It is this Senator's opinion that this matter of citizenship in a commonwealth or territory must be scrutinized by the executive branch and the Congress. If the people of the various territories are to be "citizens" of the United States, then they should feel that they are an integral part thereof and not citizens with "first class" benefits and "second class" responsibilities.

The executive branch should thoroughly review and make recommendations to the Congress regarding the applicability of Federal programs to the citizens of all of our territories. The Congress itself should be reviewing the applicable laws also with an eye toward constructively changing them. This review process should be initiated quickly.

As negotiations proceed with the rest of Micronesia and with Puerto Rico, perhaps toward establishing new relationships with the United States, I hope our negotiators press for the reforms I have alluded to here today. I plan to introduce in the near future a resolution calling for a study of the laws, covenants, and agreements relating to each of our territories with particular attention to a requirement that some level of Federal taxes be initiated. In addition, I plan to introduce a bill requiring some level of Federal taxes to be paid by citizens of the territories.

Mr. President, I thank the distinguished Senator from Louisiana.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. I yield 2 minutes to the distinguished Senator from Hawaii.

Mr. INOUYE. I thank the Senator.

Mr. President, as we consider this measure I have a few thoughts in mind. First, I believe we should keep in mind that after World War II we demanded trusteeship of these islands. It was not granted to us. We, as the conquering party, demanded that we have jurisdiction over these islands.

When we assumed this responsibility, we agreed to prepare these people for eventual self-determination, whether it be independence or some sort of association with the people of the United States. To that end, we sent Americans there to set up educational systems. We made English almost mandatory. We set up a legislative system similar to that which we find in the Congress of the United States. We gave members their titles of senators and congressmen. We prepared them for a constitutional convention in the event this covenant is approved, in the American fashion. So we have led these people up this path year after year, promising them the fruits of democracy. Now we come to the point where we are going to tell them, "No, we think we made a mistake because it might cost $1 million more than we anticipated."

If we have made any mistakes along this path, if at any time the United States had any desire to turn these islands into a colony, we can be assured that our "friends" in the United Nations would have pointed this out for world public opinion.

Every step taken by us has been covered, every step taken by us monitored, and so far we have moved in an open, very American fashion with nothing to be ashamed of. This is not going to be a colony. I would hope that the people of the United States, through our representatives here, will approve this covenant.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield myself as much time as necessary.

I would like to read into the RECORD exactly what the amendment does. It does what the Senator from Hawaii suggested. It advances the opportunity for self-determination for the inhabitants of Micronesia, but for the whole of Micronesia rather than engaging in a salami technique whereby now we take off the Northern Mariana Islands and a little later on we may take off Palau for a deepwater port and then later take off the Marshalls for something else. Our amendment says:

> That the Congress hereby recognizes the desires of the people of the Northern Mariana Islands to enjoy self-determination, but declares that it is the sense of the Congress that the obligation of the United States to promote the development of the peoples of the Trust Territory of the Pacific Island toward self-government or independence can best be accomplished by the submission to the Congress for its consideration of an agreement or agreements resolving the political status of all of the Trust Territory of the Pacific Islands rather than on individual basis.

What we are doing here is taking Micronesia, which was given to us as a trust territory, and taking a little piece of it out. Later we will take another little piece out of it. As we go ahead and do this, creating what I call a mini-Puerto Rico, we ought to bear in mind what is at stake. Money is at stake, certainly, because we have to bear in mind what is the American interest, not only what is the Mariana interest.

In Puerto Rico we have only 3 million people, but they are using up more than one-twelfth of the total food stamp program of the United States. So it will be an expense. We can afford it, but we should recognize it.

The expense should not be the reason why we should not go ahead. The reason we should not go ahead with this is because it is not in the American interest, because it is going against the principles of the charter, and also because it will be the only trusteeship territory or portion of a trusteeship territory following World War II that has not been given the option for independence and has gone that route.

If we wanted to know how the inhabitants of the islands feel, I can go to the island of Fayal in the Azores, from which many of my constituents come, and I am sure I could work out a referendum there that would say that three-quarters of them would like to be U.S. citizens, fall within the purview of our laws, and have the advantages of U.S. citizenship. That is not the reason we should take over Fayal.

Finally, the question was raised about the Russians using Tinian to put up an antenna to observe what we are doing. They can do that now much closer to Guam than Tinian under the rules of international law by surfacing a submarine or having a ship there with an antenna on it. They do not need to have a base in Tinian to find out what is going on.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield 2 minutes to the distinguished Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I rise only for the purpose of supporting the efforts that are being made here today relating to the Marianas. We discussed this matter in the Senate Foreign Relations Committee, as the distinguished Senator from Louisiana knows. It seems to me that the Marianas occupy a very strategic position in the Pacific related to commitments that this country has to Guam, which is a part of the territory of the United States, and to Japan, with which we have a mutual security treaty.

I cannot overemphasize the importance

of the relationship of the United States with Japan and Japan's relationship with us. Anything that furthers that relationship and strengthens it I believe is in our mutual interest.

I want to also say that the people of Marianas, as we heard by testimony, are ready for this type of self-government, a commonwealth status. They have demonstrated that.

Our Government officials have negotiated the details of this particular compact or covenant over a long period of time. The argument made against it; namely, that we take on additional obligations, does not stand the test because we already have obligations under the trusteeship.

In other words, as long as we are there under a trusteeship, we have the obligation to afford security to the area. One can say it is a United Nations obligation, but I think we have to face up to the fact that that obligation, under the trusteeship, is ours.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. PELL. Mr. President, will the Senator yield for a question?

Mr. HUMPHREY. Yes, I am happy to yield.

Mr. PELL. I was wondering if the Senator was aware——

Mr. McCLURE. Mr. President, is this on the time of the Senator from Rhode Island, or on the time of the opponents of the amendment?

Mr. PELL. On my time.

I know what an admirer and supporter the Senator from Minnesota has always been of the United Nations.

Mr. HUMPHREY. Yes.

Mr. PELL. I wonder if he is aware that by moving ahead in this way, we are moving against the policy, or at least the principles and intent, of the United Nations in at least two ways. One is that when any nation becomes a trusteeship territory under article 1541, the rights of its citizens are supposed to be the same, when it comes to voting, as those of the trustee nation. As the Senator knows, citizens of those territories cannot vote for President or national officers.

Second, we should really be working toward this through the approval of the Security Council, and we have not submitted the matter to the Security Council. It is contended that we will do so; I believe by 1981 is when we intend to do it.

When I asked the State Department witnesses, "What will you do if the Security Council vetoes it," they had no good answer.

Mr. HUMPHREY. Mr. President, I fully appreciate the observations made by the distinguished Senator from Rhode Island, and I recognize that we have responsibilities under the terms of the United Nations, but I do think also that it should be noted, as the distinguished Senator from Louisiana (Mr. JOHNSTON) has noted in his "Dear Colleague" letter, that the people of the Northern Marianas have overwhelmingly, by their own votes, approved this covenant in a U.N.-observed plebiscite, by a 78.8 percent vote of approval, with a 95-percent voter turnout. That is one fact.

Second, whatever the status of the Marianas now is, insofar as any protection or guardianship is concerned, while it is in the name of the United Nations, it is essentially being done by the United States of America.

Finally, I believe that the people in the area have arrived at a point where they want self-government; and we have always been committed to the principle of self-determination. That was a fundamental principle even before the United Nations.

I do not deny the argument that has been made here by the Senator from Rhode Island in the sense that we have some obligations through the U.N.; but we have another very high obligation, even a higher one; namely, that when a people appeal and, by an express vote of the citizens, ask for the right of self-determination and ask to have their political status clarified and made more precise, then we have some moral obligation to abide by it.

Those are my views. I do not deny that this is a highly controversial issue, but I believe on balance it deserves our support.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. How much time remains on each side?

The PRESIDING OFFICER. The Senator from Louisiana has 15 minutes. The Senator from Rhode Island has 16 minutes.

Mr. PELL. Mr. President, I will take another minute.

I think it should be borne in mind that the plebiscite that was taken was the only one taken in the trusteeship territories not taken under United Nations auspices; it was taken with U.N. observers. Perhaps that is the reason why the question was phrased as it was. "You either go our way or you do not." There was no other option.

I think if it had been done under United Nations trusteeship procedures, the outcome might well have been different.

The PRESIDING OFFICER. The Chair would like to correct its statement of the time. Fifteen minutes remain to the Senator from Louisiana, 31 minutes to the Senator from Rhode Island.

Mr. PELL. Mr. President, I suggest the absence of a quorum, the time to be evenly divided.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

Mr. JOHNSTON. Mr. President, I would object to that. To try to keep the time under some reasonable balance, we now have less than half the time that remains to the other side, but we will go ahead and use it rather than use it up with a quorum call. However, I would hope the proponents of the amendments would help us try to keep the remaining time in some reasonable balance.

I yield to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I would hope the proponents of the amendment would not expect the opponents to use up all their time and then have considerable time remaining themselves, the balance now now being more than 2 to 1.

I would like to make some comments about the strategic importance of this area to the United States, because, as the Senator from Virginia has said, I think whatever is done ought to be done in the light of the best interests of the United States, and I think we must recognize the strategic importance of the entire area. While we are discussing only the Northern Marianas, I do not think we can discuss that in a vacuum, without considering the impact it will have upon future events in all of Micronesia, and certainly I think every Member of the Senate must be concerned about what happens in the event of possible military action by foreign powers in all of those areas of the Pacific.

I became interested in this subject some years ago when I was a Member of the other body, and of the Interior Committee of that body. I made a trip to the Trust Territories of the Pacific Islands, starting at Kwajalein and ending at Saipan, I also visited Guam on that occasion.

That was in 1968. The opponents of the bill and proponents of the amendment say we ought to have more time to study the matter. How much time do we need? As I recall, consideration of this subject was going on before I came to Congress 10 years ago, and it has been studied, restudied, and studied again periodically and continuously during all that period of time.

I want to refer for just a moment to the hearing record, because I think it is instructive for those who are saying we need more time. Perhaps they ought to read what is on pages 137 and 138 of the report, which shows the numbers of resolutions that have been passed by the people of the Northern Mariana Islands district legislature, starting in 1963 and ending in 1975. This is not something that has simply given them one alternative, as suggested by the Senator from Rhode Island a few minutes ago, that all they had the opportunity to do was vote yes or no on a given proposition. They have had a variety of propositions before them for 10 years of my own personal knowledge and longer according to the record. They have discussed, voted upon, and expressed their preference at various times, the latest expression having been in favor of this particular covenant.

But, as far as the strategic importance of this area to the United States and the entire territory is concerned, let us look at what has happened in the past.

As the Spanish mandate was broken up, we got a part of the islands in the Pacific. We got Guam. If we had known more about it, we would probably have had Spain cede the entire Marianas to us, but they did not. In 1891 they ceded Guam to us, and the next year sold the remainder of the entire area to Germany. Until World War I, Germany administered the entire area.

At the end of World War I, when Germany was defeated, the League of Nations made a mandate to Japan, including in its terms the provision that they should not fortify any of the islands. History would indicate that they violated that mandate, and did fortify the islands.

The PRESIDING OFFICER (Mr. Fannin). The Senator's 5 minutes have expired.

Mr. McCLURE. Mr. President, will the Senator yield me 4 additional minutes?

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. McCLURE. Mr. President, will the Senator yield me 4 additional minutes?

Mr. PELL. I am glad in a spirit of comity to yield 4 minutes of my time.

Mr. McCLURE. I thank the Senator for doing so.

Those of us who are old enough to remember that period of history will remember the great publicity that surrounded the disappearance of Amelia Earhart on a flight over the Pacific, and a great many people still question what happened to her. When I visited in the islands, I was taken to look at the jail where she is reported to have been held by the Japanese because she was flying through an area which they were fortifying in violation of the mandate of the League of Nations, and they did not want the world to know what was happening under the violation of that mandate.

Do we have an interest? I ask those who think we do not have an interest why it is so many American boys are buried in those islands? I ask some of them to visit again, as I have visited, the site of the famous battle of Bloody Nose Ridge on Palau and then ask themselves if we have no interest in this area. We have indeed a very grave interest in the entire area.

I mention the fact that some have said hold off the decision, make no decision until everyone agrees. There was no unity among these people until we imposed it. Whatever unity there is among the six districts that comprise Micronesia is an imposed unity that we created by our own actions, not by their actions, not by their desire, not by any vote of themselves or their representatives.

There are different and distinct peoples who live in areas that are separated from each other. While it may be convenient for us to draw a line around that on the map and say that is all one, we never asked them about that before we did it. If we had, they would have said, "No, we are not all one. We are a diverse people and we live in different island groupings."

I think each of those peoples out there is entitled to make their own determination of what is right for them.

Finally, Mr. President, I wish to lay to rest for a moment this question of the estimates of cost because, like many other arguments that have been presented here, the people presenting the arguments do not drop the arguments when they are refuted and when the record shows that they are not factual. They simply keep right on repeating them because if they do not have those arguments they have no other. CBO has made a report, and the CBO report indicates that the cost impact of the covenant is drastically different from that which has been presented to us in the Chamber by the distinguished Senator, the junior Senator from Colorado. We ought to have on the record very clearly that the estimates of expense presented to Senator Muskie in response to his letter to CBO come out far differently from those that have been suggested here as being the ultimate and necessary cost of this legislation.

So, for a variety of reasons, Mr. President, it is important for us to recognize the longstanding desire of these people, who are really a part of the same ethnic and racial group as those people in Guam who were separated from Guam as a result of the ending of the Spanish-American War in 1898, to be given the opportunity to make their own decisions. They have in the past indicated they desired reunification with Guam. They now say they would rather have at this time a separate status but in association with the United States.

Those alternatives, as the record will show—and again look at the record, if one does not believe it, as to what kind of explanation was given to them before they voted, the kinds of information that was given to them, the questions that were asked and answered on the record and in public information to them—would indicate they did have an opportunity to make a choice between alternatives. Those were presented. Then the issue that they voted upon, if one wishes to look at it in the negative, simply shows they were asked to look at one set. If they favored any one of the other sets they would have voted no. Seventy-eight percent, after looking at all the other alternatives, said: "No; this is the one we want." They responded affirmatively just as they have throughout all of their history shown a desire and a willingness to stand up and be counted in expressing their own views of what their appropriate future relationships with the United States should be.

I believe that it is not only in the interest of the people of the Northern Marianas but also in the interest of the United States to approve the covenant.

Mr. President, nearly 30 years ago the United States pledged itself to assist the people of Micronesia to move toward their own political status, in accordance with their desires for independence or self-government. During the course of the intervening years, all other 11 United Nations trusteeships which also were the result of World War II have been terminated.

Mr. President, over the years, through the establishment of district legislatures, the Congress of Micronesia and the growing involvement of Micronesians themselves in the administration of the trust territory, we have slowly tended toward that goal. But with the establishment of the status committee of the Congress of Micronesia and the administration's committees for negotiation with it in 1969, the pace increased. The intervening 7 years have resulted in a two-pronged plan for the solution of the problem.

We are here today to implement the first part of it. Mr. President, the people of the Marianas are not ethnically, socially, or economically integrated with the peoples of the other districts in the trust territories nor do they desire the same political solution as these other peoples. It is a political accident that the Northern Marianas are not integrated with Guam which is a part of the Marianas and which has been U.S. territory since 1898. Mr. President, ever since 1898, but with quickening expression for the last 25 years, the people of the Northern Marianas have expressed their desire and intentions to become a part of the American political family like their brothers and sisters in Guam.

Through careful negotiation over several years, the administration has arrived at a solution, the first step of which is the adoption of the covenant set forth in House Joint Resolution 549. During the time of these negotiations, the appropriate committee and Members of Congress and of the Senate have been consulted, advised, and have made their opinions and comments known to those representing the administration. Mr. President, this has not been a partisan matter but has been supported by interested Members of the House and of the Senate and by Members on both sides of the aisle. At this point, this covenant in accordance with the wishes of the people of the Marianas, was expressed in a plebiscite in which 95 percent of the eligible voters cast ballots and nearly 80 percent of those casting ballots voted for the covenant.

Mr. President, the House Interior Committee reported the covenant unanimously. The House passed it without dissent. Mr. President, three committees of the body, the Committee on Interior and Insular Affairs, which has primary jurisdiction, the Foreign Relations Committee, and the Armed Services Committee have all approved the covenant. In addition to these actions by the Congress, the Congress of Micronesia agrees that the separation of the Marianas from the rest of the trust territories is an appropriate action and approved the covenant by resolution unanimously in the Senate of that body and with only one dissenting vote in the house.

Mr. President, the United States would do a grave disservice to the people of the Marianas, to the rest of the people of Micronesia, to its own cherished ideals of self-expression, liberty, and freedom if it did not accept the solution proposed by House Joint Resolution 549.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, on this question of financial benefits, I yield to the Senator from Colorado who studied it more thoroughly than I did. But using the figure that the Committee on Interior and Insular Affairs developed, I see it will cost $14 million in grants and in loans, annually $1,750,000 for 7 years.

The figure we have from the Committee on Interior and Insular Affairs was $3 million to $6 million annually in Federal services representing the equivalent Marianas share of services again to the entire trust territory.

But only three departments were queried as to what the cost would be

They were the Departments of Health, Education, and Welfare, Transportation, and Agriculture. The estimates they gave came out to a total of $12 million a year.

Finally, there is a $19 million lump sum one-time payment for military property.

These are fairly substantial figures, but they should not be a deciding factor whether as to approve or not approve it. The deciding factor should be our own American national interest.

We should bear in mind, as we heard over and over again, 80 percent of the people desire to join the United States, but we ought to also bear in mind that size is factor here and that 80 percent of the people who voted to join are less than 4,000 people.

I respect the rights of those 4,000 people but, as has been pointed out earlier, we could find 4,000 people in many parts of the world who, I am sure, wish to become U.S. citizens if given the option.

Yesterday in the Committee on Foreign Relations there was a meeting with Chief Olopai, who is a member of the Caroline minority of the Northern Marianas. He was very distressed at the idea of us moving ahead with this and concerned with what would happen to the Caroline minority and whether they would be tossed off the islands or not afterward.

Finally, I shall read into the RECORD lists of the various trust territories that have become independent:

British Togoland, French Togoland, British Cameroons, French Cameroons, Tanganyika (U.K.), Italian Somaliland, Ruanda-Urundi (Belgium), Western Samoa (N.Z.), Nauru (Australia), Papua-New Guinea Australia).

The only one remaining is this one in which we propose to carve this little piece out of it and create this mini-Puerto Rico and then perhaps 2 years later or 4 years later we will create another one and another one.

What we should do and what our amendment does is say just wait, take our time, until the whole of the territory, the whole of Micronesia has come up with a majority consensus as to what it wishes to do.

At that point with a population of 113,000 it might well opt for independence. There are other members of the United Nations with populations less than that. It might opt to be another Puerto Rico, or there might be some other status that it would seek. We should wait until that time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield 3 minutes to the distinguished Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I shall try to limit myself.

The only reason I am in the Chamber on this issue is because the leadership sent four Senators to the Marianas, among other points of visitation, this last January, which was only 2 months ago. I approached this particular problem with the same misgivings that my distinguished friend from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Rhode Island (Mr. PELL), and many of the others have had.

Specifically, I was wondering how the State Department could go in two different directions—to talk, in one sense, that down in the Panama Canal it was unfair for the rich United States to impress sovereignty, and we ought in fact to divest ourselves of sovereignty—and on the other hand we ought to assume sovereignty in the Marianas.

So, having looked at it closely from a negative viewpoint, I have been strongly persuaded that the Government, in the recommendation of the Committee on Interior and Insular Affairs, with the distinguished Senator from Louisiana (Mr. JOHNSTON) handling this bill, has recommended what is in the best interests of the United States. The responsibility and trust which we have cannot be ignored.

Those who think we are taking on an area for the first time beg the question. We do have a responsibility, as to whether we wish to have wards, on the one hand, or partial citizens on the other. I opt for the partial citizenship, at least.

That trust, I say to the Senator from Rhode Island, calls for self-determination.

I do not see how, in good conscience, Congress, working through its President, the State Department, and all those who have dedicated themselves, not in secret but in open hearings, open elections, and everything else, could come down the road this far and then thwart the will of the people which was fairly given.

The fact is that we did hear from the man from the Carolines, that particular section of the Marianas. We heard him late one Sunday evening, until 7 o'clock, and I met with him early the next morning before he left for Guam. We were trying to determine whether or not this was a fair election, whether it was a responsible election, and whether it was in the best interests of both sides. There was no question in my mind, and I believe that was so with respect to the others. We talked of all the areas and heard about everything concerned—the money involved, the matter of defense installations, and so on down the line.

I could argue and answer those questions in specifics if any Senator would yield time to me. I do not want to take any more time from the distinguished Senator from Louisiana, because of the limited time restriction he is under, but I will gladly discuss these issues.

It is good for the United States. We should be moving in this direction. Vote this down, abandon these people, and abandon their hope, and then you are really messed up, in my judgment, because there is no return to the canoe and the coconut and all those things in the travel movies and on the TV programs. This is a civilized, developed world. It is a rather small area.

I resisted the economics until we determined what we were spending out there already. It was worked out in a judicious fashion. There was no coercion. Even the constitutional body of the entire Marianas approved it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. I thank the Senator for yielding.

Mr. BAKER. Mr. President, does the Senator have any time he could yield to me on this subject?

Mr. JOHNSTON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes remaining. The Senator from Rhode Island has 21 minutes remaining.

Mr. PELL. Mr. President, I should like to respond to one point raised by the distinguished Senator from South Carolina, and then I will yield to the Senator from Tennessee.

Mr. BAKER. I think the Senator will be yielding on the wrong side.

Mr. PELL. In connection with the rights of the citizens or the advantages to them, the Secretary of the Interior now can do by executive order a great many of the things that would come to them under this status.

The important thing here is that by going ahead with the Northern Marianas and not just letting them down, we are also having a distressing effect on the Carolines and all the Micronesian inhabitants outside. If we keep going with this technique, as I mentioned earlier, we probably will have Palau come up or the Marshalls. Why not do the whole thing? It is the way it was designed, and that is what this amendment would do.

Mr. HOLLINGS. Historically, the impetus and the request came in this fashion—namely, the Marshalls and Carolines did not ask for a trusteeship of this nature, but the Northern Marianas did.

Nobody can be an expert in a 24-hour or 48-hour period, but there is no doubt in my mind that their real desire is to come in. They started with Guam, and I believe in 1969 they got into a local democratic political question. Later, when we got to Guam, the Senator from Michigan (Mr. GRIFFIN) was told by the Governors and everybody else there that the vote would be different, that it would bring them in.

We take the question of what is possible. But the question is what is the right thing to do? We are not going to continue the trusteeship forever. In fact, this is the last one left under the United Nations, as the distinguished Senator knows, and we will have to do something.

We are moving in the direction which these people have elected and which we can afford and which we can sustain. There are not enough people for a separate nation, in that sense.

So if we get to the economics of the defense installation, if Palau wants it, more power, if we can do that. The point is that if we do not, economically, Japan and others are going to move in. Spain will send somebody to negotiate a $3 billion contract for defense weaponry for a sorry limit of two bases there. That is what we will end up doing. We will be acting against the interests of the United States if we turn down this cause.

Mr. PELL. Under the Senator's argument, if people in the Azores decided they wanted to be American citizens, by an 80 percent majority, does the Senator think we should accord them that status?

Mr. HOLLINGS. Not necessarily. Each situation has to be studied on its own.

I am willing to go in that direction around the Canal Zone, to relinquish some jurisdiction over there. I am willing to go along with the State Department—certainly not on the canal itself, but at least in some of the zone which is causing the major part of the problem.

On the other hand, we must look at each problem as it develops. If we go there and hear them on the ground and get their presentation as to how, after years, they have a chance for true freedom under this particular covenant, we can see that this is the right thing to do. And we did go there, and that is exactly what we heard.

Mr. PELL. Mr. President, I yield 1 minute to the Senator from Tennessee.

Mr. BAKER. I thank the Senator for yielding.

Mr. President, I would like to speak briefly in support of the Northern Marianas Commonwealth Covenant which we have before us today in the form of House Joint Resolution 549. As most of my colleagues know, this resolution has passed in the House and has been favorably reported by the Senate Committees on Interior, Foreign Relations, and Armed Services. I would urge that it be so favorably considered by the Senate.

In January, I had the good fortune to visit the Northern Marianas Islands. During the course of that visit, I had the opportunity to meet with a number of the inhabitants of that small group of islands.

From that visit, I have retained several distinct impressions. The first is that the people of the Northern Marianas have a sincere and long-held aspiration for political status within the American community. I am convinced that their dedication to this goal has not been considered lightly. By virtue of U.S. administration of the Trust Territory of the Pacific Islands and their close relationship with the U.S. territory of Guam, with whom they share a common ethnic and cultural heritage, people of the Marianas have a thoroughly developed understanding of and appreciation for the meaning of American citizenship.

Second, I was impressed with the sense of responsibility and degree of political maturity with which the people of the Northern Marianas have approached the attainment of this long-held goal. I believe that they are acutely aware that the privilege of citizenship is not freely given and carries with it as many responsibilities as there are benefits. I am confident that they will be a worthy and responsible element in the American community.

In addition to recognizing the legitimate aspirations of the people of the Northern Marianas, there are several other considerations that I believe merit the attention of my colleagues. The first is that approval of the Commonwealth covenant is consistent with and supportive of one of the basic tenets of American philosophy and that is the right of a people to self-determination. In a plebiscite observed by the United Nations Trusteeship Council, the people of the Marianas freely chose to establish a government under the Constitution and sovereignty of the United States.

Second, approval of the Commonwealth covenant is consistent with the obligations under the charter of the United Nations undertaken by the United States in agreeing to administer the Trust Territories of the Pacific Isobligations under the charter of the United States agreed to assist the trust territory in its political, economic, and social development toward the ultimate goal of self-government or independence. This we have done, and we should be pleased that they chose this covenant as the culmination of their development.

One final point should be noted. Although the covenant will not be implemented in full until the trusteeship of the entire trust territory has terminated—and it is now expected to terminate in approximately 5 years—those provisions of the covenant that are not inconsistent with the trusteeship agreement, particularly those related to self-government, will begin to be implemented as soon as the covenant is approved.

I believe it is important that we allow this process to begin immediately in order to foster a climate of political stability and orderly transition. Any delay of either approval or partial implementation would serve only to create uncertainty and instability in the Northern Marianas and impede the orderly flow of negotiations with the remaining districts in Micronesia.

Although they are pursuing different objectives, the other districts realize the impediments to orderly progress that would ensue from delay of the covenant. The Congress of Micronesia has consequently requested that the Senate take early and favorable action on the covenant.

Mr. President, I urge that my colleagues honor this request and vote to approve the Northern Marianas Commonwealth Covenant.

Mr. President, I do not believe that ever before in my life have I seen a group of people who are more genuinely, in my view, anxious to have a voluntary association with the United States than the people of the Marianas. I have never seen a situation in which I thought greater mischief would be wreaked by failure to honor that request at this time.

I believe that not only is it in the best interests of these people and of the United States, but also it may contribute much to the stability of the entire Pacific Basin, by going forward and honoring one of the few places in the world where there is an outstanding and overwhelming sentiment in favor of a free and voluntary association with the United States of America.

I hope that this amendment will be rejected, and I hope we will go forward with approval of this covenant at this time.

The **PRESIDING OFFICER.** Who yields time?

Mr. THURMOND. Mr. President, will the Senator yield me 2 minutes?

Mr. JOHNSTON. I yield 2 minutes to the Senator.

Mr. THURMOND. Mr. President, I oppose this amendment. The people of the Marianas have expressed their desire to join us. The people of the rest of Micronesia have not. The people of the Marianas have been receiving education in English, and they have developed American customs. We have encouraged them, and now they want to become part of this country. We do not know how the other people feel.

There are 3,000 miles there—hundreds and hundreds of islands to deal with. Perhaps they will come in later. But why should we now refuse the Marianas the right to come in, when they want to come in, and take the chance later of saying: "Well, we'll wait until they are all ready to come in."

All of them may never decide to come in.

Mr. President, this matter has received a great deal of consideration. The principal bodies in the Marianas have approved this covenant. The Congress of Micronesia has approved this covenant. The House Committee on Interior and Insular Affairs has approved it. The full House of Representatives has approved it. In the Senate, unanimous approval is given by the Committee on Interior and Insular Affairs; the Committee on Foreign Relations has endorsed it by a 7 to 4 vote, and in the Committee on Armed Services, we approved it by a majority.

It seems to me that if we ever expect to bring in the Marianas, now is the time. This year, this Bicentennial Year, these people want to join us, and I say we should not deny them that opportunity.

The **PRESIDING OFFICER.** Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, as a Member of this body, I consider this a very serious matter. I know the enthussiasm of those who are in favor of it. We looked into this matter on the Committee on Armed Services. I gave it some special attention. From a very careful review of the testimony, I could not see any real, substantial point involved on the military need with regard to the area covered in this bill.

I think, Mr. President, that it is quite serious because of this: How are we going to grant commonwealth status and citizenship to these people, fine as they are—and they are fine people—and then turn down this other area, the Micronesian area of the Pacific, we might call it—the Caroline Islands, the Marshall Islands, and others? I shall skip the details here, because of time, as to the area and the names of all of them. How are we going to turn them down?

We are not able, Mr. President, to protect our own citizens here, at home. Everybody who reads a paper knows that we have thousands, yes, millions, of people who hardly dare stick their heads out of the doors of their own homes on a dark night, afraid that they will be attacked. That is spreading on and on to the rural areas of our country.

I do not see how we could consistently, then, turn and give citizenship to these people, fine as they may be, several thousand miles away from our shoreline. I think when we give citizenship, we carry the promise to defend them, with the whole Navy, if necessary, and protect them with the might and power of our great country. Citizenship has that meaning to me and, I think, to almost everyone.

The substance and the merits of the amendment I approve, and the substance of the situation as to the bill, I am sorry, but I just cannot support it. In fact, I am actually opposed to the bill.

I thank the Senator for yielding time.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 3 minutes.

My position is not in any way critical of the people of the Marianas. I lived in the Marianas for a while; I lived in the Marshalls. I have been over a great part of Micronesia, and I think they are very fine people in that area. I think what the Senate is faced with, however, is far broader and more far-reaching than appears on the surface.

What the United States will be doing, if it grants citizenship to the people of the Marianas, situated as they are, 6,000 miles into the far Pacific, is assuming a permanent obligation—a permanent obligation and responsibility—for that area, and it does not stop with the Marianas. The Marianas are only a very small part of the total Micronesian Trust Territory. The Carolines are part of Micronesia, as are the Marshalls. And, as the able Senator from Hawaii said in taking a position contrary to mine, whatever is done today will be "a forerunner of what will happen to the rest of Micronesia." So what we are doing today, if we do not adopt the amendment that is now under consideration, is lay the groundwork for the United States to assume total responsibility for 3 million square miles of ocean, encompassing some 2,100 islands in the far Pacific, 6,000 miles from our continental shores.

All of the testimony before the Committee on Armed Services brought out the fact that there is very limited, if any, military value to the United States in these islands. As a matter of fact, the able Senator from Louisiana, in his colloquy earlier today with the distinguished Senator from Illinois (Mr. PERCY), said:

> It is not expected that Tinian will be used as a base. There may be intermittent Marine amphibious landings there.

I am convinced that there is very little military value to that area for the United States. I am convinced that what little military value there may be for the United States that this value will be far outweighed by assuming the obligation of giving citizenship to the residents of the Mariana Islands, and perhaps later to total Micronesia, situated as they are in the far Pacific, covering 3 million square miles of territory.

I shall support the amendment and, if that is not adopted, oppose the covenant.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. I yield such time as the majority leader may desire.

Mr. MANSFIELD. Mr. President, how much time remains?

The PRESIDING OFFICER. Five minutes to the Senator from Louisiana, 8 minutes to the Senator from Rhode Island.

Mr. MANSFIELD. Mr. President, 14 islands north of Guam, I fear, are about to become a part of the United States as a commonwealth. How many other commonwealths are we going to create in the rest of Micronesia, Melanesia, and Polynesia? Where is this going to end?

What we are considering in the Senate today is a resolution which passed the House, I think, in less than 15 minutes, on a voice vote, and no record was taken. It is a pretty shabby way, I think, to treat a major piece of legislation with such far-reaching possible consequences.

Mr. President, to expand the territory of a nation is a very serious step. Historically, the methods have been by force or by purchase. The method in the case of the Marianas has been by enticement. The 14,000 inhabitants of the Northern Marianas have voted in favor of the covenant which will lead to commonwealth status; 14,000 people in the Marianas with our approval and with our expenditures, are going to build up a commonwealth north of Guam. It will be the most expensive commonwealth that this country has ever declared.

The people of the United States have had no similar opportunity to consider a covenant, though, at least in this Chamber, the representatives of the people of the United States are having a chance to have their say.

The standard of living in our Nation is among the highest in the world. It is a measure of the success of our governmental system, the productivity of our work force, and the richness of our resources. There may be many peoples in the remote areas of the world whom given the opportunity to enjoy the status afforded in this measure might make the same choice—especially if the options presented by the plebiscite—as was the case with regard to the Northern Marianas—did not include total self-determination.

What I am saying is that the wishes of the people of the Northern Marianas should not be the sole and exclusive determining factor. We should be guided more by the question of whether it is in the best interests of this Nation—not just the Northern Marianas—to make this first territorial expansion since 1917 and to assume in turn the responsibilities of providing full national services and benefits to a society far beyond Hawaii—5,600 miles from the west coast of our mainland. Certainly the wishes of the people of the Marianas are an essential factor, but they are not the only factor.

First of all, is it in the U.S. strategic interest to expand its territorial domain to this island group so far away from the mainland? The chairman of the Armed Services Committee has concluded that no crucial U.S. national security interests are at stake in the Marianas. Any national security interest could be fully undertaken in the area by the current installations on Guam, a matter of a few miles from the Northern Marianas.

Incidentally, what would be wrong, if there is going to be a different political setup, of incorporating the Northern Marianas with Guam? The same stock, we have been told; the same people, Chamorros; they speak the same language or what is left of it. No, 14 islands north of Guam shall be a comonwealth of the United States, 14,000 people shall be members of that commonwealth and shall have practically all the rights, privileges, and perquisites that go to a citizen elsewhere, but for which they will pay a good deal less, but receive a great deal more.

At one time there was a proposal to construct a $300 million military installation in the Northern Marianas. The economic impact of such a proposal to each of the 14,000 inhabitants would be immense. Although this proposal is no longer actively being contemplated, it certainly is within the realm of the possible that such a proposal would resurface in the future. And to what end? To provide another sitting target? To set the stage for another deep involvement halfway round the globe?

And what about the rest of the area? The Micronesian Trust Territories are composed not only of the Northern Marianas but of five other districts.

There is now a Micronesian legislature, and this proposed commonwealth sends representatives to it. This act of territorial expansion by the United States embodied in this joint resolution would, in effect, destroy the present character of the Micronesian trust.

The review of the entire Micronesian trust will come before the U.N. Security Council and it would seem to be wiser to consider the disposition of the entire trust rather than to extract the Northern Marianas now from that trust. One out of five districts, 14,000 people, a commonwealth associated with the United States.

I do not think that notions of American empire are too farfetched in dealing with additions of territories so far away from the United States and so lacking in a long-standing and traditional relationship with the United States.

To be sure, there is an obligation here on the part of the United States. As trustee, we are obliged to promote the development of all the peoples of the Trust Territory of the Pacific Islands—to promote them toward self-government or independence. It would seem best, however, that the whole Micronesian Trust Territory be permitted to evolve and then determine which of all the options available should be chosen rather than to destroy the present character of Micronesia simply because the Northern Marianas people seem to wish to break off and form an association with the United States at this time. It is my view that this resolution is no resolution at all. It is not in the interests of the United States at this time. It would be far better to accord political status of this sort to a place like American Samoa, which has been ours since the Spanish-American War, than to an acquired trust area which has been ours by grace of the United Nations since the end of the Second World War.

I urge the Senate to adopt the pending amendment and, if that is defeated, to reject the resolution.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. How much time is left, Mr. President?

The PRESIDING OFFICER. The Senator from Louisiana has the remaining time.

Mr. JOHNSTON. Mr. President, now at 5 minutes before the vote on this matter we have, I think, the first viable suggestion for an alternative which might be had to the present proposition. The distinguished majority leader suggests a union with Guam. I see great merit, I see great logic, in that.

There is one very simple reason why we cannot propose that alternative. It was turned down by the people of Guam in a plebiscite in 1969.

I am sure if we had the legal power—which I do not believe we do—we would not be so insensitive to the rights and aspirations of the people of Guam that we would say they had to have a union with Micronesia or with the Northern Marianas.

If in the future they wish to voluntarily have that kind of union, I hope they do, I think it makes sense, but at this point I hope this country is still committed to the proposition that we respect the rights of self-determination which is implicit in this compact.

Now, Mr. President, we have had a lot of talk here this afternoon about the defense interests of the United States. To the distinguished chairman of the Armed Services Committee I would point out his committee approved this; the committee report said:

> This—

meaning denial of these bases to foreign powers—

> is unquestionably an important United States defense interest which the United States should strive to preserve.

No one denies that, I do not believe anyone can deny that, to give up this key real estate acquired at the cost of thousands of American lives would not be in the interests of the United States.

Mr. President, I submit that would be insanity on its face. This real estate, stretching 3,000 miles across the Pacific between Hawaii and the rim of Asia, to turn that over voluntarily to a foreign power, Mr. President, would be insanity.

Now, what do we mean by a fallback position? Simply this: that we are in the Philippines, we are in Korea, we are in Taiwan. How much longer can we keep our interest in the three? Well, the President has already said in the Shanghai communique that he is, in effect, going to recognize China, which means derecognition of Taiwan, which means abrogation of the treaty, which means, I suppose, that we are out of Taiwan.

How much longer in the Philippines? I hope we are there for a long time. I hope we are there for a long time in Korea. But when and if we lose these areas, Mr. President, the next fallback area is Guam and the Marianas, and if that happened this would be very important, critically strategic, real estate to the United States and clearly, as the Armed Services Committee said, undeniably we ought to deny this to any foreign power.

Now, why separate status for the Marianas? Simply because they are different ethnically, they are different in language. These are mutually unintelligible languages, the 9 languages spoken. There is no trade between Micronesian areas and that is what they want to do, that is what the rest of Micronesia wants, that is what the Northern Marianas want, and I think we ought to respect the right of self-determination which the United Nations states as a principle.

Mr. President, what alternative do we have? Well, I think we have considered all the alternatives over a period of almost a decade, considered them in the Interior Committee which has jurisdiction, which has responsibility. There is no alternative, and I hope the Senate will turn down this amendment.

ADDITIONAL STATEMENS SUBMITTED ON AMENDMENT NO. 1330

Mr. GRIFFIN. Mr. President, article 76 of the United Nations Charter, and article 6 of the 1947 U.N. trusteeship agreement for the former Japanese mandated islands, clearly establish an obligation that we have to the people of the Northern Mariana Islands. As the administering authority, we are required to:

> . . . promote the development of the inhabitants of the trust territory toward self-government or independence, as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned.

The resolution before the Senate today would approve a convenant to establish a commonwealth of the northern Mariana Islands in political union with the United States of America. In my view there is no question that the covenant is consistent with our U.N. obligation. The covenant clearly reflects the "freely expressed wishes of the peoples concerned":

The covenant was approved by the Marianas Political Status Commission.

The covenant was approved by the Marianas District Legislature.

The covenant was approved by the people of the Northern Marianas by an overwhelming 78.8 percent in an U.N. observed plebiscite.

In contrast, the amendment now before us would postpone fulfillment of our solemn obligations, and, in effect, would block the desire for self-determination by the people of the Northern Marianas.

The amendment offered by the distinguished Senator from Rhode Island (Mr. Pell) and the distinguished Senator from Virginia (Mr. Byrd) would condition achievement of self-determination by the people of the Marianas upon future decisions by their neighbors—who have not yet decided what status they would wish. In effect, to adopt the Pell-Byrd amendment, would be to hold hostage the people of the Marianas who have so clearly spoken their will—virtual hostages in negotiations which are expected to follow between the United States and the other districts of the trusteeship. This would neither serve their interests nor ours.

As the Honolulu Star-Bulletin stated in an editorial on December 12, 1975:

> In the face of the results (of the plebiscite)—78 per cent approval of the commonwealth—after nearly three decades of American administration under the United Nations trusteeship, rejection of the commonwealth by Congress would virtually amount to a betrayal of trust.
>
> . . . [T]here is now a moral consideration that may be more important than the strategic. Can we ignore the only act of self-determination these people have ever been permitted?"

Yes, there is a moral consideration, and that consideration dictates prompt Senate approval of House Joint Resolution 549.

Except for those in the Senate who take that position, it is difficult to find support for this amendment which would delay indefinitely any action on this covenant.

The people of the Northern Marianas have overwhelmingly voted for prompt approval of the covenant. They want no delay.

The people of the other islands in the trust territory do not want further delay. On February 12, 1976, both Houses of the Congress of Micronesia—the highest legislative organ of the trust territory—overwhelmingly passed a resolution which read in part:

> . . . [T]he United States Senate is requested to take prompt and favorable action on House Joint Resolution No. 549."

Mr. President, I ask unanimous consent that the text of this resolution be included in full at the conclusion of my remarks.

The Governor and Legislature of nearby Guam have unanimously endorsed and urged prompt Senate approval of the covenant.

The covenant has been endorsed by the Secretary of the Interior as being consistent with our territorial policies and responsibilities as administering authority for the trust territory.

The covenant has been endorsed by Secretary of Defense as being in our national security interest.

The convenant has been endorsed by the Attorney General as being consistent with our Constitution and our international legal obligations.

The covenant has been endorsed by the Secretary of State as being consistent with our U.N. and other international obligations.

The covenant has been endorsed by the President of the United States, who has urged early and favorable Senate action on it.

The covenant has been approved unanimously by the House of Representatives.

The covenant has been endorsed by the Senate Interior and Insular Affairs Committee without dissent.

The covenant has been endorsed by the Senate Foreign Relations Committee—of which I am a member. The Foreign Relations Committee carefully considered and rejected the very amendment now pending before the Senate.

The covenant has been endorsed by the Senate Armed Services Committee, which also rejected the amendment now under consideration.

Finally, Mr. President, not a single Pacific or East Asian nation has voiced objection to this covenant.

Mr. President, the United States remains—and if the world is to have peace, we must remain—a Pacific power. Events during the past several years have prompted some to doubt our resolve and our dependability. To further delay approval of this covenant would invite misinterpretation by other nations in the Pacific and elsewhere. Furthermore, such delay would call into question the good faith of the United States.

On the other hand, rejection of this amendment and approval of the covenant by the Senate now will serve to demonstrate an important measure of resolve and national unity concerning the Pacific. It will be an action that will send the right kind of a signal to the Pacific and around the world.

Mr. President, I ask unanimous consent that the text of the resolution passed by the Congress of Micronesia be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

CONGRESS OF MICRONESIA HOUSE OF REPRESENTATIVES JOINT RESOLUTION No. 6–119

Requesting the U.S. Senate to take prompt and favorable action on House Joint Resolution No. 549 approving the covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States of America

Whereas, for twenty years the people of the Northern Mariana Islands have expressed a desire for close political relationship with the United States; and

Whereas, the people of the Northern Mariana Islands have freely and clearly expressed their desire for political union with the United States by the unanimous vote of the Mariana Islands District Legislature on February 20, 1975, and by 78.8% of the people of the Northern Mariana Islands voting in a plebiscite held on June 17, 1975; and

Whereas the Congress of Micronesia supports the desire of all Trust Territory citizens to exercise their inalienable rights of self-determination; and

Whereas the leadership of the Congress of Micronesia has endorsed the Covenant in open public hearings of the House of the United States Congress: now therefore be it

Resolved by the House of Representatives of the Sixth Congress of Micronesia, Second Regular Session 1976, the Senate concurring that the United States Senate is requested to take prompt and favorable action on House Joint Resolution No. 549 approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America; and be it further

Resolved that certified copies of this House Joint Resolution be transmitted to the Congress of the United States, Chairman of the Senate Committee on Foreign Relations, Interior and Insular Affairs and the Armed Services of the United States Congress, the Secretary of the Department of the Interior, the President of the Trusteeship Council of the United Nations, and the High Commissioner of the Trust Territory of the Pacific Islands.

U.N. PORTION OF MARIANAS DEBATE

Mr. McGEE. Mr. President, as the Senate completes consideration today of House Joint Resolution 549, the Marianas covenant, I believe it to be important for this body to consider the Report of the United Nations Visiting Mission To Observe the Plebiscite held in June 1975.

The U.N. Mission issued a highly favorable report on the conduct of the elections, and certainly refutes any claim that the United States did not live up to our trusteeship obligations.

The people of the Northern Marianas approved the covenant in a public plebiscite on June 17, 1975, by a 78-percent favorable vote. Some 94 percent of the eligible registered voters participated in the plebiscite.

In brief, the Commonwealth arrangement was negotiated by our Government for more than 2 years, with the encouragement of, and in consultation with, the Congress.

I ask unanimous consent that the summation of the United Nations observer team be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

REPORT OF THE UNITED NATIONS VISITING MISSION TO OBSERVE THE PLEBISCITE IN THE MARIANA ISLANDS DISTRICT, TRUST TERRITORY OF THE PACIFIC ISLANDS, JUNE 1975

I. SUMMING UP

131. The people of the Northern Mariana Islands, in a well-organized and well-attended poll, voted by a majority of almost 80 per cent to become a commonwealth of the United States. There was no improper interference by the Administering Authority. The campaign was freely fought. The poll was free and seen to be free. The decision to hold the plebiscite as early as mid-June was open to criticism, but in the view of the Visiting Mission, the timing was unlikely to have affected the results appreciably. In the continuing uncertainty about the political evolution of the Trust Territory as a whole, the voters were necessarily unclear about alternatives to commonwealth status which might have eventually become available. However, they had had ample opportunity to familiarize themselves with and assess the terms of the Covenant, which set out the way in which the Commonwealth was to be established. Moreover, large numbers of the voters had family ties with and personal experience of Guam, and had therefore first-hand knowledge of the implications of belonging to the United States political family. Among those who opposed the Covenant were a considerable number of the Carolinian minority. The Mission welcomed assurances that the Chamorro majority realized the importance of demonstrating that progress towards self-government would not mean discrimination against the minority.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Rhode Island. The yeas and nays were ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STENNIS (when his name was called). On this vote I have a pair with the Senator from Washington (Mr. Jackson). If he were present and voting, he would vote "nay." If I were going to cast my vote, I would vote "yea." Therefore, I withhold my vote.

Mr. SYMINGTON (after having voted in the affirmative). On this vote I have a pair with the distinguished junior Senator from California (Mr. Tunney). If he were present and voting, he would vote "nay." I have voted "yea." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Idaho (Mr. Church), the Senator from Michigan (Mr. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Washington (Mr. Jackson), and the Senator from Arkansas (Mr. McClellan), are necessarily absent.

I further announce that the Senator from Illinois (Mr. Stevenson), is absent on official business.

I also announce that the Senator from Montana (Mr. Metcalf), the Senator from Maine (Mr. Muskie), and the Senator from California (Mr. Tunney), are absent because of illness.

The result was announced—yeas 25, nays 63, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—25

Abourezk
Allen
Biden
Byrd, Harry F., Jr.
Byrd, Robert C.
Clark
Culver
Durkin
Eastland
Ford
Hart, Gary
Haskell
Kennedy
Mansfield
McGovern
McIntyre
Nelson
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Scott, William L.
Talmadge

NAYS—63

Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Brooke
Buckley
Bumpers
Burdick
Cannon
Case
Chiles
Cranston
Curtis
Dole
Domenici
Eagleton
Fannin
Fong
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mathias
McClure
McGee
Mondale
Montoya
Morgan
Moss
Nunn
Pearson
Percy
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stone
Taft
Thurmond
Tower
Weicker
Williams
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Stennis, for
Symington, for

NOT VOTING—10

Bayh
Church
Hart, Philip A.
Hartke
Jackson
McClellan
Metcalf
Muskie
Stevenson
Tunney

So Mr. Pell's amendment was rejected.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS SUBMITTED ON HOUSE JOINT RESOLUTION 549

Mr. STENNIS. House Joint Resolution 549 would give congressional approval to a covenant establishing a commonwealth of the Northern Marianas Islands in political union with the United States. United States approval of this covenant would represent a permanent grant to the people of the Marianas of extraordinary value and proportion. This complex and far-reaching covenant would bestow precious American rights and benefits, involve significant economic costs, and affect the future course and aspirations of the United States. The covenant would, among other things, make available a long-term lease of land in the Marianas to be used for U.S. military purposes. Congressional approval of the covenant would result in the first U.S. territorial acquisition in almost 60 years.

Because of the vital implications of the covenant, House Joint Resolution 549 was referred jointly to the Foreign Relations and Armed Services Committees for additional consideration. For its part, the Armed Services Committee examined the covenant in detail, particularly its implications on U.S. national security.

The General Legislation Subcommittee of the Armed Services Committee met on three separate occasions to take testimony and make recommendations on House Joint Resolution 549. Representatives of the Defense Department, the State Department, the Interior Department, the White House, as well as private groups and citizens appeared before the subcommittee.

The full committee subsequently met on two occasions to deliberate upon House Joint Resolution 549. A majority of the Committee ultimately voted to recommend approval of the covenant in its present form. The committee concluded that acquisition of the Marianas would contribute to U.S. national security and be consistent with overall U.S. interests and responsibilities.

Throughout the committee deliberations, there were substantial differences of views among committee members. With all due respect, I was unable to support the committee recommendation and cannot now vote to give congressional approval to the covenant.

The fundamental test in evaluating any proposal regarding the status of the Marianas must be whether the proposed arrangement is in the best overall interests of the United States.

I do not believe there are any significant U.S. interests that can justify at this time such a valuable and sweeping grant to a foreign territory. On the contrary, U.S. interests could be better served through a more balanced and comprehensive arrangement dealing with future status of the entire Trust Territory of the Pacific Islands, rather than approval of a separate commonwealth status for the Mariana Islands.

After a thorough inquiry I do not believe that the United States has any crucial national security interests at stake in the Marianas. Certainly the United States is now a Pacific power and must remain so in the future. Certainly the United States could not afford to have the Marianas become a base for the military operations of a foreign nation. And finally, it is true that military leases of land in the Marianas could provide convenient support to U.S. forces operating in the Pacific. But these defense interests are not unique to the Marianas. The United States has similar security interests and defense opportunities throughout all of Micronesia. More importantly, U.S. security interests in the Marianas—interests such as acquiring land for the future construction of some logistics facilities—could be satisfied in a variety of ways which would not require that the Marianas be given commonwealth status.

In short, congressional approval of this covenant should not be justified on the basis of U.S. national security.

The United States has no other major interest in the Marianas. U.S. approval of the covenant would constitute a significant economic cost to the United States. Moreover, several specific provisions of the covenant, such as exempting the Marianas from paying income taxes to the United States, are objectionable both in terms of cost and principle. The people are indeed very fine people but this is not sufficient reason for offering this measure.

Finally, it should be recognized that the United States cannot terminate the Trust Territory of the Pacific Islands until it has resolved the future status for all of the islands in Micronesia. Thus to act separately on the Marianas without considering the future status of the rest of Micronesia would set an unfortunate and disruptive precedent for dealing with the remaining trust districts in Micronesia. If it offers U.S. citizenship to the residents of the Marianas, the United States may be compelled in the same way to offer U.S. citizenship to the residents of the Marshall Islands, the Caroline Islands, et cetera.

In light of the lack of vital U.S. national security interests in the Marianas and any advantages accruing to the United States from the proposed covenant, I believe it would be unwise to approve the covenant at this time. Instead, the Congress should act to resolve the future status of the Marianas in the context of a comprehensive arrangement which would resolve the political status for all of the Trust Territory of the Pacific Islands.

The proponents of the covenant have the burden of demonstrating that House Joint Resolution 549 will offer concrete benefits to the United States which cannot be obtained through other arrangements short of granting commonwealth status to the Marianas. I believe they have not met this burden. Thus I cannot vote to approve the covenant.

Mr. THURMOND. Mr. President, I support House Joint Resolution 549 to approve a covenant to establish a commonwealth of the Northern Marianas. My support rests mainly on two areas of interest, defense and historic.

As to the defense aspects I offer the following points:

First. Extension of U.S. sovereignty over the westernmost major islands of Micronesia enhances our strategic defense posture in Western Pacific, an area of recent setbacks.

Second. The Northern Marianas would be invaluable if our bases in Southeast Asia and Western Pacific are lost and a fallback position is needed.

Third. These islands would help us defend Guam, home of 100,000 Americans and location of valuable defense sites, and would deny these northern islands to other nations. In World War II the attack against Guam was launched from Saipan and the Marianas also provided four major airstrips for B–29's in World War II.

Fourth. This territory offers valuable land for storage of items which require space such as fuel and munitions.

Fifth. The property option for 17,000 acres on Tinian provides us with a needed training area for large scale exercises. Lease expense of this land plus 400 acres on two other islands is $19 million, payable in next 5 years, for use over next 100 years.

Sixth. The forward location of the Marianas will enable us to support deployed forces in the Western Pacific without problems attendant to bases on foreign soil such as Japan, Philippines and Okinawa.

Seventh. The Senators from Hawaii strongly support this resolution as they wish to have a good U.S. military position forward of Hawaii.

Now for some points on the historic connection of this proposal.

First. The United States has administered the Marianas as a U.N. trust for 25 years and encouraged independence. We have educated those children in English, given them American institutions in government, encouraged them to want to be Americans and now they are asking for acceptance.

Second. The population of 15,000 in the plebiscite approved this covenant was negotiated in good faith by the United States and with congressional consultation.

Third. Other districts of Micronesia would be in stronger bargaining position if this agreement, over 2 years in the making, is now refused by the Senate.

Fourth. The concept of dealing with Micronesia as a whole may not ever work as they are not a "nation" in the usual sense because about 2,000 islands are involved which are over 3,000 miles long and the people have 8 or 9 different languages and cultures.

Fifth. Of all island groups in Micronesia the Marianas are the most pro-United States. During the past 25 years hope of U.S. citizenship has been held out and after efforts to bring in the entire chain dragged on the United States agreed to deal with the Marianas separately.

Sixth. Acceptance by the United States endorses the principle of self-determination and incentive to other districts.

Seventh. Acceptance ends the Marianas being tossed from one foreign power to another over last 500 years.

Mr. President, I wish to call to the attention of the Senate the strong endorsement of this covenant by the Assistant Secretary of Defense, Robert Ellsworth, in a prepared statement before the Senate Armed Services Committee November 17, 1975. Secretary Ellsworth stated, and I quote,

> The Covenant to establish a Commonwealth of the Northern Marianas, in political

union with the United States, clearly supports our national security interests and our defense posture in the Western Pacific.

Denial of these islands to the military forces of any foreign nation will prevent the establishment of a military foothold which might be used to weaken the defenses of Guam, to interdict our commerce, to deprive our rallies of essential raw materials, or to endanger the resupply of those countries who rely upon us for the production and delivery of defense material.

Access to these islands will improve our capability to sustain the military preparedness of U.S. forces during peacetime, to logistically support forward deployments from U.S. soil, if necessary during contingencies, and to provide a hedge against unforeseen changes in our base posture elsewhere in the Western Pacific.

In closing, Mr. President, it strikes me as rather odd that this great Nation now observing its 200th anniversary is even hesitating to receive a mere 15,000 people who wish to become American citizens. Rejection of this request in the Senate will be an odd Bicentennial happening.

This covenant has been approved by all of the principal political bodies in the Marianas and including the Congress of Micronesia. Further, it has been approved by the House Committee on Interior and Insular Affairs and the full House of Representatives. In the Senate unanimous approval was given by the Senate Committee on Insular Affairs and the Foreign Relations Committee has endorsed it by a 7-to-4 vote.

Surely, Mr. President, the Members must recognize that our Government has negotiated this agreement over a period of several years, often with encouragement of the appropriate committees in the Congress, as well as a number of Members of the Congress, including both the Senators from Hawaii. Further, I cannot stress enough the point that if this is rejected, the cost of acquiring not only the Marianas, but other districts in Micronesia, is bound to increase.

In conclusion, there appear to be two main issues of opposition. First, the fact that this district is coming in without the rest of Micronesia, and second, the cost of this acquisition.

On the first point, we must realize Micronesia stretches for about 3,000 miles in the Pacific. It consists of over 2,000 islands, among which there are at least six or seven different languages and cultures. We may never be able to deal with them as a whole because of these distances and differences in language and culture.

Now we have the northernmost and most strategic district which is requesting to join this great Nation as a territory in our Bicentennial year. Surely we must begin somewhere and if, in my view, we refuse to accept this offer, the cost of any other future acquisitions in this area will increase.

On the second point—cost, it seems to me the executive agencies have overstated the expected expense. For instance, they estimate a cost of $51 million for services of only four departments to the Marianas which have a population of only 15,000, while at the same time the actual practice in Guam shows a cost of only $18 million from those same four agencies, although they have a population of 105,000.

Furthermore, I would like to point out to the Congress that just last year we allowed into our Nation about 140,000 Vietnamese, all of whom would qualify for benefits as full American citizens not just the 110 benefits the citizens of the Marianas would qualify for among over 1,000 Federal programs.

Additionally, the population of 15,000 consists of about 2,000 families. The Marianas representatives tell me their families are close, and they take care of themselves. At present, only a few hundred are on welfare, based on their current territorial status. The Congress must realize that the birthrate of the United States provides for an increase of 15,000 people in only 3 days and the net gain considering immigration and other factors is 8,000 per day, a number which would be greater in 2 days than those coming in from the Marianas. Those citizens bring something to us; something of great benefit, their land, about equal to Guam, and their patriotism.

Further, if the Congress is going to worry about welfare, it might be interesting to note that in the District of Columbia alone there are 110,000 people on welfare at a monthly cost of $8 million.

Mr. President, I urge the Senate to view this resolution in realistic terms and it is my hope they will accept my views with an open mind and possibly reconsider this matter.

Mr. FANNIN. Mr. President: House Joint Resolution 549, a bill to approve the covenant establishing a commonwealth of the Northern Marianas Islands in political union with the United States, is an important step toward fulfillment of the obligations which the United States undertook when the Congress approved by joint resolution the United Nations Trusteeship Agreement on July 18, 1947. Congressional approval of the freely expressed wish of the people of the Northern Marianas Islands will enable them to move toward their long sought goal of self-government in political union with the United States.

Mr. President, this issue of the political status of the United Nations territories of the Pacific Islands has been considered for many years. Those years have covered innumerable consultations, interviews, briefings, discussions and memorandum which have kept the members of the Senate Interior Committee advised both in general and in detail of every phase of the process. It is fair to say that the suggestions and advice of members of this committee and members of the House committee have been considered and followed by successive administrations. I say these things, Mr. President, because I have read certain statements of my esteemed colleagues to the effect that Congress has not been consulted in this process. For myself, I can testify that this is incorrect, and that the contrary is the case. I have been kept fully informed at each step of the procedure and this has also been the case of other interested members of the committee. In this same regard I must point out that negotiations of this sort must must be carried on by the executive branch, or at least by a formal status commission combining the executive and legislative branches. The U.S. Congress did not see fit to establish such a commission in this case and, therefore, left it to the executive branch to negotiate.

I think it important, Mr. President, that we recognize that on June 17 a plebiscite was held to determine the views of the people of the islands of this proposed covenant. 95 percent of the registered voters cast ballots and a 78.8 percent majority supported the covenant. There is, Mr. President, no question of how the people of the Northern Marianas feel. I want to likewise point out that this plebiscite to approve the commonwealth status represented the capstone to more than 20 years of congressional efforts by the people of the Northern Marianas Islands to become a permanent part of the United States.

Mr. President, I think it important that we briefly look at some of the history involved.

BACKGROUND

Micronesia is composed of three major archipelagoes located in the western Pacific north of the Equator. They are the Marshalls, the Carolines, and the Marianas. They comprise over 2,100 islands with a total land mass of some 750 square miles and a population of 115,000 people spread over 3 million square miles. Guam, which is a part of the Marianas, is an organized unincorporated territory of the United States with a population of 100,000 and is not involved directly in the status discussions. The population resides on about 100 islands. The largest population is on Ponape Island with 17,258 people, the smallest on Soral Island, Yap District, with eight people—Ngulu Island, Yap District also has eight people.

The islands are geographically and culturally diverse. They vary from relatively large, hilly, and jungle covered volcanic island complexes, such as Palau and Ponape, to low lying coral atolls, such as Majuro and many of the outer islands, which at the highest point are barely 6 feet above sea level.

Culturally and ethnicly, the people of the Trust Territory are classified as Micronesians with the exception of about 1,000 inhabitants of the islands of Kapingamarangi and Nukuoro who are Polynesian. There are nine major indigenous languages which are in everyday use. Aside from the Polynesian islands the basic social structure was matrilineal and very complex. There has historically been great rivalry between ethnic groups and no sense of unity with other Micronesia groups.

The Western World's contact with these islands began with the Spanish in the 15th century. Spain claimed and governed the islands until 1898 when they were sold to Germany—except for Guam which was taken by the United States. German rule was ended by World War I when the islands were taken by the Japanese.

In the period between World War I and World War II, they were mandated to the

Japanese by the League of Nations. In 1943, 1944, and 1945, they were captured by the United States during the Pacific campaign.

Following the war, all remaining Japanese, military and civilian, were repatriated to Japan and the responsibility for governing the islands was turned over to the U.S. Navy.

TRUSTEESHIP

In 1947, President Truman decided to place Micronesia under the United Nations Trusteeship system and to transfer the administration of the islands from the Navy to the Department of the Interior. An agreement was drawn up with the U.N. Security Council and eventually approved by a joint resolution of the Congress in July 1947.

The agreement recognized the strategic importance of Micronesia and gave the United States the right to use the area for defense purposes and to deny its use to the military forces of other countries.

The agreement also obligated the United States to promote the development of the inhabitants toward self-government or independence in accordance with the freely expressed wishes of the peoples concerned.

STATUS NEGOTIATIONS—UNITED STATES

Formal congressional and executive actions to determine a future status for the Trust Territory began in 1965. In 1965, Senator Fong introduced Senate Concurrent Resolution 50, to provide for the inclusion of the Trust Territory in the State of Hawaii if the peoples of Hawaii and the Territory agree. Senators Yarborough and Gruening joined in cosponsoring the resolution.

In 1966, the Congress of Micronesia requested the creation of a Presidential Commission to consider political alternatives. As a response to that request, several resolutions were introduced on both the Senate and House side to establish Commissions. As a result of discussions between the Congress and administration, Senate Joint Resolution 106 was introduced in 1967 by Senators Jackson, Mansfield, Kuchel, Burdick, Hatfield, and Inouye to set up a joint Congressional-Executive Commission. This proposal was opposed by the House Interior Committee. Hearings were held and both Interior Committees traveled to the trust territory to discuss status with the Future Political Status Commission of the Congress of Micronesia.

The concept of a joint Commission was finally abandoned in 1969 when Congressman Carey stated that he felt that it was the responsibility of the executive branch to negotiate a status and for the Congress to approve a final proposal, but that the Congress should not directly negotiate such an agreement.

STATUS NEGOTIATIONS—MARIANAS

As early as 1950 the Northern Marianas had petitioned for a permanent status with the United States. The nature of the request has varied between Commonwealth, organized unincorporated status, and reunification with Guam. In the period from 1963—when the Marianas District Legislature was created—to 1972, 19 separate resolutions were passed relating to future status for the Marianas.

As the United States proceeded to negotiate a single status for all of Micronesia, the Marianas began to request separate negotiations. In 1971, the district legislature passed a resolution advising the Security Council and the Trusteeship Council of the United Nations that the Mariana Islands District would secede from the Trust Territory by force of arms if necessary. The United States agreed to separate status negotiations in 1972 and the district legislature created a Marianas Political Status Commission.

General agreement was reached in June 1973, and by February 1975, after five negotiating sessions—including formal briefings of the Senate and House Interior Committees—precise language was agreed upon.

The proposed covenant was submitted to a plebiscite on June 17, 1975. With 95 percent voter turnout, the covenant was approved by 78.8 percent.

Mr. President, with this brief recital of the history involved, I think it essential and imperative that this Congress affirm the actions of the executive that spent so long negotiating this covenant. Mr. President, the whole world watches the action which the U.S. Senate takes today and to fail to ratify this covenant would be to repudiate all that we have said for the past 20 years.

In summary, several members of the Senate have visited these islands. We have had the wisdom of their experience reported today—and there appears to be an overwhelming majority in favor of honoring our negotiations to establish a covenant with the Northern Marianas.

We have thoroughly discussed our interests in this area of the world—and we have addressed the responsibilities of the Marianas which are included in this agreement. I feel delay would bring little but frustration to those involved in good faith efforts these past years to bring about this covenant.

The Congress of Micronesia has expressed support for the covenant as have the people of the Marianas themselves. Even a mission of the United Nations reported in June of 1975 that the people's election for commonwealth status "was freely fought." And "they—the voters—had had ample opportunity to familiarize themselves with and assess the terms of the covenant. Moreover, large numbers of the voters had family ties with and personal experience of Guam, and had therefore firsthand knowledge of the implications of belonging to the U.S. political family."

This covenant and its implications have been thoroughly studied. It remains for the United States to confirm its sincere interests in the development of this area of the world by today confirming House Joint Resolution 549.

To not approve the covenant would tie the inhabitants of the Marianas to the political futures of other islands with expressed different interests—and it would indicate a lack of U.S. security interest in this region—which is definitely not the case.

It is my feeling that the United States has a clear security interest and a clear international obligation toward establishment of the Northern Marianas covenant.

I ask unanimous consent to have printed in the Record an article entitled "Good Reason To Make the Marianas a U.S. Commonwealth."

There being no objection, the article was ordered to be printed in the Record, as follows:

Good Reason To Make the Marianas a U.S. Commonwealth

The sizeable opposition in the Senate to granting U.S. commonwealth status to the Mariana Islands—a measure that passed the House last July—is understandable. At first glance, its critics seem right in calling this an "anachronistic demonstration of neo-colonialism." But a closer look at these Western Pacific islands reveals a convincing case for annexation.

The Marianas are part of the vast Micronesian archipelago, which the United States has administered under a United Nations trusteeship since the end of World War II. Under terms of that trusteeship, the United States is obligated to promote Micronesia's political development to the point of self-government or independence (a point that the other 10 U.N. trust territories already have reached). A slight difference in the Micronesian case is that this is uniquely designated a "strategic trusteeship," giving the U.S. special military rights in the area and assigning final responsibility for the territory to the Security Council (where the U.S. has a veto), rather than to the General Assembly.

Negotiations to develop self-government began years ago. But Micronesia, as a single political unit, is an administrative convenience for the United States rather than an accurate reflection of the political reality of the region. Fewer than 115,000 people live on the 2,000 or so small islands and atolls scattered over three million square miles of the Pacific. Great cultural differences, as well as communication problems, separate one group of islands from another. The only unifying factor has been the foreign control that one outside power or another has exercised over these islands for the past few centuries.

It's hardly surprising, therefore, that disagreements arose among the islanders during the negotiations. But the Marianas, northernmost of all the islands, is the only island group to reject independence in favor of becoming an integral part of the United States. Last June, the Mariana Islanders gave overwhelming approval to the commonwealth proposal in a plebiscite supervised by the United Nations. They doubtless were encouraged in their decision by the experience of Guam, which, though geographically part of the Marianas chain, has been an unincorporated U.S. territory since 1898.

Thus criticisms that by extending sovereignty to the Marianas the United States would be moving its borders 4,000 miles beyond Hawaii aren't valid; the border is there already, at Guam. Also, warnings that the United States would be taking on an economic burden of unforeseen dimensions seem incredible when it's realized that the total population of the 14 islands in the Marianas is a mere 15,000, most of them on Saipan and Tinian.

Opponents also charge that the move is a Defense Department plot to build a massive new base in the Western Pacific. Originally, there were plans for such a project, but these have been dropped. All that remains is an agreement to lease land on Tinian for possible future use and to rebuild the anchorage and airstrip on Saipan so that military as well as commercial traffic could use them. The administration's claim that its main strategic interest is to assure that no other power gets a foothold there seems reasonable.

The one criticism that does carry weight is that the Marianas arrangement might not be acceptable to the United Nations. Since the Security Council must approve termination of the U.S. trusteeship, either the Soviet Union or China could veto it. Since the whole Micronesian trusteeship must be ended in one move, however, nothing will be submitted to the United Nations until the negotiations have been completed with the other five districts of Micronesia—which prefer some form of self-government giving them a looser association with the United States.

That is expected to take several more years, by which time the climate at the United Nations might be considerably different. It certainly doesn't seem a good enough reason to postpone giving the people of the Marianas both the reassurance that they will become U.S. citizens one day soon and whatever help, short of full citizenship, we can extend in the interim.

Mr. WILLIAMS. Mr. President, we have all had the opportunity to carefully examine the proposed Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States. I am fully aware of the opposition to this agreement within the Senate and I have carefully studied the merits of the case against the covenant. I have concluded that favorable action by the Senate will enable the United States to fulfill its obligations under the trusteeship agreement with the United Nations, and that the covenant is in the mutual interests of the people of the United States and the Northern Mariana Islands. It is also of significance that it will not prejudice the ability of the other Micronesian Districts to choose an alternative political status.

The legal obligations of the United States to th United Nations in reference to the trust territory are spelled out in article 76 of the U.N. Charter and in the trusteeship agreement under which the United States has administered the territory since 1947. The charter describes one of the basic objectives of the trusteeship system as the promotion of "development toward self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement." In article 6 of the trusteeship agreement the United States undertook to promote the political development of the trust territory toward self-government or independence in accordance with local circumstances and the wishes of the peoples concerned.

The people and leaders of the Northern Mariana Islands have repeatedly gone on record since 1950 in support of a territorial relationship with the United States. They have informed the United Nations of this desire and the reports of every United Nations visiting mission to the trust territory since 1950 reflect the fact that this is the wish of the local people. The people of the Northern Marianas approved the covenant with a majority of 78.8 percent in a U.N. observed plebiscite on June 17, 1975.

The elected representatives of the other districts of the trust territory have been on record since 1969 in support of the right of the Northern Mariana Islands to self-determination separate from the Marshall Islands and Caroline Islands. In testimony before the Senate Foreign Relations Committee on November 5, 1975, spokesmen for the Trust Territory-wide Congress of Micronesia indicated their support for the covenant and on February 12, 1976 the Congress of Micronesia passed a joint resolution calling on the U.S. Senate to take early and favorable action on the covenant. The Micronesian Senate approved the resolution unanimously and there was only one dissenting vote in their House of Representatives.

Opponents of the covenant say the agreement flies in the face of two General Assembly resolutions adopted in 1960, Resolutions 1514 and 1541. Resolution 1514 is opposed to any actions on the part of one nation to disrupt the national unity of another state. It is important to keep in mind that General Assembly resolutions are advisory and nonbinding; they do not attempt to impose any binding obligation on the United States. Having said this, I note that the United States action in this case is not in conflict with the sentiments expressed in Resolution 1514.

The trust territory has no history of "national unity," indeed, it is not a nation. The United States has followed a policy of promoting the unity of the trust territory to the maximum extent possible, but it is beyond our power to create unity where none exists. We agreed to enter into negotiations with the Northern Marianas for a relationship separate from the rest of the trust territory in 1972 after it became obvious, despite our own determined resistance, that there was no basis for a political union between the Northern Marianas and the rest of the territory.

The ties of the people of the Northern Marianas are with the American citizens on nearby Guam, not with the people of the distant Carolines and the even more remote Marshalls. Our decision on separate talks for the Northern Marianas came after 22 years of petitions from the people of the islands for union with the United States, and 3 years after the future Status Commission of the Congress of Mircronesia accepted in principle the separate right of the Northern Marianas to self-determination.

Resolution 1541 does not apply to any of the 11 trust territories established under the trusteeship system, but it does lay out criteria for determining when non-self-governing territories achieve self-government. The resolution discusses possibilities ranging from independence to integration with an independent state. The most fundamental aspect of this determination is that the status achieved by the territory should be based on the freely expressed wish of the people concerned. The covenant clearly meets that requirement.

The covenant is in the U.S. interest not only because it represents a major step toward fulfilling our U.N. obligations, and because it will grant full rights of citizenship to the people of the Northern Marianas who are now administered by the United States without constitutional guarantees, but also because it will retain our ability to protect our citizens and territory in that area and will add flexibility to our planning as our active role in Asian military affairs diminishes.

Covenant approval will assure everyone that these strategically located islands will never again become the object of international rivalry, as they have been in the past. This will provide a significant degree of security for the facilities on Guam, which together with the Northern Marianas comprises the entire Mariana Island archipelago. Assurance that the Northern Marianas will never come under the influence of a hostile power is important to the United States and a goal on which the covenant opponents and critics agree. The covenant provides a vehicle for accomplishing this purpose.

There has been misunderstanding over the possible construction of a military base on Tinian. The Department of Defense has no present need for or intention to construct military facilities on Tinian or to station military personnel anywhere in the Northern Marianas. Joint service amphibious training exercises have been and will continue to be held on Tinian; and Farallon de Medinilla, a small uninhabited island will be used for a practice bombing and ship-to-shore target area. This is all the military activity that is planned for the Northern Mariana Islands. I must emphasize that the rejection of the covenant will not affect these operations at all.

However, the exercise of military land options and the building of any bases in the Northern Mariana Islands would be subject to separate congressional action and appropriations. It should also be pointed out, however, that while there are no current plans for the building of any military bases in the Northern Mariana Islands, this fact in no way lessens the importance of those strategically located islands to the protection of Guam and the maintenance of peace and stability in the Western Pacific because they still should be removed from the possibility of contention by external influences.

In summary, I believe the covenant should be approved because it will help us fulfill our obligations to the United Nations and to the people of the Northern Marianas, because it is responsive to the principle of self-determination and because it will contribute to the security of the United States.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the joint resolution.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 549) was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, shall it pass?

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. JOHNSTON. I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is, Shall the joint resolution pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. MATHIAS). The Senate will be in order. The clerk will suspend until order is restored. Senators will clear the well or retire from the Chamber. Conversations will cease before the calling of the roll is resumed. The clerk may resume.

The rollcall was resumed and concluded.

Mr. HASKELL (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Washington (Mr. JACKSON). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Maine (Mr. MUSKIE), and the Senator from Arkansas (Mr. McCLELLAN) are necessarily absent.

I further announce that the Senator from Illinois (Mr. STEVENSON) is absent on official business.

I also announce that the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), and the Senator from California (Mr. TUNNEY) are absent because of illness.

I further announce that, if present and voting, the Senator from California (Mr. TUNNEY) would vote "yea."

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) would vote "nay."

The result was announced—yeas 66, nays 23, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—66

Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Brooke
Buckley
Bumpers
Burdick
Cannon
Case
Chiles
Cranston
Curtis
Dole
Domenici
Eagleton
Fannin
Fong
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mathias
McClure
McGee
McIntyre
Mondale
Montoya
Morgan
Moss
Nunn
Packwood
Pearson
Percy
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stone
Symington
Taft
Thurmond
Tower
Weicker
Williams
Young

NAYS—23

Abourezk
Allen
Biden
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Clark
Culver
Durkin
Eastland
Ford
Hart, Gary
Kennedy
Mansfield
McGovern
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Scott,
  William L.
Stennis
Talmadge

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Haskell, against.

NOT VOTING—10

Bayh
Church
Hart, Philip A.
Hartke
Jackson
McClellan
Metcalf
Muskie
Stevenson
Tunney

So the joint resolution (H.J. Res. 549) was passed.

Mr. FORD subsequently said: Mr. President, on House Joint Resolution 549, I voted "aye." I ask unanimous consent that I be recorded as voting "nay."

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally reflects the above order.)

The PRESIDING OFFICER. Without objection, the preamble is agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

EQUAL CREDIT OPPORTUNITY ACT AMENDMENTS OF 1976

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. PROXMIRE, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6516.

The PRESIDING OFFICER (Mr. MATHIAS) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 6516) to amend title VII of the Consumer Credit Protection Act to include discrimination on the basis of race, color, religion, national origin, and age, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. PROXMIRE, I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. PROXMIRE, Mr. BIDEN, Mr. MORGAN, Mr. GARN, and Mr. BROOKE conferees on the part of the Senate.

ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Mr. THURMOND be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that Mr. GRIFFIN then be recognized, after Mr. THURMOND, for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Preceding the recognition of Messrs. BARTLETT and LEAHY, under the previous order.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 10 a.m.

After the two leaders or their designees have been recognized under the standing order, Mr. THURMOND will be recognized for not to exceed 15 minutes, after which Mr. GRIFFIN will be recognized for not to exceed 10 minutes, after which Mr. BARTLETT and Mr. LEAHY will be recognized, in that order, each for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 20 minutes, with statements therein limited to 5 minutes each, by unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. At the conclusion of the transaction of routine morning business, the Senate will resume consideration of S. 2931, the daylight saving time bill, by unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. The question at that time will be on the adoption of amendment No. 1411, by Mr. FORD and others. The final vote on S. 2931 will occur at 3 p.m.

Upon the disposition of the daylight saving time bill, the Senate will resume consideration of S. 507, a bill to provide for the management, protection, and development of the national resource lands, on which there is a time agreement on the Hansen amendment, No. 1392, with 30 minutes allotted for debate, 20 minutes on behalf of Mr. HANSEN and 10 minutes under the control of Mr. HASKELL. There will be a rollcall vote on the amendment, and there will be a rollcall vote on passage of the bill.

Upon the disposition of S. 507, the Senate will then proceed to the consideration of H.R. 8617, an act to restore to Federal civilian and Postal Service employees their rights to participate voluntarily as private citizens in the political processes of the Nation.

So there will be rollcall votes on tomorrow.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 3:47 p.m. the Senate adjourned until tomorrow, Wednesday, February 25, 1976, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 24, 1976:

DEPARTMENT OF JUSTICE

Alvin W. Bumann, of North Dakota, to be U.S. Marshal for the District of North Dakota for the term of 4 years, vice Walter J. Link, resigned.

NATIONAL TRANSPORTATION SAFETY BOARD

Kay Bailey, of Texas, to be a Member of the National Transportation Safety Board for the term expiring December 31, 1979, vice Isabel A. Burgess, term expired.

WITHDRAWAL

Executive nomination withdrawn from the Senate February 24, 1976:

NATIONAL TRANSPORTATION SAFETY BOARD

Isabel A. Burgess, of Arizona, to be a Member of the National Transportation Safety Board for the term expiring December 31, 1979, which was sent to the Senate on September 4, 1975.

CONFIRMATION

Executive nomination confirmed by the Senate February 24, 1976:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Constance B. Newman of the District of Columbia, to be an Assistant Secretary of Housing and Urban Development.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

WHAT SOIL AND WATER CONSERVATION MEANS TO ME

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. NEAL. Mr. Speaker, as we in Congress seek profound answers to sometimes elementary questions, we do well to look toward our constituents for a perspective which often escapes us here beside the Potomac.

One such analysis of soil and water conservation comes from a young constituent of mine. It is contained in a prize-winning essay written by Jody L. Hartle, a sixth grade student at Clingman Elementary School in Ronda, N.C., and I would like to commend it to my colleagues. The text of essay follows:

WHAT SOIL AND WATER CONSERVATION MEANS TO ME

(By Jody L. Hartle)

Conservation is a word known to all. It means protecting our resources and using them wisely. I believe if everyone understood just how important our natural resources are to us, we would try harder to protect them.

When America was first settled, people were not careful or concerned about conserving resources. There were huge forests, abundant minerals, fertile soil, and clean lakes and streams. Today, after years of use and abuse, these things are no longer plentiful. We have used them unwisely, as if they would never run out, and now we must learn to conserve them.

One of our most important natural resources is our forests. It is very important that we protect them. Without forests, we would find ourselves without lumber for our buildings. We would not have firewood to enjoy our fireplaces, or pulpwood to make books and all paper products. Most of us have enjoyed the recreation areas that our forests provide, and if you have seen deer or other animals in the forests, you know how important they are as homes for our wildlife. Forests that are well cared for are protection against floods and soil erosion. To be able to have all of these things we must use our forests wisely. Cut trees and dead ones should be replaced with seedlings. Dead trees must be removed because, if they are not, harmful insects will live in these trees and infest others. The greatest danger to forests is fire. We can all help by careful use of campfires, matches, and cigarettes, when in the forests.

Soil conservation is important to all of us. Without good soil, we would have difficulty in growing food. Living in farm country we can see what an important role the farmer can plan in protecting our soil. His methods of farming can help or destroy our soil. Contour plowing, terracing, and strip cropping are all good methods used to prevent topsoil from washing away. Crop rotation is another good farm practice. This method puts back into the soil minerals that other crops take out. If a farmer were to plant the same crop in the same place every year, it would strip the ground of its minerals and the land would become poor and produce much less.

Sod planting is a fairly new method used by farmers. Instead of plowing the land, small grooves are cut into the ground where seeds are deposited and covered lightly. I feel this way is best because the ground cover is not removed as in plowing and topsoil is left undisturbed—thus preventing soil erosion.

All living things on earth require water. Without water there would be no life on earth. Not only is it important for drinking, but also in our everyday living it has many important uses. It also plays a very important role in protecting us against disease.

Disposal of sewage in cities and the country requires water. Sewage consists of human wastes, water from bathtubs and sinks, and waste materials from mills and factories. Before these wastes can be disposed of, chemicals must be added to kill the bacteria and make them harmless to health. Pollution occurs when these wastes are not made harmless.

Water is very important in running our mills and factories and all of our industries. Not only is water used to get rid of waste products, but also, in some cases, is still used to operate machinery.

Irrigation is using water to turn dry desert land into land that can be used to grow things. It is also used in areas where there is small rainfall, and by irrigation, the use of precious water is controlled. Irrigation brings water to the land through pipes or ditches. From the pipes, water is often put on the land by large sprinklers.

With three-fourths of the earth's surface covered in water, it is hard to believe we could ever have a shortage, but in some places there already is a shortage. There will be one everywhere soon if we don't cut down and use what we have wisely.

I feel that in our everyday living, we can all do many things that are important toward saving our natural resources. When we think of how vital our natural resources are in every part of our lives, we can then realize how urgent it is to conserve and protect them.

THE FUTURE OF THE MARINE CORPS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. MURTHA. Mr. Speaker, I cannot fail to respond to recent suggestions by the Brookings Institution regarding the future of the U.S. Marine Corps.

The Brookings study calls for a major reorganization and reduction in the size of the Marines, a plan correctly interpreted by many reporters as affectively meaning the end of the Marine Corps as we know it.

I admit I am prejudiced in this matter. I am prejudiced by having served in the Marines, and knowing many of the men currently serving in the Marines. I know firsthand the outstanding work the corps has done, the outstanding young men who serve in it, and the unique military tradition surrounding the corps. Beyond that, I believe reorganization of the corps would miss a vital point in our defense debate—namely, that our policy and forces must remain flexible to meet any type of crisis, not just those we believe are most likely to occur.

To shed some light on this issue, I submit for the RECORD an editorial from the San Diego Union, February 9, 1976:

MARINES' ROLE UNIQUE

Every now and then somebody discovers that the United States doesn't need a Marine Corps. A recent study by the Brookings Institution think tank does not go so far as to say the Marines are unnecessary but declares, since the Marines' specialty of amphibious warfare is outdated, that the Corps itself should be materially reorganized and reduced in size.

The truth is, while they are indeed skilled in the amphibious art, the Marines have actually won their respect in the eyes of the American people through their determination to be ready to respond to an unexpected call, without regard to the nature of the crisis.

More often than not the crisis has not involved an amphibious attack. Fighting in the trenches in France in World War I, protecting American lives and property in the West Indies, Central America or China, guarding the U.S. Mails, responding to an emergency call to help save the Pusan Perimeter in the first days of the Korean War, facing up to trouble in The Dominican Republic or in Lebanon, rescue of the freighter Mayaguez—all were short notice crises. None of them were amphibious operations.

The law which fixes the Marine Corps as a part of the U.S. Military Establishment had this ready-for-crisis function clearly in mind when, in addition to talking about amphibious warfare, it requires specifically that the Marines shall be ready to perform "such other duties as the President may direct".

This all has application in the modern scheme of things. Today we characterize detente as a balanced military circumstance which provides the climate in which peaceful intercourse can flourish. This military balance, however, cannot be confined to nuclear weapons alone. It must be faced up to at every level of confrontation, so that our enemies are never free to present us with lesser magnitude crises that we cannot handle.

And that is where the Marines' dedication to instant and genuine readiness is serving us today.

If, for example, an increasingly militant Fidel Castro were to confront the United States with a challenge in Guantanamo or Puerto Rico or Panama, a nuclear response would not be appropriate. A swift reaction by a force of ready Marines would. And that is exactly why we are not likely to face such a crisis, because we have such a force of Marines, they are ready to meet the crisis, and Castro is quite aware of the fact.

Put another way, the only war you win is the one you don't fight. And the best way to keep from having to fight it is to be so completely prepared that nobody will take you on.

This is the niche that the Marines occupy in our defense structure, and it is more important in today's world than ever before.

JOHN GEORGANTIS

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. BYRON. Mr. Speaker, with the passing recently of John Georgantis, Frederick County, Md., has lost one of its most distinguished citizens.

Mr. Georgantis spent a lifetime in the service of the public. His last years were among the most important in his active life as he continued to work in his adopted community for the betterment of law enforcement and the improvement of the community in general.

I would like to share with my colleagues the editorial from the Frederick Post on Mr. Georgantis and his contributions to Frederick County:

JOHN GEORGANTIS

John Georgantis, who had served as chief deputy under the county's last two sheriffs, died Friday at the age of 47 after undergoing open heart surgery.

He was a professional policeman in every sense of the word: dedicated to public service, to helping his fellow man, and sensitively aware of the pitfalls of life. He was courageous but cautious, brave but not boastful. His record of achievement in police work was singularly outstanding.

Mr. Georgantis was not a native of Frederick County. He was born in the gotham of New York City, served almost 20 years in police work in Washington, D.C., and chose to retire with his family to this county and the Middletown Valley which he spoke of with reverence.

But retirement was not for John Georgantis. With the encouragement of his family—his wife, Mrs. Joan C. Reed Georgantis, his son, William, and twin daughters, Denise and Debra—he soon returned to police work.

Although his quest to be Sheriff eluded him, he nevertheless poured himself into the job of chief deputy and excelled at this. It was stated of him during his 1974 campaign: "Patience, pain, and endless prayer are only a few of the words which describe John's drive and determination to never trade his badge for another vocation."

And earlier—"His stability comes from years of continued respect for law enforcement; his experience, from accumulation of 19 solid years with the Police Department; his dedication, from countless hours of time spent working at becoming a professional lawman."

Perhaps the one achievement he was most proud of was being honored in Washington, D.C. with the Policeman of the Year Award (Award of Valor) for heroic action above and beyond the call of duty. This was one of over 30 commendations he had received.

Whether in Frederick County or the District of Columbia, he fully understood the need for cooperation between local and State Police and the FBI, and practiced this cooperation. His search for education in his profession took him through the best schools and courses available.

While with the D.C. Police he was called upon on numerous occasions to protect the Presidents of the United States—Harry S. Truman, Dwight D. Eisenhower, John F. Kennedy and Lyndon B. Johnson, working side-by-side with the White House Police and U.S. Secret Service. He had helped provide protection for such foreign dignitaries as Charles DeGaulle of France, Haile Selassie of Ethiopia and King Constantine of Greece.

In addition to his police work, much of his life in Frederick County was involved with church and community activities. He was a member of the Middletown United Methodist Church, was a 32nd Degree Scottish Rite Mason and a Shriner, and was a charter member of the Sunrise Sertoma Club, a breakfast club where he loved the give-and-take banter with the members.

John Georgantis will be missed in Frederick County. He was a classic example of the outstanding men who, after completing successful careers, chose to retire to this area, then, carried on by their own momentum, seek still new and higher achievements.

He was a devoted father. He stood upright before God and man, May his soul, through the Mercy of God, rest in peace—"in that house not made by hands, eternal in the heavens."

RED GAINS IN AFRICA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. McDONALD of Georgia. Mr. Speaker, the disastrous policy of détente has granted Soviet imperialism a free hand in Africa, with the result that the entire Western position on that continent is very seriously menaced. It is interesting that our "liberals" are so eager to cave in that they no longer even talk about "free elections" but acquiesce in the conquest of added millions of people by Red terrorists and Fidel Castro's "Mercs for Marx."

The Cape Verde Islands are little-known but strategically located along our "energy supply line." A Cape Verdian, John Wahnon, writing in the Review of the News for February 25, 1976, describes the situation as it is today for the unhappy citizens of Cape Verde, who have been turned over to the Communists without having anything to say about it. He also outlines America's absurd and largely self-inflicted position of weakness in most of Africa. We must ask ourselves if this is what we really want?

The article follows:

RED GAINS IN AFRICA

While Secretary of State Kissinger has been pushing for *détente* and the Congress has been dissecting the C.I.A. under the white light of hostile publicity, the Reds have been digging the dirt from under our feet. Literally. Take a look at a world map and mark in red the coastal countries in Africa in which the Communists have established their influences. Add to this a State Department policy of hostility toward South Africa and you will understand my reason for concern. The fact is that the Reds now dominate the sea routes by which vital petroleum is shipped in supertankers from the Mideast around the Cape to Europe and the Americas, having at the same time isolated South Africa and threatening even South America. Let us make a short tour of the coast of Africa from the northeast around the Cape toward the northwest and the essential Cape Verde Islands.

* * * * *

Let us now examine the significance of these bold Communist advances.

1. Somalia controls the Gulf of Aden and therefore the entrance to the Red Sea through the narrow strait of Bab-el-Mandeb. The Soviet Union has established naval bases in Somalia and is currently completing construction of surface-to-surface missile facilities on Somalia's Gulf of Aden coast. With this strategic advantage the Soviet Union could effectively blockade the Red Sea on the Indian Ocean side and cut off the Suez Canal. The giant supertankers, too big to pass through the Canal with vital Mideast oil for the United States and Western Europe, must now pass under Russian guns.

2. Lourenco Marques, in Mozambique, is perhaps the largest and best-equipped port on the East African coast and the most likely stop for the supertankers on their way to the North Atlantic. Communist domination of Mozambique made the port of Lourenco Marques inaccessible to Western shipping.

3. On the African side of the Atlantic the Angolan ports of Lobito and Luanda also

have facilities capable of handling any necessary stops by the supertankers or major warships. The Soviet-supported faction in Angola would make these inaccessible to Western ships. As Soviet naval bases they would pose a substantial threat to South America.

The port of Lobito, aside from being able to accommodate the largest tankers and warships, is also the terminal point of the Benguela railroad, through which both Zambia and Angola ship copper, iron, uranium and cobalt, and other raw materials essential to Western industrial and defense needs. Should all of Angola fall into the hands of the Communists, not only will the Western nations lose the use of the ports of Lobito and Luanda, but they will also lose valuable mineral resources which are essential in both their industrial and defense needs. When one considers that the uranium of Angola is perhaps the richest in the world, the prospect of a Soviet-dominated government there assumes very serious overtones.

4. So far the losses, all on our side, are probably beyond redemption. The Cape Verde Islands are another matter. Russia currently exerts a great deal of influence upon the government there. Should the Soviets be allowed to continue to strengthen their influence in the Capeverdean Archipelago, the consequences will be very serious since the coasts of Brazil and Africa could both be blockaded from air and naval bases on the Cape Verde Islands. Which is why they are, in my opinion, the key to the Current Soviet thrust in Africa. Russia's domination there would seriously jeopardize the economic and military defense of the North Atlantic, and point a loaded gun at Brazil.

The strategy behind recent advances of the Soviet Union in Africa is now clear. The objectives have been to obtain control of the Indian Ocean and the South Atlantic, to dominate shipment to the West of the key fuel sources of oil and uranium, to isolate South Africa, and to prepare to isolate the North Atlantic—all to bring economic chaos to North America and Western Europe and force their eventual capitulation.

Given the apparent loss of Angola, let us consider what might be done to save as much of the situation as is now possibly by keeping the Cape Verde Islands out of Soviet hands.

Located off the coast of Senegal, the Cape Verde Islands stand at approximately 19 degrees of Latitude North and 23 degrees of Longitude West, in the middle of the Atlantic Ocean, at the passage between the South and North Atlantic. At the closest points the Cape Verde Islands are located approximately 1,500 miles from the coast of Brazil, and 375 miles from the west coast of Africa. They are in the middle of the currents from the South to the North Atlantic, constituting an essential point of reference and stop for all shipping in the area. The Cape Verde Islands, in short, dominate a sea-lane that is essential to the military and economic security of the West.

The advantage which control over the Cape Verde Islands would bring to any world power is all too clear. Even those who continue to advocate a policy of isolation for the United States, in the face of blatant Soviet expansion in Africa and in other parts of the world, must understand that we are now talking about control of our energy supply lines. If we surrender it to the Soviets we hand them the power to force us to our knees in a conventional conflict—a conflict at sea in which the Soviets might employ their 2,732 operational ships against our 483.

The Capeverdean island of Saint Vincent has a natural port—the Porto Grande—that is deep, ample and unobstructed, naturally sheltered against bad weather, easily defensible by artillery, and readily accessible. Most merchant captains enter the port without the aid of a harbor pilot on their second call. To transform the Porto Grande into a naval base or repair facility, requires only that the necessary hardware be brought in and assembled. The Porto Grande on Saint Vincent may also be the last port of call capable of readily handling Western ships of high tonnage (in particular, the supertankers) on their journey from the Cape to North America and Western Europe. It is, in fact, the best natural port in the sea-lanes between the South and North Atlantic.

The island of Sal, the flattest and driest of the Capeverdean Archipelago, provides excellent conditions for air operations. Facilities already existing at the airport can handle with ease even the Lockheed 1011 or Boeing 747. Located at the crossroads of the air routes from South America to Western Europe and North Africa, Sal is approximately four hours from Rio de Janeiro; six hours from Boston, New York, and Montreal; three hours from Lisbon and Madrid; five hours from Paris, London, Berlin, and Rome; and, five hours from most of the countries on the Atlantic side of South America. But it is approximately eight to nine hours from Moscow—a considerable headstart.

In addition to its strategic position, the temperature on the island of Sal rarely goes below 77 degrees or above 79—all year long, day or night. There are no fog or low cloud conditions at any time, and only a few rain showers annually. So there is no need for instrument landings, and an airbase on Sal would be totally weather reliable. Which means that the Cape Verde Islands constitute, in short, a pivot point from which the Soviets could threaten air strikes against any part of the western world. In addition, should the Soviets decide to install missile bases there, they could threaten both Americas and South Africa with a thoroughly credible force.

Other islands in the Capeverdean Archipelago also provide conditions that are militarily and strategically as important as those of Saint Vincent and Sal. But the point is that should the Cape Verde Islands remain under Soviet influence, with the Soviets being allowed to strengthen and expand their authority in the Islands, they will impose a tremendous threat to our sealanes and the security of the United States and Western Europe.

The trouble is that, with the current U.S. policy of isolation and compromise on critical international issues, the struggle for freedom currently going on in the Cape Verde Islands is liable to go unnoticed, unheard, and uncorrected. The Capeverdean people may well be left on their own, without the means to rid themselves of Communism, fighting in the face of seemingly unsurmountable odds against a foe who gives no quarter.

To understand the current Communist hold on Cape Verde Islands we must go back to 1959, to the port of Pidgiguiti, Portuguese Guinea. A group of striking native stevedores was demanding better wages. In an ensuing dispute police killed several of the natives and wounded scores of others. Shortly thereafter, Amilcar Cabral, his brother Luis, and several other Capeverdeans residing in Guinea-Bissau formed a group called P.A.I.G.C. and initiated a sixteen-year war against the Portuguese authorities which culminated with the independence and formation of the State of Guinea-Bissau.

During his sixteen-year fight for control of Guinea-Bissau, Amilcar Cabral sought help from Western countries but was turned down. He refused help from Red China when he found out that Mao's conditions included the surrender of rights in the Cape Verde Islands. Russia "rescued" him with money, arms, ammunition, and guerrilla advisors from Cuba.

Cabral advocated the formation of two separately independent states—Guinea-Bissau and Cape Verde, and he maintained some degree of independence. But on January 23, 1973, an assassin cut him down as he returned from a reception at a foreign Embassy in Conakry, Republic of Guinea. Only a very small number of top officials in the P.A.I.G.C. knew of Cabral's exact whereabouts, the time of his return to P.A.I.G.C. headquarters in Conakry, and the route he would be taking. It was an inside job. Apparently Cabral had refused to accede to Russia's demands for special concessions in the Cape Verde Islands and Guinea-Bissau, and the Soviets simply had him eliminated.

With Cabral dead, Aristides Pereira assumed leadership and negotiated the independence of Guinea-Bissau with the Portuguese Government of General Antonio de Spinola. Pereira insisted that Portugal also deliver the Cape Verde Islands—375 nautical miles at sea. The people of the two countries do not even speak the same language, and have totally different ethnic backgrounds, so Spinola refused. But the Communists soon had behind-the-scenes control in Lisbon and the new order immediately installed a P.A.I.G.C. Provisional Government in the Cape Verde Islands, foregoing the referendum promised the Capeverdean people by President Spinola. Supported by the Portuguese Communist Party and the radical Government in Lisbon, the P.A.I.G.C. gradually assumed total control.

On June 30, 1975, elections were held to select a governmental body to take control of Cape Verde when independence became official on July 5, 1975. The Capeverdean elections were a typical Communist fraud. The P.A.I.G.C. was the only political party to present a slate. During its tenure as the Provisional Government, and aided by the Communist Government and the radicalized military in Lisbon, the P.A.I.G.C. had moved swiftly and effectively to disband two opposition political parties and force their leaders into exile.

In its phony election campaign, the P.A.I.G.C. said simply: VOTE! In their euphoria for independence, and in good faith and trust, the good-natured Capeverdeans voted. They voted in large numbers, they voted emotionally, they voted only to regret having done so later. The P.A.I.G.C. "won" overwhelmingly and selected 56 delegates to the National Assembly in accordance with the Constitution of Guinea-Bissau. They, in turn, selected Aristides Pereira to assume the dual role of President of the State of Cape Verde and Secretary-General of the P.A.I.G.C. organization—also in accordance with the Constitution of Guinea-Bissau. The Constitution of the Cape Verde Islands was ignored.

Reports of persecution by the government have since been widespread. Letters from islanders and from emigrants who recently visited the Islands complain specifically that the Party summarily jails anyone who disagrees with its Marxist ideology—without cause, without judgment, and without justice. It censors all incoming mail and confiscates any foreign currencies (checks, money-orders, etc.) while destroying accompanying letters. Eye-witnesses report that the Party assumes possession of all goods shipped to the Islands for relief purposes and then distributes them to Party members or sells the goods to those who will sign affidavits accepting Party discipline.

A copy of a recent official bulletin from the office of Prime Minister Pedro Pires contained a long list of the names of individuals whose properties had been confiscated by the Party without hearings, without due process or remuneration, simply because they were absent from the Islands—most having been expelled by the P.A.I.G.C.

Capeverdeans in America have attempted unsuccessfully to investigate these reports. Selectman Raymond Cardozo of Wareham, Massachusetts, tried to visit the island of Fogo, from which his forebears had come. The P.A.I.G.C. detained him at the Sal airport, seized his American passport, and questioned him for two days. Later it decided to allow Mr. Cardozo to visit only the capital city of Praia, and then only with a P.A.I.G.C. escort who would remain with him at all times. Selectman Cardozo elected to take back his passport and return to the United States.

A California reporter of Capeverdean descent, Mrs. Luisa Pimental, visited the Cape Verde Islands a month after Cardozo. The P.A.I.G.C granted her access to the islands only after she paid $160 for police papers. On her return to the United States, Mrs. Pimental described the Cape Verde Islands under the P.A.I.G.C. as a "police state" and accused the P.A.I.G.C. of ". . . hating Americans while loving our money." She accused the American Capeverdean Committee of infiltrating Capeverdean communities in the United States to gain support for the P.A.I.G.C.'s Communistic aims. She charged that the P.A.I.G.C. was starving the Capeverdean people while inducting boys from ten to twenty years of age into military units and sending a number of them to Cuba for training.

Capeverdeans in the Islands are fighting back as best they can. A recent newspaper report from Lisbon told of a group of citizens in Praia who struck the colors of the P.A.I.G.C. and ran up the Portuguese flag. Other reports claim similar incidents in the other islands with one twist. On the island of Brava, where traditionally there have been a great number of retired Capeverdean Americans and their families, the people hauled down the P.A.I.G.C. flag and ran up Old Glory!

But the price of such opposition has been very high. A Capeverdean working in Holland who visited the Islands recently wrote that islanders told him of the execution of twenty of those who participated in striking the P.A.I.G.C. colors at Praia. This report was confirmed recently by the Portuguese newspaper *Journal de Economia e Financas*.

Helping the Capeverdean people poses a dilemma. If we send goods or money to the Islands, they will fall into the hands of the P.A.I.G.C. But Capeverdeans need and want our support. If they hear that the American people and our government are willing to give them the *moral backing* they need, they will do what they must to rid themselves of the P.A.I.G.C. and Communism without the need of military intervention.

Meanwhile, Capeverdeans whom the P.A.I.G.C. displaced because they dared voice their own opinions as free men need a more direct kind of help. Most of those expelled from the Cape Verde Islands by the Communist P.A.I.G.C. currently live in Lisbon under the most precarious of conditions, many without shelter, without proper clothing or food, and without even the most rudimentary medical attention or hygiene. Travelers have reported babies being born in the airport lobby at Lisbon without medical assistance of any sort. Many of the exiled Capeverdeans now *live* in the lobby of that airport, while according to eyewitness reports others live even more precariously in car lots or shacks. Proper aid for these people would indicate that the West cares—and provide a signal to those in the Islands who want to stand up against the outrages of the Communist P.A.I.G.C. and truly win their freedom.

CONGRATULATIONS TO DISTRICT OF COLUMBIA WINNER OF VETERANS OF FOREIGN WARS VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM, MS. CYNTHIA DENISE CHIN-LEE

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. FAUNTROY. Mr. Speaker, for the past 29 years, the Veterans of Foreign Wars of the United States and its Ladies Auxiliary have conducted a Voice of Democracy Contest. Each year, five deserving high school students win national scholarship awards, with $10,000 being the first prize. In addition, there are State, country, district and post level winners, making the total scholarship amount awarded this year over $475,000 to many participating high school students throughout the Nation. Appropriately, in this year of our Nation's 200th anniversary, the contest theme is: "What Our Bicentennial Heritage Means To Me."

I am pleased to announce that Miss Cynthia Denise Chin-Lee has been named the winner from the District of Columbia. Miss Chin-Lee is a twelfth grade student at the Immaculata Preparatory School in Washington, D.C., and is President of the French Club. I would like to insert her fine speech into the Record for my colleagues to read as tribute to her outstanding work and the generosity and concern of the Veterans of Foreign Wars in promoting patriotism and scholarship among our Nation's high school students.

The speech follows:

WHAT OUR BICENTENNIAL HERITAGE MEANS TO ME

(By Cynthia Chin-Lee)

This year we have a birthday to celebrate! And we have lots to celebrate, for this is the birthday of a free nation. Birthdays are times for celebration and appreciation: for recalling the events of the past, examining the present, and looking forward to the future. Birthdays remind us of our purpose and make us see ourselves in perspective. So what does this mean for the birthday of our nation? This 200th birthday we as citizens of the United States celebrate and appreciate the life of all America, of the life of one people united. More importantly we renew our purpose as a nation, realizing that our historic destiny is and will always be upholding individual freedom and the protection of democracy for ourselves and the world.

Our bicentennial heritage stretches from 1776 to 1976: it encompasses a history of freedom blazers and trail blazers, the struggle for a more perfect union, the influx of immigrants, inventions, business, and hard work. It is the entire life of America. And as a young person, it means my identity at a time when I am searching for who I am and what I am.

All the history and customs from the Revolution to the modern challenges of the 1960's and 70's are the bicentennial inheritance. The culture and folklore of the American people . . . a mosaic of races, ethnic groups, lifestyles, and creeds forming a pattern that has grown up in America, is the bicentennial gift.

The question, then, what does our bicentennial heritage mean has multiple answers on multiple levels, but on an everyday, personal plane, our bicentennial heritage comes to this: that spirit of freedom that unites Americans and allows justice and prosperity for all. That simple, relevant truth of the right to the pursuit of happiness is yet outstanding in our lives.

This bicentennial heritage goes further, reaching a spiritual dimension. For in seeking our own individual identities, we look inside ourselves for roots that give us stability and a sense of history. Here we find America—America—as our essence, a bond which unifies us as one people.

As Americans we share many precious rights, but accordingly, we are responsible to defend our home and heritage. When we celebrate this once-in-three-lifetimes event, we are not celebrating one moment of the past, rather America's spirit, alive and kicking. We continue this endeavor of one people to retain the best way of life. Thus our bicentennial heritage is this privilege to fight the ongoing Revolution.

And that spirit of the Revolution is found in the fundamental beliefs of the Declaration of Independence and the Constitution. These great works show us that two centuries ago, a group of fifty people could assemble and create a form of government, idealistic and innovative enough to seem impossible to survive, but one based on such a worthy ideal that men and women have fought for it for two hundred years and still believe in it and rejoice at it!

It is this birth of a nation that we marvel at. The miracle of American democracy that never ceases to amaze us. Democracy has worked, does work, and will work. This, above all, is the bicentennial heritage we honor this year.

During this birthday of our country, we look to our wonderful heritage, saying, "See how we have grown. See how we have learned. And see how we lived!" And we do find great things to celebrate!!

THE IMPORTANCE OF THE HONEY BEE INDUSTRY

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. PRESSLER. Mr. Speaker, I am pleased that the U.S. International Trade Commission has announced that it will be holding public hearings around the United States to discuss the problems confronting the U.S. honey industry as it is affected by competitive imports. The Commission this past week announced that it was holding hearings in Orlando, Fla., March 2; San Francisco, Calif., March 10; Kansas City, Mo., April 6; and a final hearing in Washington, D.C., April 8.

These hearings are in response to a petition from the mid-United States, Honey Producers Marketing Association, Inc., of Winner, S. Dak., charged that the domestic honey industry is being seriously damaged as a result of increased imports of honey and directly competitive products. This petition was filed on behalf of the association and other unaffiliated producers of honey in all 50 States.

I hope that the honey producers, processors, users, importers, and anyone else with an interest in the honey industry will seize upon this opportunity to present their views to the U.S. trade industry.

In conclusion, let me underscore the extremely important part that the honey bee plays in America by serving as a pollination agent for agricultural products. Some estimates have placed the value of crops dependent upon pollination at over $8 billion annually. In this vein, one cannot understate the value of protecting this vital industry and I am pleased with the action of the International Trade Commission in providing an opportunity for the honey industry to make their views known at field hearings. The honey industry is comprised of many small, family operations—the industry does not maintain a large national office, but depends upon the assistance it can get from its own members to tell the story of the industry. This is a good sign that our Government is going to the people and I hope that by noting this in the RECORD that many will take advantage of this splendid opportunity to present their views.

PHILADELPHIA FIRST AGAIN IN FIRE PREVENTION

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. EILBERG. Mr. Speaker, I am proud to announce that once again, the city of Philadelphia has been recognized as first in the Nation in fire prevention programs by the National Fire Protection Association.

City Fire Commissioner Joseph R. Rizzo has announced that Philadelphia, for the 18th time in 23 years of competition, has taken the first place award for cities of over 500,000 population.

Along with this outstanding record, the city's fire department has also won four grand awards from the National Fire Protection Association. This award is symbolic of the best fire prevention record of any city of any size.

In gaining this year's honors, the fire department entered three presentation books which documented the department's annual fire prevention programs conducted throughout the year in Philadelphia. All of these programs are geared to reach the total Philadelphia community.

Every Philadelphia citizen can be proud of the department and its year-round fire prevention programs which cover every city school, hospital, nursing home, industry, and high-rise building. Special education programs are also conducted for civic, fraternal, clerical, and benevolent organizations.

Although the department can have pride in its receipt of such national honors, Commissioner Rizzo has been quick to note that such recognition is really only a byproduct of the city's continuous efforts to save lives and property through fire prevention education.

In Philadelphia, as in most major cities, more than half of all fire deaths occur in dwelling fires. Commissioner Rizzo has suggested that many of these deaths can be prevented by securing a home fire alarm, preplanning a fire drill with all members of the family, and making certain that everyone in the home knows exactly what to do in case of fire.

I hope every city can join the efforts of the Philadelphia Fire Department in stressing education, public information, preplanning, and total community awareness so that fire deaths and the destruction of property can be reduced.

JOHN KELLY RETIRES AFTER 33 YEARS OF FBI SERVICE

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. COTTER. Mr. Speaker, a good friend of mine and a dedicated FBI agent, John E. Kelly, is retiring after 33 years of distinguished service.

John Kelly, in addition to his illustrious FBI career, together with his devoted wife Genevieve, raised a fine family. He devoted many countless hours to the National Football Hall of Fame. John was a past president of the northern Connecticut chapter of the National Football Hall of Fame.

I have known John and his family for over 20 years. He was born on the North End of Hartford and attended Trinity College where he was an outstanding athlete.

John's retirement is a loss to the FBI and law enforcement, but after many years of valued service, he can look back over a notable career replete with many accomplishments.

Knowing John, however, I am sure that he will continue to be active.

I know that my colleagues will join me in wishing FBI agent John E. Kelly a fruitful retirement.

At this point, I will enclose a recent article which appeared in the Hartford Times on John E. Kelly's contribution to the FBI:

[The Hartford Times, Feb. 20, 1976]

WORLD OF SABOTEURS, "LITTLE BRINKS" FOR FBI MAN

(By Richard Lowenstein)

John E. Kelly, senior resident agent in the Hartford office of the Federal Bureau of Investigation, has announced his retirement after nearly 33 years of service with the FBI.

Kelly will step down Feb. 27. His replacement has not been officially named, but it is expected to be special agent Dewey Santacroce.

Kelly, who started with the FBI in 1943 in Albany, N.Y., has had a career with the bureau spanning nearly four decades, during which the types of criminals pursued by the FBI committed changed and the work the agency did changed dramatically.

Born and raised in Hartford's North End, Kelly graduated from Hartford High School in 1929 and Trinity College in 1934. At Trinity he earned acclaim as an athlete, winning seven varsity letters in football, basketball, and baseball.

In his senior year he was awarded the George Sheldon McCook trophy, given annually to the best athlete in the school's graduating class.

In a recent interview, Kelly recalled that when he joined the FBI during World War II agents spent much of their time tracking down suspected subversives.

One of the highlights of his career came when he took part in the investigation of a suspected German saboteur in 1944. At the time, Kelly was assigned to the FBI office in Newark, N.J.

Following the war, Kelly specialized in security work, in particular checking out the backgrounds of persons appointed to sensitive positions in the growing federal bureaucracy.

When criminal activity began to pick up in the '50's, Kelly, who had joined the Hartford field office in 1945, began to take on criminal work.

He recalled that one of his biggest cases, and also one of the longest, involved the $16,000 holdup of an armored truck outside the old Bigelow-Sanford carpet company in Thompsonville in 1950.

Known as "little Brink's" because it resembled the infamous Brink's holdup in Boston earlier that year, the robbery remained unsolved for three years. Then, in May of 1953, Kelly and another FBI agent made the arrests that broke the case.

The FBI began to get involved in "political crime" in the '60's, Kelly said, with student demonstrations and unrest over the Vietnam war disrupting the serenity of college campuses. While the Hartford area remained relatively quiet, there were protests at the University of Connecticut at Storrs, Kelly remembered.

He noted that in the '70's still another shift in crime began. With a lagging economy, more and more "white collar" crimes, such as fraud, embezzlement and extortion were being committed. Also, in recent years, there has been a marked resurgence in bank robberies in the state.

Of his long tenure in the FBI—it would have been 33 years this July—Kelly has spent nearly 31 in the Hartford field office. He was appointed senior resident agent in October 1974.

Kelly resides with his wife, the former Genevieve Clarkin, in Old Wethersfield, and has three children. One, Stephen, is deputy mayor of Wethersfield.

Kelly says his retirement plans are unsettled at this point, beyond a hoped-for trip to Ireland with his wife. In addition, he says he will stay active in the National Football Foundation and Hall of Fame, of which he is a member and past president of the northern Connecticut chapter.

ESTONIAN INDEPENDENCE

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. ADDABBO. Mr. Speaker, I rise to join my friends and constituents of Estonian descent in celebrating the 58th anniversary of the Declaration of Independence of Estonia.

It is particularly important that we in the Congress recognize the hopes and desires of those living in captive nations during this period of détente. The Soviet Union may now control the destiny of the Estonians but the spirit of freedom and independence exhibited 58 years ago and throughout their history convinces me that one day we will again celebrate Estonian freedom.

This day marks an anniversary for Estonians and also for all of us living in the free world. We honor those who strive for liberty and in this, our Bicentennial Year, all Americans hold out their hands and hearts to those living in captive nations.

FAMILIES FIGHT FINANCIAL FEARS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. HARRINGTON. Mr. Speaker, in this time of economic instability and fluctuating social values, the American family is beset by a host of varied problems. A recent study by Yankelovich and Associates, funded by a grant from General Mills found that financial problems and employment worries are foremost among family concerns and anxieties. Some of the detailed findings of the Yankelovich study on the American family reprinted from American Family Report appeared in the February issue of Retail Clerks Advocate. I commend the summary to my colleagues as an apt characterization of the troubles facing Americans within the family context. The article follows:

A PROFILE OF THE AMERICAN FAMILY: HURT BY UNEMPLOYMENT AND INFLATION

Most families are worried about the effect of the economy on their family life. One out of every two families fear the United States is heading for a major depression; one out of every three families are already feeling the full impact of unemployment and inflation. More than fifty percent are worried about their own future financial well-being and security, and almost fifty percent feel a loss of self-sufficiency, a conviction that their future is being determined, not by their own actions, but by what happens to the country.

For the first time in many years, family anxieties over economic issues far outweigh their recent concern with social issues such as crime and safety in the streets, education, or the environment. When asked about family worries, the greatest concern was over the diminishing value of savings because of inflation (35%); then a general discontent about not being as well off as expected (32%); and followed hard by the fear of unemployment (28%).

Unemployment and inflation have already caused many families to make adjustments in their life styles. For those who have been seriously hurt by the downturn, their first step is to cut back on "the nice things in life", such as: eating out in restaurants (37%), hobbies and sports that cost money (21%), and entertaining friends for dinner (17%). Although most families still are not giving up their vacations, more than half now regard them as a luxury.

Most families are caught in a losing battle with their utility bills. Two of three indicate they are cutting back on the use of electricity and are still paying more than a year ago.

Eating patterns are also changing as a result of inflation and unemployment. One out of four families is cutting back on the use of prepared and frozen foods; one out of five no longer serves meat regularly; 45% report they spend less on sweets.

Most unfortunately, preventive health care is a major area where families are trying to save money: 18% of the surveyed families indicate they are postponing regular medical and dental checkups; and with families directly hit by unemployment, the percentage rises to 28%.

Another method of coping with the economy is a second income: 41% of wives now work full or part time to supplement the family budget.

But while families are hard pressed to cope with their economic problems, they still have a deep commitment to the philosophy of savings and overwhelmingly reject the notion that inflation negates the rationale for saving. In fact, 56% of the families reported they managed to put some money in the bank last year despite the unemployment and inflation problems.

In all of this, money difficulties and pressures are a major source of family stress. No other subject was reported as causing as much anxiety. Families quarrel most frequently about overspending, poor money management, and their inability to keep better track of where the money goes. More than half the families (54%) reported "arguing-a-lot" about money. And in one of every two families which did argue about money, the adults were unable to communicate frankly and freely with other family members about their money problems.

But despite all these troubles and pressures on family life a majority still assessed their own situation favorably. A majority felt optimistic about their own situation, felt they were still better off than in the past, and would be able to cope with the effects of the job market and inflation.

MAIN PROBLEMS FAMILIES ARE FACING

[In percent]

	Standard of living compared to a year ago			
	Total	Better	Same	Worse
Investments/savings losing value due to inflation	35	26	34	40
Not as well off financially now as expected	32	15	23	51
Health problems	28	25	29	29
Fear of unemployment	28	21	17	43
Can't make ends meet	26	19	14	44
Fear of being robbed/mugged	23	22	21	27
Having to draw on savings for current expenses	22	10	17	32
Not enough time with family	20	27	20	18
Sense of personal stress/anxiety	17	16	14	22
Being too far in debt	16	17	9	26
Seeing neighborhood deteriorate	11	5	11	13
Not knowing how to manage money wisely	10	13	7	13
Family problems—husband/wife/children	9	10	9	8
Difficulty in getting credit	5	3	4	8

FEDERAL COMMITMENT TO PUBLIC ELEMENTARY AND SECONDARY EDUCATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. MAZZOLI. Mr. Speaker, beginning in the 1960's, the Federal commitment to public elementary and secondary education has grown from a modest one to a quite substantial one.

The financial and moral resources of our Nation have been focused on our public schools—particularly the core-city, heavily minority schools. The goal: Better education and better opportunity for these children.

Yet, it is widely conceded that this Federal commitment has not succeeded. Our children are not learning as they should—and must—if they are to "make it" in today's demanding world.

The Reverend Jesse Jackson of Operation Push, has offered some thoughtful and incisive observations on this condition. His observations are sensible, practical and on the right track, in my judgment.

I would like to share Reverend Jackson's suggestions which appeared in a recent column by the Washington-based writer, William Raspberry:

JESSE JACKSON'S MOSES-LIKE MISSION TO PUSH BLACK ACADEMIC ACHIEVEMENT

(By William Raspberry)

WASHINGTON.—It took a little while to see where the Rev. Jesse Jackson was headed.

"This might break a favorite habit of yours," he told a morning assembly at Washington's Dunbar High School just as he started his honors day talk one day last week, "but since the place has a roof on it, and since it's warm in here—why don't you young men just take your hats off."

There was some giggling, some applause (particularly from the teachers and parents who were there) and some embarrassment. But every last hat came off, and the director of Operation PUSH, the former lieutenant of Martin Luther King, the Chicago-based "country preacher," was in control.

The control was absolutely vital to his secondary mission here—getting young black people to develop the self-respect and discipline he believes is necessary for their academic success. (His primary mission was the running of a revival at a Washington Baptist church and helping to launch a Washington affiliate of People United to Save Humanity—PUSH).

This fiery phrasemaker, ostensible radical and revolutionary is revealing himself as a thorough-going conservative with an abiding—and infectious—faith in the old values. He also is showing that he understands the value of symbols, of which doffing hats is one.

Jackson spent last week visiting high schools around the city, talking to students not about revolution but about their responsibilities as civilized human beings.

In a between-sessions interview at his hotel room, he likened himself—not quite so immodestly as it sounds—to a Moses just arrived in Canaan.

"You know, when the Israelites got close to Canaan and the physcial struggle was over, they turned to worshiping the Golden Calf, fighting among themselves and generally lost the sense of what they were about. Moses had to risk his popularity by going to the mountain top, not for a bigger budget but for Ten Commandments of ethics by which civilized people live. It was a prophetic thing he did.

"Well, that's where we are now in the

struggle. You can talk black and be popular, you can argue for a bigger budget and more concessions and be politic, or you can be prophetic and say what needs to be said."

And what needs to be said he summarizes in the formula he repeats at every opportunity: "Nobody will save us from us—but us."

He won't call them commandments, but Jackson has been espousing 10 points which he believes will lead to the restoration of discipline and academic excellence in the public schools, here and in urban centers around the land.

I won't list them here, but their essence is self-respect and self-control.

He expressed shock, for instance, at the presence of uniformed police officers in some of the schools and told the student athletes (his emphasis is always on the boys) that they should assume it as their job to become "peace brothers" for the maintenance of discipline in their schools.

He repeats many of his points during his revival sessions because he believes that churchgoing parents may be important as "the institutional group capable of sustaining something past the moment."

One of his notions is that, for at least a year, report cards should not be sent home with the students but that parents should be required to come to school to pick them up and to discuss their children's educational progress. "If the parents don't show up, we ought to send a citizen's equivalent of the truant officer to go looking for them."

This civil rights radical is conservative enough to believe that one source of the discipline problem in the schools is that the schools are too informal. As a remedy, he would institute regular fall and winter convocations at every high school (shirts and ties for students, full academic regalia for teachers).

Principals could take advantage of the convocations and their state-of-the-school messages to extract pledges that "If I take your children's hats or dice or cards, or if I take their radios and sell them and put the money in the senior class treasury, I won't have to fight you in court."

He would have the mayor and city council proclaim weekdays between 6 and 7 p.m. as a "citywide study hour" as a means of helping parents to tear their children away from their TV sets. "And somewhere around 10:30 ought to be bedtime," he declares.

"If Johnny can't learn because he is hungry, that's the fault of poverty. But if Johnny can't pay attention because he's sleepy, that's the fault of parents."

He would enlist fathers for regular school patrol duty and demand that radio disc jockeys "assume another level of responsibility since they program more of our children's minds than their parents and teachers."

And he would have everybody abandon the rhetoric that leads black youths to see themselves as society's victims rather than as human beings with the capability of controlling their own destinies.

"What urban education needs is not more money but more parents willing to give their children care, motivation and chastisement—the will to learn," he declared.

"Do that, and these other things will become less of an issue—things like budgets, or such nonsense as black children can't learn from white teachers."

POOR CHILDREN AND H.R. 9803

HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. TREEN. Mr. Speaker, I rise to protest the callousness with which the Senate conferees on H.R. 9803 are handling the poor children of this Nation. I rise to protest the cavaliar way in which those conferees are treating the House's participation in the making of critical fiscal and social welfare policy.

The Director of the Division of Family Services of Louisiana, Roy E. Westerfield, wired me the following message expressing his disappointment:

> We were disappointed to learn that the Congressional Conference Committee (House Ways and Means, Senate Finance) on House Bill 9803 was unable to reach a compromise to delay the implementation of Title XX Child/Staff Ratios.
>
> It is most urgent that immediate action be taken to delay implementation of the Child Staff Ratios so that we can act without fear of Federal audit. We also urge hearings be held by the House to discuss how additional monies for day care can be used to the best advantage for children.

Mr. Westerfield makes two points which I would very strongly urge my colleagues in the conference to make to their Senate counterparts.

First, we must not wait to free State welfare departments, the day care centers in which they have placed title XX children, and the children themselves, from the threats of audits for violating arbitrary staffing standards. Yesterday I learned that proprietary day care centers in Louisiana will not accept title XX children after April 1, because of their fear of penalties.

There has been no disagreement in conference that these standards should be postponed to at least June 30, 1976. The Senate conferees have been unwilling to let this issue be resolved separately from the morass of budgetary, tax and employment questions raised by the Senate amendments to H.R. 9803. I fully support the efforts of my colleagues, Representatives GUY VANDER JAGT and HERMAN SCHNEEBELI, who on February 3 introduced legislation postponing the enforcement of these standards until October 1, 1976, to give the House an opportunity to consider more appropriate policies for fiscal year 1977.

I hope my colleagues have noted that the Department of Health, Education, and Welfare, responsible for enforcing these staffing standards, has endorsed postponement through October 1, 1976, together with adoption of social services legislation for fiscal year 1977 that does not impose such impossible standards on the states.

Mr. Westerfield's second point is that the House should hold hearings before funding categorical assistance to the States for just one area of social services.

I could not agree more. If more Federal money is needed for day care, the House should not accept the Senate's conclusions that at least $100 million such assistance should be earmarked for the hiring of additional personnel to meet Federal minimum staffing standards, without holding 1 day's hearings on the subject.

I believe the House would conclude, if hearings were held, that there is no consensus in the child development field on the minimum number of staff that must be hired for quality day care.

The Secretary of HEW cannot find any such consensus. Why should Federal assistance for day care carry the requirement that such a high proportion of assistance be spent on staff salaries, if States reach another conclusion about their basic needs?

I hope that our conferees will not permit the Senate to make such sweeping changes in welfare policy without giving the Ways and Means Committee an opportunity to hold hearings, markup legislation, and expose the proposals to the full House for debate before going to conference with the Senate. The House should serve notice that it will not permit the Senate Finance Committee to bypass House debate on controversial legislation by amending dormant House-passed bills.

Our conferees have been so busy contending with the Senate conferees on questions involving refundable tax credits and backdoor spending that very significant policy questions have not even been discussed. For example:

Should the Federal Government pay a portion of the day care costs for children ineligible for title XX assistance?

My mail on S. 626, a proposal for major Federal involvement in the preschool care of all children, sponsored by the coauthor of the Senate amendments to this bill, Senator MONDALE, answers this question with a resounding "no".

A second example: Should the Federal Government give a major inducement to day care centers to hire welfare recipients, as opposed to presently employed persons?

The proponents of the FIDCR standards on staffing insist that they are concerned about quality day care. I am old fashioned enough to believe that taking care of children, particularly in the very impressionable preschool age group, is the most challenging job any person can have. We must encourage the hiring of our most talented citizens for these jobs, regardless of their present economic condition. We must not give any inducement to day care centers to hire anyone who has not been trained properly.

As sympathetic as I am to the cause of putting all our citizens to work, to reducing the welfare rolls, I am not convinced that day care centers should be singled out as the most appropriate place to put economically and educationally disadvantaged people to work.

In closing, I urge all my colleagues to contact knowledgeable persons in the field of child care in your own State before voting on the conference report, before institutionalizing Federal staff-child ratios. I wish that more of my colleagues and their staffs could have taken part in the briefing on this issue which I sponsored January 30. Representatives of State welfare departments, State office of child development directors, and proprietary day care center operators spoke, outlining their concerns about FIDCR and H.R. 9803. One of the participants, Dr. Sam Granato, of the Alaska State Welfare Department, had been involved with the drafting of FIDCR as an employee of HEW. Let us hear his testimony and that of others knowledgeable in this field before we substitute our judgment for theirs—before we spend $250 million of the taxpayer's money, as the Senate proposes.

I fervently hope that the Ways and Means Committee's Public Assistance

Subcommittee will invite Dr. Granato and other experts in this area to testify at their March 4 and March 8 hearings on amendments to title XX.

ACTIONS OF THE U.N.

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. HAGEDORN. Mr. Speaker, on November 11, 1975, the House of Representatives unanimously condemned the United Nations for their resolution equating Zionism with racism. This was but the latest of a series of actions by the U.N. which have done more to promote international disharmony than international peace. Such actions have been increasingly extreme, and increasingly reflective of the attitude of an assortment of so-called third world nations which have yet to prove their competence in putting their own internal affairs in order, much less the affairs of the entire world. I have listed those actions which the U.N. has taken over the past 5 years which have resulted in the growing disillusionment felt toward it by Congress and the American people. I believe that this list illustrates well the emerging anti-Western philosophy of this international body:

LIST OF ACTIONS OF THE U.N.

October 5, 1970—For the first time in 25 years, the United States abstained from voting in the General Assembly when the UN's Budget Committee approved an increase in expenditures of 8%, the greater part of the increase going to professional staff salaries.

October 6, 1970—For the first time in 25 years, the United States refused to pay a financial obligation to the UN as Congress approved a bill cutting off contributions to the International Labor Organization for the first half of 1971.

October 12, 1970—The General Assembly by a vote of 86–5 adopted as an official program one that "proclaims the existence of colonialism a crime, reaffirms the inalienable right of colonial peoples to fight the colonialists by every available means, obligates UN members to promote effective measures for full implementation of [this] declaration, and calls on the Security Council to extend the sanctions against the unlawful Rhodesian regime and consider imposing sanctions against South Africa and Portugal." The program calls on the UN to give not only moral but also material aid to various national liberation movements . . . and invites their representatives to take part in UN committee work.

October 24, 1970—In commemoration of its 25th anniversary, the General Assembly of the United Nations endorses a policy the cornerstone of which is that advanced countries should endeavor to transfer 1% of their GNP annually to developing countries by 1972.

November 20, 1970—The General Assembly for the first time votes a majority in favor of seating Communist China in the UN and ousting Nationalist China. A two-thirds majority, however, was required.

January 11, 1971—The United States and Britain withdraw from membership in the "Committee of 24" on colonialism, indicating concerns that its resolutions were one-sided and forced through by members of the Communist and African-Asian blocs.

October 25, 1971—The General Assembly rejects a resolution by the United States that would have required that any General Assembly proposal which would result in depriving Nationalist China of representation in the United Nations be designated an "important question" requiring a two-thirds majority vote. The Assembly then went on to approve by a greater than two-thirds vote (76–35) an Albanian resolution expelling from the UN Nationalist China, and recognizing Red China as the sole Chinese representative. Following the initial vote delegates jumped up and applauded with the Tanzanian representative dancing a victory jig in front of the rostrum.

November 16, 1971—General Assembly adopts a resolution expressing grave concern at the decision of the United States to lift sanctions against chrome imports from Rhodesia.

December 17, 1971—The Red Chinese force U Thant to expel remaining Nationalist Chinese newsmen from the United Nations, a decision subsequently affirmed by Kurt Waldheim. Their attentions, it is learned are now focused on cutting off funds to eight development projects still under way in Taiwan under earlier contractual arrangements.

July 24, 1972—Waldheim issues objections to U.S. bombing efforts in North Vietnam, continuing the criticism of the United States role in Southeast Asia initiated by U Thant.

September 10, 1972—Rather than abstaining as they had in the past and permitting the passage of resolutions that condemned Israel for acts of aggression, the United States vetoed one introduced in the Security Council condemning Israel but leaving unmentioned terrorist acts that provoked Israel's retaliation.

December 7, 1972—UN again condemns United States for the continued importation of nickel and chrome from Rhodesia. This was the first instance in which the word "condemn" was directly focused against the United States by name.

December 8, 1972—General Assembly calls on all states to refuse to recognize the Israeli occupation of Arab territories. Members were also "invited" to limit all forms of aid to Israel.

December 11, 1972—General Assembly Sixth Committee chooses to remain silent on a resolution condemning political terrorism, preferring instead to express its "deep concern", while re-affirming the right to self-determination and independence of peoples under colonialist and racist regimes.

March 21, 1973—Security Council, over United State's abstention, adopts a resolution reaffirming the sovereignty of Latin American countries over their natural resources, and calls upon UN members to curb the activities of transnational enterprises.

March 21, 1973—Security Council resolution to give Panama effective sovereignty over the Panama Canal is vetoed by the United States.

April 22, 1973—UN Security Council again condemns Israel for its raids on Lebanon.

April 9, 1974—UN approves a Declaration on the Establishment of a New International Economic Order, calling for fundamental changes in the existing economic order which "perpetuates . . . the existing disproportion of benefits between the industrial and the developed countries. The 20 point program implementing the Declaration contains a series of redistributionist planks.

October 14, 1974—UN invites Palestinian Liberation Front (PLO) to send representatives as observers to the General Assembly, the first time such an invitation has been extended to a nongovernmental organization.

October 30, 1974—Security Council resolution vetoed which would have expelled from the UN South Africa because of its racial policies.

November 13, 1974—Yasir Arafat, leader of the PLO, addresses the General Assembly, followed by a resolution endorsing the goals of the PLO. Israel's opportunity to participate in the debate was curtailed by a vote of the General Assembly.

November 20, 1974—UNESCO condemn's Israel and cuts off all UNESCO aid to projects there. The next day UNESCO rejected Israel's application to be a member of its European regional grouping, thus making Israel the only member that belongs to no regional group.

July, 1975—International Women's Year Conference in Mexico City, sponsored by the United Nations. Forum for anti-American and anti-Israeli statements, with passage of pro-abortion, pro-economic redistribution, radical women's liberation resolutions.

August 20, 1975—United Nations Committee of 24 encourages the recognition of the Puerto Rican Independence movement despite repeated evidence that the country does not wish to sever ties with the United States.

December 8, 1975—General Assembly approves a resolution encouraging the United States to grant independence to Samoa, Guam, and the Virgin Islands. Also attacks the United States for maintaining military bases on Guam.

ESTONIAN INDEPENDENCE DAY

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. BLANCHARD. Mr. Speaker, I would like to join with many of my colleagues in commemorating the 58th observance of Estonian Independence Day February 24, 1976.

Thirty-six years after the event, the annexation of the Estonian Republic by the Soviet Union remains one of the foremost injustices perpetrated by one nation upon another in recent memory.

The continued Soviet occupation of Estonia, its sister republics of Latvia and Lithuania, and other captive nations in Eastern Europe continues today to make a mockery of Russian attacks upon the "colonialism" and "imperialism" of Western nations.

As is common in Soviet-dominated nations, many of the people of Estonia were slain in the initial takeover, which occurred in 1940. In the years since, thousands more have been deliberately scattered to distant parts of the Soviet Union in a blatant attempt to suppress the Estonian culture.

Mr. Speaker, it is all the more important for us this year, following the Helsinki conference on security and cooperation, to again raise our voices to protest the great wrong which has been done to these people, and which remains unrectified today.

Estonia lives in the minds and hearts of her people, wherever they may be, and as long as that statement is true, it is only a matter of time until she is freed from bondage.

JOAN EILEEN LARSON, OF TROUTDALE, OREG., VOICE OF DEMOCRACY CONTEST WINNER

HON. ROBERT DUNCAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. DUNCAN of Oregon. Mr. Speaker, I believe this Nation's Bicentennial is a time for us all to reflect upon the blessings we have received since the revolutionary founding of this country, to ponder the circumstances of our beginnings, and to give deep thought to the direction in which we have to travel in order to achieve full and equal application of the concept of freedom for all.

One of my constituents recently did this and came up with some very interesting observations.

Joan Eileen Larson, the daughter of Else M. Larson, is a senior at Reynolds High School in Troutdale, Oreg. She is the Oregon State Winner of the "Voice of Democracy" contest sponsored by the Veterans of Foreign Wars. It is a pleasure for me to introduce into the CONGRESSIONAL RECORD her winning speech, which indicates what our bicentennial heritage means to her:

1975–76 VFW Voice of Democracy Scholarship Program, Oregon Winner, Joan Eileen Larson

Independence—a word with such a gentle sound, yet powerful with its meaning of pride and dedication. The United States of America . . . our freedom is so precious and so important that our ancestors fought for us to become a free nation. And for 200 years people have been striving to preserve our most precious possession—liberty.

We have always been appreciative of the dedication which has kept our nation strong, but now more than ever in this Bicentennial year, we are aware of the true importance of the ideals and beliefs on which our country is based.

Freedom—the precious gift which enables us to pursue our dreams and not be bound by the chains of a nation governing our thoughts and actions. We have the right to live in the manner we choose and to stand up for our beliefs.

While pondering about our nation's history, I have found that even though events and some beliefs have changed, the cornerstone of our nation remains intact—the people. America's greatest asset is her citizens, who collectively create *one* great nation. The knowledge that 13 colonies grew to eventually become 50 states is overwhelming. From the signing of the Constitution to present day Bills in Congress, our people have endeavored to strive for the betterment of the United States.

America has an abundance of beauty in her environment—yet she has another beauty which radiates from the core of her existence—the SPIRIT of her people. Today the chant of "Spirit of '76" rings loud and clear, but the spirit of *all* the years is what has kept our country strong. The earliest citizens felt that only through dedication, hard work, and the firm upholding of beliefs could a nation flourish. For 200 years people have remained strong in the fight to preserve the ideals of our ancestors—the ideals of a free, strong and just nation. Spirit also exists in the caring of man for his fellow American. From the Revolutionary War to recent wars, men have fought to keep our country safe. And in times of peace people continue to help one another, sharing good and bad times.

What have I derived from my heritage? I have received the precious possession of life and the ability to create a better world by being a free person. The spirit of the past has created a basis for my future. I can learn from the experiences of my ancestors. America will grow stronger and greater with the aspirations of the past and the inspirations of the present.

I have learned the true meaning of pride. Pride of a nation that has lived strong in her teachings, yet which is never too old to be taught. America . . . her beauty to be cherished and ideals to be upheld. A country which refuses to release her valuable rights, and though occasionally battered, stands strong for peace. By ever keeping in mind the ideals of our American heritage, I can assist in keeping our nation's glory, pride and grandeur intact.

"One Nation Under God" . . . for 200 years our people have loved, cared and had deep faith. On the anniversary of our Independence, I can truly be proud to say I am grateful for my country's past.

FIFTY-EIGHTH ANNIVERSARY OF THE STATE OF ESTONIA

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. COTTER. Mr. Speaker, on February 24, 1918, a democratic nation was established in Estonia. This had been the goal of Estonian patriots throughout the centuries of Russian control. At last, in 1920, after successfully driving out the Red army, Estonia concluded a favorable peace treaty with Soviet Russia.

During this time of independence, the nation of Estonia displayed its ability for self-government. As a result of its highly developed agriculture, abundant natural resources, its extensive industrial development, and its well educated, hard-working people, there was a period of economic stability in Estonia. Unfortunately this was not to last. The outbreak of World War II led to a Russian takeover in June 1940.

To the present day, Estonia has been recognized by the Soviet Union as a part of the U.S.S.R. Its people have been subjugated by the Soviet Union.

Soviet censorship prevents most reports of persecution and suppression of Estonia human rights. Yet we are aware that the proud people of Estonia are still risking their lives trying to free themselves from Soviet occupation and exploitation.

It is with this thought in mind that on February 24, 1976, we of the free world commemorate the 58th anniversary of the formation of the State of Estonia to inspire hope for their continuing struggle for freedom and its eventual realization.

MANY WRITERS AND OBSERVERS QUESTION KISSINGER POLICIES AS CONTRARY TO THE BEST INTERESTS OF AMERICA

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. EVINS of Tennessee. Mr. Speaker, reports are current that the days of Henry Kissinger as Secretary of State are numbered because many of his actions and policies are considered by many Americans to be contrary to the best interests of the United States.

The disillusionment with Secretary Kissinger was accelerated by the disclosure that he had some connection with the wiretapping of colleagues in the Nixon White House. The Washington Post last October 8 in an article headlined Kissinger Linked to Wiretaps indicated that the wiretap program was under the control of Kissinger. Kissinger has insisted that he did not initiate the wiretaps but the record indicates that he was at least involved in that part of the Watergate scandal.

Secretary Kissinger is known as the architect of "détente" with Russia and Red China. However, it now develops that the Strategic Arms Limitations Talks—a major part of "détente"—have produced questionable results. Adm. Elmo R. Zumwalt, former Chief of Naval Operations, has stated that Russia is violating the SALT I agreement with missiles larger than the agreement permits—and he says there are other violations which Kissinger is not reporting.

The SALT I agreement permits Russia to have 1,618 intercontinental ballistic missiles—the carriers of nuclear weapons—and limits the United States to 1,054.

Another spinoff from "détente" was the first Russian grain deal which was extremely favorable to the Soviet Union. This $1.2 billion deal depleted American wheat and grain reserves, contributed to inflation in the United States, increased the price of food to American consumers and feed to farmers and resulted in major dislocations of our rail freight system.

Another phase of Secretary Kissinger's policies contrary to the best interests of the United States is his advocacy and proposal to surrender control and territorial sovereignty of the Panama Canal Zone to Panama—and negotiations to complete this giveaway of American rights have been underway for some time.

It was also Kissinger who agreed that the United States would assist in rebuilding North Vietnam, our enemy in Southeast Asia. The reaction to this commitment was so strong in the Congress and throughout the country that this proposal never made serious headway.

Apparently one of Dr. Kissinger's techniques is to endeavor to "buy" peace with U.S. dollars and the North Vietnam deal is an example.

Another example is the Mideast where the Sinai accords which Kissinger negotiated and which are expected to cost the American people as much as $10 billion—and this is only a limited accord between Israel and one Arab nation—Egypt.

This accord also involves the location of American observers in the Sinai desert where, many believe, they will be "sitting ducks" for terrorists in the Mideast.

Another aspect of Kissinger machinations in the Mideast is the agreement to give nuclear powerplants and materials to countries in the Mideast.

The latest Kissinger foreign policy performance was related to Angola where he sought to commit United States military and economic assistance on one side of a civil war within the country.

However, Congress refused to become involved in another potential "Vietnam" and assistance to Angola was expressly prohibited by the Congress.

Because of the interest of my colleagues and the American people in our foreign policy, I place in the RECORD herewith excerpts from articles, columns, and editorials from the Nation's press commenting on and reporting on Secretary Kissinger's activities which, many believe, are not in the best interests of our Nation.

The materials follow:

[From the Washington Post, Oct. 8, 1975]

Kissinger Linked to Wiretaps

(By Timothy S. Robinson)

Former Attorney General John N. Mitchell and former top FBI official Cartha D. DeLoach have said they considered a so-called national security wiretap program begun in 1969 to be under the control of then-Presidential aide Henry Kissinger.

The testimony appears to conflict with Secretary of State Kissinger's own version of his role in the wiretaps, which were approved by then-President Nixon as an attempt to halt alleged leaks of classified information.

Kissinger previously has said he did not initiate the taps, and that his role mainly was limited to approving certain names to be considered as subjects of the surveillances.

The testimony of DeLoach and Mitchell came in depositions filed in a law suit brought by former National Security Council aide Morton Halperin, whose home telephone was tapped for 21 months as part of the program.

Halperin claims the tap was illegal, and was used to spy on his political beliefs after he left the government. Kissinger's role in the taps program previously was aired on Capitol Hill in hearings before the Senate Foreign Relations Committee. He is scheduled to be questioned again by attorneys for Halperin in the pending suit.

Mitchell and DeLoach both indicated in their depositions that they considered the taps to be Kissinger's program, although it had Mr. Nixon's specific approval.

[From the Washington Post, Feb. 5, 1976]

Kissinger Challenged on SALT Talks

. . . As Chief of Naval Operations, Zumwalt's meetings with Kissinger in the basement of the White House had gotten off to a bad start anyway. Early on, he said Kissinger told him it was a pleasure to discuss things with him because he was the only intellectual among the Joint Chiefs of Staff, the only one able to take a broad view. But Zumwalt heard later that after he'd left that day Kissinger commented to an aide: "If there's one thing I can't stand it's an intellectual admiral."

In the fall of 1970, his first year as CNO, Zumwalt invited Kissinger to be his guest at the annual Army-Navy game in Philadelphia. There is a special train from Washington for the military brass and the two men set up power positions at different locations in it and gathered their camp followers around them. Finally Zumwalt left his power position and moved to the Kissinger party. . . . Zumwalt talked for a while and then went back to his seat and, using a special anagram system based on the first letter of the definitive word in each sentence, he wrote down the conversation (as he says) verbatim:

"K. feels that the U.S. has passed its historic high point like so many earlier civilizations. He believes the U.S. is on the downhill and cannot be roused by political challenge . . . K. does not agree with the President that the American people can be turned around . . . he states that his job is to persuade the Russians to give us the best deal we can get, recognizing that the historical forces favor them. He says that he realizes that in the light of history he will be recognized as one of those who negotiated terms favorable to the Soviets, but that the American people have only themselves to blame because they lack the stamina to stay the course against the Russians, who are Sparta to our Athens."

. . . Another time, Zumwalt remembers, he dropped into Kissinger's office with no advance warning to complain about what he felt was the White House's inaction on American prisoners of war in Vietnam. According to the notes he took afterwards in his limousine, they had the following conversation:

Kissinger: I believe the American people lack the will to do the things necessary to achieve parity and to maintain maritime superiority. I believe we must get the best deal we can in our negotiations before the Soviets and the United States both perceive these changes in balance have occurred. When these perceptions are in agreement, and both sides know that the United States is inferior, we must have gotten the best deal we can. Americans at that time will not be happy that I have settled for second, but it will be too late.

Zumwalt: Why not take it to the people? They will not accept the decision to become second best while we are in possession of a GNP twice that of the USSR.

Kissinger: There's a question of judgment. I judge that we will not get their support and if we seek it and tell the facts as we would have to do, we would lose our negotiating leverage with the Soviets.

Zumwalt: But isn't that the ultimate immorality in a democracy to make a decision for the people, of such importance, without consulting them?

Kissinger: Perhaps, but I doubt there are one million who could even understand the issues.

Zumwalt: But even if that presumption is correct, those one million can influence the opinions of the majority of the people. I believe it my duty to take the other course.

Kissinger: You should take care lest your words result in a reduction in the Navy budget. There are subtle retributions available.

Told of the two memos recently Kissinger issued ("after we scraped him off the ceiling," noted aide Lawrence Eagleburger) the following statement: "I do not know when or for what motive Admiral Zumwalt wrote these alleged memoranda. They reflect no views I have ever held or could have expressed. They are contemptible falsehoods."

"Kissinger's answer is just one more indication that liars lie," Zumwalt replied, challenging the Secretary to a joint appearance under oath before a Hill committee to straighten out the matter.

Beginning with the Yom Kippur War in 1973, Zumwalt charges, Kissinger's view of the world has caused him virtually to play Iago to our Othello. We were never told about it, he says, but that war—the Russian's systematic violations of détente and our accommodations to them—showed things had gone full circle from the Cuban Missile Crisis ten years earlier. Kissinger fudged the picture on Yom Kippur and he's been fudging it ever since. The bare facts, as Zumwalt sees them, show that the United States backed down in the face of Soviet military superiority in the Mediterranean just as surely as the Soviets backed down on Cuba.

One face-down leads to another. The Russians are now violating SALT I with missiles bigger than the spirit of the agreement allows, the admiral says, but Kissinger is fudging there, too. And there are other violations . . .

Not only has Kissinger withheld information from the public, Zumwalt charges, he's caused intelligence on Soviet violations to be withheld from the National Security Council, the Joint Chiefs of Staff, the President himself. (Although Kissinger, in his only public response to the charge, said that all violations have been reported within, at most, a period of two months from their detection.)

Death to Iago! Claiming that Kissinger has corrupted the national security process every bit as much as H. R. Haldeman corrupted the domestic, Zumwalt has asked that Kissinger be fired. To some of Zumwalt's detractors, it seems almost too nice a touch of drama, that the vendetta is more than just a question of conflicting theories, that Zumwalt is only living up to his billing as the most artful politician in the history of the Navy.

[From the Wall Street Journal, Nov. 5, 1975]

An Exit Near for Kissinger?

(By Robert Keatley)

WASHINGTON.—The long run of Henry Kissinger is not yet over, but the pace is slowing and the end is finally in sight.

Seven years ago, a fairly obscure Harvard professor was ushered into Richard Nixon's suite at the Hotel Pierre in New York and hired as the President-elect's assistant for national security affairs. Soon he became Secretary of State—first in fact, eventually in name. Since then, no important U.S. foreign policy move has been made without Mr. Kissinger's acting as instigator, implementer or manipulator, if not all three. . . .

Despite some diplomatic good beginnings and interim successes, little of a lasting nature has been accomplished and major reverses are all too possible. A foreign setback could help either Mr. Ford's opponents on the right, endangering his chances for the Republican nomination, or his adversaries on the left, endangering his chances to be elected President.

The potential trouble areas include most major aspects of American foreign policy:

Detente. Whether future Soviet-American relations can be amicable depends largely on the two countries' abilities to restrain weapons competition and avoid nuclear showdowns. But the current Strategic Arms Limitation Talks (SALT) are stalled. There are differences within the U.S. administration, and with the Russians, about how to handle certain weapons programs. . . .

The President has particular reason for caution. There is a widespread public belief that, in detente, "they" are getting the better of "us," and that this must be stopped. Both Democrats and Republicans seem ready to exploit this attitude politically, to Mr. Ford's disadvantage. Thus, the President's interest in taking political chances must be dissipating quickly as 1976 nears, despite whatever counsel he gets from Mr. Kissinger.

Mideast. Three interim agreements have nudged Arabs and Israelis toward a final peace settlement, though nothing is yet guaranteed. The American public is also accepting the idea that supporting Israel's short-term demands isn't necessarily the best way of assuring its long-term survival. Mr. Kissinger receives and deserves the credit.

But what to do next is the problem. The U.S. is trying to arrange a new pact between Israel and Syria, two nations which thoroughly distrust each other. The effort could easily fail at any time, leading to little skirmishes or big war. Then there would be political pressure to give Israel massive support again. Mr. Kissinger might counsel caution so that recent American gains in the Arab world wouldn't be lost, but Candidate Ford would find that hard advice to follow.

China. The opening to Peking was another success, but now the relationship is fraying. China apparently is losing confidence in American willingness to stand up to the Soviets, and therefore is losing interest in being good friends with the chief capitalist state.

[From the Boston Globe, Dec. 7, 1975]

Kissinger Surrenders Too Much

(By Aleksandr I. Solzhenitsyn)

(Aleksandr I. Solzhenitsyn, the dissident Soviet writer now in exile, won the Nobel Prize for Literature in 1970. This article was translated from the Russian by Raymond H. Anderson)

. . . Kissinger endlessly deafens us with the threat ". . . but otherwise, nuclear war." He obscures the fact that this same nuclear war hangs equally over the head of his opponents (at least as of today, until new successes by Mr. Kissinger).

And in these equal circumstances, under the same threat, his opponents are always winning and he is always yielding. Let him learn something from his opponents—how is it that they operate so successfully in the nuclear age? The answer would be: They study the psychology of Mr. Kissinger.

What an absurdity: The United States was the first to introduce nuclear weapons to the world. Should it because of this have become weaker, and should it because of this surrender its positions in the world?

I dispute not only that Mr. Kissinger has the life experience necessary to understand the psychology of Communist leaders, and as a result sits at the negotiating table as if blindfolded. I also dispute that he is on the high diplomatic intellectual level ascribed to him.

It is not diplomacy to negotiate with a preponderance of power behind one's back, with an abundance of material means in one's pocket, to submit to all participants in the negotiations, to pay them all off and thereby to create unbalanced and temporary grounds for transition to further concessions.

The celebrated Vietnam agreement, the worst diplomatic defeat for the West in 30 years, hypocritically and very conveniently for the aggressor prepared the way for the quiet surrender of three countries in Indochina . . .

A similar alarming feeling of shakiness is aroused by the Middle East agreements of Kissinger (as far as I know, many Israeli leaders do not regard them any higher), although there has not been the kind of open capitulation to which Vietnam was doomed by the same pen . . .

The very process of surrender of world positions has the character of an avalanche. At every successive stage it becomes more difficult to hold out and one must yield more and more. This is evident in the new conditions across entire continents, in the unprecedented encroachments by the Soviet Union in southwestern Africa and in votes in the United Nations.

[From the New Guard, June 1975]

Kissinger: A Rejection

(By Hamilton Rogers)

In case someone need be told, the political honeymoon of Henry Kissinger is over. For years the United States Secretary of State, and before that National Security advisor to President Nixon, enjoyed an incredible popularity. He was praised and protected by such disparate political leaders as J. William Fulbright and William F. Buckley, Jr. With few exceptions, these people placed confidence in Henry Kissinger, in no small part due to his arduous cultivation and his highly intellectualized manner. But the time for style is passed; Henry Kissinger's foreign policy must be judged.

To speak of Kissinger's foreign policy is to speak of American foreign policy. For the last five years he has been its architect. Whether on the conceptual or the operational level, Kissinger has been the prime mover. There apparently has been no major decision with which he took deep exception, other than to separate himself, ex post facto, from unpopular or unsuccessful international moves. The incursion into Cambodia is a case in point.

From the beginning in 1969, Nixon and Kissinger were understood to believe that a wholly new approach to foreign policy was needed. The 1968 campaign was replete with speeches indicating a need for fundamental reform and new thinking. . . . The intent behind the new structure was to move away from the moralistic foundations, inherited from the intellectual tradition of Woodrow Wilson, which effectively grounded American internationalist thinking since the days immediately after the First World War.

One of the products of the new order of detente was intended to be a demonstration by the United States of just how far the nation had come in its rejection and withdrawal from the Cold War objectives and methods. It was presumed that the old objectives were wrong, outdated. To orient policy planning toward the "new order" of thinking the inherited policies of containment and military superiority were specifically dropped in favor of policies more in keeping with the realpolitik of international relations. The startling opening toward Communist China, with the complementary chill towards the Chinese government on Taiwan was the essence of the return to a more pragmatic, realistic foreign policy.

FAILURE OF REALPOLITIK

But even on its own terms, the new Nixon-Kissinger concept of its conjunctive moves are proving to be short-term failures. What was supposed to be a maturing adjustment to the realities of world politics has turned into a political situation in which the United States finds itself with less power and influence, *sine qua non* of the *realpolitik*. The ability of the U.S. to control events important to its future security has diminished significantly, in large part due to the "conceptual breakthroughs" of the Kissinger-Nixon foreign policy.

POLITICAL CONDITIONS

American foreign policy is in a shambles because the U.S. world position is weaker today than at any time since World War II and the threats to its security greater. While there have been several factors contributing to the collapse, including a re-emergence of isolationist attitudes in American political thinking, it has been Kissinger's ideas and style which have provided the necessary and sufficient cause to the change.

When the Republican Administration took control in 1969, U.S. foreign policy relationships were on a reasonably firm footing, notwithstanding the war in Vietnam. Since then, our relations with many of our needed allies, from Japan to NATO, have withered. Regarding the major problem, the war in Vietnam, there was every reason to believe that Nixon would apply the necessary power and employ the appropriate means to make continuation of the war by North Vietnam and its agents militarily and politically unfeasible.

Not only was this not done, but as the personal accounts of former Administration insiders became public, it is increasingly clear that the abandonment of Vietnam was a conscious decision, motivated by domestic political and competing foreign policy considerations. Present attempts to blame the Congress, while certainly accurate as far as they go, cloud an otherwise clear picture of the policy set in motion: to cut U.S. losses in Vietnam through withdrawal and rely upon an essentially defensive thrust to bring about an end to the involvement. The tactical cover, for domestic as well as international political purposes, was Vietnamization, a sensible policy if the purpose had been something more than a camouflage of retreat.

The competing foreign policy "considerations" which compelled Nixon and Kissinger to literally withdraw the United States from Southeast Asia were the objectives of a "new order" in international relations and their hopes to bring about improved relationships with Communist China and the Soviet Union, as the means to the "new order." Continued pursuit of the objectives which put the United States in Vietnam were inconsistent with the new orientation and purpose.

[From the Philadelphia Inquirer, Oct. 14, 1974]

Soviets Do Not Believe in Detente

(By John D. Lofton Jr.)

LENINGRAD.—The essential phoniness of the professed sincere desire on the part of the Soviet Union to have so-called detente with the United States is best demonstrated by the rigid and fanatically dogmatic belief of the Soviets in the principles of class struggle and violent revolution laid down by V. I. Lenin over 50 years ago.

Since we have been here, our Soviet hosts have been all smiles. There has been much talk of making detente "Irreversible." There have been many toasts to "mutual understanding" and "fruitful collaboration."

But a close look at what the Soviets really believe shows that they are as dedicated as ever to what they have always been dedicated to: the burying of the United States of America and all it stands for.

As Lenin wrote 57 years ago, in "the theory of Marx and Engels the inevitability of a violent revolution refers to a bourgeois state." That's us.

The bourgeois state, said Lenin, "cannot be superseded by the protetarian state (that's them) through the process of withering away, but as a general rule, only through a violent revolution. The panegyric Engels sang in its honor, and which fully corresponds to Marx's repeated statements—this panegyric is by no means a mere impulse, a mere declamation or a polemical sally. The necessity of imbuing the masses with this and precisely this view of violent revolution lies at the root of the entire theory of Marx and Engels."

Just to make things absolutely clear about the irreconcilability of our two systems, Lenin states very explicitly, with no qualifications:

"The supersession of the bourgeois state by the proletarian state is impossible without a violent revolution."

These ideas of Lenin about the necessity for violent revolution, though formulated over a half-century ago, are still fervently believed in and proselytized by the Soviet state. The masses here are indeed imbued with this view.

Throughout our entire conversations with members of the Komsomol, the Communist youth organization, and members of the party, they have stated with absolute clarity that the detente they seek in no way means a lessening in the intensity of the class struggle or the need ultimately for violent revolution to overthrow our way of life.

[From the Washington Star, Jan. 11, 1976]

DETENTE AND DISAPPOINTMENT

(By Crosby S. Noyes)

With or without Angola, the detente between the United States and the Soviet Union, going back to the early days of the Nixon administration, is in a parlous condition.

In both the Soviet Union and the United States, a transition of leadership is in progress. In Russia, even if an old and ailing Leonid Brezhnev survives another year, other leaders are likely to acquire more power and influence on Soviet policy over the months to come. Even if Gerald Ford is elected to another term in November (which seems increasingly unlikely), the assumptions that provided the rationale for the Nixon-Kissinger detente are coming under an increasing challenge.

Indeed, the rationale for detente has never been very well defined. Rather than a specific policy, it has been a frame of mind: a feeling that both great powers had something to gain from a relaxation of the tensions that existed with ups and downs since shortly after the end of World War II. It has become even more difficult to define as time goes by.

Probably the Russians could at least have given more logical explanations for detente than leaders in the United States. Their conflict with the Chinese, their economic problems, their need for Western technology—all argued for the need of detente with the West. And all the expectations have been to a large extent disappointed over the last six or seven years.

For people in the West, the relaxation of international tensions has been desirable for its own sake. Ignoring the fact that the tensions have had their positive aspects—leading among other things to the creation of the Atlantic alliance and the beginnings of a political unity in Western Europe—it seemed to promise a relaxation of the collective effort, particularly in the military area.

In Nixon's favorite phrase, detente aimed at a "generation of peace." In Western imaginations at least, it also held out the possibility of a less repressive life for people behind the Iron Curtain. And, as Henry Kissinger has never tired of assuring us, there is really no alternative to detente in an age of co-equal nuclear powers. The results for both sides have been less than satisfactory.

The Russians have seen the United States dramatically improve its relations with Peking in the name of the same spirit of detente that it applies to the Soviet Union. Their hopes of a large increase in trade with the West have not materialized, in part because the U.S. Senate insisted on demanding greater liberalization of Soviet emigration laws. The much-touted European security conference, climaxed in Helsinki last summer, has proved almost as meaningless from Moscow's viewpoint as it has always seemed in the West.

In Washington, detente has come to be viewed with an increasingly jaundiced eye. The agreements reached so far with the Soviet Union on the limitation of strategic nuclear weapons are under attack from both left-and right-wing critics of the administration and even from defense-oriented elements within the administration itself. So has the deal through which the Soviet Union will receive some 6 to 8 million tons of American grain between now and 1981.

Altogether, to many Americans, detente is coming to appear very much as a one-way street designed for the benefit of the Russians. The future of the arms limitation talks, as well as of negotiations designed to reduce military forces in Central Europe, is at best uncertain. And it is a safe bet that detente itself will be a major issue in the coming presidential elections.

And yet the Russians apparently feel as Mr. Kissinger does—that there really is no alternative to a continuing effort to reach accommodations of one kind or another between the two nations, each of which is capable of destroying the other many times over. It may even be important enough to Mr. Brezhnev to inhibit his natural tendencies in such places as Angola. And that in itself may be an adequate justification for keeping it alive through the coming year.

[From the Baltimore Sun, Jan. 1975]

PRO-ARAB TERRORISTS MUST NOT GET PANAMA CANAL

(By James J. Kilpatrick)

WASHINGTON.—An ominous story appeared a couple of weeks ago in the Washington *Post* under a Panama City dateline. It was headed "U.S.-Panama Accord Seen in Early 1975." This was Marlese Simons's lead:

"A U.S. concession to surrender jurisdiction over the Panama Canal Zone at the end of five years has led to confident predictions by an authoritative source that a new U.S.-Panama canal treaty would be ready for signature next year."

Let us sound the alarm bells and summon such able warriors as Representative Daniel J. Flood (D., Pa.) and Senator Jesse Helms (R., N.C.). For the past 20 years, Mr. Flood has been raising Catonian cries in the House. Mr. Helms has made himself Senate leader of the fight to prevent a giveaway of vital rights and property in the Canal Zone. This "concession to surrender" cannot possibly be approved.

We ought to understand what is at stake in these negotiations, both as to the canal past and as to the canal future.

Under the treaty of 1903 the United States acquired rights "in perpetuity" over a 10-mile wide zone of Panamanian territory. The rights included all power and authority the United States would possess "if it were sovereign." By direct purchase from private owners, the United States also acquired title, in fee, to certain lands now involved.

In 1914, after a tremendous and costly feat of engineering, we opened the Panama Canal to the shipping of the world. For 60 years the canal was operated without an increase in tolls. About 70 per cent of the tonnage through the canal in recent years has originated in, or been destined for, the United States. Apart from its commercial value, the canal has had immeasurable strategic value also. Mr. Flood has aptly called it "the jugular vein of this hemisphere."

Panama has benefited also. More than 40 per cent of Panama's foreign exchange earnings, according to a State Department paper last year, and nearly one-third of Panama's gross national product are directly or indirectly attributable to the canal.

What of the future? Panama is under the iron rule of Brig. Gen. Omar Torrijos, who seized power in October, 1968. He is pro-Arab and pro-Communist. Before any surrender of jurisdiction is approved, we should ask ourselves how in the name of common sense the United States could benefit from Panamanian control. The prospect is for nationalization; the prospect is for General Torrijos to do in Panama what the late Gamal Abdel Nasser did in Suez.

Now, it is understandable that Panama chafes under the continued U.S. presence. Senator Alan Cranston (D., Calif.), who favors a new treaty, has asked how Americans might feel if the British still held perpetual rights along the Erie Canal. Doubtless the present situation is indeed a "source of conflict," and after 10 years of intermittent negotiations, Ambassador at Large Ellsworth Bunker doutbless is correct in saying the Panamanians are "impatient."

But there comes a time when great powers must behave as great powers. Not every source of conflict can be removed. Some conflicts must be endured; they must be lived with. Not every wounded sensitivity can be soothed. When every reasonable and prudent concession to Panama has been made, a line has to be drawn: No more. And sorry about that.

The treaty of 1903 is not engraved in stone. It has been twice amended—in 1936 and 1955. It is entirely possible that further amendments can be agreed to, relinquishing unneeded land for Panamanian development, further increasing payments to Panama, and providing for some Panamanian participation in administration of the canal.

But the rumors now afloat smack of abject surrender. They smack of appeasement. They smack of the same cockeyed judgment that gave us the wheat deal with the Soviet Union. That was called a victory for detente. One more such victory and we are done for.

[From the Washington Post]

IRAN TO BUY NUCLEAR PLANTS FROM THE UNITED STATES

(By Murrey Marder)

The United States and Iran yesterday announced that Iran will purchase up to eight nuclear power plants from the United States as part of a two-way trade expected to reach $15 billion over five years, exclusive of oil sales.

The U.S.-Iranian trade accord is "the largest agreement of this kind that has been signed between any two countries," Secretary of State Henry A. Kissinger told a news conference.

Iranian Economic Minister Hushang Ansary said the projected trade "exceeds by almost a billion dollars" the "combined amount of agreements that we (Iran) have with the industrialized nations of Western Europe."

The $15 billion estimated non-oil trade between the two nations was described as "a target" in a joint communique. Although it was dramatized as a new $15 billion "agreement," it represents an increase of about one-third, or approximately $1 billion a year, over the 1974 level of trade between the two nations, excluding oil. The cumulative figure is quite high for U.S.-Iranian trade, although it is dwarfed by U.S. trade with many nations.

Sale of American nuclear power reactors will make up the dominant portion of a planned $12 billion in new U.S.-Iranian projects, extending beyond the five-year period. . . .

Iran is second only to Saudi Arabia as the world's largest oil exporter, but its oil reserves are far more limited, and the shah is in a hurry to industrialize his nation.

In response to questions raised at yesterday's news conference about the large number of U.S. nuclear reactors to be sold to Iran, Kissinger said, "It is not a deliberate policy of the United States to spread nuclear technology around" the world.

All the nuclear reactors for Iran, he said, will be subject to "the safeguards that are appropriate" under the Nuclear Non-Proliferation Treaty, which Iran has signed.

MONDAY HOLIDAY ACT

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. **KETCHUM**. Mr. Speaker, on January 1, 1971, when the Monday Holiday Act went into effect, a significant tradition in the patriotic life of America was destroyed. The whole symbolic meaning attached to our national holidays was erased by equating them almost solely with business, profits, and long weekends. We have one holiday just about straightened out, restoring November 11 as Veterans Day, and I believe it is high time we returned all our national holidays to their original dates. I intend to do just this by introducing legislation today which will designate February 22, May 30, and October 12 as Washington's Birthday, Memorial Day, and Columbus Day, respectively, returning our legal public holidays to their dates of traditional observance.

I maintain that if we are to preserve those things we hold sacred and dear to us in this great Nation, if our traditions are to have some meaning, we must reverse the damage which has been done to our heritage. The New York Times gave its support to the Monday holidays proposal in 1968—but on February 9, 1971, as Washington's Birthday on February 15 was drawing near, a Times editorial repined its previous decision, stating:

> . . . the more we resent this conversion of historic anniversaries to mere legislative devices for stretching out the weekend. The price of these dubious achievements is one more sacrifice of tradition at a time when that commodity is in seriously short supply. Draining holidays of meaning and color, the plan does honor chiefly to the dollar. Obviously it is good for travel agencies, motels, gas stations and chronic weekenders. But if that is all the holidays are to mean, then why ever retain their names? They might as well be numbered!

Why did we declare certain days "national holidays" in the first place? We did so because a handful of days were highly significant occasions, steeped in the history and tradition of our country. If we continue on the present course, in 10 to 20 years from now our youth will never know what February 22 signifies. They will neither know nor care when George Washington was born—one thing is for certain, no child will believe that Washington was born all over mid-February. The same will hold true for the day mourning the loss of American life in military conflict and the day celebrating the discovery of our great Nation. All will be lost to a 3-day period of revelry and vacation.

As we take time to reflect on the past 200 years of American history, shall we celebrate July 4th on the last Monday in June? I believe not. But is that thought any less reverent than mourning the loss of American life in military combat by racking up further deaths in hurried highway travel? In this Bicentennial Year, I urge my colleagues to join me in putting a stop to this abuse of our national heritage in the name of 3-day revelry.

A FEW GOOD MEN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. McDONALD of Georgia. Mr. Speaker, in spite of the recent publicity given to the Brookings study on the future role of our Marine Corps, many of us sleep better knowing there are three Marine divisions available and ready to go into combat anywhere in the world in the defense of the United States. The Wall Street Journal, on February 11, 1976, expressed this point of view very well I thought. For those who may take the Brookings Institution study seriously, I commend the editorial from the Journal, which follows:

A Few Good Men

In his first message to Congress in 1829, Andrew Jackson proposed that the Marine Corps be merged into the infantry or the artillery, "there being no peculiar training requisite for it." More than 100 years later, ex-Army artillery officer Harry Truman described the Marines as "just the Navy's police force." Both remarks are indicative of the ambivalent attitudes Americans have had towards the men who wear soldier uniforms and speak the sailor's jargon.

So it should not be surprising that a new Brookings Institution study holds that the Corps is out of step with the times and should be reorganized and trimmed in size from its present 196,000-man level. The study urged that the Corps abandon its preoccupation with amphibious warfare and sharply reduce its tactical airpower.

No doubt the Corps could benefit from some constructive criticism. It did not always live up to expectations in Vietnam and it perhaps suffered even more than the Navy from the mediocrity ethic that infiltrated the military services a few years ago.

However, as the Corps' recent search for "a few good men" implies, it has raised its recruiting standards and, apparently, overall morale. And the Brookings judgments about a diminished need for an elite and highly mobile fighting force are subject to challenge.

The study argues that China or Russia would not be much damaged "by amphibious nibbles" along their coasts. But that misses the point of the Marine Corps' traditional role, which is to conduct specialized operations, often of a very limited nature, in situations where U.S. interests are threatened. Amphibious operations along with the ability of a mobile strike force to respond quickly—as in the Mayaguez incident only last year—still provide important military and political options in a nuclear age.

The Brookings judgments are based also on the perception of a "growing public disenchantment with military ventures overseas." Americans have never been enchanted with overseas military ventures. But they have often backed such ventures when the reasons for them were clearly understood. Having a force in readiness is one way to discourage adventurism by other powers.

While the Brookings study is useful in provoking a discussion of the Marine Corps' effectiveness, the need for such a force is beyond question. Harry Truman was very happy to have the Marines at Inchon after the Korean war broke. It is not hard to imagine situations today in which the U.S. will badly need a "few good men."

A MAN OF IMPACT

HON. TENNYSON GUYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. GUYER. Mr. Speaker, I am pleased to insert into the RECORD an editorial from the Lima News, Lima, Ohio, honoring an outstanding man in my district, Msgr. Edward C. Herr. It is appropriate that such a man who so much typifies the spirit of America should be signally honored on his 65th birthday and on the threshold of America's 200th birthday.

The article follows:

Monsignor Herr a Man of Impact

Many people helped build Lima Central Catholic, a 1,000-student high school in its 20th year. But much of LCC's uniqueness is credited to Msgr. Edward C. Herr.

In his 19th year as LCC principal, Father Herr has directed the school almost from the start. It mirrors his personality.

Saturday is Msgr. E. C. Herr Day in Lima, a special day planned by LCC alumni and proclaimed by the mayor. We join that tribute to a man who has made his mark on our community.

He was appointed in June, 1957, to complete consolidation of Lima's parochial high schools. Today LCC occupies a modern building on Cable Road, where construction started in 1959. In two decades, the school has graduated 4,000.

Despite enormous financial problems, Father Herr has maintained a high school open to all. He has battled to keep down tuition and provide aid where needed. He has blocked the alternative, which was for LCC to become an exclusive academy, white only and largely for children of the affluent.

Practically a one-man show in his first years in Lima, Herr has developed an able staff by matching the right person with the right job at the right time. He doesn't second-guess his decisions. But before deciding, he analyzes all sides and considers other opinions.

He pioneered lay leadership in Catholic institutions, establishing Ohio's first policy-making parochial school board.

Father Herr is a teacher who values scholarship. He takes a direct hand in maintaining the quality of LCC's programs and in seeking improvement.

His concept of education goes beyond book learning. He has built LCC as a community based on freedom and love, a school that pays more than lip service to shared responsibility among students, parents and teachers. Rather than regimentation, he emphasizes self-discipline. He insists teachers provide leadership.

Analyzing education's failures, Herr has discarded the fads. He advocates a return to the basics.

During the troubled 1960s, while many seemed to give up on an entire generation of America's young, Father Herr stayed with them.

He understands each succeeding wave of high school students better than most other adults, getting close to his students as few administrators can.

He challenges the young, demanding more of them than they expect of themselves. He has convinced his students to help pay for their own education through the hard work of one fund-raising project after another.

Father Herr takes a special interest in each senior class and directs their annual musical. That LCC tradition took root in Herr's love of the theater.

He is concerned for the teenager who needs special attention to deal with life. He quietly accepts responsibility for helping the boy or girl everyone else has written off.

Some former students seek his counsel as adults. In a sense, they "go home," back to their foundation years to find a direction.

Father Herr also is a priest in the Catholic Church. He was ordained 40 years ago this June.

He is a witness to Christian hope. He has confidence in the Gospel and intimately knows Matthew, Mark, Luke and John, speaking of them as if they were close friends. At LCC, he stresses what he calls the great Christian values right along with the great American values.

He often finds himself in a minority among Catholic clergymen, usually identified with the liberal wing. He has great love for Christ and the church he serves. But he has little patience for legalism and form, stressing a Christianity of love, not of fear and penalty.

One of his cherished moments as a priest came in October, 1966, when he offered the opening prayer before the U.S. House of Representatives. In that period of strife about Vietnam, his theme was peace.

Father Herr has deep sensitivity for the alienated and disadvantaged, especially trying to encourage blacks to overcome discrimination. He tried to prevent black-white polarization in Lima during racial tension in the 1960s. For five years he served as chairman of the city's human relations commission. His activism was aimed at changing men's heart and minds through persuasion and knowledge, not with force.

He established a scholarship program, RE-OPEN, encouraging more blacks to enroll at LCC, broadening their educational opportunities and providing whites with a better balanced student body.

He for years quietly encouraged women to accomplish all they are capable of through careers and higher education. Each class and the student senate at LCC have co-presidents, a girl and a boy.

He has taught we must work together, but that the quest for unity must respect our differences, the infinite variety of America's cultural mix. With pluralism, he insists there is a place for everyone.

His efforts have produced a unique relationship between Lima's public and parochial schools. Their respect and cooperation are unmatched in Ohio.

A thinking man, Herr avoids rigidity. He's in tune with change, while maintaining his principles.

For a lifetime he has been a great reader with wideranging interests. He is able to interpret for easier understanding by others many important developments in education, theology and even politics. Politically, he is labeled a liberal, although some might use "progressive-conservative," reflecting his respect for the traditional ideals of Western man.

Unlike many with a full life of experience behind them, Father Herr seldom looks back. He looks forward. And he has staying power.

On Feb. 24 he will celebrate his 65th birthday. He has suffered two heart attacks, first in 1970 and again in September, 1974, when his condition was critical. He considered the attacks temporary setbacks, refusing to slow down for long.

He thrives on action; is a doer, a man who puts it on the line. He never ducks a problem or an issue.

He is friendly, has a roaring sense of humor and a real ability to laugh at himself. And he has a temper, excusing it by citing his Irish heritage.

He is a man who tries to live what he believes and says. He has changed many lives and touched countless others. He has made mistakes, of course, and at times has been controversial. But love him or leave him, Father Herr is the rare man others cannot view with apathy.

1975–76 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. ST GERMAIN. Mr. Speaker, it is always a pleasure for me to grant recognition to our talented young people, whose abilities, wisdom, and insight sometimes seem disproportionate to their youth. The Bicentennial has certainly provided a much-needed forum for all our citizens, old and young, to express their thoughts on our country's past and present and to give us a glimpse into the heart and soul of our Nation. I sincerely hope that this expressive spirit will not end with the close of this year, because it is only by continuously encouraging each person to speak out that we can truly maintain the spirit of patriotism and cooperation which our 200th year has brought to us.

This spirit of the young nation past and the great country present has been uniquely embodied in an essay by a young lady from my hometown in Woonsocket who is the Rhode Island winner of the 1975–76 VFW Voice of Democracy Scholarship Program. Gisele Sutherland wrote the following essay on the subject of "What Our Bicentennial Heritage Means to Me," and I am truly proud to share this moving statement by a 15-year-old Rhode Islander with my colleagues:

1975–76 VFW Voice of Democracy Scholarship Program: Rhode Island Winner, Gisele Sutherland

July of 1976 rapidly approaches. The spirit of the events which occurred during the past two centuries of our nation's history is being revived for each American. Each of us has developed his sense of awareness well enough to be appreciative, and more importantly, proud, of the United States of America. This sense of awareness has helped me to discover that our land is one of opportunity for each and every citizen in this grand and mighty nation.

In light of this, let us place ourselves in the midst of our nation's beginning. The year is 1620. The place: Plymouth. The new settlers here are pilgrims, voyagers from England in search of a new life. They have one basic goal in mind, freedom of religion, and with this goal, their colony begins to develop.

The day is today! We, as twentieth century Americans, are the descendants of these pilgrims. They are the basis of our generation which was to come. We are the basis of the generations which will come. The upholding of these foundations is essential for the maintaining and growing of our land of opportunity.

The year: 1775. The place: Lexington and Concord. During the past century and a half, the nation has prospered from coast-to-coast, with colonies sprouting all around. At this moment a shot rings out from the musket of an English soldier. Within seconds a battle breaks out. Hours of bloody fighting follow. Finally, the site is silent. The smell of gunpowder hangs in the misty night air. The American Revolution has begun.

The day is today! Our twentieth century nation has witnessed, partaken in, and struggled through years of war and depression which threatened to destroy these United States which our ancestors fought so persistently to build. Factors hindering us have arisen in the past. They will continue to arise. We shall continue to fight.

The year: 1848. The place: Seneca Falls, New York. The event: a convention of women. Until this time recall that this was a nation in which all men were created equal. From this point on women would work to make this a land where we would hold this truth to be self-evident: that all men and all women are created equal.

The day is today! The twentieth century woman is here, standing side by side with man. She has proven herself to society. But mostly, she has proven herself to herself.

The year is 1886. The place: New York Harbor. The Statue of Liberty stands as a symbol of democracy. This gift from France is a sign of the peace and understanding which can exist between two nations. It proclaims:

> "Give me your tired, your poor,
> Your huddled masses yearning to breathe free,
> The wretched refuse of your teeming shore.
> Send these, the homeless, tempest-tost to me.
> I lift my lamp beside the golden door."

The day is today. The year: 1976. The place: anywhere in America. We continue to inspire, to help, to reach out, to touch, but our work is not finished. We must continue to build upon these past 200 years. We must move forth. We must continue to grow. We must always be free.

HEARINGS BEFORE THE SUBCOMMITTEE ON CRIME OF THE HOUSE COMMITTEE ON THE JUDICIARY ON REAUTHORIZATION OF THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. CONYERS. Mr. Speaker, I am pleased to announce that the Subcommittee on Crime of the Committee on the Judiciary will continue hearings on the reauthorization of the Law Enforcement Assistance Administration and amendments to the Crime Control Act of 1973. The hearings will resume at 10 a.m. on Wednesday, February 25, at which time Sarah Carey of the Center for National Security Studies will comment on her recent study of the impact cities funding program. Following Ms. Carey will be Glen King of the International Association of Chiefs of Police who will testify to the issues of police funding by LEAA. Prof. A. F. Brandstatter of Michigan State University will provide testimony on the LEEP program.

On Thursday, February 26, 1976 at 10 a.m., Senator EDWARD KENNEDY will appear to comment on his bill in the Senate to amend Public Law 93–83. Deputy Attorney General Harold Tyler and LEAA Administrator Richard Velde will testify that day on the administration's proposals to amend the act.

We will hear at 10 a.m., Friday, February 27, 1976, Mr. Paul Rosenbaum of the Michigan State Legislature, representing the National Council of State Legislatures. He will be followed by Mr. Anthony Trausano from the American Correctional Association and Mr. John Boone former commissioner of corrections in Massachusetts.

Our hearings will continue during the first week of March. On March 1, 1976, a representative of the National Governors Conference, Mr. Brendan Byrne will testify. Mr. Richard Harris of the National Conference of State Criminal Justice Planning Administrator will be testifying also. On the same day, we will hear testimony from Mr. Roscoe Bobo and Mr. Philip Elstrom of the National Association of Counties. Mr. Ernie Allen from the Louisville Criminal Justice Coordinating Council will appear on that day also.

Leading off on Wednesday, March 3, 1976, will be Mr. Robert Merriam, of the Advisory Commission on Intergovernmental Relations. Following him will be Chief Justice Howell Heflin from the State of Alabama commenting on the proposal to categorize State courts funding. Dean John F. X. Irving of the Irving Commission will testify also.

On the final day of hearings that week, March 4, 1976, PETER W. RODINO, Jr., chairman of the House Committee on the Judiciary will testify. In addition, Mr. Ken Gibson and other mayors will speak to the criminal justice needs of the cities. Finally, Mr. Ronald Brown of the National Urban League will be testifying.

Those wishing to testify at a future hearing or to submit a statement for the record should address their requests to the Committee on the Judiciary, 2137 Rayburn House Office Building, Washington, D.C. 20515.

THE ANNIVERSARY OF THE DECLARATION OF ESTONIAN FREEDOM

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. DERWINSKI. Mr. Speaker, it was just 57 years ago that the people of Estonia, a small nation on the Baltic Sea, declared its independence. For almost 700 years this nation was subjected to rule of various powers, with the largest portion of that time under the domination of czarist Russia. However, on February 24, 1918, Estonia declared its independence from the Russian regime and resisted the invasion by the Bolshevik Russian forces.

Freedom for the Estonian people came to an end two decades later after the Communists and the Nazis divided Poland between them and the nation was forced to sign a treaty which permitted the construction of Soviet military bases and Russian troop occupation. Annexation soon resulted and on August 6, 1940, the tiny republic was absorbed by the Soviet empire.

As is common in Soviet-dominated nations, the people of Estonia were continually subjected to arrest and exile. From 1941 to 1944, about 10 percent of the population was either killed or forced to flee the country. Tens of thousands of Estonians were shipped off to other parts of the Soviet Union.

However, the history of terrorism and the continued suppression of their culture and self expression, has not dampened the innate desire of the enslaved people for national independence and for their human rights and personal dignity to be restored.

Mr. Speaker, may I remind the Members that on December 2, 1975, the House voted unanimously to reaffirm that the signing of the agreements at the European Security Conference did not change the U.S. policy of nonrecognition of the Soviet Union's illegal occupation of Estonia, Latvia, and Lithuania. As chief sponsor of this resolution, I believe that this U.S. policy of nonrecognition of the forcible annexation reinforces Estonians in their determination to keep alive their traditions and to await national independence and restoration of individual liberties.

On this day, I join with the free world Estonians and their friends in expressing determination to maintain the aspirations of Estonians for freedom, and to once again, strive for the achievement of independence from the bondage of Soviet colonialism.

THE FATHER OF TVA

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. NEAL. Mr. Speaker, Mr. David Lilienthal, the first Chairman of the Atomic Energy Commission, is considered the father of the TVA and a prioneer in expanding nuclear energy producing facilities. In a recent interview with Washington Star staff writer Roberta Hornig, Mr. Lilienthal expressed a concern, which I share, over nuclear proliferation. I would like to share that interview with my colleagues:

Question: *Nuclear power plants have been widely hailed as one of the most peaceful uses of atomic energy and yet you are now calling for a halt to their export and to their proliferation. What made you change your mind about nuclear power plants?*

Lilienthal: Well, nuclear power plants for electricity, I still strongly favor. They supply a substantial part of the energy in this country. Their future, I think, is assured. The problem arises in the export of these plants and materials that go into them because it's equally useful for bombs. And it's the destructive uses rather than the peaceful uses that causes me great concern and causes everyone great concern.

Q: *How realistic a possibility is that?*

A: What has happened is that in a good many of these exports we find the very things that we're now worried about: the proliferation of weapons. The materials in the nuclear power plant being used for weapons material. Until we get some assurance that will not happen, it seems to me we ought to stop nuclear power plants until we're completely sure they will not be used for weapons.

Q: *That happened in India, didn't it?*

A: Yes, and that was a lesser case of deception. It was a so-called research reactor. Even a tiny research reactor was enough to produce enough plutonium to produce a bomb. But there are other cases where it's even more serious than that. The people of the United States are going to be very troubled about this when they find out the amount of this bomb material we've been shipping all over—Japan, Germany and France—without any real safeguards. There's going to be quite a lot of questions asked. The only way, it seems to me, to get it seriously discussed is just to clamp down until we get this kind of assurance.

Q: *One of the arguments has been if the United States fails to provide these nuclear materials, other members of the nuclear club can always export theirs. How can there be assurance that there will be a stop?*

A: We can't be assured, we can only do our part. At the present time we're the first proliferators, we're the major proliferators now. We can't stop this proliferation unless we show our good faith by stopping ours. Someone has to start somewhere and the United States is the right place to start.

Q: *And if it isn't stopped?*

A: If there are a dozen or 15 countries, some probably unstable and irresponsible, having atomic weapons it provides for a very unstable world. The worst thing that could happen is that one of these countries at a time when it's politically upset could make use of a weapon of this kind—use it to demonstrate its machismo, to show what big shots they are. It might attack a neighbor and set off a whole domino effect of horrible events just as the assassination of that poor little Balkan prince did.

Q: *Causing World War I.*

A: This would be a lot more than that. People would say, if it were secret, who did it, was it among our enemies, if it were say India versus Pakistan or Pakistan versus some other country, or coming closer to home, countries in Latin America who are preparing: proliferation is beginning to spread there.

Q: *How about the Middle East, where we seem to be selling a great number of weapons?*

A: That's the most acute case of all. But there, both Egypt and probably Israel and other countries in the Middle East are on their way or maybe have arrived and that simply magnifies the instability of the world. It becomes something like a string of firecrackers, one setting off the other. That's something we should make a most extraordinary effort to prevent. An embargo is the mildest form of meeting this.

Q: *We keep hearing that any good scientist can make a bomb. Is this true?*

A: That's utter nonsense, childish nonsense. For one thing, a good deal of this stuff is highly radioactive. And it would have to be somebody who knows what the hell he's doing. I went into the plutonium fabricating plant at Los Alamos in my first experience with the AEC. And we were covered from head to foot and then we were fumigated. The notion that kids can make these weapons is really childish.

Q: *How about terrorist groups?*

A: They can certainly hijack. It would take quite an organization to do it. And there's no reason why we shouldn't protect ourselves against that. We should do it carefully and begin now. Groups would be larger than just a few united people. It would have to be an organization. And that's not too incredible. There's a lot of cuckoo people in the world.

Q: *So you feel basically secure with the safeguards within the United States?*

A: Yes.

Q: *What about the new processing plants?*

A: You see the complaint there is a matter of safety, safety in the operations. Theft I think is a minor problem in the United States. It would be a good way to get rid of a lot of terrorists if they started messing around with some of this stuff.

Q: *You're talking about an embargo of nuclear power plants and nuclear materials. What about safeguards against ones that have already been exported? What about safeguards in plants in our own country?*

A: Safeguards in plants in our own country are now going to be given more attention, I think they're reasonably good. Safeguards overseas by the international agency have been quite effective up to a time. I think they should be strengthened. The policemen, the inspectors ought to know more about the atomic energy business so they can detect things which are going on which isn't the case for the international agency so far. But it's done a good job but its resources are inadequate. Until it's greatly strengthened, I think we ought to stop this business of handing the stuff out to anyone. Remember this is all done through private companies. We're not talking about the United States, we're talking about Westinghouse, General Electric, etc. It's not nation-to-nation, country-to-country, we have delegated to private companies a sovereign power. We ought to get busy and withdraw it.

Q: *Can you give any examples of how to increase and operate the policing?*

A: Yes, for one thing, the international agency is seriously underfunded and understaffed. The quality of the people who are in charge is very good but their functions are very limited considering the nature of this problem. So I would think they ought to be authorized and encouraged and have research facilities and operational facilities so they have on board people who know what's going on at any of these plants without simply accepting the ideas, yes and no of the people who are running it.

Q: *How about a watchdog police force. Do you think there should be such a group?*

A: I would think the whole point of calling people out when they are violating the international safeguards is that there should be something done about it. I think after a hearing before a committee or an action by the Congress of the United States public opinion is really going to be worked up. This would be as effective as anything else. We can hardly have any country standing up against the united worldwide opinion that it's threatening the lives of the world by what it's doing. Now, they've done it before. Hitler did it. We've had in my generation too many examples that these horrible things can happen. But that in many cases no one took any account of the eventuality in advance.

WILLIAMSPORT, MD., AND THE BICENTENNIAL

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. BYRON. Mr. Speaker, it was my pleasure recently to participate in the ceremonies designating Williamsport, Md., an official Bicentennial Community.

The program was arranged by Robert V. Cromer, chairman, Williamsport Bicentennial Committee. Victor Cushwa acted as master of ceremonies. Mayor Walter L. Sprinkle, Assistant Mayor Walter W. Teach, and town council members, Patricia K. Cushwa, William H. Eyler, Jr., Michael G. Harsh, John B. Hetzer, and Leslie S. Stenger all participated as well as Warren M. Seymour, Jr., the town clerk.

My good friend, Charles Francis Wilding of the Maryland Bicentennial Committee presented the national and State Bicentennial flags and a certificate of accomplishment.

I would like to congratulate all of those citizen of Williamsport who worked to make this achievement a reality. Williamsport, the home of Gen. Otho Williams of Revolutionary War fame and one of the sites considered for the U.S. Capital City, remains one of the most charming and well-preserved towns in central and western Maryland. Its historic accomplishments and its present celebration constitute a unique chapter in this area of Maryland.

ESTONIAN INDEPENDENCE

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. DELANEY. Mr. Speaker—

> By virtue of the right of self-determination of nations . . . Estonia in her historical and ethnic boundaries is declared to be an independent democratic Republic.

With these words, some 58 years ago, on February 24, 1918, the Council of Elders of a democratically elected Estonian Diet proclaimed their country's independence. A 2-year war followed, culminating in a peace treaty formally signed by the Kremlin on February 2, 1920, in which Russia renounced forever any claims to this Baltic nation.

As the years passed, other treaties were duly signed and ratified between Estonia and the U.S.S.R., among them: A Pact of Non-Aggression and Peaceful Settlement of Conflicts, dated May 4, 1932; a Convention of Conciliation, dated June 16, 1932; a Convention for Definition of Aggression, dated July 3, 1933; and a so-called Pact of Mutual Assistance, dated Septmeber 28, 1939, which the Soviet Union forced upon all the Baltic states. V. M. Molotov, at that time Premier and Foreign Commissar of the U.S.S.R., went so far as to state before the fifth session of the Supreme Soviet that—

> The special character of these mutual assistance pacts in no way implies any interference by the Soviet Union in the affairs of Estonia . . . as some foreign newspapers are trying to make out. On the contrary, all these pacts of mutual assistance strictly stipulate the inviolability of the sovereignty of the signatory States and the principle of noninterference in each other's affairs. . . . We declare that all nonsense about sovietizing the Baltic countries is only to the interest of our common enemies and of . . . anti-Soviet provocateurs.

Mr. Speaker, he lied. On June 17, 1940, Soviet Armed Forces invaded and occupied Estonia and the other Baltic nations. On August 6, the Kremlin, by fiat, incorporated the Estonian people into the Soviet Union.

The United States of America has never, will never recognize this unlawful act.

I join my colleagues today in saluting our fellow Americans of Estonian descent. To their brothers, sisters, and friends now living under the yoke of Communist tyranny I say, "Su üle Jumal valvaku," until your independence once again becomes a reality. Finally, I demand of the Soviet leadership a respect for international law and their own country's treaty obligations.

TRIBUTE TO THE LATE, STATE SENATOR JOHN J. MOORE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. BIAGGI. Mr. Speaker, I was deeply saddened over the death of my good friend and colleague, State Senator John J. Moore, who succumbed to a heart attack on January 18, at the age of 54. His death marked the end of a career in military, government, and public service which spanned more than three decades.

The first distinctive phase in John Moore's life occurred in 1942, when he enlisted in the U.S. Navy. While in the Navy, John served on the destroyer, U.S.S. *Haraden*, and participated in seven major invasions. He received a number of awards for his service in the Navy, including the Philippine Liberation Medal, the Asiatic Pacific Medal, and European and American Victory Medals. In addition, he was awarded the Purple Heart, for wounds he sustained during the war.

Following his military career, John began to pursue his studies in fine arts, and was employed by the Veterans' Administration. In 1947, John applied and was accepted for a position with the Federal Bureau of Investigation. After 8 years, during which time he received his B.A. degree from Pace College, John was appointed as a special agent. While in this capacity, John's outstanding talents as an artist were put to good use by the FBI, as his accurate sketches portraying criminals helped crack many cases and earned him great respect among his peers.

In 1960, John continued his law enforcement service as a special agent of the New York State Commission on Investigations.

John's law enforcement career culminated in February of 1974, when he was elected to fill a vacancy in the New York State Senate. Almost immediately, it was clear to the people of the 14th Senatorial District that they had chosen a man committed to serving their interests, and in the general election held in November of 1974, John J. Moore was reelected by an overwhelming majority. His career in the New York State Senate was characterized by an unending concern and commitment to serving the needs of his constituency. In his short career in the State senate, he earned the respect of many of his colleagues who were impressed by the devotion he gave to performing his job well.

In addition to his many time-consuming duties, John J. Moore was active in the Jackson Heights Queens community, where he lived for more than 15 years. He served as an elected member of Community School Board No. 30, and held offices in a number of church and parish council groups. He was a member of the board of directors of the Astoria Civic Association, the Jackson Heights Civic Organization, and other civic and veterans, organizations. In these capacities, John helped to gain the understanding and pulse of the people he served in the State senate.

John J. Moore was an outstanding American patriot and public servant. His life was spent defending and upholding the ideals of freedom. He believed in the work ethic and lived it. He was also a devoted husband and father. I offer my deepest condolences to his widow, June, and his two fine sons, Brian and Michael. The people of the 14th Senatorial District and the State of New York as a whole have lost a fine public servant. I have lost a good friend whom I admired, respected, and shared much in common with. We were both former law enforcement officers, who became public officials.

John J. Moore will certainly be missed, but all of us who knew him take solace in the fact that while here, he led a productive, fruitful, and meaningful life.

GUN CONTROL

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. PRESSLER. Mr. Speaker, I am basically opposed to gun control. I fear that Federal gun control legislation would tend to take guns out of the hands of responsible citizens but not out of the hands of criminals and wrongdoers.

I am a congressional adviser to the Citizens Committee for the Right To Keep and Bear Arms; therefore, I firmly believe individual, law-abiding citizens should have the right to own a gun.

If I believed restrictive gun control laws would put an end to armed robberies, kidnappings, and murders, I would support control legislation wholeheartedly. Unfortunately, neither the Federal Gun Control Act of 1968 nor restrictive State control laws have lessened the rate of violent crimes in America. In fact, statistics show the rate of criminal homicides in those States having restrictive gun laws is higher than the homicide rate in States lacking strict control measures.

We might have a better chance of deterring crime if we stiffen the penalties for the commission of crimes with firearms. I have introduced legislation which would provide a 2-year mandatory sentence for any person committing a felony with a firearm. Should the conviction be the second or subsequent one, a 5-year sentence would be imposed under the provisions of this legislation. I also suggest we enforce present criminal laws pertaining to firearms and their criminal use more vigorously than in the past.

Gun control is an emotional issue on which a consensus of opinion is hard to obtain. A common goal all of us share is the desire to eliminate the fear of crime and its consequences; and, certainly this is a goal worth achieving. I believe an excellent first step would be a mandatory jail sentence for committing a crime with a gun. But I do not agree that prohibiting gun ownership would solve our problem—indeed it might add to it because criminals would still keep guns.

SAGINAW STUDENTS RECOGNIZE TODAY'S AMERICA

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. TRAXLER. Mr. Speaker, the Saginaw Student Constitution makes some very important modifications within the operations of government and its relations with the people. We have already seen that the new constitution intends to hold all officials more accountable to the general public, and that it mandates increased reporting procedures by the President and other high officials.

Although certain articles of this document make little change in existing provisions of the U.S. Constitution, article VII provides some very interesting observations on the use of governmental authority and the obligation of leaders to enact the will of the people.

Section 2, paragraph 2 of this article provides for mandatory referendums on petition of 15 percent of the voters within any political jurisdiction and within organizations of working people. It is mandated that the leaders of the political or organization bodies must enforce the mandate of the referendum or be imposed with a jail sentence.

Section 7, paragraph 1 includes monitoring within those factors to be deemed an invasion of privacy. We have too frequently seen electronic bugging used to gather information without proper legal authority. This student constitution provides for adequate controls on this problem.

Section 8 Paragraph 2 provides for the use of capital punishment in instances as the Congress shall provide.

Section 9 of this final article provides for the right to own firearms, but adds the provision that such ownership must be within specific government regulations. The students have tacitly provided for a policy of gun control.

Some time ago I had indicated that the students in a rather important fashion had decided that it was not necessary to provide any specific notion of equal rights as has been proposed by the current equal rights amendment to the Constitution. In a technical section 11, the students have said simply that no one may misconstrue the intent of their document. They have placed meaning rather than images within their words, so that all provision of rights recognizes both males and females.

Mr. Speaker, this Bicentennial event has been the most meaningful exercise that I have yet encountered in our entire Bicentennial celebration. In Saginaw, Mich., we have had students take our form of Government, study it, and make all appropriate changes to provide for a document that reflects the need of America in 1976.

Some may believe that an event of this type shows little recognition of our great heritage and only demonstrates abrupt modifications in our Constitution which does not need any modification. Based on all of the time and effort demonstrated by these students I flatly reject such allegations, but more importantly, I accept the wisdom of Thomas Jefferson who would understand the purpose of the Saginaw Student Constitutional Convention. This great American indicated the need for constitutional reforms when he stated:

> Some men look at constitutions with sanctimonious reverence, and deem them like the ark of the covenant, too sacred to be touched. They ascribe to the men of the preceding age a wisdom more than human, and suppose what they did to be beyond amendment. Laws and institutions must go hand in hand with the progress of the human mind. We might as well require a man to wear the coat that fitted him as a boy, as civilized society to remain ever under the regime of their ancestors.

Mr. Speaker, I hope that you and my colleagues will join me in a hearty salute to the 148 students of the Saginaw Student Con-Con.

The provisions follow:

ARTICLE III

SECTION 1

1. The Judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme Court and inferior courts, may be impeached for treason, bribery and other high crimes. Impeachment proceedings shall originate in the House of Representatives, and must be passed by two-thirds majority vote. It shall then be referred to the Senate for trial.

SECTION 2

1. The President of the United States shall submit to the Senate the nominees for Justice of the Supreme Court, and the Senate shall, with a good review and two-thirds majority vote, approve or disapprove the appointment of a justice.

2. No person, except a citizen of the United States, who has been a resident of the United States for seven years prior, and who shall have attained the age of thirty-five years, shall be eligible for the office of Justice of the Supreme Court.

SECTION 3

1. The Judges, of both the Supreme and Inferior Courts, shall, at stated times, receive for their services, a compensation which shall not be diminished during their continuance in office.

SECTION 4

1. The Judicial power shall extend to all cases, in law and equity arising under this Constitution, the Laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversy to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States, and between a State, United States citizen, and foreign States and citizens or subjects thereof.

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be Party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have original jurisdiction both as to Law and Fact, with such excep-

tions, and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury, except in those cases when the defendant wishes otherwise and such trial shall be held in the State where the said crimes shall have been committed, except when sufficient cause for change in venue shall have been exhibited. When the crime is not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SECTION 5

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on testimony of two witnesses to the same overt act, or on confession in open court.

No relative of the convicted shall be subject to forfeiture of personal property or legal rights.

ARTICLE IV

SECTION 1

1. Full faith and credit shall be given in each State to the Public Acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved and the effect thereof.

SECTION 2

1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

SECTION 3

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned as well as of the Congress.

2. The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be construed as to prejudice any claims of the United States, or of any particular State.

SECTION 4

1. The United States shall guarantee to every State in this Union, a Republican form of government, and shall protect each of them against invasion; and on application of the Legislature, or of the Executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V

SECTION 1

1. The Congress whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution; or, on the application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing amendments, which in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislature of three-fourths of the several States or by conventions in three-fourths thereof as the one or the other mode of ratification may be proposed by the Congress: *Provided*, That no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI

SECTION 1

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution.

2. This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made under the authority of the United States, shall be the Supreme Law of the land; and the judges in every State shall be bound thereby, anything in the Constitution on laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State Legislatures, all executive and judicial officers, both of the United States and the several States, shall be bound, by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII

SECTION 1

1. The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage other rights retained by the people.

2. The powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States respectively, or to the people.

SECTION 2

1. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

2. The people shall have the right of referendum concerning the policy of making decisions of government officials and leaders of organizations of working people. If the signatures of 15% of the people over voting age who live in the area under the jurisdiction of a particular level of government appear on a petition, the issue raised in that petition will go to a vote of the people under the jurisdiction of the particular level of government thirty days after the petitions were filed. In the case of organizations of working people, only those in the organization will be allowed to sign petitions and vote. The decision of this vote is final and cannot be changed except by repeating the process. Any official who does not comply with the decision of the voters, both the intent and the actual decision, shall be subject to a one year prison term and may never again participate in a position of leadership in the United States government or in the United States again—no exceptions.

SECTION 3

1. No soldier shall, in time of peace be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

SECTION 4

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction, the equal protection of law.

SECTION 5

1. The right to vote of the citizens of the United States who are eighteen years of age or older shall not be denied or abridged by the United States or by any State on account of sex, race, color, religion, creed or previous condition of servitude.

SECTION 6

1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to its jurisdiction.

SECTION 7

1. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches, seizures, and monitoring, shall not be violated, and no warrants shall be issued, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons, or things to be seized or monitored.

2. No person shall be held to answer for a crime unless on a presentment or indictment of a Grand Jury, except in cases arising in the armed forces; nor shall persons be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be with witness against himself; nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

3. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have the assistance of counsel if he can afford it, and if not, it will be provided for him.

4. In suits at common law, where the value in controversy shall exceed an amount of dollars to be prescribed by law, the right of trial by jury shall be preserved, and no case tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

SECTION 8

1. Excessive bail shall not be required, nor excessive fines imposed.

2. Capital punishment shall not be outlawed, but it shall be imposed in such cases as the Congress shall provide. The sentence shall be carried out one year after all appeals have been exhausted.

SECTION 9

1. All persons have the privilege to own firearms under specific governmental regulations.

SECTION 10

1. High treason shall be punished by death or natural life in prison. Congress shall have the power to declare the punishment of petty treason.

SECTION 11

1. All references in this document to the word "he" and/or "his" and to the word "person" and "persons" shall be construed to include both sexes.

On the twenty-ninth day of January, the Year of Our Lord, Nineteen Hundred and Seventy-Six, We, by the unanimous consent of the Delegation, have enumerated powers to the people and Government, by the People for Preservation of Liberty and Freedom. We do, in respect hereunto, subscribe our Names.

CURRENT TRADE POLICIES HARM DOMESTIC INDUSTRY

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. NOWAK. Mr. Speaker, the President and the Secretary of State have used trade as an instrument in foreign policy. I think if this is done wisely, the world would benefit greatly. However, it appears that the current philosophy is to

sacrifice American unskilled labor and certain domestic industries to keep on the good side of certain foreign governments.

For instance, the chinaware, steel and candle industries in Buffalo—probably a more divergent group could not be named—are three industries which have pleaded with the International Trade Commission for reversals in policy which threaten to put many more on the unemployment rolls.

One group in front of the Trade Policy Staff Committee came away with the following impression of administration policy:

First. That foreign aid programs have been deemed unsuccessful so now the plan is to help underdeveloped countries by stimulating trade with them.

Second. That the United States wants to ship high technology products into the underdeveloped counties, so we cannot put tariffs on products they want to export.

Third. Small labor intensive industries cannot compete with the low wage rates of underdeveloped countries and probably will not be able to survive.

As part of the Generalized System of Preferences of the Trade Act of 1974, the United States gives nonreciprocal tariff exemptions to encourage foreign countries to sell their goods in the United States. These normally affect labor intensive small industries that cannot afford Washington lobbyists to champion their causes.

The candle industry, which employs 2,000 people in New York State, is systematically being destroyed by importations of candles from foreign countries. Since the 10 percent tariff was taken off less than 4 months ago, a Buffalo company has had a drop in orders of more than 50 percent. The manufacturing of candles lends itself to the use of unskilled and semi-skilled workers. However, the current trade policy is having a terribly negative effect on this industry.

Who benefits? It appears it is whichever country can pay the least wages. In 1973—when the 10 percent tariff was on—35.7 percent of the total of 40 million pounds of candles imported came from Japan. However, the multinationals have found other havens where wage rates are cheaper and in 1975 only 18 percent of the candles imported came from Japan but 51 percent came from Hong Kong, possibly smuggled in from China.

If the tariff remains off, it appears the amount of candles imported will be sufficient to close the American candle industry completely.

Is it in the American interest to encourage this exploitation of foreign labor and close domestic manufacturing companies?

Though multinationals claim that most goods produced overseas are sold there, the generalized system of preferences has had the effect of encouraging the production specifically for sales into the United States.

According to the early figures, the American consumer is not benefiting from the lower costs of labor in these countries. Importers price the product at about the same as the domestic items which, of course, increase the importers profit margins.

Does paying unemployment compensation help anybody? The unskilled worker in America has great difficulty in getting a job. Does this policy help the unemployment problem in this country or is that a problem the administration would rather forget about?

Mr. Speaker, the domestic candle industry is petitioning the International Trade Commission on the reinstatement of the tariff on candles. In fact, they can prove that a higher tariff than the former 10 percent—a 20 percent tariff—would increase domestic employment and not significantly affect the price of goods consumers would pay.

The Congress will watch carefully the actions of the International Trade Commission on this petition. Economic exploitation of workers in Hong Kong or Taiwan should not be encouraged so as to lower their unemployment rates below their present 2 percent when Buffalo has 16 percent unemployment and the Nation's unemployment is over 8 percent.

58TH ANNIVERSARY OF THE REPUBLIC OF ESTONIA'S DECLARATION OF INDEPENDENCE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. McCLORY. Mr. Speaker, the 58th anniversary of the Republic of Estonia's declaration of independence is being observed on February 24. This occasion should remind us of the tragic political conditions under which citizens of Estonia and the other Baltic countries have suffered since 1940. Illegally occupied by the Soviet Union after the partition of Poland, the Baltic peoples have endured continued restriction of their freedom of expression and cultural independence. Last year, four Estonian citizens were jailed by the local government simply for writing letters to the United Nations. This is a situation that the United States will never accept or tolerate, as my colleagues and I reaffirmed in December by passing House Resolution 864.

I salute the Estonian Americans in my own congressional district who have persevered in the struggle to bring freedom to their homeland, and have formed the Estonian Association of Northern Illinois to further their cause. That group, headed by my long-time friend, Olaf Tammark, presented me with an Estonian flag in 1973 which has been on display in my office ever since. I join today with Estonian Americans in northern Illinois and throughout the Nation, as I hope all who cherish freedom will, in the hope that personal liberty will be restored to Estonia and its Baltic neighbors, Latvia and Lithuania.

Mr. Speaker, it seems particularly fitting that in the year we celebrate the birth of the world's longest-living democratic society, we recall the plight of the Baltic States, and renew our commitment to individual freedom and national self-determination throughout the world.

CORRECTING THE RECORD ON GENERAL MACARTHUR

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. McDONALD of Georgia. Mr. Speaker, Mr. Merle Miller in his book, "Plain Speaking," and on the ABC television show, "Collision Course," described President Truman's famous meeting with the late General MacArthur on Wake Island in a fictitious manner and the record needs to be set straight. A person present at that meeting, Col. Laurence Bunker, a personal aide to General MacArthur, attempted to correct the record in the Chattanooga News Free-Press on January 6, 1976, and I include his statement, as reported by UPI for the RECORD.

LONG-TIME AIDE SAYS: GENERAL MACARTHUR DIDN'T DETEST TRUMAN

WELLESLEY, MASS.—The personal aide of Gen. Douglas MacArthur says the general bore no ill will toward Harry S. Truman, the President who relieved MacArthur of his command during the Korean War.

"He had no bitterness for Truman," Col. Laurence Bunker said Monday in an interview. "He was aware of the pressures being brought to bear on Truman."

Bunker said MacArthur once said, "Mark my words, Harry Truman is going to go down in history as a far greater President than (Dwight) Eisenhower.

"Harry Truman made more important decisions from a sound point of view than Ike ever dreamed of making."

Bunker, MacArthur's aide-de-camp for six years and currently vice president of the MacArthur Memorial Foundation in Norfolk, Va., said "there's absolutely no truth" to the much publicized story that MacArthur kept his plane circling Wake Island trying to make Truman's plane land first and that the President finally ordered the general's plane to land.

The Wake Island scenario was used by writer Merle Miller in his book "Plain Speaking" and in the ABC-TV show "Collision Course," aired Sunday.

Bunker said MacArthur arrived at Wake the night before Truman arrived and "was waiting for Truman at the airport." He said the first formal meeting of Truman and MacArthur was cordial, despite reports of a fiery confrontation.

"Gen. George Marshall once told a friend of mine that Truman was reluctant to relieve MacArthur of duty," Bunker said. "Even after he had done it, Marshall said MacArthur was Truman's military hero."

Asked why he thought MacArthur was relieved of duty, Bunker said, "The people immediately around Truman . . . had persuaded Truman to wage a limited war—a no-win war."

Also, Bunker said, "They were afraid the American people would put MacArthur into the White House whether he wanted it or not."

Review of the News also ran a short item pointing out this discrepancy in its January 14, 1976, issue which is also included for the RECORD:

Correcting the MacArthur Record: Bunker Tells the True Story of Wake Island

Wellesley, Mass., January 5—Colonel Laurence E. Bunker, a personal aide to the late General Douglas MacArthur, says that "there's absolutely no truth" to the story that MacArthur kept his plane circling Wake Island trying to make President Truman's plane land first and that Truman finally ordered the general's plane to land. This version of the October, 1950, Wake Island meeting was used by writer Merle Miller in his book, *Plain Speaking*, and on the ABC television show, "Collision Course," which was broadcast last night. In an interview with UPI, Bunker says that he was at Wake Island with MacArthur the night before Truman arrived and that the general was waiting for the President when his plane landed the next morning. He says that the meeting between the two men was cordial, a fact confirmed by Truman in his memoirs, and that there was not the bitter confrontation that Miller has claimed. Bunker, who is currently vice president of the MacArthur Memorial Foundation in Norfolk, Va., also says that Truman was later persuaded to fire MacArthur by advisers who did not want the general to win the war in Korea. "If we had won the war in Korea," he declares, "there would not have been a war in Vietnam."

Further than this Garry Wills in an article entitled, "I'm Not Wild About Harry," which appeared in Esquire magazine for January 1976 also pointed out the incorrectness of Mr. Merle Miller's story and elaborated on the point. The first part of that article treating this incident is now inserted at this point:

I'm Not Wild About Harry

(By Garry Wills)

A good instance is Truman's first meeting with Douglas MacArthur. All the details are evinced—how the President's plane arrived over Wake Island at the same time as the general's; how the general moseyed about in midair, trying to make the President land first and greet *him*; how Truman personally ordered him out of the air; how MacArthur slipped off, on the ground, and let Truman's plane land out of his presence; how Truman stayed in the plane until he forced MacArthur out of his hole—"I wasn't going to have one of my generals embarrass the President of the United States." (One of *my* generals—they're *all* my helicopters, son.) How the general showed up forty-five minutes late for their first formal meeting and was tongue-lashed to his knees:

"When he walked in, I took one look at him, and I said, 'Now you look here. I've come halfway across the world to meet you, but don't worry about that. I just want you to know I don't give a good goddamn what you do or think about Harry Truman, but don't you ever again keep your commander in chief waiting. Is that clear? His face got as red as a beet, but he said—he indicated that he understood what I was talking about, and we went on from there. . . . He was just like a little puppy at that meeting. I don't know which was worse, the way he acted in public or the way he kissed my ass at that meeting."

It is a very satisfying morality play, but it bears no relationship to other accounts of the meeting (e.g., General Omar Bradley's). It is even at odds with Truman's own account in his memoirs. Since Truman and his ghost (William Hillman) had documentary memory nudgers in front of them while working on the memoirs, that account should be considered more authoritative. Mr. Miller likes to believe that Truman was being diplomatic in his earlier and less colorful account of most things, but if so, what happens to the famous candor and the refusal to indulge in tactful little deceptions? At any rate, Miller consciously decided not to confront the President with the disparity: "I wanted to ask Mr. Truman about that discrepancy and many others, but I never did. The reason I never did was that I wanted our conversations to continue." So much for the notion that Mr. Truman was just a reg'lar fella who did not put on airs. On the contrary, you could not question him even to the extent of quoting his own previous words without risking a haughty dismissal (and, in Mr. Miller's case, risking the prospect of losing a lucrative TV series). Miller likes to suggest that the conversations were just chatty confidings between friends; but here and elsewhere the real truth peeks out—that Truman rambled along in self-gratulation because the unwritten ground rules were clear to both participants in these interviews. To wit, that Miller would never ask a single challenging question, and, if he did, that Truman would walk out on him and never come back.

What really happened at Wake Island? Truman had been advised not to meet with MacArthur in Washington, since the general, right after the successful Inchon landing, was at the height of his fame and power. Turned loose in Washington, MacArthur would have been a journalists' delight, overshadowing a President low in the polls at the time. So Truman went all the way to Wake to consult and to pin another medal on the hero. The trip looked like a pilgrimage—the very reason Dean Acheson refused to go along—but the President could control conditions on the island. He ordered MacArthur to show up without press aides but took along a planeload of writers and photographers himself (thirty-five in all)—plus a collection of "stars" to keep the journalists busy going and coming: General Bradley, Army Secretary Frank Pace, Philip Jessup, Averell Harriman, Dean Rusk. The party filled three Constellations, which were the only arriving planes in the air at six a.m. on the day of the meeting. General MacArthur had flown in the afternoon before and could not have been ordered out of the air. He did not slink off to a nearby building but came out of the one where he had slept, after being entertained the evening before by Admiral Radford. MacArthur did not greet the first two planes that landed; but neither did he keep the *Independence* waiting on the runway. When its door opened, he was at the ramp. He was not late to any of the three meetings (which took place in a span of five hours).

These details were supplied to The New York *Times*, after Miller's book came out, by Robert Sherrod, *Time*'s man on that trip; and they have been confirmed by Ambassador Jessup. MacArthur was not late to any meeting and was dealt with by Truman in the most deferential way. Vivid detail after vivid detail has been created to display Truman as he wanted to be, not as he was. ("Harry, all we get is *lies*," wails the rock group Chicago.)

Well, say defenders of the Miller book, "Truman was getting old by that time, and maybe his memory failed him. True, but the problem seems to be vigor of imagination rather than weakness of memory. His accounts of the Byrnes and Baruch meetings, more careful than the MacArthur story but heightened in exactly the same way, were confected long before senility set in. Besides, if his memory had gone so spectacularly bad, why pay any attention to his version of other events even more distant?

My hope is that at least this part of history, as it relates to an authentic American hero does not get "revised."

AIR TRANSPORTATION COMPLEXITIES

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. MILFORD. Mr. Speaker, Members of the House are presently giving close study to regulatory reforms that are designed to make airline transportation more economical and more efficient.

Indeed, preliminary evidence indicates that some regulatory changes are needed. However, regulation changes will not be a panacea. Furthermore, drastic changes—under the guise of "reform"—could seriously cripple or even destroy our air transportation system.

Mr. Speaker, I would suggest that the salvation of our air transportation system will depend upon several "reforms" that will have to be made in both the regulatory agencies and within the operating airline companies.

Several "sacred cows" are going to have to be reexamined to find out just how sacred they really are. Onboard services, work rules, seating arrangements, equipment interchanges, route structures, commuter air carrier agreements are but a few of many factors that must be carefully studied or reexamined.

Any way you cut the cake, "productivity" will be the factor that will finally determine whether an air carrier lives or dies. This factor, above all others, must be carefully considered by Government, the air carrier companies, and the labor unions.

During the past few years, an airline battle has been taking place in Texas. This has been a very bitter battle between a small intrastate carrier, a regional carrier, and one of the main trunk carriers.

There is no desire on my part to open old wounds, or to aggravate a conflict, or to in any way associate myself with any of the sides of this multilateral conflict. However, I think some factors in this Texas battle should be carefully studied by Government regulators, airline companies, and labor unions.

Under the circumstances that have existed in this airline battle, the fact that the intrastate carrier could even survive—much less make a profit—is either a miracle or darn good productivity. Since bona fide miracles seem to be scarce these days, I tend to think that productivity might be the more reasonable key to the intrastate carrier's survival.

In the February 9, 1976, issue of Aviation Week and Space Technology there appeared an article entitled "Southwest Cites Productivity as Key Factor in Profitability." This article appears to have a message for Government regulators, airline companies, and labor unions. It will also assist Members of Congress in understanding some of the complexities of our air transportation system. The article is herewith included:

Southwest Cites Productivity As Key Factor in Profitability

Productivity is an essential element in the ability of Southwest Airlines to make money in the competitive Texas intrastate market, and one of its recipes for productivity is what the airline says is a consistent 10-min. turnaround of its Boeing 737 transports at the four stations it serves.

Southwest is frequently cited, along with the California intrastate carrier, Pacific Southwest Airlines, as a flying testament to the benefits to passenger and airline of deregulation, or at least less regulation. Productivity at the Texas intrastate carrier is part of a skein whose threads are much more complicated than a sole deregulation explanation for survival during its nascent loss years of 1971 and 1972 and its burgeoning profitability since.

Ten-minute turnarounds are a showcase for Southwest's productivity since the carrier combines both the natural advantages in its four-station route system and the techniques used to speed the operation. Originally, according to Southwest President M. Lamar Muse, turnarounds were scheduled for 25 min. "We found we were sitting around waiting for the schedule," he said, "so after 10 months we cut it to 10 min. There has been no trouble meeting that since."

A survey of six Southwest turnarounds at Love Field during the Christmas holiday season clocked times ranging from 12–20 min. In all cases, though, the airplane was ready to leave 10 min. after it was chocked, but was delayed for late arriving passengers.

Natural advantages Southwest has for its fast turnarounds include:

Lack of connecting traffic where flights are held waiting for passenger arrivals.

Little beyond traffic. Most passengers are traveling nonstop from one station to another on the system and thus little separation of baggage is required.

Short stages eliminate meal service, saving ground time in galley servicing. Beverage replenishment is necessary during turnaround ground service.

Techniques used by the carrier to meet its 10-min. standard:

Cabin attendants refasten seat belts and collect discarded newspapers as passengers leave the airplane, cutting down cabin cleaning time.

Liquor kits to supply two segments are packaged for loading at Dallas. Beverage servicing thus is concentrated at one station.

Work rules are flexible. Supervisors at stations help baggage handlers on the ramp if extra hands are needed to meet the turnaround standard.

Simple one-piece ticket is rung out on a National Cash Register by a single ticket agent, and a stewardess lifts the coupon in flight. A foot operated tape system records the passenger's name given to the agent to provide flight manifest, to save paperwork. Numbered boarding passes are given to passengers in sequence so that the ticket agent and a single operations agent at the aircraft door have a ready check on the number of passengers on each flight. Passes are large and brightly colored so that they are collected for reuse on the next flight, not accidentally carried on board.

Fueling, like liquor service, is done predominantly at a single station. In this case it is Houston, the cheapest point of supply on the system. Southwest was paying an average of 32 cents/gal. last fall. Its two CAB-certificated competitors, Braniff International and Texas International, were paying 23–24 cents/gal., according to CAB data for July.

At Houston, where 71% of its fueling was done in October, the price averaged 30.92 cents/gal. At Dallas, where 3.8% of October's 1,322,000 gal. were loaded, the price was 33.92 cents/gal. The second largest fuel stop was San Antonio, with 22.7% of October's total loaded, and Harlingen was lowest with 1.7%.

In good weather, when less fuel loading is needed for alternate planning, the 1,500 gal. added for a typical flight can be boarded in an average of 4 min.

Inside the cabin at turnarounds, two stewardesses at the rear of the cabin follow the last exiting passengers forward, crossing seat belts and collecting papers and the like. When the last passenger has left, a third attendant at the forward end of the cabin starts working toward the rear. When they meet, they have time to brush their hair and get ready to meet the boarding passengers. Average time for passengers to leave the aircraft is 2.5 min. and the average for loadings is 3–3.5 min.

Two-man provisioning crews can unload empties and load new beverage kits in about 3 min. Both galleys, one forward and one aft, each can hold a two-tray kit with 110 miniature bottles and a three-tray kit with 165, a total of 550 for the airplane.

Beer is stored in 24-can iced drawers in each galley, which also can hold two cases of soft drinks. Kits are stored below the passenger lounge at Love Field in Dallas for proximity to the parked aircraft, and the two man crews work out in advance what loading and unloading each will do to avoid wasted effort.

Southwest's on-time performance by the CAB standard of arrival within 15 min. was at 92% near the end of 1975. By its internal standard of arrival within 5 min., it has been running about 75%. Lack of conflicting air carrier traffic at two main stations—Love Field at Dallas and Hobby Airport at Houston—is a factor in on-time performance.

Teamwork and enthusiasm are a necessary ingredient for the 10-min. turnaround system to work. One reason Southwest gets these from employes was unplanned: stiff competition and nearly perpetual litigation over operating rights since the airline began flight operations in 1971 and the three years before that over the granting of operating authority by the Texas Aeronautics Commission.

"We're still a small company," Muse said, "and there is an awful lot of pride in the company. They are determined to beat the guys that tried to beat us."

Another reason is an employe profit sharing plan established in 1973, when the company was still losing money. It provides that 15% of all pre-tax profits over $1,150,000 a year go into a trust to buy Southwest common stock. The fund bought an initial block of 50,000 shares, and the company bought 47,000 that will be used in future years to pay the fund in lieu of cash. If the airline continues its profit levels of last year, Muse said, employes will own the carrier in 10–15 years.

Some employes are organized. Mechanics are members of the International Assn. of Machinists and the stewardesses joined the Transport Workers Union a few months ago. "Our hostesses make more money than any hostesses in the United States," Muse said at a recent meeting of the New York Society of Security Analysts, but added: "They made more money before the union than they do now."

Pilots are not organized and their salaries, Muse said, average $40,000–42,000 for captains and $20,000 for a copilot—including value of stock in profit sharing. They average 70–75 flight hours monthly or 90 trips on the two-man crew 737 fleet.

Although the Air Line Pilots Assn. has approached Southwest's pilots, Muse doubted that they would join the union. "They've got too much to gain from that profit sharing plan," Muse said. "They'll retire rich men."

Labor costs are 25% of Southwest's total operating costs, a smaller proportion than CAB-regulated carriers but partly because of the lower average seniority of employes of an airline operating only since 1971. Muse also cites higher productivity per employe than CAB airlines. A Board study of 1974 performance put it at 1.5 times the local service average for revenue or available ton miles flown.

By other measures, the picture was not so clearcut. Southwest in 1974 generated $39,979 in operating expense per employe, based on an average of 284 employes for the year. According to a Civil Aeronautics Board study, Texas International and all local service carriers as a group had close to the same average.

Fuel costs are higher for Southwest. The intrastate carrier also spent more for advertising—in terms of cents per passenger—than its local service competitor. Paradoxically, consumer groups occasionally criticize the CAB-regulated carriers for advertising and promotion expenses without much thought as to how markets—and economies of scale—are developed.

Litigation bulks larger in Southwest's costs, too. Again paradoxically, Southwest may well owe its existence to the competitive battle that erupted with Texas International and Braniff. It put Southwest into the role of the underdog fighting for its existence against the establishment from the psychological standpoint for both passenger and employe.

Braniff's expanding a $13 fare to all flights from Dallas to Houston's Hobby Airport in 1973 turned the tide; what Southwest contended was a move aimed to drive it out of business in reality kept it from going bankrupt. It had lost money since it started flying and was losing money when the fare war erupted.

Southwest had started out charging a $20 fare in the 240-mi. Dallas-Houston segment. Financial backers of the carrier were growing concerned, because the fare differential with the CAB-carrier fares in the upper $20 range was not doing what this kind of pricing had done for Pacific Southwest on the 340 mi. Los Angeles/San Francisco stage. That was to entice the business traveler out of his car and into an airplane.

At $20, Southwest was not covering costs and it raised its fares to about the same level as the CAB carriers. It had one ferry flight from Houston back to Dallas in the late evening that it sold for $10 a seat, with no advertising or promotion. When the flight began operating full, the word spread by word of mouth, Southwest tried a $13 fare for the trip and added week end flights for the same price.

When Braniff instituted the $13 fare for all Dallas flights to Hobby Airport in 1973 (AW&ST Feb. 26, 1973, p. 30), Southwest and Texas International matched it in what Muse charged was an insane price war. Both CAB carriers abandoned the price battle later, and Southwest went back to a two-tier price level that now is $25 for day flights and $15 for evenings and weekends.

What all the fare battling did, one financial source says, was to help push Southwest into a kind of price structure that tapped the personal travel market for the kind of traffic, revenue and utilization mix to put it into the profit column for the first time in 1974.

"Now," he says, "Southwest is the establishment, not the underdog." The question is whether the airline will be able to keep its employe spirit and service standards when the hot breath of battle is fading.

Southwest is not so much a low fare operator as an airline whose fares are lower than those of its competitors. Its $25 executive fare charged for the bulk of its daily flights from Dallas to Houston or San Antonio yields 10.46 cents a passenger mile. Its off-peak hours fare of $15 yields 6.3 cents.

Both fares are lower than the 15.6 cents a mile that Braniff's and Texas International's $37.37 fare yields in the same markets. Both are higher than Pacific Southwest's fares in many of its California segments, which reports to the Kennedy subcommittee early last year put in the 5.5-5.7 cents-per mile category.

One economist outside the company believes that Southwest is profitable now because it escaped the kind of locking into a single-tier low fare structure that Pacific Southwest operates under California state regulation. After a string of profit years that made it the prime case-in-point for deregulation proponents, Pacific Southwest lost $7.5 million for the first nine months of 1975. In 1974 for the same period, it earned $2.9 million.

Southwest's revenue per passenger has not changed radically during the years of the price war and spurting fuel costs. It was $19.40 in 1972, dropped to $16.95 in 1973, went back to $19.55 in 1974, and in 1975 was running close to $20.

Revenue per flight ballooned over the same years, though it appeared to be flattening last year. From a low of $566.80 in 1972, it rose to $1,199.50 in 1974. At the end of nine months of 1975, it was $1,285.

Putting the two statistics together, increased traffic and load factor drove up revenue per flight without much change in yield. Costs per flight also rose, from $767.61 in 1972, when Southwest was losing money on a per flight basis, to $1,026.62 in 1974 and $1,080 for the nine months through September, 1975.

Average utilization for Southwest's Boeing 737s is 7.5 hr. a day, which is higher than CAB-certificated airlines show for the same airplane. Prior to the two-tier fare, Southwest pretty much stopped flying on weekends and after dark, cutting the daily utilization average even though the airplanes were flying 50 min. out of most daylight hours during week days. Southwest had to turn back its fourth 737 because its expected traffic had not developed as forecast, in effect delaying the delivery date until traffic had developed enough by the last quarter of 1974.

Other airlines take a view of Southwest's price structure different from that of some deregulation advocates. One of the latter, Prof. George Douglas of the University of North Carolina, contends that the way "Lamar Muse struck it rich in Texas" was to move night coach discounts into the early evenings, what Douglas called off-peak pricing.

His comments at a Mitre Corp. transportation symposium were challenged from some in the audience on several grounds. Emory N. Ellis, Jr., a lawyer who has represented Texas International, questioned whether the $15 pleasure class fare covered incremental costs, the out-of-pocket costs.

Although deregulation economic theorists denounce cross-subsidization—where long-haul passenger fare profits offset short-haul fare losses, for example—the Southwest two-tier fare was criticized as another form of cross subsidization. Thomas J. Flanagan, senior vice president-international affairs, Pan American World Airways, contended that day travelers were covering indirect costs generated by the night discount flight. "Isn't that cross subsidization?" he asked.

"No," Douglas replied, "that's peak pricing."

Another question raised from the audience was what happens if off-peak discount fare demand goes up. "Does Southwest put on another flight or does it raise the fare?" one asked. "If you keep on using an airplane on an incremental basis, that's a sure way to the poorhouse."

Skeptics raise still another issue that is pertinent to the deregulation debate—that the fundamental mechanism of the intrastate carrier's operation is cream skimming. By concentrating its service in the densest markets, the critics contend, Southwest drains off the volume traffic and leaves the federally certificated air lines to cope with mandated service on the thin routes.

Southwest has devoted more than routine effort to countering this argument, through studies of its routes compared to markets of similar size. In the case of Dallas-Houston, the total size of the market over an eight-year period grew from about 300,000 passengers a year to 775,000. Bulk of this growth—27% annually compounded—came after Southwest began serving the market while the others showed more static patterns—averaging 2.2% a year.

Dallas-Houston traffic for the CAB carriers nose-dived in 1974, but Muse says this was the result of their move to the new Dallas-Ft. Worth Airport from Love Field, where Southwest won a court battle to remain.

While Braniff and Texas International lost Dallas originating traffic to Southwest at Love Field, they retain all the connecting traffic that goes exclusively to the new airport that Southwest cannot handle, physically or legally.

Muse used similar data for the Dallas/San Antonio market, which grew from 150,000 passengers annually to 400,000. In this case, he said, the CAB-certificated carriers did better than in the Houston market because of "their going from a daily schedule of 10 poorly spaced roundtrips to a daily schedule of 16 roundtrips operated every hour on the hour in an effort to prevent Southwest from establishing a position."

Further litigation might force Southwest to move from Love Field to the new Dallas/Ft. Worth Airport, but the city of Houston has not opposed Southwest's, or Braniff's or Texas International's, operation from Hobby Airport instead of the new Houston International Airport.

How much the Love Field/Hobby Airport combination contributes to Southwest's viability and how much the lack of CAB regulation is still debatable. If Southwest has to move from Love now, Muse believes the carrier would survive—although after a temporary drop in the market when passengers who now fly from there decided, once or twice, to drive to Houston or San Antonio rather than to the new airport to fly.

Analysts outside the airline consider pricing flexibility is the vital advantage Southwest derives from lack of CAB regulation. As Muse commented on the market growth data: "Introduction of service by an intrastate carrier not shackled by the odious rules and regulations of the CAB can and does meet an incipient demand for air service at prices which the public can afford to pay."

Nevertheless, the CAB's consumer affairs office has recommended that Southwest be exempted temporarily to serve New Orleans from Dallas—Love Field if it wants—as part of the Board's now-eclipsed deregulation experiment. Southwest would be required to report financial and traffic data for the segment—for the life of the experiment—figures is now does not have to file with anybody and which its competitors would like to get their hands on.

One valid argument of the deregulation forces, according to an investment adviser, is that there is a probability an operator like Southwest who could fly any one of 1,000 top city-pair markets in the U.S. more efficient than any trunk or local carrier does now. "What frightens me," he said, "is what happens when you extrapolate that possibility to all those 1,000 city pairs."

THE AMERICAN TAXPAYER VERSUS THE B-1 BOMBER

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. NOLAN. Mr. Speaker, the Minnesota Clergy and Laity Concerned has produced an impressive study entitled "Minnesota Versus B-1 Boondoggle" outlining the cost to Minnesota of the B-1 bomber in jobs, taxes, and lost services. The study concludes that the B-1 would cost the State of Minnesota $1.55 billion and 56,250 jobs. This means that the B-1 is costing each Minnesota family of four $1,628.

While the study looks only at Minnesota, the figures demonstrate the impact of the B-1 program on all taxpayers. Excerpts from the study follow:

EXCERPTS FROM "MINNESOTA VERSUS B-1 BOONDOGGLE"

NATIONAL IMPACT OF PRODUCTION OF THE B-1 BOMBER

Recent studies by the Bureau of Labor Statistics indicate that up to 60% more jobs could be created if the money spent on such weapons systems as the B-1 were redirected into civilian production. It is clear that the only economies that would be bolstered by the B-1 are those of the three major corporations involved in production—Rockwell International, General Electric and Boeing.

Environmentally, the B-1 can only be classified as a disaster. It is the military counterpart to the SST, already outlawed in this country because of the high environmental risks involved. In supersonic flight the B-1 would further damage the ozone layer which protects us from the sun's radiation. A year's worth of flight would consume between 300 million and 1 billion gallons of fossil fuels. Noise pollution, including sonic booms, would accompany the B-1's flights.

MINNESOTA AND THE B-1 BOMBER

Minnesotans have already paid over $35.6 million for the B-1, and if production is approved will pay a total of $1.55 billion. This means the B-1 bomber would cost each Minnesota family of four $1,628.

The corporations that would profit from production of the B-1 bomber would like us to believe that B-1 production will help solve our unemployment problem by creating jobs. It is true that production of the B-1 could be expected to produce about 18,150 jobs in Minnesota. But what the corporations don't mention is that if Minnesota's share of B-1 costs were spent in the civilian sector, between 1½ and 4½ times as many jobs would be created in Minnesota than if the B-1 is produced.

The above figures are conservative because they are based on Rockwell International's estimate that $633 million may possibly come into Minnesota in B-1 subcontracts. Of course, it is in Rockwell's interest to overestimate the "benefits" to Minnesota and, as we shall see, this is a gross overestimate. Of the over $35.6 million which Minnesotans have already paid for B-1 research and development, only $5.4 million has come back into the state in subcontracts. This means that thus far only 15.2% of what we have paid for the B-1 bomber has come back into the state. And there is little reason to believe that the amount returned in subcontracts would suddenly jump to over 40%, as Rockwell's estimate would lead us to believe.

However, in calculating the job loss to Minnesota if the B-1 is produced we have chosen to use the Rockwell figure so as not to be charged with overstating the facts. Therefore, our job loss figures can be considered conservative.

There are two reasons why Minnesota will lose jobs if the B–1 is produced. The first is that more money will go out of the state in taxes than will return in contracts. According to even Rockwell's overstated figure, Minnesota will pay $917 million in taxes that will not be returned to the state in B–1 contracts. If that money were left in the state it would generate: 27,510 jobs in mass transit production; or 46,460 jobs in housing construction; or 58,070 jobs in health, welfare and sanitation.

In addition, there is a second reason that Minnesota will lose jobs if the B–1 is produced. As discussed earlier, military spending creates fewer jobs per billion dollars spent than the same amount spent on nonmilitary production. Thus, if the $633 million which would supposedly be returned to Minnesota in B–1 subcontracts were transferred to the civilian sector of the economy it would generate more jobs. Consider: 18,150 jobs in Minnesota if the B–1 bomber is produced; or 18,990 jobs if the money were spent for mass transit production; or 32,070 jobs if the money were spent for housing construction; or 40,090 jobs if the money were spent for health, welfare and sanitation.

Thus, we can see that even if $633 million were returned to Minnesota in B–1 contracts, it still wouldn't generate as many jobs as using the same amount of money in the civilian sector. Now let's calculate the total job loss.

If we subtract the number of jobs that would be generated by the $633 million returned to Minnesota in B–1 subcontracts from the number that would be generated if the same amount were spent in the civilian sector, and add to that figure the number of jobs that could be generated by retaining the $917 million which the B–1 would drain from the state, we arrive at the total job loss to Minnesota.

For example:

Number of jobs generated by spending $633 million on housing construction	32,070
Number of jobs generated by spending $633 million on B–1 bomber production	−18,150
	13,920
Number of housing construction jobs generated by retaining the $917 million which the B–1 would drain from the state	+46,460
Total housing construction job loss to Minnesota	60,380

In mass transit the job loss would be 28,350; in health, welfare and sanitation the job loss would be 80,010. Averaging these three figures we find that, if the B–1 bomber is produced at least 56,250 jobs in Minnesota will be foregone.

1976 THE YEAR OF DECISION

In December, 1975 the B–1 bomber came one step closer to production. A Congressional conference committee approved $827 million for further B–1 research and development, including production-related expenses. While we debate, Congress (particularly the House) moves us closer to a commitment to buy the B–1 fleet. If Congress approved the entire B–1 program in the spring of 1976 (244 planes, fuel tankers, weapons, maintenance costs), we can look forward to spending $91.5 billion over the next 30 years. The time to consider this investment is now. The bicentennial is a particularly appropriate time to reassess our direction and priorities as a nation. We hope this study will generate much discussion on this issue.

Do we want to continually prepare for more Viet Nams? Do we want to continue to support the kind of foreign policy that is designed to protect the interests and profits of multinational corporations? And do we want to continue to allow the big corporations and the Pentagon to propagandize us into supporting such boondoggles as the B–1? 1976 is the year of decision on the B–1, and our future priorities. We believe this research paper will clarify the economic and social impact of the B–1 bomber and we hope you will let your senators and representatives know your feelings on this issue.

WHY STUDENTS CANNOT WRITE

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. ERLENBORN. Mr. Speaker, we in this body know the importance of the ability to communicate. That ability however, is essential whatever our walk in life. If we cannot be understood by our neighbors, our friends, and others with whom we share this Earth, surely we are in trouble.

Yet, increasingly it seems, we have reports that our young people are graduating from high school without being able to read or write. The Washington Post, a few weeks ago, told of the concern this has caused for Yale English Professor A. Bartlett Giamatti. I submit Professor Giamatti's paper for my colleagues to ponder:

[From the Washington Post, Jan. 25, 1976]

The Language Barrier: Why Students Can't Write

(By A. Bartlett Giamatti)

Today's college students—the former grammar and high school students of the late 1960s and early 1970s—have lost touch with the language. These were the children nobody remembered when The Movement was moving, when the rest of us were being liberated. These were the genuine young.

They are the products of the antistructures of that time. They have come and are coming out of the "open classrooms," vertical grouping, modular buildings with 50 pupils to a room. They have come out of the "new math" and its concepts, its logos and blocks and set theory, not knowing how to multiply. They have come out of "individualized instruction" and "elective systems," not knowing how to listen to anyone else, not knowing how to take a direction.

They have come out of the sentimental '60s, where "repressive" and "arbitrary" grades were done away with, not able to take the pressure of grading. They have come out of a primary and secondary world where "personal development" was said to be worth more than achievement, where "creativity" was the highest goal and was often completely divorced from one of its essential components: discipline. And they are arriving in college often completely at a loss about how to cope with their work, with their time, with themselves.

But most of all, these present college students, and those now in junior high and high school, cannot handle the English language, particularly as it is written.

That this is so is no secret. The New York Times recently reported that, in the 10 years since 1964, the verbal and math scores on the scholastic achievement tests (SATs) have been steadily declining, and that the average test scores for 1975 high school graduates declined by 10 points on the verbal portion and by 8 points on the math portion since 1974. This was the largest single drop in the past 12 years.

This decline tells us something real and terrifying about the state of the English language, just as a recent article on course enrollments in foreign languages—in The Chronicle of Higher Education—tells us something about literacy and the state of foreign languages. The Modern Language Association reports a drop of 6.2 per cent in undergraduate enrollments in foreign languages from 1972 to 1974, with sharpest declines of 14 per cent in German, 13.4 per cent in French, 11.6 per cent in Russian and slighter declines in Italian and Spanish. This, the article said, reflects a trend that has been apparent since the late 1960s.

Obviously the inclination to immerse oneself in any language is on the wane, and the ability to use language is withering rapidly. Ask anyone who reads student writing—or hires recent graduates. Last fall the Yale English Department voted to reinstate English 10, a composition course, because so many Yale students cannot handle English—cannot make a sentence or a paragraph, cannot organize a paper, cannot follow through—well enough to do college work.

Yale is not unique. To take a university different in every respect except quality. Berkeley has just created the Bay Area Writing Project, bringing together college, junior college and high school teachers in the San Francisco area to work on each other to work on student writing. Why? Because where seven years ago only about 25 per cent of Berkeley students had to take "Subject A," Berkeley's required basic composition course for entering freshmen, now the number is around 50 per cent. Berkeley saw the quality of writing declining sharply and decided to invest its energies in the students' earlier years by going back into the high schools. From the Free Speech Movement to the Bay Area Writing Project in just 10 years.

Never mind the statistics. Ask the students. They will tell you just how badly they need help with their language. Last year at Yale, 185 students applied for 12 places in one small college seminar on expository writing—nothing fancy, just a course on how to write. This is typical of the students' desperate wish to be taught how to handle the fundamental medium in which we live.

What has happened? I believe that of all the institutions attacked in the past dozen years—governmental, legal and educational—the one that suffered most was the institution of language itself, that massive, living system of signs which, on the one hand, limits us and, on the other hand, allows us to decide who we are. This institution—language—was perceived as being repressive. It was thought to be the agent of all other repressive codes—legal, political and cultural. Language was the barrier that blocked—blocked access to pure feeling, blocked true communal experience of the kind that flowered at Woodstock, blocked the restoration of Eden. Language was what was circumvented by drugs and music—those agents of higher states whose main virtue was that they were not verbal but visual or aural, the pure association of pure shape or sound unencumbered by words—which is to say by distinctions, which is to say by meaning. Language disassociated us from primitive impulses. It polluted us with ambiguity; it was not pure. Language impeded freedom.

The first shot in the Revolution in 1964 was the Free Speech Movement. It was intended not only to free speech from middle-class constraints about uttering obscenities, for instance. It was also intended to free us from the shackles of syntax, the racism of grammar, the elitism of style. All those corrupt and corrupting elements in American society, those signs that we had fallen from paradise, could be located in an aspect of language. The Free Speech Movement was where we first began to hear language mediated through the bullhorn into the formulaic chant of a crowd.

This reductiveness would soon be extended to all kinds of systems that asserted differentness or pluralism as essential to their workings. But language was where it was first applied. The slogan—like the picket sign, the bumper sticker, the single name by which so many people in The Movement went (surnames being invidious)—all were part of an effort to compress language to a single unambiguous medium of exchange, a coin of the realm that could not be counterfeited or abused. Because what was being sought was not the protean leap of language, but unity of feeling—complete integration of desire and fulfillment.

And here is where language was more of an enemy than anything else. For while language may be a medium for sentimentality, it will not finally yield to it. Try as you can, you can neither wholly avoid words nor wholly make them mean only what you feel. Words resist. But Abbie Hoffman says it better than I can. I quote from Hoffman's speech on the warm evening of May 1, 1970, in the courtyard of Ezra Stiles College at Yale, on the occasion of one of the last great campus gatherings of The Movement:

"Don't listen to people who say we got to be serious, responsible. Everybody's responsible and serious but us. We gotta redefine the —— language. Work—W-O-R-K—is a dirty four-letter word . . . We need a society in which work and play are not separate. We gotta destroy the Protestant ethic as well as capitalism, racism, imperialism—that's gotta go too. We want a society in which dancin' in the streets isn't separate from cuttin sugar cane . . . We have picked the Yale lock."

Fascinating. Because the Protestant ethic, capitalism, racism and imperialism are almost forgotten, almost mere afterthoughts, as Hoffman proclaimed what he really wants: a garden world where nothing is separate, work and play, cutting cane and dancing, where the togetherness will come by "redefining the language." If only he could redefine the language as easily as he could manipulate a crowd. But language won't change its essential shape for anyone. If you engage it, you must honor its deep tides. The most that Abbie Hoffman can do is make it do tricks, and the pun at the end is his trick.

Abbie Hoffman's attitude toward language was fundamentally sentimental—language was a medium for expressing his feelings. It wasn't really a rhetorical instrument, to be used to persuade others, or a weapon, used to flay others. It was like everything else to him and to those like him—good as long as it made you feel good.

This sentimentality, corrosive as acid, was true of all those for whom books became talismans and fetishes, helpful for inducing states and sensations. This is how the novels of Herman Hesse, awash in sentiment, were used, as were the novels of Kurt Vonnegut, Jr. Vonnegut was a culture hero because he seemed to be grinning through exquisite pain, the result of his extraordinary moral sensitivity. As Robert Alter has suggested, the young loved his sense of resignation and the fact that his America was glistening with corruption and guilt and failure. They also loved him because his zany cartoons masqueraded as tragic complexities and therefore massaged their prejudices without requiring them to think. This was the perfect writer for people who felt that words were crowding them, impeding them: people for whom Zen, the occult, Indians, organic gardening, Transcendental Meditation, the "I Ching"—the whole frozen dinner of the new primitivism—were superior to words.

The only texts to be trusted were Eastern ones that might lead to trance or offered no resistance to it. This accounts for the prodigious sales of that poisonous sweetmeat, "The Prophet," by Kahlil Gibran. For, like Rod McKuen, Gibran continued to satisfy the sentimental longings for absorption of those for whom real politics or drugs were either too dangerous or too distant.

Throughout the 1960s, the sentimental mode implied a fundamental attitude toward language. Language at best was good only for getting past language. The fact that language has its own laws and imperatives, its own polity, was precisely why it was the most cunning, the most resourceful, the last enemy. And although Abbie Hoffman didn't say so, he might have said "Shut it down to open it up." If language is a city, let it fall. Let the Garden of green feeling grow—sweet like the sugar cane, wordless like the dance.

This essential sentimentality, this deep distrust of the restrictions of language, this desire to level its distinguishing features, is at the heart of why young people today can't write, can't shape themselves through words. And it is why so many of the cultural edifices that we raise through words are equally in disrepair.

It is this sentimental attitude, now running through our system, that led the editor of "English Today," the organ of the National Council of Teachers of English, to write an article last April deriding the call from colleges for more "fundamentals" at the high school level. "The English teaching profession—for the most part—has progressed," he wrote, "well beyond thinking of writing instruction solely or principally in terms of basic skills instruction."

This is the very accent of the attitude I am describing. "Skills'" is a code word for discipline, for work, for language in its particularity. The editor, a professor at Michigan State University, assures his high school clientele that that is all behind them. He would rather, judging by the titles of two suggestions for courses in his journal—"Creative Writing Without Words" and "A Visual Approach to Writing"—have students create sounds on a tape recorder, or "free associate" from pictures, because words are dense and recalcitrant, stone that is hard to shape into statutes. He would rather have students avoid meaning and grope for feeling. He would urge them not to face the reality of language, though, of course, the consequence is that they will not face or find the reality of themselves.

For that is what is at stake. That is what the neo-primitivism and sentimentality really mean—that all complexity can be avoided in the name of communality and desire. And I claim that this attitude persists because of what we are doing to language.

I believe that all of us are what we say we are—that as individuals and as a people we define through language what we have, and what we will be, and that a group of people who cannot clearly and precisely speak and write will never be a genuine society. We shape ourselves and our institutions, and we and our institutions are shaped, through those individual acts of negotiation between ourselves and our language. Without a respect for its awesome power we can never find out who we are, and thus never have to leave the child's garden of feeling and enter the city—that is, become citizens.

To deny language is finally to deny history, and that is what frightens me most about young people who can't write, particularly those who don't know it or don't care. They have been duped. By thinking that language can be denied, in order to achieve full access to feeling, they have of course become blocked and stunted and frustrated—and at the most important level. It is a sad irony. High School and college students have been encouraged to believe that language does not require work—that if they wait they will suddenly blossom and flower in verbal mastery; that if they transcribe what they feel about anything it will somehow turn into what they think.

Clearly, to have been told all these things—and millions of school children were and are told these things—is to have been lied to. It is also to have been robbed of the only thing that everyone does share, the only thing that connects us each to each. Language is the medium in which the race lives, it is what we have brought from our past, and it is what has brought us from the past—our link with who we were and who we want to be.

BREAKTHROUGH IN CANCER VACCINE BY HAWAII DOCTORS

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. MATSUNAGA. Mr. Speaker, the dream of an effective vaccine to prevent cancer appears to be nearing reality. A group of doctors in Hawaii has been extremely successful in its efforts to develop a vaccine that would prevent cancer. Drs. Eugene Edynak, Noboru Oishi, and Benjamin Gordon have been testing a vaccine prepared from stomach cancer cells in a group of 10 patients, and apparently have succeeded in preventing a recurrence of cancer in all of them.

Cancer is one of the few diseases for which a cure has not yet been found. The American Cancer Society predicts that almost 700,000 Americans will contract cancer in 1976, and that two-thirds of them will die within 5 years. For a nation that has been able to prevent almost every other disease, this is a tragic situation. The work of Drs. Edynak, Oishi, and Gordon therefore, represents a dramatic breakthrough in our fight against the dread disease. These Hawaii doctors deserve a very special commendation for their achievement.

The results of this promising research demonstrate the ultimate effectiveness of our Federal cancer research programs. I urge my colleagues to keep in mind the monetary needs of these programs, and to consider this notable success in Hawaii when it comes time to appropriate funds for the National Cancer Institute. We may be on the brink of conquering mankind's greatest killer disease.

I am submitting for inclusion in today's RECORD an article from the Honolulu Adverstiser explaining the cancer vaccine tests in Hawaii in greater detail. The article follows:

TESTS OF CANCER VACCINE SHOW GOOD RESULTS HERE

(By Pat Hunter)

Vaccines to prevent cancer have long been a dream of researchers, and a team of Hawaii doctors is one of the first in the United States attempting to make that dream a reality.

They're using a vaccine prepared from stomach cancer cells to treat a group of 10 patients in the hope of preventing a recurrence of cancer. So far, they've been successful in all 10 cases.

The team is made up of Dr. Eugene Edynak, a cancer surgeon who works with the Cancer Center of Hawaii and the University of Hawaii School of Medicine and in the department of surgery at Queen's Medical Center; Dr. Noboru Oishi of the Cancer Center, and Dr. Benjamin Gordon, director of the Kuakini Hospital Medical Research Institute.

"Mainland cancer centers see relatively few stomach cancer cases, but in Hawaii there are between 150 and 200 new cases every year," Edynak said. "There are a few drugs available that are effective with stomach cancer, and it has a grim outlook for its victims.

"The overall five-year survival rate for patients with all stages of the disease is 9 per cent for men and 11 per cent for women.

"Thirty to 80 per cent of patients whose cancer has spread only to the local lymph nodes adjacent to the stomach are dead within a year."

Edynak said stomach cancer cells have unique proteins on their surfaces called antigens. Those proteins are found in all stomach cancer patients' tumors.

"Vaccines made of extracts of these proteins have been used to test for patients' sensitivity to certain types of cancer," he said, "but this project is probably the first in which vaccination has been used in an attempt to prevent recurrence of the disease."

He said the vaccine is being used on the 10 stomach cancer patients to stimulate their bodies' immune-defense systems to fight off a recurrence of the cancer in the same way smallpox, measles and polio vaccines are used to help people fight off those diseases.

"But the cancer vaccine won't work if the patient already has had a recurrence," he said.

The patients the team is treating all had had surgery for primary stomach cancer, but had not had recurrences. In addition, the doctors selected 10 patients from the Hawaii Tumor Registry to be a control group—matching them with the treatment group for age, sex and extent of disease, Edynak said.

The vaccine is made from stomach cancer tissue removed from patients and given to the team's laboratory within 12 to 24 hours after surgery. It is stored in a freezer until it can be processed.

"We test the patients' immune systems' strength every two weeks to make sure they are up to par," Edynak said, "and if they are, the patients receive a combination of tumor vaccine and BCG (a tuberculosis vaccine which has been shown to strengthen the body's defense system in a general way)."

"If their immune systems have become weakened, they are given the tumor vaccine alone."

All of the 10 patients the team has been treating are free of disease, as evidenced by exhaustive tests. None has had a recurrence of stomach cancer.

"Three of the patients are alive 21 months after beginning treatment—and without treatment they would have been expected to be dead within a year," he said.

"Of the control group, who received no treatment other than their original surgery, four are dead and two have recurrent cancer."

Edynak said treatment with BCG carries with it one major side effect—liver damage—and all the patients have also experienced one or more minor side effects.

"But none of them, because we have been so careful in checking their immune systems' strength bimonthly, have had any major liver problems. The minor side effects weren't seen as real problems by the patients," Edynak said.

"We also have been treating some patients with lung, colon and breast cancers with vaccines made from the types of tumors they have had. Early results look promising."

Asked how long the treatment would continue with the cancer patients, Edynak said, "At first it was thought 18 months would be sufficient, but now we think these patients may need to be treated for life.

"This presents problems, because we depend upon foundation grants. So far, the study has been funded by the Hawaii chapter of the American Cancer Society, the Kuakini Hospital Medical Research Institute and the Cancer Center of Hawaii. Queen's has helped by giving us laboratory space and providing some of our equipment."

One other stumbling block to the continuation of the project, Edynak said, is the difficulty of getting tumor tissue from which to make the vaccines.

RICHARD B. CHENEY

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. STEIGER of Wisconsin. Mr. Speaker, I want to say a word about the man who heads President Ford's White House staff.

As one who has worked with him for nearly a decade, I can honestly say I do not know a more thoughtful and dedicated individual than Dick Cheney.

It was with pleasure that I read recently the U.S. Jaycees honored him as one of the 10 Outstanding Young Men in America for 1975.

Without Mr. Cheney's knowledge or consent, I have managed to obtain a transcript of his introduction and responding comments at the awards ceremony in Baltimore last month.

For the benefit of my colleagues I include the transcript as part of my remarks. I might note that it is characteristic of this able but modest man that his talk was wise, to the point, and brief.

I only wish congressional lives were less hurried and our duties less consuming so that every Member of this House might be able to know every other Member's favorite public servant. I believe many of us would choose Dick Cheney, and I would like to know more like him.

The transcript follows:

INTRODUCTION OF RICHARD CHENEY AT THE TOYM DINNER, SATURDAY, JANUARY 17, 1976, BALTIMORE, MD.

Few people in the Nation have the opportunity to influence public opinion to the degree and with the precision that Richard Cheney does.

At the age of 35, Richard Cheney serves as Assistant to the President of the United States.

Richard Cheney received his B.A. and Masters of Arts at the University of Wyoming. While a graduate student in political science, he served as a staff aide to the Governor of Wisconsin.

In 1968 he was awarded the coveted Joseph E. Davies Fellowship by the American Political Science Association.

In 1969 he worked as a Congressional Fellow on the staff of Representative William A. Steiger. Later that same year he joined the White House Staff of Donald H. Rumsfeld, as Deputy Counsellor to the President.

From 1972 to 1973, Mr. Cheney served as Assistant Director for Operations of the Cost of Living Council. He had the full responsibility for the day-to-day execution of this controversial and complex national program.

From 1973 to 1974 Mr. Cheney was a partner with the investment advisory firm of Bradley Woods and Company.

In late 1974, following the resignation of former President Nixon, Mr. Cheney returned to government to serve as a member of the Transition Team under President Gerald R. Ford. Subsequently, Mr. Cheney assumed his present position as Assistant to the President of the United States. Mr. Cheney is respected by his peers for his excellent judgment and maturity, two attributes that have enabled him to handle positions of great responsibility, usually held by men of much more experience and age.

As Assistant to the President, his work is frequently translated into public positions of national and international issues that affects the lives of all Americans. His position is both significant and vital in the affairs of our government. Mr. Cheney is a young man who has gone further, done more and had greater impact on more people in just a few short years than most men do in a lifetime of government service. The Nation has reason to be grateful for the contributions he has made and should also have reason to be reassured that his kind of dedication and his service will continue with his future.

Ladies and Gentlemen, Richard Bruce Cheney.

RICHARD CHENEY'S COMMENTS

Thank you very much.

One of the themes we focused on this weekend has been the Nation's need for leadership, our Country's need for heroes, as we move into America's third century. That is a theme that is being heard evermore frequently across the land. Somehow as a people we have developed the idea that all of our problems can be solved if we can just find the right leader.

I wonder though if it is not possible to make too much of that point. Is it possible that in this plea for leaders, for heroes to show the Nation the way to new greatness, we are avoiding responsibility?

Why, after all, do we need to be shown the way? The most stirring chapters in our Nation's history tell of men and women who found their way themselves. They didn't search for leadership; they provided it themselves. They undertook responsibility for their own destiny. I place a special value on the honor you have extended me tonight because the individual Jaycees I have met have very much impressed me as individuals willing to accept responsibility for their own destiny.

You know from your own experience that there are no quick solutions, no easy answers. You know that individual efforts must be brought to bear on our Nation's problems. You know that our Country's greatness and its future promise lies in the individual, in individual efforts, in individual commitments and in individual freedom.

From an organization such as yours, which understands that the greatness of America lies not only in her leaders, but in her people, it is a great privilege to accept this award.

Thank you.

THE 1976 PRESIDENTIAL CLASSROOM FOR YOUNG AMERICANS

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. LOTT. Mr. Speaker, I would like to recognize two outstanding high school students from the Mississippi gulf coast, Deborah A. Thomas and Lynn Kitchings of Long Beach, Miss., who are presently here in our Nation's Capital participating in the sixth class of the 1976 Presidential Classroom for Young Americans.

The Presidential Classroom program provides a wonderful opportunity for the young people of our country to gain an insight into the dynamics of Government through firsthand contact with the

Federal Government's institutions and leaders.

I know that Deborah and Lynn will benefit greatly from this educational experience and their visit to Washington during the Bicentennial Year.

THE CONTINUING TRAGEDY OF DRUG ADDICTION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. RANGEL. Mr. Speaker, the crisis of illicit narcotics continues to plague our communities. The tragedy of addiction, crime and other drug-related problems is affecting an increasing number of our citizens, particularly the young, the poor and others who unfortunately view hard drugs as an escape from their despair. But rather than serving as an escape, the ravages of drug addiction cause even greater despair in every community and in every family touched by this ever-growing problem.

The Congress and the President have affirmed a commitment to an effective national policy on the control of illegal narcotics. We have encouraged countries to work with us to prevent hard drugs from being diverted into the illicit narcotics market. The President in recent months has ordered and received a high-priority review of Federal efforts in narcotics enforcement, treatment and prevention.

Yet because of other factors—budget cutbacks in law enforcement and prosecution and a renewed influx of hard drugs from abroad, to name but a few—the drug addiction crisis continues to mount at an alarming rate. To overcome these setbacks to our national goal of halting the tragedy of narcotics addiction, the Congress and the President, together with the appropriate Federal agencies, must take immediate, effective action to fund programs of drug prevention and to sever once and for all the foreign connections that supply the market of illicit narcotics in our country.

In this morning's New York Times, Charlayne Hunter has accurately depicted the ravaging effect illegal narcotics are having on my own community of Harlem. I urge my colleagues to reflect on this article so that we might all better understand and deal with this growing crisis.

The article follows:

ONE HUNDRED SIXTEENTH STREET AND EIGHTH AVENUE IS SUPERMARKET OFFERING THE ENTIRE RANGE OF ILLICIT DRUGS

(By Charlayne Hunter)

"The end of the heroin trail," is the way one top-ranking law enforcement official described it.

"The market place" is how it is known to others.

"A prone area," is how it is referred to in police jargon.

There are many more ways to describe the vicinity of 116th Street and Eighth Avenue—the Harlem area that is said by narcotics officials to be the major distribution center for hard drugs in the metropolitan area and probably beyond.

Despite at least three major law enforcement drives and numerous arrests in the vicinity in the last year by a combination of Federal, state and local narcotics authorities—with the latest being that of Warren "Godfather" Sims, who was believed by the police to be transacting $50,000 a day in drug deals there—the situation has changed little on the corner or on the nearby streets, according to the police.

DRUG FORCES REDUCED

A number of reasons account for this, including the resurgence of Turkish heroin on the local market; fiscal cutbacks that have reduced narcotics forces in the city, particularly among blacks and women, who are deemed critical to undercover efforts; the failure to lure black policemen from the ranks because of what some black officers describe as a "morale problem," and a bureaucratic logjam in the courts and other agencies.

Many of those arrested, for example, in last year's major operations have not yet come to trial, but the police say that several of them are out on the street dealing, with reasonable assurance that narcotics authorities will invest no more time or effort in another arrest, because one case is already pending.

The police also said that the Knapp Commission's investigations into police corruption had resulted in requiring more officers for each narcotics arrest, while at the same time budget problems have reduced police manpower—from 50 to 19 in Harlem, for example.

The new procedures, they said, cause more time to be devoted to coordinating the teams and less to making actual arrests. On the other hand, the police contend, the arrests are probably more substantial than before, and corruption has been reduced.

Many law enforcement sources also cited a high turnover of supervisory officials in narcotics work, which resulted, they said, in vacillating policies.

In addition, the police said, drug dealing is so lucrative that, regardless of the danger or frequency of arrests, there are always ready recruits.

DRUG-TRAFFIC MALL

Whatever the reason, the result is that slicing through the strip of decayed tenements and small shops that make up the neighborhood is a mall of drug traffic not different from other shopping centers, except in the commodities sold and the rituals practiced.

No one knows precisely why drugs are so prevalent in this particular area of Harlem. People familiar with the neighborhood, however, point out that 116th Street, while a major thoroughfare, does not have the traffic and commerce to the degree that 125th Street does; and that the 32d Precinct station house is on 135th Street, the other large Harlem artery.

But the explanation most frequently offered is one stated by Lieut. Stephen, Herrer, district commander of the Harlem narcotics division: "It's there because it always was."

Here is a typical scene on a recent afternoon:

"Get down! Get down!" is the urgent whisper of a shadowy figure who emerges from a languid group, composed mostly of men, clustered around a trash can half-filled with burning debris.

He is calling to a young woman, a stranger whom he automatically assumes is there "to cop" [buy dope].

"Red. Red tape. Red," he calls out in staccato fashion, identifying the particular brand of heroin he is selling. According to the police, there are at least 50 "brand" names, including "Jaws," "Malcolm's Gold," "Blue Magic," "OD," "Tricky Dick" and "Georgia Boy's."

"They're doing everything but advertising on television," said one law enforcement official.

The seller on Eighth Avenue follows the young woman—but not more than a step and a half, before he is interrupted by another man approaching.

"Meth," he whispers, leaning in to her "Got meth. Meth." Illegal Methadone, explains someone familiar with the area, is as popular a commodity.

There are always steady customers, like the tall once-handsome man with the dark, nowchalky skin, who stands holding his hands, which are swollen out of all proportion to the rest of his thin frail body. His fingers look like water-filled balloons. Such a swelling occurs when an addict misses a vein while injecting a needle.

They are there, regardless of the weather, clustered around a trash-can fire or in doorways of abandoned, often burned-out buildings.

They cluster in front of bars, hotels and candy stores that the police describe as "havens" for both sellers and users of drugs.

ONE-STOP SERVICE

One such place is the Royal Flush, a bar with heavily curtained windows and solid red doors on the southwest corner of 116th Street and Eighth Avenue. According to the police, not only have numerous drug arrests been made there, but the bar also is a place where major drug dealers meet to conduct their business.

Thomas G. Spencer, chief executive officer of the State Liquor Authority—which closed a bar a few blocks away last month—said that while there had been "some police action" involving drug arrests inside and outside the establishment, "there was no indication that management was involved."

Mr. Spencer said there was still "a case pending."

Next door to the Royal Flush, the Shelton Hotel, built around 1900, is described by officers in the narcotics division as a kind of one-stop multiservice center, with four floors of single rooms, containing little other than grimy mattresses on the floor.

Next door, the Shelton Hotel, built around 1800, is described by officers in the narcotics division as a kind of one-stop multiservice center, with four floors of single rooms, containing little other than grimy mattresses on the floor.

For a $2 fee, an addict can find a room in which to "shoot up," or if he is unable to find a vein, for an additional $1 charge, someone will provide the service for him.

The hotel has not been shut down, the police say, because of a bureaucratic failure to coordinate the efforts of various city agencies, such as the Fire, Health and Housing Departments, whose permission is necessary to close the premises.

Adjacent to the Shelton is a small store offering home-made sandwiches and hand-dipped ice cream. According to the police, narcotics can also be obtained in the vicinity of the store.

Down the block on another corner, a man wearing a black leather jacket, accompanied by a much younger woman, was hawking rubber hoses and syringes.

There was hardly a corner without a cluster, but hardly a cluster that was lively.

Yet there are a few men who move purposefully through the area, like the man the police call "Big Maybelle." He wears a beret and carries a swagger stick and sometimes an attaché case, which the police say is probably filled with money or drugs.

Later that day, the activity seemed to increase, a ritual of whispered conversations and sleight of hand.

But it was not all surreptitious. One

young man in full view on the sidewalk reached into a plastic bag labeled "Jean Warehouse" and pulled out a small transparent bag containing a white powdery substance.

He then handed it to a second young man who in turn gave him some money. The seller took the money, and looking neither to his left nor right, walked across the street counting it.

At one time, said Deputy Inspector Francis McCormick, commander of the Manhattan North Narcotics division, one third of the force worked on "buy-and-bust" or low-level operations aimed at the street pusher. The rest worked on "high-level" investigations.

"We got away from that because of the cutbacks," he said, "but now we're going back because we can't ignore 116th Street."

Nevertheless, the present conditions in and around 116th Street and Eighth Avenue have existed for a considerable period and, as far as anyone can see, they will remain that way for a long time.

RELATED CRIMES

Hard drugs is a top crime priority among blacks in Harlem and other black communities, many blacks explain, not only because drugs are claiming more and younger victims, but also because the crimes that affect the community most severely are those associated with addiction—muggings, robberies and burglaries.

And while the other serious crimes committed there, such as aggravated assault and kidnapping and murder, tend to involve only the people engaged in the drug traffic, they nevertheless create a climate of fear that causes citizens like those who live around 116th Street to live behind locked doors—"like prisoners in our own community," as one resident put it.

The crimes have earned the area of the 28th Precinct the reputation as "the most violent community" in New York City, according to the police.

In the last three years, for example, according to Lieut. Herman E. Kluge, commander of homicide zone 6, which covers Harlem, there have been at least 30 drug-related deaths in the three-block area between 115th and 117th Streets bounded by Lenox and Manhattan Avenues.

Moreover, according to the police, both the pusher and the client are becoming younger.

"When they're in narcotics," said Lieutenant Kluge, "if they live to 25, they've got it made."

Detective Joseph Leake, also of the Harlem homicide unit, said, "We picked up a 14-year-old the other day with $5,000 in his pocket."

"And some of them were down there shooting basketballs for $5,000 a shot," added Detective Lionel Tucker.

Often, dealers will let the younger people handle money and other transactions, because if an arrest is made they are under Family Court jurisdiction, where maximum sentences are 18 months.

FEAR OF TESTIFYING

This kind of situation "has the legal people terrified," said Detective Joseph Gates of the homicide unit. Moreover, few people will come forward as witnesses, either out of concern over reprisals from the suspect, or what they fear will be shabby treatment from the courts.

Sterling Johnson, the city's special narcotics prosecutor, complained that "drug enforcement efforts in New York are cosmetic because of the budget cuts."

"There's more drugs in the street than there has been in the last three years," he said. "And yet my budget is being steadily reduced. It has gone from $2.4 million to $1.1 million. We have all the ingredients of a tragedy here."

Mr. Johnson and others believe that there is a lack of interest in the problem because "the people who are making the cuts see it as a black problem."

While cutbacks have severely depleted the ranks of black officers involved in narcotics enforcement, including the elimination of all black female undercover personnel, efforts to recruit from within the ranks have met with little success, police officials said.

Black officers explained this lack of enthusiasm as part of a general "morale problem" in which they contend that they are expected to do the more dangerous undercover work, but rarely receive either citations or promotions.

A white merchant in the neighborhood said that the conditions in the street had driven many legitimate businesses out.

He added:

"In another two years, 90 to 100 percent of these buildings will be empty. I own the buildings that I use, and I'm just going to walk away from them."

LEARNING THE LESSONS OF PEACE PREACHED BY THE LATE JOHN G. WINANT

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. O'HARA. Mr. Speaker, yesterday marked the 87th anniversary of the birth of the late John Gilbert Winant, a man who, in the middle years of this century, not only served his country with dignity and nobility, but who also with quiet fervor preached the gospel of world peace and who called on others to do their own small part to make this a little better world.

John Winant was a man of many accomplishments. He served three terms in the New Hampshire Legislature; he shattered precedent by serving three terms as the State's Governor; although a Republican, he served in Franklin Roosevelt's New Deal administration as the first chairman of the Social Security Board; he was a delegate to the International Labor Conference and subsequently served as assistant director of the International Labor Office; and, during the trying years of World War II, he was this country's ambassador to Great Britain.

These are the things that historians most readily will cite about the years of service which John Winant gave—to the people of New Hampshire, to the people of the United States, to the people of the world.

But there was another side to John Winant, Mr. Speaker. It was that part of him which was so deeply horrified by the tragedy and waste of war and that was so deeply committed to the cause of peace among peoples and nations. And in his quiet, forceful way, John Winant preached the gospel of peace to all with whom he came in contact. It was his firm belief that the making of a little better world begins with each of us as individuals, and that we start building a peaceful world in our own backyards. It was John Winant's unswerving view that any grand tapestry of a peaceful world is composed, in the last analysis, of the single threads of each of our lives.

John Winant died tragically on November 3, 1947 with much of his life and much of his work still before him. And the tragedy of his untimely death nearly three decades ago is compounded by the tragedy that so few people remember his voice, urging them to work—individually and collectively—at the task of bringing people into harmony with one another. A whole generation of Americans has been born and grown up since John Winant's passing, unaware of his teachings and therefore unmindful of the opportunities they have as individuals to make their own small contribution to harmonious relationships.

I say a whole generation has grown up without knowledge of John Gilbert Winant, but that's not entirely correct, Mr. Speaker. In my congressional district in Michigan, there is a grand lady who was an associate of John Winant's during the dark years of World War II, a lady who remembered what it was that this courageous man sought to accomplish, a lady who has devoted much of her time to carrying that message to a whole parade of young people—and, through these young people, to the wider community of life through which they will be moving.

This lady is Mrs. Grace Zapel of Marine City, Mich. More than just a constituent, Grace Zapel is a cherished personal friend of mine, and I have watched with admiration and approval the work that she has been doing with the young people of Marine City. Grace Zapel is a teacher in the Marine City schools; she also is the inspiration for, and director of, a youth organization known as "A Little Better World." Yesterday, in observance of the anniversary of John Winant's birth, the name of this organization was officially changed, and it now is known as "Ambassador John G. Winant's A Little Better World." The ingredients of its program are simple: awareness, unselfish love and a little work—and these young people are applying these principles to their daily lives. What they do is not spectacular. They work on projects to improve the community in which they live—cleaning litter from roadsides and riverbanks, improving the local park, doing those small but necessary chores that signal their commitment to making this "a little better world." They are involved, as well, in learning more about their Government—they come to Washington each year to see the Congress in action—and about world affairs—they also make regular visits to the United Nations headquarters in New York because they regard this world body, imperfect as it may be, as being the last, best hope of humankind.

And they are learning the lessons of John Winant's passionate commitment from one who viewed that commitment close up—from Grace Zapel. It is one of those quirks of fate that John Winant and Grace Zapel should have met at all—and particularly under the circumstances in which they did come in contact. Grace Zapel was a trade unionist—she worked during the war years with the United Auto Workers—and John Winant was a patrician figure out of New England. Grace was a devout pacifist, who had difficulty accepting the reality of the war in Europe and our inevitable involvement in that war. But, pacificism notwithstanding, she went to England with an American trade union team to boost the morale of the British war workers, and the American and British troops throughout the British Isles. She served in a humble capacity, while John Winant served as our ambassador to the Court of St. James's. Yet, given the natures of these two people, it was inevitable that they should meet, that they should share not only the common experience of serving their country but that they should also share common views. And out of that storehouse of intimate memory, Grace Zapel is making certain that the ideals so closely held by John Winant should be shared with another generation of Americans who, too, are searching for the peaceful world that was John Winant's goal and that remains Grace Zapel's goal.

She has recalled for these young people an incident during the war when all was going badly, when the headlines spoke not only of the danger that the forces of freedom might not prevail but also of the deeper tragedy of the loss of human life.

Grace Zapel recalls:

> On days when the heartbreak and tragedy of war became so great that we could hardly stand it, the ambassador was there as an inspiration to us. One day in the American Embassy, he made this statement to me:
>
> "Well, Grace, this is it; this is the sum total of all of our efforts; they are yours and they are mine, they belong to all of us and this is the best we could do."
>
> The tears were streaming down his face. He turned to me and said: "If you could stop this, would you do it?" I replied that I would, and he asked "If you knew it would take 15 years of your life doing without most of the material things you needed, would you still do it?"
>
> I replied that that would be a small price to pay for peace, and he said, "Remember this conversation. When this is over, we have work to do; we can get the job done."

After John Winant's death, Mrs. Zapel started the "little better world" program, teaching by her own example, and teaching from what she remembered of John Winant's views on what is required of each of us to make the process of peace a workable reality. Because of the appetite of these young people for more information about the views of the man who is their inspiration, Mrs. Zapel has researched John Winant's papers, and has come up with a whole parade of his thoughts which she shares with the young adults of Marine City. Here are just a few of those thoughts of John Winant—thoughts which should be as important to every adult American as they are to young Americans operating in their "little better world."

John Winant wrote these thoughts:

> Either we go ahead perfecting the political and moral system we have inherited, or we let the system perish and the world revert to the barbarian.
>
> And, "We cannot live our dreams. We are lucky enough in this world if we can give a sample of our best, and if in our hearts we can feel that it has been nobly done.
>
> And, Our final judge and only rival is ourself.
>
> And, We have uncovered the last secret of nature and our power for destruction has become absolute. We must learn one more secret—a moral secret this time—before we can use this dynamic power for good. We must learn how to live together in friendship.
>
> And, We can no longer half-serve and half-neglect our way of life.
>
> And finally, The ultimate source of all wealth consists of human beings, and above all the young who are the nation of the future, and whose capacity to serve their fellows when they reach maturity depends on the provision which is made for them in youth.

The beliefs of John Winant are being handed down intact to the young people who will populate the Nation of the future, thanks to the untiring efforts of John Winant's good friend and wartime confidant, Grace Zapel. She shared with John Winant a respect for the wisdom of the stoic philosopher Epictetus:

> Practice yourself in little things and then proceed to greater things.

The young people associated with "Ambassador John G. Winant's A Little Better World" in Marine City are, indeed, practicing themselves in little things. In the process, Mr. Speaker, they are making their first tentative contribution to the better world that John Winant and Grace Zapel believed in so passionately. And as they work toward this goal in their individual lives, they are helping to keep alive the spirit of a man who nobly served his country and the cause of peace.

HELPING OLDER AMERICANS TO PREPARE THEIR INCOME TAX RETURNS

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. RINALDO. Mr. Speaker, we have reached that time of the year when millions of Americans must cope with the task of completing their Federal income tax returns.

For all Americans this is a difficult task. The returns appear to get more complex every year, and so does the income tax law. Instructions included with the returns are not always easy to understand, and many Americans have decided you need to be a tax lawyer to understand the Internal Revenue Code and properly complete the IRS tax returns.

The difficulty is particularly acute, Mr. Speaker, for the elderly. Not only are there the normal deductions which are available to help them save their precious dollars, but there are also a number of special tax relief measures for older Americans—the retirement income credit, for example; the total or partial exclusion of a gain on the sale of a personal residence; and others.

Because many of our elderly citizens lack the financial resources to go out and hire a tax consultant, they often end up needlessly overpaying their taxes.

In an effort to protect older Americans from overpayment of taxes, the Senate Committee on Aging has prepared a checklist that they can—and should—use when filling out their tax returns.

With the guidelines is a summary of tax laws providing valuable guidance for individuals to determine whether it would be to their advantage to itemize their deductions or compute their taxes on the basis of the tax tables.

The checklist and the guidelines need to be made widely and freely available, Mr. Speaker, and for that reason I am including them with these remarks and making them available for distribution in my congressional district.

The checklist and guidelines follow:

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses (unreimbursed by insurance or otherwise) are deductible to the extent that they exceed 3% of a taxpayer's adjusted gross income (line 15, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 15, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expense (subject to 3% limitation):

Abdominal supports (prescribed by a doctor)

Acupuncture services

Ambulance hire

Anesthetist

Arch supports (prescribed by a doctor)

Artificial limbs and teeth

Back supports (prescribed by a doctor)

Braces

Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraised made to reflect clearly the increase in value.

Cardiographs

Chiropodist

Chiropractor

Christian Science pracitioner, authorized

Convalescent home (for medical treatment only)

Crutches

Dental services (e.g., cleaning, X-ray, filling teeth)

Dentures

Dermatologist

Eyeglasses

Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as substitute for, regular diet; physician's statement needed)

Gynecologist

Hearing aids and batteries

Home Health services

Hospital expenses

Insulin treatment

Invalid chair

Lab tests

Lip reading lessons (designed to overcome a handicap)

Neurologist

Nursing services (for medical care, including nurse's board paid by you)

Occupational therapist

Ophthalmologist

Optician
Optometrist
Oral surgery
Osteopath, licensed
Pediatrician
Physical examinations
Physician
Physicial therapist
Podiatrist
Psychiatrist
Psychoanalyst
Psychologist
Psychotherapy
Radium therapy
Sacroiliac belt (presented by a doctor)
Seeing-eye dog and maintenance
Speech therapist
Splints
Supplementary medical insurance (Part B) under Medicare
Surgeon
Telephone/teletype special communications equipment for the deaf
Transportation expenses for medical purposes (7¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.)
Vaccines
Vitamines prescribed by a doctor (but not taken as a food supplement or to preserve general health)
Wheelchairs
Whirlpool baths for medical purposes
X-rays

TAXES

Real estate
State and local gasoline
General sales
State and local income
Personal property

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of five classes of items: automobiles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security, Veterans' pension or compensation payments, Railroad Retirement annuities, workmen's compensation, untaxed portion of long-term capital gains, recovery of pension costs, dividends exclusion, interest on municipal bonds, unemployment compensation and public assistance payments).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20% of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, State or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value for property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 7¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g. scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.

Auto loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charges as interest if no part is for service charges, loan fees, or credit investigation fees, or similar charges.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

Other charge accounts for installment purchases—may deduct the lesser of (1) 6% of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) or (2) the portion of the total fee or service charge allocable to the year.

CASUALTY OR THEFT LOSSES

Casualty (e.g., tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

CHILD AND DISABLED DEPENDENT CARE EXPENSES

A taxpayer who maintains a household may claim a deduction for employment-related expenses incurred in obtaining care for a (1) dependent who is under 15, (2) physically or mentally disabled dependent, or (3) disabled spouse. The maximum allowable deduction is $400 a month ($4,800 a year). As a general rule, employment-related expenses are deductible only if incurred for services for a qualifying individual in the taxpayer's household. However, an exception exists for child care expenses (as distinguished from a disabled dependent or a disabled spouse). In this case, expenses outside the household (e.g., day care expenditures) are deductible, but the maximum deduction is $200 per month for one child, $300 per month for two children, and $400 per month for three or more children.

When a taxpayer's adjusted gross income (line 15, Form 1040) exceeds $18,000, the deduction is reduced by $1 for each $2 of income above this amount. For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

MISCELLANEOUS

Alimony and separate maintenance (periodic payments).

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income-producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees under certain circumstances.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—Taxpayers may now claim either a deduction (line 33, Schedule A, Form 1040) or a credit (line 51, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State, or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) State committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $100 ($200 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $25 ceiling ($50 for couples filing jointly).

Presidential Election Campaign Fund.—Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) to help defray the costs of the 1976 Presidential election campaign.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

Other tax relief measures for older Americans

Filing status	*Required to file a tax return if gross income at least—*
Single (under age 65)	$2,350
Single (age 65 or older)	3,100
Qualifying widow(er) under 65 with dependent child	2,650
Qualifying widow(er) 65 or older with dependent child	3,400
Married couple (both spouses under 65) filing jointly	3,400
Married couple (1 spouse 65 years or older) filing jointly	4,150
Married couple (both spouses 65 or older) filing jointly	4,900
Married filing separately	750

Additional Personal Exemption for Age.—Besides the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age.

You are considered 65 on the day before

your 65th birthday. Thus, if your 65th birthday is on January 1, 1976, you will be entitled to the additional $750 personal exemption because of age for your 1975 Federal income tax return.

Tax Credit for Personal Exemptions.—In addition to the $750 personal exemption, a tax credit of $30 is available for a taxpayer, spouse, and each dependent. No additional $30 credit is available, however, because of age or blindness.

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met.

(1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10% of the mutual dependent's support, *but only one of them*, may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers.—A taxpayer may elect to exclude from gross income part, or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least 5 years within the 8-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $20,000, an election may be made to exclude part of the gain based on a ratio of $20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within 18 months before or 18 months after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

Retirement Income Credit.—To qualify for the retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received earned income in excess of $600 in each of any 10 calendar years before 1975, and (c) have certain types of qualifying "retirement income." Five types of income—pensions, annuities, interest, and dividends included on line 15, Form 1040, and gross rents from Schedule E, Part II, column (b)—qualify for the retirement income credit.

The credit is 15% of the lesser of:

1. A taxpayer's qualifying retirement income, or

2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxable pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62, the $1,524 figure is reduced by the amount of earned income in excess of $900. For persons at least 62 years old but less than 72, this amount is reduced by one-half of the earned income in excess of $1,200 up to $1,700, plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer if he has requested that IRS compute his tax, he answers the questions for columns A and B, and he completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayer should also write "RIC" on line 17, Form 1040.

FAILURE OF U.S. EDUCATION

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. ARCHER. Mr. Speaker, we read the statements of pressure groups, politicians, and Federal bureaucrats who inform us that there is nothing wrong with the American educational system that a little additional Federal money could not cure. We witnessed a wave of these new educational programs funded by the taxpayers during the 1960's. We were promised great things. After the Federal Government spent billions and billions of dollars on education, the only real result we can see has been an expansion of the educational bureaucracy. We read of decline in standards and the quality of education. It is important that we review why these programs failed.

I wish to bring to the attention of my colleagues an excellent article entitled "How to Survive These 'Innovations' That Nearly Ruined the Schools in the Sixties," by Burton M. Nygren in the January 1976 issue of the American School Board Journal. This article also explains in a second part an obvious lesson—many of these innovations were failures from the start. It is time that the Members of Congress reflect on what has been the real result of Federal aid programs for education:

Exit the Age of Instant Reform—How To Survive Those "Innovations" That Nearly Ruined the Schools in the Sixties

(By Burton M. Nygren)

Curriculum innovation—trendy syndrome of the Sixties—has proved to be a lightweight in spite of some flowery myths that still make the rounds and utterings from a few proselytizers. The era, as Education Writer James Cass has said, was "an age of instant reform."

I'll munch to that. During the Sixties, ideas often heralded as a reform in content or method amounted in substance to a movement. And in my opinion, a movement is evidence that something is happening without proof that its direction is necessarily toward measurable improvement. Indeed, the educational innovation movement has been responsible for radical dismemberment of certain curriculum practice. An example: Suppose that for several years a teacher has taught effectively and alone in a self-contained classroom. Suddenly, he is told to work with a team within a teaching area that is wide open—no walls, just yard upon yard of yawning space. As the teacher attempts earnestly to adjust to the new routine and environment, students are denied his full expertise owing to the adult's understandable awkwardness during the break-in period—a time segment, incidentally, that can go on indefinitely.

In retrospect it appears that, during the decade of the Sixties, too much occurred too quickly. Facts speak for themselves. Look at the low percentage of Title III projects (under the Elementary and Secondary Education Act) that actually were continued and financed at local expense once federal funding expired. And look at the architectural tyranny that emerged in new and remodeled school buildings. These facilities had to have vast open teaching areas, regardless of whether the instructors and tural tyranny that emerged in new and remarkable relaxation of structure and sense of space. I wonder how many school board members you know who have approved architectural projects in which walls were torn down or never put up initially—only to find a few years later that educators were recommending partitions. Poorly conceptualized and constructed buildings clearly have resulted in space dictating program rather than the other way around.

Experimentation, whether it's in education or another field, should follow the classic research requirements of a hypothesis, experimental and control groups, evaluation, and a potential to be replicated. Federally funded school-based projects in the Sixties often had poor research designs. Worse yet, projects often were established and phased out before all data were collected. Compounding the problem was the expectation that schools could accomplish certain state or national goals in learning, regardless of whether these goals were necessary to making the local educational endeavor a success.

Most school districts are hard pressed to find money to hire specialists whose work revolves solely around the implementation of curriculum innovations. Even so, the federal government has encouraged such spending by urging districts to beef up their staffs and experiment through government-funded projects (in fairness, of course, it must be emphasized that federal agencies have footed the main portion of all expenses incurred throughout the duration of any given project). Certainly, schools have and still are benefiting from such ventures. But I submit that the subtle and dangerous problem we are confronted with is that persons committed to projects rather than to schools create a whole array of organizational problems. Consider the building principal. He finds himself suddenly responsible for people he never intended adding to his staff. Because of the tentativeness of these arrangements, a sudden stoppage of various segments of the regular educational program occur. This, in turn, inevitably means that a few members of the seasoned staff must be relocated, with the result that staffing arrangements are disrupted. Also, it means certain services frequently are denied at a time when some students may be in genuine need of them.

Self-inflicted failures, even in the name of innovation, remain failures. Those leaders in education who have been functioning more in the area of fantasy than of reality—the quick change artists, so to speak—now must be challenged as never before to present their credentials, to substantiate their research, to verify their achievements. Otherwise, they must be labeled hucksters.

If innovation is not to be used as the major vehicle for affecting curriculum reform, what is the approach to employ? The procedure is as familiar as the five fingers on your right hand. It entails painstaking, undramatic, and constant improvements in teaching and learning techniques. It contrasts sharply with the tone of the Sixties innovation style that was presumptuous and, in some cases, outlandish. The voucher system illustrates the point. Do you recall the clamor and excitement over the plan wherein parents were supposed to shop around and purchase education programs for their children? The publicity at that time suggested that most districts in the nation would provide such alternatives to the public. Today, only a few years later, what do you read about vouchers? Not much, and the news there is doesn't exactly send shivers of awe through the veins of many education leaders.

Innovations of a flash-in-the-pan nature must give way to less obtrusive modification of the curriculum in which the program is moved forward by slight steps. Reform of this caliber will prove to be revolutionary in the end; it offers the promise of permanence.

As you've gathered by now, I advocate the principle of gradualism. The education community is rebounding from the remarkable innovation activity of the Sixties. It is ready and in need of an interlude of caution and gradualism. The dynamic factor at work in our current decade is the change that is occurring in the alterations that marked the previous ten years. Modification increasingly should be a response to a need, not an end in itself. The pace must be—and indeed already has been—slackened.

The change that I speak of is a trend toward "conservatism." Responsible educators have known for a long time that students are taught most efficiently and make the greatest gains in learning when the objectives of a lesson are simple and clear to professionals and laymen alike. Also, it has been understood for generations that periodic evaluations of knowledge and skills gained by a student must be made during a course of study. Then came the 1960s. Impulsive educators overreacted, arguing that behavioral objectives were to be the yardsticks by which the extent of learning was to be measured. Furthermore, they intoned, if a given learning goal could not be translated into these measurable objectives, there was little point teaching in that area. They were off the beam, in my considered opinion.

Efforts began in the last decade, and continue to this day, to produce learning materials that virtually obviate the classic communication and rapport between student and teacher. The basic approach is first to diagnose the student's learning need. Then, carefully prepared instructional packages are devised for the student so that he can more or less instruct himself. Without question, some individualized learning materials do advance growth of knowledge in a given subject. But the rash assumption that the learner is more important than the teacher has yet to be provided. Think back on your own school days. You remember the teacher rather than the instructional materials, don't you? The more sober and gradual direction that I see evolving is that both teacher and learner is of equal importance, and that a preoccupation with either teaching or learning is both troublesome and unproductive.

When I use the word conservatism, I do not imply resistance to change. Rather, I refer to a philosophical orientation that insists upon responsible change. It is another way of saying that school board members, superintendents, principals, and teachers must be good at their respective tasks—not merely looking good, say, in the public eye. Slickly designed schools and fancy talk will not suffice. A firm measure of predictability of student achievement is essential. Most important of all: Those who manage and staff the schools must not subject any generation of students to whimsical, untested educational approaches.

The change to a more restrained outlook on education is a manifestation of conditions within society that are affecting all institutions, not just the schools. North American society has passed through a period recently in which old values and traditions were overturned at a reckless rate. The schools were swept along in the rush. Now the brakes are beginning to take hold as both school officials and teachers pause for a breather following an intense period of experimentation within the curriculum. A limit inevitably imposes itself upon the amount of innovation any educational institution can absorb. The desire to slow the pace, as I see it, is the fated reaction to the tyranny of unmanaged change.

Generating lasting reform in individuals and in institutions is difficult to accomplish; when it does happen, it rarely happens swiftly. Invariably it represents a compromise of competing ideologies and professional judgments. Current trends for improving teaching and learning strategies are not easily distinguishable, but one fact is clear: The most valid estimations of change and the most successful educational reforms start with the classroom teacher. It is a fundamental mistake to impose predetermined changes on a given group of students and a teacher. Educational reform is the unique province of the classroom teacher.

In the final analysis, true curriculum conversions emerge when teachers—many teachers—change their point of view. It is not enough for school districts to have one or several change agents within their teacher staffs. Rank-and-file teachers must assess continually their concept of what a child is and why they hold to certain essential concepts concerning the education of children. Each teacher must have the opportunity and a sense of professional obligation to become a change agent when teaching and learning situations are found lacking in content and quality. Curriculum reform should be seen as a grass roots movement of teachers armed with the authority and confidence to make subtle yet significant modifications in instructional formats.

A preoccupation and innovation has caused uncertainty within the general public and education circles concerning the appropriateness and efficacy of many time-tested educational practices. Peppered with one innovation after another, some teachers have boarded the novelty bandwagon only to find their effectiveness as educators impaired. The assumption by some that there is little right about education and that virtually everything has to be changed is an exaggerated and dangerous claim. The entire educational enterprise is not faulty and in need of a complete overhaul. Change is essential. But poorly conceived, uncontrolled innovations are an illegitimate form of metamorphism. A commitment to gradual modification of our endeavor is what the nation needs now.

WHY MANY "INNOVATIONS" ARE BOMBS FROM THE START

Attitude means all when schools set about the task of introducing innovations into their curriculums. It makes or breaks the venture. At least the Rand Corporation thinks so, and has said as much, in a research report funded by the U.S. government and released a few months ago.

When school officials embark upon an innovative project from an opportunistic angle—meaning that they're in it solely for the money—prognosis for success is slim, according to Rand's study of four federal programs (Title III of the Elementary and Secondary Education Act for innovative projects; Title IV of E.S.E.A. for bilingual education; Part D, vocational education involving exemplary programs; Right to Read project). But when schools identify a genuine problem and try to solve it, the outlook for goal achievement heightens. The reason, as Rand sees it, is because opportunistic projects usually don't have the sincere support of teachers, principals and administrators. Problem-solving ones have a better chance for success because they typically generate a strong staff commitment. Such commitments require early staff involvement in project planning. The conclusion Rand reaches, therefore, is that projects devised and introduced entirely by outside planners fail to garner staff support, and therein lies the path to failure.

Another useful tidbit from the Rand investigation indicates that successful innovation projects are founded on the give-and-take axiom. In other words major changes must be introduced with the understanding they will undergo modification eventually so that they will meld as smoothly as possible with long-standing routines and objectives. Furthermore, the Rand group concluded that "the assimilation of new practices was more likely when there was an emphasis on training, when teacher training focused on practical classroom issues, and when curriculum materials were developed by the project staff."

Interestingly, the local school setting was far and away the most important factor in shaping end results. "The most important elements," declared the Rand researchers, "were high teacher morale and willingness to do extra work, and the support of principals, as well as district officials. If teachers see that they are getting support from each other and from administrators, they [then realize] that they can afford to take the project seriously."

Also interesting—indeed curious—was the fact that differences in educational methods and funding levels have virtually no effect on the outcome of a project. "In other words," the report said, "an open classroom was no more or less likely to be effectively implemented than a computer-assisted instructional project, nor an expensive project more or less so than a cheaper one." But two other characteristics, namely, the scope of a proposed change and implementation strategies, did make a difference. Researchers determined that scope involves four fundamental issues: the relationship between project goals and district goals; the extent to which teachers must change their ways; complexity of the project; parallels between project values and teacher values. Some of the implementation strategies that play a role in teacher change include: adaptive planning; staff training; and development of materials at the local, school district, level.

As for the federal influence, well, if Washington money were not in the picture there would be nothing to see in the way of innovations. Federal policies, however, apparently do precious little to create successful programs on an individual school basis, the Rand report points out. What they accomplish primarily is to establish broad priorities for change. Early on, in the Sixties, federal funds provided the money and impetus for innovative projects in schools. But the policies appear to have had scant bearing on how a project actually was implemented, how much of winner it turned out to be, or whether it survived to become a permanent part of the curriculum. In addition, federal control is diminished by the less than avid support that emanates from most state agencies and by the reluctance to pressure districts with one-time grants into enforcing innovative changes.

Title III, the federal channel that led initially to curriculum experimentation during the preceding decade, is viewed by Rand researchers as having evolved into "top-down innovation with attendant difficulties, such as unclear techniques and comparatively little motivation in the schools because teachers had no feeling of ownership over the projects they were assigned to."

Summaries of the study cited here, titled Federal Programs Supporting Educational Change, are available for $3 each from the Rand Corporation, 1700 Main St., Santa Monica, Calif. 90401.

ROBERT E. JONES, TOWERING SOURCE OF LEADERSHIP

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. WRIGHT. Mr. Speaker, BOB JONES of Alabama announced earlier this month that he will retire from Congress at the end of this term. For three decades he has been a towering source of leadership in the development of major national environmental and economic initiatives. When the gales of controversy have surrounded us, his has been the calm voice of reason which often has brought us back to our moorings, restored a rational perspective to our deliberations and pointed us anew in the steady and consistent direction of national progress.

As chairman of the Committe on Public Works and Transportation, dean of the Alabama delegation, and unflagging champion of the Tennessee Valley, BOB JONES has been a thoughtful and innovative craftsman of major national legislation. It has been his leadership, perhaps more than that of any other person, which has directed the course of the national water pollution abatement effort, the TVA, the Federal highway program, and the Appalachian Regional Commission.

It is reasuring to observe that ROBERT E. JONES of Scottsboro, Ala., has been one prophet not without honor in his own provinces. As a token of the respect in which he is justly held by the citizenry of northern Alabama, I include for printing in the RECORD a series of recently published commentaries from the Huntsville Times, the Decatur Daily, the Birmingham News, and the Florence Times and Tri-Cities Daily.

[From the Huntsville (Ala.) Times, Feb. 10, 1976]

BOB JONES: IN GRATITUDE

The Tennessee Valley of North Alabama has blossomed over the past 40 years; and no individual deserves more credit for the transformation than Bob Jones who yesterday announced he will retire from Congress at the end of this year and this session.

Robert Emmett Jones of Scottsboro has represented the northern district of Alabama for 30 of the 40 years during which the chronic economic malaise of Appalachia was rooted out and rational economic development was planted in these glorious hills and hollows.

His expertise in resources management and his keen political pragmatism were quickly and doggedly fastened on the real problems of the region when he took his seat in 1946; and he has never let go.

During 15 terms, largely unruffled by serious electoral opposition, Bob Jones has written a phenomenal and constructive record of legislation: flood control, TVA self-financing, water quality control, farm and home development, agricultural supports, interstate highway construction, waterways development.

His efforts brought literally billions of federal dollars into North Alabama in public works projects, farm supports and job-creating defense and space industries.

In doing so, he earned the fervent gratitude of his constituency and the grudging respect of opponents as a man of integrity and effectiveness.

Nationally, Bob Jones is known primarily because he stands astride every public works project in the land from his position as chairman of the House Public Works Committee, a committee he has served knowledgeably and diligently since his freshman term. A man not given to public pyrotechnics, his sound work is less well known but not less constructive in education, urban development, and the whole scheme of social programs ranging from child care to unemployment compensation.

In a word, while Bob Jones is claimed in these parts as "our congressman," he has served the nation as assiduously as he has the Fifth (formerly the Eighth) Congressional District of Alabama. He has consistently worked in behalf of a strong defense posture, tax reform, for foreign aid and foreign trade. He has demonstrated constant foresight in the national adventures in technology and space.

"What's good for the country is good for my district," Bob Jones once said. And the other side of that coin is sound, too: What's good for the district has been good for the country.

That being so, Bob Jones has been able to be uniquely his own man on Capitol Hill. He has had an uncanny feel for the temper of his constituency, but he has never let that impede his own judgment in voting.

Which is to say that Bob Jones has taken frequent flak from back home on particular issues. The wide range but broad approval of his views may be illustrated by the howling and purring of his friends and detractors. In various years he has been rated both high and low by diverse lobbying groups, such as the conservative Americans for Constitutional Action and the liberal Americans for Democratic Action. He has been discriminating but non-partisan in support of presidents. He has voted often both with and against the so-called Southern coalition and the so-called national Democrats.

His record tells not of vacillation but of strict adherence to the middle road, to common sense, to feasible and realistic goals.

Such a record, of course, is not without critics. Ranting environmentalists now, as rabid civil rights and antiwar activists in the 1960s, fault him for not espousing their ideals.

But in all seasons Bob Jones has clung to what he deemed right and best for the nation and his district. Homefolks had the wisdom to elect and re-elect him to Congress 15 times. A ride through the district displays the advantages of that choice.

[From the Huntsville (Ala.) Times, Feb. 11, 1976]

JONES' REMINDERS OF HIS WORK STAND ACROSS NATION

(By Philip W. Smith)

WASHINGTON.—On the wall beside Bob Jones' desk in the Rayburn House Office Building are the autographed pictures of five former Presidents of the United States.

Behind the desk are displayed a dozen pens those chief executives have used to sign bills which Jones put through Congress.

Scattered around the office are other momentos—a six-inch section of the original cable from the Golden Gate Bridge; a paperweight commemorating the start of construction on the Tennessee-Tombigbee Waterway; a miniature bale of cotton; a paperweight-size ingot from the first aluminum cast at the Revere Copper and Brass Co. plant in Scottsboro.

These are the small, personal reminders of almost three decades as a member of the House of Representatives, a career which "the gentleman from Alabama" will end when the final gavel of the 94th Congress sounds next fall.

But there are also other reminders of that career cast in steel and concrete from Maine to California; The National Portrait Gallery; the Smithsonian Museum of History and Technology; the John F. Kennedy Center for the Performing Arts; the giant power-generating plants of the Tennessee Valley Authority; more federal office buildings than he cares to remember; and, above all, the interstate highway system.

The dean of the Alabama House delegation sat in his office Tuesday morning, with a bright February sun shining on the dome of the Capitol through the window behind him and talked about some of the old battles.

It is the interstate system that he would like to be remembered for, if he is remembered for anything.

It was 1956 and the Eisenhower administration wanted to issue bonds to build what was then called a national defense highway network.

Jones was a subcommittee chairman on the Public Works Committee and he thought the new highways should be built on a pay-as-you-go basis.

"My biggest task was convincing Wilbur Mills (the Arkansas congressman who was then chairman of the Ways and Means Committee) that I was right," Jones recalls.

He finally succeeded and Mills added "Title II" to the highway bill, requiring that the system be built entirely from proceeds of a federal gasoline tax, paid by the people who would use it and not by the taxpayers in general.

The result, as Jones puts it, is that "the interstate system doesn't get into the Treasury for one red penny."

Jones is also proud of his record regarding TVA, but he is worried about the trends in attitude he sees today toward that agency.

The congressman from Jackson County has managed every piece of authorizing legislation affecting TVA for the past 20 years, including the amendments which have given it the authority to sell bonds to finance the ever expanding electric power prorgam.

Last year he successfully raised the limit on the amount of bonds TVA can have outstanding at any time to $15 billion—enough to complete the massive nuclear generating program the agency now has under construction.

"I have spent all of my political life defending TVA against her external enemies," Jones said, "but now it looks like we are having to spend more time defending her from her so called internal friends."

Jones didn't say so, but it was obvious he was referring to attacks on the agency that have become more and more frequent in the last five years from other members of Congress who represent districts within the TVA area.

But he has grown tired of fighting the battles.

"Thirty years is long enough," he said.

'When you have been here this long," he added, "you become politically weary.

"The enormous amount of work reduces the zest for accomplishments."

He also cites the growing number of jurisdictional fights between congressional committees.

"That reorganizational plan (of two years ago) got everyone fighting among themselves and there have been ill feelings," Jones said.

He is not using the often-cited excuse of ill health to give up a career at the age of 63.

"My health is excellent," Jones said, "but that's what everyone keeps asking me about," he added, shaking his head.

While his decision not to seek re-election to a 16th term came as a surprise in both Washington and in Alabama's fifth congressional district, it was not a spur of the moment move.

Jones said he had been thinking about it for nearly a year and made the decision long ago.

He held up the announcement, he said, until Monday following the meeting of the Alabama Democratic Executive Committee in Birmingham last weekend because it "might have a disturbing effect" on the state party meeting.

The congressman only told his wife of his decision about three weeks ago, and he did not tell his staff until late last Friday afternoon.

When Jones leaves office next January, he will have served in the House longer than any other Alabamian in history, surpassing the record of Rep. Henry B. Stegall of Ozark who was a member from 1915 to 1943.

Jones and Stegall are also the last two congressmen from the state to serve as chairman of full House committees. Jones heads the Public Works and Transportation Committee now and Stegall was chairman of the Banking and Currency Committee during the late 1930's and early 1940's.

When he retires to his home in Scottsboro next year, Jones said he plans to spend some time on the golf course and on the river fishing, but mostly he looks forward to his favorite hobby of raising flowers.

"I haven't ordered the seeds yet," he said, "but I have the plans laid out."

He added that he will remain interested in public affairs and might even consider serving on some type of advisory committees or commissions if asked, but "you won't catch me prowling the halls of the House of Representatives any more with a bunch of papers under my arm."

In the upcoming Democratic primary where a large field of candidates is expected to be running for his seat in Congress, Jones said he will remain completely neutral.

"If I were going to have anything to do with the primary, I would have gone to Birmingham last weekend, paid the qualifying fee and run myself," he said.

It will be a different story if a Republican goes after his seat, however.

"If that happens, I will be the most vigorous campaigner for the Democratic nominee you ever saw," Jones said, "no matter who he is."

Veteran Washington political reporter Joseph McCaffery, who has covered Congress since Jones was one of its junior members, paid tribute to the Alabama Representative during his nightly commentary on Radio Station WMAL Monday.

"I like to think of the gentleman from Scottsboro," McCaffery said, "as a prototype of congressional responsibility because as a member of the House he kept his head down, did his work, and knew his subject better than anyone else when he got the floor.

"He knew how to settle differences and end various factions so that he could come up with a compromise to get results.

"Yet, he never sought any recognition outside the 5th district of Alabama.

"He leaves a number of lasting monuments around this town. He was the one responsible more than anyone else for the National Portrait Gallery and the Smithsonian Museum of History and Technology.

"These are just some of the things that he has contributed to making Washington a better city.

"It will be sad to see him go because we will lose one of the few members with a sense of humor."

Jones showed some of that humor at a committee hearing Tuesday morning.

A subcommittee of the Public Works Committee was hearing testimony from the Secretary of Transportation on his decision to allow the supersonic British-French Concorde aircraft to land at Dulles International Airport in Washington and at John F. Kennedy Airport in New York.

The Concorde issue is an emotional one with environmental groups who claim the plane could deplete the Earth's atmospheric ozone layer, and with people who live near the two airports and contend it is noisier than subsonic jets.

The hearing room was packed with supporters and opponents of the Concorde and the question and answer session was rather intense.

Jones does not chair the subcommittee which was conducting the hearing, but as full committee chairman, was sitting in on it.

Just before he left, Jones interrupted the hearing to make a comment.

"Mr. Secretary," he said, "I don't want to go too far afield of the subject, but we have some other forms of transportation that are also pretty noisy and for which the Department of Transportation does not have any standards.

"I don't live near an airport so the plane noise doesn't bother me, but I'll tell you what does bother me and that is a subsonic truck coming by my house and waking me up every morning at six o'clock."

He then wondered if DOT might not set some noise standards for trucks also as the more than 200 supporters and opponents of the supersonic airplane shared a laugh together.

Meanwhile, those "subsonic trucks" are part of the 106 million vehicles that travel the 85 per cent complete interstate system which now carriers almost a fifth of all the daily highway traffic in the country.

But come next spring, when the flowers are blooming back in Jackson County, Bob Jones plans to be more concerned with his azaleas than whether the Concorde is landing at Dulles and JFK.

[From the Decatur (Ala.) Daily, Feb. 10, 1976]

CONGRESSMAN JONES NEEDED

Once a man makes a decision, he usually doesn't change it. Many times it's best that way. Other times it isn't.

We encourage Rep. Bob Jones to reconsider his announced decision to retire from the U.S. House of Representatives at the end of the current term. Alabama nor the nation can afford to lose any man of Rep. Jones' quality.

The Scottsboro congressman, rounding out 30 years in Congress, has been behind numerous important pieces of legislation, and became chairman of the House Public Works and Transportation Committee in January, 1975. He is the dean of Alabama's delegation and the author of history-making legislation on interstate highways, public buildings, water resources, pollution control and Tennessee Valley Authority bond financing.

The congressman made some of his most important legislative contributions as a chairman of subcommittees: the Public Works subcommittees on water resources, on public buildings and on economic development, and Government Operations subcommittees on national resources and power, and on water resources.

Jones was given major credit for steering to final enactment the pioneering Water Quality Act of 1972. House and Senate conferees were deadlocked for months on differing versions of a bill. And Jones, as leader of the House conferees, insisted on continued efforts to compromise after many thought the bill dead. Agreement was reached on the 42nd meeting of the conferees.

He is the author of the Public Building Act of 1959—the basic authority for most federal building projects. Jones has been commended for major legislative assistance to the Kennedy Center, the new Smithsonian Institution Buildings, many federal building in his North Alabama district and throughout Alabama.

In that same year, 1959, Jones spearheaded a successful move that had been four years in the making. He got through the House the Tennessee Valley Authority bond financing act, which has enabled that agency to pay for new power-generating facilities out of revenues. Resistance had been building up to paying for TVA power plants with federal appropriations, and without the new authority TVA could not have expanded to meet grow demands for power in its area.

House veterans say Jones was the key man in blocking the Eisenhower administration's plan for financing the interstate highway system with federal bond issues. The Alabamian insisted that it should be a pay-as-you-go affair. Jones has been, and is, a strong defender of the Highway Trust Fund and its use for highway-related projects.

Even since its beginning, TVA has been the target for attacks from all corners of the country. Many have been strong and often were vicious, yet Congressman Jones has stood in the face of each and saved one of the nation's most vital assets from being rendered ineffective.

The listing above only touches on the accomplishments of Mr. Jones, and at age 63 it is easy to assume that he has many more years of the same. We need this type man, and encourage him to reverse his decision. It would be a valuable move not only for Alabama's fifth district, but also for the nation as a whole.

In the event he doesn't change his decision, it's going to be hard to find enough of the right words to adequately describe what Bob and Christine Jones have meant to more than one generation of Americans. We won't try now for he has almost a year to serve in the House, and maybe in that length of time some master writer will help punch the keys of this typewriter.

Bob, you are needed.

[From The Birmingham (Ala.) News, Feb. 9, 1976]

RETIRING—HOUSE LOSING HARD-WORKING CONGRESSMAN JONES

(By James Free)

WASHINGTON.—Rep. Robert E. Jones, D-Scottsboro, dean of Alabama's House delegation and author of history-making legislation on interstate highways, public buildings, water resources, pollution control and Tennessee Valley Authority, bond financing, announced today that he will retire after this 1976 session of Congress.

He is rounding out his 30th year in the House. His service there began Jan. 28, 1947, after he won a special election. He succeeded John J. Sparkman, then a 10-year veteran of the House, who had been elected to the Senate following the death of Sen. John H. Bankhead.

Jones became chairman of the House Public Works and Transportation Committee in January, 1975. But he had been, in effect, acting chairman for two years due to the ill health of Rep. John Blatnik, D-Minn., Jones' predecessor as chairman.

The Scottsboro congressman made some of

his most important legislative contributions as a chairman of subcommittee: the Public Works subcommittees on water resources, on public buildings and on economic development, and Government Operations subcommittees on national resources and power, and on water resources.

Jones was given major credit for steering to final enactment the pioneering Water Quality Act of 1972. House and Senate conferees were deadlocked for months on differing versions of a bill. And Jones, as leader of the House conferees, insisted on continued efforts to compromise after many thought the bill dead. Agreement was reached on the 42nd meeting of the conferees.

He is the author of the Public Building Act of 1959—the basic authority for most federal building projects. Jones has been commended for major legislative assistance to the Kennedy Center, the new Smithsonian Institution Buildings, Birmingham's downtown mail-handling facility and many other federal buildings in his North Alabama district and throughout Alabama.

In that same year, 1959, Jones spearheaded a successful move that had been four years in the making. He got through the House the Tennessee Valley Authority bond financing act, which has enabled that agency to pay for new power-generating facilities out of revenues. Resistance had been building up to paying for TVA power plants with federal appropriations, and without the new authority TVA could not have expended to meet growing demands for power in its area.

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In his announcement, Jones thanked the people of the seventh congressional district for their support, encouragement and trust.

"But, after a tenure of 30 years, I feel now," he said, "that I have earned the right to go home and enjoy the years ahead at a slower pace." He added that he will never again be a candidate for public office.

In 14 renomination and re-election situations, Jones had never had a really close challenge. On several occasions, he has been unopposed. And there has been no indication that he might face serious competition in either the Democratic primary or the general election this year.

Throughout his political career, Jones, now 63, has been an un-hyphenated Democrat. His voting record has been consistently moderate and liberal. Often in the past decade, he has been the only Alabama House member voting with the Democratic leadership on controversial issues.

A lifelong resident of Scottsboro, Jones attended the University of Alabama and was graduated from its law school in 1936. He practiced law in Jackson County, where he was elected county judge in 1940. He served as a gunnery officer in the Navy in World War II. After V-J Day he shifted to the legal staff of Gen. Douglas MacArthur, and helped prepare for the trials of Japanese war criminals.

He returned to his law practice in North Alabama in February, 1946, less than a year before he was elected to the House.

His wife is the former Miss Christine Francis of Tuscaloosa. Their son Robert E. Jones III is an attorney in Florence, and he and his wife have two sons, Carter and Frazier.

Jones said that, at the moment, he has no retirement plans, other than to return to Scottsboro at the end of this 1976 session and rest a while.

[From the Florence (Ala.) Times/Tri-Cities Daily, Feb. 11, 1976]

ROBERT E. JONES (D.-ALA.)

Perhaps the most encompassing comment was the veteran voter's reaction to news of the impeding retirement of U.S. Rep. Robert E. Jones:

"It's too bad somebody can't take up where ole Bob left off."

And, come to think of it, there's a great deal of truth in that succinct observation. The nation, Alabama and this Tennessee Valley in particular, will miss the presence of Robert E. Jones in the halls of Congress.

Bob Jones will be a tough act to follow.

Of course, 30 years in Congress would naturally leave a large void to fill. In the case of Bob Jones, however, the successor, whoever it may be, will face a legislative legacy unmatched by many in the United States' House of Representatives.

From the beginning of his tenure on January 26, 1947 to the present time, Bob Jones has been the champion first and foremost of his beloved Tennessee Valley.

Known by his congressional colleagues as "Mr. TVA," Jones has been at the forefront of virtually all of the significant public works legislation since he went to Washington. He was given major credit for the passage of the Water Quality Act of 1972. It was then, as leader of the House conferees who had been deadlocked with their Senate counterparts for months, that Jones insisted on continuing negotiations long after it had been considered hopeless. Agreement was finally reached on the 42nd conferee session.

In 1959, Jones guided through Congress the Tennessee Valley Authority Bond Financing Act which allowed TVA to use its revenues to pay for generating facilities which met growing electrical needs of the valley.

Also in '59, Jones authored the Public Buildings Act—under which most federal building projects gain basic authority.

Jones is now chairman of the House Public Works and Transportation Committee, one of the most powerful groups in the Congress.

Though known as a champion of public power development, Jones also played a key role in transportation. He was intrumental in the successful block of the Eisenhower Administration's Interstate Highway Plan, which would have financed the system with federal bond issues. A strong supporter of the Highway Trust Fund, Jones insisted on a pay-as-you go basis.

Personable and popular, Jones really never faced staunch opposition, only a couple of semi-serious skirmishes during his 14 renomination and re-election trials.

Like that of his successor, Bob Jones found himself facing a rather awesome situation as a freshman congressman. He followed into office a man named John J. Sparkman as the representative of the old 8th Congressional District.

The Scottsboro native had graduated from the University of Alabama Law School in 1936 and had served as Jackson county judge (elected in 1940) before entering the Navy during World War II. After the war he served on the legal staff of Gen. Douglas MacArthur to assist in the preparation for the Japanese war trials.

He had returned to his law practice less than a year before the primary in May of 1946.

The "country lawyer from high Jackson" was naturally awed by his newly attained position.

Sen. Sparkman recalls that Jones had been in Washington "about a week when he called me. He said 'do you want this damn job back?' " It seems that the Taft-Hartley Act had him twisted up.

"He said, 'If I knew every week would be like this first one, I'd go back to Scottsboro right now.'

"I guess he must have grown to like it, though," the senator laughs. "He's hung on to it for 30 years."

Both Sen. Sparkman and Sen. James B. Allen have the highest regard for Rep. Jones, are lavish in their praise.

"He is one of the most outstanding and most influential members of the House of Representatives," Allen declared. "And his mark has been placed on some of the most important legislation passed by Congress in the past 30 years. Alabama will miss his great influence in the Halls of Congress."

"Bob has been a wonderful congressman," commented Sparkman. "And I hate like everything to see him get out. His services mean a great deal to our area."

That's probably Sen. Sparkman's understatement of the year. Bob Jones—the epitomy of a great public servant.

FAMED DRISKILL HOTEL A LANDMARK

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. PICKLE. Mr. Speaker, for nearly 100 years, visitors to Austin, the capital of Texas, have enjoyed the famed Driskill Hotel. During the last few years, the historic landmark has undergone thorough renovation to recapture its youthful charm which suffered slightly through the ravages of age.

Always a popular gathering for elected officials, no doubt the walls of the Driskill contain many a political story from the days of Governor Hogg through the times of President Lyndon Johnson, both frequent guests.

Recently, the Driskill was featured in the Chattanooga Times, proving that the fame of this grand hotel has spread far and wide. I would like to share this article with you:

IN CAPITAL OF TEXAS: OLD HOTEL HAS NEW LOOK

In 1886, visitors to the small Texas capital city of Austin—population 13,000—traveled in horse-drawn buggies across wooden bridges and over dirt streets to stay at the magnificent new Driskill Hotel. Today the Driskill is new and impressive once again, after a total renovation of the property by its owner, Braniff International Hotels Inc.

More than 1,000 Austinites attended a Jan. 20 reception in the hotel and an open house has been scheduled today to mark completion of the project which has restyled the venerable hostelery into one of the nation's finest and most unusual hotels. The latest phase in this unique blending of Old World elegance and frontier spirit includes renovation of the lobby areas and dining room. The Driskill Cabaret, a popular restaurant and discotheque, was completed in September, 1974, and all of the hotel's 175 rooms have been redone.

"The motif throughout the Driskill's public areas is turn-of-the-century European," said T. Paul Ligon, executive vice president and general manager of the hotel company.

"This hotel is a famous Texas landmark. We have retained the grace and charm of the original Driskill and made it a delightful place to stay when you visit Austin."

JOURNEY TO PAST

A weekend at the Driskill is like a journey into the rich past of the River City. Built by Col. Jesse Driskill in an era when good hotels were scarce in this part of the country, the Romanesque edifice of brick and dressed limestone offered guests a first-class room with hot and cold running water for $2.50, a full-course dinner for just 35 cents, and true Southern hospitality. By the turn of the century, the hotel had its own fire department, electrical dynamo, and artesian well, not wanting to be "dependent upon any corporation or outside organization."

Newspaper accounts of the day called the Driskill "the finest hotel south or west of St. Louis," and a house "perfect in all its parts," where "table comforts are all that the most fastidious could wish." The brash and colorful cattle barons who frequented the Driskill used the main entrance, while a special entry way was available for ladies in the genteel hope that they would avoid the harsh language and cigar smoke of the frontier businessmen.

The Driskill was a favorite meeting place for the political and social leaders of Texas for several decades, but in 1969 it was threatened with destruction to make way for modern construction. Driskill devotees and historic preservationists from across the state united to assure its continued existence and its renaissance served as a keystone for the rebuilding of the entire East Sixth Street district of Austin.

LIKE A RESIDENCE

At the Driskill, script on the arched green awning over the Seventh Street main entrance identifies the building as a hotel, but once inside you would swear you were visiting the residence of your dearest, most gracious friends.

Immediately through the front doors you are in the parlor, all of it a lounge with an hexagonal-shaped bar designed as a fun meeting spot, and several sitting areas where you can leisurely read the paper or conduct business and perhaps sip your favorite cocktail.

From the deep orange and rose carpeting on the floor to the mahogany veneer ceiling, the look is one of richness and comfort. An exquisite padded silk fabric of old French rose covers the walls, the registration desk is a combination of frontier Driskill and German design, and most of the lobby furnishings and paintings are European.

Live plants have been used throughout the lobby areas and dining room to lend a clean, fresh feeling. The dining room seats 94 people in an intimate atmosphere that continues the Driskill reputation for fine dining. Chef Hubert Treiber, a native of Austria, has perfected a wide variety of culinary offerings—from Porc Medallion "Zingara" and Veal Scallopini "Maximillian" to Prime Rib and Hot Kosher Corned Beef on Rye.

Snacks will also be available at a European sidewalk came on the lower lobby. This spacious area will also contain kiosks with a flower shop and several other small shops, and hotel officials are negotiating for installation of a top-name clothing outlet. All of the lobby and dining areas were designed an constructed by the Bavarian Film Studios of Munich, Germany, the same craftsmen who built the Driskill Cabaret and made the sets for the movie of the same name.

Plans are now being formulated to renovate the mezzanine area that contains the meeting rooms—and most of the Driskill's regal history. Here in January, 1887, was held the hotel's first major gala—the inaugural ball of Gov. Sul Ross.

Still gracing the red and gold Maximillian Room are eight famous mirrors that once belonged to Empress Carlotta of Mexico. In the Crystal Ballroom, generations of Texans attended evening concerts and special dinners, dancing under a huge crystal chandelier. Just down the hallway in the Jim Hogg Suite, named for the state's governor at the time the hotel was built, President Lyndon Johnson waited with family and friends for the 1964 election results.

"All of our improvements have been planned to retain the Driskill's historical role as a gathering place," said C. J. Vannoy, resident manager of the hotel. "We hope to encourage once again the concept of 'meet me at the Driskill.' "

THE WABASH RIVER NAVIGATION STUDIES

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. ROUSH. Mr. Speaker, on January 28, 1976, I introduced H.R. 11568, a bill that would terminate authorization of further studies of Wabash River Navigation by the Secretary of the Army. Earlier, I had placed in the CONGRESSIONAL RECORD a detailed comment by the U.S. Fish and Wildlife Service stating that agency's objections to any canalization of the river because of the unacceptable environmental damage the project would cause. I oppose the project on those grounds alone.

The economics of Wabash River canalization has never been found advantageous, and the most recent documentation which has come to light does little but substantiate the inadvisability of proceeding further on any phase of this project.

I have stated, Mr. Speaker, that a whole route, 430-mile canal up the Wabash, across the State to Fort Wayne, and down the Maumee to the Port of Toledo on Lake Erie would alone cost about $5 billion. This compares to a corps figure for that route of just over $1 billion. I now believe my figure is probably very conservative, and that if a canal is ever started, we will be facing wasted expenditures that would rival any in the memory of even my most senior colleagues.

Let me provide the House with just two figures which should give a glimpse of the fiscal prospects. On April 23, 1973—less than 3 years ago—the Louisville district of the Corps of Engineers placed the cost of the first 42-mile segment of the canal at $86-million. This was a route that would cut northward across the rich farmlands of Posey County from the Ohio River to Mount Carmel on the Illinois side of the Wabash River. At that time, additional studies were based upon a tentative benefit to cost estimate of 1.1:1.

Now, in documents obtained under a freedom of information demand by the Indiana Izaak Walton League, this cost has grown to nearly three times $86-million. In 1975 dollars the Mount Carmel route alone has been put at $243,500,000. This enormous cost is cited in both the draft final report prepared by the corps' consulting firm, and in documents reviewed by the Louisville Corps District and its consultant dated September 25, 1975. Do we dare imagine what those construction costs would be by the time a start on the canal might be possible, not to mention what the costs would be if the canal length were extended all the way north to Terre Haute?

I would like to reflect back in time now to the late 1960's, when we in the Congress were told that another Indiana project, Burns Waterway Harbor on Lake Michigan was economically feasible by the corps. The agency assured us that this port would be economically feasible if coal transfers through it amounted to 10-million tons annually. We were led to believe that this transshipment business would be produced, and we appropriated some $25 million as the Federal share of construction.

Not one lump of coal has ever been shipped through this port, though it was "open for business" in 1970. There is no prospect whatever that any coal will ever be shipped through it; nor is there a shred of evidence that alternative cargoes will ever make up this deficiency. We are simply out millions of Federal dollars, and we cannot avoid recognizing that a mistake was made.

My colleagues, if we have made mistakes in the past, we need not repeat them now or in the future. The economics of the proposed Wabash Canal—as marginal as they are—rely to the tune of about 90 percent on coal for the Mount Carmel segment, and even then only when annual tonnage reaches 27 million tons at some very uncertain future point in time. The Burns Waterway experience should serve as a red light in accepting any vague assurances. Nor can there be the slightest possibility that a Wabash Canal extending further to Terre Haute could be justified without vast coal tonnages. Grain shipments are given as the primary rationale for extension of canal investigations north of Mount Carmel, but the unassured volume of coal remains the foundation stone for the slightest economic justification of any segment of this project. Without that, it is less than an absurdity to consider this program any further.

And what evidence do we have in hand one way or the other that coal tonnage for the canal would be developed? I quote from the checkpoint II conference for Wabash River navigation, held September 25, 1975, by the corps at its Louisville offices, with representatives of Environmental Consultants, Inc., which is preparing the economic and environmental analysis.

Item 1 from the contents of that conference reads as follows:

> No coal producer or consumer has expressed a need for or a desire to use an improved Wabash River navigation system.

This stupefying acknowledgement must be seen in light of economic studies for a Wabash Canal that have been in unbroken progress since 1968. Six years of digging and promotion have not turned up a single coal producer or consumer needing or wanting the project.

Part of the coal shipment projections are based upon a study published August 30, 1974, by Battelle Columbus Laboratories, Columbus, Ohio. An observation of the checkpoint II conference of last September 25, states as follows, from item 2:

> The results of the coal traffic and market study conducted by Battelle Columbus Laboratories in August 1974 were based on several assumptions that may or may not become reality.

Item 4 from this checkpoint II conference also includes the following language:

> As presently evaluated, the B–C ratio for the tentatively selected alternative (to Mt. Carmel) is 0.97 to 1 without redevelopment and 1.05 to 1 with redevelopment benefits. Although additional study is underway on grain and other commodities, the above ratio makes favorable recommendation of a project to the Congress questionable.

This item then continues with the following:

> Can the project be deemed of sufficient National interest to suggest a favorable recommendation anyway?

Mr. Speaker, while I intend to introduce much on this ill-starred project in coming days and weeks, I would like to conclude my present remarks with a question and one additional factor.

While further analysis may lend clarification, it is difficult for me to see how an $86 million Ohio River to Mount Carmel project could in 1973 exhibit an estimated 1.1 to 1 benefit to cost ratio, while that same project costing almost a quarter of a billion dollars in 1975 money could retain even its presently claimed 0.97 to 1 ratio.

And finally, I find a most disconcerting assertion in the contents of a letter of August 29, 1975, from Environmental Consultants, Inc., to the Louisville district corps office. I think my colleagues might agree that employment is one of our most serious national problems, and the effects of projects we in the Congress undertake must always take this into consideration.

Yet, we find Environmental Consultants telling the corps as follows:

> The canal is energy and labor conserving while railroads are labor intensive and energy consuming.

While I have seen energy figures which I will introduce at another time indicating rail transportation is more energy-effective than barge transportation, it is the labor question that concerns me in the above quotation.

"The canal is labor conserving." This means that the canal produces few jobs, and, in fact, may cost many jobs. Is this what we want?

"Railroads are labor intensive." This means that rail transportation produces jobs, income, taxes, and related favorable economics which must be given among our highest national priorities.

Mr. Speaker, in light of all this and other material I will soon introduce, I hope many of my colleagues will join me on H.R. 11568, and that we may soon encourage the Public Works Committee to schedule hearings upon this bill.

HOW MEASURE GROWTH?

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. SYMMS. Mr. Speaker, the March 1976 issue of Notes From FEE, a publication of the Foundation for Economic Education, discusses the economic measuring stick known as the gross national product—GNP. This little economic essay is quite informative as are all of FEE's publications. I would like to commend this essay to my colleagues in Congress, and I would also suggest to my colleagues and the American people that they contact the Foundation for Economic Education, Irvington-on-Hudson, N.Y. 10533 to receive FEE's publications:

HOW MEASURE GROWTH?

(The student of history must avoid that error which the proverb calls measuring other people's corn by one's own bushel.—E. B. Tylor)

A correspondent from Pakistan asked: "How can one tell whether a nation is experiencing economic growth?" A bit of reflection brought this thought: Really, a nation experiences no more than a corn crib; *only individuals have experiences.* So, if we would measure progress—or regress—it must be with respect to individual human beings, never a nation.

One of the Bicentennials being celebrated in 1976 is Adam Smith's *Wealth of Nations.* This great moral philosopher should not be blamed for allowing the line of collectivists, tracing thrugh Marx and Keynes, to prolong the myth of national wealth and material income most commonly designated today as the Gross National Product (GNP). But the Bicentennial could well serve as occasion to examine those ideas.

Any individual's economic wealth is generally expressed as his net worth, and changes in net worth show how much he is gaining or losing in wealth.

As to nations, some are more economically advanced than others, and a major reason for the difference is the degrees of freedom exercised by individuals to the point that capital is accumulated and put to productive use. Real wages tend to be higher in countries with the most savings invested per worker. But this is most likely to happen where private ownership and control of property is respected and upheld through limited government—where there is freedom to trade in open competition—where prices are free to fluctuate in response to supply and demand in the unhampered market—where the money to facilitate trade is left to the market rather than printed by government to serve political purposes—where charity is personal and private as distinguished from welfare state plundering of the productive to subsidize the wastrels—where entrepreneurial response to change and opportunity is encouraged rather than frustrated and forbidden.

It is true that in a free market economy there is no need for any such measurement as GNP or national wealth or full employment or percent of income taken in taxes. All that is needed is the information freely available to every potential buyer and seller in the form of market prices. Individuals and businesses can act intelligently on the basis of that information. They have no need for and should be free to ignore whatever GNP or other statistics governments want to assemble.

I can't get very excited about the fact that such statistics are gathered and published. But if they are being used in such a way as to interfere with personal choices and actions—which they are—that is serious and should be explained.

In taking this position. I find myself in contention with Hegel, Marx, Comte, and many of our own time, who embrace the notion that only the nation or society is real and that the individual is the abstraction. Today, these socialist sophists have followers by the millions, collectivists who are but copycats of ancient and medieval forms of coercion—those who favor a Charlemagne, Napoleon, Hitler, or in today's terms, the planned economy and the welfare state.

Summarized, the argument is between those who pose society or the nation as the prime unit and those of us who believe that all meaningful comparisons in progress or regress must be made in terms of individual or business units.

Conceded, the problem of measuring growth is partly an accounting problem, but the measurement, to make sense, has to do with the unit in question, be the unit an individual or company. Each unit has different goals, values, aspirations, ambitions. Thus, there can be no single measuring rod for social or national or collective growth.

In the free market each unit does its own calculating. This is known as economic calculation—business accounting—determination of profit or loss. It is this that leaves each unit free to choose what to produce, what and with whom to exchange, and what to buy or consume.

Dr. Ludwig von Mises was the first to demonstrate the impossibility of economic calculation under socialism.[1] Economic calculation is automatically supplied in a system of free competitive pricing. Leading communist "economists" concede his point. Their words, my italics:

The best methods of producing a given output cannot be chosen [by socialist methods] but are taken from outside the [socialist] system . . . i.e. methods of production used in the past, or so-called "advanced" methods of production, *usually taken from the practice of more advanced countries and used as data for plan-building by the* [socialist] *country under consideration.*[2]

As more and more countries, including the United States, succumb to socialism, upon what information are the communist "economists"—or anyone, for that matter—to base their plans? Upon the GNP? Wrote Henry Hazlitt of this political fantasy:

"It is impossible . . . to arrive at a precise, scientific, objective, or absolute measurement of the national income in terms of dollars. But the assumption that we *can* do so has led to dangerous policies, *and threatens to lead to even more dangerous policies.*"[3]

It is the catastrophic situation into which an acceptance of GNP leads that warrants—indeed, demands—our examination.

The countless little Caesars who man our present socialistic structure have decisions to make. Economic calculation is impossible under socialism. Their single recourse? Statistics! Wrote Murray Rothbard:

"Statistics are, in a crucial sense, critical to all interventionist and socialistic activities of government. . . . Only by statistics can the Federal government make even a *fitful attempt* to plan, regulate, control, or reform various industries—or impose central planning and socialization on the entire economic system."[4]

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[1] *Socialism* (New Haven: Yale University Press, 1951), pp. 131–42.

[2] *The Journal of the American Economic Association,* March, 1963.

[3] *The Failure of the "New Economics"* (Princeton: D. Van Nostrand Co., Inc., 1960), p. 415.

[4] "Statistics: Achilles' Heel of Government," *The Freeman,* June, 1961. Also available as No. 57 in the *Cliches of Socialism* series.

To the extent that an economy is controlled by government, it is no longer a reflection of freedom of choice and competitive forces but rather of bureaucratic edicts. These edicts decree this or that according to the statistical data which they compile. While numerous data are contrived for their use, the usual statistic for measuring economic growth is gross national product: GNP. Absurd?

If a man divorces his wife and hires her as a cook at $50 a week, the GNP will increase by $2,600 annually.

The dollars paid farmers not to grow crops boost the GNP as do the dollars paid farmers for things produced.

It is useless to give other examples, for the input statistical "guidelines" are forever changing, not only with the passing whims of each dictocrat but also with the whims of the others as they come and go. This explains why there is so little agreement on what GNP really is. I don't know; they don't know!

Only this we know for certain: GNP—always expressed in the monetary unit—enlarges whenever the medium of exchange is diluted; that is, GNP expands in an inflationary period. Contemplate what Germany's GNP was in 1923 when billions of marks wouldn't buy a loaf of bread! GNP reached its peak just before total collapse!

In view of its absurdity, why is GNP employed as a measuring rod? When economic calculation—automatic in competitive pricing—is rejected, errors follow as a consequence. At least, GNP is consistent with the absurd premise of the interventionists: the notion that they can run our lives better than we can. How can they be expected to know there isn't any measuring rod!

Further, interventions naively believe in the Keynesian notion that increased government expendiutres lead to prosperity. Were this true, we should repeal the laws against counterfeiting. The fact? Exploding government expenditures foretell catastrophe, nothing else.

Here is a rarely understood fact: Free market performances do not lend themselves to mathematical analysis any more than do intellectual, moral and spiritual values. This is to say that the economic status of individuals cannot be measured by any objective standard—none whatsoever! Statistics are nonsensical—Achilles' heel, indeed.

National objective standards—devices of the dictocrats—are, of course, erroneous. What then for a free society? *Subjective judgments!* This is not to say that the individual can have no awareness of his own economic improvement; it is only to assert that such growth cannot be reckoned by any objective standard.

For instance, *what I want to do* is forever changing and *what I want in exchange* is like a bird on the wing—I don't stay put. More to the point, no two human beings are alike; all of us are in flux, not only as individuals but relative to each other.

It so happens that my highest aspiration is to write and lecture on behalf of the freedom way of life. I prefer this to other employments, even though the other jobs available may pay ever so much more. And in exchange I desire above all else a working acquaintance with the best of freedom thinkers in the world, along with the economic means—food, transportation, and the like—for realization. To me, this is the ultimate in progress. Who has any right to set a standard for me other than these unusual but nonetheless self-chosen goals? No person on this earth!

But here's another fellow who, above all else, prefers to strum a guitar. And in exchange his heart's desire is "a Loaf of Bread . . . A Flask of Wine, a Book of Verse—and Thou." To him this is the ultimate in progress. Where is the superman who has any logical, moral, or ethical basis for decreeing otherwise? No such person exists or ever will!

The above gets at the crux of the matter: evaluation of progress is individual and subjective; gain or loss cannot be objectively measured; that is, neither I nor anyone else can devise a standard that can accurately assess what is or isn't a gain to any other.

What is progress to one individual may very well be regress to another. Examples: There are persons who would prefer an audience with the President of the U.S.A. to $10,000, and vice versa; a hoola hoop to $5, and vice versa; a Ph.D. to $5,000, and vice versa—and so on ad infinitum. *Objective standards simply cannot be used to measure subjective judgments!* GNP is a fraud, in most instances an innocent one! No freedom devotee should ever refer to it except disapprovingly.

When we discover that each of us is unique and is the best judge and master of his own growth, we will try to so structure our society that freedom of choice is maximized—liberty for one and all.

NURSES ARE DROPPING THE HANDMAIDEN IMAGE

HON. LLOYD MEEDS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. MEEDS. Mr. Speaker, for a number of years I have been interested in ways to make more efficient use of our medical manpower—and I use that term in the generic sense—through greater use and more flexible payment provisions for nurse practioner services.

A cadre of nurses specially trained to give primary care in rural and remote situations has been developed in Washington State and elsewhere in the Nation. Because of restrictions on payment for services performed without the direct supervision of a physician, particularly in medicare cases, there has been an artificial deterrent to making full use of these nursing services in rural clinics. I am glad to be able to report that a pilot project is finally getting underway in Darrington and other rural areas of the State of Washingotn called a physicians extender project. Under the supervision of HEW, this project provides for medicare reimbursement for services performed by nurse practitioners, with consultation and supervision provided by a doctor located in the nearest town some miles away.

The following article from the Seattle newspaper Argus, describes in some detail the philosophy and recent developments in the nurse practitioner movement:

NURSES ARE DROPPING THE HANDMAIDEN IMAGE

(By Ann Beller)

Qualified registered nurses can now work without the supervision of a physician because of a recent change in the state law regulating the practice of nursing. Several independent clinics, run by specially trained R.N.'s called nurse practitioners, are bringing primary care to remote areas of the state that have no physician.

Although patient acceptance has been good, the clinics have run into practical difficulties, because the new law does not align with the realities of the doctor-dominated health care system. Physicians administer important economic institutions such as Blue Shield, as well as the hospitals and the politically influential medical associations. The policies of some of these institutions reflect the reluctance of some physicians to accept an expanded role for nurses.

Nurse-run clinics became possible two years ago when the state legislature made two changes in the law. One change makes the registered nurse directly responsible to the patient, not the physician or employer, for the quality of nursing care given. Although nurse accountability has been a fact for years (with the result that nurses have been named in malpractice lawsuits), Washington law is the first to state explicitly the responsibility of nurse to patient.

Another change permits the registered nurse to perform acts such as diagnosis which in the past were considered the practice of medicine. Specially qualified R.N.'s can now perform physical examinations, take patient health histories, suture some wounds, and recommend nonprescription drugs. This amendment codifies what had been actual practice anyway. Although the old law specifically forbade nurses to diagnose, for example, in practice nurses often did so, prudently calling it "patient assessment."

Because of its liberal nursing-practices law and because of the prestigious reputation of the UW School of Nursing, ranked second in the nation, Washington has received national attention as an advanced state in which to practice nursing. But some key physicians reminisce of a time when the physician-domination of health care was unquestioned.

"If you look at the history of the health professions, the physician has been the controlling factor," says Dr. Rheba de Tornyay, a new dean of the UW School of Nursing. "Most physicians understand very well the dependent role of nurses, but they don't understand the number of judgments that are independent."

Although many individual doctors welcome an expanded role for nurses, the Washington State Medical Association did not support the new Nursing Practices Act because of its "additional acts" section. The law says the "additional acts" (recognized by the medical and nursing professions as proper to be performed by nurses) should be authorized by the board of nursing. Since these acts in the past were restricted to the practice of medicine, the WSMA wanted the Board of Medical Examiners (the group which evaluates the qualifications of physicians) to share in their regulation.

The nurses carried the day. The WSMA and the Washington State Nurses Association are now collaborating on a joint Practice Committee to define new roles for nurses.

The WSMA's attempts to give physicians a say in the credentialling of nurses was viewed by some nurses as interference in the integrity of the nursing profession.

"We have our own body of knowledge," says Delores Little, a vice president of the American Nurses Association and a professor at the UW School of Nursing. Delegated medical responsibility is only a small piece of nursing, and physicians are not authorized to do many of the things nurses do, she points out.

No one has suggested that independent nurse practitioners should take over the function of physicians. Most patients who come to a nursing clinic have their own doctor with whom the nurses cooperate. When the patient's condition is serious, the nurses advise the patient to see a physician.

"But why do you have to go to the doctor for a cold?" asks Little.

Most nurse practitioners have either joined a group practice where they work alongside physicians, or filled in the gaps left by physicians in the health care system. They have gone to doctorless areas or offered needed services abandoned by physicians—such as house calls.

For example, an independent group of nurses in Bellevue offers specialized home care to accident victims. Northwest Rehabilitation Associates, Inc., sends nurses out to the patient's home and work to help in long-term rehabilitation. In line of duty the nurses have donned hard hats and gone out on tugs and to remote lumber camps.

These nurses are not competing with physicians.

"But," says Little, "if you are in there competing for the health dollar, that is a threat to the medical profession."

Some key physicians have been able to hinder nurses' competition for the health dollar. King County Medical Blue Shield, whose board of directors is made up of physicians, refuses to cover independent nursing services. This policy has had a stifling effect on the one nurses' clinic in King County.

The clinic opened recently on Vashon Island, a location frequently without a physician. Nine employers on the island provide Blue Shield contracts to their employees. These employees have three choices: 1) they can pay for clinic visits out of pocket (in addition to their Blue Shield premiums), 2) they can take a day off from work and ride the ferry to a doctor's office in Seattle, or 3) they can do without care. Many Blue Shield patients choose to avoid the clinic.

Explains Blue Shield medical director Robert D. Allen, M.D., "King County Medical Blue Shield was founded by and is operated by physicians to provide the services of those physicians to its subscribers. Only by dealing with participating phyicians is it possible to assure our subcribers of quality care at the most reasonable cost."

It is difficult to go along with this argument, when the nursing clinic offers services that would be covered if performed by a physician. State law declares certain R.N.'s qualified to deliver primary care. The Blue Shield evaluates its physicians anyway; it could do the same with nurses. There is no indication that nursing services would cost more than physician services; in fact, they are usually covered on a lower scale when third-party payers do cover them.

The Washington State Nurses Association has its own interpretation of Blue Shield's policy.

"King County Medical Blue Shield came into being not to provide health care, but to assure that doctor bills get paid," observes executive director Beverly M. Smith.

The situation should change soon. The Blue Shield board of directors is sharply divided on the question. Blue Shield in some other counties of the state and Blue Cross cover a portion of the cost of nurse clinic visits. Last summer both houses of the state legislature passed a bill requiring health care contractors to cover nurses, as well as chiropractors, psychologists, optometrists, and podiatrists' services. Although the governor vetoed the bill, his veto message indicated support for the coverage of nurse-run clinics in doctorless areas; it was the inclusion of chiropractors, podiatrists, etc., which brought down the veto.

Outwork traditions and sexism contribute to the reluctance of physicians' groups such as the WSMA and King County Blue Shield to accept an expanded role for nurses.

"It's very hard to separate what's happening in nursing from what's happening in the women's movement," comments Karen Cummings, director of nursing at COH, "the old idea of the nurse being there simply as handmaiden to the physician is gone.

Feelings can run high. A spokesman for the Washington State Nurses Association says, "Physicians talk about the girls, but do you ever hear nurses talk about the boys?"

Lingering in the public mind and the vocabulary of some health professionals is the image of the nurse as a dedicated, submissive young woman in white. Even though affirmative-action programs attract increasing numbers of males, and many nurses work in street clothes, the word "nurse" brings to mind the old image.

The different educational levels of nurses further confuse the image of the profession. The word nurse can refer properly to a practical nurse with one year of training as well as to an R.N. college professor with a Ph. D. An R.N. can have two years of training in a community college, three years in a hospital diploma program, or four or more years at a university.

This is one reason why nurse practitioners have the redundant second word in their title.

"The word nurse seems to need an assist at this point," concludes a nurse writing about nurse practitioners in last month's American Journal of Nursing.

Nevertheless, the defensiveness among nurses and the determined efforts to expand the scope of the profession occasionally gives way to pride in what nursing has accomplished.

ADMINISTRATION'S HIGHER EDUCATION BILL

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. ERLENBORN. Mr. Speaker, on February 18, I introduced H.R. 11939, the administration's proposed amendments to the Higher Education Act of 1965. It contains no surprises and closely follows the position U.S. Office of Education personnel have taken in testimony before Congressional committees. There are many laudable provisions in this bill:

It consolidates presently disjointed student aid programs.

It proposes controls on the highly publicized abuses of student aid, particularly loans.

It creates a statutory mechanism for determining the eligibility of institutions for participating in federal programs.

It repeals several narrow categorical authorities, which have never been funded.

I feel it irresponsible to offer promises to the education community in terms of authorizations where there is little change of funding such programs. The amendments take a new look at Federal student loan programs. I have for some time perceived the urgent need for restructuring of the Federal student loan effort and have introduced my own bill, H.R. 10590, to addres the problem. I welcome participation by the administration in this dialog concerning student loans.

I think it is widely recognized that no one person, organization or agency could put together a realistic higher education bill that would please all segments of the higher education community. I, myself, find several sections of the administration's bill with which I cannot agree or wish were more strongly emphasized. The President's announced and demonstrated concern for the future of independent colleges and universities in our Nation should have been more strongly reflected in this bill and increased involvement of the States in both loan and grant programs would have been a positive step.

The administration's recommendations for the BEOG program run counter to most professional educators' suggestions, but may be reasoned ones in light of recent statistics revealing increased participation rates in that program and future funding costs.

A summary of the administration's higher education proposal follows in a letter to you from Secreary of Health, Education, and Welfare Mathews:

DEPARTMENT OF HEALTH,
EDUCATION AND WELFARE,
February 10, 1976.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed for the consideration of the Congress is a draft bill "To amend and extend the Higher Education Act of 1965, and for other purposes."

The basic purpose of the draft bill is to extend for four years those programs in the Higher Education Act of 1965 and related programs which have demonstrated their effectiveness in meeting the postsecondary education needs of the Nation.

The bill would extend those programs of student assistance which have been the bulwark of our strategy for the support of postsecondary education. The most important of those programs—basic grants and guaranteed student loans—would be continued with a number of amendments designed to improve administration of the programs and make their operation more equitable. The program of State student incentive grants would be continued, with certain modifications, in order to encourage States to adopt or broaden their student assistance programs. The most significant modification would require States to open their programs to students attending both public and nonprofit private institutions of higher education. We would not recommend continuation of the supplemental opportunity grants or capital contributions to the National Direct Student Loan program; however, we would authorize the use of those student loan funds already established under that program to make loans under the guaranteed student loan program.

Our proposed bill would also continue a number of other programs, other than those of general student assistance, which have proved to be effective in meeting specific needs.

Title III of the Higher Education Act of 1965, designed to strengthen developing institutions, would be extended, as would be the Teacher Corps program under title V of that Act.

A new provision would be added to title IV of the Act to authorize the Commissioner to issue appropriate regulations providing for the limitation, suspension, or termiantion of the eligibility of institutions or schools which fail to comply with applicable statutory and regulatory requirements. This authority would be similar to that currently provided in the guaranteed student loan program, and we would expect to implement it in a manner similar to that set forth in the regulations for that program. We are also proposing a number of other amendments to the Act to simplify and clarify the requirements relating to accreditation and institutional eligibility.

The enclosed draft bill indicates our commitment to the principle that assistance to students is the most appropriate means for the Federal government to contribute to the goal of assuring that every student who has the ability and desire will have access to a postsecondary education. This bill not only would continue those programs which show promise of achieving that goal, but also would

provide a number of amendments designed to improve our ability to administer those programs in the most effective manner. A description of each section of the bill is enclosed for your convenience.

We urge the prompt and favorable consideration of this proposal.

We are advised by the Office of Management and Budget that enactment of this proposal would be in accord with the program of the President.

Sincerely,

David Mathews,
Secretary.

GOVERNMENT AND THE BUSINESS COMMUNITY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. MURTHA. Mr. Speaker, it appears to me the National Government has been increasingly adopting an adversary role with many segments of the Nation. It has sometimes seemed to me we have forgotten that one of the Government's prime roles should be to facilitate and bring together diverse elements of the Nation.

This thought was reenforced recently when I was the host for a major Boy Scout banquet in Johnstown. The main speaker was Mr. David M. Roderick, president, United States Steel Corp. I would like to weave some of his comments into my own thoughts on the Government's role.

The Government's adversary image has been prompted by the economic dislocations of the past few years—dislocations that have regularly pitted consumer and business as enemies while the Government did little to ease the confrontation. The reason, as Mr. Roderick indicates, was because the Government's attention was elsewhere. He notes that economic problems—

> **Began in late 1973, in the midst of a Federal crisis, the likes of which this country has not experienced since the days of Teapot Dome. While Watergate may not have had economic repercussions itself, it certainly kept major segments of government and the public preoccupied while important economic matters were pushed to the back burner.**

Certainly the Government's lack of attention was not the sole cause of economic problems, but it combined with a public skepticism in the aftermath of Watergate to produce a serious decrease in consumer confidence as prices and unemployment grew seemingly unchecked.

Mr. Roderick articulates the thoughts of many businessmen when he indicates the role of the Government not only remained passive but sometimes seemed disruptive as economic problems multiplied:

> There seems to be a conscious effort on the part of some elected and appointed officials in Washington to drive a wedge between business and the public . . . [certainly business] would welcome some evidence of cooperation and understanding on the part of the government.

It is not the place of these limited comments to settle the questions of whether Government has been responsive to business' needs, whether business has been responsive to the people's needs, or whether the people would have trusted any action in the post-Watergate atmosphere.

The point I do wish to make is that I know from talking to businessmen in central Pennsylvania that the views of Mr. Roderick are widely held by the business community. The small businessman feels like the "Forgotten American" as far as his Government is concerned, and the large businessman sometimes wishes Government would forget him rather than take steps he sees as counterproductive.

The key rests in Mr. Roderick's observation that—

> It is difficult for me to understand why some individuals believe the nation will, somehow, be better off, if they can generate an adversary relationship between business and the government. The fact is that neither can exist without the other.

I think Government would provide a great service for all our citizens if we remember what Mr. Roderick suggests in this comment:

> The very foundations of America rest on the idea that government and business have separate, but related roles in our society. It is the idea that the role of government is to provide the orderly economic framework within which business can fulfill its role of providing jobs for people and all that goes into building our material and social progress.

The Government should not be a friend to business, but neither should it be a constant adversary. Our role is that of mediator—checking business activity, protecting consumer interests, preventing harassment of either group—a mediator, bringing all sides together for America's progress.

It is only when Government works to bring the people, business, and the Nation's needs into agreement, into a coherent progressive force, that we can overcome the problems we face in America. I hope that over the years ahead we will rediscover and redefine this mediator role for the benefit of the United States.

VETERANS' ADMINISTRATION HOSPITAL HONORS VOLUNTEERS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. EILBERG. Mr. Speaker, one of the most rewarding experiences in life is the gratitude that a dedicated volunteer receives, not only from those that he or she helps, but also from the public at large.

There is a group of such people that have chosen not to forget those men who served our country and were victims of the horror and sadness that war brings. They are the volunteers who put in long hours, giving up their free time to work without pay, in the Veterans' Administration Hospital in my city of Philadelphia and in VA hospitals throughout the United States.

On May 17, 1976, 234 volunteers and 50 organizations who have helped to alleviate some of the miseries of the hospitalized veterans will be honored at the annual award ceremony of the VA hospital in Philadelphia. Especially outstanding among those being honored is the recipient of the VA plaque, William J. Tadley—AL—who has volunteered 7,500 hours and Samuel Schiff—JWV—who is the recipient of the VA gold pin for his 5,000 hours of dedicated service.

Many of the individual volunteers are affiliated with veterans and fraternal groups and these affiliations are indicated by the group's initials in the list which follows. Those names carrying no initials are not affiliated with any one particular group.

I add at this point, my most warmhearted congratulations and thanks to those many Philadelphians who each year find some time to give of themselves to this noble and sincere effort.

I insert into the Record the list of names and organizations who are being honored:

NAMES AND ORGANIZATIONS BEING HONORED

VA PLAQUE (7,500 HOURS)

William J. Tadley (AL).

VA GOLD PIN (5,000 HOURS)

Samuel Schiff (JWV).

VA SILVER PIN (2,500 HOURS)

Elizabeth B. Aro (ALA), Esther R. Biddle (ALA), Harold Nelson (AL), Paul S. Stewart (MSA).

VA BRONZE PIN (1,750 HOURS)

John F. Carr (OG, Phila.), James A. Fields (DAV), Wiley Harmon (VFW), Benjamin C. Powell (JWV), Josephine Ratay (ALA), Ronald J. Tempest (DAV).

CERTIFICATE OF SERVICE AWARD (PREVIOUSLY EARNED 1,000 HOURS)

Helen Doris Braun (NA), Rose Cloud (SCC), Marjorie Greene (ARC), Elizabeth Hicks (ARC), Helene Hoback (NA), Horace F. Hopkins (AL), Vada Hyde (NA), Edward Johnson (NA), Elizabeth G. Jones (CWVA).

Marie Kenney (ALA), Eleanor Kilpatrick (MOPHA), Joseph R. Klotz (NA), Florence C. Krug (ARC), Mae McElvaney (VFWA), Anne McKenna (VFWA), Ann Miller (JWVA), Sara Myers (AL).

Eleanor Greene (ALA), Charles Peterson (NA), Michael Radvansky (315th Inf.), Dorothy Rose (ARC), Catherine Rotay (ALA), Wilson H. Shive (VWWI), Frances Urwiler (ALA), Mae Weisgrow (DAVA), William E. Woolingham (AL).

CERTIFICATE OF DEVOTION (1,000 HOURS)

Willie R. Brown (NA), Augusta Campbell (MOPHA), Josephine Jackson (NA), Reine Land (ALA), Rose Matt (VFWA), Margaret Miller (NA), Ali M. Mir (NA), Walter J. Spence (NA), Roscoe G. Thornton (NA), Victor Varano (NA), Grace Wilkinson (AWM), William Toy (VWWI) deceased.

CERTIFICATE OF OUTSTANDING SERVICE (500 HOURS)

Dolores Bridges (MOCA), Guillama Cerone (VFWA), John Dougherty (NA), Mary Dougherty (ALA), Agnes Duncan (NA), Mabel Hagherty (SA), William Letino (DAV).

Jane W. Lundahl (NSDAR), Kabir M. Mohuiddin (NA), Steven Ian Neibart (NA), Shelton Norwood (NA), Jane Riley (ALA), Joseph Rutala (NA), James H. White (NA).

HONORABLE MENTION OVER 500 HOURS

Desai Bhupendra (NA), Elenora Cerquitella (ALA), Manzoor Chaudrey (NA), Dorothy Greene (CDA), Katherine Greim (CDA), Helen Hoeffer (NMC), Ileen Jones (NA), Anne C. Lauff (AWM).

Henrietta McCloskey (AMVETS Aux.), Edward Nolan (AL), May M. Richards (NA), Anna Stay (ALA), Elsie Titus (CDA), Florence Toupe (NA), Ralph Twiford (NMC), Jennie Weintraub (JWV), Beatrice Williams (NA).

HONORABLE MENTION OVER 300 HOURS

Anne Connors (NA), Harry Lincoln (NA), Inez Lincoln (NA), Irene Nedd (AMVETS Aux.), Samuel Nedd (AMVETS), Bertha Schimpf (MOCA), Joseph Lauriello (NA).

HONORABLE MENTION OVER 100 HOURS

Anna Chung (NA), Anne B. Clarkson (IAWVA), Patrick Concannon (VFW), Adele Coyt (NA), Anne E. Cunningham (CDA), Theresa Devenshire (ARC), Lydia Floyd (NA), Elizabeth Frick (AMVETS Aux.), Bernice Glashofer (JWVA), Vertelle Hughes (DAVA).

Jane Johnson (AWM), Minerva Johnson (NA), Barry Jordan (NA), Ethel Kehm (AMVETS Aux.), Hannah M. Klenk (SA), Blanche MacIntyre (CWVA), Walter Simmons (DAV), Rose Spiegel (MOCA), Gabriel Wang (NA), Dorothy West (ARC), Walter Zulewski (AMVETS).

HONORABLE MENTION

Bonnie Baker (SA), Mrs. Capt. Todd Bassett, Lewis Bivins (AMVETS), Theodore Brandon (VFW), Donald E. Burney (NA), Emily Burns (ARC), Warren T. Corbin (MSA), Joseph Corey (MOC).

Mrs. Irving L. Cranford (SA), Victor Del Piano (CWV), Francis Devine (NA), Elizabeth Durant (AWM), Dorothy Edwards (AMVETS), Virginia Eglinger (AMVETS), Virginia Fowler (DAVA), Charlotte Hall (SA).

Corrine Harriday (ARC), John J. Hendrie (DAV), Clifford Hoag (USAAC), Salvatore Iannotti (DAV), Elizabeth Johns (NA), Alice Joyce (NA), James E. Kehm (AMVETS), Margaret Kirschbaum (VFWA), Margaret Kolansky (NA), Ramona T. Lee (NA), Samuel B. Leecan (AMVETS).

CERTIFICATE OF MERIT 300 HOURS

Arthur Barone (NA), Edward Bux (NA), Robert Emmons (NA), Eunice Gamble (AWM), Ernestine Gibson (NA), Bernice Glashofer (JWVA), Helen E. Knox (NSDAR), Gertrude Lawhorne (VFWA).

Martha Lewis (NA), Kenneth Meader (AL), Mary McCloskey (CWVA), Gail Speigel (NA), Albert Thompson (NA), Gerald Ziccardi (NA).

CERTIFICATE OF APPRECIATION 100 HOURS

Mrs. W. A. Bamford (SA), Joseph Biello (AMVETS), Bette Boardman (NA), John Boulware (DAV), Gertrude Brenner (NA), Anna Callahan (CDA), Barbara Campbell (NA), Matthew Cherian (NA).

Mary Draper (CWVA), Karen E. Fisher (NA), Ruth J. Fuller (NA), Stanley J. Gates (NA), Olga Goodwin (DAVA), Dan Grandy (NA), Frank Guyton (NA), Charles L. Haughey (MOPH).

Pearl Hegh (VFWA), Edward Jones (VFW), Rosalie L. Lewis (NA), William J. McFadden (NA), Florence Martin (AMVETS Aux.), Florence Miles (MOLB), William Moore (NA), Monica Redican (NA).

Marion Reynolds (RSVP), Carrie Joanna Robb (NA), Frederick Seubert (NA), Karen Stephens (NA), Mary Anne Spice (CWVA), Mary E. Tenaglia (CWVA), Mary K. Twiford (NMC), Terry C. Williams (NA), Sara A. Wolfson (NA).

CERTIFICATE OF APPRECIATION 100 HOURS YOUTH

Ruth A. Bell (NA), Kathryn E. Boston (ARC), Yvette Brooks (ARC), Marlene Caesar (ARC), Herbert Allen Fine (NA), Cheryl Garrett (ARC), Michelle Gray (NA), Barbara Horsey (ARC).

Darlene L. Jones (ARC), Richard Jay Karol (NA), Jim M. Lambeth (NA), Linda C. McLaurin (NA), Cindy A. Neigh (NA), Carolyn Ratliff (ARC), Adrianne Simmons (ARC), Rudina Sloan (ARC), Kathy Uhle (NA).

YOUTH VOLUNTEER PIN 50 HOURS

Gail T. Brown (ARC), Barbara A. Collins (NA), Shari A. Parker (ARC), Gina B. Young (NA).

HONORABLE MENTION

Georgeanne Lewis (NA), Mary Lidey (SA), Vera S. Lowery (NSDAR), Mildred Miller (VFWA), Pearl Morris (DAVA), Camilla Morton (AWM), Edward Perry (NA), Marjorie Rockwell (NA).

Virginia Russ (NA), Ralph L. Shenfelder (AL), Thomas R. Stewart (NA), Marjorie Slocum (AL), Alma Tracey (WWI Aux.), Elizabeth M. Walker (NSDAR), Mabel Weathers (ARC), Joseph P. Webb (DAV).

Edna Weber (NSDAR), Louise P. Williams (RSVP), John S. Young (NA), Edward E. Dorman (NA), Edith Reddish (NA).

LEADERSHIP AWARDS

Helene Hoback (NA), Edward Johnson (NA), Elizabeth G. Jones (CWVA), Sara Myers (AL), Dorothy C. Rose (ARC), Catherine Rotay (AL), Wilson Shive (WWI), Mae Weisgrow (DAVA).

American Gold Star Mothers: Rep. Regina Coughlin, Dep. Maude Bailey, Dep. Lillian Sinclair.

American Legion: Rep. William Woolingham, Dep. Marjorie Slocum.

American Legion Auxiliary: Rep. Marie Kenney, Dep. Frances Urwiler.

American Red Cross: Dep. Dorothy Rose.

American War Mothers: Rep. Grace Wilkinson, Dep. Anne Lauff, Dep. Jane Johnson.

AMVETS: Rep. Joseph Biello, Dep. Walter Zulewski.

AMVETS Auxiliary: Rep. Ann Gill, Dep. Florence Martin.

B'nai B'rith Women: Mrs. Eugene Glazer, Beatrice Silver.

B'nai B'rith: Robert Schwartzberg, Lewis August.

Brith Sholom: Rep. Aaron Goldenberg, Dep. Samuel Winkler.

BPO Elks: Rep. Frank P. Nocitra, Dep. Vincent Di Domenic, Dep. Oscar Wexlin.

Catholic Daughters of America: Rep. Kay Greim, Dep. Elsie Titus.

Catholic War Veterans: Rep. Joseph Kelly, Dep. Victor DelPiano.

Catholic War Veterans Auxiliary: Rep. Mary Ann Spice, Dep. Mary Tenaglia.

Disabled American Veterans: Rep. Dante Bonatucci, Rep. William Letino.

Disabled American Veterans Aux.: Rep. Mae Weisgrow, Dep. Olga Goodwin.

Del. County Fed. of Women's Clubs: Rep. Mrs. Richard Corbin.

Defense Personnel Support Center: Rep. Samuel Nedd, Dep. Angelina Restifo.

IBPOEW Dept. of Veterans Affairs: Rep. Dennis C. White, Dep. Mrs. Wm. A. C. Clay, Dep. Louise Baskerville.

Italian American War Veterans: Rep. Anne B. Clarkson.

Jewish War Veterans: Rep. Sid Newman, Dep. Joseph Goldstein.

Jewish War Veterans Auxiliary: Rep. Ann Miller, Dep. Bernice Glashofer.

Masonic Service Association: Rep. Paul S. Stewart, Dep. Ernest P. Knorr.

Military Order of the Cootie Aux.: Rep. Dolores Bridges, Dep. Babs Schimpf, Dep. Rose Spiegle.

Military Order of Lady Bugs: Rep. Florence E. Miles, Dep. Mary Gardner.

Military Order of the Purple Heart: Rep. Charles L. Haughey, Dep. James T. Valentine.

Military Order of the Purple Heart Auxiliary: Rep. Eleanor Kilpatrick, Dep. Augusta Campbell.

Mothers of WWI: Rep. Carrie Meck, Dep. Estelle Snyder.

Military Order of the Cooties: Rep. Prince Clifton, Dep. Joseph Corey.

National Society DAR: Rep. Jane Lundahl, Dep. Helen Knox, Dep. Edna Weber.

National Catholic Community Serv.: Mrs. William Dougherty, Mrs. Catherine Auerwick.

Navy Mothers Club: Rep. Helen Hoeffer, Dep. Katherine Twiford.

Old Guard, City of Philadelphia: Rep. Harry S. Burr, Dep. Harry Kimmel, Dep. John F. Carr.

Order of the Eastern Star: Rep. Mrs. Beulah Witman, Dep. Thelma E. Richards, Dep. Mrs. Margaret Hastings.

Polish Legion of Americans Vets. Aux.: Rep. Frances Piwnicki, Dep. Helen Zarek.

Reserve Officers' Association Ladies' Clubs of the U.S.: Rep. Mrs. Charles Hangsterfer, Dep. Mrs. William Barr.

Supreme Cootiette Club: Rep. Rose Cloud, Dep. Mary Mckinley, Dep. Ann Foster.

The Salvation Army: Rep. Mrs. Major Irving Cranford, Dep. Mrs. Mabel Hagherty.

The Senior Citizens of E. Lansdowne: Rep. Margaret E. Siegman, Dep. Amedia H. Di Prima.

The Forty-Eight La Societe des 40 Hommes et 8 Chevaux: Rep. Elmer R. Confair, Dep. Richard B. Ross.

315th Infantry Association: Rep. Michael S. Radvansky, Dep. Cheston Hunter.

United Service Organizations of Philadelphia, Inc.: Rep. J. Hill, Ms. Dolores Cook—Belmont Fun and Magic Revue; Headliners Revue—Don Kirby; The Internationals—Barbara K. Tarnoff; Starlit Revue—George Tripsha; Broadway All-Stars—Evelyn Smith; East Camden Follies—Violet McConnell; Hull's A-PPOPIN'—Jack Hull; Anita Jay Showcase—Anita Jimenez.

United Spanish War Veterans: Rep. Arthur T. Lou.

United Spanish War Veterans Aux.: Mrs. Anna Parker.

U. S. Army Ambulance Serv. Assoc.: Rep. Clifford Hoag, Dep. Thomas H. Ellis.

Veterans of Foreign Wars of the U.S.: Rep. Cassel Wechter, Dep. Robert M. Graham.

Veterans of Foreign Wars of the U. S. Auxiliary: Rep. Mae McElvaney, Dep. Pearl Hegh, Dep. Ann Compton.

Veterans of World War I of the USA: Rep. Wilson H. Shive, Dep. William L. Toy (deceased).

Veterans of World War I of the USA Auxiliary: Margaret Wagner, Alma Travey.

W.A.C. Veterans Association: Mrs. Harry L. McCann, Mrs. Anna L. Godsho.

Mrs. Georgine Hampton—Variety Show.
Mrs. Harry Buck—Variety Show.
Mr. W. E. Barrigan—Music Programs.
Mr. William Letino—Music Programs.
Mrs. Nellie Ferguson—Variety Show.

THE MEDIA: INTERNAL CRITICISM

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. MILFORD. Mr. Speaker, I would like to call your attention, and the attention of my distinguished colleagues, to a critique of our Nation's news media by one of its own: Mr. Bob Baskin of the Dallas Morning News.

Bob Baskin's journalistic experience spans decades, and spiced with a long stint as Washington bureau chief for this newspaper.

Speaking out of that experience, and speaking out of a love for his reporting profession, Baskin comes down hard on the side of integrity and ethics. He does this by criticizing the release of classified information—the House Select Committee on Intelligence's Report—to a New York paper by Daniel Schorr of CBS.

Baskin condemns the irresponsible, indiscreet actions of this network newsman.

Let me quote from his column, "Media Obsession With Right To Know":

> Today, the best news that can be supplied by such correspondents as Daniel Schorr are stories that tear down the United States and exalt the opposition. This has become a mark of journalistic excellence. Ethical standards have been thrown out of the window.

That is strong language. But truthful. And I am pleased to report that I heard numerous similar comments from reporters—both print and broadcast—in my district this weekend. I am grateful for their sense of ethics and responsibility, and I would urge each of us to remember that one Daniel Schorr does not a whole profession make. The article follows:

Media Obsession With Right To Know

(By Robert E. Baskin)

A major question before the American public today ought to be the extent we wish to go in full disclosures involving our intelligence community and our defense establishment.

Do we want to tell our enemies—real or potential—about everything we are doing in foreign affairs?

There are those who seem to be following this course. We can only point, for illustration, at Daniel Schorr, the CBS correspondent in Washington, who has recently given the report of the House Intelligence committee to an obscure publication, the Village Voice in New York.

ANSWER LACKING

This is a strange business. Why would Daniel Schorr select the Village Voice as an outlet for this classified information?

The answer is lacking, Mr. Schorr works for CBS. Presumably that network would have had first shot at this exclusive information. It is possible that the network decided, with some degree of national responsibility, that it did not want to engage in this kind of irresponsible activity.

Did Mr. Schorr then proceed to peddle his ill-gotten product to a sleazy newspaper in New York? That appears to be the case, although the facts are not all in.

A New York congressman has proposed that Schorr be cited for contempt of Congress for having publicized the House committee's report, which was supposed to have been made public only through the decree of the Speaker of the House, Carl Albert, D-Okla.

Having not read the law, we do not know how suspectible Mr. Schorr is to a contempt action. It would seem to be preferable to find out who provided him with this document and take action against him.

Mr. Schorr says he acted out of a sense of high journalistic integrity and to let the public know all the facts. He is one of those who would also let the Communist enemies of this country know all the facts.

The public's right to know has become an obsession with much of the national media. There is an amazing drive in the Washington press corps to put everything out into the open—regardless of the damage done to the United States in its foreign relations.

It would seem that the Soviet Union no longer needs as espionage apparatus in this country. The American press will do the job for them without any cost to Moscow.

In this, members of Congress, their staffs and others in government are cooperating fully. And the House intelligence committee has been the worst offender, having had leaks ever since it went into action, and these were leaks derogatory to the United States and obviously beneficial to opposing forces in world affairs.

The country should be appalled, but there is slight evidence that this is the case.

National security is, of course, at stake, but it is seldom mentioned on Capitol Hill.

The President can talk about it as well as Secretary of State Henry Kissinger can. But the net result is the same: Precious national secrets are being provided to our enemies.

There seems to be a crying need to the United States for an official secrets act, patterned after that one used in Britain. It simply provides penalties against the media, politicians and others who disclose information that is detrimental to the national security.

There was a time when the American press was responsible and discreet. During World War II, for example, it held back on baring information that would be beneficial to our opponents, outside of censorship.

WATERGATE IMPETUS

Today the best news that can be supplied by such correspondents as Daniel Schorr are stories that tear down the United States and exalt the opposition. This has become a mark of journalistic excellence. Ethical standards have been thrown out of the window.

The Watergate tragedy provided the impetus for this sort of journalistic enterprise. The emphasis is on the negative and the destructive. What is good about this country and its operations abroad is seldom mentioned. We are villains.

What should be said about this country is that it has over the years done more for the world than any other nation and that when we have been defeated, as we were in Vietnam, a worse calamity set in. We deserve better marks than we are getting from some people who profess to be American citizens.

LETTER FROM WASHINGTON

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. HARRINGTON. Mr. Speaker, on February 15, an article by Russell Baker entitled "Letter From Washington" appeared in the New York Times Magazine. This disheartening but accurate appraisal of Washington, in my opinion, captures the crisis of government and leadership that this country faces. Rather than attempt to capsulize Mr. Baker's article, I prefer to publish it in its entirety. The first half of the "Letter" follows; I will submit the second half of the article for publication in tomorrow's Record:

Letter From Washington

(By Russell Baker)

I have been in Washington a few hours, and phone an old friend. He is one of the relics. We both remember Washington when men of the future, which turned out to be Vietnam, jumped into Bobby Kennedy's swimming pool.

"Why Washington in January?" my friend asks. "To take the pulse of the city."

He is mildly convulsed. It reminds him of a Marx Brothers scene: Groucho holding Harpo's wrist at the pulse, staring at his watch, then looking straight at the camera, saying, "Either this man is dead or my watch has stopped."

A very Washington reaction this winter, I find, as my stay lenghens. Nothing that is happening seems to be meant seriously.

There are these people, very important people, going through motions. It is ritualistic. I, of course, know all those motions. Once I lived here, had even been a low-grade "insider," the kind of piffle obsessionist who knows who will be appointed Ambassador to Malgasy before it is published, who discourses at dinner on "the President's thinking."

It being January, the President makes a turgid speech written by a committee. "The State of the Union." Congress interrupts with regular tedium-charged bursts of applause. Democrats "react" with mimeographed denunciation, Republicans with praise. The notorious Budget is revealed. Media giants analyze, commentate, disclose significance.

This year, however, the motions seem emptier than usual. This time everyone seems to realize that it just. . . . *motions*. The performers seem like mechanical figures in a grotesque clockwork machine. The machine whirs, cogs engage, doors flap open, men adorned in quaint politicians' suits clack out to perform the immemorial movements, and the villagers go through the ancient dispute about whether their beloved contraption needs major repair or merely fresh grease.

One wonders whether President, Congress, President's men and would-be Presidents would have troubled going through with it had there been no press or, more urgently, no television willing to connive in the pretense that something is happening. After the State of the Union speech, a mouse at whose delivery the White House had labored for weeks, I ask one of President Ford's men if it was not mostly a media event, a nonhappening staged because reporters would pretend it was a happening. "It's all media event," he replies. "If the media weren't so ready to be used, it would be a very small splash."

With so much credulity to be exploited for political gold, the performers may safely commit absurdities to distract attention from the shortage of substance. Thus we have the spectacle of the Tory Ford exhorting the populace to march in the spirit of Tom Paine, a revolutionary so noxious to established order that he had fled Europe for America to avoid being hanged by men of Mr. Ford's political philosophy.

In Washington, almost everybody of importance, man and woman, has run out of imagination. Wit's end seems not far off. All that remains to talk about is how the money is dwindling away and whether the next bank-loan payment can be met. The business of the Republic has become a glum quibble among bookkeepers. We are in the hands of men who make no music and have no dream.

At a certain time in the 60's, I had begun to feel a chill between me and my old pal, the Government.

This is not so easy to explain without sounding naive, but I grew up in the Roosevelt age when most people—though certainly not many rich men—looked on the Government as a friend. It had always seemed to be on my side in life, and during World War II we pitched in and worked together; and afterwards, through Truman and Eisenhower, we developed a relationship of mutual respect. At this particular time in the 60's, it occurred to me that the Government was no longer my friend and, indeed, that it regarded me as little more than a nuisance, someone to be tolerated with barely veiled contempt and, when I annoyed it, to be thrown out of the office by receptionists.

I do not mean to personalize this. It wasn't only I who had been left behind by this immensely successful new Supergovernment. It was all of us. And I don't mean "the people." I mean the persons of America, the ornery, difficult, fascinating 200 million individuals who were the United States of America.

It seemed to me that the Government had no use any longer for us persons. It was deferential enough to "the people," to be sure, and was constantly pushing us around for the good of "the people." The Government had become something like the fellow you knew in high school who grew up to be the most important man in television; you might get a Christmas card from him now and then, but you wouldn't dream of burdening him with 20 minutes of your anguish, pain and dreams. The Government's energy was too valuable to be spent on persons; it had to be husbanded for "the people."

Some blood connection between Washington and the country had been snapped. It was suddenly easy for Washington to talk about pain and death because they had been reduced to statistics. War was glossed over in terms of "body count" and "megadeaths." Old age was a percentage point, unemployment a manageable figure in the economic forecast. The Government was not only in the death-dispensing business on the grand scale, it was also dealing with humans as though they had no humanity.

Eventually, I left Washington, and, almost immediately, felt in touch with life again. I think of this as I return now in deep winter, the Potomac sliding under the wing of the airplane, ice floes visible at the big curve by Watergate, and, on the ground, a merciless wind out of the Arctic.

There is an old horror story entitled "Donovan's Brain," in which this poor devil has his brain removed from his body and kept alive in a cupboard to do nothing but think about its predicament. Gradually, the brain acquires nasty powers to control events outside, events with which it has lost all physical connection. The brain exerts pure mental power undiluted by connection with human reality.

Washington, it seems to me, has become like Donovan's brain and the rest of us like Donovan's disconnected body. On instinct and reflex, we may twitch and convulse, but Washington sits in its brainpan solution in the cupboard, severed from any feel of the struggle and the pain.

The politicians of Washington complain that the people have become cynical about government and lost their faith in Washington. This is a typically disconnected Washington view of reality, with the common flaw that it assumes "the people" is human. The real case seems somewhat different. The persons of America, it seems more likely, don't much believe the Government is capable of realizing there are persons out there. When Washington looks at you in this epoch, it seems to see only a statistic.

There are signs of decadence in Washington that could be mustered for yet another essay on a city demoralized, disheartened and dispirited in the ruin of Watergate. The old hands sit around, romantically hoisting the brandy to the good old days, which turned out to be such rotten old days, and moping that it's all over and nothing remains but lunkheads and midgets. Thus the special joy with which they joke about President Ford as a punchy heavyweight stumbling over dogs and bumping his head on the icebox.

Tales of human inferiority are conversational staples. President Kennedy's sex life is exhumed over the dinner table. What a fall is there from Camelot! Someone has heard that Jackie has dropped the Kennedy from her name in business usage, now calling herself Jacqueline Bouvier Onassis. In any case Mrs. Kennedy smiles too much. The Democratic leadership of the House is described in Laurel-and-Hardy terms. At dinner, a local lady famed for knowing all and telling it acerbically recites tales of the Democratic eminence whose gizzard has been so long marinated in alcohol that he regularly finishes public banquets snoring face-down in his plate. When an evening with someone from the White House reaches the convivial stage at which confidences can be exchanged, the invariable question is, "Is Ford as dumb as everybody says he is?" (Invariable answer: No.)

Ruin and despair in Washington can be overdone, however, and Watergate, after all, is some two years past, which is an eternity in the Washington measure of time. In fact, I saw very little ruin in Washington. The machinery which makes the place so fierce seems remarkably intact and all ready to roar again once we return to normal government. Normal government is what is in ruin at present. Given an unelected President of conservative Republican mind and a Democratic Congress distinguished only by poor leadership, lack of organization and total absence of any political philosophy, it would be unreasonable to expect anything more than caretaker government, and caretaker government is what we have.

This is why so much of the January opening-of-Government ritual seemed so threadbare. President Ford's policy outlined in the State of the Union speech may have been wan and negligible, but at least it had the virtue of small ambitions appropriate to a caretaker President.

It was interesting chiefly as a campaign document, showing pretty much what Ford will aim to do if he is elected this fall. He will aim to hold down the budget and keep the electorate bored with government. At a dinner one evening, a Republican Senator asked a White House assistant, "What will Ford do to inspire the country?"

"Inspire the country?" asked the White House man. "Nothing. With Ford, what you see is what you get."

"That's why Reagan will beat him," the Senator said. The Senator, a Ford man who dislikes Reagan, was not happy about his own prediction, but he was very representative of Washington this winter. It is a seething turmoil of glumness.

Little needs to be said about the State of the Union except that it proposed little, and Congress will probably do little about it, and the White House is not altogether displeased by the prospect. The Congress is seen here as a blind bull incapable of doing anything but charging about the barn and knocking down the hay-loft supports. White House people rather expect it will make hash of the President's budget, increase the deficit by 75 or 100 percent, and give Republicans a chance to run on the argument that Democrats are wild spenders.

What bodes is a year of eleventh-rate government animated by third-rate political manipulators, and it is this sense of a long wallow ahead that accounts for much of the defeatism, fatigue and poor-mouth gossip and makes this a particularly low point in Washington life.

BICENTENNIAL SALUTE TO BISHOP W. McCOLLOUGH

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. FAUNTROY. Mr. Speaker, as this great Republic celebrates its Bicentennial we reflect upon the virtues of the Founding Fathers of our Nation, I think it is most appropriate that we pay tribute also to those who today carry on in the best tradition of the faith and works of the fathers of our country. Here in our Nation's Capital, we are privileged to have one such man whose life and works are the very embodiment of the faith, the sense of conscience, and the response to duty that has endeared the Founding Fathers to us all. I speak of Bishop W. McCollough.

Bishop W. McCollough, a leader in the United House of Prayer for All People since 1939, rose from the rank of Boy Scout to trustee to the rank of bishop of the United House of Prayer for All People, here and around the world.

Fond are the memories of Sweet, Sweet Daddy Grace, who founded the United House of Prayer for All People back in 1919 and, who for 35 or more years, was its bishop and leader until 1960 when he was called from labor to reward. The decision on a successor to Daddy Grace was not long coming because the general assembly of the church already had its eyes upon Elder W. McCollough, who at that time, was pastor of the Mother Church at 601 M Street, NW. here in Washington. Soon, therefore, the members and the world acknowledged Bishop W. McCollough as the man most fit to carry on the great work of the founder of the United House of Prayer for All People.

In the years since that time, Bishop McCollough has proved more than worthy of the privilege and responsibility of giving leadership not only in the church, but in the communities across the Nation that surround his churches. We, in our Nation's Capital, are privileged to see first-hand how well he has related religion to life in the magnificent Grace-McCollough Canaanland Apartments, which he has built, mortgage free, to provide beautiful housing for 90 families on the 7th Street riot corridor of Washington, D.C. Also, he has a fleet of luxury liner buses for transporting members across the country.

We cannot say or do enough to honor a man whose life has meant so much in the past, means so much in the present, and will mean so much in the future to our city, our Nation, and our world. This man has hundreds of thousands of young people who are dedicated servants of God. Many of them are in service each night singing, shouting, and giving praise to God for his wonderful blessings and saving power.

Washingtonians celebrating our Nation's Bicentennial see reflected in Bishop McCollough the sterling qualities that endear the Founding Fathers to all Americans. The political leadership of a George Washington, the father of our country, is reflected in Bishop McCollough who for over 16 years has brought his dynamic leadership style to the United House of Prayer.

As the patriots recognized the political skill and organizing ability of a Thomas Jefferson so do we in our Nation's Capital salute the organizational leadership of Bishop McCollough who was the motivating force behind the construction of Canaanland Apartments on the 7th Street riot corridors.

Like the inspirational oratory of a Patrick Henry, that rallied the patriots to the cause of freedom, Bishop McCollough's charismatic and eloquent sermons have stirred the hearts of tens of thousands of people across this great Nation of ours.

I consider it a privilege to submit this testimonial in recognition of Bishop W. McCollough, a great American, who has earned by his deeds the respect and admiration of the citizens of our Nation's Capital as a Founding Father of religious leadership.

TERRORISTS TARGET THE BICENTENNIAL AT THE HARD TIMES CONFERENCE—PART I

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. McDONALD of Georgia. Mr. Speaker, the Prairie Fire Organizing Committee, which is the overt arm of the terrorist Weather Underground Organization, held its National Hard Times Conference in Chicago, January 30–February 1, 1976, at the University of Illinois Circle Campus and paid for by the American taxpayers.

As I reported in these pages on February 11, 1976, the National Hard Times Conference was a long-planned scheme of the Weather Underground Organization, WUO, and its Prairie Fire Organizing Committee, PFOC, to build a new and expanded circle of sympathizers around the terrorist WUO core group. The method of building this new apparatus was to call a national meeting, ostensibly to discuss issues relating to the economic recession.

However the chief project determined upon is not organizing self-help projects for the unemployed, but organizing a mass demonstration to disrupt the July 4 Bicentennial celebrations in Philadelphia on the 200th anniversary of the founding of our country.

The pressure for the mass demonstrations—the organizers hope for 500,000 radicals to counter the expected 500,000 patriotic Americans expected to attend the July 4 Philadelphia celebrations—has come from the Soviet and Cuban backed Puerto Rican Socialist Party, PSP. The PSP is a self-stated Marxist-Leninist, that is, Communist organization which has repeatedly expressed its support for acts of revolutionary terrorism.

The week before the National Hard Times Conference, the PSP initiated the July 4 Coalition operating from P.O. Box 205, Cooper Station, New York, N.Y. 10003. The initiating sponsors included representatives of a number of revolutionary organizations and fronts such as the PSP; the Communist Party, U.S.A.; Venceremos Brigade; PFOC; American Indian Movement; National Lawyers Guild; National Interim Committee for a Mass Party of the People; National Emergency Civil Liberties Committees; Native American and Puerto Rican Solidarity Committee, and so forth. The complete list of July 4 coalition sponsors was included in my remarks of February 11, 1976, 3094–3096.

It is outrageous that this meeting of those who would destroy our constitutional form of government was paid for by taxpayers' money given by the National Endowment for the Humanities to the American Issues Forum of Chicago. AIF director Richard Leucke told my staff that the "humanists" who applied for the AIF grant—Shelly Miller and Russell Neufeld of PFOC plus other humanists like terrorist Carlos Feliciano who pleaded guilty to reduced charges of possession of explosives—that the PFOC application had been vouched for by Eugene Eidenberg, vice-chancellor of the University of Illinois Circle Campus and chairman of the Illinois State LEAA Commission.

Mr. Eidenberg called my office 2 weeks ago to say that he would send a letter explaining his actions. No letter has been received to date.

A number of patriotic young Americans who value their founding heritage of freedom attended the National Hard Times Conference meetings and brought back volumes of literature on the conference. Their assistance has been most helpful.

The National Hard Times Conference opened on Friday evening, January 30 with an ad hoc kangaroo court called the People's Tribunal. The People's Tribunal was held to "demonstrate both the distinctive qualities and the similarities which connect local struggles, and * * * allow us to pass judgment against U.S. imperialism for its crimes against the people."

The large number of testifiers, as these people were termed, included:

Yvonne Golden—leader of the San Francisco Black Teachers' Caucus, San Francisco, Calif. (Hard Times Conference Board).

Rob Brinkman—leader of the recent strike of interns and residents at Cook County Hospital—Chicago, Ill.

Mafundi—Atmore-Holman Brothers, Inmates for Action—Birmingham, Ala.

Kathy Dorsey—former member of national executive board, Coalition of Labor Union Women (CLUW) and former co-chairwoman of National Minority Committee of CLUW—Brooklyn, N.Y.

Pete Kelley—president, local 160 (UAW); co-chairman, United National Caucus—Warren, Mich.

Evalina Antonetty—leader of education and daycare struggles, director of United Bronx Parents—Bronx, N.Y. (not present).

Penny Grillos—student activist at Brooklyn College, Prairie Fire Organizing Committee—Brooklyn, N.Y.

Vu Ngoc Kon—Union of Vietnamese in the U.S.

Ted Dostal—long-time leader of the Steelworkers' Union, fighter for the rights of the elderly—East Cleveland, Ohio. (A founding member of the Trotskyist Communist Workers World Party).

Fred Stover—long-time leader of farmers' struggles, U.S. Farmers Association—Hampton, Iowa.

Tapson Mawari (or Mawere)—representative of ZANU in the U.S.

Evelyn Weiner—leader of unemployment struggles and struggles in the 1930's; Lower East Side Mobilization for Peace Action—New York, N.Y.

Rudolfo Lasano—leader of CASA—General Brotherhood of Workers and the fight for the rights of undocumented workers—Chicago, Ill. (served as a judge, instead of a witness).

Pedro Grant—president of the Boiler Makers' Union of Puerto Rico, AFL–CIO, director of Movimiento Obrero Unido (MOU-trade union federation), member of the central committee of the Puerto Rican Socialist Party—Puerto Rico. (did not participate in the tribunal, but was present the following day).

Ellen Moves Camp—American Indian Movement.

Doris Lucas—Welfare Mothers for Justice, New York, N.Y.

Refaelo Garcia, Chicano industrial striker, Los Angeles.

Irrero Guitierriez, CASA, Northern California.

The judges or "hearing officers" of the "People's Tribunal" included:

Wilbur Haddock—presiding officer—president, United Black Workers—member, Hard Times Conference Board—Newark, N.J.

Ella Baker—long-time civil rights activist, founder of SNCC—New York, N.Y.

Thelma Hamilton—20-year leader of parents' education struggles, community leader—Brownsville, N.Y.

Bill Kunstler—long-time people's lawyer—New York, N.Y.

Antonio Rodriguez—Secretary-General of CASA—General Brotherhood of Workers—Los Angeles, Calif.

Olga Sanabria—member of the Puerto Rican Socialist Party, New York, N.Y.

Irwin Silber—Executive Editor of the Guardian newspaper, New York, N.Y.

Annie Stein—a leader of People Against Racism in Education; member of the Prairie Fire Organizing Committee and member of the Hard Times Conference Board—New York, N.Y.

Ronald Starks—Black Panther Party, who replaced BPP "official spokesperson" David Graham DuBois, of the Hard Times Conference Board.

Virginia Collins—vice-president, Republic of New Africa; member Hard Times Conference Board—New Orleans, La.

Iberia Hampton—mother of dead BPP leader Fred Hampton—Chicago.

Yuri Kochiyama—National Committee for the Defense of Political Prisoners—New York, N.Y.

Don Jose Major—Puerto Rican Socialist Party.

Queen Mother Audley Moore—Universal Association of Ethiopian Women, New York, N.Y.

Robert Mendoza—American Indian Movement, San Francisco.

Two luminaries of the left who did not attend the opening tribunal as scheduled were Carlos Feliciano of the Hard Times Conference Board who in 1973 pled guilty to charges of possession of explosive devices and a pistol and was sentenced to 4 years imprisonment, but was released for time served in July 1975; and attorney Arthur Kinoy of the Center for Constitutional Rights. It was announced that Feliciano had the flu; but Kinoy, founder of the Mass Party Organizing Committee, MPOC—formerly the National Interim Committee for a Mass Party of the People, NIC—and active supporter of the Puerto Rican Socialist Party, PSP, was busy preparing congressional testimony to be delivered on February 9, 1976, attacking the proposed compact of permanent union between the United States and Puerto Rico.

Preliminary organizing for the National Hard Times Conference was in large part handled by the Trotskyist Communists of the Workers World Party, WWP, and its youth arm, Youth Against War and Fascism, YAWF. Students for a Democratic Society and the Weatherman faction formerly cooperated with the WWP and YAWF in militant street confrontations with police. Regional organizing offices included:

Bay Area Hard Times Committee, c/o Yvonne Golden Opportunity Senior High, 160 S. Van Ness, San Franciso, Calif. 94103 (415/626–6207).

Boston Hard Times Committee, 32 Rutland Avenue, Boston, Mass. (617/267–6557).

Buffalo Hard Times Committee, c/o Attica Now, 1528 Jefferson, Buffalo, N.Y. 14208 (716/882–0254).

Youth Against War and Fascism, 730 Main Street, Buffalo, N.Y. 14202 (716/855–3055).

Columbus Hard Times Committee, Box 8324, Columbus, Ohio 43201.

Denver Hard Times Committee, c/o Stan Woods, (303/388-1996).
National Hard Times Office, Rm 1601, 53 West Jackson, Chicago, Ill. 60604 (312/341-0539).
New Orleans Hard Times Committee, c/o Virginia Collins, 9130 Fig Street, New Orleans, La. 70113.
New York Hard Times Committee, Rm. 411, 156 Fifth Avenue, New York, N.Y. 10010 (212/691-9281).
Newark Hard Times Committee, c/o United Black Workers, P.O. Box 1855, Newark, N.J. 07101.
Norfolk Prisoners Solidarity Committee, P.O. Box 7032, Norfolk, Va. 23509 (804/627-0870).
Minneapolis Hard Times Committee, c/o Twin Cities Women's Union, 2953 Bloomington Avenue, Minneapolis, Minn. 55407.
Seattle Hard Times Committee, c/o Women Out Now, P.O. Box 22199, Seattle, Wash. 98122.
Washington, D.C. Hard Times Committee, c/o YAWF & Insurgent Press, 1071 K St., NW, Washington, D.C. (202/783-7079).

The PFOC worked diligently to get a large number of radical organizers to support the conference and serve on the conference board. Originally the board had included a representative of the International Workers Party, (IWP), a small Trotskyist-oriented splinter from the National Caucus of Labor Committees. However, due to the insistence of Workers World Party representative Brian Becker, the IWP was expelled.

The members of the National Hard Times Conference Board, now the Hard Times Continuations Committee, included:

Helen Ackley, Long Island Equal Justice Association.
Evelina Antonetty, United Bronx Parents, N.Y.
Brian Becker, Youth Against War and Fascism, N.Y.
Vernon Bellecourt, American Indian Movement (AIM).
Slim Coleman, Intercommunal Survival Committee, Chicago.
Virginia Collins, Republic of New Africa, New Orleans, La.
Walter Collins, former executive director, SCEF and a founder of the Student Non-Violent Coordinating Committee (SNCC); MPO.
Pam Costain, Twin Cities Women's Union.
Jennifer Dohrn, Prairie Fire Organizing Committee.
David Graham DuBois, Black Panther Party, Oakland, CA; MPOC.
Carlos Feliciano.
Leo Fletcher, United Community Construction Workers, Boston.
Ted Glick, Mass Party Organizing Committee.
Yvonne Golden, San Francisco Black Teachers Caucus.
Beverly Grant, Cultural Workers Front, N.Y.
Wilbur Haddock, United Black Workers, Newark, N.J.
Jim Haughton, Harlem Fightback; MPOC.
Frederick Douglass Hobby, Black Workers Coalition, Louisville, Ky.
Juan Irizarity, Association de Trabajadores Agricolas, Connecticut.
Peter Kelley, President, Local 160, UAW; Co-Chairman, United National Caucus.
Marian Kramer, Welfare Workers for Justice, N.Y.
Maggie Kuhn, Grey Panthers Network.
Joel Myron, Eugene V. Debs Caucus.
Rosa Negron—(dropped or resigned before conference).
Florencio Merced-Rosa, Political Commission, Puerto Rican Socialist Party.
Eddie Sanchez, political prisoner.
Annie Stein, People Against Racism in Education (PARE).
Arnold Townsend, WAPAC, San Francisco.
Gene Vanderport, Midwest Federation.
Carlos Vasquez, CASA (General Brotherhood of Workers).

Sponsors of the Hard Times Conference included a number of revolutionary organizations and radical local community groups. It is noted with interest that among the sponsors was Nuclear Objectors for a Pure Environment, NOPE, headed by nuclear power station saboteur Sam Lovejoy. Other sponsors included:

Action for Women in Chile, N.Y.
Alliance for Labor and Community Action, D.C.
American Indian Movement (AIM).
Association de Trabajadores Agricolas (ATA), Connecticut.
Attica Now, Buffalo, N.Y.
Black Panther Party, Oakland, Calif.
Black Panther Party, N.Y.
Black People's Lenin Party, Stanley Co. Unit, Albemarle, N.C.
Black Workers Coalition, Kentucky.
Toni Cade Bambara.
Bronx Committee of Concerned Neighbors, N.Y.
Brownsville Welfare Workers for Justice, N.Y.
Scott Cade.
CASA (General Brotherhood of Workers).
Coalition for Survival, California.
Columbia Tenants Union, N.Y.
Come! Unity Press.
Communist Labor Party (CLP).
Cultural Workers Front, N.Y.
Downtown Welfare Advocacy Center, N.Y.
The Federation, Chicago, Ill.
Fight Back, N.Y.
Friends of Indochina, N.Y.
Harlem Consumer Education Council, N.Y.
Intercommunal Survival Center, Chicago, Ill.
Liberation News Service
Lincoln Detox, N.Y.
Long Island Equal Justice Association, N.Y.
Looking Left, Binghamton, N.Y.
Lower East Side Mobilization for Peace Action (LEMPA), N.Y.
Manhattan Valley Spanish Civic Organization, N.Y.
Mass Transit, N.Y.
Migrants in Action, Minneapolis, Minn.
Mass Party Organizing Committee (MPOC) [formerly the National Interim Committee for a Mass Party of the People], N.Y.
National Prisoners Association, Ga.
Native American Solidarity Committee, N.Y.
New American Movement (NAM).
N.Y. City Star
N.Y. Women's School.
North East Prisoners Association, N.H.
Nuclear Objectors for a Pure Environment (NOPE), Montague, Mass.
Oklahoma Prisoners Union.
Overtime, Ill.
People Against Racism in Education (PARE), N.Y.
Prairie Fire Organizing Committee (PFOC).
Puerto Rican Socialist Party (PSP).
Puerto Rican Solidarity Committee of Brooklyn, N.Y.
Red Balloon, N.Y.
Rising Up Angry, Chicago, Ill.
Robert Williams Defense Committee, N.C.
R.T. (*Rough Times*, Journal of Radical Therapy), Mass.
San Francisco Black Teachers Caucus.
San Quentin Six Defense Committee, Calif.
Sing Out Magazine.
Sojourner Truth Organization, Chicago.
St. Paul Tenants Union, Minn.
Students, Staff and Teachers Against Cutbacks (STAC), N.Y.
Twin Cities Women's Union, Minn.
United Black Workers, Newark, N.J.
United Community Construction Workers, Boston, Mass.
WAPAC, San Francisco, Calif.
West Bank Tenants Union, Minn.
West Side Harlem Coalition, N.Y.
Witchcraft Rebellion.
Workforce, Mo.
Workers and Parents United for Daycare, N.Y.
Workers Unity Organization, Mo.
Youth Against War and Fascism (YAWF).
Howard Zinn.

Part 2 of my report on the National Hard Times Conference will continue with reports on the plenary sessions and workshops, together with accounts of the persons attending and planning for mass actions.

HAUMANA BIOMEDICAL PROGRAM: EFFECTIVE USE OF NATIONAL INSTITUTE OF HEALTH FUNDS

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. MATSUNAGA. Mr. Speaker, I would like to call to the attention of my colleagues an article in the February 8 issue of the Honolulu Sunday Star-Bulletin and Advertiser, which described the Haumana biomedical program at the University of Hawaii at Manoa and the effective way it has used funds granted to it by the National Institute of Health.

The Haumana program is designed to provide minority undergraduate students with a chance to participate in a biomedical program of their choice. The selected students receive personal attention from University of Hawaii professors along with funds for tuition, lab supplies, and research trips. Native Hawaiians, Filipinos, Samoans, and other Pacific Islanders are under represented in medicine, biology and health research in Hawaii and the Haumana program is designed to reduce the shortage of minority health professionals. That it is effective is illustrated by the fact that four Hawaiian graduates are now attending medical school and one is enrolled in a mainland school of veterinary medicine. The special attention they received in the Haumana program enabled all five students to compete for admission to graduate study on an equal basis with more advanced students, and to hold their own in the keen competition graduate professional schools.

I am inserting this article into the Congressional Record so that my fellow Members of the House can recognize this important program and the effective way in which National Institute of Health funds are being used in Hawaii:

Minority Students Get Invitation From University of Hawaii

(By Peter Rosegg)

The Haumana Biomedical Program at the University of Hawaii at Manoa is again looking for minority undergraduate students who are interested in careers in biology and the health sciences.

Hawaiians, Filipinos, Samoans and other Pacific Islanders are underrepresented in medicine, biology and health research in Hawaii, and the Haumana (it means 'student') program is designed to help correct that imbalance.

Hilo College has a similar minority biomedical support program.

Students are being sought for the third year of the UH program, funded by a five-year grant from the National Institutes of Health. Application closes in mid-March and the next group of students will begin in June.

About 25 students will be selected for the program. Under the close supervision of a faculty member they will develop their own research projects. Based on their research, students usually are able to publish academic papers under their own names or jointly with their professors.

Students in the program work full-time in the lab over the summer and part-time during the academic year while they carry regular full-time course loads. The time in the lab usually counts toward at least three credits in a directed research course.

Any student who will be a junior or senior at Manoa next fall may apply. Selection is based on ethnicity, financial need, science background, recommendations, a student's statement of interest and an interview.

Those who make the grade get $1,200 for summer work, another $1,200 for the regular school year, money for all their lab supplies, tuition for the directed research course and a trip to the Mainland, usually to deliver their papers at academic conferences.

More important than the money is the personal attention students get from their professors. The program also gives its students an orientation, meetings and practice seminars throughout the year and an instant group of friends who participate in social affairs such as hikes, overnights at the zoo and parties.

The students also get counseling, encouragement and whatever else will help them through the program. Many of the transfer students need help in adjusting to the Manoa campus and to their course loads.

Until now the program has been run with loving care and much personal attention by Barbara Shank. Beginning in April, it will be administered part-time by graduate student Denise Miyahana, a veteran of the first group of students in the program.

Indications are that the program is successful.

Four students who applied to medical school here last year were all accepted. One who applied to veterinary school on the Mainland was accepted by three schools, an almost unheard-of-feat.

Students can do their work in a wide variety of science fields related to biology and health.

Among the present students and their projects are;

Marlene Bogoyo, 21, a junior from Waipahu who studied prenursing at Leeward Community College and is still interested in nursing. By using parts of dissected laboratory rats, she is testing a hormone called relaxin to see if it may inhibit contractions of the uterus.

Although the hormone has been known for 50 years, its effects have never been thoroughly tested and Ms. Bogoyo had to begin her research "blind," to find a testing method. Some day the hormone could be used to prevent miscarriages in women, she says.

Joseph Kamaka, 23, a senior from Honolulu majoring in biology. He is testing the effect of certain adrenaline-like drugs on blood cells by measuring the levels of glucose and lactate in the blood of mammals.

Kamaka describes the work as basic or pure research rather than clinical, because it is intended to expand knowledge rather than solve a particular problem. Kamaka hopes to go on to graduate school in biology, or perhaps to medical school.

Larry Haanio, 20, a junior from Wahiawa who also went to Leeward. He is working in the physiology department to find the effect on divers of breathing helium under pressure. Deep-sea divers, such as those exploring for oil 500 feet down in the North Sea, breathe helium rather than oxygen but no one really knows the effect on the heart and lungs of such diving.

Haanio and others do the research in simulation chambers in the Bio-med Building, and a high pressure chamber at Makapuu where volunteer divers are tested. A spin-off of the research may be that helium will be found useful in treating heart irregularities.

Students in the program can do their work in the fields of physiology, zoology, biology, chemistry, biochemistry, anatomy, reproductive biology, pharmacology, pathology, psychology, genetics, botany, nursing and animal sciences.

SOUTH FLORIDIANS REVIEW FEDERAL SPENDING

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 24, 1976

Mr. LEHMAN. Mr. Speaker, more than 6,500 thoughtful South Floridians have completed an extensive survey on Government spending. Forty-two questions were asked, covering every major category in the Federal budget.

I commend the results of this survey to all who are interested in learning how the citizens of this Nation feel about the spending of their tax dollars:

GOVERNMENT SPENDING QUESTIONNAIRE RESULTS 13TH DISTRICT OF FLORIDA, JANUARY 1976

	We should spend			No opinion (in percent)
	More	Same	Less	
National defense	27	39	32	2
International affairs	3	13	79	5
Science and space:				
(a) Space	15	32	48	5
(b) National Science Foundation	27	37	27	9
Social security and retirement:				
(a) Social security	35	42	18	5
(b) Military, civil service and railroad retirment	14	44	34	8
Poverty:				
(a) Financial assistance to the poor	33	45	21	1
(b) Food stamps	9	19	70	2
(c) Housing assistance	21	28	48	3
Health:				
(a) Medicare	42	34	19	5
(b) Medicaid	30	46	23	1
(c) Veterans' Administration hospitals	31	53	15	1
(d) Medical research	60	31	8	1
(e) Black lung benefits	24	50	22	4
Employment:				
(a) Unemployment compensation	14	29	57	0
(b) Job training, placement, public service jobs	33	36	30	1
Transportation:				
(a) Highway construction	20	51	28	1
(b) Air transportation	17	47	32	4
(c) Urban mass transit	42	26	29	3
(d) Shipping	15	39	42	4
(e) Upgrade railroads	45	30	24	1
Business and commerce:				
(a) Postal Service	8	22	67	3
(b) Small business assistance	21	47	29	3
Education:				
(a) Veterans education and training benefits: G.I. bill	18	50	27	5
(b) Education of children from low-income families	29	42	27	2
(c) School lunches	23	43	33	1
(d) College student assistance	22	35	41	2
(e) Vocational rehabilitation for the handicapped	48	42	8	2
(f) Vocational education	37	43	19	1
(g) Preschool and day care	23	37	38	2
Community development:				
(a) Revenue sharing	18	36	42	4
(b) Grants to local governments for development projects and services	21	35	41	3
Law enforcement:				
(a) Grants to combat crime	54	31	14	1
(b) FBI	33	48	17	2
Energy	68	21	11	0
Environment:				
(a) Water pollution control	52	36	10	2
(b) Prevention and control of air pollution, solid wastes, radiation, pesticides	50	37	11	2
Agriculture	7	24	66	3
General government:				
(a) Internal Revenue Service	4	33	60	3
(b) Congress	3	33	61	3
(c) Federal court system	20	40	36	4
(d) White House	2	22	74	

HOUSE OF REPRESENTATIVES—*Wednesday, February 25, 1976*

The House met at 12 o'clock noon.

Rev. Juhan Suurkivi, Estonian Evangelical Lutheran Church, Lansdowne, Pa., offered the following prayer:

Eternal God, who art the Truth, the Way, and the Life, may Your Spirit illumine the hearts of all citizens that honesty, honor, integrity, and compassion be the driving and sustaining force of the Nation.

Crown our efforts to bring peace to a divided world and give us courage to make the anguish of the enslaved people of Estonia and everywhere our cry and suffering.

We pray for understanding among the people of the world that justice and freedom among the nations may establish that order which reflects Your unity. May the strong have compassion toward the weak and the rich make the need of the poor their need.

Strengthen the President and the leaders of the Nation in their resolve to usher in a new day of freedom from fear, justice for the oppressed, and hope for all men. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate insists upon its amendments to the bill (H.R. 6516) entitled "An act to amend title VII of the Consumer Credit Protection Act to include discrimination on the basis of race, color, religion, national origin, and age, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PROXMIRE, Mr. BIDEN, Mr. MORGAN, Mr. GARN, and Mr. BROOKE to be the conferees on the part of the Senate.

REV. JUHAN SUURKIVI

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDGAR. Mr. Speaker, I am pleased to introduce to my colleagues the Reverend Juhan Suurkivi. He has the unique distinction of not only being pastor of one church, but pastor of three churches. Each Sunday morning he preaches in three different languages.

Reverend Suurkivi is pastor of St. Michael and Zion Lutheran Church and chairs that congregation in the language of German. He is also the vice pastor of St. Matthews Lutheran Church, and he chairs that congregation in English. He is also the pastor of the Estonian Lutheran Church in Philadelphia.

Reverend Suurkivi is a member of my congressional district and also a fellow pastor.

He came to Congress today in recognition of an event which was celebrated yesterday. On February 24, 1918, Estonia had its Independence Day. In celebration of that event, Reverend Suurkivi has come to share in the opening prayer.

I know many of my colleagues are aware that independence was taken away from Estonia in 1940. It is important for all of us to recognize the tragedy of that moment. I would like to read just one brief paragraph from an editorial which appeared in the New York Times on July 20, 1940, which summarized the situation of the Baltic States. It simply says:

DEMOCRACY, RUSSIAN STYLE

Suppose that our voters next November were to be offered a single ticket on their ballots. Suppose that the ticket had been drawn up by a foreign dictator whom we hated and feared; suppose that the polls were watched by the dictator's troops, that each voter was required to bring a passport to the polls for stamping, that every nonvoter were faced with future punishment as an "enemy of the people." Suppose, then, that the foreign dictator and his controlled press and his puppet party in this country should claim an overwhelming triumph by more than 90 per cent of the votes, and should regard it as a popular endorsement of annexation to his country. This is what has just happened in the former republics of Estonia, Latvia, and Lithuania, now garrisoned by Soviet troops, soon to be swallowed whole by the Soviet Union. In holding such an "election" in the Baltic states, Stalin has outdone Hitler again. This time the master of the Kremlin has staged a travesty of democracy which, for sheer cynicism, excels any of Hitler's notorious "plebiscites" in Germany.

That is a quotation from the New York Times which I think reminds all of us of the tragedy which occurred in the Baltic States.

BEEF REGRADING

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, as many of the Members are aware the Department of Agriculture's regulations on beef regrading went into effect yesterday. These regulations raise the grade of the top third of beef now labeled as "Good", to "Choice" and the top third of "Choice" to "Prime." The effect of this charade is to have the consumer pay a higher price for a lower quality of beef.

When the USDA first issued these regulations, I introduced legislation prohibiting their implementation, and many Members cosponsored that bill. No action was taken on this bill, in part because the regulations were delayed for a year because of lawsuits filed against their implementation. Now that the regulations have taken effect it is imperative that Congress take action.

This regrading change has been opposed by virtually every consumer organization in the country. When USDA published these regulations for comment, literally thousands of consumers wrote in protest, only to be ignored by the Department. Today, I am introducing a new beef regrading bill which will repeal the new regulations, and which will require the Secretary to establish new standards for a different and nondeceptive grade of beef, as consumers have been suggesting for some time.

It is my hope that we can have hearings on this legislation as soon as possible, so that both the cattle producer and the consumer can get an even break.

IS SELECTIVE MONITORING OF THE ACTIVITIES OF INDIVIDUAL CITIZENS A PROPER CONGRESSIONAL ACTIVITY?

(Mr. MYERS of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS of Pennsylvania. Mr. Speaker, I was very surprised and concerned to find in the February 19 CONGRESSIONAL RECORD a reference to the arrival in Washington of gas and oil company aircraft during the consideration of gas deregulation legislation. Some persons had evidently taken it upon themselves to monitor the activities of corporate aircraft flying into National Airport during the February 1 through February 3 period, and by making this information public, attempted to imply some improper activity or influence by business interests. At the same time the RECORD insert ignored the hundreds of others in town providing their views on this crucial legislation, and ignored the fact that oil and gas company employees might have been visiting any of the multitude of Government agencies which oversee their industry.

In this Bicentennial Year, it might be well to ponder the spirit as well as the letter of the first amendment rights of assembly and petition. The February 19 RECORD entry, by making use of a congressional document to cast aspersion by innuendo, in my mind, violates the essence if not the letter of that great constitutional amendment.

If the appearance in the RECORD of an uncredited report on the legal movements of American citizens was only a misdirected effort to urge lobbying reform, then I heartily endorse the objective, if not the method. I hope this body moves speedily in the direction of comprehensive reform in that crucial area. However, until such time as flying into National Airport becomes illegal, studies of the travel habits of American citizens will accomplish little except to add to the library of half-truths surrounding many vital issues.

COMMEMORATION OF FOUNDING OF REPUBLICS OF LITHUANIA AND ESTONIA

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I too would like to address myself to the anniversaries which have been noted already in the RECORD here today, particularly the founding of the Republic of Lithuania on February 16 and the founding of the Republic of Estonia on February 24.

It is with sadness that all of us recognize what has happened to these nations and we recognize what hopes they still have for the reconstitution of their freedom.

INDEPENDENCE FOR BALTIC STATES

(Mr. GUDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUDE. Mr. Speaker, during the 94th Congress I have joined with many of my colleagues in supporting legislation which recognizes the longstanding fight for independence by the people of the Baltic States. In this Congress alone, 51 resolutions have been introduced which support the integrity of the Latvians, Lithuanians, and Estonians in their struggle against Soviet occupation.

Today, I want to give special recognition to the people of Lithuania who, on February 16, observed the 58th anniversary of the Declaration of Independence of Lithuania.

Lithuania was invaded and forcibly occupied in 1940. Since that time the Lithuanian culture, community, and government have been ravaged by the iron hand of Soviet rule. Churches have been secularized; museums closed. Mass deportations to Siberia have drained the country of her native inhabitants. Outspoken patriots have been censured and many have died in exile or prison. The heritage of Lithuania has been uprooted by callous control.

Many of us in the United States will spend some time during this Bicentennial Year in reflection—reflection upon our own Declaration of Independence and the freedoms we have enjoyed over the past 200 years. In so doing, it is appropriate that we also recognize and support those people, like the Lithuanians, who continue to fight for freedom and justice. May we as a free nation extend the "Spirit of 1976" to these brave people so that they might continue to pursue such an honorable course.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. SISK. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

INCREASE OF TEMPORARY LIMIT ON PUBLIC DEBT

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1053 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1053

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 2(1)(6) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11893) to increase the temporary debt limit until July 31, 1976, and all points of order against said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment recommended by the Committee on Ways and Means now printed on page 2, line 3 through line 9 notwithstanding the provisions of clause 7, rule XVI, and no amendment to said committee amendment nor any amendment to said bill changing said committee amendment in the Committee of the Whole or in the House shall be in order except amendments offered by direction of the Committee on Ways and Means, but said amendments shall not be subject to amendment. It shall also be in order to consider, any rule of the House to the contrary notwithstanding, an amendment printed in the CONGRESSIONAL RECORD of February 24, 1976, by Representative Stark, and no amendment to said amendment nor any amendment to the bill changing said amendment in the Committee of the Whole or the House shall be in order except amendments offered by direction of the Committee on Ways and Means, but said amendments shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from California will be recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1053 provides for consideration of H.R. 11893 to increase the temporary debt limit.

The present debt limitation consists of a permanent limit of $400 billion and a temporary limitation of $195 billion effective through March 15, 1976. H.R. 11893 increases the temporary limit by $32 billion, raising it from $195 to $227 billion effective through June 30, 1976. This would raise the total debt limit to $627 billion.

In addition to the increase in the temporary debt limit, H.R. 11893 contains a committee amendment increasing from $10 to $12 billion the amount of Federal long-term debt which may be issued at an interest rate greater than 4¼ percent. The maturity rate for these Treasury notes is also increased from 7 to 10 years.

The rule provides for 2 hours of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. It is a modified open rule. Section 1 of the bill deals with the amount and duration of the increase to the temporary debt limit and is open to amendment. The Ways and Means Committee amendment adding section 3 to the bill is closed to amendment except amendments offered by direction of the Committee on Ways and Means.

The committee amendment, that is, section 3, increases the amount of Treasury notes which may be issued at greater than 4¼ percent interest, and increases the maturity date on notes issued by the Treasury from the present 7 to 10 years.

House Resolution 1053 waives germaneness points of order under rule XVI, clause 7, with respect to this committee amendment. The waiver is necessary since the amendment would cause a permanent change in law whereas the bill provides only a temporary amendment to that law.

The rule also waives points of order pursuant to paragraph 6, clause 2(1) of rule XI, the 3-day layover rule. This waiver is necessary in order to consider the bill today since it was not reported from the Committee on Ways and Means until Monday, February 23, 1976.

The rule also provides a waiver of clause 5, rule XXI, which prohibits an appropriation in a legislative bill. Existing law provides for payment of interest expenses on the public debt. An increase in the amount of the debt will obviously cause an increase in interest expenses. The waiver is thus necessary and is traditionally granted with respect to public debt extension bills.

House Resolution 1023 also makes in order an amendment to H.R. 11893 by the gentleman from California (Mr. STARK) as printed on page 4157 of the CONGRESSIONAL RECORD of February 24, 1976. The gentleman's statement explaining his amendment appears on page 4113 of yesterday's RECORD. Essentially, the amendment establishes a minimum interest rate of 4 percent, computed monthly, on series E bonds. Bonds must be held a minimum of 60 days to collect any interest. All points of order are waived against this amendment, and it may only be amended by direction of the Committee on Ways and Means.

Mr. Speaker, I urge my colleagues to adopt House Resolution 1053 so that we may proceed to the consideration of H.R. 11893 to increase the temporary debt limit.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, this resolution would make in order House consideration of the bill H.R. 11893 which extends the temporary debt limit to June 30, 1976, and increases that limit by $227 billion. The present temporary debt limitation is $195 billion and expires on March 15, 1976. If we do not enact this bill before that deadline, we will revert to the permanent debt limit of $400 billion and would be unable to meet our obligations. This bill not only extends the present temporary limit by 3½ months, but increases it by $32 billion. This would bring the overall debt ceiling to $627 billion.

Mr. Speaker, this is an open-and-shut rule in the sense that while section 1 is open to amendment—that is, the section dealing with the date and amount of the temporary ceiling—section 3 is a committee amendment which will not be subject to any amendment other than those offered by direction of the committee. The rule also makes in order an amendment which will be offered by the gentleman from California (Mr. STARK) and printed in yesterday's CONGRESSIONAL RECORD—an amendment which provides for a minimum 4 percent interest rate on series E bonds. That amendment would not be subject to any amendment other than those offered by the direction of the Ways and Means Committee. The rule also waives the germaneness rule against the committee amendment in section 3, and waives clause 5 of rule XXI against section 1—the traditional waiver on the second Liberty Bond Act.

Mr. Speaker, while this rule is not as simple as those we ordinarily grant, we have attempted to accommodate the interests of all those who appeared before the Rules Committee, and I think this rule meets that objective.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MATHIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 343, nays 53, not voting 36, as follows:

[Roll No. 68]

YEAS—343

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashley
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Bevill

Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Delaney
Dellums
Dent
Derrick
Derwinski
Dickinson
Dingell
Dodd
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Goldwater
Gonzalez
Gradison
Green
Gude
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley

Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hillis
Holland
Holt
Holtzman
Horton
Howe
Hughes
Hungate
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Leggett
Lehman
Levitas
Litton
Lloyd, Calif.
Long, La.
Long, Md.
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Macdonald
Madigan
Maguire
Mahon
Mann
Martin
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Montgomery
Moore
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill

Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn

Wirth
Wolff
Wright
Wydler

Yates
Yatron
Young, Ga.
Young, Tex.

Zablocki
Zeferetti

NAYS—53

Anderson, Calif.
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Brinkley
Burke, Fla.
Clancy
Cochran
Collins, Tex.
Conlan
Crane
Davis
de la Garza
Devine
Downey, N.Y.
du Pont

Frey
Ginn
Goodling
Grassley
Guyer
Haley
Hansen
Harsha
Hightower
Hubbard
Hutchinson
Kindness
Latta
Lloyd, Tenn.
Lott
Lujan
McDonald
Mathis
Miller, Ohio

Moorhead, Calif.
Myers, Pa.
Neal
Regula
Rousselot
Satterfield
Shuster
Snyder
Spence
Steiger, Ariz.
Symms
Taylor, Mo.
Tsongas
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—36

Aspin
Barrett
Breaux
Brown, Mich.
Carter
Clawson, Del
Conyers
Diggs
Esch
Flynt
Ford, Mich.
Ford, Tenn.

Fraser
Hébert
Hinshaw
Howard
Jacobs
Karth
Keys
Landrum
Lent
Madden
Metcalfe
Mills

Mink
Moakley
Mollohan
Nix
Patman, Tex.
Riegle
Sarbanes
Sikes
Stephens
Stuckey
Udall
Vander Jagt

The Clerk announced the following pairs:

Mr. Barrett with Mr. Sikes.
Mr. Hébert with Mr. Aspin.
Mr. Diggs with Mr. Carter.
Mrs. Keys with Mr. Esch.
Mr. Nix with Mr. Landrum.
Mrs. Mink with Mr. Brown of Michigan.
Mr. Moakley with Mr. Ford of Tennessee.
Mr. Sarbanes with Mr. Del Clawson.
Mr. Udall with Mr. Madden.
Mr. Howard with Mr. Metcalfe.
Mr. Jacobs with Mr. Patman.
Mr. Karth with Mr. Lent.
Mr. Breaux with Mr. Stephens.
Mr. Conyers with Mr. Riegle.
Mr. Ford of Michigan with Mr. Mills.
Mr. Flynt with Mr. Stuckey.
Mr. Fraser with Mr. Mollohan.

Mr. ROUSSELOT changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11893) to increase the temporary debt limit until July 31, 1976.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 11893, with Mr. DELANEY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 1 hour and the gentleman from Pennsylvania (Mr. SCHNEEBELI) will be recognized for 1 hour.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, H.R. 11893 provides for an increase in the public debt limit through June 30, 1976. It makes available to the administration only as much authority as is necessary to issue additional U.S. securities to meet the Federal Government's obligations through the remainder of fiscal year 1976.

This bill raises the temporary debt limit through the end of this fiscal year to $227 billion. The permanent debt limit of $400 billion is not changed. As a result, the total authority that will be available under both the permanent and temporary debt limits will become $627 billion. This is an increase of $2 billion in the combined permanent and temporary limits of $595 billion.

I realize that this $32 billion increase is large, but I must warn you that it is only a small portion of the debt limit increases which you must face between now and the end of the fiscal year 1977. The administration estimates already available indicate that the debt requirement will rise from the present $595 billion by $119 billion by June 15, 1977. The estimates show that in addition to the $29 billion required between now and June 30, $19 billion more will be required in the transition quarter ending September 30 and $71 billion during the first 9 months of the fiscal year 1977. These figures are the estimated Federal funds deficits as well as the offbudget agencies expenditures includable in the debt limitation.

I know that a figure of $120 billion is large, and I suggest that the way to control it is through limiting expenditures when the budget resolution is before the House and when appropriations bills are before the House. No vote against this limitation will save one dollar in spending. The funds needed for the limitation here are irretrievably beyond our recall. The only effect of voting down this limitation is to require a reconsideration of it in the very near future. Congress, in the last analysis, knows that it must meet the financial debts that it is already obligated to. The only result of voting against the debt limitation is to bring about chaos in the financial markets and force the Treasury to expensive and questionable debt techniques which in the long run will cost the taxpayer more.

The debt shown under the budget resolution and for statutory debt purposes are somewhat different. The statutory debt must be computed on the basis of the Federal funds budget. The concurrent budget resolutions operate under a unified budget where there is taken into consideration the surplus or deficit of the trust funds as well as the Federal fund requirements of this Government. The trust funds are now expected to create a surplus of about $2.5 billion and insofar as it is used by the Government, this makes available under the unified budget $2.5 billion of spending which is available for use elsewhere.

Taken together, all the trust funds as of today are still in a solvent position. We still have a surplus in the trust funds in this fiscal year. If we do not however face up to the problems in the social security trust fund we are going to get into a deficit posture in the trust funds within a very short time.

Mr. GIBBONS. Mr. Chairman, will the chairman yield to me on that?

Mr. ULLMAN. Yes, I yield to the gentleman from Florida.

Mr. GIBBONS. I was examining the budget this morning. It appears to me that the social security trust fund problem has been overstated by a long shot, that actually we are collecting too much money by about $3 billion or $4 billion in the hospitalization or medicare portion of it and we are just collecting about $1 billion too little in the social security and old age and survivors part of it, so that we can simply adjust that without having to make any horrendous changes in the whole system.

When we consider the fact that, Mr. Chairman, surely the social security is going to be producing less money with so many people unemployed, I am afraid the problem of the social security trust fund has been overstated—at least in the short range it has.

Mr. ULLMAN. Mr. Chairman, let me respond to that. The disability fund is in real bad shape. Within another year or two there could be nothing whatsoever in the disability trust fund. The old age fund is in a little better posture, but if we look at the curve it will go on a little longer period of time, before going into a deficit posture.

We do need at least to make adjustments between the two funds. Even, however, if we reallocate revenues to the disability fund, it would merely extend the life of the disability fund a little longer, but would still lead us into a general deficit posture over a period of the next 4 or 5 years.

I would agree with the gentleman that we do not have an imminent emergency this year, except in the disability fund. I think it would be a grave mistake for the Congress not to face up to the problem of the disability fund and at least reallocate; but I also feel, and the social security staff of the committee who are very competent also feel, that it would be a mistake not to move further than that and at least do some replenishing, so that we do not face a serious problem in the coming year.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I would like to also point out that a good part of the problem of the social security results from the recession. If the 7.5 million unemployed people were contributing to the fund, it would mean we would have about $5.5 billion more in that fund each year. As we meet the problem of unemployment, I think we can automatically resolve the deficit problems we fear in social security funding.

Mr. ULLMAN. Mr. Chairman, they are certainly related, I agree with the gentleman; but we would be making a grave mistake to assume we are going into a high employment posture in the months ahead. Whatever we do, we are going to see relatively high unemployment in the coming year. The long-range problem of financing social security is a different one. The major issues of the long-range are the change in assumptions as to population growth and oversensitivity of the cost-of-living increase mechanism to future price and wage increases. Now, most of the actuaries are looking at the problems of fewer workers supporting more and more people on retirement. That bulge in the benefit rolls out into the future is the one that people are generally talking about when they talk about the problem of the social security system.

The CHAIRMAN. The time of the gentleman from Oregon has again expired.

Mr. ULLMAN. Mr. Chairman, I yield myself 2 additional minutes. Let me return now to how we arrived at the $627 billion debt level provided for by the bill.

The $627 billion level provided in the bill is $6 billion higher than the $621 billion in debt expected to be outstanding on June 30, 1976. The $6 billion difference is required to meet a seasonal peak debt limit requirement that occurs on June 15. This peak, and a few others during the fiscal year, occurs because expenditures are made evenly throughout the year while receipts usually are bunched and an important part of the receipts come in during the very last few days of the fiscal year. In providing sufficient authority to cover the mid-June peak, the committee has not provided any additional allowance for contingencies.

Before this new debt limit expires on June 30, the Congress will have completed its deliberations on the first concurrent resolution on the budget for fiscal year 1977, which I expect also will cover the transition quarter. Important decisions will be made by the Congress in that resolution which will enable us to provide a realistic debt limitation for the period ahead. For example, one such decision that will have to be made is how much of a tax cut will be put into effect for the last half of 1976. The tax cut enacted last December was a temporary one that terminates June 30. In addition to deciding whether to provide another tax cut, Congress will have to decide whether the cut will be temporary or permanent, whether it will be as large as the temporary cut—in annual terms—or whether it should be as large a cut as the President has proposed in his budget. The President's tax cut is about $10 billion greater over the course of a full year than the tax cut now in effect.

Since the budget resolution must be approved by May 15, there will be ample time between then and June 30 to enact the tax cut and make an appropriate further increase in the debt limit, even through fiscal year 1977 if the Congress so prefers.

The committee approved two other amendments to the Second Liberty Bond Act. Both relate to the forms of debt in which the public debt is issued.

As the House knows, long-term bonds may not pay an interest rate greater than 4¼ percent, except for $10 billion of such issues. The exception was enacted in 1971. The authority to issue these bonds has been exhausted, and long-term bonds can no longer be issued unless Congress acts to increase this authority.

Until interest rates rose above 4¼ percent, the Treasury Department was able to maintain a regular market in which long-term bonds could be sold. Since 1971, Treasury has been able to revive this market which can absorb between $1 and $2 billion a year. Treasury would like to retain its position in this market, and it requested the Ways and Means Committee to increase this authority above the present $10 billion level.

The committee also was informed by the Treasury that additional authority under this exception would enable it to slow the rate at which the average maturity of the total Federal debt is being shortened. As the new debt—reflecting current budget deficits—and reissues of old debt are issued in shorter maturities, the amount of money that must be raised each week continues to increase, and the process of debt management becomes more and more difficult. The short-term sector of the money market is subject to frequent and sometimes erratic fluctuations which make it an unreliable and expensive marketplace.

At the same time, the committee is aware that long-term interest rates only recently have begun to decline, and the committee was reluctant to take steps that could retard the decline in long-term rates at its start.

The committee decided that a reasonable solution could be reached by making available a small increase in long-term authority that is adequate to allow the Treasury Department to maintain its long-term market for a reasonable period into the future. At the same time, this amount of authority to exceed the 4¼-percent limit is small enough to have little effect on long-term interest rates.

As its second amendment, the committee responded to the Treasury Department request for a revision of the definition of Treasury notes so that they may include issues with maturities up to 10 years. This involves an increase from the present definition that limits notes to maturities up to 7 years.

Notes are intermediate-term debt issues, and the major purpose for the revised definition is to provide the Treasury Department with another debt management tool that it may use to slow the reduction in the average maturity of the Federal debt.

The committee agreed to this amendment because it is concerned about the dangers inherent in the shorter average maturity of the debt.

One of the major concerns expressed about these two steps in debt management is that they will increase the level of interest outlays in the budget because long-term interest rates tend to be higher than short-term rates. While this pattern is true generally, short-term rates frequently are driven above long-term rates in periods of tight money policy. In addition, when there is a long, general trend of rising rates of interest, short-term rates can exceed the long-term rates of 2 or 3 years back. This has been our experience in the past decade.

Now, there is also a rule which allows

for an amendment by the gentleman from California (Mr. STARK).

The CHAIRMAN. The time of the gentleman from Oregon has again expired.

Mr. ULLMAN. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, the amendment would guarantee a minimum investment yield to holders of series E bonds. Currently, holders of bonds redeemed before 6 months receive no interest, and holders of bonds redeemed between 6 months and 1 year after date of purchase receive a yield between 3.7 and 1.87 percent. The Stark amendment would guarante a 4-percent rate of return, computed from the first day of the month following purchase to the last day of the month before redemption.

Although we have not had a chance to thoroughly look at the matter in committee, it is our feeling that this would not create any serious problem.

The cost of this amendment would be $26 million.

The Treasury argues that the Stark amendment would complicate the administration of the savings bond program. Currently, the table showing the price at which savings bonds are redeemed requires lines for a 2- to 6-month holding period and one for a 6- to 12-month holding period. There are no redemptions in the first 2 months. Under the Stark amendment, there would have to be 10 lines, one for each month between 3 and 12.

Also, the Treasury argues that it is not unfair to have a zero yield for the first 6 months because of the administrative costs incurred when bonds are redeemed shortly after their purchase.

Although the committee is not sponsoring the amendment, the chairman of the committee would not strongly object to it.

Mr. SCHNEEBELI. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, the reason and the need for this increasingly frequent request for a debt ceiling increase is quite self-evident and quite obvious. It is very simple. The reason we need the debt ceiling increase is because the Federal Government is spending much more money than it is taking in. Hopefully, in the future we will be able to curb this excess of our spending with the authority that we vested in the new Budget Committee. However, we are still paying the penalties of too much spending, and unfortunately the lobbies are continuing to clamor for more and more and more money. That is not a pleasant prospect for our financial stability. However, we have incurred these debts and we have our payroll commitments, so at this point we have no alternative except to authorize the Secretary of the Treasury to pay the bills as they fall due.

Now, specifically we need this minimum debt ceiling increase of $32 billion, increasing it from $595 to $627 billion as of June 30 of this year. The Treasury Department requested, instead of $627 billion, $630 billion, but the committee reduced the request by the $3 billion.

Now, we must increase our debt, since our present debt ceiling expires on March 15. From March 15 until October 1, 1977—an 18½-month period—our Federal debt will increase from $595 to $710 billion, an increase of $115 billion in the debt ceiling.

What has this resulted in? At the present time, the interest on our debt is running at about $36 billion per year and in our next fiscal year, the interest on our debt will run in excess of $41 billion per year. That figures out to more than $110 million a day. That is, $110 million a day will be the interest on our debt in the next fiscal year.

Less than 10 years ago, in fiscal year 1968 the interest on our debt was less than $14 billion.

Now, we contrast that $14 billion to the interest in 1977 of $41 billion. Stated in another fashion, our debt ceiling in fiscal year 1968 was $358 billion. In 1977, our debt ceiling will require $710 billion; from $358 billion to $710 billion is almost doubling our debt in less than 10 years.

Mr. Chairman, that has been the saga of our excessive spending. Unfortunately, the Committee on the Budget came into fruition and into being much too late. Hopefully, it will be able to accomplish something in cutting down our spending.

There are two other points I would like to make. One is the need of flexibility to be given to the Secretary of the Treasury, as mentioned by the chairman previously. The reason for this is quite obvious. With this massive debt that has accumulated, it is estimated that between now and the next 19 months the Secretary of the Treasury will have to go into the money market to the extent of $90 billion or he will have to raise more than $1 billion a week in new money in order to pay the bills. This need for new money, in addition to the present debt, will require a lot of financial maneuvering, and we have to give the Secretary of the Treasury the flexibility that is encompassed in the two committee amendments.

Mr. Chairman, it is interesting to note that at the present time, of all of the new financing in our capital markets, the Federal Government is taking 70 percent of the total of all of our capital needs, our new financing, and State and local governments 10 percent of the remaining 30 percent. In other words, government, our three layers of government, are using 80 percent of all of the new financing in our capital markets. So when our industry comes in to borrow money, they are competing with government, with the resultant high cost.

Mr. Chairman, there is another factor I would like to discuss. The gentleman from Texas (Mr. BURLESON) is introducing a bill requesting the Committee on Rules to act in transferring the responsibility of the debt ceiling from the Committee on Ways and Means to the Committee on the Budget where it belongs.

The debt ceiling should be considered concurrently when we consider action on our budget. When we vote on our budget, we should know what our debt ceiling is going to be at that time, and I think this recommended action should take place because this is where the authority and the jurisdiction remains. I hope the House will move on this.

Despite my negative approach to this issue, more or less bewailing our sins of spending, and the fact that this debt ceiling is going up and up into gargantuan figures, despite this, nevertheless, we have no alternative but to support this increase, and I will support it, albeit reluctantly.

We have incurred the debt; we are still incurring these debts, so we must pay for them.

Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. CONABLE).

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank the gentleman from New York for yielding.

Mr. Chairman, I would like to associate myself with the remarks of our distinguished colleague, the gentleman from Pennsylvania (Mr. SCHNEEBELI).

Mr. CONABLE. Mr. Chairman, I compliment the gentlewoman on the association.

Mr. Chairman, I support H.R. 11893, and I urge my colleagues to support it as well. It increases the total Federal debt subject to limitation from $595 billion—that takes us up to March 15—to $627 billion, through June 30.

Since the second concurrent budget resolution runs through June 30, the extension of the debt to that date does give us some symmetry in this regard.

As my distinguished friend and ranking minority member, the gentleman from Pennsylvania, explained, it is to be hoped in the future that the debt limitation, if we are going to consider it at all, can be dealt with on a whole fiscal year basis by action of the Committee on the Budget.

The Committee on the Budget and the Budget Reform Act provide a potential discipline considerably more effective than anything implicit in this rather clumsy fiscal tool of raising the debt ceiling from time to time.

There are some important things in this measure that should be considered by Members of the House. They result from strong recommendations from the Secretary of the Treasury, which were adopted in part by the Committee on Ways and Means.

The Secretary recommended three changes in the present debt management provisions of the Second Liberty Bond Act to provide him with greater stability in managing the debt and making the long-term market more accessible to Federal issues.

I think it is obvious that as the debt has gone up, the problem of debt management has become more acute; and the Secretary of the Treasury needs greater flexibility in dealing with this debt management.

What he wanted and what he recommended were as follows: He recommended the repeal of the 6-percent interest rate ceiling on U.S. saving bonds, an extension of the maximum maturity of Treasury notes from the present 7 to 10 years, and an increase in the exception to the 4¼-percent ceiling on issues from the present $10 billion level to a level of $20 billion.

An amendment which will be offered later by several members of the committee, headed by the gentleman from California (Mr. STARK), while not lifting the ceiling on savings bonds, would set a floor of 4 percent for them. In some cases they are paying at this point, in some periods during their life, 3.7 percent on the average; and a 4-percent floor would obviously be welcomed by those people who do participate through their patriotism in the savings bond program.

The committee agreed also to the 10-year request of the Secretary, that is, with respect to 10-year maturity on Treasury notes, and agreed to increase the exception of the 4¼-percent ceiling on both issues from $10 to $12 billion. Let us remember, the Secretary asked for a $20 billion exception there, so we have given him a very modest $2 billion additional increase to be available between now and June 30.

While these amendments are not as broad in scope as the Secretary requested, they are, I think, significant changes which should assist in the management of the debt; and that, of course, is their purpose.

During the next 19 months, as the gentleman from Pennsylvania (Mr. SCHNEEBELI) said, Treasury will be required to raise nearly $90 billion of new money in marketable securities to refund over $51 billion of maturing marketable securities held by private investors. The inability to stretch out the financing of the debt has occasioned heavy reliance on short-term debt which will cause an increased interest cost to the Treasury and distortions in the money markets.

It is interesting to note that a study done by the Treasury on the effects of restricting the issuance of bonds at interest rates above 4¼ percent, has shown that in the 11 fiscal years from 1966 to 1976 that the absence of the restrictions would have saved the Treasury $281 million in interest costs alone.

Mr. Chairman, I see no reason that we should not avail ourselves of the opportunities for more flexibility in debt management, and that is among the purposes of this bill.

Mr. Chairman, I urge my colleagues to support this measure. I hope that this is the swan song of debt-ceiling adjustment, that intricate dance we go through here more often than annually. I hope the Committee on the Budget will take over a much more effective role with respect to fiscal discipline than we have been afforded by this clumsy tool.

Mr. ULLMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, I just want to point out that the debt ceiling we propose today and which I expect to support is only a part of a potentially larger debt obligation that shadows the American economy.

Four years ago, at just about this time, I did a computation of the contingent liabilities of the United States; and those contingent liabilities 4 years ago were $933,135,000,000.

I understand that the contingent liabilities have now risen to something over $1,200 billion.

Although a considerable portion of this huge liability is not likely to become debt, it is reasonable to expect that that liability is likely to result, or, at least, is not part of the perhaps 5 percent of this liability or as much as $60 billion.

In the next few days I expect to bring up a compilation of the contingent liabilities of our country. I think that there has been a sharp escalation in the contingent debt in recent years. I think it is incumbent upon the Congress to fix a ceiling on the contingent debt as well as the cash debt. I think we must control the manner in which many types of contingent liabilities have a way of moving into the actual debt.

Mr. SCHNEEBELI. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. CRANE), a very valuable member of our committee.

Mr. CRANE. Mr. Chairman, I thank the distinguished ranking minority member for yielding this time to me.

Mr. Chairman, for the fifth time in the last 12 months Congress is being asked to go through the all-too-frequent ritual of increasing the debt ceiling, this time by another $32 billion. Adding irritation to injury is the fact that, instead of raising the permanent debt ceiling, it is the temporary debt ceiling that is to be increased, giving people the false but politically expedient impression that we are not going to go $627 billion into the red for long.

Unfortunately, the facts suggest otherwise. In testimony before the Ways and Means Committee, Treasury Secretary William Simon admitted that the Nation could anticipate a $50 billion increase in the public debt every 6 months and that a debt ceiling of $714 billion is projected for June 15, 1977. If that trend is allowed to develop, the national debt will hit $1 trillion by April 1980. Thus, the use of the phrase "temporary debt ceiling" is indeed misleading—unless we act now to put our fiscal house in order.

One often hears, in the course of debates over increasing the debt ceiling, that the debt is so large now as to be meaningless and to increase it would likewise be relatively meaningless. Again, however, the facts suggest otherwise.

For instance, on December 31, 1967, the national debt stood at $344.7 billion. However, by December 31, 1972, it had risen to $449.3 billion, a 30.3-percent increase. Two years later, the debt was up to $492.7 billion, a 42.9-percent increase over 1967. And, as of last December 31st, the debt stood at $576.6 billion, which is 67.6 percent higher than it had been 8 years earlier.

While all this was going on, the Consumer Price Index was also increasing: 25.3 percent from December 31, 1967 to December 31, 1972; 52.9 percent from the end of 1967 to the end of 1974 and 63.7 percent from the end of 1967 to the end of 1975. To those who recognize that increasing the money supply without regard to productivity leads to inflation, the similarity between the increases in the national debt and increases in the Consumer Price Index should come as no surprise. It is hardly a coincidence.

Taking the matter one step further, one must ask if the 5.5-percent increase in the debt ceiling we are contemplating today will mean another 5-percent increase in the cost of living over the next 3 months, or if the 20-percent increase in the national debt predicted by June 15, 1977, will result in a 20-percent jump in the cost of living between now and then. Of course, there are a number of factors that must be taken into account when discussing inflation, but deficit Federal spending is one of the most important—as past history has shown.

What makes this situation even worse is that all this money that will go to covering the increased national debt will come out of funds that would otherwise be available to the private sector to replace outdated equipment and expand existing plant facilities. As a consequence, the expansion of our productive capability which, in turn, would mean more good jobs for our people, will be diminished if not thwarted altogether. Thus, by giving encouragement to continued deficit spending, we will not only risk a renewed burst of inflation but we will forestall the surest method of not only reducing unemployment but producing meaningful jobs in the process.

The irony of taking such a step is that this Congress has spent so much time debating public works and public service jobs to alleviate unemployment. Not only will these jobs cost more than if private industry developed them, but they are temporary in nature and often unproductive insofar as goods and services are concerned. A far more sensible approach, to my way of thinking, lies in cutting back on deficit spending, encouraging capital formation and letting the private sector, rather than Government, deal with the unemployment problem.

Rejecting this debt ceiling increase proposal we have before us today would be a logical first step in discouraging Government spending. It would put everyone on notice that there is a limit to Government largesse and, in the process, it would set a proper tone for our upcoming budget deliberations. With an estimated deficit of $76 billion for fiscal 1976 and a projected deficit of at least $43 billion—and probably a whole lot more—for fiscal 1977, such notice is long overdue. The example of New York City should clearly illustrate why.

Mr. SCHNEEBELI. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, there is not any question but what the money has been appropriated, the bills have been incurred, and now we are going to have to raise the debt to pay those bills.

I do continue to believe, however, that the burden of supporting the debt limit increase must fall on those Members of this body who have voted for the budget resolution. Those who have incurred the bills should vote to borrow to finance the programs.

However, for those of us who have not done so there is a little extra incentive in the bill this time. That is the extension of the 7-year maturity to 10, and the $2 billion increase in the amount of long-term debt. Those are positive steps that will save us both interest costs and administration costs, because they will reduce our need to roll over the debt as rapidly as we have done in the past.

The Treasury made other suggestions to improve administration and lower costs of debt service. I hope the committee will continue to act on these kinds of changes in the management of our debt so that we will be able to hold the increases in the interest paid and costs of administration to the minimum.

Mr. ULLMAN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Chairman, at the proper time I intend to offer an amendment which has been discussed here today. The amendment to the debt ceiling bill would provide a minimum interest rate of 4 percent annually on series E savings bonds. The savings bonds currently are about $52 billion of the national debt, and they are held mostly by middle- and lower-income Americans who have shown their patriotism by participating in holding some of this debt. The interest paid on these savings bonds is generally lower than that paid by banks and savings and loan associations. Under 6 months they pay no interest, and under 1 year they pay a very low-interest rate.

The amendment I will offer seeks to do something for these holders of our series E bonds, giving them a fairer rate of return than they have been getting. The cost to the Treasury will be minimal. I believe the distinguished ranking minority member of the committee indicated that we are now paying interest at the rate of $110 million a day. This would cost only $26 or $27 million a year, so we could pay for this before our coffee break any morning we wish to out of our Federal interest payments.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. STARK. I will be glad to yield to the distinguished chairman of the committee.

Mr. ULLMAN. I thank the gentleman for yielding.

The amendment the gentleman is offering was not perfected at the time the bill was before the committee, so it was not acted upon by the committee in its present form; is that correct?

Mr. STARK. That is correct.

Mr. ULLMAN. We have, however, looked at the amendment. The Treasury has some problems that need to be related to. One is the matter of adding some additional complexity to the form. That would probably have to be eight additional lines added to the form to relate to these interest payments.

The other argument the Treasury Department makes is that there is a great deal of administrative expense in setting up the bonds and for the first 6 months it probably takes that long to offset the expense.

Despite these problems, I personally would have no objection to the amendment.

Mr. SCHNEEBELI. Mr. Chairman, if the gentleman will yield, I also was one of those who voted against the gentleman's amendment, but after reconsideration and especially after the statement of the gentleman and the chairman I would agree to the amendment.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I understand the amendment provides a 4-percent interest rate on savings bonds held more than 60 days.

Mr. STARK. That is correct.

Mr. VANIK. Is it not then true that as a result of his study the gentleman found 46 percent of the bonds were turned in within 6 months?

Mr. STARK. That is correct.

Mr. VANIK. And does not the gentleman concur that what we are really doing here is firming up and making more acceptable the bond program which has been one of the mainstays in the public part of the funding of the national debt?

Mr. STARK. The gentleman is absolutely correct.

Mr. SCHNEEBELI. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. STEIGER), a valued member of our committee.

Mr. STEIGER of Wisconsin. Mr. Chairman, members of the staff of the Joint Committee on Internal Revenue Taxation reminded me that tomorrow is the day on which the Congress of the United States and the President of the United States at that time created the Internal Revenue Code and the Joint Committee on Internal Revenue Taxation. Thus there is a certain irony in our taking up a bill to raise the debt ceiling on the day before the anniversary of that momentous occasion in the history of our country.

I suggest the way we might celebrate this day is to abolish both the Internal Revenue Code, the Joint Committee on Internal Revenue Taxation, and, consistent with the principle of no taxation, no representation, we might abolish the entire Congress as well and we might all be better off.

Mr. SCHNEEBELI. If the gentleman will yield, I suggest we might fly our flags at half mast to celebrate.

Mr. STEIGER of Wisconsin. There are many ways to celebrate this birthday and a whole series of alternatives available to us. But that is really irrelevant to the point I want to make. This bill, in spite of the lack of interest on the part of our colleagues, ought to pass. It is pretty clear that those of us who will come here have made up our minds without the benefit of the articulate presentations that have been made by our chairman and ranking member particularly.

The Stark amendment, which is a good amendment, ought to be passed and it would strike a blow for freedom for those who are the backbone of the savings program but who turn them over in less than 1 year's time. The gentleman from New York has said the rate is 3.7 percent. That is based on 6 months' turnover. But if one holds the bonds for 1 day less than 1 year he gets 1.9 percent. What the gentleman from California is offering is to provide a degree of equity that now does not exist for those who have sustained the savings bond program and to whom we should be grateful.

I hope the amendment is adopted and I hope the bill is passed.

Mr. ULLMAN. I yield 2 minutes to the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I will be very brief.

The question always comes up in this debate: Where did all of the money go? What happened to it?

Different things are blamed. Of course there is a lot of blame to spread around, but I think Members would be interested in this statement.

In 1956 the grants-in-aid by the Federal Government to the State and local governments represented $4 billion a year. In 1966 the grants-in-aid by the Federal Government to the State and local governments represented $13 billion.

Can anybody tell me what the grants-in-aid are going to be from the Federal Government to the State and local governments in 1976? That is going to be $60 billion.

That is where our money is going. That is one of the places our money is going. I say that not in a vein of criticizing the State and local governments. I guess if I am criticizing anybody I ought to be criticizing Congress.

We have had a runaway inflation in the area of grants-in-aid, from $4 billion 20 years ago to $13 billion 10 years ago to $60 billion now. I say that because we have got a whole host of people up here now, particularly some Governors, who are saying that the Federal Government ought to do more for the State and local governments. I think the Members ought to have these figures in mind so they can respond to this problem.

Mr. SCHNEEBELI. Mr. Chairman, I yield 5 minutes to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Chairman, I just would like to ask a few questions, if I could today, because it concerns me having been here in Congress 3 years now, that we have raised the debt ceiling, I do not know if it is $100 billion or $200 billion in that short length of time. It looks to me that we are on a collision course, as is New York City, with reality.

Not being a member of the Committee on Ways and Means, I was wondering if I could ask the distinguished chairman, what is it that is different about the Federal Government than the government of New York City, other than the printing presses that print greenbacks?

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. Mr. Chairman, I will be happy to yield to the distinguished chairman.

Mr. ULLMAN. I certainly would join the gentleman in expressing concern about our spending levels. This Nation is in serious difficulty. No one is taking lightly the increases in the debt ceiling that we had to put into effect. However, I think that there is a vast difference between the Federal Government's posture and that of New York City. In the case of the Federal Government, our primary problem is the cyclical nature of the economy. We have been through a serious recession. As the economy has fallen off and unemployment risen, our revenues have failed to keep up the level we would otherwise expect. At the same time many Government expenses, such as unemployment compensation, have risen. Had we had anything like full employment in the last 2 years our budgets would almost have been in balance.

Now, the administration assumes, and I do not fully concur, that within a 3-year period we will get back to a balanced budget. If that happens our serious deficit problem should be gone.

Mr. SYMMS. Mr. Chairman, would the gentleman agree that the budget and the debt ceiling should be in the same boat, that is, if we vote for the budget, we should be committed to vote for the debt ceiling?

Mr. ULLMAN. Here is the problem with that. The Budget Committee gives us a concurrent resolution that does not go to the President. It is not enacted into public law, but is a binding action upon the Congress.

Now, in order to expand the debt ceiling, we must enact a public law to be signed by the President. I do not think necessarily the jurisdiction has to be the same. The Committee on Ways and Means has jurisdiction over what is the national debt and jurisdiction over the management techniques for the national debt. I think what we need is a greater system of coordination between the Budget Committee and Ways and Means Committee.

Mr. SYMMS. Then the gentleman would agree that there is a direct relationship between Government spending and how much we have to raise the debt ceiling, because we spend it and then we have to raise the debt ceiling to cover the obligations.

Mr. ULLMAN. They are totally related.

Mr. SYMMS. But would the gentleman agree with me that this recession we have, might have been brought on by the fact that the Government is starving out the available money from the capital markets, borrowing available money to cover the debts that the Government has incurred?

Mr. ULLMAN. Obviously, the two cannot be totally disrelated; but I certainly would not concur that is what caused the recession. I think there are a lot of other factors, including a too stringent money supply, the increase in oil prices, the inflation and buildup in inventories as well as the fact that floating exchange rates make us more vulnerable to worldwide economic fluctuations. There are other reasons as well. Many of them that I think resulted from faulty management.

Mr. SYMMS. But with the trend that is taking place in the Federal budget, at the rate Federal spending is going, if we put it on a graph, by the year 2010 it would take 100 percent of the national productivity just to pay for Federal Government spending.

The CHAIRMAN. The time of the gentleman from Idaho has expired.

Mr. SCHNEEBELI. Mr. Chairman, I yield 3 additional minutes to the gentleman from Idaho.

The CHAIRMAN. The gentleman from Idaho (Mr. SYMMS) is recognized for 3 additional minutes.

Mr. SCHNEEBELI. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Pennsylvania.

Mr. SCHNEEBELI. Mr. Chairman, at the time of the last consideration of the debt ceiling increase last November, the Christian Science Monitor had an article which stated that over the last 30 years our Federal debt had been a rather constant percentage of the GNP. While the debt was accelerating at a very high percentage, so also was the GNP. Over the last 30 years, then, the relationship to the GNP has been a rather constant factor.

This was surprising to me, and I quoted it at the time of the debate on the last debt ceiling debate last November.

Mr. SYMMS. I thank the gentleman, but I might just say, are we talking about a GNP of what kind of dollars? Are we talking about 1932 dollars or 1939 dollars, or today's 20-cent fiat I O U nothing notes?

Mr. SCHNEEBELI. They are both based on these inflated dollars, but it is the same percentage of GNP and it has been rather constant for 30 years.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I appreciate the gentleman yielding to me. I would like to make a few comments about what we have been discussing.

It has been stated on the floor in this debate in support of raising the debt ceiling that we do not need to worry about increasing the debt because the ratio of Federal debt to gross national product is lower today than it has been in the past. Mr. Chairman, the ratio of debt to GNP is a meaningless comparison. What is meaningful is the ratio of Federal debt plus taxes to GNP in the planning period, because this ratio indicates the share of the economy's real resources that is being appropriated by the Government. And that share is increasing.

That that share is increasing is disturbing because it means that the people who produce the goods and services that make up our gross national product are allowed to keep for their own uses a smaller percent of what they produce each year.

The purpose of increasing the debt ceiling is to accommodate another deficit. When deficits are financed, either they are monetized, thus inflating the money supply, or they absorb funds which would otherwise be available to private investors, thus crowding out private investment. Less private investment means less economic growth and a lower GNP. Inflation invariably leads to recession. Legislating deficits is the same as legislating damage to the Nation's economy.

That the Congress must so often vote on increasing the debt ceiling is also disturbing, because it means that the Government cannot responsibly match its expenditures to its revenues.

When I first came to Congress in 1971 the debt ceiling stood at $377 billion. We are asked today—only 5 years later—to increase it to $627 billion. This is the fifth increase effort in the past 12 months. And, if this bill should become law, it will condone this outrageous $250 billion increase.

It took from late 1942 until 1971—29 years—to raise the debt ceiling by an identical amount—$250 billion. Now, the growth of Government has done it in but 5 years—1971 to 1976.

In the past year alone—since February 18, 1975—we will have increased—if this bill should pass—the debt by $132 billion. Yet it took from 1789 to 1942 to have a $127 billion increase in the debt.

If that is not dramatic enough, think about the interest payments alone on the debt in the coming year—more than $32 billion a year or 32,000 times $1 million. And to those who would argue that we really should not worry about the size of the debt for "after all, we only owe it to ourselves," I would remind them that this $32 billion will have to be paid. It will be paid just like any other debt of the Federal Government—out of taxes or from more borrowing—the first being our visible taxes, the latter being the hidden tax of inflation.

It took our Nation over 150 years after 1789 to reach the $200 billion mark, then less than 20 years to double it to $400 billion, then only 10 more years to add another $100 billion, and then only one more year to add another $132 billion.

These figures and their implications for our fiscal integrity and economic system are resounding.

There are two ways in which we can address this problem. One, directly; the other, indirectly.

And, there are two places at which the Congress can attack directly the problem of excessive Government spending. First, at the authorization level; second, at the appropriation level. This is an exercise of constitutional authority. Too many too readily forget that the Government can only indebt itself in pursuance of programs specifically authorized and funded by the Congress.

There are two culprits here. The administration when it asks for expenditures in excess of revenues taken in. And the Congress when it mandates expenditures in excess of revenues taken in. Both are at fault. And both have the ability—if they would but exercise it—to bring expenditures down toward the level of income.

But there are places at which we can attack this problem of excessive Government spending indirectly. Such a place is through the debate on increases in the debt ceiling. It sends a message to those who would spend more than we have and worry about the risks to the economy later that they must slow down. It helps also to expand awareness—in the Congress, in the administration, and among the people—of the disorders caused by rapidly rising public debt. This is serious.

One of our country's leading social commentators, Irving Kristol, has said that the destiny of any society is determined finally by the capacity of its citizens to control their own demands upon Government and to thereby rightly understand their enduring common interests. I can think of few things more important for special interests in this country to understand today than their capacity to rend asunder the common interests of our people; in other words, to bankrupt our country or to debase our currency.

I think a Member can vote in good conscience against an increase in the debt ceiling only if he has consistently voted against excessive authorizations and appropriations too. It is the only way in which it reflects a full understanding of the economic issues involved in excessive spending. I have voted against excessive authorizations and appropriations. I voted for reductions in authorizations and appropriations of over $21 billion in 1973 and of nearly $19 billion in 1974. I have not computed last year's votes—1975—but I am sure it would be at about the same level. Thus, I feel comfortable in voting against this proposed debt limit increase.

There is an obligation paramount to others which should be raised on this issue—an obligation to fiscal responsibility. That can be best served by sending a message to all Members of these two Houses and to the administration that excessive Federal spending must be stopped—and now. This Congress can no longer afford a ritualistic increase in the debt ceiling; that time has passed. To merely approve whatever increases are asked of us is to remove the restraint on spending which we need so desperately at times like these.

We are now in a recession—although we are moving out of it, at least for the time being. That recession was created in great part by inflation and some very unwise attempts by Government to deal with it through mandatory wage, price, and profit controls—all of which added up to shortages and a loss of jobs.

This country needs to concentrate on providing more real jobs and more real wages, and deficit financing—Government building up the huge national debt reflected in this legislation—is not the way in which to provide those real jobs and real higher wages.

Here is the place at which to do it. To do anything to the contrary—to authorize this additional increase in the debt ceiling—is to invite more growth in government, more spending, more taxes, more inflation, higher interest rates, fewer jobs in the productive sector of the economy, and more crowding out of investment capital.

Inflation and the crowding out of capital markets are the two immediate consequences of enacting the bill before us, and we should insist upon the cessation of both.

Inflation can occur only when money increases in supply relative to goods and services. Given the institutional structure of national economic policy, only Government can cause this to happen.

If Government's expenditures are in excess of its revenues from taxation, it has a deficit in its budget. The deficit must then be financed by borrowing. The Government has two sources from which it can borrow; it can borrow from the private sector of the economy and it can borrow from the Federal Reserve System.

We must also not forget that the extent to which private capital is transferred out of investment and into consumption is understated by the size of the Government's deficit, because the borrowings of the off-budget agencies are not even included. Furthermore, in addition to the private capital formation which is preempted by Government borrowing, an enormous amount of private capital has been destroyed by the Government's inflationary policy. Profits have been overstated and thus overtaxed. The negative impact of the Government's deficit on private capital formation is greater than the size of the deficit might suggest.

In summary, whether the Government borrows from the Federal Reserve or from the private sector, the Government's deficit is inflationary because it alters the ratio between the supply of money and the supply of goods. If the inflation rate is 11 percent, it costs you $111 to buy today what you could buy for $100 12 months ago.

The cost of living is, therefore, related directly to the inflation created by Government's policies—deficit spending and borrowing. It is time to cut the cost of living by cutting the cost of Government.

Mr. SCHNEEBELI. I think the gentleman makes a very valid point. Furthermore, although I raised the issue of the debt being a constant percentage of GNP, I do not condone this increase. I am very much opposed to it, but nevertheless I am rather surprised that this happens to be a fact.

Mr. SYMMS. I would just like to say, Mr. Chairman, that I think the problem facing America today is that we in fact are no different here in Washington than the government up in New York City which tried to drink themselves sober or spend themselves rich. Sooner or later, the printing press downtown at 14th and Independence Avenue is going to run out of gas as far as having any viability with respect to purchasing power of the dollars they print. We need to recognize that, and face reality.

I am only sorry that we do not have to vote on this debt increase once a week so that the Members of Congress could vote and the public could draw a line on how they vote on spending bills and raise the debt ceiling. For those of us who normally vote against spending bills, I believe we can vote against this in good conscience, but those who come in every day and vote for spending bills, again and again, vote for spending bills, can dodge the issue. I am only sorry that we do not have to do it once a week or as we vote for the spending. If we did, perhaps finally the American people would begin to realize how the system works and how we are diluting the value of American currency and confiscating away the private wealth, that is the very liberty and pursuit of happiness that is our heritage.

Mr. Chairman, I am against this legislation, and I hope it is defeated.

Mr. ULLMAN. Mr. Chairman, does the gentleman yield back the balance of his time?

Mr. SCHNEEBELI. Mr. Chairman, I yield back the balance of my time.

Mr. ULLMAN. Mr. Chairman, I think that the members of the Committee should fully understand what the posture of the country is. As of March 10, the Government will be totally out of authority to incur any additional debt and we will begin to have to take measures to avoid paying some of the Government's obligations. After March 15, of course, when we drop from the temporary to the permanent ceiling of $400 billion, the total operations of the Government would come to a halt. It is absolutely essential that this bill be enacted.

I do not disagree with those who say we need to institute further economies in Government. I think everybody here should fully understand the need for doing that. But the place to do that is when we set the budget ceilings and, when we vote on the spending bills and on the authorizations and appropriations.

We have a budget procedure now that can put this matter into focus. I hope this Congress does exert a lot more discipline in the future than we have in the past.

Mr. Chairman, I strongly urge a vote for this measure. We have no alternatives.

Mr. ANDERSON of California. Mr. Chairman, I rise in opposition to H.R. 11893, a bill which will allow the Federal Government to borrow an additional $32 billion through June 30 of this year. The legislation before us would increase the temporary debt ceiling from $595 billion to $627 billion.

If this legislation is passed, it will mark the fourth time in slightly over a year that the 94th Congress has raised the debt limit. Let me refresh the memory of my colleagues. On February 5, 1975, this House voted to increase the temporary debt ceiling from $495 billion to $531 billion. On June 24, 1975, this body voted to increase the debt limit from $531 billion to $577 billion. And on November 13, 1975, the House of Representatives voted to increase the debt ceiling from $577 billion to $595 billion. Here we are again today and the story is sounding very familiar.

Mr. Chairman, I have carefully analyzed my votes during the 94th Congress to determine if I am justified in opposing this proposed increase in the debt ceiling. I desire to vote responsibily on this issue as on all others. We have come to a point in history where, according to the Office of Management and Budget, approximately 74 percent of this fiscal year's budget consists of "uncontrollable" expenditures such as social security and unemployment compensation. This means that the Congress has made or will make appropriations for the remaining 26 percent of the Federal budget for fiscal year 1976. For this fiscal year, we have completed action on all appropriations bills with the exception of appropriations for foreign assistance, the District of Columbia, and the spring supplemental appropriations bill. My votes against the Agriculture appropriation, the Treasury-Post Office appropriation, and the fall supplemental appropriation—for what I believed were excessive and unacceptable levels of spending—clearly indicate my desire to control Federal spending. I would not feel justified in voting against this increase in the debt ceiling if I had not demonstrated earlier responsibility in voting aganst excessive spending bills.

I must add, Mr. Chairman, that we all need to take a close look at annual appropriations by the Congress. We must also, however, make a careful examination of what are regarded as uncontrollable expenditures. An audit by the Department of Health, Education, and Welfare indicates that the Social Security Administration has made overpayments of $197 million to recipients of supplemental security income. It is my hope that the Ways and Means Committee will examine this matter in the very near future. It is also my strong belief that the executive branch must carefully administer Federal aid programs to eliminate fraud in unemployment compensation, aid to families with dependent children, social security, the food stamp program, et cetera. The administration must accept its responsibility in controlling Federal expenditures, especially the so-called uncontrollables.

At the risk of sounding like a classical economist I would like to state that I believe that taxation is, or should be, the basis of what remains of our fiscal discipline. New social services, programs, and projects must be paid for—either through taxation or borrowing. I believe that the American public wants to know what Government services for them cost. After all, they are the ones who must pay for these services. I also believe that this generation is genuinely concerned about passing the costs of this generation's programs onto the next generation. It is inherently unjust. My constituents are concerned about inflation, they have been for years, and they know that an unpaid and ever-increasing public debt is continuing to fuel inflation.

A nation that will spend an estimated $38.4 billion interest this year to finance its extravagant lifestyle is far from prudent. It is estimated that for fiscal year 1976, this Nation will have a deficit of $74.1 billion. In essence, half of what we borrow will be used to pay the interest alone on what we borrowed last year, and the year before, and the year before, et cetera. This, Mr. Speaker, is poor management of our limited resources.

It is my earnest hope that when the new congressional budget process is fully implemented for the next fiscal year, the Congress will be better able to manage this Nation's finances on a day-to-day basis. Perhaps then we will make prudent decisions on all money bills rather than being shocked when the need arises to raise the debt ceiling so that we can continue to spend money that we do not have.

I include for the benefit of my colleagues a table from the Office of Management and Budget. Of special interest are the last two columns which indicate the increases in the interest on the public debt as a percent of the GNP and the annual budget:

TABLE C-4.—COMPARISON OF TRENDS IN INTEREST ON FEDERAL DEBT

[In billions of dollars]

Fiscal year	Interest on the gross Federal debt					Interest on debt held by the public as a percent of	
		Paid to					
		Federal Government accounts	The public				
	Total		Total	Federal Reserve System [1]	Other	GNP	Budget outlays [2]
1954	6.4	1.3	5.2	0.5	4.7	1.42	7.29
1955	6.4	1.2	5.2	.4	4.8	1.36	7.56
1956	6.8	1.3	5.6	.5	5.1	1.35	7.90
1957	7.3	1.4	5.9	.7	5.3	1.37	7.73
1958	7.8	1.4	6.3	.7	5.6	1.44	7.68
1959	7.8	1.4	6.4	.8	5.6	1.36	6.96
1960	9.5	1.5	8.1	1.0	7.1	1.62	8.73
1961	9.3	1.5	7.8	1.0	6.8	1.53	7.96
1962	9.5	1.6	7.9	1.0	6.9	1.45	7.40
1963	10.3	1.6	8.7	1.1	7.6	1.50	7.78
1964	11.0	1.8	9.2	1.2	8.0	1.50	7.80
1965	11.8	2.0	9.8	1.4	8.4	1.49	8.29
1966	12.6	2.1	10.4	1.7	8.7	1.44	7.75
1967	14.2	2.6	11.6	2.0	9.6	1.51	7.36
1968	15.6	3.0	12.6	2.4	10.2	1.52	7.07
1969	17.7	3.5	14.1	2.9	11.2	1.56	7.66
1970	20.0	4.4	15.6	3.5	12.2	1.63	7.95
1971	21.6	5.3	16.3	3.7	12.6	1.60	7.73
1972	22.5	5.8	16.6	3.7	12.9	1.49	7.16
1973	24.8	6.3	18.5	4.3	14.2	1.49	7.51
1974	30.0	7.7	22.4	5.5	16.9	1.65	8.33
1975	33.5	8.8	24.7	6.0	18.7	1.71	7.60
1976 estimate	38.4	9.2	29.2	(3)	(3)	1.83	7.81
Transition quarter estimate	10.6	2.4	8.1	(3)	(3)	(3)	8.31
1977 estimate	45.6	9.6	36.0	(3)	(3)	1.96	9.13

[1] Estimated as the average of calendar year figures. The 1975 estimate is tentative.

[2] Budget outlays for 1954–77 are given in the budget, part 8, table 22.

[3] Not available.

Mr. CONLAN. Mr. Chairman, I rise in opposition to the increase in the debt limit today because I believe if this Congress continues its wild spending, U.S. national debt may double by 1982, with great risk of bankruptcy and economic chaos.

Secretary of the Treasury William Simon estimates that the increasing Federal debt will soon soak up 80 percent of all available private funds in America. In this way the Government pushes interest rates higher and stimulates inflation—which is a main reason the purchasing power of the dollar has fallen more than 25 percent in the past 3 years. The dollar's buying power will probably drop another 8 percent this year.

The American people want an end to inflation and to excessive Government spending, and it is crucial that Congress slam the lid on big spending to restore fiscal integrity in this Nation.

Mrs. HOLT. Mr. Chairman, every few months, we are called upon dutifully to approve an increase in the public debt limit. This is always referred to as a temporary increase but one temporary increase has piled on top of another to the extent that, should we approve H.R. 11895 today, the American taxpayer and his descendants will be saddled with a $627 billion debt. My colleague, the gentleman from California (Mr. KETCHUM), has spoken forthrightly on the need to end the charade of temporary increases in the debt limit and to take the medicine of cutting Government spending. His view is the correct one, in my view, Mr. Chairman.

Until we reach the stage of telling the American people the truth about the financial condition of their Government, we will continue to be faced with the dilemma presented to us today by H.R. 11893. Many Members of this body profess a desire to return our resources to productive needs and to cut Government spending on waste and frills. Usually they end up supporting legislation such as H.R. 11893 because they feel it is irresponsible to start the cutting this way. Mr. Chairman, I urge opposition to extending the temporary debt limit as a good a way as any to begin to get control of the financial management of the United States. We must begin and now is the time.

Mrs. SMITH of Nebraska. Mr. Chairman, I rise to oppose this increase on our national debt. This measure, if approved, will add yet another burden to America's taxpayers and place further strain on this country's economy.

Someone has said that we have had so many deficits, most of us are probably numb to them. I would hate to think that is true, yet it could be the case because it is a fact that in the 10 years ending with fiscal year 1977, the debt will have increased just short of $360 billion, a sum in excess of the amount the national debt accumulated in the first 190 years of our existence as a nation.

Our total national debt is projected to be $710.4 billion at the end of fiscal year 1977—an almost incomprehensible figure. A large portion of the debt, $176 billion, will accumulate over the 27-month period encompassing the two fiscal years—1976 and 1977—plus the 3 month transition period which was added when the start of the fiscal year was changed from July 1 to October 1.

These figures should be of concern to all of us—taxpayers and lawmakers alike. This tendency to spend more than we collect in revenue, and then having to borrow to pay the country's bills, is closely akin to an addiction or a disease.

After the debate on this addition to the national debt is over today, I urge my colleagues of the House to keep in mind this distressing trend as we concern ourselves with program spending the remainder of this Congress.

Mr. GRASSLEY. Mr. Chairman, a vote to increase the debt limit sounds innocuous enough. It is only in the accompanying budgetary decisions allowed by the increase that the real problem and evil of the increase is felt.

The only reason to increase the debt ceiling is to allow a larger budget deficit. Any deficit must be funded in one of two ways, by Government borrowing or by an increase in the money supply.

In the first case the Government will compete against private borrowers, interest rates will be forced up and long-term credit purchases such as housing and business investment will be discouraged. Increased Government expenditures will be at least partially offset by private spending decreases. A study by the Federal Reserve Bank of St. Louis notes that private sector expenditures are thus "crowded out" by increased Government sector expenditures. Secretary of the Treasury William Simon has estimated that fully 80 percent of available funds will be soaked up by the Government.

The second alternative is for the Government to turn on its printing presses to cover the deficit. As more money becomes available incomes and prices both rise. But money stock increases, in excess of real economic growth, will tend to cause inflation with corresponding increases in interest rates.

This process of continuing deficits not only hurts in the present but borrows on the future. The decreased investment due to the Government crowding our private capital will impede the capital formation necessary to sustain economic growth in the future.

James Lynn, Director of the Office of Management and Budget believes that an increase over the proposed budget could wreck the recovery we have started.

Finally an increase in the debt ceiling, allowing an increase in Government expenditures, means more Government control. We must remember that Government can only spend that which it has first taken away from the public, either in taxes or inflation. The problem is not to figure out new ways to spend taxpayers' dollars, but to control Government and make it spend less.

Mr. KETCHUM. Mr. Chairman, I rise in opposition to this legislation, as I have opposed the numerous increases in the public debt that have been sought within the last 12 months. I believe that the astronomical debt increases of the past year are rapidly leading us toward total economic collapse.

Every Member of this House should be alarmed at the rapid increase in the public debt. It took 190 years to amass the $328 billion debt owed in 1966—by the end of 1976 that total will have doubled—in just 10 years. The Treasury Department has just asked us for a $50 billion increase in debt to cover the 6 months from March to September of 1976. At the same time, we have been informed that another $66 billion will be needed between September 1976 and April 1977. This is a $116 billion increase in a 13-month period.

As several members of the committee point out in their minority views, if the present trend continues, the national debt will reach more than $1 trillion by April 1980. We will again double the existing debt by March 1982 taking just 6 years to accomplish that dubious achievement this time.

These wild figures are not conjectures made in the dark. They are all too real. I ask my colleagues who are prone to support this legislation whether they believe that any economy can support this burden. Interest on the debt alone has become the second largest line item in the budget. If the present period of high interest rates and the addition of $50 billion in lump sums to the debt continue, it will not be long before the interest becomes the largest item in the budget. It is thus only a matter of time before every penny of capital available in this country is gobbled up to atone for the debts of the Federal Government. I caution my colleagues that this will end economic growth, with all the attendant misery that fact entails.

There is no magic in the air which prevents the United States from going bankrupt. The best way to insure this unhappy occurrence is to vote for this bill. The best way to begin putting our financial house in order is to defeat this bill, recognize that we have run up an astounding bill which must be paid, and begin to make the hard choices on programs we can no longer afford. This is not an easy road to travel, but I think it is infinitely preferable to explaining the default of the U.S. Treasury.

The CHAIRMAN. Under the rule, the bill will be read for amendment under the 5-minute rule. No amendments are in order to the committee amendments now printed on page 2, lines 3 through 9, of the bill, except amendments offered by direction of the Committee on Ways and Means. It shall also be in order to consider an amendment printed in the CONGRESSIONAL RECORD on February 24, 1976, offered by the gentleman from California (Mr. STARK), on page 4157, and said amendment shall not be subject to an amendment except amendments offered by direction of the Committee on Ways and Means.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That during the period beginning on the date of the enactment of this Act and ending on July 31, 1976, the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased by $231,000,000,000.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendments.

The Clerk read as follows:

Committee amendments: Page 1, line 4, strike out "July 31" and insert in lieu thereof "June 30".

Page 1, line 7, strike out "$231,000,000,000" and insert in lieu thereof "$227,000,000,000".

The committee amendments were agreed to.

The CHAIRMAN. Are there any further amendments to this portion of the bill? If not, the Clerk will now read section 2.

The Clerk read as follows:

SEC. 2. Effective on the date of the enactment of this Act, the first section of the Act of November 14, 1975, entitled "An Act to increase the temporary debt limitation until March 15, 1976" (Public Law 94–132), is hereby repealed.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, after line 2, insert the following new section:

SEC. 3 (a) The last sentence of the second paragraph of the first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by striking out "$10,000,000,000" and inserting in lieu thereof "12,000,000,000".

(b) Section 18(a) of the Second Liberty Bond Act (31 U.S.C. 753) is amended by striking out "seven years" and inserting in lieu thereof "10 years".

The committee amendment was agreed to.

The CHAIRMAN. Are there any further amendments to the bill?

AMENDMENT OFFERED BY MR. STARK

Mr. STARK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STARK: At the end of bill, add the following new section:

SEC. 4. Section 22(d) of the Second Liberty Bond Act (31 U.S.C. 757c(b)) is amended by adding at the end thereof the following new sentence: "The investment yield on series E savings bonds shall in no case be less than 4 per centum per annum compounded semiannually for the period beginning on the first day of the calendar month following the date of issuance (or, beginning on October 1, 1976, if later) and ending on the last day of the calendar month preceding the date of redemption."

Mr. STARK. Mr. Chairman, I appreciate the Members taking the time to hear me discuss this amendment just for a moment.

I think there are several points that should be made clear. This amendment is a debt-management tool just like section 3 of the bill which extends maturity and the amount which can exceed the present interest limit. This section, however, would instead benefit the middle- and low-income people who patriotically carry some of our debt. It would protect our banking and savings and loan institutions in that the 4-percent maximum rate is a full percent below the lowest rate under regulation Q, and it does not remove the 60-day minimum time period on E bonds now. While banks under regulation Q and savings and loan associations may offer a minimum 30-day period savings accounts, this, again, has a 60-day requirement in order to protect those institutions from disintermediation. I think the interest cost would amount to $27 million a year approximately; and when we figure that out of the $110 million a day we pay on the entire national debt, the cost seems minimal.

About one-third of all savings bonds sold in 1974 were cashed in in the first 6 months, as a result of which the redeemers received no interest. This amendment would encourage more individuals to hold part of the national debt and to participate in America. This is a step toward equalizing the way in which we treat all investors, large or small.

Therefore, Mr. Chairman, I urge the adoption of the amendment.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I rise in support of the Stark amendment which would provide E savings bond holders a 4-percent interest rate on savings bonds held more than 60 days.

At the present time purchasers of E bonds get no interest if such bonds are held less than 6 months and interest at 1.9 percent if held 1 day less than 1 year. The Stark amendment will provide a 4-percent interest rate on bonds held more than 60 days.

I believe that purchasers of E bonds, particularly under payroll withholding plans, carry on a patriotic purpose in purchasing a part of the Federal debt—seldom considered as the most productive type of investment.

The high percentage of "cash in", 46 percent within the year—result when purchasers overestimate their capacity for thrift and redeem bonds when confronted with higher living costs in inflationary conditions.

The payroll deduction plan in bond purchases is an excellent program which deserves support. It is one of the finest thrift programs in America. It should be encouraged. Those who participate—and must reduce their program of thrift—for one reason or another, are entitled to this modest rate of return on the funds which they have loaned to our Government.

This proposal should in no way stimulate an intermediation or shift of resources—it merely provides for the payment of a modest rate of interest well below the savings institution rates to those redeeming their bonds within 1 year.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I think it should be made clear that this amendment in this form was not offered in the committee, but that upon examination of the amendment, it is my personal judgment that it is a desirable amendment. I certainly would support it, Mr. Chairman.

Mr. STARK. Mr. Chairman, I appreciate the chairman's support.

Mr. SCHNEEBELI. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Pennsylvania.

Mr. SCHNEEBELI. Mr. Chairman, the people on our side also support the amendment. We think it is a very good amendment.

Mr. STARK. Mr. Chairman, I appreciate the support of the gentleman from Pennsylvania (Mr. SCHNEEBELI).

Mr. ULLMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise to suggest a modification of the gentleman's amendment.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, the committee staff pointed out a technical error in the section.

Under section 4, section 22(b) there should be a "1" in parentheses added.

Mr. Chairman, I ask unanimous consent that my amendment be modified so that the number may be added to the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from California (Mr. STARK).

The amendment, as modified, was agreed to.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, once again I rise in opposition to a proposed increase in the "temporary debt limit" from $195 billion to $227 billion, bringing the combined permanent and temporary debt ceiling to $627 billion through June 30, 1976. The Congress goes through this exercise so frequently that it is indeed difficult to find new words to express opposition to this continued abuse of the American taxpayer. The American people are overburdened with taxation at all levels. Continued deficit spending at the Federal level is the primary cause of the inflation in our economy. As the Members know, inflation is responsible for the decrease in the purchasing power of the dollar which hits every citizen, but especially our retired citizens trying to make ends meet on a fixed income. By increasing the "temporary" debt ceiling with such regularity, we are contributing to the inflationary cycle our constituents expect us to be curbing.

Ten years ago the national budget stood at $130 billion. The national debt was $317 billion, and interest on it was $10 billion. Today, the budget is moving past $394 billion. The national debt is approaching $630 billion, and interest on it is over $35 billion. Is this progress? Is our national economy in better shape now than it was 10 years ago? I am sure my colleagues would agree that the answer to these questions is no.

Passage of H.R. 11893 would grant further permission to the U.S. Government to go into the private money markets and borrow substantial additional funds. This is money which would otherwise be available to individuals and corporations for such things as home and business loans. Instead of increasing the debt limit, the Congress should concentrate on eliminating those many areas of wasteful spending that are inconsistent with a responsible fiscal policy. The Government cannot expect to restore a truly healthy economy while it absorbs capital that would otherwise stimulate the private sector. The trend toward greater deficit spending must be stopped, and a number of my colleagues have joined with me in introducing legislation which would require a balanced budget and, importantly, would require the systematic repayment of the national debt. Increases in the debt ceiling are incentives to Members to increase spending programs, rather than to seriously question the validity of many of the programs which could be reduced or eliminated.

It would indeed be miraculous for this House to—just once—practice what it preaches. My colleagues espouse the doctrine of fiscal responsibility with great eloquence. When the votes are counted, however, the old ways remain and the debt increases and the burden on our constituents grows. Perhaps the secret to solving this kind of duplicity is to require greater disclosure of Government fiscal policies and the action of Congress in helping to create these policies. Our colleague from Illinois, Mr. CRANE, has introduced, and I have cosponsored, legislation which would require that the U.S. Government prepare and make public consolidated financial statements utilizing the accrual method of accounting. The enactment of such legislation would provide the taxpayers with a more accurate and meaningful understanding of the Nation's financial condition. Such a procedure would enable the public—and Congress—not only to see how much the Government is taking in and spending during a year, but would also give some indication of the liabilities for which the Government has committed itself that may not be funded out of current revenues. At this point in the debate, I would like to quote from the text of an article which appeared in the December 1975 issue of Nation's Business. This article describes the advantages of using business accounting procedures in the Government to give a true picture of just where we stand. I urge my colleagues to read this article and to also take a look at the Crane bill, H.R. 10857. Real progress must be made toward bringing greater fiscal responsibility to our budget process. It is interesting to note that estimates have been given that under the accural accounting method, the real national debt would be over $1 trillion. American voters are no longer convinced by campaign rhetoric which preaches controlled Federal spending but which does not deliver.

This Congress must assume its constitutional obligation to manage debts and expenditures more responsibly. Deficit spending is not good for the American economy and it is not good for the American people. I urge my colleagues to reject this debt ceiling increase and take a step, finally, in the direction of fiscal integrity.

The article follows:

HOW TO SPOT FUTURE FISCAL CRISIS IN GOVERNMENT

Government-operated warning systems can quickly alert American citizens to physical dangers ranging from rising water in the local creek to an enemy attack.

There are no such warnings, however, to alert those same citizens when the governments their taxes support are threatened by financial dangers.

Surprised taxpayers suddenly find themselves in the middle of a full-blown crisis without much idea of how they got there.

Everything is costing more than expected, government officials explain, offering a choice of sharply higher taxes, sharply curtailed services, or deficit spending.

Citizens discover that seemingly reasonable financial commitments made in past years have grown into massive, permanent obligations they are supposed to meet regardless of their willingness or ability.

That scenario has been played in Washington, state capitals, and other communities across the country—most notably, New York City.

A BUSINESSLIKE APPROACH

Is there a better approach to government finance—one that would apprise taxpayers of growing fiscal problems long before they reached the crisis stage?

There most certainly is, says Arthur Andersen & Co., one of the nation's largest certified public accounting firms. Chicago-based Andersen & Co. has developed a set of financial statements it says illustrate how government fiscal reporting can be more meaningful.

Under the Andersen proposal, governmental bodies would adopt the business accounting practice of issuing consolidated financial statements on an accrual basis. This would signal whether future spending commitments were building up too fast to maintain fiscal stability.

Governments, in short, would be required to give taxpayers as full an accounting as corporations give to stockholders. Annual government balance sheets presumably would be publicized through the media as government budgets are now.

For the most part, what knowledge citizens now have about local, state, and federal government finance comes from news accounts about budgets that list revenues and expenditures on a cash-flow basis for a fiscal year. As the year progresses, the budgets record income when received, spending when money is paid out. Cash income and outgo are compared at the end of the year.

By contrast, accounting on a consolidated accrual basis requires that spending commitments are recorded as they are made, and revenues as they are earned, regardless of when the cash is actually paid out. The annual balance sheet compares overall assets, including those revenues, and overall liabilities, including those spending commitments. A cash budget does not. Applying business accounting principles to the federal government's financial affairs puts them in a far different perspective from the one given by official reports.

While the U.S. government's method of keeping books shows a $3.46 billion deficit for the fiscal year that ended June 30, 1974, the use of standard corporate reporting practices reveals the deficit as $95.11 billion, nearly 30 times the official figure.

Overall, according to Arthur Andersen & Co., standard corporate accounting also shows a financial operation with $1.1 trillion in liabilities and $329.3 billion in assets in that fiscal year, for an accumulated deficit of nearly $812 billion.

The accounting firm's plan is contained in a report, "Sound Financial Reporting in the Public Sector—A Prerequisite to Fiscal Responsibility." The report is the result of extensive investigation and research by Andersen executives and staffers.

A DEVASTATING CRISIS

Among the findings:

"Several large cities, states, and other governmental units appear to be in serious financial difficulties. These problems may produce a devastating financial crisis unless timely corrective action is forthcoming.

"All too often, the financial statements of governmental units have proved to be less than adequate for providing basic financial information. Decision-makers, investors, and the public have been misled by not being alerted to the problems which were developing. When difficulty occurred, they were confused and frustrated in their attempts to deal with the emerging financial crises."

CRUCIAL FIGURES

To be "meaningful" the report says, governmental financial statements "should include all costs, whether paid or accrued. Furthermore, the total accumulated deficit is crucial, because this is the amount of future taxes required to pay present liabilties. To the extent that this amount exceeds the amounts that can reasonably be expected of future taxpayers, a potential for crisis develops.

"The crisis could become real if taxpayers are no longer willing to pay for the current costs of government, or if investors become concerned that governmental units may default on their obligations."

The driving force behind development of the Andersen & Co. plan is the firm's chairman, Harvey Kapnick.

"I'd been concerned with financial reporting in government for some time," he says. "But I really started to become more involved as I traveled around the world in recent years and business and government leaders told me repeatedly how the welfare of their own countries was tied to a strong American economy.

"If our economy, as big as it is, isn't strong, other nations are going to have trouble. To them, a strong dollar is an absolute must. When you are talking about the U.S. economy, you are talking about the public sector as well as private enterprise. I started looking into the financial position of the U.S. government, and I asked our Washington office to get me a financial statement.

"I never knew what I was opening up. I figured there would be some sort of financial statements in addition to the budget, but I thought they would be far more meaningful than they were. The next step was to start thinking of how you would go about putting together a meaningful statement on government finances."

The end product was the report on financial reporting in the public sector, with its recommendations that:

The United States government should provide annual consolidated financial statements on an accrual basis, including all entities in the government and all programs which may require future taxes for present liabilities. Cities, states, and other political subdivisions should be required to publish similar statements annually."

DISCLOSURE TO BOND BUYERS

In addition, the report suggests that state and local governments should be required to make a full disclosure of their financial condition to prospective purchasers of their securities. The Securities and Exchange Act now exempts governmental units from the disclosure laws.

Here is a thumbnail sketch of the Andersen consolidated balance sheet for the federal government in fiscal 1974:

Assets: Cash and cash equivalents, $18.1 billion. Gold, at the official rate of $42.22 per ounce, $11.6 billion. Receivables, including loans and accrued corporate income taxes and delinquent taxes, but not withheld individual income taxes, $86.3 billion. Inventories at original cost, including military equipment, stockpiled materials, and commodities, plus other types of materials, $50.6 billion. Land and depreciated personal property at original cost, $147.4 billion. Deferred charges and other assets, $15.3 billion. Total assets: $329.3 billion.

Liabilities: Federal debt held by the public, $263 billion. Federal Reserve liabilities, including Federal Reserve notes outstanding and deposits of member banks, $93.3 billion. Current accounts payable and accrued liabities such as interest and federal workers' annual leave, $50.4 billion. Other liabilities, $19 billion. Civil Service, veterans', and military retirement benefits, $300 billion. Accrued Social Security, $416 billion. Total liabilities: $1.14 trillion.

NOT SHOWN IN BUDGET

On its sample federal expense statement for 1974, the Andersen plan lists $111.5 billion not shown in the official budget. This includes $95.6 billion representing a noncash charge against 1974 outlays for increases in accrued liability for Social Security and for military and Civil Service retirement and veterans' benefits; a depreciation charge of $13.2 billion; and net expenses of $2.7 billion for government agencies whose operations are not covered by the regular federal budget.

On the other hand, the Andersen accounting deducts from the regular federal budget $16 billion for buildings and major military procurement. Those should be listed as capital outlays not charged to a single year, Andersen says. Also deducted are $3.9 bilion of other items.

The net result is the $95.11 billion deficit for 1974 shown by Andersen, compared with the officially reported $3.46 billion.

For fiscal 1975, the Treasury Department reported a deficit of $43.6 billion, but Mr. Kapnick estimates that applying the business balance sheet concept would put the deficit at $150 bilion.

Copies of the Andersen report have been given to top government officials, who are studying the far-reaching proposals.

Comptroller General Elmer B. Staats says the proposal "serves a useful purpose in illustrating overall aspects of the federal government's financial operations and in highlighting some of the critical financial questions that need attention."

TECHNIQUES CHALLENGED

Mr. Staats, who heads the General Accounting Office, says the proposal "certainly deserves further consideration by federal agencies."

He adds that he does not endorse the Andersen plan completely.

In applying an accrual system to federal finances, Mr. Staats says, he would prefer listing government-owned land at current value, rather than at original cost; would compute the long-range Social Security deficit as the government does now, showing a much lower deficit; and would question the propriety of depreciating government property, including weapons systems.

Arguments against techniques used by Andersen have been raised elsewhere in financial circles. Some commentators hold that government-owned gold should be carried at the market price, now more than $140 an ounce, rather than the official price of $42.22, as it would be carried under the Andersen plan.

Mr. Kapnick is not disturbed.

"I'm willing to agree with almost everything I've heard so far about current value," he says. "Land—put in on current value. In fact, I agree in principle that it should be. Raise the price of gold? I'll take that, too."

If shifting all property to current value wiped out as much as $100 billion of the deficit, Mr. Kapnick asks, "wouldn't we still be concerned that it was more than $700 billion?"

Dispute over how to value property, he adds, "shouldn't detract from the main issue here—sound financial control, accounting, and reporting."

The biggest dollar difference by far between official and Andersen figures involves long-term financial commitments for Social Security benefits.

ENORMOUS DOLLAR DIFFERENCE

Government officials estimate a $1.3 trillion shortfall between receipts and expenditures over the next 75 years. That approach counts contributions from those who will start paying into the fund in years to come.

The Andersen report's listing of a $416 billion accrued liability for Social Security is based on an alternate government estimate of a $2.5 trillion shortfall—a total reached by a calculation that includes only those now covered by the system. The government says this estimate is unrealistic, and it doesn't use it.

While the dollar difference is enormous, Mr. Kapnick says: "The totality of the thing is important, not whether you are talking about $1.3 trillion or $2.5 trillion. You have the same problem, of making up this deficit, and something has to be done.

"The issue is not whether you compute it one way or another, the issue is what are you going to do to bring it back under control.

"So long as that pension account remains out of control, there is nothing on this green earth you can do to get government back onto a sound financial basis."

ACTION, NOT WORDS

Summing up his case for a balance sheet type of fiscal accounting by government at all levels, Mr. Kapnick says:

"Unless you put the whole picture together, you are never going to find out what the true financial position of a government unit is. When you don't know what that true position is, you get a lot of political rhetoric about government financial responsibility. But we don't need rhetoric. We need responsibility."

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DELANEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11893) to increase the temporary debt limit until July 31, 1976, pursuant to House Resolution 1053, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CLANCY

Mr. CLANCY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. CLANCY. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CLANCY moves to recommit the bill H.R. 11893 to the Committee on Ways and Means.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 212, nays 189, not voting 31, as follows:

[Roll No. 69]

YEAS—212

Abzug
Adams
Addabbo
Anderson, Ill.
Annunzio
Ashley
AuCoin
Badillo
Baucus
Beard, R.I.
Bell
Bergland
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burton, Phillip
Carney
Cederberg
Chisholm
Clay
Cohen
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Daniels, N.J.
Danielson
Delaney
Derrick
Derwinski
Diggs
Dingell
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Foley
Ford, Mich.
Forsythe
Fraser
Giaimo
Gonzalez
Green
Gude
Hall
Hamilton
Hanley
Hannaford
Harrington
Hawkins
Hébert
Heinz
Helstoski
Hicks
Holtzman
Horton
Hungate
Jarman
Jeffords
Johnson, Calif.
Johnson, Pa.
Jordan
Keys
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Long, La.
Long, Md.
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Matsunaga
Meeds
Melcher
Meyner
Mezvinsky
Michel
Mikva
Mills
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Preyer
Price
Pritchard
Railsback
Rangel
Rees
Reuss
Rhodes
Richmond
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
St Germain
Scheuer
Schneebell
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Teague
Thompson
Thornton
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Waxman
Weaver
Whalen
Whitehurst
Wiggins
Wilson, Bob
Wilson, Tex.
Wirth
Wright
Wydler
Yates
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—189

Abdnor
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Baldus
Bauman
Beard, Tenn.
Bedell
Bennett
Bevill
Blanchard
Blouin
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burlison, Mo.
Burton, John
Butler
Byron
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Collins, Tex.
Conlan
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
Dellums
Dent
Devine
Dickinson
Dodd
Downey, N.Y.
Duncan, Tenn.
Edgar
Emery
English
Eshleman
Evans, Ind.
Fish
Fithian
Florio
Flowers
Flynt
Fountain
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hammerschmidt
Hansen
Harkin
Harris
Harsha
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hightower
Hillis
Holland
Holt
Howe
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lujan
McCollister
McDonald
Maguire
Mann
Martin
Mathis
Mazzoli
Milford
Miller, Calif.
Miller, Ohio
Minish
Moffett
Montgomery
Moore
Moorhead, Calif.
Mottl
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
Poage
Pressler
Quie
Quillen
Randall
Regula
Rinaldo
Roberts
Robinson
Rogers
Rose
Rousselot
Runnels
Ryan
Santini
Sarasin
Satterfield
Schroeder
Schulze
Sebelius
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Spellman
Spence
Staggers
Steelman
Steiger, Ariz.
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Traxler
Treen
Walsh
Wampler
White
Whitten
Wilson, C. H.
Winn
Wolff
Wylie
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—31

Andrews, N.C.
Aspin
Barrett
Carr
Carter
Clawson, Del
Conyers
de la Garza
Esch
Flood
Ford, Tenn.
Hinshaw
Howard
Jacobs
Jones, Ala.
Karth
Landrum
Lent
Metcalfe
Mink
Moakley
Mollohan
Nix
Patman, Tex.
Riegle
Sarbanes
Sikes
Stephens
Stuckey
Udall
Vander Jagt

The Clerk announced the following pairs:

On this vote:

Mr. Flood for, with Mr. Sikes against.
Mrs. Mink for, with Mr. Carr against.
Mr. Riegle for, with Mr. Landrum against.
Mr. Barrett for, with Mr. Stephens against.
Mr. Nix for, with Mr. Stuckey against.
Mr. Karth for, with Mr. de la Garza against.
Mr. Howard for, with Mr. Del Clawson against.

Until further notice:

Mr. Conyers with Mr. Andrews of North Carolina.
Mr. Aspin with Mr. Metcalfe.
Mr. Udall with Mr. Jones of Alabama.
Mr. Jacobs with Mr. Mollohan.
Mr. Patman with Mr. Ford of Tennessee.
Mr. Sarbanes with Mr. Carter.
Mr. Esch with Mr. Lent.

Mr. BREAUX and Mrs. SPELLMAN changed their votes from "yea" to "nay."

So the bill was passed.

The title was amended so as to read: "A bill to increase the temporary debt limit, and for other purposes.".

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 10230, NATIONAL SCIENCE AND TECHNOLOGY POLICY AND ORGANIZATION ACT OF 1975

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10230) to establish a science and technology policy for the United States, to provide for scientific and technological advice and assistance to the President, to provide a comprehensive survey of ways and means for improving the Federal effort in scientific research and information handling, and in the use thereof, to amend the National Science Foundation Act of 1950, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. TEAGUE, FUQUA, SYMINGTON, MCCORMACK, THORNTON, MOSHER, and ESCH.

VICTIMS OF CRIME COMPENSATION LEGISLATION

(Mr. HUNGATE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HUNGATE. Mr. Speaker, the Subcommittee on Criminal Justice has pending before it 12 bills dealing with crime victims compensation. We have to date held six hearings on this legislation, including field hearings in Newark, Chicago, and Los Angeles. Among those who have testified are: Representative PETER RODINO, Jr., chairman of the Committee on the Judiciary; Assistant Attorney General Richard M. Thornburgh; former LEAA Administrator Donald E. Santarelli, who testified on behalf of the American Bar Association; and Representatives of the States of Maryland, Illinois, New York, Minnesota, New Jersey, North Dakota, California, Washington, and Hawaii.

Our next hearing will be this Friday, February 27, at 10 a.m., room 2226 Rayburn House Office Building here in Washington. Persons interested in testifying at this hearing are requested to contact the subcommittee by phone—202-225-0406. Persons wishing to submit statements for inclusion in the record are asked to file their statements with the subcommittee by March 10, 1976, the date on which our record will close.

FAILURE OF CREDIT CARD COMPANIES AND AMERICAN TELEPHONE & TELEGRAPH TO PROTECT THE PRIVACY OF THEIR CUSTOMERS

The SPEAKER pro tempore (Mr. OBERSTAR). Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 60 minutes.

Mr. KOCH. Mr. Speaker, I serve as a member of the Privacy Protection Study Commission. The mandate of that Commission as provided for under the Privacy Act of 1974 (Public Law 93-579) which was signed into law on December 31, 1974, is to examine the private sector as well as State and local governments to ascertain what provisions of the Federal privacy law governing the collection of material by the U.S. Government and its agencies should be extended to those other sectors.

The Privacy Protection Study Commission recently held hearings on the practices of the credit card industry with respect to the protection of the information in their files concerning their customers. I am sure the public at large was astounded to learn that major credit card companies are providing information in their files concerning their customers to the Government and its various agencies, in some cases as the result of a telephone call, in others as the result of letters and still others, with greater appreciation for privacy, in response to a subpena.

But, even those companies requiring a subpena, advised the Commission that in most cases the information was provided without notifying the customer that the transfer was to be made or had been made.

Some of the companies testifying before us on this subject were American Telephone & Telegraph, American Express, American Airlines, and Atlantic Richfield and their practices appeared to be representative of the credit card industry as a whole. This is a matter of great importance to the American public, since there are now approximately 400 million credit cards in circulation, 280 million of which are active with the number growing year by year.

Therefore, I am proposing legislation which would require any Government agency seeking information to obtain a subpena requiring the production of that data; and that those companies in receipt in the subpena and in control of such data, advise their customers in advance of relinquishing the data so as to enable that customer to apply to a court to quash the subpena. The exception to that provision would be where the Government believes that to give advance notice of the subpena to the subject would impede an ongoing criminal investigation or adversely affect the national security of our country and where the Government has secured an order of the court directing the holder of the material not to provide advance notice or to delay notice until after the material has been handed over to the Government agency, or to provide no notice at all.

My proposal applies only to subpenas issued by the Government as I do not want to preempt the conclusions or recommendations of the Privacy Protection Study Commission when it issues its final report to the Congress. However, the Judiciary Committee is now considering limitations on the U.S. Government and its agencies in the issuance of subpena and therefore legislation requiring notification prior to the transfer of subpenaed material is appropriate at this time.

I would like to particularly mention at this time my distress with American Telephone & Telegraph. I will not repeat all of the information ascertained at the hearing which took place on February 12, 1976, when William Caming appeared on behalf of that company. However, it is important to note that while Mr. Caming was receptive to changes in the law, he took the position that American Telephone & Telegraph would not on its own volition initiate such a change but instead invited the Congress to resolve the question of requiring prior notice to the customers. This contrasts with the attitude of the American Express Co. which, after reviewing its procedures, advised me that it would revise its practice and in all cases would alert its customers that it was providing its records subject to a subpena, to the Government or its agencies, unless the Government secured a court order directing it not to do so. I want to commend American Express for having reevaluated its own procedures, found them wanting and voluntarily agreeing to change them.

Perhaps the difference in attitude between A.T. & T. and that of American Express results from the difference of their status in our economy. A.T. & T. is a monopoly with no competitors; on the other hand, the American Express Co. has a number of competitors and at least one competitor testified that it already requires the order of a court if the Government does not want it to alert its customer to the subpena of records. I want to commend American Express for its forthrightness and its change in procedures without waiting, as A.T. & T. insists on doing, for additional Government regulation. It is also interesting to note that companies that decry regulation occasionally use the lack of it as a defense, as A.T. & T. is doing, by saying that if the Government wants such procedures, then let the Government mandate them.

Because this information is of such enormous consequence to so many people, I thought it appropriate to set forth that part of the transcript of the hearing which relates in each of the four cases to the practices of the respective companies in surrendering their customers' information. The transcripts follow as well as the most recent correspondence with the New York Telephone Co., which is the local affiliate of A.T. & T., responding to my letter of February 12 on this subject.

This morning I appeared before the

Courts, Civil Liberties, and the Administration of Justice Subcommittee of the Judiciary Committee at the request of Chairman Robert W. Kastenmeier and provided that subcommittee now marking up legislation dealing with this subject with the testimony to which I referred above, as well as my other comments on the subject matter. I want to commend the members of that subcommittee for their leadership in protecting the privacy of American citizens in this and other areas. I provided the subcommittee with my legislative proposals to increase the protection of the American citizens using credit cards and I hope that those proposals will be included in the final bill voted on by that subcommittee and ultimately reported to the floor.

The material follows:

Questions and Answers Between Hon. Edward I. Koch and William Caming of American Telephone & Telegraph, Privacy Protection Study Commission, Public Hearings, February 12, 1976

Congressman Koch. Yes. Mr. Caming, let me just try in my own mind to summarize not your whole testimony, but the question of when you gave records and when you did not.

As I understand it, prior to '74, and the change in your practice, you would provide records in the cases of subpoenas and summonses, plus some other authority and you outlined the various other authorities that would come into that category. But there was no notice to the telephone subscriber. Then subsequent to '74, you changed that so that you would now do it only under a valid subpoena or summons, but then you had some exclusions from that rule and you would notify.

But the notification would not take place if you were advised that it would impede and obstruct the official investigation and you had another little exclusion, which provided that if the FBI Director, and you had some safeguards with respect to him, without subpoena, if he wanted records and if it related basically to what he deemed to be national security considerations, then you again would provide it without subpoena and no notification. Is that a fair summary of that particular statement?

William Caming. Yes. The only point that I might add, is that I have mentioned, that the certification had to be of a suspected felony in an ongoing investigation and in the interests of law enforcement. For instance, in Congress or the like official investigation.

Congressman Koch. Now, do you think that it serves your customer to simply rely on a statement by an agency, whether it be Congress or the President or anyone else, that the investigation would be impeded or obstructed if you gave notice rather than to require that agency or authority to get a court order, so that a judge would make that decision and not the agency seeking the information because as a result of your relying without any kind of other inquiry on that statement, you would not notify your customer.

Do you think that's a reasonable approach?

William Caming. I might state that the provision for non-notification, that is the disclosure, is for a 90-day period subject to a new certification in each instance. At the conclusion of that time, with the exception of national security, if the customer so requests or has requested, we do notify the customer even in those cases.

Congressman Koch. Let me get that straight. How does the customer know to make the request?

William Caming. The customer would not in a specific case. But if a request has been made or is made in the future at any time, of such disclosure——

Congressman Koch. Let me get it straight. If a customer of the telephone company now wants to know whether his records were ever provided and he or she were not notified, the best thing for them to do would be to write to you at this time and then you will provide them with all the prior information. Is that your statement?

William Caming. I would say that if there is a specific request and we still have those records, we do respond and when you say——

Congressman Koch. Just let me get this straight. Are you telling us that you don't keep for an extended period of time a record which indicates that you have turned over the records of your customer without notifying that customer and if you would, tell us how long a time your rules and regulations require you to keep that material?

William Caming. That was the problem that we wrestled with in establishing the guidelines. You recognize that there has to be some balancing of the interests in the question of retention and the question arose as to what in as far as we could evaluate, would be a fair period of retention.

Now in the instance of the normal records, the normal toll billing records that are requested by anyone, whether it be a law enforcement agency, a Congressional committee or civilly, and civilly we do notify them in all cases, but we still retain all records whether or not there has been notification for a minimum period of six years.

So that's why my exception was, when you said all, I had, I did not want to mislead you that we could go back 25 years or 35 years, but we thought six years was a reasonable period.

Secondly, if a request is made to notify in futuro at such time as we can probably notify under existing policies, we also will subsequently notify the customer whenever such a situation may arise——

Congressman Koch. Now, wait a minute. Let me—because I want to get as much information as we can within the relatively brief time that I can engage in this dialogue with you.

Are you telling us that if a customer writes to you now and says please advise how many times and under what circumstances you provided information concerning me, without notifying me, you will do that? Am I correct? You know they can hear you whether you put your hand over the microphone or not.

William Caming. The answer to that is yes.

Congressman Koch. And if in that same letter, they say to you, and if in the future anybody wants to get records concerning me, that, notwithstanding your prior rules, that you're going to turn it over because an agency says it impedes and obstructs, you didn't keep it confidential. Nevertheless, you will notify the customer. Is that what you are also saying?

William Caming. No.

Congressman Koch. I thought you said that. Now let me——

William Caming. May I please explain?

Congressman Koch. Sure.

William Caming. That is when I said no, I said no to your particular statement and I would just like to clarify it. The certificate of non-disclosure has only validity in each instance for only 90 days.

Whenever, and it is subject to renewal but it requires in each case a separate new certificate. Now, when that period expires, we will then notify the customer——

Congressman Koch. I understand.

William Caming. But not during the period of certification.

Congressman Koch. I understand. Look, what is the objection on your part of requiring an agency of government that seeks to get this information in a confidential way and I am not for a moment stating that there wouldn't be situations where that would apply, what is your objection to having them secure a court order? Since you're not going to turn it over unless they have a subpoena or summons in most instances, what is your objection to having that subpoena or summons be one that is issued by a judge?

William Caming. I just wanted to be sure that you were through with your question.

Congressman Koch. And that notification or lack of notification in this case would have to be directed by the judge otherwise your normal procedures of notification would apply.

William Caming. We have made no statement I believe, Mr. Koch, one way or another on that and I have——

Congressman Koch. But I am asking what is your objection to it?

William Caming. I have been very careful to make no such statement first, principally, as you can recognize a stakeholder in this situation.

Congressman Koch. You're more than that. You're a fiduciary. In my judgment, when you have information that concerns me and that has been placed with you under the same arrangements placed by the American Express Co. and other institutions, there is a kind of a fiduciary relationship. In my judgment. It may not be a legal one but it's a moral one and what I am asking you is, if you'll permit me, since you've told us that you constantly want to update and make your procedures better, why is it that you would not require any government agency that says that, in the interests of not impeding and not obstructing justice, we want to keep the matter confidential and not provide notice to your customer, that you require them to establish that to the satisfaction of a judge. What's worng with that?

Do you know that when you get a warrant you go to a court? What's wrong with your applying that same kind of procedure?

William Caming. If I may respond?

Congressman Koch. Please.

William Caming. First, I have not said that there is anything wrong with that. Secondly, our dedication to our customers transcend even a fiduciary relationship.

Congressman Koch. You have more than a fiduciary relationship.

William Caming. But our own policy considerations that we maintain as sedulous consideration of the privacy of our customers as circumstances permit. Thirdly, as I mentioned in my statement, we have gone on our own beyond the pale, if I may finish please. We have gone beyond the pale of the law in limiting it on our own to summons or subpoena and other demands of lawful authority are no longer accepted.

Which has caused a great deal of distress in many circles, including law enforcement. I am not here——

Congressman Koch. What——

William Caming. If I may continue. I want to make it crystal clear that the Bell System fully recognizes that there are countervailing delicately balanced questions on both sides—individual rights, which has its proponents and considerations of societal nature, which is investigation.

Now, it is our belief that it is for the Congress and the State——

Congressman Koch. You have already told us——

William Caming. To determine——

Congressman Koch. You have already told us that you have upgraded the requirements without legislation. Isn't that correct?

William Caming. Correct.

Congressman Koch. And you don't therefore feel bound to provide the minimum protections to your clients. You want to provide the maximum protection.

William Caming. Yes, sir.

Congressman Koch. Subject to reasonable balances. Is that a fact?

William Caming. Within the frame of what we are discussing.

Congressman Koch. Well, you haven't addressed yourself to state what would be wrong in requiring that any no-notification be directed by a judge. What would be wrong in your requiring that of a governmental agency? Who could criticize you for that?

William Caming. A great many could criticize us.

Congressman Koch. Who? Tell me who.

William Caming. I might say though that our decision was not made upon that basis, and therefore, I would not wish to mislead you that that had any particular point as to just criticism. The point is that we recognize that there are more than one type of consideration and——

Congressman Koch. Really, Mr. Caming, you are not answering my question.

William Caming. Well, I am trying to——

Congressman Koch. And I will tell you why I don't think you are, and I want to get an answer without in any way prejudicing your position. You have not given me a reason why the telephone company does not want to now require government agencies who direct, I shouldn't say direct because they have no right to this information as such, in my judgment, without, if you object and ask them to get a court order, you could refuse it.

You could say you want a court order to not divulge that to your customer. What I am asking you is what is your objection to taking that position? You haven't given me a reason for objecting.

William Caming. All right. First of all, when you say we are doing this just willy-nilly, we only respond to administrative summonses or subpoenas of a judicial or grand jury or congressional nature which are enforceable in a court of law.

Congressman Koch. But, no. Hold on. I want to get to the heart of the issue and not extend it to peripheral matters. You know that you can get a subpoena simply by submitting it to the clerk of the court, don't you? There's no—judges do not go into the matter of a subpoena except on those occasions when notice is required.

So that a subpoena is simply granted or in many cases, the court allows the attorney himself to issue the subpoena. You're aware of that, aren't you?

William Caming. Yes, I am.

Congressman Koch. And therefore, where there has been in most of these cases, no judicial determination as to whether or not that subpoena was legitimately issued for a legitimate purpose.

I should say in most cases when that is tested it is on notice, when you can come in you say, why are you granting this subpoena? Isn't that a fact, what I just said to you now?

William Caming. First, I don't think I can answer that yes or no. First, if it is a civil subpoena then we do not permit a certification and secondly, that would mean that there is automatic notification.

With respect to grand jury subpoenas or judicial subpoenas, certainly a judicial subpoenae by definition is issued by the court. A grand jury subpoena is usually issued at the instance of the grand jury of the prosecutor. It is subject to enforcement by a court and it was in that sense that I meant——

Congressman Koch. Mr. Caming, if you take the judicial subpoenaes. If you place the government agencies on notice that henceforth any judicial subpoenaes served on you requiring the production of records that you will immediately advise your customer unless the judge simultaneously with the issuance of that subpoena, directs you not to, what is wrong with your taking that position? Whose rights have you violated?

William Caming. It may be the rights of society.

Congressman Koch. Hold on. Wait a minute. Wait a minute. Just a minute. The rights of society.

William Caming. I haven't finished——

Congressman Koch. But I want to——

Mr. Caming, when you say the rights of society, has society rights been violated if you require that a judge decide whether or not society, in the sense that we are talking about, shall have secret entree into the records of someone who you've already said, you regard as having a relationship with you higher than that of a fiduciary relationship?

How are society rights affected adversely?

William Caming. When I said higher than a fiduciary relationship of course, I was speaking in the general sense, not the legal sense.

Secondly, I am talking about a fact that you really must address yourself to, not the Bell System or the telephone industry. There are other considerations in many cases, it is quite clear during the investigatory stage with toll records apparently, from all I know, and I have read and have heard, are an important investigative tool in felony cases.

Congressman Koch. Of course.

William Caming. There is no way that they can obtain a court order.

Congressman Koch. Why is that?

William Caming. I think, Mr. Koch, that you are addressing these questions to the wrong——

Congressman Koch. You have just said that there is no way they can get a court order and, at the same time, you have told us, that you require a judicial summons. All that I am suggesting to you is, didn't you tell us——

William Caming. No, I said a summons had to be enforceable in a court of law.

Congressman Koch. Didn't you also say that——

William Caming. A court order would be recognized. A judicial subpoena would be——

Congressman Koch. Or a grand jury.

William Caming. Or a grand jury.

Congressman Koch. Let me ask you this additional question, cause it's clear to me that you are not willing, other than to say that there is some general societal benefit that comes from not asking a judge to rule upon this private matter. I mean, that's what you told me.

William Caming. No; that is not what——

May I finish? We keep going around and——

Congressman Koch. I know. I would like to get an answer.

William Caming. I would like to state our position clearly. I will repeat it then, because I think it is important and it is difficult for you, perhaps, to conceive.

We recognize that there are considerations of great importance to our customers. There are also considerations of great importance to our customers in a proper investigation of crime. Now, we believe, I respectfully state, that we have put into effect, under the present state of the law, requirements that represent a successful balancing of these countervailing considerations.

However, we respectfully also submit that it is for you and the Congress as a whole to make the determination on which side the balance should be made and we should not. Because we recognize that to some extent this balancing may or may not be the proper one.

Congressman Koch. And yet you decided that your rules prior to 1974 were deficient and not withstanding the fact that the Congress didn't require you to upgrade those rules you did it voluntarily because you thought it was the decent thing to do. Is that a fact?

William Caming. No.

Congressman Koch. Why did you do it?

William Caming. I would not say because it's the decent thing to do.

Congressman Koch. What was it?

William Caming. I would say that it was because we felt that we could go that much further in the delicate balancing without completely usurping a role which was properly the one that the Congress and the State Legislatures——

Congressman Koch. Let me ask you just a brief——

William Caming. Surely. And you may recall, or may not, that at the time we introduced that policy and since then, there has been a very substantial amount of criticism of that policy from law enforcement and other governmental circles.

Congressman Koch. There has also been great criticism on the part of the constituency vis-a-vis the government and how it's engaged in actions that people are uncomfortable——

William Caming. We ask and invite the Congress to resolve this question and we feel competent and confident that they will do so.

Congressman Koch. Let me just ask this other question? How many orders and subpoenas were served upon the company within the last three years in which you did not provide notice to the customer?

William Caming. I think you mean the last two years since our new policy——

Congressman Koch. I'm sorry. The last two years.

William Caming. I would say, I can give you a ball park figure. I don't have any figures on me. I would say the great bulk, perhaps, 75 to 80% were of the type understandably because of the type of representation, that is they were ongoing——

Congressman Koch. I don't care for what reason. I just want to know. How many customers had their accounts turned over to the government and did not receive notice at the time that was being done?

William Caming. I would say the large bulk of the subpoenaes that we received contained a certification of non-disclosure.

Congressman Koch. What's the number of that?

William Caming. I would estimate it in the order of between 75 and 80% of all the subpoenaes——

Congressman Koch. No, no. What's the total number of subpoenaes and other judicial process' served upon you, which had this no disclosure provision?

William Caming. I do not have this information at this time. We would have to make a survey.

Congressman Koch. Would you provide that for us?

William Caming. All right. We would be very pleased to provide it. We'll have to survey the company.

Congressman Koch. You'd have to survey the what?

William Caming. We'd have to survey all our companies.

Congressman Koch. Will you do that? It's very important. Let me ask you this. How many——

William Caming. This is for the period March 1, 1974 to date.

Congressman Koch. Yes, sir. And it is your estimate at this point that somewhere in the neighborhood of 80–85%, whatever the total number was, you provided without disclosure to the customer.

William Caming. At the time in question——

Congressman Koch. Yes.

William Caming. Although if inquiry was made by anyone at any time at the end of the disclosure, we do disclose.

Congressman Koch. Now, two things. One, will you also provide us with how many people made the inquiries so that we'll have an idea as to how many people ultimately at the end of the 90-day, is it 90 days?

William Caming. 90 days, subject to renewal.

Congressman Koch. Yes, 90-day period. How many people may be——

William Caming. I can tell you this offhand. Again in ballpark figures.

Congressman KOCH. Sure.

WILLIAM CAMING. An extremely, surprisingly minute——

Congressman KOCH. Why is it so surprising? I mean, how did they know to even ask?

WILLIAM CAMING. Oh, our policies have been well publicized——

Congressman KOCH. You put it on the bills you say?

WILLIAM CAMING. No we haven't put it on bills.

Congressman KOCH. Do you think that might be a good idea?

WILLIAM CAMING. But there was a great deal of publicity.

Congressman KOCH. Well, will you give us that figure? It's a very important figure. How many people? Now, let me ask just in conclusion, with respect to the Director of the FBI, you have indicated that there you furnish the material without the need of a subpoena, subject to his making certain allegations concerning national security considerations. Isn't that right?

WILLIAM CAMING. That is correct and along the lines, the letter is a standard letter——

Congressman KOCH. I understand that. Normally called "boilerplate". I suspect that he signs any one of those without thinking.

WILLIAM CAMING. I think you would have to ask the Director that question.

Congressman KOCH. Well, did you ever get one from him in which he said it was okay to notify?

WILLIAM CAMING. No. I mean, whether he signs it——

Congressman KOCH. Do you ever expect to get one from the FBI in which they say it's okay. You just tell the customer it's okay.

WILLIAM CAMING. I would think that if it was, levity aside and I know this a subject, unfortunately, of great levity. There are times——

Congressman KOCH. No, no, it's not levity. What I am saying is, it is inconceivable to expect that any governmental agency is not going to take advantage of your statement to them, you tell us, fellows, that it will impede justice or you tell us, fellows, that it is a national security consideration that's involved, that they wouldn't automatically use that form, so as to negate the need for you to notify your customer.

WILLIAM CAMING. I meant the statement to stand that if it was a matter involving the national security, along the serious lines alleged by a high-ranking official of the government——

Congressman KOCH. How about having a low-ranking judge make a decision as to whether that high-ranking official made a correct determination?

WILLIAM CAMING. I think that is for, as I mentioned earlier, for the Congress to determine.

Congressman KOCH. Okay.

WILLIAM CAMING. And if that is their determination, we shall be pleased to go——

Congressman KOCH. I would hope that the telephone company which has had, I must say, an improvement in service, I want to tell you that. The service is getting better, would also improve these regulations.

But just in conclusion, you provide us with the number of directions to you by the FBI to provide them with this information. How many cases, how many customers have had their records turned over to the FBI in the last year that you have had your regulations in effect? Do you have a ballpark figure on that at this time?

WILLIAM CAMING. No, I do not. We don't have any centralized record keeping and these, you're talking with reference to national security?

Congressman KOCH. Every case, where the FBI director pursuant to the description that you gave us made a request of you that you turn over certain records and that you not notify the customer and you have already told us I think that you didn't get one request by the FBI Director where he said it was okay to notify the customer. Didn't you tell us that?

WILLIAM CAMING. That is correct.

Congressman KOCH. Okay. I want the numbers.

WILLIAM CAMING. Yes, in fact, I believe the letter corresponds in every case because we designed the letter to ensure that the certification of the courts——

Congressman KOCH. I can't help it. To respond that you designed the letter, you surely did design the letter. I mean, not with any evil intent, you designed a letter, which makes it absolutely incredible to believe that you would ever get a request by the FBI Director to turn over records and at the same time, notify the customer.

All I'm saying to you, in all of these cases, I just want to sum up my whole position, which is very brief. I recognize national security considerations. There is no question about it. They apply. I also believe that in some ongoing criminal prosecutions, many of them, there is a need for confidentiality.

I also believe that that is a determination to be made by a court and if a law enforcement agency, a government agency, an FBI Director decides he wants certain material from the telephone company and wants no notice to be given to the customer, that a judge should make an initial decision as to whether or not they have made out a case.

In the same way, that same agency has to apply for a search warrant. You know that the FBI can't break into your apartment without getting a judge's order allowing that, don't you? You know that, don't you?

WILLIAM CAMING. I have no quarrel with your position.

Congressman KOCH. Well, why don't you lead instead of following?

WILLIAM CAMING. If I may suggest though, that if the Congress supports your position, we would be very pleased. It is questionable what is the sense of the Congress, not the sense of Congressman——

Congressman KOCH. Yet you have already told us that you did not wait for the Congress——

Let me say, as a member of Congress, I must tell you, that they are not always in the vanguard and sometimes good citizens take the lead.

WILLIAM CAMING. Well, we thought we had taken the lead by going far beyond the requirements of the law as Congress——

Congressman KOCH. I don't think you went very far at all.

WILLIAM CAMING. Congress has enacted the law and we have gone, we think, quite far beyond it. There is no requirement under the law for notification, there is no requirement of not recognizing other demands of lawful authorities, there is no requirement for a subpoena or summons. All I'm saying is, we have, in our humble way, attempted to do so.

Congressman KOCH. And I am just suggesting that you do more than you have done and you've established the principal that you don't have to wait for a Congress that isn't doing enough.

WILLIAM CAMING. But what we say is we do not say that the decision should rest as perhaps some might wish it, on one side of the fence or the other. We say this is for the Congress to determine what is the proper course and it is not necessarily the one proscribed by court order.

I'm not saying it isn't. I'm just saying I have not seen the Congress act upon that.

Congressman KOCH. You're not doing a defense of Congress for me, because I don't think they are doing a good job. But what I am suggesting to you is that you have already told us that the telephone company takes great pride——

WILLIAM CAMING. We do.

Congressman KOCH. In having upgraded its regulations without the requirement of law. What I am suggesting is that you upgrade them still further.

WILLIAM CAMING. Yes, but I want to point out without belaboring the point that there are other considerations——

Congressman KOCH. You haven't given me those considerations.

WILLIAM CAMING. Well, I think that this is a question that you and I know you have before you and I am sure you will pursue otherwise legislation now pending to introduce for example, two years ago by Senator Nelson on the question of court orders for certain types or records, such as toll billing records.

Now I am sure during that period you will hear carefully both sides of the question and then make your decision and all I am saying is, that we respectfully think that it is a very close question, just as court ordered wiretapping was one in which the Bell System appearing in 1966 and 1967 recognized societal and individual countervailing considerations, took no position and allowed the Congress to make up its mind as to whether or not there should be wiretapping under court order.

And recognizing a national security consideration 25113 of 18 United States Code, we merely state in this case too, we respectfully defer to your opinion because it is so close a question, we do not think that the Bell System should usurp the position of the Congress in this area.

Congressman KOCH. You've already told us you have in one case, so——

WILLIAM CAMING. We have not——

Congressman KOCH. But I don't want to get into that. We have covered that. Just in conclusion and this time, really in conclusion, to whom should your customers write if they want the limited information that you are presently willing to give them. Would you tell us to whom they should write, because I would hope that many of them would write to ascertain whether or not their accounts have been furnished to anyone without their information. To whom should they write for that information and what should the form be, what form should the "boilerplate" letter they send you take?

WILLIAM CAMING. Well, first of all, there is no boiler plate letter. And secondly it would be to, write to their, I guess to their local business office and make inquiry whether their records, their toll billing records have ever been subpoenaed or otherwise disclosed and that will be taken care of in due course.

Congressman KOCH. There's a second paragraph they have to have. You told us that if they wanted to——

WILLIAM CAMING. And if, secondly, they wish to be informed in the future of any such events, we certainly will take that into account too and insure that it is done.

Congressman KOCH. My letter, sir, will be sent out this afternoon. Thank you Mr. Chairman.

Chairman LINOWES. Thank you Congressman.

QUESTIONS AND ANSWERS BETWEEN HON. EDWARD I. KOCH AND MEMBERS OF AMERICAN EXPRESS CO., PRIVACY PROTECTION STUDY COMMISSION PUBLIC HEARINGS, FEBRUARY 11, 1976

Hon. EDWARD I. KOCH. I noticed in your testimony that you were very forthright in stating that you had taken certain protective practices to safeguard the privacy of the information, such as on page 4, that you make sure that the transaction information pertaining to card members is not made available to the public and within the company, it is available only to authorized personnel, etc. That's, of course, on page 4.

Then you go on to say, "We have a number of safeguards built into the computer system which would prevent unauthorized access from persons within or outside the company who do not have a need to obtain the stored information", and then in response to Mr. Ware's questions, you pointed out some other safeguards about noting on the file when someone actually goes in and then keeping the tapes under lock and key.

I am really pleased about that. I happen to be one of your accounts, but the reason I ask the question is this:

Ought there not be some standard code that governs the industry? I don't want you to pass judgment on your competitors, but wouldn't we all be somewhat safer if there was a standard minimum code that all have to respond to?

Mr. Stetler. Well, I sort of think that's possible. I don't know how you arrive at such a code, something that would be workable, for everybody.

Hon. Edward I. Koch. I'll tell you how. Under the Federal Privacy Law, which was enacted last year, agencies are required to set forth in the Federal Register the nature of their security system. We didn't impose the security system on them, but said that they had to make available in a general way the nature of that security system, so my basic question which harks back to what I asked the prior witnesses is the following:

Is there need now for a voluntary standard that the industry would live up to? B, is there need for a legislative standard in this area of safeguarding the information?

Mr. Stetler. I'm not sure that the need has been shown as yet. I think individually, we have determined that this is the proper way to run our business and I think we would do no less. We might find that there may be some aspects of our program, our system, that are proprietary, that we would not wish to share with others, the way that it operates, for example, and there may be some—it might be a burden to do more, depending on what the ultimate standard was.

I would say that we are probably open-minded about it and be willing—we understand that——

Hon. Edward I. Koch. You're not rejecting out of hand either the voluntary code that all members of the industry might subscribe to or a possible legislative code in that area. You're not rejecting that out of hand.

Mr. Stetler. We are not rejecting it. We don't believe that it's required. We would certainly like to see plenty of evidence that would indicate that both or either were essential to——

Hon. Edward I. Koch. Sure, very reasonable approach. Then let me ask you one final question and that is just:

In your description of making available information, you make a great point of the fact that it's your practice to require a subpoena, and I'm quoting, "Or other proper judicial or administrative authorization." What administrative authorization are you talking about?

Mr. Beller. Well, I was thinking of perhaps an order from a court which is not in the form of a subpoena but in connection with some matter that is within the court's jurisdiction, or when the IRS serves us with papers, I'm not sure if the paper they serve us with is officially called a subpoena. There are certain——

Hon. Edward I. Koch. Let me get into that, if I may. There had been the practice of the IRS securing information from banks without notice to the bank depositor. Has the IRS secured information from you without your notifying your account, and did you provide such information without notification to the account?

Mr. Beller. We don't have a practice of notifying the individual when we get an IRS subpoena. I'm not sure whether rules which permit the IRS to requite us to produce documents also require the IRS to notify the citizen.

Hon Edward I. Koch. You have no compunction about delivering information on one of your accounts to a third party, in this case, the governmental agency, without advising the account you've done that?

Mr. Beller. Well, for the most part, when the information is required to be elicited from us, pursuant to either a law or an order of the court, I guess our company has taken the position that if the protection of the citizen required disclosure, then either the court would so order so that the consumer is aware of it or that the original regulation that permits the IRS to obtain this information from us would also require the IRS to notify the citizen.

Hon. Edward I. Koch. As an attorney, you know that there is no requirement, particularly when you have already told us that an attorney in the State of New York can issue his own subpoena. Isn't that what you told us?

Mr. Beller. Yes, but I have heard——

Hon. Edward I. Koch. That's not on notice.

Mr. Beller. No, but there have been a number of instances where persons whose records were subpoenaed did become aware of that.

Hon. Edward I. Koch. Tell me how that would occur if you didn't tell them?

Mr. Beller. I don't know. I can tell you that we did get a call from people, we have received calls from people——

Hon. Edward I. Koch. Yes, when they were called up by the IRS probably.

Mr. Beller. No, no. We have given them a copy of the records——

Hon. Edward I. Koch. Let me ask you this. This is to pursue it, not to hound you, but it's to pursue this a little bit.

Why shouldn't you and why wouldn't you change your regulation so as to provide notice in two respects—one, to provide notice in advance of turning over any such information so as to give your account an opportunity to seek to quash such a judicial subpoena? Once you've turned it over, there's nothing that person can do.

What would be wrong in your requiring—in your providing that in advance of turning that information over, you advise your account. Don't you think you have that fiduciary relationship to that account?

Mr. Beller. No, we don't. We don't think we have that fiduciary relationship. We do think——

Hon. Edward I. Koch. Would it be a nice thing to do?

Mr. Beller. If my records were being subpoenaed, I would assume that I would like to know about it. I think it's something that certainly can be remedied, but whether the remedy is with the credit card company or with the rules that permit these subpoenas to be served and the information to be obtained.

Hon. Edward I. Koch. Well, how about a federal requirement that in advance of your turning over that information that you put your account on notice? Would you object to that if we legislated that?

Mr. Beller. If that was the law, we would comply with it.

Hon. Edward I. Koch. I know you would comply with it——

Mr. Beller. I am convinced of it.

Hon. Edward I. Koch. Would you object to that kind of requirement?

Mr. Beller. Frankly, yes. As an attorney, I can see us getting involved in motions to quash on a regular basis, which would be just another cost of our operations. I am sure we could live with it, but I can assure you that those notification requirements would end up in many challenges to those subpoenas.

Hon. Edward I. Koch. Just one final question.

As of this moment, your position is that you are not and don't intend to notify your customers if their accounts are for any reason subpoenaed and information demanded of you by any governmental agency. You're just going to turn it over without advising them and that's what you've done to date. Is that a fair statement of fact?

Mr. Beller. It doesn't sound so nice the way you characterize it. The fact is we are complying with a lawful order of a court and——

Hon. Edward I. Koch. There is nothing in that order that prohibited you from providing the information to your account.

Mr. Beller. That is true.

Hon. Edward I. Koch. So did I state it correctly?

Mr. Beller. Well, there have been instances, I can tell you this from my own personal experience, where the order was signed—where the investigations that were being undertaken were being undertaken in secret by the Justice Department, involved in major investigations of organized crime.

Hon. Edward I. Koch. I know, but is that your prerogative, to decide whether it is secret or not? I mean, are you the one who will decide whether your account, in the sense of the customer, is going to be handled in a secret way? Don't you think you ought to advise him? After all, he's depending on you to protect his interests.

Mr. Beller. Well, that's why we have left it up to the Congressional—to the legislators who have passed these laws that give the authority for government agencies to require this information. If they had so chosen at the time, they could have required a notice requirement.

Hon. Edward I. Koch. Just to conclude, do I understand at this moment that you are not going to advise your customers if their accounts are subject to subpoena or if you are under any administrative authorization turning over information which relates to them to a governmental agency? Can you answer that?

Mr. Beller. Well, it hasn't been our practice in the past.

Hon. Edward I. Koch. And you don't intend to change it.

Mr. Beller. I'm not going to change our company's policies sitting here talking——

Hon Edward I. Koch. Would you consider changing it?

Mr. Beller. I certainly will discuss it with our management.

Hon. Edward I. Koch. Thank you.

QUESTIONS AND ANSWERS OF MAX D. HOPPER, AMERICAN AIRLINES, BY CONGRESSMAN EDWARD KOCH, PRIVACY PROTECTION STUDY COMMISSION, FEBRUARY 13, 1976

Congressman Koch. Mr. Hopper, were you here for the last two days or were you——

Mr. Hopper. I attended the afternoon session the day before yesterday.

Congressman Koch. I mention that because I have been pressing one particular area which relates to advising a customer of any inquiries concerning his account and in reading your statement and listening to you, I know you are aware of the problem and it becomes a question of pragmatics.

How can I handle a reservation system and provide the security that might be provided in other areas but you might feel would hinder your reservation operation so as to be impractical. That's really what you were saying.

Mr. Hopper. Yes.

Congressman Koch. But, let me ask you firstly in the area of subpoenas, cause you mentioned subpoenas. Occasionally, you have to provide some information on subpoena. What's your practice when you provide information under a subpoena? Do you advise the customer that the material has been subpoenaed?

Mr. Hopper. No, we do not.

Congressman Koch. Don't you think you should?

Mr. Hopper. Well, we discussed that and I guess our feeling is that if the subpoena process were to require it, we would be most happy to do so.

Congressman Koch. Well, don't you think you have an obligation to your customer? After all, the person who subpoenas it is not your customer and you have some information that was provided to you by your customer. Why don't you think that you ought, at the very least, simply advise them? Not get his permission to respond to the subpoena, you know, I don't mean that. But simply advise that customer that you've turned over information concerning him pursuant to a subpoena. What's the problem in doing that?

Mr. Hopper. Well, I don't know that there is any major problem. I think there are two points here. One, we aren't sure that we got the information directly from the customer.

Congressman Koch. Let's assume you did not. Let's assume it's about a customer. You didn't get it from a customer, but it's about a customer. What's the problem in simply informing him that his account is under the scrutiny, generally of a governmental agency? What is the problem in simply advising him of that?

Mr. Hopper. Well, I don't know that there is any major problem in it, as I commented. We have just never faced this situation. I would also comment though that the subpoenas that we get are not normally from governmental agencies as much as they are from private sector involving a divorce case, or something like that.

Congressman Koch. Well, let me ask you that. Maybe that's even more serious to an individual. If it's a divorce case certainly. Don't you think that if you're under subpoena by one side in a civil action brought by a civil complainant other than the government, that you have some kind of duty to advise your customer that you've turned over records concerning that customer. I mean, philosophically, don't you think that there is an obligation on your part?

Mr. Hopper. Like I say, it's something, as far as I know, we've just never faced. The question——

Congressman Koch. What I'm asking for now is your opinion on whether you don't think that there is an obligation on your part, moral or otherwise, to advise your customer that you've turned over information concerning that customer to another private individual.

A Voice. May I respond in part to that question?

Congressman Koch. Sure.

A Voice. Given the nature of the information that we have, and it differs from what Mr. Hopper has testified. It differs substantially from the credit that is maintained by credit agencies. We have a fairly limited amount of information and it is retained for a very limited period of time. The information itself is not by any means accurate. We have never indicated that this information is accurate.

Given the fact further that the subpoena process does not require divulging to that individual that information has been subpoenaed. To date, we have not. I might not in the future be appropriate that we inform the passenger, but to date, because we are not even assured that the passenger flying is the passenger that the information is being sought and have no way of really, of contacting that individual we have not——

Congressman Koch. It's accurate, isn't it? I mean when you have a reservation, don't you have some identifying material. For example, I fly American about 60 percent of the time when I go to Washington and back. They generally ask me for a telephone number when I make the reservation. Isn't that an identifying——

A Voice. Well, we ask for a telephone number and I think we ask for an address, but there's no assurance that we have that that is the person's——

Congressman Koch. Well, sure, no one is suggesting that you have to guarantee that when you correspond with your customer that in fact you're going to be getting in touch with him, if he or she gave you erroneous information. That's not my question. My question is, that, let's take a divorce case.

A customer flies your plane, the spouse seeking information of a liaison or a situation involving finances on the part of that spouse, gets information from you, which, in great part, was given to you by the customer, because it was the customer who told you where he or she wanted to fly.

It may even be that the customer told you, I don't know whether American makes the hotel reservations or not. Whether they do other things for a customer. Do they?

A Voice. We will, on request.

Congressman Koch. You will.

A Voice. If we have it.

Congressman Koch. Okay. So the spouse then knows the hotel that the customer has gone to and who that customer registered with, perhaps. I mean a host of information would be available, for example, as a result of your having given them the hotel.

Don't you think there's an obligation on your part to advise the customer that you have given the information? I just want to make this question once again and ask whether you think there is an obligation of any kind, moral or otherwise. I know you haven't done it and I know you're thinking about it, but don't you think at this moment, you, personally, that there is such an obligation?

Would it be good business procedure?

Mr. Hopper. I don't know that it would not be. All I can say is it's just a question that we have not——

Congressman Koch. If I have a choice between flying with a plane that does it and one that does not, would I take the plane that provides me with the information.

Mr. Hopper. Probably.

Congressman Koch. Okay. You think that I should take Eastern, if Eastern is doing that?

Let me ask you a second question. By the way, I don't know that Eastern is.

Mr. Hopper. I don't either [Laughter].

Congressman Koch. But I hope it's getting the message [Laughter].

Mr. Hopper. I'm sure it is.

Congressman Koch. You turn over some of this information not under subpoena on the ground that it's just helpful information and I'm not going to suggest that there isn't information that you oughtn't be turning over simply by virtue of a telephone call from a member of a family, your law enforcement seeking to ascertain the whereabouts for a host of innocent purposes as well in pursuit of a criminal investigation.

I'm not suggesting that it shouldn't be done under safeguards, but I can understand that you have that immediate problem. Don't you think that there might be appropriate guidelines set by the industry or by government as to the kind of inquiry that you can respond to without subpoena? Or do you think it should be just left to you?

Mr. Hopper. Well, I think we have some very stringent guidelines internally. Whether or not they're viewed by the public as acceptable, it has to be their choice.

Congressman Koch. Well, let's take one of the references that you mentioned and I only select it, because you said many of these cases don't involve the government at all. They involve private individuals.

A wife calls up and wants to know whether the husband is on a certain flight. Maybe he told her he was going to be on the flight or not. She's checking on him, or the other way. You get the telephone call. Should you be divulging that information? Isn't that a matter that you ought to think about?

Mr. Hopper. We do think about it and that's the reason I——

Congressman Koch. Okay, someone calls up and says that she's the wife of the husband. You don't really know that she is or is not, do you?

Mr. Hopper. That's true and that's why I indicated that such a call is referred to one of our supervisory personnel, who has had a lot of experience in handling these types of calls and usually is certain to know in one degree or another whether the call is valid or is really truly the wife or the husband in this case.

I guess my point here is if we were not allowed to give out that information under any circumstances, I think it would be more of a customer disservice to a greater number of people perhaps that it would, if we held it totally confidential.

Congressman Koch. I'm not suggesting you should not. I haven't really formed a conclusion on that. I'm just suggesting that there has to be some kind of guideline operation that maybe ought to be universal in the industry.

Mr. Hopper. I think my problem here with that, sir, would be the point that there are just thousands of circumstances that I don't think you could enumerate each one. Situations change from time to time. I might comment here that our own internal handling of these matters change from time to time as we perceive the passenger requirements changing.

We have, I think, in one sense, probably tighter rules now than we had in the past. I would assume that as time goes on, we'll have even tighter ones coming down the road, but that's kind of in relationship to our sense of the customer needs.

Congressman Koch. Well, let me just at the outset commend you in one area, and then try to pursue it with you. You have told us that on one or more occasions the IRS sought to obtain a manifest of particular trips. I think it's probably to Reno or Las Vegas. Basically for ascertaining, I suppose, who's gone out there to gamble and to see whether or not they report their winnings. Wouldn't you say that was probably what they were looking for?

Mr. Hopper. I don't know what they were looking for. I do know that we refused to give the information.

Congressman Koch. You rejected it.

Mr. Hopper. Yes.

Congressman Koch. And you rejected it because you thought what?

Mr. Hopper. It was a fishing expedition.

Congressman Koch. It was a fishing expedition. And therefore you thought that if they wanted it, they ought to be subpoenaed? Is that right?

Mr. Hopper. In this particular instance, the individual wrote out a subpoena in our office, and we still rejected it.

Congressman Koch. You rejected a legal process to turn over material.

Mr. Hopper. I don't know that it was an indication——

A Voice. May I just say in that situation what was done, I believe the IRS agent went directly to the Chief Counsel and indicated that he wanted certain records on trips on flights going to Las Vegas. We indicated to him that we didn't think that would be a valid subpoena, if issued.

He then just took out a subpoena from his pocket and wrote it out and said here it is. We said that, in these circumstances, we thought it appropriate that he enforce it in court. He never did that.

Congressman Koch. That's very commendable. I want to commend you on that. Now, what you're telling us is that the Government on occasion will simply take, an agent of the government will simply take out a subpoena, put his name on it, serve you with it and in the normal situation, maybe if he had sent it to you in the mail, so you wouldn't have had this direct confrontation where you felt he was abusing you, you probably would have responded to it.

A Voice. I don't know that that's the case. I think that where a person or an agency has been trying to ascertain for a given period of time the passenger list going to a certain place, I don't think in those circumstances we would ever furnish that information.

Congressman Koch. Supposing he had whipped out subpoena with respect to a particular person, you would have given it to him then, wouldn't you.

A Voice. I think probably we would have, yes.

Congressman Koch. Okay, see, you've made some kind of judgement and the judgement took into consideration a number of factors. One I suppose is simply coming down and asking for it, you're saying no, his whipping out a piece of paper and signing his name, gets a little bit upset at that kind of abuse, so you say no again and then maybe you think that if he hadn't done it that way and sent it through the mail, you still would have said no, but you really can't be sure.

A Voice. I can't be sure, but I'm fairly certain that that would have been——

Congressman Koch. Okay, because you consider it to be a fishing expedition. So in some way or other, a judgment has been made, at least in that case and maybe other cases, as to the validity of the nature of the subpoena, that which is being subpoenaed. You weren't questioning his right to issue the subpoena, it was namely the subject matter. Is that right?

A Voice. That's right. The information being sought.

Congressman Koch. And it if hadn't involved Nevada, where we obviously know that gambling is involved and maybe they are looking at tax returns for that purpose, but involved another city, you think it might have been different.

A Voice. I don't—unless this is in connection with a major catastrophe or a criminal investigation of some sort, I——

Congressman Koch. Well, how do you know? A guy comes down, an FBI agent, an IRS agent, and he says listen, we think there's a big organized crime figure that uses your planes. What we want to is to get the manifests.

A Voice. For a given flight?

Congressman Koch. Yes.

A Voice. Probably we'd give it to him.

Mr. Hopper. We don't maintain manifests for our flights.

Congressman Koch. Maybe I'm using the wrong word. Do you give him the names of those passengers who were on that flight?

Mr. Hopper. No, we don't have that information. That's the point I was trying to make. The information we retain in our files is simply an individual, by flight, by date. For us to gain the information on a particular flight, a manifest would require us to go through our tickets and then try to come up with a list of tickets for that flight. Not through the reservation record.

Congressman Koch. Well, all right. What I'm really trying to get at is that if when the FBI agent or the IRS agent goes through the same situation that you had when you turned him down because he said he wanted to know whether a single person was going to Nevada, is that it? Is that what you are telling me? Cause that's the way it sounds to me from what——

A Voice. Well, I think in that instance he was turned down by the nature of the request and also that the information that he sought was unobtainable. Was unavailable. I think on both basis——

Congressman Koch. I see. Okay. Well, let me just conclude by asking you this. Would you consider changing your regulations and providing that where you provide such information to a government agency, whether pursuant to a subpoena or otherwise, that you advise your customer that you've done that?

Mr. Hopper. I think the difficulty here is that we, in some cases, don't know how to provide that information to a customer and in criminal proceedings it would not be in the public interest to advise the customer of it.

Congressman Koch. All right, let's take two things. One, you are turning over information to a government agency. In that information there is identifying material which would permit you to advise the customer, so there's no problem with respect to what you just say.

The second problem becomes, do you want to advise a customer that you've turned over information concerning him when it's a government agency that's requested it and there may, they don't discuss their case with you, do they?

Mr. Hopper. Yes.

Congressman Koch. They do discuss their case with you.

Mr. Hopper. We try to very definitely ascertain the fact, not necessarily the particulars of the case, but that it is an active investigation——

Congressman Koch. Okay, they tell you, they tell you that it involves an ongoing criminal investigation and so now your question is, does it serve a purpose from your point of view to alert your customer that he or she is the subject of an ongoing criminal prosecution and you've concluded that the answer is that it doesn't serve the purpose and you're not going to do it. That would be your current regulation.

Mr. Hopper. Not that we're not going to do it, that we haven't done it?

Congressman Koch. That you haven't done it. Okay. So, you are relying then on the fact that the government has said that there is a legitimate criminal purpose here and they haven't secured a court order to that effect. It's a judgment made by some official. May be the fellow who whipped out this subpoena that you turned down, because you thought he was acting in an inappropriate way.

He's made that judgment and you're turning over the information. Do you think that makes sense? Or shouldn't a judge decide whether or not the material is of such a nature that the customer should not be notified.

Mr. Hopper. That's why I attempted to distinguish between the civil and the criminal aspects, at least in my testimony. In civil situations, we do insist on a subpoena.

A Voice. If I may, in direct response to that——

Congressman Koch. I'm just trying to get at something. In criminal cases, you don't insist upon a subpoena. They call you up, right. Let me get it straight. If a government agency calls you up and says, listen, this is in pursuit of a criminal matter. I would think they don't go into all the details.

A Voice. They do.

Congressman Koch. They do go into all the details.

A Voice. No they don't go into all the details.

Congressman Koch. Yeah. They call you up, they say we've got some kind of ongoing criminal prosecution here, give us this material. We're not giving you a subpoena, we're just given you this telephone call. We're giving you this letter. You do it. Is that right?

A Voice. What we do, if I may. We attempt to verify first, that the individual calling is really a law enforcement agent of the FBI or whatever area and that, to the extent that we may and to the exent that he's willing to reveal it, is that the information being sought is pursuant to a duly authorized investigation, a current investigation. To that extent and to the extent that we can ascertain that information, do then reveal the information.

If, and I think at least if American, if this Commission were to feel that there were, the release of that information should be controlled and that there should be some restrictions put on it, a law enforcement agency. I don't think that we would have any problem in complying with any such set of reguations or detailed circumstances on which information should be released.

Congressman Koch. So at the present time, you're doing what you just described, to wit, releasing information, not under a subpoena, but on a telephone call that you've verified as coming from a governmental agency or a letter relating to some ongoing criminal investigation. And you don't advise your customer that you're doing it and the reason that you're doing it is that there are no regulations that tell you not to and you feel compelled, as good citizens, to assist the government. Is that really——

A Voice. In part.

Congressman Koch. But you'd have no objections if the Federal Privacy Act set forth some regulations that would govern what you would have to do. Wouldn't you feel more comfortable if the law said, you don't have to turn it over to the government unless they give you a subpoena? Wouldn't you feel more comfortable?

A Voice. I think I would.

Congresman Koch. Wouldn't you feel more comfortable?

Mr. Hopper. Yes, I would. I think you'd have to weigh, and I'm talking not as American Airlines but as a private citizen now, the value of gaining that information versus the privacy of the individual, which obviously is the function of your group.

Congressman Koch. Well no one says that they can't have the information if they have a duly authorized subpoena, so there is no question about denying a government agency the material that it's authorized, pursuant to law to get. No one has suggested anything to the contrary.

Mr. Hopper. I think it's the timeliness of the information I was alluding to.

Congressman Koch. The timeliness? You're not an attorney?

Mr. Hopper. No.

Congressman Koch. It's not hard to get a subpoena. The fact is that it's too easy to get a subpoena.

A Voice. I would comment that in the number of subpoenas that American honors in a year are probably infinitesimal.

Congressman Koch. How many?

Mr. Hopper. Order of magnitude here is infinitesimal——

Congressman Koch. Literally a dozen, is that what you are saying.

Mr. Hopper. If that many at all. It's very, very——

Congressman Koch. Okay. Now how many? How many inquiries do you get either telephonically or by letter from government agencies pursuant to which you turn over material?

Mr. Hopper. I don't know the number. In fact we were trying to ascertain a little bit of that over the weekend. We don't keep those records and——

Congressman Koch. No way of your——

Mr. Hopper. Most of them come via telephone.

Congressman Koch. No way.

Mr. Hopper. No, sir.

Congressman Koch. Let me get this straight then. Most of the inquiries that you get from government pursuant to which you turn over material are the result of telephone calls. Is that a fact?

A Voice. Telephone calls both to American and back to the agency.

Congressman Koch. To verify that you're speaking with a government agent. And then what do you do. You just take the material and mail it to them.

Mr. Hopper. No, sir. We give them nothing other than verbal information.

Congressman Koch. On the phone, I see, and you make no notation of that.

A Voice. No, no notation of that and any request for information would require a subpoena to be issued.

Congressman Koch. What do you mean? You just told me that you give them the information without a subpoena.

A Voice. That's right. The information is furnished over the telephone, but any request for documentation——

Congressman Koch. So you read it to them. You just don't give it to them physically. You read it to them.

A Voice. Right.

Congressman Koch. My time has elapsed.

Questions and Answers of Randolph Megaro, Atlantic Richfield, by Hon. Edward Koch, Privacy Protection Study Commission Public Hearing, February 12, 1976

Congressman Koch. Thank you, Mr. Chairman. Mr. Megaro, first I want to commend you for one of the practices of the company because you report on page 7, as a matter of policy, Atlantic Richfield does not disclose credit experience on individual credit accounts to other credit card issuers nor to credit reporting agencies, except when the customer allows it or directs it.

That's very commendable. Do you know whether that is universally done in the credit card business?

Randolph Megaro. No, I do not.

Congressman Koch. Do you suspect that you may be unique in that area?

Randolph Megaro. I would suspect that we might probably be in the minority in that area but——

Congressman Koch. Well you should be commended for that. If that's true, and I think it is, because we have already been made aware of the fact that material is transmitted without consent, why then do you go on to say at the end of your statement, we believe there is no need to apply the specific requirements of the privacy act of 1974 to credit card systems?

You are doing something voluntarily. You are not required to safeguard the material but you are doing it. Why shouldn't we impose a legal sanction requiring all companies to be as good as you are in this particular respect?

Randolph Megaro. I think, I personally would tend to believe that industry and any responsible business ought to do things voluntarily wherever possible.

Congressman Koch. But supposing they are not doing it? You have already told me that your best estimate is that you are in a minority and I think you are right.

Randolph Megaro. Well I say this, the fact that we're in, the fact that somebody else might do it might not necesarily be bad.

Congressman Koch. You're saying——

Randolph Megaro. No, we're not necessarily the white hat boys. We're doing this for very strong business reasons.

Congressman Koch. Let's talk about that for a minute. You think that information should be transmitted without consent? You're not doing it but you think that it is perfectly okay to do that, to transmit this information that has been collected without the consent of the customer.

Randolph Megaro. No, I don't.

Congressman Koch. Other companies do that. You think that's perfectly okay?

Randolph Megaro. No, I don't. I do not feel that way.

Congressman Koch. Would you be opposed to our saying that you cannot do it except in accordance with certain legislation that would provide for the protection of the customer? Would you oppose such legislation?

Randolph Megaro: I think the issue that I'd like to talk about is the reason that we're doing what we're doing. It's strictly a business decision, but if everybody, truly everybody, did what we are doing it would dry up credit reporting and I have no idea what that could lead to.

Congressman Koch. Let me get something straight. Then, is it your position that you would prefer that others not do what you're doing? Is that your position?

Randolph Megaro. No. Well, I really can't speak for others, but I know in our position—. We haven't done this for a while. We haven't provided any information. That policy's existed for a number of years.

Congressman Koch. Do you think——

Randolph Megaro. But——

Congressman Koch. Go ahead.

Randolph Megaro. But because we are alone, if everybody did what we are doing, it is conceivable that——

Congressman Koch. How. Tell me how that could occur. You collect information from a customer—his various purchases, the things that you sell him, whatever other information that you collect. Tell me why it would be wrong or injurious to business if there were legal sanctions as to the circumstances under which you would divulge that information?

How about your having to first advise the customer that you are using this information? Do you think it is unethical or injurious to business that you tell your customer before you divulge it that you are going to divulge it? Do you think that that is unfair.

Randolph Megaro. No, I don't think that's unfair.

Congressman Koch. Do you think that would hurt business if everyone had to do that?

Randolph Megaro. You know I philosophically I think a customer should know what we are doing with information.

Congressman Koch. Good.

Randolph Megaro. Philosophically.

Congressman Koch. Good.

Randolph Megaro. But the problem is the specific regulations the government sets for that kind of thing—they have to be intelligent and they have to be creative. We haven't always had that.

Congressman Koch. When has government ever undertaken an unintelligent or irrational action? (Laughter) Let me at the outset say, almost always. (Laughter) The fact is you're not then opposed to reasonable legislation. You're just opposed to legislation that you haven't seen. It that a fact?

Randolph Megaro. Well, we're opposed to legislation that is——

Congressman Koch. Unreasonable.

Randolph Megaro. The only thing we have to draw on is the credit laws. We've said philosophically it's a darn good idea. In detail, no. There's so much that's useless and inflationary, etc., etc., etc.

Congressman Koch. But where there is a legitimate need, and you've already told me, philosophically, you believe a customer should know when you are divulging the information. That where there is such a legitimate need in that case or other legitimate cases, philosophically, you think that there should be legal restraints which would tell you what you may or may not do.

Randolph Megaro. Some kind of restraints. Whether that is specific legislation or whatever else might be——

Congressman Koch. The fact of the matter is that you have already told us on page 7 that you would like to have guidelines. You say we believe that specific guidelines would be helpful. This relates to the production of material under subpoena, that's what you said on page 7.

Randolph Megaro. Yes.

Congressman Koch. You don't withdraw that.

Randolph Megaro. No.

Congressman Koch. So, the question becomes whether the guidelines should be voluntary or mandatory.

Randolph Megaro. Well, the question that we ask for guidelines for, or questions where the governmental agencies are coming to us looking for information, conceivably could be used for purposes other than the one it was conceived for and collected for——

Congressman Koch. And you feel——

Randolph Megaro. The credit reporting agencies I have a different feel for that.

Congressman Koch. You feel kind of queasy about the fact that you are giving——

Randolph Megaro. Information to the Internal Revenue Service and the FBI?

Congressman Koch. Yes, about the customers.

Randolph Megaro. Well, I——

Congressman Koch. Is that right? You feel kind of queasy about it?

Randolph Megaro. Well, we'd like to feel more comfortable about it.

Congressman Koch. Okay. And so you would like to have some guidelines.

Randolph Megaro. In those areas, yes.

Congressman Koch. Now, you mentioned that in 1975 you received approximately 550 inquiries from governmental agencies. Some of those would be, what, telephone calls, letters, subpoenas, summonses. What are they?

Randolph Megaro. They are, most of that number 550 has to do with lost and stolen credit cards. Probably close to 500 had to do with lost and stolen credit cards.

Congressman Koch. From governmental agencies?

Randolph Megaro. Well, from law enforcement agencies—state, federal, and county law enforcement agencies—which we would consider to be governmental agencies.

Congressman Koch. I see. Now, how many subpoenas or summonses did you receive in subpoena 1975.

Randolph Megaro. I don't have that number today.

Congressman Koch. Will you provide it?

Randolph Megaro. I'll be glad to provide it for the record.

Congressman Koch. Could you do that for a three-year period? '73, '74 and '75?

Randolph Megaro. If it's available, we'll do it. '75—I'm sure we can get a fix on it.

Congressman Koch. What's wrong with '74?

Randolph Megaro. I don't know what kind of, I'm really not sure what kind of records we kept.

Congressman Koch. If the records are available?

Randolph Megaro. Oh sure. If the records are available, we'll go back to 1960 if the records are available.

Note—here the witnesses attorney tried to answer.

Congressman Koch. You're not allowed to talk because you refused to take an oath (Laughter). Which I understand—lawyers shouldn't take oaths. They are advising clients and you are not here as a witness.

My understanding is that you will provide that information if it's readily available.

Randolph Megaro. Yes we will.

Congressman Koch. And, in any event, we'll get it for '75.

Randolph Megaro. Right.

Congressman Koch. Okay. Now my next question is, of the 550 inquiries from governmental agencies, in how many of those cases was the customer, your customer, advised of the inquiry?

Randolph Megaro. Again, I don't have that specific number. Not in every case certainly.

Congressman Koch. What is your practice when you are served with a summons or subpoena to produce the customer's account by a governmental agency, as, for example, IRS or FBI or any governmental agency?

Randolph Megaro. We do not notify our customers when those kinds of requests have been made.

Congressman Koch. You do not.

Randolph Megaro. No, we do not.

Congressman Koch. Do you notify them after you've produced it?

Randolph Megaro. No, we do not.

Congressman Koch. So you neither notify them in advance of turning the material over to a governmental agency nor even after they have been turned over and returned to you?

Randolph Megaro. That is correct. Let me say from what I've heard here today, we intend to go back and look at what we're doing in this respect. Because, you know——

Congressman Koch. You're a little queasy about it.

Randolph Megaro. Nobody has ever really thought about it. At least I've never heard it put into focus like I did here this morning. [Laughter.]

Congressman Koch. Let me ask you this. Would you, if one of your customers or any of your customers, wrote to you and asked the company whether the company had ever turned over any of that customer's records to any governmental agency, would you provide that information to that customer?

Randolph Megaro. Again, philosophically, we wouldn't have any problem in answering that request.

Congressman Koch. Well, why do you have a problem saying yes, I will do it?

Randolph Megaro. Our problem again is, you know, when we have four and one-half million customers that potentially could come to us that way——

Congressman Koch. How many customers do you think the New York Telephone Company or the American Telephone Company has? Many more than that and they just made the offer—you heard them right—are you going to do less than the telephone company? [Laughter.]

Randolph Megaro. That would be unconscionable.

Congressman Koch. Do I take it by your answer that if one of your customers were to write to you, if any of your customers wrote to you asking whether or not their records had been produced to any governmental agency and if that information is still in your files, that you would provide that information to that customer?

Randolph Megaro. Well, we don't have that situation today. Philosophically, I think we would. It's just hard for me to say yes without knowing——

Congressman Koch. If a customer wanted to get that information, to whom should he write? [Laughter.]

Randolph Megaro. To me.

Congressman Koch. Would you tell us the address and so forth.

Randolph Megaro. 515 South Flower Street, Los Angeles, California.

Congressman Koch. And that should be addressed to Mr. R. J. Megaro, M-E-G-A-R-O, who is the Manager of the Retail Credit System. I don't happen to have a car, so I'm not going to be writing to you but, just to conclude, my examination.

Personally, I appreciate the fact that you agree with me that there is something wrong—you used the word philosophically—I think it transcends that even—but you agree with me that there is something wrong with turning over acounts of customers without the customer being made aware of that. That's what you said to me. Isn't that so?

Randolph Megaro. When it relates to these governmental agencies, there's no question that philosophically, we felt uncomfortable. Something should be fixed.

Congressman Koch. Do I take it that you are going to discuss with the company, that's also what I gathered from your statement, a change in your procedures?

Randolph Megaro. We're certainly going to look at it. To see what we are doing and why we're doing it the way we are. Yes.

Congressman Koch. Thank you Mr. Chairman.

House of Representatives,
Washington, D.C., February 12, 1976.
John Walsh,
New York Telephone,
New York, N.Y.

Dear John: This morning Mr. William Caming, an attorney at AT&T, appeared before the Privacy Protection Study Commission of which I am a member and advised that AT&T and its subsidiaries' procedures provide that any individual making a request in writing could receive from you the following:

1. A record of dates and information supplied by any AT&T subsidiary under subpoena or summons or at the request of the FBI when such information was provided without notice to the customer.

2. That future such furnishing of records without notice to customers would, likewise, be subject to future notification to such customers upon request.

I am herewith making a request for such information concerning my own phones in New York City. The numbers are as follows: [list of phone numbers]

Sincerely,

Edward I. Koch.

New York Telephone,
New York, N.Y., February 23, 1976.
Hon. Edward I. Koch,
House of Representatives,
New York, N.Y.

Dear Congressman Koch: This in reply to your letter of February 12, 1976. From a reading of your letter and newspaper reports covering Mr. William Caming's appearance before the Privacy Protection Study Commission, it seems to me that there may be some misunderstanding as to our practices and procedures in responding to subscriber requests for information as to whether or not their toll billing records have been subpoenaed or summoned by a legislative committee or law enforcement agency, or requested by the Federal Bureau of Investigation. In order to clear up any such misunderstanding, I should like to set forth what our practices and procedures are in this regard.

The Bell System has always maintained its customers' right to privacy of communications. Company business records relating to subscribers are held in strict confidence, and carefully safeguarded. However, Bell System Companies, like any other company, must respond to legal process requiring production of its business records; this would include toll billing records. Bell System Companies will, as a matter of policy, only honor demands of lawful authority which are in the form of a valid subpoena or administrative summons. This policy properly balances, we believe, the necessity both of protecting our subscribers' right to privacy and of responding to the legitimate needs of law enforcement for specific toll billing record information for investigatory and prosecutory purposes.

As stated by Mr. Caming in his testimony, a customer is automatically notified whenever his toll billing records have been subpoenaed or summoned. However, no notification is given and no disclosure is made for a period of 90 days if there is a written certification by the legislative committee or law enforcement agency seeking such records that notification could impede its official investigation or interfere with enforcement of the law. The 90-day period can be extended for successive 90-day periods upon a new written certification in each instance.

If a subscriber asks whether or not his records have been subpoenaed or summoned, his inquiry is referred to the Company's Security Manager. His office keeps a record of all such subpoenas and summonses. If the records indicate that the subscriber's toll billing records have been subpoenaed or summoned with certification of non-disclosure, the subscriber will be informed that his records have been subpoenaed or summoned and all pertinent information made available, provided the period of certification or re-certification has expired.

If a subscriber requests that he be notified any time his records are subpoenaed or summoned in the future his request will be recorded and if his records are thereafter subpoenaed or summoned, he will be notified after the expiration date of the certification or re-certification.

An exception to the foregoing is made in the instance of national security where the records are provided upon written request of the Director of the FBI, or of an Associate Director or Assistant Director as a necessary investigative technique under the Presidential power to protect the national security against actual or potential attack or hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities in connection with an investigation of organizations or individuals suspected to be agents of or acting in collaboration with a foreign power. In such cases no notification or information is provided to the customer.

A search of our records back to March 1, 1974 does not reveal any subpoenas or summonses for toll billing records for the telephone numbers listed in your letter of February 12th. We have noted your request for future notification, and will notify you at once, if there is no non-disclosure certification, or as soon as possible after the expiration date of any certification or re-certification, of any subpoena or summons calling for the production of your toll billing records.

Very truly yours,

John.

American Express Co.,
Washington, D.C., February 25, 1976.
Hon. Edward I. Koch,
U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

Dear Congressman Koch: Attached is an internal memo received from our Card Division which:

1. States subpoena policy in paragraph number 2.

2. Serves as a basis for answering inquiries.

I understand Jim Robinson spoke to you about this. If you have any questions, please let me know. My phone number is 331-1666.

Sincerely yours,

Harry L. Freeman.

American Express Company—Card Division
Internal Memorandum

Recently there have been reports in the press, on television, and on the radio about subpoenaing records in the credit card industry. We want to give you the details of our policies nad practices with regard to subpoenas. We want cardmembers to know that we scrupulously protect the privacy of the information held in our files. In fact, the number of subpoenas which American Express received in 1975 was only 469 which is very small considering that there are over seven million American Express cardmembers.

When cardmembers' records are subpoenaed, we will respond as required by law. However, we think cardmembers ought to know about it, and in all instances, we will tell them promptly, unless we are specifically prohibited from doing so by a court order. We will wait the full length of time allowed by the subpoena before providing the information in order to allow cardmembers the opportunity to exercise their rights.

This whole issue is part of the deliberations of the Privacy Protection Study Commission We support the Committee's deliberations and think they can be constructive.

TRAILS WEST NATIONAL HISTORICAL PARK

The **SPEAKER** pro tempore. Under a previous order of the House, the gentlewoman from Nebraska (Mrs. SMITH) is recognized for 15 minutes.

Mrs. SMITH of Nebraska. Mr. Speaker, today I am submitting legislation to authorize the Secretary of the Interior to establish the Trails West National Historical Park in the States of Nebraska and Wyoming. It would be most fitting during our Bicentennial year for the U.S. Congress to authorize the preservation of these unique historical landmarks within our National Park System—an action that has received wide support from my fellow colleagues as well. This proposal would link Ash Hollow State Historical Park, Courthouse and Jail Rocks, Mud Springs Pony Express Station, Chimney Rock National Historic Site, Scotts Bluff National Monument, and Fort Laramie National Historic Site to form the Trails West Park.

The milestones of the old Oregon and Mormon trails which comprise this proposal deserve to be preserved and interpreted as a national park because they embody a unique combination of two of the major thematic guidelines developed by the Department of the Interior's National Park Service for preservation of historic areas. First, these natural wonders belonged to the hunting grounds of the original inhabitants of this continent and were the focal point of many of their legends long before the initial explorers ventured into this area. Second, fur traders, gold seekers, and settlers alike poured past these landmarks on the Oregon and Morman trails to make westward expansion and "mainfest destiny" a reality.

It is furthermore noteworthy that the National Park Service major thematic facets relating to the Mormon trail, trappers and mountainman exploration, fur trade of the 1824 to 1938 era, and the open range cattle industry are not presently represented in the National Park System at all. This indicates the region's national importance and argues strongly for making the area a national park.

Many of these landmarks have already received national acclaim in various forms, and local efforts to muster national attention for the historic resources of the North Platte Valley began years before President Woodrow Wilson signed the proclamation to establish Scotts Bluff National Monument on December 12, 1919. Fort Laramie still sheltered troops in 1890, but later the State of Wyoming obtained title to the property and in 1938 it was transferred to the National Park Service. It has since been honored as a National Historic Site. In 1953 the Secretary of Interior's Advisory Board on National Parks, Historic Sites, Buildings, and Monuments recognized the national historical significance of Chimney Rock and recommended some action to perpetuate its historical values. It has since been designated as a national historic site. In 1960 the Advisory Board recommended that Ash Hallow be studied to ascertain its merits for classification with other points of exceptional value. Four years later in 1964, the Advisory Board concurred in the National Park Service recommendation of this site for registered national historic landmark status. I hope now that Congress will act promptly to authorize the Secretary of the Interior to acquire and develop the necessary lands, most of which are already Government property or will be donated by the State at no cost to the taxpayers.

The North Platte Valley, in which these historical sites and resources lie, has been a human migration corridor for centuries. Various Indian tribes struggled for control of this natural thoroughfare before King Richard led his English crusaders into the Holy Land. Among the first white men to disturb this ancient Indian hunting ground was Robert Stuart who marveled at these same wonders on his way to John Jacob Astor's fur trading post in Oregon. Thirty years later in 1843 the vanguard of a vast pioneer army passed through the valley, soon to be known as the major route of emigrants bound for Oregon or central California. Their course was determined by two objectives: Fort Laramie, which offered supplies and protection, and the South Pass, the lowest and broadest break in the Continental Divide.

Four years later Brigham Young led his followers up the valley on the north side of the Platte River. This heroic group had 500 of their most able men drafted for a lengthy march into the Mexican War just weeks before the main camp departed west, but that did not delay their departure. Thousands would follows these forerunners on both the Oregon and Mormon trails, particularly during the California gold rush when over 150,000 adventurers pushed through the valley within 2 years.

Ash Hollow was one of the significant landmarks which characterizes the courage of our westward-bound forefathers. The monotonous miles of prairie expanse were first interrupted by this deep canyon through which the Oregon trail descended in a series of steep and dangerous grades from the plateau to the river bed. Even today a marker indicates where ropes were used to ease wagons down abrupt Windlass Hill. Old diaries often mention the casualties to men, beasts, and equipment suffered in the descent. An English traveler making the voyage in 1849 reported that riders dismounted, wagon wheels were locked, and the conestogas steadied with ropes. Despite all the precautions, he noted, two mules were killed by a breakaway wagon.

In addition, to such hazards, there was always the danger of Indian ambush in the narrow ravine. On a grassy slope near the mouth of the hollow are a number of pioneer graves, among them Racheal Patterson, a young girl who was shot by Indians on the path to the spring in 1849.

Ash Hollow was a popular Indian hunting area. And in 1835 it was the scene of a day-long battle between the Pawnee and the Sioux. After all arrows and bullets were spent the two fierce tribes struggled at knife-point until the Pawnees finally retreated back down the Platte. Twenty years later and a few miles further up the Platte, battle cries were again heard. But this time it was Gen. W. S. Harney leading his cavalry against a band of Sioux who would not respect the relentless march of the pioneers.

Following the Oregon Trail upstream along Highway 26, one passes the grave of Amanda Laman who died of cholera on June 23, 1850. Her husband left his company to return to St. Louis for a gravestone, and he returned with it as a member of a later train.

The next milestone for the westward travelers was Courthouse and Jail Rocks. According to one account, this massive formation of twin cliffs was named by early pioneers from St. Louis who thought it resembled their county buildings. A nearby cliff of the same formation had the words "Post Office" etched on it, and travelers often deposited letters in boxes hewn in the soft stone base hoping that an eastbound trapper would convey them back to civilization.

Mud Springs Pony Express Station, situated a few miles southeast of Courthouse Rock, is not precisely on the route of the trails West, but as a home station for the famed Pony Express riders, it had a major influence on the area. This station linked Julesburg on the South Platte River with Courthouse Rock's Station.

Chimney Rock was probably the most famous landmark on the trail. It was within view of 19th century voyagers for several days and was a natural wonder for the more than a quarter million emigrants who paused at the base of that milestone. From the center of an eroded plateau, a narrow shaft of stone juts upward approximately 150 feet. Its name was attached by Joshua Pilcher in 1827. The Indians, however, called it a "wigwam." This column of stone was the subject of more mentions in pioneer journals than any other point on the overland migration route.

Scotts Bluff was the first butte of dominating height to prophesy of the rugged highlands ahead. Many climbed to the summit to view the great trails 800 feet below. This massive promontory, named for Hugh Scott, a fur trapper who died in the vicinity around 1828, was noted by the earliest tribes whose records have been preserved. To these Indians, Scotts Bluff was Me-a-pa-te or "the-hill-that-is-hard-to-go-around." This area was a particularly choice hunting ground of the Sioux, Cheyenne, and Arapaho, for here vast herds of buffalo came to water. In 1860–61 Pony Express riders galloped through Mitchell Pass. And they were followed shortly by the first transcontinental telegraph. The Overland Mail, Pony Express, Pacific Telegraph, and Overland Stage all built stations near the cliff.

In the late 1870's and 1880's Scotts Bluff was the geographical center of the open-range cattle industry, the last great romantic episode of the frontier. With the arrival of the first homesteaders in 1885, the frontier disappeared and the bluff joined the other landmarks as symbols of the Nation's past.

Fort Laramie has earned its place in our national heritage as well. Two experienced fur traders, William Sublette and Robert Campbell, built the first fort on the Laramie River in 1834. The owners called it "William" after the senior partner, but it was known to most as "Laramie" after the nearby river, named for a French-Canadian trapper, Jacques La Ramee, killed by Indians on its banks in 1821. The outpost quickly became one of the major trading centers of the Rockies.

Fort Laramie was the most important stop on the westward trek. The plains lay behind, but the mountains loomed ahead. Defective wagon parts and depleted stores had to be repaired, replaced or replenished here. Often overanxious travelers would leave the fort too late in the fall only to be trapped by an early snow in one of the mountain passes. Two Mormon handcart companies met this fate in 1856, and one in every four perished before relief arrived.

Besides its role in the westward emigration, the fort was also a key military post. On June 26, 1849, the Army purchased the fort for $4,000. Almost immediately other buildings were erected until Fort Laramie became a sprawling military base—too large to be walled in but strong enough to deter Indian attack.

In 1854 the fort's commander insisted upon the surrender of an Indian accused of stealing a traveler's cow, and sent Lieutenant Grattan with 30 men to enforce his demand. The demand was refused and a dispute followed. In the ensuing engagement Grattan and his entire detachment were killed. This incident marked the beginning of Indian wars which would rage for over 35 years.

It is clear that this area merits the recognition this bill would provide, but I would like to reemphasize one practical matter to which I barely alluded earlier—the relative inexpense of this proposal. Scotts Bluff National Monument and Fort Laramie National Historic Site are already fully Government-owned and have been substantially developed for visitor enjoyment. Ash Hollow, Chimney Rock, and much of the Mud Springs Station are State property and would be donated to the Federal Government. Even those few places, amounting to less than 2,000 acres, where acquisition would be necessary are not expensive irrigation land. This means, Mr. Speaker, that for a very modest cost these areas can be acquired and developed as a national historical park. Preservation of these landmarks would be very successful because they are substantially unmarred, except by time. Appropriate interpretation of these great natural and historic monuments would be an extremely worthwhile addition to our Nation's cultural heritage. Accordingly, I urge the Congress to act promptly on this legislation.

I include the text of the bill and a list of cosponsors:

H.R.—

A bill to authorize the establishment of the Trails West National Historical Park in the States of Nebraska and Wyoming, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) In order to preserve for the benefit and inspiration of the people of the United States certain properties located in the State of Nebraska and the State of Wyoming associated with the route of westward migration through the North Platte Valley as the Trails West National Historical Park (hereinafter referred to as the "historical park"), the Secretary of the Interior (hereinafter referred to as the "Secretary") may acquire lands and interests in lands in the following areas:

(1) Ash Hollow, Garden County, Nebraska;

(2) Mud Springs, Morrill County, Nebraska;

(3) Courthouse Rock and Jail Rock, Morrill County, Nebraska; and

(4) Chimney Rock, Morrill County, Nebraska.

(b) In the areas listed in subsection (a) of this section, the Secretary may acquire not to exceed two thousand five hundred acres of lands, water, and interests therein by donation, purchase with donated or appropriated funds, or exchange, except that property owned by a State or any political subdivision thereof may be acquired only by donation.

(c) Scott's Bluff National Monument in the State of Nebraska, and Fort Laramie National Historic Site in the State of Wyoming, as presently constituted and named, shall be administered as units of the historical park.

SEC. 2. (a) The Secretary shall administer the historical park, and lands or interests therein acquired for the historical park, in accordance with the Act of August 25, 1916 (30 Stat 535; 16 U.S.C. 1, 2–4), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461, et seq.), as amended.

(b) The Secretary is further authorized to take such actions as he deems appropriate to commemorate and mark other sites of historic significance associated with or relating to the historical park, which may be located in Garden and Morrill Counties, Nebraska, and Goshen County, Wyoming. The Secretary is authorized to provide such information and services respecting any sites that are so marked and events that are commemorated as will enhance public understanding of their significance. Before any site is marked, the owner of the site shall have executed an agreement, satisfactory to the Secretary, to maintain the marker in suitable condition and to allow reasonable public access to the site so marked.

SEC. 3. At such time as the Secretary determines that sufficient lands and interests therein have been acquired for the purposes of this Act, he may establish the Trails West National Historical Park by publication of a notice to that effect in the Federal Register, together with detailed descriptions or maps setting forth the properties included therein. Such notice may be supplemented at the discretion of the Secretary as additional lands are acquired for the purposes of the historical park.

SEC. 4. (a) There is hereby established a Trails West National Historical Park Advisory Commission. The Advisory Commission shall terminate ten years after the date the historical park is established pursuant to this Act. The Commission shall be composed of seven members appointed for a term of two years by the Secretary as follows: (1) One member to be appointed from recommendations made by the Governor of the State of Nebraska; (2) one member to be appointed from recommendations made by the Governor of the State of Wyoming; (3) one member from the governing bodies of each of the counties in which the historical park is located; (4) two members to be appointed by the Secretary to represent the general public.

(b) The Secretary shall designate one member to be chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) Members of the Commission shall serve without compensation but may receive the expenses reasonably incurred in carrying out responsibilities under this Act.

(d) The Secretary, or his designee, shall from time to time, consult with the Commission with respect to matters relating to the development and administration of the historical park.

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Cosponsors for Trails West National Historical Park Bill

Mr. Roy Taylor of North Carolina.
Mr. Joe Skubitz of Kansas.
Mr. Keith Sebelius of Kansas.
Mr. Manuel Lujan of New Mexico.
Mr. Charles Thone of Nebraska.
Mr. John Y. McCollister of Nebraska.
Mr. James Abdnor of South Dakota.
Mr. Teno Roncalio of Wyoming.
Mr. Jim Johnson of Colorado.

OIL PIPELINE OWNERSHIP AND COMPETITION IN THE OIL INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 15 minutes.

Mr. FRASER. Mr. Speaker, I am today reintroducing a bill, along with my colleague from Washington (Mr. ADAMS), my colleague from Massachusetts (Mr. CONTE) and 38 additional cosponsors, which would amend the Interstate Commerce Act to separate the business of transporting oil and oil products through pipelines, from the business of producing, refining and marketing this commodity. The bill would make it unlawful for an oil pipeline company to ship its own oil or that of an affiliated company.

Pipelines have long been recognized as a major trouble spot in oil industry competition. Of all the major industries only this one has its own transportation system devoted exclusively to hauling its bulk commodities.

The amendment is modeled on the railroad commodities clause of the Interstate Commerce Act, which prohibits railroads from dealing in the commodities they carry. This clause was enacted in 1906 to break up the railroads' monopoly over the coal fields of eastern Pennsylvania and West Virginia. Similar legislation is needed to loosen the tight control that the oil companies exercise over the production, distribution and marketing of oil.

Misuse of the pipelines has been a major concern to Congress ever since 1906 without any effective results being achieved. In 1911, pipeline misuse was one of the major restraints of trade charges in the Standard Oil trust case. Although the Standard Oil empire was successfully broken up, nothing was done about divorcing pipeline transportation from production and refining. In several instances since that time, efforts, legislative, judicial, and regulatory, have been initiated but never brought to a successful conclusion. In recent years as the public has again focused on the problems of the oil industry, the attempts at infusing procompetitive forces into the industry have become generally known.

In addition to the Standard Oil trust case, the Justice Department sued the

American Petroleum Institute and most major oil companies in the Mother Hubbard case instituted just prior to World War II. The complaint alleged such a vast array of anticompetitive conduct and was so multifaceted as to be untriable. This and the intervention of the war with the accompanying need for strategic materials eventually led to a dismissal of the case on the Justice Department's own motion.

The Justice Department filed another suit, in this instance, directed specifically at the pipelines and the payment of dividends to shipper owners which was deemed to be an illegal rebate in violation of the Elkins Act. Again the intervention of the attack on Pearl Harbor and the needs of the war effort caused the Government to settle the case. The Elkins Act consent decree entered into on December 23, 1941, allowed pipeline companies a 7-percent return on their investment. Subsequently the pipeline companies construed this to mean 7 percent on the entire value of the pipeline and not the actual capital invested by the owners. Since the financing of pipelines has been on a 90-percent to 10-percent ratio of debt to equity the returns to the owners have been very generous indeed. For the 5 years ending in 1972, the Interstate Commerce Commission reported that joint venture pipelines averaged net income returns of 54 percent a year on their investment enabling them to recoup their paid-in investment in less than 2 years. The Justice Department tried unsuccessfully to modify this decree in 1957 and still has under consideration whether further efforts should be undertaken to do something about the excessive profits of pipeline companies.

In 1962, the Justice Department's interest in the potential anticompetitive impact of oil pipeline ownership was renewed by the proposal to construct the Colonial pipeline. Four pipelines have been under investigation for varying lengths of time up to 13 years. However no legal action has been instituted.

The Interstate Commerce Commission has regulatory authority over the pipeline as common carriers. Unlike its authority over other regulated surface transportation, the ICC has limited powers with respect to the pipelines in that they are not required to secure certificates of public convenience and necessity when new lines are to be constructed. Also the ICC has no control of the formation of interlocking directorates. However it does have power to prevent unjust discrimination and undue preference among shippers, to prohibit illegal rebates and to investigate and make recommendations to Congress. The ICC has been less than ardent in its protection of the public interest, a matter which is properly under scrutiny by advocates of regulatory reform. The ICC did begin a proceeding to inquire into the evaluation of pipeline assets and the adequacy of the rate of return after Congress in 1972 expressed dissatisfaction with the regulatory performance of the ICC over the oil pipelines but again with no results and the proceeding drags on.

Recently there has been a new entry into the field of those struggling with the problems of the oil industry. The Federal Trade Commission in 1973 brought a proceeding against eight integrated oil companies, a case which is now referred to as the Exxon case. Again this proceeding is bogged down with no prospects of achieving results for many years to come and is beset by problems with changes in personnel.

The chief attorney who joined the FTC staff in September 1973, to take charge of the case left the Commission in the spring of 1975 to join a Houston law firm and the judge originally assigned to the case retired part way through the proceeding. The case drags on with little likelihood of early results.

The history of governmental efforts to enhance competition within the oil industry and to control the extraordinary growth and power of the oil giants has been replete with frustration, confusion and failure. On the other hand, governmental efforts to assist the oil industry have been singularly and spectacularly successful. Ever since the discovery of vast oil reservoirs in our country the Government has aided the oil companies with controls on production, import quotas, the oil depletion allowance, foreign tax credits, special tax treatment for intangible drilling costs and unfettered vertical integration. A measure of this success is the size of Exxon Corp. whose worldwide sales in 1974 of $42 billion equaled the combined sales of General Electric, IBM, United States Steel, and Dupont, and exceeded the GNP of over 100 nations.

An unusual situation developed in the oil industry where because of tax advantages profitability lay in the production of crude. Profits were paddled upstream and the more you produced the more you profited, necessitating ever increasing consumption. Each of us felt the vulnerability and danger in the reliance on and the size of our consumption of oil during the Arab oil boycott of the United States.

The pipelines are an essential element in the majors' ability to control and manage competition within the industry. From the inception of the construction of pipelines the anticompetitive impact of ownership by shippers is apparent. The owners design and build the pipeline complex to suit their own needs. However understandable and reasonable it may be for an owner to build a facility to fit its particular need, it is nonetheless unacceptable if found to have substantial anticompetitive impact on outsiders. In a number of ways the building of pipelines by owners of oil creates serious disadvantages to outsiders. The locations of the lines, input and output facilities, the availability of storage, and feeder lines, all place the outsider at a disadvantage. Because there is no requirement to obtain a certificate of public convenience and necessity from the ICC, no review of the design of the pipeline is made to see that it will serve all potential users fairly and the owners are free to build it to their own specifications.

Once the pipeline has been constructed to the advantage of the owner-shipper, the manner in which it is operated only serves to increase that advantage. Minimum tender requirements, scheduling of shipments, standards as to the acceptable quality of oil to be shipped, pro-rata access, all of these contribute to a situation in which the outsider is at the mercy of the owners who can resist shipments of nonowners without even outrightly refusing to accept a tender of oil.

Finally the rate of return has evolved since the pipelines were brought under the Elkins Act as common carriers through the court cases to a point where the pipelines are very profitable and relatively riskless undertakings. Financing institutions are willing to provide 90-percent financing for pipelines and the rates of return have generally been based on the entire evaluation of the pipelines assets giving returns on actual cash investment of over 50 percent annually.

Ownership of pipelines by major integrated oil companies has two results. Either the outsiders decide to avoid all of the difficulty and expense of getting their crude on the pipeline and sell it to the owner-shipper; or they persevere, pump their crude and end up with costs requiring prices that lend support to the contention that the market is competitive and prices reasonable which in effect insures the majors of generous profits realized on crude sales and on the pipeline operations.

Also, joint ownership of the pipelines which accounts for at least 40 percent of all pipelines under ICC regulation allows the owners to engage in spillover collusion. The joint enterprise serves as a forum for the joint owners to get together and discuss and exchange whatever information they wish to. It greatly reduces the uncertainty engendered by more competitive relationships. Also obstacles to shipping encountered by the outsider in effect foreclose a market by eliminating the independent producer's access to those on the other end of the pipeline.

Pipelines are a natural monopoly to the same extent as are the railroads. The anticompetitive danger of the railroads owning products that would be shipped by them was recognized by Congress and prohibited 70 years ago. Ownership by the oil companies of the transportation link between major facets of the industry is no less anticompetitive and such extensive control is no less a danger to the public interest.

The conclusion that pipeline ownership through the vertical integration of the oil industry is anticompetitive has been reached by several governmental agencies on numerous occasions.

The FTC's investigation concluded in 1973 that the industry needed to be restructured; the Justice Department determined several times that integrated oil companies must divest themselves of some activities because of violations of the antitrust laws. Congress over the years in many sessions and by different committees has recommended stronger executive agency regulation or legislation to deal with the anticompetitive practices in the oil industry.

This bill that I am reintroducing together with my colleagues was initially introduced in 1973 during the gasoline shortage and the OPEC boycott. At that time many energy experts predicted that with a fall in consumption the OPEC cartel would break up. Dr. Milton Friedman confidently announced the impending collapse of OPEC. Dr. Kissinger proclaimed that the high oil price was intolerable and William Simon predicted its imminent fall. Thomas Enders publicly announced the intention of the State Department to break up OPEC. These predictions have not proven true. OPEC during the interim raised the price even further and is intact now. The former critics now say that the price of oil is not too high but reflects costs. Also the State Department is less antagonistic to OPEC. We are now learning to live with this situation which many found to be intolerable 2 years ago.

Testimony by Arthur Sampson before the Senate Antitrust and Monopoly Subcommittee last month offered some disturbing insights into the relationship of the major integrated oil companies and the members of OPEC. The OPEC-set world price of crude has caused the price of domestic oil to rise thereby greatly increasing the value of the oil reserves of the majors who own and control about 90 percent of the U.S. total. Mr. Sampson observed that OPEC depends on the majors to regulate their cartel production and insure markets for that production without which the OPEC cartel might break up. The interdependence of the majors and the OPEC nations is cemented in other ways. As the OPEC nations raise their prices the value of the crude owned by the majors also increases in value. Because of the reliance of the OPEC nations on the majors with respect to marketing their oil they have come to depend on and use the majors as universal contractors to assist with the concentrated development of their countries financed with the dramatic rise in export revenues. These shared interests create a relationship wherein the loyalty of the American major oil companies may be at best divided and at worst lie with the interest of the OPEC nations. This development is another reason for addressing the anticompetitive nature of the ownership of the oil pipelines and secondarily the control enjoyed by the majors through the vertical integration of their operations.

Divorcing the ownership of the pipeline transportation system from production and refining is a first step in dealing with the problems in the oil industry. The pipelines are more easily identifiable than other aspects of the industry and lend themselves to a measured infusion of procompetitive forces into the industry.

Opponents of any form of divorcement or divestiture argue that without the capital resources of the majors, pipelines would not be built and contend that the Trans-Alaskan Pipeline would not be built. They also argue that bigness begets benefits to the consumers in the form of lower costs through economies of scale. Testimony before the Senate Antitrust and Monopoly Subcommittee refutes these arguments. Lewis Kruger, a Wall Street lawyer and lecturer in law at Columbia Law School, in his statement and in response to questioning, said that in his opinion third parties would find the prospect of building transmission facilities attractive to them financially and would provide the means of transporting oil from a producing source to a refining source. He also observed that a financial analyst who argued against the enactment of proposed divestiture legislation noted that after divestiture under certain conditions; namely, a tax free spinoff, the oil industry would be able to meet its capital requirements.

With respect to the cost to consumers of divestiture, F. M. Scherer, the Director of the Federal Trade Commission's Bureau of Economics, testified that—

> The advantages enjoyed by large multiplant refiners over efficient single-plant firms have been modest in the past, and they would be even less significant if competition in crude oil production and refined product sales were enhanced through structural reorganization.

He went on to conclude that—

> It seems to be me then that the feared social costs of petroleum industry reorganization ought, if assessed correctly, to be only a minor deterrent to actions. The more important question is what kind of industrial power structure and hence, ultimately, what kind of society we wish to have. That fundamental value judgment must be resolved either by Congress or the judicial system.

As time passes the evidence mounts that Congress and only Congress can take those steps necessary to bring competition to the oil industry. The bill we offer today is a moderate, measured step toward that end and I recommend its serious consideration to my colleagues.

Listed below are those Members sponsoring the bill I am reintroducing today along with my colleague from Washington (Mr. ADAMS) and my colleague from Massachusetts (Mr. CONTE):

Herman Badillo, of New York.
Berkley Bedell, of Iowa.
Charles J. Carney, of Ohio.
John Conyers, Jr., of Michigan.
James C. Corman, of California.
Robert J. Cornell, of Wisconsin.
Dominick V. Daniels, of New Jersey.
Ronald V. Dellums, of California.
Thomas J. Downey, of New York.
Robert F. Drinan, of Massachusetts.
Don Edwards, of California.
Joshua Eilberg, of Pennsylvania.
Gilbert Gude, of Maryland
Sam Gibbons, of Florida.
Michael Harrington, of Massachusetts.
Herbert E. Harris, II, of Virginia.
Philip H. Hayes, of Indiana.
Henry Helstoski, of New Jersey.
Elizabeth Holtzman, of New York.
James M. Jeffords, of Vermont.
Edward I. Koch, of New York.
Paul N. McCloskey, Jr., of California.
Edward Mezvinsky, of Iowa.
Abner J. Mikva, of Illinois.
Patsy T. Mink, of Hawaii.
Parren J. Mitchell, of Maryland.
Joe Moakley, of Massachusetts.
David R. Obey, of Wisconsin.
Richard L. Ottinger, of New York.
James H. Scheuer, of New York.
Stephen J. Solarz, of New York.
Fortney H. (Pete) Stark, of California.
James Weaver, of Oregon.
Sidney R. Yates, of Illinois.
Leo C. Zeferetti, of New York.
Christopher J. Dodd, of Connecticut.

The text of the bill follows:

H.R. 12091

A bill to amend the Interstate Commerce Act to provide that no pipeline company engaged in the transportation of oil may transport oil through its pipelines if that company has an interest in such oil

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (8) of section 1 of the Interstate Commerce Act (49 U.S.C. 1(8)) is amended—

(1) by adding "(a)" immediately after "(8)" in such paragraph; and

(2) by adding at the end of such paragraph the following subparagraph to read as follows:

"(b) (1) It shall be unlawful for any pipeline company subject to the provisions of this chapter to transport to, from, or within any State, territory, or the District of Columbia, any crude oil, or any oil product manufactured from crude oil, which is produced or manufactured by such pipeline company or by any affiliate thereof.

"(2) For the purposes of this paragraph, the term 'affiliate' includes—

"(A) any person or corporation owned or controlled by such pipeline company;

"(B) any person or corporation which owns a substantial interest in or controls such pipeline company by—

"(i) stock interest,

"(ii) representation on a board of directors or similar body,

"(iii) contract or agreement with other stockholders, or

"(iv) otherwise; or

"(C) any person or corporation which is under common ownership or control with such pipeline company.".

SEC. 2. This Act shall take effect upon the expiration of the thirty-month period which begins on the date of the enactment of this Act.

LONG-TERM CARE IN NATIONAL HEALTH INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 15 minutes.

Mr. PEPPER. Mr. Speaker, during its first 10 months, the Select Committee on Aging's Subcommittee on Health and Long-Term Care, which I have the privilege of chairing, has heard 186 witnesses and conducted surveys of over 800 organizations on issues relating to long-term care for older Americans. Our subcommittee has just issued a report, "New Perspectives in Health Care for Older Americans," which includes 22 recommendations for action by the Congress and the executive branch.

On February 17, the Subcommittee on Health of the Interstate and Foreign Commerce Committee, chaired by Dr. Paul Rogers, held a hearing on "Long-Term Care in National Health Insurance." Because many of our subcommittee's findings bear directly on this subject, I was pleased to be able to testify at that hearing.

I am enclosing for the RECORD a copy of the testimony, together with a summary of our subcommittee's report.

LONG TERM CARE IN NATIONAL HEALTH INSURANCE

(Testimony of Representative CLAUDE PEPPER, Chairman, Subcommittee on Health and Long-Term Care of the House Select Committee on Aging, Before Subcommittee on Health of the House Interstate and Foreign Commerce Committee, February 17, 1976)

Mr. Chairman and Members of the Subcommittee, I am pleased to be able to testify before you today on long-term care aspects of National Health Insurance.

As you know, the House Select Committee on Aging is primarily a fact finding body. House Resolution 988, enacted last year, requires the Select Committee to "study the use of all practicable means . . . of encouraging the development of public and private programs and policies which will assist the olduer American . . .; (and) develop policies that would encourage the coordination of both governmental and private programs to deal with problems of aging. . . ."

In its first 10 months, the Aging Committee's Subcommittee on Health and Long Term Care, which I have the privilege of chairing, has heard 182 witnesses during eleven formal and informal hearings in various parts of the country and Washington, D.C. The Subcommittee has also conducted surveys of over 800 organizations and individuals with expertise in the health needs of the elderly, including State Health Departments, State Commissioners on Aging, the Chairmen of all State House and Senate Health Committees, consumer organizations, health providers, and other national and local organizations.

Mr. Chairman, you were kind enough to send a representative to some of our field and Washington, D.C. hearings, and our Subcommittee is grateful for your giving us the opportunity to contribute to your undertakings. In addition, I am pleased to note that two of the Members of your Subcommittee, Rep. John Heinz and Rep. James Florio, are also Members of our Subcommittee, and they have contributed significantly to the work of our Subcommittee.

Mr. Chairman, our Subcommittee has just issued a report which I hope will be helpful to you as you consider long-term care aspects of national health insurance.

The report, "New Perspectives in Health Care for Older Americans: Recommendations and Policy Directions of the Subcommittee on Health and Long-Term Care", found an extreme fragmentation of health services in the United States, a very serious unmet need for home health services, and a need to reduce costly and often inappropriate institutionalization, and a need for improved methods of achieving quality patient care.

As an initial assessment of the Health requirements of older Americans, the Subcommittee has offered 22 recommendations. The report and the recommendations emphasize the need to alter the nation's current acute-medical, crisis episodic model, to a preventive, health-social model, allowing the elderly to function as healthy, productive, citizens in the community.

Our Subcommittee's first recommendation calls for the enactment of legislation (such as H.R. 1354, 2268, 10908, and S. 2157) to create a system of community long-term care centers to coordinate the provision of health services for older Americans. These long-term care centers would provide local linkage among providers and services in the otherwise fragmented delivery system and would provide greater flexibility in assigning persons to different care settings.

Although the bills cited provide for services to be provided under Medicare, should your committee choose to bring Medicare into an umbrella national health plan, the services could be included in such legislation. Services covered under our Subcommittee's recommendation include home health services, homemaker services, nutrition services, long-term institutional care services, day care and foster home services, and community mental health center outpatient services.

Our recommendation and the implementing legislation state that a community long-term care center shall not certify the need for inpatient *institutional* services unless a determination has been made that the patient's needs cannot be met through other services covered in the bill or other available community resources.

Mr. Chairman, legislation matching our Subcommittee's recommendation has been introduced by Representative Barber Conable, Senator J. Glenn Beall, Representative John Heinz, and myself, together with a number of cosponsors. The primary difference between my legislation and the Conable-Heinz-Beall approaches is that my bill adds no additional *premium* to eligible indivduals, rather financing the added benefits from the general revenues. It is my firm belief that the elderly of this country, over ⅓ of whom are below poverty level, and others having very low fixed incomes, should not be burdened with additional premiums. The elderly are already paying a greater percentage of their income for medical services than when Medicare was enacted.

I would like to briefly summarize our Subcommittee's other recommendations as well. I should point out that some of our other recommendations will be unnecessary if our first recommendation concerning the community centers is enacted. However, recognizing the current situation, we have offered alternatives, particularly regarding home health care and other alternatives to institutionalization, in order to provide each of the legislative committees and subcommittees with jurisdiction the fullest possible range of legislative options.

The recommendations include: extension of home health benefits and eligibility under Medicare and Medicaid as a cost-effective alternative to expensive institutionalization—additional appropriations for home health, at least to the $10 million level your Subcommittee authorized last year but of which only $3 million was appropriated; the inclusion of comprehensive home health care in any national health plan; implementation of the 1971 White House Conference on Aging's home health recommendations calling for a comprehensive, effective program of widely available homemaker and home health services in any federal health and welfare program; new incentives for the development of outpatient clinics specializing in (but not exclusively for) geriatrics, and multi-purpose senior centers providing health, nutritional, recreational, and social services—consolidation of fragmented health programs within H.E.W. by creating an Assistant Secretary for Elderly Health; and placing under the jurisdiction of the new Assistant Secretary all long-term care interagency task forces, thereby ending the current structural conflict of interest of the Office of Nursing Home Affairs coordination of H.E.W.'s interagency home health task force.

Mr. Chairman, on November 19 of this year, the Department of Health, Education, and Welfare testified before our Subcommittee that 200,000 persons annually receive home health services under Medicare, and 114,000 under Medicaid, for a total of 314,000 out of over 22 million elderly persons (over 65 years old).

Under questioning, the Department conceded that the numbers of persons receiving these benefits are "not sufficient in terms of the question of need."

Mr. Chairman, to meet the need for home health services, which our Subcommittee has estimated at over two million persons, the Ford Administration's only response has been to propose regulations allowing federal Medicaid reimbursement of unlicensed proprietary home health agencies for the first time. Our Subcommittee held joint hearings with the Senate Subcommittee on Long-Term Care on these proposed regulations. In the view of the Members of both Senator Moss's and our Subcommittee, the proposed regulations currently provide inadequate control against abuse, would create extreme difficulty for the forty states which do not now permit proprietaries and have no licensing procedure, and would be a major policy change which should first be approved by the Congress.

Patient, consumer, and provider organizations testifying opposed the regulations. The only organizations supporting the regulations were the proprietary home health agencies themselves, including Upjohn, Inc., and the Department of H.E.W., which wrote the regulations.

Mr. Chairman, it is incredulous to me that, on the one hand, H.E.W. would oppose expanded home health legislation because of a supposed lack of data—of which our Subcommittee and others who have studied the questions have ample information to demonstrate need and cost-effectiveness in any case—and on the other hand would propose untested regulations, relying on a meaningless preamble stating an intention to control potential abuse when the Department has often stated a need for more manpower to control *current* fraud and abuse.

This is one example, Mr. Chairman, of the kinds of quality controls which I would urge you to include as part of any national health plan.

In addition, our Subcommittee report states that during the Subcommittee's hearing on auditing of nursing homes, testimony revealed that twenty states had not audited a single Medicaid nursing home since 1967 and that hundreds of thousands of dollars had been inappropriately spent in those that had been audited. The Subcommittee has recommended federally supervised, unannounced, on-site audits of federally funded nursing homes on at least a random basis, with immediate consideration of legislation including H.R. 8733, introduced by Representative Edward Beard and referred to your Subcommittee, to accomplish this.

The report also includes a chapter on matters we intend to look into, and one of these is the impact of, and possible solutions to, cutbacks in state Medicaid health services for the elderly. Dr. Kerth Weikel, Director of the Medical Services Administration which supervises Medicaid, informed our Subcommittee that 20–30 states are planning Medicaid service cutbacks because of increasing state budget deficits.

These cutbacks have a severe impact on needed long-term care services. Mr. Chairman, as you and I are aware, in Florida, our State administration cut $10 million from our Medicaid budget for the elderly in nursing homes. That meant $24 million was cut away from the elderly in nursing homes because the $10 million of State funds brought into the State $14 million of Federal funds. What was the result? The nursing homes immediately declared that they were not going to accept any more Medicaid patients. So the elderly, who needed to go to nursing homes, were denied access to them.

If states are unable to provide needed services, the federal government is obligated to undertake this task.

For the record, Mr. Chairman, I would like to enclose a letter from Mr. Herbert Semmel of the Center for Law and Social Policy outlining the impact on the elderly of cutbacks in various state Medicaid programs across the country during 1975.

Finally, Mr. Chairman, I would be remiss if I did not report our findings of proliferation and fragmentation in health statutes enacted by the Congress. Dr. Arthur S. Flemming, U.S. Commissioner on Aging, testified before the Subcommittee on November 19, 1975:

"Although a wide range of in-home and community based services are available to maintain older persons in their homes, most of these services are fragmented, financed under different Federal programs with *differing eligibility* requirements, income levels, and sometimes conflicting regulations."

Another witness told the Subcommittee that "it would take a Philadelphia lawyer to lead a person through the layers of red-tape to find the right service at the right time."

In the Congress, which originates health statutes, home health and nursing home benefits under Medicare are considered by the Ways and Means Committee, home health and nursing home benefits under Medicaid are considered by your Committee, and homemaker services under the Older Americans Act are under the jurisdiction of the Committee on Education and Labor. Other health stautes were found to have equal separation of jurisdiction in the Congress.

Different stautes often have required different administrative agencies, and individuals needing a range of services testified about the physical dexterity and transportation costs required to travel from agency to agency—the agencies often being dispersed over wide areas.

As a result of this consensus of testimony, our Subcommittee has recommended that joint hearings be held by your Subcommittee and the Ways and Means Subcommittee on Health on the issue of national health insurance.

The Subcommittee recognizes the outstanding work both Subcommittees are doing of organizing hearings and developing expertise on this subject. We would hope, however, that the current duplication of witnesses and issue areas would be ended by a joining together in hearings.

I would also like to point out that, because of the referral of so many health and long-term care bills to both committees, and because of testimony demonstrating the need for consistency in health planning among statutes relating to the public health service, Medicare, Medicaid, and other health areas, our Subcommittee has recommended the creation of a new full *standing* Committee on Health, with membership drawn primarily from your Subcommittee and the Ways and Means Subcommittee on Health.

The House Parliamentarian has called some bill referrals dealing with Medicare and Medicaid "a nightmare", and the Select Committee on Committees last year also called for consolidation of health jurisdiction into one committee. The proposal for a new committee will come before the House Rules Committee, of which I am a member.

To be quite frank, joint national health insurance hearings by the Interstate and Ways and Means Subcommittee on Health would cause most of this furor to die down and would demonstrate to the American people that Congress is not torn by jurisdictional disputes over a very important legislative subject.

In any case, and whatever you decide, I certainly wish you well in this important area of national health insurance.

Mr. Chairman, if you have no objection, I will attach for the hearing record a summary of our Subcommittee report's findings, recommendations, and areas for further study. The report was approved by the full House Select Committee on Aging on January 28.

Mr. Chairman, our Subcommittee hopes that our recommendations will be helpful to you in the area of long-term care of the elderly as you consider the critical issue of national health insurance.

[From "New Perspectives in Health Care for Older Americans," report of the Subcommittee on Health and Long-Term Care, House Select Committee on Aging, January 1976]

SUMMARY OF FINDINGS, RECOMMENDATIONS, AND AREAS FOR FURTHER STUDY

In its investigation, the Subcommittee found extreme proliferation and fragmentation in both HEW and the Congress concerning the delivery of health services to the elderly, to the detriment of the patient who requires a continuum of care. The Subcommittee further found institutional bias both in the Department of HEW and under current health benefits statutes, which is largely responsible for the current inappropriate and unnecessary costly placement of hundreds of thousands of the nation's nursing home patients.

The recommendations include both incremental and long-range proposals. They focus on the very serious unmet need for home health services for approximately two million chronically ill elderly; the need to reduce inappropriate institutionalization of elderly patients with cost effective alternatives; the need to develop better methods of assessing long-term care patients; and the need for better methods of referral to the proper level and type of care. While recognizing that there is more to long-term care than nursing homes, and home health care, these components are major, and this first report of the Subcommittee focuses principally on them.

Recognizing the lack of priority for home health care for the elderly in the federal health dollar—approximately 1% of Medicare and Medicaid—the recommendations not only suggest extension of current home health benefits under existing and additional programs, but propose innovative alternatives to institutionalization; outpatient clinics specializing in geriatrics, multi-purpose senior centers including health and nutritional facilities; elderly day health care centers; community care organizations; mobile health units; and other approaches utilizing a "consortium of partners", where federal, state, local, and voluntary agencies cooperate in maximizing patient care. The Subcommittee has recommended a system of community long-term care centers to coordinate the provision of health services for older Americans in order to provide linkage in the current fragmented delivery system.

The Subcommittee believes the present acute-medical orientation of the nation's health policy, largely based on compromises in the 1965 Medicare and Medicaid statute, should be changed. A preventive, medical-social model needs to be developed to avoid later costly curative care and to allow the elderly to be productive in the community.

The Subcommittee seeks greater Administration and Congressional attention to health maintenance programs and recommends an annual Health Fair in communities, Medicare and Medicaid amendments providing annual physical checkups for persons over 60, and other health maintenance and health education programs.

The Subcommittee has suggested means of assisting elderly patients to know what health benefits are available to them. The establishment of a home health clearinghouse is recommended to disseminate and collect information on existing Federal, state, local, and voluntary home health benefits and programs.

The Subcommittee has also suggested major reorganization of H.E.W. health programs, including the creation of an Assistant Secretary for Elderly Health, and the removal of the Chairmanship of the Inter-Agency Home Health Task Force from the Office of Nursing Affairs because of the structural conflict of interest.

The Subcommittee considers of major importance the creation of a new House Committee on Health, necessitated by the impact of the split-jurisdictional problems in current national health insurance and other health legislation between Ways and Means, Interstate and Foreign Commerce, Education and Labor, and other committees. While the Subcommittee is aware of the political difficulties of such a proposal adjusting jurisdictions, it felt that unity and rationality in health planning are paramount and that a single united committee, with initial membership drawn from the current committees with health expertise is a sensible solution to the current jurisdictional dispute over national health insurance. The Subcommittee has strongly urged the Committee on Ways and Means and the Committee on Interstate and Foreign Commerce to hold joint rather than separate hearings on that subject as an interim solution.

The Subcommittee found a "dearth of audits" of nursing homes—20 states have not audited a single Medicaid nursing homes since 1967—and found that hundreds of thousands of dollars had been inappropriately spent in those that had been audited. The Subcommittee has recommended Federally supervised, unannounced, on-site audits of nursing homes receiving Federal funds under Medicare and Medicaid. In addition, the Subcommittee states its intention to investigate the reasons that 93.9%, according to H.E.W., of the nation's nursing homes do not comply with the Federal Life Safety requirements—is the fault in the Code, the homes, or both? The Subcommittee also plans to investigate institutionalization of the mentally impaired elderly and to study other important issues in long term care of the elderly.

Alternatives within the recommendations regarding home health care and innovative alternatives to institutionalization are offered to furnish each of the legislative committees and subcommittees with jurisdiction over the particular matter the fullest possible range of legislative options to accomplish the goals cited in the report.

The Subcommittee considered the question of the cost of the proposed recommendations. It concluded that the proposals to end fragmentation and proliferation could reduce cost. The proposals providing home health care to persons inappropriately institutionalized would *reduce* costs—testimony before the Subcommittee indicated by as much as $700 million nationwide (nursing homes are a nine billion dollar industry). Provision of care to additional persons who would apply for home care but who would enter nursing homes only as a last resort *would* cost, but much of this cost would be saved by the fact that, in the future, many persons will be able to avoid institutionalization or decrease the length of stay. While some experts say there will even be an overall saving, the evidence does tend to indicate there will be an increase in cost because of an increase in the number of persons who will seek the more humane benefits to be provided.

During the coming year, the Subcommittee will continue to analyze the cost and savings implications of the recommendations.

Even if there is to be an increase in costs, the Subcommittee believes that the elderly of the nation deserve far better health care than they are now receiving. An affluent society is obligated to undertake the responsibility to minimize the illness and suffering of its aged population.

The Subcommittee hopes that the Congress, the Department of Health, Education, and Welfare, and other appropriate agencies will consider the recommendations in determining future directions in health care for older Americans. The proposals are intended to open honest and thoughtful debate on questions of public policy. It is hoped that the recommendations will lead to alteration of the fragmented approach of the past, which has kept hundreds of thousands of older Americans inappropriately institutionalized and has denied to still others adequate health care.

[From "New Perspectives in Health Care for Older Americans", report of the Subcommittee on Health and Long Term Care, House Select Committee on Aging, January 1976]

RECOMMENDATIONS AND AREAS FOR FURTHER STUDY: A LISTING

CHAPTER I—PROLIFERATION AND FRAGMENTATION: A NATIONAL PHENOMENON

Community Long-Term Care Centers To Provide Linkage Among Health Services (#1)

A New House Committee on Health (#2)

A Home Health Clearinghouse within HEW (#3)

CHAPTER II—HOME HEALTH SERVICES: A RIGHT TO CHOOSE

Legislative Recommendations

Major Reorganization of HEW Health Programs for the Elderly: End Office of Nursing Home Affairs' Coordination of Interagency Home Health Task Force; create Assistant Secretary for Elderly Health (#4)

Additional Appropriations for Home Health (#5)

Extend Home Health Benefits and Eligibility Under Medicare and Medicaid to Provide Alternative to Institutionalization; Comprehensive Home Health Care As Outlined Should in any National Health Insurance Program (#6)

Legal Counsel for Sick and Disabled Beyond Current Inadequate Programs (#7)

Amend Title XX, Social Services Program, to Provide Financial Incentives for Reducing Inappropriate Institutional Care (#8)

Democration and Pilot Programs to Determine the Effectiveness of New Kinds of Home Health and Supportive Services (#9)

Recommendations to HEW

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DROUGHT EMERGENCY RELIEF ACT OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. ENGLISH) is recognized for 10 minutes.

Mr. ENGLISH. Mr. Speaker, today a wide area in our home State of Oklahoma, and throughout the American Southwest, is caught in an extremely serious drought. In this area it is likely that the dry weather will lead to extensive loss of crops and topsoil through wind erosion, leading to a disaster of massive proportions.

In the past, the only Federal assistance available for drought-struck areas has come in the form of disaster aid after the fact. But there has been no help available to farms and communities to help prevent extensive losses before they took place.

Mr. Speaker, today I am introducing H.R. 12083, the Drought Emergency Relief Act of 1976. This bill would, for the first time, provide direct Federal assistance to local soil conservation districts to help prevent a drought emergency from becoming a disaster. Under this measure, local SCS districts would be eligible for 60 percent Federal funding for emergency weather modification whenever an emergency drought condition was declared by the President at the request of the Governor of each affected State. The Federal funds would then be used to supplement moneys raised by each local conservation district.

While weather modification is not yet an exact science, its cost is modest when weighed against the cost of massive disaster relief. In 1971, for example, five Oklahoma counties were part of a multi-State drought disaster area, and the Government spent over $2.5 million in these counties alone for emergency loans and assistance.

Under H.R. 12083, the amount the Government spent in these counties in a few months would have made it possible to provide preventative weather modification in the same area for more than 20 years.

In view of the extremely serious drought now taking place in the American Southwest, I urge prompt congressional consideration for the Drought Emergency Relief Act.

I include a copy of the text of H.R. 12083 in the RECORD at the conclusion of my remarks:

H.R. 12083

A bill to amend the Soil Conservation and Domestic Allotment Act to prevent soil erosion during a drought emergency

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Drought Emergency Relief Act of 1976."

SEC. 2. The Soil Conservation and Domestic Allotment Act is amended by including therein the following:

(a) DEFINITIONS.—As used in this amendment—

(1) "Drought" shall mean that which exists whenever the President of the United States pursuant to the request of the Governor of a State declares that severe economic loss is imminent unless an adequate amount of precipitation occurs in the affected area in time to prevent or lessen said economic loss.

(2) "District" shall mean a conservation district as constituted under State law in accordance with the provisions of section 8(b) of the Soil Conservation and Domestic Allotment Act having for its prime purposes the conservation of soil, water, and related resources.

(3) "Weather Modification" shall mean any activity performed with the intention of producing artificial changes in the composition, behavior, or dynamics of the atmosphere.

(4) "State" shall include the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and any territory or insular possession of the United States.

(5) The term "Secretary" means the Secretary of Agriculture.

(6) The term "Governor" means the chief executive of any State.

(b)(1) Pursuant to the request of a Governor, the President of the United States is hereby authorized to declare a state of drought to exist in those areas designated by the Governor in the Governor's request to the President.

(2) Whenever a drought is declared as in section 2(b)(1) within a district or combination of districts, the officials of the district or combination of districts may make application to the Secretary for financial assistance for weather modification purposes.

(3) Upon such a request from a district or combination of districts, as in section 2(b)(2) the Secretary, through the Soil Conservation Service, shall make financial assistance available to the district or combination of districts for the purpose of assisting and initiating weather modification measures designed to alleviate the drought condition. The total amount of such financial assistance provided by the Secretary to meet a drought shall equal 60 per centum of the total cost of the weather modification program during that period of implementing such drought alleviation or prevention program.

(c) The remaining portion (40 per centum) of the cost of the weather modification described in section 2(b)(3), shall be borne by the district or combination of districts in which a drought has been declared. Such money being raised by the district or combination of districts as the officials of the district or combination of districts may proscribe within the limits of the State laws which initiated the district.

(d) Funds shall be made available by the Secretary to a district or combination of districts when the district or combination of districts are declared to be in a state of drought as defined in section 2(a)(1) and after the district or combination of districts have raised the required local funding as prescribed in section (2)(c).

SEC. 3. (a) The Secretary is hereby authorized to transfer and utilize for the purpose of section 2(b)(3) any funds included in the Agricultural and Related Agencies Appropriations Act, P 94–122. This transfer and utilization of funds shall not exceed $5,000,000 for the fiscal year ending June 30, 1976 and the period ending September 30, 1976. These funds to remain available until expended.

(b) The funds transferred and utilized in section 3(a) may be replaced at the request of the Secretary in a future supplemental appropriation.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Amendment, not to exceed $5,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, and $5,000,000 for the fiscal year ending September 30, 1979, all funds to remain available until expended.

ZERO-BASE BUDGETING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, for several months I have been working on a bill to require a complete rejustification of every Government program on a periodic basis and to reorganize and simplify the bureaucracy so that it will be more efficient, more economical, more subject to congressional oversight and thus more responsive to the real needs of the American people. I have discussed this project with my constituents at public town meetings and individually and have gotten, I believe, full support for the idea.

Mr. Speaker, when Jimmy Carter was Governor of Georgia, he successfully instituted such a reform and I have used his program, which he called zero-base budgeting, as the basis for my thinking. I am not the only one to have recognized the merits of such a concept and just this past week Senator MUSKIE introduced a bill, S. 2925, the Government Economy and Spending Reform Act of 1976, designed to accomplish essentially the same goals.

Mr. Speaker, I think it is imperative that we begin consideration of these concepts now and to that end I am today introducing Senator MUSKIE's bill in the House of Representatives. What differences there might be between our concepts can be ironed out during the hearings and markup processes, but beginning with identical bills will, I believe, expedite our early consideration of this much needed reform.

Mr. Speaker, Gov. Jimmy Carter described his concept in an article which was published in Innovations in State Government in June of 1974. His discourse, entitled "Planning a Budget From Zero," describes the need and the plan very excellently and I would like to commend the text of that article, which follows, to my colleagues:

PLANNING A BUDGET FROM ZERO

(By Governor Jimmy Carter)

On the campaign trail, a lot of promises are made by candidates for public office to improve economy and efficiency in government if they are elected. This pledge has a natural appeal to the financially over-burdened taxpayer. But when the winning candidates take office, they too often find that it's easier to talk about economy and efficiency in government than to accomplish it. Entrenched bureaucracy is hard to move from its existing patterns.

Taxpayers, on the other hand, hear the promises but see few results. It seems to them that for every new program in government there must be a tax increase. Each government—whether federal, state or local—seems to have an insatiable financial need. No matter how much money is collected, it never seems to be enough.

When I campaigned for Governor, I promised that if elected there would be no general statewide tax increase during my four-year term in office. At the same time, I outlined a platform of eight general goals and 97 specific objectives that I wanted to accomplish. The twin promises, in my estimation, were not incompatible. I felt that this administration could reverse the past pattern of ignoring campaign promises.

Immediately upon election, I began planning a program to keep my commitments. I knew that simple appeals for greater productivity in government were not the answer. Economy and efficiency must come from basic, subtle changes that slice across the complete spectrum of a government's activity. The two areas that seemed to offer greatest possibilities of success were budgeting and planning. Through tight budgeting, more services can be squeezed out of every tax dollar spent. Through planning, the groundwork can be laid for implementing new programs and expanding existing ones in ways that will avoid possible pitfalls and launch the programs directly towards their goal from the beginning.

As a citizen interested in government and as a former legislator, I had long believed that too many governmental programs are botched because they are started in haste without adequate planning or establishment of goals. Too often they never really attack the targeted problems.

The services provided by Georgia's state government are now greatly improved, and every tax dollar is being stretched farther than ever before. There has not been a general statewide tax increase during my term. In fact, there has been a substantial reduction in ad valorem tax. Neither will a tax increase be necessary when my successor takes office next year.

REORGANIZATION MERGES PLANNING AND BUDGETING

In budgeting, we initiated a new concept called zero-base budgeting to help us monitor state programs better and attain increased efficiency. In the area of planning, we merged the roles of planning and budgeting—which had previously operated completely independent of each other—so that they could work together in promoting more economy in government. At the same time, we clearly defined the various roles of planning and assigned the proper roles to the appropriate organizational unit.

The functions of planning and budgeting were merged in a broad reorganization program that completely streamlined the executive branch of Georgia's state government. Much of our success during the past three years in improving state programs is a direct result of reorganization.

We reduced the number of state agencies from about 300 to 22 major operating agencies and combined functions to eliminate duplication and overlapping of services. For instance, 33 agencies were combined to form the Department of Natural Resources. Reorganization is a separate story of government in action. My interest now is to stress how we changed our budgeting and planning procedures to help accomplish the previously stated goals.

THE ZERO-BASE PRINCIPLE

Georgia was the first government to implement a program of zero-base budgeting. Under this novel concept, every dollar requested of expenditure during the next budget period must be justified, including current expenditures that are to continue. It also provides for examining the effectiveness of each activity at various funding levels. This is a dramatically different concept from that followed by most governments, which concentrate almost totally on proposed new expenditures when considering a new budget. Except for non-recurring programs or expenditures, the continuing expenditures in a current budget get little attention.

Take as an example a government with a budget of $1 billion. Projections are that the new budget will grow by $50 million during the next budget cycle because of growth in the economy, a tax increase or other factors. Department heads submit their budget requests with proposed increases to get a slice of the $50 million in new funds, either to expand existing programs, launch new programs, or to cover increases in costs through inflation. The governing officials rarely look at the existing expenditures to judge whether they are meeting their objective. The officials are concerned only with carving up the $50 million in new funds. If graded, a new program actually might become a greater priority than an existing program, but it doesn't get funded unless it can get a slice of the $50 million in new money.

Zero-base budgeting changed this practice in Georgia. Every program, existing and proposed, must now vie for funding in the new budget on an equal level. Every single dollar spent by a department in the current year must be justified if it is to be recommended by the Governor for funding in the following year's budget.

Until the concept was implemented in Georgia, only one Texas corporation had ever used zero-base budgeting. The new technique was developed by that corporation as a means of reducing the costs of its overall operation. This was done by ranking every single function within the company's operations and abolishing the lowest-priority functions. Thus, the company was able to reduce expenses as required in a manner that retained the most-needed functions.

DECISION PACKAGES ESTABLISH PRIORITIES

On a larger scale, zero-base budgeting in Georgia has peeled the veil of secrecy from around bureaucracy by opening up for inspection and scrutiny the activities of every single state employee. For the first time, a Governor, legislator, department head, or anyone else can study in detail what is being accomplished at the lowest level of state activity.

The heart of zero-base budgeting is decision packages, which are prepared by managers at each level of government, from the top to the bottom. These packages—10,000 in Georgia—cover every existing or proposed function or activity of each agency. The packages include an analysis of the cost, purpose, alternative courses of action, measures of performance, consequences of not performing the activity, and benefits.

Merely compiling these packages would not accomplish any purpose other than to provide information. Therefore, they are ranked in order of importance against other current and new activities. This ranking forms the basis of determining what functions are recommended for funding in the new budget, depending, of course, upon the amount of money available. If less funds are appropriated than requested, the lowest-ranking functions and activities are cut out.

PLANNING REQUIREMENTS

Besides placing priority on spending programs and revealing more information about actual governmental operations, zero-base budgeting achieves one more important action: it forces planning into levels of government where planning may never have existed. It forces all levels of government to find better ways of accomplishing their missions. It also gives a voice in governmental direction to the rank and file state employee who is responsible for delivering services. Besides making him a more integral part of the planning process, it elevates his own sense of importance of his position and prompts him to work harder and deliver more efficient services.

There are three ingredients necessary for successful implementation of zero-base budgeting: (1) unqualified support from top executives, (2) effective design of the system, and (3) effective management of the system.

Zero-base budgeting has been well-received in Georgia. It has become an important planning tool to insure that we are placing our priorities on the proper programs and are constantly seeking the maximum services for every state dollar.

I don't want to mislead you and leave the impression that implementation of zero-base budgeting has created miracles in Georgia's state government. Obviously it has not. But it has been subtly at work for three years making basic changes in the operations of our government and will continue to pioneer further improvements in the years ahead.

The merging of budgeting and planning services into one cohesive organization has worked so well that one wonders why they were ever located in separate, noncooperating agencies.

State planning was a function of the Bureau of State Planning and Community Affairs when I took office, while the Budget Bureau handled all budget matters. Although both agencies were under control of the Governor since he appointed both agency heads, they operated separately with no cooperation between them—a fact that minimized the probability of the planning output being implemented.

One of the most critical problems was that the Bureau of State Planning and Community Affairs, which had been created in 1967, had never really established its mission in Georgia's state government after four years of operation. Legislators didn't understand its functions and were skeptical of its entire operation. They felt that the planning bureau and the individual state departments were overlapping in their responsibilities. In some instances this was true. More importantly, the planning bureau was doing most of the program planning in state government without adequately synchronizing its efforts with the state agencies. When it came time to implement the planning efforts, department heads were skeptical and too often were reluctant to push for implementation of the proposed improvements. This created an impasse that made the work of state planners generally ineffective.

As soon as reorganization brought the budgeting and planning functions together into the same agency, the Office of Planning and Budget, changes began to occur. For the first time, planners and budget analysts worked side by side and began to coordinate their efforts.

Over a period of another year, further changes took place that changed completely the role of state planning. Through reorganization, most state agencies began to do their own functional program planning. This was made possible by creation of planning divisions within these departments for the first time, and also by the fact that the reduction in number of departments made them large enough to justify their own program planning divisions.

A NEW ROLE FOR THE PLANNING DIVISION

Concurrently, planners in the Planning Division of the Office of Planning and Budget assumed a new role of policy planning rather than program planning. By restricting program planning to the agency level, there is now a greater chance that it will be implemented.

Georgia state law charges the OPB Planning Division with the responsibility for assessing accurately Georgia's physical, social and economic needs. On a periodic and timely basis throughout the year, these needs are identified, documented and analyzed.

One method that I have used to secure citizen participation in the state planning process was the Goals for Georgia program. This was a year-long program in 1971 in which Georgia citizens were given a chance to outline the types of programs they wanted their state government to emphasize in the years ahead. Since that time, state planning has been updating the results of this program continuously in the formulation of the state's goals and policies.

The role of OPB planners in preparation of the 1975 budget tells the story of how state planning is now done in Georgia.

Long before the state's budget analysts got deeply involved in preparation of the proposed fiscal year 1975 budget that would be submitted to the General Assembly, OPB planners started meeting with department heads to determine their program priorities for the following year. Detailed analyses were prepared and submitted to me for review. At the same time, I was meeting with the planners to outline my priorities. Later, I met together with the planners and each department head to discuss both of our priorities. We reached a mutual agreement on many programs to be pursued and disagreed on others. Even though we didn't reach unanimity, we established a common ground of understanding about our conflicting goals. Later, when the budget analysts started putting together the actual budget proposals in dollars and cents, the spadework done by the planners proved to be an immense help.

OPB's Planning Division didn't stop at this point. Its staff continued to attend every budget meeting and provide assistance in ironing out details of the actual budget proposal to be made. Although planners had been involved in preparation of the proposed fiscal year 1974 budget, this was the first time they had actually been involved with a clear-cut role established for them. I can only say that I wish we had had this type of budgeting-planning relationship available when I became Governor. I am more than pleased with the working rapport that has been established. The relationship between me and all department heads concerning budgeting preparation has been improved considerably.

The work of the planners is reflected in our printed budget documents as well. One of the three budget documents we prepare in Georgia is an outline of proposed spendings on a program basis with a four-year projection of future needs for each program. This document is keyed by page number to the main financial display document for easy cross-reference.

One role of planners has been retained—program evaluation. This involves determining whether each program has attained its objective and making a thorough analysis of the strengths and weaknesses of each program.

OPB planners were left with this function because an objective, outside-the-agency evaluation is needed, and because many programs cross agency lines. It would not be fair for one line agency to evaluate the effectiveness of a related program in another line agency.

Along with the new objectives of OPB's Planning Division, one major change has taken place in our recruiting efforts. Instead of recruiting trained planners, we hire experts in the various areas of governmental activity such as education, law enforcement, mental health, etc. We provide them the in-house training necessary to work within the framework of our planning organization. This policy has been successful. By virtue of being experts in their activity of assignment, OPB planners can discuss programs on a level with department heads. They have an expertise that is creating more trust in state planning and is helping to establish better rapport between the Governor's Office and the various state departments.

Georgia's state government still has a long way to go to achieve the quality of service that I would like to see. But we've come a long way since I took office in 1971.

The innovations involving zero-base budgeting and merging of the budgeting and planning staffs will be felt in Georgia for a long time. We are leaving a legacy to our next Governor that will allow him the flexibility and mechanism to move quickly into the decisionmaking process of a new administration that hasn't been available to Georgia's past governors.

BILL TO PREVENT U.S. POSTAL SERVICE FROM CLOSING ADDITIONAL RURAL POST OFFICES WITHOUT CONSENT OF CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, today I, along with my colleague from Tennessee, ED JONES, am introducing legislation to prevent the U.S. Postal Service from closing additional rural post offices without the consent of the Congress.

The post office is a major component of the communications network in this country and is virtually the heartbeat of rural America. I refuse to sit idly by and allow another unsound national postal policy to sever the communication lines in the countryside of this Nation.

Those who choose to live in nonmetropolitan areas have just as much right to convenient postal facilities and services as those Americans who live in metropolitan areas.

Though the Postal Service desperately needs to adopt measures to put its economic house in order, the singling out of rural America for wholesale curtailment of services is unjustified and relegates Americans living in the countryside to second-class citizenship.

I commend my bill for the consideration of all my colleagues, regardless of the constituency they represent. This is a matter of pure and simple equity.

ON SAVING THE CHILDREN

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, this country is experiencing a distressing increase in juvenile crime and delinquency. From 1960 to 1974, the number of people arrested who are under 18 years of age jumped by almost 140 percent. Some of these youthful offenders are clearly in violation of the law; many, however, are emotionally disturbed children striking out at their family and society.

We are aware of some of these troubled youths due to the crimes they commit. Yet many more disturbed children exist who do not resort to violence. Because they have not reached the crisis stage of violence, these children are perceived as not yet demanding immediate treatment. Many receive attention only after they strike out at their environment and then the treatment is frequently extreme—to wit: institutionalization in juvenile homes, reform schools, et cetera.

Preventive treatment can save the maladjusted child from becoming a juvenile delinquent; such services can work with not only the troubled child but also the parents and other possibly disturbed family members. This community-based care can cover a large range of services including housekeeping, vocational and health planning, and psychiatric and other counseling services.

Significantly, preventive care for troubled children and their families means better care for the child and lower costs for the taxpayer. For all these reasons, I have introduced a bill to provide Federal funding to State and local welfare agencies so as to encourage comprehensive and less costly treatment of emotionally disturbed children and their families.

This bill, H.R. 10383, is entitled the "Community-Based Day Treatment and In-Home Services for Children and Families Act." My legislation is designed to provide alternatives to the traditional approach of removal of the child from his or her family and subsequent institutionalization. A recent University of Michigan study conducted for the U.S. Department of Justice declares the need for a new emphasis on community, not foster home, treatment. The study states that nearly 4 out of 5 State agency administrators surveyed agree that "most adjudicated delinquents do not belong in institutions at all" and a majority stated that "community-based programs are better than even the most effective institutions."

In fact, a consensus exists that, although institutionalization is the common means of treating the disturbed child, in-home services and day care treatment should be developed and utilized. The 1967 President's Commission on Law Enforcement and Administration of Justice concluded that community-based programs are, for most juvenile offenders, more effective and less costly than incarceration; nevertheless, most funds in this area are spent on large State institutions. All agree on the need for this reorientation of community services but little is done. My bill would provide the necessary stimulus for the implementation of community child care services.

Many State and local family welfare agencies realize the need for preventive community services and some attempt to provide this care. A branch of the Society for the Prevention of Cruelty to Children conducted an extensive study of its community and found fragmentation, duplication, and overlapping in private and public agencies. One example was a case where 65 workers and 29 agencies dealt with one alcoholic mother and her eleven children, most of whom had severe emotional problems. Even with all this attention, certain basic services needed by this family were not provided. The local SPCC cited, among other deficiencies, the scant planning for services to anticipate and prevent maltreatment.

At least the family mentioned received some attention; many disturbed children go unnoticed until it is too late. In 1968, the New York City Department of Social Services took custody of a 3-year-old boy who was abused and neglected. The child was first placed with a child welfare agency which put him temporarily in a foundling hospital. The "temporary" placement became a 4-year placement. When the child first entered the hospital, he showed signs of mental retardation that was due to a metabolic disorder. Yet the child was not tested for any such disease until 2 years after his hospital commitment. This disease can be easily treated by a controlled diet, yet if ignored it causes physical damage, including brain damage. Eventually the child was placed with foster parents who did not follow his special diet plan. Nothing was done for 4 months, and finally the child became so ill that he was hospitalized. After two more unsuccessful foster home placements, the child returned to a hospital where he has resided for the last 2 years.

Marcia R. Lowry, director of the children's rights project of the Civil Liberties Union, prepared the complaint on behalf of the boy who is now represented by the New York CLU. I mention her, Mr. Speaker, because she initially suggested to me the need for legislation providing for community-based treatment of emotionally disturbed children, resulting in this bill.

Not only child welfare agencies but also concerned public officials have realized the need for reorientation of child care programs. New York Governor Hugh Carey recently stated:

> [W]e can no longer afford—in terms of cost and conscience—to institutionalize people who can be better treated at the community level.

Although many public officials and welfare agencies realize the need and concomitant savings for community-based treatment, they are financially handicapped from providing transitional and supportive funding for these new services. In New York City alone 1,600 problem children are being denied adequate care due to budgetary difficulties. According to Carol Parry, director of New York City's Special Services for Children, only the child who has been rejected by every possible agency and in a confirmed emergency is admitted to the city's short-term care facilities. Children whose problems are less than crisis-level must remain at home "but the longer they stay there, the greater the chance that they will become emergencies."

By no means is this problem limited to one city or region. Over 300,000 emotionally disturbed children are in institutions nationwide. The problem is clear, the solution is evident. I call upon my colleagues in the House to act on this legislation and, by providing the needed supportive services, save tens of thousands of children from misery and physical and mental deterioration.

CONGRESSIONAL INTIMIDATION OF THE PRESS IS UNFORTUNATELY WORKING AS CBS SUSPENDS SCHORR

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, on Monday of this week, in a statement for the RECORD, I warned that the Stratton resolution against Daniel Schorr poses a grave threat to freedom of the press in America, constituting far greater danger to our national security than Mr. Schorr's actions in causing to be published the report of the House Select Committee on Intelligence.

Sadly, the threat I envisaged is already becoming a reality. Yesterday CBS buckled under to the pressure caused by the resolution and suspended Daniel Schorr from his reporting duties, using the lame excuse that Mr. Schorr would be too preoccupied defending himself from the congressional inquiry to have time to perform his broadcast duties—patently rubbish.

Our constitutional freedoms have survived and fluorished primarily because of the willingness of Americans threatened with their deprivation to stand up and fight to preserve them. The failure of CBS to stand behind Daniel Schorr and fight the attempted intimidation of his exercise of freedom of the press, is shameful. CBS' acquiescence can only contribute to the erosion of the most basic and precious right under which it and every other press medium is able to freely report the news in their great democracy, one of the few in which true freedom of the press still prevails. The right of all Americans to receive full and unbiased coverage of events, free from Government influence, is tarnished both by congressional intimidation and CBS' yielding to it.

I deeply hope that the House Committee on Standards of Official Conduct will have the good sense to reject the inquiry assigned to it by the hasty and ill-considered actions of this House last Thursday as being both beyond its jurisdiction and an abuse of congressional process which severely threatens basic constitutional rights both of Mr. Schorr and of the American people.

There is no question that reporters in the future will hesitate to publish materials coming into their hands that Congress wishes to suppress, unless this inquiry is promptly quashed. Otherwise, they will be on notice that by exercise of their constitutional rights of publication they face congressional investigation, threatened revocation of their credentials, and suspension from their jobs. The precedent being set both by Congress and by CBS is deplorable and dangerous. Action to reverse this assault upon the Constitution is of utmost urgency.

As I said in my Monday statement, the action which we should take in this situation should be solely directed at the person or persons who leaked classified information in the report, not against the press for its publication. Furthermore, it is important to reiterate that this entire controversy deplorably deflects public attention from the vital contents of the report and badly needed reforms of our intelligence agencies and their activities, focusing instead on the circumstances of the release of this information. I hope this was not the intended result.

Tom Wicker of the New York Times wrote a very sensitive and sensible evaluation of this situation in his column yesterday, Tuesday, February 24, 1976, which I insert at this point for consideration by my colleagues:

Defending Dan Schorr

(By Tom Wicker)

In suspending Daniel Schorr from his reporting duties, CBS News has succumbed to a campaign launched within the Ford Administration to picture the Central Intelligence Agency as an erring but basically worthy victim of those who leak its vital secrets and reporters who print them.

Mr. Schorr has conceded that he made a copy of the House Intelligence Committee's report available for publication in The Village Voice, a New York weekly. The charge against him is that he "sold" a document that not only disclosed national security information but which the House of Representatives had voted not to publish. The "selling" charge arises from Mr. Schorr's suggestion that The Voice make a contribution to the Reporters' Committee for Freedom of the Press.

Anyone who knows Daniel Schorr knows also that it is absurd to suggest that he sought to profit materially from publication of the House committee report. The facts are that Mr. Schorr did not suggest payment for himself, but to a cause he considered worthy. He first determined, as a CBS reporter, that the broadcast possibilities of the report had been exhausted. When the possibility of book publication fell through, Clay Felker, publisher of The Voice, offered to print the report.

"I had then to consider," Mr. Schorr wrote the editors of The New York Times, "since taking money was unthinkable to me, whether Felker should be the sole beneficiary. If our system inevitably creates profits, should Felker enjoy them exclusively? So, I suggested it would be appropriate for him to make some gesture to the free press idea which had animated me by a 'voluntary' contribution to the Reporters' Committee. . . ." In fact, the arrangement was so "voluntary" that the contribution has not been made.

This arrangement may well have been an error of judgment. But Mr. Schorr deserves to have it acknowledged that there was no "sale" of the committee report nor any arrangement designed for his personal enrichment, or that of anyone; and that he at least thought he was precluding a "profit" even for The Village Voice.

The other major question concerning publication of the committee report is whether Mr. Schorr should have turned it over to The Voice in any circumstances. Did not the House vote to keep it secret? Has not George Bush, the new C.I.A. director, said publication damaged national security?

In fact, Mr. Bush took refuge in the ancient governmental dodge of saying, in effect, "if you only knew what I knew . . . but of course I can't tell you what I know." When the Government made the charge about publication of the Pentagon Papers in 1971 that the national security had been damaged in ways it could not publicly discuss, Federal Judge Murray Gurfein was unable in a secret session to elicit from Government witnesses a single specific instance of actual damage to the national security.

This history, of course, proves nothing about the committee report except that statements like Mr. Bush's should be regarded with much skepticism—particularly since (a) most of the report's major points had previously been published, so that at worse any security damage already had been done; (b) other reasonably knowledgeable persons, including the House committee and its staff, believed that, as Mr. Schorr said, it contained "nothing more of national security significance, certainly nothing that would endanger any individual."

Besides, Mr. Bush himself, appearing on "Meet the Press," conceded that "the fundamental question is that Congress voted by almost two-to-one that the report not be made public, and it was made public . . . that's just plain wrong." This is the basic charge against Mr. Schorr, but it is George Bush who is just plain wrong.

How is it different for the House to vote to suppress a public document than for a President to suppress it? If President Ford, for example, had decided not to make public the report of the Rockefeller Commission he appointed to study C.I.A. abuses, would that have made it "just plain wrong" for a good reporter like Dan Schorr to get hold of it and put it on the public record?

Of course not, for to say so would be to say that either a President alone or the House by majority vote can decide what a free press may or may not publish. In the Pentagon Papers case, the Supreme Court specifically ruled against any such doctrine—contravening, as it would, the First Amendment—although it left open the possibility that some narrowly specified matters might be of such immense and immediate security importance as to warrant "prior restraint."

No one has suggested that the House committee report is even remotely such a matter; and after a year-long investigation conducted at public expense, it was in fact a document that belonged where Dan Schorr put it—on the public record.

finalized.

COUNCIL ON ENERGY INDEPENDENCE

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, on February 19 the Council on Energy Independence sent a letter to President Ford expressing their concerns about our national energy policy. Noting that conservation may help to extend supplies but is, by itself, insufficient and that major contributions from solar and fusion power are years in the future, the letter entreated the President and Congress to accelerate efforts to increase usage of America's abundant but underutilized fuels—coal and uranium.

The Council on Energy Independence is a nonprofit educational organization representing a broad spectrum of scientists and engineers. One of the objectives of the Council is to provide the public with accurate, responsible and realistic commentary on the Nation's search for energy independence.

Their letter to the President, which was signed by nearly 6,000 registered professional engineers in the State of Illinois is as follows:

President of the United States,
President of the Senate,
Speaker of the House of Representatives,
Washington, D.C.

Sirs: The general welfare and security of our nation depends on the ability of the United States to provide sufficient energy. Energy is essential to provide jobs and ensure long-term employment.

The recent energy crisis placed hundreds of thousands of workers in the unemployment lines. The effect on the economy has been devastating. We must take steps now to ensure abundant energy for the present and future generations. Our alternative would be to accept a reduced standard of living.

At this time we rely on foreign countries for a significant quantity of our nation's energy needs. The supply and cost of foreign oil are beyond the control of the United States. In 1960, we imported 18 percent of all oil used in the United States. In 1974, 40 percent of our oil was imported. We can ill afford to rely on foreign countries to supply the energy necessary to maintain the United States as a world power. Continued reliance on imported energy is tantamount to political and economic suicide.

Today, 80 percent of our total energy requirement is supplied by oil and natural gas, which represent only 18 percent of our domestic energy reserves. Domestic production has been dwindling and reserves will soon be exhausted.

Our two most readily available reserve sources of domestic energy are coal and uranium. Each of these has been proven to be environmentally, technically and economically capable of generating energy in the form of electricity in large quantities. The use of these resources must be accelerated immediately.

Irreplaceable domestic oil and natural gas supplies are too valuable to be burned merely for space heating or the production of electricity.

In meeting long-term future demands we must develop alternate sources such as the breeder and fusion reactors, solar, geothermal and wind power. No viable source should be discarded.

Conservation may help to somewhat extend our limited energy resources. Conservation alone, however, is no answer.

We must establish energy independence if we are to survive as a nation. Priorities for energy independence must be considered and finalized.

Our task is difficult. As a people we are, however, capable of effecting solutions for our energy problems. Therefore, we urge you to accelerate your efforts and to focus your attention on developing comprehensive, viable energy policies which will ensure our energy independence.

EXTENSION OF NATIONAL SEA GRANT COLLEGE AND PROGRAM ACT OF 1966

(Mr. ROGERS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ROGERS. Mr. Speaker, I am today introducing, along with Chairman Murphy, Mr. Mosher, Mr. Metcalfe, Mr. Forsythe, Mr. Zeferetti, and Mr. Matsunaga, legislation to extend the National Sea Grant College and Program Act of 1966.

Mr. Speaker, in this tenth anniversary of the Sea Grant Act, I believe this program can look back on quite a record of accomplishment in furthering research in the marine and ocean sciences, and just as importantly, in establishing a research capability to meet the need for knowledge in the rapidly expanding field of ocean resources development, utilization, and conservation. I am sure this record will be extensively reviewed, and desirable improvements explored, at hearings before the Oceanography Subcommittee of the House Committee on Merchant Marine, beginning next week.

In order that witnesses and other interested persons will have a better opportunity to consider the provisions of this legislation, I would request that it be inserted in the Record immediately following these remarks. The bill would extend the sea grant program for 3 years, authorizing funding at levels of $40,000,000, $45,000,000, and $50,000,000 in each year respectively. In addition, the bill provides for three needed improvements in the program.

First, the present prohibition on purchase of ship time is removed.

Second, specific authority is provided for a program of international cooperation, including the education of citizens of foreign countries at sea grant institutions, and provision of advice to foreign governments; $3,000,000 is authorized in each year for this purpose.

Third, authority for grants and loans for projects national in scope is provided with funding at 100 percent by the Federal Government; $5,000,000 is authorized in each year for this purpose.

I look forward to thorough consideration of this legislation and other suggestions and alternatives.

Mr. Speaker, I include the bill in the Record at this point:

H.R. 12108

A bill to extend and amend the National Sea Grant College and Program Act of 1966, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Sea Grant College and Program Act of 1966, as amended (80 Stat. 998; 33 U.S.C. 1121–1124), is further amended as follows:

(a) By inserting in Section 203(b) (1) after "$50,000,000," the words "for the fiscal year ending September 30, 1977, not to exceed the sum of $40,000,000, for the fiscal year ending September 30, 1978, not to exceed the sum of $45,000,000, for the fiscal year ending September 30, 1979, not to exceed the sum of $50,000,000,".

(b) By striking in Section 204(d) (2) the period after the word "purposes" and inserting in lieu thereof a semi-colon and the following language: "and *Provided Also,* that the prohibitions of this paragraph shall not apply to the payment for the services of research vessels and other ocean facilities directly supporting specific Sea Grant sponsored activities, as authorized by the Secretary.".

(c) By striking in Section 204(i) (2) all of the present language and inserting in lieu thereof the following: "the term 'marine environment' means the Great Lakes; the oceans the Continental Shelf of the United States; the seabed and subsoil of submarine areas adjacent to the coasts of islands which comprise United States territory; the seabed and subsoil of submarine areas beyond the continental shelf; and the natural resources thereof;".

(d) By striking in Section 205 all of the present language and inserting in lieu thereof the following:

"INTERNATIONAL COOPERATION

"Section 205. (a) The Secretary is authorized to support and encourage the advancement of research and development capabilities of other nations relating to the exploration, conservation, and management of marine resources, and to encourage the international sharing and exchange of information thereon. (b) In carrying out the provisions of this section, the Secretary is authorized to support the funding of education and training of foreign nationals through sea grant institutions, colleges and other suitable institutes, laboratories, and public or private agencies of the United States, and to provide advice to foreign nations on the development of their marine resources. *Provided,* that paragraphs (1) and (3) of section 204(d) of this Act shall not apply. (c) For the purpose of carrying out this section, there is authorized to be appropriated not to exceed the sum of $3,000,000 for each of the fiscal years 1977 through 1979, such sums to remain available until expended.".

(e) By inserting a new Section 206 to read as follows:

"NATIONAL PROGRAMS

"Section 206.(a) The Secretary, in addition to his authority in Section 204 of this Act, is authorized to enter into contracts with, or grants to, institutions, agencies, and organizations described in section 204(c) of this Act with respect to activities of a national scope and concern determined by the Secretary on his own initiative to be appropriate in assisting him in carrying out programs relating to the development, conservation, utilization, management, and protection of the marine environment, *Provided,* that the provisions of paragraphs (1) and (3) of section 204(d) of this Act shall not apply. (b) For the purpose of carrying out this section there is authorized to be appropriated not to exceed the sum of $5,000,000 for each of the fiscal years 1977 through 1979, such sums to remain available until expended.".

AMERICAN PEOPLE WANT JOBS

(Mr. DOMINIC V. DANIELS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DOMINIC V. DANIELS. Mr. Speaker, over 7 million Americans are out of work. And still we hear threats of a veto from the White House if the bill recently passed by the House, H.R. 11453, the Emergency Employment Project Amendments of 1976, comes before the President. This bill would expand the current level of public service enrollment from 320,000 to approximately 600,000 by June 30, 1976.

I totally reject the idea that because the unemployment rate has moved downward in the past few weeks congressional efforts to put the jobless to work should abruptly cease. I commend to my colleagues' attention, therefore, an editorial on "Jobs and Vetoes" in the Washington Post.

I believe that a phasing out of the public service jobs under the Comprehensive Employment and Training Act—CETA—during fiscal year 1976 and fiscal year 1977 would be an action of unmitigated cruelty. The loss of CETA jobs will result in deprivation and hardship for thousands of CETA workers and their families.

I am firmly committed to employment opportunities for the jobless. My mail daily reflects the sincere desire of people to work. Our constituents want to earn a decent wage and provide for themselves and their dependants. The American people reject the concept that meaningful work opportunities must be the victims of Presidential fiat.

[From the Washington Post, Feb. 25, 1976]

JOBS AND VETOES

Everybody agrees that the jobs bills, and President Ford's vetoes of them, are going to be an issue in the campaign. It's harder to foresee how popular this issue will be by next fall. In Congress, understandably, the support for these bills is proving sensitive to the fluctuations of the unemployed rate. It dropped sharply last month, and the Senate failed by three votes on Thursday to override the latest veto. What happens now?

Perhaps it will all turn out roughly along the lines of the same battle on the same grounds last year. The President started off by asking for an extension of the public service jobs program. Congress, with its customary enthusiasm for large construction projects, stuffed in several billion dollars for public works. The President, with his customary lack of enthusiasm for large construction projects, vetoed it. Congress took the bill back, dropped the most egregious examples of pork barreling, and passed it again. That time Mr. Ford signed it.

The bill vetoed this month began last year with a proposal by Sen. Edmund S. Muskie (D-Maine) for aid to state and local governments in times of unusually high unemployment. The principle here is that recessions severely reduce tax receipts, and state and local governments are generally prohibited from running deficits. The purpose of Mr. Muskie's counter-cyclical aid is to avoid the layoffs of people like policemen and teachers whose services are no less necessary in bad times than in any other times. But as Congress passed the bill, three-fourths of the money in it was for public works. Most of Mr. Ford's reasons for the veto were aimed at the attempt to create jobs by pouring concrete.

Now the administration is supporting an alternative bill that picks up the Muskie counter-cyclical idea but would spend only about half as much money on it. Instead of giving the aid to state and local governments, this alternative would funnel it into community development grants—a difference, but not an improvement. Both sides currently assert that the prospects of a compromise are dim. But now that the administration has accepted the idea of counter-cyclical aid, an agreement ought not be impossible. Of the two versions, Mr. Muskie's is better designed.

The administration apparently fears that under the Muskie plan, some of the money would help cities meet their payrolls—and that would constitute a bail-out of New York and the other alleged spendthrift cities. Perhaps so. But while these payrolls have to be pared down, it is wiser not to do all of it in one swoop at a time when unemployment is still very high. Beyond the short list of cities that have obviously hired beyond their means, there is a longer list of cities that are well managed and perfectly able to meet their payrolls even during moderately serious recessions. But the last one was far out of the ordinary.

Laying off policemen and firemen when sales tax receipts fall short is as undesirable as laying off military forces when federal taxes fall short. Sometimes the Ford administration talks as though it considered the recession to be a scourge visited upon us precisely for the purpose of punishing the profligate and careless cities. That is one of the less appealing sides to its tightly buttoned economic policy.

The Democrats in Congress are vigorously pressing their differences with Mr. Ford, and despite their defeat last week they are currently bringing along a second and separate bill to create jobs. It passed the House two weeks ago. This one would nearly double the present temporary federal program to subsidize public service employment, raising its scale from 320,000 jobs to some 600,000. Most of the new jobs would be in local projects of a few months' duration—neighborhood improvement, light construction and that sort of thing. But here again, some of the money might well go into paying policemen and teachers. Rep. Albert H. Quie (R-Minn.) denounced the bill as revenue sharing—that is, direct federal aid to state and local governments—in disguise. Cities have not chosen to use much of the money that way so far, but he is quite right in calling attention to the possibility. But why not use it that way? If you believe, as some economists do, that the world may be coming into a period of unusually sharp recessions, tying part of the revenue-sharing money to the unemployment rate might prove to be an important addition to the country's system of economic stabilizers.

But the White House has already made it

clear that any expansion of public service jobs is going to be vetoed. The President wants to phase out the whole public service employment program by the end of 1977. The question will be, once again, whether Congress can override the veto. The answer will be greatly influenced by the behavior of the unemployment and inflation figures. Currently they are both moving downward in a fashion that greatly strengthens the President's hand. But it is important to keep in mind that, though the movement is in the right direction, there are still more than seven million people out of work. And if progress downward just now seems hearteningly rapid, it is partly because all the forecasts have warned us that for the next couple of years it will be, at best, very slow.

CHAPEL IN THE DOME

(Mr. DANIELSON asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DANIELSON. Mr. Speaker, I would like to share with my colleagues, a poem of inspiration by Charlotte F. Leonard, of Rosemead, Calif., a member of the Rosemead Women's Club, reminding us of the comfort and inspiration available to us in the Prayer Room in the Capitol.

CHAPEL IN THE DOME

High in the Dome of our Capitol
Is the National Altar of Prayer.
By the Light of a stained glass window
A statesman is kneeling there.
Inspired by the Holy Bible
Open to the Twenty-third Psalm,
High in the dome of this Chapel,
Our statesmen find peace and calm.
In the center of the window
In this room of blue and gold,
Kneels the figure of George Washington,
With Seals above and below,
And all around the ruby red glass
The Stars of our States, aglow.
The seven-branch candelabras
Each side of the Altar stand,
With the Flag of our Country to the right,
The Flag of our own dear Land.
And the flowers so fair by the Bible there
Speak of the Almighty's Hand.
Men of our State and our Destiny
Withdraw from your rush of Life
To this peaceful Chapel in the Dome,
Away from all stress and strife.
Renew your Faith by the Altar there
Look to God for Strength and Wisdom,
In the Wonderful power of Prayer.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Patman (at the request of Mr. O'Neill), for this week, on account of illness.

Mr. Gilman (at the request of Mr. Rhodes), for February 25 and the balance of the week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Koch, for 60 minutes, today; and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. Cohen) and to revise and extend their remarks and include extraneous matter:)

Mrs. Smith of Nebraska, for 15 minutes, today.

Mrs. Heckler of Massachusetts, for 5 minutes, today.

Mr. Kemp, for 30 minutes, today.

(The following Members (at the request of Mrs. Meyner) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 5 minutes, today.
Mr. Fraser, for 15 minutes, today.
Ms. Holtzman, for 15 minutes, today.
Mr. Bingham, for 10 minutes, today.
Mr. Stokes, for 60 minutes, today.
Mr. Pepper, for 15 minutes, today.
Mr. English, for 10 minutes, today.
Mr. Neal, for 5 minutes, today.
Mr. Alexander, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Koch and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $2,717.

Mrs. Fenwick and to include extraneous matter.

Mr. Zablocki in two instances and to include extraneous matter.

(The following Members (at the request of Mr. Cohen), and to include extraneous matter:)

Mr. Sarasin.
Mr. O'Brien in 10 instances.
Mr. Peyser.
Mr. Gilman.
Mr. Don H. Clausen.
Mr. Anderson of Illinois in two instances.
Mr. Steiger of Wisconsin.
Mr. Conte.
Mr. Forsythe.
Mr. Wydler.

(The following Members (at the request of Mrs. Meyner) and to include extraneous matter:)

Mr. Gonzalez in three instances.
Mr. Anderson of California in three instances.
Mr. Mineta in two instances.
Mr. Fisher in 10 instances.
Mr. Stark in five instances.
Mr. Adams.
Mr. Lehman in two instances.
Mr. Moss.
Mr. Vander Veen.
Mr. Mezvinsky.
Mr. de Lugo.
Ms. Abzug in two instances.
Mr. McCormack.
Mr. Edwards of California in two instances.
Mr. Murtha.
Mr. Fraser in two instances.
Mrs. Collins of Illinois.
Mr. Mottl.
Mr. Mazzoli.
Mr. Rose.
Mr. Pepper.
Mr. Sisk.
Mr. Gaydos.
Mr. Moffett.
Mr. Moakley.
Mr. Richmond.
Mr. Roybal.
Mr. Bingham.
Mr. Wolff.
Mr. McDonald of Georgia in four instances.
Mr. Rangel.
Mr. Matsunaga.
Mr. Downey of New York in 10 instances.
Mr. Solarz.
Mr. Ambro in two instances.
Mr. St Germain in two instances.
Mr. Jones of Oklahoma.
Mr. Ottinger.
Ms. Schroeder.
Mr. Dominick V. Daniels in two instances.
Mr. John L. Burton.

ADJOURNMENT

Mrs. MEYNER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Thursday, February 26, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2626. A letter from the Acting Executive Secretary of Health, Education, and Welfare, transmitting amendments to the regulations for the program of "Support for Improvement of Postsecondary Education," pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2627. A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting final funding criteria for fiscal year 1976 for applications for awards under section 131(a) of part C, Vocational Education Act of 1963, as amended, pursuant to section 431(d)(1)k of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2628. A letter from the Chairman, Federal Power Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during fiscal year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2629. A letter from the Director, Selective Service System, transmitting a report on the activities of the Selective Service System under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2630. A letter from the Administrator, Federal Aviation Administration, transmitting notice of proposed changes in the FAA's systems of records, pursuant to 5 U.S.C. 552a (o); to the Committee on Government Operations.

2631. A letter from the Deputy Assistant Secretary of the Interior, transmitting financial statements of the Colorado River Basin project for fiscal year 1975, pursuant to section 404 of Public Law 90–537; to the Committee on Interior and Insular Affairs.

2632. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Westinghouse Electric Corp., Pittsburgh, Pa., for a research project entitled "In Situ Leaching Studies of Uranium Ores," pursuant to section 1(d) of Public Law 89-672; to the Committee on Interior and Insular Affairs.

2633. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with the Bendix Corp., Denver, Colo., for a research project entitled "Development of a Low Coal, Automated, Remote Controlled Resin Cartridge Interter Roof Bolt Bender/Inserter and Roof Bolt Spin/Thrust/Hold Assembly," pursuant to section 1(d) of Public Law 89-672; to the Committee on Interior and Insular Affairs.

2634. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Robert Strausz-Hupe and his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

2635. A letter from the Secretary of Transportation, transmitting the annual report of activities under the Emergency Rail Service Act of 1970 and an evaluation of the financial conditions of railroads which have outstanding certificates guaranteed under the act, pursuant to section 10 of the act (Public Law 91-663); to the Committee on Interstate and Foreign Commerce.

2636. A letter from the Chairman, Federal Power Commission, transmitting a copy of the publication entitled "Steam-Electric Plant Construction Cost and Annual Production Expenses, 1973"; to the Committee on Interstate and Foreign Commerce.

Received From the Comptroller General

2637. A letter from the Comptroller General of the United States, transmitting a report on the status and progress toward implementing a national supply system; jointly, to the Committees on Government Operations, and Armed Services.

2638. A letter from the Comptroller General of the United States, transmitting a report on the progress of construction of the trans-Alaska oil pipeline through November 1975; jointly, to the Committees on Government Operations, and Interior and Insular Affairs.

2639. A letter from the Comptroller General of the United States, transmitting a report on problems with the Small Business Administration's 7(a) loan program, pursuant to section 13 of Public Law 93-386; jointly, to the Committees on Government Operations, and Small Business.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAYS of Ohio: Committee on International Relations. H.R. 11598. A bill to authorize appropriations for the U.S. Information Agency for fiscal year 1976 and for the period July 1, 1976, through September 30, 1976 (Rept. No. 94-849). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. House Resolution 1056. Resolution providing for the consideration of H.R. 10760. A bill to amend the Federal Coal Mine Health and Safety Act to revise the black lung benefits program established under such act in order to transfer the residual liability for the payment of benefits under such program from the Federal Government to the coal industry, and for other purposes (Rept. No. 94-850). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. H.R. 11700. A bill relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions; with amendment (Rept. No. 94-851). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GILMAN:

H.R. 12071. A bill to amend title 38, United States Code, in order to entitle veterans to 54 months of educational assistance for all educational programs under chapter 34 of such title, to eliminate the time limitation within which educational assistance must be used, and to restore on behalf of certain veterans educational assistance benefits previously terminated; to the Committee on Veterans' Affairs.

By Mr. ABDNOR:

H.R. 12072. A bill to amend the Education Amendments of 1972 to provide that Boys State, Boys Nation, Girls State, and Girls Nation conferences conducted by the American Legion shall not be subject to title IX of such act, and for other purposes; to the Committee on Education and Labor.

By Mr. ALEXANDER (for himself and Mr. Jones of Tennessee):

H.R. 12073. A bill to amend title 39, United States Code, to provide that the Postal Service may not close any post office serving a rural area or a small community or town unless such closing is approved by the Congress; to the Committee on Post Office and Civil Service.

By Mr. BELL (for himself, Mr. Hechler of West Virginia, Mr. Ottinger, Mr. Hughes, Mr. Downey of New York, Mr. Scheuer, Mr. Young of Florida, Mr. Burgener, Mr. Bedell, Mr. Cornell, Mr. Jones of North Carolina, Mr. Andrews of North Dakota, Mr. Mazzoli, Ms. Keys, Mr. Kindness, Mr. Symington, Mr. Hyde, Mr. Jenrette, Mr. McKinney, Mr. Fithian, Mr. Robinson, Mr. Treen, Mr. Gude, and Mr. Jeffords):

H.R. 12074. A bill to provide that pay adjustments for Members of Congress may take effect no earlier than the beginning of the Congress next following the Congress in which they are approved; to the Committee on Post Office and Civil Service.

By Mr. BONKER (for himself, Mr. Adams, Mr. Foley, Mr. Hicks, Mr. McCormack, Mr. Meeds, and Mr. Pritchard):

H.R. 12075. A bill to revise the boundary of the Olympic National Park in the State of Washington, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DON H. CLAUSEN:

H.R. 12076. A bill to authorize a land and water conservation study in American Samoa; to the Committee on Public Works and Transportation.

By Mr. DAN DANIEL:

H.R. 12077. A bill to authorize the expansion of the boundaries of the Appomattox Court House National Historical Park, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DANIELSON:

H.R. 12078. A bill to amend the Foreign Assistance Act of 1961 to authorize assistance for the relief and reconstruction of Lebanon; to the Committee on International Relations.

By Mr. DANIELSON (for himself, Mr. Hillis, Mr. Roberts, Mr. Edgar, Mr. Hefner, Mr. McHugh, Mr. Cornell, Mr. Hannaford, Mr. Beard of Rhode Island, Mr. Hansen, and Mr. O'Brien):

H.R. 12079. A bill to require the Secretary of the Army to permit the burial in Arlington National Cemetery of all veterans and their eligible survivors, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HENDERSON:

H.R. 12080. A bill to amend title 5, United States Code, to assure that appointments in the civil service are on the basis of merit, to establish an independent board to hear appeals from certain Federal personnel decisions, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DUNCAN of Tennessee:

H.R. 12081. A bill to repeal the provisions of law allowing automatic cost-of-living adjustments in the salaries of Members of Congress and certain other legislative, executive, and judicial offices and positions; to the Committee on Post Office and Civil Service.

By Mr. DUNCAN of Tennessee (by request):

H.R. 12082. A bill to amend the Social Security Act to extend medicare to include catastrophic coverage to reform hospital insurance and supplementary medical insurance coinsurance to make the supplementary medical insurance deductible dynamic, to place a ceiling on reasonable charges and costs, and to eliminate trust fund financing for State capital expenditure review activities; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. ENGLISH (for himself, Mr. Sebelius, and Mr. Lujan):

H.R. 12083. A bill to amend the Soil Conservation and Domestic Allotment Act to prevent soil erosion during a drought emergency; to the Committee on Agriculture.

By Mrs. FENWICK:

H.R. 12084. A bill to amend the Interstate Commerce Act, as amended, to increase efficiency and competition and to reduce costs in the motor carrier industry by allowing easier entry and greater price flexibility and by removing excessive and wasteful regulation, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. FISH:

H.R. 12085. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; to the Committee on Ways and Means.

By Mr. FISH (for himself, Mr. Harrington, Mr. Peyser, Mr. Ambro, Mr. Gilman, Mr. Ottinger, and Mr. Mitchell of New York):

H.R. 12086. A bill to provide an additional 26 weeks of benefits under the emergency unemployment compensation program; to the Committee on Ways and Means.

By Mr. FISHER (for himself, Ms. Abzug, Mr. Addabbo, Mr. Ambro, Mr. Badillo, Mr. Beard of Rhode Island, Mr. Bingham, Mr. Brown of California, Mrs. Burke of California, Mr. Conyers, Mr. Coughlin, Mr. Dellums, Mr. Downey of New York, Mr. Drinan, Mr. Gude, Mr. Harris, Mr. Howard, Ms. Keys, Mr. Koch, Mrs. Mink, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Moorhead of Pennsylvania, Mr. Moss, and Mr. Ottinger):

H.R. 12087. A bill to prohibit certain civil supersonic aircraft from landing at, or taking off from, Dulles International Airport or Washington National Airport; to the Committee on Public Works and Transportation.

By Mr. FLOWERS:

H.R. 12088. A bill to amend title 38 of the United States Code in order to extend the delimiting period for completing programs of education for veterans pursuing such programs at the close of such period; to the Committee on Veterans' Affairs.

By Mr. FORSYTHE (for himself, Mr. Downing of Virginia, Mr. Rodino, Mr. Collins of Texas, Mr. Oberstar, Mr. Mitchell of New York, Mr. Whitehurst, Mr. Hughes, Mr. Badillo, and Mr. Pressler):

H.R. 12089. A bill to amend title 37, United States Code, so as to extend from 1 to 3 years the period that a member of the uniformed services has following his retirement to select his home for purposes of travel and transportation allowances under such title, and for other purposes; to the Committee on Armed Services.

By Mr. FRASER (for himself, Mr. Adams, Mr. Conte, Mr. Badillo, Mr. Bedell, Mr. Carney, Mr. Conyers, Mr. Corman, Mr. Cornell, Mr. Dominick V. Daniels, Mr. Dellums, Mr. Downey of New York, Mr. Drinan, Mr. Edwards of California, Mr. Eilberg, Mr. Gude, Mr. Gibbons, Mr. Harrington, Mr. Harris, Mr. Hayes of Indiana, Mr. Helstoski, Ms. Holtzman, Mr. Jeffords, Mr. Koch, and Mr. McCloskey):

H.R. 12090. A bill to amend the Interstate Commerce Act to provide that no pipeline company engaged in the transportation of oil may transport oil through its pipelines if that company has an interest in such oil; to the Committee on Interstate and Foreign Commerce.

By Mr. FRASER (for himself, Mr. Adams, Mr. Conte, Mr. Mezvinsky, Mr. Mikva, Mrs. Mink, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Obey, Mr. Ottinger, Mr. Scheuer, Mr. Solarz, Mr. Stark, Mr. Weaver, Mr. Yates, Mr. Zeferetti, and Mr. Dodd):

H.R. 12091. A bill to amend the Interstate Commerce Act to provide that no pipeline company engaged in the transportation of oil may transport oil through its pipelines if that company has an interest in such oil; to the Committee on Interstate and Foreign Commerce.

By Mr. GUDE:

H.R. 12092. A bill to amend the Federal Energy Administration Act of 1974 to extend the expiration date of such act until September 30, 1985; to provide for the accelerated utilization and widespread commercialization of clean and abundant alternative energy resources, and for the establishment of an Alternative Energy Commercialization Operation Management project; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GUDE (for himself and Mr. Harsha):

H.R. 12093. A bill to provide for payment of the pension and other retirement benefits for policemen, firemen, judges, and teachers of the District of Columbia for fiscal year 1977 and to provide for a study to determine the amount of the District of Columbia unfunded pension obligations and to identify actuarially sound methods to finance such obligations for future years; to the Committee on the District of Columbia.

By Mr. HILLIS (for himself, Mr. Cornell, Mr. Eilberg, Mr. Pressler, and Mr. Solarz):

H.R. 12094. A bill to amend title 38 of the United States Code in order to authorize the Administrator of Veterans' Affairs to make scholarship grants to individuals attending medical schools on the condition that such individuals will serve in Veterans' Administration facilities for a certain period of time upon completion of professional training, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HUGHES:

H.R. 12095. A bill for the relief of the city of Cape May, N.J., to the Committee on the Judiciary.

By Mr. LaFALCE (for himself, Mr. Bafalis, Mrs. Burke of California, Mr. Cleveland, Mr. Cochran, Mr. Duncan of Tennessee, Mr. Fuqua, Mr. Gilman, Mr. Hanley, Mr. Hannaford, Mr. Helstoski, Mr. Lott, Mr. McCollister, Mr. Mitchell of Maryland, Mr. Patterson of California, Mr. Regula, Mr. Risenhoover, and Mr. Wydler):

H.R. 12096. A bill to amend the Small Business Act to provide that determinations by the administration of the reasonable assurance of repayment of prospective loans be made on a case-by-case basis and to clarify the eligibility of small business homebuilding firms for assistance under the Small Business Act; to the Committee on Small Business.

By Mr. MATSUNAGA:

H.R. 12097. A bill to amend the National Sea Grant College and Program Act of 1966; to the Committee on Merchant Marine and Fisheries.

By Mr. MOAKLEY (for himself, Mr. Badillo, Mr. Edwards of California, Mr. Helstoski, Mr. Howe, Mr. Maguire, Mr. Ottinger, Mrs. Spellman, and Mr. Stark):

H.R. 12098. A bill to ban the manufacture, sale, distribution in commerce, and importation of certain electric weapons until certain determinations are made by the Consumer Product Safety Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. MOAKLEY (for himself, Mr. Baucus, Mr. Bell, Mr. Boland, Mr. Cederberg, Mr. Fraser, Mr. Grassley, Mr. Hannaford, Mr. Harrington, Mr. Lagomarsino, Mr. Lehman, Mr. Long of Maryland, Mr. McCloskey, Mr. McCormack, Mr. McKinney, Mr. Murphy of New York, Mr. Patten, Mr. Pepper, Mr. Rees, Mr. Riegle, Mr. Tsongas, Mr. Walsh, and Mr. Charles H. Wilson of California):

H.R. 12099. A bill to revise chapter 99 of title 18 of the United States Code to provide for the punishment of sexual assaults in the special jurisdiction of the United States; to the Committee on the Judiciary.

By Mr. OBEY (for himself, Mr. Baldus, Mr. Roe, Mr. Sikes, Mr. Whitehurst, Mr. Charles Wilson of Texas, and Mr. Yatron):

H.R. 12100. A bill to amend the Internal Revenue Code of 1954 to revise and improve certain provisions thereof relating to estate and gift taxes; to the Committee on Ways and Means.

By Mr. PETTIS:

H.R. 12101. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for investments in certain economically lagging regions; to the Committee on Ways and Means.

By Mr. PEYSER:

H.R. 12102. A bill to restrict changes in the standards for slaughter cattle and carcass beef, and to direct the Secretary of Agriculture to create a different and nondeceptive grade of beef; to the Committee on Agriculture.

By Mr. REES:

H.R. 12103. A bill to provide for Federal regulation of participation by foreign banks in domestic financial markets, and to strengthen supervision of domestic institutions engaged in international banking; to the Committee on Banking, Currency and Housing.

By Mr. RICHMOND:

H.R. 12104. A bill to establish a National Commission on Food Production, Processing, Marketing and Pricing to study the food industry from the producer to the consumer; to the Committee on Agriculture.

By Mr. RICHMOND (for himself, Mr. Clay, Mr. Dellums, Ms. Holtzman, Mr. Koch, Mr. Mitchell of Maryland, Mr. Moss, Mr. Nowak, Mr. Ottinger, and Mr. Rodino):

H.R. 12105. A bill to prohibit new rules and regulations from becoming effective under the Food Stamp Act of 1964 until the Congress enacts new legislation with respect to such act; to the Committee on Agriculture.

By Mr. RINALDO:

H.R. 12106. A bill to amend the Solid Waste Disposal Act to encourage research, development, and implementation of energy and resource recovery from solid waste, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE:

H.R. 12107. A bill to amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees; to the Committee on Education and Labor.

By Mr. ROGERS (for himself, Mr. Murphy of New York, Mr. Mosher, Mr. Metcalfe, Mr. Forsythe, Mr. Zeferetti, and Mr. Matsunaga):

H.R. 12108. A bill to extend and amend the National Sea Grant College and Program Act of 1966, as amended; to the Committee on Merchant Marine and Fisheries.

By Mr. ROSE:

H.R. 12109. A bill to amend the authorization for appropriations provision of title V of the Rural Development Act of 1972; to the Committee on Agriculture.

By Mr. ROYBAL:

H.R. 12110. A bill to establish the Federal Protective Service police force within the General Services Administration, provide minimum training, pay, and other benefits for such police force, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. SPENCE (for himself, Mr. Davis, Mr. Derrick, Mr. Holland, Mr. Jenrette, and Mr. Mann):

H.R. 12111. A bill to authorize the establishment of the Congaree Swamp National Preserve in the State of South Carolina, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. TEAGUE:

H.R. 12112. A bill to provide additional assistance to the Energy Research and Development Administration for the advancement of nonnuclear energy research, development, and demonstration; to the Committee on Science and Technology.

By Mr. TEAGUE (for himself and Mr. Price):

H.R. 12113. A bill to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes; jointly, to the Committee on Science and Technology, and to the Joint Committee on Atomic Energy for consideration of such provisions of the bill as fall within the jurisdictions of those committees under rule X, clause 1(r) and under 42 U.S.C. 2252, respectively.

By Mr. WHITE:

H.R. 12114. A bill to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage provided pursuant to contracts made under such chapter by preempting State or local laws pertaining to such benefits and coverage which are inconsistent with such contracts; to the Committee on Post Office and Civil Service.

By Mr. DANIELSON (for himself, Mr. HILLIS, Mr. EDGAR, Mr. MCHUGH, Mr. HANNAFORD, Mr. BEARD of Rhode Island, Mr. ALLEN, Mr. HANSEN, and Mr. O'BRIEN):

H.R. 12115. A bill to amend title 38 of the United States Code in order to require the Administrator of Veterans' Affairs to pay a $150 allowance to any State in reimbursement for expenses incurred in the burial of each veteran in any cemetery owned by such government, if the cemetery or section thereof is used solely or primarily for the interment of veterans; to the Committee on Veterans' Affairs.

By Mr. ANDERSON of California:

H.J. Res. 827. Joint resolution proposing an amendment to the Constitution of the United States to prevent a Member of Congress from serving more than 12 consecutive years in either the House or the Senate; to the Committee on the Judiciary.

By Mr. MINISH:

H.J. Res. 828. Joint resolution to designate the apple as the official Bicentennial fruit; to the Committee on Post Office and Civil Service.

H.J. Res. 829. Joint resolution authorizing the President to proclaim September 8 of each year as National Cancer Day; to the Committee on Post Office and Civil Service.

By Mr. FLYNT:

H. Res. 1054. Resolution to provide the Committee on Standards of Official Conduct with subpena power to carry out House Resolution 1042; to the Committee on Rules.

By Mr. JONES of Alabama (for himself and Mr. HARSHA):

H. Res. 1055. Resolution to provide funds for the expenses of investigations and studies authorized by the Committee on Public Works and Transportation; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

304. By the SPEAKER: Memorial of the Senate of the Commonwealth of Massachusetts, relative to continued operation of Fort Devens; to the Committee on Armed Services.

305. Also, memorial of the Legislature of the State of California, relative to the acquisition of land by Federal agencies; to the Committee on Government Operations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FISHER:

H.R. 12116. A bill for the relief of Mrs. Arlene S. Miller; to the Committee on the Judiciary.

By Mr. HICKS:

H.R. 12117. A bill for the relief of Gertrude Faria Young; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII.

404. The SPEAKER presented a petition of Herbert Mundell, mayor of Benton, Ill., relative to general revenue sharing; to the Committee on Government Operations.

SENATE—*Wednesday, February 25, 1976*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

Thanks be to Thee, O Lord, for this new day with its new opportunities and fresh perspectives. Imbue us with Thy Spirit that we fail not in our service to the people and in honor to Thy name. When we cannot see clearly the road ahead, light up our pathway that we may wisely take one step at a time. When human strength falters indwell us with divine strength and grace sufficient for all our needs. Go with us as we work and in the end may we hear Thee say, "Well done, good and faithful servant." Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, February 24, 1976, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations will be stated.

U.S. NAVY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Navy.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. MARINE CORPS

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Marine Corps.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force, in the Army, and in the Marine Corps, placed on the Secretary's desk.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to consideration of items on the calendar beginning with Calendar No. 614, up to and including 619.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PRINTING OF REPORT ON SOME ADMINISTRATIVE PROCEDURES OF THE INTERNAL REVENUE SERVICE

The concurrent resolution (S. Con. Res. 85) authorizing the printing as a Senate document of a report by a special consultant to the Administrative Conference of the United States on some administrative procedures of the Internal Revenue Service, was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That a report by a special consultant to the Administrative Conference of the United States on some administrative procedures of the Internal Revenue Service be printed as a Senate document, and that there be printed five hundred additional copies of such document for the use of the Senate Committee on Appropriations.

OUR NATION'S SCHOOLS—A REPORT CARD: "A" IN SCHOOL VIOLENCE AND VANDALISM

The resolution (S. Res. 348) authorizing the printing of additional copies of the committee print entitled "Our Nation's Schools—A Report Card: 'A' in School Violence and Vandalism," was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Committee on the Judiciary five thousand additional copies of its committee print entitled "Our Nation's Schools—A Report Card: 'A' in School Violence and

Vandalism", a preliminary report of the Subcommittee To Investigate Juvenile Delinquency.

ADDITIONAL EXPENDITURES FOR THE COMMITTEE ON APPROPRIATIONS

The resolution (S. Res. 383) authorizing additional expenditures for the Committee on Appropriations for routine purposes, was considered and agreed to, as follows:

Resolved, That the Committee on Appropriations is authorized to expend from the contingent fund of the Senate, during the Ninety-fourth Congress, $200,000 in addition to the amounts, and for the same purposes specified in section 134(a) of the Legislative Reorganization Act of 1946, and in S. Res. 138, Ninety-fourth Congress, agreed to May 14, 1975.

SPECIAL BRIDGE REPLACEMENT PROGRAM, FIFTH ANNUAL REPORT TO CONGRESS

The resolution (S. Res. 384) authorizing the printing of the report entitled "Special Bridge Replacement Program, Fifth Annual Report to Congress," as a Senate document was considered and agreed to, as follows:

Resolved, That the annual report of the Secretary of Transportation to the Congress of the United States (in compliance with section 144, title 23, United States Code) entitled "Special Bridge Replacement Program, Fifth Annual Report", be printed, with illustrations, as a Senate document.

SEC. 2. There shall be printed five hundred additional copies of such document for the use of the Committee on Public Works.

JACQUELINE C. BUCK

The resolution (S. Res. 395) to pay a gratuity to Jacqueline C. Buck, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Jacqueline C. Buck, widow of John R. Buck, an employee of the Architect of the Capitol assigned to duty in the Senate Office Building at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

DENNIS C. LORDAN AND MARY ALICE HURLBERT

The resolution (S. Res. 396) to pay a gratuity to Dennis C. Lordan and Mary Alice Hurlbert, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Dennis C. Lordan, son and to Mary Alice Hurlbert, daughter of Frederick J. Lordan, an employee of the Senate at the time of his death, a sum to each equal to five and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

LEAVE OF ABSENCE

Mr. MANSFIELD. Mr. President, I ask the consent of the Senate that I may be excused officially from the hour of approximately 12:30 p.m. today for the rest of the week because of my official duties in my capacity as chairman of the Senate section of the Mexican-United States parliamentary meeting.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Does the Senator from Michigan wish to be recognized.

Mr. GRIFFIN. No, Mr. President.

The PRESIDENT pro tempore. Under the previous order, the Senator from South Carolina (Mr. THURMOND) is recognized for not to exceed 15 minutes.

ACTION OF CONGRESS RELATIVE TO FISCAL YEAR 1977 DEFENSE BUDGET

Mr. THURMOND. Mr. President, evidence is mounting that the 94th Congress is beginning to realize that the accelerating Soviet military power buildup and the deep cuts in the Defense budget are seriously jeopardizing our national security.

As one who has repeatedly warned about rising Soviet military might and heavy-handed cuts in the Defense budget, this more realistic appraisal by Congress is timely and fully justified.

The 1st session of the 94th Congress slashed the Defense budget by about $7 billion, one of only two budget categories which were reduced at all. Besides these defense cuts, Congress heaped on additional levels of spending in domestic areas. This action increased the original deficit to about $72 billion, well above the original proposal. These defense reductions and higher domestic spending weakened us both militarily and fiscally.

My view that defense requests will not be reduced significantly this year is tied to four observations.

First, the public is becoming more aware of our weakening defense posture vis-a-vis the Soviets. Second, this is an election year and Congresses are usually more attentive to public opinion in election years. Third, the serious decline in U.S. naval strength is now seen as a problem of great magnitude and one which will not be quickly overcome.

Fourth, the Soviet policies ignoring the Helsinki agreements and the open involvement in Angola, demonstrate that their expansionist goals remain unchanged. This policy was confirmed by Secretary Brezhnev's speech February 24.

On the first point, a number of Members of the Senate have advised me that during the Christmas and Lincoln Birthday recesses, they were impressed with the public's grasp and concern of the declining U.S. military posture vis-a-vis the Soviets.

Just last week, former Under Secretary of State Eugene Rostow told the House Armed Services Committee the proposed fiscal year 1977 budget should be increased at least $15 billion, rather than cut. He was quoted as stating that the 2-percent defense growth in the new budget was "inadequate to meet the gravity of the situation."

On Monday, former Deputy Secretary of Defense Paul Nitze warned that the United States must keep military pace with the Soviets or "we are playing with grave danger to ourselves and the world." In a seminar at Harvard, Nitze expressed grave concern over U.S. capability and will to meet the growing Soviet threat.

A brief look at the Soviet versus United States military balance drives home the concern of former Secretaries Rostow, Nitze, and others. Consider these points:

First. The Soviets are deploying a new family of land-based intercontinental ballistic missiles, while the United States is ending procurement of Minuteman III. A new U.S. missile, the MX, is in early development.

Second. Secretary Rumsfeld told the Congress last month the Soviets now have 1,560 ICBM's to our 1,094, a near 50 percent superiority.

Third. Soviet military manpower has been in a sharp buildup for the past few years, moving from a level of equality with the United States in 1969 to a number twice as great as the United States in 1976. U.S.S.R. military personnel, 4.4 million, United States, 2.1 million.

Fourth. The Soviets have matched the United States in submarine-launched missiles, and their Delta boats possess a missile range capability which can be equaled only by our yet-to-be-deployed Trident submarines.

Fifth. The Soviets are deploying the new Backfire bomber and continue to outproduce the United States by a wide margin in the number of fighter and interceptor aircraft.

Sixth. In major surface combatant ships and submarines, the Soviets outnumber the United States approximately 546 to 291.

Seventh. In conventional ground force weapons, the Soviets enjoy a 4-to-1 numerical advantage in tanks, 3 to 1 in artillery, and nearly 2 to 1 in armored vehicles.

CONGRESS WAKING UP

Now for my second point, this Congress in an election year, when Members are more sensitive to public opinion, will not make the deep defense cuts forced on the military in fiscal year 1976.

This change in public opinion, perceived by many Members in the Congress, is substantiated by a recent survey conducted by The New York Times. This survey showed 66 percent of those contacted did not favor reductions in defense spending.

We are witnessing a generally conservative President come to Congress with a defense budget of $112 billion, representing significant real growth, only to be criticized for not doing enough. Such criticism comes from President's Ford's primary opponent, Gov. Ronald Reagan, and from at least one of his Democratic opponents, Senator HENRY JACKSON.

These developments preceded a Library of Congress study requested by Senator JOHN CULVER of Iowa, which makes these statements in its summary:

As it stands, the quantitative balance continues to shift to the Soviet Union. U.S.

> qualitative superiority never compensated completely, and in certain respects, is slowly slipping away.

Thus, even this Congress, elected in the Watergate environment, is beginning to listen as the President, his Secretary of State, former and present Defense Secretaries and defense experts like Senator Jackson, warn about declining U.S. power.

While Congress has been hacking away at defense spending, the Soviets have increased their own forces, and this sacrifice on their part is beginning to pay political dividends for them around the world. This lesson, most apparent in the past year, is at least catching the attention of the 94th Congress.

SOVIET NAVAL POWER

As to the third point, many authorities recognize the sharp growth in Soviet naval power and its occurrence at a time when our own Navy is at a low point in ship strength and still troubled by low levels of repair and maintenance.

This Soviet buildup has altered the character of the naval balance in the world and threatens not only our military superiority, but the sea lanes over which our commerce moves daily.

In fiscal year 1968 the Navy had 976 surface ships, but today only 482 sail in the oceans of the world. This decline represents the retirement of many World War II ships without adequate replacement. The Soviets have been outspending us by 50 percent in shipbuilding for a number of years, and only now are we beginning to redress this deficiency.

Naval commitments to the Far East and the Mediterranean have shrunk while Congress has trimmed even the modest requests for new ships. This year only 16 are requested, whereas Admiral Holloway has admitted a building program of up to 30 ships annually will be required to bring us to the 600-ship Navy by the mid-1980's.

SHIPYARD CAPACITY LOW

Shipyard capacity has been allowed to decline even in a period of unemployment. Congress should add money to the Navy account of this budget to meet this defense shortfall, both in new ships and repairs. By doing so we could address our legitimate defense needs while at the same time giving work to many seeking jobs.

Our seapower problems are bleak as evidenced by the following points:

First. Since 1962, the Soviets have outbuilt us in every major seapower category, except for aircraft carriers.

Second. The editor of Jane's Fighting Ships has warned,

> The ever growing Soviet Navy has outrun legitimate requirements of national defense and has no logical merchant defense role in time of war.

Third. The Soviets outnumber the United States in submarines by 330 to 116, and by mid-1977 we will be outnumbered in modern nuclear ballistic submarines 62 to 41.

Fourth. The Soviet Union now has the world's largest Navy. Since the early 1960's its fighting vessels have been equipped with ship-to-ship missiles, a weapon just beginning production in the United States.

Fifth. Since 1955, the Soviet merchant fleet has grown from 471 to over 2,000 ships. At the same time the U.S. merchant fleet has fallen from 3,464 to about 1,000.

Mr. President, besides the defense aspects of our Navy, we must remember that 70 percent of U.S. trade is with nations across the seas and that 99 percent of our raw materials and overseas foreign trade moves by sea.

SOVIET INFLUENCE GROWING

Mr. President, as my fourth point, it is now clear, more than ever, that the Soviets intend to use this military strength to extend their influence around the world.

First, the fall of Indochina has been followed by increased Soviet influence in not only Vietnam and Laos, but Thailand and other Western Pacific nations.

Second. In Angola the Soviets are financing and equipping the deployment of up to 12,000 Cuban troops, plus using their own military personnel as advisers.

Third. Along the Indian Ocean, they are establishing naval supply and operating bases, while our Congress refuses to even set up a refueling station at Diego Garcia.

Fourth. In the Soviet Union proper, we witness continued repression of Jewish citizens and Russian dissidents of the Brezhnev regime, despite the pledges made at Helsinki.

Fifth. In Portugal the people have just stepped back from the brink of a Communist controlled government, but Soviet efforts to communize Europe remain in effect with Portugal, Spain and Italy the key targets.

Sixth. The threat of a Soviet-Sino realinement remains a possibility, as Red China undergoes a leadership struggle common to Communist dictatorships. Such a realinement would be devastating to U.S. influence around the world.

Mr. President, the damaging defense cuts of last year, such as the dismantlement of the Safeguard ABM system—despite rapid Soviet development in this area—must not be repeated this year.

While a review of the fiscal year 1977 defense budget is still underway, my preliminary view is that this defense budget should be increased, not reduced. The Congress, under its constitutional authority to raise and support armies, clearly has an obligation in this area independent of the executive branch.

Furthermore, in the event any procurement cuts are made, funds should be applied to needed ship and plane repair and maintenance work. This would assure maximum use of such equipment that is already in our inventory. In addition, any such funds could be applied to buy out weapons systems nearing the end of procurement. It is well known that high rates of procurement lead to earlier program termination and consequent savings.

In conclusion, Mr. President, while I am encouraged that the fiscal year 1977 defense budget will not be reduced significantly, it is my hope the Congress will take the necessary time to study the Soviet-United States defense comparison. Once that is done, the need for the acceleration of our military programs will be perceived and we can begin the costly and lengthy reconstitution of our military forces.

Mr. President, a number of newspaper articles published in the last day or two support many points in my remarks this morning. These articles include:

First. "Brezhnev: Soviets Back Détente and Angola Effort," Washington Post, February 25, 1976.

Second. "United States Will Not Produce ICBM's for First Time in 20 Years," Defense Space Business Daily, February 19, 1976.

Third. "U.S. Navy Is Second Best in Far East, Congress Told," Baltimore News American, February 23, 1976.

Fourth. "We are Running a Poor Second," Philadelphia Inquirer, article by John D. Lofton, Jr., February 24, 1976.

Fifth. "In Mediterranean," St. Louis Post Dispatch, February 13, 1976.

Sixth. "Soviets May Be Devoting 15 percent of GNP to Defense," Defense Space Daily, February 23, 1976.

Seventh. "Soviets No. 1 in Nukes," Baltimore News American, article, by Henry J. Taylor, February 23, 1976.

Eighth. "Détente Is a Letdown, NATO Chief Says," Philadelphia Bulletin, February 8, 1976.

Ninth. "SEATO Pacts Folds Up After Its Final Exercise," New York Times, February 21, 1976.

Tenth. "Navy Personnel Shortages Told," San Diego Union, February 12, 1976.

Eleventh. "Brown Says Defense Budget Is Not 'Horn of Plenty,'" Defense Space Business Daily, February 19, 1976.

Twelfth. "Russians Seen Resuming Satellite Interceptor Tests," Aerospace Daily, February 19, 1976.

Mr. President, articles of this type are appearing daily in the Nation's press. I ask unanimous consent that they be printed in the Record at this point.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Feb. 25, 1976]

SOVIETS BACK DÉTENTE AND ANGOLA EFFORT

(By Peter Osnos)

Moscow, February 24.—Communist Party leader Leonid Brezhnev, hailing the successes of Kremlin foreign policy, said today that the Soviet Union would pursue detente with "redouble energy" while also continuing to support nationalist movements, as it has in Angola.

In his speech to the opening session of the 25th Soviet Communist Party Congress, Brezhnev also acknowledged that the Soviet Union has failed in the five years since the last party congress to achieve the gains that had been promised Soviet consumers.

Recalling that at the 1971 congress the consumer area had been singled out for special consideration, with more and better goods to be made available for shoppers, Brezhnev said, "It is necessary to admit that we have not managed to cope with that task in many respects."

Brezhnev's 5-hour, 15-minute speech, which represents the authoritative Moscow view of the international and domestic scene, was given before 5,000 Soviet delegates and representatives of 103 foreign parties. China and Albania were the only ruling Communist parties not represented and Cuban Prime Minister Fidel Castro—who drew long applause when he was introduced—was present for the first time.

Despite year-long rumors about his failing health, the 69-year-old party leader seemed vigorous and did not visibly tire as the hours wore on.

Brezhnev said the Kremlin will continue in the years ahead to "search patiently and consistently" for ways on "expanding peaceful, mutually advantageous cooperation" with the West.

He said better relations with the United States had been "decisive" in reducing chances of another world war, and he listed completion of the SALT II agreement as first among the "vital tasks" in a broad range of disarmament proposals intended to "deepen international detente."

But Brezhnev also stressed repeatedly Moscow's commitment to the "revolutionary-democratic, anti-imperialist" movement. He singled out victories of Soviet-backed forces in Vietnam and Angola as proof "that nothing can crush the peoples aspiration to freedom."

The speech did not signal any major departure from the Kremlin's foreign policy stance of recent years, but as the basic statement of Moscow's position on the most important issues of the day, it will doubtless be closely studied in every world capital. Among the highlights.

He said that agreements reached with the United States in recent years showed the "firm intention" differences and disputes not by force, not by threats or saber rattling, but by peaceful political means." But he also recalled "attempts to interfere in our internal affairs" by linking trade benefits and emigration. "That is not the kind of language one can use with the Soviet Union," said Brezhnev. "By now I think this is clear to all."

He blasted China, linking Peking with the "position of the world's most extreme reactionaries" and said Chinese efforts "to provoke a world war . . . present a danger for all peace-loving peoples." But perhaps with the uncertainties about the future of Peking's top leadership in mind, he added that if China "reverts to a policy truly based on Marxism-Leninism . . . there will be an appropriate response from our side."

While not referring directly to Soviet or Cuban military backing for the Popular movement in Angola, Brezhnev presented the war there as a model for Kremlin policy in similar circumstances. "Our party supports peoples fighting for their freedom," he said. "This attitude to the complicated processes within the development countries is clear and definite."

Without naming them, he delivered a tough rebuke to Western Communist parties such as those of France and Italy that have asserted their independence from the Moscow line on ideological issues. "There can be no question of compromise on matters of principle or reconciliation with views and actions contrary to the Communist ideology," he said.

He reiterated past Soviet statements on the Middle East, but noted pointedly that Moscow has "no prejudices against" any county in the area, presumably a gesture towards Israel. Taking note of the strain of the past year in Soviet-Egyptian relations, which has turned Cairo increasingly toward the United States, he said Moscow remains "faithful to its treaties of friendship and cooperation with Egypt.

As he did at the 1971 party congress, Brezhnev placed great emphasis on his "program of peace" on disarmament issues and claimed considerable credit for arms accords already achieved. He said Moscow was prepared to go further than the United States in limiting "the development of new, still more destructive weapons systems."

He said that the Kremlin had "suggested" a ban on U.S. nuclear-armed Trident submarines, the new B–1 bomber "and similar systems in the Soviet Union, but deplorably, these proposals were not accepted by the U.S. side." American officials here said they did not know whether this assertion was true.

Brezhnev used unusually direct language in disputing what he termed "the so-called Soviet threat" used by enemies of detente to spur the arms race.

"There is no Soviet threat, either in the West or in the East. It is all a monstrous lie from beginning to end. The Soviet Union has not the slightest intention of attacking anyone, the Soviet Union does not need war. The Soviet Union does not increase its military budget."

He also delivered, however, a tart lecture to "bourgeois leaders" who "affect surprise and raise a howl" about Soviet solidarity with the "struggle of other peoples for freedom and progress. This is either outright naivete or more likely a deliberate befuddling of minds."

Detente, according to Brezhnev, does not "in the slightest abolish the laws of the class struggle." The Soviets have steadfastly contended that their interests in places like Portugal and Angola do not represent interference in those countries' affairs.

In an unusually candid appraisal of problems in the national economy, Breshnev told the delegates, that "while speedily developing the growth rate of heavy industry, we have not learned to accelerate also the development" of the consumer sector.

Not only did the 1971 plan fall short of its targets on consumer items, but also much that was produced was of low quality, he said. "Many are responsible for that," said Brezhnev, listing central planning organizations, ministries of light industry, and factory managers.

"We have a right to hold accountable those who were trusted to head these branches," he said.

But Brezhnev also blamed "the extremely difficult struggle" waged "against the elements" in the last five years for the slow development of agriculture—a principal part of the consumer area. "In no other period of the country's history," he said, have farmers been confronted by such "adverse conditions, including unprecedented droughts" in 1972 and 1975.

While the goals set for agricultural growth in the next Five Year Plan are again sharply higher, light industry, which produces most consumer goods, has again fallen behind heavy industry. In part, Brezhnev said, this reflects "the difficulties of the preceding years."

But the main reason is a decision to emphasize quality over mere output, he explained. Soviet store shelves are often jammed with goods people simply will not buy, and the leadership is trying to correct that.

Blunt talk on failures in the economy due to poor management is not uncommon in Soviet newspapers, where individual enterprises are attacked, or at low-level problems can be laid to local shortcomings. But for Brezhnev to dwell on the issue in his major report to the congress indicates serious concern about the consequences of not making headway in the years to come.

Brezhnev's stress on the matter, combined with an emphasis on raising the "scientific-technical" level of industry, appears to assure that the Kremlin will go on seeking expanded trade with the West, which has already risen more than 170 per cent in the last five years.

He mentioned, apparently for the first time, agreements with Western firms for handling raw materials and partially processed raw materials. He also suggested that Moscow acquire Western partners in processing such materials.

"Economic and trade ties with capitalist states," Brezhnev declared, "strengthen and expand" the policy of "peaceful coexistence."

[From the Defense Space Business Daily, Feb. 19, 1976]

UNITED STATES WILL NOT PRODUCE ICBM'S FOR FIRST TIME IN 22 YEARS

Fiscal year 1977 will be the first year in 22 years that the Defense Department has not requested funds for the procurement of intercontinental ballistic missiles.

Lt. Gen. Alton D. Slay, deputy chief of staff for R&D for the Air Force told the House Armed Services Committee yesterday that the last of the 50 Minuteman III ICBMs ordered in the FY 1976 budget will be delivered in September 1977, when the production line will be closed down unless the U.S. decides to retain that option.

Slay said many of the vendors and subcontractors have delivered their parts for the last 50 Minuteman III missiles and have closed out their Minuteman lines. Not since FY 1955 has the DOD not requested funds for the purchase of an ICBM. Currently, the only way that the Minuteman III production line will remain open will be in the event that a SALT II agreement is not reached.

The Air Force is requesting $1.599 billion for missile procurement in FY '77, which includes $366.5 million for Minuteman force modernization. It also includes $10.4 million for Minuteman III guidance improvements by modifying the present guidance system software.

SRAMs for the B–1 bomber has resulted in a $20.8 million request for production line restart of this Boeing Company missile.

Funding for procurement of other missile programs in the new request include: Sparrow AIM–7F, $78.5 million for 880 missiles; Sidewinder AIM–9L, $56.1 million for 1,000 missiles; Shrike AGM–45, $50.4 million for 1,337 missiles; Maverick AGM–65, $53 million for 100 Laser missiles and ground support equipment.

DEFENSE SPACE

Two Block 5D RCA Defense Meteorological Satellites with visual and infrared sensors, launch and support services will be procured with the $43.2 million requested in FY '77, Gen. Slay said. The funding will also be used for solid rocket motors for the surplus SLV–2A McDonnell Douglas Thor launch vehicles.

The Defense Support Program missile early warning satellite program, using TRW/Aerojet satellites, will be funded at $19.2 million for procurement of continued program support.

The Defense Satellite Communications System has a request for $200.1 million for the procurement of six TRW DSCS II satellites, four Martin Marietta Titan IIIC launch vehicles and launch support of the satellites.

There is a request of $3.6 million for additional transponder procurements to increase the space segment reliability and survivability of the AFSATCOM program, Slay told the committee.

The Satellite Data System (SDS) program, he said, will move from the initial development and procurement phase to follow-on development and procurement, with a request of $59.4 million for a Titan IIIB/Agena launch vehicle, refurbishment of the qualification model satellite and support.

[From the Baltimore News American, Feb. 23, 1976]

U.S. NAVY IS SECOND BEST IN FAR EAST, CONGRESS TOLD

TOKYO.—America's top admiral has made headlines in the Far East by telling the House Military Affairs Committee that the U.S. Navy has lost control of the Sea of Japan.

According to Adm. James L. Holloway, chief of naval operations, the new top dog in the waters that separate Japan from Korea and Siberia now is the Soviet navy.

"I'd say that any operations we would want to conduct in the Sea of Japan would be at the sufferance of the Soviet Union," Holloway testified.

The United States won undisputed control of the Western Pacific and Sea of Japan by smashing the Japanese navy in World War II.

In the past 10 years, however, American naval supremacy in the Pacific and elsewhere has been challenged by a growing Soviet navy buildup.

Such authorities as "Jane's Fighting Ships" and Britain's institute of Strategic Studies have pointed to the possibility of America dropping back to become the world's No. 2 naval power.

In October, a Tokyo newspaper reported Japan's Self-Defense Agency was concerned over the growing Soviet naval might.

The Tokyo Shimbun quoted Japanese defense sources as guessing Soviet naval strength in the Pacific at 755 vessels of about 1.2 million tons combined weight.

American strength was estimated at 60 ships of all kinds weighing in at around 740,000 tons.

The U.S. Seventh (Far East) Fleet, which Holloway formerly commanded, deployed three aircraft carriers to none for the Soviets.

However, the Russians were said to have 30 nuclear powered submarines in the Pacific compared to five for the United States.

Both Japan and South Korea are America's military allies. Some 38,000 American troops are stationed in South Korea. Another 55,000 are based in Japan, including Okinawa.

The shock effect of Holloway's words was greatest in South Korea. In effect, he warned that if the unsettled 1950-53 Korean war broke out again, the sea approaches to South Korea might be dominated by the Soviet Union, an ally of North Korea.

Seoul papers played the story at the top of page one. Dong-A Ilbo, perhaps South Korea's most influential newspaper, said the news had serious implications for Japan and Korea.

"The present strong Russian challenge to U.S. military power in terms of quality and quantity is an unfavorable result of detente pursued by Secretary of State Henry Kissinger," the newspaper said.

Another major Seoul newspaper Joongang Ilbo, said "The Russians are engaged in a strategy that enables them to beat their opponents without fighting."

In Tokyo, the Asahi newspaper quoted Japanese defense agency sources as saying the Sea of Japan "is regularly used by the Soviets as a practice sea."

"Soviet warships pass through the Tsushima and Tsugara Straits (the Japan Sea's main entrance) all the time," the newspaper said. "In contrast, the U.S. Seventh Fleet held maneuvers in the Sea of Japan only once in 1975."

The Japanese also looked for more requests from Washington to build up their own modest naval strength. Rep. Robert Wilson, R-Calif., No. 2 man on the Military Affairs Committee asked aloud if the time had come for America to "put pressure on Japan to build up her navy and take over the job of guaranteeing her own sea lanes."

[From the Philadelphia Inquirer,
Feb. 24, 1976]

WE ARE RUNNING A POOR SECOND

(By John D. Lofton, Jr.)

WASHINGTON.—"As it stands, the quantitative military balance continues to shift toward the Soviet Union. U.S. qualitative superiority never compensated completely and, in certain respects, is slowly slipping away. America's global responsibilities, coupled with U.S. reliance on reserve components, permit the Soviet Union to concentrate power while we remain dispersed, depending heavily on allies and arms control accords to safeguard our national interests."

This is the conclusion of a study just completed by John M. Collins, a senior national defense specialist in the Library of Congress' Congressional Research Service.

Prepared at the request of Sen. John Culver (D., Iowa), and reviewed by more than 100 knowledgeable persons in the executive and legislative branches of our government. The report is characterized by Mr. Carter as "balanced, detailed and thought-provoking."

The report shows that in the past decade, as regards the U.S.-U.S.S.R. quantitative military balance, the following has happened:

Americas numerical superiority in strategic nuclear weapons "has dissolved."

As late as 1965, the United States had three times as many intercontinental ballistic missiles as Russia; the Soviets had more ballistic missile submarines, but we had four times as many sub-launched missiles; and neither side had yet deployed multiple independently targetable reentry vehicles (MIRV's).

Today, the United States lags in every category, except for MIRV'ed launchers and aggregate warheads.

As regards ground forces, Soviet personnel strength presently is two-and-a-half times that of the United States, and our divisions are outnumbered 9 to 1.

U.S. strategic airlift and sealift forces were more than twice those of the U.S.S.R. a decade ago; now, the situation is reversed.

In Europe, the theater in which the report says balance "is currently more important than in any other," Soviet-Warsaw Pact air-ground forces "outnumber NATO in nearly every category." The Soviets "could quickly achieve the classic ratio of 3 to 1 superiority in ground combat forces that many military men cite as the prerequisite for successful operations."

On the qualitative military side, the report declares that the day of American technological supremacy—traditionally a strong U.S. suit—has pased. Our scientific ascendancy can no longer be taken for granted.

The impressive thing about the Library of Congress study is that while it was done by an institution unquestionably nonpartisan and free of bias, the conclusions of the report are the same as those reached over the last few years by both conservatives and military authorities: The Russians are getting stronger militarily while the United States is getting weaker.

This need not be received, however, as the counsel of defeatism. As the late economist Joseph Schumpeter once observed: "The report that a given ship is sinking is not defeatist. Only the spirit in which this report is received can be defeatist. The crew can sit down and drink. But it can also man the pumps."

[From the Defense Space Business Daily,
February 23, 1976]

SOVIETS MAY BE DEVOTING 15 PERCENT OF GNP TO DEFENSE

New estimates by the Central Intelligence Agency, expected to surface in the next several weeks, will show that the Soviet Union is devoting as much as 15 percent of its Gross National Product to its defense establishment. This is almost double the 6–10 percent figure being used by the CIA last year in appearances before Congress. Other U.S. Intelligence officials, such as the former director of the Defense Intelligence Agency, Gen. Daniel O. Graham, were saying months ago that the 1975 CIA figures were too low.

The U.S. defense outlays for FY 1977, as requested, will be 5.4 percent of GNP, down from the 5.7 percent in outlays in FY 1976. The Pentagon has estimated that the Soviet defense spending could reach the $150 billion annual level during this new fiscal period (Defense/Space Daily, Jan. 23). The U.S. defense spending, based on current projections, will not reach the $150 billion level until about FY '82.

[From the Baltimore News-American,
February 23, 1976 (24)]

SOVIETS NO. 1 IN NUKES

By Henry J. Taylor

Secretary of State Henry Kissinger, smarting over charges that the Soviet is cheating on missiles, must face the fact that the charges are true.

The Soviet has maneuvered the United States over a strategic barrel in the SALT–I (Strategic Arms Limitation Talks) agreements. Now it appears determined in current SALT–II to keep rolling the barrel as hard as it can.

Communist Party leader Leonid Brezhnev, speaking in East Berlin last Oct. 6, said, "SALT–I is not functioning badly." Mama mia!

SALT–I allowed the Soviet numerical superiority in three vital categories: land-based missiles, Intercontinental Ballistic Missiles (ICBMs) and missile-launching submarines.

In negotiating this, Mr. Kissinger regarded as our offset advanced U.S. technology, importantly represented by the MIRV—a multiple-warhead rocket that allows one missile to attack several targets at the same time.

But, behind the scenes, the Soviet has developed its own equivalent of the MIRV. In fact, it now has four new ICBMs: the SS–16, 17, 18 and 19. All can use multiple MIRV-type warheads. All are designed to replace with MIRVs its single-shot SS–11 missiles and super-giant SS–9s, the world's largest and most powerful missiles.

This switch does not violate the SALT-1 missile silo stipulations. But it eliminates our quantitative superiority on which Mr. Kissinger relied. It gives the Soviet immense superiority in warhead power and number. It forces the United States into an inferior position. In Mr. Kissinger's Moscow talks with Brezhnev this month, the Soviet leader called this development the "cold launch." But what Brezhnev did not say is that this new Soviet generation of missiles could launch four times as many warheads as the U.S. missiles.

Brezhnev also neglected to mention to Mr. Kissinger that the Soviet has secretly developed the SS–JX–16 rocket. The Soviet general staff calls it the Savage and it has a range of approximately 5,000 miles.

The USSR is mounting the Savage on trucks, railroad cars, etc. The Savage is mobile and each has search radar. The Savage can be hidden, as well, in forests or buildings.

The United States depends on our satellites for inspection. These have demonstrated that the Savage is impossible to observe.

This violates the spirit, if not the letter, of the SALT-I agreements.

Meanwhile, Mr. Kissinger knows that the USSR has leapt demonstrably far ahead of us in nuclear defense weapons. It has developed still another new and most advanced surface-to-air missile. It is the SA–5, the GAMMON. The Soviet defense system against our ICBMs is called GOLASH. And it continues to build air defense missile sites for the GAMMON.

The USSR has now scattered at least 1,700 GAMMON launchers in 107 separate areas. In addition, it is constructing at least 10 more.

Secretary of Defense Donald Rumsfeld has told Mr. Kissinger that the Soviet can quickly convert these sites into antiballistic missile systems merely by adding radar equipment.

This is another direct violation of the SALT-I agreements.

The United States is now the No. 2 nuclear power. The Soviet is No. 1. The entire free world relies not on our ability to win a nuclear war but on our ability to deter it. We have lost the nuclear superiority we had.

In 1962, we had a 10-fold nuclear advantage over the Soviet Union. It kept the nuclear truce for two decades. But in the years since 1962, and with it taking advantage of the SALT-I agreemnts, the Soviet has virtually quadrupled its strategic missile capability while our country has reduced its megatonnage 40 per cent.

Mr. Kissinger knows as well as any living man that pronouncing moral judgments on the USSR is easy. Trying to live with the Soviet—as President Ford and Mr. Kissinger are trying to do—is something else.

It's like staring at one of those malicious gargoyles on the facade of a cathedral, a weighty demon all talons and teeth and leer.

To borrow a phrase from Lewis Carrol, Mr. Kissinger is finding that living with the Soviets is an Agony in Twenty-three Fits.

[From the Philadelphia Bulletin, Feb. 8, 1976]

Détente Is a Letdown, NATO Chief Says

(By John J. Farmer)

The Secretary-General of NATO says that detente has been a "disappointment," marred by a continuing Soviet arms buildup and by Soviet intervention in Angola.

"The situation," said Joseph Luns of The Netherlands, "is not much better than it was five years ago" when the Nixon administration initiated detente, the easing of relations with Moscow.

Detente must be pursued, Luns said, but "in a limited way," with no "illusions" about Moscow's intention to press the ideological struggle and to seek out military and political advantages.

At the same time, however, Western Europe is concerned, Luns said, about the growing influence of Congress on United States foreign policy. Luns described this as "government by assembly" and said it causes the kind of paralysis that gripped pre-De Gaulle France.

VISITS CITY

Luns' comments were made in an exclusive interview with The Bulletin during his visit here Friday to receive the annual Gold Medal of The Netherlands Society of Philadelphia. For 18 years Luns was foreign minister of The Netherlands. As Secretary-General of the North Atlantic Treaty organization, he presides over the Atlantic Council, principal policy-making agency of the alliance. He was to confer yesterday with President Ford.

The disillusionment with detente in some U.S. circles is matched by public relations in Western Europe, Luns said.

"Many thought that detente would permit a new era of friendship, a lower level of armament," he said. "But the Soviet Union has seen it differently. The policy of the Soviet Union is to increase its military defense whether we have détente or not."

The results of SALT II, the arms limitation talks now underway, "will be the real test of whether detente can be pursued," Luns said.

Where does that leave NATO, the Western military shield?

EVALUATES MILITARY

Luns acknowledged that the SALT I agreements—which fixed ceilings on nuclear delivery systems—have granted the Soviets "parity" with the U.S. in strategic weapons. The alternative, he said, was to continue an arms race that would have cost the U.S. "countless billions." The Russians, he said, can afford to spend more in this kind of race because their society permits fewer domestic pressures.

On the ground in Europe, Moscow and its Warsaw Pact allies enjoy a 10–7 advantage in manpower ratio and are "far superior" in equipment, especially tanks, he said. This is partly offset by the NATO nations' superior warplanes.

Luns, an authority on naval armament, said the U.S. is stronger at sea but the huge Soviet submarine fleet is "a formidable instrument" because of the West's economic reliance on the sea lanes.

"NATO," he said, "is just adequate" to meet any Soviet attack.

"We do not think the Soviet Union has any intention of attacking the West," Luns added. "We are pretty certain the Russians are afraid of an all-out nuclear war." The fact that the West might use tactical nuclear weapons in such a struggle is a serious uncertainty for Moscow, he said, "and the uncertainty is a very great deterrent."

Luns expressed concern about the Soviet aid pouring into Angola—he called it an "air bridge" to Africa—and about the uncertain U.S. response.

"The government of the United States seems far more hampered than at any time in the past by Congressional action," Luns said.

Luns expressed the hope that the present stalemate between the Ford administration and the Democratic congress would be "temporary."

Despite his reservations, Luns, a 6-foot, 5-inch De Gaulle look-alike with acquiline features and a trim mustache, said he sees "no signs yet that this administration or Congress or the military want to retreat from Europe."

He emphasized that western defense is a shared burden. Europe, he said, provides 90 percent of NATO's ground forces, 80 percent of its warplanes and 70 percent of its navy. U.S. participation, Luns added, "is not philanthropy, but hard-headed self-interest."

Luns warned against any sharp U.S. military cutback.

[From the New York Times, Feb. 21, 1976]

SEATO Pact Folds Up After Its Final Exercise

Manila, February 20.—With a military band playing "Auld Lang Syne," the Southeast Asia Treaty Organization today ended its last international exercise.

For the last month, 188 men from the United States, Britain, Thailand, New Zealand and the Philippines were engaged in a civic rather than military action—building roads and other facilities for Philippine communities.

The closing ceremonies for what was expected to be the last regional project involving Western and Asian troops were attended by several diplomats and Philippine officials at Santolan Barracks, a camp overlooking the Marikina River east of Manila.

The proceedings were muted and simple, in stark contrast with the ceremonies at the Manilla Conference of 1954 at which the alliance was born. It had eight members at the start, but France, Pakistan and Australia later withdrew.

SEATO was intended, it was proclaimed at Manila, to "stem the tide of Communism in Asia," but it gradually weakened in this resolve although some of its members contributed troops in support of the United States in South Vietnam.

The decision to abolish SEATO was finally made 1st September by its five remaining members. It was decided to phase out all its projects and schedule a 2-month-long exercise in Philippines as the last.

José Crisol, Philippine Under Secretary for Defense, who spoke at the closing ceremonies, paid tribute to the alliance saying: "it crystalized the awareness of peoples of the value of regional cooperation and served its purpose with mobility."

Addressing the military engineers, medics and others who took part in the exercise, he said "by coming to aid our people not with arms but with peaceful skills, you have manifested the change that has come over the region, the belief that social amelioration is the way to stability."

FIFTY-THREE EXERCISES IN 22 YEARS

Later at a farewell party for officers of the five national contingents, Col. R. B. Beesley of Australia, who headed military planning for the alliance said it had created much good will through 53 exercises in 22 years.

"The nonmilitary projects are likewise far-reaching," he said, citing health campaigns, technical schools and scholarships for Asian students. Some projects will be continued by special agencies, he added.

Ens. Charles Heinrichs of the United States Navy, leader of the 25-man American contingent, had not seen many SEATO projects but found satisfaction in the one just completed.

His unit built a school, made improvements on three miles of roads, and set up a radio-telephone system north of Manila.

Further north, the New Zealand and British contingents built roads, schools, and a bridge while the Philippine group also constructed a schoolhouse and a dam.

West of Manila, Thailand's unit built a dam, some roads and a radio-telephone system.

[From the St. Louis Post-Dispatch, Feb. 19, 1976]

In Mediterranean

(By Richard C. Longworth)

Brussels, Belgium.—For the United States, the wine and lemons of the Mediterranean have turned bitter.

The U.S. Sixth Fleet still prowls the strategic sea, but fewer Mediterranean ports give it hospitality. The Cyprus crisis has turned two crucial allies, Greece and Turkey, against both Washington and the North Atlantic Treaty Organization. Another ally, Portugal, is just pulling back from a flirtation with Communism, and the political futures of Italy and Spain remain uncertain at best.

Only five years ago the Mediterranean was ringed with reliable allies who looked to the United States and NATO for their security.

Still the change does not mean America's role in the Mediterranean has ended. Nor has Russia been able to translate its new naval power in the Mediterranean into real political weight.

In addition, the Mediterranean has been an "American sea" for so long—since World War II—that military strategists have overlooked the potential role there of Western Europe which is geographically and historically linked to the area. As American influence wanes, Europe's presence grows slowly.

U.S. prestige began to fall when it kept hands off the Cyprus crisis of 1974, then tried to play peacemaker. In the process, it alienated both Greece and Turkey.

Turkey has taken over the 25 American air bases in Turkey, Greece has announced it will quit NATO's military arm and the Alliance's southeastern flank has veered toward neutrality.

The United States supported the regime of the Greek Colonels, and many Greeks blame Washington for keeping the colonels in power. There is evidence that Washington knew the colonels planned to overthrow Cypriot President Makarios in the summer of 1974. But the Nixon Administration let the coup proceed, infuriating the Turks, who saw it as a step toward the union of Greece and Cyprus.

The Administration did nothing to stop Turkey's invasion of Cyprus. This incensed the Greeks, even though it led to the colonels' overthrow.

One of the first acts of the new Greek president, Constantine Caramanlis, was to announce Greece's withdrawal from the military side of NATO. In addition, Greece closed several U.S. installations, including home-port facilities for the Sixth Fleet at Eleusis.

If the Administration upset Greece by appearing to "tilt" toward Turkey, Congress finished the job by ending military aid to the Turks to punish them for invading Cyprus. The Turkish government felt humiliated, hardened its stand on Cyprus and took command of 25 American air bases on its soil. Congress partly relented, but the Turks remain angry and relations between the United States and Moslem, pro-Arab Turkey may never be the same.

All this has closed the West's eyes and ears in the Mediterranean. The U.S. bases were used mostly to watch Soviet activity next door. Greece has stopped sharing some information from its NATO radar stations.

The fact is that both Greece and Turkey care more about their own dispute than about the Soviet threat. The United States and NATO are seen as irrelevant to the real issue—Cyprus.

Secretary of State Henry A. Kissinger has warned European allies against allowing Communists into their governments. This issue—whether Communists can join the government of a NATO nation without making a mockery of the alliance—is most acute in Italy. The Italian Communist Party could become the country's biggest vote-getter in the next election.

Italy's allies have worried for years over the nation's imminent collapse beneath revolving-door governments, bankrupt cities, rampant tax-dodging, corruption, cramped housing, endless strikes, urban terrorism and overwhelmed mail and school systems. Somehow, Italy has always pulled back from the brink.

In 1974, inflation of 20 per cent and a huge trade deficit threatened economic anarchy. A year later, its Central Bank economists had restored a reasonable balance.

Through all this, the Communist Party, despite Vatican disapproval, grew steadily. In 1975 regional elections, the Communists won 33 per cent of the vote, second only to the Christian Democrats with 35 per cent.

Can the much-discussed coalition between the Communists and the Christian Democrats be long postponed? The United States is fighting this. Many northern European Socialists predict disaster. But many Italians and other southern Europeans think the Communists deserve a share in government and can be trusted not to misuse it.

Enrico Berlinguer, the party's skillful leader, has promised to respect democratic principles and to stay in both NATO and the Common Market. The party has been outspoken independent of Moscow. In many ways, the party already is part of the Italian establishment.

But can Communists be trusted? Can NATO abide a Communist ally? Would Communist rule bring stability, as Berlinguer promises, or chaos, as the right warns?

The Iberian Peninsula, long Europe's last bastion of Fascism, has become a question mark. In the last year, Spanish dictator Francisco Franco died and revolutionary Portugal's march toward Communism appeared to reverse itself.

Franco banned all parties but his own Falange, retarded industrialization, discouraged modernization and squelched liberalism. The result was tremendous pressure for change from business, universities, workers, even the Catholic Church.

The man in charge of keeping this pressure from becoming a civil war is Franco's handpicked successor, King Juan Carlos I, the untested grandson of Spain's last Borbon king.

Within weeks of Franco's death, demonstrations had occurred to back demands for more money and liberty. A government liberalization program did nothing to still this dissent. The Spanish Communist Party—although officially banned, with its leaders, in exile or in jail—remained one of the nation's best organized political forces. Like the Italian party, it is a liberal party owing no allegiance to Moscow.

Kissinger went to Madrid to sign a treaty renewing the four U.S. air and submarine bases in Spain in return for $1,220,000,000 in aid. The European Common Market offered to resume trade talks with Spain, but said the nation must achieve genuine democracy before it could join the Common Market. Any NATO membership for Spain appeared years away.

Portugal, already in NATO and linked to the Common Market in a free trade area, had appeared on the brink of becoming another Cuba under its Armed Forces Movement and the pro-Communist premier, Vasco dos Santos Goncalves. The Communist Party's rigidly pro-Moscow leader, Alvaro Cunhal, was in the government, much of Portuguese business was nationalized, the press was largely under Communist influence and NATO, acting under American pressure, had persuaded Portugal to drop out of the Alliance's nuclear planning council.

But Portugal's moderates, led by the Socialist Party, fought back. When they resigned from the government, anti-Communist demonstrations broke out. To restore order, Goncalves was forced to quit, first as Premier and then as chief of staff of the armed forces. An attempted coup by Marxist officers was defeated, discrediting the left still further.

At year's end, Portugal still wrestled with instability and poverty, but the immediate threat of Communist rule had receded.

The changing Mediterranean situation transformed the American position. American bases in Turkey and Greece are gone and may never be recovered. Both nations are uncertain allies, at least in peacetime.

Other American bases—in Italy, on Portugal's Azores Islands, at Rota in Spain—remain, but by no means are they guaranteed to stay indefinitely.

In this unprecedented uncertainty, the United States might ask whether American military power in the Mediterranean might be supplemented by more West European economic and political power.

Italy already is in the Common Market. Greece wants in. Portugal and Turkey have close trade ties with Brussels and, with Franco's death, Spain is no longer the pariah of Europe. The Common Market has historic, economic and geographic relations with the Mediterranean that interest the nations there more than the military matters that preoccupy Washington.

The Common Market has no defense policy and cannot replace the Sixth Fleet in the Mediterranean. But if the troubled Mediterranean nations are to remain in the American-led alliance, Washington may find itself using the other Europeans as go-between.

[From the San Diego Union, Feb. 12, 1976]

Navy Personnel Shortages Told

(By Kip Cooper)

About 53 per cent of Navy ships and 50 per cent of aircraft squadrons are considered marginally ready or unready, in terms of personnel deficiencies, to carry out their assigned operational missions, according to the chief of naval personnel.

Vice Adm. James D. Watkins, the personnel chief, has been visiting San Diego since Tuesday, discussing personnel problems with ship and base officials. He returns to Washington today.

Watkins said he did not have time to meet with newsmen on his current visit, but the Navy's personnel problems have been outlined by him to Congress in recent days.

PROBLEMS LISTED

According to Watkins:

84 per cent of Navy people go home after their first enlistment.

There is a critical shortage of middle management petty officers, particularly in engineering and combat or weapons ratings.

13,000 positions in ship and aircraft squadrons are unfilled because of a lack of financing.

Competition in civilian industry for men trained in complex technical fields makes it difficult to retain them in the Navy even in difficult economic times.

About 23,000 high-skill positions in the Navy are being manned by nonrated servicemen.

MANPOWER DIP

Watkins said the problems were exacerbated by personnel turbulence and low retention rates in past years, plus the Navy's inability to fully man the fleet in certain skill areas while maintaining a sea-to-shore rotation sufficient to retain people in the Navy.

He said the Navy has suffered a drastic drop in personnel by 228,000 men since 1969. This, plus the shift to the all-volunteer force in 1972, a long history of fluctuating strength, and varying skill needs, generated a number "of humps and valleys" in enlisted experience levels.

This valley or trough caused a serious experience shortage in middle-grade petty officers whose service averaged 9 to 14 years.

SOME IMPROVEMENT

Watkins said the petty officer situation is improving but there is still a critical shortage in boiler technicians, machinist's mates, hull technicians, electrician's mates and interior communications technicians.

He said the Navy plans to improve the combat systems ratings but it will take time to build up a base of first-term servicemen who remain in the Navy beyond their first enlistments.

He attributed the shortage in combat ratings to the unpopularity of ordnance- and weapons-related work arising from the Vietnam war.

TREND REVERSING

Although the trend is reversing, the Navy is still short of gunner's mates, manned at only 70 per cent, fire control technicians at 80 per cent and electronics warfare technicians at 64 per cent.

"These are primary combat systems ratings and are key to weapons readiness in the fleet," Watkins said.

Watkins said the Navy is taking these steps, among others, to improve personnel readiness in the fleet:

Shortened tours ashore for Navy personnel. In the short term, at the expense of the shore bases, men will begin moving to sea this month.

AT SEA LONGER

Sailors at sea will stay there longer.

Requests from sailors who prefer ship duty to shore duty will be approved.

More sailors entering the Navy will be sent to sea.

Watkins said this short-range plan will have the fleet manned in numbers by June this year.

Watkins said to improve the quality of enlisted men in ships, officers will be required to spend more time in engineering, weapons and operations training so they can supervise them.

[From Defense Space Business Daily, Feb. 19, 1976]

Brown Says Defense Budget Is Not "Horn of Plenty"

Chairman of the Joint Chiefs of Staff Gen. George Brown said yesterday that the "illusion" that the Defense budget is a "Horn of Plenty" from which money can be made available for other programs "without severe damage," must be dispelled.

He said that if the Congress persists in making cuts of the magnitude that have been made in past years it will continue the trends that will move the United States to "a point of insufficiency and risk U.S. security. . . ."

[From Aerospace Daily, Feb. 19, 1976]

Russians Seen Resuming Satellite Interceptor Tests

The Soviet Union, for reasons that were unclear yesterday, has resumed what appear to be satellite interceptor tests, experts told The Daily. The last known Russian demonstration of satellite-versus-satellite capabilities was about five years ago. The U.S. apparently has never tested such methods in space.

"It certainly looks as if, after a lapse of all these years, they are back to some kind of intercept mission," one source said. There was no ready explanation for the move, but it may be related to the strategic arms limitation talks.

Two satellites were involved in the test, observers said yesterday—Cosmos 803, the target, and Cosmos 804, the attacker. Cosmos 803, launched Feb. 12, maneuvered only slightly, while 804, launched four days later, changed orbit somewhat more to close on the target. The attack vehicle apparently was launched by a derivative of the SS-9 ICBM, while the target was boosted into orbit by a version of the smaller Skean military rocket.

Observers said U.S. sensors probably will soon pick up debris from an explosion resulting from the intercept, and that the debris probably would be from the attack vehicle. The Soviet technique apparently is to explode the attacker near the target, knocking it out as well. But, for test purposes, the explosion in this case probably will occur some distance from the target, leaving it intact.

The first Russian intercept demonstration took place in 1967, and the program was suspended in 1971.

Mr. HANSEN. Mr. President, I compliment the distinguished ranking minority member of the Committee on Armed Services for the very excellent presentation he has just made.

Thoughtful, serious-minded Americans—and I would hope that includes most of us—are greatly indebted to the senior Senator from South Carolina for having given the attention and the study that is reflected in this very incisive analysis of the state of affairs that characterizes the strength and potential of America's Armed Forces today.

There is no point at all in my trying to underscore any of the significant points made by the distinguished Senator from South Carolina. But I want to make two observations: First, as we seek—and I am certain future historians will be engaging more in this effort—to analyze what has contributed to the effectiveness of Secretary Kissinger—and, obviously, I would be among the first to pay tribute to his ability, to his tenacity, to his vitality, and to his wide comprehension of the feelings that people have throughout all of the world—I must say that underscoring all of those unusual talents that we find brought together in one man is the fact that he represents the strongest, greatest Nation on Earth.

If he were representing any other nation except the United States of America, it goes without saying that he would not start to have the effect and the ability to bring about desired results that have characterized his wide-ranging trips throughout all of the world.

Let me make the second point that I think all too few Americans understand or appreciate.

The second point, Mr. President, that is altogether too little understood by Americans, is that when the OPEC countries imposed the oil embargo upon the rest of the world about 2 years ago, the United States had to ship fuel oil from the eastern coast of our country to fuel the 6th Fleet in the Mediterranean.

That underscores the dependence that we have in trying to fulfill our worldwide commitment. It adds greater emphasis to the importance and the significance of a strong navy.

If we do not let that arm of our military services continue to be the vital effective force that it is internationally, then we would, indeed, be in deep trouble.

I thank my colleague from South Carolina for the great service he has performed for America.

Mr. THURMOND. Mr. President, I wish to express my deep appreciation to the able and distinguished Senator from Wyoming for his very generous remarks.

I do not think I have known, in the 21 years I have been here, a finer man than the distinguished Senator from Wyoming. He is not only a fine man, he is a scholar. He studies the various proposals before the Congress, the issues before this Nation. In my judgment he has one of the most splendid voting records of any Member of the Congress. I appreciate the remarks coming from such a wonderful man.

ORDER OF BUSINESS

Mr. ABOUREZK. Mr. President, I ask unanimous consent that I be allotted 5 minutes time.

Mr. MANSFIELD. Mr. President, I reserve the right to object because of the formula which has been developed by means of which Senators will get recognition at stated intervals.

I would like to ask the distinguished acting Republican leader, if it would be possible for the distinguished Republican leader (Mr. GRIFFIN) to allocate 5 minutes of his time to the distinguished Senator from South Dakota?

Mr. ABOUREZK. I modify the request.

Mr. HANSEN. Speaking for the distinguished Republican whip, the answer is "yes."

The PRESIDING OFFICER. The Senator from South Dakota now has 5 minutes under the previous order awarded to the Senator from Michigan (Mr. GRIFFIN).

RECLAMATION AUTHORIZATION ACT

Mr. ABOUREZK. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 151.

The PRESIDING OFFICER (Mr. FORD) laid before the Senate the amendments of the House of Representatives to the bill (S. 151) to authorize the Secretary of the Interior to construct, operate, and maintain the Polecat Bench area of the Shoshone extensions unit, Pick-Sloan Missouri Basin program, Wyoming and for other purposes.

(The amendments of the House are printed in the RECORD of Jan. 20, 1976, beginning at p. 265.)

Mr. MANSFIELD. Mr. President, the leadership would like to know what this is all about because, to the best of my knowledge, it has not been consulted.

Mr. ABOUREZK. I will explain it.

Mr. President, the House amendment to S. 151 consisted of the consolidation of several reclamation measures into an "omnibus" authorization bill.

The bill before us consists of four titles:

Title I authorizes the Secretary of the Interior to construct, operate, and maintain the Polecat Bench irrigation project in Wyoming. This title contains the original text of S. 151, sponsored by Senator HANSEN and Senator McGEE, which passed the Senate on August 1, 1975.

Title II provides authority for the Secretary to undertake modification for safety purposes of the existing Dickenson Dam in North Dakota. The language in this title is identical to the text of S. 2089, sponsored by Senator BURDICK and Senator YOUNG, which passed the Senate on December 16, last year.

Title III reauthorizes the existing McKay Dam in Oregon so that the dam may be modified for safety purposes and to include flood control as a project purpose. This title is identical to S. 2361, sponsored by the senior Senator from Oregon, Mr. HATFIELD, which passed the Senate on December 16.

Title IV authorizes the Secretary of the Interior to construct, operate, and maintain the Pollock-Herreid irrigation project in South Dakota. Title IV consists of language which is identical to a measure which has been unanimously reported to the floor of the Senate by the Interior and Insular Affairs Committee.

The people of the Pollock-Herreid Irrigation District in South Dakota have seen 20,000 of their best acres flooded by waters from the Oahe Dam. They live in an area where annual rainfall averages 15 inches but often drops to a mere 3½ inches. Dryland farming under these conditions is obviously a high-risk venture.

Fifteen of the 26,000 acres in the district are irrigable. If they were irrigated, the result would be to stabilize and diversify the agricultural situation in the area. Instead of recurring crop failure, the farmers of the Pollock-Herreid area would be able to count on steady yields and would be able to diversify their production to avoid growing crops already in surplus.

The Pollock-Herreid unit also provides for conservation and development of the fish and wildlife resources in the area, including five wildlife areas. Recreation would be enhanced by the stabilization of the water level of Lake Pocasse. Construction of the unit would provide significant area redevelopment benefits to the entire area, including Indian reservations. Unemployment and underemployment, chronic in the area, would be drastically reduced. The Pollock-Herreid unit represents a desirable water resource development that would strengthen the economy of the area, the State, and the Nation.

Each title has been the subject of public hearings in both the House and the Senate and each title has been subjected to consideration by the respective Senate and House Interior Committees in full committee business sessions.

Mr. President, each of the actions authorized by S. 151 is of vital interest to the residents of the affected areas and each is a reflection of Federal responsibility and the interests of the Nation at large. Obviously, the Federal role in insuring the safety of those who live downstream from Federal dams is paramount. This is a responsibility that the Congress and the Nation cannot deny. In turn, I cannot stress strong enough the importance of the farmer and our agricultural system to the economic health of our Nation both at home and abroad.

Senate agreement to the House amendment to S. 151 will clear the measure for signature into law. Therefore, Mr. President, I move that the Senate concur in the amendments of the House to S. 151.

Mr. HANSEN. Mr. President, I compliment my distinguished colleague, the Senator from South Dakota, for his very effective leadership in bringing these various bills that have been duly considered by the Interior Committee and, as he indicated, acted upon by the Senate together in order that we may take affirmative action at this time.

He has done a great job, and I join with him in the statement he has made.

Mr. President, I am very pleased to see passage by the Senate of S. 151, a bill which would authorize several reclamation projects. Each title of the bill has been the subject of public hearings in both the House and the Senate.

I am particularly pleased that the Polecat Bench authorization is a part of this bill. This authorization will certainly mean a great deal to the residents of Wyoming.

Field hearings were held in Powell, Wyo., on September 23, 1972. In attendance at that hearing were many local supporters of this project. It was demonstrated by these residents that Polecat Bench has full support of the local residents.

Although this project was authorized in the Shoshone extension unit in the Flood Control Acts of 1944 and 1946, since its initiation was delayed, the act of August 14, 1964, requires reauthorization. For several sessions Congressman RONCALIO has sponsored legislation in the House to authorize this project. Senator MCGEE and I have sponsored similar legislation in the Senate since 1967.

Due to this delay, construction costs have increased. However, to offset these costs, the value of cash crops which will be produced from this project has also increased—in most cases the value has doubled or tripled.

Although the Department of the Interior has stated the benefit-cost ratio to be below unity, reestimates with new crop values and the possible inclusion of municipal and industrial water supplies indicate the benefit-cost ratio will approach unity.

However, it is important to note, the Office of Management and Budget does not include indirect benefits in its calculation of this benefit cost-ratio. Many of the benefits which will result from this project are indirect benefits. To list but some of the indirect benefits resulting from the project's effect on the 19,200 acres of mostly class I lands in question, one should list not only the increased business in the community resulting from higher farm income, but also the expanded tax base, which will produce new and improved community facilities such as schools, roads, meeting facilities, public utilities and recreational facilities.

The socioeconomic benefits of improving land and rounding out farming units so that many farm people, including many of Wyoming's young people, will remain on the farm are immeasurable. The completion of 80 new family size farm units will be most beneficial to the State and to the residents of Park County.

Mr. President, as a representative of Wyoming, I am most pleased to see the inclusion of title I in this bill and feel sure it will mean increased benefits, for not only the people of Wyoming but, for the people of the Nation as a whole through increased agricultural production.

Mr. McGEE. Mr. President, the Polecat Bench project has been on the drawing boards for more than 14 years. The Interior Committee held its first hearings in 1962. Since that time it has been a long, rocky road to this point in time when the people in my State will finally realize the benefits of this legislation.

First, I want to express my appreciation and thanks to the members of the Senate Interior Committee for their work and responsiveness to this proposal. Special credit should also go to my colleague, Senator HANSEN, who serves on that committee and who has worked so diligently on this proposal over the years. Wyoming is also fortunate, indeed, to have its lone Congressman TENO RONCALIO serving on the House Committee on Interior and Insular Affairs, where he has worked with complete dedication in steering this bill through the other body.

The record will show that there is not only strong local support in Powell, Wyo., for this project, but also broad statewide support. Furthermore, there is a genuine need for this expansion of the project. Over 19,000 acres of semiarid rangeland will be converted into 80 high quality, irrigated farm units. The economic and social importance of this effort cannot be overemphasized. It will not only make possible the establishment of new farms and new jobs, but it will also provide the opportunity for farmers operating in the adjacent Heart Mountain Irrigation District with undersized farm units to expand their businesses into more profitable family-size enterprises.

Aside from the irrigation benefits of the project, we can anticipate the enhancement of public recreation, fish and wildlife resources, and other environmental improvements. Planned recreational facilities at Holden Reservoir will include picnic areas, boating, waterskiing, swimming, fishing, and sightseeing. This public access will accommodate an estimated 10,000 annual visitor days of general recreation use and 5,000 days annually of fishing use. The irrigated lands will provide important habitat for pheasants and waterfowl will be attracted to the reservoir, thereby providing an excellent hunting area for our sportsmen.

Mr. President, since we first introduced this legislation, a new beneficial use for the project has surfaced. The city of Powell is in need of an expanded water supply for municipal purposes. Holden Reservoir will be a desirable source of domestic water supply for the city of Powell for municipal and industrial uses. This additional use has greatly improved the economic analysis of the project, and gives it a much improved cost-benefit ratio.

Again, I express my appreciation to my colleagues for their support of this project in Wyoming.

Mr. HATFIELD. Mr. President, I am pleased to support S. 151, which includes several worthy reclamation proposals this body should approve.

I would like to draw particular attention to title III of this legislation, which is similar to S. 2361, which I introduced in the Senate last September. S. 2361 was approved by the Senate last September 16, and is now before us again as a part of the House-passed omnibus authorization bill.

This proposal authorizes the President to improve the spillway at McKay Dam, a part of the Umatilla project in Oregon. When this dam was constructed in the 1920's, the Bureau of Reclamation installed a spillway capacity of 10,000 cubic feet per second. Now, utilizing more recent peak flow figures, as well as new and better techniques for estimating flood potential, the Bureau has determined that the dam and the spillway could be overloaded. When construction of the dam began, the largest peak flow observed of McKay Creek was 3,250 cubic feet per second. This peak has been exceeded on four different occasions since 1923; the largest, 7,400 cubic feet per second, occurred on January 30, 1965.

In a study dated last April, the Bureau recommended that the spillway capacity at McKay Dam be increased from the present 10,000 cubic feet per second to 27,000 cubic feet per second. Without this added spillway, water levels in the reservoir could breach the top of the dam in the event of an unusually high snow pack combined with heavy winter rains. Under present conditions, this overtopping could result in the failure of the dam embankment, with an estimated economic loss of $12 million.

More importantly, Mr. President, such a washout would seriously endanger human life in the area. As Assistant Commissioner of Reclamation Edwin Armstrong told the Senate Subcommittee on Energy Research and Water Resources:

> . . . If the dam failed, the water would surge out in great amount. There would be a great wall of water that would go down through there. In the area, there are some 300 to 400 homes. Well over 1,000 people. And, if the dam should fail, I think it is quite certain that there would be considerable loss of life because there would not be too much warning.

In the Bureau's April, 1975 report, they stated that—

> Inasmuch as McKay Dam was designed and constructed and is presently operated and maintained by the Bureau of Reclamation, the Federal Government has the responsibility for surveillance of the dam and for initiating action necessary for its safety.

The Bureau also recommended the approach authorized by this legislation as the best method of resolving the danger which is presently posed by McKay Dam.

In addition to authorizing the modifications of the spillway, title III of S. 151 would include flood control, recreation, and fish and wildlife as purposes of the McKay Dam and Reservoir. At present, the single purpose of irrigation is the only authorized purpose. Commissioner Sullivan's testimony indicated that the average annual flood control benefit of the modified dam would be at least $160,000, while recreation benefits would be $36,000 and fish and wildlife benefits $159,000.

Mr. President, I urge my colleagues to approve this legislation, and I also urge the President to sign it into law. The work authorized by this bill represents a response to the critical water needs of the Western States, and recognizes the need for the Federal Government to continue to exercise its responsibility in this area.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota.

The motion was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma (Mr. BARTLETT) is recognized for not to exceed 15 minutes.

THE CHILD AND FAMILY SERVICES ACT OF 1975—S. 626

Mr. BARTLETT. Mr. President, the Child and Family Services Act—S. 626—introduced by the distinguished senior Senator from Minnesota (Mr. MONDALE), has been maligned by scandal sheets from undisclosed sources which have totally misrepresented the contents of Senator MONDALE's legislation, and some of these are falsely attributed to me and/or to my office.

Those responsible for preparing and circulating these flyers have performed a great disservice to everyone interested in this legislation. The dissemination of anonymous, alarmist flyers in a nationwide rumor campaign is not the way to voice opposition to a measure before Congress. It is certainly not the way for conscientious citizens to educate themselves on the legislation and the legitimate issues involved.

Because the charges in these flyers are irrational, inaccurate, and misleading, I have attempted to put the proposed legislation in the proper light for consideration by our constituents.

However, I am opposed to S. 626. There are five primary reasons for my opposition to this legislation: First, that there is little demand from the people for this legislation, second, that it further escalates the involvement of the Federal Government in the lives of citizens, third, that it adds $400 million per year to an already topheavy budget and bureaucracy, fourth, that it is designed in such a manner that it would take the administration of child care programs out of the hands of State agencies that are familiar with local problems and needs, fifth, that it creates unnecessary financial burdens for the States.

The majority of the people have not requested that the Federal Government initiate such a program. To intervene in an area where the public has not sought legislative assistance is the boldest presumption on the part of Congress of "higher knowledge" and is an all-too-often replayed sequence with which the people have become weary and overburdened.

In my own State of Oklahoma there has been almost no support for the legislation even prior to the controversy created by the distribution of the previously described "scandal sheets." The support has been almost too small to measure and has come primarily from sources that would benefit monetarily by the implementation of such a program.

There are numerous cases, both in the child welfare field and in other areas of our lives, where Federal standards have been designed for national application and have ended up not fitting anyone. These programs have been like going to the shoe store, and instead of having your own foot measured, you take the total of all sizes available, divide by the total number of pairs, and buy the result.

This legislation is very broad. The Department of Health, Education, and Welfare is directed to write the rules and regulations, to effect the purpose of the legislation—presumably to fit the needs of the average State, which, of course, does not exist.

We are all familiar with this concept and its practice as a time-saving device for Congress; however, we have all become increasingly aware of the misfit results of this type of authority.

This legislation requires that the Department would develop regulations in consultation with other Federal agencies as a special Committee on Federal Standards for Child Care without direction from Congress.

The State of Oklahoma has already had bitter experiences with this approach. An example of this is title 20 of the Social Security Act under which regulations were promulgated by HEW concerning day care centers. The legislation was to benefit children attending day care centers and was intended to insure that all children would have an adequate and inexpensive facility to attend. The proposed regulations jeopardized day care by raising costs to the parent so high that they will be prohibited from placing their children in a center, encouraging some of these mothers to be welfare recipients.

The Child and Family Services Act will again establish another set of child care standards. It is confusing to have another layer of regulations in an area that has already become overcomplicated and counterproductive. This legislation further reduces the latitude within which the traditional providers of these services can operate, because they must come up with a "plan" of their own which meets the regulations established at the national level. Again, the State and local level must comply with directives that come from Washington rather than develop their own programs consistent with State priorities. The choices are limited and the individual becomes more dependent upon the Federal Government for the operation of his or her daily life. Each State should write its own rules and regulations. It alone knows its needs, its resources, and its priorities. The initiative of each State contributes to the knowledge of all. Nothing is gained by denying such contributions.

The bill provides no assurances that the single State agencies, currently providing services, will be involved in the administration of this program. Experience with such programs at the State level has shown that the lack of unified administration causes numerous inefficiencies, wasting large amounts of money.

The bill also fails to recognize directly that most States have specific statutory authorities concerning these matters.

The final concern at the State level is the cost to the State. Many States simply no longer have the funds to match the Federal moneys proposed under this act.

States are slashing their budgets to reduce spending. The practice of the Federal Government mandating spending by State or local units of government on Federal programs inhibits the States from having the fiscal flexibility necessary to establish meaningful priorities to meet their needs.

The authorization sought for this act is $1,850,000,000 to be phased in over a 3-year period. Initially, $150 million is to be authorized for the first year and up to $1 billion for the third year. The sponsor's estimate of the actual cost of operating the programs proposed by this legislation is approximately $400 million a year. I believe this latter figure is unrealistically low based on the intention of this program. The amount, whatever it would be, would be added to a budget which we have already expressed our intent to reduce. This type of program is inconsistent with our intent to restrict an already inflated budget.

It is difficult enough to reduce the cost of existing programs that have an established track record and credibility, much less to do so when Congress adds to an already extremely expensive program.

Mr. President, I yield the remainder of my time to the majority leader and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont, under the previous order, is recognized for 15 minutes.

S. 3027—INCREASE IN ENERGY COSTS

Mr. LEAHY. Mr. President, perhaps the greatest single factor causing the inflation plaguing the Nation has been the staggering increase in energy costs during the past 2 years.

These spiraling costs, which have wreaked havoc with our economy, have placed an often intolerable burden on the budgets of millions of American families forced to pay ever-increasing costs for basic necessities of life—gasoline, home heating fuel, and electricity.

To alleviate this burden, or at least to restrain its escalation, Congress passed the Emergency Petroleum Allocation Act of 1973 and the Federal Energy Administration Act. Among other things, they charged the Federal Energy Administration with developing and administering the regulation of prices of crude oil and petroleum products and with encouraging competition in the energy marketplace. How well this is accomplished affects the pocketbooks of all Americans.

Essential to the implementation of this mandate are the FEA compliance and enforcement programs to insure that the petroleum industry complies with FEA pricing regulations. Unfortunately, this program has fallen far short of its responsibilities. As a Senator from a region whose people are paying the highest prices in the Nation for their energy. I am especially concerned over this failure.

Last December the General Accounting Office issued a report on FEA's compliance and enforcement effort, concluding that—

> FEA will have to substantially strengthen its compliance and enforcement program at all levels if it is to have adequate assurance that firms are in substantial compliance with pricing regulations.

Six months later, in testifying before the Subcommittee on Administrative Practice and Procedure, Phillip S. Hughes, the Assistant Comptroller General, stated:

> . . . FEA has responded by attempting some redirection of its compliance and enforcement activities. But our general judgment is that these problems, by and large, remain.

In its severely critical report, the subcommittee characterized the FEA enforcement program as "woefully inadequate, confused, and ineffective."

A recent Cambridge report indicates that by 8 to 1 Americans believe that the gasoline price hike last July was the result of a price fixing conspiracy rather than a justified price increase.

I mention this because it indicates that the public perceives that the large oil companies are living a relatively unregulated existence and that the Government has been lax, ineffective, and unaggressive in gaining some semblance of public accountability from them.

Mr. President, the total appropriation for the FEA in 1976 was increased by $8.5 million—an increase of 6.6 percent. At the same time the appropriation for FEA's regulatory programs was reduced by $4 million—a decrease of 12.1 percent. This neglect of FEA's regulatory programs is a clear signal to the petroleum industry that they may continue their dubious practices regarding the pricing of heating and industrial fuel and gasoline.

The consequences of this attitude are not difficult to discern. First, the FEA last year had a 38 percent turnover rate, one of the highest in the Federal bureaucracy.

Second, morale is low among many of the compliance officers within the agency. The former compliance chief for FEA region I, the New England region, told a Senate subcommittee:

> It appears to us in New England that the whole policy of the Agency has been to deregulate. There has never been any clear expression of intent to have a strong compliance program. I think that none of the auditors in the field believes that the Agency wants to enforce its own regulations.

The third consequence has been a serious lag in closing cases. For example, a letter to me by the Vermont State Energy Office in early October described 10 pending cases before the FEA's region I office. I recently learned that none of them has been settled. Some date back a full year. They are not large cases. They involve suppliers and retailers, the "little people" in the petroleum chain. But the fact that no movement has been made to close these cases indicates an indifference on the part of the people who direct FEA's compliance program.

In its report, the Subcommittee on Administrative Practice and Procedure listed lengthy delays and lost cases as 1 of the 11 major areas in which the FEA has failed to develop an effective and equitable system of price regulation in the petroleum industry. The subcommittee found that—

> Due to the lack of uniform procedures, poor allocation of manpower, inadequate staffing, unclear regulations and lines of authority, and lack of effective case control . . . a pattern of numerous unwarranted delays has hampered the enforcement process at FEA.

The FEA compliance and enforcement activities have been assessed and found wanting not only by that subcommittee, but also by the Permanent Investigations Subcommittee of the Government Operations Committee. In addition, the General Accounting Office's audit site at the FEA has issued a number of reports on the Agency's compliance and enforcement program citing numerous deficiencies. When a member of my staff asked why the frequency of these reports had slowed down, the GAO auditor replied that there was little to be gained from beating a dead horse.

Mr. President, a dead horse is not exactly what the Congress had in mind for protecting the American public from unfair pricing practices in the petroleum industry. Realizing that this is only a figure of speech, it is unconscionable and outrageous that the FEA compliance and enforcement activities have been permitted, or perhaps even worse encouraged, to deteriorate to the point where they can be so described.

I do not mean to imply that the FEA is the stooge of the major oil companies. I have been impressed by its strenuous efforts to minimize conflict-of-interest hirings. While a number of former oil company executives hold key FEA jobs, they do not now appear to be the dominant individuals within the agency's decisionmaking structure.

In fairness to the FEA, I must point out that the agency was created in the midst of an extraordinary national emergency and that many of the regulations promulgated at the time of the 1973 oil embargo are still in effect although the nature of our fuel crisis has changed. I should also stress that the interrelationships in the petroleum industry are easily the world's most complicated, and that its collective activities at times seem beyond total comprehension.

The impression which I have derived from the various reports and hearings which have been held is that of an agency with well-intentioned and competent people thrust into a difficult emergency situation with little knowledge of the technical complexities of the industry which they were mandated to regulate.

Although genuine improvements have been made since the last open hearings were held. I have concluded that the agency and its compliance division could both do a better job if their functions were divided and their institutional identities were separated.

The FEA has a major responsibility in the overall design for energy self-sufficiency. In this capacity it has had to serve as a spokesman for the petroleum industry which wants Government underwriting of its explorations and no Government regulation of its prices and fuel allocations.

On the other hand, the FEA has also been mandated by the Congress to regulate the activities of the petroleum industry to prevent excessive prices and poorly allocated supply.

With this dual mandate, it is no wonder that Gorman Smith, the Assistant Administrator for the FEA's compliance and enforcement program, described the FEA as "schizophrenic about its regulatory programs."

"Physician, heal thyself," might be a suitable admonition to the FEA, but it is unlikely to help it out of its present dilemma.

I believe that the most feasible way to solve that dilemma is to separate FEA's compliance and enforcement programs from the Agency itself. I am, therefore, today introducing legislation which would remove these functions from the Federal Energy Administration and relocate them within the Treasury Department.

This proposed reorganization is similar, but not identical, to the reorganization of the Atomic Energy Commission in recent years. As the distinguished Senator from Kentucky may recall, after more than 20 years of "schizophrenia" within the AEC, Congress decided that AEC could not promote both the development of nuclear energy on the one hand and regulate it effectively on the other. As a result, the Energy Reorganization Act of 1974 was enacted and the Energy Research and Development Administration and the Nuclear Regulatory Commission sprang to life to replace the Atomic Energy Commission.

This concept is not a new one to the Federal Energy Administration. Last May, Assistant Administrator Gorman Smith suggested in a memo made public that the Atomic Energy Commission reorganization be used to justify a change in the FEA's hiring practices. Mr. Smith made explicit use of that precedent when he wrote:

> . . . FEA has the same kind of requirement for technically qualified personnel, especially in Conservation and Environment, Energy Resource Development, and Regulatory Programs, that ERDA has with regard to its de-

velopmental missions and NRC has with respect to its regulatory mission.

It is clear that the FEA seems to understand the aptness of the AEC example in regard to its own organizational problems.

My proposed bill relocates the FEA compliance and enforcement responsibilities in the Treasury Department because, more than any other Federal agency, it has the experience and the trained personnel necessary for these functions. Treasury employs more and better-trained auditors and investigators than any other Federal agency. Many of the original FEA auditors were on loan from the Internal Revenue Service, and one of the factors causing present problems is the fact that most have gone back to their jobs in that agency.

It is reasonable to assume that the regulation of pricing and allocation in the petroleum industry will be a long-term proposition whether administered by the FEA or some other agency. The Treasury Department is permanent. Consequently, job security for the auditors and investigators will be improved. There would be, I feel certain, a marked increase in the level of morale and a sharp decrease in the rate of personnel turnover.

Separating these activities will also liberate the development components of FEA from problems which they may have experienced with producers and refiners who may have been reluctant to deal with them directly for fear of having a swarm of auditors descend upon them from the regulatory corner of FEA. FEA's mission will now be clear in the developmental sphere.

This separation should eliminate the organizational "schizophrenia" now afflicting the Federal Energy Administration at no additional cost and with no inflated bureaucracy. It would help restore the confidence of the public in its ability to effectively do the job it was charged to do almost 3 years ago—administer the regulation of crude oil and petroleum product pricing and encourage competition in the energy marketplace.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3027

A bill to transfer all compliance and enforcement functions of the Federal Energy Administration to the Secretary of the Treasury

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there are hereby transferred to the Secretary of the Treasury all compliance and enforcement functions, including powers and duties relating thereto, which were vested in the Administrator of the Federal Energy Administration immediately before the effective date of this section.

(b) In the exercise of any such function so transferred, the Secretary of the Treasury shall have the same authority as that vested in the Federal Energy Administrator immediately prior to its transfer and the actions of the Secretary of the Treasury, in exercising such function, shall have the same force and effect as when exercised by the Administrator of the Federal Energy Administration immediately prior to its transfer by this section.

(c) All personnel, assets, liabilities, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred by this section are hereby transferred to the Secretary of the Treasury in such manner and to such extent as the Director shall prescribe. Such personnel shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(d) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of the Federal Energy Administration, by any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this section, and

(2) which are in effect at the time this section takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Administrator, other authorized officials, a court of competent jurisdiction, or by operation of law.

(e) This Act shall not affect any proceeding pending, at the time this section takes effect, before any department or agency (or component thereof) regarding functions which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions, and to the same extent, that such proceeding could have been discontinued if this Act had not been enacted.

(f) No suit, action, or other proceeding commenced by or against the Federal Energy Administration or any other office or agency or any officer of the United States acting in any such official capacity shall abate by reason of the transfer made by this section, and in all such suits, actions, or proceedings, appeals shall be taken and judgments rendered in the same manner and effect as if this Act had not been enacted.

Sec. 2. The first section of this Act shall take effect upon the expiration of the sixty day period following the date of its enactment.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed 20 minutes with statements therein limited to 5 minutes each.

CHILD AND FAMILY HEALTH SERVICES

CONGRESS NOT TAKING OVER CHILDREN

Mr. MANSFIELD. Mr. President, in the Christian Science Monitor of February 24, 1976, there is an article by Mr. Robert P. Hey entitled "Congress Not Taking Over Children," with the "Not" emphasized.

It has to do with a proposal which has been introduced by the Senator from Minnesota (Mr. Mondale) and a Representative from Indiana (Mr. Brademas). It covers the legislation which allegedly is supposed to take over the control of one's children from parents, and it has been the subject of a good deal of correspondence to all Members of the Senate and I assume all Members of the House of Representatives, as well.

In order to keep the record as straight as possible and to show the other side of the coin, I ask unanimous consent that this article by Mr. Hey, appearing in the Christian Science Monitor, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Congress Not Taking Over Children

(By Robert P. Hey)

Washington.—Suppose you received an anonymous letter claiming that Congress might take away your authority to rear your children as you see fit—and give it to the government. Would you unquestioningly believe it?

Tens of thousands of Americans apparently have. From all parts of the United States they've been deluging members of Congress for several months with angry letters demanding that Congress reject this proposal. It is one of the heaviest, longest-lasting mail campaigns in many years.

It is also one of the most disturbing. For the anonymous letters on which it is based consist almost entirely of distortions and outright falsehoods. A careful examination of the congressional bill they attack shows no section of it would give control of children to the government, despite the anonymous flier's assertions that such a change "is becoming part of" the proposal. Further, a check of congressional sources shows no such change ever was contemplated.

On the contrary, the bill aims to aid many American families, especially the poor, by providing day-care facilities for children and health assistance. No family would be forced to participate in such a program—it would be entirely voluntary.

To several congressional sources the most disturbing element—with ominous overtones for the future—is the depth of Americans' cynicism about government and public officials, as indicated by their automatic acceptance of the charges as fact. Several congressional sources familiar with the case believe only today's deep wellspring of public discontent makes many Americans ready to believe the charges right away.

Sen. Walter F. Mondale (D) of Minnesota, the Senate's chief sponsor of the proposal under attack tells this newspaper: "The polls would suggest a total distrust of politicians and government . . . [which] may have helped create an environment in which people are willing to believe almost anything—and [which] makes us all the less credible when we as members of Congress try to explain what the facts really are."

The irony is that the Mondale proposal—by the Senator's own admission—had no real chance of passage this year because it would cost more than Congress felt the government could spend in these difficult economic times. Under the proposal, sponsored in the House by Rep. John Brademas (D) of Indiana, $150 million would have been authorized for the first year of the program, with costs rising to $1 billion four years later.

But the mail campaign flooding Congress has entirely killed the modest hope of sponsors that they could gain congressional approval of some kind of compromise bill—one which would have begun providing more money for health, nursery, and day-care aid than now exists. Although these protesting letters generally are based on misinformation, congressional sources say they have had an impact on Capitol Hill sufficient to scuttle the prospects for compromise.

Supporters of the proposal have not been able to find out precisely which groups are behind the unsigned letter campaign.

In part it is so persuasive because the fliers look official and well researched.

But most of the facts are not accurate. The fliers say, in the words of one, that a "charter of childrens' rights of the National Council of Civil Liberties is becoming part of" the proposal. But in fact this "charter" never has been connected with the proposal. It is not connected with any U.S. group but was drafted by a British organization, according to Sen. Carl Curtis who introduced the subject of the charter into the Congressional Record in 1971.

None of the "rights" the flier identifies as part of the charter—the right to sue your parents for punishment, or refuse to take out the garbage—has ever been considered as part of the bill despite the allegations of the anonymous fliers.

Similarly, one flier charges that "the Congressional Record states" that what is at issue is whether parents or the government shall exert control over children and the family. This statement leaves the impression that the Congresional Record is an official voice of government. Actually, the Congressional Record is an all-inclusive record of everything said on the floor of the U.S. Senate and House of Representatives—and includes much material provided by members of Congress which was not said, but is printed in the publication anyway.

Sponsors of the bill say they cannot find any record of such a statement having been made in the Congressional Record. And if it was, it was either made by a member of Congress, or was written material which he had placed in the record—and thus is not official or unofficial government policy.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PROPOSED FINANCIAL ASSISTANCE FOR HEALTH CARE ACT—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was referred to the Committee on Finance and the Committee on Labor and Public Welfare, jointly, by unanimous consent:

To the Congress of the United States:

The health of our people is one of our Nation's most vital resources.

Significant progress has been made in improving the health of the Nation's people during the last 25 years, as can be seen in the reductions in the infant mortality rate, increases in life expectancy, and the conquering of some communicable diseases. This progress has come under a largely private health care system with the support of public funds.

In the past 10 year period (1965–1975) Federal spending for health has increased from $5 billion to $37 billion. With greater Federal funding has come a multitude of Federal programs, regulations and restrictions—all motivated by the best of intentions but each adding to the confusion and overlap and inequity that now characterizes our efforts at the national level.

Today I am proposing to the Congress legislation that addresses these problems. I am asking Congress to enact the Financial Assistance for Health Care Act which will consolidate Medicaid and 15 categorical Federal health programs into a $10 billion block grant to the States. I am proposing that future Federal funding for this new program be increased annually in increments of $500 million plus the amounts needed after 1980 to ensure that no State will in the future receive less under this proposal than it received in fiscal year 1976.

The Financial Assistance for Health Care proposal is being submitted after extensive consultation with organizations representing the publicly elected officials who will be responsible for administering the program. I believe this proposal represents a major step toward overcoming some of the most serious defects in our present system of Federal financing of health care.

My proposal is designed to achieve a more equitable distribution of Federal health dollars among States and to increase State control over health spending. My proposal also recognizes the appropriate Federal role in providing financial assistance to State and local governments to improve the quality and distribution of health services.

The enactment of this legislation will achieve a more equitable distribution of Federal health dollars by providing funds according to a formula giving primary weight to a State's low-income population. The formula also takes into account the relative "tax effort" made by a State and the per capita income of that State.

Let me emphasize that every State will receive more Federal funds in fiscal years 1977, 1978 and 1979 under the block grant than it received in fiscal year 1976. My proposal also allows for a gradual phase-in of the distribution formula in future years to insure a systematic, orderly transition that will permit States to adjust to the new program.

To assure accountability and responsiveness to the public, my proposal requires each State to develop an annual health care plan as a condition to receiving Federal funds. This plan will be developed through a Statewide public review and comment process which will assure participation by all concerned parties. Thus, increased State responsibility will be coupled with expanded public participation, and accountability in the development of State health policies.

This proposed consolidation of health programs is essential to continue our national progress in the field of health. It is designed to permit States greater flexibility in providing for delivery of health care services to those with low income. It eliminates the requirements for State matching. And it recognizes the need for a cooperative relationship among governments at all levels. My proposal would reduce Federal red tape, increase local control over health spending, and expand public participation in health planning.

While I am proposing to increase State control over health spending, we will continue to concentrate our efforts in areas of appropriate Federal responsibility. For example, my budget proposals for 1977 include the following:

—In food and drug safety, I have asked for $226 million in 1977, an increase of $17 million, to enable further progress in priority areas;

—In the area of drug abuse prevention, I propose almost $500 million for prevention and treatment to expand national drug abuse treatment capacity to meet the current need;

—My budget requests more than $3 billion for health research, including continued support of major national efforts in cancer and heart disease research and support for new scientific opportunities in the fields of environmental health, aging, and immunology;

—In our effort to imrove the training and utilization of doctors and other health professionals, I have requested new legislation and funding of $319 million, designed to concentrate on the problems of geographic and specialty maldistribution of health professionals;

—To assist local communities to attract physicians, dentists and other health professionals to underserved areas, I am proposing to expand the National Health Service Corps demonstration program 38 percent from $18 million to $25 million;

—To assist the development of a strong health maintenance alternative, I have directed HEW to move rapidly in administering the dual option provisions of the HMO Act. And, to complete the 5-year effort to demonstrate and test the health maintenance organization concept, I have requested an additional year's authorization for new commitments. As of last June, there were 10 health maintenance organizations certified through the dual option provisions;

—To provide improved health services to American Indians and Alaska Natives, I am asking for $355 million. Spending by the Indian Health Service alone in 1977 will result in over $685 per beneficiary, or over $2,740 per Indian family of four;

—In the area of veterans' health care, I have requested $4.5 billion to assure continued quality care by providing for increases in medical staff and research related to VA health care delivery.

A realistic assessment of the present health care programs and the responsibilities of Federal, State, and local governments fully demonstrates that the reforms I am proposing in Federal health care are needed now. The Medicare Improvements of 1976 that I recommended to the Congress on February 11 also represents a balanced response to needed program reforms. This proposal is designed to improve catastrophic health cost protection for our aged and disabled, restrain cost increases in the Medicare program and provide training for the hospital insurance trust fund.

I request that the Congress give both these measures the earliest possible consideration.

GERALD R. FORD.

THE WHITE HOUSE, *February 25, 1976.*

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that a message from the President dealing with the subject of health care be referred jointly to the Committee on Finance and the Committee on Labor and Public Welfare.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 12:01 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the joint resolution (H.J. Res. 811) making supplemental appropriations for the legislative branch for the fiscal year ending June 30, 1976, and for other purposes.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 811) making supplemental appropriations for the legislative branch for the fiscal year ending June 30, 1976, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

PETITIONS

The PRESIDENT pro tempore laid befor the Senate the following petitions, which were referred as indicated:

House Concurrent Resolution No. 36 adopted by the Legislature of the State of Delaware; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION No. 36

"Applying to the Congress for a convention to propose an amendment to the Constitution of the United States

"Be it resolved by the House of Representatives of the 128th General Assembly, the Senate concurring therein, that the General Assembly of the State of Delaware hereby, and pursuant to Article V of the Constitution of the United States, makes application to the Congress of the United States to call a convention for the proposing of the following amendment to the Constitution of the United States:

" 'ARTICLE —

" 'The costs of operating the Federal Government shall not exceed its income during any fiscal year, except in the event of declared war.'

"Be it further resolved that this application by the General Assembly of the State of Delaware constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V.

"Be it yet further resolved that since this method of proposing amendments to the Constitution has never been completed to the point of calling a convention and no interpretation of the power of the states in the exercise of this right has ever been made by any court or any qualified tribunal, if there be such, and since the exercise of the power is a matter of basic sovereign rights and the interpretation thereof is primarily in the sovereign government making such exercise and, since the power to use such right in full also carries the power to use such right in part, the General Assembly of the State of Delaware interprets Article V to mean that if two-thirds of the states make application for a convention to propose an identical amendment to the Constitution for ratification with a limitation that such amendment be the only matter before it, that such convention would have power only to propose the specified amendment and would be limited to such proposal and would not have power to vary the text thereof nor would it have power to propose other amendments on the same or different propositions.

"Be it yet further resolved that a duly attested copy of this resolution be immediately transmitted to the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, to each member of the Congress from this State and to each House of each State Legislature in the United States."

A concurrent resolution adopted by the Legislature of the State of South Carolina; to the Committee on the Judiciary:

"A CONCURRENT RESOLUTION MEMORIALIZING CONGRESS TO PROPOSE AN AMENDMENT TO THE FEDERAL CONSTITUTION TO REQUIRE THAT THE TOTAL OF ALL FEDERAL APPROPRIATIONS MAY NOT EXCEED THE TOTAL OF ALL ESTIMATED FEDERAL REVENUES IN ANY FISCAL YEAR, WITH CERTAIN EXCEPTIONS

"Whereas, with each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues so that the public debt now exceeds hundreds of billions of dollars; and

"Whereas, attempts to limit spending, including impoundment of funds by the President of the United States, have resulted in strenuous objections that the responsibility for appropriations is the constitutional duty of the Congress; and

"Whereas, the annual Federal budget repeatedly demonstrates an unwillingness or inability of both the legislative and executive branches of the Federal government to curtail spending to conform to available revenues; and

"Whereas, the unified budget of three hundred four and four-tenths billion dollars for the current fiscal year does not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

"Whereas, as reported by US News and World Report on February 25, 1974, of these nonbudgetary outlays in the amount of fifteen and six-tenths billion dollars, the sum of twelve and nine-tenths billion dollars represents funding of essentially private agencies which provide special service to the Federal government; and

"Whereas, knowledgeable planning and fiscal prudence require that the budget reflect all Federal spending and that the budget be in balance; and

"Whereas, believing that fiscal irresponsibility at the Federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is necessary to bring the fiscal disciplines needed to reverse this trend:

"Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

"That the Congress be memorialized to add a new Article XXVII to the Constitution of the United States and requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated Federal revenues, excluding any revenues derived from borrowing, for that fiscal year.

"Be it further resolved that Congress is requested to call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Federal Constitution.

"Be it further resolved that the proposed new article read substantially as follows:

" 'PROPOSED ARTICLE XXVII

" 'The total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated Federal revenues for that fiscal year, excluding any revenues derived from borrowing and this prohibition extends to all Federal appropriations and and all estimated Federal revenues, excluding any revenues derived from borrowing. The President in submitting budgetary requests and the Congress in enacting appropriation bills shall comply with this Article. If the President proclaims a national emergency, suspending the requirement that the total of all Federal appropriations not exceed the total estimated Federal revenues for a fiscal year, excluding any revenues derived from borrowing, and two-thirds of all members elected to each House of the Congress so determine by Joint Resolution, the total of all Federal appropriations may exceed the total estimated Federal revenues for that fiscal year.'

"Be it further resolved that copies of this resolution be forwarded to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of Congress from South Carolina.

COMMUNICATIONS TRANSMITTED AND RECEIVED BY THE SECRETARY OF THE SENATE

The Secretary of the Senate reported the transmittal and receipt of the following communications:

FEBRUARY 19, 1976.

Hon. HENRY A. KISSINGER,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: I am forwarding herewith Senate Resolution 390, adopted by the United States Senate on February 17, 1976. It will be appreciated if you will forward this to the President of Guatemala.

With kindest regards,
Sincerely,

FRANCIS R. VALEO,
Secretary of the Senate.

S. Res. 390

Whereas the people of our sister Republic, Guatemala, suffered a devastating blow as the result of the recent earthquakes and tremors in February 1976; and

Whereas these quakes and tremors caused the loss of thousands of lives and the destruction or devastation of many towns and villages, rendering homeless many thousands of people; and

Whereas the people and Government of the United States, in accord with the traditions of the United States, are anxious to assist the people of Guatemala in their tragic hour of bereavement and suffering; and

Whereas the task of relief, rehabilitation, and reconstruction which faces Guatemala is huge, requiring outside support and assistance beyond the present emergency requirements: Now, therefore, be it

Resolved, That the Senate extend its deepest sympathy to the President and to the people of Guatemala in this dark hour of their suffering and distress.

Sec. 2. It is the sense of the Senate that the executive branch of the United States Government be urged to develop, in cooperation with other potential donors in and outside of the Western Hemisphere, both governmental and private, programs to assist the people of Guatemala in their efforts to relieve the suffering caused by the disaster and to rehabilitate their nation from the damage inflicted.

Sec. 3. Copies of the present resolution shall be distributed through appropriate channels to the President of Guatemala.

Department of State,
Washington, D.C., February 23, 1976.

Mr. Francis R. Valeo,
Secretary, U.S. Senate,
Washington, D.C.

Dear Mr. Valeo: We have received Senate Resolution 390 dated February 17 which you forwarded by your letter of February 19.

The Resolution has been sent to the American Embassy in Guatemala City for appropriate transmittal to the President of the Republic of Guatemala.

Sincerely,

Robert J. McCloskey,
Assistant Secretary for Congressional Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MORGAN, from the Committee on Public Works:

S. 3028. An original bill to amend sections 5315 and 5316 of title 5, United States Code (Rept. No. 94-649).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 392. A resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.J. Res. 801 (Rept. No. 94-650).

S. Res. 393. A resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to consideration of the conference report to accompany H.R. 11045, the Rehabilitation Act Extension of 1976 (Rept. No. 94-651).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. PEARSON, from the Committee on Commerce:

Joseph E. Kasputys, of New York, to be an Assistant Secretary of Commerce.

Richard G. Darman, of Massachusetts, to be an Assistant Secretary of Commerce.

David W. Oberlin, of Virginia, to be Administrator of the St. Lawrence Seaway Development Corporation.

John Thomas Smith II, of the District of Columbia, to be General Counsel of the Department of Commerce.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

Charles J. Pooler, of Maine, to be U.S. marshal for the district of Maine.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. McGEE, from the Committee on Post Office and Civil Service:

Georgiana H. Sheldon, of Virginia, to be a Civil Service Commissioner.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. LEAHY:

S. 3027. A bill to transfer all compliance and enforcement functions of the Federal Energy Administration to the Secretary of the Treasury. Referred to the Committee on Interior and Insular Affairs.

By Mr. MORGAN, from the Committee on Public Works:

S. 3028. A bill to amend sections 5315 and 5316 of title 5, United States Code. Placed on the Calendar.

By Mr. STENNIS (for himself and Mr. Eastland):

S. 3029. A bill for the relief of Dr. Carlos Arturo Camacho Amador. Referred to the Committee on the Judiciary.

By Mr. TOWER:

S. 3030. A bill for the relief of Hildegard Mercedes Schlubach Ercklentz, Enno W. Erklentz, Jr., Hildegarde Ercklentz Merrill, and Alexander T. Ercklentz, all citizens of the United States. Referred to the Committee on the Judiciary.

By Mr. MONTOYA:

S. 3031. A bill to authorize the erection of a statue of Bernardo de Galvez on public grounds in the District of Columbia. Referred to the Committee on Interior and Insular Affairs.

By Mr. BARTLETT:

S. 3032. A bill to provide for the gradual reduction of the United States contribution to the United Nations. Referred to the Committee on Foreign Relations.

By Mr. GOLDWATER:

S. 3033. A bill to amend section 302 of the Communications Act of 1934 to authorize the Federal Communications Commission to prescribe regulations with respect to certain electronic equipment that is susceptible to radio frequency energy interference. Referred to the Committee on Commerce.

By Mr. STAFFORD (by request):

S. 3034. A bill to amend the Rehabilitation Act of 1973. Referred to the Committee on Labor and Public Welfare.

By Mr. MATHIAS (for himself and Mr. Beall):

S. 3035. A bill for the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson. Referred to the Committee on the Judiciary.

By Mr. STONE:

S. 3036. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors. Referred to the Committee on Finance.

By Mr. MUSKIE (for himself, Mr. Randolph, Mr. Baker, Mr. Buckley, Mr. Burdick, Mr. Gravel, Mr. Gary Hart, and Mr. Montoya):

S. 3037. A bill to extend certain authorizations under the Federal Water Pollution Control Act, as amended. Referred to the Committee on Public Works.

By Mr. BAKER (for himself and Mr. Randolph):

S. 3038. A bill to amend the Federal Water Pollution Control Act. Referred to the Committee on Public Works.

By Mr. BENTSEN:

S. 3039. A bill for the relief of Yolanda Inez Gonzalez Lyles; and

S. 3040. A bill for the relief of Dr. Lesley B. Tiogko Serrano and her son, Kenneth Neil Serrano. Referred to the Committee on the Judiciary.

By Mr. INOUYE (for himself and Mr. Pearson) (by request):

S. 3041. A bill to amend the International Travel Act of 1961, as amended, to authorize the use of travel grants for foreign participants in familiarization tours to the United States. Referred to the Committee on Commerce.

By Mr. INOUYE:

S. 3042. A bill to amend title 5, United States Code, to include as creditable service under the civil service retirement system periods of service as contract technicians by persons hired by private authority to perform work under Federal supervision pursuant to a contract between such private authority and the Federal Government, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. KENNEDY (for himself, Mr. Ribicoff, Mr. Philip A. Hart, Mr. Gary Hart, Mr. Haskell, Mr. Durkin, Mr. Sparkman, Mr. Stafford, Mr. Mansfield, Mr. Pell, Mr. Inouye, Mr. Montoya, Mr. Beall, Mr. McGovern, and Mr. Percy):

S. 3043. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. SPARKMAN (by request):

S. 3044. A bill to provide for relief and rehabilitation assistance to the victims of the earthquakes in Guatemala, and for other purposes. Referred to the Committee on Foreign Relations.

By Mr. McGOVERN:

S. 3045. A bill to establish a National Commission on Food Production, Processing, Marketing, and Pricing to study the food industry from the producer to the consumer. Referred to the Committee on Agriculture and Forestry and the Committee on Commerce, by unanimous consent.

By Mr. WEICKER:

S.J. Res. 172. A joint resolution to designate the fourth week in June as National Tennis Week. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY:

S. 3027. A bill to transfer all compliance and enforcement functions of the Federal Energy Administration to the Secretary of the Treasury. Referred to the Committee on Interior and Insular Affairs.

(The remarks of Mr. LEAHY on the introduction of the above bill are printed earlier in today's proceedings.)

By Mr. MONTOYA:

S. 3031. A bill to authorize the erection of a statue of Bernardo de Galvez on public grounds in the District of Columbia. Referred to the Committee on Interior and Insular Affairs.

Mr. MONTOYA. Mr. President, today I am introducing a bill to authorize the erection of a statue of Bernardo de Galvez on public grounds in the District of Columbia. This bill is identical to legislation which has been introduced in the House of Representatives by Congresswoman LINDY BOGGS.

The Government of Spain has offered the United States the statue of Bernardo de Galvez as a commemoration of the Bicentennial of the American Revolution. The first legislation concerning this gift was introduced in the 91st Congress by Congressman Hale Boggs. Unfortunately, action was not taken at that time.

The gift has been offered to the American Revolution Bicentennial Administration, and through ARBA to the National Park Service. Both ARBA and the Park Service have been actively involved in discussions concerning the memorial.

Congressional authority is needed before this memorial can be placed on parkland in the Capital, as the donor wishes to do. It is hoped that this legislation can be passed quickly in order to allow the Secretary of the Interior to accept this gift in our name and to dedicate the erected statue in June of this Bicentennial Year.

Bernardo de Galvez was born in Malaga in 1746. He became a Spanish infantry officer, and was sent to Louisiana in 1776 as the military governor. He not only assisted Americans in fighting the Revolutionary War, but assumed an active role himself in fighting the British. He attacked and captured the British forts at Baton Rouge and Natchez in 1779, at Mobile in 1780, and at Pensacola in 1781. He founded the city of Galveston in 1777.

His operations kept the Mississippi River open for the delivery of American supplies to the Colonies, and his military action along the gulf coast and in western Florida were very important elements in defeating Cornwallis and saving the Carolinas and Georgia.

After the revolutionary period Don Bernardo served in Cuba and later became the 49th Viceroy of Mexico. He died in Mexico in 1794.

As an ally of the United States during the Revolutionary War, and as one of the military leaders who became a vital part of the history of territories which later became parts of the United States, Bernardo de Galvez is truly an historic figure in the development of this continent and this Nation. I believe that my colleagues will agree with me that the statue to commemorate his life is a fitting and gracious gift from the Spanish people.

I urge my colleagues to join me in support of this legislation and I urge the speedy consideration and passage of this bill, so that this token of the friendship between the people of Spain and the people of the United States can be accepted during our Bicentennial Year.

By Mr. GOLDWATER:

S. 3033. A bill to amend section 302 of the Communications Act of 1934 to authorize the Federal Communications Commission to prescribe regulations with respect to certain electronic equipment that is susceptible to radio frequency energy interference. Referred to the Committee on Commerce.

Mr. GOLDWATER. Mr. President, I am pleased to introduce today a companion bill to legislation proposed by Congressman CHARLES VANIK of Ohio to drastically reduce the amateur and CB radio bugaboos of television interference, hi-fi interference, and other radio frequency interference to home electronics equipment.

Most consumers do not understand that when they may encounter interference with their home television or radio set after an amateur or citizen band radio operator moves next door, the source is not a defect in the equipment of their neighbor but with their own radio or television receiver. It is perfectly legal and appropriate for the ham or CB radio operator to be using his or her unit in accordance with FCC regulations and the fault actually lies with the radio, phonograph, or television equipment which is not, but could easily be, adequately shielded from unwanted signals. This interference can be corrected in almost all cases by the installation of simple filtering or shielding parts and could be accomplished most efficiently and economically if it were done by the manufacturer.

Mr. President, the bill I am introducing would help to clear up radio frequency interference not only in radio and television receivers, but in all home audio and visual electronic equipment. It would authorize the Federal Communications Commission to prescribe regulations with respect to home electronic equipment that is susceptible to this interference so that the equipment would operate free from such interference.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was odered to be printed in the RECORD, as follows:

S. 3033

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 302 of the Communications Act of 1934 (82 Stat. 290; 47 U.S.C. 302a.) is amended as follows:

(1) Subsection (a) of such section is amended—

(A) by inserting "(1)" immediately after "governing" in the first sentence;

(B) by striking out the period at the end of the first sentence and inserting in lieu thereof ", and (2) the use of protective components in audio and visual electronic equipment which are capable of reducing interference to such equipment from radio frequency energy."; and

(C) by striking out "shipment, or use of such devices" in the second sentence and inserting in lieu thereof "or shipment of such devices and electronic equipment or the use of such devices.".

(2) Subsection (b) of such section is amended by striking out "ship, or use devices" and inserting in lieu thereof "or ship devices and electronic equipment or use devices".

(3) Subsection (c) of such section is amended—

(A) by inserting "or electronic equipment" immediately after "devices" wherever such term appears in the first sentence;

(B) by inserting "and electronic equipment" immediately after "Devices" in the second sentence; and

(C) by striking out "the common objective of reducing interference to radio reception," in the second sentence and inserting in lieu thereof "the objectives of reducing interference to radio reception and to electronic equipment,".

(b) The heading for section 302 of such Act is amended to read as follows:

"INTERFERENCE WITH RADIO COMMUNICATIONS AND ELECTRONIC EQUIPMENT".

By Mr. STAFFORD (by request):

S. 3034. A bill to amend the Rehabilitation Act of 1973. Referred to the Committee on Labor and Public Welfare.

Mr. STAFFORD. Mr. President, today I am introducing S. 3034 at the request of the administration, to provide for the demonstration of alternate organization plans for the delivery of rehabilitation services.

This matter is of utmost importance in many States, Mr. President, due to new statutes that have been adopted, or are under consideration, by the State legislatures for the reorganization of those departments within the State under a single human services department. This movement is alleged to provide cost saving measures to the State and to streamline the delivery of rehabilitation and certain other services to the citizens of those States.

It is not the judgment of this Senator, Mr. President, that the prohibition to do such streamlining or consolidation contained in section 101(a) of the Rehabilitation Act of 1973, Public Law 92–112, should be disregarded. It is my judgment that States should be able to experiment in some limited way where they feel it would be more economical, and more importantly, more effective for their rehabilitation clients.

This is not an issue without passion, Mr. President. Many groups of professionals in the field of rehabilitation feel very strongly that such streamlining will be detrimental to them and to their clients. There are client groups who feel the same way. Yet there are members of both groups who feel just the opposite will be true.

However, I feel that we really do not know at the Federal level what is the best course for these States, and I believe it should be fully and thoughtfully discussed. For that reason, Mr. President, I want this bill to be before the Subcommittee on the Handicapped of the Committee on Labor and Public Welfare, of which I am ranking minority member, during the oversight hearings that are in progress this month and next.

It is an issue that is of great concern to many, and deserves our attention.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Clause (2) of Section 101(a) of the Rehabilitation Act of 1973 is amended by striking out the semicolon at the end of subclause (B) and inserting in lieu thereof the following: ": *Provided,* That, in order to demonstrate and evaluate the effectiveness and efficiency of alternative organizational structures designed to improve the delivery of rehabilitative services within a State, the Secretary may waive any of the requirements of this clause in accordance with regulations designed (i) to limit the number of such demonstrations, (ii) to ensure opportunity for public comment on any such waiver, and (iii) to ensure that any such waiver will not result in a reduction in the level or quality of program services;"

By Mr. MATHIAS (for himself and Mr. Beall):

S. 3035. A bill for the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson. Referred to the Committee on the Judiciary.

Mr. MATHIAS. Mr. President, of all the revelations emanating from the recent investigations of the Central Intelligence Agency, none was more appalling and distressing than the disclosure of the facts and circumstances surrounding the death on November 23, 1953, of Dr. Frank Olson. Not only was Dr. Olson unknowingly administered a dosage of the hallucinogenic drug known as LSD, which was determined by the Federal Government to be the proximate cause of his death, but in addition, the CIA purposefully concealed the true details of his demise and allowed his wife and children for 22 years to labor under the misconception that Dr. Olson had committed suicide. But for the recent investigations of the activities of the CIA, it is entirely conceivable that the Olson family would never have learned the truth.

I am introducing a bill today to authorize compensation to the surviving members of the Olson family; namely, his widow and three children, in a total amount of $1,250,000. In addition to attempting to compensate the family for their suffering, I believe that this bill is an acknowledgement on the part of our Government of the deception and evasiveness perpetrated upon the Olsons and the absolute necessity of insuring that similarly inexcusable acts are never repeated.

This bill would discharge any and all responsibility of the United States with respect to the circumstances surrounding Dr. Olson's death. It would also negate the necessity of the Olson family resorting to prolonged and costly legal proceedings and is designed to streamline consideration by the Congress and, hopefully, to permit prompt passage.

As you are probably aware, Dr. Olson died as the result of injuries sustained after he had jumped from a hotel room in New York City on November 28, 1953. At the time of his death, he was a civilian biochemist with supervisory responsibilities and employed by a special unit of the Army Chemical Corps at Fort Detrick, Md. This unit maintained liaison with the Central Intelligence Agency, CIA, and participated in meetings with CIA personnel regarding its work.

At one such meeting on November 18–19, 1953, which was attended by seven representatives from Fort Detrick and three from the CIA, a number of those present, including Dr. Olson, were administered lysergic acid dipthylamide—LSD—which had been introduced into a bottle of Cointreau liqueur without their knowledge by the CIA participants at the meeting. Dr. Olson and the others were told of the "experiment" 20 minutes later. Immediately after the experiment, Dr. Olson exhibited unusual sleeplessness, restiveness, and feelings of depression. Pursuant to arrangements made by the CIA, Dr. Olson, accompanied by a CIA employee, went to New York City, where he received psychiatric treatment from someone contacted by the CIA. During the period of treatment, Dr. Olson apparently threw himself from his 10th floor hotel room window and plunged to his death.

Not aware of the true facts and having been led to believe that her husband's death was an unexplained suicide, Mrs. Olson, at the urging of certain Army personnel, applied to the Bureau of Employee's Compensation, BEC, of the Department of Labor for benefits due her and her children under chapter 81—compensation for work injuries of title 5, United States Code—the Federal Employees Compensation Act, FECA—in lieu of civil service retirement benefits. BEC officials personally reviewed the records supplied by the CIA which described the circumstances leading up to and attendant upon the death of Dr. Olson. The BEC officials determined that the material furnished by the CIA was "sufficient to show that the condition responsible for self-destruction was proximately due to the conditions of his employment," and "from a medical standpoint there was a very definite connection between the illness and the act of self-destruction."

In part, BEC's determination was based on a statement by the General Counsel of the CIA that the death had resulted from "circumstances arising out of an experiment undertaken in the course of his official duties for the U.S. Government." A review of relevant CIA documents reveals that the CIA was eager to arrange payments to the Olson family under chapter 81 and thus end all questions relating to the death of Dr. Olson.

Between that time and November 30, 1975, the family has received $147,573.22 in benefits under chapter 81—compensation for work injuries, 5 U.S.C. 8101 et seq., the Federal Employees' Compensation Act, hereinafter cited as the FECA. The Olson family is currently receiving monthly benefits of nearly $800. Under the FECA, a widow is entitled to compensation until she dies or remarries before reaching age 60; and children are paid until each becomes 18 or if over 18 and incapable of self-support when each becomes capable of self-support, 5 U.S.C. 8133(b).

Neither Mrs. Olson nor her children were told or knew of the involvement of the CIA or of all of the circumstances surrounding the death of Dr. Olson until the Rockefeller Commission Report on the CIA was published in June 1975. Although the report did not specifically identify Dr. Olson, it described the events leading up to his death.

On July 17, 1975, the surviving members of the Olson family, with the aid of their attorneys, David Kairys and David Rudovsky, of Philadelphia, filed a wrongful death claim with the CIA pursuant to the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. In their letter the family requested, first, full disclosure to the family of the facts surrounding the death of Dr. Olson, second, an assurance that appropriate steps would be taken to forbid the kind of activities involved in the death of Dr. Olson; and third, monetary damages.

On July 21, 1975, the President met with the family of Dr. Olson. He expressed the sympathy of the American people and apologized on behalf of the U.S. Government for the circumstances of his death. The President also informed the Olsons that the Attorney General had been asked to meet with the Olsons' legal representatives to discuss any claims they wished to assert against the Government by reason of Dr. Olson's death. Subsequent to the President's meeting with the Olson family, negotiations began between the Department of Justice and the Olsons' attorneys.

In a July 24, 1975, letter, William Colby, Director of Central Intelligence, expressed his deepest personal sympathy to the family and apologized for their suffering and for the failure to inform them of the circumstances surrounding Dr. Olson's death. He further advised them that he was making available to their attorneys the information concerning the death which was available to the CIA. Since that time all of the documents which the CIA were able to find concerning Dr. Olson's death have been delivered to the Olsons along with a signed affidavit testifying as to their completeness.

As a result of the negotiations between the Department of Justice and the Olson family attorneys regarding the Federal Tort Claims Act suit instituted by the Olsons, it became clear that there existed certain potential technical obstacles, which might preclude recovery under the act. Accordingly, everyone concerned, including the President, the Attorney General and the Director of the CIA, agreed that it would be appropriate to proceed by way of a private bill for an amount which would adequately compensate the Olson family for damages suffered.

The private legislation now before us is premised on the assumption of responsibility by the United States with respect to the circumstances surrounding the death of Dr. Olson, and most significantly for the fact that the Olson family was deliberately not informed of these circumstances. I have been assured that the President, the CIA, and the Department of Justice all totally support the amount stated in the bill. Indeed, it must be stressed that this amount is a fairly arrived at negotiated figure, which the Department of Justice is satisfied represents fair compensation for the damages suffered.

This bill recognizes that, in view of the responsibility assumed by the Government, it would be inequitable to subject the Olson family, which has already been forced to live for over 20 years under the inexplicable shadow of Frank Olson's death, to the financial and emotional strains associated with long and protracted legal proceedings.

It should be noted that this bill does not increase compensation to the dependents of an employee under the FECA; rather it would authorize compensation for injuries which are unrelated to the benefits available under that act.

Furthermore, the payment to the Olsons under this bill shall be in full satisfaction of any claims of the entire family against the United States relating to the unique circumstances surrounding Dr. Olson's death and shall also be in lieu of further compensation otherwise due under FECA. It is to be additionally noted that this bill is predicated on the novel circumstances which led to Dr. Olson's untimely death and thus this legislation is by no means intended to establish a precedent for future private bills involving different factual patterns and FECA awards.

As I previously stated, I have been assured that the President, the Justice Department, and the CIA fully support this legislation and I trust that my colleagues will swiftly enact this bill.

By Mr. STONE:

S. 3036. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors. Referred to the Committee on Finance.

Mr. STONE. Mr. President, today I am introducing legislation which will broaden the coverage of chiropractic services under medicare. The medicare program already recognizes chiropractic health care as a reimbursable expenditure. However, I see two important inequities in the present system.

Current regulations limit reimbursable chiropractic services to treatment of subluxation — partial dislocation. They mandate the use of X-rays for diagnosis and specifically limit treatment to manual manipulation of the spine, yet medicare will not pay for the mandatory diagnostic X-rays.

The logic behind these regulations eludes me. Partial dislocation can often be diagnosed without the use of X-rays. In fact, exposing the patient to unnecessary radiation can often have a detrimental effect on their condition. In addition, since medicare does not consider this mandatory X-ray a reimbursable cost, many medicare recipients are discouraged from receiving proper medical attention. Limiting coverage to one specific treatment results in the patient incurring the cost of all diagnostic tests as well as any other necessary treatment. This additional financial burden is often enough to discourage further medical care.

The legislation I propose will correct this situation. It will both eliminate the mandatory use of X-rays and include, under medicare coverage, additional methods of treatment and diagnosis. By removing unnecessary limitations which now apply to this field, this legislation will afford chiropractic patients the same benefits that medicare recipients now receive.

These amendments are in complete accord with those adopted in the 1975 Federal Employees Compensation Act, Public Law 93-416. Medicare recipients have a right to quality health care including chiropractic treatment. It is time we allow the doctor to treat his patients appropriately without being limited by a reimbursable cost clause.

I am pleased to introduce this amendment to title VIII of the Social Security Act and urge its timely adoption.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (5) of section 1861(r) of the Social Security Act is amended—

(1) by inserting "and for appropriate X-ray, and physical examination and related routine laboratory tests, which he is authorized by State law to perform," after "1861(s)(2)(A)"; and

(2) by inserting "or by other chiropractic procedures" after "demonstrated by X-ray".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to items and services furnished on or after the first day of the first month beginning after the date of the enactment of this Act.

By Mr. MUSKIE (for himself, Mr. RANDOLPH, Mr. BAKER, Mr. BUCKLEY, Mr. BURDICK, Mr. GRAVEL, Mr. GARY HART, and Mr. MONTOYA):

S. 3037. A bill to extend certain authorizations under the Federal Water Pollution Control Act, as amended. Referred to the Committee on Public Works.

Mr. MUSKIE. Mr. President, the bill I am introducing today would provide 1 additional year of funds for the wastewater treatment facility construction grant program under the Federal Water Pollution Control Act.

Authorizations for this program were provided for fiscal years 1973, 1974, and 1975 for a total of $18 billion. The administration impounded $9 billion of these funds. The legality of that impoundment was questioned, and the Supreme Court ruled in February of 1974 that the $9 billion had been illegally impounded. Those funds were then immediately released and remain available to the States until September 1977.

The Environmental Protection Agency has accelerated the rate at which applications for construction grants are being approved, and the States have accelerated their application procedures. After a surge of new grant contracts, however, the pace of applications has slowed. Delays now are at the local level—not as a result of EPA's regulations. Part of this delay is caused by the uncertainty of funding the local share, an uncertainty which would have been overcome if the public works jobs bill had not been vetoed.

Part of the delay is the result of lack of local initiatives and the apparent willingness of EPA to let municipal discharge permit conditions go unenforced.

Some States, like Maine, are continuing to release these funds at an accelerated pace. Unfortunately, even this orderly process will stop if there are no new authorizations. The Environmental Protection Agency has provided information which shows that at least 22 States will run out of construction grant funds by March 1977—a full 6 months ahead of schedule. Many of those States will run out even earlier—some will run out within the next few months.

What will happen to the construction grant programs in those States? What will happen to the capacity of communities to meet clean water deadlines? And what will happen to the jobs which are created by these needed public works investments?

Faced with this grim scenario, it would be reasonable to expect a request from the administration for a continued level of funding for the grant program through fiscal year 1977. The EPA budget request contains no money for the grant program. EPA has asked OMB for this authority and OMB refused to provide it.

It is our responsibility to make good on our Federal commitment to the States to provide funds in an orderly fashion for this construction grant program. It is for this reason that I introduce this bill which will continue funding the construction grant program at the $7 billion level authorized for fiscal year 1975. This bill simply provides an authorization for appropriation of construction grant funds. The State-by-State allocation of this $7 billion is an issue which remains to be resolved. The Public Works Committee will have to consider any change in the allocation formula for this money.

The Subcommittee on Environmental Pollution, which I chair, will be holding hearings on March 1 to consider the adequacy of the EPA budget request for fiscal year 1977. I intend to review the status of the construction grant program at that time, especially looking to the need for additional construction grant funds.

Mr. BUCKLEY. Mr. President, I am

pleased to be a cosponsor of this legislation and I commend the Senator from Maine (Mr. MUSKIE) for introducing it.

As a member of the National Commission on Water Quality, I am convinced by the testimony and the evidence that a great need exists to maintain a continuing grant program to assist municipalities in the construction of effective sewage treatment facilities. The cost of that effort over the coming decade is estimated at between $5 to $10 billion yearly.

The Committee on Public Works has scheduled a hearing next Monday on the administration's budget proposal for the Environmental Protection Agency. This hearing will be the basis for our recommendations to the Budget Committee. A key question in that review will be what level of obligation is needed to maintain continuity of the sewage treatment grant effort.

I intend to examine the realistic needs of the program in that hearing. Thus, while I may ultimately support a figure for fiscal year 1977 that may be either lower or higher than the $7 billion incorporated within this bill, I believe the bill serves as a helpful tool to this dialog. I am pleased to join my colleagues in cosponsoring this bill.

By Mr. BAKER (for himself and Mr. RANDOLPH):

S. 3038. A bill to amend the Federal Water Pollution Control Act. Referred to the Committee on Public Works.

Mr. BAKER. Mr. President, I am pleased to join in cosponsoring with Senator MUSKIE and others a bill which will provide an added $7 billion in funds for municipal waste treatment facilities throughout the country.

I, along with Senator RANDOLPH, chairman of the Senate Public Works Committee, am also introducing the administration proposed bill "to amend the Federal Water Pollution Control Act," which Russell E. Train, the Administrator of EPA transmitted on January 29.

In view of the new congressional budget procedures, it is necessary for the Public Works Committee, of which I am ranking minority member, like other legislative committees, to send estimates of proposed new authorizations to the Budget Committee by various dates, the first of which is March 15. Thus the committee will want to consider, at least in terms of total resources required, the scope and magnitude of the proposed fiscal year 1977 municipal grants program at a hearing the committee has scheduled for Monday, March 1 on the EPA budget and programs. I would hope we would be able to explore at least the basic concepts and potential fiscal consequences of these two bills, as well as S. 2710, which passed the Senate on December 1, 1975, and is pending in the House Public Works Committee, and H.R. 9560, which the House committee has under consideration.

The two bills I join in sponsoring today complement one another in that the committee bill deals with the probable outside limit of a Federal commitment to municipal waste water treatment plants in fiscal year 1977, while the administration proposal recommends a number of other changes in the program that the committee will wish to consider.

As background to the pending legislation, I should note that the National Commission on Water Quality has just released its report and recommendations for changes in the act and the programs administered under it. As time permits in the remainder of this Congress and next year, I would anticipate that both Houses of Congress, through the respective Public Works Committees, will want to give serious consideration to these and other proposals, some of which will have a major impact on EPA funding needs for water pollution control.

The bill which the administration proposes would make a number of changes, some of which appear attractive at first glance. Senator RANDOLPH and I prefer to wait for hearings and further analysis, however, before I decide whether the bill, as a whole, deserves support.

Beginning in fiscal year 1977 the bill would change the percentage of the Federal share of the cost of construction from the uniform 75 percent decided upon in 1972 to the following sliding schedule: 75 percent for treatment plants, interceptors, and correction of infiltration and inflow problems, 60 percent for the correction of storm water problems in combined sewer systems, and no funding for separate storm sewers, replacement or rehabilitation of sewers or new collection systems.

The bill also would limit the amount of reserve capacity for future growth in projects eligible for Federal assistance and limit Federal assistance to meeting no more than the specific requirements of the Federal law. The bill would permit extensions on a case-by-case basis of the July 1, 1977, deadline for compliance by public treatment works with secondary treatment and water quality requirements, up to July 1, 1983. Mr. Train's transmittal letter discusses how these changes will reduce the Federal share of projected needs. The letter and bill, however, do not recommend any proposed levels of authorization for fiscal year 1977 or following years, an omission which may be remedied in the upcoming hearings. Despite the many pressing requirements which we face in a number of areas during the balance of this Congress, I am hopeful that the Public Works Committee will act on the most pressing matters affecting EPA in this program this year and at least begin consideration of the broader issues facing the EPA.

I ask unanimous consent that the bill proposed by the administration, together with Mr. Train's letter, be printed in full in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3038

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) Subsection (a) of section 202 is amended by adding after the date "June 30, 1971," in the first sentence thereof the following: "(except as provided in subsection (c) of this section)".

(b) Section 202 is amended by adding at the end thereof new paragraphs as follows:

"(c)(1) The amount of any grant for treatment works made under this Act from funds authorized for any fiscal year beginning after June 30, 1976, shall be—

"(A) As approved by the Administrator, except as provided in subparagraph (B) of this paragraph and paragraphs (c)(2) and (c)(3), 75 per centum of the cost of construction of treatment works or portions thereof allocable to users existing within the service area at the time such treatment works is estimated to become operational.

"(B) 60 per centum of the cost of construction of treatment works or portions thereof (as approved by the Administrator) to control pollutant discharges attributable to the stormwater component of wastewater in combined sewer systems.

"(2) No grant from funds authorized for any fiscal year beginning after June 30, 1976 shall be made for the cost of construction of treatment works for control of pollutant discharges from separate storm sewers systems, or for sewer replacement or rehabilitation except to eliminate excessive infiltration, or new collection systems.

"(3) For the purpose of determining, pursuant to paragraph (c)(1), the amount of any grant for treatment works made under this Act from funds authorized for any new fiscal year beginning after June 30, 1976:

"(A) eligible costs shall be limited, except as provided in subparagraph (B) of this paragraph, to the most cost efficient construction necessary to achieve (i) effluent limitations based upon secondary treatment as determined in accordance with section 304(d)(1) or alternatives to secondary treatment approved by the Administrator pursuant to section 201(g)(2)(A); or (ii), where applicable effluent limitations established by the Administrator pursuant to sections 302 or 307(a);

"(B) where effluent limitations are based on Federally approved water quality standards established under this Act or guidelines issued under section 403, eligible cost may be increased above those allowed by subparagraph (A) of this paragraph, at the discretion of the Administrator, to that amount which the grantee can demonstrate is the cost of the most cost efficient means of achieving the objectives of the beneficial use classification established for the receiving water in Federally approved water quality standards or the objectives of the guidelines issued under section 403."

(c) Subsection (a)(5) of section 204 is amended by striking the "semicolon" at the end thereof and inserting in lieu thereof a "period" and adding thereafter the following: "The cost of such reserve capacity eligible for grant under this Act shall be determined in accordance with section 202(c).

(d) Section 301 is amended by changing subsection (c) to subsection "(d)", by redesignating subsequent subsections accordingly, and by inserting a new subsection "(c)", as follows:

"(c) Where major construction is required in order for a publicly owned treatment works to achieve limitations under subsections (b)(1)(B) or (b)(1)(C) of this section, but (i) construction cannot reasonably be completed within the time required in such subsections, or (ii) financial assistance under this Act is unavailable in time to achieve such limitations by the time specified in such subsections, the owner or operator of such treatment works may request the Administrator (or if appropriate the State) to issue a permit pursuant to section 402 of this Act or to modify a permit issued pursuant to that section to extend such time for compliance. If the Administrator (or if appropriate the State) grants such request in such a permit he shall establish therein the time for compliance based on the earliest date by which such financial assistance will be available and construction can be completed but not later than July 1, 1983. The requirements of subsection (d) of section 402 of this Act may not be waived in the case of permits containing such an extension."

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., January 29, 1976.
Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend the Federal Water Pollution Control Act." We recommend that it be referred to the appropriate committee and that it be enacted.

Subsection (a) of the bill would amend section 202(a) of the Act to conform to a new paragraph in section 202 which allows the Federal share of the construction grants to be less than 75% for certain categoies of treatment works where such grants are made from funds authorized for any fiscal year beginning after June 30, 1976.

Subsection (b) would add a new paragraph to section 202 which revises, for funds authorized any fiscal year beginning after June 30, 1976, the percentages for Federal shares as follows: (A) 75% for treatment plants, interceptors and infiltration/inflow correction; (B) 60% for the control of pollutant discharges attributable to the stormwater component in combined sewer systems; and (C) 0% for separate storm sewers, sewer replacement or rehabilitation (except to eliminate excessive infiltration), and new collection systems.

Subsecton (b) of the draft bill also provides that the amount of reserve capacity for treatment works eligible for Federal assistance is to be limited to that future capacity required to serve the users of such treatment works expected to exist within the service area of the project at the time it becomes operational. Further, subsection (b) of the draft bill would provide for Federal funding only up to those levels required to comply with Federal effluent limitations based upon secondary treatment or alternatives to assure compliance with Best Practicable Waste Treatment Technology; or limitation pursuant to section 302 or 307(a) but would permit applicable Federal funding of all or that portion of those additional costs of more stringent effluent limitations necessary to comply with Federally approved water quality standards or section 403 guidelines which the grantee can demonstrate are equal to the costs of the most cost efficient means of achieving the beneficial-use objectives of such standards or guidelines.

Subsection (c) would amend section 204 (a)(5) of the Act to limit the amount of reserve capacity eligible for Federal funding in accordance with subsection (b) of the draft bill as outlined above.

Subsection (d) of the draft bill would amend section 301 of the Act to allow, on a case-by-case basis extension of the July 1, 1977 deadline, for compliance by publicly owned treatment works with secondary treatment and water quality requirements, up to July 1, 1983.

The amendments to reduce or eliminate the Federal share for certain categories of facilities are being proposed to bring the ultimate Federal cost of the construction grants program within reasonable reach of Federal budgetary resources. In addition, these amendments will assure that funds made available under Title II are utilized for facilities most critical to reducing pollutant discharges from municipal wastewater systems. These purposes will be principally achieved by eliminating the eligibilities for stormwater facilities, collection sewers and sewer rehabilitation projects. The reduction of the Federal share for combined sewer control facilities to 60 percent will tend to direct funding to projects for abating dry-weather waste discharges which generally are more critical to abating municipal waste pollution problems.

The purpose of the amendment to limit Federal funding to projects or portions thereof necessary to comply with secondary treatment (or alternatives) or section 302 or 307(a) requirements, except where the grantee demonstrates and the Administrator approves the cost efficiency of higher levels of Federal funding, is to eliminate occurrences of Federal subsidization of project costs based on unreasonably high effluent limitations or other requirements, particularly those serving local desires which have not been subject to an adequate cost-benefit assessment.

By eliminating such subsidization, the amendment will assure a more equitable use of funds among all projects and will make more funds available for high priority projects.

The intent of the amendment to eliminate eligibility of reserve capacity for future growth is to concentrate Federal funding on the correction of the "backlog" problem—that is the abatement of existing municipal wastewater pollution problems. Under the current law, reserve capacity for future growth determined to be cost effective or eligible for Federal funding results in a considerable amount of program funds being directed to this purpose. This amendment in no way is meant to dissuade municipalities from designing and constructing reserve capacity to meet future growth, where and to the extent that this is determined to be cost effective. In fact, the law would continue to require the construction of such reserve capacity in funded projects.

The effect of all three of the above amendments will be to reduce the Federal share of projected needs, remaining after utilization of currently authorized funds, from approximately $318 billion to a level of about $48 billion. These estimates are derived from the 1974 Needs Survey and are corrected for 1975 dollars. The largest part of this estimated reduction—some $252 billion—will result from eliminating eligibilities for separate stormwater control facilities, collection sewers and sewer rehabilitation projects. The overall reduction will bring the future Federal funding needs of the program within reasonable reach of future Federal budget capacities.

The amendment to section 301 of P.L. 92–500 is needed, because it is apparent that many publicly owned treatment works (POTWs) will not meet the treatment requirements by the required date. The amendment provides that in those instances where major construction of publicly owned treatment works cannot reasonably be completed within the time required or where financial assistance under the Act is unavailable in time for the POTWs to achieve the requirements of section 301, an extension may be granted but not later than July 1, 1983. We would also note that many of the important requirements of Title II can only be implemented through the financial assistance program. This amendment would help to ensure that the construction of treatment works to comply with section 301(b) would be carried out in accordance with the broader planning and other requirements of Title II.

At the present time permits for POTWs in both categories have been written to expire before July 1, 1977. These permits will begin to expire shortly, and if they are not reissued to extend beyond July 1, 1977, the Agency may lose its ability to keep such POTWs on schedules to assure expeditious construction of treatment facilities and accompanying enhancement of water quality. We have therefore proposed the extension of the 1977 deadline on a case-by-case basis with provision for compliance based on the earliest date by which construction can be completed but not later than July 1, 1983.

The Office of Management and Budget advises that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours,

RUSSELL E. TRAIN.

By Mr. INOUYE (for himself and Mr. PEARSON) (by request):

S. 3041. A bill to amend the International Travel Act of 1961, as amended, to authorize the use of travel grants for foreign participants in familiarization tours to the United States. Referred to the Committee on Commerce.

Mr. INOUYE. Mr. President, I introduce, by request, for appropriate reference, a bill to amend the International Travel Act of 1961, as amended, to authorize the use of travel grants for foreign participants in familiarization tours to the United States, and I ask unanimous consent that the letter of transmittal and statement of purpose and need be printed in the RECORD together with the text of the bill.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3041

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 3(a) of the International Travel Act of 1961, as amended (75 Stat. 129; 22 U.S.C. 2121 *et seq.*), is amended by deleting the word "and" at the end of paragraph (6); by changing the period at the end of paragraph (7) to a semicolon, followed by the word "and"; and by inserting the following new paragraph:

"(8) may make awards of travel grants to foreign travel trade representatives and journalists who participate, at the invitation of the Secretary, in familiarization tours to the United States. Such grants are to be based on the predetermined cost of each tour. The Secretary is authorized to establish such policies, standards, criteria, and procedures and to prescribe such rules and regulations as he may deem necessary or appropriate for the administration of this paragraph."

THE SECRETARY OF COMMERCE,
Washington, D.C., December 30, 1975.
Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are four copies of a draft bill "To amend the International Travel Act of 1961, as amended, to authorize the use of travel grants for foreign participants in familiarization tours to the United States," together with a statement of purpose and need in support thereof.

This proposed legislation has been reviewed by the Department in the light of Executive Order No. 11821 and has been determined not to be a major proposal requiring evaluation and certification as to its inflationary impact.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

JAMES A. BAKER III,
Acting Secretay of Commerce.

STATEMENT OF PURPOSE AND NEED

As a part of its overall responsibility for encouraging travel to the United States by residents of foreign countries, the United States Travel Service (USTS) carries out a program of familiarization trips to the United States for members of the foreign travel trade and foreign journalists. The proposed legislation would amend the International Travel Act of 1961, as amended, to authorize USTS to issue travel grants to invited members of the foreign travel trade and press who visit the United States on familiarization trips.

The overall familiarization program conducted by USTS enables foreign tour wholesalers to make "on-site" tourism inspections and negotiate first-hand with hotels, transport and sightseeing companies, restaurants and other tourism facilities and attractions for a variety of services to be provided at predetermined charges for group travel arrangements which are ultimately offered by retail travel agents to residents of foreign countries. As a corollary, selected foreign retail travel agents who actually sell these tour packages to the public are brought to the United States to gain first-hand knowledge of the tour offerings which they market. Finally, USTS invites selected groups of foreign journalists, including travel editors and representatives of the radio and television media, to take package tours and trips, emphasizing specifically the tourism attractions which are featured in tour packages developed by tour wholesalers, in order to encourage these journalists to feature U.S. tours and attractions in the media.

As an example of the benefits which accrue to USTS as a direct result of this program, in fiscal year 1974, 884 journalists participated in the familiarization trips at a total cost to the government of $138,748. In return, 2,262 magazine and newspaper articles and editorials favorable to the Visit USA program were published by the participants, representing media value in excess of $13.3 million.

Air transportation for these travel trade officials and journalists is provided by the airlines at no cost to the government, pursuant to a Civil Aeronautics Board authorization whereby the airlines may "waive" air fare charges at the request of USTS and with CAB approval (41 C.F.R. 339.35). However, with respect to other travel expenses (hotels, meals, transfers, transportation to city of departure, surface transportation in the U.S., etc.), USTS' invited guests are subject to general government travel regulations governing the issuance of travel orders, advance payments, and per diem. USTS has found these regulations, which were originally intended to apply to government employees and contractors, to be outdated, cumbersome, and counterproductive when applied to participants on familiarization tours. In fact, while the purpose of the familiarization trips is to facilitate the development of tour sales and increase our foreign exchange earnings, they can have the opposite effect if participants must comply with travel regulations which are complex and difficult to understand.

This problem is compounded by the fact that other national tourist offices conduct familiarization tours on an "all expense paid" basis. Accordingly, foreign travel agents and journalists are generally not accustomed to being issued travel orders; submitting an application for advance travel funds; and submitting final travel vouchers at the end of their trips for reimbursement of their legitimate expenses as guests of USTS. All of these papers are in English, and must be processed through American Consulates and Embassies to Regional Finance Centers before reimbursement can be made.

A travel grants procedure would not affect present procedures for providing air transportation. However, with respect to other expenses, it would eliminate many complicated and unnecessary functions throughout the system. The proposed legislation would permit USTS to make travel grants to bona fide invitees, for an amount not to exceed the priced out, actual cost of a given tour, excluding air transportation to and from the United States. In keeping with present procedures, all familiarization tours would be costed out in advance, by checking with the vendors who are to provide the services, such as hotels, sightseeing operators, etc. Cost would be agreed upon at the time the bookings are made for the participants, and the travel grant would be in an amount necessary to cover the total cost of the tour. This procedure would eliminate the present difficulties and inconveniences which hinder the effective operation of the familiarization program, and would place our national government tourist office in a more competitive position with other national tourist offices.

Of course, appropriate controls would be placed on the travel grant program to prevent any abuse of this authority or misuse of government funds by government officials responsible for its implementation or by recipients of travel grants. For example, it is anticipated that regulations would be issued which set a limit on any travel grants allowances which may be awarded; which require all tour participants to file a final trip report with USTS; and which require periodic audits of the program. In addition, journalists already, as a matter of course, submit to USTS copies of printed articles or broadcast scripts resulting from tours. Similarly, travel agents submit reports to USTS' field offices on the tour programs and/or packages which result from familiarization trips. These reports would be continued since they assist USTS in its overall evaluation of its familiarization tour program and can serve as another check on the use of travel grants.

The total cost of the proposed grant program would be approximately $350,000 annually. Since this is about the same amount spent annually by USTS for familiarization tours using the present travel voucher method, no additional funding would be required

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By Mr. INOUYE:

S. 3042. A bill to amend title 5, United States Code, to include as creditable service under the civil service retirement system periods of service as contract technicians by persons hired by private authority to perform work under Federal supervision pursuant to a contract between such private authority and the Federal Government, and for other purposes. Referred to the Committee on Post Office and Civil Service.

Mr. INOUYE. Mr. President, the legislation I am introducing today is designed to rectify an inequity that is presently penalizing, through no fault of their own, a number of employees in the U.S. Civil Service who were previously employed by the Federal Government as contract technical services personnel—CTSP. This inequity stems from an overly narrow interpretation being given by the Civil Service Commission to the tests for qualifying as a Federal employee.

The CTSP arose shortly after the Second World War, when the Armed Forces found themselves to be shorthanded in technical areas. Private companies contracted their needed expertise to the Federal Government. Although these CTSP were paid by the private company, they could: First, only be employed by a contracting officer who was a Federal official and had the power to remove them; second, were supervised by a military or civil service official; and third, were performing a Federal function.

On March 4, 1965, the Comptroller General of the United States ruled that the CTSP contracts were not legal as they violated the Civil Service Act, Veterans' Preference Act, and the Classification Act. Consequently, the CTSP were converted into Federal positions with the CTSP technician being given the option of conversion. In doing so, the CTSP forfeited their private company pensions and, additionally, found that the U.S. Civil Service Commission would not recognize seniority or service credit under the U.S. Civil Service Retirement Act for their services as CTSP. These individuals, in effect, are being penalized for the illegality of their work as CTSP, though, in fact, it was actually the fault of the Federal Government for using them in this manner.

The U.S. Civil Service Commission contends that the CTSP were not Federal employees and cannot receive credit for their past services. The three requirements of Federal employment contained in the Civil Service Retirement Act are, that a person is: First, engaged in the performance of Federal functions under authority of law or an Executive order; second, appointed or employed by a Federal official in his capacity as such; and third, supervised and directed by a Federal official. (5 U.S.C. 2105A) While the USCSC concedes that requirements (1) and (3) have been fulfilled, it does not consider CTSP as ever having been appointed or employed by a Federal official.

This seems to be an overly narrow and unfair interpretation of requirement (2). The "Opinion of General Counsel of Civil Service Commission," dated February 12, 1965—part of the Comptroller's decision ruling the CTSP contracts illegal—states:

> It is apparent that there is no real distinction that can be drawn between the positions filled by contract technicians and those filled by federal employees, indeed in some functions contract technicians and federal employees are used interchangeably.
>
> From the foregoing we find that these contract technicians can only be employed in the work of the Department of the Air Force after they are approved by the contracting officer who is, of course, a federal employee, and who has the power to remove them; that the supervision of their daily work is performed by a federal employee, and that unquestionably the contract technician is performing a federal function. Positions whose incumbents have these characteristics should be federal positions and the incumbents themselves should be federal employees appointed and paid as such under applicable federal personnel statutes.

Therefore, since Federal officers in their capacities as such approved the contracts under which the CTSP were employed and the military orders under which they were assigned by name—and, further, had the power to remove them—a defacto Federal appointment did exist, satisfying requirement (2).

It is sadly ironic that the reasoning

behind the Civil Service Commission's opinion making CTSP contracts illegal hence denying private pension benefits to contract personnel, has been turned on its head to deny these same employees fair treatment within the civil service retirement systems.

Other quasi-governmental employees have been granted Federal status through legislation: "employees of the Agriculture Stabilization and Conservation County Committees—Public Law 86–568—the National Guard technicians—Public Law 90–486—and the U.S. Capitol Guides—Public Law 91–510. The former CTSP who converted to Federal employment are no less deserving. Risking their lives in combat areas, and in working and living under the disease-ridden, unsanitary conditions prevalent in numerous overseas areas, the CTSP provided our armed services personnel with needed technical assistance. Those CTSP who converted to Federal employment gave the Government a dedicated, completely experienced engineering and technical work force, while saving the Armed Forces training expenses for new technicians and from disruptions to military operations.

This legislation will also benefit non-CTSP civil service employees. Presently, without credit for their CTSP work, many former CTSP will have to work another 5 to 10 years in order to meet the minimum requirement for years of service and to build their pensions to a sufficient level which would permit a comfortable retirement. Since the former CTSP are largely concentrated in the higher grade levels of the civil service—GS–11 to GS–14—the upward mobility of capable younger civil servants would be impeded until the older employees can retire. Moreover, the fact that older employees, who might otherwise qualify for retirement, still hold jobs, means that the younger employees have an increased chance of being laid off during this time of Government streamlining. Altogether, the lack of promotional opportunities and job security for younger employees, might well discourage them from continuing in or even entering the civil service.

Currently, there are an estimated 500 to 2,000 converted CTSP who will be affected by this legislation. For some individuals, it is already too late. In the case of one contract technician, conversion from CTSP to Government employee meant forfeiture of his private company's pension plan and the minimum 40 percent civil service retirement. Additionally, since civil servants do not contribute to the social security system, his social security account was no longer current. Realizing that his retirement income could not afford him a comfortable living, he emigrated to the Philippines where the cost of living is lower. Plainly, this individual who served alongside our armed services personnel and diligently provided them with his technical expertise has not received fair treatment from the Federal Government. The injustice of this is further aggravated when one considers the passage of the ERISA legislation which now permits individuals in private industry to change employers without losing pension benefits. This inconsistency, where private industry is forced to correct its retirement system inequities by a government that still harbors injustices within its own system, must not continue.

Passage of this legislation would rectify the situation by recognizing the service and seniority credit former CTSP justly deserve. Companion legislation in the House of Representatives, H.R. 1722 sponsored by Representative Patsy Mink, is also aimed toward this end.

By Mr. KENNEDY (for himself, Mr. Ribicoff, Mr. Philip A. Hart, Mr. Gary Hart, Mr. Haskell, Mr. Durkin, Mr. Sparkman, Mr. Stafford, Mr. Mansfield, Mr. Pell, Mr. Inouye, Mr. Montoya, Mr. Beall, Mr. McGovern, and Mr. Percy):

S. 3043. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes. Referred to the Committee on the Judiciary.

LAW ENFORCEMENT IMPROVEMENT ACT OF 1976

Mr. KENNEDY. Mr. President, today, at a time when the Nation's crime rate is soaring out of sight, I introduce bipartisan legislation designed to restructure one of the most poorly organized and mismanaged agencies of the Federal Government—the Law Enforcement Assistance Administration. Entitled the Law Enforcement Improvement Act of 1976, this bill follows 5 months of hearings before the Senate Subcommittee on Criminal Laws and Procedures, chaired by Senator McClellan. It is grounded in the testimony developed at those hearings and the 8-year history of LEAA.

The bill reauthorizes the agency for a limited period of 3 years, makes sweeping changes in the internal structure and management of LEAA, provides for detailed congressional oversight of the agency, and provides additional Federal financial and technical assistance to the neglected stepchild of our criminal justice system—the courts.

I view this legislation as a last opportunity by the Congress to wage an effective war on crime within the existing framework of the Law Enforcement Assistance Act. If this bill fails to correct the many common abuses which plague the administration of the act, I believe the LEAA bureaucracy should be dismantled.

Since 1968, the Law Enforcement Assistance Administration has distributed over $4 billion of the American taxpayer's money to various localities in order to combat crime. What results can LEAA point to? Crime has risen almost 60 percent the last 8 years, even higher in the cities. No segment or area of our Nation is immune. Recent statistics demonstrate that violent street crime is rising faster in our rural and suburban areas than our urban centers.

This soaring crime rate is reflected everyday in the attitudes and habits of the American public. Our elderly citizens are afraid to walk in their own neighborhoods for fear of being mugged or robbed and juvenille delinquency has reached the crisis stage.

Nor is there the slightest evidence that the Nation's crime rate has peaked. Last year violent crime was up an additional 17 percent and the outlook this year is almost unanimously looked upon as more of the same.

Certainly LEAA is not to be held solely responsible for our soaring crime rate. The war on crime is primarily a local battle and LEAA's role is, by necessity, limited.

But obviously the time has come for the Congress to take a long hard look at the LEAA program. Such a critical evaluation was denied the Congress in 1973, when LEAA was last reauthorized. At that time the subcommittee held but 2 days of hearings, and the bill was quickly whisked through the Senate. The result was that until this year the Senate has never had a real opportunity to examine the act and the performance of LEAA in any detail.

This year the subcommittee held extensive hearings which pointed out the many failings of the LEAA program. Through the testimony of various witnesses, the fundamental deficiencies of the act—both structural and administrative—were brought out in the open and publically debated. These deficiencies can generally be grouped into three areas: First, improper and insufficient evaluation by LEAA; second, poor planning priorities with the result that our local criminal courts, the pivotal center of our criminal justice system have generally received only 3 cents of every LEAA dollar and are plagued today with unconscionable backlogs and trial delays; and third, the concentration of LEAA's efforts at the State level while failing to meet the needs of both our cities and local counties.

The testimony and documentary evidence are devastating:

First, evaluation. The General Accounting Office reports that LEAA cannot properly monitor the funds it distributes and is incapable of evaluating the impact of the programs funded. The Office of Management and Budget has reached similar conclusions. Recent criticisms highlight the internal dissention which has characterized the LEAA Administration and has prevented the proper evaluation and monitoring of LEAA programs;

Second, priorities. The testimony before the subcommittee was overwhelming that local courts and judicial systems had almost been completely ignored by LEAA. The distinguished chief justice of Alabama, Howell Heflin, testified that State judiciaries were fortunate if they received 3 cents of every LEAA dollar. Over 40 chief justices endorsed the views expressed by Chief Judge Heflin. A 1975 Report of a Special Courts Study Team—commissioned by LEAA itself—concluded that the funding priorities of LEAA were seriously misdirected and that State and local courts had "not received the interest, technical assistance, or financial support from LEAA that are absolutely essential for sound growth and progress."

Indeed, in a startling development, at

the very same time that LEAA's own Administrator was testifying before the subcommittee, Attorney General Levi, who was seated next to him, was commenting on the desperate need to provide more financial assistance to the courts if the frightening problems of court delay and trial backlog are to be successfully attacked. Yet, despite these facts, LEAA continues to spend hundreds of thousands of dollars on police wristwatches, public relations, and artistic designs for LEAA publications.

Third, city and county needs. The present structure of the act precludes major assistance to local government units, whether they be our large cities or local counties. Representatives of the U.S. Conference of Mayors, and local planning groups, testified that they were unable to benefit from most of the LEAA program because the act was heavily concentrated to provide Federal assistance at the State level.

Mr. President, the bill I introduce today is designed to meet these and other objections voiced with increasing frequency during the last few years. It is designed to assure that the American taxpayer will receive a better return for his investment in the war on crime than on the $4 billion that has largely been wasted in the last 8 years.

The bill I introduce has been endorsed in large measure by the many organizations which testified during the course of the hearings—the American Bar Association, the National Conference of Chief Justices, the Council on Intergovernmental Relations, the U.S. Conference of Mayors, and others. In addition, the Department of Justice provided able assistance in the drafting and preparation of the bill and views most of it as a long overdue reform of the act. The bill is bipartisan in the strongest sense of the word.

The bill makes the following major changes in the structure and administration of the act:

First. It reaffirms the principle that effective law enforcement remains the primary responsibility of local government and confers on LEAA the responsibility for evaluating, auditing and monitoring State programs.

In addition, the bill makes clear that the primary purpose of the LEAA program is to reduce and prevent crime. Too often in the past LEAA has been heard to argue that the Federal act, as written, is unclear whether LEAA is a crime-fighting vehicle. This bill would end that ambiguity.

Second. It places the Federal program under the control of the Department of Justice.

Third. It allows State and local judiciaries to establish their own planning committees to plan for the judicial needs of the State. Such committees would be created by the highest court of the State and its members would be chosen by the chief justice of the State. Many witnesses testified during the Senate hearings that such independent planning committees were essential if court planning was to succeed. The committee would, however, work closely with the State planning agency in developing a judicial plan consistent with the State's overall comprehensive plan.

Fourth. It authorizes cities, urban counties, or local government units to submit a comprehensive plan to the State planning agency.

If approved, a miniblock-grant award would be made to such government units with no further action on specific project applications being required at the State level. This proposal is specifically endorsed by the Council on Intergovernmental Relations.

Fifth. It provides that Federal LEAA funds be directed to areas of the country faced with high crime incidence whether such areas be located in urban or rural sections of the Nation.

Sixth. The discretionary and block grant concepts are retained intact with one-third of the discretionary funds being earmarked to alleviate court congestion and trial delay. Without relieving our courts of such backlog and congestion, other law enforcement measures aimed at reducing crime—tougher sentencing practices, additional police, prison reform—will be of little value. I have consistently stated in recent months that financial and technical aid to State and local criminal courts is an essential prerequisite for a successful attack on crime. This bill provides the courts with such aid.

Seventh. The statutory prohibition on LEAA grants for personal compensation is repealed, thus allowing LEAA funds to be used by localities to hire more personnel, such as judges, police, and correctional officers.

Eighth. Major changes are made for the first time in the evaluation, auditing, and monitoring functions of LEAA. The bill would make the LEAA Deputy Administrator for Administration responsible for LEAA's evaluation and auditing, not only of the comprehensive plans submitted to LEAA for approval but also of the impact of programs already approved by LEAA in order to determine whether such programs were of any value in reducing and combating crime. A detailed scheme for the proper evaluation and auditing of programs is laid out in the statute.

Ninth. An advisory board, authorized by the Attorney General, established at the national level to make recommendations as to how the national discretionary funds should be spent.

Tenth. Extensive congressional oversight of LEAA is provided for the first time with LEAA being required to submit an annual report detailing, for example, its policies and priorities for reducing crime, its evaluation procedures, the number of State plans approved and disapproved, and the number of LEAA programs discontinued.

Eleventh. It authorizes LEAA to establish and implement new programs designed to aid our Nation's elderly citizens in their losing struggle against crime.

Mr. President, this bill would reauthorize LEAA for a period of 3 years at the funding level requested by the administration in its reauthorization bill. The administration would prefer a 5-year reauthorization; but I reiterate that 3 years will give the Congress more than sufficient opportunity to examine how LEAA functions under the detailed evaluation and oversight provisions I offer today. If after 3 years the Federal war on crime continues to be a losing effort and LEAA continues to flounder, I see no reason to waste $3 billion more of the taxpayers money to fund a fourth and fifth year.

Surely it is too late in the day for LEAA to say that mistakes made by the agency are merely the result of growing pains and ironing out organizational kinks. This bill is a step in the right direction. It makes fundamental changes necessary if LEAA is to wage an effective war on crime. The Congress is at the crossroads—it can simply reauthorize the LEAA program and with it 5 more years of "business as usual," or it can make a concerted effort to reconstruct and refine the Federal role in combating crime. The choice is clear. The American public cannot wait another 8 years to meet the growing threat of crime. Action is needed now if violent crime is to be controlled. The Nation's citizens are looking to the Congress to provide leadership and LEAA is the major Federal vehicle for expressing that leadership. It must be reformed.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the bill reauthorizing the Law Enforcement Assistance Administration.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3043

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Law Enforcement Improvement Act of 1976."

SEC. 2. The "Declaration and Purpose" of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended as follows:

(1) by inserting between the second and third paragraphs the following additional paragraph:

"Congress finds further that the financial and technical resources of the Federal Government should be used to provide constructive leadership and direction to State and local governments in combating the serious problem of crime and that the Federal Government should assist State and local governments in evaluating the impact and value of programs developed and adopted pursuant to this title."

(2) by deleting the third paragraph and substituting in lieu thereof the following new paragraph:

"It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement and criminal justice at every level by national assistance. It is the purpose of this title that the Federal Government (1) provide constructive leadership and direction to States and units of local government in the development and adoption of comprehensive plans designed to deal with their particular problems of law enforcement and criminal justice; (2) authorize, following evaluation and approval of comprehensive plans, grants to States and units of local government in order to improve and strengthen law enforcement and criminal justice; and (3) provide constructive leadership and direction to States and units of local government in order to encourage research and development directed toward the improvement of law enforcement and criminal justice and the development of new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals."

SEC. 3. Section 101(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding after the word "authority" the words "policy direction and control."

PART B—PLANNING GRANTS

SEC. 4. Section 201 of such Act is amended by adding after the word "part" the words "that the Administration provide constructive leadership and direction", and by striking the period at the end of said section and adding the following "and evaluation by the Administration of the policies, priorities and plans needed to reduce and prevent crime."

SEC. 5. Subsection (b) of section 203 is amended by striking the dash after the word "shall" and by adding the following, "at the direction and guidance of the Administration".

SEC. 6. Section 203 is amended by:

(1) inserting in subsection (a) immediately after the third sentence the following new sentence: "Said State planning agency shall include both a representative of the chief justice or chief judge of the court of last resort and the court administrator or other appropriate judicial officer of the state. Said members shall be selected by the chief executive of the State from a list of nominees submitted by the chief justice or chief judge of the court of last resort.

(2) inserting the following new subsection after subsection (d).

"(e) In addition to the State planning agencies established under this section, a state may establish or designate a judicial planning committee for the preparation, development and revision of a state judicial plan submitted to the State planning agency under section 303 of this title. Such committee shall be created or designated by the court of last resort of each state. The chief justice or other highest ranking judicial officer of the state court of last resort shall appoint the members of the judicial planning committee and such members shall be subject to the jurisdiction of, and serve at the pleasure of, the chief justice. The Committee shall be reasonably representative of the various local and state courts of the state, including both civil and criminal trial courts, intermediate appellate courts and other courts of general or limited or special jurisdiction. All requests for financial assistance from such courts shall be received by the judicial planning committee. Said committee shall review all such requests for appropriatness and comformity with the purposes of this title and the findings and declared policy of Congress and may thereafter—

"(1) develop, in accordance with part C, an annual application to be included in the State comprehensive plan;

"(2) develop, in accordance with Sec. 302 (b), a multi-year comprehensive plan for the improvement of State court systems;

"(3) define, develop, and coordinate programs and projects for the improvement of courts of the State;

"(4) establish priorities for the improvement of the courts of the State;

"(5) collect and compile statistical data and other information on the work of the courts and on the work of other agencies which relate to and affect the work of the courts;

"(6) examine the state of the dockets, practices, and procedures of the courts and develop programs for expediting litigation and reducing court congestion;

"(7) provide for the revision of court rules and procedural codes within the rulemaking authority of courts or other judicial entities within the state;

"(8) provide for the investigation of complaints with respect to the operation of courts and develop such corrective measures as may be appropriate;

"(9) provide for the training of judges, court administrators and support personnel, and attorneys who regularly appear in the courts;

"(10) provide for support of public education programs concerned with the administration of justice;

"(11) provide for support of national nonprofit court technical assistance and support organizations governed or controlled by the judicial branch of government of the several states;

"(12) provide for the construction and equipping of buildings or other physical facilities which would fulfill or implement the purposes of this subsection and of section 301(b)(11);

"(13) perform other duties necessary to carry out the intent of this subsection.

"The State planning agency shall request the advice and assistance of the judicial planning committee in carrying out its functions under section 203 insofar as said functions affect the State court system and the judicial planning committee shall consult with, and shall seek the advice of, the State planning agency in carrying out its functions under this title. The expenses necessarily incurred by the judicial planning committee, including the cost of adequate staff support for the activities of the committee shall be provided by the State planning agency through a yearly grant to be provided to the committee. If a state judicial branch does not create or designate a judicial planning committee, or if the committee fails to submit a multiyear comprehensive plan and annual application in accordance with the provisions of subsection (b) of section 304 of this title, then in such case the responsibility for preparing and developing such plan and application shall rest with the State planning agency."

PART C—GRANTS FOR LAW ENFORCEMENT PURPOSES

SEC. 7. Section 301 is amended by:

(1) inserting after the word "part" in subsection (a) the following words "that the Administration provide constructive leadership and direction."

(2) inserting after paragraph (10) of subsection (b) the following new paragraphs:

"(11) The development, demonstration, evaluation, implementation, and purchase of methods, devices, personnel, facilities, equipment, and supplies designed to strengthen courts, reduce court congestion and backlog and improve the availability and quality of justice.

"(12) The development and operation of programs designed to reduce and prevent crime against elderly persons."

(3) repealing subsection (d) of section 301.

SEC. 8. Section 302 is hereby amended by inserting the following at the end of the section: "In addition, any State judiciary desiring to participate in the preparation, development and revision of multiyear comprehensive plan under this part may establish a judicial planning committee as described in part B of this title and shall file by the end of fiscal year 1977 and annually thereafter with the Administration and State planning agency, for information purposes only, a multiyear comprehensive plan for the improvement of the State court system. Such plan shall be based on the needs of all the courts in the State and on an estimate of funds available from all State, local as well as Federal sources. Within six months of the date of enactment of this Act and annually thereafter such committee shall submit its application for funding of programs and projects recommended by the committee to the State planning agency for review and incorporation into the comprehensive state plan submitted to the Administration in accordance with subsection (a) of this section. Such application shall conform to the purposes of this part and to the multiyear comprehensive plan for the improvement of the state court system provided for in section 203 of this title."

SEC. 9. Section 303 is amended by:

(1) deleting paragraph (4) of subsection (a) and substituting in lieu thereof the following new paragraph:

"(4) Specify procedures under which plans may be submitted annually by major cities and urban counties or combinations thereof, to use funds received under this part to carry out local comprehensive plans for law enforcement and criminal justice. Such local comprehensive plans shall be consistent with the State comprehensive plan for the improvement of law enforcement and criminal justice in the jurisdiction covered by the plan. Eligibility for grants under this paragraph shall be determined on the basis of provisions and guidelines contained in Part G, paragraph (p) of the Act, and the State planning agency may approve or disapprove of the local comprehensive plan in whole or in part, based upon its compatibility with the State comprehensive plan and subsequent annual evaluations and revisions. Approval of such local comprehensive plans or parts thereof shall result in the award of funds to the major cities or urban counties or combinations thereof to implement the approved parts of their plans."

(2) striking in paragraph (12) the words "as may be" and adding the following words after the words "procedures": "as the Administration may deem".

(3) deleting subsection (b) of section 303 and substituting in lieu thereof the following new subsection:

"(b) The Administration shall have the primary responsibility of evaluating the effectiveness and impact of those State plans that it approves. No approval shall be given to any State plan unless and until the Administration makes an affirmative finding in writing that such plan reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State, and that, on the basis of evaluations made by the Administration, such plan is likely to make a significant and effective contribution to the State's efforts to deal with crime."

(4) inserting in subsection (c) after the word "unless" the following words "the Administration finds that".

(5) inserting the following new subsection after subsection (c):

"(d) the Administration shall provide funds under this section to a State planning agency to fund the plan of the judicial planning committee if such committee has on file with both the Administration and the State planning agency a multiyear comprehensive plan provided for in section 203 of this title. Such multiyear comprehensive plan for the improvement of the State court system shall:

"(1) provide for the administration of programs and projects contained in the approved annual application of the judicial planning committee;

"(2) adequately take into account the needs and problems of all courts in the State and encourage initiative by the appellate and trial courts of general and special jurisdiction in the development of programs and projects for law reform, improvement in the administration of courts and activities within the responsibility of the coutrs, including but not limited to bail and pretrial release services, and provide for an appropriately balanced allocation of funds between the statewide judicial system and other appellate and trial courts of general and special jurisdiction;

"(3) provide for procedures under which plans and requests for financial assistance from all courts in the State may be submitted annually to the judicial planning committee for approval or disapproval in whole or in part;

"(4) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of courts and court programs, including descriptions of (a) general needs and problems; (b) existing systems; (c) available resources; (d) organizational systems and administrative machinery for implementing the plan; (e) the direction, scope, and general types of improvements to be made in the future; and (f) to the maximum extent applicable, indicate the relationship of the plan to other relevant State or local law enforcement and criminal justice plans and systems;

"(5) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment provided for courts and related purposes:

"(6) provide for research, development, and evaluation;

"(7) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would in the absence of such Federal funds be made available for the courts;

"(8) provide for such fund accounting, auditing, monitoring, and program evaluation procedures as may be necessary to assure sound fiscal control, effective management, and efficient use of funds received under this title;"

SEC. 10. Section 304 is hereby amended by inserting an "(a)" before the word "State" and by inserting the following new subsection at the end of the section:

"(b) After consultation with the State planning agency pursuant to subsection (e) of section 203 the judicial planning committee shall transmit the plan approved by it and the application for financial assistance based on such plan to the State planning agency. Such application shall be presumptively valid. Unless the State planning agency thereafter determines that such application is not in accordance with the purposes stated in sections 301(b)(11) and 303(d), is not in conformance with, or consistent with, the statewide comprehensive law enforcement plan or does not conform with the fiscal accountability standards of the State planning agency, the State planning agency shall incorporate such application in whole or in part, in the comprehensive state plan to be submitted to the Administration. If the State planning agency finds that such application does not meet the requirements of this subsection it shall notify the committee in writing within ten days after making such determination, explaining in detail the reasons for rejecting said application. The committee shall thereafter have a period of 30 days from the receipt of the State planning agency's rejection to submit a modified application. If the State planning agency finds that the application does not meet the requirements of this subsection, or if the committee does not submit a modified application within the specified period, the State planning agency shall forward such application to the Administration. A final determination of whether such application meets the requirements of this subsection shall be made by the Administration pursuant to section 308 of this title. Any application not acted upon by the State planning agency within ninety days of receipt from the judicial planning committee shall be deemed approved and incorporated into the comprehensive State plan submitted to the Administration. The State planning agency shall thereafter disburse the approved funds to the committee in accordance with procedures established by the Administration."

SEC. 11. Section 306 is amended by:

(1) inserting in paragraph (2) of subsection (a), after the words "to the grant of any State," the following: "plus any additional amounts that may be authorized to provide funding to areas characterized by high crime incidence, high law enforcement and criminal justice activity, and serious court congestion and backlog," and is further amended by substituting at the end of the paragraph a comma in place of the period, and by inserting the following: "except that no less than one-third of the funds made available under this paragraph shall be distributed by the Administration in its discretion to promote and advance the purposes mentioned in sections 301(b)(11) and 303(d) of this title."

(2) Deleting, in the paragraph following paragraph (2), after the words "to the extent it deems necessary," the following sentence: "The limitations on the expenditures of portions of grants for the compensation of personnel in subsection (d) of section 301 of this title shall apply to a grant under such paragraph."

(3) Inserting, in the paragraph following paragraph (2), a comma in place of the period after "private nonprofit organization" and by adding thereafter the following: "as well as moneys appropriated to courts, court-related agencies, and judicial systems."

SEC. 12. Section 307 is hereby amended by deleting the words "and of riots and other violent civil disorders" and by substituting in lieu thereof, the following: "and with programs and projects designed to reduce court congestion and backlog and to improve the fairness and efficiency of the judicial system."

SEC. 13. Section 308 is amended by deleting the phrase "section 302(b)" and substituting in lieu thereof the words "sections 302 and 515".

SEC. 14. Subsection (c) of section 402 is amended by adding the following sentence at the end of the second paragraph of that subsection: "The Institute shall also assist the Deputy Administrator for Administration of the Law Enforcement Assistance Administration in the performance of those matters mentioned in section 515 of this title."

PART F—ADMINISTRATIVE PROVISIONS

SEC. 15. Section 501 of Part F of such act is hereby amended by inserting at the end of such section the following sentence: "The Administration shall also establish under the direction of the Deputy Administrator for Administration of the Law Enforcement Assistance Administration and in accordance with the provisions of section 515 of this title such rules and regulations as are necessary to assure the proper auditing, monitoring, and evaluation by the Administration of both the comprehensiveness and impact of programs funded under this title in order to determine whether such programs submitted for funding are likely to contribute to the reduction and prevention of crime and juvenile delinquency and whether such programs once implemented have achieved the goals stated in the original plan and application."

SEC. 16. Section 512 is amended by striking the words: "June 30, 1974," and inserting in lieu thereof: "July 1, 1976".

SEC. 17. Section 515 is amended to read as follows:

"SEC. 515. Subject to the general supervision of the Attorney General, and under the direction of the Administrator of Law Enforcement Assistance, the Deputy Administrator for Administration of the Law Enforcement Assistance Administration shall conduct, handle and supervise the following matters—

"(a) Review, analyze and evaluate comprehensive state plans submitted by the State planning agencies in order to determine whether the use of financial resources and estimates of future requirements as requested in the plan take into account needed policies, priorities and plans for reducing and preventing crime as determined by the Administration. The Deputy Administrator shall, if warranted, thereafter make recommendations to the State planning agencies concerning improvements to be made in said comprehensive plans;

"(b) Assure that the membership of the State planning agency is fairly representative of all components of the criminal justice system and review, prior to approval, the preparation, justification and execution of the comprehensive plans to determine whether the State planning agencies are coordinating and controlling the disbursement of the federal funds provided under this title in a fair and proper manner to all components of the state and local criminal justice system. To assure such fair and reasonable disbursement the Deputy Administrator may require that the State planning agencies submit, in advance and for approval a financial analysis of the federal funds to be made available under this title to each component of the state and local criminal justice system;

"(c) Develop and direct financial auditing policies, programs, procedures, and systems, including financial accounting planning and analysis to determine the impact and value of programs funded pursuant to this title and whether such funds should continue to be allocated for such programs;

"(d) Supervise and direct independent and comprehensive auditing of the comprehensive plans to assure that the programs, functions and management of the State planning agencies are being carried out efficiently and economically;

"(e) Assist in the preparation of the detailed Annual Report of the Administration to be submitted to the President and to the Congress pursuant to section 519 of this title. Such report shall describe in detail the measures taken by the Deputy Administrator to comply with the provision of this section.

"The Administrator is also authorized—

"(f) to collect, evaluate, publish and disseminate statistics and other information on the condition and progress of law enforcement within and without the United States; and

"(g) to cooperate with and render technical assistance to States, units of general local government, combination of such States or units, or other public or private agencies, organizations, institutions or international agencies in matters relating to law enforcement and criminal justice. Funds appropriated for the purposes of this section may be expended by grant or contract, as the Administration may determine to be appropriate."

SEC. 18. Section 517 is amended by adding the following new subsection:

"(c) The Attorney General is authorized to establish an Advisory Board to the Administration to review programs for grants under sections 306(a)(2), 402(b), and 455(a)(2)). Members of the Advisory Board shall be chosen from among persons who by reason of their knowledge and expertise in the area of law enforcement and criminal justice and related fields are well qualified to serve on the Advisory Board.".

SEC. 19. Section 519 is amended to read as follows:

"SEC. 519. (a) On or before December 31 of each year, the Administration shall report to the President and to the Committee on the Judiciary of the Senate and House of Representatives on activities pursuant to the provisions of this title during the preceding fiscal year. Such report shall include—

(1) A detailed explanation of the policies, priorities and plans for reducing and preventing crime recommended by the Administration during the preceding fiscal year in the course of providing leadership and direction to State and local governments pursuant to this title;

(2) A detailed explanation of the procedures followed by the Administration in reviewing, evaluating and processing the comprehensive State plans submitted by the State planning agencies;

(3) The number of comprehensive State plans approved by the Administration without substantial changes being recommended in the criminal justice policy and priorities of each State;

(4) The number of comprehensive State plans approved or disapproved by the Administration after substantial changes were recommended in the criminal justice policy and priorities of each State;

(5) The number of State comprehensive plans funded under this title during the preceding three fiscal years in which the funds allocated have not been expended in their entirety;

(6) The number of programs funded under this title which were subsequently discontinued by the Administration following a finding that the program had no appreciable impact in reducing and preventing crime;

(7) The number of programs funded under this title which were subsequently discontinued by the States following the termination of funding under this title;

(8) A detailed financial analysis of each State comprehensive plan showing the amounts expended among the various components of the criminal justice system;

(9) A detailed explanation of the measures taken by the Administration to audit and monitor criminal justice programs funded under this title in order to determine the impact and value of such programs in reducing and preventing crime;

(10) A detailed explanation of how the funds made available under section 306(a)(2) of this title were expended.

"(b) The Committees on the Judiciary of the Senate and House of Representatives may periodically conduct public hearings to review and examine the activities of the Administration performed under this title. Such hearings may focus on the policies and priorities established by the Administration to reduce and prevent crime and the auditing, monitoring and evaluation procedures carried out by the Administration pursuant to this title."

SEC. 20. Section 520 is amended by striking all of subsection (a) and (b) and inserting in lieu thereof the following:

"(a) There are authorized to be appropriated such sums as are necessary for the purposes of each part of this title, but such sums in the aggregate shall not exceed $325,000,000 for the period July 1, 1976, through September 30, 1976, $1,300,000,000 for the fiscal year ending September 30, 1977, and $1,300,000,000 for the fiscal year ending September 30, 1978. From the amount appropriated in the aggregate for the purposes of this title such sums shall be allocated as are necessary for the purposes of providing funding to areas characterized by high crime incidence, high law enforcement and criminal justice activities and serious court congestion and backlog, but such sums shall not exceed $12,500,000 for the period July 1, 1976, through September 30, 1976, and $50,000,000 for each of the fiscal years enumerated above which sums shall be in addition to funds made available for these purposes from the other provisions of this title as well as from other sources.

Funds appropriated for any fiscal year may remain available for obligation until expended. Beginning in the fiscal year ending June 30, 1972, and in each fiscal year thereafter there shall be allocated for the purpose of part E an amount equal to not less than 20 per centum of the amount allocated for the purpose of part C.

"(b) Funds appropriated under this title may be used for the purposes of the Juvenile Justice and Delinquency Prevention Act of 1974".

PART G—DEFINITIONS

SEC. 21. Section 601 of such Act is amended as follows:

(1) by deleting from subsection (a) thereof the words "courts having criminal jurisdiction" and substituting the words "courts as defined in subsection (q) of this section", and

(2) by inserting at the end thereof the following new subsections:

"(p) The term 'Major cities and urban counties' means units of general local government or combinations thereof having a total population of 100,000 inhabitants, or in less densely populated states those whose population exceeds four percent of their state population or those which bear a substantial financial and administrative responsibility for law enforcement and criminal justice.

"(q) The term 'court of last resort' shall mean that State court having the highest and final appellate authority of the State. In States having two such courts, court of last resort shall mean that State court, if any, having highest and final appellate authority, as well as both administrative responsibility for the State's judicial system and the institutions of the State judicial branch and rulemaking authority. In other States having two courts with highest and final appellate authority, court of last resort shall mean that highest appellate court which also has either rulemaking authority or administrative responsibility for the State's judicial system and the institutions of the State judicial branch. The term 'court' shall mean a tribunal recognized as a part of the judicial branch of a State or of its local government units.

Mr. PELL. Mr. President, I am delighted to join with my distinguished colleague from Massachusetts (Mr. KENNEDY) in sponsoring legislation to reauthorize funding for the Federal Law Enforcement Assistance Administration. I compliment the Senator on his effective leadership in this important area.

This measure contains several new ideas on how LEAA money should be distributed over the next 3 years. Senator KENNEDY has enumerated these innovative steps most eloquently. Yet this is not just reorganization for its own sake. A new and positive balance is needed in this area, and I believe that this bill satisfies this need most adequately.

In any discussion of the crime crisis in our Nation, Mr. President, an important focus of attention is the courts. Some contend that judges are too lenient, and because of their leniency criminals are punished less severely than they deserve. Others point to overcrowded dockets that require the system to push through cases at a rate beyond the speed of deliberate justice. However, one thing is certain. Our judicial system needs more attention. Responsible officials, from the Attorney General of the United States on down, are calling for greater LEAA emphasis on the courts.

I am particularly aware of the support in my own State for the concepts in this bill. Sadly the recent death of Rhode Island Supreme Court Chief Justice Thomas H. Roberts brings this thought to mind. Judge Roberts was a strong advocate of this measure. As a distinguished judge for more than 24 years, and chief justice of the Rhode Island Supreme Court for the past 10 years, Tom Roberts was eminently qualified to comment on the proper priorities for law enforcement assistance. His contribution to the deliberations of the Senate Subcommittee on Administrative Practice and Procedure was significant.

Since the time of Judge Roberts death last month, Mr. Walter Kane, the administrator of the Rhode Island Supreme Court, has informed me of the court's continued backing for this measure.

Additionally, Rhode Island's chief law enforcement official, Attorney General Julius Michaelson, has shown interest in the new concepts of this legislation.

It is clear that this bill has support from many segments of the community, and I believe it is a most worthwhile measure. I give it my full support.

Mr. BEALL. Mr. President, I am pleased to join with the distinguished Senator from Massachusetts in the introduction of S. 3043 which would, if enacted, enable the Law Enforcement Assistance Administration to provide continued and better assistance to every branch of State and local government involved in the organized battle against crime in the United States. The bill would extend the LEAA for 3 years, retain the basic structure of present law, but at the same time make substantial changes designed to improve the program.

In 1968 the Congress recognized the critical need for the Federal Government to take positive action to reduce crime in our Nation. As a result of that concern the LEAA was created by the Omnibus Crime Control and Safe Streets Act of 1968. Recognizing that law enforcement and crime prevention is best addressed at the State and local levels of government, Congress established a Federal administration whose primary responsibility was to funnel huge sums of money—over $4.1 billion through July 1975—with only a minimum of control from Washington. Over the years LEAA has been quite successful in many respects; however, in other respects it has been noticeably deficient. The bottom line is that despite the untiring efforts of Federal, State, and local officials crime has not been reduced. Indeed, it has increased by epidemic proportions.

Some critics point to increased crime rates and suggest that the LEAA be abolished. Mr. President, I believe to abandon the program would undoubtedly be a mistake; but, to simply reauthorize it without remedying its shortcomings would also be a mistake.

Accordingly, I am joining as an original cosponsor to S. 3043 in an effect to retain the best features of the existing law while legislating necessary changes to insure that the LEAA operates more efficiently in the fight to reduce crime.

As I indicated, the bill maintains the basic structure of the present law and reasserts the principle that the primary responsibility for law enforcement rests with State and local units of government. However, it makes significant changes in the area of planning and law enforcement grants whereby the administration will be responsible for not only encouraging State and local units of government to develop plans for crime prevention and law enforcement, but which would also require "constructive leadership and direction" from LEAA. In addition, provisions are added to improve LEAA evaluation of State programs and to provide for more effective congressional oversight.

More specifically, the proposed bill would make the following changes:

First, it incorporates the provision of S. 1875, introduced by me in the 1st session of the 94th Congress which would require State and local units of government to develop programs designed to reduce and prevent crime against the elderly. I believe it is extremely important to understand the crime epidemic we are enduring in the United States is particularly disconcerting to senior citizens who are less able to resist becoming victims of crime.

Available data does not reveal exactly how many senior citizens are actually exposed to a high crime risk situation in a given period of time. As stated by the LEAA Administrator in a presentation to the U.S. Senate Special Committee on Aging's Subcommittee on Housing for the Elderly on August 2, 1972:

> A senior citizen who either locks himself in his apartment in fear of even venturing out into a once familiar and safe neighborhood or one who must take elaborate and unpleasant precautions whenever taking a short trip through an urban area does, in fact, reduce the chances of being victimized by crime.

A survey of various American cities shows a clearer picture of the crime threat confronting older persons. For example, a survey by LEAA of victimization rates in Baltimore, Md., indicated that persons 50 years old and older had twice the victimization rate for robbery with injury than persons aged 20 to 24 years old.

Moreover, elderly persons were found to be victims of personal larceny at a rate of 19 per 1,000 as compared to a rate of 6 per 1,000 for 20 year olds.

Many elderly people have the feeling that they must always remain at home in order to combat crime, or if they must go out, never to venture onto the city streets alone. The picture is a bleak one. Because they travel mostly by bus or subway, older people must wait for public transportation at designated points—and these points are well known to would-be assailants. Mail boxes in unguarded vestibules are the province of thieves who know when social security checks arrive.

In addition, let me note that no segment of our population is more directly affected by crime or the fear of crime. Senior citizens are all too often the victims of crimes while millions of others change their lifestyles in an effort to avoid being victimized by street criminals. It is time for us to attack this problem by developing, on the State and local level, comprehensive plans to effectively combat crimes against the elderly.

By authorizing law enforcement grants for "the development and operation of programs designed to reduce and prevent crime against the elderly" under section 301 of the Omnibus Crime Control and Safe Streets Act of 1968, we can require law enforcement officials on the Federal, State, and local levels to focus on a very important problem confronting our Nation's 20 million senior citizens.

Second, the bill would allow for the voluntary establishment of judicial planning committees—JPC's—to represent State judiciaries in the formulation of comprehensive State plans. Under this approach, it would be up to the State legislature to create the committees; and the chief judge of each State would be responsible for choosing the members. Judicial planning committees should include fair representation from the various judicial circuits throughout the State. In addition persons other than judges, from both the private and public sectors, who are knowledgeable in the area of criminal justice, should be adequately represented to insure that well rounded comprehensive programs are developed by JPC's.

By establishing judicial planning committees, the proposed bill would allow local circuits and districts to qualify for a fair share of the block grant funds and would also guarantee that a significant portion of the discretionary funds administered at the Federal level would be dispersed to alleviate the critically congested and backlogged case loads confronting judges, court administrators, and prosecutors.

Although some progress is being made through implementation of the Speedy Trial Act, we must do more to insure that the court system is able to increase its capability to deal with the problem. I believe that the establishment and funding of judicial planning committees will be a great asset because it will allow courts to hire additional personnel and also provide the impetus for more efficient planning.

Third, under the provisions of the proposed bill, cities, urban counties or local government units would be authorized to submit comprehensive plans to State planning agencies—SPA's. Once approved by the SPA a "mini block grant" would be awarded to the local agency without the need for further action on each individual project application. This important feature will do two things: First, it would provide local planning offices with adequate participation in the development of the comprehensive planning for a particular area. Through this process local agencies can develop plans, set priorities and evaluate programs which are tailor-made to meet the needs of the particular community. At the same time the SPA's will retain the responsibility for insuring comprehensiveness from a regional and statewide standpoint; and second, as a practical matter this new system would eliminate an incredible amount of redtape.

No longer would it be necessary to file grant applications on a one-by-one basis for projects which have been previously approved by the SPA and the LEAA in the State's comprehensive plan. The existing system is extremely cumbersome, totally unnecessary and should be amended.

Fourth, another important change is found in the new definition of "major cities and urban counties." The proposed definition not only reduces the eligibility number from 250,000 down to 100,000 but at the same time takes into account the needs and capabilities of small cities under 100,000 who are capable of developing their own plans and priorities for expenditures of block grant funds. Specifically, section 601 of the act is amended to include cities under 100,000 where they bear a substantial financial and administrative responsibility for law enforcement and criminal justice thereby making such localities also eligible for a share of the minigrant funds.

Fifth, provisions are made in the proposed bill for the continuation of LEAA funds previously directed to areas of the country suffering from particularly high crime rates. We have been advised by local criminal justice officials that although the LEAA's high impact anti-crime program represented only a small percentage of impacted areas' crime budgets the benefits of the program have been highly significant. The major localities who have participated in the program, such as Baltimore, Md., have indicated that the funds have been successfully used in the fight against stranger-to-stranger crimes—homicides, rapes, robberies, and aggravated assaults—but are concerned that existing funding levels have expired. S. 3043 would insure the continuation of this successful LEAA program.

Sixth, it is also important to point out that this bill would repeal the present prohibition against the use of more than one-third of any law enforcement grant for compensation purposes, thereby allowing LEAA funds to be used for the hiring of more judges, police, correctional officers, and other needed personnel.

Seventh, the proposed amendments deal with the administrative deficiencies under the current law by requiring LEAA for the first time to establish followup procedures to monitor the effectiveness of the State programs. In essence the LEAA would be responsible for conducting both programmatic and fiscal audits of each plan to determine the impact and value of such programs in reducing and preventing crime.

These changes are necessary because adequate leadership and guidance has never been set by the LEAA.

More importantly, it is believed that the comprehensive plans, once approved by LEAA become an end unto themselves without followup reviews to determine whether or not the plans were implemented as approved or if in fact the programs have had an impact on the crime rates.

If these changes are made you and I, as taxpayers, will get more for our money and the chances of reducing crime will be greatly enhanced.

Closely related to the programatic and fiscal auditing features is the fact that the LEAA Deputy Administrator for the administration would be responsible for the evaluations and auditing. In addition, an advisory board, authorized by the Attorney General of the United States would be established to make recommendations regarding the way discretionary funds would be spent.

Eighth, because of the continued risk of further problems with the overall program, I believe that the inclusion in the bill of extensive congressional oversight authority provisions is extremely important to monitor the progress of the program. The oversight authority would be accomplished by requiring LEAA to submit an annual report detailing its policies and priorities for reducing crime, its evaluation procedures, the number of State plans approved and disapproved, and other criteria which will clearly indicate the amount and quality of work by the administration.

Mr. President, I am extremely hopeful that enactment of this proposed bill will provide the country with significant improvements to the law enforcement assistance program. And, while I am sure that the Senator from Massachusetts would agree that the bill cannot be expected to result in the complete subsidance of violence in our society, it does represent a significant step toward the goal of reducing crime in America. The problem is one that faces everyone of us, regardless of political philosophy. Therefore, we must all work together to turn the table on crime by establishing the most efficient mechanism possible for fighting the battle.

Therefore, I look forward to working with my colleagues in the Congress and to the hearing process which will enable experts to present their suggestions for improving our efforts even further.

By Mr. SPARKMAN (by request):

S. 3044. A bill to provide for relief and rehabilitation assistance to the victims of the earthquakes in Guatemala, and for other purposes. Referred to the Committee on Foreign Relations.

GUATEMALA DISASTER RELIEF ACT OF 1976

Mr. SPARKMAN. Mr. President, by request I introduce for appropriate reference a bill to provide relief and rehabilitation assistance to the victims of the earthquakes in Guatemala, and for other purposes.

The bill has been requested by the President and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when it is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill and a section-by-section analysis be printed in the Record.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 3044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Guatemala Disaster Relief Act of 1976".

Sec. 2. The President is authorized to provide assistance, on such terms and conditions as he may determine, for the relief and rehabilitation of the people who have been victimized by the recent earthquakes in the Republic of Guatemala. Such assistance may be provided in accordance with the policy and general authorities applicable to or available for the furnishing of assistance under section 491, relating to international disaster assistance, of the Foreign Assistance Act of 1961, as amended.

Sec. 3. There is authorized to be appropriated to the President to carry out the purposes of this Act $25,000,000 for the fiscal year 1976, which amount is authorized to remain available until expended. Obligations heretofore incurred against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Guatemala may be charged to the appropriations authorized pursuant to this Act.

Sec. 4. Not later than ninety days after enactment of appropriations to carry out this Act, and on a quarterly basis thereafter, the President shall transmit reports to the Committee on Appropriations of the Senate and to the Speaker of the House of Representatives on the programming and obligations of funds under this Act.

Section-by-Section Analysis of the Proposed Guatemala Disaster Relief Act of 1976

I. INTRODUCTION

The major purpose of the proposed Guatemala Disaster Relief Act of 1976 is to provide authorization for appropriations for disaster relief activities necessitated by the recent severe earthquakes in the Republic of Guatemala. The bill would create a separate and discrete authorization specifically intended to deal with this major disaster.

II. PROVISIONS OF THE BILL

Section. 1. This section provides a short title for the bill, "Guatemala Disaster Relief Act of 1976".

Section 2. This section authorizes the President to provide relief and rehabilitation assistance for the people of Guatemala who have been victimized by recent earthquakes on such terms and conditions as he may determine. The section incorporates by reference the policy and general authorities applicable to the furnishing of disaster assistance pursuant to section 491 of the Foreign Assistance Act of 1961, as amended, including the clause "Notwithstanding any other provision of this or any other Act" of that section which is designed to facilitate the rapid implementation of international disaster assistance programs.

Section 3. This section authorizes the appropriation of $25 million for FY 1976 on a "no year basis" to carry out the purposes of the Act and provides that obligations previously incurred for the purposes of providing relief and rehabilitation assistance to the people of Guatemala as a result of the recent disaster are authorized to be charged to the appropriations authorized by this Act.

Section 4. This section provides for reports to the Committee on Foreign Relations and Committee on Appropriations of the Senate and to the Speaker of the House of Representatives no later than 90 days after enactment of appropriations to carry out this Act and on a quarterly basis thereafter setting forth the programming and obligation of funds under the Act.

By Mr. McGOVERN:

S. 3045. A bill to establish a National Commission on Food Production, Processing, Marketing and Pricing to study the food industry from the producer to the consumer. Referred to the Committee on Agriculture and Forestry and the Committee on Commerce, by unanimous consent.

NATIONAL FOOD COMMISSION

Mr. McGOVERN. Mr. President, today I am introducing a bill which will establish a National Commission on Food Production, Processing, Marketing and Pricing.

During the past 2 to 3 years, a major component of the rising cost-of-living index has been the rapid rise in food prices. The annual market basket for a family of four cost $1,310.82 in 1972. By 1974, however, this cost was $1,749.56—an increase of 33 percent.

This dramatic increase in market basket costs has been accompanied by an even larger increase in the "spread", or difference between the prices farmers receive and the prices consumers pay at the retail level. In 1973, for example, the "spread" on an annual market basket rose from $786.68 to $837.43, an increase of 6.5 percent. But, in 1974, this figure rose to $1,005.52—a startling increase of 27.9 percent.

Comparing farm value and farm-to-retail spread of a market basket for food for the period January 1974 to March 1975 yields a clearer and even more startling picture. While farm values decreased from 185.7 to 170.5, retail costs increased from 155.5 to 168.5, and the "spread" soared from 136.4 to 167.3.

Over 12 years ago I appeared before the Senate Commerce Committee, as the first witness in favor of legislation which created the National Commission on Food Marketing. I strongly believe that if the Congress had implemented the procompetitive recommendations of the 1965 report of that Commission, if we had prevented the ever-increasing concentration and vertical integration of food processing and retailing, we would be paying a substantially lower food bill at the checkout counter in 1976. The same conclusions emerged last year during the national food price inquiry of the Select Committee on Nutrition and Human Needs, which held 2 days of hearings and has printed six volumes of a food industry studies series.

I am introducing this bill today first, because the fine work completed by the original National Commission has not been reviewed annually and figures have not been revised to reflect the changes which have taken place in the last 11 years; and second, because the select committee's work needs to be followed by a comprehensive national investigation. We need an accurate and full evaluation of the state of competition in the food industry today.

This legislation provides for the necessary annual review. The Federal Trade Commission and the Department of Justice are ordered to report to the Congress on the state of competition in the food industry on a yearly basis. New data is to be collected by the FTC Bureau of Economics, and used to annually update existing statistics by which we judge the efficiency and effectiveness of the food industry in the United States.

The FTC, Justice Department and Department of Agriculture will be required to file annual reports concerning Antitrust policy, planning and litigation efforts by their respective agencies.

The Commission itself will be a nine-member working body with three members each appointed by the Senate, the House, and the President. This Commission's members will be representative of food producers, processors, distributors, agricultural economists, antitrust practitioners and consumers, and supported by resources equal to the tasks described in this legislation.

The great concern over accurate data in the food industry is not limited to consumers and farmers. Industry spokesmen complain that their companies are unfairly blamed for rising food prices; Government agency spokesmen claim that without the voluntary provision of more adequate and accurate data they are unable to make adjustments in the statistics they use for analysis.

The establishment of a National Commission on Food Production, Processing, Marketing, and Pricing will provide us with this benchmark data, and the executive agencies will be charged with the responsibility of annual review and revision of statistical information as well as constant analysis of the enonomic structure and performance of the food industry.

Mr. President, this is a matter of utmost urgency, and we in the Congress must make the control of food price inflation a priority issue in the Congress now. Consumers cannot, and must not, be made to wait indefinitely for their Government to act. We must investigate now so that Congress may legislate changes in law and public policy, if necessary, as soon as possible.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the bill be referred to the Committee on Agriculture and Forestry and the Committee on Commerce.

The **PRESIDENT** pro tempore. Without objection, it is so ordered.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 1353

At the request of Mr. Williams, the Senator from Colorado (Mr. Haskell) was added as a cosponsor of S. 1353, to amend section 306(a) (7) of the Consolidated Farm and Rural Development Act.

S. 1745

At the request of Mr. McGovern, the Senator from Colorado (Mr. Haskell) was added as a cosponsor of S. 1745, the Defense Economic Adjustment Act.

S. 2892

At the request of Mr. Humphrey, the Senator from Minnesota (Mr. Mondale) was added as a cosponsor of S. 2892, to provide for Federal payments of State unemployment compensation benefits which are attributable to services performed by certain employees of State or local governments.

S. 410

At the request of Mr. Goldwater, the Senator from Colorado (Mr. Haskell) was added as a cosponsor of S. 410, a bill to repeal the earnings limitation of the Social Security Act for all workers age 65 and over.

S. 2332

At the request of Mr. Stafford, the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 2332, a bill to amend the Rehabilitation Act of 1973 to provide funding for Governor's Committees on the Employment of the Handicapped.

S. 2642

At the request of Mr. Thurmond, the Senator from Colorado (Mr. Haskell) was added as a cosponsor of S. 2642, a bill to authorize the Secretary of the Interior to establish the Old Ninety Six and Star Fort National Historical Park in the State of South Carolina, and for other purposes.

S. 2695

At the request of Mr. Montoya, the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of S. 2695, a bill to amend the Internal Revenue Code of 1954 to provide a tax credit with respect to housing senior citizens in the principal residence of the taxpayer.

S. 2853

At the request of Mr. Helms, the Senator from South Dakota (Mr. McGovern) and the Senator from Minnesota (Mr. Humphrey) were added as cosponsors of S. 2853, a bill to amend the Food Stamp Act of 1964.

S. 2870

At the request of Mr. Montoya, the Senator from Pennsylvania (Mr. Hugh Scott) and the Senator from Kentucky (Mr. Ford) were added as cosponsors of S. 2870, a bill to amend the Internal Revenue Code of 1954 to treat Federal retirement system income the same as social security income to the extent that such retirement income does not exceed the sum of old-age benefits which may be received under title III of the Social Security Act and amounts which may be earned without reducing such benefits.

S. 2925

At the request of Mr. Muskie, the Senator from Oregon (Mr. Hatfield), the Senator from Iowa (Mr. Culver), the Senator from Pennsylvania (Mr. Hugh Scott), and the Senator from Texas (Mr. Bentsen) were added as cosponsors of S. 2925, the Government Economy and Spending Reform Act of 1976.

S. 2957

At the request of Mr. Robert C. Byrd, the Senator from Arizona (Mr. Fannin) was added as a cosponsor of S. 2957, a bill to amend title 18, United States Code, relating to certain crimes of violence.

S. 2989

At the request of Mr. Hugh Scott, the Senator from Minnesota (Mr. Mondale) was added as a cosponsor of S. 2989, a bill to extend from 10 years to 15 years the time during which veterans are eligible for educational assistance.

SENATE JOINT RESOLUTION 126

At the request of Mr. Haskell (for Mr. Jackson), the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of Senate Joint Resolution 126, a joint resolution consenting to an extension and renewal of the interstate gas compact.

SENATE RESOLUTION 104

At the request of Mr. Hathaway, the Senator from Nebraska (Mr. Hruska) was added as a cosponsor of Senate Resolution 104, a resolution relating to the Select Committee on Small Business (to provide limited legislative authority).

SENATE RESOLUTION 197

At the request of Mr. Leahy, the Senator from Delaware (Mr. Roth) was added as a cosponsor of Senate Resolution 197, a resolution to establish a Select Committee on Federal Responsiveness and Accountability.

SENATE RESOLUTION 307

At the request of Mr. Leahy, the Senator from Delaware (Mr. Leahy) was added as a cosponsor of Senate Resolution 307, a resolution amending the Standing Rules of the Senate to require committee reports to contain assessments of the language of bills and joint resolutions, in relation to legislative goals.

SENATE CONCURRENT RESOLUTION 86

At the request of Mr. Church, the Senator from Colorado (Mr. Haskell), the Senator from Washington (Mr. Magnuson), the Senator from Ohio (Mr. Glenn), the Senator from Oregon (Mr. Hatfield), the Senator from Vermont (Mr. Leahy), the Senator from New Jersey (Mr. Case), the Senator from New York (Mr. Javits), the Senator from New Hampshire (Mr. McIntyre), and the Senator from Missouri (Mr. Eagleton) were added as cosponsors of Senate Concurrent Resolution 86, to express congressional opposition to proposals to increase out-of-pocket payments by medicare beneficiaries.

SENATE RESOLUTION 397—SUBMISSION OF A RESOLUTION TO ESTABLISH A SPECIAL COMMITTEE ON SMALL BUSINESS AND FEDERAL OVERREGULATION

(Referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. MONTOYA submitted the following resolution:

S. Res. 397

Resolved, That (a) there is hereby established a Special Committee on Small Business and Federal Over-Regulation (hereinafter referred to as the "Committee").

(b) The Committee shall consist of seven members as follows:

(1) four members from the majority party, appointed by the President of the Senate, upon recommendation of the Majority Leader; and

(2) three members from the minority party, appointed by the President of the Senate, upon recommendation of the Minority Leader.

(c) The majority members of the Committee shall select a chairman and the minority members shall select a vice chairman, and the Committee shall adopt rules and procedures to govern its proceedings. The vice chairman shall preside over the meetings of the Committee during the absence of the chairman, and discharge such other responsibilities as may be assigned to him by the Committee or the chairman.

(d) Vacancies in the membership of the Committee shall not affect the authority of the remaining members to execute the functions of the Committee and shall be filled in the same manner as original appointments to it are made.

(e) A majority of the members of the Committee shall constitute a quorum for the transaction of business, but the committee may establish a lesser number as a quorum for the purpose of taking testimony or depositions.

(f) For the purposes of paragraph 6 of Rule XXV of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice chairman of the Committee shall not be taken into account.

Sec. 2. The committee shall conduct a study of the effects of Federal regulation on small business. The study shall include—

(1) an examination of the internal revenue laws affecting small businesses to identify specific detrimental effects on small business;

(2) an assessment of Federal programs affecting small businesses to determine whether such programs should be eliminated, revised and strengthened, or consolidated, or whether new programs should be established to assist small businesses in increasing their productivity;

(3) an examination of the burden on small businesses of filing forms with the Federal government for the purpose of eliminating duplication and consolidating all forms into a single multi-agency form;

(4) an examination of the role of small businesses in the United States economy; and

(5) an investigation of any other area relevant to establishing a Federal regulatory environment more conducive to the efficient operation of small businesses.

Sec. 3. (a) The Committee is authorized (1) to employ personnel and determine their compensation; (2) to hold hearings, to take depositions and other testimony on oath anywhere within the United States, and to receive documentary or physical evidence; (3) to subpena witnesses and documents; (4) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946; (5) to use on a reimbursable basis, with the prior consent of the Senate Committee on Rules and Administration, the services of personnel of any such department or agency; (6) to use on a reimbursable basis or otherwise with the prior consent of the chairman of any subcommittee of any committee of the Senate the facilities or services of any members of the staffs of such other Senate committees or any subcommittees of such Senate committees whenever the committee or its chairman deems that such action is necessary or appropriate to enable the Committee to make the study authorized by this resolution.

(b) Subpenas may be issued by the Committee acting through the chairman or any other member designated by him, and may be served anywhere within the borders of the United States by any person designated by the chairman or other member. The chairman of the Committee, or any other member thereof, is hereby authorized to administer oaths to any witnesses appearing before the Committee. The Committee shall make recommendations to the Senate regarding any willful failure by a witness to comply with a subpena or to give testimony when summoned under the authority of this subsection.

Sec. 4. The results of the Committee's study pursuant to this resolution shall be reported by the Committee to the Senate in an interim report, not later than six months after this resolution is approved, and in a final report, not later than nine months after this resolution is approved. Each such report shall contain specific legislative and other proposals with regard to each item required to be studied under section 2 to eliminate unnecessary Federal regulation, and to establish a regulatory environment in which small business can operate and compete more effectively.

Sec. 5. The expenses of the Committee shall not exceed $300,000, a maximum of $ of which shall be available for the procurement of the services of individual consultants or organizations thereof. Such expenses shall be paid from the contingent funds of the Senate upon vouchers approved by the chairman of the Committee.

Sec. 6. After the submission of its final report, the Committee shall have 90 days to close its affairs, and on the expiration of such 90-day period shall cease to exist.

Mr. MONTOYA. Mr. President, the resolution I am submitting today will establish a special committee to study the problems of small business and the impact that the Federal Government has on small businesses.

Small business is the very heart of the American economy. Excessive Government regulation has led to higher prices, more unemployment, and strangulation of the small businessmen. Mr. President, when they are forced to close, it is the individual citizen, the consumer, who suffers.

Every day more and more small businesses are having to reduce operations or close because of unnecessary Governmentment regulation. Many problems plague small business and they cannot determine what is expected of them under the complicated provisions of these regulations. Also small businesses cannot comply with standards that are written mainly for large businesses. Still they are told how to run their businesses and are forced to comply with rules and regulations of an uncontrolled bureaucratic system.

The single, most burdensome problem is paperwork. The paperwork requirements have become an increasing irritation to the small businessman, who has been trying, in the current recession, just to stay in business. There are more than 5,000 different Federal forms sent out each year from Washington, at a cost to the American citizen of an estimated $36 billion a year. The small business owner cannot afford the extra employees to handle the paperwork or the costs of hiring someone to help him interpret these forms; the Federal Register is becoming impossible to read as dozens of new rules are made each day.

Mr. President, we must ask ourselves what effect these regulations are having on our society. Are they necessary and are they worth the price we are paying?

We have a society that is overly regulated. Agencies of the Federal Government are reaching into the everyday lives of the American public and dictating decisions which should be made by the individual.

Mr. President, my measure would create a special Senate committee to study this problem and to report its findings to Congress within 9 months. It will consist of seven members, four from the majority party and three from the minority. The committee will be able to employ personnel, to hold hearings, and subpena witnesses. This would give them the power to make an in-depth study with a view toward a substantive change.

The committee will study an area which is related to the problems of small businesses, with an emphasis on:

The internal revenue laws to identify any specific detrimental effects;

Federal programs to determine whether such programs should be eliminated, revised and strengthened, consolidated or whether new programs should be established;

The paperwork problem with a view toward eliminating duplication and consolidating all forms into a single multiagency form;

The total role of small businesses in the U.S. economy.

It is doubtful that success can be achieved to help small businesses in alleviating their problems without adequate legislation. I would like this bill to be merely an interim step in the legislative process until the Select Committee on Small Business receives total legislative power. We need a strong Committee on Small Business to act on these serious issues.

In this, our Bicentennial year, let us look back and ask: Is this what Jefferson and our Founding Fathers wanted? Those men had a vision. They saw this land as a nation of small businessmen working in a free society, independent of government interference. Federal regulations are fast destroying this dream. It is my hope that my legislation will reestablish this goal.

As I submit this resolution, I urge my distinguished colleagues to act on this and any other similar measure which is before the 94th Congress. We must work together to get our economy back on stable grounds.

SENATE RESOLUTION 399—SUBMISSION OF A RESOLUTION RELATING TO PROGRESS AT THE STRATEGIC ARMS LIMITATION TALKS

(Referred to the Committee on Foreign Relations.)

Mr. KENNEDY (for himself, Mr. Humphrey, and Mr. Javits), submitted the following resolution:

S. Res. 399

Whereas the interim agreement on the control of offensive strategic nuclear weapons, concluded between the United States and the Union of Soviet Socialist Republics on May 26, 1972, expires in October, 1977;

Whereas it is imperative for the stability of the nuclear arms balance, and for further efforts to end the nuclear arms race, that a further agreement limiting offensive strategic nuclear weapons be concluded before that time, and that efforts begin soon to reach agreement on limiting certain qualitative improvements in strategic nuclear forces on both sides;

Whereas the United States and the Union of Soviet Socialist Republics concluded an agreement in principle at Vladivostok, on November 24, 1974, covering the period from October 1977 through 1985, and in a subsequent *aide-memoire* agreed *inter alia* that each country would be limited to no more than 2400 strategic delivery vehicles, within which limit no more than 1320 missiles could be equipped with Multiple, Independently-Targetable Re-entry Vehicles;

Whereas substantial progress has been reported on a draft treaty (a) implementing the Vladivostok Agreement, (b) dealing with other matters, including strategic-range cruise missiles and the Soviet Backfire bomber, and (c) raising the prospect of reducing the limits agreed at Vladivostok for each side on numbers of strategic delivery vehicles;

Whereas a failure to agree on limitations for strategic range cruise missiles could create problems that would severely undermine future efforts to achieve strategic arms control; and

Whereas test programs for strategic-range cruise missiles—a weapons system in which the United States has a significant technological lead—will complicate problems of verifying distinctions between these missiles and those not applicable to a strategic nuclear role: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the prompt conclusion of negotiations to implement the Vladivostok Agreement, and its submission to the Senate as a treaty for its advice and consent to ratification, are in the best interests of the United States;

(2) the President should, to this end, continue negotiations with the Union of Soviet Socialist Republics on a timely basis, for the purpose of (A) resolving remaining issues within the Vladivostok framework; and (B) seeking an agreement to significantly reduce the number of strategic delivery vehicles permitted each country under the Vladivostok aide-memoire;

(3) the President should seek agreement with the Union of Soviet Socialist Republics to ban (A) flight testing and deployment by either country of air-launched cruise missiles having a range in excess of 2500 kilometers; (B) the construction of such missiles other than for deployment on heavy bombers permitted by the treaty urged in clause (1); and (C) the flight testing or deployment by either country of land-launched and sea-launched cruise missiles having ranges in excess of 600 kilometers;

(4) the President should offer to the Soviet Union an immediate, mutual moratorium on flight testing of all strategic-range cruise missiles, to remain in effect until conclusion of the agreement urged in clause (3); and

(5) the President should, immediately following Senate advice and consent to ratification of the agreements urged in clauses (1) and (2), begin negotiations with the Soviet Union for the purpose of securing objectives which include the following: (A) a comprehensive nuclear test ban; (B) further reductions in the numerical limits contained in the Vladivostok Agreement; and (C) agreed restraints on testing and deployment of major qualitative improvements in the strategic nuclear forces on both sides.

SEC. 2. The Secretary of the Senate shall transmit copies of this Resolution to the President, the Secretaries of State and Defense, and the Director of the Arms Control and Disarmament Agency.

Mr. KENNEDY. Mr. President, today I wish to join with my distinguished colleagues from Minnesota (Mr. HUMPHREY) and New York (Mr. JAVITS) in submitting a resolution regarding the strategic arms limitation talks and cruise missiles.

No issue is more important for the future of the United States than halting the nuclear arms race. And no time is better for taking important steps in that direction—in the interests of our national security—than right now.

Tomorrow morning, the Air Force will begin flight testing a revolutionary new weapon—the cruise missile. And the Navy began its tests last month. Yet when these test programs are finished later this year, cruise missiles will raise the most profound questions about the entire future of strategic arms control. And American security will be reduced.

We are seeking Senate support for a constructive approach to arms control, that will reflect positive cooperation with the administration, by Senators on both sides of the aisle.

Next year may be too late for an arms control agreement. The Vladivostok limits of 16 months ago—which are not yet in the form of a treaty—may be a dead letter by then. And in January there will be less than 10 months left to reach a new agreement on offensive nuclear weapons, before the interim accord of 1972 expires.

Whatever other disagreements we have with the Soviet Union—whatever pressures there are in election-year politics—we must not lose this chance to impose some sense and sanity on the nuclear arms race.

Let me mention one part of the resolution.

Because of the nature of cruise missiles, it will be impossible to tell by looking at them whether a particular missile can travel a few hundred miles or a few thousand; whether it has a conventional or a nuclear warhead; whether it is a tactical weapon or a strategic weapon that can destroy missile silos and cities.

When flight testing is finished and deployment begins, verification of cruise missiles may become impossible; and it will be increasingly difficult to make firm judgments about the number of nuclear weapons on each side.

This is why it is imperative that we reach agreement on cruise missiles this year. And that is why it is imperative that we seek a mutual moratorium on testing with the Soviet Union, until that agreement is reached.

We have firm precedent for that action, in the moratorium on nuclear testing that led to the Limited Nuclear Test-Ban Treaty of 1963.

And we risk nothing for our security. The rest of our arsenal is secure; and we are several years ahead of the Soviet Union in development of long-range cruise missiles.

Before we step over another nuclear threshold—with no turning back—let us pause; let us see whether agreement on cruise missiles is possible; let us examine this weapons system in all its aspects, before going forward.

Because if we don't, the cruise missile could destroy the SALT talks, themselves; and all mankind will be the losers.

Mr. President, I ask unanimous consent that a joint statement by Senators HUMPHREY, JAVITS and myself be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

JOINT STATEMENT BY SENATORS KENNEDY, HUMPHREY, AND JAVITS INTRODUCING A SENSE OF THE SENATE RESOLUTION ON SALT AND CRUISE MISSILES

We are introducing a resolution in the Senate, today, relating to the current round of Strategic Arms Limitation Talks, and strategic-range cruise missiles.

For many years, it has been clear that the most important demand on U.S. foreign policy has been the need to bring the strategic nuclear arms race under control. This objective has been shared by every U.S. President since the nuclear era began; while successive Congresses and the American People have overwhelmingly supported efforts to secure the United States and the world from the holocaust of a nuclear war. We have all recognized that, whatever other differences we continue to have with the Soviet Union, neither we nor they can afford to abstain from continued negotiations, continued progress, to end the spectre of nuclear war once and for all.

In recent years, some real progress towards controlling nuclear arms has been made, to be benefit of US security and the future of mankind: There has been the Limited Nuclear Test-Ban Treaty; the Non-Proliferation Treaty; the ABM Treaty; and the Interim Agreement on Offensive Missiles. Clearly, however, more needs to be done, in the interests not only of preventing nuclear war between the superpowers, but also of helping to prevent the spread of nuclear weapons around the world.

Because gaining control over the strategic arms race is so vital to us, there must be the most careful consideration of a wide range of military and political factors; the issue must be above partisan politics; and real arms control can succeed only with cooperation and support from both Republicans and Democrats, and from the Administration, the Congress, and the American People.

We believe that the approach to arms control outlined in our resolution meets this test—as well as the test of being truly in the interests of the United States. An agreement such as the one we propose will strengthen our security, and help to lift from mankind the threat of nuclear war. It will provide the basis for continuing efforts to bring a final end to the nuclear arms race.

At the same time, we seek to demonstrate the willingness of Congress to work positively with the Administration on an issue of vital national importance. Our proposals do not limit Administration freedom of action in diplomacy at SALT; rather they strengthen it—building on what has already been decided, and seeking to indicate broad support in the Senate and the Nation for positive, timely steps forward in strategic arms control.

Our nation must never rush into any arms control agreement simply to reach agreement; but we must also never pass up real opportunities to reach agreements that are truly in our national interest, that will reduce the dangers of nuclear war, that will increase our real security.

This is such a time to act in our own interest. By next January, there is grave risk that the Vladivostok Agreement—setting real and precise limits both on launchers and multiple warheads (MIRVs)—will no longer be negotiable; and there will be little time before the expiration of the 1972 interim agreement in October 1977. The pressure of time, therefore, will get worse with each month's delay.

In addition, we are now faced with a new development in nuclear weaponry, which if unchecked could change many of the assumptions on which the SALT talks are based. This is the modern strategic-range cruise missile, which the Navy began testing last month, and the Air Force will begin testing tomorrow. When those test programs are completed later this year, it will be difficult—if not impossible—to verify whether any deployed missiles are of short- or long-range; whether they carry conventional or nuclear warheads; or whether they are designed to attack tactical or strategic targets. As a result, it will then be far more difficult to make judgments about the relative balance of strategic forces between the United States and the Soviet Union: cruise missiles will add a largely unknown factor to calculations and may confound efforts to put a lid on the nuclear arms race.

In our resolution, we are proposing that the President offer to the Soviet Union an immediate, mutual moratorium on the flight-testing of strategic-range cruise missiles, until an agreement covering them can be concluded. That may only be a matter of a few short weeks; but if the current round of negotiations does not proceed as promptly as we believe is necessary, then a mutual moratorium on flight-testing could become critical to the entire future of the SALT talks.

Press reports about the SALT talks indicate that considerable progress has been made in negotiating a treaty to implement the Vladivostok Agreement of November 1974. We believe that these negotiations should continue, leading to a treaty presented to the Senate for its advice and consent in the very near future. There has been give and take on both sides without decreasing our security—and this includes Soviet agreement to exclude from this treaty any limits on our forward based systems in Europe, and to accept the US proposal for verifying limits on MIRVs.

In our resolution, we endorse the agreements that have reportedly been reached; we support the resolution of remaining issues, including the cruise missile and the Soviet *Backfire* bomber; and we support an effort—already suggested by the administration—to seek a reduction in the number of nuclear delivery vehicles permitted each side under the Vladivostok Agreement. All these steps will strengthen our security—and the security of the world against nuclear war.

Furthermore, we support an agreement with the Soviet Union to limit the testing and deployment of air-launched cruise missiles to a range not exceeding 2500 kilometers, and their deployment only on heavy bombers—as reportedly agreed by the two governments.

We are convinced, however, that US security will best be enhanced by limiting the testing and deployment of strategic-range cruise missiles based on land and at sea to ranges not exceeding 600 kilometers—thereby effectively banning these weapons from the strategic arsenals of both superpowers. No convincing argument has been advanced for either weapon that would lead us to believe that keeping this option open can be as important for either us or the Soviet Union as the gains for arms control which would be achieved by banning them.

In a broader perspective, it is clear that the whole concept of modern cruise missiles will have important implications for force planning and strategy, both conventional and nuclear. Yet before either we or the Russians embark on a radically new course in weaponry, both governments owe it to their people—and to the cause of preventing instability, further misunderstandings, and greater difficulties in negotiating arms control in the future—to pause and examine the full import of this radical new technology.

Only when we in the United States have conducted the most careful analysis of cruise missiles and their implications should we proceed to rational decisions about the future of these weapons. But we will not have that choice once flight test programs are finished later this year: it may be too late to turn back. Several years ago, we ignored similar advice with regard to multiple warheads (MIRVs), and rushed forward with our test program, only to find that problems of verifying any arms control agreement affecting them were incredibly difficult to resolve. It has taken us six years to do so; and the verification problems associated with cruise missiles will be even more difficult to solve. This will be so even if the agreement on strategic-range missiles we propose today is accepted; but without that agreement, it may become impossible.

Finally, we are concerned in our resolution to relate today's arms control efforts to the future. Even securing the Vladivostok Agreement, and resolving issues of cruise missiles and the *Backfire* bomber, will not mean an end to the nuclear arms race. It will still be important to ban all nuclear testing; to reduce the number of nuclear weapons permitted under the Vladivostok Agreement; and to gain real limits on major qualitative improvements in the nuclear forces of both sides—improvements that could raise new problems for strategic arms control. Accordingly, we are urging that further efforts at SALT continue, immediately following the ratification of the agreements we are proposing today.

In a spirit of bipartisan cooperation, we believe that this approach will increase the security of the United States, and be of benefit to all mankind.

Mr. JAVITS. Mr. President, I believe that the greatest significance of the resolution which has just been submitted by Senator KENNEDY, with Senator HUMPHREY and myself as cosponsors, is in its timing and its political symbolism. Beyond the substantive provisions of the resolution we have introduced there is a message. That message stated most simply is that we, as moderates in the U.S. Senate, all of whom have had longstanding interests in arms control questions, are supporting the most earnest and determined efforts to achieve a SALT II agreement this year.

Spokesmen for the ideological right wing have been very articulate in recent months trying to persuade our Nation that SALT II is some kind of sell-out to communism. There have even been innuendoes that President Ford and Secretary Kissinger are inclined to be soft on our Nation's security for purposes of political expediency. The people who are saying or implying this kind of invidious argument are those who have generally opposed arms control agreements who wish us to pursue the illusion of regaining "superiority" in strategic weaponry—whatever the cost in destabilization of the strategic balance and in taxpayer treasure.

The President and Secretary of State who know, as we do, that a SALT II agreement will enhance our national security and that is why they are making a major effort to conclude an agreement this year, before a major opportunity is lost and another upward spiral of the arms race becomes inevitable.

AMENDMENTS SUBMITTED FOR PRINTING

ADDITIONAL DISTRICT COURT JUDGES—S. 287

AMENDMENT NO. 1413

(Ordered to be printed and to lie on the table.)

Mr. MORGAN (for himself and Mr. HELMS) submitted an amendment intended to be proposed by them jointly to the bill (S. 287) to provide for the appointment of additional district court judges, and for other purposes.

FEDERAL EMPLOYEES' POLITICAL ACTIVITIES ACT—H.R. 8617

AMENDMENT NO. 1414

(Ordered to be printed and to lie on the table.)

Mr. STONE. Mr. President, the Federal Employees' Political Activities Act, H.R. 8617, seeks to give Federal employees the fullest possible right to participate in the American political process. It attempts to strike a fairer balance between the individual rights of nearly 3 million citizens in Government service and the need of the Federal Government to have impartial, nonpartisan administration of its programs.

While this bill goes a long way toward achieving its stated goals, I believe that there is one serious flaw in it which needs to be remedied. That flaw is the lack of any mandatory penalty for the use of official authority to affect the result of an election or for the intimidation of coworkers to get them involved in partisan political activities. As the bill now reads, a Board on Political Activities, comprised of Presidential appointees, has complete discretion as to penalties and need not levy any penalty at all.

There are certain prohibitions in the bill, such as those banning political activity while on duty, that could be violated inadvertently. For violations of these prohibitions, which make up sections 7324 and 7325 of the bill, the Board should have discretion to weigh the seriousness and the willfulness of the violation before deciding on a penalty.

However, section 7323 prohibits activities which by their very nature are willful. Intimidating employees to engage in partisan political activity, using official authority to affect the outcome of an election—these are activities which if allowed to exist would undermine the integrity and impartiality of all Government programs. These are activities which must be dealt with harshly. If we do not demand that persons found guilty of these actions leave their Federal employment for at least a minimum amount of time, then we invite a return to the types of misdeeds that originally led to the adoption of the Hatch Act.

Everyone who supports this bill has emphasized the safeguards it contains against coercion of employees by superiors and coworkers who seek to have them participate in partisan political activity. Unless employees know that those who would seek to pressure them face certain penalties, the safeguards are meaningless.

Mr. President, for these reasons I am submitting an amendment to H.R. 8617 which would require the Board to suspend for at least 90 days or permanently remove any employee found guilty of violating section 7323. The Board retains its discretion to choose from a wider range of sanctions when it finds a violation of the other prohibitions contained in the bill.

Mr. President, I ask unanimous consent that this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1414

On page 19, beginning on line 18, strike out all through page 20, line 7, and insert in lieu thereof the following:

"§ 7329. Penalties.

"(a) Subject to and in accordance with section 7328 of this title, an employee who is found to have violated any provision of:

"(1) section 7323 of this title shall, upon a final order of the Board be removed from such employee's position for a period not less than 90 days, or shall be permanently removed in which event that employee may not thereafter hold any position (other than an elected position) as an employee as defined in section 7322(1) of this title);

"(2) section 7324 or 7325 of this title shall, upon a final order of the Board, be—

"(A) removed from such employee's position, in which event that employee may not thereafter hold any position (other than an elected position) as an employee (as defined in section 7322(1) of this title) for such period as the Board may prescribe;

"(B) suspended without pay from such employee's position for such period as the Board may prescribe; or

"(C) disciplined in such other manner as the Board shall deem appropriate.

AMENDMENT NO. 1415

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN submitted an amendment intended to be proposed by him to the bill (H.R. 8617) to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

AMENDMENT NO. 1416

(Ordered to be printed and to lie on the table.)

Mr. DOLE (for himself and Mr. BENTSEN) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 8617), supra.

Mr. DOLE. Mr. President, the Senate will soon take under consideration H.R. 8617, a measure designed to significantly alter the Hatch Act regulations which currently govern and restrict Federal employee involvement in political activity. In anticipation of that debate, I am today submitting, along with Senator BENTSEN, an amendment for consideration during discussion of H.R. 8617. This amendment would, we believe, measurably improve upon the legislation, as it was reported from the Senate Post Office and Civil Service Committee last month.

PURPOSE OF AMENDMENT

This amendment prohibits employees of the Justice Department, the Internal Revenue Service, and the Central Intelligence Agency from giving a political contribution to another employee, a Member of Congress, or an officer of a uniformed service. It also prohibits the employee from requesting or receiving a political contribution from any of these persons.

This amendment prohibits employees of Justice, the IRS, and the CIA from taking an active part in political management or political campaigns, except where nonpartisan candidates or questions are involved, and except where "unusual" circumstances exist. That is, a majority of local voters are Federal employees.

These prohibitions on political activities of employees of the Justice Department, IRS, and the CIA are in addition to those otherwise imposed upon them under the provisions of H.R. 8617.

AMENDMENT OF THE SOCIAL SECURITY ACT—S. 2157

AMENDMENT NO. 1417

(Ordered to be printed and referred to the Committee on Finance.)

Mr. BROCK submitted an amendment intended to be proposed to the bill (S. 2157) to amend title XX of the Social Security Act to provide that no State shall be required to administer individual means tests for provision of education, nutrition, transportation, recreation, socialization, or associated services provided thereunder to groups of low-income individuals aged 60 or older.

NOTICE OF HEARINGS

Mr. PHILIP A. HART. Mr. President, I wish to announce the final 2 days of hearings to be held by the Subcommittee on Antitrust and Monopoly on S. 1284, the Hart-Scott Antitrust Improvements Act. Hearings will be held March 2 at 10 a.m. and March 3 at 9:30 a.m., both in room 2228, Dirksen Senate Office Building. If further information is required, please contact Howard E. O'Leary, Jr., staff director, Antitrust and Monopoly Subcommittee, 224–5573.

NOTICE OF HEARINGS

Mr. MORGAN. Mr. President, the Small Business Subcommittee of the Committee on Banking, Housing and Urban Affairs will hold oversight hearings on some of the programs of the Small Business Administration on March 8 and 9, 1976, at 10 a.m., room 5302, Dirksen Senate Office Building.

The subcommittee is particularly interested in hearing testimony on the Small Business Administration's set-aside, lease guaranty, and surety bond programs.

For additional information, please contact the subcommittee staff.

NOTICE OF HEARINGS

Mr. HASKELL. Mr. President, the Subcommittee on the Environment and Land Resources has scheduled a hearing for Thursday, March 11, 1976. The purpose of the hearing is to receive testimony on several wildlife refuge wilderness bills currently pending before the Interior and Insular Affairs Committee. For the benefit of my colleagues, I would like to place in the record at this point a list of the measures to be considered at the hearing and a brief description of each bill.

S. 1026—Chassahowitzka Wilderness, approximately 16,900 acres, Chassahowitzka National Wildlife Refuge, Fla.;

S. 1027—Crab Orchard, approximately 4,050 acres, Crab Orchard National Wildlife Refuge, Ill.;

S. 1035—Mingo Wilderness, approximately 1,705 acres, Mingo National Wildlife Refuge, Mo.;

S. 1037—Oregon Island Wilderness, approximately 346 acres (108 additional acres "potential" wilderness), Oregon Island National Wildlife Refuge, Oreg.;

S. 1038—Red Rock Lakes Wilderness, approximately 32,350 acres, Red Rock Lakes National Wildlife Refuge, Mont.;

S. 1039—San Juan Islands Wilderness, approximately 168 acres, San Juan National Wildlife Refuge and Matia Island National Wildlife Refuge, Wash.;

S. 1041—Simeonof Wilderness, approximately 25,140 acres, Simeonof National Wildlife Refuge, Alaska;

S. 1042 — Tamarac Wilderness, approximately 2,138 acres, Tamarac National Wildlife Refuge, Minn.;

S. 1046—Agassiz Wilderness, approximately 4,000 acres, Agassiz National Wildlife Refuge, Minn.;

S. 1051—Big Lake Wilderness, approximately 1,818 acres, Big Lake National Wildlife Refuge, Ark.;

S. 1054—J. N. "Ding" Darling Wilderness, approximately 2,735 acres, J. N. "Ding" Darling National Wildlife Refuge, Fla.;

S. 1055—Fort Niobrara Wilderness, approximately 4,635 acres, Fort Niobrara National Wildlife Refuge, Nebr.;

S. 1057—Lacassine Wilderness, approximately 2,854 acres, Lacassine National Wildlife Refuge, La.;

S. 1058—Lake Woodruff Wilderness, approximately 1,106 acres, Lake Woodruff National Wildlife Refuge, Fla.;

S. 1060—Medicine Lake Wilderness, approximately 11,366 acres, Medicine Lake National Wildlife Refuge, Mont.;

S. 1066—Swanquarter Wilderness, approximately 9,000 acres, Swanquarter National Wildlife Refuge, N.C.; and

S. 1067—UL Bend Wilderness, approximately 19,693 acres, UL Bend National Wildlife Refuge, Mont.

The hearing will be held in room 3110 of the Dirksen Senate Office Building beginning at 10 a.m. For further information regarding the hearing you may wish to contact Mr. Thomas Williams, of the subcommittee staff on extension 4–9894.

NOTICE OF HEARING

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on the District of Columbia has scheduled hearings on matters dealing with metropolitan problems in the Washington Capital Region. The hearings will commence at 9 a.m. in room 6226, Dirksen Senate Office Building today and continue on February 26; March 3 and 4.

These hearings are part of the committee's long range examination of the fiscal problems confronting the District of Columbia which were initiated earlier by Chairman THOMAS F. EAGLETON.

ADDITIONAL STATEMENTS

DEATH OF JUDGE CHARLES F. McLAUGHLIN

Mr. CURTIS. Mr. President, it is with a note of sadness that I call attention to the fact that former Representative Charles McLaughlin of the State of Nebraska died here in the Nation's Capital on February 15, 1976.

It was my privilege to serve with Representative McLaughlin in the House of Representatives. He was an outstanding and dedicated patriot. He was always interested in those fundamental issues which mean so much to the preservation of our country. He was a kindly man of high character and he was devoted to his family.

Congressman McLaughlin, after leaving the House of Representatives, served in several capacities and rendered outstanding service to our Government. He was later appointed to the U.S. District Court here in Washington, D.C. Judge McLaughlin served well and with distinction and continued to serve into his sunset years. He was 88 when he died.

Mr. President, I ask unanimous consent that articles concerning the life and work of Judge McLaughlin taken from the Washington Star, the Washington Post, and the Omaha World-Herald, be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Feb. 6, 1976]

Charles McLaughlin Dies, Former Judge, Legislator

Charles F. McLaughlin, 88, a retired judge of the U.S. District Court here and a former Democratic congressman from Nebraska, died yesterday at Sibley Memorial Hospital.

The judge, a native of Nebraska, served as a captain of artillery with the Army in France during World War I. He took his seat on the federal bench here in November, 1949, after being appointed by President Truman.

He took the status of active senior judge in December, 1965, after his request to do so was accepted by President Johnson, who praised his "distinguished service." He continued to hear cases as a senior judge until his retirement in June, 1974.

During his judicial tenure, Judge McLaughlin presided over a number of noted cases, including the trial of playwright Arthur Miller. Miller was charged with contempt of Congress for refusing to answer questions about a Communist writers' meeting he attended in 1947.

Judge McLaughlin, who heard the case without a jury, found Miller guilty of two counts for refusing to answer two questions.

The judge later reversed conviction on one count on the basis of a Supreme Court ruling. The U.S. Court of Appeals later reversed the conviction on the other count, and acquitted Miller. The Court asserted that the House Un-American Activities Committee did not direct Miller to answer the questions on which the contempt charges were based.

In another case, which was said at the time to be without precedent, Judge McLaughlin upheld in 1954 the right of an employer to fire workers who stand on the Fifth Amendment and refuse to answer questions regarding Communist affiliations.

The ruling came on a complaint brought by the United Electrical Workers Union against the General Electric Co.

Judge McLaughlin presided in 1962 in the first case under a new law that permitted a trial judge in certain situations to decide on the penalty—death or life imprisonment—for first-degree murder convictions. He handed down a penalty of life imprisonment.

In a speech in 1960 on sentencing policy, he called on his colleagues to impose sentences "humbly, patiently and humanely," reminding them that "we are not ordained from on high to deal out vengeance or to pronounce our sentences in anger or wrath . . ."

Born in Lincoln, the son of an Irish immigrant, Judge McLaughlin attended the University of Nebraska and earned a law degree from Columbia University before setting up a practice in Omaha.

Without previous political experience, except as a delegate to the state constitutional convention, he ran for Congress in 1934. After being defeated for a fifth term, he was appointed to the American-Mexican Claims Commission and the Indian Claims Commission.

Survivors include a son, Edward Bruce McLaughlin; a daughter, Mrs. Edmund Wellington, Jr., and three grandchildren. The judge lived at 2101 Connecticut Ave., NW.

[From the Washington Star, Feb. 6, 1976]

Charles F. McLaughlin, 88, Ex-Nebraska Congressman

Charles F. McLaughlin, 88, a former Democratic congressman from Nebraska and a retired judge of the U.S. District Court here, died yesterday at Sibley Memorial Hospital. He lived on Connecticut Avenue NW.

McLaughlin was chief of the Indian Claims Commission when he was appointed to the U.S. District Court by President Truman in 1949. He served on the court until retiring in 1965, but continued to hear cases part-time as a senior judge until 1974.

A native of Lincoln, Neb., and a graduate of the University of Nebraska and of Columbia University's law school, McLaughlin served in the House of Representatives from 1935 to 1943. He was defeated in his bid for a fifth term.

After his congressional service, McLaughlin was on the American-Mexican Claims Commission.

Major cases which he presided over included the trial of playwright Arthur Miller on charges of contempt of Congress; the right of employers to fire employes who refuse to answer questions by congressional committees about communism, espionage and sabotage, and the constitutional rights retained by a criminally-accused U.S. citizen who lives abroad.

During World War I he was an artillery captain in the 91st Infantry.

His wife, the former Margaret Bruce, died in 1970. He leaves a son, Edward B., of Coral Gables, Fla., and a daughter, Mary Elizabeth Wellington of Springhill, Md.

Mass will be said at 9:30 a.m. Monday at St. Thomas the Apostle Catholic Church, 2665 Woodley Road NW., with burial in Gate of Heaven Cemetery.

[From the Omaha World-Herald, Feb. 7, 1976]

Charles McLaughlin Dies; Was Congressman, Judge

Washington.—Retired U.S. District Court Judge Charles F. McLaughlin, 88, a native of Lincoln who practiced law in Omaha and served four terms in the House from Nebraska, died at Sibley Memorial Hospital in Washington Thursday.

He has been hospitalized following a fall in which he broke his hip. His family said cardiac arrest was the cause of death.

McLaughlin served on the federal bench in Washington from December 1949, following his appointment by President Truman, until he retired in June 1974.

The son of an Irish immigrant, he attended the University of Nebraska, then moved to Omaha after obtaining his law degree from Columbia University.

He was elected to the House as a Democrat in 1934 from Nebraska's old 2nd district at a time when the state had five House members.

Defeated when he sought a fifth term, McLaughlin was appointed to the American-Mexican Claims Commission and later the Indian Claims Commission before receiving his judicial appointment.

He urged his colleagues on the bench in a 1960 speech to impose sentences "humbly, patiently and humanely," telling them that "we are not ordained from on high to deal out vengeance or to pronounce our sentences in anger or wrath . . ."

In 1954, in a case which was said then to be without precedent, he upheld the right of an employer to fire workers who stood on the 5th Amendment and refused to answer questions about Communist affiliations.

His survivors include a son, Edward Bruce McLaughlin of Coral Gables, Fla., a daughter, Mrs. Edmund Wellington, Jr. of Washington and a sister-in-law, Elizabeth Bruce of Omaha.

Funeral services will be Monday at St. Thomas Apostle Church in Washington with burial at the Gate of Heaven cemetery in Maryland.

THE AMENDMENT OF THE HATCH ACT

Mr. McGEE. Mr. President, there is now an order for the consideration of H.R. 8617, the bill to amend the Hatch Act, which was reported by the Committee on Post Office and Civil Service by a 7-to-2 vote in December.

Also pending are a number of proposed amendments to the bill, including one which would exclude certain classes of employees from its provisions, maintaining for them the proscriptions of the present Hatch Act. Among these classes are employees of the Federal Bureau of Investigation, the Internal Revenue Service and the U.S. Postal Service. Why the Postal Service if the aim is to restrict the activities of Federal employees with access to private or confidential information, I cannot fathom.

With regard to the proposed exclusion of IRS employees, I want to call to the attention of the Senate a letter received from Mr. Vincent L. Connery, national president of the National Treasury Employees Union who objects that there is no logical reason why employees of the Internal Revenue Service should be treated this way, as second-class citizens, especially since it is his view, which I share, that employees of the IRS are among the most dedicated, ethical and conscientious citizens of this Nation. Further, Mr. Connery points out that the Internal Revenue Code provides for imprisonment of 1 year, a fine of $1,000, and immediate dismissal for any employee who violates the confidentiality of any taxpayer's return.

That is a pretty strong deterrent to any abuse of confidentiality.

Mr. President, I ask unanimous consent that the letter to me from Mr. Connery, dated February 19, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

National Treasury Employees Union,
Washington, D.C., February 19, 1976.

Hon. Gale W. McGee,
Chairman, Senate Post Office and Civil Service Committee, Russell Senate Office Building, Washington, D.C.

Dear Senator McGee: I understand that an amendment to H.R. 8617 that would exclude employees of the Internal Revenue

Service from the revisions to the Hatch Act will be proposed to the Senate.

The National Treasury Employees Union, representing more than 95 percent of all IRS employees across the country, strongly opposes this blatantly discriminatory amendment. There is no logical reason why IRS employees should be treated as second-class citizens.

If the sponsor of the amendment fears IRS employees will divulge tax information about political candidates I remind the Senate that Section 7213 of the Internal Revenue Code (26 U.S.C.) presently provides imprisonment of one year and a fine of $1,000, plus immediate dismissal, for any employee who violates the confidentiality of any taxpayer's return. Certainly, this is a strong deterrent to anyone who would be so inclined.

The employees of the Internal Revenue Service are among the most dedicated, ethical and conscientious citizens of this nation. To set them apart from other citizens and deny them the right to participate in our democratic processes as the amendment proposes, would be an unwarranted slur on their integrity.

We strongly urge the Senate to reject this amendment to H.R. 8617.

Sincerely,

Vincent L. Connery,
National President.

RICHARD NIXON

Mr. GOLDWATER. Mr. President, unquestionably many of my colleagues have read in the morning Washington Post of February 25, the excellent column written by David S. Broder. As Mr. Broder said in opening it, he was breaking a promise to himself not to write another word on the subject of Richard Nixon. I had pretty much told myself the same thing, but going as far as Mr. Nixon did in accepting an invitation to go to Red China and then attempt to talk about foreign policy, which is the sole prerogative of our President, was beyond me, also. I ask unanimous consent that Mr. Broder's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Nixon's China Trip: "Nothing Shames Him"

(By David S. Broder)

Boston.—This reporter is about to break a promise to himself not to write another word on the subject of Richard Nixon. The utter shamelessness of the man—his willingness to exploit and corrupt every institution and relationship of which he has ever been a part—has become so blatant that one would think it would not require comment.

But Nixon goes blithely on his way, demonstrating again in his incredible journey to Peking that there is nothing, absolutely nothing he will not do in order to salvage for himself whatever scrap of significance he can find in the shambles of his life.

Nixon's entire political career was a ceaseless scramble, first for advancement and then for rehabilitation. To his native intelligence, he added a dogged determination and single-minded ambition that propelled him with extraordinary speed from the House to the Senate to a highly visible post just a heartbeat away from the presidency.

Defeated for President by John F. Kennedy in the 1960 campaign, after an effort for which he needed to offer no apologies, Nixon might have retired into a useful role as titular leader of his party and indulged his growing interest in foreign affairs.

Instead, he plunged into a disastrous campaign for governor of California, trumping up a thoroughly phony "Communist" issue and employing the same shabby tactics that later came to be known as "dirty tricks" in his 1972 presidential race.

After that second defeat in California, Nixon might again have been thought ready to subside into a useful private role—but no. In 1964, he tried to manuever himself into the presidential nomination and in 1968, finally persuaded his party to give him another chance at the White House.

Although he and his chosen campaign manager, John Mitchell, almost contrived to lose an election it seemed for the Democrats to win, Nixon at long last fulfilled his obsessive ambition and gained the presidency.

But possession of power proved as dangerous for him as the pursuit of power. In short order, Nixon and his cohorts had set about the subversion of the institutions and processes of government in the elaborate scheme that culminated in the effort to rig the 1972 election by use of a secret White House police force.

When that scheme was exposed, by accident, at Watergate, Nixon launched a desperate struggle to retain the power he had gained. Knowing full well, from the very start, what his guilt and complicity had been, he nevertheless subjected his country to a two-year ordeal, during which his administration was shattered, his political party disgraced and the capacity of the government he headed to deal with the nation's real problems completely frustrated.

If there is any other act of personal selfishness by an American President that carried such high costs for the self-regard and self-confidence of our people, it does not come to mind.

Finally, when he was exposed as the fraud he was and forced to resign in the face of certain impeachment, his successor—a decent man who had defended Nixon far past the point of political prudence—granted him a pardon that spared Nixon the prospect of indictment and trial.

This reporter thought—and wrote—at the time that the public outcry against the pardon was wrong, believing, with Mr. Ford, that it was time to put Nixon and all he represented behind us. I believed, naively, that even a Nixon would have the decency to disappear from public view and reconstruct what remained of his life in private, instead of exploiting the country further for his own needs.

That was naive, for this man is utterly without shame. Within a year of his disgrace, the words from San Clemente indicated clearly that he was contriving his reappearance in public life.

The Chinese Communists have now given him his excuse, and Nixon has seized it, with typical disregard for the consequences.

That his trip is an enormous political embarrassment to the President who pardoned him is inconsequential to Nixon. That his first words in Peking were a repudiation of the Helsinki agreement and the policy of détente which he himself had willed to Mr. Ford, along with Secretary of State Kissinger, in no way discomfited Nixon.

Nothing shames him; nothing deters him. Nothing ever has and nothing ever will. So, in utter frustration and with no belief whatsoever that anything will influence him, I break my vow of silence on the subject of Richard Nixon and say: Sir, you presume too much on the patience of your country. Enough is enough.

THE PRESIDENT'S MESSAGE ON AGING: SADLY LACKING

Mr. CHURCH. Mr. President, last week President Ford submitted his message on older Americans for the 22 million persons in the 65-plus age category and the millions more nearing that age.

His recommendations do not respond to the needs of the elderly.

They fail to recognize the extent of the retirement income crisis affecting millions of older Americans, and threatening to engulf many more.

They would cut back medicare coverage for the vast majority of aged persons, instead of providing genuine improvement.

Many important needs of the elderly are glossed over or completely omitted: housing, long-term care, consumer protection, employment opportunities, and others.

Taken as a whole, President Ford's message on older Americans is one of the most inadequate ever submitted to the Congress.

Very few new initiatives are offered. To a very large degree, President Ford is calling upon older Americans to make greater and greater financial sacrifices.

CATASTROPHIC HEALTH CARE PLAN

This is particularly true for the administration's so-called catastrophic health care plan. If enacted, it would be a catastrophe for the Nation's elderly.

In reality, it is simply a modified version of an earlier discredited proposal advanced by the Nixon administration 3 years ago.

Briefly stated, the Ford catastrophic health care plan for medicare beneficiaries would:

First. Require the aged and disabled to pay 10 percent of all hospital charges above their $104 deductible payment. Now medicare beneficiaries pay a $104 deductible and nothing thereafter until the 61st day for qualifying hospital charges.

Second. Increase the part B deductible for doctors' services from $60 to $77. In addition, the deductible would rise thereafter in proportion to increases in social security benefits. This provision would undermine the effectiveness of the automatic cost-of-living adjustment mechanism, which is designed to protect social security beneficiaries from inflation.

Third. Impose a new 10-percent charge for hospital-based physician and home health services under part B.

Fourth. Provide unlimited hospital and skilled nursing care coverage under part A of medicare.

Fifth. Limit a patient's liability to $500 for qualifying hospital and skilled nursing facility services. But, this ceiling would also rise proportionately with social security increases.

Sixth. Place a $250 limitation on the amount a patient must pay for covered physician services. Once again, this ceiling would increase proportionately with social security adjustments.

I fully support some type of overall limit on hospital and physician charges for medicare beneficiaries. I also favor unlimited hospital and skilled nursing facility protection for the aged and disabled. Quite clearly, the threat of costly and catastrophic illness is all too real for many medicare patients. And, these recommended ceilings for patient costs represent constructive measures to grapple with this problem.

But the benefits from these proposals are greatly outdistanced by the "cost sharing" arrangements which would substantially increase the elderly's out-of-pocket payments. The new 10-percent coinsurance charge for part A services would reduce medicare benefits by more than $1.7 billion.

Nearly 5.9 million medicare beneficiaries are expected to be hospitalized in fiscal 1977. Only 150,000 of this total—or less than 3 percent—would benefit from the administration's proposals. And, this estimate may be high.

Some independent analyses project that only about 1 percent of all medicare patients who are hospitalized and discharged would pay less under the administration's recommendations. The overwhelming proportion would pay more, and quite often substantially more. To benefit under the administration's so-called catastrophic health plan, a medicare patient must ordinarily be hospitalized around 75 days. But less than 1 percent of all medicare patients are hospitalized for this length of time.

In fact, the average stay in the hospital is 12 days. And, about 72 percent are hospitalized for 14 days or less.

Approximately 14.2 million persons are projected to receive reimbursable services under part B in fiscal 1977. But only 1.8 million—or one out of seven of those receiving reimbursable services—would pay less under the administration's catastrophic health care plan.

ECONOMICAL USE OF HOSPITAL AND MEDICAL SERVICES

President Ford also proposes to limit increases in medicare daily payment rates in 1977 and 1978 to 7 percent for hospitals and 4 percent for physician services. The effect of these two proposals is to reduce medicare outlays by $900 million in fiscal 1977.

The purpose, of course, is to save money. But these measures may shift the cost to aged and disabled beneficiaries.

For example, the 4-percent cap on physician charges may cause fewer doctors to accept medicare reimbursement as payment in full for their bills.

Since medicare pays 80 percent of reasonable charges after the deductible is met, patients may be forced to pay more for physician services.

SOCIAL SECURITY

President Ford called inflation the No. 1 threat to the economic well-being of the elderly.

I am pleased that he has decided not to propose an arbitrary ceiling on this years' cost-of-living adjustment—as he did last year. Based on present projections, social security beneficiaries will receive a 6.7 percent increase in July.

However, he made no new recommendations to improve social security coverage. He could have proposed low cost, high yield improvements.

Instead, he recommended a number of proposals to reduce social security protection by:

First. Phasing out over a 4-year period social security benefits for full-time students.

Second. Eliminating the retroactive payment of actuarially reduced benefits when it would require a permanent reduction in the beneficiary's future monthly benefits. A person now entitled to social security benefits may receive up to 12 months retroactive payments, provided all factors of entitlement are fulfilled during the retroactive period.

SOCIAL SECURITY PAYROLL TAX INCREASE

I also have serious misgivings about President Ford's proposal to meet the short-term financing problem confronting the social security tax.

He calls for a 0.3 percent increase in the social security contribution rate, from 5.85 to 6.15 percent effective in 1977. This appears to be the most regressive approach to provide additional revenue for the social security trust funds.

And, it would fall heavily upon low-income wage earners.

In addition, an increase in the contribution rate may intensify our already high unemployment. It may, for example, discourage employers from hiring new workers because their total payroll costs would be boosted.

As chairman of the Senate Committee on Aging, I plan to consider other alternatives to place the social security trust funds in actuarial balance.

DECOUPLING SOCIAL SECURITY

I am pleased that the President plans to make recommendations to "decouple" the social security system.

The existing automatic escalator provision is vulnerable to high rates of inflation. With a relatively low average price increase, the system works well. But under higher projected price increases, it produces excessive wage replacement because of the double indexing in the present system.

Now social security benefits rise automatically with increases in the Consumer Price Index. This not only increases benefits for all retirees, but also for persons still in the work force. They will eventually obtain the advantages of the higher benefit schedule when they retire. At the same time, though, persons in the work force can expect higher earnings because of general wage increases. The net impact is that benefit boosts for today's workers are coupled with benefit increases for retired persons, producing instability in the existing wage replacement ratios.

However, it will be incumbent upon the Congress to insure that these proposed changes are equitable, technically accurate, and do not lead to any unintended, incongruous results.

OLDER AMERICANS ACT

President Ford speaks glowingly of the Older Americans Act in his message on aging. But his actions are clearly at variance with his praise for this legislation.

He says:

> I have supported the concept of the Older Americans Act since its inception in 1965, and last November signed the most recent amendments into law.

But this was achieved only after it was evident that a veto of the Older Americans Amendments of 1975 would be decisively overridden because of the near unanimous support for this legislation in both Houses of Congress.

However, before the final vote the administration marshalled all its resources to weaken or defeat several key provisions in the bill.

In addition, President Ford proposes a $52 million cutback in funding for programs under the Older Americans Act for fiscal 1977.

Quite clearly, several of the proposals in the President's message on older Americans need rethinking and redrafting.

And, it will be necessary for the Congress and the administration to work in a cooperative fashion to develop legislation more responsive to the deep-rooted problems confronting the elderly now and in the future.

I want to reaffirm that the Committee on Aging stands ready, willing, and able to work with and cooperate with the administration in improving our Nation's overall policies for older Americans.

A bipartisan approach, I strongly believe, has a much greater chance for success and a lasting contribution.

THE LESSONS OF THE OIL CRISIS

Mr. MATHIAS. Mr. President, I wish to call to my colleagues' attention an excellent article by J. W. Anderson which appeared in the Washington Post on December 28, 1975.

Although the article is short, it reveals some of the more subtle lessons of the oil crisis—lessons which, I am afraid, have been neither learned nor appreciated. It appears that despite the profound disturbances in the recent past and the constant threat of disruption in the present and future, energy is to be the object of words and politics, but not substantive action.

There is a tendency today to entrust our Nation's welfare to blind optimism or the good will of the oil exporting nations and then blame those nations or the industries for our plight when an obvious crisis develops. This is the easy way politically, but it can do irreparable damage to our Nation and the world as a whole. Blind faith and the availability of a scapegoat may save many political hides in the short run, but our Nation and the world will pay for many years to come.

Mr. President, I ask unanimous consent that Mr. Anderson's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE LESSONS OF THE OIL CRISIS

(By J. W. Anderson)

As the great debate over oil prices roars endlessly on, with great bitterness and futility, one needling question keeps recurring: What did all the experts and government pundits think was going to happen?

Or, to put it another way, why was the tremendous run-up in oil prices such a surprise? The reasons seem obvious enough in retrospect. Why should the sudden shift of economic power to the Persian Gulf have been unexpected? There is no commodity to which governments and private companies devote a more beady-eyed and unwinking attention than oil. Yet the world—cabinets, companies, their customers and all—was totally unprepared.

Reconstructing the economic revolution of the past several years is a matter of some urgency, since people's understanding of past events forms their political judgment as to what we do next. The answers to these questions are now beginning to be fairly clear, and they offer an illuminating commentary on the way in which governments deal—or fail to deal—with economic challenges.

In the 1960s, the experts and analysts—in government and in industry, in Europe and here—consistently misjudged what was happening in the oil markets. By the time the threat at last began to be apparent around 1972, any solution would have been enormously costly and disruptive. Governments here and around the world simply froze and refused to deal with it at all. The oil companies, not getting the political support to which they were accustomed, merely trusted to luck and the docility of the Saudi government—both of which ran out in late 1973.

One circumstance alone made it possible for the Arabs to use the oil weapon, and for the Organization of Petroleum Exporting Countries (OPEC) to quadruple prices in the last three months of that year. By that time the Persian Gulf countries' production had come to mean the difference between a comfortable world supply of oil and a catastrophic shortage.

First the Iranians and then the Arabs repeatedly tried to use the oil weapon, through the 1950s and 1960s. Each time it turned out that they did not have a large enough share of the world's supply to be able to affect markets crucially. As late as 1967, when the Arabs responded to their defeat in the Arab-Israeli war by embargoes and shutting the Suez Canal, the world economy hardly flickered.

One large reason was the reserve capacity in the United States, still the world's largest producer. American wells were able to raise production immediately to meet the emergency. But U.S. production started to drop in 1971. The most accessible American fields were getting old, and the U.S. tax laws for years had encouraged the American companies to explore abroad. By 1973, with worldwide oil consumption soaring, there was no reserve production capacity anywhere in the world but the Middle East.

In retrospect, this vulnerability is clear enough. But neither governments nor companies saw it clearly until too late. It's not that the forecasts were fudged, or hidden. They were merely wrong. The analysts consistently underestimated the rate at which the world was turning to oil.

Oil consumption, in this country and around the world, was rising at astounding speeds in the 1960s and early 1970s because, in comparison to most other things, it was getting steadily cheaper. From 1960 to 1969, in real terms—which means in constant dollars, discounting inflation—the price of oil actually fell. Fuel economy became irrelevant in the design of many kinds of machinery, notably the American automobile. Oil was cheaper than coal as industrial fuel, and coal mines around the world shut down. The economic reporting systems couldn't grasp the speed with which it was happening.

Two economists, Joel Darmstadter and Hans Landsberg of Resources for the Future here in Washington recently published a recapitulation of some of the key forecasts of oil demand. (Their study appears in the current issue of the quarterly Daedalus, which is devoted to the subject of the oil crisis and is, incidentally, the most informative and comprehensive review of the subject that I've seen anywhere.)

In 1966, the Organization for Economic Development and Cooperation—the industrial countries' central statistical and forecasting agency, based in Paris—calculated that Western European oil consumption would rise at a rate of 4.1 per cent a year to 1980. In fact, through 1972, it was rising 10.5 per cent a year. For Japan the OECD expected oil use to rise 14.3 per cent a year to 1970, the rate thereafter declining. The actual figure was 17.5 per cent, and no decline. In 1968, the U.S. Department of the Interior published a forecast that American oil consumption would go up 3.1 per cent annually through 1980. Until the crisis it was going up half again as fast.

In 1970 the Cabinet Task Force on Oil Import Control, headed by the then Secretary of Labor George P. Shultz, published an even more influential calculation of this country's future need for oil. It too turned out to be far too high in its estimate of production, far too low on demand, and dangerously wrong on the requirement for imports. By 1975, the task force predicted, production would be 12.4 million barrels a day, demand would be 16.1 million barrels a day, and imports would be 3.7 million barrels a day. As it turned out, by only 1973, production had fallen to 10.9 million, demand had already escalated to 17.3 million, and imports were a staggering 6.2 million.

But these grossly low forecasts were only a half of the explanation of the industrial countries' failure to guard their own prosperity. The other half was political paralysis.

The first real intimations of shortages began to be clear to the general public around 1972. The old Office of Emergency Planning at the White House saw the U.S. stocks dwindling, and the statisticians there passed word upward. But by this time the 1972 presidential campaign was under way. It seems pretty evident that President Nixon—like all of his predecessors—did not want the word "oil" even breathed during the campaign. Knowledgeable Democrats were aware of the rising trouble, but they were no more eager to get into the issue than Mr. Nixon. Their candidate, Sen. George McGovern, was making heavy weather of even the most traditional of the party's economic issues. For the Democrats, oil has always been a party-splitter.

As for the companies, they knew by this time that serious trouble was coming. Since any radical rise in prices would mean a political explosion in the West, the only other solution that they could see was to persuade Saudi Arabia to keep raising its production. Saudi production was then approaching 8 million barrels a day. The international companies hoped that the Saudis would agree to go as high as 20 million for the coming decade to see the industrial countries into the 1980s and, they further hoped, to the beginning of alternate technologies for energy. Simply for comparison, it might be noted that 20 million barrels a day is almost twice as much as the all-time record holder—the United States—produced in its peak year.

Back in Washington, oil was apparently on the very long lists of matters that Mr. Nixon was deferring until after the election. Immediately after the election the then Secretary of Commerce, Peter Peterson, began talking publicly about the dismaying financial implications of this country's rising oil imports—even at the old low prices. Nixon promptly fired Peterson, not specifically for bringing up this question, but presumably because he was a man given to talking candidly about inconvenient subjects.

Before the administration could take up oil and energy, Mr. Nixon became enmeshed in the Watergate scandal. He had no time or thought for oil in the remaining months of his tenure. President Ford came to office under the impression that inflation was to be the great economic challenge of his administration. Three months later the country was sliding rapidly into the deepest recession of the decade—the largest single cause of which was, of course, the shock of the new oil prices. Now another presidential campaign is under way, and again both parties are unwilling to deal with oil in anything but rhetorical and polemic terms.

The trouble has not simply been poor leadership. In a big, turbulent democracy it takes time to work out a national consensus on unfamiliar issues. The idea that the United States might not have enough oil to run its generators and automobiles was a totally new one to most of its citizens in 1973. A consensus probably remained out of anyone's reach, as long as half the country considered the price rise to be a conspiracy by the oil companies and the other half considered the solution to be a declaration of war on OPEC.

Abroad, the handling of energy policy has been hardly any more satisfactory than here. The Europeans and Japanese, ever since World War II, have left oil and the Middle East mainly to the Americans. The French are a partial exception to the rule; but their efforts to cut out an independent position for themselves in the Arab world have yet to produce any tangible benefits for them in the oil trade. The Europeans were very late to realize that the United States was not watching their interests, or even its own, in the Middle East. Once the dire truth became evident, they were unable to work out any common course of action among themselves.

Pure historical coincidence plays a strong part in the weak and confused Western response to the oil crisis. Just as it was more bad luck that the crisis should come at the same time as Watergate, it was more bad luck that each of the major European governments and the Japanese should be plunged for totally unrelated reasons into intense preoccupation with their internal politics during the crucial months. In the winter of 1973–74, Britain was wholly absorbed in the crushing collision between the labor unions and the Conservative government; it forced an election in February that was a standoff, leading directly to another election eight months later. In France, 1974 was the year in which resident Pompidou died and Valery Giscard d'Estaing only barely managed to beat the combined Communist-Socialist campaign. Chancellor Willy Brandt of Germany was driven from office that year by the revelation that he had been betrayed by a close colleague who was found to have been a spy. In Japan, the new premier, Kakuei Tanaka, hailed as the forerunner of a new generation in Japanese leadership, was forced to resign in a series of grubby little scandals involving money.

The moral to the story is obvious. In the late 1940s and early 1950s, the industrial countries under forceful and far-sighted American leadership established an oil supply system calculated to fuel a massive economic recovery from the war. This system worked so smoothly and efficiently that, in time, people began to forget about it. They neglected it, and did not heed the early signals of coming trouble. These countries consistently miscalculated their future needs for oil and misjudged their deepening dependency on the Persian Gulf. When the danger of embargo and price increases became evident, these countries were unable to think of any way to avert it.

It is important to remember that, by the early 1970s, there may well have been no way to avoid it. Having drifted to the brink of the waterfall, perhaps we had no alternative but to hold our noses, hope for the best, and go over. There is no greater mistake than to assume that a clever President can always find an easy way around the hard choices. By mid-1973 there was no possible response to the OPEC countries other than doing without their oil—a thing that the rest of the world both then and now has been totally unwilling even to consider. The United States is using more of it today than it did before the embargo—and it will be using more still a year from now. There is now a general—although tacit—agreement throughout Washington that nothing will be permitted in the short term to interfere with the rising flow of foreign oil, because any restriction might threaten more unemployment during the presidential election campaign.

A rough balance can be drawn on the outcome of the oil crisis so far. The run-up in oil prices is largely responsible for the most severe worldwide recession since the 1930s. But the three major industrial economies—the American, German and Japanese—are now beginning to show signs of recovery. There had been great fear among politicians that a recession on this scale would lead to profound political upheavals and instability, but those predictions have proved wrong. The economic structure of the industrial world turns out to be much more durable and shock-resistant than most governments had feared. The poor countries are at more of a disadvantage than ever. But the rich countries have found that, after the initial wrenching adjustment, they can live with $12-a-barrel oil at very little further cost in wealth and standards of living.

People in all the rich countries—consumers as well as businessmen and bankers—discovered that they were able to get through the crisis with far less help from their governments than they had expected. The effect has been a small but preceptible decline of public trust in the political institutions that hold these nations together.

AID AND DIPLOMACY—GUIDING PRINCIPLES

Mr. CLARK. Mr. President, the press has reported the establishment in the Department of State's Bureau of International Organization Affairs of a new office to keep close tabs on other countries' votes in the United Nations and other international bodies. Though Department officials have asserted that the creation of the new office implies no policy of punitive action against those who vote contrary to our wishes, I find it difficult to figure out what other purpose the office might have. I have written a letter to Secretary Kissinger asking for a statement of the Department's policy on this matter.

It is my view that American economic aid should be channeled to developing countries for the specific purpose of promoting economic and social development or for humanitarian reasons. The philosophical basis for such aid should be not only a generous national spirit but also enlightened self-interest. By helping to create a more just and humane world, we are also working toward a world in which peace is more likely to prevail and where our own country and its institutions are less likely to be threatened from outside our borders.

Thus it would be shortsighted in the extreme, as well as mean-spirited, to diminish aid to developing countries because they do not see eye to eye with us in the U.N. There would also be a certain cowardly quality to such a policy, since we obviously are not going to "punish" important countries which have some strategic significance to us, but which nevertheless vote differently from us in world organizations. Only the poor and uninfluential are in much danger of suffering from this potential lash.

The New York Times of February 10 carried perceptive companion editorials on this subject. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

AID AND DIPLOMACY

Should American economic aid to individual foreign countries depend on the political stands taken by those countries at the United Nations? The issue was most recently raised by votes in the General Assembly last autumn on such diverse matters as Puerto Rican independence, the role of the U.N. in South Korea and, most inflammatory in the public mind, the condemnation of Zionism as a form of racism. It figures in the strategy pressed so strenuously—and controversially—by ambassador Moynihan in his recent publicized memorandum to the State Department.

Secretary of State Kissinger has set up a special office to keep running watch on the voting patterns of third- and fourth-world governments which receive or request United States development assistance. The implication is obvious. Governments which support the American-favored positions on various issues could be "rewarded" with more sympathetic consideration for pending requests; governments which take contrary positions could be "punished."

The difficulty with this approach comes in attempting to implement it in a manner that is fair, and consistent with this country's long-range global interests. Already it has become evident that some countries are simply too important to United States interests to be "punished" for offending votes; such a strategy can be applied only against the weak—and these countries may well be the ones with the most legitimate need for development aid. Tanzania and Guyana, for instance, were among the first to experience "postponement" of aid programs after the General Assembly.

GUIDING PRINCIPLES

Two principles must be fundamental in the structuring of American economic development aid. First, such aid cannot be regarded as a gesture of munifience, a worldly show of *noblesse oblige* for which expressions of gratitude are expected. It is in the most basic and long-term interests of the United States itself that orderly economic development proceed in poorer regions of the world; programs for population control, agricultural progress and such, are of importance to the future of the United States as well as to the developing countries.

Secondly, it has long since been demonstrated that economic aid with direct political strings attached is inefficient, unreliable and often counterproductive. The United States discovered this fact in the 1950's, the Soviet bloc soon thereafter; perhaps the newly rich Arab oil producers will before long experience the same disillusionment. Any close correlation between a government's behavior at the United Nations and the extent of its American aid could justifiably be called an attempt by Washington to buy votes—precisely the accusation leveled by many Americans upon the Arab states after the anti-Zionism vote.

Governments of the developing world must realize that the richer nations have accepted responsibility—in their own interests—for development aid in the aggregate, but the decisions on how a total package is to be divided among individual countries involve complex political, economic and technical judgments. No government that consistently flouts principles of political behavior which the United States considers important can expect a sympathetic hearing here whenever they need help. Nor does the application of a blatant double standard for the Western world and the Communist states improve the standing of any country.

That much said, it would still be shortsighted and destructive of this country's long-term interests if on-going economic development aid were to become a weapon in the day-to-day conduct of foreign policy.

AMERICA'S FUTURE: THE THIRD CENTURY

Mr. GOLDWATER. Mr. President, the U.S. Strategic Institute, located in Washington, D.C., publishes the Strategic Review. In this quarterly publication different peoples opinions are given as to our country, its problems, and so forth. I was invited to prepare a paper for the winter issue which has appeared and the title of this paper is, "America's Future: The Third Century." I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICA'S FUTURE: THE THIRD CENTURY

(By Hon. BARRY M. GOLDWATER)

IN BRIEF

The next five to ten years will be a critical period for America's future—both at home and abroad. No country can shape and implement a successful foreign policy unless its domestic affairs are in order. In its domestic affairs, the United States is failing on four fronts: the material and psychic cost of government, the emergence of a massive uncontrolled bureaucracy, substitution of the notion of equality of end results in place of equality of opportunity, and the decline of individual responsibility. We can and must turn around our failure on all four fronts. The American strategic withdrawal from the world scene raises several questions: Can the United States be depended upon to honor its obligations? To what degree does declining U.S. military power render us less and less potent? To what degree are we rendered impotent by the fact that U.S. foreign policy has now become a prerogative of Congress? Will the adversaries of the United States seek to exploit the situation, and how? What does the United States intend to do about it all? We must return to bipartisanship in foreign affairs, and the initiative and conduct of foreign policy must be returned to the Executive. Let us all realize that foreign policy cannot be made in the streets. Let us also realize that every foreign policy venture is dependent upon an America which is militarily and economically strong under strong Congressional and Executive leadership. We must undertake international commitments only when these are clearly in our national interest, which is that of preserving a global balance of power. The United States must show a determination to adopt this winning strategy or we shall face the inevitable extinguishment of our liberty.

America's future, particularly in the next five to ten years, which I think will be the critical period of our country's life, has been of great concern to me for many years. The problem is a two-headed monster. The United States has serious problems at home and it is in trouble around the globe. Each set of problems requires its own solution, but no country can shape a foreign policy, let alone successfully implement one, unless its domestic affairs are in order.

The United States is about to embark upon its third century. It seems to me that this event will be a watershed in United States history. One hundred years ago in 1876, when the first century became the second century, there was general continuity. There was a continuity of material progress, a continuity of faith in the nation and in each other, a continuity of belief in our institutions, and a continuity in that vital sense of American community. As we now face our third century, I do not see that same continuity before us. Instead I see change and none of it for the better. It is popular to call for change, but we must remember that change for change's sake often produces as many ills as benefits.

What has gone wrong? Where has it gone wrong? I believe that the answer rests in government itself. Government is no longer the arbiter and manager of problems—but it is the problem. In fact, government has become a destabilizing influence in our national and daily lives. Over the last three thousand years of history, the workaday record of government, no matter where it has been instituted, has not been very good. As one analyzes the record of governments in general, a number of distinct, pervasive antisocial tendencies can be observed. I would classify these as follows:

1. A profligate spending of monies with resulting inflation;

2. The making of promises they cannot keep;

3. Operational inefficiency at all levels;

4. An ignorance of the very people they are supposed to govern;

5. The abuse of power;

6. A tendency to drift into wars they cannot handle.

I think this listing holds true historically. Indeed, the Founding Fathers would nod in agreement. It is my further belief that in recent times with the rise of extremely large and centralized governments, these tendencies have worsened. The whole rationale for the very founding of the United States of America was to curb the ills inherent in government, if not to prevent them. Today we are failing to meet that original ideal. There is failure on four fronts:

First, the material and psychic cost of government;

Second, the appearance of a new and modern phenomenon—the bureaucracy and the tendency of big business to join that bureaucracy;

Third, the rise of a new notion, not that of the equality of opportunity, but of equality of end results;

Fourth, and perhaps as a result of this, the decline of individual responsibility at all levels.

THE MATERIAL AND PSYCHIC COST

On the first front, the United States is now spending one-third of its gross national product on government, an awesome figure representing a significant part not only of our own material wealth but of the planet's material wealth. Since the mid-sixties, but beginning in the thirties, we have witnessed massive government spending on almost every activity in which individual Americans are involved. The indirect cost is even more staggering; one cannot embark upon even a simple business operation without a mass of regulatory forms and a team of attorneys. It has been estimated, for example, that regulatory agencies alone add $138 billion per year to the cost of the products Americans buy. While budget deficits run close to $100 billion per year and our national debt climbs to beyond $500 billion, capital formation is in substantial degree drawn away from productivity into debt servicing. Government is not solely responsible for depreciating capital formation but it is by far the greatest drain upon this resource. It is important to realize that this is part of what government costs.

There is another cost of government—the psychic cost—which falls most heavily on the poor and the minorities. They have been promised so much and have received so little. They have been promised change—change which presumably was going to lead to their betterment.

In the forty years or more that these promises have been made, poverty still exists, lack of education exists; in fact, very little of what politicians have promised has ever been delivered. It is a tribute to the poor and the minorities that they have not reacted more vociferously, having been promised so much by government. In their hearts they know they have been duped, promised a solution to their many ills by a benign father in Washington who, in the event, could not come through—indeed, had no chance to come through.

THE BUREAUCRACY

Allied to the cost of government is yet another phenomenon, the emergence of a massive, centralized bureaucracy. Today the bureaucracy has partially replaced the Congress as the governing body of our nation. Even the President cannot make a unilateral decision and hopes to have it carried out unless the bureaucrats go along. As far as Congress is concerned, the best it can do is to place minor curbs on spending by the bureaucracy. Indeed, many departments and agencies, especially the latter, operate without any reference to Congress at all except that of presenting their annual budget demands. There are some departments and agencies that operate more like independent states within the state than they do as public servants. And who controls this monolith? The answer is no one! The bureaucracy is responsible to itself. Congress controls departmental and most agency heads but these few individuals usually have only a short tenure in their positions, and they barely impinge upon the bureaucratic modus operandi and affect its basic nature not at all.

There is yet another element in the bureaucracy that is even more disturbing. As the bureaucracy grew and gained power, big business, if it were to function at all, had to come to terms with the bureaucracy, and eventually big business moved into an uneasy alliance with the bureaucrats. As a result we now see big business increasingly being protected by the bureaucracy, protected from competition with more go-ahead rivals. The original purpose of all this regulating, with its massive overload of red tape, was to protect the public from the corporations; but today in many instances the position has been reversed—it is the corporation that is being protected from the public. And the corporations, most of whom do not like the situation, have little option but to go along. As a third stage, we now see big business calling for centralized planning in conjunction with the bureaucracy, and I find this potential accretion of power between bureaucracy and business singularly disturbing. The free competitition of the marketplace has given way to regulation and, as a result, true competition is disappearing.

Quite frankly, I believe that the bureaucracy is now out of control. It is not controlled by the elected representatives and it cannot control itself. It is impervious to such old-fashioned notions as individual responsibility for bureaucratic action, service to a citizen, restraint of authority and, above all, civility in its public contacts.

One of the biggest challenges of our third century is that of controlling the bureaucracy. We have antitrust laws to prevent any one corporation or cartel from dominating an industry. We now need similar constraints to prevent the bureaucracy from dominating our country and our lives.

We have to look at the situation in the same way we would if we had to face the threat of unbridled power in Washington in some other form. We would expect Congress to take action and it is here that the responsibility lies. Such Congressional action could take several forms. First, Congress should stop passing so many laws. Sadly, most laws emanating from Congress are ill-conceived, badly researched, over-complicated and probably unnecessary. Those laws arise not from the people's demands but because of unwise promises made during elections; capricious attempts on the part of Congressmen to capture public grievances which would best be settled by the public itself; through ideologists who feel that they can run your life better than you can; and, sadly, laws sometimes arise through plain bad judgment. Since every law has to be administered and thus causes growth, a steady, remorseless growth in bureaucratic size and power results.

EQUALITY OF OPPORTUNITY

And now let me raise yet another issue. This republic was originally founded upon the principle of equality of opportunity. This is a noble principle. More recently the stress has been upon equality for *all*. This refinement—for all—is even more noble. But both the original concept and its refinement have now been debased. Instead of striving for equality of opportunity, we now seem to be demanding instead equality of results. It is no longer enough for law to give everyone an equal chance. Instead Congress and bureaucracy alike seem to be promising that from this equality of opportunity will arise an equality of results. Thus the poor are assured and led to expect not merely that they will have the chance, but that instead they will *inevitably* end up with college degrees, the fancy houses, the trips abroad and what have you, which are said to be synonymous with the "good life." The state has little to do with achieving these expectations and certainly is not the guarantor.

What is needed is a return to the ideals of individual achievement and responsibility. I offer this as a substitute for Washington-managed social engineering and its massive intrusion into our daily lives.

THE CHALLENGE

As Americans enter their third century there are momentous tasks for them. The first is to recapture our traditional view of government. That is to say, government must be limited in its scope because by its nature it has limited capabilities. We must also remember that unlimited government rapidly degenerates into inflationary economics, into false promises, into lies, inefficiency, ignorance and into the abuse of power. We must also remember that the material and psychic cost of such government can end in material and moral bankruptcy.

A second task is to limit, probably by constitutional means, the power of the bureaucracy, the executor of government, as it seeks to take our own lives and ultimately our spirits. Within this task we must also sever business from the bureaucracy and return to a system of free competition arising from free enterprise.

A third task is to turn around the betrayal of fundamental principle, the betrayal of equality of opportunity. It is a betrayal of a fundamental American principle to pretend that the state can provide equality of results.

And, this leads to the fourth task for the third century. As we return to equality of opportunity, let us recapture the sense of individual responsibility. In the latter two tasks the responsibility is that of every individual in our vast land.

We can do all of this. I have never wavered in my respect for and faith in the American people. In our first two centuries we have achieved more than any civilization yet known to man. If we are to play an international role in an increasingly anarchic world, we must succeed in these tasks. We must, to conduct an effective foreign policy, develop at home a political and social fabric which is strong, unified and imaginative. Can we do this, or will the third century be an epilogue, given over to an apathetic people half enslaved to a worthless government? Or, will the third century be but a prologue to even nobler times? We have the capacity for the latter. That is the option I choose.

THE WORLD SCENE

An American strategic withdrawal from the world scene is now underway and at an ever-increasing pace. We are abandoning valuable relationships with allies in Asia and in Europe. Substitutes do not exist elsewhere in the world. Soon we may well be alone. At present, the initiative in Europe and Asia has passed entirely into the hands of our adversaries. We must now react to their moves. This is always the nature of a retreat. In the face of this situation, the United States Congress, with the enthusiastic aid of the media, acts to hinder Executive prerogatives in foreign policy and will, if left alone, emasculate the Executive. We have already reached that state where we will not honor any external obligations except in the most extreme contingency, which means when it is too late and, therefore, highly dangerous to the world at large.

What are the potential consequences of this retreat?

Especially I must raise the question: Where will it stop? Where will a new American frontier be drawn and what will be our status behind this frontier? But, before I do this, let me offer four basic suppositions as to why we have reached this powerless state. Let me present these suppositions in a form that our allies might pose:

1. Can the United States be depended upon to honor obligations when the need arises?

2. To what degree does declining U.S. military power, especially the example of its misuse in Vietnam, render us less and less potent?

3. To what degree does the fact that U.S. foreign policy has now become a prerogative of Congress render us impotent?

4. Will the adversaries of the United States seek to exploit the situation and in what way?

The ultimate question then arises: What does the United States intend to do about it all? But, let me first look at the world which now seems to be shaping up. I recall that it has been said, "men prophesy and history makes fools of them." Nevertheless, let me now make some prophecies and hope that my record will be as good as that of past years.

THE SOVIET THREAT

Europe is still our most significant economic and cultural link in the world and quantitatively our most powerful military alliance. As I see it, Europe is in the process of being strategically out-flanked by the Soviet Union along its Mediterranean seaboard on a grand scale. Soviet naval power has for some time been able to compete with the Sixth Fleet which, in any case, I have always regarded more as a target than as a deterrent. But, more importantly, it is through the Mediterranean gateway that the oil which is the lifeline of industrial Europe flows, despite the impact of super tankers and routes around the Cape of Good Hope.

Let us contemplate the changes which are pending in this critical Mediterranean area. We are well aware of the constant threat of war between Israel and the Arabs. The question is, what will the United States do if and when such a war breaks out, and more importantly, what strategy will Israel adopt if it feels the United States cannot be depended upon when the chips are down? It has been suggested that the Israelis will, like Samson, prefer to pull the whole house down around them rather than go under by themselves. This policy of desperation could take many forms. One course would be a pre-emptive war against Egypt and Syria where the ultimate targets are Cairo and Damascus and control of such strategic areas as the Aswan Dam. Such a move would virtually insure the intervention of the Soviets (indeed this would be the Israeli objective) which would in turn force NATO to either surrender or fight. In the longer term Israel might decide to acquire and use nuclear weapons, again forcing a United States/Soviet showdown. Only a powerful United States, whose will is credible, can control such dire possibilities, including the issues posed by the proliferation of nuclear weapons by many states other than Israel. It may well be that a policy for stabilizing the Middle East must be referred to Moscow. Here I wonder if the United States will in the future have the credibility, let alone the power, to back up this policy—to influence the Soviets toward caution.

Let me carry a little further the thought of Soviet out-flanking of Europe in the Mediterranean area. In the not too distant future, Marshal Tito of Yugoslavia will pass from the scene. Yugsolavia has always had a tendency toward fragmentation among its various minorities. Tito, the great unifier, will be gone and there will be internal frictions in Yugoslavia. The temptation for the Soviets to intervene physically will be all but overwhelming. And, why should the Soviets not intervene? Of what countervailing forces need they be frightened? With the Soviets established in Yugoslavia, the Mediterranean would come even more under their dominance. We have also witnessed recent events in Portugal, at the western extremity of the Sea, where a strong Moscow-oriented party is making its drive to power. What will be the relationship between Portugal and the Soviet sea power? Will Portugal become the cork in the Mediterranean bottle?

If even a part of this scenario eventuates, we shall see all of Europe strategically outflanked. There is no way it can be stopped except by strong diplomatic pressure on Moscow by the United States, backed up by United States power and a United States will to use that power. As I look around Congress, I do not see that will. As I look at the United States military posture, I see it rapidly diminishing while at the same time many of my colleagues in Congress clamor for even more cuts in the defense budget. No doubt many of my colleagues in Congress will convert rapidly from "dove" to "hawk" when they eventually see the seriousness of our eroded position in Europe but, by then, it will be too late. After all, we elect men to Congress to think hard and prepare for long term eventualities, not to repent at the hour of surrender and then pretend that such repentance is leadership.

ASIA

Now, let us, in this overview of this possible world to be, look at Asia. The Southeast flank of Asia, that is Southeast Asia, is all but lost to communism, and soon we will face a hostile seaboard running from the Bering Straits off Alaska, along the Pacific Coast of the Soviet Union, along the seaboard of Communist China and into a now nearly Communist Southeast Asia. What will be the impact of this hostile seaboard? Perhaps the two great Communist powers will quarrel over the spoils. I certainly do not expect this new Communist area to be monolithic; most of the old divisions will persist. Someone once said, "God looks after fools, drunkards and the United States of America." Perhaps internal divisiveness will ease the situation. Let us reflect on the strategic importance of Southeast Asia. At this moment there is a super tanker every fifty miles between the Persian Gulf and Japan. Japan, with the world's third largest economy, is totally dependent upon imported oil. Each tanker must run the narrow Malacca Straits which soon could be under Soviet dominance. Will Japan, with this noose placed around her neck, and taking note of U.S. unreliability, turn to us or to one of the great Communist powers for a new arrangement? Will Japan build nuclear weapons? Japan can hardly afford to do nothing.

Then, as a contrast, let us look at the interesting situation of Thailand, the strategic pivot point of Southeast Asia. As the Japanese demonstrated in World War II, he who holds Thailand can move West into Burma and thus into India, or South along the Archipelago of Indonesia to Australia. In terms of communications, the world can be divided in two. The predicament of the Thais who have a bilateral alliance with the United States, in addition to a commitment under SEATO, is interesting. They have already, it seems, made their decision. Even as the Communist forces encircle them, they are asking the remaining elements of United States air power to leave their country. Why? They have seen what happened in Vietnam where we became involved in a bloody war which we had no intention of winning; where our air power was limited to insignificant targets; where our naval power with its amphibious capacity to invade the enemy was held in check; and where our armed forces were misdeployed so that they could only react to the enemy's actions. Then the Thais saw that after perpetuating this shocking situation for some years the United States became tired of it all and departed. They further saw that we could not, even after departure, give adequate military aid to our erstwhile allies. Why then should they want to have any relationship with the United States? Why not instead turn to that classic Thai policy of bending like a reed to the oncoming force, hoping that when it is all over, circumstances would not be so adverse as to prevent the reed from standing up straight again.

At this stage, let me make one other point. I am not advocating that the United States arm itself to the teeth, adopt a policy of hostile belligerence and seek to be the world's policeman in each and every case that violates our concept of international order.

On the contrary, I believe we were right these past five years to try to form a closer relationship with the Soviet Union and to begin a limited relationship with Communist China. But, detente, by itself, is not a foreign policy. What I would like to see emerging from these closer relationships is a more vigorous, a more intensive, a more forward-looking American diplomatic posture in which we clearly let our adversaries know what the United States interests are, what we will do to protect these interests, the power we have to indulge in such protection and, above all, the nature of our will. I had hoped that our recent foreign policy activity would develop into such a diplomatic offensive in which detente was to be but a first step. After all, it is a fundamental maxim of international diplomacy that one conducts one's most skillful diplomacy with one's most dangerous adversary. But alas, through an absence of straight diplomatic talk, through a capricious Congress and a nation whose will has been sapped by the mishandling of the Vietnam War, detente seems merely to reveal to our adversaries the awful extent of our inadequacies rather than the validity of our intentions.

AMERICA'S FUTURE

But, to get back to the point—what will be the end of this American strategic withdrawal? Where will our frontier be with Europe held hostage; Japan emasculated; a hostile Asia extending from the Bering Sea to Singapore; and with our allies painfully conscious of our unreliability and lack of will. If my gloomy analysis is even partially right, we are in retreat which will end only on the North American continent. What will this mean to a world which has looked upon us as a model and even from time to time as a savior? The details are impossible to predict, except that conceptually, we must now face a different world from anything we have seen before.

In the world situation which I imagine, I foresee the United States as an isolated fortress in a planetary society which is fundamentally hostile to the American ideal. This has been increasingly the case these past ten years during which time our leadership has eroded with more and more societies becoming indifferent to United States leadership.

And now, the pace of this erosion is rapidly accelerating. What will the impact be? Politically the impact could be enormously significant. If history can be our guide, states in this condition, i.e., the United States, tend to follow one of two courses. They fall to squabbling over petty, internal difficulties until government, as we know it, lapses into a corrupt, incompetent anarchy. The alternative is the emergence of the "man on horseback"—the dictator who comes to save the people and ends up tyrannizing them.

There would also be significant economic consequences of this erosion of leadership. There has been only one true international movement in this century and that has been international commerce, primarily among free nations. Here, the United States emerged as a leader. The standard of living of a greater part of the planet has benefitted from this great international movement. I do not foresee any further economic advance in this new world order that is emerging but rather a general decline as the United States withdraws from the world economy. As may be seen in neighboring countries, centralized planned economies produce, as they have always produced to date, a dull, grey level of mediocrity for all. Perhaps, however, our biggest diminution will come culturally. The world needs the United States as a stage wherein freedom and diffuse ideas can be tested (and even accepted from time to time) for the benefit of all mankind. This was what the advent of this Republic meant. This is what our future should offer. This role has yet only been partially fulfilled. It will never be fulfilled by a Fortress America and all of us will be lesser humans because of it.

But, more importantly, a policy of isolation in 1980 will be far different in a world strategic sense from a policy of isolation in, say, 1880. In 1880 the United States had not declared its hand as a world leader, but by 1980 we will have played the role for many decades and, as it seems, will have been found wanting. We shall soon face, if the drift continues, a general world rejection of American leadership and, as I have indicated, everyone will suffer.

Now, you may ask me as a United States Senator: What do we do? Where do we turn? Quite frankly, while I do not see immediate relief in the Congressional arena, I do believe that it eventually must come from there and also from the Executive. An awakened American people must demand the kind of leadership to which they are entitled. Let me offer some guidelines. First, this is not a time for party-to-party divisiveness. We need a return to bipartisanship in foreign affairs. The Executive should brief and consult Congressional leaders before a decisive action is taken and this consultation and briefing must always be totally honest. Congressional leaders must in turn respond in terms of what is best for their country rather than their party or, worse, their own political skins.

Secondly, based upon bipartisanship, the initiative as well as the conduct of foreign policy must be returned to the Executive for both long- and short-term actions.

Third, and here I appealed to the good sense of the media in particular, let us all realize that foreign policy cannot be made in the streets. Criticize, analyze, evaluate to your heart's content but please do not provoke those kinds of pressures that make politicians forsake their judgment and instead turn to the assuaging of electoral passion.

Fourth, we must remember that there are no instant solutions. Solutions arise through the practice of such ancient virtues as common sense, disciplined thought, courageous action, perseverance, honesty and civility. Fifth, let us also realize that any and every foreign policy venture is dependent upon an America which is militarily strong, economically strong, and strong in Congressional and Executive leadership.

Last, and most significantly, we must undertake international commitments only when these are clearly in our national interest, which is that of preserving a global balance of power. This is the role that history has placed upon the shoulders of the United States—that of preventing any one power or group of powers from obtaining a total hegemony over the planet.

To prevent such hegemony from taking place will require us to enter into alliances with others. Such commitments should be entered into sparingly and only after the most mature and solemn national deliberation. Once entered into, however, both ally and adversary alike should know beyond any doubt that we will thereafter honor each obligation to its ultimate consequences, regardless of cost. It is then and only then that we shall enjoy a stable world. But such a situation will in the end arise not solely from a responsible Congress and an able Executive, but from a stable and strong people. That is the key.

Thus, it is to the American people with their common sense and natural instinct for the good of their country that we must seek our salvation. But, the American people must be accurately informed, not misinformed to suit the personal inclination of any group or the political machinations of elected or appointed officials. I make a plea today for the people to be told the truth. To be informed, the American people need leaders who "tell it like it is" and who have the courage and ability to deal with the real world as it is and in full view of the people. Above all, we need a Congress which places a coherent United States foreign policy above party and above personal interests. We have had such leaders before. We have had a responsible Congress before. We can have it again, but I believe it is only the American people who can effect this transformation.

I do not like what I see ahead of us. But, we have enormous material and spiritual resources, most of them as yet untapped. We have now come to that time when we must draw upon these. With our latent capacities unleashed, I have no doubt that the situation can be reversed.

The basic underlying requirements to solve both our domestic and worldwide problems rest upon strong leadership from the President; the better understanding by the Congress of its place in our tripartite form of government and its responsibilities; and from the people themselves a willingness to make whatever sacrifices are needed in order to achieve those goals which guarantee the perpetuation of our Republic and our way of life.

Within five or ten years, and I am afraid closer to five, the United States must show a determination to adopt this winning strategy or I fear that, like Rome, we as a nation will continue on a downward path which can only end with the inevitable extinguishment of our liberty.

TESTIMONY OF G.E. ENGINEERS: NUCLEAR DESIGN DEFECTS

Mr. GRAVEL. Mr. President, the three nuclear engineers who left General Electric earlier this month were in Washington last week to testify before the Joint Committee on Atomic Energy.

The three men—Dale Bridenbaugh, Richard Hubbard, and Gregory Minor—presented 70 pages of prepared testimony concerning design defects in today's reactors, inadequate quality assurance in nuclear manufacturing, the importance of human error in nuclear safety, reactor decontamination, and the ever-increasing exposure of nuclear employees to ever higher levels of radiation.

I think the Joint Committee acted commendably in rapidly inviting the testimony of these very sincere and competent engineers. But in testifying, of course, their time was limited, and the gentlemen were able to cover only a part of their complete paper and only a small number of the design defects which concern them.

I believe it is of great importance that their complete testimony be made available now to my colleagues and their staffs.

Accordingly, I ask unanimous consent that the first portion of their testimony, concerning design defects, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY OF DALE B. BRIDENBAUGH, RICHARD B. HUBBARD, GREGORY C. MINOR BEFORE THE JOINT COMMITTEE ON ATOMIC ENERGY

I. INTRODUCTION

When we first joined the General Electric Nuclear Division, we were very excited about the idea of this new technology—atomic power—and the promise of a virtually limitless source of safe, clean and economic energy for this and future generations. There was a sense of excitement in the industry that approached a missionary zeal in those early days. Like many of our colleagues, we felt that the results of our work would provide major benefits to mankind.

But now, after a combined total of more than 40 years of experience in all facets of the sale, design, manufacturing, construction, and operation of nuclear power plants, we see that the vision has faded. The promise is still unfulfilled.

The nuclear industry has developed to become an industry of narrow specialists, each promoting and refining a fragment of the technology, with little comprehension of the total impact on our world system.

On February 2, 1976, we simultaneously resigned our management positions from the General Electric Company.

We did so because we could no longer justify devoting our life energies to the continued development and expansion of nuclear fission power—a system we believe to be so dangerous that it now threatens the very existence of life on this planet.

We could no longer rationalize away the fact that our daily labor would result in a radioactive legacy for our children and grandchildren for hundreds of thousands of years. We could no longer resolve our continued participation in an industry which will depend upon the production of vast amounts of plutonium, a material known to cause cancer and produce genetic effects, and which facilitates the continued proliferation of atomic weapons throughout the world.

We know that this Committee has heard abundant testimony over the past 30 years on these aspects of nuclear power, but we feel it is important to express our deep concern about the entire technology before turning to the specifics of our experience.

We resigned our jobs to commit ourselves totally to the education of the public on all aspects and dangers of nuclear power as we have learned them over our many years of experience in the industry.

We hope that this Committee, in exercise of its legislative oversight function, will provide the vigorous safety evaluation this program so desperately needs.

Our personal biographies are attached as Exhibit A.

Copies of our letters of resignation are attached as Exhibit B.

II. NUCLEAR POWER—DEFICIENCIES IN MANY AREAS COMBINE TO MAKE IT UNSAFE

The nation is continually assured by the industry, the power plant owners, and the NRC that nuclear power plants are designed to be very safe. Overlapping emergency systems and redundant components are incorporated into the plant design to reduce the consequences of a single malfunction, and hence, to increase plant reliability. Complex mathematical models of the plants are then promoted to the public as predicting a very low probability and impact of a major accident. The most recent example, of course, is WASH 1400, the "Rasmussen" report.

But "actual" performance does not meet the "theoretical" projections. The unplanned anomaly is the "human factor"; for example, the designers who had not properly considered all the relevant design parameters. The result is in an incomplete or uncoordinated design.

The industry, with the concurrence of the NRC, has over-emphasized the theoretical approach in design verification with insufficient prototype, laboratory, or field test verification. The result is inadequate and unsafe design.

In the implementation of today's regulatory process, there is a tendency to review each safety concern separately and to then conclude that the specific concern, by itself, does not present an undue safety hazard to the public. But what attention is given to the summations of all the individual safety hazards? How many specific safety concerns does it take to conclude that the whole system is unsafe?

A. *Design defects*

Through our experiences we are aware of many design deficiencies and unresolved regulatory issues that have a serious impact on the safety of nuclear power plants. We have listed herein some examples of safety hazards and NRC regulation inadequacies in the design, manufacturing, construction, operating, and maintenance of a nuclear facility. The examples of design deficiencies in nuclear plants in operation and under construction are grouped as follows: core, control rods, reactor vessel, primary containment, materials, and supporting systems.

1. Flow-Induced Vibration in the Core

Light water reactors have been plagued by numerous flow induced vibration problems in both BWR's and PWR's. Such problems result from the continual rapid flow of cooling water through the complex core geometry. This diagram (Figure 1) will assist in understanding the problem.

The earliest serious such problem experienced with a BWR was the core shroud and thermal shield seal at the Big Rock Point Plant in Northern Michigan in 1964. The repair of this flow-induced vibration problem required approximately one year of outage time and millions of dollars of expense.

Flow-induced vibrations have been experienced at PWR's as well, and, as a matter of fact, PWR's are somewhat more susceptible since they are designed with higher flow velocities in the reactor vessel than are seen in boiling water reactors. Flow-induced vibration problems at a PWR were experienced at, among others, Duke Power's Oconee Plant in 1972, where failure of an in-vessel component resulted in severe damage to the tube sheet of a steam generator, at the Rochester G & E Ginna Plant in 1971, and at the Chooz PWR and Sena PWR Plants in Europe in the late 1960's.

a. Sparger failure

The fatigue failure of the in-vessel spargers is a continuing flow-induced vibration problem. A sparger is generally a large heavy-walled pipe designed to distribute fluid uniformly within the vessel. (See Figure 1.)

An early example was the fatigue failure of the liquid poison sparger at the Garigliano Plant in Italy in 1964. The failure was first discovered when leakage was noted coming from an incore housing beneath the reactor vessel. Investigation revealed that the poison sparger had failed, and pieces of the sparger had dropped to the bottom of the vessel. Flow-induced vibration caused the sparger piece to rub a hole through the incore housing resulting in the leakage of water through the housing. The "fix" involved was extensive. But, of greater significance, was the fact that because the poison sparger could not readily be replaced, an analysis was performed which indicated that the sparger was not really necessary to distribute the boron poison throughout the core should emergency shutdown require it. It was decided that continued operation was permissible without the sparger.

This is but one example of the subtle undermining of the safety margins that occur during the operation of a nuclear plant. The plant becomes so radioactively hot and inaccessible that it is very difficult to make even normal repairs. As a result, short cuts are often taken that, in the long run, jeopardize the safety of the plant.

The failure of the liquid poison sparger was the beginning of a series of flow-induced vibration sparger problems. Within the last year, feed water sparger failures have been observed at a number of boiling water reactors: Northeast Utilities Millstone Point Plant, Northern State Power's Monticello Plant, Boston Edison's Pilgrim Plant and Commonwealth Edison's Dresden and Quad Cities plants. In each case, vibration of the sparger, induced by the flow of the feed water through it, resulted in early failure of the sparger and required redesign and replacement of the sparger under extremely difficult field conditions. Such replacements required significant personnel radiation exposure and outage time.

The cracking and breaking of the sparger creates a very unsafe condition. No way has been developed to provide on-line detection of this failure. How many existing plants have this defect? How will we discover the defects before it is too late?

b. Local Power Range Monitor (LPRM) Failure

Another recent problem has been the local power range monitor (LPRM) vibration. The LPRM is an instrument assembly which is spaced periodically throughout the reactor core to measure local power distribution in the core. (See Figure 2.) It is the key neutron sensor of the reactor safety system. During the past year, 11 BWR–4's have been experiencing failures of LPRM's and the associated fuel bundle channels resulting from vibration of the LPRM assemblies against the channels. The LPRM impacting upon the channel caused cracking of the channel, failure of fuel rods and degradation of the signals from the LPRM assembly itself.

The impact of this problem is manifold. First of all, when the signal from the LPRM is degraded, the effectiveness of the entire power monitoring system is degraded. It also has a significant impact on the loss of coolant accident (LOCA). The vibration of the LPRM assembly on the channel has resulted in failure of channels in at least two plants, the Vermont Yankee and NPPD-Cooper Plants. Cracks occurred in the channels and large pieces have actually broken out of them. This failure impacts on the loss of coolant accident since the channels are required to insure the uniform distribution of the emergency core cooling water over the fuel rods. The source of the flow-induced vibration has been traced to the cooling flow passages for the LPRM's and field plugging of these holes has been initiated. Plugging of these passageways changes the ability of the core to reflood following an accident and has required derating of the plants to various levels to ensure that the calculated accident consequences are not exceeded. A "fix" has been proposed where holes will be drilled in the lower portion of the fuel bundles to provide the necessary cooling flow. This is a very difficult modification since holes must be drilled in the highly irradiated fuel bundles; damage to the fuel is possible, and substantial amounts of outage time are required for the operation. Meanwhile, all 11 BWR–4 plants which have this condition continue to run in a derated condition.

During the testing involved in the development of this LPRM "fix," another surprising fact was discovered. The pressure drop across the core plate and the fuel bundles was sufficient to cause more than the calculated rounding of the square fuel channels. This results in increased bypass leakage flow and subsequent deterioration of the operating thermal margins of the reactor fuel. The concern here is that all operating limits are based on the theoretically calculated quantity of cooling water through the core. Discovery of the leakage caused consternation within the effected design groups and created yet another unsafe condition in the 11 BWR–4 plants.

c. Effectiveness of core spray

Another area of concern in all BWR's is the effectiveness of core spray in actually cooling the fuel rods following the loss of coolant accident. A number of cold tests have been conducted by General Electric in measuring core spray distribution in terms of the geometry of the water patterns above the mocked up fuel core. But no actual thermal tests have been performed to determine that sufficient quantities of cooling water will be delivered to the hot fuel rods to cool them in seconds—as the system must do to prevent the core melt down following the loss of cooling accident.

Word has been circulating around the industry that tests on this phenomenon have been performed in Europe which show that the steam blasting up out of the fuel bundle during the accident will prevent the delivery of cooling water to the hot rod. This raises a question as to the effectiveness of the core spray cooling system for the reactor. Have the European tests been evaluated by NRC? With what results?

d. End of cycle SCRAM reactivity effect

Another aspect of core performance that has been discovered to question the safety of the reactor is the phenomenon called "End of Cycle SCRAM Reactivity Effect." In the BWR, as the core nears the end of cycle (approximately annually), the reactor operates with all control rods essentially fully withdrawn from the core. It has recently been discovered that more severe transients can occur under such end of cycle conditions with load rejection. This results because the negative reactivity resulting from rod insertion is not linear, as was originally assumed, but is effective only as the rods near the end of their insertion. The result is a surge—a higher power transient following the load rejection, a higher pressure transient to the reactor primary system, and much more severe conditions within the core during the SCRAM than were originally anticipated.

"Fixes" have been proposed for this phenomenon, but have yet to be implemented. End of Cycle SCRAM Reactivity Effect is another example of conditions encountered during the course of operation which are much different than those assumed during the original design phase.

When a similar effect was observed at the Garigliano Plant in Italy, the "fix" that was applied was to develop a filter system to trim out the peak flux spike in the flux monitoring instrumentation measuring the surge. This is a typical example of how the industry rigs a patched-up safety system in order to keep operating. Rather than to cure the defect, the "fix" proposed was to modify the instrumentation which senses the phenomenon so as not to SCRAM the reactor.

What "fix" is proposed for the End of Cycle SCRAM Reactivity Effect?

Will the NRC require the retrofit to be performed in all BWR's?

2. Control Rod

The control rod system is a critical component in plant safety. It is the system that is normally used to start up and shut down the reactor, and to vary power levels during operation. It is also used as an emergency system when loss of electrical load occurs and a reactor emergency shutdown is indicated; control rods then must be rapidly inserted to reduce the power to the level where the shutdown cooling system can handle the energy that continues to be produced.

a. Control rod life

Control rods have caused problems in reactors from the earliest days. In 1960, the Dresden 1 reactor control rods were found to have extensive cracking after minimal irradiation, and complete replacement of these rods was required after approximately six months of operation. Control rods similar to the replacement design in Dresden 1 are still being used in today's plants. Despite the critical function of the rods in reactor operation, the life of the control rods has yet to be verified. It has been postulated that control rod life may be anywhere from seven to twenty years, but no one really knows.

The end of control rod life may result from two effects: (1) Nuclear depletion, which is the inability of the boron contained in the control rods to absorb enough neutrons to provide the shutdown required, or (2) end of the mechanical life of the control rods resulting from material embrittlement or pressure stresses in the boron containing tubes.

In some Dresden 1 sample rods, it has been found that the stainless steel (304) rods cracked, and the powdered boron has leached out of the rods. There is no way to detect when the cracking occurs, and the only way to detect when the boron has been lost from the rod is to do detailed rod worth tests on each individual control rod in a test configuration.

This is not a normal license requirement or condition of operation for any reactor. Therefore, it is entirely possible that the control rod life may be reached without knowing about it until the reactor is called upon to shut down, and the control rod worth is discovered to be insufficient to produce shutdown. Control rod life must be determined and the technical specification requirements established to ensure that shutdown margins are adequately tested to account for these effects.

b. Collet cylinder tube cracking

Material failures in the control rod drives also affect the ability of the plant to perform safely. Material failures were experienced early at Dresden 1. Modifications were made which appear to be performing satisfactorily, but similar problems have recently appeared again. One such problem is the cracking of a collet cylinder tube on the control rod drive which could affect the ability of the drive to perform properly.

This cracking has resulted in the issuance of an order to limit the number of inoperable drives permissible for continued operation, but ultimately will require the removal and rebuilding of all control rod drives in operation. This will result in a large penalty in operating time, personnel radiation exposure, and high costs, affecting the economic viability of continued operation of the reactor. Other material problems can be expected to occur in the future with serious potential impact to reactor safety.

c. Rod drop accident and patches

There is a classic accident analyzed for BWR's and PWR's. It is called a rod drop accident for the BWR, and a comparable rod ejection accident for the PWR. This is a case where the rod becomes disconnected from the drive and remains stuck in an inserted position when the drive is withdrawn. The accident is caused by the rod moving from the stuck position to the withdrawn position in one quick motion. This would cause a rapid change in local flux (for a high-worth rod) and likely produce local fuel damage, a rapid increase in local power and possible release of fission by-products.

Historically, the industry has played down the possibility of this accident, yet has added various system patches to mitigate the consequences of such an event. The approach of adding an electronic patch to overcome a mechanical deficiency which is otherwise impractical to solve is a common occurrence in the industry. In this case, systems were added to procedurally control the pattern of rod withdrawal and block withdrawal of high-worth rods out of sequence.

These somewhat ineffective patches have added to the complexity of operating the reactor and often wind up bypassed, ignored or circumvented. Specifically, this includes the Rod Worth Minimizer (RWM), the Rod Block Monitor (RBM) and the (still being defined) Rod Sequence Control.

This accident must now be regarded with increased respect and a higher probability of occurrence in view of the chronic problems plaguing the control rod mechanisms and cracking fuel channels—events which make a stuck, disengaged rod more credible. Thus, it is recommended that either the problem be solved or the mitigating systems be improved and made mandatory for operation.

3. Pressure Vessel Integrity

Many questions concerning pressure integrity have been raised in the past and many more undoubtedly will arise in the future. All have important implications concerning the safety of operating nuclear plants. One important concern is the possibility of a breach of the pressure vessel.

The incredibility of a gross pressure vessel failure accident has not been—indeed, cannot be—proven. Yet incredibility is assumed in plant design. Such a distinguished body as the United Kingdom Atomic Energy Authority has recommended against the use of light water reactors because of this. Pressure vessel integrity is questionable for the following and other reasons:

a. Nozzle break between vessel wall and biological shield

A nozzle break occurring between the vessel wall and the biological shield surrounding the vessel could cause movement and forces on the vessel that may have incalculable results.

From past experience with primary piping systems, cracks are most likely to occur at the vessel safe end (Point A on Figure 1). This is the most susceptible point for an instantaneous pipeline break. Failure could cause an instantaneous pressure wave to build up between the inside of the biological shield and the outside of the reactor pressure vessel. This instantaneous pressure wave could be high enough to cause the vessel to move sideways, or to tip over against the foundation causing severe and unknown damage. Such an accident would certainly cause gross distortion of the reactor internals, disruption of the core, and possibly prevent insertion of control rods to shut down the reactor. The emergency core cooling lines could be severed and result in the "incredible" accident. This accident potential exists in most light water reactors, and should be thoroughly evaluated by the NRC.

b. Pressure vessel pedestal acceleration

Another serious problem in "pressure suppression" plants is the possibility of vessel pedestal acceleration resulting from the loads on the pedestal created by the pressure wave developed in the suppression pool (see Figures 4 and 5). These loads on the structure may be transmitted through the soil and through the foundation causing the vessel support pedestal to vibrate to a degree greatly above the seismic design basis for the equipment. This condition could result in failure of the vessel and internals, failure of the core support structure, possible loss of emergency core cooling capabilities, possible loss of insertion capability of the control rods, and, again, untold effects by the accident that could occur. This condition should be thoroughly reviewed by the NRC.

c. Structural Integrity of Pedestal Concrete

A further problem that could affect continued safe operation of BWR and PWR reactors in all containment designs has to do with the structural integrity of the reactor vessel pedestal concrete. A loss of coolant accident in even the small or intermediate range can result in a temperature transient inside the containment of such a magnitude that the thermal shock received by the concrete reactor pedestal could result in cracking of the foundation to the point where its strength would be seriously affected, particularly for future seismic or LOCA transients, thus jeopardizing future public safety. The minimum result would be an extensive shutdown while a way was found to replace or strengthen the pedestal. This would almost certainly be a multimillion dollar expenditure and require months and months of outage time. This accident may already have occurred in 1971 at the Commonwealth Edison Dresden 2 and 3 Plants, where an accidental pressurization of the dry well created a temperature transient which destroyed most of the core monitoring cables, and may well have damaged the foundations on which these reactor vessels sit.

Dresden 2 and 3 should immediately be evaluated for suitability of continued operation, and regulations should be developed to ensure that appropriate action is taken should similar events occur at other plants. This evaluation should include the safety implication of continued operation of plants that are susceptible to such damage.

4. Containment

The primary containment of a nuclear power plant is the pressure containing structure that is provided to contain the most credible accident that is assumed to occur during the life of the plant. In most cases, this is the guillotine break of the largest pipe in the primary system.

a. Mark I Pressure Suppression Containment

In the early BWR's, the system used was a dry containment which was sized to contain the total energy inventory of the primary system that would be discharged in the event of the maximum break. When the first large-scale commercial plants were being designed, it was soon seen that designing a dry pressure containment would be difficult and expensive, and a new concept was developed for boiling water reactors called the "Mark I Pressure Suppression Containment."

In this concept, two chambers are used—a pressure vessel, called the "dry well," which houses the primary reactor system components, and an auxiliary chamber, called the "wet well," which contains a large quantity of water which is used as a heat sink. (See

Figure 3.) Vents are piped into the "wet well" from the "dry well" and discharged beneath the surface of the water.

In the event of an accident, the "dry well" becomes pressurized with the discharged steam and fission products. This combination of steam and gases is discharged beneath the surface of the pressure suppression pool, condensing the steam and mitigating the pressure transient.

The Niagara-Mohawk Nine Mile Point Plant and the Jersey Central Power and Light Oyster Creek Plant ushered in the new era of large commercial power reactors. These were the first two plants of a series of over 30 plants, domestic and overseas, that were built utilizing the Mark I Containment System.

b. Mark II containment

As experience was gained in the design, construction and startup of the plants, it was soon learned that the rather complex structures involved in the Mark I Containment resulted in severe cost penalties and in lengthened construction schedules. A modification was developed which utilized concrete slip forming techniques and an over/under dry well/wet well arrangement to simplify construction and to cut costs.

This concept was known as the Mark II Containment (see Figure 4) and a number of plants are currently under construction utilizing this concept. Approximately 10 BWR plants are based on the Mark II design; none of these plants has yet gone into service.

c. Mark III containment

The next iteration in pressure suppression containment was the Mark III type containment. (See Figure 5.) This containment was a further refinement of the concrete construction, but used a suppression pool under the reactor vessel which utilized a weir wall and horizontal vents to relieve pressure from the dry well in place of the vertical downcomers used in both the Mark I and Mark II containments. It has, incidentally, the disadvantage of requiring maintenance and operating personnel to routinely enter spaces that will be pressurized with steam during the loss of coolant accident; a questionable arrangement. Because this design was a departure from past technology, General Electric built a ⅓ scale Mark III mock-up to test this concept. In analyzing the resulting Mark III test data, it was discovered that the rapid discharge of air through the horizontal vents into the water resulted in a high vertical swell of the pool surface creating large hydrodynamic forces on structures and components above the suppression pool.

This phenomenon has necessitated structural modification to the Mark III designs, and it was only a matter of time until the question was asked as to the applicability of this phenomenon and associated loads on the Mark II plants and on the 38 Mark I plants in operation or construction all over the world.

This question was initially raised by the NRC in April 1975, in a discussion with General Electric Company. The NRC subsequently requested all licensed Mark I plants in the U.S. to conduct an immediate assessment of the new loads that had been discovered in the Mark III testing. The NRC asked for a thorough review of the design basis of all of the existing plants, and for response within approximately 45 days as to justification for continued operation. Since there are some 20 new loads or phenomena that had been determined and which had not been considered in any way whatsoever during the original design of the Mark I containment, the response time was impossible to meet.

To answer the question required development of analytical models, hardware testing, and incredible amounts of structural evaluation. It also required the generation of new acceptance criteria. It was recognized early in the program that the containment could not be found adequate under normal structural design criteria, since that amount of margin is not used for structural design. Accordingly, a concept of "most probable loads" (non-conservative) and "maintenance of function" was adopted.

To address the schedule problem, the utilities proposed to the NRC that a generic evaluation be conducted by the utilities, General Electric and a number of consultants to evaluate all plants simultaneously by categorizing them into typical plant groupings. The plan was to perform representative plant evaluations to determine the probability that the containments, as built, could withstand the forces expected during a design basis loss of coolant accident. The evaluations did not assume the latest seismic criteria nor load combinations for this "quick and dirty assessment"; yet another nonconservatism.

This program was begun May 1975, and was to have been completed by the Fall of 1975. During the course of the evaluation, a number of results were found to be higher than the permissible maximums established for the screening analysis, so it was necessary to run further tests, refine models and perform further evaluation. Even so, the effect of some of the loads on the torus support system was found to be unacceptable. This resulted in an extension of the short-term program from October 1975 until January of 1976.

Progress of the program was communicated periodically to the NRC. The utilities planned to review with the NRC no later than January 28, 1976, the results of the second analysis of the torus support system for all plants. A preliminary review of the results was held by the utilities on January 22, 1976, and on January 23, 1976, the utilities advised NRC by telephone that it appeared all containments would be able to withstand the most probable course of the LOCA event and still maintain function. This conclusion was based on the extrapolation of data from a 1/12 scale test model, and on a substantial amount of engineering judgment regarding the conservatisms inherent in the design basis accident, and in the structural response of the system. In no way would a competent structural consultant testify that the containments clearly met the requirements for integrity of the system. In many plants, loads on columns, welds, and other critical elements would be expected to exceed the yield strength of the materials, a situation not allowed under normal design codes. In addition, only nominal seismic loads were factored into the evaluation, as all of these plants were designed before new seismic criteria had been developed and, if judged by current day standards, would be found to be inadequate in most cases. Even worse, only the most probable loads were used in the calculations, not bounding case loads, and no coincidental loads due to stuck open safety relief valves, or other effects were considered to be applicable.

As a result of errors that were found in the analysis over the weekend from January 23 to January 26, the Vermont Nuclear Power Corporation was advised that Vermont Yankee would be subjected to more severe torus uplift loads than had been reported on January 23, 1976. As a consequence of this new information, the Vermont utility made the decision to shut the plant down until further evaluation could be completed. Recent newspaper articles report temporary repairs have been made and that the plant is returning to service, with extensive modifications to be made while the plant is operating.

All other plants except Boston Edison's Pilgrim Plant, which is shut down for a scheduled refueling, have continued to operate.

Following is a complete list of U.S. Mark I plants licensed for operation:

Operating plants (Mark I containments)

Utility and plant Name

Boston Edison Co.—Pilgrim.

Jersey Central Power & Light Co.—Oyster Creek.

Niagara Mohawk Power Corp.—Nine Mile Point.

Commonwealth Edison Co.—Dresden 2 & 3, Quad Cities 1 & 2.

Northeast Nuclear Energy Co.—Millstone 1.

Northern States Power Co.—Monticello.

Philadelphia Electric Co.—Peach Bottom 2 & 3.

Georgia Power Co.—Hatch 1.

Nebraska Public Power District—Cooper.

Carolina Power & Light Co.—Brunswick 2.

Iowa Electric Light & Power Co.—Duane Aronold Energy Center.

Power Authority of the State of N.Y.—Fitzpatrick.

Vermont Nuclear Power Corp.—Vermont Yankee.

Tennessee Valley Authority—Brown's Ferry 1 & 2.

The consequences of failure of the primary containment system are frightening. The primary containment system provides the most basic defense to the public health and safety in preventing the release of highly radiocative fission products into the biosphere should a loss of coolant accident occur. In addition, the torus portion of the primary containment system provides the source of cooling water for the emergency core cooling system, and is in the life-line that prevents the disastrous core melt down following the loss of coolant accident. If the torus support structure fails in the initial phases of the loss of coolant accident, it could result in failure of the emergency core cooling system piping systems attached to it, and in loss of the supply of cooling water for the core.

The integrity of this portion of the primary systm, then, is an absolute requirement for the protection of the public health and safety and should be an absolute requirement for continued operation of the plant. It is unthinkable that plant operation can be continued on the very tenuous argument that the probability of the accident occurring is low; even the NRC's Rasmussen Report (WASH 1400) postulates that a loss of coolant accident will occur within the foreseeable future. It is more probable that such an accident would occur early in the time period considered by WASH 1400, because the techniques, materials, know-how, and design improvement made in later plants have not been incorporated into the early plants.

During the many meetings of the utility representatives involved with this containment assessment program, the responsibility of continued operation of these plants has weighed heavily on the minds of the parties involved. Each individual should be questioned as to his faith in the design, the level of knowledge, and the wisdom of continuing to operate these plants.

It is urgent that this problem be seriously evaluated and the wisdom of continued operation of these plants be reconsidered.

d. Primary containment fatigue life

There are other questions of containment adequacy that require close inspection by the regulatory commission and by the members of the Committee.

One concerns primary containment fatigue life. The same torus support system, which is of questionable integrity for the loss of coolant accident, is also subject to substantial load effects when safety-relief valves discharge into the suppression pool. This is not an abnormal event, but occurs on most load transients. At a number of plants relief valves have stuck open, with the result of continued extensive blow-down into the suppression pool. This problem actually resulted in rupture of the primary containment at the Wuergassen Plant in Europe several years ago. Damage was also discovered during 1975 in the pipe restraint systems in the suppression pools at the TVA Brown's Ferry Plant, the Iowa Electric Duane Arnold Plant, and the Boston Edison Pilgrim Plant.

Some modifications have been made and the NRC has issued advice to the operators of the other plants, but there is no coherent program underway to ensure the immediate assessment of the effects of this phenomenon on total plant safety. In addition, the original containment design estimated that a specific number of cycles would occur, and the containment would be designed to be able to withstand this limited number of cycles over their lives. In fact, valve operation has been more frequent than expected, and the cyclical loading of the containment from periodic valve discharges is expected to far exceed the initial design.

e. Uncertain pressure suppression testing

Other problems that affect the performance of the primary containment are uncertainties with regard to the testing of the pressure suppression phenomenon. A limited number of tests were performed on a segment of the containment that was planned for the Bodega Bay Plant (never built). Depth of downcomer submergence testing was varied, but most of the tests were performed at only one level of submergence, four feet. Waves generated within the pool may uncover the vents; seismic slosh may occur which makes pressure suppression ineffective; and since the loss of coolant accident is almost impossible to mock-up, complete verification of the adequacy of the system to withstand a LOCA has yet to be demonstrated.

f. Erosion of design margins

Design margins are continually eroded by modifications resulting from problems that have occurred during plant operation. A good example is the removal of baffles from the torus several years ago. The first Mark I plants were built with anti-slosh baffles installed in the torus. The purpose of these baffles was to ensure that waves would not be built up in the pool resulting in gross disruption to the pool surface and making ineffective the downcomer submergence.

Early in plant operation, it was discovered that the forces produced in the suppression pool by relief valve discharges dislodged a number of these baffles. The "fix" that was implemented was not to strengthen the baffles, but to perform an analysis that indicated that they were not needed in the first place, and subsequently baffles were removed from most existing plants and were eliminated from all future plants. There is a good bit of speculation and concern, particularly by those utilities which removed the baffles, that the containment evaluation program currently underway may prove that baffles are again required for the mitigation of seismic slosh. There will, indeed, be much consternation if hundreds of thousands of dollars (per plant) and a substantial amount of outage time are required to reinstall those baffles.

g. Corrosion allowance in material thickness

Yet another area of weakness in the primary containment of nuclear plants has to do with the fact that no material corrosion allowance has been provided. To ensure material thickness is maintained for the 40-year life of the plant, it was planned that a chromate corrosion inhibitor would be added to the suppression pool water. It has since been determined that the chromate materials have a severe environmental impact and they have subsequently been banned for use in most states. The plants, in some cases, now find themselves operating with torus suppression water inhibited with chromate, but with no way to discharge the water, should modifications be needed that would require draining of the torus for maintenance or modification work. This condition seriously jeopardizes the utility's ability to inspect and modify this critical portion of the nuclear plant. If corrosion inhibitor is not used, protective coatings must be applied. Their effectiveness is also questionable under these severe conditions.

h. Containment electrical penetration seals

A major weakness in the containment system is in the areas where nozzles containing electrical power and instrumentation cables breach the containment. Typically, approximately 4000 to 8000 conductors must enter the containment through nearly 40 nozzles, each 12 inches in diameter. Many containment electrical penetrations utilize an epoxy sealant around conductor rods to achieve a pressure barrier. Epoxy adherence to the conductors has proven to be deficient. For example, at the Farley 1 PWR Plant, approximately 5% of the installed electrical seals leaked following installation checkout under ambient environmental conditions. During simulated LOCA conditions, the penetration epoxy has in some cases reverted. This resulted in gross leakage paths and inadequate electrical insulation of the epoxy sealed penetrations. This is an example of a common-mode failure which would breach the containment and short out control cables at the time of their most critical need. Containment penetrations are a very weak link in the containment system and consequently should receive greatly increased scrutiny from the NRC.

i. Wet well dry well vacuum breakers

Another area where leakage presents a problem is with the vacuum breakers between the wet well and the dry well of the primary containment system. It was discovered that these vacuum breakers are so difficult to maintain to the degree that leak tightness is required in the technical specifications that the Mark I utilities almost unanimously rejected a dry well pressurization scheme as a potential fix for the torus support problem noted above. Vermont Yankee, as the only plant not operating with the containment inerted by Nitrogen, felt pressurization was a viable "fix." One plant, Pilgrim, decided to test dry well pressurization and found that their vacuum breakers were leaking so badly that their technical specifications required them to immediately shut down for repair, even though the test was only to determine whether dry well pressurization was a viable alternative.

j. Summary—Primary containment of BWR's and PWR's

In summary, then, the primary containment system housing almost all of the operating boiling water reactors in the United States contains serious design defects. All of these have been disclosed to the NRC and programs to some degree are underway to provide for improvement. However, it is of deep concern whether the action taken is rapid enough. Because the potential consequences of the failure are great, the advisability of continued operation of these plants under these circumstances is extremely questionable.

While primary containment systems for pressurized water reactors have not been questioned in detail in this testimony, it is certain that similar problems and deficiencies exist in those plants. Pressure suppression is not used in the pressurized water reactors, but a dry containment with a higher pressure rating is utilized.

The same penetration seal problem and the valve leakages will affect the PWR containment's ability to provide the protection required. In addition, the transient assumed to occur during the PWR loss of coolant accident assumes that the energy contained in the steam generators is not immediately released to the containment, as it is assumed that the steam generator tubes and tube sheets will remain intact. This assumption is subject to question and should be proof tested. Integrity of the steam generator under LOCA conditions requires the almost instantaneous pressure reversal of a positive 2,000 PSI to a negative 2,000 PSI on the thin tube structure and on the tube sheet element. This is opposite to the normal direction of loading for which this structure is designed.

It is strongly recommended that full-scale tests be performed on the adequacy of the steam generators to withstand such a transient condition. If this has not been adequately demonstrated, then the pressurized water reactor plants also should be shut down until this can be verified.

5. Miscellaneous components

Numerous component reliability and failure problems have been observed in the light water reactor program that indicate essential safety goals are not being achieved. These problems are reported in lengthy summaries prepared by the NRC, but it is not clear that the responsible design organizations are required to take the necessary corrective safety actions on past, present and future plants. Design improvement programs are somewhat haphazardly suggested to the operating utilities, but no program of required modifications has emerged. Following are but a few components with poor performance records:

a. Valves—All types

(1) Main steam isolation valves have not met leakage requirements, and have not met closure times.

(2) Safety and safety relief valves. Set points drift, valves leak, and valves stick open.

(3) Feed water check valves. Leakage requirements are seldom met when tested.

b. Heat exchangers

All types of heat exchangers have experienced tube failures, tube vibrations, and various other failure mechanisms.

c. Main condensors

Tube life has been poor at many plants. the "old-time" fix of sawdust injection is prevalent—questionable for use in nuclear technology.

d. Valve and pump seals

Length of life is poor; leaks cause many shutdowns.

e. Inspection Techniques

Current non-destructive testing techniques are not effective. Ultrasonic inspection is a "black art." Leaking cracks have been found in lines declared sound by standard inspection.

The list could be endless. What is required is an intelligent program to guide the many organizations in the implementation of mandatory changes in response to field experience. When will the NRC initiate such a program?

6. Material failures

Material failures in reactor systems are numerous, have been well documented, and will not be elaborated upon in great length here; however, they represent a significant impact on the continued economic and safe operation of nuclear power plants.

Intergranular stress corrosion cracking; frequently observed in stainless steel (304) materials, particularly those that have been furnace sensitized, has been the subject of industry studies in the past and continuing in the future.

Piping cracks that were prominent in BWR operations over the past year resulted in the issuance of several industry reports, and the significant question that should be asked is, what is being done to implement material changes in the 59 operating reactors that already exist in the United States? Also, what is being done to preclude utilization of materials and procedures that will result in similar failures on the hundred or so reactors that currently are under construction?

The resources that would be required to update these systems may be impossible for our industrial system to undertake at this time, but inaction leads to serious jeopardy of safety of continued reactor operation, and could result in economic disaster on future plants.

Included in this are not only the piping failures, but cracks of the vessel safe-ends (attachment points) of piping systems, failures of vessel internal parts, such as stub tubes, cladding, thermal sleeves, etc., failures of the feed water spargers previously mentioned, and cracks that have been observed on the pressure vessel nozzle blend radii. These failures present significant safety problems for continued future operation. A specific evaluation, including recommendations for a detailed program of material replacement, needs to be developed by the NRC to minimize the safety impact such failures represent.

7. Fuel Storage Facilities

a. New fuel

An example of a problem brought about by fragmented responsibility is one regarding criticality safety in new fuel storage pits.

New fuel storage racks have in the past been designed to be criticality safe with the fuel stored dry, or also to be safe if the pit happens to be flooded by water. It was recently discovered that the worst criticality condition was neither dry nor flooded, but when a density of less than 0.5 water to air mixture was present. This fact became a safety consideration when it was discovered that fog nozzles of the type commonly used for fire protection in power stations could actually achieve a water density of 0.3. This problem results from incomplete review and communication between the nuclear equipment designers and those responsible for fire protection equipment. When this fact was discovered, somewhat by happenstance, a limited survey of fire protection facilities in operating plants, was conducted by General Electric. Recommendations were made to plant operators that fog equipment should not be used in the vicinity of the fuel storage pit. Who really is responsible for the coordination of all such technical intricacies? The risk of such an accident is so great that this should not be left to chance.

b. Spent fuel storage

Much has been written about the economic penalties to be suffered by the lack of fuel reprocessing facilities. The safety impact of this lack should not be overlooked. Inadequate spent fuel storage facilities may soon exist at many plants. If a defect develops, requiring the rapid discharge of the full core load of fuel, this escalates to an immediate safety problem. What plans has the NRC made to handle such emergencies?

B. Reliability calculations

Reactor vendors have advertised ambitious goals on plant availability. Yet there are currently no design goals established for subsystem reliability or availability. Instead, the practice is to design the system or subsystem, then analyze its failure modes and, from this data, calculate the failure rate in the unsafe mode. When approached from this viewpoint, the failure rate data (and thence the reliability and availability) obtained are meaningless since there is no rational basis for acceptance or rejection.

Substantial safety risk is incurred by not knowing the acceptance criteria for the reliability of safety and safety-related systems. Any decision affecting the design or modification of the systems must evaluate the effect of reliability. An example is in the design of a new safety system for BWR's. In order to determine the need for a test system and the frequency of test, it is necessary to know the desired reliability of the overall system in terms of its impact on the total plant safety. This has not yet been established.

The Rasmussen Report is said to employ a reliability model of an operating BWR (Peach Bottom 2, 3). This is incongruent in light of the lack of reliability data on many of the subsystems. The establishment of such a model is highly recommended. It should be updated regularly as a result of analytical and operating data.

C. Redundancy v. diversity

Redundancy is the practice of putting equal systems or components in place to back up one another (e.g., two Rod Block Monitors are used; either one can block rod motion). Diversity in system design is the practice of making a portion of the system or back-up system from a different technology, component or design, such that the two portions of the total system would not be subject to a common-mode failure. (A common-mode failure is the failure of more than one redundant system or subsystems due to a single factor or event.)

Redundancy is used in most of the reactor systems. However, the industry has carefully looked at diversity and, to date, has avoided it for all but a few situations (e.g., emergency power and types of core cooling systems). In control and instrumentation systems, the decision to not use diversity has been based mainly on economics.

The Brown's Ferry fire demonstrated the vulnerability of redundant and diverse circuits to a common-mode failure when a single event (the fire) wiped out the redundant cabling and disabled the diverse core cooling systems. Similar events are both possible and probable in other areas of the control room and cabling areas. These problems would be most likely to appear in older plants (prior to Brown's Ferry design) where even less care was taken to provide redundancy and diversity.

It is recommended that the NRC review plants prior to TVA–Brown's Ferry and evaluate adequacy of redundancy in the designs as well as the need for diversity in critical systems. The industry, the NRC, and the IEEE should prepare a standard defining diversity requirements.

D. Political, economic and technological pressures on the NRC and utilities prevent the NRC from effectively regulating nuclear power in the interest of public health and safety

The ability of the NRC to effectively regulate safety within the constraints of the current situation of the diverse commercial nuclear power enterprise is suspect.

The tremendous cost, schedule and political pressures experienced make unbiased decisions, with true evaluations of the consequences, impossible to achieve. This is the ultimate deficiency of our nuclear program.

The Mark I containment assessment program graphically illustrates this. The Mark I safety evaluation covers 19 operating plants representing almost one-half of the United States' nuclear power electrical production. It also involves six more units under construction in the U.S. and 13 plants overseas. The primary focus of the program has been to "prove" the plants are safe enough for continued operation—not to openly assess their true safety. During this program many statements and concerns were expressed, illustrating the impossibility of true safety evaluation. For example:

(1) The ever-present fear of local intervenors "finding out."

(2) Proposals that responses to NRS questions on containment be made "generically" by the Mark I group. This was considered desirable so that the information would be filed in the generic files of the public document room, making it virtually inaccessible to local intervenors active on specific plant AS&LB hearings.

(3) NRC staff implications that generic filing essentially "buries" the information from the public.

(4) Utility legal representatives expressing serious concern on what is the true definition of an unresolved safety problem—suggesting immediate plant shutdown requirements.

(5) NRC staff suggestion that serious problems should be reviewed directly with the Director of Nuclear Reactor Regulations. The reason unstated but perhaps to avoid unnecessary expression of concern in the public record.

(6) Advice on how best to present abnormally high results of the structural analysis. Stress levels are avoided because current codes state limits on stresses. Strain limits avoid such technical debate.

(7) Repeated questions by the NRC staff as to the cost of the evaluation program and on how expensive the "fixes" would be. Repeated questions on the loss of power costs to the utility.

Such concerns are of general interest, but express an unnecessary or unreasonable concern over issues not the direct responsibility of the NRC. The NRC safety decisions are by law to be made on the basis of technical safety and its potential impact on the public health, and should not involve economic evaluations .

(8) NRC public statements that are misleading regarding the status of safety evaluations, particularly on operating plants. The January 30th NRC press release regarding Mark I containment indicates everything is fine, that the one reactor that was shut down had design and operating characteristics that differ from those of the other reactors. This is technically true, but only marginally so, and is misleading to members of the public and the industry. This was picked up immediately by plants in Japan where the same immediate assessment of "difference" was made on the Mark I plants there to justify continued operation.

(9) The basis of Mark I technical defense for continued operation was low probability of accident and immediate corrective action would be implemented. Action has been started by most utilities, but no commitment has been made as to when it will be implemented.

It is indeed unfortunate that the commercial and technical proprietary pressures of the business world also work to the detriment of the maximum achievement of safety. An excellent in-depth study of nuclear safety was described by Mr. Reginald Jones, Chief Executive of the General Electric Company, in a December address to New York Security Analysts. Dr. Charles Reed, the top technologist in the Company, amassed a task force of the most knowledgeable people that could be put together in the nuclear business to evaluate the technical and business risks facing General Electric in its nuclear orders. This task force of as many as 70 to 80 people worked for a whole year. It included the finest scientists and engineers in General Electric. The result was a final report that was overwhelming—a five-foot shelf full.

These findings should be shared with the NRC. Nuclear safety affects the welfare of the whole public, and all possible sources of information should be pursued. Has the NRC been presented with a review of these findings and is progress being evaluated? What programs have been implemented by the NRC as a result of this evaluation?

Decisions are forced upon the power plant owners, the vendors, and the NRC to make go, no-go decisions based on technical inadequacies or insufficient data. Compromises are made. There is little disagreement that operating plants are not as safe as we would wish them to be or as safe as they should be. We believe it is imperative that public safety be adequately separated from other considerations such as economics and the degree of dependence of a region on nuclear power to meet the areas' energy requirements. This serious deficiency in our total nuclear safety system must somehow be overcome.

NIXON'S CHINA TRIP TERMED "INEXPLICABLE AND IRRESPONSIBLE"

Mr. MATHIAS. Mr. President, Secretary of State Kissinger has said that any contact with the People's Republic of China has some value.

I cannot agree. I see little value to be gained from former President Nixon's present visit to China.

It is naive to assert repeatedly that Mr. Nixon is a private citizen. No former President of the United States is a private citizen. The fact that the Chinese Government sent a plane to pick him up; the fact that he is accompanied by a large group of aides, including a Secret Service detachment; and the fact that his trip is receiving worldwide media coverage, make it clear that he is not just your everyday private citizen.

Nor is Mr. Nixon behaving like a private citizen.

When Mr. Nixon makes statements that are subject to interpretation by the press and the public as bearing upon the current foreign policy of the United States, his trip cannot be dismissed as the vacation excursion of a private citizen.

One can only wonder at the motives of the Chinese in inviting him. As for Mr. Nixon, his knowledge of history and international relations is sufficient to make him aware of the problems that can result from his current travels.

Mr. Nixon retired from the Presidency in disgrace. Under such circumstances, it was to be hoped that he might have worked to recover some grace by behaving responsibly and with restraint, especially in an election year. Mr. Nixon's present course is inexplicable and irresponsible.

CONFERENCE ON WORLD HUNGER AND AMERICAN RESPONSIBILITY

Mr. HUMPHREY. Mr. President, I recently participated in a 2-day conference held at Smith College on world hunger and American responsibility. This issue continues to be extremely timely and important.

We currently are facing a situation on world food insecurity—and the United States is not doing what needs to be done to provide a more stable situation in which adequate supplies are available and at reasonable prices. To do this, the United States must develop and implement a food policy.

America must be responsive to hunger here and abroad. The world hunger problem is severe and extensive. The number of malnourished people in the world has not decreased over the last year and is estimated to be more than 600 million people. Approximately 10 percent of our population is hungry.

World cereal production has increased only 0.6 percent over last year—lagging far behind the increase in population growth. Additionally, it is estimated that by 1985, developing countries will have a food deficit of 85 million tons.

The United States has the resources, the know-how, and the technology to fight hunger. As one of the world's largest producers and consumers, our Nation has a responsibility and an interest in fighting hunger.

United States exports account for 55 percent of the world market, and we contribute about 80 percent of the world's food aid. And, the United States contributes significantly to international agricultural research and to increasing food production around the world.

Food and agriculture policy decisions made in the United States drastically affect the production, availability, and distribution of food domestically and internationally. Our agricultural policy decisions have an impact on the world's economy. The food and agriculture economy in the United States alone is a $600 billion industry.

It is time that we decided on a national food policy and stuck to it.

Too many policy decisions are being made which are contradictory or not well coordinated with other policies. Farmers were again told to grow as much as possible and, later on, the Government placed "voluntary restraints" on export sales.

Too often, policy decisions are made for the short-term benefits, disregarding the long-run impacts. Without a food policy, we all suffer from the hazards of a boom and bust market. In 1972, the administration decided to get rid of food reserves because they were too costly to maintain. Since then, our food bill has increased by more than $57 billion—which is more than taxpayers paid over the last 40 years for farm stabilization and conservation programs.

If we have the will to banish hunger, then we must develop a plan to accomplish this.

In my remarks at this conference, I outlined the elements of a food policy. First, it must be based on a commitment to abundance. Second, it would be comprehensive and coordinated—integrating policies and programs relating to food production, processing, marketing, distribution, exports, trade, consumption, and nutrition.

The objectives of such a food policy would include: A fair return to farmers to sustain high-level production; adequate food supplies at reasonably stable prices for consumers and users of farm products; the United States as a reliable supplier on the world export market; support of feeding programs for the needy here and abroad; improved nutrition here and abroad; and assurance of adequate inputs, transportation, and credit for agricultural requirements.

I quoted the words of Father Theodore M. Hesburgh, president of Notre Dame University, who declared:

> With a vision of a world which is larger than ourselves and our concerns of the moment, we can see that isolated lives of abundance would be mocked by indifference to the needs and desires of the vast majority of the human family.
>
> No nation, conceived and dedicated as this one was, could long endure as a community of moral individuals, while ignoring what is happening outside its borders, while ignoring its own role in perpetuating misery. Nor could we hope to secure the interests we have in the developing countries if we did not also respond to their needs as well. In this, there is a happy coincidence of our self-interest as Americans and our moral interest as part of the human family.

Mr. President, I ask unanimous consent that my remarks be printed at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HUBERT H. HUMPHREY

Recently a full-page Wall Street Journal advertisement asked the question—

"Can Anyone Feed a Family of Eight Billion?"

"If there's hope for the future," said the ad, "it's improved technology."

Down at the bottom of the column, the ad concluded:

"But we know technology is not enough."

"So, we'll also be praying for sunshine, warmth and rain."

But if we're really going to feed seven or eight billion people 35 years from now we better add a few things to that prayer list. Things like common sense, sound economics, parity for producers, equity for consumers, luck, and most important of all, the will to do what's necessary.

At the World Food Conference in Rome, Pope Paul told us that only about one half of the world's arable land is in use. He and others have speculated that the globe could sustain a population of 30 to 40 billion people.

What has been holding us back is not a lack of physical capacity to produce enough food. We have the technology, the resources and the ability.

What we lack is the will to banish hunger—and the plan to get it done.

There is no United States food policy. And we have only the beginnings of a world food policy.

Our farmers were asked this year to plant row to row and they were promised access to world markets. But before the harvest was completed, the government again placed controls it calls "voluntary restraints" on export sales.

The consumer also has suffered since 1972 from price changes and fluctuations in supply. You may recall that it was in 1972 that the Administration allowed our food reserve to dwindle from a supply of several months to less than a month.

It is being said today that food policy is too important to be left to the Department of Agriculture. I disagree. While we need to have a coordinated policy, the basic responsibility and initiative should rest in the Department of Agriculture.

Food policy is too important to be left to chance. It is too important to be left to a Secretary of Agriculture who refuses to face a changed world but still want to stay in office.

It is no wonder that some of the responsibility for food decisions has drifted to the Departments of State, Labor and Commerce, as well as White House staffers not very well posted on food matters. There is a very real leadership vacuum at the Department of Agriculture.

We have been inviting disaster for farmers and consumers for the past three years. And disaster has come calling sometimes for farmers, sometimes for consumers, and sometimes for both at the same time.

Part of the reasoning for the Nixon-Butz decision in 1972 to get rid of existing food reserves was that they were too costly to keep.

It is true that the cost of carrying food stocks today is small, and that government costs of farm programs are down sharply.

I doubt, however, that you have noticed the saving on your tax bill.

But you have noticed what has happened to your food bill. It went up by about 35 percent from 1972 to 1974.

The food bill of American citizens has increased by more than $57 billion in the last three years. This is the result of reducing the government's role in stabilizing food production and marketing and turning you over to the tender mercies of the Butz boom and bust market.

That $57 billion is more than it cost the taxpayer in farm stabilization and conservation programs in the last 40 years.

A recent study by Georgetown University shows that in only 11 of the last 50 years did our farmers break even or make a profit. This should end the notion that our farmers have been subsidized by urban America. To the contrary, our farmers have been subsidizing the American consumer for years.

I like the subject of this conference, and I believe that America has a unique role to play in this hungry world.

But how can we keep or even make sense in talking about world hunger when we do not have the basic elements of a workable food policy in our country?

The time has come to turn away from the failures of the past several years.

How many more times will our producers and consumers have to be burned by volatile markets.

How much longer will we expose our overseas customers to the gnawing uncertainty about us as a supplier?

And how long will we turn our backs on real and present hunger in the world?

It no longer is good enough for the poor to eat only in the good years.

It no longer is good enough for farmers to prosper only once in a while.

It no longer is good enough to ask our farm families to plant this year's crops when wildly gyrating prices give them no clue as to whether they will recover their investment, let alone make a profit.

It no longer is good enough for our export customers to wonder whether they will be left holding an empty bag if supplies tighten up here.

It no longer is good enough to have to choose between supplying our own people and those beyond our borders.

And it no longer is good enough to hide behind the excuse that we can't feed the whole world—and use that to justify doing less than we are able to do.

I've recited some of the problems with our present policies. Now let me explain what I believe we need in a food policy.

First, it must be based on a commitment to abundance.

Next, it must be comprehensive and coordinated—an integrated set of policies relating food production, processing, marketing, distribution, exports, trade, consumption and nutrition.

Third, it must seek several objectives, including:

—A fair return to farmers to sustain high-level production;

—Adequate food supplies at reasonably stable prices for consumers and users of farm products;

—Being a reliable supplier on the world export market;

—Supporting feeding programs for the needy here and abroad;

—Improved nutrition, here and abroad; and

—Assuring adequate inputs, transportation and credit for agricultural requirements.

A national food policy geared to these objectives is more than just desirable. It is essential. And I am convinced that the American people would support such a policy.

I have been chairing some food policy hearings being conducted by the Technology Assessment Board of the Office of Technology Assessment to identify the components of a comprehensive national food policy.

In the Joint Economic Committee of the Congress, which I chair, we have given attention to the role which agriculture must play in a full-employment, full-production economy.

And in the Foreign Agricultural Policy Subcommittee, which I also chair, we have been examining ways of achieving better coordination of our food policies.

I have spent much of my time on the producer side of the food problem equation because it is the least understood by the public—and because we have a great deal to lose unless we can keep our family farmers producing at high levels.

It generally is not realized that the American food and agricultural economy is a $600 billion industry—about eight times the size of the auto industry.

But there is a purchasing power side to the food problem as well. Our whole food situation would be much brighter if we were functioning in a healthy national economy.

Even in good economic times, about 10 percent of our people have been hungry or malnourished. With today's massive unemployment and continuing inflation, many more citizens have been forced into this vulnerable class.

If a lesson can be drawn from the experiences of the past three years, it is that we have a new ball game. New mechanisms for decision-making are needed to respond to the structural changes in agriculture.

While U.S. stocks have increased sharply in the past year, world production is only slightly above 1974 and three percent less than 1973. The prospects for the world is continuing tight supplies, with possibly a food deficit of 85 million tons in the developing countries by 1985. We need to be prepared for scarcity or occasional years of surplus.

In developing a food policy we must balance the needs of consumers and farmers. We do not have to put our livestock, poultry and dairy producers through an extreme of boom and bust, fueled by volatile feed prices.

And we also need to balance short and long term interests. In recent years, our decision-makers sometimes have taken short-term approaches with little regard for the longer term impact.

Thus, it was decided to put a cap on beef prices even though it was destined to create dislocations and higher prices in the future.

Later, it was decided to impose controls on exports even though this could set off a cycle of reduced sales abroad, depressed farm income, and reduced productivity.

We no longer can afford to have separate policies for different kinds of agricultural producers. In fact, we need not an agricultural policy, a consumer policy or a trade policy, but a policy which interrelates and balances all of these elements.

We must be conscious, too, that agriculture does not function in a world of its own. Efficient food production is highly dependent upon credit resources, energy, transportation, distribution, tax policies and basic research.

What I have said about the need for a balanced, interrelated U.S. policy on food also applies to a world which has entered a new era of food insecurity.

There is an new internationalism abroad in the world—not based upon the old imperatives of diplomacy and security—but based upon a sense of interdependence in the areas of commodities, technology, production and trade.

We have made efforts in this direction. But they have been feeble.

At the World Food Conference in Rome, we had to be dragged grudgingly into talking about what the conference wanted to discuss—hunger and food security.

The Administration proudly has announced that our food exports—at a value of around $23 billion—account for about 55 percent of food moving in the world market. And we provide about 80 percent of the world's food aid.

But the Administration is almost bashful about providing leadership. And it is in our interest to promote policies which encourage international cooperation and stability in the world food market.

In the words of Dr. Addeke Boerma, former Director General of the UN Food and Agricultural Organization:

"The world has allowed itself to drift into a degree of dependence on the powers exercised on the plains of North America."

At the UN Special Session last September, we did much better in trying to deal sympathetically and on an equal basis with the other nations of the world. And we can only hope that the follow-through will be in the spirit of economic cooperation declared by our spokesman.

The international crisis in energy has taught us some lessons in international cooperation. And one of them is that access to supplies is important as well as access to markets.

I have been a supporter of international economic cooperation and commodity agreements since I first came to the U.S. Senate in 1949.

The farmers and consumers of the world need an alternative to a world commodity trading system dominated by international corporate giants.

We also need to establish a world food reserve. It is not enough just to be for it. We must help implement it and make it work.

We need to be hard-boiled about insisting that the reserve be used for strategic and emergency purposes, not manipulated to drive the farmer out of business or to hold down prices. Thus far, negotiations under the International Wheat Council have been bogged down in discussions over the method by which stocks would be released.

As for a national reserve, it really is not that complicated a problem if we will trust farmers to keep the bulk of the stocks on the farm.

We can do this by providing an extended loan program for farmers. When the farmer sells, he will pay off the loan and interest. He's protected, the consumer is protected and society is better off.

A national food reserve and a world food reserve can benefit both farmers and consumers. But if we are going to use the food reserve to level off the peaks, there must be a parallel policy to level off the valleys.

We're all frustrated about the boom and the bust. But we have to get rid of both at the same time.

A balanced national food policy also must take into account the needs of the food deficit nations. We have provided over $27 billion of food aid, and many more billions in aid to increase food production.

Food aid is not something which should be doled out haphazardly or in response to fluctuations in supply and prices in this country. It should be programmed to encourage production and not lock local farmers into a subsistence agriculture.

The world doesn't really lack food. It lacks effective purchasing power. And until this can be generated, we just will be treating the symptoms, not the real problem.

We ought to use our food aid to turn the people of the recipient nations into commercial customers for food products of their own or other farmers.

And we know that the food deficit nations can increase greatly their own production by utilizing today's existing technology. For example, rice yields in Bangladesh are only 53 percent of the world average and 24 percent of the U.S. average.

When we provide food aid, it is important that the recipient nations not discourage their own producers through cheap food policies. This will avoid developing permanent clients for our food aid.

And we must more sharply focus our aid programs aimed at expanding food production, rural credit, family planning, research and education. These programs ultimately tie back to poverty and inadequate foods production.

In recent weeks, there have been numerous newspaper headlines about using our food as a weapon of foreign policy.

When I authored some of the early bills, including the Food For Peace Act, I talked about food as an instrument of foreign policy. But not in the sense of using it for coercion.

I visualized Food For Peace as a way to promote the foreign policy of the U.S. and help build world peace.

I did indeed refer to using food in the "arsenal of peace."

I pointed out that Food for Peace is more than a farm program—that it is a foreign policy program and one in which we prove that we really care about people.

To sum up, Americas first responsibility in this hungry world is to update its vision of the world and our place in it—because its a changed world.

The days of cheap food are over, and the days of plentiful food are in serious danger.

We still have plentiful food for all. It is within our capacity.

But we have to choose between the mismanaged and self-defeating policies of today and the development of a managed program of abundance in a comprehensive, integrated national food policy.

If we continue on our present course, we are not going to be of much help to the hungry world. If we do not cope with hunger and poverty, whole societies may break down in violence and revolution.

On the world front, this will require cooperation, not confrontation.

Father Theodore M. Hesburgh, President of Notre Dame University declared:

"With a vision of a world which is larger than ourselves and our concerns of the moment, we can see that isolated lives of abundance would be mocked by indifference to the needs and desires of the vast majority of the human family.

"No nation, conceived and dedicated as this one was, could long endure as a community of moral individuals, while ignoring what is happening outside its borders, while ignoring its own role in perpetuating misery. Nor could we hope to secure the interests we have in the developing countries if we did not also respond to their needs as well. In this, there is a happy coincidence of our self-interest as Americans and our moral interest as part of the human family."

Today, we face the challenge of food insecurity—whether we like it or not. We live in a dangerous world—like it or not.

Those of us who are privileged to be Americans, with our opportunities and resources, the science and technology to produced food, must choose to use these resources constructively and wisely.

The nation which could conceive the Marshall Plan, Food for Peace, the Peace Corps, and so many other noble initiatives, is not short on courage or imagination. And we need not fail the hungry world at this crucial moment.

There is a destiny and a role for America. It is your choice now and mine.

WAR POWERS RESOLUTION

Mr. CLARK. Mr. President, during the recent consideration by the Senate of S. 2662, the International Security Assistance and Arms Export Control Act, Senator EAGLETON proposed a number of amendments to the war powers resolution. Senator JAVITS, speaking for the Committee on Foreign Relations, assured the Senator from Missouri that the committee would conduct thorough hearings on experience to date under that resolution, along with suggestions for changes in it. I have a deep interest in the issues involved in how this Nation goes to war and I look forward to participating in the committee's study.

I wish to call attention to an important article on the War Powers Resolution by Mr. Michael J. Glennon, which appears in the November 1975 issue of the Minnesota Law Review. Mr. Glennon's article contains a thorough analysis of operations under the war powers resolution during the evacuations from Indochina and in the *Mayaguez* incident. He suggests a number of possibilities for strengthening the resolution, including suggestions for exercising Congress power of the purse to terminate the unauthorized use of the U.S. Armed Forces in hostilities abroad. He has made a significant and timely contribution to the public dialog on this important subject.

I commend his article to my colleagues and other readers of the RECORD, and ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Minnesota Law Review, November 1975]

STRENGTHENING THE WAR POWERS RESOLUTION: THE CASE FOR PURSE-STRINGS RESTRICTIONS

The laws are silent amidst the clash of arms.—Cicero, *Pro Milone*.

(By Michael J. Glennon[*])

In the aftermath of the long and bitter debate over United States military involvement in Vietnam, Congress determined "to fulfill the intent of the framers of the Constitution . . . [by ensuring] that the collective judgment of both the Congress and the President"[1] would apply to future exercises of the warmaking powers. The War Powers Resolution,[2] enacted over President Nixon's veto in 1973,[3] restricts the duration of any involvement of United States armed forces in "hostilities" or in "situations where imminent involvement in hostilities is clearly indicated by the circumstances," when the introduction of those forces occurs without a declaration of war.[4] It requires the President to submit a report to Congress within 48 hours after any such introduction of the armed forces,[5] and to terminate the involvement within 60 days after the report was or should have been submitted,[6] or sooner "if the Congress so directs by concurrent resolution."[7] The Resolution also requires the President to consult with Congress before and during such involvements,[8] and to report to Congress when forces are deployed in certain other situations.[9] These are the only provisions of the Resolution that restrict presidential use of the armed forces.[10] A "Purpose and Policy" section[11] expresses the understanding of Congress as to the scope of the President's constitutional power to independently introduce the armed forces into hostilities,[12] but it contains no mandatory language.

The Resolution, then, imposes only what may be termed "subsequent limitations" upon the President's use of the armed forces. This contrasts with the Senate version of the Resolution, rejected by the conference committee, which would have also imposed "prior restraints." It would have stated in operative terms, rather than merely as the understanding of Congress, the circumstances in which the armed forces may be introduced into hostilities without a declaration of war.[13] The Senate version differed from the Resolution in two other important respects. It would have explicitly allowed the President to introduce the armed forces to evacuate United States citizens and nationals abroad in certain emergency situations,[14] and, by avoiding reference to the Constitution in defining the circumstances in which the President could independently engage the armed forces in hostilities, it would have avoided indicating that the President has a constitutional right to act independently in those circumstances.[15]

To date, four events—the *Mayaguez* incident and three military actions relating to the evacuation of American and other nationals from South Vietnam and Cambodia—have caused the President to submit a report to Congress under the Resolution. This Article suggests that the inability of the Resolution to control the President's use of the armed forces during those and similar crises necessitates amendment of the Resolution to include prior restraints of the sort contained in the Senate bill.[16] The Ford administration, however, has indicated that it considers unconstitutional both the subsequent limitations contained in the Resolution and such prior restraints. At least with respect to the prior restraints, some members of Congress share this view—as is illustrated by the rejection of the Senate version of the Resolution.[17] These objections create the danger that a President will consider himself justified in ignoring the subsequent limitations and any prior restraints that Congress enacts. Thus the Article also proposes that Congress obviate that danger by employing funding prohibitions to enforce both subsequent limitations and prior restraints. Its thesis is that, whatever the constitutional scope of the presidential warmaking power, Congress can and should effectively limit the exercise of that power by means of its exclusive power over the purse.[18]

After an introductory discussion of the constitutional allocation of the war-making powers between the President and Congress, the Article lays the foundation for these ideas by examining the legislative and executive responses to the recent events in Southeast Asia. It then examines the current political status of the power over the purse and the constitutional support for its use in the present context. It concludes by elaborating the proposals outlined above and other less crucial possibilities for strengthening the Resolution.

I. THE WAR-MAKING POWERS

The scope of the President's power to make war has been the subject of much controversy in recent years.[19] The wide divergence of opinion is illustrated by a comparison of the most recent statement on the matter by Congress, section 2(c) of the War Powers Resolution, with the opinion of Monroe Leigh, Legal Advisor to the State Department. The Resolution states:

"(c) The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated

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Footnotes at end of article.

by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces."

Mr. Leigh, on the other hand, believes:

"Besides the three situations listed in subsection 2(c) of the War Powers Resolution, it appears that the President has the constitutional authority to use the Armed Forces to rescue American citizens abroad, to rescue foreign nationals where such action directly facilitates the rescue of U.S. citizens abroad, to protect U.S. Embassies and Legations abroad, to suppress civil insurrection, to implement and administer the terms of an armistice or cease-fire designed to terminate hostilities involving the United States, and to carry out the terms of security commitments contained in treaties. We do not, however, believe that any such list can be a complete one, just as we do not believe that any single definitional statement can clearly encompass every conceivable situation in which the President's Commander in Chief authority could be exercised." [20]

It is not the purpose of this Article to explore the merits of this controversy; indeed, the proposition advanced here is that the scope of the President's war-making power is irrelevant insofar as Congress refuses to provide funds for unwanted presidential uses of the armed forces. For present purposes, then, it will suffice to make the following points: First, the Constitution's textual grants of war-making power to the President are paltry in comparison with, and are subordinate to, its grants to Congress; [21] moreover, original constitutional materials indicate that the Framers intended a narrowly circumscribed presidential war-making power, with the commander-in-chief clause conferring minimal policy-making authority [22] and no authority to independently commit the armed forces to combat, except in order to repel "sudden atacks." [23] Second, early Presidents generally respected the primacy of Congress in the war powers area,[24] but in recent decades Presidents have assumed the power to involve the armed forces in "full scale and sustained warfare." [25] In this connection it is debated whether repeated exercise by one branch of the government of a power not granted to it by the Constitution accomplishes, by some process analogous to adverse possession, constitutional possession of that power,[26] but what little Supreme Court attention has been addressed to this issue denies such a doctrine.[27] Third, the case law is lean in the war powers area in general, giving original constitutional materials primary significance,[28] but the cases do suggest that the power of the President is at low ebb when he acts in opposition to the express will of Congress.[29]

II. OPERATION OF THE WAR POWERS RESOLUTION DURING THE EVACUATIONS FROM CAMBODIA AND VIETNAM AND THE MAYAGUEZ INCIDENT

The four events that have given rise to the submission of reports required by the War Powers Resolution must be viewed, for present purposes, in the light of a group of statutory provisions that Congress enacted between 1973 and 1975 in order to terminate and prevent further United States military involvement in Southeast Asia. The common effect of these essentially similar provisions is to prohibit the use of funds to finance "combat activities," and other military or paramilitary operations "in," "over," and "off the shores of" North and South Vietnam, Laos, and Cambodia.[30]

A. The evacuations and the Vietnam Contingency Act

The first report was submitted on April 4, 1975.[31] Three days earlier Cambodian Premier Lon Nol had left the capital, Phnom Penh, as Khmer Rouge insurgents closed in on the city.[32] South Vietnamese forces had abandoned more than two-thirds of their country to the North Vietnamese.[33] President Ford, "taking note of the provision of section 4(a)(2) of the War Powers Resolution." [34] reported that he had ordered United States naval vessels carrying some 700 marines, equipped for combat, into the territorial waters of South Vietnam. Their "sole mission," the President said, was to "assist in the evacuation [of "refugees and U.S. nationals,"] including the maintenance of order on board the vessels engaged in that task." [35]

On April 10, the President, addressing a joint session of Congress, asked it to "clarify immediately its restrictions on the use of U.S. military forces in Southeast Asia for the limited purposes" of evacuating Americans and South Vietnamese.[36] His reference to "restrictions" was undoubtedly to the statutory funding prohibitions,[37] rather than to the War Powers Resolution, for the latter imposed no restrictions upon the introduction of armed forces into hostilities and its 60-day limit [38] was unlikely to be exceeded by an evacuation effort.[39]

The second report was submitted two days later.[40] The President, "taking note of section 4 of the War Powers Resolution," reported that Khmer Rouge forces had reached the outskirts of Phnom Penh and were within mortar range of Pochentong Airfield, and that he had therefore "ordered U.S. military forces to proceed with the planned evacuation." These forces included 350 marines, 36 helicopters, and supporting tactical aircraft. A total of 82 United States citizens, 159 Cambodians, and 35 third-country nationals were evacuated during the four-hour operation. Although hostile recoilless rifle fire was encountered by the last forces to leave, the fire was not returned. No casualties were incurred.[41]

On April 14, Senate Major Whip Robert Byrd responded to the President's request for "clarification" of the statutory funding prohibitions by introducing legislation [42] to authorize the use of the armed forces to protect United States citizens being evacuated from South Vietnam under circumstances posing a threat to their lives.[43] The bill would have removed the statutory funding prohibitions "to the extent necessary to give effect to" that authorization.[44]

On approximately the same date, the administration transmitted to Congress its own bill for "clarification" of the funding prohibitions. It provided simply that nothing contained in those prohibitions "shall be construed as limiting the availability of funds for the use of the Armed Forces of the United States to aid, assist, and carry out humanitarian evacuation, if ordered by the President." [45] Unlike Senator Byrd's bill [46] and the Senate version of the War Powers Resolution,[47] it contained no *authorization* for the use of the armed forces and no limitations upon what persons could be evacuated or under what circumstances.[48]

On April 17, the House International Relations Committee reported a bill essentially similar to the administration's model.[49] It did not purport to confer authority to use the armed forces.[50] Rather, it authorized funds for the evacuation,[51] "without the use of military force, if possible," of citizens and dependents of citizens or permanent residents of the United States; of "Vietnamese nationals eligible for immigration to the United States by reason of their relationships to American citizens"; and of other foreign nationals under "direct and imminent threat" of death, if the armed forces "necessary to carry out their evacuation do not exceed those necessary to carry out the evacuation of" the prior two categories of persons.[52]

The Senate Foreign Relations Committee, meeting the week of April 14–18, was thus confronted with three alternatives: do nothing,[53] report a measure setting aside the funding prohibitions and suggesting that the President proceed on the basis of his own constitutional authority; or follow Senator Byrd's lead [54] and report a measure authorizing use of the armed forces to evacuate certain persons in certain circumstances and lifting the funding prohibitions to the extent necessary to implement that authorization. The Committee selected the final alternative.

The Committee had already drafted a blueprint for implementing this choice. Six years earlier, in reporting the National Commitments Resolution, it had recommended that in considering future resolution involving the use or possible use of Armed Forces, Congress—

(1) Debate the proposed resolution at sufficient length to establish a legislative record showing the intent of Congress;

(2) Use the words *authorize* or *empower* or such other language as will leave no doubt that Congress alone has the right to authorize the initiation of war and that, in granting the President authority to use the armed forces, Congress is granting him power that he would not otherwise have;

(3) State in the resolution as explicitly as possible under the circumstances the kind of military action that is being authorized and the place and purpose of its use; and

(4) Put a time limit on the resolution, thereby assuring Congress the opportunity to review its decision and extend or terminate the President's authority to use military force.[55]

The Vietnam Contingency Act of 1975,[56] reported April 18, comported with these guidelines. It authorized use of the armed forces "in a number and manner essential to and directly connected with the protection of . . . United States citizens and their dependents while they are being withdrawn" from South Vietnam.[57] It required the President, upon any such use of the forces, to submit a report under section 4(a) of the War Powers Resolution and to certify that a direct and imminent threat existed to the lives of such citizens, that every effort had been made to terminate that threat diplomatically, and that the evacuation was being carried out as rapidly as possible.[58] The bill also authorized the use of the armed forces "to assist in bringing out endangered foreign nationals," but only if that could be done incidentally to, and without any expansion of, the evacuation of United States citizens and their dependents.[59] Lastly, the bill set aside the statutory funding prohibitions "only to the extent necessary to give effect to" authorization for the evacuation of United States citizens and their dependents.[60]

The Senate passed the bill in substantially the same form in which it had been reported, with the result that the conference committee was confronted with the same alternatives that the Senate Foreign Relations Committee had faced. Like the Senate Committee, the conference committee chose the route of authorizing and limiting use of the armed forces, and adopted the Senate language virtually without change in its report.[61]

Adoption of the conference report would have been an important reassertion of the congressional war-making power, reclamation of which had begun with the enactment of the various funding prohibitions and the War Powers Resolution. A specifically limited congressional authorization would have prevented the evacuation from serving as a precedent for independent presidential use of the armed forces to rescue endangered United States citizens, or any other persons, when there is time to seek the permission of Congress.[62] Indeed, it would have established a precedent for requiring congressional authorization. Such a precedent would have been most clearly justified insofar as it related to rescue of foreign nationals, for there

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Footnotes at end of article.

the constitutional support for the President's independent action is particularly slim.[63]

Perhaps even more importantly, enactment of the conference report would have avoided the erosion of the congressional power over the purse that was bound to occur if the President was permitted to proceed with the planned evacuation in the face of statutory prohibitions on the use of funds for that purpose.[64] In particular, it would have undermined any claim by the executive branch that funding prohibitions could not curtail activities allegedly supported by the commander-in-chief clause.[65]

The conference report was passed by the Senate on April 25, the same day it was filed by the conferees. It was scheduled for consideration by the House the morning of April 29. However, that morning Speaker Carl Albert telephoned from the White House to remove the bill from the calendar.[66] The evacuation was already in progress. Later that day, President Duong Van Minh in Saigon announced the unconditional surrender of South Vietnam.[67]

On April 30, the President transmitted a report regarding the evacuation.[68] Again "taking note of the provision of section 4 of the War Powers Resolution," he reported that the operation involved 70 helicopters, fighter aircraft, and 865 marines. The fighters "suppressed" anti-aircraft fire, and ground forces occasionally returned enemy fire. Four members of the armed forces were killed, including two marines "on regular duty" at Tan Son Nhut Airfield. Approximately 19 hours elapsed from the time United States forces entered South Vietnamese airspace until the last elements of the ground security forces departed Saigon.

On May 1, the House took up the conference report and rejected it, 162–246.[69]

B. The Mayaguez incident

Early in the morning hours [70] of Monday, May 12, 1975, the *Mayaguez*, a merchant vessel of United States registry with a crew of United States citizens, was seized by a Cambodian motor torpedo boat six and one-half miles southeast of Poulo Wai Island and taken to Koh Tang Island. That afternoon, 1100 marines were ordered flown from Okinawa and the Philippines to Utapao Air Base in Thailand. This time the President did not request Congress to "clarify" the statutory funding prohibitions. At 1:00 a.m. Wednesday, May 14, United States aircraft sank a Cambodian patrol craft that had attempted to leave Koh Tang Island. Thereafter two other Cambodian patrol craft were destroyed and four immobilized. Several hours later the *Mayaguez* crew members were put in a fishing vessel and taken to Kompong Som on the Cambodian mainland. At 7:00 p.m. Phnom Penh radio was overheard in Bangkok announcing that the Cambodian government would release the *Mayaguez*. Afterwards, at 7:20 p.m., about 135 marines landed on Koh Tang Island under heavy fire. At 9:00 p.m. marines, boarding from the *U.S.S. Holt*, took possession of the *Mayaguez*. At 10:45 p.m. the destroyer *U.S.S. Wilson* reported a small boat approaching, flying a white flag; at 10:53 p.m. the *Wilson* sent word to the Pentagon that at least 30 caucasians were aboard the boat. (After the incident, Secretary Schlesinger stated that the crewmen "arrived at the *Wilson* as a result of what is presumed to be the decision of the Cambodians to deliver them up in order to terminate combat activities directed primarily at the mainland." [71]) At 11:00 p.m. United States aircraft struck the airfield at Ream and an oil storage depot on the Cambodian mainland.[72] The Pentagon said that 17 enemy planes had been destroyed on the ground, a hangar smashed and the runways cratered.[73] By the conclusion of hostilities 41 members of the United States armed forces had been killed.[74] The 39 members of the crew survived unharmed.

The President's report was submitted May 15.[75] Although "taking note of Section 4(a) (1) of the War Powers Resolution," it ignored Section 4(a) (3) in neglecting to mention the enlargement of United States forces in Thailand. Nor did it report any fatalities or refer to the statutory funding prohibitions.

C. Failure of the funding prohibitions

The statements of facts contained in the four reports submitted by the President under section 4 of the War Powers Resolution [76] leave little doubt that in each case United States forces carried out "military operations" or "combat activities" "in," "over," or "off the shores of" Cambodia or South Vietnam,[77] and thus that in each case the several statutory funding prohibitions were violated.

Indeed, in the case of the *Mayaguez* incident this conclusion is implicitly acknowledged by the report's reference to section 4 (a) (1) of the War Powers Resolution—the section dealing with situations wherein forces are "introduced into hostilities."

Nevertheless, on May 7, just prior to the *Mayaguez* incident, Monroe Leigh expressed to a subcommittee of the House International Relations Committee the view that the statutory funding prohibitions did not apply to the evacuations because "there was . . . a very substantial legislative history that it was not the intent of Congress in the funds limitation statutes to curtail . . . [the] exercise of presidential authority [to evacuate Americans]." [78]

Is Mr. Leigh not familiar with the "plain meaning rule"? [79] Moreover, if the statutes were not applicable,[80] why did President Ford request, prior to the Vietnam evacuation, that they be "clarified immediately"? [81] In any event, the legislative history provides almost no support for Mr. Leigh's theory.[82] Only one reasonable inference can be drawn from Mr. Leigh's *ex post facto* claim of executive authority. The failure of Congress to pass the Vietnam Contingency Act and to object to the violation of the funding prohibitions during the evacuations had convinced the administration by the time of the *Mayaguez* incident that most members of Congress would not object to a further violation of the funding prohibitions if the activities constituting the violation were politically acceptable.[83] The law had become a mere inconvenience which—thanks to public support, the legal theories of the State Department, and the acquiescence of Congress—could be ignored.

III. NEED FOR STRENGTHENING THE WAR POWERS RESOLUTION

A. Prior Restraints

Clearly the parade of horribles predicted by President Nixon [84] has not been set to march by enactment of the War Powers Resolution. The evacuations and the *Mayaguez* incident demonstrate that the Resolution has not diminished the ability of the President to "act decisively and convincingly"—even in the face of statutory funding prohibitions.[85]

On the contrary, events during the spring of 1975 illustrate that the Resolution presents no bar to possible excesses of presidential war-making. The ratio of United States citizens evacuated to foreign nationals evacuated from Cambodia and Vietnam strongly suggests that, but for the dubiously constitutional evacuation of the latter,[86] the exposure of United States forces to hostilities would have been considerably shortened and possibly eliminated.[87] And during the *Mayaguez* incident, both the assault on Koh Tang Island *after* the Cambodian government had announced it would release the vessel and the attacks on the Cambodian mainland *after* the release of the *Mayaguez* crew were apparently retaliatory [88] and thus also unconstitutional.[89]

The validity of certain criticism of the Resolution has been vindicated; namely, lacking prior restraints it does not curb unwanted presidential uses of the armed forces. Major military operations can, in modern times, take far less than even 48 hours, let alone 60 or 90 days. The evacuations from Cambodia and Vietnam were completed before the reports required by the Resolution were submitted. Neither during those instances, nor during the *Mayaguez* incident, did the Resolution pose any obstacle to real or potential transgressions of the constitutional limits of the President's war-making power.

B. Subsequent limitations

The effectiveness of the subsequent limitations of the Resolution [90] as a deterrent to congressionally unauthorized use of military force by the President has not yet been tested, but the administration has suggested that it may ignore the subsequent limitations should the question arise. Mr. Leigh indicated, in testifying before the Subcommittee on National Security Policy and Scientific Developments of the House International Relations Committee, that if a President's use of the armed forces is pursuant to a constitutional grant of power—and what President will claim otherwise?—then any statutory provision (such as the 60-day limit of section 5(b)), to say nothing of a mere concurrent resolution (such as that provided for by section 5(c)),[91] purporting to cut short that use is unconstitutional.[92]

It is worth noting, in this connection, the wording of the four reports submitted by President Ford. They were not submitted "in accordance with" or "pursuant to" or "as required by" section 4(a) of the War Powers Resolution; the President simply "took note of" the reporting requirement.[93] Moreover, the reports submitted during the evacuations from Cambodia and Vietnam were not identified as "paragraph (1)" reports,[94] the only type that triggers the 60-day limit. Whether this represented an attempt to evade the law is unclear; however, also worth noting is an executive-branch objection to various provisions of the Vietnam Contingency Act [95] on the ground that they would "require the President to endorse the provisions of the War Powers Resolution." [96] In the light of these unsubtle warnings that the present administration, like the last,[97] considers the Resolution unconstitutional, it takes little prescience to realize that the day may come when a President chooses not to "take note of" the reporting requirement or any other provision of the Resolution.

And he may succeed in doing so, for the share of the warmaking powers exercised by each branch is and has been less a function of the textual allotment of that power by the Constitution than of the political ability of Congress or the President to claim and exercise that power. The ability of Congress to exact future compliance with section 5(b) and 5(c) of the Resolution, if and when the occasion to do so arises, may thus rest more on the political leverage it can exercise than on the force of its legal arguments. The *Mayaguez* incident would certainly suggest as much. A clearer case of presidential violation of statutory law [98] could hardly exist. But the President's actions were popular, as they normally are in such circumstances,[99] and compliance with the funding prohibitions was not politically necessary. The determinative factors in a President's decision to comply or not to comply with section 5 of the War Powers Resolution may likewise be primarily political rather than legal in nature.

Consequently, it is possible that an effort to bolster the Resolution will be successful only to the extent that legal logic is an ingredient of political power. But insofar as the logic of the law is all Congress can ever with certainty rely on, Congress should ensure now that the fullest measure of its authority under the Constitution is brought to bear behind section 5.

Footnotes at end of article.

IV. METHODS OF STRENGTHENING THE RESOLUTION

A. Use of the appropriations power to limit military activities

One exclusively congressional power—perhaps the most important of congressional powers—is the power over the purse.[100] What is the status of that power? Clearly, congressional acquiescence in its usurpation during the evacuation from Vietnam and Cambodia and the *Mayaguez* incident did not redound to congressional benefit. Those events could conceivably be cited by future Presidents as precedents for military operations for which Congress has denied funds.

The Legal Advisor of the Department of State, in fact, has already entered a two-pronged challenge to the power of Congress to employ funding limitations to restrict presidential military activities. He contends that funding prohibitions are unconstitutional to the extent that they prohibit the exercise of authority granted by the commander-in-chief clause and, in any event, constitutionally ineffective to limit such authority as long as funds are elsewhere available. Each proposition warrants examination.

1. General Constitutionality

As previously noted,[101] Mr. Leigh has indicated that he believes that the President possessed the authority to evacuate United States citizens from Cambodia and South Vietnam and to rescue the *Mayaguez* crew, notwithstanding prohibitions against the use of funds for those activities. Although he asserted that the prohibitions were inapplicable because of their legislative history,[102] he also indicated that had they been applicable, he would have considered them unconstitutional:

> "I do believe personally that such matters [as the Cambodia and Vietnam evacuations] involve the inherent constitutional power of the President and I don't think that every limitation that Congress might enact on an appropriation or otherwise is necessarily a constitutional one. I think there are some that would be plainly unconstitutional." [103]

Which appropriations limitations would be "plainly unconstitutional"? The Constitution provides that "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law." [104] The Supreme Court has never held unconstitutional any use of the appropriations power to limit the exercise of power by the executive branch.[105] The only limitation on an appropriation act that the Court has invalidated [106] exceeded a constitutional limitation on the power of Congress—the prohibitions against bills of attainder.[107]

The only prohibitions in the Constitution against the use of the appropriations power to curtail the activities of another branch are the requirements that the Justices of the Supreme Court and the President receive a compensation that may not be diminished.[108] Had the Framers intended further limitations on the appropriations power they surely would have included them. Indeed, in the case of military matters they went to the other extreme. In addition to the power to appropriate funds—and to refuse to do so—they gave Congress the power to "raise and support Armies" [109] and to "provide and maintain a Navy" [110]—and to refuse to do so. Far from giving the President power over the purse so that he could carry out the commander-in-chief clause, as Mr. Leigh suggests, the Framers believed it "particularly dangerous to give the keys of the treasury, and the command of the army, into the same hands." [111] As a result, they transferred the war power, in the words of Jefferson, "from the Executive to the Legislative body, from those who are to spend to those who are to pay." [112] Thus Presidents Jefferson and Jackson, when requesting congressional instructions as to the proper course to pursue in the fact of threatened aggression by Spain and marauding by South American pirates, respectively, recognized that control of the "means" necessary to carry out any military effort lies exclusively wih Congress.[113] The supremacy of the purse power was recognized by the Nixon administration even as it asserted broad power under the commander-in-chief clause to prosecute the war in Vietnam.[114]

2. "Conditions Subsequent"?

The second basis for Mr. Leigh's denial that Congress may constitutionally employ funding prohibitions to restrict the President in what he believes to be a constitutional use of armed force is his unexplained theory that such prohibitions are "conditions subsequent." In order to cut off funds for a specific activity, Mr. Leigh argues, Congress must wait for the President to "use up all the moneys appropriated." [115]

Precisely what type of appropriation Mr. Leigh meant by "all the moneys appropriated" is not clear. Whether he meant the entire defense budget, something less, or something more, must be guessed, but is not important, for Mr. Leigh's point is clear. The President can use for one purpose funds that were designated for another until those funds are exhausted, notwithstanding a law prohibiting that use.

This is nonsense. Followed to its logical conclusion, Mr. Leigh's argument would deprive Congress of the power to specify the purpose for which funds are appropriated. The principle is long established that Congress has the exclusive power to specify how appropriated moneys shall be spent.[116] The only difference between an appropriation for a specified object (a "line-item") and an express prohibition against the use of funds for a certain activity is a semantic one, the positive language of the one contrasting with the negative language of the other. Every appropriations act thus contains "conditions subsequent" in the sense that each specifies the purposes for which funds are appropriated—and, by implication, not appropriated. Transfer authority to take funds from one appropriations account and place them in another is a statutorily granted privilege, not a constitutional right.

B. The purse and the war powers resolution

1. Subsequent Limitations

That, then, is the status of the congressional power over the purse: still intact, but under stress and in need of reassertion. Happily, the two desiderata dovetail at this point: there could be no more effective reassertion of the appropriations power, and no better means of strengthening the subsequent limitations of the Resolution, than placing the power over the purse behind those limitations—by prohibiting the expenditure of funds for the use of the armed forces in hostilities after the termination of the 60-day period [117] or after the adoption of a concurrent resolution.[118]

No statutory scheme constructed in the twilight zone [119] of the war powers can be entirely immune from constitutional attack. But a funding cutoff, because it is the product of an unquestionably [120] *exclusive* congressional power, is more forceful constitutionally than the simple termination provisions of sections 5(b) and 5(c), which derive from the often usurped [121] and much disputed congressional war-making power. For instance, because the authority of the President to expend appropriated funds is "delegated" while the President's authority to repel "sudden attacks" is not, use of the purse power to enforce the subsequent limitations would undermine Mr. Leigh's argument [122] that the concurrent resolution provided for by section 5(c) is an unconstitutional attempt to divest the President of an undelegated power.

Moreover, innumerable precedents would support the sort of funding cutoff discussed. Congress clearly has the authority to make funds available for only a given purpose and a specified period of time; it does so frequently by prescribing availability for a particular department or agency within a designated fiscal year. A prohibition against the use of funds following termination of the 60-day period of section 5(b) would differ from fiscal year availability only in the sense that the former is contingent upon the occurrence of a particular event, the submission of a section 4(a)(1) report. But a cutoff based on a contingency is hardly unprecedented.[123] Nor is a cutoff by concurrent resolution innovative.[124]

In summary, even were Mr. Leigh correct in asserting that a constitutional use of the armed forces cannot be terminated by the exercise of congressional war-making power,[125] it would not follow under any but the most extreme of constitutional theories that Congress cannot refuse to appropriate funds for that use or that in the absence of an appropriation such use may continue.

2. Prior Restraints

The advisability of using the appropriations power to bolster the subsequent limitations of the Resolution leads to an obvious question. Why should appropriated funds be available for uses of the armed forces in situations not recognized by section 2(c)? Why should Congress, if it really means what section 2(c) says, not use its power over the purse to add teeth to that section? This form of "prior restraint," unlike the prior restraints contained in the Senate version of the War Powers Resolution,[126] would not be subject to the objection that a constitutional power is being circumscribed by statute: [127] Whether the President's war-making power is broader than recognized by section 2(c) would be beside the point since no military activity can be carried out in the absence of funds. The question is not even whether the congressional power over the purse can be used to deprive the President of his powers as commander in chief (or vice versa), since it is possible to read the constitutional provisions together as contemplating a chief executive who exercises a war-making power as extensive as the Constitution and appropriated funds allow.[128] In fact, this is precisely the scheme the Framers intended.[129]

Thus there would be several advantages to including a funding prohibition in section 2(c) as well. First, it would prevent unwanted presidential military excursions at the outset by denying funds to a President who intended to operate beyond the congressionally recognized limits of his power. Second, it would obviate the need for Congress, in order to prevent unauthorized presidential use of armed force, to hurriedly legislate ad hoc authorizations, limitations, and prohibitions every time the occasion arises. The scope of the President's independent authority to use the armed forces in an emergency situation would already be defined. Third, as with the subsequent limitations of section 5, prior restraints tied to the purse strings would be virtually immune from constitutional challenge and would thus provide a needed predictability that they would be respected in times of crisis. Including funding cutoffs would ensure, in short, that during the next involvement of the armed forces in hostilities, the Resolution will not be largely irrelevant.

If section 2(c) is thus amended to impose prior restraints upon independent presidential action, however, it should also be modified in several other respects. First, as Professor Berger recommended in discussing the Senate version of the War Powers Resolution,[130] independent presidential introduction of armed forces into hostilities should be sanctioned only where Congress is unable to act rapidly enough to be effective. Such

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Footnotes at end of article.

a qualification would conform the presidential war-making power to its most appropriate constitutional interpretation,[131] thus reducing the risk that the President will commit the nation to hostilities that Congress would have chosen to avoid.

Second, the section should be broadened to sanction, as did the Senate version of the Resolution,[132] independent presidential use of armed force to evacuate United States citizens endangered abroad under certain narrowly defined circumstances. Here again, however, the President should be permitted to act only where Congress cannot act rapidly enough.[133] This expansion is advisable because Presidents will probably assume the authority to act in such situations regardless of a lack of congressional authorization; thus Congress will be in a stronger position if it authorizes, rather than merely acquiesces in, their actions, for acquiescence would suggest that a President may constitutionally act without congressional authorization in still other situations not enumerated by the section.

Finally, the section, if so expanded to sanction certain presidential evacuations of United States citizens, should not purport, as it presently does, to define the constitutional scope of the President's power. In the first place, such a definition would be unnecessary if the section were coupled with purse-strings limitations. More importantly, it is not at all clear that the President can constitutionally evacuate United States citizens in any circumstances if Congress prescribes such action.[134] Therefore a congressional concession that he can would undermine later congressional action denying that the President has such authority. Moreover, such a concession would support presidential assertions of constitutional authority to use armed force in situations somewhat analogous to but potentially more explosive than evacuation of United States citizens—*e.g.*, the rescue of captured United States citizens, as in the *Mayaguez* incident.[135]

C. Other possibilities for improvement

The Article has dealt with only the major possibilities for strengthening the War Powers Resolution. The events discussed, however, suggest the possibility of further improvements.

(1) Reference to the "introduction" of the armed forces into hostilities may not cover all situations that should trigger the reporting requirement of section 4(a)(1) and the subsequent limitation of sections 5(b) and 5(c). During the evacuation of Saigon, two marines on "regular duty" at Tan Son Nhut Airfield were killed. No report was submitted with respect to this action. Arguably the incident did not constitute "hostilities." (Perhaps a definition of "hostilities" should be included in the Resolution, since in the absence thereof the executive branch has formulated its own.[136]) But the important question raised by the Tan Son Nhut incident is whether a report should be required when hostilities arise involving forces that have not been "introduced" into such hostilities. Use of the term "committed," as in the House version of the Resolution,[137] might be desirable.

(2) Section 5(b) provides that the 60-day time limit is triggered when a report is submitted or is "required to be submitted." The difficulty is, of course, who determines when the report was required to be submitted? Congress? The courts? There is no assurance that every President will "take note of" this requirement. Even if one assumes good faith on the part of a President, a gradual escalation of hostilities could generate honest differences of opinion as to the date on which the report was required to be submitted. This potential ambiguity can be easily remedied by allowing Congress, if it believes a report should have been submitted but was not, to so state by concurrent resolution and to set the date on which the 60-day requirement was triggered.

(3) It may be desirable to require the President to specify the paragraph of section 4(a) under which the report is submitted. President Ford did not do so in the second and third reports, submitted during the evacuations from Cambodia and Vietnam.[138] Had the hostilities gradually increased, serious disagreement could have arisen as to whether the 60-day period had been triggered by the report.

(4) Under section 5(c) the concurrent resolution termination procedure is not available in the event the 60-day period is extended or in the event specific statutory authorization is enacted. Any specific statutory authorization conferred in the future will probably solve this problem by including the language of section 5 of the Vietnam Contingency Act, which provided, in effect, that the concurrent resolution procedure remained applicable notwithstanding its inapplicability as a result of the enactment of that Act.[139] To eliminate the need to recite that paradoxical provision, section 5 should be amended to apply the concurrent resolution termination procedure to situations in which the armed forces are used pursuant to specific statutory authority.

(5) Section 8(a) of the Resolution prohibits the inference from any treaty or "provision of law," whether or not in effect prior to enactment of the Resolution, of presidential authority to introduce the armed forces into hostilities, unless the provision states that it is "intended to constitute specific statutory authorization within the meaning of this joint resolution." [140] Thus the Resolution prohibits any such inference from provisions of law such as the Middle East Peace and Stability Act [141] and the Cuban Resolution [142]—both of which were joint resolutions enacted prior to the War Powers Resolution and could be construed, in the absence of the latter, to authorize presidential introduction of the armed forces into hostilities.

As presently written, however, section 8(a) does not prohibit the President from inferring such authority from the Berlin Resolution,[143] because it is "a concurrent resolution, not a provision of law," or from various provisions of the September 1, 1975 Memorandum of Agreement between the Governments of Israel and the United States,[144] because the agreement was an executive agreement rather than a treaty. Therefore the section should be broadened to include concurrent resolutions and executive agreements as well as laws and treaties.

(6) The effect of subsection (d)(1) of section 8—providing that no provision of the Resolution is "intended to alter . . . the provisions of existing treaties"—is unclear, since presumably the purpose of subsection (a)(2) *is* to alter existing treaties (under domestic law) to the extent that they may be construed to authorize the introducion of armed forces into hostilities. Monroe Leigh, not surprisingly, has claimed independent constitutional authority on the part of the President to use the armed forces "to carry out the terms of security . . . treaties." [145]

The apparent conflict between subsections (d)(1) and (a)(2) should be clarified.

V. CONCLUSION

Enactment of the War Powers Resolution may have been "a crucial first step in reestablishing the constitutional balance so essential to the survival and proper functioning of our democratic political system." [146] But it was only a first step. During the *Mayaguez* incident and the evacuations from Cambodia and South Vietnam, Congress acquiesced in statutorily prohibited and constitutionally dubious military actions ordered by the President. The Resolution should not be viewed as a license for the abnegation by Congress of its constitutionally granted war and appropriations powers. Regardless of whether the policies behind those actions were wise, renunciation by Congress of its proper constitutional role can only abet excessive claims of executive authority and provide precedential support for military activities based on those claims. Enactment of amendments to the War Powers Resolution of the sort proposed in this Article would weaken those precedents and help secure a constitutional balance more in conformity with that intended by the Framers.

The criticisms recently directed at the Resolution by State Department Legal Advisor Monroe Leigh demonstrate that disagreements concerning the legal underpinnings of the Resolution have not been resolved since its enactment. They simply have not been forced to the surface by events. Consideration of amendments that would strengthen the Resolution and alleviate the discord could proceed more calmly now than amid the heated emotions and constitutional myopia inevitably generated by the nation's involvement in armed conflict. Peacetime legal arrangements have proven far more successful in preserving democratic principles than have wartime political accommodations.

FOOTNOTES

[*] Assistant Counsel, Office of the Legislative Counsel, United States Senate. The views expressed herein are those of the author.

[1] War Powers Resolution § 2(a), 50 U.S.C.A. § 1541(a) (Supp. 1975) [hereinafter cited as Resolution].

[2] The War Powers Resolution is set forth in the Appendix, *infra*.

[3] Joint Resolution of Nov. 7, 1973, Pub. L. No. 93-148, 87 Stat. 555. In his veto message the President explained that:

"[w]hile I am in accord with the desire of the Congress to assert its proper role in the conduct of our foreign affairs, the restrictions which this resolution would impose upon the authority of the President are both unconstitutional and dangerous to the best interests of our Nation."

Message from Richard Nixon to the House of Representatives, Oct. 24, 1973, in 9 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 1285 (1973). The President's constitutional objection was essentially that the Resolution "would attempt to take away, by a mere legislative act, authorities which the President has properly exercised under the Constitution for almost 200 years." *Id.* at 1286. The President's assertion represents one viewpoint in the controversy over the proper interpretation of the constitutional allocation of war-making powers between the President and Congress. *See* notes 19–29 *infra* and accompanying text.

The President's conclusion that the Resolution would be "dangerous to the best interests of our Nation" derived from his opinion that it would "seriously undermine this Nation's ability to act decisively and convincingly in times of international crisis." Message from Richard Nixon to the House of Representatives, Oct. 24, 1973, in 9 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 1285, 1286 (1973). He hypothesized that had the Resolution been in effect in recent years, "[w]e may well have been unable to respond in the way we did during the Berlin crisis of 1961, the Cuban missile crisis of 1962, the Congo rescue operation in 1964, and the Jordanian crisis of 1970—to mention just a few examples." *Id.*

The President's veto message was apparently written before enactment of the Resolution, on the assumption that the conference committee would report the Senate version of the Resolution. It did not. *See* text accompanying note 13 *supra*.

[4] Resolution § 4(a) (1). For the sake of convenience, and unless otherwise indicated, the word "hostilities" will hereinafter encompass "situations where imminent involvement in hostilities is clearly indicated by the circumstances," as well as hostilities per se.

[5] *Id.* § 4(a). The report must set forth the circumstances necessitating, the legal authority for, and the estimated duration of the involvement. *Id.* § 4(a) (A)–(C). In addition, the President must report periodically on the status of the involvement. *Id.* § 4(c).

[6] *Id.* § 5(b). The 60-day period may be extended up to 30 days if the President determines and certifies to Congress in writing that the safe removal of the troops so requires. *Id.* This automatic termination does not apply if Congress has declared war, specifically authorized the involvement, extended the 60-day period, or is "unable to meet as a result of armed attack upon the United States." *Id.*

[7] *Id.* § 5(c).

[8] *Id.* § 3.

[9] *Id.* § 4.

[10] Other provisions of the Resolution require that Congress give expedited consideration to a concurrent resolution terminating hostilities, *id.* § 7, and to proposals to extend the 60-day limit on involvement, *id.* § 6; prohibit the inference that any law or treaty authorizes introduction of the armed forces into hostilities, unless such law or treaty "states that it is intended to constitute specific statutory authorization [for the introduction] within the meaning of this joint resolution," *id.* § 8(a); and states that the Resolution does not alter the constitutional authority of the President or Congress or grant any authority to the former that "he would not have had in the absence of this joint resolution." *Id.* § 8(d).

[11] *Id.* § 2.

[12] *Id.* § 2(c).

[13] The bill, introduced by Senator Jacob Javits, provided in section 2 that

> [i]n the absence of a declaration of war by the Congress, the Armed Forces of the United States may be introduced in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, only—
>
> (1) to repel an armed attack upon the United States, its territories and possessions; to take necessary and appropriate retaliatory actions in the event of such an attack; and to forestall the direct and imminent threat of such an attack;
>
> (2) to repel an armed attack against the Armed Forces of the United States located outside of the United States, its territories and possessions, and to forestall the direct and imminent threat of such an attack;
>
> (3) to protect while evacuating citizens and nationals of the United States, as rapidly as possible, from (A) any situation on the high seas involving a direct and imminent threat to the lives of such citizens and nationals, or (B) any country in which such citizens and nationals are present with the express or tacit consent of the government of such country and are being subjected to a direct and imminent threat to their lives, either sponsored by such government or beyond the power of such government to control; but the President shall make every effort to terminate such a threat without using the Armed Forces of the United States, and shall, where possible, obtain the consent of the government of such country before using the Armed Forces of the United States to protect citizens and nationals of the United States being evacuated from such country; or
>
> (4) pursuant to specific statutory authorization. . . .

S. 440, 93d Cong., 1st Sess. § 3 (1973).

[14] *Compare id.* § 3(3), *with* Resolution § 2(c).

[15] *Compare* S. 440, 93d Cong., 1st Sess. § 3 (1973), *quoted in* note 13 *supra, with* Resolution § 2(c). The controversy over the proper interpretation of the constitutional allocation of war-making powers between the President and Congress is discussed generally in notes 19–29 *infra* and accompanying test.

Section 2(c) of the Resolution reflects a compromise reached in conference committee between section 3 of the Senate bill and the House bill, H.J. Res. 542, 93d Cong., 1st Sess. (1973), which contained no provision similar to either of those sections. (Otherwise the two bills were essentially similar, except that the Senate bill's counterpart of Resolution § 5(b) provided a basic 30-day limit, S. 440, 93d Cong., 1st Sess. § 5 (1973), while that of the House bill, H.J. Res. 542, 93d Cong., 1st. Sess § 4(b) (1973), allowed 120 days.) The prior restraints provision of the Senate bill was opposed on primarily two grounds. Some considered the President's powers to be more extensive than those recognized by that provision. Senator Strom Thurmond, for example, expressed this view during debate on the bill:

> "The legislation provides only four situations in which immediate response is allowed, and it may well be questioned whether it is possible to define and describe in advance all possible potential emergency situations to which the President might be called on to respond.
>
> ". . . It should also be pointed out that some constitutional law experts maintain that the independent authority of the President under the Constitution is substantially broader than the four categories specified in the bill."

119 Cong Rec. 25,104 (1973). Similarly, Senator Griffin believed that section 3 was "an arbitrary restriction" on the President's constitutional powers. *Id.* at 25,099.

Others expressed a contrary fear—that "spelling out" powers not recognized by the Constitution would only support further presidential usurpation of the war-making powers by providing statutory language on which unconstitutional military operations could be based. Senator Fulbright observed:

> "The list of conditions spelled out in Section 3 of the bill is, in my opinion, about as precise and comprehensive a list as can be devised, and its purpose, I fully recognize, is not to expand Presidential power but to restrict it to the categories listed. Nevertheless, I am apprehensive that the very comprehensiveness and precision of the contingencies listed in Section 3 may be drawn upon by future Presidents to explain or justify military initiatives which would otherwise be difficult to explain or justify. A future President might, for instance, cite "secret" or "classified" data to justify almost any conceivable foreign military initiative as essential to "forestall the direct and imminent threat" of an attack on the United States or its armed forces abroad." S. Rep. No. 220, 93d Cong., 1st Sess. 34–35 (1973) (supplemental views of J. W. Fulbright).

The absence of prior restraints in the House bill and in the Resolution itself, on the other hand, was opposed on the ground that it rendered ineffectual any legislation purporting to inhibit presidential initiation of wars unwanted by Congress. Thus Senators Thomas Eagleton and Gaylord Nelson, cosponsors of the Senate bill, voted against the Resolution. Senator Eagleton explained:

> "If we are reluctant to deal with the constitutional issue of prior authority, then we will continue to be confronted in years to come with the prospect of desperately trying to stop misbegotten wars.
>
> "War powers legislation that is meaningful has to deal with the fundamental causes of the constitutional impasse that plagued the Nation for the past decade. It must, in my judgment, in the most precise legal language, carefully spell out those powers which adhere to the Executive by reason of his status as Commander in Chief and his obligation to act in emergencies to repel attacks upon the Nation, its forces, and its citizens abroad. For the rest, such legislation must make clear that all remaining decisions involved in taking the Nation to war are reserved to the elected representatives of the people—as the Constitution so says, the Congress."

119 Cong. Rec. 33,557 (1973). Representative Elizabeth Holtzman also voted against the Resolution, stating that "it does not prevent the commencement of an illegal war, but allows one to continue for from 60 to 90 days." *Id. at* 33, 872 (1973).

[16] S. 440, 93d Cong., 1st Sess. § 3 (1973), *quoted in* note 13 *supra.*

[17] *See* note 15 *supra.*

[18] U.S. Const. art I, § 9, cl. 7.

[19] *See, e.g.*, E. Corwin, The President: Office and Powers 1787–1957 (4th rev. ed. 1957); M. Pusey, The Way We Go to War (1969); A. Schlesinger, Jr., The Imperial Presidency (1973); F. Wormuth, The Vietnam War: The President versus the Constitution (1968); Corwin, *The President's Power*, in The President: Role and Powers 361 (1965); and sources cited in notes 21, 23, and 26 *infra.*

[20] *Hearings on Compliance with the War Powers Resolution Before the Subcomm. on International Security and Scientific Affairs of the House Comm. on International Relations,* 94th Cong., 1st Sess. 90–91 (1975) [hereinafter cited as *Hearings*].

[21] As indicated by the testimony of Mr. Leigh, *see* text accompanying note 20 *supra,* the primary source of the President's war-making power, whatever its scope, is the commander-in-chief clause: "The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States . . . ." U.S. Const. art. II, § 2, cl. 1.

Article II, section 1, clause 1, vests the "executive Power" of the United States in the President. This clause is properly viewed not as a grant of independent authority to the chief executive, but rather as imposing upon him the duty to "take Care that the Laws [including treaties and customary international laws] be faithfully executed," art. II, § 3. Nevertheless, it has been cited by Presidents as justification for their claims that United States treaty commitments authorized them to send troops abroad for purposes short of war, even when Congress had not enacted implementing legislation. *See* L. Henkin, Foreign Affairs and the Constitution 55 (1972) (citing examples) [hereinafter cited as Henkin].

The grants to Congress of war-related powers are numerous: Article I, section 8, vests Congress with the power "to lay and collect Taxes . . . to . . . provide for the common Defense," clause 1; "[t]o define and punish . . . Offenses against the Law of Nations," clause 10; "[t]o declare War," clause 1; "[t]o raise and support Armies . . .," clause 12; "[t]o provide and maintain a Navy," clause 13; "[t]o make Rules for the Government and Regulation of the land and naval Forces," clause 14; "[t]o provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions," clause 15; and "[t]o provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States," clause 16.

Also important in this regard are the general provisions vesting in Congress "[a]ll legislative Powers" granted to the federal government, art. I, § 1, cl. 1; the power to "make all Laws which shall be necessary and proper for carrying into Execution . . .

all . . . powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof," art. I, § 8, cl. 13; and the exclusive power to appropriate funds from the Treasury, art. I, § 9, cl. 7. The first of these, in conjunction with article II, section 1, clause 1, placing the "executive Power" in the President, establishes Congress as the fount of federal laws and the President as their executor.

The second, as the late Professor Alexander Bickel of Yale Law School has noted, gives to Congress the sole power to implement not only its own powers, but also those of the Executive:

"Whatever is needed to flesh out the slender recital of Executive functions must be done by Congress under the "necessary-and-proper" clause. Congress alone can make the laws which will carry into execution the powers of the Government as a whole, and of its officers, including the President."

Hearings on War Powers Legislation Before the Senate Comm. on Foreign Relations, 92d Cong., 1st Sess. 551 (1971) [hereinafter cited as *War Powers Legislation*]. Note, in this context, that section 2(b) of the War Powers Resolution cites the "necessary-and-proper" clause as authority for the Resolution, emphasizing that that clause authorizes Congress to implement "not only its own powers but also all other powers vested . . . in the Government . . . or in any department or officer thereof." For a discussion of the power over the purse in the war powers context see notes 100–39 *infra* and accompanying text.

[22] Writing in 1793, Madison, the principal architect of the Constitution, addressed the problem of executive power to make war:

"Every just view that can be taken of this subject, admonishes the public of the necessity of a rigid adherence to the simple, the received, and the fundamental doctrine of the constitution, that the power to declare war, including the power of judging of the causes of war, is *fully* and *exclusively* vested in the legislature; that the executive has no right, in any case, to decide the question, whether there is or is not cause for declaring war; that the right of convening and informing congress, whenever such a question seems to call for a decision, is all the right which the constitution has deemd requisite or proper . . ."—VI The Writings of James Madison 174 (G. Hunt, ed. 1906).

Likewise Thomas Jefferson. In an oft-quoted letter to Madison in 1789, he wrote:

"We have already given in example one effectual check to the dog of war by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay."—15 The Papers of Thomas Jefferson 397 (J. Boyd ed. 1958).

Alexander Hamilton, among the founding fathers a relative admirer of the executive, concurred:

"The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind as those which concern its intercourse with the rest of the world to the sole disposal of a magistrate, created and circumstanced, as would be a president of the United States."—The Federalists No. 75, at 505–06 (J. Cooke ed. 1961) (A. Hamilton).

And in Federalist No. 69 he explained the commander-in-chief clause:

"[T]he President is to be Commander in Chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the King of Great-Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first General and Admiral of the confederacy; while that of the British King extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies; all which, by the Constitution under consideration, would appertain to the Legislature."—The Federalist No. 69, at 465 (J. Cooke ed. 1961) (A. Hamilton).

The Framers' concept of the commander in chief as "first general" derives from the relationship between the Continental Congress and General Washington during the Revolutionary War. The commission given Washington as commander in chief reflects the subordination of that officer to the will of Congress. After reciting their "especial trust and confidence" in Washington and enjoining him to cause "strict discipline and order to be observed in the army and that the soldiers are duly exercised and provided with all convenient necessaries," the commission concluded:

"And you are to regulate your conduct in every respect by the rules and discipline of war (as herewith given you) and punctually to observe and follow such orders and directions from time to time as you shall receive from this or a future Congress of the said United Colonies or a committee of Congress for that purpose appointed."—The Washington Papers 124–25 (S. Padover ed. 1955).

Professor Louis Henkin of Columbia Law School has noted in this connection that generals, "even when they are 'first,' do not determine the political purposes for which troops are to be used; they command them in the execution of policy made by others." Henkin, *supra* note 21, at 50–51.

[23] Early drafts of the Constitution gave Congress the power to "make war." On the motion of James Madison and Eldridge Gerry "declare" was substituted for "make." 2 The Records of the Federal Convention of 1787, at 318–19 (M. Farrand ed. 1911). The reason given in Madison's notes was to "[leave] to the Executive the power to repel sudden attacks." *Id.* at 318. Rufus King added that "'make' war might be understood to 'conduct' it which was an Executive function." *Id.* at 319.

It has been argued that the change from "make" to "declare" recognized "the war-making authority of the President, implied by his role as executive and commander-in-chief and by congressional power to declare, but not make, war." Ratner, *The Coordinated Warmaking Power—Legislative, Executive and Judicial Roles,* 44 S. Cal. L. Rev. 461, 467 (1971). But, as Professor Raoul Berger of Harvard Law School points out in refuting this contention, the commander-in-chief clause conferred only the first generalship of the forces and the "executive powers . . . do not include the rights of war and peace." Berger, *War-Making by the President,* 121 U. Pa. L. Rev. 29, 41 (1972) (citing 1 The Records of the Federal Convention of 1787, at 66–67 (M. Farrand ed. 1911)) [hereinafter cited as Berger]. Professor Berger concludes that "[o]nly in a very limited sense—command of the armed forces plus authority to repel sudden attacks—can one accurately refer to a presidential war-making power." *Id.* Professor Berger adds that the sudden attacks to be repelled were those on the United States or its armed forces, *id.* at 42 & n.99, not on its allies. He also makes a cogent argument, based on original materials, that the term "sudden attacks" was not meant to include threats of attack, for in such cases the ability of Congress to respond promptly would obviate the need for immediate presidential action that the change from "make" to "declare" had recognized. *Id.* at 43–45.

Section 2(c) of the War Powers Resolution conforms precisely, it will be noted, with Professor Berger's views. The Senate version of the Resolution, on the other hand, would have allowed the President to use force to evacuate United States citizens and nationals in certain emergency situations, S. 440, 93rd Cong., 1st Sess. § 3(3) (1973), *see* note 13 *supra,* and to "forestall direct and imminent" threats of attack on the United States, its territories and possessions, and its armed forces abroad, *id.* §§ 3(1)–(2), *see* note 13 *supra.* But the Senate version did not indicate that such uses were the constitutional prerogative of the President. *See* text accompanying note 15 *supra.* Addressing the "forestall direct and imminent" threats provision of this bill, Professor Berger concluded that it represented a constitutionally permissible delegation of power. Berger, *supra,* at 45–47. The evacuation provision might have been similarly viewed; on the other hand, there is some reason to believe that the Framers intended that the President be able to use force to rescue United States citizens abroad when there is no time for Congress to authorize such use and Congress has not explicitly prohibited it. *See* note 24 *infra* (message of President Jefferson).

[24] *See War Powers Legislation, supra* note 21, 75 *et seq.* (testimony of Professor Richard B. Morris of Columbia University); *Presidential Statements Acknowledging Need for Explicit Congressional Exercise of the War Power,* app. A to Statement of Leon Friedman, Special Counsel, ACLU, *id.* at 805–08; *Berger, supra* note 23, at 61–63. Two examples are particularly relevant to this Article in that they reflect not only presidential deference to the congressional war-making power, but also presidential recognition of the need for congressional authorization of the funds necessary to any use of the armed forces. Confronted with a dispute with Spain on the Florida border, President Jefferson requested instruction from Congress:

"That which they have chosen to pursue will appear from the documents now communicated. They authorize the inference that it is their intention to advance on our possessions until they shall be repressed by an opposing force. Considering that Congress alone is constitutionally invested with the power of changing our condition from peace to war, I have thought it my duty to await their authority for using force in any degree which could be avoided. I have barely instructed the officers stationed in the neighborhood of the agressions to protect our citizens from violence, to patrol within the borders actually delivered to us, and not to go out of them but when necessary to repel an inroad or to rescue a citizen or his property; and the Spanish officers remaining at New Orleans are required to depart without further delay. . . .

* * * * *

"But the course to be pursued will require the command of *means which it belongs to Congress exclusively to yield or to deny.* To then I communicate every fact material for their information and the documents necessary to enable them to judge for themselves. To their wisdom, then, I look for the course I am to pursue, and will pursue with sincere zeal that which they shall approve."—Message from Thomas Jefferson to the Senate and House of Representatives, Dec. 6, 1805, in 1 Messages and Papers of the Presidents 389–90 (J. Richardson ed. 1897) (emphasis added).

President Jackson similarly looked to Congress for guidance and "means" when United States shipping was plagued by marauders in South American waters:

"In the course of the present year one of our vessels, engaged in the pursuit of a trade which we have always enjoyed without molestation, has been captured by a band acting, as they pretend, under the authority of the Government of Buenos Aires. I have therefore given orders for the dispatch of an armed vessel to join our squadron in those seas and aid in affording all lawful protection to our trade which shall be necessary, and shall without delay send a minister to inquire into the nature of the circumstances and also of the claim, if any, that is set up by that Government to those islands. In the meantime, I submit the case to the consideration of Congress, to the end that they may clothe the Executive with such authority and *means as they may deem necessary for providing a force* adequate to the complete protection of our fellow-citizens fishing and trading in these seas."—1 STATE OF THE UNION MESSAGES OF THE PRESIDENTS 1790–1966, at 352 (F. Israel ed. 1966) (emphasis added).

[25] S. REP. No. 797, 90th Cong., 1st SESS. 24 (1967). A 1966 State Department memorandum states that "[s]ince the Constitution was adopted there have been at least 125 instances in which the President has ordered the armed forces to take action or maintain positions abroad without obtaining prior Congressional authorization, starting with the 'undeclared war' with France (1798–1800)." OFFICE OF THE LEGAL ADVISOR, U.S. DEP'T OF STATE, THE LEGALITY OF THE UNITED STATES PARTICIPATION IN THE DEFENSE OF VIETNAM, *reprinted* in 75 YALE L.J. 1085, 1101 (1966).

It has been demonstrated, however, that "most of these [instances] were relatively minor uses of force." *See* Mora v. McNamara, 389 U.S. 934, 936 (1967) (Douglas J., dissenting) (quoting statement of Under Secretary of State Nicolas Katzenbach); Corwin, *The President's Power*, in THE PRESIDENT: ROLE AND POWERS 361 (1965) (the "vast majority" of the instances "involved fights with pirates, landings of small naval contingents on barbarous or semi-barbarous coasts [to protect American citizens], the dispatch of small bodies of troops to chase bandits or cattle rustlers across the Mexican border"); Wormuth, *The Vietnam War: The President Versus the Constitution*, in 2 THE VIETNAM WAR AND INTERNATIONAL LAW 711, 740–54 (1969). Examining these and other authorities, Professor Berger concludes that "'only since 1950 have Presidents regarded themselves as having authority to commit the armed forces to full scale and sustained warfare.'" Berger, *supra* note 23, at 67 (quoting S. REP. No. 797, 90th Cong., 1st Sess. 24 (1967)).

[26] *See, e.g., War Powers Legislation, supra* note 21, at 551 (testimony of Alexander Bickel):

"The text of the Constitution and its history thus plainly limit the President. But the law of the Constitution under our system is defined not only by the text and by the history of the text, but by practice long accepted. The earliest practice, as the committee has heard, conformed to the division of warmaking powers envisioned by the framers. But later practice, which again has been recited to this committee in the hearings of 1967 and more recently, the later practice, particularly in this century, has gone beyond."—*See also* McDougal & Lans, *Treaties and Congressional-Executive or Presidential Agreements: Interchangeable Instruments of National Policy*, 54 YALE L.J. 181 (1945) ("continuance of [a] practice by successive administrations throughout our history makes its contemporary constitutionality unquestionable"). *But compare* Berger, *supra* note 23, at 57–58 (footnotes omitted), challenging this doctrine of "adaptation by usage:"

"To a believer in constitutional government, in the separation of powers as a safeguard against dictatorship, there is no room for a take-over by the President of powers that were denied to him and, as our own times demonstrate, denied with good reason. . . . For me Washington's advice remains the pole-star:

"The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the Guardian of the Public Weal against invasion by the others, has been evinced. . . . To preserve them must be as necessary as to institute them. If in the opinion of the people, the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way in which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly over-balance in permanent evil any partial or transient benefit which the use can at any time yield."

In any event, it is clear that the congressional war powers have not diminished with disuse. Thus Professor Bickel's testimony before the Senate Foreign Relations Committee:

"Whatever aggrandizement of Presidential power may have occurred during the past generation, whether or not Presidential initiatives taken in the absence of legislation to the contrary were constitutional, the practice of recent decades or of a century cannot have worked a reduction of congressional power, which may in the last two or three decades have lain largely in disuse, but which is as legitimate now as the day it was conferred."—*War Powers Legislation, supra* note 21, at 555.

[27] In Powell v. McCormack, 395 U.S. 486 (1969) (holding that in judging the qualifications of its members under article I, section 5, Congress is limited to the qualifications expressly prescribed by the Constitution), Chief Justice Warren stated, in an opinion for seven of the Justices, "[t]hat an unconstitutional action has been taken before surely does not render that same action any less unconstitutional at a later date." *Id.* at 546–47.

[28] Generally, all now know, the Constitution is what the Supreme Court says it is, but since the Court has not said much about its foreign affairs aspects, and promises to say little more, many of these have no final, "infallible" arbiter and expositor and are "resolved" only *ad hoc* without resolution in principle. Powerful Presidents and determined Congresses (or Congressmen) take constitutional positions and provide precedents to encourage even their weaker successors, but the issues remain to be fought again some new day. If old and not-so-old Supreme Court constitutional decisions do not escape reexamination, there is even less *stare decisis* for what former Presidents and earlier Congressmen asserted in word or action. And so, major constitutional issues of foreign policy today are at bottom of the struggles for constitutional power of our early history. The world is changed, the United States is changed, the institutions of government are changed, the Constitution itself is changed, but the constitutional materials, the Federalist Papers, the debates of Hamilton versus Jefferson or Hamilton versus Madison, remain fresh and relevant and are played back again and again by new voices in new contexts.—HENKIN, *supra* note 21, at 5, 6–7 (footnotes omitted).

[29] In his famous concurring opinion in Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952), Justice Jackson espoused the following theory of the relationship between presidential action and the will of Congress:

"[Presidential action] pursuant to an Act of Congress would be supported by the strongest of presumptions and the widest latitude of judicial interpretation . . . .

"When the President acts in absence of either a congressional grant or denial of authority, he can only rely upon his own independent powers, but there is a zone of twilight in which he and Congress may have concurrent authority, or in which its distribution is uncertain. Therefore, congressional inertia, indifference or quiescence may sometimes, at least as a practical matter, enable, if not invite, measures on independent presidential responsibility. . . .

"When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter."—*Id.* at 637.

[30] There are seven such provisions. Section 30 of the Foreign Assistance Act of 1973 is typical except in referring to "military or paramilitary operations" rather than to "combat activities" or "involvement . . . in hostilities." Section 30 provides: "No funds authorized or appropriated under this or any other law may be expended to finance military or paramilitary operation by the United States in or over Vietnam, Laos, or Cambodia." 87 Stat. 732. The other provisions are: Department of Defense Appropriation Act, 1975 Pub. L. No. 93–437, § 839, 1974 U.S. CODE CONG. & ADM. NEWS 1400 (1974); Department of Defense Appropriations Act, 1974 § 741, 87 Stat. 1045; Department of Defense Appropriation Authorization Act, 1974, § 806, 87 Stat. 615 (1973); Department of State Appropriations Authorization Act of 1973 § 13, 87 Stat. 454; Joint Resolution of July 1, 1973, Pub. L. No. 93–52, § 108, 87 Stat. 134; Second Supplemental Appropriations Act, 1973 § 307, 87 Stat. 129.

[31] Communication from Gerald R. Ford to James Eastland, President Pro Tempore of the Senate, Apr. 4, 1975, in 121 CONG. REC. 5280 (daily ed. Apr. 7, 1975).

[32] XXXIII CONG. Q. WEEKLY REPORT 687 (1975).

[33] *Id.*

[34] Communication from Gerald R. Ford to James Eastland, President Pro Tempore of the Senate, Apr. 4, 1975, in 121 CONG. REC. 5280 (daily ed. Apr. 7, 1975).

[35] *Id.* If the President was correct that the action he had taken did not amount to an introduction of armed forces into a situation "where imminent involvement in hostilities was clearly indicated by the circumstances," Resolution § 4(a)(1), then the report was properly submitted under section 4(a)(2) and did not trigger the 60-day limit imposed by section 5(b) upon section 4(a)(1) involvements.

[36] XXXIII CONG. Q. WEEKLY REPORT 730 (1975).

[37] *See* note 30 *supra* and accompanying text.

[38] Resolution § 5(b).

[39] Although the President requested only "clarification," his speech also contained a cryptic reference to "authority":

"And now I ask Congress to clarify immediately its restrictions on the use of U.S. military forces in Southeast Asia for the limited purposes of protecting American lives by ensuring their evacuation, if this should become necessary. I also ask prompt revision of the law to cover those Vietnamese to whom we have a very special obligation and whose lives may be endangered, should the worst come to pass.

"I hope that this *authority* will never be used, but if it is needed there will be no time for Congressional debate."—XXXIII CONG. Q. WEEKLY REPORT 730 (1975) (emphasis added).

The significance of this reference was apparently made clear, however, to at least some members of the House during the ensuing consideration of the President's request. Representative Stephen Solarz, questioning State Department Legal Advisor Monroe Leigh concerning Mr. Leigh's assertion that "clarification" had not been needed to evacuate American citizens because the President had constitutional authority to do so regardless of the funding prohibitions, stated:

"Based on your testimony, I gather you were suggesting that this [clarification] was requested largely for political rather than constitutional purposes because the President wanted, I gather, broad-based constitutional [*sic*? political?] support for the action he was taking. Yet, if in fact, that was the underlying rationale for the request, I must tell you that as one member of the International Relations Committee I feel that I was misled because during the course of the testimony and debates before our committee and during the course of the debates on the floor of the House, the argument was made not simply that the President wanted political legitimation of his efforts but rather that this authority was specifically needed."—*Hearings, supra* note 20, at 25.

[40] Communication from Gerald R. Ford to the Speaker of the House and to the President of the Senate, Apr. 12, 1975, in 11 Weekly Compilation of Presidential Documents 378 (1975).

[41] *Id.* The only provision of the Resolution specifically mentioned in the report was section 4. *Compare* text accompanying note 34 *supra.* In this case the President's apparent conclusion that "imminent involvement in hostilities" had not occurred is highly dubious, as even the administration's definition of that phrase indicates:

"As applied in the first three war powers reports, 'hostilities' was used to mean a situation in which units of the U.S. armed forces are actively engaged in exchanges of fire with opposing units of hostile forces, and "imminent hostilities' was considered to mean a situation in which there is a serious risk from hostile fire to the safety of United States Forces."—*Hearings, supra* note 20, at 38–39.

[42] S.J. Res. 72, 94th Cong., 1st Sess. (1975).

[43] *Id.* § 2(c). This provision was virtually identical to § 3(3) of S. 440, the Senate version of the War Powers Resolution. *See* note 13 *supra.*

[44] S.J. Res. 72, 94th Cong., 1st Sess. § 1(c) (1975).

[45] H.R. Doc. No. 103, 94th Cong., 1st Sess. 2 (1975).

[46] *See* notes 42–44 *supra* and accompanying text.

[47] *See* note 13 *supra.*

[48] Senator Frank Church, a member of the Senate Foreign Relations Committee, described the administration's proposal as being "as broad as the Gulf of Tonkin Resolution." XXXIII Cong. Q. Weekly Report 777 (1975).

[49] H.R. 6096, 94th Cong., 1st Sess. (1975).

[50] An amendment added on the House floor purported to limit "the authority granted by this section," *id.* § 4, but section 4 contained no authority; it merely defined the word "evacuation" for the purposes of section 2, which authorized appropriations.

[51] *Id.* § 2. The bill did not prohibit the use of funds authorized under *other* acts for the purpose of carrying out the evacuation of the designated persons. Funds authorized elsewhere were in fact used.

[52] *Id.* § 4.

[53] This approach was favored by Senator Joseph Biden, who recommended that the Senate "[c]all to the attention of the President that he already has the authority to evacuate endangered Americans and their dependents from South Vietnam." S. Rep. No. 88, 94th Cong., 1st Sess. 26 (1975).

[54] *See* notes 42–44 *supra* and accompanying text.

[55] S. Rep. No. 129, 91st Cong., 1st Sess. 32–33 (1969).

[56] S. 1484, 94th Cong., 1st Sess. (1975).

[57] *Id.* § 3(a).

[58] *Id.* §§ 3 (b), (c).

[59] *Id.* § 4.

[60] *Id.* § 6.

[61] *See* H.R. Rep. No. 176, 94th Cong., 1st Sess. (1975).

[62] *See* note 23 *supra* and accompanying text.

[63] *Id.*

[64] *See* note 30 *supra* and accompanying text. In the past, Presidents have occasionally withdrawn funds from the Treasury without congressional approval. *See generally* L. Wilmerding, The Spending Power (1943). Most of these incidents occurred in the last century (when congressional sessions were shorter and transportation slower), while Congress was adjourned and unable to appropriate funds. In some cases Congress later ratified the President's action. In any event, it appears that no previous President expended funds in contravention of an express statutory prohibition.

[65] Predictably, such claims were in fact made. *See Hearings, supra* note 20, at 34–35, 88; note 103 *infra* and accompanying text.

[66] *See* 121 Cong. Rec. 3401–02 (daily ed. Apr. 29, 1975). The reasons for the Speaker's action were not clear. Apparently Mr. Albert and other Representatives thought that section 4 of the conference report, H.R. Rep. No. 176, 94th Cong., 1st Sess. § 4 (1975) (corresponding to section 3 of the Senate's Vietnam Contingency Act, *see* notes 57–58 *supra* and accompanying text), provided potential statutory support for reintroduction of United States forces into South Vietnam:

"Ms. Abzug. I am glad to see that at this time we are not forced to give the President authority which he could use to justify armed intervention here in Vietnam or in other conflict situations. I believe that removing the rule from the floor of the House this morning for the consideration of the conference report was a wise act.

"Mr. Albert. Mr. Speaker, will the gentlewoman yield?

"Ms. Abzug. I am happy to yield to our Speaker, the gentleman from Oklahoma (Mr. Alrert).

"Mr. Albert. Mr. Speaker, I have just returned from the White House, where it was agreed there by the President that we would take this whole matter off for today because the section 4 part, which was the controversial part, may be moot before the day is over. If so, when we consider the bill, the parliamentary situation may permit removal of that part from the final version.

"Ms. Abzug. I thank the Speaker. I requested that the Chairman of the Rules Committee and the Chairman of the International Relations Committee not to call up the rule of the report today, because I too believe it to be moot."—*Id.* at 3405–06.

Those who understood the issues were less pleased. Representative Thomas Morgan, Chairman of the House International Relations Committee, was later reported to be "extremely angry" with Majority Leader Thomas P. O'Neill for the latter's opposition to the conference report. N.Y. Times, May 2, 1975, at 1, col. 1. Representative Clement Zablocki, chief sponsor of the War Powers Resolution in the House, responded to Ms. Abzug and Mr. Albert as follows:

"Mr. Zablocki. Mr. Speaker, I sincerely hope that as expeditiously as possible and as soon as possible we do act on the conference report. I submit that it is necessary. . . .

* * * * *

"Of course, the President would want us to strike section 4. That section clarifies the relationship of the evacuation with regard to the war powers resolution and sets a good precedent of congressional action pursuant to that resolution. It is understandable why the President would not want us to insist on retaining that section."—121 Cong. Rec. 3406 (daily ed. Apr. 29, 1975). Speaking in the Senate the next day, Senator Javits termed the failure of the House to deal with the conference report "very unfortunate." *Id.* at 7114 (daily ed. Apr. 30, 1975).

[67] XXXIII Cong. Q. Weekly Report 907 (1975).

[68] Communication from Gerald R. Ford to the Speaker of the House of Representatives, Apr. 30, 1975, in 121 Cong. Rec. 3592 (daily ed. May 1, 1975).

[69] 121 Cong. Rec. 3551 (daily ed. May 1, 1975).

[70] Eastern Daylight Time, here and in remainder of paragraph. Unless otherwise indicated, the description of events in this paragraph is based on the memorandum, Congressional Research Service, U.S. Library of Congress, A Chronology of Events in the Mayaguez Incident, May 30, 1975, *reprinted in Hearings, supra* note 20, app., at 105.

[71] N.Y. Times, May 16, 1975, at 14, cols. 2–3.

[72] *Id.* May 20, 1975, at 14, col. 5.

[73] *Id.* May 16, 1975, at 14, col. 2.

[74] Telephone conversation with Congressional Research Service, U.S. Library of Congress, Sept. 5, 1975.

[75] Communication from Gerald R. Ford to the Speaker of the House of Representatives and the President Pro Tempore of the Senate, May 15, 1975, in 11 Weekly Compilation of Presidential Documents 514 (1975).

[76] *See* text accompanying notes 35, 41, 68, and 75 *supra.*

[77] *See* note 30 *supra* and accompanying text.

[78] *Hearings, supra* note 20, at 16–17. At the June 4 session of the hearings Mr. Leigh extended his opinion to the *Mayaguez* incident. *Id.* at 88–89.

In addition, Mr. Leigh questioned the constitutional authority of the Congress to circumscribe by means of funding prohibitions the President's supposed authority as commander in chief to order such operations as the evacuations and the rescue of the *Mayaguez* crew. *See* text accompanying notes 103–16 *infra.*

[79] "One of the most common of insights about the process of communication," says Sutherland, "was given classic expression by the Supreme Court . . . in the declaration that 'the meaning of the statute must, in the first instance, be sought in the language in which the act is framed, and if that is plain, . . . the sole function of the courts is to enforce it according to its terms.' [Caminetti v. United States, 242 U.S. 470 (1917).]" 2a C. Sands, Statutes and Statutory Construction § 46.01 (4th ed. 1973).

Expressing that insight from the layman's viewpoint, Representative Stephen Solarz remarked, in commenting on Mr. Leigh's theory, that "one of the disadvantages of not being a lawyer [is that] you tend to think language means what it appears to mean. . . ." *Hearings, supra* note 20, at 28.

[80] Or if the statutes were unconstitutional, as Mr. Leigh also suggested. *See* notes 103-16 *infra* and accompanying text.

[81] *See* note 39 *supra* and accompanying text. Mr. Leigh's answer is that "the President thought he had adequate constitutional power despite the funds limitation provisions to take out Americans . . .," *Hearings, supra* note 20, at 26, but not to take out foreign nationals. *Id.* at 25. If this was the President's thought, he certainly did not reveal it in his request that Congress "clarify" the funding prohibitions. Clarification was sought for evacuation of Americans as well as South Vietnamese. *See* XXXIII Cong. Q. Weekly Report 730 (1975); note 39 *supra* and accompanying text.

[82] Mr. Leigh has offered only two items in support of his reference, *see note* 78 *supra* and accompanying text, to a "very substantial" legislative history indicating the inapplicability of the funding prohibitions to the evacuations and the *Mayaguez* incident. *See Hearings, supra* note 20, at 27, 31. Each item relates to only one of the several prohibitions. One is a statement by Congressman Joseph Addabbo that seems to imply that the prohibition in question, Joint Resolution of July 1, 1973, Pub. L. No. 93–52, § 108, 87 Stat. 134, was not intended to prohibit the President from exercising any of his commander in chief powers. 119 Cong. Rec. 21,313 (1973). There is no evidence that other members of Congress shared Mr. Addabbo's view. Representative Jonathan Bingham, for one, disagreed. Responding to Mr. Leigh's interpretation of the legislative history, he said:

"Well, I would suggest to you that those provisions were put into the law to curtail what President Nixon at the time said was his authority as Commander in Chief to protect and safeguard the evacuation of American troops which was the reason he gave, for example, for going into Cambodia. If your interpretation is correct, then that statutory limitation had no effect."—*Hearings, supra* note 20, at 17.

The other item is an exchange of remarks that Mr. Leigh claims occurred during testimony given "in executive session . . . before the Senate Foreign Relations Committee" on August 3, 1973 by Admiral Moorer, then Chairman of the Joint Chiefs of Staff. *Id.* at 31. In fact, the Admiral did not testify before the Committee on that date. He did meet unofficially with congressional leaders at that time, but the transcript of that proceeding remained classified as of September 15, 1975. Thus the remarks, whatever their content were heard by no more than a handful of the members of Congress who voted on the funding prohibition in question and are not part of its legislative history.

[83] The apex of congressional legal acuity during the *Mayaguez* incident was reached by Senator Henry Jackson, who revealed on NBC's "Today" program of May 15 that the War Powers Resolution had "superseded" the statutory funding prohibitions. Four such prohibitions were enacted after passage of the Resolution.

[84] *See* note 3 *supra.*

[85] It appears that the primary burden imposed upon the President by the Resolution has been the interruption of his sleep to sign his name to a report. *See Hearings, supra* note 20, at 77 (testimony of Mr. Leigh).

[86] *See* note 23 *supra.* Even Mr. Leigh declined to assert a presidential prerogative to evacuate foreign nationals without congressional authorization. *See Hearings, supra* note 20, at 34–35, 88.

[87] A total of 82 United States citizens and 194 foreign nationals were evacuated during the four-hour operation in Phnom Penh. *See* Communication from Gerald R. Ford to the Speaker of the House and to the President of the Senate, Apr. 12, 1975, in 11 Weekly Compilation of Presidential Documents 378 (1975). In the final removal from Saigon, about 1000 United States citizens and 5500 South Vietnamese were evacuated. Four marines were killed in the final withdrawal. XXXIII Congressional Q. Weekly Report 907 (1975).

[88] *See* text accompanying notes 71–73 *supra.* The *New York Times* reported that the administration's rationale for the strikes on the mainland was:

"To keep Cambodian forces from reinforcing the defenders of Tang Island.

"But, judging by the Government's own reports, the Cambodians had no ships and planes that could not have been interdicted by the warships and aircraft that the United States had on the scene."—Schabecoff, *Questions on Ship Rescue Persist Despite Briefings,* N.Y. Times, May 20, 1975, at 1, col. 2, at 14, col. 5.

Senator Javits made the following observation concerning the incident:

"Facts which were not revealed to the Congress in the unsatisfactory consultation process concerning the *Mayaguez,* but which have subsequently come to light, raise profound questions concerning the military actions taken in connection with securing release of the ship and the crew. For instance, we have learned that the amphibious assault by our Marines was conducted against the *wrong* island, 20 minutes *after* the crew had been released. The lives of 41 U.S. servicemen were lost in connection with the release of 39 crew members. Bombing missions were conducted against an oil refinery and aircraft on the Cambodian mainland both known to our government to be nonoperational. In addition, it appears that the standard warning being given to all ships of the risk of being stopped in those waters was not given to the *Mayaguez.*"—*Hearings, supra* note 20, at 68 (emphasis added).

The President reportedly rejected the advice of the Joint Chiefs of Staff that he employ only the minimum amount of force required—the "rule of proportionality"—and instead employed a higher degree than was actually necessary, opting for "equivalence plus." Evans & Novak, *Retrieving the Mayaguez: "It Was Pure Ford,"* Washington Post, May 19, 1975, § A, at 23, col. 1.

[89] *See* notes 22–23 *supra* and accompanying text. The President's use of armed force to rescue (without retaliation) *captive* United States citizens would seem to stand on approximately the same constitutional footing as his use of armed force to evacuate imminently endangered United States citizens from foreign territory. *Id.* As in the case of evacuations, independent presidential rescue actions will have greater constitutional support where inspired by emergencies necessitating action more rapid than Congress can provide, *id.,* and where tacitly approved, or at least not formally opposed, by Congress. *See* note 29 *supra.* As the danger of large-scale or protracted hostilities increases, however, the President's independent authority becomes doubtful. *See* notes 22–23 *supra* and accompanying text.

[90] Resolution §§ 5(b), (c).

[91] A concurrent resolution requires approval by a majority of both houses, but because it is not signed by the President or subject to his veto, is without the force and effect of law. A joint resolution, on the other hand, is signed by the President and has the force and effect of law.

It is curious that proponents of a broad presidential war-making power argue that "adaptation by usage" has legitimized otherwise unconstitutional presidential activities, *see* note 26 *supra* and accompanying text, and yet refuse to apply the same principle to use of the "legislative veto"—a statutory provision authorizing Congress, by concurrent resolution (or one house, by simple resolution, or in some cases a congressional committee), to prevent a particular presidential action, otherwise permitted by the statute, from taking effect. The practice is well established. For a discussion of various laws employing the legislative veto, see Congressional Research Service, U.S. Library of Congress, Constitutionality of the Legislative Veto Amendment to the Foreign Military Sales and Assistance Act, Sept. 4, 1973, *reprinted in* 120 Cong. Rec. 9855 (daily ed. June 6, 1974); Note, *Congressional Adaptation: The Come-into-Agreement Provision,* 37 Geo. Wash. L. Rev. 387 (1968); Large, *New Veto Powers for Congress,* Wall Street Journal Feb. 6, 1975, at 14, col. 4.

[92] Mr. Leigh testified as follows:

"I think it would be unconstitutional on the simple logic that if the President had the power to put the men there in the first place that power could not be taken away by concurrent resolution because the power is constitutional in nature. There might, however, be all sorts of reasons as to why the political process would force him to wish to comply with that concurrent resolution." *Hearings, supra* note 20, at 91. Representative Zablocki responded that "our statutes are replete with cases where Congress has given temporary authority to the President . . . But what Congress gives in this way it can also take back—by concurrent resolution," *Id.* at 94. To this Mr. Leigh replied,

"[the Resolution] does not delegate anything to the President. It is not an act of delegation by the Congress of power to the President. It is, as Senator Javits was saying, a procedural scheme for arranging an interchange in what is obviously a difficult area between the two branches of the Government.

"Therefore, the argument that this is like some of the earlier examples where Congress created a concurrent resolution procedure to control the exercise of authority delegated to the President—namely, the Legislative Reorganization Acts where Congress did delegate certain legislative powers—is arguable [*sic?* inapposite?] . . . .

"Therefore, to say that Congres would later by concurrent resolution take back what it had previously delegated overlooks the fact that nothing was delegated."—*Id.* at 96–97.

These arguments were also raised by opponents of the Resolution at the time of its enactment. *See* note 15 *supra.* They overlook the fact that any congressionally unauthorized "introduction" of the armed forces that fits the description of Section 4(a)(1) of the Resolution will be constitutionally justified only in relation to the emergency nature of the circumstances supposedly necessitating the introduction. *See* notes 22–23 *supra* and accompanying text. The theory is that an emergency justifies independent presidential action if Congress cannot act effectively in the available time. Once Congress acts to prevent or to terminate such an action, the emergency is over for constitutional purposes. (A preexisting statutory funding prohibition constitutes such a preventive measure, of course, because it indicates a congressional intent that no set of circumstances shall justify independent presidential action.)

[93] *See* text accompanying notes 34, 41, 68, and 75 *supra.*

[94] *See* note 41 *supra.*

[95] S. 1484, 94th Cong., 1st Sess. (1975).

[96] Comment from the executive branch submitted to Senate Foreign Relations Committee, April 22, 1975.

[97] *See* note 3 *supra.*

[98] *See* text accompanying note 76 *supra.*

[99] Presidential popularity has almost invariably increased during international crises—even embarrassing ones—as polls indicate:

"Do you approve of the way the President is handling his job?"

Date, time, and percentage saying yes

June 1950—Before Korean outbreak—37.
July 1950—After U.S. entry—46.
August 1956—Before Israeli, British, French Attack on Suez—67.
December 1956—After U.S. opposition to the attack—75.
July 1958—Before Lebanon—52.
August 1958—After U.S. marine landing—58.
May 1960—Before U-2 incident—62.
June 1960—U-2 debacle; collapse of Summit—68.
March 1961—Before Bay of Pigs—73.
April 1961—After Bay of Pigs—83.
October 1962—Eve of Cuba crisis—61.
December 1962—After missile crisis—74.
October 1966—Before tour of Pacific—44.
November 1966—After tour of Pacific—48.
June 1967—Before Glassboro conference—44.
June 1967—After Glassboro conference—52.

T. Lowi, The End of Liberalism 184 (1969).

[100] U.S. Const. art. I, § 9, cl. 7.

[101] *See* note 78 *supra* and accompanying text.

[102] *See* text accompanying note 78 *supra.*

[103] *Hearings, supra* note 20, at 35. Mr. Leigh's argument in this context is basically the same, of course, as is his contention that the subsequent limitation contained in section 5(b) and (c) of the War Powers Resolution are unconstitutional insofar as they purport to terminate presidential exercise of a power constitutionally his. *See* notes 91–92 *supra* and accompanying text.

[104] U.S. Const. art. I, § 9, cl. 7.

[105] Congressional Research Service, U.S. Library of Congress, The Constitution of the United States of America: Analysis and Interpretation, S. Doc. No. 82, 92d Con.,

2d Sess. 1597–1619 (1973) (setting forth a summary of all acts of Congress held unconstitutional in whole or in part).

[106] United States v. Lovett, 328 U.S. 303 (1946).

[107] U.S. Const. art I, § 9, cl. 3.

[108] *Id.* art II, § 1, cl. 6; *Id.* art. III, § 1.

[109] *Id.*, art. I, § 8, cl. 13.

[110] *Id.* art. I, § 8, cl. 13.

[111] The Federalist No. 38, at 247 (J. Cooke ed. 1961) (J. Madison).

[112] 15 The Paper of Thomas Jefferson 397 (J. Boyd ed. 1958).

[113] *See* note 24 *supra.*

[114] The following exchange took place between Senator Frank Church and Secretary of State William Rogers when the latter testified before the Senate Foreign Relations Committee on May 14, 1971:

"Senator Church. If the Congress were to decide to limit the funds for the purpose of effecting a withdrawal of our forces from Indochina and such defensive action as may be needed to protect them against imminent danger in the event that became necessary, as they withdrew, do you think that that falls within the constitutional power of the Congress to determine how public money is spent, or do you think that that would be an interference with the President's inherent powers as Commander in Chief?

"Secretary Rogers. Here again, I would want to see the language, of course, but I fully recognize the power of the Congress to appropriate funds, and we do respect the wishes of Congress. For example, Congress included some restrictions on the use of ground troops in that area, and we have observed those restrictions. So we are not at odds with the Congress."—*War Powers Legislation, supra* note 21, at 508.

[115] "Mr. Solarz. Do you believe that in a situation where the President would commit American troops into combat pursuant to what he believed was his inherent constitutional authority that the Congress, if it determined that it did not want the troops there—would the Congress have the authority, in your judgment, to pass a law cutting off funding for the troops and thereby in effect requiring the President to withdraw them?

"Mr. Leigh. Again, I make the distinction as between the condition subsequent in an appropriation not yet completely spent and new appropriations.

"Mr. Solarz. I have to confess that without a legal background—

"Mr. Leigh. If he has used up all money appropriated and then Congress refuses to provide any more, I think the Congress has effectively stopped the President from continuing the military action. I don't know how he can go on. If, on the other hand, he still had moneys that were unexpended, he could continue to spend those until such time as there was a court challenge and the court found that he was acting illegally."—*Hearings, supra* note 20, at 92. The funding prohibitions are not, of course, conditions subsequent under any accepted legal definition of that term. Nor would it matter if they were.

[116] After 1665, states Hallam, it became "an undisputed principle" that moneys "granted by Parliament, are only to be expended for particular objects specified by itself . . . ." The Framers were quite familiar with parliamentary practice; and we may be sure that in reposing in Congress the power of raising revenues and of making and reviewing appropriations for support of the armies they conferred the concomitant right to "specify" the "particular objects upon which its appropriations are to be expended."—Berger, *supra* note 23, at 78–79.

[117] Resolution § 5(b).

[118] *Id.* § 5(c)

[119] *See* Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 637 (1952) (Jackson, J., concurring), *quoted in* note 32 *supra.*

[120] *Cf.* text accompanying note 115 *supra.*

[121] *See* note 25 *supra* and accompanying text.

[122] *See* note 92 *supra.*

[123] *See, e.g.,* Foreign Assistance Act of 1961 § 620(x), 22 U.S.C.A. § 2370(x) (Supp. 1, Feb. 1975); International Peace and Security Act of 1961 § 201(a), 22 U.S.C. § 2314(d) (1970).

[124] *See, e.g.,* Foreign Military Sales Act § 36(b), 22 U.S.C.A. § 2776(b) (Supp. 1, Feb. 1975); Foreign Assistance Act of 1961 § 617, 22 U.S.C. § 2367 (1970), *as amended,* 22 U.S.C. § 2367 (Supp. III, 1973).

[125] *See* notes 91–92 *supra* and accompanying text.

[126] S. 440, 93d Cong., 1st Sess. § 3 (1973), *quoted in* note 13 *supra.*

[127] *See* note 15 *supra.*

[128] *See* notes 104–14 *supra* and accompanying text.

[129] *Id.*

[130] Berger, *supra* note 23, at 47.

[131] *See* notes 22–23 *supra* and accompanying text; note 92 *supra.*

[132] S. 440, 93d Cong., 1st Sess. § 3(3) (1973).

[133] With this modification, the Vietnam Contingency Act, S. 1484, 94th Cong., 1st Sess. § 3 (1975), *see* notes 56–58 *supra* and accompanying text, would provide a good model for broadening section 2(c).

[134] *See* notes 22, 23, and 29 *supra* and accompanying text.

[135] *See* note 89 *supra.*

[136] *See* note 41 *supra.*

[137] H.J. Res. 542, 93d Cong., 1st Sess. §§ 3(1), (2) (1973).

[138] *See* notes 40, 41, and 68 *supra* and accompanying text.

[139] S. 1484, 94th Cong., 1st Sess. § 5 (1975).

[140] Resolution §§ 8(a)(1), (2).

[141] 22 U.S.C. §§ 1961–65 (1970).

[142] 76 Stat. 697 (1962).

[143] 76 Stat. 1429 (1962).

[144] *Hearings on Memoranda of Agreements Between the Governments of Israel and the United States Before the Senate Comm. on Foreign Relations,* 94th Cong. 1st Sess. 249–51 (1975). During the Senate debate on the Sinai Implementation Agreement, Pub. L. No. 94–110 (Oct. 13, 1975), there was considerable controversy over whether the September 1 Memorandum could be construed to authorize introduction of the armed forces into hostilities.

[145] *Hearings, supra* note 20, at 90.

[146] *War Powers Legislation, supra* note 21, at 129 (remarks of Senator Javits).

APPENDIX

Joint resolution concerning the war powers of Congress and the President.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This joint resolution may be cited as the "War Powers Resolution".

PURPOSE AND POLICY

Sec. 2. (a) It is the purpose of this joint resolution to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

(b) Under article I, section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

(c) The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

CONSULTATION

Sec. 3. The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

REPORTING

Sec. 4. (a) In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—

(1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;

(2) into the territory, airspace or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

(3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

the President shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

(b) The President shall provide such other information as the Congress may request in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

(c) Whenever United States Armed Forces are introduced into hostilities or into any situation described in subsection (a) of this section, the President shall, so long as such armed forces continue to be engaged in such hostilities or situation, report to the Congress periodically on the status of such hostilities or situation as well as on the scope and duration of such hostilities or situation, but in no event shall he report to the Congress less often than once every six months.

CONGRESSIONAL ACTION

Sec. 5. (a) Each report submitted pursuant to section 4(a)(1) shall be transmitted to the Speaker of the House of Representatives and to the President pro tempore of the Senate on the same calendar day. Each report so transmitted shall be referred to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Foreign Relations of the Senate for appropriate action. If, when the report is transmitted, the Congress has adjourned sine die or has adjourned for any period in excess of three calendar days, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem it advisable (or if petitioned by at least 30 percent of the membership of their respective Houses) shall jointly request the President to convene

Congress in order that it may consider the report and take appropriate action pursuant to this section.

(b) Within sixty calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1), whichever is earlier, the President shall terminate any use of United States Armed Forces with respect to which such report was submitted (or required to be submitted), unless the Congress (1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law such sixty-day period, or (3) is physically unable to meet as a result of an armed attack upon the United States. Such sixty-day period shall be extended for not more than an additional thirty days if the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of United States Armed Forces requires the continued use of such armed forces in the course of bringing about a prompt removal of such forces.

(c) Notwithstanding subsection (b), at any time that United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorization, such forces shall be removed by the President if the Congress so directs by concurrent resolution.

CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTION OR BILL

Sec. 6. (a) Any joint resolution or bill introduced pursuant to section 5(b) at least thirty calendar days before the expiration of the sixty-day period specified in such section shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and such committee shall report one such joint resolution or bill, together with its recommendations, not later than twenty-four calendar days before the expiration of the sixty-day period specified in such section, unless such House shall otherwise determine by the yeas and nays.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out not later than fournteen calendar days before the expiration of the sixty-day period specified in section 5(b). The joint resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than four calendar days before the expiration of the sixty-day period specified in section 5(b). In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such sixty-day period.

CONGRESSIONAL PRIORITY PROCEDURES FOR CONCURRENT RESOLUTION

Sec. 7. (a) Any concurrent resolution introduced pursuant to section 5(c) shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and one such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days, unless such House shall otherwise determine by the yeas and nays.

(b) Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a concurrent resolution passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted upon within three calendar days, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution within six calendar days after the legislation is referred to the committee of conference. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement.

INTERPRETATION OF JOINT RESOLUTION

Sec. 8. (a) Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred—

(1) from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution; or

(2) from any treaty heretofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution.

(b) Nothing in this joint resolution shall be construed to require any further specific statutory authorization to permit members of United States Armed Forces to participate jointly with members of the armed forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this joint resolution and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date.

(c) For purposes of this joint resolution, the term "introduction of United States Armed Forces" includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

(d) Nothing in this joint resolution—

(1) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties; or

(2) shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

SEPARABILITY CLAUSE

Sec. 9. If any provision of this joint resolution or the application thereof to any person or circumstance is held invalid, the remainder of the joint resolution and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

Sec. 10. This joint resolution shall take effect on the date of its enactment.

WATER POLLUTION

Mr. MUSKIE. Mr. President, on October 18, 1972, I urged our colleagues to override a Presidential veto and begin a dramatic effort to clean up the once-pure waters of this country. Congress rose to the occassion and enacted Public Law 92–500—the Clean Water Act of 1972.

Unfortunately, because the law called for a new way of doing business, and because of the administration's manifest opposition, our progress in the first 3 years has been considerably less than our expectations. Recent findings by the National Commission on Water Quality, chartered by the Clean Water Act, and charged with assessing the impacts of the law's implementation, confirm this finding. But the report goes on to say that the program spawned by Public Law 92–500 has gathered momentum, that is beginning to work, and that the bureaucratic community is becoming familiar, and even supportive, of its provisions.

It is difficult for anyone—even Congress—to learn to do things differently. We cannot legislate a change in attitude, or orientation, that will instantly take place. But Congress can, and did, stimulate the entire water pollution control establishment—and it is a large establishment—to take the first, tentative steps toward thinking of our lakes, rivers, and oceans as something more than elements of the waste treatment system, to be used for their ability to transport or dilute our pollution, and to be used up to the limits of their assimilative capacity. We are finally beginning to view our waters and its indigenous ecosystems as a precious natural resource, and our waste as a potential source of valuable materials.

Having completed its findings, the Commission is now entering its most critical phase, that of preparing recommendations for Congress. Although the findings cover a broad spectrum, they do not point toward any precise direction or demonstrate any clear need for change. Hearings by the Commission showed that different people find different facts in the report to support different and sometimes diametrically opposite positions.

Mr. President, this Commission, created by Congress, has given me a unique opportunity—to study in depth the course of a major piece of legislation which I helped develop. With that participation came a unique and frankly difficult responsibility, for I am also chairman of the congressional subcommittee with legislative responsibility for this act.

Many people have been counting on the Commission to tell Congress what to do—to come up with a legislative package of recommendations. I have resisted that and continue to resist it. Congress should look to the Commission for facts and findings, for distillation of issues, for the Commission's judgment on areas of law that Congress should address, and for the options that Congress may choose to pursue and the implications of those options. But the ultimate decisions must be made by Congress through its procedures. I have urged colleagues on the Commission to keep this in mind.

I order to be sure that its findings were accurate, and to elicit ideas from the public on what direction the water pollution program should take, the Commission held a series of hearings throughout the country last month.

I was extremely gratified by the testimony of the Department of Environmental Protection of my home State. While unable to participate personally because of adverse weather conditions, the department submitted a letter in which they argued eloquently and persuasively for the objectives that Congress set forth 3½ years ago—to stop using our waters as sewers by applying feasible technology to keep pollutants out of the water.

Maine is not a wealthy State; Maine needs the industry she has. Maine needs new jobs. Yet Maine embarked on a program that exceeded the Federal program, and none—not one—of her paper mills is going to close due to water pollution control expenditures.

The Maine Department of Environmental Protection urges us to stick with the ideas we wrote into law. Because I intend to rely heavily on the views expressed by the Maine Department of Environmental Protection as we examine proposed recommendations from the National Commission on Water Quality, I think its contents ought to be in the RECORD and I ask unanimous consent that this letter be printed in the RECORD.

STATE OF MAINE,
DEPARTMENT OF
ENVIRONMENTAL PROTECTION,
February 4, 1976.

NATIONAL COMMISSION ON WATER QUALITY,
Attention: JOHN FRESHMAN,
1111 18th Street,
Washington, D.C.

DEAR COMMISSION MEMBERS: I would like to bring to the attention of the National Commission on Water Quality several important trends in Maine industrial and municipal pollution abatement, some of which are contrary to Commission findings.

First, the Commission's report indicates there may be significant closing of factories and jobs lost in New England in the future because of the 1977 waste treatment requirements of the Amended Federal Water Pollution Control Act. Maine industries initially had the same deep concerns about PL 92–500; however, the contrary has happened.

In Maine the pulp and paper industry has just completed the most extensive expansion in the state's history, while completing treatment facilities for operation by October 1, 1976, nine months ahead of the federal deadline. We will experience no plant closings in any industry due solely to the requirement for secondary treatment by 1977. In some instances, abatement programs have actually helped Maine industries save money. For example, one pulp and paper company has offset wastewater treatment costs through fiber recovery from better housekeeping practices.

It is our feeling that Maine's experience with PL 92–500's 1983 goals will be similar. We feel that the 1983 goals are valuable, and that if needed, suitable compromises will be worked out to meet the goals.

I must stress that I feel it is imperative that all states are held to the July 1, 1977, deadline, and that treatment standards are not relaxed so Maine industries can compete in the marketplace on equal ground with industry in other states. Interior Secretary Udall's 1967 guidelines, which proposed a minimum of secondary waste treatment systems for all, must not be altered now. Maine has come too far; too much time and money has gone to industrial waste treatment to allow those in other parts of the country a cost and resultant competitive advantage of providing something less than secondary treatment.

Maine's municipal program is progressing as fast as funds will allow. Towns and cities are working hard to meet state and federal goals for wastewater treatment. The federal funding program must continue if municipalities are to complete installation of secondary treatment facilities. If funds eligibility is held to interceptor systems, treatment facilities and outfalls, Maine will need federal monies for 6 more years at a rate of $40 million each year. If the Maine Department of Environmental Protection (DEP) expands eligibility to include collector systems, we will need $40 million each year for 15 years.

While we feel strongly that a state's needs should determine how much money it receives, we realize that federal programs must at least consider a distribution of funds which takes state population into account. We feel, however, that the Commission should consider changing the distribution formula so that before pollution abatement funds are spent on stormwater treatment, all municipalities nationwide have secondary treatment for sanitary waste discharges. We feel that exceptions could be made in areas such as water quality limited segments and shellfishing areas closed due to combined stormwater overflows, where stormwater treatment could provide significant positive impact.

In addition, if the DEP is to continue to manage this massive construction and administrative effort, 106 programs must continue. We feel that if, due to severe economic problems, a state's general fund allocation for pollution abatement must be reduced below its 1971 level, the state should not lose its entire federal 106 program grant; however, the grant should be proportionately reduced.

I strongly urge, further, that any recommendations made by the National Commission on Water Quality in respect to midcourse corrections in PL 92–500 should be subject to discussion among state and regional administrators. The impact of any such changes will first be felt by these administrators and their departments. We deserve a voice in any final recommendations to Congress.

Finally, another important point I would like to make is that the law and its procedures should not be significantly changed in midstream. At the inception of PL 92–500, federal, state and local governments began a 2-year learning process to set in motion the law's many requirements. Any substantial change in procedures will seriously hamper our efforts in the management of pollution abatement construction programs. Let us work with the law and make any procedural changes at regional levels where their impact on the program will be minimized.

The Commission should ensure that waste treatment be based on what we are technically and financially capable of doing, not on what our rivers and oceans can handle short of becoming open sewers. This is the ideal and goal of PL 92–500 and must not be altered. It is the only path to swimmable, fishable waters and the benefits which American people will accrue.

Thank you for giving me the opportunity to voice the opinions of the Maine Department of Environmental Protection.

Sincerely,
WILLIAM R. ADAMS, Jr.,
Commissioner.

THE THREAT OF THE SOVIET MERCHANT MARINE AND THE PROPER ROLE FOR THE FEDERAL GOVERNMENT IN PORT AFFAIRS

Mr. THURMOND. Mr. President, recently Mr. W. Don Welch, executive director of the S.C. State Ports Authority, delivered an inspiring, poignant address to the Propeller Club of the Port of Charleston, S.C. Among other things, Mr. Welch warned of the increasing threat of the Soviet Union's Merchant Marine to the American merchant fleet, and he also voiced some thoughtful ideas concerning the dangers of Federal involvement in the financing of port development projects. I believe Mr. Welch's remarks on these matters deserve the attention of my colleagues in Congress and other public-minded citizens.

Don Welch is one of South Carolina's most outstanding citizens, and he enjoys a national reputation as an expert in maritime affairs. He currently serves as a director of both the American Association of Port Authorities and the International Association of Ports and Harbors. Mr. Welch has also been appointed by the Secretary of Commerce to membership in the National Defense Executive Reserve.

Regarding the Soviet Merchant Marine threat, Mr. Welch points out very lucidly that the post-World War II era has seen Russia climb from 23rd place among the world's merchant fleets in tonnage to its present sixth place. At the same time, the United States has declined from first place to eighth place, and the disparity is widening. By 1980, the Soviets will likely have the largest intermodal container fleet in the world and will be in a position to virtually control the most lucrative ocean shipping lanes.

Mr. President, it appears that the Soviets have deliberately sought to gain control of ocean freight transportation, and it seems they have been unscrupulous in the use of predatory rate practices to achieve this end. Unlike privately owned American shipping firms, the Russians do not have to be concerned with recovering operating costs. Rather, they can, over a period of years, continue to subsidize their merchant fleet as necessary from other segments of their economy, while allowing their ships to freely undercut the rates of shipping firms from other nations.

There is no doubt that the Russians have used these predatory rate practices very successfully to gain business and build up their own cargo fleet. Furthermore, the United States has lately been a most cooperative party in this respect. As Mr. Welch mentions in his address, the United States has opened up 40 of our ports to Russian cargo ships in the name of détente. This gesture of good will has resulted in enormous economic benefits for the Soviets.

I am advised that legislation has been introduced in Congress to prevent these predatory rate practices by the Soviet Union. The pertinent bills, S. 868 and H.R. 7940, would prevent any third-flag shipping carrier—this is, carriers which belong to neither the exporting nor the importing nations involved in a transoceanic commercial shipment—from charging rates lower than their operating costs would justify.

There is no doubt that this legislation is well meaning, and I will be glad to give it my fullest consideration if it should come before the Senate. However, I believe any such legislation must be carefully drawn to combat the Soviet predatory rate practices, without reducing competition in shipping and thereby increasing transportation costs to exporters and potentially reducing U.S. exports. In other words, Congress should be careful to deal effectively with the specific problem, without damaging the concept of free trade and the free movement of goods among nations that is so vitally important to the U.S. people and economy.

As long as ocean freight rates are not subsidized by the nation whose flag the ship is flying, I think it is beneficial to let the competitive market forces determine rates to be charged. Fair competition in the shipping industry is good for that industry, just as it is good for others, and it certainly benefits users of ocean freight carriers, and, ultimately, American consumers.

Furthermore, it is my understanding that the Federal Maritime Commission now has authority under section 15 of the Shipping Act (46 U.S.C. 17(b)(5) to take action against ocean freight carriers which attempt to establish unreasonably high or low rates that are detrimental to U.S. commerce. I hope the Commission will thoroughly review this matter and take appropriate remedial steps.

Mr. President, in his recent speech to the Charleston Propeller Club, Mr. Welch also warned against getting the Federal Government involved in port development, beyond the traditional role of harbor and channel maintenance. The Port of Charleston, S.C., has achieved great success without Federal handouts and does not need Federal restrictions and the kind of Federal involvement that might disrupt the competitive relationship among ports. It is far better for the Federal Government, through the Corps of Engineers, to concentrate on waterway maintenance and harbor improvement. Along these lines, the Cooper River rediversion project is critical to the future success of the Port of Charleston, and I hope Congress will provide adequate funding for early completion of this important civil work.

Mr. President, I ask unanimous consent that excerpts from the excellent speech by Mr. Don Welch be printed in the Record.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

An Excerpt of Speech of Mr. Don Welch

(From the annual "State of the Port" presentation to the members and guests of the Propeller Club of the Port of Charleston, delivered by W. Don Welch, executive director of the South Carolina State Ports Authority, January 20, 1976)

Another area of strength for Charleston exists in the fine level of services provided by American-flag shipping lines in the port. American President Lines, Prudential Line, Moore-McCormack Lines, Waterman Line, Farrell Lines, Sea-Land Service, United States Lines, American Export Lines, and the Puerto Rican Marine Management Service are all leading port citizens. This should be of particular interest to the membership of the Propeller Club of the Port of Charleston inasmuch as one of the two main goals of the Propeller Clubs throughout the Nation is the promotion of the American Merchant Marine.

In this connection, I am compelled to point to an issue of serious concern to many members of the port industry throughout the Nation and to many leaders of the American-flag steamship industry.

A major challenge to the strength of the American shipping industry exists in the growing strength of the merchant fleet of the Soviet Union. In the years since World War II, Russia has climbed from a ranking of 23rd among the world's merchant marine tonnage to sixth place. In the same period, the United States has fallen from first place to seventh place, right behind Russia. Today the Soviet Union has 16 companies operating 7,000 ships on 65 trade routes. Ninety new vessels were added to their merchant fleet in 1975.

A major growth component of the Soviet merchant marine power is their container fleet, which did not even exist in 1970. By 1980, Russia will be the largest intermodal operator in the world, with more than 300 container vessels. It is estimated that their fleet will be large enough by 1980 to monopolize the entire U.S.-Atlantic or Pacific foreign trade tonnage. In addition, the Soviet Union also controls the Communist Council of Economic and Mutual Assistance, which consists of Poland, Czechoslovakia, Hungary, Rumania, Bulgaria, East Germany and Cuba. This organization provides a combined front for competing with the free world merchant marine, and serve the long-range Soviet goal for complete domination and control of the world's ocean trade lines.

This is especially frightening when one considers the declining state of the American Merchant Marine. Our liner fleet consists now of only 302 vessels of which 140 are modern, technologically-advanced intermodal ships such as containerships.

What has caused this great leap forward for the Soviet fleet? A look at the practices of Communist-flag lines provides the answer. The Soviets usually do not abide by the rates charged by most lines which are members of the rate-making conferences. Because the Russians have no real cost system within their economy, they can set whatever prices they desire to undercut the American merchant fleet and the rest of the non-Communist world.

With their predatory rate practices, the Communist-flag lines attempt to seek out and monopolize the most valuable cargoes, leaving the lower paying cargoes for the other carriers. Over the long run, the Russians intend to gobble up the majority of the world's maritime trade.

What does this mean to America? In the name of detente, we now permit the Russians to put in to 40 American ports. Their business is booming and the trade of the American-flag shipping companies is continuing to decline. The long-range prospect is an effective crippling of the American Merchant Marine. Eventually, the Russians could be in a position to set up a trade embargo similar to the Arab oil embargo but more serious. The impact on the West of the Communist competition has been stated most forthrightly, not by an American ship operator, but by Karl-Heinz Sager, president of the European Common Market Shipping Association. At the Association's recent annual meeting, he warned that the practices of the Communist merchant fleets represent the most serious threat to the viability of the western cargo line operators. Since Soviet competition cannot be fought with commercial means, state regulatory measures are necessary, he said. For the health of the American shipping industry and for the economic stability of our nation, we must prevent the establishment of a Russian monopoly power in trade. It is clear that the Russians intend to use their merchant fleet as an instrument of national policy, aimed at destroying the economic structure of the free world.

Legislation properly known as the "Third-Flag Bill" is pending in Congress. The thrust of this bill would be to require state-owned cargo lines, like the Russians, to abide by the minimum rates charged by a national flag carrier unless an analysis of the lower rate shows that it fully covers all the costs incurred by the third flag line. This would effectively prevent the state-owned lines from cut-throat pricing, and we endorse this principle as in the best interests of America and the rest of the free world.

Clearly, America needs a recommitment of national policy to the strength of the nation's merchant marine. Some shippers may find the cut-rate shipping costs offered by the Communists attractive. But the interest of the nation and the shipping industry surely cannot be served by a potential Russian monopoly on America's seaborne trade—which is the largest in the world.

The "third-flag bill" represents an area of significant federal concern affecting ports and shippers. We welcome federal concern on these and other areas of clear federal scope. At the same time, like the majority of port executives, I am not at all eager to see federal participation in areas such as port development beyond the traditional role of harbor and channel maintenance. Recently, a number of ports have expressed interest in securing capital funds from federal sources to help in their development projects. We are opposed to this.

The record is clear. When the Federal Government spends money on development, priorities are set, controls are placed and restrictions follow. The Federal Government could not get involved in port construction without disrupting competitive relationships among ports. That would bring complete dislocation of our industry as we know it today. Federally selected and supported ports would become the order of the day.

It seems to us that the Federal Government faces enough demands without adding more. As an example, take Charleston's critical rediversion project. The rediversion project represents without doubt the most vital single need of the Port of Charleston. On it rests the ultimate salvation of our harbor. Fortunately, we're able to report this year that significant progress has been made on moving forward on this essential project. Funds for a major step forward on rediversion have been placed in the Federal budget. We understand that final agreement is imminent between the Corps of Engineers and Santee-Cooper on the contractual agreement that must be signed before construction can begin. We are still on the tightrope on this project but we are very near the end. The port community must watch this project closely to make certain there is no fall in the last few steps. A general awareness now exists concerning the imperative nature of this project to the overall economic well-being of the region.

THE DUBIOUS VALUE OF THE B-1 BOMBER

Mr. CLARK. Mr. President, I would like to call the attention of the Senate to an important study recently released by the Brookings Institution. This painstakingly documented study, written by Alton H. Quanbeck and Archie L. Wood, is entitled "Modernizing the Strategic Bomber Force: Why and How." Quanbeck and Wood conclude that the United States should not commit itself to producing the B-1 bomber.

I believe that the United States should spend whatever is necessary for protection against possible attack. But I do not think that we should spend vast sums on weapons systems which are, at best, of dubious value in increasing our national security. Such wastefulness only ends up by weakening us, since it assures that we do not spend our defense dollars where they are needed. This Brookings study makes an important contribution in helping us to see just what our priorities should be in weapons systems for the years immediately ahead.

While this study deserves our careful consideration in its entirety, its principal arguments are included in the introduction and conclusions and recommendations. I ask unanimous consent that these portions of the paper be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MODERNIZING THE STRATEGIC BOMBER FORCE: WHY AND HOW

INTRODUCTION

Uniquely, strategic bombers and strategic bombardment continue to play a major role in the contemporary American military posture. Although other nations have built and employed such weapons, none have lavished as much energy and wealth on their development as the United States has. The United States first developed a sizable strategic bombing force during World War II and emerged from the war with nuclear weapons for which bombers were the only means of delivery.

During the postwar period the United States developed the B-36, B-47, B-52, and B-58 bomber aircraft and in the late 1950s initiated the development of the B-70, a high-altitude supersonic heavy bomber, but terminated the program after two test vehicles were built. A program to build about 200 FB-111s—a smaller bomber—was begun in the mid-sixties; this, too, however, was stopped after about 75 were actually deployed. Of all these planes the B-52s were the most capable and versatile, particularly the G and H models. The last of these models were delivered in the early sixties, but they were updated and modernized throughout that decade and are still being improved. They are now the backbone of the strategic bomber force.

The United States applies about 35 percent of all money spent on its strategic forces to bombers. About 25 percent of the nuclear weapons in the strategic arsenal are carried by bombers, and the B-52G/Hs could carry many more. There are now no serious threats to the effectiveness of the B-52 force. Defense Department officials believe that the bomber force could survive a surprise attack by Soviet offensive forces and penetrate Soviet air defenses. Nonetheless, the United States is now on the threshold of a program to modernize the bomber force. The centerpiece of this program is the B-1, which will enter the operational force in the 1980s if present plans are carried out. Current official estimates of the investment cost of the B-1 force now total more than $80 million per airplane, if 244 are produced as proposed by the Air Force.

The forerunner of the B-1, the advanced manned strategic aircraft (AMSA), was conceived soon after the demise of the B-70 program. From its inception, the AMSA was controversial. The Air Force advocated the initiation of the program throughout the late 1960s, but effort was limited to the advance development of components of the AMSA and to system studies of the AMSA weapon system. Soon after the change of administration in 1969, however, the AMSA was redesignated the B-1 and the development of prototypes began.

Some analysts have challenged the need for strategic bombers in an age of ballistic missiles carrying thousands of warheads; others have acknowledged the need for strategic bombers but not for a new bomber at this time; and still others have questioned the characteristics being designed into the B-1, especially its supersonic flight capabilities. Critics have argued as well that a new approach to strategic bombers—the so-called standoff bomber, which would launch missiles against its targets from outside defense perimeters—should be employed in modernizing the strategic bomber force. They have also stressed the costs of the B-1, arguing implicitly or explicitly that it is not worth the money.

Since the B-1 was first conceived, advances in propulsion systems, guidance systems, and the design of ballistic missiles have made alternative approaches to the modernization of the bomber force technologically feasible. Moreover, the treaty limiting the deployment of antiballistic missiles (ABMs)[1] has provided political assurances that an effective ABM defense will not be deployed, and economic and technological impediments to an effective ABM defense are likely to persist. The United States will soon have more than 7,000 ballistic missile reentry vehicles deployed that could defeat any but the most massively deployed and extremely sophisticated ABM system. About 5,000 of these reentry vehicles will be based in nuclear-powered ballistic missile submarines (SSBNs), the most survivable deployment mode the United States has. The other 2,000 will be carried by intercontinental ballistic missiles (ICBMs). Both the submarine-launched ballistic missile force and the land-based ICBM force are capable of surviving a surprise attack. The penetration capabilities of both forces are protected by the ABM treaty. Moreover, the use of only a small fraction of the ballistic missile reentry vehicles could destroy major elements of Soviet air defenses and would disrupt the operation of the system as a whole. Thus the ABM treaty gives added assurance, too, of bomber penetration.[2]

The purpose of this study is to explore key issues relating to the modernization of the bomber force. Does the United States need a bomber force? If so, is its modernization urgent? What approaches, other than the B-1, are available to modernize the bomber force? Which of these are most economically efficient? What risks for the United States does each involve?

We consider five alternative bomber forces:

Modified B-52G/Hs (including rocket assistance for faster takeoff).

B-1s.

A derivative of large transport aircraft, such as the C-5 or the Boeing 747.

New aircraft designed for maximum ability to survive a surprise attack.

A derivative of large transport aircraft with rocket assistance for faster takeoff.

The first two of these forces would be armed with decoys and short-range attack missiles; the other three would carry long-range ballistic or cruise missiles.

We evaluate the five alternative forces and compare their costs, ability to survive a surprise attack (prelaunch survivability), and ability to penetrate Soviet defenses. In our discussion of the problems of prelaunch survivability and the penetration of enemy defenses, we have assumed that the Soviet Union will eventually possess greater capabilities than it has at the present time. Finally, we conclude the study with a presentation of our views on how the bomber force should be modernized.

CONCLUSIONS AND RECOMMENDATIONS

This analysis, like others of such complex issues, leaves for differing judgments about the policies that should govern the design of the bomber force, about the evolution of future threats, and about the role of the bomber force. We have been limited by the necessity to reply on unclassified data, and our simple modeling techniques capture only the most important properties of the problems treated. Nevertheless we believe that the broad direction that decisions concerning the bomber force should take is quite clearly delineated by the conclusions of this analysis. In summary, these conclusions are as follows:

The effectiveness of the current bomber force is more than adequate now and, with minor force modifications, will remain so in the future under foreseeable conditions. With the planned deployment of ten Trident submarines, U.S. strategic forces will rise approximately to the limits established in the Vladivostok guidelines.[3] Thus there is no urgency to make major changes now, although modernization will be necessary eventually.

There are marked economic advantages for a bomber force that carries standoff missiles, which would be an alternative to the B-1 in modernizing the bomber force.

There appear to be no significant military advantages to be gained by deploying a new penetrating bomber such as the B-1 in preference to this alternative.

In light of these findings, we see no reason to make a commitment to produce the B-1, and we believe there is considerable justification for exploring alternatives based on the use of standoff missiles.

Our more detailed conclusions follow and touch on each of the points we have considered in this report.

Need for a bomber force

We consider the sea-based missile force to be the cornerstone of the future U.S. strategic capability and to be particularly well-suited to the retaliatory mission because of the rela-

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Footnotes at end of article.

tive invulnerability of sea-based missiles to a surprise or preemptive attack. While the number of land-based missiles possessed by the United States has political value in maintaining essential equivalence—now stressed in U.S. strategic policy—these missiles, if actually faced with Soviet deployment of accurate multiple independently targetable reentry vehicles, would assume a secondary retaliatory role and would contribute mainly to a strategic warfighting capability. If their military worth were to be diminished for this reason, the United States should shift its reliance on land-based missiles to sea-based missiles. The Trident program, which has already been started, provides a suitable basis for this shift.

We believe that the proper military role of the bomber force in the future is to act as insurance against the failure of the ballistic missile forces. The amount this nation is willing to pay for such insurance and the amount of coverage that is desired depends on subjective judgments of the risks involved. The political purpose of the bombers is to help maintain essential equivalence with the USSR. The number of bombers in the force required for this purpose will depend partly on the value placed on them in any future accord that may be negotiated on the basis of the Vladivostok understanding.

Present program

The B-1 program has reached a point in its development-procurement cycle that calls for a key decision—whether or not to make a commitment to produce the aircraft. If the commitment is made, spending on the B-1 will increase rapidly from about $750 million in fiscal year 1976 to about $2.5 billion annually in the late 1970s. There will be additional costs for short-range attack missiles to arm the B-1 and for a new tanker to refuel it. On the other hand, a decision not to proceed with the B-1 production program would not mean that the bomber force would rapidly become obsolete and ineffective, because the present aircraft will be structurally sound well into the 1990s, and there is only a remote possibility that any potential enemy action could threaten the military effectiveness of the B-52 force before that time. Furthermore, U.S. sea-based and land-based missile forces are effective hedges against an enemy threat directed specifically toward the bomber force within the same time frame.

Prelaunch survivability

The value of the bomber force is greatest during a time of crisis because it can be placed on a higher alert status. We believe that either through assessment of a political crisis or through U.S. intelligence systems the United States will receive strategic warning adequate to increase the alert status of the bomber force. Secretary of Defense Schlesinger had expressed similar views in regard to strategic warning.[4]

The threat to bomber prelaunch survivability of a well-executed surprise attack is the most demanding problem for those charged with designing the bomber force. A surprise attack could be carried out by either depressed trajectory ballistic missiles or strategic cruise missiles launched from Soviet submarines. The likelihood of a surprise attack during a period of relative stability is extremely remote, however, and U.S. submarine-based ballistic missiles provide protection against such an unlikely contingency. Thus we believe that the United States does not need to rely on the bomber force to hedge against the possibility. In addition, the bomber force as currently planned, including the B-1, is not well-adapted to cope with such a threat. The current solution to the problem is to depend on a quick-reaction ground alert posture for the bomber force in order to flush the bombers upon receipt of tactical warning. Even with a bomber like the B-1, this reliance on ground alert and dispersal provides very narrow margins of safety if severe prelaunch threats materialize; these margins degrade rapidly with adverse changes in the performance of tactical warning systems or alert forces. High-acceleration devices such as rocket-assisted takeoff, reductions in bomber reaction time, and dispersal basing offer some promise of improving the prelaunch survivability of bombers on ground alert under conditions of strategic warning.

During the Cuban missile crisis the Air Force placed some of its bombers on airborne alert to assure their survivability and to demonstrate resolve. We believe that this mode is virtually invulnerable to any threats that can now be anticipated, but reliance on airborne alert in time of crisis would put a premium on designing a bomber force with greater endurance than the one currently planned.

Penetration

The remaining threat to the retaliatory capability of the bomber force is the possible emergence of high-quality Soviet air defenses. A high-quality Soviet air defense system might include lookdown, shootdown interceptors guided by large airborne control centers and surface-to-air missiles with a low-altitude capability down to about 100 feet. Although this threat has been anticipated for some time, there is no evidence that it will materialize within the next several years. If such a system does not emerge, then the present force of B-52s has sufficient capability.[5] Moreover, our analysis suggests that if the B-52s were equipped with armed decoys or with long-range cruise missiles, exploiting fully their existing payload capabilities, they could cope with substantial deployments of advanced air defenses.

Recent testimony by Defense Department officials emphasizes the dependence of the currently planned bomber force of B-52s and B-1s on electronic countermeasures (ECM) to counter the threat of high-quality area air defenses.[6] We do not believe that ECM should be relied on to assure the penetration of the future bomber force. If government leaders conclude that ECM can guarantee the effectiveness of the penetrating bomber, however, then the sizing and evaluation of alternative forces should be based on this choice.

In our view, air-launched cruise missiles provide the most economical means of coping with sophisticated area defenses. The Defense Department is undertaking a deliberate program of developing these cruise missiles that appears to be properly paced to meet an area defense threat. These missiles can be carried on B-52s in the near term. The design of the follow-on carrier would now warrant initial study. If arms control agreements should come into being that severely limit the deployment of air-launched cruise missiles with the required range, consideration could be given to the deployment of air-launched ballistic missiles for coping with area and terminal defenses.

We believe that U.S. strategic forces can adequately counter any deployment of fixed terminal surface-to-air missile (SAM) systems by suppressing them with sea-based or land-based ballistic missiles. Since the strategic missile forces are programmed to contain more than 7,000 re-entry vehicles by the mid-1980s, the use of several hundred of them to destroy terminal SAMs would not significantly reduce their overall capability. We see little purpose in the further development of an air-launched ballistic missile (ALBM) for destroying SAMs in view of the capabilities of currently planned ballistic missile forces. But even if a choice is made to reject the use of intercontinental ballistic missiles or submarine-launched ballistic missiles (SLBMs) for air defense suppression, the development of an ALBM would not appear to be justified now by existing Soviet strategic SAMs.

Alternative forces

A standoff bomber force is more economical than an equal-effectiveness B-1 force. As much as $10 billion to $15 billion might be saved in the first ten years after a decision to modernize by choosing the standoff force. Thus we believe that the production of the B-1 should not be approved and that the research and development program should be brought to a speedy conclusion as soon as the technological potential in the B-1 prototype program is fully exploited. Instead, systems studies and appropriate advanced development of a standoff bomber should begin. Emphasis should be given to those characteristics needed to assure adequate prelaunch survivability and low cost.

Arms control measures

In addition to these conclusions about the future development of the bomber force, we suggest that several pertinent strategic arms control measures should be pursued.

The viability and effectiveness of the antiballistic missile treaty[7] should be preserved; this would protect the penetration capabilities of the ballistic missile forces. The potential for destruction of Soviet air defenses by ballistic missiles gives added assurance of bomber penetration.

The United State should seek a ban on the testing and deployment of depressed trajectory SLBMs. Defense spokesmen have testified that a ban would be verifiable. By this means, a possible threat to bomber prelaunch survivability would be mitigated.

The ultimate acceptability of an arms control agreement that bans or limits cruise missiles of more than a specified range—for example, 600 kilometers—rests on considerations that go beyond the scope of this study. Such limits, however, without radical controls on air defenses (and such controls seem unlikely), would severely limit all of the major options discussed in the study.

Patrol limits on strategic ballistic missile submarines (SSBNs) should be considered. Such limits may now present serious verification problems. But ASW breakthroughs might change this. If ASW breakthroughs also reduced the survivability of SSBNs, the bomber force and consequently SSBN patrol limits would assume new importance.

FOOTNOTES

[1] Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow, May 26, 1972.

[2] The Soviet Union currently possesses more ballistic missiles than the United States plans to deploy. These missiles are larger than those of the United States as well, but the USSR is only beginning to deploy multiple independently targetable reentry vehicles on their missiles. (The United States began such deployments about five years ago.) Most Soviet missiles, too, would survive a first strike. In effect, since both Soviet and American ABMs are limited by the ABM treaty to 100 interceptors, both superpowers would be devastated should an all-out nuclear war occur.

[3] Joint Soviet-American Statement on Strategic Arms Limitation, November 24, 1974.

[4] "Report of Secretary of Defense James R. Schlesinger to the Congress on FY 1976 and Transition Budgets, FY 1977 Authorization Request and FY 1976–1980 Defense Programs" (February 1975; processed), p. II–35.

[5] The Defense Department has apparently come to a similar conclusion. See statement of Malcolm R. Currie, director of Defense Research and Engineering. *The Department of Defense Program of Research, Development, Test and Evaluation, FY 1976*, Hearings before the Senate Appropriations Com-

mittee, 94 Cong. 1 sess. (February 26, 1975), p V–18.

[6] Ibid., p. V–15.

[7] Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow, May 26, 1972.

A NATIONAL POLICY FOR JOBS AND ENERGY INDEPENDENCE

Mr. **MATHIAS**. Mr. President, two of the most pressing national goals of this country are providing jobs for American citizens and promoting our independence from foreign energy sources. National policies thus far have failed to move us closer to either goal.

One of the principal areas in which this is true is the failure of American policy to reflect the need to construct additional petroleum refineries in the United States. Not only is America becoming increasingly dependent on foreign crude, but we are also becoming increasingly dependent on foreign refineries. The result is a weakening of our national security and national defense.

Moreover, as we see more refineries built throughout the Caribbean and other foreign lands, we also witness the export of thousands of American jobs. These jobs are created by the American economy, and sorely needed by the more than 8 million Americans currently unemployed.

Despite the obvious fact that refinery construction in America provides both security and employment, the Federal Energy Administration is even today considering further action to frustrate both goals. The FEA has, during the past year, provided millions of American dollars in subsidies to offshore and foreign refineries. It is considering at this time whether to extend that policy into the indefinite future. While American taxpayers are rightly concerned about the level of Federal expenditures within the United States, I believe they would be outraged by subsidies of millions of dollars to such offshore and foreign refineries which undermine both security and employment.

I hope, therefore, that our Federal Government, including the FEA, reverses its recent record and begins to foster domestic refinery construction and utilization.

At a recent public hearing at the FEA, Mr. Anthony Mazzocchi, citizenship-legislative director of the Oil, Chemical, and Atomic Workers International Union, testified as to the loss of American jobs caused by current Federal policies. Further evidence was provided by the testimony of Jesse D. Winzenried, vice president of Crown Central Petroleum Co. Crown, like other petroleum companies, has under active consideration plans for the construction of a domestic refinery. The Crown refinery would be capable of refining up to 200,000 barrels of crude petroleum each day. Its construction would require 2 to 3 years and employ up to 2,000 construction workers, according to best estimates. When completed, the refinery would employ some 300 full-time workers. The refinery would increase the taxable base of Baltimore, provide an immediate boost to the economy of the area in which it is located, and guarantee that energy would be available to the mid-Atlantic States. These economic and energy benefits are substantial, and it is my fervent hope that the FEA and our other Federal energy policymakers will develop policies which foster rather than frustrate this type of project.

The need for leadership cannot, however, be left to the FEA alone. The Congress too must play its role. During the last session of the Congress, I introduced S. 1950, which would amend the Federal tariff policy so as to impose a somewhat higher tariff on products than on crude. It would thus provide an economic climate favorable to the construction and utilization of domestic refineries and would thus both foster energy independence and increase employment.

S. 1950 is now pending before the Senate Finance Committee. Testimony was received in its behalf by the committee during the last session. I trust that my colleagues on that committee will give S. 1950 serious and favorable consideration during the committee's review of energy and tax policies this spring.

Mr. President, for the convenience of my colleagues, I ask unanimous consent that the testimony of Mr. Mazzocchi and Mr. Winzenried be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Statement of Anthony Mazzocchi, Citizenship-Legislative Director, Oil, Chemical, and Atomic Workers International Union, Before the Federal Energy Administration, Re: NEPCO Application. February 4, 1976

The Oil, Chemical and Atomic Workers International Union represents 200,000 workers in the United States and Canada. The Union is the principal one in refining petroleum. OCAW represents workers who refine over two-thirds of all product in the U.S.

We in OCAW have witnessed over the past years the steady decline of refineries in the U.S. Along with this development, especially recently, there has been an escalation of rhetoric in government and industry for the need for additional refineries in the U.S.

However, when one separates myth from reality, one understands that the rhetoric is purely for public consumption and has little to do with facts regarding refineries closing or being built.

In the East Chicago area alone, we have seen in the past 3 years the closing of the Citgo and Mobil refineries and now the planned shutdown of the 140,000 bbls. a day ARCO refinery in East Chicago. The ARCO refinery employs over a thousand people. There are also other planned refinery shutdowns that affect the membership of our Union.

We oppose any program that encourages the export of capital, refinery capacity and jobs. The proposed entitlements to NEPCO is a subsidy and it will accomplish precisely this deleterious program.

Jobs are considered the number one priority in the U.S. at the present. And after inflation, energy probably occupies the next highest priority in the minds of industry, the public and government.

It seems incredible to us that given these priorities that consideration of a subsidy in the form of entitlements would even be considered for NEPCO.

Encouragement should be given to those business entities who plan to build refineries in the U.S. in a sound environmental way rather than creating incentives to move refining offshore.

Let's look for a moment what government encouragement for refinery expansion offshore has done in the case of Amerada Hess.

In 1974 Hess expanded its Virgin Islands refinery 500,000 bbls a day to 700,000 bbls per day. This was certainly adding insult to injury because there is no reason why the 500,000 bbl capacity should have been there in the first place.

However, it is important to note that this huge Virgin Islands plant was a contributing factor in the company's decision to close its Corpus Christi refinery in November of 1970. It was no doubt a contributing factor when in 1973 the company decided to lock out the OCAW members in its Purvis, Mississippi refinery for a period of six months. This period you will remember was at the height of the energy crisis.

The expansion of the Virgin Islands plant from 500,000 bbls a day to 700,000 bbls in 1974 most certainly was a contributing factor to the closing of its Port Reading, New Jersey refinery in late 1974.

If we in OCAW, who have lived through refinery shutdown after refinery shutdown, while being subjected to a barrage of rhetoric calling for the expansion of domestic refinery capacity, have grown skeptical and cynical, I hope you will understand the reason for this development. The NEPCO subsidy is another nail in the coffin of domestic refinery capacity. OCAW calls for an end to this subsidy and the development of programs that will encourage domestic refining capacity.

Statement of Jesse D. Winzenried, Group Vice President, Crown Central Petroleum Corporation Before the Federal Energy Administration Hearing on Application For Exception From the Provisions of 10 CFR 211.67, Filed By New England Petroleum Corporation, Washington, D.C., February 4, 1976

My name is Jesse Winzenried and I am a Group Vice President for Crown Central Petroleum Corporation. Crown is a small, independent refiner which owns and operates a 100,000 barrel per day capacity refinery in Houston, Texas, and markets petroleum products along the coastal states from New York to Texas.

I am here today because Crown is concerned that the granting of the relief sought by NEPCO in this proceeding will foreclose the expansion of domestic refinery capacity by Crown and other domestic refiners, both majors and independents.

Since 1971 Crown has been actively planning for the construction of a 200,000 barrel per day refinery to be located in Baltimore, Maryland, at a projected total cost of approximately $500,000,000. This refinery would emphasize the processing of synthethic natural gas and low sulfur fuels oils in order to help supply the energy needs of the area. Crown has spent a substantial amount of time and money on this refinery project, and it is now at the point in the planning process where it must either commence actual construction in the very near future or else reconsider its entire decision.

Along with the President, the Congress, and all Americans who are striving to achieve energy independence, Crown believes that it is vitally important to National security that the United States lessen its dependence on imported finished petroleum products. This dependence on foreign products is largely attributable to the present lack of domestic refining capacity, a problem which is especially acute in the Mid-Atlantic and Northeastern states.

While NEPCO is a domestic marketer of residual fuel oil on the Atlantic coast, it markets products processed in a foreign refinery located in the Bahamas. FEA's previous awards to NEPCO of oil oil entitlements were made in an effort to maintain NEPCO's competitive viability, but the net effect of these decisions has bene to subsidize NEPCO's partial ownership of a foreign refinery. NEPCO now asks FEA to expand its entitlements benefits to include all of its residual fuel sales.

As a direct outgrowth of FEA's past NEPCO decisions one major multinational refiner has already petitioned the FEA for similar relief, and other requests undoubtedly will follow if NEPCO is granted further entitlements. Crown contends FEA should not grant entitlements which would subsidize the sale of foreign products in domestic markets. While the purpose of such a decision may be to reduce the cost of residual fuel oil on the East Coast, the result would be to subsidize foreign refiners. Granting NEPCO's pending application for more entitlements benefits will further complicate the problem of increasing dependence on foreign products, and will not contribute to an enlightened energy policy that encourages the construction and expansion of domestic refining capacity.

The effect of granting foreign product entitlements would be to shut the door completely on any future hope of domestic refinery expansion. The economics of expanding an existing domestic refinery or the construction of a new facility could not be justified when a subsidy is given for selling products in the United States that are processed in a foreign refinery.

In short, foreign product entitlements would reward those companies who have exported American jobs and capital to foreign countries. With the added benefit of entitlements, foreign refiners could easily undercut the price levels of products that are processed in the United States with American labor and transported in American bottoms.

Any FEA program embodying entitlements on imported products would deny the United States all of the strategic and economic benefits which would follow from domestic refinery construction and expansion, and our dependence on foreign products would be further aggravated. National security would be diminished and our favorable balance of payments would be jeopardized. The opportunity to provide literally thousands of new jobs would be unnecessarily squandered, the industrial development which naturally gravitates toward new energy complexes would be lost, and the attendant increase in local property tax bases would be forfeited.

In summary, Crown believes that a decision to approve NEPCO's pending application would solve none of the very serious energy problems facing this country. Rather, it would endanger the future of the domestic refining industry, particularly the independent segment. If NEPCO's favored status is extended and enlarged as requested, other marketers will apply for entitlements on imported products. FEA may be judicially compelled to grant them. The net result would be a counterproductive national energy policy which would discourage the expansion of domestic refining capacity.

Crown believes that the only feasible long range solution to the problem if American dependence on foreign refined products is the adoption of legislation and regulations which will encourage the importation of crude oil until such time as domestic production can be increased, and discourage the importation of finished products. To this end, Crown commends to your attention the Petroleum Product Import Act which was introduced as Senate Bill 1950 by Senator Mathias and which is presently pending before the Senate Finance Committee.

The purpose of Senate Bill 1950 is to create a climate that is favorable to the expansion of domestic refining capacity to meet U.S. produce demand. This bill provides for the institution of tariffs on imported products over a period of time sufficient to allow for the construction of new American refineries to fill the present gap between domestic demand and refining capacity. It imposes a tariff designed to increase gradually as additional domestic refinery capacity is constructed. Tariff monies collected would be returned to those states where the products are consumed, to be used in their general fund treasuries for whatever purpose they desire. We believe this is a sensible long range approach to take.

The wholesale grant by the United States government of subsidies paid by domestic refiners, and ultimately by the American public, to foreign refiners means the further exportation of refining capacity, jobs, and dollars at the expense of American industry and the American people. We urge FEA not to approve NEPCO's pending application.

We have also filed a written statement setting forth in more detail Crown's objection to NEPCO's pending application, and we invite your further attention to that document. Thank you.

TRIBUTE TO SUMNER T. PIKE

Mr. MUSKIE. Mr. President, Sumner Pike of Lubec, Maine, died at his home over the weekend.

Some of our colleagues will remember him as one of the original members of the Atomic Energy Commission, as one of Franklin Roosevelt's New Deal advisers, or as a member of the Securities and Exchange Commission. I will remember him, as well, as a friend.

I have served with him for 10 years on the Roosevelt Campobello International Park Commission. His brother, Radcliffe, was the Commission's executive secretary, and is now its naturalist consultant. Since the island lies off Lubec, I had the pleasure of many hours of enjoyable conversation with Sumner from time to time over the past dozen years. He possessed one of the most active, engaging and sensible minds to which I have ever been exposed.

The Pike family is something of a legend in Lubec. It was said that Sumner's grandfather Jabez Pike smuggled wool from Canada during the Civil War.

This rather odd expression of Yankee independence on the part of their grandfather was a source of great pride for Sumner, his brothers Rad, Alger and Moses, and sister, Marjorie McCurdy.

And it gives a clue to Sumner's special nature.

When a man dies, it is customary to list his accomplishments—the things he has built, influenced or possessed; the jobs he has held and the policies he has espoused.

Sumner was a successful businessman. He made separate fortunes in oil and on Wall Street. But his money allowed him to buy virtually every book published in America each year, and his curiosity made him read them.

He served ably on two Federal commissions and in a variety of other posts. But it was Sumner's philosophy that was the real measure of the man.

He described himself once as "leftish—as Republicans go." He certainly looked upon his government service as public service, and while on the SEC gained a solid reputation for protecting the interests of investors and the public. He also served on a committee charged with studying the economic effects of monopoly power and the causes of poverty. And he offended some friends in the oil industry by standing firm against higher crude oil prices during World War II.

But Sumner never succumbed to "Washington fever." In fact, he told a reporter last year, "If anything, I had a Washington allergy. I always felt I was just camping out there." He quit the Capital in 1946, saying he was "getting stale" at his SEC post. But by the end of the year he was back to begin serving on the new Atomic Energy Commission. He quit Washington for good in 1952, served in the Maine Legislature, and characteristically, resisted running for governor.

But while his active service ended except as a member of the Park Commission, which he found too enjoyable to be considered work, he retained an active, omniverous interest in government, in politics, in the sciences, and in society.

He was the kind of man who would spend long hours helping his brother mail out packages of experimental seeds, at no charge of course, to those who wrote to ask for them. He was also the kind of man who would enjoy the knowledge that those were seeds for a "gasless" bean, which he and his brother had developed.

Mr. President, I will miss Sumner Pike. I will miss his company, his stories, his wit and an independent, logical, sensible way of living life that served him well for 84 years.

I learned much from him. And there was much to learn.

I ask unanimous consent that several newspaper articles relating to his life be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Feb. 22, 1976]

SUMNER PIKE, FDR APPOINTEE, DIES

(By B. D. Coeen)

Sumner T. Pike, a Down East Yankee in the New Deal political court, and one of the original members of the Atomic Energy Commission, died in his sleep yesterday at his home in Lubec, Maine. He was 84.

The proud grandson of Jabez Pike, a smuggler of Canadian wool at the time of the Civil War, Mr. Pike was a businessman who made not one, but two private fortunes before entering government service in 1940.

Like his smuggler grandfather, Mr. Pike was a man who refused to be squeezed into any mold: He was an oil man whom many described as a liberal—he described himself as "leftist as Republicans go"—and a Republican who served in high government posts under Democratic Presidents Franklin D. Roosevelt and Harry S Truman.

In 1939, when Mr. Pike was preparing to retire from the business world to head Down East to Lubec to "mess around in local affairs," he was asked to come to Washington as an adviser to FDR brain truster Harry Hopkins. A year later, Mr. Pike was appointed a Commissioner of the Securities and Exchange Commission.

The SEC appointment was the first of many posts Mr. Pike was to fill before his appointment to the fledgling Atomic Energy Commission in 1946.

In 1942, President Roosevelt asked Mr. Pike to move from the SEC to the position of a "dollar-a-year" assistant to the Federal Price Administrator, with the specific job of "straightening out" the oil price problem.

A year later, as chief of the OPA fuel price division, Mr. Pike incurred the wrath of the oil industry, including some old personal friends, by opposing an increase in crude oil prices. This position won him the accolades of the liberal daily PM and the support of farm labor and other New Deal groups.

In 1946, Mr. Pike resigned his SEC post in a four-line letter in which he told President Truman that he, Pike, was "getting stale."

"In accepting your resignation," replied President Truman, "I cannot accept the thesis which you put forward with such Yankee terseness. I refuse to believe that you are getting stale on the job, and I feel that the public will be the loser in your determination to retire."

"That's the first time I was ever accused of being terse," Mr. Pike told a reporter at the time, "but I am getting a little stale. All I'm going to do is go back to Maine where I belong and get in a lot of fishing. Maybe I'll get restless after four or five months and maybe I'll take a job . . ."

That was in March. Seven months later, Mr. Pike had to give up fishing in Maine as President Truman appointed him one of the newly formed Atomic Energy Commission's first five commissioners.

Mr. Pike's tenure as a watchdog for the fledgling atomic energy industry proved almost as controversial as his grandfather Jabez's wool importing practices.

During his term of office, Mr. Pike criticized atomic scientists for being too cautious in releasing data and too security-minded, and warned that atomic energy might well become a political football. He spoke out on behalf of J. Robert Oppenheimer, whom some were calling a security risk—and all of that at the height of the Cold War and the beginning of the McCarthy era.

In a 1948 speech, Mr. Pike said, "The commission is thinking of issuing a low but determined growl at some of our scientific personnel to see if we can't shake some information—especially engineering information—out into public view.

"This, I might say, causes the commission both some concern and some amusement, since it is commonly thought that only the military mind tends to keep everything Top Secret."

When Mr. Pike's first AEC term expired in 1950, and President Truman submitted his name for a second term, the nomination became the focus of a Senate battle that lasted more than a month.

President Truman stood by his nominee, despite a 5-to-4 vote against Mr. Pike by the congressional Atomic Energy Committee. The President accused Mr. Pike's opponents of playing politics with the nomination.

Those opposing the nomination, led by Sen. Bourke Hickenlooper (R.-Iowa), charged that among other things, Mr. Pike was too willing to share secret data with our allies; was aligned with "loose security" practices, and had "dragged his feet" on the development of the H-bomb.

Despite such charges and because of support from Senate Democrats who pointed out that most of the charges were old ones that had long been laid to rest, Mr. Pike was confirmed by the Senate on a 55 to 24 vote, a margin that surprised detractors and supporters alike.

About a year later Mr. Pike once again insisted on returning to Lubec, and that time he succeeded. But he did not completely disappear from the national scene.

In April, 1954, he spoke out in defense of physicist J. Robert Oppenheimer, who had been cut off from top secret information, despite the fact that his head was a depository of most of the nation's atomic secrets.

"I never had the slightest question of Dr. Oppenheimer's devotion to the United States," said Mr. Pike, taking a highly unpopular stand at the time. "I may be what they are calling 'politically naive,' or 'soft on communism,' but I don't think so."

Four years later Mr. Pike was terming U.S. atomic security "deficient. The government is hiding things that only a few select people here and all the Russians know," he said in a speech at the University of New Hampshire.

Mr. Pike is survived by three brothers, Radcliffe B., Alger W. and Moses B., and a sister, Mrs. George McCurdy, all of Lubec.

[From the New York Times, Feb. 23, 1976]

SUMNER T. PIKE, 84, DEAD; FORMERLY HEAD OF A.E.C.

LUBEC, ME., Feb. 21.—Sumner T. Pike, who served five years as chairman of the Atomic Energy Commission under President Harry S. Truman, died in his sleep at his home here Saturday. He was 84 years old.

He leaves three brothers, Radcliffe, Alger and Moses, and a sister, Mrs. George McCurdey, all of Lubec.

MADE TWO FORTUNES

(By William M. Freeman)

Sumner Pike, who once described himself as "leftish—as Republicans go," served two Democratic Presidents in high offices after having made a fortune in oil and another in Wall Street.

He accepted a post as a member of the Atomic Energy Commission in 1946 after four years with the Securities and Exchange Commission under President Franklin D. Roosevelt.

His appointment to the S.E.C. was looked on with some uneasiness by the business community, which otherwise approved his record as a practical businessman and financier. However, the doubts in Wall Street were allayed by his work as a commissioner, serving chiefly in Philadelphia, to protect investors and the public.

One of his achievements was a plan to aid small business. He also was a co-author of specific recommendations or the improvement of life insurance, based on an S.E.C. study.

Mr. Pike was also instrumental in drawing up an overall power program for defense and considering changes in the basic securities acts.

His service was interrupted late in 1942, when he was asked by Mr. Roosevelt to take a brief leave of absence to assist Leon Henderson, then the Price Administrator, to "straighten out the crude-oil tangle."

"IN THE MIDDLE"

His job was not regarded as easy, since he was "in the middle," between Mr. Henderson, the strong-willed protector of consumer interests, and Harold L. Ickes, the outspoken Petroleum Administrator for War as well as Secretary of the Interior.

Mr. Pike stood firmly against higher prices for crude oil, which lost him some friendships in the industry, but he won the backing of farm, labor and New Deal groups. This led to his appointment in late 1944 to a three-man board to handle the disposal of billions of dollars worth of surplus property.

He resigned his Washington posts in March 1946, writing in laconic Down East style to President Truman, "I am getting stale on this job."

However, he was back in Washington in October as a member of the five-man Atomic Energy Commission, an appointment that required him to divest himself of all security holdings and all business interests. He was not even permitted to advise members of his family on business matters.

With David E. Lilienthal, the chairman, and the other members, Rear Adm. Lewis L. Strauss, W. W. Waymack and Prof. Robert F. Bacher, he shared the responsibility of serving as "trustee for the world" of the power released by splitting the atom.

For a two-year term at $15,000 a year, the salary then paid to Cabinet officers, he was one of the administrators of a $1.5 billion enterprise with an annual payroll in 1946 of $200 million, land holdings 11 times the size of the District of Columbia and full responsibility for what was termed "the most dangerous but hopeful power in the material world."

Mr. Pike was born Aug. 30, 1891, in Lubec, where his family lived and operated several enterprises. He was a descendant of the Civil War officer Zebulon Pike, for whom Pikes Peak was named.

He was a 1913 graduate of Bowdoin College, where he was elected to Phi Beta Kappa. He attended the Harvard Graduate School of Business Administration for a brief period, but left, because, as he once put it, "the money ran out just before the Harvard-Yale game."

Mr. Pike joined Stone & Webster, a large utility concern in Boston, in 1913. In 1917, following this country's entrance into World War I, he became a captain in the Coast Artillery and served as an instructor in the officers' training camp at Fort Monroe, Va.

On his return to Stone & Webster he became purchasing agent and assistant to the manager of a subsidiary, the Eastern Texas Electric Company in Beaumont.

A skilled petroleum geologist, Mr. Pike prospected for oil and found it, becoming a vice president of two concerns, one in Dallas and another in Kansas City, Mo. His work was in selling equipment for retail filling stations, garages and oilfield concerns.

In 1922 he turned to Wall Street as assistant to the president of G. Amsinck & Company, which was involved in trade with Central and South America.

He added insurance in 1924 as secretary of the Continental Insurance Company and, later, with the America Fore group of fire insurance companies, directing investments.

This was followed by a post in 1928 as a vice president and director of Case, Pomeroy & Company, a Wall Street investment house.

Mr. Pike spent 11 years with the company, developing oil and mining enterprises in many parts of the world. By January of 1939 he had made a second fortune and he decided to retire and take a trip around the world.

On his return he accepted a post as a dollar-a-year-man, advising Harry L. Hopkins, then the Secretary of Commerce, on business matters.

A COMMERCE AIDE

His status as a Republican in a Democratic Administration apparently was no hindrance to his rise, for a few months later he was named to represent the Department of Commerce on the Temporary National Economic Committee, whose task it was to study the concentration of economic power in monopolies and "the causes of poverty in the midst of plenty."

Mr. Pike was appointed to the S.E.C. in 1942, while continuing with the monopoly investigation until the committee expired some months later.

Mr. Pike, a bachelor, well over 6 feet tall, had a distinguished appearance with a ruddy complexion. He was an omnivorous reader—with books piled on tables, chairs and the floor of his home—a good poker player and a good talker, speaking rapidly and with full knowledge of his subject.

He was an overseer of Bowdoin, which awarded him an LL.D. in 1941, as did Bates College, also in Maine, in 1945.

[From the Bangor Daily News, May 31, 1975]

THE REAL POWER

(By Donald R. Larrabee)

LUBEC.—Sumner Pike, elder statesman and citizen of the world, sat in wonderful serenity looking out a window at the birds who gather at his feeder constantly. We were both 20 years younger when we last talked over dinner at the Metropolitan Club in Washington. He seemed even wiser now.

At 84, Sumner Pike is mentally as sharp as ever. It was a treat to reminisce in the living room of the family home. I had come to Washington County, first time ever, to give the commencement address at the University of Maine in Machias and to visit the Roosevelt Campobello International Park. Sumner Pike—all the Pikes—have contributed to the preservation of FDR's "Beloved Island" and to the beauty of this place.

In my talk at Machias, I noted that most people in government are immersed in their own importance and it is the happy, successful public figure who learns humility at the start and somehow manages to keep it. The best thing Washington-types can do is remind themselves that the real power of America lies not within the geographic bounds of the Federal City but with the people who live beyond it.

Sumner knew power in Washington. He was there for a dozen years, on the Securities and Exchange Commission and with the Atomic Energy Commission in its formative period in the early years of the nuclear age. We wondered if he missed that excitement.

"I never got infected with Washington fever," he replied. "If anything, I had a Washington allergy. I always felt I was just camping out there."

When he came back to Maine, Pike served in the legislature, resisted temptation to seek the governorship and found pleasure in such pursuits as serving on the International Campobello Commission. Along with Sen. Edmund S. Muskie and Franklin D. Roosevelt, Jr., he was appointed to the original Commission ten years ago.

Last December, physically-restricted from traveling far from home, he tendered his resignation to President Ford. Somehow, the fact that he had resigned escaped public notice last winter. Curtis Hutchins, Chairman of the Board of Dead River Co., was named to fill the vacancy.

Sumner unfolded a letter from President Ford. "The Commission has benefitted greatly from your experience and judgment and I am sure it will continue to benefit from your counsel as a neighbor and friend of the Park."

Of that, there can be no doubt. Sumner may not venture far from the old homestead but he has many ways to communicate his ideas, not the least of which is through his devoted brothers and his sisters who are all close enough to gather in the living room for "cocktails" every day at 5. Sumner doesn't indulge any more but he enjoys the fringe benefits.

We had the delightful experience of geting to know Radcliffe (Rad) Pike, roughly 72 and filled with the joy of living. Rad had just returned from London where he conferred with fellow-naturalists and horticulturists. He is an adviser on landscaping at the University of New Hampshire and ranking authority on the flora and fauna of Washington County and nearby Campobello. Rad was executive secretary of the Park Commission, now serves as naturalist consultant.

Another brother, Moses Pike, at 78, still operates the most successful sardine and fish canneries in an area which as seen them go down the drain, one by one. He is active in business, loves ice fishing and hunting. Alger Pike, 76, is the gardener of the family, with a host of interests as varied as those of his brothers. Sister Marjorie (McCurdy) is 79—"just a girl," says Rad.

When Rad is away, Linnea Calder comes in to cook the meals and keep an eye on things in the Lubec home. Mrs. Calder, who grew up in the Campobello world of the Roosevelts where her mother was the housekeeper, is practically a member of the Pike family.

Here at Passamaquoddy Bay, where the tides move quickly and more powerfully than anywhere in the world, we couldn't resist asking Sumner Pike about the energy that lies within reach. They've been talking about the Quoddy tidal power project since he was a young man. Did he think Quoddy would ever become a reality?

"We ought to keep it alive," he said, "but, no, I doubt if it will ever be built. With the cost of oil as high as it is, that helps the benefit-cost ratio of the project but, of course, you've got higher construction costs, too. And the impact on the fisheries is something that will concern Canada, perhaps now more than ever."

Rad Pike remarked later that his brother seemed a bit too pessimistic about Quoddy. Rad wouldn't write it off just yet.

The jury also still seems to be out on a refinery for the area—but the Pikes clearly would just as soon not see it come to their beloved Bay. Sumner is slightly amused with the heavy—almost complete—emphasis at environmental hearings on the impact of oil spills from such a project.

"The Pittston people would bring in Middle East oil for desulfurization. The refinery would emit a chemical which when mixed with the fogs around here would become sulfuric acid and that would be sprayed all over the countryside."

Rad Pike winced at the thought. He has found rare ferns and mosses, bushes and shrubs, blossoms and berries in the unique ecology of their homeland that would suffer possible extinction from the daily emissions of such a refinery.

And it comes as a disturbing thought also to a first-time visitor who saw Spring come to the Nation's Capital a few weeks ago—but never with anything like the beauty of its arrival in Washington County. The clean, clear unspoiled grandeur of this garden spot is worthy of the dedication of its native sons and daughters—the Pikes and their neighbors and friends.

No wonder Sumner Pike never let Washington, D.C. get to him. He had Washington County to come back to—and preserve. Little wonder, too, that FDR shed a tear when he realized he could no longer sail these waters and tramp the woods, bogs and beaches of his "Beloved Island."

[From Maine Sunday Telegram, Sept. 7, 1975]

SUMNER PIKE

(By Don Larrabee)

WASHINGTON.—If you travel anywhere close to Lubec, as I did in August, you are drawn to the Pike place on Church Street. You seek out Sumner Pike, the patriarchal brother of one of the most remarkable families in Maine. And you quickly discover, or rediscover, why two Presidents—Franklin D. Roosevelt and Harry S. Truman—chose this seasoned "non-Party" Republican to work for them in the turbulent war years of the 1940's and the post-war recovery period.

I am not the first nor the last to go to the oracle of eastern Maine. Governor Longley and Senator Muskie stopped in on separate occasions last month. Rep. Cohen has done so and will again, before he decides whether to run for the Senate against Muskie.

It is a tribute to this quintessential man of learning, judgment and plain common sense that no one in public life can ignore him to this day—nor does anyone want to.

In 84 years, Sumner Pike has lived wisely and well with Presidents and Kings. He has been an advisor to the barons of business and the gnomes of the New Deal.

Talk about power in Washington? It is forgotten that this man from Maine set the prices of all energy, from sawdust to oil, during three critical war years. But he says he wouldn't take the job of energy czar today for a million bucks.

"At least I had some law to back me up then," he recalls. "Actually, I had more authority on that job (as director of fuel pricing for the OPA) than the President and the Congress together have been doing on this fuel price thing."

The man FDR asked to "come on down and help Leon out" (Leon Henderson, OPA director) surely must have been suspect in some quarters as a guardian of stable oil prices. Only a year or so earlier, he had been brought into the Commerce Department to write a pro-industry piece to counter or refute an impending Justice Department article cracking down on the "oil monopoly."

Sumner Pike doubled in brass. He was serving as a member of the Securities and Exchange Commission at the same time under one of the more curious of all FDR appointments.

"I firmly believe he had me mixed up with another Pike who once had been mildly cordial to him at a wedding attended almost unanimously by Republicans," he chuckled.

If FDR thought he was appointing cousin Carlton Pike of Nahant, Mass., the late President soon had no regrets when he discovered that his nominee was a native of Lubec, "just a hollering distance" from the Canadian island of Campobello where FDR had his summer home.

Sumner must have regaled the President at some point with his contention that Lubec is the easternmost town in the United States. Scoffing at the claim of all Eastporters, Sumner defends his position by pointing to a "little nipple on Lubec Neck" that makes it a shade more easterly than Eastport.

When Pike went to the White House to talk SEC business, FDR "switched right over" to Campobello, Lubec and Eastport which dredged up memories of youthful romps on the Canadian Island before polio struck in 1921. (Pike was later to serve on the International Commission which created the Roosevelt Memorial Park where the family cottage and much more is being preserved.)

It wasn't long before FDR acquired such a fondness and respect for Pike that he asked him to handle the ticklish pricesetting job on wood, oil, coal and natural gas.

I wonder if the President had a method in his madness of appointing a Republican to the energy pricing job.

"No," said Sumner, "I think he had sort of given that Republican thing up. I felt on such matters that once you took the King's shilling, you went along with the thing rather than to try to throw rocks into the machinery. I know President Truman said the same thing."

Truman named him to the original Atomic Energy Commission and, in due course, Pike was to side with David Lilienthal against a crash program for developing the hydrogen or super bomb. They were overruled by the President.

Pike recalls now that he and Truman "sort of jibed" as individuals. They put political party behind them on the big decisions. The Maine man couldn't say as much for the controversial AEC chairman Lewis Strauss with whom he served.

"Strauss would never forget he was a wayback Republican," Sumner said. "That's one of the reasons I didn't have much use for Lewis. He would hamstring our jobs in the atomic energy thing in order to make a political point."

As we talked, the Pikes and their close friends were gathering for the daily (5 p.m.) cocktail hour. Brothers Rad and Alger were there. Linnea Calder, whose mother was the housekeeper for the Roosevelts. Harry Stevens, who runs the Roosevelt Park, and

George McCurdy, husband of the Pike brothers' only sister, Marjorie.

The conversation inevitably turned back to the halcyon days of Lubec and Eastport. Roosevelt, he said, didn't like to see the area go downhill. Shipbuilding had stopped. The big timber had all been cut off. Wooden ships were becoming a thing of the past. The sardine factories closed (there were 15 at one time; now there are three).

Is there any Federal role to help out this good, but depressed, area of Maine? We asked.

"I've scratched my head a good deal and talked to a great many people. There have been a lot of ideas and I don't think any of them have been any good. I have certainly not had any," Sumner said, "but there may be something out in the bushes."

One possibility, he said, was the potential for oil and gas on Georges Bank. About the only thing that might help is a discovery on the outer continental shelf. It ought to be explored at least, he adds.

Will the Pittston refinery at Eastport go?

"I would say no," Sumner replied.

Then, after a pause. "It seems to me foolish if these folks have gone this far without making a dicker with one of the Persian Gulf states to supply the oil. At the moment, since they've started this, the price of Persian Gulf oil has quadrupled or more and they have taken a pretty high and mighty attitude.

"I wouldn't be surprised if the Pittston people had somebody over there in either Saudi Arabia or Kuwait saying if they'll supply the oil, we'll put up a good deal of money for the refinery. That would be a very normal thing. I haven't heard a hint of it but it seems to me if a fellow was at all wise, he would be trying to arrange that right now.

"They've got plenty of money and don't know what the hell to do with it, except send some of their boys out to gambling casinos."

What about the impasse between the Congress and the White House over energy?

"I'm disturbed that they are not approaching it somewhat realistically. Of course, it's too late now to do any painless thing. So many people feel that if they look the other way, the whole thing will go away—but it won't. You could see it coming."

We went to Lubec and Campobello, for a second time this year, to learn more about the imprint FDR had made on the environs. It is substantial and it lives on, in the Campobello International Park and the fact that the Passamaquoddy Tidal Power Project, half a century later, continues to intrigue men of energy as it did Roosevelt.

We talked with Sumner Pike about Quoddy and the political shoals that have beset Dexter Cooper's dream from the beginning. That will be the subject of a subsequent column.

CONDUCTING BUSINESS ABROAD

Mr. GOLDWATER. Mr. President, every time the news carries items concerning the so-called payoffs made by American corporations to conduct business abroad, I wonder what the attitude of those who attack this practice so vociferously will be when unemployment runs rampant in the aircraft and arms industries. One of the first corporations to feel the wrath of this moralistic attitude was Northrop, and one of the first men to suffer from this was Thomas Jones, perhaps one of the finest businessmen in American business today. It pleases me to know that Mr. Jones has been reinstated as chairman while the company has picked a new president, Mr. Thomas O. Paine. No American likes the term "payoff" or "bribe" but these so-called actions have been a way of doing business with foreign governments as long as we have been associated with foreign governments and our pious statements on the floors of the Congress will not change one thing unless it destroys segments of our industry

ANGOLA

Mr. CLARK. Mr. President, the situation in Angola still threatens peace and stability in southern Africa. There could be years of guerrilla warfare and tension between Angola and her neighbors before a final settlement is reached. U.S. policy in Angola should be designed to contribute to the earliest possible resolution of differences between factions in Angola and between Angola and her neighbors.

As Senator BAYH stated several days ago, the United States cannot make a positive contribution to peace in Angola unless we establish communication with the MPLA Government. Senator BAYH has made an important contribution to the national debate on Angola, not only in his early criticism of U.S. involvement in that conflict, but also in his suggestions of an alternative policy that would contribute to peace and stability in the area.

I ask unanimous consent that Senator BAYH'S February 1 statement on Angola be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BIRCH BAYH ON ANGOLA, FEBRUARY 1, 1976

Since last November, I have repeatedly expressed my disagreement with United States policy toward Angola. I have been deeply troubled by the Ford Administration's decision to supply covert aid to factions in Angola and to increase the level of suffering in a complex domestic struggle when no vital U.S. interests were at stake. Events of recent weeks have heightened my concern, and I believe the time has come for a reversal of American policy and a new diplomatic initiative by the United States.

Soviet and Cuban backed forces of the Popular Movement for the Liberation of Angola (MPLA) have dispersed forces of the National Front (FNLA) in northern Angola and are rapidly moving against UNITA positions in the South. It is clear that the Popular Movement has become the dominant faction in Angola for the foreseeable future and that if the FNLA and UNITA are to continue the struggle, it will be on the level of guerrilla warfare and terrorism.

Here in the United States, Secretary of State Kissinger has now called for this country to openly provide aid to UNITA and the National Front in order that they may keep fighting. Obsessed with the theory that we must counter every show of force by the U.S.S.R. with force of our own, the Secretary of State is unwilling to recognize that a guerrilla war will be long and bloody and cost thousands of African lives, that it will inevtiably draw pro-western states such as Zambia and Zaire more deeply into the conflict, that it will further ally the United States with South Africa in the eyes of Black Africans, and that it will, in all probability, increase the dependency of the MPLA on the Soviet Union and Cuba.

While I am very critical of the irresponsible and adventuristic behavior of the U.S.S.R. and Cuba in Angola, I believe the policy that President Ford and Secretary Kissinger have proposed moves in exactly the wrong direction. Rather than supplying equipment to prolong the conflict, I believe that now is the proper time to try to establish direct diplomatic contacts with the MPLA.

Although there is undoubtedly strong animosity toward the United States on the part of the MPLA, I think there is a good possibility that the representatives of the Popular Movement would enter into talks.

The MPLA is a fiercely nationalistic movement. I do not believe it wants Angola to become a Soviet satellite or to be thought of as one by other African nations.

Contacts with the United States would provide the Popular Movement with an opportunity to demonstrate its independence of the U.S.S.R., something we must encourage. Further, they might pave the way for negotiations with the other Angolan factions, and for peaceful relationships with Zaire and the moderate government in neighboring Zambia.

There is, of course, no guarantee that contacts can be established or that they will bear fruit if made. I submit, however, that this approach has a far greater chance of success than that proposed by the Ford Administration, and that it will make the Soviet Union much more uncomfortable than our financing and promoting a guerrilla war. Moreover, an attempt to make contact with the MPLA can cost us nothing. I urge the President and Secretary of State to take action now, before it is too late.

THE NATO ALLIANCE

Mr. GOLDWATER. Mr. President, the Honorable J. William Middendorf II, who is our Secretary of the Navy, has probably a longer and greater experience in naval affairs than any other man who has occupied that position in many years. His understanding of the functions and needs of a strong Navy are subjects that he presents in an intelligent and very understandable way. On February 21 he spoke before the 13th International Wehrkunde Conference in Munich, Germany, and I ask unanimous consent that this thoughtful paper be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

TEXT OF THE U.S. PAPER DELIVERED BY J. WILLIAM MIDDENDORF II, SECRETARY OF THE NAVY

It is an honor for me to be here today representing Secretary of Defense Donald Rumsfeld, the former Ambassador of the United States to the North Atlantic Treaty Organization. It was my pleasure, as U.S. Ambassador to The Netherlands, to work with Secretary Rumsfeld in numerous matters relating to the NATO alliance. The defense and preservation of Europe as we know it has always been a matter of great concern to Americans. The actions of my Government have demonstrated that concern over and over again, and it is my intention today to stress that the United States continues its policy of support for Europe through a common defense.

While this is not a NATO conference, I feel compelled to point out that during the past twenty-seven years the North Atlantic Treaty Organization has been eminently successful in accomplishing its designed task. The collective defense to deter aggression and preserve peace provided by NATO is more and more important to us today, for reasons which I shall describe in detail.

I strongly believe that NATO and its military capabilities are perhaps the single most important factor in deterrence of great disruption in Europe at a time when the Soviet Union and Warsaw Pact countries continue to increase their capabilities. Here are some of the facts about this increase in Soviet capabilities:

The key fact is that over the past dozen years, Soviet defense spending has increased by about 35 percent.

In this period, the Soviet military establishment (not counting border guards and internal security forces) expanded from 3.4 to 4.4 million men.

Intercontinental ballistic missiles (ICBM's) increased from 224 to 1,600.

Sea launched ballistic missiles (SLBM's) went up from 29 to 730.

Strategic warheads and bombs were up from 450 to 2,500.

And between 1964 and 1974 the Soviets produced 249 new major combatant ships, establishing themselves as a naval power and adding a new dimension to the problem of defending Europe—an oceanic dimension.

The Soviet strategic buildup unfortunately seems to be gaining momentum, with qualitative improvements such as:

The development of four new ICBM's, two of which are currently being deployed with multiple independently targetable re-entry vehicles (MIRV's).

The production of a new generation of ballistic missile submarines one class of which has recently deployed with the 4,200 mile SS–N–8 missile.

Improvements which could give their ICBM's significantly better accuracy.

Large MIRV's with high-yield warheads.

Development of a mobile IRBM.

The Soviet general purpose forces have not been without their expansion also:

The number of divisions has increased from 141 to 168 with an increase in numbers of tanks, artillery, and armored personnel carriers.

An addition of nearly 2,000 tactical aircraft, combined with the introduction of more sophisticated fighter/attack aircraft.

As the Secretary of the Navy I have a particularly keen interest in the Soviet navy and its capabilities. Soviet naval presence in peacetime is becoming a very significant factor throughout the world. Nowhere has the new direction of the Soviet Navy been more apparent than in the Mediterranean—NATO's southern flank. In 1964 this presence averaged five ships. The present Soviet average is between fifty and sixty. During the 1973 middle east crisis the Soviet Mediterranean squadron reached some ninety-five units. The new Soviet Navy now has one vertical and short takeoff and landing (VSTOL) aircraft carrier undergoing sea trials, a second under construction and a third in the planning stages. Their sea denial ability has been enhanced through the addition of powerful new surface combatants, such as KARA-class cruisers.

The Soviet Navy has new ships, modern weapon systems, and access to facilities in the Black Sea and to a limited extent along the Mediterranean Coast. This increased Soviet strength has led some to question the capability of NATO and the U.S. Sixth Fleet. At best we are maintaining adequacy. Even this could be in jeopardy as unsettled conditions in several countries threaten to increase our logistics problems. I feel that today the Allied NATO partners are still the dominant force in the Mediterranean as long as there are aircraft carriers capable of sustained action but we no longer have a monopoly. For this reason, I feel that it is imperative that the NATO nations be as supportive as possible to the new government in Spain. Spain has a valuable role to play in the European community and should not be prevented from doing so because of policies of a previous era.

What have we seen outside the Mediterranean? Recently Soviet units have made unprecedented deployments and conducted exercises indicating a change in the basic mission of defense of the homeland to one of sea denial. This change has serious meaning for Europe. The Soviets are now capable of significantly threatening vital overseas areas and the sea lanes. The NATO countries are dependent on the sea for overseas trade, just as is the United States. In fact, the very existence of Western Europe as we know it today depends on the unimpeded flow of oil and other strategic materials which can only be supplied in the proper quantities by ocean going vessels.

The latest Soviet presence on the African continent in such places as Nigeria, Guinea and Angola could in the time of hostilities literally cripple Europe. Approximately 80% of the NATO alliance's oil and 70% of the strategic materials move through the waters along the west coast of Africa, now vulnerable to the air and naval bases of Soviet supported governments.

During OKEAN 75, a Soviet naval exercise observed by NATO units, more than two hundred Soviet nuclear submarines and surface ships and 400 aircraft, in three oceans, were assembled for coordinated maneuvers. These maneuvers were controlled through a sophisticated world-wide communication network, including satellites. Soviet aircraft operated from bases not only in the Soviet Union, but also from air facilities made available to them in Cuba, Guinea, and Berberra in the Somali Republic.

Putting this altogether, it is apparent that the number of new ships and weapon systems which the Soviet Navy is acquiring and the experience it is gaining from its continuing high level of operations in distant areas, are giving the Soviet navy the level of capability, professionalism, and importantly, self-confidence to explore new Naval strategies which could be applied against NATO in various stages of hostilities ranging from an economic blockade to an all-out nuclear war.

OKEAN 75 saw Soviet naval units operating in more or less traditional areas such as the Norwegian Sea but also in areas such as the sea approaches to Europe, in the approaches to the Persian Gulf, off the west coast of Africa and off the coast of Japan. In much of the exercise activity, the Soviets displayed a remarkably sophisticated and well-integrated capability for surveillance of the surface of the oceans, making extensive use of sophisticated systems. Having located ships on the high seas with this system, Soviet surface, air, and submarine forces exercised in convoy and anti-convoy operations, reconnaissance of vital sea lines of communication, and the control of key chokepoints throughout the world. These new departures were in addition to the normal exercising of Soviet navy anti-carrier and anti-submarine missions, as well as a simulated strategic strike at the culmination of the exercise.

You may ask, "so what?" Well, quite frankly it is a question of survival. Geographically, Western Europe is a peninsula. But in reality, the NATO countries of Western Europe and Southern Europe are virtually an economic island. They maintain tremendous dependence on the sea. The food, raw materials and energy consumed and needed for survival are in large part imported. Many important markets are overseas, whether in the United States or elsewhere.

The question today is whether the west is capable of recognizing the realities that confront it: a burgeoning Soviet military capability that includes a new element of sea denial, which has the potential to threaten a standard of living that is the envy of many; and a feeling of euphoria that comes with detente. To make detente work, we must have strength; and military and economic strength are the essence of detente.

In order to maintain detente and a credible NATO deterrence we must continue our joint operations, training, technology exchanges, logistics support, intelligence and mutual support. However, a major stumbling block which causes the alliance to waste money each year due to duplication of effort thereby sacrificing military effectiveness, is the lack of standardization and rationalization.

This should make it obvious that there is a need for standardization not only in weapon systems, but also in areas like training, communications doctrine and force structures, and the very important logistics field. Of late there has been an increased realization of this problem by senior officials and a genuine desire to correct it.

We also see a situation where defense expenditures as a percentage of the gross national product are not the same for all NATO partners. The United States percentage for last year, as estimated by NATO, was 6.7. That figure is down significantly from the 1971 U.S. figure, which was 7.7 percent. Even so, it is well above that estimated for the average of European NATO countries, which was an estimated 4.3 percent of GNP as a defense expenditure in 1975. I realize of course that a good part of the "extra" American expenditure goes for U.S. strategic forces.

During the past few years, as an Ambassador and as U.S. Secretary of the Navy, I have personally visited key maritime officials and been aboard naval units of the navies of the Federal Republic of Germany, the United Kingdom, Italy, The Netherlands, Belgium, and Spain. From my firsthand observations, I can tell you that their professionalism is outstanding, and that they make a valuable contribution to security in Europe.

Today, no less than in the past, U.S. military strategy, and hence the structure of our forces, must continue to support the NATO alliance. To do otherwise would be seen by friend and foe as a step toward withdrawal to that outmoded concept of isolation. It would undermine the very strength and confidence that we have in Western Europe, while encouraging the Soviet Union and her Warsaw Pact allies to exploit any weakness or division in Europe or in the world.

The United States will remain a friendly ally as long as leaders in America (like Senator John Tower of Texas who by his very presence at the Wehrkunde Conference this year and in past years shows his dedication to the Atlantic Alliance) recognize the importance of mutual support. Few things could be more damaging to the future of Europe than any of us on either side of the Atlantic to lose sight of the continuing value of the Atlantic Alliance and the cooperation which underlies it. To do so would be an undercutting of those American leaders who support the Alliance, and encouragement of the emergence of other leaders—isolationists—with little understanding of the interrelationships of the Alliance, and little concern for Europe. Therefore, our concern today should be for maintaining a full partnership of strength that is perceived on both sides of the Atlantic to be essential to our very survival.

RULES OF THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. McGEE. Mr. President, in accordance with section 133B of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 190a–2), I ask unanimous consent that the rules of the Committee on Post Office and Civil Service be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES FOR COMMITTEE PROCEDURE

Rule 1. Five members of the Committee shall constitute a quorum for the transaction of such business as may be considered at any regular or special meeting of the Committee, except that, for the sole purpose of taking testimony, sworn to or otherwise, a quorum of the Committee, or a subcommittee thereof, shall be one or more Senators. No members of the Committee shall, for the purpose of determining the existence of a quorum of the Committee, be deemed to be present unless he be personally present.

Rule 2. Unless otherwise ordered and notice given, the Committee shall meet for the transaction of its business while the Congress is in session as follows: The second and fourth Thursdays of the month at 10:00 a.m. Additional meetings may be called by the Chairman as he may deem necessary.

Rule 3. The Committee shall keep a complete record of all Committee actions. Such record shall include a record of the votes on any question on which a record vote is demanded.

Rule 4. It shall be the duty of the Chairman to report or cause to be reported promptly to the Senate any measure or recommendation approved by the Committee and to take or cause to be taken necessary steps to bring the matter to a vote.

Rule 5. The Committee shall, as far as practicable, require all witnesses appearing before it to file in advance written statements of their proposed testimony at least 24 hours before hearing, and to limit their oral presentations to brief summaries of their argument. The Committee staff shall prepare digests of such statements for the use of Committee members.

Rule 6. When a nomination for an appointment is referred to the Committee, the name of the nominee shall be referred to both Senators from the State in which the nominee resides. If no objection is made by either Senator within 30 days of the date of referral or if no response is received during that period, the nomination shall be considered as not having been contested.

Rule 7. Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be reported to the whole Committee by a subcommittee, there shall be placed before the whole Committee a print of the statute to be amended or the part thereof to be repealed (together with the citation thereof), showing by stricken-through type the portion or parts to be omitted, and in italics the matter proposed to be added.

Rule 8. The Chairman may name standing or special subcommittees to which a bill, resolution, or nomination may be referred, which subcommittee shall consist of not less than three members, one of whom shall be of the minority; if the subcommittee consists of five members, two shall be of the minority; if the subcommittee consists of seven members, three shall be of the minority.

Rule 9. Whenever a subcommittee delays in reporting more than 30 days (except when time is extended by the Committee), the matter may be withdrawn by the Chairman and submitted to another subcommittee, or considered by the whole Committee.

Rule 10. Subject to statutory requirements imposed on the Committee with respect to its procedure, the Rules of the Committee may be changed or suspended at any time; provided, however, that not less than two-thirds of the entire membership so determine, at a regular meeting with notice of the nature of the change proposed or meeting called for that purpose.

Rule 11. The Chairman of the Committee and the ranking minority member shall be ex officio members of all subcommittees with full right to participate in all proceedings thereof, and shall be allowed to vote as members of any subcommittee.

Rule 12. No vote cast in the Committee or any subcommittee by proxy shall be counted; but a written communication from an absent member, giving a clear statement of position on the specific subject, shall be counted as a vote.

Rule 13. The Chairman shall be given authority to appoint the staff members and clerical assistants to assist the Committee in its work; provided, that the ranking minority member of the Committee shall be given authority to select one professional staff member and one clerical assistant. The Chairman shall select the official reporter or reporters to serve the Committee.

Rule 14. The Committee supports the principle of open meetings.

CONFLICTING OBJECTIVES

Mr. GOLDWATER. Mr. President, Gen. George S. Brown, who is Chairman of the Joint Chiefs of Staff, has appeared before various committees of the Congress to outline the needs of the military but, more importantly, to try and explain to us the posture of the United States in this troubled world. I ask unanimous consent that one of these statements appearing in Aviation Week & Space Technology be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

CONFLICTING OBJECTIVES

(Gen. George S. Brown, chairman of the Joint Chiefs of Staff, recently outlined the differing national objectives and military strategies of the U.S. and the Soviet Union in his annual posutre statement to Congress in support of the Defense Dept. Fiscal 1977 budget requests. Portions of his statement are printed below—Ed.)

The United States and the USSR perceive each other as the primary potential security threat to each other. These perceptions of threat stem from fundamental differences between the two nations as to the nature, goals and roles of men, government and society. These basic convictions are not likely to change soon.

The historical experiences of the two nations have produced two sets of fundamentally different attitudes. A 1972 [Communist party chief Leonid] Brezhnev speech which appeared in Pravda captures the essence of long-standing Soviet ideological aims:

". . . The class struggle between the two systems—the capitalist and the socialist—in the economic, political and . . . ideological spheres will continue. It cannot be otherwise, because the world outlook and class aims of socialism and capitalism are opposed and irreconcilable."

"Peaceful coexistence," as the Soviets know it, is a form of class struggle the Soviets use to accomplish their goals without resorting to war. The Soviet historical experience of war, invasion, revolution, international intervention and hostility has produced strong anxiety concerning national security. Their devotion to military strength also grows out of the messianic and expansionistic nature of communist ideology, which views the world as composed of essentially hostile forces and peace as but another form of conflict.

On the other hand, I believe the U.S. experience supports a view of the world as an object for amelioration by reason and accommodation. We advocate a form of gvernment and social organization which enhances the scope of individual efforts. National security is viewed as only one among many interests. We tend to regard peace as a normal state, only occasionally interrupted by war when there is no other recourse to preserve vital interests.

Because of these differences, the U.S.-Soviet relationship is generally competitive and often hostile. It is, however, subject to periods of moderation—such as at the present. Thus, the national security policies of the United States will have to support the following two military requirements: a continuing, long-term program of maintaining a strong military posture and the capability of employing military forces in war at any time.

In view of the factors above, the United States' security objectives can be stated as deterring attack, either conventional or nuclear, on the U.S. or its allies; to present any potential aggressor contemplating attack with unacceptable risks, and should deterrence fail, to respond to the attack in such a way that the outcome is favorable to the U.S. The security objectives of the USSR can be stated as the protection of the USSR and maintenance of hegemony in Eastern Europe; the diminution of Western influence throughout the world with a corresponding expansion of Soviet influence; the containment of China; the maintenance of strategic nuclear parity; the maintenance and increase of superiority in conventional military forces, and the erosion of the political will of the U.S., of NATO and of other Western alliances.

The military posture of the United States must necessarily be formulated with the security objectives of the Soviet Union well in mind. Continued improvement in Soviet forces indicates that war-fighting and war-winning capabilities are fundamental Soviet military goals. This is not to say that the Soviets do not seek reduction in the risk of war; it is to say, however, that should conflict develop, they seek to have the means—both conventional and nuclear—to insure an outcome favorable to them.

Unless we are prepared to maintain a military balance vis-a-vis the Soviet Union, I believe they will be inclined to take advantage of a favorable military position in pursuing their policy objectives.

The Soviet leadership sees no inconsistency between preaching detente and increasing its military capabilities. In fact, Moscow views its increased military capabilities as the foundation of detente.

Summarizing, the divergent objectives of the U.S. and USSR will continue to bring the two powers into conflict while both nations attempt to use detente as a means of preventing the conflict from developing into open warfare . . .

As I stated last year, the USSR currently posesses only a limited capability to project substantial general purpose military power beyond the Eurasian continent. The major external constraints on the application of Soviet power have, in the past, been the continued strength of the United States, the vitality and cohesiveness of our alliance structure and the continued ideological and territorial confrontation between the [People's Republic of China] and the Soviet Union. While there has been some erosion of those constraints, they remain essentially intact. The United States alone, however, cannot provide the forces necessary to counter every military threat to our interests.

We have few exclusive interests, notwithstanding our need to have nonpoliticized access to world markets and supplies of raw materials, including oil. Our major responsibilities likewise must be shared. Increased cooperation and participation by our allies, including the provision of base rights and facilities, depend to a large measure upon demonstration of our ability and determination to honor our assurances of support.

In the long run, the only security we can reasonably hope to obtain flows from the deterrence that credible and strong global collective security provides.

OIL AND THE MAINE COAST

Mr. MUSKIE. Mr. President, late last year, Peter Bradford, a member of Maine's Public Utilities Commission, published his book—"Fragile Structures: A Story of Oil Refineries, National Security, and the Coast of Maine."

A review of the book appeared in the New York Times. I ask unanimous consent that the review be printed in the RECORD.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

FRAGILE STRUCTURES: A STORY OF OIL REFINERIES, NATIONAL SECURITY AND THE COAST OF MAINE

(By Newton W. Lamson)

An oil refinery at a deepwater port along the coast of Maine has, since the 1960's, been one of the most persistent and elusive dreams of would-be petroleum industry entrepreneurs.

As Peter Amory Bradford, a 33-year-old member of Maine's Public Utilities Commission, explains in his highly readable book, "Fragile Structures," all the necessary elements were present.

"Eastern Maine was a depressed area," he said. "New York and Boston needed low-sulphur oil. The oil industry was moving toward supertankers. Maine had the only deepwater harbors on the East Coast. New England felt unfairly burdened by oil-import restrictions. An imaginative and energetic man who knew all these things needed only oil and money to get rich."

But no one has—and not for want of trying. The quest for official sanction for a refinery is about to enter its eighth year. So far 10 proposals have been put forward and five sites proposed.

Of the 10 projects, only one, the Pittston Company's proposed 250,000 barrel-per-day refinery complex in Eastport, remains alive, and it is still facing, after two years of hearings, more than 8,000 pages of testimony and more than $2 million in costs, a formidable series of obstacles.

The first of these proposals was for a refinery at Machiasport, a quiet fishing village of 800 inhabitants deep in impoverished Washington County less than 50 miles from the Canadian border. In "Fragile Structures," the Machiasport project becomes for Mr. Bradford a microcosm of the mistaken oil policies and outright political intrigue that eventually led to the energy-crisis debacle in 1973.

"A few incidents in the 1960–70 decade are signposts for any inquiry into what went wrong," he said. "The Machiasport oil refinery is one of them."

At the heart of the Machiasport proposal was the creation of a foreign trade zone in the area. Nine such zones existed elsewhere in the country at the time of Maine's application and no such application had ever been denied. Nor was Maine's denied; it simply was never acted upon.

The promoters had lined up plenty of local support, including all six New England Governors. New England had a good deal at stake. By 1970, according to a Cabinet-level study, New Englanders were paying, under the oil-import program then in effect, $1.65 more per barrel for domestic oil than it would have paid for foreign oil landed in Maine.

But the promoters were mavericks. None of them belonged to the domestic oil industry establishment, and even with the support provided by the Governors and Congressmen from New England, they were no match for an oil lobby willing to pull out all stops to head off a Maine supertanker port and foreign trade zone.

In 1968, Mr. Bradford said, oil interests "regarded supertankers the way Carrie Nation would have regarded improved whisky bottles."

"Their possible encroachment at Machiasport was to inspire such oil-state Senators as Gordon Allott of Colorado and Clifford Hansen of Wyoming to defend the Maine coastal environment with more passion than they had ever expended on threatened terrain in their home states," he added.

What appeared to the public to be a series of stunning victories for environmentalists, Mr. Bradford argues, was in fact a series of victories orchestrated at the very highest levels of Government by the oil industry—victories arrived at through political payoffs, intrigue and outright influence peddling that spanned the Eisenhower, Kennedy, Johnson, and Nixon Administrations.

Mr. Bradford, moreover, is in a position to substantiate his charges. He joined the staff of then-Governor Kenneth M. Curtis in 1968 and was one of his key aides throughout the Machiasport affair. In 1971, he became a member of the Main Public Utilities Commission, and he served as staff director of Gov. Curtis's Task Force on Energy.

"Fragile Structures" is in a number of respects a rare book. It is a true insiders' book, but the presentation is a balanced one. Although Mr. Bradford helped write one of the most important environmental laws passed by any state in recent years, he is in no sense a hidebound environmentalist.

He writes feelingly of Maine's rural poor and recognizes and applauds the economic benefits that a refinery would bring to both the state and Washington County.

And "Fragile Structures," despite the nature of the material, is anything but dry. The prose is urbane, often witty, and Mr. Bradford never fails to capture the ironies what has been for him and other New Englanders a numbing series of humiliations at the hands of Washington officials, bureaucrats, and lobbyists.

A PRESSING NEED

Mr. GOLDWATER. Mr. President, Mr. William Kintner, president of the foreign Policy Research Institute in Philadelphia, has returned to the institute after a stay in Thailand and a short tour with the Pentagon. This man has one of the most perceptive minds in the United States on the dangers to our country and having spent time away from our shores where he could really feel the growing animosity toward us and the reasons for it, he has prepared a paper entitled "A Pressing Need," and a very short companion piece which is titled "Strategy And Strategists." In the first paper he points out what he thinks the press has been able to do, or better, not able to do about our declining position in the world. The second paper is a companion article which has interest bearing on the whole United States drastic decline in world affairs and world power. I ask unanimous consent that these articles may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A PRESSING NEED

This paper examines the following propositions:

1. The diplomatic-strategic position of the United States vis-a-vis the Soviet Union is precarious, and seems to be deteriorating: Leaders of both aligned and Third World nations perceive the decline of U.S. influence.

2. There exists a considerable degree of difficulty in obtaining accurate, realistic public information and corresponding implications on assessments of the above development on the international system—and on security of the United States and its principal allies.

3. A greater degree of coordination and exchange among selected research institutes, *et al.* might be established in order to first obtain, then analyze, and finally disseminate both information on the over diplomatic-strategic position, and also recommendations on how to maximize the gains of the democratic industrial societies (or at least minimize their losses).

I. A STRATEGIC APPRAISAL: THE MAIN ISSUES

There will be no endeavor made at this juncture to attempt to make a sophisticated comprehensive analysis of the deterioration of the U.S. strategic-diplomatic position. That may be done later, if it would serve a useful purpose. For the time being, the views on this matter of a number of authoritative persons and sources will be presented.

Throughout the Western world, statesmen, strategists, pundits, and scholars perceive that the massive Soviet drive for military superiority in the face of a general malaise and apathy in the West, and a growing truculence if not hostility in the Third World against the wealthier industrialized nations, is creating opportunities for the Soviet Union to achieve pre-eminence on a global scale.

"How to manage the emergence of Soviet power without sacrificing vital interests is the pre-eminent problems of our period."[1] Thus Secretary of State Kissinger, most persuasive and active practitioner of détente described *the* crucial problem facing the United States in the forthcoming years.

Former Under Secretary of State Eugene Rostow, Chairman of a "Task Force on Foreign Policy of the Coalition for a Democratic Majority," issued a report which expresses sober concern for the future of this republic.

If, with our allies, we do what is required to deter Soviet nuclear and conventional power, we should be able to carry out a foreign policy capable of preventing war, while also pressing forward politically in the endless quest for the vindication of decency.

If, on the other hand, we allow ourselves to be deceived by a myth of détente, reduce our military strength, and permit our alliances to erode, we may well suffer irreversible defeats, which could imperil the safety of democracy in America.[2]

These impressions and fears are shared abroad. *The Economist* of London summed up the trends at the close of 1975:

> Americans on the eve of this (their) third century, are showing the same symptoms of drift from dynamism as the British did at the end of their century. World leadership is therefore liable to pass into new hands quite early in the century 1976–2076.[3]

Paul H. Nitze, former Deputy Secretary of Defense and former member of the SALT I (Strategic Arms Limitation Talks) and SALT II teams is equally concerned about the apparent U.S. willingness to accept strategic inferiority under the cloak of presumed arms control agreements.

There is every prospect that under the terms of the SALT agreements the Soviet Union will continue to pursue a nuclear superiority that is not merely quantitative but designed to produce a theoretical war-winning capability. Further, there is a major risk that, if such a condition were achieved, the Soviet Union would adjust its policies and actions in ways that would undermine the present détente situation, with results that could only resurrect the danger of nuclear confrontation or, alternatively, increase

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the prospect of Soviet expansion through other means of pressure.[4]

In a column entitled, "Whom the Gods Would Destroy," C. L. Sulzberger wrote:

> On returning from a lengthy trip I am struck by the spread of international doubts concerning the judgment or resolution of the United States as a world power. The point was recently emphasized by the Paris daily, *Le Figaro*, a serious, highly reputable paper. A front-page editorial concluded:
>
> "A 'cold war Munich' in black Africa, under present circumstances, would in no way increase [President Ford's] chances and certainly wouldn't improve the credibility, already badly compromised, of an effective American protection."

That dismal observation referred to Angola and U.S. inability so far to prevent the Soviet Union, with its Cuban satellite, from brutally imposing a minority regime upon the 70-odd percent of the country which opposes it.[5]

II. THE AMERICAN REACTION: WAITING UPON EVENTS

In the face of many provocations the United States is in a mood of retreat. U.S. Ambassador to Sweden Robert Strausz-Hupé, former Director of this institute, was wont to say that we must wait upon events to reignite the American spirit. We have already had such events. In December 1971 and October 1973, Soviet-armed and encouraged clients attacked our allies and the U.S. response did not spare our friends from disastrous consequences. During 1974–1975 as Soviet and Chinese arms gave North Vietnam additional military advantage, we reduced our assistance to South Vietnam and Cambodia, a trend which continued until the collapse of our clients in the spring of 1975. The end of our Southeast Asian commitment—the greatest diplomatic/security defeat ever inflicted upon the United States—was greeted with profound public relief.

Currently the world is witnessing in Africa the consequences of the Soviet Union's new found power and our inability or unwillingness to restrain it. Many experts fear that Soviet success in Angola enforced by 500 "advisors" and 10,000 Cuban soldiers, could lead to a bloody racial war in the southern end of Africa with dangerous repercussions in the United States and elsewhere. On December 23, 1975, Secretary of State Kissinger stated that "if the Soviet Union continues such action on Angola we will without any question resist."[6] But despite a strong letter from President Ford to House Speaker Carl Albert (D-Oklahoma) expresing "grave concern over the international consequences" of banning military aid to Angola, the House voted on January 27, 1976, 323 to 99 in favor of banning any U.S. assistance to pro-Western factions in Angola. In his letter, the President noted that from March to December of 1975, the Soviet Union and Cuba provided "almost $200 million in weapons and other military assistance to a minority faction in Angola," in addition to 10,000 Cuban combat troops.[7]

Strategic analysts are aware of how critical Angola's ports and airfields might be to the control of the South Atlantic's vital shipping lanes to the Persian Gulf around the cape. Obviously Soviet planners believe Angola to be of far more value to the USSR than does the American Congress to the United States. Before Angola's value is determined by future events it will be too late to reverse the decisions already made by both contenders. Our "resistance" thus far has been ignored by Moscow and Havana.

III. THE AMERICAN CRISIS: AN INQUIRY INTO THE PUBLIC MOOD

Never in history has a Great Power experienced so rapid a decline in its will to act like one. What is the reason for this astonishing record? The American people are preoccupied with pressing domestic problems—unemployment, inflation, crime, the fiscal crisis confronting government at every level, and rampaging drug addiction. These domestic problems are real and important. Furthermore a solid domestic base is essential if we are to be able to play a constructive role in developing a sounder world order. At the same time, there is a general failure to understand that domestic problems may be aggravated by U.S. reverses suffered abroad.

Leo Cherne suggests:

> We are in the midst of a crisis of belief and a crisis of belief can only be resolved by belief. "Will" depends on something most doomsayers have overlooked—crisis, mortal danger, shock, massive, *understandable challenge*. Go back to the American historical record and what it tells: Vietnam, Korea, Pearl Harbor, Fort Sumter, the Alamo. Each was a surprise, but each sets loose a torrent of energies.[8]

The paradox of his description is obvious. Neither we nor the world can be subjected to a nuclear jab in the arm to wake us up to pending dangers—our only recourse is to make the challenge we face understandable to the American people before it is too late.

But it is this very task which this institute and others and many scholars both in the United States and abroad, have attempted for many years. The book, *Protracted Conflict*,[9] stands as one of most precise exposes of Soviet strategy yet written. Unfortunately, despite the efforts of many informed and competent individuals to spread the word, as Soviet power has grown Western perceptions of the danger of the Soviet Union poses to Western institutions and societies have declined.

To counter the continuing erosion of Western will and positions, we must first understand the nature of the conflict in which we are engaged. We are in a struggle—a political and economic war on world scale—with a determined and powerful adversary. If we lose this struggle our institutions and our ideals will atrophy. Let us turn to General André Beaufre for clarity.

> That total strategy of limited war is now submitted to the constraints, sometimes complementary and sometimes opposed, of the modern means of communication and of the existence of nuclear weapons. There exist two important domains which need to be analyzed with great care and objectivity: mass media and domestic public opinion.[10]

Totalitarian governments need pay only a little cost for ignoring dissenting public opinion while the leaders of democratic societies must pay a very high price. While overt dissent has become more evident in the Soviet Union in recent years, dissent has had little influence on the regime's policies.

The book, Protracted Conflict,[11] described one of the basic assymentries in the struggle between communist totalitarian societies and representative democracies—namely the struggle is for the most part waged in "our territory"—the "war zone"—and not on theirs—"the peace zone." This is particularly true of public opinion. Cultivation of public opinion is a State monopoly of totalitarian regimes. Hence the populations living under communist-totalitarian rule are generally supportive of their governments' foreign policies whereas the populations of democratic societies frequently oppose national security actions and programs.

Further the political leaders of modern, democratic industrial societies must cater to the domestic demands of their people in order to be elected and remain in office. Totalitarian regimes must pay some attention to the needs of their people but they can also allocate national resources to national power objectives with far greater ease than can their democratic peers. To return to Beaufre's perceptive analysis:

> The repeated experiences of two world wars followed by long and useless colonial wars have considerably helped to strip war of its glamour. This has come to the point in which youth in the West are convinced that war is not possible and that it is only a barbarism surviving from past centuries. Moreover, movies and especially television bring the reality of war from Vietnam directly into the living room to traumatize American homes. The same effects would have been the result had the Battle of Verdun been telecast into French homes during World War I. In presenting the horrors of war, modern news programs are inevitably pacifist and defeatist per se. This is a new phenomenon which is unlike the flag-waving and frequently childish posture the Press has taken in earlier wars."

Nowadays any significant news item is immediately broadcast throughout the entire world. Consequently in countries in which a free press exists the various national opinions become interdependent. The various attitudes that develop in most democratic countries react either with hostility or by sympathy to a foreign happening. Political or military involvements, evolutions or repressions all stir up emotional forces and play a considerable role in prodding governments to intervene or avoid becoming entangled in a conflict situation affecting the general confrontation of systems. In this fashion local wars such as Vietnam, Algeria and now Angola, generated moral attitude around the world, generally favoring the side supported by Communist totalitarian societies. In the case of Vietnam, that reaction seriously affected U.S. national policy. A fascinating study, entitled the "Big Story," shortly to be published by Freedom House, explains how the American press and television reported and interpreted the crisis of Tet-1968 in Vietnam and Washington.[12]

The U.S. media reporting of Hanoi's dramatic Tet offensive of February–March 1968 had a significance far beyond any military gains or losses by either side, for its impact on the American public helped to topple a President, Lyndon Johnson, and led to the fading of support for the Vietnam War. Peter Braestrup has compiled a remarkable document that reflects the analysis of millions of words published in newspapers and news magazines and broadcast over radio and television and the examination of thousands of feet of TV film.

Bayless Manning, President of the Council on Foreign Relations, asserts that

> The media, too, must be called upon to do a much better job than they have done in the past in presenting a valid picture of international affairs to the public. The vice of the media is not failure to disclose but preoccupation with the sensational, the dreadful, and the anecdotal.[13]

Turning to television which has become the prime if not the only source of information about events in the outside world. Manning observes:

> The quantity of international reporting appearing on American television is so miniscule as to be scandalous. The quality of the coverage is no better, since most of the snippets that do appear are limited to assassination, warfare, typhoons and an occasional coronation. What has been reported to the American public about the issues being debated for the last two years in Geneva by 35 nations at the Conference on Security and Cooperation in Europe? About the negotiations for Mutual and Balanced Force Reductions in Vienna? Or the recent extraordinary creation of new International Energy Agency?[14]

The fact of the matter, however, is that world public opinion—outside the power of governments to manipulate—is developed only within the Western and other countries in which a free press exists. Public opinion is for the most part managed in the Soviet Union, Eastern Europe, Cuba, Communist China

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or most of the Third World Countries with authoritarian governments.

Public opinion in the United States and other democratic industrialized societies is for the most part developed by the media. The charismatic political leadership of a Churchill can help mold it in a war situation, but can do little in an age of neither war nor peace which has characterized global relations for the past thirty years. In this age the media have tended to be the main factor influencing public opinion in democratic industrial societies. Many of the media people who produce the written or spoken message on which most of us rely to follow world events, frequently misinterpret the meaning behind an unfolding news story.

To sum up, the crucial sector in the continuing U.S.-Soviet struggle has become the public opinion-forming process within the great industrialized democratic countries, taken individually and collectively.

IV. WHAT MIGHT BE DONE

A major task which should be undertaken is to make, an "understandable challenge" out of the ubiquitous Soviet drive for global pre-eminence.

The Institute can serve as a mechanism for helping to mobilize intellectual and reportorial resources of the United States and its many allies throughout the world so as to provide a concise reporting of events in the global confrontation created by the Soviet drive for pre-eminence. Such reporting could provide the kind of information which could help make media news more responsible. The mechanism would also provide indepth interpretations of events as they relate to the overall confrontation and to their impact on the domestic well-being of the democratic-industrialized societies and Third World countries wishing to develop along comparable lines.

What is suggested, then, are the following publications:

1 A monthly communiqué of the global confrontation—attractively written, factual, authoritative.

2. A quarterly analysis of the implication of events that affect the United States and its allies, and policy recommendations to deflect adverse trends.

3. An annual publication assessing the overall global political-security situation with appropriate recommendations for concerted actions on the part of the industrialized democracies.

The Institute would work with the established institutes, academic centers and individuals who understand Soviet strategy and political warfare and who can contribute to the three publications. The institutes will be linked together by cable and telephone communications. All publications will be made available to key leaders and public opinion medias of the democratic nations. All can be used by the media without attribution. A campaign will be launched to insure media accuracy in reporting the confrontation between the Soviet Union, its Third World supporters and the free world.

Needless to say this general program will add to but not supplant the current activities of the Foreign Policy Research Institute. Finally, it will all acquire considerable new funding.

V. PARTICIPATING INDIVIDUALS AND ORGANIZATIONS

A. As a beginning the Board of Research Consultants of the FPRI might be utilized: These individuals might be used to suggest others.

B. Possible cooperating institutions:

Hudson Institute
Institute for Defense Analysis
National Strategy Information Center
Research Institute on the Sino-Soviet Bloc
Stanford Research Institute
Center for Advanced International Studies
Center for International Affairs, Harvard University
Center for International Comparative Studies, University of Illinois
Center for Strategic and International Studies, Georgetown University
Center for the Study of Foreign and Military Policy, University of Chicago.
Institute for Sino-Soviet Studies, George Washington Univ.
Institute of International Studies, University of South Carolina
Institute of War and Peace Studies, Columbia University
Institute of World Poilty, Georgetown University
Research Institute on Communist Affairs, Columbia University
Centre D'etudes et de Documentation Europeennes, University of Montreal
Centre for International Studies, University of Alberta
Anglo-Israel Association, London
Atlantic Institute for International Affairs
Centre D'Etudes des Relations Internationales
Comite d'Etudes de Defense Nationale
Forchungs Institut fur Internationale Politic and Sicherheit
Institut Francais d'Etudes Strategiques
Institute for Strategic Studies, London
Institute of Contemporary History and Wiener Library, London
Norwegian Institute of International Affairs, Norway
Royal Institute of International Affairs, London
Royal United Services Institute for Defense Studies, London
Social Science Research Institute, Konrad Adenauer Foundation FRG

VI. PROBLEM AREA

Obviously there are many problems involved with this concept. Some are touched on below.

A. Establishing "authority, accuracy": the well-established reputations of the proposed network will "categorize" the product initially as semi-propaganda for a particular viewpoint; if the material is written well enough and supplies considerable insights, especially for the more popular press and so forth, this can be overcome.

B. Establishing "success or failure": the customary method is to measure circulation (especially if a small fee is charged as a demonstration of interest) content of media, and eventually change of opinion through editorials, public figures, and so forth. The acid test, however, is foreign policy itself.

C. Means:

1) the institutes in question are almost all pitched to a slow pace; even at FPRI "Quick Reaction" is 2–3 months. Furthermore, the principal scholars write for a limited audience, and usually in a very limited and technical jargon. Aside from the questions of money and attribution, these organizations are ill-suited to monthly deadlines, though their opinions on critical questions can be readily solicited. The greater depth of analysis—the more considered the judgment, the longer the time to arrive at it for most cases—but the easier and quicker it will be to arrive at an evaluation of a judgment concerning an event taking place within the analytical focus of a particular institute.

2) the project will require a "translating medium," a staff of professional writers able to appeal to a mass audience but capable of doing so without grossly deteriorating—or offending—the views of the institutes involved. This says nothing about the probable degree of error a monthly newsletter often encounters.

VII. THE TARGET AREA

The policy research institute was established originally to bring the benefit of academic analysis to policy problems, particularly by associating a given event with the larger and more permanent trend. This "act of translation" reaches government, a small number of former professionals or amateurs (Foreign Affairs circulation about 75,000) and a larger number of businessmen and so forth (Wall Street Journal circulation about 750,000).

Beyond these three groups of fewer than 1 million people, you move into the mass newsweeklies (Time, Newsweek) (2–3 million), the syndicated columnists (several million copies more) and monthly journals including regular articles on foreign policy (e.g., Reader's Digest, 10–12 million).

Finally, there are the daily newspapers, the radio and television stations.

If the United States could leave its foreign policy to be decided upon by a small cadre of officials, then it would be enough that they attend to international developments and the public could be ignored. This was the classical way of diplomacy, and it is also the way of the Soviet Union. But if there is to be a genuine public involvement in the conduct of our foreign affairs, then the media absolutely must provide the public with the relevant background information.[15] But the problem is deeper than that. The public mood, increasingly developed by the media, has itself become a major determinant of foreign policy. In many instances public leadership, including that of the President, is restrained by what the leaders perceive the limits of tolerability set by the public mood. Hence the task is to create an opinion base supporting Presidential leadership.

It may turn out that the number of Americans who concern themselves with foreign policy are relatively few. As Manning suggests:

> Doubtless only a small percentage of the public will follow such matters closely, no matter what the media do. But some millions of citizens will follow it. And it is the inescapable responsibility of the media to see to it that the information is at least made available—even at the cost of some lowered ratings and advertising rates.

To inform the education public about the major element of the nation's foreign policy is a doable job. But it cannot be done unless our political leaders and the media are willing to undertake the assignment energetically in spite of the risks and costs it will entail for them. And it must be done.[16]

VIII. CONCLUSION

The proposal set forth here may be difficult to accomplish. The problem it addresses, however, is crucial to the survival of this republic. Perhaps we might begin by a comprehensive study on how best to solve the problem.

FOOTNOTES

[1] The *New York Times*, December 24, 1975, p. 7.

[2] "The Quest for Détente," published by the Coalition for a Democratic Majority, 1823 Jefferson Place, N.W., Washington, D.C., 20036.

[3] *The Economist*.

[4] Paul H. Nitze, "Assuring Strategic Stability in an Era of Détente," *Foreign Affairs*, January 1976, p. 207.

[5] C. L. Sulzberger, "Whom the Gods Would Destroy," the *New York Times*, January 7, 1976, p. 37.

[6] The *New York Times*, December 24, 1975.

[7] *Washington Post*, January 28, 1976, p. 1.

[8] Leo Cherne, 36th Annual Address before the Sales Executives Club of New York, January 9, 1976, p. 10.

[9] A Foreign Policy Research Institute publication.

[10] André Beaufre, *Strategy for Tomorrow*, Strategic Studies Center, Stanford Research Institute (New York: Crane, Russak & Company, Inc., 1974), pp. 3–4.

[11] *Ibid.*

[12] Peter Braestrup, "Big Story," with special opinion poll analysis by Burns W. Rop-

er, introduction by Leonard R. Sussman (Freedom House).

[13] Bayless Manning, "The Conduct of U.S. Foreign Policy in the Nation's Third Century" (Claremont, Calif.: Claremont University Center, 1975), p. 50.

[14] *Ibid.*

[15] Manning, *op. cit.*, p. 52.

[16] *Ibid.*

STRATEGY AND STRATEGISTS

It is truism that the world today is more interdependent than in the past. Perhaps a more sensible way to express it is simply that different regions are more sensitive to developments than before either because communications compel our attention or our own conditions are materially changed as a consequence. It stands to reason then that leaders must acquire a broader perspective of international events than was acceptable in the past, for the relationship of problems to one another is much stronger than before.

This is a particularly difficult perspective for the United States. A major reason is the technological proficiency which constitutes its enormous economic vitality. Technology naturally strengthens the demand for specialists of all types and the "pragmatic" tradition in the United States—that is, solving problems piecemeal—testifies to the American propensity to tackle the immediate issue with the most sophisticated means available.

This intrudes even into the universities, formerly devoted to the inculcation of the broad disciplines of liberal arts. As a consequence, just when society needs the vision and resourcefulness which comes only from an understanding of how the parts relate to the whole, the schools concentrate upon the parts at the expense of the whole.

This fragmentation of knowledge is particularly pernicious in the international relations field. The major universities turn out political science and IR graduates specializing in quantitative or qualitative approaches, some emphasizing theory over method, others theory and method over substance. This process of narrowing the student's perspective continues if he enters government service. At the highest levels, such limited focus virtually eliminates the classic strategic view of the world, with its careful relation of means to ends and the necessary assessment of how some events affect prospects of the whole.

These two elements—increasing specialization and restricted perspective—have long been recognized as a major impediment to an effective U.S. foreign policy. An independent foreign policy research institute—which relies upon academic talent and hopes to influence policy problems—must avoid this impediment to succeed. This must be done in two ways: a) the institute must recruit from a wide range of schools, careful not to hamper itself by undue reliance on particular methods, b) the institute must impart through its training and fellowship programs the necessity for a strategic view in the fashioning of foreign policy.

There are two ways the FPRI might improve its performance in these areas: a) first, by broadening its sources to many more universities and the talents it seeks, particularly in the field of economics, b) second, by ensuring that the FPRI program gives a better appreciation of the importance of strategy. Toward this end, the FPRI should consider a long-range planning group, with varying and rotating membership, to compose the annual strategic review proposed in "A Pressing Need"; to devise new approaches for the inculcation of the strategic "view" in the United States; and to prepare a new statement on the major U.S. strategic relationships—the Soviet Union and the PRC—which might make the successor Protracted Conflict.

WASHINGTON POST MAKES CASE FOR GRAIN RESERVES

Mr. McGOVERN. Mr. President, the February 25 editorial page of the Washington Post contains a statement entitled "Wheat and the Weather." The editorial is interesting for two reasons: First, as an indication of the mounting emphasis and concern large metropolitan newspapers are giving to the all important problem of feeding our Nation as well as other people around the world. It is only in recent years that city papers gave more than passing notice to farmers and the things that they do which keeps the country going. Indeed, 10 years ago the traditional August 10 USDA crop forecast would receive a "ho-hum" two-paragraph story on page 47 of any of our major newspapers. Now, that story is front page news for major papers. Needless to say I am pleased at the growing concern city dwellers have for the welfare of the farm community. For years I have spoken to this interdependency in nearly every major city in this country.

Second, of more than passing interest to me is the statement in the Post that the answer to getting us through short crop years both domestically and abroad is "a network of national and international grain reserves, systematically built up in the good years and drawn down in the bad."

Since I have been advocating precisely this concept for the last decade, and since I want to insure wider attention to the Post's position, I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

WHEAT AND THE WEATHER

The drought in the western wheat belt has been growing steadily more serious since early last fall. The damage has not reached the dimensions of an emergency. But it is the kind of unforeseen misfortune that, for a prudent government, would switch on a yellow light—a warning not to take huge crops for granted. It is a reminder that the Ford administration's custom of leaving everything to day-to-day, off-the-cuff decisions is not good enough. The administration is in the habit of trusting to luck, but this year may not be a very lucky one.

The drought covers a wide band from western Texas up into Nebraska. Last September the winter wheat there was sowed in soil too dry for normal germination. There was rain later in the fall but, when winter came and the wind began to blow, the wheat had not developed enough of a root structure to hold the soil in place. It's been a dry winter, and now some of the farmers have begun to plow under their stunted crops to control the erosion of their fields.

This drought affects only part of the wheat belt, and even there the crop will not be entirely lost. But while it might mean only a 10 per cent drop in the final harvest, that 10 per cent would constitute a significant tightening of the world's food supply. So far, grain crops appear to be normal in the other major producing areas. But it is very early to begin gambling on big harvests elsewhere to balance a poor one here. Last year it was July before the disastrous shortfall in the Russian grain crops became apparent. As we have all repeatedly seen over the past several years, crop forecasts can swing around with astonishing speed.

Should the drought get worse and the damage spread, the administration would be forced back into a familiar dilemma. If it leaves the door open to foreign buyers in a time of short supply at home, food prices will rise and sharply aggravate the inflation. If it tries to hold down domestic food prices by cutting exports, it earns the mistrust of other countries counting on us to help feed their people—and, more directly, it upsets our balance of trade. The administration has found itself faced with these choices repeatedly over the past several years and has not found an answer. But there is one: a network of national and international grain reserves, systematically built up in the good years and drawn down in the bad. It would be expensive and complicated, of course; the Ford administration keeps backing away from the idea.

In most administrations, the White House develop a lively sense of self-preservation that tries to foresee the policy dilemmas. It is generally considered a serious failure to allow the President to slide into a position where all the choices are bad. But the Ford White House has never acquired this basic tactical skill. The drought has not yet reached a point at which it will run down the country's grain supplies dangerously, or force up food prices, or threaten export controls. But if the drought goes on a great deal longer, it will threaten all of those unpleasant consequences.

PUBLIC PENSION STUDY

Mr. WILLIAMS. Mr. President, public pension plans are now on the agenda for congressional study. Recent years have brought an upsurge in Government employment and at the same time, a growing emphasis on employee benefits. The combined influence of these two developments have resulted in explosive growth of State and local pension systems.

Public employee pension systems add up to an enormous social and economic force. Membership in State-local pension plans increased tenfold in the last three decades now covering more than 9 million workers with assets in excess of $70 billion.

As a consequence of such growth, public pension plans now occupy an important role in the economy. For the public plans of today not only affect millions of individuals as participants and taxpayers but also possess the potential for significant impact on the economy in the capital markets through their massive financial holdings.

Their influence is an object of much concern to public employees and their employers. The public debate on this issue was generated by the enactment of the Employee Retirement Income Security Act in the last Congress. We recognized this situation in Congress when we passed the pension reform legislation and the act provides that the four major committees which developed the legislation for the private sector to undertake an in-depth study of the public pension system. As chairman of the Committee on Labor and Public Welfare and a chief sponsor of ERISA, I have a longstanding acquaintance with the complex issues which fostered the public concern.

Prior to ERISA, the Committee on Labor and Public Welfare conducted a similar study of the private pension system with special emphasis on the need to protect the 30 million participants.

Time and again, we found workers losing their pension credit after long years of service. Public employees wrote the committee informing us of similar problems in the public sector. Pension credit was lost when employees changed jobs, moved to a new locality, or terminated their employment prior to retirement age. Sometimes, the pension loss was due to the fine print in the plan contract while in others, it was simply the lack of transferability of pension credit between pension systems.

ERISA responded to the recommendations for reform made in the Senate Labor Committee study. But its standards were developed to reform the structure of the private pension system and public plans were not covered by the ERISA protections. The reform movement did serve to focus congressional attention on the retirement security afforded public service workers.

While Congress was shaping the future of the private plan system, State and local governments were giving serious consideration to the plans which covered their employees. Several States established independent pension commissions to monitor their plans and to make recommendations for reform.

Ideally, these study groups serve to depoliticize the debate on public employee pension benefits by studying the issues in a professional nonpartisan manner before making recommendations to their respective legislatures. Meanwhile, the various congressional committees began their own dispassionate assessment of the public system.

Unfortunately, the public employee pension issue has become increasingly politicized in the last few months, primarily because of the urban fiscal crisis. My concern is that public employees will become scapegoats in the great debate over who is to blame for the fiscal mess in some of our cities. There are critics who cite isolated examples of excessive benefit levels in a few public plans as representative of public employee benefits across the Nation. They single out these benefits as the cause for future financial ruin.

Yet the latest U.S. Department of Commerce survey of public employee plans found that the average monthly pension benefit for all State and local government employees was $223. Retirement based on this monthly income alone would put an individual at or near the poverty level. In this connection, we should bear in mind that about one-third of all public workers are not covered by social security and must rely exclusively on their plan for income during their retirement years.

Underlying this criticism, I detect some of the same old sentiments toward Government workers. Many still feel that those who work for Government should earn less than those who work in private industry. Somehow they expect public employees to subsidize public service by accepting lower wages and less retirement security.

The real culprit behind escalating pension costs in some fiscally strapped cities is the lack of advanced funding of the pension commitment. Pension promises made in past years were not adequately funded. Consequently, as the plans matured and more people retired, the increased pension costs are paid by a succeeding generation of taxpayers.

Unlike their counterparts in private industry, public employees contribute their share of funds to plan. Public plans with few exceptions require employee contributions while plans in private industry are largely noncontributory. Employee contributions are not tax deductable whereas the contributions made on behalf of the employee in private industry are deductible to the employer.

In the public system the pension costs are shared by the employee and the employer. Many times, it is the public employer which fails to make its fair share of the contribution.

Not all Government plans are unfunded, however. In fact most public plans adhere to some form of advanced funding schedule. But little is being done with the sizable number of public plans which fund their obligations on a pay-as-you-go basis.

These issues have a clear implication for public policy at all levels of government. We must strive to provide an objective framework in which to assess the implications of this enormous public institution. The Senate Committee on Labor and Public Welfare is committed to a rational, dispassionate study of the facts in the interest of advancing an informed resolution of the major policy questions involved.

I ask unanimous consent that my recent communications with Jerry Wurf, president of AFSCME and a recent statement by Albert Shanker, president of UFT, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AFSCME, AMERICAN FEDERATION OF
STATE, COUNTY, AND MUNICIPAL
EMPLOYEES,
Washington, D.C., January 9, 1976.

Hon. HARRISON A. WILLIAMS,
Chairman, Subcommitte on Labor, Committee on Labor and Public Welfare, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR CHAIRMAN WILLIAMS: Last fall, AFSCME presented testimony before the House Subcommittee on Labor Standards concerning the operation of public employee pension plans. In our testimony, we expressed concern about abuses and deficiencies in state and local government pension plans. These included weak vesting provisions, the absence of portability, substandard funding of plans and violations of fiduciary responsibility. We also underscored the importance of the Congress moving expeditiously to fulfill the mandate of the Employee Retirement Income Security Act of 1974 (ERISA), which required the House Education and Labor Committee and Ways and Means Committee and the Senate Labor and Public Welfare Committee and Finance Committee to study public pension plans. We note that with only one year remaining before the study required by ERISA is due, the Senate Committees have done almost nothing on the public pension study.

Since our testimony, the public employee pension issue has become increasingly politicized, primarily because of the fiscal crisis in New York City. It is becoming increasingly popular for journalists and politicians to draw the public's attention to isolated examples of exceptionally high benefit levels. Perhaps the most common example is the New York City bus driver who can retire with an annual pension that is greater than his last year's final wages. The impression left with the public is that benefits like these are typical of public employee pension benefits across the country and that they are contributing, in large part, to the financial ruin of state and local government. Furthermore, public employee unions are becoming the "whipping boy"; their so-called "avarice" is seen as a major cause of these supposedly generous pension plans.

Our union has compiled a great deal of data on pension plans affecting our members, information which paints a picture quite different from the popular editorial page misconception of retired public workers living in the lap of luxury. But the fact is, no one really has the facts. That's why we believe the Congress should act without delay to fulfill its study mandate.

To accuse public employee unions of jeopardizing the fiscal stability of state and local government by negotiating "excessive" pension benefits is unreasonable. In the first place, most public pension plans are not negotiated. They are the result of actions taken by state and local legislative bodies, many established long before public employee unions matured. Where public pension plans are negotiated, plan improvements are the result of bilateral agreements involving an employer as well as the union.

It also must be recognized that there are a vast number of state and local pension plans providing benefits to a multiplicity of employees. Police, firefighters, teachers, and general employees usually participate in different plans designed to meet the circumstances of their particular type of employment. These plans must be distinguished so that the public pension issue can be put into a proper perspective.

Our review of many large state and local plans covering general employees shows that pension benefits are by no means lavish. In Atlanta, where general city employees are not covered by Social Security, workers retiring after 30 years of service and with salaries of $7,000, $7,500, $8,000, $8,500, and $9,000 during their last five years of work can only expect to receive a pension of $4,365 per year—49 percent of their final year's salary. Similar categories of workers would receive $5,100 (57 percent of final salary) working for the state of Ohio and $5,400 (60 percent of final salary) with the city of Los Angeles, neither of which provide Social Security benefits. In Michigan and Wisconsin, state employees on the same salary schedule would receive $3,600 (40 percent of final salary) and $3,315 (37 percent of salary) respectively, although they also would receive Social Security benefits.

Generous pension benefits are not the reason why public employers are confronted with unfunded pension liabilities. We believe investigation will show that scores of public employers, large and small, have failed to fund these plans according to sound actuarial principles. While employees have been contributing their share to pension funds, public employers have failed to do so. As a result, many governments now are being confronted with rising pension obligations which are soaking up a greater percentage of current revenues. It is for this reason that it is essential that any review of public plans carefully analyze methods used to fund pension benefits.

Finally, it should be remembered that public pension plans have features that make them less attractive to the employee than private pension plans. Contrary to many private plans, most public plans are contributory; the employees themselves pay between one-third and half of the total pension contributions. A number of major public plans also require 15 to 20 years of service for workers to gain a vested right to a pension. The result is that many government employees never draw pension benefits. Further, one-third of all state and local government workers do not receive Social Security benefits.

AFSCME will support wholeheartedly a Congressional investigation of public pension plans. Public policy regarding the pensions of government workers must be considered within the framework of a rational, objective and dispassionate study such as that mandated to your Committee by ERISA. Your investigation will play a vital role in the current debate on public pension plans, and it must proceed at an accelerated rate.

Sincerely,

Jerry Wurf, *International President.*

January 29, 1976.

Mr. Jerry Wurf,
International President, American Federation of State, County and Municipal Employees, Washington, D.C.

Dear President Wurf: Thank you for your letter regarding the Congressional Study of the public employee pension system.

I certainly share your concern for the increasing politicization of the public employee pension issue. We still hear the same old sentiments about government workers. Many expect public employees to subsidize public service by accepting lower wages and less retirement.

Enactment of the pension reforms in the private sector focused Congressional attention on the need to determine the adequacy of the retirement security provided employees in the public pension system.

As a chief sponsor of the 1974 Pension Reform Act, I have a longstanding acquaintance with the employee concerns for the protection provided for their hard-earned pension credit. Let me assure you that we shall vigorously pursue our investigation of the public system with special emphasis on the protections afforded employee pension interests.

I appreciate having the benefit of your views on this vital issue.

Sincerely,

Harrison A. Williams, Jr.,
Chairman.

[From the New York Times, Feb. 22, 1976]

Where We Stand—AFL–CIO Seeks Protective Federal Law

HOW SAFE ARE PUBLIC EMPLOYEE PENSIONS?

(By Albert Shanker)

Public employee pensions have emerged as a major issue in recent months. Last week a New York State agency was rescued from default when the State Teachers Retirement System invested $20 million in Housing Finance Agency notes. Last October and December, much larger investments by New York City public employee pension funds helped the city avert default.

At the same time, newspaper and TV editorials have created the impression that the cost of public employee penison funds rather than the state of the economy is responsible for the fiscal crises of state and local government. It is repeatedly claimed that public pensions exceed those in private industry and that benefits paid are exorbitant. Public employees are thus in the curious position of being asked to rescue ailing governments with funds that are blamed for causing the crisis.

The issues are clearly national. Public employee pension fund assets across the country are now estimated at $89 billion. The AFL–CIO Executive Council last week called for Congressional action to provide federal protection for public employee pension funds. Here is the statement adopted at the Council's meeting in Florida:

In 1974, the Employees Retirement Income Security Act (ERISA) was enacted into law providing minimum standards for private pension plans, regulation of pension funds and investments, and termination insurance to protect pensions.

Congress considered but rejected proposals to cover retirement systems of state and local governments under this legislation. A major objection was that the financial stability and strength of state and local governments, as contrasted to private employers, made such protection unnecessary. Recent developments have made readily apparent the fallacy of this argument.

Pension plans of state and local governmental bodies are badly in need of reform. A major reason their costs have increased in recent years is past underfunding and the use of "pay as you go" financing of public pension plans. State and local governments sometimes agree to improve pension plans for public employees in lieu of wage increases and then postpone payments for these improvements to future administrations and future generations of taxpayers. Obviously this does not serve the best interests of state and local governments, their employees or the taxpayers. State and local governments have too often tolerated flagrant abuses of fiduciary responsibilities and unauthorized use of pension funds.

There are many similarities between public and private pension plans, but there are also many differences. Though the basic principles of ERISA could serve as a model, many modifications would have to be made in legislation applying to public pension plans. Careful study of the vast, complex public employee pension system is essential before enactment of a law. Fortunately, Congress, in passing the pension reform bill, requested a study of public employee pension plans to prepare for their possible coverage by a new pension law. We urge speedy completion of that study.

Public employees have been made the scapegoat for the financial crisis of state and local governments. Contrary to a widespread myth, most public employee pension plans are not generous in benefits, vesting and other provisions and have not contributed to the financial crisis of state and local governments. The truth is:

The average monthly benefit for all state and local government employees was only $223 in 1972, according to a U.S. Census Bureau survey.

Only about 10 per cent of private pension plans are contributory, according to a recent survey. More than 90 per cent of public employees make pension contributions and pay for a large portion of their retirement benefits.

Public employee fringe benefits lag behind private industry. Though public employees have made significant wage gains in recent years, their wages still lag behind those in the private sector.

Blaming public employees for financial troubles is a frequent cop-out for public administrators. Public employees did not create the often inefficient, costly, fragmented structure of state and local governments; nor are they responsible for the underfunding of pension systems.

Public employees give dedicated service, all too often at lower wages and fringe benefits than their counterparts in private industry. Like all workers, they are entitled to protection for their earned pension rights. They need protection and minimum standards in:

1. Reporting and disclosure. Public employees are entitled to information on the major provisions of their pension plans in clear and understandable language. All other information pertinent to the operation of the plan should be available to them and to the public.

2. Fiduciary responsibility. Mismanagement and improper investment of public pension funds have jeopardized workers' pension rights. Both employees and taxpayers are entitled to protection against such abuses.

3. Participation and vesting. Many public bodies have vesting standards that fall far short of those legally required for private pension plans.

4. Funding. The taxing power of government is not a sufficient guarantee to allow the lax funding methods that have been applied to many public employee pension funds.

5. Planned termination insurance. Public employees should have their earned pension rights guaranteed in the event their plan terminates.

Therefore, the AFL–CIO urges the Congress to enact legislation as soon as possible to provide effective and appropriate protections for the pension rights of employees of state and local government agencies. We insist public workers have the same rights as all other workers.

HANDGUN CONTROL LEGISLATION

Mr. HRUSKA. Mr. President, both the House and Senate Judiciary Committees are currently in the process of once more considering handgun control legislation. The public debate on this controversial issue continues, and U.S. Department of the Treasury statistics tell us that an increasing number of crimes are being committed with cheap, easily acquired handguns.

Those in favor of gun controls want to either ban the private ownership of handguns or impose rigid gun registration. There are others, however, who take a more commonsense approach—punish those who use weapons in the commission of a crime.

For many years this Senator has supported the idea that any additional legislative gun controls are a State and local problem. The conditions of life in western Utah are immeasurably different than the West Side of New York City. To propose and enforce a national system of laws to deal with local gun crimes cannot logically or practically be accomplished.

The Federal role in the control of handguns is adequately outlined in present congressional legislation, namely the Gun Control Act of 1968—Public Law 90–618, and as amended by title IV of Public Law 90–351. Those statutes prescribe the regulations for the licensing of manufacturers, distributors, and dealers; interstate shipments; imports from overseas; and prohibitions of sales to certain classes of persons such as those convicted of certain crimes, fugitives from justice, unlawful users of marihuana or any depressant or stimulant drug, and adjudicated as a mental defective or has been committed to any mental institution.

One procedure in the Federal statute was clarified and improved by a recent Supreme Court decision, Barrett against United States. The Court held that section 922(h) of title 18 U.S.C., making it unlawful for a convicted felon "to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce," applied to a convicted felon's interstate purchase from a retail dealer of a firearm that previously, but independently of the felon's receipt, has been transported in interstate commerce from the manufacturer to a distributor and then from the distributor to the dealer.

In addition, a tightening of language on stopping imports on certain guns should be made to include parts of such guns which can be assembled into complete and functional weapons within the United States.

Also, a revision and complete funding of the monitoring of licensed dealers by the Bureau of Alcohol, Tobacco and Firearms, ATF, of the U.S. Treasury Department is needed in order to hold them to a strict accountability for compliance with existing regulations. Such regulations include sales to certain persons, as enumerated in section 922(d) of title 18, and recordkeeping requirements of the number and types of handguns purchased.

It would also include an ample increase in enforcement personnel. Notable in this regard was President Ford's request in his crime message to the Congress for an additional 500 agents within the ATF for increased inspection and enforcement duties. Especially pertinent was the President's statement that:

> At the time, however, we must make certain that our efforts to regulate the illicit use of handguns do not infringe upon the rights of law abiding citizens. I am unalterably opposed to Federal registration of guns or the licensing of gun owners. I will oppose any effort to impose such requirements as a matter of Federal policy.

Mr. President, aside from the amendments needed for improving present Federal statutes as generally set forth in these remarks, further legislation should be left to State and local authorities. It is they who have the chief responsibility for law enforcement under our pattern of government in the Uinted States. It is the State and local authorities who know the conditions and requirements in their respective jurisdictions, and how enforcement can be achieved to meet such situations.

An excellent example of efforts by State governments to crack down on criminal offenders using firearms is the State of Missouri. In the revision of its criminal code, the Missouri State Senate has added a provision calling for mandatory sentences of 3 years for a first weapons felony offense, 10 years for a second offense, and 20 years for three-time losers. This is a tough law, but one that should reduce weapons-related offenses.

Mr. President, the full story about the proposed law in Missouri is told in an article which appeared in the St. Louis Globe-Democrat on Tuesday, February 17, 1976. I ask unanimous consent that it be printed in the Record at the end of my remarks.

Mr. President, the Congress has made it clear on a number of occasions that crime is essentially a State and local problem. The passage of gun control laws to toughen penalties for weapons felony offenses is in the main, and from this point on, a State and local matter. The sooner the Congress realizes this fact, and the sooner more State legislatures act, the sooner we will be able to control the misuse of handguns in America.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Tough Weapons Law for Missouri

It is becoming more and more evident that Missourians who obey the law are getting sick and tired of those who don't. And there are firm indications that they intend to do something about it.

One encouraging sign pointing in that direction is the state Senate's approval of tough mandatory sentences for persons convicted of committing crimes with a firearm or any other deadly weapon. An amendment to this effect, introduced by Columbia Republican Sen. Larry R. Marshall and adopted by voice vote, has been made part of the proposed revision of the state's criminal code which the Senate is now debating. Sponsor of this comprehensive, 283-page bill is Sen. Ike Skelton, Lexington Democrat.

The Marshall law provision calls for mandatory sentences of three years for a first weapons felony offense, 10 years for a second offense and 20 years for three-time losers. This means that a person using a deadly weapon in a crime would be required to serve the weapons sentence in addition to any term imposed for the robbery, with no parole or probation from the weapons crime imprisonment.

A similar law was enacted by a heavy majority vote in the Florida Legislature last year and went into effect Oct. 1. While it's still too soon to measure the impact of the law on crime, authorities there are hopeful that it will prove a major deterrent to violence. The state has even launched a million-dollar campaign publicizing the new law mandating a three-year prison term for gun-related crimes to make sure that potential criminals get the message.

The need for such stern legislation in Florida was clear. As officials there point out, Florida's crime rate increased 36 per cent during last year as compared to the national average of 18 per cent.

And what about Missouri? While the statewide figures for 1975 are not complete, there are alarming indications that the war against crime as it is now being waged is not succeeding. Rural sheriffs, for example, say that the rate of crime increase in many areas is considerably above the national average. The pattern appears much the same for suburban sections. Not only is crime rising but in St. Louis County police records show that the number of weapons taken off the streets by police has increased a dramatic 194 per cent in the last five years. There is no way of knowing the number of weapons which haven't been recovered by police and which in the wrong hands become instruments of terror and violence.

Proponents of gun control argue that legislation should be drawn to outlaw the private ownership of handguns, or, failing in that, that there should be gun registration. Either of these two approaches to the problem of crime would be pointless. Laws should be aimed at the people who wrongly use any kind of deadly weapons. Punishment should be exacted against them.

That is why the Marshall plan makes so much sense. If legislators get bogged down in debate over the merits of the proposed criminal code revision, that is no reason that efforts to get a strong criminal-control measure on the books should be frustrated.

A separate Marshall Bill, identical in nature to the criminal code amendment, is on the Senate calendar. This could—and should—be given priority attention if the need arises. With moves expected on the House floor to get a tough mandatory sentencing bill passed, the mood of the General Assembly appears right for strong anti-crime legislation in Missouri.

TAX TIPS FOR OUR NATION'S SENIOR CITIZENS

Mr. KENNEDY. Mr. President, one of the greatest inequities in our Nation's Federal taxation system is that millions of Americans needlessly overpay their income taxes each year. Most are unaware of the helpful deductions Congress has enacted throughout the years designed to save them considerable tax dollars on tax returns.

Unfortunately, the vast majority of the Nation's taxpayers—especially our older citizens—cannot afford the tremendous cost of seeking professional assistance through private income tax preparation companies. Once again, those who can least afford it, have the most to lose from the lack of coherent information on our Nation's tax laws.

To provide protection against this serious handicap, the Committee on Aging, on which I serve, has published a checklist of itemized deductions for elderly persons and, of course, other age groups as well.

The information contained in this important publication will hopefully provide millions of Americans with appropriate remedies to lessen their individual tax burdens.

This publication contains important information on most allowable deductions, for example, for those Americans who itemize their deductions, this checklist can be advantageous in determining whether or not it would be more beneficial to claim the standard deduction.

In my home State of Massachusetts, as across the Nation, the serious economic crisis which deeply affects our Nation's older citizens warrants greater national attention. This important publication is just a small step by Congress to insure that beneficial information on our Nation's tax laws is available to all Americans regardless of their individual income.

Mr. President, I ask unanimous consent that the Committee on Aging publication: "Protecting Older Americans Against Overpayment of Income Taxes," be printed in the Record.

There being no objection, the publication was ordered to be printed in the Record, as follows:

Checklist of Itemized Deductions for Schedule A (Form 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses (unreimbursed by insurance or otherwise) are deductible to the extent that they exceed 3% of a taxpayer's adjusted gross income (line 15, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1%

of adjusted gross income (line 15, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expenses (subject to 3% limitation):

Abdominal supports (prescribed by a doctor),

Acupuncture services,

Ambulance hire,

Anesthetist,

Arch supports (prescribed by a doctor),

Artificial limbs and teeth,

Back supports (prescribed by a doctor),

Braces.

Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.

Cardiographs,

Chiropodist,

Chiropractor,

Christian Science practitioner, authorized,

Convalescent home (for medical treatment only),

Crutches,

Dental services (e.g., cleaning, X-ray, filling teeth),

Dentures,

Dermatologist,

Eyeglasses,

Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as substitute for, regular diet; physician's statement needed),

Gynecologist,

Hearing aids and batteries,

Home health services,

Hospital expenses,

Insulin treatment,

Invalid chair,

Lab tests,

Lipreading lessons (designed to overcome a handicap),

Neurologist,

Nursing services (for medical care, including nurse's board paid by you),

Occupational therapist,

Ophthalmologist,

Optician,

Optometrist,

Oral surgery,

Osteopath, licensed,

Pediatrician,

Physical examinations,

Physician,

Physical therapist,

Podiatrist,

Psychiatrist,

Psychoanalyst,

Psychologist,

Psychotherapy,

Radium therapy,

Sacroiliac belt (prescribed by a doctor),

Seeing-eye dog and maintenance,

Speech therapist,

Splints,

Supplementary medical insurance (Part B) under Medicare,

Surgeon,

Telephone/teletype special communications equipment for the deaf,

Transportation expenses for medical purposes (7¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.),

Vaccines,

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health),

Wheelchairs,

Whirlpool baths for medical purposes,

X-rays.

TAXES

Real estate,

State and local gasoline,

General sales,

State and local income,

Personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of five classes of items: automobiles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security, Veterans' pension or compensation payments, Railroad Retirement annuities, workmen's compensation, untaxed portion of long-term capital gains, recovery of pension costs, dividends exclusion, interest on municipal bonds, unemployment and public assistance payments).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20% of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal State or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 7¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.

Auto loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges, loan fees, credit investigation fees, or similar charges.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

Other charge accounts for installment purchases—may deduct the lesser of (1) 6% of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) or (2) the portion of the total fee or service charge allocable to the year.

CASUALTY OR THEFT LOSSES

Casualty (e.g., tornado, flood, storm, fire, or auto accident provided not caused by willful act or willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

CHILD AND DISABLED DEPENDENT CARE EXPENSES

A taxpayer who maintains a household may claim a deduction for employment-related expenses incurred in obtaining care for a (1) dependent who is under 15, (2) physically or mentally disabled dependent, or (3) disabled spouse. The maximum allowable deduction is $400 a month ($4,800 a year). As a general rule, employment-related expenses are deductible only if incurred for services for a qualifying individual in the taxpayer's household. However, an exception exists for child care expenses (as distinguished from a disabled dependent or a disabled spouse). In this case, expenses outside the household (e.g., day care expenditures) are deductible, but the maximum deduction is $200 per month for one child, $300 per month for two children, and $400 per month for three or more children.

When a taxpayer's adjusted gross income (line 15, Form 1040) exceeds $18,000, the deduction is reduced by $1 for each $2 of income above this amount. For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

MISCELLANEOUS

Alimony and separate maintenance (periodic payments).

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income-producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees under certain circumstances.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—Tax-

payers may now claim either a deduction (line 33, Schedule A, Form 1040) or a credit (line 51, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State, or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) State committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $100 ($200 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $25 ceiling ($50 for couples filing jointly).

Presidential Election Campaign Fund.—Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) to help defray the costs of the 1976 Presidential election campaign.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

OTHER TAX RELIEF MEASURES FOR OLDER AMERICANS

Filing status:	*Required to file a tax return if gross income is at least—*
Single (under age 65)	$2, 350
Single (age 65 or older)	3, 100
Qualifying widow(er) under 65 with dependent child	2, 650
Qualifying widow(er) 65 or older with dependent child	3, 400
Married couple (both spouses under 65) filing jointly	3, 400
Married couple (1 spouse 65 or older) filing jointly	4, 150
Married couple (both spouses 65 or older) filing jointly	4, 900
Married filing separately	750

Additional Personal Exemption for Age.—Besides the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1976, you will be entitled to the additional $750 personal exemption because of age for your 1975 Federal income tax return.

Tax Credit for Personal Exemptions.—In addition to the $750 personal exemption, a tax credit of $30 is available for a taxpayer, spouse, and each dependent. No additional $30 credit is available, however, because of age or blindness.

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10% of the mutual dependent's support, *but only one of them,* may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers.—A taxpayer may elect to exclude from gross income part or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least 5 years within the 8-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $20,000, an election may be made to exclude part of the gain based on a ratio of $20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within 18 months before or 18 months after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

Retirement Income Credit.—To qualify for the retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received earned income in excess of $600 in each of any 10 calendar years before 1975, and (c) have certain types of qualifying "retirement income". Five types of income—pensions, annuities, interest, and dividends included on line 15, Form 1040, and gross rents from Schedule E, Part II, column (b)—qualify for the retirement income credit.

The credit is 15% of the lesser of:

1. A taxpayer's qualifying retirement income, or

2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxable pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62, the $1,524 figure is reduced by the amount of earned income in excess of $900. For persons at least 62 years old but less than 72, this amount is reduced by one-half of the earned income in excess of $1,200 up to $1,700, plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer if he has requested that IRS compute his tax, he answers the questions for columns A and B, and he completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayer should also write "RIC" on line 17, Form 1040.

THE PERILS OF EXPORT MANIPULATION

Mr. DOLE. Mr. President, on February 24, 1976, Mr. Warren W. Lebeck, president of the Chicago Board of Trade, contributed an excellent article, "The Perils of Export Manipulation," to the Washington Post.

Mr. Lebeck clearly understands the economics of international trade better than many other self-appointed experts who have so loudly denounced agricultural exports over the past few months.

I share Mr. Lebeck's view that the suspension or reduction of U.S. agricultural exports can contribute more to the problem of inflation than it helps. Mr. Leback's article deserves the widest possible distribution. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 24, 1976]

THE PERILS OF EXPORT MANIPULATION

(By Warren W. Lebeck)

When the administration slammed the door on grain and soybean exports to the Soviet Union this past summer, albeit only temporarily, the action drew predictable protests from farmers and praise from such self-appointed consumer spokesmen as Mr. George Meany. In at least one respect, the Russian response was equally as predictable: Faced with an urgent need to make up for a disastrous sunflower crop, it placed orders to buy upward of 50 million bushels of soybeans from Brazil, at a cost of about $6 a bushel.

Ironically it was an ill-advised American soybean export embargo two years earlier that helped position Brazil to reap the benefits of this roughly $300 million sale. On that occasion, a U.S. abrogation of existing sales commitments prompted two of our largest customers, Japan and West Germany, to seek (and reportedly subsidize) a more reliable source of supply. Brazil was able and anxious. In the two years since then it has doubled its annual production and now accounts for one fourth of the world's soybean exports—a market the U.S. could once call virtually private property. By 1980, Brazil is expected to double production again, almost solely for export.

All of this might be just so much statistics except that it illustrates the folly of a continuing political hypothesis that appears, regrettably, to attract a good deal of public applause, namely that bureaucratic manipulation of agricultural exports can be employed effectively and without adverse side effects to combat domestic inflation. Those who would invoke or support such restrictions as a knee-jerk reaction to rising food prices would do well to consider some of the more pertinent facts, facts which clearly say otherwise.

While no one denies some trickle up effect of sizable farm exports on food prices, the net effect of such exports is overwhelmingly anti-inflationary. The reason is this: At a time when this country is navigating in economic shoal waters with regard to its balance of payments, the agricultural sector of our economy is literally "carrying" the less efficient and less competitive non-agricultural sector. A positive U.S. trade balance last year resulted only because a $12 billion agricultural trade surplus more than erased a non-agricultural trade deficit of $10 billion.

There is no reason to view this situation as a temporary aberration. With imported oil continuing to cost us dearly and other nations matching and even surpassing our industrial productivity, there is little likelihood of maneuvering our non-agricultural trade balance into the black any time soon. The agricultural prospects are considerably brighter. With farm exports of $21 billion and farm imports (sugar, coffee, bananas, etc.) of $9 billion, our agricultural trade is already in the black by a ratio of better than two to one. And it can move even further in that direction in the years ahead if government will refrain from undermining farmers' opportunities and incentives.

What has this to do with inflation and, indeed, the overall health of the American economy? Plenty. For one thing, the purchasing power of the U.S. dollar is linked directly to our balance of payments. Any sharp curtailment of agricultural exports in our present precarious position would send the dollar's value skidding down the same bill as, for example, the British pound. This would, in turn, trigger a potentially steep rise in the dollar cost of everything we import. Considering that we currently import around $100 billion worth of various items each year, the consequences could far outweigh whatever effect agricultural exports of $21 billion a year have on the cost of food.

Moreover, other nations rightfully regard—and resent—the capricious imposition of export controls as an attempt by the United States to "export its inflation." When soybeans were embargoed in 1973 after reaching the political panic point of $11 a bushel, the price on European markets promptly soared to almost $17 a bushel.

In restricting our food exports, we run more than a minor risk of retaliation. And this country is doubly vulnerable. We are vulnerable to actions that would restrict the availability and raise the prices of items we export, including industrial goods. The result in the first instance is an increase in our cost of living and the result in the second instance is a loss of jobs and income.

By refusing to position ourselves as a reliable supplier we eventually destroy our markets. I was in Japan shortly after the disastrous U.S. soybean embargo of 1973. When I discussed it with an official there, no translator was needed to convey his reaction. Like many Japanese who consume soy protein directly in their diets, he was indignant in the nth degree that soybeans were being withheld from Japanese children so that they could be fed instead to American hogs. That the reaction wasn't limited to indignation is evidenced by Japan's reliance on a supplier (Brazil) that is regarded as more reliable.

Our government must somehow learn that age-old law of science—that every action has an opposite reaction—can also apply to economics. But in economics, the long-term reaction may not be merely equal to our shortsighted action. It may be worse.

CHILD HEALTH CARE: WHERE WILL THE MONEY COME FROM?

Mr. HUMPHREY. Mr. President, all of us here assembled would readily agree that our Nation's children are our most important resource—our hope of tomorrow. However, I would like to share with my distinguished colleagues a recent speech by Dr. Robert B. Kugel, vice president for Health Sciences at the University of New Mexico. It has some startling facts in it concerning our actual commitment to our children.

Dr. Kugel points out there are five traditional services to children which seem to be lagging—health services, education, recreation, vocational training, and preparation for family life.

These areas are important to a child in that they affect his physical and mental capacity to meet the challenges of his responsibilities as an adult.

Our track record is hardly encouraging. Although we have succeeded in reducing infant mortality, we still rank 14th among the industrialized nations of the world, and too many pregnant women have inadequate diets. In addition, the Ford administration wants to make cutbacks averaging more than 20 percent in programs which are designed to address these deficiencies.

Our schools are not living up to our expectations. Only recently we learned that 20 percent of American adults were functionally illiterate. We must recommit ourselves to preparing our children for living and making a living.

Mr. President, I commend to the attention of my colleagues this thought-provoking address entitled, "Where Will the Money Come From?" by Dr. Robert B. Kugel, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

WHERE WILL THE MONEY COME FROM?

(By Robert B. Kugel, M.D.)

This is a great moment for me because I can address a group of people who are concerned about troubled youth. Because you are already committed to children and youth, you understand the importance of them in our society. However, I think it is necessary for all of us to be reminded from time to time that the majority of citizens in our country have only a weak commitment to children, let alone one aimed at solving the problems of children.

To some of you, this kind of a statement may sound startling, possibly even harsh. Let me take a few minutes to explore with you some of the realities as I perceive them and, therefore, why I make such a statement. Why, indeed, should I make such a remark when we do have a number of platitudes which seem to contradict what I have just said. One will hear frequently, "Children are our most important resource." "They are the hope of tomorrow." We proudly point to our schools, noting that they represent a solid commitment to helping the children of today become the mature citizens of tomorrow.

In order to understand some of my pessimism, I call your attention to five traditional services to children which seem to me to be lagging and then I would like to talk about funding for these services as a separate problem.

Perhaps the first service which must be available to all children would be health services. Health services should start with the unborn child. The important prenatal influence of nutrition on the unborn child would make this assertion necessary but we still have too many pregnant women with grossly inadequate diets. It was encouraging to note on October 7, 1975 that the Congress overrode the President's veto of the $2.75 billion Child Nutrition Bill (Child Nutrition Act of 1966 and National School Lunch Act Amendment of 1975) on the grounds the bill was fiscally irresponsible. Can it be irresponsible to nurture the next generation?

Progress has been made in the last two decades in reducing infant mortality. However much we object to comparing ourselves with other countries, we still have an overall infant mortality rate in this country of 19 per 1,000 live births which ranks us 14th or 15th among the industrialized nations of the world. When these figures are further broken down, we find that infant mortality figures drop to a low of about 4 per 1,000 live births in affluent sections of our cities but rise to an alarming 35 per 1,000 in the poorest sections of our crowded urban ghettos and in the poorly served rural sections. There is also evidence, which constantly haunts us, when we point out that low income people, which I define as the family of 4 with $4,500 or less per year, have a greater incidence of all types of medical problems, both acute and chronic. These conditions range from acute respiratory infections to chronic hypertensions. Generally these conditions will contribute to poor functioning in some fashion or other and will certainly have some implications on the problems of youth in trouble. Here again services are not commensurate to need.

The second basic service relates to our educational system—primary, secondary and higher. A century ago the American public was convinced that through education anyone could rise to his maximum potential. This overly simplified notion has been severely challenged in the last 25 years. Perhaps too much hope was placed on the educational unit; perhaps they were given too much responsibility; perhaps they were also given too little community and financial support. In any event, our schools have been unable to cope with all of the problems which children have or even a reasonable portion of them. Debate continues as to what the functions of the schools should be and what their curricula should contain. It is not my purpose to expand this argument but rather to observe that our schools are not measuring up to our earlier dreams and wishes. To be sure, there are some magnificent examples of individual teachers and individual schools which seems to be doing superbly but we have many deficiencies, attested to and described by numerous reports of commissions and reports of individual citizens like James B. Conant of a few years ago and the list goes on and on.

The third service relates to recreation and the use of leisure time. A century ago city planners incorporated parks in all of the cities which were developing at that time. Recreation areas became established adjacent to cities. The National Park System was established. In the last 25 years few new housing developments incorporated parks or recreation areas and I think this tells us a great deal about our attitudes toward people in general, but to the young in particular. We do not have a commitment in this area. As a result, one sees many young people totally at a loss as to how to channel their great energy into socially acceptable avenues. It should be no wonder that we find large numbers of young people today moving to the streets; losing their way, and falling into ways which are injurious to them and society. Again our commitment has been lacking.

The fourth service, vocational training and work-study, has been one which seems to fall between the cracks. How much should be expected of schools? Should they prepare for jobs as we now know them or should we rather rely upon the schools to provide a broad background against which the individual may pick, once he has been exposed? We must recognize in our industrial society that the majority of young people will not go into the professions and will not seek a college education. Nonetheless, we must help prepare these individuals for living and for making a living. Vocational training and work-study have been surrounded by controversy and again many children simply are unable to develop an approach to living which, for them, is meaningful and satisfactory. Our commitment is again deficient.

The last main service which should be available is one I will call, Preparation for Family Life. Youngsters of today are woefully prepared for the obligations which they will undertake for family life. Although greater permissiveness has been allowed in a variety of practices, including tacit approval of greater sexual activity among young people from age 12 onward, there has been insufficient attention as to the obligations and responsibilities that young people have for each other and for the next generation. As a consequence, we see legions of young people with venereal disease, large numbers with children born out of wedlock, and families disintegrating for a variety of reasons. This primary unit in our society, the family, certainly needs attention, strengthening and understanding, but it is not forthcoming at the moment.

I am deeply dismayed by the status of our commitment to children. It seems to me that we have been in a slow decline for at least the last 15 and possibly 20 years. Some facts support my contention as based on dollars appropriated. Recently, Richard Amberg, writing for the *Chicago Daily News* (September 3, 1975), provided a series of startling financial statistics about health programs for children. He notes that children under 19 represent 36.9% of the total U.S. population but they are the beneficiaries (in 1974) of only 15% of the expenditures for health care. Individuals 65 years and over constitute 9.5% of the population but their health care represents 29% of the total expenditures.

In 1972 the per capita figures show that the total public and private annual spending for the elderly was $982.42; for children under age 19, only $146.86. The public money pays almost two-thirds of this per capita cost for the elderly but only 28.1% for the per capita cost for children. For every 5 cents at all levels of government spent on health care for each child, 78 cents is spent for each senior citizen. Although it is commonly believed that the elderly have a greater need for health funds than most other groups, the group that suffers most from acute illness is children under 4. On the average, each 100 young children experiences 375 acute illnesses a year as compared with 120 in persons 65 years and older.

The average American family spends about 3 times as much for liquor, 1½ times as much for cigarettes and almost as much for cosmetics as it spends for the health care of its children. Local, state and federal government spending for child health care does not exceed what Americans spend on pet food. In 1972 total national spending for personal health care amounted to $71.9 billion; only $11.5 billion was spent for children under the age of 19 even though this group constitutes 37% of the population. Contrary to a common belief that health insurance takes up the slack between private and public health programs, the American Academy of Pediatrics noted, "Insurance programs are designed primarily for the care of adults." Only 42% of families earning between $3,000 and $5,000 annually are even partially covered by adult-oriented insurance. In families earning between $5,000 and $10,000 the figure is only 77%. Most of these policies cover hospital care only and not physician visits or well-child procedures. The U.S. government devoted only $3.2 billion in fiscal 1972 to the task of health care for children. Total health spending by all levels of government for the 77,000,000 chidren was considerably less than the federal government alone spent for space research, crop subsidies and a number of other programs.

Other financial statistics are even more appalling. The Ford Administration wants to make cutbacks averaging more than 20% in at least 3 programs under the Health Services Administration.

1. Maternal and Child Health Projects from $295,000,000 in 1975 to $211,000,000 in 1976.
2. Community Health Centers from $196,000,000 to $155,000,000.
3. Migrant Health Centers from $24,000,000 to $19,000,000.

It seems highly unlikely that the states could come up with the massive new amounts of money necessary to maintain these existing services.

Head Start, which delivered educational, health, nutritional and social services to disadvantaged children and their families, services far fewer children than it did in its earlier days. In 1966 it enrolled 733,000 children; in the latest year only 379,000 children were enrolled. Two other programs of major importance are the Crippled Children's Programs and the Programs for Mentally Retarded Children. The Title V Programs for Crippled Children under the Social Security funding serves about 500,000 children although the need ranges to possibly as high as 10,000,000. In mental retardation, programs have been under continuing resolutions since June 1974, and, as yet, it is uncertain as to what the funding will be for 1976.

The picture I have painted is not a bright one. What can be done? One must recognize that in today's complex world with a pluralistic approach to almost every situation, a pluralistic and complex answer must be found. Children do not vote and they do not form lobbying units. As a consequence, many more parents must be brought together, bolstered by a conviction that there are needs for their children which are now not being met. To do so will require the coalition of a wide group of people: those interested in health, in education, in recreation and so forth. No such effort exists at the present time and only sporadic interest seems to be present.

I would suggest that we need a national task force to look at children's education, children's health, and the preparation of children for their future role. Such an undertaking, I believe, should come from the private sector, bolstered by public funds. Once some plans are developed, new strategies will evolve for working with mass media and elements of government to strengthen our commitment. In no sense do I regard this as an easy task or something which can be accomplished in a year or two. Rather I would think this is at least a 10 year project which must be pursued from these many points of view. If one doubts the usefulness of this approach, one need only look at the efforts of veterans' organizations, senior citizens' organizations and labor organizations in achieving their goals. We must find ways to develop these kinds of large coalitions if the future for children from all walks of life is to be guaranteed and improved.

A CONCURRENT RESOLUTION ADOPTED BY THE SOUTH CAROLINA GENERAL ASSEMBLY

Mr. THURMOND, Mr. President, on February 17, 1976, the South Carolina General Assembly passed a concurrent resolution memorializing Congress to propose an amendment to the Federal Constitution to require that the total of all Federal appropriations may not exceed the total of all estimated Federal revenues in any fiscal year, with certain exceptions.

I would like to commend the South Carolina General Assembly for passing such a measure and thereby showing its concern for the need for balancing the Federal budget. If we are ever to attain economic stability, inflation must be brought under control. A buy-now, pay-later approach to Government, year after year, has not worked and will not work. We simply cannot spend more annually than our income each year. Congress must finally recognize that deficit spending breeds inflation, and that inflation, if it continues long enough, breeds the sort of economic chaos we now have.

On March 12, 1975, the Senator from Nebraska (Mr. CURTIS) introduced Senate Joint Resolution 55, of which I am a proud cosponsor. This bill was referred to the Judiciary Committee and later referred to the Subcommittee on Constitutional Amendments where hearings were held on September 23, 1975. I wish to urge my colleagues on this subcommittee to act and report this important piece of legislation out to the full committee. It is apparent to the General Assembly of South Carolina that this resolution is necessary, and I am sure that it is apparent to many others also.

On behalf of the junior Senator from South Carolina (Mr. HOLLINGS) and myself, I ask unanimous consent that this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

SOUTH CAROLINA CONCURRENT RESOLUTION

A concurrent resolution memorializing Congress to propose an amendment to the Federal Constitution to require that the total of all Federal appropriations may not exceed the total of all estimated Federal revenues in any fiscal year, with certain exceptions

Whereas, with each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues so that the public debt now exceeds hundreds of billions of dollars; and

Whereas, attempts to limit spending, including impoundment of funds by the President of the United States, have resulted in strenuous objections that the responsibility for appropriations is the constitutional duty of the Congress; and

Whereas, the annual Federal budget repeatedly demonstrates an unwillingness or inability of both the legislative and executive branches of the Federal government to curtail spending to conform to available revenues; and

Whereas, the unified budget of three hundred four and four-tenths billion dollars for the current fiscal year does not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

Whereas, as reported by U.S. News and World Report on February 25, 1974, of these nonbudgetary outlays in the amount of fifteen and six-tenths billion dollars, the sum of twelve and nine-tenths billion dollars represents funding of essentially private agencies which provide special service to the Federal government; and

Whereas, knowledgeable planning and fiscal prudence require that the budget reflect all Federal spending and that the budget be in balance; and

Whereas, believing that fiscal irresponsibility at the Federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is necessary to bring the fiscal disciplines needed to reverse this trend: Now, therefore, be it

Resolved by the House of Representatives, the Senate concurring: That the Congress be memorialized to add a new Article XXVII to the Constitution of the United States and requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated Federal revenues, excluding any revenues derived from borrowing, for that fiscal year; be it further

Resolved, That Congress is requested to call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Federal Constitution; be it further

Resolved, That the proposed new article read substantially as follows:

"PROPOSED ARTICLE XXVII

"The total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated Federal revenues for that fiscal year, excluding any revenues derived from borrowing and this prohibition extends to all Federal appropriations and all estimated Federal revenues, excluding any revenues derived from borrowing. The President in submitting budgetary requests and the Congress in enacting appropriation bills shall comply with this Article. If the President proclaims a national emergency, suspending the requirement that the total of all Federal appropriations not exceed the total estimated Federal revenues for a fiscal year, excluding any revenues derived from borrowing, and two-thirds of all members elected to each House of the Congress so determine by Joint Resolution, the total of all Federal appropriations may exceed the total estimated Federal revenues for that fiscal year."

Be it further

Resolved, That copies of this resolution be forwarded to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of Congress from South Carolina.

COMMITTEE ON LABOR AND PUBLIC WELFARE RULES OF PROCEDURE

Mr. WILLIAMS. Mr. President, in accordance with section 133B of the Legislative Reorganization Act of 1946, as amended, I send to the desk a copy of the rules of the Committee on Labor and Public Welfare, as adopted unanimously by the Committee on Labor and Public Welfare, as adopted unanimously by the committee on January 28, 1976, and ask unanimous consent that it be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[Senate Committee on Labor and Public Welfare, Harrison A. Williams, Jr., chairman]

Rules of Procedure (As Amended, Jan. 28, 1976)

Rule 1. Unless the Senate is meeting at the time, or it is otherwise ordered, the Committee shall meet regularly at 10:30 a.m. on the fourth Thursday of each month in Room 4232, New Senate Office Building. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2. The Chairman of the Committee or of a subcommittee, or if the Chairman is not present, the ranking Majority member present, shall preside at all meetings.

Rule 3. Meetings of the Committee or a subcommittee, including meetings to conduct hearings, shall be open to the public except as otherwise specifically provided in subsections (b) and (d) of Rule 25.7 of the Standing Rules of the Senate.

Rule 4. (a) Subject to paragraphs (b) and (c), one-third of the membership of the Committee or a subcommittee, actually present, shall constitute a quorum for the purpose of transacting business. Any quorum of the Committee or a subcommittee which is composed of less than a majority of the members of the Committee or subcommittee shall include at least one member of the Majority and one member of the Minority.

(b) No measure or matter shall be ordered reported from the Committee unless a majority of the Committee is actually present at the time such action is taken.

(c) A quorum as defined in paragraph (a) will be sufficient for ordering reported a measure or matter from a subcommittee; provided, that if any member present objects to so proceeding, the measure or matter shall not be ordered reported at such meeting unless a majority of the subcommittee is actually present at the time such action is taken. If, at any subcommittee meeting, a measure or matter fails to be ordered reported because of an objection to taking such action without a majority of the subcommittee actually present, the chairman of the subcommittee may, by giving notice of at least two calendar days during which the Senate is in session, call a subsequent meeting for the purpose of reporting such measure or matter, and at such subsequent meeting the subcommittee may proceed on the basis of a quorum as defined in paragraph (a).

Rule 5. With the approval of the Chairman of the Committee or subcommittee, one member thereof may conduct public hearings, other than taking sworn testimony.

Rule 6. Proxy voting shall be allowed on all measures and matters before the Committee or a subcommittee if the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure or matter from the Committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

Rule 7. There shall be prepared and kept a complete transcript or electronic recording adequate to fully record the proceedings of each Committee or subcommittee meeting or conference whether or not such meetings or any part thereof is closed pursuant to the specific provisions of subsections (b) and (d) of Rule 25.7 of the Standing Rules of the Senate, unless a majority of said members vote to forego such a record. Such records shall contain the vote cast by each member of the Committee or subcommittee on any question on which a "yea and nay" vote is demanded, and shall be available for inspection by any Committee member. The Clerk of the Committee, or the Clerk's designee, shall have the responsibility to make appropriate arrangements to implement this Rule.

Rule 8. The Committee, and each subcommittee, shall undertake, consistent with the provisions of section 133A of the Legislative Reorganization Act of 1946, as amended, to issue public announcement of any hearing it intends to hold at least one week prior to the commencement of such hearing.

Rule 9. The Committee or a subcommittee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours before a hearing, unless the Chairman and the ranking Minority member determine that there is good cause for failure to so file, and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee or a subcommittee. The Committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 10. Should a subcommittee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such subcommittee and report that fact to the full Committee for further disposition.

Rule 11. No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full Committee. No more than one subcommittee executive meeting may be held at the same time.

Rule 12. It shall be the duty of the Chairman in accordance with section 133(c) of the Legislative Reorganization Act of 1946, as amended, to report or cause to be reported to the Senate, any measure or recommendation approved by the Committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13. Whenever a meeting of the Committee or subcommittee is closed pursuant to the provisions of subsections (b) or (d) of Rule 25.7 of the Standing Rules of the Senate, no person other than members of the Committee, members of the staff of the Committee, and designated assistants to members of the Committee shall be permitted to attend such closed session, except by special dispensation of the Committee or subcommittee or the Chairman thereof.

Rule 14. The Chairman of the Committee or a subcommittee shall be empowered to adjourn any meeting of the Committee or a subcommittee if a quorum is not present within fifteen minutes of the time scheduled for such meeting.

Rule 15. Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or a subcommittee for final consideration, the Clerk shall place before each member of the Committee or subcommittee a print of the statute or the part or section thereof to be amended or repealed showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added.

Rule 16. An appropriate opportunity shall be given the Minority to examine the proposed text of Committee reports prior to their filing or publication. In the event there are Minority or Individual views, an appropriate opportunity shall be given the Majority to examine the proposed text prior to filing or publication.

Rule 17. Investigation Procedures.

a. The Committee, or any subcommittee, may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has not been authorized by majority vote of the Committee.

b. For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the Committee or subcommittee shall constitute a quorum: *Provided, however*, That with the concurrence of the Chairman and ranking Minority member of the Committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

c. The Committee may, by majority vote, delegate the authority to issue subpoenas to the Chairman of the Committee or a subcommittee, or to any member designated by such Chairman. Prior to the issuance of each subpoena, the ranking minority member of the Committee or subcommittee, and any other member so requesting, shall be notified regarding the identity of the person to whom it will be issued and the nature of the information sought and its relationship to the authorized investigative activity, except where the Chairman of the Committee or subcommittee, in consultation with the ranking minority member, determines that such notice would unduly impede the investigation. All information obtained pursuant to such investigative activity shall be made available as promptly as possible to each member of the Committee requesting same, or to any assistant to the member of the Committee designated by such member in writing, but the use of any such information is subject to restrictions imposed by the Rules of the Senate. Such information, to the extent that it is relevant to the investigation, shall, if requested by a member, be summarized in writing as soon as practicable. Upon the request of any member, the Chairman of the Committee or subcommittee shall call an executive session to discuss such investigative activity or the issuance of any subpoena in connection therewith.

d. Any witness summoned to testify at a hearing, or any witness giving sworn testimony, may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

e. No confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the Committee or subcommittee.

Rule 18. Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended or suspended at any time, provided, however, that not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 19. In addition to the foregoing, the proceedings of the Committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.

INTER-AMERICAN COOPERATION AIDS GUATEMALA

Mr. KENNEDY. Mr. President, for the people of Guatemala who survived one of Latin America's most devastating natural disasters life remains a sheer struggle to stay alive. Hundreds of thousands of disaster victims still seek refuge in the streets or in the fields. Entire communities have been cut off, roads destroyed and communications severed in many areas. And although the center of Guatemala City was spared, the surrounding areas and typically the poorest sections of the city and countryside were hardest hit.

Fortunately, a true spirit of inter-American cooperation is reflected in the international disaster relief effort underway in Guatemala.

The United States has already responded generously to the relief effort. Already over $4 million has been allocated by our Government, and soon Congress will act on additional rehabilitation and humanitarian aid legislation for the people of Guatemala.

Latin American nations have also responded quickly to the urgent needs of the millions of Guatemalan disaster relief victims. Venezuala has pledged $20 million to the relief program and has committed $5.7 million already to the OAS Emergency Fund. Other Latin American nations have pledged additional humanitarian relief assistance. They deserve the commendation of Congress and the American people, and I am hopeful that the continuing cooperation between our Government and the nations of Latin America toward this joint inter-American relief operation will bring about a return to a semblance of normalcy for the people of Guatemala in the very near future.

One of the most outstanding examples of this disaster relief alliance is the contribution of the Inter-American Development Bank to the relief program in Guatemala. Other inter-American relief and development organizations such as the Pan American Foundation have also offered their assistance.

Mr. President, I ask unanimous consent that a news release from the Inter-American Development Bank pledging aid to Guatemala, together with two newspaper reports describing several aspects of the relief program, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[News release from the Inter-American Development Bank, Washington, D.C., Feb. 5, 1976]

Bank Pledges Support for Guatemala Following Devastating Earthquake

Antonio Ortiz Mena, President of the Inter-American Bank, today expressed his deep concern and sympathy for the people of Guatemala following the devastating earthquake which struck that Central American nation in the early hours of Wednesday morning.

In a message to General Kjell Laugerud García, President of Guatemala, Mr. Ortiz Mena offered all support the Bank is able to extend on an immediate basis to alleviate the suffering of the earthquake victims.

In messages to President Laugerud García and to Jorge Lamport Rodil, Minister of Finance and Governor for Guatemala on the Bank's Board of Governors, Mr. Ortiz Mena expressed his concern for victims of the tragedy and pledged Bank financial and technical support for efforts to meet the present emergency and for subsequent reconstruction programs in areas affected by the quake.

Mr. Ortiz Mena's message read in part:

"Through Your Excellency I transmit our sentiments of solidarity with the people and the government of Guatemala."

The Bank's Board of Executive Directors, meeting in regular session today, heard a report on the damage caused by the earthquake, which also affected neighboring areas of Honduras and El Salvador. During the meeting the Directors approved a $7 million loan to help finance the expansion of small- and medium-sized industrial and tourism enterprises in Guatemala. The loan had been requested by the Guatemalan Government before the earthquake.

At the meeting, Mr. Ortiz Mena informed the Board of Directors that a Bank mission will leave for Guatemala tomorrow in order to discuss with Government authorities possibilities for additional cooperation by the Bank.

The Inter-American Bank has extended substantial support for the economic and social development of Guatemala in recent years. In 1975 the Bank approved loans totaling $120 million for development projects and programs in Guatemala, including four loans for $105 million for the construction of a 300,000-kilowatt hydroelectric power plant on the Chixoy River. This is the largest loan ever extended by the Bank in its 15 years of operations. Since 1961, the Bank has approved 34 loans for a cumulative total of $275.8 million for Guatemala.

The text of the messages of Mr. Ortiz Mena to the President of Guatemala follows:

"His Excellency, General Kjell Laugerud Garcia, President of the Republic of Guatemala.

"We are deeply concerned by reports of the substantial damage produced by the earthquake in your country. We are prepared to extend all aid that the Bank may provide on an immediate basis to help relieve the suffering of the people, as well as the technical and financial cooperation (required) to solve problems of a less immediate nature. Through Your Excellency I transmit our sentiments of solidarity with the people and the Government of Guatemala."

The text of the cable sent by the President of the Bank to the Governor for Guatemala read:

"His Excellency, Jorge Lamport Rodil, Governor of the Inter-American Bank, Minister of Finance, Guatemala.

"On receipt of first reports of the damage caused by the earthquake I offer all the aid that the Bank may extend on an immediate basis to help resolve your most urgent problems, as well as our cooperation in reconstruction. Receive our sentiments of solidarity and sympathy."

[From the Washington Post, Feb. 16, 1976]

Quake Disrupts Ancient Culture in Guatemala

(By Stuart Auerbach)

Chimaltenango, Guatemala, February 15.—He lay on his back in the U.S. Army's hospital tent here, his unshaven face contorted with strain as he tried to pull his ragged trousers on over the thick cast on his right leg.

Lazarus Gnai, who saw his wife die in the earthquake 11 days ago that killed 8,000 of this area's 20,000 residents and destroyed most of its buildings, wanted to return to his home and family.

His acute problem cared for, the Army doctors wanted to transfer him to a Guatemalan hospital in the town of Huehuetenango, about a hundred miles away. Gnai, a wiry Cakchiquel Indian who has never been more than five miles from his home here, worried that his eight children are alone without food, money or anyone to care for them.

Besides, moving him to Huehuetenango without family or friends would wrench him from the community that gives him his idenity. Without that identity, said Dr. Kent Campbell of the U.S. Communicable Disease Center who has served in Latin America, Gnai is nothing.

"The efficiency and necessity of a field hospital are clashing with the reality of an Indian culture that has a tremendous attachment to two things: family and places," said Campbell.

All Gnai wanted, he said in Spanish mixed with Indian is permission to go home for an hour to sell his cow to get money for food for his children.

"They have no money," he pleadingly told Fran Longo, a Peace Corps nurse from Albany, N.Y. "I don't even know if they have eaten. Here am I, and what are my children doing every day?"

Even though he is unable to walk, Gnai asked to be carried out of the hospital compound and left at the gate where he could flag a bus. Then he said he would catch another bus back in an hour.

But Miss Longo and the Army doctors knew he would probably never return. At least 50 patients have slipped away in the night from this 100-bed MASH-type Army field hospital rather than be separated from family and community.

And Friday, the first day the Army tried a mass evacuation of patients from here, some of the injured tried to roll off their litters to avoid being placed on the open truck for the four-hour ride to Huehuetenango. They were loaded anyway, with the help of Guatemalan soldiers.

This movement illustrates a wrenching apart of the thousand-year-old culture that may in the long run be one of the greatest tragedies of the earthquake, which left one in six Guatemalans homeless and killed more than 22,000 of its 6 million people.

Already there are signs that the close-knit Indian families are being torn asunder by the pressures of coping with the quake.

A man who said his wife had died in the quake left his three-month-old daughter, severely dehydrated from diarrhea, at the hospital last week because he said he couldn't care for her and his other children.

Some orphaned children have begun to beg in the streets, a practice not found as much in this country as in other Latin nations. For example, Ruth Costello, a Peace Corps nurse, said a boy around seven wandered into the Army hospital compound yesterday and tried to sell soldiers a rusty razor he had found. The boy said his entire family except for his eight-year-old brother—his mother, father, cousins, aunts and uncles—had died when their adobe house had collapsed on them.

In some remote villages, such as Patzun near Lake Atitlan southwest of here, American volunteers are noting the beginning of a "freebie" mentality that until now has been absent from Indians in this country, who make up half its population.

This tearing apart of the ancient Indian civilization—so tied to community that women in each village wear different designs on their blouses—is most vividly shown in the emergency hospitals.

At least 10,000 back-country Guatemalan Indians have been plucked from their villages by trucks and American helicopters and evacuated to emergency hospitals here, in Guatemala City and Huehuetenango.

"It's a tremendously wrenching experience," said Dr. Lee Huhn an American who has worked here four years. "I'm sure they are very much bewildered." It shows in the nights which ring with cries of "Dios mio"—"My God"—from patients who can't sleep despite sedatives. Unused to casts on broken limbs, patients try to scrape them off.

Somewhere in the village of San Martin three young children—the oldest five years old—are wandering around. Their father and four brothers and sisters died, and their mother Maria Flores is hospitalized with fractured ribs and pneumonia. She was taken from here to Huehuetenango, and there is no way for her children to join her.

"The big problem for this country is going to be getting people together again," said the Rev. James Carey, the Catholic chaplain for the Army hospital unit. "There are going to be a lot of lost children."

It's not the Army's fault. This unit is trained to offer sophisticated emergency field care—the kind that saved countless American lives in Vietnam and Korea—and then send patients back to other hospitals. And in this case they are working under the Guatemalan government, which is more concerned with immediate problems of food, water and shelter than with possible social disruption.

Still to be determined is the possible emotional damage from the quake and the more than 600 small tremors, which continue daily.

The newspaper Nacion reported that a woman in the city of Antigua, Francisca Strada Perec, set fire to herself after dousing her clothing with gasoline as a result of "psychosis provoked by the earthquake."

Adding to the emotional trauma is the breakdown of strong customs of burial and grief. Under the pressure of the large number of deaths, authorities have buried everyone in mass graves—which is repugnant to the local religions.

In some villages wild dogs have dug into the graves and dragged bodies into the brush. The villages reacted in an uncustomarily violent way. They took after the dogs with guns and machetes.

Psychiatrists who have studied the victims of previous natural calamities—the 1972 earthquake in Nicaragua, Hurricane Fifi in Honduras in 1974, and the Buffalo Creek, W. Va., floods in 1972—have noted that the inability of people to mourn their loved ones properly results in emotional problems later on.

In Honduras, people who were asked to move from areas that could be washed away by future hurricanes committed suicide rather than resettle, said Dr. C. J. Frederick, an official of the U.S. National Institute of Mental Health.

[From the New York Times, Feb. 22, 1976]

EARTHQUAKE RELIEF IN GUATEMALA APPEARS TO NEGLECT THE STRICKEN CITY SLUMS, AND POLITICS MAY BE A PART OF IT

(By Alan Riding)

GUATEMALA, February 18.—Sprawled beside an open sewer at the bottom of a 300-foot ravine the slum of Joya de Senahu is roughly the same size as many of the small towns to the north of Guatemala City that were destroyed in this month's earthquake.

But in the rush to help the wounded and hungry in the provinces, the 5,000 residents of Joya de Senahú and thousands more slum-dwellers throughout the capital appear to have been forgotten.

"At first, we feared the countryside might be ignored in favor of the city," Reginald Norton, the representative here of Oxfam-America, the relief organization, said "but now it seems the city is receiving less attention than it deserves."

From the aid supply center at the capital's international airport, helicopters and trucks continue to carry food, clothes, water tanks and even construction equipment to the towns and villages flattened by the Feb. 4 earthquake. And in almost every Indian settlement, foreign assistance groups are virtually competing to help the victims.

But in the unromantic and dusty slums of the capital, food and water remain in short supply, some wounded are still unattended and, above all, no government or private organization has dared face the dimension of the reconstruction problem.

This can be explained in part by the fact that only 1,000 of the 22,000 or more deaths caused by the earthquake occurred in the capital. With much of the city center unaffected by the disaster, it was easy to forget that marginal areas had been reduced to rubble.

But long-standing political rivalries and sociological prolems also emerged to complicate the relief operation.

While the right-wing Government coalition has enjoyed considerable backing in the countryside, the capital has been a stronghold of left-leaning opposition forces that have repeatedly won the mayoralty.

As a result, while the Government's National Emergency Committee claims to be nonpolitical, it has nevertheless refused to channel disaster relief to the city through opposition-dominated municipal organizations. Instead, food distribution in the slums has been left to a hard-working Mexican field kitchen, while most clothes, blankets, tents and construction tools have been dispatched to the provinces.

Then there is the sheer dimension of the problem of the city. In the provinces, the reconstruction of each town of 5,000 or 10,000 people can be tackled in isolation and limited expenditures can produce tangible results.

But in the capital, the collapse of some 60,000 houses has left 250,000 people homeless, crowded about and inside ravines on the periphery of the city where, under normal conditions, unemployment, violence and prostitution are high and health and living conditions are grim.

In Juya de Senahú, none of the shacks had running water before the earthquake, but now even the communal water tap has run dry. Women and children must climb a steep slippery path up the ravine to an emergency tank, which is also often empty when they arrive.

"The earthquake allowed people to see many problems that have always existed," Carlos Alberto Duarte, an auxiliary mayor, said. "Unless help comes now to attack some of the basic problems, people are going to live in temporary shacks for years to come."

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the alleged anti-Americanism of the United Nations in recent days has prompted some to call for a reassessment of the U.S. role in that international body. Those who question our continued support of the United Nations fear that U.S. ratification of the Genocide Convention will broaden the powers of the U.N. A more powerful U.N., these opponents argue, will be detrimental to the United States. I contend that U.S. ratification of the convention will not significantly alter the powers of the United Nations, and that our ratification will actually enhance our standing there.

Article VIII of the convention says that—

> Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

However, genocide already lies within the jurisdiction of the United Nations because it is an infringement upon human rights and a threat to world peace. The reference in article VIII to "action under the Charter of the United Nations" clearly establishes that the U.N. can at present discuss alleged genocide in any country whenever it wants. Article VIII does not enlarge the powers of the United Nations.

The importance of article VIII is in many ways representative of the significance of the whole Genocide Convention. By focusing specifically on genocide, each ratifying nation hopes to reinforce for itself and for its fellow nations the fight against genocide. I said earlier that U.S. ratification would enhance our standing in the U.N. The 84 nations which have signed the convention, and the others who have hesitated to do so because of our reluctance, will interpret our ratification as a measure of international good will. Ratification of the Genocide Convention will serve both to eliminate the horrendous crime of genocide and to enhance our own status in the international setting.

PRESIDENT MISREPRESENTS COMMITMENT TO EDUCATION

Mr. HUMPHREY. Mr. President, I am quite concerned that the President's fiscal year 1977 budget request for education fails completely even to keep up with our current needs. In essence, the budget request misrepresents the facts and is highly misleading. It is inflated by including 2 years of funding for vocational education, at $539 million a year, instead of a single year's funding as with other programs.

The administration has proposed the consolidation of the major programs of elementary, secondary, and vocational education, education for the handicapped, and library resources into a block or consolidated grant. This block grant proposal is similar to the education special revenue sharing consolidated grant proposals by the Nixon administration in conjunction with the budget requests for 1973, 1974, and 1975. I frankly cannot believe that the Ford administration is introducing this block grant request once again. They tried this last year, and they could not even find a sponsor in Congress.

I am committed to the belief that if Federal aid to education is to be effective, then State and local education agencies must be able to set priorities and determine where and how these moneys are to be spent.

But I take a decidedly different position from President Ford, in calling for fundamental changes in Federal aid to education.

First, and foremost, I strongly oppose President Ford's view of Federal program "consolidation" because his budget clearly translates that to mean "sharp reduction" or even "termination" of Federal assistance.

The President has suddenly changed his budgetary mind and now plans to propose a modest increase in educational spending to help sell his consolidation proposal to Congress. In light of the President's past vetoes and rescissions of appropriations enacted by Congress for education, it may be that this last-minute proposal will, at best, only cover cost increases due to inflation.

It is urgent that the Federal portion of public resources devoted to education be substantially increased—for the simple reason that education represents a vital national interest; it is a solid investment in a better future for the United States.

The increases that the President talks about in his proposed budget are actually decreases. It is important to note that the proposed budget computes spending "increases" by comparing proposed fiscal 1977 expenditures with the President's "revised" fiscal 1976 figures. These figures are meaningless since the administration's proposed rescissions have no chance of enactment by Congress, which already overrode a veto of education appropriations last September.

For example, the President claims an overall increase of $465 million of budget authority for education—from $6.4 billion in fiscal 1976 to a requested $6.9 billion in fiscal 1977. However, the real fiscal 1976 expenditure, the amount actually enacted by Congress, is $7.4 billion, not the $6.4 billion claimed by the President.

Therefore, instead of a $465 million increase, we have a $535 million decrease proposed by the President. Further, the President's budget message slashes away at other programs which meet the vital needs of people, such as health care for the elderly, unemployment compensation, and other human resource programs.

It is my strong belief that we must encourage sound educational and fiscal management. We must insure that the students of this Nation have equal opportunities to obtain a quality education. These should be the constructive functions of the Federal Government.

DAVID BRODER ON RICHARD NIXON

Mr. McGOVERN. Mr. President, I think the column in today's Post on Mr. Nixon by the distinguished columnist, David Broder, represents Mr. Broder at his eloquent and passionate best.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Feb. 25, 1976]

Nixon's China Trip: "Nothing Shames Him"

(By David S. Broder)

Boston.—This reporter is about to break a promise to himself not to write another word on the subject of Richard Nixon. The utter shamelessness of the man—his willingness to exploit and corrupt every institution and relationship of which he has ever been a part—has become so blatant that one would think it would not require comment.

But Nixon goes blithely on his way, demonstrating again in his incredible journey to Peking that there is nothing, absolutely nothing he will not do in order to salvage for himself whatever scrap of significance he can find in the shambles of his life.

Nixon's entire political career was a ceaseless scramble, first for advancement and then for rehabilitation. To his native intelligence, he added a dogged determination and single-minded ambition that propelled him with extraordinary speed from the House to the Senate to a highly visible post just a heartbeat away from the presidency.

Defeated for President by John F. Kennedy in the 1960 campaign, after an effort for which he needed to offer no apologies, Nixon might have retired into a useful role as titular leader of his party and indulged his growing interest in foreign affairs.

Instead, he plunged into a disastrous campaign for governor of California, trumping up a thoroughly phony "Communist" issue and employing the same shabby tactics that later came to be known as "dirty tricks" in his 1972 presidential race.

After that second defeat in California, Nixon might again have been thought ready to subside into a useful private role—but no. In 1964, he tried to maneuver himself into the presidential nomination and in 1968, finally persuaded his party to give him another chance at the White House.

Although he and his chosen campaign manager, John Mitchell, almost contrived to lose an election it seemed for the Democrats to win, Nixon at long last fulfilled his obsessive ambition and gained the presidency.

But possession of power proved as dangerous for him as the pursuit of power. In short order, Nixon and his cohorts had set about the subversion of the institutions and processes of government in the elaborate scheme that culminated in the effort to rig the 1972 election by use of a secret White House police force.

When that scheme was exposed, by accident, at Watergate, Nixon launched a desperate struggle to retain the power he had gained. Knowing full well, from the very start, what his guilt and complicity had been he nevertheless subjected his country to a two-year ordeal, during which his administration was shattered, his political party disgraced and the capacity of the government he headed to deal with the nation's real problems completely frustrated.

If there is any other act of personal selfishness by an American President that carried such high costs for the self-regard and self-confidence of our people, it does not come to mind.

Finally, when he was exposed as the fraud he was and forced to resign in the face of certain impeachment, his successor—a decent man who had defended Nixon far past the point of political prudence—granted him a pardon that spared Nixon the prospect of indictment and trial.

This reporter thought—and wrote—at the time that the public outcry against the pardon was wrong, believing, with Mr. Ford, that it was time to put Nixon and all he represented behind us. I believed, naively, that even a Nixon would have the decency to disappear from public view and reconstruct what remained of his life in private, instead of exploiting the country further for his own needs.

That was naive, for this man is utterly without shame. Within a year of his disgrace, the words from San Clemente indicated clearly that he was contriving his reappearance in public life.

The Chinese Communists have now given him his excuse, and Nixon has seized it, with typical disregard for the consequences.

That his trip is an enormous political embarrassment to the President who pardoned him is inconsequential to Nixon. That his first words in Peking were a repudiation of the Helsinki agreement and the policy of detente which he himself had willed to Mr. Ford, along with Secretary of State Kissinger, in no way discomfited Nixon.

Nothing shames him; nothing deters him. Nothing ever has and nothing ever will. So, in utter frustration and with no belief whatsoever that anything will influence him, I break my vow of silence on the subject of Richard Nixon and say: Sir, you presume too much on the patience of your country. Enough is enough.

FUTURE FARMERS OF AMERICA CONTINUE TO DRIVE TO AID CAMP COURAGE

Mr. HUMPHREY. Mr. President, I wish to share with my colleagues a heartwarming article in the Farm Journal entitled "Corn Drive for the Handicapped," by Kathy Frank Chesney.

This article describes the efforts by the Minnesota Future Farmers of America in conducting an annual corn drive which is designed to raise money for Camp Courage.

Camp Courage is designed to give handicapped youth an opportunity to improve their skills and have fun at the same time.

Each fall the FFA's publicize this event which now raises about $100,000 a year for Camp Courage. The first such event was held in 1953, and the effort turned over $90 for the camp.

Minnesota FFA Executive Secretary W. J. Kortesmaki says, "Young people also need to learn about cooperating with people and about helping others."

This FFA drive is an unique undertaking and a splendid opportunity for young people to work together to help those less fortunate. I commend this effort, and I am delighted that the Farm Journal included it in its February issue.

Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Corn Drive for the Handicapped

(By Kathy Frank Chesney)

Once each fall farmers in Minnesota expect, even welcome, a raid by an army in blue. Donald Lutteke, who farms in Freeborn County, knows that between sunup and sundown on a certain day a truck will streak out to the cornfield and stop conveniently close to the end of his rows. Inside the truck, blue-jacketed boys know that Lutteke's combine hopper will be emptied into their truck instead of his wagons when he pulls up to unload.

They drive off with his corn. But Lutteke doesn't shoot at the "bandits." Instead, he starts four more rows, with a broad grin and a good feeling inside.

The good feeling radiates to others involved in the Minnesota FFA's annual Corn Drive. The fellow who loaned his truck to the FFAers has it. The corn buyer who pays a few cents over market price has it. The boys have it. And finally, people who really need help have it—when the FFA turns over the proceeds to Camp Courage, Minnesota's residential camp for physically handicapped people.

"Living to Serve" is part of the FFA motto. If you have wondered how important service really is in the FFA, come to Minnesota. Here, they mean it. "We can over-emphasize making a living," contends executive secretary of the Minnesota FFA, W. J. Kortesmaki. "Young people also need to learn about cooperating with people and about helping others." The Corn Drive teaches it. It's been molded and tested since 1953 when the Freeborn FFA held the first Corn Drive and turned over $90 to Camp Courage.

"The first day of school, students ask me the date of our Corn Drive," says Lynn Steenblock, FFA adviser at Montevideo High School. That chapter has led the state in collections for the past three years.

The FFAers spend only a day collecting, shelling and selling the corn, but planning and publicity take weeks. Senior advertising students make signs heralding the drive and place them in business establishments that farmers patronize. Other students schedule time with local radio, interviewing children who have attended Camp Courage or a representative of Courage Services. "We generate about two weeks of radio publicity and run big articles in town papers the week before the drive," Steenblock explains. "We have two chairmen, a junior and senior," he says. That way, one always has a year of experience.

The Montevideo FFAers set up 20 collection routes. (Some chapters use school bus routes.) They borrow 20 pickups and two trucks. In 1974, they collected 1,000 bushels of corn and $1,200 in cash donations—agribusinessmen and some farmers donate cash—for a total contribution of $3,900. In '75, when corn averaged around 80 bushels per acre in the area and sold for less per bushel, the final sum was $3,400.

Views Steenblock: "In the Corn Drive, students learn to serve, yes, but more than that. They discover leadership in themselves; learn to communicate with people they don't know; learn how to sell—Camp Courage *and* the FFA."

They also learn by doing, as Rudy Kezele, Elk River adviser, points out: "My only involvement was a little organizing. In 1974, the 24 Elk River FFAers collected 45 tons of corn. Each student put in 15 hours of his, or her, time. Why? They are appreciated for what they are doing, and they take pride in it," Kezele explains.

Scott Bendix, president of the FFA chapter at Echo, relates first-hand: "I met people I never knew before. It gives the chapter prestige within FFA and respect within the community. And it gives me a good feeling of accomplishment." There it is again—*good feeling*.

In most fund-raising projects, those who contribute and those they help never meet. They do in Minnesota's Corn Drive. "The FFAers can visit the handicapped children they have helped at Camp Courage and see what happens, see what their corn built," points out Kortesmaki, the executive secretary in Minnesota.

They see children with speech and hearing impairment learning to communicate in the Speech and Hearing Therapy building at Camp Courage, paid with Corn Drive money. A youth with a speech impediment put it this way: "At Camp Courage I learned to speak so people stopped saying, 'I can't understand you.' "

FFA also fosters better communications for the handicapped by funding a ham radio training school. This opens the world to those who are confined to the loneliness of a room or a house.

Corn Drive funds support two Travel Camps each year, where disabled adults leave their nursing homes or parents' homes and take a trip, sometimes as far as the Rockies.

Each summer the FFA sends 300 handicapped children and adults to Camp Courage where they spend a week or two on the wooded shore of Cedar Lake. Said one teenage camper, "I never dreamed there was a place where I could feel so at ease and so wanted by everyone. I always thought my mother was the only one who could handle me. I found out differently." She matured years in those two weeks.

A final project made possible by the energetic ag students is the production of an award-winning new film, "Faces of Courage." It emphasizes that the handicapped are, on the inside, as normal as everyone else. It shows how Camp Courage helps them gain the experiences necessary for a full, near-normal life. Interested groups may borrow the film, free, from Courage Center, 3915 Golden Valley Rd., Golden Valley, Minn. 55422.

And after the FFA students have seen all this, they truly have learned how to serve and how to live, as well as how to make a living. Do you have a project that accomplishes all that?

THE VITAL ROLE OF THE RSVP PROGRAM

Mr. WILLIAMS. Mr. President, as the ranking member and former chairman of the Special Committee on Aging, I have long maintained a vital interest in the development and proper maintenance of programs serving the needs of America's elderly citizens. I have been particularly concerned that older people have significant opportunities available to them for serving their communities in a meaningful fashion.

The retired senior volunteer programs—RSVP—now serving hundreds of localities throughout the Nation have proven themselves to be immensely successful in this regard. Volunteer workers 60 years of age and older are contributing their vast experience, special knowledge, and finely honed sensitivity to augmenting the function of public agencies and private nonprofit organizations serving individual communities. Senior volunteers are currently lending their skills to schools, courts, libraries, museums, hospitals, nursing homes, day care centers, institutions, and programs for shut-ins. Many times I have seen the marvelous work of these volunteers in visits I have personally made to pediatric wards, institutions for the mentally and physically handicapped, aged-care facilities, and homes for neglected youth.

Again and again, Congress has received reports of the valuable role senior volunteers are playing in towns, cities, and counties throughout America. A New Jersey library director has written me of the "dedicated work" and "indispensible contribution" of a group of retired volunteers working at his library. A nursing home employee in Burlington County, N.J., has written me that—

> Help like RSVP volunteers give can not be bought; these people give of their love, time, and selves.

Letters received by the Special Committee on Aging further document the important work senior volunteers are performing on behalf of their communities. A nurse writes:

> All of the Senior Volunteers' achievements and contributions aid us in promoting the operation of our hospital in a more advantageous manner.

The director of two day care centers writes:

> Because of our senior citizens, we have been able to provide an additional area of enrichment for our children in the centers.

And the managing attorney of a legal services program writes:

> Because of the RSVP Volunteers . . . and the competent and gracious assistance they are giving to us, we are able to serve a much larger number of clients in a much more professional atmosphere than would ever be possible in their absence.

Countless other examples affirm that senior volunteers are serving their communities, and serving them well, in a variety of volunteer activities.

Senior volunteers themselves derive important benefits from their participation in RSVP programs. Community work can recapture and preserve human abilities and provide a sense of personal satisfaction in one's own value to other human beings. Numerous RSVP volunteers have written me of their desire "to be an important person in society" and how their volunteer work in RSVP programs has helped to fulfill this desire. RSVP programs have proven an important utilization of human resources, benefiting both the volunteer and the community.

Although it may seem callous to think of RSVP in terms of return on investment, I think the value that is derived from this program by both the volunteer and the community would be hard to match by any comparable federally funded program. I would like to enter here for the record the cost and accomplishments of the Cape May RSVP program in my home State of New Jersey. Volunteers are reimbursed, if they choose, for their carfare and one meal a day. As may be seen from a summary of their activities and their cost, the contribution of 29,522 man-hours in 1975, at a total cost of $4,744.91, or 16 cents per hour, provided incomparable value for the cost.

Recently, many RSVP administrators have contacted me with regard to the difficult problem they face in obtaining sufficient local funding to meet the requirements established by the Federal-local funding formula. A recent survey of organizations and institutions to which senior volunteers have been assigned, revealed that two-thirds of the volunteer stations would be forced to eliminate services or activities if the contribution of these volunteers was for some reason curtailed. The crippling economic conditions that have plagued the United States have sharply curtailed the economic resources of local governments. As a result, many countries and municipalities are finding that they are increasingly less able to apportion scarce revenues to maintain ever more costly services programs at present levels. Private sources of funding have similarly been affected by the present economy.

Given the current economic squeeze which local jurisdictions are experiencing, it is extremely unrealistic to expect that they will be able to meet the requirements of the Federal/local RSVP funding formula; as presently established, this formula requires local funding to increase its percentage of the total cost at a time when it is difficult merely to maintain the current share of local support.

I, for one, feel that Congress must address this problem and find an appropriate solution that will enable the important work of RSVP volunteers to continue. The value of RSVP programs has been amply demonstrated by the impressive record of service compiled by the more than 170,000 volunteers now participating in almost 700 local projects throughout the Nation.

The importance of the programs may perhaps be best understood, however, in the words of the following letter I received from 48 elderly residents of a New Jersey nursing home served by RSVP volunteers:

> You would have to be someone who has and continues to benefit from RSVP to really understand they are wonderful people . . . so willing, so helpful, so cheerful . . . we look forward to their visits . . . they give us the love and consideration of our own families . . . we love these people.

I ask unanimous consent to have printed in the RECORD certain statistics and sample letters in connection with this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPENDIX 1.—SUMMARY OF STATISTICS

RETIRED SENIOR VOLUNTEER PROGRAM OF CAPE MAY COUNTY, N.J., 1975

Name of volunteer site or station	Number of volunteers assigned during year	Number of hours served during year	Total direct expenses to support volunteers, i.e., meal and mileage reimbursements	Cost per hour	Value of volunteer work at minimum wage ($2.20) for exemplary purposes
Action line	1	97	$11.50	0.118	$213.40
B. T. Memorial Hospital	36	2,796	826.00	.295	6,151.20
Chamber of Commerce	1	29	0	0	63.80
ARC unit	1	19	15.60	.821	41.80
Crest Haven	8	1,425.5	0	0	3,136.10
Foster School	1	251.25	104.50	.416	552.75
Marine Sci. Con	3	358.5	152.00	.424	788.70
Millman Center	19	7,924.5	1,222.90	.154	17,433.90
Mill. Center (Nut.)	15	6,962	1,279.80	.184	15,316.40
Office on Aging	1	41.5	$16.00	.386	91.30
Star of Sea School	6	291.25	25.00	.086	640.75
St. Joseph School	4	414.5	62.06	.150	911.90
Victorian Towers	18	2,973.5	72.50	.024	6,541.70
Wwd. Nut. site	29	5,863.5	948.05	.162	12,899.70
Wwd. Service Center	1	75	9.00	.120	165.00
Total	144	29,522	4,744.91	.160	64,948.40

APPENDIX 2

Summary of work performed by senior volunteers at volunteer sites/stations during 1975. (This listing serves as a sample of *some* of the duties performed by Senior Volunteers at various sites. It is by no means complete.)

Actionline—perform clerical work, filing, answer telephone, operate office machines.

Burdette Tomlin Memorial Hospital—work in thrift shop, gift shop or snack bar; make and keep records. perform visitor control duties, operate book cart or gift shop wagon; visit lonely patients, assist in moving patients within hospital; perform clerical duties; assist generally where needed.

Chamber of commerce—answer visitor questions; give directions; perform office duties as required.

Unit for retarded citizens—perform secretarial and office work.

Crest Haven Nursing Home—assist with crafts/recreation activities; serve coffee or food to patients; make friendly visits to residents; assist generally where needed.

Foster school—work with children tutoring on a one-to-one basis; clerical work.

Marine sciences consortium—answer telephone; perform clerical and secretarial work; paint and perform maintenance work.

Millman center—maintain records, answer telephone, maintain library, inform new visitors/residents of activities, work with crafts groups (items made are sold to benefit the Center or other charitable or nonprofit organizations, or may be donated to such organizations); perform income tax preparation assistance.

Nutrition program for the elderly sites (2)—set up tables for meals; serve food; clean up, assist in concurrent recreation/activities programs; maintain records; deliver meals to homebound participants.

Office on Aging—assist with preparations and arrangements for Senior Citizens Month or other special activities.

Schools—teacher's aides; work tutoring children on one-to-one basis; library work; secretarial/clerical work; assist in lunchroom, at recess, with after-school clubs; assist with theatrical productions; operate/maintain audio-visual equipment, etc.

Victorian Towers—with Social Service Group, help to make items for donation to wide variety of charitable organizations, including Crest Haven, ARC, Vineland VA Hospital, etc., or, individually, persons perform telephone outreach work, supervise activities etc.; telephone answering for Towers.

Wildwood Service Center—group performs work similar to Victorian Towers Group.

LETTER FROM 48 GUESTS OF MACFARLAND NURSING HOME, BURLINGTON, N.J.

How can anyone let a wonderful agency like RSVP go down the drain, and this is what will happen if something is not done. I am a guest at MacFarland Nursing Home in Burlington, New Jersey. The RSVP's volunteers are wonderful people, so willing, so helpful, so cheerful. We look forward to their visits. They give us the love and consideration of a member of our own family (should do but usually most of the time our own families forget us but RSVP never does). We love and need these people.

Please help them by supporting continuous level funding and a lower community share of 25% instead of 50% after 5 yrs.

You would have to be someone who has and continues to benefit from RSVP to really understand. They are wonderful people and we love our volunteers. Please help them.

In July the legislation for RSVP funding will be coming up. Please support our cause, etc., a worthwhile one.

LETTER FROM GERTRUDE ANCHAK, BURLINGTON, N.J.

Let a wonderful agency like RSVP continue, please don't allow this agency to close. Help like RSVP volunteers give cannot be bought; these people give of their love, time, and themselves.

In 1974 RSVP came to Burlington County, N.J. They sponsor the Visiting Homemakers Home health aide of Burl. Co., are doing great work. RSVP helps senior citizens to feel like they are wanted—on both ends—the volunteer and the one who receives their services.

Communities cannot financially support RSVP's 50%. I urge you to support a lower community share of 25% instead of 50%. *Please* again I ask you to help this cause. It is indeed a great one.

Letter from Mr. Morris McNinney, Burlington, N.J.

Please do what you can to help RSVP of Burlington County, New Jersey.

They are a wonderful outfit. Please support cont. level funding and a lower community share of 25% instead of 50% after 5 yrs.

P.S. the legislation for RSVP funding will be in July—please support cont. level funding and a lower community share of 25% instead of 50% after 5 yrs.

LETTER FROM MR. JEREMY B. CLARK, EXECUTIVE DIRECTOR, CAPE MAY COUNTY RETIRED SENIOR VOLUNTEER PROGRAM, NEW JERSEY

Because of your constant interest in the welfare in activities of Senior Citizens and because of your support of the Retired Senior Volunteer Program, I thought you might be interested in the enclosed copy of our First Annual Report of Volunteer Activities.

Had it not been for the considerable federal monies supporting this Program by ACTION, we could not have achieved near the success which I feel we have.

Please do not hesitate to contact me if you have any questions or comments concerning the Retired Senior Volunteer Program of Cape May County.

LABOR'S POLITICAL POWER

Mr. GOLDWATER. Mr. President, the March issue of U.S. News & World Report has a very interesting article, "Union Strategy for Putting Man They Want in White House." Naturally, labor, like any assembly of people, has its preferences for President, but I suggest that the leaders of labor have no more right to pick one man to be the President than the head of any corporation has that privilege. Reading this article will indicate why many of us are concerned about labor's power in the political field. I reiterate what I have often said: The laboring man not only has a right, he has a duty in the political field, but his bosses do not have the right to extract money from him and give it to whomever they care to give it to as long as they feel they will control the legislative bodies or the elected officials to whom they give it.

I recommend that my colleagues in the Senate and those who might read the RECORD on the outside look at this article closely because it spells out how millions of dollars will be spent in an effort to defeat any Republican candidate for President with any Democrat candidate the boys upstairs choose. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNION'S STRATEGY FOR PUTTING MAN THEY WANT IN WHITE HOUSE

BAL HARBOUR, FLA.—Leaders of some of the country's most powerful labor unions are shaping a strategy to elect a Democrat as President in November.

As a central feature of this plan, organized labor intends to maneuver itself into the driver's seat at the Democratic National Convention in New York City.

The plan is this: Fill the meeting with so many union-picked delegates that they can coalesce to swing a deadlocked July Convention to a candidate of their choice.

The unions will also draw on reserves of manpower and money—contributed voluntarily by members—to back favored politicans for seats in Congress.

KEY PRINCIPLE

A hint of labor's strategy shows up in the fact that many union presidents who would already have given their support to a presidential candidate in past election years have kept themselves uncommitted this time. The guiding principle is not allegiance to any individual aspirant for the White House but rather the goal of sending the maximum number of union members to New York City as delegates to the Convention.

"We're not gung-ho about any single candidate," remarks Walter J. Burke, secretary-treasurer of the United Steelworkers, the AFL–CIO's largest affiliate. His union is backing one presidential contender in New Hampshire, a second in Arizona, a third in Texas and a fourth in Pennsylvania. None of them is the man Mr. Burke and I. W. Abel, Steelworker president, would prefer to see nominated. However, each candidate is willing to put Steelworkers on delegate slates.

"We really want Hubert Humphrey," says Mr. Abel.

Actually, Senator Humphrey is considered a good bet to benefit from any sudden switch of hundreds of labor union delegates' votes at a deadlocked convention. Although he is described as an "active noncandidate" at present, he is labor's sentimental favorite.

And AFL–CIO President George Meany, who claims neutrality in the nominating campaign, said after a meeting of the AFL–CIO Executive Council here in mid-February that Mr. Humphrey could be elected President more easily than any other Democrat.

Labor's strategy is not without peril, however. Its success hinges upon a deadlocked or "brokered" Convention. Only then would unionists elected to represent half a dozen different Democrats be free to switch to another candidate chosen by a "labor caucus." But if one of the contenders were to get a first-ballot nomination, he might owe little to union help in putting him over.

A few union presidents say a brokered Convention plan is doomed to failure. They urge their fellow unionists to take sides at once.

"Unless we move, we'll see Jimmy Carter grab the nomination," says Edward J. Carlough, president of the Sheet Metal Workers International Association. "Right now, too many of us can't make up our minds on time. If we're going to be leaders, we have got to get off the fence."

Mr. Carlough, along with several other presidents of construction and maritime unions, supports Senator Henry Jackson. But commitment to a single candidiate remains a rarity among labor leaders.

"Ed Muskie led Leonard Woodcock and Jerry Wurf and God knows how many others down the primrose path in 1972," says William Welsh, political director of the American Federation of State, County and Municipal Employes. "We learned then not to try to run these things from the top."

Glenn E. Watts, president of the Communications Workers of America, argues for putting unionists on the slates of many different Democrats because "we can't agree right now on a single person to support."

UNIONS' POLITICAL WAR CHESTS—A SAMPLING

[Examples of union contributions to Presidential and Congressional candidates last year, and funds on hand at the beginning of 1976]

	1975 political spending	On Hand, Jan. 1, 1976
United Auto Workers	$148, 652	$978, 184
Communications Workers of America	213, 315	178, 910
Marine Engineers	173, 384	273, 113
Marine Engineers Pensioners	401, 982	78, 784
International Association of Machinists	238, 893	256, 269
Teamsters	53, 975	7, 394
Seafarers International Union	138, 457	69, 353
Masters, Mates & Pilots	37, 536	491, 293
United Transportation Union	185, 884	411, 705
United Steelworkers	71, 075	458, 225
National Education Association	107, 699	176, 385
United Mine Workers	5, 839	17, 486
International Ladies' Garment Workers	223, 926	229, 717
Amalgamated Clothing Workers	30, 495	45, 000
American Federation of Teachers	6, 763	64, 566
AFL-CIO Committee on Political Action	614, 116	51, 431
American Federation of State, County and Municipal Employees	50, 525	12, 082
Total		3, 799, 330

JOINT EFFORT

The Communications Workers and eight other politically liberal unions are spearheading the drive to get union members picked as delegates for a number of candidates. The Labor Coalition Clearinghouse, as this group is called, also includes the Federation of State, County, and Municipal Employes, the United Auto Workers, the National Education Association, the United Mine Workers, the International Association of Machinists, the Graphic Arts International Union, the International Union of Electrical Workers and the Oil, Chemical and Atomic Workers. Their combined membership is 6 million persons—about a third of the entire labor movement.

Political directors of these nine unions confer regularly to exchange information and work out joint strategy: Should they all support a single candidate in a State? Or split two, three or five ways? What can be done to get union members on the Convention floor as delegates?

For Florida's March 9 primary, the Coalition unions are behind Mr. Carter as the best hope to defeat Alabama Governor George Wallace, who is anathema to most union leaders.

For the March 2 primary in Massachusetts, these same unions have lined up member support on behalf of several candidates—thus insuring that the unions will be well represented among Convention delegates from Massachusetts, no matter who wins in the primary. In Indiana, where Senator Birch Bayh is favored, the Coalition is united on his behalf.

Other unions are employing these same tactics independently.

DIVISIVE REACTION

But signs of disunity and possible trouble ahead are visible. Mostly, they involve Mr. Carter, who is less well known to union leaders than others among the moderate and liberal candidates.

A small but vocal opposition to Mr. Carter is developing among unionists.

Richard Murphy, legislative director of the Service Employes International Union, distributed at the Bal Harbour meetings copies of a letter written by Mr. Carter to the National Right to Work Committee in 1971, soon after he became Georgia's Governor. In it, Mr. Carter stated his desire to retain the Georgia right-to-work law, which bans compulsory union membership. Mr. Carter now says he would sign legislation repealing such State laws.

Mr. Carlough, of the Sheet Metal Workers, claims a Carter nomination would split the labor movement just as did George McGovern's candidacy in 1972. The AFL–CIO refused to endorse Mr. McGovern for election.

"Carter and Wallace together can determine the national ticket," says Mr. Carlough. "All the guys here who think Humphrey or Ted Kennedy will come out of the wings are dreaming."

For every detractor, though, Mr. Carter appears to be winning two admirers. Says Mike Miller of the Communications Workers: "He'll telephone a union president at home in the evening and say, This is Jimmy Carter. Any time you have suggestions, or criticisms of my campaign, just call my home in Georgia. My family will pass the message and I'll return the call at once.' It's damned effective."

ON OTHER FRONTS

While the pre-Convention maneuvering is going on, the AFL–CIO's Committee on Political Education (COPE) is gearing up for the November elections.

Its mission, besides ousting Gerald Ford from office, will be to preserve the present Democratic majorities in the House and Senate.

COPE Director Alexander Barkan proclaimed to one meeting of top union officers, "COPE at this time is organizationally in the best condition ever for the beginning of an election year."

One measure of COPE's strength is the money generated by it and the AFL–CIO unions. Increasingly, these funds are not going to favored candidates directly but are used to finance campaign activities on their behalf by union members. The American Federation of State, County and Municipal Employes has graduated 2,000 members and officers from week-long "schools" of electioneering since 1973. Other unions are training their members to perform nuts-and-bolts political chores, too. Says Rachelle Horowitz, political director of the American Federation of Teachers:

"Any fat cat can give away more money than the AFT. But in one evening a teacher can make 50 phone calls to other teachers or union members for a candidate. You can't buy that."

EVER-BUSY COMPUTER

To help these volunteers, a computer in COPE's Washington headquarters now operates around the clock, seven days a week. Inside it are the names of 14 million union members and their spouses. At the touch of a button, this computer churns out lists showing who is registered to vote and who is not—giving their names by union affiliation and by city or even by the side of the street on which they live.

In this manner, organized labor is rolling up its sleeves to play a dominant political role in 1976.

RECESS UNTIL 12 MERIDIAN

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 12 o'clock noon.

There being no objection, the Senate, at 10:59 a.m., recessed until 12 meridian; whereupon, the Senate was called to order by the Presiding Officer (PHILIP A. HART).

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DAYLIGHT SAVING TIME ACT OF 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 2931, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 2931) to provide for daylight saving time on an 8-month and 1-week basis, beginning with the first Sunday in March and ending with the second Sunday in November, for a 2-year period beginning with the first Sunday in March of 1976 and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Time for debate on this bill is limited to 3 hours, divided and controlled equally by the majority and minority leaders, with 1 hour on any amendment in the first degree, 30 minutes on any amendment in the second degree, debatable motion, appeal, or a point of order, with the vote on final passage to occur at the hour of 3 p.m.

The pending question is on amendment No. 1411, which the clerk will state.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) for himself and Mr. HUDDLESTON and Mr. TALMADGE propose amendment No. 1411.

The amendment is as follows:

On page 2, line 4, strike out: "first Sunday in March" and insert in lieu thereof "last Sunday in April".

On page 2, lines 5 and 6, strike out: "second Sunday of November" and insert in lieu thereof "last Sunday in September".

Mr. FORD. Mr. President, I ask unanimous consent that Frank Barton of my staff be granted privileges of the floor during all considerations of the so-called daylight saving time bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. With time to be charged to neither side?

Mr. FORD. Neither side. It does not make any difference.

The PRESIDING OFFICER. We will charge time equally.

Mr. FORD. That will be fine.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON). Without objection, it is so ordered.

Who yields time?

Mr. MAGNUSON. Mr. President, I yield to the distinguished Senator from Kentucky.

Mr. HUDDLESTON. I thank the distinguished chairman.

Mr. President, I recognize that when we are talking about the times and the various zones across the United States, we are really engaged in what can be called, in the classic sense, a true dilemma, because it is clear that what is best and most convenient for one section of the country is not best and most convenient for another section of the country. So it seems that our responsibility is to try to resolve these differences in the best interests of the majority of the people and balance the pluses and the minuses as they may apply to any given area of the United States. For that reason, I have joined my colleague from Kentucky, Mr. FORD, in offering the amendment that is now pending to the daylight saving time bill.

It is important to point out that in our State of Kentucky, we, No. 1, are split into two different time zones. Second, a major portion of our State lies in the westernmost end of the Eastern time zone. Consequently, the sun, in its travels across the universe, arrives in Kentucky some 52 minutes after it arrives on the eastern shore. So, in effect, we have in this section of the country already 52 minutes out of the 60 minutes that daylight saving time is supposed to add for a specific area.

Therefore, by imposing the additional hour of daylight saving time on top of that, we get out of sync with the normal working habits of our area.

I think it is reasonable to expect that this probably applies to the extreme ends of other time zones as well.

So we have a situation in which it is impossible to say that a particular plan will apply equally to all sections of the country. We have had the experimental daylight saving time year-round, which was brought about in the hope that it would result in some saving of energy.

It was a noble experiment, but one which has already been proven to be of very little significance as far as effecting any substantial savings of energy.

The Department of Transportation study on the experimental daylight saving time extension found very little energy savings under year-round daylight saving time. So I think we can rule that out as a legitimate reason for continuing an experiment which, in my judgment, would demonstrate very little in additional definitive information relating to that particular problem.

The Department of Transportation did make one significant finding that relates to what this amendment is trying to do. The Department noted that in some months daylight saving time created considerable problems and they recommended that at least 4 months of the year be exempted from daylight saving time. We think that more than 4 months ought to be exempted because in some areas of the country the same problems that are attendant to many sections of the country in the dead winter months are attendant in the early winter and late winter months. This is the reason that my colleague and I are offering this amendment to have daylight saving time apply beginning with the last Sunday in April and through the month of September. There are some very substantial and tangible reasons why we think this ought to be done.

Certainly, the danger to school children, who must stand out in the dark, waiting for school buses, is a very valid concern.

Mr. MAGNUSON. Will the Senator yield on that point?

Mr. HUDDLESTON. I yield.

Mr. MAGNUSON. I appreciate what the Senator has said. My State is very strong for daylight saving time for recreation. But some localities will still have problems no matter what the result is today on this bill. So we all ought to encourage the Department of Transportation, which has the authority, to take a good, long look at these time zone boundaries. They have the right to change them. Sometimes, I think that the boundaries should be drawn east-west, instead of north-south. But there is not any easy answer.

There is no sense in having States cut in half by time zones. The State of Alaska has five time zones. The State of North Dakota is cut right down the middle, and Indiana and the Senator's State are divided into two time zones.

Mr. HUDDLESTON. That is correct.

Mr. MAGNUSON. I think we all ought to pursue, no matter what happens here today on this bill, the idea of having the Department of Transportation work out something that is more sensible for time zones boundaries.

Mr. HUDDLESTON. I think the Senator's point is well taken. The time zones, as he knows, were set many years ago, to accommodate railroads.

Mr. MAGNUSON. Oh, yes, to accommodate railroads. Now they accommodate airlines.

Mr. HUDDLESTON. The transportation situation, plus our improved communication system, may make it an entirely different matter now.

I think that question needs to be addressed, as the Senator from Washington pointed out.

Mr. MAGNUSON. With the help of the Senator's distinguished colleague, who is a member of our committee, we will be active in asking the DOT to come up with some new ideas about the time zones.

Mr. HUDDLESTON. I think that might be a positive step. It may well be that we need only three time zones in the United States.

Mr. MAGNUSON. We cannot stop the Sun, but we can work out a little better way to live with it.

Mr. HUDDLESTON. Nobody has been able to stop the Sun and, contrary to what some people seem to assume when we are dealing with daylight saving time, nobody can add any daylight to the day either.

Mr. MAGNUSON. No, we can only change the clock, one way or the other.

Mr. HUDDLESTON. That is correct.

That points up, really, another problem. Back to the school children question, we have, in our State at least, a situation that has exacerbated that problem by the fact that now we are busing many more students than we had been, some 20,000 extra in the city of Louisville. They are also subject to early darkness as they prepare for their schoolday. As a matter of fact, many of them have to be in school before daylight, under the daylight saving time provision, in the month of April.

Mr. MAGNUSON. Who was it in mythology who tried to control the Sun and had his wings burned off and just dropped from the sky? I forget the name of the fellow.

I wanted to make the point that I think part of this controversy is concerned with the time zones and their boundaries.

Mr. HUDDLESTON. I suggest that this would be a problem to proceed on.

The farmer, too, in our area has a difficult problem to contend with. This problem, many times, is downgraded by some of my city residents. They think that there is no reason that he cannot adjust his schedule, too. But actually, there is a reason. If he is to employ people to work on his farm, they want to work the same hours by the clock that other people work. The clock and the Sun not being synchronized according to the needs of the farmer makes that a very difficult proposition.

Second, if industry, businesses, and the services and goods that the farmer needs are closing at the normal time, say 5 o'clock in the afternoon, and the Sun is still 3 hours up in the sky, the farmer has a difficult time adjusting his schedule to leave the field and get to the town and make his purchases before closing time. This is a hardship to him and causes him economic difficulty.

The point I want to make, Mr. President, is that the effects of daylight saving time in the late fall and early spring months are real. They are tangible things that the people who are affected by them—the schoolchild and the farmer—are faced with every day. Every day when he gets up and throughout his day, he has to contend with this problem. It is for these reasons, principally, that I believe daylight time ought to be shortened from the last Sunday in April through the month of September, as the amendment that we have presented here would do. I think we shall have a better daylight saving time bill if this happens. We would be left with the summer months, when there is enough daylight, so that hours on the clock do not preclude it at either end of the day.

You can get up in the daylight and go to bed in the daylight, too, if you want to, in the summertime. But in other months, for children, for farmers, and for others who have to contend with the clock in their area being out of synchronization with the Sun, it is a real and pressing problem.

I urge, Mr. President, that the amendment be agreed to by the Senate.

Mr. STENNIS. Mr. President, may I have the attention of the Senator from Kentucky?

Mr. FORD. I yield to the Senator as much time as he needs under the amendment, Mr. President.

Mr. STENNIS. Mr. President, I thank the Senator very much.

This is a matter that, naturally evokes a difference of opinion among the people and among the membership here. Everyone, of course, is acting in the utmost good faith. With all deference, Mr. President, we do not have a bill before us now that has anything about rezoning or changing the time problem by rezoning. The only thing this bill affects is the daylight saving time proposition. If I had my "druthers" on it, I should like to see it go back to the regular law, and that will automatically happen if we do not pass any bill—that is, 6 months of the daylight saving and 6 months of the regular time.

We have this bill before the Senate, and I am not complaining about that. I support the amendment though offered by the Senator from Kentucky, as being more realistic than the bill itself.

We have tried—we have switched back and forth, and we have tried—this method for saving energy, and we found out it did not appreciably—that was the official conclusion—save any appreciable amount of energy. We did find out though that unmistakably in some areas of the Nation, at least, including my own, the long period of daylight saving increased the accident rate, particularly in the morning and particularly with reference to schoolchildren.

Now, as I say, I do not know how it was in other parts of the Nation, but that is the experience that we had, and I have heard of it in other places.

So I hope that is something to be avoided as much as possible.

It seems to me we have just got to get something here that does the most good and the least harm and accommodates the most people. So, by and large, throughout the Nation—and I am more familiar, of course, with the lower Mississippi Valley area, but throughout the Nation—it seems clear to me that on balance more good would come from this division as the Senator from Kentucky proposes generally of 7 and 5. If that amendment is not agreed to, I hope we can defeat the bill and put at rest this in and out, out and in, back and forth, change every year or every 2 years.

As I said, the present law would go back into effect at the end of the temporary law, and we would have the 6 months each way.

The most good, and also under the test of the least harm—and I have not heard much proof, much claim, that any harm is going to come in making it nearer an equal division of this daylight time. It might be some added pleasures for some, but there is an offsetting hardship for others. But as to any general harm to the country, I have not heard any substantial proof of that along that line.

I do not think we would ever have changed this law back from what was settled law or settled custom more or less except in an effort to try to save energy, and that is where we got off the track. Let us put it back on the track, and let it run on in its more even, more smooth way, and with more good to more people and less harm to the people, and let it be a signal that we, under the present general facts, are not going to be fooling with this law again every year or two. Adjustments have to be made, but so far as this amendment is concerned, a great deal of adjustment would not have to be made to go under its provisions which, I hope, will be adopted.

If the amendment is adopted I will support the bill, as amended, in a token of compromise. If it is not adopted, I will renew my opposition to the bill.

I again thank the Senator for yielding to me.

Mr. FORD. Mr. President, I thank the Senator from Mississippi for his support of this amendment.

I yield myself such time as I may need on the amendment.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, I made most of my remarks on the bill and on this amendment on Monday.

I shall reiterate two or three items that I believe are important. I believe these items are a thread through each amendment that has been presented, and the concern of the Members of the Senate as it relates to daylight saving time.

We hear much from the survey by the Department of Transportation. But, when you take those who are undecided in that percentage and those who prefer a change back to an even 6 and 6—and I agree with the Senator from Mississippi that 6 and 6 would be acceptable—but you take those who do not like daylight saving time, those who are undecided, and put those two groups together in most every region of this country you have a majority.

Now, they say almost 2 to 1 want daylight saving time.

Mr. STONE. Mr. President, will the Senator yield for a brief observation?

Mr. FORD. The Senator will yield for a brief observation.

Mr. STONE. In an extended period of daylight saving time, the situation early in the morning beset the school children in north Florida to the extent that the Orlando Sentinel, our leading newspaper in the Orlando area, used to run a banner headline at the time we had the daylight saving time in the early period, and the banner headline said, "Save Children, Turn Your Porch Lights On."

Now, the Senator from Florida would like to ask the Senator from Kentucky whether that type situation, which requires a leading newspaper to urge citizens to turn on their porch lights to protect little kids from getting injured in the street, is calculated to save energy to the country?

Mr. FORD. I would say to the Senator from Florida it is not. I think the Department of Transportation study has several faults in it. Even with that, the saving of energy was so minute that it was not a factor to be reckoned with. They used the TVA area of their distribution of energy as one of the criteria, and they failed to take into consideration that TVA serves only the eastern side of a time zone not the western side of a time zone, and they failed to go to Louisville Gas & Electric, for instance, to talk to their people. They will tell you the lights go on earlier, the heat goes up during the coldest time of the morning, and more energy is used rather than a reduction in energy.

I might say to the distinguished Senator from Florida that Florida was mentioned in the survey, in the study, and that just because 5 or 6 young people were killed in Florida during the early hours of the daylight saving time, during the daylight saving time period, the daylight saving time had nothing to do with it.

But when you take February and March in the State of Florida—and if I am wrong the Senator will correct me—I know you have a lot of fog, you have inclement weather, and the people from DOT and from the National Safety Council admitted it was more dangerous for children going to school in the rain, the mud, and the fog during the light, and so a safety factor is imposed here by not having the early hours of daylight saving time or early months of daylight saving time.

Mr. STONE. Mr. President, if the Senator will permit me, I think the logic that it is more dangerous to go to school in the dark than it is to go to school in the light is almost irresistible.

[Laughter.]

Mr. MAGNUSON. Mr. President, will the Senator yield, because I have to leave in just a few minutes?

Mr. FORD. Is the Senator going to use time under the bill?

Mr. MAGNUSON. Yes, not on the Senator's time.

Mr. FORD. Mr. President, I yield to the distinguished Senator from Washington.

Mr. MAGNUSON. I just wanted to say there has been no increase in traffic fatalities since this bill has been enacted nationwide, and those that have been mentioned have all taken place not within the daylight saving period but at other times during the day, and these are the best figures that we get: there is no apparent statistical evidence of a national daylight saving time impact on fatal accidents involving schoolchildren during March and April.

These are all the figures we were given.

Mr. FORD. Will the Senator yield for a question on that point?

Mr. MAGNUSON. I know there is an argument about this.

Mr. FORD. I want to know if they specify the hours like 7 to 8, 8 to 9, 9 to 10, or just the average.

Mr. MAGNUSON. During March and April.

Mr. FORD. What about during the times of day?

Did they take the hour of 7 to 8 and gage that against the year previously, or did they just take the total number of fatalities for those months and say that there has been no change?

Mr. MAGNUSON. There was no change during the hours of schoolchildren traffic affected by daylight saving time.

Mr. FORD. I understand.

Mr. MAGNUSON. The Department of Transportation and the National Safety Council said there was no change. The National Safety Council, which keeps track of this, said that its information concerning schoolchildren fatalities during the hours—I think this will answer your question—6 a.m. to 9 a.m., and 3 p.m. to 6 p.m., for the months of March, April, October, and November, 1972, 1973, and 1974.

The Council presented these data because it involved the time frames of going-to-school hours and the coming-from-school hours in the months critical to the daylight saving time.

The National Safety Council says there has been no change.

Mr. FORD. The chairman of the National Safety Council attended a hearing. I am going to find his statement and look at it.

Mr. MAGNUSON. Yes.

Mr. FORD. I do not think the information the Senator is giving here includes the last year.

Mr. MAGNUSON. I do not know. All that we have is the information provided by these experts.

On the energy matter, I must say, frankly, I do not know whether it saves 1 percent or no percent at all.

Mr. FORD. Neither does the Department of Transportation.

Mr. MAGNUSON. But I do know that due to the life style of the American people they want daylight saving of some kind.

We are arguing about whether it should be in March and April.

Mr. FORD. When this bill is passed we will have some kind of daylight saving time. I underscore "some kind."

Mr. MAGNUSON. As we go further north from Florida, up through Puget Sound, more people want it and more people want more of it.

As I said earlier—I do not know if the Senator was here or not—I think sometimes we ought to ask the Department of Transportation to look at time zone boundaries.

Mr. FORD. Why do we not call this bill off and let them make that study? I would be willing to go back to 6 and 6 while they make that study.

Mr. MAGNUSON. I have a very close relative, in fact it is our daughter, who has two youngsters, our grandchildren, one is now 6, one is 9.

She wrote me a letter about this going to school in the morning, but, at the same time, she wants to have an additional hour of daylight when her husband gets home at 5:30 in the evening. They want to go out fishing or playing tennis.

Mr. STONE. Mr. President, if the Senator will yield, did his granddaughter want the daylight saving time hours, or not want it?

Mr. MAGNUSON. We do not know. She wants it both ways.

Mr. STONE. Well, that is the way it is.

Mr. MAGNUSON. I merely wanted to put these figures in.

The figures in some cases, as the Senator from Kentucky points out, are not exactly the last statement on what is happening. But I think, overall, the bulk of the American people want it and we are arguing about 2 months.

If the Dole amendment is presented, which is 7 and 5, we are talking about 2 weeks one way and 2 weeks the other way.

The bulk of the American people—the bulk of them, the great majority—seem to have been satisfied with the 8 and 4 system in 1975.

The further north we go, the better we like it, because a big part of daylight saving, a big important part to the American people, is recreation; to have a little more time in the evening.

If we never had an energy shortage, I still think this bill would be worthwhile for that.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I am about to propound a unanimous-consent request which I hope will meet with the approval of all concerned and which I think very likely will.

Mr. President, I ask unanimous consent that beginning at the hour of 2 o'clock the Senate turn to the consideration of two amendments to be offered by the Senator from Kansas (Mr. DOLE); that the time period for consideration of those two amendments be 50 minutes to be equally divided between the manager of the bill, the Senator from Washington (Mr. MAGNUSON), and the sponsor of the two amendments (Mr. DOLE).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask unanimous consent that for the remaining 10 minutes of that hour, the hour between 2 and 3, specifically from 2:50 to 3 o'clock, that there be a debate on the pending amendment, the time to be equally divided between the manager of the bill and the Senator from Kentucky (Mr. FORD).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. First, I should notify the Senate that there may well be rollcall votes on both of the Dole amendments. There will undoubtedly be a vote on this amendment. There will be a vote on final passage, and it will follow in sequence, one vote after the other.

I ask unanimous consent that the vote on the Ford amendment occur at the hour of 3 o'clock and that it be a 15-minute vote under the usual conditions; that the vote on the two following amendments be 10 minutes apiece because they will be back to back, and that the vote on final passage be a 10-

minute vote because it, likewise, will be back to back.

In other words, four votes in a row.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **MANSFIELD.** Following the disposition of the pending business, then we will revert, under the agreement entered into, to S. 507 on which there is a one-half-hour limitation on the Hansen amendment on which there will be a rollcall vote. It is my understanding there will also be a rollcall vote on final passage.

After the disposition of the Hansen amendment, the vote will occur immediately on final passage.

So we have six votes in a row, the way it looks at the present time, but the last two votes will, of course, be 15-minute votes on S. 507.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **MANSFIELD.** Mr. President, I ask for the yeas and nays on the pending amendment.

The **PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **MANSFIELD.** Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the Dole amendments, the Hansen amendment, and on final passage of both bills, with one show of hands.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **MANSFIELD.** Mr. President, I ask for the yeas and nays on the Dole amendments, the Hansen amendment, and on final passage of both bills.

The yeas and nays were ordered.

ADDITIONAL STATEMENTS SUBMITTED ON S. 2931

Mr. **TALMADGE.** Mr. President, I was opposed to imposing daylight saving time on a year-round basis.

I am opposed to imposing daylight saving time for 8 months of the year.

My reasons for opposition to this proposal are the same today as they were in the winter of 1973, when the 12-month daylight savings plan was stampeded through the Congress at the height of the Arab oil embargo.

That action was a prime example of Congress leaping before looking.

Before we leap again, let us look at the record.

Only 12 Members of the Senate voted against year-round daylight saving time.

Mine was one of those 12 votes.

The bill was wrapped in all kind of rhetoric about how it would conserve energy.

It apparently was anticipated that the American people would welcome such action with open arms.

It was rushed pellmell into enactment.

Then came the moment of truth.

It did not conserve energy to any substantial degree.

People did not warmly receive daylight saving time in the winter months.

They hotly opposed it.

Members of Congress got the message when they went home for the December-January recess.

In March, 12-month daylight saving time was repealed.

We are now being offered a warmed-over concoction of essentially the same dish.

The American people had no appetite for it in the first instance and I don't believe their taste has changed.

The 8-month daylight saving time proposal offers more of the same.

It is much ado about nothing.

This legislation is not needed, except perhaps as a convenience for people who seek additional daylight hours for recreation at the end of the day.

That is a perfectly legitimate desire.

However, its principal fault lies in the fact that it ignores the concern of many more people, particularly parents who are fearful of putting their children on the street or a country road in rain, sleet, or snow, in the dark of morning, to await transportation to school.

That concern, the concern of parents for the safety and welfare of their children, ought to override any other consideration.

The validity of that concern was tragically demonstrated by the increase in school bus accidents in the aftermath of the 1973 fiasco.

Extending daylight saving time into fall, winter, and early spring months endangers the lives and health of schoolchildren.

If there were no other reason, that one would be sufficient for me.

To claim that the extension of daylight saving time will conserve fuel and energy is to indulge in fantasy.

Factories operating on two or three shifts will consume the same amount of energy.

People getting up to go about their business while it is still dark have to turn on lights.

When it is cold, they have to turn up the heat.

That does not save energy.

It costs energy.

It is one thing to argue that 8-month daylight saving time will be a convenience to some people.

I can understand that.

But let us not be deluded into believing it will save any significant degree of energy.

The fact is, Mr. President, this legislation is hazardous to untold millions of schoolchildren.

I suggest we learn from our mistakes of the past.

I suggest we save ourselves the trouble of having to come back and correct another error.

We can do so by defeating this bill now.

Mr. **HRUSKA.** Mr. President, the legislation now before us would extend daylight saving time to 8 months and 1 week each year. This is an unwise and unneeded bill.

As my colleagues are aware, since the Arab oil embargo of 1973, this Nation, and the Congress, have been grappling with the serious problem of how to make the most of our energy resources. One of the several attempts to deal with this situation resulted in putting the entire Nation on fast time for 2 years.

Many Nebraskans have made their views known to me on the issue of extended daylight saving time, and the overwhelming majority oppose it. In the words of one mother:

> It is just too early to send our children to school.

Other Nebraskans have been upset by the change daylight saving time caused in their work habits.

We of rural America are morning people. Many of the day's activities are accomplished in the waking hours. This legislation, by eliminating an hour of daylight in the morning, adversely affects our work habits. That lost hour cannot be made up at the end of the day, as every farmer knows. There are certain farm chores that must be done in the early part of the day, whether in darkness or light, which cannot be altered by an act of Congress. It is no wonder that Nebraskans have never liked this kind of manipulation. I do not blame them.

Mr. President, the experiment enacted by the Congress in 1973 has not proven itself worthy of being continued. We have made schoolchildren arise in the dark for the sake of energy conservation—and at what gain?

Is the benefit to be derived from the small savings of energy envisioned under S. 2931 worth the discomfort and inconvenience it would cause to our school-age children and their mothers? It is not. Forcing small children to leave their homes before dawn will not solve the energy shortage. Our priorities must be truly askew to think that it ever would.

The proposal embodied in this bill is being thrust upon this Nation without a thorough examination of its consequences. Only 1 day of hearings was held on this legislation, on November 13, 1975. That clearly is not enough.

Perhaps there was a need for experimentation such as contained in the bill approved in 1973. Now, however, after several years—and great inconvenience to many citizens—the proponents of this legislation claim that further experimentation is needed to prove that extended daylight saving time is beneficial. This Senator cannot agree with those conclusions. We have given extended daylight saving time a chance, and it has not been a success. We should not continue to give our approval to what has proved to be a worthless endeavor.

Before adjourning last December, the Congress approved legislation continuing the bankrupt policy of price controls on crude oil, promising an end to such controls more than 3 years in the future. The Congress thus ignored the opportunity to enact true energy-saving legislation which could have put this Nation well on the road to energy independence. Having bypassed that opportunity, however, I am shamed that this body has taken to tinkering with time in an effort to correct its failure.

All we do here today is tinker with time. And for what purpose? To achieve a minuscule savings of energy and to provide a human laboratory for some bureaucrat in the Department of Transportation to test his theories on daylight saving time. This bill could result in a possible reduction of only 1 percent in electricity usage for 2 months of the year, according to the Department of Transportation. A grand projected savings of less than 0.1 percent in home heating oil is foreseen as well. These figures indicate the folly of attempting to achieve measurable savings of energy through enacting changes in time law.

One of the supposed benefits of this legislation is to increase the percentage of the voting populace participating in the electoral process next November. A noble goal, Mr. President. I cannot believe, though, that an added hour of daylight offers the slightest inducement to vote. Surely, this bill is a prime example of why people are absent from the voting booth at election time.

For these reasons, Mr. President, the long shadow of extended daylight saving time should not be cast over this Nation once again.

Mr. CLARK. Mr. President, I oppose the daylight saving time bill reported by the Senate Commerce Committee because I believe it provides for few benefits and many inconveniences.

Massive studies have been done on the subject by the Department of Transportation. They indicate that a miniscule amount of energy may be saved by extending DST by 2 months and that there is little conclusive evidence of other benefits.

My mail and the people I have talked to in Iowa indicate that most people in my State would prefer the traditional 6 months of standard/6 months of daylight saving time system that we have returned to in the last few months, and I support the continuation of that system.

But, frankly, I think it is time we stopped playing around with daylight saving time. Many people have expressed many opinions to me on this subject. But the overriding feeling is that they wish we would not keep changing it—from 6-month DST to year-round DST to 8 months to 6 months and now, according to this bill, back to 8 months for 2 years after which we will discuss it again.

Why do we have to keep experimenting, keep people wondering what will happen next year, keep wasting the Senate's time? The 6-month DST/6-month standard time system seems to provide a workable compromise between people who strongly support DST and those who just as strongly oppose it.

Mr. President, I believe we should defeat this bill and accept the present system—permanently.

Mr. PELL. Mr. President, I am glad to support S. 2931, the Daylight Saving Time Act of 1976. Senator STEVENSON and the other members of the Commerce Committee are to be congratulated for their efforts in bringing this matter to the floor.

In the 93d Congress, along with my distinguished senior colleague from Rhode Island (Senator PASTORE), I was proud to sponsor a bill to provide for daylight saving time on a year-round basis. I have long believed that there are substantial benefits to be derived from our Nation's observance of daylight saving time throughout the year.

Although S. 2931 only provides for DST during a 8-month and 1-week period, from the first Sunday in March to the second Sunday in November, on a 2-year trial basis, I am nevertheless convinced that the measure deserves the support of the Senate. It is a step in the right direction.

According to the mandate of the Emergency Daylight Saving Time Energy Conservation Act of 1973, the Secretary of Transportation was to report to the Congress with his findings on the 2-year DST experiment. The findings contained in the Secretary's study are most instructive, Mr. President, and serve to reinforce my belief that DST is a most worthwhile venture for this country.

The Secretary recommended a 2-year extension of daylight saving time to allow a further study of DST's effect on our Nation, but over an 8-month period rather than the present 6-month system.

The basis for recommending an extension of daylight saving time nationwide is substantial, Mr. President. The evidence cited by the Secretary bears out this contention: A 1 percent savings in electricity for the months of March and April; a reduction in automobile fatalities of approximately 0.7 percent; a substantial decrease in violent crime. Furthermore the fear of increased danger to school children in the morning hours has fortunately not been realized. In fact, the Secretary found no detrimental aspects to the expanded use of daylight saving time during those winter months and widespread public approval.

I am pleased that the committee has adopted much of the Secretary's report in S. 2931 and especially allowed for additional study of its impact. Such a study, I believe will provide further evidence of the need for daylight saving time on a year-round basis.

Mr. TAFT. Mr. President, I rise today to oppose passage of this legislation.

I have seldom seen an issue where opinion in my State has been so united. The primary reason for this strong opposition arises from the fears of parents sending their children to school in the dark in the morning.

When this experimental program started, working parents had to rearrange their schedules as they wanted to drive their children to school in the dark while they were able to walk in the daylight. This also causes increased consumption of gasoline in our State. This may be off balance in some other areas as we noticed the Department of Transportation's study doesn't indicate any appreciable saving, one way or another.

Ohio is on the western side of the eastern time zone, so when daylight reaches the east coast, there is still another hour of darkness in Ohio.

I know that all Americans are aware of our energy crisis. We need to take significant steps to become independent of foreign energy sources.

The people of Ohio are willing to take any meaningful step in this direction, but every study has shown that year-round or 8-month daylight saving time produces little real energy savings.

The final report on daylight saving time issued by the DOT states that the imposition of 8 months daylight savings time versus 6 months would only bring a reduction of electrical load of 1 percent. Now, this is not meaningful energy savings.

This saving of 1 percent of our electricity consumption translates into sixtenths of 1 percent of our daily consumption of 17 million barrels of oil per day.

Again, I repeat, this is not meanginful energy legislation.

I believe that the Congress is trying to enact a total energy program that will include deregulation to encourage exploration of new oil and gas, the establishment of a strategic oil reserve, an expanded research effort into new energy sources.

I support this effort and I believe the people support this program. However, they are unwilling to take token steps that do more harm than good.

Eight-month daylight savings time is such a token piece of legislation that will do more harm than good in getting public support for energy conservation.

In reviewing the final report on daylight savings time, it is clear that there is no real advantage to its approval.

While each agency states that there would be no harm from passage, none states any significant advantage.

I can assure you that parents of schoolchildren see one very large disadvantage and that is sending their children off to school in the dark.

Another, of course, of the major factors which ought to be of concern, I believe, particularly in view of our economic problems in this country and essentially economic problems in the construction industry is the fact that construction workers are greatly handicapped by this inconvenience in hours, whereas you say on the western side of the time zone you either work in the dark or change your hours to those which are desirable, and that does not coincide with the other working hours that they have tried to coincide with.

I can only state once again that there is no significant energy savings provided by 8-month daylight savings time and I hope we in Congress will allow the 6-month program to once again be the national policy, and defeat this bill.

ORDER EXTENDING TIME FOR FILING ANNUAL REPORT OF THE SPECIAL COMMITTEE ON AGING

Mr. CHURCH. Mr. President, under terms of Senate Resolution 62, reported last July 23, the Senate Special Committee on Aging is required to submit its annual report by February 29 of this year. I ask unanimous consent, however, to delay filing of the report until April 2, in order to permit discussion in the report of recent significant events related to Federal policy on aging and in order to allow minority members adequate time for study.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

RECESS UNTIL 2 P.M. TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate, at 12:50 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Stafford).

DAYLIGHT SAVING TIME ACT OF 1976

The Senate continued with the consideration of the bill (S. 2931) to provide for daylight saving time on an 8-month and 1-week basis, beginning with the first Sunday in March and ending with the second Sunday in November, for a 2-year period beginning with the first Sunday in March of 1976 and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise.

The PRESIDING OFFICER. The Chair in his capacity as a Senator from the State of Vermont suggests the absence of a quorum and instructs the clerk to call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PASTORE. What is the time element in this particular case?

The PRESIDING OFFICER. The Chair is advised that the Senator from Kansas was to be recognized for the purpose of calling up two amendments, on which the Senator has a total of 50 minutes.

Mr. MAGNUSON. Mr. President, if the Senator will yield, may I inquire? There was a unanimous-consent request made by the majority leader about the voting. Will the Presiding Officer state the time of voting, both on the Dole amendments and the amendment of the Senator from Kentucky, on which the yeas and nays have already been ordered?

The PRESIDING OFFICER. The Chair is advised by the Parliamentarian that at the hour of 3 p.m. a vote will occur on the amendment of the Senator from Kentucky (Mr. Ford), on the two amendments of the Senator from Kansas (Mr. Dole), and then on final passage of the bill. There will be four rollcall votes.

Mr. MAGNUSON. That is beginning at 3 p.m.?

The PRESIDING OFFICER. Yes. The Chair understands the first vote will be a 15 minute vote and the succeeding votes will be of 10 minutes duration.

Mr. PASTORE. I yield the floor.

Mr. DOLE. Mr. President, I suggest the absence of a quorum with the time to be charged equally.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. Dole) proposes an amendment.

Mr. DOLE. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 4, delete "first" and insert in lieu thereof "second";

On page 2, line 6, delete "November" and insert in lieu thereof "October";

Mr. DOLE. Mr. President, I am offering an amendment today that would provide for 7 months of daylight saving time and 5 months of standard time. The 7-months daylight saving time would last from the second Sunday in March to the second Sunday in October.

This amendment is an effort to achieve a compromise between the present law providing for 6 months of daylight saving time and the bill S. 2931, as reported by the Senate Commerce Committee, which provides for 8¼ months of DST.

This compromise amendment seeks to take into consideration the problems a longer period of daylight saving time would cause for small groups within the population, as well as provide some additional daylight saving time for the convenience of what may be the majority of the population.

Several groups specifically have objections to extending the daylight saving time period. As this Senator understands, an extension of daylight saving time is opposed primarily by farmers, by construction workers and construction companies, by most radio broadcasters and by parents with schoolchildren who wait for schoolbuses in the morning.

The main message this Senator has received from a great many people is simply that most Americans would like to have a clear and permanent policy on daylight saving time. They would like the Congress to agree upon a single clear policy and avoid changing the daylight saving time period from year to year as we have in recent years.

I am sympathetic to that popular demand and feel that this public concern makes it even more likely that any daylight saving time period agreed upon here will become the permanent policy for this country. Even though this bill is specifically limited to only 2 years, it seems highly probable that the period agreed upon by the Congress will be extended indefinitely at the end of the 2-year period.

So it is my feeling that the time period we agree on here in the Senate today will have a long term effect. This makes it even more vitally important that we adopt a policy that provides consideration for the majority of the people, yet that does not ride roughshod over the interests and the rights of smaller groups of the population.

My compromise amendment providing for 7 months of DST gives moderate change. The 8-month and 1-week-period of DST, as provided in the committee bill, is a more radical and more drastic change that, in my opinion, would cause some severe hardship for several parts of the population during certain periods of the year.

EFFECT ON FARMERS

The farm population has traditionally had difficulties with daylight saving time and has opposed any extension of DST. Farmers have the problem of going to work in the dark during the early spring and late fall months that are under daylight saving time.

The impression of this Senator is that anyone who works outside for a living has a problem with extending daylight saving time in early spring or late fall because of the difficulty of working in the dark when they begin work in the morning.

As in the case of dairy farmers, milk cows must be milked according to when the Sun comes up and the Sun goes down. Milk cows do not change their routine according to the way Congress sets the daylight saving time period. Milk cows cannot advance their routine by 1 hour just because we have a different policy. If a dairy farmer establishes the routine of milking his cows at sunup he must adjust his entire day 1 hour later under daylight saving time in order to correspond to the habit his cow herd is in. Obviously this can cause difficulties for dairy farmers as they try to adjust to the rest of society that is going to work and closing down 1 hour earlier. The problem is especially severe for farmers on the western edge of a time zone where sunrise comes late anyway and where the effect of advancing the clock under DST is to have a double daylight saving time.

In many cases when a farmer is still working in full daylight in the afternoon the businesses in town are already closed down. Let us say a farmer is rushing to complete his harvest, for example, and he happens to have a part break on his combine, he may then have a great deal of difficulty in getting a new part because the shop in town has already closed even though a large portion of the working day is still remaining for the farmer.

So the net effect for the farmer is a severe hardship that may not result for a majority of the population. While a longer daylight saving time period may be convenient for a majority of the population, the degree of difficulty for farmers and other small groups may be relatively more severe than is the degree of benefit for the populace at large.

The American Farm Bureau Federation, the Farmers Union in Kansas, the Grange and the National Milk Producers Federation have indicated support for the 7-month amendment over the present bill.

SAFETY IN CONSTRUCTION

As this Senator understands, a similar problem exists for the construction industry.

We have been in touch with construction workers and construction companies in Kansas, as well as representatives of the construction industry here in Washington. My understanding is that the proposed extension of daylight saving time is not an overwhelming problem for those in the construction industry. It is simply a small, but significant problem that is bothersome both for construction workers and construction companies. Under the 8 month and 1 week proposal reported by the Commerce Committee, many construction workers would find it is still dark in the morning when they arrive at the construction site. Without corrective action and even in some cases with corrective action, the early morning hours of darkness under daylight saving time create an additional safety hazard for construction workers.

The early morning hours of darkness created by daylight saving time can be dealt with in at least two ways. One possibility is that the project sight can be lighted with floodlights. This, of course, causes an additional expense and requires the additional use of electricity or some other form of energy which is contrary to the energy saving goals of daylight saving time; the second solution is to start work an hour later. This kind of adjustment is simply a headache for management and labor alike. It causes workers to get off the job an hour later during certain periods of the year which tends to disrupt their living habits.

The understanding of this Senator is that this amendment would greatly reduce the difficulties of darkness during early morning hours under daylight saving time. As I understand, the greatest difficulties occur in late October and early November, as well as early March under the 8-month bill. Under the 7-month compromise daylight saving time would not begin until the middle of March and would end in the middle of October which avoids the problems under the beginning and ending weeks of the 8¼-month approach.

As with farmers, most of those in the construction industry would probably prefer to stay with the present 6-month approach. However, the compromise 7-month amendment I am offering would be preferable to an 8 month and 1 week bill.

I have material from the Associated General Contractors of America in support of this amendment, which I ask unanimous consent to have printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Associated General
Contractors of America,
Washington, D.C., February 24, 1976.

Hon. Robert Dole,
U.S. Senate,
Washington, D.C.

Dear Senator Dole: The Associated General Contractors of America is a national business association representing more than 8,000 general construction firms. These firms perform about 60 percent of the annual contract construction volume of the United States. Our membership represents the full range of the construction industry, including the construction of highways, buildings, municipal-utilities projects and heavy and industrial facilities.

We would like to take this opportunity to express our support for your proposed amendment to S. 2931, the Daylight Saving Time Act of 1976. It is our belief that standard time should be marked during the winter months November through March. Otherwise, in the construction industry we have the problem of temporarily amending collective bargaining agreements to provide later starting and quitting times during the winter months. Starting the construction work day in morning darkness is unsafe, unproductive, disruptive of job continuity and unnecessarily costly. Enclosed is a copy of our policy on this subject.

Thank you for your time and consideration. If you have any questions, please do not hesitate to contact us.

Sincerely,

James M. Sprouse,
Executive Vice President.

REPEAL DAYLIGHT SAVINGS TIME

Whereas, the Emergency Daylight Savings Time Energy Conservation Act of 1973 (PL 93–182) was hastily enacted into law as an energy conservation effort by providing daylight savings time on a year-round basis for a two-year trial period, and

Whereas, the construction industry recognizes its responsibilities to help solve the energy crisis, and

Whereas, the construction industry further recognizes the problems of temporarily amending collective bargaining agreements to provide later starting and quitting times during the winter months due to darkness, and

Whereas, the Building and Construction Trades Department, AFL–CIO, has also encouraged State and Local Building Trades Councils to adjust starting and quitting times for job continuity as a result of the Act, and

Whereas, State and Local Building Trades Councils have not adjusted their working hours thereby causing unsafe working conditions, reduction of productivity, disruption of project continuity, and increased costs.

Now, therefore be it resolved, that the Associated General Contractors of America, assembled in its 55th Annual Convention, March 8–13, 1974, urges the Administration and Congress to repeal Daylight Savings Time during the winter months of November 1974 through March 1975 to avoid disruption of the local bargaining process and to provide the incentive for construction safety, project continuity, increased productivity and energy conservation on construction projects. (Labor Committee Report to Board Meeting, March 1974.)

The Secretary of Transportation,
Washington, D.C., June 28, 1974.

Hon. Gerald Ford,
President of the Senate,
U.S. Senate,
Washington, D.C.

Dear Mr. President: I am transmitting herewith for the consideration of the Congress the interim report and recommendations on year-round daylight saving time (YRDST), as required by the Emergency Daylight Saving Time Energy Conservation Act of 1973.

The report supports proceeding with the second year of the experiment. It does recommend, however, that the Emergency Daylight Saving Time Energy Conservation Act of 1973 be amended to provide that during the second year of the experiment, the nation observe daylight saving time for eight months of the year and standard time for the remainder, from the last Sunday in October 1974 through the last Sunday in February 1975.

The principal reasons for this recommended course of action are:

Probable savings in energy. Electricity savings of approximately one percent occurred during March and April, with coal the predominant fuel saved. Further evaluations of other areas of fuel use such as transportation or heating are not definitive and may disclose additional savings or partially offsetting increases.

Elimination of concern regarding school children safety. While there was public apprehension over the safety of children traveling to school on dark mornings, the limited data available for the brief period of last winter's YRDST experience and the unusual travel conditions prevailing at that time do not provide an adequate basis to determine whether the public's apprehension was justified. Sunrises during March and April occur early enough so that this concern about early morning darkness may be eliminated.

Public preference. A majority of the public, as measured in a March 1974 national opinion poll, prefers daylight saving time from March through October.

Need for more conclusive data. It is desirable to have another year's experiment to determine better the net effects of daylight saving time and consequent public reactions so as to establish the merits of altering the historical daylight saving time system.

Sincerely,

Claude S. Brinegar.

The Secretary of Commerce,
Washington, D.C.

Hon. Claude S. Brinegar,
Secretary of Transportation,
Washington, D.C.

Dear Claude: In response to your letter of February 19, 1974, this Department has undertaken a careful review of the foreign trade and domestic commerce effects of Year-Round Daylight Savings Time (YRDST).

Our review indicates that some energy savings can be expected as a result of YRDST. These savings, in the range of one-fourth to three-fourths percent, represent 90 to 275 thousand barrels of oil per day. These amounts, though small when compared to the Nation's total energy demand, are an important contribution to the Nation's energy conservation efforts.

The attitudes of business and industry do not seem to indicate overwhelming approval or disapproval of YRDST except in one important case. The construction industry, represented by the Associated General Contractors of America (AGC), opposes the measure for several reasons, including the safety hazards of working during early-morning darkness in winter. AGC reports that this danger and complications involving safety procedures as outlined in industry labor contracts have caused unnecessary problems. We have enclosed copies of AGC documents and correspondence further outlining this position. It should be noted that the construction industry is the Nation's largest industry.

We have no evidence that the Nation faces any deleterious effects in international commercial relations due to YRDST.

In summary, the Department of Commerce favors continuation of YRDST because of the significant energy savings it can be expected to achieve. However, we recommend that your Department give careful consideration to any measures that may be available to lessen the impact of YRDST on particular groups, such as the construction industry, for whom the measure has adverse effects.

Sincerely,

—— ——,
Secretary of Commerce.

RADIO BROADCASTERS

Mr. DOLE. Many radio broadcasters have a special difficulty with extending daylight saving time into November. During the period of late October and early November radio stations receive a rating on their listening audiences. Because of international treaties with Mexico and Canada, it would not be possible, as I understand, for the FCC to grant an exemption for daytime stations to operate at full power prior to 7:30 during the early weeks of November.

This means that those stations would lose a prime operating time between 7 and 7:30. It is during this time that most daytime broadcasters provide their most important services on weather, driving conditions and school closings to families and to persons driving to work. It is my understanding that additional daylight saving time period the committee bill would provide in November would be disastrous to their revenue picture and to the ratings of a great many daytime broadcasters.

The indication by the National Association of Broadcasters is that 300 radio broadcasters would prefer the 7-month compromise amendment as opposed to the 8¼ bill, although many broadcasters would probably prefer to retain the present 6 and 6 formula. The 7-month compromise would avoid the problem encountered by many broadcasters during late October and early November daylight saving time.

I have a memorandum from representatives of the radio broadcasting industry explaining in greater detail the problem they have with daylight saving time in November. I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

February 23, 1976.

Memorandum to Senator Dole

The Daylight Savings Time bill as reported out of the Senate Commerce Committee would have a serious effect on a number of radio broadcasters. In the past, daylight time has always extended until the last Monday in October. Under this arrangement, broadcasters could be certain that they would not have a sign-on later than seven o'clock in the morning, even with daylight time in effect.

This was so because for the entire month of October, daytime only stations are allowed to sign-on at seven o'clock. Each station is given a sign-on time by the Commission and this is done on a monthly basis.

However, under the Committee bill, daylight time will not end until the second Sunday in November. In November, the sign-on time for that part of the month under daylight time will be 7:30 a.m. This means that for the first eight days to two weeks, many broadcasters will not be able to serve their communities until seven thirty. The normal information that many people expect to have at that time in the morning will not be available to those who need it. There will be no weather, traffic or road condition information, and the public will be the loser.

There is a second reason why this period is vitally important to radio broadcasters. During late October and early November, for a 21-day period the radio stations have their ratings adjusted. The sale of all advertising time is based on ratings and therefore those ratings are vitally important to the industry. When a station misses a half-hour of its most saleable time during this rating period, such as would be the case between 7:00 and 7:30 a.m. in early November, then this has a substantial effect on the amount and cost of advertising for the coming year.

The ratings cannot take place earlier in October because it has been found that the World Series distorts the ratings to a great degree. They cannot be taken later in November because then the new ratings would not be ready for the new advertising year beginning in January.

Hence, the broadcasters would support an amendment to end daylight time in October rather than November.

DANGER TO SCHOOLCHILDREN

Mr. DOLE. Probably the issue of greatest public concern relating to daylight saving time—and properly so in my opinion—is the danger to schoolchildren waiting for the schoolbus during the hours of darkness in the morning. Under the 8 month and 1 week bill this problem would be especially great during the early weeks of March and the late weeks of October and early weeks of November.

The Senator from Kansas is well aware of the Department of Transportation study which indicates that additional morning hour darkness under daylight saving time presents no additional danger for schoolchildren waiting for the bus. In fact, Department of Transportation testimony before the Commerce Committee indicates that daylight saving time actually has resulted in an overall safety improvement for children, since the decline of schoolchildren fatalities in the afternoon has more than offset fatalities in the morning.

The statistics in the Department of Transportation notwithstanding, a great many parents continue to be especially concerned about additional danger to their children during early morning hours of darkness under daylight saving time. It is my impression that all the data accumulated by Department of Transportation and all the analysis of that data has not changed the opinion of parents that 8 months of daylight saving time increases the danger to their children.

The Senator from Kansas is well aware that it is possible to show many things with statistics. This Senator is also well aware that people are capable of judging any additional danger to their children and all the statistics in the world are not going to change that judgment as long as some substantial danger does exist.

The greatest problem of early morning hours of darkness under daylight saving time occurs during the early weeks of daylight saving time in the spring and the last days of daylight saving time in the fall. The compromise amendment would reduce this problem greatly by starting daylight saving time later in the spring and ending it earlier in the fall than would the committee bill. It is my feeling that this compromise amendment would greatly improve the safety aspect for children waiting for schoolbuses in the morning, as well as for children who walk to school or ride bicycles.

Another school-related aspect of daylight saving time is the additional energy consumption. Many parents feel that it is necessary to drive their children to school rather than let them stand in the darkness waiting for a schoolbus or walk or ride by themselves to school during the hours of darkness. This results in additional expenditure of gasoline. In addition, school superintendents have indicated to me that they are forced to start their furnaces earlier in the morning in order to get buildings warm in time for school to start. Since buildings are colder earlier in the morning, it requires an additional amount of heating oil or natural gas under daylight saving time. The Senator from Kansas is aware that the Department of Transportation study indicated a net 1 percent saving of electricity during daylight saving time periods. However, this Senator knows of no precise study of the expenditure of additional amounts of gasoline, heating fuel, and other petroleum products during daylight saving time periods. It is my impression that there may be a net increase in energy consumption rather than a net decrease under daylight saving time.

OBJECTIONS DISCOUNTED

The Senator from Kansas is well aware of the numerous arguments in support of the committee bill providing for 8¼ months of daylight saving time as opposed to a shorter period. The Senator from Kansas is receptive to many of these arguments.

But this distinct impression of this Senator, after reviewing the hearing record on daylight saving time and the questioning by the junior Senator from Kentucky (Mr. Ford), is that the analysis of the benefits of daylight saving time and the indications drawn from that analysis are highly inconclusive.

The Department of Transportation indicates that a 2-year extension of the 8-month daylight saving time period is essential in order to achieve a meaningful analysis. The Senator from Kansas would agree that a full 2-year period is necessary to obtain any meaningful indication of the benefits and problems.

But the Senator from Kansas would question whether a 2-year extension for a daylight saving time period of 8¼ months is necessary. My belief is that a meaningful analysis could be accomplished under this 7-month amendment which would offer a compromise between those who would benefit and those who would suffer from more daylight saving time.

ENERGY SAVINGS

As mentioned earlier, the Department of Transportation study indicates a savings of electricity of 1 percent under daylight saving time. This electricity saving amounts to an equivalent of about 100,000 barrels of oil per day. About one-half of this saving is in electricity produced from coal and nuclear generation. The other half would be from electricity produced from petroleum products.

So the electricity savings that relates to our oil import problem and our dependence on uncertain foreign sources of oil amounts to about 50,000 barrels of crude oil per day. This is a small but significant savings of energy.

However, as I understand, the Department of Transportation study does not address any other area of energy consumption where there might be an additional level of consumption or an additional area of energy savings as a result of daylight saving time. The Senator from Kansas does not pretend to know all the areas where there might be additional saving or consumption due to daylight saving time, but there are obviously a few areas where greater consumption might more than offset the saving achieved in the use of electricity.

For example, I have already cited two school related energy uses where gasoline consumption would be greater.

Another area where gasoline and petroleum consumption would be greater is in the additional shopping and recreation trips made because of daylight saving time. In other words, going back to the initial purposes of creating daylight saving time, there are additional trips made for shopping and recreation purposes when Americans have more daylight hours in the afternoon when they get off work. So clearly more fuel must be burned.

There are many other areas where additional energy might be consumed. Any type of industry where outdoors activity is necessary will, of course, require additional lighting and heating energy during the daylight saving time period. Families that rise before light during daylight saving time that would otherwise rise after sunup during standard time would require additional energy for lighting and heating.

Many of these examples I have cited would require additional consumption of petroleum products. At least in the area of electricity generation, half of the primary fuel can be produced domestically in the form of coal or nuclear power. But in the case of gasoline and other petroleum products, every additional increment of crude oil must be imported from the Middle East. That is because we are already at full capacity oil production in this country and because many other countries such as Canada and Venezuela are also at full capacity production. In essence the only source of additional increments of production, as I understand, are in the Middle East. So any additional consumption of fuel must come from that source and the Department of Transportation study makes no accounting of additional petroleum consumption outside of electric generation under daylight saving time.

The critical analysis of the Department of Transportation study by Mitre Corp. indicates that the savings of electricity described in the Department of Transportation study is by no means as strongly supported by the available data as the study suggests.

In view of the uncertainty about energy consumption under daylight saving time the Senator from Kansas would feel that the more cautious approach in this compromise amendment is more appropriate than the committee proposal.

TRAFFIC SAFETY

The Department of Transportation testimony before the Commerce Committee also states that motor vehicle safety is improved because of daylight saving time. The theory, as this Senator understands, is that traffic patterns are heavier in the evening than in the morning rush hours due to the shopping and other commercial traffic that adds to normal rush hour traffic in the evening. Department of Transportation maintains that the additional hours of daylight in the afternoon provide an additional safety factor that more than offsets any decline in safety during the morning hours.

While the Senator from Kansas would not dispute this logic, it is noteworthy that the Mitre Corp. critique of the Department of Transportation study indicates that it is not conclusive that the decline in fatal accidents under daylight saving time resulted because of the additional hours of daylight in the afternoon or to the fact that there were fewer cars on the road as a result of the energy shortage existing then.

ELECTION DAY AND HALLOWEEN

It has been called to my attention that the committee bill extends daylight saving time into the first 2 weeks of November in order to have additional daylight for the evenings of Halloween and election day.

The Senator from Kansas understands the intent of the committee regarding daylight saving time for these 2 days. But it is the opinion of this Senator that providing additional daylight hours for Halloween and election day is a very weak reason for extending daylight saving time for 2 additional weeks in the fall when it will cause greatest hardship for radio broadcasters, farmers, construction workers, and any other industry that is required to work outdoors.

In the instance of election day a great many steps have already been taken to provide individuals the opportunity to vote before work, during the daytime hours, and after work until late in the evening. It is the feeling of this Senator that citizens seeking to vote will not be deterred by the amount of daylight when they get ready to go to the polls. On the other hand those who do not care to register their vote will not be persuaded to vote just because there is additional daylight during the evening hours on election day.

Only in large metropolitan areas where there may be a high crime rate that would discourage individuals from going to the polls during evening hours of darkness could the election day concern have any validity. And in those cases, as I mentioned earlier, a great many steps have been taken to allow citizens to vote during the early morning hours before they go to work or to leave their job during the day to go to the polls.

In the instance of providing additional daylight hours during the evening of Halloween day, it is the understanding of this Senator that the intent is to increase the safety of children going from door to door. But as this Senator recalls, the normal practice of the "trick or treat" tradition is to go from door to door after the hour of darkness. It would be my expectation that parents and children alike would continue this practice even in the event of daylight saving time. But since daylight saving time would mean that darkness would come 1 hour later, it could be expected that children and parents might be forced to stay up an hour later on Halloween night in order to follow their customary tradition.

At the same time, those parents who prefer their children to "trick or treat" during daylight hours could still follow that practice even in the absence of daylight saving time.

The Senator from Kansas believes these arguments to be weak justification for passing the 8¼-month bill as reported by the Commerce Committee. The absence of daylight saving time on election day and Halloween under my compromise amendment is certainly no major reason why such a compromise should not be agreed to.

REDUCTION OF CRIME

The Department of Transportation witnesses before the Commerce Committee hearing indicated that the extension of daylight saving time into March and April is justified in order to reduce crime during the evenings. This statement is based on statistics for Washington, D.C., showing a decline in the number of violent crimes during the evening hours when daylight saving time has been in effect during the past 2 years in March and April.

The Senator from Kansas supports all efforts to reduce crimes—especially violent crimes. To the extent that daylight saving time may reduce violent crime in the evenings it would be a positive factor in favor of expending daylight saving time.

But the Mitre Corp. witness stated before the Commerce Committee that based on the Department of Transportation study and the data behind it, a conclusion about the effect of daylight saving time on reducing crime "cannot be reached until data for other areas becomes available and is analyzed."

The compromise 7-month amendment would allow this data to be collected and to be analyzed.

The compromise amendment would extend daylight saving time into April and the middle of March. This additional 1½-month period should allow the Department of Transportation and the Law Enforcement Assistance Administration to study in detail the effect of daylight saving time on crime in all cities across the country.

BALANCED COMPROMISE

The Department of Transportation has strongly emphasized the importance of having a balance in the months of daylight saving time.

As the Senator from Kansas understands, the hour of sunrise in March is equivalent to the hour of sunrise in October. Similarly the hour of sunrise in April is equivalent to the hour of sunrise in September.

In this regard, the Senator from Kansas would say that the committee bill is not balanced. The committee bill extends daylight saving time to the second Sunday of November. To have a balanced bill, the committee approach would have to begin daylight saving time in the middle of February.

This extension of daylight saving time into February, as well as into November, in my opinion, would be strongly opposed by a great many people.

The 7-month compromise bill introduced by the Senator from Kansas is a balanced approach. It provides that daylight saving time would begin the second Sunday of March and end the second Sunday of October. It follows the principle that has been called the sunrise-symmetrical system.

The compromise 7-month amendment provides for daylight saving time in the last half of March and in the first half of October. This means that the Sun would rise at about the same hour when the daylight saving time begins as it does when the daylight saving time period would end. It would not mean that we would have a very late sunrise in the fall at the end of the daylight saving time period, and a very early sunrise at the beginning of the daylight saving time period.

The compromise amendment would not extend daylight saving time to the degree provided under the committee bill. Any hardship that might arise from extending daylight saving time would be less under the compromise amendment. Yet there would be the additional convenience for most people of having additional daylight hours in the evening for 1 extra month of daylight saving time.

Mr. President, the compromise 7-month daylight saving time amendment is intended to reduce the adverse impact of extending daylight saving time for several groups that are in the minority. Yet the compromise amendment recognizes what may be the desire of a majority of the population for additional daylight saving time and, in addition, tries to accommodate this desire. It is my hope the Senate will adopt this amendment today.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. DOLE. Mr. President, will the Senator yield me 5 additional minutes?

Mr. PASTORE. Yes; the Senator may have 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 5 minutes.

Mr. DOLE. Mr. President, that concludes the comments of the Senator from Kansas with reference to the first amendment.

It is my understanding that amendment will be voted upon following the vote on the Ford amendment.

Depending on the outcome of the vote on the amendment offered by the Senator from Kansas, there may be a vote on the second amendment which I now send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. GOLDWATER). The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 4, after the word "antemeridian" strike all through the word "1977," on line 6 and substitute the following: "on the last Sunday of October 1976 and ending at 2 o'clock antemeridian on the second Sunday of November 1976 and commencing at 2 o'clock antemeridan on the first Sunday of March 1977 and 1978, and ending at 2 o'clock antemeridian on the second Sunday of November 1977 and 1978,".

On page 2, line 14, strike "February 1, 1976" and substitute "October 30, 1976".

On page 3, line 2, strike "1977" and substitute "1978".

On page 4, after line 5, insert the following:

"Amend the title so as to read: 'A bill to provide for daylight saving time on an eight-month and one-week basis, beginning with the first Sunday in March and ending with the second Sunday in November, for a two-year period and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise.'.".

Mr. DOLE. Mr. President, this amendment would delay the effective date of S. 2931 for 1 year. The purpose of this amendment is very simple.

The reason for this delay is that we are already at a late point in the year where it would be extremely difficult or impossible for our tremendous commercial system to adjust their schedules for the time that daylight saving time would go into effect under this bill.

Today is February 25. This bill would put daylight saving time into effect in March, which is only a few weeks away.

The Air Transport Association of America provided testimony before the Senate Commerce Committee hearing on daylight saving time stating that a minimum of 60 days' advance notice would be best in order to avoid passenger confusion and delay. In other words, it is going to take 2 months for a schedule to be made so that people may understand that there has been a change.

This leadtime is needed prior to the implementation of the new daylight saving time in order to assure that published airline schedules will reflect the correct departure and arrival times.

A similar situation would exist in the bus and railroad industries. The rest of the entire transportation system in this country would also have to make adjustments in schedules. The Senator from Kansas has not heard specific leadtimes requested by railroads, bus companies, and the trucking industry, but it is clear that as much leadtime as possible would be the best situation.

So it is appropriate that we delay the effective date of this legislation for 1 year.

If this legislation is passed by the Senate today—and this Senator expects that some legislation will be passed—it will be sent to the House of Representatives. Since the House of Representatives has apparently not begun consideration of this legislation, it is entirely possible that this legislation might not even be enacted before the daylight saving time date would arrive as presently stated in the bill.

A second added benefit of adopting this amendment would be to allow 2 full years for analysis of the additional daylight saving time months. In testimony before the Senate Commerce Committee the Department of Transportation stressed the importance of having 2 years of daylight saving time in order to make an accurate analysis of the benefits and problems.

The Senator from Kansas does not feel that we should set daylight saving time schedules simply for the purpose of allowing the Department of Transportation to complete a study. However, a delay of 1 year in the effective date of this bill would be appropriate for scheduling purposes as I have just discussed and it would also have the added benefit of giving DOT 2 full years to make an analysis of the impact.

The Senator from Kansas hopes the managers of this bill might accept this amendment.

It is my understanding that the Senator from Washington, depending on the outcome of the vote on my first amendment, might be in a position to accept the second amendment.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. PASTORE. Merely for the purpose of clarification of the record.

Do I correctly understand the Senator to say that if the Ford amendment should be defeated and his first amendment should be defeated as well, his third amendment would allow daylight saving time to go into effect the last Sunday of April until the second Sunday of November, for this year?

Mr. DOLE. That is correct.

Mr. PASTORE. But, then, for the next 2 years it would allow the 8 months of daylight saving time as stipulated in the bill that was reported by the committee. Is that correct?

Mr. DOLE. That is correct.

Mr. PASTORE. The reason I ask the question is that there is logic to what the Senator proposes in his second amendment. Of course, whether or not the committee will accept that amendment depends entirely upon what happens to the first and second amendments as well—that is, the first amendment and the amendment of the Senator from Kansas as well.

I understand that there seems to be an inclination on the part of the committee to go along with that concept, for the simple reason that it could not actually be put into effect under the terms of the bill that was reported by the committee. I merely want the record to show that.

Mr. DOLE. The Senator is correct. As I understand it, depending upon the outcome of the votes on the Ford amendment and the first amendment offered by the Senator from Kansas, if they are defeated, then there might be acceptance of the second amendment offered by the Senator from Kansas.

Mr. President, I yield back the remainder of my time.

Mr. PASTORE. Mr. President, this

great Republic of ours is not going to rise or fall on whether or not this measure is passed, one way or the other.

Up to now, we have been accustomed—except the last year—to begin our daylight saving time the last Sunday of April, to run until the last Sunday of October. Originally, it was the last Sunday of September. Then, of course, there was a tremendous amount of pressure on the part of recreational resorts which thought they should have a longer season, and there is a great deal of logic to that.

The argument has been made by the distinguished Senator from Kansas that this will disturb the agricultural people and the construction people. That is not the way the committee was informed. We have letters from the executive branch departments to the effect that it will have no effect. The Department of Agriculture provides this letter:

> This is in reply to your letter of January 28 regarding information on the impact on agriculture of Daylight Saving Time.
>
> The Department concludes that our previous findings reported to you for the interim report on the operations and effects of the Emergency Daylight Energy Conservation Act of 1973 remain unchanged. That is, there are no significant impacts on agricultural production.

We have a similar letter from the Department of Labor.

> This is in reply to your letter of January 28, concerning the impact on the labor force of the present Daylight Saving Time cycle.
>
> The Department of Labor has determined that the system now in use has no adverse impact on working people.

These are the reports that we get from a Republican administration, and I do not say that in any sense of impertinence. But this matter was studied by the Department of Transportation; and, as a matter of fact, the measure before the Senate now is recommended by the administration.

I repeat: To me, personally, it would not make that much difference. I am an early riser, and I go to bed rather early. But statistics do show that the genesis of this legislation was absolutely justified. It was initiated in order to save energy, and I think it does. I am not saying that it is the answer to our energy problem. It certainly is not that. But it is a step in the right direction, and that is why we initiated it in the first place.

The big argument that is being made here is: "Why do you go to the second Sunday of November?" I asked that question before the committee. I said:

> Why do you have to go to the middle of the month in order to get this thing straightened out?

The answer came up rather quickly:

> Because election day is the first Tuesday after the first Monday in November, and we do not want to change the election time at that time.

Not, I suppose, that it makes a great deal of difference whether people go to vote in the light or in the dark, but darkness has a restraining effect on the volume of the vote.

I say to the Senator that when this matter was discussed in the executive committee, I was not the manager of the bill. I am the manager of the bill for this interim period only because Mr. Magnuson is busy with hearing evidence on the busing situation, particularly in the State of Massachusetts, and that is why he is not here. However, I am familiar with the arguments pro and con.

I think the bill makes some sense. If we are going to do it at all, why stop in the middle of October? Imagine what is going to happen to all these candidates who are running for the Presidency if you begin to change the time in the middle of October. A lot of them are confused at the present time. Just imagine the havoc that would be wrought at that time.

[Laughter.]

When the matter came up before the committee, the gentleman who was representing the committee on this wanted to make this permanent legislation, and then somebody suggested that it be for 3 years. I interceded. I said:

> No. This is a recommendation that has been made to the committee by the department that made the investigation. They made a recommendation. You either take it in toto or you leave it alone, because the minute you begin to monkey with it, then you are going to change the whole situation.

So the measure as it stands before us now is practically the same as the measure recommended by the administration.

I repeat: I do not think the Republic is going to rise or fall one way or the other, whether we have it for 7 months, 6 months, or 8 months. But if we do it for 8 months, it might ameliorate our energy crunch. And it will help to restrain street crime. Everybody knows that the more lights you have, the less the possibility of street muggings in the evening. To what extent, I do not know. I do not think anybody ever will know for an absolute certainty. But we now have evidence that daylight saving in March and April saves about 48,000 megawatts of electricity.

If we want to be fair and sensible either we should accept the DOT recommendation or reject it. The point is that if Senators believe the arguments of the administration, if they believe the arguments of the Department that made this recommendation, they should vote against the Ford amendment and vote against the amendment that has been proposed by the distinguished Senator from Kansas. You take your choice. I should like to go for the 8 months. I should like to go along with the committee that investigated it, came up with all the statistics, and said this is the right thing to do.

If you disagree with it, naturally, you have a perfect right to vote against it. I hope that we shall resolve this thing after 3 o'clock without too much fuss, confusion, or bitterness.

Frankly, I have said all that there is to be said. I am perfectly willing to ask for a quorum call, because we cannot vote before 3 o'clock. If anybody else wants to talk, I shall yield.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. PASTORE. I yield.

Mr. STENNIS. I mean to use some time.

Mr. PASTORE. On this particular amendment, on the bill?

Mr. STENNIS. Yes.

Mr. PASTORE. I yield to the Senator all the time he needs. I have 20 minutes.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. Is the time controlled?

The PRESIDING OFFICER. The time is controlled. All the time, however, belongs to the opponents.

Mr. PASTORE. I am an opponent. I shall give the Senator all the time he wants up to 3 o'clock.

Mr. STENNIS. I thank the Senator from Rhode Island.

I ask the Chair to remind me at the end of 3 minutes.

Mr. President, this is an awfully serious matter for the people who are going to have to live under this law. It is an awfully serious matter in the area where the little children go out to the highways and the byways and wait for the school bus at certain times of the year, when it is not even daylight, or barely daylight. It is a mighty serious thing to the farmer who has to put up with all the uncertainties and the penalties of the weather; and then, an hour that he cannot live with compounds all of those elements of weather that tend to beset his days and the burdens that he has to carry.

I hope that at least one of these amendments dividing up this time just a little more fairly, as it seems to us, more equitably, without penalty to any but with fairness to all, will pass.

Personally, I should rather see just the 6 and 6—6 months one and 6 months the other—but I am willing to yield on that. I shall vote for a bill that carries either one of these amendments. But there could not be anything that affects the daily livelihood, the matter of making a living, more. Let us come to those who have to make a living outdoors, first, before we get to vacationers. Vacationers have their place, and it is a great place, in the Sun. But let us see if we cannot be fair to those who work outside, carry the burdens of the weather, and furnish the food for the tables of our great Nation. I hope that those points will have some bearing, Mr. President.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. Mr. President, of course this matter of schoolchildren and the bus transportation problem was discussed by the committee. After all, most schools open at 9 o'clock in the morning. On the first Monday in March, we have daylight everywhere in the Nation well before the bus comes along. At least, in Rhode Island, we have daylight well before the schoolbus comes along, even with a 1-hour daylight saving time advancement.

I say frankly, if this were going to be damaging to the schoolchildren and their bus transportation, surely, I would be the first one against it. I have six young grandchildren that I think the world of and, certainly, I am not going to jeopardize them. But I think we are overdoing this business about the bus coming around in the dark, unless we are going to transport these people from New York to Los Angeles.

It strikes me that the committee's proposal is convenient. I realize that certain States have a very parochial problem. That is why, in this bill, we gave a certain amount of latitude to the States.

But I repeat again—somebody stood up and said, "This is a very, very, very important piece of legislation." I do not know too much about the "very, very, very," but I say very frankly, whether we vote for or against this today, I think we can sleep well tonight.

I am ready to yield back my time.

Mr. DOLE. Will the Senator yield?

Mr. PASTORE. I yield.

Mr. DOLE. I think the Senator from Rhode Island has been very fair in his debate and, certainly, there are more important issues. As far as the voters or the candidates being in the dark, if the New Hampshire primary proved anything, it proved they were in the dark yesterday.

Mr. PASTORE. It all depends on whom you are for.

Mr. DOLE. It is hard to tell after the results are in. I do not know who won.

But it seems a rather flimsy reason to extend it for 2 weeks this November just to take care of Halloween and election day. The Senator from Rhode Island did not comment on Halloween.

Mr. PASTORE. I shall do that.

Mr. DOLE. I knew the Senator would.

Mr. PASTORE. I did not want to bring the goblins in, but, if the Senator wants me to bring that in, I will. I do not know where he lives, but where I live, they begin to ring my doorbell at 4:30 in the afternoon.

Mr. DOLE. I live at the Watergate. They do not even ring.

Mr. PASTORE. My wife and I have a grand time. I am glad to see that most of these children now are accompanied by their parents. We have had certain insane people passing out dangerous things to the young people. I hope we can put a stop to that.

But, as far as Halloween is concerned, they trick or treat rather early in Rhode Island. I do not know about Kansas, but they ring my doorbell around 4 or 4:30 in the afternoon. I tell the Senator they may come back the second time at 6:30. Maybe they like what we give them.

So I am not too concerned about Halloween. The whole spirit behind this bill, let us face it, was to alleviate the energy crunch. If we did not have that, I do not think we would be bothering with this legislation today. We would leave it where it is. But we are told that this will help, that it will do a lot of good.

I realize that there are certain Senators who feel, because of parochial problems, that they cannot subscribe to it. I say very frankly, I will love them just as much after they vote against me as I do now.

Mr. DOLE. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. Parliamentary inquiry: Is not the next 10 minutes allotted to Mr. Ford?

The PRESIDING OFFICER. The vote is called for 3 o'clock.

Mr. PASTORE. I suggest the absence of a quorum so that he may be notified.

The PRESIDING OFFICER. In answer to the Senator's question, the next 10 minutes following the next minute will be on the Ford amendment, 5 minutes to a side.

Mr. PASTORE. May I suggest the absence of a quorum for 1 minute?

The PRESIDING OFFICER. It is within the Senator's privilege.

Mr. PASTORE. I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I ask unanimous consent that Les Goldman have the privileges of the floor during the discussion on this bill, S. 2931.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR VOTE ON FORD AMENDMENT AT 3:05 P.M.

Mr. PASTORE. Mr. President, it has been called to my attention that the Senator from Illinois (Mr. Stevenson), who landed at Dulles at 20 minutes to 3, is on his way in. I am going to ask unanimous consent that the beginning of the vote be delayed until 5 minutes past 3.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Pursuant to the previous order, the Senate will now proceed to vote on the amendment offered by the Senator from Kentucky (Mr. Ford). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Indiana (Mr. Hartke), and the Senator from Arkansas (Mr. McClellan) are necessarily absent.

I further announce that the Senator from Montana (Mr. Mansfield) and the Senator from North Carolina (Mr. Morgan) are absent on official business.

I also announce that the Senator from Montana (Mr. Metcalf) and the Senator from California (Mr. Tunney) are absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan) would vote "nay."

The result was announced—yeas 31, nays 62, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—31

Abourezk
Allen
Bentsen
Byrd, Robert C.
Chiles
Church
Curtis
Dole
Domenici
Eastland
Ford
Garn
Goldwater
Griffin
Helms
Hollings
Hruska
Huddleston
Inouye
Laxalt
Long
McGovern
Nunn
Sparkman
Stennis
Stevens
Stone
Taft
Talmadge
Tower
Young

NAYS—62

Baker
Bartlett
Beall
Bellmon
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Clark
Cranston
Culver
Durkin
Eagleton
Fannin
Fong
Glenn
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mathias
McClure
McGee
McIntyre
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stevenson
Symington
Thurmond
Weicker
Williams

NOT VOTING—7

Bayh
Hartke
Mansfield
McClellan
Metcalf
Morgan
Tunney

So Mr. Ford's amendment was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. Bartlett). The question now is on agreeing to the Dole amendment No. 1. On this question the yeas and nays have been ordered.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. I understand that we are now going to vote, and the yeas and nays have been ordered, on the so-called Dole amendment.

The PRESIDING OFFICER. Dole amendment No. 1.

Mr. MAGNUSON. Which would change the committee's bill to 7 months of daylight saving time from mid-March to mid-October for 1977 and 1978.

Mr. DOLE. Seven months of daylight saving time; that is correct.

Mr. MAGNUSON. And then there is a second Dole amendment. The committee will accept that amendment if the first Dole amendment fails. So we will not have to vote on that. I assume the Senator from Kansas will withdraw his second amendment, if the first Dole amendment is passed.

The PRESIDING OFFICER. The question is on agreeing to the Dole amendment No. 1. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Indiana (Mr. Hartke), and the Senator from Arkansas (Mr. McClellan) are necessarily absent.

I further announce that the Senator from Montana (Mr. Mansfield) and the Senator from North Carolina (Mr. Morgan) are absent on official business.

I also announce that the Senator from Montana (Mr. Metcalf) and the Senator from California (Mr. Tunney) are absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan) would vote "yea."

The result was announced—yeas 48, nays 45, as follows:

[Rollcall Vote No. 46 Leg.]

YEAS—48

Abourezk
Allen
Bartlett
Bellmon
Bentsen
Biden
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Culver
Curtis
Dole
Domenici
Eastland
Fannin
Ford
Garn
Goldwater
Griffin
Hansen
Hart, Philip A.
Helms
Hruska
Huddleston
Humphrey
Laxalt
Long
McGovern
Mondale
Nelson
Nunn
Packwood
Pearson
Proxmire
Randolph
Schweiker
Scott, William L.
Sparkman
Stennis
Stevens
Stone
Taft
Talmadge
Tower
Young

NAYS—45

Baker
Beall
Brock
Brooke
Bumpers
Cannon
Case
Clark
Cranston
Durkin
Eagleton
Fong
Glenn
Gravel
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mathias
McClure
McGee
McIntyre
Montoya
Moss
Muskie
Pastore
Pell
Percy
Ribicoff
Roth
Scott, Hugh
Stafford
Stevenson
Symington
Thurmond
Weicker
Williams

NOT VOTING—7

Bayh
Hartke
Mansfield
McClellan
Metcalf
Morgan
Tunney

So Mr. Dole's amendment No. 1 was agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2 of the Senator from Kansas (Mr. Dole). On this question the yeas and nays have been ordered.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that I may have 1 minute to discuss the next amendment with the Senator from Kansas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. As I understand it, the last vote makes moot the Senator's second amendment, and therefore he should withdraw it.

Mr. DOLE. The amendment of the Senator from Kansas which was just adopted makes d.s.t. effective the second Sunday in March. So the Senator from Kansas withdraws his second amendment, but this Senator would still feel that as a practical matter it is too late this year to implement d.s.t. by the second Sunday in March. It is the hope of this Senator that the House of Representatives will delay the effective date until 1977. By the time this bill is taken up in the House, the second Sunday of March 1976 may have already passed so that making the bill effective in 1977 will be appropriate.

The PRESIDING OFFICER. Is there objection to the amendment being withdrawn? The Chair hears none, and it is so ordered.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. The vote now will be on final passage, on which the yeas and nays have been ordered. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the Clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Indiana (Mr. Hartke), and the Senator from Arkansas (Mr. McClellan) are necessarily absent.

I further announce that the Senator from Montana (Mr. Mansfield) and the Senator from North Carolina (Mr. Morgan) are absent on official business.

I also announce that the Senator from Montana (Mr. Metcalf) and the Senator from California (Mr. Tunney) are absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan) would vote "yea."

The result was announced—yeas 70, nays 23—as follows:

[Rollcall Vote No. 47 Leg.]

YEAS—70

Baker
Bartlett
Beall
Bellmon
Biden
Brock
Brooke
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hruska
Humphrey
Inouye
Jackson
Javits
Kennedy
Laxalt
Leahy
Magnuson
Mathias
McGee
McIntyre
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Thurmond
Weicker
Williams
Young

NAYS—23

Abourezk
Allen
Bentsen
Bumpers
Burdick
Chiles
Church
Clark
Curtis
Ford
Garn
Helms
Hollings
Huddleston
Johnston
Long
McClure
McGovern
Nunn
Stone
Taft
Talmadge
Tower

NOT VOTING—7

Bayh
Hartke
Mansfield
McClellan
Metcalf
Morgan
Tunney

So, the bill (S. 2931), as amended, was passed as follows:

S. 2931

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Daylight Saving Time Act of 1976".

Sec. 2. (a) Notwithstanding the provisions of section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)), the standard of time of each zone established by the Act of March 19, 1918 (15 U.S.C. 261–264), as modified by the Act of March 4, 1921 (15 U.S.C. 265), shall be advanced one hour during the periods commencing at 2 o'clock antemeridian on the second Sunday of March 1976 and 1977, and ending at 2 o'clock antemeridian on the second Sunday of October 1976 and 1977, respectively, and such time as so advanced shall for the purposes of such Act of March 19, 1918, as so modified, be the standard time of each such zone; except that

(1) any State that lies entirely within one time zone may by law exempt itself from the provisions of this subsection providing for the advancement of time, but only if that law provides that the entire State (including all political subdivisions thereof) shall observe the standard time otherwise applicable during that period, and (2) any State with parts thereof in more than one time zone may by law exempt either the entire State as provided in (1) or may exempt the entire area of the State lying within any time zone.

(b) Any law in effect on February 1, 1976, adopted by a State pursuant to section 3(a) of the Uniform Time Act of 1966 shall be held and considered to remain in effect as the exercise by that State of the exemption permitted by subsection (a) of this section unless that State, by law, provides that such exception shall not apply for the purpose of subsection (a) of this section.

(c) The provisions of subsections (b) and (c) of section 3 and section 7 of the Uniform Time Act of 1966 shall apply to the provisions of this section.

Sec. 3. (a) The Secretary of Transportation shall, on or before July 31, 1977, submit a report to the Congress on the operation and effects of this Act. Such report shall give particular attention to such effects on the use of energy in the United States, traffic safety, including the safety of children traveling to and from school, and the effect on school hours. Such report shall also include such recommendations for legislation or other action as the Secretary may determine. The report shall include any recommendations of the Secretary with respect to time zone limits.

(b) The Secretary of Transportation shall consult with the departments, agencies, and instrumentalities of the United States having information or expertise with respect to the operation and effects of this Act. Each such department, agency, and instrumentality shall exercise its powers, duties, and functions in such manner as will assist in carrying out the provisions of this section.

SEC. 4. Notwithstanding any other law or any regulation issued under any such law, the Federal Communications Commission shall, consistent with any existing treaty or other agreement, make such adjustment by general rules, or by interim action pending such general rules, with respect to hours of operation of daytime standard amplitude modulation broadcast stations, as may be consistent with the public interest, including the public's interest in receiving interference-free service. Such general rules, or interim action, may include variances with respect to operating power and other technical operating characteristics. Subsequent to the adoption of such general rules, they may be varied with respect to particular stations and areas because of the exigencies in each case.

Mr. MAGNUSON. I move to reconsider the vote by which the bill was passed.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I have an amendment to the title of the bill. I ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Amend the title so as to read: "To provide for daylight saving time on a seven-month basis, beginning with the second Sunday in March and ending with the second Sunday of October, for a two-year period beginning with the second Sunday in March of 1976 and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise.".

The PRESIDING OFFICER. The question is on agreeing to the amendment to the title.

The amendment was agreed to.

NATIONAL RESOURCE LANDS MANAGEMENT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 507, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 507) to provide for the management, protection, and development of the national resource lands, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The time for debate on the Hansen amendment No. 1392 is limited to 30 minutes, with 20 minutes to the Senator from Wyoming (Mr. HANSEN) and 10 minutes to the Senator from Colorado (Mr. HASKELL).

The amendment is as follows:

SEC. 6. (b) Notwithstanding any other provision of law and except where a smaller fee is necessary to meet the objectives of other federally sponsored programs and except where the cost of collection of the fee would exceed the amount collected, the Secretary, with respect to the commercial grazing of domestic livestock on the public lands under the Taylor Grazing Act (43 U.S.C. 315) and the Act of August 28, 1937 (43 U.S.C. 1181a–1181j), and the Secretary of Agriculture, with respect to the commercial grazing of livestock on lands within the national forest system in the eleven Western States, shall charge an annual fee per animal unit month for such grazing which shall be computed for group I land by multiplying $1.70 by the beef price index minus the cost-of-production index plus one hundred, and for group II land, by multiplying $1.40 by the beef price index minus the cost-of-production index plus one hundred, where:

(a) Lands will be designated as group I land or group II land as determined by the district manager in the case of the Bureau of Land Management, and the forest supervisor in the case of the Forest Service, using the immediate preceding year or the most recent range survey to determine the amount of forage required for one animal unit month.

(1) Group I land shall be that which requires less than eleven acres to provide sufficient forage for an animal unit month.

(2) Group II land shall be that which requires eleven acres or more to provide sufficient forage for one animal unit month.

(3) The land classifications described in paragraphs (1) and (2) shall be carried to the district or forest unit level. Existing allotment management plans shall be classified as group I land or group II land. All future allotment management plans shall be classified as group I land or group II land.

(b) The beef price is the price reported to the Statistical Reporting Service, United States Department of Agriculture, representing average prices received for beef cattle in the eleven Western States.

(c) The beef price index for any fee year is computed by dividing the simple average of the beef prices for the preceding three years by the simple average of the base years 1964–1968.

(d) The cost-of-production index is an index of prices paid by farmers for commodities and services, interest, taxes, and farm wages as collected and published by Statistical Reporting Service, in Agricultural Prices, United States Department of Agriculture.

(e) The cost-of-production index for any fee year is computed by adding the cost-of-production index for each of the three preceding years and dividing by three.

(f) The term "animal unit month of grazing" as used in this section means the forage required by the grazing of one cow and calf or its equivalent for a period of one month. One cow shall, for the purpose of this definition, be considered the equivalent of one horse or five sheep or goats.

The PRESIDING OFFICER. Who yields time?

Mr. HASKELL. I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I wish to yield a few minutes to the distinguished Senator from New Mexico (Mr. DOMENICI).

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 3 minutes.

Mr. DOMENICI. Mr. President, I commend the distinguished Senator from Wyoming for introducing this amendment. I hope the Senators understand that this bill is not an effort on the part of the Senator from Wyoming and those who cosponsored this to lower the grazing fees to be paid by the cattlemen who use the public domain. Quite to the contrary. This is just an alternate way of setting the per-acre fee. Instead of relating the fee to what is presently being used or proposed, which is to relate it to private land and its leasehold price, this will relate the permit price to the cost or market value of beef on an annual basis.

Those of us who propose it know the fees will go up and that eventually they will go up substantially. But we feel it is far more relevant to relate it to the cost or market value on an annualized basis of beef.

This will mean that the permit fee will be related to the marketplace and will move up and down with what it costs to bring beef onto the marketplace. We all think that is a much better approach, and most cattle people will accept a higher cattle fee if it is tied to something as rational as this item.

Second, this amendment of Senator HANSEN will create two kinds of grasslands basically, and for those who would just want to talk about it in layman's language, the very good grassland would bring a better fee than the very poor grassland, and the way the amendment distinguishes is on the number of acres that are needed per unit. You will draw the line at 11 so that poor grazing land which uses 11 or more acres per calf unit would have a different grazing fee than the 11 or less which are better.

We all feel this will bring additional revenue, will cause the fees to go up, but in proportion to something that is directly related to the industry, and certainly will not be related to something such as private leasehold payments which, we are convinced, have no real relationship in the public domain stage to what the public domain should bring in the marketplace and in the cattle industry.

We are also very concerned, Mr. President, that this particular increase, unless changed by this law, which is a full 51-percent increase, comes at a most disadvantageous time. The industry has not recovered from the bad years, and in this particular year we are adding 51 percent across the board to the grazing fees with no distinction as to good, inferior, or bad grazing land, just adding it and then, thereafter, it will be related to this rather fictitious relationship of private land which really has no true place in the market.

I thank the distinguished Senator from Wyoming for yielding.

The PRESIDING OFFICER (Mr. PACKWOOD). The Senator's time has expired.

Mr. HANSEN. Does the Senator wish any more time? Has he had enough time?

Mr. DOMENICI. I have stated my views. I thank the Senator for yielding.

Mr. HASKELL. Mr. President, I oppose this amendment principally because I do not know what its economic effects would be. For those Senators who may be present or for the staff aides who may be present, let me read from the amendment. I saw this the day before yesterday. Here is how the fees are prescribed.

The Secretary of Agriculture . . . shall charge an annual fee per animal unit month for such grazing which shall be computed for group I land by multiplying $1.70 by the beef price index minus the cost-of-production index plus one hundred—

And for group II land—

by multiplying $1.40 by the beef price index minus the cost-of-production index plus one hundred . . .

I have not got the faintest idea what it does, although I suspect it reduces grazing fees.

Mr. President, I ask unanimous consent to have printed in the Record letters of opposition to this particular amendment—a letter signed by the National Wildlife Federation, and another letter signed by 10 different environmental groups—preceded by a letter from the chairman of the Interior Committee and the chairman of the Subcommittee on Minerals, Materials, and Fuels.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Committee on Interior
and Insular Affairs,
Washington, D.C., February 25, 1976.

Dear Colleague: We urge you to vote against Senator Hansen's amendment (No. 1392) to S. 507, the National Resource Lands Management Act.

The Hansen Amendment would, for the first time, establish a statutory formula for fees to be charged for the grazing of domestic livestock (cattle, sheep and horses) on national resource lands administered by the Bureau of Land Management and the National Forest Lands administered by the U.S. Forest Service.

All of the provisions of S. 507 apply only to lands administered by the Bureau of Land Management. We see no justification to expand the scope of the bill to include National Forest Lands.

Federal land grazing fees have a long and very controversial history. In 1969 the Secretaries of the Interior and Agriculture established a grazing fee formula, based on the comprehensive 1966 Western Livestock Grazing Survey Act designed to set Federal land grazing fees at fair market value by 1980. We believe that the present formula is sound. It—

(1) is based on the fair market value concept—the amount a prospective user is willing to pay for that product;

(2) complies with the statutory mandate in the Independent Offices Appropriations Act of 1952 that the fees charged by Federal agencies shall be self-sustaining to the fullest extent possible and fair and equitable to the user;

(3) complies with the policy expressed in section 3(b)(vi) of S. 507: "assure payment of fair market value by users of (BLM) lands"; and

(4) is accepted by conservation groups, the general public and non-public land livestock interests, all of whom were concerned about the Federal subsidy for western livestock interests inherent in fees set below fair market value.

The Hansen amendment is faulty because (1) the Beef Price Index does *not include sheep prices*, (2) the Cost of Production Index includes prices paid by *all* farmers not just ranchers for *all* commodities bought including interest, taxes and wage rates, and (3) does not relate the return to the public for its property—the public land forage—to the value of that property.

The National Resources Council of America and the National Wildlife Federation oppose the amendment.

The Committee has agreed to hold promptly a hearing on the issues to which this proposal attempts to respond.

We urge you to vote against the amendment.

Henry M. Jackson,
Chairman.
Lee Metcalf,
Chairman, Subcommittee on Minerals, Materials, and Fuels.

National Wildlife Federation,
Washington, D.C., February 25, 1976.
Hon. Floyd K. Haskell,
Chairman, Subcommittee on the Environment and Land Resources, Interior and Insular Affairs Committee, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: The National Wildlife Federation appreciates your invitation to comment on S. 507, the proposed Natural Resources Land Management Act.

The Federation has long been on record as supporting, in principle, the major thrust of S. 507. The bill will provide long needed policy direction and authority to properly administer the millions of acres of public lands under the stewardship of the Bureau of Land Management.

However, our support of S. 507 does not extend to proposed amendment No. 1392 which would legislate a new grazing fee formula. NWF is firmly opposed to such an amendment.

In our judgment, the Senate would be well advised to indicate its support for the equitable formula now in use by rejecting the proposed amendments which would subsidize private livestock use of public lands at the expense of other natural resource values. The existing formula was developed only after long study and at considerable cost as part of the comprehensive interagency Western Livestock Grazing Survey conducted in 1966. The objective of requiring private grazers to pay fair market value for forage on public lands is finally being achieved. It would be most unfortunate, for the public therefore, if proposed Amendment No. 1392 was approved by the Senate.

Thank you for this opportunity to express our views.

Sincerely yours,

Thomas L. Kimball,
Executive Vice President.

February 24, 1976.

Dear Senator: The Nation's major conservation and environmental organizations strongly endorse the objectives of S. 507, the Natural Resources Lands Management Act schedueld for floor vote Wednesday, February 25. The bill will provide needed policy direction and authority to administer the nearly one fifth of this country's land surface entrusted to the Bureau of Land Management.

However, we strongly oppose pending amendment No. 1392 which seeks to write a grazing fee formula into law. By rejecting this undesirable amendment, the Senate will uphold the equitable formula now being used, a formula that was developed at the expenditure of millions of dollars in the comprehensive interagency 1966 Western Livestock Grazing Survey. Amendment No. 1392, if approved, would subsidize private livestock use of public lands to the detriment of their other resource values. Only by continuing to require payment of fair market value can misuse of public lands be avoided.

Yours truly,

American Forestry Association, William E. Towell, Executive Vice President; Boone and Crockett Club, Frederick C. Pullman, Conservation Chairman; Citizens Committee on Natural Resources, John M. Burdick, Executive Director; Friends of the Earth, George Alderson, Legislative Consultant; International Association of Game, Fish and Conservation Commissioners, John S. Gottschalk, Executive Vice President; Izaak Walton League of America, Maitland S. Sharpe, Environmental Affairs Director; National Audubon Society, Charles Callison, Executive Vice President; Sierra Club, Charles M. Clusen, Washington Representative; Sport Fishing Institute, Richard H. Stroud, Executive Vice President; Wildlife Management Institute, Daniel A. Poole, President.

Mr. HASKELL. I offered to the Senator from Wyoming to hold hearings on the issues addressed by his amendment. My offer still stands if his amendment fails because I think we ought to know what we are talking about.

I point out if the amendment does what I suspect it does, that is, reduce the grazing fees on public lands, obviously, it discriminates against the person who happens to graze his livestock on private lands.

So, because I do not know what the amendment does, and because I suspect it reduces fees, thereby discriminating against people using private lands, I oppose the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HANSEN. Mr. President, I yield such time to the Senator from Idaho as he may require.

Mr. McCLURE. Mr. President, I thank the Senator for yielding this time. I will be brief.

I am a little puzzled when the manager of the bill says, "I oppose this amendment because I do not understand what it means." Then he says he has had 2 days to study it. Various other people have had time to study it, and they know what it means.

The Senator from Colorado said, in addition to that, a moment ago, that he suspected it would lower grazing fees. Well, it would have the effect of making the fee more responsive to the changes in market in precisely the same way that we have fluctuations in the cost of timber harvested from resource lands in fluctuations according to the market.

It just does not seem to me that there is anything very pernicious about this, certainly nothing very hidden about it. Certainly it is out in the open that it is the intention of the people who are sponsoring the amendment, certainly of myself, to make the fee a related fee to the market of the resource that is being marketed as a result of the grazing upon the national resource lands.

While the formula may appear complex on its face, I think every analysis I have seen of it, even by those who are opposed to it, recognizes that it might in some events result in a lowered grazing fee. It might also in other events result in a higher grazing fee, and I think the opposition, therefore, is not well-founded on that basis of uncertainty, and certainly it should not be turned down because some one person or other says, "I do not know what it means."

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I want to say, in all honesty, to the Senator from Colorado that, perhaps, the objection that is lodged by the various groups that he mentioned might very well be lodged because of the two tiers. But, as a matter of fact, on pricing, I might say to my good friend from Colorado, I can assure him that this will not yield less. In fact, it will go up the first year over the $1.51 that is presently contemplated, but in the future it would be tied to a different relationship than what private lands in the public domain may be leasing for.

The objection could very well be that we have set a unit where you may have more than 11 acres per unit that gets the lower price, and I would assume if there is objection, principally it is that. But we do not propose that it be less. Basically it will be higher under this but related to a different marketplace fact.

Mr. HASKELL. Mr. President, I yield myself 1 minute.

I oppose this amendment because I do not understand it, and the formula is complex. Maybe it is meritorious. As I told my friend from Wyoming, I would be very pleased to have hearings on this subject.

But my principal concern is the vast uncertainty surrounding this proposal. Quite simply, no public record has been established on this proposal and its advantages and disadvantages. The amendment provides for the first time a statutory base for determining grazing fees. Its formula is very complicated. I simply do not know what the full economic impact of this proposal would be.

I think it highly undesirable to place in a Senate-passed bill a provision to set fees for use of a public resource when we have so little knowledge as to what the impact of the formula would be. This is especially true when the present fee structure will bring in over $25 million in fiscal year 1976 and over $34 million in fiscal year 1977.

Mr. President, I urge my colleagues to vote against this amendment. I do so with a pledge to promptly hold hearings on this and any other proposal which attempts to respond to the issues raised by the present grazing fee system.

I am prepared to yield back the remainder of my time if the Senator from Wyoming is. I ask for a 10-minute rollcall on this vote and on the succeeding vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment of the Senator from Wyoming. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. HANSEN. Mr. President, may I be heard?

Mr. HASKELL. The Senator from Wyoming did not say whether he yielded back all his time.

The PRESIDING OFFICER. Does the Senator from Wyoming yield back his time?

Mr. HANSEN. Mr. President, the situation we are trying to address is brought about by the fact that about 2 percent of the livestock, the cattle, that are raised in the United States today graze at some time during their lives upon the publicly-owned lands of the United States. We are not talking about a lot of cattle in terms of total numbers but, nevertheless, that 2 percent is important to the continuing welfare of many, many small communities and counties and, indeed, States of the West.

The fact is also that the grower, the breeder of cattle has been in a very difficult situation. But the fact is they have been going out of business. When this happens, the jobs that were provided by those ranching operations suddenly vanish. The support that goes to communities dries up. The tax base is eroded as poorer uses have to be made of these ranch properties. The absence of the livestock from the tax rolls hurts schools, hurts communities, hurts businesses throughout the West.

This formula, I grant and agree with my good friend from Colorado, is not easily understood unless you are familiar with the livestock business, and if you are, as BLM people are and as forest people are, it makes good sense. In fact, it says simply two things: If the price of livestock increases, the grazing fees will reflect proportionately a like increase. If they drop lower the grazing fee that will be levied the next year will be lower in a proportional amount.

It also takes cognizance of the fact that there is a difference—as has been pointed out by the Senator from New Mexico—in lands. That some lands are not as good as other lands. In Wyoming we have areas where it may take at least 160 acres or even as much as a section to graze one cow for 1 year.

That is about the limit.

There are other parts of the West where the grasses are very verdant and they are densely found growing on the land. It recognizes that that sort of difference can make the difference in how fat an animal and how much growth will take place during the grazing season.

This bill is important if we want to keep people in the cow business.

I am surprised at the environmental groups who were so greatly concerned about trying to keep little ranchers on the land when they wanted the strip mining, but suddenly now dry up their support and say that this does not matter, they wanted it as long as it was strip mining, but go down the drain on this one?

I have to say that I hope this amendment, which has wide bipartisan support, will prevail.

I yield such time as the Senator from Arizona may desire.

Mr. FANNIN. I thank the distinguished Senator from Wyoming.

I support this amendment. I feel that if consideration is given the livestock people that they are justly deserving, this amendment will be readily approved.

We have many acres in the West. In fact, sections of land yield very little grazing fodder, but they are used for that purpose.

We have many benefits that accrue to the people in those areas. For instance, the hunters and the people that are visiting those areas that want to have some protection.

The ranchers certainly give that protection in many instances. Fencing is maintained in many instances by the ranchers. We have stocked ponds. Many services are performed by these livestock people that could not otherwise be performed.

Certainly, over the years, they have suffered from drought. They have had very difficult times. They have not been subsidized, as many others. They have fought their own battle.

It seems only fair and equitable they have this opportunity to have a formula that would give them a fair break.

Mr. President, it is my pleasure to be a cosponsor of the pending amendment. Consequently, I would like to address the economic sense that this amendment would make.

To begin with, consumers have been a major concern of the Congress in recent years. We have been very aware of the high increases in vital commodities such as food and energy, and have sought to bring relief by various measures. Though our methods of aiding consumers come under considerable debate, there is never argument over our sincere desire to stabilize the cost of living in America.

Thus the recent grazing fee increases were very unwelcome. It is estimated that the 51-percent increase in stock grazing on our public lands will cost western cattlemen and wood growers over $5 million in 1976. And though consumers will eventually bear this burden, the immediate impact will be on the ranchers—who are already coping with a 25-percent cost-of-production increase in the cattle business coupled with a 20-percent beef selling price decrease, since 1973. Their costs are going up and their selling price going down.

Mr. President, this policy is further aggravated by the increasing trend by the BLM and Forest Service to cut back grazing allotments, rather than implement range improvement methods. How do we justify these activities to the ever-dwindling numbers of cattlemen and woolgrowers; and how do we justify these actions to consumers?

This amendment would at least assure a direct relationship between livestock prices and grazing fees. If adopted, this provision would still provide reasonable fees to the Forest Service and BLM, with percentages for range improvement that are consistent with the Taylor Grazing Act. But, it would also provide for consideration of the beef price index and cost of production, to justify further increases in grazing fees.

The public lands should be managed on behalf of and in the interest of the American people. This amendment would further that goal.

Mr. President, I ask unanimous consent that an article "Grazing Fee Rise Angers Stockmen," which appeared in the February 2 issue of the Arizona Daily Star, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GRAZING FEE RISE ANGERS STOCKMEN

(By Gil Russell)

Arizona stockmen are up in arms over recent increases averaging almost 50 per cent in the fees they pay the federal government to graze livestock on public lands.

Despite a congressional study contending that the grazing fees amount to less than 1 per cent of the cost of a ranching operation, John Olson, executive vice president of the Arizona Cattle Growers Assn., said the boosts "will most assuredly put some small operators out of business."

Olson said he "can't understand why Congress felt the need to make the increase so extreme."

As of Jan. 1, the fee for grazing cattle on national forest land went from $1.11 to $1.60 per cow per month. On lands administered by the Bureau of Land Management the fee was increased from $1 to $1.51.

The increases were ordered by Congress to bring the fees to a level more closely reflecting their true value, and follow several smaller increases since 1969.

Continued fee boosts are in store for cattlemen through 1980, said Charles Ames, chief of grazing operations on the Coronado National Forest headquartered in Tucson. By then, he said, grazing fees for BLM and Forest Service lands will be roughly equal and represent their true value.

Olson said the increases will create hardships for all ranchers who depend on public lands for grazing. They will add to the cost of ranching and decrease the value of ranches by making them less profitable, he said.

Ted Lee, owner of a Hereford breeding operation near Willcox, said, "I think government land is plenty high-priced now." Ranching on private land is cheaper, according to Lee, because property taxes on private land are less per acre than lease rates for public land.

Lee, who has control over about 64,000 acres, including his permit for grazing on Coronado National Forest and BLM land, said the increased fees will ultimately affect the consumer in the form of higher beef prices.

Lee said the fee increases "will knock some of the marginal (ranch) operators out of business. Not necessarily the smallest but the least efficient. I guess you'd say it's just another of those costs we'll have to bear."

Congress postponed increasing the fees last year because of the depressed cattle market, and justified the sharp increases Jan. 1 on the basis of improved market conditions during 1975. Olson, however, contends that other ranching costs have more than devoured any increased revenues for cattle.

"The cattleman is in no better shape now than he was a year ago," Olson said. "Costs have gone up like you wouldn't believe."

About 227,800 head of cattle are grazed on BLM land in Arizona, a total of 12.8 million acres, mostly along the Colorado River. About 1.3 million acres of BLM land is in the Safford area.

There are 12 million acres in national forests in Arizona, including 1.8 million within the Coronado National Forest. About 36,000 head of cattle are grazed on the Coronado.

Mr. HANSEN. Mr. President, let me yield back the remainder of my time after first reserving such time as there may be for the use of the distinguished Senator from Colorado. I know he wants to speak now. Whatever time he needs over what he may have, I yield to him, and if there is any left, I yield it back.

The PRESIDING OFFICER. I think I understand. The Senator is giving him the remainder of his time that he needs.

Mr. HANSEN. Mr. President, I am making a very generous gesture.

Mr. HASKELL. Mr. President, the Senator from Wyoming always makes very generous gestures.

I merely reiterate, I do not understand what this amendment does.

I have received a letter from somebody who may not understand it, either, in the Grand Junction area, grazing on private lands, who, to say the least, was somewhat vehement against this amendment because it said it would place ranchers who graze their livestock on private land at a competitive disadvantage.

I am perfectly willing to have hearings on the subject. As a matter of fact, I think there should be hearings on the existing grazing fee structure and proposals to alter it.

With that, I hope the Senate will defeat the amendment.

ADDITIONAL STATEMENTS SUBMITTED ON AMENDMENT NO. 1392

Mr. DOMENICI. Mr. President, I support the amendment introduced by the distinguished Senator from Wyoming (Mr. HANSEN). This amendment is designed to take care of a problem which has faced the livestock industry for many years. This amendment contains a reasonable formula for establishing grazing fees on public lands which is fair to the rancher and it also provides a fair and equitable return to the Government for the use of the forage resources on public lands.

The present system of arriving at grazing fees is subject to administrative whim on a year-by-year basis which makes it difficult for the rancher to plan for the future. This amendment will provide stability by establishing a statutory fee formula.

Recently, a 50-percent increase in grazing fees was announced by the administration. This increase threatens the very existence of many livestock producers, particularly, the small younger livestock producer who may be operating on small margins of equity. The small rancher has no recourse but to pass along his increased operating costs, and his grazing fee expense is a significant part of those costs.

A healthy livestock industry is necessary to the welfare of the Nation, and in my own State of New Mexico, this industry is very important because farming is a major industry—second only to the mineral extractive industry—and two-thirds of the farm receipts are from livestock. In New Mexico the Federal Government owns millions of acres; therefore, the livestock industry is heavily dependent on federally owned grazing lands.

Under present law, the establishment of grazing fees on Federal lands is left to administrative determination. The proposed 50-percent increase follows a moratorium on fee increases in 1975. In recent years there have been many sharp increases of these fees with no recognition of the economic conditions of the livestock industry. The rancher in the West is confronted with an uncertain situation in a matter that is of fundamental economic importance to his operations. By establishing a formula governing the fixing of fees for grazing rather than by administrative fiat, much of this economic uncertainty facing our western stockmen would be eliminated.

Some have argued that grazing charges on public land should be set at a level comparable to those for similar private land. This argument completely fails to recognize that ranchers utilizing public domain lands must make substantial investments in connection with their use of the acreage. Expenditures for range improvement, facilities and outlays for other purposes have costs, and will continue to cost these ranchers a great deal. These investments are not required on private land or the costs are reflected in higher land values to the landowner. It is imperative that these factors be considered in setting of grazing fees.

On public domain land grazing permits and leases, there is no term fixed. The Government can, at any time, cancel the permit or lease if the lands are to be devoted to some other use. Except in very limited circumstances, the Secretary has absolute discretion to refuse to renew a permit, and also, with the exception of limited situations, no provision is made for the recovery of the losses sustained by the permittee or lessee when the permit or lease is terminated.

Therefore, public domain permits and leases differ significantly from private leases. Normally, private leases are negotiated for specific periods of time. The leases are noncancellable, and if the lessor interferes with or prevents the lessee's use of the land during the period of the lease, he may be required to respond in damages to the lessee for any losses resulting from his action.

Another factor which must be considered when setting fee level is the economic strength and well-being of the industry. Failure to heed this can only lead to worsening the economic difficulties livestock producers often face.

Mr. President, no responsible livestock operator expects to use the public lands free of charge; however, the amount he pays should bear a reasonable relationship to the value of that use. This amendment accomplishes this goal by revising the grazing fee formula to take into account the cost of livestock production and the price received for meat animals by using the beef price index and the cost-of-production index.

Mr. McGEE. Mr. President, I wish to add my support to the amendment offered by my distinguished friend and colleague, Senator HANSEN. As you may know, the Departments of the Interior and Agriculture will raise the price of grazing on public lands some 51 percent on March 1. Yet, this grazing fee increase comes at a time when the stockgrower is receiving less for his product while his operating costs are climbing steadily.

Beef prices for instance, have decreased from $43 per hundredweight in 1973 to $32.20 per hundredweight in 1975 according to Department of Agriculture figures. Livestock producers are therefore being forced to pay increased grazing fees at a time when they can least afford it. The Department of the Interior has stated that they wish to arrive at a fair market value fees system. But what is "fair market value" on public lands when the fees charged may drive some permittees out of business? Does this return a "fair market value" to the producer? Does it assist in controlling inflation and lessen food costs to the consumer? I think not.

Mr. President, this amendment would address some of the obvious inequities in the present grazing fee system. It would establish a simple formula by which the cost of livestock production and the price received for these animals would be also tied to ability of public lands to support grazing. Under this formula the producer would not have to bear the brunt of drastic changes in price structure and would pay for grazing in a manner that would reflect the ability of the land to support his stock.

Mr. BUCKLEY. I have long been bothered by the fact that the Federal controls such vast acreage that is substantially devoted to private uses—such as grazing. Land is kept off local tax rolls, and the marketplace cannot function in establishing competitive—therefore reasonable fees and rentals.

It is in this context that I conclude that the Hansen proposal, on balance, will prove favorable. The value of grazing rights is a function of the net value of the meat it will produce. To peg grazing rights is a function of the net value of the wheat it will provide. To pay rentals to the price of beef and productivity appears to me is as reasonable a basis as any other for setting rentals on land owned by a monopoly landlord.

Mr. HASKELL. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Wyoming. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MATHIAS. Mr. President, on this vote I have a live pair with the Senator from Oregon (Mr. HATFIELD). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD), the Senator from North Carolina (Mr. MORGAN), the Senator from New Hampshire (Mr. DURKIN), and the Senator from New Mexico (Mr. MONTOYA) are absent on official business.

I also announce that the Senator from Montana (Mr. METCALF), and the Senator from California (Mr. TUNNEY) are absent because of illness.

On this vote, the Senator from New Mexico (Mr. MONTOYA) is paired with the Senator from North Carolina (Mr. MORGAN).

If present and voting, the Senator from New Mexico would vote "yea" and the Senator from North Carolina would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD) is necessarily absent.

The result was announced—yeas 36, nays 53, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—36

Abourezk
Baker
Bartlett
Bellmon
Bentsen
Buckley
Cannon
Church
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Garn
Goldwater
Gravel
Griffin
Hansen
Helms
Hruska
Inouye
Laxalt
McClure
McGee
McGovern
Moss
Pearson
Randolph
Scott, Hugh
Scott, William L.
Stennis
Stevens
Thurmond
Tower
Young

NAYS—53

Allen
Beall
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Eagleton
Ford
Glenn
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
McIntyre
Mondale
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Sparkman
Stafford
Stevenson
Stone
Symington
Taft
Talmadge
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mathias, against.

NOT VOTING—10

Bayh
Durkin
Hartke
Hatfield
Mansfield
McClellan
Metcalf
Montoya
Morgan
Tunney

So Mr. HANSEN's amendment No. 1392 was rejected.

Mr. JACKSON. Mr. President, I am pleased to join with the distinguished senior Senator from Colorado in calling for the prompt enactment of S. 507, the National Resource Lands Management Act.

The Federal Government has long overlooked the national resource lands. This valuable resource comprises 20 percent of our entire land base and 60 percent of all Federal property. The neglect of this, our largest single block of federally owned lands must come to an immediate halt. Unfortunately, Mr. President, the Congress must share the blame for the lack of proper attention to these lands. Over the years we have legislated rather extensively concerning other Federal land systems, such as the national forests, parks, wildlife refuges, and wilderness systems; but, in my judgment, we have failed to provide adequate statutory protection for the greatest public land resource—the national resource lands.

The public lands of the United States have always provided the arena in which we Americans have struggled to fulfill our dreams. Even today many dreams of wealth, adventure, and escape are still being acted out on these far-flung lands. These lands and the dreams—fulfilled and unfulfilled—which they foster are a part of our national destiny. They belong to all Americans.

What we do with the public lands of the United States tells a great deal about what we are—what we care for—and what is to become of us as a nation.

Until recently, the lands under the jurisdiction of the Bureau of Land Management have been, for the most part, neglected lands. They were the leftovers from which were carved lands for homesteading, parks, forests, or other uses considered more important. They have not even been dignified with a name other than public domain. Other Federal lands have been given titles which befit their importance—such as national parks, national forests, and national seashores. Therefore, the very first section of this bill would give these lands the name of "national resource lands." Hopefully, this symbolic gesture of respect will complement the numerous, necessary authorities which this legislation would provide for the management of these lands.

Until the 20th century and the establishment of the national park, forest, and other Federal land systems, nearly all the Federal lands were in the category of what this act designates as national resource lands. Although the establishment of the various Federal land systems presaged the end of the era of wholesale disposal of Federal lands, it was only with the Taylor Grazing Act of 1934 that the general policy of disposal of national resource lands was altered.

The Bureau of Land Management, the agency charged with the task of administering the national resource lands, is the successor agency to the General Land Office which was established by the act of April 25, 1812, as a bureau of the Treasury Department. The office was transferred to the Department of the Interior when that department was created in 1849. Passage of the Taylor Grazing Act led to the establishment of the Grazing Service to manage grazing districts authorized under the act. In 1946, the General Bureau of Land Management.

Although many areas within the national resource lands tend to be less desirable from a recreational or scenic point of view than the lands already selected for inclusion in the national systems, our country's expanding and more mobile population has placed increasing demands for public use on these lands. In addition, our Nation's economy requires the fuels, minerals, timber, and forage resources on and under the national resource lands. In order to meet these demands, the Bureau of Land Management has fully adopted the retention philosophy and is managing those lands so as to provide for a wide variety of uses.

However, the Bureau's efforts have been impeded by its dependence on a vast number of outmoded public land laws which were enacted in earlier periods in American history when disposal and largely uncontrolled development of the public domain were the dominant themes. The agencies which have jurisdiction over the other national systems possess modern statutory mandates which reflect changing philosophies toward management of the Federal lands. The Organic Act of the Forest Service, first passed in 1897, and amended thereafter, remains a "modern" mandate, particularly when supplemented by the Multiple Use-Sustained Yield Act of 1960. The Park Service's Organic Act of 1916 has been renewed through amendments and through individual acts creating national parks. Our pride in these laws must necessarily be tempered by the recognition of our failure to provide a complementary statutory base for the Bureau of Land Management and its national resource lands.

The lack of a modern management mandate for the Bureau and its dependence on some 3,000 public land laws, many of which are clearly antiquated, were among the reasons for congressional recognition of a need to review and reasses the entire body of law governing Federal lands. This review was begun when, on September 19, 1964, Congress created the Public Land Law Review Commission.

After 5 years of extensive investigations, the Commission completed its review and submitted its final report, entitled "One Third of the Nation's

Land," to the President and the Congress on June 20, 1970. The report contains 137 numbered, and several hundred unnumbered, recommendations designed to improve the Federal Government's custodianship of the Federal lands. The legislation we introduce today is in accordance with over 100 of these recommendations.

Principal among these recommendations is the Commission's view that:

> The policy of large-scale disposal of public lands reflected by the majority of statutes in force today (should) be revised and that future disposal should be only those lands that will achieve maximum benefit for the general public in non-Federal ownership, while retaining in Federal ownership those whose values must be preserved so that they may be used and enjoyed by all Americans.

S. 507, as reported by the Interior Committee, specifically adopts this goal in stating as policy that "the national interest will be served by retaining the national resource lands in Federal ownership" and that management of these lands will be "under principles of multiple use and sustained yield in a manner which will * * * assure the environmental quality of such lands for present and future generations."

In addition, the Commission emphasized a need to develop "a clear set of goals for the management and use of public lands * * * particularly * * * (For) lands administered by the Bureau of Land Management." The Commission's report stated specifically that:

> A congressional statement of policy goals and objectives for the management and use of public lands is needed to give focus and direction to the planning process.

The bill also answers this call of the Commission by providing a clear statement of goals and objectives by which these lands must be managed.

The National Resource Lands Management Act also directs the Secretary of the Interior to prepare and maintain an inventory of the national resource lands and their resources. Congressional recognition of the importance of such authority for proper management of the national resource lands has been long standing, as demonstrated by the passage of the 1964 Classification and Multiple Use Act. That act contained temporary authority providing the Bureau of Land Management with criteria to conduct a systematic effort to classify lands. However, this authority expired on December 23, 1970, and unless we enact the legislation, the Bureau of Land Management will continue to lack the necessary authority to properly manage the national resource lands.

Perhaps the most critical finding of the Commission is the appalling absence of the enforcement authority so necessary for any land management agency. The National Resource Lands Management Act would provide the BLM with authority similar to that already possessed by the Park Service and the Forest Service.

Mr. President, we must act expeditiously on this measure. It has been 12 years since the creation of the Public Land Law Review Commission, 6 years since the submission of its report and the expiration of the Classification and Multiple-Use Act, and 6 years since I first introduced a National Resource Lands Management Act. This bill's predecessors have been reported three times by the Senate Interior Committee and passed twice by the Senate. It would not be in the public interest to delay further.

The PRESIDING OFFICER. Under the previous order, the engrossment and third reading of the bill are now in order. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? This will be a 10-minute vote. The clerk will please call the roll.

Mr. FORD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. There was a unanimous-consent agreement for a 10-minute rollcall on this vote. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, upon the disposition of this matter——

Mr. PASTORE. Mr. President, may we have order? This is a very important announcement.

Mr. ROBERT C. BYRD. Upon the disposition of this matter there will be no more rollcall votes today.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), and the Senator from Arkansas (Mr. McCLELLAN) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from North Carolina (Mr. MORGAN), the Senator from New Hampshire (Mr. DURKIN), and the Senator from New Mexico (Mr. MONTOYA) are absent on official business.

I also announce that the Senator from California (Mr. TUNNEY), and the Senator from Montana (Mr. METCALF) are absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD) is necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 78, nays 11, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—78

Abourezk
Allen
Baker
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Dole
Eagleton
Eastland
Fong
Ford
Haskell
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hathaway
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
McGee
McGovern
McIntyre
Mondale
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Weicker
Williams
Young

NAYS—11

Bartlett
Curtis
Domenici
Fannin
Garn
Goldwater
Hansen
Helms
Laxalt
McClure
Tower

NOT VOTING—11

Bayh
Durkin
Hartke
Hatfield
Huddleston
Mansfield
McClellan
Metcalf
Montoya
Morgan
Tunney

So the bill (S. 507) was passed, as follows:

S. 507

An act to provide for the management, protection, and development of the national resource lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "National Resource Lands Management Act".

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Sec. 6. Advisory boards and committees.
Sec. 7. Annual report.
Sec. 8. Director.
Sec. 9. Appropriations.

TITLE I—GENERAL MANAGEMENT AUTHORITY

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Sec. 102. Inventory.
Sec. 103. Land use plans.

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Sec. 504. Repeal of laws relating to administration of national resource lands.
Sec. 505. Repeal of laws relating to rights-of-way.

SEC. 2. DEFINITIONS.—As used in this Act:

(a) "The Secretary" means the Secretary of the Interior.

(b) "National resource lands" means all lands and interest in lands (including the renewable and nonrenewable resources thereof) now or hereafter administered by the Secretary through the Bureau of Land Management, except the Outer Continental Shelf.

(c) "Multiple use" means the management of the national resource lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including recreation and scenic values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment, with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(d) "Sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of land without permanent impairment of the quality and productivity of the land or its environmental values.

(e) "Areas of critical environmental concern" means areas within the national resource lands where special management attention is required to protect important historic, cultural, or scenic values, or natural systems or processes, or life and safety as a result of natural hazards.

(f) "Right-of-way" includes an easement, lease, permit, or license to occupy, use, or traverse national resource lands granted for the purposes listed in title IV.

(g) "Holder" means any State or local governmental entity or agency, individual, partnership, corporation, association, or other business entity receiving or using a right-of-way under title IV.

SEC. 3. DECLARATION OF POLICY.—(a) The Congress hereby declares that—

(1) the national resource lands are a vital national asset containing a wide variety of natural resource values;

(2) sound, long-term management of the national resource lands is vital to the maintenance of a livable environment and essential to the well-being of the American people;

(3) the national interest will be best realized if the national resource lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts; and

(4) except where disposal of particular tracts is made in accordance with title II, the national interest will be best served by retaining the national resource lands in Federal ownership.

(b) The Congress hereby directs that the Secretary shall manage the national resource lands under principles of multiple use and sustained yield in a manner which will, using all practicable means and measures: (i) assure the environmental quality of such lands for present and future generations; (ii) provide for, but not necessarily be limited to, such uses as provision of food and habitat for wildlife, fish and domestic animals, minerals and materials production, supplying the products of trees and plants, human occupancy and use, and various forms of outdoor recreation; (iii) include scientific, scenic, historical, archeological, natural ecological, air and atmospheric, water resource, and other public values; (iv) continue certain areas in their natural condition; (v) balance various demands on such lands consistent with national goals; (vi) assure payment of fair market value by users of such lands; and (vii) provide maximum opportunity for the public to participate in decisionmaking concerning such lands.

SEC. 4. RULES AND REGULATIONS.—The Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the Administrative Procedure Act (60 Stat. 237), as amended. Prior to the promulgation of such rules and regulations, the national resource lands shall be administered under existing rules and regulations concerning such lands.

SEC. 5. PUBLIC PARTICIPATION.—In exercising his authorities under this Act, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for, and the management of, the national resource lands.

SEC. 6. ADVISORY BOARDS AND COMMITTEES.—In providing for public participation in the planning for and management of the national resource lands, the Secretary, pursuant to the Federal Advisory Committee Act (86 Stat. 770) and other applicable law, may establish and consult such advisory boards and committees as he deems necessary to secure full information and advice on the execution of his responsibilities. The membership of such boards and committees shall be representative of a cross section of groups interested in the management of the national resource lands and the various types of use and enjoyment of such lands.

SEC. 7. ANNUAL REPORT.—The Secretary shall prepare an annual report which he shall make available to the public and submit to the Congress no later than 120 days after the close of each fiscal year. The report shall describe, in appropriate detail, activities relating or pursuant to this Act for the fiscal year just ended, any problems which may have arisen concerning such activities, and other pertinent information which will assist the accomplishment of the provisions and purposes of this Act. The report shall contain a detailed list and description of all transfers of national resource lands out of Federal ownership for the fiscal year just ended. It shall include such tables, graphs, and illustrations as will adequately reflect the fiscal year's activities, historical trends, and future projections relating to the national resource lands.

SEC. 8. DIRECTOR.—Appointments made on or after the date of the enactment of this Act to the position of the Director of the Bureau of Land Management, within the Department of the Interior, shall be made by the President, by and with the advice and consent of the Senate. The Director shall have a broad background and experience in public land and natural resource management.

SEC. 9. APPROPRIATIONS.—There is hereby authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act.

TITLE I—GENERAL MANAGEMENT AUTHORITY

SEC. 101. MANAGEMENT.—The Secretary shall manage the national resource lands in accordance with the policies and procedures of this Act and with any land use plans which he has prepared pursuant to section 103, except to the extent that other applicable law provides otherwise. Such management shall include:

(1) regulating, through permits, licenses, leases, or such other instruments as the Secretary deems appropriate, the use, occupancy, or development of the national resource lands not provided for by other laws including long term leases to permit individuals to utilize national resource lands for habitation, cultivation, and the development of small trade or manufacturing concerns: *Provided, however,* That no provision of this Act shall be construed as authorizing the Secretary to require any Federal permit to hunt or fish on the national resource lands;

(2) requiring appropriate land reclamation as a condition of use, and requiring a performance bond or other security guaranteeing such reclamation in a timely manner from any person permitted to engage in an extractive or other activity likely to entail significant disturbance to or alteration of the national resource lands;

(3) inserting in permits, licenses, leaves, or other authorizations to use, occupy, or develop the national resource lands, provisions authorizing revocation or suspension, after notice and hearing, of such permits, licenses, leases, or other authorizations, upon final administrative finding of a violation of any applicable regulations issued by the Secretary under any Act applicable to the national resource lands or upon final administrative finding of a violation on such lands of any applicable State or Federal air or water quality laws or regulations: *Provided,* That any such suspension shall be terminated no later than the date upon which the Secretary determines the cause of said violation has been rectified: *Provided further,* That the Secretary may order an immediate temporary suspension prior to a hearing or final administrative finding if he determines that such a suspension is necessary to protect public health or safety or the environment: *Provided further,* That, where other applicable law contains specific provisions for suspension, revocation, or cancellation of a permit, license, or other authorization to use, occupy, or develop the national resource lands, the specific provisions of such law shall prevail; and

(4) the prompt development of regulations for the protection of areas of critical environmental concern.

Sec. 102. Inventory.—(a) The Secretary shall prepare and maintain on a continuing basis an inventory of all national resource lands, and their resource and other values (including outdoor recreation and scenic values), giving priority to areas of critical environmental concern. Areas containing wilderness characteristics as described in section 2(c) of the Act of September 3, 1964 (78 Stat. 890, 891), shall be identified within five years of enactment of this Act. The inventory shall be kept current so as to reflect changes in conditions and in identifications of resource and other values. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change in the management or use of national resource lands.

(b) As funds and manpower become available, the Secretary shall provide (i) means of public identification of national resource lands, including signs and maps, and (ii) State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in the proximity of national resource lands.

Sec. 103. Land Use Plans.—(a) The Secretary shall, with public participation, develop, maintain, and, when appropriate, revise land use plans for the national resource lands consistent with the terms and conditions of this Act. The Secretary, insofar as he finds feasible and proper or as may be required by the enactment of a national land use policy or other law, coordinate such plans with the land use plans, including the statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), as amended, of State and local governments and other Federal agencies and consider current use and zoning patterns of land affected by the use of national resource lands.

(b) In the development and maintenance of land use plans, the Secretary shall:

(1) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and social sciences;

(2) give priority to the designation and protection of areas of critical environmental concern;

(3) rely, to the extent it is available, on the inventory of the national resource lands, their resources, and other values;

(4) consider present and potential uses of the lands;

(5) consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(6) weigh long-term public benefits; and

(7) consider the requirements of applicable pollution control laws including State or Federal air and water quality and noise standards, and implementation plans.

(c) Wherever any proposed change in the permitted uses on any national resource lands would affect authorization for use of such lands, persons holding leases, licenses, or permits concerning the use to be affected and State and local governments with jurisdiction in the affected area shall be given written notice by the Secretary of such proposed change sufficiently in advance to permit such persons to initiate such administrative review processes available to them under the authorization before such change is put into effect.

(d) Areas identified pursuant to section 102 as having wilderness characteristics shall be reviewed within fifteen years of enactment of this Act pursuant to the procedures set forth in subsections 3 (c) and (d) of the Act of September 3, 1964 (78 Stat. 890, 892–893): *Provided, however,* That such review shall not, of itself, either change or prevent change in the management or use of the national resource lands.

TITLE II—CONVEYANCE AND ACQUISITION AUTHORITIES

Sec. 201. Authority To Sell.—Except as otherwise provided by law, and subject to the requirements of section 3 of this Act, the Secretary is authorized to sell national resource lands. Any tract of the national resource lands may be sold if the Secretary, in accordance with the guidelines he has established for sale of national resource lands and after preparation pursuant to section 103 of a land use plan which includes such tract, determines that the sale of such tract will not cause needless degradation of the environment and meets the disposal criteria of section 202.

Sec. 202. Disposal Criteria.—(a) Except as to conveyances under sections 208, 213, and 214, a tract of national resource lands may be transferred out of Federal ownership under this Act only where, as a result of land use planning required under section 103, the Secretary determines that—

(1) such tract, because of its location and other characteristics, is difficult to manage as part of the national resource lands and is not suitable for management by another Federal agency; or

(2) such tract was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or

(3) disposal of such tract will serve objectives which cannot be achieved prudently or feasibly on land other than such tract and which outweigh all public objectives and values which would be served by maintaining such tract in Federal ownership.

(b) Where the Secretary determines that land to be conveyed under clause (3) of subsection (a) is of agricultural value and is desert in character, such land shall be conveyed either under the sale authority of section 201 or in accordance with existing law.

Sec. 203. Sales at Fair Market Value.—Sales of national resource lands under this Act shall be at not less than the appraised fair market value as determined by the Secretary.

Sec. 204. Size of Tracts.—The Secretary shall determine and establish the size of tracts of national resource lands to be sold on the basis of the land use capabilities and development requirements of the lands; and, where any such tract which is judged by the Secretary to be chiefly valuable for agriculture is sold, its size shall be no larger than necessary to support a family-sized farm.

Sec. 205. Competitive Bidding Procedures.—Except as to sales under sections 208 and 214, sales of national resource lands under this Act shall be conducted under competitive bidding procedures to be established by the Secretary. However, where the Secretary determines it necessary and proper (i) to assure equitable distribution among purchasers of national resource lands, or (ii) to recognize equitable considerations or public policies, including but not limited to a preference to users, he is authorized to sell national resource lands with modified competitive bidding or without competitive bidding.

Sec. 206. Right To Refuse or Reject Offer of Purchase.—Until the Secretary has accepted an offer to purchase, he may refuse to accept any offer or may withdraw any land or interest in land from sale under this Act when he determines that consummation of the sale would not be consistent with this Act or other applicable law. The Secretary shall accept or reject, in writing, any offer to purchase made through competitive bid at his invitation no later than thirty days after the submission of such offer.

Sec. 207. Reservation of Mineral Interests.—All conveyances of title issued by the Secretary under this Act, except conveyances under section 213, shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe: *Provided,* That, where prospecting, mining, or removing minerals reserved to the United States would interfere with or preclude the appropriate use or development of such land, the Secretary may (1) enter into covenants at the time of conveyance of such land or thereafter which provide that such activities shall not be pursued for a specified period, or (2) convey the minerals in the conveyance of title in accordance with the provisions of section 208(a) (1) and (2).

Sec. 208. Conveyance of Reserved Mineral Interests.—(a) The Secretary may convey mineral interests owned by the United States where the surface is in non-Federal ownership, regardless of which Federal agency may have administered the surface, if he finds (1) that there are no mineral values in the land, or (2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate nonmineral development of the land and that such development is a more beneficial use of the land than mineral development.

(b) Conveyance of mineral interests pursuant to this section shall be made only to the record owner of the surface, upon payment of administrative costs and the fair market value of the interests being conveyed.

(c) Before considering an application for conveyance of mineral interests pursuant to this section—

(1) the Secretary shall require the deposit by the applicant of a sum of money which he deems sufficient to cover administrative costs including, but not limited to, costs of conducting an exploratory program to determine the character of the mineral deposits in the land, evaluating the data obtained under the exploratory program to determine the fair market value of the mineral interests to be conveyed, and preparing and issuing the documents of conveyance: *Provided,* That, if the administrative costs exceed the deposit, the applicant shall pay the outstanding amount; and, if the deposit exceeds the administrative costs, the applicant shall be given a credit for or refund of the excess; or

(2) the applicant shall have conducted, and submitted to the Secretary the results of, such an exploratory program, in accordance with standards promulgated by the Secretary.

(d) Moneys paid to the Secretary for administrative costs pursuant to subsection (c) (1) of this section shall be paid to the agency which rendered the service and deposited to the appropriation then current.

Sec. 209. Terms of Patent.—The Secretary shall insert in patents or other documents of conveyance he issues under this Act such terms, covenants, conditions, and reservations which he deems to be essential to insure proper land use and protection of the public interest: *Provided,* That a conveyance of lands by the Secretary, subject to such terms, covenants, conditions, and reservations, shall not exempt the grantee from compliance with applicable Federal or State law or State land use plans.

Sec. 210. Conforming Conveyances to State and Local Planning.—At least ninety days prior to a sale or other conveyance of national resource lands under this Act, the Secretary shall notify the Governor of the State within which such lands are located and the head of the governing body of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which such lands are located in order to afford the appropriate body or bodies the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning, the use of such lands prior to such conveyance. The Secretary shall also promptly notify such public officials of the issuance of the patent or other document of conveyance for such lands.

SEC. 211. AUTHORITY TO ISSUE AND CORRECT DOCUMENTS OF CONVEYANCE.—Consistent with his authority to dispose of national resource lands, the Secretary is authorized to issue deeds, patents, and other indicia of title, and to correct such documents where necessary. In addition, the Secretary is authorized to make corrections on any documents of conveyance which have heretofore been issued on lands which would, at the time of their conveyance, have met the description of national resource lands.

SEC. 212. RECORDABLE DISCLAIMERS OF INTERESTS IN LAND.—(a) After consulting with any affected Federal agency, the Secretary is authorized to issue a document of disclaimer of interest or interests in any lands in any form suitable for recordation, where the disclaimer will help remove a cloud on the title of such lands and where he determines (1) a record interest of the United States in lands has terminated by operation of laws; or (2) the lands lying between the meander line shown on a plat of survey approved by the Bureau of Land Management or its predecessors and the actual shoreline of a body of water are not lands of the United States; or (3) accreted, relicted, or avulsed lands are not lands of the United States.

(b) No document of disclaimer shall be issued pursuant to this section unless the applicant therefor has filed with the Secretary an application in writing, notice of such application setting forth the grounds supporting such application has been published in the Federal Register at least ninety days preceding the issuance of such disclaimer, and the applicant has paid to the Secretary the administrative costs of issuing the disclaimer, as determined by the Secretary. All receipts shall be credited to the appropriation from which expended.

(c) Issuance of a document of disclaimer by the Secretary pursuant to the provisions of this section and regulations promulgated hereunder shall have the same effect as a quit-claim deed from the United States.

SEC. 213. ACQUISITION AND EXCHANGE OF LAND.—(a) The Secretary is authorized to acquire, by purchase, exchange, or donation, lands or interests therein where necessary for proper management of the national resource lands: *Provided,* That lands or interests in land may be acquired pursuant to this title by eminent domain only if necessary in order to secure access to national resource lands: *Provided further,* That any such lands or interests acquired by eminent domain shall be confined to as narrow a corridor as is necessary to serve such purpose.

(b) Acquisitions pursuant to this Act shall be consistent with applicable land use plans prepared by the Secretary under section 103.

(c) In exercising the exchange authority granted by subsection (a) of this section, the Secretary may accept title to any non-Federal lands or interests therein and in exchange therefor he may convey to the grantor of such lands or interests any national resource lands or interests therein which are located in the same State as the non-Federal land to be acquired, and (1) which he finds proper for transfer out of Federal ownership pursuant to section 202, or (2) the values of which and the objectives which such lands or interests may serve if retained in Federal ownership he finds to be outweighed by the values of the non-Federal lands or interests and the public objectives they could serve if acquired. The values of the lands or interests so exchanged either shall be equal, or if they are not equal, shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require: *Provided,* That such payment shall not exceed 30 per centum of the total value of the lands or interests transferred out of Federal ownership.

(d) Lands or interests in lands acquired pursuant to this section or section 301(c) shall, upon acceptance of title, become national resource lands, and, for the administration of public land laws not repealed by this Act, shall become public lands. If such acquired lands or interests are located within the exterior boundaries of a grazing district established pursuant to section 1 of the Taylor Grazing Act (48 Stat. 1269), as amended, they shall become a part of that district.

(e) Lands or interests in lands acquired under this section or section 301(c) which are within the boundaries of the national forest system may be transferred to the Secretary of Agriculture for administration as part of, and in accordance with, the laws, rules, and regulations applicable to, the National Forest System. Such transfer shall not result in the reduction in the percentage of in-lieu payments receivable by State and local governments. Lands or interests in lands acquired under this section or section 301(c) which are within the boundaries of the National Park, Wildlife Refuge, Wild and Scenic Rivers, or Trails System, or any other system established by Act of Congress, may be transferred to the appropriate agency head for administration as part of, and in accordance with the laws, rules, and regulations applicable to, such system.

SEC. 214. OMITTED LANDS.—(a) The Secretary is hereby authorized to convey to States or their political subdivisions under the Recreation and Public Purposes Act (44 Stat. 741), as amended, but without regard to the acreage limitations contained therein, unsurveyed islands determined by the Secretary to be public lands of the United States. The conveyance of any such island may be made without survey: *Provided, however,* That such island may be surveyed at the request of the applicant State or its political subdivision if such State or subdivision donates money or services to the Secretary for such survey, the Secretary accepts such money for services, and such services are conducted pursuant to criteria established by the Director of the Bureau of Land Management. Any such island so surveyed shall not be conveyed without approval of such survey by the Secretary prior to the conveyance.

(b)(1) The Secretary is authorized to convey to States and their political subdivisions under the Recreation and Public Purposes Act, but without regard to the acreage limitations contained therein, lands other than islands determined by him after survey to be public lands of the United States erroneously or fraudulently omitted from the original surveys (hereinafter referred to as "omitted lands"). Any such conveyance shall not be made without a survey: *Provided,* That the prospective recipient may donate money or services to the Secretary for the surveying necessary prior to conveyance if the Secretary accepts such money or services, such services are conducted pursuant to criteria established by the Director of the Bureau of Land Management, and such survey is approved by the Secretary prior to the conveyance.

(2) The Secretary is authorized to convey to the occupant of any omitted lands which, after survey, are found to have been occupied and developed for a five-year period prior to January 1, 1975, if the Secretary determines that such conveyance is in the public interest and will serve objectives which outweigh all public objectives and values which would be served by retaining such lands in Federal ownership. Conveyance under this subparagraph shall be made at not less than the fair market value of the land, as determined by the Secretary, and upon payment in addition of administrative costs, including the cost of making the survey, the cost of appraisal, and the cost of making the conveyance.

(c)(1) No conveyance shall be made pursuant to this section until the relevant State government, local government, and areawide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262) and/or title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103-4) have notified the Secretary as to the consistency of such conveyance with applicable State and local government land use plans and programs.

(2) The provisions of section 210 of this Act shall be applicable to all conveyances under this section.

(d) The final sentence of section 1(c) of the Recreation and Public Purposes Act shall not be applicable to conveyances under this section.

(e) No conveyance pursuant to this section shall be used as the basis for determining the baseline between Federal and State ownership, the boundary of any State for purposes of determining the extent of a State's submerged lands or the line of demarcation of Federal jurisdiction, or any similar or related purpose.

(f) The provisions of this section shall not apply to any lands within the National Forest System, as defined in the Act of August 17, 1974 (88 Stat. 480), the National Park System, the National Wildlife Refuge System, and the National Wild and Scenic Rivers System.

(g) Nothing in this section shall supersede the provisions of the Act of December 22, 1928 (45 Stat. 1069), as amended, and the Act of May 31, 1962 (76 Stat. 89), or any other Act authorizing the sale of specific omitted lands.

TITLE III—MANAGEMENT IMPLEMENTING AUTHORITY

SEC. 301. STUDIES, COOPERATIVE AGREEMENTS, AND CONTRIBUTIONS.—(a) The Secretary may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the management, protection, development, acquisition, and conveying of the national resource lands.

(b) The Secretary may enter into contracts or cooperative agreements involving the management, protection, development, acquisition, and conveying of the national resource lands.

(c) The Secretary may accept contributions or donations of money, services, and property, real, personal, or mixed, for the management, protection, development, acquisition, and conveying of the national resource lands, including the acquisition of rights-of-way for such purposes. The Secretary may accept contributions for cadastral surveying performed on federally controlled or intermingled lands. Moneys received hereunder shall be credited to a separate account in the Treasury and are hereby appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function toward the administration of which the contributions were made and for refunds to depositors of amounts contributed by them in specific instances where contributions are in excess of their share of the cost.

SEC. 302. SERVICE CHARGES, REIMBURSEMENT PAYMENTS, AND EXCESS PAYMENTS.—(a) Notwithstanding any other provision of law, the Secretary may establish filing fees, service fees and charges, and commissions with respect to applications and other documents relating to national resource lands and may change and abolish such fees, charges, and commissions.

(b) The Secretary is authorized to require a deposit of any payments intended to reimburse the United States for extraordinary costs with respect to applications and other documents relating to national resource lands. The moneys received for extraordinary costs under this subsection shall be deposited with the Treasury in a special account and are hereby appropriated and made available until expended. As used in this subsection, "extraordinary costs" include but are not limited to the costs of special studies; environmental impact statements; monitoring construction, operation, maintenance, and termination of any authorized facility; or other special activities.

(c) In any case where it shall appear to the satisfaction of the Secretary that any person has made a payment under any statute relating to the sale, lease, use, or other disposition of the national resource lands which is not required or is in excess of the amount required by applicable law and the regulations issued by the Secretary, the Secretary, upon application or otherwise, may cause a refund to be made from applicable funds.

SEC. 303. WORKING CAPITAL FUND.—(a) There is hereby established a working capital fund for the management of national resource lands. This fund shall be available without fiscal year limitation for expenses necessary for furnishing, in accordance with the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and regulations promulgated thereunder, supplies and equipment services in support of Bureau of Land Management programs, including but not limited to, the purchase or construction of storage facilities, equipment yards, and related improvements and the purchase, lease, or rent of motor vehicles, aircraft, heavy equipment, and fire control and other resource management equipment within the limitations set forth in appropriations made to the Bureau of Land Management.

(b) The initial capital of the fund shall consist of appropriations made for that purpose together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as he deems appropriate in connection with the functions to be carried on through the fund.

(c) The fund shall be credited with payments from appropriations and funds of the Bureau of Land Management, other agencies of the Department of the Interior, other Federal agencies, and other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and accrued annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursement.

(d) There is hereby authorized to be appropriated not to exceed $3,000,000 as initial capital of the fund.

SEC. 304. DEPOSITS AND FORFEITURES.—(a) Any moneys received by the United States as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill the requirements of his contract or permit or does not comply with the regulations of the Secretary, or as a result of a compromise or settlement of any claim whether sounding in tort or in contract involving present or potential damage to national resource lands, shall be credited to a separate account in the Treasury and are hereby appropriated and made available, until expended as the Secretary may direct, to cover the cost to the United States of any improvement, protection, or rehabilitation work on the national resource lands which has been rendered necessary by the action which has led to the forfeiture, compromise, or settlement.

(b) The Secretary may require a user or users of roads, trails, lands, or facilities under the jurisdiction of the Bureau of Land Management to maintain such roads, trails, lands, or facilities in a satisfactory condition commensurate with the particular use requirements and the use made by each user, the extent of such maintenance to be shared by the users in proportion to such use or, if such maintenance cannot be so provided, to deposit sufficient money to enable the Secretary to provide such maintenance. Such deposits shall be credited to a separate account in the Treasury and are hereby appropriated and made available until expended, as the Secretary may direct, to cover the cost to the United States of the maintenance of any roads, trails, lands, or facilities under the jurisdiction of the Bureau of Land Management: *Provided*, That nothing in this subsection shall be construed to require a user to provide maintenance or deposits to repair any damages attributable to general public use rather than the specific use of such user.

(c) Any moneys collected under this Act in connection with lands administered under the Act of August 28, 1937 (50 Stat. 874), as amended, shall be expanded for the benefit of such lands only.

(d) If any portion of a deposit or amount forfeited under this section is found by the Secretary to be in excess of the cost of doing the work authorized under this Act, the amount in excess shall be transferred to miscellaneous receipts.

SEC. 305. CONTRACTS FOR CADASTRAL SURVEY OPERATIONS AND RESOURCE PROTECTION.—(a) The Secretary is authorized to enter into contracts for the use of aircraft, and for supplies and services, prior to the passage of an appropriation therefor, for airborne cadastral survey and resource protection operations of the Bureau of Land Management. He may renew such contracts annually, not more than twice, without additional competition. Such contracts shall obligate funds for the fiscal years in which the costs are incurred.

(b) Each such contract shall provide that the obligation of the United States for the ensuing fiscal years is contingent upon the passage of an applicable appropriation, and that no payment shall be made under the contract for the ensuing fiscal years until such appropriation becomes available for expenditure.

SEC. 306. UNAUTHORIZED USE.—The use, occupancy, or development of any portion of the national resource lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

SEC. 307. ENFORCEMENT AUTHORITY.—(a) Any violation of regulations which the Secretary issues with respect to the management, protection, development, acquisition, and conveying of the national resource lands and property located thereon and which the Secretary identifies as being subject to this section shall be punishable by a fine of not more than $1,000 or imprisonment of not more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

(b) At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from using, occupying, or developing the national resource lands in violation of laws or regulations relating to lands or resources managed by the Secretary.

(c) For the specific purpose of enforcing any Federal law or regulation relating to lands or resources managed by the Secretary, the Secretary may designate any employee to (1) carry firearms; (2) execute and serve any warrant or other process issued by a court or office of competent jurisdiction; and (3) make arrests without warrant or process for a misdemeanor the employee has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

SEC. 308. COOPERATION WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—In the administration and regulation of the use, occupancy, and development of the national resource lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of the use, occupancy, and development of national resource lands.

SEC. 309. CALIFORNIA DESERT AREA.—(a) The Congress finds that—

(1) the California desert contains historical, scenic, archeological, environmental, biological, cultural, scientific, and educational resources which are unique and irreplaceable;

(2) the desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed;

(3) the desert environment and its resources, including certain rare and endangered species of wildlife, plants, and fishes, and numerous archeological and historic sites, are seriously threatened by air pollution, inadequate Federal management authority, and pressures of increased use, particularly recreational use;

(4) because of the proximity of the California desert to the rapidly growing population centers of southern California, these threats are certain to intensify;

(5) the Secretary has initiated a comprehensive planning process and established an interim management program for the California desert; and

(6) to insure further study of the relationship of man and the desert enivronment and preserve the unique and irreplaceable resources of the California desert, the public must be provided more opportunity to participate in such planning and management, and additional authority must be provided to the Secretary to enable effective implementation of such planning and management.

(b) It is the purpose of this section to provide for the immediate and future protection, development, and management of the California desert within the framework of a balanced program of multiple use, sustained yield and maintenance of environmental quality as provided in this Act.

(c) (1) For the purpose of this section, the "California desert area" is the area generally depicted on a map entitled "California Desert Area—Proposed", dated April 1974, and on file in the Office of the Director of the Bureau of Land Management.

(2) As soon as practicable after this Act takes effect, the Secretary shall file a map and a legal description of the California desert area with the Committees on Interior and Insular Affairs of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made by the Secretary. To the extent practicable, the Secretary shall make such legal description and map available to the public promptly upon request.

(d) The Secretary, in accordance with section 103, shall prepare and implement a comprehensive, long-range plan for the management, use, and protection of the national resource lands within the California desert area. Such plan shall be completed and implementation thereof initiated on or before June 30, 1980.

(e) During the period beginning on the date of enactment of this Act and ending on the effective date of implementation of the comprehensive, long-range plan, the Secretary shall execute an interim program to manage and protect the national resource lands, and their resources now in danger of destruction, in the California desert area, provide for the public use of such lands in an orderly and reasonable manner, and establish a uniform desert ranger force.

(f) The Secretary, within sixty days of enactment of this Act, shall establish a California Desert Area Advisory Committee in accordance with the provisions of section 6. The committee shall advise the Secretary concerning the preparation and implementation of the comprehensive, long-range plan required under subsection (d) of this section.

(g) The Secretary shall administer the national resource lands in the California desert area in accordance with the provisions of this Act and such other Acts as may be applicable. The Secretaries of Agriculture and Defense shall manage lands within their respective jurisdictions located in or adjacent to the California desert area, in accordance with the laws relating to such lands and, wherever practicable, in a manner consonant with the purpose of this section. The Secretaries of the Interior, Agriculture, and Defense are authorized and encouraged to consult among themselves and take cooperative actions to implement this subsection.

(h) The Secretary shall report to the Congress no later than two years after the enactment of this Act, and annually thereafter in the report required in section 7 of this Act, on the progress in, and any problems concerning, the implementation of this section, together with any recommendations, which he may deem necessary, to remedy such problems.

(i) There is authorized to be appropriated for fiscal years 1977 through 1981 not to exceed $40,000,000 to effect the purpose of this section, such amount to remain available until expended.

Sec. 310. Mineral Revenues.—(a) Section 35 of the Act of February 25, 1920 (41 Stat. 437, 450), as amended, is further amended by—

(1) striking "52½ per centum" in both places and inserting in lieu thereof "30 per centum";

(2) striking "37½ per centum" and inserting in lieu thereof "60 per centum";

(3) striking "December 31 and June 30" and inserting in lieu thereof "March 31 and September 30"; and

(4) striking "or subdivisions thereof for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, as the legislature of the State may direct;" and inserting in lieu thereof "and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act, for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services;".

(b) (1) The Secretary is authorized to make loans to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of minerals leased in such States pursuant to the Act of February 25, 1920, as amended. Such loans shall be confined to the uses specified for the 60 per centum of mineral revenues to be received by such States and subdivisions pursuant to section 35 of such Act. All loans shall bear interest at a rate not to exceed 3 per centum and shall be for such amounts and durations as the Secretary shall determine. The Secretary shall limit the amounts of such loans to the portion of the 60 per centum of anticipated mineral revenues to be received by the recipients of said loans pursuant to said section 35 for any prospective 10-year period. Such loans shall be repaid by the loan recipients from that portion of the 60 per centum of mineral revenues to be derived from said section 35 by such recipients, as the Secretary determines.

(2) The Secretary, after consultation with Governors of the affected States, shall allocate such loans among the States and their subdivisions in a fair and equitable manner, giving priority to those States and subdivisions suffering the most severe impacts.

(3) Loans under this subsection shall be subject to such terms and conditions as the Secretary determines necessary to assure that the purpose of this subsection will be achieved. The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this subsection.

Sec. 311. Recordation of Mining Claims.—(a) Each mining claim under the Mining Law of 1872, as amended (Revised Statutes 2318–2352; 30 U.S.C. 22), shall be recorded by the claimant with the Secretary within two years after the date of enactment of this Act or within thirty days of location of the claim, whichever is later. Any claim not so recorded shall be conclusively presumed to be abandoned and shall be void.

(b) Any claim recorded pursuant to subsection (a) for which the claimant has not made application for patent within ten years after the date of recordation of the claim shall be conclusively presumed to be abandoned and shall be void: *Provided, however,* That, upon a showing that a mineral survey cannot be completed within said ten-year period, the filing of an application for a mineral survey which states on its face that it was filed for the purpose of proceeding to patent shall be acceptable for the patent application purpose of this subsection if all other applicable requirements under the general mining laws have been met and if the applicant subsequently prosecutes diligently his application for patent to completion.

(c) Such recordation or application shall not render valid any claim which was not valid on the date of enactment of this Act, or which becomes invalid thereafter.

TITLE IV—AUTHORITY TO GRANT RIGHTS-OF-WAY

Sec. 401. Authorization To Grant Rights-of-Way.—(a) The Secretary is authorized to grant, issue, or renew rights-of-way over, upon, or through the national resource lands for—

(1) reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) pipelines and other systems for the transportation or distribution of liquids and gases, other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, or water, and for storage and terminal facilities in connection therewith;

(3) pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) systems for generation, transmission, and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the Federal Power Commission under the Act of June 10, 1920 (41 Stat. 1063), as amended;

(5) systems for transmission or reception of radio, television, telegraph, and other electronic signals, and other means of communication;

(6) roads, trails, highways, railroads, canals, tramways, airways, livestock driveways, or other means of transportation; and

(7) such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, or through the national resource lands.

(b) (1) The Secretary is authorized to provide for the acquisition, construction, and maintenance of roads within and near the national resource lands in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management of such lands and the other resources thereof. Financing of such roads may be accomplished (A) by the Secretary using appropriated funds, (B) by requirements on purchasers of timber and other products from the national resource lands, including provisions for amortization of road costs in contracts, (C) by cooperative financing with other public agencies and with private agencies or persons, or (D) by a combination of these methods: *Provided,* That, except when the provisions of the second proviso of this subsection apply, where roads of a higher standard than those needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed, the purchaser of timber and other products from the national resource lands shall not be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate: *Provided further,* That it is understood that when timber is offered with the condition that the purchaser thereof will build roads in accordance with standards specified in the offer, the purchaser of the timber will be responsible for paying the full costs of construction of such roads.

(2) Copies of all instruments affecting per-

manent interests in land executed pursuant to this subsection shall be recorded in each county where the lands are located.

(3) Whenever the agreement under which the United States has obtained for the use of, or in connection with, the national resource lands a right-of-way or easement for a road or an existing road or the right to use an existing road provides for delayed payments to the Government's grantor, any fees or other collections received by the Secretary for the use of the road may be placed in a fund to be available for making payments to the grantor.

(c) (1) The Secretary shall require, prior to granting, issuing, or renewing a right-of-way pursuant to this title that the applicant submit and disclose any or all plans, contracts, agreements, or other information or material reasonably related to the use, or intended use, of the right-of-way which the Secretary deems necessary to a determination, in accordance with the provisions of this title, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which shall be included in such right-of-way.

(2) If the applicant is a partnership, corporation, association, or other business entity, the Secretary, prior to granting, issuing, or renewing a right-of-way pursuant to this title, shall require the applicant to disclose the identity of the participants in the entity. Such disclosure shall include, where applicable: (A) the name and address of each partner in the entity; (B) the name and address of each shareholder owning 3 per centum or more of the shares of such entity, together with the number and percentage of any class of voting shares which such shareholder is authorized to vote; and (C) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

SEC. 402. RIGHTS-OF-WAY CORRIDORS.—(a) In accordance with section 28(s) of the Mineral Leasing Act of 1920 (41 Stat. 437, 449), as amended by the Act of November 16, 1973 (87 Stat. 576, 582), and the report submitted by the Secretary pursuant thereto, the Secretary shall, consistent with applicable land use plans, designate transportation and utility corridors on national resource lands and, to the extent practical and appropriate, require that rights-of-way be confined to them. In designating such corridors and in determining whether to require that rights-of-way be confined to them, the Secretary shall take into consideration National and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transporation and utility corridors may be designated as transportation and utility corridors pursuant to this subsection without further review.

(b) In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way across national resource lands, the use of rights-of-way in common shall be required to the extent practical, and each right-of-way granted, issued, or renewed pursuant to this title shall reserve to the Secretary the right to grant additional rights-of-way for compatible uses on or adjacent to such right-of-way.

SEC. 403. GENERAL PROVISIONS.—(a) The Secretary shall specify the boundaries of each right-of-way granted, issued, or renewed pursuant to this title as precisely as is practicable. Each right-of-way shall be limited to the ground which the Secretary determines: (1) will be occupied by facilities which constitute the project for which the right-of-way is granted, issued, or renewed, (2) to be required for the operation or maintenance of the project, and (3) to be necessary to protect the environment or public safety. The Secretary may authorize the temporary use of such additional lands as he determines to be reasonably necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

(b) The Secretary shall determine the duration of each right-of-way or other authorization to be granted, issued, or renewed pursuant to this title. In determining the duration the Secretary shall take into consideration, among other things, the cost of any facility placed on the right-of-way and its useful life.

(c) Rights-of-way shall be granted, issued, or renewed pursuant to this title under such regulations or stipulations, in accordance with the provisions of this title or any other law, and subject to such terms and conditions as the Secretary may prescribe regarding extent, duration, survey, location, construction, maintenance, and termination.

(d) The Secretary, prior to granting or issuing a right-of-way pursuant to this title for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way which shall comply with stipulations imposed or with regulations issued by the Secretary. The Secretary shall issue regulations or impose stipulations which shall include, but shall not be limited to: (1) requirements to insure that activities on the right-of-way will not violate applicable air and water quality standards or applicable transmission, powerplant, and related facility siting standards established by or pursuant to law; (2) requirements designed to control or prevent (A) damage to the environment (including damage to fish and wildlife habitat), (B) damage to public or private property, and (C) hazards to public health and safety; and (3) requirements to protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes. Such regulations shall be regularly revised. Such regulations shall be applicable to every right-of-way granted or issued pursuant to this title and to any subsequent renewal thereof, and may be applicable to rights-of-way not granted or issued, but renewed pursuant to this title.

(e) Mineral and vegetative materials, including timber, within or without a right-of-way granted, issued, or renewed pursuant to this title may be used or disposed of in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws.

(f) No right-of-way shall be granted, issued, or renewed pursuant to this title for less than the fair market value thereof as determined by the Secretary. The Secretary may, by regulation or, prior to promulgation of such regulations, as a condition of a right-of-way, require an applicant for or holder of a right-of-way to reimburse the United States for all reasonable administrative and other costs incurred in processing an application for such right-of-way and in inspection and monitoring of construction, operation, and termination of the facility pursuant to such right-of-way: *Provided, however,* That such costs need not be reimbursed in any cooperative cost share right-of-way program between the United States and the holder of the right-of-way: *Provided futher,* That rights-of-way may be granted, issued, or renewed to State or local governments or agencies or instrumentalities thereof, or to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profitmaking corporations or business enterprises, for such lesser charge as the Secretary finds equitable and in the public interest.

(g) (1) The Secretary shall promulgate regulations specifying the extent to which holders of rights-of-way granted, issued, or renewed pursuant to this title shall be liable to the United States for damage or injury incurred by the United States in connection with the rights-of-way. The regulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liabilities, damages, or claims arising in connection with the rights-of-way.

(2) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

(h) Where he deems it appropriate, the Secretary may require a holder of a right-of-way granted, issued, or renewed pursuant to this title to furnish a bond, or other security, satisfactory to the Secretary to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or by any rule or regulation of the Secretary.

(i) The Secretary shall grant, issue, or renew a right-of-way pursuant to this title only when he is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested, and in accord with the requirements of this title.

SEC. 404. TERMS AND CONDITIONS.—Each right-of-way granted, issued ,or renewed pursuant to this title shall contain such terms and conditions as the Secretary deems necessary to: (1) carry out the purposes of this Act and rules and regulations hereunder; (2) protect the environment; (3) protect Federal property and monetary interests; (4) manage efficiently national resource lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the national resource lands adjacent to or traversed by said right-of-way; (5) protect lives and property; (6) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes; and (7) protect the public interest in the national resource lands.

SEC. 405. SUSPENSION OR TERMINATION OF RIGHTS-OF-WAY.—Abandonment of a right-of-way granted, issued, or renewed pursuant to this title or noncompliance with any provision of this title, condition of the right-of-way, or applicable rule or regulation of the Secretary may be grounds for suspension or termination of the right-of-way if, after due notice to the holder of the right-of-way and an appropriate administrative proceeding pursuant to section 554 of title 5, United States Code, the Secretary determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time. If the Secretary determines that an immediate temporary suspension of activities within a right-of-way for violation of its terms and conditions is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding. Prior to commencing any proceeding to suspend or terminate a right-of-way the Secretary shall give written notice to the holder of the ground or grounds for such action and shall give the holder a reasonable time to resume use of the right-of-way or to comply with this title, condition, rule, or regulation as the case may be. Failure of the holder of the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period shall constitute a rebuttable presumption of abandonment of the right-of-way: *Provided, however,* That where the failure of the holder to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period is due to circumstances not within the holder's control the Secretary is not required to commence proceedings to suspend or terminate the right-of-way.

SEC. 406. RIGHTS-OF-WAY FOR FEDERAL AGENCIES.—(a) The Secretary may reserve for the use of any department of agency of the United States a right-of-way over, upon, or through national resource lands, subject to such terms and conditions as he may impose.

(a) Where a right-of-way has been reserved for the use of any department or agency of the United States, the Secretary shall take no action to terminate, or otherwise limit, that use without the consent of the head of such department or agency.

SEC. 407. CONVEYANCE OF LANDS.—If, under applicable law, the Secretary decides to transfer out of Federal ownership, by patent, deed, or otherwise, any national resource lands covered in whole or in part by a right-of-way, including a right-of-way granted under the Act of November 16, 1973 (87 Stat. 576), the lands may be conveyed subject to the right-of-way. If, however, the Secretary determines that retention of Federal control over the right-of-way is necessary to assure that the purposes of this title will be implemented, the terms and conditions of the right-of-way complied with, or the national lands protected, he shall (1) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (2) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents.

SEC. 408. EXISTING RIGHTS-OF-WAY.—Nothing in this title shall have the effect of terminating any right-of-way or rights-of-use heretofore issued, granted, or permitted by the Secretary. However, the Secretary may terminating any rights-of-way or rights-of-with the consent of the holder thereof and in its stead issue a right-of-way pursuant to the provisions of this title.

SEC. 409. STATE STANDARDS.—The Secretary shall take into consideration and, to the extent practicable, comply with State standards for rights-of-way construction, operation, and maintenance if those standards are for similar purposes as, and more stringent than, applicable Federal standards and if the national resource lands are adjacent to lands to which such State standards apply.

SEC. 410. EFFECT ON OTHER LAWS.—(a) After the date of enactment of this Act, no right-of-way for the purposes listed in this title shall be granted, issued, or renewed over, upon, or through national resource lands except under and subject to the provisions, limitations, and conditions of this title: *Provided,* That any application for a right-of-way filed under any other law prior to the date of enactment of this Act may, at the applicant's option, be considered as an application under this title or the Act under which the application was filed. The Secretary may require the applicant to submit any additional information he deems necessary to comply with the requirements of this title.

(b) Nothing in this title shall be construed to preclude the use of national resource lands for highway purposes pursuant to sections 107 and 317 of title 23, United States Code.

SEC. 411. INTERAGENCY COORDINATION.—Applicants before any Federal agency other than the Department of the Interior seeking a license, certificate, or other authority for a project which will involve national resource lands shall simultaneously apply to the Secretary for the appropriate authority to use national resource lands and submit to the Secretary all information furnished to such other Federal agency.

TITLE V—CONSTRUCTION OF LAW, PRESERVATION OF VALID EXISTING RIGHTS, AND REPEAL OF LAWS

SEC. 501. CONSTRUCTION OF LAW.—(a) Except as provided in section 410, the authority conferred upon the Secretary by this Act is in addition to all other authority vested in him by law, and nothing in this Act shall be deemed to repeal any such other authority by implication.

(b) Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States, or—

(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on national resource lands;

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two or more States and the Federal Government;

(4) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereo;

(5) as modifying the terms of any interstate compact;

(6) as a limitation upon any State criminal statute or upon the police power of the respective States, or as derogating the authority of a local police officer in the performance of his duties, or as depriving any State or political subdivision thereof of any right it may have to exercise civil and criminal jurisdiction on the national resource lands;

(7) as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national resource lands; or

(8) as amending, limiting, or infringing the existing laws providing grants of lands to the States.

SEC. 502. VALID EXISTING RIGHTS.—All actions by the Secretary under this Act shall be subject to valid existing rights.

SEC. 503. REPEAL OF LAWS RELATING TO DISPOSAL OF NATIONAL RESOURCE LANDS.—(a) The following statutes or parts of statutes are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. Homesteads:				
Revised Statute 2289				161, 171.
Mar. 3, 1891	561	5	26: 1097	161, 162.
Revised Statute 2290				162.
Revised Statute 2295				163.
Revised Statute 2291				164.
June 6, 1912	153		37: 123	164, 169, 218.
May 14, 1880	89		21: 141	166, 185, 202, 223.
June 6, 1900	821		31: 683	166, 223.
Aug. 9, 1912	280		37: 267	
Apr. 6, 1914	51		38: 312	167.
Mar. 1, 1921	90		41: 1193	
Oct. 17, 1914	325		38: 740	168.
Revised Statute 2297				169.
Mar. 3, 1881	153		21: 511	
Oct. 22, 1914	335		38: 766	170.
Revised Statute 2292				171.
June 8, 1880	136		21: 166	172.
Revised Statute 2301				173.
Mar. 3, 1891	561	6	26: 1098	
June 3, 1896	312	2	29: 197	
Revised Statute 2288				174.
Mar. 3, 1891	561	3	26: 1097	
Mar. 3, 1905	1424		33: 991	
Revised Statute 2296				175.
Apr. 28, 1922	155		42: 502	
May 17, 1900	479	1	31: 179	179.
Jan. 26, 1901	180		31: 740	180.
Sept. 5, 1914	294		38: 712	182.
Revised Statute 2300				183.
Aug. 31, 1918	166	8	40: 957	
Sept. 13, 1918	173		40: 960	
Revised Statute 2302				184, 201.
July 26, 1892	251		27: 270	185.
Feb. 14, 1920	76		41: 434	186.
Jan. 21, 1922	32		42: 358	
Dec. 28, 1922	19		42: 1067	
June 12, 1930	471		46: 580	
Feb. 25, 1925	326		43: 981	187.
June 21, 1934	690		48: 1185	187a.
May 22, 1902	821	2	32: 203	187b.
June 5, 1900	716		31: 270	188, 217.
Mar. 3, 1875	131	15	18: 420	189.
July 4, 1884	180	Only last paragraph of sec. 1.	23: 96	190.
Mar. 1, 1933	160	1	47: 1418	190a.

The following words only: "Provided, That no further allotments of lands to Indians on the public domain shall be made in San Juan County, Utah, nor shall further Indian homesteads be made in said county under the Act of July 4, 1884 (23 Stat. 96: U.S.C. title 43, sec. 190.)"

Revised Statutes 2310, 2311				191.
June 13, 1902	1080		32: 384	203.
Mar. 3, 1879	191		20: 472	204.
July 1, 1879	60		21: 46	205.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
May 6, 1886	88		24: 22	206.
Aug. 21, 1916	361		39: 518	207.
June 3, 1924	240		43: 357	208.
Revised Statute 2298				211.
Aug. 30, 1890	837		26: 391	212.

The following words only: "No person who shall after the passage of this act, enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall not operate to curtail the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry or settlement, is validated by this act."

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 3, 1891	561	17	26: 1101	

The following words only: "and that the provision of 'An Act making appropriations for sundry civil expense of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes,' which reads as follows, viz: 'No person who shall after the passage of this act enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate under all said laws,' shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands and not to include lands entered or sought to be entered under mineral land laws."

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Apr. 28, 1904	1776		33: 527	213.
Aug. 3, 1950	521		64: 398	
Mar. 2, 1889	381	6	25: 854	214.
Feb. 20, 1917	98		39: 925	215.
Mar. 4, 1921	162	1	41: 1433	216.
Feb. 19, 1909	160		35: 639	218.
June 13, 1912	166		37: 132	
Mar. 3, 1915	84		38: 953	
Mar. 3, 1915	91		38: 957	
Mar. 4, 1915	150	2	38: 1163	
July 3, 1916	220		39: 344	
Feb. 11, 1913	39		37: 666	218, 219.
June 17, 1910	298		36: 531	219.
Mar. 3, 1915	91		38: 957	
Sept. 5, 1916	440		39: 724	
Aug. 10, 1917	52	10	40: 275	
Mar. 4, 1915	150	1	38: 1162	220.
Mar. 4, 1923	245	1	42: 1445	222.
Apr. 28, 1904	1801		33: 547	224.
Mar. 2, 1907	2527		34: 1224	
May 29, 1908	220	7	35: 466	
Aug. 24, 1912	371		37: 499	
Aug. 22, 1914	270		38: 704	231.
Feb. 25, 1919	21		40: 1153	
July 3, 1916	214		39: 341	232.
Sept. 29, 1919	64		41: 288	233.
Apr. 6, 1922	122		42: 491	223, 272, 273.
Mar. 2, 1889	381	3	25: 854	234.
Dec. 29, 1894	14		28: 599	
July 1, 1879	63	1	21: 48	235.
Dec. 20, 1917	6		40: 430	236.
July 24, 1919	26	Next to last paragraph only.	41: 271	237.
Mar. 2, 1932	69		47: 59	237a.
May 21, 1934	320		48: 787	237b.
May 22, 1935	135		49: 286	237c.
Aug. 19, 1935	560		49: 659	237d.
Mar. 31, 1938	57		52: 149	
Apr. 20, 1936	239		49: 1235	237e.
July 30, 1956	778	1, 2, 4	70: 715	237 f,g,h.
Mar. 1, 1921	102		41: 1202	238.
Apr. 7, 1922	125		42: 492	
Revised Statute 2308				239.
June 16, 1898	458		30: 473	240.
Aug. 29, 1916	420		39: 671	
Apr. 7, 1930	108		46: 144	243.
Mar. 3, 1933	198		47: 1424	243a.
Mar. 3, 1879	192		20: 472	251.
Mar. 2, 1889	381	7	25: 855	252.
June 3, 1878	152		20: 91	253.
Revised Statute 2294				254.
May 26, 1890	355		26: 121	
Mar. 11, 1902	182		32: 63	
Mar. 4, 1904	394		33: 59	
Feb. 23, 1923	105		42: 1281	
Revised Statute 2293				255.
Oct. 6, 1917	86		40: 391	
Mar. 4, 1913	149	Only last paragraph of section headed "Public Land Service."	37: 925	256.
May 13, 1932	178		47: 153	256a.
June 16, 1933	99		48: 274	
July 26, 1935	419		49: 504	
June 16, 1937	361		50: 303	
Aug. 27, 1935	770		49: 909	256b.
Sept. 30, 1890	J. Res. 59		26: 684	261.
June 16, 1880	244		21: 287	263.
Apr. 18, 1904	25		33: 589	
Revised Statute 2304				271.
Mar. 1, 1901	674		31: 847	271, 272.
Revised Statute 2305				272.
Feb. 25, 1919	37		40: 1161	272a.
Dec. 28, 1922	19		42: 1067	
Revised Statute 2306				274.
Mar. 3, 1893	208		27: 593	275.

The following words only: "And provided further, That where soldier's additional homestead entries have been made or initiated upon certificate of the Commissioner of the General Land Office of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land; but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate."

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Aug. 18, 1894	301	Only last paragraph of Section headed "Surveying the Public Lands."	28: 397	276.
Revised Statute 2309				277.
Revised Statute 2307				278.
Sept. 21, 1922	357		42: 990	
Sept. 27, 1944	421		58: 747	279-283.
June 25, 1946	474		60: 308	279.
May 31, 1947	88		61: 123	279, 280, 282.
June 18, 1954	306		68: 253	279, 282.
June 3, 1948	399		62: 305	283, 284.
Dec. 29, 1916	9	1-8	39: 862	291-298.
Feb. 28, 1931	328		46: 1454	291.
June 9, 1933	53		48: 119	291.
June 6, 1924	274		46: 469	292.
Oct. 25, 1918	195		40: 1016	293.
Sept. 29, 1919	63		41: 287	294, 295.
Mar. 4, 1923	245	2	42: 1445	302.
Aug. 21, 1916	361		39: 518	1075.
Aug. 28, 1937	876	3	50: 875	1181c.

2. Sale and Disposal Laws:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 3, 1891	561	9	26: 1099	671.
Revised Statute 2354				673.
Revised Statute 2355				674.
May 18, 1898	344	2	30: 418	675.
Revised Statute 2365				676.
Revised Statute 2357				678.
June 15, 1880	227	3, 4	21: 238	679, 680.
Mar. 2, 1889	381	4	25: 854	681.
Mar. 1, 1907	2286		34: 1052	682.
June 1, 1938	317		52: 609	628a-e.
July 14, 1945	298		59: 467	
June 8, 1954	270		68: 239	
Revised Statute 2361				688.
Revised Statute 2362				689.
Revised Statute 2363				690.
Revised Statute 2368				691.
Revised Statute 2366				692.
Revised Statute 2369				693.
Revised Statute 2370				694.
Revised Statute 2371				695.
Revised Statute 2374				696.
Revised Statute 2372				697.
Feb. 24, 1909	181		35: 645	
May 21, 1926	353	The two provisos only.	44: 591	
Revised Statute 2375				698.
Revised Statute 2376				699.
Mar. 2, 1889	381	1	25: 854	700.

3. Townsite Reservation and Sale:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statute 2380				711.
Revised Statute 2381				712.
Revised Statute 2382				713.
Aug. 24, 1954	904		68: 792	
Revised Statute 2383				714.
Revised Statute 2384				715.
Revised Statute 2386				717.
Revised Statute 2387				718.
Revised Statute 2388				719.
Revised Statute 2389				720.
Revised Statute 2391				721.
Revised Statute 2392				722.
Revised Statute 2393				723.
Revised Statute 2394				724.
Mar. 3, 1877	113	1, 3, 4	19: 392	725-727.
Mar. 3, 1891	561	16	26: 1101	728.
July 9, 1914	138		38: 454	730.
Feb. 9, 1903	531		32: 820	731.

4. Drainage Under State Laws:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
May 20, 1908	181	1-7	35: 171	1021-1027.
Mar. 3, 1919	113		40: 1321	1028.
May 1, 1958	P.L. 85-387		72: 99	1029-1034.
Jan. 17, 1920	47		41: 392	1041-1048.

5. Abandoned Military Reservation:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
July 5, 1884	214	5	23: 104	1074.
Aug. 21, 1916	361		39: 518	1075.
Mar. 3, 1893	208		27: 593	1076.

The following words only: "Provided, That the President is hereby authorized by proclamation to withhold from sale and grant for public use to the municipal corporation in which the same is situated all or any portion of any abandoned military reservation not exceeding twenty acres in one place."

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Aug. 23, 1894	314		28: 491	1077, 1078.
Feb. 11, 1903	543		32: 822	1079.
Feb. 15, 1895	92		28: 664	1080, 1077.
Apr. 23, 1904	1496		33: 306	1081.

6. Public Lands; Oklahoma:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
May 2, 1890	182	Last paragraph of sec. 18 and secs. 20, 21, 22, 24, 27.	26: 90	1091-1094, 1096, 1097.
Mar. 3, 1891	543	16	26: 1026	1098.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Aug. 7, 1946	772	1, 2	60: 872	1100–1101.
Aug. 3, 1955	498	1–8	69: 445	1102–1102g.
May 14, 1890	207		26: 109	1111–1117.
Sept. 1, 1893	J. Res. 4		28: 11	1118.
May 11, 1896	168	1, 2	29: 116	1119.
Jan. 18, 1897	62	1–3, 5, 7	29: 490	1131–1134.
June 23, 1897	8		30: 105	
Mar. 1, 1899	328		30: 966	
7. Sales of Isolated Tracts:				
Revised Statute 2455				1171.
Feb. 26, 1895	133		28: 687	
June 27, 1906	3554		34: 517	
Mar. 28, 1912	67		37: 77	
Mar. 9, 1928	164		45: 253	
June 28, 1934	865	14	48: 1274	
July 30, 1947	383		61: 630	
Apr. 24, 1928	428		45: 457	1171a.
May 23, 1930	313		46: 377	1171b.
Feb. 4, 1919	13		40: 1055	1172.
May 10, 1920	178		41: 595	1173.
Aug. 11, 1921	62		42: 159	1175.
May 19, 1926	337		44: 566	1176.
Feb. 14, 1931	170		46: 1105	1177.
8. Alaska Special Laws:				
Mar. 3, 1891	561	11	26: 1099	732.
May 25, 1926	379		44: 629	733–736.
May 29, 1963	P.L. 88–34		77: 52	
July 24, 1947	305		61: 414	738.
May 14, 1898	299	1	30: 409	270.
Mar. 3, 1903	1002		32: 1028	
Apr. 29, 1950	137	1	64: 94	
Aug. 3, 1955	496		69: 444	270, 687a-2.
Apr. 29, 1950	137	2–5	64: 95	270–5, 270–6,
July 11, 1956	571	2	70: 59	270–7, 687a–1.
July 8, 1916	228		39: 252	270–7. 270–8, 270–9.
June 28, 1918	110		40: 632	270–10, 270–14
July 11, 1956	571	1	70: 528	
Mar. 8, 1922	96	1	42: 415	270–11.
Aug. 23, 1958	P.L. 85–725	1, 4	72: 730	
Aug. 17, 1961	P.L. 87–147		75: 384	270–13.
Oct. 3, 1962	P.L. 87–742		76: 740	
Apr. 13, 1926	121		44: 243	270–15.
Apr. 29, 1950	134	3	64: 93	270–16, 270–17.
May 14, 1898	299	10	30: 413	270–4, 687a to 687a–5.
Mar. 3, 1927	323		44: 1364	
May 26, 1934	357		48: 809	
Aug. 23, 1958	P.L. 85–725	3	72: 730	
Mar. 3, 1891	561	13	26: 1100	687a–6.
Aug. 30, 1949	521		63: 679	687b to 687b–4.
July 19, 1963	P.L. 88–66		77: 80	687b–5.
9. Pittman Underground Water Act:				
Sept. 22, 1922	400		42: 1012	356.

(b) Section 7 of the Taylor Grazing Act (48 Stat. 1269, 1272), as amended by section 2 of the Act of June 26, 1936 (49 Stat. 1976), is further amended to read as follows:

"The Secretary of the Interior is authorized, in his discretion to examine and classify any lands withdrawn or reserved by Executive order of November 26, 1934 (numbered 6910), and amendments thereto, and Executive order of February 5, 1935 (numbered 6964), or within a grazing district, which are more valuable or suitable for any other use than for the use provided for under this Act, or proper for acquisition in satisfaction of any outstanding lieu, exchange or land grant, and to open such lands to disposal in accordance with such classification under applicable public land laws. Such lands shall not be subject to disposition until after the same have been classified and opened to disposal.".

(c) Section 2 of the Act of March 8, 1922 (42 Stat. 415, 416), as amended by section 2 of the Act of August 23, 1958 (72 Stat. 730), is further amended to read:

"The coal, oil, or gas deposits reserved to the United States in accordance with the Act of March 8, 1922 (42 Stat. 415), as added to by the Act of August 17, 1961 (75 Stat. 384), and amended by the Act of October 3, 1962 (76 Stat. 740), shall be subject to disposal by the United States in accordance with the provisions of the laws applicable to coal, oil, or gas deposits or coal, oil, or gas lands in Alaska in force at the time of such disposal. Any person qualified to acquire coal, oil, or gas deposits, or the right to mine or remove the coal or to drill for and remove the oil or gas under the laws of the United States shall have the right at all times to enter upon the lands patented under the Act of March 8, 1922, as amended, and in accordance with the provisions hereof, for the purpose of prospecting for coal, oil, or gas therein, upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal, oil, or gas deposits in any such land, or the right to mine, drill for, or remove the same, may reenter and occupy so much of the surface thereof incident to the mining and removal of the coal, oil, or gas therefrom, and mine and remove the coal or drill for and remove oil and gas upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: *Provided*, That the owner under such limited patent shall have the right to mine the coal for use on the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: *Provided further*, That nothing in this Act shall be construed as authorizing the exploration upon or entry of any coal deposits withdrawn from such exploration and purchase.".

(e) Section 3 of the Act of August 30, 1949 (63 Stat. 679), is amended to read:

"Notwithstanding the provisions of any Act of Congress to the contrary, any person who prospects for, mines, or removes any minerals from any land disposed of under the Act of August 30, 1949 (63 Stat. 679), shall be liable for any damage that may be caused to the value of the land and tangible improvements thereon by such prospecting for, mining, or removal of minerals. Nothing in this section shall be construed to impair any vested right in existence on August 30, 1949.".

SEC. 504. REPEAL OF LAWS RELATING TO ADMINISTRATION OF NATIONAL RESOURCE LANDS.—The following statutes or parts of statutes are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 2, 1895	174		28: 744	176.
June 28, 1934	865	8	48: 1272	315g.
June 26, 1936	842	3	49: 1976, title I.	
June 19, 1948	548	1	62: 533	
July 9, 1962	P.L. 87–524		76: 140	315g-1.
Aug. 24, 1937	744		50: 748	315p.
Mar. 3, 1909	271	2d proviso only.	35: 845	772.
June 25, 1910	J. Res. 40		36: 884	
June 21, 1934	689		48: 1185	871a.
Revised Statute 2447				1151.
Revised Statute 2448				1152.
June 6, 1874	223		18: 62	1153, 1154.
Jan. 28, 1879	30		20: 274	1155.
May 30, 1894	87		28: 84	1156.
Revised Statute 2450				1161.
Feb. 27, 1877	69	1	19:244	
The following words only: "Section twenty-four hundred and fifty is amended by striking out in the fourth line the words 'Secretary of the Treasury' and inserting the words 'Secretary of the Interior' ".				
Feb. 27, 1877	69	1	19: 244	
Revised Statute 2451				1162.
The following words only: "Section twenty-four hundred and fifty-one is amended by striking out, in the first and second lines, the words 'Secretary of the Treasury' and inserting the words 'Secretary of the Interior' ".				
Revised Statute 2456				1163.
Sept. 20, 1922	350		42: 857	
The words ". . . and sections 2450, 2451, and 2456 be amended to read as follows:" and all words following in the Act.				
Revised Statute 2457				1164.
Mar. 3, 1891	561	7	26: 1098	1165.
Revised Statute 2471				1191.
Revised Statute 2472				1192.
Revised Statute 2473				1193.
July 14, 1960	P.L. 86–649	101–202(a), 203–204(a), 301–303.	74: 506	1361, 1362, 1363–1383.
Sept. 26, 1970	P.L. 91–429		84: 885	1362a.
July 31, 1939	401	1, 2	53: 1144	

SEC. 505. REPEAL OF LAWS RELATING TO RIGHTS-OF-WAY.—(a) The following statutes or parts of statutes are repealed insofar as they apply to national resource lands:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statutes 2339				661.
The following words only: "and the right-of-way for the construction of ditches and canals for the purpose herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage."				
Revised Statutes 2340				661.
The following words only: ", or rights to ditches and reservoirs used in connection with such water rights,".				
Feb. 26, 1897	335		29: 599	664.
Mar. 3, 1899	427	1	30: 1233	665, 958 (16 U.S.C. 525).
The following words only: "that in the form provided by existing law the Secretary of the Interior may file and approve surveys and plats of any right-of-way for a wagon road, railroad, or other highway over and across any forest reservation or reservoir site when in his judgment the public interests will not be injuriously affected thereby."				
Mar. 3, 1875	152		18: 482	934–939.
May 14, 1898	299	2-9	30: 409	942–1 to 942–9.
Feb. 27, 1901	614		31: 815	943.
June 26, 1906	3548		34: 481	944.
Mar. 3, 1891	561	18–21	26: 1101	946–949.
Mar. 4, 1917	184	1	39: 1197	
May 28, 1926	409		44: 668	
Mar. 1, 1921	93		41: 1194	950.
Jan. 13, 1897	11		29: 484	952–955.
Mar. 3, 1923	219		42: 1437	
Jan. 21, 1895	37		28: 635	951, 956, 957.
May 14, 1896	179		29: 120	
May 11, 1898	292		30: 404	
Mar. 4, 1917	184	2	39: 1197	
Feb. 15, 1901	372		31: 790	959 (16 U.S.C. 79, 522).
Mar. 4, 1911	238		36: 1253	961 (16 U.S.C. 5, 420, 523).
Only the last two paragraphs under the subheading "Improvement of the National Forests" under the heading "Forest Service."				
May 27, 1952	338		66: 95	
May 21, 1896	212		29: 127	962–965.
Apr. 12, 1910	155		36: 296	966–970.

(b) Notwithstanding the provisions of subsection (a) of this section, the following statute is repealed in its entirety, subject to valid existing rights.

Act of	Chapter	Section	Statute at Large	U.S. Code
Revised Statute 2477				43 U.S.C. 932

Mr. HASKELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SPARKMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HASKELL. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 507.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORLD HABITAT DAY

Mr. SPARKMAN. Mr. President, I am introducing a resolution which would express the sense of the Senate that the President of the United States should issue a proclamation designating February 29, 1976, as "World Habitat Day." Because of time considerations—February 29 is this coming Sunday—I ask unanimous consent that the resolution be given immediate consideration.

I have cleared this with both sides of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, I send that resolution to the desk.

The PRESIDING OFFICER. May we have order? I cannot hear the Senator from Alabama. May we have order?

Mr. SPARKMAN. I send the resolution to the desk and ask that it be stated.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 398) expressing the sense of the Senate that the President should issue a proclamation designating February 29, 1976, as "World Habitat Day."

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. SPARKMAN. Mr. President, this is a simple resolution. Its purpose is to have February 29 named by the President as "World Habitat Day" and thus bring attention to the concerted effort of the nations of the world to help resolve human settlement problems. A similar proclamation is being made by nations all over the world who have joined together under United Nations auspices to convene a Habitat Conference on Human Settlements in Vancouver, Canada, from May 30 to June 11, 1976. Some 140 nations will meet to exchange solutions of human settlement problems and to help develop plans of action to solve these problems. Proclaiming a World Habitat Day is to bring attention to the forthcoming meeting and to raise world consciousness to the serious human settlement issues facing the nations of the world, including our own Nation.

Mr. President, one of the great benefits of this Conference is the format which requires each nation to review its own housing and urban problems and the policies of its government to help resolve these problems. Each nation is being requested to submit a report to the Conference on its policies and programs with respect to these issues. If nothing else is accomplished by the Conference, this alone can make a tremendous contribution toward improving the quality of life throughout the world. Before problems can be solved, they must first be studied and attention brought to them for the leadership of the Nation to see and understand.

I believe this feature of the Conference is particularly beneficial to our United States. Like other nations, we, too, are being forced to look at our problems and to submit a report on what is being done about them. Already, in preparation of the U.S. report, hundreds of meetings have been held throughout our land, the net result of which can be extremely helpful with respect to understanding better our own needs and examining the policies of our Government with respect to the solution of those needs. One of the most beneficial byproducts of the requirement for a U.S. report is the intention of our Government to include the 1976 Report on National Growth and Development. This is the biennial report to the Congress submitted pursuant to title VII of the Housing and Urban Development Act of 1970. The first two reports to Congress have been most disappointing in carrying out the intent of the law that such a report help provide guidance on our Nation's future growth and development.

However, because of the attention that Habitat has placed on this report, the administration has taken great pains to prepare a document that truly reflects the original intent of Congress that a well conceived and productive report be prepared which can form the basis for the development of governmental policy for the future growth of our Nation. The report is due by the end of this month, and we are looking forward to receiving it.

Mr. President, I have prepared a set of questions and answers on Habitat. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS ON "HABITAT"

What is Habitat?

Habitat is the United Nations Conference on Human Settlements. It will take place in Vancouver, Canada, May 31 through June 11, 1976.

What is a human settlement?

A human settlement is any place humans work, live and play. The term refers to all the physical facilities and service institutions required by humans—whether they live in great cities, towns or villages. Included are housing, energy supply, work, transport, communications, water sanitation, education, health, protection, government, law, economic management, and facilities for leisure, recreation and the arts.

How did the Habitat Conference come about?

At the 1972 Stockholm Conference on the Human Environment one of the main agenda items was human settlements. It was felt that more time should be devoted to it at some later date. Subsequently, Canada proposed to host a conference on human settlements and the offer was accepted by the United Nations.

What is the purpose of Habitat?

The purpose of Habitat is to draw international attention to the challenges and opportunities of a rapidly urbanizing world. Habitat will focus on solutions to problems of human settlements. Its purpose will be to provide nations with the opportunity to exchange knowledge and experience which has been effective in improving the quality of life in human settlements.

What will Habitat achieve?

Habitat will seek to promote greater awareness of settlement problems, issues and solutions among the 140 member countries of the United Nations. It will encourage governments at all levels to view settlements issues comprehensively and to make the improvement of human settlements a priority concern.

What good is a lot of talk?

How else can the world's settlement problems be tackled? They are too great for any person to tackle single handed, so experts and governments have to talk with each other. Understanding other people's problems helps in the understanding of one's own problems. Exchanging experience on different solutions is fruitful talk. Before the Stockholm Conference, few governments gave priority to the natural environment; now virtually all do. Human settlements need the same attention.

Can anyone go to Habitat?

Basically, it's a conference of governments from around the world and participants are nominated as members of national delegations. Concurrently, also in Vancouver, a parallel conference—"Habitat Forum"— will provide a meeting place for non-governmental organizations and individuals at Jericho Beach-Park. This will draw representatives from national and international non-governmental organizations. Habitat Forum will run from May 27 to June 11. It starts before the governmental conference in order to have time to prepare recommendations for the official delegates participating at the Habitat Conference.

What is the U.S. preparation for Habitat?

The Department of State is coordinating the U.S. Government effort at the conference with assistance from several other Federal agencies and an advisory committee of non-governmental organizations.

The Habitat National Center has been established by the Department of Housing and Urban Development with the cooperation of several Federal agencies to provide information on Habitat and Habitat Forum and to stimulate public awareness and discussion of human settlements in the United States. The Center is located at 1111 Eighteenth Street NW., Washington, D.C. 20036. Phone (202) 254-7515.

The U.S. will submit four films to the Conference on the following topics: urban and environmental management technology; citizen involvement in public decision making; energy and resource conservation in human settlements; and U.S. international programs in the field of human settlements.

Each nation participating in Habitat has selected examples of solutions to human settlement problems. The official U.S. demonstration program to Habitat is Horizons on Display, which features two hundred projects across the United States. Visitor services will be available at each of these projects so that our citizens and foreign visitors can see these solutions at work.

Developed and developing countries are experiencing problems of rural-urban migration, environmental pollution, inadequate housing, ill-health, unemployment, and population overcrowding. Over half of all people on earth today, are ill-fed, ill-clothed and ill-housed. If present trends continue, within the next 25-30 years, our world population will double. To keep pace with this explosion, ten times more major cities will be created than in all of history. By the year 2000 we must build the equivalent of 300 cities of over 1 million population.

Are we to be inundated by these problems? Not if Governments act now to find solutions and establish practices for implementing them.

Habitat has three basic messages: First, that the time has come for the nations of the world to give priority to the question of how and where people live whether it's in cities, rural villages, or squatter settlements. Second, that human settlement issues—such as shelter, population, environment, energy, land use, social services and citizen participation in decision-making—are interrelated and this needs to be reflected in public policies. Third, that human settlement problems can be solved with existing technology and resources if we have the social and political commitment to do so.

Habitat: The United Nations Conference on Human Settlements will be held in Vancouver, Canada from May 31–June 11, 1976. It will be the first world conference to focus specifically on improving the quality of life in a rapidly urbanizing world.

Habitat will employ a wholistic approach, addressing the interface between the natural, built, social, economic and political environments in urban and rural settlements. It will be a global exchange of ideas, techniques and systems for solving human settlement problems, which may be replicated throughout the world. Each country will contribute film presentations, a national report, and an in situ demonstration program to this exchange of knowledge and experience.

In preparation for the conference, nations around the world will be observing Habitat Day on February 29. The resolution I am introducing today proposes that February 29 be designated as World Habitat Day in the United States.

Habitat is not just another international conference. It is an opportunity to raise national awareness of human settlements issues among the public and at all levels of government.

The designation of World Habitat Day will contribute to the urban consciousness-raising process which we must now begin in earnest.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 398) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 398

Whereas Habitat, the United Nations Conference on Human Settlement, will take place from May 31 to June 11, 1976, in Vancouver, British Columbia, Canada;

Whereas the Conference will draw together some 140 of the member countries of the United Nations to exchange solutions to settlement problems;

Whereas Habitat is the capstone in a series of United Nations conferences dealing with problems of the environment, population, food, and the status of women;

Whereas the central concern and focus of Habitat is the improvement of the quality of life in human settlements including interrelated subjects such as national growth policy, settlement planning, shelter, transportation, energy, land use, the environment, and citizen involvement;

Whereas the Habitat Conference presents an opportunity for our Nation to examine its housing and human settlement needs and to stimulate the development of plans to achieve the national housing goal of a decent home and a suitable living environment for every American family; and

Whereas many nations have already designated February 29 as "World Habitat Day": Now, therefore, be it

Resolved, That in order to give appropriate recognition to the importance of the quality of life in human settlements and the beneficial contributions that the Habitat Conference will make toward improving the quality of life in our Nation and the World, it is the sense of the Senate that the President should issue a proclamation designating February 29, 1976, as "World Habitat Day", and calling upon the people of the United States and interested groups and organizations to observe that day with appropriate ceremonies and activities.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

FEDERAL EMPLOYEES' POLITICAL ACTIVITIES ACT OF 1975

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 8617, which the clerk shall state.

The legislative clerk read as follows:

A bill (H.R. 8617) to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Post Office and Civil Service with amendments, as follows:

On page 5, beginning with line 8, insert the following:

"(b) Nothing in this section authorizes the use by any employee of any information coming to him in the course of his employment or official duties for any purpose where otherwise prohibited by law.

On page 5, at the beginning of line 13, strike " "(b)" and insert " "(c)";

On page 6, in line 22, strike "duty, etc.;" and insert "duty;";

On page 8, beginning in line 17, strike out: "occurs. The preceding sentence shall not apply to the extent an employee is otherwise on leave."

And insert in lieu thereof: "occurs, unless the employee is otherwise on leave."

On page 9, in line 9, strike "foregoing";

On page 10, in line 11, strike "year," " and insert "year.";

On page 13, beginning in line 8, strike "a notice by certified mail, return receipt requested" and insert "a written notice by certified mail";

On page 14, in line 17, strike "duly";

On page 14, in line 20, strike "duly filed," and insert "filed within the time allowed,";

On page 18, in line 11, strike "Board. Thereupon the Board shall certify", and insert "Board which shall then certify";

On page 25, under "Subchapter III—Political Activities, Sec. 7325.", strike "duty, etc.;" and insert "duty;".

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR SENATE RESOLUTION 333 TO BE PLACED UNDER "SUBJECTS ON THE TABLE"

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar No. 552, Senate Resolution 333, be placed on the calendar under "Subjects on the Table."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Culver). Without objection, it is so ordered.

SUPPLEMENTAL RAILROAD APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed now, without any action thereon today, to the consideration of Calendar No. 608, House Joint Resolution 801.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 801) making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1976, the fiscal year ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Appropriations.

TIME LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time agreement on House Joint Resolution 801, with the understanding that the time not begin running today, of 1 hour on the resolution, to be equally divided between Mr. Pastore and Mr. Case, that there be a time limitation on any amendment of one-half hour; a time limitation on any debatable motion or appeal of 20 minutes; a time limitation on any point of order, if such is submitted to the Senate for discussion, of 30 minutes; and that the agreement be in the usual form, with the exception of an amendment to be offered by Mr. Hugh Scott of Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That during the consideration of H.J. Res. 801 (Order No. 608), a joint resolution making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending Sept. 30, 1976, the fiscal year ending Sept. 30, 1978, and the fiscal year ending Sept. 30, 1979, and for other purposes, debate on any amendment or any point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the resolution, and that debate on any debatable motion or appeal shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the resolution: *Provided,* That in the event the manager of the resolution is in favor of any such amendment, debatable motion, appeal, or point of order, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further,* That no amendment that is not germane (except an amendment to be offered by the Senator from Pennsylvania (Mr. Scott)) to the provisions of the said resolution shall be received.

Ordered further, That on the question of agreeing to the said resolution, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Rhode Island (Mr. Pastore) and the Senator from New Jersey (Mr. Case): *Provided,* That the said Senators, or either of them, may, from the time under their control on agreeing to the said resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order. (Feb. 25, 1976)

ORDER FOR S. 2493 TO BE INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar No. 611, S. 2493, a bill to authorize the Secretary of the Interior to construct, operate, and maintain the Pollock-Herreid unit, South Dakota pumping division, Pick-Sloan Missouri Basin program, South Dakota, and for other purposes, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, the following Senators be recognized each for not to exceed 15 minutes, and in the order stated: Mr. Buckley and Mr. Goldwater.

I ask unanimous consent then that following those Senators I have 10 minutes following Mr. Goldwater.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Or in the alternative that Mr. Griffin have the 10 minutes if I do not use them.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the orders for the recognition of Senators on tomorrow there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO THE CONSIDERATION OF SENATE RESOLUTION 392

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business tomorrow the Senate proceed to the consideration of Calendar order No. 621, Senate Resolution 392, waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of House Joint Resolution 801.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF HOUSE JOINT RESOLUTION 801

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of Senate Resolution 392 tomorrow the Senate resume consideration of House Joint Resolution 801, Calendar order No. 608.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 10 o'clock tomorrow morning. After the two leaders or their designees have been recognized under the standing order Mr. Buckley and Mr. Goldwater will be recognized, each for not to exceed 15 minutes; following which, I will be recognized for not to exceed 10 minutes or in the alternative Mr. Griffin will be recognized for not to exceed 10 minutes.

A period for the transaction of routine morning business will then ensue, the period not to exceed beyond 15 minutes, with statements limited therein to 5 minutes, at the conclusion of which period the Senate will proceed to the consideration of Calendar order No. 621, Senate Resolution 392.

I would anticipate the possibility of rollcall votes on the passage of that resolution.

Upon the disposition of that resolution, the Senate will take up House Joint Resolution 801, a joint resolution making supplemental railroad appropriations for the fiscal year ending June 30, 1976, under a time agreement. Rollcall votes can be anticipated on that measure and on amendments or motions in relation to the same.

Upon the disposition of that measure, it is possible that the Senate will be taking up S. 953, a bill to amend the Export Administration Act of 1969 to clarify and strengthen the authority of the Secretary of Commerce to take action in the case of restrictive trade practices or boycotts.

It is possible that the Senate might take up H.R. 8650, an act to assist low-income persons in insulating their homes; and there may be other measures that have been cleared for action on tomorrow which would necessitate rollcall votes.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 5:16 p.m., the Senate adjourned until tomorrow, Thursday, February 26, 1976, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 25, 1976:

UNITED NATIONS

William W. Scranton, of Pennsylvania, to be the Representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Representative of the United States of America in the Security Council of the United Nations.

IN THE AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapter 837, title 10, United States Code:

To be major general

Brig. Gen. Michael Collins, [redacted]FV, Air Force Reserve.

Brig. Gen. George M. Douglas, [redacted] FV, Air Force Reserve.

Brig. Gen. Irving B. Holley, Jr., [redacted]FV, Air Force Reserve.

Brig. Gen. John W. Huston, [redacted] FV, Air Force Reserve.

Brig. Gen. Orrin W. Matthews, [redacted] FV, Air Force Reserve.

Brig. Gen. Joseph M. F. Ryan, Jr., [redacted]FV, Air Force Reserve

To be brigadier general

Col. Stuart P. French, [redacted]FV, Air Force Reserve.

Col. George W. Frimpter, [redacted]FV, Air Force Reserve.

Col. Rex A. Hadley, [redacted]FV, Air Force Reserve.

Col. Gilbert S. Harper, Jr., [redacted]FV, Air Force Reserve.

Col. Donald E. Haugen, [redacted]FV, Air Force Reserve.

Col. Billy M. Knowles, [redacted]FV, Air Force Reserve.

Col. James E. McAdoo, [redacted]FV, Air Force Reserve.

Col. George W. Miller III, [redacted]FV, Air Force Reserve.

Col. David L. Stanford, [redacted]FV, Air Force Reserve.

Col. Thoralf T. Thielen, [redacted]FV, Air Force Reserve.

Col. Joseph A. Thomas, [redacted]FV, Air Force Reserve.

Col. Victor H. Thompson, Jr., [redacted] FV, Air Force Reserve.

IN THE NAVY

The following named captains of the Navy for temporary promotion to the grade of rear admiral in the staff corps indicated subject to qualification therefor as provided by law:

MEDICAL CORPS

Almon C. Wilson
John W. Cox

SUPPLY CORPS

Paul L. Foster
Harold C. Donley, Jr.
Charles W. Rixey
Van T. Edsall

CIVIL ENGINEER CORPS

Neal W. Clements

DENTAL CORPS

Paul E. Farrell

CONFIRMATIONS

Executive nominations confirmed by the Senate February 25, 1976:

IN THE NAVY

The following-named officers of the Naval Reserve for temporary promotion to the grade of rear admiral, subject to qualification therefor as provided by law:

LINE

Horton Smith
William J. Gilmore
Thomas A. Kamm

MEDICAL CORPS

Harold M. Voth
Dean B. Seiler

CIVIL ENGINEER CORPS

James E. Mantel

JUDGE ADVOCATE GENERAL'S CORPS

Penrose L. Albright

IN THE MARINE CORPS

The following-named officers of the Marine Corps for temporary appointment to the grade of major general:

Edward A. Wilcox
William J. White
Noah C. New
Philip D. Shutler
Richard E. Carey
George W. Smith
John H. Miller
Harold A. Hatch
Edward J. Bronars
Paul X. Kelley

The following-named officers of the Marine Corps for temporary appointment to the grade of brigadier general:

David M. Twomey
Kenneth L. Robinson, Jr.
Joseph V. McLernan
Hal W. Vincent
Robert J. Chadwick
Stephen G. Olmstead
Bernard E. Trainor
Marc A. Moore
Robert E. Haebel
Lawrence F. Sullivan
Francis X. Quinn
William E. H. Fitch III
Alfred M. Gray, Jr.
Leo J. LeBlanc, Jr.
James L. Day

The following-named officer of the Marine Corps Reserve for temporary appointment to the grade of brigadier general:

Keith A. Smith

IN THE AIR FORCE

Air Force nominations beginning John R. Adama, to be first lieutenant, and ending Max L. Fisher, to be colonel, which nominations were received by the Senate and appeared in the Congressional Record on February 5, 1976.

IN THE ARMY

Army nominations beginning Eugene G. Archer, to be colonel, and ending Jeffrey T. Tucker, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on January 29, 1976.

IN THE MARINE CORPS

The nomination of Capt. William D. Rusinak, U.S. Marine Corps, for appointment to the grade of major, which nomination was received by the Senate on January 29, 1976.

EXTENSIONS OF REMARKS

BOY SCOUTS OF AMERICA

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. MURTHA. Mr. Speaker, I had the pleasure this morning of acting as one of the hosts for the Boy Scouts of America Bicentennial breakfast, where we listened to a report which indicated the continued viability of scouting in this great country.

I have personally been involved in scouting for 20 years and I have long been an admirer of the volunteers who are the backbone of this organization which has done so much good to train potential future leaders.

The poet, Virgil, said 2,000 years ago, "be favorable to bold beginnings," and the Boy Scout organization has long been instrumental in giving young men an opportunity for a bold beginning.

My compliments to the Boy Scouts of America for their substantial contribution to America. I submit their 1975 report for the Record:

REPORT BOY SCOUTS OF AMERICA—1975

In its 66 years of service to the country, the Boy Scouts of America has had a profound influence directly on the lives of more than 60 million boys and young adults. Indirectly, the movement has reached nearly every American through its impact on society from Scouting's moral code, its emphasis on patriotism, and through the leadership training it has provided the youth of our nation.

As a volunteer movement, Scouting is rich in human resources. Last year 1.4 million men and women gave more than 218 million man-hours to advance Scouting's cause. If these inspired efforts had been rewarded with no more than the current minimum wage, the payroll for this dedicated manpower would have cost $502,320,000—well over a half-billion dollars. Of course, the true value of this precious gift of time and talent is priceless.

The Boy Scouts of America is built on teamwork with community organizations. Scouting's success depends on the cooperation of many people working in partnership. Scouting, in turn, develops community and national leaders who understand the importance of involvement.

Those who have benefited directly from their Scouting experiences can be found at the crest of all of our national organizations, institutions, and worthy enterprises. They are predominant in the executive branch of our Government and, indeed, nearly two-thirds of the members of Congress have been active in Scouting. You can find former Scouts among our top military leaders, in our various religious and educational institutions, and in all of the professions.

Scouting is sometimes challenged by the question: "Is your program relevant?" The response must also be a question, "Is character development relevant as the nation emerges from the shadow of Watergate? Is citizenship training that emphasizes the responsibilities as well as the rights of individuals relevant? Are physical, mental, and moral fitness for America's youth relevant?"

Actually, Scouting is unique and is one of America's foremost educational institutions. Boys and young adults learn by doing and gain competence through practice. Last October, the Boy Scouts of America was recognized by the Continuing Education Council when the National Executive Institute for professional Scout leaders was accredited as an educational institution.

Scouting today fosters brotherhood in a world movement involving 14 million youth in more than 109 countries. Last July 2,500 boys and leaders from the United States participated with 11,500 other Scouts at the 14th World Jamboree in Lillehammer, Norway. Shortly after, at the XXV World Conference in Copenhagen, Denmark, former BSA President Irving J. Feist was elected chairman of the World Scout Committee and became the first American to be so honored.

Scouting members gained valuable experiences last year that prepared them to meet the rigorous demands of a changing world. Along rugged trails, in wilderness camps, or in community centers, boys and young adults became resourceful and developed skills in adapting to new and challenging situations.

In 1975 nearly 2 million Cub Scouts in 60,000 packs began to think for themselves, to make wise choices, and to get along with others in a family-centered program.

More than 1.5 million Scouts grew toward responsible citizenship in 65,000 troops. They acquired the concept of helpfulness through Good Turns and service projects, and participated as patrol members in Scouting's outdoor adventure. Last summer 582,000 of them attended long-term camp.

Well over 400,000 young men and women in 25,000 Explorer posts discovered themselves in relation to the real world of business and professions. In April 2,000 Explorers practiced democratic procedures and gained insight into the workings of the Federal Government at the 5th Annual Explorer Presidents' Congress in Washington, D.C. Over 16,000 older Scouts and Explorers extended themselves to find their full potential at one of the six national High Adventure bases.

Scouting/USA was at work throughout the year in America's metropolitan centers, towns, and hamlets providing useful experiences for a total of 5.3 million boys, young adults, and leaders of all colors, creeds, and economic condition. Scouting's continuing objective is to deeply involve an ever-increasing number of representative youth in a quality program under the finest available leadership.

As our nation enters its third century, the Boy Scouts of America sincerely hopes that every citizen will catch the Scouting spirit and get involved for a better America.

WITNESS SECURITY PROGRAM

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. PEYSER. Mr. Speaker, crime remains one of our Nation's most serious problems, costing much to our cities, States, and Federal Government in terms of increased law enforcement budgets, as well as to our constituents in terms of their personal safety.

In an effort to meet this problem, the Federal Government instituted a witness security program in 1970 in order to afford safety to those people who would testify against major criminals.

However, still too few people with knowledge about organized crime activities have testified as witnesses before grand juries and in criminal trials. Why not? While the witness security program can be an important weapon in the hands of law enforcement authorities, there are reports about potential witnesses who may have been mishandled by investigators and prosecutors. There are too many complaints about unfilled promises of assistance by law enforcement authorities to witnesses who are discarded by those whom they have turned to in moments of desperation. Some witnesses declare that if they had to do it over again they would not tell what they know to the proper authorities. This vital information can breach the wall of silence surrounding a powerful criminal element.

At this point, Mr. Speaker, I have been asked to insert an interview that took place with Mr. Johnny Ayotte on November 7, 1975, on the network program "Good Morning America" on WABC–TV in New York City regarding the witness security program.

The interview follows:

"Good Morning America," WABC–TV, November 7, 1975

David Hartmann. You know, whether we realize it or not, very few of us can get through our lives without being touched in some way by organized crime. The food we eat, the clothes we wear, the vehicles that carry the goods that make our lives easier to live—may all be elements in a chain that is frequently touched with the criminal underworld.

Well, this morning, Jack Anderson's "Inside Washington"—Jack talks with a former member of an organized crime family. The informer was masked to protect his identity. Right now, here with us, is his exclusive interview with Jack Anderson. Jack.

Jack Anderson. Chicago mobster Louis Bombacino testified against his former associates; his testimony helped send five underworld bosses to the federal penitentiary. When Bombacino left the witness stand he just kept going. He adopted the name Nardi and hid out from the mob in the quiet town of Tempe, Arizona. One day last month he switched on the ignition of his automobile. The car blew apart. Some of the flying scraps landed a quarter of a mile away. The late Louis Bombacino, in the opinion of the FBI, was killed by the mob.

With me in our studios here in Washington is another mobster on the run. He was once a Mafia lieutenant in Detroit, a big shot. Manicured, soaped and pomaded—with a bankroll to flash. But this was back in his Cadillac days. He now lives in quiet desperation under an assumed identity. He testified for the Justice Department but the Justice Department has dropped him. Meet Johnny Ayotte who is known in the Detroit mob as simply Johnny A. Tell me a little bit about what it's like to start a new life.

Johnny Ayotte. I'll cut it real short . . . it's very tough.

Jack Anderson. You have a new identity, you live in a new place, you have new neighbors, do you also have a new wife? I know in the old days you used to have a beautiful woman on each arm. You no longer have that I assume. You settled down?

Johnny Ayotte. I've settled down. I'm married. She knows nothing about me whatsoever.

Jack Anderson. You mean your own wife doesn't know who you are?

Johnny Ayotte. No, no.

Jack Anderson. She only knows you by your new name?

Johnny Ayotte. That's correct.

Jack Anderson. That's fascinating. Let's get back now to what happens to a mobster on the run. After you gave your testimony, after you left the witness stand, the Justice Department gave you a complete new identity. New fingerprints, new everything. They put a new set of fingerprints on identity cards as I understand it . . . is that what happened?

Johnny Ayotte. No, not really. They gave me a new set of identification, but the identification is full of holes. I've always been concerned if anything did ever happen and I got fingerprinted that my real identity would come out. So there's no backup on the identification whatsoever.

Jack Anderson. Well, do they pay you?

Johnny Ayotte. No.

Jack Anderson. Do they finance you in any way?

Johnny Ayotte. No. Not a dime. No, no. You're on your own. Completely on your own.

Jack Anderson. Do you feel, as I said in the beginning that they had dropped you completely?

Johnny Ayotte. They dropped me in the respect that there's no financial aid. No matter how tough things will get they won't come along and help you in any kind of way.

Jack Anderson. Well, what does a mobster do who used to break the law for a living and now has to live straight?

Johnny Ayotte. That's a good question Jack because actually I don't know nothing but something illegal. It's rough trying to make it legitimately when you have everything against you.

Jack Anderson. Let me ask you this. If you had it to do over again would you testify?

Johnny Ayotte. No.

Jack Anderson. You wouldn't go through it again?

Johnny Ayotte. Never. No way.

Jack Anderson. You would have remained loyal to the mob if you had known what was going to happen to you?

Johnny Ayotte. I don't know about being loyal to the mob, but I wouldn't have testified. I don't know what I would have done, but I definitely wouldn't have gone over to the government.

Jack Anderson. Well there've been a number of others like you. A number of other informers, a number of others who have turned state's witness who feel the same way. Do you believe that word is getting back—I understand that it is. It could discourage other mobsters from turning witness for the government.

Johnny Ayotte. I believe it would, yes. What I've read in some articles, I've read in papers, there's been a few of us that have complained about it, yes.

Jack Anderson. How long do you think that the mob will stay after you, how long will they keep looking for you?

Johnny Ayotte. Well, on the occasion you already cited it took them eight years to get him. It's just a matter of time. It's just a matter of time, Jack.

Jack Anderson. You think they will catch you . . . they will find you?

Johnny Ayotte. In my personal opinion, yes. The government says that you're safe, you could be safe in your own home town. They also told that party the same thing. The graveyard is full of people that's safe.

Jack Anderson. So they got Bombacino and you think they may get Johnny A?

Johnny Ayotte. It's a matter of time. I would think so. I don't know, it's just a matter of luck I think.

Jack Anderson. Well, I wish you good luck.

Johnny Ayotte. Thank you Jack.

Jack Anderson. Johnny A thanks for being with us.

Johnny Ayotte. Thank you.

Jack Anderson. This is Jack Anderson in Washington.

IN TRIBUTE TO PAUL ROBESON

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. RANGEL. Mr. Speaker, on January 23, Paul Robeson a great black humanitarian passed away. Paul Robeson was not afraid to speak his mind despite the consequences of such an action.

His words as a political activist caused Senator Joseph McCarthy's Communist hunting to tarnish his career as a concert artist, stage and screen actor, athlete and attorney. His passport was lifted for 8 years only to be finally restored by the Supreme Court in 1958.

His concerts were canceled and his career was cloaked with silence, which only was lifted 10 years after he had retired because he was too sick to resume his career.

Jerome Kern wrote "Ol' Man River" with Paul Robeson in mind. For it was this man who stood for the liberation of colonized Africans, declared that Russia was the first place in his life that he felt no color prejudice, but stood firm in America "because my father was a slave and my people died to build this country and I am going to stay right here and have a part of it."

Paul Robeson has yet to receive his rightful place in history. He once said:

> The artist must elect to fight for freedom or for slavery. I have made my choice. I had no alternative.

I wish to share with my colleagues an article by Julius J. Adams titled "The Legacy of Paul Robeson":

THE LEGACY OF PAUL ROBESON

(By Julius J. Adams)

Paul Robeson, who died in Philadelphia on January 23 at the age of 77, has already been heralded in America and throughout the world for his excellence as a scholar, athlete, concert artist, and dramatic actor.

But his contribution, as a political activist, to the advancement of the Black man in his native land is yet to be properly and adequately assessed.

Robeson in his prime carried a well-distributed 240 pounds on his six-foot three frame which, coupled with his robust bass-baritone voice, made him a commanding figure, whether he was playing "Othello," singing "Go Down Moses," or lending his name and talent in speech and song against racial discrimination and segregation.

While Robeson lost favor with a wide segment of white Americans, including the white press, and frightened a number of Congressmen by a speech he made in Paris in April 1949, his devotion to the fight for justice and equality for Black communities was never questioned.

PARIS SPEECH

In the Paris speech, Mr. Robeson was quoted as having said that "it is unthinkable that American Negroes would fight in a war against the Soviet Union."

The incident appeared to have had a dual effect: It pricked the conscience of America and it cast fear over the nation's white leadership, especially some members of the Congress.

In fact the Robeson statement stirred up such a furor that the Un-American Activities Committee of the House of Representatives became concerned about public reaction and invited several prominent Negroes to appear before it in an attempt to disprove the Robeson assertion.

The committee's action is said to have been prompted by the fact that a poll taken by an established agency had noted that, as a result of the Robeson statement and the wide publicity it received, an alarmingly large percentage of white Americans said they believed a majority of Negroes were either Communists or disloyal.

One of the witnesses appearing before the committee was Jackie Robinson, star second-baseman for the Brooklyn Dodgers baseball team, who said, in part:

JACKIE'S SPEECH

"I understand that there are some few Negroes who are members of the Communist Party, and in event of war with Russia they would probably act just as any other Communists would. So would members of other minority and majority groups.

"There are some colored pacifists and they'd act just like pacifists of any color. And most Negroes—and Italians, and Irish and Jews and Swedes and Slavs and other Americans—would act just as all these groups did in the last war. They'd do their best to help their country stay out of war; if unsuccessful, they'd do their best to help their country win the war—against Russia or any other enemy that threatened us."

Paul Robeson had charted his own course in the fight for equal treatment of Black Americans, and he obviously felt that he was making "a substantial contribution" toward this end.

And, while he might have made himself expendable, there are many who now believe that what Robeson did in the 1940s paved the way for what Thurgood Marshall of the NAACP and others were able to do in the 1950s, and what Martin Luther King and his followers were able to achieve in the 1960s.

CIVIL STRIFE FEARED

For a frightened and conscience-stricken America saw the Paul Robeson star rising steadily during the summer of 1949 and feared that if Robeson captured the imagination of the masses of Black people there could be a strong possibility of civil strife.

Furthermore, in the light of the many failures of the national administration to do more than shadow-box on the Civil Rights program, white Americans also began to fear that the loyalty of the Black man might be in question.

But White Americans, in this instance and in others, misjudged the Black American, and they obviously misjudged the prominent Black leaders they invited to appear before the Congressional committee.

All of them shared Robeson's hatred of racial injustice, but expressed their unhappiness and indignation in different ways and at different levels of intensity.

The roots of the Black American in this country are deep. The fight for his rightful share of its fruits should not be mistaken for disloyalty and his demand for full citizenship rights should not be thought of as a design to bring about civil strife.

MOOT QUESTION

Whether Robeson really believed that Blacks in general would desert their country is a moot question. His subsequent expression of his own feeling for his country would suggest that his controversial statement could have been a result of momentary pique.

Or, drawing upon his skill as a lawyer, he might have made the statement as a strategic move, sensing that the shock might bring the country to its senses. It appears, in fact, that it did.

In any event, Blacks in particular, and the nation in general, owe an everlasting "thank you" to Paul Robeson for his ability and courage and for being willing to expose himself as an expendable, leaving the battle for others to carry in their own way consistent with the times, needs and circumstances.

PLEASE AMERICA, PULL YOURSELF TOGETHER

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. O'BRIEN. Mr. Speaker, Mr. Edwin W. Sale, a prominent lawyer in Kankakee, Ill., has called my attention to the following editorial from the London Daily Telegraph, which was published in the February 15 issue of the Kankakee Sunday Journal.

The Daily Telegraph complains that the orgy of self-criticism indulged in by some Americans in the last few years "is getting a bit boring" and says "the United States should know that her European cousins and allies are appalled and disgusted by the present open disarray of her public life."

Forunately, as the Daily Telegraph makes clear, the continual downgrading of our country's institutions and leaders does not reflect the feelings of most Americans.

I am sure most of my colleagues can attest to the fact that pride in our country and its great achievements is dominant in the minds and hearts of most Americans as we celebrate our Nation's Bicentennial. But it is sometimes good to step back and see ourselves as others see us. The Daily Telegraph editorial gives us that opportunity.

PLEASE AMERICA, PULL YOURSELF TOGETHER

It is time America's friends spoke out, with some nasty questions to the so-called "liberal" East Coast establishment. By that we mean sections of the press, sections of Congress, television commentators and comedians, university pundits and a lot of other people who may think there is a dollar to be made out of downgrading their country's institutions and leaders. We all know about the "trauma" of Vietnam and Watergate, but it's getting a bit boring. How long has the rest of the free world got to put up with these tender-minded people recovering from their "trauma?" Indefinitely?

America is accustomed to, and has merited, a good deal of deference from her allies. But deference can be a disservice. The United States should know that her European cousins and allies are appalled and disgusted by the present open disarray of her public life. The self-criticism and self-destructive tendencies are running rampant with no countervailing force in sight. She has no foreign policy any more, because Congress will not allow it. Her intelligence arm, the CIA, is being gutted and rendered inoperative, tne names of its staff being published so that they can be murdered. Her President and secretary of state are being hounded, not for what they do but simply because they are people there, to be pulled down for the fun of it.

We hope and believe that the vicious antics of the liberal East Coast establishment, which are doing all this untold harm, do not reflect the feelings of the mass of the country. But it is a matter for wonder. Is the country as a whole becoming deranged? Surely not. Perhaps, the presidential election later this year will clear the air. Yet that is still nine months away, and in the meantime there is all the campaigning to be gone through. Please America, for God's sake, pull yourself together.

TERRORISTS TARGET THE BICENTENNIAL AT THE HARD TIMES CONFERENCE—PART II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. McDONALD of Georgia. Mr. Speaker, this is the second part of my report on the National Hard Times Conference held in Chicago by the Prairie Fire Organizing Committee and other revolutionary organizations who intend to organize mass demonstrations to disrupt the Bicentennial celebrations on July 4, 1976 in Philadelphia.

The Saturday session began late with massive confusion and a capacity crowd estimated at over 2,200 persons. The conference organizers had announced on Friday evening that 1,700 persons had already registered at $3 per person. This figure was substantially swelled on Saturday, with the registration process taking so long that many people simply didn't bother to sign in. The seating capacity of the Illinois Room of 1,500 was surpassed long before the first plenary opened.

In an attempt to cope with the chaos, PFOC and YAWF marshalls with yellow armbands conducted groups between the Illinois Room and the cafeterias to which the proceedings were being broadcast. Simultaneous Spanish translations of the speeches were provided over loudspeakers in several areas adding to the babble of mini-caucuses and reunions of old comrades.

Despite the attempt by the Hard Times Conference organizers to involve racial minority groups, very few blacks were present, and many of them were from the separatist Republic of New Africa brought into the conference through Virginia Collins, RNA vice-president and mother of Walter Collins. However, as many as twenty percent of those present were Spanish-speaking and were for the most part members of the Puerto Rican Socialist Party—PSP—or CASA. A significant delegation from the American Indian Movement—AIM—also was present.

The overwhelming number of those attending the conference meetings were college-educated whites in their twenties or thirties, no longer in school, who formerly were active in SDS.

But where many of the former SDS activists had previously expressed contempt or indifference towards working class organizing class and radical organizing in the trade unions, preferring to look to the revolutionary guerrilla movements of Cuba, Vietnam, Algeria or Cambodia for models, many of them now appeared to recognize the need for grassroots organizing to prepare for a revolution.

The opening plenary started very late with a keynote speech by PFOC leader Jennifer Dohrn. Dohrn's speech centered on presenting the Hard Times Bill of Rights as the "unifying program" containing the "immediate demands for the working class as a whole to fight the depression." Dohrn hailed the document as the program to unite the unemployed and all those hit by inflation, cutbacks in welfare, education, housing and other government social welfare programs.

The plenary sessions were extensively covered by the radical and alternative media. As many as eight radio stations were present and broadcasting parts of the proceedings live. Representatives of Liberation News Service, the Village Voice and the Pacifica network were present, as was former indicted Weatherman Robert "Bo" Burlingham in his present guise of a New Left journalist.

Yvonne Golden of the Hard Times Conference Board served as moderator for the afternoon session. She introduced Kathy Dorsey, a black activist in the Communications Workers of America and Coalition of Labor Union Women who is close to the Workers World Party—WWP—which did a large part of the organizing for the Hard Times Conference. Dorsey mentioned as the sort of action necessary to fight the "hard times," the occupation of New York Mayor Beame's office during which a hole was kicked in the wall. She warned that violence has already started and that it is going to continue.

Pedro Grant, a member of the PSP Central Committee and head of the Movimiento Obrero Unidos—MOU—United Workers Movement—spoke about labor organizing in Puerto Rico. Grant claimed that he now had one-third of the total union membership in Puerto Rico under his control through the MOU, and that if his negotiations with the Center for Labor Action were successful, "nearly half" of the total union membership would come under Marxist-Leninist leadership. Grant concluded by stating that he had grown up watching movies in which the "sheriff killed the Indian chief." But now, said Grant, the Indian chief will kill the sheriff.

More than 22 workshops were held at the National Hard Times Conference. The workshops were in general overcrowded and reflected the vague politics of the PFOC organizers, despite the efforts by Workers World cadres to give direction and impetus. Principal workshops and their leaders, in summary, included:

Angola—Nick deFreitas, Youth Against War and Fascim (YAWF); Fred Goldstein, WWP; Prexy Nesbitt, Coalition for the Liberation of Angola, Mozambique and Guinea-Bissau; Irving Davis and Mohammad Kenyatta, Black Economic Development Corp.

The Angola workshop, chaired by deFreitas, a writer for Workers World, proposed a resolution giving "full and unconditional support to the People's Republic of Angola, led by the MPLA," which was passed by the NHTC plenary with two friendly amendments. The amendment by Prexy Nesbitt, who reportedly had taught at a FRELIMO school based in Tanzania during the guerrilla war against the Portuguese, condemned all recruiting of mercenaries to fight against MPLA.

The amendment offered by the PSP praised the Cubans for sending troops to Angola and for having sent assistance to the revolutionary guerrilla movements in Vietnam, Cambodia and Laos. Said the PSP amendment:

"There has not been any doubt in our minds of the Cuban people's solidarity with the liberation movements throughout this planet. It was shown in Vietnam, Cambodia and Laos, it is being shown in Angola, and it will be shown in Puerto Rico."

Anti-Repression—Winslow Peck, Organizing Committee for a Fifth Estate; Mike Deutch, National Lawyers Guild (NLG), Chicago; Truman Nelson; Alberto Mares.

Busing and Anti-Racist Organizing—Nancy Ryan, People Against Racism in Education (PARE); Jane Katz; Fred Hobby.

Dominated by members of the WWP and YAWF, the workshop proposed various demonstrations, but the proposal was not passed by the NHTC plenary.

Chile—Bobbye Ortiz, *Monthly Review;* Kevin Duncan.

Cultural Workers—Bev Grant, Cultural Workers Front, NY; Rev. Frederick Douglas Kirkpatrick; Betty Garcia, PSP; and Bernice Reagon, a former SNCC activist who had appeared at the October League's rival National Fight Back Conference in Chicago in December, 1975.

Childcare (changed from "daycare" because of objections that some parents work night shifts)—Sylvia Warren, PFOC; Danny Albert; Louise Sweeney; and Nick Sanchez, an unsuccessful candidate for District 1 school board in New York City.

Education—Annie Stein, People Against Racism in Education (PARE) and member of National Hard Times Conference Board; Eugene Clancy and Georgina Hoggard, a former member of the District 1 school board in New York City not re-elected.

The workshop reporter, a black woman who apparently was a sympathizer of the Republic of New Africa (RNA), began a denunciation of whites and a rambling demand that whites accept total black leadership. The woman was removed as reporter and replaced by Georgina Hoggard.

Housing & Tenants—Arnold Townsend, WAPAC, San Francisco, a member of the Hard Times Conference board, and David Duboff.

Health Care, Drugs and Anti-Sterilization—Sheila Gruchala; Rob Brinkman, Cook County Hospital; Vicki Wheeler; Rosa Alvarez.

Economics, Food & Inflation—Claudette Furlongo, YAWF; and Fred Stover, an aging Stalinoid whose targets ranged from the various corporations involved in food production and distribution to Ezra Taft Benson.

Elderly—Ruth Dear and Ted Dostal, founding members of the WWP, who denounced "ageism" and *"youth worship."*

Indochina—Vu Ngoc Kon, Union of Vietnamese Students, who called for solidarity actions on April 30th, the date that South Vietnam will be "reunited" with the North Vietnamese conquerors; Sokhom Ming, Khmer Residents in the U.S.; Donna Futterman; Antonio Villaro; and Cora Weiss of Women Strike for Peace, Clergy and Laity Concerned and now the Friendship program of voluntary "reparations" for the Vietnamese Communists.

Labor—Pete Kelley, UAW Local 160; George Thomas, United Black Workers; Deb Dunfield, USWA.

Military & Veterans—Gerry Condon, National Council for Universal and Unconditional Amnesty (NCUUA), a deserter from the Green Berets who has refused the Presidential "earned re-entry" clemency to tour the U.S. organizing for NCUUA; George Simpson.

This workshop, which included five active-duty GIs, proposed organizing against the possibility of U.S. troops being sent to the Middle East and against use of National Guard troops as "riot cops" and "strike breakers." Other demands included an end to U.S. support of the anti-MPLA forces in Angola and for the end to all U.S. military installations in Puerto Rico.

Native Americans—Ella Moves Camp, AIM; Robert Mendoza; Ann Durham, Native American Solidarity Committee and PARE, N.Y.; David Tilsen; Jed Provjanski and Melinda Rorick, San Francisco.

Organize the Unorganized & the Unemployed Struggle—Susan Klug and Tom Gardner, WWP, Joel Myron, Eugene V. Debs Caucus; Leo Fletcher; Eveline "Evvy" Wiener. an aging Stalinoid from LEMPA, NY;

and Juan Irizarly, Association of Farm Workers (ATA), Connecticut.

Prisons—Tom Soto, WWP; David Saxner; Brooks Whiting; Akil Mafundi; Inmates for Action, Birmingham, AL; and Willie Tate.

Predictably, the ex-convicts and their Leninist supporters called for total abolition of the death penalty and expressed their solidarity with other revolutionaries "victimized by the system," including Lolita Lebron and the Puerto Rican Nationalist Party terrorists; H. Rap Brown, Martin Sostre and Jim Grant.

Puerto Rico—Jose Lopez, Northeastern University, Boston; Olga Sanabria, PSP; and Julie Nichamin, Venceremos Brigade and Puerto Rican Solidarity Committee (PRSC).

The workshop repeated the PSP's slogan for a "Bicentennial without colonies," and stressed that Puerto Rico had entered a classical "pre-revolutionary stage" and immediate organizing was necessary to take advantage of it.

Students—Charles Isaacs, Staten Island Community College: Miguel Alvarez.

Undocumented Workers—Rudolfo Lasano, CASA; Enrique Flores.

Other plenary speakers on Saturday included Wilbur Haddock of the United Black Workers, Newark, N.J., who acted as de facto chairman of the conference. In a highly charged speech, Haddock claimed that when he first began to organize at the Ford Mahwah plant, "Ford, the John Birch Society, the KKK and the Minutemen" all joined to resist him, to no avail.

Vernon Bellecourt of the American Indian Movement was preceded by a drum song. Bellecourt stated that—

> AIM is "the shocktroops of Indian sovereignty. Indians are the landlords of this country. It's the first of the month, and the rent is due, and it's time to pay.

Bellecourt said of the Bicentennial:

> When they light the candles on the 200th year birthday cake, we will be there to blow them out.

The support for foreign terrorists among the Hard Times Conference participants was clear in the large number of people who watched the Palestine Liberation Organization — PLO — film, Revolution Until Victory, on Saturday afternoon. The exclamations of approval of the bloody actions of the PLO against pro-terrorist stance of the audience.

Saturday evening was devoted to a "cultural program" for the masses of those attending, but the Hard Times Conference Board and a few others held a private meeting to discuss the conference. The board agreed that the hard times bill of rights needed a great deal of work before it could be accepted by the groups attending.

The cultural performers included CASA's Teatro Movimiento Primavera, Los Angeles; Atis Independan, a Haitian group from New York City; Jeanne Mackey and Mary Trevor, Washington, D.C.; Betty Garcia, PSP dancer, New York; the George Jackson Players, Chicago; Guy Carawan, an organizer at the Highlander Center in Knoxville, Tenn., who performed with the Fiction Brothers Bluegrass band; and PFOC's Beverly Grant who appeared with a band from New York City, the Human Condition.

The Sunday plenaries were chaotic. Women's and gay caucuses took the floor to protest lack of consideration for their issues and to propose amendments to the Hard Times Bill of Rights.

The black caucus, which included many members of the Republic of New Africa and cultural nationalists, held the floor for almost an hour demanding endorsement of "the right of self-determination for Black People" and support of "the struggle for independence in the Cush District of Mississippi as led by the Provisional Government of the Republic of New Africa." The white majority, still apparently suffering "guilt trips" from their "white skin privilege," passed the black caucus resolution without debate.

However the caucus, with assistance from Joe Carnegie of Fightback, refused to yield the floor and continued their harsh criticisms. At that point, the conference was "saved" by an organized and disciplined effort by the Puerto Rican Socialist Party and CASA.

Carlos Vasquez of CASA demanded that the problems of "undocumented workers" (illegal immigrants) be discussed, as well as the problems of the white workers. PSP Central Committee member Jose LaLuz then called for the conference to immediately consider the "action proposals," in particular the call for mass demonstrations in Philadephia on July 4.

Shouts of "Unidad!" and "Accion" rose in the room. Jim Houghton introduced Charles Isaacs of New York who introduced the action proposals. On the previous weekend, the PSP had invited most of the groups present to form the July 4 Coalition. The coalition is to form regional coalitions to organize toward the goal of bringing 500,000 militants to Philadelphia for July 4. The coalition will hold a meeting during February to elect a national board.

A proposal from the Workers World Party for a national demonstration in Washington, D.C., on April 15 was rejected. But YAWF and the WWP may decide to hold a small demonstration anyway. There was general support for solidarity actions on March 8, International Women's Day, but no specific plans were approved.

There was also a general feeling that some sort of local solidarity actions should take place about April 30 or May 1 in support for the Communist "reunification" of Vietnam. September 11, the anniversary of the downfall of the Marxist Alende regime in Chile, was not specifically named as a target date. However, November 1, the anniversary of the Puerto Rican Nationalist Party's uprising in 1950, and the attempted assassination of President Truman, is to be marked probably by a national demonstration in Washington, D.C.

Although the coming April 20, 1976, meetings of the National Organization for Women—NOW—were endorsed, the gay liberation movement received little recognition. A move to call for support of the New York Christopher Street commemoration of the Stonewall riots was denounced as "Mafia inspired."

The Hard Times Conference found unity on a broad range of international issues, calling for MPLA victory in Angola and applauding the vanguard role of Cuban troops in the fight there. The conference expressed support of the terrorist Palestine Liberation Organization—PLO—with the "struggle of the Portuguese against fascism," and with the struggle in the Philippines "against the United States-backed Marcos dictatorship."

Support was expressed for the Cuban Revolutionary Government and for reparations to the Vietnamese. The conference also supported the cause of the Cuban-backed Marxist dictator of Panama, General Omar Torrijos, who is attempting to have the U.S. turn over control of both the Panama Canal and the U.S. Canal Zone. Members of the Puerto Rican Solidarity Committee and PSP were busy during the conference setting up a new Panamanian Solidarity Committee which is scheduled to hold a national conference in Washington, D.C., March 13–14, 1976.

The Workers World Party, which had done a great deal of the preliminary organizing for the PFOC and the Hard Times Board, appeared satisfied with the conference outcome. The WWP cadres avoided any direct confrontations or tests of strength with the PFOC.

The conference had no discussion of attending either the Democratic or Republican national political conventions. However, the Youth International Party poster calling for disruptions was distributed at the conference.

Despite the general chaos of the conference, the Prairie Fire Organizing Committee organizers were fully satisfied with the results and feel that the beginnings of a national organization now exist.

The National Hard Times Conference attracted a large number of more orthodox Leninist revolutionary groups who sat in on the proceedings as observers and distributed their own literature. Among those present were the Socialist Workers Party—SWP—the October League—OL—the International Socialists, Anti-Apartheid Movement, Communist Labor Party, and the drug-oriented Youth International Party.

Among the persons attending the meetings, with their organizations abbreviated where known, were the following:

Persons Identified as Attending the National Hard Times Conference, January 30–February 1, 1976 (Spelling Based on Phonetics)

Allen Afterman, PFOC, Chicago.
Danny Albert.
Miguel Alvarez.
Rosa Alvarez.
Robert Appel, PFOC.
Ella J. Baker, MPOC & PRSC.
Joe Barnett, PFOC, CA.
Nancy Barnett (Frappier), Bay Area, PFOC.
Brian Becker, WWP.
Alan Berkman, NY PFOC.
*Vernon Bellecourt, AIM.
Arlene Eisen Bergman, Bay Area PFOC.
Barbara Bishop, San Francisco.
Diane Block, secty-treas., PFOC, Bay Area.
George Bowers, United Black Workers, Newark, NJ.
Rob Brinkman, Cook County Hospital.
Joel Britton, SWP observer.
Robert "Bo" Burlingham, Boston.
Bob Cantor, NLG, NY PFOC.
Guy Carawan, Highlander Center, Knoxville, TN.
Joe Carnegie, Fight Back, NY.
Eugene Clancy.
Paddy Colligan, WWP.
*Virginia Collins, RNA, New Orleans.
Gerry Condon, NCUUA.
Rick Cornish.
*Pam Costain, Twin Cities Women's Union.
Dennis Cunningham, NLG, Chicago.
Jim Dannon, Phila. PFOC.
Ruth Dear, WWP.

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* Indicates members of the National Hard Times Conference Board.

Nick DeFreitas, WWP.

Mike Deutsch, NLG, PFOC, Chicago.

*Jennifer Dohrn, PFOC National Committee.

Kathy Dorsey, CLUW, NY.

Ted Dostal, WWP.

David Duboff.

Kevin Duncan.

Deb Dunfield, United Steelworkers.

Ann Durham, PARE & Native American Solidarity Committee, NY.

Melody Ermachild, PFOC, CA.

Francis Estrella.

Phyllis Fastwolf.

Briar Flannigan, PFOC.

Marc Fliegelman, Phila. PFOC.

*Leo Fletcher, Boston.

Enrique Flores.

Claudette Forlongo, WWP.

Donna Futterman, NY.

Barb Gagre, NY, PFOC.

Betty Garcia, PSP.

Raphaelo Garcia, CA.

Tom Gardner, WWP.

*Ted Glick, MPOC, NY.

*Yvonne Golden, San Francisco Black Teachers Caucus.

Fred Goldstein, WWP.

Linda Goodspeed, Phila. PFOC.

*Beverly Grant, NY PFOC.

Pedro Grant, PSP Central Committee.

Penny Grillos, PFOC, Brooklyn College.

Sheila Gruchala.

Irrero Guitierriez.

Jeff Haas, NLG, Chicago PFOC.

*Wilbur Haddock, United Black Workers.

Thelma Hamilton, Brownsville, NY.

Iberia Hampton.

Frederick Douglass Hobby, Black Workers Coalition, Louisville, KY.

Georgina Hoggard, NY.

Sokhom Hing, Khmer Residents in U.S.

Sarah Horowitz, Boston PFOC.

*James Haughton, Fightback, NY; MPOC.

*Juan Irizarly, Ass'n. Trabajadores Agricolas, CN.

Charles Isaacs, NY PFOC, Staten Island Community College.

Marci Isaacs, NY PFOC.

Sarah Kaplan, NY PFOC.

Jane Katz.

*Pete Kelley, UAW Local 160; United National Caucus.

Mohammad Kenyatta, Black Economic Development Corp., Phila.

Connie Keresey, Vermont PFOC.

Kitty Kimatsu, Chicago PFOC.

Susan Klug, WWP.

Rev. Frederick Douglas Kirkpatrick.

Yuri Kochiyama, PRSC National Board.

Vu Ngoc Kon, Union of Vietnamese in the U.S.

William Kunstler, NY.

Jose LaLuz, PSP Central Committee.

Rudolfo Lasano, CASA.

Liza Lawrence, Chicago PFOC.

Jon Lerner, NY PFOC.

Rev. Richard Leucke, AIF:Chicago.

Margo Levine.

Rick Levine, NYC.

Sarah Loft, Boston PFOC.

Jose Lopez, Northeastern Univ., Boston.

Doris Lucas, Welfare Mothers.

Jeanne Mackey, Washington, DC.

Akil Mafundi, Inmates for Action, AL.

Don Jose Major, PSP.

Alberto Mares.

Tapson Mawere, Zimbabwe African National Union (ZANU), NY.

Al McSurely, Alliance for Labor & Community Action, DC.

Robert Mendoza, AIM, San Francisco.

Shelly Miller, PFOC.

David Moberg, The Reader, Chicago.

Queen Mother Audley Moore, NY.

Donald Morton, Southern Africa Committee.

Joel Myron, Eugene V. Debs Caucus.

Truman Nelson.

Prexy Nesbitt, Chicago.

Russell Neufeld, PFOC National Committee.

Julie Nichamin, PRSC national staff.

Nancy Nichols, NY.

Betty Olbekson, Minn. Welfare Recipients Alliance.

Roger Olson, PFOC.

Bobbye Ortiz, Monthly Review.

Charles Ostrofsky, SWP.

Belinda Palm.

Winslow Peck, Fifth Estate, WDC.

Ken Peterson, WWP.

Jed Provjanski, NY.

Lance Pustin, Phila. PFOC.

Miles Pustin, Vermont PFOC.

Bernice Reagon, singer.

Antonio Rodriguez, secretary-general, CASA.

Melinda Rorick, Bay Area PFOC.

Sharon Rose, Middle East Research & Information Project, Alliance for Labor & Community Action, WDC.

Eve Rosen, NY PFOC.

Susan Rosenthal, PFOC.

Lisa Roth, NY PFOC.

Marge Russell, Boston PFOC.

Nancy Ryan, PARE, NY PFOC.

Olga Sanabria, PSP, NY.

Nick Sanchez, NY.

Jeff Sarokov, PFOC.

David Saxner, Chicago PFOC.

Mara Seigel, PFOC Chicago.

Gloria Shepherd, Bay Area, CA.

Irwin Silber, Guardian.

George Simpson.

Tom Smucker, Village Voice.

Tom Soto, WWP.

Ronald Starks, Black Panther Party.

*Annie Stein, PARE, PFOC, PRSC, NY.

Mike Sturdevent.

Louise Sweeney.

Willie Tate.

George Flint Taylor.

David Tilsen.

Susan Tipograph, NY PFOC.

*Arnold Townsend WAPAC, San Francisco.

Peggy Two Deer, Chicago.

Alfredo del Valle, PSP U.S. Zone Committee

Clayton Van Lydegraf, Bay Area PFOC.

Carlos Vasquez, CASA.

Antonio Villaro.

Sylvia Warren, NY PFOC.

Susan Waysdorf, NY PFOC.

Barry Weinberg, PFOC, California.

Cora Weiss, Friendshipment and Women Strike for Peace.

Kathy Welsh, PFOC, California.

Tim Whally, PFOC.

Vicki Wheeler, PRSC national staff.

Laura Whiteborn, Boston PFOC.

Brook Whiting.

Evelyn "Evvy" Wiener, LEMPA, NY.

Hal Womack.

Margaret Wright, People's Party Presidential candidate.

A COMMENT ON WORLD HUNGER

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. WOLFF. Mr. Speaker, hunger is a problem that effects all, at home and abroad. Our Nation, as the foremost producer of food in the world, has a special responsibility to attend to the needs of our people and to conduct its foreign relations in a way that will minimize hunger abroad.

To determine the proper approach to resolving the problems of world hunger, it is essential to have the benefit of competent advice from individuals who will view the problem in all its complexity. To assist me in this, I have created a Citizens' Committee on World Hunger and Development, consisting of eminent persons from within and outside my congressional district. I have asked the chairman of this committee, Mr. George Gerardi, president of the League for Economic Assistance and Development, to prepare a brief comment on world hunger. At this point, I would like to insert into the RECORD, Mr. Gerardi's statement. I commend it to my colleagues:

A COMMENT ON WORLD HUNGER

(By George R. Gerardi)

The problem of world hunger is complex and its solution is equally complex. It may not be simply a matter of political will of either developed or developing nations although that is a necessary prerequisite.

Perhaps there have been so many failures of development projects in the past because, in our anxiety to rectify long standing injustices and satisfy Congress and the public that we are accomplishing something, we have failed to take the time to understand the needs, aspirations and abilities of the low-income people who comprise the so-called "target population" of development programs. If we have learned anything it should be that development takes time. Our measurements of success have too often been in economic terms rather than measures in the quality of peoples lives. As a result short term successes soon become long term disasters as the local populace by their neglect demonstrate that they never really owned a part of what we called the development process. Top down development, that is large projects and infrastructure continue to be important but grass roots development must rise out of the populace to meet the more grandiose approaches. In the final analysis this is where the emphasis for solving world hunger problems must be placed. We must start with the premise that poor people want to develop as much as we do.

SENATOR CHURCH'S STATEMENT ON OLDER AMERICANS AND THE INCOME TAX

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mrs. COLLINS of Illinois. Mr. Speaker, a week or so ago, I had the opportunity to read a very excellent statement entitled "Protecting Older Americans Against Overpayment of Income Taxes" on the issue of protecting the elderly citizens of our country from overpayment of Federal income tax. The statement was submitted to the CONGRESSIONAL RECORD by Senator CHURCH.

As you know, he and his colleagues on the Special Committee on Aging have been working quite hard to find solutions to the problems affecting aged Americans. Each year the committee publishes information on current provisions in our country's income tax to help eliminate the very real problem of overpayment of taxes by our elderly citizens.

Certainly each of us would agree that no citizen should be paying more than his/her fair share of taxes. Overpayment resulting from the lack of ready access to accurate, up-to-date information to our aged is a practice that must be corrected. By issuance of this information Senator CHURCH and the Special Committee on Aging, have taken decisive action to ease this burden which is borne by the elderly citizens.

Because the statement is so helpful, I respectfully ask, Mr. Speaker, that it be reprinted in the House section of the CONGRESSIONAL RECORD:

PROTECTING OLDER AMERICANS AGAINST OVERPAYMENT OF INCOME TAXES

Mr. CHURCH. Mr. President, each year the Senate Committee on Aging publishes a checklist of itemized deductions for individual taxpayers.

The purpose is to protect older Americans from overpaying their income taxes.

Hearings conducted by the Committee on Aging have made it abundantly clear that many elderly persons needlessly overpay their taxes each year.

Witnesses have cited several reasons.

First, large numbers of older Americans are overwhelmed by the complexity of the tax law and the tax form.

In recent years, the Internal Revenue Service has taken a number of steps—at the urging of the Committee on Aging—to simplify the tax form. I wish to commend the IRS for adopting these recommendations. However, additional action is still needed, and the committee is ready to cooperate with the IRS to do so.

Second, many aged taxpayers are simply unaware of helpful deductions which can save them precious dollars.

The checklist developed by the Committee on Aging, however, can provide a safeguard for taxpayers who may not be completely current on tax relief visions.

In addition, this summary offers guidance for individuals to determine whether it would be to their advantage to itemize their deductions or compute their taxes on the basis of the tax tables.

Persons who may subsequently discover that they overpaid their taxes in prior years have recourse. They may file an amended return—Form 1040X—to claim deductions initially overlooked. Form 1040X must be filed within 3 years after the original return was due or filed or within 2 years after the tax was paid, whichever is later.

The committee's summary also includes a brief description of other tax relief measures for older Americans, such as the retirement income credit, the total or partial exclusion of a gain on the sale of a personal residence, and others. Changes in the 1975 Tax Reduction Act are also incorporated in this summary.

Mr. President, I ask unanimous consent that the Committee on Aging's checklist of itemized deductions and summary of tax relief measures for older Americans be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses (unreimbursed by insurance or otherwise) are deductible to the extent that they exceed 3% of a taxpayer's adjusted gross income (line 15, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 15, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expense (subject to 3% limitation):

Abdominal supports (prescribed by a doctor)
Acupuncture services
Ambulance hire
Anesthetist
Arch supports (prescribed by a doctor)
Artificial limbs and teeth
Back supports (prescribed by a doctor)
Braces
Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.
Cardiographs
Chiropodist
Chiropractor
Christian Science practitioner, authorized
Convalescent home (for medical treatment only)
Crutches
Dental services (e.g., cleaning, X-ray, filling teeth)
Dentures
Dermatologist
Eyeglasses
Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as substitute for, regular diet; physician's statement needed)
Gynecologist
Hearing aids and batteries
Home Health services
Hospital expenses
Insulin treatment
Invalid chair
Lab tests
Lip reading lessons (designed to overcome a handicap)
Neurologist
Nursing services (for medical care, including nurse's board paid by you)
Occupational therapist
Ophthalmologist
Optician
Optometrist
Oral survery
Osteopath, licensed
Pediatrician
Physical examinations
Physician
Physical therapist
Podiatrist
Psychiatrist
Psycholanalyst
Psychologist
Psychotherapy
Radium therapy
Sacroiliac belt (prescribed by a doctor)
Seeing-eye dog and maintenance
Speech therapist
Splints
Supplementary medical insurance (Part B) under Medicare
Surgeon
Telephone/teletype special communications equipment for the deaf
Transportation expenses for medical purposes (7¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.)
Vaccines
Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health)
Wheelchairs
Whirlpool baths for medical purposes
X-rays

TAXES

Real estate
State and local gasoline
General sales
State and local income
Personal property

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of five classes of items: automobiles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security, Veterans' pension or compensation payments, Railroad Retirement annuities, workmen's compensation, untaxed portion of long-term capital gains, recovery of pension costs, dividends exclusion, interest on municipal bonds, unemployment compensation and public assistance payments).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20% of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, State or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value for property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 7¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g. scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.
Auto loan.
Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charges as interest if no part is for service charges, loan fees, or credit investigation fees, or similar charges.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

Other charge accounts for installment purchases—may deduct the lesser of (1) 6% of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) or (2) the portion of the total fee or service charge allocable to the year.

CASUALTY OR THEFT LOSSES

Casualty (e.g., tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

CHILD AND DISABLED DEPENDENT CARE EXPENSES

A taxpayer who maintains a household may claim a deduction for employment-related expenses incurred in obtaining care for a (1) dependent who is under 15, (2) physically or mentally disabled dependent, or (3) disabled spouse. The maximum allowable deduction is $400 a month ($4,800 a year). As a general rule, employment-related expenses are deductible only if incurred for services for a qualifying individual in the taxpayer's household. However, an exception exists for child care expenses (as distinguished from a disabled dependent or a disabled spouse). In this case, expenses outside the household (e.g., day care expenditures) are deductible, but the maximum deduction is $200 per month for one child, $300 per month for two children, and $400 per month for three or more children.

When a taxpayer's adjusted gross income (line 15, Form 1040) exceeds $18,000, the deduction is reduced by $1 for each $2 of income above this amount. For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

MISCELLANEOUS

Alimony and separate maintenance (periodic payments).

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income-producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees under certain circumstances.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—Taxpayers may now claim either a deduction (line 33, Schedule A, Form 1040) or a credit (line 51, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State, or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) State committee of a national political party, or (4) local committee of a national poltical party. The maximum deduction is $100 ($200 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $25 ceiling ($50 for couples filing jointly).

Presidential Election Campaign Fund.—Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) to help defray the costs of the 1976 Presidential election campaign.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

Other tax relief measures for older Americans

Filing status:	*Required to file a tax return if gross income is at least—*
Single (under age 65)	$2,350
Single (age 65 or older)	3,100
Qualifying widow(er) under 65 with dependent child	2,650
Qualifying widow(er) 65 or older with dependent child	3,400
Married couple (both spouses under 65) filing jointly	3,400
Married couple (1 spouse 65 years or older) filing jointly	4,150
Married couple (both spouses 65 or older) filing jointly	4,900
Married filing separately	750

Additional Personal Exemption for Age.—Besides the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age.

You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1976, you will be entitled to the additional $750 personal exemption because of age for your 1975 Federal income tax return.

Tax Credit for Personal Exemptions.—In addition to the $750 personal exemption, a tax credit of $30 is available for a taxpayer, spouse, and each dependent. No additional $30 credit is available, however, because of age or blindness.

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met. (1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10% of the mutual dependent's support, *but only one of them*, may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers.—A taxpayer may elect to exclude from gross income part, or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least 5 years within the 8-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $20,000, an election may be made to exclude part of the gain based on a ratio of $20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within 18 months before or 18 months after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

Retirement Income Credit.—To qualify for the retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received earned income in excess of $600 in each of any 10 calendar years before 1975, and (c) have certain types of qualifying "retirement income." Five types of income—pensions, annuities, interest, and dividends included on line 15, Form 1040, and gross rents from Schedule E, Part II, column (b)—qualify for the retirement income credit.

The credit is 15% of the lesser of:

1. A taxpayer's qualifying retirement income, or

2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxable pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62, the $1,524 figure is reduced by the amount of earned income in excess of $900. For persons at least 62 years old but less than 72, this amount is reduced by one-half of the earned income in excess of $1,200 up to $1,700, plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer if he has requested that IRS compute his tax, he answers the questions for columns A and B, and he completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayer should also write "RIC" on line 17, Form 1040.

ALTERNATIVES TO BUSING

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. MAZZOLI. Mr. Speaker, on February 17, in an article in the Wall Street Journal, Mr. Nathan Glazer, professor of education and sociology at Harvard University, sets forth his views on the vexing and controversial topic of desegregation of the Nation's public schools.

Professor Glazer writes that America is not becoming two nations as some would assert. Instead, he maintains that social trends clearly demonstrate that black and white are steadily coming closer to each other—but not through the means of compulsory school assignment and transportation on the basis of race.

So that our colleagues may have the benefit of Professor Glazer's thinking on this serious problem, I insert the full text of his statement—entitled "Alternatives to Busing"—at this point in the RECORD:

ALTERNATIVES TO BUSING

(By Nathan Glazer)

Let me try to characterize our dilemma as we confront the next stage in the long story of school desegregation. The great majority of the American people—all indeed but a tiny minority—avow that they believe in integrated schools, and oppose the separation of the races in education which was one of the great shames of this nation for many decades. An almost equally great majority support the principle of integrated neighborhoods, and agree that blacks—and any other group—should have the right to live any place they can afford. Here our nation is completely together.

But it is severely divided by what is now proposed to it by the federal courts, the dominant mass media, and by leading social scientists, as the *means* by which to achieve the desegregation of the schools: that is, the direct assignment of children to schools on the basis of race and ethnicity to achieve an even distribution by race and ethnic group through all the schools of as large an area as can be conveniently reached by conventional means of transportation.

These means represent to those who support them the commitment of this nation to an integrated society. Their limitation or abandonment represents to them the abandoning of our commitment to an integrated society, the reversing of *Brown* and of the Civil Rights Act of 1964.

If to limit these means did mark the abandonment of the hope for an integrated society, then I, too, would be an advocate of them. What I would like to suggest to those who believe these means *are* the only hope for an integrated society is that they look at social trends in this country, and consider whether this is indeed an increasingly divided nation, fated to become two nations unless these drastic means are adopted; and furher, that they consider what concretely we aim at when we try to achieve an integrated society. I would argue, first, that we *are* becoming an integrated society—but not through the means of school assignment and transportation by race; second, that the objective of an integrated society, in our multi-racial and multi-ethnic America, cannot be one in which every major group is evenly distributed statistically in every institution or governmentally supported program or neighborhood or sphere of life.

The trend that now indicates that the Kerner Commission was wrong, that we are *not* becoming two nations, is that black and white—as well as the "Spanish-surnamed" groups—are steadily coming closer to each other in income, in occupational distribution, in education and in residence.

THE INCOME FACTOR

In income, the 1960s saw a steady rise in the ratio of income of blacks to white. This reached a peak in 1969–70, and since then has fallen back somewhat, though even in falling back in the difficult years since 1971 it still remains considerably above the level of the beginning of the 1960s. But more significant than this overall trend in the relationship of black to white income is the remarkable rise, to a position near equality with that of whites, of the income of young unbroken black families, with heads under 25 years of age: This has taken place in the South as well as in the North.

In the South, the median income of these families was 87% of the median income of white families in 1973. In the North and West it was 93% of the median of white families. The failure of black income in general to rise to a position of near equality with whites is owing, first, to the tragic heritage of segregation and discrimination, which affects older black families; and second, to the sharp increase in recent years of female-headed black families—for female-headed families do not do well in the labor market, and bring down the black median income.

This rise in income has been matched by a startling change in the occupations of blacks. One contrast: in 1964, 16% of black males were white-collar workers; in 1974, 24%, while the proportion of white male white-collar workers remained stable.

There have also been sharp changes in educational attainment for blacks: the census has just reported that blacks now enter colleges in the same proportion as whites.

Residential distribution is based, in large measure, on income, occupation, and education, and if blacks approach whites in these respects, then inevitably black residential distribution will become less concentrated, and school systems based on proximity will become more intergrated. It is true a good part of black residential concentration is caused by discrimination; but a great deal of it is caused by low income, poor occupations and poor education.

Calculations by the demographer Karl Taeuber show a decline in black segregation in cities in the 1960s, after decades during which segregation rose. Studies based on public opinion surveys by the University of Michigan's Institute for Social Research give the same result. Since 1964, national samples have been asked, "What is the racial composition of your neighborhood?" The proportions of whites answering "all white," and blacks answering "all black" have been dropping regularly.

I do not wish to suggest that the millennium has arrived. Yet there have been remarkable changes, owing to the black struggle for equality, the strong civil rights laws, and changes in opinion, and these changes are by now institutionalized, and continue without the need for drastic measures.

Admittedly the actual measure of school desegregation achieved through economic and educational progress and resulting residential integration is still relatively small. Yet there is in many cities a substantial degree of integration affecting sizable minorities of black students, and there are methods available short of involuntary assignment on the basis of race to increase the proportion of black students who go to school with whites. The chief method available is that much maligned approach, "Freedom of Choice." "Freedom of Choice" was given a bad name because it was used in the South as a means of evading desegregation, and often combined with threats and violence against blacks. But when "Freedom of Choice" is offered in good faith, it has been accepted eagerly by substantial numbers of black parents. John McAdams has studied the available evidence and finds that up to 30% of eligible students will take advantage of freedom of choice. It should be combined today with the right to interdistrict transfer—the right to attend a school outside one's district, if the exercise of that right promotes integration.

In short, the abandonment of compulsory school assignment on the basis of race would not, as we are so commonly told by those who advocate it and insist it is the *only* means to an integrated society, mark the abandonment of progress toward an integrated society.

There is a second misunderstanding that must be cleared away. It is pointed out that many black children will be left in black majority or indeed all black schools even after one encourages voluntary transfer. Quite true. But now we must ask, what is our objective in hoping and working for an integrated society? Is it one in which every major group of our multi-racial and multi-ethnic society is distributed evenly through every major institution and every major sphere of life? Nathan Kantrowitz has pointed out in his research how unrealistic such an objective is. Even groups in this country against whom little prejudice and discrimination have been directed, and who have lived in cities for generations, show a tendency to cluster residentially. If a group is real, it will have distinctive characteristics and some of these will encourage clustering and concentration simply because some value is shared by the group.

TOTALLY UNREALISTIC

Only for blacks and for some other groups that have been misguidedly brought under the authority of court integration orders—e.g., varied Spanish-surnamed groups, the Chinese in San Francisco—do we *insist* that integration must mean the totally unrealistic objective of equal statistical proportions in every school. This has not been the test for integration we have applied to the Irish, the Jews, the Italians, and other ethnic groups. These groups and others continue to show a concentration in occupations, in residence, in schools, that is no longer the result of discrimination.

Why should we expect differently for the blacks or Spanish-surnamed? As long as we maintain a strict ban on discrimination and to segregatory acts, it should be no concern of the state or the courts how people choose to distribute themselves.

Admittedly, much black clustering today is not voluntary. Some is the result of poverty, and that must be attacked by public measures that provide greater opportunity and greater income for deprived blacks (as for the deprived of other groups). Some is the heritage of state efforts at segregation, and that part must be undone. Some is the result of current discrimination, illegal under the Civil Rights Act and court orders, and that must not be allowed. But much is the expression of black community—of the same desires and actions that motivate many groups in our multi-ethnic society.

Integration does not mean that every community that brings together people of a given culture must be destroyed regardless of its origin. We have placed before ourselves an unreal and unrealistic objective—even distribution of every race and minority—and then we chastise ourselves for not obtaining this objective. Our thinking has been that of Judge Roth in Detroit, who criticized blacks as well as whites for creating black concentrations: "blacks, like ethnic groups in the past," he wrote disapprovingly in his decree declaring the Detroit schools were segregated, "have tended to separate themselves and associate together." Indeed! And what is wrong with that, as long as it is not compelled by discrimination and prejudice?

Much misguided social policy will still be foisted on us on the basis of these two illusions: that we can make no progress toward an integrated society except under compulsion, and that the test of an integrated society is the even distribution of minorities throughout society. These twin illusions testify to an innocence of knowledge of group life; they also testify, I fear, to a taste by many people for compulsion, even if freedom will do as much.

NEEDED: HONEY WITNESSES FOR USITC HEARINGS

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. SISK. Mr. Speaker, every Member of this House has a special chance in the weeks ahead to be of help to his or her constituents. Representatives of U.S. honey producers have petitioned the Federal Government for relief from imports of foreign honey, and I am delighted to announce that the U.S. International Trade Commission has decided in response to hold three public hearings away from Washington, D.C., to obtain from people involved in the honey business on a day to day basis information as to whether or not the U.S. honey industry is being seriously injured by import competition.

Naturally, I am pleased that San Francisco will be the site of the second hearing, for the western region, on Tuesday, March 9, at a location to be announced.

The first hearing is coming up very quickly, Mr. Speaker, and I am sure that my colleagues in the Southern States will wish to make a note of it. It will be held in Orlando, Fla., on March 2, in the Chantilly Room of the Hilton Inn West, 3200 West Colonial Drive. The third hearing, in Kansas City, Mo., will take place beginning on Tuesday, April 6, in room 302 of the Federal Building at 911 Walnut St. A final Washington hearing will be held on April 8, for the benefit of us on the Hill and any others who miss the first three hearings. All hearings will begin on the above dates and continue until all witnesses have been heard.

I think that each of us has a special responsibility to notify the honey producers in his or her congressional district of these hearings. There is no master mailing list for these people. They do not have a Washington lawyer to represent them, or paid lobbyists to keep them informed. They, more than most small businesses, are dependent upon their elected representatives to keep them notified of developments that will effect their future. The Commissioners of the USITC are very eager to save these and other taxpayers the money and time involved in coming all the way to Washington to testify. It is for this reason that the hearings are being held in the field, so that regional and local honey producers, marketers, processors and consumers can more easily communicate with their government by attending the hearing closest to their homes and businesses.

The USITC has adopted a new, open-door policy of encouraging maximum citizen participation, and although I will conclude my remarks with the formal, legal notice of the hearing, bear in mind that the Commissioners are willing to hear walk-in witnesses who have not registered in advance. It is preferred, of course, that advance notice be given of a witness's intention to testify. The Commission will welcome informal presentations and notes of personal experiences instead of formally prepared, legal documents. Every word spoken will be transcribed and printed up as part of the official record.

Literally thousands of families are involved in the production and processing of American honey. It is really a mom and pop operation on the local level in most of our communities. For these hearings to be meaningful, we must notify these people so that they have a chance to step forward, and that is why I am encouraging every one of my colleagues to get involved in this. It will be a successful experiment in bringing Government to the people if we in Congress can help produce interesting and challenging witnesses. To give you an idea of the constructive participation that can be achieved at one of these hearings, I am including the thoughtful comments of the respected senior Senator from Georgia (Mr. TALMADGE), who, with our colleague, Mr. GINN, recently had the USITC in Savannah, Ga., working until 12:14 in the morning. I look forward to the same sort of response from the citizens of my own State, and from the Commission, at the San Francisco hearing.

The material follows:

PRAISE FOR THE U.S. INTERNATIONAL TRADE COMMISSION SHRIMP HEARING

Mr. TALMADGE. Mr. President, the U.S. International Trade Commission has conducted a shrimp hearing in Savannah, Ga. I have earlier commended the USITC for its progressive and innovative approach exemplified by taking many of its investigative hearings out of Washington and to the people. The significance of the Savannah hearing is enhanced by the fact that the Commission was able to obtain about 2½ days worth of testimony in 1 day with more than 30 witnesses. This accomplishment was possible because the Commission met until 12:14 this morning. By taking this unusual step of meeting until every witness had been heard, the Commission was able to accommodate in 1 day's time all witnesses, many of whom had indicated that they wanted to testify, but could not come back for a second or third day.

At 12:14 a.m. when the three Commissioners, Daniel Minchew, Joseph O. Parker, and Italo H. Ablondi, conducting this hearing concluded the Savannah, Ga., proceedings, they set a new record for a USITC hearing under the provisions of the new Trade Act. In addition to the convenience to the public, this approach has the benefit of portraying a very important Government agency and its staff in a most favorable light. It is not often that I have seen a commission or committee meet nonstop until midnight, without even taking time for supper, in order to accommodate the general public.

This is the type of Government service that portrays a Washington agency at its best and it is an example of hard work and sincere feeling for service to the public which others should imitate.

Furthermore, I believe that by compressing a 3-day hearing into 1 day, money has been saved not only for the Federal Government, but also for the more than 30 witnesses who participated.

Because of the unusually fine example of the Government being responsive to the public I want to express personal commendation to Commissioners Daniel Minchew, Joseph O. Parker, Italo H. Ablondi, and their staff, Ms. Katherine Meleky, Ms. Mary Drury, Mr. Thomas G. Lopp, Mr. Frederick H. Sontag, and Mr. Josiah O. Hatch.

U.S. INTERNATIONAL TRADE COMMISSION,
Washington, D.C., February 10, 1976.

HONEY

NOTICE OF INVESTIGATION AND HEARING

Investigation instituted. Following receipt of a petition on December 29, 1975, filed by the Mid-U.S. Honey Producers Marketing Association, the Nebraska Honey Producers Association, the Great Lakes Honey Marketing Association, the Michigan Beekeepers Association, and certain independent Kansas and Missouri beekeepers, the United States International Trade Commission on January 29, 1976, instituted an investigation under section 201(b) of the Trade Act of 1974 to determine whether honey, provided for in item 155.70 of the Tariff Schedules of the United States, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Public hearings ordered. Public hearings in connection with this investigation will be held in Orlando, Florida, on March 2, 1976, at a time and place to be announced; in San Francisco, California, on March 10, 1976, at a time and place to be announced; in Kansas City, Missouri, on April 6, 1976, at a time and place to be announced; and in Washington, D.C., at 10 a.m., e.d.t., on April 8, 1976, in the Hearing Room, United States International Trade Commission Building, 701 E Street NW. Requests for appearances at any of the hearings should be received in writing by the Secretary of the Commission at his offices in Washington not later than noon of the fifth calendar day prior to the hearing.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, United States International Trade Commission, and at the New York City office of the United States International Trade Commission located at 6 World Trade Center.

By Order of the Commission.

KENNETH R. MASON,
Secretary.

THE INDEPENDENCE OF ESTONIA

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. SARASIN. Mr. Speaker, on February 24, 1976, freedom-loving peoples of Estonia and countries of the West, celebrated the 58th anniversary of the Declaration of Independence of the Republic of Estonia. I would like to add my voice to the chorus from my colleagues and fellow Americans who clamor for the right of freedom to these oppressed peoples.

The recent Brussels Conference on Soviet Jewry held in Belgium this past week again sharply focused attention on the injustices that the Soviet Union perpetrates on the peoples within its borders, particularly minority groups and non-Russian peoples. The Soviet Union lambasted the Conference as another pointless exercise of propaganda, but we in the West are encouraged that constant reminders of the repressive practices of the Soviet Union become common knowledge, and that the continued irritant of these revelations will provoke the Russian Government to liberalization of their present policies.

The peaceful people of Estonia only wish to pursue their language, religion, and customs without being forced to lose their distinctive character to the increasingly monolithic ways of the Soviet Union. While within Soviet borders, Estonia would like to carve out a meaningful existence of its own, free from Soviet constraints and restrictions. It is hoped someday that the Soviet Union will loosen its yoke upon Estonia, and allow her the freedom and independence for which she so greatly yearns. It is a hope that we in the free West greatly cherish for Estonia, and her sister states, Latvia and Lithuania.

On this occasion of the 58th anniversary of the independence of Estonia, I would like to renew the pledge of the United States of continued nonrecognition of the fact of Soviet aggression in annexing the free nations of Estonia, Latvia, and Lithuania, and of our continuing determination to prevail upon the Soviet Government to change their policies.

TERRORISTS TO SPEAK IN WASHINGTON TONIGHT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. McDONALD of Georgia. Mr. Speaker, the militant Trotskyist Communist cadre of the Workers World Party youth arm, Youth Against War and Fascism, are sponsoring a talk by two members of a foreign terrorist organization on Wednesday, February 25, 1976, at the Woodrow Wilson International Center, 1470 Irving Street, NW., Washington, D.C.

The featured speakers at the meeting will be Sarudzai Churcheminzwa, "a commander of ZANLA," the armed branch of the Maoist Communist Zimbabwe African National Union—ZANU—which is waging a terrorist guerrilla campaign in Rhodesia, and Davis M'Gabe, also of ZANU.

Churcheminzwa was granted a visa for a tour of the United States which began in December 1975. She has been raising funds for ZANU by speaking before a wide variety of U.S. Marxist-Leninist organizations who support the ZANU terror campaign.

On December 29, Churcheminzwa was the featured speaker at a conference called by the October League in Chicago. The October League states that it is a Marxist-Leninist-Maoist organization organizing secret cells in U.S. industries and preparing to go underground to operate illegally. At the October League's Fight Back Conference, Churcheminzwa was accompanied by Tapson Mawere, ZANU's New York representative.

Sarudzai Churcheminzwa is advertised on her tour as the author of a pamphlet, "Why I Joined the ZANLA Women's Detachment," and is being hailed by the U.S. revolutionary terrorist-supporters as a shining example of socialist womanhood.

The fact that ZANU/ZANLA has been waging a vicious campaign of terror principally against the black population of Rhodesia and against isolated farms is well-known to the State Department and to the Immigration and Naturalization Service. Press service reports have carried stories of mines exploded under buses and trains, beheadings and mutilations of innocent civilians to bring a terrorized population under ZANU control.

I am shocked at the apparent callous disregard of the rights of all the citizens of Rhodesia to live free from terror shown by the U.S. officials responsible for the admission of the ZANU propaganda team into this country.

They are well aware that the principal aim of the ZANU organizing team is to create and strengthen a supporting apparatus in this country. The large number of terrorist bombings in this country which have been committed in "solidarity" with some foreign terrorist movement points to one of the principal dangers in granting entry to members of terrorist movements.

The Churcheminzwa visa points to the urgent need for the Judiciary Committee to report out H.R. 1577, introduced by my distinguished colleague, JOHN ASHBROOK, of Ohio, which would prohibit admission of members of terrorist groups.

911 HOT LINE FOR EMERGENCIES

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. ROUSH. Mr. Speaker, today I am listing three States which have adopted "911" as their emergency telephone number in various communities throughout these States:

Systems location	Date		Population (thousands)
	In service	Scheduled	
AMERICAN TELEPHONE & TELEGRAPH			
Missouri:			
Cape Girardeau	November 1969		31.3
Chillicothe	March 1974		10.0
Joplin		July 1975	39.3
Kirksville	April 1973		15.7
Poplar Bluff	March 1971		16.7
St. Charles	August 1974		31.8
St. Joseph	December 1971		72.0
INDEPENDENT TELEPHONE COMPANIES			
Missouri: Columbia	August 1972		59.0
INDEPENDENT TELEPHONE COMPANIES			
Nebraska:			
Columbus	March 1973		16.0
Kearney	October 1974		20.0
Aurora	August 1971		10.0
Doniphan	do		
Hampton	do		
Hordville	do		
Marquette	do		
Phillips	do		
Giltner	do		
Trumble	do		
Stockham	do		
Bennet	September 1969		180
Davey	do		
Denton	do		
Greenwood	do		
Lincoln	do		
Malcolm	do		
Panama	do		
Plattsmouth	do		
Pleasant Dale	do		
Raymond	do		
Waverly	do		
Valparaiso	do		
Alvo-Eagle	December 1973		1.0
Cortland	do		
Firth	do		
Hickman	December 1973		
Martell	do		
Hebron	1968		2.0
Nebraska City	Feburary 1974		8.0
Beatrice	1971		12.0
Syracuse		1975	2.0
Ceresco	December 1974		.8
Seward		April 1975	6.0
Stromsberg		do	2.2
AMERICAN TELEPHONE & TELEGRAPH			
Nebraska:			
Ainsworth	April 1973		2.7
Alliance	November 1971		7.0
Chadron	August 1971		6.5
Crawford	February 1972		1.6
Fremont	September 1972		25.0
Gordon	November 1971		2.7
Gothenburg	December 1971		3.6
Grand Island	May 1970		45.0
Holdrege	September 1972		6.0
Lexington	September 1971		7.0
Minden	September 1972		3.0
Norfolk	January 1971		19.0
North Platte	September 1970		23.5
Ogallala	May 1971		5.7
Omaha	May 1970		500.0
O'Neil	March 1973		4.5
Pender	April 1974		2.0
Rushville		February 1975	2.0
Schuyler	January 1972		4.0
Sidney	August 1969		8.0
South Sioux City		August 1975	11.0
Valentine	October 1974		3.0
Wayne		May 1975	5.5
Montana:			3
Billings	August 1972		75.0
Choteau	December 1974		1.6
Conrad	February 1971		7.2
Glendale	May 1970		11.2

CALIFORNIA'S POSITION ON THE CLEAN AIR ACT AMENDMENTS NOW PENDING

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. BROWN of California. Mr. Speaker, as the House Committee on Interstate and Foreign Commerce continues its markup on the Clean Air Act Amehdments pending before it. I find the interest of people affected by air pollution growing. One of the leaders in the effort to clean up dirty air, and prevent clean air from becoming dirty, is the State of California. Unlike most issues, air pollution has had bipartisan support in California, from the Governor down to the city council level of government. I am pleased to note that this bipartisan support for air pollution control has been maintained in California.

Because the issues involved in the proposed revisions to the 1970 amendments to the Clean Air Act are complex, and multiple, I believe every Member should spend some time personally reviewing the reasons for a Federal Clean Air Act, and the consequences to the public health and welfare if a strong and effective Federal law is not maintained.

One of the Governors who has been a vocal advocate of the rights of States in our Federal system is Governor Edmund G. Brown, Jr., of California. It is notable, then, that he continues to urge the Congress to support a strong Federal Clean Air Act. The text of the letter from the Governor's Office to Congressman PAUL ROGERS, Chairman of the Subcommittee on Health and the Environment, follows these remarks. I urge my colleagues to especially consider the issues outlined in this letter:

STATE OF CALIFORNIA,
GOVERNOR'S OFFICE,
Sacramento, February 17, 1976.

Hon. PAUL G. ROGERS,
Chairman, House of Representatives, Subcommittee on Public Health and Environment, Washington, D.C.

DEAR CONGRESSMAN ROGERS: You and your fellow committee members are presently considering extensive amendments to the Clean Air Act. The decisions you make will vitally affect all of us for many years to come. You are no doubt being urged to move in diverse—and mutually inconsistent—directions to satisfy the interests of various groups or goals. I would like to advise you that Governor Edmund G. Brown Jr., and the California Air Resources Board support a strong Clean Air Act, and urge your assistance in reaffirming the commitment of Congress to clean air. With the exceptions described below, we endorse the approach set forth in HR 10498.

The extent to which millions of Californians suffer from some of the worst air pollution in the country is well-documented. In the years since the enactment of the 1970 amendments, we have learned much more precisely how far we have to go to achieve the air quality standards and what we must do to get there. We have also seen a regrettably consistent negativism on the part of most polluters which necessitates tough governmental standards before technological progress can take place. We have survived the dire warnings of those who have predicted that emission controls would cripple our economy; not only have such controls been shown to have quite minor impacts in the context of all economic factors, but several studies have even suggested that their net impact is positive. Clearly, we cannot ignore the economic costs of achieving good air quality; just as clearly, we must strive to maintain an accurate and balanced perspective.

We would like to address specifically several of the provisions of HR 10498 currently being considered in the House.

Excess Emission Fees (Sec. 105): Charging excess emission fees for sources which deliberately postpone their compliance efforts promises to reduce or eliminate the economic incentive for such postponement.

Continuous Controls (Sec. 106): California has not yet had to burn coal in the large quantities necessary in other parts of the U.S., but this circumstance cannot be expected to persist indefinitely. We believe intermittent controls would be totally inadequate to enable us even to approach the applicable air quality standards, particularly in the Los Angeles Intrastate Air Quality Control Region with its abundant sunshine, light winds, frequent inversions, surrounding ring of mountains and population in excess of ten million people.

Prevention of Significant Deterioration (Sec. 108): The enactment of a clear statutory mandate governing significant deterioration of air quality and setting allowable ceilings will be an important step in allowing us to keep the air clean where it is already clean, rather than implying that we wait until air quality deteriorates before taking necessary action. The provisions allowing more state control over air quality associated with federal lands and over classification will give state plans greater comprehensiveness and flexibility in meeting the strict standards. We would prefer additional flexibility in defining classifications (the acreage parameters stipulated in this section are too rigidly drawn). We do not believe the definition of "major stationary source" is unduly stringent. By way of illustration, our suggested New Source Review Rules require a review where a proposed source would emit more than 15 lbs. per hour (or 150 lbs. per day) for any contaminant for which there is a state or national standard, except for carbon monoxide, for which the minimum is 150 lbs. per hour or 1,500 lbs. per day. In addition, we believe there ought to be more flexibility in the deadlines, should we require additional time to prepare adequate control plans. However, despite these differences, we feel strongly that provisions guaranteeing prevention of significant deterioration must be included in the amendments to the Clean Air Act.

Light-Duty Motor Vehicle Standards (Sec. 203): We are especially concerned about the excessively lengthy schedule provided for manufacturers to meet the most stringent standards. California's emission standard-setting waiver benefits both our state and the nation; we can tailor our vehicular emission reduction requirements to our more urgent air quality problems, and the remainder of the country can profit from our experiences. Vehicle manufacturers are mounting an attack on our 1977 standards, and the political viability of those standards is dangerously weakened if federal requirements lag too far behind. We feel our 1977 standards are particularly important for two reasons: first, we will see both dual and three-way catalyst technology offered on production models for the first time; second, both California and the nation will again be able to have demonstrated that stringent emission controls are compatible with good fuel economy, driveability, and healthy new-car sales.

Motorcycle and Heavy-Duty Vehicle Standards (Sec. 204): We believe the use of identical 90 percent reduction requirements for each pollutant is less desirable than an approach which reflects the significantly varying technological feasibility of controlling each pollutant. In the case of motorcycles, 90% control of hydrocarbons would be approximately .8 gpm, a level which we believe can be brought even lower at acceptable cost; on the other hand, a 90% NOx reduction would be below 0.02 gpm, which is clearly unrealistic—especially while hydrocarbons and carbon monoxide are simultaneously being reduced. With respect to heavy-duty diesel engines, the 90% NOx and smoke reduction requirements may be sufficiently stringent to eliminate them from the marketplace. We are aware that the proposed amendments permit the EPA Administrator to make the standards less stringent on the basis of either technological infeasibility or excessive fuel consumption. However, our experience with the industry response to the original .4 gpm NOx standard should point to the wisdom of selecting a technologically credible approach expressly approved by the Congress if we expect good faith efforts to be made on a timely basis.

Administrative Procedures (Sec. 312): We are very strongly opposed to the administrative procedures which would be imposed upon EPA. We believe they would severely cripple the ability of the agency to perform its statutory responsibilities in the public interest. We also believe the proposed procedures reflect a seriously misplaced view as to where the burden of proof should lie. We are dealing with issues which frequently pit a public agency created for the purpose of protecting the public health and welfare from the adverse effects of pollution against persons and organizations who have an economic interest in continuing to pollute. Admittedly, the available evidence will often conflict or be inconclusive. The procedures appear to us to allow certain kinds of pollution to continue to have an adverse effect on the public health and welfare either because EPA is unable to conclusively prove its case or because the polluter is favored with what amounts to a presumption that his economic interests are more important than a difficult-to-prove but often devastating impact on the victims of pollution.

We understand that an attempt may be made to separate vehicular-related portions of the amendments from the remainder of HR 10498. We would strongly oppose such a maneuver. One of the most striking aspects of air pollution is the multiplicity of its causes. Effective controls at the lowest net cost to our citizens can only be implemented if we consider the emissions contributions of *all* sources and the costs and technical aspects of controlling each. We fear that separate consideration of vehicular controls is motivated only by a desire to weaken the amendments and the purposes they were designed to serve.

There are numerous other issues about which we would be interested in sharing our views and concerns. We have attempted to convey to you only those matters which are of greatest interest and which seem to be most significantly contested. We would welcome the opportunity to exchange our thoughts with you on a more comprehensive basis.

Warmest regards,

TOM QUINN,
Governor's Special Assistant and Chairman, Air Resources Board.

NO-FAULT AUTOMOBILE INSURANCE BILL

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. MOSS. Mr. Speaker, sometime in the next few months, the full House will consider a national standards no-fault automobile insurance bill for the first time. The bill presents a unique chance for the consumer. For less than what it costs to maintain an incomplete and inadequate fault-and-liability system, the consumer can replace it with a no-fault system that would assure all victims of auto accidents complete payment for their reasonable medical and rehabilitation expenses and payment for a substantial portion of their lost wages, and still permit seriously injured persons the right to sue.

The no-fault bill, H.R. 9650, was reported out of the Consumer Protection and Finance Subcommittee last year—thanks largely to the able leadership of its chairman, LIONEL VAN DEERLIN—and will be considered by the full Interstate and Foreign Commerce Committee shortly. Recently, the Washington Evening Star ran an interview with Representative VAN DEERLIN, in which he clearly spelled out the deficiencies of existing State laws and the virtues of his national standards no-fault legislation. I commend this fine interview to all my colleagues:

[From the Washington Star, Jan. 2, 1976]

NO-FAULT BILL IS EXPLAINED BY SUPPORTER

(The question of no-fault automobile insurance has been debated in various state legislatures and the Capitol for more than a decade, and legislation establishing a federal no-fault program is expected to come before the Congress this session. Rep. Lionel Van Deerlin, D-Calif.—a proponent of no fault—was interviewed by Washington Star Staff Writer Michael Kiernan.)

Question: *How would the average person benefit from this no-fault bill if it took effect in his state?*

Van Deerlin: If the estimates of the two major auto insurance companies are to be believed, the average motorist would pay a lower premium for his personal injury insurance. But whether or not the cost of the insurance goes down, the speed and the amount of his reparations when he suffers an accident would be substantially greater than at present.

Q: *The premiums wouldn't necessarily be lower?*

A: Probably lower than they would have had without no-fault, but we've simply got to recognize the cost of everything is going up. There is some significant indication that state no-fault plans have reduced at least that portion of the insurance bill that covers personal injury. But it would be a mistake I think to sell the no-fault idea principally on the idea that it's going to reduce premiums. What it is going to do is give the insured faster service and larger paybacks.

Q: *Isn't the complaint that the present system encourages overly large settlements or paybacks, though?*

A: Under the present system, the small claim, the small injury is many times paid off at far greater than the cost of the doctor bills and the hospitalization because these cases don't go to court. The lawyers work together and with the insurance companies, and the insurance companies are so eager to be rid of the case that it sometimes pays five to six times the amount of the small bill. It's the badly injured who is the victim of our present system. The claim in the $10,000 to $20,000 area is paid off at only about 30 percent.

Q: *What happens in these cases?*

A: The company's lawyers will come to the insured, after he's had to pay for his treatment, he's been off the job, he's desperate, and he'll settle too often for less than he's entitled to. So it's your big claims that are being cut back on. Now what no-fault is going to do is pay you within 30 days, that's what our bill is going to call for, rather than wait the average of 19 months or in some cases more than two years, in some cases never. This is the major virtue that no-fault will provide.

Q. *Haven't the settlements, particularly in jury trials, escalated dramatically?*

A: We know that juries, in bringing in awards against insurance companies, rather than individuals, have tended to bring ever-increasing awards. The settlement in the multi-million dollar level is by no means unusual these days. Too often such settlements reward the skill of the lawyer rather than the injury of the insured. Of the $8.5 billion that Americans pay into personal liability auto insurance, they get back in payment about $3.75 billion. There's another $1.7 billion that goes in fees, usually on a contingency basis, due to lawyers. Lawyers make close to $2 billion a year. What this means is out of every dollar you pay for personal liability insurance, you're getting back about 44 cents. That's the average payback. This could go up to 60 to 66 cents on the dollar if we accept a system that takes the lawyers out of it.

Q: *What about the trial lawyer who argues that the citizen of the United States has an unalienable right to sue for something that he feels has been done to him, whether it's in a pub or on the highway?*

A: This was the same argument that was made against industrial accident compensation systems in the various states when these began to come into being in the early part of the century. When you go to work in an industrial plant, you take your chances on being injured and on being paid immediately for that injury in that plant, while forfeiting the right to sue. The employer pays into this system, and thus provides protection for his workers. In the case of auto no-fault, you would retain the right to sue where it is most acutely needed, for serious injury, for permanent injury, for scars. What you would be forfeiting, if indeed you would forfeit anything, is the right to engage in a jungle of litigation which has built up around the present tort system. It's a system which penalizes everyone involved except the lawyer.

Q: *Who collects, as you say, close to $2 billion a year in fees.*

A: Yes, and I don't say that they don't earn it, but it's under a system in which there is no specal reward as a result of their effort. It rather imposes a social penalty, which is to reduce the payback to the insured from a possible 65 cents per dollar spent down to between 40 and 44 cents.

Q: *Maryland has a law that allows you to collect to a certain point, but you can always sue, at any level.*

A: Any law which holds open the right to sue, no matter how little the injury, how slight the injury, is not a true no-fault bill. We've got to get away from the idea the cash figure is a threshold, too. We found in our hearings that the lower the threshold, the less likely the law is to work. We found that in Florida, over the state in general, their $1,000 threshold is working fine. Only about between 10 and 15 percent of Floridians statewide are passing the threshold and entering the area of court suit. But in Dade County, Miami, unquestionably because of collusion between doctors and attorneys, about 85 percent of the cases are going over the $1,000 threshold.

Q: *So everyone was going to court?*

A: Yes. You can see that in New York state, for example, with a $500 threshold, you wouldn't have to be in a hospital more than about two days to pass that threshold. So what our bill would do, if we can enact it, is to substitute for the cash figure a time of income loss. If you're off the job for 90 days, you're surely a serious enough case to bring a lawsuit. We say that if you're seriously, permanently injured, if you have loss of any 90 days, if you have permanent scars or loss of limb, loss of a finger, anything like this, you do retain the right to sue.

Q: *The bill in the House would require states to adopt a no-fault plan or they would have to adopt the Congress' plan. Is that correct?*

A: They would have to meet the standards we set forth for them. They'd have to do this within one year after the enactment of the law, and if they failed within that time then the federal system would become effective in that state automatically.

Q: *Would this be true in the District of Columbia as well?*

A: Oh, yes. And the purpose of this approach is to encourage states to move and to keep the jurisdiction in the field of insurance that the states have enjoyed for so long. There's no desire to take over the insurance system of the country. On the other hand, the federal government has a tremendous stake in the federal highway program that's been built with about $30 billion of federal funds since the late 1950s, and in that time one and a quarter million people have died on federal interstate highways. It's clear from the statistics that if you're killed on an interstate highway, the chances are 1 in 5 that you would have died in a state other than that in which your car was registered and in which you bought insurance. Well, clearly the multiplicity of state plans provides an uncertain protection for the driver in this great, mobile nation of ours—and for the passengers.

Q: *Would your bill mean that the state legislature in Maryland would have to change their law?*

A: If it did, yes.

Q: *What are the problems you're going to have in getting this bill passed?*

A: We've got to assume that the Senate, which has passed a bill previously—and significantly with the votes of half the Republican members of the Senate—will do so again. The principal problem remains the House of Representatives. I don't know how many members of the House themselves are lawyers, but the number is higher than our citizenry as a whole. I think we're going to have to rely on the concern that many constituents feel about their lack of protection under the present system. We had witness after witness before our subcommittee who related tales that no blame was attached to him but where he waited one to two years or longer before receiving a settlement. I think the public has begun to realize that this is no system at all. Auto insurance is the worst deal you can get in any kind of insurance. Probably Evel Knievel could do better than the average motorist in buying insurance. It's just a rip-off and we've got to expect that most of our congressmen who are going to be voting on this have heard from enough constituents other than trial lawyers.

Q. *Are you willing to give odds about the chances of passage?*

A. I'd say probably in this Congress anyone who gave better than even money would be foolish indeed. But the inevitability of the passage and adoption of a national no-fault auto reparations system is so inevitable that the odds will go up with the passage of time.

Q. What are the chances of a Republican president who happens to be a lawyer, signing this bill into law?

A. Don't forget that it was a Republican Department of Transportation whose studies led to the call for no-fault. Now, it was the state level that recommended it rather than the federal level. But I think that President Ford has to be convinced—particularly as a Michigander, where they have the best no-fault insurance in the country—that this system works, that it is no longer a case of trial and error. He has to be persuaded, I think, by the fact that 19 Republican senators supported it. That was half their members of the Senate when the bill was up in 1973. And finally, I feel certain that he is getting some input from Secretary (of Transportation) Coleman, who before he became a member of the Cabinet, was strongly in support of a federal no-fault system. I hope he is trying to persuade the White House to that point of view.

REINTRODUCING H.R. 11603

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. MOAKLEY. Mr. Speaker, today I am reintroducing H.R. 11603, a bill to reform the rape laws at the Federal level. Twenty-three cosponsors have joined me to propose to amend chapter 99 of title 18 of the United States Code, providing for the punishment of sexual assaults, within the special maritime and territorial jurisdiction of the United States.

My bill is intended to redefine rape in terms of the concept of "sexual assault." This concept allows nonsex specific language, while also making use of the distinction between "sexual contact" and "sexual penetration." These reforms are highlighted by a section on special degrees of punishment, depending on the severity of the offense. Furthermore, the bill includes a section on the admissibility of the victim's prior sexual activity. It specifies that no evidence of the victim's prior sexual conduct shall be offered during the trial, unless the court determines it is relevant, after an in camera hearing. Finally, this bill sets forth procedures for the victim's medical examination. It proposes that the victim be examined by a physician of the same sex, if practical; in addition, this should occur in the presence of an investigative or Federal law enforcement officer, also of the victim's sex.

H.R. 11603 reflects many of the positive reforms already instituted at the State level. While this bill does not interfere with the State criminal codes in any way, it is intended to serve as a model for States in the hope that there will be much reform of current rape statutes.

It is my view that there is great need for change in the present laws concerning the crime of rape. At the current time, rape is the one crime where the victim is made to feel like the criminal, and where the criminal, a large percentage of the time, walks away scot-free. The crime of rape represents in our society the worst form of sex discrimination. A female victim oftentimes is wrongly made to feel responsible for the crime; a male victim, in a prison setting for instance, cannot bring about a charge of rape at all.

We must broaden the definition of rape in the hope that this will change archaic attitudes. This bill is the first step.

OUR UNDERCROWDED PRISONS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. GAYDOS. Mr. Speaker, the national consensus, it appears, is shifting back to the notion that criminals must be punished for their illegal acts and not be made the subjects of coddling and questionable rehabilitation efforts.

Police officers across the country have been warning for some time that leniency in dealing with criminals simply does not work and that the result has been increases of alarming proportions in the national crime rates.

In view of this, I see much importance in the crime problem findings of M. Stanton Evans, a syndicated columnist whose writings appear in my home newspaper, the McKeesport, Pa., Daily News.

Mr. Evans checked up and discovered, I suspect to the surprise of many, that there are fewer wrongdoers in Federal and State prisons now than there were in the early 1960's, or before the runaway crime rates began. The total then of 220,149 declined by almost 24,000 within the next 10 years, or while we were being told by the criminal pamperers that our penal institutions were overcrowded and unfit to accept more. Instead, Mr. Evans says, he found they were undercrowded.

In response to the overcrowded claims, the courts began turning many loose, placing thousands in wrist-slapping "rehabilitation" programs, and creating an age of unmatched permissiveness. And yet, Mr. Evans writes, the crime rate more than doubled while all this was going on, with crimes of violence leading the way upward at a pace eight times faster than the population growth. He will find support in connecting these matters together.

Mr. Evans reports further:

> Unfortunately, voluminous researchers show we don't really know how to "rehabilitate" criminals—or even to tell if they are in fact rehabilitated before we let them go. What we do know is that the vast majority of serious crimes are committed by repeat offenders, and that the majority of these in turn have been accorded leniency. In 1963–64, for instance, 76 percent of major crimes were committed by repeaters, 51 percent recipients of leniency.

It is encouraging that Mr. Evans found too, in his checkup, that the trend may be turning. The State prison population total has turned up in recent years, indicating a harder line in State criminal courts. But the overall count, Federal and State, still remains well below the 1961 level.

I commend Mr. Evans for puncturing effectively the nonsense that our prisons in the main have been badly jampacked. Some may be, but generally the idea is refuted by Mr. Evans' totals. He also has let the air out of the contention that, because of overcrowding, prison incarceration has become a form of cruel and unjust punishment and that the judges have no alternative but to avoid sentencing whenever possible. All this has hurt the Nation severely.

In order to beat the crime problem, we must get back to the historic idea that punishment inflicted by law is just retribution for wrongs done society, and nothing else, and thus is not something to be mitigated by social theories or judicial kindness, or, indeed, to be made humane because we in the main are a compassionate people. Mr. Evans' report underscores the need.

RESOLUTION OF COMMENDATION TO MR. ARCH S. BROWN

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. MOTTL. Mr. Speaker, a very dedicated public servant Arch S. Brown is retiring as assistant superintendent of Parma, Ohio Schools this year. He has served the people of the Parma School District well during his 29 years as a teacher and later as assistant superintendent.

As my former science teacher at Parma Schaff High School, I have had the opportunity to learn under the direction of this fine educator and this fine man. I feel I am the wiser for being one of his students.

The resolution follows:

RESOLUTION OF COMMENDATION TO MR. ARCH S. BROWN FOR SERVICE RENDERED TO EDUCATION AND THE PARMA CITY SCHOOL DISTRICT

Whereas, Mr. Arch S. Brown served the Parma Schools faithfully for the past 29 years in the capacity of teacher and Assistant Superintendent, and

Whereas, during his term as Assistant Superintendent he saw this school system grow from an enrollment of 3,000 students to a peak of more than 27,000 pupils, and

Whereas, his responsibilities during this growth period included the difficult task of locating and hiring qualified teachers to fill classroom positions when the teaching staff grew from 145 teachers to 1,260, and

Whereas, he was responsible for the incredible job of redistricting school areas to accommodate new buildings as they were constructed and as they related to population with Superintendents of the Parma Schools grew from one high school, one junior high school, and four elementary schools to three high schools, six junior high schools, and twenty-one elementary schools, and

Whereas, he served under and in conjunction with Superintendents of the Parma School District, Carl C. Byers, Paul W. Briggs, Stuart L. Openlander and Wilbur H. Lewis, all recognized leaders in education, during his 29 years of active service.

I, Ronald M. Mottl, do, therefore, wish to commend Mr. Arch S. Brown for his long and effective service to the Parma School District and hereby enter these comments into the Congressional Record of the Congress of the United States.

MR. ORDWAY BURDEN TESTIFIES FOR SURVIVOR BENEFITS FOR PUBLIC SAFETY OFFICERS

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. FISH. Mr. Speaker, in the last session of Congress, the House of Representatives passed legislation to provide $50,000 to survivors of public safety officers killed in the line of duty. Unfortunately, the Senate and House were not able to reconcile their differences in formulating a final version of the bill.

This year, the Judiciary Subcommittee on Immigration, Citizenship, and International Law has once again considered several bills to provide much-needed benefits to surviving dependents of public safety officers who give their lives for the public well-being.

Mr. Ordway Burden of New York, the founder of the Hundred Clubs International Council, has given unselfishly of his time and effort in this endeavor, the main purpose of which is to provide some security and support for the survivors of public safety officers.

In this connection, I feel that Mr. Burden's testimony before my subcommittee would be informative to the other Members of the House of Representatives because of his unique approach to this pressing problem. Mr. Burden points to the viscious circle young policemen find themselves in, where they do not accumulate enough years of service to qualify for pension funds, and cities do not have adequate programs to aid in their dependents' basic needs.

Mr. Burden's testimony follows:

Testimony of Mr. Ordway Burden

The profile of the slain Public Safety Officer, for in most cases the death benefits their spouses and dependents receive are directly tied to the number of years in service.

Twelve (12) percent of the public safety officers slain in 1974 were under age twenty-five (25). Thirty-one (31) percent were aged twenty-five (25) to thirty (30). Officers over age thirty (30) accounted for fifty-seven (57) percent of the 1974 deaths. The officers killed in 1974 had a median years of law enforcement service of only five years which means their pension benefits would be minimal at best. In 1974 a full seventeen (17) percent of the officers had less than one (1) year service when killed. Forty-five (45) percent of those killed had less than five (5) years service while another thirty-three (33) percent had only five (5) to ten (10) years of service. Only twenty-two (22) percent of the officers killed in 1974 have over ten (10) years of service.

The critical importance of this information becomes apparent when one discovers that no city with a population of over one million (1,000,000) allows a pension to vest within five (5) years and only one (1), Philadelphia allows its pensions to vest within ten (10) years.

Of our major cities with a population between five hundred thousand (500,000) and a million (1,000,000) only one—St. Louis allows a pension vesting within the first ten (10) years of service. Of American cities with a population between two hundred fifty thousand (250,000) and five hundred thousand (500,000) only one—Las Vegas—allows for pension vesting within the first ten (10) years and again none with the first five (5) years. Thus, in 1974 only three (3) cities with a population in excess of two hundred fifty thousand allowed pension vesting with the first ten (10) years of service and only one of those within the first five (5) years notwithstanding the fact that forty-three (43) public safety officer deaths occurred in cities of such size in 1974 and the median age of service of the officers slain in 1974 was five years. More importantly only twenty-two (22) percent of the slain officers in 1974 had more than ten (10) years of service.

In cities with a population between one hundred thousand (100,000) and two hundred fifty thousand (250,000) only two (2) Richmond, Va., and Berkeley, Calif., allow pension vesting within five (5) years and only four (4) Baton Rouge, La., Columbus, Ga., Livonia, Mich., and Savannah, Ga., allow for pension vesting within ten (10) years. The story in cities with a population of fifty thousand (50,000) to one hundred thousand (100,000) is not much better. Four (4) cities allow pension vesting within five (5) years and three (3) within ten (10) years. In cities with a population of twenty-five thousand (25,000) to fifty thousand (50,000) the situation is only marginally better. There fourteen (14) cities allow pension vesting within ten (10) years and ten (10) allow it within five (5) years. Of the numerous cities and towns with a population of ten thousand (10,000) to twenty-five thousand (25,000) only eight (8) allow for pension vesting within the first five (5) years of service and twenty-seven (27) within ten (10) years. Of towns and cities with a population of under ten thousand (10,000)—the population size where more officers were killed than any other except cities in excess of two hundred fifty thousand (250,000) population—only one, Hales Corner, Wisc., allows pension vesting within the first five (5) years and only six (6) allow for pension vesting within the first ten (10) years.

I undertook the task of contacting the one hundred three (103) jurisdictions in which officers were slain in 1974 to ascertain exactly what *lump sum cash payments* were provided in those cases. While a more detailed study of all death benefits from whatever source would have been preferable, time constraints would not permit that undertaking. Such a detailed study would also include pension plans and insurance coverage plus a review of "knockout clauses" i.e. prohibition of double collection. The Committee should note that while such information would be helpful it is beyond the scope of the legislation contained in H.R. 3544. The problem H.R. 3544 addresses is that of *lump sum cash benefits* that apply directly as a result of a line of duty death and not employment benefits that accrue regardless of the circumstances of death.

In sixty five (65) out of the one hundred three (103) jurisdictions (or 63%) that experienced a public safety officer killed in the line of duty in 1974 no lump sum cash payments exclusive of whatever insurance or pension benefits existed were made. In many of those cases widows and children have survived because friends or fellow officer families have pooled resources to pay the bills. Remembering that only twenty two (22) percent of the officers killed in 1974 had more than ten (10) years service and that few jurisdictions provide pension benefits that early in a career it is clear that a substantial problem exists which requires the attention of the Congress.

In only five cities (or 4.85%)—Boston, Mass; Union City, N.J.; Highland Park, Mich; Chicago and the District of Columbia—do the cash benefits for a violent death reach the fifty thousand (50,000) dollar level. In only three (3) cities (or 2.9%)—New York, Milwaukee, and Texas City do the benefits reach the twenty five thousand (25,000) dollar level. In only eight (8) cities (or 7.7%)—all Illinois except Chicago and all Texas except Texas City—do the benefits reach the twenty thousand (20,000) dollar level. In only eleven (11) cities (or 10.7%)—Philadelphia; Detroit; Kershaw, S.C.; Greensboro, N.C.; Chester, Pa.; Carroll County, Va; Chesapeake, Va; Lincoln, Ala; Alabama Highway Patrol; Grand Rapids and Portland Ore.—do the benefits reach the ten thousand (10,000) dollar level. Finally, in only seven (7) cities (or 6.8%)—Buffalo; Cincinnati; Sacramento; Calif State Police, Union City, Calif; Yonkers, N.Y. and Ketchikan, Alaska—do the benefits reach under the ten thousand (10,000) dollar level. In the last two cases—Yonkers and Ketchikan—the benefits are optional at the discretion of the local council.

Obviously, there is a tremendous gap between the needs of the widows and children of public safety officers killed in the line of duty and current local benefits. It is this gap that Hundred Clubs have sought to reduce while mindful that they cannot hope to fill that gap. Another problem is that there are not enough such clubs across the nation and it is in the areas where they are most needed that they are lacking. In many Western, mid-Western and Southern states where there have been a large numbers of deaths, frequently the survivor benefits are small or nonexistent and the officer pay scales are low. Often there are no Hundred Clubs in these areas. If you draw a straight line from the Texas-Louisiana boundary on the Gulf of Mexico to the North Dakota-Minnesota border on the Canadian border, you will find only six (6) of the seventeen (17) Western states are partially covered with Hundred Clubs. They are Texas, California, Nevada, Arizona, Nebraska and Colorado with a total of twelve (12) clubs. Yet in the past ten (10) years (from 1964 to 1974) two hundred seventy one (271) law enforcement officers have been killed in those seventeen (17) states. Already in 1974 another twenty one (21) officers have been slain in those states.

In preparation for today's testimony, I surveyed a sample of the Hundred Clubs from across the nation. Seventeen (17) of the fifty seven (57) clubs have responded to requests for information. Those clubs have an average life of six and a half (6½) years with Cleveland being the oldest at nineteen (19) years while a number were just started in 1974. Some of the Hundred Clubs cover firefighters as well as law enforcement officers. Others cover some but not all law enforcement officers within their jurisdiction. Some limit coverage to felonious deaths while others cover all line of duty deaths. Some make a lump sum cash payment at the time of death while others provide continuing benefits including scholarship aid and debt retirement.

With those limitations in mind the seventeen (17) clubs have paid claims in approximately one hundred eighty eight (188) cases totaling approximately one million two hundred thousand (1,200,000) dollars. If the figures represent an accurate cross section for all clubs, Hundred Clubs have probably paid benefits in over six hundred (600) cases with cash payments approaching four million (4,000,000) dollars. Yet only seven (7) clubs, New Mexico, Minnesota, New Hampshire, Massachusetts, Connecticut and Rhode Island provide statewide protection; while a full twenty one (21) states have no clubs; and in twenty two (22) states Hundred Club coverage is limited to certain cities or counties. Perhaps these figures provide the Committee with some idea of the dimensions of the need.

In states that provide only partial coverage it is impossible, without more extensive research, to determine precisely in which cases Hundred Clubs have paid benefits but we do know that the coverage has been limited.

Because of our work, those associated with Hundred Clubs understand the need for some effective federal legislation to provide a minimal level of lump sum death benefits for line of duty deaths. On behalf of the Hundred Clubs across the nation I urge the Members of this Committee to join with their colleagues in the House and the Senate to enact the most progressive legislation possible under the trying circumstances that have surrounded this and similar legislation in the past.

Thank you very much for the privilege of appearing before you today and for your patience in permitting these extended remarks.

IN PRAISE OF DR. GEORGE EDMUND HAYNES, FOUNDER OF THE NATIONAL URBAN LEAGUE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. OTTINGER. Mr. Speaker, in this Bicentennial Year, as we celebrate our glorious past, I think it is important that we take careful note of those American heroes who have never been given the praise and fame they deserve. Today, I speak specifically of the late Dr. George Edmund Haynes, founder of the National Urban League and a pioneer in the field of race relations.

Born almost a century ago in Pine Bluff, Ark., Haynes rose from his humble origins to become a counselor to Presidents, a champion of civil rights for all people, and a lifelong advocate of interracial cooperation. He began his career when Booker T. Washington's philosophy of accommodation dictated a passive role for the black masses, and for half a century Dr. Haynes was in the front lines of the black struggle until the era of Martin Luther King's call for freedom now.

A graduate of Fisk University, Haynes received his M.A. from Yale, and in 1910 became the first black student to be granted a Ph. D. from Columbia University. He saw the Urban League through its shaky formative years and supplied a cadre of social workers from the sociology department he founded at Fisk. During World War I, serving a subcabinet post as Director of Negro Economics in the Department of Labor, Haynes helped to reduce the friction between black and white workers and soldiers.

As director of the commission of race relations in the Federal Council of Churches for 25 years, he spurred the Protestant churches to practice what they preached. Haynes instituted Race Relations Sunday, the forerunner of our present day Brotherhood Week, waged vigorous antilynching campaigns, and played a key role in the defense of the Scottsboro boys. During the Great Depression he set up consumer cooperatives, and with the coming of the New Deal he challenged Washington officialdom for a fair share for all. Moreover, Haynes was keenly aware of the black heritage, and his studies and writings about Africa displayed strong scholarship. Approaching his 80th birthday, he was teaching some of the first black studies courses given at the City College of New York.

The public career, the whole life, of George Edmund Haynes was dedicated to the creation of harmony between blacks and whites by means of interracial cooperation. He tried to change traditional white attitudes by the patient process of education and the practical application of the Golden Rule. Long before the contemporary civil rights movement, Haynes performed indispensable functions by seeing to it that black grievances were aired and that the conscience of the Nation was stirred. Now in this month devoted to black history, in this year of national celebration, it is altogether fitting and proper that we should honor such a great American who fought to dispel racial antagonisms and bring all our people together.

ESTONIAN INDEPENDENCE DAY

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. WYDLER. Mr. Speaker, February 24 of our Bicentennial Year 1976 marks the 58th anniversary of Estonian independence. Just as Americans fought hard and made heavy sacrifices to achieve liberty and independence, the people of Estonia fought valiantly, against overwhelming odds, for their short period of independence. The prosperity of these resourceful people provided a temptation to more powerful neighbors throughout their history. Estonians were forced to suffer under successive periods of foreign conquest and domination. Despite their tragic history, they were able to maintain their rich national culture and an outstanding record of achievement.

To gain independence in 1918, Estonia had to withstand onslaughts by the mighty armed forces of Russia and Germany, only to fall victim to the conspiracy of those two powers some 22 years later. The German-Soviet nonaggression treaty of 1939 effectively spelled the doom of Estonian independence. Estonia was formally incorporated into the Soviet Union in 1940. Except for a brief period of Nazi-German occupation during World War II, Estonia has remained under Soviet control ever since. The United States has never recognized the Soviet annexation of Estonia.

Under extremely adverse conditions, Estonia has maintained the highest standard of living among Soviet republics. Despite unceasing Soviet efforts to erase this tiny country's national identity, Estonia remains uniquely different, as one of the most Western regions within present-day Soviet borders.

There are only some 60,000 citizens of Estonian origin in the United States today. Although one of the smaller national groups to have settled in America, Estonians have contributed significantly to our great American heritage. It is therefore especially fitting that Americans observe this anniversary.

ESTONIAN AND LITHUANIAN INDEPENDENCE

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. AMBRO. Mr. Speaker, the month of February marks the 58th anniversaries of the declaration of independence of two Baltic nations, Lithuania and Estonia. Fifty-eight years ago this month these two proud and peace loving states reestablished their independence lost in the course of imperialist Russian expansion. Unfortunately, their joys of freedom were short-lived, ending after two decades when the Soviet Union resumed domination at the end of World War II.

I am honored to join my colleagues as well as the many proud Americans of Lithuanian and Estonian descent in commemoration of this anniversary of independence. In the Third Congressional District of New York I have the privilege of representing hundreds of these hard-working Americans who have made significant contributions to our Long Island communities.

It is indeed a tragedy that today these Baltic States still suffer from the powerful control of the Soviet Union. Yet, in the face of repression the proud people of Lithuania and Estonia possess an unceasing determination and hope for liberty and freedom.

In this, our Bicentennial Year, it is only fitting that we, as citizens of a free country must reaffirm our commitment to these Baltic States still struggling for independence. Less than 3 months ago, the Members of this House voted unanimously to publicly declare that our signing of the agreements at the European Security Conference in Helsinki this past summer did not change the U.S. policy of nonrecognition of the Soviet Union's illegal occupation of Estonia, Latvia, and Lithuania. I was proud to cosponsor this resolution, because I believe that this U.S. policy of nonrecognition of the forcible annexation of the Baltic States reinforces Estonians, Latvians, and Lithuanians in their determination to keep alive their traditions and to await national independence and restoration of individual liberties.

Today I ask the people of the United States to join me in tribute to the peace-loving nations of Estonia and Lithuania. Let us assure these oppressed people that we in the United States support their goals of sovereignty and independence. We share their hope that through strength and perseverance freedom may someday be realized. Although they are unfortunately isolated by the heavy hand of Soviet censorship. It is my hope that the peoples of all of the Baltic nations will know that we honor them, and all of those who strive for liberty, and in this, our Bicentennial Year, all Americans hold out their hands and heart to those living in captive nations.

FOOD STAMPS: A GOOD IDEA GONE WRONG

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. HAGEDORN. Mr. Speaker, I would like to call the attention of the House to a recent column in the St. Paul Pioneer Press by its editor, Mr. William Sumner. I believe that it summarizes some of the major objections that many of us have toward this program. I have cosponsored food stamp reform legislation designed to end some of these abuses by curtailing the eligibility of persons with high incomes, closing numerous loopholes to eligibility, reducing opportunities for fraud by improving coupon handling methods, and simplifying administration. At the same time, benefits to the truly needy would be increased by almost 30 percent. The uncontrolled growth of the food stamp program illustrates well basic congressional oversight weaknesses. Until Congress becomes determined to expend as much effort on the unglamorous task of monitoring old programs, as in creating vast, new programs, the size of Government is going to continue to grow unchecked. And until advocates of programs such as this one stop equating criticism of program administration with callousness toward the truly needy, efforts to improve the delivery of government services to those genuinely requiring them will be severely impeded. A little consideration for the taxpayer would seem to be well deserved also.

The article follows:

FOOD STAMP: A GOOD IDEA GONE WRONG

(By William Sumner)

When begun in 1964, the food stamp program seemed a humane and sensible means of supplying surplus and nutritious food to hungry Americans. It cost about $36 million in subsidies to farmers and in its administration.

We had long ceased to be shocked about subsidies, and for once, it seemed, farmers were getting paid for producing rather than plowing under or storing commodities.

Now it has achieved the status of a theft perpetrated on the taxpayer. It is shot through with fraud. No one really knows how many stamps are counterfeit. The recipients include a host one would not consider poor.

The cost is now closing on $6 billion, subsidizing well over 20 million individuals to one degree or another.

And the incredible fact is that 62 per cent of those eligible by today's standards haven't applied for aid.

There are pressures, too, to expand the aid to include individuals on strike (apparently some already get this benefit under local interpretations) or those who have just decided they don't want to work anymore.

Who gets the stamps? The poverty level is now set at $5,050 for a family of four, but according to one study there are 43,000 families with incomes over $18,000 getting stamps.

In addition, many middle class and wealthy families are having things both ways: their kids remain deductions as college students; as college students many are buying stamps to supplement their allowances.

It is interesting, incidentally, that the very conservative Sen. Robert Dole, a Kansas Republican, has teamed with the very liberal George McGovern, Democrat of South Dakota, to liberalize the qualifications even further.

Dole is a farm state senator, so this makes good politics so far as he is concerned. McGovern is also a farm state senator and, one notes from his track record, a humanitarian.

It seems to me that humanitarianism is stretched to an incredible degree, however, in a bill that would force the taxpayer to subsidize a person on strike or a person who simply won't work.

There are some reform bills, seeking to tighten up loopholes and eligibility requirements, but don't count on this Congress to look at any program other than politically.

As the food stamp program exists, it benefits the farmer, the urban poor, the college kid past the age of majority and even the vendors of food.

Here is an example, though, of the need for continuing review on the part of Congress and the Administration. As has been pointed out, bills are passed, such as the War on Poverty, and money is spent and there is no one to examine them for failure or success.

Instead, we get extremes: some are against everything; others feel that if a program is failing its ailments can be cured by liberal infusions of tax dollars.

There is nothing wrong with feeding the poor. In fact, with our track record of aid and humanitarian outpourings abroad it is scandalous that a food stamp program, or something like it, was not invented in the Great Depression.

Those of a certain age may recall the bewilderment created when farmers were told to plow under crops and slaughter and bury their livestock (to drive up prices) while millions walked the streets hungry.

I am not irritated, as are some, by the selections of food made by some food stamp recipients. If they want to stuff themselves with potato chips and frozen pizzas, as is evident every time I am pressed into service ("Will you stop on the way home and . . .") to shop I do not feel like writing a letter to my congressman. Let them eat what they want.

Let us, though, examine a good program gone wrong, just as we should examine other programs, good and bad, periodically to see if they are working and how much they really cost.

No one knows about these things and no one, apparently, cares.

FIFTY-EIGHTH ANNIVERSARY OF INDEPENDENCE FOR ESTONIA

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. WOLFF. Mr. Speaker, in this year of our Bicentennial, I feel it is altogether proper that we pause to consider the many people of the world who cannot consider themselves free.

Yesterday marked the 58th anniversary of the Independence Day of one such people, the Estonians. In 1918, Estonia became a free nation and enjoyed a far too short period of independence until, on January 17, 1940, the forces of the Soviet Union invaded and occupied this proud nation.

This Congress has adopted House Resolution 864, a measure clearly showing congressional intent that the United States shall not recognize the Russian annexation of Estonia or any of the other Baltic States. I feel that this is a most appropriate action and I am proud to have been a cosponsor of this measure.

Mr. Speaker, it is my fervent hope that some day the people of Estonia will again be able to call themselves free.

WHAT OUR BICENTENNIAL HERITAGE MEANS TO ME

HON. BROCK ADAMS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. ADAMS. Mr. Speaker, Mr. David Counts of Seattle, Wash., delivered the following speech during the Veterans of Foreign Wars Oratory Contest for the Seattle/Vashon Island area of Washington State. He deservedly won a first in that contest for this speech, which expresses what our Bicentennial heritage means to him—and which I believe holds thoughts that we should all take to heart during the 200th anniversary of our country.

The speech follows:

WHAT OUR BICENTENNIAL HERITAGE MEANS TO ME

Our country has come a long way since the Declaration of Independence was first declared. For two hundred years it has endured wars, misuse, and mistakes in the attempts to become a mighty democratic nation. The years have been filled with challenges of every variety—including the challenge of whether or not our country could be one nation or be divided.

When the pilgrims first stepped onto the new wilderness, they could not know what was in store for them on this unknown land. They and the Indians, who were native to the lands, suffered through many trials and losses, and caused each other much hardship. In the search for a new life, many lost their lives. Those who lived, laid the groundwork for a new and independent nation.

As the years went by, a diverse people—representing many geographic points of the world—was gathered here. It has been in that diversity that much division and disagreement have occurred. Yet, it has been in the resolution of those disagreements that new and greater strengths have been forged.

As we approach the Bicentennial, the thread of an enduring theme stretches throughout our history. It is the varied but constant struggle for liberty—of one kind or another: Liberty from foreign dominion, liberty from unwilling servitude, and the struggle that goes on still, liberty of the individual.

If a nation would be free, each individual within it must be free. Free to have one's own opinion, free to follow one's own belief, and free to cast one's lot with a cause of one's own chosing.

Our Bicentennial Heritage means to me that I must join in the ongoing challenge. I must support the Bill of Rights for every citizen, so that I, as one citizen, will be secure in those rights. Let me contribute whatever I can toward the next centennial. If I cannot have the eloquence of Fredrick Douglass, let me have the perseverance of General Washington when faced with starving and coatless troops. If I cannot have the vision of Thomas Jefferson, let me have the courage of those who traveled the Underground Railroad. And, if I do not show the strength and valor of Big Chief Geronimo, let me then show the integrity and candor of Honest Abe Lincoln.

As my life today rests upon the good that was done by those who came before me, let me contribute to that good—for those of goodwill around me, and for the help of those who come after me.

Let me accept the current challenges as best as I am able to determine: the truth of those challenges, the worthiness of their significance, and the justness of their cause.

Let my contributions—of whatever size or quality—be for the higher cause of Liberty, Equality, Fraternity. For, the pursuit of those ideals is what our Bicentennial Heritage means to me.

JOHN A. ROSTONI TO RECEIVE RED CROSS CERTIFICATE OF MERIT

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. JOHN L. BURTON. Mr. Speaker, I would like to call the attention of all Members to the heroic action taken by one of my constituents, Mr. John A. Rostoni of San Rafael.

Mr. Rostoni has been named to receive the Red Cross Certificate of Merit and accompanying pin. This is the highest award given by the American Red Cross to a person who saves or sustains a life by using skills and knowledge learned in a volunteer training program offered by the Red Cross in first aid, small craft, or water safety.

According to Mr. George M. Elsey, president of the American National Red Cross, this is the series of events which took place: On June 7, 1975, Mr. Rostoni, trained in Red Cross first aid, was fishing from his boat when he and his wife spotted a body floating a few yards off. Maneuvering closer, they managed to get the victim on board despite the high seas, and Mr. Rostoni began mouth-to-mouth resuscitation.

Getting no response, they rolled the victim on his side and cleared his mouth and nose, then resumed resuscitation. Soon a weak pulse and a slight rise in body temperature were detected.

The Coast Guard, which had been alerted, arrived then to transport the victim to a hospital.

Without doubt, the courageous and knowledgeable action of Mr. Rostoni saved the victim from death by drowning.

Mr. Speaker, Mr. Rostoni deserves the praise and commendation of the Members of the House of Representatives for what he did. I know that they would want to join with me in extending our thanks for his brave and meritorious action.

STATE OF THE COAST GUARD

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. CONTE. Mr. Speaker, throughout my 18 years in the Congress, I have been privileged to serve on the Appropriations Subcommittee with jurisdiction over the Coast Guard, first as ranking minority member of the Treasury Subcommittee and now as ranking minority member of the Transportation Subcommittee. In that period, I have seen the Coast Guard mature and grow from what I used to refer to as an "orphan" of the other military services, to a strong, well-equipped and superbly manned force.

Recently, Coast Guard Commandant Adm. Owen W. Siler reported, in a speech before the Coast Guard Officers Association, on the "State of the Coast Guard." I commend his speech to my colleagues as evidence that the Coast Guard continues to live up to its motto, "Semper Paratus"—Always Ready. At this point, I request that Admiral Siler's remarks be inserted in the RECORD:

STATE OF THE COAST GUARD

(By Adm. O. W. Siler)

JANUARY 20, 1976.

In the bicentennial year of our country, we in the Coast Guard have good reason to be proud. Throughout our 186 years of duty the Coast Guard has contributed many heroic and significant chapters to America's history.

Today, I assure you that we are as ready to perform our missions and responsibilities as at any time in our past. Even though we have added new responsibilities and we face many challenges the state of our Coast Guard today is excellent.

Our versatility is exemplified by the myriad of duties we are called upon to perform on a daily basis—duties ranging from ship, boat and aircraft operations to maritime law enforcement and pollution surveillance.

Our leaders in the Department of Transportation, the Congress and the American people have come to accept outstanding performance of duty by Coast Guard men and women as routine. Even the New Yorker magazine gave us a kudos last November, and I quote, "but in fairness it must be said that the Government does some things well. The Library of Congress—the Coast Guard".

True, we face challenging, and perhaps, difficult days ahead. I know that we will meet these challenges with our most important asset—our Coast Guard men and women—whose dedication I witnessed before becoming Commandant. And since becoming Commandant, I continue to see this devotion and hard work. I am more convinced than ever that our Coast Guard personnel are unique in the performance of their duties. We are people oriented and that is an ideal focus for the Coast Guard—we have humanitarian concern for our own people as well as for our "customers".

The lot of the Coast Guardsman is improved by better facilities and enlightened personnel policies. We are making progress in both areas. Our reenlistment rate is holding close to a healthy 17% for first enlistments, while we are continuing to strive for the optimum reenlistment rate of 25%. Last year's early release of 400 enlisted personnel improved the quality of our people. Many of these early-outs were E-3's nad E-4's who were pressured to some degree into enlisting and therefore were not as highly motivated as today's recruits—we continue to place emphasis on quality recruits. Last year I challenged Rear Admiral Bob Durfey, Chief, Office of Personnel, to do even more for our people. Admiral Durley did yeoman's service, and his task has been formidable.

Personnel policies have been affected by inflation and tight budgetary constraints. As a result, programs may suffer due to shortages of people to carry them out. These shortages will continue to create hardships in 1976. For example, in the past years we have been able to extend and integrate reserve officers into the regular Coast Guard with virtually no limitation. Manpower ceilings may well reduce the number of well qualified reserve officers which can be retained on active duty.

As you know the Academy has been expanding rapidly over the past decade. This year we will graduate over 240 new Ensigns. In keeping with long standing policy and tradition, all 1976 Academy graduates will be assigned afloat for their first tour. To do this, approximately 30 of the Class of 1975 will spend only one year aboard ship. I think the advantages to the new Ensign in some shipboard experience outweighs the disadvantages of the short tours.

As you are aware, last year I ordered immediate steps to increase the military minority population percentage of the Coast Guard to equal that of the Nation. The task is imposing but a great deal of dedicated work has brought satisfying results.

We are exceeding some of the incremental goals I set for the military minority recruiting program. I want to stress today that the job is far from done. This program will require emphasis for some time to come. We face some fundamental problems such as a lack of knowledge about the Coast Guard in the minority community or an unfavorable image of the service. We have too few minority members in responsible positions. Minority officer recruiting will receive high priority this year. The overall minority recruiting program will benefit by improving the Coast Guard's community image as a service providing equal opportunity for all. Extensive public awareness efforts will continue in this long range endeavor.

Although the "Spars" disappeared from the Coast Guard in 1974, the presence of women in our service has certainly been made known. The Coast Guard has done away with many of the old barriers to the career fields women can enter. I am proud to report that this month the first Coast Guard female flight student reported to flight training from OCS. The academy will admit its first female cadets in its centennial year—this summer. They will have their own physical fitness programs tailored to strength differences but the rest of their training will be the same as their male counterparts, including sailing on the Eagle. To that end 18 berths have been installed on Eagle. As you know, the Coast Guard was the first of the military service academies to announce acceptance of women. Of this year's 10,000 applicants, 675 are women. We will have great selectivity in appointing the first female cadets. We have no specific recruiting goals for women as they are entering officer and enlisted programs in adequate numbers.

The first command selection boards have selected the officers for afloat and aviation command billets for 1976. Those officers selected for command have been notified—as have their reporting seniors. Soon, these commander and captain command assignments to cutters and air stations will be published.

I realize there are many questions and

some apprehensions about command selection boards—the reasons for them, and just how they work. I will give you some of my thoughts on the command selection process. First, I feel strongly that the prestige of command should be enhanced in every possible way, and selection for command through a formal board process is but one of the many ways to enhance the prestige of command. The second goal is to insure that the best qualified officers are made available for assignment as commanding officers of major units. Of all duty assignments, command is the most demanding and challenging. Managerial abilities, leadership, and dedication are all tested in command. There are many impacts of command that go unnoticed yet they are important. For example: the impact a commanding officer has on new recruits and officers reporting to their first duty station often determines whether they will remain for a career. The third goal is to establish that command assignments will take high priority when considering program and specialty needs.

Finally, the Coast Guard must recognize successful command experience in the promotion system. This will be an evolutionary process. In the past many believed that officers have actually had their chances for promotions hindered, rather than improved by having had command. In the future, I will direct promotion boards to place more emphasis on successful command experience as a criterion for selection. Those boards will consider the individual's opportunities for command.

Yet another people oriented area that concerns me is health services for the Coast Guardsman and his family. We are going to the Congress this year requesting a change in the funding of our in-house health services from the U.S. Public Health Service to the Coast Guard. In 1977, the funding responsibility for medical programs in Coast Guard facilities will be vested entirely in the Coast Guard. This change will permit us to exercise management control over our own internal health care and determine priorities without going outside the Coast Guard. I want it clear that this shift of funding responsibility was the result of a Joint Bureau of Medical Services/Coast Guard proposal. Nothing in this year's proposal affects the care presently given Coast Guard patients in Public Health Service hospitals or outpatient clinics.

Turning now from people programs to other challenging areas of responsibilities—we made substantial progress during 1975 in implementing the Ports and Waterways Safety Act of 1972. Title I of this act provides a new mandate to prevent damage, destruction or loss to vessels, bridges or other structures in U.S. waters, and to protect these waters and their resources from environmental harm. Title II gives the Coast Guard a clear mandate to improve the construction and operation of tank vessels to better protect the marine environment. In mid October comprehensive final rules were published applicable to certain seagoing U.S. tank vessels carrying oil in domestic trade. Many of the rules apply to existing as well as new tank vessels. The main thrust of these rules was to effect a large reduction in operational pollution from these vessels through better construction, equipment and cargo handling procedures. Operational pollution is repetitive pollution from tank cleaning and deballasting operations. Other portions of rules were concerned with better ensuring the survivability of tank vessels in event of accidents and reducing oil outflow from an accident.

In the course of developing these rules, a public controversy arose regarding the distribution of required segregated ballast spaces, with many people insisting upon double bottoms as the solution. After considerable study and assessment of public comments on this issue, the Coast Guard, on 8 January, published rules concerning distribution of segregated ballast spaces which set specific goals to be achieved in terms of outflow reduction and area of hull to be protected.

This effort is not completed. The provisions of title II require that the rules be made applicable to foreign tankers trading with the U.S. and the remainder of the U.S. seagoing tank vessel fleet. This work is now in progress, and should be published as proposed rules in the next couple of months.

Our main thrust under title II has been directed toward the various levels of marine traffic management. During 1975, new regulations were published which delegate to district commanders and COTP's the necessary authority to deal with emergency situations of a temporary nature.

Increasing levels of permanent controls are utilized to correct hazardous conditions of longer durations. First, we have regulated navigation areas prescribed for some ports. These specify operating requirements within an area. For instance, we have barge fleeting rules in the New Orleans area and procedural rules for operations in Chesapeake Bay, the Delaware Bay and River, and Apra Harbor, Guam. We exercise successively higher levels of control under vessel traffic services regulations. These controls match up with our efforts in the international arena to obtain IMCO adoption of offshore traffic separation schemes and recommended tracks. As an example, the shipment of oil from Alaska to West Coast ports will be carefully managed. We are developing regulations for a vessel traffic service in Valdez, Alaska. We already have VTS's at the other end in Puget Sound and San Francisco. These are extended by offshore traffic separation schemes, and further augmented in this sense by recommended tracks, which will keep traffic separated by 20 miles or so for the entire voyage. To enable sufficient fix accuracy to allow for the implementation of separation schemes we are extending Loran-C services along the West Coast of the U.S. and the Gulf of Alaska.

We are continuing to develop marine traffic requirements (operational control measures) aimed at setting minimum standards for navigation performance. Using these operational control measures we will upgrade marginal or unsatisfactory procedures and equipment to an acceptable level.

Using these tools to supplement the standardized rules of the road and bridge-to-bridge communications, we will continue our efforts to enhance navigation safety in the face of increased traffic, larger, more automated ships, more exotic cargoes, and the ever present but unpredictable "human factor".

During calendar year 1975, the forces under our COTP's set outstanding records by rapidly responding to clean up pollutant spills effectively in our ports and on our waterways. When the response capability of the COTP is exceeded by the size, location or peculiar circumstances of the spill, our specially equipped and trained strike teams assist and augment our local forces. During 1975, our COTP's handled about 8,000 pollution incidents and the strike force responded to 61 calls for specialized assistance involving nearly 58,000 man-hours in clean-up work.

Associated with the clean up of spills is the identification of the polluter. Last year we made a major break-through when we were able to get a forensic identification "fingerprint" on the M/V *Garbis*. After months of comparing oil samples taken from vessels, with oil samples retrieved from the spill in the Florida Keys, the Coast Guard R. & D. Center established a positive match on the *Garbis*. We expect this case to be tested in the courts. Each major COTP will have testing capability to conduct forensic identification and classification of most oil spills. In more difficult cases, these tests will provide sufficient information to justify the collection of additional samples for more detailed laboratory analysis.

I mentioned earlier that the lot of the Coast Guardsman is improved by better facilities. Our two step procurement request for the MRS aircraft has been reopened. We have modified our requirements and new proposals are being encouraged.

The required paperwork requesting new proposals from the aviation industry was completed and released last week. The new request for proposals reflects changes that better meet our needs and there is no lowering of mission requirements. The changes include getting a more efficient jet engine (especially at low search altitudes). In addition, we will consider the price of spare parts in determining the cost of the aircraft. These alterations will not change our intent to purchase in a fully competitive market.

Of course, the need for new equipment extends to other segments of the Coast Guard as well. We are planning new medium endurance cutters to replace some of the older HEC's and MEC's and to fill new operational requirements. These new cutters will be 270 footers with a speed of 19.5 knots. Naturally we considered the Navy's wartime needs in the design and also we have included a stabilization system to allow for launch and recovery of helicopters in sea States greater than possible on existing cutters.

I just returned from Seattle, Washington where we commissioned the *Polar Star*, one of the new polar icebreakers. These icebreakers are the most powerful in the free world. It was a very impressive ceremony and it is a most impressive ship.

There is additional activity in small cutter acquisition. By this summer, we will be advertising for bids to build 140-foot tugs with domestic icebreaking capabilities. In addition, the first of a new class of 160-foot construction tenders was recently launched at our own Coast Guard yard. This vessel serves well to demonstrate our progress—she provides more than 3 times the crew living space than the vessel she is replacing. She'll be almost 70% faster, have a smaller crew and require 10% less maintenance.

Many of you are aware of the Coast Guard's interest in the Senate national ocean policy study. Since last year, the House-side of Capitol Hill has established a comparable group, the ad hoc "Select Committee on the Outer Continental Shelf". Coast Guard personnel have monitored and assisted these committees in their work. We whole-heartedly support the goal of a comprehensive ocean policy in our Nation's best interests. The GAO recently completed a study on the need for a national ocean program and plan. In it they concluded: "however, it is necessary to develop a comprehensive national ocean program and plan before organizational changes are made. After such a program is developed, a determination can be made as to the organizational structure which would best accomplish the goals and objectives of the national ocean program and plan".

At times, there seems to be some concern within the Coast Guard on the question of our role in the Department of Transportation. In response, I would like to turn to another study done by the Library of Congress, congressional research service, for the Senate national ocean policy study. In this report, "the economic value of ocean resources to the United States", the value of the resources was given for 1973 and then projected for the year 2000. In both cases, 50% of the value of ocean resources is ocean related transport. Another 36% of the resource value is in oil and gas plus recreation.

I do not need to tell you of our significant role in these three resource areas, particularly ocean related transportation. Thus, according to this study, from our position within the Department of Transportation, we are intimately involved with 86% of the total ocean resources through the year 2000. Any new emphasis or expansion of our present statutory authority will probably come in the form of logical extensions of our present operations, such as the enforcement of a 200-mile economic zone or the protection of off-shore assets.

On December 31, two applications for deep-water port licenses were officially received by the Coast Guard's deepwater port project. Both applicants propose facilities in the Gulf of Mexico, off the coasts of Louisiana and Texas.

These applications are now being reviewed by the Coast Guard and other Federal agencies to insure that all the information required by the act and the deepwater port regulations is included. This review will be completed tomorrow. The actual processing of the applications, including the preparation of environmental impact statements for each port will begin on January 26.

A license could be granted as early as November of this year with construction beginning early in 1977 and the ports operating by 1979. Combined oil throughput of the two ports is expected to exceed three million barrels a day. Capital expenditures could exceed $1.2 billion.

(An interesting sidenote in this licensing process is the fact that the applicants will be reimbursing the government for all the expenses of processing. This includes all personnel costs associated with the granting or denial of a license. Each applicant had to submit pre-payment in the amount of one hundred thousand dollars with his application. Total cost to each applicant will be close to $850,000.)

Last January I discussed the implications of a 200-mile zone of fisheries management and predicted establishment of such a zone within 12 months. Last November the House of Representatives passed a bill that would unilaterally extend the U.S. fisheries contiguous zone from 12 to 200 miles. The Senate version of the 200-mile bill has been reported out of three committees and debate commenced on the 19th of December and continued yesterday and today. Both bills provide that the new limit would become void if the United States signs the Law of the Sea Treaty, or other comprehensive fisheries agreement. The President has indicated that unilateral action by the U.S. would threaten the collapse of the Law of the Sea Conference which he considers to be the best hope for a solution. Many in Congress believe action is needed now. This internal dispute about the best fisheries policy for the United States, on a purely national level, is indicative of the complexity of the situation when addressed at an international conference. It appears that the end result is likely to be the same; it is only a question of when and what the possible side-effects would be.

Working with the drug enforcement administration and the U.S. Customs Service, the Coast Guard has dramatically increased its participation in narcotics related law enforcement. Our efforts during the last three years have resulted in the seizure of 24 vessels, and the interdiction of narcotics with an estimated street value of over 72 million dollars. The President recently stated his concern over the flow of illicit drugs into the United States, especially heroin coming from Mexico. He subsequently directed the domestic council "drug abuse task force" to develop specific recommendations for improving our ability to control drug trafficking along our southwest border. In order to optimize the contribution of the various Federal agencies, the drug abuse task force was expanded. The chairman appointed the vice commandant to join other members on the "task force". Vice Admiral Perry is being assisted by personnel from the Office of Operations working with the "task force work group". Thus, with a growing concern for the American drug abuse problem, and with this new Federal thrust to combat illicit drug trafficking, the Coast Guard's law enforcement efforts involving illicit drugs should increase significantly.

Another new development since last January is the arrival of the current Secretary of Transportation, William Coleman. He has brought a new dimension to the Coast Guard's relationship with the Office of the Secretary.

For one thing, the secretary is available and wants to be contacted personally on important matters of marine involvement. For another, he uses the Coast Guard as his water mode advisor. In the past year we have been deeply involved in many current water transportation policy matters. The Coast Guard provided support and study team members for the Alton locks and dam project. This project, as you know, has caused a great deal of controversy between the railroads and water transportation interests and raised the overall issue of waterway user charges. The Secretary sought out Coast Guard views on this study and heeded much of the Coast Guard advice on the matter.

I have acted as the Secretary's representative on the influential and policy setting water resources council and the Coast Guard has been ably and amply represented on the study conducted by the council—frequently referred to as the section 80(c) study. This study covered the broad application of consistent planning principles, applicable discount rates, and cost sharing of water oriented development projects and programs. We are currently knee-deep in the departmental effort to produce a national transportation plan. In concert with the Corps of Engineers, MARAD, and the Office of the Secretary, the Coast Guard is leading the development of the water segment of the plan. This Coast Guard involvement in water transportation matters is an important contribution to DOT transportation objectives and serves to enhance our position in the Department of Transportation.

I have addressed some areas of importance and interest today. There wasn't time to mention, even in passing, all that we are doing. Obviously, traditional humanitarian duties such as SAR had to be skipped entirely. You may rest assured that my remarks today in no way reflect priorities and our traditional programs are indeed alive and well.

We remain one team—one Coast Guard—officer and enlisted, reserve and regular, civilian employees and voluntary auxiliarists—all ready to pull together to insure maximum protection of man in the often hostile marine environment while at the same time insuring protection of that environment from the abuse of man.

Our responsibilities are increasing and the future looms both interesting and challenging. I am pleased and proud to head an always ready team that is not only highly capable of meeting these challenges, but is also, eager to do so. In closing the log on 1975, I say to each of you "well done". As we open the log of this Bicentennial Year I challenge you to lead with courage, work with dedication, and continue with renewed determination to maintain the spirit of '76.

BALTIC INDEPENDENCE ANNIVERSARIES

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. BINGHAM. Mr. Speaker, as we celebrate the Bicentennial of American independence, it is important to remember that three Baltic countries, Estonia, Latvia, and Lithuania, are struggling to regain their independence.

Yesterday, February 24, was the 58th anniversary of Estonia's declaration of independence. In 1918, Estonia threw off the yoke of Czarist Russian oppression and became a free and independent nation. That freedom lasted 22 years, until 1940, when the Soviet Union occupied and annexed Estonia, Lithuania, whose 58th anniversary of independence was February 16, and Latvia. Since that day in 1940, Mr. Speaker those three Baltic countries have been denied the rights of self-determination and personal freedom.

On this important day in Baltic history, I would like to take the opportunity to commend the people of Estonia, Latvia, and Lithuania for valiantly struggling to maintain their resolve to be free. Their aspiration for self-determination and personal freedom is not forgotten and may one day become a reality.

ESTONIAN INDEPENDENCE

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. ZABLOCKI. Mr. Speaker, as we all know, February 24 marked the 58th anniversary of the Declaration of Independence of the Republic of Estonia.

Although the ideals of democracy are on paper in Estonia, they are not permitted to be practiced. However, they will always exist in the hearts and minds of all Estonians. In its Declaration of Independence 58 years ago, the small but brave country of Estonia asserted its right to national sovereignty and individual freedoms.

The years, 1918–39 witnessed two decades of uninterrupted peace and national development. Estonia established a republican form of government, guaranteed and respected human rights, and promoted democratic and progressive ideals under the Estonian Constitution.

Yet, all too soon this process was interrupted. Although the new small nation grew steadily and registered numerous economic achievements, its military force was insufficient to withstand a foreign takeover. After the Nazi occupation during World War II, the Soviets again regained control of Estonia.

Since that time, the country has, unfortunately, been under the domination of the Kremlin. Despite Soviet occupation, the Estonian people have maintained a strong national identity, preserved their cultural characteristics, and retained their commitment to individual freedom.

As we take a moment to reflect upon the fate of nations such as Estonia, let us join in their hopes of the re-establishment of their rightful place in the world. Let us hope Estonians may once again enjoy the right to individual freedom and to self-determination to which, as fellow human beings, they are entitled.

THE TRANSITIONAL CONGRESS, AN ANALYSIS BY MAURICE ROSENBLATT

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. BRADEMAS. Mr. Speaker, the first session of the 94th Congress has generated both praise and criticism.

A veteran observer of the institution, Maurice Rosenblatt, has come up with what may be a new type of report card for Congress. Although Mr. Rosenblatt feels that Congress may have failed or received grades of "incomplete" in several subjects, he finds that Congress sparkled in its actions on significant policy subjects, and he therefore gives Members of the House of Representatives and Senate cause for hope in our still greater effectiveness in the future.

Mr. Rosenblatt, a founder of the National Committee for an Effective Congress, has long been active as a political consultant in Washington. Excerpts of his analysis appeared in the Los Angeles Times and other papers on Sunday, February 1, under the title, "Congress Torn Between Activism and Restraint."

Mr. Speaker, I insert the full text of his essay at this point in the RECORD:

Essay by Maurice Rosenblatt

The votes last week on Capitol Hill to stop aid to Angola, and to override the President's veto of money for health, welfare and labor programs, dramatize the new and more vigorous role Congress is cutting out for itself—and the problems it faces.

In this Bicentennial Year, the Congress should not be mistaken for another Continental Congress. A continuing body, it is heir to the problems and precedents of 200 years of the American experience. Viewed as a contest between old and new politics, the 94th Congress is responding to the social revolution which surfaced politically after Vietnam and Watergate.

We are witnessing in Congress a reflection of the emotional malaise and intellectual indecision of the country. History may call this "the transitional Congress," for it now stands with one foot firmly planted in the past while the other foot is groping for a toehold in the 21st century.

TWO SEPARATE SCALES

Because of this duality, congressmen and the public see a double image. To improve the focus, congressional performance probably should be gauged on two separate scales.

In the conventional way of scoring politics—legislation enacted, programs started, governmental initiatives—the 94th was a failure. And some congressmen are so fearful that Gerald Ford's epithet—"can't-do-Congress"—will become their political epitaph that they are preparing to run against Congress this year.

But there is another way to appraise what is taking place. Measured against the task it faced, its institutional role and the current political maelstrom, the 94th Congress has, in fact, scored amazingly well. Some observers believe that its positive contributions will be hailed long after its well-advertised failures are forgotten.

If there is an antiparliamentarian mood in the country, it results largely from the contrast between popular expectations and the ability of Congress to meet them.

"The people want action," says Rep. Thomas S. Foley (D-Wash.), the perceptive chairman of the House Agriculture Committee. "They are not content to wait for the normal evolutionary process of debate, dialogue, compromise, resolution and consensus. Congress is order to be effective needs consensus, and it is clear that on many major issues now there is no consensus."

On energy, tax reform, health care, revision of the penal system, to mention a few sensitive issues, there are as many furious divisions and conflicting solutions as the country has geographic regions, economic, ethnic and philisophic groups. "You just can't write a panacea and make it work by law. That was tried with prohibition, and now with bussing," says another member. The fact that there is no effective majority makes it impossible to move resolutely in areas that affect the lives and social behavior of citizens. When Congress tried to deal with such matters, there was a stalemate with the President (of his 15 vetoes, Congress overrode only 3), demonstrating a wavering of public support for Governmental "solutions".

But there is a plus side. The 94th Congress moved with rare firmness on three fronts. Congress took hold in foreign policy, reactivated its watchdog role in oversight and investigation of the operations of government, and set in motion a budgetary mechanism of enormous potential.

These initiatives are marked by a common theme. They involve efforts to restrain, contain, retrench, prune, and find ways of making do. They reflect a turning away from excess and waste, a sober awareness of the inherent limits of American resources and American power. The rhetoric has changed as astute politicians talk of slaking the urge to consume rather than of boundless growth.

The foot had shifted from the accelerator to the brake. Last weekend, Rep. Brock Adams (D-Wash.), the chairman of the House Budget Committee, proclaimed this new dialectic to a group of freshmen Democrats: "You ought not to tell people they can get everything they want."

FOREIGN POLICY

Nowhere did Congress reject expansion and bravado more than in foreign policy. Time and again, Congress put a reef in the sail of the Executive, questioning crisis tactics that had worked in a more gullible past. Members were no longer awed by the dogmas of the military and diplomatic experts. They were tired of policies that always seemed to conflict with America's moral values as well as national interests, policies which seemed doomed to fail. Repeatedly, Congress rebuffed the formidable Secretary of State, Kissinger, and the once formidable Secretary of Defense, Schlesinger, as well as President Ford. First, it was a plea for an "emergency fund" of $722 million for one last fling in Viet Nam. Congress turned a deaf ear thus ringing down the final curtain on America's longest and most misguided military venture. Next, they held up military aid for Turkey since the arms were being employed against another U.S. ally, Greece, in the Cyprus conflict. Then, they warily scrutinized the details of the agreement for American observers in the Sinai to be sure that this was not a beachhead, that there was an exit as well as an entrance.

Finally, the Senate, led by two first term Senators, John Tunney (D., Cal.) and Dick Clark (D., Iowa), demonstrated its muscle in the vote to forbid further overt or covert aid to the pro-Western factions in Angola. A few years ago, the Executive branch would have moved stealthily, possibly calling in a few members of the Armed Services Committee to tell them in secret what had been done. This time, with the CIA investigation flaring, U.S. involvement was contained, though efforts to circumvent the Congress continue.

These foreign policy actions gained impetus because Congress finally grasped its monitoring function—known as legislative "oversight". In the past the Legislative Branch had been derelict, neglecting to perform this constitutional duty. Senator Frank Church (D-Idaho) and Representative Otis Pike (D-NY) mounted parallel Senate and House probes of the Intelligence community, focusing on the CIA and the FBI. What developed from the half-truths and half-lies, extracted in reluctant spoonfuls, was a partial map of and autonomous secret state inside the United States. Approximately $10 billion a year, the equivalent of New York state's budget, is being bled from the Federal treasury by elaborate syphoning procedures to sustain the apparatus. Policy direction and accountability have slackened over the years so that these agencies have operated beyond the law and beyond Congress, guided by their own doctrines and ambitions—protecting their ultimate masters, the President and the Secretary of State, for whom they functioned as "hired guns". Whether the probes will examine the roles of Democratic Presidents Kennedy and Johnson, when many of the abuses started, remains to be seen.

The selfless original purpose and personnel, characterized by the World War II era, had given way to a second generation of "old-boy" hangers-on, an army of careerists fringed by silly amateurs of the Gordon Liddy and Howard Hunt variety. Congress is still digesting the magnitude of the hoax played on the country in the name of security intelligence, hard put to find some positive gains for all this embarassment and expense. "Whenever we press for a rationale for their bizarre actions, the bottom line is always, 'well, the Russians do it,'" reports Senator Philip Hart (D-Mich.), a member of the CIA panel. Congress is now trying to disentangle and preserve whatever intelligence gathering operation is legitimate and necessary. In the future, it will substitute careful monitoring for the carte blanche approach. In getting the genie back in the bottle, the budget can provide the cork.

In the private sector, the Senate Foreign Relations Committee is pursuing a major probe of the conduct of multi-national corporations and the extent to which their tentacles envelop American foreign policy and the domestic economy. Sen. William Proxmire (D., Wis.) has been investigating the activities of about thirty major U.S. companies that may have concealed illegal contributions or bribes to foreign officials. The Congress is serving bold notice that it intends to oversee rather than overlook the actions of the Executive and the giant corporations.

NEW FEDERAL BUDGET PROCESS

The one-year-old budget process could become, for Congress, its reformation and salvation—if it works. Congress is about to use this new mechanism to take hold of the President's $395 billion budget—and to take hold of itself.

"What's been going on here is like a cafeteria," veteran liberal Rep. James O'Hara (D., Mich.) observes. "Congress put out a variety of food, then the Executive would go through and pick, choosing just the items it wanted. Congress lost control of priorities since all the important choices were made by the Administration." Everyone went to the Appropriations Committee in single file, on a first-come-first-served basis, but only after the Pentagon had first been satisfied.

Under the new process, Congress deals with the federal budget comprehensively, balancing cost-effectiveness and long-range impact of federal outlays against sources of revenue. It imposes firm ceilings on spending. A joint Senate-House budget office has been established to provide the data and analytical tools for the legislative branch to make judgements independent of the White House Office of Management and Budget.

An initial test of the new process came last summer when Sen. Edmund Muskie (D., Me.), chairman of the Senate Budget Committee, took the floor to denounce a House-Senate conference report on military authorizations because it would run $700 million over the agreed-on Conference guidelines. Sen. John Stennis, the dauntless Mississippian who heads the Armed Services Committee, staunchly defended the add-on. The battle was short and decisive, and Stennis was routed. It was more than a stinging blow to the high-riding military bloc. It signaled the far-reaching possibility that the new budget process might be changing the shape of the field and the rules of the game.

Here exists the potential for:

—creating within Congress an authority equal to the Executive in determining national direction and priorities;

—shifting of power within Congress, away from the entrenched appropriations barons, Southern-based and military-oriented, relocating this power in the budget committees composed of a representative cross-section;

—the recasting of the Democrats' image from open-handed wasters to fiscally responsible realists.

Rep. Brock Adams (D., Wash.) says, "We now have the capability of establishing our own priorities. The Administration came last year seeking increases in the defense budget and cuts in social programs. We held the line on defense and on social programs, and increased just slightly those areas which lead immediately to greater employment."

Veteran Democrats, long wedded to the theories of the welfare state, are having difficulty adjusting to the new process. But Rep. Ned Pattison (D., N.Y.), a freshman moderate, is enthusiastic: "We are freed from bondage to programs that have lost usefulness but still hold built-in clout plus a payroll of bureaucrats. Now we are better insulated from pressure and can begin to decide on merit." Sen. Muskie says the budget process "may be for the Democrats what China was for Richard Nixon." They may shed their free-spender image just as Nixon stopped being a cold warrior.

CONGRESS AND THE PEOPLE

"It's hard to sell negatives, to make efficiency pay off politically," says Rep. Norman Mineta (D., Calif.), "Nobody likes to be involved in dismantling programs." He was speculating on how to mesh the stringent budget philosophy with the high expectations of the voters. Last year, he was one member of the new class of 75 Democrats who organized themselves weeks before the session and shook the seniority system to its boots. They assisted in the demise of that most influential mandarin, Wilbur Mills, as well as in toppling three other chairmen. Their promise was for a more activist politics.

Mineta rejects the idea that every large new class must go through attrition at the next election. "That's not what's happening to our class. Most freshmen won in close races in 1974, but they're a lot stronger now. We're well staffed in the district, and we tend to the local problems. The constituents have never had this kind of service before. The new Californians flew home 20 times last year.

He was explaining the great mystery of Congressional politics—that voters have contempt for Congress but highly esteem their own representatives. Probably, if all members ran at-large, there would be a new House and a turnover of one-third of the Senate every two years. But Congress, it has been said, "is an institution where performance is collective and accountability is individual." This principle will likely insure the reelection of most incumbents to the Senate and the House this year, provided they "vote their districts."

Rep. Jerome Ambro (D., N.Y.), a pithy New Yorker who succeeds Mineta as head of the New Members Caucus, is deeply concerned with substantive performing of Congress. When the new members met with the leadership last week, they presented their agenda for the coming session. It included tax and regulatory reform, health insurance and welfare revision, and public financing. They were rebuffed by the chiefs. Still, they are pragmatic enough not to try to challenge Speaker Carl Albert and his lieutenants in mid-session. Everyone looks to the 1976 election for the turnover that will precipitate a dramatic move. In the meantime, Ambro says, "the leadership is there, like Mt. Everest, and we'll just have to climb it". The election could actually strengthen the forces of the Young Turks.

The divisions within the parties are, in some ways, deeper than the divisions between the parties. This Winter, an unprecedented number of Republican moderates are announcing they will abandon their safe seats because of what one leader of the GOP's moderate Wednesday Club calls a "lack of psychic satisfaction, and more".

Most of those retiring were strong survivors in 1974, coming through with hardly a nick in an election where conservative Republicans went down in droves. Obviously, they feel that while they are close to the electorate, they are far from the power center of the GOP. "A kind of Gresham's law is working here, where an obsolete party is driving out good men," observes one of the retirees.

A five-term universally admired Republican in his mid-forties, explains why he is dropping out: "I'm in a party that's not going anywhere and I'm not going anywhere in the party. I'm in a minority of a minority. There are some excellent people in my district who could take my place, but in conscience I don't feel I can urge them to run. Why should a decent man with a family and normal life expose himself to being pilloried, and to the invasions of privacy and humiliation that go with public office today?"

The remnants of the progressive Republican wing endured under Nixon, but they do not want to prolong their discontent and they forsee only greater aggravation should they have to run with Ronald Reagan heading their ticket.

Sen. Charles "Mac" Mathias (R., Md.), one of the most successful Republican vote getters in the country, expresses the sentiment of many of his colleagues. He sees the party becoming "so narrowly conservative that it will ultimately seal its own death warrant." Mathias is seriously weighing the possibility of a clean break and mounting an independent candidacy for President this year.

The question of who heads their party's ticket is of less weight to Democratic Congressional candidates who relish their individual and separate status in a party where multiplicity and lack of discipline is the hallmark. Yet, as Sen. Alan Cranston (D., Calif.) indicates, "it will make a difference whether the Democratic candidate for President sounds like Jerry Brown or Hubert Humphrey".

In every contest at every level, from city halls to the White House, the politics of yesterday and tomorrow are in collision. In Congress, the conflicting viewpoints are becoming sharply visible and the dynamics favor the modernists who are willing to discard both conservative and liberal rhetoric and risk a new approach. The movement is ambiguous, but the process is irreversible, and the character will be shaped by those who best perceive and articulate the new realities.

ISSUE OF WELFARE REFORM

HON. ROBERT J. CORNELL

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. CORNELL. Mr. Speaker, a few months ago I requested time for a special order to call the attention of my colleagues to the issue of welfare reform. At that time, I stated that I was disappointed in the apparent lack of concern on the part of many of our elected officials in promoting welfare reform even though the polls have shown that this subject ranks high in the concerns of many Americans. I could point to little activity either on the House floor or in committees dealing with revisions of our welfare system. I am pleased to say that several recent developments since that special order have brought the entire subject of correcting our welfare "mess" closer to center stage. I have reason to believe that this trend will not only continue, but accelerate.

I therefore reintroduced my Tax Credits and Allowances Act yesterday. This marked the fourth time that I have introduced this measure with additional cosponsors. It was a pleasure to add the names of Representatives BLOUIN, DANIELSON, DELLUMS, DOWNEY, HUGHES, NOLAN and PATTISON to the 19 cosponsors already indicating their support for H.R. 6430.

One of the heartening events I mentioned earlier took place on January 3, 1976, when four governors sent a telegram to President Ford urging a complete reordering of our welfare programs and proposing reforms which correspond to the provisions of the Tax Credits and Allowances Act. The four governors, Brendan T. Byrne of New Jersey, Hugh J. Carey of New York, Milton J. Shapp of Pennsylvania, and Patrick J. Lucey of Wisconsin, called for a new system incorporating the following:

1. the consolidation of the existing food stamp, SSI, and AFDC programs into a single federally financed cash system providing a floor to the income available to every family, with an appropriate federally funded cost of living escalator;

2. the equal treatment of intact families and divided families;

3. preservation of incentives to work and a fair level of assistance to the working poor; and

4. a uniform and easily understood benefit reduction schedule, reaching a "zero-point" of no benefits and no income taxation.

Governor Ella Grasso of Connecticut later added her support to the governors' proposal.

On February 18, 1976, the distinguished chairman of the House Budget Committee, BROCK ADAMS, discussed in some detail the areas of budgetary and economic concern for the next 5 years. During these remarks, Chairman ADAMS outlined the problems facing our current public assistance programs and the need for comprehensive—not patchwork—reform. His recommendations for changes in our current system correspond very closely to the provisions of my legislation.

On the next day, February 19, three highly respected Members of the Senate introduced a bill very similar to the Tax Credits and Allowances Act I am sponsoring. Senators JACOB JAVITS, GEORGE MCGOVERN, and LOWELL WEICKER proposed legislation (S. 3000) to provide a Federal system of direct cash grants and rebatable tax credits to needy individuals and families in the place of aid to families with dependent children and food stamps. This marks the first time this legislation, which was the result of the 3-year study by the Subcommittee on Fiscal Policy of the Joint Economic Committee headed by former Representative Martha Griffiths, has been introduced in the Senate.

In the near future, welfare reform may be the subject of congressional hearings in both the House and Senate. The Public Assistance Subcommittee of Ways and Means and the Senate Select Committee on Nutrition and Human Needs are tentatively scheduling hearings for early spring.

The upcoming hearings and the other recent developments I noted could be instrumental in focusing attention, at long last, on the need for action—not rhetoric—on welfare reform. We must act quickly to end the inequities arising from the combination of low- and high-benefit States, administrative duplication and overlapping jurisdictions, high-error rates, family-splitting provisions, and low-work incentives. I again call on all of my colleagues who are not sponsors of the Tax Credits and Allowances Act to demonstrate their support for genuine reform that provides aid in an efficient and nondemeaning manner instead of the current antiquated and loopholed ridden system. Let us show the administration that we do not have to wait until 1980 to enact meaningful welfare reform.

CONFUSING CORRESPONDENCE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. HAMILTON. Mr. Speaker, I would like to bring the following article from the February 18, 1976, issue of the Indianapolis Star to the attention of my colleagues:

MANY HAPPY RETURNS, ANDY; NOW SHOVE OFF

WASHINGTON.—The way Representative Andy Jacobs (D-Ind.) looks at it, one of two letters he got from President Ford was, well, insincere.

And so he complained to the chief executive.

He said that when he and Representative Martha Keys (D-Kan.) were married back in December they got a warm, congratulatory letter from the President and Mrs. Ford.

Now, Andy told the President, he just can't believe that Mr. Ford wants to see the happy couple lose their respective jobs in Congress.

Yet, the Hoosier lawmaker said, he received a letter also signed by the President and delivered to his home in Indianapolis. It was one of those computerized letters that inserts the recipient's name in the text a couple of times. What it wanted was a contribution to help beat Democrats for Congress.

"Your letter to me in which you solicit funds to help finance my defeat in 1976 is all the more puzzling because of the reason you indicate you think I should be defeated. You say that I vote in Congress to spend too much of the taxpayers' money. Yet the record shows that so far in the current fiscal year I have cast the Indiana 11th District vote to spend $40 billion less than you have proposed to spend," Jacobs wrote to the President.

"Apart from the fact that the whole thing is so confusing, it was nice to hear from you again," he concluded.

EMANUEL CELLER'S TRIBUTE TO JUSTICE WILLIAM O. DOUGLAS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. EDWARDS of California. Mr. Speaker, for more than 30 years William O. Douglas and Emanuel Celler served their country in parallel ways, one as a member of the U.S. Supreme Court, the other as a member and subsequently chairman of the House Committee on the Judiciary. Throughout their public careers they were closely identified with common goals: The deligent preservation of our civil liberties and protection of our civil rights. In these determined efforts they have been true colleagues, pursuing their separate but interrelated paths.

Because of this I think Emanuel Celler's eloquent and gracious remarks in tribute to Justice Douglas have special significance, and I am delighted to have the opportunity to share them with my colleagues in the House:

REMARKS BY EMANUEL CELLER

I have known Bill Douglas for more than 40 years and never have I heard him utter a harsh word. He has ever hearkened unto "the soft sweet music of humanity." He was ever the voice of comfort to the despairing. He has had great courage and has forged ahead despite great obstacles. He was a great judge because he knew the best preacher is the heart, the best teacher is Time and the best book is the world.

Bill Douglas labored incessantly because he knew there was no accomplishment without hardship. He has been a just man in every sense. His opinions reflected justice as he knew that justice is the bread of a nation because all people hunger for it. He has made a brilliant mark on the tablets of the judiciary. It is sad that he has to be on the side lines. We miss him.

THE MOTOR CARRIER REFORM ACT

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mrs. FENWICK. Mr. Speaker, I am introducing today a bill which will benefit the consuming public and the users of motor carrier services by eliminating excessive and outdated regulation affecting trucking firms and bus companies. This legislation, the Motor Carrier Reform Act, is a major revision of the basic law passed in 1935 to regulate trucks and buses. It will stimulate competition in the motor carrier industry, increase the freedom to adjust rates and fares to changing economic conditions, eliminate restrictions requiring wasteful transportation practices, and enhance enforcement of safety regulation. Together these changes will advance the public interest and provide the Nation with the best possible transportation services at the lowest possible cost.

Under the protection of the Interstate Commerce Commission, motor carriers are not only permitted to engage in price-fixing activities which are immune from antitrust prosecution but the entry of new carriers can be easily blocked by existing carriers. Thus the regulations and procedures of the Interstate Commerce Commission serve as obstacles to the entry of new carriers into the transportation industry. It is especially unfortunate that an agency of the U.S. Government should set up barriers that serve, in a de facto manner, to discriminate against minority truckers who did not have the resources in 1935 to benefit from the grandfather clause in the original ICC legislation.

Mr. Speaker, the bill I am introducing today would require the Interstate Commerce Commission to issue a certificate if the applicant demonstrates that he is "fit, willing, and able" to provide his services to a willing shipper and would prohibit the ICC from taking into consideration the existing authority of other carriers. In addition, the Secretary of Transportation would be authorized to study the effects of the liberalized entry provisions and to recommend any changes he thinks necessary to ease entry further. Aside from the de facto discrimination inherent in ICC regulations, existing law inhibits innovation and limits the choice of prices and services available to shippers and bus passengers. This legislation will permit persons willing to pay a premium to obtain high quality service. Similarly, those who want a lower price and will accept less service will find this option available also.

Perhaps of utmost importance to the consumer, the bill provides a gradual phasing in of increased pricing flexibility for motor carriers. Carriers will be permitted, without fear of ICC suspension, to adjust rates up or down within specified percentages—7 perecnt in the first year; 12 percent in the second; 15 percent in the third; and 15 percent upward flexibility annually with no limit downward thereafter. Why should an individual entrepreneur with a truck who is willing to risk his own money and is able to meet minimum safety standards be prevented from providing service at the lowest cost possible to a willing customer? This bill will promote opportunities for competition and prevent the abuse of monopoly power.

Mr. Speaker, this legislation will not plunge the trucking industry into chaotic rate wars nor will it drastically reduce the number of firms engaged in transportation. While leaving the vast majority of ICC regulations untouched, the Motor Carrier Reform Act will benefit all honest competitors and encourage new entrants—all to the ultimate benefit of the consumer.

There are also claims that this legislation will severely limit service to smaller communities and shippers. It is quite clear that smaller communities and shippers are suffering under current regulations. Limited deregulation will encourage small entrepreneurs to compete with large carriers for the business of the smaller communities and shippers. And safety regulation will actually improve with enactment of the Motor Carrier Reform Act. The bill provides for more even-handed and responsive enforcement of safety regulation governing motor carriers. One of the prime deterrents to violating a safety regulation is the possible removal of a carrier's operating authority but the ICC has not utilized this deterrent to its full potential. This bill would allow the Secretary of Transportation to impose civil as well as criminal penalties for all carriers and to prohibit operations by carriers who consistently violate safety regulations.

Finally, Mr. Speaker, we can no longer afford the wasteful use of energy caused by existing regulations. The folly of regulation is exemplified by the restrictions on the motor carriers industry to use its resources efficiently—truckers may move agricultural items without ICC certificates but on the return trip they may not move regulated commodities. Thus many trucks move only partially loaded or entirely empty and valuable fuel is wasted. This legislation, while recognizing the importance of the regulated carriers, would allow small truckers—three trucks or less—to carry regulated commodities subsequent to the movement of agricultural items. Not only would this change save precious fuel but it would lower the cost of goods being carried. This provision would apply also to private carriers—business firms which own their own fleet of trucks—who are presently prohibited from leasing their vehicles and drivers to outside truckers when not needed for their own use.

Mr. Speaker, I am hopeful that the House will consider this legislation in the near future. I believe that it is an equitable solution to many of the problems plaguing the motor carrier industry. The Motor Carrier Reform Act will benefit not only consumers but, once studied and understood, will be welcomed by those currently regulated by the Interstate Commerce Commission. A brief section-by-section analysis of the bill follows:

THE MOTOR CARRIER REFORM ACT

1. Rate Bureaus. The bill eliminates antitrust immunity for anti-competitive ratemaking activities. Over a period of three years, the bill prohibits carrier associations from discussing, agreeing or voting on all rates except joint or interline rates. Rate bureaus will continue to provide useful administrative services, such as publishing tariffs and assisting in determining joint rates and through routes. (Section 2).

2. Aircraft Exemption. The bill enlarges the geographic area in which motor carriers may transport persons or property incident to air transportation without obtaining ICC authorization. This provision extends the area from a 25 to a 100 mile radius around the airport terminal.

3. Private Carriers. The bill reduces ICC restrictions now imposed in businesses operating their own trucking fleets. It will allow private carriers to transport goods for their affiliates. It will also permit these carriers to lease their vehicles and drivers to regulated carriers for short time periods. This will alleviate the backhaul problem which private carriers now experience and permit common carriers to expand services without buying expensive equipment. (Sections 4 and 7).

4. Contract Carriers. The bill removes unnecessary restrictions on contract carriers by changing the entry test. Contract carriers may become certificated by proving that they have dedicated equipment to a shipper or that they provide service tailored to the distinct needs of a shipper. Also, the ICC is prohibited from limiting contract carriers to a particular industry or territory. These provisions will remove previous impediments to normal growth of contract carriers and permit shippers and consumers to benefit from these specialized services. Carriers will also be permitted to hold both common and contract authority under certain conditions. (Sections 4 and 9).

5. Commercial Zones. The bill directs the ICC to reform regulations dealing with commercial zone transportation, to eliminate unnecessarily restrictive practices and to improve procedures for making boundary changes within two years after enactment (Section 5).

6. New Plant. The bill exempts service to or from any plant less than 5 years old from ICC certification requirements. This will provide new plants with needed flexibility in meeting their transportation needs and eliminate the costly certification process. (Section 6).

7. Entry. The bill will provide liberalized entry into the trucking and bus industries. It will shift the focus of entry proceedings away from the present concern for protecting existing carriers to providing the public better service. These simplified procedures will permit the ICC to expedite consideration of applications. (Section 8).

8. Common Carrier Rate Suspension. The bill provides a gradual phasing of increased pricing flexibility for motor carriers. These provisions parallel the Railroad Revitalization Act. Carriers will be permitted to adjust rates up or down within specified percentages without fear of ICC suspension (7 percent in year one, 12 percent in year two, 15 percent in year three and 15 percent upward flexibility annually with no limit downward thereafter.) To suspend rates outside this zone, the ICC will be required to find that a proposed rate will result in immediate and irreparable damage. The bill also sets a 7 to 10 month time limit on ICC consideration of rate cases (Section 10).

9. Compensatory Rates. The bill provides that rates which are compensatory, that is those above a carrier's variable cost, may not be found to be too low.

10. Commodity and Route Restrictions. The bill directs the ICC to remove certificate restrictions that are wasteful and inefficient and requires a progress report to Congress within one year of enactment. The bill also reduces circuitous routing. (Section 13).

11. Discrimination. The bill expedites the ratemaking process by limiting the number of parties who may protest a proposed rate. Carriers will no longer be permitted to protest rates by alleging discrimination against shippers. Protests by shippers will be limited to those directly affected by a proposed rate change. (Section 14).

12. Backhauls. The bill allows agricultural carriers to haul regulated commodities on return trips without ICC authorization provided specific conditions are met: (1) the backhaul follows the movement of agricultural commodities, (2) the carrier is a small business with three or fewer trucks, (3) the backhaul is in the general direction from which the trip originated, (4) the revenue earned from this provision must not exceed revenue earned from agricultural carriage, and (5) the rate charged may not be lower than the rate of any regulated carrier for the same service. (Section 15).

13. State Licensing Requirements. The bill directs the Secretary of Transportation to recommend ways to eliminate duplicative and costly State motor carrier regulations. (Section 16).

14. Safety. The bill provides for more even-handed and responsive enforcement of safety regulation governing motor carriers. Presently there are many gaps in the safety enforcement statutes. The bill would permit the Secretary of Transportation to impose civil as well as criminal penalties for all carriers and to prohibit operations by carriers who consistently violate safety regulation. (Section 17).

15. Merger. The bill eliminates ICC authority to grant antitrust immunity to motor carrier mergers and gives the courts exclusive jurisdiction to determine the legality of mergers. It also establishes a new standard for motor carrier mergers similar to that in effect for the banking industry. (Section 18).

FIFTY-EIGHTH DECLARATION OF INDEPENDENCE—ESTONIA

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. DE LA GARZA. Mr. Speaker, 58 years ago, on February 24, 1918, the Republic of Estonia was established with a Declaration of Independence that thrilled the spirits of freedom-loving people throughout Europe and the world.

Between two world wars the Estonian people maintained their independence against heavy odds. But at the end of World War II the forces of totalitarianism closed in on them and the freedom they valued so highly was lost to them.

Not, I trust, irretrievably lost. Not lost forever so long as the spirit of independence lives in the hearts of men and women who loathe tyranny by whatever name it is called, who want to live free and to pass the blessings of freedom on to their posterity.

Mr. Speaker, on this 58th anniversary of the Declaration of Independence of the Republic of Estonia, I salute its brave and gallant architects and the Americans of Estonian descent who live in our Nation today. And, we pray that one day soon, they will again live in peace and freedom.

VOICE OF DEMOCRACY CONTEST

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. QUILLEN. Mr. Speaker, I am honored to make available to my colleagues and readers of the CONGRESSIONAL RECORD the winning speech of the State of Tennessee's Voice of Democracy contest, sponsored by the Veterans of Foreign Wars. This speech was written and delivered by Miss Amy Armistead Smith, a wonderful young lady from my hometown of Kingsport, Tenn.

Each year, the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct a Voice of Democracy contest, with nearly 500,000 secondary school students participating this year. In winning the statewide contest, Miss Smith began competition within her own school and progressed through community and district levels before reaching State competition. At each level, judges evaluated her speech using content, originality, and delivery as their criteria. She will now enter national competition here in Washington.

Miss Smith is presently a junior at Dobyns-Bennett High School in Kingsport and plans to pursue a career in law. She was one of the 15 State winners of the Tennessee Academy of Science and Humanities Symposium, and winner of the local Optimist Oratorical Award. She ranks 10th in a class of over 400.

The speech is entitled "I am a believer" and the sentiments expressed are remarkably mature for a young lady of 16. It speaks to all of us with an optimism which is refreshing and hopeful in these troubled times, and I believe it sums up our Bicentennial heritage and points the way to the bright future of which she feels our country is capable. It is reassuring to know that a young person today has such high expectations for our Nation, and I know she will be ready to accept the responsibility of turning this dream into a reality.

I feel that winning this patriotic and significant contest is an outstanding achievement. This speech shows the preparation and hard work that went into it, as well as the talent and initiative of its author. The honor is well-deserved, and I commend to my colleagues the winning essay of Miss Amy Smith:

I AM A BELIEVER

(By Amy Armistead Smith)

Hello, America. I am your neighbor; I am your friend; I am your brother. I am the elite and I am the masses. I am you.

I came here from England 400 years ago. It was chilling and cold on that desolate shore the day that I landed. The sea's thundering waves sent salt spray and driftwood onto the coastline at Jamestown. Some of my fellow colonists were afraid for their survival when they saw the vast untamed nature of their new land. But I saw opportunity as endless as the grains of sand on the beaches. Here I could worship my God in all freedom and dignity. No laughter or jeering, no imprisonment or torment would stop me from speaking my honest convictions.

I am a believer. And 200 years ago I came here from Africa bound in the steerage in chains and in slavery. My back felt the cruel whip of owners and masters, and my labor nurtured a feudal system of grave injustice. This legal wrong was righted by a name named Abraham Lincoln and by white brothers who fought for my freedom. But I still lived in poverty, misery, and hopelessness; I still lived in loveless and faceless ghettoes. Years passed, and a great spokesman stepped forward to say to all brethren, "I have a dream . . ." And at last, people listened. I have hope.

I am a believer. And 100 years ago I came here from Ireland starving and penniless looking for opportunity. I lived in the mountains but went down into the coal mines at 13 and came up at 30 to die of black lung disease. I worked in the sweat shops of New York and Boston and gradually made my way up from the slums of the city. I grew in power and wealth and education but also in courage and conviction. "Ask not what your country can do for you, but what you can do for your country."

I am a believer. And I came here from Poland after the war tattooed with numbers assigned to me in the dreadful nightmare of the concentration camps. Lost were my family, my fortunes, my livelihood. Only the embers of my spirit and the flame of my God sustained me. I worked hard in my new land and raised many children who are freer now than in all their days since the Covenant. "Shalom."

I am a believer. And last year I stepped off a plane onto the land you call California. Vietnam was my birthplace; freedom was my destination. I feared the fast moving ways and the new language. In the chaos of leaving, I brought nothing with me, only the knowledge that Americans had died for my freedom. I want to become a part of this land.

I am a believer. Yes, I came here from England, from Ireland, from Africa, and Poland, and from many other countries as well. I left behind me oppression of speech and religion. I left behind me the terror of labor camps and the fear of night visits from policemen in uniform. I grew from the ghettoes of New York to the skyscrapers of Manhattan, from a South Carolina sharecropper's shack to a white farmhouse in Kansas. I came here uneducated, but I went to Harvard. I came here penniless but invented the Model T, the computer, the camera; and I became a millionaire. I came here a peasant but also a dreamer, and I saw my son become President of the United States.

Yes, I have dreamed my dreams and seen their reality. This is my Bicentennial heritage. I am a believer.

ACHIEVEMENT AWARD TO ULRIC F. BENJAMIN

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. DE LUGO. Mr. Speaker, it is my pleasure to bring to the attention of my colleagues the distinguished achievement of a native Virgin Islander, Ulric F. Benjamin.

Mr. Benjamin, director of the Small Business Development Agency, was recently honored in a ceremony in the New York regional office of the Small Business Administration. The Acting SBA Regional Director presented a special award to Mr. Benjamin expressing the administration's gratitude for his assistance over the past 2 years in helping to implement its financial and management program for small businessmen and businesswomen in the Virgin Islands.

Due in great part to Mr. Benjamin's efforts, the SBA made 48 loans in the last 18 months to the Virgin Islands amounting to $1.1 million. As my colleagues know, small business owners make a significant contribution to local economic development. Mr. Benjamin has rendered invaluable assistance and cooperation to Virgin Islanders and is an excellent example of what can be accomplish when the local and Federal Government work together.

On behalf of our small business owners, I commend Ulric F. Benjamin and offer our appreciation for a job well done.

BEEF REGRADING

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. PEYSER. Mr. Speaker, the beef regarding regulations of the Department of Agriculture, which went into effect yesterday, are a disaster for both the consumer and the cattle producer. The result of these regulations is that consumers will be paying a higher price for lower quality beef.

These regulations are opposed by virtually every consumer organization in the country and by many cattle producers. I have introduced legislation today to repeal these regulations and to require the Secretary of Agriculture to issue new standards for a different and nondeceptive grade of beef. It is my hope that we can have hearings on this legislation as soon as possible, in order to give both the consumer and the cattle producer an even break.

A copy of the bill follows:

H.R. 12102

A bill to restrict changes in the standards for slaughter cattle and carcass beef, and to direct the Secretary of Agriculture to create a different and nondeceptive grade of beef

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205(b) of the Agricultural Marketing Act of 1946 (60 Stat. 1090, as amended; 7 U.S.C. 1625(b)) is further amended by adding the following proviso before the period at the end thereof: "*Provided,* That the revisions of the Official United States Standards with respect to the grading of carcass beef and slaughter cattle, published March 12, 1975 (40 Fed. Reg. 11535), and which became effective February 23, 1976, are hereby repealed; *and further provided,* That after January 1, 1976, no change shall become effective in the grade designations or specifications for grades in the standards for slaughter cattle or carcass beef which has the effect of allowing the grading of any cattle or carcass beef as being of a higher grade than it would be under the standards in effect at the time such change in the standards is promulgated; *and further provided,* That within sixty days of enactment of this Act, the Secretary is authorized and directed to promulgate regulations establishing a new grade or grades, consistent with the provisions of this Act, and which shall have different and nondeceptive grade designations and specifications."

THE UNITED NATIONS UNDER ATTACK: THE ISSUES AND SOME ANSWERS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. FRASER. Mr. Speaker, I recently came across a December 1975 fact sheet on the United Nations put out by the UNA—USA—The United Nations Association—USA. It briefly states 11 of the most frequently heard criticisms of the U.N. and provides responses to these attacks.

While I found each of these statements and rebuttals of interest, my attention was especially drawn to the 10th: The often repeated statement that the United States is paying too large a share of U.N. costs.

In reply, the UNA points out that the United States, with almost 40 percent of the planet's gross world product, pays an assessed contribution of 25 percent. This means each American pays roughly 30 cents per year for the regular U.N. budget. But most interesting is the fact that "68 countries contribute a greater share of their GNP," to the U.N.

Rather than the United States paying—based on ability to pay—an abnormally large share of the costs of the U.N., about one-half of the members pay more than the United States and about one-half pay less.

It's too bad that the impression abroad in the country is different. If the American people knew that our contribution to the U.N. was only average, maybe our will to be better than average would lead to a larger U.S. financial contribution to the U.N.

The fact sheet follows:

THE UNITED NATIONS UNDER ATTACK: THE ISSUES AND SOME ANSWERS

1. The UN has been behaving badly and doesn't deserve our support.

It is not the "UN" which is behaving badly. The United Nations merely provides the hall in which delegates cast their votes according to their governments' instructions. The resolutions adopted by the General Assembly and other bodies are reflections of those instructions and represent the views of individual—and sovereign—member nations. The United Nations as an organization should not be blamed for their sometimes irresponsible actions. To withhold financial support or threaten to withdraw is like punishing Congress for the unpopular actions of some of its members—or closing an opera house because the tenor sang off key. To withdraw from the UN is to abdicate our responsibilities. To improve it, we must act from within with greater purpose than ever before.

2. The UN is controlled by a block of irresponsible nations which support hostile and unenforceable resolutions.

Lop-sided majorities do, in fact, pass ill-conceived resolutions in the General Assembly as well as its subsidiary bodies. However, these resolutions are not "law". They are not "enforceable" and we would not want them to be enforced. They are recommendations only, not legally binding on any member state. Moreover, contrary to current impressions, the majority of decisions taken by the General Assembly are adopted *with* the support of the United States. Last year, at the 29th General Assembly, out of 241 resolutions and decisions, the controversial ones on which the United States voted "no" came to only 18, or just 7.5%. Finally, just as voting coalitions in Congress tend to shift with individual issues, so do they shift in the UN. The Zionism resolution, for example, was supported by only 72 member nations, a bare majority, reflecting a deepening split in the "Third World bloc" and an increasing awareness of fundamental differences in political opinion. By contrast the 1974 resolution granting observer status to the PLO had the support of 114 governments.

3. The UN's voting procedures should be changed so that the "ministates" can't hold the balance of political power.

The problem here—if it is a problem—is that the United Nations is a democratic institution. The question of majority rule vs. minority rights in democratic procedures is an old one. Those seeking to prevent "irresponsible" voting and "bloc" voting in the United Nations have usually advocated weighted voting, but no acceptable formula has as yet been put forward. In the Security Council the veto power held by the five permanent members is essentially a form of weighted voting—and the object of severe criticism. Most suggestions for revised voting procedures in the General Assembly and other UN bodies have centered on voting determined by population. If that system were adopted in the General Assembly, China and India, with a combined population of almost 1½ *billion* would obviously be in the most commanding positions, with the Soviet Union a weak third. If voting procedures determined by financial contributions were adopted, the United States, as the world's dominant economic power, would be in the driver's seat, at it is in international financial institutions such as the World Bank where voting is weighted in accordance with the number of shares held by member governments. No believer in democratic principles however—and certainly no developing country—would be likely to support national wealth as the major criterion for power in primarily political bodies.

Perhaps the most constructive approach would be to adopt the technique of *consensus* now used almost routinely in the Security Council and most recently used with great success at the Seventh Special Session of the General Assembly. Consensus would mean dialogue in which there would be no "winners" or "losers". No delegate would be forced to take extreme positions in public when he might be willing to compromise in private. It will take time and effort, however, to develop the consensus concept and to see if it is politically feasible.

4. We shouldn't even bother to cooperate with the developing countries. Most of them are small, powerless, and consistently oppose us on important economic and political issues.

Refusal to negotiate with over half the world's population is short-sighted and will obviously accomplish nothing but our own isolation. On the other hand, serious initiatives can produce unexpectedly good results. This is what happened at the Seventh Special Session of the General Assembly held in September, 1975.

5. We should withdraw US financial support from UN development programs because most of the recipients of the funds are the countries which vote against us.

One of the great strengths of programs such as UNDP and UNICEF is their nonpolitical character. Assistance is determined solely by need and by the individual country's ability to absorb the funds efficiently. The ultimate aim is to help the developing countries help themselves; the ultimate beneficaries of UN assistance are not UN delegates, who typically are from an educated elite, but the illiterate, the children, the very poor and the very ill. To cut off this aid would be punishing the innocent for the actions of their government officials.

Continued multilateral aid is also important in terms of our own self-interest. The developing countries possess many of the natural resources we will need in the future. If they are economically strong they will also provide new markets for our goods and services. Even now, the developing countries account for almost one-third of our exports, one-fourth of our foreign investment—and a $2 billion balance of trade *surplus* for us. Far from being a "give away", US contributions to UN aid can be an economic asset for the United States in turning aid reciipents into valuable trading partners.

To punish *all* developing countries for the actions of some by withholding US contributions to UN programs would not only be unwise but also be unworthy of a nation that has always helped the poor and the suffering. A reassessment of *bilateral* aid to offending countries especially, where military assistance is involved, would seem a more constructive and equitable approach.

6. The UN is not the same institution we helped establish in 1945 and no longer reflects the same political values.

There is no question that the UN "ain't what she used to be." But neither is the rest of the world. Since 1945 there have been far-reaching changes at all levels of society—economic, technological, sociological and cultural—and these changes are reflected in new international relationships. This is seen most clearly in the fundamental disagreements between the industrial and the Third World countries. They may be expected to continue for some time to come.

The causes of these differences are to be found in the history of western colonialism and of the UN itself. For 15 years, the United States commanded an automatic majority of it own in the UN and rarely hesitated to push for passage of resolutions over the objections of others. Since then, almost 100 new nations have been created and admitted to the UN—with US approval. Nearly all are ex-colonies and almost all are very poor. Their only political power is in their collective numbers. Their traditions and needs are very different from our own and the polices they espouse at the UN reflects their own distinctive priorities and aspirations. The political rivalries and economic practices of the developed world are seen as secondary to their own economic development and to the elimination of *apartheid* and other vestiges of colonialism. Their frustration over these issues has become the linchpin for alliances on other issues as well, notably the Middle East.

7. The UN maintains a double standard, criticizing some countries for actions which it does not condemn in others.

This statement is generally true. The General Assembly's failure to condemn terrorist acts by the Palestinian extremists is inexcusable. Much attention has been paid in the UN to racism in South Africa and not enough to the suppression of civil liberties in the Soviet Union or under the dictatorships of Latin America and elsewhere. Recently, however, some steps have been taken to restore some balance and to broaden the scope of the discussion of human rights. The situation in Chile is now on the agenda, as are the issues of torture of prisoners and violations of privacy through electronic and other "snooping" techniques.

The United States' record on human rights issues is good—but not perfect either. We have at times given support to totalitarian and sometimes corrupt regimes, a form of political expediency at odds with our basic values. Our hesitancy in taking firm action against South Africa's policy of *apartheid*, our violation of the Security Council sanctions against Rhodesia, etc. make us appear the ally rather than the antagonist of racial discrimination. The US position is further eroded by our failure to ratify or even sign most of the conventions on human rights adopted by the United Nations. Our justification has been the same as that used by the Soviet Union and others: the supremacy of national law and the Charter provision prohibiting any UN intervention in domestic affairs.

The US should criticize responsible UN organs when justified, but we should be prepared to accept valid criticism in return.

8. The UN is ineffective. It has been unable to prevent or even stop wars.

The alleged ineffectiveness of the UN is based on the widely-held misconception that the UN is a political entity which can force its member states to take action against what they consider their own national interest. The UN has no such power. It can take action only when its member nations—particularly the major powers—agree to do so. When political disputes brought to the UN are "dealt with" it is because parties to the dispute *want* the UN to deal with them. Generally, however, long-standing, intractable issues, having reached crisis proportions, are brought to the UN as a last resort when all other means have failed. In the words of Secretary-General Kurt Waldheim, it is "like taking the patient to the doctor when he is almost dead".

The effectiveness of the UN is further limited by its own Charter. In cases of internal disputes, such as the civil wars in Nigeria, Angola and Northern Ireland, the UN cannot act without the consent of the government involved. In cases of international disputes, only the Security Council has the authority to enforce its own decisions. To do that, it must have the consent, or at least the lack of opposition, of its five permanent members. One permanent member with its veto power is therefore able to stop any Security Council action. Had the Charter been structured otherwise neither the US nor the USSR would have signed it in 1945—or now.

Despite these built-in weaknesses, when given the authority to function, the UN's ability to adapt quickly and effectively to individual situations has been demonstrated from the Balkans and Indonesia to Kashmir and the Congo. In all, the UN has helped settle disputes in almost 50 countries in its first 30 years, through the Security Council, through the General Assembly and through the behind-the-scenes efforts of the Secretary-General. Where peacekeeping operations have broken down, as in the Middle East and Cyprus, it has been because the parties to the conflict were not willing to let the UN settle the issue. What is apparently needed is not only a UN military capability but an acceptance of the UN as the major forum for reconciling conflicting political views on seemingly insoluble issues.

9. The UN is against Israel.

Voting patterns in the General Assembly and other UN bodies, show all too clearly that most UN members are strongly critical of Israel, even hostile. Mathematically, Israel is increasingly isolated and outnumbered. Politics, national or international, can rarely be reduced to mathematical formulas, however, and Middle East questions are no exception. In this case, old grievances, traditional rhetoric and political log-rolling have tended to create a momentum of their own. Over the years an effective voting coalition against Israel has been forged, based on common economic and ideological interests as well as a deep concern among small states that military successes should not be sanctioned or "rewarded".

This working majority has been reinforced by their impression, however erroneous, that Israel is an echo of the colonial period, a western-dominated country created in 1947 by an automatic western majority, protected by the industrialized countries, with political leaders who are primarily European in origin.

The situation would be no different if the UN did not exist. Anti-Israeli voices are raised even more vociferously in other forums such as the Islamic Conference and the periodic meetings of the non-aligned countries. The UN, on the other hand, gives Israel and her allies the only major opportunity in which to react publicly, and in many cases to balance the tone of the debate.

Moreover, the Israelis themselves recognize the continuing value of the UN to their future survival and have never suggested withdrawal. In 1947, the UN ratified the legitimacy of the state of Israel. Today, without the UN peacekeeping forces in the Sinai and the Golan Heights it is doubtful that there would be any cease-fire, however shaky. Continuing violence would mean disaster for Israel in the long run.

10. The United States is paying too large a share of the costs of the UN.

The United States is the world's wealthiest nation; our GNP is well over one *trillion* dollars, or almost 40% of the world's total. It has long been agreed that, UN assessments should be based on ability to pay, and the United States formerly contributed about one-third of the UN's regular budget. Neither the US nor the other members of the UN had ever wanted to have any one member nation pay so large a share, and in 1972 the General Assembly agreed to cut our assessed contribution to 25%.

Each American pays just about 30¢ per year for the regular UN budget, or $63.5 *million* out of a national budget of over $300 *billion*. Combining all our assessed and voluntary contributions to the UN system, each American pays under $2.00. Fourteen other countries pay a greater per capita amount, primarily the countries of western Europe and four oil-producing states, (Saudi Arabia, Kuwait, Qatar and the United Arab Emirates). *Sixty-eight* countries contribute a greater share of their GNP. Therefore, although the US share of UN costs may seem large in absolute terms, it is by no means disproportionate to what others put in.

11. With our economic and military power, we don't need the UN. Bilateral diplomacy is more effective.

Even for a major power like the United States, bilateral diplomacy is effective only in certain matters. Many of the world's most urgent problems—food shortages, the environment, dwindling supplies of natural resources, nuclear proliferation—must be dealt with on a world-wide basis. National action alone is not enough. The UN and its agencies continue to provide the only established global mechanism for dealing with these major international issues.

The UN has also proved to be a unique arena for the effective diplomacy. It is the only place where communication with all nations is possible, instantaneously in a crisis, on a continuing basis and informally on issues of more long-range concern. It is for this reason that 14 heads of government and over 100 foreign ministers attended the 30th General Assembly in person. They came not only to state their countries' positions in public but also to meet in private with their counterparts from all over the world, to discuss matters of mutual concern, identify like-minded allies and negotiate with potential adversaries. The corridors of the UN are to the world what the Capitol cloakrooms are to the United States, indispensable meeting places in which to reconcile differences and arrive at mutually acceptable compromises.

SUGGESTIONS FOR ACTION

A few ideas for individual citizens and the groups to which they belong. Use any or all of them in the way most appropriate to your own situation.

1. Invite all political candidates to indicate their stands on these issues in writing or at a special "Candidates Night" on the UN.

2. Form a panel to challenge opponents of the UN to a public debate on these issues, either at an open meeting or on television.

3. Use this information to reply to misleading articles or unfavorable editorials in local newspapers, and on radio and TV news reports.

4. Approach the editor of your local newspaper or anchor man of the nightly TV news show, and ask him to run a series of background features on each of these items.

5. Contact the public broadcasting station in your area and ask for an airing of these questions.

6. Monitor radio talk shows and call in your replies to attacks on the UN.

EPA IN ACTION

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. ABDNOR. Mr. Speaker, the problems which arise when you try to impose the same set of rules on a community of 400 as on a city of 400,000 or 4 million, are enormous. The largest city in my district has around 45,000 people, and I have many communities 400 and under and thus have the opportunity to know over and over again what it is like for them to try and live with the complexities handed out by such agencies as the Environmental Protection Agency.

I would like to share with my colleagues two letters which illustrate just one of the problems encountered. In the first EPA serves notice on Buffalo, S. Dak., that the town is in "violation of self-monitoring permit requirements." Town Board President Walter Stephens provided a response that merits consideration by all of us.

In an editorial, the Rapid City Journal added some pertinent comments regarding the interchange.

The material follows:

THE EPA IN ACTION

BUFFALO, S. DAK.

Re: NPDES Discharge Permit Violation(s) for SD-0023400.

DEAR SIR: Your municipality has recently been issued a NPDES Discharge Permit as required by the Federal Water Pollution Control Act Amendments of 1972 (FWPCAA) (33 U.S.C. 1251 et sec) to discharge wastewater from the municipality's sewage treatment facilities. The "Self-Monitoring" Section of this permit requires your municipality to analyze the discharge of the treatment facility. The results of these tests are to be reported to this Office and to the respective State at the addresses and at the frequency specified in the permit.

Our records indicate that this requirement has not been fulfilled by your municipality. Consequently, your municipality is in violation of the self-monitoring permit requirements.

It should be recognized that a violation of the permit conditions can result in an assessment of a civil penalty. Therefore, it is imperative that to prevent the initiation of legal proceedings, your municipality submit to this Office, within fifteen (15) days from the date of your receipt of this letter, your plans for meeting these self-monitoring requirements, and also the names and telephone numbers of the person(s) responsible for the self-monitoring.

If you should have any question regarding the contents of this letter, or need further information, please contact Mrs. Barbara Hanson of this Office, telephone (303) 837-3874.

Sincerely yours,

EVAN D. DILDINE,
Chief, Permits Administration and Compliance Branch, Enforcement Division.

STEPHENS ANSWERS

NOVEMBER 4, 1975.

ENVIRONMENTAL PROTECTION AGENCY REGION VIII,
Denver, Colo.

DEAR SIRS: On October 22, 1975, we received your certified letter concerning our NPDES Discharge Permit issued to us by requirement of the Federal Water Pollution Control Act Amendments of 1972 (FWPCAA). In this letter your office mentioned that the "Self-Monitoring" Section of this permit requires our municapility to analyze the discharge of our treatment facility and to report the results of these tests to your office and to the respective state office on the specified dates. Your office also stated that our municipality, not fulfilling this requirement, is in violation of the self-monitoring permit requirements. According to your letter, this violation of the permit conditions can result in an assessment of a civil penalty. Your office stated that we must submit our plans for meeting these self-monitoring requirements and the names and telephone numbers of the person(s) responsible for the self-monitoring so that we can prevent the initiation of legal proceedings.

To begin with, we will establish the fact that we are a very responsible municipality. Although we do not agree with most of the EPA's requirements, we still fulfill all the requirements that are anywhere within the realm of common sense.

Under normal circumstances, we would immediately correct any "violation" of such nature. However, this alleged "violation" leaves us in somewhat of a predicament.

You may recall that this is not the first time that we have corresponded with your office about our waste treatment facility. In fact, in one of our previous letters, we made a subtle hint that there seemed to be a lack of communication between the EPA and the municipalities. We suggested that perhaps the EPA office was so overloaded with bureaucracy that one department sends letters of strict warnings and threats while another office receives letters—and the two never seem to get together. What was at one time a suspicion of ours seems to have become a reality.

We citizens of Buffalo are human, and we can tolerate a lack of communication to a certain degree when letters are being written. However, we were certain that, after Mr. Green and another staff member from your office traveled to Buffalo to visit with South Dakota representative James Abdnor, several State Legislators, a representative of the South Dakota Environmental Protection Agency, and the members of our Town Board; the absurdity of our "problem" would be recognized and reason would dominate over nonsense. What a rude awakening we have received! Again the EPA's bureaucratic bungling has gotten in the way of logic.

As a result of this, we are forced to waste more time attempting to explain and justify our position as a small municipality that has become the victim of asininity.

Consequently, we are writing one more letter an an attempt to explain and correct our "violation." We strongly suggest that you read this letter very carefully. Perhaps it would be wise to read it several times. If it is still too difficult for you to understand, perhaps you could have an elementary student visit your office to explain it to you. Then, if there are any questions, feel free to contact me at 605-375-2318. Just so there is no misunderstanding. I am sending copies of your certified letter and this letter to our South Dakota Senators and Representatives, our local State Legislators, the South Dakota Department of Environmental Protection, and several newspapers within our state. Therefore, if you still do not understand the situation in Buffalo, we are sure that you can find someone who will explain it to you.

To refresh some memories, we discussed our waste treatment facility several times because the EPA thought that we should spend thousands of dollars to rectify a problem that does not exist. Our waste treatment facility only discharges for a few days in the spring when the ice is melting and there is little or no evaporation. Other than that, we have NO discharge. If you have a special department in your office that checks dates on the calendar, upon request this department will probably explain to you that the months of October and November are not spring months. They are autumn months, and the ice is rarely melting during these months.

When you state that we are in violation of the law because we have not analyzed the discharge of our waste facility, we become perplexed. Is this a test of the waste treatment facility discharge or an air pollution test? Correct us if we are wrong, but we are under the impression that it is somewhat difficult to analyze something that does not exist. Naturally you can imagine how foolish we would feel if we sent in an empty bottle each month to be analyzed. We are sure that someone would soon begin to question our mentalities.

Perhaps this is the areas in which we are in error. Since we have a discharge permit, possibly our "violation" is that we have no discharge to analyze so that we can fill out your "self-monitoring" forms. We now realize how frustrating our "violation" must be for your office, for your computer may not be able to process a discharge permit if there is an absense of discharge.

If this is our "violation" you can be sure that we will work quickly so that we can rectify the problem. In fact, we already have two plans that we can put to immediate use as soon as we are ordered to do so.

Our first plan consists of a 72-hour time period each month. During this time period, all the citizens of Buffalo will flush their toilets at two-minute intervals for the duration of the time period. Hopefully, this will raise the level of the water in our treatment facility enough to cause a discharge. Then we would have something to analyze. The only flaw we see in this plan concerns families in which both the husband and the wife have careers. This plan would force them to hire a "flusher", which might develop into a financial burden. Looking on the bright side, we do see possibilities of decreasing our ranks of the unemployed. However, since employment does not exist in this area, we would be forced to entice unemployed people to our area. That becomes another problem, but this is not the place to discuss it.

If this first plan fails, we do have an alternate plan. Perhaps the EPA could arrange to have a grant awarded to our municipality. With this grant money we could drill a well near our treatment facility. We could then pump enough water into our facility so that it would discharge. That would give us discharge so that we would be in compliance.

Either of these two plans may work, but then another problem becomes evident. In 1977 we will have to be at "zero discharge." At this point, we will no longer receive a discharge permit and thus will no longer need our discharge. We are positive that we will be able to cease whichever plan we have in effect. The first plan will be the easiest to halt, but we are certain that there will be a few problems. If flushing is habit-forming, it may take some time for a few of our citizens to break the habit. Some may have to go "cold turkey." For those who are strongly addicted, we may have to find some funding for a "Flushers Anonymous." The second plan would also be somewhat costly, for we would have to pull the well. As you can see, we do have a "problem" here.

We sincerely hope that this explains the situation in Buffalo. Above all, we want you to understand this "violation" which you are so concerned about.

We are reasonable people in Buffalo. We care about the environment. In no way do we plan to do anything that will be harmful to the world around us. We have sent in our plan for reaching "zero discharge" during the few days in the spring when discharge takes place, and that plan has been approved. At the present time, we are in compliance to all regulations, for we are presently at "zero discharge."

Now for the big question: Is there anyone in your office who understands what we are trying to say? We have written letters, we have made telephone calls, Representative Abdnor has visited your office about our situation, and members of your office staff have been in our very town to discuss the situation. Somehow you must be able to put that all together.

We are tired of wasting our time trying to find an inkling of common sense in your office. We are tired of wasting our time arguing about forms that you feel are important when there is no reason for us to fill them out. We are tired of being told to analyze something that does not exist. We are tired of these form letters that do not apply to our situation. We are tired of threats and warnings of fines. Above all, we are tired of being tired about all of this.

If we have discharge, you will be the first to know. If we have anything to analyze, you will receive the results. If we think that we have a problem, we will ask for your help or advise immediately. If there is any chance that we are endangering the environment, we will do everything within our financial capabilities to correct the problem.

We hope that we are not asking too much when we say please clean the cobwebs out of your machines and minds. Please find someone in your office who is not part computer. Please find someone in your office who understands the problems of towns with populations under 500. Please find someone in your office who can do something besides mail a form letter. And please find someone who can understand the English language.

We hope that this letter will suffice. If not, we are sending our next letter to the one person in your office who does know what is going on—the janitor.

Thank you for your time and patience.

Sincerely,

WALTER J. STEPHENS,
President, Town Board.

BUFFALO, S. DAK.

BUFFALO OFFICIAL STICKS PIN IN EPA

'Tis the season to be jolly.

And one of the jolliest things we have run across is a letter to the Environmental Protection Office in Denver from the president of the Buffalo Town Board.

The letter was in anwser to an EPA warning that the town could incur civil penalties because it was not submitting an analysis of wastewater discharge from its sewer treatment facilities. Such a report is required of communities which have a discharge permit in accordance with the Federal Water Pollution Control Amendments of 1972.

In his letter, the Buffalo official pointed out that the EPA office, or at least some people in that office, was aware that the only discharge from the Buffalo waste treatment facility occurs only a few days during spring runoff when the ice is melting and there is little or no evaporation. Other than that there is no discharge. Since there is no runoff in October and November, and most other months, Buffalo officials feel it would be a little foolish to send in an empty bottle to be analyzed.

However, if EPA felt that because Buffalo had a discharge permit there had to be discharge to be analyzed, the town had two tongue-in-cheek plans to put into effect if so ordered.

One plan involved a 72-hour period each month when all citizens of Buffalo would flush their toilets at two minute intervals to raise the water level enough to cause a discharge. A flaw in that plan is there are families in which both husband and wife work and they would be required to hire a "flusher" creating a financial burden. On the bright side, hiring "flushers" would decrease unemployment. But since there is no unemployment in Buffalo unemployed people would have to be enticed into the area, which would create other problems.

The alternate plan was to have EPA arrange a grant with which the town could drill a well from which to pump water into the treatment facility to create a discharge.

But either plan might create a problem in 1977 when Buffalo has to achieve "zero discharge." If flushing became a habit, it might be difficult for some citizens to quit "cold turkey" and funds might have to be found for a "Flushers Anonymous." The other plan would involve costs for pulling the well.

The letter closed a plea for better communication within EPA and for someone to understand the problems of a town with less than 500 people.

As all jolly stories should, this one has a happy ending. EPA has called and written apologizing for the lack of communication and advising a simple "no discharge" report in those months when there is no discharge.

Walter Stephens, the president of the Buffalo Town Board, apparently doesn't take himself too seriously but knows how to prick the bubble of bureaucracy.

AN AMERICAN PROMISE

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. MINETA. Mr. Speaker, on February 19, 1942, President Franklin D. Roosevelt signed Executive Order 9066, authorizing the Secretary of War to designate "military areas" within the United States and to exclude "any or all" persons from those areas. This Executive order initiated the process whereby more than 110,000 American residents of Japanese ancestry were evacuated and interned in relocation camps. On March 21 of that same year, the Congress issued its support of that order by passing Public Law 503.

As one who was interned in a camp with members of my family, I can give personal testimony to the mental anguish and economic consequences endured by loyal American citizens forced to leave their homes, friends, and employment. Moreover, these Americans suffered the humiliation of being classified as potential traitors of our country, despite the fact that there is no record of a single act of treason or sabotage committed by a Japanese American throughout World War II and despite the valor of over 25,000 Japanese Americans who served with distinction in the armed services during the war.

On September 25, 1971, Congress passed Public Law 92–158, thus eliminating a law which could have allowed for the creation of concentration camps similar to those of this evacuation experience. On September 4, 1975, the House of Representatives passed H.R. 3884, repealing Public Law 503, and abrogating its role in the evacuation order. Finally, 34 years after the issuance of Executive Order 9066, President Gerald R. Ford signed a proclamation on February 19, 1976, officially rescinding this ignominious mark on American history.

Within the words of this proclamation, the President recognizes and expresses on behalf of the American people, the terrible injustice brought to bear against loyal Japanese-American citizens. It is fitting that during this Bicentennial Year, when we are reaffirming the standards of freedom and justice established by our Founding Fathers, that this proclamation be issued. Today, Mr. Speaker, I wish to submit for the RECORD the complete text of the President's proclamation, trusting that in recognizing our past mistakes, we will never again allow such an injustice to occur:

AN AMERICAN PROMISE: A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES

In this Bicentennial Year, we are commemorating the anniversary dates of many of the great events in American history. An honest reckoning, however, must include a recognition of our national mistakes as well as our national achievements. Learning from our mistakes is not pleasant, but as a great philosopher once admonished, we must do so if we want to avoid repeating them.

February 19th is the anniversary of a sad day in American history. It was on that date in 1942, in the midst of the response to the hostilities that began on December 7, 1941, that Executive Order No. 9066 was issued, subsequently enforced by the criminal penalties of a statute enacted March 21, 1942, resulting the uprooting of loyal, Americans. Over one hundred thousand persons of Japanese ancestry were removed from their homes, detained in special camps, and eventually relocated.

The tremendous effort by the War Relocation Authority and concerned Americans for the welfare of these Japanese-Americans may add perspective to that story, but it does not erase the setback to fundamental American principles. Fortunately, the Japanese-American community in Hawaii was spared the indignities suffered by those on our mainland.

We now know what we should have known then—not only was that evacuation wrong, but Japanese-Americans were and are loyal Americans. On the battlefield and at home, Japanese-Americans—names like Hamada, Mitsumori, Marimoto, Noguchi, Yamasaki, Kido, Munemori and Miyamura—have been and continue to be written in our history for the sacrifices and the contributions they have made to the well-being and security of this, our common Nation.

The Executive order that was issued on February 19, 1942, was for the sole purpose of prosecuting the war with the Axis Powers, and ceased to be effective with the end of those hostilities. Because there was no formal statement of its termination, however, there is concern among many Japanese-Americans that there may yet be some life in that obsolete document. I think it appropriate, in this our Bicentennial Year, to remove all doubt on that matter, and to make clear our commitment in the future.

Now, therefore, I, Gerald R. Ford, President of the United States of America, do hereby proclaim that all the authority conferred by Executive Order No. 9066 terminated upon the issuance of Proclamation No. 2714, which formally proclaimed the cessation of the hostilities of World War II on December 31, 1946.

I call upon the American people to affirm with me this American Promise—that we have learned from the tragedy of that long-ago experience forever to treasure liberty and justice for each individual American, and resolve that this kind of action shall never again be repeated.

In witness whereof, I have hereunto set my hand this nineteenth day of February, in the year of our Lord nineteen hundred seventy-six, and of the Independence of the United States of America the two hundredth.

GERALD R. FORD.

TWO RESOLUTIONS PASSED BY THE RHODE ISLAND GENERAL ASSEMBLY, ON FEBRUARY 25, 1976

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. ST GERMAIN. Mr. Speaker, I would like to bring to the attention of my colleagues two resolutions recently passed by the Rhode Island General Assembly which I am sure are of interest to all Members.

HOUSE RESOLUTION

House resolution memorializing Congress to urge the Department of Housing and Urban Development to provide for the funding of security guard programs at city and town housing projects within the State of Rhode Island, as long as no member of any such force is allowed to serve beyond his fiftieth birthday

Resolved, That the members of congress of the United Sates be and they are hereby respectfully requested to urge the Department of Housing and Urban Development to provide funds for security guard programs at city and town housing projects within the state of Rhode Island; and be it further

Resolved, That the Secretary of State be and he is hereby authorized and directed to transmit duly certified copies of this resolution to the Rhode Island delegation in congress.

SENATE RESOLUTION MEMORIALIZING CONGRESS TO EXTEND REVENUE SHARING

Whereas, The Congress of the United States saw fit that a revenue sharing program was originally enacted; and

Whereas, This program provided for the disbursement of federal funds to the respective local towns and cities; and

Whereas, The revenue sharing program also provided for a network of cooperation and involvement between citizens and various community neighborhoods and the respective town and city elected and appointed officials; and

Whereas, Federal Revenue sharing has allowed many towns and cities to initiate new programs for the welfare and benefit of the people; and

Whereas, This federal program in some instances has been of benefit in holding the property tax and alleviating some of the tax burden on our local citizens; and

Whereas, The loss of these funds and these programs would impair the continuation of certain programs and affect the local tax financing; now therefore be it

Resolved, That the Senate of the State of Rhode Island hereby respectfully memorializes the Congress of the United States to extend revenue sharing; and be it further

Resolved, That the secretary of state be and he hereby is authorized and directed to transmit duly certified copies of this resolution to the senators and representatives from Rhode Island in the congress and to the speaker of the United States House of Representatives and the president of the United States Senate.

ATOMS, OIL, AND RISKS

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. DOMINICK V. DANIELS. Mr. Speaker, the February 18 edition of the Washington Post contained a thoughtful editorial entitled "Atoms, Oil and Risks."

The United States has not reduced its dependence upon Arab oil producers in the months since the OPEC embargo. On the contrary, we are now even more dependent than we were before that embargo.

Yet, scientific evidence and commonsense combine to tell the American people that our petroleum and natural gas resources are not inexhaustible, and indeed, may be depleted before the end of the century if present consumption trends continue.

We must vigorously apply ourselves to the search for energy alternatives, and we are going to have to face some difficult decisions—technological and economic.

We should not be lulled into a sense of complacency about our energy dependence. Relations with the Middle East are cordial now—but this Arab good will is tenuous at best.

As the Post editorial points out, gas lines could reappear if a breach develops in our rapprochement with the OPEC countries.

Mr. Speaker, the philosopher Santayana said that "those who cannot learn from the past are doomed to repeat it."

It would be unfortuate, indeed, if this Nation persists in denying the lessons of history—lessons that have underscored our vulnerability to sudden supply contractions of key resources, including oil.

Mr. Speaker, the energy legislation developed by the Congress has been a good start in the right direction, but it is essential that we place continuing emphasis on improving our energy deployment capability, and it is also important that energy conservation be stressed as a vital national goal.

Tremendous potential exists for significant energy savings in the industrial sector. Important energy savings could also result from conservation practices applied to the residential and commercial sectors.

Mr. Speaker, we are literally surrounded by opportunities to improve our energy self-sufficiency and cut wasteful consumption. I hope that this session of the 94th Congress will continue to explore these possibilities with a view toward developing a cohesive and effective national energy policy.

Mr. Speaker, the editorial from the Washington Post follows at this point in my remarks:

ATOMS, OIL AND RISKS

This country's attitude toward nuclear power is growing steadily more cautious. Certainly the recent resignations of four nuclear engineers, in protest against allegedly inadequate safety enforcement, is going to push in that direction. Three of the engineers were working for General Electric's reactor division, and the fourth was a safety specialist for the federal Nuclear Regulatory Commission. It does not appear that the four have raised any questions that are startingly new or unanswerable. But, as a matter of prudence, the managers of the new Vermont Yankee reactor in Vernon, Vt., have decided to close it down for further tests, just as it was coming to its level of maximum efficiency The four resignations will also push in favor of the proposal on the California ballot in the June primary. If the proposal passes, it will severely discourage further nuclear reactors in the state.

Whether the United States should continue to shift toward greater reliance on nuclear power is a compelling issue. But behind it lies an even broader one: If this country doesn't want more reactors, where does it want to find its future power? Unfortunately the present national debate is not going forward in a way that reaches that question.

To the contrary, each piece of the debate seems to belong to a different set of specialists who carry it on as though theirs were the only aspect that really mattered. The people who are debating the risk of nuclear accidents tend to be, on both sides, quite different from the people who debate drilling offshore in the Atlantic Ocean, or manufacturing synthetic gas from coal. The people engaged in the combat over federal policy on strip mining coal on the western plains tend to be quite different from the combatants over federal policy on oil and gas price controls. Each of these subjects hinges on a highly specialized technology, and the technologists do not seem to talk much to each other. Perhaps that is part of the reason why this country still has no clear idea how much energy it will need 10 years from now, or where it will come from.

The national inclination on each of these separate issues is, apparently, simply to sit tight. In recent years there has been a sharp rise in nuclear power generation. In 1972 the reactors produced 3 per cent of the nation's electricity; by last year it was nearly 9 per cent. But most of that increase was in 1973 and 1974. The rise almost stopped in 1975, in response to public doubts and rising construction costs. Drilling in the Atlantic is now slowly getting under way—but it is far behind the administration's original schedules.

As for recovering oil from shale and sand, the whole idea looks increasingly uneconomical. A succession of oil companies has now backed away from the experimental ventures that they originally launched with enthusiasm. Solar and geothermal energy await long processes of engineering development that relegates them, as sources on a large scale, to the latter 1980s at best. The long struggle last year between Congress and President Ford over oil pricing ended with legislation that will try, for the present, to continue to hold prices down by federal regulation. In each case, the result has been to admit as little change as possible from past practice.

It all adds up, unfortunately, to perpetuating the pattern of the early 1970s. That means depending primarily on oil and, increasingly, oil imported from Africa and the Middle East. Readers have no doubt arrived at their own opinions as to whether this flow of imported oil, from these sources, is a safe supply. But if you think not, what would you prefer instead? It is an issue that a great many Americans find easier and easier to put out of their minds altogether. The lines at the filling stations just two years ago were a sharply unpleasant experience, but the memory is fading.

Over the past couple of years one of the most heartening signs was the consumers' movement toward smaller and more efficient cars. But now, just as the American manufacturers have begun putting very light, high-mileage cars on the market Congress has promised to roll back (temporarily) the price of gasoline. Sales of the big cars are rising, the manufacturers report, while inventories of the small ones are piling up and some of the production lines are being shut down. Auto sales are a sensitive and accurate poll of public opinion. A good many Americans have evidently concluded, with a shrug, that there is no further need to worry about saving energy. Progress toward conservation falters, while the country's vulnerability to further embargoes is rising.

CHILDREN AS VICTIMS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mrs. SCHROEDER. Mr. Speaker, the National Council of Organizations for Children and Youth has recently released a study entitled "America's Children 1976."

This study, based on Federal Census Bureau material, indicates that a larger percentage of children are poor today than was the case 5 years ago, even though the number of children has decreased.

Some of the findings indicate: First, ten million children, about one in six, were being raised by a single parent in 1974. This compares to about one in seven 4 years earlier; second, in 1975, about two out of five children had mothers in the labor force, a 12 percent increase over 1970; third, the number of mothers with young children who work rose from 12 million to 14 million between 1970 and 1975, an increase of 17 percent; and fourth, during 1974 about one in six children in America lived in families whose income was below the official poverty level, $5,038 for a family of four.

I would like to call the attention of my colleagues to a series of copyrighted articles by Dr. Ken Keniston, chairman of the Carnegie Council on Children, which appeared in the New York Times.

"The Emptying Family" by Dr. Ken Keniston, February 18, 1976.

"The Eleven Year Olds of Today Are the Computer Terminals of Tomorrow" by Dr. Ken Keniston, February 19, 1976.

"For Him, There Is No Exit From the Cellar" by Dr. Ken Keniston, February 20, 1976.

The articles follow:

The Emptying Family

(By Kenneth Keniston)

Do Americans really like children? This questions can be plausibly answered with both an emphatic yes—and a disturbing no.

Yes, we do like children and even love them if the test is the values we sincerely profess and the myths we cherish and celebrate and pass on from generation to generation. Yes, of course—these sentiments have given us a reputation as not only a child-loving but a child-centered nation.

But it now seems increasingly clear that our admirable sentiments, far too often and for much too long, have been thwarted by subtle, persistent and complex social and economic forces. And so the answer is also no—in spite of our tender sentiments we do not really like children in practice.

Our middle-class children are awash in skateboards and stereos, but they fall prey to alcohol, drugs, aimlessness, and boredom. At all economic levels, couples debate whether to have children at all.

The mortality rates for nonwhite infants born in America's twenty largest cities approach the rates in urban areas of underdeveloped countries. While surgeons perform an estimated 500,000 unnecessary tonsillectomies on children each year, we are among the few modern nations that do not guarantee minimal health care to all mothers and children.

Overeating has become the nation's most vexing nutritional problem, yet millions of American children remain hungry and malnourished. Of all age groups in America, children are the most likely to live in abject poverty. One-sixth of them live below the officially defined poverty line.

A third of mothers of preschool children are in the labor force, and half the mothers of school-age children. Yet we have not assured that these children receive adequate care when their parents must be away from home.

Our school system is supposed to equalize opportunity for all children, poor and rich. In fact, twelve years of public schooling actually increase the initial gap between rich and poor students.

What is going on? For one thing, there simply are fewer people than ever at home to raise children. For the first time in American history, more than half our school-age children now have mothers who work outside the home, mostly full time.

Work is abetted as a depopulating force by divorce, and by other changes that lead parents to rear children without spouses. With more marriages ending in divorce, and more divorces occurring in families with children, over one million children each year are now propelled by divorce into single-parent families. Largely for this reason, it is estimated that two out of every five children born in the 1970's will live in a single-parent family for at least part of their childhoods.

Not only parents but grandparents, aunts and uncles have disappeared. Kinship networks have been dispersed as parents relocate to follow jobs and promotions. Brothers and sisters are increasingly scarce, too. Sixteen years ago, the average child had almost three siblings; today, the statistically average child has less than one.

What has replaced the people in the family? For one, television, a kind of flickering electronic parent that occupies more waking hours of American children than any other single influence—including both parents and schools. A second replacement is the peer group. A third is made up of institutions: schools, preschools, and the various child-care arrangements that must be made by working parents. And, finally, growing numbers of "latchkey" children are simply growing up with no care at all.

The most frequently overlooked forces behind this family depopulation are economic. Most women today work not only for fulfillment but because they need money to subsist: The highest rate of female participation in the labor force occur in families of average and below-average income. This entry of mothers and other women into the occupational system seems irreversible and in many cases desirable. Women are finally beginning to gain the right to seek productive, rewarding, and remunerative employment outside the home.

Even rising divorce rates are indirectly linked to economic forces. Our technological economy has virtually destroyed the family farms and corner stores that once made husbands, wives and children parents in productive economic units. Today, the main glue that holds families together is the husband's and wife's capacity to satisfy each other's emotional needs.

When no shared economic tasks remain, interpersonal dissatisfactions more often lead to divorce. Perhaps one result is fewer chronically unhappy marriages. But another result is millions of children raised by a single parent who also must work full time to support his or her children.

However we judge these trends overall, the economic forces at play on families are often at odds with our sentiments that children should receive consistent care and nurture in and from the family. The sentiments are unquestionably sincere, but they are blocked in a society that declines to support parents as parents and thus leaves many no choice but that of going hungry or going to work outside the home.

The pity is that we define work only as paid participation in the labor force, ritually celebrating but leaving financially unrewarded the strenuous and indispensable work women and men also do at home rearing children.

The 11-Year-Olds of Today Are the Computer Terminals of Tomorrow

(By Kenneth Keniston)

While our children increasingly go without what they might obtain from a complete and vital family, what have we been doing to them at school?

I believe that we are witnessing a growing emphasis upon the child as a brain; upon the cultivation of narrowly defined cognitive skills and abilities; and above all upon the creation through our preschools and schools of a breed of children whose value and progress are judged almost exclusively by their capacity to do well on tests of I.Q. reading level or school achievement.

Children, like adults, are whole people, full of fantasies, imagination, artistic capacities, physical grace, social relationships, cooperation, initiative, industry, love and joy. But the overt and above all the covert structure of our system of preschooling and schooling largely ignores these other human potentials to concentrate upon the cultivation of a narrow form of intellect.

Most of the fundamental objectives of Head Start, for example, seemed to be overlooked by the critics when the program was being evaluated. As conceived, the program was intended to give power to parents, to broaden children's experience in noncognitive ways, and to provide services such as health and dental care.

Yet most critics of Head Start seemed to hold that the program should have been able in a few hours each day to overcome permanently the overwhelming disadvantages of children born into poverty and discrimination. It is a tribute to our optimism, if to nothing else, that we ever thought so little could do so much for so many.

The theory underlying much of the evaluation of Head Start attributed the plight of those children to "cultural deprivation," meaning chiefly lack of intellectual stimulation. Yet this theory leaves us all blind to far more fundamental things. We need to get at what is causing the cultural deprivation—what is doing the depriving.

It seems clear that the reason many families cannot provide their children with intellectual stimulation for breakfast and cultural enlargement for dinner is not lack of culture but lack of money—because they are bogged down in the morass of old-fashioned poverty. Poverty is a manifestation not of our cultural system but of our economic system.

I have emphasized Head Start to underscore our national obsession with cognitive development as measured by test scores. We tend to rank and rate children, to reward and stigmatize them according to their ability to do well in the narrow tasks that schools (or we psychologists) can measure quantitatively.

This same ability to do well on tests is a primary determinant of the child's progress and position in the world of school and, to a large degree, in the later world of adults.

Why is this? Once again, I would not blame teachers or parents, but would point to the pressures of an advanced industrial economy. In our highly developed technological society we have adopted, usually without knowing it, the implicit ideology called "technism," which places central value on what can be measured with numbers, assigns numbers to what cannot be measured, and redefines everything else as self-expression or entertainment. "Objective" measures of I.Q. and performance (which are, in fact, not at all objective) are in expression of this broader propensity.

Thus, we measure the effectiveness of education by whether or not it produces income increments, not by whether it improves the quality of life of those who are educated. And we measure the success of schools not by the kinds of human beings they promote but by whatever increases in reading scores they chalk up. We have allowed quantitative standards, so central to our adult economic system and our way of thinking about it, to become the principal yardstick for our definition of our children's worth.

A related characteristic of our technological economy is its need for some mechanism to sort individuals into various occupational slots. The intellectualization of children by testing and tracking in schools assists in classifying and sorting them for the labor force. By the time a poor, black, handicapped or uncared for child reaches fourth or fifth grade, a consistent position in the bottom track of the grade has become an almost inescapable adult destiny. Hence, although we talk about the other human qualities we cherish in children, when push comes to shove—when it is a matter of promotions, credentials and praise—the child who has learned to master test-taking gets the rewards.

And this fact lives next door to our professed devotion to other human qualities we say we value more—physical vitality, caring, imagination, resourcefulness, cooperation and moral commitment.

For Him, There Is No Exit From the Cellar

(By Kenneth Keniston)

Current trends that are depopulating families and narrowing judgments of children to measures of their intellects directly touch *all* American children. But a particular group is afflicted by all these pressures and one more beside—exclusion. These are children born in the cellar of our society and systematically brought up to remain there.

Our sentiments in their behalf are always touching. Our treatment of them is heartbreaking. Our excluded include one-quarter of all American children, and the tragic truth is that today *one-quarter of all American children are being brought up to fail.*

Why? The reasons include race, poverty, handicap and being born of parents too overwhelmed by life to be able to care responsively and lovingly for their children.

The one out of every five children in America who is nonwhite must somehow cope with institutional and psychological racism that the rest of us are seldom aware of because we do not experience it. The one out of every three children who lives below the minimum adequate budget established by the Labor Department must face the multiple scars of poverty. One out of every twelve children is born with a major or minor handicap, and all of these children face the stigmas and social burdens that accompany any disability.

Approximately one-quarter of all American children do not receive anything approaching adequate health care, nor did their mothers before they were born—whence our disgraceful infant mortality rates. Millions of chidren live in substandard housing. Millions attend deplorable schools. And how many parents are themselves so overwhelmed by the stresses of their lives that they are unable to provide responsive care to their children? We don't know, but there are millions, rich and poor.

What makes these facts even more disturbing is the frequency with which they occur together. Poverty is irrevocably linked to inadequate medical care. Children who most desperately need good schools most often wind up in bad ones. To speak of the poor and the hungry is almost redundant—and a hungry child can rarely do well in school.

But the most powerful results of exclusion are social and psychological. The children of the poor live in a world more dangerous by far than that of the prosperous. The poor child's is a world of broken window glass, lead paint and stairs without railings. Or it may be a rural world, where families cannot maintain the minimal levels of public health considered necessary a century ago.

Urban or rural, it is a world of aching teeth without dentists to fill them, of untreated ear infections that result in permanent deafness. It is a world wherein a child easily learns to be ashamed of the way he or she lives. Such a world teaches many children to suppress any natural impulse to explore, to reach out. And it teaches many others that the best defense against a hostile world is constant offense—belligerent aggressiveness, sullen (and justified) anger, deep mistrust, and readiness for violence. Harsh as it to say it, such children are systematically trained for failure.

Our social and political history sings with our commitment to equality and fair play. Nothing in our constellation of basic value even hints that our society should impose special burdens upon special children. How, then, can we understand the perpetuation of exclusion?

One answer, put forward for almost two centuries in America and repeated again today, is that those at the bottom deserve to be there. They are said to lack virtue, merit, industriousness or talent. Or they are thought immoral—lazy, dependent, unreliable, spendthrift or licentious. Or they are said to inherit from their unfortunate parents a genetic propensity toward "low I.Q." or "concrete thinking."

But far more persuasive, I believe, is the suggestion that the excluded are among us not because of their individual inadequacy or immorality but rather because of the way our society works, the way it has worked for more than a century.

Let me point to one cold and significant fact: The distribution of wealth and income in this nation has not changed materially in 150 years. While many people have moved ahead of their parents economically, groups ahead of them have moved up also, leaving little net change. The distribution has not been changed by our promises of equal opportunity, or by our efforts at schooling, or by all of the general increases in our national prosperity, or by all of our efforts to reform, change, uplift or "help" those at the bottom of our society.

Exclusion persists not because of the evil motives of robber barons or the wicked intentions of capitalists. It persists because we all live in a system driven by the relentless quest for innovation, growth and profit. That system has worked well given its goals. It has made us the most prosperous and technologically advanced nation in world history.

But the prosperity of our comfortable groups at least partly depends on having a pool of cheap labor—individuals and families driven by economic need to accept menial, dead-end, low-paying work. There are menial jobs to be done in any society, of course—but the question is whether they are to be filled by paying decent wages, or by impelling desperate souls to do them out of chronic need.

America's economic success has been reaped at a price that does not appear on corporate ledger sheets or the gross national product. For children this neglected price includes the pressures that are emptying families and cudgeling children to be narrow thinking machines. And it includes the misery and despair and neglect and hunger and want of that vast fraction of us whom I have called the excluded.

Some prices we should not be willing to pay. In the long run, the price of exclusion is enormous—not only in dollars laid out for remedial services, for prisons, and for mental hospitals, but in the anguish and pain exacted by social tension and discontent.

And this nation pays a continuing price far more serious, and beyond quantifying. This is the moral and human price we pay simply by tolerating a system that wastes a significant portion of the potential of the next generation, lets the advantage of some rest upon the systematic deprivation of others and subtly subverts in all of us our best instincts for loving our children.

FIFTY-EIGHTH ANNIVERSARY OF THE DEMOCRATIC STATE OF LITHUANIA

HON. RICHARD F. VANDER VEEN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. VANDER VEEN. Mr. Speaker, on February 16, Lithuanians around the world celebrated the 58th anniversary of the democratic state of Lithuania. In 1918, after centuries of Russian and German control, the Lithuanian patriots finally attained their long sought goal of independence. In 1920, this small Baltic state completed the struggle to rid itself of the Russian Army and gained the Soviet recognition its patriots had fought so hard to earn.

The Lithuanian people, under the guidance of their newly formed government, made great strides towards their national goals. They showed the world their ability for self-government by implementing a number of widespread social, economic, and political reforms. This was a relatively prosperous period, and a time of great happiness for the Lithuanian people.

Unfortunately, this new found freedom was short-lived. With the outbreak of World War II, Lithuania was unable to return to the freedom of pre-War days. In 1944, the Soviet Union forcibly annexed Lithuania, and to this day Lithuania continues to be a part of the U.S.S.R.

The Lithuanians, we are told by the Soviets, are happy and content, but being free people ourselves, we realize that a country once free cannot be content under the bonds of another nation. Free people know that there are certain rights, such as national self-determination and religious and political choice, which are essential to basic freedoms. Under the Soviet regime the Lithuanians no longer are able to enjoy these basic human rights.

So let me now briefly take a moment to suggest ways in which I feel the United States may be able to help alleviate some of the problems the Baltic people now face. The Soviet Union recently has shown great interest in increasing their trade with us. They have shown a desire for our technology, financing, and commodities. It seems to me that the United States has not been receiving all that it should in this trade with the Russians. I think our Nation should use this trade as a stronger bargaining chip with the Soviet Union. We could well use this leverage to press for greater human rights in the Baltic countries, and we should exert whatever pressure we can to assure Soviet compliance with the Helsinki Accord.

It was with these thoughts in mind that, on February 16, many of my colleagues, as well as all freedom loving Americans, joined with Lithuanians around the world to celebrate the reestablishment of that independent state 58 years ago. The continued support of a free country like ours is necessary in order to sustain the courage and spirit of the Baltic people who yearn to once again taste the sweetness of freedom. Let us pledge our continued support of the Lithuanian people and of their ongoing struggle for independence.

WHEAT AND THE WEATHER: A GLOBAL WEATHER UPDATE

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. RICHMOND. Mr. Speaker, an editorial in the Washington Post this morning outlined a series of major food policy issues that could be elevated to the crisis stage by a continued drought in the Nation's wheat-producing States. Although each of the issues demands attention, I would like to raise a point with potentially far greater economic, political, social, and moral implications.

The drought was not altogether unexpected. Weather experts have been predicting such a cyclical return for several years. However, even more disturbing is the probability that this latest dry spell is actually part of a wider, predicted change.

Dr. Reid A. Bryson, Director of the Institute for Environmental Studies at the University of Wisconsin, clearly pointed out in his testimony before the Senate Subcommittee on Foreign Agricultural Policy that we were undergoing significant worldwide changes in traditional weather patterns.

This testimony was included in the October 30, 1974, committee print entitled: "The World Food Conference. Selected Materials for the Use of the U.S. Congressional Delegation to the World Food Conference."

It was also given prominent attention by the Central Intelligence Agency's briefing memo "OPR–401" entitled "Potential Implications of Trends in World Population, Food Production and Climate" dated August, 1974.

We must begin to fully appreciate the critical importance of the climate/food/population matrix. If the global food system begins to bind, no sector will be immune from its effects and the moral dilemma which would then face the United States would be truly frightening.

I urge my colleagues to review this testimony and the CIA memo. I have asked Dr. Bryson to update his analysis to include the years 1974 and 1975 and insert those paragraphs in the RECORD at this time along with the Post's editorial.

Brief supplemental statement to that made on October 18, 1973, in the hearings before the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices and Subcommittee on Foreign Agricultural Policy of the Committee on Agriculture and Forestry, U.S. Senate.

REID A. BRYSON,
Director, Institute for Environmental Studies, University of Wisconsin-Madison.

1974 was a year of improved climate in the Sahel and some other regions, but worse in others—notably midwestern USA. A wet spring turned to a desiccating summer drought in the corn belt. The Australian desert was turned into a lake by phenomenal floods and abnormal weather plagued farmers in many nations. Total grain production in the world was less than in 1973.

In 1975 there were still major problems with climate for crops. The most widely publicized was the drought in the Soviet Union which dropped their total grain production perhaps a third below their expectations. That drought continued into the fall and early winter to affect the winter grains, and drought appeared in the U.S. winter wheat belt. So many other regions had adverse weather that 1975 was also a year with less grain production than 1973. There is no indication yet of a return to the more benign weather of the 1960's.

WHEAT AND THE WEATHER

The drought in the western wheat belt has been growing steadily more serious since early last fall. The damage has not reached the dimensions of an emergency. But it is the kind of unforeseen misfortune that, for a prudent government, would switch on a yellow light—a warning not to take huge crops for granted. It is a reminder that the Ford administration's custom of leaving everything to a day-to-day, off-the-cuff decisions is not good enough. The administration is in the habit of trusting to luck, but this year may not be a very lucky one.

The drought covers a wide band from western Texas up into Nebraska. Last September the winter wheat there was sowed in soil too dry for normal germination. There was rain later in the fall but, when winter came and the wind began to blow, the wheat had not developed enough of a root structure to hold the soil in place. It's been a dry winter, and now some of the farmers have begun to plow under their stunted crops to control the erosion of their fields.

This drought affects only part of the wheat belt, and even there the crop will not be entirely lost. But while it might mean only a 10 per cent drop in the final harvest, that 10 per cent would constitute a significant tightening of the world's food supply. So far, grain crops appear to be normal in the other major producing areas. But it is very early to begin gambling on big harvests elsewhere to balance a poor one here. Last year it was July before the disastrous shortfall in the Russian grain crops became apparent. As we have all repeatedly seen over the past several years, crop forecasts can swing around with astonishing speed.

Should the drought get worse and the damage spread, the administration would be forced back into a familiar dilemma. If it leaves the door open to foreign buyers in a time of short supply at home, food prices will rise and sharply aggravate the inflation. If it tries to hold down domestic food prices by cutting exports, it earns the mistrust of other countries counting on us to help feed their people—and, more directly, it upsets our balance of trade. The administration has found itself faced with these choices repeatedly over the past several years and has not found an answer. But there is one: a network of national and international grain reserves, systematically built up in the good years and drawn down in the bad. It would be expensive and complicated, of course; the Ford administration keeps backing away from the idea.

In most administrations, the White House develops a lively sense of self-preservation that tries to foresee the policy dilemmas. It is generally considered a serious failure to allow the President to slide into a position where all the choices are bad. But the Ford White House has never acquired this basic tactical skill. The drought has not yet reached a point at which it will run down the country's grain supplies dangerously, or force up food prices, or threaten export controls. But if the drought goes on a great deal longer, it will threaten all of those unpleasant consequences.

ESTONIAN INDEPENDENCE DAY

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. ANNUNZIO. Mr. Speaker, 58 years ago, on February 24, 1918, the people of Estonia declared their independence after centuries of Russian subjugation and oppression.

It is most important that we in the Congress recognize the hopes and desires of this brave and courageous people who are still suffering under the harsh and brutal yoke of communist domination. The Estonians long for the privileges of political and national freedom, as well as fundamental human rights, but the issue is not simply one of political sovereignty. It has become a question of the right of a people to ethnic and cultural identity. For over 50 years, with the exception of the barbaric Nazi occupation, the Soviet Union has made a concerted effort to destroy the Estonian nation by the systematic diffusion of its population.

According to Soviet census figures for 1970, Estonians constituted only 68 percent of the population as opposed to 88 percent in 1939. The Estonian struggle has truly become one for national and cultural survival.

The determined spirit of the Estonian people is still unbroken and it was for this reason that I introduced House Concurrent Resolution 388, a sense of Congress resolution asking the President and the Secretary of State to urge that the United Nations request the Soviet Union to withdraw all Russian and other nonnative troops, agents, colonists, and controls from the Republics of Lithuania, Latvia, and Estonia, and to permit the return of all Baltic exiles from Siberia and from prisons and labor camps in the Soviet Union.

Mr. Speaker, the text of House Concurrent Resolution 388 follows:

H. CON. RES. 338

Whereas the United States, since its inception, has been committed to the principle of self-determination;

Whereas this essential moral principle is also affirmed in the Charter of the United Nations;

Whereas the Union of Soviet Socialist Republics is, according to its constitution, a voluntary federation of autonomous republics;

Whereas the three Baltic Republics (the Republic of Lithuania, the Republic of Latvia, and the Republic of Estonia) did not become member republics of the Union of Soviet Socialist Republics voluntarily, but rather were occupied militarily by Russian Armed Forces in the early days of World War II and subsequently incorporated by force into the Union of Soviet Socialist Republics and have since been governed by governments approved by, and subservient to, the government of the Union of Soviet Socialist Republics;

Whereas the ethnic makeup of the Baltic peoples (the Lithuanians, Latvians, and Estonians) is distinctly foreign in language, culture, common traditions, and religion from that of the Russian people;

Whereas, by deportation and dispersion of the native populations of the Baltic States to Siberia and by a massive colonization effort in which Russian colonists replace the displaced native peoples, the Soviet Union threatens complete elimination of the Baltic peoples as a culturally, geographically, and politically distinct and ethnically homogeneous population;

Whereas, despite such treatments, the spirit of the citizens of the Baltic States is not broken and the desire of the citizens of the Baltic States for national independence remains unabated;

Whereas the United States has consistently refused to recognize the unlawful Soviet occupation of the Baltic States and has continued to maintain diplomatic relations with representatives of the independent Republics of Lithuania, Latvia, and Estonia; and

Whereas the United Nations and the United States delegation to the United Nations have consistently upheld the right of self-determination of the people of those countries in Asia and Africa that are, or have been, under foreign imperialist rule: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the President and the Secretary of State should take all necessary steps to bring the Baltic States question before the

United Nations and to urge that the United Nations request the Soviet Union—

(A) to withdraw all Russian and other non-native troops, agents, colonists, and controls from the Republic of Lithuania, Latvia, and Estonia, and

(B) to permit the return of all Baltic exiles from Siberia and from prisons and labor camps in the Soviet Union;

(2) until the Baltic States become independent, the Secretary of State should, through such channels as the United States Information Agency and other information agencies of the United States Government, do his utmost to bring the matter of the Baltic States to the attention of all nations by means of special radio programs and publications;

(3) the right of self-determination should be returned to the people of Lithuania, Latvia, and Estonia through free elections conducted under the auspices of the United Nations after Soviet withdrawal from the Baltic States; and

(4) the right of self-determination should be made a prime political objective of the United Nations and should be accorded through free elections under the auspices of the United Nations to all people now involuntarily subjugated to Soviet communism.

Mr. Speaker, I cannot emphasize too strongly that every petition, every newspaper article, and every public statement by groups, organizations, and individuals on behalf of those being persecuted in the Soviet Union makes a difference in our ceaseless ideological struggle with the Soviet Union. Many, many courageous people in the Baltic states continue to suffer imprisonment, beatings, medical torture, and other harassment in defense of their religious beliefs and in attempt to regain the most fundamental human rights.

The United States has benefited enormously from the courage and vitality of Estonian Americans. These gifted citizens are a living reminder to the world of what an atmosphere of freedom can do for the spiritual, economic, and intellectual lifeblood of a nation. I am honored to have a part in the 58th anniversary commemoration of the Declaration of Independence of the Republic of Estonia, and I extend my warmest greetings to those Americans of Estonian descent in Chicago and all over the country who are commemorating this occasion.

PUERTO RICO: TRYING TO MAKE IT WITHOUT MIRACLES

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. BADILLO. Mr. Speaker, recently I put into the RECORD the findings of a study on the Puerto Rican population in New York that indicated that although the educational status of the Puerto Ricans was improving, their income continues to decline. Last week, Time magazine published a report by Laurence I. Barrett that indicates that the problems of Puerto Ricans extend beyond those on the mainland, and that the island's population is suffering increasingly as well. Where we, in the United States, have been experiencing a recession during the past years, they have had a full-fledged depression. Added to their economic woes is a trend toward reverse migration from the mainland, a spiraling birth rate, and probably most devastating, the oil shortage, as Puerto Rico is totally dependent on foreign sources for both its petrochemical industry and consumer use. I recommend this article to all of my colleagues. It is time that we educated ourselves to the true conditions in Puerto Rico, if, in the months ahead we are to begin reassessing our policies and programs for the island in a more realistic fashion.

The article follows:

TRYING TO MAKE IT WITHOUT MIRACLES

Puerto Rico came to the U.S. as a prize of the Spanish-American War, and no colonial concubine ever passed to a new master with so meager a trousseau; the island was virtually devoid of natural resources and could barely feed itself. Only after World War II did Puerto Rico move from wretched poverty to the highest living standard in Latin America. It also achieved considerable autonomy under a unique political status called commonwealth by mainlanders and Estado Libre Asociado (Free Associated State) by islanders.

Now the boom is over, and Puerto Rico's future is clouded. Soaring population and the first real depression in the island's modern history have compounded the social stresses of breakneck industrialization. Pro-independence leftists are attempting to exploit the turmoil both on the island and abroad. Time Correspondent Laurence I. Barrett visited Puerto Rico to learn how its people and politicians are coping. His report:

In the barrio called Mosquitos on the south coast, there is little movement or noise on the dirt streets under a baking midday sun. The sugar season has just begun, so the men lucky enough to have jobs are swinging machetes in the canefields or working in the Aguirre sugar mill. Toddlers amble about shoeless and bottomless, a black hog wanders out of an alley to confront a tethered goat, and idle teen-age boys chat quietly in small groups. Most of the tiny houses are made of scrap metal and salvage lumber. People have two dreams: to own a concrete house and to win big in the lottery.

Manny Santel is doubtless the luckiest man in Mosquitos. A skilled worker and union leader at the Aguirre mill, he won a $17,000 lottery. So he had a new house built and paid for Señora Santel's sterilization after only five children. But he is an exception, a relatively sophisticated returnee from New York (those who come back are called Neoricans, a term touched with envy and resentment). "My brother," he says, "has 21 kids. Nobody around here pays much attention to the birth control program. The women don't like the pills. They are simple people, and they are afraid."

The teen-agers cannot find work. High school? "It is a long ride to the next town, where there is a high school," Santel explains, "and a lot of them just don't go." Some of them get into trouble. Even in this sleepy hamlet, far from sinful San Juan, police recently staged a drug raid, arresting eight suspects and confiscating some narcotics. "But it is not bad here," Santel says. "It is a better time than before because of the food stamps. People can eat a lot of meat now and they own their little houses."

THE ECONOMY: TOO MANY HEADS

And oldtimers remember how things were in the '30s, when cane cutters worked from dawn to dusk for a dollar a day. That was before Luis Muñoz Marin began organizing the peasants, teaching them the magic of the ballot. Later, as the island's first elected Governor (1949–64), Muñoz launched Operation Bootstrap to industrialize what had been a weak agrarian economy. U.S. industry was lured by low wages, freedom from federal taxes and long-term forgiveness of local taxes. While the commonwealth's development agency, Fomento, catered to capitalists, successive administrations adopted a host of New Deal-style programs that made Puerto Rico the closest thing to a government-managed society in the U.S. system.

But Bootstrap had built-in dangers. While processing products for export, Puerto Rico became highly dependent on imports of all kinds (the trade deficit was $1.8 billion in fiscal 1975). Heavy external borrowing was necessary to keep development momentum going. Then, as wages rose and exemptions from local taxes expired, some labor-intensive plants fled to poorer Caribbean countries and to Asia. Hourly wages in manufacturing have recently been averaging $2.59 in Puerto Rico, compared with 70c in the Dominican Republic and $4.89 in the continental U.S. Partly because both legislated and negotiated fringe benefits are steep—a typical government employee gets three months of vacation, holidays and sick leave—productivity sagged and the cost of doing business soared.

Migration to the States provided one safety valve for many years. From 1950 to 1970, the exodus amounted to 615,000 people. That trend began reversing itself in 1971. In the following four years, migration to Puerto Rico from the mainland added 143,000 heads to a society that was running out of hats. In addition, illegal aliens have been filtering in from poorer Latin lands. Density is 920 people per sq. mi., among the world's highest. A runaway birth rate (more than 50% higher than in the continental U.S.) helped push the island's population past 3.1 million last fall. The annual population increase is almost 2.6%. Only the federal food stamp program has prevented dire want; 70% of the island's families now receive precious cupones. Federal spending of all kinds has been increasing rapidly in Puerto Rico, from $922 million in fiscal 1973 to $1.47 billion in 1975 and an anticipated $2 billion in 1976—this is an economy with a G.N.P. of little more than $7 billion.

The little island's load of problems reached crisis proportions with the onset of the Arab oil embargo and the mainland recession in 1974. Wholly reliant on foreign oil for both its large petrochemical processing industry and consumer uses, Puerto Rico was hit even harder than the American Continent.

Puerto Ricans feel that the depression is now bottoming out. Plant closings have diminished to the normal attrition rate, and new enterprises are beginning to pick up. Still, the official unemployment rate is 19.9%, almost three points higher than a year ago. Much worse, actual unemployment, counting in all those who are in part-time or seasonal jobs or too discouraged to seek work, is estimated at more than 35%. If the official figure is to go down to 12% by 1980, says Governor Rafael Hernández Colón, Puerto Rico will need 42,000 new jobs a year.

HERNANDEZ: AUSTERITY AND OPTIONS

To attract new employers, Hernández has lately started stressing productivity. In his annual message to the legislature last month, he demanded that wage raises be limited to the amount of productivity increases and hinted that legislated fringe benefits would be reduced. "The progress of some," he declared, "cannot be at the cost of others' misery." Sounding like California's Jerry Brown, Hernández declared that sacrifice rather than new miracles is on tomorrow's agenda. He said that his own government "overspends, is highly inefficient, unresponsive to the calls and needs of the people and is all but impossible to control and direct." He promised a thorough overhaul of both the bureaucracy and the island's weak education system.

Hernández has been pushing land reform. The government has been buying underutilized acreage and selling it in small parcels on easy terms to landless peasant families. To promote the program, Hernández occasionally pays visits to the farm towns, during which they festoon themselves as if for a saint's day. The lean, handsome Governor draws lots to match each young family with its new farm. "It is economic necessity and has great social value as well," Hernández says. "We must give the people options."

The Governor wants the people to stay with the commonwealth option as the best means of maintaining their identity while pursuing development. The present arrangement, overwhelmingly approved by the voters in every election since it was adopted in 1952, will probably be changed somewhat this year. A joint commission headed by Muñoz and former Kentucky Senator Marlow Cook and strongly supported by the Hernández government, has proposed a new compact, which is now being discussed in Congress. The island would be explicitly recognized as a sovereign entity voluntarily choosing union with the U.S. Puerto Ricans would remain U.S. citizens but, unless they live on the mainland, still could not vote for federal offices. Most important, Puerto Rico would gain full autonomy in specific areas, perhaps including the setting of minimum wages, environmental controls and tariffs, and regulating immigration. It would be able to import some goods without paying duties.

But those Puerto Ricans who want U.S. statehood argue that the compact is a cosmetic means of perpetuating the island's present dependency and strengthening the Hernández regime. Meanwhile, those who want full independence say that it is merely another disguise for colonialism. The new compact will go to a referendum—if Congress acts by midsummer, then the vote will be later this year—and it is expected to pass overwhelmingly.

A referendum would further enliven what is already a contentious election campaign. In November, Puerto Ricans will elect a Governor, a legislature and municipal officials. For the first time the Communists, organized as the Puerto Rican Socialist Party, will run candidates.

The islanders are passionate in their politics, and voting turnouts of more than 80% are common. Across one roadway in the mountains stretches a billowing summons to a rally for Hernández's Popular Democrats; the symbol is a red silhouette of a peasant wearing the traditional farmer's straw hat, *la pava*. Outside a hovel flaps the ensign of the other major party, the New Progressives, a blue palm tree on a white background.

ROMERO: STATEHOOD SOME DAY

Hernández's chief challenger for Governor is San Juan Mayor Carlos Romero Barceló, who heads the Nuevoprogresistas. The rivals have a few things in common. Both are young: Hernández is 39 and Romero 43. Both come from prominent political families. Like most of the island's elite, both went to university in the States, Romero at Yale and Hernández at Johns Hopkins. Each got a law degree at the University of Puerto Rico. Otherwise their personalities contrast.

Hernández is relatively reserved. Even when trudging in jeans and boots through the stench of a hill farmer's chicken coop, he conveys a sense of delicacy. Romero, good-looking in a husky, florid way, is a flesh presser in the Lyndon Johnson manner. He marches on a citizen, fixing him with large, intensive eyes and a paralyzing grip. He cannot pass a garbage truck without leaning into the cab for a quick hello.

Romero's Nuevoprogresistas grew out of the old Statehood Republican Party, which was once linked to the G.O.P. as formally as the Populares still are to the mainland Democrats, but Romero and former Governor Luis Ferré broke that official connection. While the Nuevoprogresistas are still strongest among the middle and upper classes, the mainland tags of liberal and conservation do not hang neatly in the island's politics.

Calling for Puerto Rico's eventual entry into the Union as the 51st state, Romero argues that the biggest beneficiaries would be the poor. The new federal tax burden would fall mostly on the affluent, he says, while the lower calsses would benefit from increases in federal social programs. To those who object to statehood because of the income tax, he answers: "We should be willing to take up the burden little by little until everyone in Puerto Rico who is able to pay tax bears the same burden as any U.S. citizen."

This philosophy appeals at least to a sizable minority of Puerto Ricans who fear the radicalism of the independentistas and crave the security resulting from the American connection. When a mill worker explains his New Progressive palma flag by saying it was más Americano, he does not mean that he wants his children to stop speaking Spanish, the official language. Rather he wants to be able to count on his cupones now and his Social Security check later. Says a pharmacist in Gurabo: "I was in the Army and I know America. We feel threatened by Cuba. Our best chance for security and stability is statehood."

THE RADICALS: BOMBS AND BOMBAST

Independence has been an emotional cause for more than a century. In Puerto Rico's universities, among older intellectuals and even within a faction of the ruling party, various shades of independentista sentiment persist. Alfonso Valdés Jr., a prosperous businessman and former Chamber of Commerce president, sighs and says: "Independence is very close to my heart. It is a romantic idea and deep down, emotionally, most Puerto Ricans feel sympathy for it. But it is impractical for as long as we can see. It just would not work." Adds Alex Maldonado, editor of the pro-Commonwealth El Mundo: "It is very difficult to be in the arts today without identifying yourself with independence."

Yet the voters have consistently gone the other way. The independentistas boycotted the last plebiscite on status, in 1967, the voters then divided 60.4% for commonwealth, 39% for statehood and .6% for independence. In the 1972 general election, the Puerto Rican Independence Party (P.I.P.) got just 4.37%.

The two main independence factions are redoubling their efforts because of the island's troubles; they are getting considerable noisy support from Cuba and are trying to stir up sympathy in the United Nations. P.I.P. is led by Senator Rubén Berrios, 36, an urbane, academic, educated at Yale and Oxford, who calls himself a Social Democrat. While P.I.P. occasionally practices civil disobedience—last year it unsuccessfully tried to organize a tax boycott—the party avoids violence. Berrios wants to create an independent republic and socialize major industry. But he claims he would keep close economic ties with the U.S. and a parliamentary system of government.

The Puerto Rican Socialist Party's chief is Juan Mari Bras, 48, an avowed Communist who announced his gubernatorial candidacy last week. He take's Castro's Cuba as his model and gets both rhetorical and material help from Havana. Mari Bras formed alliances with several unions, though most of organized labor remains anti-Communist. Some radicals are now in the leadership of unions representing firemen and telephone and power-plant workers. A number of strikes in 1974 and early 1975 grew violent, and industrial sabotage became a nagging problem. So did random explosions at the Puerto Rican offices of mainland-based enterprises.

Mari Bras called this kind of violence "valid" because it was aimed directly at "colonialist interests." But he drew the line at the terrosist attacks carried out by the *Fuerzas Armadas de Liberación Nacional* (F.A.L.N), the mysterious splinter group whose bomb killed four people in Manhattan a year ago.

Despite the island's difficulties, the *independistas* are still meeting a lot of sales resistance. Down in Mosquitos, Manny Santel and his neighbors grimace and shake their heads at the mention of Mari Bras. In Ponce, a long cement workers' strike was settled when an anti-Communist union won an election.

In this atmosphere, it is hard to take seriously Mari Bras' prediction that the issue of Puerto Rico's relations with the U.S. will eventually be settled by armed force. Editor Ramón Arbona of the Communist newspaper *Claridad* says that his party does not have to train fighters because "the U.S. Army has done that for us." Most veterans, however, have more peaceful ideas. Nelson Ortiz, 23, just finished a three-year volunteer hitch in the Army—infantry, heavy weapons—and was heading home to see his family in the western town of Añasco. His plans? "I'm going back to college, going to study sociology." Independence? "That would be a big crisis. Look at those other little countries that became independent, all the troubles they have."

Ordinary people convey a sense of confidence that things will work out eventually, that they still have opportunities to grow. Ortiz has uncles in Chicago, parents in Añasco, friends in San Juan. "Maybe some day it will be Chicago for me," he says. "Why not?" Rafael Cruz, 39, has a steady job as a bus driver in New Jersey but he is looking for a small business in San Juan. After 25 years in the States, he and his wife have simply decided that "it is time to go back." The continental connection gives people like Nelson Ortiz and Rafael Cruz—as well as Rafael Hernández and Carlos Romero—time and choices.

COMMON SITE PICKETING

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. FISHER. Mr. Speaker, several weeks ago it was agreed in the House of Representatives to refer the common situs picketing bill back to the Education and Labor Committee without attempting to sustain or override the President's veto. I am content with this decision. As the debate in Congress and in the country generally has proceeded during the last several months, it has become increasingly apparent that there is lacking the necessary widespread consensus without which a measure of this kind will not be able to find acceptance and support.

When the matter was before the House late last fall, I voted for both the common situs picketing bill and the companion bill that would have reorganized the way bargaining is conducted in the construction industry. For me the vote on the picketing bill was a close decision; the other bill presented no difficulty. I voted affirmatively for both these features for a number of reasons. First, knowing that the construction industry has been plagued for many years because of lack of resolution of the issue of common site picketing, and knowing further that improvements were needed in the bargaining process in that industry, I welcomed commitments that were made by President Ford and then Secretary of Labor Dunlop supporting both these elements if they were combined in the same bill. They were combined in the Senate, accepted by the House-Senate conference, and I voted affirmatively.

Subsequently the President changed his mind and vetoed the bill. One fallout of this was the resignation of Secretary Dunlop, who had been saying that the combined bill presented a rare opportunity to establish labor peace and negotiating stability in the construction industry. This was given special importance in view of the numerous construction labor contracts coming up for consideration during 1976. I was especially influenced in my thinking by Secretary Dunlop with whom I discussed the matter briefly and whom I had known for many years since we were both teaching economics at Harvard.

During the congressional consideration of the measure several features were added, making the measure more acceptable. Most important to me and to the 10th District of northern Virginia was the exemption of residential construction of three stories or less. This would mean that much of the construction in a suburban area, such as the one I serve, would not have been covered in the bill.

Another amendment was offered in the House, which I supported, to stipulate that common-site picketing could not be used to force an employer to hire or fire an employee because he did not belong to a union. Virginia is a right-to-work State. That is, no person can be forced to join a union as a condition of employment. The amendment reemphasized this right.

While these amendments made the picketing bill more palatable, my primary reasoning for supporting it was that it represented a compromise all parties could accept. With the withdrawal of support by the President, it seemed to me that the necessary consensus for the measure had been removed. Had the House made an effort to override the President's veto, I would have voted to sustain it. Therefore I am content to let the matter rest where it is and simply express my hope that the country will get through the next year without undue difficulty in the construction industry.

POLITICAL PRESSURE HEATS GENERAL REVENUE-SHARING DEBATE

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. JONES of Oklahoma. Mr. Speaker, this week the Nation's Governors and mayors are in Washington meeting with the President and Members of Congress. Their hands are out, palms up.

The object of their affection is the general revenue-sharing program, which expires this year. The political pressure being applied to extend this program in excess of $30 billion for another 5 years is intense.

I was interested to note that President Ford took the lead to urge that this spending program be expanded. This is a little incongruous considering the fact that, just last week, he lectured Congress to cut down spending and sustain his veto of the public works bill which would have created 655,000 jobs, mostly in the private sector of our economy. I believe he labeled that spending "political pork barrel." Somehow spending over $7 billion a year in general revenue sharing is not "political pork barrel." I fail to see the distinction.

I hope that as we consider the revenue-sharing program, my colleagues in the House will do so in the light of the Budget Control Act, and not in the heat of the political pressure being exerted.

In the first place, we ought to change the name of the program. Perhaps we should call it the debt sharing bill because the Federal Government has no revenue to share.

Second, we should soberly ask what the American taxpayer is getting for the billions of dollars spent under this program. And finally, we should ask, "Can we afford it in its present form at this time?"

Let me state at the outset that I support the concept of revenue sharing. But that concept depends on the Federal Government having the revenue to share, and we certainly do not have that revenue when the budget deficit exceeds $75 billion as it does this year.

I urge the Government Operations Committee to give serious consideration to some of the options I have proposed. For example, my bill to amend the program to state that no general revenue-sharing funds shall be spent unless they are included as part of a balanced or surplus budget would be a step in the right direction. That would force Congress to choose priorities in spending and certainly would help in the budget process.

If the political pressure is so heavy to extend the program, at least we should consider cutting it back by one-third by abolishing revenue sharing for the States. At the present time, 43 of the 50 States have surplus budgets. It makes little sense to me to have the Federal Government borrow billions and pay the high interest rates on that borrowing in order to let States with surplus budgets have bigger surpluses. This proposal alone would save over $2 billion a year, and it would allow funds to continue next year for city and county governments who are in greater need of funds.

Finally, I suggest that instead of extending this program for 5 years, let us extend it for 1 year, maximum. This would give Congress another opportunity next year to thoroughly review the program in a nonelection year, when political pressure will, perhaps, be less intense. At that time, a more careful analysis of this huge spending program could be made.

General revenue sharing sounds good, but I assure you that the taxpayers who foot the bill are not fooled. In my recent districtwide questionnaire, I asked the following question on this issue:

> Authorizing legislation for the $7 billion per year General Revenue Sharing program expires at the end of this year. Congress must decide whether to extend this program, and if so, under what conditions. Do you favor: A) Prohibiting General Revenue Sharing payments unless our federal budget is balanced; B) Eliminating General Revenue Sharing payments to the States, which would reduce costs of the program by $2 billion, but continuing payments to the cities and counties; C) Abolishing General Revenue Sharing entirely; or D) Continuing General Revenue Sharing as it is?

The large majority of citizens, 62.4 percent, favored prohibiting payments unless the budget is balanced. Opinion was fairly close on the next two options, with 21.3 percent favoring payments only to cities and counties and 36.3 percent favoring abolishing payments entirely. As a clear indication of concern about the general revenue sharing program, however, only 11.2 percent of those responding to our questionnaire favored continuing general revenue sharing as it is.

It is never easy to say no. It is not easy to cut back. But I think the clear voice of the American people demands this kind of courage. Fiscal responsibility is the job of public officials at every level—Federal, State, and local. I hope that we will show the Nation that we are committed to fiscal restraint when the House takes up the general revenue sharing program this spring.

TOFFLER CALLS FOR ANTICIPATORY DEMOCRACY

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. ROSE. Mr. Speaker, on February 19, Alvin Toffler, author of "Future Shock," and Ted Gordon, formerly chief engineer of the Saturn program and presently president of the private consulting firm, the Futures Group, spoke to a group of House Members and Senators about the need for increased long-range planning in Government and fuller participation by citizens in the planning process.

I believe that Mr. Toffler's comments which follow will be interesting to all of us as we grope for ways to cope with the speed and diversity of our present time:

Toward an Anticipatory Democracy

I wish to thank Senator Culver and Congressman Rose for giving me this unusual opportunity to meet with you here tonight. I want to talk to you tonight about a revolution that I believe is sweeping this country and which will have a profound impact on all our political institutions, and especially the Congress.

I want to talk to you about a strategy for confronting this revolution, and later perhaps some suggestions that can be applied by Congress and its Members. I hasten to say I speak as an outsider. I have no magic formula, and I know it is always easier to say than to do. Nevertheless, I think this country desperately needs some new political ideas and one of them is what I call "Anticipatory Democracy."

Most of us, I suspect, would agree that government is in trouble in America today. We don't need expensive polls to tell us what any cabdriver or housewife can tell us. There is, in every part of this nation, and in every social group, a profound, paralyzing, volatile, and I think, dangerous disillusionment with the Federal Government—indeed with all government—and especially with the Congress of the United States. I do not need to point out to you that this attitude is threatening the very significance of the election process in this, our 200th year. The statistics on stay-at-homes tell their own story. I do not need to note that various political candidates are actually running against government, and, once more, especially against the Congress.

We all know this. The press calls it a "Crisis of Confidence." Yet I believe most of what is written about it is superficial and misunderstands both its sources and its potential cure. It is bigger and more important than most people suspect.

In the past few years I have had the privilege of travelling incessantly around the world. I have talked with prime ministers, political leaders, and parliamentarians, as well as voters, in Britain and Holland, Australia, New Zealand, Japan, Denmark, Italy, Israel, Singapore, Canada and elsewhere.

And the first and most important fact about the new political crisis we find ourselves in is that it is not an American phenomenon. The same prevailing cynicism and disillusionment is present in all these countries. In all of them, government is increasingly seen as inept, inefficient, crisis-ridden, over-centralized, and above all, out of touch with the individual.

In all of them, there is the same sense of political paralysis, the same feeling of intellectual exhaustion, as the old ideas no longer work. The old ideologies of left and right, the old economic theories and political slogans, from New Dealism or Socialism on one side, to laissez faire-ism on the other—whether they derive from Adam Smith or Karl Marx or Keynes—all of them are proving themselves obsolete. In all these countries the people seem waiting, desperately eager, for some fresh ideas.

And in all these countries, representational institutions—parliaments, diets, reichstags, knessets and congresses—are being hammered at by new forces—

Increasingly diverse demands;
Break up of consensus;
Difficulty of forming coalitions;
Terms of office so short they interfere;
An accelerated pace of life; and
Too many decisions in too short a time.

All this resulting in decisions made without long range purpose or direction; confused priorities lacking in popular support; and wild swings between paralysis, on the one hand, and crash programs on the other.

POLITICAL FUTURE SHOCK

What we see are the parliaments and congresses of the world sputtering, creaking and blowing their fuses, like over-loaded computers. In short, suffering from political future shock.

Why is this happening now? And what are the common causes that are creating similar symptoms in so many different countries at the same time? I believe we cannot understand this parliamentary or democratic crisis until we understand that we are in the midst of a deep revolution, and I believe that only a dramatically new political approach can help the U.S. survive this revolution.

What do I mean by a "revolution"? Not traditional—bombs, guns, etc.; not a revolution of the left or the right—a super-revolution that goes beyond these differences. A dramatically new approach to the future is now required because the U.S.—along with other technological nations—has reached the end of its industrial stage and is about to move into its super-industrial stage of development. Economic strategies, business plans, social policies, designed for an industrial society are no longer effective. We are entering into the super-industrial revolution—a transition that may bring changes even deeper than those brought by the Industrial Revolution itself. And these high-powered changes will be compressed into decades instead of centuries.

Industrialism was a world-system based on:

Cheap raw materials;
Non-renewable fossil fuel energy;
Electro-mechanical technologies;
Nuclear family system;
Mass education;
Mass communication;
High urban concentrations;
A predominance of employment in the manufacturing sector; and
Materialist values and growth ethic.

What we are witnessing today is the break up of the "System"—not Capitalist nor Communist, but the industrial system.

Today massive changes are occurring at very high speeds in resource prices, the world energy system, and the very nature of technology. (We are beginning a shift from the old electro-mechanical technologies typical of industrialism, such as rail, auto, steel or rubber production, to new industries such as aerospace, petrochemicals, electronics and, eventually, to ocean mining, new forms or agriculture, and industries based on molecular biology.) In the family system we are witnessing a radical shift away from the nuclear family as the standard model in society. Even now one out of seven American children is raised in a single-parent household; one out of four in urban areas. More and more "aggregate families" are cropping up composed of intertwined members from several divorces.

Homosexuality is gradually assuming a more open role in the society. Our cities are becoming worn out and losing their economic bases. The proportions of the work force engaged in service and other non-manufacturing functions has risen. We are moving away from simple-minded, uni-dimensional growth policies toward a broader acceptance of the idea of "balanced growth", ecologically and socially responsible growth.

THE SUPER-INDUSTRIAL AGE

All these taken together are parts of a world-wide transformation and similar changes are being felt in most of the industrial nations, not merely the U.S. What is happening is the emergence of a new stage of technological civilization, a Super-industrial stage. This transition could take from 20 to 50 years, at a guess, and it could, unless understood and planned for, result in extreme turbulence—wars, insurrections, secessionist movements, riots, revolutions, technological disasters, ecological catastrophes, military outbreaks, nuclear accidents and the like.

The industrial revolution, which occurred on a much smaller scale and at much slower and more easily absorbed rates of change, was accompanied by massive shifts in population, starvation, civil wars in many countries (including our own), the break up of the old family structures, and tremendous geo-political changes on the face of the earth. It was also accompanied by a period of "Grand Imperialism" that underwrote economic development in the West by exploiting the people and raw materials of the rest of the world, at the cost of many wars.

What we are seeing, therefore, is a massive, global break up of the industrial society, a revolution of global proportions. This revolution is different from all others in the past, and it has certain distinct characteristics that can help us understand what is happening to us. We do not have time here to go into all of them, but two are of key importance.

First, while industrialism was a society based on a uniform, homogenous mass society, super-industrialism will be based on a diverse, de-massified social base. This means we are undergoing, and will continue for some time, to undergo a strong push toward diversity or differentiation resulting in more different value systems, life styles, consumer tastes, economic problems, and—politically speaking—less consensus. This push toward diversity is reflected in re-ethnicization of America, in the growing demands for regional autonomy in Scotland, Wales, in Breton and Corsica and Alsace-Loraine, Quebec, and in many other parts of the world.

It will mean, more and more, that national policies for the economy or for social welfare, will have to be de-nationalized or custom tailored to different needs. This flies in the face of all the old industrial wisdom that told us it was efficient to standardize, centralize, and federalize, and it helps explain why so many people today are demanding decentralization, revenue sharing, and scaling down of high organizations, whether corporate or governmental.

The second feature of the super industrial revolution that makes it different from the past is the sheer speed, the accelerated pace at which it is occurring. While the agricultural revolution of 10,000 years ago took millenia to work out, and the industrial revolution took centuries, the super-industrial revolution will complete itself, in all likelihood, in a matter of decades. This means that change is squeezed in time, and that more decisions are required in shorter intervals. This accounts for the tremendous pressure placed on decision making bodies like the Congress, and when we combine the two pressures—first for more varied and complex decisions, and second for faster decisions, we can see why our traditional machineries are under so much stress.

CONGRESS MOVING FORWARD

Congress has begun to adapt to these changes. More than most parliamentary bodies, I think, it has begun to make some important and imaginative internal changes to prepare itself to cope better with the future. The creation of the Congressional Budget Office, with its mandate to look at the future implications of today's budgetary decisions, is a key step in the right direction.

The creation of the Office of Technology Assessment, and the passage in the House of the "Foresight" provision originally introduced by Senator Culver, which requires all standing committees except Appropriations and Budget to engage not only in oversight, but in foresight activities, are evidences of imaginative and healthy change.

But the problems, of course, go far beyond internal changes in the structure of the Congress itself. They involve the design of new social and political strategies for the country. And in this connection, I believe we had better listen closely to what the people are telling us.

If we want to prevent violence, and to make the passage to superindustrialism a rational one, we had better listen closely to the messages being sent us by the citizens of this country. I believe that if we cut through the static and the slogans, we will find two themes being voiced.

First, a sense of having lost the future, a sense that the American future is being stolen, dribbled and bumbled away by a government that does not plan for the long range, does not know how to plan, is afraid to talk about the need for long-range planning, and is therefore out-planned at every step by major corporations who are staking out pieces of the future for themselves, as well as by foreign nations who are doing the same on a global scale.

Failure to look at America's current economic and political crisis in terms of the next 25–50 years is costing us unmeasurable billions of dollars in lost economic and social opportunities, and is leading us toward technological and military policies that threaten the survival of the entire planet. Worse yet, we have no image, no vision of the future. I believe Americans are starving for a picture of what a super-industrial America, an America 2000, an America worth living in and for, might look like.

PEOPLE MISTRUST LEADERS

Second, a total mistrust of politicians, bureaucrats, and experts to do our planning for us. On one side are those who say that society has become so complicated no ordinary citizen, no worker or farmer or housewife can be trusted to make a sensible decision about the kinds of issues that daily confront the government. They say that we must permit these decisions to be made by experts, or by political leaders advised by experts. They believe that planning—if it should be done at all by government—should be the work of men and women equipped with Phds and capable of dealing with input-output coefficients and cross impact matrices. The future, in this view, is too important to be left to the people.

This view is violently countered today by a growing anti-intellectualism and anti-expertism. Various candidates can be heard inveighing against "pointy headed bureaucrats" and everywhere people feel they have been let down or betrayed by specialists, experts, academics, civil servants, and above all, the politicians who hire them. This attitude is expressed from the national right down to the local level. The day when citizens were prepared to "leave it to the experts" is now past.

Note that both these messages have nothing to do with political parties as such, or with conventional politics. Note that these messages are coming from people on both sides of the left-right spectrum, and that left-right labelling itself is losing its meaning.

The reason these issues cut across our conventional political programs and parties and slogans, is that they do not deal with this or that program, this or that budget. These complaints cut across all the lines because they are directed not at specific programs, but at the very process of governmental decision-making itself. They represent the politics of process and they thus strike at the very roots of our obsolete institutions.

Because these two themes are so fundamental, and because they address themselves so directly to the future of democracy itself, they point to a wholly novel strategy for tomorrow.

Once we see that the changes occurring in the U.S. today are part of a larger transition from the old industrial society to the new super-industrial society, we can develop criteria for making many of the long-range decisions facing us. Seeing the large picture helps us understand its parts.

Simultaneously, the politics of process can help us create a new relationship between government and the people, between elected representatives and the voters in every state and every district. It suggests a way to reconnect the people to the political system. It is this that I call the strategy of Anticipatory Democracy.

WE NEED TO ANTICIPATE

We need to devote far greater energies to anticipating, forecasting, analyzing and appraising alternative futures. But we also need to find ways of involving ordinary citizens in the process of setting long-range priorities.

If we are to cope with these massive, indeed earth-shaking shifts and changes in the years ahead, we will need a new fusion of expertise with democratic social control, a combination of specialists with their ability to see deep into a problem, and of ordinary citizens, with their skepticism and ability to see around the outer edges of problems.

What we will need is planning—but of a kind no nation has as yet used. Planning that is not the work of central office bureaucrats, with their master plans and their ignorance of the micro-details of everyday life. Planning that is not top down. Planning that does not stifle the originality, energy, intelligence and innovative drive of ordinary people, but rather incorporates those qualities.

Until now the only examples of government planning we have seen, have been, by and large, elitist, technocratic, arrogant—and dangerous. Apart from which, they have not even been successful examples.

Having seen how governments elsewhere have planned or are planning upon them, we recognize that there are serious dangers in the planning process. We need only to look around to see that in most cases the planning we have seen has tended to centralize power, to create vast new bureaucracies, to interfere with the self-regulating capacity of market economies, to create new elites of planners. What is more, we see that central planning often amplifies error, rather than eliminates it. We have learned that bringing the best brain-power together with computers and sophisticated models is no guarantee that the goals pursued will be either sensible or democratic. We have also seen, at its worst, the ways in which centralized, top-down economic planning of the type characteristic in industrial societies has gone hand in hand with totalitarian politics.

None of this, however, means that we can proceed as we have been doing. We are not trapped between planless democracy on the one hand or planned tyranny on the other. This either-or dichotomy is a false one. For, as futurists often emphasize, we have many unexamined alternatives available to us. One of these alternatives is to use our political will and creative abilities to invent a completely new kind of planning—planning attuned not to the centralist, bureaucratic needs of industrial society, but to a decentralist, participatory Super-Industrial society, planning that involves ordinary people in setting the goals of the system.

It is true we do not yet know how to do this. But it is also true that we have, right now, a number of highly significant experiments going on in the United States, pioneer projects that suggest practical models that could be applied in every congressional district, every state, and, with many modifications, of course, at the level of the nation itself.

We are on the edge of inventing alternatives to the old style, top-down authoritarian planning. In Iowa, at the prodding of Senator Culver, and under the leadership of Governor Ray—a Democratic Senator and a Republican Governor—some 35,000 to 50,000 citizens meeting in 1500–1800 local meetings began to ask serious questions about the long range future of their state. What should the urban urban rural mix be like in the year 2000? What proportion of the economy should be industry, as against agriculture? What about transportation, health, schools, ecology? What goals should the state pursue in the intervening years? What priorities are most important?

The result of this "para-political" program has been the growth of a new constituency for the future—a constituency that recognizes how difficult the long range problems are, how painful the tradeoffs will have to be, and which has examined a wide range of options. This constituency, I believe, advanced a House Member of one party to the Senate and simultaneously reelected a member of the other party to the governorship.

STATES EXPERIMENTING

There are now perhaps 20 different states experimenting with one or another form of this, and uncounted cities. What is happening is a true social experiment. In Washington state, a more elaborate program has been developed spanning several years, utilizing every form of media, and involving thousands of citizens. The projects are not a panacea. There are many problems. I promised no magic formula. But I do see the beginning of a new way to think about priorities, long-range goal-setting and citizen involvement.

I can summarize simply. We are embarked on a dangerous, difficult, revolutionary transition to a new form of society. I do not believe our democracy can survive unless it learns to anticipate and channel change. And I do not believe it can any longer do so without the active, energetic participation of millions of Americans. We need to anticipate. We need to assure that the very process of anticipation is carried out in a democratic fashion. In short, we must not only practice, we must become an anticipatory democracy.

PRESIDENT BORDABERRY'S MESSAGE FOR AMERICANS FROM URUGUAY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. McDONALD of Georgia. Mr. Speaker, one of the Latin American nations which has defeated a determined Communist terror campaign and shaken off this essentially foreign aggression is Uruguay.

The Washington Star, on February 22, 1976, published a statement by Uruguayan President Juan Bordaberry, a portion of which, I believe, merits special attention. President Bordaberry is the leader of a nation and society which realized its danger and acted in time. Naturally, he is traduced for this by the Communists and their innumerable Western allies in the media and elsewhere. The Washington Star deserves credit for publishing what President Bordaberry has to say, rather than presenting us with opinionated interpretations, in the usual manner of present-day "journalism."

PRESIDENT BORDABERRY'S MESSAGE

MONTEVIDEO.—Few can doubt today that the world is engaged in a "third world war." The communist empire is expanding without cease, more nations are falling under its aegis, and new fronts are being opened for its advance. Its expansion is not bloodless; on the contrary, millions of men have died in various forms of combat since the end of the Second World War. Almost every day the news brings us tragic pictures of destitute women and children and some even more tragic ones of children armed with machine guns.

Nevertheless, the world is formally at peace or, rather, it is not formally at war. It is not true that the risk of a nuclear catastrophe has balanced and neutralized the chances of the great powers. It has substantially increased the possibilities for communist imperialism, as it has saved the latter from having to face the reaction to its advances by a universal conflagration. What conqueror in history ever had such a guarantee?

The first thing it does is to hoist an attractive banner: against imperialism, colonialism or now neocolonialism, racism, or for the self-determination of peoples. Such noble objectives have the virtue of paralyzing any reaction, of weakening any possibility of confrontation, as no one would dare to speak out against them. Protected by such effective armor, it joins battle, now making use of all of the conventional means.

A MATURE DEMOCRACY REACTS

In mature democracies like Uruguay, such banners are not suitable. In these cases, then, it incities the class struggle, promotes social agitation, weakens the moral values of the society and, finally, unleashes the armed struggle. But always formally at peace.

When, as in our case, the reaction finally occurs, communism transforms itself into the leading defender of the democratic system and its freedoms. And, what is worse, it turns to its own use the guarantees which a democracy grants and the freedoms whose enjoyment a democracy permits. Our experience has allowed us to keep the essential and accessory freedoms. Among the former are the inherent rights of the human person: liberty, life, personal honor, the family, work and trade, property. The latter group, in contrast, includes the generally collective rights: assembly, association, press, which can be enjoyed as a consequence of one of the individual freedoms, the freedom of expression and of belief, but which should not, in the end, be the means for installing a regime in which such freedom shall no longer exist.

Although it seems impossible, in Uruguay the Tupamaro guerrillas used the press to issue public communiques. In some cases it was a matter of newspapers which belonged to international communism. In others, the threat of reprisals. In others, finally, the typical newspaperman's desire for news. The government of that time had to prohibit the publication of those communiques, and it must seem even more incredible that because of this Uruguay was accused of violating freedom of the press.

When the armed forces finally assumed their role of the military defense of the nation, facing a clearly external aggression, they encountered their first difficulty: they had to wage a war in a country which was formally at peace. Every action they took, which under other circumstances would have been natural for them, was judged as if they were chasing automobile thieves or bank robbers.

In Uruguay, Communist aggression has been defeated. Peace has been re-established; the economy is recovering; unemployment decreases despite the world crisis which so deeply affects us; the country takes on again its features of an advanced society; the citizens no longer fear kidnaping, bombings or murder.

Democracy, as a way of life, comes again into full force. But not, however, as a traditional form of government, since it was used by communism and would certainly be used by it again. We cannot lower our guard, because we know that the war continues on other fronts and that as soon as the situation of our own front were propitious it would be opened. So it is now, astonishingly enough, that we are attacked by the free world because, although we respect and defend the essence of democracy, we do not agree to sacrifice ourselves for the sake of its external forms, which the enemy of the West has notoriously utilized. But Western civilization is similarly on all fronts a prisoner of forms, a slave to its own myths, and does not succeed in defending itself. But we hope that our solitary struggle will at least be respected.

CONVENTION OF NATO NATIONS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. FINDLEY. Mr. Speaker, the House Committee on International Relations today approved on voice vote a resolution that Members, myself included, have sponsored to establish an 18-member U.S. delegation authorized to organize a convention of NATO nations.

The purpose of this convention would be to explore ways to establish "more effective unity based on Federal or other democratic principles."

The resolution is inspired by two main factors: First, the realization that several critical problems—like restraint on Soviet military expansion and intervention—are too big to be satisfactorily managed by any single nation, even one as large and resourceful as the United States, and second, the knowledge that no existing international institution—not even NATO—is adequate for the full range of challenges we face.

We realize as well how difficult it has become to generate the internal resolve necessary for fulfilling our many international responsibilities. Some believe we are beset by a mood of isolationism. I think the problem is, more accurately, our sense of isolation. It must seem unnatural to some that such heavy burdens have to remain indefinitely the responsibility of one country—the United States. Greater transatlantic coordination with respect to fundamental international goals and policies is indispensable to a shoring up of our own will and spirit in the years ahead.

Finally, the massive complexities of modern international life will yield only to a concerned assault by all of the industrialized democracies. On matters of environmental protection, resource development, nuclear proliferation, and international trade and monetary policy our fates are bound up tightly together. A failure to solve any one may imperil our very existence. Fragmentation will lead only to frustration; cooperation, on the other hand, can lead to control. Unfortunately, as Raymond Aron recently noted, "Interdependence is not of itself sufficient to create awareness of solidarity on the political level." So we must begin with a political initiative like the Atlantic Convention.

This measure will hopefully soon be before the entire House of Representatives. I urge my colleagues to support this initiative in light of the gradual erosion of our once vibrant European Security structure.

I enclose for the Members' consideration thoughtful communications that have been sent to me by three eminent Americans, each particularly well qualified to speak to the Atlantic Convention Resolution:

FEBRUARY 24, 1976.

Hon. PAUL FINDLEY,
Washington, D.C.

At a time when Soviet worldwide military capabilities are steadily growing and western perceptions of defense needs are anesthetized by so called "Detente", and when growing economic interdependence means that events overseas have major impact upon American prosperity, business, jobs and cost of living, much closer cooperation between our NATO Nations is increasingly necessary, inactment of HJR 606–610 should provide major impetus toward truly effective cooperation.

THEODORE C. ACHILLES,
Ambassador of the United States (Retired).

FEBRUARY 23, 1976.

PAUL FINDLEY,
House of Representatives,
Washington, D.C.

As a United States delegate to the Atlantic Convention of NATO Nations in Paris in January 1962, I strongly urge you to vote out of Committee HJR606, a Joint Resolution to call a new Atlantic Convention.

Your action would signify understanding that there are acute problems which can no longer be solved by the United States acting alone but only in close concert with other like minded North Atlantic allies. This will require consultation which is continuous and automatic and an upgrading of existing institutions or new institutions to provide adequate representation to each ally.

New institutions are unlikely to be created until the pain has become intense, as a result of 43 years of inflating at home and defeats in four "Wars of National Liberation" abroad. The period of acute stress may begin for the United States sooner rather than later.

Would it not be an act of prudence and statesmanship, therefore, to have in being during the period ahead a group of outstanding Atlantic citizens who could recommend new, creative solutions to their respective governments?

ADOLPH W. SCHMIDT,
U.S. Ambassador to Canada.

DECEMBER 22, 1975.

Hon. PAUL FINDLEY,
U.S. House of Representatives,
Rayburn Building,
Washington, D.C.

DEAR MR. FINDLEY: Many thanks for your letter of December 8th, enclosing a copy of your Atlantic Convention Resolution (H.J. Res. 606) together with the text of your remarks before a delegation of the European Parliament on October 25th. I greatly appreciate the opportunity to read and study these documents.

It is a distinct pleasure to express my firm endorsement and support for the Atlantic Convention Resolution. The action proposed—aimed at exploring the possibility of agreement on a declared goal of greater unity for the NATO nations—is a constructive and timely initiative. In nearly twenty-five years of association with NATO—culminating in my five and a half years of service as SACEUR—I was deeply impressed with the strength and sense of purpose that each member nation, our own included, draws from the unity of the alliance, and from its collective efforts in behalf of peace, security and freedom. The importance of this cohesive force and the benefits it affords was such that throughout my tenure of command I made *solidarity* one of the prime working objectives of the integrated military command for which I was responsible.

Where unity has prevailed, the alliance has succeeded—to the benefit of its members—as in the achievement of a quarter-century of peace in Europe. Where unity has been lacking, or disputes and divisions have occurred—as in the tragic events in Cyprus—the alliance and its members have suffered.

A renewed, more far-reaching commitment to unity and solidarity, based upon carefully-studied principles reflecting and illuminating the common interests of the member-nations, should impart a new measure of purpose and vigor to the Alliance. I wish you well in your efforts, and will follow with interest the progress of your proposal.

With personal regards, and cordial greetings for the Christmas season,

Sincerely,

ANDREW J. GOODPASTER,
General, U.S. Army (Ret.).

EDUCATIONAL ASSISTANCE TO VETERANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. GILMAN. Mr. Speaker, today I am introducing a bill that extends the following educational assistance to veterans: First, a veteran who has served 18 months are more on active duty shall receive 54 months of educational assistance and, if he chooses, to attend graduate school or initiate an education program in a professional school. Second, time limitations for completing a program of education are eliminated and any entitlement to educational assistance remains available to the veteran until the benefit has been used. Finally, educational assistance is granted to veterans of World War II, the Korean conflict, or the Vietnam era whose entitlement to educational assistance terminated before enactment of this measure without the veteran availing himself of the assistance.

Mr. Speaker, the thrust of this measure is to provide educational assistance to veterans—men and women who have bravely sacrificed so much for our country—without constricting it within the 10-year time limitation of Public Law 93-337. In my opinion, the issue turns on the nature of and opportunity for educational assistance, not on when the benefit is utilized.

We should not permit time limitations to govern the issue, to cloud our thinking, or to obscure our reasons for enacting veterans' educational benefits. Our primary purpose should be to provide veterans with an opportunity to obtain educational assistance to make up for their years of service. When the benefit is to be exercised should remain at the discretion of the veteran who knows best when he can avail himself of educational assistance. To circumscribe educational assistance by a time restraint, denies the veteran an important ancillary benefit, namely, the opportunity to pick and choose when it is most feasible for taking advantage of such assistance.

For many veterans, opportunity and circumstances preclude taking advantage of the educational assistance within the specified 10-year time limit: There is the family to raise and support, the career to start and develop, and occupational circumstances may preclude using the benefit within the prescribed time limit. There may also be situations when the veteran decides to change his profession, or enter a new career, or go on to college after the children have entered the adult world.

What better opportunity, Mr. Speaker, than at that moment for the veteran to exercise the benefit, when he can select the occasion when it is most advantageous for him to avail himself of the benefit. After all, it is the educational assistance that we are seeking to provide, not the time frame within which it must be exercised, that is so crucial to the veteran's personal and professional development.

Mr. Speaker, I urge my colleagues to support this legislation and I insert the full text of this measure at this point in the RECORD:

H.R. 1320

A bill to amend title 38, United States Code, in order to entitle veterans to 54 months of educational assistance for all educational programs under chapter 34 of such title, to eliminate the time limitation within which educational assistance must be used, and to restore on behalf of certain veterans educational assistance benefits previously terminated.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 34 of title 38, United States Code, is amended—

(1) by amending the second sentence of section 1661(a) to read as follows: "If an eligible veteran has served a period of 18 months or more on active duty after January 31, 1955, and has been released from such service under conditions that would satisfy his active duty obligation, he shall be entitled to educational assistance under this chapter for a period of 54 months (or the equivalent thereof in part-time educational assistance).";

(2) by amending section 1661(c) to read as follows:

"(c) Except as provided in subsection (b) and in subchapters V and VI of this chapter, no eligible veteran shall receive educational assistance under this chapter in excess of 54 months.";

(3) by amending section 1662 to read as follows:

"§ 1662. Entitlement available until used

"Any entitlement to educational assistance under this chapter shall remain available to the veteran until such time as it is used."; and

(4) by amending the table of sections thereof by striking out

"1661. Time limitations for completing a program of education."

and inserting in lieu thereof

"1661. Entitlement available until used."

SEC. 2. Section 1795 of title 38, United States Code, is amended by striking out "forty-eight months" and inserting "54 months".

SEC. 3. Notwithstanding any provisions of title 38, United States Code, or any other law, eligibility for educational assistance under chapter 34 of such title is hereby granted to any veteran of World War II, the Korean conflict, or the Vietnam era who

(1) was entitled to educational assistance under any law administered by the Veterans' Administration as a result of active service during such war, conflict, or era; and

(2) whose entitlement thereto terminated before the date of the enactment of this Act without the veteran concerned availing himself, or only in part using, any such assistance.

(b) The number of months of entitlement to educational assistance which is granted to any veteran under subsection (a) of this section, which number shall be determined by the Administrator of Veterans' Affairs, shall be as nearly as possible equivalent to the entitlement to education assistance to which such veteran was entitled at the time such previous entitlement terminated.

(c) The Administrator of Veterans' Affairs shall prescribe such regulations as are necessary and appropriate to carry out this section.

WHALE WAR RAGES IN CALIFORNIA HAMLET

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. DON H. CLAUSEN. Mr. Speaker, I would like to take this opportunity to bring to the attention of the House a recent article which appeared in the Washington Post regarding the concern of my constituents over the killing of whales off the coast of California.

Residents of Mendocino have banded together in a sincere and gallant effort to insure the protection of this valuable species. Byrd Baker, with whom I recently met to discuss this issue, is the force behind the battle. I was personally impressed with his knowledge of the California gray whale and his dedication to its preservation.

The expressed concern of Mr. Baker is very genuine and I ask my colleagues to read the article and use your great influence to bring the necessary pressures on the Russian and Japanese to help us "save our whales."

[From the Washington Post, Feb. 9, 1976]

WHALE WAR RAGES IN CALIFORNIA HAMLET

(By Diane Curtis)

MENDOCINO, CALIF., Feb. 8.—"Greetings Russian whalers," the voice purrs in Russian over the gentle strain of balalaika. "This is Oktobriana sending music to you from Mendocino, the former Imperial Russian colony in California.

"It is immoral to kill whales because the whales no longer have a chance. Leave your ship, stop the killing. We will feed and shelter you and take care of you. We will ask Congress to pass a law to make you American citizens."

"Oktobriana," also known as Mendocino Rose in this picturesque coastal community of 1,100 located 160 miles north of San Francisco, is just one weapon in what has been dubbed the Mendocino Whale War.

"Oktobriana," whose name translates as "Spirit of the October Revolution," broadcasts her message three times a week but the community's seriousness about ending the whale killing is evident daily.

"No More Saki Until Japan Stops Killing Whales," said a hand-lettered sign over an empty shelf in Jim's Spazek's liquor store.

"Stop the Whale Killing," reads a poster in what has become known as the Whale

Room in the rear of Jim Coupe's delicatessen, Coupe has stopped selling Japanese beer.

"Boycott and girlcott Japanese goods," exhorts one of many hand-painted posters, petitions and letters adorning halls and walls of the Mendocino Grammar School.

"Kill flies, not whales," is the message on a fly swatter manufactured by John Bear, head of a local ad agency who has refused two lucrative Datsun accounts.

The force behind the battle is a barrel-chested, 52-year-old wood sculptor, Byrd Baker. Baker began his fight against the whalers in June when, standing on shore, he spotted a Soviet whaling factory and processing ship off the craggy headlands of Mendocino.

"Alongside the factory ship were five killer ships with a gigantic cannon on the bow. From that they fire a 350-pound harpoon, which has a huge explosive head, and they aim it at those baby whales and it blows their heart and their lungs and their bodies apart," he said.

Baker said that he watched the killing of a baby whale and then the killing of its mother and father who were lured to the ship by the death of the infant.

Many Mendocino residents have long enjoyed watching the whales, who make their annual pilgrimage to warm water in the winter and turn north in late spring, passing near the community on both trips.

"It's magic. How can I explain magic?" asks Baker.

"I love the whales," said J. D. Mayhew, an artist who donated the proceeds from sales of a serigraph of two whales to send Baker to the Midwest in November for a conference on whaling. "Like Byrd, I feel that they have a mystique and can communicate with you."

Others emphasize the whales' intelligence—pointing to studies that show whales' brains are larger than humans'—the whales' good-naturedness, and the fact that whales face extinction.

The California gray whale has come under the protection of the International Whaling Commission, which has declared a moratorium on hunting it.

The commission puts yearly quotas on sperm and orca whales, which are hunted along the West Coast. A number of Mendocino residents, however, think the gray whales also are still being harpooned.

"The IWC is not doing enough. I don't believe we need to kill any whales," said Coupe.

The Soviet Union and Japan harvest about 85 per cent of the estimated 40,000 whales killed yearly, according to the Animal Welfare Institute of Washington. Accordingly, Mendocino residents have focused their protests on boycotting Japanese goods and broadcasting "Oktobriana's" messages.

Baker, however, wants to emulate Green Piece, a Canadian protest group, by lining people up in the water to form a barrier between the whalers and the whales.

A commercial fisherman has donated a 136-foot former whaling ship and Baker's group plans a foray into whaling territory in about two weeks. "We're seeking and hunting the Russian whaling flotilla that's out there, and when we find it, we're putting ourselves between the Russian killer ships and the whales," he said.

Not everyone in the area agrees with these tactics, however.

At a weekend meeting to discuss the Mendocino Whale Festival—a three-day event beginning March 19 and including a view of the whales, lectures, exhibits and films on the mammals—Ed Anderson, a manufacturer of campers in the nearby fishing village of Fort Bragg, protested the boycott and said he had a plan to end the whaling.

He declined to elaborate, but claims that the jojoba plant, which grows wild in the desert, could replace sperm oil and eliminate the need for killing thousands of whales.

ESTONIAN INDEPENDENCE

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. FORSYTHE. Mr. Speaker, yesterday marked the 58th anniversary of Estonian independence. Such a day should be a day of happiness for all Estonians, of pride and satisfaction with the accomplishments of their native land. Instead, they are saddened by their memories and disturbed by the present status of their homeland. More importantly, they are apprehensive about the future.

Though Estonia, a republic slightly larger than Belgium or Denmark, is Western in its cultural and architectural traditions, it has experienced 35 years of Soviet rule. Estonia gained independence from Russia in 1918, only to lose it a little more than two decades later when, like Latvia and Lithuania, it was absorbed into the Soviet Union in 1940 with the help of the Red army.

Throughout these decades of subjugation, however, the Estonian people have staunchly maintained their national identity and have refused to give up hope for eventual national self-determination. The recent signing of the Final Act of the Conference on Security and Cooperation in Europe at Helsinki, however, has made all Americans of Estonian ancestry uneasy as to the seeming consolidation of Soviet control on their homelands without any indication of Soviet willingness to implement other major aspects of the agreement, such as acknowledgment of the principle of border change through peaceful means and the cooperation in humanitarian areas.

On the other hand, the recent strong support by my colleagues in the House of House Resolution 864, expressing the sense of the House regarding the status of the Baltic States, has reaffirmed the belief of all Estonians that the U.S. Congress continues to value and support the principles of national liberty, self-determination, and human rights. That resolution strongly affirms the position of the United States of nonrecognition of the illegal seizure and annexation by the Soviet Union of the three Baltic nations.

Mr. Speaker, I have joined also with over 60 of my colleagues here in the House to support proposed legislation establishing a Commission on Security and Cooperation in Europe to monitor compliance with the Helsinki Agreement, especially in relation to cooperation in humanitarian fields.

To highlight the concern of Americans of Estonian ancestry in relation to congressional action in these areas, Mr. Speaker, I include in my remarks a copy of the resolution agreed to at the February meeting of the New Jersey Federation of Estonian-American Associations. I hope my colleagues will join with me in support of the principles endorsed by this resolution.

The resolution follows:

NEW JERSEY FEDERATION OF ESTONIAN-AMERICAN ASSOCIATIONS RESOLUTION

We, Americans of Estonian ancestry, gathered on this second day of February, 1976, at the Estonian House in Jackson, New Jersey, to observe the 58th anniversary of Estonia's Independence, and mindful of the sad fact that the homeland of our forefathers is still oppressed and suffering under the totalitarian rule of Soviet Russia, declare the following:

Whereas all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, cultural and religious development; and

Whereas the peoples of Estonia and the other Baltic countries of Latvia and Lithuania have been forcibly deprived of these rights by the Soviet Union; and

Whereas it has been the firm and consistent policy of the Government of the United States to support the aspirations of the Baltic peoples for self-determination and national independence:

Now, therefore be it

Resolved, That we Americans of Estonian descent reaffirm our adherence to the principles for which the United States stands and pledge our support to the President and the Congress to achieve lasting peace, freedom, and justice in the world; also be it

Resolved, That we urge the President of the United States to direct the attention of world opinion at the United Nations and at other appropriate international forums to the denial of the rights of self-determination for the peoples of Estonia, Latvia, and Lithuania; also be it

Resolved, That we urge the United States Senate to adopt Senate Resolution 319, expressing the sense of the Senate that the signing in Helsinki of the Final Act of the Conference on Security and Cooperation in Europe did not change in any way the long-standing policy of the United States on nonrecognition of the Soviet Union's illegal seizure and confiscation of the Baltic States of Estonia, Latvia and Lithuania; also be it

Resolved, That we urge the United States Senate and the United States House of Representatives to adopt pending bills calling for the establishment of the Commission on Security and Cooperation in Europe; also be it

Resolved, That we urge the United States Ambassador to the United Nations to reintroduce the proposal to the United Nations General Assembly calling for worldwide amnesty of all political prisoners; also be it

Resolved, That copies of this resolution be forwarded to the President of the United States, the Secretary of the State, the United States Ambassador to the United Nations, the United States Senators and Representatives of New Jersey and the press.

ELECTION LAW AS SEEN BY DEPARTMENT OF JUSTICE

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. STEIGER of Wisconsin. Mr. Speaker, on February 18, Assistant Attorney General Antonin Scalia appeared on the Hill to outline the current state of the Federal election law and to present the administration's proposal for remedying it.

Although I do not espouse the precise position Mr. Scalia outlined, because I believe we should consider the new problems posed by the contribution limits, I do believe his testimony offers a noteworthy discussion of the status of the law following the ruling of the Supreme Court.

I have taken the liberty of excerpting the major portions of Mr. Scalia's comprehensive testimony, and I commend it to my colleagues for careful reading and consideration.

Excerpts From Statement of Antonin Scalia

Mr. Chairman and Members of the Subcommittee:

On January 30, the decision of the Supreme Court in Buckley v. Valeo, cut a gaping hole in the Federal Election Campaign Act of 1971—or, to be more faithful to the constitutional theory of what occurred, the decision found that a gaping hole already existed. The damage was so substantial that the Chief Justice, in his dissenting opinion, expressed the view that the entire Act should have been stricken down since, as altered by the Court's decision, it is "unworkable and inequitable."

In the aftermath of the Valeo case there are two sets of decisions which must be taken by Congress, one of which is extraordinarily difficult, and the other extraordinarily urgent. The extraordinarily difficult question can be taken verbatim from Chief Justice Burger's dissent: "When central segments, key operative provisions, of this Act are stricken, can what remains function in anything like the way Congress intended?"

Congress will obviously have to address this issue eventually. . . . I have no reason to believe—and indeed, the press reports since the Valeo decision lead me to doubt—that [the] process of reconsideration will be any less difficult or protracted than that which produced the 1974 Amendments.

There is, however, a second issue which must be resolved. It can, I think, be separated from the first, if not by logic, then at least by the genius for compromise and practicality which is the hallmark and the prerequisite of our democratic system. And approached with good will and with overriding concern for the national interest by all sides, it need not be as difficult an issue. I refer to the immediate, pressing necessity of making such minimal adjustments as are absolutely essential to prevent the enactment and subsequent partial invalidation of the 1974 Amendments from seriously distorting the 1976 election campaigns. Those campaigns are well under way; they have at all levels—but especially at the Presidential level—been planned and conducted on the basis of certain assumptions which, unless the Constitution requires, it would be a public disservice to upset.

It is essentially the second of these issues which I wish to discuss today. . . .

Let me begin with a brief analysis of the principal effects of the Valeo decision. These may be divided into two categories which roughly parallel the two basic issues which I have discussed above. First, there are its effects upon what might be termed the substantive provisions of the election law. A large gap has been created in that portion of the law which previously limited campaign expenditures, both by candidates and by persons acting independently of candidates. That limitation has been held invalid except as applied to candidates who voluntarily accept Federal funding. Since there is no Federal funding for House and Senate races, no expenditure limitations are applicable to any candidates there; nor, even in the Presidential campaigns, is there any limitation upon expenditures that are not "controlled by or coordinated with the candidate and his campaign."

The Court upheld limitations upon contributions to candidates, even those candidates who have not accepted Federal funding. Moreover, it made clear that "expenditures controlled by or coordinated with the candidate and his campaign" can be treated as contributions though expenditures "made totally independently of the candidate and his campaign" cannot be restricted.

The disclosure provisions of the law were upheld, with respect to all types of contributions and expenditures.

Even in the brief time since the Valeo decision, much has been said and written concerning the likely effects of these substantial changes. By limiting contributions but *not* limiting expenditures on the part of candidates who have received no Federal funding, the post-Valeo law undoubtedly increases the importance of the candidate's personal wealth. By drawing a crucial line between expenditures "controlled by or coordinated with the candidate" (which can be limited) and those which are "independent" (which cannot) the post-Valeo law creates a distinction that may be impossible to administer. Perhaps most important of all, by enabling contributions above the established limits to be funneled into campaigns only through organizations separate from the candidate himself, the post-Valeo law may sap the strength of our "political party" system, and foster elections whose major themes are selected by issue-oriented or narrowly factional groups, rather than by the candidate or even the candidate's political party.

These results . . . render a reconsideration of the Court-modified election laws essential. The total system which now exists is one which, in substantial and important respects, has been designed by no Congress and approved by no President. One of the purposes of the President's legislative proposal is to assure, insofar as possible, this needed reconsideration at a time when it can intelligently and dispassionately occur.

Turning now to the second category of effects of the Valeo decision, its effects upon the administration of the Federal Election Campaign Act: The clear holding of the Supreme Court was that the Federal Election Commission's composition violates the Appointments Clause of the Constitution as to all but its investigatory and informative powers. As you know, a majority of its members were appointed by congressional officers. As long as the Commissioners are not appointed by the President with the advice and consent of the Senate, or by the President alone, the Commission cannot perform executive, *i.e.*, enforcement functions. These include primary responsibility for bringing civil actions against violators, for making rules to carry out the Act, for making administrative determinations and for issuing advisory opinions. The Court mitigated the effects of its opinion by staying its judgment "for a period not to exceed 30 days * * * insofar as it affects the authority of the Commission to exercise the duties and powers granted it under the Act." The stay seems to mean that until 30 days from January 30, 1976, the Commission may continue to exercise all of the powers given to it by statute with respect to the substantive provisions which have been upheld. . . .

Beyond the 30-day period the legal situation, if Congress does not act, becomes more complicated. One safe statement is that there will be plenty of work for lawyers trying to figure out the application of Valeo to concrete situations. I will try to review some of the problem areas . . . To borrow from Mark Twain, the reports of the Commission's total demise are somewhat exaggerated. The Court said that the Commission could unquestionably continue to exercise those powers which are "essentially of an investigative and informative nature, falling in the same general category as those powers which Congress might delegate to one of its own committees." These powers were also described as "functions relating to the flow of necessary information—receipt, dissemination, and investigation."

As to those substantive provisions of the Act which are not invalidated by the Valeo decision, we are left in the following enforcement position. The criminal provisions of the Act can still be enforced. Title 18 of the United States Code includes a number of criminal provisions of the election law which are under the jurisdiction of the Fraud Section of the Criminal Division of the Department of Justice. Section 608, dealing with limitations on contributions and expenditures has, as mentioned, been truncated by the Court's decision; but the remainder of Section 608 and other provisions over which the Commission has had concurrent enforcement jurisdiction are left unaffected. These include Sections 610, 611, and 613–617 of Title 18 which deal with contributions by banks, corporations, labor unions, government contractors and foreign nationals, anonymous contributions, cash contributions and similar matters. Complaints can be filed directly with the Department of Justice or with the Commission. As the law stands now, if the Commission receives a complaint or has information concerning an apparent criminal violation it can report the matter to the Attorney General.

The Commission can, however, no longer bring civil actions to enforce the campaign financing restrictions. The law had previously vested in the Commission "primary jurisdiction with respect to the civil enforcement" of the election laws, including the power to obtain injunctive relief in certain circumstances, and to sue for return of overpayments made by the Secretary of the Treasury. As the Court read the applicable provisions, none of these powers required the concurrence or participation of the Attorney General; they were all held unconstitutional.

If Congress does not act, we will be faced with the question whether the Attorney General can, without further legislation, assume the civil enforcement responsibilities which the Commission has been compelled to abandon. . . .

Other issues involve certification of expenses, rulemaking and advisory opinions. . . .

The Court held in Valeo that assignment of these powers to the Commission was inconsistent with fundamental notions of separation of powers.

The result of this holding is a large gap in administration of the law. Unless the Congress acts, there will be no clear or easy method of handling certification of eligibility for funds. Treasury will of course be reluctant to disburse the significant amounts of money involved without following the statutory certification procedure, even when the claim of the candidate seems clear. No one is specifically authorized to take over the prescribing of regulations. . . .

Based on these broad conclusions, it seems clear to us that legislation is urgently needed, and that temporary inaction—at least with respect to these administrative provisions—is not a realistic option. As I have suggested above, however, it is possible to segregate these features from the more substantive provisions calling for congressional reconsideration; and thus to facilitate the prompt legislative action which is essential. The purposes of the President's proposal are twofold: First, to assure the smooth operation of the campaign laws during the current elections by making the minimal administrative changes necessary for that purpose. Second, to provide assurance that there will occur at a later date congressional reconsideration of the entire election law package, as substantively altered by the Supreme Court's decision. These two objectives are not unrelated. It is our hope that those in Congress who desire major substantive change can, in the interest of prompt action, be persuaded merely to defer that legislative battle, though not to abandon it entirely. As noted in his transmittal letter to the President of the Senate, in order to set an example for the suppression of those controversial issues which can be reserved for next year, the President has on his part even refrained from including in his proposal the revision of a clearly administrative feature to which he has strenuous objection, now that the Commission has been held to be performing executive functions— namely, the one-House congressional veto of Commission rules. It is hoped that all Members of Congress—who we know have strong feelings on many substantive features of this law—can likewise be induced to submerge those feelings, for the time being, in the national interest.

Let me now outline what the President's legislation would accomplish. Section 2(a) provides for the appointment of all Commission members by the President, by and with the advice and consent of the Senate. Section 2(b) includes a number of technical conforming amendments which eliminate language relevant to the system under which Commissioners were previously appointed.

I should mention that there is one feature of Section 2 which was not directly addressed by the Supreme Court. Section 2 would eliminate the Secretary of the Senate and the Clerk of the House as non-voting, ex officio members of the Commission. We believe that the spirit of the opinion, and even the letter of the Constitution, require this result. The connection of these two officers to the legislative branch is even closer than that of the present congressionally appointed members who have the right to vote. They are not only appointed by Congress, but paid by it and removable by it. We believe that the absence of voting power is not determinative for constitutional purposes. The power to be present and to participate in discussions is the power to influence. Normally, a judge, commissioner or juror, or even a corporate director, who is disqualified for conflict of interest, is expected to excuse himself not only from voting but from deliberations as well. In Weiner v. United States, the Supreme Court stressed that an independent agency should decide matters on the merits "entirely free from the control or coercive influence, direct or indirect * * * of either the Executive or the Congress."

In Valeo the Court used similar words in describing the Commission's functions as "exercised free from day-to-day supervision of either Congress or the Executive Branch." As long as two officers of the legislative branch sit on the Commission there is thus a danger that constitutional requirements will not be met and that, at the very least, the entire law will be subject to further litigation and challenge.

Section 3 includes a number of technical provisions designed to make the new appointment provision in Section 2 dovetail with the requirements of the present law. Thus, the terms of the present commissioners are ended upon the appointment and confirmation of the new appointees. The provision forbidding present officeholders from being appointed is made inapplicable to present Commission members, so that the President would not be barred from appointing incumbents.

Section 4 provides that all actions heretofore taken by the Commission shall remain in effect until modified, superseded or repealed according to law. This reenforces the statement of the Supreme Court that past acts of the Commission and interim acts until the end of the 30-day stay are accorded de facto validity.

Section 5 provides that the laws relating to the Federal Election Commission, contribution limitations, and primary and election financing shall not apply to any election that occurs after this year except runoffs of elections held this year. The provisions of Title 18 which include basic measures dealing with such matters as contributions by corporations, unions, and government contractors, and with anonymous and cash contributions, would not be affected. In addition, the provisions for tax credits for contributions for candidates to public office and the $1.00 tax check-off system would be retained. Thus, potential methods of financing would be available even if there were a halt in the authority to disburse funds. In addition, this provision would not terminate the Commission. It could continue to work on matters relating to the 1976 elections as long after those elections as necessary, or on matters not related to a specific election.

We hope that this cut-off provision will facilitate passage of the bill we have presented. By providing for future lapse of the now distorted 1974 substantive changes, it is intended to assure—and we believe will be successful in achieving—thorough reconsideration of these problems in 1977 when there will be time to act deliberately and on the basis of experience. There is no time to resolve fundamental differences now.

FORMER DEFENSE SECRETARY JAMES SCHLESINGER'S ANALYSIS OF THE PROBLEMS IN AMERICAN FOREIGN AND DEFENSE POLICYMAKING TODAY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. KEMP. Mr. Speaker, our former Secretary of Defense, Dr. James R. Schlesinger, has made a penetrating analysis of what is probably at the heart of our problems in American foreign and defense policymaking of late. He has shown that it lies in the attitudes of too many toward both America's role in preserving freedom and protecting our security interests and toward the Soviet Union's most likely intentions and actions in the years ahead if America allows current trends to continue.

It is as dangerous to bury our heads in the sand in the face of Communist aggression today as it was when we buried our heads in the sand in the face of Nazi-Fascist aggression in the late thirties and early forties. We buried our heads in the sand of artificial neutrality then, and it lead to war. What will be the consequences of our burying our heads again?

If anyone has any question about the accuracy of Dr. Schlesinger's analysis—which appeared recently in Fortune magazine—I would encourage him to read the translation of Leonid Brezhnev's address this week before the 25th Party Congress in Moscow. Those remarks, which the Washington Star reported as "exuding confidence," show quite clearly that the Soviet Union is engaged in exactly what Dr. Schlesinger says they are.

Congress cannot abdicate its constitutional role in foreign and defense policymaking. It is time this former Secretary be given a more visible forum to assure that we have points of view before us in addition to those prevailing within the Congress and the administration.

The article follows:

[From Fortune magazine, February 1976]

A TESTING TIME FOR AMERICA

(By James R. Schlesinger)

A specter is haunting Europe: not the specter of Communism evoked in these famous words by Karl Marx in 1848, but the specter of Soviet hegemony. That specter arises from the steady expansion of the military power of the Soviet state. But it remains contingent upon the faltering of American purpose, as America, wounded by the internal travail and external setbacks of the last decade, becomes preoccupied with its internal problems and internal divisions.

Other margins of the Eurasian continent—Japan, Korea, the Middle East—are similarly exposed to the growing reach of Soviet military power and the psychological aura it increasingly conveys. Such power may be employed directly for intervention or seizure, but is more likely to be exploited indirectly to extract political, economic, or military concessions. To avoid such concessions, deterrence through countervailing military power remains an indispensable requirement. In the area of the Persian Gulf, the resources of which remain critical to the economies of the industrialized world, the possibility of Soviet military preponderance poses not only a direct threat, but also, through potential control of energy supplies, an indirect threat to the independence of the economies and the social order of the industrialized world.

The decade ahead will be a testing time for the Western democracies. The outcome will critically depend on the role the United States assumes, on its ability to attain renewed consensus and common purpose, and on its willingness to maintain a sufficient margin of military power to preserve a military balance in those sectors of the Eastern Hemisphere vital to our security.

Concern about the implications of Soviet military and political power has waxed and waned in the years since 1945. It started with the overrunning of Eastern Europe, the coup in Czechoslovakia, and the Berlin blockade. In that now distant epoch, however, the task of countering Soviet power was far simpler. The United States alone possessed nearly half of the world's productive capacity; it possessed a monopoly of nuclear weapons; and the Soviet Union, backward and badly damaged by World War II, had but a fraction of the potential military power of the United States. The direct military threat therefore remained manageable. The fundamental task was to stabilize the societies of Western Europe, to revive their economies, and to provide the prospect of economic growth and trade expansion in occupied Japan.

Nonetheless, in the period of the Marshall plan and the formation of NATO, concern remained deep. Though the problems were tractable, the solution required a transformation of previous American attitudes and a major commiment of American power. That alteration in attitude did occur. The American commitment was made, and a remarkable degree of stability was attained.

THE WEST IN DISARRAY

Yet in that time Barbara Ward could write a book entitled *The West at Bay.* Today, despite a widespread complacency, conditions are inherently worse. The West is clearly in disarray, and within a few years could actually be at bay. Our current problems are inherently less tractable than those of the early postwar years.

The underlying reality is that at no point since the 1930's has the Western world faced so formidable a threat to its survival. As then, the military balance is deteriorating, but the trend in large measure goes unnoticed because the Soviets today, though expansion-minded, speak in less bombastic and threatening terms than the Nazis did. The economies in the industrialized nations are now more vulnerable to external pressure than in the 1930's.

The growth of economic interdependence, notably in energy supply, implies that the industrialized world cannot survive without imports, massive in volume, from the less developed nations. These nations are no longer under Western political control and are exhibiting increasing hostility to the Western world and Western concepts of governance. The harsh words used in the United Nations are but a surface manifestation of this growing Western vulnerability and, at base, reflect a perception of growing Western powerlessness.

Economic difficulties, once again, afflict all the industrialized nations—and are again the principal preoccupation. Driven by the dramatic change in the price of oil, the unavoidable deficits incurred by oil-importing nations imply a fundamental disequilibrium in payments balances, placing the international financial mechanism under severe strain. Structural problems result in unacceptable rates of inflation accompanied by a level of unemployment probably inconsistent with long-run political stability. Yet the gravest danger remains a mixture of fatalism and complacency regarding this congeries of interrelated problems facing the Western world.

TAKING SECURITY FOR GRANTED

For too many Americans, security—not only the physical security of the United States and its closest allies, but also the security of the delicate web of economic relations—has come to be accepted as the order of nature. For more than a decade no problem of international conflict other than Vietnam, which was perceived as an American error and excess, has deeply penetrated the American consciousness. The Cuban missile crisis, the last episode to galvanize the American public, now seems remote. The invasion of Czechoslovakia in 1968 was all too readily dismissed with regard to its longer-run implications for East-West relations. The fundamental conflicts in the Middle East, which resulted in the 1973 war and the subsequent oil embargo, are widely believed to be on the way to resolution through a change in American tactics and diplomatic stance.

Security has too widely been viewed as *given*. America's involvement in the external world, on which our amenities and satisfactions are so dependent, has appeared to be a matter of simple choice reflecting nothing more fundamental than our tastes or moral preferences. Too little is it appreciated that the stability we still enjoy is a reflection and legacy of past American involvement and active leadership. For the younger generation in particular, security has appeared to be a matter of right, rather than something earned through continuing effort.

As with other legacies, this one is being consumed improvidently. Worldwide stability is being eroded through the retrenchment of American policy and power. This growing instability reflects visible factors such as the deterioration in the military balance but also, more immediately, such invisible factors as the altered psychological stance of the United States, a nation apparently withdrawing from the burdens of leadership and power.

The political mechanism, as in all democracies, remains the sensitive barometer of the public mood. The illusion is widespread that America can obtain the benefits of international order without paying the costs. Americans are comforted either by a belief that the nation's power has not declined or by a belief that its power can decline without untoward consequences..

These soothing notions represent a flight from reality. The external world and weight of responsibility unavoidably placed on the United States will not disappear merely because the American public has become tired or has become absorbed in its domestic concerns. The foreign and security policies of the United States require painstaking attention and careful thought—something more than a post-Vietnam recoil from the policies and posture of the last quarter century.

The United States today still represents the only potential counterweight to the military and political power of the Soviet Union. There is no one else waiting in the wings. There will be no *deus ex machina*. That the United States alone has the power to serve as counterweight to the Soviet Union continues to be an ineluctable fact—just as it has in the entire period since 1945. We may resent that fate or accept it soberly, but it remains the fundamental reality of global politics.

For a great power such as the United States, refraining from action carries consequences as surely as taking action. The failure of the United States to bear the responsibility, which it alone can bear, would create a void into which Soviet power would move. And, despite the brief respite afforded by a period of quiescence, the longer-term problem will become intensified. Unchecked expansion of Soviet power would create a psychological momentum, and most nations in the Third World and, indeed, some of our erstwhile allies will prefer to be with the apparent winner.

Global realities have thrust us into a role that we might have preferred to avoid. But unless we are prepared gradually to withdraw to the Western Hemisphere and ultimately to the North American continent—to become in the process a beleaguered and mean-spirited nation—we shall have to face up to these global realities as they are and not as we might wish them to be. We shall be judged in the future, not on the basis of our irrelevant or petulant preferences, but rather on how well we acquit ourselves in discharging our unavoidable responsibilities.

The destiny for this nation was shaped in the aftermath of World War II by the evolution of world politics, by the decline of the European powers and Japan, and by our own decisions. It is not a destiny about which one can express much jubilation. The mood it entails is markedly different from the exuberance that characterized the nineteenth-century vision of manifest destiny. Indeed, from the standpoint of historic American aspirations it is an odd and unenviable fate. Yet it must be faced soberly; there is no escape.

WEAKNESS, TOO, CAN CORRUPT

Power remains the ultimate sanction in dealing with potential conflict. Where power exists and is respected, it will not have to be exercised. Through power one can deter the initiation of an unfavorable chain of events. To be sure, military power is not the only form of power, but it remains an irreplaceable element in the total mix of power; without it, the disadvantageous turn in events would be swift and sure.

Nations that cannot deter the Soviet Union either on their own or with our support will, of necessity, conciliate the Soviet Union by making concessions, initially at the expense of our interests and ultimately at the expense of their own. To the extent that we fail to deter the Soviet Union, either jointly with others or on our own, we shall suffer continuing losses, as the process of accommodation continues. Contrary to a newly fashionable view, there is no incompatibility between a strong military posture and idealism. Given all that the Western and democratic world has to protect, only through the security afforded by adequate military strength can we assure reasonably free play to our own aspirations.

Disenchantment with Vietnam has led to the view that errors of policy, presumed to be the result of excessive strength, could be avoided through weakness. Whatever the limitations of a position of strength, however, a position of weakness provides a wholly unsatisfactory substitute. Countless nations in the course of history have learned to their sorrow the consequences of weakness. Lord Acton's dictum that power tends to corrupt has, to be sure, an abiding relevance for the actions of individual men and of institutions. Yet, in the larger context of the affairs of nations, it is readily misapplied, for it neglects an equally important truth. Weakness also corrupts—and can do so fatally.

American ambivalence on the subject of power is long-standing. Power must continually be justified in relation to the specific uses to which it will be put. By contrast Soviet leaders have consistently valued power in general, aside from specific uses, and have steadily sought an increase in their nation's relative power. In the Soviet Union there is keen appreciation of the relationship between power and influence. It is deeply etched in party doctrine, and is evident in the emphasis on "objective factors." For the Soviet leadership, the accretion of military power is an indispensable element in the success of the Soviet state. It is reflected in the persistent rise in real Soviet military expenditures—at 3 or 4 percent per year. That steady growth has continued in recent years despite the spirit of detente—just as it did in the spirit of Geneva, the spirit of Camp David, the spirit of Glassboro. Nor should it be at all surprising that the actions of the Soviets match their doctrinal views.

CONFRONTATION IN ANOTHER GUISE

In the Soviet view, detente itself is a *consequence* of the growth of Soviet power, which has forced the West to grant concessions. Detente reflects the shift in the "correlation of forces"—the estimate of the objective factors, incorporating political and economic elements in addition to the military balance. Far from sharing the Western view of detente as gradual reconciliation, with hope of ending the possibility of conflict, the Soviets view detente as rich with opportunities for major gains—in short, as confrontation in another guise. There is little here of a live-and-let-live attitude—with principal emphasis on vistas of expanding trade and peaceful exchanges. To the contrary, the Soviets bluntly declare that detente requires an intensification of the ideological struggle.

In bilateral relations with the United States, that struggle, of course, may be covert rather than overt. Elsewhere the ideological contest is intensely pursued—vigorously so in Western Europe, but even more violently in the support for "wars of national liberation" in Southeast Asia, in the Middle East, or in Africa. On Christimas Eve, 1975, an editorial in *Izvestia* succinctly expressed the Soviet view: "Detente does not mean and cannot mean a freezing of the social status quo . . . Support of national liberation movements is one of the most important principles of Soviet foreign policy."

Soviet action in the political realm or in the economic realm (the encouragement of the oil embargo in 1973–74, for example) as well as the persistent expansion of Soviet military power pose a continuing challenge to the West. Yet leadership groups in the West have not fully appreciated the more subtle challenge in the absence of the bombast of the Khrushchev or Stalin periods.

Among our leadership groups, the business community has been particularly utopian regarding the prospects of detente. Historically the business community, focusing on the narrower problems of production and sales, has been inept in politics generally, and insensitive to the clash of social forces—the central feature of interest to Communist party elites. For the Soviets the innocence of Western businessmen (reflected in the gibe attributed to Lenin, that the bourgeoisie would gladly contract to sell the rope with which to hang themselves) remains a byword and a source of steady amusement.

Trade is no panacea for achieving international stability. History is replete with instances of nations going to war with major trade partners—perhaps most prominently Germany and Russia in two world wars. The failure to fatten up the profit-and-loss statement through the sale of technology to the Soviets may be a loss to an individual company; it is not likely to be a loss to the West. The sale of refrigerators, soft drinks, or consumer goods generally will solve no political problems. It is scarcely a substitute for a stable balance in the "correlation of forces."

The gravest problem for the Western world is without question the loss of vision, of moral stamina, of national purpose. It is also important, however, to examine the trend in the physicial instruments of power—i.e., the military component of the "correlation of forces." In the United States during the last decade, the defense effort has been cut approximately in half, on a proportional basis. This decline has been reflected in every relevant measure—share of G.N.P., share of government spending, and so forth.

A DRAMATIC REORDERING OF PRIORITIES

The share of public spending that this nation devotes to defense, for example, is at the lowest point since two years before Pearl Harbor. While some profess to believe that the share-of-G.N.P. data convey little in terms of military capability, the sharp relative decline in defense spending in the last decade points to a dramatic reorienting of priorities. It points also to a major reduction in the share of the total labor force devoted to defense activities—a reduction far too severe to be offset by an increase in productivity. These trends are reflected in the data on military manpower, Army divisions, tactical air squadrons, and Navy ships.

Since fiscal year 1968, U.S. military manpower has declined by 1.5 million men. It is now approximately 600,000 men below the pre-Vietnam level. Indeed, it is almost 500,000 men lower than during the Eisenhower years, when the nation possessed overwhelming nuclear strength and declared its reliance upon a military strategy of massive retaliation. Even during the pell-mell demobilization following World War II, and during 1949–50, when Secretary of Defense Louis Johnson was "cutting fat and not muscle" before the Korean war, this nation maintained a higher ratio of its population under arms.

Defense investment, which covers procurement of new equipment, research and development, and construction, is perhaps the most revealing figure. Excluding, as it does, current operations and personnel compensation, it suggests the direction for the defense establishment in the future. In constant dollars, defense investment has shrunk to less than half of the 1968 level and 35 percent below the pre-Vietnam level.

THE CARRIERS NEVER REACHED THE SCENE

The strength of the Navy is perhaps the most dramatic case in point. In the face of a major expansion of Soviet naval forces, which has altered the character of the naval balance, the size of the U.S. fleet has diminished sharply. In fiscal year 1968 the Navy had 976 ships. This fiscal year it will be down to 483 ships. The shrinkage reflects the disappearance from the fleet of vessels constructed during the World War II period, some thirty years ago. It also reflects the postponement of naval construction during the Vietnam war, and the present lack of shipyard capacity. Naval commitments in the Far East and in the Mediterranean have not shrunk commensurately. As a result, the smaller fleet of today is overworked in the attempt to maintain those commitments. The consequence has been a distressing decline of the material readiness of the fleet.

The decay in the condition of the fleet was dramatically underscored during the response to the *Mayaguez* incident. The thirty-one-year-old carrier *Hancock*, which had been operating without one of its four shafts, limped belatedly from Subic Bay toward the Gulf of Thailand at twenty-three knots, but never reached the scene. The helicopter carrier *Okinawa*, with part of its boiler plant off the line, crept along at thirteen or fourteen knots; it also never arrived at the scene. The escort vessel *Holt*, the first ship at the scene, had power-supply problems, and consequently its main battery was down the night before the engagement. Clearly, this nation cannot for long tolerate the present readiness condition of the U.S. Navy, if we are to continue to rely on it for rapid response.

As the American defense establishment's manpower, force structure, resources, and support have dwindled, how has the Soviet Union responded? By steadily expanding its forces both qualitatively and quantitatively. Since 1960, Soviet military manpower has grown from approximately three million men to 4.4 million—more than twice the size of the U.S. military establishment. The Soviets devote at least 15 percent of their national effort to defense activities. This is one area in which they have never skimped. In every category of military hardware except helicopters they are outproducing the United States—dramatically so in the area of ground-force equipment, in which the ratios run about six to one. Even leaving aside the massive Soviet reserve structure, the Soviet's combat ground forces outnumber those of the United States by roughly three and a half to one.

The United States continues to have a significant qualitative edge in tactical air. Yet in recent years the Soviets have begun to deploy newer types of aircraft such as the Flogger, Foxbat, Fencer, and Backfire in substantial numbers. By the end of the decade their tactical-air order of battle will be an impressive one. In fighter aircraft, production rates exceed those for the U.S. Air Force by a factor of four. (The USAF this year procured a total of 181 aircraft of all types: at that rate it would be unable to maintain a modernized fighter inventory.) In addition the Soviets have been upgrading their airlift capabilities as part of a dramatic improvement of their mobility forces, which in the future will be able to intervene well beyond the boundaries of the Soviet Union—in areas such as the Middle East.

Since 1965 the character of the Soviet Navy has been altered in significant ways. Previously it had been designed primarily as a coastal-defense and interdiction force. Now, with the introduction of more capable classes of ships, it has become a formidable blue-water navy challenging that of the United States. Soviet fleets operate increasingly in the Indian Ocean, have begun to edge out the United States in the seas around Japan, and in certain respects have become a match for the U.S. Sixth Fleet in the Mediterranean, formerly an American lake.

TROUBLING BUDGET TRENDS

According to intelligence estimates, the Soviets now outspend the United States in virtually all major categories of defense activity. In the aggregate, the CIA estimates, the Soviets outspend the United States in dollar equivalents by about 45 percent. In this era of conjoined illusion and skepticism, the hope has been expressed that such estimates are on the high side. To the contrary, my own experience in developing these estimates suggests that the procedures employed are highly conservative—and undoubtedly result in understatement of the Soviet effort. For one thing, the Soviet defense ministry receives a lot of external support. Soviet industry bears the cost of the massive reserve establishment. Other ministries absorb much of the costs of health, education, and housing for defense personnel—costs that are internal to the U.S. Department of Defense. Inclusion of such items would appreciably increase the estimate of the Soviet defense effort relative to our own.

Even more significant, however, than the existing discrepancy in expenditures are the relative budget trends. From the American standpoint, these have been highly adverse. While the Soviet Union has been increasing its military expenditures in real terms at 3 percent or more per year, the United States has in recent years been shrinking its expenditures at approximately the same rate. Because the estimate for the Soviet Union is necessarily an approximation, one can question the precision of the figures for any single year. No one, however, can validly challenge the overall trends or their long-term applications. A continuation of such trends over a period of years would leave the United States markedly inferior to the Soviet Union in gross military power.

The United States, of course, is not alone. Its NATO allies maintain forces far more potent than the forces maintained by the Soviet Union's Warsaw Pact allies. In terms of the overall balance, moreover, the estrangement between the Soviet Union and the People's Republic of China has probably been the single most significant strategic development of the last decade. It has meant that the worldwide military balance has not yet been upset. But it has made the Western position dependent upon continuing Soviet-Chinese tensions. At the same time, the apparent American weakness since the fall of Vietnam has made the Chinese increasingly wary of dependence on the United States, for they quite naturally value us only as a *reliable* counterweight. We have lately seen the first tentative signs of a possible Chinese reconciliation with the Soviet Union. The irony is that undue American reliance on the China connection reduces its value to the Chinese and so increases the likelihood of its weakening.

EATING INTO CAPITAL

The shifting of the military balance and the implications of the adverse trends are increasingly clear to other nations, if not to ourselves. The policy inferences should be obvious. There should be no further attrition of the U.S. force structure and readiness posture. We should be prepared to increase the real program value of our defense effort by 2 or 3 percent per year, and to maintain, approximately, the share of national output going to defense. In the longer term, policy should be governed both by future Soviet actions and by the course of Sino-Soviet relations.

Currently the United States operates on a narrower and narrower military margin. With the alteration in the military balance, the latitude for error has dwindled. As the United States devotes less and less to defense relative to the other superpower, there is increased need for accurate information both to assess the nature of the military capabilities arrayed against us and to avoid the misuse of our own resources. It should be obvious that the value of intelligence has increased as our preponderance of power has evaporated. Yet here again we have been inflicting damage on ourselves. We have had revelations not only of questionable activities but also of sources and methods of intelligence collection that it took a great investment of time and cost to acquire. Again we have improvidently been eating into capital.

The ability to use our resources wisely, the ability correctly to assess the threat, in fact, the very ability to monitor arms-control agreements is in process of being compromised. At the very moment when we need accurate intelligence more than ever, we have chosen to indulge in a destructive orgy—endangering our own assets, compromising our relationships, and weakening the entire intelligence effort. It has caused delight and derision among our potential foes, concern among our friends, and wonderment on the part of all.

Intelligence is our nation's first line of defense. It would seem imperative therefore that we start now to rebuild a structurally secure intelligence establishment.

A PREFERENCE FOR BLINDERS

The basic facts regarding the current status and the comparative trends in Soviet and American defenses efforts would seem to be plain enough. Nonetheless, there exists a widespread disposition to bury one's head in the sand, to believe in the continuing preponderance of American power, to assume that, irrespective of our own actions, American military strength will remain "second to none." Why is this?

Undoubtedly, in the existing political climate, many people really do not want to know the facts. Acceptance that the balance is indeed tipping implies difficult decisions. It might require this nation to do something that many would prefer not to do: to maintain or enhance our military posture rather than reduce the defense burden. To review the comparative statistics without blinders runs against the grain of the prevailing compulsion to cut defense spending and to ignore the implications.

Does the tipping of the military balance matter at all? In the age of detente, can we not rely upon Soviet goodwill and forbearance? Such questions provide the ultimate rationalization for allowing the military balance to deteriorate further. The answer relates once again to the inescapable element in the current structure of world power. The United States remains the indispensable counterweight to Soviet military preponderance in the Eastern Hemisphere. Without the strength and support of the United States, no combination of nations can provide the requisite military power to withstand Soviet political and military pressures. Even the nations of Western Europe are but a collection of small and medium-size states that require the help of American power to serve as both the backbone and the adhesive of the Alliance. By themselves they cannot counter the full weight of the Soviet superpower.

But to sustain the margin lands of the Eurasian continent—in Europe, the Middle East, and Northeast Asia—the United States must be able to operate over distances of many thousands of miles and close to the sources of Soviet power. If one views the map from the perspective of a planner in the Kremlin, it will convey how fragile the military balance can become on the margin of the Eurasian continent.

As the military balance tips more directly toward the Soviet Union, its neighbors will increasingly recognize the imbalance of power and some will become more willing to acquiesce in demands or to offer concessions. Deterrence has thus been weakened. The gradual disappearance of American strategic nuclear superiority has already reduced the inhibiting influence on Soviet policy those forces provided. The unavoidable corollary, if an adequate deterrent posture is to be maintained, is increased reliance on the other, nonstrategic components of the force structure—the so-called general-purpose forces, mainly conventional.

Under the circumstances, further weakening of American and allied general-purpose forces relative to those of potential opponents implies acceptance of a rising level of risk. In addition, it also means that we must accept increasing reliance on the threat of early recourse to nuclear weapons in the event of major conventional assault. That is a strategy we should seek to push further away, rather than to embrace. Because of its ostensibly low cost, it is a poor man's strategy, but it might better be characterized as a rash man's strategy. It would certainly require courage, if not rashness, to employ nuclear weapons in response to less than all-out assault.

Moreover, because there will be doubts regarding the will to use such weapons, such a strategy could invite the very types of confrontations that we seek to deter. A potential opponent could reasonably conclude that nations lacking the courage to tax themselves sufficiently to provide the conventional elements of an adequate deterrent posture might well lack the courage to employ weapons inherently so much riskier and more destructive.

A. QUESTION OF AMERICAN WILL

Yet beyond these basic issues of force structure and strategy, of military posture and military risks, of the actions necessary over the long run to maintain deterrence and a military balance, lies a question even more fundamental. Our allies and dependents overseas recognize their reliance on the firmness of American policy—and the will of the American public to continue to fulfill our historic responsibilities. The deterioration of the military balance both draws upon and contributes to the loss of will. In that loss of will—with all that it reflects regarding the decline in confidence and moral stamina—lies the not-so-hidden crisis of Western civilization.

Some years ago, in the final words of his memoirs, Arthur Krock confessed to a visceral fear "that the tenure of the United States as the first power in the world may be one of the briefest in history." I trust that this will not be the case. But on the basis of the present evidence, it is not easy to dismiss his apprehension.

In a democracy such as the United States, foreign policy will reflect domestic politics. Our internal preoccupations and our political divisions of recent years have at least suggested a growing infirmity of American policy. For much of mankind the continuation of American firmness remains the decisive question. How America responds to its unenviable historic destiny will determine the shape of the international community in the last quarter of the twentieth century.

Many have pondered the question whether or not a long recessional of American power will succeed the long recessional of British power. They quite rightly fear the consequences, were that indeed to be the case. The continued deterioration of the military balance would ultimately leave the Western world in a position in which its only serious foreign policy course would be retreat or appeasement.

The bicentennial year should not coincide with a further weakening of our acceptance of our responsibilities to the external world and to ourselves. If we seek to preserve a satisfactory condition for the United States in the world, if we seek the survival of freedom elsewhere than in North America, if indeed we value what our civilization represents, American strength remains indispensable. Without enduring American strength, Western civilization will not survive.

BICENTENNIAL REMINDER

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. ABDNOR. Mr. Speaker, during this Bicentennial of our Nation, much is going to be said and written on the meaning and significance of our heritage of freedom. One of those who has said it especially well is Bernard E. Duffy, a junior at Stanley County High School in Fort Pierre, S. Dak. Bernard won first prize in the annual Voice of Democracy contest sponsored by the South Dakota Veterans of Foreign Wars. I would like to share his insights with my colleagues:

VOICE OF DEMOCRACY

(By Bernard E. Duffy)

America is having a birthday party in 1976. And it will be celebrated throughout the length and breadth of this land by countless Americans through trips to Mount Vernon, the Lincoln Memorial, the Alamo, Mount Rushmore, and numerous other historical shrines. The birthday we celebrate is the 200th anniversary of The Declaration of Independence.

Some Americans believe other dates and events mark our beginning and there are those who say that America began at Lexington and Concord. There are those who say that it began with Cornwallis' surrender at Yorktown. There are those who say that it began with the ratification of the Constitution in 1789, and historians say that the war of 1812 finalized American independence. Still others say that it began anew when the Union was preserved by the bitter Civil War of 1865. But whenever its beginning occurred, each generation of Americans has found it necessary to work and struggle to preserve those freedoms which were won at great sacrifice some 200 years ago.

America and freedom have become interchangeable in describing our form of government and our country. It was the quest for that freedom which propelled our founding fathers to sacrifice their lives and property to achieve that goal and it was the thirst for freedom which provided Thomas Jefferson with the motivation and the theme for the immortal document, The Declaration of Independence.

From its beginning America has provided each of us with the opportunity to worship as our conscience dictates, to speak freely and responsibly, to peaceably assemble, to travel without restrictions throughout this country, and to govern ourselves through representatives which we can freely select. These basic freedoms are ours because they have survived the challenges and rigors of 200 years of usage and testing.

Most importantly, this Bicentennial year is a time for renewal. It is a time to be grateful and aware of the freedoms which are given to us at the moment of birth. It is a time for rebuilding our attitude towards America and not to be embarrassed to call that attitude—patriotism. It is a time to abolish destructive criticism and to temper negative comments concerning America's problems; it is a time for humility and thanksgiving about America's greatness and charity. It is a time for a realization that this country is a simple but meaningful expression of a free people.

The Bicentennial celebration further reminds me that all has not been easy for Americans and the heritage has developed at a great price. I am reminded that the price was high that winter at Valley Forge. It was high at Gettysburg, Corregidor, in Korea, Khe Sahn, and thousands more. It was tested and strained to its very core by the economic collapse and depression of the 1930's.

While these are highlights of the struggle reminding me of America's greatness there have been untold accomplishments arrived at through the fair and orderly process of law.

When John F. Kennedy said in his first Inaugural Address that "the torch has been passed to a new generation," he was reminding this generation of Americans, who have assumed their turn at the helm, that they must stay on course and bring our country through the challenging times.

This Bicentennial celebration should serve to remind each of us that without America as we know it—there is nothing—except tyranny.

CECIL NEWMAN, EDITOR AND IDEALIST, DIES

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. FRASER. Mr. Speaker, last Saturday, February 7, Cecil Newman died at his Minneapolis home. Seventy-two years old, he was the editor of the Minneapolis Spokesman and St. Paul Recorder and was long a pioneer in black journalism in the Twin Cities.

But Cecil Newman was more than a black journalist. For more than 50 years, ever since his arrival in Minneapolis in 1922, Cecil Newman was a quiet but persistent voice in the fight for an end to racial discrimination and a better place for blacks in this world. Cecil Newman, as a symbol of black determination, as a community leader and journalist, and as a man, will be missed.

I wish to share with my colleagues two articles on Cecil Newman which appeared in the Minneapolis Tribune on Sunday, February 8:

CECIL NEWMAN, EDITOR AND IDEALIST, DIES

(By Tom Davies)

Cecil E. Newman, who Hubert Humphrey said "did more for human rights than any man I know or have known," died Saturday morning of an apparent heart attack at the age of 72.

Newman, editor and publisher of the Minneapolis Spokesman and the St. Paul Recorder, was instrumental throughout his life in efforts to secure equal opportunity and human dignity for blacks and other minorities in Minnesota.

"But we don't have to talk about race or color," said W. Harry Davis, a lifetime friend. "He was a great Minnesota leader, an inspiration to many."

Indeed, Newman befriended and advised a number of prominent national figures, black and white: Roy Wilkins, Walter Mondale, Whitney Young, Donald Fraser, Carl Rowan and Humphrey.

Humphrey said Newman was a major influence on his early career, when he was propelled into national politics on the civil-rights issue.

"He not only inspired, but advised and counseled me, helped sensitize me to civil-rights issues. In fact, he was the first editor to support me when I ran for mayor (in 1946.)

"Cecil was a very practical, yet idealistic man," Humphrey said. "I remember that when I first spoke out on race relations, it was Cecil who tried to tone me down. 'Look, Hubert,' he said to me, 'there aren't that many blacks in Minneapolis, and we know we can trust you. But we don't want you to lose your election over this.' "

Newman came to Minneapolis in 1922 from Kansas City, Mo., where he was born on July 25, 1903. By 1934, his years of working as a Pullman porter and bellhop were over, and he launched the Spokesman and the Recorder.

He headed the two newspapers, the chief sources of black-community news in the Twin Cities area, until his death. He was also a past president of the Minnesota Press Club.

"Cecil devoted his journalism," John Cowles Jr., chairman of The Minneapolis Star and Tribune Company, said yesterday from Houston, "to a constructive and never-ending campaign for justice for everybody, and I am proud to have been his friend."

During World War II Newman helped integrate the war industry in the Twin Cities area, denouncing Gov. Harold Stassen and his "lily-white home guard." Newman convinced Charles Horn, head of the Federal Cartridgs Corp., to hire blacks, and when that effort was successful, turned toward other industries.

Newman was active in most civil-rights groups in the area, including the NAACP and the Urban Leagues of Minneapolis and St. Paul, and served as vice chairman of the Minnesota Advisory Council of the U.S. Civil Rights Commission.

He was, as the organization said yesterday, "the founder and spiritual leader" of the Twin Cities Opportunities Industrialization Center Inc. And in 1974, he was honored for 40 years of promoting racial harmony and equality with the National Brotherhood award of the National Conference of Christians and Jews.

"He was a natural born leader," said Davis, former Minneapolis mayoral candidate and assistant to the vice president for public relations of the Star and Tribune Company. "He wasn't the flashy type, but the kind of man who made a plan and then went about carrying it out without offending anyone."

"Cecil never sacrificed the goals he had in mind for any short cuts or quick drama," Humphrey said. "He taught us steadfastness and perseverance."

Photographer Gordon Parks, in his book, "A Choice of Weapons," wrote that Newman encouraged him to concentrate on photography when Parks was living in St. Paul and working as a railroad dining-car porter. Park's first published photos appeared in the Spokesman. He later became famous as a photographer for Life magazine and as a moviemaker.

Newman's funeral will be at 11 Tuesday morning at St. Peter's African Methodist Episcopal Church, 401 E. 41st St. Visitation will be at 5 monday afternoon at the church. Memorials to the Heart Fund and St. Peter's church are preferred.

He is survived by his wife, Launa; a son, Oscar of Minneapolis; two step-children, Norma Williams and Wallace O. Jackman, and three sisters.

Davis said some of his best memories of Newman date back to the Depression when Davis was a teen-ager who saw Newman regularly at the Phyllis Wheatley Community Center on the North Side.

"That used to be the one place black people would meet, for the NAACP, the Urban League and all. Cecil would ask the kids to wait on the tables during dinner.

"But he always said, 'Now, when you get through, make sure you sit down with us and have some food.' During the Depression, that was quite a treat.

"Even then, he was a gentle, concerned fighter for justice. He took a great pride in talking with young people, always telling us how important school was—that they can't take your education away from you."

CECIL NEWMAN

(By ROBERT T. SMITH)

Not long ago, Cecil Newman approached a group of newspapermen having lunch in a downtown restaurant. With a chuckle, he said: "Why aren't you guys out changing the world?"

"We've gotta eat," said one of the group. "The world can wait."

"Can it?" asked Cecil, as he swept away to perhaps continue what he had spent a lifetime doing: trying to change the world.

Cecil, a longtime friend, is dead now at 72. There are those younger people who will remember him only as a successful black businesman who belonged to the Minneapolis Club.

There are young black people who have called him an Uncle Tom—young black people who weren't even born and don't know what it was like 54 years ago when Cecil arrived in Minneapolis with only a dime in his pocket.

As a gesture of faith maybe, the short, skinny black man got off the train at Great Northern depot and, with that dime, bought a poppy for his lapel.

Cecil knew well what it was to be black at that time. He had come to Minneapolis from Kansas City, Mo., because he thought it might be a place where a black man could find understanding and peace.

He arrived with many memories of discrimination and violence. He had been a copy boy for the Kansas City Star and the sport for the white members of that newspaper's staff was to regularly beat up Cecil.

When he was a porter in a Kansas City theater, Cecil had to walk nine blocks to have lunch in a black restaurant. A nearby cafe owner said: "Sorry, no serving niggers here." That was by no means the only Kansas City restaurant where Cecil got that greeting.

With his buddy, Langston Hughes, the famed poet, Cecil went to a public park for a festive picnic celebration. They were the only blacks among 1,000 kids and they were thrown out. Cecil was 13 then.

Cecil found Minneapolis a bit more subtle, but no different.

The Kansas City bigots made one mistake. They didn't keep Cecil out of the library. He spent a lot of time there reading, and, unlike most of the black kids in his neighborhood, Cecil graduated from high school.

This entitled him to become a porter in the downtown Elk's Club and then a porter for five years on a Pullman car. At night on the train, he wrote editorials for the now-defunct black newspaper, Twin City Herald. He got 50 cents for each one printed.

In 1934, Cecil had saved $65 after six years of work. with some other financial help, he bought two black newspapers, The Minneapolis Spokesman and The St. Paul Recorder.

He began to fight for fairness and justice and the rights of blacks. In those days police brutality against blacks was common and accepted. It was the Depression, and blacks were put in jail for stealing milk for their children. Regularly, almost daily, Cecil roamed police headquarters and the courts to try to help blacks in trouble.

Although he has scars to show that others were violent, Cecil never pursued that course himself. He pleaded and he reasoned and, after a while, the police and the judges began to listen a little and ask his advice on black cases.

In his newspapers, he printed pictures of blacks with beaten faces on page one. And he wrote continually about the evil of prejudice.

His reward? Both whites and blacks turned on him. "The blacks said I was an agitator and wanted me to cool it," said Cecil. There were telephone threats and broken windows in his home and business and sugar in the gasoline tank of his car and beatings, administered also to his son, Oscar.

Things got better. People began to join the black cause and it became for some, fashionable.

Cecil kept working at it, switching to problems of employment for blacks and more acceptance in the white-dominated community.

Cecil's business prospered and, as he got older, he could no longer be so active in the fight. It was time for him to rest a while and enjoy life a little, which he did. It was time for the younger blacks to continue the cause.

In an editorial two years ago, Cecil wrote a sort of swan song: "These are the easier, more peaceable eras. Looking back over the years, it seems strange that we should have had to fight so hard for the simple rights, the simple decencies . . .

"It has been a hard fight. It has been a good fight. It has been worth everything that it has cost. And it will go on . . ."

Unlike the newspapermen having lunch, for Cecil Newman the world couldn't wait to be changeed.

RESOURCES AND THE WORLD ECONOMY

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. DOMINICK V. DANIELS. Mr. Speaker, the United States had a rude awakening when the Arab oil embargo was imposed.

Suddenly, we realized that we did not have enough oil to meet our national needs. Our vision of ourselves as an "independent" people was beclouded with the realization that our economic independence, at least, depended upon good trading relations with distant countries.

We would be fortunate, indeed, if oil were the only resource that we lacked in sufficient quantities to meet national needs.

Unfortunately, no part of the Earth, not even on a continent-wide basis, is self-sufficient in all critical resources.

Thus, the United States has to depend upon foreign imports for more than one-half of its supplies of seven basic raw materials needed to fuel our industrial base. By the year 2000, we will depend on imports to fill our needs for thirteen basic raw materials deemed essential for a modern economy.

Mr. Speaker, materials policy is a term that is relatively obscure in the minds of the American public. However, a sound materials policy will be essential to the preservation of our industrial economy and the millions of jobs that depend on it.

Today's New York Times contains an article on the world resources situation. In brief, the world is entering a new era in which most important raw materials are likely to be more expensive and harder to obtain.

The February 13 edition of Science is devoted to 23 reports from eminent scientists describing the growing resource problem and the way in which it will affect the industrialized world. The Times article extracts some of the key points of this comprehensive edition of Science devoted exclusively to resources and materials policy.

Mr. Speaker, I was interested to learn that the United States has consumed more minerals in the last 35 years than all of mankind used from the emergence of the species to about 1940. Our resource dependency grows with every passing day, and we are joined in our worldwide search for new sources of these vital materials by all the other nations of the industrialized world. It certainly does not take a lot of imagination to conjure up an image of keen competition for dwindling resources, driving up prices, and fueling inflation. At that point, the only thing that will be dwindling faster than the resources will be the jobs that depend upon them.

Mr. Speaker, in 1973, Lester Brown published his widely discussed book, "World Without Borders." The premise of that book was that the world economic order depended upon the establishment of a new "community" ethic in international relations. No one nation could regard itself as being insulated from the economic, social, and political storms that buffet sister nations. Even the richest and most powerful nation on the face of the Earth has a dependency upon some of the poorest countries in the international community.

Mr. Speaker, since that growing dependency will affect the shape and direction of future foreign policy, I thought my colleagues would be interested in the article from the Times and the sober message it contains for all the industrialized world.

Mr. Speaker, the New York Times article is included at this point in my remarks:

RAW MATERIALS WILL COST MORE—SCIENTIFIC JOURNAL REPORTS ON SHRINKING OF SUPPLIES

(By Harold M. Schmeck, Jr.)

WASHINGTON, Feb. 20.—The world is entering a new era in which most important raw materials are likely to be more expensive and harder to obtain, contributors to one of the nation's most widely read scientific journals said in a special issue devoted to this problem.

While the 23 reports in the Feb. 13 issue of Science do not forecast catastrophe, they do suggest the need for intelligent foresight and planning to cope with the world's expanding needs in the face of shrinkage of easily accessible supplies.

Science, the weekly journal of the American Association for the Advancement of Science, goes to 150,000 subscribers around the world. Its special issue on materials is one of a series of single-topic issues, the first two of which were devoted to energy and world food problems.

Only rarely does the journal devote an entire issue to a single topic. Such issues are reserved for subjects the editors believe to be of profound importance.

A CRUCIAL MOMENT

At a news conference, Dr. Philip H. Abelson, editor of Science, said the present time represented a crucial moment in the long history of mankind's use of raw materials to build civilization.

He and other speakers noted that energy and material were inextricably linked, because it takes energy to convert raw materials into useful substances and products. In recent years, they noted, the price of energy has been going up; the fundamental energy cost of processing raw materials has also been rising because the richest and most easily available ores are being exhausted.

At the same time, the scientists said, there is a strong trend among nations to nationalize foreign owned mining properties. Furthermore, in many countries, including the United States, there is greatly increased concern over damage to the environment.

DIFFERENCE IN A DECADE

"Taken together with financial markets that make raising capital difficult, these developments have created conditions dramatically different from those of a decade ago—a new world of materials," said Dr. Abelson and Allen L. Hammond, the journal's research news editor, in an overview article.

"Indeed, what is perhaps most remarkable is that their cumulative impact has not yet disrupted the supply of materials in a major way."

The group of 23 articles is neither so voluminous nor so detailed as some earlier reports on specific aspects of the problem. Taken as a whole, the issue of Science is intended as an overview—historical, current and future—of the world materials situation.

One article, by Ralph C. Kirby and Andrew Prokopovitsh, of the United States Bureau of Mines, said the United States has consumed more minerals in the last 35 years than all of mankind used from the emergence of the species up to about 1940. By the year 2000, the country may have to get more than half of its nonfuel mineral needs from abroad, they said.

At the same time, other nations, as they industrialize, become larger consumers of the same kinds of resources.

HIGHER PROCESSING COSTS

The problem in the case of most material resources, said Earl Cook of Texas A&M University, is not the prospect that world supplies will run out but the possibility that the expense of processing low grade ores will become prohibitive as the higher grades are progressively exhausted.

For example, one article said, the cut-off grade for exploitable copper ore was once 3 percent copper in the ore. Today, in some places, grades as low as 0.35 percent are considered exploitable. But, said Professor Cook, the cost of production almost inevitably will rise as the quality of the ore declines.

Speakers at the news conference said much more could be achieved by conservation measures than has been to date, and also by substitution of one process or material for another.

Other contributors to the issue said more attention should be paid to the possibilities inherent in renewable resources such as wood. Potential growth of forest products is much greater than current growth, one article said.

"Renewable resources are crucial to an enduring human civilization," the overview article concluded. "The articles herein dealing with this topic leave the impression that this nation has not set its priorities straight. Indeed, materials of all kinds are so basic to the continuance of our society that the country would be well served by increased attention and—more to the point—some constructive action to insure a continued supply."

THE CONGRESS AND FOREIGN POLICY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. HAMILTON. Mr. Speaker, in recent days, a national debate over the role of the Congress in the making of American foreign policy has heated up.

This debate recalls the observation of a great constitutional scholar, Edwin Corwin, who said that the U.S. Constitution is an invitation for the President and the Congress to struggle for the privilege of directing American foreign policy.

Today most Members of the Congress would concede that the President should play the principal role in the foreign policy making process, but they would also suggest that the United States has, over the last several decades, gone too far toward putting too much power, including the war making power, in the hands of one man. In their view, unrestricted Presidential power in foreign policy making is neither necessary nor tolerable in a free society.

The President and the Congress, who both acknowledge the need for a new national partnership in the conduct of foreign policy, are now engaged in an effort to correct that imbalance. Both agree that corrections are needed, but there is little agreement over what correctives are essential.

Congress itself has aided the emergence of the President as the chief foreign policy maker by its disinterest in decades past over many foreign policy issues and its occasional outright abdication of powers to the President.

Congressional initiatives in foreign policy—including efforts designed to control the use of American Armed Forces abroad, to limit military aid and U.S. commitments overseas, to obtain greater access to foreign policy information, and to specify policy toward particular countries—have produced mixed results, primarily because of Congress limitations in dealing with foreign policy issues.

Congress approach to foreign policy is often sporadic and eclectic, and tends to focus on immediate hotspots, the headline issues with which politicians must grapple. As a whole, the Congress tends to lack an ongoing or sustained interest in or commitment to pursuing key foreign policy trends.

Congress often sees complex foreign policy issues in terms of a single aspect of a larger problem. For example, on the issue of aid to Turkey, instead of focusing on the totality of our interests and needs throughout the eastern Mediterranean, many Members of Congress saw a narrow issue—Turkish opium policy, United States-Greek relations, U.S. intelligence facilities in Turkey—and based their votes accordingly.

In Congress there is no dominant voice in foreign policy. Congress has 535 foreign policy spokespersons at any given point in time and it is difficult to determine who speaks for the Congress on foreign policy matters. Often Secretary Kissinger doesn't even know whom to call on specific issues. In such a process our greater interests can be easily and quickly lost.

Congress available instruments to shape policy are blunt and imprecise. The arms, money, and credit taps for foreign states can be increased, slowed, or stopped. These levers, however, do not easily or readily weave into the delicate fabric of diplomatic relationships between governments.

Congress has been unable to determine what its individual or collective responsibility is in handling sensitive material and state secrets provided it by the executive branch. Ex-CIA Director William Colby recently said that "almost everything that's been reported to the Congress has been exposed in the press." I do not know whether he is right or not, but the question persists concerning the responsibility of Members in the handling of what is considered by some to be confidential information.

These shortcomings of the Congress raise serious questions about its ability to help formulate and legislate an effective foreign policy. Nonetheless because of the strong interest of Members of Congress in foreign policy, it is safe to say that Congress will continue to be active in foreign affairs.

In the months ahead, there must be greater sensitivity in Congress to its deficiencies in trying to legislate foreign policy, and in the executive branch of the need not to simply touch base with Members, or to placate them, on foreign policy issues. The executive must develop respect for the role of Congress in the formulation of foreign policy and engage in a genuine dialog with the Members of Congress. And Congress must realize that the executive branch needs flexibility in the day-to-day execution of foreign policy.

Hopefully, during this year neither campaign rhetoric nor short-term political need will keep us from progressing toward a more balanced formulation of American foreign policy.

FAREWELL FROM PETER COSTIGAN

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. MINETA. Mr. Speaker, in our Bicentennial Year, it is appropriate that we review our past, assess where we are today, and choose our policies and priorities as we move into our third century.

In this task it may be of use—and certainly is of interest—to learn of the observations of foreign visitors to our country. Such a visitor is Peter Costigan, who has toured the United States for the past decade as a reporter for the Melbourne, Australia, Herald. Mr. Costigan said goodbye to America just a few weeks ago, and in his final dispatch to Australia this perceptive reporter told of his experience and of his feelings toward our country.

While I do not agree with Mr. Costigan's every opinion, I find his remarks very interesting and thought-provoking, and, therefore, include them in the RECORD at this point:

FAREWELL FROM PETER COSTIGAN

Good bye, America. And thank you.

You don't get many thank you's these days, fewer even than the smattering of salutes that came your way ten years ago when we first got acquainted.

Then, the world was more puzzled than devastated by what you and we were doing in Vietnam, more aggravated by the manners of the tourists you poured out to all points than nervous about the strength of your economy, more anxious for your huge corporations to spread their wealth and expertise outside your borders than what your spies might have been doing.

But the lack of thank you's then was inspired more by sullen jealousy than by the fear now gripping your allies of your possible weakness or by the outrage, however hypocritical much of it is, that your enemies fling at you in the wake of Vietnam, Nixon, the CIA and J. Edgar Hoover.

But you have earned many thank you's, America.

What you were not going to do in 1966, you show no signs of doing in 1976.

Despite the polls and his extraordinary confidence, you are not going to put George Wallace into the White House to run the western world with his brand of cruelly hate-tinged bigotry.

You are not going to nuke Moscow, muzzle your press, slaughter your poor or stop people, like myself, from virtually any country in the world from roaming freely in and out of your land.

Every year you are still letting more people from the crushingly poor parts of Mexico and the Caribbean work illegally for your wages than Australia has ever admitted.

You do it, despite the costs of maintaining your own unemployed and will do nothing to stop it but talk.

You've been through some bad times in that extraordinary decade and you went perilously close to losing all those things about you that make it possible to say thanks.

My first week in America, one insane man wiped out two score of people from his turret on top of the University of Texas and another murdered and maimed half a dozen nurses in their Chicago flat. You still have an insane paranoia about owning and using guns.

The next year, sapped by the sweating northern summer but pushed to the brink of hopelessness by what they believed was a white society out to destroy them, your blacks rose in their ghettoes, threw away hundreds of their lives, brought martial law to a score of cities and went very close to destroying Detroit, one of America's biggest, most important and most famous cities.

There were more horrors to come and the great spiritual and constitutional bonds holding you together were stretched to snapping point.

Martin Luther King, one of the great leaders of the century who won a Nobel Peace Prize for his nonviolent revolution, was shot dead by a man who has never said why and who increasing numbers of Americans are coming to believe was part of a larger and frightening conspiracy.

America erupted again, but this time the capital city itself burned and the mightiest government on earth was powerless to stop it until the angry blacks were exhausted.

In a moment of exhilarating victory that seemed certain to presage the return of America's most acheing name to the White House, Robert Kennedy was gunned down in the concrete kitchen of a fading Grand Hotel in Los Angeles.

Without Kennedy and with only a fey Irish poet called Eugene McCarthy to amuse but barely lead them, your young marched on Chicago to force the Democratic Party to end a faraway war in which they saw themselves only as feed for insatiable guns and missiles and bombers.

But all they found was an angry, uncontrolled police force which beat their heads with relish and the obscene approval of Mayor Richard Daley and a party unable and unwilling to accept that in Vietnam, the party, its leaders and its country were making a tragic mistake.

At that point, much of the world thought America was going dangerously mad, lashing out at its institutions at home and tearing Indochina apart for reasons its leaders—or its allies—could not articulate convincingly.

But you were not going mad, America. One huge part of you was still pushing ahead with that partly spiritual always pragmatic revolution you started 200 years ago.

More quickly than America's denigrators care to admit, millions of blacks surged from poverty into the middle class; women, for decades more free here to choose their own pattern of life than anywhere else in the world, moved more swiftly than many of them will admit towards true equality of opportunity; and legions of Americans found recognition of their concern for nature and the care of their environment and inspired a movement than began to spread across the world and which could have a greater affect on the way the world lives in generations to come than anything else that has happened in the last ten years.

Oh, you did some appalling things, America, in this last decade. You gave yourself Mylai and it mattered more to you than it would have to many of the nations that berated you. Because, you have a conscience.

You did let your spies run rampant in little countries and your FBI and plumbers and God knows who else run all over your own country and you still cannot deliver any justification for it more convincing than the need for national security against the ultimate enemy, who does all these things.

And that really matters to you too and makes you, or most of you, wince and hurt, because you know that if this is the real justification you might as well stop now celebrating the bicentennial of your great revolution, because it will have failed.

For the second half of the decade you gave yourself and me and the world Richard Nixon and his Watergate. And you must be thanked for that too.

Any reporter would have given his typing finger to cover the incredible story of the rise and fall of Richard Nixon—and might have if the most dangerous gang which ever tried to run America had not been smashed.

If reporters are historians who never developed patience, Watergate was one of the great events in history in which the press was an integral and catalytic part.

You gave me the chance, America, to share in that story, to study and catalogue the quirks and weaknesses of Richard Milhous Nixon and that tragic conviction he had that only he was right, a conviction that obscured and tarnished his (or was it really Henry Kissinger's?) contribution to world order and finally forced him into history as the only President ever to resign his office.

But the reporter's satisfaction is a minor matter.

You deserve thanks, America, for Richard Nixon for deeper reasons.

It was a quick cliche, but never to be forgotten, that neither on the night your President resigned the power he had spent a lifetime seeking, had won for a second time by a mammoth majority and was trying to perpetuate through himself and whoever was to be his chosen successor, nor on the day he walked from the White House was there a tank on the streets of Washington, a soldier to be seen anywhere or a single blow struck.

Constitutional government and, especially your Constitution, did work, your political institutions did not collapse, the Nation did not riot, the world did not fall apart and—possibly most important of all—your enemies did not dare to take advantage in the classic way of history, of your momentary weakness.

Watergate did leave you weak, however, and you know it.

You have Jerry Ford nominally running the country and not very well. You are in the middle of the longest election in your history and you don't know how it will turn out.

You are yearning for a Socrates—or even a Harry Truman—and you know there is little chance you will get him.

But you know very well—and are probably right in assuming that most of the nations around the world which matter either to your security or to your still powerful dream of convincing men that your revolution was mankind's last, best hope also know very well—that anyone who tries to take too much advantage of your campaign distractions would do so at their risk.

You, and they, also know that your next President will be a very powerful man indeed in charge of a nation still quite aware of its economic and military power as well as its commitment to freedom.

It was being an Australian, though, that made our ten years together the ultimate reason for gratitude.

You were more bewildered than flattered ten years ago that any Australian would go all the way with any American President, partly because you knew your Presidents—all of them—too well and understood, often better than Australians did, that we were just as vigorously part of the real new world and entitled as much as America to do our thing.

The swings of Australian politics infuriated American leaders in the second half of the decade, but most Americans admired our new independence, even if they regretted our policies.

During the Watergate crisis, there was a bond between Australians in the United States and Americans, constantly emphasised by the Americans themselves, because they believed that we like them understood two crucial principles—that constitutions are not to be tampered with lightly, and that the rule of law not the whim of men is the best guarantee of freedom.

In weeks of saying good bye, America, you have bombarded me with the question "Why don't you stay?"

I've answered a thousand times—"because I'm an Australian, but if I was anybody but an Australian I'd be an American."

Ten years ago, even an Australian could not get away with that in this community of immigrants that built an unforgettable Nation on the belief that men of faith and energy could create something like the United States of America. Today, only an Australian can say it and survive.

The most powerful bumper sticker statement in America today is "America—Love it or leave it."

America. It is possible to love you and leave you. But you have to be an Australian to do it.

STATEMENT IN SUPPORT OF GI BILL EXTENSION

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. AMBRO. Mr. Speaker, many of us seated in this Chamber would not be here today but for the advanced educations we received under the entitlements of the GI bills following World War II and the Korean conflict.

Like many of my colleagues, I finished college after discharge from the U.S. Army by using education benefits provided by the Korean conflict GI bill. There are younger Members of this Chamber who received their educations under the post-Korean or Vietnam-era bill that will expire next May 30 for veterans who were discharged more than 10 years ago.

We must allow for the possibility, or for that matter probability, that there are now student veterans in our colleges, graduate, and professional schools who may be headed for the U.S. Congress or Senate after some future election. It is clearly unfair if the road to Washington is blocked for those future lawmakers by a cutoff of GI bill schools funds and an end to those educational benefits.

Yet, it is no more unfair than denying other student veterans access to corporate suites, professional careers, futures in teaching, engineering, journalism, private business, research, public service, or the myriad of occupations that require higher education in a broader range of disciplines.

There is much talk that with the higher pay and improved living conditions for an all-volunteer military force and an end to the draft, the GI bill educational benefits are not only unnecessary but unfair to those veterans who were drafted into the armed services.

However, the inequity of the present expiration date is precisely that it applies to those who never received the higher pay and benefits now enjoyed by volunteers.

Many of those same veterans were drafted into the service at great personal inconvenience. Therefore, there is an irrefutable injustice in denying those veterans the continuing benefits of the GI bill.

I am, therefore, asking the House to quickly approve one of the two bills I have cosponsored that will extend GI bill educational benefits beyond the present May 30 expiration.

There are veterans in my district on Long Island who were discharged from the military at least 10 years ago, but for a variety of reasons have been unable to complete their schooling and are now pursuing advanced degrees. It would be clearly unfair to deny those veterans the schooling benefits which were promised when they entered the Armed Forces.

One of my constituents who is married with three young children worked for a firm for 15 years after discharge from the service in the mid-1950's. After the firm closed in the early 1970's, he took another job which required additional education for advancement.

This veteran obtained his high school equivalency diploma in 1 year and began attending night school to get his college degree. He had completed half of his degree requirements when he wrote to me late last year asking for my support for an extension of GI bill educational benefits.

In less than 3 years, this man has advanced from 10th or 11th grade education level to within striking distance of a college degree. With a wife and three children to support, he needs the GI bill assistance to complete his admirable quest.

Is the U.S. Government prepared to tell this veteran that it cannot invest in his future or in his contribution to the Nation's future? The Government was not shy about demanding his service in a time of need.

How can that same Government now tell him that because of a technicality in the GI bill which he was promised, his educational assistance will now be terminated?

Some have objected to the additional millions that would be needed to extend GI bill eligibility beyond May 30 for veterans discharged before June 1, 1966. The argument is specious.

The so-called World War II GI bill educational program was one of the greatest pieces of social legislation this country ever passed, and very possibly the most productive.

The bill paid for the educations of hundreds of thousands of doctors, lawyers, businessmen, engineers, scientists, medical researchers, nurses, writers, educators, journalists, accountants, artists, diplomats, and as I have indicated earlier, more than a few past and present U.S. Congressmen and Senators. These people have served their Nation well and have contributed substantially to the superb quality of life in these United States.

One study found that the U.S. Government received in increased income tax revenues from those who qualified for the GI bill six times the amount it spent educating those World War II veterans.

The minds and abilities of our young men and women are the greatest resources this country has. The House must not even consider cutting off funds for the development of those resources. It is the best investment the Government can make.

The first bill I have cosponsored, H.R. 11925, would repeal the 10-year limitation without qualification. I have also cosponsored H.R. 11924 which would continue educational benefits to veterans who are in school at the time of the expiration of the 10-year period and who are, therefore, currently using their benefits.

I again urge quick approval of either of these measures so that veterans who were discharged more than 10 years ago can continue their educations.

CHILE: AN ANSWER FOR THE FREE WORLD

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 1976

Mr. McDONALD of Georgia. Mr. Speaker, since the news media rarely reports events in Chile or policies of its Government which are favorable, I would like to call attention to the following statement of Augusto Pinochet, President of the Republic of Chile. It appeared in the Washington Star of February 22, and, having investigated the situation in Chile firsthand during my visit to that country last July, I can attest to the general accuracy of President Pinochet's commentary and analysis.

The article follows:

[From the Washington Star, Feb. 22, 1976]

CHILE: AN ANSWER FOR THE FREE WORLD

(By Augusto Pinochet Ugarte, General of the Army, President of the Republic of Chile)

SANTIAGO DE CHILE.—In a world tussling with the uncertainty of its free destiny, after cool and dispassionate analysis, the Chilean experience emerges as the only solution capable of guaranteeing the survival of Western Christian civilization.

This blunt statement is not the product of an irrelevant theory, quite the opposite, it represents the actual condition of the western world, faced—it would seem—with one single alternative: to allow the unchecked progress of Soviet imperialism in fear of world conflagration.

Strong rebuff of the "dictatorship of the proletariat" is today the greatest "fault" imputed to our government and people by those who fear to face their own reality.

The heroic decision of an entire people to fight communism and the timely intervention of the armed forces to avoid a civil war, that, according to the communists themselves, would have resulted in one million dead is what the Soviets condemn today in their endeavor to conceal their greatest and most dramatic defeat in the last thirty years.

Chile has undertaken this responsibility fully aware of the risks entailed, yet deeply convinced that no other alternative existed—as it does not exist today—to eradicate an evil which indeed has a beginning but no end, other than slavery of man by men.

Chile feels and lives its liberty, as no other nation has known, in spite of the preventative measures the government has been required to take to safeguard the integrity of the community in a world where only exists the most unrefrained and inhuman violence.

Is it not strange that a small country like ours, lost in a corner of the world outside of the Soviet orbit, has been the cause of such unalleviated preoccupation and the target of such implacable campaigns of defamation and deception?

Our truth, therefore, becomes a faint whisper before a flood of lies, only overcome by the tenacity of the people with the strong conviction, after having lived the experience, that communism is an intrinsically perverse doctrine that destroys the Christian values of mankind. Chile has been the only country in history which has freed itself from Marxism-Leninism. For this we will never be forgiven.

Chile's foreign policy is nothing more than the updating of a major national project, through which the state intends to protect its natural resources, its historical and cultural identity as a developing country. To effect this, Chile's presence has been extended to all fields of international activity and its diplomatic relations have undergone unprecedented growth. At the world conference of the law of the sea, the UNCTAD meetings, those of the 77, of copper and iron producing nations, on environment matters, on science and technology, this country has acted in unison with all nations intent on consolidating fair and peaceful international order.

In keeping with our excellent relations with all neighboring countries in the Southern Cone and Andean Pact, and inspired by an Americanist concept proclaimed by our government which undoubtedly is a real example of peaceful solutions which should exist among our countries, Chile—in an unprecedented act—has offered an outlet to the sea to Bolivia.

In the forthcoming meeting in Chile of the most important organ in the Inter-American System—The OAS General Assembly—that will enable the nations in the hemisphere to ascertain once more our condition as a free and open country, in the proposals that Chile has raised and will continue to raise at all international forums, to the effect of establishing a universal, equitable and efficient procedure in protection of human rights, in its proposals before the other South American countries on effective limitation of arms and in the resolution it cosponsored with other states in the Pacific Ocean and South America, in favor of a nuclear-free area in the Southern Pacific, in all these fields lies the reflection of our desire to unite wills and constructively combine diverse interests.

If Latin America represents the first example of our vocation of solidarity, our relations with the United States of America, Europe, the Far East and nations of the third world, are likewise the target of our renewed efforts to increase it. New diplomatic missions have been posted in Africa, Asia and the Caribbean; in the Arab world, we have found a new scope for exchange and common projects.

In the domestic field, after long years of crisis that ended in veritable chaos, the strengthening of our economy is not a simple task and, naturally, has required the cooperation of all Chileans. And this cooperation has not been lacking in spite of what the country has endured and moreover, of the serious effects of world recession caused by the price of fuel that, in Chile's case in 1975, created an extraordinarily adverse situation as a result of the low price of copper.

This unfavorable situation was met with firm determination and, through the economic recovery plan, all measures required were taken to adjust the economy of the country to lower the available resources brought about by external factors that, certainly, escape the control of the economic authorities.

The measures taken were directed towards reducing the anticipated balance of payments deficit to a reasonable figure which was accomplished without much difficulty. The local currency deficit was eliminated—one of the most outstanding achievements in the economy—as the main traditional cause of currency issue has now been eliminated. Moreover, as of the second half of the year, it was possible to cut down inflation to considerable extent, in spite of the need to emphasize measures directed to compensate the balance of payments. This required the central bank to purchase foreign exchange from private areas, thereby generating the increase of money in circulation.

Today, the situation appears more favorable than last year, even though the price of copper continues below its normal level and the external debt service is even higher than in 1975.

The government is aware of the foreign policy situation promoted by the enemies of Chile in their desire to damage the country. Therefore we prefer to attain our economic growth gradually, in order not to commit it beyond its present capabilities. The government is likewise fully aware of the high unemployment rates. To mitigate this situation, the 1976 ministerial programs contemplate hiring all individuals who meet the requirements of the minimum employment plan. Moreover, budget implementation assigns priority to more extensive labor projects, such as construction, education, and health.

Finally, we must express here and now that our reply to the totalitarian world, so praised by Soviet imperialism, is equally valid for all free peoples in the world who, with dignity and patriotism, prove themselves capable of vigorously checking—on any ground—an enemy which is a visible enemy and not someone who possesses all the rights to destroy and has the immunity to do so.

SENATE—*Thursday February 26, 1976*

The Senate met at 10 a.m. and was called to order by Hon. J. BENNETT JOHNSTON, a Senator from the State of Louisiana.

PRAYER

The Reverend James Ahlemann, pastor, Calvary Church of the Nazarene, Arlington, Va., offered the following prayer:

Our Father and our God, this is the day that Thou hast made and we acknowledge our need of Thy wisdom and strength to know and to do Thy perfect will. Grant to us a deeper consciousness of Thy rich blessings upon this Nation that we love. Thou hast given us wonderful natural beauty and resources. Thou hast given us good government in which the voice of the people is heard. Thou hast blessed us with freedom. We are rich in Thee.

Remind us again of the faith of our forefathers who left a land where they were persecuted to establish a nation where they were free to worship Thee. Help us to remember that our country was founded in a fervent faith, inspired by a heavenly hope, guided by the teachings of truth, and nurtured by the power of prayer. Bring to our memory those who have bravely lived and nobly died.

Today, our Father, we are deeply grateful for our glorious past. Help us to recognize that our past alone does not guarantee our future. Grant to these our leaders Thy divine wisdom that they may guide our Nation aright.

In the name of our Lord and Saviour we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 26, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. J. BENNETT JOHNSTON, a Senator from the State of Louisiana, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. JOHNSTON thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, February 25, 1976, be dispensed with.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following calendar orders numbered 610, 612, 621, and 622.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

THIRD BUDGET RESCISSION BILL, 1976

The bill (H.R. 11665) to rescind certain budget authority recommended in the message of the President of January 23, 1976 (H. Doc. 94–342), transmitted pursuant to the Impoundment Control Act of 1974, which had been reported from the Committee on Appropriations with an amendment on page 2, beginning with line 16, insert the following:

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS

Contract authority provided in the Federal-Aid Highway Act of 1973 for Public Lands Development Roads and Trails in the amount of $4,900,000, available until June 30, 1976, is rescinded.

NATIONAL PARK SERVICE

ROAD CONSTRUCTION

Contract authority provided in the Federal-Aid Highway Act of 1973 for Road Construction in the amount of $58,500,000, available until June 30, 1976, is rescinded.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–640), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE BILL

This is the third rescission bill to be reported by either the Senate or House Committee on Appropriations during fiscal year 1976 under the provisions of title X of the new Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344), July 12, 1974.

A general discussion of the bill follows. Further details concerning particular items can be found in the Senate Document cited above.

RESCISSION TOTALS

The total budget authority recommended to be rescinded in the bill is $75,831,000. A summary table of rescissions follows which shows all items that are recommended for rescission by the Committee or as passed the House.

Rescission No.	Department or activity	Amounts proposed for rescission	House recommendation for rescission	Committee recommendation for rescission
R76-27A	Consumer Product Safety Commission: Salaries and expenses	$6,431,000	$2,656,000	$2,656,000
R76-44	Selective service system: Salaries and expenses	1,775,000	1,775,000	1,775,000
R76-40	Department of the Interior: Bureau of Land Management: Public lands development roads and trails,	8,800,000	-------------	4,900,000
R76-41	National Park Service: Road construction	58,500,000	-------------	58,500,000
R76-43	Department of State: Mutual education and cultural exchange activities,	8,000,000	8,000,000	8,000,000
	Total	83,506,000	12,431,000	75,831,000

This report addresses only those presidential proposals recommended for rescission by the Committee or as passed by the House. It should be pointed out, however, that a number of additional rescission proposals are pending before the Congress during the months of February and March. A complete list of all pending rescission proposals as of February 1, 1976, is shown in the following table:

STATUS OF RESCISSIONS—FISCAL YEAR 1976

[Amounts in thousands of dollars; as of Feb. 1, 1976]

Agency/bureau/account	Rescission No.	Amount proposed for rescission	Date special message transmitted to Congress	Amount rescinded	Date rescission act signed	Amount made available	Date made available
Department of Agriculture:							
Agricultural Research Service: Construction	R76-15	225	Nov. 29, 1975				
Agricultural Stabilization and Conservation Service:							
Water Bank Act program	R76-16	12,500	do				
Forestry incentives program	R76-17	[18,750]	do				
	R76-17A	18,750	Jan. 13, 1976				
Farmers Home Administration:							
Rural water and waste disposal grants	R76-18	150,000	Nov. 29, 1975				
Rural development grants	R76-19	[12,344]	do				
	R76-19A	12,344	Jan. 23, 1976				
Rural housing for domestic farm labor	R76-20	9,375	Nov. 29, 1975				
Mutual and self-help housing	R76-21	12,287	do				
Self-help housing land development fund	R76-22	1,498	do				
Rural housing insurance fund	R76-23	10,000	do				
	R76-29	500,000	Jan. 23, 1976				
Rural community fire protection grants	R76-24	4,375	Nov. 29, 1975				
Agricultural Marketing Service: Payments to States and possessions	R76-25	2,000	do				
Food and Nutrition Service: Special milk program	R76-30	40,000	Jan. 23, 1976				
Forest Service: Forest roads and trails	R76-4	[25,723]	July 25, 1975			25,723	Oct. 7, 1975
Department of Commerce: Economic Development Administration: Economic development assistance programs	R76-31	4,000	Jan. 23, 1976				
Department of Defense—Civil: Corps of Engineers—Civil: Construction, general	R76-32	3,600	do				
Department of Health, Education, and Welfare:							
Health Services Administration:							
Health services	R76-33	127,804	do				
Indian Health Service	R76-34	5,294	do				
Center for Disease Control: Preventive health services	R76-35	7,690	do				
Alcohol, Drug Abuse, and Mental Health Administration: Alcohol, drug abuse, and mental health	R76-36	56,500	do				
Health Resources Administration: Health resources	R76-37	69,000	do				
Office of Education:							
Elementary and secondary education	R76-9	[220,404]	Nov. 18, 1975				
	R76-9A	210,404	Jan. 23, 1976				
Indian education	R76-38	15,000	do				
School assistance in federally affected areas	R76-10	[220,968]	Nov. 18, 1975				
	R76-10A	243,773	Jan. 23, 1976				
Education for the handicapped	R76-11	36,375	Nov. 18, 1975				
Occupational, vocational, and adult education	R76-12	14,241	do				
Higher education	R76-13	768,140	do				
Library resources	R76-14	28,975	do				
Assistant Secretary for Human Development:							
Child development and Head Start	R76-5	[7,000]	July 25, 1975			7,000	Oct. 24, 1975
Grants for the developmentally disabled	R76-39	2,000	Jan. 23, 1976				
Department of Housing and Urban Development:							
Housing Production and Mortgage Credit: State housing finance and development agencies	R76-26	[1]600,000	Nov. 29, 1975				
Community Planning and Development: Rehabilitation loan fund	R76-28	60,670	Jan. 6, 1976				
Department of the Interior:							
Bureau of Land Management: Public lands development roads and trails	R76-40	[2]8,800	Jan. 23, 1976				
National Park Service: Road construction	R76-41	[3]58,500	do				
Bureau of Mines: Helium fund	R76-6	[47,500]	July 25, 1975	47,500	Oct. 13, 1975[4]		
Department of State: Mutual educational and cultural exchange activities	R76-42	8,000	Jan. 23, 1976				
Department of Transportation:							
Federal Highway Administration:							
National scienic and recreational highway	R76-1	[90,000]	July 1, 1975	(5)	(5)		
Access highways to public recreation areas on lakes	R76-2	[25,000]	do	[6]25,000	Nov. 24, 1975[6]	(6)	Nov. 24, 1975
Department of the Treasury Office of the Secretary: Construction, Federal Law Enforcement Training Center	R76-3	[8,665]	do			8,665	Sept. 23, 1975
Other independent agencies:							
Community Service Administration:							
Economic Opportunity Program: Research and demonstration	R76-7	[7][2,500]	July 25, 1975				
Community and economic development	R76-8	[7][7,500]	do				
Community services program	R76-43	2,500	Jan. 23, 1976				
Consumer Product Safety Commission: Salaries and expenses	R76-27	[5,225]	Nov. 29, 1975				
	R76-27A	6,431	Jan. 23, 1976				
Selectrive Service System: Salaries and expenses	R76-44	1,775	Jan. 23, 1976				
Total		3,112,826		22,500		41,388	

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[1] For 1976, $15,000,000 in contract authority and $15,000,000 to liquidate that contract authority.

[2] See deferral D76-12.

[3] See deferral D76-18.

[4] Public Law 94-111.

[5] See H. Rept. No. 94-496. Deferral of the $90,000,000 was reported to the Congress on Sept. 24, 1975, in D76-55.

[6] Public Law 94-134, signed Nov. 24, 1975, rescinds the $25,000,000 in R76-2 and makes new appropriations of $10,000,000.

[7] These funds, provided in Public Law 94-32, lapsed on Sept. 30, 1975.

CONSUMER PRODUCT SAFETY COMMISSION

Salaries and expenses

Rescission No.: R76-27A; *Date proposed:* November 29, 1975; (*Revised:* January 23, 1976)

Available new budget authority	[1] $52,175,000
Available other budget authority	
Proposed rescission	[2] —6,431,000
House action	[3] —2,656,000
Committee recommendation for rescission	[3] —2,656,000

[1] Includes $41,820,000 for fiscal year 1976 and $10,355,000 for the transition quarter.

[2] Includes $5,225,000 for fiscal year 1976 and $1,206,000 for the transition quarter.

[3] Includes $2,256,000 for fiscal year 1976 and $400,000 for the transition quarter.

Presidential rationale for proposed rescission: The proposed rescission would allow maintenance of all SPSC programs at the 1975 level in accordance with the President's budget request for fiscal 1976 and the transition quarter. This should provide sufficient resources for CPSC to demonstrate its effectiveness in reducing consumer injuries and accomplish essential objectives.

Explanation of Committee recommendation: The Committee recommends a partial rescission of $2,256,000 in fiscal year 1976 and $400,000 in the transition quarter. The Commission has indicated that this partial rescission would not damage its mission as presently perceived. Since the Commission has the authority to come directly to the Congress without submitting its budget to the Office of Management and Budget, its acquiescence in a partial rescission is indicative of the legitimacy of such a rescission.

SELECTIVE SERVICE SYSTEM

Salaries and expenses

Rescission No.: **R76–44;** *Date proposed:* **January 23, 1976**

[All figures are for transition quarter]

Available new budget authority	$8,300,000
Available other budget authority	-----------
Proposed rescission	−1,775,000
House action	−1,775,000
Committee recommendation for rescission	−1,775,000

Presidential rationale for proposed rescission: The proposed rescission reflects savings associated with suspension of the draft registration requirement and the phase-down of personnel and activities associated with this function. A mobilization review has indicated that increased reliance can be placed on reservists and volunteers to fulfill defense needs during the early stages of a major conflict.

Explanation of Committee recommendation: The Committee recommends approval of the proposed rescission. The Selective Service System will continue to be able to plan and prepare for registration and induction of individuals into the armed services in the event of mobilization regardless of the rescission.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Public Lands Development Roads and Trails

Rescission No.: R76–40; *Date proposed:* January 23, 1976

Available new budget authority	-----------
Available other budget authority	[1] $49,000,000
Proposed rescission	[2] −8,800,000
House action	Not considered
Committee recommendation for rescission	—4,900,000

[1] Includes $30,050,000 available for fiscal year 1976 and $18,950,000 available for fiscal year 1977.

[2] Includes $4,900,000 for fiscal year 1976 and $3,900,000 for fiscal year 1977.

Presidential rationale for proposed rescission: Consistent with fiscal year 1976 appropriations and fiscal year 1977 budget estimates. The President cites the Anti-Deficiency Act as authority for his proposal.

Explanation of Committee recommendation:

The Committee recommends rescission of $4,900,000 in contract authority for fiscal year 1976 provided by the Federal-Aid Highway Act, but disapproves the President's accompanying proposal to rescind another $3,900,000 available for fiscal year 1977. The latter amount should be deferred pending congressional action on the Bureau's fiscal year 1977 road construction program.

The amount recommended for rescission is excess to the fiscal 1976 road construction program approved by the Congress when it passed the Department of the Interior and Related Agencies appropriations bill for fiscal year 1976 (Public Law 94–165), which contained appropriations to liquidate road contract authority. Rescission is also consistent with overall spending limitations established by the Congress in the 1975 budget resolution. Failure to rescind the contract authority for fiscal 1976 would force the Bureau to obligate unprogrammed, lower priority projects before the beginning of the 1977 fiscal year. Information supplied to the Committee indicates only some $1,000,000 could be effectively obligated in that period. The recommended rescission will result in estimated outlay savings of $500,000 for fiscal year 1976; $500,000 for the fiscal year transition quarter; $3,500,000 for fiscal year 1977; and $1,500,000 for fiscal year 1978.

The Committee will extend consideration to a rescission of contract authority available for fiscal year 1977 after a final determination by the Congress of the Bureau's total road construction program for that year.

NATIONAL PARK SERVICE

Road construction

Rescission No.: R76–41; Date proposed: January 23, 1976

Available new budget authority	--------------
Available other budget autority	$276,782,517
Proposed rescission	—58,500,000
House action	Not considered
Committee recommendation for rescission	—58,500,000

Presidential rationale for proposed rescission: Consistent with fiscal year 1976 appropriations and financial plan. The President cites the Anti-Deficiency Act as authority for his proposal.

Explanation of Committee recommendation:

The Committee recommends rescission of $58,500,000 in contract authority available for fiscal year 1976 under the Federal-Aid Highway Act of 1973.

This amount is excess to the fiscal year 1976 road construction program approved by the Congress when it passed the Department of the Interior and Related Agencies appropriations bill for fiscal year 1976 (Public Law 94–165), which contained appropriations to liquidate contract authority. Rescission is also consistent with the overall spending limitation established in the fiscal year 1976 budget resolution. The Park Service has estimated it would not be able to obligate the full $58,500,000 before the beginning of fiscal year 1977 even if the contract authority were to remain available.

The recommended rescission will result in estimated outlay savings of $7,878,000 in the fiscal year transition quarter and $28,143,000 in fiscal year 1977.

DEPARTMENT OF STATE

Mutual education and cultural exchange activities

Rescission No.: R76–43: Date proposed: January 26, 1976

Available new budget authority	$60,000,000
Available other budget authority	
Proposed rescission	[1] −8,000,000
House action	−8,000,000
Committee recommendation for rescission	−8,000,000

[1] Reduces NBA by $5,000,000 for fiscal year 1976 and $3,000,000 for the transition quarter.

Presidential rationale for proposed rescission: To reduce growth in the Federal budget. This action would reduce program activities involving exchange of persons for educational and cultural activities between the United States and other nations.

Explanation of Committee recommendation:

This amendment would rescind $5,000,000 of funds appropriated for the current fiscal year and $3,000,000 of funds appropriated for the transition quarter for mutual educational and cultural exchange activities.

These are the same amounts as those proposed by the President in rescission proposal No. R76–42 submitted to the Congress on January 23, 1976, and printed in House Document No. 94–342.

The program will be maintained at a level of $55,000,000 in fiscal year 1976 and $10,000,000 in the transition quarter. This compares with a level of $53,300,000 in fiscal year 1975 and a proposed level of $58,500,000 for fiscal year 1977. Consequently, the rescission will bring the 1976 and the transition quarter programs in line with the program proposed for fiscal year 1977.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Rural Housing Insurance Fund

The President has proposed that $500 million in additional loan authority for insured loans of the Farmers Home Administration be rescinded (Rescission No. R76–29). These funds were authorized in the Supplemental Appropriations Act for Fiscal Year 1976 (Public Law 94–157) specifically to meet an urgent need for greater housing credit in rural America.

The Committee finds that this need still exists and therefore recommends that this proposed rescission be rejected and that the additional loan authority be expeditiously made available for obligation.

The Committee remains very cognizant of the heavy burden these funds will incur on the already strained administrative capacity of the Department as was outlined in this Committee's report to the Supplemental Appropriations Act (S. Rept. 94–511).

It must be made clear, however, that the Committee will not tolerate inadequate or unrealistic administrative support levels to choke off the provision of vitally needed credit assistance in rural areas.

The Committee notes the recent progress of the Department in developing overdue management improvements and reforms. As an example, in the field of rural housing credit, the Committee understands that a guaranteed loan program is nearing implementation. This will not only provide the Department with an additional tool in assisting rural residents, but also will utilize private credit sources and reduce the Federal administrative load in making this assistance available.

The Committee believes that through a concerted effort by the Department, utilizing such improvements in management practices, that $500 million in increased loan authority can be effectively applied in meeting rural housing credit needs.

The Department is directed to keep this Committee advised of its progress in making these funds available to qualified rural residents and in implementing the above noted management improvements.

VIEWS OF THE COMMITTEE ON THE BUDGET

The Senate Committee on the Budget, to which was referred a bill (H.R. 11665), to rescind certain budget authority recommended in the Message of the President of January 23, 1976 (H. Doc. 94–342), transmitted pursuant to the Congressional Budget and Impoundment Control Act of 1974, having considered the same, reports as follows:

The matters contained in H.R. 11665 do not appear to have significant macroeconomic effects, nor do they significantly affect national priorities. The Committee therefore has no recommendation on this bill.

THE PATENT ACT OF 1975

The bill (S. 2255) for the general revision of the Patent Laws, title 35 of the United States Code, and for other purposes, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 4, line 28, strike "take such other action, and";

On page 4, line 33, strike "(5) shall take such action as may be necessary or appropriate to carry out the provisions of section 298 of this title.";

On page 4, line 35, strike "(6)" and insert "(5)";

On page 10, line 18, strike "therewith prescribed," and insert "therewith, prescribed,";

On page 10, line 23, after "prescribed" insert "in the Federal Rules of Civil Procedure";

On page 10, line 26, after "regulations" insert "not inconsistent with the Federal Rules of Civil Procedure";

On page 10, line 30, after "person" insert "(other than an employee or agent of a party to the proceeding)";

On page 11, line 3, strike "aggrived" and insert "aggrieved";

On page 11, line 8, strike "Except as provided in paragraph (3) of this subsection, such" and insert "Such";

On page 11, beginning with line 14, insert the following:

"(B) In the case of a person (other than an employee or agent of a party to the proceeding) not a party to the proceeding before the Board of Examiners-in-Chief, the United States District Court for the District of Columbia may, if it finds that the interests of justice, judicial economy, and fairness to such person permit, transfer such application to the United States district court for the judicial district in which such person resides or may be found.

"(3) Disobedience of any court order entered pursuant to this subsection shall be punishable as a contempt.

On page 26, line 39, strike "can" and insert "shall";

On page 36, line 36, strike "any matter should be deleted from the decision to protect trade secret information" and insert "the decision discloses such trade secret information, and shall delete from the decision such matter as may be necessary to protect such trade secret information. Such decision shall be deemed a final decision appealable under section 141 of this title.";

On page 38, line 28, strike "may" and insert "shall";

On page 42, beginning with line 1, insert the following:

"§ 135A. Reexamination

"(a)(1) During the term of a patent, but not prior to twelve months after its issuance, nor during the pendency of any litigation concerning its validity or unenforceability, any person having an interest in the subject matter seeking to invalidate or limit the scope of or determine the patentability of any claim or claims of such patent may, but shall not directly or indirectly be required by any court or other body to request reexamination of such patent pursuant to this section.

"(2) Such person shall request reexamination by notifying the Commission in writing, of any patents, publications, or other documents or information in tangible form, that relate to the state of the art and may have a bearing on the validity of any claim of such patent; by submitting any explanation of such documents or information that he deems appropriate; and by requesting the Office to examine the patent further on the basis of such documents or information.

"(b)(1)(A) The Commissioner promptly shall provide the patent owner with a copy of such reexamination request together with the documents and information produced pursuant to paragraph (2) of this subsection (unless the person requesting such reexamination is the patent owner), and the patent owner shall have sixty days from the date of its transmittal to file a response.

"(B) Upon receipt of such response, the Commissioner shall refer the matter to the Solicitor for review. The Solicitor may require the person filing such notification to verify any facts alleged therein and shall render a report to the Commissioner. If the Commissioner concludes that such facts present reasonable grounds for rendering a claim of such patent invalid, he shall direct a primary examiner (other than the original examiner) to reexamine such patent de novo (without any presumption of validity or invalidity).

"(2)(A) The primary examiner shall determine the validity of the claims in issue on the basis of the full record before the Office, in accordance with such procedures, not inconsistent with the provisions of this section, as the Commissioner by regulation shall prescribe.

"(B) Such regulations shall provide for the best and most expeditious reexamination practicable under the circumstances, consistent with the requirements of section 132 of this chapter and with the orderly conduct of the work of the Office.

"(3) The patent owner and the person requesting reexamination (if not the patent owner) shall be parties to the reexamination proceeding.

"(4) Any other person asserting an interest in the subject matter may, in accordance with such regulations as the Commissioner shall prescribe, intervene as a party in such proceeding. Such regulations shall, insofar as is possible, correspond to the Federal Rules of Civil Procedure relating to intervention now in force or as may be amended hereafter.

"(5) The determination by the primary examiner shall be the final action of the Office unless an appeal is taken pursuant to subsection (c) of this section.

"(6) Proceedings before the Office, pursuant to this section, shall be open to the public, and notice thereof shall be given. A record or recording of any hearings shall be kept.

"(c)(1) Any party may take an appeal to the Board of Examiners-in-Chief from the determination of the primary examiner made pursuant to subsection (b) of this section.

"(2) The Board shall decide such appeal in the most expeditious manner practicable, consistent with the orderly conduct of the work of the Office and those requirements of section 134 of this chapter not made inapplicable to such appeals by this subsection.

"(3) The decision by the Board shall be the final action of the Office unless an appeal is taken pursuant to subsection (d) of this section.

"(d)(1) Any party may take an appeal from a decision of the Board of Examiners-in-Chief.

"(2) Such appeal shall be only to the United States district court for the District of Columbia, which shall consider patentability de novo. Any party to such appeal may introduce into the record any information not previously made part of the record, and may seek to reverse the decision below on the basis of such information.

"(e) Any party to a reexamination proceeding under this section shall have the right to file written briefs and replies thereto.

"(f)(1) In any reexamination proceeding under this section, or appeal therefrom, the patent owner shall not be permitted to present new or amended claims for his patent.

"(2) Nothing in this subsection shall bar a patent owner from utilizing the reissuance provisions of section 251 in accordance with its terms.

On page 59, line 16, strike "of" and insert "or";

On page 66, line 26, strike "298 Challenge to validity by the United States.";

On page 67, line 22, strike "(3)" and insert "(4)";

On page 68, beginning with line 6, insert the following:

"(3) The court may, in its discretion, request the Office to render a written opinion as to whether any newly cited prior art not previously before the Office would have adversely affected the issuance of the patent.

On page 68, line 10, strike "(3)" and insert "(4);

On page 68, line 29, strike "(d)" and insert "(e)";

On page 75, beginning with line 39, strike the following:

"§ Challenge to validity by the United States

"(a) The United States or any officer or agency thereof shall not assert the invalidity of a patent or any claim thereof in the pleadings or otherwise in writing in a civil or criminal action unless, at least 30 days prior to the assertion, or a lesser period if such is required by the provisions of law, the United States, or that officer or agency, notifies the Solicitor of its intention to assert such invalidity. The Solicitor may, if he determines it to be necessary or appropriate to assure the strength and reliability of the patent system, advise the United States or the officer or agency asserting the invalidity of the patent, concerning the proposed assertion of invalidity.

"(b)(1) Information given to the Solicitor for comment under the provisions of subsection (a) shall be kept in confidence by the Office and may be disclosed by the Solicitor only if the officer or agency which provided that information gives a written authorization to the Office to disclose the information or as is necessary to carry out the provisions of an Act of Congress.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $1,000, shall be imprisoned for not more than 1 year, or both.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with the authority granted by article 1, section 8, clause 8 of the United States Constitution, title 35 of the United States Code entitled "Patents", is hereby amended in its entirety to read as follows:

"TITLE 35—PATENTS

"PART	Sec.
"I. PATENT AND TRADEMARK OFFICE	1
"II. PATENTABILITY OF INVENTIONS AND GRANT OF PATENTS	100
"III. PATENTS AND INFRINGEMENT OF PATENTS	261
"IV. PATENT COOPERATION TREATY	351

"PART I—PATENT AND TRADEMARK OFFICE

"CHAPTER	Sec.
"1. ESTABLISHMENT, OFFICERS, FUNCTIONS	1
"2. PROCEEDINGS IN THE OFFICE	21
"3. PRACTICE BEFORE THE OFFICE	31
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"Chapter 1.—ESTABLISHMENT, OFFICERS, FUNCTIONS

"Sec.
"1. Establishment.
"2. Seal.
"3. Commissioner and other officers.
"4. Restrictions on officers and employees as to interest in patents.
"5. Board of Examiners-in-Chief.
"6. Library.
"7. Classification of patents.
"8. Certified copies of records.
"9. Publications.
"10. Research and studies.
"11. Annual report.

"§ 1. Establishment

"The Patent and Trademark Office, hereinafter referred to in this title as the 'Office,' shall be continued as an agency within the Department of Commerce. Records, books, drawings, specifications, and other papers and things pertaining to patents and to trademark registrations shall be kept and preserved in the Office, as provided by this title or other provisions of law. Appointment of members of the Board of Examiners-in-Chief and primary examiners shall not be subject to the provisions of section 3105 of title 5, United States Code. The Office shall function independently of the Department of Commerce in the exercise of discretion concerning the rule-making, investigatory, and adjudicatory functions of the Office, including judicial proceedings related thereto.

"§ 2. Seal

"The Office shall have a seal with which letters patent, certificates of trademark registration, and papers issued from the Office shall be authenticated.

"§ 3. Commissioner and other officers

"(a) (1) There shall be a chief administrative officer of the Office, the Commissioner of Patents and Trademarks, referred to in this title as the 'Commissioner.' The Assistant Secretary of Commerce for Patents and Trademarks, shall, ex officio, be the Commissioner of Patents and Trademarks. The Commissioner shall be appointed by the President, by and with the advice and consent of the Senate, and he shall be compensated at the rate now or hereafter provided for level IV of the Executive Schedule pay rates (5 U.S.C. 5315). The Commissioner shall superintend or perform all duties required by law respecting the granting and issuing of patents and the registration of trademarks, shall have the authority to carry on studies and programs regarding domestic and international patent and trademark law and practice, and shall have charge of property belonging to the Office. The Commissioner is authorized to promulgate rules and regulations, not inconsistent with law, governing proceedings before the Office; to review, himself or by such delegate as he shall designate, all decisions or orders of the Office, the review of which other provisions of this title do not assign to the Board of Examiners-in-Chief; and otherwise to prescribe such further rules and regulations and take such further actions as may be necessary or proper for purposes of administration of the Office. Rules and regulations promulgated by the Commissioner shall have the force of law.

"(2) The Commissioner may, in coordination with the Department of State, carry on programs and studies cooperatively with foreign patent offices and international intergovernmental organizations, or may authorize such programs and studies to be carried on, in connection with the performance of duties stated in subsection (a) (1) of this section.

"(3) The Commissioner may, with the concurrence of the Secretary of State, transfer funds appropriated to the Office, not to exceed $200,000 in any year, to the Department of State for the purpose of making special payments to international intergovernmental organizations for studies and programs for advancing international cooperation concerning patents and trademarks. These special payments may be in addition to any other payments or contributions to such organizations and shall not be subject to any limitations imposed by law on the amounts of such other payments or contributions by the Government of the United States.

"(4) The Commissioner may, with the concurrence of the Secretary of State, allocate funds appropriated to the Office, to the Department of State for the purpose of payment of the share on the part of the United States to the working capital fund established under the Patent Cooperation Treaty. Contributions to cover the share on the part of the United States of any operating deficits of the International Bureau under the Patent Cooperation Treaty shall be included in the annual budget of the Office and may be transferred by the Commissioner to the Department of State for the purpose of making payments thereof to the International Bureau.

"(b) There shall be a Deputy Commissioner of the Office, who shall be appointed under the unclassified civil service by the Commissioner, and who shall be compensated at a per annum rate of basic compensation not in excess of the maximum scheduled rate provided for positions in grade 18 of the General Schedule. The Deputy Commissioner shall perform such functions as the Commissioner may assign or delegate and he shall act as Commissioner during the absence or disability of the Commissioner or in the event of a vacancy in the office of the Commissioner.

"(c) The Commissioner may appoint ununder the classified civil service not more than two Assistant Commissioners of the Office who shall be compensated at a per annum rate of basic compensation not in excess of the maximum scheduled rate provided for positions in grade 18 of the General Schedule. Such Assistant Commissioners shall perform such functions as the Commissioner may from time to time assign or delegate. In the event of vacancies in the offices of Commissioner and Deputy Commissioner, or their absence or disability, the Assistant Commissioner senior in date of appointment shall fill the office of Commissioner until said vacancies, absences, or disabilities terminate.

"(d) In addition to the officers designated in the preceding subsections of this section, there shall be a Solicitor, appointed by the Commissioner, who shall be compensated at a per annum rate of basic compensation not in excess of the maximum scheduled rate provided for positions in grade 18 of the General Schedule. He shall perform such legal functions as requested by the Commissioner. He or his delegate—

"(1) may participate in any proceeding before the Office when the primary examiner or the Board of Examiners-in-Chief so requests, and it appears to the Solicitor that it is necessary or appropriate in the public interest for him to participate; and

"(2) shall defend appeals pending before the Board of Examiners-in-Chief, or from any final action of the Office, except as otherwise provided by subsection (f) of this section and subsection (b) of section 134; and

"(3) shall have, in a proceeding to which he has become a party pursuant to the provisions of this subsection, or in which this title permits or requires him to participate, all rights and powers afforded parties under this title, including that to take depositions and testimony, and to seek evidence or other information, pursuant to section 23 of this title; and

"(4) shall conduct such other investigations or inquiries pursuant to section 24 of this title, as may be necessary or appropriate to carry out the purposes of this title, including the investigation of possible violations of this title and rules and regulations promulgated thereunder; and

"(5) shall, whenever his functions pursuant to this subsection require his representing differing legal positions in a proceeding, make available employees of his office to assure that such positions are adequately presented.

"(c) The Commissioner shall, subject to other requirements of law, appoint other officers and employees and assign or delegate to them the functions of the Office. The Commissioner is authorized to fix the per annum rate of basic compensation of each examiner-in-chief at not in excess of the maximum scheduled rate provided for positions in Grade 17 of the General Schedule (5 U.S.C. 5104).

"(f) Any other provision of law to the contrary notwithstanding, the authority of the Solicitor and that of any officer or employee of the Office to appear before the courts shall be subject to the direction and control of the Attorney General and shall be limited to such delegation of authority as the Attorney General or his duly authorized representative may make.

"§ 4. Restrictions on officers and employees as to interest in patents

"(a) Officers and employees of the Office shall be incapable, during the period of their appointment or employment and for one year thereafter, of:

"(1) applying for a patent;

"(2) being named as an inventor in an application for patent for an invention made during the period of their appointments or for one year thereafter; or

"(3) acquiring, directly or indirectly, except by inheritance or bequest, any patent or any right of interest in any patent issued or to be issued by the Office.

"(b) After expiration of the one-year post-appointment period provided for in subsection (a) of this section, a former officer or employee may apply for a patent or be named as an inventor in an appliction for patent: *Provided, however,* That if the subject matter claimed in an application for patent was invented during the period of his appointment or employment or within one year thereafter, the application for such patent shall not be entitled to any date of invention earlier than one year after termination of the appointment of such former officer or employee.

"(c) The Commissioner shall prescribe regulations governing the participation of present or former officers and employees of the Office in the preparation or prosecution of applications for patent which may be or have been assigned to one or more examining groups to which the work of such officers or employees may be or has been related.

"(d) Nothing contained in this section shall be construed to modify the obligations imposed by this or any other title of the United States Code upon present or former officers and employees of the United States.

"§ 5. Board of Examiners-in-Chief

"(a) There shall be in the Office not to exceed sixty examiners-in-chief, who shall be appointed under the competitive service.

"(b) The examiners-in-chief shall constitute a Board of Examiners-in-Chief. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability. The Chairman of the Board shall be appointed by the Commissioner.

"(c) The Board of Examiners-in-Chief shall:

"(1) review (as provided in chapter 12 of this title) final rejections by primary examiners; and

"(2) render other decisions and orders, and take other agency action, as provided in this title; and

"(3) perform the functions specified as being performed by a Board of Patent Interferences in other Acts of Congress and when performing said function shall constitute a Board of Patent Interferences; and

"(4) render other decisions and orders as the Commissioner may by regulation or order prescribe.

"(d) Except as otherwise provided in or pursuant to this title, the Board of Examiners-in-Chief shall exercise all judicial functions of the Office, including all agency review of appeals, under this title. Except as provided otherwise in this title, the decision of the Board of Examiners-in-Chief shall constitute final agency action (as that term is defined in 5 U.S.C. 551) in all matters considered by it, and shall be the final decision of the Office for the purposes of chapter 13 of this title.

"(e) Each appeal or other action shall be heard or considered by a panel of one or more members of the Board of Examiners-in-Chief, as the Commissioner by general regulation shall prescribe. Said panel shall be designated for each case by the Chairman of the Board. The Board of Examiners-in-Chief shall have sole power to grant rehearings.

"(f) In any proceeding before the Board of Examiners-in-Chief, the Board or any member thereof may:

"(1) administer oaths and affirmations;

"(2) issue subpenas or discovery orders for testimony, evidence, depositions, or other information pursuant to section 23 of this title;

"(3) rule upon offers of proof and receive relevant evidence;

"(4) dispose of procedural requests or similar matters;

"(5) regulate the course of the hearing;

"(6) hold conferences for the settlement or simplification of the issues with notice to all parties involved;

"(7) make decisions in accordance with the provisions of this title; and

"(8) take any other action authorized by this title, or by such regulation as the Commissioner may, consistent with the provisions of this title, prescribe.

"(g) Whenever the Commissioner considers it necessary to maintain the work of the Board of Examiners-in-Chief current, he may designate any patent examiner of the primary examiner grade or higher having the requisite ability, to act as an examiner-in-chief for periods not exceeding six months. An examiner so designated shall be qualified to act as a member of the Board of Examiners-in-Chief. Not more than one acting examiner-in-chief shall be a member of any panel of the Board of Examiners-in-Chief hearing any appeal or considering any case, nor may an acting examiner-in-chief be the sole member of any such panel. The Commissioner is authorized to fix the per annum rate of basic compensation of each acting examiner-in-chief in the Office at not in excess of the maximum scheduled rate provided for positions in grade 16 of the General Schedule (5 U.S.C. 5104). The per annum rate of basic compensation of each designated examiner-in-chief shall be adjusted, at the close of the period for which he was designated to act as examiner-in-chief, to the per annum rate of basic compensation which he would have been receiving at the close of such period if such designation had not been made.

"§ 6. Library

"(a) The Commissioner shall make all reasonable efforts to maintain a complete and current library of scientific and other works and periodicals, both foreign and domestic in the Office which shall be available to its employees in the discharge of their duties under this title and to assist the public in the study of the useful arts.

"(b) The Commissioner shall, subject to the provisions of title 17, United States Code, establish liaison with such Government agencies as may be appropriate in order to make available to the Office library additional scientific and other works and periodicals, both foreign and domestic.

"(c) Nothing in this section authorizes the systematic reproduction and distribution of single or multiple copies of copyrighted material.

"§ 7. Classification of patents

"The Commissioner shall maintain with appropriate revisions the classification by subject matter of published specifications of United States patents and of such other patents and applications and other scientific and technical information as may be necessary or practicable, for the purpose of determining with readiness and accuracy the patentability of subject matter for which applications for patent are filed.

"§ 8. Certified copies of records

"The Commissioner shall, upon payment of the prescribed fee, furnish certified copies of records of the Office to any person, subject to any specific prohibition established by law.

"§ 9. Publications

"(a) The Commissioner shall cause to be published in a timely fashion in such format as he determines to be suitable, the following:

"(1) the specifications and drawings of patents, and patent applications, subject to the provisions of this title; and

"(2) certificates of trademark registrations, including statements and drawings.

"(b) The Commissioner may cause to be published, in such format as he determines to be suitable, the following:

"(1) patent abstracts;

"(2) the Official Gazette of the United States Patent and Trademark Office;

"(3) annual indexes of patents, published applications, and of trademarks and information concerning the same;

"(4) annual volumes of decisions in patent and trademark cases;

"(5) classification manuals and indexes of the classifications of patents and trademarks; and

"(6) pamphlet copies of the patent laws and rules of practice, laws and rules relating to trademarks, and circulars or other publications relating to the business of the Office.

"(c) The Commissioner may exchange copies of any of the publications specified in subsection (a) or (b) of this section for publications desirable for the use of the Office, and furnish copies of any of these publications to international intergovernmental organizations of which the United States is a member.

"(d) The Commissioner may supply copies of specifications and drawings of patents to public libraries in the United States, which shall maintain such copies for the use of the public, at the rate for each year's issue prescribed by the Commissioner in accordance with section 41(b) of this title.

"(e) The Office may print the headings of the drawings for patents for the purpose of photolithography.

"(f) The Commissioner (1) shall maintain public facilities for the searching of patent materials, (2) may establish a public information service for the dissemination to the public of information concerning patents and trademarks, and (3) may from time to time disseminate or provide for dissemination of technological and other information, the publication of which in his judgment would encourage progress in the useful arts. Such dissemination may be made by periodical or other publications, the preparation and display of exhibits, and other appropriate means.

"§ 10. Research and studies

"The Commissioner shall conduct a program of research and development to improve and expedite the handling, classification, storage, and retrieval of patents and other scientific and technical information.

"§ 11. Annual report

"The Commissioner shall publish an annual report reflecting the operation of the Office.

"Chapter 2.—PROCEEDINGS IN THE OFFICE

"Sec.
"21. Day for taking action falling on Saturday, Sunday, or holiday.
"22. Form of papers filed.
"23. Issue of subpenas and other orders by Board of Examiners-in-Chief; review and enforcement.
"24. Issue of subpenas and other orders in investigations; review and enforcement.
"25. Oath and declaration in lieu of oath.
"26. Effect of defective or missing execution.
"27. Postal interruptions.

"§ 21. Day for taking action falling on Saturday, Sunday, or holiday

"When the day, or the last day, for taking any action or paying any fee required by this title falls on Saturday, Sunday, or holiday within the District of Columbia, or any other day where receipt of papers cannot be effected, the action may be taken, or the fee paid, on the next succeeding secular or business day.

"§ 22. Form of papers filed

"The Commissioner may by regulation prescribe the form of papers filed in the Office.

"§ 23. Issue of subpenas and other orders by Board of Examiners-in-Chief; review and enforcement

"(a) Any party to a proceeding before the Board of Examiners-in-Chief may apply at any time to the Board or any member thereof for subpenas or discovery orders to provide testimony, evidence, depositions, or other information, and the Board or any member thereof shall issue the same ex parte to (1) the Solicitor; (2) parties to proceedings had pursuant to sections 5(c)(3) or 136 of this title; and (3) upon a showing of good cause, to parties to proceedings had pursuant to section 135 of this title. Any member also may issue such subpenas or orders on his own motion in any proceeding. Subpenas and orders may issue against the applicant or any person within the jurisdiction of the United States, whether or not he is a party in the proceeding.

"(b)(1) The Commissioner shall establish rules for obtaining such discovery, testimony, evidence, affidavits, or other information. Subject to subsection (a) of this section, such rules shall provide any party to the proceedings all discovery permitted, and the sanctions, other than contempt, for noncompliance therewith, prescribed in the Federal courts pursuant to the Federal Rules of Civil Procedure, as now in force or amended hereafter, with such different time limits as the Commissioner may by regulation prescribe. Such rules shall provide, further, for protective orders and for the payment of witness fees and expenses as prescribed in the Federal Rules of Civil Procedure for proceedings in the district courts.

"(2)(A) The Board of Examiners-in-Chief or any member thereof shall have the power, in accordance with such regulations not inconsistent with the Federal Rules of Civil Procedure as the Commissioner shall prescribe, to sustain, quash, or modify subpenas or orders issued pursuant to subsection (a) of this section.

"(B) In the case of a person (other than an employee or agent of a party to the proceeding) not party to the proceedings before the Board of Examiners-in-Chief, such person also may move to quash or modify subpenas or orders issued pursuant to subsection (a) of this section in the United States District Court for the judicial district in which such person resides.

"(c)(1) Agency action pursuant to subsections (a) and (b) of this section shall not be deemed final decisions or orders for the purposes of chapter 13 of this title. Judicial review of orders pursuant to subsections (a) and (b) of this section may be had upon review of the final decision or order in the entire proceeding, pursuant to chapter 13 of this title, or as may otherwise be required by sections 701–706 of title 5, United States Code.

"(2) (A) Any party aggrieved by refusal or failure to comply with a subpena or order issued, and not quashed, pursuant to subsection (a) or (b) of this section, may apply for such civil enforcement by moving for an order to show cause why the person refusing or failing to comply with such subpena or order should not be commanded by the court to comply therewith. Such application shall be to the United States District Court for the District of Columbia. The process of such district court for such purpose shall run through the United States and otherwise as provided by the Federal Rules of Civil Procedure or any Federal statute.

"(B) In the case of a person (other than an employee or agent of a party to the proceeding) not a party to the proceeding before the Board of Examiners-in-Chief, the United States District Court for the District of Columbia may, if it finds that the interests of justice, judicial economy, and fairness to such person permit, transfer such application to the United States district court for the judicial district in which such person resides or may be found.

"(3) Disobedience of any court order entered pursuant to this subsection shall be punishable as a contempt.

"§ 24. Issue of subpenas and other orders in investigations; review and enforcement

"(a) To carry out the provisions of this title with respect to fraud and inequitable conduct, the Board of Examiners-in-Chief or any member thereof shall, upon the application of the Solicitor, and upon a showing of good cause, issue a subpena or order to any applicant, patentee, or person within the jurisdiction of the United States—

"(1) requiring him to appear before a designated representative of the Office in a nonadjunctive proceeding to testify, or to produce documentary evidence or other information or material; or

"(2) requiring him to file reports or answers in writing to specific questions—

relating to any investigation or inquiry by the Solicitor, involving conduct which may be a violation of sections 31, 32, 33, 115, 131, 135 or chapter 19 of this title, or likely to lead to the production of information relating thereto, whether or not the subject matter of the investigation or inquiry may also be involved in any proceeding before a primary examiner or the Board of Examiners-in-Chief, or in any other proceeding before a court or other tribunal. A person so required to appear shall be entitled to the payment of witness fees and expenses as prescribed for proceedings in the dictrict courts. A subpena or order requiring such a person to appear at a proceeding held pursuant to paragraph (1) of this subsection may issue against any such person within the jurisdiction of the United States.

"(b) Agency review of subpenas or orders issued pursuant to this section shall be in accordance with such rules as the Commissioner may prescribe.

"(c) In the case of disobedience to or failure to comply with such subpenas or orders, the Solicitor may, in his discretion, seek enforcement thereof by the procedure specified in section 23(c) of this chapter, and the procedures specified therein shall be applicable to subpenas and orders entered pursuant to this section.

"§ 25. Oath and declaration in lieu of oath

"(a) An oath to be filed in the Office may be made before any person within the United States authorized to administer oaths, or before any officer authorized to administer oaths in the foreign country in which the affiant may be, whose authority shall be proved by certificate of a diplomatic or consular officer of the United States, and such oath shall be valid if it complies with the laws of the State or country where made.

"(b) Any document to be filed in the Office and which is required by any law or regulation to be under oath may be subscribed to by a written declaration in such form as the Commissioner may prescribe, such declaration to be in lieu of the oath otherwise required. The Commissioner may by regulation prescribe that any such document shall be subscribed to by such written declaration. Whenever such written declaration is used, the document must warn the declarant that willful false statements and the like are subject to punishment including fine or imprisonment, or both (18 U.S.C. 1001).

"(d) Whenever the affiant or declarant does not understand English, the oath or declaration shall be made in a language he understands and shall be filed with an English translation, the accuracy of which shall be attested pursuant to such rules as the Commissioner may prescribe.

"§ 26. Effect of defective or missing execution

"Any document to be filed in the Patent Office and which is required by any law or regulation to be executed in a specified manner may be provisionally accepted by the Commissioner despite a defective or missing execution, provided a properly executed document is submitted within such reasonable time as may be prescribed by the Commissioner.

"§ 27. Postal interruptions

"(a) A patent application or application for trademark registration shall be considered as having been filed in the Office on the date that it would have been received by the Office except for any delay caused by a substantial interruption of the postal service in a significant part of the United States, due to work stoppage, national emergency, or other unforeseen circumstances, which has been determined by the Commissioner to have interfered with the transmission of mail to the Office, if a claim is made for the benefit of an earlier filing date in accordance with subsections (b) and (c) of this section. The said determination by the Commissioner will specify the date on which the substantial interruption shall be deemed to have commenced and any geographical or other limitations which shall be deemed to apply to claims for benefits under this section. A further determination shall be made by the Commissioner specifying the date on which the interruption is deemed to have ended. Notice of such determinations shall be promptly published by the Commissioner in the Federal Register and Official Gazette of the Patent and Trademark Office, or other appropriate publication, and shall constitute the only basis for the claims.

"(b) No patent or trademark application, patent, or trademark registration shall be entitled to an earlier filing date under subsection (a) of this section unless a statement by the applicant or owner of record or by his attorney or agent claiming the earlier filing date to which the application is believed to be entitled is filed in the Office within three months after the publication in the Federal Register or other appropriate publication of the date on which the interruption is deemed to have ended. Such statement shall be maintained in the file of the application in the Office and shall be referred to in the patent or trademark registration when practicable.

"(c) When a statement filed under subsection (b) of this section appears unreasonable or defective on its face, or when the filing date of the patent or trademark application, patent, or trademark registration is called into question or is material in any inter partes proceeding in the Office or any proceeding in the courts, the applicant or owner of such application, patent, or trademark registration or his attorney or agent may be required to present evidence establishing the filing date to which the application is entitled. The filing date to which the application is entitled shall be determined on the basis of such evidence and any evidence introduced by an opposing party. The evidence shall be presented as directed by the Commissioner in proceedings in the Office or as directed by the courts in proceedings in the courts.

"(d) Except for the filing of a patent or trademark application, if any action is taken or any fee is paid in the Office later than the end of any time period established by law for taking such action or paying such fee, and no other provision exists for excusing such delay, the delay may be excused if found to have been caused by a postal interruption with respect to which determinations are made and published by the Commissioner as required by subsection (a) of this section. Relief under this subsection must be requested by a statement filed in the Office by the patent or trademark applicant or owner or any other party to a proceeding in the Office or by his attorney or agent within three months after the publication in the Federal Register or other appropriate publication of the date on which the interruption is deemed to have ended. This subsection is applicable to every law requiring an action to be taken or a fee to be paid in the Office, including this title; the Trademark Act of 1946 (ch. 540, 60 Stat. 427), as amended; the Atomic Energy Act of 1954 (Public Law 83–703, 68 Stat. 919), as amended; and the National Aeronautics and Space Act (Public Law 85–568, 72 Stat. 426 (1958)), as amended. In cases involving the Atomic Energy Act of 1954 or the National Aeronautics and Space Act, determinations of relief shall be made by the Board of Examiners-in-Chief. In other cases, determinations shall be made by the Commissioner.

"Chapter 3.—PRACTICE BEFORE THE OFFICE

"Sec.
"31. Regulation for agents and attorneys.
"32. Suspension or exclusion from practice.
"33. Unauthorized practice.

"§ 31. Regulation for agents and attorneys

"(a) The Commissioner may prescribe regulations governing the recognition and conduct of agents, attorneys, or other representatives of applicants or other persons before the Office, and may require them, before being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation and are possessed of the necessary qualifications to render to applicants or other persons valuable service, advice, and assistance in the presentation or prosecution of their applications or other business before the Office.

"(b) Any person refused recognition under subsection (a) of this section by action of the Commissioner may have judicial review of such action in the United States District Court for the District of Columbia, in accordance with the provisions of chapter 7, title 5, United States Code.

"§ 32. Suspension or exclusion from practice

"The Commissioner may determine on the record, after notice and an opportunity for a hearing as provided in chapter 5, subchapter II, title 5, United States Code, to suspend or exclude from further practice before the Office, either generally or in any particular case, any agent, attorney, or representative of an applicant or other person if such individual is shown to be incompetent, or to be guilty of gross misconduct, or willfully or knowingly to have failed to comply with section 31 of this chapter or sections 115 or 131 of this title, or regulations established thereunder, or to have, in any manner and with intent to do so, deceived, misled, defrauded, or threatened, whether by word, circular, letter, documents, advertising, or otherwise, any applicant, prospective applicant, or other person having immediate or prospective business before the Office in his official capacity. Judicial review of the Commissioner's actions under this section shall be had in the United States District Court for the District of Columbia, in accordance with the provisions of chapter 7, title 5, United States Code.

"§ 33. Unauthorized practice

"(a) Whoever, not being recognized pursuant to section 31 of this chapter to practice before the Office—

"(1) holds himself out or knowingly permits himself to be held out as so recognized, or

"(2) holds himself out or knowingly permits himself to be held out as available either to perform the service of preparing or prosecuting an application for patent or to provide such service to be performed by a person not so recognized or by an unidentified person, or

"(3) for compensation, either performs the service of preparing or prosecuting an application for patent for another not so recognized or provides such service to be performed by a person not so recognized or by an unidentified person, or

"(4) makes to an applicant or prospective applicant for a patent any false, misleading or deceptive representation of any material fact, by commission or omission, with respect to the procurement of a patent—

shall be punishable by imprisonment not exceeding one (1) year or a fine not exceeding $10,000 or less than $1,000 for each offense, or both.

"(b) For the purposes of subsection (a) of this section, where an agent, attorney, or firm recognized to practice before the Office, assumes responsibility for the service of preparing or prosecuting a patent application at the time such service is rendered, the service shall be considered as performed by such agent, attorney, or firm.

"(c) An action for injunctive relief may be brought by the United States or by any person that is injured by any act proscribed in subsection (a) of this section. In any action under this subsection, it shall not be necessary that actual damage be alleged or proved.

"(d) Whoever engages in any act proscribed in subsection (a) of this section shall be liable in a civil action to any person injured by such acts, and the person injured shall be entitled to recover all proceeds from such acts as well as profits and damages.

"(e) In any civil action brought under this section, the court may also in its discretion award the prevailing party full costs and expenses, including attorneys fees.

"(f) The district and territorial courts of the United States shall have original jurisdiction of all actions arising under this section, without regard to the amount in controversy or to the diversity of the citizenship of the parties.

"(g) The bringing of or maintenance of a civil action for damages or injunctive relief under this section shall not be prevented by the institution or continuation of criminal proceedings against whoever commits any act prescribed in subsection (a) of this section.

"Chapter 4.—OFFICE FEES

"Sec.
"41. Office fees.
"42. Payment of fees; return of excess amounts.

"§ 41. Office fees

"(a) For purposes of this section—

"(1) Costs of operation of the Office are total Office appropriations for the most recently completed fiscal year plus expenditures during the same year from the separate account or accounts established by subsection (d) of this section.

"(2) Fees charged for patent and trademark examination may include:

"(A) fees charged under this title for (i) filing, searching, examining, and publishing patent applications, and claims in applications, (ii) issuing patents, (iii) filng disclaimers, (iv) filing appeals to the Board of Examiners-in-Chief and briefs in support of such appeals of proceedings, (v) filing petitions for revival of abandoned patent applications or for delayed payment of fees, (vi) issuing of certificates under section 255 or section 256, and (vii) processing international applications under Part IV of this title; and

"(B) fees charged under the Trademark Act of 1946 (60 Stat. 427), as amended, for (i) filing original applications for registration of a mark in each class, (ii) filing applications for renewal of a mark in each class, and an additional fee for filing after expiration of the registration, (iii) filing affidavits under section 8(a) or 8(b) for a mark in each class, (iv) filing petitions for revival of abandoned applications, (v) filing oppositions to registration of a mark in each class, (vi) petitioning for cancellation of a mark in each class, (vii) filing appeals to the Trademark Trial and Appeal Board for a mark in each class, (viii) issuing new certificates of registration following changes of ownership of marks or corrections of registrant's mistakes, (ix) issuing certificates of correction of registrants' mistakes or amendments after registration, (x) filing disclaimers after registration, and (xi) filing notices of claims of benefits of the Trademark Act of 1946 for marks to be published under section 12(c).

"(3) In determining the costs of products and services for purposes of this section there shall be included (A) all costs identifiable directly with the performance of the products or services, including, but not limited to, personal services and benefits, related accrued annual leave, services rendered under contract, materials and supplies consumed, inventory losses, and equipment purchase and depreciation directly related to the performance of such products or services; and (B) a proportionate allocation of general, administrative, and research expenses charged to the Office on the basis of the extent to which such expenses are related to the products or services.

"(b)(1) The Commissioner shall prescribe by regulations the fees which shall be charged for patent and trademark examination, the maintenance of patents in force, supplying of copies of records, furnishing of publications, other products, or services provided by the Office, and any other matters set forth in this title or in the Trademark Act of 1946 (60 Stat. 427), as amended, requiring a fee. Fees shall be designed to effect an overall recovery of approximately 50 per centum of the costs of operation of the Office. Reduced or nominal fees may be charged to libraries specified in section 9(d) of this title for patent copies.

"(2) For patents owned legally and beneficially by an individual inventor or a small business concern (as that term is defined in or pursuant to section 2[3] of the Small Business Act, as amended, 15 U.S.C. 632), and which the owner is under no legal obligation to assign, combined filing, examination, and issuance fees shall not exceed $100. For all other patent applicants the combined filing, examination, and issuance fees shall not be less than $200.

"(c) Fees charged for patent and trademark examination shall not be adjusted more than once every two years. Fees for new services may be instituted whenever necessary. All fee adjustments and new fees shall be announced in the Federal Register thirty days prior to their coming into effect.

"(d) Except as provided in subsection (f) of this section, fees shall be charged to recover the full cost of providing Office products and services, other than patent and trademark examination, which convey special benefits to recipients above and beyond those accruing to the public at large. The individual fees for such products or services shall, as nearly as practicable, recover the costs attributable to the particular products or services for which the fees are charged. All fees paid to the Office for products and services, other than fees charged for patent and trademark examination and fees for maintaining patents in force, shall be deposited in a separate account or accounts which may be used to pay directly the costs of such products or services, to repay or make advances to appropriations or funds which do or will initially bear all or part of such cost, or to refund excess sums when necessary, the provision of section 6 of the Act of June 26, 1934 (31 U.S.C. 725e) notwithstanding. Acts appropriating funds to the Office may include provisions limiting annual expenditures from said account or accounts.

"(e) The fees prescribed under the authority of this title and the Trademark Act of 1946 (60 Stat. 427), as amended, shall apply to any other Government department or agency, or officer thereof, except that the Commissioner may waive the payment of any fee for services or materials in cases of occasional or incidental requests by a Government department or agency, or officer thereof: *Provided*, That nothing herein shall affect the authority to register trademarks without charge under Section 2 of the Act of August 27, 1935 (49 Stat. 891) (25 U.S.C. 305a), as amended.

"(f)(1) During the term of a patent, other than for a design, the following maintenance fees shall be due:

"(A) a first maintenance fee of at least $300 on or before the seventh anniversary of the beginning of the term of the patent; and

"(B) a second maintenance fee of at least $600 on or before the tenth anniversary of the beginning of the term of the patent; and

"(C) a third maintenance fee of at least $1,100 on or before the thirteenth anniversary of the beginning of the term of the patent.

"(2) In the case of a reissue patent the times specified herein shall run from the date of the original patent.

"(3)(A) A grace period of six months will be allowed in which to pay any maintenance fee, provided it is accompanied by the fee prescribed for delayed payment. When a response is not received to the notice provided by paragraph (5) of this subsection, a subsequent notice shall be sent approximately sixty days after the due date of any maintenance fee.

"(B) The first and second maintenance fees may be deferred in accordance with paragraph (6) of this subsection.

"(4) A patent will terminate on the due date for any maintenance fee unless, as provided for in this section, the fee due (including any fees previously deferred) is paid or a statement in accordance with paragraph (6) of this subsection requesting deferment is filed. Such termination or lapsing shall be without prejudice to rights existing under any other patent.

"(5) Notice of the requirement for the payment of the maintenance fees and the filing of statements in compliance with this subsection shall be attached to or embodied in the patent.

"(6)(A) Any inventor to whom a patent issued (or his heirs) and who owns the patent, or any small business concern (as that term is defined in or pursuant to section 2[3] of the Small Business Act, as amended, 15 U.S.C. 632), may within six months of the seventh anniversary of the beginning of the term of the patent by a statement to the Commissioner request deferment of the first maintenance fee if the gross benefit received by the inventor or any other party having or having had any interest in the subject matter of the patent, from, under, or by virtue of the patent or from the manufacture, use, or sale of the invention, was less in value than the amount of the fee, and the statement so specifies. The fee shall thereupon be deferred until the time the second maintenance fee is due and shall be paid in addition to the second maintenance fee.

"(B) Any inventor to whom a patent issued (or his heirs) and who owns the patent, or any small business concern (as that term is defined in or pursuant to section 2[3] of the Small Business Act, as amended, 15 U.S.C. 632), may within six months of the tenth anniversary of the beginning of the term of the patent by a statement to the Commissioner request deferment of the second maintenance fee (and further deferment of the first maintenance fee if such fee has been deferred) if the gross benefit received by the inventor or any other party having or having had any interest in the subject matter of the patent during the preceding four years, from under, or by virtue of the patent or from the manufacture, use, or sale of the invention, was less in value than the amount of the second fee, and the statement so specifies. The second fee, or the first and second fees, as the case may be, shall thereupon be deferred until the time the third maintenance fee is due and shall be paid in addition to the third maintenance fee and with the same result if not paid. No deferment of any of the fees beyond the thirteenth anniversary of the term of the patent shall be permitted and the patent will terminate at the end of the thirteenth anniversary of the term unless all maintenance fees are paid in accordance with the provisions of this subsection.

"§ 42. Payment of fees; return of excess amounts

"All fees shall be paid to the Commissioner who, except as provided in sections 361(b) and 376(b) of this title, shall deposit the same in the Treasury of the United States, and the Commissioner may refund from the appropriate account any sum paid by mistake or in excess of the prescribed fee.

"PART II—PATENTABILITY OF INVENTIONS AND GRANT OF PATENTS

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"Chapter 10.—PATENTABILITY OF INVENTIONS

"Sec.
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"§ 100. Definitions

"When used in this title, unless the context otherwise indicates—

"(a) The term 'invention' means invention or discovery.

"(b) The term 'process' means process, art, or method and includes a new use of a known process, machine, manufacture, composition of matter, or natural material.

"(c) The terms 'United States' and 'this country' mean the United States of America, its territories, and possessions, and the Commonwealth of Puerto Rico.

"(d) The term 'applicant' means any person who owns an application for a patent, as provided in this title.

"(e) The term 'patentee' includes not only the person to whom the patent was issued but also the successors in title to such person.

"(f) The term 'actual filing date in the United States' includes the filing date to which an application, an international application under section 363 of this title, or patent, or the subject matter of any claim thereof, may be entitled under the provisions of sections 120(a) and 365(c) of this title (and excludes any date under section 119, 365(a) or 365(b) of this title). An application, an international application, or the resulting patent may contain separate claims for subject matter having different actual filing dates in the United States by virtue of the provisions of sections 120(a) and 365 (c) of this title or may contain claims entitled to the benefit of a prior date under the provisions of sections 119 and 365 (a) and (b) of this title, in addition to claims not so entitled.

"(g) The term 'person' includes an individual and any entity considered as such at law, including a corporation, company, association, firm, partnership, joint stock company, foundation, institution, society, union, club, church, the United States, any government, government agency, or any other group of persons organized for any purpose.

"(h) The term 'inventor' as applied to any claim of a patent or application for patent, means the individual or group of individuals who invented, discovered, or made an inventive contribution to the subject matter of such claim.

"§ 101. Subject matter patentable

"Whoever invents or discovers any new and useful process, machine, manufacture, composition of matter, or any new and useful improvement thereof, or his successor in title, may obtain a patent therefor, subject to the conditions and requirements of this title.

"§ 102. Conditions for patentability; novelty and bars to patent

"A person shall be entitled to a patent unless the subject matter sought to be patented—

"(a) was, before the invention thereof by the inventor named in the application—

"(1) patented in this or a foreign country; or

"(2) described in this or a foreign country and accessible in a printed or other tangible form of publication; or

"(3) known or used in this country by any person other than the inventor named in the application; or

"(b) was, more than one year prior to the actual filing date in the United States of the application for patent—

"(1) patented in this or a foreign country; or

"(2) described in this or a foreign country and accessible in a printed or other tangible form of publication; or

"(3) in public use or on sale in this country; or

"(4) in commercial use by the inventor, the applicant, any person to whom either is under any obligation to assign the application, the applicant's predecessor in title, or any of them; or

"(c) was suppressed or otherwise unreasonably concealed by the inventor, the applicant, any person to whom either is under any obligation to assign the application, the applicant's predecessor in title, or any of them; or

"(d) was first patented or caused to be patented by, or was the subject of an inventor's certificate issued to, the inventor or applicant or their legal representatives or assigns, or the applicant's predecessors in title, or described or caused to be described in an officially published application, in a foreign country prior to the actual filing date in the United States of the application for patent, on an application for patent or inventor's certificate filed more than one year before the actual filing date in the United States of the application; or

"(e) was described in a published or publicly available United States patent application or United States patent by an individual or group of individuals other than the inventor named in the application, which has an actual filing date in the United States (or prior filing date arising under section 119 of this title) before the invention thereof by the inventor named in the application; or

"(f) was not invented by the inventor named in the application; or

"(g) was invented by any other individual or group of individuals who is entitled to priority of invention pursuant to section 105 of this title.

"§ 103. Conditions for patentability; nonobvious subject matter

"A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

"§ 104. Invention made abroad

"In proceedings in the Office and in the courts, an applicant for a patent, or a patentee, may not establish a date of invention by reference to knowledge or use thereof, or other activity with respect thereto, in a foreign country, except as provided in sections 119 and 365 of this title. Where an invention was made by a person, civil or military, while domiciled in the United States and serving in a foreign country in connection with operations by or on behalf of the United States, he shall be entitled to the same rights of priority with respect to such invention as if the same had been made in the United States.

"§ 105. Priority of invention

"(a) Among several individuals or groups of individuals asserting, or on whose behalf is asserted, inventorship of the same or substantially the same subject matter, that individual or group of individuals shall be entitled to priority of invention, subject to subsections (b) and (c) of this section, who is entitled to the benefit of the earliest actual filing date in the United States (or prior filing date arising under section 119 of this title).

"(b) An individual or group of individuals shall be entitled to priority of invention as to claimed subject matter notwithstanding subsection (a) of this section but subject to subsections (c) and (d) of this section, if he or it establishes the earliest date of reduction to practice in this country (or, if section 104 of this chapter is applicable, as otherwise provided in such section).

"(c) An individual or group of individuals shall be entitled to priority of invention as to claimed subject matter notwithstanding subsections (a) and (b) of this section but subject to subsection (d) of this section, if he or it establishes the earliest date of conception of an invention in this country (or as otherwise provided in section 104 of this chapter), and further establishes that he or it was reasonably diligent toward reduction to practice, from a time immediately prior to the date of conception of the subject matter by any other individual or group of individuals asserting inventorship of the subject matter until his or its own reduction to practice.

"(d) In determining entitlement to priority of invention, no individual or group of individuals shall be entitled to rely on a date of conception or actual reduction to practice if, subsequent to such date—

"(1) the inventor, the applicant, any person to whom either is under any obligation to assign the application, the applicant's predecessor in title, or any of them, suppressed or otherwise unreasonably concealed the subject matter sought to be patented, or

"(2) the inventor, the applicant, and all persons engaged in such activity, to whom the inventor or applicant is under any obligation to assign the application, terminated activity with respect to the subject matter sought to be patented, in circumstances establishing intent not to resume such activity. Inactivity with respect to the subject matter for a period of one year shall constitute prima facie evidence of such intent. Nothing contained in this paragraph of this subsection shall prevent an individual or group of individuals who resumes activity from relying on the date of resumption of activity.

"(e) Notwithstanding any other subsections of this section, an individual or group of individuals shall not be entitled to priority of invention, if it is established that he or it derived the invention from any other individual or group of individuals, whether or not the latter individual or group of individuals is asserting inventorship.

"Chapter 11.—APPLICATION FOR PATENT

"Sec.
"111. Applications for patent.
"112. Specification.
"113. Drawings.
"114. Models, specimens.
"115. Duty of disclosure; oaths, statements.
"116. Joint inventors.
"117. Death or incapacity of inventor.
"119. Benefit of earlier filing date in foreign country; right of priority.
"120. Benefit of earlier filing date in the United States.
"121. Divisional applications.
"122. Confidential status of applications.
"123. Availability of decisions respecting abandoned applications.

"§ 111. Application for patent

"(a) An application for patent may be filed by any individual or group of individuals claiming to have invented the subject matter sought to be patented, or his assignee or other successor in title. The application shall be made in writing to the Commissioner, shall be signed by the applicant, shall include the name of each individual believed by him to have made an inventive contribution to the claims in such application. An application filed by a person not the inventor shall include, at the time of filing, a statement of the facts supporting the allegation of assignment and ownership of the subject matter sought to be patented.

"(b) An application for patent shall include—

"(1) a specification as prescribed by section 112 of this chapter; and

"(2) a drawing as prescribed by section 113 of this chapter; and

"(3) a fee at such time and in such amount as the Commissioner may by regulation prescribe under section 41(a) of this title.

"(c) An application for patent filed on behalf of an applicant by another shall be considered as having been filed by the applicant, providing the applicant furnishes written notice to the Commissioner of acceptance of the filing on his behalf. Failure of the applicant to provide such written notice within six months of the filing of the application shall result in abandonment of the application.

"(d) Except as provided in section 371(e) of this title, when the application is signed by or on behalf of the assignee, or other successor in title, the inventor, or his legal representative, after having been furnished the application, may file a ratification within two months from the filing of such application. If such ratification is not timely filed the assignee or successor in title shall be notified to that effect by the Office; and within two months after the sending of such notice he shall serve a copy of the application on the named inventor or his legal representative along with a statement calling attention to the provisions of subsection (e) of this section. Service may be effected by mailing a copy of the application and statement, by first-class mail to the inventor or, if his address is not known, to the address of his legal representative. Failure to serve a copy of the application and statement on the named inventor or his legal representative within two months from the sending of such notice shall result in abandonment of the application unless good reason for such failure is shown to the satisfaction of the Commissioner. The primary examiner examining the application may require proof of such service, and may extend the two month period from its sending of such notice or waive the requirement for service upon a showing of sufficient cause.

"(e) An inventor, within a time prescribed by the Commissioner, may furnish a statement to the Commissioner alleging that the applicant is not the assignee of the subject matter of the application as required by subsection (a) of this section. The Commissioner, in accordance with such regulations as he establishes and on the inventor's compliance with the requirements of this title, shall issue a patent to the inventor filing such written notice, without prejudice to later judicial proceedings, unless the notice is withdrawn by the inventor or the applicant files a written statement by the inventor consenting to the filing of the application by, and the issuance of the patent to, the applicant.

"(f) Notice to the Commissioner, in a manner prescribed by him in regulations, of a final decision in a judical proceeding in a court having jurisdiction thereof from which no appeal has or can be taken that an applicant is the assignee or owner of the subject matter of the application shall constitute an assignment to such applicant of his application.

"(g) An error or mistake in the naming of an individual as an inventor in either a sole or joint application for patent, or in the failure to include an indivdual as an inventor in an application for patent, without any willful default or intent to defraud, mislead, or deceive the public on the part of any of the individuals originally or subsequently named as inventors, or the assignees thereof, may be corrected while the application is pending before the Office on timely petition by all the individuals originally and subsequently named as inventors, and the assignees thereof, with proof of the facts, in accordance with regulations established by the Commissioner: *Provided, however,* That the actual inventor must make the statement as prescribed in section 115 of this chapter.

"§ 112. Specification

"(a) The specification shall contain a written description—

"(1) of the subject matter sought to be patented; and

"(2) of the novel, superior, or unexpected properties or results on which the applicant will rely in seeking the grant of the patent.

"(b)(1) The specification shall at the time the application is filed, contain and designate as such, a description of that which the inventor, any person to whom he is under any obligation to assign the application, the applicant, or any of them, knows or contemplates to be the manner and process of making and using the subject matter sought to be patented, including the best mode of doing so then known, designated as such, in such full, clear, concise, and exact terms as to enable any person having ordinary skill in the art to which it pertains, or with which it is most nearly connected, to make and use the same.

"(2) The information required from the various persons by subsection (b)(1) of this section shall, in the case of a corporation or other legal entity not a natural person, be supplied by those directors, officers, employees, and agents of such entity, its subsidiaries, and its parent, whose employment or business responsibilities could reasonably be expected to relate to the subject matter sought to be patented.

"(c)(1) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter sought to be patented. Any new use of a known machine, manufacture, composition of matter, or natural material must be claimed as a process (as defined in section 100(b) of this title), and may not be claimed as a machine, manufacture, or composition of matter. A claim may be written in independent or, if the nature of the case admits, in dependent or multiple dependent form.

"(2) Subject to paragraph (3) of this subsection, a claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed. A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers.

"(3) A claim in multiple dependent form shall contain a reference, in the alternative only, to more than one claim previously set forth and then specify a further limitation of the subject matter claimed. A multiple dependent claim shall not serve as a basis for any other multiple dependent claim. A multiple dependent claim shall be construed to incorporate by reference all the limitations of the particular claim in relation to which it is being considered.

"(d) An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital in the claim of structure, material, or acts in support thereof. A means or step for performing a specified function shall be construed to cover the structure, material, or acts in support thereof expressly set forth in the specification as relating thereto, and, subject to the provisions of section 282(e) of this title, the equivalents thereof.

"(e)(1) The Commissioner may prescribe regulations governing the format of claims.

"(2) Whenever the nature of the case admits, any independent claim shall contain, in the following order:

"(A) a preamble including a description of all the elements or steps of the claims subject matter which are conventional or old,

"(B) a phrase such as 'wherein the improvement comprises', and

"(C) those elements, steps, and/or relationships among them and/or between them and the elements or steps set forth in the preamble, which constitute that portion of the subject matter of the claim embodying the inventive contribution.

"(3)(A) Whoever discovers that a new but conventional formulation or preparation of a known manufacture or composition of matter, or a natural material, is adapted for practicing a specific, identified use or uses thereof, discovered by him, shall only be entitled to claim the same as a method or in the following form:

"(i) a description of the manufacture, composition of matter, or natural material, formulated or prepared as disclosed in the specification of practicing the specific, identified new use or uses thereof;

"(ii) a phrase such as 'for use in practicing the method claimed in'; and

"(iii) a reference to a method claim previously set forth.

"(B) A claim in such form shall be construed to incorporate by reference all the limitations of the method claim to which it refers. A claim in such form may make multiple references to method claims previously set forth, as in the manner specified for multiple dependent claims, in subsection (c) (3) of this section, and shall be construed in like manner in respect to the limitations in such claims.

"(f) When the subject matter sought to be patented relates to a process involving the action of a microorganism not already known and available to the public or to a product of such a process, the written description required by subsections (a) and (b) of this section shall be sufficient as to said microorganism, if—

"(1) not later than the date that the United States application is filed, an approved deposit of a culture of the microorganism is made by or on behalf of the applicant or his predecessor in title, and

"(2) the written description includes the name of the depository and its designation of the approved deposit and, taken as a whole, is in such descriptive terms as to comply with subsections (a) and (b) of this section.

"(g) For the purpose of subsection (f) (1) of this section, an approved deposit shall be a deposit which—

"(1) is made in any public depository which shall have been designated for such deposits by the Commissioner by publication, and

"(2) is available, except as otherwise prohibited by law, in accordance with such regulations as the Commissioner may prescribe—

"(A) to the public upon issuance of a United States patent to the applicant or his predecessor or successor in title which refers to such deposit, or

"(B) prior to issuance of said patent, as specified in section 122 of this title.

"(h) For the dissemination of information and other purposes, the Commissioner, in accordance with such regulations as he establishes, may require a brief abstract of all or part of the application. The abstract shall not be used for interpreting the scope of any claims of a patent.

"§ 113. Drawings

"The applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented. When the nature of such subject matter admits of illustration by a drawing and the applicant has not furnished such a drawing, the Commissioner may require its submission within a time period of not less than two months from the sending of a notice thereof. Drawings submitted after the filing date of the application may not be used—(i) to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or (ii) to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.

"§ 114. Models, specimens

"(a) primary examiner may require the applicant to furnish a model of convenient size to exhibit advantageously the several parts of the subject matter sought to be patented.

"(b) The primary examiner may also require the applicant to furnish specimens or ingredients for the purpose of inspection or experiments.

"§ 115. Duty of disclosure; statements

"(a) (1) The inventor, the applicant (if not the inventor), any person to whom the inventor or applicant is under any obligation to assign the application, and each of the agents or attorneys (or other representatives recognized under section 31 of this title) who directly or through any agent prepare or prosecute the application (or participate in any other proceeding before the Office) have a duty to act with candor and good faith toward the Office, a duty to make reasonable inquiry as to information in their respective possession or control, and a duty to disclose to the Office all information they respectively know, the disclosure of which is necessary to make the application (and each document filed in connection therewith) as a whole not misleading in respect to the requirements of this part of this title.

"(2) The duty to make reasonable inquiry will be satisfied by making good faith inquiry into those sources of information which a reasonably prudent man would inquire into before making representations to another, on which he knew the other would rely.

"(3) The applicant and his agents and attorneys have an obligation, continuing until issuance of the patent, to notify the Office of any known change in, or addition to, the information provided in accordance with section 131(b) of this title.

"(b) (1) Each inventor, at the time the application is filed or in the case of an international application, at the time provided by section 371(b) of this title (or as soon as practicable within six months thereof), shall file a statement that he believes himself to be the original and first inventor, and shall state of what country he is a citizen.

"(2) The inventor, the applicant (if not the inventor), any person to whom the inventor is under any obligation to assign the application, and the agent or attorney (or other representative recognized under section 31 of this title) who has been primarily responsible for the prosecution of the application (or if such agent or attorney is not reasonably available to the applicant, the agent or attorney then responsible) shall, after the Office sends notice of allowance, but before payment of the issue fees pursuant to section 151 of this title, make reasonable inquiry as to information in his possession and control and file a statement that he has fully complied with the requirements of subsection (a) of this section, and that he believes (to the extent he has knowledge thereof) that each of the other persons referred to in subsection (a) (1) has also fully so complied.

"(2) In the case of an inventor, such statement shall also verify that he believes himself to be the original and first inventor, and state of what country he is a citizen.

"(3) In the case of an applicant not the inventor, such statement shall also verify the facts supporting the allegation of ownership of the application, or other basis of the right to file an application for patent on the subject matter.

"(4) In the case of an applicant, such statement shall verify that no change has occurred in the information provided in accordance with sections 115(a) (3) and 131 (b) of this title.

"(5) In the case of a corporation or other business entity not a natural person, the statement shall be made by one or more directors, officers, employees, or agents thereof, and shall verify that he or they have actual knowledge of the subject matter of the application and actual authority to make a statement on behalf of the business entity.

"(c) Whenever an inventor, applicant, agent, attorney, or other representative recognized under section 31 of this title refuses to execute any statement required by this section, or cannot be found or reached after reasonable effort, the inventor or a person to whom the inventor has assigned or agreed in writing to assign the subject matter sought to be patented, or who otherwise shows sufficient proprietary interest in the matter justifying such action, shall file in lieu of said statement an affidavit proving the pertinent facts as to such reasonable effort and showing that such action is necessary to preserve his rights or to prevent irreparable damage.

"§ 116. Joint inventors

"(a) When two or more individuals (referred to hereafter in this section as 'joint inventors') have jointly made inventive contributions to the subject matter claimed in each claim of an application, they shall apply for a patent jointly and each shall sign the application and make the required statement, or, if the application is filed by another person having the right to do so, they shall be named together as joint inventors of such claimed subject matter, and each shall make the required statement.

"(b) If a joint inventor refuses to join in an application for patent, or cannot be found or reached after diligent effort, the application may, subject to the requirements of section 111 of this chapter, be made by the other inventor on behalf of himself and the omitted inventor. The Office, in such proceedings and after such notice to the omitted inventor as the Commissioner shall by regulation prescribe, may grant a patent to the inventor making the application, subject to the same rights which the omitted inventor would have had if he had been joined. The omitted inventor may subsequently join in the application.

"§ 117. Death or incapacity of inventor

"Legal representatives (and, if necessary to preserve legal rights or prevent irreparable damage, the assignee or any person to whom the inventor was or is under an obligation to assign the application) of deceased inventors and of those under legal incapacity, may make application for patent and otherwise proceed on behalf of the inventor upon compliance with the requirements and on the same terms and conditions applicable to the inventor.

"§ 119. Benefit of earlier filing date in foreign country; right of priority

"(a) If an applicant seeks to obtain a patent on subject matter disclosed in an application previously filed in a foreign country, he shall, subject to the provisions of this section be entitled to the benefit of such earlier foreign filing date, if—

"(1) such foreign application was filed by the applicant, or the predecessor or successor in title thereto; and

"(2) the subject matter claimed in the application on which the applicant seeks a United States patent is expressly disclosed in such foreign application in the manner required by sections 112(a) and (b) of this chapter at the time such foreign application was filed; and

"(3) the two applications have the same inventor for the subject matter common to both applications and claimed in the later application; and

"(4) the application filed in the United States was filed within twelve months after the earliest date on which such foreign application was filed; and

"(5) such foreign application was regularly filed in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States.

"(b) No application shall be entitled to a right or priority under this section unless a claim therefor is made in the specification within three months of the time of filing the application, unless it can be shown to the satisfaction of the Office that there was sufficient cause for failure to do so, and a verified copy of the original foreign application, specification and drawings, upon which it is based, is filed in accordance with regulations established by the Commissioner not later than the time of payment of the fee specified in section 151(b) of this title. An applicant shall not be required to file such verified copy earlier than six months after the actual filing date of the application in the United States. Verification shall show the date of the application and of the filing of the specification and other papers. The Commissioner may require translation of the papers filed if not in the English language and such other information as he deems necessary.

"(c) In like manner and subject to the

same conditions and requirements, the right provided in this section may be based upon a subsequent regularly filed application in the same foreign country instead of the first filed foreign application, provided that any foreign application filed prior to such subsequent application has been withdrawn, abandoned, or otherwise disposed of without having laid open to public inspection and without leaving any rights outstanding, and has not served, nor thereafter shall serve, as a basis for claiming a right of priority.

"(d) When the application claiming priority under this section discloses an invention relating to a process involving the action of a microorganism not already known and available to the public or to a product of such a process and an approved deposit is made under section 112(f) of this chapter, the approved deposit shall be considered to have been made on the earliest date that an application in a foreign country, the priority of which is being claimed, contains a reference identifying a deposit of the same micro-organism made in a public depository.

"(e) Applications for inventor's certificates filed in a foreign country in which applicants have a right to apply, at their discretion, either for a patent or for an inventor's certificate shall be treated in this country in the same manner and have the same effect for purpose of the right of priority under this section as applications for patent, provided such applicants are entitled to the benefits of the Stockholm Revision of the Paris Convention at the time of such filing.

"§ 120. Benefit of earlier filing date in the United States

"(a) If an applicant seeks to obtain a patent on subject matter disclosed in any application previously filed in the United States, he shall be entitled to the benefit of such earlier filing date, if—

"(1) the subject matter claimed in the later application, and on which he seeks a patent in the later application, was disclosed, in the manner required by sections 112 (a) and (b) of this chapter, in the previous application; and

"(2) the two applications have the same inventor for the subject matter common to both applications and claimed in the last filed application; and

"(3) the applicant specifically claims the benefit of the date of filing the previous application for the subject matter claimed in the later application within three months of the time he files the later application; and

"(4) the later application is filed prior to:

"(A) the patenting of the previous application, or

"(B) the abandonment thereof; and

"(5) the applicant has not invoked the provisions of this section more than three times previously in connection with the subject matter in whole or part claimed in the later application, *provided, however,* that reference in an application, filed as a result of a requirement for restriction made by the Commissioner under section 121 of this title to an earlier application which was the subject of such requirement, shall not be deemed as invoking the provisions of this paragraph.

"(b) Subject to the limitations of this section, if a previous application referred to in subsection (a) of this section is entitled to the benefit of the date of an application in a foreign country under section 119 of this chapter, with respect to the subject matter sought to be patented in the later application, then the later application referred to in subsection (a) of this section shall be entitled to the benefit of such date.

"(c) When any applicant who seeks to obtain the benefit of an earlier filing date has made any changes in the specification of the later application, with respect to the allegedly common subject matter, and the examiner questions the right of the applicant to rely on the earlier filing date for the changed matter in the specification, the burden shall be on such applicant to persuade the Office that the subject matter of such changes was expressly disclosed in the previous application.

"§ 121. Divisional applications

"(a) One application shall claim one invention only or a group of inventions so linked to form a single general inventive concept. The Commissioner may require the application to conform to such requirement. The validity of a patent shall not be questioned for failure of the Commissioner to require the application to conform to such requirement.

"(b) A patent issuing on an application with respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such a requirement, shall not be usable as a reference either in the Office or in the courts against a divisional application or against the original application or any patent issued on either of them.

"§ 122. Publication and confidential status of application

"(a)(1) Except as provided in paragraph (2) of this subsection, an application for patent filed without a request for examination under section 193 of this title shall be examined as to formal matters and such other matters as the Commissioner may prescribe. Such application shall be published as soon as practicable after a date 18 months from its claimed earliest effective filing date, upon payment of the fee prescribed in accordance with section 41(b) of this title, if it is still pending. Failure to pay such fee at the expiration of that period shall result in abandonment of such application.

"(2) The time limit for filing a request for examination with respect to international applications shall be that provided by section 371(b) of this title.

"(b)(1) An applicant may at any time before the expiration of the period established in subsection (a), upon payment of the fee prescribed in accordance with section 41(b) of this title, request complete publication of his application for patent. Publication thereof shall occur as soon as practicable after the request.

"(2) On publication pursuant to the provisions of paragraph (1) of this subsection, the applicant may declare the subject matter disclosed in such application dedicated, and the application abandoned. Thereafter, the application shall no longer be pending before the Office, except as provided in paragraph (3) of this subsection.

"(3) If a pending application or an issued patent claims the same or substantially the same subject matter as the subject matter disclosed in an application that is published pursuant to paragraph (1) of this subsection and dedicated as provided in paragraph (2) of this subsection, the owner of such abandoned application shall be permitted to participate with all the rights of a party, and at least to the same extent as if he were asserting priority of invention pursuant to section 136 of this title, in any proceeding pursuant to section 135 of this title or, as if he were a patentee, in a judicial proceeding pursuant to section 291 of this title. That the owner of the abandoned application is the prevailing party in such proceeding shall not, however, change the effect of his previous dedication or abandonment.

"(c) Before publication of an application for patent, or any portion thereof, under this section, the applicant may be required to place such application or such portion thereof in proper form for publication.

"(d) Until an applicant requests issuance of a patent pursuant to section 132 of this title, or until publication as provided in subsection (b) of this section, applications for patent and records of the prosecution thereof, shall be kept in confidence by the Office and no information concerning the same given without authority of the applicant, except as may be necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commissioner. Thereafter, except as may be expressly provided otherwise by this title, the entire record of such application, including any prior or subsequent record relating to proceedings pursuant to sections 135 and 136 of this title, shall be available to the public for inspection and copying, pursuant to such regulations as the Commissioner may prescribe.

"§ 123. Availability of decisions respecting abandoned applications

"(a) Except as provided in subsection (b) of this section, and except as to a decision by the Office pursuant to section 132(c) of this title, the Office shall index and maintain available for public inspection and copying all final decisions of the Board of Examiners-in-Chief and all final decisions of the Commissioner, and the nonfinal decisions of the Office involving an interpretation of this title or regulations promulgated thereunder, in cases in which the application is abandoned.

"(b) Within one month of the date that an application is abandoned, the applicant may in a statement designate any portions of the statement of facts set forth in any decision respecting the application that disclose a trade secret or other confidential research, development, or commercial information belonging to and of substantial value to the applicant (hereinafter referred to in this section as 'trade secret information'). Such statement shall explain the basis on which the assertion of trade secret information status is made. The Board of Examiners-in-Chief shall review the statement and determine whether the decision discloses such trade secret information, and shall delete from the decision such matter as may be necessary to protect such trade secret information. Such decision shall be deemed a final decision appealable under section 141 of this title. The Board may edit the decision for publication purposes, after making deletions of trade secret information, when it is necessary or appropriate to do so to preserve the intelligibility of the decision as to the issues decided therein.

"(c) The provisions of subsection (b) of this section shall not apply to an application relied upon for the purpose of priority in another application on which a patent issues.

"Chapter 12.—EXAMINATION OF APPLICATION

"Sec.
"131. Examination of application.
"132. Examination proceedings.
"133. Time for prosecuting application.
"134. Appeal to the Board of Examiners-in-Chief.
"135. Opposition proceeding on the basis of information cited or furnished by others.
"136. Procedures in priority of invention proceeding.
"137. Burden of persuasion.
"138. Effect of proceedings before the Office.
"139. Settlement agreements.

"§ 131. Examination of application

"(a) The Commissioner shall cause an examination to be made of the application and the subject matter sought to be patented. If on such examination it appears that the applicant is entitled to a patent under the law, the Commissioner shall issue a patent therefor.

"(b) (1) There shall be filed with each application, within such time and in such form as the Commisioner shall prescribe by regulation, a memorandum containing copies of or citations to such patents, publications, prior art, or other information relating to the patentability of the subject matter sought to be patented (A) that was considered by the applicant or his agent or attorney during preparation of the application for patent, and (B) disclosure of which might reasonably be expected to affect a decision of the Office. The memorandum shall also contain an explanation of the reasons why the subject matter sought to be patented is considered patentable over such information. If no such information was considered, the memorandum shall contain a statement to that effect along with reasons supporting the allowability of the claims of such application.

"(2) The Commissioner, in his discretion, may decline to examine any application if the memorandum required by this subsection is not in conformity with regulations as to format and content that the Commissioner has prescribed, or if it is unduly prolix or is lacking in clarity. The applicant shall not lose his filing date if the memorandum is resubmitted according to regulations the Commissioner has prescribed.

"(c) An inadvertent failure to comply with the provisions of this section shall not constitute a ground for holding a patent invalid or unenforceable, or subject the patentee to a charge of misuse.

"§ 132. Examination proceedings

"(a) In an examination proceeding, an examiner may take any action authorized by this title, or by such regulations as the Commissioner may, consistent with the provisions of this title, prescribe.

"(b) (1) In an examination proceeding, or any other proceeding before the Office authorized by this title, the applicant and his agent or attorney shall reduce to writing and submit to the Office for inclusion in the record all arguments and assertions of fact on which they seek to have the Office base any action. If any assertion of fact in the examples set forth in the specification or in assertions made to overcome a rejection is not based on empirical data, then such written statement shall expressly so disclose.

"(2) In an examination proceeding, or any other proceeding before the Office authorized by this title, an examiner or examiner-in-chief may require the applicant, subject to rejection of the application, to support any assertion of fact with the empirical data on which it is based; or, if any assertion is not based on empirical data, with evidence that the assertion is true by reason of accepted scientific principles, or that there is otherwise a reasonable basis on which to draw the conclusion stated.

"(3) An examiner or examiner-in-chief shall not allow a claim or withdraw a rejection thereof on the basis of an assertion of fact unless it is reduced to writing and made a part of the record of the patent application.

"(4) The Commissioner shall by regullation provide, upon notice to all participants, that a record be made of any personal meeting, telephone discussion, or other communication between an examiner and an applicant, or anyone acting on behalf of the applicant, relating to the patent application under examination, and that such record be preserved by the Office for the purposes of administration of this title. A copy of any such record shall, upon request and payment of the prescribed fee, be provided to the applicant or his agent or attorney.

"(c) Whenever, on examination, any claim of an application is allowed or rejected, or any objection or requirement made, the Commissioner shall notify the applicant thereof, stating the reason for such allowance or rejection, or objection or requirement, with a citation to all references or other information, including any oral representation or statement of fact made by an applicant or his agent or attorney at any interview, relied upon by the Office, together with any other references or information which may be useful in judging the propriety of continuing the prosecution of the application. If, after receiving such notice, the applicant persists in his claim for a patent, with or without amendment, the application shall be reexamined.

"(d) When all the claims in an application have been allowed or finally rejected, the applicant may, in accordance with such regulations as the Commissioner may prescribe, appeal the rejected claims to the Board of Examiners-in-Chief, request issuance of a patent on the allowed claims, or both.

"(e) No amendment shall introduce new matter into the disclosure of an application for patent. Whenever any change is made in the drawing, specification, or claims of an application and the examiner questions whether the changed matter was disclosed in the original drawing, specification, or claims of the application, the burden shall be on the applicant to persuade the Office that the changed matter was so disclosed.

"(f) The applicant may present amended or new claims for reexamination of his application.

"§ 133. Time for prosecuting application

"Upon failure of the applicant to prosecute the application within six months after any decision relating thereto of which notice has been given or mailed to the applicant, or within such shorter time, not less than one month, as ordered in such decision, the application shall be regarded as abandoned, unless it be shown to the satisfaction of the primary examiner, or other officer rendering such decision, that such delay was unavoidable.

"§ 134. Appeal to the Board of Examiners-in-Chief

"(a) (1) An applicant for patent may appeal from any final rejection, or objection or requirement subject to section 3(a) (1) of this title, by the primary examiner, to the Board of Examiners-in-Chief. The Board of Examiners-in-Chief shall thereupon conduct an inter partes examination proceeding. In such proceeding, the Board shall determine, de nova, subject to paragraph (2) of this subsection, whether the subject matter claimed in the application is patentable. The Board may render a decision on that issue, or may remand the proceeding to the primary examiner for reconsideration in light of evidence or other information presented to or adduced by the Board.

"(2) In deciding an appeal pursuant to paragraph (1) of this subsection, the Board may reject a claim that the primary examiner has decided is allowable. When the Board rejects a claim that the primary examiner has decided is allowable, the Board shall, upon request of the applicant, and unless the Board finds there is no reasonable basis therefor, remand the proceeding to the primary examiner for consideration, consistent with the Board's rejection, of amendments that the applicant wishes to make, but no such amendment shall materially enlarge the scope of the claims in the application or add new matter.

"(b) If any such appeal is taken to the Board of Examiners-in-Chief the primary examiner may in his discretion, within such time as the Board shall prescribe, prepare a legal opinion elaborating and explaining the final rejection made by him. The Solicitor shall be responsible for preparing, taking discovery, briefing, and arguing the case before the Board of Examiners-in-Chief in respect to any appeal taken by any applicant. The Solicitor shall authorize the briefing and arguing of a case by the primary examiner, if such primary examiner consents to the delegation and will himself participate in the appeal.

"§ 135. Opposition proceeding on the basis of information cited or furnished by others

"(a) (1) (A) Within twelve months after issuance of a patent any person may notify the Commissioner, in writing, in regard to matters which may have a bearing on the validity of any claim of the patent.

"(B) The Commissioner promptly shall supply to the patent owner a copy of such notification, and the patent owner shall have sixty days from the date of its transmittal to file a response.

"(C) Upon receipt of such responses, the Commissioner shall refer the matter to the Solicitor for review. The Solicitor may require the person filing such notification to verify any facts alleged therein. If the Solicitor concludes that such facts present reasonable grounds for rendering a claim of such patent invalid, he shall then present the matter to the Board of Examiners-in-Chief for the institution of an opposition proceeding, and for hearing and decision therein, in accordance with such procedures as the Commissioner by regulation may prescribe.

"(2) (A) The patent owner and the person making the notification pursuant to paragraph (1) of this subsection shall be parties to the opposition proceeding.

"(B) Any other person asserting an interest in the subject matter may, in accordance with such regulations as the Commission shall prescribe, intervene as a party in such proceeding. Such regulations shall insofar as is possible correspond to the Federal Rules of Civil Procedure, now in force or as amended hereafter, relating to intervention.

"(3) Parties to an opposition proceeding shall submit written briefs and shall be permitted to—

"(A) present oral argument;

"(B) take depositions, discovery, or testimony, pursuant to section 23 of this title: *Provided, however*, That the grant of a subpena or order pursuant to section 23 of this title shall be made to parties, other than the Solicitor or member of the Board of Examiners-in-Chief, only upon a showing of good cause;

"(C) present oral testimony and cross-examine witnesses in regard to matters which may have a bearing on the validity of any claim of a patent.

"(4) Proceedings before the Board of Examiners-in-Chief, pursuant to this section, shall be open to the public, and notice thereof shall be given. A record or recording of any hearings shall be kept.

"(5) The patent owner may, on the basis of the information submitted, present new or amended claims for consideration by the Board of Examiners-in-Chief, but no such claims shall materially enlarge the scope of the claims in the patent or add new matter.

"(6) Any party may take an appeal from a decision of the Board of Examiners-in-Chief pursuant to chapter 13 of this title.

"(b) If a party to a proceeding under this section asserts that the subject matter sought to be patented is not patentable to the applicant by reason of priority of invention of such party, and the requirements of section 136 of this chapter have otherwise been met, the Board of Examiners-in-Chief may, pursuant to such regulations as the Commissioner shall prescribe, institute a proceeding pursuant to section 136 of this title and suspend the proceeding pursuant to this section until the completion of such proceeding pursuant to section 136.

"(c) Nothing contained in this chapter shall be deemed to preclude any person from at any time submitting any infromation to the Office he may deem pertinent to any pending proceeding, nor to preclude the Office or any examiner from taking such action, if any, on the basis thereof as may be deemed appropriate.

"§ 135A. Reexamination

"(a) (1) During the term of a patent, but not prior to twelve months after its issuance, nor during the pendency of any litigation concerning its validity or unenforceability, any person having an interest in the subject matter seeking to invalidate or limit the scope of or determine the patentability of any claim or claims of such patent may, but shall not directly or indirectly be required by any court or other body to request reexamination of such patent pursuant to this section.

"(2) Such person shall request reexamination by notifying the Commission in writing, of any patents, publications, or other documents or information in tangible form, that relate to the state of the art and may have a bearing on the validity of any claim of such patent; by submitting any explanation of such documents or information that he deems appropriate; and by requesting the Office to examine the patent further on the basis of such documents or information.

"(b) (1) (A) The Commissioner promptly shall provide the patent owner with a copy of such reexamination request together with the documents and information produced pursuant to paragraph (2) of this subsection (unless the person requesting such reexamination is the patent owner), and the patent owner shall have sixty days from the date of its transmittal to file a response.

"(B) Upon receipt of such response, the Commissioner shall refer the matter to the Solicitor for review. The Solicitor may require the person filing such notification to verify any facts alleged therein and shall render a report to the Commissioner. If the Commissioner concludes that such facts present reasonable grounds for rendering a claim of such patent invalid, he shall direct a primary examiner (other than the original examiner) to reexamine such patent de novo (without any presumption of validity or invalidity).

"(2) (A) The primary examiner shall determine the validity of the claims in issue on the basis of the full record before the Office, in accordance with such procedures, not inconsistent with the provisions of this section, as the Commissioner by regulation shall prescribe.

"(B) Such regulations shall provide for the best and most expeditious reexamination practicable under the circumstances, consistent with the requirements of section 132 of this chapter and with the orderly conduct of the work of the Office.

"(3) The patent owner and the person requesting reexamination (if not the patent owner) shall be parties to the reexamination proceeding.

"(4) Any other person asserting an interest in the subject matter may, in accordance with such regulations as the Commissioner shall prescribe, intervene as a party in such proceeding. Such regulations shall, insofar as is possible, correspond to the Federal Rules of Civil Procedure relating to intervention now in force or as may be amended hereafter.

"(5) The determination by the primary examiner shall be the final action of the Office unless an appeal is taken pursuant to subsection (c) of this section.

"(6) Proceedings before the Office, pursuant to this section, shall be open to the public, and notice thereof shall be given. A record or recording of any hearings shall be kept.

"(c) (1) Any party may take an appeal to the Board of Examiners-in-Chief from the determination of the primary examiner made pursuant to subsection (b) of this section.

"(2) The Board shall decide such appeal in the most expeditious manner practicable, consistent with the orderly conduct of the work of the Office and those requirements of section 134 of this chapter not made inapplicable to such appeals by this subsection.

"(3) The decision by the Board shall be the final action of the Office unless an appeal is taken pursuant to subsection (d) of this section.

"(d) (1) Any party may take an appeal from a decision of the Board of Examiners-in-Chief.

"(2) Such appeal shall be only to the United States district court for the District of Columbia, which shall consider patentability de novo. Any party to such appeal may introduce into the record any information not previously made part of the record, and may seek to reverse the decision below on the basis of such information.

"(e) Any party to a preexamination proceeding under this section shall have the right to file written briefs and replies thereto.

"(f) (1) In any reexamination proceeding under this section, or appeal therefrom, the patent owner shall not be permitted to present new or amended claims for his patent.

"(2) Nothing in this subsection shall bar a patent owner from utilizing the reissuance provisions of section 251 in accordance with its terms.

"§ 136. Procedures in priority of invention proceeding

"(a) (1) Whenever there are two or more pending otherwise allowable applications naming different inventors and claiming the same or substantially the same subject matter, and a priority of invention proceeding is instituted in accordance with subsection (b) of this section the Office shall designate as the 'senior party'—

"(A) the inventor named in the application having the earlier or earliest actual filing date in the United States, with respect to such subject matter, or

"(B) if two or more pending applications have the same actual filing date in the United States, the inventor named in one such application, in accordance with such regulations as the Commissioner shall prescribe.

"(2) The Office shall designate each inventor other than the senior party as a 'junior party.'

"(b) The priority of invention between or among the senior party and each junior party shall be decided by the Board of Examiners-in-Chief in a priority of invention proceeding, in accordance with such regulations as the Commissioner shall establish, if—

"(1) the application of such junior party is otherwise allowable;

"(2) such junior party makes a prima facie showing of prior invention; and

"(3) such junior party offers to present evidence in support of such showing, within such time as the Commissioner shall prescribe by regulations.

"(c) (1) Subject to paragraph (2) of this subsection, and paragraphs (2) and (3) of subsection (b), whenever an otherwise allowable claim of an application is for the same or substantially the same subject matter as a claim of an issued patent, the Office shall initiate a proceeding to determine priority of invention.

"(2) No claim for the same or substantially the same subject matter as a claim of an issued patent shall be allowed unless such claim is made within one year after the date on which such issued patent was granted. Nothing contained in this paragraph shall, however, prelude any person from asserting the unpatentability to the patentee of the subject matter of such a claim.

"(d) Failure of a junior party applicant to proceed under subsection (b) or (c) of this section shall preclude such applicant from asserting priority of invention with respect to the subject matter claimed in the application, for the purpose of obtaining a patent. Failure of a junior party patentee to proceed under subsection (c) of this section shall operate to cancel such claim from the patent, and notice thereof shall be endorsed on copies of the specification of the patent thereafter distributed by the Office.

"(e) If any claim of an application involved in a priority of invention proceeding is allowable with respect to subject matter not within the scope of the priority of invention proceedings, the Commissioner may, pursuant to section 155 of this title, issue a patent on such otherwise allowable claim or claims.

"(f) In any proceeding under this section, the Board of Examiners-in-Chief, or any party, may raise the question of the patentability of any claim which is involved in the proceeding or of any claim of the patent or application of one party over the subject matter claimed or disclosed in the patent or application of the other party, and such question shall be considered in the proceeding.

"(g) Upon a final decision in a priority of invention proceeding from which no appeal or other review has been or can be taken or had, the prevailing party shall be deemed entitled to priority of invention with respect to the subject matter of the claim or claims involved in the proceeding and with respect to the parties to the proceeding. The corresponding claims of the application or patent of each other party shall be rejected or canceled. Thereafter, pursuant to such regulations as the Commissioner may prescribe, the primary examiner or examiners shall continue the examination of the application or applications, pursuant to section 132 of this title.

"(h) Unless the prevailing party has elected interim issuance of a patent pursuant to subsection (e) of this section, the term of his patent, pursuant to section 154(b) of this title, shall be extended by a period equal to the time elapsed between the date he was made a party to the proceeding under this section and the date a final decision in his favor became effective. If he elected such interim issuance, the normal term pursuant to section 154(b) shall apply.

"§ 137. Burden of persuasion

"Whenever the patentability of a claim is to be decided by the Office, the applicant shall have the burden of establishing that the claim is allowable.

"§ 138. Effect of proceedings before the Office

"(a) A final decision by the Office adverse to a claim of an issued patent from which no appeal or other review has been or can be taken or had shall constitute cancellation of such claim from the patent, and notice thereof shall be endorsed on copies of the specification of the patent thereafter distributed by the Office.

"(b) A final decision by the Office favorable to a proposed new or amended claim of an issued patent under the provisions of section 135 of this title shall constitute the addition or substitution of such claim in the patent and notice thereof shall be affixed to copies of the specification of the patent thereafter distributed by the Office.

"(c) Except as otherwise provided in this title, no person shall be foreclosed, estopped, or in any way prejudiced with respect to the assertion of any claim or any defense in any proceeding in any court by reason of his, or any other person's, having, or having failed to have, engaged in any administrative proceeding before the Office, as provided by this title. Nothing contained in this title shall be construed to supersede the jurisdiction of any

Federal court or agency, nor to make any proceeding before such court or agency subject to the primary jurisdiction of the Office.

"§ 139. Settlement agreements

"(a) (1) Any agreement or understanding between parties to a proceeding pursuant to this chapter, or any appeal therefrom, made in connection with or in contemplation of settlement of, termination of, or withdrawal from the proceeding, shall be in writing. Before the termination of the proceeding, as between such parties, there shall be filed in the Office a copy thereof, together with a copy of any collateral agreement referred to therein or dependent thereupon. Each such copy shall be made part of the public record of such proceeding, except as provided in paragraph (2) of this subsection.

"(2) Any party may designate those portions of any agreement, understanding, or collateral agreement that he deems to relate to a trade secret or other confidential research, development, or commercial information belonging to and of substantial value to him. Upon a showing of good cause, such designated information shall be kept separate from the public record, and made available only to government agencies on their written request therefor.

"(b) If any copy required by subsection (a) (1) of this section to be filed is not filed as prescribed thereby, the agreement or understanding, including any collateral agreement, shall be permanently unenforceable. Any patent issuing to a party to such agreement or understanding or such collateral agreement, shall also be permanently unforceable if that patent or any application on which that patent issued was involved in such a proceeding or appeal. The Commissioner may, however, on a showing of good cause for failure to file within the time prescribed, permit the filing of the agreement or understanding, including the collateral agreements, during the six-month period subsequent to the termination of the proceeding as between the parties to the agreement or understanding.

"(c) The Commissioner shall give notice to the parties or their attorneys of record a reasonable time prior to said termination of the filing requirement of this section. If the Commissioner gives such notice at a later time, irrespective of the right to file such agreement or understanding or collateral agreement within the six-month period on a showing of good cause, the parties may file such agreement, understanding, or collateral agreement within two months of the receipt of such notice.

"Chapter 13.—REVIEW OF OFFICE DECISIONS

"Sec.
"141. Appeal to Court of Customs and Patent Appeals.
"142. Notice of Appeal.
"143. Proceeding on Appeal.
"144. Decision on Appeal.
"145. Civil action.
"148. Presumption of correctness.
"149. Judicial review of final and nonfinal decisions.

"§ 141. Appeal to Court of Customs and Patent Appeals

"An appeal under part II of this title from a final decision of the Board of Examiners-in-Chief, or a nonfinal decision of the Office which the Commissioner has by general regulation made appealable, may be had by any party to the United States Court of Customs and Patent Appeals. Any such appeal shall be dismissed without prejudice, however, if any other party within one month after the notice of appeal is filed, files notice with the United States Court of Customs and Patent Appeals and the Commissioner that he elects to have all further proceedings conducted as provided in section 145 of this chapter. Thereupon the appellant shall have one month thereafter within which to file a civil action under section 145, in default of which the decision appealed from shall govern the further proceedings in the case.

"§ 142. Notice of appeal

"When an appeal is taken to the United States Court of Customs and Patent Appeals, the appellant shall file in the Office a written notice of appeal directed to the Commissioner, and shall serve such notice upon all parties, within such time after the date of the decision appealed from, not less than two months as the Commissioner prescribes.

"§ 143. Proceeding on appeal

"The Commissioner shall transmit to the United States Court of Customs and Patent Appeals certified copies of the decision of the Board of Examiners-in-Chief and of all other necessary original papers and evidence in the case specified by the appellant or any other party. The Solicitor shall be responsible for briefing and arguing the case before the court in respect to any appeal taken by any party, except with respect to opposition proceedings had pursuant to section 135 of this title, or priority of invention proceedings had pursuant to section 136 of this title, in which cases participation of the Solicitor shall be at his discretion. The court, shall, before hearing such appeal, give notice of the time and place of the hearing to the Commissioner, and all parties.

"§ 144. Decision on appeal

"The United States Court of Customs and Patent Appeals shall review the decision appealed from under section 141 of this title, on the record made before the Office. The court may affirm the decision below, or set it aside and remand the matter to the Office for further consideration. Upon its determination the court shall return to the Commissioner a certificate of its proceedings and decision, which shall be entered of record in the Office and govern further proceedings in the case.

"§ 145. Civil action

"(a) Any final decision of the Board of Examiners-in-Chief, any final decision of the Commissioner under part II of this title, or a nonfinal decision of the Office under part II of this title which the Commissioner has by general regulation made judicially reviewable, shall be subject to judicial review by civil action in the United States District Court for the District of Columbia against the Commissioner, or other party.

"(b) Such action shall be commenced within such time after such decision, not less than two months, as the Commissioner shall by regulation prescribe. The party commencing the action shall notify the Commissioner and any party to the original proceeding in the Office, if not named in the suit, of the filing of the suit.

"(c) The Solicitor shall be responsible on behalf of the Office for preparing, taking discovery in, briefing, and arguing the case before the court, in respect to any action brought by any party.

"(d) In any judicial review pursuant to this section, any party may, except in the case of a nonfinal decision, introduce into the record any publication, patents, other evidence of the state of the art, or other information not previously made part of the record; and may seek to reverse the decision of the primary examiner or Board of Examiners-in-Chief on the basis thereof. The court may consider patentability, de novo, and may affirm the decision below, set aside the rejection of any claims which were rejected in the decision of the primary examiner or Board of Examiners-in-Chief, reject the allowance of any claims previously allowed, or remand the proceeding to the Office for further consideration. Such adjudication shall be entered of record in the Office and govern further proceedings in the case.

"(e) The process of such district court for such purpose shall run throughout the United States and otherwise as provided by the Federal Rules of Civil Procedure or any Federal statute.

"§ 148. Presumption of correctness

"In any appeal or other proceeding under this chapter, the Office decision shall be given a presumption of correctness.

"§ 149. Judicial review of final and nonfinal decisions

"(a) All appeals of final or nonfinal decisions of the Office in proceedings instituted under this title shall be had exclusively in accordance with the procedures specified in this chapter, unless this title expressly provides otherwise. In reviewing any decision other than a final decision of the Board of Examiners-in-Chief, the scope of review shall, to the extent applicable, be that specified in section 706 of title 5, United States Code.

"(b) Except as the Commissioner may by general regulations prescribe, there shall be no judicial review of nonfinal decisions of the Office.

"Chapter 14.—ISSUE OF PATENT

"Sec.
"151. Notice of allowance; issue of patent.
"152. Late payment; effect of reinstatement of patent.
"153. Forms of issued patents.
"154. Contents and terms of patent.
"155. Interim grant of patent.

"§ 151. Notice of allowance; issue of patent

"(a) If there is a final decision that one or more claims of the application should be allowed, then the Office shall give or mail to the applicant a written notice of allowance of the application as to such claims.

"(b) The notice shall specify a sum, constituting the issue fee, which shall be paid within three months thereafter or within such shorter time, not less than two months, as fixed by the Commissioner.

"(c) Upon payment of this sum the patent shall issue. If payment is not timely made, the application shall be regarded as abandoned.

"(d) If any payment required by this section is not timely made, but is submitted with a fee for delayed payment, and the delay in payment is shown to have been unavoidable, the Commissioner may accept it as though no abandonment or lapse had ever occurred.

"§ 152. Late payment; effect of reinstatement of patent

"The Commissioner may, in accordance with sections 41(f) (3) and 151(d) of this title, accept late payment of fees. No patent with respect to which a late payment is accepted pursuant to such sections shall abridge or affect the right or privilege of any person or his successors in business or title to continue to use, or to sell to others for their use or sale, anything which such person in good faith made, used, or acquired during the interim period—(i) after the date the application became abandoned or the patent lapsed or became unenforceable for failure to pay such fee, and (ii) prior to the reinstatement of the patent. Any such person or his successor may use or sell the specific thing so made, used, or acquired, in the same manner as if the patentee had authorized such use or sale, even though such use or sale by him or his successor would infringe the patent, in the absence of such authorization. In addition, a court before which the matter is in question may provide for the continued manufacture, use, or sale of things, to the extent and under such terms as the court deems equitable for the protection of investments made, business commenced, or business for which substantial preparation was made—during such interim period.

"§ 153. Form of issued patents

"Patents shall be issued in the name of the United States of America, under the seal of the Office, and shall be signed by the Commissioner or have his signature placed thereon, and shall be recorded in the Office.

"§ 154. Contents and term of patent

"(a) Every patent shall contain a grant to the applicant, his heirs or assigns, or, as provided in section 111(e) of this title, to the inventor, his heirs or assigns of the right, during the term of the patent, to exclude others, pursuant to part III of this title, from making, using, or selling the patented subject matter throughout the United States, referring to the specification for the particulars thereof. A copy of the specification and drawings shall be annexed to the patent and be a part thereof.

"(b) Subject to subsection (c) of this section and section 136(h) of this title, the term of a patent shall expire twenty years from the date of filing the application in the United States, or if the benefit of the filing date in the United States of a prior application is claimed pursuant to section 120 of this title, from the earliest such prior date claimed. In determining the term of the patent, the date of filing any application in a foreign country which may be claimed by the applicant shall not be taken into consideration, except as provided by section 365 (c) of this title.

"(c) The term of a patent whose issuance has been delayed by reason of the application having been ordered kept secret pursuant to section 181 of this title shall be extended for a period equal to such delay in issuance of the patent after the notice of allowability referred to in section 183 of this title. The term of a patent shall also be extended for a period equal to the delay incurred due to review under section 151 or 152 of the Atomic Energy Act of 1954 (68 Stat. 943), or under section 305 of the National Aeronautics and Space Act (72 Stat. 435).

"§ 155. Interim grant of patent

"(a) Although fewer than all the claims of an application have been ruled allowable, a patent may issue for only the allowed claims upon the request of the applicant pursuant to sections 132(d) and 136(e) of this title.

"(b) Upon payment of the prescribed fee, the Commissioner shall issue a patent on the allowed claims, in accordance with this chapter. No other claims shall be included in such patent, but the Commissioner, in accordance with such regulations as he may prescribe, may provide for the publication (other than in the patent) of claims of the application that have not been allowed, and which are involved in proceedings under sections 134 or 136(e), or chapter 13, of this title.

"Chapter 15.—PLANT PATENTS

"Sec.
"161. Patents for plants.
"162. Description, claim.
"163. Grant.
"164. Assistance of Department of Agriculture.

"§ 161. Patents for plants.

"(a) Whoever invents or discovers and asexually reproduces any distinct and new variety of plant including cultivated sports, mutants, hybrids, and newly found seedlings, other than a tuber propagated plant or a plant found in an uncultivated state, may obtain a patent therefor, subject to the conditions and requirements of this title.

"(b) The provisions of this title relating to patents for inventions shall apply to patents for plants, except as otherwise provided.

"§ 162. Description, claim

"(a) No plant patent shall be declared invalid for noncompliance with section 112 of this title if the description is as complete as is reasonably possible.

"(b) The claim in the specification shall be in formal terms to the plant shown and described.

"§ 163. Grant

"In the case of a plant patent the grant shall be of the right to exclude others, pursuant to Part III of this title, from asexually reproducing the plant or selling or using the plant so reproduced.

"§ 164. Assistance of Department of Agriculture

"The President may by Executive order direct the Secretary of Agriculture, in accordance with the request of the Commissioner, for the purpose of carrying into effect the provisions of this title with respect to plants (1) to furnish available information of the Department of Agriculture, (2) to conduct through the appropriate bureau or division of the Department research upon special problems, or (3) to detail to the Commissioner officers and employees of the Department.

"Chapter 16.—DESIGNS

"Sec.
"171. Patents for designs.
"172. Right of priority.
"173. Term of design patent.

"§ 171. Patents for designs

"(a) Whoever invents any new, original, and ornamental design for an article of manufacture may obtain a patent therefor, subject to the conditions and requirements of this title.

"(b) The provisions of this title relating to patents for inventions shall apply to patents for designs, except as otherwise provided.

"§ 172. Right of priority

"The right of priority provided by section 119 of this title and the time specified in section 102(d) of this title shall be six months in the case of designs. Applications for design registrations and such registrations in foreign countries shall have the same effect as applications for design patents and design patents for the purpose of sections 102(e) and 119 of this title.

"§ 173. Term of design patent

"Patents for designs shall be granted for a term of fourteen years from the date of issue.

"Chapter 17.—SECRECY AND FILING APPLICATIONS IN FOREIGN COUNTRIES

"Sec.
"181. Secrecy and withholding of patent.
"182. Abandonment of subject matter by reason of unauthorized disclosure.
"183. Right to compensation.
"184. Filing of application in foreign country.
"185. Patent barred for filing without license.
"186. Penalty.
"187. Nonapplicability to certain persons.
"188. Rules and regulations, delegation of power.

"§ 181. Secrecy and withholding of patent

"(a) Whenever publication or disclosure of the subject matter of an application for patent in which the Government has a property interest might, in the opinion of the head of an interested Government agency, be detrimental to the national security, the Commissioner upon being so notified shall order that the subject be kept secret and shall withhold disclosure thereof and the grant of a patent therefor under the conditions set forth hereinafter.

"(b) Whenever the publication or disclosure of subject matter described in an application for patent in which the Government does not have a property interest, might, in the opinion of the Commissioner, be detrimental to the national security, the Commissioner shall make the application for patent in which subject matter is disclosed available for inspection to the Administrator of the Energy Research and Development Administration, the Secretary of Defense, and the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States.

"(c) Each individual to whom the application is disclosed shall sign a dated acknowledgement thereof, which acknowledgement shall be entered in the file of the application. If, in the opinion of the Administrator of the Energy Research and Development Administration, the Secretary of Defense, or the chief officer of another department or agency so designated, the publication or disclosure of such subject matter would be detrimental to the national security, the Administrator of the Energy Research and Development Administration, the Secretary of Defense, or such other chief officer shall notify the Commissioner, and the Commissioner shall order that such subject matter be kept secret and shall withhold publication and the grant of a patent for such period as the national interest requires, and notify the applicant thereof. Upon proper showing by the head of the department or agency which caused the secrecy order to be issued that the examination of the application might jeopardize the national interest, the Commissioner shall thereupon maintain the application in a sealed condition and notify the applicant thereof. The applicant whose application has been placed under a secrecy order shall have a right to appeal from the order to the United States District Court for the District of Columbia, under such conditions and upon such proceedings as the court by its rules determines.

"(d) Subject matter described in an application shall not be ordered kept secret and the grant of patent withheld for a period of more than one year. The Commissioner shall renew the order at the end thereof, or at the end of any renewal period for additional periods of one year upon notification by the head of the department or agency which caused the order to be issued that an affirmative determination has been made that the national interest continues so to require. An order in effect, or issued, during a time when the United States is at war, shall remain in effect for the duration of hostilities and one year following cessation of hostilities. An order in effect, or issued, during a national emergency declared by the President shall remain in effect for the duration of the national emergency and six months thereafter. The Commissioner may rescind any order upon notification by the head of the department or agency which caused the order to be issued that the publication or disclosure of such subject matter is no longer deemed detrimental to the national security.

"§ 182. Abandonment of subject matter by reason of unauthorized disclosure

"Subject matter disclosed in an application for patent subject to an order made pursuant to section 181 of this chapter shall be held abandoned upon a determination by the Board of Examiners-in-Chief, in such proceedings as the Commissioner shall by regulation, establish, that in violation of said order such subject matter has been published or disclosed or that an application for a patent therefor has been filed in a foreign country by the inventor, his successors, assigns, or legal representatives, or anyone in privity with him or them, without the consent of the Commissioner. The abandonment shall be held to have occurred as of the time of violation. The consent of the Commissioner shall not be given without the concurrence of the heads of the departments and agencies which caused the order to be issued. A holding of abandonment shall abrogate all claims against the United States based upon such subject matter by the applicant, his successors, assignes, or legal representatives, or anyone in privity with him or them.

"§ 183. Right to compensation

"An applicant, or patentee, or his legal representative, whose patent is withheld as herein provided, shall have the right, beginning at the date the applicant is notified that, except for such order, his application is otherwise in condition for allowance, and ending six years after a patent is issued thereon, to apply to the head of any department or agency who caused the order to be issued for compensation for the damage caused by the order of secrecy and/or for the use of such subject matter by the Government resulting from his disclosure. The right to compensation for use by the Government shall begin on the date of the first use of such subject matter by the Government and shall terminate twenty years from the actual filing date in the United States of the patent. The head of the department or agency is authorized upon the presentation of the claim to enter into an agreement with the applicant, or patentee, or his legal representatives, in full settlement for the damage and/or use. The settlement agreement shall be conclusive for all purposes notwithstanding any other provision of law to the contrary. If full settlement of the claim cannot be effected, the head of the department or agency may award and pay to such applicant, or patentee, or his legal representatives, a sum not exceeding 75 per centum of the sum which the head of the department or agency considers just compensation for the damage and/or use. A claimant may bring suit against the United States in the Court of Claims or in the district court of the United States for the district in which such claimant is a resident for an amount which when added to the award shall constitute just compensation for the damage and/or use of such subject matter, by the Government. The owner of any patent issued upon an application that was subject to a secrecy order issued pursuant to section 181 of this chapter, who did not apply for compensation as above provided, shall have the right, after the date of issuance of such patent, to bring suit in the Court of Claims for just compensation for the damage caused by reason of the order of secrecy and/or use by the Government of such subject matter resulting from his disclosure. The right to compensation for use by the Government shall begin on the date of the first use of the invention by the Government and shall terminate not later than twenty years from the actual filing date in the United States of the patent. In a suit under the provisions of this section the United States may avail itself of all defenses it may plead in an action under section 1498 of title 28, United States Code. This section shall not confer a right of action on anyone or his successors, assigns, or legal representatives who, while in the full-time employment or service of the United States, discovered, invented, or developed the subject matter on which the claim is based. A patentee receiving a settlement of his claim for damages caused by reason of an order of secrecy by the Court of Claims shall be required to disclaim the terminal portion of the patent term equal in duration to any extension granted under the provisions of section 154 (c) of this title.

"§ 184. Filing of application in foreign country

"(a) Except when authorized by a license obtained from the Commissioner a person shall not file or cause or authorize to be filed in any foreign country an application for patent or inventor's certificate or for the registration of a utility model, industrial design, or model in respect of an invention made in this country prior to six months after filing an application in the United States, or prior to four months after filing an application for patent on an ornamental design under section 171 of this title. A license shall not be granted with respect to an invention subject to an order issued by the Commissioner pursuant to section 181 of this title without the concurrence of the head of the departments and the chief officers of the agencies who caused the order to be issued. The license may be granted retroactively where an application has been inadvertently filed abroad and the application does not disclose an invention within the scope of section 181 of this title, upon a timely showing that the application has been inadvertently filed abroad, and the application does not disclose subject matter within the scope of section 181 of this title.

"(b) The term 'application' when used in this chapter includes applications and any modifications, amendments, or supplements thereto, or divisions thereof.

"(c) No license shall be required subsequent to the filing of a foreign application for any modifications, amendments, or supplements to that foreign application, or divisions thereof, which do not alter the nature of the subject matter originally disclosed, which are within the scope of the subject matter originally disclosed, and where the filing of the foreign application originally complied with the provisions of this section, unless the applicant has been notified by the Commissioner that a specific license is required for filing such papers in connection with any application.

"§ 185. Patent barred for filing without license

"Notwithstanding any other provisions of law any person, and his successors, assigns, or legal representatives, shall not receive a United States patent for subject matter described in an application if that person, or his successors, assigns, or legal representatives shall, without procuring the license prescribed in section 184 of this chapter, have made, or consented to or assisted another's making application in a foreign country for a patent or for the registration of a utility model, industrial design, or model in respect to such subject matter. A United States patent claiming such subject matter, issued to such person, his successors, assigns, or legal representatives shall be invalid.

"§ 186. Penalty

"Whoever, during the period or periods of time any subject matter has been ordered to be kept secret and the grant of a patent thereon withheld pursuant to section 181 of this chapter, shall, with knowledge of such order and without due authorization, willfully publish or disclose or authorize or cause to be published or disclosed the subject matter or material information with respect thereto, or whoever, in violation of the provisions of section 184 of this chapter, shall file or cause or authorize to be filed in any foreign country an application for patent or for the registration of a utility model, industrial design, or model in respect of an invention made in the United States shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than two years, or both.

"§ 187. Nonapplicability to certain persons

"The prohibitions and penalties of this chapter shall not apply to any officer or agent of the United States acting within the scope of his authority, nor to any person acting upon his written instructions or permission.

"§ 188. Rules and regulations, delegation of power

"The Administrator of the Energy Research and Development Administration, the Secretary of Defense, the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States, and the Secretary of Commerce, may separately issue rules and regulations to enable the respective department or agency to carry out the provisions of this chapter, and may delegate any power conferred by this chapter.

"Chapter 18.—DEFERRED EXAMINATION

"Sec.
"191. Deferment of examination or search.
"192. Prior Art search.
"193. Examination.
"194. Examination of related applications.

"§ 191. Deferment of examination or search

"Notwithstanding the provisions of chapter 12 of this title, the examination of an application for patent, or a prior art search in accordance with section 192 of this title, shall be deferred unless at the time of filing the applicant requests immediate examination or search and pays the apropriate fee prescribed in accordance with section 41(b) of this title. Except for a filing, publication, or search fee, as prescribed in accordance with section 41(b) of this title, no fees shall be charged during the period of time in which the examination of such application is deferred under the provisions of this chapter.

"§ 192. Prior art search

"(a) If examination has been deferred under section 191 of this title, a request for a prior art search on a pending application for patent may be filed, and the primary examiner assigned such application in accordance with section 132 of this title shall conduct a search for that prior art which is to be considered in connection with the determination of patentability of the subject matter claimed in such application. As soon as practicable, thereafter, he shall establish a search report citing such patents, publications or other prior art relating to the patentability of the subject matter sought to be patented. He shall not, however, make any determination as to patentability.

"(b)(1) The applicant or any other person, may file the request under subsection (a) of this section upon payment of the fee prescribed in accordance with section 41(b) of this title.

"(2) If the request is filed by a party or person other than the applicant, the applicant shall be informed of that fact. However, the identity of such other party or person (except the Solicitor or the United States) filing the request under subsection (a) of this section shall be kept in confidence by the Office, and no information concerning the same shall be given without his authority unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commissioner.

"(3) The search report established under subsection (a) of this section, including copies of the material cited therein, shall be forwarded to the applicant. If the request was filed by another party or person, it also shall be forwarded to him. Upon payment of the fee prescribed in accordance with section 41(b) of this title, it shall be forwarded to any other person requesting it.

"(c) Subject to section 122(b) of this title, information regarding the filing of any request under subsection (a) of this section shall be publlshed in the Official Gazette, or other appropriate publication.

"(d) If a request for a prior art search under subsection (a) of this section, or for examination under section 193 of this title, has been filed, subsequent requests under subsection (a) of this section shall be refused and the accompanying fees refunded.

"§ 193. Examination

"(a) A request for examination of an application for patent, the examination of which has been deferred under section 191 of this title, may be filed at any time before the expiration of five years from the earliest effective filing date claimed in such application. The examination shall be conducted as provided in chapter 12 of this title, except that it shall await the conclusion of proceedings under section 192 of this title if a request under that section has been filed.

"(b) The applicant or any other person, may file the request under subsection (a) of this section. If the request was filed by a party or person other than the applicant, the applicant shall be informed of that fact. However, the identity of such other party or person (except the Solicitor or the United States) filing the request under subsection (a) of this section shall be kept in confidence by the Office, and no information concerning the same shall be given without his authority unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commissioner.

"(c)(1) If the request under subsection (a) of this section is filed by the applicant, he shall, at the same time, transmit the fee prescribed in acordance with section 41(b) of this title. If the applicant filed a prior request under section 192 of this title, accompanied by the fee prescribed under section 41(b) of this title, the fee prescribed for filing a request under subsection (a) of this section shall be reduced by the amount of the fee prescribed for filing a request under section 192 of this title.

"(2) If the request is filed by any other party or person, he shall, at the same time, transmit the fee prescribed in accordance with section 41(b) of this title. The applicant shall pay all other fees, including any fee for extra claims.

"(3) If payment of the fee prescribed in accordance with section 41(b) of this title for filing a request under subsection (a) of this section is not timely made, but is submitted with the fee for delayed payment, and the delay in payment is shown to have been unavoidable, the Commissioner may accept it, and the request shall be considered as having been filed on its original date of receipt by the Office. If the delay in payment exceeds by six months the time specified in subsection (a) of this section, no fee shall be accepted and the request shall be regarded as not having been made.

"(d) Subject to section 122(b) of this title information regarding the filing of any request under subsection (a) of this section shall be published in the Official Gazette or other appropriate publication. Subsequent requests under subsection (a) of this section shall be refused and the accompanying fees refunded.

"(e) If no request for examination is received by the Office within the time specified in subsection (a) of this section, the application for patent shall be regarded as abandoned.

"§ 194. Examination of related applications

"When examination of a deferred application for patent is requested under section 193 of this title, the Commissioner may call upon the applicant to request examination of any other of his applications for patent which may have been deferred and which claim the date of the first mentioned application, or any application for patent owned by such applicant the date of which is claimed by the first mentioned application, and to pay the fee prescribed in accordance with section 41(b) of this title. Notice shall be given the applicant of the fee due, and a time of not less than thirty days shall be allowed for payment. If the fee is paid within the specified time, examination shall proceed on all such applications concurrently. If the fee is not paid within such time, the applications for patent on which the required fee has not been paid shall be regarded as abandoned.

"Chapter 19.—AMENDMENT, CORRECTION, AND REISSUE OF PATENTS

"Sec.
"251. Reissue of defective patents.
"252. Effect of reissue.
"253. Disclaimer.
"254. Certificate of correction of Patent Office mistake.
"255. Certificate of correction of applicant's mistake.
"256. Correction of named inventor.
"257. Certificate to supplement patent.

"§ 251. Reissue of defective patents

"(a) Whenever any patent is, through inadvertence, accident, or mistake, and without any willful default or intent to defraud, mislead, or deceive the public, wholly or partly inoperative or invalid, by reason of a defective specification or drawing, or by reason of the patentee claiming more, or less (subject to subsection (c) of this section), than he had a right to claim in the patent, the Office, pursuant to such rules and regulations as the Commissioner shall prescribe, and on the surrender of such patent and the payment of the fee required by law, shall reissue the patent for the subject matter disclosed in the original patent, and in accordance with a new and amended application, for the unexpired part of the term of the original patent. No new matter shall be introduced into the application for reissue.

"(b) The provisions of chapters 10, 11, 12, 13, and 14 of this title relating to applications for patent shall be applicable to applications for reissue of a patent.

"((c) No reissued patent shall be granted enlarging the scope of the claims of the original patent—

"(1) unless applied for within one year from the grant of the original patent; or

"(2) except where necessary to permit the applicant to participate in a priority of invention proceeding had pursuant to section 136 of this title.

§ 252. Effect of reissue

"(a) The surrender of the original patent shall take effect upon the issue of the reissued patent. Every reissued patent shall have the same effect and operation in law, on the trial of actions for causes thereafter arising, as if the same had been originally granted in such amended form. Insofar as the claims of the original and reissued patents are identical or substantially identical, such surrender shall not affect any action then pending nor abate any cause of action then existing, and the reissued patent, to the extent that its claims are identical or substantially identical with the original patent, shall have effect continuously from the date of the original patent.

"(b) No reissued patent shall abridge or affect the right or privilege of any person or his successors in business or title to continue to use, or to sell to others for their use or resale, anything which such person made, used, or acquired prior to the grant of the reissue, unless the making, using, or selling of such thing infringes a valid claim of the reissued patent, which was in the oirginal patent. Any such person or his successor may use or sell the specific thing so made, used or acquired, in the same manner as if the patentee had authorized such use or sale, even through such use or sale by him or his successor would infringe the patent, in the absence of such authorization. In addition, a court before which the matter is in question may provide for the continued manufacture, use, or sale of things, to the extent and under such terms as the court deems equitable for the protection of investments made, business commenced, or business for which substantial preparation was made, prior to the grant of the reissue.

"§ 253. Disclaimer

"(a) Whenever, through inadvertence, accident, or mistake, and without any willful default or intent to defraud, mislead, or deceive the public, a claim of a patent is invalid, the remaining claims shall not thereby be rendered invalid; provided the patentee timely, after he realized or clearly should have realized the claim was invalid, makes a disclaimer pursuant to this section. A patentee, whether of the whole or any interest therein, may, on payment of the prescribed fee, make disclaimer of any claim, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing and recorded in the Office; and it shall thereafter be considered as part of the original patent to the extent of the interest possessed by the disclaimant and by those claiming under him.

"(b) In like manner any patentee or applicant may disclaim or dedicate to the public the entire term, or any terminal part of the term, of the patent granted or to be granted.

"§ 254. Certificate of correction of Office mistake

"Whenever a mistake in a patent, incurred through the fault of the Office, is clearly disclosed the records of the Office, the Commissioner may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of patents. Such certificate shall be considered as part of the original patent, and a copy thereof may be attached to each copy of the patent. Every such patent, together with such certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been orginally issued in such corrected form. The Commissioner may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction.

"§ 255. Certificate of correction of applicant's mistake

"Whenever a mistake of a clerical or typographical nature, or minor character, which was not the fault of the Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Office may, pursuant to such rules and regulations as the Commissioner shall prescribe and upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require reexamination. Such certificate shall be considered as part of the original patent, and a copy thereof may be attached to each copy of the patent. Every such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form.

"§ 256. Correction of named inventor

"An error or mistake in the naming of an individual as an inventor in either a sole or joint application for patent, or in the failure to include an individual as an inventor in an application for patent, without any willful default or intent to defraud, mislead, or deceive the public on the part of any of the individuals named as inventors, whether originally or subsequently, or the assignees thereof, may be corrected after a pattent thereon has issued on timely petition by all the individuals named as inventors, whether originally or subsequently, and the assignees thereof, with proof of the facts, in accordance with regulations established by the Commissioner, provided, however, the actual inventor makes the statement prescribed by section 115 of this title. A court before which such matter is called in question may order correction of the patent on notice to and opportunity for hearing by all parties concerned. Upon such correction, the Commissioner shall issue a certificate accordingly.

"§ 257. Certificate to supplement patent

"(a) Whenever a claim in an application is allowed, subsequent to the issuance, pursuant to section 155 of this title, of a patent containing one or more previously allowed claims from such application, the Commissioner shall issue a certificate of supplementation, upon payment of the prescribed fee, containing such newly allowed claim. Such certificate shall be issued in accordance with the procedures of section 254 of this chapter and shall be entered in the record of the prosecution of the patent containing the previously allowed claims.

"(b) The Commissioner shall publish notice that a certificate of supplementation has issued, as he may by regulation prescribe. Such certificate shall thenceforth be considered as part of the original patent, and shall expire concurrently therewith. A copy of the certificate shall be attached to each copy of the patent thereafter distributed.

"(c) Upon the issuance of such certificate of supplementation, each claim thereof shall constitute a claim of the original patent, and shall thenceforth have the force and effect specified in sections 154 and 271 of this title, in respect to actions thereafter arising.

"PART III—PATENTS AND INFRINGEMENT OF PATENTS

"CHAPTER	Sec.
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"Chapter 26.—OWNERSHIP AND ASSIGNMENT

"Sec.
"261. Ownership, assignment.
"262. Joint owners.

"§ 261. Ownership; assignment

"(a) Subject to the provisions of this title, patents shall have the attributes of personal property.

"(b) Applications for patent, patents, or any interest therein, shall be assignable in law by any person by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States.

"(c) A certificate of acknowledgment under the hand and official seal of a person authorized to administer oaths within the United States, or, in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, shall be prima facie evidence of the execution of an assignment, grant or conveyance of a patent or application for patent.

"(d) An assignment, grant or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Office within three months from its date or prior to the date of such subsequent purchase or mortgage.

"§ 262. Joint owners

"In the absence of any agreement to the contrary, each of the joint owners of a patent may make, use, or sell the patented subject matter without the consent of and without accounting to the other owners.

"Chapter 27.—GOVERNMENT INTERESTS IN PATENTS

"Sec.
"267. Time for taking action in Government applications.

"§ 267. Time for taking action in Government applications

"Notwithstanding the provisions of sections 41, 133, and 151 of this title, the Commissioner may extend the time for taking any action to three years, when an application for patent or patents has become the property of the United States and the head of the appropriate department or agency of the Government has certified to the Commissioner that the subject matter disclosed therein is important to the armament or defense of the United States.

"Chapter 28.—INFRINGEMENT OF PATENTS

"Sec.
"271. Infringement of patent.
"272. Temporary presence in the United States.

"§ 271. Infringement of patents

"(a) Except as otherwise provided in this title, whoever without authority makes, uses, or sells any patented subject matter, within the United States after the issuance of the patent therefor and during its term, infringes the patent.

"(b) Whoever actively induces infringement of a patent shall be liable as an infringer.

"(c) whoever sells a component of a patented machine, manufacture, combination or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the patented subject matter, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use, shall be liable as a contributory infringer.

"(d) No patent owner otherwise entitled to relief for infringement or contributory infringement of a patent shall be denied relief or deemed guilty of misuse or illegal extension of the patent right by reason of his having done one or more of the following: (1) derived revenue from acts which if performed by another without his consent would constitute contributory infringement of the patent; (2) licensed or authorized another to perform acts which if performed without his consent would constitute contributory infringment of the patent; or (3) sought to enforce the patent against infringement or contributory infringement.

"(e)(1) Subject to paragraph (3) of this subsection, whoever imports a product made in a foreign country into the United States shall be liable as an infringer, if—

"(A) he has entered into an exclusive or primary sales or distribution agreement for such product, with the person who made it in the foreign country, or one who purchased it from such person, and

"(B) such person made the product in the foreign country by a process patented in the United States.

"(2) Subject to paragraph (3) of this subsection, any subsidiary, or other organization under the legal control, of the manufacturer or vendor specified in paragraph (1)(A) of this subsection, that actively induces conduct proscribed by paragraph (1) of this subsection shall be liable as an infringer.

"(3) Paragraphs (1) and (2) of this subsection shall not apply if the patentee has authorized the persons identified in paragraphs (1) and (2), or any of them, to engage in such conduct.

"(f) Whoever, without authority, makes or sells, within the United States, substantially all of the components of a patented machine, manufacture, or composition of matter, uncombined, intending that such components will be combined outside the United States to constitute the patented subject matter, knowing that if such components were combined within the United States, the combination would be an infringement of the patent, shall be libel as an infringer.

"§ 272. Temporary presence in the United States

"The use of any patented subject matter in any vessel, aircraft, or vehicle entering the United States temporarily or accidentally shall not constitute infringement of any patent, if such subject matter is used exclusively for the needs of the vessel, aircraft, or vehicle, and is not sold in or used for the manufacture of anything to be sold in or exported from the United States, and if the country of registration of such vessel, aircraft or vehicle affords similar privileges to vessels, aircraft or vehicles of the United States.

"Chapter 29.—REMEDIES FOR INFRINGEMENT OF PATENT, AND OTHER ACTIONS

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"281. Remedy for infringement of patent.
"282. Presumption of validity; defenses.
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"284. Damages.
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"287. Limitation on damages, marking and notice
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"293. Nonresident patentee; service and notice.
"294. Voluntary arbitration.
"295. Challenge to validity by assignor.
"296. Challenge to validity by licensee.
"297. Removal in validity challenge cases.

"§ 281. Remedy for infringement of patent

"A patentee shall have remedy by civil action for infringement of his patent.

"§ 282. Presumption of validity; defenses

"(a) A patent shall be presumed valid. Each claim of a patent (whether in independent, dependent or multiple dependent form) shall be presumed valid independently of the validity of other claims; dependent or multiple dependent claims shall be presumed valid even though dependent upon an invalid claim. The burden of establishing invalidity of a patent or any claim thereof shall rest on the party asserting such invalidity.

"(b) The following shall be defenses in any action involving the validity or infringement of a patent:

"(1) noninfringement, absence of liability for infringement, or unenforceability;

"(2) invalidity of the patent or any claim in suit on any ground specified in part II of this title as a condition for patentability;

"(3) invalidity of the patent or any claim in suit for failure to comply with any requirement of sections 112, 115, 131, or 251 of this title, unless such failure is through inadvertence, accident, or mistake, and without any willful default or intent to defraud, mislead, or deceive, the public; or

"(4) any other fact or act made a defense by this title.

"(c)(1) In actions involving the validity or infringement of a patent, except as provided in paragraph (4) of this subsection—

"(A) the patentee or party asserting infringement shall give notice in the pleadings or otherwise in writing to all parties as soon as practicable and at least ninety days before the trial, of the manner in which each of the claims alleged to be infringed, element by element, applies to the allegedly infringing process, machine, manufacture, or composition of matter, and the elements of the structure thereof;

"(B) the party asserting invalidity or noninfringement shall at some later time give notice to all parties of the country, number, date, and name of the patentee of any patent, and the title, date, and page numbers of any publication, to be relied upon as anticipation of the patent in suit, or as showing the state of the art; and the name and address of any person who may be relied upon as the prior inventor, or as having prior knowledge of, or as having previously used or offered for sale, the subject matter of the patent in suit;

"(C) such party shall thereafter (and at least sixty days before the trial) apply such prior art, element by element, against the claims alleged to be infringed, that he alleges to be invalid.

"(2) In the absence of such notice and other information, as specified in this subsection, proof of such matters may not be made at the trial except on such terms as the court may require. Amendment of notices that this section requires to be filed shall be allowed in accordance with considerations of fairness.

"(3) The court may, in its discretion, request the Office to render a written opinion as to whether any newly cited prior art not previously before the Office would have adversely affected the issuance of the patent.

"(4) The provisions of this subsection shall be inapplicable to actions in the Court of Claims, and shall be inapplicable or may be modified if any other court so orders, in the particular case or by general rule.

"(d) In any proceeding involving the patentability of claimed subject matter arising under this title, or involving the validity, enforceability, or infringement of a patent, whether or not arising under this title, in connection with which a court of the United States orders any party of record or any person in privity with such party to furnish discovery, testimony, or evidence, and such party or person refuses, declines, or fails to comply with such order on the ground that a foreign statute or law prohibits compliance with such order, the court may enter an order against such party dismissing all or some of his claims, striking all or some of his defenses, or otherwise terminating the proceeding adverely as to him; and if an issued patent owned by such party is involved in such action or proceeding, it may be canceled. Where applicable, notice of such cancellation shall be endorsed on copies of the specification of the patent thereafter distributed by the Office.

"(e) The burden shall be on the patentee to establish the equivalency, as set forth in section 112(d) of this title, of the disclosed means, step, or element to an allegedly infringing means, step, or element. Such equivalency shall be estabilshed by demonstrating that, at the time the alleged infringement commenced, it was generally recognized by persons of ordinary skill in the art to which the patented subject matter pertains, or with which it is most nearly connected, that the allegedly infringing means, step, or element could be substituted for that which was expressly disclosed in the specification. Nothing contained in this title shall be deemed to alter the existing law as to file-wrapper estoppel.

"§ 283. Injunction

"The several courts having jurisdiction of cases under this title may grant injunctions in accordance with the principles of equity to prevent the infringement or contributory infringement of any claim of a patent, on such terms as the court deems reasonable.

"§ 284. Damages

"(a) Upon finding for the claimant the court shall award damages adequate to compensate for the infringement, but in no event less than a reasonable royalty for the use made of the patented subject matter by the infringer, together with interest and costs as fixed by the court.

"(b) When the damages are not found by a jury, the court shall assess them. In either event the court may increase the damages up to three times the amount found or assessed.

"(c) The court may receive expert testimony as an aid to the determination of damages or of what royalty would be reasonable under the circumstances.

"§ 285. Attorney fees

"The court in exceptional cases may award reasonable attorney fees to the prevailing party. Reasonable expenses including attorney fees shall be awarded to the prevailing party where a claim of collateral estoppel is upheld in an action filed or maintained after the patent has previously been held invalid by a court of competent jurisdiction from which no appeal has been or can be taken, if the court finds there were no reasonable grounds for bringing or maintaining such action.

"§ 286. Time limitation on damages

"(a) Except as otherwise provided by law, no recovery shall be had for any infringement committed more than six years prior to the filing of the complaint or counterclaim for infringement in the action.

"(b) In the case of claims against the United States Government for use of a patented invention, the period before bringing suit, up to six years, between the date of receipt of a written claim for compensation by the department or agency of the Government having authority to settle such claim, and the date of mailing by the Government of a notice to the claimant that his claim has been denied shall not be counted as part of the period referred to in subsection (a) of this section.

"§ 287. Limitation on damages, marking and notice

"Patentees, and persons making or selling any patented article (or using any patented process) for or under them, may give notice to the public that the article or process is patented, either by affixing to the patented article (or an article produced by such process, or otherwise related to the use of such process) the word 'patent' or the abbreviation 'pat.' (or, in the case of a process patent, the words 'made by process patent', or such other words as the Commissioner may by regulation prescribe), together with the number of the patent, or when, from the character of the article, this cannot be done, by affixing to it, or to the package wherein one or more such articles are contained, a label containing a like notice. In the event of failure so to mark, no damages shall be recovered by the patentee in any action for infringement, except on proof that the infringer was notified of the infringement and continued to infringe thereafter, in which event damages may be recovered only for infringement occurring after such notice. Filing of an action for infringement shall constitute such notice.

"§ 288. Action for infringement of a patent containing an invalid claim

"Whenever, through inadvertence, accident, or mistake without any willful default or intent to defraud, mislead, or deceive the public, a claim of a patent is invalid, an action may be maintained for the infringement of a claim of the patent which may be valid, provided the requirements of section 253(a) of this title have been met.

"§ 289. Additional remedy for infringement of design patent

"(a) Whoever during the term of a patent for a design, without license of the owner, (1) applies the patented design, or any colorable imitation thereof, to any article of manufacture for the purpose of sale, or (2) sells or exposes for sale any article of manufacture to which such design or colorable imitation has been applied shall be liable to the owner to the extent of his total profit, but not less than $250, recoverable in any United States district court having jurisdiction of the parties.

"(b) Nothing in this section shall prevent, lessen, or impeach any other remedy which an owner of an infringed patent has under the provisions of this title, but he shall not twice recover the profit made from the infringement.

"§ 290. Notice of patent suits

"The clerks of the courts of the United States, within one month after the filing of an action under this title shall give notice thereof in writing to the Commissioner, setting forth so far as known the names and addresses of the parties, name of the inventor, and the designating number of the patent upon which the action has been brought. If any other patent is subsequently included in the action, he shall give like notice thereof. Within one month after the decision is rendered or a judgment issued the clerk of the court shall give notice thereof to the Commissioner. The Commissioner shall, on receipt of such notices, enter the same in the file of such patent.

"§ 291. Priority of invention between patentees

"(a) Whenever there are two patents naming different inventors and claiming the same or substantially the same subject matter, the owner of either of the patents may have relief against the owner of the other by civil action, and the court may adjudge the validity of any of such patents, in whole or in part. A final judgment in such action adverse to a claim of a patent from which no appeal or other review has been or can be taken or had, shall constitute cancellation of the claim from the patent, and notice thereof shall be endorsed on copies of the patent thereafter distributed by the Office.

"(b) Such suit may be instituted against the party in interest as shown by the records of the Office, but any party in interest may become a party to the action. If venue or jurisdiction may not be otherwise had in a court of the United States, the United States District Court for the District of Columbia shall have jurisdiction. The process of such district court for such purpose shall run throughout the United States and otherwise as provided by the Federal Rules of Civil Procedure or any Federal statute.

"§ 292. False marking

"(a) Whoever, without the consent of the patentee, knowingly and willfully marks upon, or affixes to, or uses in advertising in connection with anything made, used, or sold by him, the name or any imitation of the name of the patentee, the patent number, or the word 'patent', 'patentee', or the like, with the intent of counterfeiting or imitating the mark of the patentee, or of deceiving the public and inducing them to believe that the thing was made or sold by or with the consent of the patentee; or

"Whoever knowingly and willfully marks upon, or affixes to, or uses in advertising in connection with any unpatented article, the word 'patent' or any word or number importing that the same is patented; or

"Whoever, knowing no application for patent has been made, or if made, is not pending, willfully marks upon, or affixes to, or uses in advertising in connection with any article, the words 'patent applied for', 'patent pending', or any word importing that an application for patent has been made—

"Shall be liable for a civil penalty of not more than $500 for every such violation. Each article so marked shall furnish the basis for finding a separate violation.

"(b) Any person may sue for the penalty, in which event one-half shall go to the person suing and the other to the use of the United States.

"§ 293. Nonresident patentee; service and notice

"Every patentee not residing in the United States may file in the Office a written designation stating the name and address of a person residing within the United States on whom may be served process or notice of proceedings affecting the patent or any rights thereunder. If the person designated cannot be found at the address given in the last designation, or if no person has been designated, the United States District Court for the District of Columbia shall have jurisdiction and summons shall be served by publication or otherwise as the court directs. The court shall have the same jurisdiction to take any action respecting the patent or any rights thereunder that it would have if the patentee were personally within the jurisdiction of the court.

"§ 294. Voluntary arbitration

"(a) The parties to an existing dispute as to patent validity or infringement may, after such dispute has arisen, agree in writing to settle such dispute by arbitration, and such agreement shall be valid, irrevocable, and enforceable, except for any grounds as exist at law or in equity for revocation of any contract.

"(b) Arbitration of such disputes, awards by arbitrators and confirmation of awards shall be governed by title 9, United States Code, to the extent such title is not inconsistent with this section. In any such arbitration proceeding, the defenses provided for under section 282 of this title shall be considered by the arbitrator.

"(c) Within two months after the award is rendered, the patentee shall give notice thereof in writing to the Commissioner and to the clerk of the district court of the United States for the district and division embracing the place where the arbitration proceeding was conducted. There shall be a separate notice prepared for each patent involved in such proceeding. Such notice shall set forth the names and addresses of the parties, the name of the inventor, and the name of the patent owner, shall designate the number of the patent, shall contain a copy of the award, and shall contain a copy of all submissions to the arbitrator concerning the validity of the patent. The Commissioner shall, upon receipt of such notice, enter the same in the record of the prosecution of such patent.

"(d) Any party to the arbitration proceeding may designate those portions of an award or submission contained in the notice required under subsection (c) of this section that he deems to relate to a trade secret or other confidential research, development, or commercial information belonging to and of substantial value to him. Upon a verified showing of good cause, such designated information shall be kept separate from the file of the patent, and made available only to government agencies on written request.

"(e) Failure to give the required notice shall render permanently unenforceable such award and the patent to which such notice applies. The Commissioner may, however, on a verified showing that failure to give the required notice within the time prescribed by subsection (c) of this section was due to inadvertence, accident, or mistake, permit the filing of the notice after such prescribed time has expired.

"§ 295. Challenge to validity by assignor

"(a) An assignor of a patent may at any time assert the invalidity of the patent, in whole or in part, subject to the provisions of this section.

"(b) Subject to subsection (c) of this section, an assignor may assert the invalidity of the patent in the course of litigation against the assignee, only if the assignor also offers to rescind the assignment agreement. If the assignee then elects to rescind, the assignor shall pay the assignee an amount set by the court, in accordance with the principles of equity, equivalent to the value of the consideration paid by the assignee to the assignor for the assignment of the patent, less reasonable compensation to the assignor for the patent right that the assignee enjoyed during the period that the agreement was in force.

"(c) Subsection (b) of this section shall apply to an assignment by an employee to his employer only if the consideration for the assignment is not part of the regular salary or compensation of the employee, nor anything to which he would have been legally entitled even if he had not made the invention or assignment, and the assignment is otherwise negotiated in good faith and at arm's length.

"§ 296. Challenge to validity by licensee

"(a) Any licensee may at any time except after his arbitration with the patent owner and a holding of validity of the patent pursuant to section 294 of this title assert the invalidity of a patent in whole or in part, subject to the provisions of this section.

"(b)(1) The licensee may assert the invalidity of the patent, in whole or in part, in any action to which he is a party or by sending a written notice to the patentee pursuant to this paragraph. Such notice shall specify with particularity the grounds for invalidity then known to the licensee, and contain a statement that the licensee believes for such reasons he is not obliged to pay royalty to the patentee under the license, or otherwise perform thereunder.

"(2) Upon service of such notice the licensee may—

"(A) suspend payment of royalty to the patentee, or any other performance to which the patentee is legally entitled under the license; or

"(B) bring a declaratory judgment (pursuant to title 28, United States Code, chapter 151) against the patentee, to secure a declaration that the patent is invalid; or

"(C) both.

"(3)(A) The patentee may, within sixty days of his receipt of such written notice, or of the assertion by the licensee of invalidity in litigation, elect to terminate the license. The patentee may not thereafter terminate the license except on grounds other than the action of the licensee taken pursuant to paragraph (1) of this subsection.

"(B) If the patentee elects so to terminate, then after the date of termination the licensee shall not be liable to the patentee, under the license, and the licensee shall be liable to the patentee, if at all, only for infringement of the patent, pursuant to this part of the title.

"(C) If the patentee does not elect so to terminate, then he may bring or maintain a civil action or counterclaim to enforce such license, in any court of competent jurisdiction. Invalidity of the patent shall constitute a defense in such action.

"(c)(1) Subject to paragraph (3) of this subsection and subsection (d) of this section, the licensee shall be liable to the patentee for any royalty, or other performance to which the patentee is legally entitled under the license, due prior to assertion of invalidity or service of notice, as specified in subsection (b)(1) of this section, and he shall be so liable, whether or not the patent is held invalid in an action referred to in subsection (b) of this section.

"(2)(A) If the patentee does not elect to terminate, pursuant to subsection (b)(3)(A) of this section, then the licensee shall be liable, subject to paragraph (3) of this subsection, to the patentee for any royalty, or other performance to which the patentee is legally entitled under the license, due after assertion of invalidity or service of notice, as specified in subsection (b)(1) of this section, only if judgment is entered therefor against the licensee in favor of the patentee, in an action or counterclaim brought to enforce the patent, referred to in subsection (b) of this section.

"(B) The court before which the matter is pending may, in appropriate circumstances and in accordance with the principles of equity, require the licensee to pay royalties in escrow during the pendency of the action.

"(3)(A) Subject to subparagraph (B) of this paragraph, the licensee shall not be obliged to pay the patentee, pursuant to this subsection—

"(i) any amount the liability for payment of which is created or accelerated by the conduct of the licensee, pursuant to subsection (b) of this section, or the termination by the patentee of the license, nor

"(ii) any other amount that the court before which the matter is pending finds has the necessary effect or was intended to have the effect of discouraging the licensee from challenging the validity of the patent.

"(B) To effectuate the purposes of subdivision (ii) of this subparagraph, the court before which the matter is pending may equitably prorate any paid or unpaid royalty.

"(d) If the patent is held invalid in any action referred to in subsection (b) of this section, the patentee shall not be liable to restore royalties to the licensee, unless there has been a failure to comply with the duties imposed by section 115(a) of this title. Nothing contained in this paragraph shall immunize the patentee from liability for fraud or other unlawful conduct, pursuant to any other provisions of law.

"(e) If any license is terminated with respect to fewer than all of the patents or claims within the scope of the agreement, and the agreement itself does not provide for (or the parties thereto are unable, within such time as the court before which the matter is pending may determine to be reasonable, to agree upon) the royalty to be paid for a license under the remaining patents or claims, the court shall determine a reasonable royalty therefor. Thereafter, the license shall continue in force at such royalty.

"§ 297. Removal in validity challenge cases

"Any civil action pending in state court, in which a party asserts the invalidity of a patent and to which the provisons of section 295 or 296 of this chapter apply, may be removed by any party to the district court of the United States for the district and division embracing the place at which such action is pending.

"Chapter 30.—NONPREEMPTION

"Sec.

"301. Nonpreemption.

"§ 301. Nonpreemption

"(a) This title shall not be construed to preempt rights or obligations arising by operation of state law concerning trade secrets.

"(b) Nothing in subsection (a) shall authorize any state to grant any person the right to limit the full and free use by the public of ideas in the public domain or in general circulation.

"PART IV.—PATENT COOPERATION TREATY

"Chapter 35.—DEFINITIONS

"Sec.

"351. Definitions.

"§ 351. Definitions

"When used in this part unless the context otherwise indicates—

"(a) The term 'treaty' means the Patent Cooperation Treaty done at Washington, on June 19, 1970, excluding chapter II thereof.

"(b) The term 'Regulations', when capitalized, means the Regulations under the treaty excluding part C thereof, done at

Washington on the same date as the treaty. The term 'regulations', when not capitalized, means the regulations established by the Commissioner under this title.

"(c) The term 'international application' means an application filed under the treaty.

"(d) The term 'international application originating in the United States' means an international application filed in the Office when it is acting as a Receiving Office under the treaty, irrespective of whether or not the United States has been designated in that international application.

"(e) The term 'international application designating the United States' means an international application specifying the United States as a country in which a patent is sought, regardless where such international application is filed.

"(f) The term 'Receiving Office' means a national patent office or intergovernmental organization which receives and processes international applications as prescribed by the treaty and the Regulations.

"(g) The term 'International Searching Authority' means a national patent office or intergovernmental organization as appointed under the treaty which processes international applications as prescribed by the treaty and the Regulations.

"(h) The term 'International Bureau' means the international intergovernmental organization which is recognized as the coordinating body under the treaty and the Regulations.

"(i) Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

"Chapter 36.—INTERNATIONAL STAGE

"Sec.
"361. Receiving Office.
"362. International Searching Authority.
"363. International application designating the United States: Effect.
"364. International stage: Procedure.
"365. Right of priority; benefit of the filing date of a prior application.
"366. Withdrawn international application.
"367. Actions of other authorities: Review.
"368. Secrecy of certain inventions; filing international applications in foreign countries.

"§ 361. Receiving Office

"(a) The Office shall act as a Receiving Office for international applications filed by nationals or residents of the United States. In accordance with any agreement made between the United States and another country, the Office may also act as a Receiving Office for international applications filed by residents or nationals of such country who are entitled to file international applications.

"(b) The Office shall perform all acts connected with the discharge of duties required of a Receiving Office, including the collection of international fees and their transmittal to the International Bureau.

"(c) International applications filed in the Office shall be in the English language.

"(d) The basic fee portion of the international fee, and the transmittal and search fees prescribed under section 376(a) of this part, may be paid on filing of an international application, and shall be paid not later than one month from the date of receipt of such international application. Payment of designation fees may be made on filing and shall be made not later than one year from the priority date of the international application.

"§ 362. International Searching Authority

"The Office may act as an International Searching Authority with respect to international applications in accordance with the terms and conditions of an agreement which may be concluded with the International Bureau.

"§ 363. International application designating the United States: Effect

"An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Office.

"§ 364. International stage: Procedure

"(a) International applications shall be processed by the Office when acting as a Receiving Office or International Searching Authority, or both, in accordance with the applicable provisions of the treaty, the Regulations, and this title.

"(b) An applicant's failure to act within prescribed time limits in connection with requirements pertaining to a pending international application may be excused upon a showing satisfactory to the Commissioner of unavoidable delay, to the extent not precluded by the treaty and the Regulations, and provided the conditions imposed by the treaty and the Regulations regarding the excuse of such failure to act are complied with.

"§ 365. Right of priority; benefit of the filing date of a prior application

"(a) In accordance with the conditions and requirements of section 119 of this title, a national application shall be entitled to the right of priority based on a prior filed international application which designated at least one country other than the United States.

"(b) In accordance with the conditions and requirement of the first paragraph of section 119 of this title and the treaty and the Regulations, an international application designating the United States shall be entitled to the right of priority based on a prior foreign application, or a prior international application designating at least one country other than the United States.

"(c) In accordance with the conditions and requirements of section 120 of this title, an international application designating the United States shall be entitled to the benefit of the filing date of a prior national application or a prior international application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application which designated but did not originate in the United States, the Commissioner may require the filing in the Office of a verified copy of such application together with a translation thereof into the English language, if it was filed in another language.

"§ 366. Withdrawn international application

"Subject to section 367 of this part, if an international application designating the United States is withdrawn or considered withdrawn either generally or as to the United States, under the conditions of the treaty and the Regulations, before the applicant has complied with the applicable requirements prescribed by section 371(c) of this part, the designation of the United States shall have no effect and shall be considered as not having been made. However, such international application may serve as the basis for a claim of priority under section 365 (a) and (b) of this part, if it designated a country other than the United States.

"§ 367. Actions of other authorities: Review

"(a) Where a Receiving Office other than the Office has refused to accord an international filing date to an international application designating the United States or where it has held such application to be withdrawn either generally or as to the United States, the applicant may request review of the matter by the Commissioner, on compliance with the requirements of and within the time limits specified by the treaty and the Regulations. Such review may result in a determination that such application be considered as pending in the national stage.

"(b) The review under subsection (a) of this section, subject to the same requirements and conditions, may also be requested in those instances where an international application designating the United States is considered withdrawn due to finding by the International Bureau under article 12(3) of the treaty.

"§ 368. Secrecy of certain inventions; filing international applications in foreign countries

"(a) International applications filed in the Office shall be subject to the provisions of chapter 17 of this title.

"(b) In accordance with article 27(8) of the treaty, the filing of an international application in a country other than the United States on the invention made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 of this title, whether or not the United States is designated in that international application.

"(c) If a license to file in a foreign country is refused or if an international application is ordered to be kept secret and a permit refused, the Office when acting as a Receiving Officer or International Searching Authority, or both, may not disclose the contents of such application to anyone not authorized to receive such disclosure.

"Chapter 37.—NATIONAL STAGE

"Sec.
"371. National stage: Commencement.
"372. National stage: Requirements and procedure.
"373. Improper applicant.
"374. Publication of international application: Effect.
"375. Patent issued on international application: Effect.
"376. Fees.

"§ 371. National stage: Commencement

"(a) Receipt from the International Bureau of copies of international applications with amendments to the claims, if any, and international search reports is required in the case of all international applications designating the United States, except those filed in the Office.

"(b) Subject to subsection (g) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22 (1) or (2) of the treaty, at which time the applicant shall have complied with the applicable requirements specified in subsection (c) of this section.

"(c) The applicant shall file in the Office—

"(1) the national fee prescribed under section 376(a) (4) of this part;

"(2) a copy of the international application, unless not required under subsection (a) of this section or already received from the International Bureau, and a verified translation into the English language of the international application, if it was filed in another language;

"(3) amendments, if any, to the claims in the international application, made under article 19 of the treaty, unless such amendments have been communicated to the Office by the International Bureau, and a translation into the English language if such amendments were made in another language;

"(d) Failure to comply with any of the requirements of paragraphs (2) and (3) of subsection (c) of this section, within the time limit provided by article 22 (1) or (2) of the treaty shall result in abandonment of the international application.

"(e) If the international application was signed by or on behalf of the assignee, or other successor in title, the inventor after having been furnished the application may file a ratification within one month from commencement of the national stage as provided in subsection (b) of this section. If such ratification is not timely filed, the procedure provided by section 111(d) of this title shall apply.

"(f) After an international application has entered the national stage, no patent may be granted or refused thereon before the expiration of the applicable time limit under article 28 of the treaty, except with the express consent of the applicant. The applicant may present amendments to the specification, claims, and drawings of the application after the national stage has commenced.

"(g) At the express request of the applicant, the national stage of processing may be commenced at any time at which the application is in order for such purpose and the applicable requirements of subsection (c) of this section have been complied with.

"§ 372. National stage: Requirements and procedure

"(a) All questions of substance and, within the scope of the requirements of the treaty and the Regulations, procedure in an international application designating the United States shall be determined as in the case of national applications regularly filed in the Office.

"(b) In case of international applications designating but not originating in, the United States—

"(1) the Commissioner may cause to be reexamined questions relating to form and contents of the application in accordance with the requirements of the treaty and the Regulations;

"(2) the Commissioner may cause the question of unity of invention to be reexamined under section 121 of this ttile, within the scope of the requirements of the treaty and the Regulations.

"(c) Any claim not searched in the international stage in view of a holding, found to be justified by the Commissioner upon review, that the international application did not comply with the requirement for unity of invention under the treaty and the Regulations, shall be considered canceled, unless payment of a special fee is made by the applicant. Such special fee shall be paid with respect to each claim not searched in the international stage and shall be submitted not later than one month after a notice was sent to the applicant informing him that the said holding was deemed to be justified. The payment of the special fee shall not prevent the Commissioner from requiring that the international application be restricted to one of the inventions claimed therein under section 121 of this title, and within the scope of the requirements of the treaty and the Regulations.

"§ 373. Improper applicant

"An international application designating the United States shall not be accepted by the Office for the national stage if it was filed by anyone not qualified under chapter 11 of this title to be an applicant for the purpose of filing a national application in the United States. Such international applications shall not serve as the basis for the benefit of an earlier filing date under section 120 of this title in a subsequently filed application, but may serve as the basis for a claim of the right of priority under section 119 of this title, if the United States was not the sole country designated in such international application.

"§ 374. Publication of international application: Effect

"The publication under the treaty of an international application designating the United States shall have the same effect under this title as a published national application.

"§ 375. Patent issued on international application: Effect

"(a) A patent may be issued by the Commissioner based on an international application designating the United States, in accordance with the provisions of this title. Such patent shall have the force and effect of a patent issued on a national application filed under the provisions of chapter 11 of this title.

"(b) Where due to an incorrect translation the scope of a patent granted on an international application designating the United States, which was not originally filed in the English language, exceeds the scope of the international application in its original language, a court of competent jurisdiction may retroactively limit the scope of the patent, by declaring it unenforceable to the extent that it exceeds the scope of the international application in its original language.

"§ 376. Fees

"(a) The required payment of the international fee, which amount is specified in the Regulations, shall be paid in United States currency. The Office may also charge the following fees:

"(1) A transmittal fee (see section 361 (d));

"(2) A search fee (see section 361(d));

"(3) A supplemental search fee (to be paid when required);

"(4) A national fee (see section 371(c));

"(5) A special fee (to be paid when required; see section 372(c));

"(6) Such other fees as established by the Commissioner.

"(b) Amounts of fees specified in subsection (a) of this section and the time of their payment, with the exception of the international fee, shall be prescribed by the Commissioner in accordance with section 41(a) of this title. He may refund any sum paid by mistake or in excess of the fees so specified, or if required under the treaty and the Regulations. The Commissioner may also refund any part of the search fee, where he determines such refund to be warranted.".

TRANSITIONAL AND SUPPLEMENTARY PROVISIONS

SEC. 2. Section 1542 of title 28, United States Code, Judicial Code and Judiciary, is amended to read as follows:

"§ 1542. Patent and Trademark Office decisions

"The Court of Customs and Patent Appeals shall have jurisdiction of appeals from decisions of the Patent and Trademark Office as to patent applications and patents as provided in chapter 13 of title 35, United States Code, and trademark applications and proceedings as provided in section 1071 of title 15, United States Code.".

SEC. 3. If any provision of title 35, United States Code, as amended by this Act, or any other provision of this Act, is declared unconstitutional or is held invalid, the validity of the remaining provisions shall not be affected.

SEC. 4. (a) This Act shall take effect on the day one year after enactment.

(b) Except as otherwise provided hereafter in this section, it shall apply:

(1) to all applications filed in the Office and all international applications either originating in the United States or designating the United States, or both, filed on or after such effective date, whether or not such applications are entitled to the benefit of an earlier filing date;

(2) to all applications as the Commissioner by regulation may prescribe, that are on file in the Office on or after such effective date, whether or not such applications are entitled to the benefit of an earlier filing date, unless there has been a notice of allowance pursuant to section 151, title 35, United States Code, on such application prior to such date; and

(3) to patents issued on or after the effective date or on applications within the scope of paragraphs (1) and (2) of this subsection.

(c) Except as otherwise provided hereafter in this section, the provisions of title 35, United States Code, in effect immediately prior to the effective date of this Act, shall govern:

(1) all patents issued before such effective date;

(2) all applications, except as the Commissioner by regulation may prescribe, pursuant to subsection (b)(2) of this section, on file in the Office before and still pending on such effective date, in respect to which, on or before such effective date, there has been a notice of allowance, pursuant to section 151, title 35, United States Code; and

(3) patents issued on applications within the scope of paragraph (2) of this subsection.

(d) The following provisions of title 35, as amended by this Act, shall apply to all unexpired patents, whether issued or applied for before or after the effective date of this Act:

(1) sections 136, 138, 252, 253, 254, 255, and 256 of part II, and

(2) part III.

(e)(1) In section 41(b)(1) of title 35, United States Code, as amended by this Act, the requirement for an overall recovery of approximately 50 per centum of the costs of operation shall come into force in stages with approximately 40, 45 and 50 per centum recovery levels being achieved by the seventh, tenth, and thirteenth full fiscal years, respectively, following the effective date of this Act.

(2) Section 139 of title 35, United States Code, as amended by this Act, shall apply to, and only to, all settlement agreements made on or after the effective date of this Act.

(3) Section 251 of title 35, United States Code, as amended by this Act, shall apply to, and only to, applications for reissue filed after the effective date, but the conditions for patentability shall be determined under the law applicable to the original patent.

(f) Examiners-in-Chief in office on the effective date of this Act shall continue in office under and in accordance with their then existing appointments.

(g) No application, in respect to which, on or before the effective date of this Act, there has been notice of allowance pursuant to section 151 of title 35, United States Code, shall be held incomplete, and no patent issued on such application shall be held invalid, because availability to the public of a deposit of a microorganism recited therein was conditioned upon issuance of a United States patent reciting a deposit of said microorganism.

(h) The amendment of title 35, United States Code, by this Act, shall not affect any rights or liabilities existing under title 35 in effect immediately prior to the effective date of this Act.

(i) The Commissioner may exercise any rulemaking power conferred upon him by this Act, upon the date of enactment hereof: *Provided, however*, That no rule promulgated under any newly conferred authority shall become effective prior to the effective date hereof.

SEC. 5. (a) The Board of Examiners-in-Chief shall perform the functions performed by a Board of Patent Interferences in Public Law 593, Eighty-second Congress (ch. 950, 66 Stat. 792, section 1), and when performing said functions shall constitute a Board of Patent Interferences.

(b) Nothing in title 35, as amended by this Act, shall affect any provision of the Atomic Energy Act of 1954 (August 30, 1954, ch. 1073, 63 Stat. 919) as amended or of the National Aeronautics and Space Act. (Public Law 85-568, July 29, 1958, 72 Stat. 426) except that the functions of a Board of Patent Interferences specified in said Acts may be performed by the Board of Examiners-in-Chief as specified in section 6 of title 35, as amended by this Act.

Sec. 6. Section 31 of the Trademark Act of 1946 (60 Stat. 427, as amended; 15 U.S.C. 1113) is revised to read:

"§ 31. Trademark fees

"Trademark fees shall be prescribed by the Commissioner under the authority of section 41 of title 35, United States Code. If a fee in connection with examination of a trademark application is not paid within such time as prescribed by the Commissioner, the application shall be regarded as abandoned."

Sec. 7. In the second sentence of section 7(c) of the Trademark Act of 1946 (60 Stat. 427, as amended; 15 U.S.C. 1057(c)), "fee herein provided" is changed to "prescribed fee".

Sec. 8. In section 7(e) of the Trademark Act of 1946 (60 Stat. 427, as amended; 15 U.S.C. 1056(e)), "fee herein provided" is changed to "prescribed fee".

Sec. 9. In section 9(a) of the Trademark Act of 1946 (60 Stat. 427, as amended; 15 U.S.C. 1059(a)), "The additional fee herein prescribed" is changed to "an additional prescribed fee".

Sec. 10. In section 12(a) of the Trademark Act of 1946 (60 Stat. 427, as amended; 15 U.S.C. 1062(a)), "fee provided in this chapter" is changed to "prescribed fee".

Sec. 11. (a) There shall be in the Department of Commerce, in addition to the Assistant Secretaries now provided by law, one additional Assistant Secretary of Commerce who shall be known as the Assistant Secretary of Commerce for Patents and Trademarks who shall be appointed by the President by and with the advice and consent of the Senate.

(b) Section 5315 of title 5, United States Code, is amended by striking "(8)" at the end of item (12) and substituting "(9)".

(c) Section 5316 of title 5, United States Code, is amended by striking item (48).

Sec. 12. Section 41 of the Trademark Act of 1946 (60 Stat. 427, as amended; 15 U.S.C. 1123) is revised to read as follows:

"§ 41. Trademark Proceedings in the Patent Office

"(a) The Commissioner shall make rules and regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office under this Act.

"(b) The Commissioner may establish rules for taking affidavits and depositions required in trademark cases in the Patent Office. Any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where he resides, may take such affidavits and depositions.

"(c) The clerk of any United States court for the district wherein testimony is to be taken for use in any contested trademark case in the Patent Office, shall upon the application of any party thereto, issue a subpena for any witness residing or being within such district, commanding him to appear and testify before an officer in such district authorized to take depositions and affidavits, at the time and place stated in the subpena. The provisions of the Federal Rules of Civil Procedure relating to the attendance of witnesses and to the production of documents and things shall apply to contested trademark cases in the Patent Office.

"(d) Every witness subpenaed and in attendance shall be allowed the fees and traveling expenses allowed to witnesses attending the United States district courts.

"(e) A judge of a court whose clerk issued a subpena may enforce obedience to the process or punish disobedience as in other like cases, on proof that a witness, served with such subpena, neglected or refused to appear or to testify. No witness shall be deemed guilty of contempt for disobeying such subpena unless his fees and traveling expenses in going to, and returning from, and one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpena; nor for refusing to disclose any secret matter except upon appropriate order of the court which issued the subpena."

Sec. 13. For the first six years that this Act is in effect, in the interest of effective and efficient administration of the Office, the Commissioner may call upon the applicant to request examination of any application which has been deferred pursuant to chapter 18 of this title. Notice shall be given the applicant of the fee due for such examination and a time of not less than one month shall be allowed for payment. If the fee is not paid within such time, the application shall be regarded as abandoned.

Sec. 14. (a) The Secretary of Commerce and the Secretary of Labor shall jointly conduct a full and complete study and investigation of the extent to which existing practices including customary employment contracts, and existing applicable laws, provide adequate incentive to innovations by, and adequately protect the interests of, professional, scientific and technical personnel, and others employed by private corporations, in connection with their inventions. In the course of conducting the study and investigation, the Secretaries shall (1) consult with appropriate professional societies, business organizations and labor organizations; and (2) coordinate information and recommendations with the appropriate agencies of the Federal Government. The Secretaries are authorized to obtain the services of private research institutions and such other persons by contract or other arrangement as they determine to be necessary in carrying out the provisions of this section.

(b) The study and investigation described in subsection (a) shall include at least an analysis of:

(1) existing employer-employee relationships with respect to employee inventions;

(2) provisions in employment contracts or side agreements reserving or controlling patent rights of inventions and processes developed by an employee;

(3) provisions in employment contracts restricting an employee's post employment use of patentable inventions developed by the employee;

(4) payment or compensation of employees for the rights to their inventions;

(5) the laws of the United States, of the several States and of other countries concerning the subject;

(6) the incentive to innovate;

(7) the disclosure and patenting of inventions; and

(8) the utilization of inventions.

(c) The Secretaries shall, within 18 months after the enactment of this Act, submit to the Congress their report of the results of such study, together with such recommendations for legislation as they shall deem appropriate.

Sec. 15. (a) For the purposes of section 3282 of title 18, United States Code, any offense proscribed by sections 371 or 1001 of title 18, United States Code, relating to any proceeding arising pursuant to provisions of title 35, United States Code, shall not be deemed completed before the Patent and Trademark Office issues the patent to which the conduct relates, or otherwise terminates the proceeding related thereto.

(b) Notwithstanding the provisions of section 3282 of title 18, United States Code, a prosecution for any offense referred to in subsection (a) of this section may be commenced two years after discovery of the offense by the Attorney General, but in no case shall this provision extend the period of limitations provided by such section 3282 by more than five additional years.

Sec. 16. This Act may be cited as "The Patent Act of 1975".

The amendments were agreed to.

Mr. McCLELLAN. Mr. President, the Subcommittee on Patents has been sharply divided for a number of years over the legislation for a general revision of the patent laws. During this Congress the members of the subcommittee have made a special effort to finally resolve these differences. Such an undertaking necessarily means that there must be some accommodation of contrasting viewpoints.

I have cooperated in the processing of this legislation, and voted to report it. It is, however, no secret that certain of my views have not been shared by a majority of the subcommittee. I have previously expressed concern at the incorporation in the patent code of provisions which add to the complexity and expense of obtaining or upholding a patent. There have been some modifications of these provisions, and I hope that additional improvements will be made in the further consideration of this important legislation.

I again express my regret that the administration has not authorized the Commissioner of Patents to make his views known to the Congress. The subject matter of this legislation is highly technical. The Congress in adopting a new patent code should have the counsel of the Commissioner of Patents.

Mr. PHILIP A. HART. Mr. President, although finally codified in 1952, the basic structure of the patent system has remained unchanged since 1836. Enactment of S. 2255 will culminate 8 years of work by the Subcommittee on Patents, Trademarks, and Copyrights seeking to reconcile widely disparate views by the subcommittee members on the appropriate scope and provisions of a patent reform bill.

Senator John L. McClellan, chairman of the subcommittee, is to be commended for his patience, fortitude, and the final product.

Although S. 2255 is a compromise bill and does not contain every provision advocated by each of its cosponsors, as a whole it accomplishes in a sound way a badly needed reform of the patent system. Patent reform is urgently needed and enactment of S. 2255 should significantly improve our system for issuing patents.

NEED FOR REFORM

The case for reform begins with the calendar. Any system designed in and unchanged since 1836 ought to be reviewed and modernized to meet the economic and technological conditions of 1975.

In 1836, issued patents numbered in the hundreds and inventions came chiefly from the Eli Whitneys, Thomas Edisons, Robert Fultons, Alexander Graham Bells, and other individuals. Today, the Patent Office receives more than 100,000 patent applications and grants more than 70,000 patents annually. Of all American-owned patents, 20 percent are owned by individuals and 80 percent are corporate owned. Just 20 years ago, individuals obtained almost 50 percent of issued patents. Today, the Fortune top 200 companies own 52 percent of U.S. patents.

Of the 70,000 patents issued each year, fully 25 percent go to foreign-based corporations. In 1974, the following companies obtained the largest number of patents from the Patent Office:

Company:	*No. of patents issued in 19754*
General Electric	1,006
Westinghouse	617
General Motors	582
IBM	566
A.T. & T.	528

Patents are issued in a secret ex parte proceeding without public participation or adequate information. Frauds and inequitable conduct before the Office have dramatically increased. The level of disclosure is extraordinarily low. The Patent Office's ability for making searches for previous patents and prior art is inadequate or nonexistent; and the Office stresses quantity rather than quality. The average Patent Office action receives about 6 hours review, and the average patent receives a total of about 15 hours review. The Office grants patents in about 70 percent of the cases, contrasted with Germany and Japan where about 30 percent of patent applications result in the issuance of a patent.

The result of these 1975 facts of life on a system basically unchanged since 1836 is that a large proportion of patents are being granted for noninventions. Commerce and technology are being needlessly blocked; and monopoly prices are being needlessly exacted from consumers. As a result, the patent system has fallen into disrepute, distrusted by many in the judiciary and the public. President Nixon stated in his 1973 special message to the Congress:

> There is a need to stem the erosion of confidence in the validity of issued patents raised by these questions and the possible resulting erosion in the value of the patent grant itself.

Mr. President, I ask unanimous consent that the full text of that message be printed at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PHILIP A. HART. Mr. President, an amazing 70 percent of U.S. patents litigated in appellate courts are held invalid, whereas in Germany and Japan 70 percent of litigated patents are upheld as valid. This high rate of invalidity exists in the United States because of inadequate procedures and information and, in the words of the Supreme Court, because of "a notorious difference between the standards applied by the Patent Office and by the courts." *Graham* v. *Deere,* 383 U.S. 1, 18 (1966). Although less than 1 percent of U.S. patents are litigated in Federal court, they are the commercially significant patents which materially affect prices. Even as to nonlitigated patents, the general patent counsel to a number of major corporations testified that a significant proportion of patents are without merit, are never utilized, and would not stand up under judicial review.

Martin M. Shapiro, a professor of political science at the University of California—Irvine—has concluded:

> It is now a truism among patent lawyers that if you sit around the Patent Office long enough, and change your claims often enough, you will eventually get some kind of a patent on almost anything.—M. Shapiro, The Supreme Court and Administrative Agencies 189 (1968).

Against this background, it is not difficult to understand why the patent system is generally held in disrepute. Former Supreme Court Justice Abe Fortas cautioned:

> Most judges, rightly or wrongly, are inclined to think that a strong, well-financed applicant has a pretty good chance of getting at least some patent claims allowed somewhere along the line, and they don't have much confidence in the process or respect for the result.—Fortas, *"The Patent System in Distress,"* 14 Idea 571, 576 (1970).

Other typical comments from the Federal judiciary include this statement by Judge Miles W. Lord:

> [The Patent Office] has got to be the sickest institution that our Government has ever invented. It is just as far as I can see an attritional war between the patent applicant and the patent examiner who apparently got paid on the piece work for how many patents they could put out.—*United States* v. *Charles Pfizer & Co., Inc.,* Civil No. 4–71–435 (D. Minn., filed Sept. 8, 1971) (the tetracycline civil damage suit).

Judge Hubert L. Will put it this way:

> The whole [patent system] is geared to a low standard of conduct. It imposes no obligation on the counsel or the applicant to tell the Patent Office what he undoubtedly knows with respect to prior art. *Technograph* v. *Methods,* Civil No. 62C1761 (N.D. Ill., filed April 7, 1970) (see transcript at 1422).

PURPOSE OF PATENT SYSTEM

These results were never intended by our founding fathers. The purpose of patents, in the words of the Constitution, is to "promote the Progress of—useful Arts", not "the creation of private fortunes for the owners of patents." *Motion Picture Patents Co.* v. *Universal Mfg. Co.,* 243 U.S. 502, 511 (1917). The Supreme Court elaborated on this in two cases:

> The patent monopoly was not designed to secure to the inventor his natural right in his discoveries. Rather, it was a reward, an inducement, to bring forth new knowledge, and where new and useful, justified the special inducement of a limited private monopoly. *Graham* v. *John Deere Co.,* 383 U.S. 1, 9 (1966).
>
> Since *Pennock* v. *Dialogue,* 2 Pet. 1 (7 L. Ed. 327), was decided in 1829, this court has consistently held that the primary purpose of our patent laws is not the creation of private fortunes for the owners of patents, but is "to promote the progress of science and useful arts." (Constitution, Art. 1, § 8). *Motion Picture Patents Co.* v. *Universal Film Mfg. Co.,* 243 U.S. 502, 511 (1917).

The constitutional rationale for the limited monopoly rights of a patent was to induce invention. As early as 1883, the Supreme Court counseled:

> It was never the object of those (the patent) laws to grant a monopoly for every trifling device. . . . Such an indiscriminate creation of exclusive privileges tends rather to obstruct than to stimulate invention. *Atlantic Works* v. *Brady,* 107 U.S. 192, 200 (1883).

Even the English patent system—the forerunner of our system—back in 1623, in the Statute of Monopolies, recognized that limitations were necessary to the proper maintenance of a patent system. Patents were authorized only when not "mischievous to the State, by raising of the prices of commodities at home, or hurt of trade, or generally inconvenient."

If properly designed and administered, our patent system will contribute toward attainment of its constitutional objective. If improperly designed or administered, it will both thwart the progress of useful arts and result in a proliferation of unjustified Government-approved monopolies—for noninventions—costing consumers billions of dollars in overcharges.

ADMINISTRATION SUPPORT

The patent reform effort received important assistance from President Nixon's 1973 special patent message, transmitting the administration bill—S. 2504, 93d Congress—and recommending sweeping reforms. Significant portions of S. 2504, as reported by the Patents, Trademarks and Copyrights Subcommittee, were incorporated in the patent bill introduced by Chairman MCCLELLAN (S. 23) during this Congress, which, after many hours of subcommittee work, was further refined and reintroduced as a clean bill (S. 2255), cosponsored by four members of the subcommittee.

With the exception of the preissuance opposition concept, all significant concepts of the administration bill are contained in S. 2255. Many of the administration's specific reform proposals also are included in the bill.

Contrary to the assertions of the organized patent bar, Mr. President, S. 2255 is supported by the administration. In a letter dated December 9, 1975, the administration urged the Judiciary Committee "to act favorably on S. 2255 so that the long process of patent reform is not further delayed." I ask unanimous consent that the full text of that letter be printed at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PHILIP A. HART. Mr. President, Commissioner of Patents C. Marshall Dann also has registered his support for reforming the patent system. In a July 3, 1974, letter he stated:

> Reform and improvement of the American patent system are important, needed, and long overdue. Patent reform legislation has been pending in both the Senate and House of Representatives since 1967. The House Judiciary Committee conducted hearings in 1967, and in early 1968. Since that time, all the hearings on the subject of patent reform have been in the Senate. The Senate Subcommittee on Patents, Trademarks and Copyrights, through diligent and wide-ranging inquiry, has generated five volumes of hearings thoroughly exploring the issues raised by the various patent reform bills proposed to date. S. 2504 resulted from a complete review and analysis of this seven-year debate—the proposals of the previous Administration, the suggestions and draft proposals made by the private patent bar, and the various other proposals for patent reform introduced in the Congress.
>
> The Administration supports and urges the enactment of a bill in the form of S. 2504 [Committee Print], amended as indicated in the Appendix. A bill enacted in this form should clearly improve the quality and the reliability of issued patents. All of us who participated in the latest review of S. 2504 [Committee Print] acknowledge that the new procedures which accomplish this end

will to some unavoidable degree complicate the process of obtaining patents. But the changes proposed in the Appendix will simplify these procedures, reduce expense both to the applicant and to the Patent Office, and will protect applicant against harassment. In my opinion, these changes will very substantially improve the bill. It is the consensus of all those participating in the latest review of the Committee Print that it will, if enacted after amendment as here suggested. represent a balanced and desirable reform of the present law.

Mr. President, I ask unanimous consent that the full text of Commissioner Dann's letter be printed at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 3.)

PATENT BAR OPPOSITION

Mr. PHILIP A. HART. Mr. President, the organized patent bar has opposed every patent reform bill introduced since 1967, except for the bills originated by the private patent bar which would make it easier to obtain patents on noninventions and more difficult for the courts to invalidate them.

Their massive and organized opposition to S. 2255, therefore, comes as no surprise.

The patent bar exercised similar opposition in connection with the 1952 patent code codification. Their resistance to change was analyzed by Prof. Martin M. Shapiro in his treatise "The Supreme Court and Administrative Agencies," 206 (1968):

> While patent lawyers of course represent infringers as well as patent holders in court, the bulk of their services of clients consists of helping them obtain and defend the validity of patents. Quite naturally then they tend to identify the good with more patents rather than fewer, just as does the Patent Office for a different but parallel set of reasons. Thus the Patent Office and the patent bar comprise a powerful, "propatent" pressure group.
>
> Because no group of lawyers and no government agency specializes in fighting against patents, and no particular segment of the business community is uniformly harmed by patents, there is no "antipatent" pressure group. The "antipatent" interest in this country is not specialized or concentrated, but consists only of the general interest shared by all citizens that their government not make a bad bargain for them when selling its stock of limited monopolies. Such amorphous interests are notoriously underrepresented in American politics precisely because no organized group and no specialized government agency speaks for them.

In 1970, Judge Hubert Will similarly stated:

> I don't have any surprise at all . . . that the organized Patent Bar opposed broadening the standard of disclosure required of applicants or their counsel, any more than I am surprised that they are opposed to making the Patent Office function effectively . . . *Technograph* v. *Methods*, Civil No. 62C1761 (N.D. Ill., filed April 7, 1970), (see transcript at 115.

There are exceptions to every generalization, and they should be mentioned. Some members of the corporate patent bar have been very helpful to the committee and to me personally. Commencing in early 1974, they have devoted countless hours and much effort toward our mutual objective of a meaningful patent reform bill free of unintended and possible adverse effects. Their continual dialog and constructive suggestions for modifying earlier bills were invaluable, and I know that we have a better bill because of their counsel.

Although the bill does not include all their suggestions, Mr. President, I believe it includes the essentials of their recommendations and that they support most, if not all, of S. 2255. I ask unanimous consent that the full text of the letters commenting on S. 2255 from Stanley M. Clark, Esq., general patent counsel to Firestone Tire and Rubber Co.; Charles M. Horgan, Esq., general patent counsel to Avco Corp.; John J. Pederson, Esq., general patent counsel and director of patents of Zenith Radio Corp.; H. F. Manbeck, Jr., Esq., general patent counsel to General Electric Co.; Henry W. Godsden, chairman of the board, and Rudolph J. Anderson, Jr., Esq., director of patents of Merck and Co., Inc., be printed at the conclusion of my remarks. The amendment of Senator Fong adopted by the Judiciary Committee responds to most of the reservations expressed in the letter.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 4.)

Mr. PHILIP A. HART. Mr. President, the distinguished minority leader and his former legislative aide, Dennis Unkovic, have written an incisive article both on the role of the patent bar and the legislative evolution of S. 2255. I ask unanimous consent that the full text of their article, appearing in 16 William and Mary Law Review 937—Summer 1975—be printed at the end of my remarks. OMB's Associate Director of Economics and Government, Walter D. Scott, also has analyzed the objections of the patent bar in a letter to the president of the American Patent Law Association. I ask unanimous consent that the text of this letter be printed in full at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 5.)

Mr. PHILIP A. HART. S. 2255 preserves and extends existing substantive aspects of the U.S. patent system, while updating the procedures within the Patent Office to improve administration. It contains provisions designed to result in a more rigorous examination by the Patent Office, greater disclosure of prior art to the Office, and a reduction of the instances of invalid patents issued by the Office. By strengthening and bringing Office procedures into the mainstream of 20th century administrative and judicial practice, the bill should result in Patent Office decisions on whether to issue a patent made on the basis of all relevant information. This, in turn, should assure that only valid patents are issued by the Office, which, in turn, should materially enhance respect for the patent system by the judiciary and the public.

To raise the quality and reliability of the U.S. patent, S. 2255:

First. Strengthens the oath of invention to require that persons dealing with the Patent Office act with candor and good faith and disclose all information necessary to make the patent application not misleading—section 115;

Second. Requires a patentability brief disclosing to the Office relevant patents and prior art considered during the preparation of the patent application, disclosure of which might reasonably be expected to affect a decision of the Office—section 131(b);

Third. Facilitates public participation in locating and presenting relevant prior art and other pertinent facts to the Office—sections 134, 135, and 135A;

Fourth. Increases the disclosure required in the specification—section 112;

Fifth. Authorizes the use by and in the Office of subpenas and the discovery process in accordance with the Federal Rules of Civil Procedure—sections 23 and 24;

Sixth. Strenthens the administration of the Patent Office by making it independent of the Department of Commerce with respect to its adjudicatory, rulemaking, and investigatory functions, and by following established administrative procedures—sections 1 and 5;

Seventh. Requires a written record of the patent examination and review process—section 132;

Eighth. Creates a special Office of the Solicitor within the Office to assure compliance with the Patent Code—section 3(d); and

Ninth. Requires complete library and search facilities and a research program to utilize new technology—sections 6 and 10.

The bill also benefits individual inventors and small business by:

First. Limiting Patent Office fees—section 41(b)(2);

Second. Instituting a system of deferred maintenance fees—section 41(f)(6);

Third. Creating a system of deferred examination that also should improve the overall quality of issued patents by reducing the number of applications actually undergoing examination, thereby permitting a more thorough examination—sections 191–194; and

Fourth. Permitting newly discovered prior art to be brought before the Office for review throughout the life of the patent but prior to the commencement of litigation—section 135A.

Patent reform is urgently needed, and I urge my colleagues to support S. 2255.

EXHIBIT 1

SEPTEMBER 27, 1973.

THE WHITE HOUSE

To the Congress of the United States:

America's dramatic progress from a small agrarian nation to a great technological and industrial leader has been due, in no small degree, to the inventive genius of its people. Names such as Benjamin Franklin, Eli Whitney, Cyrus McCormick, Thomas Edison, Alexander Graham Bell, Samuel Morse, the Wright Brothers and Henry Ford speak volumes about the character of our Nation.

Our creative history however, has not been a matter of individual inspiration alone. Our Founding Fathers understood the need for innovative thinking and wrote into the Constitution a means of encouraging invention—the patent system—which has enormously stimulated our progress and prosperity.

The national patent system authorized by the Constitution took on form and substance with enactment of special patent acts in 1790, 1973 and 1836. The act of 1836 provided statutory criteria for the issuance of patents and required the Federal Patent Office to examine applications to determine whether they conformed to those criteria. Although this 1836 law has since been amended, no basic change has been made in its general character and it now forms the basis for our present patent system.

While the patent system has changed only slightly since the nineteenth century, the social and economic structure of our Nation has, of course, undergone profound change. The individual inventor, often working alone and unaided, still makes an important contribution, but the lead role in exploring new frontiers of technology is now played by organized research—sophisticated and highly capable teams funded by our Government, industry and universities.

The changing nature of applied research has understandably raised questions about the adequacy of our patent system. Over the past seven years a number of searching studies have been made of that system, including a report by a special Presidential Commission in 1966. Those studies have shown that a successful patent system should meet at least four basic standards. It should:

Provide an incentive for new inventions by offering a meaningful reward to the inventor and to his supporters;

Promote early public disclosures of new discoveries, so that others may also benefit;

Encourage other researchers to explore alternative solutions to crucial technological problems; and

Through the process of discovery and disclosure, widen the opportunity for consumers to choose products of higher quality and lower price.

In recent years, it has become increasingly clear that our current patent system does not measure up to these standards. The United States Patent Office now examines patent applications in an ex parte fashion—a series of hearings involving only Patent Office personnel and the party applying for a new patent. The very nature of the examination process denies the Patent Office much information relevant to its decision about issuance of a new patent because that information is frequently held by those who may be in commercial competition with the patent applicant. Thus the Patent Office may grant a patent to one inventor without knowing that similar information already exists. As a consequence, legal disputes between a new patentee and his competitors have often arisen after the patent has been issued, and, because the courts can develop a more complete factual record, a large number of patents have been declared invalid. This litigation is often protracted and needlessly expensive, both for the patentees and their competitors. In addition, there have been increasing allegations of fraud and inequitable conduct in the procurement of patents. The net result is that public confidence in the reliability of our patent system has been eroded, and we have reached the point where reform is clearly desirable.

Accordingly, I am today proposing that the Congress enact the Patent Modernization and Reform Act of 1973. This legislation, which will today be transmitted to the Congress by the Commerce and Justice Departments, is designed to rid the patent system of many of its existing problems without sacrificing the indispensable stimulus to invention now afforded by that system. Specifically, this bill has four major objectives:

1. Strengthening public confidence in the validity of issued patents;
2. Accelerating and improving the disclosure of new technology revealed by the patents;
3. Simplifying the procedures for obtaining patents; and
4. Enhancing the value of the patent grant.

STRENGTHENING PUBLIC CONFIDENCE

The single most important objective of reform must be the establishment of examination procedures which ensure that new patents are both sound and reliable. The best way to achieve this objective is to obtain as much information from all sources as is practicable.

To remedy the defects of the present system, I am recommending that we broaden public participation in the review of patent applications, that we strengthen the hand of the patent examiner, and that we require applicants to give greater assistance to the examiner in bringing information to light. If we take these steps, I believe we would not only ensure a more orderly and complete patent examination but also greatly strengthen public confidence in the validity of our patents.

Under the proposed bill, the Patent Office would publish all patent applications that seem worthwhile and would then give the public six months to bring to its attention information relevant to the application. Members of the public would be permitted to present their views to the Patent Office in an adversary proceeding, and new procedures for discovery of information and opportunities for the opposing parties to appeal the decisions of the Patent Office through the courts would be established. The bill also provides for additional manpower for the Patent Office so that opposition proceedings can be conducted effectively.

The patent examiner, a critical figure in the application process, would also be given additional tools to perform his job. These would include, in appropriate cases, authorization to require an adversary examination proceeding and to obtain the assistance from a special patent officer in such a proceeding, as well as access to adequate discovery techniques under the Federal Rules of Civil Procedure.

To further assist the examiner, patent applicants would be required to disclose all pertinent information at the outset of the examination proceeding along with a written memorandum describing why their inventions are patentable. In addition, this legislation spells out in considerable detail the duties of inventors, patent applicants and their attorneys to bring to the attention of the Patent Office all relevant information which comes to their attention during the examination process.

ACCELERATING AND IMPROVING DISCLOSURE

A basic premise of the patent system is that in exchange for commercial protection of his discovery, an applicant will disclose others may build upon this knowledge. Some critics, however, have suggested that the current patent system is not bringing forth the full and rapid disclosure of technology that it should.

The legislation proposed by the Administration would encourage applicants to expedite the processing of their applications by granting a period of protection 20 years from the date the application is filed rather than the present 17-year period from the day a patent is granted. In addition, this legislation would require that patent claims be drafted with greater precision so that others would have a better understanding of how to use the invention.

SIMPLIFYING PROCEDURES

The Administration bill also sets forth several important steps to simplify the procedures for filing and obtaining patents. One reform would permit the owners of an invention, not just the inventor, to file the papers for, and directly obtain, a patent. This step should remove the present procedural hurdles to filing of applications by corporations, universities or other research organizations.

The bill would also simplify troublesome problems of amending applications and would give the Patent Office greater flexibility in examining applications containing more than one invention.

ENHANCING THE VALUE OF PATENTS

The legislation I am recommending would also enhance the value of the patent grant. The procedural reforms described above, which are designed to strengthen confidence in the examination process, would do much to achieve this goal. But other, more specific changes are also needed.

Current law leaves the owners of United States process patents unprotected against importers who sell foreign products that have been manufactured by utilizing processes developed in the United States. This law should be changed so that exclusive sales agents or affiliates of foreign competitors who handle such products will be considered patent infringers.

The proposed legislation would also permit the patent owner to settle disputes over the infringement and validity of his patent without resorting to expensive and time-consuming court litigation. Patent owners and those accused of infringing patents may instead, if mutually agreeable, turn to arbitration for resolution once a dispute arises between them. Where arbitration is not possible, improved disclosure and discovery techniques during the patent application process should reduce the expense and uncertainty of subsequent litigation.

In the event of a dispute over the validity of a patent, the legislation I am recommending would clarify the rights of the patentee or a person who might hold his patent, such as an assignee or licensee. Another provision would ensure that the patent laws not be construed to replace or preempt state laws concerning trade secrets so long as those state laws do not interfere with the free flow of ideas in the public domain. Decisions of the Supreme Court in both of these areas would also be left undisturbed.

PRESERVING THE BEST OF THE PRESENT SYSTEM

The Patent Modernization and Reform Act of 1973 is more than a reform bill. It would preserve and extend some of the best and most important aspects of our current patent system. In preparing this legislation, the Administration considered and analyzed a great many proposals for changing the present law—but our decision was to adopt only those proposals for change that would significantly improve the system.

We were particularly anxious to maintain present standards for the awarding of patents, including the requirement that inventions serve a useful purpose. One of the virtues of the American patent system is its emphasis upon practicality—its demands that ideas be reduced to a tangible form having a known usefulness before the public should grant a monopoly on the concept to the applicant.

My proposal would also preserve the American concept of giving the patent to the person who is first to invent, because he is the individual most deserving of recognition and encouragement. In doing so, we would reject the approach of certain other countries that award the patent to the first applicant to file for a patent.

In addition, the existing state of case law on antitrust standards for patent licensing that have been determined by the courts would not be changed. Some have argued that this case-by-case approach to patent licensing has increasingly eroded the value and reliability of the patent grant. Earlier this year, I requested that various proposals addressed to this issue be carefully studied and reviewed by the Secretary of Commerce, the Attorney General, and my chief advisers on economic policy. After much study, they concluded that there is no clearly demonstrated need or justification for introduction of any patent licensing proposals at this time. They also concluded that the legislation I recommend today will help counter the loss of public confidence by improving the reliability of patents that are issued.

CONCLUSION

Benjamin Franklin, a famous inventor as well as a statesman, reflected once that he wished it his destiny "to be born two or three centuries hence" so that he could not only enjoy the conveniences of modern life but also satisfy his curiosity. So long as the spirit of Franklin remains alive in America, we can be confident that our civilization will flourish.

Our patent system should always work to foster that spirit. Unfortunately, our current system does not always serve that end. With the changes I am recommending today, however, we can combine the best parts of our existing system with the most promising proposals for improving it. In that belief, I ask the Congress to give the proposals contained in the Patent Modernization and Reform Act of 1973 prompt and careful consideration.

RICHARD NIXON.

THE WHITE HOUSE, *September 27, 1973.*

FACT SHEET: PATENT REFORM

The President's Patent Reform Message calls for enactment of a bill which would substantially strengthen the American patent system. The Patent Modernization and Reform Act of 1973 would improve the strength and reliability of issued patents through procedural reforms in the patent examination and issuance process. It would also simplify procedures for obtaining patents and make more complete and precise the disclosure of technology contained in patents, as well as speed the disclosure of such technology to the public. The bill is designed to enhance the value of the patent grant, primarily by creating greater respect for the validity of issued patents and by adding certain new provisions concerning enforcement of patents.

NEED FOR REFORM

The patent system has played an important role in stimulating the Nation's progress and prosperity. There have been no basic changes in the structure of the patent system since the Patent Act of 1836.

In view of the technological and information explosion in recent years, which has resulted in the filing of approximately 115,000 new patent applications and the issuance of 70,000 new patents each year, the adequacy of our procedures for issuing valid patents has been increasingly called into question.

Too many patents today are declared invalid after protracted litigation discloses new information not considered when the application was originally reviewed.

Proceedings before the Patent Office present no opportunity for public participation before the patent is granted.

There have been increasing allegations of fraud and inequitable conduct in the procurement of patents; and some have suggested that the patent system is not bringing forth the full and rapid disclosure that it should.

The cost of litigating patents is often needlessly great, both for the patentee and the businessman accused of infringing the patent.

There is a need to stem the erosion of confidence in the validity of issued patents raised by these questions and the possible resulting erosion in the value of the patent grant itself.

SIX MAJOR POINTS OF THE ACT

1. Examination procedures would be thoroughly restructured to assure the issuance of valid patents and to obtain as much information concerning the patentability from all sources as is practicable—from the applicant himself, from the Office search files, and from members of the public—before the Patent Office issues a patent.

Broad public participation in the review of patent applications would be provided, so that members of the public may, prior to issuance, inform the Office of facts in their possession which might affect the Office's decisions regarding the issuance of a patent. All patent applications would be published when found to be allowable by the Patent Office, and the public would be given up to six months to bring to the attention of the Office any information relevant to the allowability of the applications. Members of the public would be permitted to present their views to the Patent Office in an adversary proceeding and new procedures for discovery and opportunities for the parties to appeal the decision of the Patent Office would be provided. The Office would be given increased resources for effectively conducting these new opposition proceedings.

Patent applications would be required to assist the Patent Office in the examinatoin process. They would be required to disclose all pertinent information to the Office throughout the examination proceeding, together with a written explanation of why they believe their inventions are patentable notwithstanding this information. In addition, the bill spells out in considerable detail the duties of inventors, patent applicants, and attorneys to bring to the attention of the Office all relevant information of which they are aware during the examination process.

The patent examiner would be given additional tools to perform his job. These would include, in appropriate cases, authorization to require an adversary examination proceeding and assistance from a special officer to assist him in such a proceeding, including access to adequate discovery. This same newly created officer would also be authorized to investigate improper conduct before the Office and would be required to defend the examiner's decisions when they are appealed.

Patent Office proceedings would be more like the regular adjudicatory proceedings of other agencies. Patent Office decisions would more generally follow the Administrative Procedure Act, and the applicant would have the burden of persuading the Office that the claims he seeks are patentable.

There would be a full written record of Office action, and the examiner would be specifically empowered to control the examination proceeding. Judicial review of Office proceedings would be strengthened and placed more in the mainstream of the system of Federal courts of general jurisdiction.

2. Applicants would be required to make a more complete disclosure of the invention on which they seek a patent and a more rapid disclosure of new technology would be encouraged.

Applications would specify all novel or unexpected properties or results relied on in seeking a patent. They would include the best mode of commercially practicing (in "trade and industry") the subject matter to be patented.

A 20-year term of a patent would be measured from the date on which the application is filed rather than the present 17-year term from the date a patent is granted. If some claims in an application are finally rejected by the Patent Office, applicants would be permitted to obtain patents on the allowed claims in the same application, while simultaneously appealing the rejected claims. Both these reforms would provide an incentive for applicants to help speed the processing of their applications through the Office.

3. Procedures for filing and obtaining patents would be simplified without changing substantive law.

Owners of inventions, rather than only the inventors, would be permitted to file patent applications, other procedures are proposed that would eliminate difficulties in naming inventors which may arise in connection with team research in industry.

A number of procedural changes would correct or eliminate needless technical problems which now arise in cases where applications contain more than one invention.

4. The Patent Office fee system would be simplified and modernized.

Rather than a set schedule of statutory fees, the Commissioner would be given discretion to charge fees to recover 65 to 75 percent of the costs of the Office.

A new fee provision would be designed to encourage the lapsing of unused patents ten and fifteen years after filing unless good faith efforts were being made to commercialize them.

5. The value of a patent grant would be strengthened. In addition to the procedural reforms which strengthen the patent examination and issuance process, giving greater assurance of validity for those patents which issue, specific provisions are included which would enhance the value of a patent grant.

Present law which leaves the owner of United States process patents unprotected against importers would be changed. Exclusive sales agents or affiliates of foreign competitors who handle products made by foreign manufacturers, using U.S. process patents would be considered patent infringers.

Additional discovery and discovery remedies would be authorized to speed the resolution of patent suits.

Patent owners would be specifically authorized to settle existing disputes over the infringement and validity of their patents by arbitration, thus avoiding the need to resort to expensive and time-consuming court litigation.

Provisions would be added to the law to avoid problems of possible abuse, raised by challenges to patent validity, by licensees and assignors of patents, and to ensure that the patent law would not preempt state trade secret laws when the latter did not interfere with ideas in the public domain. The decisions of the Supreme Court in these important areas would not be disturbed.

6. The Patent Modernization and Reform Act of 1973 would continue certain aspects of our patent system.

The basic criteria for patentability, including the important standards of unobviousness, novelty, and utility, would be retained in their present form.

The bill does not contain provisions that relate to the traditional case-by-case determination of antitrust problems regarding the licensing of patented inventions. In response to concern over possible erosion of the reliability and value of the patent grant, a number of problems addressed to this problem were carefully considered. After this study, the Administration concluded that no need for taking action in the area had been demonstrated at this time, other than the need to act to strengthen the procedures for examination and issuance of patents.

DEPARTMENT OF JUSTICE,
Washington, D.C., December 9, 1975.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, the Administration has proposed comprehensive reform and modernization of the Patent Code. S. 2255, now pending before the Judiciary Committee, incorporates many of the reforms that we have proposed. Although this legislation differs in several material respects from our proposal and although we will continue to urge whatever changes may appear to improve the bill, we encourage the

Committee to act favorably on S. 2255 so that the long process of patent reform is not further delayed.

The Administration is prepared now, as in the past, to work with the Congress to reconcile differences and to provide assistance as this important legislation proceeds.

Sincerely,

MICHAEL M. UHLMANN.

[Exhibit 3]

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., July 3, 1974.

Hon. JOHN L. MCCLELLAN,
Chairman, Subcommittee on Patents, Trademarks and Copyrights, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Nearly a year ago, after many months of intensive work on the subject of patent reform, the Administration transmitted a proposed draft Patent Reform and Modernization Bill for the consideration of the Congress. It was introduced as S. 2504. We would like to express the appreciation of the Administration to the Subcommittee for the very diligent and thorough consideration given to this Administration proposal.

In line with earlier advice to you from Mr. Ronald B. Brooks, Executive Director for the Council on Economic Policy, and since I was not in office when S. 2504 was formulated, you asked Secretary Dent in your letter of May 14, 1974, to initiate an Administration review of the Committee Print, reported out by your Subcommitte, indicating your expectation that I would play a leading role in such a review.

In response to your request, Secretary Dent has initiated an intensive review by the Administration of the entire Patent Reform and Modernization Bill, and has asked me to reply to your letter of May 14, 1974. This review was not restricted to the changes made by your Subcommittee, since it was desired to let me present my views on the range of issues presented and to have these views, together with those voiced by members of the public, considered and reflected in the Administration's response.

During this review there was general agreement that the bill contained provisions which will effectively strengthen public confidence in the validity of issued patents and will improve disclosures of new technology. Comments obtained from the private sector, however, have suggested that improvements could be made with respect to three basic concerns:

That application procedures be simplified as much as possible;

That costs and the potential harassment of applicants be minimized; and

That the Office retain flexibility in modifying its procedures as needed arises.

Accordingly, our attention was directed primarily to improvements in these areas.

This review has led to a number of suggestions for modifying the Committee Print. Except as noted below, these have been specifically incorporated into a marked-up version of the Committee Print, attached as an Appendix to this letter. We have made every attempt to draft these changes in such a way that they are compatible with, and may be integrated into, the basic structure of the original bill and the Committee Print. To facilitate your consideration of these proposed changes, we have endeavored to express the reasons for the more important ones in the text of this letter. Our suggestions also include a number of changes of a more technical nature that are not mentioned in this letter. We stand ready to assist you in any way possible should you desire amplification or clarification of our comments.

Reform and improvement of the American patent system are important, needed, and long overdue. Patent reform legislation has been pending in both the Senate and House of Representatives since 1967. The House Judiciary Committee conducted hearings in 1967, and in early 1968. Since that time, all the hearings on the subject of patent reform have been in the Senate. The Senate Subcommittee on Patents, Trademarks and Copyrights, through diligent and wide-ranging inquiry, has generated five volumes of hearings thoroughly exploring the issues raised by the various patent reform bills proposed to date. S. 2504 resulted from a complete review and analysis of this seven-year debate—the proposals of the previous Administration, the suggestions and draft proposals made by the private patent bar, and the various other proposals for patent reform introduced in the Congress.

The Administration supports and urges the enactment of a bill in the form of S. 2504 [Committee Print], amended as indicated in the Appendix. A bill enacted in this form should clearly improve the quality and the reliability of issued patents.

All of us who participated in the latest review of S. 2504 [Committee Print] acknowledge that the new procedures which accomplish this end will to some unavoidable degree complicate the process of obtaining patents. But the changes proposed in the Appendix will simplify these procedures, reduce expense both to the applicant and to the Patent Office, and will protect applicants against harassment. In my opinion, these changes will very substantially improve the bill. It is the consensus of all those participating in the latest review of the Committee Print that it will, if enacted after amendment as here suggested, represent a balanced and desirable reform of the present law.

ESTABLISHMENT OF PATENT AND TRADEMARK OFFICE

Consistent with changes in the Committee Print suggested later, we do not believe that the Office should function independently of the Department in its "rule-making" functions or in "judicial proceedings" relating to its adjudicatory functions, as provided in section 1. Both of these responsibilities involve broad policy considerations appropriate for Department review. In addition, we believe that the statement making the Administrative Procedure Act applicable to proceedings before the Office should contemplate modification of APA procedures when that becomes necessary in particular circumstances because of the specialized nature of the Office, in order to reduce the possibilities of a subsequent interpretation of this statement resulting in changes in Office practices that are unwarranted and unintended by the legislation.

ASSISTANT SECRETARY OF COMMERCE FOR PATENTS AND TRADEMARKS

We do not favor the addition to subsection 3(a)(1) which would establish an additional Assistant Secretary of Commerce for Patents and Trademarks who would also serve as Commissioner. Elevating the Commissioner to an Assistant Secretary level would separate the Patent and Trademark Office from other bureaus in the Department of Commerce which are closely related to and also affect Government policy in the science and technology area. Moreover, programs of the Department call for unified policy direction for the Patent and Trademark Office and its sister bureaus in the science and technology area. In fact, any reason advanced in favor of elevating the status of the Commissioner could equally be applied to any other large bureau within the Department.

Such action would serve no purpose other than tending to elevate the status of several bureau heads, leading to a proliferation of Assistant Secretaries, and possibly necessitating the interjection of yet another administrative layer between them and the Secretary.

Since section 3(c) of the Committee Print provides for the appointment of Assistant Commissioners by the Commissioner rather than the President, we suggest that the number of Assistant Commissioners which the Commissioner is authorized to appoint be increased to not more than four. In its present form, the section might be construed as precluding the Commissioner from appointing more than two Assistant Commissioners, thereby preventing the continuation of the present organizational arrangement of the Office under which there are four Assistant Commissioners—two of them are now appointed by the President and the other two of whom are now appointed by the Commissioner—all of whom the Commissioner would appoint in the future.

SOLICITOR

In the listing of duties of the Solicitor in subsection 3(d)(2), we would suggest that he be required to defend appeals "pending before the Board of Examiners-in-Chief," rather than any "decision" of a primary examiner, to clarify the intent of the bill. In addition, we are suggesting a clarification of subsections 3(d)(6) and (7), which relate to the Solicitor's responsibility to insure adequate representation and to avoid conflicts of interest when he is required to represent differing legal positions in the same proceeding.

Finally, subsection 3(f) of the Committee Print might be construed to give the Solicitor independent authority to appear in Federal court, particularly before the CCPA. This subsection should be revised as indicated in the Appendix to make clear that appearances of the Solicitor in court are subject to the direction and control of the Attorney General. It is not anticipated that this suggested clarification will in any way change the present working arrangement between the Solicitor and the Justice Department with respect to the defense of suits against the Commissioner.

BOARD OF EXAMINERS-IN-CHIEF

Subsections 3(e) and 5(a) of original S. 2504 were unclear regarding the method of appointment and category of service intended for examiners-in-chief. These subsections could have been interpreted to require examiners-in-chief to be Administrative Law Judges (ALJ's). With the version of these subsections in the Committee Print, this interpretation is even more likely. We believe, however, that examiners-in-chief should be appointed by the Commissioner under merit promotion principles and serve in the competitive civil service.

While extensive experience is required to qualify as an ALJ, such experience is not the same as that required to perform many of the duties of an examiner-in-chief. A person meeting the requirements for an ALJ would not necessarily have the specialized expertise needed by an examiner-in-chief. The position of examiner-in-chief has traditionally been regarded as the top rung of the technical career ladder for patent examiners. Removing this career incentive for the bulk of the professional examining corps could cause severe morale problems in the Office. Additionally, removing the incentive for examiners to demonstrate outstanding ability so that they might be selected for such a position would be totally inconsistent with the remainder of the bill which is directed toward obtaining a quality work product from the examiner. Finally, decisions of ALJ's ordinarily do not constitute "final agency action" or "final decisions", as subsection 5(d) of this bill provides for decisions of examiners-in-chief. For these reasons, we believe that examiners-in-chief should not be ALJ's and have suggested appropriate amendments to sections 1, 3 and 5.

In addition, since section 5 deals generally with the establishment and duties of the Board of Examiners-in-Chief, we suggest that subsection 134(c) would more appropriately be placed as a new subsection (f) in section 5.

Finally, we believe that the term "decisions" in subsection 5(c)(1) should be amended to read "final rejections", and that there should be a technical correction to subsection 5(c)(2), to be consistent with the clarification in section 3 and elsewhere.

ACTION DAY WHEN OFFICE CLOSED

It is suggested, in accordance with S. 2504 as introduced, that section 21 be amended to make its exculpatory language regarding deadlines falling on Saturdays, Sundays and holidays at least apply to all statutory deadlines specified in title 35.

ISSUE OF SUBPENAS

Consistent with the concern of the Subcommittee regarding the possibility of harassment in opposition proceedings, as evidenced by changes made in section 135 of the Committee Print, we believe that the issuance of subpenas and discovery orders where they are available in oppositions should normally be limited to those situations in which the requesting party can show good cause for their issuance. We do not, however, believe that the Solicitor, Board of Examiners-in-Chief, or parties to proceedings before the Board of Examiners-in-Chief pursuant to section 136 or where the Board acts as a Board of Patent Interferences pursuant to sections 305(d) of the National Aeronautics and Space Act and 152 of the Atomic Energy Act of 1954 should be limited to a showing of good cause in obtaining subpenas or discovery orders. In addition, we have suggested amendments to subsection 23(b)(1) to emphasize that protective orders and all sanctions for noncompliance, other than contempt, are to be available. We also suggest that parties, including the Office, be able to apply to any Federal District Court, in addition to the District Court for the District of Columbia, for orders to show cause why the person refusing or failing to comply with a subpena or order should not be directed by the court to comply. We would also suggest that subsection 23(a) and new subsction 5(f) (old subsection 134(c) of S. 2504 and the Committee Print) be modified so that the Board or any member of the Board, rather than only a member of the panel in a particular case, be authorized to issue subpenas and discovery orders. Finally, we have suggested a clarifying redraft of subsection 23(b)(2).

EXECUTION OF DOCUMENTS

We have suggested a minor modification of section 26 to permit the Office to provisionally accept documents with missing executions as well as those with defective executions.

ASSISTANCE TO INVENTORS AND SMALL BUSINESSES

We are opposed to the pilot program proposed by section 28 of the Committee Print and we especially believe that it should not be carried out under the aegis of the Patent and Trademark Office. In our view, there is an inherent conflict of interest between the Office examination function and the public prosecution function as proposed in section 28. We fear that the validity of patents issued by way of an assistance program having such an inherent conflict of interest would be suspect in any court of law and would reflect adversely upon the entire patenting process.

In addition, as a consequence of the requirement that the fees recover a given percentage of the cost of operating the Office, any assistance given to the many thousands of potential candidates would have to be borne in part by the inventors who are paying their own way.

UNAUTHORIZED PRACTICE

To better protect the inventing public, we suggest that the penalty specified for each offense in section 33 be increased to not more than $5,000 in order to provide a more effective deterrent to the unauthorized practice of patent law by individuals not registered with the Office.

OFFICE FEES

The Administration is in agreement with the general principles underlying section 41 of the Committee Print. Accordingly, we do not believe that further action on the Committee Print need be delayed, since any suggestions we may make can fairly be characterized as technical.

At this time we would like to suggest only that consideration be given to an appropriate amendment of the Committee Print, in the form of a transitional section, to provide for a gradual phasing-in of the fee section. Our concern is that individuals who obtain patents immediately after passage of the bill will be unfairly burdened by virtue of the requirement in the Committee Print to recover through fees fifty percent of the operating costs of the Office and the subsequent requirement to charge these same individuals fees to maintain their patents.

We suggest the Committee Print provide that the Office not have to recover the entire fifty percent until thirteen years from the effective date of the legislation, when the full income from maintenance fees will be realized. For example, one possibility might be, on page 89, line 21, to add the following new subsection (e)(1) and renumber existing subsection (e)(1) and following subsections as appropriate:

"(e)(1) In subsection 41(b)(1) of title 35, United States Code, as amended by this Act, the requirement for an overall recovery of approximately 50 per centum of the costs of operation shall come into force at the thirteenth full fiscal year following the effective date of this Act."

Novelty and Bars to Patent

The Subcommittee has clarified and improved section 102 of the Committee Print, especially subsections 102 (a) and (b). It is noted, however, that subsections 102 (a)(2) and (b)(2) of the Committee Print, defining a "publication" which will bar the granting of a patent, do not require publications in "other tangible form" to be "accessible" to certain groups of people, as provided in S. 2504. Courts have interpreted section 102 of the existing statute to require a certain degree of accessibility for "printed publications", and it seems clear that the bill makes no change in this regard. Since existing law does not cover publications in "other tangible form", however, we would suggest that care be taken to make clear in the Committee Report that such publications must also possess the same degree of accessibility as the law now provides for printed publications. We suggest that the Report explain that, with respect to publications in other tangible form, due regard should be given to problems of accessibility that may arise because the publications are not in printed form.

We also note that subsection 102(c) of original S. 2504 has been changed in the Committee Print so that forfeiture or unreasonable concealment by an inventor, rather than suppression, would constitute a bar to the obtaining of a patent. We have no objection to the phrase "unreasonably concealed" since it reflects what we perceive to be a proper basis for refusing a patent—a deliberate and unreasonable withholding of the invention from the public.

We believe, however, that the term "forfeited" is imprecise and could lead to confusion. Accordingly, we would prefer a formulation such as "suppressed or otherwise unreasonably concealed" instead of the phrase presently contained in subsection 102(c) of the Committee Print. We also suggest a conforming change to subsection 105(d).

Finally, it is believed that the phrase "known or used" in subsection 102(a)(3) has a relatively well-defined meaning under section 102(a) of existing law. This interpretation should not be jeopardized by the insertion of the new modifier "nonsecretly.", which would merely serve to engender litigation.

REQUIREMENTS FOR PATENT APPLICATIONS

Subsection 111(a) of original S. 2504, as well as of the Committee Print, requires that applications be accompanied by a prescribed fee at the time of filing. If, by oversight, the prescribed fee is not submitted with the application at the time of filing, applicants cannot obtain a filing date for their applications. Since only the fact of receipt, rather than the specific timing of receipt, of a filing fee is important, we suggest that the Commissioner be given discretion in subsection 111(a) to specify when the filing fee must be submitted.

The Subcommittee has amended subsection 111(d) to provide that inventors will have an opportunity to ratify the filing of an application by or on behalf of their assignees prior to the time when the assignees will be required to serve a copy of the application on the inventor. We believe that this is a desirable simplification, but would suggest that it be modified to require that the inventor have an opportunity to inspect the application prior to his filing a ratification.

SPECIFICATION

The Committee Print modifies original S. 2504 to require in the preamble of subsection 112(a)(1) that the specification contain the items enumerated in paragraphs (A) and (B) "at the time the application is filed". We believe this additional language should be deleted in order that courts will have the opportunity to further consider and develop the law with respect to the question of when the enumerated items should be included in patent applications.

We would also suggest that subsection 112(a)(2) of the Committee Print be deleted. While we recognize that existing law requires that the inventor discover the properties or results of his invention on which he intends to rely in obtaining a patent, the statement of this principle in subsection 112(a)(2) could be interpreted as precluding the practice, sanctioned by present law, of inventors utilizing technicians, in certain situations, to check new inventions for the existence of various properties and results.

Original S. 2504 provided in subsection 112(b)(1) that the description of the best mode be in sufficient detail to enable one of ordinary skill in the art to practice the invention in "trade and industry". The Committee Print changes this subsection to require a description of the best mode of the invention as to enable any person of ordinary skill in the art "to make and use and, unless the nature of the case does not admit, practice it."

The President's message on patent reform stated that S. 2504 had as a major objective "accelerating and improving the disclosure of new technology revealed by the patents." It is believed that requiring the best mode "in trade and industry" will aid the public by emphasizing that disclosure of the best mode of practicing an invention is, in fact, required. Accordingly, subsection 112(b)(1) of original S. 2504 should be reinserted into the Committee Print in place of subsection 112 (b). To allay unnecessary fears regarding the intent of this subsection we recommend that the Committee report should contain a statement to the effect that the subsection is not intended to elicit detailed engineering information not needed by persons skilled in the art to practice the invention. The report should also make clear that the subsection is not intended to elicit the disclosure of trade secrets associated with, but not required for, practicing the best mode of the invention, or otherwise outside the scope of the claims of the application. With these clarifications, it should be evident that the subsection will not materially increase the size of patent disclosures or create a burden for patent applicants.

With regard to subsection 112(c)(1), which requires the specification to state what is known to be conventional or old, we would suggest that it be modified to state that the specification "should" state what is known to be conventional or old "in accordance with such regulations as the Commissioner shall prescribe."

In our opinion, mandatory requirements of a procedural nature should be avoided whenever possible in order that the legislation might be appropriately implemented through regulations as experience dictates. For similar reasons, subsection 112(e)(3) should give the Commissioner discretion to determine the content of regulations governing the format of patent claims.

We also suggest that the requirement of subsection 112(e)(1) for the use of the so-called "Jepson" claiming should be changed from a mandatory requirement to a statutory encouragement, since not all inventions lend themselves to claiming by this format and a mandatory requirement might subject the applicant to charges that his patent is invalid for failing to use the indicated format.

Finally, we believe that subsection 112(g)(1) should be modified to omit reference to the United States, so that the Commissioner will retain his existing authority to designate foreign depositories for microorganisms where appropriate.

DUTY OF DISCLOSURE

The duty stated in subsection 115(a) of original S. 2504 to act with candor and good faith toward the Office has been modified in the Committee Print to require that the duty be "uncompromising" and that the candor and good faith be of the "highest degree". While adjectives of this sort may be appropriate for a judicial opinion where a point is being emphasized, we believe they are inappropriate as statutory language. Such terms add nothing to the substantive nature of the duties imposed on parties, and their deletion should not affect the applicability of the cases from which they are taken. We believe that this provision is not intended to eliminate room for innocent, good faith errors of judgment as to what should be disclosed. Accordingly, we believe these terms should be deleted from the Committee Print.

The Subcommittee Print in subsection 115(a)(2) provides that the duty to make reasonable inquiry will be satisfied by the due care which a reasonably prudent man would exercise. An amendment is suggested to this standard in the Appendix which, although retaining the essential substance, is believed to clarify the standard.

The last sentence of subsection 115(a) of original S. 2504 (page 28, line 29 through page 29, line 4) contained a listing of actions required by inventors and applicants to satisfy the general duty stated in the first sentence of the subsection. The Committee Print eliminates some of this material and retains the remainder in subsection 115(a)(3). Upon reflection, we do not believe that it is necessary to include any of this language in the statute since all of the specific items are encompassed within the duties stated in subsection 115(a)(1) of the Committee Print. Accordingly, we would suggest that subsection (a)(3) be deleted as surplusage and that the Committee Report indicate that such a specific listing is unnecessary since these specific duties are included within the broader standard of subsection 115(a)(1).

Finally, we have suggested amendments in subsection 115(b) of the Committee Print to provide that an applicant must, in connection with the statement filed pursuant to section 115 at the time of payment of the issue fee, include a statement that no change has occurred in the information required to be provided by subsection 131(b). This shifts a similar provision from subsection 131(b)(2) to this section, where it more naturally fits, without changing the substantive effect of the provision.

CONVENTION PRIORITY

The preamble of subsection 119(a) of the Committee Print conditions benefit of the date of an earlier-filed foreign application upon Chapter 17. We believe that the reference to Chapter 17 is confusing and suggest that it be deleted.

In addition, subsection 119(a)(2) requires that the subject matter claimed in an application on which an applicant seeks a United States patent be expressly disclosed in his foreign application in the manner required by subsection 112(a). Subsection (a) of section 112 does not define all of the information which we believe should be included in a foreign application at the time of filing abroad in order for it to serve as the basis for priority in a later filed United States application. Accordingly, we would suggest that subsection 119(a)(2) also make reference to subsection 112(b).

BENEFIT OF EARLIER FILING DATE IN THE UNITED STATES

The effect of subsection 120(a)(5) is to limit the number of continuation applications an applicant can file. Since it is possible that an applicant could find himself required by section 121 to restrict his original application to one of several inventions claimed in such application, we believe that subsection (a)(5) should be amended to exempt applications filed as a result of a requirement for restriction from being counted in the limit placed on the number of continuing applications which may be filed.

DEFERRED EXAMINATION

In the Committee Print, the Subcommittee has adopted a deferred examination system, in sections 191 through 194, together with subsection 122(a). We continue to believe that deferred examination is not appropriate for the United States. As noted in the testimony before your Subcommittee on September 12, 1973, the United States does not have an unmanageable backlog of pending applications, the principal reason for the adoption of deferred examination systems in the Netherlands, West Germany, and Japan.

The deferred examination system adopted in the Committee Print does not avoid the objection of creating uncertainty among the competitors of patent applicants as to whether the subject matter disclosed in the application will ultimately be patented and, consequently, does not overcome the chilling effect which deferred applications have on legitimate research, potential investments, and other desirable competitive activity.

Not only would the examination of fewer cases under a deferred examination system probably result in a decrease in our appropriations for patent examining manpower (so that there would be no excess examining manpower available to apply to those applications which were not deferred), but a deferred system would also add significantly to other Office costs.

Finally, we note that the deferred examination system adopted in the Committee Print contains an inherent inconsistency with the Patent Cooperation Treaty which would be implemented in Part IV of the Committee Print. Section 191 of the Committee Print would require an applicant under the PCT to take a national action (the paying of a fee for patenting within 18 months) prior to the end of the international stage (which is normally 20 months) under the Treaty.

For all of these reasons, we urge that the provisions in the Committee Print establishing a system for deferred examination be deleted.

PATENTABILITY BRIEF

We note that in subsection 131(b)(1) the Subcommittee has modified the standard from the original subsection in S. 2504 calling for the disclosure of information "which might reasonably be expected to affect a decision of the Office" to one calling for the disclosure of that information necessary "to make the application as a whole not misleading". We believe that the more specifically focused standard originally stated in this subsection is more appropriate for the guidance of attorneys in the particular context of patentability briefs, because it provides better guidance in making the affirmative representations to the Patent Office called for by patentability briefs than the more general standard in section 115(a) of the Committee Print.

Both original S. 2504 and the Committee Print contain a requirement that applicants and their attorneys notify the Office of any change in the information provided in the patentability brief and file a statement at the time for payment of the issuance fee if no change has occurred. In view of the fact that section 115 of the Committee Print calls for statements at the time of payment of the issuance fee, we suggest transferring the substantive provisions of subsection 131(b)(2) to section 115, as indicated in the Appendix, in order to avoid the submission of two statements by the applicant when one would suffice.

EXAMINATION PROCEEDINGS

Section 132 of original S. 2504 has been the subject of considerable concern and controversy. We note that the Subcommittee labored extensively to improve this section, especially those subsections which regulate in great detail the examination process in the Office. After reviewing both original section 132 and section 132 in the Committee Print, however, we have concluded that it would be desirable to shorten section 132, leaving the implementation of certain detailed examination procedures in the Office for regulations to be prescribed by the Commissioner.

At the same time, our revised section 132 will permit the Commissioner to modify procedures in the Office as experience dictates, consistent with the purposes of this reform bill, and will avoid the potential consequence of patent invalidity for an inadvertent failure to comply with a formal requirement in a statutory provision. The procedural requirements that we retained are largely designed to build a more complete record of proceedings before the Office.

For these reasons, we would urge that subsection 132 appearing in the Appendix to this letter be substituted for that appearing in the Committee Print. The simplifications effected in section 132 appearing in the Appendix also require corresponding changes in other sections of the Committee Print, including sections 122 and 155.

APPEAL TO BOARD

We believe that several changes are desirable in section 134 of the Committee Print. First, we believe that the term "final decision" in subsection (a) should be changed to "final rejection, or objection or requirement subject to section 3(a)(1)". This provides a more definitive explanation of the types of actions which may be appealed to the Board. We also suggest changing the term "decision" in subsection (b) to "final rejection" for the reasons stated above. In addition, we suggest that in subsection (b) the Solicitor be given discretion whether to authorize the briefing and arguing of cases by primary examiners. In this same context, we believe it would be preferable to permit the Solicitor to authorize the briefing of such cases by any examiner, rather than necessarily the one who handled it previously.

The Subcommittee amended section 134 (a)(2) to authorize the remand of proceedings to the primary examiner for further consideration where the Board has rejected a claim which the primary examiner found allowable. We would suggest, however, that such a remand be made discretionary to take into account situations where the Board finds no reasonable basis for the remand of such proceedings.

Finally, as mentioned above, we would suggest that subsection (c) be moved to section 5 as a new subsection (f).

REEXAMINATION OR INTER PARTES OPPOSITION PROCEEDINGS

Another of the most discussed sections in original S. 2504 is section 135, which permits the public to advise the Office of reasons why a patent should not issue on a published application. We continue to believe that public participation of this general nature prior to issuance is an essential element to a sound patent revision bill. However, we have reevaluated section 135 and would like to suggest certain modifications which retain the essential features of this section but which reduce the expense and potential for harassment that has been suggested as being associated with original S. 2504.

While the revised section 135, offered in the Appendix to this letter, is modeled after section 135 appearing in original S. 2504 and in the Committee Print, a number of procedures there available by statute are made discretionary in order to permit the Commissioner to modify Office procedures as experience dictates. Also, to reduce expense, delay, and opportunity for harassment, the scope of opposition proceedings involving only patents and publications has been limited.

In accordance with subsection 135(b) of our revised draft, when further examination is requested by the public and the only basis is prior patents or publications, the primary examiner conducts an ex parte reexamination proceeding in which the opposer does not participate. An opposer, however, may identify himself and take an appeal from such an ex parte proceeding to the Board of Examiners-in-Chief. If necessary to avoid undue delay in issuance of patents, the Commissioner may, by general rule, advance such appeals to the Board ahead of other appeals. This appeal is to be conducted only upon the submission of written briefs; normally it will be without discovery, live testimony, or oral argument, unless the Commissioner otherwise by regulation provides. Court appeals for the opposer in this situation are also limited. We believe that these changes will reduce the cost of the proceeding to both the Office and applicants, while still encouraging third party participation by providing a right of rebuttal and limited appeal.

In addition, as mentioned previously, subpenas and discovery orders in inter partes oppositions may be obtained only upon a showing of good cause. We believe that this change will also significantly reduce the potential for harassment in such proceedings. Taken together, these changes in section 135 will retain effective procedures for public participation in the examination process prior to issuance while minimizing the expenses and delays to applicants.

COURT REVIEW

We have suggested clarifications in the Appendix to continue the essence of present practice regarding the review of final decisions of the Commissioner whereby such are reviewed by district courts in accordance with the criteria of the Administrative Procedure Act; however, the review of such decisions is limited to the District Court for the District of Columbia. We have also suggested specific reference to the APA as the appropriate standard by which non-final decisions of the Office (primarily decisions on motions in inter partes patent cases) should be reviewed.

It is noted that the Subcommittee Print omits section 147 of original S. 2504. It is believed this section would help unify any conflicting positions of the Court of Customs and Patent Appeals and the District Court for the District of Columbia. In addition, it is thought to be sound policy to have a court of general jurisdiction below the level of the Supreme Court review the decisions of the Court of Customs and Patent Appeals. Accordingly, section 147 of original S. 2504 should be included in the Committee Print.

PATENT ISSUANCE AND TERM

Subsection 154(b) of the Committee Print provides for a patent term of 19 years from the filing date of an application in the United States, but in no event less than 17 years from the date of the issuance of a patent. We recommend a return to a term of 20 years from the filing date of an application in the United States as provided in original S. 2504. This provision is widely accepted and provides an equitable means to encourage the prompt prosecution of applications in the Office. We recognize that a return to a 20-year term might potentially create a hardship on some applicants by reducing the post-issuance term of their patents if their applications were unduly delayed in reexamination or inter partes opposition proceedings.

However, we do not expect any problems in this regard, especially in view of the revisions suggested for section 135 of the Committee Print, and the availability of damages relief for pre-issuance use of the invention under section 273. If operating experience indicates that there are problems in regard to unduly protracted opposition proceedings, remedial legislation extending, in appropriate cases, the 20 year term and also eliminating the interim rights afforded by section 273 could be proposed and enacted at a later date.

We also suggest deletion of subsection 151(d), together with a reference to the payment of a portion of the issue fee in subsection (b) of that section. The failure to delete this language in original S. 2504 was an oversight, since the Commissioner will have the authority under section 41 to establish a system for the payment of issue fees which may not include the payment practice presently required by statute.

FILING OF APPLICATIONS IN FOREIGN COUNTRIES

We recommend a change in subsection 184(a) to permit the filing abroad of an application for patent on an ornamental design four months after the filing of an application in the United States. This change is desirable since the priority period specified in the Paris Convention for the Protection of Industrial Property in six months with respect to ornamental designs, rather than one year which is the period specified for patents. In addition, a clarifying reference to inventor's certificates is suggested in this subsection.

DOUBLE PATENTING

Original S. 2504 contained a subsection 253(c)(1) providing that terminal disclaimers would have no effect in overcoming rejections or determinations of double patenting. To replace the use of terminal disclaimers in avoiding this problem, the original bill contained a somewhat complicated procedure whereby an applicant, after having received a rejection on the grounds of double patenting, could add the rejected claims and disclosure on the later filed application to the earlier filed application or patent on which the rejection was based. Upon review of this approach to solving the problem of double patenting, we now believe that it would be more desirable to delete subsection 253(c) and to leave issues of double patenting to the courts.

PATENT INFRINGEMENT

The Subcommittee has added a new subsection (f) to section 271 which would make anyone liable as an infringer who, without authority, made or sold all of the components of a patented invention in unassembled form with the intent that such components be assembled outside the United States. This subsection is obviously intended to overrule the result reached by the Supreme Court in *Deepsouth Packing Co.* v. *Laitram Corp.*, 406 U.S. 518 (1973).

The Administration has reconsidered this question but has concluded, as it did initially, that it would be unwise to amend the definition of patent infringement to capture this type of behavior. Not only is there no showing of any commercial need to overrule this Supreme Court decision, but those few persons who may be hurt by the decision are generally able to protect themselves by obtaining patents abroad—which will be facilitated by the implementation of the Patent Cooperation Treaty. Accordingly, we suggest that subsection (f) be deleted.

VOLUNTARY ARBITRATION

Section 294 of original S. 2504 provided that trade secrets and other confidential research, development, or commercial information submitted to the Office as part of an award in an arbitration proceeding would be made available to government agencies on written request. The Committee Print requires government agencies to show good and sufficient reason for obtaining such information. Since existing law (18 U.S.C. 1905) protects trade secrets against unauthorized disclosure, no reason is perceived for the limitation in the Committee Print, it creates unnecessary procedural barriers to interagency cooperation, and it should be amended to return to the language originally contained in S. 2504.

CHALLENGE TO PATENT VALIDITY BY THE UNITED STATES

The Subcommittee added a new section 298 which requires the United States to notify the Solicitor of its intention to assert invalidity of a patent or any claim of a patent at least 30 days prior to the actual assertion of invalidity. Violation of this requirement would be punishable by a fine of up to $1,000 and one year in jail.

No need for such an unusual provision has been advanced. Moreover, it is believed that this section would dilute the authority of the Attorney General to file suit, or to raise new issues in pending suits, and it could seriously disrupt pending litigation. Accordingly, it is believed that it would be far preferable to attempt to solve any problems which may arise with regard to interagency coordination in such matters on an administrative basis, through existing normal channels, rather than through proposed section 298 in the Committee Print.

MISCELLANEOUS

In addition to the foregoing sections, we believe that the original Administration bill is preferable to the Committee Print with regard to the wording in sections 6 and 7. In addition, we suggest that section 11, calling for an annual report to the Congress, be deleted. While the information called for in section 11 is quite extensive, it could, of course, be made available to Congress upon request. However, we are not aware of any reason for compiling this information on a continuing basis, especially in view of the burden and expense of compiling it.

In addition, we would suggest that the Committee Report discussing subsection 138 (b) make a cross-reference to the last sentence of subsection 282(e), to make it clear that subsection 138(b) is not intended to affect the existing law of file wrappper estoppel.

Finally, it is noted that the Administration position with respect to proposed section 34 of S. 1321 is under study and the views of the Administration will be made available to you in the near future.

We appreciate the opportunity afforded us to review the Committee Print and express our views.

We have been advised by the Office of Management and Budget that there would be no objection to submission of our report to the Congress and further that enactment of S. 2504 would be in accord with the program of the President.

Sincerely,

C. MARSHALL DANN,
Commissioner of Patents.

FIRESTONE,
November 26, 1975.

Hon. PHILIP A. HART,
Chairman, Subcommittee on Antitrust and Monopoly, U.S. Senate, Washington, D.C.

MY DEAR SENATOR HART: I have your letter of November 20 stating that the Patent Revision Bill (S. 2255) will be considered in Executive Session on December 10.

I still believe there is a need for general reform and revision of the patent laws and I would like very much to see such reform come about.

By and large, I believe that S. 2255 embodies significant reforms and should be passed. Quite naturally, I must admit that there are some areas in which S. 2255 could be improved but I think I would have this feeling about any bill; and, accordingly, I urge that affirmative action be taken on this bill so that patent reform can go forward as speedily as possible.

To repeat, S. 2255 will accomplish significant and material patent reforms.

Very truly yours,

STANLEY M. CLARK,
Patent Counsel.

AVCO CORPORATION,
Cincinnati, Ohio, November 25, 1975.

Hon. PHILIP A. HART,
U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR HART: Thank you for your letter of November 20, 1975. In a "Go, no go" position I support S. 2255. There are some changes that I advocated. I agree with the "now" sentiments of the recent Scott-Uncovic paper in the William & Mary Law Review, even though I disagree with the treatment of joint inventors.

It is a privilege to work with you and Mr. Nash. My best service to the patent system, in 35 years, was to get from the April 1, 1975, unofficial meeting of Corporate Counsel, in Washington, a vote preferring the McClellan Bill S. 23, as a vehicle for markup, to the other bills.

Senator, you may find of interest the fact that my father was Warren Harding's opponent for the Senate in 1914. Those days were before Al Smith, Kennedy, Lausche and Gilligan! My brother Tim is a U.S. District Judge here. I am a very independent conservative Democrat. I have had some interesting conversations with Judges Edwards and McCree and the late Judge O'Sullivan, a fellow Campion graduate.

Your happiness, health, success and prosperity will be in our prayers.

Cordially yours,

CHARLES M. HOGAN,
General Patent Counsel.

ZENITH RADIO CORPORATION,
Chicago, Ill., December 5, 1975.

Hon. Senator PHILIP A. HART,
U.S. Senate, Committee on the Judiciary, Subcommittee on Antitrust and Monopoly, Washington, D.C.

DEAR SENATOR HART: Thank you for your letter of November 20 concerning the newly submitted bill for patent law revision S. 2255, which I have read with interest. I regret that we cannot support this bill in its present form.

I remain of the views expressed in my testimony before your Subcommittee, in particular that extensive patent law revision is long overdue and much needed, and that some effective way must be found to attract those with specific knowledge of the state of the prior art, e.g., actual or potential competitors of the patent applicant or his assignee, to become involved in patentability determination proceedings. Since the time of my testimony, and indeed since S. 2504 C.P. and the corporate counsel mark-up of that bill in which I participated, a new proposal has been advanced which, in my judgment, would fulfill the third party participation objective at least as effectively as either pre-issue or post-issue inter partes Patent Office opposition proceedings, without imposing an unrealistic requirement for making opposition decisions and expenditures before knowing whether the patent will ever have commercial significance. I refer to a system of Patent Office reexamination at any time within the life of the patent, as envisioned, for example, by Chapter 31 of the Fong bill S. 214, with certain modifications.

The most important concept of the Chapter 31 proposal, as we see it, is to permit reexamination and re-shaping of the patent claims as necessitated by newly cited or discovered prior art, at the instance of the patentee or anyone else and at any time during the life of the patent. If properly implemented, this should not only provide a practical remedy against overly broad patent claims, but should do so while still permitting the patentee to retain any claim protection of narrower scope which may be appropriate and commensurate with his inventive contribution as reassessed in the light of all the prior art. And it is a procedure which could readily be used by prospective licensors and licensees alike to resolve validity disputes without requiring expensive federal court litigation.

The principal objections which have been raised to Chapter 31 can be overcome by modification of the Fong bill provisions. These objections, and the suggested remedial modifications, are as follows:

1. The requirement that federal court patent litigation be suspended for referral of newly cited prior art to the Patent Office for reexamination would usurp the jurisdiction of the federal court.

Proposed Remedy: Delete Sections 319, 320 and 321. This would eliminate any statutory requirement for suspension of court proceedings pending an agency determination, but would permit the courts to entertain motions for Patent Office re-examination in appropriate cases. Any attempt to impose a statutory prohibition against use of a reexamination statute by the federal courts would, in our view, constitute an unwise (and arguably unconstitutional) encroachment of the legislative branch on judicial prerogative and function.

2. Chapter 31 contemplates an ex parte rather than an inter partes proceeding.

Proposed Remedy: Provide for inter partes opposition also, by including Section 135 of S. 2255 as well as the modified Chapter 31 provisions.

3. Chapter 31 would encourage over-claiming in the first instance by permitting amendment without compliance with reissue requirements.

Proposed Remedy: Add a requirement for a showing of inadvertence, accident or mistake; Fong bill Section 316 already includes a provision against claim broadening during the re-examination process.

In our view, S. 2255 represents very substanial progress in the evolution of an appropriate patent law revision bill. While there are some provisions in S. 2255 which in our view represent unnecessary and unwise overkill, they are not of so serious a nature as to cause us to withhold support for the bill as a whole. However, we feel that any new bill would be incomplete without appropriately conditioned re-examination provisions, and we are not now willing to support a bill which does not contain such provisions.

I am available for consultation with your Subcommittee staff in the future as in the past, and I do wish to commend them for their untiring efforts in connection with this proposed legislation.

Sincerely yours,

JOHN J. PEDERSON.

GENERAL ELECTRIC CO.,
Arlington, Va., December 9, 1975.

Hon. PHILIP A. HART,
Chairman, Subcommittee on Antitrust and Monopoly, Washington, D.C.

DEAR SENATOR HART: Thank you for your communication of November 12, 1975 concerning consideration of the Patent Revision Bill (S. 2255) by the Senate Judiciary Committee in the executive session scheduled for December 10. This will confirm that we continue to support the patent law revision along the general lines of S. 2255.

We were pleased to note that S. 2255, as introduced on July 31, 1975, incorporates a number of revisions which we believe are useful changes to the patent revision bill introduced on January 15, 1975 (S. 23). In particular, we note that of the nine provisions in S. 23 which were the subject of our specific comments earlier this year, most appear to us to have been satisfactorily resolved in S. 2255. There are, however, some provisions which we feel require comment here and which we hope will receive further attention during the executive session which you mentioned.

Chapter 18 of S. 2255 would introduce into the Patent Code a procedure whereby patent applications could be published without examination by the Patent Office for a period of up to five years. This procedure would permit the existence of patent rights which are less sharply defined than is the case under our present law. Also, it would tend to permit a patentee to tailor his claim in the light of intervening circumstances, which is an opportunity now denied the patentee except perhaps through following the somewhat limiting re-issue procedure. We do not believe that the injection of greater uncertainty, as to the ultimate scope of future patent claims, is a move in the right direction. Also, to the extent that there would be a diminution of examination work in the Patent Office, it seems doubtful to us that this saving would balance out the additional individual efforts of those who must appraise patents.

Section 301 of S. 2255 appears to us to be essentially a codification of existing patent law as settled by the Supreme Court in a number of fairly recent cases. As such, we find that the stability which Section 301 would give the dividing line between patented inventions and trade secrets is a principal advantage to be gained through any patent revision legislation.

We are concerned, however, over the fact that Section 301 in S. 2255 no longer refers to there being no pre-emption with respect to "confidential or proprietary information" in addition to trade secrets as was the case with S. 23. To the extent that this difference may be later construed as a substantive change, it could detract from protection now afforded to technical information which may not rise to the level of a trade secret as defined in some jurisdictions. Thus, we would urge that the earlier language of S. 23 be continued in S. 2255 or at least that the legislative history clearly show that a codification of existing law only is intended.

We have previously expressed in our letter of 27 May 1975 our pleasure that the opposition (or re-examination) procedure of S. 23 was post-issuance. We are pleased that this post-issuance aspect has been preserved in

S. 2255. We believe, however, that there is significant merit in the procedure set forth in Chapter 31 of S. 214 and, with one proposed change noted below, we hope that serious consideration is given to this procedure in the executive session. We find the Chapter 31 procedure satisfactory except for one provision, namely that if a defendant in an infringement suit cites prior art, this art is considered by the Office ex parte without opportunity for the defendant to participate by way of oral argument, testimony, etc. If Chapter 31 were modified to provide for full participation in the Office reexamination procedure by the party citing art in a civil action involving a patent (leaving all other reexamination in the Office on an ex parte basis) we would find Chapter 31 acceptable and in fact believe it has advantages over Sec. 135 of S. 2255. This could easily be accomplished by adding a subsection (c) to Sec. 320 of S. 214 reading as follows:

"(c) In the event reexamination of a patent is ordered by the Commissioner upon the citation of patents or publications by a party to a civil action involving the patent, or in the event reexamination of the patent has been ordered and is pending as a result of the citation of patents or publications to the Office by any person prior to the institution of the civil action, all parties to the civil action shall have the right to participate in the reexamination proceeding and in that regard shall be permitted to:

"(1) submit written briefs,

"(2) present oral arguments,

"(3) present oral testimony and depositions and cross-examine witnesses in regard to matters having a bearing on the validity or scope of any claim involved in the reexamination proceeding."

Section 271(e) would permit the importation into the U.S. of an infringing product without recourse against the importer in the circumstance where importation is made through a non-exclusive sales or distribution agreement. Thus, this provision would tend to favor foreign manufacturers importing into the U.S. in a way in which foreign countries by and large do not favor American industry with respect to importations into those countries. We believe it unwise by unilateral action to have U.S. industry at a disadvantage with respect to their foreign competitors in other industrialized countries. To the extent that provisions such as those incorporated in this section are considered desirable they should be adopted in the context of bilateral negotiations with foreign governments.

One final point. We have noted in our own studies and in reported studies by the Patent and Trademark Office and others that this legislation is expected to add substantially to the cost of obtaining patents. We are prepared to accept some increase in costs but we urge that all reasonable steps be taken to keep such increases to a minimum.

Thank you for this opportunity to provide our comments to you in connection with the upcoming consideration of S. 2255. With the exceptions pointed out above, we believe that S. 2255 is generally satisfactory and we would support its enactment with these limited changes. We appreciate the time and effort which you and others have devoted toward working out the many difficult issues, and we are hopeful that patent revision legislation will be forthcoming.

Very truly yours,

H. F. MANBECK, JR.,
General Patent Counsel.

MERCK & CO., INC.,
Rahway, N.J., November 26, 1975.

Hon. PHILIP A. HART,
U.S. Senate,
Washington, D.C.

Re: Patent Law Reform—S. 2255

DEAR SENATOR HART: I understand that the Senate Judiciary Committee plans to meet on December 10th to consider forwarding to the floor of the Senate for actions S. 2255 which you co-sponsored with Senators McClellan, Scott and Burdick.

As you know, we at Merck have a keen interest in this proposed legislation. I hope, and believe, you have found us helpful to you, the other members of the subcommittee, and your staffs, in the attempt to develop a patent law which balances the interests and needs of all segments of the inventive community and the public.

It is, therefore, with a sense of disappointment that I write you at this time to request that you reconsider your commitment to the present bill. Indeed, I urge you to vote to return the legislation to the subcommittee for significant modification.

We have been prepared to accept as inevitable an increase in expense to us from any revision of the patent law. We also recognize that any revision will probably increase the complexity of patent procurement, but the degree of complexity which is resident in S. 2255 is disturbing to contemplate. More concerning to us are the major deficiencies in the legislation with respect to third party participation in the patenting procedure, lack of protection for the chemical industry from foreign imports made using our inventions, and the failure to establish a statutory basis to moderate the present system of costly and time-consuming interference proceedings.

I'm sure you understand the depth of our concern for maintaining an effective patent system to insure this nation's scientific progress to which we have been proud to contribute. I assure you that we stand ready to continue to devote time and effort with you and your colleagues in reaching our mutual objective of a sound patent statute.

Sincerely,

W. H. GADSDEN.

MERCK & CO., INC.,
Rahway, N.J., November 26, 1975.

Hon. PHILIP A. HART,
U.S. Senate,
Washington, D.C.

Re: Patent Law Reform—S. 2255

DEAR SENATOR HART: Thank you for your letter of November 20, 1975 which invites comment with respect to S. 2255. We do, indeed, support the efforts for general reform and revision of the patent code but I am afraid that we at Merck cannot support S. 2255 as the proper vehicle to accomplish the goal.

Interestingly, receipt of your letter has coincided with the communication today of Merck's view to you and to the other members of the Judiciary Committee. The expression of disappointment on Mr. Gadsden's part stems largely from my communications to him with respect to our activities with members of the Subcommittee over the last several years.

I would like to take this opportunity to amplify our view since I feel indebted to your office for the many courtesies extended to me by Mr. Bernard Nash of your staff in providing a great amount of his time and open-minded attention to our views. I am sure you feel fortunate to have a man of Bernie's calibre on your staff and I can only express appreciation to you for permitting, and indeed, encouraging him to engage in the candid and fruitful dialogues which he made available to us.

The task of developing a revised patent law that satisfies all segments of the interested public is, as Bernie and I undoubtedly agree, impossible. From our extended dialogues we feel a balancing of interests has emerged in most sections of the statute and the patent law would be strengthened as a result of their enactment. However, there are significant areas where your office and we are polarized, and several areas are so important to us in our judgment of an appropriate patent statute that we have concluded that the job is not yet done with S. 2255.

Mr. Gadsden's letter delineates the three areas of most concern. We have strongly urged your office to support the concept of re-examination as proposed by the American Bar Association and Senator Fong's S. 214. We have acknowledged the propriety of several amendments to Chapter 31 but support the fundamental concept rather than pre-grant opposition as proposed by the Administration or the post-grant opposition in S. 2255. We are convinced that even if no other changes were made to the patent law, adoption of the re-examination procedure would assure the benefits of the patent system to all segments of society and would contribute positively to competition in the United States.

We feel strongly that the chemical industry should have the right to enforce its chemical process patents against a party making use of the product resultant therefrom in the commerce of the United States when such party has imported the product from overseas. Such a doctrine of law exists in those countries in which our overseas competitors are domiciled and we believe it is equitable to assure us similar protection against their use of our inventions to the detriment of our commerce in the United States. Section 271(e) of S. 2255 is clearly deficient.

We recognize that your office had concluded that interferences should be eliminated completely with substitution of a first to file system. We disagree with that concept and also feel that S. 2255 is a step backward on this problem. We have suggested a resolution of priority questions in the manner proposed in Senator Buckley's S. 2930 in the last Congress.

Bernie and I have not agreed on several other points such as joint inventors and the complexity of Sections 112, 115 and 132. A more fundamental issue between us has been the concept of deferred examination which has not had sufficient consideration for enactment at this time. It seems apparent that if deferred examination is to be included in our law equitable treatment of the interim rights of an applicant must be provided and the statute is totally deficient in this regard.

Forgive me for the length of this letter, but I feel it important that you have a full and frank statement of our views in this critical period of patent revision. As Mr. Gadsden indicated, we are ready to contribute further efforts in any manner you deem appropriate.

Again, I thank you for the "open door" policy of your office.

Sincerely,

RUDOLPH J. ANDERSON, Jr.

[EXHIBIT 5]

PATENT LAW REFORM: A LEGISLATIVE PERSPECTIVE OF AN EXTENDED GESTATION

(By Senator HUGH SCOTT* AND DENNIS UNKOVIC**)

The movement to reform the patent law of the United States has been a tremendously complicated legislative effort. Despite general agreement that patent law needs rejuvenation, disagreement remains concerning the necessary degree and kind of alteration. Hopefully the long-awaited reform bill soon will be at hand; chances that the present Congress will pass such a bill seem better than at any time in recent years.

This Article will examine attempts during the past 23 years to legislate a comprehensive patent reform bill and will examine currently proposed legislation, especially the Administration proposals. It is hoped that this examination will illuminate the forces at work in the legislative process which at some times have frustrated, and at others en-

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Footnotes at end of article.

hanced, the opportunity for passage of a comprehensive reform package. Particular attention has been given to the impact of various agencies of the executive branch on legislative proposals and to the pressures brought to bear upon Congress by interested groups outside government. A clear understanding of the framework in which Congress must make its judgments helps to explain the need for the lengthy process of accommodation and compromise inherent in the reform of a major body of well established law.

BACKGROUND: 1952 TO 1973

Since passage of the original Patent Act of 1836,[1] the essential structure of the United States patent system has remained unaltered.[2] Although Congress made some changes in 1952 when it enacted the Patent Code as Title 35 of the United States Code,[3] it did not attempt comprehensive reform,[4] but only a codification of patent law.[5] For 12 years thereafter, numerous efforts were made to produce a true patent reform package. Under the leadership of Chairman O'Mahoney,[6] the Senate Judiciary Subcommittee on Patents, Trademarks, and Copyrights undertook an extensive analysis of the patent system.[7] Between 1956 and 1963 the Subcommittee published 30 research papers prepared by professional staff members and experts from outside the government.[8] These studies constituted a comprehensive analysis of areas of the patent law particularly in need of reform. After Senator John L. McClellan [9] became Chairman of the Subcommittee in 1961, the Subcommittee continued to examine the need for substantive reform.

The catalyst which sparked measurable progress was President Johnson's appointment of a President's Commission on the Patent System in 1965, the 14 members of the Commission representing private inventors, industry, and government agencies directly concerned with the patent system.[10] Contained in the Commission's report transmitted to President Johnson in 1966, were 35 broad recommendations for revision of the patent system.[11] President Johnson directed the Commerce Department and the Justice Department to consider the report and develop appropriate legislative proposals.[12] Because most of the Commission's recommendations required legislative initiative, the Administration developed a legislative proposal, the Patent Reform Act of 1967, which Senator McClellan introduced by request.[13] Though both the Department of Commerce spoke for the President's legislation at hearings in the House [14] and Senate,[15] the close cooperation between the Departments was not to last.

In response to the introduction of the Johnson Administration bill and the hearings that followed, two other bills were introduced in the 90th Congress. The late Senator Everett Dirksen [16] introduced legislation developed by the Patent Section of the American Bar Association (ABA) and publicly supported by the American Patent Law Association (APLA).[17] This bill contained less radical recommendations than the Johnson Administration bill and ignored many of the Presidential Commission's suggestions. In mid-spring of 1968, Chairman McClellan suggested a substitute [18] for the Administration bill as a compromise between the Administration's proposals and those put forth by the ABA and the APLA in testimony at the House and Senate hearings.[19] Following a large response to his request for comment regarding the proposed substitute,[20] Senator McClellan introduced a new bill [21] that closely tracked the APLA-approved direction of Senator Dirksen's proposal. Support by the Commerce Department for the original Administration bill became less visible as the 90th Congress progressed, but the 90th Congress adjourned with no resolution of the conflicting proposals.

With the commencement of the 91st Congress in 1969 and the new Nixon Administration, there occurred a significant non-event: the original Administration bill of the 90th Congress did not reappear. Rather, Chairman McClellan advanced a bill [22] which closely resembled the private bar proposal of the earlier Congress. Several days later, Senator Dirksen introduced legislation [23] which was essentially the same as the bill he had introduced in the 90th Congress. For five months after the introduction of the McClellan bill, there was no Administration comment or overt attempt to reintroduced the Johnson Administration bill. The ABA and APLA took the opportunity to study the McClellan bill and lobby for modification to lower the substantive standards of patent law. On August 1, 1969, Senator McClellan introduced a new bill, S. 2756,[24] which raised highly significant issues not suggested by his earlier proposal in the same Congress.[25]

With ABA and APLA support, two amendments to S. 2756 were introduced in April 1970 to deal with the application of the antitrust laws to the licensing of patents and the relationship of federal patent law to the state law of trade secrets.[26] Publicly, the Justice and Commerce Departments had no comment on either the amendments or S. 2756, although the subsequent public dispute between those two Departments [27] strongly suggests that disagreement existed even earlier. Because the Administration took no position, the bill did not proceed further in the 91st Congress.[28]

Soon after Senator McClellan introduced S. 643,[29] a slightly modified version of S. 2756, early in the 92d Congress, the amendments regarding patent licensing [30] and state trade secret law [31] were reintroduced. Hearings were conducted in May 1971 before the Senate Patents Subcommittee on the two amendments and other issues,[32] one purpose of the hearings being to elicit agency comments. During the hearings, the inability of the Justice and Commerce Departments to agree regarding S. 643 and its amendments became clearly evident when each Department was allowed to present its own view rather than a single Administration position.[33] The Commerce Department supported S. 643 and modified versions of the amendments, while the Justice Department opposed the amendments and critical sections of S. 643.

After the hearings, the Subcommittee reported S. 643[C.P.],[34] an amended version of S. 643, to the full Senate Judiciary Committee. The revised bill did not adopt the patent-licensing amendment, and it substantially narrowed the trade secret amendment. It rejected the changes S. 643 would have made in existing law concerning the presumption of validity for issued patents,[35] the "obviousness" standard of invention,[36] the requirement of novelty,[37] the requirement of utility,[38] and the rules of discovery available in contests before the Patent Office.[39] The Subcommittee strengthened the required oath of invention and made submission of a patentability brief mandatory.[40] In addition, the Committee Print deleted from S. 643 an arbitration provision and a provision limiting the expanded application of collateral estoppel effected in *Blonder-Tongue Laboratories, Inc. v. University of Illinois Foundation*.[41] It also increased the opportunity for third parties to present evidence of patentability to the Patent Office while the patent application was pending.[42]

The controversial nature of the changes made to S. 643 and of some of the provisions retained in S. 643[C.P.] combined with the lack of a unified Administration position to produce unfavorable conditions for Senate action. Thus the third Congress in succession failed to move patent reform beyond the Senate Judiciary Committee. In fact, patent reform was regressing. During the 90th Congress the Administration had been advocating its own package of reform measures; six years later it had neither a bill of its own [43] nor an official position on pending legislation.

On September 21, 1972, Senators McClellan and Scott, the ranking majority and minority members of the Senate Patents Subcommittee, jointly requested President Nixon to "direct the appropriate departments and agencies of the executive branch to undertake renewed efforts to formulate an Administration position on patent law revision." [44] They asked for some preliminary position by the time the 93d Congress convened in January.[45] Although it was to take one year and eight days for the Administration to return to the Senate with a new position, the stage had been set for the intricate machinations of patent reform during the 93d Congress.

PATENT REFORM IN THE 93D CONGRESS

Effort to reform patent law was more intense during the 93d Congress than in any Congress since the patent law was codified.[46] Introduced in the Senate were three major bills that presented clearly distinct approaches to the demonstrated need for reform. The reasons for the introduction of these bills, the tactics employed to gain acceptance in the Senate, and the Senate disposition of the bills well illustrate the legislative process.

His interest having been aroused by the controversy in 1971 over the patent-licensing and trade secret amendments to S. 643,[47] Senator Philip Hart,[48] a member of the Patents Subcommittee and Chairman of the Senate Subcommittee on Antitrust and Monopoly, injected into patent law reform an antitrust perspective with his introduction of S. 1321.[49] His bill contained no licensing provisions, but did include several provisions which dramatically would have changed existing patent law practice and procedure. Among these were a pre-issuance opposition procedure,[50] a "Public Counsel" in the Patent Office to oppose weak applications,[51] full and specific public disclosure of the alleged invention,[52] maintenance fees,[53] powers of subpoena,[54] and deposition procedures.[55] Never before had such an extensive compilation of reforms been put in one package.

Despite Senator Hart's comment while introducing his bill that patent law generally stimulated little public interest,[56] his proposal sparked a sharp adverse reaction from the private patent bar, many corporations, the American Patent Law Association, sections of the American Bar Association, and various local patent law groups.[57] Essentially, opponents argued that the bill was too far reaching for what were dismissed as small problems with the patent system and called for hearings on proposals which allegedly had never before been subjects of Congressional inquiry.[58] In an attempt to force Subcommittee action on his bill, Senator Hart received permission from Chairman McClellan to hold hearings on the five major topics.[59] During the three days of hearings at which a large number of witnesses testified, the remarkable point brought forth by the testimony was the total lack of agreement among the private bar, various corporate patent counsel, and inventors. The hearings ended without indicating any clear-cut path for future reform.

The second major patent reform bill of the 93d Congress resulted from the request by Senators McClellan and Scott for the Nixon Administration to take some position on patent reform.[60] Four months after that request, the Council on Economic Policy [61] directed the Departments of Justice and Commerce to reconcile past differences and formulate a cohesive Administration approach. A working group met almost weekly for three months examining a broad range of issues [62] raised by previous patent reform

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Footnotes at end of article.

efforts, by Senator Hart, and by draft proposals being circulated by the private bar.[63] By mid-May 1973, several issues of critical importance remained unresolved by the group, necessitating arbitration by the White House through the Council on Economic Policy and the top officials of the two Departments involved. The Justice Department was represented by Assistant Attorney General for the Antitrust Division Thomas E. Kauper; the Commerce Department, by its General Counsel, Karl E. Bakke. Kenneth Dam, Executive Director of the Council on Economic Policy, mediated some of the differences that had been irreconcilable at earlier working-group sessions. Although the initial positions of the two Departments are not part of the public record, it is safe to assume that the issues which were not solved in 1971 still plagued the policymakers and that fresh disputes had arisen concerning Senator Hart's proposal.

Following submission of briefing papers on each issue in dispute,[64] meetings at the White House commenced in mid-July and continued throughout the summer on a frequent basis. By the time of the Hart hearings in September,[65] all but one of the issues had been resolved,[66] the patent licensing provision which had sparked so much discussion in the 92d Congress remaining in dispute. At the hearings the Justice and Commerce Departments, speaking with one voice for the first time since 1969, announced that the Administration would introduce its own patent reform bill in the near future.[67] The five issues [68] which were the subject of the hearing were discussed by Administration representatives not only in terms of Senator Hart's bill, but also in terms of the anticipated Administration package. Concurrently, the Council on Economic Policy presented the issue on patent licensing to Cabinet officials who made the final determination that licensing was not to be a part of the Administration proposal. The basis for the decision not to alter present law concerning patent licensing is not known,[69] but the decision clearly ranks as one of the most important determinations of the Cabinet-level final arbitration preceding submission of the legislation.

During mid-September, Administration representatives requested Senator John McClellan, Chairman of the Subcommittee, and Senator Hugh Scott, the ranking minority member, to introduce the Administration's patent bill. After Senator McClellan declined, and after closely reviewing the elements of the bill, Senator Scott submitted the Administration's patent reform bill, S. 2504, in October 1974.[70] In his introductory remarks, he pointed out that substantive reform was needed because the basic structure of the patent system had not been changed since the Patent Act of 1836.[71] He then noted his reservations about section 147 of the Administration bill,[72] however, and observed that he could consider S. 2504 along with other ideas "to determine the best possible future course" [73] for patent reform. The implication of this statement was that Senator Scott was willing to entertain and even support substantive changes to S. 2504 despite his general sponsorship of the bill.

Almost immediately after referral of the bill to the Subcommittee on Patents, Trademarks, and Copyrights in October 1973, widespread interest in it was evidenced in the press and from patent groups.[74] In a speech to the American Patent Law Association on October 11, 1973, Karl E. Bakke, General Counsel of the Commerce Department, made the following observations concerning the Administration bill:

"The Administration's bill, embodying the result of innumerable painstaking dialogues between the Departments of Commerce and Justice, with mediation and conciliation by senior White House policy advisors as needed, is one that both the Attorney General and Secretary [of Commerce] Dent are personally committed to.

"In this connection, I know some, if not most, of you are disappointed that proposals to clarify and stabilize the interface between the antitrust laws and patent licensing provisions have not been included. I share that disappointment, but will tell you frankly I didn't have what it took to carry the burden of persuasion in this area. The failure was not one of eloquence, but in hard supporting facts. I can't disagree with the Administration decision on this point." [75]

Mr. Bakke's comments reflected the concerns of those who were interested in limiting the scope of the American antitrust laws, the opinion that the bill in some ways would effect more sweeping patent reform than earlier bills sanctioned by the executive branch, and the desire for public hearings on the Administration bill before the Subcommittee reviewed it. Following public disclosure of Senator McClellan's intent to convene an executive session of the Subcommittee to consider general reform of the patent law,[76] comment by private inventors, members of the patent bar, organizations with an interest in patent reform, and corporations increased markedly.[77]

The introduction of S. 2504 sparked reaction by both foreign and domestic private interest groups. Senator Scott, during January 1974, received extensive comments from the Council of European Industrial Federations,[78] the Union of Industries of the European Community,[79] Bundesverband der Deutschen Industrie,[80] and Ambasciate D'Italia.[81] These communications discussed sections of the legislation which the transmitting agencies believed would affect international patent relations and policies. Within the United States, conferences were held by private groups to develop a consensus among members who wished to advise Congress on patent reform.[82] Compilations of the results of the conferences were made available to the Subcommittee members and the Administration, and private lobbyists and, by request, Administration members met frequently with Subcommittee members, their staffs, and the Subcommittee staff.

On January 31, 1974, Senator James Buckley of New York introduced the third major patent reform bill of the 93d Congress.[83] This bill was derived from a proposal originally advanced by the American Patent Law Association [84] and had been circulated informally to members of the Congress for several months prior to introduction. It was a far less ambitious legislative reform of the patent system than those sponsored by Senators Scott or Hart. In his introductory remarks Senator Buckley explained that the two previous bills contained "costly, substantive as well as procedural provisions" which he felt went too far.[85]

Of the three bills, the Subcommittee decided that Senator Scott's would be used as the basis for the attempt to report a bill to the full Judiciary Committee. In late January under direction of their respective Senators, staff legislative aides of Subcommittee members began to analyze the recommendations that the Subcommittee had received during the preceding three months concerning the bill. In the course of staff meetings held several times each week, it became increasingly clear, as controversial issues arose, that differences existed among Subcommittee members. Senators Scott, Hart, and Burdick tended to favor the approach of the Scott bill, S. 2504, while Senators McClellan and Fong preferred the direction taken by Senator Buckley. At this time, the Administration actively and publicly supported S. 2504.

In an effort to find a ground for agreement Senators McClellan and Scott, as Chairman and ranking Republican member of the Subcommittee, sent a letter to President Nixon on March 25, 1974, requesting him to authorize the recently appointed Commissioner of Patents, C. Marshall Dann,[86] to comment on S. 2504 and the proposed modifications.[87] Ronald B. Brooks, Executive Director of the Council on Economic Policy, replied to Senator Scott in early April recommending that the Subcommittee on Patents mark up and report an amended version of S. 2504 and promising that when the markup was completed the Administration would comment on any changes, with Commissioner Dann playing "a leading role" in the response.[88]

Since the Patent Commissioner would not be permitted to comment as an individual to the Subcommittee members during the markup, the Subcommittee proceeded and by early May had finished the markup. Following a number of close votes on controversial issues, the Subcommitee had done major surgery on the original S. 2504 to produce a far more complete, improved, and comprehensive patent reform package, S. 2504[C.P.],[89] which was sent to the Judiciary Committee for review.

On May 14, 1974, Senator McClellan transmitted a copy of S. 2504[C.P.] to Secretary of Commerce Frederick B. Dent [90] and expressed "significant reservations concerning the Administration Bill as introduced, and as reported by the Subcommittee." [91] After referring to the March 25, 1974, letter to the President [92] and the reply from the Executive Director of the Council on Economic Policy,[93] he requested initiation of the Commissioner of Patents' review of the legislation which had been promised in that correspondence.[94] The Administration then began an extensive review of the legislation with the active participation of Commissioner Dann.

Senator McClellan transmitted to the other Subcommittee members on June 27, 1974, his individual views [95] which would accompany a draft report on S. 2504[C.P.] to be used by the Judiciary Committee in studying the bill. He noted that the bill had been drafted without proper consultation by the Department of State, members of the patent bar, members of the federal courts, and especially the Commissioner of Patents, concluding:

"S. 2504 fails to promote—in fact, will retard—the objectives of patent law revision set forth in the Report of the President's Commission on the Patent System. It discards beneficial provisions of predecessor bills and substitutes new concepts that will create endless uncertainty and delay. It will encourage greater reliance on trade secrets to the detriment of the public. It will significantly add to the costs of those who utilize the patent system, and to those of the Government, while conferring limited benefits." [96]

A segment of the business community desired to see an accommodation between the patent bar and business to allow Senate passage during the 93d Congress. An ad hoc group of corporate patent counsel [97] met on several occasions during June and July to examine S. 2504[C.P.]. At a final meeting held in Washington, D.C., on July 16, 1974, the group wrote a series of amendments that came to be known as the "Corporate Counsel Markup" of S. 2504[C.P.]. Their position was that corporations supporting the group would endorse the bill publicly if the suggested amendments were accepted by the Judiciary Committee.[98]

During the time of the work of the ad hoc corporate counsel group, the Administration replied formally to Senator McClellan's May 14 request for Commissioner Dann to comment on S. 2504[C.P.].[99] Included in this response from Commissioner Dann was a 17-page analysis of proposed amendments.[100] The letter represented a formal approval of S. 2504[C.P.], although the submission of proposed amendments seemed to indicate a less than complete endorsement by the Pat-

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ent Commissioner of the bill.[101] This letter was supplemented by an additional letter of July 29, 1974, from Commissioner Dann transmitting 15 more technical amendments to S. 2504[C.P.].[102]

On July 31, Senators Hart and Scott informally proposed further amendments to S. 2504[C.P.], embracing many of the changes advanced by Commissioner Dann, parts of the "Corporate Counsel Markup," and recommendations of Senator Fong and Senator McClellan which had not been accepted in earlier negotiations.[103] The letter stated in part:

"In general, we are prepared to accept the overwhelming bulk of the recommendations if you also find them reasonable. We express the same hope you have on several occasions that a responsible and effective patent bill should be reported this session. It is our understanding a bill including these changes would receive support from many responsible Corporations, portions of the Patent Bar, private inventors, and would be in the best interests of the general public and consumers.

"As we all know, more than four years of work have gone into bringing patent reform to this point. Even though time is growing short, and it seems likely the House will not pass a patent bill this session, we do believe there are good reasons for Senate action. If S. 2504 can clear the Senate this year, it would assure a good chance for early Senate passage next Congress and expeditious House action. To achieve this, S. 2504 would have to be ready for floor action within the next several weeks." [104]

Unfortunately, the events of the following days made these efforts unproductive. Within a week, President Nixon had resigned and both the Congress and the Administration were caught up in a whirlwind of changes which placed patent reform on the back burner.[105]

Patent Legislation in the 94th Congress

The extensive work product and momentum for patent reform of the 93d Congress remained when the 94th Congress convened on January 14, 1975. No changes having occurred in the membership of the Senate Judiciary Subcommittee on Patents, Trademarks, and Copyrights, efforts toward patent reform began immediately in the Senate.

Chairman McClellan introduced his own patent reform package, S. 23.[106] This bill closely tracked S. 2504[C.P.] of the 93d Congress with the addition of the amendments proposed by the Administration in July 1974. It differed, however, from the Administration position on several major points. For example, Senator McClellan favored promoting the Commissioner to an Assistant Secretary of Commerce,[107] although limiting him to "not more than two Assistant Commissioners" [108] in addition to the Solicitor.[109] S. 23 contained several changes to section 102 of the patent code dealing with "novelty and bars to patent," [110] but did not change the much-litigated and well-understood section 103 which sets out the standard of invention necessary for the issuance of a patent.[111] Senator McClellan also favored amending section 112, involving the statutory requirement for disclosure; [112] section 135, outlining opposition proceedings; [113] and sections 191 to 194, providing the option to an applicant to defer examination of his application for a patent.[114]

Two other reform bills also were introduced upon the convening of the 94th Congress. Senator Hiram Fong reintroduced the bill [115] that he had introduced in the 93d Congress less than a month earlier. Soon afterward, Senator Philip Hart sponsored S. 473,[116] which did not contain as many far-reaching and innovative reforms as his more controversial S. 1321 of the 93d Congress. Possibly the restraint evidenced in S. 473 was a sign of Senator Hart's willingness to accommodate other members of the Subcommittee in an attempt to move patent reform forward.[117]

At the request of the Administration, Senator Scott met on January 16 with Secretary of Commerce Frederick B. Dent, Assistant Director of the Office of Management and Budget Walter Scott, Patent Commissioner C. Marshall Dann, Michael Kirk of the Patent Office, and General Counsel of the Commerce Department Karl E. Bakke. Senator Scott agreed, at the Secretary's request, to reintroduce the Administration bill on the condition that he would not feel compelled to support each section of the legislation, stressing the need for accommodation to encourage swift Senate action. The Secretary then advised Senator Scott that he would receive the bill in the near future.

Nine weeks later Senator Scott received the bill from Secretary Dent. Why such a long period elapsed between the meeting of January 16 and the official tranmission of the legislation on March 20 still is not clear. It appears that some individuals within the Administration during this period once again attempted to raise controversial issues which had been arbitrated earlier and already agreed to at the White House. Senator Scott had expressed to Secretary Dent at the January 16 meeting his hope that the bill he would receive would be influenced by the numerous suggestions advanced by the public during the study of S. 2504 during the 93d Congress; apparently in response to this request, the proposed bill reflected the changes to S. 2504 which had been contained in the official Administration suggestions of July 1974, and in general reflected adoption of the previous Administration's position by the Ford Administration.

Senator Scott introduced the Administration bill on March 24, 1975, as S. 1308.[118] In remarks on the Senate floor, he referred to it as "the end product of more than 2½ years of effort," and revealed that it contained portions of S. 2504, S. 2504[C.P.], and other Administration input.[119] His expressed hope was that the Subcommittee could review it along with the bills previously introduced by Senators McClellan, Hart, and Fong to find the best possible legislation during the term of the 94th Congress.[120]

COMPROMISE IN THE SUBCOMMITTEE

On May 1 the Subcommittee chose to use Chairman McClellan's bill, S. 23, as the basis for reaching the Subcommittee's position. During this continuing process of accommodation and compromise, the objective of the Administration and Senator Scott was to incorporate certain key provisions from S. 1308 into the Subcommittee's ultimate bill. In addition to the particular merits of the reforms that would be effected, these provisions from S. 1308 evidence the important common virtue that they are themselves studied compromises of the differing approaches toward the four principal goals of patent reform. Specifically these goals are increased quality and reliability for United States patents, accelerated and improved disclosure of new technology, simplification of procedures for obtaining patents, and maintenance of the present substantive standards of patentability.

The patent clause of the United States Constitution authorizes Congress "To Promote the Progress of Science and useful Arts, by securing for limited Times to . . . Inventors the exclusive Right to their Discoveries . . . ." [121] Under the statutory system devised to effectuate the patent clause, the inventor of a device that is new, useful, and a truly inventive step beyond that which was known previously, is granted by the government a privilege which affords to the inventor, for a limited time, a private legal cause of action against others who make unauthorized use of the invention.[122] This constraint upon the American commitment to open markets and free competition is compensated by the benefit to the public in the form of disclosure of new inventions that otherwise might have been kept secret for economic exploitation.[123] The physical and temporal scope of protection should be no broader and no longer than that necessary to serve the public interest in bringing forth inventions inasmuch as the power of Congress to grant patents is limited to that purpose.[124] The guidelines for the Administration's proposed reform included those constitutional purposes for the patent system. Moreover, the proposal was drafted with the expectation that alteration in procedure would breed less litigation regarding the effects of the changes than would modifications in the substantive law of patents, particularly if the adopted procedures were patterned upon the time-tested Administrative Procedure Act.[125]

Improvement of the quality and reliability of United States patents

Foremost among the four major goals of patent reform has been the improvement of the quality and reliability of United States patents.[126] This improvement can be accomplished by enhancing the public confidence in the Patent Office and by improving the information used in the patent approval procedure to increase the likelihood that the patent will be upheld in any subsequent litigation.[127]

The Administration supports several changes, some novel and some suggested in earlier bills, to enhance the public confidence in the Patent Office. Under existing law,[128] and most earlier bills, [129] the Commissioner of Patents was subordinated in a numbe of specific ways to the Secretary of Commerce. S. 1308 eliminates that subordination [130] and expands the role of the Commissioner by making him responsible for the administration of the Office,[131] for the appointment of officers such as the Deputy and Assistant Commissioners and the Solicitor,[132] and for prescribing regulations governing potential conflicts of interest for all officers and employees of the Office.[133]

The status of the Patent Office can be enhanced further by the conferring of additional powers upon the Office. As would other reformers,[134] the Administration would give the Patent Office the power to issue subpoenas and to take discovery [135] subject to the Federal Rules of Civil Procedure.[136] It has been claimed that presently "[e]very federal agency except the Patent Office . . . has, by rule or statute . . . subpoena power to compel relevant testimony and document submission." [137] Another power heretofore lacking in the Patent Office [138] but granted by S. 1308 is the authority to establish its own fees "designed to effect an overall recovery of 50 per centum of the cost of the Office." [139] Not only would the Office be authorized to recover costs by charging traditional filing and examination fees, but it also would increase its efficiency by effectively eliminating economically unproductive patents through the requirement that maintenance fees be paid during the life of the patent.[140] The concept of the maintenance fee was advocated in the 93d Congress in the bills sponsored by Senators Hart [141] and Scott,[142] and each of the four patent reform bills of the 94th Congress has a provision for maintenance fees.[143]

Public confidence in the operations of the Patent Office also would be enhanced by a requirement [144] for the Office to conduct its affairs more in accord with long-established procedures of other administrative agencies adhering to the Administrative Procedure Act.[145] This provision first appeared in the Administration bill of the 93d Congress, S. 2504,[146] and has been included in Senator Hart's bill in the 94th Congress.[147] Increased

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public confidence also should result from the requirement that the applicant have the burden of justifying the grant[148] and from adding to the adversary nature of Patent Office proceedings by giving the Patent Office Solicitor discretion to participate in approval proceedings[149] and to investigate possible violations of the Patent Code.[150]

In addition to enhancing public confidence in the Patent Office procedure, S. 1308 seeks to increase judicial confidence in the patent by requiring a more complete record of the examination of a patent application.[151] Under section 132, for example, the Commissioner may require that a written record be made of oral communications made to an examiner.[152] Additionally, the examiner must state for the record his grounds for action taken on a patent application.[153] Furthermore, amendments to applications which enlarge the scope of patent claims must be identified specifically.[154]

Furthermore, the Administration proposal would increase the adversary nature of the patent approval process by allowing a primary examiner or the Board of Examiners-in-Chief to request that the Solicitor participate in any proceeding in order to protect the public interest.[155] The Solicitor also has the authority to defend appeals pending before the Board of Examiners-in-Chief,[156] to exercise all rights that any other party can, including those of taking depositions and testimony,[157] and to conduct investigations to discover violations of the patent laws, rules, or regulations.[158] The concept of an institutionalized adversary to the applicant appeared in Senator Hart's bill of the 93d Congress where a similar function would have been performed by a "Public Counsel."[159] The ability of the Solicitor under S. 1308, however, to initiate appeals in favor of the public interest before a patent has been issued is more limited than that which would have been given by Senator Hart's bill[160] and is much closer to the authority to initiate appeals in Senator McClellan's current proposal.[161]

One final manner in which the Administration proposal would improve the procedure for granting patents is by ensuring that the decision to reject or approve an application is based upon more and better information.[162] Section 122 provides for publication of patent applications once issuance of a patent is requested,[163] and section 135 allows three months after publication for "any person" to notify the Commissioner of any information relevant to the merit of the applicant's claims.[164] This method for increasing information in opposition proceedings lies between Senator Hart's stronger bill of the 93d Congress, which made applications public[165] and allowed notification anytime before issuance,[166] and the more cautious approach of Senator McClellan, who would keep applications secret for 18 months[167] and allow notification of the Commissioner only after issuance.[168]

The Administration proposal for opposition proceedings prior to issuance of a patent is designed specifically to increase judicial confidence in the validity of issued patents.[169] By allowing opposition before issuance, section 135 subjects patent applications to increased scrutiny to ensure that the exclusive right conferred by a patent is as narrow as is proper. If no opposition were to be possible until after issuance, there could be simultaneous court litigation and Patent Office reexamination causing confusion and ousting the federal courts from their proper role as final arbiters of patentability.[170] Section 135 minimizes harassment of an applicant while encouraging those who oppose issuance to present evidence which perhaps would not be available otherwise to the Patent Office.[171]

Furthermore, the Administration advocates a variety of proposals to ensure that the applicant fulfills the usual duties and responsibilities of persons submitting ex parte information to the government. For example, a review for completeness of a patent application to ascertain whether the application taken as a whole is misleading is required at or near the time the patent issues to assure that all pertinent information is brought to the attention of the Patent Office while it retains jurisdiction over the application.[172] This duty is reinforced by requiring the early filing of a patentability memorandum.[173]

Acceleration and improvement of disclosure of new technology

The second major goal of comprehensive patent reform is accelerated and improved disclosure of new technology. The basic premise of the patent system is that the *quid pro quo* for protection of an invention is the disclosure of the techniques and elements of the invention to allow others to build upon the invention and enjoy its full use when the patent expires.[174] Even before expiration of a patent, disclosure should be adequate to provide opportunity for further improvement in, and cross-fertilization of, technologies. Precise delineation of what is protected by the patent can provide others with greater certainty in determining whether to proceed with new ventures, while imprecise knowledge of the protected invention encourages litigation and may frustrate legitimate business endeavors.

Although present law requires the disclosure of the "best mode" of carrying out an invention,[175] applicants may satisfy this requirement by presenting an operative example of the invention.[176] While an operative example may aid in demonstrating utility,[177] it does not necessarily disclose the "best mode . . . of carrying out"[178] the claimed invention. While several bills introduced during the past 10 years have suggested an increase in the number and specificity of the requirements for disclosure,[179] none of the suggestions adequately dealt with the problem of the submission of a mere operative example. S. 1308, however, would add meaning to the best-mode standard by requiring disclosure sufficient to enable one with ordinary skill in the art to utilize the invention within the trade or industry,[180] thereby encouraging submission of the best model for practical use.

By a provision first suggested in the Administration bill of the 93d Congress,[181] S. 1308 would require that the specification of invention include a written description "of the novel and unexpected properties or results, and the old but superior properties or results, on which the applicant will rely in seeking [or] upholding the grant of the patent."[182] This provision appears necessary in light of decisions allowing applicants to claim as a patentable product one which was a combination of old or known products but which had novel or unexpected properties in its new use.[183] To the extent that such an invention is patentable, its novel or unexpected properties or results should be disclosed fully to the Patent Office and public to provide the proper *quid pro quo*.[184] Any other new use of the old product not yet discovered is patentable, and potential discoverers of new uses should not be forced to speculate about what new uses already are patented. Furthermore, a court subsequently adjudicating validity of the patent as issued must know upon which "novel or unexpected properties or results"[185] the applicant originally relied. Without specific disclosure in connection with the patent application, the patentholder later could justify issuance of the patent by citing a new use subsequently discovered by himself or even someone else, thus unfairly and improperly upholding the validity of the patent.[186]

Other Leading Goals of Comprehensive Patent Reform

The Administration advocates several provisions aimed at the third goal of patent reform, simplification of the procedure for obtaining a patent. For example, section 111 (a) of the Administration bill allows not only the actual inventor, but also the owner (by assignment or otherwise) of the subject matter sought to be patented to file a patent application.[187] The bill also simplifies the procedure for correcting an error or mistake in naming an individual as inventor.[188]

Particularly in view of the procedural changes contemplated, a final goal to be considered in undertaking comprehensive patent reform is to avoid lowering the substantive standards of patentability. When the Administration bill[189] was introduced into the 93d Congress, President Nixon emphasized the importance of "maintain[ing] present standards for the awarding of patents, including the requirement that inventions serve a useful purpose. One of the virtues of the American patent system is its emphasis upon practicality—its demands that ideas be reduced to a tangible form having a known usefulness before the public should grant a monopoly on the concept to the applicant."[190]

One example of the concern for maintaining the substantive standards of patentability is the retention in the current Administration bill of the present requirement that all jointly named inventors contribute to each claim of the patent application.[191] Most other patent reform bills[192] have suggested eliminating this requirement by, for example, provisions allowing joint application when "two or more individuals have jointly made inventive contributions to the subject matter of at least one claim of an application . . . ."[193] Eliminating the present requirement, however, would lower the standard of invention, muddle the prosecution of the application for, and litigation of, a patent and create a bias against individual inventors.

The current standard of invention for issuance of a patent might be lowered by eliminating the requirement of contribution to each claim. If several inventors collaborated to produce an invention, each individual might work on a different aspect of the invention and make an obvious (and therefore unpatentable[194]) advance over prior art. The aggregate of the several advances, however, may appear to be a patentable nonobvious advance. Under present law, because the individual inventors would not be able to file a joint application, no patent would issue for the aggregate invention. If the requirement of contribution to each claim by every inventor were eliminated, however, the individual inventors or their corporate employer could obtain a patent for the aggregate invention.[195]

Moreover, application for and litigation of patents could be muddled by eliminating the present requirement of joint inventorship. Without that requirement, it would be difficult to ascertain what prior art should be relevant to which of the joint inventors.[196] Only through expensive discovery in litigation might the true inventorship of each claim be established; yet, by the time litigation commences, documentation of which joint patentholder was responsible for which portion of the aggregate invention could be lost or destroyed. Finally, a bias against individual inventors might result from eliminating the requirement that each inventor contribute to each claim. Individuals not working under one auspice would not be able to aggregate routine advances to make a patentable invention, and one person's work could be cited as prior art against the next

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Footnotes at end of article.

person's successive incremental improvement. Without the present requirement, however, a joint inventor might share in a patent despite his having contributed no more than a routine advance, and his co-inventors' work might not be cited against him.

OBSERVATIONS FROM THE HILL

The path of any comprehensive reform legislation is inevitably long and difficult. A study of the course of patent reform efforts over the last decade is particularly illustrative of the roles of the principal participants in the legislative process: the executive branch, pressure groups, and the legislative branch. The present Administration's patent reform bill is itself a compromise package and undoubtedly will contribute to the compromise package that Congress ultimately will enact.

The role of the executive branch

In analyzing the role of the executive branch in the legislative process, it is important to realize from the outset that no Administration is a one-minded monolith. A position taken by an Administration on any particular issue is necessarily a delicately constructed compromise among many diverse points of view. Although a unified position regarding patent reform finally emerged and now is supported by the Administration, the agreement was preceded by nearly continuous conflict between the Commerce and Justice Departments.

Each Department has special interests concerning patent reform. The Department of Commerce has jurisdiction over the Patent Office[197] and feels it has a better understanding of the administrative needs of the Office than does any other governmental body; moreover, it has an interest in representing its primary constituency, the American business community. The concern of the Justice Department's Antitrust and Civil Divisions is different from that of the Commerce Department. These two Divisions deal with patents after they issue and normally in court. They are concerned with legal and economic problems associated with patents or their commercial utilization, problems such as fraud, misuse, insufficient search, and marketing abuse.

The difference in viewpoints of these two Departments accounted for much of the conflict within the executive branch concerning patent reform. The Justice Department argued for a more comprehensive change in the present law to tighten the procedure for granting patents. During recent years federal courts, often pointing to the lack of information before the Patent Office at the time of its patentability decisions, have demonstrated an inclination to invalidate patents.[198] Consequently, the Justice Department sought more specific disclosures,[199] more specific oaths or statements by applicants and their attorneys,[200] and pre-issuance opposition proceedings to effect greater disclosure.[201] The Commerce Department tended to oppose detailed statutory requirements, preferring to allow greater discretion to the Commissioner of Patents.

After promises of agreement are obtained through White House arbitration, such intramural disputes usually are subsumed in a unified Administration position, although the contesting parties may continue to advance their respective arguments internally. On the issue of patent reform it seems clear that the Commerce and Justice Departments must each have lost some issues and won others.[202] Thus, even though the executive branch now presents a unified position on patent reform, disagreements undoubtedly remain which could resurface. Given the strong executive branch support of S. 1308 by President Ford's Administration, however, a break in the present united front seems unlikely.[203]

The Role of Interest Groups

Throughout the protracted debate concerning patent reform, a stream of ideas, amendments, and criticisms has been directed at the decisionmakers from sources outside government. Because the public generally is uninterested in the subject of patent reform,[204] comment primarily has been from patent lawyers. The lobbying patent bar has been both articulate and well organized, acting through the offices of major corporations that depend upon patent protection, through professional patent groups and societies, and through individual patent lawyers representing individual inventors. The patent bar has worked with both local groups and national organizations such as the National Association of Manufacturers and the National Chamber of Commerce, the American Patent Law Association, and sections of the American Bar Association. On the local level, patent lawyers in private practice have been particularly vocal because their entire livelihoods may depend upon continuance of the patent system.

Generally, the patent lobby has favored minor changes rather than the more innovative ideas such as pre-issuance opposition proceedings, maintenance fees, and deferred examination of patent applications. Although not all of the more sweeping proposals are necessarily beneficial, the patent bar has exhibited a general reluctance to consider substantial change which the Administration has recommended to improve the quality of issued patents. This reluctance has been evidenced by repeated attempts to have Congress accept specific legislation drafted wholly or largely by professional patent organizations and reject bills written by the government agencies responsible for the public consequences of the patent system. These active lobbying efforts have included some extremely valuable detailed analyses sent to Senators and Congressmen. Correspondence has been augmented by frequent visits to legislators and their staff by members of the patent bar, and by calls from officers of large corporations explaining how important certain bills are to their corporations. When all of these pressures are brought to bear on an issue as relatively narrow as patent reform, they can have a significant impact.

The role of Congress

The task of Congress is to formulate a legislative package that makes sense of the multiple factors involved and best serves the public interest and the nation's complex economic system. Often, as with the issue of patent reform, there are strong countervailing pressures. The executive branch may seek blanket acceptance of its proposal while interest groups are adamant that entirely different legislation be enacted. As with the patent legislation. Congress may move independently after reviewing the various alternatives.

Certainly Congress should not blindly accept legislation drafted wholly outside the confines of Capitol Hill, because the hearing and study process of the legislative branch is particularly helpful for issues as complex as patent reform. Although bills drafted by an interest group almost certainly will be slanted toward the particular needs of, and economic benefit to be gained by, that group, some members of the patent bar and representatives of corporations have insisted that Congress accept the bill drafted by the patent bar on the ground that those who use and profit from the law daily know it best and should, therefore, dictate what changes are to be made. The authors feel strongly that this posture should be rejected by legislators, no matter what the legislation might concern. If it were to prevail generally, patent lawyers would write patent law, bankers would write banking legislation, and each special group could veto legislatiton it does not like. Unfortunately, the Congress defers in far too many cases, and bad law all too frequently results. The legislative branch is composed of generalists from varying backgrounds who daily make policy decisions in a multitude of complex areas based on the best possible evidence available—that is the way the system must function. Special interests may offer helpful reactions, but they must not be permitted to usurp the legislative function by being permitted to write the rules of the game governing a complex society.

The long-awaited patent reform bill, if it emerges, hopefully will be a compromise measure which will strengthen the patent system in a meaningful way. The thousands of man-hours expended in the last 20 years by all parties will be for naught, unless Congress itself makes the necessary difficult choices.

FOOTNOTES

[*] A.B., Randolph-Macon College; LL.B., University of Virginia. Senator from Pennsylvania; Senate Minority Leader since 1969; Ranking Republican Member of the Senate Judiciary Subcommittee on Patents, Trademarks, and Copyrights.

[**] A.B., University of Virginia; J.D., University of Pittsburgh. Legislative Counsel to Senator Hugh Scott.

Auth.—The authors wish to acknowledge valuable technical assistance rendered by Jefferson B. Hill, Trial Attorney, Patent Section, Antitrust Division, Department of Justice. Mr. Hill has been involved in efforts for patent reform on behalf of the Department of Justice since 1970.

[1] Act of July 4, 1936, ch. 357, 5 Stat. 117, *as amended*, 35 U.S.C. §§ 1–293 (1970).

[2] SUBCOMM. ON PATENTS, TRADEMARKS, AND COPYRIGHTS OF THE SENATE COMM. OF THE JUDICIARY, REVIEW OF THE AMERICAN PATENT SYSTEM, S. REP. No. 1964, 84th Cong., 2d Sess. 15 (1956) [hereinafter cited as 1956 SUBCOMMITTEE REVIEW].

[3] Act of July 19, 1952, ch. 950, 66 Stat. 792.

[4] 1956 SUBCOMMITTEE REVIEW, *supra* note 2, at 12–13.

[5] 98 CONG. REC. 9323 (1952); Graham v. John Deere Co., 383 U.S. 1, 16–19 (1966); Aro Mfg. Co. v. Convertible Top Co., 365 U.S. 336, 347 n.2 (1961); Deepsouth Packing Co. v. Laitram Corp., 406 U.S. 518, 530 n.10 (1972).

[6] Senator Joseph C. O'Mahoney, Democrat, Wyoming.

[7] Chairman O'Mahoney conducted exploratory hearings on the American patent system before commissioning research studies. *Hearings Entitled "American Patent System" Before the Subcomm. on Patents, Trademarks, and Copyrights of the Senate Comm. on the Judiciary*, 84th Cong., 1st Sess. (1955). The Subcommittee reached preliminary conclusions as a result of these hearings in 1956. 1956 Subcommittee Review, *supra* note 2.

[8] STUDIES OF THE SUBCOMMITTEE ON PATENTS, TRADEMARKS, AND COPYRIGHTS OF THE SENATE COMMITTEE ON THE JUDICIARY, NOS. 1–30.

[9] Senator John L. McClellan, Democrat, Arkansas.

[10] Exec. Order No. 11, 215, 3 C.F.R. 299 (1964–65).

[11] See SUBCOMM. ON PATENTS, TRADEMARKS, AND COPYRIGHTS OF THE SENATE COMM. OF THE JUDICIARY, TO PROMOTE THE PROGRESS OF USEFUL ARTS, REPORTS OF THE PRESIDENT'S COMMISSION ON THE PATENT SYSTEM, S. DOC. No. 5, 90th Cong., 1st Sess. (1967).

[12] See Presidential Message of Feb. 21, 1967, H.R. Doc. No. 59, 90th Cong., in Sess. IV (1967).

[13] S. 1042, 90th Cong., 1st Sess. (1967). In the House, the bill became H.R. 5924, 90th Cong., 1st Sess. (1967).

When a bill is introduced "by request," it is introduced as an accommodation to someone. A Chairman of a Committee or Subcommittee often will introduce legislation by request for an Administration. A sponsor of legislation introduced by request is by no means required to support or vote for the legislation at any time subsequent to introduction. He is completely free to offer amendments at any time to the bill.

[14] *Hearings on H.R. 5924 Before Subcomm. No. 3 of the House Comm. on the Judiciary,* 90th Cong., 1st & 2d Sess. (1967–68).

[15] *Hearings on S. 1042, S. 1377, and S. 1691 Before the Subcomm. on Patents, Trademarks, and Copyrights of the Senate Comm. on the Judiciary,* 90th Cong., 1st & 2d Sess. (1967–68).

[16] Senator Everett Dirksen, Republican, Illinois.

[17] S. 2597, 90th Cong., 1st Sess. (1967).

[18] S. 1042[S.P.], Proposed Substitute for S. 1042, 90th Cong., 2d Sess. (1968). The designations "[S.P.]" and "[C.P.]" indicate that a bill is a "Subcommittee Print" or a "Committee Print." These "prints" may differ significantly from the original bill which had the same basic numerical identification.

[19] *See* notes 14, 15 *supra.*

[20] S. 1042 [S.P.], 90th Cong., 2d Sess. (1968).

[21] S. 3892, 90th Cong., 2d Sess. (1968).

[22] S. 1246, 91st Cong., 1st Sess. (1969).

[23] S. 1569, 91st Cong., 1st Sess. (1969).

[24] S. 2756, 91st Cong., 1st Cong. (1969).

[25] S. 2756 suggested for the first time significant changes in Patent Code sections 102 (novelty), 103 (standard of invention), 120 (benefit of earlier filing date in the United States), and 282 (presumption of validity). The Department of Justice later testified that such changes "could subvert the Constitutional purposes of the patent system and unsettle over 120 years of judicial precedent." *Hearings on S. 643, S. 1253 and S. 1255 Before the Subcomm. on Patents, Trademarks and Copyrights of the Senate Comm. on the Judiciary,* 92d Cong., 1st Sess., pt. 2, at 491 (1971).

[26] S. 2756, Amendment No. 578, 91st Cong., 2d Sess. § 261 (1970), would allow a patent applicant or patentee not only the right to assign his application or patent by a written instrument, but also the option of granting a license to any part of his rights, regardless of anticompetitive impact or other violation of existing law. The amendment also set out the rights of the various parties after an assignment or grant of rights in terms that would modify or reverse several Supreme Court precedents. S. 2756, Amendment No. 579, 91st Cong., 2d Sess. § 301 (1970), was intended to make clear, in terms that again limited Supreme Court precedent, that the bill was not to preempt state and federal law regarding contracts, trade secrets, or unfair competition.

[27] *See* note 33 *infra* & accompanying text.

[28] Often in areas complex and technically oriented as the patent system, the Congress is reluctant to move forward without at least receiving the opinions of affected executive branch agencies.

[29] S. 643, 92d Cong., 1st Sess. (1971).

[30] S. 643, Amendment No. 24, 92d Cong., 1st Sess. (1971), was identical to S. 2756, Amendment No. 578, 91st Cong., 2d Sess. § 261 (1970); *see* note 26 *supra.*

[31] S. 643, Amendment No. 23, 92d Cong., 1st Sess. (1971); *see* note 26 *supra.*

[32] *Hearings on S. 643, S. 1253, and S. 1255 Before the Subcomm. on Patents, Trademarks, and Copyrights of the Senate Comm. on the Judiciary,* 92d Cong., 1st Sess., pt. 1 (1971).

[33] *Id.* at 229. On any given issue, an Administration normally seeks to present a uniform front. Espousal outside an Administration of conflicting views by two or more Departments is rare.

[34] S. 643[C.P.], 92d Cong., 1st Sess. (1971).

[35] *Id.* § 282.

[36] *Id.* § 103. For an invention to be patentable, the improvement the invention makes over prior technology must not have been an obvious improvement. *See* Graham v. John Deere Co., 383 U.S. 1, 19 (1966); Note, *After Blonder-Tongue: Back to the Laboratory To Find a Patent Validation System Even a Court Could Trust,* 16 Wm. & Mary L. Rev. 295, 319–21 (1975) [hereinafter cited as *After Blonder-Tongue*]. *See generally* Voorhees, *A Summary of Patent Law for the General Practitioner,* 20 Drake L. Rev. 227 (1971).

[37] S. 643[C.P.], 92d Cong., 1 Sess. § 102 (1971). A patent may not be obtained if the inventor derived the subject matter sought to be patented from another or if the invention previously was disclosed in certain ways. *See* Voorhees, *supra* note 36.

[38] S. 643[C.P.], 92d Cong., 1st Sess. § 100 (1971). An invention is not patentable unless it is practically useful in a concrete, tangible form. *See* Voorhees, *supra* note 36.

[39] S. 643[C.P.], 92d Cong., 1st Sess. §§ 23, 24 (1971).

[40] *Id.* §§ 115, 131. Under the revised oath of invention the inventor and all those who substantially participated in prosecuting the application were required to set forth their actual knowledge about the originality of the invention.

[41] 402 U.S. 313 (1971). Before *Blonder-Tongue,* the doctrine of collateral estoppel permitted a patentee whose patent had been invalidated in an infringement suit to initiate a subsequent suit against a different alleged infringer without being estopped by the prior adjudication of invalidity. Because the second alleged infringer was not a party to the first action, the requirement of mutuality prevented his benefitting from the prior holding of invalidity as a defense in the second suit. *Blonder-Tongue* largely overruled the outdated requirement of mutuality. *See After Blonder-Tongue, supra* note 36.

[42] S. 643[C.P.], 92d Cong., 1st Sess. § 192 (1971).

[43] Substitutes for the original Administration bill, S. 1042, had done no better in Congress because they, like S. 1042, had controversial sections which raised the standard of invention to reflect current information retrieval and technical standards.

[44] Letter from Sen. John L. McClellan and Sen. Hugh Scott to President Richard M. Nixon, September 21, 1972.

[45] *Id.*

[46] *See* note 5 *supra* & accompanying text.

[47] *See* notes 30, 31 *supra.*

[48] Senator Philip A. Hart, Democrat, Michigan.

[49] S. 1321, 93d Cong., 1st Sess. (1973).

[50] *Id.* § 135. Under this provision, "any party" could notify the Commissioner of information bearing on the patentability of any claim after application but before the issuance of a patent.

[51] *Id.* § 3(d). This provision was intended to ensure rigorous application of the patentability standards by allowing the Public Counsel to act as an advocate in an adversary process.

[52] *Id.* §§ 112, 115. Section 112 required an applicant to file a complete description of his invention. Section 115 required the applicant to file an oath of invention stating that he was "aware of no prior public use or other material information which would adversely affect the issuance of the patent to him . . . ."

[53] *Id.* § 41. This section required a patentee to pay a fee to maintain his patent beginning the fourth year after issuance of the patent.

[54] *Id.* § 23. This section allowed any party at any time to apply to the presiding official of a Patent Office proceeding or subpoenas or other papers ordering discovery.

[55] *Id.* § 24. This section empowered the Public Counsel to compel the giving of depositions for Patent Office proceedings.

[56] "Mr. President, if we were measuring the 'potential boredom rate' of various topics for conversation on a scale of 1 to 100, patents would probably get a 99." 119 Cong. Rec., p. 15652 (1973) (remarks of Senator Hart).

[57] At this point the Administration still had neither a position on S. 1321 nor a bill of its own. Later, the Administration did support publicly certain aspects of S. 1321.

[58] In fact, a number of these proposals, most notably those concerning maintenance fees, opposition proceedings, and public counsel previously had been the subject of either hearings or congressionally funded research studies. *See,* P. Frederico, Renewal Fees and Other Patent Fees in Foreign Countries, Study No. 17 of the Subcomm. on Patents, Trademarks, and Copyrights of the Senate Comm. on the Judiciary, 85th Cong., 2d Sess. (1958); V. Edwards, Patent Office Fees—A Legislative History, Study No. 13 of the Subcomm. on Patents, Trademarks, and Copyrights of the Senate Comm. on the Judiciary, 85th Cong., 2d Sess. (1958); P. Frederico, Opposition and Revocation Proceedings in Patent Cases, Study No. 4 of the Subcomm. on Patents, Trademarks, and Copyrights of the Senate Comm. on the Judiciary, 84th Cong., 2d Sss. (1956); V. Bush, Proposals for Improving the Patent System, Study No. 1 of the Subcomm. on Patents, Trademarks, and Copyrights of the Senate Comm. on the Judiciary, 84th Cong., 2d Sess. (1956); Temporary National Economic Committee, Monograph No. 31, Patents and Free Enterprise (1941).

[59] *Hearings on S. 1321 Before the Subcomm. on Patents, Trademarks, and Copyrights of the Senate Comm. on the Judiciary,* 93d Cong., 1st Sess. (1973). The topics included the following: public adversary hearings, creation of the office of the Public Counsel, deferred examination of patent applications, revision of patent fees including the establishment of maintenance fees, administrative restructuring of the Patent Office including its establishment as an independent agency. *Id.*

[60] *See* note 44 *supra.*

[61] The Council on Economic Policy was the White House council which coordinated economic policy throughout the government. In 1973, George Schultz, former Secretary of the Treasury, was Chairman and Kenneth Dam was Executive Director.

[62] *See Hearings on S. 1321, entitled "Patent Law Revision," Before the Subcomm. on Patents, Trademarks, and Copyrights of the Senate Comm. on the Judiciary,* 93d Cong., 1st Sess. 292 (1973).

[63] The proposal being circulated by the American Patent Law Association later was introduced with minor changes by Senator James Buckley of New York as S. 2930, 93d Cong., 2d Sess. (1974). *See* note 83 *infra* & accompanying text.

[64] These briefing papers are classified as interagency contract not part of the public record and therefore are not available under the Freedom of Information Act, 5 U.S.C. § 552 (1970). The papers were prepared between mid-May and late June 1973, and each included hundreds of pages. Approximately fifty substantive and procedural issues were unresolved when White House arbitration began.

[65] *Hearings on S. 1321, entitled "Patent Law Revision," Before the Subcomm. on Patents, Trademarks and Copyrights of the Senate Comm. on the Judiciary,* 93d Cong., 1st Sess. 169, 179, 302 (1973).

[66] *Id.* at 179.

[67] *Id.* at 169.

[68] *See* note 59 *supra.*

[69] In his explanation of the Administration bill to Congress, President Nixon stated: "In addition, the existing state of case law on antitrust standards for patent licensing that have been determined by the courts would not be changed. Some have argued that this case-by-case approach to patent licensing has increasingly eroded the value and reliability of the patent grant. Earlier this year, I requested that various proposals addressed to this issue be carefully studied and reviewed

by the Secretary of Commerce, the Attorney General, and my chief advisers on economic policy. After much study, they concluded that there is no clearly demonstrated need or justification of any patent licensing proposals at this time. They also concluded that the legislation I recommend today will help counter the loss of public confidence by improving the reliability of patents that are issued." 9 Weekly Comp. of Pres. Doc. 1198, 1201–02 (1973).

[70] S. 2504, 93d Cong., 2d Sess. (1974). *See* 119 Cong. Rec., p. 32153 (Oct. 1, 1973).

[71] 119 Cong. Rec., p. 32160 (Oct. 1, 1973).

[72] "Section 147 of the bill adds another appellate layer to existing procedures by providing for an appeal to the circuit court of appeals following an appeal to Patent Court. This appears to me to be totally unnecessary and I would hope the Subcommittee would look at this provision carefully. Since this is an administration proposal I have left the provision in the bill but I did want my colleagues to be aware of my position regarding section 147." *Id.* at p. 32161.

[73] *Id.* at p. 32160.

[74] *See, e.g.*, Business Week, Oct. 6, 1973, at 46; N.Y. Times, Nov. 24, 1973, at 43 col. 7; Washington Post, Sept. 17, 1973, at 3.

[75] Address by Karl E. Bakke, Sheraton Park Hotel, Washington, D.C., Oct. 11, 1973.

[76] Letter from Senator John L. McClellan to Senator Hugh Scott, Oct. 25, 1973.

[77] Between October 1973 and February 1974, when S. 2504 was to be amended by the Subcommittee, a tremendous volume of material was received by Subcommittee members on the legislation. Many of the analyses were section-by-section commentaries with suggested legislative language. Some were extensive compilations of comments hundreds of pages in length. The following list is but a sampling of the sources of in-depth studies transmitted to Subcommittee members: Corporations—Merck & Company Inc., Monsanto, Avco, Zenith, IBM, Bell Telephone Company, Xerox, Kodak, Esso Research and Engineering Company, 3M Company, Dow Chemical Company, General Electric, Burlington Industries Inc., American Cyanamid Company, Dupont, PPG Industries, U.S. Steel Corporation, Rohm and Haas Company; other groups—American Society of Inventors Inc., American Patent Law Association, American Bar Association (Section on Patents, Trademarks, and Copyrights), National Council of Patent Law Associations, Federal Bar Association, National Association of Manufacturers, National Chamber of Commerce, Bar Association of the District of Columbia, American Chemical Society, Manufacturing Chemists Association, Philadelphia Patent Law Association, Cleveland Patent Law Association, Los Angeles Patent Law Association, Michigan Patent Law Association, New York Patent Law Association, Patent Law Association of Chicago, St. Louis Bar Association, Virginia Bar Association, New Jersey Bar Association, State Bar of Texas, Patent Law Association of San Francisco, Indiana State Bar Association, Peninsula Patent Law Association, Dayton Patent Law Association, Rochester Patent Law Association, Houston Patent Law Association. Besides these organizations, individual inventors and members of the patent bar provided comments. By February the comments with attachments overflowed a three-foot file drawer.

[78] Letter from Francois P. Panel, President of the Patient Working Group of the Council of European Industrial Federations to Senator Hugh Scott, Jan. 20, 1974.

[79] Letter from H. M. Claessens, Secretary General, Union des Industries de la Communnauté Europeenné to Senator Hugh Scott, Jan. 15, 1974.

[80] Letter from Dr. H. Wagner and Dr. H. H. Eberstein, Bundesverband der Deutschen Industrie E.V., to Senator Hugh Scott, Jan. 17, 1974.

[81] Memorandum from Ambasciata D'Italia to Senator Hugh Scott, Jan. 28, 1974.

[82] For example, the National Council of Patent Law Associations met in Arlington, Virginia on January 9, 1974, and the Federal Bar Association met in Washington, D.C. on January 10, 1974.

[83] S. 2930, 93d Cong., 2d Sess. (1974).

[84] 120 Cong. Rec., p. 1570 (Jan. 31, 1974).

[85] *Id.*

[86] C. Marshall Dann had been confirmed as Commissioner by the Senate in February. 120 Cong. Rec. S1593 (daily ed. Feb. 7, 1974).

[87] Letter from Senator John L. McClellan and Senator Hugh Scott to President Richard M. Nixon, Mar. 25, 1974. Senators Scott and McClellan received an acknowledgment from Tom C. Korologos, Deputy Assistant to the President, stating that the Senators' letter would be called to the President's attention in the near future. Letter from Tom C. Korologos to Senators McClellan and Scott, Mar. 26, 1974.

[88] Letter from Ronald B. Brooks to Senator Scott, Apr. 8, 1974.

[89] S. 2504[C.P.], 93d Cong., 2d Sess. (1974).

[90] After the public distribution of S. 2504 [C.P.], the Subcommittee members once again received extensive comments from members of the patent bar, corporations, and many others who had written earlier. As before, many preferred the approach of S. 2930 to that of S. 2504, although most who expressed an opinion found S. 2504[C.P.] to be an improvement over S. 2504.

[91] Letter from Senator John L. McClellan to Secretary of Commerce Frederick B. Dent, May 14, 1974.

[92] *See* note 87 *supra.*

[93] *See* note 88 *supra.*

[94] Letter from Senator John L. McClellan to Secretary of Commerce Frederick B. Dent, May 14, 1974.

[95] "Individual Views of Senator John L. McClellan" sent to Senator Hugh Scott's Office, June 27, 1974.

[96] *Id.*

[97] The idea for an ad hoc group arose following a speech by Bernard Nash, Assistant Counsel to the Senate Subcommittee on Antitrust and Monopoly, for Senator Philip Hart, at the semi-annual meeting of the Association of Corporate Patent Counsels on June 3, 1974, in Rhode Island.

[98] Previously, there had been relatively few corporations totally embracing S. 2504 or S. 2504[C.P.], but by late July, a number of corporations, including General Electric, Monsanto, Merck & Company Inc., Zenith, Avco, Firestone, and Honeywell Inc. had indicated general assent.

[99] Letter from Commissioner of Patents C. Marshall Dann to Senator John L. McClellan, July 3, 1974.

[100] *Id.*

[101] Although there is little substantial evidence to support such speculation, the position taken by Commissioner Dann may have been the result of a compromise between the position of the Department of Commerce and that of the Department of Justice. If so, this compromise would reflect ongoing disagreement in the executive branch concerning S. 2504 and S. 2504[C.P.].

[102] Letter from Commissioner of Patents C. Marshall Dann to Senator John L. McClellan, July 29, 1974.

[103] Letter from Senators Philip A. Hart and Hugh Scott to Senator John L. McClellan, with a copy to Senator Hiram L. Fong, July 31, 1974.

[104] *Id.*

[105] The final event of the 93d Congress affecting patent reform was the introduction of S. 4259, 93d Cong., 2d Sess. (1974), by Senator Fong on December 19. S. 4259 represented Senator Fong's personal approach to patent reform which more closely resembled S. 2930 than S. 2504 or S. 1321.

[106] S. 23, 94th Cong., 1st Sess. (1975).

[107] *Id.* § 3(a)(1).

[108] *Id.* § 3(c).

[109] *Id.* § 3(d).

[110] S. 23, 94th Cong., 1st Sess. § 102 (1975), *amending* 35 U.S.C. § 102 (1970). *See* note 37 *supra.*

[111] S. 23, 94th Cong., 1st Sess. § 103 (1975) *amending* 35 U.S.C. § 103 (1970). *See* note 36 *supra.*

[112] S. 23, 94th Cong., 1st Sess. § 112 (1975), *amending* 35 U.S.C. § 112 (1970). Senator McClelland would require more detailed disclosure in the specification filed by the applicant for a patent.

[113] S. 23, 94th Cong., 1st Sess. § 135 (1975), *amending* 35 U.S.C. § 135 (1970). This section provided for an opposition proceeding based on information brought to the attention of the Commissioner by any person within 12 months after issuance of a patent.

[114] S. 23, 94th Cong., 1st Sess. §§ 191–94 (1975), *amending* 35 U.S.C., §§ 191–94 (1970). These sections provided that examination of an application for a patent would be deferred automatically unless applicant requests immediate examination or search and pays the necessary fees. Under present law, there are no such provisions.

[115] S. 214, 94th Cong., 1st Sess. (1975). *See* note 105 *supra.*

[116] S. 473, 94th Cong., 1st Sess. (1975).

[117] Senator Hart stated when introducing his bill: "I believe we are close to a consensus on the subcommittee and hope that the 94th Congress will enact legislation modernizing the Patent Code." 212 Cong. Rec., p. 2499 (Feb. 5, 1975).

[118] S. 1308, 94th Cong., 1st Sess. (1975).

[119] 121 Cong. Rec., p. 8360) Mar. 24, 1975).

[120] *Id.* at p. 8360 Mar. 24, 1975).

[121] U.S. Const. art I, § 8, cl. 8.

[122] 35 U.S.C. §§ 101, 102, 103, 281 (1970).

[123] "As a reward for inventions and to encourage their disclosure, the United States offers a seventeen-year monopoly to an inventor who refrains from keeping his invention a trade secret. But the *quid pro quo* is disclosure of a process or device in sufficient detail to enable one skilled in the art to practice the invention once the period of the monopoly has expired . . . ." Universal Oil Prods. Co. v. Globe Oil & Ref. Co., 322 U.S. 471, 484 (1944). *See* Graham v. John Deere Co., 383 U.S. 1, 9 (1966).

[124] U.S. Const. art. I, § 8; Graham v. John Deere Co., 383 U.S. 1, 5 (1966); Motion Picture Patents Co. v. Universal Film Mfg. Co., 243 U.S. 471, 484 (1917).

[125] 5 U.S.C. §§ 551–59, 701–06 (1970).

[126] *See* Subcomm. on Patents, Trademarks, and Copyrights of the Senate Comm. of the Judiciary, To Promote the Progress of Useful Arts, Reports of the President's Commission on the Patent System, S. Doc. No. 5, 90th Cong., 1st Sess. 3 (1967); Presidential Message of Feb. 21, 1967, H.R. Doc. No. 59, 90th Cong., 1st Sess. IV (1967); *Hearings on S. 643, S. 1253, and S. 1255 Before the Subcomm. on Patents, Trademarks, and Copyrights, of the Senate Comm. on the Judiciary*, 92d Cong., 1st Sess. 265 (1971) (statement of Assistant Attorney General Richard W. McLaven).

[127] To enforce his patent right to exclusive use, a patentee may bring a civil action against an infringer. 35 U.S.C. § 281 (1970). If a patentee brings such a suit, however, he subjects his patent to scrutiny for determination of validity if the alleged infringer raises as his defense the invalidity or misuse of the patent. 35 U.S.C. § 282 (1970). Although present law gives to a patent the presumption of validity against the defense of invalidity in an infringement action, 35 U.S.C. § 282 (1970), this presumption can be overcome. *See After Blonder-Tongue, supra* note 36. *See also*, Picard v. United Aircraft Corp., 128 F.2d 632 (2d Cir. 1942) (L. Hand & Frank, J.J., concurring); Voorhees, *supra* note 36; *Sympo-*

sium on Blonder-Tongue Laboratories, Inc. v. University of Illinois Foundation—The Decision and Its Implications, 1971 Am. Pat L. Ass'n Bull. 78; Comment, *Blonder-Tongue Bites Back; Collateral Estoppel in Patent Litigation—A New Look*, 18 Vill. L. Rev. 207 (1972). *Cf.* Horn & Epstein, *The Federal Courts' View of Patents—A Different View*, 55 J. Pat. Off Soc'y 134 (1973).

[128] 35 U.S.C. § 3 (1970).

[129] *See* S. 2930, 93d Cong., 2d Sess. § 3 (1974); S. 643, 92d Cong., 1st Sess. § 3 (1971); S. 2756, 91st Cong., 1st Sess. § 3 (1969); S. 1246, 91st Cong., 1st Sess. § 3 (1969); S. 3892, 90th Cong., 2d Sess. § 3 (1968); S. 1042, 90th Cong., 1st Sess. § 3 (1967).

[130] S. 1308, 94th Cong., 1st Sess. § 3(1975) S. 2504, 93d Cong., 2d Sess. § 3 (1974), subordinated the Commissioner of Patents to the Secretary of Commerce, but S. 2504 [C.P.], 93d Cong., 2d Sess. § 3 (1974), eliminated the subordination. Senator Fong's previous bill, S. 4259, 93d Cong., 2d Sess. § (1974), and his current bill, S. 214, 94th Cong., 1st Sess. § 3 (1975) retained the subordination. Senator Hart's initial bill, S. 1321, 93d Cong., 1st Sess. (1973), was the first bill to eliminate the subordination. His current bill also specifically requires the Patent Office to act "independently" of the Department of Commerce in its "rule-making, investigatory, and adjudicatory functions, including judicial proceedings." S. 473, 94th Cong., 1st Sess. § 1 (1975).

[131] S. 1308, 94th Cong., 1st Sess. § 3(a)(1) (1975).

[132] *Id.* § 3(b), (d), (e).

[133] *Id.* § 4.

[134] Senator McClellan would require some showing of good cause before a subpoena would be issued. S. 23, 94th Cong., 1st Sess. § 23(a) (1975). The Fong bill would require issuance through a United States district court. S. 214, 94th Cong., 1st Sess. § 24 (1975).

[135] S. 1308, 94th Cong., 1st Sess. § 23(a) (1975). S. 1308 would allow any member of the Board of Examiners-in-Chief to issue a subpoena ex parte to the Solicitor, to parties to interference or priority-of-invention proceedings, or, upon some good cause, to parties to opposition proceedings.

[136] S. 1308, 94th Cong., 1st Sess. § 23(c)(1) (1975). *See* Fed. R. Civ. P. 26–37.

[137] *Hearings on S. 1321 Before the Subcomm. on Patents, Trademarks, and Copyrights of the Senate Comm. on the Judiciary*, 93d Cong., 1st Sess. 89 (1973) (statement by Edward S. Irons, patent attorney, Washington, D.C.). Mr. Irons, in testimony, continued: "The Patent Office lacks even the power to compel patent applicants to disgorge relevant facts of which they may be possessed." *Id.* His general testimony includes some of the strongest and most telling criticisms of Patent Office procdures.

[138] Section 41 of the Patent Code established fixed fees to be charged by the Patent Office with no specific reference to a relationship of recovery of fees to cost of operation. 35 U.S.C. § 41 (1970).

[139] S. 1308, 94th Cong., 1st Sess. § 41 (1975).

[140] *Id.* § 41(f).

[141] S. 1321, 93d Cong., 1st. Sess. § 41(c) (1973).

[142] S. 2504, 93d Cong., 2d Sess. § 41(f) (1974).

[143] S. 23, 94th Con., 1st Sess. § 41(f) (1975); S. 214, 94th Cong., 1st Sess. § 43 (1975); S. 473, 94th Cong., 1st Sess. § 41(f) (1975); S. 1308, 94th Cong., 1st Sess. § 41(f) (1975).

[144] S. 1308, 94th Cong., 1st Sess. § 1 (1975).

[145] 5 U.S.C § § 551-559, 701-706 (1970). No similar requirement is imposed by S. 23, the bill selected for Subcommittee markup. In the belief that post-reform litigation could be educed by incorporation of familiar Administrative Procedure Act procedures, however, the Administration is seeking inclusion of such a provision.

[146] S. 2504, 93d Cong., 2d Sess. § 1(1974).

[147] S. 473, 94th Cong., 1st Sess. § 1(1975).

[148] S. 1308, 94th Cong., 1st Sess. § 137(1975).

[149] *Id.* § (3)(d)(1).

[150] *Id.* § 24.

[151] *Id.* § 132.

[152] *Id.* § 132(b)(3).

[153] *Id.* § 132(c).

[154] *Id.* § 132(e).

[155] *Id.* § 3(d)(1).

[156] *Id.* § 3(d)(2).

[157] *Id.* § 3(d)(3).

[158] *Id.* § 3(d)(4).

[159] S. 1321, 93d Cong., 1st Sess., § 3(d) (1975).

[160] *Id.* § 3(d)(2).

[161] S. 23, 94th Cong., 1st Sess. § 3(d) (1975). The Hart bill differed from S. 1308 and from Senator McClellan's S. 23 in that under Hart's bill intervention by the Solicitor was discretionary whereas under the other two bills intervention would occur only upon request.

[162] It must be emphasized that even though the Patent Office should behave more in the pattern of a typical administrative agency, the traditional role of the federal courts as final arbiters of patent validity must be retained. Rather than performing a secondary review of administrative action by the Patent Office, courts must consider de novo factors affecting patentability (such as prior use or sale) that never may have been considered by the Patent Office. Indeed the Patent Office, even with the proposed reforms, is ill equipped to discover those factors on its own. *See* Woodward, *A Reconsideration of the Patent System as a Problem of Administrative Law*, 55 Harv. L. Rev. 959 (1942).

[163] S. 1308, 94th Cong., 1st Sess. § 122 (1975)

[164] *Id.* § 135.

[165] S. 1321, 93d Cong., 1st Sess. § 122 (1973).

[166] *Id.* § 135.

[167] S. 23, 94th Cong., 1st Sess. § 122(1975).

[168] *Id.* § 135. Senator McClellan's bill would allow information regarding the merits of the application to be submitted to the Commissioner within 12 months after issuance of the patent. *Id.*

[169] *See* note 127 *supra*. Because Senator McClellan would delay opposition proceedings until after issuance of the patent, *see* note 168 *supra* & accompanying text, the time for beginning those proceedings continues as one of the unresolved issues of patent reform for Congress.

[170] *See* note 162 *supra*.

[171] The Administration bill would provide better information for the patent system by other provisions as well. To assure the availability of adequate technical and scientific data, the Patent Office is to maintain a current and complete library, S. 1308, 94th Cong., 1st Sess. § 6(a) (1975), with the help of other government agencies, *id.* § 6(b). Better liaison is to be established with international organizations to increase the availability of understandable translated foreign technology. *Id.* § 9(c). The Patent Office is instructed specifically to engage in research and development to prepare for future information needs and to improve the ability of the Office to search for prior art. *Id.* § 10.

[172] *Id.* § 115(a).

[173] *Id.* § 131(b).

[174] *See* note 123 *supra* & accompanying text.

[175] 35 U.S.C. § 112 (1970).

[176] Manual of Pat. Examining Proc. § 608.1 (h) (1974).

[177] *See* note 38 *supra*; 37 C.F.R. § 1.92 (1974) (working model may be required by Patent Office).

[178] 35 U.S.C. § 112 (1970).

[179] *See, e.g.*, S. 23, 94th Cong., 1st Sess. § 112 (1975); S. 473, 94th Cong., 1st Sess. § 112 (1975); S. 2504, 93d Cong., 2d Sess. § 112 (1974); S. 1321, 93d Cong., 1st Sess. § 112 (1973).

[180] S. 1308, 94th Cong., 1st Sess. § 112(b) (1975).

[181] S. 2504, 93d Cong., 2d Sess. § 112 (1974).

[182] S. 1308, 94th Cong., 1st Sess. § 112(a)(2) (1975). Significantly, Senator McClellan's bill omits the need for the patentee seeking to uphold his patent in court to rely upon novel results cited to the Patent Office. *See* S. 23, 94th Cong., 1st Sess. § 112(1975).

[183] *See, e.g.*, Jeoffroy Mfg., Inc. v. Graham, 219 F.2d 511 (5th Cir. 1955), *cert. denied*, 350 U.S. 826 (1955); Robertson Rock Bit Co. v. Hughes Tool Co., 176 F.2d 783, 790 (5th Cir 1949).

[184] *See* note 123 *supra*.

[185] S. 1308, 94th Cong., 1st Sess. § 112 (1975).

[186] An apparent attempt to rely upon a new use discovered after the application was thwarted by the Court on Lincoln Co. v. Stewart-Warner Corp., 303 U.S. 545, 550 (1938), the Court stating: "[T]he respondent . . . urges that . . . the [invention] performs a new and different function. . . . The suggestion seems to be an afterthought. No such function of the [invention] is hinted at in the specifications of the patent. If this were so vital an element in the functioning of the apparatus it is strange that all mention of it was omitted." *See also* Graham v. John Deere Co., 383 U.S. 1, 25 (1965).

[187] S. 1308, 94th Cong., 1st Sess. § 111(a) (1975).

[188] *Id.* §§ 111(g), 256.

[189] S. 2054, 93d Cong., 2d Sess. (1974).

[190] 9 Weekly Comp. Pres. Doc. 1198, 1201 (1973).

[191] S. 1308, 94th Cong., 1st Sess. § 116 (1975). Because presently each claim is examined separately by the Patent Office and each invention must be made by two or more persons to apply jointly for a patent, 35 U.S.C. § 116 (1970), no patent will issue for a claimed invention unless all named inventors have contributed to each claim of the invention. The reason for the specific statement in S. 1308 requiring joint applicants to have contributed to each claim, *see* S. 1308, 94th Cong., 1st Sess. § 16(a) (1975), is that the inclusion of a provision allowing a corporation to file for a patent, *see id.* § 111(a), created the need to emphasize the substance of present law, namely, that a corporate applicant may name joint inventors only if each inventor has contributed to each claim.

[192] *See, e.g.*, S. 23, 94th Cong., 1st Sess. § 116 (1975); S. 214, 94th Cong., 1st Sess. § 116 (1975); S. 4259, 93d Cong., 2d Sess. § 116 (1974); S. 1246, 91st Cong., 1st Sess. § 116 (1969); S. 3892, 90th Cong., 2d Sess. § 116 (1968).

[193] S. 23, 94th Cong., 1st Sess. § 116(a) (1975).

[194] 35 U.S.C. § 103 (1970).

[195] Similarly, one person might make a patentable advance, and another person a trivial improvement over that. If the two inventors could file jointly, a patent could issue for the invention resulting from both advances, whereas under present law, the trivial advance would not be patentable. In Atlantic Works v. Brady, 107 U.S. 192 (1883), the Court explained that it would harm technological growth to grant patents on any routine or trivial technological improvement. The Court noted that the progress of the useful arts advances by a series of small steps, each of which follows from similar prior steps and prepares the way for the next. To grant a monopoly over any such slight advance, where no more than ordinary mechanical or engineering skill is shown, "tends to obstruct more than stimulate invention" for it impedes incremental improvements by placing a toll upon utilization of what has gone before to devise what is to come. *Id.* at 200.

[196] The present "novelty" requirement, 35 U.S.C. § 102 (1970), prohibits the patenting of developments dedicated to the public by others, although the inventor also may not patent advances that he publicized himself more than one year prior to his patent application, *id.* § 102(b).

[197] 35 U.S.C. §§ 1, 3, 6 (1970).

[198] *See* note 127 *supra*.

[199] *See* note 186 *supra* and accompanying text.

[200] *Cf.* 35 U.S.C. § 115 (1970).

[201] *See* notes 164–69 *supra* & accompanying text.

[202] Perusal of the public speeches and congressional testimony by representatives of the Commerce and Justice Departments over the past decade of debate concerning patent reform will suggest the range of disagreements between the Departments.

[203] The delay in resubmission of the Administration patent reform proposal to the 94th Congress suggests that the Ford Administration did reevaluate its official position, but that it decided after that review to adhere to the position previously taken by President Nixon and his Administration.

[204] *See* note 56 *supra*. In this sense, patent reform has been an unusual issue, since the general public can have a significant impact on the content of most legislation.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D. C., April 18, 1975.
Mr. A. R. WHALE,
President, American Patent Law Association,
Arlington, Va.

DEAR MR. WHALE: I must again apologize for our delay in responding to your letter of December 2, 1974, discussing the Administration's Patent Reform bill and the appendix you attached to it. The following memorandum sets forth preliminary Administration comments on the issues raised by your letter.

Customarily, detailed analysis and defense of an Administration bill comes from the agencies and departments responsible for the proposed legislation. I fully expect that those agencies, among others, will be called upon this year by the appropriate Committees of Congress to explain in more depth the supporting rationale for the Administration's proposals.

We appreciate receiving your views, and having the opportunity to discuss patent law revision with you. The Administration, however, continues to support the legislative proposal set forth in Commissioner Dann's letter of July 3, 1974 to Chairman McClellan and reaffirmed in the bill recently introduced by Senator Scott (now S. 1308).

Sincerely yours,

WALTER D. SCOTT,
Association Director for Economics and Government.

Enclosure.

MEMORANDUM CONCERNING APLA LETTER ON ADMINISTRATION PATENT LAW REFORM PROGRAM

A. OPPOSITIONS

The issue of the timing of an opposition—before or after issuance of a patent—embraces at least two issues: relief available to the patentee, and timing of access to the courts. The APLA letter raises several problems concerning the first issue. It suggests that prior to issuance a patentee is limited to "royalties reasonable in the circumstances" (Sec. 273(c)), and that copiers "cannot be prevented from stockpiling the copied invention." Section 273, dealing solely with damages, however, is an optional remedy; Sections 271(a) and 283 still provide the full remedies available for infringement—including an injunction "in accordance with the principles of equity." The patentee may determine which of the two routes he wishes to follow in seeking relief.

The Administration proposal for oppositions prior to issuance is designed to increase public and judicial confidence in the validity of issued patents. If opposition is delayed until after issuance, then a patent when it issues will not have benefited from the increased scrutiny that third-party opposition would bring.

The patentee, the courts, and the public will not be as certain as administratively possible that the scope of exclusivity claimed and granted is as narrow or broad as is proper. Simultaneous court litigation and Patent Office re-examination will cause administrative confusion, and will oust the federal courts from their proper role as final arbiters of the standard of patentability. Proposed Section 135 is designed to reduce the opportunities for an opposer to harass a patent applicant while encouraging opposers to appear to present evidence perhaps not available to the Patent Office, thus further protecting the public. This Administration proposal is consistent with a number of proposals already made.

B. SUBPENAS

Giving the Patent Office subpena power should simplify Office procedures—eliminating time-consuming discovery proceedings in a number of the federal courts, now conducted collaterally with Patent Office cases. In the extreme situation of the *Natta* cases, according to Patent Office comments, actions in various district courts involving discovery questions resulted in at least eighteen reported court proceedings, including two petitions for certiorari to the United States Supreme Court.

The possibility for conflict in discovery decisions is minimized by having the first level of review of the grant of a subpena before the Board of Examiners-in-Chief. Consequently, the question of the proper scope of discovery would be directed by an experienced patent professional, knowledgeable in patent law and aware of the probability of uncovering relevant evidence. The Administration proposal precludes the collateral review of discovery orders until review of the final decision or order in the entire proceeding, although the exception, based on the grounds of due process, is made when a person refuses to comply with a subpena or discovery order. In that situation, review is set in the District Court for the District of Columbia, to assure uniformity of decisions and eliminate conflicting rulings. The Patent Office will follow the Federal Rules of Civil Procedure, for they have proven to provide a full and fair way of offering the evidence needed to decide a dispute.

Those rules do not require a showing of good cause in advance, but instead provide that the persons actually affected are to raise the issues of relevance or undue burden after the request for production of document has been served or the subpena has issued.

C. DUTY OF DISCLOSURE OF PERTINENT BACKGROUND

The Administration's strong support for proposed Section 115 impugns the motives of no one. Instead, these proposals are designed to incorporate the duties and responsibilities of other persons and practitioners submitting *ex parte* information to the government—for example, tax returns or statements to the S.E.C.

The Administration proposal calls for review for completeness of the whole file of a patent application, at or near the time the patent issues, to assure that all pertinent information has been brought to the attention of the Patent Office while it still has jurisdiction over the application. Moreover, it is believed necessary to place responsibility for such review at a particular point in time on a particular person or persons to insure that such review will not, as may presently happen, inadvertently be neglected and omitted.

The APLA paper suggests that a review of the application file by an attorney "many months . . . since the last action by the applicant," would be "expensive and nonproductive," and that any statement required would be better "made coincident with the actual filing of papers." Application procedures should be simplified as much as possible consistent with the other goals of patent reform. It would create problems, however, to adopt the APLA proposal of requiring a statement under Section 115 each time papers were filed in the Patent Office. The persons involved would have to completely review the whole file for completeness and internal consistency each time a subsequent filing were made. Ideally, such a statement should be filed at the time the applicant submits his last paper; then he would be in a position to review the whole file while it is still fresh. Until the Patent Office makes a notice of allowance, however, an applicant will not know which filing is the last; consequently, the Administration proposal is to have these statements filed after the notice of allowance.

D. DUTY OF ADEQUATE DISCLOSURE OF INVENTION

Two of the goals for patent reform stated by former President Nixon were improving the disclosure of technology in patents and enhancement of the value of the patent grant.

One value to the public of the patent grant is full and precise disclosure of the technology for which protection is sought. Disclosure should be sufficient to accomplish "dedication [of the invention] to the public on the expiration of a patent." *Scott Paper Co.* v. *Marcalus Co.*, 326 U.S. 249, 255 (1945). Even before expiration of a patent, the disclosure should be adequate to provide opportunity for further improvement in given technologies and cross-fertilization between technologies. Precise claiming and delineation of the technology for which protection is sought will provide businessmen with certainty in determining whether they can go forward with new technological ventures, particularly in crowded technologies. Lack of precision in drafting claims, or a looseness in procedures that will permit expansion or changes in the scope of the claim after the fact during infringement litigation, only encourages needless litigation and harassment of legitimate business endeavors.

Although the Patent Code has for a long time required the disclosure of the "best mode" of carrying out an invention, some have considered it adequate merely to give in an application an operative example of the disclosed subject matter. Such an operative example may, in some circumstances, help satisfy the utility requirement; an operative example, however, does not satisfy the need to disclose the "best mode" of practicing the claimed invention. Cf. MPEP, § 608.1(h).

As a result, the Administration redraft of Section 112 strengthens the disclosure requirement, and avoids the submission of merely an operative example. Thus, Section 112 is changed to emphasize that a *"best* mode" is to be disclosed, and that this "best mode" is to be a disclosure in a form that is most useful and needed by the public. Subsection (b) therefore adds a standard—trade and industry practice—to give the word "best" a reference point, so that the applicant will know in what terms something is to be considered "best." With a standard of optimality, the word "best" can have a more definite meaning; without it, the term might be construed to mean only an operative example, rather than the "best" operative example in terms of actual usage.

The reference to "best mode or modes" is to facilitate complete disclosure, for there may be two or more preferable ways of practicing given subject matter.

Section 112 includes a statement concerning disclosure of novel or unexpected properties or results, in order to give both the Patent Office and the public greater information than they may now be receiving. For example, some court decisions have allowed an applicant to claim as a product a composition the structure of which is similar to or obvious from the structure of old or known products, on the ground that the claimed product has novel or unexpected properties different from those had by the old or known products. To the extent that such a disclosure is to be deemed adequate to make given subject matter patentable, those novel or unexpected properties or results should be fully disclosed to the Patent Office and the public, just as is the case with any other elements needed to make given subject matter patentable. The same principle applies, of course, to mechanical combinations or other inventions, as well.

The Patent Office is entitled to learn the facts, and the examiner should be told where to focus his search. The public should also be put on notice of what "novel or unexpected property or result" the applicant or patentee relies upon. Also, a clear articulation of the "novel or unexpected properties or results" being relied upon will give the public notice of what prior art has to be presented to the Office during a reexamination or opposition proceeding in order properly to argue whether the subject matter deserves to be patentable.

Finally, patent litigation generally requires the courts to assess patentability and the validity of a patent long after the time the application was filed. To establish patentability for an otherwise obvious product, the court may have to evaluate which "novel or unexpected properties or results" the applicant relied upon when he was before the Patent Office. If the unexpected properties (such as a new or superior use) were discovered by someone other than the named inventor, or even years after the application was filed, then the original application failed to disclose the invention on the basis of which patentability is to be maintained. Consequently, if at some later time during litigation, an applicant can justify patentability only on the basis of novel or unexpected properties or results (perhaps discovered by others or after the patent issued) different from those argued to the Patent Office, the applicant may unfairly and improperly deprive the public and the true inventor from the just rights or privileges.

The Administration's Section 112 is, in short, only as detailed as necessary to assure that adequate disclosure to the public is made in return for the patent grant.

E. CORPORATE INVENTORSHIP

Rather than being a mere procedural matter, as the APLA paper suggests, corporate inventorship is a substantive issue. Present law requires that each inventor named must contribute to each claim of the application. The result of the APLA suggested change—eliminating this requirement—would accomplish three undesirable things; it would: (1) lower the standard of invention; (2) confuse the prosecution of the application and litigation of the patent; and (3) create a bias against individual inventors.

The standard of invention presently required for issuance of a patent would be lowered because this suggestion would permit the aggregation of the routine contributions of several individuals into one inventive contribution. Each person's contribution may be obvious over the work done by the person before him. Yet in the aggregate, all the contributions together may form an unobvious advance over the prior art. Since no one individual made a patentable advance over the work done before his, no patent would issue under present laws. Under the APLA proposal a patent could issue to the party who employed all of these individuals. Similarly, one person may make a patentable advance, and another person a trivial improvement over that. An employer who listed both persons as inventors on one patent application for both advances would secure a patent grant over both, under the APLA suggestion; no such patent for the second, trivial advance would issue under the present law. The standard of patentability would thus be lowered by the suggestion, for it would provide a patent for the aggregation of trivial advances—the work of ordinarily skilled mechanics—which is not the purpose of the patent system. *Hotchkiss v. Greenwood*, 52 U.S. 248 (1851).

The fact that three individuals are employed by one company should not permit the issuance of a patent to the company based on the aggregation of the trivial or routine contributions of each of the three. Those three workers have done nothing that three other skilled workers having separate employers could not have done; the investments of their work and salaries produced the routine results anticipated; no special risk was faced by the employer. There is no economic basis to grant a special monopoly for the aggregation of the routine work of skilled mechanics. Otherwise, every routine improvement by skilled mechanics would justify a patent—and such an indiscriminate blockage of routine growth would hinder and delay, rather than enhance, the growth of technology.

Prosecution of applications and litigation of patents would be confused, because no one would know what prior art to cite against any claim, whose art was citable, who could properly claim the benefit of earlier applications, or who was the first inventor in interference practice. For example, if an application listed several inventors, but each invented only some of the claims, but not others, each inventor's prior work might be able to be cited against a claim for which he was not the inventor (or not citable against claims for which he was the inventor), but neither the Patent Office nor the courts would be able to tell which claim was in which category. This may lead, also, to the inclusion of some persons as inventors to avoid the barring effect of their prior work. Because patents are a prime source of prior art, one could not readily be able to tell how each patent could be used as prior art against other applications. Only through expensive discovery in litigation might the true inventorship of each claim be established; yet, by the time the litigation commences—perhaps years after the patent has issued—documentation of who made what invention may be lost or destroyed.

Furthermore, there is an inherent bias against individual inventors under the APLA suggestion. Individuals, not working under one centralized—i.e., corporate—auspice, could not accumulate and aggregate their separate trivial advances to make a patentable "invention," because (as under present law) each person's work would be citable as prior art against the next person's incremental improvement. Yet this would not be true for inventors (or their assignee) if they worked under a single corporate roof.

The Administration therefore concluded that it should support the continuation of the present law in this regard.

The APLA appendix indicates that misjoinder of inventors will always render the patent invalid. This is not so. Sections 111 (g) and 256 provide for the correction of inventorship in proper circumstances.

F. PRIORITY OF INVENTION PROCEEDINGS

The chief problem with the proposal to issue patents, when the Patent Office knows they are involved in an interference proceeding, is that doing so may significantly delay resolution of the interference. The patentee may have every inducement to take his time, for as long as he does so he has an outstanding patent, which is presumptively valid and may be licensed and sued upon. This undesirable situation cannot be avoided in circumstances where a patent has already issued and an interfering application is subsequently discovered, but it can (and therefore should) be avoided by not issuing any application which is in interference until the interference is resolved. In the latter case, each party to the interference will have the incentive to resolve the interference quickly, so he can get a patent issued to himself. If both patents involved in an interference were to issue pending that dispute, a number of unjustified and needlessly anticompetitive effects could be anticipated when the rival patentees both attempted to license or threatened to enforce their respective, competing patents.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. HUGH SCOTT. Mr. President, we have just passed S. 2255, Calendar No. 612, which was reported by the distinguished Senator from Arkansas (Mr. McCLELLAN) from the Committee on the Judiciary.

I am the ranking minority member of that committee and have been for a number of years. I have been working on revision of patent legislation ever since I was a member of the old Patents Committee of the House of Representatives and during my service on the Judiciary Committee here.

I do not know of any bill that has had more hearings, that has involved so much complexity, unless it is the current copyright bill, and all of the contending and conflicting and confronting interests were heard.

Senator McCLELLAN did a magnificent job and a most patient job in working this bill out and in achieving what we hope will be more expeditious handling of patents, simpler handling of patents, greater protection to the public and to the applicants and to the patentees.

I believe this is a major piece of legislation, and among the most important pieces of legislation passed for some considerable period of time.

It is a great relief to the Judiciary Committee not to have this bill continue pending before it. I am delighted that the Senate has passed it, and I would hope and expect the President will sign it, if the House of Representatives moves ahead.

In drafting this legislation, we have attempted to balance the extent of monopoly power with the constitutional desire to preserve intact the inventor's motive. To do so, we sought to enhance the quality and reliability of patents. The standards espoused in S. 2255 will systematically weed out in a timely fashion all unwarranted patent applications. In so doing the legislation does not encroach on the constitutional objective of inducing further invention.

As I mentioned earlier, the legislative efforts on behalf of patent reform have extended over a considerable number of years. These efforts are well documented in a recent law review article by Senator PHILIP A. HART of Michigan. The article appeared in the 1973 volume of the Utah Law Review. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PATENT REFORM—AN OVERVIEW

(By The Honorable PHILIP A. HART*)

If we were measuring the "potential boredom rate" for various topics of conversation on a scale of one to a hundred, patents would probably get a ninety-nine. Excepting audiences composed of patent lawyers, employees of the Patent Office, and some scattered scholars, few topics are more likely to result in tuned-out listeners.

If you asked the average college student what a patent is, he would undoubtedly tell you that it is a reward—compensation for the long, lonely, financially strapped hours that some individual attic inventor worked on his creation. That answer is partially correct. A patent is a "reward," but more in the sense of "inducement" than "compensation." In return for full disclosure of the invention, the inventor receives a limited legal monopoly.

"The patent monopoly was not designed to secure to the inventor his natural right in his discoveries. Rather, it was a reward, an inducement, to bring forth new knowledge. ... Only inventions and discoveries which furthered human knowledge, and were new and useful, justified the special inducement of a limited private monopoly." [1]

The purpose of patents, however, in the words of the Constitution,[2] is to "promote the Progress of . . . useful Arts." [3] As the Supreme Court said, "[T]his court has consistently held that the primary purpose of our patent laws is not the creation of private fortunes for the owners of patents but is 'to promote the progress of science and useful arts'. . . ." [4]

Properly designed and administered, our patent system can contribute toward attainment of its constitutional objective. Improperly designed—or improperly administered—it will not only thwart the progress of useful arts, but will also result in a proliferation of unjustified government approved monopolies—for noninventions—costing consumers billions of dollars in overcharges. It is estimated that two allegedly invalid drug patents alone—tetracycline and ampicillin—cost consumers more than one billion dollars in overcharges. So far, settlements approximating $150 million have been approved in the tetracycline litigation.

Given its intended purpose, the present patent system in the United States cannot be described as a success, for the evidence is strong that our system tends to frustrate invention, raise costs to consumers, and tie up technology so the public cannot benefit from it. Undoubtedly, it also has contributed in recent years to the lessening of our traditional international technological leadership. This problem exists primarily because we are limping along today on a system designed in 1836—when the few hundred inventions did come chiefly from the Eli Whitneys, the Robert Fultons, the Alexander Graham Bells, and other individuals. I believe it fair to say that only the patent system of the United States has not recognized the changed technological and economic circumstances in today's world.

In today's corporate-dominated, technology-oriented world, only twenty of every one hundred issued patents are granted to individuals; and the annual burden of applications has risen to one hundred thousand. Patent Office search facilities are antiquated and inadequate, and in some respects nonexistent. Not surprisingly, there is more than a two year backlog in the Patent Office. The Office stresses quantity—rather than quality—of issued patents. Disclosure by patent applicants is less than complete, and fraud on the Patent Office has increased materially.[5] Above all, "the Patent Office is often obliged to reach its decision in an *ex parte* proceeding, without the aid of the arguments which could be advanced by parties interested in proving patent invalidity." [6]

Patents are being handled by this creaky system in such a way that more than seventy percent of those patents litigated in appellate courts are held invalid, and fewer than twenty percent of the litigated patents are held valid. Although only a small portion of issued patents are litigated, prominent patent counsel to major corporations agree that a majority of non-litigated issued patents are not of sufficient inventive quality to merit a patent.[7]

Martin M. Shapiro, a professor of political science at the University of California (Irvine), has concluded: "It is now a truism among patent lawyers that if you sit around the Patent Office long enough, and change your claims often enough, you will eventually get some kind of a patent on almost anything." [8]

Against this background, it is not difficult to understand why the patent system is generally held in disrepute. Former Supreme Court Justice Abe Fortas cautioned:

"Most judges, rightly or wrongly, are inclined to think that a strong, well-financed applicant has a pretty good chance of getting at least some patent claims allowed somewhere along the line, and they don't have much confidence in the process or respect for the result." [9]

Other typical comments from the federal judiciary include this statement by Judge Miles W. Lord:

"[The Patent Office] has got to be the sickest institution that our Government has ever invented. It is just as far as I can see an attritional war between the patent applicant and the patent examiner who apparently got paid on the piece work for how many patents they could put out." [10]

Judge Hubert L. Will put it this way: "The whole [patent system] is geared to a low standard of conduct. It imposes no obligation on the counsel or the applicant to tell the Patent Office what he undoubtedly knows with respect to prior art." [11]

No system designed in 1836 can remain viable under the economic and technological conditions of 1974—that is why the patent systems is under attack Unless it is reformed to create procedures, safeguards, and mechanisms to weed out the bad patents before issuance—whether fraudulent or not—and to assure the expeditious and impartial issuance of patents that meet constitutional and statutory standards, the patent system will die of atrophy.

As early as 1883, the Supreme Court counseled: "It was never the object of those [the patent] laws to grant a monopoly for every trifling device. . . . Such an indiscriminate creation of exclusive privileges tends rather to obstruct than to stimulate invention." [12]

The need for patent reform has not gone unnoticed by the Congress. Beginning with the 1966 Report of the President's Commission on the Patent System,[13] Congress undertook serious consideration of reforming our system for issuing patents. The first of six stated objectives of the Report was to "raise the quality and reliability of the U.S. patent." Many hours of testimony and scores of filed statements have been received by the Senate and House patent subcommittees regarding a variety of bills designed to accomplish this important and difficult task.

Reform efforts have now gone full circle. The reasonably strong and innovative bills of 1967, which implemented the 1966 recommendations, were systematically watered down until, as finally reintroduced in 1971, the legislation was devoid of meaningful reform and contained substantially lower standards of invention.[14] Because patent issues are so dull and complex, few persons understood or cared about the implications of this product, which reflected largely the whim of the organized patent bar. Professor Shapiro aptly characterized the problem:

"While patent lawyers of course represent infringers as well as patent holders in court, the bulk of their services to clients consists of helping them obtain and defend the validity of patents. Quite naturally then they tend to identify the good with more patents rather than fewer, just as does the Patent Office for a different but parallel set of reasons. Thus the Patent Office and the patent bar comprise a powerful, 'propatent' pressure group.

"Because no group of lawyers and no government agency specializes in fighting against patents, and no particular segment of the business community is uniformly harmed by patents, there is no 'antipatent' pressure group. The 'antipatent' interest in this country is not specialized or concentrated, but consists only of the general interest shared by all citizens that their government not make a bad bargain for them when selling its stock of limited monopolies. Such amorphous interests are notoriously underrepresented in American politics precisely because no organized group and no specialized government agency speaks for them." [15]

The year 1971 represented a turning point for patent reform. During that year, the Senate Patent, Trademark, and Copyright Subcommittee reported a bill containing several modest reform provisions.[16] Because of continued resistance to reform by the organized patent bar and a controversial antitrust exemption amendment, the bill was never acted on by the full Judiciary Committee. That bill, however, represented the underpinning of two major reform bills introduced in the 93d Congress, one by Senator Hugh Scott [17] on behalf of the Administration [18] and one by myself.[19]

Although far from identical, the Administration and Hart Bills are similar in many respects and have identical objectives. They fairly represent a distillation of prior reform bills, including the bulk of the 1971 subcommittee bill, the Presidential Commission recommendations, other suggestions for reform made over the past years, and some European approaches. Both contain comprehensive procedural reforms and safeguards, while maintaining and improving the high patentability standards intended by the Constitution; and both are designed essentially to raise the quality and reliability of patents by overhauling the system for issuing them.[20]

Both bills are strongly opposed by the organized patent bar, which is urging enactment of a patent bill *drafted* by the American Patent Law Association.[21] The A.P.L.A. bill would, in my judgment, materially lower the constitutional standard of invention and the level of disclosure required, create additional loopholes within the Patent Office, impose significant barriers to effective court review of Patent Office decisions, and create broad exemptions from the antitrust laws for patent licensing agreements. Fortunately, since 1967, the importance of meaningful patent reform has become increasingly recognized by some corporate patent counsel, public interest and consumer groups, and government officials. I do not expect adoption of the patent bar's bill; nor do I foresee a weakening of the reform approaches of the Administration and Hart Bills.

As of this writing, the Subcommittee is completing its work on patent reform. The Subcommittee staff is marking up a proposed bill that combines the best features of the Administration and Hart Bills and contains other modifications and additions. Although the organized patent bar is again trying to prevent enactment of patent reform legislation, by the time this Symposium is published the Subcommittee in all probability will have reported out a bill. At the risk of being proven wrong, I will hypothesize the essential structure of the subcommittee's revised patent reform bill:

1. Maintaining and improving high constitutional standards of patentability (sections 102 and 103).

2. Returning individual inventors and small businessmen to the mainstream of technological progress by limiting Patent Office fees, by instituting a system of deferred maintenance fees, and by setting up a pro-

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Footnotes at end of article.

gram within the Patent Office to assist individual inventors and small businessmen in applying for and obtaining patents (sections 28 and 41).

3. Assuring disclosure of all material information by:

(a) Replacing the *ex parte* method of issuing patents with a more conventional administrative agency approach, including a public adversary proceeding (section 135);

(b) Requiring a patentability brief, a comprehensive oath by inventors, attorneys, and applicants, and increased disclosure of the invention in the specification (sections 112, 115, and 131);

(c) Authorizing the use by the Patent Office and others of subpoenas and the discovery process (sections 23 and 24); and

(d) Creating an Office within the Patent Office to represent the public interest in assuring expeditious issuance of valid patents, prompt rejection of others, and overall compliance with the provisions of the patent law (section 3(d)).

4. Instituting a deferred examination system to allow a more thorough examination of fewer applications (chapter 18).

5. Eliminating production goals and quotas which stress quantity rather than quality (section 132).

6. Modernizing Patent Office search facilities to facilitate prompt and complete access to relevant prior art (sections 6 to 10).

7. Removing the Patent Office from the Department of Commerce and making it an independent agency to better carry out its quasi adjudicative functions.

If the patent reform legislation reported by the Subcommittee turns out to be vastly different than I predict, it will serve to show that politicians are about as reliable as weather forecasters.

FOOTNOTES

[*] United States Senator from Michigan. The author is the ranking Democratic member of the Senate Subcommittee on Patents, Trademarks, and Copyrights, and Chairman of the Senate Subcommittee on Antitrust and Monopoly, Committee on the Judiciary. His counsel in all patent matters, including this article, is Mr. Bernard Nash, Assistant Counsel, Senate Antitrust and Monopoly Subcommittee. The author gratefully acknowledges his assistance.

[1] Graham v. John Deere Co., 383 U.S. 1, 9 (1966).

[2] U.S. Const. art. I, § 8.

[3] "This is the *standard* expressed in the Constitution and it may not be ignored." Graham v. John Deere Co., 383 U.S. 1, 6 (1966).

[4] Motion Picture Patents Co. v. Universal Film Mfg. Co., 243 U.S. 502, 511 (1917).

[5] *See generally Hearings on S. 1321 Before the Subcomm. on Patents, Trademarks, and Copyrights of the Senate Comm. on the Judiciary,* 93d Cong., 1st Sess. (1973).

[6] Lear, Inc. v. Adkins, 395 U.S. 653, 670 (1969).)

[7] *See Hearings on S. 1321 Before the Subcomm. on Patents, Trademarks, and Copyrights of the Senate Comm. on the Judiciary,* 93d Cong., 1st Sess., at 142-56 (1973). Mark Green, a Ralph Nader associate, went even further:

> "In fact, very few of the seventy thousand patents granted each year actually constitute genuinely novel and significant inventions. The vast bulk represent minor changes in the current art, fanciful gimmicks, molecular modifications, [and] even plagiarized variations of other patents.

M. Green, The Monopoly Makers 305 (1973)."

[8] M. Shapiro, The Supreme Court and Administrative Agencies 189 (1968).

[9] Fortas, *The Patent System in Distress,* 14 Idea 571, 576 (1970). Judge Learned Hand referred to the "ant-like persistency of [patent] solicitors," in Gentzel v. Manning, 230 F.2d 341, 345 (2d Cir. 1956).

[10] United States v. Charles Pfizer & Co., Inc., Civil No. 4-71-435 (D. Minn., filed Sept. 8, 1971) (the tetracycline civil damage suit).

[11] Technograph v. Methode, Civil No. 62C 1761 (N.D. Ill., filed April 7, 1970) (see transcript at 1422).

[12] Atlantic Works v. Brady, 107 U.S. 192, 200 (1883).

[13] The President's Comm'n on the Patent System, To Promote the Progress of Useful Arts, S. Doc. No. 5, 90th Cong., 1st Sess. (1967).

[14] *Compare* S. 1042, S. 2597, S. 3892, 90th Cong., 1st Sess. (1968), *with* S. 1246, S. 2756, 91st Cong., 2d Sess. (1970), *and* S. 643, 92d Cong., 1st Sess. (1971).

[15] M. Shapiro, The Supreme Court and Administrative Agencies 206 (1968). Although Professor Shapiro's comment was made in the context of the 1962 patent code revision, it applies to current reform proposals as well. Judge Will said in 1970:

> "I don't have any surprise at all . . . that the organized Patent Bar opposed broadening the standard of disclosure required of applicants or their counsel, any more than I am surprised that they are opposed to making the Patent Office function effectively. . . ."

Technograph v. Methods, Civil No. 62C1761 (N.D. Ill., filed April 7, 1970) (see transcript at 115).

[16] *See* S. 643, 92d Cong., 1st Sess. (1971).

[17] Senator Scott is the ranking Republican member of the Senate Subcommittee on Patents, Trademarks, and Copyrights.

[18] S. 2504, 93d Cong., 1st Sess. (1973). An identical bill (H.R. 10795) was introduced in the House by Congressmen Edward Hutchinson, ranking Republican member of the Judiciary Committee, and Thomas F. Railsback, ranking Republican member of the Patent, Trademark, and Copyright Subcommittee.

[19] S. 1321, 93d Cong., 1st Sess. (1973). An identical bill (H.R. 7111) was introduced in the House by Congressmen Wayne Owens and Edward Mezvinsky, both Democratic members of the Patent, Trademark, and Copyright Subcommittee.

[20] Proper implementation should enable the Patent Office to overcome the "notorious difference between the standards applied by the Patent Office and by the courts." Graham v. John Deere Co., 383 U.S. 1, 18 (1966).

[21] S. 2930, 93d Cong., 2d Sess. (1974). The A.P.L.A. bill was introduced in the Senate by Senator James L. Buckley; an identical bill (H.R. 11868) was introduced in the House by Congressman Henry P. Smith III.

WAIVER UNDER SECTION 303(a) OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF HOUSE JOINT RESOLUTION 801

The resolution (S. Res. 392) waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of House Joint Resolution 801, was considered and agreed to, as follows:

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of H.J. Res. 801. Such waiver is necessary because the resolution contains advance appropriations of $1,226,000,000 for fiscal year 1977 for the purchase of ConRail stock. Such advance appropriation was requested by the United States Railway Association and is an esesntial element in the Government's presentation to a Special Court which will review the "fairness and equity" of the overall proceedings under Public Law 94-210.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94-650) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Excerpts of Purposes of Measure

PURPOSE OF THE RESOLUTION

Section 303(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution or any amendment thereto providing new budget authority, new spending authority, or changes in revenues or public debt for a fiscal year until the first concurrent resolution on the budget for such fiscal year has been adopted. Since H.J. Res. 801 provides budget authority for fiscal year 1977 prior to adoption of the First Concurrent Resolution on the Budget for that year, this resolution waiving section 303(a) of the Budget Act with respect to the consideration of H.J. Res. 801 must be adopted before H.J. Res. 801 can be considered by the Senate.

PURPOSE OF THE BILL

H.J. Res. 801 provides supplemental appropriations for fiscal year 1976 and the transition quarter for a number of railroad-related purposes. In addition, it provides $1.2 billion in budget authority for fiscal year 1977 for the purchase of ConRail securities as authorized by the Railroad Revitalization and Regulatory Reform Act of 1976.

The amounts provided in the legislation for fiscal year 1976 and the transition quarter are consistent with the Second Concurrent Resolution on the Budget which Congress adopted on December 12, 1975. The fiscal year 1977 funding for the ConRail investment provided by H.J. Res. 801, for which the waiver provided by S. Res. 392 is sought, was contemplated in the Budget Resolution and is supported by the Administration.

COMMITTEE CRITERIA

The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 303(a) of the Budget Act. One of the major purposes of the Congressional Budget Act was to bring the federal budget under better control. Through the adoption each year of the First and Second Concurrent Resolutions on the budget, Congress sets fiscal policy and national priorities for the fiscal year.

If legislation affecting spending or revenues for a future fiscal year is considered *prior* to the adoption of a First Concurrent Resolution on the Budget for that year, to that extent Congress loses its ability to consider spending and priority decisions for that year in the context of the Congressional budget process. However, the Budget Act recognized that in some situations it may be appropriate to consider such legislation before the adoption of the First Concurrent Resolution.

The Budget Committee believes that H.J. Res. 801 is a case in which provision of budget authority for fiscal year 1977 in advance of the adoption of the First Concurrent Resolution on the Budget for that fiscal year is appropriate. In the drafting and adoption of the Second Concurrent Resolution on the Budget for 1976, the Committee was advised that the multi-year funding structure contained in H.J. Res. 801 for ConRail was necessary to the income based reorganization contemplated by the legislation Congress has enacted to provide for the reorganization of railroads serving the northeastern and midwestern portions of the nation. As a result, the Second Budget Resolution totals for fiscal year 1976 and the transition quarter are consistent with the figures in H.J. Res. 801 for ConRail investment. The Budget Resolution contemplated the amounts provided in H.J. Res. 801 for fiscal year 1977.

The Budget Committee believes that in this case, where advance appropriation is necessary to give assurance of essential funding for a program which Congress has authorized and included in its budget, a waiver of section 303(a) is appropriate.

H.J. RES. 801 AND THE BUDGET ACT

The Committee commends the approach taken by the Senate Appropriations Committee in reporting ConRail appropriations in H.J. Res. 801 in a manner consistent with the assumptions in the Congressional budget. On the other hand, the Committee is concerned that the approach embodied in H.J. Res. 801 as passed by the House of Representatives is inconsistent with the Budget Act. the total amounts appropriated for ConRail are identical in both bills, but the House bill provides no funding for fiscal year 1977, a greater amount than the Senate version of the bill for the transition quarter, and amounts for fiscal years 1978 and 1979 not contained in the Senate bill. The apparent purpose of this approach is an attempt to avoid application of section 303(a) of the Budget Act to the portions of the bill which deal with future fiscal years.

Congress designed section 303 of the Budget Act to assure that budget decisions in future fiscal years did not become too heavily mortgaged by multi-year spending decisions made in prior years. To achieve that purpose, section 303 provides a general rule that budget authority may not be provided for a future fiscal year until the First Congressional Budget Resolution for that year has been adopted, unless Congress expressly waives this general rule in a particular case (i) in the Senate, by an affirmative vote on a resolution to waive the rule or (ii) in the House, in connection with the rule adopted for consideration of the legislation.

Congress provided one narrow exception to this general rule, to facilitate Congressional consideration of a limited number of programs—especially those related to federal aid to state and local governments—where advance appropriations are either traditional or desirable to facilitate state and local planning and programs. That exception, contained in section 303(b) of the Budget Act, provides that a waiver of section 303 is not necessary for Congress to consider advance appropriations, no part of which take effect prior to the first future fiscal year for which the advance appropriation is provided. Thus, for example, no waiver of section 303 would be required for consideration in either House of an advance appropriation which first took effect in fiscal year 1978.

This exception for advance appropriations was not intended to be available under the circumstances presented by the House version of H.J. Res. 801, in which budget authority is provided for fiscal year 1976, the transition quarter, and the two years following fiscal year 1977. If the precedent embodied in H.J. Res. 801 as passed by the House were to become commonplace, the discipline of the Congressional budget process would be eroded. Congress could be confronted with a considerable number of bills providing budget authority for future fiscal years without any consideration of the Congressional budgets for those years or how those bills compared to one another or to the national priorities and fiscal policy which the Budget Act intends Congress shall control through the budget process.

The approach of the House-passed bill, which stretches the budget authority for ConRail over a period of four fiscal years (instead of two, as in the Senate measure) and provides none for fiscal year 1977, has other anomalous effects, even though the *total* amounts contained in both versions are identical. As passed by the House, the legislation breaches the budget total for the transition quarter as set forth in the Second Concurrent Resolution for the Commerce and Transportation function of the budget. As reported by the Senate Appropriations Committee, H.J. Res. 801 is consistent with the budget process and the budget which Congress has already adopted for the transition quarter. H.J. Res. 801, as passed by the House, does not meet this standard.

AMENDMENTS TO H.J. RES. 801

The Committee does not intend that this waiver resolution shall be interpreted in any fashion as waiving the clear prohibition of Section 303(a) against any amendment to H.J. Res. 801 which would be out of order under Section 303(a). Under Section 303(a), any amendment to H.J. Res. 801 will be out of order if it provides:

(1) New budget authority for a fiscal year;

(2) An increase or decrease in revenues to become effective during a fiscal year;

(3) An increase or decrease in the public debt limit to become effective during a fiscal year; or

(4) New spending authority described in section 401(c)(2)(C) (of the Budget Act) to become effective during a fiscal year;

before the first concurrent resolution of the budget for such year has been agreed to pursuant to Section 301 of the Budget Act. Thus, any amendment to H.J. Res 801 which will increase budget authority or spending authority or increase or decrease revenues or the public debt in fiscal year 1977, or any fiscal year thereafter, is not in order.

The purpose of the prohibition against such amendments to legislation upon which a waiver has been granted is to assure that, in adopting such waivers, the Senate does not open the door to amendments which would increase the levels of budget authority or new spending authority beyond those levels contained in the bill upon which a waiver was granted, nor permit the use of that legislation as a vehicle for amendments to increase or decrease revenues or the public debt other than as provided in the bill upon which the waiver is granted.

The purpose of the Budget Act is to permit Congress to gain control of federal spending and revenues by controlling spending in each fiscal year and to preclude, except in very limited cases, the enactment of legislation which provides budget authority or tax changes in future fiscal years for which Congress has not yet made a Congressional budget determination to the extent that Congress permits the encumbrance of future years' budgets by the provision of budget authority or changes in the revenues prior to the adoption of the budget resolution for that future fiscal year, the Congress loses control of spending and its ability to make priority judgments among competing programs, most of which will not be funded until the fiscal year in question.

Provisions in the Budget Act which permit forward funding of certain programs in fiscal years for which a Congressional budget has not yet been adopted were intended to accommodate the need for effective planning in programs where multi-year planning and projects require a reasonable assurance as to the level of future funding. Section 303(a) was intended to provide a control, exercised through the Budget Committees, on the consideration of such legislation and amendments thereto, so that, in providing essential forward funding for this limited class of programs, the Congress would not open a Pandora's box of amendments which exceed the cost contemplated by the specific bill for which the waiver was granted.

Thus, in granting this waiver for the consideration of H.J. Res. 801, the Committee nonetheless views as out of order any amendments to that bill which, if offered separately, would be out of order under Section 303(a).

WAIVER UNDER SECTION 303(a) OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF THE CONFERENCE REPORT ON H.R. 11045

The resoluton (S. Res. 393) waiving section 303(a) of the Congressional Budget Act of 1974 with respect to consideration of the conference report to accompany H.R. 11045, the "Rehabilitation Act Extension of 1976," was considered and agreed to, as follows:

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of the conference report to accompany H.R. 11045, the "Rehabilitation Act Extension of 1976". Such waiver, with respect to so much of such provisions of that conference report, as would provide new budget authority, and new spending authority under section 401(c)(2)(C) of the Congressional Budget Act of 1974 for fiscal years 1977 and 1978 prior to adoption of the first concurrent resolution on the budget for such years (by extending the State allotment formula in the Rehabilitation Act of 1973 (Public Law 93–112), as amended, through fiscal year 1978 to be determined, pursuant to section 110 of such Act, based on a nationwide allocation level equal to the amount authorized to be appropriated for making grants to the States for basic vocational rehabilitation services), is necessary because the authorization of appropriations in the Rehabilitation Act of 1973, as amended, for the State grant vocational rehabilitation program, on which authorization level the State-by-State allocation formula is based, expires on June 30, 1976. The 20 per centum matching requirement for such allotments to States is determined on the basis of funding decisions by State legislatures which generally meet and adjourn prior to May 15, the date by which the first concurrent resolution on the budget must be adopted under the Congressional Budget Act of 1974. During such sessions of State legislatures, commitments are made to provide each State's share, on the basis of which the Federal 80 per centum allotment is then paid to each State with an approved State plan. If legislation authorizing a nationwide allotment level for the program for fiscal year 1977 is not enacted at an early date, many State legislatures will be unable to authorize the funds needed for vocational rehabilitation programs for such year.

Further, the authorization of appropriations and the nationwide allotment level for fiscal years 1977 and 1978 for State grants for basic vocational rehabilitation services in the conference report to accompany H.R. 11045, the "Rehabilitation Act Extension of 1976", would not increase substantially the currently authorized and congressionally approved program level for fiscal year 1976 but would maintain continuity in the vocational rehabilitation program and permits the States to continue such programs at reasonable levels.

For the foregoing reasons, pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the conference report to accompany H.R. 11045, the "Rehabilitation Act Extension of 1976".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–651), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE RESOLUTION

Section 303(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution or any amendment thereto providing new budget authority, new spending authority, or changes in revenues or public debt for a fiscal year until the first concurrent resolution on the budget for such fiscal year has been adopted.

Since the conference report to accompany H.R. 11045 constitutes an amendment to the bill passed by the Senate, a resolution waiving section 303(a) of the Budget Act with respect to the consideration of the conference report must be adopted before the report can be considered by the Senate.

PURPOSE OF THE CONFERENCE REPORT

The conference report on H.R. 11045 would extend the Vocational Rehabilitation Act for two years and increase the budget authority for both years above the level contemplated when the measure was considered by the Senate and a waiver was granted on January 20, 1976.

The Senate originally agreed to a one-year extension and an authorization level of $720 million for the state grants provision. The conference report authorizes $740 million for the fiscal year ending September 30, 1977 and $760 million for fiscal year 1978, unless the Congress authorizes at a different level by April 15, 1977.

The Vocational Rehabilitation Act is among the oldest of federal human resources programs. The Act was originally passed in 1921 and was amended periodically until 1973, when the Act was overhauled. The purposes of the Act, however, have changed only slightly since its enactment. It provides for research, project grants, and a state-federal sharing (80 percent federal, 20 percent state) program emphasizing services to handicapped persons in order to make them employable. This legislation is regarded as one of the most successful of all federal/state cost-sharing programs. According to current estimates, the program returns from $8 to $35 in increased federal tax revenues for every additional dollar appropriated.

COMMITTEE CRITERIA

The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 303(a) of the Budget Act. One of the major purposes of the Congressional Budget Act was to bring the Federal budget under better control. Through the adoption each year of the First and Second Concurrent Resolutions on the budget, Congress sets fiscal policy and national priorities for the fiscal year.

Moreover, the Committee intends to make a thorough and continuing review of all areas of so-called "uncontrollable" Federal spending, including entitlement programs, and make recommendations for revision in such programs wherever possible to achieve firmer current control of their costs.

If legislation affecting spending or revenues for a future fiscal year is considered prior to the adoption of a First Concurrent Resolution on the Budget for that year, to that extent Congress loses control of the spending and priortiy decisions for that year prior to adoption of a Congressional budget for that year. However, the Budget Act recognized that in some situations it may be appropriate to consider such legislation before the adoption of the First Concurrent Resolution.

The Senate Labor and Public Welfare Committee states that the necessity for the waiver is that the State plans for this program must include matching funds by the State in order to qualify for these grants. Since many state legislatures meet in the early part of the calendar year, if the Senate could not consider this legislation until after May 15, there could be some disruption in the continued implementation of this program and great uncertainty among the states concerning the level of planning for these services for the coming fiscal year.

Further, the Labor and Public Welfare Committee notes that the authorization of appropriations and the nationwide allotment level for fiscal years 1977 and 1978 for State grants for basic vocational rehabilitation services contained in the conference report to accompany H.R. 11045 would not increase substantially the currently authorized and congressionally approved program level for fiscal year 1976 and would maintain continuity in the vocational rehabilitation program and permit States to continue such programs at reasonable levels.

In view of the historical practice, interpretation and administration of this program, a delay in the established appropriations practice with respect to this bill could result in substantial administrative and legislative inconvenience for a majority of states and an unnecessary hiatus in an essentially useful and successful program. For that reason, the Budget Committee has reported the waiver resolution favorably.

The Budget Committee reiterates its position that waivers such as this one should be granted only sparingly and only in cases where unavoidable program disruption would otherwise occur or where improved efficiency or savings in Federal programs or activities can be achieved.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

The second assistant legislative clerk proceeded to read nominations on the Executive Calendar.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all nominations on the Executive Calendar be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore without objection, all nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF COMMERCE

Richard G. Darman, of Massachusetts, to be an Assistant Secretary of Commerce.

Joseph E. Kasputys, of New York, to be an Assistant Secretary of Commerce.

John Thomas Smith II, of the District of Columbia. General Counsel of the Department of Commerce.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

David W. Oberlin, of Virginia, to be Administrator of the St. Lawrence Seaway Development Corporation.

DEPARTMENT OF JUSTICE

Charles J. Pooler, of Maine, to be U.S. Marshal for the district of Maine.

CIVIL SERVICE COMMISSION

Georgiana H. Sheldon, of Virginia, to be a Civil Service Commissioner.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the President be notified.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR CONVENING ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate convenes on Monday, it convene at the hour of 12 o'clock noon following an adjournment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the reason I phrased it in that way, I would hope that the order for the convening tomorrow can be vitiated, but it depends on what can be done in working out a little matter that involves the Appropriations Committee.

So we may or may not be in tomorrow, we will know later today.

But, in any event, whether we go out today or go out tomorrow, we would adjourn over to Monday at the hour of 12 o'clock noon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CITATION COMMENDING SENATOR HUGH SCOTT

Mr. GRIFFIN. Mr. President, most appropriately the House of Representatives of the Commonwealth of Pennsylvania has recently recognized the long and distinguished service to Pennsylvania and to our Nation rendered by our distinguished colleague, the able minority leader. I ask unanimous consent that a copy of the resolution adopted by the House of Representatives on January 27, 1976, commending Senator HUGH SCOTT on his many years of outstanding public service, be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

COMMMONWEALTH OF PENNSYLVANIA: CITATION BY THE HOUSE OF RPRESENTATIVES

Whereas, The Honorable Hugh Scott has contributed many years of outstanding public service to the Commonwealth of Pennsylvania and the United States. Senator Scott has served eight terms in the United States House of Representatives and three terms as a United States Senator. Senator Scott, who is the first Pennsylvanian to hold a leadership position, has served for four terms as

> Senate Republican Leader. He is a member of the Judiciary, Foreign Relations and Rules and Administration Committees; and is Vice Chairman of the United States delegation to the Interparliamentary Union. Senator Scott, who is a graduate of Randolph-Macon College and the University of Virginia Law School, has received twenty-nine honorary degrees. He has received many honors, including Distinguished Pennsylvanian of 1973, Distinguished Republican of the Year (1973) and a "National Black Salute", which established a scholarship fund for deserving black students in political science. Senator Scott, who is an avid collector and authority on Oriental Art, wrote a highly acclaimed book on Oriental Art, The Golden Age of Chinese Art, travelled to the People's Republic of China in 1972 at the invitation of that government, and is a member of the Oriental Art Committee of the Philadelphia Museum of Art.
>
> Now therefore, the House of Representatives of the Commonwealth of Pennsylvania extends its commendations and congratulations to the Honorable Hugh Scott on his many years of outstanding public service to the Commonwealth and the United States; and further directs that a copy of this citation be delivered to the Honorable Hugh Scott, Republican Leader, United States Senate, Washington, D.C., 20510.

Mr. HUGH SCOTT. If the Senator will yield to me, I wish to express my great thanks to him and, second, to correct an impression or misimpression which the press has on the responsibility of the majority and minority leaders to lodge objections. I have in mind particularly the lodging of objections to meetings of committees or of subcommittees.

I was recently forced to lodge an objection because that is my duty at the request of any Senator on my side, as it is the duty of the distinguished majority leader or the distinguished assistant majority leader. This was promptly taken in the papers as an indication that I had some personal objection to the so-called divestiture bill. To the contrary, I expect to vote for the bill. I am in favor of it. But I had two requests from Senators on my side. It is not customary nor required that I indicate where the objections come from, although I am generally free to do it in discussion with the distinguished majority leader.

I do wish the press would get things like that straight and that they understand our procedures a little better.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New York (Mr. BUCKLEY) is recognized for a period not to exceed 15 minutes.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that Mr. Charles Lombard, of the staff of the Select Committee on Intelligence Operations be granted the privileges of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE STAFF REPORT ON COVERT ACTION IN CHILE 1963–73

Mr. BUCKLEY. Mr. President, on December 18, 1975, the Select Committee on Intelligence Activities issued a staff report entitled, "Covert Action in Chile—1963–73."

The report is slanted and biased.

It is slanted, because it excludes relevant information that was available to the staff.

It is biased, because it discounts or ignores the testimony of one important eye-witness and participant, Ambassador Edward Korry.

The staff report leaves the impression that the U.S. Government aided and abetted the overthrow of a popular democracy that had the support of the Chilean people. Nothing could be further from the truth.

This morning I would like to set the record straight.

When Salvador Allende was overthrown on September 11, 1973, his regime had become repressive if not tyrannical. A brief look at Allende's 3 years in power shows how.

In the Chilean presidential elections of 1970, no candidate won a majority of the popular vote. Of the three major candidates, Salvador Allende, a perennial candidate of avowed Marxist persuasion, won a plurality of 36.3 percent of the vote. Dr. Allende's plurality represented a margin of 39,000 votes out of 3 million ballots cast.

In accordance with constitutional requirements, the Chilean Congress was then obliged to choose between Allende and his runner-up Jorge Alessandri Rodriguez, the National Party candidate who had won 35.5 percent of the popular vote. Conforming to most expectations and to every precedent, the Congress honored Salvador Allende's plurality and he was elected President of Chile by a joint congressional session on October 24, 1970, 50 days following the popular election. On November 3, 1970, Salvador Allende was inaugurated as President and swore an oath to abide by the Chilean Constitution.

Within months, the Allende government began a systematic and powerful effort to subvert democracy in Chile and to justify fully the fears of Kennedy-appointed Ambassador Korry and of Nixon's Chairman of the National Security Council Henry Kissinger, that "if Allende wins, there is likely (not) to be another free election in Chile." The Allende government undertook at once to fulfill Mr. Kissinger's further prediction that "if Allende wins, there is a good chance that he will establish over a period of years some sort of Communist government." Our national intelligence estimates concerning Chile—characterized in Senate Select Committee print as "shrill"—were, if anything, remarkably understated in warning that Allende was, in staff report paraphrase, "likely to be impelled to use political techniques of increasingly dubious legality to perpetuate his coalition and power."

The select committee staff report concludes, from an examination of the national intelligence estimates, that "the more extreme fears about the effects of Allende's election (were) ill-founded." This conclusion by the staff faithfully reflects the estimates' reports of the survival of a free, antitotalitarian press and of opposition parties within Allende's Chile. What the staff failed to point out, despite the ample information available to it from Embassy records, the State Department, and the CIA, was that it was only by virtue of covert help from the United States that these free institutions were able to survive in the face of increasingly repressive measures by the Allende regime.

To insure that the same scrupulous adherence to the electoral process which brought Allende to power should never henceforth deprive him of it, the Allende government of Unidad Popular "permitted" what a 1973 report of the Chilean Commission Investigating Electoral Fraud terms "a gigantic fraud."

The Electoral Commission was composed of prominent Chilean legal scholars and was directed by Jaime del Valle, dean of the Law School of the Catholic University of Chile. After meticulously tracing an established pattern of repeated irregularities and abnormalities in voter registration and participation, its report concluded by citing with specificity the incidents of fraud which it had verified in the parliamentary elections of 1973. The report reasoned therefrom that:

> (D)uring the latest parliamentary elections, held in last March, an electoral fraud of major proportions was perpetrated. Although the magnitude of the fraud cannot be specified definitively until our investigations have been completed, it seems thus far to involve between 200,000 and 300,000 illegally cast votes, approximately. At the same time, those same facts lead to a second unquestionable affirmation that the sector benefitted is Unidad Popular, the political base of the present Government of the nation, on whom the responsibility for all of these events definitely falls. (emphasis supplied)

The report then presented a detailed description of various "inexplicable and abnormal" situations which had characterized the recent election results. The Commission's report stated that—

> (T)here is, therefore, evidence that there is no reasonable explanation for the participation of at least 250,000 persons in the (electoral) act of March 4, 1973.

The report further observed that the evidence indicating "that in our country there has been a large-scale and decisive electoral fraud" was of such a nature that its "characteristics make one think that it is even probable that this may not have been the first time it has been committed."

In substantiation of its claims the report adduced evidence of: First, large-scale theft and falsification of (voter) registration forms; second, connivance or indifference of government officials with respect to defective or improper registration; third, double and even multiple registration; forth, substitution of imposters for nonvoters; fifth, imposture of voters abroad by residents; and sixth, ballots cast by deceased voters. In each event the Commision laid unequivocal blame—as well as clear motive—at the doorstep of Allende's Unidad Popular government.

Some 10 months earlier an official communication from the Chilean Bar Association to President Salvador Allende urgently protested not only the "growing violence" in Chile, but the great devastation being wreaked on the rule of law. The General Council of the Bar Association charged the following:

> The Agrarian Courts have not yet been organized; the public authorities do not provide the assistance of the forces under their jurisdiction which are required for compliance with court orders; even the news media guided by the governmental apparatus and persons of more or less high rank in the official hierarchy attack the organs of the Judicial Branch and the ministers and judges, personally; the right of defense is restricted and the basest campaigns are launched against lawyers; these realities and others which could be listed destroy the bases of institutional normality, which are being weakened or threatened with destruction.

The bar lamented repeatedly the assault of "democratic legality" and expressed to President Allende its fears:

> Frequent and serious examples of this deplorable phenomenon are to be seen in the dictating and carrying out of resolutions which are foreign to the letter of the spirit of the laws cited; in the rejection of the merits of formal decisions of the supervisory and auditing agencies, and even of the decisions of the courts. Just recently an episode took place in the presence of the public authority, in which, by actions far removed from dialogue, from persuasion, from the legitimate decisions of the administrative or judicial authorities and of the organized and disciplined compulsion of society, an anarchic and irresponsible group imposed its will through physical and brute force.

Redundantly, the Bar Association's communication starkly reminded President Allende that—

> It is a daily occurrence that those who feel themselves affected by the acts of other persons proceed to seek a solution through increasingly violent activities and, what is very much more serious, *with the support of high officials*. (Emphasis supplied)

Nineteen days later the general council of the Bar Association, "faced", in its words, "with the breakdown of the state of law which the country is undergoing, in defense of the higher interests of the Nation, and exercising the right of defense of the institutional system and of the legal profession," "suspended, except for emergencies, the practice of law."

The protests of illegality made by the Bar Association were shortly thereafter amplified by the Controller General of Chile, who, in addition to his duties as comptroller of the national treasury, passes upon the constitutionality of executive decrees and, often by way of response to requests from agency heads, passes upon the legality of administrative decisions.

In correspondence dated March 14, 1973, the Controller General replied to a letter from the Minister of Economy, Development, and Reconstruction, in which the latter official had maintained that the Controller General was without authorization to respond to a request for a ruling from the head of a postal district. In the course of his reply, the Controller General reminded the Minister first, that the Government's failure to suspend application of a requisition decree once the Controller General's Office has questioned its legality renders the decree illegal—regardless of the Government's prerogative to have enforced it temporarily on an earlier emergency basis; second, that an outstanding requisition decree—No. 680 of 1972—was consequently "illegal"; and third, that the "situation of illegality * * * continues unchanged up to the present."

More generally, the Controller General also protested the Government's assault on the jurisdiction and functioning of the Controller's office, "an Authority which, with the independence which the Political Constitution guarantees to it, has merely done its duty and exercised the fullness of its authority of legal service."

So blatant, in fact, and so grave had become Allende's contempt of due process that the rule of law in Chile was in danger of imminent collapse. Judicial decisions and decrees were countermanded by the executive; and court orders were, if not disregarded, directly and flagrantly disobeyed.

The so-called 2½-year-old "experiment" of a "constitutionally elected civilian government"—as select committee staff styled the Allende regime—had finally compelled the Supreme Court of the Chilean nation to reprove President Allende by unanimous resolution.

> This Supreme Court points out to Your Excellency for the ninth time the illegal posture of the administrative authority in its illicit intrusion in judicial matters, as well as the obstructon by Carabineers of compliance with the orders issued by a Criminal Court which, according to the law, should be executed by that corps without any hindrance whatsoever; all of which signifies an open obstinancy in rebelling against court orders, paying no attention to the disturbances in the juridical order caused by such attitudes or omissions, which—further—signifies not just a crisis in the State ol Law, as was pointed out to Your Excellency in the previous official communicattion, *but a final or imminent break-down of the legal structure of the country*. (emphasis supplied)

In reply, President Allende adverted at length to the executive's discretionary powers in, for example, enforcing court orders. In his own official communication of June 12, 1973, President Allende affirmed that the government was unable to proceed "without previously considering the facts which would enable them in each case to foresee the personal, family, or social consequences which the executing of the court order could produce at that particular time." Further, President Allende maintained that his government was "frequently constrained to make judgments of merit or opportuneness regarding the utilization of the police power" and that he could not risk disturbing "social peace and the physical safety of persons * * * by the indiscriminate execution of a court order."

President Allende's response also complained of: First, the courts' lack of "data on the social context"; second, their "habit of excessively extending the scope of the preventive measures which they have approved in the case of industries which have been requisitioned or subjected to intervention by administrative decree"; third, their alleged leniency in sentencing offenders in cases of lèse majeste; and fourth, their asserted partiality to previous administrations.

Finally, President Allende averred flatly that "the government is faced with a denial of justice in a great number of cases," and accused the judiciary of harboring class bias and failing to do equal justice to both rich and poor. The President ended by alleging that the courts were retrogressive and their decisions out of touch "with the new realities which the country is living."

Constrained to reply in turn to what it viewed as a statement which "slanders the judicial function," the supreme court resolved in plenary session to advise President Allendé that his previous communication constituted "an attempt to subject the free criterion of the judicial branch to the political needs of the government."

In a second official communication, the supreme court, on June 24, 1973, protested to the President his invasion of the judicial area and his identification with those elements attacking the judiciary. With great care and in considerable detail, the supreme court demonstrated to Allendé his weighty error in holding to a view that "the administration evaluates, appraises, and issues value or 'merit' judgments regarding judicial orders, as to whether to comply with them, to interpret them, to delay compliance therewith, or to limit them according to the judgment of the administrative or police official." The supreme court spoke briefly and to the point:

> "(T)he President is mistaken . . . (*n*)*o administrative official, as such, has legal authority to judge Justice. He should simply comply with the decisions of the latter*". (emphasis supplied).

Citing with precision the various constitutional and statutory provisions forbidding the executive to violate the statutory provisions forbidding the executive to violate the separation of powers and to encroach upon the role of the judiciary, the Supreme Court just as bluntly charged that "(e) ven criminal court orders, which are sent directly to the police power, have been resisted by the police authority by virtue of orders from the intendants and governors, who are responsible, as is known, to the Ministry of Interior," and that in cases where the courts have ordered the return of requisitioned or intervened property, "the administration has resisted the order thereby openly violating the constitution and the laws because adjudication is a function of the judicial branch, and not of the executive branch (article 80 of the constitution)."

At this point, Mr. President, I believe it important to remember that for generations, Chile has been considered, of all the Latin American States, the one that has most steadfastly adhered to the principles of constitutional democracy; the one state in which respect for the law has been most meticulously observed; the one state where the independence and probity of the judiciary has been, with reason, most respected.

In a final reminder, occasioned largely by Allende's allegation of obstructionism, the supreme court again explained that judicial interpretation "cannot in fact be used to cancel existing law. Changes in the law can only be effected by the legislative branch."

The Allende government, however, had so brutally invaded the province of the legislative branch and had so methodically violated the law of the land that on August 22, 1973, the Chamber of Deputies issued an overwhelming denunciation which categorically condemned the Allende regime for its unrelieved lawlessness and its reckless disregard of the constitution. In a bitter resolution of considerable length the Chamber of Deputies presented a scathing and exhaustive bill of particulars which reproached the Unidad Popular administration for illegalities ranging from crimes such as torture, illegal arrests, and obstruction of justice, to constitutional violations involving equal protection of the laws, freedom of expression, and rights of assembly.

Affirming at the outset that:

> (I) t is a fact that the present Government of the Republic, since its beginnings, has set out to achieve total power . . . and to achieve thereby the establishing of a *totalitarian system absolutely contrary to the system of representative democracy which the Constitution establishes* (emphasis supplied).

The resolution—before enumerating the myriad violations of the Allende administration—set forth the gravamen of its charge:

> (T) he Government has not committed isolated violations of the Constitution and the laws, but rather has made of such violations a permanent system of conduct, reaching the extreme of systematically rejecting and violating the powers of the other Branches of the State, of habitually violating the guarantees which the Constitution ensures to all inhabitants of the Republic, and of permitting and protecting the establishing of illegitimate parallel powers, which constitute a very serious danger for the nation; with all of which it has destroyed essential elements of the institutional system of the State of Law.

Thereafter the resolution sets forth seriatim its findings of offenses committed against the powers of the national congress:

First, the Allende administration has usurped the primary function of the congress and has issued, "in abuse of authority," decrees which are arbitrary substitutions for legislation;

Second, the Allende government has, by evasion, prevented the congress from exercising its power to remove ministers "who violate the constitution or the laws, or commit other crimes or abuses which are indicated in the constitution," and,

Third, the executive has nullified the congress constitutional power by refusing to promulgate economic reforms "approved in strict accordance with the standards which the constitution establishes for that purpose."

Corroborating the earlier protestations of the judiciary, the resolution also specifies "excesses" against the courts:

First, the Allende government has intentionally sought to subvert the independence of the judicial branch and, to that end, has conducted a campaign against the supreme court which includes "serious outrages * * * against the persons and powers of the judges;"

Second, the government has evaded justice in criminal cases involving government partisans, either by excessive pardons or by "deliberate noncompliance with arrest warrants;" and

Third, President Allende has failed to execute court orders and judicial decisions and in reply to protestations from the country's highest court "has gone to the incredible extreme of arrogating to himself, as a principle, the right to make a "judgment of the merits of judicial decisions and of determining when the latter should be complied with."

As to the functions of the controller general, the resolution of the chamber of deputies simply affirms that office's earlier complaint that—

> The government has systematically violated those decisions and actions aimed at showing the illegality of the actions of the executive or of agencies which are responsible to it.

For the rest, the resolution submits a catalog of "constant violations committed by the government against the fundamental guarantees and rights established in the constitution."

In the first place, the resolution then lists the Allende government's "sectarian and odious" denial of equal protection of the law, a "basic standard of (Allende's) government" which derives from Dr. Allende's proclamation "from the beginning that he does not consider himself President of all Chileans."

The resolution alleges next that the government has "seriously violated the freedom of expression" by enacting economic sanctions against opposition media; by illegally closing newspapers and radio stations; by "unconstitutionally incarcerating opposition newspapermen"; by attempting to monopolize newsprint—an enterprise, I might note, that was frustrated solely as a result of U.S. clandestine support of a free press; and by perverting the National Television Channel into "an instrument for sectarian propaganda and defamation of political adversaries".

Similarly, the resolution condemns the Allende administration for its unconstitutional violation of university autonomy and its interference—through violence, illegal detentions, and usurpation—with the rights of Chilean universities to own and operate broadcasting facilities. Parenthetically, the resolution notes, in this respect, that Dr. Allende unlawfully entrusted the direction of the national channel to an official whose appointment was unconsented to by the Chilean Senate.

The resolution cites, too, the violent repression of the right to assembly; the systematic violation by plunder of the constitutional guarantee of the right to own property; the "frequent illegal arrests for political motives", along with the many attendant instances of "whippings and tortures"; the flagrant disregard of workers' rights, the illegal repression of their union or trade organizations, the denial of justice to workers "unjustly persecuted"; and the specific violations of the law of agrarian reform.

The resolution also protests the "so-called Decree for Democratizing Teaching * * * (which) has violated freedom of teaching by illegally and surreptitiously putting into effect an educational plan which has as its purpose the building of Marxist consciousness."

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. GOLDWATER. Mr. President, I will yield the Senator from New York 5 minutes out of my time, but he started, according to the clock, at 12 minutes after the hour of convening. I believe he still has a few minutes.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arizona (Mr. GOLDWATER) is recognized for not to exceed 15 minutes. The Senator yields 5 minutes to the Senator from New York?

Mr. GOLDWATER. Yes, but I would request that the clock be watched more closely. He still has 2 minutes left, according to my time.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized for an additional 5 minutes, and the Chair will closely watch the time.

Mr. BUCKLEY. Finally, the resolution makes mention of the serious infringement on the right to emigrate which is represented by new governmental requirements not contemplated by law.

In summation, the Chamber's resolution directly addresses the fact of Allende's private militia and plainly labels his cadres of paramilitary and vigilante groups "seditious (,) because they exercise an authority which neither the Constitution nor the laws gives to them, in manifest violation of the provisions of Article 10, number 16, of the Constitution . . ." The resolution warns of the devastating consequences which attend the establishment of a private army and categorically condemns "the public and notorious attempts to utilize the Armed Forces and the Corps of Carabineers for partisan purposes, to break-down (sic) their institutional hierarchy, and to infiltrate their troops politically."

Expanding upon the Chamber's resolution, the Chilean Bar Association published, on August 29, 1973, yet another report which found President Allende's administration to be suffering from such serious and basic disabilities as to impugn President Allende's fitness to govern further. The Bar unreservedly adopted the Chamber's findings that:

> (T) he President of the Republic has ignored the Constitutional prerogatives of the National Congress, of the Judicial Branch, and of the Office of the Controller General of the Republic . . . (and) he has violated, among others, the constitutional guarantees provided in numbered sections 1, 3, 4, 7, 10, 14 and 15 of Article 10 of the Constitution and in Article 13 of that same Fundamental Charter.

The bar's report further objects that, in the face of repeated remonstrations, the President refuses relief or reform. The report is specific:

First. The highest authority of the judicial branch, the Supreme Court of Justice, makes known to him that judicial orders are not complied with, whereby the legal framework is broken—and, let it be said in passing, the practice of law, which it is this association's responsibility to defend, becomes impossible—and then the President of the Republic, rather than ordering such compliance without any further ado, maintains publicly that he reserves the right to evaluate judicial decisions, and this without even trying to initiate a process of constitutional reform for that purpose.

Second. The chamber of deputies, using its exclusive and express constitutional authority, calls to his attention a number of actions by the Government or the administration, and then the President of the Republic replies that the chamber is trying to convert itself into a parallel power.

Third. The Office of the Controller General of the Republic, which is the constitutional agency established for the fiscal review of administrative acts, contests certain decrees and points out to him that the fact that they are being executed despite its objection and without resort having been made to the procedure of insistence, and then the President of the Republic maintains that he can do this in his position as the administrator of the State.

The incompatibility of the Allende government policies with the Chilean constitutional framework forced upon the bar a conclusion that the policies of the Allende administration were such that, if the President was not dissembling "it (is) clear that the Supreme Head of the Nation finds it impossible to carry out his intentions as Chief Executive" within the law.

Subsequently, a declaration by the National Congress affirmed that President Allende was not competent to discharge his responsibilities and that his disabilities were of such a nature as to call for new elections. Although the declaration of the Chilean Congress was examined and found wholly proper by a report of professors of constitutional law on September 7, 1973, its effect was apparently unfelt by the President. In any case, events were shortly to moot the President's reaction: on September 11, 1973, the Chilean military effected a successful coup d'etat. In its aftermath, President Allende died, reportedly at his own hand.

So much, Mr. President, for the Allende "democracy" that is now being canonized thanks, in substantial part, to such exercises in blatant historical revisionism as those enshrined in the select committee's staff report on covert actions in Chile. I wish that the false description—I shrink from the word "falsification"—of the clear historical record with respect to the state of constitutional democracy and liberties during the Allende regime were the only sin of omission, or commission, to be reflected in the report.

Unfortunately there is ample reason to believe that the staff has chosen to neglect other areas equally important in setting forth an accurate historical record of the kind required for a sober assessment of past performance and for a determination of how we should conduct our foreign affairs—overt and covert—in the future.

I have, in these remarks, gone to some length to detail Allende's sins against anyone's concept—other than the Kremlin's—of constitutional democracy because of the critical need to place in proper perspective the authoritarian excesses of the present regime. I know no one who can excuse or condone the reported resorts to torture indulged in by the present government. But this should not blind us to the fact that if one has to choose between repressive regimes, one can indulge a preference for one that is indigenous and not-for-export over one that by precept if not by explicit direction—and here there is reason for debate—is the creature of an aggressive ideology, the ideology that has established its Western Hemisphere beachhead in Castro's Cuba.

Unfortunately, the failure of the select committee's staff to deal factually with the historic record goes far beyond its reluctance to describe the Allende regime for what it was. I understand that despite substantial leads, the staff stubbornly refused, in its original report on Chile, to deal squarely with the following questions, among others:

First. The relationship of Allende and his government to the Soviet Union, particularly their financing of him for many years prior to his campaign and accession;

Second. The extent of the definition of U.S. interests in Chile by the Kennedy and Johnson administrations, and the ways in which those administrations proceeded to protect those interests;

Third. The allocation of AID and other Government funds for political purposes in Chile in the 1960's;

Fourth. The consistency with which the closest advisers to Presidents Kennedy and Johnson, and officials of the State Department and the CIA, identified Allende with communism and the establishment of a "second Soviet bridgehead" in the hemisphere.

I hope, Mr. President, that in its final report, the select committee will deal honestly and forthrightly with these and other questions that have been called to its specific attention—affirming them or denying them, as impartial examination of the evidence dictates. I have no idea how competently it has dealt with the other vast areas covered by its inquiry; but if it merely echoes the distortions and evasions that so totally discredit the staff report on Chile, then Members of the Senate and of the public will have no reason to place confidence in its other findings and conclusions.

Mr. President, the credibility not only of the select committee, but of the Senate itself depends on the honesty with which that committee completes its much publicized work. It cannot allow the results of that work to be impugned or discredited by charges of partisan or ideological bias. Unfortunately, based on its performance to date, those charges will be hard to refute. As a Member of this body, I fervently hope that a special effort will be made to meet them head on, and to insure that the final record, including such corrections of preliminary reports as may be required, will establish the willingness of the Senate to address matters of the greatest national importance with a probity to which the Nation is entitled.

Mr. President, I thank the Senator from Arizona for yielding me some time.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. GOLDWATER. Do I have 10 minutes?

The ACTING PRESIDENT pro tempore. The Senator has 10 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield for a question?

Mr. GOLDWATER. I am happy to yield.

Mr. ROBERT C. BYRD. Does he need more than 10 minutes? I have a little time that I can yield.

Mr. GOLDWATER. I do not think I need that much time. I will try to be brief.

Mr. ROBERT C. BYRD. Let me yield to the Senator 5 minutes of my 10 minutes and the other 5 minutes to the distinguished Senator from North Carolina.

Mr. GOLDWATER. I thank my good friend from West Virginia, but I shall be as brief as I can.

Mr. ROBERT C. BYRD. If the Senator does not use the 5 minutes he can yield them to the Senator from North Carolina.

CHILE

Mr. GOLDWATER. Mr. President, I wish to compliment the distinguished Senator from New York for his excellent statement. There is no question in my mind that his appraisal of the situation in Chile will stand the test of time.

I felt so strongly about this as a member of the Select Committee on Intelligence that in the committee meeting I moved that we not have open hearings on covert actions in Chile. I did not think the staff had conducted a thorough investigation or produced an objective report. And, I believe the Senate is entitled to an objective report.

The main problem with covert action in Chile 1963–73 is that it leaves the impression of U.S. bungling in Chilean affairs induced by morose fears of communism and Marxism. The record will not support this impression.

Moreover, while there may have been some mistakes made in the conduct of our affairs in Chile, the threat of a Communist distatorship under Allende was very real. The American people can be grateful for the Senator from New York for trying to set the record straight.

Allende intended from the beginning to set up an ironfisted Communist dictatorship.

Intelligence gathered over a period of many years provided what Ambassador Edward Korry calls "certain knowledge that the Soviet Union and other Communist governments and organizations provided substantial sums for covert action to the Communist Party, to the Socialist Party, and to Allende himself."

It is a fact that acts of the Allende regime were declared unconstitutional by the Chilean Supreme Court.

It is a fact that many of Allende's actions known as "requisitions" were declared illegal by the Chilean Office of the Controller General.

It is a fact that the National Congress tried to check Allende's violations of the law by impeaching the ministers responsible for them, but Allende merely moved the ministers from one post to another thus thwarting the purpose of Chilean congressional sanctions.

And finally it is a fact that Chile became a base for Soviet and Cuban subversion. The Communist Party was largely running the economic program counting heavily on Soviet support. There were 1,200-odd Soviets in Chile as of March 1972. Moreover, Soviet block credits of some $200 million were extended.

The impression that the United States toppled a popularly elected government when Allende was overthrown is just plain wrong. It was the people of Chile who overthrew Allende, not the United States—and the people of Chile overthrew him because his regime had become a highly repressive dictatorship of the left.

A complete and fair assessment of the U.S. role in Chile can only be made if the following are taken into account:

First. The character of the Allende regime as revealed by public statements and by the nature of the political parties from which he drew support;

Second. Efforts of the Allende regime to manipulate and ultimately destroy constitutional democracy;

Third. Soviet and Cuban use of Chile as a base for international subversion;

Fourth. The possibility that the Marxists were planning a preemptive and bloody coup to seize power totally.

Covert action in Chile, 1963–73, fails to meet the criteria given above. Accordingly, it is a defective and misleading document.

What we have here is an attempt to promote isolationism by making Uncle Sam look like a bumbling giant—or as a rogue elephant run rampant—when he moves to preserve freedom abroad.

Because of the new isolationism Angola has fallen to the Cubans and the Soviets. And make no mistake about it, they are gloating over their victory.

Meanwhile, America's allies look on with fear.

They fear we will fail to carry out solemn commitments to defend the free world.

They fear that secrets shared with us will end up on page 1 of the New York Times.

It is time for America to get back on the track of free world leadership. The trend can and must be reversed.

Mr. President, I again compliment my friend from New York. He has done this country, the Western Hemisphere, and the world a real favor by setting forth the true nature of the Chilean case. Chile has always been a friend of the United States. But through action in this Chamber the other day, in what I determined to be probably the worst piece of legislation in foreign affairs that we have passed during my terms here, we denied aid of any type to Chile. This was largely the result of statements made that simply will not bear scrutiny.

I am hopeful that as a result of the Senator's efforts this morning the House of Representatives will throw out the Chilean amendment. I trust the House will allow us to continue military aid through both private sales and military assistance, because they are our friends. Lord knows, we need friends in this world today.

Again I thank my friend from New York. He has performed a real service to the Nation this morning.

Mr. BUCKLEY. Mr. President, I thank the distinguished Senator from Arizona for his very kind remarks.

I do agree that we seem determined to destroy not only our credibility around the globe but also our ability to function in the ultimate defense of freedom. I do not think that statement implies that any of us can condone some of the reports that come out of the current regime in terms of torture and other repressive measures. But the fact is that to try to pretend the Allende regime was democracy in action is a total distortion of the truth.

I thank the Senator for what he has added to the colloquy this morning.

The ACTING PRESIDENT pro tempore. The Senator from Arizona has 9 minutes remaining. Does the Senator from Arizona yield back the remainder of his time?

Mr. GOLDWATER. Mr. President, I yield back the remainder of my time to the Senator from North Carolina.

CHILE

Mr. HELMS. Mr. President, I thank the Senator from Arizona.

Mr. President, I wish to join Senator GOLDWATER in complimenting the distinguished Senator from New York in his report here this morning.

The tragedy of it is that probably not one syllable of what Senator GOLDWATER or Senator BUCKLEY have said will be reported today in the news. I do not want to be too heavyhanded about the way the major media cover the news in the United States. But if the distinguished Senator from Massachusetts were to walk in the Chamber now and condemn Chile it would be all over the front pages tomorrow morning and it would be on the television networks tonight.

Chile is being tried and convicted day after day in the news media, and the facts are absolutely contrary to many of the things said in the Chamber.

For example, it has been said, over and over again, that Chile has been condemned by the Commission on Human Rights of the United Nations. That simply is not so.

During the past week, in Geneva, a resolution was adopted which neither condemned nor called for sanctions against the government of Chile. Is that the Senator's information?

Mr. BUCKLEY. That is the Senator's information, yes.

Mr. HELMS. I have not seen one word in the press about this. There may have been a story on an obituary page somewhere, but it has not come to the attention of the Senator from North Carolina.

Nor has the OAS condemned Chile as a result of various reports that have come forth. Yet the impression has been contrived—in the major news media, and in this Chamber—that OAS has, indeed, condemned Chile.

On the floor of the Senate, on the day of the adoption of the amendment to which the Senator from Arizona referred, I made a lengthy speech, not one syllable of which appeared in any news report on this matter. The comments by the Senator from Massachusetts, who is not here this morning, were amply reported. But not one syllable, I say to the Senate from Arizona, was reported in defense of Chile.

As the distinguished Senator from Arizona has said, Chile is a friend of the United States. Chile wants to help restrain communism. The previous government in Chile was Communist.

Where does that leave us, and what does that tell us about the major news media in the United States?

I do not advocate and I do not condemn any torture of human beings. Of course, I do not. But neither, I say to the Senator from New York, do I countenance report after report after report which have no substance and have not been verified. This is the thing that bothers me.

I hope that somehow the remarks of the Senator from New York will find their way tomorrow and this evening into the news reports. I do not think that will happen. But I commend the Senator for what he has said.

Mr. BUCKLEY. Mr. President, I thank the Senator from North Carolina.

I think that what is at stake in the southern part of this hemisphere is too important to ignore. It is too important for the facts to be garbled, whether by the press or by a select committee of the U.S. Senate—especially the latter, because such a document has the imprimatur of the U.S. Senate and all that implies. But we had a situation in which we saw a country that used to be the model democracy of Latin America destroyed in 3 years. We saw it being developed as a base for aggression against other countries in the Hemisphere. These are facts that are documentable. Yet, I see no evidence of any such facts in that report. These matters are too serious to be ignored.

I believe the present regime in Chile is trying to put the country back on its feet and hopefully restore the kind of constitutional democracy it once enjoyed. And, hopefully it is possible to restore democracy. At least, we have a situation where a foreign ideology has not been lodged in this hemisphere. It is not an ideology that wants to extend itself beyond its own borders. It is not converting itself into a base for subversion of South America.

Furthermore, it is a nation—and perhaps the Senator from Arizona can confirm this—that is now increasingly under threat from its own neighbors. It is a nation that does have valid requirements for self-defense. Yet, we have denied Chile the only source of weapons available to it at the present time.

I wish the Senator from Arizona would comment on some of the military problems that are faced in that area.

Mr. GOLDWATER. Mr. President, the only source that Chile has for weapons is the United States. If we deny her access to either our surplus or new equipment, she is left at the mercy of her enemies—enemies who are being supplied by enemies of freedom.

The action we took here the other day, if it is upheld by the House—and I hope it will not be—would mean that we would deny Chile the right to protect herself.

I repeat: Chile historically has been a friend of the United States. So I hope the House will not consider the language we passed and will allow us to go on supplying Chile with the military material she needs to defend herself and to defend the whole concept of freedom in this hemisphere.

Mr. BUCKLEY. I thank the Senator.

Mr. HELMS. Mr. President, I suggest the absence of a quorum, on my time.

The **ACTING PRESIDENT** pro tempore. The clerk will call the role.

The second assistant legislative clerk proceeded to call the roll.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Has the Senator from Arizona yielded back the remainder of his time?

Mr. GOLDWATER. I yielded to the Senator from North Carolina.

Mr. HELMS. Mr. President, I yield to the Senator from New York such time as he requires.

Mr. BUCKLEY. Mr. President, I should like to cite for the record an example of the kind of distortion we find in documents being emitted by the select committee. This one is titled "The Alleged Assassination Plots Involving Foreign Leaders." On page 231 we find the following statement:

> In a situation report to Dr. Kissinger and Assistant Secretary Charles Meyer on September 21, Ambassador Korry indicated that in order to make the Frei gambit work, "if necessary, General Schneider would have to be neutralized, by displacement if necessary."

An examination of the actual document will reveal that all Ambassador Korry was doing was reporting faithfully that which he had been told by people in Chile. This was not a recommendation of his. Therefore, it constitutes not only a distortion of the historic record but also a slander of the reputation of a man who proved to be one of the finest ambassadors we had in Latin America.

I thank the Senator for yielding.

Mr. HELMS. Mr. President, the House Committee on International Affairs, in connection with the military sales bill, has approved an amendment by the distinguished Representative from Alabama, Mr. Buchanan, which I hope ultimately will be a part of this legislation, thus mitigating the most unfortunate amendment sponsored by the distinguished Senator from Massachusetts, which the Senate hastily approved this past Wednesday, February 18.

The Senator from North Carolina made an effort at that time to include in the Senate bill the language of the so-called Buchanan amendment. However, the circumstances being what they were, there was an overwhelming disposition in the Senate to approve anything that would condemn Chile and cut off any military sales to Chile. Therefore, the Senator from North Carolina's amendment was not approved.

However, in order that all the information can be in one place, in the unlikely event that somebody in the major news media in this country may want to give both sides of the Chile question for a change, I ask unanimous consent that a marked portion of my remarks in this Chamber on February 18 be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Mr. Helms. Mr. President, this amendment is the same as the Buchanan amendment adopted February 3 by the House committee. The House bill is not as yet finished.

Mr. President, this amendment would add to the Senate bill language that has already been added to the House bill in committee, although as we know, the House bill has not yet been reported. This is the so-called Buchanan amendment, written by the distinguished Congressman from Alabama, and adopted by the House committee as part of a compromise on the Chile question. It would enable the President to waive the provisions of section 310 if he determines that the Government of Chile has made substantial progress in promoting the recognition and enforcement within Chile of internationally recognized human rights.

I believe that this language complements the intentions of the distinguished members of the Foreign Relations Committee in reporting this bill. As I interpret their action, the purpose of the prohibition of military assistance to Chile is a reaction to charges of violations of human rights in Chile. Yet as the language of the bill stands, the prohibition of military assistance is complete and total, and becomes permanent law. Chile is the only country in the world that is so singled out. If the intention is to encourage Chile to make progress in areas of human rights, then the language of section 310 as it stands is self-defeating.

Every country has the right to self-defense, and the right to acquire the means for self-defense. Now I understand that Chile will still be allowed sales under the terms of the new legislation, and has not sought military assistance from the United States for fiscal year 1976. Indeed, it is a sign of progress and social sensitivity that Chile, even though it supposedly is under the rule of militaristic rulers, has not sought military assistance. The four-man military group, in its budget for 1976, has deliberately diverted resources away from building up a military machine, and into social programs for family and child support, education, health, and unemployment assistance. These are not the sort of priorities popularly ascribed to military men. So it is not a question of Chile requiring assistance from us at present.

But it is unfortunate that Chile is singled out for a permanent prohibition on military assistance without any chance, short of legislative enactment, for assistance to be provided in the future. Chile knows full well that both the Soviets and the United States are contributing to a massive military buildup in Peru, just to the north, a country with which Chile has lived with in an uneasy truce for 100 years. Chile also knows that the situation in Argentina is very unstable, and that if a government hostile to Chile should arise there, it would be very difficult to defend the nearly 3,000-mile border that separates them.

So it is distinctly in the interest of Chile to know for certain that if military assistance from the United States is needed for self-defense in the future such an avenue of aid is not cut off permanently. Such a hope will encourage the present government to take steps which will satisfy all of us who are concerned that human rights be safeguarded.

In other words, a flat prohibition of military assistance at any time, even in the future, is not only a reproof, but a stone wall that leaves no encouragement for progress. What we need is a very powerful inducement for progress, and the Presidential waiver procedure is the way to do it. Congress will go on record in favor of progress, instead of taking an action which may appear sterile and punitive.

Now as a matter of fact such an action, which indeed would be difficult to interpret as other than as a gratuitous hostile act, is definitely premature. It is an expression of a judgment against Chile that is based upon no definitive findings by any impartial body. The Senate would be prejudging the case, based upon newspaper stories, hearsay testimony, and the testimony of political opponents of the Chilean Government.

Indeed, even as we are moving forward rapidly to a vote on this measure today, the United Nations Commission on Human Rights is meeting in Geneva. Consideration of the Chilean case began only the day before yesterday, and it will be continuing for several days. It would be extremely unfortunate if the Senate were to take a final and lasting action before the U.N. Commission on Human Rights even finishes its deliberations.

As a matter of fact, it does not appear that the United Nations Commission on Human Rights is rushing toward a condemnation of Chile. So far, representatives of several countries and three non-governmental organizations of the United Nations have participated. The participating persons from the nongovernmental organizations were all Chileans who were former ministers and officials of the Salvador Allendé regime. Only one resolution has been proposed, by the delegate from Senegal, who happens to be president of the supreme court of his country. This proposal contains no sanctions nor does it request sanctions. Furthermore, it recognizes the positive steps taken by Chile in matters of human rights, mentioning specifically the collective amnesties of September and December of last year, and decree 187, which gives certain guarantees to those arrested for violations of the state of siege, placing them under the control of the supreme court.

Moreover, the delegates from Germany and the United States have both intervened, with the approval of England, to suggest that any resolution to be adopted should contain coercion. Indeed, it appears that Great Britain is backing off somewhat from the sensational allegations of Sheila Cassidy, allegations which have been categorically denied by Chile. The British delegate scarcely touched upon the case, and recognized the positive steps taken by Chile, which had been previously mentioned by the Senegalese delegate.

Furthermore, the representative of Egypt made known his opposition to the fact that action on the problem of human rights seems to be concentrated against Chile, and he anticipated that he would vote against any resolution against Chile.

The trend of the debate in Geneva, therefore, does not seem to be supporing strong condemnation against Chile, and certainly not sanctions. Indeed the Chilean delegation has been holding conversations with the working group, which should have visited Chile last year, but was asked not to come at the last moment by the Chilean Government. These discussions have included the Ambassador of Austria, who is a former President of the Human Rights Commission.

All of these are positive signs that Chile is acting in good faith, and that the Commission on Human Rights is recognizing that progress is being made toward a mutual understanding.

Moreover, the International Committee of the Red Cross maintains a permanent mission in Santiago, and continues to visit the detainees. A recent letter from the Chief of the Chilean Delegation of the International Red Cross to the Chilean Foreign Minister gives a good account of the type of work which the Red Cross has been doing in Chile. It also is an indication of the kind of press distortions to which Chile has been subjected in an apparent effort to discredit Chilean actions. The French press reported that the Red Cross had visited 40,000 detainees for the quarter ending in September 1975. The true number, as the Red Cross representative points out, was 4,000. Since that time, the number has been significantly reduced by the amnesty actions.

It is for this reason that the language of my amendment states that the President shall consider the extent of cooperation by the Government of Chile in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross and organizations acting under the authority of the United Nations or of the Organization of American States. I am confident that these organizations will continue to find good cooperation from the Government of Chile.

Indeed, Mr. President, it might be useful at this point to clear up some misconceptions about the actions of the U.N. and OAS on the Chile case. It has been said on this floor several times, for example that the Inter-American Commission on Human Rights has issued a report, following an on-site inspection that concluded the Chilean Government had engaged in "repeated violations of rights set forth in articles I, II, VIII, XVII, XXV, and XXVI of the Inter-American Declaration of the Rights and Duties of Man. It has also been said that last May the General Assembly of the Organization of American States accepted that report and adopted a resolution directing Chile to abide by the rceommendations of the Commission to halt the violation of human rights.

But as a matter of fact, there was really no such so-called "report." The document in question was a preliminary draft. It was based upon interviews with political opponents of the Chilean Government who were naturally seeking to discredit that Government. According to the OAS statutes, such a document is not to be released until it has been submitted to the member State for comment. Instead the document was released to the press without waiting for Chile's comments on the findings. Indeed, the OAS took sanctions against the employees who had illegally leaked the document.

Nevertheless, before the report, with Chile's comments, was ultimately accepted by the OAS, the U.N. Commission on Human Rights had already decided, on the basis of the leaked document, to send a working group to Chile.

Moreover, when the OAS considered the report on May 19, 1975, it did nothing to endorse the report's conclusions. The language of the resolution merely said that the General Assembly of the OAS resolved "To take note, with appreciation of the report of the Inter-American Commission on Human Rights on "the Status of Human Rights in Chile, as well as the observations of the Government of Chile on that report," Thus it is clear that the OAS accepted Chile's comments as well as the report itself, on an equal basis.

Nor did the OAS condemn Chile as a result of the report. Instead, the resolution said the General Assembly resolved "To respectfully call upon all governments, including the Government of Chile, to continue to give the most careful attention to the suggestions and recommendations of the Inter-American Commission concerning human rights."

Clearly, no special condemnations or directives were issued against Chile. The resolution calls upon all governments, including Chile, to continue to protect human rights.

It is totally false to conclude from the actions of the OAS that Chile was singled out for condemnation. I believe that it would be highly inappropriate for the Senate to take sanctions against Chile on the basis of that OAS resolution.

It is for reasons such as this that Chile became gun-shy about teams of supposedly impartial investigators coming to Chile. Chile welcomed such groups as the International Red Cross, the International Labor Organization, Amnesty International, the Inter-American Human Rights Commission, and even the working group of the U.N. Human Rights Commission. But, except for the Red Cross, Chile found impartiality lacking. Leaks, distortions, trials in the press, and political action by Socialists and Communists attacking Chile's stability gave the lie to impartiality. The last straw was when the U.N. Human Rights Commission's working group, made its first stop in the Chilean investigation in Peru, Chile's historic threat, and a country headed by a far-leftist regime. And in Peru, members of the working group made statements which made it clear that they had already come to their conclusions before they had set foot in Chile. It was at that point that the Government of Chile said that the proposed visit was inopportune, and asked the working group not to come.

Mr. President, far from inhibiting the process of investigating the problems of human rights, Chile has been most cooperative. Indeed, at the United Nations Chile has offered a resolution to create a general system of universal application which will effectively permit the investigation of all allegations of violations of human rights, wherever they occur. What Chile objects to is being singled out for concentrated attack. It is ironic that nations which were eager to condemn Chile for refusing to allow a working group—which had apparently prejudged the matter—to enter her territory were among those nations who have never allowed any such investigation in their own countries. Yet Chile has repeatedly cooperated with such international groups and allowed them to come into Chile, until the working group incident. So Chile is prepared to allow even the U.N. Human Rights Commission to send a group, provided that it is part of a process that applies universally, so that any allegation of violations of human rights in any country could be considered by the same mechanism.

It is not surprising, therefore, that the United Nations, heavily weighted against Western countries by the third world and Communist blocs, condemned Chile last fall. It was a purely political vote, not based upon any impartial investigation. It is to the shame of the United States that our delegate voted for this conviction by a hanging jury. I am pleased to see that the U.N. Commission on Human Rights appears to be taking a more balanced study of this matter at the present time.

I hope therefore that the Senate will be agreeable to conforming the Senate bill with the text of Mr. Buchanan's amendment adopted in the House committee. It will be a powerful incentive to insure that positive steps will continue to be taken by Chile. It will not prejudge the situation before the U.N. Human Rights Commission, which is considering the matter this week, has had a chance to act. It will allow flexibility in the administration of the act which will have a carrot-and-the-stick approach as regards Chile, and avoid imposing a stringent sanction which has not been justified by impartial examination.

[Organization of American States General Assembly, Fifth Regular Session, Washington, D.C., May 8 through May 19, 1975—Proceedings; Volume I, Certified texts of the resolutions and declarations]

Report of the Inter-American Committee on Human Rights on "The Status of Human Rights in Chile"

(Resolution adopted at the sixth plenary session, held on May 19, 1975)

Whereas:

It has received the report of the Inter-American Commission on Human Rights on "The Status of Human Rights in Chile," based upon materials presented to the Commission by various sources, including the Government of Chile, and on its *in situ* investigation of the facts during its visit to Chile from July 22 to August 2, 1975;

This report, together with the observations of the Government of Chile, was sent to the United Nations and was considered at the Thirty-first Session of the United Nations Commission on Human Rights;

As a result of this consideration, in which seven member states of the OAS took part, the United Nations Commission on Human Rights unanimously decided to send a working group to Chile to study the present status of human rights in that country; and

Consequently, both the Inter-American Commission on Human Rights and the next session of the General Assembly will have the additional benefit of a report based on further investigations to assist them in their work in the coming year,

The General Assembly Resolves:

1. To take note, with appreciation, of the report of the Inter-American Commission on Human Rights on "The Status of Human Rights in Chile," as well as the observations of the Government of Chile on that report.

2. To take note, with approval, of the acceptance by the Government of Chile of the visit of the working group of the United Nations Commission on Human Rights.

3. To respectfully call upon all the governments, including the Government of Chile, to continue to give the most careful attention to the suggestions and recommendations of the Inter-American Commission concerning human rights.

4. To request the Inter-American Commission to secure, by all appropriate means, additional information, to consider that information, and to submit a report on the status of human rights in Chile to the next session of the General Assembly, ensuring that the Government of Chile has reasonable time to submit its own observations.

Supreme Decree on Guarantees for Persons Arrested During the State of Siege

Decree 187.—Whereas: The need to regulate adequately the norms designed to guarantee the rights of the persons arrested during the State of seige, as established in Article 1 of the Decree-Law 1009, of 1975, and keeping in mind what was established in Article 10, number 1, e) of the Decree-Law 527,

Be it decreed that:

Article 1. Every person arrested by any organization and in the situation referred to under Article 1 of the Decree-Law 1,009 of 1975, even before going into the offices, facilities or places of detention under each one, shall be examined by a physician. The same medical examination shall be given the arrested person before leaving these offices, facilities or places.

The Legal Medical Services and the National Health Service, jointly shall assign a physician to these offices, facilities or places previously mentioned to perform the physical examinations required by this article.

The above mentioned physicians shall file a written report in each case in which he shall describe the state of the person examined, and shall forward it immediately to the Ministry of Justice.

Article 2. If in the certificates mentioned in the last paragraph of the preceding article, it might be understood that the person arrested had been the object of brutality or undue pressure, the Ministry of Justice shall proceed to denounce the facts to the corresponding authorities, be it administrative, institutional or judicial, depending on the case.

Article 3. Arrests made in compliance with the regulations in force during the state of siege referred to in Article 1 on the Decree-Law 1009, of 1975, can only be applicable previous of written order issued by the Chiefs of the corresponding specialized security agency, and which shall contain a listing of the following items:

A. Identification of the arrested person;

B. Identification of the person making the arrest;

C. Place where the arrested person shall be taken;

D. Date, time and place where the person was arrested;

E. Name, position and signature of person who ordered the arrest, and

F. Seal and stamp which authorizes such order.

A copy of the arrest order shall be delivered to the next of kin of the person arrested, as chosen by himself, and who resides at the same address where the arrest was made, within the 48 hours established in Article 1 of the Decree-Law 1009 of 1975.

Article 4. If in order to comply with the order of arrest referred to in the previous article or as a consequence derived from it, it would seem necessary to break into a house, or a building or any other locked place—public or private—the Chief of the corresponding specialized agency shall issue a written order authorizing the officer to do so. Such order shall be previously down to the head of the household, or to the resident-manager or locked place, or in any case, to the person to whom a copy shall be handed once the search is completed.

Article 5. If in carrying out the arrests or break-ins mentioned in this Supreme Decree, resulted in the loss of freedom of an alien, the Ministry of the Interior shall proceed, in compliance with its legal functions, to deport him from the country.

Article 6. The President of the Republic, under the Supreme Decree which shall bear the signatures of the Ministers of the Interior and National Defense, shall identify the places and facilities destined for detention and referred to in Articles 1 and 3 letter c) of this Decree, and in which promises, a book—with pages duly numbered—shall be used to enter the arrival and departures of the arrested persons, indicating date and time in which they take place, as well as the order under which these were carried out.

Article 7. It shall be the function of the President of the Supreme Court and/or of the Minister of Justice, to appear, without previous warning, at any place of detention assigned for this purpose for the application of these regulations under the State of Siege, in order to inspect them and to verify the strict compliance with the legal norms and regulations in force regarding the rights of the arrested persons and to inform about irregularities which might have been found to the corresponding authorities, through written, confidential reports, which fact shall not prevent them from ordering the immediate physical examination of the arrested person who complained during the inspection visit about brutality or undue pressure during his stay at the place inspected.

Article 8. In the geographical sites not included in the metropolitan area, the Minister of Justice, in complete accord with the President of the Supreme Court, shall appoint an officer who shall perform all or part of the functions and activities mentioned in Article 7 of this Supreme Decree.

Article 9. The corresponding authority shall order, in the cases described in the preceeding Articles 2, 7, and 8, and within 48 hours, the initiation of the corresponding summary, which shall start with the denunciation of the President of the Supreme Court, of the Minister of Justice or of the officer appointed by the latter, in order to determine who are responsible for the facts denounced and to apply to them the penalties established by law. It shall be specially considered, within this summary, the investigation and the verification of those facts that are relevant to eventual violations of Articles 150, 253 and 255 of the Penal Code and of 328 and 330 of that of Military Justice.

Article 10. The Ministry of the Interior or that of National Defense in the metropolitan area, and the Quartermasters or Governors of the Provinces or the Commandants in their respective jurisdictions shall provide the President of the Supreme Court, the Minister of Justice or the officer appointed by the latter every means conducive to the performance of their functions.

The employees who deny or in any way fail to provide due assistance in the performance of the functions previously mentioned shall be responsible of serious offenses while in the performances of their duties.

Take note, forward and publish.

(Signed) Auguste Pinochet Ugarte, General of the Army, President of the Republic; Cesar Benavides Escobar, Minister of the Interior and Acting Minister of National Defense; Miguel Schweitzer, Minister of Justice; and Luis Givovic, Acting Minister of Health.

To the Minister of External Relations of Chile

Excellency Mr. Minister:

We have the honor to address ourselves to Your Excellency in reference to our letter of September 8, sent to Major Enrique Cid, Chief of the Office of Human Rights of the Ministry of Foreign Relations. During the first week of the current month, Major Cid had informed us of an erroneous report made by a French press agency on the number of detained persons visited during the first quarter of 1975, by the Delegation of the International Committee of the Red Cross in Chile.

Referring to our quarterly report, which was published in part by our Headquarters in Geneva at the beginning of September, it was supposedly stated that our Delegation visited 40,000 detained persons during that period. This report, however, made reference to 4,000 detained persons visited (detained by State of Seige, condemned by Military Tribunals, and tried by Military Prosecutors).

We are pleased to inform Your Excellency that the International Committee of the Red Cross (CICR) in Geneva will prepare a corrected summary for its next bulletin, "CICR in Action," taking into account that the figures disclosed without explanatory comment could have been interpreted incorrectly by press agencies. In addition, our Headquarters is going to contact the Permanent Mission of Chile in Geneva for the purpose of clarifying the situation. Further, the CICR delegate to the United Nations in New York has received instructions to rectify possible erroneous statements, during the General Assembly.

We take the opportunity to present to Your Excellency the following summary of the quarterly report on the activities of the CICR Delegation in Chile:

Our delegates have made a total of 150 visits to 85 places of detention (prisons and camps). During those visits, about 4,000 persons detained by order of the Military authorities (detained by State of Seige, condemned by Military Tribunal, and tried by Military Prosecutors) have been seen.

With regard to assitsance to detained persons, the Delegation has submitted material with a value of US$ 18,000.

The program of aid to families of detained persons has benefited approximately 3,000 families throughout the country. The value of this assistance in kind and in money comes to US$ 36,000. This amount includes the value of considerable donations (milk, flour, clothes, etc. . . .), which the Delegation has received from various National Societies of the Red Cross and other charitable organizations.

Our Search Agency has established 14,000 new files. These files contain reports collected by the delegates during their visits or received from the Authorities or from other sources. These files mention the identity of those detained, location, transfers, release, departure from the country, etc. We point out that a detained person has several files with the mentioned information.

Also, in the first quarter of 1975 travel authorizations have been established.

Trusting that the above information will serve to clarify for Your Excellency any doubt on this matter, we avail ourselves of this opportunity to express to you our highest consideration.

Sincerely,

Rolf K. Jenny,
Chief of the Chilean Delegation of the Red Cross.

[United Nations General Assembly, Thirtieth session, Third Committee, Agenda item 73]

Alternative Approaches and Ways and Means Within the United Nations System for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms

CHILE: DRAFT RESOLUTION

The General Assembly,

Recalling that Articles 55 and 56 of the Charter of the United States provide that the Organization shall promote universal respect for human rights and that all Member States pledge themselves to take joint and separate action to that end,

Bearing in mind the Universal Declaration of Human Rights, the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination, the Declaration of the International Conference on Human Rights held at Tehran in 1968, and other instruments of a universal or regional nature which give expression to human rights and establish machinery for their protection,

Noting the Declaration on Principles of Inernational Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (resolution 2625 (XXV), particularly as regards the duty of States to co-operate in the promotion of universal respect for human rights and fundamental freedoms for all,

Noting further, inter alia, General Assembly resolutions 2144 (XXI), 3136 (XXVIII) and 3221 (XXIX), Economic and Social Council resolution 1164 (XLI) and resolution 2 (XXII) of the Commission on Human Rights, which call for strengthening the United Nations system in order to ensure the universal exercise of human rights, without distinction of any kind, and for determining the ways and means of strengthening it,

Considering that resolution 3221 (XXIX) provided for soliciting the views of Member States, the specialized agencies and regional intergovernmental organizations on alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights **and** fundamental freedoms,

Having considered the report of the Secretary-General (A/10235), which contains the views of Member States and of the abovementioned agencies and organizations concerning alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms,

Again expressing the hope that the International Covenants on Human Rights will enter into force in the near future and will receive universal application, without exceptions or discrimination,

Bearing in mind resolution 1159 (XLI) of the Economic and Social Council, the report of the *Ad Hoc* Study Group on Regional Commissions on Human Rights (E/CN.4/966 and Add. 1) and other agreements and documents relating to the activities and functions of such Regional Commissions,

Noting that the only pre-established system for the investigation of individual allegations concerning violations of human rights (Council resolution 1503 (XLVIII)) has not fully achieved the objectives for which it was established,

Considering the essential need to create a general system of universal application which will effectively permit the investigation of all allegations supported by reliable evidence of violations of human rights, wherever they occur,

1. Instructs the Secretary-General of the United Nations to appoint a group of 10 experts of recognized integrity and proven knowledge in the field of human rights, in which the different geographical areas are represented and the different legal systems taken into account, for the purpose of preparing a study on the establishment of a system for investigating allegations of violations of human rights;

2. Decides that such a system should allow for appropriate participation by regional organizations, should be universal in scope and (automatic and compulsory for all Member States), should avoid duplication, should ensure adequate machinery for co-operation between the Organization and the States investigated and should confer upon such States appropriate guarantees regarding discretion and fairness;

3. Requests the Group of Experts to submit its report to the Economic and Social Council at its sixty-first session for subsequent consideration by the General Assembly at its thirty-first session, taking into account the background information obtained during the study of this question by the United Nations and the opinions expressed recently by Member States in this respect;

4. Decides to include in the provisional agenda of the thirty-first session the item "Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms".

Mr. HELMS. Mr. President, I suggest the absence of a quorum, again charged to my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. President, as may be seen from the statements which this Senator made on the floor last week, it was not expected that there would be an overwhelming condemnation of Chile at the meeting last week of the United Nations Commission on Human Rights in Geneva. As this Senator pointed out last Wednesday, the tenor of the debate in Geneva was strongly against sanctions. And as a matter of fact, no sanctions against Chile were voted. The Commission asked only that the mandate of the Ad Hoc Working Group be extended, and that it make a further report to the General Assembly and to the Human Rights Commission. The resolution takes note of the recent Chilean law codifying the rights of prisoners taken under the state of siege, and asks the Ad Hoc Working Group to report on the effect of such legislative acts and other procedures.

As a matter of fact, the conclusion of the Commission is rather strange. Having noted so-called alleged violations of human rights in Chile, the Commission reaches the conclusion that some state agencies in Chile have had recourse to torture. But instead of condemning Chile, the Commission merely calls upon the Chilean authorities to investigate the activities of organizations such as DINA, the state security apparatus. This strongly suggests that the U.N. Commission realized that the evidence upon which their conclusion was based was not strong enough to support sanctions against Chile, or even outright condemnation. Certainly if this Senator were a member of the Human Rights Commission and he had come to the conclusion as a result of unimpeachable evidence that any country was systematically practicing torture, he would do more than simply ask that country to investigate itself.

The truth is, Mr. President, that the United Nations as presently constituted is a highly politicized and polarized body. Nobody should mistake its pronouncements as those of an impartial and judicial body. We have seen the impartiality of the U.N.'s condemnation of Zionism as racism, a resolution which the U.S. Senate has in turn condemned, a measure in which I was pleased to be a cosponsor. The Communist and Socialist nations of the world are ready to attack Chile in any way whatsoever because the Chilean people have overthrown the Communist government which had destroyed the Chilean constitution, and have reversed the trend toward socialism. Yet in spite of this strong polarity in the U.N., the most that Chile's critics could muster in the Commission on Human Rights is a resolution calling upon Chile to investigate itself.

Mr. President, I do not know what has been happening in Chile any more than the U.N. Commission on Human Rights knows. I am pleased to note that Chile has taken steps to assure that human rights will not be violated. The recent Chilean decree 187 which was read into the Record on February 19 is evidence of that fact; among other things, the DINA has been put under the surveillance of the independent judiciary, in order to safeguard prisoners' rights. If this is carried out effectively, Chile will have more than met the concerns of the U.N. Commission on Human Rights.

At the same time, we must not forget that human rights are not merely the concern of a small group of Socialists and Communists who have been thrown out of power by the Chilean people. The human rights of all Chileans must be preserved—including the right to the ownership of private property, the right of parents to educate their children as they see fit, the right of the people to preserve their Christian traditions, and the right to seek suitable employment or to engage in free economic activity. These are all fundamental rights which were jettisoned by the Allende regime. Those rights have been restored to the Chilean people by the present Government, but they remain threatened by international terrorism and by a small minority of Chileans who have made a commitment to the use of violence to enslave Chile once more. Chile is truely being laid seige by international Marxism, and I regret that the Senate of the United States has not seen fit to recognize the international facts of life, and work with Chile as a partner to preserve all human rights, instead of adopting the destructive tactics of adversary Marxism.

Mr. President, I ask unanimous consent that the text of the resolution of the U.N. Human Rights Commission be printed in the Record at the conclusion of my remarks.

Resolution on Chilean Human Rights Approved by the United Nations Commission of Human Rights, February 19, 1976

The Commission on Human Rights conscious of its responsibility to promote and encourage respect for human rights and fundamental freedom for all; recalling that, the Universal Declaration of Human Rights solemnly declares that everyone has the right to life, liberty and security of person and the right not to be subjected to arbitrary arrest, detention or exile, or torture or cruel, inhuman or degrading treatment or punishment;

Recalling General Assembly Resolution 3452 by which the declaration on the protection of all persons from being subjected to torture and other cruel, inhuman or degrading treatment or punishment, was adopted unanimously;

Recalling further the concern of the General Assembly in its Resolution 3219 of 6 November 1974 in which it has expressed its deepest concern about alleged constant and flagrant violations of basic human rights and fundamental freedoms in Chile and urged the authorities in that country to take all necessary steps to restore and safeguard them;

Recalling in this connection the resolution of the Commission N. 8 of 27 February 1975 in which the Commission has expressed its serious concern about the continuing reports of violation of human rights in Chile, and in which it decided to establish an Ad Hoc Working Group to enquire into the present situation of human rights in the said country on the basis of all available evidence including a visit to Chile and appealed to the authorities of Chile to extend its full co-operation to the group;

Noting General Assembly Resolution 3448 entitled Protection of Human Rights in Chile, in which, inter alia, it deplores the refusal of Chilean authorities to permit the ad hoc working group of the Commission on Human Rights to visit the country, in spite of its solemn assurance;

Noting also, inter alia, the recent Supreme Decree 187 of 20 January 1976 relating to the regulations for the protection of persons detained as a result of the state of siege, whose effects have not yet been ascertained.

Having considered the report of the ad hoc working group (Document E/CN.4/1188) established under Commission Resolution 8,

1. Expresses its appreciation to the chairman and members of the ad hoc working group for the report which has been prepared in a painstaking and objective manner, notwithstanding the refusal of the Chilean authorities to permit the group to visit the country;

2. Expresses its profound distress at the constant, flagrant violations of human rights, including the institutionalized practice of torture, cruel, inhuman or degrading treatment or punishment, arbitrary arrest, detention and exile, to which the present report brings further evidence, which have taken place and, according to existing evidence, continue to take place in Chile, soon after the adoption of General Assembly Resolution 3448;

Reaffirms its condemnation of all forms of torture and cruel, inhuman or degrading treatment or punishment;

Calls on the Chilean authorities to take, without delay, all necesary measures to restore and safeguard basic human rights and fundamental freedoms, and fully to respect the provisions of the international instruments to which Chile is a party and to this end to ensure that:

(A) The state of siege or emergency is not used for the purpose of violating human rights and fundamental freedoms, contrary to article 4 of the international covenant on civil and political rights;

(B) Adequate measures are taken to end the institutionalized practice of torture and other forms of cruel, inhuman or degrading treatment or punishment in full respect of Article 7 of the International Covenant on Civil and Political Rights;

(C) The rights of all persons to liberty and security of person, in particular those who have been detained without charge or in prison solely for political reasons, as provided for in Article 9 of the International Covenant on Civil and Political Rights are fully guaranteed and steps are taken to clarify the status of those individuals who are not accounted for;

(D) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed, contrary to Article 15 of the International Covenant on Civil and Political Rights:

(E) No one, in accordance with article 15(2) of the universal declaration on human rights shall be arbitrarily deprived of Chilean nationality;

(F) The rights to freedom of association, including the right to form and joint trade unions shall be respected in accordance with article 22 of the International Covenant on Civil and Political Rights;

(G) The right to intellectual freedoms as provided for in article 19 of the International Covenant on Civil and Political Rights shall be guaranteed;

(H) The request of the commission communicated by its chairman in 1974 to the Government of Chile be implemented that persons still in detention be released and no steps be taken and no trials be held against them on a retroactive basis.

5. The Commission reaches the conclusion that some state agencies, and especially DINA, have had recourse to the systematic practice of torture, and requests the Chilean authorities to adopt efficient measures to investigate the activities of such organs and of individuals in regard to acts of torture in order to put an end to such acts.

6. Extends the mandate of the present following Ad Hoc Working Group formed as experts in their personal capacity by Mr. Ghulam Ali Allana (Pakistan, chairman/rapporteur); Mr. Leopoldo Benites, (Ecuador); Mr. Felix Ermacora (Austria); Mr. Abdoulaye Dieye (Senegal); Mrs. M. J. T. Kamara (Sierra Leone). And request it to report to the General Assembly at it thirty-first session and to the Commission on Human Rights at its thirty-third session on the situation of Human Rights in Chile, and, in particular any developments of a legislative or any other character, which may occur to reestablish respect for human rights and fundamental freedoms in implementation of General Assembly Resolution 3448 and all other relevant resolutions and decisions of United Nations bodies. After this, the working group shall cease to exist.

7. Request the Secretary General to provide the working group all assistance it may require.

8. Recommends to the Economic and Social Council to adopt measures to provide financial resources and necessary personnel to implement the present resolution.

9. Decides to examine, in its thirty-third session, as a matter of high priority, the question of the situation of human rights in Chile.

Mr. HELMS. Mr. President, I thank the Chair and I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes.

Is there morning business?

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore (Mr. JOHNSTON) laid before the Senate a message from the President of the United States submitting the nomination of Robert L. Hirsch, of Maryland, to be an Assistant Administrator of Energy Research and Development, which was referred, jointly, to the Joint Committee on Atomic Energy and the Committee on Interior and Insular Affairs.

MESSAGES FROM THE HOUSE

At 10:08 a.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the bill (H.R. 11893) to increase the temporary debt limit, and for other purposes, in which it requests the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 11893) to increase the temporary debt limit, and for other purposes, was read twice by its title and referred to the Committee on Finance.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. JOHNSTON) laid before the Senate the following letters, which were referred as indicated:

APPORTIONMENT OF APPROPRIATIONS TO THE DEPARTMENT OF AGRICULTURE FOR ANIMAL AND PLANT HEALTH INSPECTION SERVICE

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, relating to apportionment of appropriations to the Department of Agriculture for the Animal and Plant Health Inspection Service for the fiscal year 1976; to the Committee on Appropriations.

REPORTS OF ARMY RESEARCH AND DEVELOPMENT CONTRACTS

A letter from the Assistant Secretary of the Army (Research and Development), transmitting, pursuant to law, reports on Department of the Army Research and Development Contracts for $50,000 or more which were awarded during the period 1 January 1975 through 31 December 1975 (with accompanying reports); to the Committee on Armed Services.

ADMINISTRATION OF OFFICER RESPONSIBILITY PAY

A letter from the Deputy Assistant Secretary of Defense, reporting, pursuant to law, concerning the administration of officer responsibility pay for calendar year 1975; to the Committee on Armed Services.

REPORT OF NAVY RESEARCH AND DEVELOPMENT PROCUREMENT

A letter from the Assistant Deputy Chief of Naval Material—procurement and production—transmitting, pursuant to law, the Navy's semiannual report of research and development procurement actions of $50,000 and over, covering the period 1 July 1975 through 31 December 1975 (with an accompanying report); to the Committee on Armed Services.

REPORT ON TRANSACTIONS WITH COMMUNIST COUNTRIES SUPPORTED BY EXIMBANK

A letter from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report on loan, guarantee and insurance transactions supported by Eximbank during December 1975 to Communist countries (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION DEALING WITH OFFENSES RELATED TO AIR PIRACY AND DESTRUCTION OF AIRCRAFT AND AIRCRAFT FACILITIES

A letter from the Attorney General, transmitting a draft of proposed legislation to amend chapter 2, title 18, United States Code, and sections 101 and 902 of the Federal Aviation Act of 1958, to implement the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation and for other purposes (with accompanying papers); to the Committee on Commerce.

STEAM-ELECTRIC PLANT CONSTRUCTION COST AND ANNUAL PRODUCTION EXPENSES, 1973

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a publication entitled "Steam-Electric Plant Construction Cost and Annual Production Expenses, 1973" (with an accompanying document); to the Committee on Commerce.

Proposed Federal Assistance for Community Services Act

A letter from the Acting Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation entitled "Federal Assistance for Community Services Act" (with accompanying papers); to the Committee on Finance.

Proposed Legislation to Extend Authority for Appropriations for United States Participation in Activities of the International Centre for the Preservation and Restoration of Cultural Property

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to amend the act of October 15, 1966 (80 Stat. 915), as amended, to extend the authority for appropriations for U.S. participation in the activities of the International Centre for the Preservation and Restoration of Cultural Property, and for other purposes (with accompanying papers); to the Committee on Interior and Insular Affairs.

Report of Energy Conservation Policies and Practices

A letter from the Chairman, Federal Power Commission, transmitting, pursuant to law, a report with respect to energy conservation policies and practices which the Commission has instituted subsequent to October 1973 (with an accompanying report); to the Committee on Interior and Insular Affairs.

Proposed Research Project Entitled "Intermediate Drive Belt Conveyor"

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with FMC Corp., Santa Clara, Calif., for a research project entitled "Intermediate Drive Belt Conveyor" (with accompanying papers); to the Committee on Interior and Insular Affairs.

Report of the American Battle Monuments Commission

A letter from the Assistant Secretary, the American Battle Monuments Commission, transmitting, pursuant to law, a report relating to the Freedom of Information Act (with an accompanying report); to the Committee on the Judiciary.

Report of the Federal Trade Commission

A letter from the Secretary, Federal Trade Commission, transmitting, pursuant to law, a report describing Commission Freedom of Information Act activities for calendar year 1975 (with an accompanying report); to the Committee on the Judiciary.

Report on Marihuana and Health

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on marihuana and health (with an accompanying report); to the Committee on Labor and Public Welfare.

Report of the Department of Justice

A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, a report on positions in grades GS-16, GS-17, and GS-18, January 1, 1975, through December 31, 1975 (with an accompanying report); to the Committee on Post Office and Civil Service.

Report on Urban Area Traffic Operations Improvement Programs

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on urban areas traffic operations improvement programs—TOPICS—(with an accompanying report); to the Committee on Public Works.

Report of the Architect of the Capitol

A letter from the Architect of the Capitol, transmitting, pursuant to law, a report of all expenditures during the period July 1, 1975, through December 31, 1975, from moneys appropriated to the Architect of the Capitol (with an accompanying report); ordered to lie on the table and be printed.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 354. A resolution authorizing additional expenditures by the Committee on Public Works, for inquiries and investigations (Rept. No. 94-666);

S. Res. 360. A resolution authorizing additional expenditures by the Committee on Interior and Insular Affairs for inquiries and investigations (Rept. No. 94-662); and

S. Res. 373. A resolution continuing, and authorizing additional expenditures by, the Special Committee on Aging (Rept. No. 94-670).

By Mr. CANNON, from the Committee on Rules and Administration, with an amendment:

S. Res. 349. A resolution authorizing additional expenditures by the Committee on Finance, for inquiries and investigations (Rept. No. 94-659);

S. Res. 352. A resolution authorizing additional expenditures by the Committee on Agriculture and Forestry for inquiries and investigations (Rept. No. 94-653);

S. Res. 362. A resolution authorizing additional expenditures by the Select Committee on Small Business (Rept. No. 94-668):

S. Res. 365. A resolution authorizing expenditures by the Committee on Post Office and Civil Service (Rept. No. 94-665);

S. Res. 367. A resolution authorizing additional expenditures by the Committee on the District of Columbia for inquiries and investigations (Rept. No. 94-658);

S. Res. 368. A resolution authorizing additional expenditures by the Committee on Aeronautical and Space Sciences for inquiries and investigations (Rept. No. 94-652);

S. Res. 372. A resolution authorizing additional expenditures by the Committee on Veterans' Affairs for inquiries and investigations (Rept. No. 94-667); and

S. Res. 376. A resolution continuing and authorizing additional expenditures by the Select Committee on Nutrition and Human Needs (Rept. No. 94-669).

By Mr. CANNON, from the Committee on Rules and Administration, with amendments:

S. Res. 361. A resolution authorizing additional expenditures by the Committee on Labor and Public Welfare for inquiries and investigations (Rept. No. 94-664);

S. Res. 363. A resolution authorizing additional expenditures by the Committee on Government Operations for inquiries and investigations (Rept. No. 94-661);

S. Res. 364. A resolution authorizing additional expenditures by the Committee on th Budget for inquiries and investigations (Rept. No. 94-656);

S. Res. 369. A resolution authorizing additional expenditures by the Committee on Banking, Housing and Urban Affairs for inquiries and investigations (Rept. No. 94-655);

S. Res. 370. A resolution continuing, and authorizing additional expenditures by, the Special Committee on National Emergencies and Delegated Emergency Powers (Rept. No. 94-672);

S. Res. 371. A resolution authorizing additional expenditures by the Committee on Foreign Relations for a study of matters pertaining to the foreign policy of the United States (Rept. No. 94-660);

S. Res. 374. A resolution authorizing additional expenditures by the Committee on Commerce for inquiries and investigations (Rept. No. 94-657);

S. Res. 375. A resolution authorizing additional expenditures by the Committee on the Judiciary for inquiries and investigations (Rept. No. 94-663);

S. Res. 377. A resolution authorizing additional expenditures by the Select Committee To Study Governmental Operations With Respect to Intelligence Activities for an inquiry and investigation relating to intelligence activities carried out by or on behalf of the Federal Government, and extending the date for submission of the final report of such select committee (Rept. No. 94-671); and

S. Res. 387. A resolution authorizing additional expenditures by the Committee on Armed Services for inquiries and investigations (Rept. No. 94-654).

PETITIONS

The ACTING PRESIDENT pro tempore (Mr. JOHNSTON) laid before the Senate the following petitions, which were referred as indicated:

Senate Concurrent Resolution No. 18 adopted by the Legislature of the State of South Dakota; to the Committee on Commerce:

"SENATE CONCURRENT RESOLUTION NO. 18

"A concurrent resolution, citing legislative concern for proposals by the national government to deregulate certain major modes of transportation

"Be it resolved by the Senate of the State of South Dakota, the House of Representatives concurring therein:

"Whereas, the Secretary of Transportation has proposed deregulation of certain major modes of transportation, including airlines, railroads and trucking; and

"Whereas, a certain amount of regulation is necessary in the interest of promoting safety, public convenience and fair competition; and

"Whereas, a rural state such as South Dakota benefits from certain regulations in that services are extended to this state and to other rural areas which might be deemed marginally profitable and thus might be discontinued: Now be it therefore

"*Resolved*, That the Congress of the United States be commemorated to bear in mind in its deliberations over proposals to deregulate transportation, the special needs and problems concerning transportation in rural America, and not entertain any proposals likely to have an adverse effect on the transportation needs of the people of rural America; and be it further

"*Resolved*, That copies of this Concurrent Resolution be forwarded by the Secretary of this State to the President of the United States, to the Secretary of State of the United States, to the Secretary of Transportation of the United States, to the presiding officers of both Houses of Congress of the United States and to the members of the Congressional Delegation of South Dakota."

Senate Concurrent Resolution No. 23, adopted by the Legislature of the State of South Dakota; to the Committee on Armed Services:

"SENATE CONCURRENT RESOLUTION NO. 23

"A concurrrent resolution, memorializing the Congress of the United States to support the National Guard in strength and composition consistent with the maintenance and support of state and local government during periods of disaster, riot or disorder

"Be it resolved by the Senate of the State of South Dakota, the House of Representatives concurring therein:

"Whereas, the National Guard of the United States of America and of the several states has historically and traditionally provided military manpower for the security of the state and nation; and

"Whereas, the National Guard as a force in being, can be maintained at a fraction of the cost of equal numbers of regulars; and

"Whereas, the National Guard is unique in having a dual mission to provide combat ready forces for the defense of our country as well as a trained force in being responsible to the Governor for support of state and local government during periods of disaster, riot or civil disorder; and

"Whereas, the National Guard assistance in community construction and improvement projects during training assemblies has saved the taxpayers of South Dakota hundreds of thousands of dollars; and

"Whereas, a reduction in future strength, funding or continued modernization of facilities and equipment would result in a serious deterioration of present capabilities to the detriment of our total readiness and community support: Now, therefore, be it

"*Resolved*, by the Senate of the Fifty-first Legislature of the State of South Dakota, the House of Representatives concurring therein, that the Congress of the United States in order to preserve the role of the National Guard in maintaining and supporting state and local government during periods of disaster, riot and civil disorder be requested to increase its support of the National Guard; and be it further

"*Resolved*, that the Secretary of the Senate forward copies of this Resolution to the President of the United States, the Speaker of the House of Representatives and the President of the Senate of the United States, the Secretary of Defense and all members of the South Dakota Congressional Delegation."

Senate Resolution (76-S 2251) adopted by the General Assembly of the State of Rhode Island; to the Committee on Finance:

"STATE OF RHODE ISLAND, ETC.

"Senate resolution memorializing Congress to extend revenue sharing

"Whereas, The Congress of the United States saw fit that a revenue sharing program was originally enacted; and

"Whereas, This program provided for the disbursement of federal funds to the respective local towns and cities; and

"Whereas, The revenue sharing program also provided for a network of cooperation and involvement between citizens and various community neighborhoods and the respective town and city elected and appointed officials; and

"Whereas, Federal Revenue sharing has allowed many towns and cities to initiate new programs for the welfare and benefit of the people; and

"Whereas, This federal program in some instances has been of benefit in holding the property tax and alleviating some of the tax burden on our local citizens; and

"Whereas, The loss of these funds and these programs would impair the continuation of certain programs and affect the local tax financing; now therefore be it

"*Resolved*, That the Senate of the State of Rhode Island hereby respectfully memorializes the Congress of the United States to extend revenue sharing; and be it further

"*Resolved*, That the secretary of state be and he hereby is authorized and directed to transmit duly certified copies of this resolution to the senators and representatives from Rhode Island in the congress and to the speaker of the United States House of Representatives and the president of the United States Senate."

A concurrent resolution adopted by the Legislature of the State of South Carolina; to the Committee on the Judiciary:

"A concurrent resolution memorializing Congress to propose an amendment to the Federal Constitution to require that the total of all Federal appropriations may not exceed the total of all estimated Federal revenues in any fiscal year, with certain exceptions

"Whereas, with each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues so that the public debt now exceeds hundreds of billions of dollars; and

"Whereas, attempts to limit spending, including impoundment of funds by the President of the United States, have resulted in strenuous objections that the responsibility for appropriations is the constitutional duty of the Congress; and

"Whereas, the annual Federal budget repeatedly demonstrates an unwillingness or inability of both the legislative and executive branches of the Federal government to curtail spending to conform to available revenues; and

"Whereas, the unified budget of three hundred four and four-tenths billion dollars for the current fiscal year does not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

"Whereas, as reported by US News and World Report on February 25, 1974, of these nonbudgetary outlays in the amount of fifteen and six-tenths billion dollars, the sum of twelve and nine-tenths billion dollars represents funding of essentially private agencies which provide special service to the Federal government; and

"Whereas, knowledgeable planning and fiscal prudence require that the budget reflect all Federal spending and that the budget be in balance; and

"Whereas, believing that fiscal irresponsibility at the Federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is necessary to bring the fiscal disciplines needed to reverse this trend. Now, therefore, be it

"*Resolved* by the House of Representatives, the Senate concurring:

"That the Congress be memorialized to add a new Aritcle XXVII to the Constitution of the United States and requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated Federal revenues, excluding any revenues derived from borrowing, for that fiscal year. Be it further "*Resolved* that Congress is requested to call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Federal Constitution. Be it further "*Resolved* that the proposed new article read substantially as follows:

"PROPOSED ARTICLE XXVII

The total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated Federal revenues for that fiscal year, excluding any revenues derived from borrowing and this prohibition extends to all Federal appropriations and all estimated Federal revenues, excluding any revenues derived from borrowing. The President in submitting budgetary requests and the Congress in enacting appropriation bills shall comply with this Article. If the President proclaims a national emergency, suspending the requirement that the total of all Federal appropriations not exceed the total estimated Federal revenues for a fiscal year, excluding any revenues derived from borrowing, and two-thirds of all members elected to each House of the Congress so determine by Joint Resolution, the total of all Federal appropriations may exceed the total estimated Federal revenues for that fiscal year.

"Be it further *resolved* that copies of this resolution be forwarded to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of Congress from from South Carolina.

A resolution adopted by the city of Scranton, Pennsylvania, relating to abortion; to the Committee on the Judiciary.

House Concurrent Resolution No. 516, adopted by the Legislature of the State of South Dakota; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION NO. 516

"A concurrent resolution, memorializing the Congress of the United States to affirm by appropriate mode of expression that, by its submission to the several states of the proposed Equal Rights Amendment to the Constitution of the United States, it is not intended to address the issues of the validity of restrictions on abortion or of the existence and extent of the rights of the unborn

"Be it resolved by the House of Representatives of the State of South Dakota, the Senate concurring therein:

"Whereas, the Equal Rights Amendment to the United States Constitution, as submitted to the several states by the Congress of the United States, would impose on the United States and the states a single standard of equality of rights which shall not be denied or abridged on account of sex; and

"Whereas, at the time of such submission to the several states in 1972 and, also at the time of the ratification of the amendment by the state of South Dakota in 1973 by the Forty-eighth legislative session of that state, it was understood by the legislative bodies of the several states, including said Forty-eighth session of the Legislature of the state of South Dakota, that the proposed Equal Rights Amendment was not intended to address, and did not in fact address, the issues of the validity of restrictions on abortion or of the existence and extent of the rights of the unborn; and

"Whereas, subsequent to such submission to the states there has arisen some apprehension in the several states that the proposed Equal Rights Amendment, if validated by ratification as required by law, may be subject to judicial set forth, which apprehension may only serve to impede and perhaps prevent the full ratification and validation of the proposed amendment, so that it is incumbent on the Congress to act in order to remove such apprehension: Now, therefore, be it hereby "*Resolved*, by the House of Representatives of the Fifty-first Legislature of the state of South Dakota, the Senate concurring therein, that the Congress of the United States be memorialized and requested to affirm by resolution, hearings or other appropriate mode of expression that the proposed Equal Rights Amendment to the United States Constitution submitted to the several states by the Congress in 1972 was not intended to address, and does not in fact address, the issues of the validity of restrictions on abortion or of the existence and extent of the rights of the unborn. Be it further "'*Resolved*, that the Chief Clerk of the House of Representatives send certified copies of the Concurrent Resolution to the Secretary of State of the United States, to the presiding officers of both Houses of the Congress of the United States, to the members of the Congressional Delegation of South Dakota, and to the Administrator of the United States General Services Administration.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. **EASTLAND**, from the Committee on the Judiciary:

Jean McKee, of New York, to be Deputy

Administrator of the American Revolution Bicentennial Administration.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HUGH SCOTT:

S. 3046. A bill to amend title 18 and 26 of the United States Code and the Omnibus Crime Control and Safe Streets Act of 1968 for the purpose of designating certain electric weapons as destructive devices. Referred to the Committee on the Judiciary.

By Mr. CASE:

S. 3047. A bill for the relief of Peter Lee Chin Wu. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON:

S. 3048. A bill for the relief of Sang Il Tong. Referred to the Committee on the Judiciary.

By Mr. RIBICOFF (for himself and Mr. WEICKER):

S. 3049. A bill to modify the Project for Hurricane-Flood Protection at New London, Conn. Referred to the Committee on Public Works.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 3050. A bill to authorize the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy, to lease for military purposes structures and their associated real property located in a foreign country. Referred to the Committee on Commerce.

By Mr. DOLE (by request):

S. 3051. A bill to amend the Commodity Futures Trading Commission Act of 1974, and for other purposes;

S. 3052. A bill to amend section 602 of the Agricultural Act of 1954;

S. 3053. A bill to upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for two additional Assistant Secretaries of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for ther purposes; and

S. 3054. A bill to repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes. Referred to the Department of Agriculture and Forestry.

By Mr. HUMPHREY (for himself, Mr. CLARK, Mr. TALMADGE and Mr. McGOVERN):

S. 3055. A bill to provide for U.S. standards and a national inspection system for grain, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. HUMPHREY (for himself and Mr. KENNEDY):

S. 3056. A bill to amend the Foreign Assistance Act of 1961 to provide emergency relief, rehabilitation, and humanitarian assistance to the people who have been victimized by the recent earthquake in Guatemala. Referred to the Committee on Foreign Relations.

By Mr. HUMPHREY (for himself and Mr. MONDALE):

S.J. Res. 173. A joint resolution authorizing and requesting the President to issue a proclamation designating the seven calendar days beginning September 26, 1976 as "National Port Week." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUGH SCOTT:

S. 3046. A bill to amend titles 18 and 26 of the United States Code and the Omnibus Crime Control and Safe Streets Act of 1968 for the purpose of designating certain electric weapons as destructive devices. Referred to the Committee on the Judiciary.

TASER PUBLIC DEFENDER

Mr. HUGH SCOTT. Mr. President, today I am introducing a bill to curb the availability of a weapon called the Taser Public Defender. This legislation will be the Senate counterpart to two bills, H.R. 11451 and H.R. 11452, introduced by Congressman LAWRENCE COUGHLIN.

This so-called Public Defender consists of two darts attached by two thin wires to batteries. The darts, when fired from the Taser, carry an electric current of 50,000 volts which penetrate the clothing or skin and temporarily paralyze the victim's body. The effect upon a perfectly healthy person is complete loss of muscular control and total incapacitation until the current is turned off. There are no guarantees that the Taser would not have fatal consequences for a person with a heart condition or other ailment or for a child. Fortunately, no fatalities have been connected to the use of this weapon since it was placed upon the market.

The purpose of this device as stated in its name is to be a public defender. However, increasing incidents are being reported across the country where the Taser has been used by criminal elements against the public. As an example, a couple in Montgomery County, Pa., recently was robbed by four men, one who carried a Taser. The victims were tied up and shot with the Taser and shocked until they told the thieves where all their valuables were located.

In an attempt to prevent the reoccurrence of such crimes, my bill would amend title 18 of the United States Code and the Omnibus Crime Control and Safe Streets Act of 1968 by classifying electric weapons such as the Taser as destructive devices. Therefore, without the specific authorization from the Secretary of the Treasury, purchase would be prohibited. In addition, Taser-like weapons would be classified as destructive devices under title 26 of the United States Code. The result would be a $200 tax on both the manufacture and the transfer of each Taser to unlicensed persons.

We must act now to limit the distribution of the Taser while it is still in an early stage of development. The prospects of more powerful and sophisticated Tasers would add but another weapon to the overstocked arsenals of criminals. I urge my colleagues to examine closely the seriousness of this situation and consider expeditiously this bill.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 3050. A bill to authorize the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy, to lease for military purposes structures and their associated real property located in a foreign country. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to authorize the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy, to lease for military purposes structures and their associated real property located in a foreign country, and ask unanimous consent that the letter of transmittal and changes in existing law be printed in the RECORD together with the text of the bill.

There being no objection, the bill and material was ordered to be printed in the RECORD, as follows:

S. 3050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2675 of title 10, United States Code, is amended as follows:

(1) The first sentence of subsection (a) is amended by striking the words "of a military department" between the words "Secretary" and "may", and inserting in lieu thereof the word "concerned."

(2) Subsection (b) is amended—

(a) by striking the words "on Armed Services" between the words "Committees" and "of"; and

(b) by inserting the word "appropriate" between the words "the" and "Committees."

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., November 7, 1975.

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a proposed bill, "To authorize the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy, to lease for military purposes structures and their associated real property located in a foreign country."

The purpose of the draft bill is to authorize the Secretary of Transportation, on behalf of the Coast Guard, to enter into multi-year leases to acquire, for military purposes, structures and their associated real property which are located in foreign countries. Under section 2675 of title 10, United States Code, the Secretaries of the military departments within the Department of Defense already have this authority. Therefore, the bill amends that section in a manner which extends its authority to the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy. The existing conditions and limitations applicable to the Secretaries of the military departments would also apply to the Secretary of Transportation.

However, section 2675(b) has been amended to require Coast Guard leases with an annual rental in excess of $250,000 to be submitted to those committees of the Senate and House of Representatives which generally have jurisdiction over Coast Guard matters, without divesting the Armed Services Committees of the Senate and House of Representatives of their current authority under this section.

The lack of overseas leasing authority has its greatest impact on the Coast Guard's ability to adequately provide housing for its members and their dependents who are stationed overseas. Currently the Coast Guard is occupying leased family housing in Singapore, the Republic of the Philippines, the United Kingdom, and West Germany. Twenty-five leases have been obtained in these countries for the benefit of the Coast Guard, on a reimbursable basis, by the Secretaries of the military departments within the Department of Defense exercising their authority under section 2675 of title 10. The amendments proposed by the bill would obviate this necessity by authorizing the Secretary of Transportation to negotiate directly for needed structures and their associated real property which are located in a foreign country.

Enactment of this proposed bill will not impose any additional personnel or budgetary requirements upon this Department. Rather, it will authorize the Secretary of Transportation to make direct payments for future leases in lieu of the present system of obtaining needed overseas leases through the Secretaries of the military departments within the Department of Defense on a reimbursable basis. For fiscal year 1976, the Coast Guard has already budgeted for $288,000 to reimburse the Department of Defense for overseas leases. We anticipate no substantial change in this level of utilization over the next five years.

It would be appreciated if you would lay this proposed bill before the Senate. A similar bill has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to Congress.

Sincerely,

WILLIAM T. COLEMAN, Jr.

COMPARATIVE TYPE SHOWING CHANGES IN EXISTING LAW MADE BY THE PROPOSED BILL

(Matter proposed to be omitted is enclosed in brackets; new matter is in italics.)

TITLE 10

§ 2675. Leases: foreign countries: structures not on a military base

(a) Notwithstanding any other provision of law, the Secretary *concerned* [of a military department] may acquire by lease, in any foreign country, structures and real property relating thereto that are not located on a military base and that are needed for military purposes. A lease under this section may not be for a period of more than five years.

(b) A lease may not be entered into under this section if the average estimated annual rental during the term of the lease is more than $250,000 until after the expiration of thirty days from the date upon which a report of the facts concerning the proposed lease is submitted to the *appropriate* Committees [on Armed Services] of the Senate and House of Representatives.

(c) A statement in a lease that the requirements of this section have been met, or that the lease is not subject to this section, is conclusive.

By Mr. DOLE (by request):

S. 3051. A bill to amend the Commodity Futures Trading Commission Act of 1974, and for other purposes;

S. 3052. A bill to amend section 602 of the Agricultural Act of 1954;

S. 3053. A bill to upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for two additional Assistant Secretaries of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes; and

S. 3054. A bill to repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes. Referred to the Department of Agriculture and Forestry.

Mr. DOLE. Mr. President, at the request of the administration, I am today introducing several bills which would make changes in existing law.

As my colleagues know, the various department and agencies of the Federal Government develop legislative proposals which they seek to have considered by the Congress in furtherance of the programs they administer.

Often these measures are minor or technical in nature. However, they are often quite controversial. Today, as a courtesy to the administration, I am offering several such legislative proposals for referral to committee and appropriate consideration.

Just as my colleagues may be expected to reserve final judgment on these proposals until after committee investigation, hearings, and consideration, so do I reserve judgment. I introduce these bills today, which have been forwarded by the administration, because I believe that we in the Congress who expect the departments and agencies to implement faithfully and efficiently the laws we pass, owe them the courtesy of considering their suggestions for changes and improvements in the law.

Mr. President, I ask unanimous consent that a summary of the bills prepared by the staff of the Committee on Agriculture and Forestry be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE ON AGRICULTURE AND FORESTRY, STAFF EXPLANATION OF BILLS REQUESTED BY THE ADMINISTRATION

COMMODITY FUTURES TRADING COMMISSION

S. 3051 would repeal the requirement in the Commodity Futures Trading Commission Act that the appointment by the Commodity Futures Trading Commission of its Executive Director be made by and with the advice and consent of the Senate. The bill would also make certain technical changes in the Act. In addition, the bill would amend 18 U.S.C. 6001 to enable the Commission to grant witnesses immunity from prosecution based upon their testimony before the Commission.

TRAINING OF DEPENDENTS OF OFFICIALS ASSIGNED ABROAD

S. 3052 would provide that appropriations available to the Secretary of Agriculture may be used to provide appropriate orientation and language training to families of officers and employees of the Department of Agriculture in anticipation of an assignment abroad or while abroad.

ADJUSTMENTS IN TOP-LEVEL POLICY STAFF OF USDA

S. 3053 would upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; provide two additional Assistant Secretaries of Agriculture; increase the compensation of the Administrator of APHIS from GS-18 to executive level V; and increase the Board of Directors of the Commodity Credit Corporation from six to seven members.

NOTIFICATION OF ANIMAL AND PLANT QUARANTINES

S. 3054 would repeal requirements for publication of notices in newspapers and giving of written notice to railroads and other carriers doing business in infected localities or areas quarantined by the Secretary of Agriculture, of the establishment of quarantines and of the existence of livestock or poultry diseases, or insect infestations. The bill would also clarify the authority of the Secretary to exercise discretion in deciding whether to quarantine areas under that act.

By Mr. HUMPHREY (for himself, Mr. CLARK, Mr. TALMADGE, and Mr. MCGOVERN):

S. 3055. A bill to provide for U.S. standards and a national inspection system for grain, and for other purposes. Referred to the Committee on Agriculture and Forestry.

U.S. GRAIN STANDARDS ACT

Mr. HUMPHREY. Mr. President, the Nation's attention has been focused again and again in recent weeks on our faulty grain inspection and weighing system. Indeed the problem will not go away.

The problem goes back to ancient times when the prophet Amos in chapter 8 stated:

> Hear this, you who trample upon the needy, and bring the poor of the land to an end, saying, "when will the new moon be over, that we may sell grain? And the Sabbath, that we may offer wheat for sale, that we may make the ephah small and the shekel great, and deal deceitfully with false balances, that we may buy the poor for silver and the needy for a pair of sandals, and sell the refuse of the wheat?"

The study which we called upon the General Accounting Office to carry out 8 months ago has now been completed. It provides us with a wealth of information, and it calls for a total revamping of the inspection and weighing system.

We have already held extensive hearings. The Senate last fall enacted Senate Joint Resolution 88, as interim legislation, which provided the Secretary of Agriculture with increased authority to deal with this problem, and it also changed the criminal code to increase the sanctions for violation of the U.S. Grain Standards Act.

On February 20, the Subcommittees on Foreign Agricultural Policy and Agricultural Production. Marketing and Stabilization of Prices held a hearing to review the conclusions of the GAO report with the Comptroller General of the United States, Mr. Elmer Staats.

The legislation which I am introducing today with Senators CLARK, MCGOVERN, and TALMADGE would provide streamlined Federal inspection and supervision of weighing along the lines envisioned in the GAO report and deal with the problems which have been identified in the investigation and report.

This bill would, in summary, give the USDA responsibility for establishing a unified Federal system where we now have a number of separate operations.

Most significantly, at the export and major inland points the inspection and supervision of weighing would be under the responsibility of an agency within the USDA, the Federal Grain Inspection Agency.

At the interior points, inspection would be carried out by the USDA directly or by States or private firms under competitively awarded contracts.

And both criminal and civil penalties would be drastically increased under the bill.

Specifically, the measure would:

First, direct the Administrator of the Federal Grain Inspection Agency to have all grain inspection at export elevators performed by agency employees;

Second, authorize the Administrator to have grain inspection in interior areas of the country performed by Agency employees, or, in lieu of that, by State or private agencies under contract. Contractors would receive payment under the contract rather than the present fee basis;

Third, set stringent qualifying criteria for States or persons who apply to contract with the Administrator to inspect in the interior of the country;

Fourth, direct the administrator to regulate the weighing of grain shipped in interstate and foreign commerce, and, at export elevators, to supervise the weighing of grain and inspect weights and scales;

Fifth, authorize the administrator to enter into agreements with States for the supervision of weighing and the inspection of weights and scales in other areas of the United States, under prescribed guidelines and regulations;

Sixth, authorize the administrator to charge and collect fees to cover the costs of official inspection and the supervision of weighing. This will enable the system to, as near as possible, be self-supporting;

Seventh, increase the criminal penalties for intentional or knowing violations of the act by making them felonies punishable by up to 5 years imprisonment;

Eighth, authorize the administrator to impose civil penalties not to exceed $100,000 upon persons or companies violating the act;

Ninth, place the crimes of bribery of inspection personnel and intimidating or assaulting Agency employees performing official inspection, under the felony statutes contained in title 18 of the Criminal Code;

Tenth, prevent boards of trade or other business entities owned, controlled, or operated by grain elevators, merchandisers, or employees thereof, from operating as official inspection contractors;

Eleventh, require the administrator to submit an annual report to the Congress on the effectiveness of grain inspection, with his recommendations for legislative changes necessary and helpful to accomplish the objectives of the Grain Standards Act; and on serious foreign complaints concerning the faulty delivery of grain;

Twelfth, authorize the administrator to monitor in foreign countries, grain exported from the United States to determine whether the grain received is of the same quantity and comparable quality it was certified to be;

Thirteenth, authorize the administrator to perform a study for Congress of the current grain standards to determine whether they are adequate to encourage production of grain of high quality;

Fourteenth, direct the administrator to rotate supervisory and other inspection personnel at periodic intervals, to preserve the integrity of the inspection system; and

Fifteenth, provide a phasein of the changes with Federal inspection at export elevators in place within 6 months and Federal or contracted inspection in place within 2 years of the enactment of this legislation;

Mr. President, the detailed and thorough amendments of the Grain Standards Act which this measure authorizes would completely overhaul the U.S. grain inspection system, as recommended by the General Accounting Office and demanded by the facts we now have concerning corruption, mismanagement and incompetence.

The American farmer and the American public have demanded action to correct what has gone wrong in our grain export and inspection system.

This is, in my view, a constructive and reasonable bill. I can think of nothing more important at this crucial juncture to the future of American agriculture than the need to immediately clean up our grain inspection system and restore confidence in American agricultural products.

I believe that it is crucial that we assure our customers that their purchases of grain and soybeans will be of the highest quality.

In 1975, the United States exported over $22 billion of agricultural products. Our net favorable trade balance, in agricultural products was around $12 billion.

This Nation's shaky economy simply cannot afford to lose such an important source of foreign exchange. Our farmers cannot afford to lose that important source of income. And our consumers cannot afford the potential chaos in our food production system which would result from such a loss.

We are faced with a tight deadline. We must restore confidence in our grain exports before the 1976 crop is harvested.

Mr. President, I ask unanimous consent that the text of the bill which I am introducing today be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Grain Standards Act (82 Stat. 761–770; 7 U.S.C. 71, 74–79, 84–87, and 87a–87h) is hereby amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'United States Grain Standards Act'.

"DECLARATION OF POLICY

"SEC. 2. Grain is an essential source of the world's total supply of human food and animal feed. It is declared to be the policy of the Congress, for the promotion and protection of such commerce in the interests of producers, merchandisers, warehousemen, processors, and consumers of grain, and the general welfare of the people of the United States, to provide for the establishment of official United States standards for grain, to promote the uniform application thereof by official inspection personnel, to provide for an official inspection system for grain, and to regulate the weighing and the certification of the weight of grain shipped in interstate or foreign commerce; with the objectives that grain may be marketed in an orderly manner and that trading in grain may be facilitated. It is hereby found that all grain and other articles and transactions in grain regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce and that regulation thereof as provided in this Act is necessary to prevent or eliminate burdens on such commerce and to effectively regulate such commerce.

"DEFINITIONS

"SEC. 3. When used in this Act, except where the context requires otherwise—

"(a) the term 'Secretary of Agriculture' means the Secretary of Agriculture of the United States or his delegates;

"(b) the term 'Administrator' means the Administrator of the Federal Grain Inspection Agency established by section 4 of this Act or his delegates;

"(c) the term 'Department of Agriculture' means the United States Department of Agriculture;

"(d) the term 'Agency' means the Federal Grain Inspection Agency established by section 4 of this Act;

"(e) the term 'United States' means the States (including Puerto Rico) and the territories and possessions of the United States (including the District of Columbia);

"(f) the term 'State' means any one of the States (including Puerto Rico) or territories or possessions of the United States (including the District of Columbia);

"(g) the term 'interstate or foreign commerce' means commerce from any State to or through any other State, or to or through any foreign country;

"(h) the term 'grain' means corn, wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oilseeds for which standards are established under section 5 of this Act;

"(i) the term 'export grain' means grain for shipment from the United States to any place outside thereof;

"(j) the term 'official inspection' means the determination (by original inspection and, when requested, reinspection and appeal inspection) and the certification, by official inspection personnel, of the kind, class, quality or condition of grain, under standards provided for in this Act, or the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality or condition of such grain; or, upon the request of the interested party applying for inspection, other facts relating to grain under other criteria approved by the Administrator under this Act; and such term shall include the determination of the quantity of grain by official supervision of weighing for each lot of grain that is officially inspected as it is being transferred in or out of a grain elevator or warehouse (the term 'officially inspected' shall be construed accordingly);

"(k) the term 'official inspection personnel' means employees of the Agency or of an official inspection contractor licensed or otherwise authorized by the Administrator pursuant to section 11 of this Act to perform all or specified functions involved in official inspection, or in the supervision of official inspection, or in monitoring activities in foreign ports, with respect to officially inspected grain under this Act.

"(l) the term 'official inspection mark' means any symbol prescribed by regulations of the Administrator to show the official determination of an official inspection;

"(m) the term 'official grade designation' means a numerical or sample grade designation, specified in the standards relating to kind, class, quality and condition of grain, provided for in this Act;

"(n) the term 'official inspection contractor' means a State or person who has entered into a contract with the Administrator authorized by section 8 of this Act for the conduct of official inspection (other than appeal inspection) under this Act at an inspection point designated by the Administrator (the term 'official inspection contract' will be construed accordingly);

"(o) the terms 'offical certificates' and 'official form' mean, respectively, a certificate or other form prescribed by regulations of the Administrator under this Act;

"(p) the term 'official sample' means a sample obtained from a lot of grain by, and submitted for official inspection by, official inspection personnel (the term 'official sampling' shall be construed accordingly);

"(q) the term 'submitted sample' means a sample submitted by or for an interested person for official inspection, other than an official sample;

"(r) the term 'lot' means a specific quantity of grain identified as such;

"(s) the term 'interested person' means any person having a contract or other financial interest in grain as the owner, seller, purchaser, warehouseman, or carrier, or otherwise;

"(t) the verb 'ship' with respect to grain means transfer physical possession of the grain to another person for the purpose of transportation by any means of conveyance, or transport one's own grain by any means of conveyance;

"(u) the terms 'false', 'incorrect', and 'misleading' mean, respectively, false, incorrect, and misleading in any particular;

"(v) the term 'deceptive loading, handling, weighing, or sampling' means any manner of loading, handling, weighing, or sampling that deceives or tends to deceive official inspection personnel, as specified by regulations of the Administrator under this Act;

"(w) the term 'export elevator' means any grain elevator or warehouse in the United States as determined by the Administrator, from which grain is shipped from the United States to an area outside thereof;

"(x) the term 'major inland terminal elevator' means any grain elevator or warehouse in the United States as determined by the Administrator located in a terminal area in the interior of the United States at which over 50,000,000 bushels of grain are officially inspected in an average year;

"(y) the term 'official supervision of weighing' means the physical supervision of the weighing of grain, the physical inspection of weights and scales and (where the weighing is done in an elevator or warehouse) the physical inspection of the elevator or warehouse premises and the monitoring of the flow of grain into and out of the elevator or warehouse, and the certification of the weight of the lots of grain weighed under such physical supervision, under standards provided for in this Act by official inspection personnel or other persons authorized by the Administrator.

"ESTABLISHMENT OF FEDERAL GRAIN INSPECTION AGENCY

"SEC. 4. There is created and established in the Department of Agriculture an agency of the United States to be known as the Federal Grain Inspection Agency, all the powers of which shall be exercised by an Administrator who shall be appointed by the President by and with the advice and consent of the Senate. The Administrator shall be responsible for the administration of this Act and for the establishment of policies, guidelines, and regulations by which the Agency is to carry out the provisions of this Act.

"STANDARDS

"SEC. 5 (a). The Administrator is authorized to investigate the handling, weighing, grading, and transportation of grain and to fix and establish: (1) standards of kind, class, quality, and condition for corn, wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans, mixed grain and such other grains as in his judgment the usages of the trade may warrant and permit; and (2) standards for accurate weighing and certification procedures and controls, including safeguards over equipment calibration and maintenance, of grain shipped in interstate or foreign commerce, and procedures for the supervision of weighing such grain; and the Administrator is authorized to amend or revoke such standards whenever the necessities of the trade require.

"(b) Before establishing, amending, or revoking any standards under this Act, the Administrator shall publish notice of the proposal and give interested persons opportunity to submit data, views, and arguments thereon and, upon request, an opportunity to present data, views, and arguments orally in an informal manner. No standards established or amendments or revocations of standards under this Act shall become effective less than one calendar year after promulgation thereof, unless in the judgment of the Administrator, the public health, interest, or safety require that they become effective sooner.

"OFFICIAL INSPECTION REQUIREMENTS FOR EXPORT GRAIN

"SEC. 6. Whenever standards are effective under section 5 of this Act for any grain, no person shall ship from the United States to any place outside thereof any lot of such grain, unless such lot is officially inspected in accordance with such standards on the basis of official samples taken after final elevation as near the final spout through which the grain passes as physically practicable as it is being loaded aboard, or while it is in the final carrier in which it is to be transported from the United States, and unless a valid official certificate showing the official grade designation and certified weight of the lot of grain has been provided by official inspection personnel and is promptly furnished by the shipper, or his agent, to the consignee with the bill of lading or other shipping documents covering the shipment: *Provided, however,* That the Administrator may waive any requirement of this section with respect to shipments from or to any area or any other class of shipments when in his judgment it is impracticable to provide official inspection with respect to such shipments.

"REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS AND PROHIBITION OF CERTAIN ACTS WITH RESPECT TO CERTAIN GRAIN

"SEC. 7. (a) Whenever standards relating to kind, class, quality, and condition of grain are effective under section 5 of this Act for any grain no person shall in any sale, offer for sale, or consignment for sale, which involves the shipment of such grain in interstate or foreign commerce, describe such grain as being of any grade in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, other document, or description on bags or other containers of the grain other than by an official grade designation, with or without additional information as to specified factors: *Provided,* That the description of such grain by any proprietary brand name or trademark that does not resemble an official grade designation, or with respect to interstate commerce, by the use of one or more grade factor designations set forth in the official United States standards for grain, or by other factor information shall not be deemed to be a description of grain as being of any grade.

"(b) No person shall, in any sale, offer for sale, or consignment for sale, of any grain which involves the shipment of such grain from the United States to any place outside thereof, describe such grain by any official grade designation, or other description, which is false or misleading.

"OFFICIAL INSPECTION AUTHORITY

"SEC. 8. (a) The Administrator is authorized to cause official inspection under the standards provided for in section 5 of this Act to be made of all grain required to be officially inspected as provided in section 6 of this Act, in accordance with such regulations as he may prescribe.

"(b) The Administrator is further authorized, upon request of any interested person, and under such regulations as he may prescribe, to cause official inspection to be made with respect to any grain whether by official sample, submitted sample, or otherwise, or the separate determination of the quantity of a lot of grain based on official supervision of weighing, within the United States under standards provided in section 5 of this Act, or upon request of the interested person, official inspection under other criteria approved by the Administrator for determining kind, class, quality, or condition of grain, or other facts relating to grain; whenever in his judgment providing of such service will effectuate any of the objectives stated in section 2 of this Act.

"(c) The regulations prescribed by the Administrator under this Act shall include provisions for reinspections and appeal inspections; cancellation and surrender of certificates superseded by reinspections and appeal inspections; and the use of standard forms for official certificates. The Administrator may provide by regulation that samples obtained by or for employees of the Agency for purposes of official inspection shall become the property of the United States, and such samples may be disposed of without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.).

"(d) Certificates issued and not canceled under this Act shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

"(e) The Administrator shall cause all official inspection at export elevators and major inland terminal elevators for grain required or authorized to be inspected by this Act to be performed by official inspection personnel employed by the Agency. The Administrator is authorized to provide that grain loaded at any interior point in the United States into a rail car, barge, or other container as the final carrier in which it is to be transported from the United States shall be inspected in the same manner.

"(f) With respect to official inspection other than at export elevators or major inland terminal elevators for grain required or authorized to be inspected by the Act, the Administrator is authorized to enter into a contract with any State or person for the conduct of all or specified functions involved in official inspection (other than appeal inspection) at locations at which the Administrator determines the official inspection is needed, as provided in subsection (g) of this section.

"(g) The Administrator shall, prior to entering into a contract with a State or person for the performance of official inspection functions as provided in subsection (f) of this section, make a determination that:

"(A) such State or person:

"(i) has adequate facilities and qualified personnel for the performance of such official inspection functions;

"(ii) will conduct such training and provide such supervision of its personnel as are necessary to assure that they will provide official inspection in accordance with this Act and the regulations and instructions thereunder;

"(iii) (with respect to a person contracting with the Administrator) does not have a conflict of interest prohibited by subsection (h) of this section.

"(iv) will maintain complete and accurate records of its organization, staffing, official inspections, and fiscal operations, and such other records as the Administrator may require by regulation;

"(v) will comply with all provisions of this Act and the regulations and instructions thereunder;

"(vi) meets other criteria established in regulations issued under this Act relating to the performance of official inspection; and

"(B) The applicant is better able than any other applicant to provide official inspection service.

(h) The Administrator shall not contract for the performance of official inspection functions as provided in subsection (f) of this section with: (1) any person who owns, operates, or is employed by a grain elevator, is currently engaged in the merchandising of grain or is financially interested in (directly or otherwise) any business entity which owns or operates any grain elevator or warehouse, or is currently engaged in the merchandising of grain; or (2) any corporation, partnership, association, or other business entity owned (fully or otherwise), operated, or managed by such person.

"(i) Official inspection contracts shall terminate at such time as specified by the Administrator but not later than at the end of 5 years and may be renewed in accordance with the criteria prescribed in this section. An official inspection contract may be amended at any time upon application by the official inspection contractor if the Administrator determines that the amendment will be consistent with the provisions and objectives of this Act; and such a contract will be cancelled upon request by the official inspection contractor with ninety days written notice to the Administrator. A fee as prescribed by regulations of the Administrator shall be paid by the official inspection contractor to the Administrator for each such amendment to cover the costs incurred by the Agency in connection therewith, and it shall be deposited in the fund provided for in section 10.

"(j) The Administrator may revoke an official inspection contract whenever, after opportunity for hearing is afforded to the official inspection contractor, the Administrator determines that the official inspection contractor has failed to meet one or more of the criteria specified in subsection (g) of this section or the regulations under this Act for the performance of official inspection functions, or otherwise has not complied with any provision of this Act or any regulation prescribed or instruction issued to such official inspection contractor under this Act, or (with respect to a person contracting with the Administrator) has been convicted of any violation of other Federal law involving the handling, weighing, or official inspection of grain: *Provided:* That the Administrator may, without first affording the official inspection contractor an opportunity for a hearing, suspend any official inspection contract pending final determination of the proceeding whenever the Administrator has reason to believe there is cause for revocation of the official inspection contract and considers such action to be in the best interest of the official inspection system under this Act. The Administrator shall afford an official inspection contractor an opportunity for a hearing within thirty days after temporarily suspending such contract.

"(k) The Administration is authorized to cause official inspection under this Act to be made, as provided in subsection (a) of this section, with respect to United States grain in Canadian ports, and pursuant thereto the Secretary of Agriculture is authorized to enter into an agreement with the Canadian government for such inspection.

"(l) No State or person other than an employee of the Agency shall perform any official inspection functions for the purposes of this Act except in accordance with the provisions of a valid official inspection contract.

"WEIGHING AND THE CERTIFICATION OF WEIGHTS

"SEC. 9. (a) Notwithstanding any other provision of law, the Administrator shall cause continuous official supervision of weighing under the standards provided in section 5 of this Act of all grain transferred in or out of export elevators to be performed by authorized employees of the Agency.

"(b) Notwithstanding any other provision of law, the Administrator is authorized, with respect to any major inland terminal elevator and under the standards provided for in section 5 of this Act and such regulations as he may prescribe, to cause official supervision of weighing other than that involved in official inspection, of any grain shipped in interstate or foreign commerce to be performed, either continuously or at periodic intervals as he deems necessary to effectuate the provisions and objectives of this Act.

"(c) Notwithstanding any other provision of law, the Administrator is authorized to prescribe by regulation the procedures for the inspection and testing of all weights and scales used in the weighing and the certification of the weight of grain shipped in interstate or foreign commerce, excluding those weights and scales located at grain elevators or warehouses that receive grain only from producers, under the standards provided in section 5 of this Act; and to disapprove the use of any weights and scales for the weighing and the certification of the weight of such grain whenever he determines that such weights and scales fail to meet the standards provided in section 5 of this Act. No person shall use any weights or scales disapproved by the Administrator in weighing such grain.

"(d) Official supervision of weighing as described in subsection (b) of this section shall be performed by authorized employees of the Agency: *Provided, however,* That the Administrator is authorized to enter into an agreement with a State for the conduct of such activities, under the laws of such State with respect to elevators and warehouses subject to its jurisdiction if the Administrator finds that the State in which the weighing is done, conducts official supervision of weighing under procedures equivalent to those prescribed under this section.

"(e) Notwithstanding any other provision of law, no person shall weight, or state in any document the weight of, grain shipped in interstate or foreign commerce, in any State of the United States, except in accordance with any such regulations and procedures described in subsections (a), (b), and (c) of this section unless such jurisdiction is enforcing equivalent procedures under its laws pursuant to an agreement under subsection (d) of this section.

"(f) The provisions of this section shall not limit any authority vested in the Secretary of Agriculture under the United States Warehouse Act (39 Stat. 486, as amended, 7 U.S.C. 241 et seq).

"(g) The representatives of the Administrator shall be afforded access to any elevator or warehouse from which grain is delivered for shipment in interstate or foreign commerce or to which grain is delivered from shipment in interstate or foreign commerce and all facilities therein for weighing grain.

"FUNDING

"SEC. 10. The Administrator shall, under such regulations as he may prescribe, charge and collect reasonable fees for the performance of official inspection and official supervision of weighing. The fees authorized by this section shall be as reasonable and as nearly equal as possible in each geographic area of the United States and, after taking into consideration any proceeds from the sale of samples, cover the costs of the Agency incident to the performance of official inspection services and official supervision of weighing in the United States except as provided in section 23 of this Act. *Provided, however:* That the amount of such fees shall not be increased during the course of any fiscal year more than 10 per centum over the amount of the fee in effect at the end of the previous fiscal year without the express authorization of the Administrator. Inspection fees collected pursuant to an official inspection contract shall include amounts to cover Federal supervision of the inspection activities of the official inspection contractor, except as provided for in section 23 of this Act. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Agency incident to providing official inspection services.

"LICENSES AND AUTHORIZATIONS

"SEC. 11. (a) The Administrator is authorized (1) to issue a license to any individual upon presentation to him of satisfactory evidence that such individual is competent, and is employed by an official inspection contractor, to perform all or specified functions involved in official inspection of grain; (2) to authorize any competent employee of the Agency to (i) perform all or specified original inspection, reinspection, or appeal inspection functions involved in official inspection of grain, (ii) perform offical supervision of weighing of grain other than that involved in official inspection, (iii) supervise the official inspection of grain, and (iv) perform montoring activities in foreign ports with respect to grain officially inspected under this Act; (3) to issue a license to any individual upon presentation to him of satisfactory evidence that such individual is competent, and is employed by a State with whom the Secretary has entered into an agreement pursuant to section 9 of this Act, to perform official supervision of weighing of grain other than that involved in official inspection; (4) to contract with any person to perform specified sampling or laboratory functions involved in the official inspection of grain; and (5) to contract with any person for the performance of monitoring activities in foreign ports with respect to grain officially inspected under this Act. No person shall perform any official inspection functions or official supervision of weighing for purposes of this Act unless he holds an unsuspended and unrevoked license or authorization from the Administrator under this Act.

"(b) All licenses issued under this Act shall terminate triennially on a date or dates to be fixed by regulation of the Administrator: *Provided,* That any license shall be suspended automatically when the licensee ceases to be employed under an official inspection contract or agreement under this Act: *Provided, further,* That subject to subsection (c) of this section such a suspended license shall be reinstated if the licensee is employed by an official inspection contractor or a State under an agreement within one year of the suspension date and the license has not expired in the interim.

"(c) The Administrator may require such examinations and reexaminations as he may deem warranted to determine the competence of any applicants for licenses, licensees, or employees of the Agency to perform any official inspection function or official supervision of weighing under this Act.

"(d) Persons employed by an official inspection contractor to perform official inspection functions or by a State under an agreement to perform official supervision of weighing shall not, unless otherwise employed by the United States Government, be deemed to be employees of the United States Government: *Provided, however,* That such persons shall be considered, in the performance of any official inspection function or official supervision of weighing as prescribed by this Act or by the regulations of the Administrator, as persons acting on behalf of the United States for the purpose of determining the application of section 201 of Title 18, United States Code, to such persons.

"(e) The Administrator shall adopt regulations to provide for the periodic rotation of supervisory personnel of the Agency and of official inspection personnel at export areas, at such intervals as to preserve the integrity of the inspection system.

"REFUSAL OF RENEWAL, OR SUSPENSION OR REVOCATION, OF LICENSES

"SEC. 12. The Administrator may refuse to renew, or may suspend or revoke, any license issued under this Act whenever, after the licensee has been afforded an opportunity for a hearing, the Administrator shall determine that such licensee is incompetent, or has inspected grain for purposes of this Act by any standard or criteria other than as provided for in this Act, or has knowingly or carelessly inspected grain or officially supervised the weighing of grain improperly under this Act, or has issued, or caused the issuance of, any false or incorrect official certificate or other official form, or has accepted any money or other consideration, directly or indirectly, for any neglect or improper performance of duty, or has used his license or allowed it to be used for any improper purpose, or has otherwise violated any provision of this Act or of the regulations prescribed or instructions issued to him by the Administrator under this Act. The Administrator may, without first affording the licensee an opportunity for a hearing, suspend any license temporarily pending final determination whenever the Administrator deems such action to be in the best interest of the official inspection system under this Act. The Administrator may summarily revoke any license whenever the licensee has been convicted of any offense prohibited by section 16 of this Act or convicted of any offense proscribed by Title 18, United States Code, with respect to performance of official duties under this Act.

"REFUSAL OF OFFICIAL INSPECTION

"SEC. 13(a). The Administrator may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) refuse to provide official inspection otherwise available under this Act with respect to any grain offered in inspection, or owned, wholly or in part, by any person if he determines (1) that the individual (or in case such person is a partnership, any general partner; or in case such person is a corporation, any officer, director, or holder or owner of more than 10 percentum of the voting stock; or in case such person is an unincorporated association or other business entity, any officer or director thereof) has committed any violation of section 16 of this Act or has been convicted of any violation of other Federal law involving the handling, weighing or official inspection of grain, or that official inspection has been refused for any of the above-specified causes (for a period which has not expired) to such person, or any other person conducting a business with which the former was, at the time such cause existed, or is responsibly connected; and (2) that providing official inspection with respect to such grain would be inimical to the integrity of the official inspection service. In addition to, or in lieu of, penalties provided under section 17 of this Act, the Administrator may refuse to provide official inspection in accordance with this section or assess against the respondent a civil penalty not to exceed $100,000 for each such violation, or both, as the Administrator determines it appropriate to effectuate the objectives stated in section 2 of this Act.

"(b) For purposes of paragraph (a) of this section, a person shall be deemed to be responsibly connected with a business if he was or is a partner, officer, director, or holder or owner of 10 per centum or more of its voting stock, or an employee in a managerial or executive capacity.

"(c) Before official inspection is refused to any person or a civil penalty is assessed against any person under subsection (a), such person shall be afforded opportunity for a hearing in accordance with section 554, 556, and 557 of Title 5, United States code: *Provided*, That the Administrator may, without first affording the person a hearing, refuse official inspection temporarily pending final determination whenever the Administrator has reason to believe there is cause for refusal of inspection and considers such action to be in the best interest of the official inspection system under this Act. The Administrator shall afford such person an opportunity for a hearing within 7 days after temporarily refusing inspection.

"(d) Monies received in payment of such civil penalties shall be deposited in the General Fund of the United States Treasury. Upon failure to pay the penalties assessed under this section, the Secretary of Agriculture may request the Attorney General of the U.S. to institute a civil action to collect the penalties in the appropriate Court identified in subsection (f) of section 20 of this Act for the jurisdiction in which the respondent is found or resides or transacts business, and such Court shall have jurisdiction to hear and decide any such action.

"PROHIBITION ON CERTAIN CONFLICTS OF INTEREST

"SEC. 14. No person licensed or authorized by the Administrator to perform any function under this Act, or employed by the Administrator in otherwise carrying out any of the provisions of this Act, shall, during the term of such license, authorization, or employment, (a) be financially interested (directly or otherwise) in any business entity owning or operating any grain elevator or warehouse or engaged in the merchandising of grain, or (b) be in the employment of, or accept gratuities from, any such entity, or (c) be engaged in any other kind of activity specified by regulation of the Administrator as involving a conflict of interest: *Provided, however*, That the Administrator may license qualified employees of any grain elevators or warehouses to perform official sampling functions, under such conditions as the Administrator may by regulation prescribe, and the Administrator may by regulation provide such other exceptions to the restrictions of this section as he determines are consistent with the purposes of this Act.

"RECORDS

"SEC. 15 (a) Every official inspection contractor and every person licensed to perform any official inspection function under this Act shall maintain such samples of officially inspected grain and such other records as the Administrator may by regulation prescribe for the purpose of administration and enforcement of this Act.

"(b) Every official inspection contractor required to maintain records under this section shall keep such records for a period of two years after the inspection or transaction, which is the subject of the record, occurred: *Provided, however*, That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Administrator, after consultation with the grain trade and taking into account the needs and circumstances of local markets, shall prescribe; and in specific cases other records may be required by the Administrator to be maintained for not more than three years in addition to said two-year period whenever in his judgment the retention of such records for the longer period is necessary for the effective administration and enforcement of this Act.

"(c) Every official inspection contractor required to maintain records under this section shall permit any authorized representative of the Secretary of Agriculture to have access to, and to copy, such records at all reasonable times.

"(d) Every person who is the owner or operator of a grain elevator or warehouse or is engaged in the merchandising of grain, and who, at any time, has obtained or obtains official inspection shall, within the five year period thereafter, maintain complete and accurate records of purchases, sales, transportation, storage, treating, cleaning, drying, blending, and other processing, and official inspection of grain, and permit any authorized representative of the Secretary of Agriculture or the Administrator at all reasonable times, to have access to, and to copy, such records and to have access to any grain elevator or other facility used by such person for handling of grain, pursuant to sections 19 and 20 of this Act.

"PROHIBITED ACTS

"SEC. 16 (a). No person shall—

"(1) falsely make, issue, alter, forge, or counterfeit any official certificate or other official form or official inspection mark;

"(2) utter, publish, or use as true any falsely made, issued, altered, forged, or counterfeited official certificate or other official form or official inspection mark, or possess, without promptly notifying the Administrator or his representative, or fail to surrender to such a representative upon demand, any falsely made, issued, altered, forged, or counterfeited official inspection certificate or other official form, or any device for making any official inspection mark or simulation thereof, or possess any grain in a container bearing any falsely made, issued, altered, forged, or counterfeited official inspection mark without promptly giving such notice;

"(3) cause or attempt (whether successfully or not) to cause the issuance of a false or incorrect official certificate or other official form by any means, including but not limited to deceptive loading, handling, weighing, or sampling of grain, or submitting grain for official inspection that has been deceptively loaded, handled, weighed, or sampled;

"(4) alter any official sample of grain in any manner or, if an official sample has been altered, thereafter represent it as an official sample;

"(5) use any official grade designation or official inspection mark on any container of grain by means of a tag, label, or otherwise, unless the grain in such container was officially inspected on the basis of an official sample taken while the grain was being loaded into or was in such container and the grain was found to qualify for such designation or mark;

"(6) make any false representation that any grain has been officially inspected, or officially inspected and found to be of a particular kind, class, quality, condition, or quantity, or that particular facts have been established with respect to grain by official inspection under this Act;

"(7) engage in the falsifying of the weight of any grain shipped in interstate or foreign commerce;

"(8) forcibly assault, resist, oppose, impede, intimidate, or interfere with any person licensed to perform official inspection or authorized or licensed for the official supervision of weighing in, or on account of, the performance of his duties under this Act;

"(9) falsely represent that he is licensed or authorized to perform an official inspection function or for the official supervision of weighing under this Act;

"(10) use any false or misleading means in connection with the making or filing of an application for official inspection; or

"(11) violate any provision of section 6, 7, 8, 9, 11, 14, 15 of this Act.

"(b) No person licensed or authorized to perform any function under this Act shall—

"(1) commit any offense prohibited by subsection (a);

"(2) perform improperly any official sampling, inspection, or other official function under this Act; or

"(3) execute or issue any false or incorrect official certificate or other official form.

"PENALTIES

"SEC. 17 (a). Any person who knowingly or intentionally commits any offense prohibited by section 16 shall be guilty of a felony and shall, on conviction thereof, be subject to imprisonment for not more than five years, a fine of not more than $10,000, or both.

"(b) Any person who recklessly or negligently commits any offense prohibited by section 16 shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for not more than nine months, a fine of not more than $5,000, or both.

"(c) Nothing in this Act shall be construed as requiring the Administrator to report minor violations of this Act for criminal prosecution when he believes that the public interest will be adequately served by a suitable written notice of warning, or to report any violation of this Act for prosecution when he believes that institution of a proceeding under section 13 of this Act will obtain compliance with this Act and he institutes such a proceeding.

"RESPONSIBILITY FOR ACTS OF OTHERS

"SEC. 18. When construing and enforcing the provisions of this Act, the act, omission, or failure of any official agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person.

"GENERAL AUTHORITIES

"SEC. 19 (a). The Administrator is authorized to conduct such investigations; hold such hearings; require such reports from any official inspection contractor, or licensee or other person; require by regulation as a condition for official inspection, among other things, the installation of specified sampling and monitoring equipment in grain elevators, and approval of the condition of carriers and containers for transporting or storing grain; and prescribe such other rules, regulations and instructions as he deems necessary to effectuate the purposes or provisions of this Act. Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading within the meaning of this Act shall be determined by tests made in accordance with such procedures as the Administrator may adopt to effectuate the objectives of this Act, if the relevant facts are determinable by such tests. Proceedings under section 12 of this Act for refusal to renew, or for suspension or revocation of, a license, shall not, unless requested by the respondent, be subject to the administrative procedure provisions in sections 554, 556, and 557 of title 5, United States Code.

"(b) The Administrator shall investigate the cancellation of any contract for the sale of grain required to be inspected under this Act or of any complaint regarding the operation or administration of this Act or any official transaction with which this Act is concerned.

"(c) The Administrator is authorized to cause official inspection personnel to monitor in foreign nations which are importers of grain from the United States, grain imported from the United States upon its entry into the foreign nation, to determine whether such grain is of a comparable kind, class, quality, and condition and the same quantity that it was certified to be upon official inspection in the United States.

"ENFORCEMENT PROVISIONS

"SEC. 20. (a) For the purposes of this Act, the Secretary of Agriculture and Administrator shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person with respect to whom such authority is exercised; and the Secretary of Agriculture shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation, and may administer oaths and affirmations, examine witnesses, and receive evidence.

"(b) Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. In case of disobedience to a subpoena the Secretary of Agriculture may invoke the aid of any court designated in paragraph (f) of this section in requiring the attendance and testimony of witnesses and the production of documentary evidence.

"(c) Any such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear before the Secretary of Agriculture or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(d) Witnesses summoned before the Secretary of Agriculture shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses from whom depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

"(e) Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the Secretary of Agriculture shall be guilty of a misdemeanor, and upon conviction thereof be subject to imprisonment for not more than six months, a fine of not more than $3,000, or both.

"(f) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories and possessions of the United States shall have jurisdiction in cases arising under this Act.

"REPORTING REQUIREMENTS

"SEC. 21. (a) On December 1 of each year, the Administrator shall report to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture and Forestry of the Senate, regarding the effectiveness of the official grain inspection system under this Act for the prior fiscal year, with recommendations for any legislative changes he believes are necessary to accomplish the objectives stated in section 2 of this Act.

"(b) The Administrator shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate (1) of any complaint regarding faulty grain delivery made by a foreign purchaser of United States grain to the Department of Agriculture, within thirty days after a determination by the Administrator that there is reasonable cause to believe that the grain delivery was in fact faulty, and (2) within thirty days after receipt by him or the Secretary of Agriculture of the cancellation of any contract for the export of more than one hundred thousand metric tons of grain.

"(c) On December 1 of each year, the Administrator shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate a summary of all other complaints received by the Agency and the resolution thereof during the prior fiscal year from foreign purchasers and prospective purchasers of United States grain and other foreign purchasers interested in the trade of grain: *Provided*, That the summary shall not include a complaint unless reasonable cause exists to believe that the complaint is valid, as determined by the Administrator.

"RELATION TO STATE AND LOCAL LAWS: SEPARABILITY OF PROVISIONS

"SEC. 22. (a) No state or subdivision thereof may require the inspection or description in accordance with any standards of kind, class, quality, condition, or other characteristics of grain as a condition of shipment, or sale, or such grain in interstate or foreign commerce or require any license for, or impose any other restrictions upon, the performance of any official inspection function under this Act by official inspection personnel or the official supervision of weighing. Otherwise, nothing in this Act shall invalidate any law or other provision of any State or subdivision thereof in the absence of a conflict with this Act.

"(b) If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

"APPROPRIATIONS

"SEC. 23. There are hereby authorized to be appropriated such sums as are necessary for improvement of inspection procedures and equipment, development and issuance of rules, regulations, and instructions, establishment of the fund authorized in section 10 of this Act, and other initial Federal costs for implementing a system for Federal official inspection and official supervision of weighing for United States grain, and other activities authorized by section 5 of this Act, those Federal administrative and supervisory costs not directly related to the official inspection of grain, and the purchase or lease of any buildings, other facilities, or equipment necessary for the conduct of official inspection and any other expenses necessary to carry out the provisions of this Act to the extent that financing is not obtained from the fees and sale of samples as provided for in section 10 of this Act. Such facilities and equipment may be provided by the Administrator for the use of official inspection contractors under arrangements whereby the cost thereof will be amortized and reimbursed to the current appropriation for administration of this Act from fees collected by such contractors over a reasonable period of time determined by the Administrator.".

SEC. 2. Section 5316 of Title 5, United States Code as amended, is amended by adding at the end thereof a new paragraph to read as follows:

"(137) Administrator, Federal Grain Inspection Agency, Department of Agriculture.".

SEC. 3. Notwithstanding the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) and section 302 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490), the Administrator of Federal Grain Inspection Agency is authorized to negotiate for and purchase or lease, from any person licensed or designated (on the date of enactment of this Act) to perform official inspection functions under the United States Grain Standards Act, at fair market value, any facilities or equipment which the Administrator determines to be necessary for the conduct of official inspection.

SEC. 4. The Administrator of the Federal Grain Inspection Agency is authorized to hire (without regard to the provisions of Title 5, United States Code, governing appointments in the competitive service) as official inspection personnel any individual who is licensed (on the date of enactment of this Act) to perform functions of official inspection or official supervision of weighing under the United States Grain Standards Act: *Provided*, That the Administrator determines that such individuals are technically and professionally qualified for the duties to which they will be assigned.

SEC. 5. Section 1114 of Title 18 of the United States Code, as amended, is amended by inserting after "animal diseases" the following:

"any employee of the Federal Grain Inspection Agency of the Department of Agriculture assigned to perform official inspection or official supervision of weighing under the United States Grain Standards Act.".

SEC. 6. In order to assure that producers, handlers, and transporters of grain are encouraged and rewarded for the production, maintenance, and delivery of high quality grain, and that, in a normal year there is, for each kind and class of grain produced in the United States, a grade which is competitive in reputation for quality in the world market, the Administrator of the Federal Grain Inspection Agency is hereby authorized and directed to conduct a study regarding the adequacy of the current grain standards, established under the United States Grain Standards Act. On the basis of the results of such study, the Administrator shall, in accordance with section 5 of the United States Grain Standards Act, make such changes in the grain standards as he determines necessary and appropriate, and, not later than 18 months after the enactment of this Act, submit a report to the Congress setting forth the findings of such a study.

SEC. 7. The powers, duties and authorization established by this Act for the Administrator of Federal Grain Inspection Agency shall in all instances be exercised, in the interim between the effective date of this Act and the appointment of the Administrator by the President, by the Secretary of Agriculture of the United States

EFFECTIVE DATE

SEC. 8. (a) This Act shall become effective 30 days after enactment hereof, except that any State or person then providing official inspection service or official supervision of weighing in any area and licensees employed thereby, may continue to operate in that area, subject to the rules and regulations issued by the Administrator until whichever of the following events occurs first:

(1) With respect to export elevators, the expiration of a reasonable period, not to exceed six months, specified in a notification issued to the State or person that official inspection or official supervision of weighing at the elevator involved will be provided under this Act; or

(2) The Administrator determines that official inspection in an area other than an export area serviced by such person shall be performed by Federal employees permanently under this Act or pending complete official inspection by official inspection contract or official supervision of weighing by a State pursuant to an agreement wth the Administrator under this Act; or

(3) Such person, or two or more members or employees thereof, have been convicted of any offense with respect to performance of official duties under the United States Grain Standards Act, proscribed in Title 18, United States Code; or of a violation of any provision of the United States Grain Standards Act in effect immediately prior to the date of enactment hereof; or of a violation of any provision of the United States Grain Standards Act as amended hereby, except paragraph (a) of section 10 of said Act as amended:

Provided, however, That the Administrator is authorized and directed to cause official inspection and official supervision of weighing of grain to be performed by authorized employees of the Agency under this Act, to begin immediately thereafter such effective date at those export elevators at which the Administrator determines that immediate official inspection and official supervision is necessary to effectuate the provisions of section 2 of the United States Grain Standards Act as amended by this Act: and

Provided, further, That in no event shall any State or person then providing official inspection in any area or official supervision of weighing at any export elevator or major inland terminal elevator be authorized to officially inspect grain under the United States Grain Standards Act or provide official supervision of weighing of grain except pursuant to an official inspection contract or an agreement with the Administrator, after the expiration of two years following the date of enactment hereof.

Mr. McGOVERN. Mr. President, I rise to cosponsor the United States Grain Standards Act. Initially last July I joined with the Senator from Iowa (Mr. CLARK) in sponsoring legislation to correct the scandals, bribes, and corruption that surfaced principally at the gulf ports. Since that time we have had time to hold hearings and to allow the General Accounting Office the opportunity to examine the deficiencies of the inspection system at export points and elsewhere. The hearings and the GAO report indicate that the reports we had last July were only the tip of the iceberg of a system that even the most biased viewer would find difficult to support.

Additionally, the interval of time elapsed has given the Senate Agriculture Committee an opportunity to assemble an investigative staff of its own and make recommendations for corrective legislation. Last week Comptroller General Statts testified before appropriate subcommittees in support of the legislation his office recommends in its report. The conclusions reached compels us to support an all Federal system except for contracting tests at smaller interior points. The legislation introduced today embodies substantially all the recommendations of the GAO. I congratulate the leadership of the Senator from Minnesota (Mr. HUMPHREY) the chairman of the Foreign Agriculture Policy Subcommittee as well as the Senator from Iowa (Mr. CLARK) who labored hard and long conducting field hearings to form a sound base for this bill.

We simply must develop a policy to insure the integrity of the product produced by our farmers and to insure and protect the foreign markets we have developed over the years which are so important to our balance of payments and to establishing fair market prices to our producers.

Last, I want to mention briefly my long standing association with Public Law 480 shipments. Stories in the press indicate that shortweighting and product adulteration occur oftentimes in international grain commerce with the underdeveloped countries we are trying to help. Certainly international crimes have no place in humanitarian efforts to keep people alive and nourished in those areas of the globe where starvation and want have become a way of life.

I thus speak with enthusiasm in cosponsoring the legislation and commit my best effort toward its enactment.

Mr. CLARK. Mr. President, I am pleased to join with Senators HUMPHREY and McGOVERN of the Senate Agriculture Committee, and with the chairman of the committee, Senator TALMADGE, in introducing the U.S. Grain Standards Act, a bill designed to end corruption in the Nation's grain trade.

The need for such legislation has been amply demonstrated over the past year: Through the intensive Federal investigation into grain trade corruption in New Orleans and elsewhere led by U.S. Attorney Gerald J. Gallinghouse—an investigation which has so far led to 65 indictments of persons and firms for misgrading, shortweighting, bribery, theft, and similar offenses; through the investigative reporting of James Risser, of the Des Moines Register and William Robbins, of the New York Times; through the comprehensive analysis of the Nation's grain trade just completed by the General Accounting Office, and through the untiring efforts of Senator HUMPHREY, who requested the GAO study, and who—in his capacity of chairman of the Agriculture Committee's Subcommittee on Foreign Agricultural Policy—has ably directed the Senate's own investigation of the subject.

All these efforts have made it clear that what has gone wrong in the grain trade will not be corrected by simply patching up the present grain inspection system, which is a hodge-podge of state, private and Federal inspection agencies. The GAO report in particular has shown that it is the system itself that is at fault, and that the system must be changed.

That is what this legislation does. Similar to S. 2256, the reform plan introduced last July 31 by Senator McGOVERN and myself, this bill has been drafted to fully implement the recommendations made by the GAO. Under it, all grain inspection functions at both export ports and major interior terminals would be performed entirely by Federal personnel. Inspections at country elevators would continue to be performed by private or State agencies, as they are now, but under improved Federal supervision. A new Federal grain inspection agency would be created within the USDA to carry out the new tasks to be performed, with independent powers that will help insure that it will be free of influences from the trade.

Mr. President, it should be stressed—in this time of concern over Government spending—that this reform proposal will not cost taxpayers a dime. All costs of the new inspection agency will be paid by its users, through inspection fees.

And it should also be stressed—since this is also a time of concern over undue extension of Federal powers—that this reform plan does not involve the creation of some vast new Federal bureaucracy. It merely involves the placing of inspectors at 36 export ports and 25 major interior terminals, some of whom will simply replace the Federal supervisory personnel already there now.

In the last analysis, all we are really talking about here is insuring that our

Nation's uniform Federal grain standards—which everyone agrees we must have—are uniformly enforced and adhered to—which is not happening now and cannot happen under the present system.

Mr. President, our farmers produce the highest quality grain in the world. They should be paid for that quality, and we should be delivering that quality in the marketplace. As things stand now, both farmers and buyers are being cheated, and we cannot expect to let that situation continue and maintain our position as the world's leading exporter of grain—a position which we desperately need to maintain for the sake of not only our farm economy but the national economy as a whole.

This reform proposal will accomplish virtually everything that needs to be done to correct the situation, Mr. President, and I urge the Senate to adopt it as swiftly as possible.

By Mr. HUMPHREY (for himself and Mr. KENNEDY):

S. 3056. A bill to amend the Foreign Assistance Act of 1961 to provide emergency relief, rehabilitation, and humanitary assistance to the people who have been victimized by the recent earthquake in Guatemala. Referred to the Committee on Foreign Relations.

GUATEMALA RELIEF AND REHABILITATION ACT OF 1976

Mr. HUMPHREY. Mr. President, from the earliest years of our Nation's history, the people of the United States have responded generously and compassionately to victims of disasters at home and in nations around the world. The legislation I introduce today to provide relief and rehabilitation to the victims of the Guatemalan earthquake continues that proud tradition.

In the early morning hours of February 4, a powerful and devastating earthquake struck Guatemala creating human tragedy and suffering of terrible magnitude. Twenty percent of the people of Guatemala were directly affected. Over 22,000 are dead; 74,000 injured and a million homeless. Compounding the tragedy is its impact on the urban and rural poor whose adobe homes and shanties collapsed with the tremors, burying families in their sleep.

Mr. President, the U.S. Government, private voluntary organizations, international organizations, and 25 other governments responded promptly and, by all accounts, effectively to aid the people of Guatemala. To date, the U.S. Government has provided over $4 million for disaster relief including mobile hospitals, medicine, food, and technical advisers. But much remains to be done before the onset of the rainy season when reconstruction of homes, roads, and other facilities will become difficult or impossible. The bill I introduce today will help the people of Guatemala meet their urgent, immediate relief and reconstruction requirements. Without our help their difficult task will become impossible. Without our help their suffering will be prolonged.

Mr. President, our time is short and the human need is great. As chairman of the Subcommittee on Foreign Assistance, I pledge prompt consideration of this legislation and I urge the Senate to move expeditiously to aid the people of Guatemala.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3056

A bill to amend the Foreign Assistance Act of 1961 to provide emergency relief, rehabilitation, and humanitary assistance to the people who have been victimized by the recent earthquakes in Guatemala

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Guatemala Relief and Rehabilitation Act of 1976".

SEC. 2. Chapter 9 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 495A. Guatemala Relief and Rehabilitation.—(a) The Congress, recognizing that prompt United States assistance to alleviate human suffering caused by natural disasters is an important expression of the humanitarian concern and tradition of the people of the United States, affirms the willingness of the United States to provide assistance for the relief and rehabilitation of the disaster-stricken people of Guatemala.

"(b) The President is authorized to provide assistance on such terms and conditions and subject to the policy and general authority of section 491 of this Act as he may determine for the relief and rehabilitation of the people who have been victimized by the recent earthquakes in Guatemala.

"(c) There is authorized to be appropriated to the President to carry out the purposes of this section $30,000,000 for the fiscal year 1976, which amount is authorized to remain available until expended.

"(d) Assistance made available under this section shall be distributed to the maximum extent practicable through United States voluntary relief agencies and other international relief and development organizations.

"(e)(1) Notwithstanding any other provision of law, the amount authorized to be appropriated in subsection (c) of this section may be used only for the purposes specified in this section.

"(2) The authority contained in section 610(a) of this Act may not be used to transfer funds made available under this section.

"(f) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Guatemala may be charged to the appropriations authorized under this section.

"(g) Not later than 30 days after the date of enactment of appropriations to carry out this section, and at the end of each quarter thereafter, the President shall transmit reports to the Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House of Representatives regarding the programing and obligation of funds under this section.".

Mr. KENNEDY. Mr. President, I rise today to join with Senator HUBERT HUMPHREY in introducing emergency legislation which amends chapter 9 of the Foreign Assistance Act of 1961 so as to authorize $30 million for immediate humanitarian disaster relief assistance for the earthquake-stricken people of Guatemala.

On February 4, a massive earthquake struck the people of Guatemala—leaving behind an awesome trail of destruction, death, and human misery. It was one of the most devastating earthquakes of this century, and will become, when the final toll is fully known, one of the most tragic natural disasters ever to befall Latin America.

The Guatemalan Government, and international disaster relief agencies all report a tragic toll in human life, requiring an urgent and immediate response from our Government. Over 22,000 are dead, 74,000 injured, and over 1 million homeless. As more rubble is cleared, the death toll will surely climb even higher.

For the people of Guatemala who survived the initial tremors, disaster relief assistance is critical to their well-being and survival. Hundreds of thousands still seek refuge in the streets or in the fields. Entire communities remain cut off, roads are destroyed, and communications severed in many areas. Health problems are of critical concern to relief workers since many thousands of Guatemalans suffered severe fractures from falling roofs—and the threat of epidemic remains acute. And although the center of Guatemala City was spared, the surrounding areas, and typically—the poorest sections of the city and countryside were hardest hit.

Once again, those who could least afford it have lost virtually everything.

The people of Guatemala are racing against the clock to repair the damage to their nation. Their spirit and determination to overcome this national disaster warrants the commendation and continuing support of all Americans. In a few months of the rainy season will begin and there is a critical need to provide temporary shelter for the hundreds of thousands of earthquake victims who lost their possessions and their homes.

So far the United States has allocated almost $4 million to the disaster relief effort. But in testimony before the Subcommittee on Refugees, of which I am chairman, Dr. Daniel Parker who is the President's Special Coordinator for International Disaster Assistance in Guatemala as well as Administrator of the Agency for International Development testified that the estimated cost of housing replacement alone would amount to at least $150 million.

While the United States cannot be expected to shoulder all of the relief assistance burden—we can and should do more so as to insure that a semblance of normalcy returns quickly to a stricken people whose lasting friendship our Nation has enjoyed for decades.

In their hour of need, the people of Guatemala now turn to the people of the United States and the international community for assistance. So far, the American people have responded admirably to the urgent calls for aid, now it is time for our Government to do the same.

While immediate medical and food assistance has been provided, temporary shelter, road repair, and other civil disaster assistance needs remain great.

American voluntary relief agencies and other inter-American assistance organizations have greatly extended their limited resources to aid the people of

Guatemala, while other Latin American nations have already pledged substantial assistance to Guatemala. For example, Venezuela alone has promised over $20 million for Guatemalan disaster relief, and has already committed $5.7 million to the emergency fund of the Organization of American States.

Mr. President, the response of our Government to the urgent problems facing Guatemala will depend upon the action taken by Congress in the immediate days ahead if our aid is to be effective and timely. The commendable work of AID's Disaster Relief Office and the entire Agency of International Development merits the support of Congress.

Legislation we are introducing today will provide the additional funding necessary to meet the additional relief and reconstruction needs. It is our understanding that substantial portions will be funded through inter-American relief and development agencies such as the Pan American Development Foundation, Inter-American Foundation, and the OAS emergency fund.

Now that Secretary of State Kissinger has returned from a visit to Guatemala, I am hopeful that, together with the support of the administration and my colleagues, this urgent legislation will be the most effective way to respond to the disaster which has befallen the people of Guatemala.

I ask unanimous consent that Dr. Parker's report to President Ford on the earthquake in Guatemala be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

SPECIAL REPORT TO THE PRESIDENT ON THE GUATEMALA DISASTER

In seismic terms, the Guatemalan earthquakes were "major"; in human terms, this disaster must be ranked as a tragedy of great and terrible magnitude. Based on my visit to Guatemala on February 12 and 13, I will attempt first to give you a brief overview of the disaster and its setting.

GENERAL SITUATION

The major shock area is large—about 3,530 square miles, or equivalent to the Grand Rapids-Kalamazoo-Battle Creek area of Michigan. 1.03 million people populate the area and 80–90 percent are now homeless. In the entire affected area, 22,360 are dead, 74,000 were injured and over one million were left homeless. (The wife of President Laugerud, concentrating on assistance to children, estimates at least 5,000 children became orphaned.) Overall, 20 percent of the country's people are directly affected. I should mention that as harder information comes in, the numbers keep rising. In U.S. terms, comparable figures would mean 2,800,000 killed and injured and 38,000,000 homeless.

The greatest impact is upon the poor—and it is essentially a rural disaster. The rural poor cluster their small adobe homes in villages. Adobe brick walls, while they look substantial, are not strong. They collapsed allowing the heavy clay tile roofs to fall in on the sleeping victims. The urban poor live in make-shift shacks which simply fell apart.

It is relevant to make two interesting side comments to the above. First, the casualty toll was great and the count was difficult to make because so many victims were trapped, unable to get outside before their dwelling collapsed during the approximately thirty seconds of the main shock. Second, conventionally built homes, especially the newer, though damaged, were not destroyed, thus inflicting fewer and less serious casualties.

Compounding the dimensions of the disaster was that it took place at 3:02 a.m., the time when the greatest proportion of the population was inside, asleep and not alert to respond quickly. And adding at least to the confusion was the darkness. Where electricity existed, it was cut or turned off to reduce chances for fire and electrocution from exposed, high-tension lines.

Outside Guatemala City, the terrain, rugged, mountainous, probably of volcanic formation, makes communications of any kind (roads, phones, even radio) difficult even in normal circumstances. Thus, in the vast hard-hit rural area virtually all immediate relief assistance was limited to that available locally. The sudden, gigantic and urgent needs for emergency help, tools, medicines were largely unmet during the crucial early hours and first days until rescuers could make their way in by some means.

Before turning to the response stage, I would like to mention another facet, parenthetically. Your description to me of the unusual nature of an earthquake you had seen some years ago in Yugoslavia was confirmed. It is awesome. It is almost eerie. Unlike other types of disasters, there is no clear-cut point marking the end of exposure to further risk. More than 600 tremors have been felt since the first quake. They are still happening. Several of the many I felt were severe enough shocks to do additional damage and to be visible in the sense of seeing the movements of the building I was in.

This has resulted in a widely felt sense of insecurity. A view of Guatemala City from a helicopter reveals tents in gardens, parks and on the sidewalk or street in front of homes seemingly and reportedly not seriously damaged. Also, many people sleep in their cars, if they don't have tents or other shelter from the very cool nights.

My impression is that, in immediate response to the disaster, virtually everyone who wasn't a victim turned, unhesitatingly, to aid others. President Laugerud, for example, took direct personal command immediately and was even able to check on one hospital's response capability within 27 minutes after the quake.

This self-initiated individual type of response quickly became organized by entity, e.g., government ministry, church or civic group, and voluntary agency. Then with the formation of the National Emergency Committee by the President there came the means of beginning to coordinate activities for a national response, including the allocation of assistance resources to areas of priority need.

I. ASSESSMENT OF DAMAGE

A. Physical damage

Damage is concentrated in the densely populated Indian-inhabited Eastern Highlands, portions of the capital city and wide areas to the west, roughly 20 percent of the area of the country. A number of important rural population centers in the affected area were nearly totally destroyed, including Mixco (population 10,900), San Pedro (4,800), Patzicia (7,100), Patzun (8,300), Joyabaj (2,400), Tecpan (5,900), San Juan Sacatepequez (6,700), and El Progreso (4,000).

1. Housing and Other Building Damage

By far the most devastating impact of the earthquake was on the housing of the poor. The great majority of Guatemala's population resides in small towns and rural areas in adobe houses. Over 150,000 of these are estimated by the Government of Guatemala to have collapsed. In Guatemala City, some 100,000 dwellings of the urban poor were destroyed. The value of these urban and rural dwellings has not been determined. In most cases, they were built by the families who occupied them. It is probable that they will be rebuilt in the same fashion. A rough estimate of the financial costs of replacement might range from $150–$250 million, depending on whether new construction will adopt earthquake resistant design improvements.

There was, of course, loss to commercial, church, and public buildings, essentially in the small rural towns. No estimates are available, as yet, on these losses.

Several major hospitals in the capital were damaged by the quake and their staffs have been operating in other available buildings on a make-shift basis, pending assessment, repair, or replacement of damaged hospitals. Hospitals in several other communities were also severely damaged, as were many health centers and health posts.

2. Infrastructure

(a) Transport and communications

The Guatemala City-Puerto Barrios highway and railroad, the primary transportation links from the capital to the Caribbean coast, have been cut because of a three-span fallen bridge and numerous landslides. A U.S. military engineer survey team is now in the field assessing the extent of damage.

A much more circuitous road from the coast to the capital is still open, but cannot handle the entire heavy traffic load that normally passes between the capital and the coast. Preliminary estimates of the cost of restoration of the road from Guatemala to the Caribbean approach $25 million. In many areas of the highlands, roads also have been blocked by numerous slides. An estimate of cost of restoring major and secondary roads throughout the damaged area is $35 million, of which the major cost will probably be for the main highway artery to Puerto Barrios. The cost to repair the railroad is not yet known.

Telephone communications, never particularly good, have been severely damaged by the quake. Phone lines are down throughout the affected area. Restoration is under way. However, it will be some weeks before all major phone lines are repaired.

(b) Water and electricity

The first earthquake left approximately 40 percent of the residents of the capital without water supplies, and the water supplied to other sections of the city was unprotected by chlorination. This situation has improved marginally since then, due to emergency repairs and to increased chlorination. In many smaller cities, the water supply and distribution systems were partially destroyed, although the main water sources and storage systems remain relatively intact. Restoration and improvement of all of these systems will require major effort.

Electricity in Guatemala City is back on. However, regional transmission as well as local distribution of power service to many localities in the interior has been and still is disrupted.

B. Economic impact

1. Balance of Payments Effects

Fortunately, Guatemala enjoyed a relatively strong balance of payments position in 1975. Its net foreign exchange reserves increased from the end of 1973 to the end of 1975 from $201 million to $280 million, a level equal to approximately four months of imports. Still too early to project the effects of the earthquake on Guatemala's foreign exchange position, it is clear the tourism income, which reached $70 million in foreign exchange earnings in 1975, will decline and probably sharply. While, in the overall, hotels are only slightly damaged, some suffered heavy damage. It will be some time before prospective visitors regain confidence and resume their travels to Guatemala.

More importantly, the earthquake is expected to cause a significant upsurge in imports, particularly of glass, construction materials, and equipment. Some stocks of manufactured goods will also have to be replaced. Guatemala's main foreign exchange earners other than tourism, i.e., coffee, sugar, cotton, bananas and meat, have not been affected, and almost all of its industrial production capacity remains intact.

As its foreign debt service burden has been below 5 percent, Guatemala therefore has the capacity to borrow substantially to help finance its reconstruction and investment programs. Heavy reliance on large commercial borrowings, however, would increase debt servicing costs rapidly.

2. Budgetary Effects

The government's budgetary position, traditionally strong, will certainly be adversely affected. Some reductions may be expected in corporate and personal income tax collections as affected businesses write off their losses. Most significant will be the effect of increased government expenditures for relief, rehabilitation and reconstruction. The government will be called upon to assist the rural and normally poor municipalities in restoring the water supply and other essential services and provide emergency assistance to the homeless and medical assistance to the injured. Moreover, credit for housing reconstruction will be needed for many of the homeless. Unfortunately, these expenditures, either for temporary or more permanent shelter, cannot be spread over a number of years but will have to be concentrated within a relatively short period.

3. Effect on Prices

Price stability has long been a characteristic of the Guatemalan economy, but that changed in 1973 and 1974 when, as did many countries, Guatemala, largely from external causes, experienced serious effects from inflation. However, by the end of 1975, price stability had significantly improved. Strong inflationary pressures are expected, as an aftermath of the disaster, in the area of construction and construction materials. Demand is expected to exceed substantially available productive capacity. Wages in the construction industry are expected to rise sharply. As an offset, the just completed harvests of corn, beans, and wheat were relatively bountiful and can be expected to hold down price increases in basic foodstuffs. However, large quantities of grains were stored in and around homes and were partially lost. This may cause some increases in food prices.

4. Employment Effects

A number of businesses, closed temporarily until power was restored and repairs were made, are now reopening. However, many neighborhood shops and small businesses have been completely destroyed. Tourism and arts and crafts, normally an important source of employment, may be depressed for at least some months. Moreover, with so many homes destroyed and material possessions lost, the arts and crafts industry, largely a home industry, may suffer dislocation.

These adverse employment effects are expected to be of a short-term nature. The intensive reconstruction effort will provide additional jobs in the construction and construction materials industries. The manufacturing industry, which accounts for roughly 6 percent of the GNP, has not been seriously affected, and most major commercial establishments either have resumed, or soon will resume, operations.

In sum, the impact of the disaster on the balance of payments budget, production, and employment is not expected to be unmanageable. In human terms, however, the disaster is truly a disaster. Hardest hit were the poor, those who can least afford to lose their employment, homes, and possessions.

II. DISASTER RELIEF

A. Immediate response

1. Government of Guatemala

A national emergency was declared immediately after the first earthquake. The military received and has exercised extraordinary powers to deal with the immediate relief problems. The government has invested, and is investing, massive effort in clearing roads of landslide debris, completing initial damage assessments and distributing government food stocks. Price controls are being enforced to prevent the exploitation of temporary shortages. Citizens generally are contributing time and financing to help to save lives and feed the most affected. Private sector resources, whether channeled through the Guatemalan Red Cross or other organizations or provided on an individual basis, have played a significant role in speeding relief to those affected by the earthquake. The mass of the population is "cooperating" by its patience, and an almost stoical capacity for suffering.

The Guatemalan Government has formed a National Emergency Committee to coordinate the government relief efforts and the generous assistance being provided by the U.S. and other donors. The coordination task is large, complex and continuing. The improving communications system and the growing experience of the government point toward the easing of the coordination problem.

There have been but few reports of looting, with the government moving quickly to deal with any reported problem. During our visit we heard no complaints about diversion of relief supplies.

2. U.S. Government

Within hours after the first quake, the U.S. country team in Guatemala and A.I.D.'s Foreign Disaster Relief Center were in operation on a 24-hour basis. Quickly, we began to move in supplies, equipment, and personnel. Among the first arrivals was a U.S. military Disaster Assistance Survey Team (DAST) from Panama. This was followed quickly by a fully-equipped and staffed 100-bed U.S. military field hospital that is in operation in the center of the hardest-hit area Chimaltenango.

Subsequently, we provided a U.S. Engineering Survey Team to assess damage to roads, bridges, and railroads; 18 large helicopters; 8 two-man medical/communications teams to assess needs and provide medical assistance in isolated areas; and a considerable amount of tents, medical supplies, field kitchens, generators, etc., from A.I.D.'s disaster relief stockpile in Panama. Two medical officers from the Communicable Disease Center in Atlanta and two U.S. Public Health Service pharmacists are assisting the Guatemalans in establishing systems to survey disease outbreaks and in organizing the receipt, storage, and use of the large quantities of donated medical supplies. We are also funding the transportation costs for certain high-priority relief shipments by voluntary agencies. Most of our efforts are concentrated in the hardest-hit areas of the highlands around Chimaltenango, for the Guatemalan Government has asked us to concentrate our resources on this area, which was almost totally devastated.

As of February 14, we have allocated $3.6 million to this effort. The cost of relief over a 30 to 60-day period may require up to $20 million, depending on the timing for the phasing down of helicopter and field hospital use.

3. Other Donors

(a) Third Country and International Organizations Relief Assistance

Thus far, 24 nations other than the United States (and the list is growing) have contributed to the relief effort. Contributions are being made in cash, personnel, transport, food and other commodities. I am attaching hereto a listing of third-country assistance based on the information currently available to us (TAB A).

International organizations are also responding to the needs of the immediate relief phase. Their known contributions, which already amount to over $3.6 million, are listed in attachment TAB B.

(b) Voluntary Agencies

Voluntary agencies, such as CARE, Catholic Relief Services (CRS), Caritas, the Salvation Army, the Red Cross, Seventh Day Adventists, Partners of the Americas (Alabama), and a host of others, including from other countries, have provided and are providing generous and effective support as they put to quick use long and practical experience in dealing with disasters. There is no reliable estimate yet available of the financial value of their assistance. A listing, based on currently known information, is also attached (TAB C).

B. *Post-Immediate Relief Phase*

We are now at a time when immediate relief requirements are moving into manageable proportions. Medical emergency needs have been largely identified and satisfied, but certainly not entirely, particularly in the more remote rural areas. In-country stocks of medicines, bolstered by donations still arriving, should be adequate to satisfy requirements, although there may be specialized needs from time to time which generally can be handled by other donors and private voluntary organizations. The major hospitals in Guatemala City are functioning well and are meeting the immediate needs for medical and surgical care.

No signs of epidemics have appeared. The process of restoring water services in rural towns, as well as in parts of Guatemala City, is moving ahead rapidly with provision for proper treatment of water supplies receiving high priority. Apart from the need for a relatively minimal quantity of tools and supplies in addition to the water storage tanks already supplied by the U.S., completion of temporary repairs to water systems in the affected area should be possible without significant further external relief requirements.

Water supply capacity in the capital is back to about 50 percent of pre-earthquake levels. Shortage of supply is of lesser concern than is quality. The municipal water plants are chlorinating the water being distributed, but damage to the city's parallel water and sewage pipe systems has rendered supply potentially unsafe. Attention is being given to this problem by the government with assistance by the U.S. and others. The monitoring by the health authorities of hospitals and clinics is continuing in order to detect as quickly as posible any emerging health problems.

The major continuing problem, for the short and long run, is the need to provide adequate shelter to the many homeless. Given the relatively modest aspirations of the rural population, provisional needs increasingly are being met by the government and several donors. However, additional new inputs for this purpose are being considered by others. Properly handled, temporary shelter solutions can form the basis for rapidly resolving permanent housing needs through self-help programs utilizing simple materials and tools.

Barring further major quakes, a reasonable degree of normal economic activity and public services should be restored and in place in all but the remote areas by the end of this month or early March. An important factor bearing on this process, however, will be the rapidity with which closed roads are opened to permit access for the movement of food and other commodities. While there is no possibility that the main highway to Puerto Barrios can be opened within this time frame, temporary bypass construction will be needed. In-country equipment capacity should be sufficient to handle general road clearing work, but preliminary surveys by the U.S. Army Corps of Engineers of Atlantic highway damage indicate that reopening of the highway will require a major effort, especially if the work called for along the fifty miles primarily affected is to be completed by the advent of the rainy season in mid-May and which normally continues until November. Whether this operation, located in rugged, difficult terrain, is within the country's capability must await completion of the in-depth damage assessment by the Corps of Engineers and a review of construction capacity now being carried out by the Ministry of Public Works. Decisions are expected shortly. Opening the road is obviously one of the priority tasks. The government, with its own facilities, hopes to be able to restore the railroad link before the rainy season.

Food stocks, augmented through foreign donations, should be sufficient for the next few months. There will be continuing difficulties, however, in ensuring adequate supplies in all areas because of access problems.

III. REHABILITATION AND RECONSTRUCTION

Even while the Guatemalans struggle to deal with the emergency needs facing them, attention must be given, and is being given, so the next phases, i.e., the shorter-run rehabilitation task and the longer-run reconstruction task. There is no clear line distinguishing between these phases, and they are not necessarily successive in time sequence, as some must proceed in planning and execution simultaneously. Essentially, what is involved are decisions on policies and actions for interim and long-term responses to the consequences of the disaster.

After a relatively long period of slow economic growth, Guatemala, in recent years, has begun to develop a national network of public services with increased capacity to attend to the development needs of the large mass of rural and urban poor. The interruption caused by the earthquake in this delayed process of spreading the benefits of development to perhaps 80 percent of Guatemala's people poses not only a humanitarian problem but a challenge of fundamental importance to the future course of that nation. In recognition of this fact, President Laugerud has announced that it will be the policy of his government to continue overall development efforts for the entire country, guided by the 1975–79 Development Plan. The necessary rehabilitation and reconstruction efforts in the earthquake affected areas are obviously of high priority, but this priority should desirably not deter the government from its development efforts to improve the quality of life of the poor Guatemalans.

The National Economic Planning Council is about to compete an initial assessment of damage cost and economic impact projects which will form the basis for more precise estimates of external assistance needs and internal self-help capacity. Major capital inputs will obviously be required for housing, road repair, public infrastructure (schools, medical centers and hospitals, water supply systems, and public buildings), small business rehabilitation and communication facilities. Moreover, small farmer productivity must be assured through effective and timely provision of normal governmental and cooperative services (credit, technical assistance, distribution of improved seeds and fertilizers, etc.). The extent to which this institutional infrastructure has been disrupted in the affected areas is not yet fully determined, but it is important that it be in place and functioning within the next 6–8 weeks in anticipation of the May planting season. Obviously, projects of future food import needs will be influenced by how well the planting goes in the affected area which, outside of Guatemala City, is largely populated by small, subsistence-level farmers.

IV. RESOURCES FOR REHABILITATION AND RECONSTRUCTION

A. Guatemalan Self-Help Measures

The administration of President Laugerud has been distinguished by its dedication to accelerating programs with impact in the long-neglected social areas. A competent managerial team within his cabinet has pushed forward major development projects, ranging from improved water supply to greatly increased electric power that had begun, before the disaster, to move Guatemala into the forefront of the Central American countries in terms of growth. If, as we hope, major economic activity quickly will be restored to the pre-earthquake level and fiscal progress can be maintained and intensified to help carry the heavy burdens now placed upon the population, Guatemala should be in a position to help finance a major portion of the programs required to regain and surpass its pre-earthquake situation.

The Guatemalan authorities stress their recognition that the foundation of Guatemala's recovery cum development thrust will rest solidly on its own self-help measures. They further recognize that external assistance will depend heavily on demonstration of such self-help. It is too soon to judge whether it will be possible for the government to pursue fully recovery and development simultaneously. Fortunately, as noted, at the time of the disaster, Guatemala was in a relatively strong financial and economic situation which can bolster the self-reliance underpinning of their laudable approach. Some tradeoffs may be necessary, however.

A major question in the post-earthquake period situation is the administrative and managerial capacity of Guatemalan institutions to handle the increased burdens of a reconstruction program. This is understandable because of the burdens being placed on top of the normal ones already associated with implementing an active and expanding development program. Preliminary consideration is being given to creating a special reconstruction entity. Such an entity would have the responsibility and authority to plan and direct the utilization of all resources destined for reconstruction. An important benefit of this approach would be that the entity would be in a position to hire or have assigned to it top-notch, qualified personnel, thereby avoiding the problem of overloading existing ministerial staffs. Presumably, the new entity would also be granted emergency powers, enabling it to bypass many of the Guatemalan Government's present internal administrative procedures, thus speeding up project implementation.

B. External assistance

1. United States

Apart from immediate assistance provided to meet the initial emergency and which will be phased down with the decreasing need for such assistance, the question of further U.S. assistance can be approached from two levels. The first essentially involves reviewing existing loan and grant projects to determine whether restructuring would be feasible. This examination is underway. Fortuitously, A.I.D. recently (December 1975) had authorized a $13 million loan for small farmer development which is directed at the Highland Indian farmer. The Minister of Finance has indicated that the Guatemalan Government wishes to sign the loan agreement immediately. Our preliminary assessment is that essentially no restructuring will be necessary to ensure concentration of resources where needed. Also, the Government of Guatemala and A.I.D. signed in November 1975 a $7 million rural primary education loan which included approximately $4.2 million for upgrading school buildings primarily in the Highland area. Some reorientation of priorities in this program will likely be required in terms of school site selection, but, essentially, this loan is available to assist in the rehabilitation and reconstruction effort. Also, additional U.S. Government support, through the U.S. International Disaster Assistance Authority, for the early rehabilitation effort is being considered, pending further assessment of identified needs. The assessment is already underway and will require continuing close coordination with the government, other donor nations, and international organizations. Only until we know more of the nature and substance of the international and Guatemalan Government's national response can we establish our own priorities and clarify possible additional funding requirements.

U.S. voluntary agencies possess large capabilities, unique to each voluntary agency, which can play an important role in the rehabilitation phase. They are on the ground with established delivery systems which can meet the needs of many disaster victims without further straining government capacity. We hope that this capacity will continue to be utilized in the post-relief phases.

Over the next months, we anticipate that the Guatemalan Government's planning process will identify specific, longer-run needs which could appropriately be met through A.I.D. development loans and grants and which would clearly be consistent with congressional mandate criteria for development assistance. We should seek to be responsive within the means that may be made available through the appropriation process.

2. External Assistance from Other Sources

For the post-emergency relief phase, I believe that the major burden of external assistance can be carried by the multilateral agencies, particularly the International Bank for Reconstruction and Development (IBRD) and the Inter-American Development Bank (IDB). The major requirements for shelter and urban reconstruction, generally, as well as more permanent restoration of infrastructure (roads, bridges, railroads, and ports), may well find substantial financing through these multilateral channels to supplement Guatemalan resources. It is interesting to note that only last month the Inter-American Development Bank provided $135 million in loans for Guatemala (more than that country has had in total during the previous fifteen years of the Bank's existence). Portions of these may be redirected as a result of the disaster. Both financial institutions are already planning their active involvement. An IDB team has already been to Guatemala and a World Bank team is being dispatched shortly.

3. Coordination

Leadership in the coordination of the rehabilitation and reconstruction efforts has to come from the Guatemalans. They know it. With the support of ourselves and the many others interested in helping Guatemala, they can well perform the task. We anticipate that a consultative arrangement among donors and lenders will develop to insure a maximum coordinated effort.

V. CONTINGENCY PLANNING FOR POSSIBLE FUTURE DISASTERS

Even now, the Government of Guatemala must significantly strengthen its contingency planning for future disasters. Regrettably, the possibility cannot be ruled out that Guatemala, much of which is located along the long east-west Motaqua Fault, may still face other quakes.

The U.S. Government can provide technical assistance to the Guatemalans for contingency planning. We plan to help Guatemala lay out the various potions it may have for responding to any future natural disasters. We feel that more can be done to help the Guatemalan Government not to be taken by total surprise in the event of another major disaster. For example, United States Geologic Survey Geologists are now monitoring the tensions of the fault line which runs near Guatemala City. The tension has not yet abated fully and, with sophisticated monitoring devices, we may be able to provide the Guatemalan Government with some forewarning of another major earthquake.

Because the terrain of this country has changed significantly in some areas, we are alerting the Guatemalan Government to the concern that flooding of abnormal proportions may occur this year. Members of the U.S. Army Engineering Survey Team are making assessments of some possible waterways that may cause flooding damage to the already-disrupted major highway to the sea.

Mr. President, the government and the people of Guatemala have responded well to the aftermath of the disaster. Certainly, there were and, indeed are, problems of coordination and maximum effective use of domestic and foreign resources; but the consensus of experienced observers is that the Guatemalan effort, given the enormity of its tasks, has responded well. They merit the continuing help from the United States and others.

President Laugerud asked that I convey to you, on behalf of himself and his people, the deepest appreciation for your personal interest and support. He stressed that it was not only the important technical and material assistance being provided by the U.S. Government and people but also the moral encouragement and bolstering derived by his government and the Guatemalan people from the spirit and timeliness of that support. He emphasized, too, his recognition that Guatemala itself must bear the major burden of the present and continuing costs of the disaster and that the nature and extent of its self-help measures will help determine the nature and extent of external support.

I wish also to commend to you all elements of the U.S. country team. Under the active leadership of Ambassador Meloy, they continue to devote themselves on a round-the-clock basis. I believe all the people of the United States may be proud of the U.S. role in helping the Guatemalan people in the traumatic aftermath of a major disaster.

While many other nations and organizations responded quickly with supplies and personnel, the U.S. response, both public and private, was critical in averting a serious worsening of the crisis.

In making the trip to Guatemala, I was joined by two congressional staff members, Ms. Herschelle Challenor of the House International Relations Subcommittee on International Resources, Food and Energy, and Mr. Richard McCall, legislative assistant to Senator Gale McGee, Chairman, Senate Foreign Relations Subcommittee on Western Hemisphere Affairs. I am grateful for their participation. Mr. Herman Kleine, my Assistant Administrator for Latin America, and Major Marshall N. Carter, USMC, a White House Fellow serving as my special assistant, also accompanied me. Their support is greatly appreciated.

DANIEL PARKER.

THIRD COUNTRY DONOR ASSISTANCE, AS OF FEBRUARY 16, 1976

The Office of Foreign Disaster Relief Coordination has reports of the following contributions in cash or kind from third country donors.

Argentina—field hospital w/medical team.

Belgium—30,000 lb., Red Cross supplies.

Brazil—45,000 lbs., food and medical supplies.

Canada—24,000 lbs., milk; 35,000 lbs., food; 75,000 lbs., milk ($160,000); blankets ($300,000); Cash, Embassy ($15,000); Cash, Red Cross ($100,000).

Colombia—23,800 lbs., medical supplies; 18,600 lbs., food.

Costa Rica—8,000 lbs., hospital supplies, doctors, nurses; 4,740 lbs., medical supplies, food; 4,000 lbs., plaster.

Dominican Republic—5 doctors; 22,000 lbs., medicines and food.

Ecuador—7,000 lbs., medical supplies; 7,000 lbs., food.

France—Cash ($11,260).

Germany, FRG—80,000 lbs., medical supplies.

Haiti—7,230 lbs., food.

Honduras—9,000 lbs., food, tents; 26,000 lbs., medical supplies; 19,000 lbs., food and other supplies.

Israel—4,000 blankets; 26,000 lbs., food and medical supplies.

Italy—Cash (15 million lira) U.S. $22,000.

Mexico—12,000 lbs., medicines and food, 5 doctors; 200 tons, food per day by truck; 10,000 lbs., meat and medicines; 17,240 lbs., food and medicines; 10,000 lbs., milk powder; 8,000 lbs., radio equipment, food and milk; 10,300 lbs., medical supplies and food; 13,600 lbs., food and medical supplies; 12,500 lbs., food and medical supplies; 27,600 lbs., mattresses, food, clothes; 16,200 lbs., food; 10,000 lbs., medical supplies.

New Zealand—CORSO donated $2,500 to CRS.

Nicaragua—field hospital completely staffed; 28,600 lbs., food; 13,500 lbs., food; 22,500 lbs., medical supplies; 6,000 lbs., tents and rice.

Norway—Cash to Red Cross ($90,300); Cash through VolAgs ($57,800).

Panama—18,000 lbs., medicines; Medical team, plasma, medicines, food and blankets; 16,000 lbs., food, hospital supplies; 6,000 lbs., food; 4,000 lbs., medical supplies.

Peru—Medicine, food and blankets.

Spain—Medicine and supplies ($250,000).

Sweden—Cash to Red Cross ($22,727); Cash to UNDRO ($11,363).

Switzerland—Cash for shelters ($37,500).

United Kingdom—250 tents, blankets, sanitation equipment.

Venezuela—Field hospital, medicines, blankets, food, milk, rescue team; 44,000 lbs., medicines and food; 20,000 lbs., food and medicine; 30,000 lbs., food and medicine; 35,000 lbs., food and medicine.

INTERNATIONAL ORGANIZATIONS ASSISTANCE— AS OF FEBRUARY 16, 1976

Relief assistance from International Organizations has been reported to date as follows:

CASH CONTRIBUTIONS IN U.S. DOLLARS

1. Organizations of American States (OAS): Cash for the purchase of roofing materials, medical supplies and other commodities, $700,000.

2. League of Red Cross Societies (LICROSS) Contribution of goods and cash from National Societies, $1,500,000.

3. European Economic Community (EEC): Cash donation, $250,000.

4. Pan American Health Organization (PAHO): Cash donation, $50,000.

5. United Nations System: $1,180,936.

A. World Health Organization (WHO): Cash donation, $100,000.

B. World Food Program (WFP): Food for Work allocation, $985,936.

C. United Nations International Children's Fund (UNICEF): Cash donation, $75,000.

D. United Nations Disaster Relief Organization (UNDRO) through United Nations Development Programme (UNDP): $20,000.

Total international organizations: $3,680,936.

OTHER CONTRIBUTIONS

Pan American Development Foundation: 6 ea. packaged disaster hospitals.

(Three states, Alabama (through the Alabama Partners—Partner of Guatemala), South Carolina and Oregon have contributed 2 hospitals each.)

VOLUNTARY AGENCY ASSISTANCE; AS OF FEBRUARY 16, 1976

The following is a list of the Volunteer Agencies and information on their activities as currently known:

Assemblies of God, Cash, $25,000 sent; $75,000 pledged.

Baptist World Alliance, Cash, $6,000.

CARE: 9 mil. lbs., Title II food; 5,000, blankets; 95, first aid kits; and miscellaneous medicines (total value $46,400); Cash, ($100,000 authorized for local purchase), ($100,000—CARE/Canada); 350, Hand corn grinders, CARE/Honduras); 10,000 lbs., Beans Shipped.

Catholic Relief Services, United States Catholic Conference, Cash, $100,000; 46½ tons, Shelter material, blankets, emergency kits, tools, clothing (Total value, $560,000); 27,500 tons, Food commodities from Nicaragua, Honduras & El Salvador CRS Program; Cash, $10,000—British Childrens' Aid; Cash, $29,000—German Catholic Charities.

Christian Reform World Relief Committee, Cash, $10,000; 2,000 blankets; 2,400 lbs., Clothing; (total value $25,000).

Church World Service, 80,000 lbs., relief supplies; 10,000, blankets; (total value $105,725).

David Livingston Foundation, Specifics unknown.

Food for the Hungry, Specifics unknown.

Interchurch Medical Assistance, Specifics unknown.

Lutheran World Service: Cash, $20,000; 5,000, blankets.

Mennonite Central Committee: Cash, $300,000 pledged for reconstruction; 2 flights (77,000) loaves bread.

Medical Assistance Program: 126.5 tons, Medical supplies and high protein supplements (value, $550,000).

Salvation Army: 1,000 lbs., powdered milk; 1,000 lbs., miscellaneous medical supplies.

On order: 60,000 lbs., canned food: $10,000, medical supplies.

Seventh Day Adventists World Service: 40,000 lbs., food; 2,000 lbs., medicine; 3,000 lbs., blankets; 5,000 lbs., clothing; 200 tents (have medical team in Tecpan).

On order: 50,000 lbs., corn; 50,000 lbs., beans; 50,000 lbs. rice; 16,000 lbs. medicine; 100 bed hospital; 5,000 blankets; 1,000 tents.

(Working in: Guatemala City and four outlying towns.)

Southern Baptist Convention Foreign Mission Board: Cash, $25,000; 270, tents; 250, sleeping bags; 6, doctors sent.

World Neighbors, Inc.: Support of 23 medical personnel from U. of Miami in cooperation with Save the Children Foundation.

World Relief Commission: Cash, $60,000.

World University Service: Specifics unknown.

World Vision International: Cash, $15,000.

American Friends Service Committee: Cash, $200,000 pledged for self-help reconstruction.

American National Red Cross: Cash, $100,000; 3,400, tents; 5,000, blankets; 1,000, cots; 20,000 lbs., medical supplies; 60,000 lbs., food.

On order: 3,000, tents; 6, ¾-ton pickups; 5, ambulances.

(Working in: Zones 3 and 6 Guatemala City and six outlying towns.)

Christian Aid: 30,000 lbs., food.'

Help the Aged: 10,000, blankets; 5,000 lbs., food.

British Red Cross: 22 tons, medicine.

Mormon Mission: $5,000, food; 6,000 lbs., blankets and tents; 500 lbs., clothing; 500 lbs., medical supplies.

Total Voluntary Agencies—25.

Total Contributions Computed—$2,477,125 (plus additional in-kind contributions).

By Mr. HUMPHREY (for himself and Mr. MONDALE):

S.J. Res. 173. A joint resolution authorizing and requesting the President to issue a proclamation designating the 7 calendar days beginning September 26, 1976 as "National Port Week." Referred to the Committee on the Judiciary.

NATIONAL PORT WEEK

Mr. HUMPHREY. Mr. President, today I am introducing a joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the last week in September of this year as "National Port Week" and to direct public attention to the important role our Nation's ports continue to play in the economic development of the United States.

Much of the history of our country has been shaped by our ports, and it is especially fitting as we celebrate the Bicentennial that we also recognize the significant and unique contributions our ports have made to the development of this Nation.

The sheltered harbors and connecting inland waterways along the east and gulf coasts attracted our first permanent settlements, and ports subsequently grew because of America's reliance on waterborne commerce as a fledgling nation. In turn, other communities developed and lines of transportation and communication extended into the interior, ultimately stretching across the continent, linking the two great oceans.

As a result, ports on the seacoasts and along our inland waterways evolved into the major urban centers of population, industry, commerce, finance, distribution, education, and culture they are today.

The ports of this country handle ever-increasing volumes of commerce. Between 1950–74, the total domestic foreign waterborne trade moving through U.S. ports more than doubled. Looking ahead, the U.S. Maritime Administration projects that total U.S. waterborne trade, exclusive of Public Law 480 shipments and military cargoes, will increase more than 50 percent by 1980.

Ports have major impacts on employment and production in areas far distant as imports and exports are funneled through their facilities. Wheat produced in Great Plains States, coal produced for export in West Virginia, cotton grown in the South and lumber from the Pacific Coast must find their way to coastal or inland waterway ports. These areas depend on the ports to move their production into export markets and to provide imports for both industrial and personal consumption.

In my own State of Minnesota, the port of Duluth is the world's largest, more inland port, located 2,400 miles in the heart of the North American breadbasket. Grain and grain byproducts constitute over 95 percent of Duluth's total overseas exports. Shipping activity in Duluth-Superior alone gave the United States over $756 million in surplus international balance of payments, the majority of which went into the pocketbooks of the Midwest.

Imports and exports funneled through Duluth-Superior affect not only the economies of Minnesota and Wisconsin but also of Montana, Nebraska, Iowa, North and South Dakota, Alberta, and Manitoba. Domestic iron ore shipments from Duluth averaged over 27 million tons in the past 2 years. Low sulfur coal, chromite ore, scrap iron, vegetable oil and animal fats, and general cargo are but a few examples of the other goods shipped through Duluth.

Over 1.7 billion tons of commerce in our foreign and domestic waterborne trade moved through U.S. port gateways in 1974. The foreign portion of this total was valued at more than $125 billion. The many and varied port handling activities required to serve this vast trade volume alone generate about $35 billion in direct dollar income to local and regional economies served by U.S. ports. Port-generated activities now provide employment for well over 1.2 million people and account for about $12 billion in wages each year. This serves to stimulate an even greater economic chain of indirect revenue as these dollars are spent throughout the national economy. In Duluth alone, port activity pumped about $45 million into the local economy in each of the past 2 years, and the direct and indirect impact of the port to Minnesota and to the region Duluth serves totals about $120 million.

U.S. port management has coped effectively with maritime technological changes, and massive outlays of public and private capital have reduced port costs by faster and more efficient transfer of goods between ocean and land carriers.

Duluth is experiencing the largest single spurt of construction ever. Over $130 million of new investments in waterfront facilities have been initiated, further evidence of the importance of the port to shippers and to the market area. This investment will result in a fully computerized, modern grain and grain byproducts facility; the first full service container handling facility on the Great Lakes, coal and taconite facilities to accommodate the larger ore carriers and a host of other improvements.

Public and private port interests have invested over $5 billion in U.S. cargo handling facilities since the end of World War II. By 1980, total public and private outlays in marine terminal facilities may exceed $10 billion. This massive outlay of capital is but another measure of the contribution our network of ports makes to the national economy.

U.S. ports provide a wide variety of services and activities essential to the smooth and efficient conduct of foreign trade and have played a leading role in providing logistical support of our military forces. Our national port system has been and will continue to be a vital asset in maintaining a strong posture in national security.

In 1974, President Nixon declared September 29 to October 5 as National Port Week. It was the first time that our Nation's ports had been recognized in this manner and was highly successful. Ports responded by organizing harbor trips, ship inspections, community displays, seminars, and other promotional and educational activities. In observance of National Port Week in 1975, President Ford urged that public attention be directed to the important role our Nation's ports play in the American economy.

The highly competitive U.S. port industry is a moving force which is to a significant degree directly related to this Nation's economic health and prosperity. It is fitting, therefore, that the President proclaim the last week of September in this, our 200th year, as National Port Week to allow Americans to become more aware of and reflect on their personal stake in the continued operations and development of U.S. ports.

Mr. President, I urge prompt consideration of the resolution and I ask unanimous consent that it be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 173

Whereas, U.S. coastal and inland ports make a direct and significant contribution to our national economic well-being;

Whereas, much of the history of the United States has been shaped by its ports and interconnecting inland waterways and greatly influenced the growth of various communities;

Whereas, ports, in serving U.S. waterborne commerce, generate significant employment and direct dollar income to the local and regional economies they serve, as well as have a major impact on employment and production in areas far distant from their location;

Whereas, U.S. ports provide a wide variety of services and activities essential to the smooth and efficient conduct of foreign trade and have a direct impact on our balance of payments; and

Whereas, American ports are a vital asset in maintaining a strong posture in national security: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that the President is authorized and requested to issue a proclamation designating the seven-day period beginning September 26, 1976 as National Port Week, calling upon the people of the United States and all interested groups and organizations to observe that week with appropriate ceremonies and activities designed to direct public attention to the important role our Nation's ports continue to play in the economic development of America.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 2532

At the request of Mr. Fannin, the Senator from Michigan (Mr. Griffin) was added as a cosponsor of S. 2532, a bill to establish the Energy Independence Authority, a Government corporation with authority to provide financing and economic assistance for those sectors of the national economy which are important to the development of domestic sources and the conservation of energy independence for the United States in a manner consistent with the protection of the environment; to improve Federal Government operations so as to assist in the expediting of regulatory procedures which affect energy development, and for other purposes.

S. 2881

At the request of Mr. Fannin, the Senator from Georgia (Mr. Nunn) and the Senator from Alaska (Mr. Stevens) were added as cosponsors of S. 2881, a bill to amend the Education Amendments of 1972 to provide that Boys' State, Boys' Nation, Girls' State, and Girls' Nation conferences conducted by the American Legion shall not be subject to title IX of such act, and for other purposes.

S. 2909

At the request of Mr. Fannin, the Senator from Utah (Mr. Garn), the Senator from Nebraska (Mr. Curtis), the Senator from Wyoming (Mr. Hansen), the Senator from South Carolina (Mr. Thurmond) and the Senator from Nebraska (Mr. Hruska) were added as cosponsors of S. 2909, the Investment Incentives Act.

S. 2945

At the request of Mr. Hugh Scott, the Senator from Washington (Mr. Jackson) was added as a cosponsor of S. 2945, a bill to amend the act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations for the Smithsonian Institution for carrying out the purposes of said act.

S. 2946

At the request of Mr. Hugh Scott, the Senator from Washington (Mr. Jackson) was added as a cosponsor of S. 2946, a bill to amend the act of July 2, 1940, as amended, to remove the limit on appropriations.

S. 2949

At the request of Mr. Hugh Scott, the Senator from Washington (Mr. Jackson) was added as a cosponsor of S. 2949, a bill to authorize the Smithsonian Institution to construct museum support facilities.

S. 2986

At the request of Mr. Griffin, the Senator from Oregon (Mr. Packwood) was added as a cosponsor of S. 2986, a bill to amend the Housing and Community Development Act of 1974 to provide supplemental community development assistance to areas with high unemployment.

S.J. RES. 168

At the request of Mr. Hugh Scott, the Senator from Washington (Mr. Jackson) was added as a cosponsor of Senate Joint Resolution 168, a joint resolution to provide for the reappointment of James E. Webb as a citizen regent of the Board of Regents of the Smithsonian Institution.

S. RES. 388

At the request of Mr. Metcalf, the Senator from Arizona (Mr. Goldwater) and the Senator from Alaska (Mr. Gravel) were added as cosponsors of Senate Resolution 388, a resolution disapproving the proposed deferral of budget authority for construction grants to public schools in Indian Reservation Areas.

AMENDMENTS SUBMITTED FOR PRINTING

AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS OF 1974—S. 3015

AMENDMENT NO. 1418

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY. Mr. President, the Senate will soon have the opportunity to vote on S. 3015, which will revise and extend the airport development aid program—ADAP.

The ADAP program is financed by various user charges, which are currently returning a surplus to the airport and airway trust fund. However, other airport-related expenses are financed by the general taxpayer via the Federal Aviation Agency. In particular, the cost of maintaining and operating the air navigation control system—air traffic control—is borne by the general taxpayer and not by those who benefit from this system.

I have prepared an amendment which will give the taxpayer some indirect relief. My amendment would allow future trust fund surpluses to be used to finance the expense of maintaining and operating the air navigation control system, up to certain maximum amounts. Capital expenditures would be protected by a provision that only the "balance" of the trust fund revenues—the surplus—may be used to finance the maintenance expenditures. A similar provision is contained in the House-passed version of the bill, but my amendment would provide for a larger reallocation of funds.

Continued subsidization of air travel by general tax revenues makes little sense in view of the low energy efficiency of air travel and the hundreds of millions of dollars currently being spent to encourage people to ride AMTRAK. Moreover, as I explained in my minority views to the committee report, the use of general tax revenue to subsidize air travel can only represent a regressive transfer payment because air travelers and the users of private planes are considerably more affluent than the general taxpaying citizenry. My amendment would help to reduce this subsidization.

I ask unanimous consent that my amendment and my minority views be printed in the Record.

There being no objection, the amendment and views were ordered to be printed in the Record, as follows:

Amendment 1418

On page 10, strike lines 19–25 and insert in lieu thereof the following:

" '(e) Other expenses.—The balance of the monies available in the Airport and Airway Trust Fund may be appropriated for (1) costs of services provided under international agreements relating to the joint financing of air navigation services which are assessed against the United States Government, and (2) direct costs incurred by the Secretary to flight check and maintain air navigation facilities referred to in subsection (c) of this section in a safe and efficient condition. Eligible maintenance expenses are limited to costs incurred in the field and exclude the costs of engineering support and planning, direction, and evaluation activities. The amounts appropriated from the Airport and Airway Trust Fund for the purposes of clauses (1) and (2) may not exceed $150,000,000 for the period from July 1, 1975 through September 30, 1976; $300,000,000 for fiscal year 1977, $325,000,000 for fiscal year 1978; $350,000,000 for fiscal year 1979, and $375,000,000 for fiscal year 1980. In addition, the amounts appropriated in any fiscal year under this subsection may not exceed, when added to the minimum amounts authorized for that year under subsections (a), (b), and (c) of this section, the amounts transferred to the Trust Fund for that year under subsection 208(b) of the Airport and Airway Revenue Act of 1970. Each year, on or before February 20, the Secretary shall submit to the appropriate Committees of the Congress a detailed report on the activities for the forthcoming fiscal year which are proposed to be financed under this subsection.'

"(f) Paragraph (1) of section 14(f) (as redesignated by this section) of such Act is amended by striking out 'subsections (c) and (d) of this section, as amended' and by inserting in lieu thereof 'this section'.

"(g) Paragraph (3) of section 14(f) (as redesignated by this section) of such Act is amended by striking out 'subsection (d)' and inserting in lieu thereof 'subsection (e).' "

Airport Development Aid Program, Minority Views of Senator James L. Buckley

I am disappointed that the Commerce Committee voted down my amendment which would have given the general taxpayer some indirect relief in the area of airport financing. The majority on the Commerce Committee turned down an opportunity to relieve the general taxpayer of the burden of having to pay for air travel whether he uses it or not. I suspect that, as with many federal subsidy programs, this result has ensued because the various beneficiaries of the program are organized and vocal while the interest of the general taxpayer is not.

The Airport Development Aid Program is mainly a capital-grant type of program. The user taxes financing the trust fund which services the program have yielded a surplus of about $868 million. However, only 50 percent of FAA's $2.2 billion total budget for 1976 is financed out of this user tax program—the remainder comes out of general tax revenues and is used to operate the air navigations control system and for other purposes. The issue has thus arisen as to whether future trust fund surpluses should be used (a) to replace those FAA (non-capital) expenditures which are currently borne by the taxpayer or (b) to reduce the user fees financing the trust fund.

My amendment would have allowed future trust fund surpluses to be used to finance the cost of maintaining and operating the air navigation control system, which is presently borne by FAA and therefore the general taxpayer. Capital expenditures would be protected by a provision that only the "balance" of the trust fund revenues (the surplus) may be used to finance maintenance expenditures. The House passed extension of the ADAP program (*Congressional Record,* December 18, 1975) contains a similar provision, but it provides for only a small diversion of trust fund revenue, up to the following maximum amounts:

[In millions]

Fiscal year 1976	$50
Transition period	12.5
Fiscal year 1977	75
Fiscal year 1978	100
Fiscal year 1979	125
Fiscal year 1980	150

My amendment would have relieved the general taxpayer of more of the burden of these expenditures, up to the following maximum amounts:

[In millions]

July 1, 1975–September 30, 1976	$150
1977	300
1978	325
1979	350
1980	375

There has been much in the press quoting members of Congress to the effect that our tax system discriminates against lower and middle income individuals. The current ADAP program is a prime example of the truth of these assertions. Data supplied by the Department of Transportation shows that the median income of air travelers is about $24,000. Based on data gathered by a Wichita, Kansas market research firm, it can be inferred that the median income of private plane purchasers is about $29,000 per year. Since air travelers are relatively more affluent than the general taxpaying citizenry, the use of general tax revenue to subsidize air travel can only represent a regressive transfer payment.

Air travel is one of the least efficient energy modes of transport. According to Department of Transportation energy data, medium-sized planes are less energy-efficient (on a BTU per seat-mile basis) than compact automobiles moving intercity. Our promotion of air travel is promoting the inefficient overuse of energy.

Moreover, it makes little sense for the taxpayer to subsidize air travel while he is simultaneously funding AMTRAK in order to encourage travelers to take the train. In the last fiscal year, AMTRAK lost $313 million and was running a loss even in the densely-populated Northeast corridor. Although there are certain environmental reasons for supporting AMTRAK, these reasons certainly do not apply to air travel.

The maintenance of the federal aid highway system is financed to a significant extent by the user through gasoline and other user taxes. Revenue from the highway trust fund is used to finance operational costs of both the Federal Highway Administration and the National Highway Traffic Safety Administration. Granted, the highway system is not completely financed by those who use it the most. However, the environmental and energy reasons for a more user-financial automobile travel apply *a fortiori* to air travel.

It was noted in Committee debate that the use of trust fund revenues for maintenance expenses would be contrary to the philosophy of the 1971 amendment which prohibited such use. However, in 1971, the energy and budgetary crises had not yet burst upon us, and it was harder to argue against the view that air travel should be subsidized and promoted. I would hope that federal transportation priorities have changed since 1971. Although it is understandable to want the user taxes financing the trust fund to be reduced so that everyone can enjoy cheaper air travel, I submit that this is improper as long as the general taxpayer is burdened with financing transportation that he may not want.

FEDERAL EMPLOYEES' POLITICAL ACTIVITES ACT OF 1975—H.R. 8617

AMENDMENT NO. 1419

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted an amendment intended to be proposed by him to the bill (H.R. 8617) to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

ANNOUNCEMENT OF HEARINGS ON PORTFOLIO INVESTMENTS BY FOREIGNERS IN THE U.S.

Mr. HARRY F. BYRD, JR. Mr. President, as chairman of the Finance Committee's Subcommittee on International Finance and Resources, I wish to announce that the panel will conduct hearings on March 1 to examine the Treasury Department's proposal to eliminate the present 30 percent withholding tax on dividend and interest income received by foreign persons on their portfolio investments in the United States.

The hearings will be held beginning at 9:30 a.m. on Monday, March 1, in room 2221, Dirksen Senate Office Building.

It is the subcommittee's intention to explore the role of foreign investments in the United States. The following witnesses have been scheduled to appear on March 1:

LIST OF WITNESSES

Hon. Joseph L. Fisher, Congressman from the 10th District of Virginia.

Hon. Charles M. Walker, Assistant Secretary of the Treasury for Tax Policy.

Mr. Robert Roosa, former Under Secretary of the Treasury for Monetary Affairs.

Prof. Peggy Musgrave of Northeastern University of Boston, Mass.

Mr. Tom Frost, Jr., president of Frost National Bank of San Antonio, Tex.

Prof. Hugh Ault of Boston College. School of Law, Boston, Mass.

The subcommittee would be pleased to receive written testimony from persons or organizations who wish to submit statements for the record. Statements submitted for inclusion in the RECORD should be typewritten, not more than 251 double spaced pages in length, and mailed with 5 copies by Friday, March 19, 1976, to Michael Stern, staff director, Senate Finance Committee, 2227 Dirksen Senate Office Building, Washington, D.C., 20510.

NOTICE OF HEARINGS

Mr. McGOVERN. Mr. President, I wish to announce that the Senate Select Committee on Nutrition and Human Needs has scheduled hearings for March 4 and 5 in room 457 of the Russell Senate Office Building beginning at 9:30 a.m. each day. The hearings will focus on U.S. policy and policymaking toward the Food and Agriculture Organization of the United Nations.

NOTICE OF MEETING OF JOINT COMMISSION

Mr. ABOUREZK. Mr. President, I wish to announce that the American Indian Policy Review Commission, a joint congressional commission, will hold a seminar for congressional aides on the Federal-Indian Relationship, at 10 a.m., in room B-308, Rayburn House Office Building, on Friday, February 27, 1976.

ADDITIONAL STATEMENTS

PANAMA CANAL: PRESIDENTIAL ELECTION ISSUE?

Mr. HARRY F. BYRD, JR. Mr. President, the people of the United States are now in the early stages of a major Presidential election campaign. This would be a good time for those seeking the presidency to make their issues known of the fate of the Panama Canal. The U.S. State Department, over a period of years, has been trying to give the canal to the Republic of Panama, which is closely allied with Castro's Cuba and is presently a Soviet satellite.

As shown by recent news stories, the canal question has been an important subject of discussion in the Presidential primary campaign in New Hampshire. Its treatment included an illuminating article in the widely read New England newspaper, the Manchester (N.H.) Union Leader, by Capt. Franz O. Willenbucher, U.S. Navy, retired, an experienced lawyer, long associated with Panama Canal treaty problems in and out of Government service.

The status of the United States as the sovereign of the Canal Zone and canal is not a local one between our country and Panama but a matter upon which the fate of the Caribbean would inevitably depend. In the world struggle now in progress, the control of the Caribbean is important for it is one of the great maritime crossroads of the world.

Mr. President, I ask unanimous consent for the article to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FORD PLAN WOULD GIVE AWAY U.S. PROPERTY, BE CRITICAL BLOW TO U.S. DEFENSES; SURRENDER OF CANAL UNJUSTIFIED, DANGEROUS

(By Franz O. Willenbucher, J.D.)

President Ford, completely under the domination of Secretary of State Kissinger, plans virtual unconditional surrender of the sovereign rights of the American people over the U.S. Canal Zone, to Panama.

Under our system, sovereignty resides in the American people. In reliable nationwide polls, they have made it clear that more than 80 per cent emphatically oppose the proposed surrender plans, although the State Department last fall set up a propaganda group with a half million dollar budget for the purpose of attempting through propaganda to transform the existing mass opposition of the people into support for surrender.

Governor Reagan has consistently voiced his strong oposition to any such ill-advised abandonment of our Canal Zone in the Isthmus of Panama and our global treaty-based obligation to continue to operate the Canal in trusteeship for world shipping. He stoutly declared on WTOP's televised commentary during its Eyewitness News "Panama Canal Series" in the Nation's capital on Jan. 23 that Panama's Marxist dictator Omar Torrijos, should be told "We're keeping the Canal," stating:

"The matter is like Alaska and all of the States of the Gadsten purchase and Louisiana purchase and to pretend that somehow we have taken advantage; we have managed it successfully for 60 years for the peaceful nations of the world. We have done so without profit and we have given Panama one of the highest standards of living of all Latin America. The man who wants to take it away from us is a Marxist dictator who seized power by throwing out the duly-elected president and he hasn't had an election in his country since, and they have no civil liberties."

The Ford Administration's blueprint for surrender was exposed on Oct. 6, 1975 by Rep. Daniel Flood, one of the nation's foremost authorities on canal matters, when he placed in the Congressional Record for all to read the exact texts of three "Conceptual" treaties negotiated in Panama by U.S. Ambassador Ellsworth Bunker with representatives of the Marxist government of Panamanian dictator, Omar Torrijos.

Not only is President Ford's ill-advised, dangerous and unjustified determination to "give-away" this valuable United States strategically essential national defense asset; but, under Kissinger's insistence last fall, through the National Security Council, the President silenced the Joint Chiefs of Staff from expressing any opposition to the Administration's plans to the Congress, and thus to the American people.

President Ford's present position on this vitally important matter is incomprehensible, and especially so when compared to the very firm position he took in 1967, while he was House Minority Leader, in strongly opposing President Johnson's proposed Canal Zone surrender treaties at that time.

FALSE ARGUMENT

To further its surrender plans, our State Department would have us believe that the Canal Zone is really Panamanian property; the the U.S. pressured Panama into giving us the Canal Zone in 1903; and that the U.S. is exploiting Panamanians, robbing them of Canal operating profits that are rightfully theirs.

The truth is that the United States never has been, and certainly is not now, a squatter occupying the Canal Zone. Instead, it is the Canal Zone's lawful owner, with full sovereign rights, power and authority over the Canal Zone and the Canal, established in three treaties with Panama, the 1903 treaty and its revisions in the treaties of 1936–39 and 1955, and twice, in 1907 and 1972, so recognized by the United States Supreme Court.

These sovereign powers were first properly acquired in the 1903 treaty from Panama—a treaty urged upon the United States by those who led Panama to her independence from Columbia, for the very purpose of establishing the Canal in their country, rather than to have it go through Nicaragua, then seriously under consideration in the United States Congress.

FORD'S CHANCE

Ford on July 7, 1967, then House Minority Leader, called the Johnson proposed canal pact "shocking" and declared, among other things, "With Cuba under control of the Soviet Union via Castro and increased Communist subversion in Latin America, a Communist threat to the Canal is a real danger." It is very much more a danger today, than it was then!

Sovereignty is supreme and independent power as opposed to dependent and conditional power. In order to make the tremendous investment required to build the Panama Canal, the United States had to have authority to do what was necessary and to insure the security of its investment. It received sovereign powers from Panama by treaty, paying Panama and paying all individual owners for the land and property acquired in the Zone. It received these sovereign powers in perpetuity. Nothing of Panamanian ownership was left within the Zone.

This is a United States canal, not a Panamanian canal. The United States has operated it not as a trustee for Panama, but as a trustee for the world commerce served by the Canal, although Panama is by far the greatest single beneficiary.

GOOD RELATIONS

Through the years, the United States has sought to maintain good relations with our Panama neighbors. We have, through treaties, increased dollar payments to Panama, have returned outlying land and easements, considered by the United States no longer required for the defense of the Canal, and we have authorized the flying of the flag of Panama alongside the United States flag in the Canal Zone.

Panama received in 1974, directly or indirectly, from the United States as the result of Canal operations more than $236 million, an annually increasing amount. It received $342 million in foreign aid from the United States for the years 1947 through 1974. All of this, resulting solely from the Canal presence, gave to Panama with its population of about 1.4 million people, about the size of Detroit, the highest per capita income of any nation in Central America.

Within the past decade, with the intensification of Marxist revolutionary activity throughout Latin America, the Government of Panama has mounted a campaign to have the United States give up its sovereignty in the Canal Zone. In January, 1964, costly rioting in Panama was accompanied by Red-led mob attacks on the Canal Zone. Canal service was not interrupted because United States forces in the Zone were able to repel the attacks.

IGNORE HISTORY

Some high United States officials have argued that the United States can give up its sovereign powers and return the Canal Zone to Panamanian jurisdiction, keeping by treaty only the right to operate and defend the Canal. They ignore history and the realities of world power.

If the United States were to give up sovereignty and depend upon a treaty to support its presence in the Isthmus of Panama, it would merely have the same type of insecure status which Britain had before it was evicted from the Suez Canal. Were we to surrender our sovereign power over the Canal Zone, the Soviet Union would be glad to negotiate a new treaty with Panama to provide for the operation and defense of the Canal, under Soviet control. And who, except the sovereign has a right to decide how his territory will be defended?

The Canal Zone is the United States Canal Zone, bought and paid for by the United States, just as Alaska and the Gadsden Purchase were bought and paid for. The proposition that a sovereign who alienates his territory has a "right" to take it back is legal nonsense.

The reality is that the United States must continue to operate and defend the Canal, and that sovereignty in the Canal Zone is essential to the performance of that task. Panama's sovereignty is untrammeled in its own jurisdiction, just as that of all other countries. When it casts covetous eyes on the United States Canal Zone, we must have leaders with the gumption to say "NO."

INVESTMENT INCENTIVES ACT

Mr. FANNIN. Mr. President, last Thursday, February 19, 1976, I had the privilege of testifying before the Finance Subcommittee on Financial Markets concerning the lack of adequate capital resources to meet the Nation's needs. Numerous studies have been pubished in recent months concerning both the need for new capital investment in the various sectors of our economy as well as the prospect for meeting those needs. All of the studies concur that our need for new capital investment during the next decade will far exceed that of any previous decade. Developing new sources of energy, expanding job opportunities to absorb the vast numbers of unemployed and underemployed, and improving the environment and working conditions constitute an incomplete list of our pressing needs for new capital investment.

These same studies generally agree that new Federal policies must be adopted in order to meet these extreme investment needs. Our historical rate of savings and investment simply will not provide the resources necessary to satisfy the many capital requirements of the American people.

On February 2, 1976, I introduced S. 2909, the Investment Incentives Act of 1976. This bill is designed to redirect our Federal tax policy so that savings and investment on the part of individuals and corporations are more clearly encouraged.

My statement before the Financial Markets Subcommittee discusses both the need for new capital investment as well as the Investment Incentives Act. I ask unanimous consent that the text of my statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR PAUL FANNIN

Mr. Chairman, I appreciate this opportunity to testify before the Financial Markets Subcommittee on what is clearly the nation's principal economic problem—the lack of adequate capital resources to meet the nation's needs. As my colleagues on the Committee know, it has been my position for some time to express alarm at the increasing financial weakness of the private sector of our economy.

The causes of this shortfall of capital resources have developed over a period of years. Our federal fiscal and tax policies have contributed directly to this pressing problem. Federal deficits have required the government to borrow massive amounts from the private sector, thereby depleting the resources available for private endeavors and at the same time stimulating inflation. Deficit spending has never carried with it more precarious consequences than it does at the present time. There continue to be serious questions as to how much money can be drained out of the economy to meet federal spending extravagances without stifling the economic recovery presently underway.

Mr. Chairman, we are here today, however, to examine the adequacy of current federal tax policies to meet the nation's capital needs. It is my conviction that our present tax structure clearly encourages consumption and discourages investment by placing a heavier tax liability on dollars saved or invested than on dollars spent. This misdirected policy stifles the need for increased capital formation which is the fundamental prerequisite for sound economic growth. A new tax policy must be adopted to counter this trend and renew the interest and ability of individuals and corporations to invest in our Nation's future economic well-being.

Regardless of the economic system employed by a society, the ability to employ its citizens in constructive jobs and improve the well-being of all its people is directly related to its savings and investment policies. Capitalists, socialist, and communist societies share this economic reality. A fundamental difference between these economic systems is the manner in which resource allocation decisions are made. Socialiist and Communist economies utilize a central decisionmaking system in which the government determines what portion of the national income is invested and what is available for consumption. Capitalist societies depend upon the market mechanism to allocate financial resources. National policies affect those market allocation decisions, but they do not mandate them. Individuals and businesses maintain the prerogative to invest or consume.

Mr. Chairman, it is nothing short of tragic that current rhetoric labels as tax loopholes any federal policies which encourage and strengthen the private sector. The plain facts are that in October, 1975, 83% of the labor force was employed in the private sector with the remaining 17% working for various levels of government. An 8+% unemployment rate cannot be reduced in any significant way by enacting massive temporary public employment jobs. The only way to provide sufficient numbers of permanent jobs to meet our employment needs is by strengthening the nation's private sector.

Mr. Chairman, the United States retains a position of economic leadership because it has enjoyed an adequate combination of several economic variable, along with politiical stability and improving social mobility. This ability to exert economic leadership has waned in recent years due to a comparatively inadequate investment in productive capacity.

The Congress must face up to the harsh economic facts confronting the nation. The United States lags behind most industrial societies both in capital investment and productivity growth. We ranked seventeenth among the twenty OECD nations in the rate of real economic growth during the decade of the 1960's. Treasury Department figures indicate that total U.S. fixed investment as a share of national output during the period 1960 through 1973 was 17.5 percent which ranked the U.S. last among a group of eleven major industrial nations. These facts disturb me greatly.

Believing that Congress must address this problem in the immediate future, I introduced S. 2909, the Investment Incentives Act of 1976. This bill is designed to bring new savings and investment incentives to individuals and to corporations, both small and large. It is my belief that a carefully designed series of tax incentives must be adopted in order to stimulate investment throughout our complex economy. No single tax incentive would achieve this objective. S. 2909 is drafted to reach broadly across the private sector to create new jobs for our expanding labor force, increase productivity, improve our environment and working condition and achieve energy independence.

My bill takes action in six specific areas:

1. There is an exclusion of $500 of interest income from savings accounts and similar savings devices with savings institutions.

2. There is an exclusion from income of the first $1,000 ($2,000 if a joint return) of net capital gain on sales or exchanges of securities. This applies only to the extent that an equivalent amount is invested in securities of a domestic corporation within the same taxable year. The provision would result in a deferral of tax, but not in an elimination of tax.

3. The corporate surtax exemption would be increased to $100,000 and the surtax rate would be reduced from 26 percent to 22 percent over a five-year period. The normal tax rate of 22 percent is replaced by a series of rates ranging from 18 to 22 percent.

4. The investment tax credit rate is increased to 10 percent on a permanent basis for all taxpayers, including public utilities. The used property limitation is to be set at $100,000 and any unused credits may be carried over to future years without limitation until fully utilized. Except in the case of utilities, no more than 50 percent of tax liability may be offset by the credit in any one year.

5. The double taxation of corporate earnings is addressed in two ways. First, individuals may exclude from gross income dividends which are reinvested in common or preferred stock—but not debt instruments—with the limitation that no more than 25 percent of an individual's taxable income could be reduced by use of this exclusion. Second, domestic corporations may deduct dividends paid on preferred stock issued after enactment.

6. The cost of required but non productive pollution control facilities and equipment may be written off in one year.

Mr. Chairman, the Joint Committee on Internal Revenue Taxation has calculated the revenue impact of the various features of S. 2909. In addition, Chase Econometrics has placed the provisions of S. 2909 into its econometric model. The resulting figures provided by Chase are very encouraging. While the Joint Committee estimates that the potential revenue loss to the Treasury is as much as $10.2 billion in 1976 and $24.2 billion in 1981, the Chase figures indicate a potential net gain to the Treasury by 1978 of $5.7 billion, increasing to $9.8 billion in 1981. Therefore, while the various provisions of the Investment Incentives Act may be viewed as costing the Treasury specified sums, this type of isolated analysis does not take into account the new revenues resulting from an expanded economic base which these investment incentives would foster.

Mr. Chairman, I believe this comparison between the Joint Committee's figures and those resulting from an econometric analysis should be instructive to the Finance Committee and the Congress. The Joint Committee's figures are not inaccurate, they simply do not reflect the effect these various tax measures would have on the economy in total. Mr. Chairman, again, I express my appreciation for this opportunity to appear before this Subcommittee to address this difficult and challenging problem.

ONE MAKES ALL THE DIFFERENCE: A TRIBUTE TO LOUISE WHITBECK FRASER

Mr. HUMPHREY. Mr. President, I would like to pay tribute to a remarkable woman—Mrs. Louise Whitbeck Fraser, a pioneer in the teaching of mentally retarded persons and a very dear friend. Louise Whitbeck Fraser died on January 27 at the age of 81. But the strength and courage which characterized her entire life will remain an inspiration to all who knew her. I would like to take this opportunity to share some of her remarkable achievements with my colleagues.

Despite deep personal tragedy and little or no encouragements from others at the beginning, Mrs. Fraser's unyielding efforts with the severely retarded and handicapped children have since attracted national interest and acclaim.

In 1933, after successfully teaching her daughter Jean, handicapped after a bout with spinal meningitis, Louise Fraser began teaching retarded children in her home against the advice of educators and psychologists who warned her not to bother. Yet the children she taught were blossoming beyond even her expectations. After 2 years, a 13-year-old boy, unable to talk at first, was not only talking but also reading from a preprimer.

In the early days, she had seven pupils, paying $4 a week for all-day school out of which she paid for their transportation to and from her home. But she had made up her mind to make this her life's work and set about making herself indispensable to the children and to their parents.

Today, the Louise Whitbeck Fraser School in Richfield, Minn., is "indispensable" to 100 retarded children and their families, including my own. For it was the Fraser School in which my granddaughter Vicky Solomonson was enrolled as a student for a number of years.

The school, now under the guidance of Dr. Robert J. Kowalczyk, has helped educate children from 3 to 23 years—as many as 300–400 students in its 43-year history, some of them for as long as 15 years. In addition to careful academic and personal life training, students have the benefit of music therapy, occupational therapy, physical therapy, and speech therapy.

Mrs. Fraser initiated the use of music to help teach the retarded, and thus became an early pioneer in the profession of music therapy. The music program she developed aided in changing moods, relaxation, increased attention span, muscular coordination, and, most importantly, preparation for writing.

When she recognized the need for organized activity and employment for young adults, Mrs. Fraser helped found the Opportunity Workshop in 1954. She struggled to make the business community understand that retarded and handicapped people could accomplish certain tasks well and were reliable, responsible employees.

Mrs. Fraser was quick to point out that the severely retarded or handicapped child is "more like a normal child than he is unlike a normal child." He shares basic needs for love, security, and self-worth with all of us.

Firm in the belief that an early program could give lasting benefits to retarded or developmentally delayed children, Mrs. Fraser also started an infant program which has served children from birth to 2-plus years. Mothers, fathers, and siblings are instructed and advised about their important roles in helping the infant. The program now has 50 infants and toddlers and emphasizes: First, gross motor skills; second, intellectual stimulation; third, auditory stimulation for speech and language development; fourth, fine motor adaptive activities; and fifth, socialization. Teacher-therapists visit the home two or three times a week to train the parents in instructional and stimulative techniques.

Siblings increase their understanding of older children by attending open houses at the school, where they can see their brother or sister perform well in an optimum planned environment.

Over 75 parents and community people currently provide valuable volunteer services for the students of Fraser School and contributions of all sizes now help provide needed equipment and valuable services for the school.

Another new program is the creation of residential homes in Eden Prairie, Minn., for young adults and adults who are retarded or handicapped. Mrs. Fraser said:

> They expressed a need—a willingness to be more self-sufficient. We're trying to help them with that.

Creating the correct environment makes significant personal growth possible.

But in the early years, the vast lack of information about special children led many of the public and even professional people to believe that little could be done to educate them.

Undaunted, Mrs. Fraser had a warmth and a receptiveness to all who suffered from mental retardation. I am reminded of an incident she once related to Mrs. Humphrey which vividly illustrates these qualities. At first reluctant to include mongoloid children in the school, Mrs. Fraser told how she could not turn a distraught mother away because there was no other avenue of assistance.

Nancy, her first mongoloid student, was not a pretty child, according to Mrs. Fraser. She wore glasses and had crossed eyes, a large tongue; breathing and swallowing were performed unpleasantly. Her features were distorted.

When Nancy joined her classes, Mrs. Fraser noticed how her unattractiveness separated her from the other children.

Mrs. Fraser relates:

> One morning when we were having a work group of some type, the children had all gathered around me. And then, off to the side, I saw little Nancy very much alone and, realizing her isolation from the other students, I suddenly forgot all the unpleasantness of her physical characteristics. All I could see was a child that was lost and hurt. I held out my arms and said "Come on, Nancy, I love you, too." She just ran to me as though I were a lifesaver in a drowning sea and put her arms around my neck and cried. I loved Nancy from then on. I could overlook her bad points. I didn't see them anymore. I could see her human traits, she had feelings like any normal child.

Mrs. Fraser's ideas, successes, and unique approach soon began to attract more students and, very importantly, dedicated teachers. Throughout the history of the Louise Whitbeck Fraser School, Mrs. Fraser's magnetism and drive attracted creative, concerned staff members. She trained and guided them, then gave them the faith and freedom to do their important work.

Because of these achievements and many smaller successes along the way, Louise Whitbeck Fraser is now recognized by educators, physicians, and civic groups. Among the awards and honors she has received are:

Mother of the Year (1955).

Service to Mankind Award (1960).

Certified as a Registered Music Therapist (1962).

Good Neighbor Award (1964).

Who's Who of American Women (1967).

Civitan Citizenship Award (1968).

International Exchange Club, Book of Good Deeds Award (1971).

Award from Richfield Kiwanis Club (1971).

Two Thousand Women of Achievement.

Human Resource Award, Library of Human Resources of the American Heritage Research Association (1975).

Outstanding Elementary Teachers of America (1975).

Smiling at the wall filled with these certificates, the indomitable Mrs. Fraser often said, "There are my degrees," and you know they are the finest.

While Louise Whitbeck Fraser benefited many with her work, she also found deep satisfactions and personal growth. She felt that her strong dedication to the children and her ideals helped her to understand and acknowledge people's abilities.

Mrs. Fraser chose this work because she wanted to help and wanted to see children open up. These drives remained throughout her life. Even in her retirement this exceptional woman still maintained a freshness, vigor, and courage evident to all who met her. She was often asked to return to the school and speak to groups of parents. It was her pleasure to do so.

Visitors to the Fraser School are delighted to see the excellent, well-planned facilities provided for the youngsters. Perhaps the most obvious perceptions are those of hope, tranquility, love, progress, self-reliance, and understanding for children who previously had a closed door facing them.

Louise Whitbeck Fraser's remarkable pioneering efforts in special education have made the gift of life far more beautiful for many retarded and handicapped children and their families.

Louise Whitbeck Fraser best expressed the philosophy which has guided her efforts and inspired her success in her recent book, "A Cup of Kindness." I would like to share those thoughts with my distinguished colleagues:

> Did you ever feel the confidence of a little child's hand in yours?
>
> It is silent communication that expresses security and trust.
>
> It is a silent asking of guidance through the entanglement of confusion in untraveled ways.
>
> You give these things to the child when you give your hand to him.
>
> You are the privileged one. Yours is true service for it must come from the heart if it is to fulfill that earnest appeal felt in the little outstretched hand of a child in need of security.

Minnesota has lost a great lady.

The special children of Minnesota and their parents have lost an inspired teacher.

Mrs. Humphrey and I—and our family—have lost a dear friend.

FRANK OLSON

Mr. BEALL. Mr. President, I am pleased to join Senator Mathias in coauthoring S. 3035 a private bill authorizing the payment of $1.2 million to the family of the late Frank Olson who died as a result of an "LSD suicide."

Frank Olson was then 43 years old, and a high level civilian researcher in biological warfare at Fort Detrick, Md. From all reports he was a happy stable family man until the LSD he was given induced sudden personality changes and an eventual suicide. Informed sources report he became uncharacteristically quiet and melancholy and sought psychiatric treatment in New York but to no avail. While he was in New York, away from his family, he committed suicide.

His widow and children wondered what kind of nightmare caused his suicide, but were never told the truth. For more than 22 years they have carried the burden of his death without the benefit of knowing its true cause. This I find inexcusable. Since there were no national security secrets involved, his family should have been told the truth. Instead, his wife and children have suffered in ignorance.

To have told this family the truth would have made the burden easier to bear because they would have understood Frank Olson's last days and hours, I find this denial of information unjustifiable. I find the burden that the Olson family has carried for 22 years above and beyond any call of duty.

TRIBUTE TO CECIL NEWMAN

Mr. HUMPHREY. Mr. President, those of us in public life have the good fortune to know many fine people who make great contributions to this Nation. But out of that number, there are a very special few whose enduring qualities and assistance leave a lasting, cherished memory.

With the passing of Cecil Newman, Minnesota lost an outstanding and dedicated community leader and I lost one of my dearest friends.

I will greatly miss his sound advice and counsel. His sudden death, earlier this month, is a matter of deep sorrow to me.

He did so much for so many and asked so little for himself. As the publisher and editor of the Minneapolis Spokesman and St. Paul Recorder, he demonstrated rare capability, compassion, and understanding. I do not think there was any injustice or human need that escaped his attention. He especially will be remembered for the important contributions he made toward the achievement of civil rights for all people.

Cecil Newman did more for human rights than anyone I know or have known. He was instrumental in defining my views and guiding my actions on issues of civil rights and social justice. His life is a true, meaningful testament to the kind of human dignity he believed should be awarded to all.

Through close to 40 years, I have valued his judgment and admired his ability. He was a very practical, yet idealistic man. Literally hundreds of people can testify to his individual acts of kindness. He is one of the few men I have known in public life who never sacrificed the goals he had in mind for any short cuts or quick drama.

So many times I called on him for his good counsel. During my time as Vice President he accompanied me on an important mission to Africa. There was always something deeply reassuring about having this good man at your side.

The glow from this man's life will light my path for all the years to come.

Mr. President, I ask unanimous consent that an editorial on "The passing of Cecil Newman," by Mr. Gene O'Brien of the Sun Newspapers, be printed at this point in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The Passing of Cecil Newman

> The community's most distressing news in a long, long time was that of the death last week of Cecil E. Newman, publisher and distinguished civic leader.
>
> Thackeray's definition of a gentleman fitted him superbly: "To be a gentleman is to be honest, to be gentle, to be wise and possessing all those qualities to exercise them in the most outward graceful manner."
>
> During the more than four decades Cecil Newman was an active editor he was either "in the forge or on the anvil," always being shaped for greater things. And in his lifetime of 72 years, his accomplishments were monumental. The panegyrics written so far about this fine man, if repeated, would fill pages of this newspaper. It would be futile to try to recount all that's been said of him. Because of his refreshing modesty, he'd be the last one to agree.
>
> Since childhood, he had a deep urge to change things—to do something for his brothers in a world full of injustices. As a Kansas City high school student his deep in-

terest was history where he learned slavery at one time was not the result of skin color, but fortunes of war and that its incidence in this century was an unfortunate interlude in black history.

He began his newspaper career at age 16, railing against injustices, and in 1934 launched two newspapers, Minneapolis Spokesman and St. Paul Recorder, with a total capital of $20. That took some doing.

For years he served on innumerable civic committees. He broke many precedents in his day—as the first black director of a major financial institution, first black president of a major press club (Minnesota Press Club) and as the first black to either head or serve on over 25 organizations.

Perhaps Cecil summed it all up better than anyone could: "It is a long way from when I was a boy in Kansas City or even later as a Pullman porter to being a close advisor to one of America's greatest men (Hubert Humphrey) who came within a hair of being President of the United States—the road has been a long one but I have come a long way."

Last week he reached the end of that road. May he rest in peace.

MISMANAGEMENT OF TECHNOLOGY TRANSFERS TO THE SOVIET UNION

Mr. **THURMOND.** Mr. President, a matter which has greatly concerned me for some time is the naive, generous manner in which we Americans have readily shared our technological advances with the Soviet Union—a nation that is still openly committed to world domination—as the recent events in Angola again should remind us.

Some time ago, a number of my constituents wrote me in regard to the reported sale of the blueprints for a new type of Seabee cargo ship to the Soviet Union. It seems that this transaction was negotiated between a private American shipping firm, Lykes Brothers Steamship Co. of New Orleans, La., and the Soviet Ministry of Merchant Marine. Interestingly, the sale was made with the full knowledge and approval of the U.S. Departments of Commerce, Defense, and the Maritime Administration—MARAD.

Now, Mr. President, this was no ordinary business transaction, as the staff of the Permanent Subcommittee on Investigations of the Senate Government Operations Committee discovered in their investigation of last fall. Lykes Brothers had initially received the benefits of a subsidy of more than $57 million from the Federal Maritime Subsidy Board to develop plans and specifications and construct three cargo ships of this unique Seabee design.

Notwithstanding the public's investment in development of the Seabee system, the Lykes Brothers firm later declined to share the plans and specifications with the U.S. Navy's Military Sealift Command—MSC—unless MSC paid a royalty fee of $1.2 million. Adding to the insult of this potential ripoff of the taxpayer, the Maritime Administration initially supported Lykes' position.

Mr. President, I just cannot conceive of one U.S. Government agency telling another U.S. Government agency that it would have to pay for the rights to a project in which the American people have a proprietary interest! As it finally developed, MSC abandoned its plans to commission the building of a vessel of this type. However, it is the principle of the matter which should concern those of us who object to examples such as this in which the American taxpayer is abused. Then, to add insult to injury, the same agency, MARAD, turned around and approved Lykes' proposed sale of these plans and specifications—American developed technology, mind you—to the Soviet Merchant Marine. Defying belief, the sale was made at a price roughly equal to one-half of what the firm wanted to charge our Navy.

Mr. President, in fairness to the Maritime Administration, I will point out it was their position that the Seabee technology is not that unique and could be easily obtained and copied by the Soviets. For this and other reasons, MARAD feels the sale was proper. Frankly, I question whether the Soviet Union would be willing to pay over a million dollars for something that is supposed to be so readily available, but MARAD's views should be made known. Therefore, I ask unanimous consent that correspondence I have received from the Assistant Secretary of Commerce for Maritime Affairs be printed in the RECORD at the conclusion of my remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 1.)

Mr. **THURMOND.** Mr. President, I have felt for some time that détente with the Soviet Union, as it is presently being conducted, is not in the best interest of the United States. This sale of American shipping technology only confirms my belief. Mr. President, when are we going to wake up to what is happening? Sharing our technology with the Soviets only strengthens a Communist nation that means to use every competitive advantage against us. I do not believe it is wise for the United States to sell or share anything with the Soviets which will give them any advantage over us. We certainly ought not to hand over to them our own technological achievements in shipping and other areas where the technology can be readily applied by the Soviets to enhance their military might.

Only in a few areas, such as agricultural trade, can I see where the United States has gained from commerce with the Soviet Union. In this instance, cash sales of our surplus grain have improved our balance of trade and weakened theirs. While grain sales to the Soviet Union have provided thousands of jobs in the American economy, the Soviets have apparently had to sell a substantial amount of their gold stocks in order to pay for our wheat, corn, and other commodities. Due primarily to these grain sales, it is estimated that the United States currently enjoys a favorable trade balance with the Soviets of between $2 and $3 billion. Furthermore, this trade imbalance in our favor is apparently causing the Soviets to reconsider the possibility of selling oil to us to bring in more dollars. Here at home, these grain exports have kept farm prices from falling drastically in a year of bumper crops.

Thus, grain exports to Russia, when sold for cash at full market prices, are good for our farmers and boost our economy. It may be argued that our willingness to sell them grain also helps the Soviets to some extent, but realistically, if we did not sell to them, they would likely do two things: first, buy more heavily from other exporting nations such as Canada, Australia, and Brazil, and second, reduce their livestock numbers, the buildup of which has been mainly responsible for the Soviets' large imports of corn.

In areas other than agriculture, I believe it would behoove our Government to more closely examine each commercial transaction with the Soviets. Furthermore, in matters involving technology, which can easily influence the balance of power, I believe the President should, by executive order, prohibit any export unless specifically approved by him. Toward that end, I have written President Ford, and I ask unanimous consent that this letter and the attachments thereto be printed in the RECORD at the end of my remarks. I believe this step is absolutely essential if the policy of détente is to have any meaning in a beneficial way for our country.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 2.)

Mr. **THURMOND.** Mr. President, as further evidence of the danger of selling sophisticated American technology to the Soviets, I call to the attention of my colleagues an article in this morning's Washington Post headlined "U.S. Reportedly Sold Soviets Means to Make MIRV Part." I ask unanimous consent that this article by Dan Morgan be printed in the RECORD at the end of my remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 3.)

Mr. **THURMOND.** Mr. President, here is yet another example of the mismanagement and lack of control over technology transfers. In this instance, a private U.S. firm apparently sold the Soviets machines for the manufacturing of precision, miniature ball bearings. Russia immediately took advantage of this new technology to provide the guidance missile system essential for MIRVing of their missiles. It is this sort of exporting of American technological advantages that I feel we must halt immediately.

EXHIBIT 1

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., December 29, 1975.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: This refers to your communication dated November 4, 1975, asking about the sale by Lykes Bros. Steamship Co., Inc. to the U.S.S.R. of rights to use a Seabee barge-carrying ship design to build two ships in Finland. A study by the staff of the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations was released in October of this year concerning this sale. The study also referred to a proposed project of the Military Sealift Command ("MSC"), Department of the Navy to obtain the use of a privately constructed and owned Seabee-type ship.

The Seabee design was based on inventions developed by Lykes at its own private expense and for which patents were issued in 1967. In 1968 the Maritime Administration agreed to pay a construction-differential subsidy amounting to 57 million dollars, including $519,168 for preparation of certain plans and specifications, to aid in the construction of three Seabee barge carrying ships for Lykes by General Dynamics Corporation at its shipyard in Quincy, Massachusetts. Lykes was obligated to pay the balance of the cost of construction and the preparation of certain plans and specifications, amounting to 46 million dollars. No subsidy was paid for Lykes' substantial developmental work which initially led to the unique features of the barge-carrier concept and the patented inventions obtained by Lykes.

The objective of the subsidy program is to support a U.S. shipbuilding capability including those businesses that supply or serve U.S. shipyards such as material and equipment vendors and naval architectural firms. Ships built with the aid of construction-differential subsidy are privately owned and operated in commercial service.

They must be registered under U.S. flag and be manned with U.S. citizen crews. The three barge-carrying ships built for Lykes are now in commercial service under the U.S. flag and manned with U.S. citizen crews.

The Subcommittee staff study erroneously stated that the Maritime Administration refused to make Seabee working plans available to the MSC for the construction of a Seabee type ship. The Seabee contract plans and specifications had been furnished by the Maritime Administration to the Secretary of the Navy on March 14, 1968, and were reviewed by MSC in connection with the original application by Lykes for construction-differential subsidy for its three Seabee ships. Subsequently, in 1971, the Maritime Administration agreed to furnish the Seabee working plans to MSC. These plans, which were produced by General Dynamics Corporation, were for the use of the MSC staff and for distribution to prospective bidders in connection with a projected MSC build-and-charter contract for one merchant ship of Seabee design.

The Navy's MSC itself never intended to contract for the construction of a Seabee-type ship. Neither the Navy nor MSC had any authority to construct a Seabee ship or any other merchant-type ships, because the Congress has consistently denied them that authority.

It was MSC's intention to have a private firm finance and build a Seabee which MSC would then charter for a five year period. The charter payments would come from MSC's operating funds. It is important to realize that under this arrangement the Seabee would be built and owed by the private firm, not the Navy or MSC.

Had the Navy or MSC intended to fund and build a Seabee for its own account, MarAd was empowered to transfer and would have transferred the vessel's design plans, excluding any private patent rights, to the Navy or MSC, without the latter organizations making payment of any license fees or other remuneration to Lykes.

However, under the build-and-charter proposal whereby a private concern would build and own the Seabee, it was the Maritime Administration's view that the private investor was required to obtain a license from Lykes because of the latter's very substantial private investment in the design. This view was communicated to MSC at the time the Maritime Administration agreed to the furnishing of the working plans to MSC.

According to the Subcommittee staff report, Lykes had offered the use of its rights in the design to a prospective private build-and-charter contractor under the MSC offering for $1.2 million. A Lykes official has indicated publicly that Lykes had never reached the stage of serious negotiations with any prospective contractor for a firm price for the use of its rights in the projected build-and-charter effort. The Maritime Administration has no direct knowledge of these negotiations regarding the use by one private concern of rights belonging to another private concern.

The sale of the use of the Seabee design by Lykes to the U.S.S.R. was licensed by the Office of Export Administration, Department of Commerce on December 12, 1974. That Office had asked for the views of the Department of Defense, which, of course, includes the Army, Navy, Marine Corps and Air Force, and the views of the Maritime Administration. The Department of Defense advised it had no objection to the proposed transfer, as did the Maritime Administration. The factors considered by the Maritime Administration in connection with its decision included the following:

1. The barge-ship concept could easily be copied in some form. The first barge-carrier type vessel was built in Japan in 1968. Numerous barge carriers are now in worldwide service. Design details, therefore, can easily be seen in over one hundred ports around the world where these ships call at regular intervals, as well as in the worldwide technical press.

2. By conforming to the standard barge utilized by American carriers, the Soviet project would produce intermodal transport interchange possibilities for expanding the U.S. carrier market potential and thereby result in better service offered to U.S. shippers.

3. The Seabee barge-ship design resulted from private investment of Lykes. Primary design results from this private investment were the patented inventions granted in 1967 for the Seabee.

4. The agreement negotiated by Lykes with the Soviet Ministry of Merchant Marine, in effect, precludes any Soviet operation of Seabee-type ships competitively in foreign trade to and from U.S. ports.

5. The compensation paid to Lykes by the U.S.S.R. for the Seabee design strengthens the U.S. merchant marine because these funds constitute financial resources committed to the U.S. merchant marine. This compensation consists of $1,077,000 plus charges for any consulting or technical services rendered by Lykes to the Finnish shipyard.

I trust the foregoing clarifies this matter for you.

Sincerely,

ROBERT J. BLACKWELL,
Assistant Secretary for Maritime Affairs.

EXHIBIT 2

U.S. SENATE,
Washington, D.C., February 24, 1976.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The Policy of Detente was nobly conceived as a balanced, mutually beneficial political-economic relationship, which would hopefully lead to the relaxation of tensions between the world's two most powerful Nations. Unfortunately, as it is presently being conducted, I do not feel that Detente is serving the best interests of the United States.

Indicative of this gross imbalance in favor of the Soviet Union that has developed is the sale, by Lykes Brothers Steamship Company, of plans and specifications for a unique SEABEE barge-carrying shipping system to the Soviet Ministry of Merchant Marine in late 1974 (see attached news article). I was shocked to learn that the technology for this system was developed partially through American taxpayer subsidies of more than $57 million. It further astounded me to learn that this private firm had attempted to charge the United States Navy's Military Sealift Command twice what the Soviets eventually paid for the rights to the identical ship design, despite the Government's proprietary interest in these blueprints.

Mr. President, this particular instance of mismanagement of technology transfer is appalling to me and many other Americans who do not want to see their tax dollars used to strengthen the hand of the Soviet Union. Unfortunately, this transaction is only one of many instances in which we have handed over to the Soviets much of our technological and scientific know-how. Over the years, Russia has put American technology to excellent use to bolster not only its economy, but also its military capability. I cannot see where the United States has gained equally in return.

Thus, Mr. President, I urge you to direct that a thorough review be made of the management of technology transfers to the Soviet Union and other Communist Nations. I would further urge you to issue an Executive Order prohibiting, unless specifically authorized by the President of the United States, all sales or transfers of American technology that might affect the United States' balance of economic or military power with the Soviet Union or any other Communist Nation. I strongly feel we must tighten up the present management of technology transfers, lest we sell or give away all our secrets to those who seek the downfall of the United States and the Free World.

Thank you for your careful consideration of this important matter. With kindest regards and best wishes,

Respectfully,

STROM THURMOND.

[From the Charleston (S.C.) News and Courier, Oct. 29, 1975]

PRIVATE FIRM AUTHORIZED TO SELL RUSSIA PLANS

WASHINGTON.—The federal government authorized a private firm to sell Russia plans for a sophisticated new cargo ship for $1 million, even though the United States contributed over $57 million to design and build the vessel, investigators reported Tuesday.

The Senate's permanent investigations subcommittee report said the Lykes Brothers Steamship Co. of New Orleans later tried to charge the U.S. Navy $2 million for the same plans.

The U.S. Maritime Administration issued the license which permitted the company to export the design data on two Lykes-SEABEE ships to the Soviets.

The SEABEE design incorporates twin hydraulic stern elevators to load or unload full cargo barges. Once loaded the barges are stored inside the ship until the vessel reaches its destination. The barges then are refloated.

The Maritime Administration told the Navy in April 1973 that it supported Lykes' "flat refusal" to give the plans to the Navy, which claimed it was entitled to them because of the government's investment in the vessel's creation.

Committee investigators said Maritime Administration officials have since reversed their decision.

The investigators accused the firm of a "self-interested disregard" of legal requirements and the nation's need to improve its merchant fleet.

"The United States, a major commercial power with a broad range of maritime interests, has been hard pressed to maintain its position in world shipping," the report said. "The episodes described in this report suggest that the difficulties may be compounded by inadequate management of both federal subsidy programs and technology transfer procedures."

Two sets of plans were sold to the Soviets for $500,000 each. The plans were developed during the construction of three ships for Lykes Brothers under a construction subsidy contract with General Dynamics.

The Maritime Administration contributed $519,168 to the preliminary design work and later paid General Dynamics more than $57 million in subsidy for more than half the total construction cost, the report said.

The government received nothing from the proceeds of the sale to the Soviet government even though it had a proprietary interest in the design data because of the subsidies, the report said.

The report said the Maritime Administration approved the sale because the plans were published in technical publications and the ships could be seen in many world ports, the report said.

"Whatever the public availability of the designs, the Soviets must have considered them sufficiently inaccessible—or surely they would not have paid $1 million in order to obtain them." the report said.

Sen. Henry M. Jackson, D-Wash., the subcommittee chairman, said the sale of the data "reveals how a multimillion dollar federal program designed to strengthen the American merchant marine is, unbelievable as it seems, working to benefit the maritime position of the Soviet Union, an increasingly important competitor of our own merchant marine."

An official for the U.S. Maritime Administration had no comment on the report.

[From the Charleston (S.C.) News and Courrier, Nov. 3, 1975]

Don't Help The Russians

A "deal" under which a private shipbuilder is said to have transmitted to the Soviet Union plans for a merchant ship designed with the aid of U.S. taxpayers needs looking into. Alarm comes not so much from the fact that the builder is reported to have charged the Russians half of what he wanted to charge the U.S. Navy—though that aspect of the arrangement arouses curiosity, too—as the suggestion that the plans involved will later be used against us.

The charge is often made that this country is its own worst enemy when it comes to supplying its chief competitor with weaponry—both economic and military. The degree of truth in that accusation is hard to pin down but ample evidence exists that the way of the Soviet Union toward power on the sea has been made much easier through contributions from outside.

The keel of the modern Soviet navy rests on shipbuilding techniques developed by Germans, Italians and other people. The Soviet Merchant Marine and fishing fleet represent threats of a different character but almost as formidable in dimensions. If they were asked whether they would willingly export to the Kremlin plans for so much as a tugboat, Americans awake to developments on the high seas would almost certainly register a resounding "no." It is up to Congress—or somebody—to see that it doesn't happen.

[From the Washington Post, Feb. 26, 1976]

U.S. Reportedly Sold Soviets Means to Make MIRV Part

(By Dan Morgan)

Since 1972, the United States has sold the Soviet Union 164 precision machines that can produce the miniature ball bearings used in guidance systems of multiple warhead missiles, a former top intelligence official charged yesterday.

Retired Gen. Daniel Graham, former head of the Defense Intelligence Agency, said the Soviets "couldn't have gone into production" of the multiple warhead weapon, called MIRV, without the machines.

A Pentagon spokesman said the Defense Department had not opposed the sale, which was authorized in 1972 after an investigation of the ball bearing technology sold by other western countries. However, the spokesman said the Pentagon had no comment on the question of whether the bearings were subsequently used in Soviet MIRVs.

Jim Halverson, general manager of Bryant Chucking Grinding Co. of Springfield, Vt., confirmed yesterday that the firm had sold the machines to the Soviets "after a lot of discussion" in Washington.

"We don't know the end use of the product of this equipment," he said, adding that tiny ball bearings are components of modern household appliances and many kinds of precision instruments.

In announcing the first Soviet purchase of bearings in the United States in 1972, Machine Tool Industry Minister Anatoliy I. Kostousov said, "We are using more and more instruments of all kinds and our need for bearings is very great."

Ball bearings have been mentioned from time to time as part of the continuing controversy over detente and trade with Soviet Union.

Critics of detente say that Russia is using the increased U.S. trade mainly to plug strategic gaps in its military and industrial technology.

However, other analysts of the Soviet system say that the Russians are skilled at copying Western technology even when they can't purchase it. They add that it is difficult to safeguard industrial processes, because many American firms operate European or Japanese manufacturing plants where Communist workers are employed.

Although the United States relaxed restrictions on trade with the Kremlin after 1972, it still embargoes 68 items that this country's NATO allies and Japan allow to be exported to the Communist World.

Graham's remarks on the ball bearing sales came at a Capitol Hill breakfast, hosted by several members of Congress, in honor of a new book by Miles M. Costick, "The Economics of Detente."

Graham noted that Costick's book contained a lengthy reference to the ball bearing case. He claimed the Pentagon had objected to the sale and "should have been successful."

The equipment in question is the Bryant company's Centalign B grinding machines, which are so sophisticated they can manufacture miniature ball bearings to tolerances of a 25-millionth of an inch. Costick said that a large part of bearing output from Centalign machines is for military use.

Until the Soviets were able to obtain Centalign B machines, they were unable to produce the guidance missile essential for MIRVing of their missiles," Costick wrote.

MIRVs—multiple independently targetable re-entry vehicles—have posed a major new problem for Soviet and American strategic arms negotiators. At Vladivostok in November, 1974, each of the two countries agreed to limit their strategic arsenals to 1,320 multiple warhead rockets.

In 1960, the Bryant company sought a license to export machines to Russia but was turned down after a lengthy internal debate in Washington.

A Pentagon spokesman said that a Commerce Department team learned in 1972 that Switzerland and Italy possessed similar ball-bearing technology and the Bryant company's renewed application was approved because denying it "would only have prevented a U.S. firm from selling equipment already available from competitors abroad."

DEVELOPING A BALANCED AGRICULTURAL POLICY

Mr. HUMPHREY. Mr. President, I wish to share with this body an article in the February 24 issue of the Washington Post by Warren W. Lebeck who is president of the Chicago Board of Trade entitled "The Perils of Export Manipulation."

The article argues the case that this administration has manipulated our export sales, but at a very high price. It points out that the embargo on soybean sales to Japan 2 years ago helped encourage production in Brazil, and that country has now become a significant competitor on the world soybean market.

The article also points out the major contribution which the agricultural sector is making to the total economy in terms of "carrying the less efficient and less competitive nonagricultural sector. A positive U.S. trade balance last year resulted only because a $12 billion agricultural trade surplus more than erased a nonagricultural deficit of $10 billion."

The article also emphasizes the adverse side effects which this "knee-jerk reaction to rising food prices" can have on long-range inflationary trends.

I have emphasized many times that it makes little sense to encourage farmers to plant row to row and promise them access to the world export markets and then later establish export controls of one kind of another without adequate warning or understanding regarding the impact of such intervention in the market.

This article points up again the need for a balanced program which makes clear the rules under which marketing is carried out so that there can be some clarity and understanding as to what our producers and consumers can expect.

Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, February 24, 1976]

The Perils of Export Manipulation

(By Warren W. Lebeck)

When the administration slammed the door on grain and soybean exports to the Soviet Union this past summer, albeit only temporarily, the action drew predictable protests from farmers and praise from such self-appointed consumer spokesmen as Mr. George Meany. In at least one respect, the Russian response was equally as predictable: Faced with an urgent need to make up for a disastrous sunflower crop, it placed orders to buy upward of 50 million bushels of soybeans from Brazil, at a cost of about $6 a bushel.

Ironically it was an ill-advised American soybean export embargo two years earlier that helped position Brazil to reap the benefits of this roughly $300 million sale. On that occasion, a U.S. abrogation of existing sales commitments prompted two of our largest customers, Japan and West Germany, to seek (and reportedly subsidize) a more reliable source of supply. Brazil was able and anxious. In the two years since then it has doubled its annual production and now accounts for one fourth of the world's soybean exports—a market the U.S. could once call virtually private property. By 1980, Brazil is expected to double production again, almost solely for export.

All of this might be just so much statistics except that it illustrates the folly of a continuing political hypothesis that appears, regrettably, to attract a good deal of public applause, namely that bureaucratic manipulation of agricultural exports can be employed effectively and without adverse side effects to combat domestic inflation. Those who would invoke or support such restrictions as a knee-jerk reaction to rising food prices would do well to consider some of the more pertinent facts, facts which clearly say otherwise.

While no one denies some trickle up effect of sizable farm exports on food prices, the net effect of such exports is overwhelmingly anti-inflationary. The reason is this: At a time when this country is navigating in economic shoal waters with regard to its balance of payments, the agricultural sector of our economy is literally "carrying" the less efficient and less competitive non-agricultural sector. A positive U.S. trade balance last year resulted only because a $12 billion agricultural trade surplus more than erased a non-agricultural trade deficit of $10 billion.

There is no reason to view this situation as a temporary aberration. With imported oil continuing to cost us dearly and other nations matching and even surpassing our industrial productivity, there is little likelihood of maneuvering our non-agricultural trade balance into the black any time soon. The agricultural prospects are considerably brighter. With farm exports of $21 billion and farm imports (sugar, coffee, bananas, etc.) of $9 billion, our agricultural trade is already in the black by a ratio of better than two to one. And it can move even further in that direction in the years ahead if government will refrain from undermining farmers' opportunties and incentives.

What has this to do with inflation and, indeed, the overall health of the American economy? Plenty. For one thing, the purchasing power of the U.S. dollar is linked directly to our balance of payments. Any sharp curtailment of agricultural exports in our present precarious position would send the dollar's value skidding down the same hill as, for example, the British pound. This would, in turn, trigger a potentially steep rise in the dollar cost of everything we import. Considering that we currently import around $100 billion worth of various items each year, the consequences could far outweigh whatever effect agricultural exports of $21 billion a year have on the cost of food.

Moreover, other nations rightfully regard—and resent—the capricious imposition of export controls as an attempt by the United States to "export its inflation." When soybeans were embargoed in 1973 after reaching the political panic point of $11 a bushel, the price on European markets promptly soared to almost $17 a bushel.

In restricting our food exports, we run more than a minor risk of retaliation. And this country is doubly vulnerable. We are vulnerable to actions that would restrict the availability and raise the prices of items we export, including industrial goods. The result in the first instance is an increase in our cost of living and the result in the second instance is a loss of jobs and income.

By refusing to position ourselves as a reliable supplier we eventually destroy our markets. I was in Japan shortly after the disastrous U.S. soybean embargo of 1973. When I discussed it with an official there, no translator was needed to convey his reaction. Like many Japanese who consume soy protein directly in their diets, he was indignant in the nth degree that soybeans were being withheld from Japanese children so that they could be fed instead to American hogs. That the reaction wasn't limited to indignation is evidenced by Japan's reliance on a supplier (Brazil) that is regarded as more reliable.

Our government must somehow learn that age-old law of science—that every action has an opposite reaction—can also apply to economics. But in economics, the long-term reaction may not be merely equal to our short-sighted action. It may be worse.

SENATE ETHICS: A TIME FOR REVIEW AND REFORM

Mr. PERCY. Mr. President, the recent Supreme Court decision on the Federal Election Campaign Act has focused congressional and public attention on the entire topic of ethics.

The topic is one of the most pressing concerns of our time. Because of Watergate, and all the sordid activities that bear its label, politics seems to have become one of the least-admired professions in our society. Because of disclosures about misdeeds of such agencies as the CIA, FBI, IRS and others, the believability and intentions of the executive branch have been widely questioned. Because of revelations about some American corporations bribing foreign governments, the business community is under fire.

The cumulative effect of these developments is a serious erosion of public trust in our institutions—politics, government and business. This erosion threatens the effectiveness of these institutions; restoration of public trust is essential to the future health of American politics, government and business.

A popular theme in Congress today is reform. We hear endless rhetoric that business, labor and education are too big and unresponsive. So the order of the day is: "Reduce excessive regulation. Foster competition. Increase accountability to consumers, students, and voters."

I heartily agree with those who say we must reduce the pervasive bigness in our society. I have joined with the assistant majority leader, Senator ROBERT C. BYRD, in authoring legislation to force action on one phase of this problem—excessive Government regulation of business. We believe our plan would provide benefits for both consumers and producers by fostering competition and reducing inflation.

But along with this type of effort, I believe we must ask ourselves the following questions: What are we really doing to review, reform, and police our own activities in the Senate? Do we further erode public trust when we call for reform of everything but our own institution?

The Federal Election Campaign Act was a major step toward addressing these questions. It sought to create more financial equality in Federal politics. It aimed to make Presidential and congressional politics open to more candidates and contributors.

For the most part, I believe the act has been a success. The Supreme Court decision, based on the principle that raising and spending campaign funds is an expression of free speech, has refined the law. The decision also raised some questions about the law that deserve congressional attention. For example, we should further define the difference between an individual contribution to a campaign and a so-called unauthorized expenditure on behalf of a candidate—one is limited and the other is not. It would be unwise, however, to make major changes in the law during its first year of operation. The addition of congressional races to the public funding provisions of the law, or the creation of a special prosecutor to investigate and pursue violations of the law, should be considered later.

But we must act before March 1 to restore essential powers to the Federal Election Commission, the body established to administer and enforce the campaign act. This can be accomplished by amending section 310(a) of the act with respect to the appointment and composition of the Commission. The Commission will conform with the Supreme Court decision if its members are officers of the United States appointed by the President and confirmed by the Senate.

Because congressional appointment of Commission members was ruled unconstitutional by the Court, the Commission now has only investigatory and informative powers. To function effectively, however, the Commission must have the power to make rules for carrying out the act and the authority to bring civil actions against violators. These are vital enforcement powers that must be restored. Most vital of all, perhaps, is the power to certify candidates for receipt of Federal matching campaign funds.

Some have suggested that Congress should take no action on the Commission without careful and lengthy review. The Commission's performance should be examined and reviewed, but in the meantime it must function. What is more, failure to restore the Commission now could lead to its extinction instead of its reform and refinement. Finally, there is simply no Federal agency capable of performing the Commission's functions. Comptroller General Elmer Staats recently told the congressional leadership that the General Accounting Office does not have the manpower, funds or familiarity with the campaign law to immediately assume the functions of the Commission.

Therefore, the best way to restore the Commission's functions is to act quickly on S. 2911, introduced by Senator SCHWEIKER along with Senators BEALL, CRANSTON, MATHIAS, STAFFORD, HUMPHREY, METCALF, and others. This bill would correct the unconstitutional nature of the Commission—the appointment of Commission members by Congress—by requiring that members be appointed by the President and confirmed by the Senate. The bill is limited to this provision.

In addition to the Federal Election Campaign Act, which I believe will become an even more effective force for fairness and openness because of the Supreme Court decision, I believe we must look carefully at various Senate spending procedures and ask how they affect us as politicians and officeholders. Most of all, we must consider if these procedures violate the very principle of fairness and openness that the campaign act seeks to advance.

One Senate perquisite that is ripe for reform is the franking privilege. This is an expensive privilege that is constantly under public criticism from individuals, the press and such groups as Common

Cause, which has challenged the legality of widespread use of the frank claiming it provides an unfair political advantage to incumbents.

A Chicago newspaper recently reported that the franking privilege will cost $46.1 million this fiscal year for the mailing of 322 million pieces of mail, or about $86,168 for each Senator and Representative. Of course, this free mailing cost has increased as postal rates have climbed.

I know from reading my own mail from Illinoisans that constituents sometimes complain about both the amount and the type of mail they receive from Senate Offices. The most objectionable practice seems to be too frequent mass mailings, some designed more for political advantage than to primarily inform constituents on the issues. This, again, is the primary objection of Common Cause, mostly on the ground that political challengers are placed in an unfair position as they seek to compete with incumbents who exercise the franking privilege.

It would be unreasonable to expect Senators to personally pay postage for letters that respond to constituent inquiries. This is a legitimate use of public funds. But the use of the frank for essentially politically inspired mass mailings is another matter. Many Senators claim that mass mailings are an essential communications tool. How, they ask, can we keep our constituents informed without mass mailings?

Supplementing justifiable and essential congressional mailings are television, radio, and newspapers as the basic communications channels of our society. They provide coverage of legitimate news that reaches every voter in America, and certainly Senators receive as much news coverage as any other single group of leaders in the country, along with the executive branch of Government. It seems unnecessary, therefore, to spend public funds for too frequent mass mailings, the wording of which could cause them to be looked upon more as tools of political influence than justifiable legislative and issue communications.

Our record on controlling the use of the frank is not good enough. As the postage rates have climbed, we have made even more paper available for Senate mailings. Each year, Senators are entitled to paper for mass mailings based on the formula of one piece of paper for each eligible voter in his State. For Illinois, that amounts to over 7 million sheets of paper. And there is no limit to the number of names we can store in the master computer file. Our rules to reduce the political advantage of the frank to incumbents, such as the Senate rule that prohibits mass mailings within 28 days of a primary or general election, seem too weak.

I believe we should tighten the reins on the frank. For instance we should consider banning its use for general mailings by Senators during the calendar year in which they run for reelection.

We should consider the ethics of other Senate perquisites also. Many of these services, if abused, can tip the balance heavily in favor of incumbents.

For example, public funds are provided for staff travel between Washington and a Senator's home State. This is a legitimate expense, necessary for the orderly transaction of business between Senators and their constituents. But the availability of public funds for staff travel can be abused, especially in the case of staff members making an extraordinary number of trips to the home State during an election year.

To guard against this abuse, the Senate should make records of staff travel reimbursements and other office expenses open for public inspection at all times, not just semiannually as it does now. In addition, such records should be compiled for each individual Senator's office, instead of the present system that lists all such expenditures by date regardless of the reimbursement recipient.

Organizations and staffs, completely separate from the Member's Senate staff must be formed to run campaigns. These organizations and staffs and not Senate offices and staff members, should provide management and direction to campaigns. Even the appearance of political activity by Senate staffers should be removed.

These practices and proposals deserve serious study. Where possible, we should act now to reform and enact them. We can never expect the public to fully trust us unless we entrust them with the truth about our operations.

THE LAW ENFORCEMENT IMPROVEMENT ACT OF 1976

Mr. McGOVERN. Mr. President, I wish to commend the Senator from Massachusetts for his sound and thoughtful proposals to improve the programs administered by the Law Enforcement Assistance Administration. I am pleased to be a cosponsor of this important legislation.

Since LEAA was established in 1968, there has been substantial controversy over the degree to which the program as constituted can contribute to real improvements in our law enforcement efforts. Critics of the program have argued that because LEAA is not empowered to evaluate the programs it funds, Federal money is often spent in questionable ways by State and local recipients. The program's defenders have responded by pointing to the importance of keeping law enforcement authority where it clearly ought to be—at the State and local level.

Senator KENNEDY's bill takes both of these legitimate concerns into account. It retains the block grant approach and gives States and localities a good deal more flexibility than they now have in determining how LEAA grant funds are to be spent. This bill would, for example, allow State and local governments to use LEAA grant money to hire additional police officers, judges, and support personnel if they choose to do so. Under existing legislation, LEAA grant funds may not be used for personal compensation.

While providing greater autonomy to the States in the use of funds, the bill also authorizes evaluation of programs by LEAA. This evaluation procedure will enable the Congress to maintain more effective oversight and will bring the Federal Government into the State planning process in a consultative and collaborative manner. With this arrangement, the States can have the benefit of Federal expertise, but will retain the right to make the final decisions on how best to spend the money. It is, I think, a reasonable compromise between Federal and State interests.

Another very attractive feature of this bill is the mechanism it contains to make additional funds available to ease the pressure on our overloaded court system. Instead of requiring the courts to compete for LEAA funds at the State level on the same basis as various executive departments, as often happens with the current program, the bill permits each State to voluntarily establish a judicial planning committee to represent the judiciary in formulating the comprehensive State plan.

This judicial planning committee, to be established by the State legislation and its members chosen by the chief judge of each State, will be well-situated to make comprehensive proposals for strengthening the court system. The judicial planning committee would prepare a court plan and submit it to the State planning agency. The plan would be presumed valid unless rejected by the SPA within a specified period. Federal authorities would become involved only if agreement could not be reached at the State level.

Finally, Mr. President, this bill is a step in the right direction with regard to aid for rural law enforcement agencies. In our justified concern over rising crime in the cities, we have tended to ignore the fact that crime is on the rise in our rural areas as well. In my State of South Dakota, rural police forces in some areas lack such essential items as cruisers and radio equipment.

The main thrust of Senator KENNEDY's bill is, as it should be, toward the areas where crime has reached the epidemic stage. Unlike current law, however, the Kennedy measure acknowledges rural law enforcement needs by requiring each State "to demonstrate a determined effort to improve the quality of law enforcement and criminal justice throughout the State" as a precondition for approval of State plans. While it may be necessary to further clarify the intent of this section at a later date, the language does mandate a more balanced approach to funding than now exists.

Mr. President, the Law Enforcement Improvement Act of 1976 represents a creative approach to making better use of Federal dollars in an area of vital concern to all of our people. Senator KENNEDY has performed a real service in developing this far-sighted legislation.

THE POVERTY OF POWER

Mr. PERCY. Mr. President, the debate on nuclear power is reaching a crescendo. It is a vital debate, and one in which all of us in Congress should be deeply involved. It is an arena ripe for unsubstantiated charges, wild allegations, and unfortunately, on occasion, demagoguery. There are those who state that nuclear power can be properly and safely harnessed by breeder reactors to provide all the energy needed on into the indefinite future. Others argue that committing this Nation to the widespread development of nuclear reactors of the breeder or light-water variety, will inevitably lead to unconscionable safety risks threatening the lives of thousands of our citizens.

Thoughtful people, realizing the complexity of the issues, are likely to be uncertain in their opinions. Those of us who are profoundly troubled by this debate, but are genuinely unsure exactly how to proceed, need much more than shrill arguments based on emotion and preconceived notions. Rather, we need clear, probing analyses that help to delineate the issues, and peel away the confusion.

A useful contribution to the debate about energy has recently been made by Prof. Barry Commoner of Washington University in St. Louis, Mo. He has published a three-part series in the New Yorker—February 2-16, 1976—that will form part of a book, "The Poverty of Power," to be published in May. The articles in the New Yorker transcend the issue of the energy crisis to discuss the economic structure of our society. This discussion is provocative and I do not necessarily agree with everything he says. Dr. Commoner is convinced that the American private enterprise system is inherently unable to meet essential social needs such as developing and producing energy resources that are renewable and nonpolluting, and production processes that do not demand ever-increasing quantities of capital.

My concern here is not to highlight Dr. Commoner's critique of our society but rather to focus specifically on his remarks about the energy problem. A theme that recurs again and again in his articles is the tremendous gap between the minimum amount of energy needed to produce the goods and services that we now enjoy and the much larger amount that we actually use. He argues that by improving the thermodynamic efficiency with which work is done through matching the temperature of the energy source more closely with the temperature needed to accomplish the task, we could reduce the amount of energy now being used by about 60 percent—certainly enough to eliminate oil imports. So, if you need 70-degree heat, it is better to warm it with something closer to 70 degrees than, say, an oil burner at 500 degrees. It is clear from Dr. Commoner's articles that we are using energy even less efficiently than many of us hitherto thought.

As far as oil is concerned, Dr. Commoner asserts that, contrary to common belief, America has enough oil to supply the country during the next 50 or 60 years while renewable sources are being developed. However, unless the oil companies are allowed to earn a rate of profit considerably higher than that of corporations generally, the industry will not be able to generate internally sufficient capital to meet its anticipated requirements. Dr. Commoner points out that the synthetic fuels industry is plagued by similar problems. The production of oil and gas from coal requires vast quantities of capital, something which our economic system appears unable to generate in sufficient quantities.

The central plank of the administration's energy policy is the development of nuclear power. While the problem of highly radioactive waste disposal has not yet been solved, nor the risk of catastrophic accidents eliminated, Dr. Commoner alleges that the whole nuclear program is overshadowed by a much more fundamental problem; namely, that it is uneconomic.

The reason for concentrating on breeder reactors was their supposed economic efficiency. In order for nuclear powerplants to produce cheaper electricity than fossil-fueled plants, uranium fuel—which in 1966 accounted for about 34 percent of the total cost of nuclear-powered production—would have to remain plentiful and cheap. Continuation of light-water reactors would require so much uranium that it would become very expensive as resources became depleted. The breeder reactor could insure a cheap and unlimited fuel supply because it produces fuel while it is producing power.

Thus, Dr. Commoner asserts that the purpose of the breeder was to extend the supply of uranium at a price that would enable nuclear generators to sell their power in competition with coal-fired plants. Since 1966, however, the cost of uranium fuel has become a progressively smaller part of the cost of producing electricity. Between 1966 and 1975, the fuel costs as a proportion of the total cost of producing electricity from nuclear power declined from 34 to 18 percent, whereas capital costs rose from 50 to 77 percent. These changes occurred because the cost of constructing nuclear reactors rose sharply. Thus, continuing steady increases in the capital costs of nuclear reactors have now considerably reduced the significance of fuel costs, so the original argument for developing the breeder has lost its validity. The breeder, Dr. Commoner concludes, has been rendered obsolete by escalating capital costs. But that is hardly the worst of it. Dr. Commoner goes on to show that conventional reactors are producing electricity that is, or soon will be, more expensive than that produced by coal-fired plants. Hence, he maintains, safety arguments aside, the entire nuclear program may be headed for extinction on economic grounds.

Finally, Dr. Commoner turns to a renewable energy source that he says can become commercially viable without devouring huge amounts of capital and without destroying the environment, namely solar energy. He asserts that solar energy can replace all of the present consumption of conventional fuels, even transportation needs requiring a portable fuel. He claims that it is not such a distant commercial reality as some scientists and Government officials claim. Because of his faith in solar energy as the ultimate answer to our need for a clean, renewable energy source, Dr. Commoner strongly recommends that the Federal Government greatly increase its funding for solar energy.

Unfortunately, the length of Dr. Commoner's articles precludes their insertion in the Record. But I hope they will be widely read and discussed. One does not have to agree with everything he says to find his writing extremely thought-provoking and stimulating.

I ask unanimous consent to have a summary of Dr. Commoner's articles printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Summary of Barry Commoner's The Poverty of Power

(As extracted in the New Yorker February 2-16, 1976)

The solution to environmental decay, the energy crisis, and national economic problems can only be found by understanding the complex interdependences between the three basic systems on which our society depends, namely, the ecosystem, the production system and the economic system. Our society operates in such a way as to place these systems in conflict with each other. A national debate is needed to discover better ways to allocate the nation's resources and to insure that these systems operate more harmoniously.

The gap between American oil consumption and domestic oil production can be traced to a rather sudden decline after 1957 in the rate at which oil was discovered in the U.S. This decline occurred not because of the depletion of oil deposits but because oil companies have been making progressively less effort to look for oil, following a period of disappointing economic returns on the domestic oil produced. In the mid-fifties oil companies increased their foreign operations because of their greater profitability. There is no physical reason for the failure of the petroleum industry to match domestic demand with domestic supply. It is now evident that at the present rate of oil consumption America has enough domestic oil for at least fifty years. This is enough to support us during the development of renewable resources. The profitability of investment in petroleum production determines the rate of production. Oil companies invest their capital in whatever activity promises the greatest profit. This may not be the production of American oil.

Another problem is the availability of capital. Unless the oil companies are allowed to earn a rate of profit that considerably exceeds the rate of profit of manufacturing corporations generally, the industry will not be able to generate from its own productive activities the capital needed to maintain, let alone expand, domestic production of oil in the U.S.

There are huge reserves of coal in the U.S., but using them involves two difficult problems. One is the effect of coal production and use on environmental quality and health. The other is how to use coal for transportation. Coal can, however, be chemically converted to a synthetic fuel that can be used in engines now run on liquid petroleum products. Apart from the fact that existing reserves of domestic oil can readily take care of our total needs for such fuels for a period of fifty years or more, the production of synthetic fuels from coal and shale requires enormous capital and energy.

The central plank of the Administration's energy policy is the development of nuclear power. But the problem of highly radioactive waste disposal has not yet been solved, and the risk of a catastrophic accident has not been eliminated.

In 1965, the Atomic Energy Commission

(AEC) decided to cut back its development work on light-water reactors, and to concentrate on the breeder reactor, which produces more fissionable material than it uses. The reason for concentrating on breeders was economic. In order for nuclear power plants to produce cheaper electricity than fossil-fueled plants, uranium fuel (which in 1966 accounted for about 34 percent of the total cost of nuclear-power production) would have to remain plentiful and cheap. Continuation of light-water reactors would require so much uranium that it would become very expensive as resources become depleted. The breeder reactor, however, can ensure a cheap and unlimited fuel supply because it actually produces fuel while it is producing power.

Thus, the purpose of the breeder is to extend the supply of uranium at a price that would enable nuclear generators to sell their power in competition with coal-fired plants. Since 1966, however, the situation has changed drastically, and the cost of uranium fuel has become a progressively smaller part of the cost of producing electricity. Between 1966 and 1975, the fuel costs as a proportion of the total cost of producing electricity from nuclear power declined from 34 to 18 percent, whereas capital costs rose from 50 to 77 percent. These changes occurred because the cost of constructing nucelar reactors rose sharply. Thus, continuing steady increases in the capital costs of nuclear reactors has now considerably reduced the significance of fuel costs, so the original argument for developing the breeder has lost its validity. The breeder has been rendered obsolete by the escalating capital costs of conventional nuclear-power plants.

It has been shown that the breeder cannot be economically justified as a replacement for conventional reactors. It is also true that conventional reactors are producing electricity that is, or soon will be, more expensive than that produced by coal-fired plants. It appears that the entire nuclear program is headed for extinction.

Future energy supplies, unlike present ones, must be renewable, and the only renewable source of energy is the sun. Solar energy cannot only replace a good deal—and, eventually, all—of the present consumption of conventional fuels, and eliminate much environmental pollution, but it can also reverse the trend toward rising energy costs which is so seriously affecting the economic system.

Rather uncomplicated solar devices could take care of the national energy requirements for space heat, hot water and electric power. Transportation needs requiring a portable fuel can be supplied by hydrogen produced by passing solar-generated electricity through water (electrolysis). Hydrogen storage also helps solve the problem of energy supply when the sun does not shine: Fuel cells produce electricity very efficiently when supplied with streams of hydrogen and oxygen gas.

The technical means for converting sunlight into useful work exist, and the cost to bring solar-power devices into commercial operation is not unreasonable. Most recent studies of long-range energy problems conclude that by 2050 or sooner, we could obtain nearly all our energy from the sun.

But immediate use of solar energy by itself is not the solution to our present-day problems. Rather, use of solar energy for certain purposes now provides an opportunity to be less dependent on nuclear technology and synthetic fuels.

Transportation consumes 20 percent of the total American energy budget. Although transportation is, in general, a profitable sector of the production system, it is clear that rational development of efficient transportation facilities is not occurring. Major railroads in the North-eastern and North central areas of the country are bankrupt, and both the auto manufacturing industry and the airline industry are in trouble. Mass transit efforts are unsuccessful and rush-hour traffic clogs city highways.

With remarkable precision, the United States transportation system has favored those modes of transportation which are energy inefficient and are low in capital productivity. As a result, the system now consumes much more fuel and capital than it needs to. The explanation of this sad state of affairs lies in the fact that the profitability of the different modes of transport—which governs the extent to which they are developed—runs counter to both their energy productivity and their capital productivity; that is, high profitability tends to be associated with high requirements for both energy and capital relative to output.

This suggests the hypothesis that the American transportation system fails to perform effectively because its operational design has been governed by profitability rather than social need. An example supporting this hypothesis has been provided by Bradford C. Snel (for the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary). He has documented how General Motors deliberately dismembered the extensive, high-performance transportation system of urban electrified trolleys in order to create a market for its new line of buses. Another example concerns railroads: although railroads are an eminently efficient means of moving people and freight, they yield less profit than alternative investments. There appears to be a conflict between using the railroads as a means of providing maximum social benefits and using them as a means of maximizing profit.

The demand for energy arises in the production system. There has been a revolution in the technology of agricultural and industrial production since World War II that has led to striking reductions in the efficient use of both energy and capital, usually accompanied by a decline in the jobs available per unit of output. Because of this phenomenon, we are facing a shortage of both capital and jobs.

Consumption in the U.S. must be reduced in order to close this capital shortage gap. Thus we have reached the sorry situation that the only way to solve the capital crisis and thus save our economic system is by reducing living standards. This conclusion underlies the title of his book, the "Poverty of Power"—the poverty of the ideas of the powerful in our economic system.

A fundamental fact about the way the capitalist system works is that it is singularly incapable of responding by its own internal mechanisms to social needs such as a livable environment and a reliable petroleum resource. The American private enterprise system has been unable to meet a whole series of essential social needs, including renewable and non-polluting energy resources, and production processes that are sparing in their demand for capital and provide safe opportunities for rewarding employment. One reason for this failure is that in the development of each new production technology, adequate consideration has not been given to social needs, energy and capital efficiencies, environmental degradation and employment opportunities. Rather, in every instance the governing principle has been profit maximization, which frequently seems to work against these goals.

It would have been a fantastically improbable statistical accident if most, or even a small fraction, of the thousands of independent business decisions made in the hope of increasing profits happened to fit neatly into the pattern of a rational thermodynamically-sound energy system.

Thus, the energy crisis confronts us with the need to explore the possibility of creating production and economic systems that are consciously intended to serve the social needs that are now so often overlooked.

CONTAINMENT OF THE KREMLIN

Mr. KENNEDY. Mr. President, during a recent trip to California and Wyoming, Secretary of State Kissinger made three speeches about U.S. foreign policy—and in particular about relations with the Soviet Union and the role of the Congress in helping to shape policy toward the outside world.

In his San Francisco speech of February 3, he called special attention to the war in Angola, and indicated that "it is the first time that Congress has halted national action in the middle of a crisis."

Mr. President, for many of us here in the Congress, stopping that action was important for our Nation's foreign policy—for a variety of reasons, including our view that continued U.S. involvement in Angola would have represented a distortion of our interests in Africa.

The Secretary also related congressional actions on Angola to a questioning of American will:

> What will be the perception of leaders around the world as they make decisions concerning their future security?

It is important to note, however, that it was not the Congress which blew the significance of Angola way up out of proportion; it was not the Congress which said—both during the closing days in Vietnam last spring or after the Senate vote on covert involvement in Angola—that other nations would no longer trust the United States as they had before. These statements, made by the President and the Secretary of State, themselves created any problem they now see—and flew in the face of uncontested facts about our strength as a nation and our unbroken record of willingness—past, present, and undoubtedly for the future—to meet any threat to truly vital U.S. interests.

If there were now any questioning abroad of U.S. will—and I have detected none of any significance among foreign leaders, either friend or foe—then the administration will have only itself to blame for its self-fulfilling prophecies.

Mr. President, this past Monday, the Washington Post printed an extract from Secretary Kissinger's speech in San Francisco, along with a reply from former Ambassador George F. Kennan: a man whose authority on U.S. relations with the Soviet Union can hardly be challenged. I ask unanimous consent that these articles be printed in the Record, and I commend to my colleagues this useful contribution to national debate about vital issues.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Feb. 16, 1976]

Containment of the Kremlin

The issue of how to deal with the Soviet Union is here explored by two of the Americans most intimately involved in it since World War II. Secretary of State Henry Kissinger, whose remarks are excerpted from a speech on Feb. 3, argues that "It is our responsibility to contain Soviet power . . ." George F. Kennan, the former State Department planner credited with authoring the original doctrine of "containment" in 1947, at our invitation responds.

Kissinger: "For the first time in history the Soviet Union can threaten distant places beyond the Eurasian land mass—including the United States."

The issue of how to deal with the Soviet Union has been a central feature of American policy for three decades. What is new today is the culmination of 30 years of postwar growth of Soviet industrial, technological and military power. No American policy caused this. No American policy could have prevented it. But American policy can keep this power from being used to expand Soviet influence to our detriment.

In the period after World War II, our nightmare was that the Soviet Union, after consolidating its occupation of Eastern Europe, might seek to spread its control to other contiguous areas in Europe and Asia. Our policies therefore sought to build alliances and positions of military strength from which we could contain and isolate the Soviet Union.

These policies served us and our allies well. Soviet expansion was checked.

Then, gradually, with the acquisition of nuclear technology and the transformation of the international system through decolonization, the Soviet Union began to emerge as a first class military power.

For the first time in history the Soviet Union can threaten distant places beyond the Eurasian land mass—including the United States. With no part of the world outside the range of its military forces, the U.S.S.R. has begun to define its interests and objectives in global terms. Soviet diplomacy has thrust into the Middle East, Africa and Asia.

Coping with the implication of this emerging superpower has been our central security problem for the last several years. This condition will not go away. And it will perhaps never be conclusively "solved."

It is our responsibility to contain Soviet power without global war, to avoid both abdication, as well as unnecessary confrontation. This can be done, but it requires a delicate and complex policy. We must strive for an equilibrium of power, but we must move beyond it to promote the habits of mutual restraint, coexistence and ultimately, cooperation.

The policies pursued by this administration have been designed to prevent Soviet expansion, but also to build a pattern of relations in which the Soviet Union will always confront penalties for aggression, and also acquire growing incentives for restraint. These goals are well within our capabilities. Soviet power is evolving with considerable unevenness. Soviet society is no longer totally cut off from contact with, or the influences of, the world around it, nor is it without its own needs for outside relationships. It is the great industrial democracies, not the Soviet Union, that are the engines of the world economy and the most promising partners of the poorer nations.

The industrial democracies, if they face their challenges with confidence—if they do not mesmerize themselves with the illusion of simple solution—possess vast strengths to contain Soviet power and to channel that power in constructive directions.

Angola represents the first time that the Soviets have moved militarily at long distance to impose a regime of their choice. It is the first time that the United States has failed to respond to Soviet military moves outside the immediate Soviet orbit. And it is the first time that Congress has halted national action in the middle of a crisis.

When one great power tips the balance of forces decisively in a local conflict through its military intervention—and meets no resistance—an ominous precedent is set, of grave consequences even if the intervention occurs in a seemingly remote area. Such a precedent cannot be tolerated if a lasting easing of tensions is to be achieved. And if the pattern is not broken now, we will face harder choices and higher costs in the future.

To claim that Angola is not an important country, or that the United States has no important interests there, begs the principal question. If the United States is seen to waiver in the face of massive Soviet and Cuban intervention, what will be the perception of leaders around the world as they make decisions concerning their future security? And what conclusions will an unopposed superpower draw when the next opportunity for intervention beckons?

If our divisions paralyze our international efforts, it is America as a whole that will suffer. We have no more urgent task than restoring the partnership between the American people, the Congress and the executive.

Debate is the essence of democracy. But restraint is the cement of national cohesion. It is time to end the self-torment and obsession with our guilt which has threatened to paralyze us for too many years.

Let us learn—even in an election year—the self-discipline to shape our domestic debates into a positive, not a destructive, process.

Kennan: "First of all, it is important to recognize that not all places and regions are of equal importance from this standpoint."

Secretary of State Kissinger's thoughtful and statesmanlike speech represents a welcome and useful contribution from the official side to a public discussion of problems of foreign policy which has long lacked just this sort of steadying.

He pointed to some very real and important differences between the situation that confronted this country in its relation to the Soviet Union in 1947, when the term "containment" first came into use, and the situation that confronts it today. The reference to the greatly increased military strength, particularly naval and amphibious strength, of the Soviet Union can be readily accepted even allowing for the measure of exaggeration which always seems to creep into American statements of this nature. It is also perfectly true that the Soviet Union has a far greater capacity for making this strength felt in regions far from its own shores than was the case 30 years ago. Nothing, finally, could be more true than that Washington, as well as Moscow, must find means of dealing with individual conflicts of interest between the two peoples by means short of all-out war, or even of the serious risk of war.

Nevertheless, when it comes to this complicated problem of Soviet expansionism, or the appearance of it, there are certain nuances and reservations that could usefully be added to what Dr. Kissinger had to say.

First of all, it is important to recognize that not all places and regions are of equal importance from this standpoint. There are some, such as Korea and Cuba, that are of high strategic importance in the sense that they affect the interests of this country and other great powers in an intimate and sensitive way. There are others which have what might be called a local strategic importance, especially from the standpoint of their immediate neighbors, but are of minor significance from the standpoint of the world balance of power. The two must not be equated.

Second, one is obliged to consider the nature of such gains as a great power—in this instance, the Soviet Union—might hope to make through an attempt to establish influence in a region far from its shores. There are many variations of the colonial and neocolonial relationship—and not all of them are greatly advantageous to the dominant external power. Short of total occupation of the territory and suppression of the indigenous government, the attempt to turn the resources of that territory to the exclusive benefit of the outside power is subject to a host of complications. Available evidence suggests that Cuba, for example, has been for years a financial stone around the Soviet neck. While it is certainly important to prevent the Soviet Union or any other great power from gaining positions on other continents from which world peace could be threatened or world stability seriously impaired, there is no reason the United States should feel itself obliged to protect any other power from the assumption of responsibilities that are going to be an awkward burden to it.

Third, most careful attention has to be given to the nature of the tools or the allies we have to work with. What happens if direct intervention is barred and our efforts are restricted to the attempt to assist an existing political faction in a foreign territory? The limits of the quality of that faction as a military and political competitor within the territory affected become the limits of the effectiveness of our own action. If there is any one factor, the ignoring of which has gone farthest to frustrate previous efforts of this sort on our part, it is this. It is not everyone who can be made successful, even with the greatest effort of outside aid.

Finally, there is the recognition that what we wish will not, in many instances, be anything we can hope to achieve with our efforts alone. For this, we will need the support of world, or at least regional, opinion; and we must be careful not to forfeit this by casting ourselves in the same light as our opponents. People are of course sensitive to the show of strength; but they are sensitive to other things, too.

These observations are offered not by way of rebuttal to the very solid appreciations brought forward in the Secretary's speech but to emphasize the point that, even departing from these sound insights, this government has still to evolve principles and methods for asserting its influence in overseas territories which would save it from the sort of failures it has experienced in the past—not just in Vietnam but elsewhere as well.

ROGER L. STEVENS

Mr. PERCY. Mr. President, William Blake once said, "When nations grow old the arts grow cold, and commerce settles on every tree." During this year of our Bicentennial, one of the institutions insuring that this does not happen is the Kennedy Center for the Performing Arts. And the one individual most responsible for the success of the Kennedy Center is Roger L. Stevens.

Before the establishment of the Center, Washington had been suffering from a chronic shortage of cultural resources. Washington had been proud of its cultural activities, however limited, and periodically received national attention for its developing cultural character. However, there was a desire to continue to grow and to nurture a public awareness of all the arts.

As the unpaid chairman and chief executive of the Kennedy Center, Roger Stevens has rectified this situation by tirelessly working for a decade and a half to provide us with a truly great national cultural center. Now an ever-increasing number of people are enjoying the opportunity to be exposed to and to participate in the performing arts.

On January 26, 1976, a Bicentennial salute to the performing arts was held at the Kennedy Center in honor of Roger Stevens. I had the pleasure not only of attending this event, but also of presenting to Roger Stevens a scroll on behalf, the Board of Trustees proclaiming him as an "unstoppable visionary." In making the Kennedy Center the success it is today, Roger Stevens brought to Washington undaunted optimism, creativity, foresight, ingenuity, determination and drive to overcome formidable obstacles, willingness to take risks, and a devotion to the lesser-known as well as the known artists. If the arts brings out the best in people, then certainly the arts have brought out the best in Roger Stevens.

On January 25, 1976, the Washington Post carried an article on Roger Stevens. I ask unanimous consent that the article by Tom Zito entitled "A Low-Key Gambler With a Hot Hand in a High-Stakes Town," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 25, 1976]

A LOW-KEY GAMBLER WITH A HOT HAND IN A HIGH-STAKES TOWN

Don't misunderstand me. I wouldn't want to say I'm impervious to criticism, but if you ever waver, they're down on you like a pack of wolves.

—Roger Lacey Stevens

(By Tom Zito)

Sitting in Sardi's, the upper-crust Broadway hang-out that's 10 blocks from the Empire State Building he bought a quarter century ago for $51.5 million, Roger Stevens gets a quick help from Schuyler Chapin, the former head of the Metropolitan Opera.

"Poor Schuyler," says Stevens to a luncheon companion, offering an explanation for Chapin's departure from the Met after an administrative shuffle. "Nobody wants to be No. 2 and do a good job. So I guess he got out."

At 66, on the day he will be saluted for his work as chairman of the board of the Kennedy Center for The Performing Arts, Roger Lacey Stevens can look back on a life of hardly ever being No. 2.

Once one of the most powerful real estate tycoons in the country and the most prolific producer on Broadway, Stevens is credited by both arts people and politicians with almost singlehandedly relieving Washington—via the Kennedy Center—of its provincial reputation as a cultural hinterland, 200 miles southwest of New York.

There are those who campaign the city's new "cosmopolitan" image is "Kennedy-centric," that the brilliance of the Center's imported stars often keeps local arts groups in the shadows. But if the chronically troubled National Ballet company has folded, many local arts efforts have flourished in a general cultural explosion since the Center opened. Few any longer see Washington as just "dead monuments and dull bureaucracy."

"The Kennedy Center has become the most successful cultural facility in the world," says producer David Merrick. "And all of us have Roger Stevens to thank for that."

Fulsome praise. But advocates and critics agree that Stevens' peculiar combination of strengths was critical, perhaps indispensable, in getting the Center built, squeezing the money out of Congress, setting the priority that decisions should be based on how well the monument-cum-arts complex would function, rather than look.

In doing so he had to thread his way through a maze that included the halls of Congress, proponents of a downtown site, stormy criticism of a marble "Kleenex box on the Potomac." In the end, the people came, the anticipated traffic jams did not; conductor Karl Boehm called the Opera House acoustics virtually the finest in the world; and Washingtonians found—overnight—a plethora of the world's finest stage stars, orchestras and dance companies on their doorstep.

Beyond that, Stevens is being honored tonight for an equally difficult, if less dramatic, accomplishment: making the center work, and continue to work, five years after its gala opening.

Practicality and persistence are Stevens touchstones, and his answer to all criticism remains: Will it, did it work?

"The man never stops thinking about his work," says composer Leonard Bernstein. "I went to visit him in the hospital after he had his heart attack in 1970. I really thought this might be the last time I would ever see him and I said, 'Roger, I can't bring you flowers or candy. What can I do for you?' And he said, 'God damn it, Lenny, finish "Mass."' What an indictment! I hadn't really been working on the piece and I just felt I had to get down and finish it.

"When we were working on 'West Side Story,' we had had a meeting with the original producer who wanted to back out. Somebody thought: 'Call Roger Stevens.' That was 1957. So we went to a pay phone on a corner and called him in London and he said: Whatever you need to do, do. Don't stop. It's a great project.' "

Stevens *is* practical, but there also is something of the high-stakes gambler of an earlier era in this tall, courtly figure.

"I've been working with Roger for 25 years," says Broadway partner Robert Whitehead, "and I still haven't figured the guy out. You have to play God to assess what he's been able to do. I guess he's really an old-time American gambler—softly spoken, but a gambler in that he loves drawing on an inside straight. He enjoys the process in the theater of juggling actors and properties around to see what kind of hand he can lay on the table."

Nobody has quite been able to figure Roger Stevens out.

But this much seems certain. He is a consummate politician in a politician's city. Over the years, the multimillionaire Stevens has forged an "establishment" network of bipartisan political resources, a network virtually unique in the breadth of its connection to leaders in the arts, business, government, society, the media.

His wealth has given him personal independence; his years on Broadway and in London, and the National Endowment for the Arts (which he founded) have given him theatrical expertise; his fund-raising for the Democrats and his present title have given him political savvy and social status. He uses all adroitly, shrewdly.

One device is the "smallish" (up to 50 guests) seated dinners he frequently holds for Washington's power brokers in his comfortable Georgetown home or the discreetly elegant F Street Club.

Often, but not always, they are graced by a visiting stage star like Rex Harrison or Deborah Kerr, often personal friends of his.

The regulars include people like S. Dillon Ripley, Joan Braden, Abe Fortas, "Polly" Wisner Fritchey, Henry Strong, people who can move other people, quietly if necessary. They, along with much of the core of Washington's power structure, will be in the audience tonight as Stevens is honored. He will sit with President and Mrs. Ford, Jacqueline Kennedy Onassis and the Nelson Rockefellers in the Opera House's presidential box. And on stage, or seated below, will be such stars (and old friends) as Henry Fonda, Joshua Logan and Gregory Peck.

"What I'm trying to do is show that Washington is where the action is," Stevens said nearly two years ago at a glittering reception following the Opera House opening of Tom Stoppard's play "Jumpers." It was no ordinary party: Stevens had marshalled people like Henry Kissinger, Sens. Mike Mansfield and Frank Church, Attorney General William Saxbe, Art Buchwald, novelist Herman Wouk and British actor Anthony Quayle.

"Roger has the ability to infuse a real unity of purpose into disparate groups of people because he has such complete, absolute and total belief in what he's doing," says Fortas, a former Supreme Court Justice and Kennedy Center board trustee.

Stevens' life is almost a Horatio Alger saga—with one slight twist. He was born in Detroit and raised in Ann Arbor, the son of Florence and Stanley Stevens, a successful real estate man. His becomes a rags-to-riches tale only because his father lost virtually everything during the Depression. And Stevens hasn't forgotten wearing the same suit of clothes from 1930 until 1935.

As a boy of 7, his mother would tell friends, she took young Roger for walks in the park where he would spend hours watching men play chess. On the way home he would articulate bad moves that had cost games. He would also, with great gusto and success, engage his schoolmates in various card games.

At 12, Stevens visited Washington for the first time with his father, and remembers standing outside the White House where he would later spend many days.

"A guard walked up to me," he says now, "and said, 'If you stay around long enough, young man, you might get to shake hands with President Harding.' I think that thought startled me a bit, and then, maybe he could see the surprise on my face, and he said, 'He's just like any other man.' Well, I guess I had already heard enough stories about the Harding administration and I walked away saying to myself, 'Good heavens, I should hope not!' "

When college time approached, Stevens was accepted by Harvard, but attended his hometown University of Michigan because of the family's financial situation. He dropped out after one semester and, in Detroit, pulled down two jobs; pumping gas by day and working on the Ford assembly line at night.

"I had a very painful job at Ford," he recalls. "When they'd cast a gear there'd be a burr on it and I had to hold it against a revolving steel brush to get the burrs off. Well, on the night shift, one of those famous Ford speed-ups would usually come along. They'd triple the run and to keep up your hands would slip and get cut up. Three people I worked with quit. My reward was that one morning the foreman came around and fired me. That was in 1932, five years before the start of the United Auto Workers' Union. Ever since then I've been a strong supporter of unions—so much so that they (the Kennedy Center board) won't let me negotiate contracts around here. They say I walk into bargaining sessions and hand everything away." (Hardly, retort union workers at the Center).

Stevens kept pumping gas—at $12 a week—and when money got tight he would sometimes sell a pint of his blood. He also, in his words, "devoured the entire Detroit public library," reading authors like James Joyce, Thomas Mann, Shakespeare and his favorite playwright, Luigi Pirandello.

"Don't attribute this to me," says one of his long-time theater cohorts, "but I've always thought that Roger's life has been a compulsive series of compensations for never graduating from college."

In 1934 Stevens followed his father's footsteps into real estate. He was 24 and had one of those insights into an unusual situation that have come to mark his real genius: rushing into areas that most people are abandoning as lost causes, and turning a handsome profit to everyone's surprise. In this instance, he bought apartment house real estate bonds—with borrowed money—that the Depression had sunk to minuscule value, the sold them quickly for twice his cost.

"It was like shooting ducks in a pond," he says. "Well, maybe not that easy, but I just seemed to have a knack at convincing people that things weren't as bad as they seemed to be." In 1935 he made $35,000.

This maverick attitude imbued all he did. At a party he met Christine Gesell, daughter of the chairman of Michigan's physiology department. A sophomore, she told him she wanted to leave school and find a secretarial job. He promised to find her one, even though she knew no shorthand and typed at term-paper speed. When all else failed, Stevens hired her himself. On Jan. 1, 1938, they were married and left for a six-month honeymoon trip around the world.

Life in the '40s became a blur of real estate transactions, with a brief hiatus in the Navy. "I did 'tourist duty' on a carrier out of Miami," he says, where as a lieutenant j.g. he maintained oxygen equipment. His wife recalls him almost going bonkers at having nothing to do. "He wormed his way into four different jobs to keep busy," she says. When he got out, Stevens bought and sold anything: hotels (he still has an interest in one in Clearwater, Fla., and keeps an apartment at another former holding, New York's Hotel Carlyle), office buildings, undeveloped tracts of land.

In 1949, Stevens was approached by an Ann Arbor director who wanted to see the resumption of a theater festival that the war had ended. "He told me he wanted to do 'Twelfth Night,'" Stevens remembers, "and I told him nobody ever does Shakespeare right. But I gave him some money. When I finally saw the play in Ann Arbor I was impressed. He said, 'Why don't you bring the production to New York?' I said, 'Why not?' Well, we got a good review in The Times."

"What an understatement," says Christine Stevens. "He was like a little boy, carrying Brooks Atkinson's review around in his pocket."

"Twelfth Night" ran only a few weeks and lost $40,000. Since then Stevens has mounted 150 other productions, like "West Side Story," "A Man For All Seasons," "Tea and Sympathy," "Absurd Person Singular" and his own good share of clunkers. For 15 years he continued to mix theater and real estate, buying up and developing huge chunks of American cities like Boston, New Haven and Seattle.

"In 1949 my partners in real estate thought I was crazy to get involved in the theater," he recalls. "We were due for a meeting with some officers of the J.P. Morgan bank the day after 'Twelfth Night' opened on Broadway and my partners were very worried. They kept saying, 'The bankers will think you've gone screwy, getting involved in theater.' So we walked into our meeting and the only thing the bankers wanted to know about was how exciting it must be to be involved in Broadway.

"Of course," he adds as a parenthesis, "those were the good old days of banking. If the Morgan Bank liked you, you got whatever money you asked for. None of this committee stuff."

"Here's a guy who can tell any New York banker what to do with his money," says Joseph Papp, the controversial director of the New York Shakespeare Festival. "And he's just a kid around actors and directors—a starry-eyed youngster."

"He deals with ego, ego all the time, but he's really a very shy man," says Stevens' administrative assistant of 11 years, Charlotte Woolard, who doubles as acting secretary to the board of trustees.

It's that shyness—and his 6-foot-2 stature—that sometimes makes Stevens seem snobbish, even arrogant to those who meet him peripherally. "He'll walk by people and not say say anything and they figure, 'Oh, he thinks he's so above us,'" says Channel 5 cultural reporter Roy Meachum. "In fact it's because he's so incredibly shy, or else his mind is 10 miles away. Roger is a very weird Pisces."

Roger Stevens is something of a paradox. His home sits on a large lot in comfortable Georgetown. He travels within a circle of stars, presides over lunches at the Sans Souci and is frequently accused of name-dropping. But he wears simple clothes, doesn't own a car, and seems to have a sense of class without class distinction.

Some people in the smaller arts organizations in Washington feel threatened by and naturally suspicious of the Kennedy Center's dominance. Some think that Stevens "treats anyone not of Kennedy Center status like dirt and sneers at them," in the words of one critic. They claim Stevens is too powerful, while simultaneously admitting that they don't really know what goes on within the Kennedy Center because Stevens is such a one-man show. They call him vain, haughty, thin-skinned and deceptive. And they keep their criticisms anonymous, for fear of his retaliatory powers.

Then there are those who feel, perhaps with more justification, that Stevens is too traditional, too establishment, too partial to the London stage, not open enough to new ideas in his programming at the Center, and not concerned enough with local arts groups and younger talent.

Stevens answers that criticism by first saying the Kennedy Center has "worked." It continues to draw audiences without the subsidies many forecast, and has not turned into the white elephant others predicted. As for risks, Stevens cites plays like "Jumpers" and Genet's "The Blacks," and says the need for more experimental works will be served when the 550-seat utility theater, a $3 million Bicentennial gift from Japan, is built on the Center's upper level. And he cites his personal support of groups like Arena Stage, the D.C. Black Reportory Company and the Washington Opera Society.

Another paradox: naivete and expertise. It's hard to imagine, for instance, an admission from the former owner of the Empire State Building that he's never seen or heard of "King Kong." "Really, a gorilla climbs up the thing?" he asks in disbelief: "How interesting."

Still another paradox: wealth and parsimony. A 1954 New Yorker profile by E. J. Kahn Jr., observed: "Although Stevens has occupied his office in the Empire State Building for two years now, he has not yet bothered to order any stationery with that address, and most of his business letters are written on some old Detroit letterheads brought along when he came East, with 'Empire State Building' typed on (by his secretary) at the top."

(The building was sold three years after the syndicate Stevens headed had bought it, and his profit alone was more than $1 million.)

Like any good gambler, Roger Stevens is a man who understands loyalties, an essential element in garnering respect.

"Everybody loves you when you're hot and successful, when your dice are falling right," says Elizabeth Ashley, a woman whose contempt for "the establishment" and brash style would seem at odds with Stevens.' (Actually he regards her fondly as a sort of wayward daughter.)

"The old test is: Who believes in you when your luck runs out? Roger Stevens, more than anyone—more than me—believed in me when my career had been destroyed. He's the greatest big-time carnival barker this country has ever produced, and he knows how to toot your horn when you don't have the strength to blow."

In contrast, another young professional, Dustin Hoffman, has bitter memories of his only encounter with Stevens. Hoffman claims that Stevens withdrew support of "All Over Town," the actor's first directing assignment, three days before rehearsals were to begin. And Hoffman says Stevens also bumped his production to the National Theater, to get the London hit "Sherlock Holmes" into the Center.

"He's lying through his teeth," counters Stevens. "I simply didn't like it. We made no commitment other than the $5,000 (nonrefundable) I paid him as option on the play. And he forgets that I sent him to Adela Holzer who put up $300,000 to get his show produced."

"When Jose Quintero wanted to do 'Long Day's Journey . . . .' he couldn't come up with the money," recalls actor Jason Robards, who is much closer in years and friendship to Stevens. "Mrs. O'Neill had stipulated that no Broadway producers get involved, because she was afraid they'd want to cut it for commercial reasons. So Roger told Jose he'd put up the money without having his name on the show. I remember going to a party at the Plaza after we opened. I said to Jose, 'Who's that guy over there with the bald head?' And he said to me, 'That's Roger Stevens. He put up the money for the show.' That was 20 years ago, the first time I met him. He has been a real supporter ever since. You couldn't get work, you went to see Roger. He and Bob (Whitehead) always had their door open. Nobody else is like that. They still take time to talk with kids."

Indeed. On a recent afternoon in New York, where Stevens is currently involved in helping ready the new Bernstein-Lerner musical, "1600 Pennsylvania Avenue" for a Bicentennial Kennedy Center debut, he takes time to talk with a new face—Marion Charles.

The young actress walks into the office he shares with Whitehead, a scruffy but comfortable room filled with scripts and bound volumes of plays and old theater magazines. Stevens lifts his feet from the desk and stands to greet the young woman, dressed in an effectively tight orange dress, effectively unbuttoned.

"I really want to grow and become full in the theater," she says. "I've done some little things on television, but that's not art to me. . . ."

"There's a lot of activity around here," says Stevens. "I'm sure something will come up. He tells her to check back with the office every few weeks.

Marion Charles exits and Roger Stevens stands up, perhaps displaying a bit of his stage-struck quality.

"Good heavens. She's an awfully pretty girl! If she can do any kind of acting at all she ought to be able to land a part."

Back to his desk. On the telephone, dialing his own calls. "Hello, this is Roger Stevens, and I'm with the Kennedy Center. I understand you have the rights to Bob Sherwood's 'Idiot's Delight.' You'll never have a chance to work out a better deal than with us. A bother? That's what I'm around for, to be bothered."

Fifteen minutes later, he hangs up the phone. "JEEZUS, what a loquacious guy!" he shouts. Another call. He covers the mouthpiece of the phone and yells to someone in the next room, "Betty (Lauren) Bacall still says she'd like to do it."

Another line rings—Martin Feinstein, the Kennedy Center's executive director of performing arts, the man Stevens has charged with booking the Center's music and dance programs "because I don't really know much about them."

"I'm still here signing the contracts, Martin," he says in a jovial tone, "and I think I ought to get paid for straining my wrist."

A secretary walks in. "Your attorney is on the line." He picks up another phone and, covering the mouthpiece, observes, "The trouble with the theater is that nothing ever happens. You spend all your time waiting for lawyers."

"It's just plain blackmail on the part of the government," he says into the receiver. "How can anyone say that a guy who has 5½ per cent of a deal isn't involved in an arm's length transaction? They say I owe $220,000 on that deal in back taxes, and they'll take $110,000? Blackmail! Take it to the Supreme Court! There must be some justice along the line somewhere. What do you mean it's a great deal? How the hell can you be half liable? Either I owe them $220,000 or I owe them nothing. I'm being screwed and I'm not going to submit to it!"

He hangs up the phone.

"You know, there is nothing more ridiculous than the government," he tells a reporter sitting in his office. "They are the biggest bunch of deadheads in the world. I worked for Adlai Stevenson in 1952 and 1956, raising money for his campaign, and I swore I would never take a government job.

"When John Kennedy was elected, Stevenson called me up and said, 'Roger, how would you like to be an ambassador?" And I said, "Adlai, god damn it, I told you I never wanted a government job.' Ambassadors. Ugh! They're public relations men. They make all the decisions for you in Washington and then teletype the things you're supposed to say."

Stevens says he accepted the job of running the Kennedy Center "because somebody had to do it." He had proposed the National Council on the Arts in 1966, and at Lyndon Johnson's behest assumed the task of raising the $75 million needed to transform Kennedy's dream for a national cultural center into a memorial to the slain President.

"I almost botched the thing before it got off the ground," Stevens recalls. "I was at the White House with Mrs. Kennedy and Mrs. Eisenhower. We were supposed to meet with President Kennedy to discuss plans for the building. He walked into the room and wandered around with a pained, annoyed look on his face. Finally Mrs. Kennedy told me I was sitting in his rocking chair. I moved, he sat down and we got some work done."

Stevens receives no salary for running the Kennedy Center, or for his work as president of Kennedy Center Productions, a nonprofit corporation that mounts Center theatrical projects which frequently go on the road. He says he pays almost all his own expenses, which include at least two trips a year to London to look at plays and, last year, $2,000 out of pocket for flowers sent to actresses.

But skeptics, again virtually all anonymous, wonder whether Stevens—though unsalaried—is turning a handsome profit on independent Whitehead/Stevens plays brought into Kennedy Center houses. They argue that his ability to book his own productions into the Center may pose a conflict.

To this Stevens responds that any production in which he has a financial interest is "cleared by the Board and booked under exactly the same terms offered all other producers." And, says Stevens, "Unfortunately, I've lost money" overall on these ventures. The red ink from some plays has swamped profits from others, he says, although he hopes to do better with "1600 Pennsylvania Avenue" this spring and "Matter of Gravity," the play he brought into the National, starring Katharine Hepburn which now "is doing well" on Broadway.

Stevens stresses that virtually all his income comes from syndicate real estate investments—hotels, office buildings, shopping centers in California, Florida, Connecticut—in which he acquired an interest 15 or more years ago. "I haven't been involved in any real estate ventures since I became connected with government. His last major deal, he adds, was in 1960. It involved 12,000 acres near Santa Maria, Calif., on which "we wound up taking a loss."

Estimating his "net" wealth at $5 to 6 million if his assets were subjected to "speedy liquidation," Stevens said he has "literally no liquid assets. You have to understand . . . my holdings are in partnerships. It's not as if I could get my share tomorrow."

Obviously, Stevens adds, he still has a "very substantial" annual income. "I'm not suffering," but, basically it all goes to "taxes, gifts and eating. There's not much left over."

"I'm not as well off as everybody thinks. I've gone through a lot of capital since the 1950s. I haven't as much (in dollar terms) as I had in 1955 and money then was worth three times as much."

"I've been giving away half my income," says Stevens, "for a period of years"—to the Center, charities, local arts groups, and animal welfare causes in which his wife is heavily involved.

"I see no point in dying rich."

"The most surprising thing about Christine and Roger is their house," says actor Anthony Quayle. It's so pleasant yet so modest. Nothing grand. It's furnished for comfort, something you don't really expect in that Georgetown scene. When they give one of their garden parties you feel completely relaxed, refreshed."

The Georgetown home, set back well off 34th Street on a three-quarter acre lot, is a charming, faintly worn and comfortable old farmhouse. It whispers status with self-confident understatement: the paintings that unobtrusively grace the living room walls are by Monet, Chagal and Utrillo. The furniture fits the style and period of the place. Two stray dogs, Minnie and Follow, adopted by Stevens' gracious and serenely beautiful wife, Christine, wander through the halls.

Stevens is an early riser, often up at dawn. He walks three or four miles every morning and then returns for a breakfast of orange juice, melon and tea.

He frequently walks to his office, something he always does on Saturday, usually arriving by 9 a.m. On other days he is driven in the Center's leased Mercury by a chauffeur, half of whose salary he pays. He returns home at 3 for an afternoon nap—ordered by his doctor after his heart attack. He usually returns to the Center in the evening for more work, after dining with Christine.

Stevens immensely enjoys his regular lunches at the Sans Souci, where he holds court with other powers of political, social and corporate Washington. His diet and tastes tends to restrict him to cheese omelettes or fish, a salad and white wine. He abhors foods that have been frozen.

Even if Roger Stevens did get the Kennedy Center built, he sometimes goes unnoticed there. At a recent lunch at La Grand Scene, the rooftop dining room, he sat for half an hour as waiters breezed by his table. Finally he held up his glass and asked, "Could we get a little water?"

Later, walking to his second floor office, he picks up pebbles on the red carpet in the Grand Foyer and replaces them in a large planter. A photograph on his wall shows him sprawled on the carpeting with a child, coloring a book with crayons. "The only picture that ever made me look human," he says.

His office is spacious, comfortably functional, filled with photographs of the Center at different stages of its development and a huge mural composed of programs from plays he produced. A desk and a round table are buried under papers and reports.

The walls of the reception are hung with posters from shows he's staged: "Alfred Lunt and Lynn Fontanne in The Visit;" "The Caretaker—a new comedy/drama by Harold Pinter—with Barry Morse and Patrick Horgan;" "Major Barbara with Charles Laughton, Burgess Meredith, Glynis Johns and Eli Wallach;" "Deborah Kerr in Elia Kazan's production of Tea and Sympathy." A lone 59¢ goldfish swims in a bowl on a coffee table.

"Whenever he's not working he's reading," says his wife, "three or four books, four or five scripts a week. He'll pick up something to read and finish it, no matter how boring it seems to me. He always says it's the least courtesy you can pay an author." Recently he mixed "Three Trapped Tigers," a novel by G. Cabrera Infante; the nonfictional "Among The Elephants" by Ian and Oria Douglas Hamilton; and two plays; Ruth Augustus Goetz's "The Heiress" and Sidney Howard's "The Late Christopher Bean."

Sometimes Stevens watches football or baseball on TV. He rarely goes to the movies, perhaps remembering the day he saw a filmed version of a play he had produced, "Under The Yum Yum Tree." "What a bore," he says tersely. He never even saw the film of "West Side Story," although his share of royalties from the cast album has been $75,000 annually for the past 10 years. "My rights ran out last year," he says, "and I'll feel that in my pocket." Recently he did see one film: " 'The Cuckoo Flew Over The Roof' (sic) with Jack Nichols (sic)—ah—what's that actor's name? I always forget names and titles. Anyway, I thought the language was disgusting."

It is this old-fashioned, even prudish attitude that not so long ago helped prompt Stevens to reject as unfit for the Kennedy Center the contemporary, Tony Award-winning play "Equus," Though he says his primary reason for passing it up and letting it go to Broadway—a judgment he has been criticized for—was that it was "talky and obscure," he was offended by its four-letter language and nudity."

There still was another, very personal, factor that may have swayed Stevens' decision on "Equus," a scene in which horses are maimed. His wife with whom he has a warm, obviously deep, and very private personal relationship, founded the Animal Welfare Institute 25 years ago. Since then she has lobbied continuously for humane treatment of animals. Stevens occasionally sports a tie emblazoned with whales, a symbol of his wife's "Save The Whales" campaign. Their only child, Christabel, who's now 37, is married to New York instrument maker Hugh Gough, who has made lutes with inlaid dolphins as a gesture to his mother-in-law.

"She's really much busier than I am," Stevens says. "I'm amazed at the way she can keep track and read through all the pending legislation. I can't wade through that congressional verbiage."

Unlike most men his age, Stevens rarely looks back.

"Defeat doesn't exist for him," says Whitehead. "He's too immersed in the future to worry about post mortems. Everything has to have a sense of adventure."

"The older we get the busier we get," says Christine Stevens. "I can't imagine Roger being retired. He always says that if the revolution comes, he wants to be a gardener."

Perhaps. But then if the revolution does come, Roger Stevens will probably get himself appointed Minister of Gardening. Without pay, of course.

ABA REVERSES STAND ON GENOCIDE CONVENTION

Mr. KENNEDY. Mr. President, the American Bar Association House of Delegates voted to reverse its traditional opposition to the Genocide Convention. For one who has long supported efforts in the Senate to come to grips with the issue of genocide, I welcome this important step.

If the United States is to uphold its long tradition of humanitarian concern, it is imperative that the Senate go on record, once and for all against the tragic excesses of war and civilian destruction—and finally vote to ratify the Genocide Convention.

As chairman of the Refugee Subcommittee, I have seen firsthand the waste of violence and the human toll involved in genocidal conflict. This burden of strife which continues to strike at man's conscience can be reduced by supporting the international community on this important treaty.

Over 80 nations have voted to ratify the Genocide Treaty. I am hopeful that the Senate will soon have another opportunity to confront this issue once again in the immediate days ahead.

Mr. President, I ask unanimous consent that an editorial appearing in today's New York Times on the recent ABA vote be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TO BANISH GENOCIDE

At long last, the American Bar Association has reversed its stand against the United Nations Genocide Convention and recommended United States ratification of that humanitarian treaty. The turnaround by the A.B.A. House of Delegates at its recent meeting in Philadelphia removes an aura of respectability in which opponents of the convention—in the Senate and elsewhere—had been able to cloak themselves for more than a quarter century.

With memories still fresh of Hitler's "final solution" for six million Jews, the United States delegation and individual Americans played leading roles in drafting the treaty—known formally as the Convention on the Prevention and Punishment of the Crime of Genocide—and in getting it approved unanimously by the U.N. General Assembly in 1948. Then, despite repeated endorsements by Presidents, Secretaries of State and Attorneys General, the United States stalled on ratification.

The A.B.A. first came out against ratification in 1949, and very narrowly reiterated this stand in 1970, in the face of support for the treaty by its own president and three of its committees. While conjuring up bogus spectacles of Americans being summoned before alien courts on charges of racial discrimination at home, Senate opponents invariably fell back on the A.B.A. attitude as the clincher for their arguments.

A decisive majority on the Senate Foreign Relations Committee has long favored ratification and so reported in 1973, only to lose two attempts the next year to invoke cloture and end a filibuster on the issue. The gains liberals have made in the Senate, the reduction to sixty in the votes required for cloture and, above all, the shift in position of the A.B.A. should remove any doubt about the affirmative outcome of the next Senate vote.

Four score nations, including all the leading powers, have now ratified the Genocide Convention. It is past time for the United States to join them in striking a blow both for humanitarianism and for a significant extension of international law.

PROFESSIONAL POLLING SOCIETY CRITICIZES PHONY BUSINESS-FUNDED POLL ON CONSUMER AGENCY

Mr. PERCY. Mr. President, during the course of the debate on S. 200, the legislation to create an Agency for Consumer Advocacy, repeated references were made on the Senate floor to certain poll results emanating from a survey sponsored and paid for by the Business Roundtable, which at the time was lobbying heavily against the bill.

The poll was conducted by the Opinion Research Corp. of Princeton, N.J. It purported to show that 75 percent of adult Americans were opposed to the creation of an ACA. The results of that poll were drawn upon and widely touted by opponents of the proposed legislation. However, as I mentioned at the time, those results were inaccurate and misleading because the questions on which they were based were loaded.

On June 6, 1975, I shared with my colleagues a critical analysis of the poll prepared by the highly reputable Congressional Research Service of the Library of Congress. At my request, CRS had conducted a detailed and thorough examination of the Business Roundtable Opinion Research Corp. poll, and concluded that "it is not possible to use the Opinion Research poll to arrive at a final conclusion" on the matter of the public opinion towards the creation of an Agency for Consumer Advocacy.

Today, I would like to call attention to another report which utterly debunks any claim to objectivity in the findings of that poll. At the request of Carol Foreman, the very able executive director of the Consumer Federation of America, the American Association for Public Opinion Research—AAPOR—formed a special blue-ribbon committee to conduct an inquiry into the professional ethics of the Opinion Research Corporation in conducting the poll.

On February 3, 1976, the AAPOR released the results of that inquiry. After a several month investigation, described by its distinguished chairman, Dr. Mervin Field, as "important and far-reaching," and by a vote of 11 to 1, the special committee overwhelmingly concluded that—First, the questions used in the Opinion Research survey had a degree of bias in the direction of obtaining an anti-consumer response; and second, the Opinion Research Corp. had made interpretations which do not appear to be supported by the data made public.

In releasing the AAPOR report, Dr. Field commented that—

> We must continue to be vigilant to protect the integrity of one of the most significant social inventions of the twentieth century—the public opinion survey method.

I completely concur with his observation. The misuse and abuse of public opinion research, by a body which purports to adhere to high professional standards, to advocate or oppose a public policy decision is reprehensible. As the AAPOR committee of peers note in its report, there is a special burden upon the researchers to make their questions as objective and free of bias as possible.

The use of loaded questions, as in the Business Roundtable/Opinion Research poll, could only be expected to result in loaded answers. To claim, on the basis of such biased questions, that the American public opposes an agency for consumer advocacy is an unjust and misleading characterization, which may well have unfairly influenced the votes of my colleagues in the Senate and in the House.

The record must be set straight. Accordingly, Mr. President, I ask unanimous consent that the AAPOR news release on this subject, and a February 18, 1976 New York Times article on the findings of the AAPOR committee inquiry, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POLL ON U.S. AGENCY IS TERMED BIASED

(By Frances Cerra)

In January 1975 an opinion poll conducted for the Business Roundtable by the Opinion Research Corporation asked this question:

"Those in favor of setting up an additional Federal Consumer Protection Agency on top of all the other agencies say it is needed because the agencies we have are not getting the job done by themselves. Those who oppose setting up the additional agency say that we already have plenty of government agencies to protect consumers, and it's just a matter of making them work better. How do you feel?

"Do you favor setting up an additional Consumer Protection Agency over all the others, do you favor doing what is necessary to make the agencies we now have more effective in protecting consumer interests?"

In March 1975, Opinion Research reported that "75 percent of the American adults were opposed to the creation of a consumer advocacy agency" on the basis of answers they gave to the above question.

That conclusion, heralded at the time by Congressional critics of the bill to set up the agency, does "not appear to be supported by the data made public," according to the American Association for Public Opinion Research, a trade organization of businesses and individuals.

CONSUMER APPEAL

The association made that judgment after studying the poll at the request of Carole Tucker, Foreman, executive director of the Consumer Federation of America.

Mrs. Foreman appealed to the association for an objective appraisal of the poll because she considered it "slanted" and "deliberately misleading."

Release of the Poll's results at a time when Congress was debating the agency proposal put its proponents "on the defensive," she said in an interview, and may have influenced the ultimate vote. (The bill passed, but narrowly, in the House, and is now awaiting action by a House-Senate conference to resolve differences in the two versions.)

In criticizing the poll, the association noted that apparently only 1 percent of the people sampled had any "reasonable" understanding of the fact that the principal role envisoned for a Consumer Protection Agency was to act as a watchdog of the other agencies. The remaining 99 percent were asked to judge solely on the basis of the information in the question.

The association also concluded that the questionnaire was "probably biased" against formation of the agency. It noted that respondents had been given only two ways to answer the question: in favor of the new agency or making the existing ones more effective. Those two answers, said the association, "are not necessarily mutually exclusive but could be complementary."

The association did not find any evidence of "deliberate intent to bias" the poll.

Mrs. Foreman said that she was "delighted" with the association's conclusions, but that she still believed the polling organization deliberately biased the poll. In a letter to the association, Harry W. O'Neill, executive vice president of Opinion Research Corporation, defended its reporting of the results of the poll as "true and accurate."

He asserted that if respondents had been confused about the purpose of the new agency they could have responded "no opinion."

"It turned out that, overwhelmingly, they did have an opinion, and that opinion was not in favor of creating a new agency," he wrote.

AMERICAN ASSOCIATION FOR PUBLIC OPINION RESEARCH REPORT FINDINGS OF INQUIRY INTO ORC CONSUMER ADVOCACY AGENCY POLL

NEW YORK.—The Executive Council of the American Association for Public Opinion Research (AAPOR) today released a report on the findings of an inquiry into a survey taken by Opinion Research Corporation of Princeton, New Jersey.

The investigation resulted from specific charges brought by Carol Tucker Foreman of the Consumer Federation of America that a national survey of public opinion conducted in January, 1975 by Opinion Research Corporation for the Business Roundtable "verges on fraud" and was "slanted" against consumer advocacy. The survey findings released by ORC in March, 1975 stated that "75% of the American adults were opposed to the creation of a consumer advocacy agency."

Some highlights of the Committee's conclusions:

1. ORC did make interpretations which do not appear to be supported by the data made public, and in doing so acted contrary to the standards called for in the AAPOR Code.

2. The questions used in the survey had some degree of bias in the direction of obtaining an anti-consumer advocacy or anti-bureaucratic response, but a finding of *deliberate* intent to bias is not supported by any evidence before The Committee and ORC was found not to be in violation on this issue.

3. In every instance, ORC made full disclosure of methodology, findings, and other survey details to the public and The Committee, and as a result ORC was found not in violation of the AAPOR Code on this issue.

The Committee pointed out in its report that the conduct of research to provide objective findings to be used to advocate, or oppose, a public policy decision is neither unethical nor unprofessional. However, it does place a special burden on the researchers to demonstrate that their questions are objective and as free of potential bias as it is possible to make them. ORC was not as diligent in doing this as it should have been, the Committee said, but it found no evidence of deliberate intent on ORS's part to bias or slant the survey.

The Committee also took note that there was considerable "intemperate" criticism of ORC, some of it from professional sources. While there should always be room for criticism, the Committee said, "members of the opinion research profession who find themselves in the policy research arena are badly in need of further support and guidance from their peers as to what constitutes proper and ethical behavior."

The twelve person committee comprised a representative group of AAPOR members with applied, theoretical and academic research backgrounds. The Committee, headed by Mervin D. Field, President of Field Research Corporation, and Chairperson of AAPOR's Standards Committee, spent several months in its deliberation. The findings in the report were endorsed by an eleven to one vote. Members of The Committee were:

Dr. Robert T. Bower, Director of Bureau of Social Science Research;

Dr. Theodore F. Dunn, Senior Vice-President, Benton & Bowles, Inc.;

Mr. Lawrence G. Gibson, Director of Marketing Research, General Mills, Inc.;

Dr. Maureen Kaufman Kallick, Program Director, Institute for Social Research;

Dr. Harold H. Kassarjian, Professor of Marketing, Consumer Behavior, University of California Graduate School of Management, Los Angeles;

Mr. Philip Meyer, Knight Newspapers, Inc.;

Mr. Paul K. Perry, President, The Gallup Organization, Inc.;

Dr. Ithiel deSola Pool, Professor, Dept. of Political Science, Massachusetts Institute of Technology;

Dr. Charles Knight Ramond, President, Marketing Control, Inc.;

Ms. Alice Padawer-Singer, Bureau of Applied Social Research, Columbia University;

Mr. Frank D. Walker, President, Walker Research, Inc.; and

Dr. Daniel Yankelovich, Yankelovich, Skelly and White, Inc.

"This has been an important and far reaching investigation," Field commented. "The opinion research profession will find its procedures and its ethics subjected to increasing scrutiny as public opinion research becomes more involved in the formation of public policy. We must continue to be vigilant to protect the integrity of one of the most significant social inventions of the twentieth century—the public opinion survey method."

A REBUTTAL TO THE ANTIGOVERNMENT TACTIC

Mr. McGOVERN. Mr. President, I have been increasingly disturbed by the tendency of some politicians to run for high office by running against the U.S. Government. It has been popular in some quarters since the days of George Washington to ridicule the Federal Government. Politicians and, indeed, our entire political process have always been a popular target for critics looking for a cheap shot.

This year, especially, we are told by political commentators that it is popular for candidates to pretend that they are against both politics and the Federal Government. It leaves one wondering why they are interested in being elected to high office if they regard the process and the end result with such distaste.

Recognizing that there is ample room for fundamental reform, I nevertheless am proud of the Federal Government, and I believe it has a continuing strong role to play in the life of this Nation. Many of the attacks being made against Federal programs today come from those who have no answers to the Nation's problems, and in some cases these attacks come from men who are sabotaging the very programs they are supposed to be administering.

In a recent speech to the Woman's National Democratic Club, I expressed my concerns about these themes. In another forum, Mr. Vernon E. Jordan, Jr., executive director of the National Urban League, expressed a similar view. Mr. Jordan, writing in the February 23 issue of Newsweek magazine, makes this observation:

> It's a curious phenomenon—the President and candidates for his office all running against the government they want to lead.

Mr. Jordan further observes:

> The candidates may think they reflect public opinion, but they only reflect their own lack of understanding about the rightful place of a national government that is the only institution we have capable of uniting the strands that make up America, and capable of setting national priorities and implementing them.

Mr. President, I ask unanimous consent that the text of my address referred to above, as well as Mr. Jordan's brilliant article, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEW POLITICS AND OLD VALUES

(By Senator GEORGE McGOVERN)

In these days the new national pastime is attacking the federal government. We are advised that to capture the public mood of political disillusionment, politicians must run against the practice of politics in general and the federal government in particular.

Contrary to this prevalent view, I confess that for 23 years I have loved the art of politics and the practice of government. For 19 years I have enjoyed this capital city, its monuments, its bureaus, its political conversations, and the workings of government. I would rather be working in Washington than in any other city in the world. I even like civil servants and bureaucrats and foreign service officers—even Senators and Congressmen, Supreme Court justices and Presidents. There are some days when I even feel a tinge of affection for the national press corps.

But this is not the view of Reagan, Ford, Wallace and one or two other presidential aspirants. They seem to be competing with each other as to which one most despises politics and the federal government. If one of them is elected, we can only assume that he will carry out his platform by dismantling the government or withdrawing from political life.

The whole matter reminds me of the candidate who admitted that his incumbent opponent knew more about public service than he did. "But," he said, "my opponent has a questionable private life." To which the incumbent replied: "Since my challenger has an impeccable private life and admits the superiority of my public life, I suggest that the people's interests are best served if he continues his private pursuits and I continue my public service."

In this spirit, if Mr. Reagan doesn't like the federal government, all of us should help to keep him out of it. And if Mr. Ford is too deeply troubled by the flaws of Washington residents, let us return him to the good life in Grand Rapids.

As I listen to the fulminations of Ronald Reagan against the U.S. government, I get the impression he is attacking a hostile foreign power. His blasts against Washington must be the envy of the propaganda ministries in Moscow, Havana or the PLO.

It is even more startling to hear the President of the United States join in the chorus of attacks against the federal government—especially against the Congress.

Reagan thinks the entire United States government is a conspiracy. Jerry Ford has located the source of the conspiracy in the Congress and he is out to slay this monster with the veto sword.

On 46 occasions he has vetoed legislation passed by majority vote of the Congress—

apparently on the theory that he has a mandate more legitimate than those of us elected by the people of the fifty States.

But why this contempt for Congress on the part of Mr. Ford—of all people? Where did he come from? Did he descend into the White House from the heavens?

If there ever was a President who was a creature of the Congress, it is Jerry Ford. When he was asking us to confirm him as Vice President, he boasted that Congress had been his home and his life for a quarter-century. He assured us that if confirmed, he wouldn't pardon Richard Nixon until the judicial process had worked its will.

Jerry Ford hasn't lost his balance; he's lost his memory! He's forgotten where he came from and how he got here. He has no mandate from the people to rule the nation. He got one vote for President—Richard Nixon's! He can't run on a slogan, "Re-elect the President"; it's got to be "Re-appoint the President." That's going to be difficult with his appointer in China and his challenger in New Hampshire.

Mr. Ford had a historic opportunity 18 months ago to join hands with the Congress in a desperately needed effort to heal the nation, restate its goals, and restore public confidence in the governmental process. Instead of that, he has declared war on the Congress and paralyzed the governmental process.

American government under Ford is government by veto. He rules the nation by himself plus one-third of either the House or the Senate. Imagine—46 vetoes in 18 months. There is no precedent for this in 200 years of American history.

And so the nation is paralyzed and government is assailed by the very men who render it ineffective.

The founding fathers did not intend the veto to be used as a device to replace representative government with one-man rule. Read Madison, Hamilton and Jay in the Federalist and you will find them reasoning that the veto should be used only in those instances when the President believed a congressional action to be unconstitutional or an invasion of the constitutional prerogatives of the presidential office. They did not see the veto as a device to frustrate the will of the majority. But Mr. Ford with his mandate of one from the predecessor he has pardoned uses the veto to shackle the public will. And he has used that veto, not to reduce injustice and crime and misery, but to frustrate the most deeply human needs of the nation.

Thus we have vetoes of the child nutrition bill, the strip mining bill, the jobs bill, the education bill, the housing bill, the health services bill—and forty other essential pieces of constructive legislation. During the same week the President vetoed the Child Nutrition Bill contending it would be inflationary, he asked the Congress to increase military spending by $10 billion. A year after he asked Congress for another $1 billion to keep Saigon from collapsing, he said he would veto a congressional act to keep New York from collapsing. He didn't know what was going on in either Saigon or New York.

These many measures he has vetoed would have begun the long-delayed redirection of public investment. These were measures designed to take the unemployed off idleness compensation and put them to work strengthening the nation; these were bills designed to improve the quality of our neighborhoods. But they have been vetoed and hailed as victories over Congress.

They were in fact defeats for the American people.

Who gets hurt by the defeat of a child nutrition bill? Not the well-fed men who eat at the White House. It is the children of America who are defeated. And these little citizens so frequently abused and hurt and neglected are the future of our society. Who gets hurt by the veto of the strip mining bill?

Not Jerry Ford or Ronald Reagan—but future generations of Americans who will inherit a ravaged environment. Who gets hurt by the veto of the jobs bill last week? Not Jerry Ford or the Congress, but the 600,000 people who will remain idle who could be earning money and paying taxes and building the community instead of drawing unemployment compensation and running up the federal deficit and losing confidence not only in themselves, but in our economy and our government.

Is this loss of confidence a defeat for Congress or a defeat for the nation?

People ask me why Congress can't override vetoes. We have overridden 8 of them.

But overriding a veto requires two-thirds of both the House and the Senate. That is an exceedingly rare combination on major issues—especially if they are controversial as most major issues are. Our system was not constructed on the proposition of a two-to-one majority; it was designed for majority rule. The theory was that a congressional majority would legislate and the President would execute its will. Great Presidents have assumed the further obligation to lead and inspire the Congress—not to paralyze it.

But instead, the presidential war against the people's representatives continues.

And not content with government by veto, Mr. Ford has now gone to government by presidential edict. Last Friday—one day before the Senate Committee on Agriculture was about to complete action on a food stamp reform bill—President Ford sent our chairman, Senator Talmadge, a letter saying that since Congress was not reforming the food stamp program, he was ordering Secretary Butz to do it by executive order.

This is one of the most callous disregards of the constitutional legislative process I have seen since I came to Congress. We have been working diligently on food stamp reform for months. Long days of public hearings and careful field investigations have been conducted. The committee I head on Nutrition and Human Needs has investigated and evaluated all aspects of the food stamp program. The Agriculture Committee has looked at the program from various other legitimate perspectives. Senator Dole and I have devised a carefully worked out bipartisan compromise now being considered by the Senate's Committee on Agriculture. And after all this preparation, the President has the nerve to tell us he is setting this work aside and will direct the reform program by White House edict. Yet for months it is the administration, not the Congress, that has been dragging its feet on recommendations for food stamp reform.

Do you know why Mr. Ford suddenly came to life with his startling bypass of Congress on Friday? Because the New Hampshire primary is on Tuesday. The food stamp program helps to feed 18 million poor Americans. But certain demagogues are turning it into a political football. Jerry Ford is far more concerned about Ronnie Reagan than he is about the undernourished and the unemployed people of America.

And once you start letting Ronald Reagan set the parameters of public debate, you are in trouble. He wants to cut the federal government in half. If he had his way, the government would be nothing but the Pentagon and the White House staff.

But we need to tell Mr. Ford and Mr. Reagan that the issue is not the size of the budget; the issue is how the budget is divided. I don't believe in vetoing $200 million in school lunches so that we can give Lockheed $200 million for foreign bribes. I don't believe in vetoing the housing bill so that J. Paul Getty can cling to his tax loopholes. I don't believe in having Amercians terrified by the cost of uninsured catastrophic illness so that we can build a $25 billion B-1 bomber. Nor do I think we should be more interested in financing a secret war in Angola than declaring all-out war against crime in America. The function of the President is not to sit on the budget, but to lead the nation in a redirection of national goals. In any event, Mr. Ford will soon learn that he can't defeat Reagan in a contest of attacks on our federal government.

Nobody despises Washington with the passion of Ronald Reagan. But isn't it curious—if he hates Washington so much, why does he want to come here? Why not stay in California? Maybe it's because in California they elect Governors who don't like either federal or state government. Reagan even once forgot to pay his state taxes.

In any case, it disturbs me to hear men who live on the public payroll and aspire to the highest public office running down our national government.

And it especially disturbs me when I hear Democratic aspirants for the presidency trying to imply that they despise Washington even more than Reagan and Ford.

At least one of our candidates is trying to make the case that a Congressman or a Senator is disqualified to serve in the White House because they have been exposed to Washington. This is like arguing that a doctor is disqualified for surgery because he has been exposed to hospitals and medical schools. On the other hand, those who have been in office for many years must carry their share of the responsibility for our national condition.

To listen to Ford and Reagan railing against the federal deficit, one gets the impression that they are not aware that Republicans have controlled the presidency for 16 out of the last 24 years.

And when we are told that the federal government is mismanaging government programs, perhaps we need to remember that Nixon and Ford appointees are running those programs.

No program will work very well when administered by men who don't believe in the program.

The food stamp program has encountered some administrative difficulties—but is that surprising considering the fact that the Secretary of Agriculture who administers it wants nothing more than to terminate the program?

The CIA needs fundamental reform, but that process will not come easy to an Administration that seems more anxious to keep secrets than to safeguard freedom.

In the previous Administration we were told that price controls weren't working. But no one should expect the control of corporate prices to work when corporation managers are controlling the controllers.

The President and his men now tell us that gas and oil price restraints have failed. But no national energy policy will serve the public so long as the shots are being called by gigantic oil corporations whose campaign contributions have given them domain over the nation's energy policies. And it should be no surprise that the federal deficit keeps going up when we have a Secretary of the Treasury and a President who believe that the best way to control inflation is to keep millions of Americans out of work and therefore unable to pay taxes.

In short government doesn't work well in the hands of people who despise government.

May I tell you what I think about the government and our political process?

I believe government can be made to serve the public good if its servants love the nation more than they love their own prejudice and convenience.

But what both Watergate and Vietnam have taught us is that politics and diplomacy without a moral underpinning are self-defeating and destructive.

If, however, we earnestly seek to find and speak the truth, if we hold to the simple values of decency and concern for others, the American democratic experiment will survive and prosper. And we must be willing to stand and fight for what is humane and just even before that is perceived by a majority. Those who build a new politics based on old values must be prepared for moments of disappointment and sadness—if not scorn and ridicule.

The February 16 issue of the *New York Times* carries an article by Harvard Professor Richard Hunt, entitled "No-Fault Guilt-Free History." In this piece Professor Hunt expresses his dismay over the conclusions of many of his Harvard students that no one was really responsible for the failure of the German people to stand up against the Nazis. These students saw Hitler as an inevitable outgrowth of the times and since he was inevitable, who could expect anyone to challenge his rise to power or the barbaric holocaust he directed?

This disturbing experience prompted Professor Hunt to write: "I have got to convey the meaning of moral decisions and their relations to significant outcomes. Most important, I want to point out that single acts of individuals and strong stands of institutions at an early date do make a difference in the long run."

Professor Hunt is right. Even in losing, we sometimes make a contribution that endures.

History will leave no doubt that Adlai Stevenson did more to preserve American values in his two defeats of 1952 and 1956 than Richard Nixon did in his two victories in 1968 and 1972.

And I would like to think that we will live long enough to realize the enduring impact of our 1972 effort to call America home to its founding ideals.

We must seek again in this bicentennial year a leadership committed to the nation's most enduring values of mind and spirit. And we shall need the wit and imagination to apply those principles to our contemporary condition. The early colonizers of America were not only people of principle; they were willing to leave behind the familiar and the established and move toward an unknown frontier. That frontier is always changing and each generation must confront it with Lincoln's call to "think anew, and act anew." We need new ways of organizing our cities, we need new methods of combating and confronting crime, we must devise a new system of public transit and rebuild our national rails, we need a renewed sense of community and a steady interest in the quality of life in our neighborhoods. These frontiers are no less real than the frontiers that challenged earlier Americans in a less complicated age. But their solution by new designs still depends on old values of individual dignity and public concern.

That is where the new politics joins hands with the old. The American republic was born when Jefferson and Madison and their colleagues translated the Judeo-Christian ethic into a declaration of political liberty and human dignity. These same values can still lift our vision and refresh our spirits.

Walter Lippmann wrote half a century ago:

"We are trying to be too shrewd, too clever, too calculating, when what the anxious and suffering peoples cry out to us for is that we practice the elemental virtues and adhere to the eternal verities. They alone can guide us through the complications of our days."

Those are the "elemental virtues" I admire in so many members of this distinguished club—including the lovely Eleanor McGovern. It is these "eternal verities" that give whatever meaning and purpose there may be to our brief passage on this earth—as well as any hope we may have for immortality.

[From Newsweek, Feb. 23, 1976]

THE NEW MINIMALISM

(By Vernon E. Jordan Jr.)

The President stepped to the podium of the U.S. Chamber of Commerce and declared: "The prosperity of the people is intimately bound up with the financial policy of the government. A considerable but disorganized number of people exists who are willing to talk about economy in public expenditure. There are a very few who, in addition to talking about it, are willing to act and vote for the actual practice of economy . . . To my mind, the practice of public economy and insistence upon its rigid and drastic enforcement is a prime necessity of the people of the United States."

Thus spake the President, only it wasn't, as you might expect, Gerald Ford; it was Calvin Coolidge and the year was 1924!

It is a measure of the low state of political rhetoric that those 52-year-old words might have come from the mouths of President Ford, Ronald Reagan, or any of a dozen prominent Democrats, in and out of the current Presidential campaign. Erstwhile liberals, and even some who still accept the label, are falling all over themselves to embrace the empty philosophy I call the "new minimalism."

Perhaps the clearest statement of that new minimalism came from New York's Governor Carey in his "state of the state" address in January. "We enter a new age," Carey said, "in which our goals are less government, less spending, fewer government employees, less interference in the lives of our citizens and businessmen and a new spirit of cooperation by all individuals in government."

A BLUEPRINT FOR INEQUALITY

Well said, but where does that leave America's millions of jobless, her financially strapped cities, poor people, and blacks and other minorities? Less government means less protection for people without resources; less spending means fewer desperately needed social programs and stark hunger for those in poverty; fewer government employees means fewer public services, and less interference means abandonment of civil-rights enforcement.

The "new minimalism," then, is a blueprint for rolling back progressive social policies and laying waste the hopes of those who look for a more just, more equal America. It's a shoddy program to peddle in a year dedicated to recalling a revolution that raised mankind's hopes for justice and equality.

Like most trendy political statements it is backed up by a myth that goes something like this: "The generous American people tried to end poverty and bring about racial integration in the 1960s. But despite much money and many programs these efforts failed and, in fact, may have worsened racial tensions by 'forcing' integration."

THE ANTIGOVERNMENT TICKET

That myth is buttressed by a host of academic mercenaries churning out study after study purporting to show that government can't solve basic problems and that the problems themselves are caused by the behavior of blacks or poor people. In other words, if a fellow can't find a job, it's his fault, not the economy's. If he has no marketable skills, it's his fault, not the educational system's. And if he wants his kids to get their constitutionally guaranteed rights to attend an integrated school, it's his fault whites may run to the suburbs.

The myth and the interpretations of the effects of social policy stand history on its head. The facts are that the "Second Reconstruction" of the 1960s was largely successful, resulting in important black gains in employment, education, housing, income and other crucial areas. And these gains were not willingly given; they were grudgingly made under the duress of black protest.

The Nixon Administration policies and economic depression wiped away many of those gains and now the "new minimalism" threatens to destroy the rest. The siren song of less government is actually a strident march designed to keep black people and the poor in their place, penniless and powerless.

It's a curious phenomenon—the President and candidates for his office all running against the government they want to lead. Ever hear of a corporation president denouncing corporate enterprise, or a labor leader condemning labor unions? Yet everybody seems to be running for President on an antigovernment ticket.

The candidates may think they reflect public opinion, but they only reflect their own lack of understanding about the rightful place of a national government that is the only institution we have capable of uniting the strands that make up America, and capable of setting national priorities and implementing them.

The new minimalism actually threatens to equalize us downward, by making more of us poor and jobless. An excellent illustration of the new minimalism at work is the President's proposed budget, with its attempts to cut non-defense spending and dismantle Federal programs. Its casual acceptance of the human and economic tragedy of high unemployment means at least a $150 billion loss of goods and services next year, not to mention the well over $40 billion expenditure for unemployment compensation and welfare costs necessitated by continued depression.

Thus, the new minimalism proposes to institutionalize intolerable living conditions for the black and the poor, and to perpetuate continued decay of America's cities and rural poverty pockets. It's pure Toryism wrapped in Tom Paine's revolutionary words!

LESS ISN'T MORE

I would hope that the candidates take a break from hustling up votes on the basis of empty rhetoric and spend a few lucid moments contemplating what our nation needs at this crucial moment in its history. It needs a full-employment policy that assures decent jobs at decent wages for all; an income maintenance system that replaces the welfare mess with reasonable support for the poor and for the millions of working poor left out of the current system; a national health program that provides quality health care for all in a consumer-oriented health-care system, and a housing program that replaces slums with sound, low-cost, high-quality housing for every family. Yes, it needs these and other programs that will create a prosperity shared by all Americans, most especially including blacks and other minorities.

The new minimalism only promises racial friction and continued depression. It tells us that less is more and that we should think small instead of embracing larger aspirations. It's better fitted to Cal Coolidge's simpler times than to today's complex society.

MORE INFLATION, MORE UNEMPLOYMENT

Mr. HARRY F. BYRD, JR. Mr. President, in the interest of national debate on our economy, I invite attention to a recent article, "More Inflation, More Unemployment," by Prof. David I. Meiselman of Virginia Polytechnic Institute and State University, a noted economist.

This article, written for the Tax Foundation, counters the view held in many quarters that our modern capitalistic economy needs constant Government management to offset private sector disturbances and to prevent them from accumulating to even greater troubles. That view also holds that inflation, while bad, will stimulate employment.

One thesis of Professor Meiselman's article is that, instead of stimulating employment, inflation actually causes more unemployment.

I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

More Inflation: More Unemployment

(By David I. Meiselman)

In the past year we have all seen many reports detailing the faltering growth of the American economy over the last decade. In my view, the slowdown in capital formation and in economic growth in recent years is a problem of major dimensions. I believe that the American tax system, which is heavily biased against saving and investment, is a significant factor in this sluggish performance. By causing a shift of resources from capital formation to consumption and to government spending, the Federal tax system clearly impairs efficiency and retards growth and innovation.

Despite all the discussion of tax reform, we have had essentially the same tax code over the last decade. Ten years ago the Federal tax structure was also biased against saving, investment and economic growth. Since then, one of the most important changes which has taken place has been in the inflation picture. A decade ago the price level was essentially stable. Since then, the United States has experienced virtually continuous inflation, and the pace of inflation has ratcheted up in every business cycle. And in each business cycle the amplitude of fluctuation in prices, employment and the like has also become greater. In other words, there has been an increase in both inflation and in instability, an association I do not believe is coincidental.

I suggest that one way of interpreting the slowdown in economic growth and in capital formation, and much of the upward drift of the unemployment rate, is that they are all the results of a decade of accelerating and roller-coaster inflation. The poor economic performance is part of the wide range of economic, political and social adjustments to forces generated by the inflation. Inflation, itself, has been a product of poor public policy, notably the Federal Reserve's monetary policy. I have concluded that the conventional wisdom among most public officials and economists regarding the impact of inflation is, regretfully, incorrect. This is the view that inflation, while bad, is not an unmitigated evil, because it stimulates employment and capital formation. I argue, on the contrary, that inflation leads to both more unemployment and less capital formation and growth. Indeed, I would contend that inflation by itself would lead to more unemployment even if we had a tax system that was not biased against capital formation, a bias which is strengthened by the inflation process.

Despite large numbers of claims that the causes of the present era of inflation are different, that the old laws of economics no longer seem to work, it turns out that the recent inflation is fully in line with historic norms. Average prices always depend on the ratio of money to output. Prices tend to rise when the quantity of money increases faster than output, prices tend to fall when the quantity of money declines relative to output, and prices are level when the ratio of money to output is stable. The historical evidence is clear and beyond dispute. Recent inflation in the United States and around the world has similarly been the result of the quantity of money growing much more rapidly than output. I simply do not see how the recent inflation has broken any old economic laws or that we can somehow rid ourselves of inflation without curbing the excessive use of the printing press.

But there are ingredients in the modern picture that are different. First, for the very first time in a century, since the United States temporarily suspended specie payments during and immediately after the Civil War, there are now essentially no external constraints on monetary growth. The U.S. money supply is no longer linked to precious metals or to fixed exchange rates.

A second ingredient is based on the belief, drawn from the Keynesian analysis, that a major shortcoming of a modern capitalist economy is deficient and unstable aggregate private sector demand. In this view, the economy needs constant management to offset private sector disturbances and to prevent them from accumulating to even greater troubles. The fiscal policy instruments of varying tax rates and government expenditures are some of the main Keynesian tools. Considerations of efficiency and fundamental questions about the permanent effects of tax and expenditure programs thus frequently take a back seat to presumptions of their short-period stabilization properties. Deeply held convictions that the economy is inherently unstable, typically poised on a razor's edge and subject to frequent shocks requiring government offsets to prevent cumulative disturbances, have been important causes of the growing myopia and meddlesomeness of public policy. Third, there has been a growing conviction in the United States that inflation is not only helpful, but necessary, to achieve and maintain high levels of employment and growth. The belief that there is a dependable and systematic trade-off between inflation and unemployment, the Phillips Curve, is one of the main points in the inflationist credo.

THE ATTACK ON THE PHILLIPS CURVE

The major attack on the Phillips Curve was led by Milton Friedman. His analysis stressed the role of expectations. Friedman conceded that inflation may temporarily reduce unemployment, especially if the inflation comes as a surprise and is thereby not already discounted and adjusted for in other prices and wages. If output prices rise relative to wages, Friedman reasoned, it is as if labor costs effectively fall. This leads to an initial increase in employment opportunities. However, eventually the entire economy, including all wages and prices, adjusts to the ongoing inflation. Because there are no permanent surprises left, there are no permanent employment gains. The record of recent years and the absence of any dependable connections between the rates of inflation and unemployment would appear to contradict the Phillips Curve position and to support Friedman's.

Although my own analysis is close to Friedman's, I believe his analysis is deficient. It does not go far enough because it does not take sufficient account of how inflation, especially erratic or unanticipated inflation, impairs the functioning of all markets and the efficiency of both labor and capital. By reducing the productivity of labor, inflation causes unemployment to rise rather than fall, as predicted by the Phillips Curve analysis, or to remain about the same, as predicted by the Friedman analysis.

To effect output and employment, inflation must be unanticipated. For public policy to use inflation to change employment and output, it must fool people—which is hardly a proper or effective basis for public policy. But as time goes on it becomes progressively more difficult to fool people. This is why this kind of policy leads to greater and greater instability—heaped on top of more and more inflation. In the stop-go policies, the "stops" and "go's" inevitably become more pronounced.

Trying to fool participants in one area by the use of policies affecting the entire economy, moreover, leads to a vast widening of the range of uncertainty about future events. This undermines the efficiency of intertemporal decisionmaking which involves saving, investment, asset management, and the like.

Another pernicious, and very important, but not very well understood result is the effective destruction of economic information. The price system which characterizes the market economy is a very efficient means for conveying large amounts of information. But one of the characteristics of variable and unanticipated inflation is that people effectively have less information about current prices and markets. Consumers and business firms tend to learn about prices and markets in a sequential manner. As they keep receiving new knowledge, old information is revised or discarded.

But large-scale unanticipated inflation impairs this orderly learning and adjustment process. The loss of information can only be overcome by devoting more resources to data gathering, updating price lists and the like. Doing so, however, uses costly time and resources. This alone causes an increase in unemployment, a decrease in efficiency, and a dead-weight loss to the economy. One manifestation of how inflation destroys information is that ordinary accounting statements mean less and less as the inflation process proceeds.

Thus, the continued process of variable, unanticipated inflation does not positively affect employment. Rather, it has a cumulative and *negative* impact on efficiency and resource allocation. Returns to *both* labor and capital suffer. This, taken together with the distortions of the inflationary process, impair the flexibility of markets and thereby cause an increase in unemployment. This deadweight economic loss is added to the chaos of capricious changes in income distribution, real tax rates and the like, that have undermined the fragile structure of constitutional government and individual liberty in country after country.

THE BAD EFFECTS OF INFLATION

As we have all become painfully aware, some of the bad effects of inflation result from basing income tax liabilities on conventional accounting standards, which depend on historic costs for inventories, plant and equipment and the like. Taken by itself, the extra inflation tax on business capital would result in a reduced rate of capital formation relative to periods such as the first half of the 1960's when there was little or no inflation. But the inflation tax on business capital also means that capital formation will depend on anticipations of future inflation. For post-tax rates of return depend crucially on inflation.

Conventional management methods of capital budgeting are already in the process of being altered to take the inflation tax into account. Firms that ignore the reality of future inflation will be in no better shape than firms that ignore the reality of other important market forces in shaping their plans. Thus, some of the effects of the speedup of inflation since 1965 have been similar to the effects of an increase in the effective tax rates on business income. By reducing real after-tax profits, incentives to capital formation have correspondingly been weakened.

This increased effective tax on business capital, not legislated by Congress or signed by the President, but primarily the result of the Federal Reserve's excessive use of the printing press, was undoubtedly a major factor in the slowdown in the rate of growth of the capital stock. In real dollars of 1958 purchasing power, from 1961–1965 there was an increase of $55,000 in the gross stocks of business capital for each person entering the labor force. In 1966–1970 it was $46,000. By the 1971–1974 period it had fallen again to only $41,000.

The retardation in the growth of capital relative to the growth in the labor force has resulted in an erosion of one of the principal dependable sources of higher real wages, the increase in the amount of capital per worker. In addition there has been an increase in the barriers to and in the costs of employment, such as sharply higher minimum wages, social security taxes, quotas and the like. These combined with greater rewards for not working, such as expanded welfare programs, food stamps and extended unemployment compensation, have made the situation even worse.

The transition from high to low growth of real income means that large numbers of employees must revise downwards their realistic assessments of what their work can command in the market. Especially for employees who have lost their jobs and are seeking work, it takes time to learn that there are diminished job opportunities and that real wages, (wages adjusted for changes in the level of prices) are less than they had believed they could count on earning. But as people look for what they believe are better and more remunerative job opportunities, the result is a lengthened span of time spent searching for jobs, and thereby increased unemployment.

Where do we go from here?

First, I believe that the long-standing bias in the Federal tax system against saving and investment should be corrected. In addition, the relative size of the public sector must be decreased. Tax payers are simply not getting their taxes' worth. These steps are called for even without the added distortions caused by inflation. Further, I would recommend the reduction or elimination of multiple taxes on the same income stream: the taxes on corporate income; the tax on dividend income; the tax on capital gains and the like, including estate and gift taxes that yield little revenue and create much mischief. The tax codes of many states replicate those of the Federal government, and action by the Federal government would be enhanced by states following the national lead. Congressman Kemp's bill, the Jobs Creation Act of 1975, which includes tax credits for individual savings, is one example of current legislative proposals that would moderate multiple taxes on the same income stream and reduce the bias against saving and investment.

Second, it is essential to abandon the deliberate use of inflation as an instrument of public policy, even for short periods of time. To avoid abrupt shocks to the economy, the inflation should be slowed gradually and eliminated over a three-to-five year period. The maintenance of general price stability will require steady, non-inflationary courses for monetary and fiscal policies. For monetary policy this means a long-term growth of money in the range of 2% to 4% per year for M_1 (currency plus demand deposits) or 4.5% to 6.5% for M_2 (currently plus all commercial bank deposits except large certificates of deposit); for fiscal policy, relatively stable taxes and expenditures close to or at a balanced budget.

The new Congressional budget procedures might be helpful in these matters, but the initial recommendations of the Congressional Budget Office give me little hope for assistance unless there is a drastic change in their extreme Keynesian and inflationist orientation.

Finally, I close with an additional caution. The 1976 elections are less than a year away. Economic issues will play an important role in the outcome of the election. After the past two presidential elections there were charges that monetary policy, and to some extent fiscal policy as well, were influenced by desires to help the party in power. I have no direct way of knowing if there is any truth to these allegations or whether the small sample just happened to include the coincidental sharp expansions of the money stock in the election years of 1968 and 1972, or the speedup of Federal government expenditures of 1972. Several years earlier, Federal Reserve monetary stringency in late 1959 and early 1960 contributed to the onset of the 1960 recession which hurt the party in power during the 1960 presidential election. I do not believe that the Federal Reserve's purpose at that time was to hurt the party in power. I would, of course, prefer to believe that the allegations about 1968 and 1972 are also without merit.

I raise the issue because 1968 was an important episode in creating the inflation roller-coaster. Slamming on the brakes in 1969 after stepping on the gas in 1968 was a major factor in the 1969–1970 recession. And too much money in 1972, which saw the stock of money increase at the fastest pace since World War II, was the beginning of the current roller-coaster ride.

I would fervently hope that those responsible for public policy will be able to resist the great pressures during an election year for excessive stimulation, that there is enough understanding in and out of government that still another shot of inflation would add to our difficulties without solving our problems, and that more inflation is neither good for the country nor acceptable to the voters.

PUBLICATION OF RULES OF PROCEDURE OF SELECT COMMITTEE ON STANDARDS AND CONDUCT

Mr. CANNON. Mr. President, as required by the Legislative Reorganization Act of 1970, I submit herewith for publication in the RECORD the Rules of Procedure adopted by the Select Committee on Standards and Conduct. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the rules of procedure were ordered to be printed in the RECORD, as follows:

RULES OF PROCEDURE

Resolved, That the Select Committee on Standards and Conduct, United States Senate, adopt the following rules governing the procedure for the Committee:

1. Meeting time.—The meetings of the Committee shall be on the first Monday of each month at 10:30 a.m. or upon call of the Chairman.

2. Quorum.—A majority of the Members of the Committee shall constitute a quorum for the transaction of business, except that two Members shall constitute a quorum for the purpose of taking sworn testimony.

3. Proxies.—A Member may vote by special proxy on any issue which comes before the Committee for decision except as otherwise designated in these rules.

4. Jurisdiction.—The jurisdiction of the Committee is derived from the following sources of authority:

(a) Senate Resolution 338, 88th Congress, relating to improper conduct of Senators, or officers or employees of the Senate.

(b) Report of Special Committee of the Senate to Study Questions Related to Secret and Confidential Government Documents, 93d Congress, concerning disclosure of classified documents by Senators.

(c) Public Law 93–191 relating to the use of the mail franking privilege by Senators, officers of the Senate, and surviving spouses of Senators.

5. Complaints.—Any person may file a complaint with the Committee that any Senator, or officer or employee of the Senate, has violated proper conduct or any rule, regulation, or law within the jurisdiction of the Committee. The complaint must be in writing and should state essential facts constituting the violation.

6. Public hearings.—All hearings conducted by this Committee shall be open to the public, except executive sessions for voting or where the Chairman orders an executive session. The Committee, by a majority vote, may order a public session at any time. In making such determination, the Committee will take into account evidence which may tend to defame or otherwise adversely affect the reputation of any person.

7. Subpenas.—Subpenas may be issued by the Committee Chairman or any other Member designated by him, and may be served by any person designated by the Chairman or Member.

8. Swearing of witnesses.—All witnesses at public or executive hearings who testify to matters of fact shall be sworn unless the Chairman, for good cause, decides that a witness does not have to be sworn. The Chairman or any Member may administer oaths to witnesses.

9. Counsel for witnesses.—Any witness summoned to a public or executive hearing may be accompanied by counsel of his own choosing who shall be permitted while the witness is testifying to advise him of his legal rights.

10. Interrogation of witnesses.—Interrogation of witnesses at Committee hearings shall be conducted on behalf of the Committee by Members and authorized Committee staff members only.

11. Right to cross-examine and call witnesses.—Any person who is the subject of an investigation in public hearings, personally and through counsel, may cross-examine witnesses called by the Committee and call witnesses in his own behalf.

12. Written witness statements.—Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the counsel or Chairman of the Committee 24 hours in advance of the hearings at which the statement is to be presented. The Committee shall determine whether such statement may be read or placed in the record of the hearing.

13. Right to testify.—Any person whose name is mentioned or who is specifically identified, and who believes that a public hearing, or comment made by a Committee Member or counsel, tends to defame him or otherwise adversely affect his reputation, may (a) request to appear personally before the Committee to testify in his own behalf, or, in the alternative, (b) file a sworn statement of facts relevant to the testimony or other evidence or comment complained of. Such request and such statement shall be submitted to the Committee for its consideration and action.

14. Prohibition of photographing or broadcasting hearings.—The taking of still, motion picture or television photographs in the hearing room during a hearing or radio broadcasting of the hearing shall not be permitted except by majority vote of the Committee.

15. Stenographic record of testimony.—An accurate stenographic record shall be kept of the testimony of all witnesses in executive or public hearings. The record, whether in public or executive session, shall be made available for inspection by a witness or his counsel under Committee supervision; a copy of any testimony given in public session, or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session, shall be made available to any witness at his expense if he so requests.

16. Secrecy of executive testimony.—All testimony taken in executive session shall be kept secret and will not be released for public information without the approval of a majority of the Committee.

17. Record of Committee action.—The Chief Counsel of the Committee shall keep a complete record of all Committee action. Such record shall include the votes on any question on which a record vote is demanded.

18. Release of reports to public.—No Committee report, document, or information shall be released to the public in whole or in part without the approval of a majority of the Committee. In case the Committee is unable to reach a unanimous decision, separate views or reports may be presented and printed by any Member or Members of the Committee.

19. Advisory Opinions.—Upon specific request from a Senator, or an officer of the Senate, the Committee may give an advisory opinion of any matter within its jurisdiction. An advisory opinion may be formal or informal, or written or oral, as the request warrants. All such opinions shall be advisory and declaratory only.

20. Changing rules.—These rules may be modified, amended, or repealed by a decision of the Committee, provided that a notice in writing of the proposed change has been given to each Member.

RULES OF THE COMMITTEE ON PUBLIC WORKS

Mr. RANDOLPH. Mr. President, pursuant to the requirements of section 133B of the Legislative Reorganization Act of 1946, as amended, I submit the rules of the Committee on Public Works, and ask unanimous consent that these rules be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES OF PROCEDURE OF THE COMMITTEE ON PUBLIC WORKS

Rule 1. Regular Meeting Day.—The regular meeting day of the Committee shall be the first and third Thursday of each month at 10:00 A.M., except that if there be no business before the Committee, the regular meeting shall be omitted.

Rule 2. Committee Meetings.—Subject to section 133(a) of the Legislative Reorganization Act of 1946, as amended, Committee meetings for the conduct of business, for the purpose of holding hearings, or for any other purpose, shall be called by the Chairman, after consultation with the ranking Minority Member. Subcommittee meetings shall be called by the Chairman of the respective subcommittee, after consultation with the ranking Minority Member. Notice of a meeting and the agenda of business to be discussed by the Committee will be provided to all Members not less than twenty four hours in advance of such meeting. Additions to the agenda after that time may be made with the concurrence of the ranking Minority Member. Such 24-hour notice may be waived in an emergency by the Chairman, with the concurrence of the ranking Minority Member.

Rule 3. Open Committee Meetings and Legislative Mark-up Sessions.—Meetings of the Committee, including hearings and legislative mark-ups, shall be open to the public, except that a portion or portions of any such meetings may be closed to the public if the Committee determines by record vote of a majority of the members of the Committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure; or

(3) constitute any other grounds for closure under paragraph 7(b) of rule XXV of the Standing Rules of the Senate (as amended by Senate Resolution 9, 94th Congress).

Rule 4. Presiding Officer.—(a) The Chairman shall preside at all meetings and hearings of the Committee except that in his absence the ranking Majority Member who is present at the meeting shall preside;

(b) Subcommittee Chairmen shall preside at all meetings and hearings of their respective Subcommittees, except that in the absence of the Subcommittee Chairman, the ranking Majority Member of the Subcommittee who is present at the meeting shall preside;

(c) Notwithstanding the rule prescribed by subsections (a) and (b), any Member of the Committee may preside over the conduct of a hearing.

Rule 5. *Quorums*.—(a) Except as provided in subsections (b) and (d), five Members, two of whom shall be Members of the Minority party, shall constitute a quorum for the conduct of business, except for the purpose of reporting any measure or matter.

(b) Quorums for the conduct of business by the Subcommittees shall be a simple majority of the Membership of the Subcommittees with at least one Minority Member present.

(c) Once a quorum as prescribed in subsections (a) and (b) has been established for the conduct of business, the Committee may continue to conduct business.

(d) Notwithstanding the rule prescribed in subsection (a), one Member shall constitute a quorum for the purpose of conducting a hearing.

Rule 6. *Proxy Voting; Polling*.—(a) Proxy voting shall be allowed on all measures, amendments, resolutions, or any other issue before the Committee or any Subcommittee. Any Member who is unable to attend the meeting may submit his vote on any such issue, in writing or through personal instructions; however, proxies shall not be voted for the purpose of reporting any measure or matter except when the absent Committee Member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. A proxy given in writing shall be valid until revoked, while a proxy given orally or by personal instructions is valid only on the day given.

(b) At the discretion of the Chairman, after consultaiton with the ranking Minority Member, Members who are unable to be present and whose vote has not been cast by proxy, may later have their position recorded on any vote.

Rule 7. *Public Announcement of Vote*.—Whenever the Committee by rollcall vote reports any measure or matter, or acts upon any measure or amendments thereto, the report of the Committee on such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each Member of the Committee.

Rule 8. *Announcement of Hearing*.—The Committee, or any Subcommittee thereof, shall make public announcement and provide notice to Members of the date, place, time and matter of any hearing to be conducted on any measure or matter, at least one week in advance of such hearing, unless the Committee Chairman, or Subcommittee Chairman, with the concurrence of the ranking Minority Member, determines that there is good cause to begin such hearing at an earlier date, in which event not less than twenty-four hours notice shall be given.

Rule 9. *Statements of Witnesses at Hearings*.—(a) Each witness who is scheduled to testify at any hearing of the Committee, or any Subcommittee thereof, shall file a written statement of his proposed testimony not later than noon of the last business day preceding the day on which he is scheduled to appear. At the time of his appearance, he shall supply for the use of the Committee or Subcommittee, 25 copies of his prepared testimony or such greater number as may be requested in the letter of invitation. Except for witnesses from the Federal government, this rule may be waived with regard to field hearings.

(b) The presiding officer at a hearing may have a witness not read his written testimony and to confine his oral presentation to a summary of his statement.

Rule 10. Regularly Established Subcommittees.—The Committee shall have six regularly established Subcommittees as follows.

Subcommittee on Water Resources
Subcommittee on Environmental Pollution
Subcommittee on Economic Development
Subcommittee on Transportation
Subcommittee on Disaster Relief
Subcommittee on Buildings and Grounds

Rule 11. Special Subcommittees.—With the concurrence of the ranking Minority Member, the Chairman shall, from time to time, establish such special Subcommittees as he deems necessary to expedite Committee business.

Rule 12. Subcommittee Membership.—Following consultation with the Majority Members and the ranking Minority Member of the Committee, the Chairman shall announce selections for membership of the Subcommittees referred to in Rules 10 and 11.

Rule 13. Environmental Impact Statements.—No project or legislation proposed by the Administration shall be approved or other action taken on such project or legislation unless the Committee has received an environmental impact statement relative to it, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1970, and the written comments of the Administrator of the Environmental Protection Agency, in accordance with section 309 of the Clean Air Act.

Rule 14. Naming of Public Facilities.—No building, structure or facility authorized by the Committee, shall be named for any living person, except former Presidents of the United States, or former Members of Congress over 70 years of age.

Rule 15. Committee Resolutions.—(a) The Chairman, after consultation with the ranking Minority Member, is authorized to certify and pass on Committee resolutions for review of flood control and river and harbor reports and resolutions for studies of public building projects, and forward the resolutions to the appropriate Federal agency.

(b) Proponents of Committee resolutions shall submit appropriate evidence showing need for review or reports on river and harbor and flood control projects.

Rule 16. Broadcasting of Hearings.—Public hearings of the Committee, or any Subcommittee thereof, may be televised or broadcast, or recorded for television or broadcast, upon notification in advance to the Chairman through the Chief Clerk. During public hearings, photographers and other reporters using mechanical recording or filming devices shall position and use their equipment in such fashion as will not interfere with the seating, vision, or hearing of Committee Members or Staff on the dais, nor with the orderly process of the hearing.

Rule 17. Amendment of Rules.—The rules may be added to, modified, amended or suspended by a majority of the Committee Membership.

DISPUTED OKLAHOMA SENATORIAL ELECTION

Mr. CANNON. Mr. President, within the next few days the Senate will consider the disputed Oklahoma senatorial election contest. It is with some reluctance that the Senator from Nevada requests the valuable time of the U.S. Senate to reply briefly to statements made before this distinguished body shortly before the Christmas recess which I consider to be rather ill conceived and delivered without particular grace, relating to that contest. I have no desire to enter into an exchange of acrimonious charges concerning the motivation and actions of either the majority or minority party; and I will not do so. In point of fact, if the inferences and charges were leveled at me alone, I would in all probability not reply. That does not mean that I have become immune to these barbs; but I have at least learned to try to suffer them gracefully.

However, in this instance, inferences and charges have been directed not to me alone but also at the integrity of members of my party—and more particularly at members of the U.S. Senate Committees on Rules and Administration, which I have the honor to chair. Therefore, I am duty bound to respond and defend to the best of my ability the integrity of those with whom I serve.

I will not address myself to all the points raised on the floor by the minority for, as you are aware, a complete report and the printed hearings have been made available for consideration by this body. I believe these materials in and of themselves will put the lie to allegations that the Rules Committee approached this matter in a predetermined, lock step, partisan manner. Be that as it may, I would like to address myself to some glaring inaccuracies presented to the Senate. I would like to make clear that I do not impute to all members of the minority the same inferences and allegations of unfairness which some members of the minority seem to impute to the majority.

The contested Oklahoma senatorial election is not a "frivolous contest—one that should not be taken seriously except by partisans determined to wield raw political power," as charged before the U.S. Senate. It is also not "a political steamroller in the making"; and it is not one in which the majority members of the Committee on Rules and Administration did not give "serious attention to the hearings as they related to the law of the case and chose instead to take a political action." Instead I would say this is a case which was given very careful consideration by the majority members of the Rules Committee. Perhaps this can be most effectively portrayed by the statement of Senator CLARK, a member of the majority, which he made at the conclusion of the hearings before the committee. Senator CLARK stated:

> Mr. Chairman, I believe I have heard nearly every word of testimony which has been presented, and I have approached this dispute as objectively as possible. As I read the Constitution, we are obligated to sit much as a court, at least in so far as our responsibility finally to reach a decision.
>
> In all candor, Mr. Chairman, this is as agonizing a decision as I have had to reach in my brief period in this body. It is agonizing not only because of the importance of the matter at hand—a seat in the United States Senate—but also because of the closeness and complexity of the issues, and the skill with which each side has presented its case.
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> What do we now know about the 1974 election in Tulsa, County, Oklahoma?—We know that, in the Senate race, Henry Bellmon defeated Ed Edmondson by 22,370 votes in that County, giving Mr. Bellmon a 3,835 vote victory margin statewide.
>
> —But we also know that there were at least two clear violations of Oklahoma election law; namely, the absence of straight-ticket voting levers, and in 545 of Tulsa's 640 precincts, the presence of erroneous voting instructions. The incorrect location of federal offices on the ballots may have been illegal. There is absolutely no evidence to suggest that these violations were committed intentionally, with an eye toward affecting the outcome of election. But, nonetheless, the violations did occur.
>
> However, the undisputed fact that the law was broken does not, in and of itself, necessitate invalidating an entire election. Obviously, there is a need to assess the impact, if any, such violations may have had on the election results.
>
> In an effort to do just that, the Committee heard testimony from four distinguished professors of political science, all men with outstanding qualifications for evaluating the issues before us. I listened to each one attentively, questioned each closely, and reviewed the testimony of each carefully, but with all due respect, I was fully convinced by none of them.
>
> Even with the data presented by Professors Miller and Kirkpatrick, impressive as it was, I cannot agree with their flat assertion that Ed Edmondson would have won the Senate race if the Tulsa County election had been conducted in full compliance with State law.
>
> Professors Penniman and De Vries punched many holes in their colleagues' presentations, but I am unable to conclude as Professor Penniman did, that the results of the Senate election would have been the same without the violations nor can I share Professor De Vries' view that the irregularities had no effect whatsoever.
>
> In my judgment, it is not possible to conclusively state who the winner might have been had the election been conducted in the manner established by law.
>
> Mr. Chairman, serious violations of election law did unquestionably take place in Oklahoma's second largest county in the 1974 election. After considerable study—and much soul searching—I have concluded that there is reasonable doubt as to the outcome of Oklahoma Senate race. That being so, the only fair way to resolve this dispute is to place it before the people of Oklahoma to let them decide. With great reluctance, then, I must cast my vote in favor of declaring the Oklahoma Senate seat vacant, so that a special election may be held.

I know that other members of the majority also gave this matter very careful consideration; and it is grossly unfair and unbecoming to make allegations before this body as occurred shortly prior to the Christmas recess implying that majority members had, without giving any real consideration to the merits of the contest, blindly voted along partisan lines. I believe those who make these charges against members of the Rules Committee, while gratuitously not including every Democrat in the entire U.S. Senate, do more harm to their own credibility than they do to those whom they malign.

I would also point out, despite charges to the contrary, that the record will show most of the questioning of witnesses before the committee and attempts to develop a full exposition and review of the case was accomplished by members of the majority. I certainly recognized no willingness to openly debate or discuss this case by members of the majority.

This situation is especially incongruous when these charges are made by the same Senator who on page 208 of the printed hearings—December 15, 1975—said:

> I think the Chairman has certainly been consistent with his desire to have all parties heard and given every opportunity to express their views. . . .

I believe the actions and conduct of my colleagues on the majority side of the Rules Committee requires little defense as to the thoroughness and fairness with which they approached this matter.

I would like to briefly proceed to a couple of other points which I consider important as far as putting the record straight. Stress was laid on the point made by the ranking minority member of the Rules Committee that a new law has been passed by the legislature in Oklahoma to take effect in subsequent elections which would provide that straight party voting levers need not be present on voting machines if it entails substantial modification of the machines. Therefore, through his retroactive application of the law the contention is made that the thrust of Mr. Edmondson's case is wiped out because if a new election were held straight party voting levers would not be present. To quote, again, the ranking minority member of the Rules Committee:

> So the very crux of Mr. Edmondson's whole contention is totally wiped out, by the action of the Democratic legislature of Oklahoma saying, in effect, "You don't have to have straight party levers on the Tulsa voting machines this fall."
>
> So the very contention was that if he had had straight party levers on the voting machines, he could have won the election. Now he wants a new election. You do not have to have, under the new law, straight party voting levers. So obviously, Mr. Edmondson's whole case falls apart.

I would like to invite the attention of my fellow Senators, in view of the fact that the minority attempts to express the will of the Oklahoma State Legislature, to the testimony of the president pro tem of the Oklahoma State Legislature who testified before representatives of our committee:

> I think there is a strong possibility there will have to be a new election. There were illegal procedures in such substantial numbers that they considerably exceed the difference between the candidates. The Legislature has shown it prefers new elections instead of disenfranchising people because of irregularities. The Oklahoma Supreme Court eventually will have to make a decision on whether a new election is warranted and after Oklahoma completes it process, the U.S. Senate will review the case and make its own decision. First, we have to make it clear that obviously it was an honest mistake, a misunderstanding of the law, but it was a clear cut violation of the requirements for programming of a voting machine.

This, my fellow Senators, from the president pro tem of the Oklahoma State Senate.

I attempt to exercise great care when I quote on the floor of the U.S. Senate, the statements of another U.S. Senator. I must say I am extremely disappointed; and, in fact, offended by misquotes attributed to me which appeared in the Congressional Record on December 16, 1975. I will point out several significant ones.

The ranking minority member of the Committee on Rules and Administration, and I take this directly from the Congressional Record, page 41019, stated:

> I said, "Then what does the chairman ask us to substitute as the base, the criterion, to make a judgment?"
>
> The Chairman said, "The new evidence presented by the expert witness on Mr. Edmondson's staff."

Let me now enter into the Record from the transcript of the hearings before the Committee on Rules and Administration the actual recorded version of what was said. From page 198 of the printed hearings:

> Senator Hatfield. Will the Chairman yield?
>
> The Chairman. Certainly.
>
> Senator Hatfield. Do I assume then by putting the question as the Chairman has just put the question, that he rejects the findings of both the trial court and the Supreme Court of Oklahoma?
>
> The Chairman. Yes; I do, for several reasons, one being because the Constitution does not say that the Senate shall decide it after reviewing the decision of the lower courts. If we are going to take the position that we are bound by the decisions of the lower court or the Supreme Court of the State, then we might just as well throw away the constitutional provision.
>
> Senator Hatfield. I merely want to know——
>
> The Chairman. I am answering your question. Furthermore, the statistical data that were presented here were not the same that were presented to the Supreme Court. The development of the 1974 election data which have been testified to by experts here were not presented to the court, according to the witnesses here, because they had not developed that information at the time. So we have added information on these statistical studies.

As you will note, the actual statements I made bear little resemblance to what I was quoted as saying.

I am greatly offended by this misquoting of my comments. I recognize it is very late for the record to be corrected; however, should the Senator desire to do so, I would gladly offer my assistance in attempting to accomplish that correction.

And still another instance—and, again, I quote from the Congressional Record, the ranking minority member of the Rules Committee speaking:

> I was deeply concerned because I just could not see how even a lawyer, or a nonlawyer, either—and our chairman is a lawyer—could say, "Yes, I reject a Supreme Court ruling and am going to take in its place a theoretical, speculative study of a political science professor."

As I indicated a few minutes ago, and as I read into the record, this does not even nearly resemble the actual statements made in the transcript.

Another instance in which I was misquoted was with respect to a request for background data from a witness subsequent to his appearance before the Rules Committee. A request, incidentally, of which the chairman, majority members of the committee, and majority staff members of the committee, were unaware until raised at a committee meeting. From page 41019 of the Congressional Record, dated December 16, 1975, the ranking minority member stated:

> So even without that evidence in hand, as I raised that question before the Committee, what was the response? Silence. Or, "Well, if you had wanted that, you could have asked me and I could have gotten it for you," because we had asked for it other than going through the chairman.

Again, let us refer to page 217 of the printed hearings for the actual statements that were made:

> Senator Williams. The point has been made here several times that there was a synopsis of a report—I gather it was Dr. Miller's synopsis of his own report.
>
> Senator Hatfield. This is right, Dr. Miller—and the staff said it has not been received.
>
> Senator Williams. You said that his report was asked for and not received. I would hope, after this voting is over, that we would find out about that report—whether a request was made, where it is, whether that shouldn't be made available to the Senate, if this should go to the Senate.
>
> Senator Hatfield. After the fact.
>
> Senator Williams. Well, I thought that you were hoping that this would be hard evidence to be used by Members to make a decision. If this goes to the Senate, I would hope this would be before it, if it is available.
>
> Senator Hatfield. I had hoped that the committee might want evidence before it sent something to the floor of the Senate. Obviously the committee doesn't want it.
>
> Senator Williams. I have been inquiring informally here of the staff, and it doesn't recall a request having been made on the record for this report.
>
> Senator Griffin. It wasn't made on the record, I am told by my staff, but it was made.
>
> Senator Williams. I see. I am content.
>
> The Chairman. I would find it very difficult to understand why it is not made on the record, if such a request were made. I frankly don't have any recollection of it. If there had been a request, I would have thought that I would in all fairness have requested it, although raw data—we had the best evidence here, which was the gentlemen testifying as to the results of their study and what the study showed. They testified as expert witnesses. If a request were made of me, my normal practice would have been to make that request on behalf of whoever made it.
>
> Senator Williams. I think it was conceded just now that it wasn't made on the record.
>
> Senator Griffin. It was not made on the record.
>
> Senator Hatfield. Mr. Chairman, this appalls me all the more that we are now fondling with a technicality. I am really appalled that the committee would be ready to make a decision without having that kind of evidence—that, obviously, when we had a man sitting down here making some kind of a verbal analysis of a very complicated voting pattern survey, that all the members of this committee would not demand to have the evidence, whether it was made on or off the record, informally or formally. I think it only illustrates further my observation that I made previously, that conclusions are reached and therefore why bother with the evidence.
>
> The Chairman. Well, I would simply suggest to my colleague that any time that he wants anything produced by any witness that appears before this committee, if he requests it of me at the time the witness is here and makes it part of the record, I certainly would attempt to comply.

My colleagues, I, again, notice a considerable discrepancy between what was actually said and what appeared in the printed Record of the proceedings of the U.S. Senate.

I have dwelt long enough on this disturbing misuse of a Senator's statements and I would like now to very briefly address myself to a couple of very basic points involved in this contested election. I have tried to demonstrate that the majority approached this situation openly, attempted to allow all voices to be heard and arrived at a recommendation based on extensive thought and in good conscience. There has been much talk of partisanship, fairness, and equity by the minority; but what about fairness to Mr. Edmondson, what about fairness to the people of Oklahoma?

I have observed very little of this kind of nonpartisanship, fairness, and equity demonstrated by certain members of the minority. To me we are dealing with the basic integrity of the electoral process. In looking at the total record of this case I find it difficult to understand how at this particular point in time when the electoral process has received so much attention in our country, how such flagrant violations of law could occur as occurred in Tusla County, Okla. These violations of law were not ministerial actions these laws are felonies as established by the Oklahoma State Legislature. Whether such violations are willful or not. Let me quote from the Oklahoma State statutes involved:

> It shall be unlawful for any person, individually or in collusion with others:
>
> (1) to fail, refuse or neglect to discharge any duty imposed upon him, either individually or in any official capacity, by any provision of the laws of this state relating to voting machines;
>
> (2) to knowingly breach any provision of the law of this state relating to voting machines; or
>
> (3) to unlawfully, directly or indirectly, possess, tamper with, break, impair, impede, or otherwise interfere with the maintenance, adjustment, delivery, use or operation of any voting machine or part thereof or any of the paraphernalia connected with or appertaining thereto which would change or result in a modification of the true vote in any election.
>
> Any person violating any provision of this act shall be guilty of a felony and on conviction shall be fined not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00), or be imprisoned in the penitentiary for not less than one (1) year nor more than two (2) years, or both said fine and imprisonment.

I must confess that in reviewing the entire approach of some members of the minority to this election contest, I am struck with a strong feeling that a rather old technique has been applied. That is, if you make enough false charges, often enough, people will not recognize that you are guilty of that which you accuse others. I also have the feeling that when such terms as "tyranny of the majority" and "political steamroller" are used that some questionable goals are being disguised by noble sounding rhetoric.

And, finally, let me state, I have great faith in the basic fairness of my colleagues in the Senate—be they Republican or be they Democrat. I am certain, and would expect no less, that the minority will judge these issues on their merits. I would also invite the attention of Members of the Senate to the fact that we all must deeply search our consciences in ultimately disposing of this case. I feel the people of this country would be deeply disappointed in a situation, where but a few months ago, the U.S. Senate being unable to reach a determination as to who had won a disputed Senatorial election, decided to return the contest to the people of New Hampshire, if now the Senate is unable to reach a determination as to who had won a disputed Senatorial election contest and did not return it to the people of Oklahoma. It would seem to me totally inconsistent to deny the people of one State in these United States the opportunities that were accorded the citizens of another State of these United States.

I would finally state to my colleagues, I feel confident that a real sense of equity and fairness will prevail in our final determination. I hope that we will be consistent with our previous actions and provide equal treatment to the citizens of our country regardless of what State they reside in.

LATIN AMERICAN TRIP OF THE SECRETARY OF STATE

Mr. KENNEDY. Mr. President, the Secretary of State has just returned from a long-awaited and long-delayed trip to Latin America.

In visiting the six countries of Venezuela, Peru, Brazil, Colombia, Costa Rica, and Guatemala, the Secretary has appropriately included countries that span in size and character much of Latin America's diversity.

Benefits of the trip can be found in the opportunity it afforded the Secretary to communicate directly with top political and economic leaders of the hemisphere in their own countries; in his attempt to communicate a new sense of concern which has hardly been apparent in the past; and in the possibility that the trip might set the stage for more positive actions on the part of the United States in the future. Hopefully, the Secretary will now abandon past policies of neglect toward Latin America's real problems, and instead build on those elements of promise provided by his trip.

In his one major address in Venezuela, the Secretary did make a positive departure from past U.S. policy which deserves note. That was his expression of an open willingness to cooperate with Economic System of Latin America—SELA—the new hemispheric organization formed at the behest of Venezuela, Mexico, and others. The other points offered as part of the administration policy were less innovative, but still positive.

However, the speech failed totally to express any awareness that there has been a dark side to the "special relationship" of the past, which was characterized by unilateral intervention and private corporate protection. It was silent on our past propensity to intervene—overtly as in the Dominican Republic or covertly as in Chile.

More important, the trip's major change in United States-Latin American relations, breaching tradition and custom, should not have occurred. It was the awarding of special favors and benefits to a regime in Brazil whose violations of human rights and lack of democratic practices continue to be of serious international concern.

Of course, Brazil is one of the hemisphere's preeminent countries, rich in natural resources, blessed with the hemisphere's largest population outside of our own, and hopefully destined for further economic, social, and political development.

Yet the Secretary closed his eyes once again to the violation of human rights—including the torture by electric shock of a U.S. citizen, Fred Morris—the torture of a Brazilian journalist, Vladimir Herzog, who died in prison within hours of his arrest last November, and the death in prison last month of another political prisoner. He has closed his eyes as well to continued censorship and use of arbitrary power in Brazil by the military regime. Despite these actions and policies of Brazil, the Secretary bestowed the reward of a special consultation agreement on its government.

In defense of his own apparent approach to try influencing events in different regions of the world through support for key nations, the Secretary has created a policy that both conflicts with our own values, and will make more difficult our relations with other nations in the hemisphere.

Rather than single out Brazil for special benefits, the Secretary should have expressed a willingness to consult closely and regularly with other countries in the hemisphere as well, particularly those countries whose efforts include support for democratic development.

If the criteria is to be economic importance to us, for example, surely one can point to a far higher level of trade between the United States and Mexico or the crucial importance of Venezuela's oil exports to our homes and farms and factories. If the criteria is broad identity of interests, once more the current Brazilian regime does not rank at the top of the list. Only in terms of still-to-be-attained power, by virtue of its resources, does Brazil rank highest. That single factor should not be permitted to dominate our work with other important countries in the hemisphere in meeting today's vital problems.

At the signing ceremony in Brasilia, Secretary Kissinger said:

> There are no two peoples whose concern for human dignity and for the basic values of man is more profound in day-to-day life than Brazil and the United States.

Yet, no one who has even a passing interest in events in Brazil can view that statement other than with bewilderment and the utmost sorrow.

It demeans both the United States and those people supporting human rights who have so long been denied expression in Brazil.

Regrettably, Secretary Kissinger's approval to Brazil left a bitter taste not only in many countries of the hemisphere whose people wonder what our values really are, but also in this country as well. Hopefully, he will act constructively to correct this deficiency in U.S. policy and attitudes toward Latin America, and put our actions toward the hemisphere on the much more solid ground of concern for all nations of the area, plus respect for enduring human values.

A WOMAN IN POLITICS

Mr. HUMPHREY. Mr. President, I have had the opportunity to read a significant address by Dona Felicia Rincon de Gautier last October before the Missouri Federation of Women Democratic Clubs, and I commend it to the attention of my colleagues.

This address provides wise counsel on the effective roles of women in policies. The speaker has had a distinguished career of public service in the Commonwealth of Puerto Rico, and I have been greatly honored by her friendship over the years.

Mr. President, I ask unanimous consent that this address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY DONA FELICIA RINCON DE GAUTIER

Madam Chairperson and members of the Missouri Federation of Women Democratic Clubs; fellow Democrats; ladies and gentlemen:

May I start by expressing my deep appreciation for the opportunity to address myself to the women who are the leaders of the Democratic Party in this great State. It is not often that a speaker has the opportunity to face such a select group. The dignity, grace and beauty of the distinguished ladies who compose it so pervade this gathering, that an unsuspecting person, impressed by it, could very easily fail to notice that this group, albeit its feminine charm, yields a tremendous political power that can and will very shortly be a decisive factor in the major decisions of the Party in this State.

I come from a far away island in the Caribbean, thousands of miles from here over sea and land. Far removed as we are, in a different latitude, and with a different cultural heritage, it is only natural that we may have local problems and priorities which do not correspond to yours. But the basic and dominant issues that beset the national attention are also our problems, being, as we are, an island community which shares with the rest of the nation the common factors of citizenship, defense, and inter related economics, goals and aspirations. The blessings that befall the nation are our blessings, and so are its plights. I bring you, therefore, the greetings of fellow Democrats from over there who share with you the worries and the responsibility of steering this nation to a political decision that shall assure the quickest and most sensible solution to the present sorry state of public affairs. To me, that decision is no other than to elect once more a Democrat to the Presidency of the United States.

There has been a traditional feeling of solidarity between the overwhelming majority of Puerto Ricans and the Democratic Party. We over there, as a people, are in favor of social reforms, of true participation of the people in the democratic process, of causes and issues which are representative of the people, of the advancement of the common man. It is only natural, therefore, that people with such inclinations should instantly identify themselves with the Democratic Party, since it represents in this country the same ideology which we profess—the vehicle to fulfill the Great American Dream. And also because we have seen that by some rare coincidence, the periods of great economic surge happen during Democratic administrations, and that the great economic set-backs happen during Republican administrations.

The trust that we over there placed in the Democratic Party has not been lost. Almost every significant advancement in the relationship between the United States and Puerto Rico during the last 25 or 30 years has taken place under a Democratic President. Our first such experience was the designation of the first native Puerto Rican to become governor. We shall ever be grateful, for that first important step in the chain of events that led to the creation of the Commonwealth of Puerto Rico, to the then President of the United States, a great son of this State, Harry S. Truman.

There you had a man to be remembered. Straightforward, honest, astute, of forceful and picturesque speech, a man of integrity, of decision, of guts, of destiny. The nation was fortunate to have him, and so was the Democratic Party. The nostalgia of the "Give Them Hell, Harry" days is ever present. His departure shall be forever missed by all of us who had the privilege of his friendship.

Addressing ourselves now to present day problems which command national attention, it is only natural that in a meeting composed of women who are leaders in this part of the country, we touch on the subject of the liberation of women, or as is commonly known, "women's lib." This is a subject I feel I can talk about with a certain degree of authority, because I started dealing with and actually living the political emancipation of women, back home, during the decade of the thirties, at a time when many of you were not yet born, and most of the others were very, very young. At that time, ours was a society of a Spanish colonial pattern, in which the man held not only certain legal prerogatives, but also a real and effective control over the whole fabric of social and family life. That was a real "Macho" society if you ever saw one. It was at that time, while still a very young wife, that I started becoming active in politics, a forbidden land jealously reserved by men as their own private province. Although I had the support and help of my husband, also active in politics, I still had to cope with the negative attitude of the other men, particularly those in important positions.

How did I do it? My formula was simple. I did not antagonize the men. I joined them, in their work and in their worries. First, I worked very hard in the area which is most to my liking, dealing with people, recruiting, organizing, orienting, trying to solve personal problems, being a social worker as well as a political activist. It was a new party we were then organizing, and there was a great need for that basic element of politics, the grass roots of operation. My success in that area, gave me a reputation for hard work, service, and a way with people that no new and starting organization can afford to ignore. Second, and at the same time, I was always myself, and I conducted myself as I thought befitted a lady.

This imposed on the men, by reciprocity, a conduct of politeness, civility and deference which paved the way for a state of mutual understanding and acceptance which did not take long to materialize. Thus, a respectful camaraderie was developed and the prejudice was a thing of the past. This enabled me to progress so that in 1940 I was already the President of the Popular Democratic Party in the capital city, San Juan, and to become the City Manager of San Juan in 1946, a position—later as mayor—which I held uninterruptedly for over twenty-two years—until 1969.

So you can see that I really am familiar with the problems of the liberation of women. Still, I fail to understand why the women's lib movement must be expressed, in so many instances, with a conduct of outright hostility toward men, and the irrational assertion that everything, but absolutely everything, must be equal and the same for both sexes.

Well, it just is not that way. God did not make it that way. Women are not inferior to men, nor are they superior. There are physical differences between men and women, the product of millions of years of evolution, which can not be changed or ignored. I suspect that it is universally accepted that some of the differences need not be changed at all. But there are many other differences which are not merely the difference in sex. And there are also psychological, mental and spiritual differences. Women should not strive to have the physical strength or the aggressiveness of the men, nor could the latter have the capacity to endure pain, the tenderness, the insight or the intuition with which Nature has endowed women.

Let us not, therefore, base our liberation movement on the false premise that there must be equality in everything. That approach will actually set us back in certain aspects. Total equality will quickly do away with that part of our Western cultural heritage—however reduced it may already be in our times—that imposes on the behaviour of men a certain deference toward women, that gives women a sense and a place of precedence and priority, and enhances their femininity. I, for one, do not cherish the idea of being treated by men in the same manner and language they would, with all propriety, use with other men.

Let us strive, therefore, for a balanced sense of what liberation should stand for. To me, it stands for equal remuneration for the same work; it stands for equal rights for husband and wife over their children and common property; it stands for opening up doors which have been closed to women only because they are women; it stands for a balanced proportion of qualified women in public offices at all levels of government, it stands for the acceptance of qualified women in all fields of intellectual endeavor; it stands for doing away with attitudes that condone an act when done by a man and condemn it when done by a woman. We must strive not for a homogenized unisex civilization, in which women will look less feminine and men less masculine, to the detriment of both; on the contrary, we should strive for a two sex civilization, bringing out the best virtues of each and with equal justice for both.

May I address myself now to a subject which touches me deeply—and I refer to our moral and ethical decadence.

A steady deterioration of the fabric of our society is taking place at increasing speed. It is seen in government scandals, in drug addiction, in rising crime, in lack of respect for the law. More than anything else, it is also seen in the lack of real religious feeling, in the loss of moral values, in that so many people no longer have a sense of what is right and what is wrong, and that many of them do not care to know even if told.

As wives and mothers, this must be of the highest concern to all of us. It is not easy to point out the cause of this breakdown in our society. Undoubtedly, there must be many causes and many factors constributing to the social disease. But if I had to mention the one that is uppermost in my mind, I would say that the "cult of violence" rates the highest priority.

Everybody is aware of the fact that our movies, our TV, our banks, particularly the cartoons and comic periodicals, are available at the corner stand to children five years of age and up, are saturated with stories which depict war, crime, fights and every other form of violence, in a glorified manner, and its characters as prototypes to be imitated. And this has been the situation for the last twenty-five or thirty years.

Is it strange, then, that so many young Americans of today are insensible to violence? Has not our own society induced them to accept violence as a way of life, in some cases as a better way of life?

I propose that the women of America move forward, with conviction and purpose, in an effort to wipe out the element of violence from the world of entertainment. The movies and TV programs should concentrate on building up character and moral values, and on beauty, on art, and things that improve the human being and that improve society, and not the other way around. The voice of American women should be heard, loud and clear, demanding an end to this situation, appealing to civic clubs, teachers' and parents' associations, fraternities, sororities, book clubs, political organizations, their Congressmen, labor groups, and reaching out to wherever there may be a listening ear, to create a conscience that we have had enough of this.

The need to revive the great moral qualities that have traditionally characterized America can not be postponed. Laws alone can not cure a country's evils. No matter how many laws are approved, they will only be good to the extreme that the people are ready to observe them. The greatest penal code of all times, the Ten Commandments, hardly takes a page, yet, for centuries it was good for the Jewish people, because they had the moral compulsion to comply with it.

Let us, therefore, join the movement for a great revival of moral values in America, of a movement free of prudery, hypocrisy and false attitudes, a movement that may give us a true, simple and direct sense of right and wrong, that may restore the gentle nature that used to be our way of life, that may let us live in peace with ourselves, and with others, that will free us from the sense of violence which is the anguish of these days.

These goals, of course, can not possibly be achieved overnight. They will take time and effort. We should all become involved in the task without delay.

The massive participation in government of the women of America will be of tremendous importance to bring about some of the things we have talked about. Womanhood is not duly represented in government. A paper I recently read indicates that out of 535 members in Congress, only 19 are women, that is 3.5%; or 7561 members of state legislatures, only 610 are women, that is 8%. It should be noticed that, within those groups of women, 14 out of 19 Congresswomen are Democrats (74%) and that 389 out of 610 State women legislators are Democrats (64%). This shows that Democratic women have taken a tremendous lead in the struggle to participate in government, but there is still a great gap to be filled.

Therefore, while we work at the long range problems mentioned before, we must also address ourselves to the immediate task before this Party, which is a thorough grass roots organization that will ensure a vigorous and unrelenting campaign to make the coming elections a most resounding success for the Democratic Party in each and every State, county and city. No effort should be spared to achieve that end, in particular, to obtain a balanced participation of women in elective posts, and as a final goal, to place the Presidency and the Administration in the hands of people who will, in the tradition of the Democratic Party, give it luster, and sense of direction, revive the economy and make the nation prosper, regain the faith of the world in America, and the faith of Americans in their own great destiny.

Thank you and may God bless you all.

ANOTHER BURTON

Mr. CRANSTON. Mr. President, as many of my colleagues know, two outstanding members of the California Congressional delegation happen to be brothers. Phil and John Burton, who between them represent all of San Francisco and parts of Marin and Sonoma counties, exemplify the best of the new tradition in bay area politics. They are pragmatic, dedicated, intelligent, tough, compassionate, idealistic, and extremely effective.

But my colleagues may not be aware that John and Phil have a middle brother, Bob, who is also politically active. Professionally Bob Burton is a teacher, having for 18 years taught prisoners at San Quentin.

A recent story in the San Quentin News discusses Bob's current public and political activities. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Tamal (Calif.) San Quentin News, Feb. 13, 1976]

SQ Teacher Appointed to Parole Board

Governor Brown, California's conservative-liberal leader, has once again shown a keen independency by appointing Mr. Robert Burton to the Adult Authority Parole Board.

The 47-year-old Burton has been a teacher at San Quentin for 18 years, giving him the recognition of having been teaching here the longest of any of the present teachers.

Prior to coming to Quentin, Mr. Burton was a merchant seaman and a graduate of San Francisco State University, majoring in history and government.

He taught math and history here at Q, spending the last few months of his assignment working with the men in the lock-up units.

A politically active man, Mr. Burton is also the current president of the San Francisco Community College District. But Robert is not the only politician in his family. He has two brothers, one older (Phillip) and one younger (John), who are national congressmen. The older is the Democratic Caucus Chairman of the House of Representatives.

It was through a personal interview with Governor Brown that Robert's appointment came about, and it's long overdue in coming. What slowed this move was fear of the cry "nepotism." But our present Governor was able to see Robert's value as a man who, due to his many years at Q, possesses an intimate knowledge of the convict, and would be an asset to the parole board.

It's not often that members of the Adult Authority are selected from outside the law enforcement field and to have a liberal minded Democrat sitting thereon, well . . . maybe things are looking up after all.

GLOBAL INFLATION

Mr. HARRY F. BYRD, JR. Mr. President, the Senate Finance Committee's Subcommittee on International Finance and Resources, which I chair, recently conducted 2 days of hearings on world inflation.

In our increasingly interdependent world, it is generally believed that no country is an economic island. The purpose of these hearings was to explore the problem of inflation and its global as well as domestic implications.

The five witnesses at these hearings were: Gerald L. Parsky, Assistant Secretary of the Treasury; Charles W. Robinson, Under Secretary of State for Economic Affairs; Henry H. Fowler, former Secretary of the Treasury; Paul A. Volcker, President of the Federal Reserve Bank of New York; and G. Warren Nutter, professor of economics at the University of Virginia.

Although these witnesses came from different backgrounds, there is a general consensus among them regarding the causes of world inflation and the action necessary to alleviate inflation.

In short, they believe inflation must be attacked by coordinated policies and efforts of various countries.

But they also share former Secretary of Treasury Fowler's sentiment: "The battle against global inflation, like charity, should begin at home."

In the interest of national debate on our economy, I shall, at the end of my statement, ask unanimous consent to have the five witnesses' statements inserted in the Record.

I shall now summarize important points raised by the witnesses. The general causes of world inflation are:

First, during 1972–73 there was simultaneous strong expansion of all the major industrial countries. Thus, there was no excess capacity in one country to soak up the excess demand in another country. Secretary Robinson pointed out:

> Beginning in the mid-1960's with the excessive and inflationary expansion in 1965–66; 1968; and 1972–73, U.S. prices rose more rapidly; and we ceased to be an anchor of price stability.

Second, Mr. Volcker of the New York Federal Reserve Bank said:

> In recent years, there has been a reduced sense of caution and prudence in public and private financial affairs and an increased tendency for public desires to outrun economic realities. This emerging set of attitudes helps to foster inflationary pressures, through its impact on private spending, pricing, and wage decisions, and through this climate, it created public policy making on the side of excessive expansion.

In this connection, it seems to me that Professor Nutter has the proper focus on the reasons for the expansionary fiscal and monetary policies of major industrialized countries.

He said:

> In the United States, the total government spending at all levels, federal, state and local, amounted to only 12% of national income in 1929. That percentage rose to 24% in 1939; 27% in 1949; 33% in 1959; 38% in 1969; and 40% in 1975.

Regarding the 14 industrialized countries in the Organization for Economic Cooperation and Development, he said:

> Government spending amounts to more than half of national income today.

With the huge percentage of national income going into government spending, Professor Nutter raises this question:

> In any welfare state, who is to benefit at the expense of whom? Who is to receive what from whom?

His answer was:

> If a quarter or less of national income is flowing through the hands of government, it may seem plausible to a large majority that needed taxes can be collected from the remaining minority. Politicians can credibly campaign on the platform of "soaking the rich." But not when the tax take raises to thirty, forty, or fifty percent of national income. Voters promised growing benefits from the welfare state must begin wondering whether they will receive more than what will be taken from them.

Third, during 1973–74 there was a fourfold increase in oil prices by the OPEC countries. Since oil is an important commodity in any country, to a greater or lesser degree, its increase in price exerted inflationary pressure on all goods and services in the world community.

Fourth, because of the recent crop failures, there has been a tremendous increase in food prices.

Fifth, in recent years, there has been a continuation of an earlier trend of enormous increases of international capital flow, much of it in bank deposits of highly volatile liquid forms, in relatively uncontrolled money and credit markets, such as the Eurodollar market.

Former Treasury Secretary Fowler said:

> This Euro-currency market and similar trans-national financial markets have done more than supply a channel for these international movements of large funds, enabling the users to take advantage of interest rate differentials or anticipations of exchange rate changes.
>
> These money and capital movements spread inflationary impulses. They make deliberate changes in exchange rate parities or their maintenance very difficult, placing a heavy burden on coordinated central bank market intervention if irrational or speculative exchange rate changes are to be minimized.

Mr. Fowler added:

> The break-up of the system in 1971–73 opened the floodgates to money creation.

He cited the statement of Prof. David Meiselman of Virginia Polytechnic Institute:

> Over the three year period from 1971–73, money increased a total of 55.8 per cent in the nine major OECD countries outside the United States. It was not until their central banks stopped monetizing balance of payments surpluses and permitted their currencies to float that monetary growth was slowed from an annual rate of 25.9 per cent in the fourth quarter of 1972 to 5.1 per cent in the fourth quarter of 1973 . . . The United States, freed from external constraints on its monetary growth, responded to domestic considerations over the 1971–73 period and increased both M_1 and M_2 measures of money at their fastest rates since World War II, even after inflation speeded up in 1973." (The Phenomenon of Worldwide Inflation [American Enterprise Institute] p. 5).

Former Treasury Secretary Fowler believes that—

> Excessive increases in the nineteen seventies in official international liquidity in the official reserves of the central banks of the various member countries of the International Monetary Fund, over which the Fund had no control, was one of the causes for the expansion of these monetary aggregates in a large number of nations.

> Let us get some measure of the magnitudes of this expansion in official reserves.
>
> Official reserves grew at an average annual rate of 2.3 per cent in the nineteen fifties, and 3.1 per cent during the sixties.
>
> But, in the seventies the growth curve took a sharp incline.
>
> National currencies such as the dollar but including other major currencies were more than half the holdings of official reserves in 1970. At the end of 1970, total holdings of national currencies in reserves amounted to some $45 billion. By the end of 1974, they had grown to $150 billion, tripling in four years.

The witnesses emphasized various approaches to alleviate world inflation through international cooperation; but, generally, they are in accord with the points covered by Secretary Parsky's statement:

> Promoting a free and open system for world trade and investment;
>
> Avoiding beggar-thy-neighbor policies;
>
> Assisting the developing nations in becoming more economically self-sufficient;
>
> Responding promptly and effectively to structural changes in the world economy such as the changed energy balance; and
>
> Seeking, in concert with other nations, the development of international economic arrangements which can adapt promptly to changing conditions.
>
> Adherence to these principles is fundamental to the solution of our economic problems.

Although the witnesses agree that inflation is a world problem, they emphasize that the battle against global inflation should begin at home.

Secretary Robinson put the focus forthrightly:

> Improvements in international economic arrangements, important though they may be, cannot substitute for the sound management of our own affairs. The primary battle against inflation must be fought and won at home.

Mr. Fowler's statement is more detailed when he said:

> Restoration can be signalled by amending the Federal Reserve Act and the Employment Act of 1946 to place "reasonable price stability" on a parity with low levels of unemployment and an adequate rate of economic growth as national economic objectives.
>
> For monetary policy, as administered by the Federal Reserve, cannot do the job of coping with inflation alone. It must be complemented by fiscal policy. While inflation is a monetary phenomenon, associated usually, maybe invariably, with excessive increase in the quantity of money, large budget deficits, wage pressures, monopoly prices, increasing tax levels and other factors operate on the price level only via an increase in the quantity of money or a decrease in output. These forces can put irresistible pressures on the Federal Reserve to expand the money supply beyond the rate of potential real growth in output.

Mr. Volcker's statement is basically the same as Mr. Fowler's when he says:

> In these circumstances, the greatest contribution economic policy makers can make, both here and abroad, is to maintain a certain steadiness of purpose, resisting the temptation to seek an immediate solution to either inflation or unemployment at the expense of the other.

The committee will hold additional hearings, but I ask unanimous consent that the statements of the five witnesses be printed in the Record.

There being no objection, the statements were ordered to be printed in the Record, as follows:

Statement of Henry H. Fowler Before the Subcommittee on International Finance and Resources of the U.S. Senate Finance Committee, Tuesday, February 17, 1976

My name is Henry H. Fowler. I am a General Partner of Goldman, Sachs & Co., an investment banking firm at 55 Broad Street, New York City, and Chairman of Goldman Sachs International Corporation, its international affiliate.

However, I appear here today solely in my personal capacity and am not speaking for my firm or any other organization.

Mr. Chairman, I congratulate you and your colleagues on undertaking this timely congressional examination of global inflation and its implications for national policy. In my judgment, it is the most fundamental problem facing the United States and the nations with whom it is associated and allied in the Free World economy. The rate of inflation has receded in some countries from the destructive double digit range which characterized the recent past, largely as a byproduct of the most serious global recession since World War II. Nonetheless, global inflation stands in the way of a full restoration of consumer and business confidence and world economic recovery to a steady and sustained rate of adequate but non excessive growth.

The Summit Meeting on last November 15–17, of the Chiefs of State of the United States, Japan, Germany, France, the United Kingdom and Italy in Rambouillet, France, concluded that the most urgent task of the industrial democracies represented was:

"To assure the recovery of our economies and to reduce the waste of human resources involved in unemployment. In consolidating the recovery it is essential to avoid unleashing additional inflationary forces which would threaten its success."

These expressions of good intentions at the Rambouillet Meeting will not be enough. They must be reflected and implemented in *concrete* programs of legislative and executive action within the economies represented at that Conference and acts of international cooperation between them and other like-minded nations approved by their parliaments and congresses and supported by the weight of informed public opinion.

That is the principal conclusion I would present to the Committee today, representing, as it does, a long held conviction.

I. NEEDED: A CONCRETE ANTI-INFLATION PROGRAM ADHERED TO BY THE MAJOR DEMOCRATIC INDUSTRIALIZED NATIONS

Speaking in London, England, almost 18 months ago, at the Fifth International Conference of the Conference Board, I made some comments which are apt today. I observed then, as I do now, that—

"As yet, individual national efforts to halt inflation and return to an acceptable range of price stability, without a major recession, seem to be relatively uncoordinated internationally.

"In short, there is no program, international in scope and acceptance, by which we can hope to navigate our international, interdependent world economy between the Scylla of uncontrolled inflation and the Charybdis of serious worldwide recession or depression."

It is the absence of a concrete and credible program for the orderly restoration of sustained non-inflationary growth in the international economy, adhered to by the major democratic industrialized nations, that is the heart of the matter to which this Committee is addressing its attention. I urged in London in September 1974, as I do now, that:

"In addition to the scheduled 'summit' meeting going on this month in Washington to deal with inflation in the United States, we need an international 'summit' to hammer out a common program of action designed to bring the international economy back to some acceptable norm of price stability without a worldwide recession."

Because it deals with this basic conclusion, I would like to include a full copy of my remarks of September 10, 1974, as an exhibit to this statement. (See Exhibit A).

In this connection, attention should be called to the recent *perceptive* comments of two members of the Senate Finance Committee, Senator Long and Senator Ribicoff, on "The Need For Economic Summitry", in their Report submitted on November 17, 1975, entitled "Consensus or Confrontation: International Economic Policy at the Crossroads."

My contribution to a forging of a synthesis of new public policy to deal with the problems of global inflation of necessity must be a modest one, beyond expressing the strongly held conviction that I have just voiced. So, in the time remaining, I shall make a few observations on: the increasing recognition of global inflation as a new problem requiring new policies, the special characteristics of the new global inflation, and some tentative conclusions as to the make-up or mix of a program of action.

II. INCREASING EXPORT RECOGNITION OF GLOBAL INFLATION AS NEW PROBLEM REQUIRING NEW POLICIES

The emergence of global inflation as a perceived problem, as distinct from inflation in an individual nation, has received increased attention in the nineteen seventies. Acknowledgment of its existence as a new phenomenon, analyses of the complex of contributing causes and antecedents, and technical reviews of the various policy options for dealing with it have been contributed by learned professional economists in the nineteen seventies. Perhaps a brief reference to some few of these expert sources will be useful for the record of this committee's proceedings.

A book, entitled "Inflation As A Global Problem", edited by Mr. Randall Hinshaw, and published in 1972 by the Johns Hopkins University Press, reported on a conference, held in Bologna, Italy, in April 1971, bringing together the views of some of the world's foremost monetary authorities on this subject.

A more theoretical but penetrating analysis of "International Aspects of Stabilization Policies" was sponsored and published by the Federal Reserve Bank of Boston, reporting on an international seminar with accompanying prepared papers, held in June 1974.

In 1975, the American Enterprise Institute for Public Policy Research published the results of a conference on worldwide inflation, entitled "The Phenomenon of World-wide Inflation". This collection was edited by Messrs. David I. Meiselman and Arthur B. Laffer.

Recognition of the problem of global inflation was not limited to academic circles in the early Seventies. Nor can it be attributed solely to the late 1973 explosion in oil and related energy prices.

In early June 1973, Dr. Otmar Emminger of the Deutsche Bundesbank, who has contributed so much to constructive international economic dialogue, said at Basle:

"Let us first take a glance at the phenomenon of worldwide inflation. The evolution over recent years points to some common cause or causes of world inflation. Indeed, what is particularly striking and ominous in the world economy of today is not only the progressive strengthening, but, in particular the universal character of the inflationary forces in the industrial countries. Among the OECD countries, the average weighted price increase—measured in terms of consumer prices—was 2.4 per cent per annum in the second half of the 1950s, 2.6 per cent per annum in the first half of the 1960s, 4.2 per cent per annum in the second half of the 1960s, and 5.3 per cent per annum in the three years 1970–1972. At present (in June 1973), nearly all industrial countries seem to be marching "in step" at a rate of inflation of 7 per cent or more."

At the Annual Meeting of the International Monetary Fund and World Bank in Nairobi, Kenya, in September 1973, Ministers of Finance and Central Bank Governors voiced a common despair at this ever increasing, all pervasive, global inflation reaching a scale unprecedented since World War II.

But a year later, when I addressed the subject in London, in September 1974, inflation in the OECD countries had doubled and was estimated as running at an annual rate of fifteen per cent. This acceleration—a doubling in little more than a year—was in part due to the impact of oil price increases. But there were many other contributing factors which gave this global inflation a special character.

III. SOME SPECIAL CHARACTERISTICS OF THE NINETEEN SEVENTIES—A PERIOD OF GLOBAL INFLATION

Some analysis of the special characteristics of the recent period of global inflation is desirable if the public policy implications are to be accurately determined. I will mention a few that seem more important to me.

1. The extraordinary growth of Free World Trade and transnational money and capital flows in the post World War II era, welcome though it is, nonetheless has resulted in linkages between national economies that have converted inflation into an international, as well as a national problem.

Inflation has become increasingly exported and imported. And, unlike disease, inflation, and for that matter recession, cannot be screened out at the customs border.

The reality of ever enlarging world markets means that the prices of many items that enter into the price indexes are responsive to imbalances in global demand and supply or set internationally by cartel type activity, public and private. Both may result in the increase in the prices of internationally traded goods which tend to uniformity, as transportation and communication make the world smaller.

Another international transmission of inflation operates via the balance of payments and transnational money flows in a fast growing international banking system, subjecting national economies to external inflationary pressures. Balance of payments surpluses resulting from a decline in imported goods, an increase in exports, or an increase in net capital inflows may lead to increased reserve accumulation, undue expansion in money supply, and increasing prices. Balance of payments deficits, resulting from increases in imported goods, declines in exports, or net capital outflows, may lead to reserve declines and currency devaluation which, in its early stages, has an inflationary impact as the devaluing nation pays an increased price for the goods and services it secures from its trading partners.

2. A widely pervasive revolution of "rising expectations", giving many national economies an inflationary bias, has climaxed with simultaneity during the nineteen seventies. In a number of important industrialized nations, this attitude has overborne the fiscal and monetary disciplines particularly essential to the avoidance of damaging inflation in a free democratic society.

This imbalance has resulted in public policies for maximizing economic growth, providing full employment, and increasing the scale of public assistance to the less advantaged—all commendable objectives with popular, political appeal—without adequate account being taken of fiscal and monetary discipline necessary to prevent inflation. The result in a given country at some point will be unsustainable rates of private activity and public expenditures, and the consequent creation of excessive money and credit, leading inevitably to severe domestic inflation, financial and structural distortions, and ultimately recession or depression and a risk of political and social breakdown.

Without restraining inflation, a nation cannot expect to maintain sustainable patterns of increasing real growth, adequate job creation, and expanding public revenues in real terms.

When these over expansive public policies get out of control on a global scale, or simultaneously in a number of the important industrialized nations, a demand pull inflation takes on a special commodity dimension as the threat of inadequate supplies gives rise to speculative forces in world raw material markets. Pressures build up explosively on available supplies of food, raw materials, energy, other services, and the capabilities of technology, creating both cyclical and structural forces conducive to continuing inflation and spiralling prices. The aspect of global inflation ultimately damages even the frugal nation which has kept its house in order as it imports inflation in imports.

Clearly, the most important single cause of this most recent global inflation is that the industrialized countries have pursued fiscal and monetary policies which, simultaneously, if unwittingly, have been excessively expansionary, particularly if one takes into account the accompanying inadequacies in efforts to expand supply in key material and product sectors.

Both our macro and our micro economic policies have been out of phase with reality. The resulting excess global demand has pushed up prices—both of industrial products and services and numerous raw materials.

Goaded by these price increases and the expectations of continuing inflation, wage and compensation increases have all too often exceeded productivity gains or cost of living increases, contributing a "cost push" element to inflation in many countries. Increased levels of interest rates and cost of capital, based on inflation and expectations of its continuance, have added another "cost push" factor to global inflation. Increased levels of taxation and regulatory requirements for non-productive investment in many countries have been a factor in many countries.

Before passing on let me cite just one classic example of simultaneity of domestic inflationary monetary policies which have given rise to global inflation.

In July 1974, the letter of the First National City Bank of New York observed:

"While the precise degree of price increase in any one country proved difficult to predict, the step-up in the worldwide rate of inflation that took place in 1973 and 1974 was predictable in view of the rapid growth that took place in the money supplies of most of the major industrial countries. In 1971 and 1972, the rate of growth in the supply of currency and demand deposits averaged around 27% in Japan, 15% in the United Kingdom, 8% in the United States and 13% in Germany. These rates were both well in excess of feasible rates of growth in physical output and at least 50% faster than the average rate of money growth in the three previous years."

These types of increases create an environment in which it is almost impossible for any single country, with a relatively open economy, to maintain its own control over inflationary conditions, particularly when combined with the special characteristics of the new global inflation about to be discussed.

3. The nineteen seventies have been characterized by volatile price movements of essential commodity—agricultural, mineral and energy—which have originated in part in natural and man made limitations on increases in supply and malfunctioning markets.

Poor harvests in some parts of the world in 1972 plus disruptive purchasing practices by state trading nations contributed to a steep rise in food prices.

The four-fold increase in world crude oil prices in 1973 due to the operation of a public cartel (OPEC) of major oil producing countries was a major cause of and contributor to global double digit inflation. Echoing forward movements in many other commodity prices added to the pervasive inflationary thrust of 1973–5.

Equally serious for the future is the tendency of governments, who are major producers or controllers of other basic materials, to follow the OPEC cartel example.

Widespread commodity speculation, aggravating price movements up and down, strongly held feelings in the less developed countries which are major raw material producers that they have been unfairly affected by the terms of trade, and a political drive in the Third World for a so-called new international economic order—all these and other forces mentioned above have made the industrialized nations, including the United States, highly vulnerable to global inflationary price movements in raw materials.

4. The nineteen seventies have also been characterized by the climax of an earlier trend in the sixties to enormous increases in international capital flows, much of it in bank deposits of highly volatile liquid forms, in relatively uncontrolled money and credit markets such as the Eurodollar market.

The growth of the private international banking sector has been spectacular. Foreign assets of commercial banks increased from 108 billion dollars to 410 billion dollars during the first half of this decade. The development of the Euro-currency market began in the late Fifties. It has continued at such a rate that its aggregate volume is now greater than the narrowly defined money supply of the United States.

In a particularly noteworthy address in Frankfurt, Germany, on October 28th, 1975, Dr. Johannes Witteveen, Managing Director of the International Monetary Fund, observed:

"Considering a historic average annual growth rate of 30 to 40 per cent in the volume of Euro-currencies, the presence of this market may pose significant questions as to the adequacy of our existing instruments of monetary management."

Already the useful impact of this market has been significant, facilitating international capital movements, providing financial intermediation services on an intercontinental scale, enabling international financial and business organizations to diversify asset portfolios, assisting in the recycling of petrodollars.

But, this Euro-currency market and similar trans-national financial markets have done more than supply a channel for these international movements of large funds, enabling the users to take advantage of interest rate differentials or anticipations of exchange rate changes.

These money and capital movements spread inflationary impulses. They make deliberate changes in exchange rate parities or their maintenance very difficult; placing a heavy burden on coordinated central bank market intervention if irrational or speculative exchange rate changes are to be minimized.

Governmental authorities have not generally engaged in tight supervision or regulations of the activities of Euro-currency banks. Indeed, as presently set up, the transnational market makes effective monetary control more difficult. It is unclear as to the extent central banks now take this external private liquidity into account in the determination of monetary policy targets.

As Dr. Witteveen pointed out in his Frankfurt speech:

"A broadening of the scope of monetary policy may well be called for and one might want to investigate more closely whether steps designed to control the aggregate amount of private liquidity in international financial markets would be appropriate."

5. The nineteen seventies also witnessed an unprecedented and uncontrolled increase in official international liquidity held in central bank reserves throughout the world, accompanied by the abandonment of fixed par values and the need to keep a disciplined check on inflation and money creation in order to maintain stable exchange rates.

The unprecedentedly large United States balance of payments deficits in 1970 and 1971 led to the abandonment of the convertibility of the dollar in August 1971, the underpinning of the Bretton Woods international monetary system. Two devaluations of the dollar in late 1971 and early 1973 were shortly followed by the floating of major currencies.

Even under the old Bretton Woods system the excessive accumulation of dollar reserves and the ability of deficit countries to borrow from the U.S. and surplus countries served to delay deflationary responses by inflated national economies. The growth of the Eurodollar became an important source of international reserves and money creation.

But the break-up of the system in 1971-73 opened the floodgates to money creation.

According to David Meiselman:

"Over the three year period from 1971–1973, money increased a total of 55.8 per cent in the nine major OECD countries outside the United States.

It was not until their central banks stopped monetizing balance of payments surpluses and permitted their currencies to float that monetary growth was slowed from an annual rate of 25.9 per cent in the fourth quarter of 1972 to 5.1 per cent in the fourth quarter of 1973. . . . The United States, freed from external constraints on its monetary growth, responded to domestic considerations over the 1971–73 period and increased both M_1 and M_2 measures of money at their fastest rates since World War II, even after inflation speeded up in 1973." (The Phenomenon of Worldwide Inflation (American Enterprise Institute] p. 5).

Excessive increases in the nineteen seventies in official international liquidity in the official reserves of the central banks of the various member countries of the International Monetary Fund, over which the Fund had no control, was one of the causes for the expansion of these monetary aggregates in a large number of nations.

Let us get some measure of the magnitudes of this expansion in official reserves.

Official reserves grew at an average annual rate of 2.3 per cent in the nineteen fifties, and 3.1 per cent during the sixties.

But, in the seventies the growth curve took a sharp incline.

National currencies such as the dollar but including other major currencies were more than half the holdings of official reserves in 1970. At the end of 1970, total holdings of national currencies in reserves amounted to some $45 billion. By the end of 1974, they had grown to $150 billion, tripling in four years.

The other principal component of official reserves was gold, amounting in 1970 to nearly $40 billion at the then official price of $35 per ounce. The *official* price was increased to $42 per ounce with the dollar devaluations increasing the value of official gold reserves to nearly $50 billion. Since August 1971, when the United States terminated the convertibility of the dollar into gold, the trend in the *market* price of gold has been sharply upwards, reaching nearly $200 an ounce last year and now declining to about $125 an ounce.

There is pressure now from a few of the major gold holding governments who hold disproportionate amounts of gold in their reserves to amend the Articles of Agreement of the International Monetary Fund to allow them to sell and buy gold in the market and to each other at market prices rather than the official price.

As Mr. Witteveen, the Managing Director of the International Monetary Fund, made clear last May:

"Freedom for central banks to trade in gold, if effectively usable, would imply recognition and acceptance of a very large increase in international liquidity. The total monetary gold stock of about $50 billion at the official price would be revalued at anything up to the $200 billion implied by present market prices." (See speech of Witteveen, May 14, 1975, page 5.)

Should the proposed change in the IMF Articles of Agreement and market conditions make the gold held in official central bank reserves usable at the lesser levels of the current market price of $125 an ounce, the increase in international liquidity would be from about $50 billion to about $150 billion.

As Dr. Witteveen recently remarked in his address "On the Control of International Liquidity" in Frankfurt, Germany, on October 28th:

"Countries maintaining a balance of payments deficit tend to impart inflationary pressures upon other nations, just as countries with a surplus in their international accounts are likely to export unemployment. Because international reserve holdings influence the working of the international adjustment process every nation has a vital and legitimate interest in seeing that international reserves are properly controlled, so that the policies pursued by other countries do not harm them to an undue extent."

IV. SOME TENTATIVE CONCLUSIONS

What are some of the public policy implications of this global inflation of the 1970s? My answers will follow the foregoing analysis of its special characteristics.

First, individual national efforts to halt inflation, though essential to an international solution, are relatively uncoordinated internationally. There is grave need for a program, international in scope and acceptance, to halt global inflation.

The very success of our post-World War II international economic policy in achieving extraordinary levels of economic development, international trade, and transnational money flows, particularly in Western Europe, North America and Japan, has converted inflation into an international, as well as a national problem.

No nation in the interdependent Free World is an economic island. No nation, particularly a free, democratic, industrialized one, can insulate itself from global inflation. Nor should it shirk its share of the responsibility to deal constructively with the threat of global inflation to the political, social and economic structure on which it is dependent for strength, peace and prosperity.

Accordingly, the United States government, acting through its executive and legislative branches, should promote the negotiation of a concrete program with like-minded nations for a concertation of national policies at home and acts of international cooperation designed to halt inflation at home and abroad.

As a first step, collaborative action between the Congress and the Executive Branch should be initiated in the spirit and manner envisaged by the Report of Senators Long and Ribicoff on November 15th, 1975.

The objective should be the formulation of a program for presentation at the next "economic summit" of the Chiefs of State, following detailed staff work by the relevant executive departments with the Committees of Congress and the diplomatic representatives of the member countries of the OECD. This is no time for piecemeal actions, unilateral initiatives, or one man leadership. It is a time and a year "for cooperative and consultative diplomacy" to paraphrase the Long-Ribicoff Report.

Of course, no single meeting or series of meetings, will provide the lasting solution to the problem of global inflation. Miracles do not come to pass at international conferences. But these meetings serve as expressions of common desires and objectives. Moreover, they provide the base for the day to day, week to week, month to month acts of consultation and cooperation that may precede or follow a "summit".

A concerted and coordinated program to deal with global inflation, adhered to by the Chiefs of State of the major free democratic industrialized nations, based upon jointly developed recommendations of their Ministers of Finance, central bankers and economic advisers, and worked out in consultation with legislative leaders, would carry great weight with their citizenry.

The public is weary and disaffected by continuing inflation, whatever its source. People are becoming increasingly fearful of a resumption of the "boom and bust" cycle that marked the breakdown of international economic cooperation in the Thirties when the economies of the world were much less closely interrelated than today. They will welcome positive action by a collective leadership of the major free democratic industrialized nations.

Second, the battle against global inflation, like charity, should begin at home. Political leaders in each of the major industrialized nations share a common responsibility. That responsibility, at home, is to restore anti-inflationary fiscal and monetary disciplines and related anti-inflation measures to a prime place in their national economic policy.

Here in the United States that restoration can be signaled by amending the Federal Reserve Act and the Employment Act of 1946 to place "reasonable price stability" on a parity with low levels of unemployment and an adequate rate of economic growth as national economic objectives.

As the Report of the Commission on Money and Credit (Prentice Hall, 1961), the most intensive private sector examination of that subject in the post-war period by citizens representative of all background, put it:

"A formula of words, even enacted into law, will not by itself guarantee unity of purpose among those who are charged to give it effect. But its absence is an invitation to misunderstanding and disagreement, for the publicly avowed purposes of government agencies are expressed in their separate organic statutes. A useful initial step toward coordination is therefore to unify legislative statements of purpose."

However, that action, if taken, must be more than a token or a symbol of a national policy to overcome the inflationary bias that affects the U.S. economy today.

It must become a standard against which budgets, taxing proposals, government spending, government borrowing and extension of guarantees, debt management, and many related acts, as well as the basic Federal Reserve monetary policy, will be carefully measured.

"For monetary policy, as administered by the Federal Reserve, cannot do the job of coping with inflation alone. It must be complemented by fiscal policy. While inflation is a monetary phenomenon, associated usually, maybe invariably, with excessive increases in the quantity of money, government finance (large budget deficits), wage pressures, monopoly prices, increasing tax levels and other factors operate on the price level only via an increase in the quantity of money or a decrease in output. These forces can put irresistible pressures on the Federal Reserve to expand the money supply beyond the rate of potential real growth in output (from improved productivity and labor force growth) at a reasonably determined level of unemployment."

The enactment by Congress in 1974 of the law establishing new budgetary procedures, which fix the responsibility for approving an annual level of government expenditures and deficit or surplus in the budget twice a year, is an important procedural step towards providing a framework for the restoration of fiscal discipline in the Congress.

But much more than legislative procedure is needed.

As Chairman Arthur Burns of the Federal Reserve Board remarked in a notable address at the University of Georgia last September 19th:

"Conventional thinking about stabilization policies is inadequate and out of date. We must now seek ways of bringing unemployment down without becoming engulfed in a new wave of inflation."

A well designed public policy initiative in the United States to overcome the inflationary bias which has all too often marked our public policy would have a real and positive effect elsewhere in dealing with global inflation. It would entitle the United States to urge a similar policy for other nations in the international councils. It would minimize the future contribution of the United States to global inflation which, at various times, has been quite substantial. It could lead to mutual undertakings in coordination of national fiscal and monetary policies that at least would avoid the simultaneous excesses in 1972–73, that provided the basis for a double digit inflation in later years.

Third, The United States should participate actively in and give leadership to more intensive consultative processes between the democratic industrialized nations in the OECD dealing with raw material and commodity supplies, availabilities, and prices, and between those nations and the raw material producing nations on the same subjects.

These processes should be designed, among other things, to achieve more effective coordination of national policies for avoiding excessive increases in the prices of internationally traded raw materials and commodities.

As was observed earlier in this statement and developed in more detail by Under Secretary of State Charles Robinson before this Committee on January 26th, excessive price increases in raw materials from January 1973 to August 1974, were due to a complex of causes. In addition to the broad and excessive expansion in the economies of the industrial countries, there were unusually large increases in the prices of energy and food, reflecting the impact of the OPEC cartel in energy, and a combination of poor crops in certain areas and fundamental changes in underlying world supply and demand balance of grains with their inevitable impact on food prices.

Secretary Robinson has outlined in his statement the collective program of the industrial nations to meet the challenge of the oil prices through national action and international cooperation through the Paris based International Energy Agency, acting as an adjunct to the OECD. I would commend that pattern of activity and full-scale U.S. participation in this cooperative effort to reduce the vulnerability of the United States and the other industrialized economies to actions by the cartel of the oil exporting nations and the related effort to minimize the risk of destructive confrontation by initiating constructive dialogue between producing and consumer countries.

However, this type of activity should not stop with oil and the lesson of the OPEC experience should not be lost or forgotten.

Many of the same measures now being worked out by the International Energy Agency may have to be prepared and put in place on a standby basis to deal with government cartels or private ones in other commodity areas. The appropriate forum and organization for this collective effort by the major democratic industrialized countries should be the OECD, which has a much larger and more important role in this sector than it has hitherto been directed to occupy by its nations.

In particular, collective measures to stockpile supplies of certain critical or strategic materials, carefully selected for emergencies, such as a real or threatened embargo or cutoff from major sources of supply by other circumstances, should be considered. Incidentally, it would be wise for this government to review and slow down the current tendency to dissipate our own national stockpiles or critical and strategic materials accumulated in the past to meet emergencies until their appropriate role in a cooperative endeavor to meet situations such as the oil embargo can be determined.

At the same time that these measures of cooperative preparedness are developed among the OECD countries, the United States should participate actively in the development of a constructive and continuing dialogue between the producer and consumer nations, which was initiated in Paris last December.

I agree with the views expressed in the Report of Senators Long and Ribicoff (November 17th, 1975) that the United States should have given much earlier support to the French approach to international cooperation in this area. (See page 7 of the Long-Ribicoff Report).

I also agree with the observation of that Report that the Executive Branch would be well advised to involve Congress closely in the evolution of these talks, especially representatives of those committees which would subsequently be responsible for the handling, implementing legislation and authorizations as a result of subsequent negotiations that might grow out of the work of the various Commissions set up at the Paris meeting.

It will be important in the negotiatory processes that emerge from the work of these commissions that arrangements for dealing with the Third World on a fair basis, mutually advantageous to supplier and consumer alike, should be dilligently pursued. Collective national action by governments may be required if the economic and political future of the Free World is not to be clouded over by increasingly bitter politics of confrontation. Some escape by consumers and producers of raw materials from the cycle of excessive supply and severe shortage must be forged.

Neither the United States nor the Free World can afford the risks involved in a continued increase in pent up resentment in the relatively poor raw material producing nations at what they believe has been the historic unfairness in the disproportionate increases in the costs of the industrial goods they buy from the developed nations to the cost of the raw material they sell, particularly when there is an occasional collapse of their raw material prices due to oversupply. Nor can the Free World economy as presently constituted cope with cartels of raw material producers, imposing disproportionately large price increases, coupled with production restrictions, that will result in global inflation, followed by global recession, from which no nation can escape.

The extraordinary position of the United States confers bargaining power and responsibility. It has been wisely said:

"As the leading industrial power the United States can speak as a consumer. As a major producer and exporter of raw material and foodstuffs, it can see the other point of view. For its own welfare, it needs to broaden its concept of trade policy to deal not only with more problems but more countries. Others may come to the same view." (Diebold, Foreign Affairs, Spring Issue 1974)

Secretary Robinson has noted that the simultaneous expansion of the major industrialized economies in 1972–73 created a particularly rapid rise in the prices of industrial materials. He stated:

"Existing capacities in this sector were just not geared to the simultaneous rapid output in North America, Europe and Japan. In previous years this underlying shortage of capacity in the basic material sector had been obscured by the fact that not many economies had been operating at high levels at the same time, but in 1972–73 this was changed and spot prices for industrial materials (in dollar terms) tripled between 1971–74."

National and international policies should not be limited to allocating shortages at the expense of global inflation propagated through international trade, or global recession and economic stagnation curtailing demand. Therefore, national policies and international cooperation must also be addressed to expansion in the supply or conservation in the use of particular materials when their prices threaten to contribute in a major way to world commodity inflation.

An earlier proposal, made by Secretary Kissinger on April 15th, 1974, at the United Nations General Assembly should not be forgotten, namely, the need for a comprehensive and continuing survey of the earth's non-renewable and renewable resources, including the development of a global early warning system to foreshadow impending surpluses and shortages.

But a warning system is not enough if there is no existing machinery of international cooperation to avert the crisis warned.

The menu of proposals recently advanced by the United States in the commodities area, as set forth by Assistant Secretary of the Treasury Parsky before this Committee on January 26, (see pp. 14–16 of Parsky Statement), presumably reflecting the views of the Executive Branch, is but a broad outline. These proposals seem balanced in their affirmation of the need for appropriate access to an adequate supply of raw materials and commodities at reasonable prices and the avoidance of damage to raw material producing economies from excessive price declines, aimed at making markets work rather than artificially distorting their functioning.

How these proposals will look when fleshed out and modified in the crucible of negotiation and compromise may be another story.

The important fact is that international economic policy is at another crossroads. The Free World is embarking on another new and difficult phase in the development of an international economy. In the years ahead the practice of international cooperation to assure the availability of and access to adequate supplies of vital raw materials at prices which do not trigger global inflation may prove even more difficult than the orderly reduction in years past of trade barriers to provide access to markets.

Again, let me repeat that the development of the broad outline of areas of international negotiation by the Executive Branch should involve from the outset the representatives of the relevant Committees of the Congress. Only through that process in our system of separation of powers can the risk of embarrassment and frustration of subsequent congressional disapproval be minimized.

Fourth, the prevention of global inflation may require a set of international monetary reforms additional to those recently proposed by the IMF Interim Committee at Jamaica. These reforms may be needed to arrest or retard the unprecedented and presently uncontrollable increases in (a) official international liquidity in national reserve currencies and gold held in central bank reserves and (b) the unregulated unofficial growth in private liquidity in the foreign assets of commercial banks that have characterized the years 1971 to date.

Admittedly, this is a controversial area in which there is a grave need for more analysis, discussion and consideration by international monetary experts.

All too little is known about the monetary aggregates for the international economy as a whole and about the relationship between world money or liquidity supply and global inflation.

Are the explosive increases in official reserves and private liquidity in the foreign assets of commercial banks which have characterized the years 1971–1974 a mere coincidence of global inflation or a contributory cause?

What is the effect on global inflation of these two sources of money supply growth outside the collective control of individual nations or the IMF and whose impact does not seem to have been integrated with central bank regulation of internal money supply creation?

The Managing Director of the International Monetary Fund, Dr. Johannes Witteveen, already has taken a very positive position on these questions. In an address last May 15, he said:

"This potential for a combined growth of international liquidity and international credit creates a serious gap in the world's anti-inflationary defenses. The danger of this may well become apparent when the immediate problems of recycling and recession recede. The increase in reserves of surplus countries already constitutes an expansionary potential which will presumably be reflected in higher demand sooner or later. At the same time, the relative ease with which deficit countries can borrow reduces the pressure on them to follow appropriate stabilizing policies. As a result, payments imbalances may have an asymmetrical effect on demand, with a strong inflationary impact on surplus countries while the counterbalancing deflationary impact on deficit countries is much muted.

"The problem of controlling international liquidity was, of course, a central preoccupation in the discussions of the Committee of 20 on convertibility and asset settlement. It was not possible to reach agreement on this vital issue. With the great uncertainties created by recent events, it is undertandable that governments were reluctant to accept new and perhaps somewhat artificial-looking obligations in this field. Nevertheless, for success in the fight against inflation in the years ahead, it may be of crucial importance to develop, in one way or another, effective international control over international liquidity."

In this connection, it should be noted that the proposed Amendments to the Articles of Agreement agreed on by the IMF Interim Committee in January at Jamaica comprise a so-called "mini-reform" of the international monetary system. Without passing judgment on the merit of the proposed amendments, individually and collectively, it seems clear to me that they fall far short of the comprehensive reforms envisaged at the Nairobi annual meeting of the IMF in September 1973, and in the Final Report of the IMF Committee of Twenty in June 1974. That Outline of Reform was the result of a 2 year intensive study that was initiated by the Governors of the Fund after the breakdown of the Bretton Woods system.

It is recognized that the uncertainties that arose from the impact of the energy crisis operated to delay agreement on a comprehensive reform. But that should continue to be the objective. The processing and adoption of the mini-reform in the Jamaica amendments should not result in undue delay in seeking comprehensive reform.

Perhaps, the most important problem left unresolved in the mini-reform negotiations is the means by which international liquidity should be controlled with the related question of the role of different types of reserve assets in the settlement of payments imbalances.

The problem of dealing with global inflation while avoiding global recession creates a need for an effective international monetary system to perform in the international area much the same functions as a central bank performs in a nation. This includes, among other things, the development and maintenance of monetary reserves and international credit facilities for governments adequate to meet the increasing demands of international trade and investment within the limits necessary to avoid creating or perpetuating inflation.

The IMF has, through its authority over the issuance of Special Drawing Rights and the use of its regular resources, adequate powers to provide monetary reserves on the growth side.

But, in the words of a recent report of a Special Committee of the Atlantic Council of the United States of which I am the Chairman:

"The huge expansion of world liquidity through the uncontrolled generation, holding and treatment of national currencies as reserves by central banks and the changing value of gold reserves has removed the power of the Fund to hold down the growth of world reserves and liquidity to amounts compatible with the stable and non-inflationary growth of world trade and capital movements. Until new issues of SDRs and their substitution for gold and reserves in national currencies under the control of the IMF become the prevailing feature of the international monetary system, there is no equivalent of a world central bank of issue and a controlled money supply conducive to stability and non-inflationary sustained growth." (See "Beyond Diplomacy", Interim Report, Special Committee of the Atlantic Council on Intergovernmental Organization and Reorganization, pp. 34–35.)

SUMMARY CONCLUSIONS

In summary, the conclusions I derive from this analysis are as follows:

Despite the emergence of global inflation, followed by global recession, in the Free World economy in the years since 1971, there is as yet no concrete and credible program for the orderly restoration of sustained non-inflationary growth in that economy, adhered to by the major democratic industrialized nations.

But, there is increasing expert recognition of global inflation as a new problem requiring new policies.

Some special characteristics of the Nineteen-Seventies—a unique period of global inflation—suggest important public policy implications. These characteristics are:

1. The extraordinary growth of Free World Trade and transnational money and capital flows, welcome though it is, nonetheless has resulted in linkages between national economies that have converted inflation, into an international, as well as a national problem.

2. A widely pervasive revolution of "rising expectations", giving many national economies an inflationary bias, has climaxed with simultaneity in many national economies in the nineteen seventies. In a number of important industrialized nations, this attitude has overborne the fiscal and monetary disciplines particularly essential to the avoidance of damaging inflation in a free democratic society.

3. The nineteen seventies have been characterized by volatile price movements of essential commodities—agricultural, mineral and energy—which originated in part in natural and man-made limitations on increases in supply and malfunctioning markets.

4. The nineteen seventies have also been characterized by the climax of an earlier trend in the sixties to enormous increases in international capital flows, much of it in bank deposits of highly volatile liquid forms, in relatively uncontrolled money and credit markets, such as the Euro-dollar market.

5. The nineteen seventies also witnessed an unprecedented and uncontrolled increase in official international liquidity held in central bank reserves, accompanied by the abandonment of fixed par values and the need to keep a disciplined check on inflation and money creation in order to maintain stable exchange rates.

Some of the public policy implications of this global inflation of the nineteen seventies are:

First, individual national efforts, to halt inflation, though essential to an international solution, are relatively uncoordinated internationally, giving rise to a grave need for a program, international in scope and acceptance, adhered to particularly by the free, democratic industrialized nations.

Accordingly, the United States Government, acting through its executive and legislative branches, should promote the negotiation of a concrete program with like-minded nations for a concertation of nation policies at home and acts of international cooperation designed to halt inflation at home and abroad.

The objective should be the formulation of a program for presentation of the next "economic summit" of the Chiefs of State of the major democratic industrialized nations, followed detailed staff work by the relevant executive departments with the relevant Committees of Congress and the diplomatic representatives of the member countries of the OECD.

Second, the battle against global inflation, like charity, should begin at home. Political leaders in each of the major industrialized nations share a common responsibility. That responsibility, at home, is to restore anti-inflationary fiscal and monetary disciplines and related anti-inflation measures to a prime place in national economic policy.

Here in the United States that restoration can be signalled by amending the Federal Reserve Act and the Employment Act of 1946 to place "reasonable price stability" on a parity with low levels of unemployment and an adequate rate of economic growth as national economic objectives.

Moreover, that symbolic action should become a standard against which budgets, taxing proposals, government spending, government borrowing and extension of guarantees, debt management, and many related acts, as well as basic Federal Reserve monetary policy, will be carefully measured.

Third, the United States should participate actively in and give leadership to more intensive consultative processes between the democratic industralized nations in the OECD dealing with raw material and commodity supplies, availabilities, and prices, and between those nations and the raw material producing nations on the same subjects.

Fourth, the prevention of global inflation may require a set of international monetary reforms additional to those recently proposed by the IMF Interim Committee at Jamaica. These reforms may be needed to arrest or retard the unprecedented and presently uncontrollable increases in (a) official international liquidity in national reserve currencies and gold held in central bank reserves and (b) the unregulated unofficial growth in private liquidity in the foreign assets of commercial banks that have characterized the years 1971 to date.

Statement of Under Secretary of State for Economic Affairs Charles W. Robinson

Mr. Chairman, and members of the Subcommittee, thank you for inviting me to discuss today the problem of global inflation and its implications for national policy. This is an immense subject with many implications for policy. I will focus on some of the principal issues, particularly those related to our foreign policy concerns.

Improvements in international economic arrangements, important though they may be, cannot substitute for the sound management of our own affairs. The primary battle against inflation must be fought and won at home.

Yet the recent inflation has been a truly international phenomenon. The forces of inflation were felt worldwide and very rapidly transmitted across international borders; they had important repercussions on our international relations; and they provide important lessons for future economic cooperation.

We all appreciate that inflation has done major damage to our economy, our standard of living, and our social institutions. It has also been a significant source of international discord. For just as domestic groups and individuals often see inflation as the damage other people are doing to them, creating social conflict and resentment, so nations react similarly to inflationary forces coming from abroad. During inflationary times, countries tend to lose sight of the mutual benefits gained from trade with others, and concentrate on their complaints against foreigners. International cooperation can, I believe, play a significant role in controlling inflation. Equally, our efforts to control inflation can also provide an environment in which cooperation can thrive.

Let us review the record on inflation. The gradual tendency towards acceleration in price increases which had been developing in the late 1960's, picked up speed as we entered the 1970's. For a while we seemed to be doing better. But then, a convergence of several factors led to the inflationary explosion of 1973 and especially 1974. One factor was the broad and excessive expansion in the industrial countries. Another was the large increase in prices of energy and food. The large increase in energy prices, of course, reflected the impact of the OPEC cartel—which I will discuss later.

The sharp rise in food prices, on the other hand, reflected fundamental changes in the underlying world supply and demand balance of agricultural products, particularly grains. World production failed to keep pace with rising world demand for grain. Poor crops in 1973 and 1974 actually resulted in a decline in world production. Meanwhile, demand for food, especially grains, continued to grow, spurred by increased population, rising incomes in most countries, and decisions by other nations, particularly the USSR and Eastern Europe states, to stress improvement in the diets of their populations. In the United States, consumers competed with other buyers for world supplies and shared in the worldwide increase in food prices. In addition to the general increase in world demand, exchange rate changes in the 1970's resulted in additional foreign demand for U.S. grain, one of America's most competitive exports. Farm incomes during the period increased appreciably, and the United States obtained substantial foreign exchange earnings which were used to pay for other needed imports.

The pattern of inflation in the OECD area as a whole was very similar. On average, the record of the other OECD countries has been somewhat worse—and in the case of a few countries, considerably worse. But the striking thing has been the similarity in the experience. This clearly has reflected the operation of important common causes—particularly those mentioned above—and their interaction through a closely linked international transmission mechanism.

I will not try to provide a complete description of these causes and the international transmission mechanism which spread the impact among countries. I will, instead, focus on two topics:

The role of international cartels in the recent inflation and their role in the future. What policies are called for?

The role of interdependence; and the need for better coordination of demand management policies.

INFLATION AND THE OPEC CARTEL

It is well known that the recent large oil price increases instituted by the OPEC cartel have been a major factor in recent inflation. They came, of course, very rapidly, on top of an inflation rate that was already high, and in a period where overall demand was strong. It is clear, however, that the strength of demand did not account for the fourfold increase in oil prices in the latter part of 1973; it is even more obvious that it did not account for the smaller increases put into effect since then in the face of sharply weakening demand.

These price increases, therefore, were basically autonomous events, with a major impact on the rate of inflation. We cannot pretend to know precisely the full extent of this impact. One can, however, arrive at a reasonable estimate of the direct impact of the 1973–74 oil price increase. One expert source estimate puts the impact of the oil price increases themselves, and the associated increases in prices of domestically produced energy, on OECD consumer prices at 3½ percent—about half the acceleration in OECD prices between 1973 and 1974. The indirect impact, however, is much more difficult to estimate. New impetus was clearly given to the wage-price spiral and to inflationary expectations. This impact, which we are still feeling, may well have been as large or larger than the direct effect.

Can we expect cartel action to produce similar inflationary shocks in the future? Probably not of this magnitude. It seems unlikely that the OPEC countries will try to repeat their 1973–74 increase. They may, nevertheless, attempt to institute smaller increases, perhaps tied to some index of import prices. Other raw materials producers may try to emulate the OPEC success. However, we do not believe that producers of other commodities possess anything like the degree of market power which the OPEC countries have wielded. Their actions, therefore, are unlikely to provide a significant one time impact on the rate of inflation like that of the oil price increase.

Although, in the foreseeable future, cartels are not likely to provide another major force accelerating the rate of inflation, the efforts to form cartels and push raw materials prices upwards might be troublesome for our attempts to control inflation or to build broad structures of international cooperation generally. Even if their only goal were to maintain raw materials prices constant in real terms with respect to an index of prices of imported goods, and they were to succeed, this, like any indexation arrangement, would increase the problems of bringing inflation under control. In effect, a vicious circle between increases in industrial prices and prices of raw materials would be established, leading to a perpetuation of inflation well after the initial causes had been dealt with.

This, of course, is far from the only argument against indexation of raw materials prices. Indexation of the price of any commodity, which has the effect of freezing its price relative to prices of other goods, will almost certainly lead to harmful distortions in resource allocation. In fact, given dynamic changes in supply and demand conditions and large-scale substitution possibilities, it would be extremely difficult, probably impossible and certainly very expensive to maintain a fixed relative price over any extended period.

The policy implications of this discussion of cartel action seem to be clear. First, a strong, cooperative energy policy is required in the OECD area to reduce the scope for further unilateral exercise of OPEC market power. Second, to make clear that cartels are not the answer, we must pursue the dialogue with the oil producers and with non-oil exporting LDC's, responding in a constructive way to their legitimate requirements.

The industrial nations have collectively designed a program to meet the challenge of the oil crisis. We are cooperating through the Paris-based Interational Energy Agency on an energy strategy with four major components:

Measures to stockpile oil and share oil supplies in emergencies such as another oil embargo;

Conservation of energy;

The development of new energy sources; and

A Financial Support Fund to provide contingency financing to countries experiencing severe balance of payments problems in the wake of the oil crisis,

Over time, this integrated program should greatly reduce our vulnerability to actions by the cartel of oil exporting countries. It does not represent, however, a stance of confrontation with OPEC. Rather, we emphasize constructive dialogue between oil consumers, including both developed and developing nations, and oil producers. A Ministerial Conference in December launched this dialogue on firm footing. It will proceed through the parallel work of four commissions dealing with energy, raw materials, development and finance.

The leaders who met at Rambouillet agreed that a cooperative relationship and improved understanding between developing nations and the industrial world is fundamental to the welfare of both. The economies of developing nations depend vitally on ours while their growth in turn contributes to our own prosperity. The oil crisis had a particularly severe impact on developing nations. Higher oil prices dealt them a staggering blow. In addition, their exports were dampened by the depressive effect more expensive oil had on the economies of developed countries.

In his speech at the Seventh Special Session of the United Nations General Assembly, Secretary of State Kissinger underscored our concern for the economic security and growth of the developing countries. He outlined a practical program to achieve these joint objectives. Some required increased contributions from the U.S., other industrial countries and oil producers. But the thrust of our program is to provide the developing countries greater opportunities to earn their own way through increased trade, investment, capital market opportunities.

If the developing nations themselves pursue sound policies, this program will go a long way toward putting their development efforts on a sound footing. It should also entail moving from an atmosphere of tension to one of concrete cooperation to improve the welfare of the developing countries and to integrate them more fully in an international economy which serves the interests of all participants and thereby supports international cooperation generally.

INTERDEPENDENCE AND POLICY COORDINATION

Growing economic interdependence among countries—as indicated by the trend towards increasing importance of international trade and investment flows, more rapid transportation and communication among countries, and more integrated capital markets—has strengthened the links through which inflationary impulses are transmitted between countries. The major links generally recognized are:

(1) Increased demand for imports which may lead to excess demand in the exporting countries;

(2) The prices of internationally traded goods affecting costs, consumer prices directly, and prices of competing goods;

(3) Monetary or liquidity effects of international capital flows and the overall balance of payments.

It should be noted that the latter two factors tend to be much more important under a system of relatively fixed rates, than under floating rates. Frequently, direct price effects tend to be dampened by depreciation in the currency of the exporting country, and it is well recognized that floating exchange rates give nations a good deal more control over domestic monetary and liquidity conditions.

The international transmission of inflation, however, does not necessarily mean that world inflation is greater as a result of interdependence. During most of the post-war years, in fact, quite the opposite was true—interdependence was a factor for stability. This was true broadly for two basic reasons: First, fluctuations in demand conditions were not closely synchronized. Therefore, the excess demand from one country tended to spill over, and be met out of the excess productive capacity of another country—this dampening inflation. Secondly, the U.S. was generally a force for price stability in those years. Our relatively stable internal prices, our dominant influence on world markets, and our reasonably stable monetary conditions all tended to exert a powerful stabilizing force in the rest of the industrialized world.

Unfortunately both these factors changed during the past 10 years. Beginning in the mid-1960's with the excessive and inflationary expansion in 1965–66; 1968; and 1972–73, U.S. prices rose more rapidly, and we ceased to be an anchor of price stability.

Historically, in the latest expansion, during 1972–73, another relatively new phenomenon became critical. This was the virtually simultaneous strong expansion of all the major industrialized countries. There was, therefore, no place for excess demand to be syphoned off; price acceleration in one country was propagated through international trade, accelerating the price-wage spiral in other countries.

This simultaneous expansion created a particularly rapid rise in the prices of industrial materials. Existing capacities in this sector were just not geared to the simultaneous rapid expansion of output in North America, Europe, and Japan. In previous years this underlying shortage of capacity in the basic materials sector had been obscured by the fact that not many economies had been operating at high levels at the same time. But in 1972–73 this was changed and spot prices for industrial material (in dollar terms) tripled between the end of 1971 and mid-1974.

Thus, the interdependence of the international economy was of critical importance in the recent inflation. It is not clear whether or not the simultaneous rapid expansion was a one-time annual occurrence, or whether it is a sign of increasing synchronization in the future. What is clear is that, in designing their stabilization policies, countries have need of a great deal more coordination of policy measures than in the past. In particular, it will be necessary to take into account not just *domestic* capacity limitations, but world-wide capacity limitations.

The machinery for greater coordination, of course, already exists. In one important forum, policy-making officials of the industrial countries have, for some time, met regularly in the OECD to compare notes on policies and prospects. They have been assisted in this by a high-quality professional secretariat. But the will to coordinate has not always been sufficient. The lessons of the recent past, however, are having their impact: The Rambouillet Summit, I think, deepened our appreciation of interdependence and resulted in a commitment to strengthen efforts for closer international cooperation.

Mr. Chairman, I have only given a brief treatment to some international aspects of the problem of controlling inflation. As I said at the outset, sound domestic policy, particularly monetary and fiscal policies, must be at the heart of any long-term solution to the problem of global inflation. But there is also an increasing need for us to take the international dimensions of this problem into account. I have tried to contribute to your consideration of this vital question by pointing out some of these international factors.

Statement by the Honorable Gerald L. Parsky, Assistant Secretary of the Treasury, Before the Subcommittee on International Finance and Reources, Senate Committee on Finance, Monday, January 26, 1976, at 10 a.m.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here this morning to discuss the problem of global inflation and its implications for national economic policy. We all agree that the inflation of the past several years is not tolerable. We have survived, but the scars of inflation are deep. The quality of our lives and the equity of our economic system are the lesser for it. Most important of all, it led directly to the most severe economic recession since the 1930's. We cannot undo the past, but a better understanding of the causes of inflation is an essential prerequisite to its future containment.

Over the years of increasing price pressures which culminated in the rapid and widespread inflation of 1973–75, many important influences have been operating. The harsh jolt caused by the rapid increase in oil prices immediately comes to everyone's mind. In addition, however, it is important to emphasize that, as our agricultural surpluses of the recent past were supplanted by global shortages, food prices moved sharply upward. Further, for a decade, domestic demand management policies here and abroad have seemed almost consistently to err on the side of expansion. Coupled with these developments in the last few years has been an often noted high degree of synchronization of the business cycle among the industrial countries, leading observers to question whether governments have adequately taken into account policies and developments in other countries. Finally, we have been passing through a period of major change in our international financial arrangements, which has led some—mistakenly in my view—to attribute to these changes an important role in the inflation of the period.

In my remarks today, I would like to explore the importance of each of these factors on our current inflation. In this way, perhaps some perspective can be given to where policy should go from here. Let me begin by recapping where we stand now in our efforts to restore economic growth and at the same time to continue to make progress in containing inflation.

THE CURRENT INTERNATIONAL ECONOMIC SITUATION

As this year begins, the major industrial countries which account for a large share of the world's industrial output seem clearly to have passed the trough of the recession. The first part of 1975 brought with it a sharp decline in production in many countries. Real output in the industrial countries fell sharply and suddenly, a decline of 5 percent in the first half of 1975. By mid-year, however, the inventory adjustment which had loomed so large in the decline in output was no longer playing that role, and one essential prerequisite for resumed growth had been met. While the situation varies from country to country, evidence accumulated in the ensuing months that recovery was underway in the industrial world.

The strength of the recovery will depend in substantial measure upon the restoration and maintenance of consumer confidence, which had been seriously affected by the high inflation rates of recent years. If consumers are confident, consumer demand will again prove a strong motor for expansion. If they lack confidence in the ability of governments to contain inflation, they will continue to be cautious.

Another critical factor will be the extent to which business investment will revive in some countries. In order for the recovery in the year ahead to be vigorous the climate for investment must improve, and the policies adopted by individual countries will be central. We must be willing to create an environment that will encourage investment. It, in turn, will determine the extent to which unemployment will continue to be reduced. The number of workers unemployed remains at near post-war record levels in many industrial countries, and the year ahead will be a difficult one in this respect.

Considerable progress was made last year in bringing inflation rates down from the exorbitant levels of 1974. For the industrial countries as a group, the rate of consumer price increases declined from 13.5 percent in 1974 to an estimated 10½ percent for last year as a whole. Toward the end of the year, the rate had fallen to about the 9½ percent level. This year, the prospect is good for continued progress in reducing inflation rates from the present still unsatisfactory levels. But even then, the battle will by no means have been won.

Here in the U.S., the situation is among the brightest of the industrial countries. A solid recovery is well underway from the most severe recession in the post war era. Our real GNP grew in the third quarter at a near record rate of 12 percent; and preliminary statistics on growth in the fourth quarter suggest a more sustainable rate of expansion of 5.4 percent. The recovery is expected to continue next year, with real growth averaging 6 to 6½ percent.

The near-term outlook for U.S. recovery is dependent on continued gains in real income and gradual restoration of consumer and investor confidence. That is why it is so important that our inflation be better controlled. We have made considerable progress in reducing the double digit inflation that we experienced last winter, which has been roughly cut in half, and I believe we will make further gains in 1976.

However inflation is by no means under control. In fact, it remains the most dangerous enemy of future economic growth, and we must be cautious not to do anything that would set off another inflationary spiral.

Employment in the U.S. has grown and progress in reducing unemployment has also been made. During the spring of 1975, the unemployment rate reached 9.2 percent; today it is at 8.3 percent. Further, two thirds of the jobs lost during the recession have been restored. However, this unemployment rate is far higher than we can tolerate.

The President's economic program is designed to reduce both unemployment and inflation steadily by maintaining prudent and balanced growth. His proposed tax cuts and other new programs will promote investment and create new jobs. But he does not hold out hollow promises that we can wipe out inflation and unemployment overnight. The major danger is that we will embark again on excessive fiscal and monetary policies. Overstimulus now aimed at expanding demand would only lead to another boom/recession sequence even worse than before.

This analysis suggests that the state of the world, and the nation's economy is much better than it was a year ago, but that we still face difficult problems in the year ahead. I would now like to turn to a more detailed examination of the ways that developments in the world economy affect the prospects for successfully resolving our problems.

THE U.S. AND THE WORLD ECONOMY

I start from the proposition that certain fundamental economic principles must be observed if we are to maintain an international economic environment in which solutions to our problems can be found. Specifically, I believe we must remain dedicated to:

Promoting a free and open system for world trade and investment;

Avoiding beggar-they-neighbor policies;

Assisting the developing nations in becoming more economically self-sufficient;

Responding promptly and effectively to structural changes in the world economy such as the changed energy balance; and

Seeking in concert with other nations, the development of international economic arrangements which can adapt promptly to changing conditions.

Adherence to these principles is fundamental to the solution of our economic problems.

Within the framework of these broad principles, to what degree can we look to international action to allevate our current economic problems? Even more specifically, what has been the role of the international sector in the inflationary process?

Inflation as an international phenomenon has been the subject of attention in recent years. In many ways, this is healthy, particularly in the U.S., where in the past we have tended to pay insufficient attention to the importance to our domestic economy of developments elsewhere. At the same time, there is now a danger that excessive attention to international aspects of inflation could divert our attention from the overriding role of our domestic policies in shaping the performance of our economy.

There are perhaps three main channels through which inflationary policies and developments in one economy may affect developments elsewhere:

Through increases in the prices of a country's exports or imports. The oil price increases are the most obvious example of inflation being transmitted through this channel.

Through excessive expansion in a country's demand for the goods and services of other nations. Thus overly rapid income growth in one country is reflected in its demand for imports from others, and, unless the latter need that stimulus, contributes to inflationary pressures there.

Finally, through monetary flows between countries. For example, an overly easy monetary policy in one country can lead to the export of capital to others, thereby expending their availabilities of liquidity and tending to ease monetary conditions, perhaps inappropriately.

Let's look at each of these in a little more detail.

Direct Price Effects: It is apparent that the price effects transmitted through the first of these channels have been a powerful influence on world inflation over the past two years. In particular, the rapid oil price increases beginning in October 1973 had an important effect.

Measurement of the inflationary impact of the oil price increases is a complex task, and I think it is as important to focus on the rapidity of the increases more than the price level itself. There have been estimates, however, that the increases of late 1973 alone may have caused as much as one-third of the increase in the U.S. wholesale price index experienced during 1974. And even this estimate does not take into account the induced effects of the increase on the cost of living, on wage demands, and so on.

I don't mean to suggest that the oil price increase was the only cause of our inflation. In fact, inflationary pressures were already strong before the oil price increases. In the first half of 1973, consumer prices were rising in the major industrial countries at an annual rate of about 7 percent, in large measure due to the synchronized boom in those countries of 1972 and 1973. However, with the effect of the oil prices increases of late 1973, their prices soared at a 13½ percent rate in 1974.

The effects of the oil price increases were not, of course, confined to the developed countries. The non-oil exporting developing countries saw their rates of inflation escalate also. Between 1972 and 1974, the developing countries of the Western Hemisphere saw the rate of increase in their consumer prices rise from a 22 percent to a 38 percent figure; those in Asia from 7½ percent to 30 percent; and those in Africa from 5½ to 9 percent. Thus oil prices have not only weighed heavily on the balance of payments of the non-oil developing countries but have also made their already difficult domestic management and development problems even more so.

Some analysts have made dire predictions about the financial position of these countries in the coming period and have called for huge increases in official international financial resources available to them—for example, greater access to IMF resources, or large expansion of public credits or special allocations of reserve assets—as a means of easing the problems of the non-oil developing countries. But radical change in the international financial system is not the answer to their problems. Continued recovery in the industrial world will help the payments position of the developing countries. Further, the recent agreements reached by the IMF—including the establishment of a Trust Fund to provide balance of payments assistance to the poorest countries, an increase in potential access to IMF resources and a major liberalization of the Compensatory Finance facility—are an adequate response to the calls for more public financing.

At the same time, however, the oil producing countries bear a heavy responsibility to assist in dealing with the problems of the non-oil developing countries. We have encouraged increased OPEC participation in the international lending institutions. The OPEC countries have taken steps to increase their assistance to other LDC's—the $1 billion fund the OPEC countries agreed in November to establish is a notable example. But there remains much more to be done. It is of fundamental importance that they understand the impact that the rapid rise in the price of oil has had on the economies of the world—economies which must remain strong if the producers themselves are to grow and prosper.

One way to increase that understanding is to increase our economic ties with these countries, and to work with the producers in areas of mutual interests. For instance, their desires to industrialize mean that they must convert their financial resources to goods. We and other consuming countries can benefit from this growing market for exports. Our studies have shown that the capacity of the OPEC countries to absorb our exports is very high. I have attached a table which outlines on a country basis their import capacity for 1974, 1975, and 1976. In addition, they are seeking profitable investments of their surplus funds and are looking to our markets. We must seek to maintain freedom of that market—for it can benefit us as well as them. In short, we must seek to understand the legitimate objectives of these countries for diversification of their economies and for higher standards of living for their people. We should strive to develop our trading relations. We should explore means of collaborating with producers, as well as other consumers, to find and develop new sources of energy. In these and other ways, we can build on our mutual interests.

At the same time we must begin to regain control of our own destiny in the energy field, and that means a sound U.S. domestic energy policy. We have been too long without a comprehensive energy policy and the result is our present vulnerability to embargo and price manipulation by foreign producers. Required are sensible and effective policies regarding conservation and domestic production, beginning with appropriate pricing policies here at home. We have to establish rational, predictable policies, so that private investors will have some idea where to put their dollars, and the requisite energy supplies can be produced. Development of alternative supplies is the only long range answer to unilateral OPEC price decisions.

There has also been concern about the effects of price changes of other commodities on inflation. Two years ago, during the oil embargo, there was widespread concern that the other commodity producers would follow OPEC's example. It was only a matter of time, we were told, before the rise in oil prices would be matched by increased prices for the other commodities we import—everything from copper, bauxite, and iron ore to sugar, coffee, and bananas. It was the dawn of a new era of resource scarcities.

Thus far, these fears have proven unfounded. Numerous producer associations have indeed been formed—for copper, bauxite, iron ore, and others—but they have not been able to emulate OPEC in increasing prices. Many of their prices have undergone sharp cyclical declines, and the associations have had little success in restricting production. It is ironic and illustrative of the problems commodity associations face that U.S. copper producers, responding to market forces, have made greater production cuts than members of the copper exporters association.

The commodity producers are unlikely to achieve greater success in the future than they have to date. There are a few commodities—chromium and platinum are the principal examples—where producers have unusual market strength. In other cases—bauxite is the most notable example—the producers could impose short term price increases, but at the risk of creating new sources of supply. The conclusions of the U.S. Government's analysis of critical imported materials, published by the Council on International Economic Policy in December 1974, remain valid: There is no other commodity like oil.

Our policy toward the other mineral and agricultural commodities we import should not be shaped by the fact or prospect of cartels. Rather, we should seek to achieve an international investment climate conducive to the creation of adequate production capacity and an international trading system that will moderate inflationary pressures by encouraging efficiency in product and distribution.

Our essentially open trading system has not failed and it is in our interest to maintain an open system of world trade in which all countries have a stake. We must continue to recognize the importance of commodity earnings to producing countries and especially to developing countries who are significantly dependent on raw material exports. Further, excessive price fluctuations are costly to both producers and consumers. On the one hand, such fluctuations aggravate the problems of the developing countries who are significantly dependent on commodity exports. On the other hand, they contribute to inflationary pressures and inadequate investment. However, the solution to commodity trade problems does not lie in price fixing arrangements that distort the market, restrict production, and waste resources. We should consider measures that will improve the functioning of markets while directly meeting the problems of raw material producers and consumers.

It was with this in mind that Secretary Kissinger and Secretary Simon put forward our proposals in the commodities area. Specifically:

To help assure adequate investment, we have proposed that the World Bank Group, especially the IFC, take the lead in bringing together private and public capital as well as technical, managerial and financial expertise to finance new minerals development.

To assure our access to supplies at reasonable prices, and to convince other countries of our dependability as a supplier of raw materials, we are seeking supply access commitments in the Multilateral Trade Negotiations.

Because no one approach can apply to all commodities, we propose to discuss new arrangements for individual commodities on a case-by-case basis. We have implemented our case-by-case approach by participating actively in negotiations for new commodity arrangements in tin, cocoa and coffee, and will participate in talks on sugar this fall. We will sign the new Tin Agreement, which will be submitted to the Senate for advice and consent, because it operates with a minimum of market interference. However, we do not propose to sign the new International Cocoa Agreement in its present form, as we consider it deficient in a number of respects. We have suggested that certain of its provisions be renegotiated. We are currently reviewing the new International Coffee Agreement, which contains significant improvements, to assess the adequacy of consumer safeguards and possible future price impact.

To help primary producing countries stabilize earnings from commodity trade, the United States proposed a liberalization in the IMF's compensatory finance facility. The IMF recently agreed upon a substantial improvement in this facility.

We are also supporting in the IMF an improvement of its arrangement for financing buffer stocks.

To provide even longer run stability and security of export earnings for the LDC's, we have urged that in the MTN particular attention be paid to the issue of tariff escalation. If LDC's are given improved access to developed country markets for processed forms of their raw materials, they will be able to diversify their economies and decrease dependence on exports of raw materials.

As this enumeration of measures demonstrates, there is no one single approach to commodity trade problems. We are prepared to consider measures that will improve the functioning of markets and will directly meet the problems of raw material producers and consumers. In this regard, we seek the establishment of consumer-producer forums for each key commodity to promote efficiency, growth and stability of particular markets.

It is essential—in this area where misconceptions are prevalent—that we maintain a sense of perspective. Too often commodities policy is cast in terms of the industrial nations satisfying the desires of the developing countries. In fact, most commodities are produced in industrialized countries.

It is also essential that we maintain a sense of proportion. The developing countries encompass most of the world's nations, most of the people, much of the resources. We must not shun our responsibilities toward these nations, but we must recognize that the greatest services we can perform is to help them to help themselves.

Demand Management Effects: The second channel for international transmission of inflation I mentioned is through excessive expansion of a country's demand for the goods and services of other nations. To the extent that capacity utilization levels are high in all countries, increases in imports stimulated by national economic policies in one country will generate inflationary pressures in countries supplying those imports, unless, of course, offset by other deflationary policies. It should also be noted that if exchange rates are allowed to move in response to the changes in trade patterns, these effects will be lessened over time.

The importance of the influence of demand management developments elsewhere is in the first instance a function of the importance of international trade in any given economy. A country exporting a large percentage of its national product will obviously be more vulnerable to developments abroad than will a country which is not heavily involved in international trade. For example, small open economies, such as Belgium and the Netherlands, whose total exports amount to about 50% of their aggregate output, are inherently more susceptible to developments abroad. But such countries constitute the exception rather than the rule among the world's large trading nations. Exports of most other major industrial European countries and Canada fall in the range of 15–25% of GNP. In Japan, the figure is 12%; and in the U.S., 7%.

When only one or a few countries are experiencing strong domestic demand pressures, the influence on others is likely to be diffused. It is only when there is a simultaneous expansion of economic activity by many countries that the spillover effects are significant. Except in these circumstances, the aggregate demand channel is unlikely to transmit dominant inflationary pressures between countries. And even then, only where foreign trade balance constitutes a large portion of the economy will it constitute an influence of such a magnitude as to be a major determinant of economic conditions, including inflation rates.

With this analysis in mind, I think it is clear that we should take into account policies and developments in other countries, but we should neither blame other countries' demand management policies for our inflationary problems nor look to changes in their policies for the answer to these problems. In the United States, foreign trade is not a large proportion of the total economy. Output and prices in the U.S. are normally influenced only marginally by the policies of expansion or contraction of other countries. By the same token, others should not look to policies in this country to substitute for appropriate policies at home. Our commitment to international cooperation on economic policy is strong, and was recently reinforced at the Rambouillet Summit, but we should rely on cooperation for what it can achieve, not what it cannot.

Montary Effects: Monetary channels represent the third principal vehicle for the international transmission of inflation. The introduction of more flexible exchange rate practices, however, has substantially weakened the potential destabilizing influence of forces moving through these channels. Indeed, this is one of the most clear-cut effects of floating exchange rates.

In the past, under fixed parities, a country that attempted to maintain a rate of monetary growth different from that prevailing in the rest of the world faced the possibility of substantial capital flows that could eventually undermine its policy. Under the current more flexible system, nations can expect that such capital flows will be deterred by the exchange rate changes the flows induce. Countries therefore have much greater discretion in choosing the domestic policies to deal with inflation that best suit their needs.

Some dispute this view, maintaining that current monetary arrangements encourage inflation. They state their case in terms of the volatility of the system and the adverse effect of exchange rate variability on international merchants. I believe, however, that such criticisms are unsubstantiated and rest on basic misconceptions.

The floating exchange rate system did not produce exchange rate variability, nor can it be blamed for the current world inflation. The variability that has characterized the past several years is the result of the financial pressures generated by boom and recession and by the sharp rise in inflation rates. It has been the inability to manage our domestic economies so as to reduce the underlying sources of volatility that has caused world inflation.

The international monetary agreements reached at the Interim Committee meetings in Jamaica earlier this month reflect this understanding. In the past, the international monetary system has been burdened by a variety of exchange controls. What was needed was a system that was truly liberal: one that sought to facilitate rather than inhibit, international movement of goods, services and capital. We believe we have taken important steps in that direction. Among the most significant aspects of the agreements was the recognition that it is underlying economic conditions, not the exchange rate regime, which cause instability. The core of those agreements is the greater attention to be devoted to underlying conditions. Underlying stability is a prerequisite for exchange rate stability. Exchange rates are like a thermometer; they reflect economies. Economic stability cannot be imposed by efforts to fix the exchange rate. But there has been entirely too much effort expended in trying to achieve our objectives by blowing on the thermometer. The Jamaica agreements provide a needed reorientation of our efforts toward dealing with the real sources of instability.

THE PREREQUISITES FOR ECONOMIC STABILITY

Mr. Chairman, I have in the course of my statement suggested a number of the more important steps we must take if we are to bring inflation under control. Except for the oil price problem, it seems to me clear that we cannot explain inflation by blaming it on some vague "international" cause or deal with it by actions focused on the external sector. And even in the case of the oil price problems, the fundamental, long-term answer is our efforts at home to reduce our vulnerability to action abroad.

So our problem remains to put our own house in order. Our fiscal and monetary policies over the past decade have been excessively expansionary. Domestic policy has failed us, but that does not mean that domestic policy is not the basic answer to our problems. It remains the most powerful and effective tool governments have for influencing levels of economic activity and through them, inflationary pressures. Nothing in my view would more seriously diminish the prospect for achieving price stability than if we were to conclude simplistically that fiscal and monetary policies *will not work* because inadequate policies *have not worked,* and that therefore we should focus our attention elsewhere. I am particularly hopeful that the new Congressional budget process will enhance meaningfully the prospects for better fiscal policies in the future.

In the environment of a tenacious inflation we must also give greater priority to measures desirable in and of themselves that have become even more so to the extent that they promise to assist in combating inflation. In this regard, I would emphasize the President's proposals for regulatory reform. Certainly, a more competitive private sector will be a less inflationary one. And I believe, too, that a particular premium attaches to higher levels of investment in this country. A modernized plant and equipment sector is an efficient one, and an efficient one is less costly.

This nation is master of its economic affairs, more than most, and the key to successful management of those affairs is determination and perseverance in our fiscal and monetary policies. At the same time, we have an obligation to work with others to deal with the problems of an interdependent world. If nothing else, knowing what others are contemplating will assist us in managing our own affairs, and similarly knowledge of our intentions will assist others. But in the process we must guard carefully against being distracted from our fundamental responsibilities at home—that's where inflation begins and that's where it can be brought under control.

OPEC INVESTIBLE SURPLUS

[In millions of dollars]

	Oil exports (government take)	Nonoil exports	Imports (f.o.b.)	Services and private transfers	Investible surplus
1974					
Algeria	3,700	400	−3,710	60	450
Ecuador	500	450	−790	−100	60
Indonesia	3,400	2,200	−3,890	−1,480	230
Iran	18,700	800	−8,000	−820	10,680
Iraq	5,700	300	−3,460	−420	2,120
Kuwait	8,000	390	−1,480	425	7,335
Libya	6,200	25	−3,500	−760	1,965
Nigeria	7,600	850	−2,490	−1,350	4,160
Qatar	1,600	35	−270	−90	1,275
Saudi Arabia	24,600	25	−3,530	−390	20,705
United Arab Emirates	6,000	400	−1,350	−90	4,960
Venezuela	8,900	375	−3,800	−520	4,955
Total OPEC	94,900	6,250	−36,270	−5,535	59,345
1975					
Algeria	3,570	350	−5,670	−280	−2,030
Ecuador	365	470	−940	−100	−205
Indonesia	3,755	1,900	−5,000	−1,500	−845
Iran	19,780	800	−13,640	−2,475	4,465
Iraq	7,610	200	−6,000	−475	1,335
Kuwait	8,040	700	−2,260	600	7,080
Libya	5,100	100	−4,100	−820	280
Nigeria	6,825	800	−4,900	−1,730	995
Qatar	1,750	10	−570	−130	1,060
Saudi Arabia	27,080	40	−5,950	260	21,430
United Arab Emirates	6,310	500	−2,450	−50	4,310
Venezuela	8,230	520	−4,600	−375	3,775
Total OPEC	98,415	6,390	−56,080	−7,075	41,650
1976					
Algeria	4,000	365	−6,200	−420	−2,255
Ecuador	570	520	−1,080	−110	−100
Indonesia	4,760	2,250	−5,300	−1,515	195
Iran	22,470	1,000	−17,000	−3,740	2,730
Iraq	9,800	235	−7,700	−535	1,730
Kuwait	7,900	770	−2,600	1,140	7,210
Libya	8,090	100	−4,600	−850	2,740
Nigeria	7,900	950	−5,750	−1,590	1,510
Qatar	1,800	10	−750	−200	860
Saudi Arabia	30,000	45	−7,600	1,870	24,315
United Arab Emirates	7,420	600	−3,100	−100	4,820
Venezuela	6,470	600	−5,560	−400	1,110
Total OPEC	111,180	7,445	−67,310	−6,450	44,865

Note: Oil imports assumes no further price increase in 1976 (a 10-percent increase in July would add about $4,000,000,000 to oil revenues and investible surplus in 1976).

STATEMENT BEFORE THE COMMITTEE ON FINANCE OF THE U.S. SENATE, 10 A.M., TUESDAY, FEBRUARY 17, 1976, BY PAUL A. VOLCKER, PRESIDENT, FEDERAL RESERVE BANK OF NEW YORK

My prepared statement today is brief, partly reflecting my understanding that your interest is to promote a dialogue rather than a series of lectures. In any case, my main points are rather simple. International inflation exploded beginning around 1973 as a result of a number of developments that converged on an already inflation-prone world. Coupled with the effects of a major rise in world oil prices, the resulting distortions and dislocations led to recession in the world economy. Now, the industrial world must deal with a legacy of reduced, but still stubborn and substantial inflation while seeking to extend an economic recovery that remains in a relatively early stage with unemployment high. Meanwhile, the prospects for resolving the growing payments problems of much of the developing world are heavily dependent on better performance in the leading industrialized countries.

I know of no "quick fix" for these economic troubles, either with respect to the world generally or the U.S. in particular. But I think certain lessons do emerge from this period of economic uncertainty and turmoil without parallel in the postwar period. Most fundamentally, I believe we have learned we cannot maintain prosperity at the expense of inflation, because the dynamics of the inflationary process undermine the basis for that prosperity. At the same time, even a sharp recession and the highest levels of unemployment of the postwar period have not in themselves broken fully the inflationary momentum, and a depressed economy is hardly a satisfactory solution to the inflationary problem.

In these circumstances, the greatest contribution economic policy makers can make, both here and abroad, is to maintain a certain steadiness of purpose, resisting the temptation to seek an immediate solution to either inflation or unemployment at the expense of the other. In other words, this does not strike me as a time for policy extremes, whether in monetary, fiscal, or other areas. There are, however, promising indications that what can be termed policies of moderation, followed with patience and resolution, will permit and encourage major progress against the economic problems besetting the world economy.

The inflationary explosion of the 1970s has clearly been an international phenomenon. Some of the roots can clearly be traced back to an earlier period. In the last half of the 1960s inflation in the major industrial countries abroad generally averaged almost 4 percent, not substantially higher than earlier, but enough to further entrench inflationary expectations and sensitivities. In the United States, after a period of near stability in prices during the first half of the 1960s, the rate of price increase did rise significantly during the 1965–69 period close to the average rate in other industrial countries. This deterioration, which was significantly related to the budgetary and other problems associated with the Vietnam war, helped set the stage for more explosive developments later.

The first years of the 1970s saw a general worsening in the price performance of virtually all the major industrial countries. In 1974, the process reached a climax, with the inflation running at about a 7 percent rate in Germany—the country that has generally had the best price performance—and ranging from around 12 to 24 percent in most of the other large industrial countries.

In appraising this acceleration in inflation, I believe it is relevant to recall a gradual evolution of attitudes in the long period of prosperity following World War II. It is not easy to characterize this matrix of attitudes, but it certainly included a diminishing sense of economic risk, both in the sense of fear of a major recession and in the sense of the vulnerability of individual firms, a correspondingly reduced sense of caution and prudence in public and private financial affairs, and an increasing tendency for public desires to outrun economic realities. This emerging set of attitudes helped to foster inflationary pressures, through its impact on private spending, pricing, and wage decisions and through the climate it created for public policy making, policy making that more often than not erred on the side of excessive expansion. At the same time, these attitudes helped generate some of the imbalances, including especially the increasing financial vulnerability of private and public entities, that made a severe worldwide recession an increasing danger as time went on.

Against this general background, a number of particular developments of worldwide importance emerged in the early 1970s to help spark the inflationary process. One permissive factor was the rapid increase in official international liquidity that occurred during the early 1970s, in large part reflecting the outflow of dollars into foreign central banks that occurred at times in the period from 1970 to early 1973 as part of an attempt to maintain a fixed pattern of exchange rates. In some cases, this was accompanied by, and contributed to, more rapid expansion of internal money supplies, and the sense of external financial constraints was diminished.

However, I should emphasize that while I think this mechanism was a factor in recent inflation, I by no means subscribe to the simple view that the general acceleration of price increases stemmed solely or mainly from the monetary consequences of fixed exchange rates. There are a number of serious problems with this view—including its failure to explain variations in the ability and willingness of individual countries to offset the domestic monetary effects of dollar inflows and the lack of correlation between the dollar inflows of individual countries and their subsequent inflationary histories.

In any event, the subsequent acceptance of a system of floating exchange rates should not be taken as a panacea as far as inflation is concerned. In the particular case of the United States, of course, the sharp downward adjustments in the relative value of the dollar were a factor aggravating inflation in this country. More generally, while in concept floating rates leave every country somewhat freer to pursue more independent monetary policies, a desire to moderate fluctuations in exchange rates has sometimes undercut that freedom. More generally "greater freedom" for monetary policy may also, in some instances, amount to greater freedom to permit inflationary forces to take hold. To a degree, moreover, excessive instability in exchange rates may reinforce feelings of uncertainty about the value of money arising more fundamentally from instability of domestic purchasing power. What all this suggests to me is that, while fixed rate systems can have inflationary effects under certain circumstances, no exchange rate system can prevent general inflation when the pressures are strong, and especially if governments are not willing to adopt responsible domestic monetary and fiscal policies.

The other major special factors emerging in recent years that helped to provoke the eruption of worldwide inflation are perhaps more important, better known, and less controversial. One of the most important of these was certainly the conjuncture of economic boom in all the major industrial countries in 1972–73, the first time this had happened to such an extent since World War II. Other important developments were of course the 1973 food shortage and the fourfold increase in oil prices in late 1973. There is probably little new to be said about the food and oil price situations except perhaps to note that they are too often dismissed as "special" and "temporary" phenomena that should not create any serious long-lasting problems for anti-inflation policy.

This argument assumes, however, that when supply factors drive one price up, other prices will go down so that there need be no significant net effect on the average rate of inflation—or at least that the "ripple" effects are limited and not prolonged. In fact, however, the experience with the food and oil price increases suggests that the average rate of inflation *is* affected over a fairly long period by such developments, with the impact prolonged by adverse effects on inflationary expectations. Policy makers find themselves in a major dilemma in the face of developments such as the oil price increase. If they seek to "validate" the price rise by permitting a corresponding increase in liquidity they may produce a quite long lasting upward shift in the rate of inflation. On the other hand, without at least some offsetting rise in liquidity, the initial effect will be to depress real growth as well as to accelerate inflation.

Thus, in summary, a number of developments combined to precipitate an acute phase of world inflation in 1973 and 1974. It is noteworthy however, that while these developments were general, not all countries suffered inflations of equal severity. Undoubtedly there would be much to be learned in trying to determine the reasons for the differences. Some are fairly obvious, such as differences in the direct impact of the oil price rise. Others may be subtle, such as differences in social and political attitudes that affect the aggressiveness of trade unions and the policies of governments. It is interesting that the best performer, Germany, is a country with a strong tradition of commitment to price stability, partly reflecting long memories of the traumatic hyperinflation of the early 1920s.

While the massive dislocations associated with the oil problem initiated the worldwide recession of 1973–75, in a deeper sense, inflation itself was the major culprit. The acceleration of inflation depressed business and consumer confidence, introduced distortions, perhaps most conspicuously in inventories, pushed up interest rates and increased and exposed financial weakness both in this country and abroad. Moreover, the unprecedently high rates of inflation left governments and central banks in most countries with no choice but to exert at least some degree of fiscal and monetary restraint, a restraint that inevitably had much of its initial impact on real activity rather than on prices.

Recessions do generally bring a reduction in the rate of inflation, and the latest recession has been no exception. The rate of inflation has apparently come down by as much or more than in previous recessions—though how much of this improvement has been due to reduced demand pressures and how much to the lessened impact of special factors is hard to say. What is unique about the present situation, however, is that even after a severe recession, the *level* of inflation remains unacceptably high both here and abroad. The question for this country, and for the other major countries, thus becomes what to do about continuing inflation in the context of still incomplete recoveries and unemployment rates that remain at or close to postwar records?

As I suggested at the beginning, I have nothing dramatic to offer by way of immediate solutions to these problems. In setting domestic monetary and fiscal policy, I think the main thing to recognize is that we no longer have a choice between concentrating on stimulating the economy and stemming the inflation. Instead, we must choose a policy that in the somewhat longer run will be compatible with both. This means, for example, that we can't embark on a program of unrestricted expansionary policy, leaving inflation as a problem to be worried about only when we approach full employment. In an economy as sensitized to inflation as this one has been by recent experience, excessively rapid growth might soon worsen inflationary expectations, re-accelerate inflation itself, contribute to new bottlenecks on capacity in selected lines, restore upward pressures on interest rates and create renewed financial problems. Such developments, in turn, would likely bring the recovery to a halt and rekindle recessionary forces. By the same token, monetary and fiscal policy cannot cencentrate its attention solely on reducing inflation, ignoring the continued severity of our unemployment problem. Monetary and fiscal policy must encourage contined economic expansion rapid enough to bring acceptable progress on unemployment.

These aims are not inconsistent. We have, in my judgment, the reasonable prospect today of achieving a long lasting expansion in a context of growing price stability. To a degree, these developments could benignly reinforce each other. Thus, expanding output should be accompanied by rising productivity, taking some of the pressure off costs. Rising profits are important for investment, which is essential to sustain the recovery and to lay the basis for future productivity. Greater confidence in future price levels should, in turn, contribute to stable credit markets and a large flow of investment funds.

I will not attempt to spell out in detail what a steady, middle-of-the-road approach means for monetary policy. The precise implications shift, in any case, with shifting circumstances. But, while I attach only qualified importance to targets for monetary and credit aggregates in all circumstances, I do think the current target ranges for the monetary and credit aggregates adopted by the Federal Reserve have important implications in the present situation. On the one hand, their upper limits are set low enough to make clear that the Federal Reserve is not prepared to accommodate any and all demands in the present environment. On the other hand, the lower limits of the target ranges are high enough to give recognition to the need for significant real expansion in a period when some monetary and credit growth is inevitably going to be absorbed by rising prices. In that sense, they seem to me to reflect appropriate, and perhaps not even very controversial, policy guidelines.

There is an area of domestic policy that I do think needs urgent attention—the impact of our tax laws on business investment in general and equity capital in particular. The problem is long standing, but in a period when financial constraints have become especially important, the urgency of dealing with it should assume greater importance.

I am concerned whether current and prospective business capital spending is going to be sufficient to reconcile the desire for vigorous economic expansion with the need for price stability. Questions of both incentive and the availability of savings—and particularly risk capital for equity—are involved. If our tax laws are biased against equity investment, and I think they are, there could be no more propitious time for study and action.

The question arises from time to time as to whether price and wage controls or some other form of "official guidance" might speed the task of restoring stability. In the past, this argument may have had some merit for limited periods under specific circumstances. But, I think such an approach would clearly be a mistake in the present climate. In an atmosphere already disturbed by uncertainty, and against the background of recent experience, serious consideration of that course would invite more harm than good.

As regards international economic policy, I have drawn encouragement from recent developments. The recent agreement among the major countries calling attention to the desirability of greater stability in the exchange markets, and the fundamental prerequisites for such stability, could help lay the foundations for greater confidence. The focus in this respect has been the clear recognition that greater exchange rate stability must, in the last analysis, rest on greater economic and price level stability at home, and that this will rest on steady and moderate domestic financial policies.

In sum, then, as I view it, we arrived at our present situation when a number of special problems converged on an increasingly inflation-prone world. Now we can detect more hopeful signs. Recent developments appear to be shifting public and private attitudes in directions that can greatly enhance the prospects for restoring price stability along with healthy economic growth. Concern about spending and deficits is growing. There is a new attitude of caution that measured provides protection against some of the excesses of the past. Perhaps most important, there is recognition of the limits on the power of government—a recognition that there is no magic solution to our problems. Indeed, the main task may be to avoid the temptation to strike out in radically new directions, and to adopt extreme policies that might contribute to new distortions and doubts.

These attitudes and trends are not confined to the United States. And, equally important, there appears to be a healthy recognition of the extent to which the economic fortunes of one nation are tied to that of others. At best, the period of convalescence of the industrialized nations is likely to be longer than we would like—but it will be shortened to the extent that one nation or another avoids inward looking actions that, in the end, can only be mutually destructive.

STATEMENT OF G. WARREN NUTTER BEFORE THE SUBCOMMITTEE ON INTERNATIONAL FINANCE AND RESOURCES OF THE SENATE COMMITTEE ON FINANCE, FEBRUARY 17, 1976

I am pleased to have the opportunity of appearing today before this distinguished committee to discuss worldwide inflation, a problem of great and growing importance to all countries in the West. You have already had the good fortune of hearing from highly qualified witnesses on technical aspects of this question, and I would not pretend to have much of interest to add to their expert testimony on these matters. I should like to turn instead in a rather different direction and share with you some reflections on how recent social trends in the West, primarily political in nature, have created an environment in which inflation is almost certain to flourish.

In a subject as complex as this one, there is a danger that we may get entangled in details and lose sight of fundamentals. And so I will say a few words by way of introduction and at the risk of belaboring the obvious.

Inflation, we must remind ourselves, means a rise in the general level of prices or, looked at the other way around, a fall in the purchasing power of money. Whether the purchasing power of money rises or falls depends on what happens to the quantity of money and the volume of economic activity, and how the one relates to the other. It is conceivable that the factors determining the relation between the two could change so unexpectedly and erratically in an economy that it would be impossible to predict what effect an increase in the quantity of money would have on the purchasing power of money. There is, however, overwhelming evidence from a long span of history to show that the relation is remarkably stable. We can therefore be confident that a sudden increase in the quantity of money relative to economic activity will cause inflation.

It follows that the way to prevent inflation is to maintain the proper relation between the quantity of money and the volume of economic activity. The fact that a general price level remains constant does not mean, of course, that all individual prices also remain constant. Some prices will be going up and others will be going down as supply and demand conditions vary in different ways in different parts of the economy. Institutional rigidities may, however, develop in important sectors of the economy and prevent prices from moving downward in response to pressures created by uncleared markets. If so, the price level can be kept constant when market forces are pushing prices up in an important segment of the economy only at the cost of increased unemployment in the sector in which prices will not adjust downward.

By way of digression, I would note that the sharp rise in oil and food prices some months ago was inflationary only in this sense. The argument commonly made that inflation was *caused* by rising oil and food prices must be interpreted as meaning something rather different, namely, that monetary authorities decided to accommodate to those rising prices through inflation rather than unemployment.

There is nothing new about inflation. It is as old as money. It has arisen out of many circumstances, but in the age of managed currency it almost always comes into being when government pays too many bills by printing money instead of raising taxes. We are living through a period in which governments throughout the Western world seem to have become addicted to inflationary financing.

Why has this happened? One easy answer is that public officials have merely been following the advice of the dominant school of economic thought, a school to which I have never subscribed. It seems fair to say that most economists in recent generations have believed that some inflation is a good thing. There is a tradeoff, they have asserted, between inflation and unemployment: more inflation leads to less unemployment. What they have in mind is quite different from the situation just referred to, in a which a structural change in market conditions forces the economy to choose between inflation and unemployment. They have argued instead that, in the normal course of events and in the absence of any prior structural change, pumping up the economy through inflationary policies will raise production and employment. Hence, if society wants more output and less unemployment, it need only raise the rate of inflation. The way to do so is to fine tune the economy in order to achieve the best mix of the two and keep inflation under control.

Needless to say, the experience of stagflation has raised doubts about the inflation-unemployment tradeoff and fine tuning. But these ideas have played a powerful role in getting us into the fix we find ourselves in today.

Nevertheless, I think this answer is too easy, and I therefore want to focus attention on something else, namely, social forces that have been at work making the public receptive to an inflationary psychology. When we point the finger of blame at government and at economic advisers, we really point it back at ourselves, because in a democracy the people are the government.

The thesis I wish to offer is that inflation is the natural consequence of the evolution of the welfare state into the gigantic state.

Let us look first at what has happened in the United States over the last four and a half decades. In 1929, government spending at all levels—federal, state, and local—amounted to 12 per cent of national income. That percentage roes to 24 in 1939, 27 in 1949, 33 in 1959, 38 in 1969, and 40 in 1975.

The overwhelming bulk of that spending has been on domestic programs, not on national defense. Since the early sixties, domestic spending by government has risen steadily, year by year, faster than national income. Moreover, the relative pace has accelerated: from 1962 through 1968 the percentage of national income represented by domestic spending of government rose from 24 to 27, or by 14 percent; from 1968 through 1974 it rose from 27 to 34., or by 24 percent. Despite the Vietnam War, despite introduction of the all-volunteer armed forces, and despite mounting problems of national security, the fraction of national income spent for defense since 1959 has never again reached the level for that year. Today the fraction is lower than at any year since 1950.

In the realm of domestic spending, transfer payments alone—the personal income taken from one set of pockets and put in another—have averaged over 12 per cent of national income in the last three years, or as much as total government spending amounted to in 1929. If the transfer payments last year had been paid only to our 10 million poor families and individuals, each would have received almost $17,000. More than four-fifths of government spending is for domestic purposes; less than a fifth is for defense. Over the last four and a half decades, the fraction of national income attributable to domestic spending has more than tripled. A third of that expansion has come in the last fifteen years.

These figures symbolize, of course, the growth of the welfare state, a growth that has been even more pronounced in other democracies. Consider the fourteen countries in the Organization for Economic Cooperation and Development. If for each of them we measure government spending as a percentage of national income and array the percentages from smallest to largest, we find that the median percentage—the percentage in the middle of the array—rose from 30 in the early 1950's to almost 50 in the early 1970's and to more than that today. That is, on the average for these democracies, government spending amounts to more than half of national income today. It amounts to more than 60 per cent in some of them.

I cite these figures not to draw any moral or pass any judgment, but simply to lay the facts out. The point I am leading up to is that democratic governments have come to rest on a more and more precarious base of popular support as they have become bigger and bigger. Democracies are therefore being governed with diminishing authority and confidence. In other words, the bigger a democratic government becomes, the weaker it tends to be in this sense.

As proof, I offer the current state of affairs in democracies through the world.

Look at the parliamentary governments. In case after case, the leading party is managing to stay in power by the skin of its teeth. If it has a majority of seats, it is a slim one, often based on a minority of the popular vote. Governments frequently must be built through formal or informal coalitions that permit factions or splinter parties to wield power far in excess of their popular vote. Governments rise and fall in close elections in which a small swing vote makes the difference. Thus the British Labor Party is said to have scored a big victory in the most recent election because it acquired a paperthin majority in the new parliament. In the old one, it held only the largest minority of seats. But it won its majority of seats by capturing less than 40 per cent of the popular vote. In Germany, the tiny Free Democratic Party holds the balance of power in an uneasy coalition, whose major partner—the Social Democratic Party—gets fewer votes than the opposition. In Italy, it seems proper to say that there is no government at all, only a succession of caretakers. And so on and on.

The presidential democracies have their close elections, too. Witness France in 1974 and our own country in 1960 and 1968. We had our landslides in the presidential elections of 1964 and 1972, and in the congressional election of 1974. But they have not exactly conveyed lasting power to the winners, and hence are symptons of the same basic instability. In both 1964 and 1972, the overriding issue was ideological, as one candidate in each case called for radical change in the role of the welfare state. The electorate convincingly rejected both candidates. And the cloud of Watergate hung over the recent congressional election. Our landslides have been against, not for, something.

If weak government is so widespread among democracies, one naturally suspects that there is a common reason. That one important cause has been the who-whom dilemma raised by big government. With this huge percentage of national income going to taxes, Professor Nutter raises the important question: In a welfare state, such as ours, who is to benefit at the expense of whom? Who is to receive what from whom? He said: "If a quarter or less of national income is flowing through the hands of government, it may seem plausible to a large majority that needed taxes can be collected from the remaining minority. Politicians can credibly campaign on the platform of 'soaking the rich.' But not when the tax take rises to thirty, forty, or fifty per cent of national income. Voters promised growing benefits from the welfare state must begin wondering whether they will receive more than will be taken from them." A politician who puts together a successful coalition of the electorate by promising everybody pie in the sky and accordingly gets elected by a handsome majority is bound to lose support when the bill comes due. Even with the most skillful use of hidden taxes, he will find it increasingly difficult to persuade the public that mutual exploitation is beneficial to all. The margin of voters who have more taken from them than they receive must grow with the welfare state. Eventually, the margin must rise to half the electorate. The natural result will be for elections to become close and for minorities to coalesce into powerful third forces.

There are, after all, only two conditions under which a welfare state can achieve a stable natural equilibrium: either the majority must be benefiting at the expense of a minority, or vice versa—a minority must be benefiting at the expense of the majority. When the welfare states grows past a certain size, it simply becomes impossible for government to take away from any minority what is required to provide net benefits to more than half the public. The equilibrium in which the majority benefits at the expense of a minority therefore gets ruled out by the facts of life when government becomes too big. And the other alternative—in which a minority exploits the majority—is ruled out by the nature of democracy. That leaves only an unstable borderline situation in which half the electorate tries to gain at the expense of the other half, a circumstance that weakens and demoralizes government. No elected authorities can govern firmly and effectively if they must constantly look over their shoulders to see whether they still have a majority of voters behind them. Margins of victory at the polls become so small and fleeting that politicians, struggling to survive reelection, curry favor from all manner of factions and special interests thought to be of marginal help in winning an election. The demagogue has his day.

It is this weakening of democratic government taken together with the underlying who-whom dilemma that largely explains, I believe, why inflation has erupted virtually everywhere in the democratic world. Governments are driven to spend without visibly taxing. Inflation becomes the easiest way out, and it acquires a momentum of its own. Once started, it cannot be stopped without endangering the holy of holies: full employment. The insecurities of unemployment are in part replaced and in part supplemented by those of inflation. Mixing inflation and unemployment means in effect that neither can be controlled without straining democratic institutions.

The American republic is to me the greatest wonder of all time, a system of representative government and personal freedom that has flourished for two hundred years despite the disastrous failure of every democracy in recorded history up to the founding of our republic. Our founders knew that history had no good words to say for democracy as it had existed. The reputation of democracy was so bad that our Founders constantly stressed that they were creating a republic based on representative government, not a democracy. They constructed a system of government based on separated powers, checks and balances, and a citizenry hopefully steeped in republican virtues. Their object was to thwart the majoritarian tyranny into which democracy had always degenerated in the past.

Their sentiments were in accord with those expressed by these words of an earlier time:

"And thus the frame of the democracy was dissolved; and gave place to the rule of violence and force. For when once the people are accustomed to be fed without any cost or labour, and to derive all the means of their subsistence from the wealth of other citizens; if at this time some bold and enterprising leader should arise, whose poverty has shut him out from all the honours of the state, then commences the government of the multitude: who run together in tumultuous assemblies, and are hurried into every kind of violence; assassinations, banishments, and divisions of lands; till, being reduced at last to a state of savage anarchy, they once more find a master and a monarch, and submit themselves to arbitrary sway."*

So wrote Polybius, Greek historian of the second century B.C. If his words are not to become prophetic in our time, we must, in my opinion, find some way to curb galloping government.

RULES OF THE SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, in accordance with section 133B of the Legislative Reorganization Act of 1946, as amended, I ask unanimous consent that the rules of the Select Committee on Small Business be printed in the Record.

There being no objection, the rules were ordered to be printed in the Record, as follows:

Standing Rules of the Senate Small Business Committee

(As adopted in executive session January 27, 1975)

1. General

All applicable provisions of the Standing Rules of the Senate and of the Legislative Reorganization Act of 1946, as amended, shall govern the Committee and its Subcommittees. The Rules of the Committee shall be the Rules of any Subcommittee of the Committee.

2. Meetings and quorums

(a) The Committee will meet at the call of the Chairman. If at least three Members of the Committee desire the Chairman to call a special meeting, they may file in the office of the Committee a written request therefor, addressed to the Chairman. Immediately thereafter, the Clerk of the Committee shall notify the Chairman of such request. If, within three calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within seven calendar days after the filing of such request, a majority of the Committee Members may file in the office of the Committee their written notice that a special Committee meeting will be held, specifying the date, hour and place thereof, and the Committee shall meet at that time and place. Immediately upon the filing of such notice, the Clerk of the Committee shall notify all Committee Members that such special meeting will be held and inform them of its date, hour and place. If the Chairman is not present at any regular, additional or special meeting, the ranking majority Member present shall preside.

(b) In executive sessions, a quorum for the transaction of business shall consist of a majority of the Members of the Committee.

(c) In hearings, whether in public or executive session, a quorum for the taking of testimony not under oath shall be one Member of the Committee. A quorum for the taking of sworn testimony shall be two Members of the Committee, unless the witness voluntarily waives this requirement.

(d) Proxies will be permitted in voting upon the business of the Committee by Members who are unable to be present. To be valid, proxies must be signed and assign the right to vote to one of the Members who will be present. Proxies shall in no case be counted for establishing a quorum.

3. Hearings

(a) The Chairman of the Committee may initiate a hearing on his own authority or at the request of any Member of the Committee. Written notice of all hearings shall be given to respective Committee or Subcommittee Members. Notice shall be given as far in advance as practicable. No hearings of the Committee shall be scheduled outside of the District of Columbia except by a majority vote of the Committee.

(b) Any Member of the Committee shall be empowered to administer the oath to any witness testifying as to fact if a quorum be present as specified in Rule 2(c).

(c) Subpoenas shall be issued only when authorized by a majority vote of the Committee. When so authorized, subpoenas may be issued by the Chairman or by any other Member of the Committee designated by him. A subpoena for the attendance of a witness shall state briefly the purpose of the hearing and the matter or matters to which the witness is expected to testify. A subpoena for the production of documents, memoranda, records, etc., shall state briefly the purpose of the hearing and shall identify the papers required to be produced with as much particularity as is practicable.

(d) Any witness summoned to a public or executive hearing may be accompanied by counsel of his own choosing, who shall be permitted while the witness is testifying to advise him of his legal rights.

(e) No confidential testimony taken or confidential material presented in an executive hearing of the Committee or any report of the proceedings of such an executive hearing shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee.

NO-FAULT'S BIGGEST FAULT: IT DOESN'T REDUCE RATES

Mr. FANNIN. Mr. President, before the Federal Government launches on a nationwide program of no-fault auto insurance, as urged by the proponents of S. 354, the Congress should examine carefully the results of existing no-fault systems operating in the several States.

As shown in two recent articles in the Philadelphia Inquirer and the Wall Street Journal, the States' experience to date with no-fault has been sobering, especially for the legislators who favored it as a cheaper form of expanded auto insurance coverage and the motorists who are being forced to pay increasingly higher insurance premiums.

Reporters Kathy Nagurny of the Inquirer and Harry B. Anderson of the Journal have surveyed many of the 24 States that have adopted no-fault schemes Their findings clearly indicate that no-fault is not everything it is cracked up to be. Clearly, the results—increased insurance rates, steeper prices for auto repairs, higher doctors' bills, fraudulently inflated insurance claims, and the growing number of uninsured motorists on the highway—demonstrate that consumers are not always benefiting and economic costs are not being reduced under statutory no-fault systems.

Mr. President, both articles present a balanced discussion of consumer problems involved in the current controversy surrounding no-fault auto insurance. I ask unanimous consent that the complete text of the two articles from the Philadelphia Inquirer of January 18, 1976, and the Wall Street Journal of January 21, 1976, be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

No-Fault's Biggest Fault: It Hasn't Reduced Rates

(By Kathy Nagurny)

No-fault auto insurance, once hailed as a surefire way to lower insurance rates, hasn't.

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*Polybius, *General History*, trans. James Hampton, Oxford, 1823, II, pp. 128 f.

In many of the 24 states where it is in effect, no-fault simply has not lived up to expectations.

In New Jersey and Delaware, where no-fault has been in effect for at least three years, the theory was that it would force insurance rates down by reducing the number of automobile-accident court cases. The theory has not worked: The number of court cases has gone down, but not the rates.

What has happened instead is that the increasingly high cost of auto repairs and soaring medical costs have pushed insurance rates even higher. As a result, even though insurance is compulsory in most no-fault states, a growing number of drivers are refusing to buy insurance and risking their financial futures rather than pay the costs.

In Pennsylvania, where no-fault has only been in effect for six months, state insurance officials say that it is still too soon to evaluate the system's effect on rates. But only last week, Nationwide Mutual Insurance Co., which insures 600,000 drivers in Pennsylvania, was granted a 16.2 percent rate increase, raising the average annual policy premium from $358.20 to $416.40. The company cited an increase both in collision claims and in the costs of auto repair parts.

"We have found that overall, no-fault really hasn't changed rate differences," said Robert Sasser, a national spokesman for State Farm Mutual. "Unfortunately, no-fault was sold on the premise that it might lower rates. It was not sold on the other benefits—like speeding up payments—that most folks were sure it would provide."

A spokesman for State Farm said a computerized study prepared by that company showed that insurance premiums in states without no-fault have also risen drastically, but not by quite as much as they have risen in New Jersey and Delaware.

Under the no-fault system, motorists injured in auto accidents are paid by their own insurance companies, and in most cases this avoids costly counter-claims and suits. Many states, including Pennsylvania, also limit the rights of injured persons to sue for additional damages.

While that has reduced the number of cases on court dockets, it has not kept insurance rates from going up.

In Delaware, where no-fault became effective in January 1972, State Farm recently announced that it would increase rates an average of 20 percent beginning Feb. 1. Only 10 months ago the company raised its rates by an average of 16.4 percent.

The Insurance Services Office, which represents about 40 percent of Delaware's insurers, has also increased rates—by 40 percent, effective last week.

The trend has been the same in New Jersey. When the no-fault system became effective there in January 1973, New Jersey's legislature was so sure that the system would cut insurance companies' costs that it ordered a 15-percent reduction in bodily-injury rates.

But the reduction was soon partly or totally wiped out by new increases, which in some cases left rates higher than they were before. Last year, Insurance Commissioner James J. Sheeran approved the first round of rate increases ranging from 3.3 percent to 16.1 percent for 235 companies that handle more than 70 percent of the auto policies in the state.

INFLATION EFFECT

"Because of the effects of inflation, though," Sheeran said, "we cannot yet determine whether no-fault actually reduced the overall cost of insurance."

Within the past year, a number of companies have applied for and received rate increases in New Jersey. In addition, one state insurance official said, some firms—including New Jersey's third largest carrier, Government Employees Insurance Co.—have discouraged new customers because the state seems wary of approving any further increases.

Even with no-fault's relatively brief experience in Pennsylvania, State Insurance Department spokesman Vincent Travis concedes that "the effects of inflation are such that gradually, rates are going to creep up. But it seems pretty clear to us that it is working well as far as one major objective—providing more adequate, faster compensation."

That is the advantage that most officials cite in arguing that no-fault is working and working well, despite the question of rates.

"I still feel no-fault is an outstanding success," said Robert A. Short, Delaware's insurance commissioner. "We are still considering how we will improve no-fault by forcing people to carry insurance.

"PAID IMMEDIATELY"

"But the big news as far as I'm concerned is that under the plan, people are getting paid immediately when they have claims. Before, our companies argued all the time."

By limiting the question of who is at fault in an accident, no-fault has reduced the number of automobile-accident cases on court dockets locally.

In Delaware, such court cases were reduced by about 40 percent between 1971 and 1974. New Jersey had a 50 percent decrease between 1972 and 1973.

Nonetheless, insurance spokesmen said that that situation had not been mirrored in other states with no-fault, where court cases have decreased only slightly. In Miami, the increased number of "pain-and-suffering" lawsuits has even triggered a grand jury investigation of "overly high" medical expenses.

One byproduct of the reduced reliance on the courts seems to be smaller settlements—about $150 less on the average claim during the first years of no-fault in Delaware and New Jersey.

MORE CLAIMS PAID

On the other hand, the industry is paying off more claims than before. In Delaware, 4,406 claims were settled in 1974, compared with 1,552 in 1971. Likewise, in New Jersey, 82,856 claims were settled in 1973, compared with 51,419 in 1972, before no-fault.

As a result, the industry claims that it needs more money not only to keep abreast of the rising number of cases it is handling, but also to cover the rising costs, particularly of auto repair and medical expenses.

"One of the other major causes of automobile insurance rate hikes . . . is the staggering increase in the cost of automotive parts used to repair auto accident damage," State Farm's Sasser said.

The cost of repairing auto parts such as fenders, bumpers and grills damaged in the growing number of accidents has surged 84 percent since 1970, he said.

Medical costs have similarly soared, he added.

The insurance commissioners for Delaware and New Jersey are sympathetic to that argument and agree that the cost of doing business everywhere has steadily and sharply increased.

MANY DROP IT

That very increase has convinced some drivers to forget about buying insurance and take the risk of having an accident that could result in staggering expenses.

"We are finding that you just can't force people to carry insurance," said Delaware Insurance Commissioner Short. "We think that a growing number of people aren't carrying insurance because they can't afford it. We just can't have our agencies checking all the time to see if all the state's drivers have insurance."

New Jersey state officials cite figures gathered by the Auto Insurance Planning Service Office, a New York research firm, that show that 16 percent of New Jersey's drivers were uninsured in 1974, compared with 12 percent in 1972.

Delaware estimates that 13 percent of its drivers are uninsured, compared with about 2 percent at the end of no-fault's first year.

The number of uninsured motorists has also continued to climb gradually in states without no-fault, but not by the same percentages.

"What all this proves," said consumer-advocate Herbert S. Denenberg, who lobbied heavily for Pennsylvania's no-fault law when he was state insurance commissioner, "is that the insurance situation is worse than it ever was.

"Rates are going up because of inflation. The government agencies don't know how to make insurance compulsory. The government groups don't have the staffs to totally investigate increased rates for the consumer. And, for the most part, the no-fault laws in Delaware and New Jersey have been so watered down that they're really weak."

Most insurance officials agree with Denenberg only to the extent of conceding that there are some flaws in the system. But they are convinced that no-fault is here to stay.

"Like I said," Delaware's Short said, "we're just trying to think of some ways to force everyone to carry insurance."

CASUALTY COSTS: PROBLEMS AND PREMIUMS OF NO-FAULT INSURANCE OUTPACING PROJECTIONS

(By Harry B. Anderson)

No-fault auto insurance, if you will pardon the expression, isn't all it was cracked up to be.

The system where a motorist's own insurer pays for certain damages sustained in an accident regardless of who is at fault has been embraced by 24 states since 1971. While it has fulfilled much of its promise of better and faster service with lower premiums than conventional insurance, both the problems and the premiums relating to no-fault are rising faster than expected.

The primary premium problem is the same one affecting auto insurance in general—the inflationary effects of medical and other costs (see story on page 25). But no-fault insurance isn't having quite the salutary effects predicted.

Government Employees Insurance Co., for example, which last week estimated its 1975 losses at about $75 million, said the deficit was "aggravated by the unexpectedly adverse effect of no-fault laws." Geico's personal-injury claims rose 140% to $42.8 million in the first nine months of 1975.

Besides the actual claims experience, no-fault has impaired the financial strength of some insurance firms in another way. Under the old system, the New York State Insurance Department says, "a company had a claim, reserved for it, went to court, argued and maybe one day had to pay. But in the meantime, that money was earning income. Now, under no-fault, a company has to pay from day one, meaning its investment income is considerably reduced."

MIXED REVIEWS

"No-fault hasn't been the remarkable success that its strongest adherents had envisioned," a department official says, "but it's nowhere near the failure its opponents had expected. I'd call it modestly successful, but it's suffering some very severe problems."

Some specific problems that have cropped up recently:

In New York, the state insurance department said last week that since last June it has been forced to permit premiums relating to no-fault coverage to rise an average of 20%, and they are "expected to continue to increase through 1976."

In New Jersey, where premiums had been held steady since the onset of no-fault in early 1973 until some increases were allowed in late 1975, Nationwide Insurance Co. complains that it has been paying out 12% more in no-fault benefits than it has been receiving in premiums. An official says insurers in

New Jersey are becoming "more selective" about selling new insurance, making it more difficult for drivers to get coverage.

In Florida, a special state task force is investigating charges of substantial no-fault fraud by doctors, lawyers and claimants in the Miami area.

PERSONAL-INJURY COVERAGE

In 22 of the 24 no-fault states, the automatic coverage by the motorist's own insurer is limited to medical, wage-loss and related personal-injury benefits. Massachusetts and Michigan have extended the concept to property damage as well.

The right of accident victims to sue for compensation beyond no-fault payments is restricted in 16 states, and such restrictions have survived challenges in the courts.

Proponents argue that by eliminating many protracted legal battles that result in large legal fees and sometimes large payments for "pain and suffering," no-fault reduces insurance costs, and the saving can be passed on to customers. Moreover, they say, motorists are covered who previously didn't insure their own medical costs, and payments to victims are quicker because there aren't any arguments about which company is liable.

In Delaware, for instance, the insurance department says complaints about slow claims payments have practically disappeared since the state's modified no-fault law went into effect in January 1972. Insurance Co., a subsidiary of Philadelphia-based INA Corp., says the quicker payment of the no-fault damages helps speed many accident victims' recovery through fast medical treatment.

INITIAL RATE CUTS

Because of the lower costs expected from no-fault at the outset, the legislatures of seven states—Connecticut, Florida, Massachusetts, Nevada, New Jersey, New York and Pennsylvania—had required insurers to lower their personal injury protection rates initially by 10% to 15%. But insurance firms found their costs didn't go down nearly that much in most states, and this has put a squeeze on their profits.

"If a rate reduction doesn't produce appropriate income for the companies, then you've got a problem," an official of the Florida Insurance Department says. Although personal-injury insurance rates were rolled back 15% when Florida's no-fault program became effective in January 1972, since that time the rates have increased by 27% to 30%, according to the "best guess" of the department's actuaries.

Nationwide Insurance Co. estimates that in the three years before the Florida law became effective it was paying out 70% of the premium income roughly comparable to no-fault in claims settlements, before taking into account the other expenses of doing business. Since no-fault, the company says, it has paid out an average of 81% of its premium income despite the rate increases. In Connecticut, this so-called loss ratio for Nationwide jumped from 54% to 63%; in New York, it went from 56% to 71%, and in New Jersey, where rate increases have been particularly hard to get approved, the ratio soared from 76% to 112%.

A Nationwide spokesman says the increased loss ratios are partly due to the generally rising costs of medical care. But also, he says, the new no-fault laws often require insurers to provide broader protection, including such things as loss of income and medical rehabilitation. Finally, he adds, conventional insurance typically had a ceiling on the insurer's liability. But Michigan's no-fault law, for instance, requires insurers to pay all reasonable medical expenses, without any ceiling.

No-fault problems have been at least partly responsible for some cases of financial woes besetting the insurance industry. Besides the recent Geico case, officials of Gateway Insurance Co., a subsidiary of Fisco Inc., Philadelphia, were complaining bitterly of no-fault losses shortly before the company became the largest casualty insurance insolvency on record in 1974. No-fault wasn't the only difficulty, of course.

Gateway officials asserted then and Geico hints now that many of their problems stemmed from fraudulently inflated claims. Industry observers believe that the laws of a number of no-fault states lend themselves to abuse by providing a monetary threshold for filing lawsuits. In Kansas, for example, an accident victim is generally prevented from suing if his medical expenses are $500 or less. But if his medical costs exceed $500, he is entitled to file suit to recover damages for such intangibles as "pain and suffering," mental anguish and the inconvenience caused by the accident.

"People are learning," a Geico spokesman says, "that all they have to do is have another X-ray or spend another night in the hospital" in order to surpass the threshold and file suit. And Thomas C. Morrill, a vice president of State Farm Mutual Automobile Insurance Co., charged last year that in Florida "many cases that should have been settled quickly . . . have instead been built to a level that exceeds the threshold established by the law. Once that level is passed, (claimants) are free to go for that alluring pot of litigious gold which our customers keep filling for them."

Allstate Insurance Co., has figures showing that in many states it hasn't seen as much of a reduction in the amount it is paying in personal-injury court judgments since the advent of no-fault. In New York and New Jersey, for instance, it is involved in 40% fewer court cases, but the amount of damages it now must pay in both states exceeds earlier levels by 50%. That means that the Sears, Roebuck & Co. unit is paying 90% as much in court awards under no-fault as it did previously. The situation is worse in Connecticut and Florida, where payouts exceed previous levels by 5% and 15%, respectively. In each case, of course, inflation played a key role.

One state where no-fault bodily injury provisions appear to have worked out fairly well is Massachusetts, the first state to adopt no-fault, in January 1971. (However, insurers are howling about their loss records from no-fault property-damage coverage in the state).

Robert Keeton, a Harvard Law School professor, says bodily injury premiums at the end of 1975 were 45% below the premiums for equivalent coverage before no-fault. Although the state insurance industry is seeking an increase beyond the 2% or so granted earlier this year, most insurance companies feel their loss experience on bodily injury no-fault hasn't been particularly bad in Massachusetts.

Prof. Keeton says that even no-fault's most fervent early supporters were surprised by these results, and he now believes they had missed the importance of certain special factors in the state. He notes that back in 1927, Massachusetts was the first state to require all motorists to carry bodily-injury liability insurance, but it didn't require coverage for property damage.

"I think we (no-fault's supporters) all underestimated the extent to which unjustified bodily-injury claims were used to get cars repaired," Prof. Keeton surmises. In any case, Allstate reports that since the passage of the Massachusetts no-fault law, it has been paying about 40% fewer personal-injury claims in the state. (State Farm Insurance, the nation's largest automobile insurer, says bodily injury protection accounts for about 37% of the average motorist's premium cost.)

At the moment, Congress is considering legislation to extend no-fault coverage to all states. The House bill has cleared a subcommittee and may come before the Commerce Committee next month. The Senate's Commerce Committee approved its version of the bill last summer, but the sponsors are holding up full Senate action to see what the House does.

In general, the federal proposals would set guidelines that each state would be required to meet or exceed within a certain period. Also proposed are unlimited "reasonable" medical benefits to accident victims. The Senate bill would allow suits only in the event of a motorist's death or an injury laying him up for more than 90 days, and the House bill has similar "threshold" provisions without a specific dollar limit.

Some large insurance companies are energetic in their support of federal legislation. State Farm asserts that "federal no-fault standards are the only way to achieve widespread, desirable change by the states." It adds that failure of the proposed legislation "might well take the steam out of the no-fault movement and leave us with the present patchwork of diverse state laws that, for the most part, deny the consumer the type of workable protection he wants and deserves."

Other insurers are less enthusiastic. According to the American Mutual Insurance Alliance and the National Association of Independent Insurers, "the open-ended medical benefits provision of (the Senate bill) would increase loss exposures to a point beyond the existing capacity of small companies to handle." They add that "the bulk of automobile insurance business will move into the hands of a veritable cartel of giant companies."

The two trade groups basically favor allowing the states to write their own no-fault laws. "What is good for Michigan (whose no-fault law most closely resembles the federal proposals) isn't necessarily good for New York or Oregon or South Dakota," they argue.

ADMINISTRATION OF ERISA FOR THE BENEFIT OF THE AMERICAN WORKERS

Mr. JAVITS. Mr. President, I am pleased to report that the Pension Benefit Guaranty Corporation, an independent governmental corporation established by title IV of the Employee Retirement Income Security Act of 1974 is successfully dealing with situations that prior to its formation would have led to personal tragedy for thousands of retired Americans who would have lost their pension benefits. The PBGE was established to protect workers from this unforeseen contingency, when companies were sold, merged or became bankrupt. As a continuing example of the PBGC's noteworthy achievements during times of economic difficulty, the PBGC acted effectively and efficiently when Great Atlantic & Pacific Tea Co. closed 20 of its supermarkets along the Niagara frontier in upstate New York late last year.

The pension benefits of 62 retired employees and the vested benefits of 250 more employees not yet retired have been saved by virtue of PBGC action. The PBGC upon application received from the pension plan administrator worked to assure that benefit payments were continued to those 62 employees already retired and that the workers with appropriate vested benefits are enrolled and put into pay status immediately upon eligibility for their pension. Without the PBGC it is likely that the already retired individuals would have received limited benefits and the vested benefits of 250 more employees would have been lost.

The PBGC has also successfully dealt with the REA Express bankruptcy and pension plan termination. Late last year 650 retirees of the bankrupt REA Express Co. began to receive their monthly pension checks in the mail. The checks were not signed by REA Express but rather by the PBGC. Without ERISA those retired workers would have no pension today.

As a result of the PBGC's creation 1.700 participants are now receiving approximately $250,000 monthly payments from the PBGC. Over $35 million of insurance premiums have been collected already by PBGC as a reserve to protect employees terminated plans.

I am also pleased to report that contrary to the initial vocal cry of ERISA critics that the act is too costly to private industry, a recent survey conducted by the Institutional Investor substantiates that of the private employer pension plans surveyed 80 percent experienced less than a 5 percent increase in administrative and professional costs due to ERISA. I firmly believe that the Department of Labor, IRS, and the PBGC will make even further strides in carrying out the pension reform mandated by Congress and at the same time streamline the bureaucratic burdens imposed on employers.

Mr. President I ask unanimous consent to have printed in the RECORD a February 12, 1976, article from the Buffalo Evening News which describes the Niagara Frontier A & P case, and an article from the February 1976 Institutional Investor which contains the results of its survey on ERISA costs.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

EX EMPLOYES OF A&P TO GET PENSION BENEFITS

(By Ed Kelly)

The more than 300 employes who lost their jobs last year when A&P closed its 20 supermarkets on the Niagara Frontier will receive pension benefits for which they are eligible, the head of their union said Wednesday.

President Paul E. McSweeney of Local 212, Retail Clerks International Association (AFL–CIO), said the benefits will be paid "as the individuals qualify for them."

Though Local 212 had been unaware of A&P's plans for the massive shutdown in Erie and Niagara Counties, Mr. McSweeney said, the union took the matter of pensions immediately to a government agency, the Pension Benefit Guaranty Corp.

The latter, set up within the U.S. Department of Labor, was created under Title 4 of the Employe Retirement Income Security Act of 1974.

The Pension Benefit Guaranty Corp., which functions in the pension field the way the Federal Deposit Insurance Corp. functions in the banking field, guarantees "defined benefit" pension plans.

Mr. McSweeney said the agency recently notified the Retail Clerks Regional Pension Fund, headquartered in Rochester, that former A&P employes here, who "qualify as to age and length of service" under the pension in effect while they worked for the supermarket employer, "will, in fact, be paid their appropriate benefits."

Qualified members of Local 212 have been sent letters instructing them how to apply for any pension they believe should be forthcoming," said Mr. McSweeney. "Any questions about eligibility should be directed to Local 212 at 522 Ellicott Square."

When the last of the A&P stores shut down in May, the local union president said, some of the news media "indicated that it was problematic whether the employes would receive their contractual pension, in view of the mass nature of the closing."

Mr. McSweeney said Wednesday's announcement was "intended to correct a false impression that may have been created among eligible A&P employes."

Of the 300 thrown out of jobs by the store closing, he said, many have found new employment, some are still on extended-coverage unemployment benefits and still others have dropped out of the job market.

EMPLOYMENT RETIREMENT INCOME SECURITY ACT

It has become almost a truism to say that the Employment Retirement Income Security Act has not proved a major burden for most corporations. And while that statement is justified, the law has nevertheless meant changes and readjustments that for some have been little more than a nuisance and for others have added up to a considerable expenditure of time and money—as this month's survey of pension officers participating in *Pensionforum* makes clear.

About three-quarters of the funds reporting have felt no need to hire additional staff. Interestingly enough it is the large funds—those over $100 million in size—that have tended to add personnel; almost a third have done so. It is probably both a matter of "larger assets, larger problems" and the general axiom that a smaller asset pool doesn't justify additional expenditures.

The most widespread need in adjusting to the law, as was predicted, has been for increased reporting to the government and participants. Not far behind is the onus of compliance in the benefit administration area—such matters as keeping track of part-time help. Three-quarters of the corporations that have added staff because of ERISA have done so for those two reasons; additional personnel on the investment side has been a minor factor.

About 80 per cent of the funds say that they felt no need to turn to outside consultants for help in meeting ERISA's requirements. Of the remainder, some that did not use an outside performance measurement service are now subscribing to one. But most probably decided it was advisable to meet with a consulting firm to discuss specific aspects of their benefits, planning and investment policy.

The law's main impact on investments has been in a re-evaluation of approach and philosophy. Very few have made any changes in their outside managers, though some have added managers, particularly bond managers and those with a different style, like market timing, to comply with the law's diversification requirement. Similary, those who decided more portfolio diversification was needed increased bond holdings or broadened the list of names of equities held.

Since most established plans have been making contributions to their funds on a schedule that already satisfies the law's stipulations, their additional costs have been largely for administration and reporting. And for almost 40 per cent of the corporations, the result has been cost increases of less than 2 per cent; and for almost 80 per cent, of less than 5 per cent. Only 7 per cent have found that costs have risen 10 per cent or more, and in such cases, increased contributions to meet funding and vesting requirements are probably involved. There could be additional future expenditures, however, such as increased trustee fees, as banks find their end of the reporting process onerous. And, of course, there are other questions—like fiduciary reponsibility and decisions about future benefit levels—that are costing corporations time and possible anxiety though not necessarily additional dollars.

THE COSTS OF ERISA

Personnel, consultants and portfolios

The immediate effect of ERISA naturally varies from corporation to corporation, but the added cost for the large majority of corporations responding to this month's *Pensionforum* can be fairly classified as nominal. And most of the money seems to be going toward administrative reporting expenses. Long-term, the major impact of the law may not be additional costs but rather changes in sponsor approach to pension asset management generally.

	Fund size		
	Less than $100,000,000 (42.1 percent	More than $100,000,000 (57.9 percent	Total
Has your corporation made any additions to staff as a result of ERISA?			
Yes	20.8	31.8	27.2
No	79.2	68.2	72.8
If yes, for which of the following functions was staff added?			
Investment supervision	6.7	18.8	14.9
Benefit administration	33.4	375.	36.2
Government and participant reporting	53.3	37.5	42.6
Other	6.7	6.2	6.3
Has your corporation added any outside consultants as a result of ERISA?			
No	80.0	79.1	79.5
Yes; we have subscribed to a performance measurement service	6.0	4.5	5.1
Yes; we have hired a consultant to help us select money managers		3.0	1.7
Yes; other	**12.0**	13.4	12.8
Has your corporation made any changes in money managers as a result of ERISA?			
Yes	2.1	6.1	4.4
No	97.9	93.9	95.6
Have you made any changes in portfolio mix as a result of ERISA?			
No	73.6	65.4	74.8
Yes; more bonds	15.1	17.8	17.2
Yes; more real estate			
Yes; more diversification within common stock portfolio	9.4	5.8	7.4
What is the impact of ERISA on your corporation's pension costs including administrative and re-9 porting costs, termination insurance premiums, etc?			
Costs have increased:			
Less than 2 percent	33.3	43.9	39.5
2 to 5 percent	43.8	33.3	37.7
More than 5 percent but less than 10 percent	12.5	9.1	10.5
10 percent or more	6.2	7.6	7.0
No answer	4.2	6.2	5.3

AMENDMENT TO THE ENERGY INFORMATION ACT

Mr. HASKELL. Mr. President, the Senate Committee on Interior and Insular Affairs has scheduled open hearings on S. 1864, the Energy Information Act, for March 3, 8, 9, and 12, 1976. This bill was introduced in 1975 by Senator GAYLORD NELSON. It is the descendant of S. 2782, an energy information bill which Senator NELSON introduced in the 93d Congress. As a principal cosponsor of the bill, I have accepted the responsibility for chairing the Interior Committee's hearings on this legislation in the 94th Congress. We intend to move this bill.

The Energy Information Act has a substantial history behind it, including hearings and intensive staff work in the 93d Congress. This bill establishes an independent National Energy Information System and authorizes the Secretary of the Interior to conduct a comprehensive survey of the energy resources owned by the people of the United States on the public lands, including the Outer Continental Shelf. The principal purposes of this legislation are:

First. The establishment of an independent and credible permanent agency within the Federal Government to collect, analyze, and disseminate basic energy-related data and information;

Second. The coordination and consolidation of Federal energy data collection to insure the comprehensiveness of the energy information base available to the public, the Congress, and the executive branch and to minimize duplicative reporting by businesses in the energy industry;

Third. The establishment of standards for the handling of energy information pertaining to individual companies which strike a reasonable balance between the public's right to participate in national energy policy decisionmaking and legitimate needs of private businesses for confidentiality; and

Fourth. The authorization of a Federal program to systematically determine the location, extent, and value of the domestic energy resources of the United States.

Mr. President, it ought to be painfully clear that the basic energy information available to the Congress and the public under existing law has been far from satisfactory. We have over the past year witnessed enormous controversy, confusion, and frustration over the most basic data describing important energy policy options.

We have had a seemingly endless argument over basic natural gas data. For example:

What is the price of natural gas in the intrastate market?

How much natural gas will be deregulated—and when—under the principal deregulation proposals?

What are our natural gas reserves and what is our natural gas producing capacity?

What will the economic impact of natural gas deregulation be?

We should be able to get the answers to these questions. We should know that the answers given are believable.

The effort of arriving at a national policy to govern the production, refining and marketing of petroleum has encountered significant problems directly related to the energy data we must use: We cannot answer even the most simple of questions:

What is the actual price of old oil? How much old oil and how much new oil are we actually producing?

Who owns the old oil and who owns the new oil?

What have the oil companies done with their profits?

Where are investments being made now?

What is the true competitive structure of the petroleum industry?

Our ability to use present energy information base to clarify the critical issues raised by these questions is minimal.

In the case of coal, we are in no better shape. In 1975, the President vetoed a major surface mining bill, and his veto was sustained in the House of Representatives. This bill, which represented years of Congressional effort, would have resolved the uncertainty with regard to the very necessary rules which must be in place requiring the reclamation of strip-mined land. There was substantial controversy over the coal production estimates which the Administration used in justifying that veto and even more doubt about the projected increases in electricity prices which the Aministration estimated would have resulted from enactment of the legislation. This controversy has never been resolved and has left a bitter taste in everyone's mouth.

Profitability in the coal industry, the extent and nature of our coal reserves and the projected costs of proposed regulations on coal mining are other intensely controversial issues which our current system for supplying energy information on coal does not clarify.

With regard to nuclear energy we have only the most rudimentary knowledge of our uranium reserves, yet the administration justifies a major multi-billion-dollar research program to develop a nuclear reactor which breeds nuclear fuel on an urgent basis because of the alleged inadequacy of our supply of uranium. The true economics of nuclear power and the real nature of the tradeoffs between the coal and nuclear options remain obscure.

On the consumption side, we have almost no really reliable data describing how energy is used in our society. Yet, the development of effective policies to build energy conservation into the fabric of our society and to improve the efficiency in end-use energy consumption are absolutely vital to the improvement of our energy posture for both the short and long run.

Whatever we can say about the energy information system we now have we must admit that it has not operated to clarify policy decisions. Where we could have expected conflict over policy, there has been also conflict over basic numbers. The conflict over policy is inevitable. The conflict over numbers is wasteful, frustrating, and unnecessary.

We could greatly improve the efficiency and quality of the national debate over energy by agreeing that a substantial portion of the energy information which that debate requires can be developed objectively and professionally, on the basis of standards and methods about which there is a great deal of agreement. To attempt to legislate an energy policy in an atmosphere in which even this basic information is either inadequate or suspect is to prolong and severely weaken the only process we have to resolve important national issues.

The supreme irony of the system which provides our energy information is that, although it is finally quite inadequate and incomplete, it nevertheless exacts an enormous toll in effort and annoyance just to make it operate. Numerous Federal departments, agencies, commissions, administrations, bureaus, boards, and offices collect energy information from private sources. The system is burdensome and costly. Private businesses are required to submit the same information or nearly the same information to a sprawling and growing conglomeration of different Federal agencies. Forms are piled on top of forms, and increasing amounts of energy and talent must be devoted to complying with the information requests. It is almost too much after all this aggravation to be told that the end result is a system which does not really do what it is supposed to do. It does not adequately inform.

The Energy Information Act is designed to deal with this problem in a straightforward manner. It establishes a permanent agency which is charged with assembling a comprehensive energy data base, with organizing, consolidating, and streamlining the gathering of energy information and with undertaking a major effort to determine the location, extent, and value of our domestic energy resources. The bill also establishes a standard of confidentiality which will result in the public availability of significantly more energy information than has ever been placed at the service of the public debate.

I feel very strongly that this legislation can be substantially clarified and strengthened. I also feel that the basic policy choices in the design of an energy information system should be far more clearly displayed. For this reason I am today formally introducing an amendment to S. 1864 which I hope will focus discussion of the issues raised by this bill on the critical questions which must be resolved.

I would like to outline what I feel are the most important of these questions and indicate how my amendment deals with them.

First, and perhaps most crucial, is the issue of the independence of those responsible for basic energy information. I am convinced—and I believe that the record of the past two years supports that conviction—that the Federal Energy Administration as it is now constituted cannot guarantee the independence of the energy information function. The FEA is the principal Federal regulator of the petroleum industry and the policy arm of the President in energy. These roles are in inherent conflict with the role of assembling and making available objective and comprehensive energy information which describes the total energy system and does so independently of the consequences of this information for policy. We must look to an agency other than the FEA for an appropriate place to build and maintain an objective energy information base.

My amendment establishes a National Energy Information Administration—NEIA—which is independent of the executive branch—and therefore of the power the President or of those who design the budget of the executive branch to cripple a vigorous and independent energy information effort. The Administrator of the proposed agency would be appointed for a fixed term of 10 years. He could be removed only for cause, and not at the whim of an executive branch policy chief or congressional committee chairman who is disturbed by the facts which the Administrator reported.

Second, my amendment establishes the NEIA as a professional agency, and mandates that professional analytical capabilities be maintained in that agency. To do this the NEIA must not only be independent, but it must also employ professional personnel of high caliber. My amendment makes it clear that the analytical capabilities of the NEIA are to include:

Expertise in economics, finance and accounting;

The capability to evaluate the oil industry's estimates of reserves of all important energy sources, including oil, natural gas and uranium;

The use of energy flow and forecasting models to describe the use of energy by various sectors of the economy and to evaluate the ability of the energy information available to actually predict the impact of energy on our society; and such other capabilities as are necessary to achieve the purposes of the act.

Third, I do not intend—and my amendment makes this clear—that the result of this legislation be the establishment of "just another Federal agency." Nor is it my intention to create yet another layer of reporting requirements for energy information on top of those we already have. The present Federal system of gathering energy information needs to be—and can be—substantially streamlined. There is no reason why those energy information functions which involve the collection of basic data describing the operation of the energy system cannot be centralized and duplicative reporting significantly reduced. This can be accomplished while improving the utility and quality of the energy information made available to the appropriate Federal, congressional, and public users of energy data so that the right information is made available to the people who need it and made available in the most efficient manner possible.

My amendment attacks this problem in three ways:

Basic energy information functions which now reside in the FEA and in the Bureau of Mines would be automatically transferred to form the core of the new NEIA. Thus neither the cost and size of Government, nor the burden on the private sector would be increased by enactment of S. 1864.

A comprehensive review of the energy information needs of each Federal agency, carried out by the Administrator of the NEIA, would form the basis for a plan, to be effective within a year, to transfer to the NEIA all of those energy information functions now residing in other Federal departments, agencies, bureaus or commissions which could reasonably be taken over by the NEIA. Thus the cost and size of Government and the burden on the private sector would be materially reduced by enactment of S. 1864.

The Administrator of the NEIA would assume the responsibility for reviewing all new proposals by any agency in the Federal Government to collect energy information. It would be my hope that this review would nearly always result in the collection and analysis of the necessary data by the NEIA itself. Thus, the growth and proliferation of Federal energy information collection will be substantially reduced, and only those new collection activities which are clearly necessary will be permitted.

The agency created by this legislation will collect information on a mandatory basis and will supply that information to other Federal agencies on the basis of need. Currently, much of the duplication in the reporting of energy information occurs because of situations like the following: Agency X needs energy information in the possession of agency Y. Agency Y has collected this information on a voluntary basis with assumption that it would not be released or used by anyone else. Thus, to preserve the relationships with the private sector which underlie its collection of energy information, agency Y refuses agency X's request for access. Agency X then has no choice but to go to the private sector sources itself. The result? Delay, aggravation and increased cost to the Federal Government and a duplication of forms—with its attendant aggravation and costs—for the businesses to fill out.

Under my amendment, the vast majority of the energy information collected by the Federal Government would be collected by only one Federal agency—the NEIA—on a mandatory basis. Any other agency with a legitimate need for energy information should and could obtain this information from the Administrator without having to mount its own collection effort.

Fourth, my amendment states explicitly the authority of the Administrator of the NEIA—and the intention of Congress to grant that authority—for the gathering of energy information from all major producers of all forms of energy describing:

Revenues, profits, cash flow, and investments by function within each company;

The competitive structure of the energy industry;

Operations by energy source (oil, gas, coal, etc.) and geographic area (foreign, domestic onshore, etc.)

The costs of operation by function within each company;

And other features of the energy industry the description of which is required to achieve the purposes of the act.

This is information which the Federal Government does not now collect and would not make available to the Congress or the public if it did. I am of the opinion that this purposeful ignorance of the inner workings of the energy industry on one hand and the secrecy on the other are terribly outmoded. We are making a major effort to explicitly deal with and rectify this situation in the Energy Information Act.

Mr. President, the Energy Information Act, amended as I propose today, will reduce the cost of government, reduce the size of the bureaucracy, reduce the burden on the private sector of reporting energy information. At the same time, it will establish the independent professional central energy information facility which we so urgently need to provide the objective and credible background information on energy policy options. I look forward to receiving the comments of witnesses and interested parties at the hearings on S. 1864 in March and on the amendment I am proposing. I hope that this amendment will serve to sharpen the debate on this critical issue and facilitate the reporting of greatly improved legislation by the Interior Committee at the earliest possible date.

Mr. President, I ask unanimous consent that a list of policy issues raised by this bill which witnesses at our hearings will be addressing, a copy of my amendment to S. 1864 and a copy of the bill itself be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BASIC QUESTIONS AND POLICY ISSUES: S. 1864

1. In spite of the existence of substantial Federal authority to gather energy information and intense interest in the basic parameters of energy policy, the Congress and the public have in many cases been frustrated and confused by disagreements over the fundamental features of specific energy policy issues.

Please comment, to the extent you are able, on the role and adequacy of the energy information which has been used to parameterize the following controversial issues.

a. The management of petroleum fuel shortages;

b. The pricing of crude oil and refined petroleum products;

c. The availability of supplies of natural gas;

d. The impact of the regulation of the surface mining of coal on domestic coal production and, indirectly, of electricity prices;

e. The financial incentives and investment decisions of major integrated energy companies; and

f. The analyses of the role of fuel and other costs on the price of electricity.

2. What is the scope of existing Federal authority to gather and verify energy information?

a. Primary authority for the energy information programs of the Federal Energy Administration is contained in the Federal Energy Administration Act (P.L. 93–275), the Energy Supply and Environmental Coordination Act (P.L. 93–319) and the Energy Supply and Conservation Act (P.L. 94–163).

Evaluate the extent and adequacy of FEA authority to gather and verify energy information for the purpose of

(1) administering petroleum price-control and allocation regulations required by law;

(2) carrying out investigations in connection with compliance and enforcement ac-

tivities arising from FEA regulatory responsibilities;

(3) developing energy information on the production, distribution and consumption of petroleum and other fuels for policy analysis within the executive branch;

(4) maintaining a comprehensive, standardized and current energy information base for the use of the Congress and the public.

b. Evaluate the authority of the Department of the Interior, the Federal Power Commission, the Energy Research and Development Administration and other agencies of the executive branch to gather and verify energy information.

c. The principal institutional resources of the Congress for the collection of energy information are

(1) the Federal agencies of the executive branch, to the extent that these agencies are (or can be) responsive to the needs of Congress;

(2) the General Accounting Office;

(3) Congressional committee staff efforts augmented by Congressional subpoena power; and

(4) the Washington representatives of various business, labor, consumer and environmental groups.

Evaluate the present usefulness of these groups as sources of basic energy information for the Congress.

3. What should be the nature of the Federal Government's energy information data base?

a. The Federal government has regulatory responsibilities dictated by statute requiring varying degrees of familiarity with sectors of the energy industry. Should Federal energy data collection be directly related to specific regulatory responsibilities or is there a need to create and maintain, on a continuing basis, a more comprehensive energy data base in the Federal Government? Who should take the lead in establishing such a data base if one is required?

b. The energy data priorities of previous Federal programs have emphasized description of the system for providing energy supplies. Should an effort be made to develop an extensive data base describing patterns of energy consumption?

c. Should the Federal government have the authority to acquire energy information from firms engaged in the energy industry, including economic and financial information, without regard to the proprietary nature of the data? Is fairly detailed information describing the operations of individual firms in the energy industry required for fulfillment of the role of the Federal Government in energy policy?

d. A substantial portion of the energy resources of the United States is the property of the Federal government. Should a substantial effort be mounted to assess the location, extent and value of those resources for inclusion in the Federal energy information base? Who should take responsibility for such an effort? Should this information base include comparable information describing energy resources in private ownership?

4. What should be the nature of the test or procedure which determines whether or not energy information collected by a Federal agency is published or otherwise made available to the public? Are there special classes of information which must be withheld from disclosure? How is this information to be defined? Should the Congress be denied access to any energy information in the possession of any Federal agency?

5. The credibility of basic energy information relied upon by the Federal Government has been subject to frequent challenge in the past two years.

a. Is there a point in the process of defining, acquiring, manipulating, analyzing and deriving the policy implications of energy information where a separation can reasonably be made between "objective" and "subjective" energy information? Is the quality of policy debate and the credibility of information likely to be improved by formalizing a separation of this sort?

b. Should the responsibilities of basic energy data collection, industry regulation and energy policy advocacy be combined in a single executive branch agency such as is the case with FEA? What are the costs and benefits of retaining this arrangement, and what are the costs and benefits of removing responsibility for assembling and maintaining the Federal energy information base from the FEA?

c. Does the need for objectivity and credibility in energy information require that primary responsibility and authority for energy information gathering be placed in an independent agency similar to the General Accounting Office?

d. What capabilities, if any, to analyze energy data should be a part of a Federal agency charged with collecting energy information?

6. At present there is no clear center of authority for the coordination of a burdensome, fragmented and incomplete Federal energy information effort.

a. Should an effort be made to eliminate duplicative reporting of energy information by consolidating the authority to gather energy information?

b. If this effort is made, should it include the transfer of all or part of the energy information gathering functions from for example the Department of Interior, the Federal Power Commission, the Department of Commerce or the Federal Energy Administration to a new energy information authority?

c. If only partial transfer of these functions is to occur, what types of information functions should be retained by the various Federal agencies and what types should be centralized in the consolidation of authority?

d. What access should a central energy information authority have to energy information possessed by other Federal agencies?

AMENDMENT TO S. 1864

SECTION 1. On page 8, delete lines 3 through 5 and insert in lieu thereof the following new subsection (n):

"(n) 'Federal agency' means any executive department, commission, independent establishment, corporation owned or controlled by the United States, or any board, bureau, division, service, office, authority or administration in the executive branch of the Government, and any independent regulatory agency; but does not include the General Accounting Office nor the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions."

SEC. 2. On pages 8 and 9 delete all of section 101 and insert in lieu thereof the following new section 101:

"ESTABLISHMENT OF ADMINISTRATION

"SEC. 101. (a) (1) There is created an establishment of the Federal Government to be known as the National Energy Information Administration (hereinafter in this Act referred to as the 'Administration') which shall be independent of the executive branch and under the control and direction of an Administrator and Deputy Administrator, each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Administrator shall receive compensation at the rate prescribed for offices and positions at level II of the Executive Schedule (5 U.S.C. 5313), and except as hereinafter provided in this section, shall hold office for ten years. The Administrator shall not be eligible for reappointment.

"(3) The Deputy Administrator shall perform such duties as may be assigned to him by the Administrator, and during the absence or incapacity of the Administrator, act as Administrator. The Deputy Administrator shall receive compensation at the rate prescribed for offices and positions at level III of the Executive Schedule (5 U.S.C. 5314), and except as hereinafter provided in this section, shall hold office for ten years.

"(b) The Administrator and the Deputy Administrator may be removed at any time by joint resolution of Congress after notice and hearing, when, in the judgment of Congress, the Administrator or Deputy Administrator has become permanently incapacitated or has been inefficient, or guilty of neglect of duty, or of malfeasance in office, or of any felony or conduct involving moral turpitude, and for no other cause and in no other manner except by impeachment. Any Administrator or Deputy Administrator removed in the manner provided in this section shall be ineligible for reappointment to that office. When an Administrator or Deputy Administrator attains the age of seventy years, he shall be retired from office.

"(c) The provisions of 31 U.S.C. 43 relating to retirement and survivorship benefits of widows and dependent children of Comptroller's General shall apply to the Administrator except that all annuities and refund of deposits authorized under this section shall be paid from appropriations of the Administration.

"(d) There are hereby transferred to and vested in the Administrator all functions of the Secretary of the Interior or the Director of the Bureau of Mines which relate to the collection, analysis and dissemination of energy information as authorized under sections 1, 3, 5, 8 and 21 of Title 30 of the United States Code or under any other provision of law, and all functions of the Administrator of the Federal Energy Administration, the Federal Energy Administration and officers and components of that agency as relate to

"(1) the National Energy Information center;

"(2) the Office of Energy Statistics;

"(3) the Office of Data Services;

"(4) the Office of Energy Data Policy;

"(5) the Office of Analysis of Programs;

"(6) the Office of Quantitative Methods;

"(7) the Office of Energy Systems;

"(8) the Office of Economic Impact Analysis; and

"(9) the Federal Inter-Agency Council on Energy Information; and any functions which the Administrator of the Federal Energy Administration may exercise under paragraph 5(a)(9) of the Federal Energy Administration Act (P.L. 93-275).

"(e) The functions and powers of the Administration shall be vested in and exercised by the Administrator who may, from time to time, and to the extent permitted by law consistent with the purposes of this Act, delegate such of his functions as he deems appropriate. The Administrator may appoint, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him, and prescribe their authority and duties.

"(f) This Act and any other general legislation enacted governing the employment, compensation, emoluments and status of officers and employees of the United States shall apply to officers and employees of the Administration in the same manner and to the same extent as if such officers and employees were in or under the executive branch of the Federal government.

"(g) Except as provided otherwise in this Act, all laws relating generally to the administration of the departments and establishments of the Federal Government shall, so far as applicable, govern the Administration."

SEC. 3. On pages 13, 14 and 15 delete all of section 103 and insert in lieu thereof the following new section 103:

"COORDINATION AND TRANSFER OF AGENCY ACTIVITIES

"SEC. 103. (a) Notwithstanding chapter 35 of Title 44 of the United States Code or any other provision of law, and except as limited by this Act, the Administrator shall have the responsibility of coordinating the energy information collection activities of all Federal agencies, and may enter into agreements to assume all or part of such activities.

"(b) In exercising the responsibility described in subsection (a) of this section, the Administrator shall, to the greatest extent practicable—

"(1) provide adequately for the energy information needs of the various departments and agencies of the Federal Government, the Congress and the public;

"(2) minimize the burden of reporting energy information on businesses, other persons and especially small business;

"(3) reduce the cost to Government of obtaining information; and

"(4) utilize files of information and existing facilities of established Federal agencies.

"(c)(1) Within 60 days after the enactment of this section the Administrator shall identify each Federal agency which, to a significant extent, is engaged in the collection of energy information and shall by rule prescribe guidelines for the submission by each such agency of the report on energy information described in this subsection.

"(2) Each Federal agency identified pursuant to paragraph (1) of this subsection shall within 6 months after the enactment of this section submit a report on energy information to the Administrator which—

"(A) identifies the statutory authority upon which the energy information collection activities of such agency is based;

"(B) lists and describes the energy information needs and requirements of such agency; and

"(C) evaluates the costs and benefits of a transfer of the energy information gathering authority to the Administration. Such report shall be available to the Congress and the public.

"(3) Within 9 months after the date of enactment of this section, the Administrator shall make available to the President and the Congress a report containing a plan for the consolidation, to the greatest extent practicable, of the energy information activities of the Federal Government. Such plan shall be designed to achieve an expeditious consolidation of such activities consistent with the objectives of subsection (b) of this section.

"(d) Within 90 days after receiving the report described in paragraph (3) of subsection (c) of this section the President shall submit to the Congress his plan for the transfer to the Administrator of such energy information collection activities of other Federal agencies as the President finds will further the purposes of this Act. The President's plan shall be consistent with the purposes of this Act and shall result when effective in a significant reduction in the cost to the private sector and to the Federal government of acquisition of energy information by the Federal government. The President's plan shall become effective unless either House of Congress disapproves in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act (P.L. 94–163).

"(e) The authority of the President under this section shall not extend to energy information collection activities of another Federal agency where such activities are essential to law enforcement, or otherwise essential to special investigations by the Treasury Department, the Justice Department, the Federal Trade Commission or compliance and enforcement investigations of other independent regulatory agencies.

"(f) The functions and powers of the Director of the Office of Management and Budget and the Comptroller General provided under Chapter 35 of Title 44 of the United States Code as they relate to energy information are hereby transferred to the Administrator.

"(g) Any Federal agency requiring energy information for the exercise of its lawful responsibilities or any duly established Committee of Congress having legislative jurisdiction over the subject matter (upon adoption of a resolution by such Committee which sets forth and reasonably describes the information sought) may request that the Administrator collect specific items of energy information. To the extent that the availability of personnel and funds permit the request to be granted, the Administrator shall collect, assemble and provide such energy information. Within 30 days after receipt of any such request, the Administrator shall give notice granting the request or providing a denial accompanied by a written statement of the reasons for such denial.

"(h) The Administrator shall on an annual basis review and consult with those Federal agencies which to any significant extent rely on energy information from the Administration to determine the adequacy of such information and the extent to which the energy information needs of such Federal agencies are being met. The responses of such agencies provided pursuant to this section shall be available to the Congress and the public."

SEC. 4. On pages 15 and 16 delete all of section 104 and insert in lieu thereof the following new section 104:

"ANALYTICAL CAPABILITY

"SEC. 104 (a). The Administrator shall establish and maintain within the Administration the scientific, engineering, statistical or other technical capability to perform analysis of energy information to—

"(1) verify the accuracy of items of energy information submitted to the Administrator; and

"(2) insure the coordination and standardization of the energy information in possession of the Administration and other Federal agencies.

"(b) The Administrator shall establish and maintain within the Administration the professional and analytic capability to independently evaluate the adequacy and comprehensiveness of the energy information in possession of the Administration and other agencies of the Federal Government in relation to the purposes of this Act and for the performance of the analyses described in section 201 of Title II of this Act. Such analytic capability shall include:

"(1) expertise in economics, finance and accounting;

"(2) the capability to evaluate estimates of reserves of mineral fuels and non-mineral energy resources utilizing alternative methodologies;

"(3) the development and evaluation of energy flow and accounting models describing the production, distribution and consumption of energy by the various sectors of the economy and lines of commerce in the energy industry;

"(4) the development and evaluation of alternative forecasting models describing the short- and long-term relationships between energy supply and consumption and appropriate variables; and

"(5) such other capabilities as the Administrator deems necessary to achieve the purposes of this Act.

SEC. 5. On page 19, after line 18, add a new subsection (d) as follows:

"(d) Notwithstanding any other provision of this section, any person who discloses an item of energy information described in clause 206(c)(2)(C) of Title II of this Act shall be fined not more than $40,000 for each such disclosure or imprisoned for not more than one year, or both, and, if a Federal employee, removed from office or employment."

SEC. 6. On page 26, after line 14, add a new subsection 202(a)(3) as follows:

"(3) Notwithstanding the provisions of this section or any other provision of this Act, the Administrator shall promptly provide any energy information in the possession of the Administration to any duly established Committee of the Congress upon request of the chairman or upon receipt of a resolution adopted by such committee which reasonably describes the information sought. Such information shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law."

SEC. 7. On pages 27, 28, and 29 delete all of section 203 and insert in lieu thereof the following new section 203:

"ACQUISITION OF ENERGY INFORMATION FROM MAJOR ENERGY-PRODUCING COMPANIES AND MAJOR ENERGY-CONSUMING COMPANIES

"SEC. 203. (a) For the purposes of this Act the Administrator shall designate—

"(1) 'Major energy-producing companies' which alone or with their affiliates are involved in one or more lines of commerce in the energy industry so that the energy information collected from such major energy-producing companies shall provide a statistically accurate profile of each line of commerce in the energy industry in the United States; and

"(2) 'Major energy-consuming companies' which shall be persons engaged in commerce and chosen so that the energy information collected from such major energy-consuming companies shall provide a statistically accurate profile of the energy consumed in each line of commerce in the United States economy.

"(b) The Administrator shall develop and make effective for use in the first full calendar year after enactment of this Act the format for an energy-producing company financial report. Such report shall be designed to allow comparison on a uniform and standardized basis among energy-producing companies and shall permit—

"(1) an evaluation of company revenues, profits, cash flow and investments in total, for lines of commerce in which such company is engaged and for all significant functions within such company;

"(2) an analysis of the competitive structure of sectors and functional groupings within the energy industry;

"(3) the segregation of energy information, including financial information, describing company operations by energy source and geographic area; and

"(4) the determination of costs associated with exploration, development, production, processing, transportation and marketing and other significant functions within such company; and

"(5) such other analyses or evaluations as the Administrator finds is necessary to achieve the purposes of this Act.

"(c) The Administrator shall consult with the Chairman of the Securities and Exchange Commission with respect to the development of accounting practices to be followed by persons engaged in whole or in part in the production of crude oil and natural gas required by the Energy Policy and Conservation Act (P.L. 94–163) and shall endeavor to assure that the energy-producing company financial report described in subsection (b) of this section, to the extent practicable and consistent with the purposes and provisions of this Act, is consistent with such accounting practices.

"(d) The Administrator shall require each major energy-producing company to file with the Administrator an energy-producing company financial report on no less than an annual basis and may request energy information described in such report on a quarterly basis if he determines that such quarterly report is necessary to achieve the purposes of this Act.

"(e) The Administrator shall develop and make effective for use in the first full calendar year after enactment of this Act the format for an energy-consuming company report. Such report shall be designed, to the extent practicable, to allow a comparison on a uniform basis of energy consumption by energy-consuming companies and shall permit a statistically accurate analysis of the form, source, type, amount and cost of the energy consumed in each line of commerce in the United States economy.

"(f) The Administrator shall require each major energy consuming company to file with the Administration an energy-consuming company report on no less than annual basis and may request energy information described in such report on a quarterly basis if he determines that such quarterly report is necessary to achieve the purposes of this Act."

SEC. 8. On page 29 and 30 delete all of subsection (b) and on page 30 delete all of subsection (c) and insert in lieu thereof the following new subsections (b) and (c):

"(b)(1) At the earliest practicable date after enactment of this Title, the Administrator shall request each Federal agency to provide him with a list of the categories of energy information collected or otherwise in the possession of such agency. Such list shall be provided to the Administrator within six months after enactment of this section and shall be accompanied by a description in reasonable detail of the definition, frequency of collection, and other relevant features of each category of energy information included in such list.

"(2) In furtherance and not in limitation of any other authority, the Administrator shall have access to energy information in the possession of any Federal agency except information—

"(A) the disclosure of which to another Federal agency is expressly prohibited by law; or

"(B) the disclosure of which would frustrate the enforcement of law.

"(c) In the event that energy information in the possession of another Federal agency which is required to achieve the purposes of this Act is denied the Administrator pursuant to clause (A) or (B) of paragraph (1) of subsection (b) of this section, the Administrator shall obtain said information directly from the original source pursuant to provisions of this Act. The Administrator shall notify such original source of the reason for his separate request for energy information."

SEC. 9. On pages 32, 33 and 34 delete all of subsection (c) and on page 34 delete all of subsection (d) and insert in lieu thereof the following new subsections (c) and (d):

"(c) Any person supplying energy information to the Administrator under provisions of this Act or who is otherwise the source of energy information in possession of the Administrator may submit a written request that all or a portion of such energy information be held confidential and exempted from the requirements of subsection (a) of this section. The Administrator shall publish a notice in the Federal Register thirty days prior to a determination of the merits of such request and may afford such person and any interested party an opportunity for presentation of oral and written views and argument. The Administrator shall deny such request for confidentiality—

"(1) if he finds that such energy information could be made available to the public under the provision of any other law;

"(2) unless he finds on the basis of clear and convincing evidence submitted by such person that—

"(A) such energy information constitutes a trade secret;

"(B) disclosure of such energy information would cause substantial harm to the competitive position of or substantial loss to such person; or

"(C) such energy information is geological information which is less than two years old (or any estimate or interpretation thereof) describing a property currently owned or under lease by such person; or

"(3) if he finds that restricting public access to such energy information would result in an adverse effect on public health or safety.

"(d) Subsection (a) of this section shall not apply to energy information classified for reasons of national security or foreign policy pursuant to statute or Executive order: Provided that to the extent that activities under this Act involve Restricted Data as that term is defined in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.) access to such Restricted Data shall be governed by the provisions of said Act and the regulations promulgated thereunder."

S. 1864

A bill to establish a National Energy Information Administration and a National Energy Information System, to authorize the Department of the Interior to undertake a survey of United States energy resources on the public lands and elsewhere and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections in accordance with the following table of contents, may be cited as the "Energy Information Act".

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FINDINGS AND PURPOSES

SEC. 2. (a) The Congress hereby finds that—

(1) The development of coherent and effective national energy and fuels policies to provide for the future energy needs of the United States is a matter of overriding national importance;

(2) The Federal Government must take the lead in formulating and implementing such policies to avert future energy shortages;

(3) Present understanding of the United States energy system, including its related problems, and the formulation and management of national energy and fuels policies, have suffered from a lack of credible, standardized, and relevant information on energy resources, supplies, and consumption;

(4) The existing collection of energy data and statistics by scores of Federal agencies is uncoordinated, fosters duplication of reporting, and relies too heavily on unverified information from industry sources; and

(5) Management of the finite and nonrenewable energy resources and supplies of the United States on the basis of adequate, accurate, standardized, coordinated, and credible energy information concerning all aspects of energy resources availability, extraction, production, distribution, and use is of overriding national importance for the public health, safety and welfare, and for the national security of the United States.

(b) The purposes of this Act are—

(1) To provide for an improved national capability for the coordinated collection, tabulation, comparison, analysis, standardization, and dissemination of energy information.

(2) To provide for periodic, standardized, and centralized collection of energy information by the Federal Government from the energy industry, including major energy-producing companies and energy-consuming companies, so as to minimize duplication of reporting, concerning their energy related operations, their usage of energy in all forms, and their holdings of mineral fuel resources and nonmineral energy resources.

(3) To establish within the Federal Government a centralized National Energy Information System to assure the availability of standardized, accurate, and credible energy information to the Congress, to Government agencies responsible for energy-related policy decisions, and to others.

(4) To create an independent National Energy Information Administration to administer the National Energy Information System and coordinate the energy information collection activities of other Federal agencies so as to minimize and, to the greatest extent practicable eliminate duplication of reporting by the energy industry.

(5) To provide, to the greatest extent practicable, for public access to the energy information gathered pursuant to this Act subject to the safeguards provided pursuant to this Act.

DEFINITIONS

SEC. 3. As used in this Act—

(a) "Energy industry" means all energy-producing and energy-consuming companies.

(b) "Energy-producing company" means a person engaged in any of the following lines of commerce: (1) ownership or control of mineral fuel resources or nonmineral energy resources; (2) exploration for, or development of, mineral fuel resources or nonmineral energy resources; (3) extraction of mineral fuel resources; (4) refining, milling, or otherwise processing mineral fuels or nonmineral energy resources; (5) the storage of mineral fuels; (6) the generation, transmission, or storage of electrical energy; (7) transportation of mineral fuels, by any means whatever; and (8) wholesale or retail distribution and sale of mineral fuels or electric fuels or electric energy.

(c) "Energy-consuming company" means a person engaged in business activities which consume significant amounts of mineral fuels or electrical energy.

(d) "Person" means any legal entity capable of contracting, suing or being sued, including, but not limited to, any natural person, corporation, partnership, association, consortium, or any entity organized for a common business purpose, wherever situated, domiciled, or doing business, that directly or through other persons subject to its control does business in any part of the United States, its territories and possessions, or the District of Columbia.

(e) "Mineral fuel resource" means a natural deposit or body of identified, unextracted mineral fuel or mineral fuel ore.

(f) "Mineral fuel" means any extracted mineral fuel resource, any organic material, any product manufactured from mineral fuel resources, or organic materials, including petrochemical feedstocks, or any other compound or element, which can be used or prepared for use as a source of energy.

(g) "Nonmineral energy resource" means a natural resource (other than a mineral fuel resource) (1) which has been identified or developed as a source of energy, including but not limited to water, geothermal, solar, tidal, or wind energy, or (2) the availability of which may significantly affect the development of a source of energy, including but not limited to water supplies.

(h) "Energy information" means all information and documents pertaining to the energy industry, including but not limited to matters relating to corporate structure and proprietary relationship; economic information, including capital investments and assets; and other matters directly related thereto, wherever they exist.

(i) "Geological information" means energy information of a geological, geophysical, or engineering nature concerning mineral fuel resources including, but not limited to: location; lithology; paleontology; types of entrapment, results obtained by the use of torsion balances, gravimeters, magnetometers, seismographs, and other geophysical or geochemical instruments; surface and well logs (electric or radioactive); core samples and porosity; pay thickness; fluid analyses and pressure performance; production mechanism; recovery efficiency; and reservoir performance.

(j) "Trade secret" means an unpatented, secret, commercially valuable plan, appliance, formula, or process which is used for the making, preparing, compounding, or treating of articles or materials which are trade commodities.

(k) "Affiliate" means a person who controls, is controlled by, or is under common control with one or more other persons.

(l) "Control" means, in the case of a business establishment, the ability to determine its business policy, including but not limited to such ability based on ownership, contract, agreement, or a combination thereof. In the case of a mineral fuel or nonmineral energy resource, "control" means the ability to determine whether, when, and how such mineral fuel or nonmineral energy resource will be extracted or developed, including but not limited to such ability based on ownership of the fee in, or a lease of, land or submerged land, or a combination of ownership and lease, or on any contract or agreement.

(m) "Commerce" and "corporation" have the meanings set forth in section 44 of title 15, United States Code.

(n) "Federal agency" shall have the meaning of the term "executive agency" as defined in section 105 of title 5 of the United States Code.

(o) "Public lands" means all lands owned by the United States, including mineral deposits owned by the United States in lands the surface of which is in other ownership and including the submerged lands of the Outer Continental Shelf.

TITLE I—NATIONAL ENERGY INFORMATION ADMINISTRATION

ESTABLISHMENT OF ADMINISTRATION

SEC. 101. (a) (1) There is created an establishment of the Federal Government to be known as the National Energy Information Administration (hereinafter in this Act referred to as the "Administration") which shall be independent of the executive branch. The Administration shall be administered under the supervision and direction of an Administrator and Deputy Administrator each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(2) (A) The Administrator shall reecive compensation at the rate prescribed for offices and positions at level II of the Executive Schedule (5 U.S.C. 5313).

(B) The Deputy Administrator shall receive compensation at the rate prescribed for offices and positions at level III of the Executive Schedule (5 U.S.C. 5314).

(b) (1) The functions and powers of the Administration shall be vested in and exercised by the Administrator.

(2) The Administrator may, from time to time, and to the extent permitted by law, consistent with the purposes of this Act, delegate such of his functions as he deems appropriate.

(c) The Administration shall have a General Counsel appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Administration. The General Counsel shall receive compensation at the rate prescribed for officers and positions at level IV of the Executive Schedule (5 U.S.C. 5315).

(d) The Administrator may appoint, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him, and prescribe their authority and duties.

FUNCTIONS AND POWERS OF THE ADMINISTRATION

SEC. 102. (a) (1) The function of the Administration shall be the collection, tabulation, comparison, analysis, standardization, and dissemination of energy information pursuant to this Act.

(2) The Administrator is authorized to request, acquire, and to collect energy information from any person in such form and in such manner as he may deem appropriate in order to fulfill the requirements of the National Energy Information System established pursuant to title II of this Act and to achieve the purposes of this Act.

(b) (1) The Administrator may prepare schedules, and may determine the inquiries, and the number, form, and subdivisions thereof, for the reports, surveys, and statistics required or authorized by this Act.

(2) The Administrator, by regulation, shall prescribe the forms on which the reports required by section 203, and any other reports prescribed by the Administrator pursuant to this Act, shall be made. Such forms shall be drafted in consultation with advisory committees established pursuant to section 105, the General Accounting Office, and such other departments and agencies as either the Administrator or the Comptroller General of the United States may deem requisite.

(3) The Administrator may through contract, or otherwise, conduct such mechanical and electronic development work as he determines is needed to carry out the purposes of this Act.

(c) The Administrator may utilize, with their consent, the services, personnel, equipment, and facilities of Federal, State, regional, local, and private agencies and instrumentalities, with or without reimbursement therefor, and may transfer funds made available pursuant to this Act, to Federal, State, regional, local, and private agencies and instrumentalities, as reimbursement for utilization of such services, personnel, equipment, and facilities.

(d) The Administrator may accept unconditionally gifts or donations of money or property, real, personal, or mixed, tangible or intangible, for the use of the Administration or the National Energy Information System.

(e) The Administrator may enter into and perform contracts, leases, cooperative agreements, or other similar transactions with any public agency or instrumentality or with any person, for purposes consistent with the provisions of this Act.

(f) The Administrator may perform such other activities as may be necessary for the effective fulfillment of his administrative duties and functions.

(g) In any civil action, the Administrator is required to appear in a court of the United States. The Administrator may elect to appear on his own behalf or by an attorney designated by him for such purposes, after formally notifying and consulting with the Attorney General and giving him ten days to take the action proposed by the Administrator.

(h) The Administrator may issue such rules, regulations, and orders in the manner prescribed by the Administrative Procedure Act (5 U.S.C. 551 et seq.) as he deems necessary or appropriate to carry out the provisions of this Act.

(i) (1) Except as provided in subsection 206(i), any interested person may seek judicial review of rules, regulations, or orders promulgated under this Act only by filing within thirty days of the implementation of such rule, regulation, or order a petition for review in the United States Court of Appeals for the circuit in which such interested person resides or has his principal place of business, or in which the Administrator is located, or in the United States Court of Appeals for the District of Columbia.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regulations, or orders issued thereunder.

(j) The Administration shall have a seal containing such device as the Administrator may select. A description of the seal with an impression thereof shall be filed in the Office of the Secretary of State. The seal shall remain in the custody of the Administrator and shall be affixed to all certificates and attestations that may be required from the Administration. Judicial notice shall be taken of the seal.

COORDINATION AND TRANSFER OF AGENCY ACTIVITIES

SEC. 103. (a) Except as specified elsewhere in this section, the Administrator shall coordinate existing energy information collection activities of all Federal agencies and may enter into agreements to assume all or part of such activities.

(b) Within one year from the date of enactment of this Act, the Administrator shall make available to the President and to Congress a plan for the consolidation, to the greatest extent practicable, of the energy information activities of the Federal Government. The plan shall be designed to minimize the burden of reporting by the suppliers of energy information, while providing adequately for the energy information needs of various agencies and departments of the Federal Government.

(c) (1) Except as specified elsewhere in this section, the President may transfer to the Administrator all or part of the energy information collection activities being carried on by a Federal agency if he finds that such transfer will further the purposes of this Act.

(2) The plan for such transfer shall be transmitted by the President to the Congress, and shall become effective at the end of the first period of ninety calendar days of continuous session of Congress after the date on which the plan is transmitted, unless, between the date of transmittal and the end of the ninety-day period, either House passes a resolution stating in substance that that House does not favor the transfer.

(3) For the purposes of paragraph (2) of this subsection—

(A) continuity of session is broken only by an adjournment of the Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the ninety-day period.

(d) The authority vested in the Administrator in subsection (a) or in the President in subsection (c) of this section shall not extend to energy information collection activities of another Federal agency where such activities are—

(1) specially authorized by statute for the exercise of regulatory responsibilities;

(2) for the purposes of law enforcement; or

(3) otherwise essential for investigations conducted by the Justice Department, the Federal Trade Commission, the Federal Power Commission, the Interstate Commerce Commission, the Nuclear Regulatory Commission, the Federal Energy Administration, the Environmental Protection Agency, or the Office of Emergency Preparedness.

(e) Any Federal agency may request the Administrator to collect specific items of energy information for the use of said agency in the exercise of its lawful responsibilities. To the extent that the request can be granted pursuant to the extent personnel and funds are available, the Administrator shall provide such energy information. Within ninety days of receipt of any such request, the Administrator shall give notice either granting the request and directing that the energy information specified be collected and assembled or denying the request and indicating in writing the reasons for such denial.

ANALYTIC CAPABILITY

SEC. 104. (a) The Administrator shall maintain within the Administration the capability to perform analysis of energy information of a physical, chemical, geological, or economic nature to the extent necessary to—

(1) verify the accuracy of items of energy information reported to the Administration;

(2) insure the coordination and standardization of all energy information collected by the Administration and other Federal agencies.

This capability may include, but need not be limited to, engineering or other scientific personnel and equipment.

(b) The Administrator shall maintain within the Administration the capability to carry out independent interpretation of the significance and evaluations of the usefulness of the energy information provided to the Administrator pursuant to this Act in relation to (1) the purposes of this Act, and (2) the performance of the analyses described in section 201 of title II. Such evaluations may include, but need not be limited to:

(1) studies which identify the types, levels of detail, comparability, and levels of accuracy of the energy information required to implement the National Energy Information System established pursuant to title II;

(2) the development and evaluation of energy models characterizing various sectors of the economy, and lines of commerce and segments of business of the energy industry deemed significant by the Administrator; and

(3) the development of an energy accounting system capable of describing the flow of energy through the United States economy.

ADVISORY AND INTERAGENCY COMMITTEES

SEC. 105. (a) (1) The Administrator shall establish with the approval of the heads of the Federal agencies affected, interagency committees to advise and make recommendations to him.

(2) The Administrator is authorized to establish boards, task forces, commissions, committees, or similar groups not composed entirely of full-time Government employees, to advise with respect to the administration of this Act or actions taken pursuant to this Act which affect the energy industry and lines of commerce or business segments thereof. The Administrator shall endeavor to insure that each such group is reasonably representative of the various points of view and functions of the energy industry, including residential, commercial, and industrial energy consumers, and shall include, where appropriate, representation, from both State and local governments.

(b) Each meeting of such board, task force, commission, committee, or similar group, shall be open to the public, and interested persons shall be permitted to attend, appear before and file statements with, such group, except that the Administrator may determine that such meeting shall be closed in the interest of national security. Such determination shall be in writing, shall contain a detailed explanation of reasons in justification of the determination, and shall be made available to the public.

(c) All records, reports, transcripts, memoranda, and other documents, which were prepared for or by such group, shall be available for public inspection and copying at a single location in the offices of the Administration.

(d) Advisory committees established or utilized pursuant to this Act shall be governed in full by the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), except as inconsistent with this section.

UNAUTHORIZED DISCLOSURES; THEFT OF INFORMATION; PENALTIES

SEC. 106. (a) (1) Any employee of the Administration who makes an unauthorized disclosure of energy information (A) to which public access is restricted pursuant to this Act, or (B) furnished to the Administrator by another Federal agency subject to restrictions pursuant to section 204, shall be fined not more than $1,000, or imprisoned for not more than one year, or both; and shall be removed from office or employment.

(2) The Administrator may by regulation prescribe rules and procedures for exchange and communication of energy information the public disclosure of which is restricted pursuant to section 206: *Provided, however,* That no disclosure, exchange, or communication of information made pursuant to such regulation shall be deemed a violation of this subsection.

(b) Any officer or employee of the United States, other than employees referred to in subsection (a), any officer, employee, or agent of any State or political subdivision thereof, or any other person who has access to energy information pursuant to this Act who, having obtained from the Administration by reason of his employment or for official use any energy information the public disclosure of which is not authorized by the Administrator, shall be fined not more than $1,000 or imprisoned for not more than one year, or both, and if a Federal employee, removed from office or employment.

(c) Any person who steals or intercepts electronically stored or transmitted energy information, or other information, contained in the National Energy Information System by any conventional, mechanical, or electronic means, or who otherwise obtains energy information from the Administration to which he is not entitled under this Act, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

PENALTIES FOR PROVIDING FALSE INFORMATION OR REFUSING TO FURNISH INFORMATION

SEC. 107. (a) Any individual who knowingly submits, or causes to be submitted, a materially false or fraudulent answer, response, or report in response to any lawful request for energy information made under this Act, shall, in lieu of the penalties provided by section 1001 of title 18 of the United States Code, be fined not more than $20,000 or imprisoned not more than two years or both.

(b) Any individual that refuses to submit an answer, response, or report in response to any lawful request for energy information made under this Act shall be subject to a civil penalty of not more than $10,000 for each such refusal.

(c) Any individual who shall knowingly submit an incomplete, or inaccurate answer in response to any lawful request or demand for energy information under this Act, shall be subject to a civil penalty of not more than $5,000 for each such answer or violation.

INSPECTIONS OF RECORDS; SUBPENAS; ENFORCEMENT OF SUBPENAS

SEC. 108. (a) The Administrator shall have right of entry to the real property and access at reasonable times to any books, documents, papers, statistics, data, information, and records of any company, business, institution, establishment, or organization of any nature whatsoever, when the purpose of such access is to obtain or verify energy information which he is authorized to obtain pursuant to sections 203, 204, 205, and 207, title II: *Provided, however,* That such actions shall be subject to the applicable procedures for administrative inspections and warrants prescribed in subsection (b) (1) through (3); (c) (1), (2), and (5); and (d) of section 510 of the Comprehensive Drug Abuse and Control Act (84 Stat. 1274; 21 U.S.C. 880), which procedures the Administrator is hereby empowered to employ and exercise in his own right and title for purposes related to the exercise of his responsibilities under this Act, in order to verify the accuracy of energy information necessary to perform his functions. For the purposes of this Act, the term "controlled premises" shall be deemed to refer to and include energy facilities and business premises owned or operated by persons engaged in any phase of energy supply or energy consumption.

(b) (1) To assist in carrying out his responsibilities to collect energy information, the Administrator may—

(A) by general or special order require of any person answers in writing to interrogatories, requests for reports, or other information;

(B) sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, records, papers, statistics, and other documents, not to include file copies of information from other Federal agencies the disclosure of which is specifically prohibited by statute; and

(C) administer oaths.

(2) Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States.

(c) In case of contumacy by, or refusal to obey a subpena, interrogatory, request for written report, or other information served upon any person subject to this Act, the Administrator may invoke the aid of any district court of the United States within the jurisdiction of which the person is found or transacts business, in requiring the production of the books, documents, papers, statistics, data, information and records referred to in subsection (a) of this section. Such district court of the United States may, in case of contumacy or refusal to obey a subpena issued by the Administrator, issue an order requiring the person to produce the energy information and the books, documents, papers, statistics, data, information, and records containing or pertaining to the same; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

REPORTS

SEC. 109. The Administrator shall make regular periodic reports to the Congress and the public, including but not limited to—

(a) Such reports as the Administrator determines are necessary to provide a comprehensive picture of the monthly and, as appropriate, weekly, supply, and consumption of the various mineral fuels and electricity in the United States; the information reported may be organized by company, by States, by regions, or by such other producing and consuming sectors, or combinations thereof, as the Administrator finds significant, including appropriate discussion of the evolution of the energy supply and consumption situation and such national and international trends and their effects as the Administrator may find to be significant;

(b) An annual report which includes, but is not limited to, a description of the activities of the Administration and the National Energy Information System during the preceding year; a summary of all special reports published during the preceding year; a summary of statistical information collected during the preceding year; energy consumption and supply trends and forecasts for subsequent one-, five-, ten-, fifteen-, and twenty-year periods under various assumptions; and a summary of schedule of the amounts of mineral fuel resources, nonmineral energy resources, and mineral fuels that can be brought to market at various prices and technologies and their relationship to forecasted demands; and

(c) An annual report to the Congress disclosing the extent of compliance and noncompliance by industry and Federal agencies subject to the laws, rules, and regulations of the Administration. Such compliance report shall detail the enforcement resources available to and utilized by the Administration, the number and types of compliance investigations conducted, the number and types of incidents of noncompliance discovered, the sanctions imposed for each incident of noncompliance, and the reasons for failure to impose other available sanctions. Such report shall also contain the Administrator's requests for changes in enforcement resources or sanctions available to the Administration.

TITLE II—NATIONAL ENERGY INFORMATION SYSTEM

ESTABLISHMENT OF SYSTEM

SEC. 201. The Administrator shall establish a National Energy Information System (hereinafter referred to in this Act as the "System"), which shall be operated and maintained by the Administration. The System shall contain such information as is required (1) to provide a description of and facilitate analysis of energy supply and consumption within and affecting the United States on the basis of such geographic areas and economic sectors as may be appropriate and (2) to meet adequately the needs of the Congress and of those Federal agencies which are responsible for energy policy analysis and formulation and for energy regulation. At a minimum the System shall contain such energy information as is required to define and to permit analysis of—

(a) the institutional structure of the energy supply system including patterns of ownership and control of mineral fuel and nonmineral energy resources and the production, distribution, and marketing of mineral fuels and electricity;

(b) the consumption of mineral fuels, nonmineral energy resources, and electricity by such classes, sectors, and regions as the Administrator shall determine are appropriate to the purposes of this Act;

(c) the sensitivity of energy resource exploration, development, production, transportation, and consumption to economic factors, environmental constraints, technological improvements, and substitutability of alternate energy sources;

(d) the capital requirements of the public and private institutions and establishments responsible for the production and distribution of energy;

(e) the standardization of energy information and statistics that are supplied by different sources;

(f) industrial, labor, and regional impacts of changes in patterns of energy supply and consumption;

(g) international aspects, economic and otherwise, of the evolving energy situation; and

(h) long-term relationships between energy supply and consumption in the United States and world communities.

ACCESS TO ENERGY INFORMATION

SEC. 202. (a) (1) Access to energy information in the System to which public access is restricted pursuant to paragraph 206(c) (1), (2), and (3) shall be limited to officers and employees of the executive, legislative, and judicial branches and the independent regulatory agencies of the Federal Government having official use for the information.

(2) Energy information described in paragraph (a) (1) of this subsection shall be open to inspection by any official, body, or commission, lawfully charged with the administration of any energy program of any State if the inspection is in furtherance of such administration.

(b) The Administrator shall by regulation establish procedures whereby those seeking access to the energy information described in subsection (a) of this section may identify themselves and the information they seek and establish their right thereto under this subsection.

(c) Energy information to which public access is restricted pursuant to paragraph 206(c)(4) shall be available only to the Administrator or his designate, to the Comptroller General of the United States or his delegate under section 401, to committees of the Congress, upon request by the chairman, or to other individuals designated by the President pursuant to section 2(a) or section 2(b) of Executive Order 11652, dated March 3, 1972, "Classification and Declassification of National Security Information and Material.".

ACQUISITION OF ENERGY INFORMATION FROM MAJOR ENERGY PRODUCING COMPANIES AND MAJOR ENERGY CONSUMING COMPANIES

SEC. 203. (a) For the purposes of this Act, the Administrator shall designate—

(1) "Segments of business" which shall facilitate comparisons on a standardized basis among energy producing companies. In the designation of segments of business, to the maximum extent practicable, the Administrator shall give consideration to: (A) standard industrial classification; (B) the physical establishments of a company; (C) the identified organizational structure of a company, including all ownership and control relationships among establishments, divisions, subsidiaries, and other segments; (D) the product classes, products, and when appropriate, product brands of a company; (E) any unusual or peculiar circumstances of particular industries and companies; and (F) the established and accustomed accounting standards, practices, and systems of particular industries and companies;

(2) "Major energy producing companies," which alone or with their affiliates are involved in one or more lines of commerce or segments of business in the energy industry so that the collection of energy information pertaining to the energy industry shall provide a statistically accurate profile of each line of commerce or segment of business for the United States energy industry; and

(3) "Major energy consuming companies," so that the collection of energy information from or pertaining to energy consuming companies will provide a statistically accurate profile of each line of commerce, by segment of business, which consumes significant quantities of energy within the United States and, to the extent practicable, outside the United States.

(b) The Administrator shall require each major energy producing company to report within one year of the day of enactment of this Act and annually thereafter on their revenues, costs, profits, assets, liabilities, and other financial data by segment of business using accounting rules and practices prescribed by the Administrator.

(c) The Administrator shall require each major energy consuming company to report within one year of the day of enactment of this Act and annually thereafter on its consumption of energy in all forms, identifying sources, types, amounts, and economics of consumption of mineral fuel resources, mineral fuels, and non-mineral energy resources, by segment of business using accounting rules and procedures prescribed by the Administrator.

ACQUISITION OF ENERGY INFORMATION FROM OTHER FEDERAL AGENCIES

SEC. 204. (a) The Administrator shall utilize to the fullest extent possible consistent with the purposes of this Act energy information now being collected by other Federal agencies.

(b) In furtherance of and not in limitation of any other authority, the Administrator is authorized, for the purpose of carrying out his responsibilities, to—

(1) request from any Federal agency, and such Federal agency shall provide him, energy information except:

(A) information, the disclosure of which to another Federal agency is expressly prohibited by law, or

(B) trade secrets, commercial, financial, or demographic information which is privileged or confidential and obtained by an agency from a person for statistical or law enforcement purposes, the disclosure of which to another Federal agency would frustrate development of accurate statistics by the collecting agency or would adversely affect law enforcement procedures.

(2) request energy information from State and local governments, including agencies and instrumentalities thereof.

(c) In the event that energy information collected or held by another Federal agency, which is required for the System to achieve the purposes of this Act, is denied to the Administrator pursuant to clause (A) or clause (B) of paragraph (1) of subsection (a), the Administrator may obtain said information directly from the original source pursuant to provisions of this Act.

(d) In the event that energy information collected or held by another Federal agency may be made available to the public only under the provisions of this Act, the Administrator may collect said information directly from the original source pursuant to the provisions of this Act.

(e) When carrying out evaluations of the usefulness of energy information which require additional information of a commercial, financial, or demographic character for use in the analysis or for comparative purposes the Administrator may request such additional information in writing from any other Federal agency possessing the information, and it shall be provided to the Administrator: *Provided*, that the Administrator shall utilize such information in a manner which preserve the degree of confidentiality accorded such information by the Federal agency supplying it.

ACQUISITION OF ENERGY INFORMATION FROM INSTITUTIONS OUTSIDE THE FEDERAL GOVERNMENT

SEC. 205. The Administrator shall enter into agreements or contracts to collect from institutions outside the Federal Government such additional energy information as the Administrator determines is required for comparison with, or extension of, the information base of the System in furtherance of the purposes of this Act. These institutions may include but not need be limited to—

(1) selected governments of foreign countries;

(2) appropriate offices or divisions of the United Nations and other international organizations;

(3) selected departments and agencies of the governments of the several States and their subdivisions;

(4) selected universities and foundations; and

(5) selected corporations and business associations that are engaged in the collection or analysis of energy information.

CLASSIFICATION OF INFORMATION

SEC. 206. (a) Energy information acquired or received by the Administrator pursuant to this Act except information subject to the provisions of subsections (c) and (d) of this section shall be available to the public for inspection or copying at reasonable cost during normal business hours and may be published or otherwise disseminated by the Administrator. The Administrator shall endeavor to establish fee schedules which cover or approach covering the costs of public use of the System; but the regulations may, in the Administrator's discretion, provide for reduction or waiver of fees in the case of scholars, nonprofit organizations, and others whose use of public energy information is determined by the Administrator to be likely to enhance the System by making useful new inputs to the System, or otherwise to be in the public interest.

(b) The Administrator shall develop and maintain filing, coding, and indexing systems that identify the energy information to which subsection (a) applies and shall make such systems available for public use during normal business hours.

(c) Subsection (a) of this section shall not apply to information that—

(1) constitutes a trade secret: *Provided, however*, That where the Administrator finds that the lack of public access to such information would result in an adverse effect on public health or safety said information shall be made available to the public pursuant to subsection (a): *Provided further*, That the Administrator shall furnish the source of the information notice not less than thirty days prior to any such determination and shall afford such source an opportunity for oral or written submission of views and argument;

(2) pertains to an individual, identifiable company where the Administrator finds, on the basis of clear and convincing evidence submitted by the company, that the disclosure of such information would cause substantial harm to the competitive position of the company: *Provided, however*, That in no case shall public access to information be restricted when the Administrator finds that—

(A) the benefit to the public interest in immediately making such information available to the public outweighs the demonstrated harm to the competitive position of the company; or

(B) restricted access would result in an adverse effect on the public health or safety. *Provided further*, That the Administrator shall furnish the source of the information notice not less than thirty days prior to any such determination and shall afford such source an opportunity for oral or written submission of views and argument.

(3) acquired from a Federal, State, or local agency and obtained by that Federal, State, or local agency on a privileged or confidential basis; or

(4) classified for reasons of national security or foreign policy pursuant to statute or Executive order: *Provided*, That, to the extent that activities under this Act involve Restricted Data as that term is defined in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), access to such Restricted Data shall be governed by the provisions of said Act and the regulations promulgated thereunder.

(d) For geological information the Administrator shall by rule promulgate definitions of those classes or items of information which shall not be made public for a period of two years from the date of their receipt by the Administrator. Thereater public access to such information shall be provided pursuant to the provisions of subsection (a), except as provided for in subsection (c).

(c) Except as provided for in subsection (d), the Administrator shall review, on an annual basis, all energy information to which public access is restricted pursuant to subsection (c). If he determines in accordance with the provisions of subsection (c) of this section that the reasons for such classification are no longer operative, he shall provide public access to said information pursuant to subsection (a).

(f) In proceedings under this section, the Administrator shall employ and utilize the services of attorneys and such other personnel as may be required in order to properly represent the public interest in providing for public access to energy information.

(g) Nothing in this Act or any other statute shall be construed to prevent the Administrator from providing public access to or publishing statistical summaries of information or data to which public access is restricted pursuant to this Act if such summaries are prepared in such a way as to prevent any person not having lawful access to the information from identifying, learning, or inferring information or data furnished by any particular person.

(h) The Administrator shall provide for hearings on any rule, regulation, question, or dispute concerning classification or change in classification of energy information. Such proceedings shall be in accordance with the Administrative Procedure Act (5 U.S.C. 551 et seq.), except the Administrator shall furnish notice in the Federal Register not less than thirty days prior to any determination and shall afford to any interested party an opportunity for oral and written submission of views, data, and argument.

(i) (1) (A) On complaint by any person, the district court of the United States in the district in which the complainant resides or has his principal place of business, or in which the System's records are situated, or in the District of Columbia, has jurisdiction to enjoin the Administrator from withholding energy information and to order such information be classified public. In such a case the court shall consider the case de novo, with such in camera examination of the contested energy information as it finds appropriate to determine whether such information or any part thereof may be classified public in accordance with the standards set forth in this section, and the burden is on the Administrator to sustain his action. (B) An interested party may intervene in such an action.

(2) Notwithstanding any other provisions of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within twenty days after the service upon the Administrator of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(3) Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all causes and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(4) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this subsection in which the complainant has substantially prevailed. In exercising its discretion under this subsection, the court shall consider the benefit to the public, if any, deriving from the case, the commercial benefit to the complainant and the nature of his interest in the energy information sought, and whether the Administrator's classification of such information had a reasonable basis pursuant to this section.

(5) Whenever records are ordered by the court to be made available to the public under this section, the court, upon consideration of the recommendation of the agency, shall on motion by the complainant find whether the classification was without reasonable basis in law and which Federal officer or employee was responsible for the classification. Before such findings are made, any officers or employees named in the complainant's motion shall be personally served a copy of such motion and shall have twenty days in which to respond thereto, and shall be afforded an opportunity to be heard by the court. If such findings are made, the court shall direct that the appropriate official of the agency which employs such responsible officer or employee suspend him without pay for a period of not more than sixty days or take other appropriate disciplinary or corrective action against him.

(6) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, in the case of a uniformed service, the responsible member.

ACQUISITION OF INFORMATION BY SAMPLING

SEC. 207. Except as provided for in section 203 (b) and (c) the Administrator may make use of the statistical method known as "sampling" wherever the adoption of such a method would significantly reduce the cost to the Federal Government and burden upon those supplying energy information without sacrificing the accuracy required to achieve the purposes of this Act.

TITLE III—ENERGY RESOURCES SURVEYS AND INSPECTIONS BY THE DEPARTMENT OF INTERIOR

SURVEY OF ENERGY RESOURCES IN THE PUBLIC LANDS

SEC. 301. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall compile, maintain, and keep current on not less than an annual basis a survey of all mineral fuel resources and nonmineral energy resources in the public lands of the United States.

(b) The survey program shall be designed to provide information about the location, extent, value, and characteristics of such resources in order to provide a basis for (1) development and revision of Federal leasing programs; (2) wider competitive interest by persons who are potential producers of such resources; (3) informed decisions regarding the potential quantity of mineral fuels and the revenues to be derived from these resources; and (4) the purpose of this Act.

(c) The Secretary is authorized to conduct, contract for, or to purchase the results of, seismic, geomagnetic, gravitational, geochemical, or earth satellite investigations, or drilling, or other investigations which will assist in carrying out the survey program pursuant to this title.

(d) Within six months after enactment of this title, the Secretary shall submit to Congress and to the Administrator a plan for conducting the survey program required by the title. This plan shall include an identification of the areas to be surveyed during the first five years of the program and estimates of the appropriation and staffing required to implement it.

(e) On or before the expiration of the twenty-month period following the effective date of this title, the Secretary shall submit a report to the Congress concerning the carrying out of his duties under this title, together with a summary of initial information compiled, and shall thereafter, on not less than an annual basis, submit a report to the Congress concerning the carrying out of such duties and shall include as a part of each such report the status of the current survey, including information compiled during the previous year.

(f) Copies of all such reports and surveys shall be furnished by the Secretary to the Administrator for inclusion in the System.

(g) Nothing in this Act shall be construed to authorize the Secretary or the Administrator to conduct any physically disruptive exploratory activities on any Federal lands that are within any national park, wilderness, seashore, or wildlife refuge area, or on any lands held by the United States in trust for any Indian or Indian tribe; but exploration which can be conducted from the air, without intrusion on the surface or below the surface of such lands, may be conducted, with the written consent of the principal administrators or trustees of such lands.

VERIFICATION OF REPORTED ENERGY RESOURCES IN PRIVATE OWNERSHIP

Sec. 302. When requested by the Administrator, the Secretary may inspect company records for the purpose of verifying the accuracy of information pertaining to mineral fuel resources and non-mineral energy resources required to be reported to the Administration under this Act.

CONTENTS OF SECRETARY'S REPORTS

Sec. 303. Reports by the Secretary to the Congress and the Administrator under section 301, and to the Administrator under section 302, shall in all cases be organized to include, but not be limited to, ownership, control, location, extent, value, and characteristics of mineral fuel and nonmineral energy resources. Information on ownership and control of reserves and resources, correlated with locations, shall be classified in accordance with the provisions of section 206.

TITLE IV—MISCELLANEOUS

GENERAL ACCOUNTING OFFICE OVERSIGHT OF ENERGY DATA COLLECTION AND ANALYSIS

Sec. 401. (a) The Comptroller General of the United States shall continuously monitor and evaluate the operations and activities of the Administration including its reporting requirements. Upon his own initiative or upon the request of a committee of the Congress or, to the extent personnel are available, upon the request of a Member of the Congress, the Comptroller General shall (1) review the Administration's energy information gathering procedures to insure that the Administration is obtaining all necessary energy information from the appropriate sources to carry out the purposes of this Act, (2) review the issues that arise or might arise in the collection of any of the types of energy information required to achieve the purposes of this Act, including but not limited to issues attributable to claims of business establishments, individuals, or governments that certain energy information is proprietary or required to be classified in the interest of national security, (3) conduct studies of existing statutes and regulations governing collection of energy information, (4) review the policies and practices of Federal agencies in gathering, analyzing, and interpreting energy information, and (5) evaluate particular projects or programs. The Comptroller General shall have access to energy information within the possession or control of the Administrator obtained from any public or private source whatever, notwithstanding the provisions of any other Act, as is necessary to carry out his responsibilities under this Act and shall report to the Congress at such times as the Comptroller General deems appropriate. The report shall include but not be limited to a review of the Administration's operations and effectiveness and the Comptroller's General's recommendations for modifications in existing laws, regulations, procedures, and practices.

(b) The Comptroller General or any of his authorized representatives in carrying out his responsibilities under this section shall have access to any books, documents, papers, statistic, data, information, and records of any person relating to the management and conservation of energy, including but not limited to energy costs, demand, supply, reserves, industry structure, and environmental impacts. The Comptroller General may require any person to submit in writing such energy information as he may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as he may direct.

(c) To assist in carrying out his responsibilities, the Comptroller General may with the concurrence of a duly established committee of Congress having legislative jurisdiction over the subject matter and upon the adoption of a resolution by such a committee which sets forth specifically the scope and necessity therefor, and the specific identity of these persons from whom information is sought, sign and issue subpenas requiring the production of the books, documents, papers, statistics, data, information, and records referred to in subsection (b) of this section.

(d) In case of disobedience to a subpena issued under subsection (c) of this section the Comptroller General may invoke the aid of any district court of the United States in requiring the production of the books, documents, papers, statistics, data, information, and records referred to in subsection (b) of this section. Any district court of the United States within the jurisdiction in which the person is found or transacts business may, in case of contumacy or refusal to obey a subpena issued by the Comptroller General, issue an order requiring the person to produce the books, documents, papers, statistics, data, information, or records. Failure to obey such an order of the court is punishable by such court as a contempt thereof.

(e) Reports submitted by the Comptroller General to the Congress shall be available to the public at reasonable cost and upon identifiable request, except that the Comptroller General may not disclose to the public any energy information which could not be disclosed to the public by the Administration under this Act.

FREEDOM OF INFORMATION ACT

Sec. 402. Section 552 of title 5, United States Code, is amended—

(a) by striking the semicolon at the end of clause (4) of subsection (b) and inserting in lieu thereof: ", except as provided in subsection (d);";

(b) by striking the period at the end of clause (9) of subsection (b) and inserting in lieu thereof: ", except as provided in subsection (d)."; and

(c) by adding at the end of the section a new subsection, as follows:

"(d) This section shall be construed consistently with the Energy Information Act, to serve the purposes of that Act. Nothing in this section, including but not limited to the provisions of subsections (b) (4) and (b) (9), shall be construed to prevent the Administrator of the National Energy Information Administration from making available to the public any energy information which may be released or disseminated publically pursuant to the standards set forth in the Energy Information Act and regulations promulgated thereunder.".

SEPARABILITY

Sec. 403. If any provision of this Act or the applicability thereof is held invalid the remainder of this Act shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

Sec. 404. There are authorized to be appropriated to the National Energy Information Administration and the Department of the Interior such amounts as may be requisite to full and efficient performance of the duties imposed upon such agencies by this Act.

CONCLUSION OF MORNING BUSINESS

Mr. PASTORE. Mr. President, if there is no further morning business, I move that it be brought to a conclusion.

The motion was agreed to.

The PRESIDING OFFICER. Morning business is closed.

SUPPLEMENTAL RAILROAD APPROPRIATIONS

Mr. PASTORE. Mr. President, I ask that the Senate proceed to the consideration of House Joint Resolution 801, making supplemental railroad appropriations.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the unfinished business, House Joint Resolution 801, which the clerk will state.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 801) making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1976, the fiscal year ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes.

The Senate resumed the consideration of the joint resolution.

The PRESIDING OFFICER. The time for debate on the legislation is limited to 1 hour to be equally divided and controlled by the Senator from Rhode Island (Mr. Pastore) and the Senator from New Jersey (Mr. Case); with 30 minutes on any amendment or any point of order; and 20 minutes on any debatable motion or appeal.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I ask unanimous consent at this time that the committee amendments be agreed to en bloc and be considered as original text.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments are as follows:

On page 1, in line 6, strike "1978" and insert "1977";

On page 1, in line 6, strike "and the fiscal year ending September 30, 1979,";

On page 2, beginning with line 1, insert the following:

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

RAIL SERVICE ASSISTANCE

For necessary expenses related to Northeast Corridor improvements for fiscal year 1976, $27,400,000, to remain available until expended.

For necessary expenses related to Northeast Corridor improvements for the period July 1, 1976 through September 30, 1976, $52,000,000, to remain available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For additional amounts for "Grants to the National Railroad Passenger Corporation," $142,332,956 to remain available until expended: *Provided*, That this appropriation shall be available for operating expenses of the Corporation, $21,200,000 for fiscal year 1976 and $5,300,000 for the period July 1, 1976 through September 30, 1976; nonrecurring costs related to the initial assumption of control and responsibility for maintaining rail operations on the Northeast Corridor, $10,000,000; acquiring the properties of the Northeast Corridor, $85,182,956; development and utilization of mobile radio frequencies for high speed rail passenger radio telephone service, $650,000; acquiring and improving properties designated in accordance with section 206(c)(1)(D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(D)), $20,000,000.

URBAN MASS TRANSPORTATION ADMINISTRATION

URBAN MASS TRANSPORTATION FUND

RAIL SERVICE OPERATING PAYMENTS

For an additional payment to the Urban Mass Transportation Fund there is hereby appropriated to remain available until expended, for the purposes of the Urban Mass Transportation Act of 1964, as amended by Public Law 94–210, $40,000,000.

The amount appropriated in preceding paragraph shall be added, as needed, to the limitations contained in Section 306 of Public Law 94–134.

On page 3, in line 18, strike "$460,000,000" and insert "$500,000,000";

On page 3, in line 19, strike "$350,000,000" and insert "$300,000,000";

On page 3, in line 20, after "September 30," strike "1976:" and insert "1976, and for fiscal year 1977, $1,226,000,000.";

On page 3, in line 21, strike out the following:

Provided, That not to exceed $308,000,000 shall be made available to the Corporation for operating losses of the Corporation.

For acquisition of debentures and series A preferred stock issued by the Consolidated Rail Corporation to become available on September 30, 1976, and to remain available until expended, $615,000,000; *Provided*, That not to exceed $172,000,000 shall be made available to the Corporation for operating losses of the Corporation.

For acquisition of debentures and series A preferred stock issued by the Consolidated Rail Corporation to remain available until expended, $425,000,000 for fiscal year 1978 and $176,000,000 for fiscal year 1979: *Provided*, That none of these funds shall be made available to the Corporation for operating losses of the Corporation.

On page 4, in line 13, strike "$4,100,000" and insert "$6,100,000, to remain available until expended";

On page 4, beginning with line 15, strike out the following:

For "Administrative expenses" for the period July 1, 1976 through September 30, 1976, $1,400,000.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, in House Joint Resolution 801, the Appropriations Committee recommends appropriations totaling $2.294 billion for various programs authorized under the Railroad Revitalization and Regulatory Reform Act, Public Law 94–210. In testimony before the committee, witnesses stressed the importance of having these appropriations prior to March 12 in order to enable the Government to make its presentation to a special court which must determine whether there has been a "fair and equitable" process undertaken in this reorganization. The date planned for the conveyance of the bankrupt railroads' assets to Unified ConRail is April 1. Clearly ConRail's chances for success would be greatly jeopardized without assurance that its early capital needs will be met.

So, for ConRail, the committee recommends an appropriation of $2.026 billion, the same as the House has allowed, and $74 million below the budget request of $2.1 billion. These funds would become available as requested, that is, $500 million in fiscal year 1976, $300 million in the transition period, and $1.226 billion would become available in fiscal 1977. The House bill would spread these appropriations over fiscal years 1976 through 1979.

Also, Mr. President, the committee has stricken from the resolution the House language that would limit the amount of operating losses that ConRail can incur and still receive these appropriations. As explained in the committee report accompanying the resolution, we feel that this limitation is unduly restrictive on ConRail and is unnecessary in light of the safeguards already provided in the authorizing legislation.

The act sets up a Government Investment Committee consisting of the Secretary of the Treasury, the Secretary of Transportation, and the Chairman of USRA. This committee will monitor the health of ConRail and will report immediately to Congress any substantial variances from the financial projections contained in the final system plan. In addition, ConRail itself is required to issue an annual report to Congress on its operations. We feel that these requirements are sufficient to protect the Government's investment.

Mr. President, the committee has also amended the House resolution by adding appropriations for several other very important programs which are authorized under the Railroad Revitalization Act. The committee feels that these appropriations are necessary at this time rather than in some later supplemental bill.

First, for losses that will be incurred by ConRail in operating the commuter services of these bankrupt carriers, we recommend $40 million. The act authorizes $125 million for these losses, but we feel that $40 million will be sufficient to cover them until fiscal 1977.

For the Northeast corridor improvement program, the act authorizes a $1.75 billion, 5-year effort to improve the quality of rail passenger service in the Washington-New York and Boston-New York corridors. We recall, Mr. President, that the Senate version of the Rail Revitalization Act contained a $3 billion program for this effort but it became necessary to cut it almost in half in order to prevent a Presidential veto of the bill.

Once we did that, we were assured by the administration that the President would sign the bill which, in fact, he has done—I am talking now about the authorization.

But now, the President has included no funds at all for fiscal 1976 in his budget and only $15 million for the transition period. Witnesses before the committee assured us that the $27.4 million for fiscal 1976 and $52 million for the transition period are needed right now if this program is to have any chance of meeting its goals. Anything short of the committee's recommendations, as I point out, would be "pennywise and pound foolish."

I might point out at this time, part of this money is to be used to fix up some bridges.

We have a bridge in Rhode Island, in back of the post office on our way down from the State House, that has to be inspected three times a day to make sure it will not collapse.

That is the bridge I have to march under on Columbus Day in the Columbus Day parade. So I think we ought to fix up that bridge before the next parade.

Contracts for long lead-time items, such as rail and ties, must be negotiated, emergency repairs to bridges, including some in Rhode Island, must be made just to keep the railroads running, and design contracts must be let for this program. We strongly urge the Senate to accept this appropriation.

Finally, Mr. President, the committee recommends appropriations for Amtrak of just over 142 million. As we know, Amtrak is designated in the act as the organization that will take over the passenger operations on April 1. So, we have appropriated $26,500,000 to cover the increased losses Amtrak will incur between now and fiscal 1977, $10 million for authorized one-time startup costs, $20 million for the acquisition of properties outside the Northeast corridor that would otherwise be dropped when ConRail takes over, and finally, the committee has appropriated the $85 million authorized for Amtrak to purchase the Northeast corridor mainline passenger track from ConRail at net liquidation value.

That is an amendment that was proposed by me and adopted by the committee, as I recall, without a dissenting vote.

I point out to my colleagues that the report accompanying this resolution in tables 10 and 11 does indicate that budget requests are pending for two items for which funds are appropriated in the resolution. These requests are $26.5 million to cover Amtrak's operating losses and $40 million to cover the commuter losses as authorized in the Rail Revitalization Act. This budget request has not been received, but I just got through talking with Mr. Hall of the Transportation Department and he assures me that there is every inclination on the part of the administration to send up those estimates before we meet in conference.

We still do not have a budget request to cover them. One of the keys to the success of the act, according to the Department of Transportation, is to insure that cross-subsidization of losses does not occur. We have repeatedly been in touch with DOT on these requests and the only thing they can tell us is that they intend to send budget requests up soon. We are still hopeful that the administration will see the importance of these items and get these requests up here in time for the conference on this bill.

Mr. President, I have a statement by Chairman BAYH, of this particular subcommittee, who cannot be here today. I am carrying on for him. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR BAYH

Mr. President, I am pleased that the Senate Appropriations Committee has accepted the recommendations of its Transportation Subcommittee, which I am honored to chair, and has amended the House version of H.J. Res. 801 by including appropriations not only for a startup of ConRail but for other vitally important programs as well.

In the testimony taken by the Subcommittee from the parties involved in this reorganization, it was made very clear that the success of ConRail is dependent upon assurances that its early capital needs will be met. Mr. Edward Jordan, Chairman of ConRail, stressed the importance of having a minimum appropriation of $2.026 billion in place by March 12 if ConRail is to take over these railroads by April 1. Any delay in takeover costs the Federal Government over $1 million per day—that is why the House has passed H.J. Res. 801—and I am pleased that the Senate Appropriations Committee has reported it to the Senate so expeditiously. Mr. President, in addition to making the appropriations necessary for ConRail and for the USRA to continue to carry out its functions under the Act, the Committee recommends the following additions to the resolution:

I. For the Northeast Corridor Improvement Program, we recommend appropriations of $27.4 million for fiscal 1976 and $52 million for the transition period. The President's budget contains only $15 million for this program prior to fiscal 1977. Yet, Amtrak's President, Mr. Paul Reistrup, in testimony before the Committee said that if the funds recommended by the Committee are not provided, one of two things will be necessary for this program. Either the five-year legislative mandate for completing Phase I of this program will have to be extended or the goals themselves will have to be lowered. Mr. President, it is high time that we got moving on making these improvements in rail passenger service in this most heavily populated region of the country. In DOT's own study back in 1971, this same program was set forth and could have been done at that time for about one-third of what is now necessary. If the Administration had come forth with this program at that time instead of waiting for this program to be forced upon them, we would all be much better off today. We would have a quality rail passenger system in the Northeast instead of one that has further deteriorated! We would have an energy-efficient, pollution-free alternative for intercity travel, and we could have saved the taxpayers of this country many millions of dollars! This is another striking example of the Administration being "penny wise and pound foolish." I strongly urge the Senate to accept the Committee's recommendation for this program.

We also recommend $40 million to cover the commuter losses that will be incurred by ConRail in this takeover as well as $26.5 million for Amtrak to cover its increased losses.

Also for Amtrak, we recommend $10 million in one-time takeover costs for inventory replacements, $20 million for the purchase of properties that would otherwise be dropped once ConRail takes over, and $85 million for the purchase by Amtrak of the Northeast Corridor mainline track from ConRail at net liquidation value.

Mr. President, there is one other recommendation by the Committee that is very important to the success of ConRail. The Committee recommends deletion from the resolution of limitations on ConRail's operating losses. We feel that the Government Investment Committee and the requirement that ConRail provide Congress with annual reports of its operations are sufficient to protect the Government's investment. This provision, we feel, would unduly restrict ConRail and might help bring about the very thing we all hope to avoid—ConRail's failure and Government nationalization of these railroads.

Mr. President, I wish to take this opportunity to express my deep appreciation to a very distinguished member of the Subcommittee who is also a member of the Commerce Committee and who has taken a very active role in this legislation in both capacities—my good friend and colleague from Rhode Island, John Pastore. He knows this legislation thoroughly and the good it can do not only in terms of better rail transportation, but in terms of creating jobs for the people in the Northeast and Midwest. I am grateful and pleased that Senator Pastore has agreed to be the floor manager of H.J. Res. 801 as well as to act as Chairman of the Senate conferees in the conference with the House.

Mr. PASTORE. Mr. President, I yield the floor.

Mr. CASE. Mr. President, as the ranking minority member of the subcommittee responsible for this bill, I wish merely to mention several of its more important provisions. As our chairman, the Senator from Rhode Island, has pointed out, the central purpose is to provide the appropriation necessary to effectuate the reorganization of the bankrupt Northeast and Midwest railroads. It is expected that these will be used to build a profit-making railroad freight system.

As mentioned also, the bill includes funds to initiate the Northeast corridor improvement program. This program will bring modern rail transit to the Nation's heaviest populated transportation corridor, and also create meaningful employment for thousands of people. New Jersey has an interest in this as well as Rhode Island. Anybody who has ridden on the railroad from here to New York knows exactly what I mean. It is ridiculous that this roadbed should be in the condition that it is in. We all strongly support the bill in this respect as in all others.

I do support the bill in its entirety, in addition to the provisions I have mentioned.

In order to assure the continuity of commuter rail services the bill contains appropriations for rail subsidies. These funds are necessary to reimburse commuter operators that will be adversely affected by the rail reorganization.

I strongly support these provisions and urge that the bill as reported out of committee be passed by the Senate.

Mr. PASTORE. Mr. President, at this time I send to the desk an amendment on behalf of Mr. HUGH SCOTT and Mr. MANSFIELD, and I ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill, insert the following new section:

"MISCELLANEOUS PROVISIONS

"On and after the date of the enactment of the joint resolution, the provisions of section 8344 of title 5, United States Code, shall not apply to any individual serving as a member of the Commission on the Operation of the the Senate."

Mr. PASTORE. Mr. President, this is subject to a point of order but I will not raise it. It is acceptable to me. I hope it is acceptable to the Senator from New Jersey. I have no further comment. I am willing to accept it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PASTORE. I yield back the remainder of my time.

Mr. CASE. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PASTORE. Mr. President, I call up another amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, after line 10, insert the following:

For an additional amount for "Interim operating assistance," $12,000,000, under section 213(b) of the Regional Rail Reorganization Act of 1973, to remain available unti expended.

Mr. PASTORE. This is a request being made by the administration. As a matter of fact, I understand this has already been cleared by the Office of Management and Budget. It is on the President's desk. I understand we will have it before we go to conference.

I have an explanation of it. If there is no objection, I ask unanimous consent to have it printed in the Record or I will read it.

Mr. CASE. Mr. President, there is no objection to that. I would like to be associated as cosponsor, if I may.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Senator Pastore

It is imperative that this amendment be adopted in order to have sufficient operating assistance available to the bankrupt railroads that are being reorganized into ConRail. Originally, the properties of those bankrupts were to be transferred to ConRail on February 27, 1976, but now, as you know, with the recent adoption of the Railroad Revitalization and Regulatory Reform Act of 1976 that date of conveyance has been pushed back to April 1. While sufficient assistance was available under sections 213 and 215 of the Regional Rail Reorganization Act to assure continued operations of the bankrupt carriers until February 27, there is not now sufficient funds to carry them to the April 1 date. It is critical that their operations be continued so that there is not any hiatus in service to any of our communities and to assure that ConRail receives a running railroad when it takes over April 1. All of the projections for ConRail's future have been built on the assumption that it will receive such a railroad. The impact of cessation of service could be detrimental to those assumptions. Therefore, I urge adoption of this amendment as the final step which we must take to assure continued orderly operations until ConRail's startup.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CASE. Mr. President, I yield back the remainder of my time.

Mr. PASTORE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PASTORE. Mr. President, third reading.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the joint resolution.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 801) was read the third time.

ADDITIONAL STATEMENTS SUBMITTED ON HOUSE JOINT RESOLUTION 801

Mr. MATHIAS. Mr. President I support House Joint Resolution 801, making supplemental appropriations for the implementation of the reorganization of bankrupt railroads in the Northeast and Midwest. Without appropriations for the funds authorized by the Railroad Revitalization and Regulatory Reform Act of 1976, our efforts to implement the ConRail proposals will be in jeopardy. The income-based reorganization of our bankrupt railroads must proceed if we are to meet the transportation needs of our Nation.

I am pleased to note that House Joint Resolution 801 includes appropriations for a number of purposes that are important to our Nation's railroads. The provision of $40 million for emergency operating assistance to commuter rail lines is of great importance to assure continuation of this necessary form of energy-efficient transportation in our metropolitan areas. I am grateful to the members of the committee for responding to my letter requesting that the funds for commuter rail operating assistance be included in this bill.

I also note that House Joint Resolution 801 includes funds for improvements in rail passenger service in the Northeast Corridor. These funds will provide useful employment opportunities for thousands of people in the improvement of a transportation system that is highly energy-efficient. This service of national employment and energy conservation goals with the same appropriation seems to be an especially wise use of our financial resources.

I have been advised that the administration has not yet forwarded budget requests for some of the items that are recommended in this supplemental appropriations bill. I would hope that the administration's requests for contributions to Amtrak and commuter rail subsidies will be submitted in time for their consideration before the conference on House Joint Resolution 801.

Finally, I must express my special concern that some of the acquisitions by solvent railroads, as contemplated by the final system plan, have not been executed. The inability of labor and management to reach necessary agreements has upset the planned acquisition of many important rail lines by the Southern Railroad and the Chessie System. This situation poses a serious threat to the long-range viability of the rail system on the Eastern Shore of Maryland and the entire Delmarva Peninsula. I hope that the railroads and the unions will recognize the public interest in allowing the planned acquisitions to proceed. I also hope that efforts now underway by many concerned public officials will bring about a satisfactory resolution of this problem.

Mr. SCHWEIKER. Mr. President, we have before us today a supplemental railroad appropriations bill which provides the funds necessary to establish an income-based reorganization of bankrupt rail carriers in the Northeast and Midwest. This reorganization is outlined in the U.S. Railway Association's final system plan and authorized by Public Law 94–210, the Railroad Revitalization and Regulatory Form Act.

Beginning with the Regional Rail Reorganization Act of 1973, the legislative and executive branches have been working together toward this plan. Appropriate restructuring of our rail system can be a catalyst of economic development and insure this region's economic viability. The task of preparing a plan for the reorganization of railroads serving 17 States and improving rail passenger service in the Northeast corridor is without precedent, involving many difficult technical, financial and legal issues, as well as sensitive political considerations. As a member of the Transportation Appropriations Subcommittee and a Senator from Pennsylvania, I have followed the progress of this effort with great interest.

I joined with my colleagues in supporting the Railroad Revitalization and Regulatory Reform Act, because I believe our Nation's railroads must be upgraded as a vital part of a balanced national transportation policy. The supplemental appropriations bill before us today is another step toward achieving a revitalized rail system, and I urge support of this worthwhile measure. It is time we stopped bailing out the bankrupts on a stop-gap basis and get on with the implementation of a long-term solution which will rehabilitate our rail system and put our railroads on a sound financial basis.

Mr. KENNEDY. I rise to urge approval of the emergency railroad appropriations bill now before the Senate.

It is essential for Massachusetts. It is essential for the Northeast. It is essential for the Nation.

Without approval of this measure, the transfer of responsibility from the bankrupt railroads in the Northeast to ConRail could not take place. Not only would any possibility of success for ConRail be doomed at birth, but the resulting economic chaos in our already hard-hit region would be impossible to calculate.

In addition to being essential to a revitalized freight system, this bill is crucial to improved rail passenger service.

I particularly want to commend Senator Bayh, chairman of the Transportation Appropriation Subcommittee, who worked on this measure, for insuring that the necessary additional funds for rail passenger service were included in the measure.

Although the Department of Transportation had opposed their inclusion, I would note that Amtrak president Paul Reistrup testified—as I did—that they were vital to begin the northeast corridor improvement program which was enacted last month.

The bill provides $85 million to Amtrak for the purchase of the right of way for passenger service in the corridor between Washington and Boston. It also includes $27.4 million during this fiscal year and another $52 million during the July 1—October 1 transition quarter, for improvements on the right of way, and another one-time startup costs of $10 million.

Not only will these added funds—which are within the budget ceiling—mean an early improvement in service and an added measure of safety for rail travelers but it also will mean a substantial number of new jobs in Massachusetts and throughout the corridor to carry out the needed improvements.

I also want to commend the committee for including in the bill the $40 million necessary to insure the commuter operations, including some of the MBTA operations will be preserved.

Let me note that every day that the Federal Government fails to provide Amtrak with the funds necessary to carry out the Northeast corridor rail passenger project means additional unnecessary costs. Inflation drives up the value of land, maintenance is deferred, and service flaws produce lower demand and lower revenue.

I strongly support the committee's action and urge that they steadfastly defend this bill in the conference with the House of Representatives.

Mr. **PASTORE**. Mr. President, I suggest the absence of a quorum, hopefully so that we can get enough Members to the Chamber for a yea and nay vote.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that a rollcall vote occur on final passage of the measure now pending.

The **PRESIDING OFFICER**. Is there objection? Without objection, it is so ordered.

Is all time yielded back?

Mr. **PASTORE**. I yield back the remainder of my time.

The **PRESIDING OFFICER**. The question is, shall the joint resolution pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **ROBERT C. BYRD**. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Mississippi (Mr. Eastland), the Senator from Indiana (Mr. Hartke), the Senator from Kentucky (Mr. Huddleston), the Senator from Washington (Mr. Jackson), the Senator from Arkansas (Mr. McClellan), the Senator from Mississippi (Mr. Stennis), and the Senator from Missouri (Mr. Symington) are necessarily absent.

I further announce that the Senator from New Hampshire (Mr. Durkin), the Senator from Montana (Mr. Mansfield), the Senator from New Mexico (Mr. Montoya), and the Senator from North Carolina (Mr. Morgan) are absent on official business.

I also announce that the Senator from California (Mr. Tunney) and the Senator from Colorado (Mr. Haskell) are absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson) and the Senator from North Carolina (Mr. Morgan) would each vote "yea."

Mr. **GRIFFIN**. I announce that the Senator from Oregon (Mr. Hatfield) is necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea".

The result was announced—yeas 62, nays 23, as follows:

[Rollcall Vote No. 50 Leg.]

YEAS—62

Abourezk
Allen
Baker
Beall
Bentsen
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Fong
Ford
Glenn
Gravel
Griffin
Hart, Philip A.
Hathaway
Hollings
Hruska
Humphrey
Inouye
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Taft
Tower
Weicker
Williams
Young

NAYS—23

Bartlett
Bellmon
Brock
Byrd, Harry F., Jr.
Cannon
Dole
Domenici
Eagleton
Fannin
Garn
Goldwater
Hansen
Hart, Gary
Helms
Laxalt
McClure
Nunn
Packwood
Proxmire
Scott, William L.
Stone
Talmadge
Thurmond

NOT VOTING—15

Bayh
Durkin
Eastland
Hartke
Haskell
Hatfield
Huddleston
Jackson
Mansfield
McClellan
Montoya
Morgan
Stennis
Symington
Tunney

So the joint resolution (H.J. Res. 801) was passed.

The title was amended so as to read: "A joint resolution making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1976, and the fiscal year ending September 30, 1977, and for other purposes."

Mr. **PASTORE**. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. **ROBERT C. BYRD**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **PASTORE**. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to House Joint Resolution 801.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **PASTORE**. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. Gary Hart) appointed Mr. Bayh, Mr. McClellan, Mr. Robert C. Byrd, Mr. Stennis, Mr. Magnuson, Mr. Pastore, Mr. Eagleton, Mr. Case, Mr. Young, Mr. Stevens, Mr. Mathias, and Mr. Schweiker conferees on the part of the Senate.

Mr. **ROBERT C. BYRD**. Mr. President, may I state for the record, with respect to the rollcall vote that just occurred, that ordinarily I would object to such requests because I do not think it is a good precedent to order rollcall votes by unanimous consent. At the same time, the leadership does have a responsibility to move matters forward without undue delay; and it was felt by me that in order to wait for 11 Senators to come to the floor would have meant that the Senate would have delayed action at least a half hour. So, in order to avoid that delay, I was constrained to ask unanimous consent that the rollcall vote occur.

I make this statement for the Record to indicate that I do object to such unanimous-consent requests, except under extenuating circumstances, such as the one under which I acted, and I would not want this to become a habit.

VITIATION OF ORDER FOR CONVENING OF THE SENATE TOMORROW

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the order for the convening of the Senate on tomorrow be vitiated.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

ORDER THAT NO ROLLCALL VOTES OCCUR ON MONDAY PRIOR TO 3 P.M.

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that there be no rollcall votes on Monday prior to 3 p.m.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. **ROBERT C. BYRD**. Mr. President, there is no further business for today, and the Senate will not be in session tomorrow. I have one or two little matters here which I will dispose of before I move to adjourn.

ORDER FOR RECOGNITION OF MR. STONE ON TUESDAY NEXT

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that on Tuesday next, after the two leaders or their designees have been recognized under the standing order, Mr. Stone be recognized for not to exceed 15 minutes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

NATIONAL SCIENCE AND TECHNOLOGY POLICY AND ORGANIZATION ACT OF 1975

Mr. **ROBERT C. BYRD**. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 10230.

The **PRESIDING OFFICER** (Mr. Gary Hart) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 10230) to establish a science and technology policy for the United States, to provide for scientific and technological advice and assistance to the President, to provide a comprehensive survey of ways and means for improving the Federal effort in scientific research and information handling, and in the use thereof, to amend the National Science Foundation Act of 1950, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. KENNEDY, Mr. MAGNUSON, Mr. MOSS, Mr. MONDALE, Mr. TUNNEY, Mr. FORD, Mr. GOLDWATER, Mr. BEALL, and Mr. LAXALT conferees on the part of the Senate.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, there is no further business today.

I ask unanimous consent that there be a period for the transaction of routine morning business, of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STATEMENTS TO BE FILED UNTIL 5 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all Senators may have until 5 p.m. today to file statements for the RECORD and to introduce bills and resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF TITLE 5, UNITED STATES CODE

Mr. ROBERT C. BYRD. Mr. President, I say to the distinguished Republican leader that S. 3028 has been cleared for action on both sides. Therefore, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 620, S. 3028.

The PRESIDING OFFICER (Mr. GARY HART). The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3028) to amend sections 5315 and 5316 of title 5, United States Code.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(107) Director, United States Secret Service, Treasury Department.".

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(139) Deputy Director, United States Secret Service, Treasury Department.".

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, it was the intention of the leadership to call up at this time H.R. 8650, an act to assist low-income persons in insulating their homes. I am told by some of the Senators on the other side of the aisle that it would not be possible to bring up this bill today, that they would need more notice. Consequently, I will not call it up.

It is likely, however, that this bill can go forward next week, the same Senators indicating that they would be prepared next week to proceed with it. So H.R. 8650 will be one of the bills which will be a likely candidate for action next week, if we are able to work out a two-track system, and Senators are so alerted.

S. 953, to amend the Export Administration Act of 1969, to clarify and strengthen the authority of the Secretary of Commerce to take action in the case of restricted trade practices or boycotts, was expected to be called up today, but because of circumstances over which the leadership has no control, it has been decided to postpone action on that measure until next week.

Those are the only two measures, Mr. President, that the leadership felt could be brought up today; and for the reasons I have explained, the leadership will not be able to call them up.

The leadership cannot proceed with the calling up of the Oklahoma matter until next Tuesday. Senator HATFIELD, who is the ranking member of the Committee on Rules and Administration, is in his home State today, I believe; and the leadership would not want to attempt to call up a bill while the ranking member is away from the Senate. So it will be the intention of the leadership on Monday to move to proceed to the consideration of that matter.

I am in no position to know or to state what the scenario will be in connection with that matter, beyond saying that the leadership will move to proceed to call it up next week. It may be that we can operate on a multiple-track system from that time, in which case some of the other measures on the calendar will be called up and acted upon.

ADJOURNMENT UNTIL MONDAY, MARCH 1, 1976

Mr. ROBERT C. BYRD. Mr. President, the order is for the Senate, at the close of business today, to stand in adjournment until Monday next at 12 o'clock noon.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon on Monday next.

The motion was agreed to; and at 11:58 a.m., the Senate adjourned until Monday, March 1, 1976, at 12 meridian.

NOMINATIONS

Executive nomination received by the Senate February 26, 1976:

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Robert L. Hirsch, of Maryland, to be an Assistant Administrator of Energy Research and Development, vice John M. Teem, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 26, 1976:

DEPARTMENT OF COMMERCE

Richard G. Darman, of Massachusetts, to be an Assistant Secretary of Commerce.

Joseph E. Kasputys, of New York, to be an Assistant Secretary of Commerce.

John Thomas Smith II, of the District of Columbia, to be General Counsel of the Department of Commerce.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

David W. Oberlin, of Virginia, to be Administrator of the St. Lawrence Seaway Development Corporation for a term of 7 years.

DEPARTMENT OF JUSTICE

Charles J. Pooler, of Maine, to be U.S. marshal for the district of Maine for the term of 4 years.

CIVIL SERVICE COMMISSION

Georgiana H. Sheldon, of Virginia, to be a Civil Service Commissioner for the remainder of the term expiring March 1, 1977.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Thursday, February 26, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let us search and try our ways, and turn again to the Lord.—Lamentations 3: 40.

Almighty God, in whose presence our baffled minds find peace and from whose Spirit our burdened hearts receive strength, grant us confidence and courage as we face the tasks of this new day. May we feel that Thou art with us leading us in the way we go, in the decisions we make and in the spirit by which we live.

Bless our country that as leaders and people we may bear witness to the truth that righteousness exalts a nation. Give Thy Spirit to all mankind that a larger measure of freedom and justice may come to all nations.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 549. Joint resolution to approve the "Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America," and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 151. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Polecat Bench area of the Shoshone extensions unit, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 10230) entitled "An act to establish a science and technology policy for the United States, to provide for scientific and technological advice and assistance to the President, to provide a comprehensive survey of ways and means for improving the Federal effort in scientific research and information handling, and in the use thereof, to amend the National Science Foundation Act of 1950, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. MAGNUSON, Mr. Moss, Mr. MONDALE, Mr. TUNNEY, Mr. FORD, Mr. GOLDWATER, Mr. BEALL, and Mr. LAXALT to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 507. An act to provide for the management, protection, and development of the national resource lands, and for other purposes;

S. 2931. An act to provide for daylight saving time on a 7-month basis, beginning with the second Sunday in March and ending with the second Sunday of October, for a 2-year period beginning with the second Sunday in March of 1976 and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise; and

S. Con. Res. 85. Concurrent resolution authorizing the printing as a Senate document of a report by a special consultant to the Administrative Conference of the United States on some administrative procedures of the Internal Revenue Service.

TRIBUTE TO THE LATE MRS. EARLE (SARA) CLEMENTS

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, Kentuckians and other Americans who have known Earle and Sara Clements through the years pause today to pay tribute to a great former first lady of Kentucky, the beloved late Sara Clements.

Sara Blue Clements, who died Monday, February 23, 1976, at age 82, is a native of Morganfield, Ky., where her funeral services are being held at this very moment. Mrs. Clements was the faithful, helpful companion of a great American whose public life included service in the U.S. House of Representatives, the U.S. Senate, and 4 years as Governor of the Commonwealth of Kentucky.

The only child of Senator and Mrs. Clements is Mrs. Bess Clements Abell—wife of Washington attorney Tyler Abell—who for several years served as social secretary for Mrs. Lyndon Baines Johnson at the White House.

Senator and Mrs. Clements have been my friends for years, and I am proud to have been their Congressman for these 14 months.

And so, to Senator Clements, Bess Abell, Tyler Abell, and the grandchildren of Kentucky's former first lady, and on behalf of many Americans who have been close to the Clements family through the years, I express my sincere sympathy. May God's richest blessings sustain each of them during these difficult days.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to my colleague, the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, on behalf of myself and the many Members of this body who at one time or another have had contact with the former Governor and Senator, I would like to join in expressing my very deep condolences.

They are a wonderful family, of whom the State of Kentucky can be extraordinarily proud.

Mr. HUBBARD. Mr. Speaker, I thank the gentleman from New Jersey for his kind remarks.

PERMISSION FOR COMMITTEE ON OPERATIONS TO FILE A REPORT

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may have until midnight tonight to file a report.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

RESIGNATION AS CHAIRMAN OF SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

(Mr. RONCALIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RONCALIO. Mr. Speaker, I announce this morning that I am stepping down as the chairman of the Subcommittee on Public Buildings and Grounds of the House Committee on Public Works and Transportation.

I have taken this action for two reasons: One, as in the case of most Members, there comes a time when we simply have to start shaving down the number of committees and subcommittees on which we serve, thereby using our time more efficiently and more effectively.

Second, Mr. Speaker, I believe that each and every one of us has a duty to start to do something about what we know is a proliferation of subcommittees in this body. The day must come when we will have to abolish a great many of these committees and give our attention to other matters so that we can focus our attention and efforts on the work of fewer committees.

U.S. SUPREME COURT DECISION BANNING EMPLOYMENT OF ILLEGAL ALIENS

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, I was very pleased by the unanimous Supreme Court decision yesterday, which upheld a California law banning the employment of illegal aliens. I consider it a most significant decision, one which could help close the door on illegal alien employment which today, is responsible for keeping over 1 million American citizens out of work.

In their decision, the Court ruled that the California law which provides fines of $200 to $500 for the employment of illegal aliens, was within the State's authority and was not an unconstitutional attempt to infringe upon the Federal Government's power to regulate immigration. While the Court did remand the case to the California Court of Appeals for further examination, their basic agreement with the concept of the law should provide the incentive for other States to adopt new laws banning the employment of illegal aliens.

I have introduced H.R. 5987, which makes it a Federal crime to knowingly hire illegal aliens. A somewhat weaker version of my bill has been languishing in the House Rules Committee for the past several months. I hope that the court ruling will stimulate the rules committee to report this bill out to the full House for our early consideration.

The Supreme Court decision hits at the heart of the illegal alien problem. Easy access to employment in this Nation remains the primary magnet which draws illegal aliens to the United States, in addition to their holding down more than 1 million jobs, illegal aliens are contributing to a tax burden of more than $13 billion caused, to a large extent, by their failure to pay taxes while employed, and sending large sums of money back to their homelands.

We must begin to recognize that the 8 to 12 million illegal aliens currently here, pose a direct threat to the economic well-being of this Nation. We must be prepared to pass and enforce strong new laws to deal with this problem.

GOVERNMENT HARASSMENT

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, with increasing frequency we hear complaints from the folks back home about harassment from the Federal Government.

Some charge OSHA with overkill, others say EPA bogs them down with endless delays, demands, et cetera, and still others protest IRS making their life miserable.

The common thread seems to be frustration about trying to fight the Government that is supposed to serve them, and the fact that the little guy just cannot afford to fight the resources of our massive bureaucracy.

To meet this problem, Mr. Speaker, I am today introducing a bill designed to help the individual taxpayer—to enable him to resist the awesome power of the Federal Government, by giving him a chance to take them on, at their expense, if he feels he is right. Costs, witness and attorneys fees must be paid by the United States, if the taxpayer prevails in a civil action resisting a Government agency.

Perhaps this will help the little guy, as well as cause the Government representatives to be less inclined to thunder over the taxpayers, secure in their knowledge of his inability to financially resist the power of the Federal Government.

PROPOSED CHANGES IN REGULATIONS FOR FOOD STAMP PROGRAM

(Mr. JOHNSON of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of Colorado. Mr. Speaker, I just want to remind my colleagues that today the U.S. Department of Agriculture has proposed a series of changes in the regulations for the food stamp program.

The food stamp program proliferated, as the Members know, because of the changes that were inaugurated in 1969. This is an attempt to undo some of those regulations and will reduce the cost of the program by $1.2 billion. Undoubtedly this will result in a very controversial atmosphere and I urge my colleagues to look at these proposed reforms and to study them before making hp their minds about any of the possible effects about the proposed regulation changes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
February 25, 1976.

Hon. CARL ALBERT,
The Speaker House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 3:23 P.M. on Wednesday, February 25, 1976, and said to contain a message from the President concerning the Financial Assistance for Health Care Act.

With kind regards, I am,

Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY.

FINANCIAL ASSISTANCE FOR HEALTH CARE ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94-383)

The SPEAKER laid before the House the following message from the President of the United States; which was read, and referred to the Committee on Interstate and Foreign Commerce, and ordered to be printed:

To the Congress of the United States:

The health of our people is one of our Nation's most vital resources.

Significant progress has been made in improving the health of the Nation's people during the last 25 years, as can be seen in the reductions in the infant mortality rate, increases in life expectancy, and the conquering of some communicable diseases. This progress has come under a largely private health care system with the support of public funds.

In the past 10 year period (1965–1975) Federal spending for health has increased from $5 billion to $37 billion. With greater Federal funding has come a multitude of Federal programs, regulations and restrictions—all motivated by the best of intentions but each adding to the confusion and overlap and inequity that now characterizes our efforts at the national level.

Today I am proposing to the Congress legislation that addresses these problems. I am asking Congress to enact the Financial Assistance for Health Care Act, which will consolidate Medicaid and 15 categorical Federal health programs into a $10 billion block grant to the States. I am proposing that future Federal funding for this new program be increased annually in increments of $500 million plus the amounts needed after 1980 to insure that no State will in the future receive less under this proposal than it received in fiscal year 1976.

The Financial Assistance for Health Care proposal is being submitted after extensive consultation with organizations representing the publicly elected officials who will be responsible for administering the program. I believe this proposal represents a major step toward overcoming some of the most serious defects in our present system of Federal financing of health care.

My proposal is designed to achieve a more equitable distribution of Federal health dollars among States and to increase State control over health spending. My proposal also recognizes the appropriate Federal role in providing financial assistance to State and local governments to improve the quality and distribution of health services.

The enactment of this legislation will achieve a more equitable distribution of Federal health dollars by providing funds according to a formula giving primary weight to a State's low-income population. The formula also takes into account the relative "tax effort" made by a State and the per capita income of that State.

Let me emphasize that every State will receive more Federal funds in fiscal years 1977, 1978, and 1979 under the block grant than it received in fiscal year 1976. My proposal also allows for a gradual phase-in of the distribution formula in future years to insure a systematic, orderly transition that will permit States to adjust to the new program.

To assure accountability and responsiveness to the public, my proposal requires each State to develop an annual health care plan as a condition to receiving Federal funds. This plan will be developed through a Statewide public review and comment process which will assure participation by all concerned parties. Thus, increased State responsibility will be coupled with expanded public participation, and accountability in the development of State health policies.

This proposed consolidation of health programs is essential to continue our national progress in the field of health. It is designed to permit States greater flexibility in providing for delivery of health care services to those with low income. It eliminates the requirements for State matching. And it recognizes the need for a cooperative relationship among governments at all levels. My proposal would reduce Federal redtape, increase local control over health spending, and expand public participation in health planning.

While I am proposing to increase State control over health spending, we will continue to concentrate our efforts in areas of appropriate Federal responsibility. For example, my budget proposals for 1977 include the following:

—In food and drug safety, I have asked for $226 million in 1977, an increase of $17 million, to enable further progress in priority areas;

—In the area of drug abuse prevention, I propose almost $500 million for prevention and treatment to expand national drug abuse treatment capacity to meet the current need;

—My budget requests more than $3 billion for health research, including continued support of major national efforts in cancer and heart disease research and support for new scientific opportunities in the fields of environmental health, aging, and immunology;

—In our effort to improve the training and utilization of doctors and other health professionals, I have requested new legislation and funding of $319 million, designed to concentrate on the problems of geographic and specialty maldistribution of health professionals;

—To assist local communities to attract physicians, dentists and other health professionals to underserved areas, I am proposing to expand the National Health Service Corps demonstration program 38% from $18 million to $25 million.

—To assist the development of a strong health maintenance alternative, I have directed HEW to move rapidly in administering the dual option provisions of the HMO Act. And, to complete the 5-year effort to demonstrate and test the health maintenance organization concept, I have requested an additional year's authorization for new commitments. As of last June, there were 10 health maintenance organizations certified through the dual option provisions;

—To provide improved health services to American Indians and Alaska Natives, I am asking for $355 million. Spending by the Indian Health Service alone in 1977 will result in over $685 per beneficiary, or over $2,740 per Indian family of four;

—In the area of veterans' health care, I have requested $4.5 billion to assure continued quality care by providing for increases in medical staff and research related to VA health care delivery.

A realistic assessment of the present health care programs and the responsibilities of Federal, State, and local governments fully demonstrates that the reforms I am proposing in Federal health care are needed now. The Medicare Improvements of 1976 that I recommended to the Congress on February 11 also represents a balanced response to needed program reforms. This proposal is designed to improve catastrophic health cost protection for our aged and disabled, restrain cost increases in the Medicare program and provide training for the hospital insurance trust fund.

I request that the Congress give both these measures the earliest possible consideration.

GERALD R. FORD.

THE WHITE HOUSE, *February 25, 1976.*

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 70]

Ambro
Andrews, N.C.
Aspin
AuCoin
Barrett
Bell
Bolling
Broomfield
Brown, Calif.
Burgener
Carney
Chisholm
Clawson, Del
Clay
Collins, Ill.
Conyers
Cotter
Crane
D'Amours
de la Garza
Dent
Diggs
Dingell
Duncan, Tenn.
Esch
Eshleman
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Gilman
Harrington
Harsha
Hays, Ohio
Hébert
Heckler, Mass.
Henderson
Hinshaw
Jacobs
Karth
Lagomarsino
Landrum
Lujan
McKinney
Macdonald
Metcalfe
Mink
Moakley
Nix
Nolan
O'Brien
O'Neill
Patman, Tex.
Perkins
Pettis
Riegle
Risenhoover
Rose
Rostenkowski
Rousselot
Santini
Schneebeli
Seiberling
Shuster
Snyder
Stanton,
James V.
Stephens
Stuckey
Teague
Traxler
Udall
Vigorito
Waxman
White
Wolff

The SPEAKER. On this rollcall 357 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PROVIDING FUNDS FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY COMMITTEE ON HOUSE ADMINISTRATION

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1020 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1020

Resolved, That for the further expenses of the investigations and studies to be conducted by the Committee on House Administration, acting as a whole or by subcommittee, not to exceed $660,000, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $65,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(1)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Maryland (Mr. BAUMAN) for the purpose of debate only.

Mr. BAUMAN. I thank the gentleman for yielding. Mr. Speaker, most of us have only had a short time to examine this entire series of resolutions. But last year, when we authorized funding for the various committees, I know I, and a few others, raised questions about the enormous amount of money, as compared to previous years, that was being authorized for individual House committees.

I notice, with just a cursory examination of these reports, that a number of committees have not expended nearly one-half of the funds we authorized last year. My first question to the gentleman would be: In authorizing these total amounts for this year, such as the $660,000 the pending resolution authorizes for the Committee on House Administration, are we reappropriating unused funds, and is that a part of the entire amount we are now authorizing for this committee?

Mr. THOMPSON. Mr. Speaker, I will say to the gentleman from Maryland (Mr. BAUMAN) that in this instance the Committee on House Administration had an unexpended balance of $201,832.78.

I would like to use this as typical of each of these resolutions.

That balance was obliterated and returned to the Treasury. The $660,000 includes $60,000 in anticipation of a statutory pay raise for House employees for the tremendous amount of work being done in terms of oversight and especially on the Federal Elections Commission, and other matters. So that it represents an increase of $60,000 over the first session.

We anticipate, with this and with the other committees, that, for the most part, they will have unexpended balances which will revert.

We are in the unhappy position of not being able to anticipate precisely the amounts to be expended. But I assure the gentleman each committee reports to the chairman, the gentleman from Ohio (Mr. HAYS), to the Subcommittee on Accounts and the members of the Committee on House Administration on a monthly basis, and we are keeping very close tabs on their expenditures on a monthly basis.

Mr. BAUMAN. If the gentleman will yield further, then we can understand that in each one of these instances these committees have turned back to the Treasury some balance that they did not expend?

Mr. THOMPSON. Yes.

Mr. BAUMAN. And we are reappropriating new amounts including the unexpended amounts we previously authorized?

Mr. THOMPSON. There is one instance, I will say to the gentleman from Maryland, in which an ad hoc committee, which is not before us today, had a deficit, which I shall explain at the appropriate time.

But in each and every instance the unexpended balance has been returned to the contingent fund.

Mr. BAUMAN. Mr. Speaker, will the gentleman from New Jersey tell me whether or not in this series of resolutions now pending before us there have been any reductions in the authorization, or have they held to the same level or have they all been increased? If they have been increased I will ask, why should we again, after the authorizations of last year, authorize even further increases in spending for ourselves?

Mr. THOMPSON. Mr. Speaker, the gentleman from New Jersey is not in a position at the moment to cite specifically each one. It is my impression, however, that in each instance there has been a modest increase over the previous authorization, but in each instance also, with the exception of one select ad hoc committee, there has been a substantial return to the contingent fund.

The real effect, I might say to the gentleman, using this committee, the Committee on House Administration, as the example, is that in effect this would mean approximately a net return of $200,000 by the resolution since the return to the contingent fund was made.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his explanation. I think the only disagreement we might have is as to whether or not these increases are modest and perhaps also as to whether they are justified at all. Congress should be setting an example for all Government agencies by restraining its own housekeeping spending.

Mr. THOMPSON. Mr. Speaker, may I state to the gentleman that the meetings of the Subcommittee on Accounts have been well attended, as was the meeting of the full committee, which reported these resolutions unanimously in every instance, and that there was in each instance an in-depth hearing, and as a matter of policy in each instance the ranking Republican member of each subcommittee appeared in support and in most instances as a cosponsor of the resolution.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Alabama for the purpose of debate only.

Mr. DICKINSON. Mr. Speaker, just to underscore what the distinguished chairman of the subcommittee, the gentleman from New Jersey (Mr. Thompson), has said, it has been my policy in the 12 years I have been on the committee—and this is the policy of the minority side—to first require that the ranking minority member in person accompany the chairman of the subcommittee in making the request, and without fail we are always asked if we are familiar with the request and if we concur in the request as the budget is presented.

I might say in years past that we have not always been harmonious. As a matter of fact, there has been a little acrimony in the past. However, this year in the requests we have had so far they have been unanimously presented by both the minority and the majority sides. As to whether these anticipatory increases are justified, I am not trying to say that they are at the present time, but that is why the increases were asked for.

Mr. THOMPSON. Mr. Speaker, in a real sense, since I am addressing myself in particular to this resolution before us, I should point out the same statement is applicable in every instance. The only difficulty the subcommittee and the committee encountered along the line was that of insuring that the minority staffing was satisfactory and that the minority staffing in each and every instance was adequately taken care of in the resolution.

In the one instance where we had difficulty, that resolution was tabled pending the arrival at an agreement between the majority and the minority to guarantee a ranking minority member the staff person to which he is entitled under the rules.

Mr. THOMPSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR FURTHER EXPENSES OF COMMITTEE ON EDUCATION AND LABOR FOR INVESTIGATIONS AND STUDIES TO BE CONDUCTED PURSUANT TO RULE XI OF RULES OF THE HOUSE OF REPRESENTATIVES

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 975 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 975

Resolved, That (a) further expenses of the investigations and studies to be conducted pursuant to rule XI of the Rules of the House of Representatives, by the Committee on Education and Labor, acting as a whole or by subcommittee, not to exceed $2,320,000, including expenditures—

(1) for the employment of investigators, attorneys, and clerical, stenographic, and other assistants;

(2) for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); and

(3) for specialized training, pursuant to section 202(j) of such Act (2 U.S.C. 72a(j)), of committee staff personnel performing professional and nonclerical functions;

shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Of such amount, $145,000 shall be available for each of eight standing subcommittees of the Committee on Education and Labor.

(b) Not to exceed $25,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202 (i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); and not to exceed $3,000 of such total amount may be used to provide for specialized training, pursuant to section 202(j) of such Act (2 U.S.C. 72a (j)), of staff personnel of the committee performing professional and nonclerical functions; but neither of these monetary limitations shall prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Education and Labor shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from New Jersey (Mr. Thompson).

Mr. THOMPSON. Mr. Speaker, House Resolution 975 is the funding resolution for the Committee on Education and Labor in the amount of $2,320,000, for all purposes.

In the case of this committee, we have a unique situation in that the minority receives 25 percent of the total request, the full committee majority receives 25 percent of the total request, and each of the standing subcommittees has a separate allocation.

In each and every instance the minority on the full committee and on each subcommittee is fully funded.

Mr. Speaker, this resolution was unanimously reported.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR EXPENSES OF COMMITTEE ON WAYS AND MEANS

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 970 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 970

Resolved, That, during the second session of the Ninety-fourth Congress, the expenses of the investigations and studies to be conducted by the Committee on Ways and Means, acting as a whole or by subcommittee, not to exceed $2,115,000, including expenditures for the employment of investigators, attorneys, individual consultants, or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $125,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Ways and Means shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER. Is there objection to

the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from New Jersey (Mr. Thompson).

Mr. THOMPSON. Mr. Speaker, House Resolution 970 would fund the Committee on Ways and Means in the amount of $2,115,000.

This resolution was introduced by the gentleman from Oregon (Mr. Ullman) for himself and by the gentleman from Pennsylvania (Mr. Schneebeli), the ranking member, who testified in its behalf.

It is my understanding that the ranking member is ill today, but we are authorized to state that he supports this resolution.

Mr. Speaker, this committee now has standing subcommittees, has taken a number of months to gear up, in the colloquial sense, and had an unexpended balance of $812,817.03, which has reverted to the Treasury.

It is a totally justified and reasonable resolution.

Mr. Speaker, I move the previous question on the resolution.

The previous quesiton was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR EXPENSES OF INVESTIGATIONS AND STUDIES TO BE CONDUCTED BY COMMITTEE ON BANKING, CURRENCY AND HOUSING

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1015 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1015

Resolved, That for the further expenses of investigations and studies to be conducted by the Committee on Banking, Currency and Housing, acting as a whole or by subcommittee, not to exceed $2,079,113, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $150,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Banking, Currency and Housing shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from New Jersey (Mr. Thompson).

Mr. THOMPSON. Mr. Speaker, House Resolution 1015 is the funding resolution for the Committee on Banking, Currency and Housing in the amount of $2,079,113.

In this instance, Mr. Speaker, the committee had an unexpended amount for the first session of $467,176.47. Again, that amount was returned to the Treasury.

Mr. Speaker, this was fully supported by the chairman of the committee, the distinguished gentleman from Wisconsin (Mr. Reuss) and by the gentleman from Pennsylvania (Mr. Johnson), the ranking member.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR EXPENSES OF INVESTIGATIONS AND STUDIES TO BE CONDUCTED BY COMMITTEE ON AGRICULTURE

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 974 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 974

Resolved, That effective from the end of the first session to the end of the second session of the Ninety-fourth Congress, the expenses of the investigations and studies to be conducted by the Committee on Agriculture, acting as a whole or by subcommittee, not to exceed $797,561.35, including expenditures for the employment of investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $166,361.35 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganizatiton Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Agriculture shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, House Resolution 974 would fund the Committee on Agriculture. The resolution was introduced by the chairman of the committee, the distinguished gentleman from Washington (Mr. Foley), and by the distinguished gentleman from Virginia (Mr. Wampler), the ranking minority member.

Mr. Speaker, in this instance this committee had an unexpended balance for the first session of $422,939.23 which has reverted to the contingent fund. This resolution is fully supported by the majority and minority sides.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR FURTHER EXPENSES OF INVESTIGATIONS AND STUDIES OF COMMITTEE ON SMALL BUSINESS

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1039 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That for the further expenses of the investigations and studies to be conducted by the Committee on Small Business acting as a whole or by subcommittee, not to exceed $515,425 including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, and for the procurement of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $50,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202 (i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Small Business shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, this resolution, House Resolution 1039, was originally introduced by the distinguished chairman of the Committee on Small Business, the gentleman from Tennessee (Mr. EVINS), and by the gentleman from Massachusetts (Mr. CONTE), the ranking minority member.

This is a clean resolution bearing my name for the reason that we transferred the unexpended balance of $210,140.45 to the contingent fund. This resolution would fund the Committee on Small Business in the amount of $515,425.

Mr. Speaker, there is complete agreement on the resolution. It was reported unanimously by the subcommittee and the full committee.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks on all of the resolutions just agreed to and, Mr. Speaker, I ask unanimous consent also that all Members may have 5 legislative days within which to revise and extend their remarks on all of the resolutions just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING PRINTING OF ADDITIONAL COPIES OF OPEN HEARINGS AND FINAL REPORT OF SENATE SELECT COMMITTEE ON INTELLIGENCE ACTIVITIES

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up the Senate concurrent resolution (S. Con. Res. 88) and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 88

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Select Committee To Study Governmental Operations With Respect to Intelligence Activities five thousand additional copies of all parts of its public hearings and of its final report to the Senate.

Mr. BRADEMAS. Mr. Speaker, Senate Concurrent Resolution 88 provides for the printing, for use of the Senate Select Committee on Intelligence Activities, of 5,000 additional copies of all parts of its open hearings and final report.

The select committee has held 21 open hearings which will result in an estimated 3,500 pages to be arranged by subject matter in approximately 7 separate volumes.

The length of the final report, however, cannot yet be estimated. Because of the range of investigations mandated by Senate Resolution 21 and the scope of the studies undertaken, it is contemplated that the final report will be prepared in 2 separate volumes of 500 pages each with 20 appended volumes of approximately 200 pages each.

Because requests for this committee's report and hearings have already exceeded the normal 1,000 copies allocated to committees, the select committee is asking for an additional 5,000 copies to meet this demand.

Mr. Speaker, I hope that this resolution is agreed to. I note that the resolution is supported by both the chairman of the select committee, Senator CHURCH, of Idaho, and the vice chairman, Senator TOWER, of Texas.

The Senate concurrent resolution was concurred in.

The motion to reconsider was laid on the table.

AMENDING RULES OF HOUSE OF REPRESENTATIVES TO PROVIDE THAT HOUSE MAY NOT CONSIDER ANY REPORT OF A COMMITTEE BILL, RESOLUTION, OR A REPORT OF A COMMITTEE OF CONFERENCE UNLESS COPIES OR REPRODUCTIONS HAVE BEEN AVAILABLE TO MEMBERS ON THE FLOOR AT LEAST 2 HOURS BEFORE SUCH CONSIDERATION

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 868 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 868

Resolved, That Rule XI of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

"7. It shall not be in order to consider any report of a committee unless copies or reproductions of such report have been available to the Members on the floor for at least two hours before the beginning of such consideration. The provisions of this clause shall not be construed to supersede any other rule of the House requiring a longer period of time before such consideration is in order. The provisions of this clause shall not apply to any report of the Committee on Rules dealing with the consideration of a bill.".

SEC. 2. Rule XXII of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

"7. It shall not be in order to consider any bill or resolution unless copies or reproductions of such bill or resolution have been available to Members on the floor for at least two hours before the beginning of such consideration. The provisions of this clause shall not be construed to supersede any other rules of the House requiring a longer period of time before such consideration is in order. The provisions of this clause shall not apply to any resolution reported by the Committee on Rules dealing with the consideration of a bill.".

SEC. 3. Rule XXVIII of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

"7. It shall not be in order to consider any report of a committee of conference unless copies or reproductions of such report have been available to Members on the floor for at least two hours before the beginning of such consideration. The provisions of this clause shall not be construed to supersede any other rules of the House requiring a longer period of time before such consideration is in order. The provisions of this clause shall not apply to any resolution or report of the Committee on Rules relating to any report of a committee of conference.".

With the following committee amendment:

Strike all after the resolving clause and insert in lieu thereof:

That rule XI, clause 2(l)(6) of the Rules of the House of Representatives is amended by inserting after the first sentence the following: "Nor shall it be in order to consider any measure or matter reported by any committee (except the Committee on Rules in the case of a resolution making in order the consideration of a bill, resolution, or other order of business, or any other committee in the case of a privileged resolution), unless copies of such report and the reported measure or matter have been available to the Members for at least two hours before the beginning of such consideration; *provided, however*, that it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b), rule XI, a report from the Committee on Rules specifically providing for the consideration of a reported measure or matter notwithstanding this restriction."

SEC. 2. The second sentence of rule XXVIII, clause 2(a) of the House of Representatives is amended by striking all after the word "statement" and inserting in lieu thereof the following: "have been available to Members for at least two hours before the beginning of such consideration; *provided, however*, that it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b). Rule XI, a report from the Committee on Rules only making in order the consideration of a conference report notwithstanding this restriction."

SEC. 3. The second sentence of rule XXVIII, clause 2(b) of the Rules of the House of Representatives is amended by striking all after the second comma and inserting in lieu thereof the following: "have been available to Members for at least two hours before the beginning of such consideration; *provided, however*, that it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b), rule XI, a report from the Committee on Rules only making in order the consideration of such an amendment notwithstanding this restriction."

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, this resolution is to be considered in the House which would preclude an amendment from being offered by any Member.

The SPEAKER. It is a rule that comes from the Committee on Rules. It is under the charge of the gentleman handling the resolution.

Mr. BAUMAN. So unless the gentleman yields for the purpose of an amendment, none would be in order?

The SPEAKER. The gentleman is correct.

Mr. BAUMAN. Mr. Speaker, what unanimous-consent request might be entertained in order to allow amendments to be offered generally? Would it be a request to consider it in the House as in the Committee of the Whole?

The SPEAKER. No. The gentleman from Florida controls the floor under the 1-hour rule in the House because this is a change in the rules brought to the floor by the Committee on Rules as privileged. Rules changes can be considered in the House.

Mr. BAUMAN. I thank the Speaker.

The SPEAKER. The Chair recognizes the gentleman from Florida (Mr. PEPPER).

Mr. BAUMAN. Mr. Speaker, would the gentleman from Florida yield for a question at the outset?

Mr. PEPPER. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Does the gentleman intend to yield to anyone for the purposes of amendment?

Mr. PEPPER. No, I do not have authority from the Committee on Rules to yield to anyone for anything except debate in the consideration of this resolution.

Mr. BAUMAN. If the gentleman would yield further, I would say that when we amended the rules the last time I seem to recall the resolution was considered in the House as in the Committee of the Whole and all the Members had the right to offer amendments. What was the reason for precluding individuals from offering amendments today?

Mr. PEPPER. This resolution comes out from the Rules Committee in the exercise of its jurisdiction relative to the rules of the House and it comes out as a closed rule and therefore I have no authority in handling the rule to yield to Members except for the purposes of debate.

Mr. BAUMAN. I thank the gentleman from Florida.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 868, as amended by the Committee on Rules, proposes to amend two rules of the House in order to insure that Members have an adequate opportunity, no less than 2 hours, to review reported measures, conference reports, and Senate amendments in disagreement.

House Resolution 868, as reported, would amend rule XI, clause 2(l) (6), the 3-day layover rule, to provide that no measure or matter reported by any committee—except the Committee on Rules with respect to order of business resolutions, and other committees with respect to privileged resolutions—may be considered unless copies of the measure have been available for at least 2 hours prior to consideration. The requirements of rule XI, clause 2(l) (6) do not apply to measures for the declaration of war, the declaration of a national emergency by Congress, or to congressional actions with respect to executive decisions or determinations which would become or continue to be effective unless disapproved or otherwise invalidated by one or both Houses of Congress. The proposed 2-hour availability requirement would likewise not be applicable to the consideration of such measures.

House Resolution 868 also amends rule XXIII, clause 2 (a) and (b), relating to conference reports, to prohibit consideration both of conference reports and of any amendment of the Senate to any measure reported in disagreement, unless copies of the report and statement of the managers have been available for at least 2 hours prior to consideration.

The amendments to these rules contain a proviso which states that the 2-hour requirement may be waived by the Committee on Rules and a resolution to that effect may be considered on the same day reported notwithstanding rule XI, clause 4(b) prohibiting consideration of a resolution from rules on the same day reported unless so determined by a two-thirds vote. The requirement could also be dispensed with by unanimous consent or under suspension of the rules.

The Committee on Rules held 4 days of hearings on this and similar resolutions. The committee amendment in the nature of a substitute was based on careful consideration of this issue. By its adoption the Members of this House will be assured of an opportunity to review measures on which they must vote. Mr. Speaker, I urge the adoption of House Resolution 868.

Mr. Speaker, may I just add that, having been a Member of the other body, I noticed here with some regret amendments are not available to Members in the House when they are considered by the House.

In the other body when a bill is being considered, all amendments are in printed form, available on the desks of the Senators, so that while the amendment is being considered, a Senator has the advantage of looking at the print of the amendment which is before him, unless in some special case an amendment of extraordinary order would be offered from the floor. So this measure today, I feel, is very important in furtherance of the desire of this House for Members to have the fullest opportunity to have the knowledge of what is being considered in the House.

Therefore, Mr. Speaker, believing it to be a very meritorious resolution, I urge adoption of House Resolution 868.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I rise in reluctant opposition to House Resolution 868, the so-called 2-hour availability rule for bills, reports and conference reports. I say reluctant because I know the intentions of the gentleman from California (Mr. JOHN BURTON) were most sincere, genuine, and laudable in proposing these rules changes: He wanted to protect Members against legislating blindly and precipitously. Ordinarily, we on the minority side of the aisle would welcome such efforts since we so often seem to be the victims of last minute surprises sprung by the majority; it seems the minority, for some reason, is always the last to know what is going on. Such as the prerogatives of the majority. But I have come to the conclusion, after giving this matter a great deal of thought and study, notwithstanding the honorable intentions of the author of this resolution, that it could actually do more harm than good in terms of protecting the interests of Members, and moreover, that the resolution is simply not necessary to insure adequate protection. Let me explain.

As the gentleman from Florida (Mr. PEPPER) has already explained, the main purpose of these rules changes is to insure that Members will have advance access to written copies of bills, reports, and conference reports at least 2 hours before they are called up for consideration. Members are well aware that our House rules XI and XXVIII now require a 3-day layover of bills and conference reports respectively before they may be considered in the House. Both those rules state that the reports must be available to Members 3 days prior to their consideration in the House. The only exceptions, in the case of bills, are if they are: brought up under unanimous consent, to which any Member may object; under suspension of the rules, which requires a two-thirds vote; through a waiver of the 3-day rule by the Committee on Rules, which must first be adopted by a majority vote; or through a blanket waiver of the 3-day rule applying to all bills brought up during a certain period of time, again which must first be adopted by a majority vote. Moreover, the House is doubly protected by clause 3 of rule XVI which reads, and I quote:

> When any motion or proposition is made, the question, Will the House now consider it? shall not be put unless demanded by a Member.

The explanatory footnote which follows that clause in section 778 of our House Rules Manual reads as follows:

> It is the means by which the House protects itself from business which it does not wish to consider. . . . It may be raised against a bill which has been made a special order, unless the order provides for immediate consideration. . . . On a motion to go into Committee of the Whole to consider a bill the House expresses its wish as to consideration by its vote on this motion.

In other words, Mr. Speaker, even if the House should adopt a special rule which waives the 3-day rule against a bill or conference report, any Member may still raise the question of consideration on the motion to resolve into the Committee of the Whole to consider the bill, and it takes a majority vote of the House to proceed with consideration.

The same situation applies with respect to the consideration of conference reports when the 3-day rule has been waived. Even though conference reports are highly privileged, the precedents are quite clear, and I quote:

> The question of consideration may be demanded against a matter of the highest privilege.

The only apparent exceptions being veto messages and reports and orders of business out of the Committee on Rules. So again, any Member who is not satisfied that the conference report has been available for a sufficient amount of time prior to consideration, whether 2 hours or 1 day, may force a vote on the question of consideration, and that conference report cannot be considered until a majority of the House votes to proceed with consideration.

Mr. Speaker, let me explain a situation which has become common in the waning days of a session, with respect to conference reports. Clause 2 of rule XXVIII now states that the 3-day availability requirement on conference reports does not apply during the last 6 days of a session. Now then, unless the House has already adopted a resolution setting the date for adjournment, it is impossible to determine which are the last 6 days of the session, nor would such guesswork be permitted under a strict construction of that rule. So what has been done instead has been a request by the leadership that the Rules Committee report a resolution waiving the 3-day rule on conference reports for the remainder of the session. Such a request came to us in the last session on December 17, 1975, and the resolution requested read as follows:

> That during the remainder of the first session of the 94th Congress it shall be in order to consider conference reports on the same day reported or any day thereafter, notwithstanding the provisions of clause 2, Rule XXVIII; that it shall also be in order during the remainder of the first session of the 94th Congress for the Speaker at any time to entertain motions to suspend the rules, notwithstanding the provisions of clause 1, Rule XXVII.

Now interestingly enough, by waiving all of clause 2 of rule XXVIII, that resolution would also have waived another sentence which reads:

> Nor shall it be in order to consider any conference report unless copies of the report and accompanying statement are then available on the floor.

In other words, our existing rule, in that second sentence of clause 2, says that even when the 3-day rule is waived, copies of the conference report and statement must still be available on the floor at the time of consideration. Recognizing this fact, and being aware of the concern of the gentleman from California as well as the interests of the minority, I offered the following amendment to that resolution, which was adopted:

> Provided that copies of any measure or matter to be considered under the provisions of this resolution have been made available to Members *prior* to the consideration of such measure or matter. Notwithstanding this prior availability requirement, it shall nevertheless be in order for the House to proceed with consideration of any measure or matter under the provisions of this resolution if the House, by unanimous consent request or majority vote, agrees to proceed with such consideration.

This rule, with my amendment, was adopted by the Rules Committee and the House. It effectively protected the interests of Members in this blanket waiver of the 3-day rule on conference reports by requiring prior availability of the conference reports before consideration; moreover, it required the prior availability of copies of bills brought up under suspension on any day for the remainder of the session, something which is not currently handled in the Burton rule. My amendment also stated a right which already exists in the House, and that is that a majority may still vote to proceed with consideration of the matter, even though a copy of the matter is not available. Under the Burton rule, this would have to be rerouted through the Rules Committee in order to waive the 2-hour rule. Under my amendment, the House could save itself the time and trouble of waiting for the Rules Committee to report back by voting to proceed with consideration at that point.

Mr. Speaker, I appreciate that all this may seem terribly complex and confusing to Members; it is a very technical subject. The main point I have tried to make is that this rule is unnecessary given the double protection Members now have against being forced to vote on matters not in writing before them: First, adequate protection can be provided in any special order which waives the 3-day rule on either bills or reports, and I have already proved that point with my amendment to House Resolution 938 last December 17. And it would be my intention that any time a committee asks us for a waiver of the 3-day rule on either a bill or conference report, to insist that the prior availability requirement be placed in such a special order. And based on the overwhelming support for my amendment last December, I am sure the rest of the Rules Committee would adopt such a safeguard. But what if you do not trust the Rules Committee to protect your interests in such a way? Well, you first have the option of rejecting such a 3-day waiver if the report is not available at the time you vote on the rule. You can insist during the 1-hour debate on the 3-day waiver rule that the rule be defeated or changed to require prior availability of the matter to be considered. But, second, even if that waiver rule is adopted without the prior availability safeguard, any Member can then force a vote on the question of whether to proceed with consideration of the bill or conference report. It therefore makes little sense to me to write yet a third safeguard, and one which can only be waived by unanimous consent or by going back through the Rules Committee if a point of order is sustained, when you are already doubly protected under our existing rules.

Mr. Speaker, it might be asked, why should I go to all this trouble to object to yet another form of protection; why should I oppose what on its face would seem to be a relatively simple and noncontroversial addition to our House Rules? The answer is this: I fear that if we write this 2-hour prior availability requirement into our rules, it will be abused to the detriment of our best interests.

Let me explain how this can happen. If you happen to be sitting on a relatively controversial conference report and you are in an emergency situation or the session is drawing to a close, it may be to your advantage to hold off releasing the text of that report until just before its consideration in the House. So, what you do first, under the terms of this rule, is wait until the emergency deadline is almost on you before you finally vote the bill out of conference. Then, you go to the Rules Committee and ask for a waiver of the 3-day availability rule. Now, under present circumstances, you might not get that waiver if the report is not printed at the time you request the special rule. But, with the new Burton rule, you can make the case that Members will still be protected by the 2-hour availability rule. And even though you could conceivably file a copy of the report in the CONGRESSIONAL RECORD of that day, so it would be available to all Members in the RECORD they receive the next morning, you do not do so. Instead, all you have to do is to make sure that, if the conference report is expected to come up at 2 p.m. the next afternoon, copies are delivered to the documents room by noon on the day it is to be considered. In other words, what I am saying is that, while the 2-hour rule may be designed to protect the interests of Members, it could actually be used to insure that Members will not have adequate time to study the report in advance, even though it could have been made available in the pages of the RECORD on the previous day. This rule, in short, is a clear invitation to committees to ask for more waivers of the 3-day rule on bills and conference reports, using the fallback justification that Members would still be protected by the 2-hour rule. That fallback justification does not now exist in our House rules, and I do not think we should give our committees that potential for abuse of our interests through the adoption of this rule. As I have said, we are already doubly protected by the option of rejecting any rule waiving the 3-day rule on a bill or report not yet available at the time that rule is considered; and, moreover, we are protected by the majority vote which may be demanded by any Member on the question of proceeding to consideration of that bill or report.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Speaker, I have great respect for the gentleman from Illinois. That is why I am a little upset with the gentleman's reluctant opposition; but I thought matters from conference were considered in the House and not in the Committee of the Whole.

Mr. ANDERSON of Illinois. Perhaps I can explain, if the gentleman will permit me to continue and complete my explanation of that particular rule.

The same situation, I would say in answer to the gentleman from California, does apply with respect to the consideration of conference reports when the 3-day rule has been waived. That is true ordinarily. That is true for what the gentleman just stated, what the gentleman just asked about in the question.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Speaker, I very much appreciate the gentleman's yielding to me.

I am impressed by the analysis the gentleman has made, and I agree with him.

I thought at first, as I looked at this rule, that it made some sense, and that it gave us yet another safeguard. The more I have looked at it, however, the less I am impressed that it, in fact, makes sense. I think it is open. I think there is some chance of mischief on the part of the committees to take away the rights we now enjoy that now insure that there is some priority availability of reports and bills.

Mr. Speaker, let me ask one question of the gentleman from Illinois (Mr. ANDERSON). There is a provision on page 3 of the resolution which says this:

> *Provided, however,* That it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b), rule XI, a report from the Committee on Rules specifically providing for the consideration of a reported measure or matter notwithstanding this restriction.

Does that mean to say, if I read it correctly, that the two-thirds rule is then abolished insofar as the resolution reported by the Committee on Rules is concerned, so that it takes only a simple majority vote to adopt the rule, waiving this 2-hour rule on the same day?

Mr. ANDERSON of Illinois. Mr. Speaker, frankly, I am in some doubt. I think one could well and properly put that construction on this language. I had not considered that particular point.

It may be that the gentleman from Wisconsin has pointed to yet another reason why we should be a little bit slow about adopting the precise language of the proposed rules change. I may be wrong, but I think one could draw the inference or make that interpretation.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I also want to concur with the excellent statement the gentleman has made, but the point raised by the gentleman from Wisconsin (Mr. STEIGER) is what has concerned me most about this resolution.

I am in total sympathy with the 2-hour requirement the gentleman from California (Mr. JOHN L. BURTON) embodies in his original resolution, but the amendment by the Committee on Rules, specifically the language cited by the gentleman from Wisconsin (Mr. STEIGER), gives rise to my concern. Although this waiver is limited just to the rules change now before us, we are for the first time, at least as far as the precedents I can find show, waiving the two-thirds requirement for same-day consideration. The gentleman will recall, in many instances during his long service here and in many instances in the brief time I have been here we have seen situations where this two-thirds requirement to bring up a resolution from the Committee on Rules on the same day on which it is reported has thwarted very bad pieces of legislation, forcing bills to lay over at least a day, and then more adequate consideration was subsequently given to the legislation.

However, we are breaking precedent here in allowing same-day consideration by a majority vote even though it is limited to just this new proposed rule. I would suspect that for the convenience of the majority, we might see other rules changes suggested, reducing the two-thirds requirement for same-day consideration and thereby damaging, possibly, in the future, in many instances, the rights of the minority.

As the gentleman from Illinois (Mr. ANDERSON) well knows, a minority consists of over 200 Members on a natural gas bill. It can be a racial minority or it can be a political minority; and all of our rights might well be jeopardized.

Mr. ANDERSON of Illinois. Mr. Speaker, there are no more careful and conscientious students of the rules than the gentleman from Maryland (Mr. BAUMAN), who has just spoken, and also the gentleman from Wisconsin (Mr. STEIGER), who preceded him.

I think they have made some excellent points in their contribution to the debate on why we should not adopt the resolution now before us.

Mr. PEPPER. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Speaker, I thank the gentleman from Florida (Mr. PEPPER) for yielding.

First of all, I would really like everyone to understand what this does. The measure has been in the Committee on Rules since March, and I would have been delighted if some of the problems that somebody seems to think he finds now would have been raised during that time.

Second, yes, it does provide that the Committee on Rules can waive this rule on the same day. The gentleman from Missouri (Mr. BOLLING) felt that the House must be able to work its will in a majority vote, but at least a majority of the House would have to vote. They do not care whether they see the bill in print or not before they vote on it.

I was elected to this body in June of 1974.

In December, on one night—and those Members who were here may remember this—we voted on the trade bill which was this thick. That was in for 2 years, and there was not a copy in print. It was within the rules, every rule that the gentleman from Illinois (Mr. ANDERSON) talked about. It was within the rules.

We voted on a social services bill this thick, and there was not a copy in print. We voted on a needles-and-pins tariff bill that was only this thick and that had a goodie in it for Members of the House and Members of the Senate. We in the House did not even know that when we voted on it, and then we had to face our constituents who were asking why we gave a tax break to people who contributed to some newsletter fund. That bill was not in print either.

Mr. Speaker, this bill does not supersede any of the longer time periods.

It is a safeguard. It says that before we vote on something, it ought to be in print.

What is wrong with that, Mr. Speaker? Who is going to stand up when the majority leader has a privileged resolution to waive a longer period of time to expedite business? We do not need a 7-day layover. We do want to expedite at the end of a session; but when we waive that, we waive it all. We do not consider conference reports, which are where most of this happens, in the Committee of the Whole, when there is a motion. I think it is done in the "House House," and if conference reports are in order at any time, they are in order when the Speaker recognizes the chairman who is going to present the conference report. That is kind of a nebulous vote.

Mr. Speaker, what are we voting on? We are voting on whether or not to take up the conference report. We say, "Aye, take it up."

What are we voting on? We are voting on whether or not we want to see the bill in print. That is an issue that is really an issue, and it is something that people can understand when they come in and there is a meeting with constituents.

If we want to take up a conference report, what is wrong with that? "Aye," we say.

Mr. Speaker, this brings us down to something that the Committee on Rules has suggested or that the gentleman from Missouri (Mr. BOLLING) has suggested should be able to be waived in 1 day by at least a conscientious vote by a majority of the Members of the House on one issue, and they want to see the bill in print. We want to see the bill in print.

Let us take the trade bill. It was in the Congress for 2 years; and when we voted on it, we did not have a copy of it.

This year, when we tried to take up the tax-reduction bill, there was almost a rebellion on the floor of the House. By unanimous consent, the gentleman from Pennsylvania (Mr. SCHNEEBELI) and the gentleman from Oregon (Mr. ULLMAN) had 2 hours of special orders to get the bill in print.

I do not think that is the way to do business.

This thing does one thing and one thing only and I do not understand how everybody can be so upset. I do agree somewhat with my friend the gentleman from Maryland (Mr. BAUMAN). I would like to see a two-thirds vote before the

Congress of the United States votes on an issue that they cannot even read.

I was persuaded by the logic of the argument and the votes in the Committee on Rules that maybe the majority of the House should vote. I do not care if somebody wants to say, "I will vote on it whether I have read it or not," or if the majority wants to do it that way, because I know how I am going to vote.

Personally I have the utmost respect for the distinguished gentleman from Illinois (Mr. ANDERSON) and really what he says seems relevant, the only argument one could make is maybe that we should have a two-thirds vote, but the other way of that is that maybe the majority of the House should be able to work its will. If the majority of the House wants to catch an airplane and not read the bill, then they can vote on it. But when the major provisions are waived, just to expedite the business of 3 days or 7 days, and to wipe out all of the other holding patterns does not make much sense. It is very simple, the thing of it is we ought to have the bill before us in print, not merely in the document room, but available to the Members on the floor.

The SPEAKER. The time of the gentleman has expired.

Mr. PEPPER. Mr. Speaker, I yield 3 additional minutes to the gentleman from California (Mr. BURTON).

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. JOHN L. BURTON. Mr. Speaker, I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I want to compliment the gentleman from California for the effort that the gentleman has made in this matter. I think that it is a matter of parliamentary importance.

However, Mr. Speaker, the gentleman from Maryland would like to ask, having read the committee amendment, does not the gentleman from California feel that if the committee amendment is defeated, which we have the right to do in the full House, that then the gentleman's original language would be far preferable. It would still preserve the two-thirds vote requirement. In order to have the original position of the gentleman before us we could simply vote the committee amendment down.

Mr. JOHN L. BURTON. I would tell the gentleman from Maryland that we would not have a chance to vote on the measure again. The measure has been in the committee since March. I spent a lot of time on it, and I did what I thought best. I attempted to address all of the problems and also the problem that the gentleman from Missouri (Mr. BOLLING) raised, that had a lot of merit to it because it seemed to have a lot of votes for it in the committee. It is something that maybe we should do, and that is that a majority in the House should be able to work its will. There again, if we think it is the best way we do it, then we can vote for it. We can vote to say that we do not care if the bill is in print.

As I say, I would have liked to have seen it done in a better way, but I think this is a safeguard that we do not have now. Under every rule we have had, where it says that we have got to have something in print, or we can say that we waive the 3-day rule and the 7-day rule, if that is the only way that the Members can get to it.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further, I would observe that the matter is now before us in the House, and can be subject to a rollcall vote on the committee amendment. The committee amendment could be defeated and then the bill could pass as the gentleman from California originally suggested.

Mr. JOHN L. BURTON. Mr. Speaker, I say this, I say that this is a good measure.

If the majority had really wanted to run over the minority, they would be able to pass a rule to allow the majority to do anything. They could do that but they have not done so.

Further, I did not know that the world was going to come to an end, and there would be a bill and, my God, the Xerox machine broke down, my God, what are we going to do?

As I say, the majority ought to be able to work its will, although originally I did think the majority of the Members of the House could vote to say, "We do not want to see what we are voting on next."

So I think that this is a pretty good protection.

I agree with the gentleman from Maryland that there are some things that I would like to see done better, but I really think this is basic to our legislative process if a bill is pending, it is in the works. And further it is not as complicated as the distinguished gentleman from Illinois (Mr. ANDERSON) said, under the present rules, without question, a conference committee could hold on to a bill until the last minute, then bring it out, and say, "This is the social security bill, and you had all better vote on it before all the widows and orphans lose their money and who are holding their breath waiting for its passage."

Mr. PEPPER. Mr. Speaker, I would just add this. The Committee on Rules had 4 days of hearings on this matter and concluded that, after fair consideration of the measure by the House, it should be adopted.

Mr. Speaker, I move the previous question on the committee amendment and the resolution.

The previous question was ordered.

The SPEAKER. The question is on the committee amendment.

The committee amendment was agreed to.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. STEIGER of Wisconsin. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 258, nays 107, not voting 67, as follows:

[Roll No. 71]

YEAS—258

Abzug
Adams
Addabbo
Alexander
Allen
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carr
Chappell
Chisholm
Cleveland
Collins, Ill.
Corman
Cornell
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Derrick
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Fountain
Fraser
Frenzel
Fuqua
Gaydos
Giaimo
Gibbons
Ginn
Gonzalez
Goodling
Green
Gude
Guyer
Haley
Hall
Hamilton
Hanley
Hannaford
Harkin
Harris
Hawkins
Hayes, Ind.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Holland
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Ichord
Jarman
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lehman
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McCloskey
McCormack
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nowak
Oberstar
Obey
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Peyser
Pickle
Pike
Poage
Preyer
Price
Randall
Rangel
Rees
Reuss
Richmond
Rinaldo
Roberts
Roe
Rogers
Roncalio
Rooney
Rosenthal
Roush
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Shuster
Simon
Sisk
Slack
Solarz
Spellman
Staggers
Stark
Steed
Stokes
Stratton
Studds
Sullivan
Symington
Taylor, N.C.
Thompson
Thornton
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Waggonner
Waxman
Weaver
Whalen
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—107

Abdnor
Anderson, Ill.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Fla.
Butler

Carter
Cederberg
Clancy
Clausen, Don H.
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
du Pont
Edwards, Ala.
Fenwick
Findley
Fish
Forsythe
Frey
Goldwater
Gradison
Grassley
Hagedorn
Hammerschmidt
Hansen
Harsha
Hechler, W. Va.
Heinz
Hillis
Holt
Horton
Hutchinson
Hyde
Jeffords
Johnson, Colo.
Johnson, Pa.
Kasten
Kelly
Kemp
Kindness
Latta
Lent
Lott
McClory
McCollister
McDade
McDonald
McEwen
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Pressler
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Robinson
Ruppe
Satterfield
Schulze
Sebelius
Shriver
Sikes
Skubitz
Smith, Nebr.
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Symms
Taylor, Mo.
Thone
Treen
Vander Jagt
Walsh
Wampler
Whitehurst
Wiggins
Wilson, Bob
Wydler
Wylie

NOT VOTING—67

Ambro
Aspin
AuCoin
Barrett
Bell
Boland
Bolling
Burgener
Burke, Calif.
Carney
Clawson, Del
Clay
Conyers
Cotter
Crane
de la Garza
Dent
Diggs
Duncan, Tenn.
Eckhardt
Erlenborn
Esch
Eshleman
Flynt
Ford, Tenn.
Gilman
Harrington
Hays, Ohio
Hébert
Hinshaw
Jacobs
Karth
Lagomarsino
Landrum
Leggett
Lujan
Macdonald
Metcalfe
Mink
Moakley
Nix
Nolan
O'Brien
O'Neill
Patman, Tex.
Perkins
Pettis
Riegle
Risenhoover
Rodino
Rose
Rostenkowski
Rousselot
Schneebeli
Smith, Iowa
Snyder
Stanton, James V.
Stephens
Stuckey
Talcott
Teague
Traxler
Udall
Vigorito
White
Winn
Wolff

The Clerk announced the following pairs:

Mr. Hébert with Mr. Bell.

Mr. Ambro with Mr. AuCoin.

Mr. Cotter with Mr. Gilman.

Mr. Hays of Ohio with Mr. Harrington.

Mr. Macdonald of Massachusetts with Mr. Aspin.

Mr. Nix with Mr. Burgener.

Mr. O'Neill with Mr. Stuckey.

Mr. Patman with Mr. Winn.

Mr. Rodino with Mr. Snyder.

Mr. Rostenkowski with Mr. Stephens.

Mr. James V. Stanton with Mr. Talcott.

Mr. Teague with Mr. Lagomarsino.

Mr. White with Mr. Traxler.

Mr. Vigorito with Mr. Udall.

Mr. Wolff with Mr. Landrum.

Mr. Karth with Mr. Del Clawson.

Mr. Diggs with Mr. Duncan of Tennessee.

Mrs. Burke of California with Mr. Eckhardt.

Mr. Barrett with Mr. Perkins.

Mr. Boland with Mr. Crane.

Mr. Carney with Mr. O'Brien.

Mr. Clay with Mr. Erlenborn.

Mr. Dent with Mr. Lujan.

Mr. de la Garza with Mr. Leggett.

Mr. Conyers with Mr. Esch.

Mr. Flynt with Mr. Smith of Iowa.

Mr. Ford of Tennessee with Mr. Eshleman.

Mr. Nolan with Mr. Schneebeli.

Mr. Moakley with Mr. Rousselot.

Mrs. Mink with Mr. Rose.

Mr. Metcalfe with Mr. Risenhoover.

Mr. Riegle with Mrs. Pettis.

Mr. KRUEGER changed his vote from "nay" to "yea."

Mr. ASHBROOK changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The title was amended so as to read: "Resolution to amend the Rules of the House of Representatives to provide that the House may not consider any report of a committee, bill, resolution, or a report of a committee of conference unless copies or reproductions have been available to Members at least 2 hours before such consideration."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO HAVE UNTIL MIDNIGHT, SUNDAY, FEBRUARY 29, 1976, TO FILE A REPORT ON H.R. 11124

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight, Sunday, February 29, 1976, to file the committee report on H.R. 11124, the Medical Device Amendments of 1976.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PROVIDING FOR CONTINUANCE OF CIVIL GOVERNMENT FOR TRUST TERRITORY OF THE PACIFIC ISLANDS

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the bill (H.R. 12122) to amend section 2 of the Act of June 30, 1954, providing for the continuance of civil government for the Trust Territory of the Pacific Islands, and for other purposes and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. DON H. CLAUSEN. Mr. Speaker, reserving the right to object, and it is not my intention to object, I just want to advise the House the chairman of the committee, the gentleman from California (Mr. PHILLIP BURTON), has cleared this with the minority, and we are in concurrence with this measure.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 12122

A bill to amend Section 2 of the Act of June 30, 1954, providing for the continuance of civil government for the Trust Territory of the Pacific Islands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That section 2 of the Act of June 30, 1954 (68 Stat. 330), is amended by deleting "plus such sums as are necessary, but not to exceed $10,000,000, for each of such fiscal years, to offset reductions in, or the termination of, Federal grant-in-aid programs or other funds made available to the Trust Territory of the Pacific Islands by other Federal agencies", and inserting in lieu thereof the following: "for fiscal year 1976, $80,000,000; for the period beginning July 1, 1976, and ending September 30, 1976, $15,100,000; for fiscal year 1977, $80,000,000; and such amounts as were authorized but not appropriated for fiscal year 1975, and up to but not to exceed $8,000,000 for the construction of such buildings as are required for a four-year college to serve the Micronesian community, plus such sums as are necessary, but not to exceed $10,000,000, for each of such fiscal years, or periods, to offset reductions in, or the termination of, Federal grant-in-aid programs or other funds made available to the Trust Territory of the Pacific Islands by other Federal agencies, which amounts for each such fiscal year or other period shall be adjusted upward or downward and presented to the Congress in the budget document for the next succeeding fiscal year as a supplemental budget request for the current fiscal year, to offset changes in the purchasing power of the United States dollar by multiplying such amounts by the Gross National Product Implicit Price Deflator for the third quarter of the calendar year numerically preceding the fiscal year or other period for which such supplemental appropriations are made, and dividing the resulting product by the Gross National Product Implicit Price Deflator for the third quarter of the calendar year 1974."

SEC. 2. The laws of the United States which are made applicable to the Northern Mariana Islands by the provisions of Sec. 502(a)(1) of H.J. Res 549, as approved by the House of Representatives and the Senate, except for the Micronesia Claims Act as it applies to the Trust Territory of the Pacific Islands, shall be made applicable to Guam on the same terms and conditions as such laws are applied to the Northern Mariana Islands.

SEC. 3. There is hereby authorized to be appropriated such amounts as may be necessary (in addition to amounts previously authorized to be appropriated) for the purpose of making full payments of awards under title II of the Micronesian Claims Act of 1971, Public Law 92–39.

SEC. 4. (a) The President is hereby authorized to extend to Puerto Rico, the Virgin Islands, Guam, American Samoa, the Mariana Islands District and the other Districts of the Trust Territory of the Pacific Islands, all Federal programs providing grants, loan, and loan guarantee or other assistance to the States unless he determines that such extension is inconsistent with the purposes of the statutory authorization under which such assistance is provided or unless such extension is disapproved by resolution of either House of Congress as provided in subsection (b).

(b) The President shall transmit to the Congress notice of any extension action taken under subsection (a) and any such action shall take effect at the end of the first period of sixty calendar days of continuous session of Congress after the date of which the notice is transmitted to it unless, between the date of transmittal and the end of the sixty-day period, either House passes a resolution stating in substance that that House does not favor such extension. For purposes of this subsection, passage of such resolution shall be subject to the same procedures as apply in the case of resolutions disapproving government reorganization plans under Chapter 9 of Title 5, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MAKING IN ORDER ON TUESDAY, JUNE 15, 1976, AUTHORITY FOR SPEAKER TO DECLARE A RECESS FOR COMMEMORATION OF FLAG DAY

(Mr. McFALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McFALL. Mr. Speaker, Monday, June 14, 1976, will mark the 199th anniversary of Flag Day. For many years the House has commemorated Flag Day here in the House Chamber by appropriate ceremonies.

June 14 falls on Monday this year, but inasmuch as the U.S. Navy Band which is scheduled to perform at this Flag Day's observance has a commitment on that day which cannot be canceled, I ask unanimous consent that it may be in order on Tuesday, June 15, 1976, for the Speaker to declare a recess for the purpose of observing and commemorating Flag Day in such manner as the Speaker may deem appropriate.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF COMMITTEE ON ARRANGEMENTS FOR FLAG DAY CEREMONIES

The SPEAKER. The Chair will state for the information of the House that, after consultation with the distinguished minority leader, the Chair has informally designated the following Members to constitute a committee to make the necessary arrangements for appropriate ceremonies in connection with the unanimous consent agreement just adopted: The gentleman from Alabama, Mr. Nichols; the gentleman from Oklahoma, Mr. Risenhoover; the gentleman from Tennessee, Mr. Beard; and the gentleman from Maine, Mr. Emery.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished acting majority leader as to whether he is in a position to inform the House as to the program for the balance of the week and for next week.

Mr. McFALL. Mr. Speaker, if the distinguished minority leader will yield, I will be happy to respond to his inquiry.

Mr. RHODES. I yield to the distinguished acting majority leader.

Mr. McFALL. Mr. Speaker, there is no further legislative business for today. Upon announcement of the program for next week, I will ask unanimous consent to go over until Monday.

Mr. Speaker, the program for the House for next week is as follows:

On Monday we will call the Consent Calendar, and we will consider bills under suspension of the rules as follows:

H.R. 8991, Community Services Act technical amendments;

H.J. Res. 296, International Petroleum Exposition; and

H.R. 11700, New York public employment retirement systems.

The votes on suspensions will be postponed until the end of all suspensions.

On Tuesday, we will call the Private Calendar and the Suspension Calendar. At this time we have no bills for the Suspension Calendar.

The House will consider H.R. 10760, black lung benefits reform, under an open rule with 2 hours of debate.

On Wednesday the House will consider H.R. 11963, international security assistance, subject to a rule being granted.

On Thursday the House will consider H.R. ———, foreign assistance appropriations, fiscal year 1976, subject to a rule being granted; and

H.R. 11124, medical device amendments, subject to a rule being granted.

Mr. Speaker, I am able to advise the House that there will be no session on Friday.

Conference reports, of course, may be brought up at any time, and any further program will be announced later.

Mr. RHODES. Mr. Speaker, as far as the International Security Assistance Act is concerned, the program states that it is subject to a rule being granted. Therefore, I understand it will also be necessary to obtain a rule for the consideration of that appropriation bill, and, if so, will the gentleman inform us as to why that will be required?

Mr. McFALL. Yes, that will be necessary. Mr. Speaker, that will be required for the reason that the authorization bill will not yet have been signed; it would have just been passed presumably by the House the day before, and for that technical reason it will be necessary to have a rule granted for the consideration of the appropriation bill.

Mr. RHODES. Mr. Speaker, I thank the gentleman.

ADJOURNMENT TO MONDAY, MARCH 1, 1976

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

JOBS ARE SIMPLY NOT AVAILABLE

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ANDERSON of California. Mr. Speaker, despite the administration's announced policy of doing little to produce jobs, studies conducted by the Government seem to emphasize the need for immediate action.

The Labor Department has released a survey that found only 25 percent of jobless Americans find employment after their unemployment benefits run out. This would seem to contradict the old notion that a person is quick to find work after his or her benefits run out.

Half of the successful 25 percent must accept lower pay than they received in their previous job. So it is not a matter of people trying to find only limited standards of employment: In today's economy, the jobs simply are not available.

In his veto message of H.R. 5247, the President stated that the impact of that job creating legislation would come too late to do any good. I would like to point out that in 1976, unemployment benefits will run out for almost 2 million Americans. What is going to happen to them?

It is obvious that the unemployment crisis is far from solved. Benign neglect is not the answer. Sooner or later, action must be taken to create new jobs—and the sooner the administration realizes that fact, the better.

Only 25 Percent of Jobless Find Work at Benefits End

(By Bill Neikirk)

Washington.—A Labor Department survey of jobless Americans in four cities shows that only one quarter of them found jobs four months after exhausting all their unemployment benefits.

The survey, which began in 1975, is continuing, but the disappointing findings defy the conventional notion that a person receiving monthly unemployment insurance benefits usually finds a job quickly when all benefits run out.

According to a Labor Department spokesman, a full 14 per cent of the remaining 75 per cent unable to find a job totally dropped out of the labor force and gave up looking for work.

The survey, conducted in Chicago, Baltimore, Atlanta and Seattle, is the first solid information obtained on unemployment compensation "exhaustees" since jobless benefits were expanded to 55 weeks.

The department surveyed 500 families in each of the four cities, for a total of 2,000.

Half of those who found jobs accepted lower pay than they were making at their last previous job, the survey found. Only 16 per cent found a higher-paying job.

The findings appear important for one special reason: Nearly two million Americans will exhaust all their unemployment compensation benefits in 1976. Politicians and economists are debating a key question: What will happen to them?

Democrats believe that when so many people lose the income cushion of unemployment compensation too long without finding a job, they will raise enough political heat to push new jobs programs through Congress.

The Labor Department survey, while showing large numbers remaining out of work, also revealed that almost all of the families restored their income to the level of the lost unemployment check within four months. This happened usually because other members of families went to work, the spokesman said.

But their income was helped by other factors. Within the first four months, 15 per cent of the families reported they had participated in some type of government social program such as welfare or food stamps.

The Ford administration believes that, as the economy recovers, the unemployed person who has exhausted all benefits will have an increasingly easier time finding a job.

One administration economist said the alleged "hardship" doesn't appear as great as it seems, since many of those exhausting unemployment benefits were second wage-earners in a family.

THE IMPENDING CRISIS IN PRODUCTION OF WOOD AND WOOD PRODUCTS

(Mr. DUNCAN of Oregon asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN of Oregon. Mr. Speaker, for months now we have debated solutions to the energy crisis that seemed to explode suddenly on the country, but of which we had frequent and adequate notice.

Equally frequently and adequately we have been warned of an impending crisis in the production of wood and wood products. The implications: First, for the wood products industry, the principal employer of the Pacific Northwest; second, for the home building industry and its construction workers, certainly of interest to many of the Congress; and third, for a huge additional inflationary increase in prices of already overpriced houses, of concern to all of us—are frightening.

This crisis is the result of many factors—poor management and overcutting by industry in other days; inadequate capital investment by the U.S. Government; legitimate concern for the environment blossoming into lawsuits, cleverly conceived and aggressively pursued, which now threaten the balance between man and nature which the Congress sought to achieve by the Environmental Protection Agency. The leading case is called the Monongahela decision—recently followed by an Alaskan case.

We can make speeches blaming these recurring crises on faceless bureaucrats and power-hungry judges if we wish. But I have read the cases. The courts, in my judgment, had no choice. The courts did not make the law. They enforced the law.

We must make policy in the Congress. I am today introducing a bill for that purpose. It requires the national forests to be managed in accordance with the Multiple Use-Sustained Yield Act and the Forest and Rangeland Renewable Resources Planning Act. It will permit flexible modern silvicultural techniques, but requires an interdisciplinary approach that will reasonably protect the environment. There is provision for public input into planning and programing. The Sierra Club and Weyerhaeuser will both be heard; neither will run the Forest Service; neither should.

I commend it for your consideration; I welcome your suggestions for improvement; and, of course, I would welcome your support and cosponsorship.

"ERAMERICA"

The SPEAKER pro tempore (Mr. DANIELSON). Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, I would like to bring to your attention the formation of a new organization to work for the ratification of the equal rights amendment, ERAmercia.

The ERA Committee of the International Women's Year Commission, which I chair along with Alan Alda, acted as a catalyst in the establishment of this new nongovernmental organization. Two prominent women have been selected to spearhead the formation of ERAmerica.

The cochairpersons of ERAmerica will be Liz Carpenter, Democratic National Committee member-at-large, and Elly Peterson, former assistant chair of the Republican National Committee. Both women are well known in national political circles. Jane Wells has been named ERAmerica campaign manager.

The new ERAmerica organization resulted from requests from numerous organizations and from recommendations made at a consultants' day held by the International Women's Year Commission. The consensus of these requests and recommendations was that a national ERA effort should be launched with the single purpose of ratification of the ERA Amendment.

As cochair of the ERA Committee of the IWY Commission, I was sensitive to the fact that taxpayers' funds were being used to pursue the study of the amendment. In this regard, I sought the advice of the General Accounting Office, and received a formal opinion from the Comptroller General that the committee's activities were within the dictates of the President's proclamation and the charter of the Commission.

ERAmerica has been formed as a separate entity from the International Women's Year Commission. At the present time, ERAmerica organizers are seeking financial resources for ERAmerica from over 100 organizations which have endorsed the ERA. The ERAmerica will deal with three basic issues: Securing four more States for ratification; defeating rescission attempts; and supporting State ERA's.

It is important to point out at this time that the ERA Committee of the International Women's Year Commission is seeking to fulfill the spirit of the Presidential proclamation to "encourage the public and private sectors to set forth objectives to be achieved as part of the program observing International Women's Year * * * with practical and constructive measures for the advancement of women in the United States."

As Liz Carpenter and Elly Peterson move forward, with the backing of significant national organizations, I ask my colleagues in the House as well as every person who is concerned about equal rights to give them their support. We hope that all those who have helped and backed the ERA Committee of the International Women's Year Commission, and all those who have worked in behalf of the ERA throughout the United States, will join in this effort. The ERA has been ratified by 34 of the 38 States necessary for it to become the 27th amendment to the Constitution. ERAmerica should coalesce all the forces in favor of ERA to assure final ratification.

As Susan B. Anthony said at a difficult moment in the struggle for women's suffrage, "Nothing is impossible." The outlook for ratification of the ERA is within the realm of probability especially when one looks at the vast array of talent which ERAmerica can draw up, and the justice of its cause.

ANGOLA "BUGOUT"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BELL) is recognized for 5 minutes.

Mr. BELL. Mr. Speaker, I want to commend the President for his comments yesterday wherein he stated that Congress had "bugged out" in refusing to provide additional funding for pro-Western forces in Angola prior to the Communist takeover.

I share the President's concern when he stated:

> I hope the Congress realizes that every time we fail to act where aggression is obvious, it just invites a greater action somewhere else.

This country's failure as a result of congressional hindrance to act in Angola marks a sad day for U.S. foreign relations. And the blame rests squarely with this Congress in approving the Senate amendment to cut off funds for pro-Western forces there.

Back in early December before the Senate vote, UNITA controlled about two-thirds of the Angola nation. The FNLA controlled additional territory. The Russian-Cuban backed faction, the MPLA, controlled less than a third of the country.

Following careful diplomatic approaches to the Soviets by Secretary Kissinger, the U.S.S.R. suspended all aid shipments by air to the MPLA on December 9. And no air shipments from Russia to Angola were made between December 9 and December 21.

On December 19, the other body approved their amendment, which had the net effect of pulling the rug out from under our negotiations.

Two days later, on December 21, Soviet shipments of aid to the MPLA resumed. Quite obviously, the Soviets saw no reason to negotiate further while the President and the Congress in this country stood divided on the issue.

The fall of Angola to Communist forces holds grave implications for the United States, as the President reiterated yesterday.

Our allies in Africa and the rest of the free world no longer know whether they can depend on us or not.

In voting to eliminate the bartering position allowed by the option for using covert aid, this Congress made a serious mistake, which will surely undermine confidence in us among nations everywhere in the world who want to stand up against Russian expansionism.

WILLIAM W. SCRANTON, U.S. AMBASSADOR TO THE U.N.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

Mr. McDADE. Mr. Speaker, yesterday President Ford announced the nomination of a former Pennsylvania Governor and a former Member of this House, William W. Scranton, to be the new U.S. Ambassador to the United Nations. The President could not have selected a more qualified, capable public servant anywhere for this difficult task. The nomination of Bill Scranton to U.S. Ambassador is an appointment all of us can enthusiastically support, and I do so today.

Mr. Speaker, the position of U.N. Ambassador requires a man who will speak for this Nation with a strong, firm, experienced voice. Bill Scranton is such a man.

At this critical moment in the history of the United Nations our delegation will be led by a man who has been adviser to a former Secretary of State, Congressman from the 10th District of Pennsylvania, an outstanding Governor of Pennsylvania and special adviser to two Presidents on Middle East problems. This experience, coupled with Bill Scranton's intelligence, his quick wit, and his tremendous dedication to public service, make his selection as U.N. Ambassador an outstanding choice.

As a Member of this House, who has had the great privilege of following Bill Scranton to Congress and of representing the people of northeastern Pennsylvania, I know firsthand of the great sense of pride they feel in the accomplishments of this native son. I know the Members of this House will join in that sense of pride and in the knowledge that we will have a former Member of Congress and an outstanding American speak for us in the United Nations.

"COOLING-OFF PERIOD" FOR POST OFFICE CLOSINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Nebraska (Mrs. SMITH) is recognized for 5 minutes.

Mrs. SMITH of Nebraska. Mr. Speaker, I am today introducing a concurrent resolution expressing the sense of the Congress that the U.S. Postal Service cease closing post offices for a 6-month period.

As most Members know, especially those from rural areas, the Postal Service, under recently changed criteria, has selected many smaller post offices across the country for closure. While the Postal Service has given assurances that the closings have not and will not be ordered unless "service equal or superior to that previously available" can be provided, it is apparent that this often is not the case.

How is the patron-taxpayer better served if service is switched to a postal facility many miles away—even if that facility is open longer and has a larger staff than the abandoned post office? Other alternatives include letting postal service out on a year-by-year contract basis to individuals with little or no training or experience in postal matters, and "nonpersonnel" post offices manned only 15 minutes per day by a rural carrier.

Hearings are now underway in both the House and Senate on legislation to correct this situation, but the closings continue.

I am proposing a simple 6-month "cooling-off period" while the Congress has an opportunity to work its will. No one can object to the closing of those facilities genuinely no longer needed; however, it is evident that the current plans of the Postal Service are not in keeping with the responsibility to provide comparable service to all citizens—be they rural or urban residents.

Rural areas, such as western Nebraska which I represent, have a unique dependency upon reliable, convenient mail service. Be it for a critically needed repair part or a library book, there is no substitute such as the corner store in a city or the local shopping center in the suburbs. The Postal Service helped stimulate the development of our area, and has made it possible for us to enjoy the same standard of living as do those living in more densely populated regions.

To change this policy now is to break faith with millions of rural residents and to ignore the constitutional responsibility to treat all citizens equally.

By adopting a concurrent resolution, the Congress will have the opportunity to clearly express its dissatisfaction with the current rash of closings—without tying the hands of the Postal Service in those cases where closure is clearly necessary. But more importantly, passage of such a resolution could help create an atmosphere in which a rational resolution of our postal service problems will be easier to achieve.

I will be soliciting cosponsors for this resolution, and urge my colleagues to join with me.

INTRODUCTION OF LEGISLATION TO IMPROVE MEDICARE END-STAGE RENAL DISEASE PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, on Thursday, February 19, I introduced legislation, H.R. 12012, to improve medicare's end-stage renal disease—ESRD—program.

The ESRD program was introduced as an amendment to the Social Security Act of 1972 (Public Law 92-603) and went into effect July 1, 1973. The program extends medicare benefits to most patients, regardless of age, who suffer from end-stage renal disease.

For patients, the program has generally been a success. The number of ESRD patients is now approximately 21,500 and is expected to rise and level off at about 50,000 to 70,000 by 1990. Medicare generally covers up to 80 percent of the cost of treatment, and it is believed that no ESRD patients who are medically qualified are going untreated. In addition, there has been a tremendous growth in the number of dialysis facilities, and the capital provided by the medicare program has resulted in improvements in equipment and treatment.

Despite these success, however, there are serious problems in the ESRD program which I believe require legislative and administrative changes. H.R. 12012 will help to rectify these problems, as well as to help to hold down the rapidly rising cost of the program.

The cost of the program for fiscal year 1976 is estimated to be $448 million to provide care to 21,500 patients. The cost is expected to rise to $1 billion by 1984 for the treatment of some 50,000 to 60,000 patients. Health providers see higher costs, possibly as much as $1.7 billion per year—in 1975 dollars—by 1990 for the treatment of 50,000 to 70,000 patients.

I am deeply concerned with these high costs which place a heavy burden on the trust funds and general revenues. My bill seeks to insure that the costs of this program are limited to the absolute minimum while providing quality medical care to meet legitimate patient needs.

One of the potential areas of cost savings is home dialysis. Home dialysis costs $4,000 to $6,000 a year, while hospital dialysis costs upward of $30,000 a year. Yet in the 3 years since the program went into effect, the percentage of patients on home dialysis has steadily declined. This decline can be attributed to disincentives in the program toward home dialysis which discourage patients from undertaking this mode of treatment.

When dialysis is done in a freestanding clinic or a hospital, costs for electricity, plumbing, salary of a trained person to aid in the procedure, and supplies not necessary for the operation of the machine, even though they are necessary for the patient's well-being—such as syringes, alcohol wipes, adhesive tape, and so forth—are covered under medicare. When this same procedure is performed in the home, these items are not covered, and the patient must pay for them out of his personal funds. The cost of travel to a clinic, however, is not reimbursed by medicare.

Many patients find out-of-pocket expenses for home dialysis to be the same or greater than out-of-pocket expenses for treatment at a facility. In other words, even though treatment at a facility may be three times more expensive to medicare and the trust funds than home treatment, it may be less expensive to the patient.

These disincentives toward home treatment must be removed. Indeed, because of the enormous cost saving potentials, I believe that incentives should be given to encourage home treatment. These incentives will not prevent dialysis at a hospital or a facility.

To encourage dialysis at home, my bill provides for medicare reimbursement of 80 percent of all items, services, and supplies, including physicians' fees and structural alterations and utilities necessary for equipment used by a patient on home dialysis. The extension of medicare coverage to items not necessary for the operation of the dialysis machine, but necessary for the patient's well-being, is necessary in an effort to encourage the lowest cost form of treatment. Statutory reporting requirements could provide data on whether this increased coverage of all home dialysis costs will help reverse the declining percentage of patients entering home dialysis and result in overall savings to the program.

Another encouragement to home dialysis in H.R. 12012 provides retroactive medicare eligibility for reasonable costs of dialysis during the first 3 months of treatment. Under appropriate regulations established by the Secretary, a patient would be eligible for this benefit whenever he undertakes a bona fide course of home dialysis and makes an effort to dialyze at home. Such a provision would encourage all patients who are capable to at least try home dialysis. Since dialysis costs are particularly large during the first months of treatment, the present 60- to 90-day waiting period for coverage simply serves to place a catastrophic financial burden upon patients. A provision to allow retroactive medicare coverage as soon as a home dialysis effort begins will encourage attempts at home dialysis and eliminate financially destructive delays in dialysis coverage.

The bill directs the Secretary to insure that home dialysis training is made reasonably accessible to any ESRD patient who wishes to undertake this form of treatment. HEW has proposed regulations to establish a series of geographical networks throughout the country. Each network is to provide a full range of ESRD services. H.R. 12012 insures that home dialysis training is included in the range of services that each network is to provide. The bill also directs the Secretary to establish a goal of training 50 percent of all ESRD patients within each of these networks for home dialysis. Any facility that is unable to meet this goal must be prepared to justify the deviation if it wishes to retain its medicare certification.

The intent of this portion of the bill is to encourage physicians and facilities to be aware of the need for the possibilities of home dialysis. However, the bill forces no one to undertake this or any other form of treatment against his wishes. The patient's and physician's decision on what is best for the patient will still be controlling. But both the physician and the patient must be encouraged to use home dialysis whenever medically possible to help control the enormous costs of this program.

The bill amends the law in the area of kidney transplants as well. The encouragement of patients to undergo kidney transplants whenever possible is another area of potential cost savings. In addition, transplants have the added advantage that the successful transplant patient leads a more normal life than the patient who must dialyze three times weekly. The cost of a kidney transplant runs between $12,000 and $15,000. A successful patient would then have to spend $1,000 to $2,000 per year on drug items and doctor visits. Over a 5-year period, medicare would save about $80,000 for each patient who had a successful transplant.

Present constraints in the existing law and the difficulty that exists in procuring organs are preventing patients who wish to have a kidney transplant from receiving one. My bill intends to eliminate these constraints as well as encourage increased kidney donation.

A major disincentive toward transplantation exists within the present law under which a gap in medicare coverage exists for anyone undertaking a kidney transplant. The present law terminates ESRD coverage 12 months after a successful transplant. There is no medical basis for this cutoff date. A transplant recipient is faced with continuing major expenses for drug treatment to reduce the likelihood of organ rejection. More importantly, there is no way of medically telling when a transplant is successful. Organ rejection may occur years later. If it does, the patient is faced with another 60-to-90-day waiting period before dialysis benefits can begin. In addition, there is no coverage for the expensive complications which can accompany a transplant failure. This benefit limitation is serious, because the level or organ rejection is significant, running as high as 60 percent for cadaveric transplants after 2 years.

The bill will provide for continuous protection for transplant recipients. The provision will increase program costs by approximately $8 million per year, but will eliminate disincentives to transplants and provide substantial financial security to patients who undergo the serious medical and psychological setbacks of an organ rejection. It has been estimated that with the elimination of disincentives and an increase in the number of available organs, treatment through transplantation could be extended to 40 percent of all new patients. Over a 10-year period this would save the program $2 to $4 billion.

However, no legislation can help the ESRD patient who wishes to undertake a kidney transplant if there are not enough kidneys being donated. At present, long delays face ESRD patients awaiting a donated organ. It is imperative that organ donation be encouraged. Not only do successful transplants allow the ESRD patient to live a better life, but a successful transplant can save the program about $5,000 the first year and $18,000 each year thereafter. Therefore, my bill directs the Secretary to conduct experiments to evaluate and recommend a program which would increase the number of organ donors.

Finally, it has been brought to my attention that there have been a number of cases where a potential live kidney donor decides he cannot provide a relative who is an ESRD patient with a healthy kidney for transplantation, because his own family simply cannot afford the financial disruption of his missing between 4 to 6 weeks of work while he is recuperating from donating his organ.

My bill provides that reasonable reimbursement to the donor should be made for unreimbursed time lost from work. These payments to donors will be greatly outweighed by the enormous cost savings that will result from the removal of the recipient of the donated organ from a maintenance hemodialysis program.

A third area of potential cost savings is the purchase rather than the rental of durable medical equipment—DME. Under present law, medicare can provide for either purchase or rental of durable medical equipment. In cases of purchases of more than $50, medicare reimbursement is generally made in monthly installments equivalent to the amounts that would have been paid had the equipment been rented. The payments are continued for as long as the equipment is needed and until the total of the monthly installments equals 80 percent of the purchase price. The patient is, of course, expected to pay for 20 percent of the DME.

In the case of a $5,000 dialysis machine, this provision makes patient purchase nearly impossible. In this example, the patient would be faced with financing the total cost of the machine and being reimbursed by medicare for $4,000 of the cost in small monthly payments.

The result of the present law is that almost no home dialysis patients purchase their own equipment and the inability to purchase home equipment may discourage home dialysis. Instead, patients rent equipment. Some rental charges are now running more than $300 per month. In addition, maintenance charges by equipment companies appear to be significantly higher than the cost to facilities to repair their own equipment. Examples provided to the subcommittee show that in many cases, within 1½ to 2 years, the patient and medicare will often pay in rent an amount equal to the total purchase of the machine. While many rental contracts provide for the servicing of the equipment and a lowering of the rent and/or an option to buy after several years, the fact remains that medicare rental payments may be many times the purchase price of the equipment. This bill directs the Secretary to begin immediately to initiate pilot projects with approved dialysis facilities or third-party payers whereby medicare will furnish up to 100 percent lumpsum reimbursement for the reasonable cost or reasonable charge of purchasing and maintaining for home dialysis patients' necessary durable medical equipment.

Provision would be made in the pilot projects for a "trial period" before purchase so that costly equipment charges are not incurred for patients who start but do not continue home dialysis.

In addition to the above-mentioned areas of cost savings, the bill provides that the Secretary conduct experiments to develop methods for reducing the costs of the ESRD program. Such experiments shall include reimbursements for visiting nurses and home health aides to assist with home dialysis, reimbursement to family members assisting with home dialysis, the use of physician extenders within and without dialysis facilities in order to minimize overall professional fee expenses while maintaining quality care, and—to the extent medically sound—incentives to home dialysis patients to clean and reuse their dialysis filters.

The bill also authorizes the Secretary to implement on a national basis any of the above-mentioned pilot projects and experiments which he finds workable.

The bill authorizes the Secretary to conduct a number of studies of different aspects of the ESRD program; one examining physician reimbursement system, another focusing on the problems of 6 to 8 percent of ESRD patients who are not eligible for the medicare program.

Finally, the bill authorizes the Secretary to submit to the Congress no later than July 1, 1977, a report on the above-mentioned experiments and studies and a report on June 30, 1977, and on June 30 of each year thereafter, on the ESRD program. Specific aspects of the report are detailed in the bill.

Medicare's ESRD program has been in operation for 2½ years. It has been shown to be an effective program. It has given individuals a chance to live who surely would have perished simply because they could not afford the necessary treatment. The program is a costly one, however, and it is our responsibility to monitor these costs. I have introduced H.R. 12012 to insure that ESRD patients continue to receive the quality of care they need as well as to insure that the program costs are limited to the absolute minimum.

QUALITY HOUSING — THE EXTENSION OF TIME LIMITS OF THE FHA STRUCTURAL DEFECT PROGRAM AND VETERANS' ADMINISTRATION STRUCTURAL DEFECT PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 60 minutes.

Mr. STOKES. Mr. Speaker, on February 15, 1976, nearly 1,000 community residents from over 120 organizations gathered in my 21st District in Cleveland, Ohio, for the Second Annual Convention of the Buckeye Woodland Community Congress.

The Buckeye Woodland Community Congress is an umbrella organization of community groups consisting of street clubs, PTA's, churches, businessperson's groups, and senior citizens. The efforts of the Buckeye Woodland Community Congress have been particularly impressive in demonstrating the type of positive action which can be undertaken by citizens concerned about their neighbors and neighborhood. To this end they have not only pioneered their community's own improvement, but they have spearheaded a movement of national importance to all Americans. The members of the Buckeye Woodland Community Congress have been instrumental in bringing national attention to the appallingly frail enforcement of the 518(b) payback program.

I share the concern of the Buckeye Woodland Community Congress over the weaknesses of the 518(b) program. To rectify the numerous problems inherent in the program, I have introduced legislation to extend the 518(b) payback program to all FHA homeowners regardless of program and date. In addition, I have also sought to extend the time provisions of the Veterans' Administration reimbursement program. To understand the significance of these two bills, one must review the histories of the 518(b) program and the VA reimbursement program.

Section 518 was added to the National Housing Act in 1964. It authorized the FHA to correct structural defects in homes built under FHA inspection where the builder did not provide relief. Section 518 was amended by the Housing and Urban Development Act of 1970 which added subsection (b). This authorized the Secretary of Housing and Urban Development to correct or compensate for defects in section 235 existing homes. The section 235 program was designed to help low- and moderate-income families become homeowners by providing mortgage insurance and subsidizing portions of the monthly payments due under these mortgages.

In a December 1970 report by the staff of the House Committee on Banking and Currency it was disclosed that houses with serious defects had been sold to low- and moderate-income families under the section 235 program. The administration of the section 235 program was reviewed in December of 1970 by HUD's Office of Audit. Upon reinspection it was determined that 34 percent of 1,281 houses previously inspected and approved by HUD had serious defects. Moreover, GAO concluded that these same inspection results could be projected to the 78,700 new homes and 40,600 existing houses insured as of November 1970.

On December 31, 1970, section 518 of the National Housing Act was amended to permit HUD to correct defects that seriously affected the use and livability of any existing house insured under the section 235 program. Specifically, this section authorized HUD to make expenditures to correct, or to compensate owners for, serious structural or other defects that affected the use or livability of any single-family house covered by a section 235 mortgage more than 1 year old on the date of the issuance of the insurance commitment. By January 31, 1973, 70,526 existing homes were eligible for section 518(b) assistance. Of 8,855 requests for financial assistance, 5,923 were authorized. The repairs in 4,250 houses had been completed at a cost of $6,147,000. Authorized estimates for the 987 of the remaining 1,673 other houses were $1,095,000.

In 1974, the Housing and Community Development Act amended section 518, in a number of particulars, including its extension to mortgages insured under other sections of the law; that is, sections 203(b) and 221—making such extension retroactive, making the Secretary's determination final and unreviewable, and requiring compensable defects to be such as to create a serious danger to life or safety of the inhabitants. The result was that the compensation for defects provisions under existing 235 law now covered mortgages insured in older declining areas. And not insignificantly, compensation was to be retroactive to mortgages insured between August 1, 1968, to January 1, 1973.

The period from August 1, 1968, to January 1, 1973, was the worst period of FHA scandals. Too often faulty inspections by ill-trained and unqualified inspectors was the rule rather than the exception. Given this period of disgrace, it would have seemed that the reimbursement process would have proceeded in an expedited fashion. However, the Government failed again to do its job. Seven months passed before implementing regulations were issued. They did not become effective until March of 1975. Moreover, applications for reimbursement had not yet been distributed, and notices to eligible homeowners did not go out until the end of March. In short, more than half of the 1-year claim period elapsed before eligible homeowners were given an opportunity to make their claims and only 5 months remained. The full year which Congress intended that they have was frustrated by a delay in the implementation of the law.

On May 5, 1975, I urged the inclusion of a provision to extend the time period during which homeowners could apply for compensation for defects under section 518(b) of the National Housing Act. The substance of this amendment was enacted into law in the Emergency Housing Act of 1975. The act also extended coverage to one- to four-family dwellings approved for mortgage insurance. The new application deadline for filing for 518(b) reimbursements was designated as March 22, 1976. Since the extension of the program in July of 1975, 68,000 additional applications have been received by the FHA while some 76 percent of these applications have been proessed only 8,802 or 12 percent have been determined to be valid claims, an alarmingly low payback rate. Similarly, when it is taken into consideration that there were over 1,800,000 FHA insured loans from August 1, 1968, to January 1, 1973, the defects coverage period, the actual number of applications has also been alarmingly low. The reason for this low application rate is well documented. The 518(b) program has been fraught with widespread delays, faulty inspections, invalid claim rejections, and administrative intimidation. In my 21st District of Cleveland, it has been determined that over 6,000 eligible 518(b) recipients have failed to apply for their benefits. One would imagine that the situation is similar for other cities across the Nation.

The result is not only a loss to the homeowner, but the defective property is likely to be the subject of foreclosure. The burden of recouping the loss on these ordinarily marketable structures falls squarely on the shoulders of the Federal Housing Administration. The Government stands to lose money and innercity residents stand to lose their homes. To remedy the 518(b) malady I have proposed legislation to strike the present section 518(b) of the National Housing Act and amend it to read as follows:

H.R. —

A bill to amend the National Housing Act to authorize expenditures by the Secretary of Housing and Urban Development for repair of certain dwellings

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 518(b) of the National Housing Act is amended to read as follows:

"(b) The Secretary is authorized to make expenditures to correct, or to reimburse the owner for the correction of, structural or other major defects which so seriously affect use and livability as to create a serious danger to the life or safety of inhabitants of any one, two, three, or four-family dwelling which is covered by any mortgage insured by the Federal Housing Administration if (1) the owner requests assistance from the Secretary, and (2) the defect is one that existed on the date of the issuance commitment and is one that a proper inspection could reasonably be expected to disclose."

SEC. 2. The amendments made by this act shall apply to any mortgage insured before or after the date of the enactment of this act.

The results of this legislation would be to indefinitely extend the time period during which FHA insured homeowners could apply for compensation for defects under section 518(b) of the National Housing Act. Additionally, the more than 9,316,640 loans insured by the FHA since 1934, except matured loans, would be eligible to apply for reimbursements.

As previously mentioned, the FHA 518 (b) program is not the only reimbursement program in need of reform. The Veterans' Administration has authority similar to that provided by section 518 of the National Housing Act, as amended. This authority is codified in title 38, United States Code, section 1827. It authorizes the Administrator to extend aid to distressed homeowners who, after relying on VA or FHA construction standards and inspection, find structural defects on the properties they have purchased with veterans' mortgage loans. This authority was available for mortgages made, guaranteed, or insured by VA, for homes purchased with such financing after the 1968 enactment of this bill. Procedurally, the homeowners would be required to file an application for assistance not later than 4 years after the guaranteed mortgage loan or the direct loan was made. Yet, the Administrator could prescribe a shorter period for the filing of a claim. The Administrator was also authorized to furnish assistance, by correcting the defects involved, paying the owner's claims or acquiring title to the property.

The VA program, unlike the FHA 518 (b) program, is restricted to distressed homeowners who relied on VA or FHA construction standards and inspections, during construction. As a result of this restriction only 50 individuals have applied for assistance pursuant to this program. When the VA has intervened, customarily the mortgagor has defaulted and the VA must acquire the property and attempt to sell it. It would be less expensive for the VA to expend the necessary funds to correct the defect before the owner has been displaced and lost his home.

To remove the unrealistic restraints placed on the veterans' reimbursement program, I have proposed legislation to strike the present section 1827(a) of title 38 of the United States Code and amended this section to read as follows:

H.R. —

A bill to amend title 38, United States Code, to authorize expenditures by the Administrator of Veterans' Affairs for repair of certain dwellings

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1827(a) of title 38, United States Code, is amended to read as follows:

"(a) The administrator is authorized to make expenditures to correct, or to reimburse the owner for the correction of, structural or other major defects which so seriously affect use and livability as to create a serious danger to the life or safety of inhabitants of any one-, two- three-, or four-family dwelling securing loans guaranteed, insured, or made by the administrator under this chapter, if (1) the owner requests assistance from the administrator, and (2) the defect is one that existed on the date of the issuance of the loan and is one that a proper inspection could reasonably be expected to disclose."

Sec. 2. The amendment made by this act shall apply to any loan made, guaranteed, or insured before or after the date of enactment of such act.

The results of this bill would be to eliminate the 4 year—or shorter—time period in which the mortgagor must request assistance for structural defects. There would be no time limitation under which the mortgagor must apply.

Nationally the VA insured over 300,000 loans last year. In my 21st Congressional District, 8,847 loans were insured during fiscal year 1975. There would no longer be an arbitrary time limit in which eligible homeowners would be required to apply. My amendment would also extend the program to existing homes, which were inspected by either the VA or FHA and subsequently insured or guaranteed by the VA prior to the enactment of the 1968 veterans' program. It is estimated that nearly 9,280,219 potential homeowners fall into this category because the home loan program began in 1944. However, matured VA loans would be excluded from eligibility.

Those of us who have been closest to the problems of the cities of this Nation, have long agonized over the constant deterioration of the already totally inadequate housing available for the low- and moderate-income families of our urban areas. Both the measures which I have introduced today, would serve to revitalize our dilapidated urban areas, drastically lower the national rate of foreclosures and consequently save the Government substantial sums of money. Thus, I urge you, as forcefully as I know how, to support these important legislative measures.

THE COURT ON POLITICS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 10 minutes.

Ms. HOLTZMAN. Mr. Speaker, when Congress passed the Federal Election Campaign Act Amendments of 1974, it took an important step forward in limiting abuses in campaign financing.

Recently, however, the Supreme Court struck down the act's limits on campaign spending. The Supreme Court's action—which in my opinion was not required by the Constitution—will give rich candidates an unconscionable advantage and create other difficulties.

In this regard, I would like to refer my colleagues to an article by Anthony Lewis that appeared in the New York Times of February 5. The text of the article follows:

THE COURT ON POLITICS

(By Anthony Lewis)

Ever since the passage of the 1974 campaign reform law, critics of the complex act have looked to the Supreme Court to cure what they regarded as its defects. There always seemed a certain irony in that: politicians and political commentators giving up on the political process and seeking salvation from judges on a highly political matter.

Now the Court has spoken, holding several parts of the reform act unconstitutional. Political critics of the statute have naturally applauded. But those concerned with the judicial process may well feel differently. As constitutional law, the Court's opinion is unconvincing. It has an arbitrary tone reminiscent of the bad old days before 1937, when judges used to strike down economic reforms on theoretical grounds remote from reality.

One disallowed provision of the campaign law, for example, put limits on a candidate's use of his own or his immediate family's money, a $50,000 ceiling in the case of Presidential candidates. The justices found this a violation of the First Amendment.

The Court reasoned that the use of money in a campaign was a form of expression, protected against abridgment by the First Amendment's guarantee of freedom of speech. The only justification for limiting expenditure on oneself, it said, was the hope of equalizing candidates' financial resources, which was an "ancillary" notion and might not work anyway. It concluded that "the First Amendment simply cannot tolerate restrictions upon the freedom of a candidate to speak without legislative limit on behalf of his own candidacy."

In other words, the American system is absolutely powerless to prevent a Rockefeller from spending $4 million in family money to elect himself governor—or to prevent some future billionaire from spending $100 million. There can be no limits whatever.

Does that make any sense? Does it make any constitutional sense? I think the American Constitution is not so simple-minded. It does not require us to live in a never-never land where we know nothing about the power of money in politics. For of course money is a lot more than "speech." We know that money talks; but that is the problem, not the answer.

Or consider what the Court did with two parallel provisions of the act: It held unconstitutional over-all limits on campaign spending, for example $20 million for Presidential candidates. But it approved ceilings on contributions to candidates, for example $1,000 by an individual to anyone seeking Federal office.

The question is not whether those two provisions are wise or unwise—that is not the Court's business. The question is whether the Court has laid down an understandable principle for distinguishing the constitutionality of one from another, of spending from contributions. Principle is the Court's business.

"The act's expenditure ceilings," the opinion said, "impose direct and substantial restraints on the quantity of political speech." It said the aim of these ceilings, to reduce "the allegedly skyrocketing costs of political campaigns," was not a sufficiently strong governmental interest to justify restriction. In our free society, the opinion said, "it is not the government but the people . . . who must retain control over the quantity" of debate in a capaign.

But a limit on contributions, the Court found, was a less "direct and substantial" restraint on expression. "A contribution serves as a general expression of support for the candidate, but does not communicate the underlying basis for the support. The quantity of communication by the contributor does not increase perceptibly with the size of his contribution. . . ."

Can the political experts who praised the Court really find that reasoning persuasive? Do they agree that big political contributors send no message with their money? Do they understand the difference—the constitutional difference—between campaign contributions and spending as "speech"?

Again, the Court found "no evidence" in the record that low ceilings on contributions hurt political challengers. "Challengers can and often do defeat incumbents," the opinion said. It added that they are usually "well known and influential in the community." Can such bromides satisfy Eugene McCarthy, one of the act's critics, who relied on big contributions to start his 1968 challenge to President Johnson?

In general support of its reasoning the Court quoted a statement made in 1927 by the revered Justice Brandeis, "public discussion is a poiltical duty." Yes, Brandeis believed in free speech. But he also spent a lifetime fighting concentrated power. He warned against "the misuse of wealth."

For a particular reason, Brandeis could never have been with the majority of the Court last week. He thought the justices should restrain themselves in the use of their great constitutional power, especially avoiding premature and speculative decisions, waiting for experience. In its haste to deliver what was almost an advisory opinion on a largely untested law the 1976 Supreme Court forgot the restraint that protects its role in our system.

CBS CORRESPONDENT DANIEL SCHORR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 5 minutes.

Ms. ABZUG. Mr. Speaker, I am submitting the following statement of support for CBS correspondent Daniel Schorr which has been cosigned by 12 other House Members including HERMAN BADILLO, SHIRLEY CHISHOLM, JOHN CONYERS, JAMES CORMAN, RONALD DELLUMS, TOM HARKIN, MICHAEL HARRINGTON, AUGUSTUS HAWKINS, PARREN MITCHELL, EDWARD ROYBAL, JAMES SCHEUER, and PATRICIA SCHROEDER.

I am also including, for the RECORD, the text of Mr. Schorr's speech to the Washington Press Club of February 25 and two articles about Daniel Schorr's suspension by CBS. The articles, which I commend to my colleagues, are: "Defending Dan Schorr" by Tom Wicker which appeared in the New York Times on Tuesday, February 24 and "Truth and Consequences" by James A. Wechsler which was carried in the New York Post of Wednesday, February 25:

STATEMENT ON DANIEL SCHORR CASE

As members of the House, we are deeply disturbed by CBS's suspension of Daniel Schorr in connection with his leaking of the Pike Report to the *Village Voice*.

This action, together with the vote by the House last week implying that Mr. Schorr may be in contempt of, or a breach of the privilege of, this House, appears to us to have a chilling effect on other reporters and constitutes a threat to freedom of the press and other First Amendment rights. The net result will be to strengthen the forces of secrecy that have concealed from the American people facts that they have a right to know.

Although a majority of the House voted not to make the Pike Report public, Mr. Schorr is not a member of the House and was not bound by its vote.

As Tom Wicker said in *The New York Times* February 24, to insist that Mr. Schorr or any other correspondent should consider himself bound by such a vote or by White House suppression of a government document "would be to say that either a President alone or the House by majority vote can decide what a free press may or may not publish."

We are all concerned with protecting the national security of our country and do not condone any action that would jeopardize our security. But we know all too well that the plea of "national security" has been used to cover up violation of law, wrong policies, errors of judgment, incompetence and unwarranted invasion of the rights of individual Americans. Our only safeguard against these misdeeds is through public disclosure of such reports as the Pike Committee findings, the Pentagon Papers and other information, and this depends on full protection of a free press.

In helping to make public the Pike Report, Daniel Schorr has acted in the best American democratic tradition and has performed an act of conscience for which we commend him.

REMARKS TO THE WASHINGTON PRESS CLUB, FEBRUARY 25, 1976

(By Daniel Schorr)

From the events of the past couple of weeks, let me report my preliminary conclusion: the joys of martyrdom are considerably over-rated.

As a non-working reporter, I have been working longer hours than usual, making the necessary legal and other preparations to be a cause celebre. I am tired, I don't have much time with my family, and I'm getting to feel very self-conscious. For me, the world has turned upside down when people keep calling me up to ask me things instead of telling me things.

There is another disagreeable feature of being a cause celebre. To be involved in a great Free Press contest, it seems, one has to start by surrendering some Free Speech. My lawyer, Joe Califano, is master-minding our strategy. And he says that a central feature of his strategy is that I should shut up a lot.

We have worked out this novel system where I write down what I would like to say, and then Joe reads it, and then he tells me if I'm allowed to say it. The system is having its try-out here. Not to beat about the bush, this is my first censored script since I left Moscow eighteen years ago.

Since I've never liked writing for the wastebasket, there are some things I won't try to go into because they are kind of *sub judice*. I cannot talk about the specific facts of the situation that faces official scrutiny—the tangled web woven in an effort to see a text published without commercial taint or personal gain once broadcast requirements had been fulfilled. This will all come out at the proper time, and I'll be glad, for, while not particularly proud of my effectiveness at undercover operations, I'm not ashamed of my intentions.

You may fairly ask, then, what *am* I going to talk about. Well, I like to think of myself as not just a cause, but still a reporter. And since I do not, these days, broadcast analysis, let me share with you my overall analysis of what I think is going on beyond the peripheral matters.

It is remarkable how much the national climate about secrets has changed in the past few months. In the early post-Watergate period, Americans demanded to know what other secret abuses of power had taken place. Disclosure turned into an imperative, overshadowing secrecy. "National interest" had lost some of its luster after being dragged into Watergate. And "national security" had become tarnished by its employment as a reason to block the investigation of a break-in, or to continue wiretapping someone who had left Government employ months before.

In the post-Watergate era, leaks became routine, and secrets were hard to keep. Who could accept the standards for secrecy if they were being set by those with their own secrets to keep? Who could believe in national security once it had been made synonymous with cover-up? In a reaction to improper concealment, we seemed to enter a period of massive, almost compulsive disclosure.

One phase of disclosure opened around October 1974, when Seymour Hersh of the New York Times, doing what the Washington Post had done in the earlier Watergate period, forced ajar the closet where some CIA skeletons were locked away. There were muttered protests about intelligence secrets being spilled, but they fell mostly on deaf ears. Congress demanded investigations, and so did President Ford. It was what the time seemed to require.

And so, not from leaks, but from official reports of the Rockefeller Commission and Congress, we learned of improper CIA spying on American dissidents, improper FBI provocations, mail-openings and eavesdropping by both these agencies, and more massive electronic surveillance by an agency few had even heard of until then—the National Security Agency. We learned of Americans used as unsuspecting guinea-pigs in LSD experiments, and of exotic poisons squirreled away against Presidential orders. We learned of plots against foreign governments, and we learned of plots—sometimes in unholy alliance with organized crime—against the lives of some foreign leaders.

But, everything runs its course and, in the Media age of the national nightly news seance, it runs its course faster than ever.

There have always been, in our country, two great urges—one towards security, one towards liberty. The pendulum constantly swings between them. When Americans feel threatened in their safety, they sometimes seem willing to sacrifice a little liberty. Then they talk of "cracking down," of giving freer rein to investigative agencies, and approve these agencies operating with greater secrecy.

But, when Americans perceive their freedoms, their privacy, threatened by security agencies, they turn on them, and demand to have them exposed and brought under control. That has recently been happening. Americans, shocked at what has been done in the name of national security and internal security, have been tilting towards disclosure, and our security establishment asserts that it has been harmed.

But security always comes back. And the pendulum appears to have started its return course, helped along by some willing hands. One clear sign of the change could be spotted, at the turn of the year, when a CIA station chief in Athens was tragically murdered, and suddenly disclosure in the broadest sense was made to appear the culprit. Another sign appeared on the horizon when a member of Congress found it necessary to call a news conference to protest that he had not been the source of a leak on the CIA operation in Angola.

Soon we were hearing echoes of 1971 when the Government was claiming—but never proving, even behind closed doors—that the Pentagon Papers had compromised national security.

The answer then was the White House Plumbers. The answer now seems to be pressure against Congress, and particularly against the Press. And, as a further election-year feature, against Congress to mount its own campaign against the press.

So, what happened to me? I got hit by a swinging pendulum.

In October, 1974, I was assigned to start investigating intelligence agencies. In February, 1976, they seem to be back investigating me.

In October 1974, the nation seemed to want exposure of intelligence scandals. In February, 1976, the biggest scandal is being made to appear the process of exposure.

That was the background for the lopsided vote in the House of Representatives on January 29th to block the report already approved by its intelligence committee. The substance of the report had already been leaked, but using it after the vote was not the same as using it before. January 29th, if I may put it that way, was a watershed for leaks.

The House, as the saying goes, had worked its will, a phrase that has always awed me. But worked its will on *whom?* The House has a vital constitutional role. We know it as the body traditionally most sensitive to changes in voter sentiment. And, as such, the House made up its mind about this report.

But, under our Constitution, the Press marches to a different drummer, representing no popular constituency, and sometimes obliged to provide unpopular information. Now, I'm not supposed to discuss my case, but let me see if I can present to you the problem of a hypothetical reporter.

Take a reporter who has gotten a report with the simple hope of being a few days ahead of its scheduled publication. Now, suddenly, he sees all other copies of that report locked up in the clerk's safe and—perhaps even more securely—entangled in a parliamentary deadlock about how to get it out of the safe.

In this weirdly accidental situation that has befallen, would you say that it is the function of the reporter to cast what, in effect, would be the final decisive vote for-suppression of the report?

Is it the function of the reporter to heed a national security dictate that his common sense—but, more importantly, the parent committee and its expert staff—consider as not valid?

And, finally, if the House appears to be moving, for whatever reasons and under whatever pressures, towards putting the lid back on secrets, is it the function of the reporter to exercise his own prior restraint and to join the secrecy backlash that will hinder the press in the future?

Under the circumstances—unique though these circumstances may have been—it seemed to one reporter that paradoxically, to not publish would have been an act of contempt for the constitutional process. To publish—and it makes no difference where—was the recognition of our separate roles, the normal and natural thing to do. For, if a body of Congress can, in these peculiar circumstances, forbid publication of information that has already escaped its control, then what can it not forbid? And what can it not ordain?

I submit to you that this is not contempt, but a proper respect for the function of Congress in our society, along with what I hope is a proper respect for what the journalist does in society. And apparently that role is now—once again—to be tested.

I do not ask you to approve of how I went about doing what I tried to do—my own agonized critique indicates some possible improvements in the tactics.

I would suggest that if you concentrate too much on these details, however fascinating, you may miss the main action. These fascinating details can sometimes be used to obscure a constitutional threat.

What the Government can do to any journalist, it can do to all journalists.

When you hear the whip, send not to know for whom this backlash cracks. It cracks for you.

[From the New York Times, Feb. 24, 1976]

DEFENDING DAN SCHORR

(By Tom Wicker)

In suspending Daniel Schorr from his reporting duties, CBS News has succumbed to a campaign launched within the Ford Administration to picture the Central Intelligence Agency as an erring but basically worthy victim of those who leak its vital secrets and reporters who print them.

Mr. Schorr has conceded that he made a copy of the House Intelligence Committee's report available for publication in The Village Voice, a New York weekly. The charge against him is that he "sold" a document that not only disclosed national security information but which the House of Representatives had voted not to publish. The "selling" charge arises from Mr. Schorr's suggestion that The Voice make a contribution to the Reporters' Committee for Freedom of the Press.

Anyone who knows Daniel Schorr knows also that it is absurd to suggest that he sought to profit materially from publication of the House committee report. The facts are that Mr. Schorr did not suggest payment for himself, but to a cause he considered worthy. He first determined, as a CBS reporter, that the broadcast possibilities of the report had been exhausted. When the possibility of book publication fell through, Clay Felker, publisher of The Voice, offered to print the report.

"I had then to consider," Mr. Schorr wrote the editors of The New York Times, "since taking money was unthinkable to me, whether Felker should be the sole beneficiary. If our system inevitably creates profits, should Felker enjoy them exclusively? So, I suggested it would be appropriate for him to make some gesture to the free press idea which had animated me by a 'voluntary' contribution to the Reporters' Committee. . . ." In fact, the arrangement was so "voluntary" that the contribution has not been made.

This arrangement may well have been an error of judgment. But Mr. Schorr deserves to have it acknowledged that there was no "sale" of the committee report nor any arrangement designed for his personal enrichment, or that of anyone; and that he at least thought he was precluding a "profit" even for The Village Voice.

The other major question concerning publication of the committee report is whether Mr. Schorr should have turned it over to The Voice in any circumstances. Did not the House vote to keep it secret? Has not George Bush, the new C.I.A. director, said publication damaged national security?

In fact, Mr. Bush took refuge in the ancient governmental dodge of saying, in effect, "if you only knew what I knew . . . but of course I can't tell you what I know." When the Government made the charge about publication of the Pentagon Papers in 1971 that the national security had been damaged in ways it could not publicly discuss, Federal Judge Murray Gurfein was unable in a secret session to elicit from Government witnesses a single specific instance of actual damage to the national security.

This history, of course, proves nothing about the committee report except that statements like Mr. Bush's should be regarded with much skepticism—particularly since (a) most of the report's major points had previously been published, so that at worse any security damage already had been done; (b) other reasonably knowledgeable persons, including the House committee and its staff, believed that, as Mr. Schorr said, it contained "nothing more of national security significance, certainly nothing that would endanger any individual."

Besides, Mr. Bush himself, appearing on "Meet the Press," conceded that "the fundamental question is that Congress voted by almost two-to-one that the report not be made public, and it was made public . . . that's just plain wrong." This is the basic charge against Mr. Schorr, but it is George Bush who is just plain wrong.

How is it different for the House to vote to suppress a public document than for a President to suppress it? If President Ford, for example, had decided not to make public the report of the Rockefeller Commission he appointed to study C.I.A. abuses, would that have made it "just plain wrong" for a good reporter like Dan Schorr to get hold of it and put it on the public record?

Of course not, for to say so would be to say that either a President alone or the House by majority vote can decide what a free press may or may not publish. In the Pentagon Papers case, the Supreme Court specifically ruled against any such doctrine—contravening, as it would, the First Amendment—although it left open the possibility that some narrowly specified matters might be of such importance as to warrant "prior restraint."

No one has suggested that the House committee report is even remotely such a matter; and after a year-long investigation conducted at public expense, it was in fact a document that belonged where Dan Schorr put it—on the public record.

[From the New York Post, Feb. 25, 1976]

TRUTH AND CONSEQUENCES

(By James A. Wechsler)

Whatever the unresolved question in the Dan Schorr story, Congress is inviting public contempt by treating his alleged transgression as a major threat to the Republic.

The apparently obsessive resolve of some legislators to pursue punitive proceedings in the case is a strange, uninspired sequel to the pledges of "open government" that filled the air in the aftermath of Watergate and the ensuing disclosures of illicit CIA operations.

There is honorable, reasonable disagreement among journalists about the background and circumstances of Schorr's decision to turn over his copy of the House Intelligence Committee's final report to the Village Voice.

It is still unclear, for example, whether he told CBS what he planned to do before taking a step that could—and did—provoke an explosive controversy. Since he presumably obtained the document because of his status as a CBS correspondent, it might be responsibly argued that the document essentially belonged to the network.

There are also unanswered questions about his ambiguous dealings with the Reporters Committee for Freedom.

These clouded details may be worthy of exploration by media seminars. But I consider them far less consequential than the issues raised by the concerted Congressional effort, initially led by Rep. Stratton (D-N.Y.), to destroy Schorr as a journalist and even pave the way for criminal sanctions against him and his still unidentified source.

Once again we seem to have reverted to the view that the messenger bearing the news is the villain of the piece.

Some crucial facts are being obscured by the Congressional clamor.

For one thing, we are being repeatedly reminded that the House voted by a 2–1 margin to suppress the report.

What has been generally forgotten is that the House Committee which reviewed the report had previously voted no less decisively for its release.

Thus the inexplicable irony is that the committee members who favored publication had examined the document and knew what they were voting about. The House itself had not.

What explains the discrepancy? I have seen no more plausible answer than a crudely political one—that President Ford's high-pressure campaign against "leaks" had successfully intimidated Capitol Hill.

Between the time that the committee acted to issue the report and the House rejected its decision, the Administration had waged a massive drive to convince the country that the CIA's very survival was being imperiled by unauthorized disclosures—including the airing of key passages in the report by the Times, CBS and other outlets. One must assume this counteroffensive had achieved its goal.

But if that retrospect is correct, it is hardly a tribute to the conscience and independence of the legislators who succumbed to panic, and who would now make Schorr the scapegoat of the whole affair.

Is a Congressional vote to suppress a report binding on the press? What if such a report dealt with malfeasance in the legislative branch? Is the Congressional stamp of secrecy peculiarly sacrosanct?

If the potential consequences for Schorr and possibly others were less serious, the episode might be dismissed as another burlesque of the cloak-and-dagger business.

The most revelatory sections of the report, as suggested earlier, were already on the public record before Schorr decided to hand his copy over to the Voice. While the fuller text provides some supplementary details, it has a quality of anti-climax.

When CIA director George Bush was asked on Meet the Press last Sunday to cite "any damage that has resulted from publication of the report," he replied:

"Well, there are certain things in there, but if I told you those specifics, that would highlight those and make things worse . . ."

Bush is often a disarming man, but his response on this point belongs to the archives of absurdity. Was he seriously suggesting that enemy agents would fail to note some truly grave disclosures if he refrained from mentioning them?

Perhaps sensitive to the frailty of his words, Bush hastened to add that "the fundamental question" was Schorr's defiance of Congress, which he called "plain wrong." Seemingly that is the proposition many Congressmen now propose to affirm by inquisitory inquest.

It is a proposition that goes far beyond any appraisal of Schorr's real or alleged inepitudes (none of which offered him the prospect of private fiscal profit). It is consistent with the spirit of the President's proposal for new criminal legislation to protect government officials from press exposure—advertised, of course, as additional safeguards for "national security."

One must ask again: have we come full cycle since Watergate? Is cover-up back in political style?

PUBLIC WORKS EMPLOYMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Speaker, the President's veto of the Public Works Employment Act was not only a slap in the face of the 505,080 unemployed workers in Michigan—which has the highest unemployment rate in the Nation—but was also a major setback for local governments who were counting on funds for badly needed public works projects.

Over the past several months, I have been repeatedly contacted by local and county officials in my district who were anxious to obtain the Federal funds for public projects which would have been available under this now vetoed legislation. One of the most important of these projects was a new jail for Wayne County.

Wayne County, part of which is in my congressional district, is the fifth most populous county in the Nation, and has a crime rate that has risen about 25 percent in the last 3 years. The present jail facility is outdated and severely overcrowded and the government is trying to house inmates at sites around the county. These conditions have posed a serious threat to the county's criminal justice system.

For some time the county had been eagerly awaiting the passage of the public works bill which could have provided 100 percent Federal funding for such a jail facility. However the President's veto has at least temporarily killed any chance the county may have had for 100 percent Federal funding for the new project and the county must satisfy a court order to provide additional temporary facilities until funds can be found to pay for construction of a new jail.

Even with existing programs the President does not seem to be doing much in the way of providing additional help to fight the crime problem. His proposed budget for fiscal year 1977 also takes another cut in the funds used to fight the war on crime. The President has decided to cut $103 million from the budget of the Law Enforcement Assistance Administration, the major source of Federal anticrime funds for State and local governments.

Mr. Speaker, it is critically important for the House to continue its work on public works legislation. I will continue to work with the Public Works Committee to make every effort to see that a bill is reported to the floor that will provide funds for needed public works projects and at the same time put people back to work.

THE CZECH CLAIMS SETTLEMENT—IS IT EQUITABLE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 10 minutes.

Mr. BINGHAM. Mr. Speaker, at the "11th" hour, the Senate added an amendment to the Trade Act of 1974 blocking the administration's acceptance of a negotiated settlement of claims between the United States and Czechoslovakia, an amendment which the Senate conferees insist upon retaining That amendment has produced an unforunate cooling of our relations with that Eastern European country, most notably in the area of trade. Total United States-Czechoslovakian trade volume in 1975 was about $87.7 million—the second year in a row it has declined—from $94.2 million in 1974—after several years of dramatic increases between 1970 and 1973.

Two major arguments are commonly made in support of the amendment referred to—section 408 of the Trade Act—which requires renegotiation of the settlement of claims initiated by the United States and Czechoslovakia on July 5, 1974, and blocks provision of any trade concessions to Czechoslovakia until such a renegotiated agreement is approved by the Congress. The first contention is that the proposed settlement is somehow inadequate and inequitable. The second is that Congress should have an opportunity to approve or disapprove such agreements rather than leaving them exclusively in the hands of the executive branch.

Standards of adequacy and equity are never easily agreed upon. They are all the more difficult with respect to claims by citizens of one country against another. Wide differences in the size and context of the claims and negotiations for settlement make comparison difficult.

Despite such difficulties of comparison, however, I believe that any reading of available evidence indicates that the proposed claims settlement with Czechoslovakia, while not the most favorable the United States has ever achieved, is nevertheless equitable.

Comparison is often made between the proposed Czech claims settlement and the settlements we entered into with Italy and Panama. Those agreements yielded, respectively, 100 percent—plus interest—and 91 percent of U.S. claims certified and awarded by the Foreign Claims Settlement Commission. But they are the exception rather than the rule, and constitute a totally unfair basis for judging the Czech agreement for several reasons. First, the total size of the claims against both Panama and Italy were substantially smaller than with Czechoslovakia. Total principal amount of claims against Panama were $441,981.84; against Italy, $2,588,347.67. By contrast, the principal amount of claims awarded by the Foreign Claims Settlement Commission against Czechoslovakia is over $70 million.

Second, and most important, Panama and Italy are both countries over which we exercise great economic and political influence—not a country like Czechoslovakia which is obviously under heavy Soviet influence. In 1950, when we signed our agreement with Panama, that country was virtually an American colony. Italy, with which we signed claims agreements in 1947, was almost entirely dependent upon U.S. Marshall plan assistance. How can we reasonably compare those settlements to Czechoslovakia?

It seems to me reasonable only to compare the proposed Czech settlement with other settlements we have reached with Soviet-sphere countries, and with the Soviet Union itself. In that context, the proposed agreement with Czechoslovakia is above average in terms of compensating U.S. claims. Indeed it is more generous and favorable to U.S. interests than four of the six agreements we have entered into with Soviet-sphere countries.

The table below summarizes the settlements reached with each of the Eastern European countries and the Soviet Union, and shows comparable figures for the proposed Czech agreement. It is easy to see that in terms of percentage of debt paid, the proposed Czech settlement is more favorable to American interest than the Polish and Hungarian agreements, and far more favorable than settlements obtained to date from the Soviet Union.

The table follows:

Country and type of claim covered	Starting and completion dates	Source of funds for payment of claims	Principal amount of claims approved	Number of claims approved	Amount of funds paid or to be paid in settlement	Approximate percent of claims paid or to be paid
Yugoslavia: Nationalization and other taking of American-owned property.	June 30, 1951 to July 15, 1969.	Yugoslav Claims Agreement of July 19, 1948 and Yugoslav Claims Agreement of Nov. 5, 1964.	$28,102,206.12	1,395	$20,500,000.00	73 percent.
Poland: Nationalization or other taking of American property.	Sept. 1, 1960 to May 31, 1966.	Polish Claims Agreement of July 16, 1960.	100,737,681.63	5,022	[1] 40,000,000.00	33 percent (estimated).
Bulgaria: War damage claims, failure to meet certain contractual obligations, nationalization or other taking of American-owned property.	Sept. 30, 1955 to Dec. 24, 1971.	Liquidated assets of Bulgaria blocked in United States and Bulgarian Claims Agreement of July 2, 1963.	4,825,586.46	230	3,076,234.49	$1,000 plus 69.7 percent of balance of each claim.
Hungary: War damage claims, nationalization or other taking of American-owned property, failure to meet certain contractual obligations.	Sept. 30, 1955 to Aug. 9, 1959.	Liquidated assets of Hungary blocked in United States.[3]	[2] 58,277,457.94	1,153	2,235,750.65	$1,000 plus 1.5 percent of balance of each claim (for war damage claims $1,000 plus 40 percent—38 percent from War Claims Fund).
Rumania: War damage claims, failure to meet certain contractual obligations, and nationalization or other taking of American-owned property.	Sept. 30, 1955 to Dec. 24, 1971.	Liquidated assets of Rumania blocked in United States and Rumanian Claims Agreement of Mar. 30, 1960.	61,102,449.78	583	22,664,212.68	$1,000 plus 37.8 percent of balance of each claim.
Soviet Union: Certain claims of U.S. nationals arising prior to Nov. 6, 1933 (included claims based on World War I takings and defaulted bond obligations).	Sept. 30, 1955 to Aug. 9, 1959.	Litvinov Assignment of Nov. 16, 1933	70,466,019.00	1,929	8,658,722.43	$1,000 plus 9.7 percent of balance of each claim.
Czechoslovakia: Nationalization or other taking of American-owned property.	Aug. 8, 1958 to Sept. 15, 1962.	Blocked Czechoslovakian assets in United States.	[4] 72,614,634.34	2,630	8,540,768.41	$1,000 plus 38.2 percent of balance of each claim.
		Proposed Czechoslovakian Claims Agreement.			20,500,000.00	
Total					29,040,768.41	

[1] To be paid over a 20-yr period, beginning January 1961.

[2] Agreement was reached Mar. 6, 1973, with Hungary providing for payment of $18,900,000 in U.S. claims. Claims over and above the $58,000,000 already awarded by the War Claims Settlement Commission are currently being reviewed by the Commission, but are not expected to exceed $5,000,000, bringing total claims against Hungary to approximately $63,000,000. On the basis of that estimate, payment of $18,900,000 would result in reimbursement by Hungary of $1,000 plus approximately 32 percent of balance of each claim (other than war damage claims.)

[3] 1 award under a private relief bill for $96,049.60 was paid from War Claims Fund.

[4] Including both principal and interest, this figure increases to $113,645,205.41. Payment of $29,040,768.41 would represent $1,000 plus 24.2 percent of principal and interest.

Both in total size and percentage payment, the proposed Czech agreement is nearly identical to the agreement we reached with Rumania—the most recent recipient of most favored nation status from the United States.

Some critics of the Czech agreement have pointed to its rather lenient payment terms which allow installments over a 20-year period. Yet similar terms were accorded to Poland, a country with which we now enjoy a large trade volume and a most favorable balance of trade, as we undoubtedly would with Czechoslovakia were it not for the blocked agreement.

Admittedly, the proposed Czech agreement is somewhat less favorable to American interests than our agreements with Yugoslavia and Bulgaria. In the case of Yugoslavia, the relatively high rate of payment is related both to the small total size of our claims against that country, and the considerably greater independence from Moscow which Yugoslavia has long managed to maintain. The relatively high Bulgarian payment was made possible almost entirely by U.S. control of some $2.7 million in Bulgarian assets which we were able to liquidate for reimbursement of American losses.

Mr. Speaker, we have physical control over some Czech assets, which some critics of the proposed claims settlement seem to think might be used to reimburse U.S. claimants against Czechoslovakia. That view, however, amounts to little more than wishful thinking. The assets in this case consist of 18,400 kilograms of Czech gold which advancing American troops wrested from defeated German forces who, in turn, had obtained it in the German pillaging of Prague. The gold—now worth over $100 million—more than the principal amount of our claims against Czechoslovakia—is controlled by a tripartite Commission consisting of the United States, Britain, and France. While the gold cannot be returned to Czechoslovakia without our approval, neither can it be attached and liquidated for payment of American claims. That reality was recently confirmed when a U.S. district court dismissed an attachment effort.

Critics of the Czech agreement, Mr. Speaker, often cite a figure of $113,645,205.41 as the amount owed by the Czechs to American claimants. This figure is based upon a principal amount owed of $72,614,634.34 plus interest. Yet in none of the settlements we have reached have we sought or obtained interest payments except in the case of Italy which, as I have noted, amounted to the United States paying itself because the Italian economy at that time was so dependent upon American aid. So, again, it seems to me misleading to pad the amount the Czechs supposedly owe us by adding interest to principal.

It should be noted, too, that the figures in the table do not fully reflect the payments to be made under the Czech agreement. In addition to the $20.5 million in new payments listed, the Czechs agreed to pay in full their debts to us for surplus U.S. World War II property—that payment amounting to $7 million including principal and interest. They also agreed to enter into negotiations with Americans who hold defaulted Czech bonds. The value of these bonds, along with certain blocked U.S. bank accounts in Czechoslovakia which the Czechs agreed to settle in negotiations, amount to something over $10,000,000.

Mr. Speaker, another standard for judging the equity of the proposed Czech claims settlement, beyond comparisons with other settlements, is the satisfaction or dissatisfaction of the claimants themselves. Ideally, of course, all claimants would like to be compensated 100 percent for their losses, and that expectation is understandable. As a practical matter, however, such a goal is hardly ever achieved. In the ten most recent settlement programs administered by the Foreign Claims Settlement Commission, claimants received in actual compensation an average of 35.47 percent of the amount awarded by the Commission. Where there were more than 1,000 awards in a claims program—as there is in the case of Czechoslovakia—the average settlement percentage was 25.69 percent of the approved claims.

Many claimants have been able to write off through tax deductions a large portion of the difference between their certified claims and actual repayment. That, of course, has the effect of transferring the loss to the Government of the United States and does not reduce the need to obtain maximum compensation. But it does ease the impact of the losses upon the individuals.

Mr. Speaker, 951 of the 2,630 claimants against Czechoslovakia have already been paid in full through funds from the liquidation of Czechoslovakian property held by the United States. While it is difficult to generalize about the attitudes of the remaining claimants, the vast majority appear to support the agreement as the best means of obtaining adequate compensation promptly. Since these claims have remained unsettled for nearly 30 years, compensation further delayed will be compensation denied for many claimants who are now advanced in age.

There is no evidence that more than a few claimants are dissatisfied with the proposed settlement now blocked by Congress. In fact, section 408 appears to have been inspired by a single dissatisfied claimant. That claimant has since died, and the parent company of his firm has shown no interest in pursuing the claim for 100 percent. The claimant's attorney, however, now represents another claimant in legal actions to obtain 100 percent compensation. Although the particular claim involved is a small one, the law suit is a class action; therefore if it is successful, the attorney stands to earn a substantial fee. However, the suit has already been dismissed by the trial court and the chances of any reversal in the appellate courts seem nonexistent. Meanwhile, the claimants remain unpaid.

It is tempting to blame the Czechs for the delay to date in settlement, and on that basis to seek even more generous repayment. The fact is, however, that the delay has been partly the fault of the United States. In 1963, a different United States-Czechoslovakian agreement was negotiated, one which was far less satisfactory from the point of view of the American claimants than the one initiated in 1974. This earlier proposal was scrapped by the executive branch when Senators Keating and Douglas torpedoed it by introducing a resolution, never passed by the Senate, calling for Senate ratification of all foreign claims agreements, implying that the agreement the executive branch had in mind for Czechoslovakia would not be approved.

As a proponent in general of a strong and active role for Congress in the making of American foreign policy, I have no particular quarrel with the principle of congressional approval or disapproval of foreign claims agreements. But if we are going to take that course, we should establish a clear procedure for congressional review of such agreements. That procedure should provide for full and careful consideration of claims agreements on both domestic and foreign policy grounds—by both domestic and foreign policy committees. In the absence of such a procedure, one or two Senators or Members of the House can succeed in blocking an agreement with little consideration of the foreign policy consequences. We presently have no such orderly procedure for reviewing claims agreements in the Congress, and it seems to me that the agreement with Czechoslovakia is no place to experiment with congressional involvement in such matters.

On the basis of these considerations, Mr. Speaker, I believe that section 408 of the Trade Act of 1974 should be repealed and the proposed United States-Czechoslovakia agreement implemented. Once this long-delayed and protracted agreement is out of the way, I believe it would be appropriate and even desirable for the Congress to establish clear procedures, along the lines I have described, under which it could carefully review and act upon future claims agreements—agreements not yet negotiated—such as will someday be reached by Cuba and China.

In urging this course, Mr. Speaker, I have in mind, as I hope other Members will, that the people of Czechoslovakia were our allies in opposing Naziism in World War II.

There are other obstacles, beyond section 408, that stand in the way of expanded trade with Czechoslovakia. In particular, the Government of Czechoslovakia has taken the same negative approach to the Jackson-Vanik amendment that the Soviets have taken. I believe, however, in solving one problem at a time, and that we will be in a much more favorable position to urge Czechoslovakia to review its emigration policies in response to Jackson-Vanik after we have resolved the claims dispute. I am hopeful that the Congress will share my view that section 408 should be repealed and will take such action soon.

Just as the chance of any improvement in the negotiated settlement by action of the U.S. courts is negligible, so in my judgment is the chance that the Czechoslovak Government would agree to a renegotiation of the agreement so painfully worked out. I talked with many Czechoslovak officials on my visit there about a year ago and was persuaded that they are adamant on the subject of not reopening the settlement. In this connection, it should be remembered that they did agree to reopen the earlier agreement, in which the claims were to be virtually written off by the United States, and thereafter negotiated the current, more generous, agreement with the American Ambassador over a period of many months. They now feel that even to suggest a further renegotiation is insulting to them, and represents discriminatory treatment as compared with the treatment accorded other East European countries.

It is this feeling of discriminatory treatment which has so soured our relationship with Czechoslovakia and has made it impossible for the United States to move ahead with the establishment of new consulates and to take other desirable steps in the improvement of relations between the two countries. It is time we implement the imposed agreement and move on to resolve other differences toward more friendly and mutually beneficial relations.

HON. RAY J. MADDEN SEEKS 18TH TERM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, on February 21, 1976, the distinguished chairman of the Committee on Rules, Hon. RAY J. MADDEN, announced that he will seek an 18th term in the House of Representatives.

Mr. Speaker, Chairman MADDEN's devotion to the best interests of the people of Indiana and the Nation have been the hallmark of his long and effective service in the House. As a member of the Indiana delegation, I have at first hand witnessed the tireless and robust manner in which he has carried out his responsibilities, and it has been a deep personal pleasure for me to serve with him.

Mr. Speaker, I insert at this point in the RECORD the text of Chairman MADDEN's remarks of February 21.

> Today I am announcing my candidacy for an 18th term in the Congress to represent the people of the 1st Congressional District and am now mailing my nomination petition to Indianapolis.
>
> I have fought hard for the people of the 1st District, and my record shows it, and the people know it. I have never been in a stronger position to benefit the people of Hammond, Gary, East Chicago and the rest of the communities of this District.
>
> As Chairman of the Rules Committee, I have a direct influence on legislation that helps this District and the rest of the people of this Nation. All the major legislation of this Congress goes by my Committee before it can reach the Floor of the House.
>
> When this session ends next December, I will have served longer than any Member of Congress from Indiana of either political party in the United States House of Representatives. During the last several terms, I have given deep thought to retiring from serving the 1st District in the House of Representatives. I have consulted friends, party leaders, heads of organizations, both political and otherwise. The vast majority has advised me to continue on as long as I am enjoying perfect health and have obtained top seniority as Chairman of the House Rules Committee.
>
> The seniority system in the Congress has come in for some criticism from time to time, but in their collective political wisdom, the 435 Members of the House of Representatives and 100 Members of the United States Senate have never been able to come up with any practical procedure that can successfully replace seniority as the way to deal with complicated parliamentary procedures and the difficult task of legislating Federal laws and solutions to our problems.
>
> If seniority were to be replaced in the House of Representatives, it would create political havoc every 2 years when a new session of Congress begins. At least 21 separate committee elections would take place in the various committees to decide who would be chairman or ranking minority member.

A reform was adopted in the House of Representatives to put more democracy into the selection of committee chairmen. Last January, at the beginning of the 94th Congress, the Democratic Caucus nominated committee chairmen by ballot. Only 3 of the sitting chairmen were replaced. The new chairmen won only by margins of 10 to 15 votes each out of approximately 290 votes cast.

I am proud to say that my re-election as Chairman of the Rules Committee by a lopsided margin of 236 to 48 was by far the largest victory for any of the contested chairmanships. This indicated that the House membership was very much satisfied with my experience, ability and frankness as Chairman of the Number 1 committee in the House of Representatives. Previously, in 1973, I was nominated by the Democratic Caucus by about the same margin.

I have talked with my constituents in the 1st Congressional District for many years about the importance of seniority in the House of Representatives.

Four years ago, the head of a prominent non-political organization advised me that my voluntary retirement would indicate that my campaign statements over the years were somewhat shallow if I would "walk out" on the people of the 1st Congressional District of Indiana after obtaining seniority.

I firmly believe that 95% of the voters of this District are familiar, through the news media and my weekly reports, with the great number of projects and programs which I have worked for and successfully sponsored through the Congress using my seniority along with plain hard work. This includes low-cost house construction, educational expansion and appropriations for the senior citizens, handicapped, welfare, mass transit, traffic congestion relief, recreation and parks, tax reform, and the plugging of tax loopholes.

Unfortunately, since January 1969 after the inauguration of President Richard Nixon, interest rates, high prices, profiteering and inflation started on a sharp rise. Today we find the Nation plagued with unemployment and a recession which is on a par with the early 1930's when approximately 14 million Americans were idle and economic havoc existed; starvation ran rampant in our metropolitan areas; farm foreclosures were high and factories and businesses were closed down.

The sentiment throughout the urban areas of America today in 1976 is that both President Nixon and President Ford through their avalanche of vetoes of Congressional legislation have greatly increased the economic dungeon which has stricken our Nation in the last 7 years.

I would like to serve one term as Chairman of the Rules Committeee under a Democratic President so that we can unleash and release the dozens of anti-recession measures that have been vetoed or the money which has been impounded by both President Ford and President Nixon during their terms as President in recent years.

Andrew Mellon, the head of the multimillionaire banking family and Secretary of the Treasury for 12 years under Harding, Coolidge, and Hoover, brought on the 1929 economic disaster. Arthur Burns, Chairman of the Federal Reserve Bank System, is the Andrew Mellon of the Nixon-Ford period and he has been the economic advisor who has led our economy and prosperity down the pathway of unemployment and depression. In spite of opposition at the White House in the last 18 months, we have made major strides toward closing the fabulous and scandalous loopholes of some of the big oil conglomerates.

And I can tell you, it is a good thing that Congress is providing the economic leadership for this Nation. The President certainly is not, as his veto of the public works jobs bill and all his other vetoes show. I don't know where the President has misplaced his priorities, but he certainly was not thinking about the people when he vetoed that jobs bill—or when he vetoed the tax cut last December, or the health and education bills, or the housing bill, or the energy bill, or dozens of other bills for the people. You name it. He's vetoed it. President Ford is turning the White House into Veto Villa.

I ask your support for another term so that I can continue to get the job done in Washington. Two recent examples of major legislation which I have had a hand in are the Public Works Employment bill and the Indiana Dunes National park.

I am proud that my good friend, the Majority Leader of the House of Representatives—Tip O'Neill—is here with me, together with Congressman Fithian from the 2nd District next door. We have just come back from a major victory for the people. We in the House have overriden the President's veto of one of the biggest, most important job bills of this Congress—the Public Works Employment Act. That is a Leadership bill, sponsored by Tip O'Neill and Speaker Albert. It took a special hearing before my Rules Committee to get that bill on the Floor or there never would have been a bill or an override vote. One of the first things we did when Congress reconvened last month was to have the hearing and pass the bill. One of the first things that President Ford did was to veto it. And now we in the House have come back by overriding that veto for the people of Hammond and Gary and Lake County and the rest of the nation.

This bill would have meant that all the communities in this area could have gotten immediate, 100% funding for local public works that are already designed and approved and that Gary, which has 9.2% unemployment would have gotten $777,000 under Title II. Hammond, which has 6.5% unemployment, would have been eligible for $204,000. The rest of Lake County, with 7.1% unemployment would have qualified for $568,000.

Just last Tuesday, the House passed the Indiana Dunes National Lakeshore Act Amendments which my colleagues Floyd Fithian and Ed Roush and I have worked on for many years. This bill provides for a 4,400-acre expansion of the Indiana Dunes National Recreational park. That will increase the size of the Lakeshore by half and preserve this priceless and scenic area for our enjoyment today and for our children tomorrow. This expansion is something I have been working for ever since I helped get the Lakeshore established in 1966. I wasn't Chairman of the Rules Committee then. I am now, and being a chairman helps when it comes to getting a bill through the House. Today we can proudly say that no other large scenic area in the National Park system is as close to the homes of 10 million people as is the Indiana Dunes National park. That is one of my proudest achievements for the people of the 1st District.

I have always given my best for the people of the 1st District. I will continue to do my very best for you as your Congressman. And I have never been in such a good position to do so much good for our people.

This is the people's job. It takes the people's support. I ask your help. You don't have to experiment; you can have experience.

Thank you.

DANGERS OF ARSENIC ARE NOTHING NEW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Dominick V. Daniels) is recognized for 5 minutes.

Mr. DOMINICK V. DANIELS. Mr. Speaker, in the past year, I have inserted several articles in the Congressional Record dealing with the dangers of exposure to arsenic for workers and for communities near smelters or plants using arsenic.

Recently, the danger has struck close to the Nation's Capital. And once again I must call attention to the hazards of this substance—dangers that have been known for hundreds of years. Arsenic is not only a potent poison, it is also a carcinogen. Cancer rates of populations living near smelters or plants which use arsenic run high for lung and lymph cancers.

The tragedy in the situation across the Potomac at the R. H. Bogle plant is that we are dealing with a known toxic substance, and we have laws on the books designed to protect workers, the community, the air, and the water.

Is the arsenic problem in Alexandria to be a repeat of the kepone disaster at Hopewell, Va.? Where are responsible Government administrators who will carry out their duties with a commitment to serve the public good?

Until industry assumes its social and legal obligations to protect the worker and the community from exposure to dangerous substances, incidents like the Alexandria situation may unfortunately occur.

Until Government officials start to act upon knowledge of public health hazards as soon as they become aware of such hazards, we will continue to have more "kepones" and "arsenics."

One solution in this election year is for voters to demand that those seeking to hold the public trust take a stand on public health and safety matters prior to election. The voters have every right to demand that laws designed to protect their health are carried out by those they elect. I believe that we will see far more responsible administration of our laws if we hold our public officials accountable.

I commend to my colleagues' attention two excellent editorials in the Washington Star and the Washington Post on this subject of public accountability.

[From the Washington Star, Feb. 24, 1976]

Arsenic in Alexandria

It is not possible at this point to say with certainty whether the arsenic contamination in Alexandria is a small or large danger to public health. But the people of Virginia ought to be getting pretty sick of the attitude of officials who seem to think that what the public doesn't know about toxic substances polluting their environment won't hurt them.

On the heels of the Kepone episode in Hopewell—a tragedy that was compounded by official laxity and indifference, and one could argue stupidity—it was disclosed in *The Star* Sunday that for nearly two years officials have kept quiet about a potentially dangerous contamination of a downtown Alexandria plant site with arsenic and other pesticides.

A state analysis of soil at the R. H. Bogle Chemical Co., which is situated next to the Potomac River, indicates contamination to a depth of more than six feet. Some of the area was reported to have a concentration of arsenic ranging up to 28,000 parts per million. A pound of soil with that heavy a concentration is enough to kill 103 people.

No one is suggesting that people are going to eat the soil at the Bogle installation. But the mere fact that this lethal substance is present in the ground in such quantity is cause for concern. City and state officials also have expressed worry about the possibility of a public health hazard from surface water runoff and ground water contamination. Concentrations of arsenic and traces of two other potentially dangerous substances were reported to have been found on the bed of the Potomac near the plant.

The situation was of enough concern to prompt the former city manager, Keith Mulrooney, to call it "alarming" in a letter to the firm. It was enough to prompt the city health director, A. A. Cardone, to call for "removal or neutralization of the contaminated soils on the property to a depth wherein they no longer pose a public health hazard." It was enough to prompt the company to put a chain link fence around the two-acre property where youngsters from the neighborhood used to play.

But all of this concern was expressed behind closed doors. A state health official, R. E. Dorer, asked the State Water Control Board to help keep the matter secret. "Undue publicity might seriously retard our efforts to correct the situation in a competent and professional manner," he wrote the board.

Now that it has come out in the open, state and city health officials appear to be trying to minimize the potential danger. "What is the risk to the people?" Mr. Dorer was quoted as saying in Monday's newspaper. "I don't think we would alarm the people unless we knew there was a danger attached to it and I don't think there is any danger attached to that particular facility. There may be, but we'd have to study it."

First, the tone of Mr. Dorer's Monday remarks was nothing like that of the missives that went back and forth between state and local agencies when it was all hushed up. Second, Mr. Dorer seems to be having trouble getting his thoughts in order when he says there is no danger and immediately contradicts himself by saying there may be.

The president of the company, R. H. Bogle Jr., disputes some of the state analysis of the soil on the plant site. He said his company had a private study made but he declined to release any information on it. The company's study, he said, is "classified."

If Mr. Bogle wants to keep his study "classified," that's his business, we suppose. But the health of the people around that plant site and others who might be affected elsewhere by its operation is the public's business, and it ought to be Mr. Bogle's as well.

Where have the health authorities been all these decades that the Bogle plant has been in operation? Why have they only discovered within the past two years that the ground was being contaminated by potentially dangerous chemicals? Like the Kepone situation, this is another illustration of the laxness in Virginia in dealing with industrial safety and environmental pollution.

And why couldn't offiicals have leveled with the public once they did discover the contamination, instead of trying to keep it quiet? No doubt it's easier for public officials to play things close to their chests, avoiding confrontations and demands from the public they serve—don't stir up the animals is the usual watchword. But if public officials don't want to carry on the public's business in public, they ought to get into some other line of work.

[From the Washington Post, Feb. 26, 1976]

Arsenic and Old Dirt

First it was Kepone in Hopewell; now it's arsenic in Alexandria. Once again, massive amounts of a highly dangerous substance have polluted a chemical plant and the river nearby. Once again the officials charged with protecting public health and safety have been very slow to act. And once again the people of the area were not told about the hazard for some time. It's enough to make Virginians wonder whether those responsible for curbing pollution in the commonwealth are more concerned about public exposure to lethal substances—or their own public exposure to charges of laxity and ineffectiveness.

The arsenic problem at the R. H. Bogle Chemical Company is not exactly parallel to the Kepone catastrophe—but that does not make the mess in Alexandria less serious. Some officials are now emphasizing, for instance, that while dozens of people have been poisoned by Kepone, nobody has been found to have been affected by the arsenic. But no thorough medical screening has been done; moreover, the symptoms of exposure to many toxic substances may not appear for years. Similarly, while Kepone spread with alarming speed throughout the Hopewell area and down the James River, the arsenic seems to have been largely contained to the Bogle property. But the harm to the Potomac has not been fully established yet. And on the Bogle acreage itself, the contamination is so dense and persistent that arsenic has penetrated the soil to a depth of over six feet—nine years after the firm stopped mixing herbicides there.

The most important point is that the performance of public agencies in both instances was disgraceful. In both cases, water pollution control officials first discovered evidence of pollution—and failed to stop it right away. In both cases, city and state officers gradually caught on to pieces of the problem, but tried to duck responsibility, did not orchestrate their efforts, and showed no sense of urgency. In neither instance did anyone make a point of alerting the community to the hazard. To the contrary, officials who knew about the acre of arsenic-laden dirt made a deliberate decision to keep that information to themselves. One state health official, Roland E. Durer, now says that he did not want to alarm the public until he was sure that a real danger did exist. But people can be forewarned without being panicked—and it is irresponsible not to warn parents, for instance, that their children may be playing in a perilous place.

The whole system for dealing with pesticides and other toxic substances in Virginia obviously needs to be overhauled. Governor Godwin has proposed some useful changes in the laws, and legislative action on a number of points this year would be desirable. But that is not enough. Sustained public and press scrutiny will be required to insure that the lax habits so amply demonstrated will not continue even though the laws are changed.

Meanwhile, Alexandria has the problem of what to do with all that arsenic-poisoned dirt. Obviously the Bogle acre cannot be used in any way that might cause the contamination to spread. The mess will have to be contained and isolated as securely as the Kepone-saturated wastes in Hopewell. If an effective disposal method cannot be devised, the acre may just have to be forever fenced off and abandoned, as another ugly monument to industrial and bureaucratic carelessness.

A DEVELOPMENT PROGRAM FOR RURAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. Oberstar) is recognized for 15 minutes.

Mr. OBERSTAR. Mr. Speaker, rural America is the new growth frontier of our country. After 40 years of out-migration, the trend has finally reversed itself. Census figures show an increase of 5.6 percent in rural population between 1970 and 1974, compared to a 3.4 percent increase in large city and suburban populations.

Recognizing this new trend and its broad implications for the future, Congress passed the Rural Development Act of 1972, giving the U.S. Department of Agriculture additional responsibility to help rural Americans plan and supervise their own development and growth.

The key agency within the Department of Agriculture charged with carrying out the mandate of the Rural Development Act of 1972 is the Farmers Home Administration. From a small agency created in 1935—then the Resettlement Administration—aimed primarily at helping farmers, FmHA has grown into a major agency administering 26 major programs. The bulk of this growth has occurred in recent years, the number of programs almost doubling since 1970. Of the total dollars loaned to date, more than half have been obligated in the last 5 years.

Certainly this kind of major expansion in scope and volume calls for reevaluation of FmHA's structure, goals, policies, and operating procedures. Yet, what we find is that, in spite of its phenomenal growth, FmHA is basically operating just as it did years ago.

FmHA has tremendous potential for helping rural America. It administers a broad range of grant and loan programs covering such diverse areas as farm ownership and operation, single and multifamily housing, business and industrial development, community facilities, and sewer and water systems.

It has a unique structure of 1,756 county offices serving over 3,000 rural counties. This grassroots structure assures local residents easy access to Federal officials who live among them and talk their language. Few other Federal agencies can serve rural residents so well, because most agencies tend to be located in major metropolitan areas, very distant, both geographically and spiritually, from rural America.

These county offices are run by FmHA county supervisors, often assisted by no more than one clerical employee. They are usually grossly overburdened with a myriad of ever-changing programs and responsibilities, and an ever-growing backlog of applications. They put in long hours, often working evenings and weekends without compensation. Yet they receive little gratitude or praise for their commitment and sacrifices because local residents, frustrated by FmHA redtape and delays, vent their frustration on the county supervisor.

The blame, however, rightfully belongs with the administration, USDA, and the FmHA "front office" itself for not adjusting to new realities, for not instituting necessary reforms, for not following congressional mandates.

In fiscal year 1976, Congress appropriated funds to enable FmHA to hire 1,000 new permanent full-time employees, but OMB allowed FmHA an increase of no more than 440. From a level of 7,051 employees in fiscal year 1975, FmHA is up to an estimated 7,490, and will stay there if President Ford's budget proposal is followed for fiscal year 1977. This is up approximately 12 percent from the fiscal year 1970 level of 6,697. Yet, in the last 6 years, farm loans and housing loans have doubled, community loans have tripled.

FmHA spokesmen would have us believe there has been no decrease in the level of service, but rather an amazing increase in FmHA efficiency. FmHA figures on the number of man-years for loaning or servicing per million dollars indicate a rapid decline from 2.7 in 1962, to 1.1 in 1970 and 0.49 in 1974.

Even given the miracles of modern science, computers, and streamlined administrative procedures, I am astonished by that report. Contrary to what FmHA says, the experience of people in my district shows that rural residents have paid an untold price for this increased "productivity."

It would take much effort and intimate knowledge of the agency to reveal the truth behind these figures, but there is at least one negative side effect I can easily detect—such an emphasis on "productivity" forces an already overworked county supervisor to assign priority to the bigger and easier loans, as opposed to the smaller, riskier ones. It takes approximately the same amount of time to process a $12,000 "502" homeownership loan as it does to process a $2,000 "504" home repair loan. Thus, the supervisor will probably allocate his time where the returns, rather than the needs, are greatest.

My primary concern is that FmHA is not doing its job properly. Its principal function is to serve rural residents, yet every time I return to my District, I hear horror stories about the Farmers Home Administration, constituents sometimes swearing they would rather die than ask FmHA for a loan.

I have talked to farmers who did not receive emergency loans until it was 3 months too late to buy seed and fertilizer; young couples who spent 4 months developing a housing loan application only to be told the area was no longer eligible because of recent shifts in population size or SMSA boundaries; businessmen who spent 6 months on a business loan application only to be told their debt/net worth ratio was unacceptable.

These painful experiences could be prevented, if only FmHA would initiate the proper reforms. There are several I would like to recommend, but first, it is necessary to analyze the four major program areas within FmHA, how they operate, and where they go wrong.

FARMING

FmHA's initial mission was to help farmers through a variety of operating, ownership, and emergency loans.

FmHA has been given the financial resources to act as banker of last resort. When a farmer cannot obtain credit elsewhere, he can turn to FmHA for help. So much for theory. FmHA standards are so strict, appraisals so conservative, demands for collateral so high, that it is often more difficult to get a loan from FmHA than from a local bank.

Statistics on failure rates on FmHA loans, from program inception until the present, are a good indicator. Failure rates on ownership loans are estimated at 0.2 percent, failure rates on operational loans are estimated at 1.6 percent. This compares with the American banking industry's 1975 loss rate of 0.6 percent.

This ultraconservative approach is compounded by prolonged delays in processing. Farmers feel they are getting the runaround from bureaucrats who mistrust them, do not level with them, and are afraid to take a risk.

The Emergency Farm Loan Act, passed by Congress this past summer, will undoubtedly go a long way toward alleviating these problems. The new procedure for issuing checks directly from the U.S. Treasury to the county office, bypassing the FmHA finance office, will undoubtedly also help. In addition, however, I would recommend the following:

First, simplify the disaster designation procedure.

Second, increase the level of counseling and technical assistance to young farmers and those getting started in business.

Third, accept appraisals from qualified outside sources—such as bankers or real estate appraisers—rather than imposing this burden on FmHA staff.

Fourth, increase the size limit on loans which can be approved at the local level.

HOUSING

One of the most pressing needs in rural America today is the need for adequate housing. Sixty percent of the substandard housing in the United States is located in rural areas. According to a study by the National Rural Housing Coalition, an estimated 9 million existing units need to be repaired or replaced, and an estimated 5–6 million new units should be built.

In rural Minnesota, which has half the State's population, 24 percent of the housing units are substandard, 63 percent of the units were constructed prior to 1940, and 35 percent of the households are classified as elderly.

Due to the national economic situation, rural residents are turning to FmHA for housing assistance in increasing numbers. The high inflation rate has pushed interest rates and the cost of construction beyond the reach of most rural residents. At the same time, economic instability has caused private lenders to invest in shorter term loans rather than risk long-term housing loans.

FmHA offices in my district in Minnesota are receiving two to three times the normal number of housing loan requests. Nationally, the demand for housing funds has been so great that FmHA was forced to create a "quota system," allocating one-sixth of the remaining fiscal year 1976 housing funds for each month between January and June, in order to avoid exhausting the funds long before the end of the year.

The quickest and most effective solution to the problem is within arm's reach. Last December Congress approved a supplemental appropriation of $500 million in insured rural housing loan authority. President Ford, however, recommended a rescission, which the House voted down on February 10. Even so, the money will not be available until the latter half of March.

This is but the latest move in a consistent administration effort to cut the Federal budget at the expense of rural America.

FmHA policy favors purchase of existing units as opposed to new construction, even though, according to testimony presented during these hearings, the difference in price may be as little as $2,000–$3,000. This policy tends to drive up the prices in an already tight market, rather than lowering the prices by expanding the existing supply of housing. Moreover, since FmHA projections for housing rehabilitation are unrealistic, there are unused funds at the end of each fiscal year which are belatedly released for new construction.

The number of homeowners assisted by FmHA could also be raised if FmHA would modify its minimum property standards. The Minnesota Housing Finance Agency, for example, has developed a "basic home," which meets all of the strict State building code requirements, is well adapted to harsh northern winters, and sells for $11,000 to $16,000, exclusive of the land. This is an innovative, resourceful approach which enables low-income individuals to purchase single family homes they would otherwise never be able to afford.

FmHA, however, will not approve a loan on such a "basic home" because the home does not meet the agency's standards. While FmHA has agreed to review the Minnesota proposal, it will take several months before any official comment is available from FmHA.

One of the thorniest problems we have encountered in Minnesota involves the section 515 rural rental program. The communities of Northome and Little Fork, located in my congressional district in Koochiching County, were among the first two joint HUD section 8-FmHA section 515 new construction projects approved in the country. They paid a heavy toll for this dubious honor. Months of delays, aggravation, and heartache were involved, because the developer and the community had to work with two different Federal agencies who had not yet developed any machinery for processing a joint application.

The present maze of parallel and incompatible procedures is nightmarish. The two agencies use different criteria to determine rents, different regulations regarding application procedures, different inspection schedules, and different contracting periods. Even Federal bureaucrats, experienced in the mysteries of Federal paperwork, can barely make heads or tails of the process. Pity the innocent rural residents.

A most reasonable, uncomplicated solution is available if only the national HUD and FmHA offices could agree on a section 8 set aside for FmHA. HUD is already doing this for State housing agencies; they should do no less for their poor country cousin.

It appears, from comments I have heard, that HUD and FmHA are indeed discussing the matter. I only hope that remedial action will be prompt.

While such an arrangement would be most desirable, the cause of improved housing for the very poor could be considerably advanced if FmHA would also implement the rent supplement program authorized in the Housing and Community Development Act of 1974.

Under section 515 of this act, FmHA is authorized to issue mortgage loans with an interest rate as low as 1 percent. Even with this subsidized interest rate, however, the rents are still too high for very poor families. This can be resolved with the rent supplement provided under the act, permitting FmHA to pay the difference between the subsidized rent and the family's contribution of 25 percent of its income.

The issue of subsidized interest rates raises another point which has caused much consternation in my congressional district in Minnesota. As of December 1, 1975, the Minnesota FmHA office had 85 applications for section 515 funds totaling $18.4 million. This did not include a number of HUD approved section 8 projects that had also indicated an interest in applying for section 515 financing. Their needs would boost the total by at least $4 million.

Minnesota's total allocation for section 515 for fiscal year 1976 is $10.1 million. This sum has been divided by the FmHA Administrator into two mutually exclusive categories: $10 million for subsidized projects—projects receiving an FmHA interest subsidy—and $100,000 for unsubsidized projects—including all section 8 projects. Since no project may receive subsidies from both agencies, these section 8 projects cannot be subsidized by FmHA, thus their "unsubsidized" designation.

I do not know how or why this ratio occurred, but I do know that FmHA Administrator Elliott has ordered that no funds be transferred from one category to the other. I have written him to protest this action.

Suffice it to say that if the amount of unsubsidized funds in Minnesota is not increased, there will probably be at least five projects totaling over $4 million competing for $100,000 in FmHA funds. At an estimated cost of $16,000 per unit, this means a grand total of six apartment units in the whole State.

Admittedly, Minnesota applicants could request assistance from the national FmHA reserve fund. However, since a mere $6.5 million has been set aside for unsubsidized projects around the country, enough to finance approximately 400 units, Minnesota cannot realistically expect much help from that quarter. Nor can any other State in the Nation.

FmHA has a list of the amounts of subsidized and unsubsidized section 515 funds available for each of the 50 States. The ratio between the two categories varies greatly. I feel it imperative that this subcommittee attempt to determine how and why these figures are established, and how they can be changed.

COMMUNITY FACILITIES AND SEWER AND WATER SYSTEMS

Aside from housing, perhaps the most urgent need in rural communities is adequate sewer and water systems. The cost per household is usually higher than in urban areas because of the lower population density and more difficult terrain. At the same time, the tax base to finance these systems is usually very narrow. One typical community in my district, for example, has 750 residents, half of whom are elderly living on fixed incomes, and no industry.

FmHA presently has the authority to award grants for up to 50 percent of project cost, depending on the community's repayment ability, and to extend a 5 percent loan for the remainder. Even with a 50 percent grant, which is rare, many small communities cannot afford adequate sewer and water, yet secondary sewage treatment is required by the Clean Water Act of 1972.

According to a study by the Commission on Rural Water, the average monthly water rate per user for FmHA grant-funded systems in fiscal year 1976 nationally is approximately $12. While the average in Mississippi is $10, in Kansas it's as high as $24, and the monthly charge for the one Minnesota project analyzed by the Commission is $34.

Considering the low median incomes in rural areas, a fee of $120 to $400 a year is exorbitant. And this is for systems receiving FmHA grants. The fees for systems which are financed strictly with loan funds are even higher.

Congress, sensitive to these local problems, appropriated $250 million in water and waste disposal grants in fiscal year 1976. The President saw fit to rescind $150 million and defer $50 million on the grounds that funding is sufficient for the most urgent applications on hand, and that alternate grant funds are available from other Federal agencies.

President Ford then proceeded to outdo himself by recommending termination of the grant program in fiscal year 1977. The President's policy is pure folly; there is an acute need for every available dollar of sewer and water grants.

BUSINESS AND INDUSTRIAL LOANS

The problems plaguing the business and industrial loan program are similar to those already mentioned regarding other FmHA programs—overworked staff, limited funds, excessive delays and redtape, unrealistic demands, and 100 percent escrow accounts.

General Elliott pinpointed the crux of the matter in testimony during these hearings. He seemed pleased with the fact that FmHA is even more cautious in approving business and industrial loans than those in any other loan category, examining the applicants "very sternly," said he. His rationale was that FmHA is the principal source of credit in this case, rather than the lender of last resort, as in other loan programs.

The fact of the matter is, however, that no businessman would endure the agony of applying for an FmHA loan if there were a local bank equipped to give him the money he needed.

That loan philosophy is flat wrong. Rather than take pride in the 1,000 loans FmHA has approved in the last 2 years, FmHA officials should be embarrassed that the number is so low.

In addition to a general change in loan philosophy, FmHA must recruit more staff members with solid training in business and banking. Until very recently, almost all FmHA employees were required to be graduates of agricultural schools. This was appropriate when FmHA was primarily engaged in extending and servicing loans to farm operations, but is a distinct disadvantage at present.

Today, with so many nonfarm programs, it is essential that FmHA personnel, on the State and county levels, as well as the national level, have advanced training in the diverse areas of housing, community development, business and finance.

PROGRAM RECOMMENDATIONS

Following are my suggestions about the direction FmHA should take in the future:

First, FmHA must face up to its role as the prime developer of rural America, the greatest growth area in our country today, invest time and money in research and planning, determine the extent of need and set appropriate goals.

Second, FmHA must have a greatly expanded staff with more varied professional backgrounds and continuous inhouse training.

Third, FmHA should join with the other agencies most deeply involved in rural development, primarily EDA, HUD, EPA and SBA, to create more unified policies, uniform regulations and application procedures, and to promote more cooperation at the local, State and national level. Ideally, it should be possible for a community to file one single sewer and water application which will be reviewed simultaneously by FmHA, HUD, and EPA. Similarly, FmHA, EDA, and SBA should simultaneously review a businessman's loan application.

Fourth, FmHA must establish a closer and more intensive level of cooperation with local and sub-State planning organizations.

Fifth, a standard definition of rural areas is needed to replace the confusing and contradictory array of definitions applied by different agencies for different programs.

Sixth, FmHA should streamline application procedures for all of its programs, so that applicants can submit all the necessary documentation in one single package, rather than running back and forth with new data every week. FmHA personnel should be required to tell applicants in advance how long they can reasonably expect to wait for a final yes or no decision, and when they can expect to receive the money, if their application is approved.

Seventh, finally, FmHA must shed its old clothes and create a new self-image, better suited to the vital role it is expected to play in the future development of rural America.

BANK REGULATION NEEDS REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 5 minutes.

Mr. REUSS. Mr. Speaker, the Financial Reform Act of 1976, on which the House Banking Committee will begin hearings March 4, includes basic restructuring of the Federal bank regulatory agencies. It proposes that the office of the Comptroller of the Currency be abolished, and a new Federal Banking Commission be established to take over the regulatory responsibilities now lodged in the Comptroller's office and the Federal Reserve.

An excellent editorial in Financial World of March 1, 1976, spells out the need for consolidation of bank regulation in the public interest. I include this editorial to be printed in the Record at this point:

Washington and Our Banks: the Regulators

The headlines concerning "problem banks" that have appeared on various regulators' lists could not possibly be a surprise to any regular reader of Financial World.

Last year had barely begun when, in our issue of Jan 8, 1975, we put this quote from our exclusive interview with Comptroller of the Currency James E. Smith on the cover: "I see this being a year in which we will have quite sizable loan losses." Later in the year we carried several related stories.

But today's headlines are telling you of last year's problems. For us, it is time to look ahead.

Two congressional investigations are currently underway that go to the heart of our bank regulatory system: one, under the helm of Chairman Reuss and subcommittee Chairman St Germain on the House side, and the other under Chairman Proxmire in the Senate. Legislation has now been proposed that would radically alter the way our nation's banks are supervised.

At the outset, it ought to be clearly understood by all—bankers, regulators and legislators—that none of the recommendations that we or others make are nearly as important as fulfilling the fundamental prerequisite. And that, simply stated, is that the Federal Reserve governors and the commissioners of a proposed new federal banking commission must be tough-minded, independent individuals of the highest integrity. Indeed, we believe any system, even the one now in existence, can function effectively when this requirement is met.

It is sadly evident that many of the problems now being exposed to public scrutiny are clearly the result, at the very least, of errors of omission by certain bank regulators.

The time has long passed when the "competition in laxity" among our regulatory institutions, as Chairman Burns put it, should have ended. The FDIC, the Comptroller of the Currency and the Federal Reserve have enmeshed our banks in a miasma of complexities and inconsistencies.

By this time, it should be obvious to everyone that the supervisor of a bank's holding company must also be the supervisor of the bank itself. It ought to be obvious to everyone that the banks cannot continue to have the option of changing regulators by changing from a state bank to a federal bank in order to obtain a more congenial supervisory climate. There is no defensible reason for one regulator to have the most modern equipment to supervise the banks under its aegis and another not even to have a computer. These are but a few of many compelling arguments for change born in the unfortunate experience of recent years.

So the first recommendation must be, and is, that all bank regulators—the relevant Federal Reserve staff, the Comptroller of the Currency and the FDIC—be merged into one strong and effective unit.

There are many reasons to fold this new regulatory authority over all banks into the Federal Reserve. By all accounts, the Fed's supervisors have been the most effective. Indeed, it has been from the Federal Reserve that banks have fled.

And how can bank regulators function without the knowledge of overall money and credit conditions that exist not only in this country, but throughout the world? West Germany has the banking system that perhaps most nearly resembles our own. There is some evidence to suggest that the debacle concerning the collapse of Bankhaus Herstatt was in part due to the lack of coordination between the independent bank regulator and the central bank, the Bundesbank. In our own country, we apparently came perilously close to some major difficulties in the Franklin National Bank episode because of differences between the Federal Reserve and the Comptroller of the Currency.

Finally, it would be the Fed that would be called upon to provide the funds to alleviate any difficulties in the system.

On the other hand, almost daily new fears about the banking system are articulated. It matters not that these expressions are not well-founded. And it is a commentary on our times that reassurances from those in authority tend to aggravate rather than ameliorate. The truth is that the credibility of our banks, our banking system and its regulators have been dealt serious blows. Our banking system, in the final analysis, rests on confidence, and restoration of confidence is the paramount objective.

Therefore, notwithstanding the very valid reasons for allowing the Fed to become the principal regulator, we believe that, on balance, a fresh start is the best path. We endorse the House and Senate proposals that would establish a new federal banking commission, to be composed of five or more independent members appointed by the President and confirmed by the Senate serving staggered terms. We endorse the proposals that would amalgamate all of the regulatory powers now vested in the Fed, the Comptroller of the Currency and the FDIC into this commission.

At the same time, it becomes mandatory that the Federal Reserve and this new agency maintain effective liaison. It is not necessary that governors of the Fed be commissioners of the new agency, but an effective mechanism will have to be created to insure a continuous flow of information and dialogue between both agencies.

Finally, we recommend in the strongest possible terms that the nucleus of the new agency be the current regulatory system and staff now employed at the Federal Reserve.

LETTER TO ATTORNEY GENERAL EDWARD H. LEVI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Leggett) is recognized for 30 minutes.

Mr. LEGGETT. Mr. Speaker, I have asked for this special order today to simply read into the House Record a letter I am sending today to Attorney General Edward Levi concerning the salacious material that appeared in the Washington Post last week:

House of Representatives,
Washington, D.C., February 25, 1976.

Hon. Edward H. Levi,
Attorney General, Department of Justice,
Washington, D.C.

Dear Mr. Attorney General: I regret that neither you nor your Deputy Attorney General Tyler have returned my telephone calls of yesterday. As has been indicated in the press, I was thunderstruck respecting the diabolic charges reported by Maxine Cheshire and the Washington Post last week.

Allegations of bribery are idiotic and false. I have not accepted, have not been offered any cash or thing of value from the Korean government or any representative thereof at anytime.

I did speak to Deputy Attorney General Tyler last Thursday, and he reported to me that the Cheshire article appeared to be excessively melodramatic, that there was an investigation of myself and a number of others that he did not precisely describe, but that I had to recognize that your agency gets all of the b.s. from around the U.S. and that 90 percent of it is just that. Tyler responded when I attributed Justice action solely to Maxine Cheshire as follows: "Not just that, but the C.I.A. and the Church Committee on C.I.A. in the Senate."

I subsequently reviewed that matter with Senator Church and his staff director, Bill Miller, and their counsel, Fritz Swartz. Without quoting verbatim the conversations held with the Senate Committee, it appears that an informant by the name of William Corson, co-editor of Penthouse Magazine, had provided some National Press Club gossip concerning an employee of the House of Representatives and had suggested some far-fetched ideas of his own respecting myself and others. The Senate Committee staff thought the matter bizarre and referred Corson to the C.I.A. and the Justice Department. The Committee staff did report the matter to Deputy Attorney General Tyler, not thinking the matter of particular significance or the Speaker of the House would have been immediately notified.

I subsequently spoke with Mr. William Corson and discovered that he had never been interviewed directly by your Department, but that he had talked to the C.I.A.

While you apparently made your determination to proceed with the investigation at the highest level and on the most sensitive of information, I apparently interviewed your star witness before you had the opportunity. Mr. Tyler did indicate that he would move forward with the investigation with all deliberate speed, recognizing the possible injury to my reputation. I took a ten-page statement from Corson over the telephone, a large portion of which was corroborated by Leo Rennert of the Sacramento Bee. The bottom line was that Corson had no information of any wrong doing on my part. Mr. Corson is a Penthouse editor, and I can understand how his stature demands certain consideration and respect.

I next called the C.I.A. and determined that Corson had given to Mr. John McMann a similar story to the one he gave the Church Committee, but different than the story he gave to Rennert and myself, that McMann referred Corson to the F.B.I. since a domestic matter was involved. The C.I.A. said through Mr. George Cary, their Legislative Counsel, that they had no file on this matter whatsoever until Corson came in. They denied that they today have a file. The Church Committee has no file. The C.I.A. did pass on to the F.B.I. the Corson material since Corson for some unknown reason did not want to talk to the F.B.I. directly. This last action probably was in violation of Title 18, U.S. Code, Section 1905 and the regulation promulgated thereunder 28 C.F.R. 735 and Title 5, U.S.C.A. 552a.

Based on this information and perhaps other Press Club bar gossip, your agency took action. But the problem is this—before your investigation is even off the ground, it appears that someone in the Department of Justice advised Maxine Cheshire and the Washington Post of your contemplated investigation or the same is solicited by Cheshire and lo and behold, it seems to me we have probably two Federal crimes—the giving and receiving of unauthorized information in violation of your regulations and the Privacy Act.

I know you are concerned with Confidentiality and Democratic Government because I read your article in Vol. 30 N.Y. Bar 323 from last June. You stated:

". . . One reason for confidentiality, for example, is that some information secured by government if widely disseminated would violate the rights of individuals to privacy. Other reasons for confidentiality in government go to the effectiveness—and sometimes the very existence—of important governmental activity."

". . . Throughout its history our society has recognized that privacy is an essential condition for the attainment of human dignity—for the very development of the individuality we value—and for the preservation of the social, economic, and political welfare of the individual. Indiscriminate exposure to the world injures irreparably the freedom and spontaneity of human thought and behavior, and places both the person and property of the individual in jeopardy."

"As a result, protections against unwarranted intrusion, whether by the Government or the public, have become an essential feature of our legal system."

". . . Confidentiality is thus a prerequisite to the enjoyment of the freedoms we value most. The effective pursuit of social, economic, and political goals often demands privacy of thought, expression, and action. The legal rights created in recognition of that need undoubtedly infringe on the more generalized right of the society as a whole to know. But the absence of these legal rights would deprive our society of the quality we prize most highly."

"The rationale for confidentiality does not disappear when applied to government."

" . . The Supreme Court addressed the point when it said:

'It has generally been held that the First Amendment does not guarantee the press a constitutional right of special access to information not available to the public generally . . . Despite the fact that news gathering may be hampered, the press is regularly excluded from grand jury proceedings, our own conferences, the meetings of other official bodies gathering in executive session, and the meetings of private organizations.' "

". . . The rationale for confidentiality in this regard was stated by Attorney General Robert Jackson in 1941 in decliniing to release investigative reports of the Federal Bureau of Investigation which were demanded by a congressional committee. The Attorney General wrote:

'(D)isclosure of the reports would be of serious prejudice to the future usefulness of the Federal Bureau of Investigation. . . .' "

". . . Disclosure could infringe on the privacy of those mentioned in the reports and might constitute 'the grossest kind of injustice to innocent individuals.' Mr. Jackson observed that 'investigative reports include leads and suspicions, and sometimes even the statements of malicious and misinformed people,' and that a 'correction never catches up with an accusation.' "

Now having determined your position on fairness, I would respectfully again call your attention to the following laws:

Title 18, U.S. Code reads as follows:

"Whoever, being an officer or employee of the United States, or of any Department or Agency thereof processes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, or report, or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or abstracts, or to the identity, confidential statistical data, amount or source of any information, profits, losses, or expenditures of any person, firm, partnership, corporation or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than $1,000 or imprisoned not more than a year, or both; and shall be removed from office or employment."

The Regulations promulgated thereunder, 28 C.F.R. 45.735, read as follows:

"No employee (Department of Justice) shall use for financial gain for himself or for another person, or make any other improper use of, whether by direct action on his part or by counsel recommendation or suggestion to another person, information which comes to the employee by reason of his status as a Department of Justice employee and which has not become part of the body of public information."

"Law enforcement investigatory material is not exempt from the restriction on disclosures clause of the statute nor from required accounting provisions. (5 U.S.C. 552a (b); (c)(1), (2); (j)). The restrictions on disclosure clause provides that:

No agency shall disclose any record which is contained in any system of records by any means of communication to any person, or to another agency, except pursuant to a written request by or with the prior consent of, the individual to whom the record pertains unless disclosure of the record would be—

(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties:

(7) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a special request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(9) to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee; (5 U.S.C. 552a (b))

For any disclosures, the agency is required to account for dissemination of any information. (5 U.S.C. 552a(c))

I would particularly call to mind: 5 U.S.C. 552a(i) Criminal Penalties.

"Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that the disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

"(2) Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than $5,000.

"(3) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000."

I would respectfully suggest that a person or persons in Justice have committed a high misdemeanor and on more than one occasion in revealing information concerning your investigation.

I am prepared to file whatever affidavits are necessary with respect to the violations of which I am complaining.

Mr. Attorney General, in light of your deep concern for Civil Rights of all citizens, I would like to be advised of the actions which you plan to take to protect my rights after these false allegations have leaked from your Department.

As was laid in Othello: "Good name in man and woman, dear my Lord, is the immediate jewel of their souls; who steals my purse, steals trash; t'is something, nothing, t'was mine, t'is his and has always been slave to thousands, but he that filches from me my good name robs me of that which not enriches him, and makes me poor indeed."

I look forward to an early reply.

Very sincerely,

ROBERT L. LEGGETT,
Member of Congress.

THE FBI AND DOMESTIC INTELLIGENCE ACTIVITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. DODD) is recognized for 10 minutes.

Mr. DODD. Mr. Speaker, the House Judiciary Subcommittee on Civil and Constitutional Rights, on which I have the privilege to serve, has been holding continuing oversight hearings into the domestic intelligence activities of the Federal Bureau of Investigation.

Yesterday, the chief of the General Accounting Office—GAO Comptroller General Elmer B. Staats, presented to our subcommittee the results of an investigation by his agency into these FBI actions.

I want to take this opportunity to commend Comptroller General Staats and his dedicated staff for the superior professional quality of their report to this subcommittee. They have labored diligently over the past year under difficult circumstances in order to provide us with the first extensively documented analysis of the FBI's domestic intelligence operations.

The details of this report are no longer shocking. Americans are well aware of the illegal activities performed by the Bureau in the past—the Cointelpro Operations; the maintenance of unwarranted files on innocent individuals; and the extensive investigations of persons associated with so-called extremist or subversive groups without a prior determination of an individual's substantial propensity for violence or clear evidence of the "probability" of the commission of a Federal crime.

But these details remain disturbing, and this sense is deepened by the extensive evidence provided in the GAO report of poor management techniques and vague, or nonexistent, guidelines for decisionmaking authority within the Bureau regarding these illegal practices.

However, it is my belief that we must not dwell upon the past. It will serve no constructive purpose to continue to discredit the FBI. We must not focus upon the mistakes of the past for that sake alone. Rather we must utilize the lessons of our past experience as a tool for shaping the future of our domestic intelligence operations.

First, Congress must clarify its relationship with the Federal Bureau of Investigation. The Bureau should be provided with specific directives setting forth in detail the types of permissible domestic intelligence activities and the prerequisites for the initiation of these activities. There must exist an unobstructed exchange of information—with appropriate security provisions—between the Bureau and Congress. A balance must be struck between the constitutional responsibility of Congress to exercise oversight on FBI operations and the FBI's central role in fighting crime and protecting our national security.

The refusal by the Department of Justice and the Federal Bureau of Investigation to permit the General Accounting Office, the research arm of Congress, to have even limited access to FBI investigatory files in order to verify their findings for this subcommittee amplifies the distrust which exists between Congress and these agencies—a distrust which may not be wholly without justification. To foster a more productive relationship, Congress must get its own house in order. We must honor the security arrangements made to control the use and dissemination of information shared with Congress, and where such arrangements do not exist we must formulate them without delay.

Furthermore, we cannot expect the Bureau to effectively and efficiently respond to the numerous identical requests for information by several congressional committees. Congress must decide which committee will have primary oversight responsibility for the FBI. The House Judiciary Subcommittee on Civil and Constitutional Rights chaired by my distinguished colleague. Mr. EDWARDS of California, has exercised longstanding legislative oversight responsibility for the Bureau and should be mandated with the sole responsibility for continuing this effort. Only then can Congress effectively carry out its oversight function and at the same time permit the Bureau to focus its attention on a regular working relationship with one committee.

Second, it is essential for Congress to clearly delineate the Attorney General's overall supervisory responsibility for all activities conducted by the FBI. As recently as 2 weeks ago, Attorney General Levi testified before this subcommittee that he would not accept complete and final responsibility for FBI operations. Mr. Levi admitted that as Attorney General he must exercise general supervision over FBI activities but he refused to accept final authority for the scope and direction of all FBI intelligence operations. It is imperative for Congress to crystallize this relationship between the Department and the Bureau. We must know which activities the Attorney General permits the FBI to conduct without direct supervisory control. And we must revise existing statutes to more clearly mandate the Attorney General's responsibility for all the activities conducted by this powerful agency.

Third, the FBI must demonstrate its willingness to cooperate with this reform effort by re-examining its own internal organizational structure and operations. The Bureau must consider measures which go beyond a limitation on the Director's tenure. They should evaluate the existing method of training FBI agents, and examine changes which should be made in the manual of instructions in order to bring day-to-day agents' activities in compliance with the new proposed guidelines. Furthermore, the Bureau must work with Congress to clearly define the existing precarious line of decisionmaking authority and responsibility for carrying out the various domestic intelligence activities between the FBI headquarters and the field offices.

The impact of our oversight effort will be severely limited if we can supervise the operations of the FBI in Washington, but fail to eradicate the illegal activities engaged in by FBI field offices across the country.

These three relationships—between Congress and the FBI; between the Department of Justice and the FBI; and between FBI headquarters and its field offices—are the identifying links which must be thoroughly examined and clarified by Congress. The GAO report contains many solid recommendations for revising existing statutes and the proposed guidelines. In addition, I welcome the advice of the Comptroller General and his staff regarding the way Congress should proceed with this awesome and vital task.

THE BICENTENNIAL COMMISSION ON PRESIDENTIAL NOMINATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 10 minutes.

Mr. FRASER. Mr. Speaker, today I am joining with the gentleman from Indiana (Mr. BRADEMAS) in introducing legislation establishing a Commission to examine the Presidential nominating process. My colleague from Minnesota, Senator WALTER MONDALE, is the chief sponsor of companion legislation in the other body.

The system by which a candidate for the American presidency is nominated is badly in need of review. Our system for electing a President has evolved over our 200-year history into a confusion of party regulations, State laws, and unchallenged traditions. One of the more visible aspects of the nominating procedure, the State Presidential primaries, create an endurance contest, and is a needless waste of money, time, and energy.

Over the years there have been calls for change and efforts made to reform the process. But there has never been a comprehensive examination of the American Presidential nominating system.

The Bicentennial Commission on Presidential Nominations could provide this much needed review. The Commission would be bipartisan, with its 18 members appointed equally by the President pro tempore of the Senate, the Speaker of the House, and the President, with the chairman of the two national parties serving ex officio.

The Commission would examine all aspects of the nominating process: the way States conduct Presidential primaries and select delegates to the national nominating conventions; the financing of Presidential campaigns; media relationships with the Presidential candidates; State laws and national party rules which govern the participation of voters and candidates in primaries and caucuses; and the Vice Presidential nominating process.

Most agree that our current Presidential nominating system needs to be revised. But how is the perplexing question. Many proposals for revision have been put forth over the years. The Commission will have the opportunity to study them all, and others they themselves might suggest. By early 1977 the Presidential Nominations Commission will report its recommendations to Congress. Enactment of legislation to establish this Commission could be an important first step to a more sensible process by which we elect our President in 1980.

At this point, I would like to include with my remarks a copy of an editorial from the Washington Star commenting on the Commission proposal.

[From The Washington Star, Feb. 24, 1976]

A PRIMARY PROPOSAL

With the voters of New Hampshire going to the polls in the first of a long, tiresome and essentially irrational series of primaries, today seems an appropriate time to put in a plug for legislation aimed at changing the method of selecting presidential nominees.

Every four years, as candidates prepare for the exhausting trek that begins in New Hampshire and winds up and down the coasts and back and forth across the nation, enthusiasm builds in many quarters to do something about the illogical procedure. But nothing ever comes of it; once the candidates are nominated the enthusiasm seems to fade.

Probably one of the main reasons nothing gets done is that no one is sure what to substitute for the present hodgepodge. Various suggestions have been made, some in the form of legislative proposals, ranging from a national primary to regional primaries to no primaries.

Four senators—Democrats Walter Mondale of Minnesota and Adlai Stevenson of Illinois and Republicans Robert Packwood of Oregon and Howard Baker of Tennessee—have come up with a proposal that makes sense. They, along with 17 co-sponsors, introduced a resolution several days ago to create a bipartisan commission to conduct a one-year study of alternate nominating systems.

The commission would be composed of 20 members, six of whom would be appointed by the President, six by the Speaker of the House and six by the President Pro Tem of the Senate. The chairmen of the Democratic and Republican parties would serve as ex-officio members.

The four senators noted that "incredibly there has never been a serious, fundamental and comprehensive review of our presidential nominating process throughout our 200-year history . . . the time for one is long overdue."

The commission, which also would make a similar study of the vice presidential selection procedure, would report its recommendations in early 1977. The report would give the Congress a firm point of departure from which to revamp the system before the 1980 presidential election.

We believe there is a compelling need to revise the system. As the four senators observed, "There is no more fitting effort we could undertake in the bicentennial year than to try to improve one of the most basic elements of our democratic process."

Mr. Speaker, a copy of the bill follows:

H.J. RES. 807

Joint resolution to establish a Bicentennial Commission on Presidential Nominations

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this joint resolution may be cited as the "Bicentennial Commission on Presidential Nominations Resolution".

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of the United States to improve the system of nominating candidates for election to the office of the President of the United States by studying such system in a broad manner never before attempted in the two hundred year history of this Nation.

ESTABLISHMENT OF COMMISSION

SEC. 3. (a) There is established the Bicentennial Commission on Presidential Nominations (hereinafter referred to as the Commission").

(b) The Commission shall be composed of twenty members to be appointed as follows:

(1) six members shall be appointed by the President pro tempore of the Senate, of whom at least two shall be Members of the Senate and at least two shall be elected or appointed State officials;

(2) six members shall be appointed by the Speaker of the House of Representatives, of whom at least two shall be Members of the House and at least two shall be elected or appointed State officials;

(3) six members shall be appointed by the President; and

(4) two members shall be the chairmen of the two national political parties and shall serve as ex officio members.

(c) At no time shall more than three members appointed under paragraph (1), (2), or (3) of subsection (b) be individuals who are of the same political affiliation.

(d) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made, subject to the same limitations with respect to party affiliations as the original appointment.

(e) Twelve members shall constitute a quorum, but a lesser number may conduct hearings. The Chairman of the Commission shall be selected by the members from among the members, other than ex officio members.

FUNCTIONS OF THE COMMISSION

SEC. 4. (a) The Commission shall make a full and complete investigation with respect to the Presidential nominating process. Such investigation shall include but not be limited to consideration of—

(1) the manner in which States conduct primaries for the expression of a preference for the nomination of candidates for election to the office of President of the United States and caucuses for the selection of delegates to the national nominating conventions of political parties;

(2) State laws and the rules of national political parties which govern the participation of voters and candidates in such primaries and caucuses;

(3) the financing of campaigns for the nomination of candidates for election to the office of the President of the United States;

(4) the relationship between candidates for election to the office of the President of the United States and the news media, including how candidates achieve public recognition and whether such candidates should be guaranteed access to the television media;

(5) the interrelationship of the elements described in paragraphs (1) through (4) of this section;

(6) alternative nominating systems, including but not limited to a national or regional primary system for the expression of a preference for the nomination of candidates for election to the office of President of the United States and variations on the present nominating system; and

(7) the manner in which candidates are nominated for election to the office of Vice President of the United States.

The Commission shall submit to the President and to the Congress such interim reports as it deems advisable, and not later than one year after the enactment of this resolution, a final report of its study and investigation based upon a full consideration of alternatives to our current Presidential nominating system, including an analysis of the strengths and weaknesses of all such alternatives studied, together with its recommendations as to the best system to establish for the 1980 Presidential elections. The Commission shall cease to exist sixty days after its final report is submitted.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 5. (a) The Commission may, in carrying out the provisions of this joint resolution, sit and act at such times and places, hold such hearings, take such testimony, request the attendance of such witnesses, administer oaths, have such printing and binding done, and commission studies by any Federal agency or executive department, as the Commission deems advisable.

(b) Per diem and mileage allowances for witnesses requested to appear under the authority conferred by this section shall be paid from funds appropriated to the Commission.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification in General Schedule pay rates, but at such rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

COMPENSATION OF MEMBERS

SEC. 6. (a) Members of the Commission who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(b) Members of the Commission not otherwise employed by the Federal Government shall receive per diem at the maximum daily rate for GS–18 of the General Schedule when they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

TIMELINESS OF APPOINTMENT

SEC. 7. It is the sense of the Congress that the appointments of individuals to serve as members of the Commission be completed within ninety days after the enactment of this resolution.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this resolution.

OLDER WORKERS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. RANDALL) is recognized for 10 minutes.

Mr. RANDALL. Mr. Speaker, as chairman of the House Select Committee on Aging, I am today introducing a joint resolution which provides for the designation of the second full calendar week in March of each year as "National Employ the Older Worker Week." Our resolution would provide that, upon the approval of the resolution by the Senate and the House of Representatives, that the President would be authorized and requested to issue a proclamation designating such a week each year, and calling upon employer and employee organizations and, indeed, upon all of the people of the United States, to participate in appropriate activities and programs designated to reduce discrimination in employment because of age.

The Subcommittee on Retirement Income and Employment of the Select Committee on Aging, which it is my privilege to chair, has been holding a series of hearings on the employment problems and needs of older workers. The testimony we have heard indicates that older workers are as productive, and in many cases more so than their younger counterparts. It is a matter which has been proven over and over again, that older workers have better records of attendance and less job changes than younger workers.

In spite of these "employable" qualities of older workers, the number of unemployed older workers has risen dramatically in recent times. The false myths about older workers continue to create mistaken attitudes for employers and foster the practice of age discrimination. In fact, witnesses before our committee indicate that it is most often the case of an older worker in management of personnel who discriminates against the middle-aged or older worker.

Hundreds of thousands of the unemployed are over 55 and these persons are out of work two and three times longer than younger workers. In addition, the classification of "discouraged worker" represents about 1.1 million persons who are not counted as unemployed, but who would take a job tomorrow if one were available. One-third of this group are 55 and over.

It is clear to me that the problems facing older workers warrant our immediate and continuing attention. Educational efforts such as "National Employ the Older Worker Week" can be of significant help in correcting false images the public has about older workers and in promoting their true capabilities. I am hopeful that the effect of the efforts put forth during a week of this kind can extend throughout the year.

Mr. Speaker, the older worker represents a major untapped portion of what Willard Wirtz terms "the boundless resource." Our Nation would be the richer if this resource were more fully utilized. I urge all the Members of Congress to join with me in supporting this resolution to designate the second full calendar week in March as "National Employ the Older Worker Week."

STATEMENT OF REPRESENTATIVE JOHN E. MOSS, CHAIRMAN, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS, HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE ON CONGRESSIONAL ACCESS TO INFORMATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Moss) is recognized for 10 minutes.

Mr. MOSS. Mr. Speaker, over the past

several years, we have witnessed a growing public concern over the right of Congress to free access to information in the possession of the executive branch and other Federal agencies. This issue is basic to our congressional system. It is fundamental to a Government based on elected representatives responsible to the people.

The issue of congressional access to information involves the fundamental need of the Congress to have the information necessary to carry out its legislative responsibilities under article I of the U.S. Constitution. The first article, as I need not remind you, provides:

> All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Fueled by executive refusal to furnish information in the Watergate matter, this public concern has intensified over the past several years. Its conclusion, in favor of the rights of Congress is, we trust, at hand.

Today I wish to apprise the Members of Congress of a court decision which upholds the constitutional right of Congress to obtain information in the possession of an independent regulatory agency even though the information is alleged by the plaintiff to be a trade secret. The case is Ashland Oil, Inc., plaintiff, Federal Trade Commission, defendant, and JOHN E. MOSS, intervenor, Civil Action No. 75-1956, U.S. District Court for the District of Columbia.

This decision, Mr. Speaker, dismisses the plaintiff's complaint for a permanent injunction and thereby permits the Federal Trade Commission to transmit the material which was subpenaed by the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce to the subcommittee. I would note, Mr. Speaker, that the responsibilities imposed upon the Congress for appropriate handling of all information including alleged trade secrets is great. There may be a need to make public trade secret information or other confidential information at sometime in the future during the course of the legislative process. But that decision is a serious one and the needs of the Congress to perform its constitutional function must be carefully weighed against the rights of individuals. I must, however, emphasize that as long as the Congress is pursuing a valid legislative inquiry and the material in question is pertinent to that inquiry, the decision on the responsible handling of alleged confidential information is for the legislative branch under our constitutional system. That is why the decision of Judge Corcoran denying an injunction to Ashland Oil is particularly significant. It places that responsibility on the Congress where it belongs under our system of Government.

Nonetheless, the decision of Judge Corcoran includes a single sentence which paradoxically may undermine the authority of the Congress because of an erroneous assumption—which is purely dicta—that the Subcommittee on Oversight and Investigations has somehow breached some unspecified promise of confidentiality.

I believe it is important that the House of Representatives be aware of the facts in the Ashland case so that the unfortunate dicta of the court cannot be used to criticize or impugn the conduct of a committee of the House.

In accordance with House Resolution 899, passed December 18, 1975, I intervened on January 16, 1976, on behalf of the House of Representatives and the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, through counsel, in the lawsuit brought by Ashland Oil, Inc., against the Federal Trade Commission. Despite a congressional subpena issued to the FTC on December 8, 1975, Ashland sought to prevent the FTC from delivering the subpenaed information to the subcommittee. House Resolution 899 specifically authorized the subcommittee's participation "in order to secure information relating to natural gas reserves now in the possession of the Federal Trade Commission for the use of the committee and the House."

The subcommittee had sought to obtain by subpena issued to the FTC, certain information on natural gas reserves on Federal lands and production therefrom that Ashland and 43 other companies had filed as special reports with the FTC pursuant to an FTC order under section 6(b) of the FTC act. Twenty-three other oil companies have refused to file such special reports with the FTC. This information is, of course, urgently needed by the Congress for the purpose of formulating sound national energy policy and is directly material to the enactment of effective natural gas and energy legislation.

Forty-three oil companies recognized this fact. They filed their special reports with the FTC and made no objection whatsoever when the FTC provided the Congress with precisely the kind of information Ashland sought to prevent.

Unfortunately, the U.S. District Court for the District of Columbia entered a temporary restraining order on November 24, 1975, enjoining the FTC from complying with the subcommittee's subpena regarding Ashland for almost 3 months pending the argument and decision in the case. Since Ashland has now appealed the district court decision, it is possible that many more months may roll by before the Congress has access to the natural gas lease and reserve data that the committee subpenaed. This, on the face, is an impairment of the constitutional powers of the Congress not authorized by any express statutory provision.

On February 2, 1976, the court issued its decision affirming the Congress right to access to the subpenaed information, dissolving the TRO, and dismissing the Ashland complaint.

First, the court found that plaintiff Ashland's gas reserve estimates constituted "trade secret" information.

Second, the court found that the particular investigation by the subcommittee is directly related to and in furtherance of "a legitimate task of Congress." The court based this finding on three subsidiary findings. One, that the subject matter areas that the subcommittee is investigating—national energy policy, natural gas supply and production, the need for emergency natural gas legislation and the role of Federal agencies in national energy affairs—are areas committed to the subcommittee's jurisdiction by proper congressional authorization. Two, that the subcommittee and committee are clearly engaged in a "valid legislative purpose," involving the study of energy problems, natural gas supply and production, emergency natural gas legislation and the role of the Federal Trade Commission, the Federal Power Commission, and other agencies responsible for national energy policy. Three, that the subcommittee's specific inquiries to the FTC in this case are pertinent to the broad subject matter areas which the House of Representatives has authorized the committee and subcommittee to investigate.

Third, the court found that plaintiff Ashland had not proven that it would be irreparably injured by the delivery of the subpenaed material to the subcommittee.

The effective date of the court's decision dissolving the TRO and dismissing Ashland's complaint was stayed for 10 days, however, and to date, the subcommittee still has not obtained the information.

As I have said, I believe the court reached a correct decision in this matter. However, the court's decision contains a single sentence which requires immediate correction. During the course of its decision, the court said:

> While the Court can appreciate Ashland's concern under these circumstances, it does not appear to the Court that isolated instances of *breached confidentiality in the past* are sufficient to overcome the continuing presumption of Congressional propriety. (Emphasis supplied)

The implication of this single sentence of the court's decision is that the subcommittee may have breached promises of confidentiality. The court's sentence is incorrect. No such promises have ever been made, and no such promises have ever been broken. I have maintained consistently that any confidentiality agreement by a congressional committee would place unconstitutional limits on the authority of Congress and would violate the rules of the House—particularly rule XI(e) authorizing all Members of the House of Representatives to have access to committee records. Consequently, no such agreement was made regarding any natural gas records and the court's statement is without foundation in fact.

The source of the disputed sentence of the court's decision is an unwarranted allegation made in Ashland's brief that the subcommittee's handling of trade secrets in the past has reflected "either a total incapacity to protect such trade secrets or a callous indifference to the proprietary nature of those secrets." Specifically, Ashland cites three instances in the past in which it alleges that the subcommittee has failed to accord confidentiality to trade secrets. These three allegations are that:

One, on a prior occasion cited in *FTC* v. *Texaco, Inc.*, 517 F2d, 137, D.C. Cir. 1975, natural gas reserve estimates submitted to the FTC "subject to an agreement restricting access to and disclosure of the date," were released to the general public.

Two, in the subcommittee's 1975 "Natural Gas Supply" printed hearings (House Doc. 94–23), proved reserve estimates, some of which had been entered in the logs of Gulf Oil Corp., were disclosed.

Three, it was publicly reported that I stated that a congressional commitment to respect the confidentiality of information detailing the participation of American companies and individuals in the so-called Arab boycott of Israel "would raise serious issues of congressional responsibility" by placing "unconstitutional limits on the authority of Congress."

I will deal with these allegations in order.

As to Ashland's first allegation, Ashland does not, and cannot, cite any passage in FTC against Texaco which indicates a judicial finding that the subcommittee disclosed trade secret information. Furthermore, any agreement which might have been made by the FTC and referred to in the Texaco case was inapplicable to the Congress and such fact was conceded by the FTC when it delivered the material to the subcommittee at my request. Executive agencies and independent regulatory commissions cannot, of course, bind the committees of Congress by agreements promising confidentiality or advance notice regarding the release of data, absent explicit statutory authorization of such agreements. There is no such statutory authorization in the case of the FTC nor, as a matter of fact, with regard to any other agency that I am aware of. In fact, the FTC has conceded that the agreement it entered into with the oil companies which was cited by the court in Texaco was not binding on the Congress and has in the Ashland case joined with the subcommittee in moving to dismiss Ashland's suit.

As to Ashland's second allegation, the gas reserve information discussed in the subcommittee's hearing of June 9, 1975, and printed in House Document 94–23 was subpenaed by the subcommittee pursuant to article I and the Rules of the House of Representatives and no promises of confidentiality were given. Ashland relies on the remarks of one member of the subcommittee seeking to limit the scope of the hearing. These remarks do not establish that the subcommittee disclosed any trade secret information or even that the FTC viewed the information as confidential. In fact, the gas reserve information was not confidential inasmuch as these are old fields and the relevant production records—from which reserves may be calculated—are all public. The subcommittee debated the issue and voted to release the gas reserve information. The entire proceeding was conducted pursuant to the rules and established procedures of the House. The alleged agreement regarding confidentiality was debated by the subcommittee and on a record vote, the subcommittee sustained the ruling of the Chair that the hearing regarding the reserve data of certain oil companies and the American Gas Association should proceed. Far from being an example of any breached agreement the conduct of this hearing was an example of responsible action by a subcommittee of the House of Representatives.

As to Ashland's third allegation, it should be obvious that the position which I have asserted—and which was followed in the AGA-natural gas hearings—that the decision on whether or not to release information is a matter for the committees and the House of Representatives is a statement of the powers of Congress under article I and cannot cause any improper breach of confidentiality.

In summary, there is no evidence in this case or in any other case—nor could there be—that the subcommittee has ever improperly disclosed trade secrets or proprietary information.

Similarly, there is no basis for any finding or inference that the subcommittee has breached any promise of confidentiality made by it.

The court's statement is, therefore, erroneous. While I have endeavored today to correct the public record, it is unfortunate that the court's statement contributes to the myth that the Congress cannot act responsibly when in possession of sensitive or confidential information. The continued right of Congress to gain access to information whether deemed confidential or otherwise must not be weakened lest we lose our ability to perform adequately our constitutionally mandated duties and the people risk loss of the Congress as a shield of their democratic rights.

HUD'S FAILURE TO BUILD URBAN HOUSING

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, a few weeks ago the Department of Housing and Urban Development submitted to the Congress its first report on the Community Development Act of 1974. This report notes that the replacement of the categorical grant system with a block grant program has resulted in more money being directed toward urban housing problems in the first year of operation than in any previous year.

What is obvious to us all and acknowledged by urban affairs experts around the country is that the distribution of some $600 million in Federal funds has had virtually no effect on the housing problems of the central cities. The urban areas which HUD was originally established to assist have been forgotten, and the lower- and moderate-income groups—ideally the prime beneficiaries of the 1974 act—have gained nothing.

A recent letter to the editor of the New York Times, written by officials of the Suburban Action Institute in Yonkers, N.Y., in response to an earlier Times editorial and reply by HUD Secretary Hills, analyzes the problem with some insight. In defense of the Secretary, whom I know and admire as a woman of great ability and dedication, I would note that she has been on the job only a short while and cannot be held solely accountable for the repeated failure of HUD to take aggressive action in providing low- and moderate-income housing in urban areas. Nevertheless, I agree with the Davidoff-Brooks observation that the time has come when administration officials must accept the failings of HUD as historical fact and pledge to begin immediately to improve on this record. I am inserting into the RECORD for the benefit of my colleagues the letter written by Mr. Davidoff and Ms. Brooks and published in the Times on February 4, 1976, the letter from Secretary Hills to which it refers published in the Times on January 21, 1976, and the Times editorial of January 14, 1976, to which Secretary Hills' letter replies:

[From the New York Times, Feb. 4, 1976]

HUD: THE "NEGLECT" OF A MANDATE

To the Editor:

The defensive position adopted by Carla Hills, Secretary of the Department of Housing and Urban Development, in her letter in The Times of Jan. 21 in response to your Jan. 14 editorial is disturbing. H.U.D.'s performance under the new Housing and Community Development Act of 1974 has been dismal. It is commonly recognized that H.U.D. failed to perform the analyses required under the act to make certain that communities were working to expand the economic opportunities of households of low and moderate income.

The new act specifically, for the first time, directed recipients of Federal housing dollars to deconcentrate the housing of lower-income families. Further, it called on recipient communities to take into account housing for persons working in a community who might be expected to reside there if housing were available. H.U.D. permitted many communities to submit housing plans that failed totally to conform to these requirements.

Suburban Action Institute became familiar with H.U.D.'s neglect of its mandate through monitoring of applications in the New York/New Jersey/Connecticut region and, more particularly, through the work the institute performed for Hartford in reviewing the applications of surrounding suburbs. As a result of H.U.D.'s approval of applications in the Hartford region, the city itself sued (with the assistance of S.A.I.'s general counsel) and obtained a permanent injunction in Federal District Court in Hartford that precludes these communities from drawing Federal dollars. The action was based on H.U.D.'s failure to administer the act in compliance with Congressional intent.

Ms. Hills would be closer to the truth if she responded to your editorial with acceptance of the failure of H.U.D. and with an assertion of vigorous action in the forthcoming year. Sadly, this nation has become accustomed to officials defensive in their posture rather than critically restorative with a view toward improvement and accountability in the programs and activities undertaken for its citizens. H.U.D. has been no different. Sadly too, vigorous action from that agency has been the exception rather than the rule, certainly with respect to protecting the housing rights and meeting the housing needs of the lower 40 percent of America's housing users.

Deterioration mounts in the nation's cities, and the H.U.D. Secretary defends the record. Surely, this nation's housing record has humbled us to a point where we can join in our efforts to expect more. [Editorial Jan. 31.]

PAUL DAVIDOFF,
MARY E. BROOKS.

NEW YORK, *January 28, 1976.*

(Note.—The writers are, respectively, executive director and director of research, Suburban Action Institute.)

[From the New York Times, Jan. 21, 1976]

FEDERAL HOUSING: THE BETTER PROGRAM

To the Editor:

I am disturbed by the statements contained in your Jan. 14 editorial commenting on H.U.D.'s first annual report to the Congress on the Community Development Block Grant Program. The principal assertion of the editorial is that the community development program works against core cities in favor of affluent suburbs.

The facts are, however, as follows:

1. Core cities do not compete with suburbs for funding under the Housing Community Development Act of 1974. That act, which represents a joint determination on the part of Congress and the Administration that community development funds should be provided in block grant form rather than in complex categorical programs, established exact formulas for funding, based 25 percent on population, 25 percent on incidence of substandard housing and 50 percent on the extent of poverty. This weighting, in fact, favors the older core cities. I do not share your dismay that Congress saw fit by this formula to provide a share of community development assistance to similar cities and towns as part of an increased level of overall assistance.

2. Assuming Congressional appropriations, New York City will benefit from an increase in funding, from its prior program level of $102,244,000, on which its fiscal year 1975 and 1976 grants are based, to an entitlement sum of $152,968,000 in fiscal year 1977. Funding for Chicago and Los Angeles will also increase substantially.

3. Some cities which were disproportionately large users of urban renewal will go down to their formula shares but not as rapidly as you suggest. Baltimore's funding will not be cut in half next year. The funding will decrease from $30,895,000 in fiscal year 1976 to $29,042,000 in fiscal year 1977.

4. The editorial incorrectly states, "The act's requirement that each application contain a housing assistance plan has largely been ignored." *Every* city receiving community development funds was required to file a housing assistance plan. More than 250 cities were required to revise their applications because of housing assistance plan deficiencies.

We do know how the community development money is being spent. Our report offered considerable detail on the percentages of funds approved for different types of activity, and on the composition of neighborhoods receiving benefits.

Although we are still in a very early stage of a three-year effort to assist local governments to address needs their citizens identify, the initial flow of intelligence from your metaphorical battlefield reveals that the forces engaged are in good spirit and strong in their will to continue the effort.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

WASHINGTON, *January 16, 1976*

[From the New York Times, Jan. 14, 1976]

FAILING URBAN STRATEGY

One of the essential talents of a successful Federal Administrator is the art of declaring victory even where there has been no war. That, basically, is what Carla A. Hills, Secretary of the Department of Housing and Urban Development, seems to have done in sending to Congress her first report on the Community Development Act of 1974.

In a general sense, what Secretary Hills says is undeniable. The core of her argument is that by replacing the specially targeted categorical grants that made up the Great Society's urban arsenal with a block grant program, H.U.D. has been able to put out more money in a year than has ever previously been the case; that more cities have received money and that administrators were hindered by less red tape. So far, 2950 communities have joined the program and $600 million has been spent.

The problem is that the nation's old core cities are in a crisis and the community development program, by spraying funds shotgun fashion all over the landscape, is doing little to improve the picture. The urban problems of the sixties have matured and hardened during the seventies as the middle class exodus to suburbia has accelerated, leaving the core cities in mounting difficulties and with diminishing governmental tools. Yet under the community development act, these core cities are forced to compete for funds with affluent suburbs, for which such help was never intended under the original urban assistance legislation.

The experience of the city of Baltimore is illustrative. This year it is to receive the average of the amounts doled out over the last five years, a level which with inflation insures a decreased sum of program activity. Next year the city will be reduced to half that amount, while affluent Baltimore County suburbs, which previously received no urban aid, will get more help than ever. It is these policies which have driven the city of Hartford to the desperate tactic of suing to block H.U.D. grants to seven of its own suburbs.

The act's requirement that each application contain a housing assistance plan has been largely ignored while the cities are being starved for funds to build low and moderate income housing. Meanwhile the act's "innovative" assistance program for poor and moderate income families has been judged a failure by urban experts all over the country, who note that it has placed fewer than 300 families in housing.

Though Secretary Hills conceded that her department did not yet know what the community development money has been spent for, it is by now quite clear that it has not been spent to diminish in any significant way the anguish of the old cities. Thus, while the Secretary may continue to claim victories, the Administration's strategy virtually insures that the casualties with which the battlefield will be littered will be those urban areas which her department was originally established to assist.

REGIONAL PRESIDENTIAL PRIMARY ACT OF 1976

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, on Tuesday the New Hampshire voters went to the polls in the first Presidential preference primary of 1976. Before the Presidential nominees are chosen this summer, the candidates will have crisscrossed the country, campaigning in the 30 primaries scheduled over 6 months of this year. The public will be exposed to a constant barrage of information, speculation, and evaluation on and about the Presidential nominating process, put forth by the media and candidates alike. What results is a long, drawn out, and often confusing process.

For too long, the manner in which we make the second most important decision in American politics—the choice of a person who will be a party's candidate for President—escaped needed reform. The number of Presidential preference primaries has reached a new high, public financing of Presidential campaigns has added a new dimension to the process, and candidates have begun the campaign season earlier and earlier. In light of these developments, it is certainly time for us to take another look at the Presidential nominating process and be sure that it measures up to its goal: The selection of party nominees who reflect the views of the voters and who are likely to be the best qualified to serve in the highest office in the Nation.

Accordingly, I am introducing today, the Regional Presidential Primaries Act of 1976, in the hope of stimulating thoughtful debate and achieving consensus on legislation which will reform the Presidential nominating process. It is somewhat similar to a measure introduced by Senator PACKWOOD who has taken a leading role in Presidential primary reform. The major intent of this bill is to assure that voters in every State will have the opportunity to express directly their choice for a Presidential nominee and that the nominees selected by national party conventions reflect the voters' decision.

I have discarded the idea of a national Presidential preference primary held on a single day throughout the country for several reasons. I believe such a system would give undue advantage to certain types of candidates: Either those whose names are well known, for whatever reason; or those who can easily fund their campaigns by appealing to special interest groups; or those who possess charisma, a characteristic which does not necessarily go hand in hand with ability; or, those who find their support in a narrow, but vocal segment of American society. Electoral competition should not be restricted to these types of candidates. Also, several regional primaries will give much more opportunity for in-depth development of candidates' positions on issues and challenges to them than would one national primary. An opportunity should be provided for all contenders to present their views and be judged by the electorate in terms of their qualifications.

I also believe that the political parties, through their conventions, perform an important consensus-developing function, and that any attempt to deny them a role in choosing their own standard-bearer would be detrimental to our form of government.

My bill is designed to avoid the defects of a national primary, to maintain the strengths of the present system while eliminating its weaknesses, and to preserve the legitimate role of the political parties in the Presidential nominating process.

Under my proposal, each State in a region woud participate in that region's primary, thereby allowing the voters in each State a direct voice in the Presidential nominating process. States would be reimbursed for the expenses incurred, so that any financial burden imposed would not be transferred to the State's taxpayers. The States would be grouped into five regions, with every State in a region holding its primary on the same date, at 3-week intervals from April through June of the Presidential election year.

Unlike a national primary, this series of regional contests would provide an opportunity for the evaluation of Presidential contenders over a period of time and under a variety of circumstances. Public attention and the candidates' campaigns would be more directly focused on the region's voters, and issues of importance to that region could be more fully explored. In an era when voter participation in the political process is declining to the point where often less than half of those eligible to vote do so, it behooves us to do all that we can to stimulate voter awareness and participation. I believe regional primaries would help attain that goal.

For too long, we have permitted the Presidential candidates themselves to determine which primaries they will enter, thus denying voters in the States not chosen the opportunity to express their preference from among the full range of candidates. Because the Presidency is a national office, we should require candidates to demonstrate their strength throughout the Nation, not just in those States in which they think they will do well. Therefore, under my bill, the names of all Presidential candidates who have qualified for Federal matching funds will automatically be placed on primary ballots and a demonstration of support through the collection of petition signatures would allow other candidates to enter. The arguments now used for avoiding primaries that a Presidential candidate does not have the time, stamina, or money to enter all the primaries will be invalidated when a regional system is adopted. Both the rights of the voters and the resources of the candidates will be protected.

Under my proposal, national convention delegates would be allocated to Presidential candidates in proportion to the votes received in the State. Since 1972, the Democratic National Committee had mandated proportional representation and six States have abandoned their winner-take-all primaries in favor of those with proportional representation. We should follow the lead of the States in adopting legislation which recognizes that the selection of a Presidential nominee is a national decision, not one to be made by delegates representing only a plurality of voters in their State, but by delegates representing all who cast their votes.

Just as States legitimately restrict voting in their State elections to residents of the State, so, too, should voting in a party primary be restricted to members of that party. This principle is incorporated in my bill and authority is given to the Federal Election Commission to aid the States which currently have no party registration.

I believe that the adoption of this legislation will increase voter participation in the Presidential nominating process, establish a more rational procedure for the selection of our parties' nominees, ease the burden on the candidates and the public, and will enhance the quality of Presidential candidates and their campaigns. I urge serious consideration of its provisions and the principles upon which it is based.

The text of the bill follows:

H.R. 12161

A bill to require States to participate in a system of regional Presidential primaries administered by the Federal Election Commission, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Regional Presidential Primaries Act of 1976".

FINDINGS

SEC. 2. The Congress finds that—

(1) the proliferation of elections held by States for the election of delegates to national nominating conventions and for the expression of a preference for the nomination of individuals for election to the office of President subjects candidates for nomination for election to such office to physical exhaustion, danger, and inordinate expense;

(2) there is no uniformity among State laws with respect to the effect of such elections on delegates to the nominating conventions held by political parties;

(3) the confusion caused by this lack of uniformity in State laws gives rise to cynicism, frustration, and distrust of the nomination process;

(4) a system which both standardizes the holding of Presidential primaries and permits States to continue to play a substantial role in such primaries would improve the Presidential nominating process;

(5) by national nominating conventions held by political parties constitute an integral part of the process by which the President is chosen by the people of the United States; and

(6) in order to protect the integrity of the Presidential election process and provide for the general welfare of the Nation, it is necessary to regulate that part of the process which relates to the nomination of candidates for election to the office of President.

ESTABLISHMENT OF REGIONAL PRIMARIES

SEC. 3. (a) Each State shall conduct an election for delegates to national nominating conventions for the nomination of individuals for election to the office of President in accordance with the provisions of this Act.

(b) (1) Five regional primaries shall be held during each Presidential election year. The first regional primary shall be held on the first Tuesday of April, and an additional regional primary shall be held on the Tuesday of each of the third, sixth, ninth, and twelfth succeeding weeks. Thirty days before the date of the first regional primary, the Commission shall determine by lot the region in which such primary is to be held. The Commission then shall determine by separate lot, conducted 30 days before the date of each subsequent regional primary except the last, the region in which each subsequent regional primary is to be held.

(2) The ballot for a regional primary conducted by each State under paragraph (1) shall include the names of (A) each candidate who is eligible to appear on the ballots of each State in the region involved under subsection (c)(1); and (B) each candidate who is eligible to appear on the ballot of the particular State under subsection (c)(2).

(c)(1) The ballot of each regional primary which is held under this section shall include the name and political party affiliation of any candidate with respect to whom the Commission has certified payments under section 9036(a) of the Internal Revenue Code of 1954 (relating to initial certifications), and who remains eligible to receive payments from the Secretary of the Treasury or his delegate under chapter 95 or chapter 96 of the Internal Revenue Code of 1954, on the date of the regional primary involved.

(2) An individual whose name is not placed on a regional primary ballot under paragraph (1) may have his name and the name of the political party with which he is afflated appear on the ballot of any State participating in the regional primary involved, if he is eligible for election to the office of President, by (A) notifying the Secretary of State of the State involved (or, if there is no office of Secretary of State, the equivalent State officer) in writing that he is a candidate for nomination by a specified political party for election to the office of President; and (B) presenting such Secretary of State or equivalent State officer with a petition supporting his candidacy for such nomination signed by at least 1 percent of the individuals who are registered to vote in the State involved.

(3)(A) The Commission shall announce the names of any candidates who are entitled to be on the ballot of any regional primary under paragraph (1) no later than 30 days before the date of the regional primary involved.

(B)(i) The Secretary of State (or, if there is no office of Secretary of State, the equavalent State officer) shall transmit to the Commission the names of any candidates who are entitled to be on the ballot of the State involved under paragraph (2) in connection with a regional primary. Such transmission shall be made no later than 30 days before the date of the regional primary involved.

(ii) The Commission shall certify the ballot of each State as soon as practicable after receiving a transmission from the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer) of the State involved under clause (i).

(d)(1) Subject to such guidelines as the Commission may establish, the regional primary shall be conducted in each State by officials of such State charged with conducting elections.

(2) Voters in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature. Each voter shall be eligible to vote only for delegates for a candidate for nomination by the party of such voter's registered affiliation. If the law of any State makes no provision for the registration of voters by party affiliation, voters in such State shall register their party affiliation in accordance with procedures established by the Commission.

(e) The chief executive officer of each State shall certify the results of the regional primary held in his State to the Commission within a period of time after such date, not exceeding 15 days, prescribed by the Commission.

DESIGNATION OF CONVENTION DELEGATES

SEC. 4. (a)(1) Any candidate whose name appears on the ballot of any regional primary under section 3(c), or an authorized representative of such candidate, shall designate the names of individuals to serve as delegates of such candidate in each State participating in the regional primary involved. The number of delegates designated in each State under the preceding sentence shall be equal to the number of delegates to which such State is entitled at the national nominating convention involved.

(2) Delegates designated under paragraph (1) shall be listed on the ballot under the name of the candidate making such designation. Such delegates shall be listed in accordance with a ranking to be determined by such candidate.

(3) Delegates to which any candidate is entitled at a national nominating convention shall be selected from the list of delegates designated by such candidate in accordance

with the ranking determined by such candidate under paragraph (2), except that such selection shall be made in a manner which is consistent with any rule of the national political party involved, relating to categories of persons which shall be represented as delegates at the national nominating convention of such political party.

(4) An individual may serve as an authorized representative of a candidate for purposes of paragraph (1) only if such authorization is transmitted to the Commission in writing by such candidate.

(b) The number of delegates which a candidate may receive in any State in connection with a regional primary is a number which is a percentage of the total number of delegates from such State to his party's national nominating convention equal to the percentage of the votes cast by members of his party in such State received by him in the primary.

(c) (1) If a candidate in a regional primary receives less than the greater of—

(A) 5 percent of the votes cast by members of his political party in such regional primary; or

(B) a percentage of votes which would entitle such candidate to one delegate, if one delegate constitutes more than 5 percent of the total number of delegates to be appointed in the region involved;

no individuals may be appointed as delegates of such candidate in any State in the region involved.

(2) The percentage of votes cast in any State in a regional primary for any candidate who is not entitled to any delegates as a result of the provisions of paragraph (1) shall be—

(A) apportioned among other candidates of the same political party who received votes in such State, on the basis of the number of votes received by each such candidate; and

(B) added to the percentage of votes received by each such candidate in such State, for purposes of determining the number of delegates which may be appointed for each such candidate.

CONVENTION BALLOTING

SEC. 5. (a) (1) A delegate to a convention held by a political party for the nomination of a candidate for election to the office of President shall vote for the nomination of that candidate for whom he was appointed until—

(A) two ballots have been taken;

(B) such candidate receives less than 20 percent of the vote on a ballot; or

(C) such candidate releases such delegate.

(2) In any case in which a candidate for whom any delegate is appointed ceases to be a candidate before the first ballot has been taken at the nominating convention of the political party involved, any such delegate shall be considered to be uncommitted for purposes of such first ballot.

(b) If an individual receives a majority of the votes cast on a ballot at the nominating convention of a political party, he shall be the nominee of such party for election to the office of President. A subsequent ballot may be taken to reflect the support of the entire convention for such candidate, but the result of the subsequent ballot shall not, in such case, result in the nomination of a different individual for election to such office.

(c) The individual who will be the candidate for a political party for election to the office of Vice President shall be selected by the convention held by such party in accordance with such procedures as it may adopt.

REIMBURSEMENT OF STATES FOR COSTS OF PRIMARY

SEC. 6. Upon application therefor, the Commission shall reimburse each State for any reasonable costs it incurs in conducting a regional primary held in accordance with the provisions of this Act. Such reimbursement shall be made in accordance with such rules as the Commission may prescribe. Such applications shall be submitted at such times, and in such form, and shall contain such information, as the Commission shall require.

FILING FEE REQUIREMENT

SEC. 7. (a) Any candidate whose name appears on the ballot of any regional primary under section 3(c) shall pay a filing fee of $10,000 to the Commission.

(b) The filing fee required by subsection (a) shall be refunded by the Commission to the candidate paying such fee if such candidate receives 2 percent or more of the votes cast by members of the political party of such candidate in the regional primary involved.

(c) Payment of a filing fee by a candidate under this section shall be made to the Commission no later than such date before the regional primary involved as the Commission may establish, except that such date shall not be earlier than 40 days or later than 15 days before the date of the regional primary involved.

(d) Any filing fee which is not refunded by the Commission under this section shall be paid into the general fund of the Treasury of the United States.

DUTIES OF THE FEDERAL ELECTION COMMISSION

SEC. 8 (a) The Commission shall meet before each regional primary and at such other times as it considers necessary, and shall—

(1) prescribe the date, after the date of a regional primary, on which the chief executive officer of each State shall certify the results of the regional primary held in his State to the Commission;

(2) promulgate guidelines and procedures to be followed by the States in conducting regional primaries;

(3) review applications for reimbursement submitted under section 6, prescribe the time of submission, form, and information content of such applications, and determine and pay the amount to be reimbursed to each State under such section;

(4) consult and cooperate with State officials in order to assist them in conducting regional primaries;

(5) take such other actions as may be necessary to carry out the provisions of this Act.

(b) The Commission shall report to the Congress and the President not later than 180 days prior to the date of the first regional primary to be held under this Act on the steps it has taken to implement the provisions of this Act, together with recommendations for additional legislation, if any, which may be necessary in order to carry out the regional primary system established under this Act.

EFFECTS ON STATE LAWS

SEC. 9. The provisions of this Act supersede and preempt any provision of State law relating to any election or convention held in connection with the nomination of any candidate for election to the office of President.

DEFINITIONS

SEC. 10. As used in this Act, the term—

(1) "Commission" means the Federal Elections Commission;

(2) "region" means any of the following five regions:

(A) region 1 comprises Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Connecticut, New York, Pennsylvania, New Jersey, and Delaware;

(B) region 2 comprises Michigan, Illinois, Indiana, Ohio, West Virginia, and Kentucky;

(C) region 3 comprises the District of Columbia, Maryland, Virginia, North Carolina, South Carolina, Tennessee, Mississippi, Alabama, Georgia, Florida, the Commonwealth of Puerto Rico, the Virgin Islands, and the Canal Zone;

(D) region 4 comprises North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, Nebraska, Kansas, Missouri, Oklahoma, Arkansas, Texas, and Louisiana; and

(E) region 5 comprises Washington, Oregon, Montana, Idaho, Wyoming, California, Nevada, Utah, Colorado, Arizona, New Mexico, Alaska, Hawaii, and Guam;

(3) "regional primary" means an election held in accordance with the provisions of this Act for the expression of a preference for the nomination of individuals for election to the office of President;

(4) "national political party" means a political party whose Presidential electors received in excess of 25 percent of the total number of votes cast for all Presidential electors in the most recently held Presidential election, except that in any such election in which less than 2 political parties receive in excess of 25 percent of the total number of such votes, such term shall mean a political party whose Presidential electors received in excess of 15 percent of the total number of such votes;

(5) "candidate" means an individual who is a candidate for nomination by a political party as its candidate for election to the office of President;

(6) "national nominating convention" means a convention of a national political party held under the constitution and rules of such party for the nomination of candidates for election as President and Vice President and for such other purposes as may be specified in such constitution and rules; and

(7) "State" means the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, and each of the United States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

THE CASE ON BEHALF OF LAZAR LIUBARSKY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the incarceration of Soviet Jews who announce their wishes to emigrate to Israel continues. Despite the propaganda battle waged by the Soviets to the contrary, that country still tries to muffle dissent from its citizens and thwart emigration to Israel. I would like to insert in the CONGRESSIONAL RECORD at this time a legal brief prepared by the New York Legal Coalition for Soviet Jewry on behalf of Lazar Liubarsky who is now in jail after being arrested and sentenced on trumped-up charges of alleged anti-Soviet propaganda and "unauthorized communication of state secrets." Mr. Liubarsky also failed to receive amnesty to which his service in the Russian Army in World War II should have entitled him to in May 1975.

The brief on behalf of Mr. Liubarsky follows:

NEW YORK LEGAL COALITION FOR
SOVIET JEWRY,
New York, N.Y.

PREFACE TO LEGAL BRIEF ON BEHALF OF LAZAR LIUBARSKY

On January 31, 1973 Lazar Liubarsky was spurious on false charges of "anti-Soviet propaganda" and the unauthorized communication of state secrets. The unjust sentence of four years imprisonment imposed on him was in truth a punishment for his desire to emigrate to Israel.

To mark the thirtieth anniversary of victory over the Nazis, the Soviet Union promulgated an Amnesty Law, on May 14, 1975. It decreed that all those who had served in World War II and were imprisoned for terms of less than five years should be released. Mr. Liubarsky, met all the criteria, but was not freed.

The attached legal brief examines the charges made against Mr. Liubarsky and concludes that he was innocent of any wrong doing. It further asserts that Mr. Liubarsky's continued incarceration violates the Soviet Amnesty Law.

This paper was prepared for the New York Legal Coalition for Soviet Jewry by Jules Berman, through the National Jewish Commission on Law and Public Affairs. Further activities on Mr. Liubarsky's behalf are planned. For more information call the Legal Coalition at 354-1316.

JANUARY 26, 1976.

I have been asked to review the case of Lazar Liubarsky with a view to determining, based upon the available records, whether his present penal incarceration within the Soviet Union is justified under the governing Russian law. I have concluded that Mr. Liubarsky clearly qualifies for application of the Soviet Amnesty Law under which he should have been set free many months ago. It is patently clear that, but for Mr. Liubarsky's expressed desire to emigrate to Israel, he would have been freed already. A clearer example of the selective application of the Soviet Amnesty Law to punish Soviet citizens because of their wish to emigrate to Israel would be difficult to conceive.

THE CASE OF LAZAR LIUBARSKY

Lazar Liubarsky is presently serving a prison term of strict-regime at Camp Valuiki located in the Ukrainian Republic of the Soviet Union totaling four years—two separate sentences of two years each, served *consecutively*—despite the fact that in the meantime a Soviet Amnesty Law has been passed under which all military participants in World War II have been pardoned if their prison term was for a period less than five years.

1. Liubarsky's career

Lazar Moiseyevich Liubarsky was born on May 9, 1926 in Odessa/Rostov-on-Don. He is married and has three daughters. He fought in the Red Army during World War II. At the age of 19, when the war ended, he was a wireless officer in the Tenth Guards Division Aviation Regiment in which he then served another three years. Afterwards, Mr. Liubarsky studied in the Odessa Institute of Communications Engineering, graduating in 1953. He also completed a pedagogical course in a university faculty of English. In 1946 he was accepted into the Soviet Communist Party and was fully launched on a career as a member of the Soviet technological intelligentsia.

2. Liubarsky's desire to emigrate and the Russian reaction

In September 1970, Mr. Liubarsky applied to emigrate to Israel. Two weeks later, on September 28, 1970, the KGB raided his apartment and conducted a six-hour search. The search warrant stated that the purpose of the raid was to confiscate *Samizdat* publications, Zionist literature and "valuables." Thirty-six items were collected, mostly concerned with Jewish culture and religion. Among those listed were a prayer book, a Passover Haggada, a book of Jewish history, a Jewish songbook and tape recordings of Jewish songs.

On July 18, 1972 the KGB raided his home again. They conducted another vain search for incriminating material. They found none and nothing was taken, but Mr. Liubarsky was nevertheless arrested.

Intensive interrogation of Liubarsky, of his coworkers, his friends and relatives continued for months but produced no evidence that he was anything but an innocent man. Almost six months after his arrest, however, a new and unexpected crime was introduced. The Procurator's office declared that over four years earlier—in 1968—Mr. Liubarsky had divulged a State secret.

3. The charges and the trial

On January 31, 1973 Lazar Liubarsky was tried in secret by the Judicial Board for Criminal Cases of the Rostov District Court. He was tried under 190-1 of the RSFSR Criminal Code, concerned with anti-Soviet propaganda and agitation, and Statute 75-1, covering the unauthorized communication of state secrets. The charge sheet listing the material evidence in the case is quite revealing as to the spurious nature of the entire proceeding.

The evidence of anti-Soviet propaganda was listed as follows: 1) An open letter to *Pravda* written in September 1970 and signed by a number of Soviet Jews. (This letter was in response to a widely publicized press conference of well-known Soviet Jews that had been organized in Moscow by the Soviet authorities to accuse Israel of Nazi practices); 2) a letter to U Thant written in September 1970; 3) a song about Birobidzhan set to words by an Argentinian poet recorded from a broadcast; 4) a typed letter dated June 29, 1972 and sent to various organs of the state; 5) a personal diary in which Mr. Liubarsky recorded his ideas on the national question; 6) letters to Brezhnev, Podgorny, Kosygin and the Soviet Procurator-General Rudenko.

The "criminal evidence" put forward to support the charge of disclosing a State secret is even more revealing. It rested principally on the fact that Lazar Liubarsky *had written down a number in his notebook*. He had recorded a talk with the director at his place of employment. The crucial passage went as follows: Director: "Did you take part in Project No .. .?" Liubarsky: "Yes, I did." The mention of the number in the notebook constituted "the spread of secret information." A secondary charge of spreading secret information was based on the fact that in 1968 Mr. Liubarsky had been reprimanded for allegedly not obeying an instruction. He apparently disagreed that he had done so and, to support his argument, brought certain estimating sketches to show to the director of the estimating section. The sketches in question were not, he maintained, confidential and there was no suggestion that he had made improper use of any information by divulging it to outsiders.

Mr. Liubarsky was found guilty of both charges and, as noted above, was sentenced to two *consecutive* 2-year terms of strict-regime, to be served in a Soviet prison camp.

4. The Soviet amnesty law

The Soviet Amnesty Law is a decree of the Presidium of the Supreme Soviet of the U.S.S.R., issued in Moscow on May 14, 1975, effective immediately upon publication, which provides as follows:

"In connection with the 30th anniversary of the victory of the Soviet people in the Great Patriotic War of 1941-1945 the Presidium of the Supreme Soviet of the U.S.S.R. has decided:

1. To release from punishment those sentenced to deprivation of freedom for a term of up to five years inclusively or to a punishment not connected with the deprivation of freedom:

(a) Persons, who took part in the Great Patriotic War of 1941-1945 in the ranks of the Armed Forces of the U.S.S.R., partisan units and people's volunteer corps, as well as other persons who took part in battle actions in defense of their Soviet Homeland:

b) Persons awarded orders and medals of the U.S.S.R. for their selfless labor in the period of the Great Patriotic War of 1941-1945."

The only exclusions from the foregoing amnesty are contained in paragraph No. 7 of the Amnesty Law, which reads as follows:

"7. The Amnesty is not to be applied to the following persons:

a) Convicted for crimes particularly dangerous to the State;

b) Recognized as particularly dangerous recidivists;

c) Sentenced to deprivation of freedom to a term of over three years for the following crimes: banditism; actions that disorganize the work of corrective-labor institutions; the production or the disposal of counterfeit money or securities under aggravating circumstances; the plunder of government of public property on a particularly large scale; robbery under aggravating circumstances; premeditated grave murder (except murder committed in a state of strong emotion); premeditated grave bodily injury under aggravating circumstances; rape, committed by a group of persons or that caused particularly grave consequences, as well as rape of a minor; the receipt of a bribe or meditation in bribery under aggravating circumstances; attempt against the life of a worker of the militia or of a People's Guard; particularly malicious hooliganism; hijacking of an airship; plunder of firearms, ammunition or explosives by way of a bandit attack; the preparation, acquisition, keeping, transportation or sending with the aim of disposal or disposal of narcotics under aggravating circumstances; the plunder of narcotics under aggravating circumstances;

d) Persons sentenced more than twice to deprivation of freedom for premeditated crimes, as well as persons previously sentenced for crimes mentioned in point "a", or previously sentenced to deprivation of freedom to a term for over three years for crimes listed in point "c" of the present statute;

e) Persons previously released from places of deprivation of freedom before they had served the full sentence meted by the court by order of an amnesty or a pardon and who have again committed a deliberate crime;

f) Persons deliberately violating the regime while they are serving their punishment."

CONCLUSION

It is impossible to study the facts of Mr. Liubarsky's case without concluding that his present imprisonment is due solely to his expressed desire to emigrate to Israel. The plain meaning of the Amnesty Law of May 14, 1975 would require that he be immediately released in light of his service in the armed forces during World War II.

The only conceivable argument which might be made in support of Mr. Lieubarsky's continued imprisonment is that the crime for which he was convicted was "particularly dangerous to the State" within the meaning of Paragraph 7(a) of the Amnesty Law. Any objective examination of the facts, however, demonstrates the absurdity of such a contention. How the innocuous "acts" (even if true) allegedly constituting anti-Soviet propaganda on this man's part could *possibly*—not to mention "particularly"—endanger the Soviet State defies the imagination. And the "evidence" supporting the charge of disclosing a State secret is, in a word, ludicrous.

Given the indisputable facts, the conclusion is inescapable that something other than his "criminal" conduct account for Mr. Liubarsky's failure to receive statutory amnesty. And the only factor which could possibly account for this circumstance is his desire to leave the Soviet Union for Israel.

Respectfully submitted.

JULIUS BERMAN.

STRUGGLE FOR HUMAN AND INTELLECTUAL FREEDOM IN POLAND

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, we in the United States take for granted the extraordinary intellectual, personal, and cultural liberties we enjoy. Many citizens in other countries have small hope of achieving anything resembling our personal liberty. Those who suffer most are people under Soviet domination; one example of this is the Polish people.

Circulation of literature, choice of work and study, and university appointments are all subject to the Polish Government's yea or nay. Recently 59 Polish intellectuals courageously signed a document calling for their government's adherence to the Helsinki accord and granting of basic personal liberties and rights. I commend the actions of these 59 people and the many other Polish citizens who continually struggle to achieve personal liberty and fundamental rights which belong to all human beings. The Polish Institute of Arts and Sciences in America works here and abroad on behalf of Polish intellectual and personal freedom. I applaud this organization's work and am applauding their statement:

STATEMENT ADOPTED BY THE BOARD OF DIRECTORS OF THE POLISH INSTITUTE OF ARTS AND SCIENCES IN AMERICA

The Polish Institute of Arts and Sciences in America supports the action of Polish scholars and writers in defense of human freedoms and guaranteeing religious, personal and cultural freedoms. We are particularly concerned with the basic principles of the freedom of creativity and research, independence in the choice of problems, methods and theories and uncensored exchange of ideas and research products. It is that freedom on which the history of civilization and culture is based and it is to it that we owe the splendid development of modern learning. Your action in defense of individual and cultural liberty is the common cause of all creative, independent individuals in every political system.

You have the moral support, not only of ourselves but of the scholarly community and opinion of the entire free world. They join with you, in your striving in the defense of the basic and inalienable rights of free men which no one can surrender or forfeit. The criterion of progress and freedom is not the state but the individual. There also exist limits to the authority of the state. Once they are violated, government authority becomes tyranny.

TIME TO CREATE AN AIR TRAFFIC CORPORATION TO SUCCEED FAA

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, today I am introducing legislation to create an independent Government corporation that would replace the present Federal Aviation Administration as the overseer of the Nation's airport and airways system.

In 1967, pursuant to the Department of Transportation Act, the functions of the then independent Federal Aviation Agency were transferred to the Department of Transportation and placed in the newly established Federal Aviation Administration. There is growing concern today within the aviation community, the Congress and the general public that this subordination of U.S. aviation authority has not been in the best public interest. There is a strong feeling among much of the aviation community that with such a structure aviation matters have been relegated to a priority level no better than that of 30 years ago when the Air Commerce Act created the Bureau of Air Commerce within the Department of Commerce, and the Government for the first time took an active interest in the structuring of civil aviation matters.

With the advent of the tax liability on airspace users resulting from the enactment of the 1970 Airport and Airway Development Act, and the increasing predominance of airport and airway system costs in the FAA budget, attention has now more than ever been focused on whether the present FAA/DOT structure is the best we can devise in the interest of meeting our national aviation requirements. The many changes in aviation technology over the years and the critical dependence of the country on aviation, both civil and military, makes it imperative that aviation matters be given the highest priority and attention.

Legislation has already been introduced by my colleague from California, Mr. GOLDWATER, to separate the FAA from the DOT and return it to its previous independent status which it enjoyed from 1958 to 1967. In addition to this legislation various other aspects of an FAA separation have been examined by the aviation community in recent years. One such study sponsored by the Professional Air Traffic Controllers Organization—PATCO—and prepared by Glen A. Gilbert, of Glen A. Gilbert & Associates, an independent aviation consulting firm, not only examines the question of FAA separation but proposes a new regulatory structure for U.S. aviation. The study proposes the creation of an independent Government corporation to operate the airport/airways system and perform other functions now within the FAA, under the direction of a board of directors that reflects industry, consumer, Government—including military—and environmental interests. This new organization would receive its funding on an approximately equal basis from user taxes and general tax revenues. It would be called the U.S. Air Traffic Services Corporation, and would be responsible solely to the Congress.

Mr. Speaker, my legislation embodies this USATSC concept. It is a practical and workable restructuring of U.S. aviation authority that would return aviation to its proper place in the setting of national priorities. This creative proposal has the capability of fostering and encouraging, in the best manner available to the public, the development of our air service and transportation that is so necessary to the Nation's economy and social progress—and which under the present structure is so absent.

I truly hope that the aviation community, the responsible legislative committees here in the House and the public at large, will closely examine this approach to restructure governmental responsibility for aviation matters, and work together for its fullest review, consideration, and enactment:

U.S. AIR TRAFFIC SERVICES CORPORATION ACT

SECTION-BY-SECTION SUMMARY

Section 1. (Short Title) This Act may be cited as the "United States Air Traffic Services Corporation Act of 1976".

Section 2. (Finding) Declaration by the Congress that since the subordination of the Federal Aviation Agency to the Department of Transportation, as provided by the Department of Transportation Act of 1966, the relationship between the FAA and the Office of the Secretary of Transportation has continually deteriorated resulting in a debilitating effect on the conduct of national aviation and safety matters intended to be performed by the FAA.

Such a deterioration demands the elimination of confusion as to the functional role of the FAA from the present institutional structure which places the FAA in a subservient position, and the creation of an independent aviation authority embodied in the United States Air Traffic Services Corporation.

Section 3. (Establishment of Corporation) Establishes the United States Air Traffic Services Corporation (USATSC) as a corporate body, to be an instrument of the United States, to be dissolved only by an Act of Congress.

Section 4. (Board of Directors) The management of the Corporation is vested in a ten member Board of Directors, nine voting members to be appointed by the President of the United States with the approval of the Senate and one non-voting member, the President of the Corporation.

Each voting member is to be selected from three nominees presented by duly recognized organizations representing the following categories: (1) Scheduled commercial air transportation, (2) Non-scheduled commercial air transportation (includes business/corporate), (3) Personal (private) air transportation, (4) Military aviation, (5) State and local aviation (includes airports), (6) Organized aviation labor, (7) Aircraft manufacturing, (8) Users of air transportation (consumers), (9) Environmentalists directly associated with aviation matters.

The Board of the Corporation shall elect a Chairman by a majority vote for a regular term to be determined by the Board. A quorum of the Board is six, and decisions of the Board shall be by majority vote. The Board shall meet at least twice a year.

Section 5. (Appointment and Compensation of Officers and Employees). The Board of the Corporation shall appoint a President and Deputy President of the Corporation and other officers necessary to carry out the functions of the Corporation. The officers of the Corporation shall serve at the pleasure of the Board and shall exercise such powers and duties as the Board may prescribe.

Provides for the Board to determine the salaries of the President and Deputy President and other officers of the Corporation.

Provides that the Board may procure by contract the temporary or intermittent services of experts or consultants.

Section 6. (Power of Board of Directors) Vests in the Board of Directors of USATSC the responsibility for the exercise of all powers and duties of the Corporation.

The Board shall be governed by all applicable statutes, including the policy standards set forth in the Federal Aviation Act of 1958.

All decisions of the Board are administratively final and appeals as authorized by law, shall be taken directly to the National Transportation Safety Board, or to any court of competent jurisdiction as appropriate.

Section 7. (Corporate Powers) The Corporation is subject to all applicable laws of the United States and of any State in which the Corporation operates, and shall have the powers normally provided to Corporations: to sue and be sued, complain, and defend in any court of competent jurisdiction; to adopt, alter, and use a corporate seal for the sole and exclusive use of the Corporation; to adopt, alter, or amend bylaws consistent with the Act, to contract and be contracted with; to acquire, control, hold, lease and dispose of such real, personal, or mixed property as may be necessary to carry out the Corporate purposes.

The Corporation shall also have the power to change the rates of tax imposed under the Internal Revenue Code relating to special fuels, transportation by air of persons and property, and the use of civil aircraft.

Section 8. (Transfers to Corporation) All functions, powers, and duties exercised by the Secretary of Transportation and/or the Administrator of the FAA under (1) The Act of September 7, 1957, as amended, (2) The Federal Aviation Act of 1958, (3) Section 6(c) of the Department of Transportation Act, (4) The Airport and Airway Development Act of 1970, (5) The Airport and Airway Revenue Act of 1970, (6) The Hazardous Materials Transportation Act, to the extent that such Act pertains to the transportation of hazardous materials by air, are transferred to the Corporation.

Section 9. (Corporate Independence) The Corporation is responsible solely to the Congress. No officer or agency of the United States, including the Office of Management and Budget, shall have the authority to require the Corporation to submit any budget estimate, request, or information, or any recommendation, testimony, or comment on legislation to any officer or agency of the United States for approval, comment, or review prior to the submission of such recommendation, testimony, or comment to the Congress.

Section 10. (Amendments to other laws) Amends the appropriate sections of the Department of Transportation Act, the Independent Safety Board Act, the Airport and Airway Revenue Act of 1970, and the relevant sections of the Internal Revenue Code as required to effectuate the transfer to the Corporation such authority now vested by those laws in other agencies, as is necessary for the Corporation to operate under the provisions of the Act.

The National Transportation Safety Board may utilize the USATSC in the case of aircraft accidents, to make investigations with regard to such accidents and to report to the NTSB the facts, conditions and circumstances of such accidents, rather than the Secretary of Transportation as is now the case.

Any revenues generated by the Airport and Airway Revenue Act of 1970, and the appropriate Internal Revenue Codes, will accrue to the Corporation. The authority to revise use taxes is vested in the Corporation.

Section 11. (Saving Provisions) Provides that all orders, determinations, rules, regulations, permits, contracts, licenses, and privileges which have been issued, made, granted, or allowed to become effective under any provision of law amended by this Act or in the exercise of functions, powers, or duties which are transferred under this Act, by any department or agency, any functions of which are transferred by this Act or by any court of competent jurisdiction and which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Board of the Corporation, by any court of competent jurisdiction, or by operation of law.

Section 12. (Appropriations Authorized) Authorizes to be appropriated from the General Fund of the Treasury by the Congress to USATSC for each fiscal year, 50 percent of the amount determined as the total funding requirements of the Corporation for that fiscal year. The other 50 percent required for each fiscal year shall be provided from the Treasury of the Corporation, and may be derived from the Airport and Airway Trust Fund. However, the Corporation may not expend from the Trust Fund monies any amount in excess of that amount appropriated to the Corporation by the Congress from the General Fund.

PRINCIPLES FOR FULL EMPLOYMENT LEGISLATION

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on December 5 the Economic Policy Committee of the AFL–CIO adopted a significant policy statement outlining "Principles for Full Employment Legislation" which I believe deserves the attention of every Member of the Congress. I include this statement in the Record at this point:

AFL–CIO Economic Policy Committee Statement on Principles for Full Employment Legislation

Full employment has been a major objective of the American labor movement since its inception. A job opportunity at a decent wage for each person able and seeking work—the only definition of full employment that is acceptable to the labor movement—is an economic necessity, for jobs are the lifeblood of the American economic system.

From jobs come the wages that generate mass purchasing power. A job is a key measure of a person's place in society—whether as a full-fledged participant or on the outside looking in. Work is the source of individual fulfillment. It is positive, constructive activity.

It was in this spirit that the recent AFL–CIO Convention reiterated its support for programs to achieve full employment and urged "the immediate adoption of a national full employment policy" by the Congress.

The Convention resolution further declared: "The Employment Act of 1946 contained more promise than action. We need legislation which provides that the President and Congress spell out specific programs to create jobs for every American willing to work. At long last we must recognize that in our modern society a worker is entitled to a job as a matter of right and the total society, including government, must assume this responsibility and must guarantee its fulfillment."

The Convention entrusted this committee with the responsibility of studying proposals pending in Congress and determining those fundamentals that must be included in planning a Full Employment Act to make it both achievable and workable. We consider the following to be essential:

1. Full employment must mean, in fact, job opportunities, at decent wages, for all those who are able to work and seek employment. This means that the unemployed, at any time, would be only persons who are temporarily jobless—such as entrants into the labor force, people moving from one job to another or from one part of the country to another, or people who are temporarily jobless as a result of seasonal fluctuations in their specific industry.

2. The Congress must declare, as we do, that the Administration forecasts of unemployment—7.9% in 1976, 7.2% in 1977, 6.5% in 1978, 5.8% in 1979 and 5.1%in 1980—are completely unacceptable. The Congress must undertake an immediate and sustained campaign to reduce unemployment to 3% of the civilian labor force and keep it from increasing, in the future, to more than 3%.

3. The Congress must require the President annually to submit to it targets, policies and programs to achieve full employment and to meet national needs.

4. The President must be required to propose specific federal tax, expenditure, budget and monetary policies and programs to meet the targets he proposes for full employment, balanced economic growth and national needs.

5. The Congress should establish a consultative body, composed of major groups in the economy, to review the President's goals and policies.

6. The Congress should provide procedures for prompt Congressional review and action on the President's economic goals and policies.

7. The Federal Reserve, as a key government agency in the economic area, should be required to justify to the President and the Congress the manner in which its policies concerning interest rates, the money supply and availability of credit will help meet the targets and objectives that are established.

8. The full-employment goal must be good jobs at good pay. To the extent that the economy's regular channels of private and public employment fail to achieve that goal, the government must maintain a public employment program to provide additional jobs at prevailing rates of pay, but in no case less than the federal minimum wage. Such a program should be of sufficient size to keep unemployment below 3%.

9. The Congress must establish full employment as the top-priority objective of national economic policy to maintain the strength of American society. The Congress must realize that an obsession with budget deficits ignores the benefits of a full employment economy—increased jobs and increased earnings, reduced unemployment benefits and welfare costs, increased sales for business, increased savings and investment, and increased tax receipts.

The way to cut the deficit, quickly and substantially, is to put America back to work. Any other proposal means continuing deficits, continuing high unemployment, continuing hardship, continuing recession.

Those who put deficits before people have no faith in America. They would condemn America to continued idle plants, idle machinery, idle productive equipment, and idle manpower.

It is precisely because the AFL–CIO is so opposed to this negative thinking that we support a Full Employment Act. We consider it an early "must" item for consideration by the next session of the Congress.

There are many friends of the concept of full employment in the Congress who have demonstrated their concern through the introduction and support of legislation. We trust they will combine to push for a realistic, achievable, workable measure containing the fundamental points we have outlined.

It is the recommendation of this committee that this statement be immediately conveyed to every member of the Congress and that the help and assistance of the AFL–CIO be extended to members in the drafting of legislation that will meet our objective—jobs at decent wages for everyone able to work and seeking work.

COMMENTS ON U.S. SUPREME COURT DECISION IN BUCKLEY AGAINST VALEO

(Mr. HUNGATE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HUNGATE. Mr. Speaker, in the recent Supreme Court decision, Buckley against Valeo, the Court found the Federal Election Commission to be in violation of article 2, section 2, clause 2 of the U.S. Constitution.

The Court appropriately referred to the Federalist Papers, No. 47 by Madison, and to its reliance on Montesquieu as a source of constitutional law and the intent of the framers. However, the Court did not quote other parts of the Federalist Papers, No. 47 and No. 48, which others believe are more persuasive.

The British Constitution was Montesquieu's guide and compass as Madison stated. Montesquieu viewed the Constitution of England as the standard, or to use his own expression, as the mirror of political liberty; and to have delivered, in the form of elementary truths, the several characteristic principles of that particular system. That we may be sure, then, not to mistake his meaning in this case, let us refer to the source from which the maximum was drawn:

> On the slightest view of the British Constitution, we must perceive that the legislative, executive, and judiciary departments are by no means totally separate and distinct from each other.
>
> Montesquieu also said, "There can be no liberty where the legislative and executive powers are united in the same person, or body of magistrates," or, "if the power of judging be not separated from the legislative and executive powers," he did not mean that these departments ought to have no *partial agency* in or no *control* over, the acts of each other. His meaning, as his own words impart, and still more conclusively as illustrated by the example in his eye, can amount to no more than this, that where the *whole* power of one department is exercised by the same hands which possess the *whole* power of another department, the fundamental principles of a free constitution are subverted.

Further:

> The magistrate in whom the whole executive power resides cannot of himself make a law, though he can put a negative on every law; nor administer justice in person, though he has the appointment of those who do administer it. The judges can exercise no executive prerogative, though they are shoots from the executive stock; nor any legislative function, though they may be advised by the legislative councils. The entire legislature can perform no judiciary act, though by the joint act of two of its branches the judges may be removed from their offices, and though one of its branches is possessed of the judicial power in the last resort. The entire legislature, again, can exercise no executive prerogative, though one of its branches constitutes the supreme executive magistracy, and another, on the impeachment of a third, can try and condemn all the subordinate officers in the executive department.
>
> If we look into the constitutions of the several States, we find that, not withstanding the emphatical and, in some instances, the unqualified terms in which this axiom has been laid down, there is not a single instance in which the several departments of power have been kept absolutely separate and distinct. New Hampshire, whose constitution was the last formed, seems to have been fully aware of the impossibility and inexpediency of avoiding any mixture whatever of these departments, and has qualified the doctrine by declaring "that the legislative, executive, and judiciary powers ought to be kept as separate from, and independent of, each other as *the nature of a free government will admit; or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of unity and amity.*" Her constitution accordingly mixes these departments in several respects. The Senate, which is a branch of the legislative department, is also a judicial tribunal for the trial of impeachments. The President, who is the head of the executive department, is the presiding member also of the Senate; and, besides an equal vote in all cases, has a casting vote in case of a tie. The executive head is himself eventually elective every year by the legislative department, and his council is every year chosen by and from the members of the same department. Several of the officers of state are also appointed by the legislature. And the members of the Judiciary department are appointed by the executive department.
>
> The constitution of Massachusetts has observed a sufficient though less pointed caution in expressing this fundamental article of liberty. It declares "that the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and executive powers, or either of them." the judicial shall never exercise the legislative and executive powers, or either of them. This declaration corresponds precisely with the doctrine of Montesquieu, as it has been explained, and is not in a single point violated by the plan of the convention. It goes no farther than to prohibit any one of the entire departments from exercising the powers of another department. In the very Constitution to which it is prefixed, a partial mixture of powers has been admitted. The executive magistrate has a qualified negative on the legislative body, and the Senate which is a part of the legislative, is a court of impeachment for members both of the executive and judiciary departments. The members of the judiciary department, again, are appointable by the executive department, and removable by the same authority on the address of the two legislative branches. *Lastly, a number of the officers of Government are annually appointed by the Legislative Department. As the appointment to offices, particularly executive offices, is in its nature an executive function, the compilers of the Constitution have, in this last point at least, violated the rule established by themselves.* (Editorial note: emphasis added.)

Continuing in The Federalist Papers, No. 48, Madison opened as follows:

> It was shown in the last paper that the political apothegm there examined does not require that the legislative, executive, and judiciary departments should be wholly unconnected with each other. I shall undertake in the next place, to show that unless these departments be so far connected and blended as to give to each a constitutional control over the others, the degree of separation which the maxim requires, as essential to a free government, can never in practice be duly maintained.

In the instant case of Buckley against Valeo, the Federal Election Commission regulates not only elections of House and Senate Members, but also the President. In effect, the Court's decision would be to permit the Chief Executive, with a 4-year term, to select all of the members of the body which is to regulate his own election. The legislation as drawn in permitting the House and Senate and Chief Executive to participate equally in the selection of those who would then regulate the elections of all of them seems far more consonant with Madison's view that "unless these department be so far connected and blended as to give to each a constitutional control over the others, the degree of separation which the maxim requires, as essential to a free government, can never in practice be duly maintained."

It seems inherently dangerous to permit the regulation of national elections to fall solely in the hands of a Board selected by a Chief Executive who has a 4-year term, subject only to confirmation by the Senate, with its 6-year term, while the House of Representatives, given the shortest term as the body required to be the closest to the people, should have the least power and no voice in the method by which national elections are to be regulated.

This seems especially anomalous at a time when the Chief Executive is appointed, the Vice President appointed, and the Senate, a body in which some Members may be appointed and serve for a year or more and then be defeated when they seek election by the people—that is, Goodell, New York—and when the one body in which the people must always have a voice in the selection of its Members, is denied any voice in the selection of those who shall regulate national elections.

Perhaps the Chief Executive and the courts may be successful in seizing greater powers from the people and from their duly elected Representatives in the House, but I want no part in giving such powers away.

LANDMARK DECISION HANDED DOWN IN CITY OF HARTFORD ET AL. AGAINST CARLA A. HILLS ET AL.

(Mr. BADILLO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BADILLO. Mr. Speaker, all of us in Congress have, time and again, experienced anger and frustration upon finding that programs we voted into law for the benefit of our constituents were being administered, by executive agencies, in a manner calculated to negate congressional intent.

Ever since the inception of the title I programs of the Housing and Community Development Act of 1974, I have been concerned about the blatant and often contemptuous disregard for the spirit and the letter of the law by communities applying for block grants under that title. Despite the clear mandate of the law to apply the funds to projects of "importance to the welfare of the community, principally persons of low and moderate incomes," a large proportion of the funds were not earmarked for such programs in the city of New York and in many communities throughout the country. And the review and planning process employed in developing the applications for submission made it virtually impossible for neighborhoods to protect their interests.

I am pleased to announce that my district and other poor communities now have a means of redress. In a recent landmark decision, Federal District Judge M. Joseph Blumenfeld enjoined the Department of Housing and Urban Development from paying out community development funds to seven communities in the suburbs of Hartford on the grounds that the grant applications did not include a housing assistance plan focusing on low- and moderate-income housing needs.

One of the prime movers in this suit was the Suburban Action Institute which has been in the forefront of housing discrimination battles for the past several years. Under the direction of its executive director, Paul Davidoff, the institute's legal staff acted as counsel together with the corporation counsel of the city of Hartford. In addition, the institute also furnished expert testimony.

I am delighted with the decision and, for the benefit of my colleagues, want to insert it, together with relevant editorials and a press release of the institute's, into the RECORD:

Federal Court Strikes Down HUD Support of Suburban Exclusion

Concluding that the Federal Department of Housing and Urban Development "acted contrary to law" when it approved grants to seven suburbs surrounding the City of Hartford, Connecticut, Federal District Judge M. Joseph Blumenfeld has enjoined the Federal Government from giving approximately $4 million to these suburbs.

The suit was brought by the City of Hartford and low income people living in that city. The plaintiffs claimed that they had been injured by HUD's failure to require the suburban applicant communities to make provision for the housing of people of low and moderate income who might be "expected to reside" in those communities.

The decision of Judge Blumenfeld affects the ability of the suburban towns to draw block grant funds under the Housing and Community Development Act of 1974. A key element of that Act is the objective of providing for the spatial deconcentration of low and moderate income families. The Act specifically calls on communities within a region to make provision for those families which might be expected to reside within those communities if housing were available. This requirement has greatest potential impact on the housing opportunities of low and moderate income persons presently working in suburban areas that have, by their zoning and other devices, excluded such persons from residence.

The Court found that HUD had consciously permitted applicant communities to ignore the Congressional mandate that an "expected to reside" estimate be part of the Housing Assistance Plan called for by the Act.

Richard F. Bellman, Suburban Action's General Counsel, hailed the decision as strongly advancing the law in regard to both the substantive duties of HUD to act affirmatively to advance the housing rights of minorities, and for establishing the clear right of a municipality to challenge the granting of federal funds to other communities which by their acts of exclusion are foisting on central cities intolerable burdens. "This case is unique," said Bellman "because it is a city that initiated it. The Court included in its opinion the very strong evidence of how Hartford has had to provide for virtually all the economic and racial minorities in its region. This is not fair and the Congress recognized that when it made an objective of the 1974 Act the spatial deconcentration of families of low and moderate income".

Suburban Action Institute was employed by the City of Hartford to assist it in its authorized review of applications of surrounding suburbs under the Housing Act. Suburban Action's planning staff provided expert support for Hartford prior to the initiation of the suit, reviewing and commenting on the grant applications made by the suburban communities. At trial, Mr. Bellman acted as the major counsel for the plaintiffs. Paul Davidoff, Executive Director of Suburban Action, was one of the experts at the trial. In a statement today, Davidoff took HUD to task for ignoring the Act's clear requirements for the first year of applications. "And in its regulations for the second year, just published," he went on, "there is little indication of a change in intent. The Court's decision now makes it incumbent upon HUD to change its behavior around the nation and conform to its Congressional mandate that is so clearly articulated in the Act."

[From the New York Times, Jan. 31, 1976]

The Hartford Lesson

The victory of the City of Hartford over the Department of Housing and Urban Development and seven affluent suburbs in a Federal court in Connecticut is a victory for realism in the nation's urban policies.

The narrow aim of the suit was to stop H.U.D. from paying out grants already approved for the suburbs because the department had not taken seriously the requirement in the Community Development Act of 1974 that grant applications include a housing assistance plan focusing on low- and moderate-income housing needs. The failure of Hartford's suburbs to cooperate voluntarily in dealing with the region's poverty problems or even to develop required plans to house additional numbers of low-income people had become a source of substantial concern to Hartford, in which 90 percent of the area's poverty population now lives.

The court granted the injunction, noting that the requirement that the applicant address the issue of its anticiptaed low-income population was the act's principal tool for breaking up concentrations of poor people in cities. It was clear that H.U.D. had knowingly violated the requirements of the law since the department's own regional equal opportunity officer testified that his recommendations against the grants on these precise grounds had been overruled.

The decision punctured the widely held fantasy that, there are in this country homogeneous, problem-free communities that do not have to share the burdens of poverty and economic inequity prevailing elsewhere in the society. It is dangerous enough for the nation's future for a sizable segment of the people to be so mistaken, but it is worse for the Administration to encourage such myopia by disregarding the law.

The problems now concentrated in Hartford and other core cities are clearly national rather than simply city problems and the nation as a whole will suffer if the Government and the people continue to ignore that reality. Instead of wasting time and money appealing this ruling, H.U.D. would be well-advised to use it as a stimulus toward development of substantially more rational urban strategies.

[From the New York Times, Feb. 4, 1976]

H.U.D.: The "Neglect" of a Mandate

To the Editor:

The defensive position adopted by Carla Hills, Secretary of the Department of Housing and Urban Development, in her letter in The Times of Jan. 21 in response to your Jan. 14 editorial is disturbing. H.U.D.'s performance under the new Housing and Community Development Act of 1974 has been dismal. It is commonly recognized that H.U.D. failed to perform the analyses required under the act to make certain that communities were working to expand the economic opportunities of households of low and moderate income.

The new act specifically, for the first time, directed recipients of Federal housing dollars to deconcentrate the housing of lower-income families. Further, it called on recipient communities to take into account housing for persons working in a community who might be expected to reside there if housing were available. H.U.D. permitted many communities to submit housing plans that failed totally to conform to these requirements.

Suburban Action Institute became familiar with H.U.D.'s neglect of its mandate through monitoring of applications in the New York/New Jersey/Connecticut region and, more particularly, through the work the institute performed for Hartford in reviewing the applications of surrounding suburbs. As a result of H.U.D.'s approval of applications in the Hartford region, the city itself sued (with the assistance of S.A.I.'s general counsel) and obtained a permanent injunction in Federal District Court in Hartford that precludes these communities from drawing Federal dollars. The action was based on H.U.D.'s failure to administer the act in compliance with Congressional intent.

Ms. Hills would be closer to the truth if she responded to your editorial with acceptance of the failure of H.U.D. and with and assertion of vigorous action in the forthcoming year. Sadly, this nation has become accustomed to officials defensive in their posture rather than critically restorative with a view toward improvement and accountability in the programs and activities undertaken for its citizens. H.U.D. has been no different. Sadly too, vigorous action from that agency has been the exception rather than the rule, certainly with respect to protecting the housing rights and meeting the housing needs of the lower 40 percent of America's housing users.

Deterioration mounts in the nation's cities, and the H.U.D. Secretary defends the record. Surely, this nation's housing record has humbled us to a point where we can join in our efforts to expect more. [Editorial Jan. 31.]

PAUL DAVIDOFF,
MARY E. BROOKS.

NEW YORK, *January 28, 1976.*

(The writers are, respectively, executive director and director of research, Suburban Action Institute.)

[In the U.S. District Court, District of Connecticut, Civil No. H–75–258]

Memorandum of Decision

City of Hartford, et al v. Carla A. Hills, et al.

I.

This case is the culmination of confrontation between the City of Hartford and seven of its suburban towns. At issue is the propriety of the decision by the United States Department of Housing and Urban Development (HUD) to approve federal community development grants to these towns. The plaintiffs contend that this approval was improper, because of the emphasis in the applications on non-housing expenditures, and upon local rather than regional needs.[1]

The plaintiffs are the City of Hartford, Connecticut; eight city officials;[2] and two representatives of a class consisting of minority, as well as low and moderate income persons now living "in deteriorating, inadequate, or overly-costly housing in the City of Hartford, Connecticut."[3] The plaintiffs seek declaratory and injunctive relief against the seven towns,[4] the Secretary and other officials[5] of the Department of Housing and Urban Development, and the Department itself. The plaintiffs claim that the defendant officials have failed to live up to their obligations under Title I of the Housing and Community Development Act of 1974,[6] Title VIII (Fair Housing) of the Civil Rights Act of 1968,[7] and Title VI of the Civil Rights Act of 1964.[8] They also assert constitutional claims under the civil rights statutes[9] and the fifth amendment.

Specifically, the plaintiffs claim that the federal defendants abused their discretion in that they approved applications for com-

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Act although the statutory review standards modity development funds under the 1974 mandated that the applications be disapproved. Similarly, they claim that HUD contravened Title VIII of the 1968 Act by failing to "affirmatively administer" the community development program in order to expand low and moderate income housing opportunities in Hartford's suburbs. Finally, they allege that HUD violated Title VI of the 1964 Act by approving these community development grant applications "in the face of a history by these applicant communities of discriminatory housing, zoning, and land use practices. . . ."[10]

A hearing was held on the plaintiffs' motion for a preliminary injunction, and the defendants' motion to dismiss or in the alternative for summary judgment. Shortly thereafter the defendants were preliminarily enjoined from "spending in any fashion" the funds at issue in this case. Later that order was modified to permit the release of urgently needed funds, most of which were expended for housing-related purposes. At the hearing on the modification request all parties agreed that final judgment could be entered on the basis of the record as it had been developed up to that point and as it would be supplemented by several affidavits. All of those affidavits have now been filed, and the case is before me for a decision on the merits.[11]

II

Jurisdiction is present under 28 U.S.C. § 1331 since the grants which are the subject of this controversy total well over $10,000. Jurisdiction is also present under the Administrative Procedures Act, 5 U.S.C. § 701 *et seq. Evans v. Lynn*, No. 74–1793 (2d Cir. June 2, 1975) (Gurfein, J. concurring), *rehearing en banc granted* August 11, 1975. A class action is not necessary in this case, since full injunctive and/or declaratory relief awarded on behalf of the named plaintiffs will also benefit their class. 3B *Moore's Federal Practice*, § 23.40 (Supp. 1974). Furthermore, the definition of the class is not sufficiently detailed to warrant certification. *Warth v. Seldin*, 422 U.S. 490, 494–95 n.5 (1975).

III

The plaintiffs are faced, at the threshold, with a challenge to their standing to bring this action. The defendants argue that all of the plaintiffs lack standing, and ask that the complaint be dismissed for failure to state a claim upon which relief may be granted. I decline to accept that invitation, because I find that several of the plaintiffs do, in fact, possess standing to bring this action.

The issue of the standing of the City of Hartford has already been addressed twice by this court, and both times I have ruled that the City does have standing to sue.[12] It may be helpful, however, to recount briefly the basis upon which that conclusion was reached.

The Housing and Community Development Act of 1974 speaks directly to the problems confronting our urban areas. The initial clauses of the statute read:

"(a) The Congress finds and declares that the Nation's cities, towns, and smaller urban communities face critical social, economic, and environmental problems arising in significant measure from—

"(1) the growth of population in metropolitan and other urban areas, and the concentration of persons of lower income in central cities; and

"(2) inadequate public and private investment and reinvestment in housing and other physical facilities, and related public and social services, resulting in the growth and persistence of urban slums and blight and the marked deterioration of the quality of the urban environment.

"(b) The Congress further finds and declares that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable urban communities as social, economic, and political entities . . .

"(c) The primary objective of this chapter is the development of viable urban communities, by providing decent housing, and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income."[13]

The plaintiffs have filed a number of affidavits detailing the problems facing the City of Hartford.[14] The figures contained therein have not been challenged by the defendants. Thus, there can be no doubt that the statute was intended to ameliorate the problems facing the City of Hartford. The plaintiffs' allegations, and the statutory language, make it clear that the City falls within the "zone of interests" created by the Act. *Cf. Association of Data Processing Service Organizations, Inc.* v. *Camp*, 397 U.S. 150 (1970).

Similarly, the statute itself demonstrates that the second prong of the standing test—the "injury-in-fact" requirement—is met here. The statute explicitly provides for the reallocation of funds from grants which are disapproved, "first, in any metropolitan area in the same State. . . ." 42 U.S.C. § 5306(e) (1975 Supp.). Thus, if the plaintiffs are successful in their effort to overturn HUD's approval of these grant applications, and if the funds at issue are made available for reallocation, Hartford will be eligible to receive them, and will have a strong statutory priority. This priority is strengthened by the current HUD Regulations. As I noted in my decision modifying the preliminary injunction previously entered in this case,[15] one regulation in particular, 24 C.F.R. § 570.409 (f)(1)(i); 40 Fed. Reg. 42347, 42349 (September 12, 1975), requires that such reallocation funds be disbursed with *first priority going* to "the same metropolitan area." Thus, the City of Hartford has clearly suffered a judicially cognizable injury, sufficient to confer standing to sue, if the grant applications were approved in a manner contrary to law. It certainly stands to benefit in a tangible way from this court's intervention, thereby meeting the Supreme Court's most recent formulation of the "injury-in-fact" requirement. *Warth* v. *Seldin*, 422 U.S. 490 (1975).

The defendants' challenge to the standing of the city officials and the individual plaintiffs presents other problems. The members of the Court of Common Council sue only in their official capacities. Their claim of standing depends upon their alleged inability to perform their official duties and responsibilities because of the federal government's improper approval of the grant applications.[16] They point out that they have taken an oath to uphold the United States Constitution, and that they challenge HUD's approval on constitutional as well as statutory grounds. From this they conclude that they should be recognized as having standing to sue, citing *Board of Education of Central School District No. 1* v. *Allen*, 392 U.S. 236 (1968).

However, *Allen* involved constitutional issues, specifically, a constitutional challenge to a state law. The plaintiff officials were torn between their duty to implement the state law and their duty to uphold the federal constitution.[17] Here, by contrast, the city officials are not challenging any allegedly unconstitutional duties placed upon them. Rather, they seek to overturn the actions of the defendant HUD officials, based, in part, on a constitutional challenge. *Allen* does not stand for the proposition that anyone who has once taken, or is currently bound by, an oath to uphold the federal constitution has standing to challenge actions of third parties simply because they are similarly bound. These city officials have no cognizable legal interest in the outcome of this suit. Therefore, the motion to dismiss will be granted with respect to the members of the Court of Common Council of the City of Hartford.

The situation of the two low-income minority plaintiffs is more difficult. The question is whether standing to sue can be fashioned on the basis of these two characteristics. To determine the answer, it is necessary to analyze exactly what is being challenged, and what is the basis of the challenge.

The plaintiffs challenge administrative action: HUD's approval of the grants to the seven suburban towns. They allege that this approval was contrary to the department's responsibilities under a battery of federal statutes, chief among them the Housing and Community Development Act of 1974 and Title VIII, the Fair Housing Title, of the 1968 Civil Rights Act. As poor persons living in Hartford in substandard housing,[18] they are certainly within the "zone of interests" created by the 1974 Act. The opening section of that Act is replete with the phrase "principally for persons of low or moderate income," emphasizing whom the Act was intended to benefit. And that same section also highlights the key role housing was to play in Congress' goal of preserving viable urban communities. Furthermore, as members of minority groups, plaintiffs are entitled to the protection of the federal civil rights acts.[19]

The defendants argue that the decision in *Warth v. Seldin*, 422 U.S. 590 (1975) is dispositive of the standing issue, and requires that the individual plaintiffs also be dismissed for failing to state a claim. But this case is not controlled by *Warth*. There the plaintiffs raised only constitutional challenges to the zoning decisions of local officials. There statutory claims are also at issue, and, as the Supreme Court noted in *Warth*, "the actual or threatened injury required by Article III may exist solely by virtue of 'statutes creating legal rights, the invasion of which creates standing. . . .' "[20] In this Circuit the controlling decision is *Evans v. Lynn*, No. 74–1793 (2d Cir. June 2, 1975), *rehearing en banc granted* August 11, 1975. There the plaintiff class consisted of "minority residents of Westchester County who reside in racially concentrated areas of the county and are constrained to do so because the failure of federal agencies to perform their affirmative duties permits the maintenance of a growing pattern of racial residential segregation. . . ." *Evans v. Lynn*, Slip Op. 3885, 3888. They challenged the approval, by HUD and the Bureau of Outdoor Recreation, of federal grant moneys to a sewer district within the Town of New Castle, and to the Town itself.[21] The Court of Appeals, in a 2–1 decision, held that the low-income plaintiffs had stated a judicially cognizable claim sufficient to withstand a motion to dismiss for lack of standing.

Judge Oakes, writing for the court, held that the plaintiffs were within the "zone of interests" created by Title VIII, in that they challenged federal agency action as, allegedly, not complying with the "affirmative duty" upon federal agencies to administer their programs in a manner designed to enhance fair housing opportunities. In his concurring opinion, Judge Gurfein held that the plaintiffs had standing under the Administrative Procedure Act,[22] in order "to raise the question of whether the Secretary has failed to make the inquires" implied by this affirmative duty. *Evans* v. *Lynn*, Slip Op. 3885, 3918.

The grants in this case were approved by HUD. Although the statute sets forth specific standards by which the grants are to be tested, the plaintiffs allege that they were not correctly implemented by HUD.[23] The statute clearly has, as one of its objectives, the spatial deconcentration of lower-income groups, particularly from the central cities. Congress

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apparently decided that this was part of the solution to the crisis facing our urban communities. These two plaintiffs are among this very group of persons, person for whom Congress indicated it might be beneficial to relocate outside the central city.[24] Part of the grant application process involves an assessment by each community of its needs, and the development of a plan to meet those needs. If the needs stated in the application are not a true reflection of the community's needs, or if the projects for which the funds are to be spent are not calculated to meet the community's needs, the Secretary is required to disapprove the grant application.

The granting process, as disclosed in the administrative record compiled during the review of these seven grant applications,[25] involved a flexible review by HUD. The applications were studied and commented upon by HUD personnel, who evaluated the needs and projects as set forth in the applications. In many instances, more information was requested from applicants, or their responses were invited to HUD's criticisms or suggestions. In several instances the applicant communities responded to comments and criticism from HUD by revising their applications. If approval was improper, the plaintiffs may well have lost the benefits of re-directed priorities by the applicant towns, or, perhaps, the benefits of projects implemented by the City of Hartford with any reallocated funds.

Thus, both the "zone of interests" and "injury-in-fact aspects of standing required by *Warth* are present here. Additionally, as Judge Gurfein noted, the plaintiffs have standing under the APA as persons aggrieved by agency action to permit the court to decide what HUD's obligations are, and whether it has met them.

Similarly, Title VIII itself established an affirmative obligation upon HUD, an obligation which doubtless inures to the benefit of these plaintiffs. The extent of this obligation, and the issue of whether or not it was satisfied in this case, are issues which go to the merits.[26] As Judge Oakes pointed out in *Evans*, "it is enough if a viable claim of nonperformance is made." Slip Op. 3885, 3891 n.8. For the reasons stated in his opinion in that case, I agree that the plaintiffs here possess standing to sue under Title VIII. Here, as there, we have plaintiffs who claim injury from purposeful administrative inaction. Here, as there, the improper approval of grants may perpetuate existing patterns of racial (and economic) segregation. This claim under the 1968 Civil Rights Act distinguishes *Warth* v. *Seldin*, as noted by Judge Zampano in *Accion Hispana* v. *Town of New Canaan*, Civ. No. B-312 (D. Conn. August 18, 1975). The plaintiffs have alleged sufficient injury to their protected interests to permit them to bring their claims into court.

IV

As has been made clear by the preceding discussion, this case involves the new statutory framework for community development funding adopted by Congress in 1974. Title I of the Housing and Community Development Act of that year consolidated ten categorical grant programs into a single block grant program.[27] A three-year community development plan was required as part of the application, and appropriations were authorized through Fiscal Year 1977.

Congress intended to streamline the administration of these federal programs,[28] by minimizing HUD's "front-end" review, substituting annual performance monitoring at the time when the future funding levels of grants to the particular community would be determined.[29] In place of the elaborate administrative review by federal officials which preceded grant approval under the ten programs, the new statute establishes a 75-day period, within which HUD must disapprove the application, or else it is automatically approved.[30]

Furthermore, the statute directs HUD to approve the grant unless certain very limited conditions exist: (1) the community's true needs are not reflected in the application; or (2) the proposed projects will not meet the needs described; or (3) the proposal does not comport with other legal requirements.[31]

The new Act also gave local communities a greater role in determining how to spend their federal funds by requiring citizen participation and expanding the range of eligible activities. All the projects, however, must be directed toward accomplishing the central objective of the legislation: "the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income." [32]

Congress did not leave local communities with merely this broad statement of purpose. Rather, it legislated seven specific goals, thereby establishing national priorities to govern the use of community development funds. The Act also sets forth an extensive list of eligible activities, and requires that HUD disapprove applications for grants for any project not so qualified.[33] Three of the seven specific goals explicitly urge that moneys be spent on behalf of persons of low and moderate income.[34] Two speak directly,[35] and three more indirectly,[36] to the housing needs of that segment of the populace.

The plaintiffs' position is that one of these Congressional goals, in particular, is of great importance in this lawsuit—that concerned with reducings: "the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income . . . ." [37]

They argue that this is one of the primary goals of the Act, and that it was to be achieved, at least in part, through another aspect of the Act—the Housing Assistance Plan.[38] The Housing Assistance Plan (HAP), which is to be completed by the applicant community, must contain a survey of the housing stock of the community, an assessment of its housing needs, a goal for the provision of assisted housing, and a description of the location of existing and proposed lower-income housing. The 1974 Act also made the HAP the basis for assistance under many of the federally-subsidized, low-income housing programs.[39] As such, it is an important link between the housing and the community development sections of the Act.[40] The significance of this cannot be overestimated Congress left no doubt of the pivotal role it intended for the HAP by excluding it from the list of application requirements which might be waived by the Secretary.[41]

The plaintiffs charge that HUD disregarded the statute by approving these grants without requiring the communities to complete one element of the "needs" section of the HAP; that part which requires a community to estimate the housing needs of low income persons "expected to reside" within its borders.[42] Six of the defendant towns [43] had their grants approved despite their submission of a "zero 'expected to reside'" figure on their applications. The plaintiffs argue that this was not an accurate estimate of the housing needs which existed among persons in this category.[44] This omission, they argue, effectively emasculated the "needs" section of the applications themselves.

They further argue that, if what they describe as "needs" had been included, the projects proposed by the towns would then have been inappropriate to the "needs" disclosed for the community. If either of these are true, they contend, the Secretary would have been mandated to disapprove the applications, under § 5304(c) (1) and (2). Finally, they also contend that HUD's approval of these grants, despite the towns' failure to make a realistic projection of the influx of new low-income residents, is contrary to the "legal review" duties imposed upon the Secretary by § 5304(c) (3). This is the source of their claims under the federal civil rights acts; it is also the basis of their claim that HUD has not even complied with the 1974 Act itself.

HUD's failure to require an accurate projection of low-to-moderate income persons expected to reside in the communities was not the result of an oversight. On May 21, 1975, while six of the seven communities' applications were still in the process of HUD review, the HUD Area Office received a memorandum from David O. Meeker, Jr., Assistant Secretary for Community Planning and Development at HUD.[45] That memorandum informed the communities that they would be permitted to obtain approval of their first year grant applications, even without submitting figures in the "expected to reside" category.

Two other approaches, involving estimates of this need, were suggested in this memorandum, but the option of whether to adopt them, or not to submit any figure, was given to each applicant community.[46] Mr. Thompson testified that the Meeker Memorandum was issued in response to "the difficulty all communities across the country were having on this 'expected to reside' element." The local HUD office approved these six grants pursuant to that directive. Thus, neither the towns nor the Area Office are entirely at fault.

The plaintiffs challenge this HUD directive, characterizing it as a *de facto* waiver of the "expected to reside" element of the Housing Assistance Plan, contrary to the nonwaiver provision of the 1974 Act. The government argues that this was simply a deferral of that element, and well within HUD's authority in administering the Act.

Of course, deference is due to the construction of a statute by the administrative department responsible for its implementation. *Udall v. Tallman*, 380 U.S. 1 (1965). But this "second principle . . . normally applies only where the relevant statutory language is unclear or susceptible of differing interpretations." *Shea* v. *Vialpando*, 416 U.S. 251, 262 n.11 (1974). Thus, if the statute gives specific directions *Koshland* v. *Helvering*, 298 U.S. 441, 447 (1936), or the administrative interpretation is not consistent with either the statute, *Morton* v. *Ruiz*, 415 U.S. 199, 232 (1974), or Congressional intent, *Espinoza* v *Farah Manufacturing Co.*, 414 U.S. 86, 94 (1973), the administrative agency cannot amend it by regulation. *Koshland* v. *Helvering*, 298 U.S. 441, 447 (1936). This salutory rule is to be applied by the court to prevent "the unauthorized assumption by an agency of major policy decisions properly made by Congress." *American Ship Building* v. *Labor Board*, 380 U.S. 300, 318 (1965). Although "[t]he court is not empowered to substitute its judgment for that of the agency" on matters of fact, *Citizens to Preserve Overton Park* v. *Volpe*, 401 U.S. 402, 416 (1971), "the courts are the final authorities on issues of statutory construction, and 'are not obliged to stand aside and rubber-stamp their affirmance of administrative decisions that they deem inconsistent with a statutory mandate or that frustrate the Congressional policy underlying a statute.'"

Volkswagenwerk v. *FMC*, 390 U.S. 261, 272 (1968) (citations omitted). As the Supreme Court stated in *Manhattan Co.* v. *Commissioner*, 297 U.S. 129, 134 (1936): "The power of an administrative officer or board to administer a federal statute and to prescribe rules and regulations to that end is not the power to make law—for no such power can be delegated by Congress—but the power to adopt regulations to carry into effect the will of Congress as compressed by the statute. A

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regulation which does not do this, but operates to create a rule out of harmony with the statute, is a mere nullity."

Undaunted by these principles of law, HUD contends that the Meeker Memorandum was not in conflict with the statute, but merely supplementary to it. However, the statute could not be more clear. The Secretary was permitted to waive all or part of paragraphs (1), (2), and (3) of 42 U.S.C. § 5304(a), under certain conditions. And the Secretary was also permitted to accept the applicant community's certification that it had complied with paragraphs (5) and (6). Only paragraph (4), that describing and requiring the HAP, is not mentioned. The canon of construction *inclusio unius est exclusio alterius* compels the conclusion that the Secretary was not empowered to waive the requirement that the application include a Housing Assistance Plan for the community. Such a creation of additional exceptions to statutory requirements, by administrative action, is not favored. *Carey v. Local Board No. 2, Hartford, Connecticut*, 297 F. Supp. 252, 260 (D. Conn.), *aff'd*, 412 F.2d 71 (2d Cir. 1969).[47]

The defendants correctly observe that HUD has not waived the entire HAP, but merely one of the elements that go into the community's assessment of its needs for lower-income housing.[48] The failure to submit a figure for the "expected to reside" category does not detract, for example, from each town's calculation of the housing needs of its present inhabitants who fall within the lower-income classification.[49] However, the "expected to reside" figure is the keystone to the *spatial deconcentration objective* of the 1974 Act.[50] The recent report issued by the United States Commission on Civil Rights[51] emphasizes that the Housing and Community Development Act of 1974 envisions a new direction in federal assistance programs because it: "for the first time ties the provision of community development funds to the provision of lower-income housing by requiring each locality to submit a housing assistance plan as part of its community development block grant application. To receive *community development funding*, a locality must address its needs for lower-income housing." (Emphasis added).[52]

The success of this new "carrot and stick" approach to the dispersal of low and moderate income groups depends upon the willingness of the suburban towns to provide federally-assisted housing within their boundaries. Of course, communities can choose not to participate in the program.[53]

However, the Meeker Memorandum permits suburban towns to obtain funding under the Act without the *quid pro quo* Congress decided to require—their taking steps to expand housing opportunities for low and moderate income persons. Indeed, this requirement is one of the most important differences between the Housing and Community Development Act of 1974 and the categorical grant community development programs it replaced.[54] Thus, the Meeker Memorandum removes the incentive Congress provided for these communities to accept such federally assisted housing, thereby effectively gutting the "enforcement" provisions of the Act.[55]

I conclude that HUD acted contrary to law when it approved these six grants, without requiring the towns to make any assessment whatsoever of the housing needs of low and moderate income persons who might be "expected to reside" within their borders. When HUD offered the towns the third option presented by the May 21, 1975 Meeker Memorandum, to submit no figure at all, and they all selected that option, they acted contrary to the clear implication of the statute, that the HAP could not be waived by the Secretary.[56] The preliminary injunction previously entered in this case will be made permanent with respect to the Towns of Enfield, Farmington, Glastonbury, Vernon, West Hartford, and Windsor Locks.

V

The grant to the Town of East Hartford presents a somewhat different problem. Unlike the other defendant towns, East Hartford actually submitted a figure for the "expected to reside" portion of its HAP. The original HAP disclosed a total need for 135 assisted units in this category, including 81 elderly or handicapped, 16 large families, and 38 others. These figures were subsequently reduced, to 131, 78, 15, and 38, respectively, in a revision of the HAP undertaken at HUD's request.

The plaintiffs contend that these figures understated the actual number of lower income persons who should have been "expected to reside" in East Hartford, based on the facts and data available at that time. They argue from this that the Secretary acted contrary to law because she was obligated to disapprove the East Hartford grant application, since the "expected to reside" figures were "plainly inconsistent" with the facts and data. 42 U.S.C. § 5304(c)(1) (1975 Supp.).

The issues presented for decision are whether the Secretary's approval of this grant was: (1) within the scope of her authority; and (2) neither arbitrary nor capricious. *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402 414–16 (1971). The answers to these questions "require the reviewing court to engage in a substantial inquiry . . . . Although this inquiry into the facts is to be searching and careful, the ultimate standard of review is a narrow one. The court is not empowered to substitute its judgment for that of the agency."[57]

Here the answer to the first question is simple. Congress dictated that the grants be approved, unless the Secretary made certain determinations. HUD established review procedures which delegated the power to approve applications to the Area Directors, but retained the power to disapprove in Washington.[58] The administrative record discloses that these determinations were not made with respect to the East Hartford application. On the contrary, the Hartford Area Office did "not consider the information submitted by the City of Hartford as 'facts and data,'"[59] and so concluded that conditional approval was warranted.[60] The decision to approve the grant was certainly within the "range of choices that the Secretary can make." *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402, 416 (1971).

The second inquiry, however, presents more difficulty. The statute[61] requires me to determine, in essence, "whether the decision [to approve the grant] was based on a consideration of the relevant factors and whether there has been a clear error of judgment." 401 U.S. at 416. I conclude that the Secretary has abused her discretion in both respects. HUD's approval, without taking the steps required to obtain the "generally available" information it needed to evaluate these applications, and without considering such information, amounts to arbitrary and capricious decision-making. Furthermore, the decision to approve the East Hartford application, in the face of this "generally available" information, constituted a clear error of judgment, and was not in accordance with law. In other words, HUD was doubly at fault—it did not obtain the generally available information required for a proper review, and it acted upon the basis of inadequate information.

HUD does not claim that it was able to critically appraise the "expected to reside" figures in the East Hartford application. Mr. Lawrence Thompson, the Hartford Area Director, admitted that: "In reviewing the HAPs, it was apparent that there was an absence of reliable data upon which to evaluate the surveys of housing needs of lower-income groups expected to reside in the community as a result of planned or existing employment facilities."[62]

As a result, HUD was unable to calculate its own estimate of "expected to reside" figures, or even "to make a determination as to the accuracy of the figures supplied by the defendant towns."[63]

Mr. Thompson suggested that more data was not gathered because, in the time that would have taken, the 75-day review period would have been exceeded, and the grants would have been automatically approved.[64] He acknowledged that all the local communities were having great difficulty in developing "expected to reside" figures, and that this cause him to suspend processing of all pending applications during May 1975, to await expected instructions from HUD in Washington, D. C.[65]

These instructions came in the Meeker Memorandum of May 21, 1975, discussed in Part IV of this opinion. That memorandum set forth a methodology, developed by the central office, for computing an "expected to reside" figure for a community, based on the U.S. Census Bureau's "Journey to Work" tables.[66] It was the apparent unavailability of these figures on a municipality-by-municipality basis for the Hartford SMSA that led the Area Office to conclude that it was unable to prepare its own "expected to reside" figures, or to review those proposed by East Hartford.[67] However, a similar breakdown, lacking only income figures for the commuters, proved to be available from the Connecticut Department of Transportation, on only two days' notice![68]

Mr. Thompson also stated that East Hartford was not given the opportunity to submit a "zero" as its "expected to reside" projection, as were the other six defendant towns,[69] only because its application was approved before processing was suspended.[70] Thus, it was simply happenstance that a figure for "expected to reside" was included in the East Hartford HAP at all. The record demonstrates that, so far as HUD was concerned, that number might have had no validity whatsoever—it was untested and untestable. HUD's approval of the grant to East Hartford in such circumstances cannot be considered a proper exercise of discretion. Rather, it was an abandonment of its duty to review and evaluate the housing needs projection for those persons "expected to reside" within East Hartford. I conclude that HUD's approval of East Hartford's grant application was contrary to law.

There is no doubt that HUD did not conduct a rigorous review of the East Hartford "expected to reside" projection. It justified this failure by pointing to an alleged absence of data. In fact, however, a wide variety of alternative data sources was available. For example, HUD's own instructions suggest the use of census materials; code enforcement records; local agency records; 701 plans; or studies done by reputable research, community service, or planning organizations, such as private consulting firms.[71]

The proposed HUD Regulations also list several data sources, such as approved development plans; building permits; and major contract awards.[72] One of the plaintiffs' expert witnesses, Mr. Paul Davidoff, also listed a number of other possibilities including studies conducted by or for state agencies; plant or shopping center surveys; zip code information from the payroll records of local companies; or data gathered by the local chamber of commerce.[73]

And Mr. Jonathan Colman, Director of Planning for the City of Hartford, testified that figures detailing commercial development, in the form of floor space completed or under construction, are compiled by the Connecticut Department of Commerce.[74] The HUD Regulations[75] and instruction sheet[76] do not require that the data used to review

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grant applications be published. The standard is simply that it be "accessible . . . or . . . available to both the applicant and the Secretary. . . . "[77] The materials and data sources described above fall within this broad category, and HUD's failure to gather and consult them prior to its evaluation of East Hartford's grant[78] was an abdication of its responsibilities under the Housing and Community Development Act of 1974.[79]

The foregoing discussion is not intended to suggest that East Hartford invented its 135, then 131, figures, or that HUD's review of the East Hartford application was entirely passive. East Hartford developed its "expected to reside" projection from the waiting list for the East Hartford Housing Authority,[80] and the HUD Area Economist, William Flood, commented upon the unsatisfactory nature of that methodology.[81] The Hartford Area Office itself "agreed [with the City of Hartford] that a more comprehensive approach should be reflected in future HAPs. [But] HAO considered that using the waiting list *and 1970 census data* provided a satisfactory initial estimate of housing need in the absence of significant regional data . . . ." (Emphasis added).[82]

Even if it could be said that HUD adopted that waiting list as the data source for computing an "expected to reside" figure, and used it to review the East Hartford application, the approval of the grant on that basis constituted an abuse of discretion. The waiting list, alone, was clearly insufficient as a data base. Mr. Flood acknowledged this when he indicated that the first HAP submitted by East Hartford, using only the Housing Authority waiting list, was "clearly inconsistent with generally available data."[83] The revised HAP, which he found "marginally adequate" and "quite marginal," was based on the 1970 U.S. Census figures for low income persons in East Hartford, as supplemented by the Housing Authority waiting list information. That HAP raised the "currently existing need" figure from 331 to 473, increased the first and third year goals by 60 units,[84] and shifted the emphasis toward a closer balance between elderly and nonelderly housing.[85] However, no change was made in the data base from which the "expected to reside" element of the HAP was calculated, and that figure was actually reduced in the revised HAP![86]

The objections Mr. Flood made to the use of the waiting list alone to estimate currently existing need apply with equal, if not greater, force to its use as the sole source for the "expected to reside" figures. For example, he pointed out that Section 8 subsidies are available to many families with incomes higher than the limits set for public housing, and that there are only a small number of units for large families in the existing inventory of the East Hartford Housing Authority. He also objected to the stale nature of the waiting list data, and the poor reputation of the housing authority.[87]

The comments from Education/Instruction, a local civil rights research organization dealing with discrimination in housing and employment, parallel those made by Mr. Flood. They also point out that the availability of housing through the East Hartford Housing Authority was not publicized outside of East Hartford itself.[88] The Town itself acknowledged the validity of the criticism concerning the shortage of large-family units when it allocated a disproportionate share of its Section 8 funds to meet the needs of large families.[89]

The waiting list for the East Hartford Housing Authority may well be one factor upon which to base the "expected to reside" projection, but it cannot properly be the only one. The passivity with which HUD reviewed this element of the East Hartford HAP is well illustrated by the statement, made in comparing the criticisms of the application to East Hartford's response, that: "The inclusion of these figures [131] in the HAP appears to respond to the explicit comment of 'no reflection of needs' [of those presently working in East Hartford] made by Hartford. GROG's comment on this matter is also answered by the computation listed above."[90]

HUD had a duty to do more than accept any "expected to reside" figure proposed by East Hartford, however inadequate its size or derivation.[91] The administrative record discloses that it did not live up to that duty.

VI

For the reasons outlined in the foregoing opinion, I have concluded that the Secretary abused her discretion in approving the community development entitlement grants to the seven defendant communities. The preliminary injunction previously entered in this case is hereby made permanent. The seven defendant Towns are enjoined from drawing upon the Treasury, or spending in any fashion, the entitlement funds granted to them pursuant to Title I of the Housing and Community Development Act of 1974, which are the subject of this lawsuit. The Towns may seek to obtain a new approval of these grant applications from HUD. This injunction may be lifted upon the filing with the court of such a new approval.

FOOTNOTES

[1] The funds are available under the Housing and Community Development Act of 1974. Pub. L. No. 93–383; 88 Stat. 633; 42 U.S.C. §§ 5301 *et seq.* (1975 Supp.).

[2] All eight are members of the Hartford Court of Common Council—the city's governing body.

[3] Paragraph 11 of the Complaint. These plaintiffs' Motion for Permission to Proceed In Forma Pauperis was granted on August 11, 1975.

[4] The seven towns whose grant applications are challenged are: East Hartford, Enfield, Farmington, Glastonbury, Vernon, West Hartford, and Windsor Locks. The towns were ordered joined, as additional defendants, on the motion of the United States Department of Housing and Urban Development.

[5] In addition to the Secretary, both the Regional Administrator and Area Director of HUD are named as defendants. All three are sued only in their official capacities.

[6] Cited in note 1 *supra*.

[7] Pub. L. No. 90–284; 82 Stat. 81; 42 U.S.C. § 3601 *et seq.*

[8] Pub. L. No. 88–352; 78 Stat. 252; 42 U.S.C. § 2000d *et seq.*

[9] 42 U.S.C. §§ 1981, 1982, and 1985.

[10] Paragraph 31 of the Complaint.

[11] The United States has recently filed a Supplemental Motion to Dismiss or in the Alternative for Summary Judgment, based upon newly-proposed HUD regulations. 24 C.F.R. § 570.303; 41 Fed. Reg. 2347 (Jan. 15, 1976). Although these regulations concern the "excepted to reside" section of the HAP for future grant applications, they were not, obviously, used in evaluating the grants challenged in this case. Accordingly, I do not consider them in this decision.

[12] Memorandum of Decision on Plaintiffs' Motion for a Preliminary Injunction, September 30, 1975; and Ruling on Defendants' Motions to Reconsider and to Amend Preliminary Injunction, October 29, 1975. The City participated in the A–95 administrative review process, and may also have "person aggrieved" standing under 5 U.S.C. § 702. In light of my prior decisions, I need not resolve that issue.

[13] 42 U.S.C. § 5301 (1975 Supp.).

[14] The affidavits submitted by the plaintiffs strongly support the view that Hartford is one of the American central cities, suffering from a concentration of lower-income persons, that the Act was designed to benefit. The City's Department of Social Services administers between 40 and 45 per cent of all town general assistance cases in the entire state, and about 35,000 City residents receive either town general assistance or state public assistance. Plaintiffs' Exhibit 11, Affidavit of Joseph Alleyne, Director of the Department of Social Services, City of Hartford, September 18, 1975. Furthermore, over half of the City's residents either receive such assistance or live exclusively on social security or unemployment benefits. In July 1975, the City's unemployment rate stood at 13.6 per cent. The 1970 Census found that Hartford's population was 35.5 per cent minority, and that percentage has increased since then. The school population now is over 80 per cent minority. Plaintiffs' Exhibit 9, Affidavit of Richard Suisman, Member, Hartford Court of Common Council, September 18, 1975.

The housing situation in Hartford is bleak. There are now 16,000 substandard, deteriorating or dilapidated units in the City. About one-half of the City's families pay over 25 per cent of their annual income for shelter. In addition, most of the subsidized housing in the Greater Hartford Region is already located in the City of Hartford. Hartford has 61 per cent of these units although it has only 24 per cent of the total population of the region. Specifically, 71 per cent of the low-rent public housing, 46 per cent of the moderate-rent public housing, and 59 per cent of the privately-sponsored subsidized housing units are located within the City. And the majority of the subsidized moderate rental public housing units located within the suburbs are for elderly housing. Plaintiffs' Exhibit 10, Second Affidavit of William Slitt, Director of Housing, City of Hartford, September 16, 1975.

The condition of the City of Hartford, described above, stands in marked contrast to that which prevails in its suburban towns, as is demonstrated by a report prepared for HUD by Richard P. Nathan, a Senior Fellow at The Brookings Institution. *The Record of The New Federalism: What It Means For The Nation's Cities*. The Brookings Institution, Washington, D.C., September 30, 1974. Exhibit A to Plaintiff's Memorandum In Opposition to Motion to Dismiss or in the Alternative for Summary Judgment. This report uses six factors to compare conditions in 58 core cities with those in their suburbs. The six factors considered were: unemployment; population age; educational levels; per capita income; poverty percentage; and housing overcrowding percentage. The disparity between Hartford and its suburbs was the third worst, overall, in the entire nation; only Newark, New Jersey and Cleveland, Ohio ranked worse.

The Hartford region had the greatest disparity in the country on the poverty ratio scale—a city/suburb comparison of the relative percentages of families with annual incomes of under 125 per cent of the federal low-income standard for that family size. Hartford was second worst on the limited education ratio scale—the percentage of the population over age 25 with less than a 12th-grade education. It was also second worst on housing overcrowding, defined as occupancy over one person per room. The City was third worst on both the unemployment and per capita income comparisons. However, it was in the middle-range of American cities in Standard Metropolitan Statistical Areas (SMSA) of over 500,000 population on the dependency ratio scale—the percentage of the population under 18 or over 64 years of age.

These statistics are particularly relevant to the issues raised by this lawsuit. The last factor suggests that there is a pool of working-age persons now living in the City, but the unemployment ratio tells us that the jobs which exist are out in the suburbs. The study also indicates that there is a critical housing shortage in the City, resulting in severe overcrowding. This housing crush could be relieved by a movement to the surrounding towns, perhaps motivated by a search for employment opportunities. This sort of exodus may well have been what Congress anticipated when it established the "expected to reside" category on the Housing Assistance Plan, and emphasized the importance of "planned or existing employment facilities" to the calculations required to estimate this aspect of a town's housing needs for lower-income persons. See Part V *infra*.

The disparities reflected in these figures assume even greater significance when one realizes that Springfield, Massachusetts—another good-sized central city, with its attendant problems, and part of the Hartford SMSA—was included in the "suburban" figures for purposes of this study by The Brookings Institution!

[15] Ruling on Defendants' Motions, cited at note 12 *supra*.

[16] Plaintiffs' Exhibit 9, Affidavit of Richard Suisman, September 18, 1975, ¶ 32.

[17] 392 U.S. at 241 n.5.

[18] Affidavits of Miriam Jordan and Fannie Mauldin, July 1, 1975.

[19] Indeed, even non-minorities have standing to sue under the broad "person aggrieved" standard Congress selected for suits brought under the 1968 Fair Housing Act. *Trafficante v. Metropolitan Life Insurance Co.*, 409 U.S. 205, 212 (1972).

[20] 422 U.S. at 500, citing *Linda R.S. v. Richard D.*, 410 U.S. 614, 617 n.3 (1973).

[21] The programs which authorized those grants have since been consolidated into the unified community development program at issue in this case.

[22] 5 U.S.C. § 702.

[23] These standards may be found at 42 U.S.C. § 5304(c) (1975 Supp.).

[24] 42 U.S.C. § 5301(c)(6) (1975 Supp.).

[25] The administrative records for all seven grant applications have been incorporated into the record.

[26] See Parts IV and V *infra*.

[27] The new Community Development Program replaced the following ten development programs administered by the Department of Housing and Urban Development: the Public Facilities Loan Program authorized by Title II of the Housing Amendments of 1955; the Open Space Program authorized by Title VII of the Housing Act of 1961; the Planning Advance Program authorized by Sec. 702 of the Housing Act of 1954; the Water-Sewer, Neighborhood Facilities and Advanced Land Acquisition Programs authorized under Title VII of the Housing and Urban Development Act of 1965; the Urban Renewal, Code Enforcement and Neighborhood Development Programs authorized by Title I of the Housing Act of 1949; and the Model Cities Program authorized by Title I of the Demonstration Cities and Metropolitan Development Act of 1966.

[28] 42 U.S.C. § 5301(b)(3) (1975 Supp.). *See also*, H.R. Rep. No. 93-1114, 93d Cong., 2d Sess. 2, 3 (1974); S. Rep. No. 93-693, 93d Cong., 2d Sess. 48, 49 (1974).

[29] 42 U.S.C. § 5304(d) (1975 Supp.).

[30] 42 U.S.C. § 5304(f) (1975 Supp.).

[31] 42 U.S.C. § 5304(c) (1975 Supp.).

[32] 42 U.S.C. § 5301(c) (1975 Supp.).

[33] 42 U.S.C. § 5305 (1975 Supp.) describes the eligible activities; 42 U.S.C. § 5304(c)(3) (1975 Supp.) requires disapproval of any application that proposes ineligible activities. Clarifying regulations were issued recently. 24 C.F.R. § 570.200 *et seq.;* 41 Fed. Reg. 2765 (January 19, 1976).

[34] 42 U.S.C. § 5301(c)(1), (3), (4) (1975 Supp.)

[35] 42 U.S.C. § 5301(c)(3) and (6) (1975 Supp.).

[36] 42 U.S.C. § 5301(c)(1), (2), (5) (1975 Supp.).

[37] 42 U.S.C. § 5301(c)(6) (1975 Supp.).

[38] The HAP is described in 42 U.S.C. § 5304(a)(4) (1975 Supp.).

[39] Pub. L. No. 93-383 § 213; 42 U.S.C. § 1439 (1975 Supp.). This section virtually insulates a community from unwanted federally-assisted housing projects by permitting it to object to any application for assistance it deems "inconsistent" with its HAP.

[40] The newly-proposed HUD Regulations, note 11 *supra*, 24 C.F.R. § 570.303; 41 Fed. Reg. 2347 (January 15, 1976), acknowledge the importance of the HAP, describing it as "one of the most significant parts of the community development application process, [with] . . . a significant impact on various aspects of HUD-assisted housing program activities." *Id.* at 2348.

[41] 42 U.S.C. § 5304(b)(3) and (4) (1975 Supp.).

[42] 42 U.S.C. § 5304(a)(4)(A) (1975 Supp.). This information is to be given in Table II C of the applicant's Housing Assistance Plan.

[43] All but East Hartford.

[44] HUD's regulations state that this figure refers to lower income persons and families "planning or expected to reside in the community as a result of planned or existing employment faciilties." 24 C.F.R. § 570.303 (b)(2). The plaintiffs offer, as examples of why they question the accuracy of a "zero" figure for any of the defendant towns, the fact that 4,600 Hartford residents commute to work in East Hartford, and that 6,980 more work in West Hartford. Testimony of Jonathan Colman, September 22, 1975. These figures were from a study prepared by HAR-CON Associates, for the City of Hartford, based on information from the Connecticut Department of Labor. Furthermore, a study conducted in Glastonbury identified 806 persons working in the Town who resided elsewhere, but wanted to live in Glastonbury, and were eligible for federal housing assistance under the Section 8 program.

As Mr. Paul Davidoff, a lawyer and urban planner who served as a consultant to the City of Hartford in its review of the defendant towns' grant applications, testified:

"At the end, a judgment had to be made. . . . [A] community might have made, for the first year, a tentative judgment. It might have been wrong. . . . But it isn't zero, because the zero figure is patently absurd in terms of the reality of what is happening in each of these communities There is no basis at all, in fact, in any of the data on the growth of these communities . . . for zero to be put in."

Hearing of September 23, 1975.

[45] This memorandum, sent to all area office directors and all community planning and development division directors, was added to the record as Plaintiffs' Exhibit 12, at trial, and as Exhibit B to the Affidavit of Lawrence Thompson, August 25, 1975. Mr. Thompson is Director of the Hartford Area Office of HUD. The memorandum provides, in pertinent part, that:

"Where, in the opinion of the reviewer, it is reasonable to assume that a significant portion of the potential need has not been included in the needs table of the HAP, the applicant should be contacted indicating that prior to HUD's tender of contract the applicant must:

"(a) Adopt the HUD figure . . .. or

"(b) Adopt its own figure . . .. or

"(c) Indicate what steps the applicant intends to take in identify [*sic*] a more appropriate needs figure by the time of its second year submission."

The plaintiffs do not challenge the procedural propriety and legal effect of the May 21, 1975 Meeker Memorandum. Paraphrasing the analogous decision in *Fletcher v. Housing Authority of Louisville*, 491 F.2d 793, 799 n. 10 (6th Cir.), *vacated and remanded*, 419 U.S. 812 (1974), it is HUD's decision to implement the memorandum, and not its issuance, which is involved here. Offering the options presented by the Meeker Memorandum to the six defendant towns is what the plaintiffs complain about, not the compliance by HUD with rule-making procedures before it issued the memo.

The degree of control exercised over the entire community development funding process by the HUD central office, in Washington, D.C., is illustrated by an excerpt from an earlier HUD directive, also issued by Mr. Meeker. Meeker Memorandum of November 29, 1974. Exhibit A to Affidavit of Lawrence Thompson, August 25, 1975. This earlier memorandum directs that:

"No CD programs may be approved, even conditionally, without approval of the HAP. Therefore, disapproval of the HAP amounts to disapproval of the whole CD program. Since CD plan disapproval can only be made at the Central Office, Area Offices finding a HAP unacceptable must follow the disapproval procedure described below. . . . The power to disapprove applications for entitlement funds is not delegated below my office."

[46] In letters sent out from the Community Planning and Development Division of the Area Office on June 2, 1975, to each of these six applicant communities. Because the local HUD Area Office was unable to develop its own "expected to reside" figures, only the second and third options of the Meeker Memorandum were presented to these towns.

[47] *See also, Marsano v. Laird*, 412 F.2d 65 (2d Cir. 1969).

[48] As Mr. Lawrence Thompson testified at hearing: "The Housing Assistance Plan requirement is a statutory provision and it's way beyond my power to waive it. Only the Congress could." Hearing of September 24, 1975.

[49] HUD Regulations equate the terms "lower" and "low and moderate" income families, and define this group as those "families whose annual incomes do not exceed 80 percent of the median family income of the area as determined by the Secretary with adjustments for smaller and larger families . . . ." 24 C.F.R. 570.3(o). The maximum annual income for these groups, during 1975 in the Hartford area, was $7,500 for low and $12,000 for moderate income families, depending on family size. Plantiffs' Exhibit 10, Affidavit of William Slitt, September 16, 1975, ¶ 5.

The 1972 median incomes for the seven defendant towns, as set forth in the Affidavit of Jonathan Colman, July 29, 1975, Exhibit A to Plantiffs' Memorandum in Support of Motion for A Preliminary Injunction, are as follows:

East Hartford:	$912,000.
Enfield:	$12,789.
Farmington:	$13,712.
Glastonbury:	$15,000.*
Vernon:	$12,338.
West Hartford:	$14,796.*
Windsor Locks:	$13,372.

*The base year for these two figures is not clear from the Affidavit.

At the hearing of September 22, 1975, Mr. Colman testified as to the substantially lower 1970 Census median income figures for these towns. He further testified that even the 1972 figures quoted above had risen considerably by 1975.

[50] Testimony of Paul Davidoff, September 23, 1975. Mr. Thompson of HUD also agreed that the "expected to reside" figure is "an important requirement," and is "the only specific element of the Act that I can identify that operationally connects [the spatial deconcentration of lower-income persons] with what we do and the applicants do." Hearing of September 24, 1975.

[51] *Twenty Years After Brown: Equal Opportunity In Housing*, United States Commission on Civil Rights (December, 1975).

[52] *Id.* at 32.

[53] As have both Berwyn and Cicero, Illinois. *Id.* at 61 n. 191. Indeed, the Town of Vernon applied for only $25,000 to build a residential park, although its first-year entitlement grant, under the statutory "hold harmless" formula, was over $100,000. 42 U.S.C. § 5306.

Testimony of Jonathan Colman, September 23, 1975. The Town has since obtained a discretionary grant under the Act in the amount of $150,000. Letter of January 7, 1976, to the court, from Martin B. Burke, Town Attorney.

[54] *Twenty Years After Brown: Equal Opportunity In Housing,* United States Commission on Civil Rights (December, 1975) at 60.

[55] The newly-proposed HUD Regulations, see note 11 *supra,* suggest that HUD is contemplating a partial waiver for yet another year, in certain circumstances. 24 C.F.R. § 570.303(c)(2)(vi); 41 Fed. Reg. 2347, 2349 (January 15, 1975). As stated in note 11 *supra,* the validity of this proposed regulation is not, however, before me in this case.

[56] This decision avoids any need to assess the propriety of HUD's conclusion that the needs, as described in these six towns' applications, were not "plainly inconsistent" with "significant facts and data, generally available and pertaining to community and housing needs and objectives," and that the proposed projects were not "plainly inappropriate to meeting the needs and objectives identified by the applicant," as required by 42 U.S.C. § 5304(c)(1) and (2) (1975 Supp.). Those issues are, however, addressed with respect to the East Hartford application, in Part V *infra* of this opinion.

[57] 401 U.S. at 415–16. The cautionary instruction concerning the narrow scope of review is particularly appropriate in this case, since the Secretary herself has been given only a very limited range of discretion. 42 U.S.C. § 5304(c) (1975 Supp.). Congress clearly built a presumption of approval into the Act with this restrictive review standard and the automatic approval provision. 42 U.S.C. § 5304(f) (1975 Supp.).

[58] Meeker Memorandum of November 29, 1974. Exhibit A to the Affidavit of Lawrence Thompson, August 25, 1975.

[59] Memorandum to the East Hartford Entitlement File, May 19, 1975. Attachment J to the Administrative Record for East Hartford.

[60] Memorandum to Lawrence Thompson, April 24, 1975. Attachment O to the Administrative Record for East Hartford. The grant approval letter, dated May 2, 1975, is Attachment L to the Administrative Record.

[61] 5 U.S.C. § 706 provides:

"The reviewing court shall—

* * * * *

"(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."

[62] Affidavit of Lawrence Thompson, August 25, 1975, ¶ 12.

[63] Affidavit of William Flood, September 12, 1975, ¶ 5. Exhibit B to the Defendants' Memorandum in Support of Motion to Dismiss or in the Alternative for Summary Judgment. Mr. Lawrence Thompson testified to the same effect at trial, stating that HUD lacked the data necessary "to compute a substitute figure to the figure that was supplied by the applicant." Hearing of September 23, 1975.

[64] Pursuant to 42 U.S.C. § 5304(f) (1975 Supp.). Affidavit of Lawrence Thompson, August 25, 1975, ¶ 13. The East Hartford application was received by HUD on March 24, 1975. Supplemental Affidavit of Lawrence Thompson, September 12, 1975, ¶ 19. Exhibit A to the Defendants' Memorandum in Support of Motion to Dismiss or in the Alternative for Summary Judgment. The application was approved in a letter from Mr. Thompson, dated May 2, 1975. Attachment L to the Administrative Record for East Hartford. Thus, approximately five weeks still remained on the "75-day clock" at the time the East Hartford application was approved.

[65] Supplemental Affidavit of Lawrence Thompson, September 12, 1975, ¶ 7. This problem was not limited to the Greater Hartford Area. Affidavit of Allan Thornton, November 6, 1975 ¶ 4.

[66] Meeker Memorandum of May 21, 1975. Plaintiff's Exhibit 12 and Exhibit B to the Affidavit of Lawrence Thompson, August 25, 1975.

[67] Affidavit of William Flood, September 12, 1975, ¶ 4.

[68] Affidavit of Paul Davidoff, October 21, 1975, ¶ 9, and Affidavit of Jonathan Colman, October 22, 1975, ¶ 3.

[69] In letters sent out by the HUD Area Office on June 2, 1975. Affidavit of William Flood, September 12, 1975, ¶ 8.

[70] Supplemental Affidavit of Lawrence Thompson, September 12, 1975, ¶ 22. Indeed, East Hartford received a similar letter on June 5, 1975. Affidavit of William Flood, September 12, 1975, ¶ 9. Attachment M to the Administrative Record of East Hartford. This letter emphasized the importance of the "expected to reside" element of the RAP, informed the Town of the options the Hartford Area office had extended to the others communities, and stated that East Hartford, while not required to alter its RAP at that time, would be required to address this need at the time of its next submission, in accordance with HUD regulations.

[71] Instructions For Form HUD–7015.8 thru 11. Plaintiffs' Exhibit 2 at trial.

[72] 24 C.F.R. § 570.303(c)(2)(i)(A); 41 Fed. Reg. 2347, 2349 (January 15, 1976).

[73] Testimony at the Hearing of September 23, 1975.

[74] Testimony at the Hearing of September 22, 1975. These figures can be used to estimate new employment opportunities generated by that construction. HUD's awareness of the relationship between new commercial construction and new employment opportunities is demonstrated by Plaintiffs' Exhibit 14, a letter to Stephen Fils, Town Manager of Farmington, from Lawrence Thompson, March 9, 1972.

[75] 24 C.F.R. § 570.306(b)(2).

[76] Plaintiffs' Exhibit 2, note 71 *supra.*

[77] 24 C.F.R. § 570.306(b)(2).

[78] It is clear from the record that HUD's review was not based on this sort of data. "I chose to approve these seven applications after determining they were not plainly inconsistent with the facts and data available [*sic*] at that time." Affidavit of Lawrence Thompson, August 25, 1975, ¶ 14. Also, see Affidavit of William Flood, September 12, 1975, ¶ 5.

[79] 42 U.S.C. § 5304(c)(1) (1975 Supp.).

[80] Attachments D and K to the Administrative Record for East Hartford. The Town used the 40 per cent of the applicant pool who were not residents of East Hartford as its "expected to reside" estimate.

[81] Memorandum to Harry Reese, April 18, 1975. Attachment O to the Administrative Record for East Hartford.

[82] Memorandum to the East Hartford Entitlement File, May 15, 1975. Attachment J to the Administrative Record for East Hartford.

[83] Memorandum to Harry Reese, April 14, 1975. Attachment O to the Administrative Record for East Hartford.

[84] The increase consisted entirely of an allocation of $120,000 of Section 8 funds. All 60 units were to be in already existing housing.

[85] Attachments D and K to the Administrative Record for East Hartford.

[86] *Id.*

[87] Memorandum to Harry Reese, April 14, 1975. Attachment O to the Administration Record for East Hartford.

[88] Letter to Ms. Connell, Chairwoman of the Ad Hoc Committee on the Housing and Community Development Act, CRCOG. Attachment H to the Administrative Record for East Hartford.

[89] Attachment K to the Administrative Record for East Hartford.

[90] Memorandum to the East Hartford Entitlement File, May 15, 1975. Attachment J to the Administrative Record for East Hartford.

[91] HUD's Acting Regional Administrator, Harold Thompson, emphasized this duty in a memorandum to the Area Director, Lawrence Thompson:

"In sum, these allegations [by the City of Hartford] are, in our opinion, well-documented and of a very serious nature. Therefore, whatever your decision may be regarding this matter, please ensure that the administrative file reflects a reasonable decision-making process."

Plaintiffs' Exhibit 13. Memorandum to Lawrence Thompson, April 29, 1975.

FBI OVERSIGHT LEGISLATION: AN IMMEDIATE AND CRITICAL NEED

(Mr. BADILLO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BADILLO. Mr. Speaker, this week the Subcommittee on Civil and Constitutional Rights of the Judiciary Committee, of which I am a member, received the final report issued by the General Accounting Office on the functioning of the Federal Bureau of Investigation. They are to be congratulated for the meticulous and unbiased job they did. Yesterday, Comptroller General Elmer B. Staats testified before the committee on the report, stressing particularly its relationship to the recently issued guidelines on Domestic Security Investigations from the Department of Justice. The Comptroller General's testimony strongly made the point that the guidelines are totally inadequate to the job, and that legislation is necessary to clearly define the parameters of FBI activity. In fact, the major recommendations of the report, in every area, urge the enactment of oversight legislation. I have recently introduced a resolution disapproving the guidelines, but that is only the beginning. I am inserting those guidelines in the hope that their inherent weaknesses will become apparent to my colleagues, and I also recommend the findings of the GAO study which presents such a clear mandate for immediate congressional action:

[Comptroller General's Report to the House Committee on the Judiciary]

FBI Domestic Intelligence Operations—Their Purpose and Scope: Issues That Needs To Be Resolved

DIGEST

Changes are needed in the FBI's domestic intelligence operations. The operations are too broad in terms of the number of individuals investigated and the scope of the investigations.

Few would deny that some elements or groups within our Nation pose threats to our domestic security. But, differences appear on questions of the exact natures, intents, and threats of certain groups; the techniques used to identify and monitor them; and the scope of coverage applied to specific investigations.

It is a matter of deep concern to the security of our country and to the liberty of our citizens. Only through public debate, inherent in the legislative process, can the issues be adequately addressed.

GAO's recommendations are directed towards resolving problems in five main areas of concern:

Authority for domestic intelligence operations.

Initiating and continuing investigations and their results.

Use of sources and techniques.

Collection, dissemination, and retention of investigative information.

Oversight and control.

The recommendations are based on GAO's analysis of 898 domestic intelligence cases randomly sampled from a universe of 19,659 cases acted on by the FBI during 1974 in 10 field offices.

AUTHORITY FOR DOMESTIC INTELLIGENCE OPERATIONS (CH. 3)

Findings

The FBI appears to have carried out its domestic intelligence operations during the past 40 years within the broad framework of Presidential statements and directives, statutes, Executive orders, and Attorney General directives.

The FBI asserts that statements attributed to President Roosevelt in 1936 authorized and directed it to conduct intelligence investigations of subversive activities. But, alleged Presidential authorization is unclear as is the meaning of the term, subversive. What is clear is that in 1936 the FBI began intelligence investigations of the Communist and Fascist movements at the Secretary of State's request, pursuant to statutory authority in the FBI's appropriation act. Moreover, although the President had instigated the Secretary of State's request, the surrounding circumstances suggest that the President's concern was limited to organizations having some connection with a foreign government.

Subsequent Presidential directives in 1939, 1943, 1950, and 1953 did not explicitly delegate authority to the FBI to conduct intelligence investigations of subversive activities. To the extent, if any, that they fixed responsibility on the FBI for such investigations, they did not explictily indicate that all types of domestic groups and individuals were subject to investigation or clearly indicate what constitutes subversive activities or subversion.

The FBI asserts parallel and preexisting statutory authority for domestic intelligence operations by contending that the "detect and prosecute" language of 28 U.S.C. 533 authorizes intelligence investigations of groups and individuals who have violated or who are engaged in activities that may violate a substantive criminal statute, such as that pertaining to seditious conspiracy, 18 U.S.C. 2384. A precise definition of the duties intended to be encompassed by the phrase "detect and prosecute" is not possible because documentation related to congressional intent is either not available or does not provide an explanation. Therefore, the FBI's interpretation cannot be said to be incorrect.

Several directives from Attorneys General and other Justice Department officials, apparently issued pursuant to other provisions of 28 U.S.C. 533, also resulted in the FBI conducting certain domestic intelligence investigations. Additionally, Executive orders relating to the Security of Government Employees Programs have been cited as a basis of such investigations.

Conclusions

The FBI's authority to carry out domestic intelligence operations is unclear. It must be distilled through an interpretive process that leaves it vulnerable to continuous questioning and debate. There is a need for legislation that clearly provides such authority and delineates it in terms of objectives, scope, and functions encompassed.

Recommendations

GAO recommends that the Congress enact legislation concerning domestic intelligence operations clarifying the authority under which the FBI would be able to initiate and conduct such operations. In doing this, the Congress should (1) define the extent to which domestic intelligence investigations should be predicated on existing criminal statutes relating to the overthrow or advocating the overthrow of the Government and (2) specify the activities that should be investigated solely so appropriate Government officials can be aware of them.

Agency comments

The FBI agreed that legislation is needed clarifying its authority to conduct domestic intelligence investigations. (See p. 163 and app. V.)

INITIATING AND CONTINUING INVESTIGATIONS AND THEIR RESULTS (CH. 4, 5, 6, 7, 9, AND 10)

Findings

FBI policy emphasizes that investigations are primarily made of groups and individuals whose actions may result in violations of criminal statutes, especially those dealing with rebellion or insurrection, seditious conspiracy, or advocating the overthrow of the Government. In practice, investigations of individuals occur because of their associations with groups the FBI has characterized as "subversive" or "extremist" regardless of whether the group is violent. (See pp. 27 to 42.)

The FBI primarily appears to justify domestic intelligence investigations on the need to provide the Attorney General and other officials with information upon which to make assessments and policy recommendations regarding the national security.

The FBI field office squad supervisor is responsible for day-to-day control of domestic intelligence investigations. He is responsible for insuring that (1) investigations are in accord with policy, (2) there is a sound basis for opening the investigation, and (3) results are achieved and reported to headquarters.

FBI officials stressed that investigative decisions are based upon the judgment of the agent. GAO believes decisions have to be made this way because the basis for such investigations is ambiguous and specific criteria delineating when to initiate them is lacking.

FBI officials stated that the rhetoric of a group or individual is sufficient to attract initial investigative interest if it could result in criminal violations and adversely affect the Nation's security.

Noticeable membership growth by a group advocating revolution would warrant an investigation as would such actions as buying and storing arms, engaging in firearms practice, or purchasing survival equipment.

Investigations can be initiated either at the preliminary or full-scale level, depending on the available facts and circumstances. The multilevel headquarters review of investigative decisions indicates the FBI's desire to strongly control field office investigations. What is lacking is an adequate independent assessment of the FBI's domestic intelligence policies and procedures.

The FBI believes its domestic intelligence programs fit within the policy framework for such investigations. GAO categorized the programs that came to its attention into five groups:

Lists of individuals intensively investigated, which included the Security Index, the Communist-Reserve Index, the Administrative Index, and the Key Extremist and Key Activist Programs. (See pp. 66 to 75.)

Special efforts to locate or follow certain individuals, which included the Stop Index, Computerized Telephone Number File, and the computerization of foreign travel effort. (See pp. 75 to 79.)

Special liaison programs to focus attention on investigative problem areas, which included the False Identities Program and the efforts to be aware of extremist revolutionary, terrorist, and subversive activities in penal institutions. (See pp. 79 to 83.)

Counterintelligence Programs. (See pp. 84 to 86.)

Special reporting efforts of things such as civil disturbances and the "new left's" activities. (See pp. 86 to 90.)

Generally, the FBI's greatest consideration in developing such efforts has been the efficiency and effectiveness of them, rather than their propriety in terms of protecting individuals' civil liberties. Although the FBI usually did not seek Justice Department approval for the programs, they largely coincided with Department interests.

GAO's review of the 797 randomly sampled cases on individuals showed that many investigations were opened on the basis of weak evidence concerning the nature and extent of the subjects' involvement with a subversive or extremist organization or activity and resulted in establishment either no or minor involvement by the subject.

GAO estimates, on the basis of its sample results, that about 32 percent of the 17,528 cases on individuals were initiated on the basis of hard evidence, about 32 percent on the basis of medium evidence, and about 36 percent on the basis of soft evidence.

In the 263 sampled cases which the FBI initiated on the basis of hard evidence, it established that the subject was either a leader, member, or a violence prone person in 81 percent of the cases.

In the 263 sampled cases initiated on the basis of medium evidence, the FBI established leadership, etc., in 49 percent.

In the 271 sampled cases initiated on the basis of soft evidence, it established leadership, etc., in only 12 percent and found no association in 86 percent. (See pp. 99 to 103.)

Informants, the most common source of information, resulted in initiating 48 percent of the cases on individuals, compared to the next highest source, other FBI field offices, which provided such information in only 17 percent of the cases. (See pp. 103 to 106.)

State and local police, the principal outside sources used by the FBI to initiate investigations, were used in 12 percent of the cases. The remaining 23 percent of the cases were initiated on the basis of information received from confidential sources, other Federal, State, or local agencies or from miscellaneous sources.

The strongest evidence by far was provided by the most common source of initiating information—FBI informants. Eight-three percent of the cases initiated on the basis of such information were opened with either hard or medium evidence while only 17 percent were opened with soft evidence.

Overall, about 19 percent of the matters investigated by the FBI related to intelligence, domestic and foreign, from fiscal years 1965 through 1975. A further breakdown is classified because of the need to prevent disclosure of the FBI's counter-espionage effort. But, the percentage has not varied greatly over the last decade, despite the increased emphasis given to domestic intelligence operations between fiscal years 1967-72. By fiscal year 1975, domestic intelligence operations had declined close to the 1965 level (See pp. 131 to 137.)

FBI and Justice Department officials also estimate that the FBI spent about $82.5 million on general intelligence in fiscal year 1975. The estimated amount includes money spent on FBI staff involved in criminal as well as domestic and foreign intelligence operations but does not include all funds spent on certain technical support functions associated with such operations.

The purposes of the FBI's domestic intelligence investigations are to (1) prosecute and convict subjects for violating appropriate statutes, (2) continuously keep appraised of the strength, danger, and activities of subversive and extremist groups, and (3) provide information to assist executive branch officials in making decisions affecting national security.

There have been few tangible results from such investigations. This is not to say that domestic intelligence is unnecessary or of no value.

GAO estimated, on the basis of its random sample, that, of the 17,528 individual cases investigated by the 10 FBI field offices during 1974:

3 percent (533) were referred for prosecution.

1.6 percent (281) were prosecuted.

1.3 percent (231) were convicted.

2.7 percent (476) resulted in the FBI obtaining advance knowledge of planned activities. (See pp. 138 to 144.)

GAO also analyzed the 101 organization, or control and miscellaneous cases it sampled to determine whether any contained instances where the FBI obtained advance knowledge of planned activities. Twenty-one cases contained specific instances of advance knowledge. The number of instances in each case varied from 1 to 51. GAO considered 12 percent of such instances to be of a potentially violent nature. Others involved speeches, conferences, and demonstrations.

Furthermore, on the basis of its sample results, GAO estimates that:

In 50 percent of 17,528 cases the FBI was unable to establish the individual's association with a group or its activities.

In 44 percent (7,772), the FBI established that the individual was a leader, member of an organization, or violence prone individual. (See pp. 145 to 146.)

There was also a lack of evaluation and analysis capability in connection with the FBI's domestic intelligence operations. (See pp. 146 to 147.)

Other than effectively identifying and gathering information on groups and affiliated individuals that espouse and carry out subversive and extremist activities, the FBI's domestic intelligence operations do not appear to have achieved many tangible results. However, this may be sufficient, because who is to say that the FBI's continuous coverage of such groups and their key leaders has not prevented them to date from achieving their ultimate subversive or extremist goals? The problem is one of adequately assessing the value and effectiveness of an operation which by its nature is preventive and by its mere existence may be accomplishing its purpose.

Conclusions

An essential difficulty with the domestic intelligence investigations has been the FBI's failure to adequately distinguish the extent to which groups are likely to use force or violence to achieve their goals and to investigate and use certain techniques accordingly. Priorities for such investigations are not systematically determined. Moreover, no outside organizations have effectively held the FBI accountable for such decisions.

Violent groups, such as the present-day Weatherman, or previously the Ku Klux Klan, warrant the FBI's full attention. Rather than concentrating on the most violence prone groups, the FBI has diffused its domestic intelligence investigative coverage to the point where many investigations do not lead to positive results. Perhaps if the FBI concentrated its efforts on those groups and individuals who represent the highest priority from a standpoint of a national security threat as determined by the Attorney General and FBI, the domestic intelligence program would be more productive.

GAO assumes that in any intelligence-type investigation, one objective must be merely gather information. Such an objective is appropriate, but only within the confines of a clearly defined policy setting out the nature of groups and individuals to be investigated. Thus, the key decision must be that of deciding when to investigate a group or individual.

Recommendations

GAO recommends that the Congress enact legislation concerning domestic intelligence operations:

Limiting such investigations only to groups that have used or are likely to use force or violence: a determination that must be made at least annually by the Attorney General or Deputy Attorney General in accordance with specific criteria issued by the Attorney General.

Limiting investigations of individuals who are merely members of groups classified as warranting investigation, but which have only shown a likelihood of violence, to instances when information indicates the individuals may be involved in or are likely to become involved in specific criminal acts.

Allowing the FBI to conduct yearlong, extensive investigations of individuals associated with, or suspected of associating with, groups that have proven abilities to commit violent acts and have been classified annually by the Attorney General or Deputy Attorney General as being grave threats to the public well-being. The phrase "proven ability to commit violent acts" could be defined by the frequency of acts and time period in which they were committed.

Allowing the FBI to (1) establish and operate informants who could penetrate properly classified groups which have evidenced a likelihood of violence or used violence and (2) investigate leaders of such groups or potential groups to determine their identities, extent of their followings, and propensities for violence.

Agency comments

The FBI did not agree that domestic intelligence operations should be directed only to those groups engaged in or likely to engage in force or violence. The FBI essentially believes that it should be allowed to investigate groups that evidence a *possibility* of using violence, regardless of the *probability* that they will do so.

The Justice Department committee drafting FBI domestic intelligence guidelines stated in the guidelines that such innvestigations should be of activities which involve or will involve use of force or violence and the violation of Federal law.

The FBI also stated that GAO did not specifically address the need to investigate individuals unaffiliated with groups, which the FBI characterized as anarchists or terrorists.

No GAO recommendation would preclude the FBI from investigating any individual plotting the imminent use of force or violence in a specific criminal act. Moreover, GAO questions how the FBI presumes it could effectively obtain such knowledge of violent acts planned by individuals affiliated with no group when GAO results showed that the FBI obtained advance knowledge of actions—violent or otherwise—in few of the affiliated cases GAO sampled. (See pp. 163 to 165 and app. V.)

SOURCES AND TECHNIQUES (CH. 7)

Findings

The FBI's domestic intelligence investigations are generally "passive" but all encompassing. Information is gathered from other sources, rather than being developed originally by the FBI.

The FBI first contacts a vast variety of routine, established sources to identify the subject and determine his or her activities. If those sources are unable to completely provide the required information, then the FBI uses interviews and other investigative techniques. The use of special investigative techniques and programs seemed to depend on the results of the investigation. They were used once a subject's involvement in subversive or extremist activities was confirmed.

Informants and State and local police were by far the most common sources contacted during investigations. Informants were used in about 83 percent of the individual cases while police sources were contacted in about 77 percent. Confidential sources were used in 54 percent; credit bureaus, in 39 percent; educational institutions, in 21 percent; utilities, in 18 percent; and banks and other financial institutions, in 4 percent of the cases. (See pp. 106 to 108.)

With the exception of using certain minor investigative techniques to identify a subject, special or unusual techniques or programs were used infrequently. For example, the most common active investigative techniques used were pretext contacts and physical surveillance, which were both used in only about 20 percent of the cases. Photo surveillance was used in only 4 percent, while mail covers were used in only 1 percent of the cases. (See pp. 108 to 111.)

Interviews were conducted by the FBI in about 42 percent of the investigations of individuals. The subjects of the inquiries were interviewed in about 22 percent of the cases. Friends and associates were interviewed in 12 percent; neighbors, in 11 percent; employers, in 9 percent; relatives, in 9 percent; and others (including landlords, businessmen, attorneys and school officials), in 15 percent of the cases.

Information was obtained from electronic surveillances in only about 8 percent of all cases GAO sampled. In all but two of the cases, the information was obtained as the result of "overhears" on surveillances targeted against the subjects of cases not included in GAO's sample. Most electronic surveillances were targeted at the headquarters or chapters of subversive or extremist organizations. All were approved by the Attorney General.

There were only 6 cases in which the subjects were targets of neutralizing or disruptive actions under the FBI's counterintelligence programs. The actions consisted primarily of sending anonymous materials to the subjects and leaking nonpublic or disseminating public information to media sources. "Surreptitious entries" were used in nine sampled cases, and in one of those cases mail was opened. All but one of the cases were conducted by the FBI field office against groups or individuals classified as "subversive" by the FBI.

FBI policy has officially distinguished between preliminary inquiries and full-scale investigations since September 1973, to limit the impact of domestic intelligence investigations on the subjects and give headquarters greater control. Preliminary inquiries are to be undertaken through established sources, are not to exceed 90 days, and are to establish whether there is evidence to warrant a full-scale investigation. FBI field offices, however, did not distinguish between preliminary inquiries and full-scale investigations in practice.

GAO estimates that 7,562 of the 8,392 cases opened after December 31, 1974, were opened as preliminary inquiries. Moreover, the 10 FBI field offices generally used the same sources in preliminary inquiries as in full-scale investigations. Further, GAO estimates that inquiries lasted longer than 90 days in 72.5 percent of the cases and FBI headquarters was aware of such cases only about 35 percent of the time. Thus, many cases were not properly controlled. In December 1975 the FBI revised its policy to provide for better headquarters control of preliminary inquiries. (See pp. 111 to 116.)

Conclusions

Generally the FBI appeared to use appropriate techniques and sources during its investigations. Questionable actions were the use of counterintelligence techniques and surreptitious entry. Preliminary and full-scale investigations, if properly implemented, could be an effective administrative aid and control. This concept, together with stricter, more specific requirements for opening investigations could help to limit the scope and conduct of the FBI's domestic intelligence operations.

Recommendations

GAO recommends that the Congress enact legislation concerning domestic intelligence operations limiting the extent to which the Attorney General may authorize the FBI to take nonviolent emergency measures to prevent the use of force or violence in violation of Federal law. Preventive measures should only be used when there is probable cause that violent actions pose real and immediate threats to life or property and would interfere substantially with the functioning of Government.

GAO recommends that, until guidelines or further legislative changes are enacted, the Attorney General direct the FBI to enforce its current requirements that (1) only established sources be contacted during preliminary inquiries and (2) preliminary inquiries be completed within the required 90-day time frame or that FBI headquarters approval be sought for an extension.

COLLECTION, DISSEMINATION, AND RETENTION OF INVESTIGATIVE INFORMATION (CH. 8)

Findings

Overall, the FBI appears to have adequately controlled the dissemination of investigative information. However, the FBI had not adequately examined its procedures for maintaining information.

The FBI assumes that anything pertinent to an intelligence investigation will be included in a report and placed in a headquarters file. This information will be retained indefinitely because of the possibility that such data might be useful in future investigations. But, neither the FBI nor the Justice Department has adequately determined the frequency and purposes of using investigative information after a case is closed. (See pp. 118 to 129.)

There was no indication that the collection of personal data was widespread. When it was recorded, agents generally indicated that it was unsolicited but included it in the file because it was provided by an informant or obtained through an electronic surveillance. (See pp. 120 to 121.)

There was some dissemination in 399—or about half—of the individual cases GAO sampled. Information was disseminated orally in only 6 percent of the cases, in writing in 79 percent, and both orally and written in 15 percent.

The U.S. Secret Service was the most frequent recipient of FBI-provided information—in 89 percent of the cases. But the Secret Service had intelligence files on the subjects of only about 4 percent of the cases GAO followed up with them. It destroyed the rest. Both FBI and Secret Service officials stressed the need to maintain the procedures governing the exchange of information between them, because it assures that there is little doubt that, if an individual investigated by the FBI meets Secret Service criteria, the Service would be aware of it.

Generally, the FBI appeared to adequately control the dissemination of information. But, improvements could be made. In 47 percent of the cases on individuals GAO sampled, the FBI could not establish any associations on the part of the subjects with subversive or extremist groups. Yet, in 21 percent of these cases the FBI disseminated reports identifying the individuals to other Federal, State, or local law enforcement agencies. Furthermore, in 71 percent of the cases opened in 1974 with dissemination, the dissemination was made during preliminary inquiries or during the preliminary stage of full-scale investigations.

Conclusions

GAO questions the need for disseminating information on individuals whom the FBI has not determined to be leaders, active members, or violence prone individuals because once the FBI disseminates information it loses control over how it is used, interpreted, and how long it is retained.

Recommendations

GAO recommends that the Attorney General direct the FBI to:

Limit the type of information that can be collected by any source to that pertinent and necessary to the investigation.

Establish a limit for the retention of all information obtained in domestic intelligence investigations after completing a study showing how, and the frequency with which, this information is used in subsequent investigations.

Review, with appropriate agencies, current agreements regarding dissemination and exchange of information to assess the usefulness of FBI-provided information and if possible, reduce the amount of information exchanged.

Only disseminate information relevant to an appropriate agency's organizational interest in the case, and in usual circumstances disseminate no information on individuals whose associations with a properly classified group or propensities for violence have not been established.

OVERSIGHT AND CONTROL (CH. 5, 6, AND 11)

Findings

Department of Justice officials exercised virtually no policy direction of FBI domestic intelligence investigations. In most instances when the Department requested particular investigations by the FBI, the request paralleled FBI efforts already underway.

Normally, Department of Justice policy guidance was provided only when the FBI requested it. However, the Department did not independently assess the extent to which the FBI was adhering to the guidance it did provide.

FBI investigations were not conducted in a vacuum. FBI internal documents frequently refer to the many inquiries from Government officials concerning the activities of individuals or groups. (See pp. 44 to 63.)

The Attorney General's draft guidelines for controlling domestic intelligence investigations are a step in the right direction and indicate a firm commitment to try to begin exercising proper departmental control of FBI operations. GAO believes the guidelines adequately address some of the problems associated with past and current domestic intelligence operations.

Under current FBI policy and the draft guidelines, preliminary inquiries are opened essentially to determine whether individuals asssociated with groups may be engaged in activities in which there is a likelihood that their actions will involve the use of violence. But, GAO found that many such inquiries did not result in positive information regarding the subject's association with a subversive or extremist group. There is a basis for questioning the need for such investigations. The draft guidelines do not adequately address the problem. (See pp. 148 to 157.)

Until recently, there has also not been any systematic or continuous congressional oversight of the FBI's domestic intelligence operations.

Conclusions

There must be continuous and conscientious oversight of domestic intelligence operations by the Justice Department and the Congress to help assure that the FBI's investigative efforts are consistent with any legislative or administrative changes. Such decisions will, of necessity, be subjective to a certain extent, based on perceptions of domestic security at the time they have to be made. A broad spectrum of views should be marshaled in deciding the extent to which certain domestic intelligence efforts are needed.

Recommendations

GAO recommends that the Congress enact legislation requiring the Attorney General to periodically advise and report to the Congress on such matters as (1) the focus of current domestic intelligence operations, (2) groups under investigation, (3) anticipated actions of such groups and how they might affect policy decisions, and (4) the extent to which certain sensitive techniques, such as mail covers and preventive action, were approved and used.

GAO also recommends that the Attorney General publish specific rules and regulations establishing a systematic process for providing proper departmental control and oversight of FBI operations.

Some of these recommendations could be implemented by carrying out sections of the Attorney General's draft guidelines on FBI domestic intelligence operations. Others would require additional actions.

DOMESTIC SECURITY INVESTIGATIONS

I. BASES OF INVESTIGATION

A. Domestic security investigations shall be limited to the activities of individuals and groups not directed by, subsidized by or otherwise undertaken in active collaboration with a foreign power or foreign political organization.

B. Domestic security investigations are conducted, when authorized under Section II(C) or II(I), to ascertain information on the activities of individuals, or individuals acting in concert, which involves or will involve the use of force or violence and the violation of federal law, for the purpose of:

(1) overthrowing the government of the United States or the government of a State;

(2) interfering, in the United States, with the activities of a foreign government or its authorized representatives;

(3) impairing for the purpose of influencing U.S. government policies or decisions:

(a) the functioning of the government of the United States;

(b) the functioning of the government of a State; or

(c) interstate commerce.

(4) depriving persons of their civil rights under the Constitution, laws, or treaties of the United States; or

(5) engaging in domestic violence or rioting when such violence or rioting is likely to require the use of federal militia or other armed forces.

C. Domestic security investigations may also be authorized by the Attorney General, when there is a clear and immediate threat of domestic violence or rioting which is likely to result in a request by the governor or legislature of a state under 10 U.S.C. 331 for the use of federal militia or other federal armed forces as a counter-measure. Investigations may be authorized for a period of 30 days under this paragraph but may be renewed in writing by the Attorney General for subsequent periods of 30 days. Investigations under this paragraph may be instituted for the limited purpose of ascertaining information upon which a decision whether to use federal forces may be made and information necessary to implement an order calling for the use of federal troops. Techniques available in a full investigation, authorized as otherwise required under these guidelines, may be used in investigations under this paragraph.

II. INITIATION AND SCOPE OF INVESTIGATIONS

A. Domestic security investigations are conducted at two levels—preliminary investigations and full investigations—differing in scope and in investigative techniques which may be used.

B. All preliminary and full investigations undertaken through these guidelines shall be designed and conducted so as not to limit the full exercise of rights protected by the Constitution and laws of the United States.

Preliminary investigations

C. Preliminary investigations may be undertaken on the basis of allegations or other information that an individual, or individuals acting in concert, may be engaged in activities described in paragraph IB. These investigations shall be confined to determining if there is a factual basis for a full investigation.

D. Information gathered by the FBI during preliminary investigations shall be pertinent to verifying or refuting the allegations or information concerning activities described in paragraph IB.

E. FBI field offices may, on their own initiative, undertake preliminary investigations limited to inquiries of:

(1) FBI indices and files;

(2) public records and other public sources of information;

(3) federal, state, and local records; and

(4) existing informants and sources of information.

F. Physical surveillance or interviews of persons other than those mentioned in paragraph E above may be used in preliminary investigations, subject to the limitations set forth below, only when use of the investigative techniques authorized in paragraph E is inadequate to meet the objectives of preliminary investigation.

(1) field agents may undertake physical surveillance and interviews, for the limited purpose of identifying the subject of the investigation;

(2) no other surveillance or interviews may be undertaken except upon the express written authorization of the Special Agent in Charge or FBI Headquarters;

(3) written authorizations for surveillance and interviews shall be reported, as provided in VA(1) of these guidelines, and shall include a statement setting forth the circumstances justifying such investigative steps.

G. Techniques such as recruitment or placement of informants in groups, "mail covers," or electronic surveillance, may not be used as part of a preliminary investigation.

H. All preliminary investigations shall be closed within 90 days of the date upon which it was initiated. However, FBI headquarters may authorize in writing one 90-day extension of a preliminary investigation when facts or information obtained in the original period justify such an extension. The authorization shall include a statement of the circumstances justifying the extension.

Full investigation

I. Full investigations must be authorized by FBI headquarters. They may only be authorized on the basis of specific and articulable facts giving reason to believe that an individual, or individuals acting in concert, are or may be engaged in activities which involve or will involve the use of force or violence and the violation of federal law for one or more of the purposes enumerated in IB(1)–IB(5). In addition the following factors must be considered in determining whether a full investigation should be undertaken:

(1) the magnitude of the threatened harm;

(2) the likelihood it will occur;

(3) the immediacy of the threat; and

(4) the danger to privacy and free expression posed by a full investigation.

Surveillance techniques

J. Whenever use of the following techniques for surveillance is permitted by these guidelines, they shall be implemented as limited herein:

(1) use of informants to gather information, when approved by FBI headquarters, and subject to review at ninety (90) day intervals; provided,

(a) when persons have been arrested or charged with a crime, and criminal proceedings are still pending, informants shall not be used to gather information concerning that crime from the person(s) charged; and

(b) informants shall not be used to obtain privileged information; and where such information is obtained by an informant on his own initiative no record or use shall be made of the information.

(2) "mail covers," pursuant to postal regulations, when approved by the Attorney General or his designee, initially or upon request for extension; and

(3) electronic surveillance in accordance with the requirement of Title III of the Omnibus Crime Control and Safe Streets Act of 1968.

Provided that whenever it becomes known that person(s) under surveillance are engaged in privileged conversation (e.g., with their attorney) interception equipment shall be immediately shut off and the Justice Department advised as soon as practicable. Where such a conversation is recorded it shall not be transcribed, and a Department attorney shall determine if such conversation is privileged.

NOTE.—These techniques have been the subject of strong concern. The committee is not yet satisfied that all sensitive areas have been covered (e.g., inquiries made under "pretext;" "trash covers," photographic or other surveillance techniques.)

III. TERMINATING INVESTIGATIONS

A. Preliminary and full investigations may be terminated at any time by the Attorney General, his designee, or FBI headquarters.

B. FBI headquarters shall periodically review the results of full investigations, and at such time as it appears that the standard for a full investigation under II(I) can no longer be satisfied and all logical leads have been exhausted or are not likely to be productive. FBI headquarters shall terminate the full investigation.

C. The Department of Justice shall review the results of full domestic intelligence investigations at least annually, and determine if continued investigation is warranted. Full investigations shall not continue beyond one year without the written approval of the Department.

IV. PREVENTIVE ACTION

A. Upon authorization of the Attorney General, the FBI may undertake non-violent emergency measures to obstruct or prevent the use of force or violence in violation of federal law only when there is probable cause to believe:

(1) that an individual, or individuals acting in concert, is preparing to use force or violence for purposes described in paragraph IB or IC; and

(2) such force and violence poses a real and immediate threat to life, or to property the impairment of which would interfere substantially with the essential functioning of government as described in paragraph IB or IC.

And such non-violent, emergency measures as necessary to minimize the danger to life or property.

B. In the course of domestic security investigations preventive action by the FBI may include objectives such as:

(1) disrupting plans for using force or violence; or

(2) preventing access to, or rendering inoperative weapons, explosives, or other instrumentalities of planned violence.

C. Preventive actions shall not include:

(1) committing or instigating criminal acts;

(2) disseminating information for the purpose of holding an individual or group up to scorn, ridicule, or disgrace;

(3) disseminating information anonymously or under a false identity;

(4) inciting violence.

D. Preventive action by the FBI, short of prosecution, to obstruct the use of force or violence shall:

(1) be undertaken only with the express written approval of the Attorney General, based upon a written request describing the force or violence to be prevented, the preventive action to be undertaken (which shall be the minimum necessary to obstruct the force and violence), and the justification for the preventive action; *provided that*, in circumstances of immediate danger, preventive action may be taken by the FBI upon the oral approval of the Attorney General or his designee for a period of 24 hours, within which period written justification must be submitted to the Attorney General, and *provided further* that the preventive action shall be discontinued immediately upon declination by the Attorney General, or discontinued after 24 hours if written authorization is not obtained.

(2) not be authorized for any period longer than is necessary to achieve the objective of the authorization, nor in any case longer than thirty days. Extensions of an authorization may be granted by the Attorney General for an additional thirty (30) days, when he deems it necessary to achieve the purposes for which the original authorization was granted.

(3) be designed and conducted so as not to limit the full exercise of rights protected by the Constitution and laws of the United States.

V. REPORTING, DISSEMINATION, AND RETENTION

A. *Reporting*

(1) Preliminary investigations which involve a 90-day extension under IIH, or interviews or surveillance under IIF(2), shall be reported periodically to the Department of Justice. Reports of preliminary investigations shall include the identity of the subject of the investigation, the identity of the person interviewed or the person or place surveilled, and shall indicate which preliminary investigations involved a 90-day extension. FBI headquarters shall maintain, and provide to the Department of Justice upon request, statistics on the number of preliminary investigations instituted by each field office, the number of preliminary investigations which involved interviews or surveillance under IIF(2), the number of preliminary investigations that involved 90-day extension under IIH, and the number of preliminary investigations that resulted in the opening of a full investigation.

(2) upon opening a full domestic security investigation the FBI shall, within one (1) week, advise the Attorney General or his designee thereof, setting forth the basis for undertaking the investigation.

(3) the FBI shall report the results of full domestic security investigations to the Department of Justice not later than ninety (90) days after the initiation thereof, and at the end of each year the investigation continues.

(4) where the identity of the source of information is not disclosed in a domestic security report, an assessment of the reliability of the source shall be provided.

(5) the FBI shall promptly notify the Attorney General when preventive action is undertaken, and shall report the results thereof within thirty (30) days of initiation, or earlier as required by the Attorney General.

(6) the Attorney General shall report to Congress, at least annually, on the use of preventive action by the FBI.

B. Dissemination

(1) *Other Federal Authorities:*

The FBI may disseminate facts or information relevant to activities described in paragraph IB to federal authorities when such information:

(a) falls within their investigative jurisdiction;

(b) may assist in preventing the use of force or violence; or

(c) may be required by statute, interagency agreement approved by the Attorney General, or Presidential directive. All such agreements and directives shall be published in the *Federal Register*.

(2) When information relating to matters not covered by paragraph IB is obtained during a domestic security investigation, the

FBI shall promptly refer the information to the appropriate federal authorities if it is within their civil or criminal jurisdiction.

(3) *State and Local Authorities*:

The FBI may disseminate facts or information relative to activities described in paragraph IB to state and local law enforcement authorities when such information:

(a) falls within their investigative jurisdiction;

(b) may assist in preventing the use of force or violence; or

(c) may protect the integrity of a law enforcement agency.

(4) when information relating to serious crimes not covered by paragraph IB or IC is obtained during a domestic security investigation, the FBI shall promptly refer the information to the appropriate lawful authorities if it is within the jurisdiction of state and local agencies.

(5) nothing in these guidelines shall limit the authority of the FBI to inform any individual(s) whose safety or property is directly threatened by planned force or violence, so that they may take appropriate protective safeguards.

(6) the FBI shall maintain records, as required by law, of all disseminations made outside the Department of Justice, of information obtained during domestic security investigations.

C. Retention

(1) the FBI shall, in accordance with a Records Retention Plan approved by the National Archives and Records Service, within years after closing domestic service investigations, destroy all information obtained during the investigation, as well as all index references thereto, or transfer all information and index references to the National Archives and Records Service.

Note.—We are not yet certain whether empirical data exists to help define a period of retention for information gathered in preliminary or full investigations. Whatever period is determined should take into account the retention period for other categories of information (e.g., general criminal, organized crime, and background checks); since we have not yet considered these areas we cannot fix a period for retention at this time.

Note.—It may also be possible to establish a sealing procedure to preserve investigative records for an interim period prior to destruction. After being sealed, access would be permitted only under controlled conditions.

(2) information relating to activities not covered by paragraph IB or IC, obtained during domestic security investigations, which may be maintained by the FBI under other parts of these guidelines, shall be retained in accordance with such other provisions.

(3) the provisions of paragraphs one (1), and two (2) above apply to all domestic security investigations completed after the promulgation of these guidelines, and apply to investigations completed prior to promulgation of these guidelines when use of these files serves to identify them as subject to destruction or transfer to the National Archives and Records Service.

(4) when an individual's request pursuant to law for access to FBI records identifies the records as being subject to destruction or transfer under paragraph one (1), the individual shall be furnished all information to which he is entitled prior to destruction or transfer.

HANDLING AND DISSEMINATION OF UNSOLICITED INFORMATION

I. COLLECTION OF INFORMATION

A. *Initiation*

1. Unsolicited information of many kinds is sent to the FBI including:

a. information pertaining to matters within the FBI's investigative jurisdiction.

b. information pertaining to matters within the investigative jurisdiction of another federal agency, or of a state or local agency.

c. accusations of wrongdoing or immoral conduct not amounting to a violation of law, against elected and appointed officials, public employees, and private citizens.

2. Such unsolicited information is received from several sources:

a. it is volunteered by citizens who are being interviewed during investigations concerning an unrelated subject matter.

b. it is volunteered in telephonic and written communications from individuals and organizations.

c. it is received from FBI confidential informants.

Note.—Arrest and fingerprint information forwarded to the FBI's Identification Division is not included in these guidelines.

II. RETENTION AND DISSEMINATION OF INFORMATION

A. FBI Jurisdiction

1. Unsolicited information relating to matters within the FBI's jurisdiction shall be retained in accordance with the FBI's Records Retention Plan. Such information may be indexed to assist in its subsequent retrieval.

B. Other Federal Agencies

1. When unsolicited information relating to matters within the civil or criminal jurisdiction of another federal agency is received the FBI shall:

a. promptly refer the information to the appropriate federal agency;

b. where practicable, advise the individual providing information of the referral unless such notification would likely interfere with investigation of the matter alleged;

c. retain such information in accordance with its Records Retention Plan, along with a record of the dissemination.

2. When unsolicited information alleging wrongdoing or immoral conduct, not amounting to a violation of law, by elected or appointed officials or public employees is received the FBI shall:

a. inform the individual providing information that the FBI has no apparent jurisdiction in the matter and therefore cannot take any investigative action;

b. advise the individual providing information that they may contact some other appropriate agency if they so choose;

c. destroy such information after ninety (90) days without recording it in the general indices.

Note.—This section is not consistent with provisions of EO 10450 as now applied by the FBI.

C. State and local agencies

1. When unsolicited information relating to serious crimes within the jurisdiction of state or local agencies is received the FBI shall:

a. promptly refer the information to the appropriate lawful authority;

b. where practicable, advise the individual providing information of the referral unless such notification would likely interfere with investigation of the matter alleged;

c. retain such information in accordance with its Records Retention Plan, along with a record of the dissemination.

2. When unsolicited information relating to nonserious crimes and law violations* within the jurisdiction of state or local agencies is received the FBI shall:

a. inform the individual providing information that the FBI has no apparent jurisdiction in the matter and therefore cannot take any investigative action;

b. advise the individual providing information that they may contact some other appropriate agency if they so choose;

c. destroy such information after ninety (90) days without recording it in the general indices.

Note.—*e.g., drunkenness, vagrancy, loitering, disturbing the peace, disorderly conduct, adultery, fornication, and consensual homosexual acts, false fire alarm, nonspecific charges of suspicion or investigation, traffic violations, and juvenile delinquency.

D. Other allegations

All accusations of wrongdoing or immoral conduct received by the FBI which are not otherwise provided for in these guidelines shall be destroyed within ninety (90) days without being recorded in the general indices.

E. Applicability

These guidelines are effective as of the date of their promulgation except that, the provisions of paragraphs B 2(c) and C 2(c) apply to information received prior to the promulgation of these guidelines when use of FBI files serves to identify them as subject to destruction.

INVESTIGATIONS FOR THE WHITE HOUSE

I. COLLECTION OF INFORMATION

A. Initiation of Investigation

1. White House investigations involving file reviews or full field investigations conducted by the FBI shall be initiated only to ascertain facts and information relevant to the suitability of persons being considered for Presidential appointment; staff of the Executive Office; clearance for access to classified information; or service at the White House or other places under the protection of the U.S. Secret Service in connection with its duties to protect the President and the Vice President of the United States.

2. White House investigations involving file reviews or full field investigations shall be initiated as follows:

a. the President of the United States, and the Counsel or Associate Counsel to the President may initiate investigations directly with the FBI.

b. the head of an Executive Department or a designee may request the FBI to conduct White House investigations when authorized by formal agreements with the Attorney General. These agreements shall designate by title all persons authorized to request White House inquiries, shall be consistent with the provisions of these guidelines, and are to be published in the Federal Register.

3. Requests for White House investigations involving file reviews shall be made or confirmed in writing; specify the official initiating the request; identify the person under investigation for appointment, clearance or service; and the purpose of the investigation.

4. Requests for White House investigations involving full field investigations shall be made or confirmed in writing; specify the official initiating the investigation; identify the person under investigation for appointment, clearance, or service; and contain an assurance that such person has consented to the investigation with the knowledge that facts or information gathered shall be retained consistent with these guidelines.

B. Investigation

1. White House investigations involving file reviews or full field investigations must be thorough, precise, and fair.

2. Persons interviewed during White House full field investigations shall be told that the individual under investigation is being considered for a position of trust involving the Government. The name of the official or agency initiating the investigation, or the position for which the individual is being considered shall not be disclosed unless specifically authorized by the requesting official.

3. Subject to the Freedom of Information Act and Privacy Act of 1974, persons interviewed during White House full field investigations may be assured that, to the extent permitted by law, information identifying such persons will be kept confidential.

4. Where a person is the subject of a

subsequent White House full field investigation, information contained in the earlier report reflecting adversely on the person shall be re-investigated, where such inquiry is likely to yield information relevant to the current investigation and where such inquiry is practicable.

C. Reporting

1. Information obtained during White House file reviews or full field investigations shall be furnished to the initiating authority and/or the White House. The FBI shall retain a record of persons to whom such information is furnished.

2. Any investigative efforts to determine the truth or falsity of reported derogatory allegations or information shall be described.

3. Where the identity of the source of information is not reported in a White House file review or full field investigation, an assessment shall be provided of the reliability of such source.

II. DISSEMINATION AND RETENTION OF INFORMATION

A. Retrieval

1. The FBI shall retain a record of all information gathered during the course of White House investigations consistent with these guidelines.

2. Information obtained during these investigations may be indexed in such a manner as to assist in its subsequent retrieval.

B. Access

1. The Director of the FBI, shall insure that access to White House investigative files under his control is restricted, and that stringent controls are maintained over such files limiting their use to official purpose. Such controls shall include a record of the identity and organizational unit of officials using White House investigative files, as well as the dates these files are issued and returned.

2. Officials to whom White House file review and full field investigations reports are furnished shall insure that internal access thereto is restricted to persons directly involved in making Presidential appointments; determining Executive Office staffing; granting clearance to classified information; or approving service at the White House or other place under the protection of the U.S. Secret Service as described in these guidelines. A record shall be maintained of the identity and organizational unit of officials requesting access to White House investigative files, as well as the dates these files are issued and returned.

C. Dissemination

1. Where during the course of a White House full field investigation the FBI finds some indication that the person under investigation may have committed a crime or other violation of law the FBI shall notify the initiating official thereof; and either investigate the crime if within its jurisdiction or refer the facts or information of the possible violation to appropriate lawful authorities for determination.

2. No subsequent dissemination shall be made by the FBI of the results of White House full field investigations or file reviews, conducted for the incumbent Administration, or of persons in the Administration, without the express approval of the President, Counsel, or Associate Counsel to the President.

3. Executive Departments receiving FBI reports of White House file reviews or full field investigations shall not reproduce or disseminate these materials outside the Department without the express consent of the FBI. Such dissemination must be predicated upon the request of an official authorized by these guidelines to initiate a White House investigation, and only for a purpose authorized by these guidelines.

4. The FBI and Executive Departments receiving reports of White House file reviews or full field investigations shall maintain a record of all dissemination of these materials to other agencies.

Note.—We may want to request the FBI (through technical means) to disseminate reports in a form which will inhibit unauthorized reproduction and/or further dissemination.

D. Retention of information

1. Information obtained during White House file reviews or full field investigations shall be retained at FBI headquarters and at FBI field offices as prescribed by the FBI Records Retention Plan.

2. Results of White House investigations maintained by the FBI shall be destroyed —— years after completion of the investigation subject to the following conditions:

a. Files and information determined by the Archivist of the United States to be of historic interest shall be transferred to the custody of the National Archives and Records Service —— years after the completion of the investigation.

b. Files and information relating to persons who have been reinvestigated may be retained —— years from the date of the latest investigation.

3. Executive Department receiving FBI reports of White House file reviews or full field investigations shall destroy such reports within ninety (90) days after receiving them, unless notice in writing is given to the FBI that an additional period of time, not exceeding ninety (90) days, is needed to complete a decision relating to the White House investigation.

4. The provisions of paragraphs two (2) and three (3) above apply to all inquiries completed after the promulgation of these guidelines. The provisions of paragraph two (2) apply to inquiries completed prior to promulgation of these guidelines when use of these files serves to identify them as subject to destruction or transfer to the National Archives and Records Service.

5. When an individual's request pursuant to law for access to files pertaining to him identifies files as being subject to destruction or transfer under paragraph two (2), he shall be furnished all information to which he is entitled prior to destruction or transfer.

Note.—The primary reference of "pursuant to law" in this paragraph is to the Privacy Act of 1974, which specifically authorizes access to background investigation files.

Investigations for Congressional and Judicial* Staff Appointments

I. COLLECTION OF INFORMATION

A. Initiation of Investigation

1. File reviews and full field investigations conducted by the FBI, regarding congressional and judicial staff personnel, shall be initiated only to ascertain facts and information relevant to the suitability of persons being considered for staff appointments or clearance for access to classified information.

2. Pursuant to formal agreements with the Attorney General, the FBI may be requested to conduct file reviews and full field investigations by the Chairmen of the Appropriations and Judiciary Committees of the House of Representatives, the Appropriations, Armed Forces, Foreign Relations, and Judiciary Committees of the Senate, the Joint Committee on Atomic Energy, and other committees of the Congress authorized by resolution, as well as the Director of the Administrative Office of the U.S. Courts. Agreements made with the Attorney General shall be consistent with the provisions of these guidelines and shall be published in the Federal Register.

3. Requests for file reviews by the FBI regarding congressional and judicial staff shall be made or confirmed in writing, and shall set forth the purpose of the investigation.

4. Requests for full field investigations by the FBI shall be made or confirmed in writing, and shall contain an assurance that the person under investigation has consented thereto with the knowledge that facts or information gathered shall be retained consistent with these guidelines.

Note.—We may want the initiating agency to notify the person under consideration that an investigation is being conducted.

B. Investigation

1. Congressional and judicial staff investigations involving file reviews or full field investigations must be thorough, precise, and fair.

2. Persons interviewed during congressional and judicial staff full field investigations shall be told that the individual under investigation is being considered for a position of trust involving the government. The name of the official initiating the investigation, or the position for which the individual is being considered shall not be disclosed unless specifically authorized by the requesting official.

3. Subject to the Freedom of Information Act and Privacy Act of 1974, persons interviewed during congressional and judicial staff full field investigations may be assured that to the extent permitted by law information identifying such persons will be kept confidential.

4. Where a person is the subject of a subsequent congressional or judicial staff full field investigation, information contained in the earlier report reflecting adversely on the person shall be re-investigated, where such inquiry is likely to yield information relevant to the current investigation and where such inquiry is practicable.

C. Reporting

1. Information obtained during congressional or judicial staff file reviews or full field investigations shall be furnished to the initiating authority. The FBI shall retain a record of persons to whom such information is furnished.

2. Any investigative efforts to determine the truth or falsity of reported derogatory information or allegations shall be described.

3. Where the identity of the source of information is not reported in a congressional or judicial staff file review or full field investigation, an assessment shall be provided of the reliability of such source.

II. DISSEMINATION AND RETENTION OF INFORMATION

A. Retrieval

1. The FBI shall retain a record of all information gathered during the course of congressional and judicial staff investigations consistent with these guidelines.

2. Information obtained during these investigations may be indexed in such a manner as to assist in its subsequent retrieval.

B. Access

1. The Director of the FBI shall insure that access to congressional and judicial staff investigative files under his control is restricted, and that stringent controls are maintained over such files limiting their use to official purposes. Such controls shall include a record of the identity and organizational unit of officials requesting access to these investigative files, as well as the dates files are issued and returned.

2. Committee Chairman of the Congress, and the Director of the Administrative Office of the U.S. Courts, to whom staff file review and full field investigation reports are furnished, shall insure that internal access thereto is restricted to persons directly involved in making congressional and judicial staff appointments. Information in staff file

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*Includes positions such as United States Magistrate, Federal Public Defender, Referee in Bankruptcy, Federal Circuit Court Executive and Probation Officer.

review and full field investigation reports may be made available by Committee Chairmen to persons directly involved in granting clearance for access to classified information to staffs of Congressional Committees. A record shall be maintained of the identity and organizational unit of officials requesting access to congressional and judicial staff investigative files, as well as dates such files are issued and returned.

C. Dissemination

1. Where during the course of a congressional or judicial staff full field investigation, the FBI finds some indication that the person under investigation may have committed a crime or some other violation of law the FBI shall notify the initiating authority thereof; and either investigate the crime if within its jurisdiction, or refer the facts or information of possible violation to appropriate lawful authorities for determination.

2. Committee Chairmen of the Congress receiving staff file review and full field investigation reports, shall not reproduce or disseminate such reports outside their committee without the express consent of the FBI. Such dissemination must be predicated upon the request of an official authorized by these guidelines to initiate a congressional or judicial staff investigation, and only for a purpose authorized by these guidelines.

3. The Director of the Administrative Office of the U.S. Courts may disseminate staff file review and full field investigation reports to persons directly involved in making judicial staff appointments. No further dissemination of such reports shall be made without the express consent of the FBI.

4. The FBI, Committee Chairmen of the Congress, and the Director of the Administrative Office of the U.S. Courts shall maintain a record of all dissemination of staff file review and full field investigation reports made pursuant to paragraphs two (2) and three (3) above.

D. Retention of information

1. Information obtained during congressional and judicial staff file reviews and full field investigations shall be retained at FBI headquarters and FBI field offices as prescribed by the FBI Records Retention Plan.

2. Results of congressional and judicial staff investigations maintained by the FBI shall be destroyed [—period of time] after completion of the investigation subject to the following conditions:

a. Files and information determined by the Archivist of the United States to be of historic interest shall be transferred to the custody of the National Archives and Records Service [—period of time] after the completion of the investigation.

b. Files and information relating to persons employed by the Government (congressional staff), who hold clearances for access to classified information, may be retained beyond [—period of time] so long as the employment and access continues. Upon notice that a committee staff member has terminated employment or access, the FBI shall destroy such files within nintey (90) days, unless [—period of time] have not elapsed.

NOTE.—Agreements with the Attorney General will require committee chairmen to notify the FBI of termination of staff employment or access to classified information.

3. The Administrative Office of the U.S. Courts, and Chairmen of Congressional Committees who receive FBI file reviews or full field investigation reports on prospective staff personnel, shall destroy such reports within ninety (90) days after receiving them, unless notice in writing is given to the FBI that an additional period of time, not exceeding ninety (90) days, is needed to complete a decision relating to the appointment or clearance.

4. The provisions of paragraphs two (2) and three (3) above apply to all inquiries completed after the promulgation of these guidelines. The provisions of paragraph two (2) apply to inquiries completed prior to promulgation of these guidelines when use of these files serves to identify them as subject to destruction or transfer to the National Archives and Record Service.

5. When an individual's request pursuant to law for access to files pertaining to him identifies files as being subject to destruction or transfer under paragraph two (2), he shall be furnished all information to which he is entitled prior to destruction of transfer.

NOTE.—The primary reference of "pursuant to law" in this section is to the Privacy Act of 1974, which specifically authorizes access to background investigation files.

"WHAT OUR BICENTENNIAL HERITAGE MEANS TO ME"

(Mr. RANDALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RANDALL. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct a Voice of Democracy contest. This year there will be over 500,000 secondary school students that will participate in the contest. They will be competing for the five national scholarships which will be awarded as top prizes as follows:

First prize, $10,000 scholarship;
Second prize, $5,000 scholarship;
Third prize, $3,500 scholarship;
Fourth prize, $2,500 scholarship; and
Fifth prize, $1,500 scholarship.

The contest theme for the year 1976 is "What Our Bicentennial Heritage Means to Me."

Mr. Speaker, it is with pride that is justifiable and pardonable that I announce at this time that the winning contestant in the State of Missouri is one of our constituents, Mary Lou Angell, who lives out in the country on Route 2, Box 268, Lamar, Mo., which is situated in Barton County, Mo., in our congressional district which is, because of its natural resources and its varied agricultural products and because of the accomplishments and personal achievements of so many of its citizens over the years, has earned the description of Missouri's "Fabulous Fourth" District.

Mary Lou Angell is a farm girl. She hopes to one day become an agricultural engineer. She has already become a good cook and a good seamstress. Her aspiration is to devote her life to plants and animals.

There was a biographical sketch, which was furnished our office by the Veterans of Foreign Wars, and while it was informative one thing that I note, because of her modesty, was not mentioned and that is that she is a patriot. I reached that conclusion because in every shining word of her essay she speaks like those patriots who gave breath to our Nation 200 years ago.

I know I may be charged with being prejudiced in my admiration of the Missouri winner of the VFW Voice of Democracy contest, but I honestly believe that Miss Angell's essay is so outstanding that it should be shared with my colleagues as well as those who may read the CONGRESSIONAL RECORD and, moreover, by reading this essay into the RECORD, that it may be thereby preserved for the future as a contribution most appropriate to the celebration of our country's 200th birthday. The essay follows:

WHAT OUR BICENTENNIAL HERITAGE MEANS TO ME

(By Mary Lou Angell, Lamar, Mo., Missouri winner, 1976 VFW Voice of Democracy contest)

A, M, E, R, "I", "C, A, N" American, American. We, the people of the United States are Americans and, because of the rights promised to us by our Constitution, we reserve also the right to say "I can", the last four letters of the word "American."

Freedom of religion, speech, press, assembly, and petition. These are the rights we are assured by the first amendment. The Constitution was adopted in order to form a more perfect union, and together with the Bill of Rights serves to establish justice, insure domestic tranquility, provide for the common defense and promote the general welfare of the people.

America is truly a nation of the people, by the people and for the people. This is why we can stand up and say "I can." We live in a democracy, we have freedom.

This is what the Founding Fathers meant when they wrote "and secure the blessings of liberty to ourselves and our posterity." They sought to preserve mankind's unalienable rights, and those rights are alive and well today in the United States of America.

The Supreme law of the land, the living Constitution has furnished the framework of our National government and provided us with laws that protect our daily living for nearly two hundred years. It outlines for us the rights, privileges and responsibilities that are a part of American citizenship.

The American's Creed states, "it is our duty to our country to love it, to support its Constitution, to respect its flag, to obey its laws and to defend it against all enemies. Not only is our Constitution important in our daily life, our flag is also. It is a symbol of the hopes and dreams and the desire in the hearts of men to build a society founded on decency and kindness and honor. Our flag is composed of three colors that symbolize everything worthwhile in our nation, red—sacrifice, valor and courage, from Lexington Green to Da Nang Habor; white—honesty and purity the traits that make men noble; blue—perseverance and quality.

Our Constitution, our flag, and what they represent, is the American Heritage. The qualities of those solid individuals who built this country are embodied in the symbols they left behind. They intended for this democracy to be a lasting one, for this country to be an asylum for mankind, but they had their doubts. As John Adams wrote, "There never was a democracy that did not commit suicide."

Now after nearly two hundred years we can say, as history has taught us, the great societies fall from within, but the United States is still going strong, we are the oldest of democracies and we have shown that we intend to stay. Our Bicentennial Heritage, our heritage of 200 years of freedom, and democracy, is a testimony to this fact.

What does the Bicentennial Heritage mean to me? It means that I have the same rights, privileges, and responsibilities, that our Founding Fathers sought to insure us. It means that I have the freedoms that are promised to us and protected for us by the Constitution. It makes me proud to support our Constitution, to respect our flag and to strive to achieve within myself those qualities which our Founding Fathers had, to stand up and say I am proud to be an American, and when asked to support this country to say I can and I will.

This is what the Bicentennial Heritage means to me.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hansen) to revise and extend their remarks and include extraneous matter:)

Mrs. Heckler of Massachusetts, for 5 minutes, today.

Mr. Bell, for 5 minutes, today.

Mr. McDade, for 5 minutes, today.

Mrs. Smith of Nebraska, for 5 minutes, today.

Mr. Kemp, for 10 minutes, today.

(The following Members (at the request of Mr. Santini) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 5 minutes, today.

Mr. Patterson of California, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Stokes, for 60 minutes, today.

Ms. Holtzman, for 10 minutes, today.

Ms. Abzug, for 5 minutes, today.

Mr. Ford of Michigan, for 5 minutes, today.

Mr. Bingham, for 10 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. McDonald of Georgia, for 5 minutes, today.

Mr. Dominick V. Daniels, for 5 minutes, today.

Mr. Oberstar, for 15 minutes, today.

Mr. Wirth, for 5 minutes, today.

Mr. Reuss, for 5 minutes, today.

Mr. Leggett, for 30 minutes, today.

Mr. Dodd, for 10 minutes, today.

Mr. Fraser, for 10 minutes, today.

Mr. Randall, for 10 minutes, today.

Mr. Moss, for 10 minutes, today.

Mr. Flood, for 60 minutes, on March 4.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Badillo to extend his remarks notwithstanding it exceeds two pages and is estimated by the public printer to cost $2,002.

Mr. Badillo, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $2,646.00.

Mr. Randall, and to include extraneous matter.

(The following Members (at the request of Mr. Hansen) and to include extraneous material:)

Mr. Ashbrook in four instances.

Mr. Bell.

Mr. Archer in two instances.

Mr. Rinaldo.

Mr. Kemp in three instances.

Mr. Lent.

Mr. McKinney.

Mr. Anderson of Illinois.

Mr. Young of Florida in two instances.

Mr. Bob Wilson in two instances.

Mr. Madigan.

Mr. Rhodes.

Mr. Steiger of Arizona in two instances.

Mr. Frenzel in four instances.

Mr. Cohen.

Mr. Wydler.

Mr. Emery.

Mr. Lott.

(The following Members (at the request of Mr. Santini) and to include extraneous matter:)

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. Vander Veen.

Mr. Mottl.

Mr. Natcher.

Mr. Wolff.

Mr. Mollohan.

Mr. Matsunaga.

Ms. Abzug in three instances.

Mr. Fisher.

Mr. Ryan.

Mr. Ford of Michigan.

Mr. Long of Louisiana.

Mr. Harrington in 10 instances.

Mr. Eilberg.

Mr. Zeferetti.

Mr. Hawkins in three instances.

Mr. Harkin in two instances.

Mr. Dominick V. Daniels.

Mr. McDonald of Georgia in five instances.

Mr. Green.

Mr. Badillo in three instances.

Mr. Ottinger.

Mr. Dodd in two instances.

Mrs. Sullivan in two instances.

Mr. Gaydos in 10 instances.

Mr. Mezvinsky in two instances.

Mr. Corman.

Mr. Steed.

Mr. Dellums.

Mr. Drinan.

Mr. Minish.

Mr. Murphy of New York.

Mr. Rees.

SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 507. An act to provide for the management, protection, and development of the national resource lands, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2931. An act to provide for daylight saving time on a seven-month basis, beginning with the second Sunday in March and ending with the second Sunday of October, for a two-year period beginning with the second Sunday in March of 1976 and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise; to the Committee on Interstate and Foreign Commerce.

S. Con. Res. 85. Concurrent resolution authorizing the printing as a Senate document of a report by a special consultant to the Administrative Conference of the United States on some adminstrative procedures of the Internal Revenue Service; to the Committee on House Administration.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 151. An act to authorize and modify various Federal reclamation projects and programs, and for other purposes.

ADJOURNMENT

Mr. SANTINI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until Monday, March 1, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2640. A letter from the Assistant Secretary of the Navy (Installations and Logistics), transmitting notice of the proposed transfer of the obsolete submarine *ex-Croaker* (ex-SS 246) to the Submarine Memorial Association, Inc., Groton, Conn., pursuant to 10 U.S.C. 7308; to the Committee on Armed Services.

2641. A letter from the Secretary, Railroad Retirement Board, transmitting a report on the Board's activities under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2642. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a Defense Mapping Agency proposal to change an existing record system entitled "B0502–03 Billet Access Record," pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2643. A letter from the Clerk, U.S. House of Representatives, transmitting his semiannual report of receipts and expenditures for the period of July 1 through December 31, 1975, pursuant to section 105(a) of Public Law 88–454 [2 U.S.C. 104a(a)] (H. Doc. No. 94–384); to the Committee on House Administration and ordered to be printed.

2644. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to consolidate financial assistance to the 50 States, the District of Columbia, and the territories for programs in the field of health, to focus those programs on individuals most in need of them, and to eliminate unnecessary restrictions on the exercise of State responsibility for program administration; to the Committee on Interstate and Foreign Commerce.

2645. A letter from the Chairman of the Board, U.S. Railway Association, transmitting notice of modifications, supplements, and additions to the designations of rail properties in the Final System Plan for Northeast railroads, pursuant to section 208(d)(3)(A) of the Regional Rail Reorganization Act of 1973, as amended (90 Stat. 85); to the Committee on Interstate and Foreign Commerce.

Received From the Comptroller General

2646. A letter from the Comptroller General of the United States, transmitting a report on actions taken by the Departments of State and Defense and the Agency for International Development to comply with legislation stopping assistance to foreign police and with sense of the Congress legislation concerning political prisoners and human rights; jointly, to the Committees on Government Operations, International Relations, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on how Bureau of Reclamation's indexing procedures conceal information that water resource projects are in excess of their authorized cost ceilings (Rept. No. 94-852). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California (by request):

H.R. 12118. A bill to amend the Independent Safety Board Act of 1974 to authorize additional appropriations and for other purposes; to the Committee on Public Works and Transportation.

By Mr. BRINKLEY (for himself, Mr. Landrum, Mr. Flynt, Mr. Stephens, Mr. Stuckey, Mr. Mathis, Mr. Ginn, Mr. Young of Georgia, Mr. Levitas, and Mr. McDonald of Georgia):

H.R. 12119. A bill to incorporate the Gold Star Wives of America; to the Committee on the Judiciary.

By Mr. CLEVELAND (for himself and Mr. D'Amours):

H.R. 12120. A bill to amend section 111 of title 23, United States Code, to permit the sale of State lottery tickets on Interstate System rights-of-way; to the Committee on Public Works and Transportation.

By Mr. DEVINE (for himself, Mr. Clancy, and Mr. Johnson of Colorado):

H.R. 12121. A bill to provide for the recovery by the prevailing party of attorney's fees from the United States in civil actions where the United States is a party which does not prevail; to the Committee on the Judiciary.

By Mr. PHILLIP BURTON (for himself, Mr. Ketchum, and Mr. Don H. Clausen):

H.R. 12122. A bill to amend section 2 of the act of June 30, 1954, providing for the continuance of civil government for the Trust Territory of the Pacific Islands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WIRTH (for himself, Mr. Ambro, Mr. Baucus, Mr. Bedell, Mr. Brodhead, Mr. Cornell, Mr. Harris, Mr. Hubbard, Mr. Jenrette, Ms. Keys, Mr. Maguire, Mr. McHugh, Mr. Mineta, Mr. Neal, Mr. Ottinger, Mr. Patterson of California, Mr. Pattison of New York, Ms. Spellman, and Mr. Tsongas):

H.R. 12123. A bill to provide for limited public financing of congressional general election campaigns through the matching of private contributions, and for other purposes; to the Committee on House Administration.

By Mrs. COLLINS of Illinois:

H.R. 12124. A bill to amend the Elementary and Secondary Education Act of 1965 to provide emergency financial assistance to local education agencies in order to maintain essential elementary and secondary education services at a quality level and for other purposes; to the Committee on Education and Labor.

By Mr. CORMAN (for himself, Mr. O'Neill, Mr. McFall, Mr. Phillip Burton, Mr. Eckhardt, Mr. James V. Stanton, and Mr. Weaver):

H.R. 12125. A bill to create a national system of health security; to the Committee on Ways and Means.

By Mr. COTTER:

H.R. 12126. A bill to amend section 1504 of the Internal Revenue Code of 1954, as amended; to the Committee on Ways and Means.

By Mr. D'AMOURS (for himself and Mr. Harris):

H.R. 12127. A bill to amend Public Law 874, 81st Congress, to provide that children of parents employed on Federal property who attend school in a State contiguous to the State in which such property is situated may be counted for purposes of determining the aid entitlement of the local educational agency having jurisdiction over such school, and for other purposes; to the Committee on Education and Labor.

By Mr. DELANEY (for himself and Mr. Dan Daniel):

H.R. 12128. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for amounts paid by a taxpayer for tuition to provide an education for himself or his dependents; to the Committee on Ways and Means.

By Mr. DODD:

H.R. 12129. A bill to modify the project for hurricane-flood protection at New London, Connecticut; to the Committee on Public Works and Transportation.

By Mr. DUNCAN of Oregon:

H.R. 12130. A bill to amend the act of June 4, 1897 (30 Stat. 35), and for other purposes; to the Committee on Agriculture.

By Mr. EARLY (for himself and Mr. Harrington):

H.R. 12131. A bill to amend title 39, United States Code, with respect to the ratesetting procedures of the U.S. Postal Service and the Postal Rate Commission; to the Committee on Post Office and Civil Service.

By Mr. FAUNTROY (for himself, Mr. Dellums, Mr. Biester, Mr. Diggs, Mr. Florio, Mr. Gude, Mr. McKinney, Ms. Meyner, Mr. Nowak, Mr. Stuckey, and Mr. Whalen):

H.R. 12132. A bill to extend as an emergency measure for 1 year the District of Columbia Medical and Dental Manpower Act of 1970; to the Committee on the District of Columbia.

By Mr. FISH (for himself, Mr. Harrington, Mr. Helstoski, and Ms. Holtzman):

H.R. 12133. A bill to terminate the granting of construction licenses of nuclear fission powerplants in the United States pending action by the Congress following a comprehensive 5-year study of the nuclear fuel cycle, with particular reference to its safety and environmental hazards, to be conducted by the Office of Technology Assessment, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. FISHER (for himself, Mr. Rosenthal, Mr. Ryan, Mr. Sarbanes, Mr. Scheuer, Mr. Solarz, Mr. James V. Stanton, Mr. Stark, Mr. Udall, Mr. Waxman, Mr. Weaver, Mr. Wolff, and Mr. Zeferetti):

H.R. 12134. A bill to prohibit certain civil supersonic aircraft from landing at, or taking off from, Dulles International Airport or Washington National Airport; to the Committee on Public Works and Transportation.

By Mr. FRASER (for himself, and Mr. Neal):

H.R. 12135. A bill to amend the Interstate Commerce Act to provide that no pipeline company engaged in the transportation of oil may transport oil through its pipelines if that company has an interest in such oil; to the Committee on Interstate and Foreign Commerce.

By Mr. FRENZEL (for himself, Mr. Mikva, Mr. Pritchard, Mr. Blouin, Mr. Pressler, Mr. Ashley, Mr. Findley, Mr. Fraser, Mr. Brown of Michigan, Ms. Abzug, Mr. Sarasin, Mr. Madigan, Mr. Fish, Mr. Riegle, Mr. Wolff, Mr. Hayes of Indiana, Mr. D'Amours, Mr. Litton, Mr. Scheuer, Mr. Hughes, Mr. Pattison of New York, and Mr. Harris):

H.R. 12136. A bill to amend the Federal Election Campaign Act of 1974 to establish an independent establishment of the executive branch of the Government of the United States, a commission to be known as the Federal Election Commission, and for other purposes; to the Committee on House Administration.

By Mr. GIBBONS:

H.R. 12137. A bill to reduce the corporate income tax rate by 8 percentage points by repealing DISC and the investment credit for corporations; to the Committee on Ways and Means.

By Mr. HARRINGTON:

H.R. 12138. A bill to facilitate in a realistic manner the implementation by States of child day care services programs under title XX of the Social Security Act; to the Committee on Ways and Means.

By Mr. HARRINGTON (for himself, Mr. Hechler of West Virginia, Ms. Holtzman, Mr. Kelly, Mr. Mikva, and Mr. Mitchell of Maryland):

H.R. 12139. A bill to amend the Labor-Management Reporting and Disclosure Act of 1959 to provide that national and international labor organizations, and intermediate labor organization bodies, shall elect their officers by secret ballot; to the Committee on Education and Labor.

By Mr. HEINZ (for himself, Mr. Eshleman, Mr. Forsythe, Mr. Frey, Mr. McCloskey, Mr. Pritchard, Mr. Regula, and Mr. Rhodes):

H.R. 12140. A bill to amend the Internal Revenue Code of 1954 to provide tax assistance to small businesses; to the Committee on Ways and Means.

By Mr. HELSTOSKI:

H.R. 12141. A bill to provide emergency, humanitarian assistance and relief to the people of Lebanon, to amend the Foreign Assistance Act of 1961, and for other purposes; to the Committee on International Relations.

By Mr. JENRETTE:

H.R. 12142. A bill to amend the Federal Advisory Committee Act to provide that the charters of agency advisory committees shall be filed with the President pro tempore of the Senate and the Speaker of the House of Representatives, rather than with the standing committees having legislative jurisdiction of the agencies to which such advisory committees report, and to expand the information required in such charters; to the Committee on Government Operations.

H.R. 12143. A bill to amend title 39, United States Code, to require the U.S. Postal Service to make certain considerations prior to the closing of third- and fourth-class post offices; to the Committee on Post Office and Civil Service.

H.R. 12144. A bill to prohibit discrimination on the basis of marital status, and for other purposes; jointly to the Committees on the Judiciary and Education and Labor.

By Mr. JONES of Alabama (for himself and Mr. Harsha) (by request):

H.R. 12145. A bill to amend the act of June 21, 1940, as amended, to provide for Federal financial assistance in the construction or alteration of bridge protection systems, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. KASTENMEIER (for himself and Mr. Blouin):

H.R. 12146. A bill to amend the Clayton Act to provide for additional regulation of certain anticompetitive developments in the agricultural industry; to the Committee on the Judiciary.

By Mr. KOCH (for himself and Mr. Young of Florida):

H.R. 12147. A bill to establish a Commission on the Humane Treatment of Animals; to the Committee on Agriculture.

By Mr. KOCH (for himself, Mr. Anderson of California, Mrs. Burke of California, Mr. Phillip Burton, Mr. Roe, and Mr. James V. Stanton):

H.R. 12148. A bill to amend the Export Administration Act of 1969 to strengthen the antiboycott provisions of such act, to amend the Securities Exchange Act of 1934 to enhance investor disclosure provisions of that act, and for other purposes; jointly to the Committees on International Relations and Interstate and Foreign Commerce.

By Mr. LATTA:

H.R. 12149. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; to the Committee on Ways and Means.

By Mr. LITTON (for himself, Mr. Ottinger, Ms. Holtzman, and Ms. Abzug):

H.R. 12150. A bill to provide that local governments may be reimbursed for the cost of protective and security services provided by such governments in connection with visits by the President or Vice President of the United States; to the Committee on the Judiciary.

By Mr. LITTON (for himself, Mr. Rangel, Mr. Won Pat, and Mr. Nowak):

H.R. 12151. A bill to provide that local governments may be reimbursed for the cost of protective and security services provided by such governments in connection with visits by the President or Vice President of the United States; to the Committee on the Judiciary.

By Mr. McKINNEY (for himself, Mr. Allen, Mr. Burgener, Mr. Collins of Texas, Mr. Harrington, Mr. Helstoski, Mr. Howard, Mr. Hyde, Mr. Lagomarsino, Mr. Lehman, Mr. Martin, Mr. Mathis, Ms. Mink, Mr. Mollohan, Mr. Ottinger, and Mr. Rees):

H.R. 12152. A bill to amend the Internal Revenue Code of 1954 to allow an individual to exclude from gross income the gain from the sale or exchange of the individual's principal residence; of the Committee on Ways and Means.

By Mr. MATHIS:

H.R. 12153. A bill to establish a national policy for the prevention of unreasonable or excessive costs to consumers from Government programs and for priority consideration of proposals that can be expected to provide greater benefits in relation to costs to consumers, to require preparations of a consumer cost assessment for proposals for legislation or regulations which may have a significant impact on costs to consumers and for other purposes; to the Committee on Government Operations.

H.R. 12154. A bill to establish a Federal Regulatory Agency Review Commission; to the Committee on Interstate and Foreign Commerce.

H.R. 12155. A bill to provide for the elimination of inactive and overlapping Federal programs, to require authorization of new budget authority for Government programs and activities at least every 4 years, to establish a procedure for zero-base review and evaluation of Government programs and activities every 4 years, and for other purposes; to the Committee on Rules.

By Mr. MELCHER (for himself and Mr. Harkin):

H.R. 12156. A bill to provide for U.S. standards and a national inspection system for grain, and for other purposes; to the Committee on Agriculture.

By Mr. MOAKLEY:

H.R. 12157. A bill to establish a Bureau of Agricultural Statistics for the purpose of monitoring the changes in prices which occur in the price of agricultural commodities from the time they are sold by the farmer until the time when the consumer purchases such commodities or products thereof, and for the purpose of making recommendations to the Congress with respect to correcting situations in which the retail price of an agricultural commodity, or product thereof, rises while the prices received by the farmer for the same commodity decreases; to the Committee on Agriculture.

By Mr. MOAKLEY (for himself, Mr. Baucus, Mr. Harkin, Mr. Haley, Mr. Hayes of Indiana, Mr. Jenrette, Ms. Keys, Mr. Lehman, Mr. McKinney, Mr. Meeds, Mr. Mitchell of Maryland, Mr. Richmond, Mr. Scheuer, and Mr. Stark):

H.R. 12158. A bill to prohibit State and local law from permitting construction which interferes with sunlight necessary for solar heating and cooling equipment; to the Committee on Banking, Currency and Housing.

By Mr. MOTTL (for himself, Mr. Badillo, Mr. Baucus, Mr. Blanchard, Mr. Blouin, Mr. Brown of California, Ms. Chisholm, Mr. Cleveland, Mr. D'Amours, Mr. Downey of New York, Mr. Dodd, Mr. Drinan, Mr. Edgar, Mr. Hannaford, Mr. Harkin, Mr. Harrington, Mr. Helstoski, Mr. Howe, Mr. Jenrette, Mr. Lehman, Mr. Matsunaga, Mr. Mitchell of Maryland, Mr. Ottinger, Ms. Schroeder, and Mr. Stark):

H.R. 12159. A bill to reorganize the activities of the executive branch of the Federal Government to provide small business concerns and individual inventors with increased opportunities to participate in activities carried out by the Energy Research and Development Administration, to stimulate competition in the energy industries, and for other purposes; jointly to the Committees on Science and Technology, Small Business, and Rules.

By Mr. MURPHY of New York (for himself, Mr. LaFalce, Mr. Horton, Mr. Kemp, Mr. McHugh, and Mr. Walsh):

H.R. 12160. A bill to amend the Regional Rail Reorganization Act of 1973 to extend the period provided for acceptance of certain offers made pursuant to the final system plan, and for other purposes; to the Committee on Interstate and Foreign Commerce.

Mr. OTTINGER:

H.R. 12161. A bill to require States to participate in a system of regional Presidential primaries administered by the Federal Election Commission, and for other purposes; to the Committee on House Administration.

By Mr. PRICE (for himself and Mr. Bob Wilson) (by request):

H.R. 12162. A bill to amend the National Security Act of 1947, as amended, and for other purposes; to the Committee on Armed Services.

By Mr. QUILLEN:

H.R. 12163. A bill to reform residential electric utility rates; to the Committee on Interstate and Foreign Commerce.

By Mr. RICHMOND (for himself, Mr. Badillo, Mr. Downey of New York, Mr. Howard, Mr. McDade, Mr. Oberstar, and Mr. Rosenthal):

H.R. 12164. A bill to prohibit new rules and regulations from becoming effective under the Food Stamp Act of 1964 until the Congress enacts new legislation with respect to such act; to the Committee on Agriculture.

By Mr. RONCALIO:

H.R. 12165. A bill to establish an independent U.S. Air Traffic Services Corporation, and for other purposes; jointly to the Committees on Public Works and Transportation, and Ways and Means.

By Mr. RUPPE:

H.R. 12166. A bill to authorize a local public works capital development and investment program; to the Committee on Public Works and Transportation.

By Mrs. SPELLMAN:

H.R. 12167. A bill to provide that Federal employees may be allowed to take accrued annual leave or leave without pay for a period following the adoption of a minor child; to the Committee on Post Office and Civil Service.

By Mr. STAGGERS (for himself and Mr. Dingell):

H.R. 12168. A bill to amend the Natural Gas Pipeline Safety Act of 1968 to authorize appropriations for fiscal year 1977; to the Committee on Interstate and Foreign Commerce.

H.R. 12169. A bill to amend the Energy Policy and Conservation Act to authorize appropriations for fiscal year 1977 to carry out the functions of the Federal Energy Administration, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. JAMES V. STANTON (for himself, Mr. Mineta, Mr. Wolff, Mr. Fisher, Mr. Badillo, Mr. Beard of Rhode Island, Mr. Downey of New York, Mr. Drinan, Mr. Edgar, Mr. Harris, Mr. Koch, Mr. Krebs, Mr. Mitchell of Maryland, Mr. Moffett, Mr. Ottinger, Mr. Patterson of California, Mr. Richmond, Mr. Rinaldo, Mr. Rodino, Mr. Rosenthal, Mr. Ryan, Mr. Scheuer, Ms. Schroeder, Mr. Seiberling, and Mr. Stark):

H.R. 12170. A bill to preserve the public health, safety, and welfare by prohibiting the entrance into and operation within the United States of civil supersonic aircraft that do not meet appropriate noise standards; to the Committee on Public Works and Transportation.

By Mr. STEELMAN (for himself, Mr. Fascell, and Mr. Sarasin):

H.R. 12171. A bill to provide that meetings of Government agencies shall be open to the public, and for other purposes; to the Committee on Government Operations.

By Mr. STOKES:

H.R. 12172. A bill to amend the National Housing Act to authorize expenditures by the Secretary of Housing and Urban Development for repair of certain dwellings; to the Committee on Banking, Currency and Housing.

H.R. 12173. A bill to amend title 38, United States Code, to authorize expenditures by the Administrator of Veterans' Affairs for repair of certain dwellings; to the Committee on Veterans' Affairs.

By Mr. SYMINGTON:

H.R. 12174. A bill to authorize appropriations for the Federal Fire Prevention and Control Act of 1974 and the act of March 3, 1901, for fiscal years 1977 and 1978, and to promote the coordination of fire research; to the Committee on Science and Technology.

By Mr. VANDER JAGT (for himself, Mr. Schneebeli, Mr. Bafalis, and Mr. Ketchum):

H.R. 12175. A bill to amend title XX of the Social Security Act to strengthen the ability of the States to support social services in their communities; to the Committee on Ways and Means.

By Mr. WYLIE:

H.R. 12176. A bill to amend section 1951, title 18, United States Code, Act of July 3, 1946; to the Committee on the Judiciary.

By Mr. BRADEMAS (for himself and Mr. Fraser):

H.J. Res. 830. Joint resolution to establish a Bicentennial Commission on Presidential Nominations; to the Committee on House Administration.

By Mr. OBERSTAR:

H.J. Res. 831. Joint resolution authorizing and requesting the President to issue a proclamation designating the 7 calendar days beginning September 26, 1976 as "National Port Week"; to the Committee on Post Office and Civil Service.

By Mr. RANDALL:

H.J. Res. 832. Joint resolution to provide for the designation of the second full calendar week in March of each year as "National Employ the Older Worker Week"; to the Committee on Post Office and Civil Service.

By Mr. DRINAN:

H. Con. Res. 561. Concurrent resolution disapproving the proposed sale of military equipment to Saudi Arabia (transmittal 76–25); to the Committee on International Relations.

H. Con. Res. 562. Concurrent resolution disapproving the proposed sale of military equipment to Saudi Arabia (transmittal 76–27); to the Committee on International Relations.

H. Con. Res. 563. Concurrent resolution disapproving the proposed sale of military equipment to Saudi Arabia (transmittal 76–28); to the Committee on International Relations.

H. Con. Res. 564. Concurrent resolution disapproving the proposed sale of military equipment to Saudi Arabia (transhmittal 76–29); to the Committee on International Relations.

H. Con. Res. 565. Concurrent resolution disapproving the proposed sale of military equipment to Saudi Arabia (transmittal 76–30); to the Committee on International Relations.

H. Con. Res. 566. Concurrent resolution disapproving the proposed sale of military equipment to Saudi Arabia (transmittal 76–31); to the Committee on International Relations.

H. Con. Res. 567. Concurrent resolution disapproving the proposed sale of military equipment to Saudi Arabia (transmittal 76–32); to the Committee on International Relations.

By Mr. OTTINGER:

H. Con. Res. 568. Concurrent resolution disapproving the proposed letters of offer to sell certain defense articles and services to Saudi Arabia; to the Committee on International Relations.

By Mrs. SMITH of Nebraska:

H. Con. Res. 569. Concurrent resolution with respect to post office closings; to the Committee on Post Office and Civil Service.

By Mr. SCHEUER (for himself, Mr. DELLUMS, Mr. GUDE, Mr. HELSTOSKI, Ms. HOLTZMAN, Mr. HOWARD, Mr. MAGUIRE, Mr. MOAKLEY, Mr. OTTINGER, Mr. PATTEN, Mr. RICHMOND, Mr. RYAN, Mr. SOLARZ, and Mr. STARK):

H. Res. 1057. A resolution directing the Committee on Public Works and Transportation to investigate the process by which the Secretary of Transportation reached a decision permitting the Concorde to land at the John F. Kennedy and Dulles International Airports; to the Committee on Rules.

By Mr. SLACK:

H. Res. 1058. Resolution disapproving the deferral of certain budget authority (D76–98) relating to the Department of Justice, Law Enforcement Assistance Administration, Juvenile Justice and Deliquency Prevention Program, proposed in the President's special message of January 23, 1976 (H. Doc. 94–342), transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BYRON:

H.R. 12177. A bill for the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 12178. A bill for the relief of Edward J. Shea; to the Committee on the Judiciary.

By Mr. O'HARA:

H.R. 12179. A bill for the relief of Alica Trudeau; to the Committee on the Judiciary.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of February 17, 1976, page 3301:

HOUSE BILLS

H.R. 11435. January 21, 1976. Armed Services. Provides for increases in annuities paid under the retired servicemen's family protection plan based upon retired and retainer pay increases.

H.R. 11436. January 21, 1976. Ways and Means. Amends the Internal Revenue Code to exclude from the estate tax, amounts paid out of an estate as an allowance or award for the support of the decedent's surviving spouse or children for a limited period during the administration of the estate.

H.R. 11437. January 21, 1976. Post Office and Civil Service. Permits the installation of photocopying equipment for public use in any postal facility upon a determination by the officer of the Post Service responsible for the operation of such facility that said equipment is necessary or appropriate.

H.R. 11438. January 21, 1976. Post Office and Civil Service. Grants Federal and Congressional employees leave without reducton pay or leave to which they are otherwise entitled for absence due to service as witnesses in any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party.

Allows amounts appropriated for government contributions to Federal employee and retired Federal employee health plans to remain available until expended.

H.R. 11439. January 21, 1976. Post Office and Civil Service. Permits a surviving spouse whose civil service annuity was terminated due to remarriage to enroll in a civil service health benefits plan upon restoration of such spouse's annuity if the spouse was covered by a health benefits plan at the time the annuity was terminated.

H.R. 11440. January 21, 1976. Merchant Marine and Fisheries. Directs the Secretary of the Interior to make a comprehensive study of the grizzly bear in order to develop adequate conservation measures.

Establishes a moratorium on the killing of grizzly bears in the United States pending the completion of such study.

H.A. 11441. January 21, 1976. Judiciary: Ways and Means. Redefines "firearm" under the Omnibus Crime Control and Safe Streets Act of 1968 and "any other weapon" under the National Firearms Act to include certain electric weapons for purposes of regulation of the sale, manufacture, importation, transportation, and taxation of such weapons.

H.R. 11442. January 21, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on articles assembled abroad with components produced in the United States.

H.R. 11443. January 21, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on (1) articles assembled abroad with components produced in the United States, and (2) certain metal articles manufactured in the United States and exported for further processing.

H.R. 11444. January 21, 1976. International Relations. Prohibits the settlement of any debt owed to the United States by any foreign country in an amount less than full value of such debt unless the Congress by concurrent resolution approves such settlement.

H.R. 11445. January 21, 1976. Judiciary. Incorporates the National Ski Patrol System, Incorporated.

H.R. 11446. January 21, 1976. Interstate and Foreign Commerce. Amends the Energy Policy and Conservation Act to authorize the Federal Energy Administrator to make loan guarantees for the expansion of existing underground coal mines and the reopening of previously closed underground coal mines.

H.R. 11447. January 21, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11448. January 21, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11449. January 22, 1976. Interstate and Foreign Commerce. Requires that electric utility rate charges for a subsistence quantity of electric energy provided to residential consumers not exceed the lowest rate charged any other electric consumer.

H.R. 11450. January 22, 1976. Government Operations; Rules. Requires the president to report to the Congress yearly to make suggestions for the reform of independent regulatory bodies in order to decrease their inflationary effects and to increase competition.

H.R. 11451. January 22, 1976. Judiciary. Redefines "destructive devices" under the Omnibus Crime Control and Safe Streets Act of 1968 and the National Firearms Act to include certain electric weapons for purposes of regulation of the sale, manufacture, importation, transportation, and taxation of such weapons.

H.R. 11452. January 22, 1976. Ways and Means. Redefines "firearm" under the National Firearms Act to include certain electric weapons for the purpose of sale, manufacture, importation, transportation, and taxation of such weapons.

H.R. 11453. January 22, 1976. Education and Labor. Authorizes appropriations for fiscal years 1976 and 1977 for manpower and employment programs under the Comprehensive Employment and Training Act of 1973. Revises eligibility criteria for such employment programs.

Increases the maximum salary for certain public service jobs under such Act from $10,000 to $12,000 per year. Sets forth additional criteria for allocation of emergency employment funds.

H.R. 11454. January February 1976. International Relations. Establishes a Commission on Security and Cooperation in Europe.

Authorizes and directs the Commission to monitor the acts of the signataries to the Final Act of the Conference on Security and Cooperation in Europe (Helsinki Agreement) with respect to their compliance with the articles of such Act, particularly with regard to the provisions relating to cooperation in humanitarian fields.

H.R. 11455. January 22, 1976. Interior and Insular Affairs. Expands the boundaries of the Indiana Dunes National Lakeshore and details provisions regarding the acquisition, improvement, and use of easements and lands within and adjacent to such boundaries.

H.R. 11456. January 22, 1976. Interior and Insular Affairs. Expands the boundaries of the Indiana Dunes National Lakeshore and details provisions regarding the acquisition, improvement, and use of easements and lands within and adjacent to such boundaries.

H.R. 11457. January 22, 1976. Interior and Insular Affairs. Expands the boundaries of the Indiana Dunes National Lakeshore and details provisions regarding the acquisition, improvement, and use of easements and lands within and adjacent to such boundaries.

H.R. 11458. January 22, 1976. Interstate and Foreign Commerce. Establishes the Office of Mental Health and Disability Advocacy Services, under the Community Mental Health Centers Act. Directs the Office to enter into contracts with States to assist them in meeting the costs of setting up and maintaining a program of mental health advocacy services for patients in mental health facilities.

H.R. 11459. January 22, 1976. Merchant Marine and Fisheries. Amends the Merchant Marine Act of 1936 in order to establish a national marine firefighting program. Directs the Secretary of Commerce to establish marine firefighting regions and to select regional and satellite firefighting units for each such region. Requires the Secretary to provide marine fire protection and firefighting training programs for training members of regional and satellite units and marine seamen.

Requires all seagoing vessels operating in the foreign or domestic commerce of the United States to have on board a prefire contingency plan for the vessel.

H.R. 11460. January 22, 1976. Interior and Insular Affairs. Increases the amount authorized to be appropriated for acquisition of lands and interests in lands within the boundaries of the Buffalo National River, Ark.

H.R. 11461. January 22, 1976. Ways and Means. Amends the Internal Revenue Code to allow a limited deduction for amounts paid by an individual during the taxable year to any qualified handicapped child trust which was established by such individual.

Exempts such qualified handicapped child trust from taxation or the benefits from such trust from inclusion in the gross income of the beneficiary.

H.R. 11462. January 22, 1976. Post Office and Civil Service. Includes Federal employees serving under overseas limited appointments within those provisions relating to the acquisition of career appointments by individuals serving under temporary or indefinite appointments.

H.R. 11463. January 22, 1976. International Relations; Interstate and Foreign Commerce. Amends the Export Administration Act of 1969 to make it the policy of the United States to oppose restrictive trade practices or boycotts imposed by foreign countries against any domestic concern of the United States. Amends the Securities Exchange Act of 1934 by imposing additional disclosure requirements on any investor who proposes to acquire more than five percent of the equity securities of any United States company.

H.R. 11464. January 22, 1976. International Relations; Interstate and Foreign Commerce. Amends the Export Administration Act of 1969 to make it the policy of the United States to oppose restrictive trade practices or boycotts imposed by foreign countries against any domestic concern of the United States. Amends the Securities Exchange Act of 1934 by imposing additional disclosure requirements on any investor who proposes to acquire more than five percent of the equity securities of any United States company.

H.R. 11465. January 22, 1976. Post Office and Civil Service. Reinstates civil service survivors annuities, upon meeting specified conditions, to specified surviving spouses of Federal employees once members of Congress whose annuities have been terminated due to remarriage.

H.R. 11466. January 22, 1976. Ways and Means. Amends the Social Security Act to authorize payment under the medicare program for specified services performed by chiropractors, including x-ray, and physical examination, and related routine laboratory tests.

H.R. 11467. January 22, 1976, Government Operations. Prohibits any expenditure by the Federal Government under any circumstances unless an amount of money has been specifically appropriated by the Congress for such expenditure during the fiscal year in which the expenditure is to be made or during the latest session of Congress beginning before the first day of such year.

H.R. 11468. January 22, 1976. Judiciary. Sets forth penalties for unauthorized disclosure of information identifying any individual's association with the foreign intelligence operation of the United States.

H.R. 11469. January 22, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on articles assembled abroad with components produced in the United States.

H.R. 11470. January 22, 1976. Judiciary. Sets forth penalties for unauthorized disclosure of information identifying any individual's association with the foreign intelligence operation of the United States.

H.R. 11471. January 22, 1976. Government Operations. Requires that meetings of Federal agencies be open to the public except as stipulated in this Act. Requires agencies to make a public announcement, at least one week before the meeting, of the date, place, and subject matter of the meeting, and whether it is to be open or closed to the public. Requires that edited transcripts of all meetings be made available to the public. Prohibits ex parte communications during on-the-record agency meetings.

H.R. 11472. January 22, 1976. Interstate and Foreign Commerce. Amends the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to extend for three fiscal years, and authorize appropriations for, programs of assistance under such Act.

H.R. 11473. January 22, 1976. Judiciary. Includes refugees from Laos in the provisions of the Indochina Migration and Refugee Assistance Act of 1975.

H.R. 11474. January 22, 1976. Judiciary. Sets forth penalties for unauthorized disclosure of information identifying any individual's association with the foreign intelligence operation of the United States.

H.R. 11475. January 22, 1976. Interstate and Foreign Commerce. Amends the Federal Power Act to require that rate increases for the interstate sale of electricity may not be granted until public hearings on such increases have been completed by the Federal Power Commission.

Requires 30 days' notice of all rate changes by a public utility to the Commission and to the public.

H.R. 11476. January 22, 1976. International Relations. Declares any person employed by, under contract to, or under the direction of, any United States department or agency who is (1) engaged in hostilities abroad, or (2) advising military forces engaged in hostilities abroad to be a member of the Armed Forces for purposes of the War Powers Resolution.

H.R. 11477. January 22, 1976. Interstate and Foreign Commerce. Amends the Emergency Petroleum Allocation Act of 1973 to stipulate that price controls shall not apply to the first sale of crude oil produced from domestic wells whose daily production of crude oil for the preceding year did not exceed ten barrels per well.

H.R. 11478. January 22, 1976. Interstate and Foreign Commerce. Amends the Controlled Substances Act to establish penalties for persons who obtain or attempt to obtain narcotics or other controlled substances from a retail pharmacy by force and violence.

H.R. 11479. January 22, 1976. Post Office and Civil Service. Authorizes the payment of a civil service annuity to the Bureau of Indian Affairs and employees of the Indian Health Service who are not entitled to full retirement benefits and who meet specified employment and length of service requirements.

H.R. 11480. January 22, 1976. Government Operations. Requires that meetings of Federal agencies be open to the public except as stipulated in this Act. Requires agencies to make a public announcement, at least one week before the meeting, of the date, place, and subject matter of the meeting, and whether it is to be open or closed to the public. Requires that edited transcripts of all meetings be made available to the public. Prohibits ex parte communications during on-the-record agency meetings.

H.R. 11481. January 22, 1976. Merchant Marine and Fisheries. Authorizes the appropriation of specified funds for the use of the Department of Commerce as specified for the fiscal year 1977.

H.R. 11482. January 22, 1976. Education and Labor. Amends the National Labor Relations Act by stating that it shall not be an unfair labor practice for an employer engaged in the food processing industry to make an agreement covering employees engaged in such industry with a labor organization because such agreement requires membership in such labor organization as a condition of employment.

H.R. 11483. January 26, 1976. Judiciary. Permits the transportation, mailing, and broadcasting of advertising, information, and materials concerning lotteries conducted by a nonprofit organization and authorized by State law.

Defines "nonprofit organization" for purposes of this Act.

H.R. 11484. January 26, 1976. Ways and Means. Amends the Internal Revenue Code to increase the estate tax exemption and the gift tax exemption, to increase the deduction for bequests to a surviving spouse, and to increase the number of installment payments allowed for payment of the estate tax by an executor where a certain portion of the value of the gross estate consists of an interest in a closely held business.

H.R. 11485. January 26, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on (1) articles assembled abroad with components produced in the United States, and (2) certain metal articles manufactured in the United States and exported for further processing.

H.R. 11486. January 26, 1976. Ways and Means. Amends the Internal Revenue Code to change the definition of an operating foundation with respect to qualifying distributions from such foundation's minimum investment return. Imposes a tax on tax-exempt foundations at a rate of four percent of the net investment income of nonoperating foundations and a rate of two percent of the net investment income of operating foundations.

H.R. 11487. January 26, 1976. District of Columbia. Designates shoplifting a separate crime in the District of Columbia and sets forth penalties for the commission thereof.

H.R. 11488. January 26, 1976. Judiciary. Prohibits economic coercion by any business enterprise or representative of such enterprise based upon race, color, religion, national origin, or sex.

H.R. 11489. January 26, 1976. Interstate and Foreign Commerce. Redefines "current connection with the railroad industry", as defined and used to establish eligibility for annuity benefits under the Railroad Retirement Act of 1974, to include individuals who have completed 25 years of railroad service.

H.R. 11490. January 26, 1976. Post Office and Civil Service. Applies to the United States Postal Service provisions requiring that buildings built, leased, or financed by the United States be designed and constructed to insure ready access to and use of such buildings by the physically handicapped.

H.R. 11491. January 26, 1976. Interstate and Foreign Commerce. Requires that electric utility rate charges for a subsistence quantity of electric energy provided to residential consumers not exceed the lowest rate charged any other electric consumer.

H.R. 11492. January 26, 1976. Ways and Means. Amends the Internal Revenue Code to stipulate that for specified bond issues the proceeds of which are used for providing facilities with hydroelectric energy, the provisions concerning taxation of interest on industrial revenue bonds shall be inapplicable and any interest received from such governmental obligations shall be excluded from gross income.

H.R. 11493. January 26, 1976. Appropriations. Appropriates funds for the Department of Labor and the Department of Health, Education, and Welfare for the fiscal year ending June 30, 1976 and for the transition period ending September 30, 1976. Prohibits the use of funds appropriated by this Act to bus students or teachers for the purpose of overcoming racial imbalance in the schools.

H.R. 11494. January 26, 1976. Banking, Currency and Housing. Amends the Defense Production Act of 1950 to authorize the President to make commitments to purchase or otherwise encourage the use of synthetic fuels.

Authorizes the President to install additional Government-owned equipment in certain defense facilities. Authorizes subsidies to private industry to encourage the production of domestically-produced raw materials for national defense.

H.R. 11495. January 26, 1976. Post Office and Civil Service. Requires non-United States citizen employees of the Panama Canal Company or the Canal Zone Government who are employed on the Isthmus of Panama and have completed 15 years of service to retire at age 62.

H.R. 11496. January 26, 1976. Ways and Means. Amends the Internal Revenue Code to increase the estate tax exemption and gift tax exemption, to increase the deduction for bequests to a surviving spouse, and to increase the number of installment payments allowed for payment of the estate tax by an executor where a certain portion of the value of the gross estate consists of an interest in a closely held business.

H.R. 11497. January 26, 1976. Judiciary. Amends the Clayton Act to prohibit persons engaged in refining of petroleum products from also engaging in marketing of petroleum products.

H.R. 11498. January 26, 1976. Armed Services. Permits the sale of naval equipment to the Government of the Republic of China.

H.R. 11499. January 26, 1976. Armed Services. Permits the sale of naval vessels of the United States to the Government of Greece.

H.R. 11500. January 26, 1976. Armed Services. Authorizes appropriations for fiscal year 1977 for aircraft, missile, naval vessel, and other weapon procurement. Limits military and civilian personnel strengths for such period.

H.R. 11501. January 26, 1976. Interstate and Foreign Commerce. Amends the Clean Air Act to authorize appropriations for fiscal years 1976 and 1977 to carry out the purposes of such Act.

Revises the motor vehicle emission standards under such Act to delay imposition of the 90 percent reduction requirement for emissions of carbon monoxide, hydrocarbons, and nitrogen oxides for two years until model year 1979. Imposes interim standards for model years 1977 and 1978.

H.R. 11502. January 26, 1976. Veterans' Affairs. Provides for annual adjustments in the rates of veterans' benefits based upon fluctuations in the Consumer Price Index.

H.R. 11503. January 26, 1976. Banking, Currency and Housing. Creates an Emergency Financial Assistance Corporation: (1) to make direct loans to, or guarantee the payment of obligations of, State and local governments when such borrowers are unable to obtain funds on urgently needed public works and facilities; (2) to make loans for business and industrial development in depressed urban and rural areas; and (3) to make loans for the construction of low- and moderate-income housing.

H.R. 11504. January 26, 1976. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to extend the authority of the Secretary of Commerce to accept bids for ship construction. Eliminates the requirement that such approval be based upon the existence of a construction-differential subsidy.

H.R. 11505. January 26, 1976. Merchant Marine and Fisheries. Authorizes the appropriation of funds to carry out the provisions of the Marine Protection, Research, and Sanctuaries Act of 1972 for the following purposes: (1) to regulate the transportation and dumping of radioactive waste; (2) to carry out monitoring and research regarding the effects of the dumping of material into coastal waters; (3) for the designation of marine sanctuaries in those areas of the ocean waters and of the Great Lakes and their connecting waters as the Secretary of Commerce determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values.

H.R. 11506. January 26, 1976. Science and Technology. Authorizes appropriations of such sums as may be necessary to the Secretary of Commerce for fiscal years 1977 and 1978 to carry out the provisions of the Federal Fire Prevention and Control Act of 1974. States that such funds shall not be used for reimbursement of the costs of firefighting on Federal property, or for the burn research and victim rehabilitation programs administered by the National Institutes of Health.

H.R. 11507. January 26, 1976. Ways and Means. Increases, under the Social Security Act and the Internal Revenue Code, the ceilings on the amount of earnings which may be counted for social security benefit and tax purposes.

H.R. 11508. January 26, 1976. Interior and Insular Affairs. Authorizes the Secretary of Agriculture to enter into contracts through September, 1977 for the sale of timber from national forest lands in Alaska.

H.R. 11509. January 26, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11510. January 27, 1976. Merchant Marine and Fisheries. Authorizes the Secretary of the Interior, upon certification by the Governor of Kentucky and/or Tennessee, to undertake control measures to limit the bird population in Kentucky and Tennessee. Declares such action exempt from provisions of the National Environmental Policy Act of 1969 and the Federal Environmental Pesticide Control Act.

H.R. 11511. January 27, 1976. Interstate and Foreign Commerce. Prohibits the inspection, acquisition, or requisition by officers, employees, agents or departments of the United States, of the medical or dental records of patients not receiving assistance from the Federal Government.

H.R. 11512. January 27, 1976. Education and Labor. Includes children of parents employed on Federal property, who attend school in a State contiguous to the State in which such property is located, in the determination of Federal aid entitlement of the local educational agency having jurisdiction over such school.

H.R. 11513. January 27, 1976. Veterans' Affairs. Permits educational benefits payments for veterans, war orphans, or widows for vocational education courses at tax-supported public educational institutions without providing specified placement record information to the Veterans' Administration.

H.R. 11514. January 27, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on articles assembled abroad with components produced in the United States.

H.R. 11515. January 27, 1976. District of Columbia. Authorizes appropriations for fiscal year 1977 to pay the unfunded obligations of the District of Columbia for retirement benefits of specified employees and former employees. Requires a study to recommend methods of financing such obligations in the future and to determine whether any changes are needed in existing retirement programs.

H.R. 11516. January 27, 1976. House Administration. Incorporates the National Trust for the Preservation of Historic Ships.

H.R. 11517. January 27, 1976. Ways and Means. Amends the Internal Revenue Code to permit a taxpayer to amortize any certified pollution control expenditure over a shorter period of time.

H.R. 11518. January 27, 1976. Interstate and Foreign Commerce. Amends the Emergency Petroleum Allocation Act of 1973 to stipulate that price controls shall not apply to the first sale of crude oil produced from domestic wells whose daily production of crude oil for the preceding year did not exceed ten barrels per well.

H.R. 11519. January 27, 1976. Judiciary. Amends the Voting Rights Act of 1965 to repeal the prohibitions against voting qualifications, prerequisites, tests, or devices which abridge the right of a citizen to vote who is a member of a language minority.

Repeals the requirement that States and other political subdivisions make available registration and voting materials, and voting assistance in languages other than English.

H.R. 11520. January 27, 1976. Agriculture. Establishes a Commission on the Humane Treatment of Animals to study the treatment of animals.

H.R. 11521. January 27, 1976. Agriculture. Establishes a Commission on the Humane Treatment of Animals to study the treatment of animals.

H.R. 11522. January 27, 1976. Post Office and Civil Service. Applies to the United States Postal Service provisions requiring that buildings built, leased, or financed by the United States be designed and constructed to insure ready access to and use of such buildings by the physically handicapped.

H.R. 11523. January 27, 1976. Government Operations. Requires the President to transmit to the Congress copies of each Presidential proclamation and Executive order no later than two days after issuance to be referred to the appropriate committees of each House.

H.R. 11524. January 27, 1976. International Relations. Amends the United Nations Participation Act of 1945 to limit the contribution of the United States to the United Nations to one-sixth of the total assessment of the United Nations for that year.

Declares it the sense of Congress that the President direct the Ambassador of the United States to the United Nations to assure that, in apportioning its assessment to member states, the United Nations will consider the financial resources of the oil-producing nations.

H.R. 11525. January 27, 1976. Ways and Means. Amends the Internal Revenue Code to require the Secretary of the Treasury to report to the Joint Committee on Internal Revenue Taxation the specific criteria and procedures used to audit returns and to report certain information regarding audits completed in the previous twelve months.

H.R. 11526. January 27, 1976. Judiciary. Sets forth penalties for unauthorized disclosure of information identifying any individual's association with the foreign intelligence operation of the United States.

H.R. 11527. January 27, 1976. Interior and Insular Affairs. Establishes the Boston Harbor National Recreation Area. Requires the Secretary of the Interior to establish a planning commission for such Area.

Authorizes the Secretary to make grants to State and local units of government responsible for implementing the Commission's plan.

H.R. 11528. January 27, 1976. Armed Services. Revises the service time period requirements pertaining to entitlement for survivor annuities for family members of retired armed forces members.

H.R. 11529. January 27, 1976. Ways and Means. Amends the Social Security Act to include, as a home health service in the Medicare program, nutritional counseling provided by or under the supervision of a registered dietitian.

H.R. 11530. January 27, 1976. Interior and Insular Affairs. Stipulates that the Soboba Band of Mission Indians and the Soboba Indian Reservation may be provided with sanitation facilities and services.

H.R. 11531. January 27, 1976. Banking, Currency and Housing. Provides that, in commemoration of the American Indian heritage, the Secretary of the Treasury shall strike and deliver to the Mid-American All-Indian Center, Incorporated, of Wichita, Kansas, sterling and bronze medals which shall be national medals to be disposed of by the center at a premium.

H.R. 11532. January 27, 1976. International Relations. Directs the Overseas Private Investment Corporation, under the Foreign Assistance Act of 1961, to issue regulations for the automatic termination of any insurance or reinsurance, issued after enactment of this legislation and applicable to any investor, upon the knowledge that such investor has made any significant payment to any foreign official in violation of laws in the country in which such investor's project is being carried out.

Prohibits the Corporation from advising or directing any person to violate the laws of the United States or a foreign country.

H.R. 11533. January 27, 1976. Post Office and Civil Service. Directs the Secretary of Commerce, during intervals between decennial censuses of population, to biennially produce and publish for each State, county, and local unit of general purpose government current data on total population and other population characteristics. States that such data shall be used in administering any law in which total population or population characteristics are used in determining the amount of benefit received by such governments.

H.R. 11534. January 27, 1976. Interstate and Foreign Commerce. Requires the Securities and Exchange Commission to regulate the issuance and trading of municipal bonds and similar securities under the Securities and Exchange Act of 1934.

H.R. 11535. January 27, 1976. Armed Services. Authorizes the continuation of Junior Reserve Training Corps Units in specified instances where unit enrollment falls below 100 students during an academic year.

H.R. 11536. January 27, 1976. Ways and Means. Amends the Internal Revenue Code to provide that nonprofit corporations or associations without capital stock that have as their purpose providing reserve funds and insuring shares or deposits in: (1) domestic building and loan associations; (2) nonprofit cooperative banks without capital stock: or (3) mutual savings banks not having capital stock represented by shares, can be on the list of tax organizations if organized before January 1, 1963 (presently September 1, 1957).

H.R. 11537. January 27, 1976. Ways and Means. Amends the Social Security Act by allowing a State to terminate social security coverage for policemen and firemen without affecting the coverage of other public employees.

H.R. 11538. January 27, 1976. Post Office and Civil Service; Rules. Permits either House of Congress to disapprove any proposed increase in rates charged under civil service health benefits plans before any such increase becomes effective.

H.R. 11539. January 27, 1976. Interior and Insular Affairs: Merchant Marine and Fisheries. Authorizes the Secretary of the Interior and the Secretary of Agriculture to sell, donate, or otherwise dispose of excess wild free-roaming horses and burros on public lands. Establishes procedures to be followed to insure humane treatment of such animals.

Authorizes the use of aircraft and motorized vehicles on public lands in a manner consistent with the purposes of this Act and other wildlife management statutes.

H.R. 11540, January 27, 1976. Ways and Means. Amends the Social Security Act to revise the conditions under which a State plan for Aid to Families for Dependent Children must deny aid for a child whose father is unemployed.

H.R. 11541. January 27, 1976. Appropriations. Appropriates funds for the Department of Labor and the Department of Health, Education, and Welfare for the fiscal year ending June 30, 1976 and for the transition period ending September 30, 1976. Prohibits the use of funds appropriated by this Act to bus students or teachers for the purpose of overcoming racial imbalance in the schools.

H.R. 11542. January 27, 1976. Post Office and Civil Service. Permits postage-free mailing of correspondence to any Member of Congress by residents of the State or district represented by such Member which is sent to the Member's official business address.

H.R. 11543. January 27, 1976. Judiciary. Institutes the death penalty for specified destructive acts to airports, airplanes, and related things and places where death of any person results and prescribes imprisonment for life where no death results.

H.R. 11544. January 27, 1976. Judiciary. Declares certain individuals citizens of the United States under the Immigration and Nationality Act.

H.R. 11545. January 27, 1976. Judiciary. Authorizes the admission of a certain individual to the United States for permanent residence.

H.R. 11546. January 27, 1976. Judiciary. Directs the Administrator of Veterans' Affairs to consider certain factors in evaluating the physical disability and amount of compensation for such disability, with respect to a certain individual.

H.R. 11547. January 27, 1976. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11548. January 27, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11549. January 27, 1976. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States for a temporary housing allowance during a specified period incident to the assignment of such individual to Europe by the U.S. Army.

H.R. 11550. January 27, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11551. January 27, 1976. Judiciary. Permits a certain individual to remain in the United States for a specified period of time.

H.R. 11552. January 28, 1976. House Administration. Establishes the Voter Registration Administration within the Federal Election Commission to establish and administer a program of voter registration by mail for Federal elections.

H.R. 11553. January 28, 1976. Ways and Means. Amends the Internal Revenue Code to exempt single unit trucks from the highway use tax.

H.R. 11554. January 28, 1976. Education and Labor. States that nothing defining an unfair labor practice under the National Labor Relations Act shall be construed to prohibit any strike or refusal to perform services by janitors or custodians, or any inducement of any individual employed by any person as a janitor or custodian to strike or refuse to perform services.

H.R. 11555. January 28, 1976. Ways and Means. Amends the Social Security Act to (1) remove the limitation on the amount of outside income which an individual may earn while receiving Old-Age, Survivors, and Disability Insurance benefits; (2) revise certain eligibility requirements for Old-Age, Survivors, and Disability Insurance benefits; and (3) authorize direct payment to the provider of services to Medicare supplementary medical insurance beneficiaries under certain circumstances.

Amends the Social Security Act and the Internal Revenue Code to allow individuals 65 years of age or older to elect to exempt wages and self-employment income from social security taxation.

H.R. 11556. January 28, 1976. Banking, Currency and Housing. Amends the Housing and Community Development Act of 1974 to provide that a combination of cities having an aggregate population of 50,000 or more shall be eligible to be an applicant for grants to finance community development programs under such Act.

H.R. 11557. January 28, 1976. Judiciary. Establishes a Select Commission on Territorial Immigration Policy.

H.R. 11558. January 28, 1976. Interior and Insular Affairs. Expands the boundaries of the Indiana Dunes National Lakeshore and details provisions regarding the acquisition, improvement, and use of easements and lands within and adjacent to such boundaries.

H.R. 11559. January 28, 1976. Interior and Insular Affairs. Authorizes appropriations for fiscal year 1977 under the Saline Water Conversion Act of 1971.

H.R. 11560. January 28, 1976. Ways and Means. Amends the Tariff Schedules of the United States to require proof of automobile property and personal liability insurance on automobiles imported for the personal use of nonresidents and foreign government personnel, in an amount equal to the minimum insurance requirements in those States in which the vehicle will be operated.

Directs the Secretary of the Treasury to forward certain identifying information on such vehicles to the Secretary of Transportation who shall forward such information to the appropriate State agency responsible for motor vehicle registration.

H.R. 11561. January 28, 1976. Armed Services; Judiciary. Provides that the terms of office of the Director of the Central Intelligence Agency and the Director of the Federal Bureau of Investigation shall be ten years and that no individual shall hold either such office more than once. Makes both individuals subject to removal by the President.

H.R. 11562. January 28, 1976. Interstate and Foreign Commerce. Amends the Federal Trade Commission Act to prohibit the application of a per se rule of illegality under the antitrust laws in the case of certain market allocation agreements made as part of a contract or agreement (1) for the manufacture, distribution or sale of a trademarked soft drink product or (2) for the distribution or sale of a trademarked private label food product.

H.R. 11563. January 28, 1976. Ways and Means. Amends the Internal Revenue Code to allow taxpayers of any age to exclude from gross income a limited amount of gain from the sale or exchange of property if during the eight year period preceding the sale or exchange, such property has been owned and used as the taxpayer's principal residence for periods aggregating five years or more.

H.R. 11564. January 28, 1976. Agriculture. Amends the Food Stamp Act of 1964 to require the Secretary of Agriculture to establish regulations governing the deposit of funds received by food coupon vendors for allotments of such coupons, and the accounting for such funds to State and Federal agencies.

Establishes criminal penalties for the violation of such regulations.

H.R. 11565. January 28, 1976. Merchant Marine and Fisheries. Amends the Tariff schedules of the United States to repeal the duty imposed on (1) articles assembled abroad with components produced in the United States, and (2) certain metal articles manufactured in the United States and exported for further processing.

H.R. 11566. January 28, 1976. Judiciary. Imposes penalties on any person who knowingly and willfully causes or conspires to cause the public identification of a United States undercover agent as such without official approval.

H.R. 11567. January 28, 1976. Ways and Means. Amends the Internal Revenue Code to increase from $20,000 to $40,000 the amount to which the adjusted sales price of a residence of an individual over age 65 shall be compared for purposes of determining the amount of gain which shall be excluded from gross income in the case of a sale or exchange of such principal residence.

H.R. 11568. January 28, 1976. Public Works and Transportation. Terminates the authorization of the navigation study and survey of the Wabash River in Indiana by the Secretary of the Army, acting through the Chief of Engineers.

H.R. 11569. January 28, 1976. Interstate and Foreign Commerce. Authorizes the Secretary of Commerce, under the International Travel Act of 1961, to award travel grants to foreign travel trade representatives and journalists who participate in familiarization tours to the United States.

H.R. 11570. January 28, 1976. Interstate and Foreign Commerce. States that appropriations of the Department of Commerce may be available without fiscal year limitation or for periods in excess of one fiscal year, whenever so specified in an appropriations Act.

H.R. 11571. January 28, 1976. Interior and Insular Affairs; Merchant Marine and Fisheries. Authorizes the Secretary of the Interior and the Secretary of Agriculture to sell, donate, or otherwise dispose of excess wild free-roaming horses and burros on public lands. Establishes procedures to be followed to insure humane treatment of such animals.

Authorizes the use of aircraft and motorized vehicles on public lands in a manner consistent with the purposes of this Act and other wildlife management statutes.

H.R. 11572. January 28, 1976. Science and Technology. Authorizes appropriations to the National Science Foundation for fiscal year 1977. Repeals specified provisions with respect to awards granted by the Foundation, congressional Oversight of the Foundation, the "Science for Citizens Program", and coordination of Foundation activities with the Energy Research and Development Administration.

H.R. 11573. January 28, 1976. Science and Technology. Authorizes the appropriation of designated sums to the National Aeronautics and Space Administration for research and development programs, construction of facilities including land acquisition, and research and program management.

Sets forth guidelines with respect to the use and availability of funds appropriated pursuant to this Act.

H.R. 11574. January 28, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on articles assembled abroad with components produced in the United States.

H.R 11575. January 28, 1976. Ways and insurance. Establishes a Health Security Means. Creates a national system of health Board in the Department of Health, Education, and Welfare to administer such health insurance program.

Repeals the Medicare provisions of the Social Security Act and all health benefit plans for employees of the Federal Government.

H.R. 11576. January 28, 1976. Interstate and Foreign Commerce. Provides for additional regulatory power for the Environmental Protection Agency to control the manufacture and distribution of toxic substances.

H.R. 11577. January 28, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on articles assembled abroad with components produced in the United States.

H.R. 11578. January 28, 1976. Public Works and Transportation. Terminates the Airlines Mutual Aid Agreement.

H.R. 11579. January 28, 1976. District of Columbia. Amends the District of Columbia Income and Franchise Tax Act to impose a tax on the income of non-residents of the District of Columbia which was derived from sources or resulted from services performed within the District. Repeals the District of Columbia franchise tax on the income of unincorporated businesses.

H.R. 11580. January 28, 1976. Post Office and Civil Service. Redefines "air traffic controller" for civil service retirement purposes to include persons actively engaged in providing preflight, inflight, or airport advisory services to aircraft operators.

H.R. 11581. January 28, 1976. Merchant Marine and Fisheries. Directs the Secretary of the Interior to make a comprehensive study of the wolf for the purpose of developing adequate conservation measures.

Establishes a moratorium on all large-scale killing of wolves pending the results of such study.

H.R. 11582. January 28, 1976. Judiciary. Declares a certain individual a national and citizen of the United States, under the Immigration and Nationality Act.

H.R. 11583. January 28, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11584. January 28, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11585. January 28, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11586. January 28, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11587. January 28, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11588. January 28, 1976. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States for the loss of certain household goods.

H.R. 11589. January 29, 1976. Education and Labor. Directs various boards, commissions and councils to develop and execute programs designed to provide private and public service employment to those who seek it. Directs the President to transmit each year a full employment and production plan to Congress.

H.R. 11590. January 29, 1976. Ways and Means. Increases the exemption for taxable estates under the Internal Revenue Code from $60,000 to $200,000 of the value of the gross estate.

H.R. 11591. January 29, 1976. Judiciary. Sets forth penalties for unauthorized disclosure of information identifying any individual's association with the foreign intelligence operation of the United States.

H.R. 11592. January 29, 1976. Judiciary. Institutes the death penalty for specified destructive acts to airports, airplanes, and related things and places where death of any person results and prescribes a fine of not more than $100,000, or imprisonment for any term of years, or both, where no death results.

H.R. 11593. January 29, 1976. Ways and Means. Amends the Social Security Act by increasing the amount of outside income which an individual may earn without a reduction in old age, survivors, and disability insurance benefits. Reduces the rate at which deductions from such benefits are made on earnings exceeding the amount of outside earnings allowed.

H.R. 11594. January 29, 1976. Ways and Means. Amends the Social Security Act to authorize payment under the medicare program for specified services performed by chiropractors, including X-ray, and physical examination, and related routine laboratory tests.

H.R. 11595. January 29, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on articles assembled abroad with components produced in the United States.

H.R. 11596. January 29, 1976. Rules. Amends the Impoundement Control Act of 1974 by requiring the President to transmit a special message to Congress before rescinding or reserving any part of any budget authority. Declares that no such rescission shall become effective until Congress has acted on a bill effecting such rescission.

H.R. 11597. January 29, 1976. Judiciary. Establishes criteria for the imposition of the death penalty for specified explosive related offenses.

H.R. 11598. January 29, 1976. International Relations. Authorizes appropriations for the United States Information Agency to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961 and the Reorganization Plan Numbered 8 of 1953.

H.R. 11599. January 29, 1976. Judiciary; Standards of Official Conduct. Requires candidates for Federal office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 11600. January 29, 1976. Education and Labor. Requires, under the Fair Labor Standards Act of 1938, that employers be given notice of complaints alleging violations of such Act, the identity of the complainant, and the basis for the complaint.

H.R. 11601. January 29, 1976. Agriculture. Establishes a Commission on the Humane Treatment of Animals to study the treatment of animals.

H.R. 11602. January 29, 1976. Ways and Means. Increases the estate tax exemption under the Internal Revene Code from $60,000 to $200,000 of the value of the gross estate.

Increases the limitation on the aggregate marital deduction to 50 percent of the adjusted gross value of the estate, plus $100,000.

Allows an executor to value farmland, woodland, and scenic open land at its current use value rather than at its fair market value.

H.R. 11603. January 29, 1976. Judiciary. Replaces Federal criminal statutory provisions penalizing "rape" and "carnal knowledge of females under 16" with provisions penalizing "sexual assault." Designates guilty of sexual assault any person who knowingly engages in sexual contact or penetration of another person without such person's consent.

H.R. 11604. January 29, 1976. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to deny Members of Congress any increase in pay under any law passed, or plan or recommendation received, during a Congress unless such increase is to take effect not earlier than the first day of the next Congress.

H.R. 11605. January 29, 1976. Ways and Means. Amends the Tariff Schedules of the United States to suspend the rate of duty on mattress blanks of rubber latex for 3 years.

H.R. 11606. January 29, 1976. Ways and Means. Amends the Internal Revenue Code to allow a limited tax credit in an amount of $250 for each individual who is at least 61 years of age before the beginning of the taxable year, whose principal place of abode during the taxable year is the principal residence of the taxpayer, and who is not a lodger with the taxpayer.

H.R. 11607. January 29, 1976. Ways and Means. Amends the Social Security Act to authorize payment under the medicare program for specified services performed by chiropractors, including X-ray, and physical examination; and related routine laboratory tests.

H.R. 11608. January 29, 1976. Government Operations. Requires that meetings of Federal agencies be open to the public except as stipulated in this Act. Requires agencies to make a public announcement, at least one week before the meeting, of the date, place, and subject matter of the meeting, and whether it is to be open or closed to the public.

Requires that edited transcripts of all meetings be made available to the public.

Prohibits ex parte communications during on-the-record agency meetings.

H.R. 11609. January 29, 1976. Agriculture. Amends specified Acts to end the authorization for appropriations for agricultural research after fiscal year 1978. Establishes the Agricultural Research Planning and Budget Advisory Committee. States that the duties of such Committee shall include the formulation of a long-term plan indicating present and future agricultural research priorities.

H.R. 11610. January 29, 1976. Interstate and Foreign Commerce. Prohibits any person or State from accepting any interstate off-track wager on the outcome of a horse race. Provides civil penalties for violations of the prohibition.

H.R. 11611. January 29, 1976. Education and Labor. Includes children of parents employed on Federal property, who attend school in a State contiguous to the State in which such property is located, in the determination of Federal aid entitlement of the local educational agency having jurisdiction over such school.

H.R. 11612. January 29, 1976. Science and Technology. Directs the Administrator of the Energy Research and Development Administration to establish a three-year motor vehicle synthetic fuels research and demonstration project, in accordance with specified criteria.

Directs the Administrator to establish a program of Federal assistance to electric utilities for approved projects utilizing synthetic fuels in place of conventional fuels for the generation of electricity.

H.R. 11613. January 29, 1976. Education and Labor; Judiciary. Establishes a Commission on School Integration to study the results of, and other questions relating to, the racial integration of public schools, and the use of busing to achieve such integration.

H.R. 11614. January 29, 1976. Judiciary. Directs the Secretary of the Treasury to reimburse local governments for the cost of protective and security services to the President or Vice President while the President or Vice President are within the jurisdiction of such local government in an official capacity or attending a national convention of a political party.

H.R. 11615. January 29, 1976. Agriculture. Amends the Food Stamp Act of 1964 by revising (1) eligibility standards; (2) the method of determining the coupon allotment; and (3) administration of the program by State agencies.

H.R. 11616. January 29, 1976. Interstate and Foreign Commerce. Amends the Solid Waste Disposal Act to prohibit the issuance of solid waste management regulations with respect to the sale or distribution of beverage containers at Federal facilities.

H.R. 11617. January 29, 1976. Interstate and Foreign Commerce. Provides for additional regulation of drug labeling and drug-related recordkeeping under the Federal Food, Drug, and Cosmetic Act.

Establishes a Food and Drug Administration within the Department of Health, Education and Welfare.

H.R. 11618. January 29, 1976. Judiciary. Establishes criteria for the imposition of the death penalty for specified explosive related offenses.

H.R. 11619. January 29, 1976. Merchant Marine and Fisheries. Amends the Environmental Quality Improvement Act of 1970 to authorize appropriations for fiscal year 1977 and succeeding fiscal years for the operations of the Office of Environmental Quality and the Council on Environmental Quality.

H.R. 11620. January 29, 1976. Ways and Means. Directs that there be printed as a House document 1,500 copies of the Report of the Ninth Delegation to the People's Republic of China.

H.R. 11621. January 29, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to authorize payment under the medicare program for occupational therapy services.

H.R. 11622. January 29, 1976. Ways and Means. Amends the Tariff Act of 1930 to exempt private vessels and aircraft entering or departing the United States at night or on Sunday or a holiday from required payment to the United States for overtime services of customs officers and employees.

Prohibits imposition of any such charge upon the owner, operator, or agent of such private aircraft or vessel for the services of officers and employees of: (1) the Immigration and Naturalization Service; (2) the Public Health Service; or (3) the Department of Agriculture.

H.R. 11623. January 29, 1976. Ways and Means. Amends the Social Security Act to maintain the inpatient hospital deductible under the medicare program at the level which was applicable during calendar year 1975.

H.R. 11624. January 29, 1976. Judiciary. Directs the secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States arising from the death of her son.

H.R. 11625. January 29, 1976. Judiciary. Authorizes the admission of a certain individual to the United States for permanent residence.

HOUSE JOINT RESOLUTIONS

H.J. Res. 772. January 21, 1976. Post Office and Civil Service. Designates the period of February 20, 1976, to February 22, 1976, as "Texas Industrial Nurse Days."

H.J. Res. 773. January 21, 1976. Judiciary. Proposes as an amendment to the Constitution that no unborn person shall be deprived of life except as specified in this amendment.

H.J. Res. 774. January 21, 1976. Judiciary. Proposes an amendment to the Constitution (1) to extend the rights of due process and equal protection to persons from the moment of conception, and (2) to prohibit depriving a person of life on account of age, illness, or incapacity.

H.J. Res. 775. January 22, 1976. Judiciary. Proposes a constitutional amendment which provides that with respect to the right to life guaranteed in the Constitution, every human being, subject to the jurisdiction of the United States, shall be deemed, from the moment of fertilization, to be a person and entitled to the right to life.

H.J. Res. 776. January 22, 1976. Post Office and Civil Service. Authorizes the President to designate the second full calendar week in March of 1976 as "National Employ the Older Worker Week."

H.J. Res. 777. January 22, 1976. Post Office and Civil Service. Designates April 13, 1976, as "Thomas Jefferson Day."

H.J. Res. 778. January 22, 1976. Post Office and Civil Service. Authorizes the President to issue a proclamation designating February 20 of each year as "Postal Employees Day."

H.J. Res. 779. January 26, 1976. Judiciary. Proposes an amendment to the Constitution which includes unborn offspring within the definition of "person" for purposes of the fifth and fourteenth Articles of Amendment to the Constitution.

H.J. Res. 780. January 27, 1976. Judiciary. Restores posthumously full rights as a citizen of the United States to Eugene Victor Debs, retroactive to April 12, 1919.

H.J. Res. 781. January 27, 1976. Rules. Establishes the Congressional Joint Committee on Welfare Reform which shall be responsible for investigating the operation, administration, and methods for reforming the welfare system.

H.J. Res. 782. January 27, 1976. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating the week beginning November 7, 1976, as "National Respiratory Therapy Week."

H.J. Res. 783. January 28, 1976. Judiciary. Proposes a constitutional amendment stating that the Congress and the States shall have power to protect life including the unborn at every state of biological development irrespective of age, health, or condition of physical dependency.

H.J. Res. 784. January 28, 1976. Banking, Currency and Housing. Establishes the effective date for the Defense Production Act Amendments of 1975.

H.J. Res. 785. January 29, 1976. Judiciary. Proposes a constitutional amendment which provides for a national primary election of candidates for the offices of President and Vice President of the United States.

H.J. Res. 786. January 29, 1976. Judiciary. Proposes an amendment to the Constitution providing for the direct popular election of the President and Vice President of the United States.

H.J. Res. 787. January 29, 1976. Judiciary. Proposes a constitutional amendment which provides that no State shall be required to take into account the race or color of any student in assigning that student to a school of that State unless the student so chooses.

H.J. Res. 788. January 29, 1976. Education and Labor. Directs the President to convene a White House Conference to evaluate the success of compulsory busing to achieve integration.

HOUSE CONCURRENT RESOLUTIONS

H. Con. Res. 529. January 22, 1976. House Administration. Directs that there be printed as a House document 1,500 copies of the Report of the Ninth Delegation to the People's Republic of China.

H. Con. Res. 530. January 26, 1976. Rules; Post Office and Civil Service. Calls for the presentation of the patriotic production "America, O America, the Beautiful" to a joint meeting of the Congress as a celebration of the Bicentennial Year.

H. Con. Res. 531. January 26, 1976. Agriculture; International Relations. Declares it the sense of Congress that every person has the right to a nutritionally adequate diet, and that the United States increase its assistance for self-help development among the world's poorest people until such assistance reaches one percent of our total national production.

H. Con. Res. 532. January 26, 1976. Merchant Marine and Fisheries. Calls upon the Administrator of the Environmental Protection Agency to assist the domestic mushroom industry in solving problems involved with the treatment of waste from such industry in accordance with environmental protection laws.

H. Con. Res. 533. January 28, 1976. Directs the Secretary of the Senate to make specified corrections in the enrollment of the bill S. 2718.

H. Con. Res. 534. January 28, 1976. Ways and Means. Expresses the sense of Congress that the proposals to increase out-of-pocket payments for medicare beneficiaries should not be enacted.

H. Con. Res. 535. January 29, 1976. Directs the Clerk of the House of Representatives to make specified corrections in the bill H.R. 5247.

H. Con. Res. 536. January 29, 1976. House Administration. Directs that there be printed as a House document a revised edition of the House document "Our Flag."

H. Con. Res. 537. January 29, 1976. House Administration. Directs that there be printed as a House document copies of the Constitution of the United States and the Declaration of Independence with an index.

H. Con. Res. 538. January 29, 1976. House Administration. Directs that there be printed as a House document the Constitution of the United States (pocket-size edition).

H. Con. Res. 539. January 29, 1976. House Administration. Authorizes the printing as a House document the Constitution of the United States, with analytical index and ancillaries regarding proposed amendments, prepared by Representative Peter W. Rodino, Junior, of New Jersey.

H. Con. Res. 540. January 29, 1976. House Administration. Directs that the brochure entitled "How Our Laws Are Made", be printed as a House document.

H. Con. Res. 541. January 29, 1976. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the Congress has not delegated to the Federal Trade Commission any authority to preempt the laws of the States and their political subdivisions.

HOUSE RESOLUTIONS

H. Res. 971. January 22, 1976. Authorizes Representative Joseph M. McDade to respond to a subpena issued in a certain judicial proceeding.

H. Res. 972. January 22, 1976. Education and Labor. Directs the House Committee on Education and Labor to evaluate the impact of imported garments and textiles, upon unemployment in the United States.

H. Res. 973. January 22, 1976. House Administration. Authorizes funds for the further expenses of the House Committee on Small Business.

H. Res. 974. January 22, 1976. House Administration. Authorizes the expenditure of specified funds for the expenses of the investigations and studies to be conducted by the House Committee on Agriculture during the second session of the 94th Congress.

H. Res. 975. January 22, 1976. House Administration. Authorizes the expenditure of specified funds for the expenses of the investigations and studies to be conducted by the House Committee on Education and Labor.

H. Res. 976. January 26, 1976. Honors Clarence M. Mitchell, Junior.

H. Res. 977. January 26, 1976. Authorizes and directs the House ad hoc Select Committee on the Outer Continental Shelf to transmit its findings and report to the House no later than March 31, 1976.

H. Res. 978. January 26, 1976. Ways and Means; House Administration. Directs the appointment of an expert in the Department of the Treasury and in the Congress to advise on long-range tax simplification and tax reform for small business.

H. Res. 979. January 26, 1976. Education and Labor. Directs the House Committee on Education and Labor to evaluate the impact of imported garments and textiles, upon unemployment in the United States.

H. Res. 980. January 26, 1976. Post Office and Civil Service. Designates the week beginning April 4, 1976, as "National Rural Health Week". Urges that health services and dissemination of health information be improved in rural America.

H. Res. 981. January 26, 1976. Post Office and Civil Service. Pays tribute to Clarence M. Mitchell, Junior. Reaffirms the commitment of Congress to the principles which guided our Founding Fathers.

H. Res. 982. January 27, 1976. Rules. Gives the Select Committee on Intelligence until midnight Friday January 30, 1976, to file its required report. Requires the Select Committee on the Intelligence to file a supplemental report containing the select committee's recommendations no later than midnight, Wednesday, February 11, 1976.

H. Res. 983. January 27, 1976. International Relations. Calls for an end to foreign interference in Angolan affairs. Directs the President to refrain from providing military assistance to Angola until such assistance is specifically approved by Congress.

H. Res. 984. January 27, 1976. International Relations. Calls for an end to foreign interference in Angolan affairs. Directs the President to refrain from providing military assistance to Angola until such assistance is specifically approved by Congress.

H. Res. 985. January 27, 1976. International Relations. Calls for an end to foreign interference in Angolan affairs. Directs the President to refrain from providing military assistance to Angola until such assistance is specifically approved by Congress.

H. Res. 986. January 27, 1976. International Relations. Calls for an end to foreign interference in Angolan affairs. Directs the President to refrain from providing military assistance to Angola until such assistance is specifically approved by Congress.

H. Res. 987. January 27, 1976. International Relations. Calls for an end to foreign interference in Angolan affairs. Directs the President to refrain from providing military assistance to Angola until such assistance is specifically approved by Congress.

H. Res. 988. January 27, 1976. International Relations. Calls for an end to foreign interference in Angolan affairs.

Directs the President to refrain from providing military assistance to Angola until such assistance is specifically approved by Congress.

H. Res. 989. January 27, 1976. International Relations. Calls for an end to foreign interference in Angolan affairs.

Directs the President to refrain from providing military assistance to Angola until such assistance is specifically approved by Congress.

H. Res. 990. January 27, 1976. International Relations. Calls for an end to foreign interference in Angolan affairs.

Directs the President to refrain from providing military assistance to Angola until such assistance is specifically approved by Congress.

H. Res. 991. January 27, 1976. International Relations. Calls for an end to foreign interference in Angolan affairs.

Directs the President to refrain from military assistance to Angola until such assistance is specifically approved by Congress.

H. Res. 992. January 27, 1976. Elects W. Henson Moore of Louisiana to the House Committee on Interstate and Foreign Commerce. Elects Marjorie S. Holt of Maryland to the Committee on the Budget.

H. Res. 993. January 27, 1976. International Relations. Expresses the sense of the House of Representatives that United States assistance for Israel for fiscal year 1977 should not be less than United States assistance for Israel for fiscal year 1976.

H. Res. 994. January 27, 1976. Post Office and Civil Service. Proclaims Tuesday, January 29, 1976, as "Chattanooga Area Manufacturers Day".

H. Res. 995. January 27, 1976. House Administration. Authorizes funds for the further expenses of investigations and studies to be conducted by the House Committee on Veterans' Affairs.

H. Res. 996. January 28, 1976. Rules. Requires that each report of a committee on a public bill or joint resolution be accompanied by a detailed statement as to how the enactment of such bill or joint resolution might affect an individual's personal rights under the American free enterprise system.

H. Res. 997. January 28, 1976. House Administration. Appropriates funds for the House Committee on Science and Technology.

H. Res. 998. January 28, 1976. Interstate and Foreign Commerce. Calls for measures by Federal agencies to insure that the quality and quantity of free broadcasting service is not impaired by the development of pay television.

H. Res. 999. January 28, 1976. Rules. Sets forth the rule for the consideration of H.R. 5247.

H. Res. 1000. January 29, 1976. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating the week beginning April 4, 1976, as "National Rural Health Week".

H. Res. 1001. January 29, 1976. Authorizes William Vaughn, Administrative Officer, Subcommittee on Oversight, Committee on Ways and Means, to respond to a subpena duces tecum in a certain judicial proceeding. Restricts the circumstances under which the court may have access to papers or documents on file in the office of Mr. Vaughn or under his control or in possession of the House of Rpresentatives.

H. Res. 1002. January 29, 1976. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating the week beginning April 4, 1976, as "National Rural Health Week".

H. Res. 1003. January 29, 1976. Post Office and Civil Service. Designates the week beginning April 4, 1976, as "National Rural Health Week". Urges that health services and dissemination of health information be improved in rural America.

H. Res. 1004. January 29, 1976. Post Office and Civil Service. Designates the week beginning April 4, 1976 as "National Rural Health Week". Urges that health services and dissemination of health information be improved in rural America.

H. Res. 1005. January 29, 1976. International Relations. Requests the President to express the concern of the United States Government for the safety and freedom of Valentyn Moroz.

EXTENSIONS OF REMARKS

WILLIAM ODIE WRIGHT—SUPERINTENDENT OF SCHOOLS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. ANDERSON of California. Mr. Speaker, at the conclusion of this school year the Long Beach Unified School District will lose the leadership of a man who has devoted his entire life to education. William Odie Wright, superintendent of schools, will retire this summer.

A native of Megargel, Tex., Odie Wright first came to Long Beach in 1923. He received his bachelor of arts degree from the University of California at Berkeley in 1934, and by 1938 was teaching English and speech at Polytechnic High School in Long Beach. While teaching, he continued his own studies, and earned his master of arts degree from the University of Southern California in 1941.

His educational career was interrupted by the Second World War, as Odie—as he is known affectionately to his friends—served in the Army Air Corps and Transportation Corps from 1942 to 1946. During that time, Odie Wright taught pilot navigation, served in the Information and Education Division of the Pentagon, and became Director of Instruction and Research, U.S. Armed Forces Institute.

Following his distinguished military career, Odie Wright returned to education as dean of the General Adult Division, Long Beach City College. In 1952, he was appointed principal of Polytechnic High School, where he had taught before the war.

After 3 years of service at Poly High, Mr. Wright became deputy superintendent of schools and director of educational personnel for the entire district. Then in 1962, Odie Wright became superintendent of the Long Beach Unified School District. Long Beach City College and the Long Beach Community College District were added to Superintendent Wright's jurisdiction in 1970.

In 1971, Odie Wright served as chairman of the superintendents of schools of large U.S. cities. He is also a member of the American Association of School Administrators, Association of California School Administrators, Phi Delta Kappa, and Phi Kappa Psi.

Despite his busy professional schedule, Odie Wright has found time to become involved in the Long Beach community. He is currently president of the Long Beach Rotary Scholarship Foundation, and chairman of the board of directors of the Long Beach Community Redevelopment Corp., and the Rheumatic Disease Foundation. He sits on the Long Beach Chamber of Commerce Education Committee, the Glenn Scholarship Foundation board of directors, and belongs to the California Heights Community Church of Long Beach.

For many years, Odie Wright has been identified as an integral member of the Long Beach community. His many years of service saw the Long Beach Unified School District grow and develop into the outstanding institution it is today. Odie Wright's knowledge and experience in the educational world will be missed.

My wife Lee joins me in congratulating Odie Wright on a highly productive career, and in wishing him a well-earned rest in retirement.

His lovely wife, Ruth, and their children, Virginia Wilky, Barbie, and Jerry, are justified in their pride in Superintendent Odie Wright's accomplishments in the educational field and as a member of the Long Beach community.

NAT WASSERMAN—A MAN FOR ALL PEOPLE

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. McKINNEY. Mr. Speaker, in a rare and deserving tribute, the people of Stamford, Conn., recently gathered to honor a rather unique individual, Nathan Wasserman, under a very appropriate banner entitled "A Man for All People."

January 11 was the day chosen for the occasion, a date which coincidentally marked Nat's 75th birthday, but any other time would have sufficed for he is the type of person one wants to wish the best of best wishes to every day of the year.

Nat is a quiet man, an effective man, a positive man—one who does not ask for "thank you's" but rather, receives his satisfaction from results. He is one of those individuals who achieves his goal by constructive encouragement and not by derogatory remarks, certainly a refreshing attitude in a day of cynicism and apathy.

A particular area of his concern has been the problems of housing relocation, especially for those individuals who are not aware of the procedures to follow in finding a new house or apartment. For those who needed guidance, they found a home with Nat. Stamford now has one of the lowest vacancy rates in the Nation and for those lost in the bureaucratic morass, help is mandatory and his expertise has been invaluable.

Further, Nat was one of the first individuals to recognize the destructive cancer let loose in our country—drug abuse and addiction. Long before it was publicly acknowledged that a large segment of our society was in danger of becoming lost as productive individuals, Nat was ahead of his fellow citizens and working with Synanon, one of the first self-help centers in the country.

In essence, Nat Wasserman is the volunteers' volunteer. Wherever there is a need stemming from the lack of action by society—wherever there is a need of people who cannot help themselves because of ignorance of the system, Nat Wasserman becomes his own total social welfare agency, seeking solutions, counseling the troubled.

His interest in the welfare of others has helped many people to lead happier, more productive lives. His optimism affects all those who are touched by his presence. His persistence is a trait that typifies his effectiveness.

I feel that the people of Stamford have been truly fortunate to call Nat Wasserman one of their own, and I would like to add my congratulations and best wishes to those already expressed for I, too, have benefited from his thoughtfulness, kindness, and encouragement.

BICENTENNIAL PROCLAMATION

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. BOB WILSON. Mr. Speaker, I recently was honored with the presentation of the first copy of a special Bicentennial proclamation produced by Mr. Morris Cerullo, president of World Evangelism, Inc., which is headquartered in my district. These proclamations will be sent to legislators and public officials all over the country and I think it is especially appropriate for us to contemplate during these troubled times.

I include the proclamation as a portion of my remarks:

SPECIAL BICENTENNIAL PROCLAMATION: THE TRUE SPIRIT OF '76

"Righteousness exalteth a nation: but sin is a reproach to any people."—(Proverbs 14:34)

Because of the great attention being given celebrations in honor of this nation's 200th anniversary, we feel that it is necessary to draw the attention of the people to the true spirit upon which America was founded . . . the spirit of prayer and intercession with which our forefathers sought God's guidance in the affairs of this great country . . . and urge a national renewal of the principles embodied in our history. Thanking God for the grace which He has visited upon the United States for the past 200 years, we set forth the following proclamation as the true Spirit of '76.

Whereas the nation of the United States of America is now engaged in a tremendous yearlong Bicentennial celebration marking the 200th year since the birth of this great nation; and

Whereas 1976 is not only our nation's Bicentennial year, but is a vital presidential election year marking the first presidential election since our country has been torn by the aftermath of Watergate; and

Whereas Bible reading and prayer have been removed from our public schools, thus contributing to deterioration of our country's morals; and

Whereas there is in this nation a collapse of moral principles and a growing permissive, even plauditory, attitude toward sexual licentiousness, pornography, the use of drugs and alcohol; and

Whereas there is an ever-increasing crime rate in this nation which has seen American streets become unsafe for its citizens with wanton killing, mayhem and other violent crimes rampant; and

Whereas certain radical factions within this country have avowed to mar America's Bicentennial celebration with street demonstrations, civil unrest, and violence; and

Whereas we are engaged in dealing with a world full of political upheaval, internal strife, and revolutions; and

Whereas there exists in the Middle East, between Israel and the Arab countries, a volatile situation which is leading into the end time events prophesied in God's Word, the Bible, which are to occur just before the Second Coming of the Lord Jesus Christ;

Now be it therefore resolved that those in positions of leadership in this nation be called upon to search their hearts and come before God in prayer and repentance, asking His help not only to provide greater integrity in political leadership, but to become living examples to call the people of this nation back to the principles of righteousness and holiness upon which this country was founded;

Be it further resolved that the citizens of this country, regardless of their religious denominations, be called upon to unite their hearts in continual prayer before God and to seek His face through a regular program of intercessory prayer and fasting throughout the Bicentennial year, and that each and every one of them be challenged and encouraged to rededicate their lives anew to the principles of honesty, integrity, truthfulness, and moral uprightness set forth in the Word of God and befitting the nation of the United States of America which was founded upon these principles.

I hereunto set my hand and affix my seal this 12th day of February in the year of our Lord 1976.

MORRIS CERULLO,
President, World Evangelism, Inc.

BOY SCOUT ANNIVERSARY

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. RUSSO. Mr. Speaker, the month of February is the anniversary month of the Boy Scouts of America. I know we all share in our commitment to this fine program and today I would like to pay tribute to a particular group of Scouts in my own district.

Cub Scout Pack No. 403 in Dolton, Ill., headed by Cubmaster James Murphy, will hold its Blue and Gold Dinner on February 28 to commemorate the 66th anniversary of the beginning of scouting in America. It will be a most special occasion and proud moment for the young gentlemen involved, as well as for their families and leaders.

The focus for the evening will be our country's Bicentennial and our flag. It is appropriate that these young boys, so well versed already in the prerequisites of good citizenship, should so honor our flag on their own day of honors. The flag and Scouts are closely bound, for the values to which Scouts pledge themselves as citizens are what insure a future for that flag.

I think the Scouts in Illinois can take particular pride in their anniversary month, for it was a Chicago newspaper publisher, William D. Boyce, who introduced Scouting to America in 1910. He discovered the program for young men on a trip to England when a Scout there did a "good deed" for him. We all owe a great deal to that English Scout. Even Mr. Boyce could not foresee the profound impact of his promoting such a program, for today there are nearly 5 million young people in Boy Scout programs as well as 5,000 adults and volunteers.

I commend them for their work in making Scouting a successful program and for the contribution that program makes to our country.

PRAISES FOR THE "BUS LADY"

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. GAYDOS. Mr. Speaker, most of us will agree that maneuvering a bus through heavy traffic requires both skill and strong nerves. The driver must contend not only with contestants for the right-of-way without his vehicle but many times with difficult persons within.

But the job has compensations on the human level too, and I am happy to report one in my district. It is in the form of an affable senior citizen, Beatrice Littleton of McKeesport, Pa., who has turned her regular bus rides into pleasant times for the drivers.

Known as "Aunt Bea," she turns up with a cheerful greeting always and departs in good spirit. The drivers know her well and look forward to welcoming her aboard. Substitute operators have found her helpful in pointing out the streets and stops.

The importance of "Aunt Bea" as a bus patron became known publicly when she was hospitalized recently. Missed along her route, the drivers inquired about her and then things began to happen. The friendly lady received a flood of "get well" cards and flowers. Blood was donated in her name and funds were gathered up to help defray her medical expenses.

Driver Naomi Broome told Donald S. McGavern of the McKeesport Daily News:

> We collected money not because she might have needed it, but because we wanted to do something for her. We drivers get a lot of criticism and there are tough days. But this lady has turned many a bad run into a beautiful one. . . . She's done so much for us over the years. She makes a bus ride a real joy.

Robert Megahan, another of Aunt Bea's driver-friends, informed Mr. McGavern of the help she has been to the substitutes who occasionally show up. Others joined in praising the "Bus Lady."

I bring this to attention here because we hear so much about the discords in our society and far too little about the kind and friendly events which do take place. Beatrice Littleton and her bus piloting pals have demonstrated again to my constituents in the McKeesport area the real worth of a smile, a good word, and a mutual respect and they have done so in the unlikely circumstances of a bus ride through congested city streets. I know there is a lot more of this sort of thing occurring in our country than we are told about.

A BICENTENNIAL GUIDE TO AMERICA'S FOUNDING MOTHERS

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Ms. ABZUG. Mr. Speaker, one of the appalling aspects of our Bicentennial Year is an inordinate emphasis on military achievements. Almost daily we see in print or on television soldiers carrying flags, firing cannons, or marching toward an unseen enemy as if war were the glory of this country. Not battles alone, but people working in many capacities and toward many goals were, and are, the glory of the United States. The Founding Fathers were certainly great men, and we all admire and honor them, but the Founding Mothers were also great, though they have been given little credit for their courage and fortitude and initiative. Some Founding Mothers, notably Abigail Adams and Mercy Otis Warren, even dared to criticize the Founding Fathers' drafts of the Constitution.

From the early 1800's on, New Yorks' State women's voices were heard asking for legal protection for women, and later even demanding the vote. The country's two great women suffrage leaders both lived in New York State. Elizabeth Cady Stanton was born in Johnstown, N.Y., and Susan B. Anthony, though not a native New Yorker, lived in Rochester, N.Y., for much of her life. The first Women's Rights Convention was held in Seneca Falls, N.Y., in 1848. Frances Willard, who became nationally famous as leader of the Women's Christian Temperance Union, and who was a strong supporter of woman suffrage, was born in Churchville, N.Y. Educator Emma Willard opened one of the first girls' seminaries in Troy, N.Y., in 1821. Lawyer Belva Lockwood, who had a highly successful law practice in Washington, D.C., and who lobbied through Congress in 1879 a bill giving women lawyers the right to practice before the Supreme Court, was born in Royalton, N.Y. Such names as Lillian Wald, Grace Dodge, Josephine Shaw Lowell, Florence Kelley, Belle Moskowitz, to mention only a few, made notable contributions to New York and to their country.

Every State in the Union from the east coast to the west coast has notable American women leaders and women achievers, though you search for their names in vain in most books of American history. New Yorker Ruth Warren's Pictorial History of Women in America, recently off the press, tells the story of some 280 of these American women. You read in Mrs. Warren's book names, some well known, some unfamiliar, of women who rose to State or national fame through obstacles and frustrations, becoming by sheer determination doctors, lawyers, dentists, writers, politicians, teachers, religious leaders, social workers, some of these women living in a period in our history when women's place was considered to be only in the home.

It is woman history of which many of us may not have been aware. It would be fitting recognition of woman's role in American history if each State and city searched out and honored its Founding Mothers and their daughters and their daughters' daughters in this our Bicentennial Year.

PLEASE AMERICA, PULL YOURSELF TOGETHER

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. BOB WILSON. Mr. Speaker, from time to time we hear a few kind words along with the brickbats from our allies and friends overseas. Such a message is contained in a recent article published in the London Daily Telegraph.

I include the article as a portion of my remarks:

Please, America, Pull Yourself Together

It is time America's friends spoke out, with some nasty questions to the so-called "liberal" east-coast establishment. By that we mean sections of the press, sections of Congress, television commentators and comedians, university pundits and a lot of other people who may think there is a dollar to be made out of denigrating their country's institutions and leaders. We all know about the "trauma" of Vietnam and Watergate, but it's getting a bit boring. How long has the rest of the free world got to put up with these tender-minded people recovering from their "trauma?" Indefinitely?

America is accustomed to, and has merited, a good deal of deference from her allies. But deference can be a disservice. The United States should know that her European cousins and allies are appalled and disgusted by the present open disarray of her public life. The self-criticism and self-destructive tendencies are running mad, with no countervailing force in sight. She has no foreign policy any more, because Congress will not allow it. Her intelligence arm, the CIA, is being gutted and rendered inoperative, the names of its staff being published so that they can be murdered. Her President and Secretary of State are being hounded, not for what they do but simply because they are people there, to be pulled down for the fun of it.

We hope and believe that the vicious antics of the liberal east-coast establishment, which are doing all this untold harm, do not reflect the feelingss of the mass of the country. But it is a matter for wonder. Is the country as a whole becoming deranged? Surely not. Perhaps the presidential election later this year will clear the air. Yet that is still ten months away, and in the meantime there is all the campaigning to be gone through. Please, America, for God's sake pull yourself together.

VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. LOTT. Mr. Speaker, I would like to take this opportunity to give special recognition to Gloria Anne Neill of Ellisville, Miss., who has recently been announced as our State winner in the Veterans of Foreign Wars Voice of Democracy Scholarship program, and call to the attention of my colleagues her essay on our country's heritage.

VFW Voice of Democracy Scholarship Program, Mississippi Winner, Gloria Anne Neill

Exactly what is America's Bicentennial Heritage? First of all, this is the mark of 200 years of separation from our Mother Country. We would never have had this heritage to honor and cherish had it not been for our God-fearing forefathers, who fought the long hard battles for freedom. The price these men paid for us to have these liberties is almost unbelievable. For instance, two of the fifty-six men who signed the Declaration of Independence and pledged their lives, their fortunes, and their sacred honor were Thomas McKeam and John Hart. McKeam was so hounded by the British that he was forced to move his family constantly. He served in Congress without pay; his family was kept in hiding; his possessions were taken from him, but poverty was his reward. The latter, John Hart, was driven from his wife's bedside as she lay dying with their thirteen children fleeing for their lives. For more than a year he was forced to live in forests and caves, returning home to find his wife dead and his children vanished. As a result, he died of heartbreak and exhaustion only a few weeks later.

This document, for which men were willing to give their lives, was so important to our new nation and our newly gained freedom, which frequently seemed on the verge of extinction during the war, that it was rushed from town to town to keep it out of the hands of the advancing British. During the War of 1812, and the burning of Washington, this great document was sewn into a linen bag and lay hidden in a Virginia barn. There is certainly no question in my mind that the Declaration should be treated with care and reverence.

The freedoms expressed in this document are a precious part of our American heritage—of our present, past and future—but more precious yet is the living idea which makes the Declaration a vital fact of my heritage. It lives, not only on paper, but in the hearts and minds of all Americans. Its preservation lies solely in our determination that it shall live.

America's heritage has held and still holds three of the most important things to me—life, liberty and the pursuit of happiness.

Among many other focal points in American history to mo is the story of our flag and the "Star Spangled Banner". But even more thrilling to me is the symbolical meaning of our flag—the Red Stripes symbolizing the blood spilled in defense of this glorious nation; the White Stripes signifying the burning tears shed by Americans who lost their sons in battle; the Blue Field indicative of God's heaven under which it flies; and the Stars clustered together unifying fifty states for God and country.

And our sentinel of freedom, our Pledge of Allegiance to the Flag of the United States of America, may we always hold true to this.

America's Creed holds dear to me what I feel Americans are searching for. I believe in the United States of America as a Government of the people, by the people and for the people; whose just powers are derived from the consent of the governed; a democracy in a Republic; a sovereign nation of many sovereign states; a perfect union, one and inseparable; established upon those principles of freedom, equality, justice and humanity for which American patriots sacrificed their lives and fortunes.

I, therefore, believe it is my duty to love it, to support its constitution, to obey its laws, to respect its Flag and to defend it against all enemies. As Benjamin Franklin once said, and I quote, "We have given you a Republic if you can keep it," (unquote); and truly we do have a democracy in a republic, but only if we can keep it. We, you and I are the answer to this; and may we, with the help of God, be the right answer.

A TRIBUTE TO DON KING

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. BROWN of California. Mr. Speaker, now that we have completed today's most pressing legislative business, I would like to take a moment to call to the attention of the Congress the accomplishments of a most noteworthy and distinguished American, Mr. Don King. This Saturday evening Mr. King will be honored by many of my constituents back in California at the fourth annual San Bernardino Black Athletic Hall of Fame banquet, and I would like to join the sponsors of that event—a community organization known as Kutania People—in paying tribute to Mr. King.

There is an old spiritual which is entitled, "Let the Work I've Done Speak for Me." That would be an appropriate song for Mr. King to sing, Mr. Speaker, because it is the success which Don King has made of his life, after a very unfortunate and unpromising start, which has made him the hero he is today to young people in ghettos, barrios, and reservations across the country. Less than 5 years ago Mr. King was serving time in prison for his conviction on a murder charge; today he sits in a Rockefeller Plaza penthouse high above Manhattan, president of Don King Productions, Inc., perhaps the greatest heavyweight professional fight promoter in history. He raised $10 million for the fight between Muhammad Ali and George Foreman in Zaire, and has even more ambitious plans for the future.

Much more important than what he has done, however, is the impact his example has had on America's young people. He is a living symbol to those who feel that they have no future, proof that even though they may be down, they are not necessarily out.

Another lesson Don King has taught all of us is that if you think you cannot, chances are you will not; if you think you are defeated before the fight starts, you have lost before the bell sounds for the first round; but if you take the view that the only thing that is impossible is achievement without hard work, then one realizes that nothing is really impossible.

For many youngsters, Don King's life

may be the only textbook they may ever remember. This is why we salute him. Hopefully, his example will inspire many to keep in mind that it is not important what color their skin is, or what mistakes they may have made in the past, or where they came from; they must never quit trying.

Mr. Speaker, I would like to share with our colleagues an article about Mr. King which appeared in the New York Times last August. I ask unanimous consent that it may appear in the RECORD immediately following my remarks:

DON KING, MINI-CONGLOMERATE

(By Red Smith)

In the penthouse at 30 Rockefeller Plaza far above Manhattan and two floors above the Rainbow Room, Don King directs the promotion of the rubber match between Muhammad Ali and Joe Frazier for the heavyweight championship of the world, "the thrill in Manila and the saga of our lifetime." Behind his desk is LeRoy Neiman's portrait of Ali, 8 feet tall, gloved fists lifted in triumph. On the wall at his left, Socrates contemplates the bust of Homer.

Down a carpeted corridor is the office of Hank Schwartz, executive vice president of Don King Productions, Inc. Sixteen months ago Schwartz, promoting George Foreman's fight with Ken Norton in Caracas, brought King in "as a black interface dealing only with blacks." Across the hall sits Bob Arum, legal counsel. A year ago you couldn't mention Arum, head of the closed-circuit firm, Top Rank, in the presence of Schwartz, his competitor with Video Techniques, Inc. Six months ago King despised Arum. Now they work for him on a fight that he has scheduled for Sept. 30 purposely, because that is the fourth anniversary of his release from prison for Murder Two. How could this happen?

"It happened," Don King says, "because I had faith, I had faith in the American people that . . . that . . . People are my most important asset. I brought like a refreshing approach. I feel there are only in life, guys that are endowed with the talent by their Creator that can do things that will really make people respect what is being done. So I might say there's only been three really giant promoters in our lifetime. There's Michael Todd and P. T. Barnum and yours truly."

He laughs, delighted by the coupling.

SOPHISTICATION AND PROFICIENCY

Even before the Foreman-Norton bout came off, King had guaranteed Foreman and Ali $5-million each to fight in Zaire. He is proud of bringing that off, a black promoter matching two black fighters in black Africa.

"It was something by visualization that would let the world see that we can rise to the occasion and do something with sophistication, proficiency and effectiveness. This would put dubiousness to the claim that had been out hither to then, the blacks could only be lethargic, slothful, they could not rise to the occasion, they were retarded. You know what I mean, all they could do was sing and dance."

He tells of how he traveled, talked and worked "to get the extensive financing that was necessary for a poor product of the black ghetto in Cleveland to come up with ten million dollars, which I wanted to bring something more astronomical in figures to the fighters than had hitherto been done, which the biggest of that time was Jack Kent Cooke and Jerry Perenchio."

(Making the first Ali-Frazier bout in 1971, Cooke put up $5-million for the fighters and Parenchio arranged the closed-circuit end.)

AN AMERICAN SITUATION

"Now I'm diversifying," King says, "for those who are downtrodden and underprivileged. I'm taking on a situation of management for football players, which I have some 85 players. Abner Haynes (former running back with several teams including the New York Jets) is heading the group for me and he had an organization called SCORE. SCORE was one that took the minority blacks from the South and all these guys with talent and these young black athletes that was going up there like Rayfield Wright (the Dallas tackle).

"We're gathering the flock of youth to negotiate their contracts for a better type of situation for them. You know, so when they get aged in their career they have something. Now, what I told them, I would take their organization on one condition: that they would eliminate that minority situation and bring an American situation. If it would be white and black, Chicano, Puerto Rican, everyone that's underprivileged as long as they are of common folks stock.

"Then, I told them, I will do your thing. But if you want to make it an all totally black thing, then I want no part of it because I feel that it is unrealistic to be totally all black, as it is totally unrealistic to have anything all white. I understand my commitment is to blacks. I am a black man, my strength comes from blacks but this is not a strength or a commitment that means polarization, isolation or alienation.

"I've taken over SCORE and I'm getting ready to go into the music business, which I have an exciting, exciting new sound that comes from the ghettos of New York from the Puerto Rican area. It's like a mixture between the rhythm in blues in a Latin flavor and the Brazilian taste, all into one. It's something that when you hear it it's a delight to the ear. So now I'm gonna be running the gamut from publishing to recording to management to production of concerts.

"I'm going to be in the producing of movies because I'm going to get the best talent that's available to do this. What I'm gonna be, like a mini-conglomerate, so when I walk through a ghetto and another little black kid or little Puerto Rican says it can't be done in America, I will be a living contradiction to that statement."

HONORING CHRISTINE HELWIG FORMER SUPERVISOR OF THE TOWN OF MAMARONECK

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. OTTINGER. Mr. Speaker, on March 6, friends and colleagues throughout Westchester County will gather to honor Christine Helwig, former supervisor of the town of Mamaroneck.

Mrs. Helwig served the town in the capacity of councilwoman from 1959–68, deputy supervisor from 1966–68 and supervisor from 1968 until her retirement at the end of last year. During her tenure as supervisor, Mrs. Helwig held the posts of secretary and vice president of the Westchester Association of Town Supervisors.

While in office, Supervisor Helwig continually worked to improve the quality of our environment. In 1961, she was appointed chairwoman of the Thruway Noise Abatement Committee. She also served as chairwoman of the Environmental Advisory Committee for Westchester and was a member of the Intergovernmental Fiscal Advisory Board.

Mrs. Helwig was also active in community work during her time in office as director of the town's community action program, director of the Larchmont Community Chest, a member of New York's Citizens Committee for Public Schools and a member of the Westchester Council of the State Committee Against Discrimination. In 1970, Mrs. Helwig was honored by the Jaycees as Outstanding Citizen of Mamaroneck and Larchmont.

Among her many other involvements in civic affairs are memberships in the Mamaroneck Women's Club, the Larchmont League of Women Voters and Westchester's Citizen's Committee, National Council on Crime and Delinquency.

The town of Mamaroneck and Westchester County as a whole are indebted to Christine Helwig for her many years of service and outstanding contributions. Although she has retired from public office, I know Mrs. Helwig will continue to be actively involved with the concerns of her community, and for that we are all grateful.

LETTER FROM WASHINGTON

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. HARRINGTON. Mr. Speaker, Tuesday I inserted in the RECORD the first installment of an article by Russell Baker entitled "Letter From Washington" which accurately describes the crisis in Government and the crisis of leadership that we face in this country. The second and final segment of the article, which appeared in the February 15 issue of the New York Times Magazine follows:

I go to the Capitol in search of Congress and find only policemen. The place is swarming with them. They are on steps, in doorways, outside elevators, patrolling corridors, behind the bust of Aysh-Ke-Bah-Ke-Ko-Zhay ("A Chippewa Chief") and the statue of Will Rogers. I roam through acres of cops, and at the House of Representatives I am forced to pass through a metal detector before they let me enter the press gallery.

At the public galleries, some 200 tourists are emptying pocket and purse of keys, coins, souvenirs. This is only a mite of the total-security orgy which is placing a blockade of guns between government and the governed. And is it not necessary? In the past few years, the Capitol has been bombed, maniacs have attacked over the White House lawn, and sundry deranged persons have been aiming guns at President Ford. Eventually, I am told, bullet-proof glass walls may be installed between the Congressional galleries and the Senate and House, and Congress will become known as the men in the glass booths.

The effect of it, finally, is to heighten the sense of disconnection between the Government and us. So many police hips bulging with firepower, so many cool appraising police eyes, give one the impression of being looked upon as a menace, of being not quite safe. One hesitates about striding right through doors and gates. There is a sense of lost freedom.

Under the surface of police which Congress presents to the public, the one grim issue tormenting Congress is the rise of police power and what to do about it. Restraints on the F.B.I.? Shall the C.I.A.'s secret international police operations be curtailed? Does national security mean that the President must have no constraints placed on his extensive powers to police international affairs?

The Senate's Church Committee and the House's Pike Committee are grappling unhappily with these weighty questions, and the Congress is watching them with increasing unhappiness. Press leaks of garish deadly goings-on in the C.I.A. and lawbreaking in the F.B.I.. have apparently surfeited the public with illustrations of what these agencies should not be doing—namely, breaking the law. But there is little discussion of what they should be doing.

* * * * *

At the end of the month, in fact, the House voted to forbid publication of the Pike Committee's C.I.A. report until the President (meaning, of course, the C.I.A.) had removed material he considered damaging to national security. This was an extraordinary retreat for a Congress which had come to Washington a year ago declaring, in Congressman Brademas's words, that it was going to run the Government. Now it was making the President its own censor.

Most of the report's juicier tidbits, of course, had already been published in press leaks, which made the House vote doubly interesting. What alarmed the House was not the publication of the secrets, but the possibility that Congress could be blamed for spilling them. It did not want to assume public accountability for intervening in C.I.A. affairs. The best guessers I could find believe that after the investigations and the uproar subside, Congress will leave all the old machinery intact.

Which brings us to the ultimate question of the imperial Presidency. Is it really dead, as the conventional wisdom proclaimed when Nixon was routed back to California? Morris Udall, the House Democrat, who understands power in Washington, says that it is. Henry Kissinger constantly laments that it is, and considering how brusquely Congress has undone so many of his international ventures this past year, he would seem to know what he is talking about.

I was not persuaded during my call on Washington. I saw a Congress that no longer trusted Kissinger making it clear they didn't trust him. I saw a President with no mandate to govern being treated like a President with no mandate to govern.

But the imperial Presidency remains intact. Congress has passed no significant law to dismantle any of the powers built into the Presidency under Roosevelt, Truman, Eisenhower, Kennedy, Johnson and Nixon. Press and television still focus most of their light on the White House and ignore Congress. And, most importantly, all thought and discussion centers on the monumental question of who the next President, the genuine, elected President, will be.

After so much devastation, one thinks, something basic should have changed, and yet very little has. Although Watergate has ruined men, the apparatus of the Superpresidency (along with the machinery of normal government) is still there, and public expectations of the office still seem to make Americans hunger for an ideal man to fill it, which, finally, is what makes our Caesars fatten.

Most persons I talk to this year still seem to be dreaming of the perfect President, that amalgam of Washington, Jefferson, Lincoln and Roosevelt who will one day appear out of the tube to save us. One might have thought that after so much catastrophe from greatness, we would be delighted finally to settle for a competent second-rater who would tell us that while government may be a grimy business, somebody has to do it, and there is no reason why it cannot at least be done with honor.

It is hard to foresee such a man prevailing in Washington any more. There is still too much hunger for charisma and grandeur to match that marble whiteness.

REGULATORY AGENCIES

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. ARCHER. Mr. Speaker, one of the biggest problems our country faces is the excessive regulation of our economy by rules and regulations of the Federal Government. Although promoted as beneficial to consumers, these restrictions hamper our economy by limiting the operation of the free market and harm consumers by forcing prices up. I have welcomed an examination of this problem and the recent discussions on regulatory reform. I wish to call to the attention of the Members of the House an excellent article by one of our colleagues, PHIL CRANE, who has been a leader in the battle against excessive governmental regulations over our economy. The author provides a background of these regulations and carefully examines the harmful effects. The article entitled "Regulatory Agencies" appeared in the January 1976 issue of the Journal of Social and Political Affairs.

The article follows:

REGULATORY AGENCIES

(By PHILIP M. CRANE, Member of U.S. Congress)

Prior to the advent of the New Deal in the nineteen thirties, with a number of specific exceptions, the United States pursued a policy of support for the free market based upon a belief that economic freedom and political freedom went hand in hand, as well as the idea that under a system of free enterprise the nation's goods and services would be most widely and most equitably distributed.

Since the advent of the New Deal, Americans have pursued a policy of government intervention in and regulation of the nation's economy. The initial reason for this departure was the hope that such intervention could help us avoid the difficulties which occurred in 1929 with the beginning of the Great Depression.

In every instance, the advocates of intervention and regulation have advanced the view that their policies would best serve the "public" interest. Now, as we face a period of economic decline and are confronted by an economy in which inflation and recession are occurring simultaneously, after a generation of unprecedented intervention and regulation, we are provided a unique opportunity to test the assumptions of the interventionists and regulators.

In an important speech, unusual for a federal official, the chairman of the Federal Trade Commission, Lewis A. Engman, attacked federal regulatory agencies—specifically including the Civil Aeronautics Board and the Interstate Commerce Commission—as protecting the industries they regulate in an unhealthy relationship that raises costs to the consumer unnecessarily and contributes to inflation.

Engman declared that, "Most regulated industries have become federal protectorates, living in a cozy world of cost-plus, safely protected from the ugly specters of competition, efficiency and innovation." To correct these problems, he called for re-examination of "every regulation or regulatory policy that contributes to inflation."

It is no accident that government regulation of the economy produces negative results. Liberal reformers who believed otherwise in the nineteen twenties learned a lesson which modern liberals—and their Republican imitators—must now re-learn. Frederic G. Howe, a progressive who had been in the Wilson Administration, wrote in 1925 in his *Confessions Of A Reformer* that he had become distrustful of the government and he now "viewed it as the source of exploitation rather than the remedy for it."

Woodrow Wilson also understood the problems of government control of the economy. In 1912 he declared: "If the government is to tell big businessmen how to run their business, then don't you think that big businessmen have got to get closer to government than they are now?"

The failure of government regulatory agencies is something which, in recent days, has become a reality accepted as true even by the strongest proponents of such bodies.

Consider, for example, the record of the Civil Aeronautics Board. If you are flying between Los Angeles and San Francisco, your plane ticket will cost you $23 if you purchase it in New York (subject to federal control), but only $16.50 in California.

The Los Angeles-San Francisco fare comes out to 4.6 cents a mile compared with 9.9 cents between Boston and Washington, D.C. There is this simple difference: the Los Angeles to San Francisco route is within a single state. An airline such as Pacific Southwest Airlines, which operates only within one state, is not subject to federal regulation.

Interstate airline flying the same route are forced to ask the Civil Aeronautics Board to let them lower their rates in order to compete with the unregulated intrastate airline. The Boston to Washington, D.C. route is part of "interstate commerce." All of the airlines flying it are under federal regulation—and the consumer pays more.

Professors Peter Passell and Leonard Ross of Columbia University write their "economic estimates suggest that, without the Civil Aeronautics Board, you could fly from New York to Los Angeles for $95, from Washington, D.C. for $33. Current fares on the two runs are $168 and $52 respectively. In general, it seems clear that without the CAB, air fares could be considerably lower throughout the United States and abroad."

Rather than trust the question of air fares to the market place, declare Professors Passell and Ross, "Congress set up independent regulatory commissions with bipartisan membership and lengthy terms. Together, these 'expert agencies' preside over 10 per cent of the national economy, including interstate railway, truck, barge and ship transportation; communications by telephone, cable, radio, and television; electric and atomic power; banking, the stock market and cattle investment trusts."

No interstate airline can operate without a certificate from the CAB declaring its "public interest, convenience and necessity." This means that no one can enter the airline business unless the CAB decides that the "public interest" requires it. Interestingly, since it was established in 1938, the CAB has yet to find that the "public interest" would be served by the entry of a single new competitor to the ten major airlines.

Air travel, we often forget, is an inherently cheap commodity. According to statistics compiled by *Aviation Week* magazine, the direct operating costs of a 747 are about one cent per seat mile, or about $25 from New York to Los Angeles. Professor Michael E. Levine, a former CAB staff member, noted that, "The board has . . . operated an imperfect cartel for the benefit of the industry."

What is the answer to high air fares and lack of competition? Professors Passell and Ross state that it is to "Allow free competition. Abolish the board's power to fix minimum prices, and permit any responsible carrier to fly on any domestic route."

In recent testimony before a U.S. Senate subcommittee, Dr. William A. Jordon, a leading critic of air regulation, declared that air fares in the U.S. are 40 to 100 per cent higher than necessary because of the industry's regulation by the Civil Aeronautics Board. He contended that, besides making air travel unnecessarily expensive, regulation by the CAB has sharply cut into airline profits by reducing employe productivity and forcing the airlines to purchase unneeded equipment.

Dr. Jordon, a professor of managerial economics at York University in Toronto, has worked for four airlines over a 27 year period. He based his estimates on a number of detailed comparisons of federally regulated airlines with those operating within Texas and California, which do not come under CAB regulation. The studies also compared the performance of CAB-regulated airlines with those in Canada and with transport planes operated by the Defense Department.

The studies show that short-haul fares probably are between 40 to 70 per cent higher than they could be without CAB regulations, Dr. Jordon said. This means that, without regulation, the New York to Boston or New York to Washington fare would be $15 to $17 rather than the $25.93 and $27.78 that is charged.

For flights of medium distance, Dr. Jordon estimated that existing fares were 75 to 100 per cent higher than they would be without regulation, while transcontinental fares were "around 100 per cent higher than they would be without regulation." He said that the total actual savings to all consumers of an end to the CAB's regulatory function would amount to $3.5 billion.

Equally dramatic in its failure to serve the public interest is the record of the Interstate Commerce Commission.

Originally establishd in 1887 to protect customers and rail lines from discriminatory pricing and rate wars, the agency today has more than 2,000 employes in 78 offices across the country. Not only railroads, but interstate trucking and barge-lines have been brought under the agency's jurisdiction. Its stated goal was to end "cut-throat competition" and serve the public. What it has done is end competition entirely and serve the joint interests of the large companies and labor unions.

Looking at the record of the I.C.C., Senator William Proxmire (D-Wisconsin) stated that, "The ICC has become a captive of the transportation industry itself. Instead of regulating transportation to avoid monopoly and increased prices, it has established monopolies, reduced competition, and ordered high and uneconomic rates to cover the costs of inefficient producers."

The example of the ICC's regulation of the trucking industry is clear in illustrating the manner in which the public is seriously harmed by its intervention in what would otherwise be a free market.

The ICC has the power and authority to (1) Dictate which truckers can go into interstate business; (2) Determine what a commercial trucker can and cannot carry; (3) Decide what areas truckers may serve; and (4) Permit the trucking industry to fix its own prices.

Each year, hundreds of companies apply for operating rights and are turned down by the ICC. Robert Gallagher, a New York attorney specializing in transportation matters, notes that, "The ICC has a disturbing tendency to be protective of large carriers."

In an important article, "Highway Robbery—Via the ICC," Mark Frazier, writing in *The Readers Digest*, reports that the application of Checker Transportation and Storage is a case in point. He writes that, "Checker has hauled household goods in South Carolina for 27 years, using licenses owned by a number of giant van lines. Each time the company makes an interstate trip, it must pay an average of ten per cent of the revenues to the big van companies that hold the permits it needs. In August, 1972, Checker asked the ICC for a modest interstate license of its own. A half-dozen nationwide van lines and one regional competitor who already held such permits filed immediate protests. Checker had to spend $5,000 in legal fees to present its case. None of these complainants challenged Checker's service or denied the charge that they shunned the short-haul interstate traffic Checker specialized in.

Nevertheless, the commission, after a wait of 20 months, rejected Checker's application—thus, forcing the line to continue paying virtual kickbacks for the right to haul goods in interstate commerce. . ."

With regard to the ICC's power to determine what a trucker can and cannot carry, we see a situation in which, according to Mr. Frazier, ". . . some truckers are permitted to carry only unexposed film; exposed film must be hauled by somebody else. Other truckers may transport plastic pipe but not metal pipe. Officials at Quaker Oats, starting a new pizza-making plant in Jackson, Tennessee, have had to face problems with certificate-hobbled truckers. Trucks hauling tomato paste to the plant from California are not allowed to carry pizzas back. Trucks bringing pizza crusts from Denver must also return empty."

Mike Parkhurst, a former trucker who now edits the trucking magazine, *Overdrive*, notes that, "It's as if American Airlines could only carry people from east to west, while United took passengers from west to east."

The unfortunate fact is that cargo restrictions serve the trucking industry by creating a need for more trucking activity, and harm the consumer, by dramatically increasing costs. By limiting what one carrier may carry back to his point of origin, the ICC also increased the demand for truck drivers, which is something the Teamsters Union, needless to say, strongly favors. It is only consumers who are harmed by the ICC, which serves the interest of the industry and the workers being regulated, not the "public" interest. It is estimated that regulated truckers today travel empty an estimated 30 per cent of their miles, triple the percentage for unregulated carriers. These figures are spelled out in a 1970 report on the ICC co-authored by Robert Fellmeth and members of the Ralph Nader research staff.

Equally detrimental to the public is the ICC policy of establishing hundreds of thousands of routes, often specifying to the mile where an individual truck may go. Agency rules, for example, require Cedar Rapids Steel Transportation—hauling sixty truckloads a week to Chicago from St. Paul—to 90 miles out of the way, through Clinton, Iowa. Because truckers are often prevented from taking the quickest and most economic route to their destination, the cost to the consumer is increased, as is the use of much-needed energy resources. Conservation groups such as the Sierra Club estimate that tens of millions of gallons of gasoline are wasted each year as a result of ICC regulations.

Finally, the ICC permits the trucking industry to do what no unregulated private industry is permitted by law to do—set its own prices. Interstate rates are established by 148 "rate bureaus," which are regional associations of truckers.

The rates which the trucking industry sets for itself are put into effect automatically unless an aggrieved party goes to the expense of asking the ICC to intervene. John Snow of the Department of Transportation says of the truckers that, "They are in a situation that almost every industry would like to be in. They can sit down and veto the rates of their competitors."

Any trucker who tries to lower his rates finds that his position is almost impossible. Mr. Frazier reports of the example of the Poole Trucklines of Alabama. "When Poole told customers that it was reducing by 35 per cent its rate on hauling paper products," he writes, "the Southern Motor Carriers Rate Conference protested to the ICC that the action was 'unjust and unreasonable.' The commission agreed, forcing the firm to cancel its reduction."

Since 1970, the ICC has exacted more than $3 million from carriers and their customers through the courts for charging less than rate bureau fees.

It is high time that free enterprise be permitted to work in the trucking industry. Professor Thomas Gale Moore of Stanford University notes that when ICC regulations were removed from frozen vegetables in the 1950s, shipping rates dropped 20 per cent and more. He predicts savings of billions of dollars a year if all rates were to be set by the free market.

Unfortunately, the trucking industry and the Teamsters Union, which has 125 full-time staff members in Washington, D.C., profit by the regulations promulgated by the ICC. The regulators themselves seem to have a good deal to gain by their continued service to the trucking industry as well. Of the 14 commissioners who have left the ICC for new employment since 1958, 12 found jobs representing the industry they once controlled. The Nader report argues that job-switching between the ICC and the trucking industry has become so frequent that "deferred bribes" have become the norm.

It is not only with regard to trucking that the ICC has done serious harm to the interests of the public. Its activities relating to railroads have been equally damaging.

One dramatic example of the manner in which the ICC has caused significant harm by its interventionist policies may be seen by examining the case of the Rock Island Line, which currently is in serious financial difficulty. Its difficulties have been the result not of the failure of free enterprise, but of the refusal of government regulators to permit free enterprise to work.

Aware that it faced an untenable economic situation if it continued to operate on its own, the Rock Island Line petitioned the ICC in 1964 to approve a merger with the Union Pacific. After considering the matter for ten long years, through countless hearings and 200,000 pages of transcripts, the ICC finally granted "conditional" approval of the merger. It is estimated that it will take two to four more years to receive final ICC approval.

But, as the Rock Island waited, it encountered the economic failure which it had anticipated. During the past eight years it has lost money, including a record $22 million last year. Now, in a desperate effort to stay alive, the line, which has a 7,500 mile rail system and provides primary hauling for at least 185 companies in the St. Louis area, has asked its 10,000 employes to make voluntary loans to keep its trains running. It has also requested the U.S. Railway Association, the new federal planning organization created by the Railroad Reorganization Act, for a $100 million loan and has been turned down.

Discussing this situation, the *St. Louis Globe Democrat* editorially stated the following: "Think of it. Fifteen years to complete action on a merger of two railroads that shouldn't have taken more than a few months! Compared to the ICC, the three-toed sloth moves like a cheetah. If the ICC had been in existence when the West was being built by the railroads, the West would still be Indian country."

Rep. Brock Adams (Democrat-Washington) recently reviewed the classic case of the Southern Railway System. In 1961 this railroad came up with a new, 100-ton aluminum covered hopper car called Big John, an innovation intended to replace the old 50-ton wooden boxcar whose side doors made it hard to load and whose many cracks and crevices allowed rain and weevils to get in while large amounts of grain spilled out.

The new car developed by Southern conveniently loaded through the top and quickly unloaded by opening bottom hoppers, and was totally sealed from the elements. Its prospects were so good, in fact, that Southern petitioned the ICC for permission to lower its rate for hauling grain by 60 per cent.

The ICC, however, turned the request down, claiming it would be unfair competition for truck and barge lines. It took Southern four years of fighting in the courts—up to the Supreme Court itself—to force the ICC to allow it to exploit the advantages of the new car.

It would be possible to fill pages with examples of the manner in which the ICC has worked against the public interest. In 1973, to cite an additional case in point, the ICC issued an order forbidding railroads to carry more than 20 percent of the grain, which was then moving in huge amounts to the nation's ports, in highspeed 'unit trains,' which provide the most efficient method of transportation.

At that time, the ICC's reasoning was that these trains travel only on main lines and this would prevent country grain elevators from having their grain hauled.

When the irrationality of this order was discovered, the National Commission On Productivity asked the ICC if it had studied the possibility of using trucks to get grain from the country elevators to the main lines. The ICC replied that it had not. It said that its job was to protect shippers, not concern itself about the efficiency of the transportation system.

Adding all of this up, the *Globe-Democrat* declared that, "The list of the ICC's blunders could go on and on. Nearly everyone who has looked into its labyrinthian labors agrees that this tired old bungler should be cashiered. The ICC is a costly, paralyzing anachronism—a very heavy load on the transportation industry and the American public. It should be assigned to the scrap heap."

This, of course, is nothing new. According to a study by the Brookings Institution, the economic loss resulting from ICC regulation in 1968 alone ranged from a low of $3.78 billion to a high of $8.79 billion. While it is a story which many have understood for some time, there is now some hope that the flagrant abuses of the ICC, when considered in light of our current economic difficulties, will prove even less acceptable than they were in the past.

The latest annual report of the President's Council of Economic Advisers, notes that ICC regulation of the transportation industry allows exemptions from the anti-trust laws, presents serious barriers to entry into the trucking business and promotes costly inefficiencies in the railroad freight transportation, all of which are "inconsistent with an efficiently organized transport sector." One result of the present ICC regulations, according to the report: "windfall profits to more efficient truckers and higher prices to consumers." Another: the bankruptcy of numerous rail lines.

In precisely the same way in which the Interstate Commerce Commission and the Civil Aeronautics Board limit competition and serve the industries they are meant to regulate, rather than the public, so the Federal Communications Commission tends also to serve the regulated industry rather than the consuming public.

The Communications Act of 1934 which establishes the F.C.C. allows that body to restrict licensing, oversee programming, and strictly regulate pay-television. The regulations enforced by the F.C.C. maintain the monopoloy of the major television networks, and prohibit any real competition in this field.

These restrictions state that (1) No subscription television may exist unless four "free" stations already exist in a given area; (2) Subscription television cannot show series programs (e.g. "All In The Family"), movies which are two to ten years old, or sports which have been on "free" television in the last five years; and (3) Subscription television must show a certain amount of free programming.

The restrictions specifically deny subscription television, whether cable or over-the-air, the chance to compete with "free" television for popular programming. Perhaps even more important, they compromise our First Amendment rights. Freedom of speech and of the press seem not to apply equally to the electronic media and the printed media. In fact, the Department of Justice calls the FCC's jurisdiction over cable television "highly questionable," and states that some of its rules have "no reasonable basis." If changes were made in these arbitrary rules, it is certain that every community in the nation would have more choice with regard to television viewing. The result would be the kind of diversity which a free society should welcome.

Another major area in which added diversity is possible is that of frequency allocation. Under current regulations, the F.C.C. allocates stations on the basis of the Commission's own evaluation of the public interest. The result has been the scattering of stations in an inefficient manner so that only two areas, the Los Angeles and New York metropolitan areas, have six VHF stations while it is technically feasible for *every* community to do so. An entirely different, and more beneficial, result would occur if the free market, not a government agency, could restructure the distribution of frequencies.

There are many ways to correct the problem. One would be to auction all presently available television frequencies to the highest bidder. The industry, through the price system, would be allowed to decide how the frequencies should be distributed. Beyond this, the FCC should relinquish its control over cable television and permit the television industry to operate competitively.

It is clear that many interests would oppose such reforms as these. One of these, of course, is the National Association of Broadcasters, which has waged an expensive campaign against pay-television. So-called "free" television costs consumers $4.1 billion annually in advertising fees. Pay-television will only work if it provides the viewing audience with programming for which it is willing to pay. Obviously, as is the case with the airlines and the trucking industry, the television networks now in existence prefer a government-controlled monopoly to free competition. Again, only the public is the loser.

To correct the problems inherent in the conduct of the F.C.C., Senator William Brock has proposed an act to "de-regulate" television. Its main features include the following:

1. All remaining stations will be auctioned to the highest bidder over a reasonable period of time. Thus, we will at least use the available supply.

2. Ownership will be complete (no renewal licensing) and only misuse by obscenity, etc. will be grounds for losing one's license.

3. Sale of stations or even portions of a station's frequencies will not be restricted, provided the buyer is technically competent to operate a station.

4. Copyright privileges will be extended to cover television in the same way as written material. The rights may be sold or given to whomever the originator wishes.

5. Cable television will be freed of restrictions other than copyright and obscenity laws.

6. Subscription fees and/or advertising will be allowed for any over-the-air broadcasting.

7. To guard against future unnecessary intervention, the FCC direction to work for "public convenience, interest and necessity" will be interpreted only in the sense of technical quality.

Senator Brock's proposal should receive the serious consideration it deserves. The public interest, by any standard, is being served poorly by the FCC, although the major networks are being served well, since the FCC works to protect their own monopoly standing.

When the current chairman of the FCC, Richard E. Wiley, was asked to identify his major achievements during his year as chairman, he produced a list of 25 items, including final action on a long-standing case dealing with land mobile communications (mobile radios for business firms), conclusion of a four-years study of children's television and creation of task forces to cut down regulation of cable television.

Mr. Wiley conceded that the commission takes too long to decide cases. "People are concerned in this country about regulatory delay," he said. "If you get sent to hearing today, unless you're a rich guy it's almost like losing. It will take years." In fact, the hearing process at the F.C.C. commonly takes from two to six years.

What the federal government has done in this area, beginning with the Radio Act of 1927, is to nationalize the airwaves. In effect, the federal government has taken title to the ownership of all radio and television channels. It then proceeded to grant licenses for use of the channels to various privately owned stations.

Stations, since they receive the license grants, do not have to pay for the use of airwaves. Thus, the stations receive a significant form of subsidization, something which they, just as the truckers and airlines, seek to maintain. The federal government, as the licensor, asserts the right to regulate the stations in every aspect of their business, including editorial content. Over the head of each station is the threat of nonrenewal or suspension of its license. Freedom of speech on radio and television is, as a result, always questionable.

Contrasting the manner in which television and radio is controlled by the FCC with a similar form of hypothetical control over newspapers, Professor Murray Rothbard, in his important book, *For A New Liberty*, writes the following:

"What would we think, for example, if all newspapers were licensed, the licenses to be renewable by a Federal Press Commission, and with newspapers losing their licenses if they dare express an 'unfair' editorial opinion, or if they don't give full weight to public service announcements? . . . or consider if all book publishers had to be licensed and their licenses were not renewable if their book lists failed to suit a Federal Books Commission? . . . An abstract constitution guaranteeing 'freedom of the press' is meaningless in a socialist society. The point is that where the government owns all the newsprint, the paper, the presses, etc., the government—as owner—must decide how to allocate the newsprint and the paper, and what to print them on. The solution for radio and television? Simple: treat these media precisely the same way the press and book publishers are treated . . . the government should withdraw completely from any role or interference in all media of expression. In short, the federal government should denationalize the airwaves and give or sell the individual channels to private ownership."

If television stations became privately owned and independent, the large networks would no longer be in a position to put pressure upon the FCC to outlaw the competition of pay-television. Discussing the concept of "free television," which is advanced by the networks to defend their own monopoly position, Professor Rothbard points out that "free television" is not really free. He writes that, ". . . the programs are paid for by the advertisers, and the consumer pays by covering the advertising costs in the price of the product he buys . . . The television advertiser, for example, is always interested in (a) gaining the widest possible viewing market; and (b) in gaining those *particular* viewers who will be most susceptible to the message. Hence, the programs will all be geared to the lowest common denominator of the audience, and particularly to those viewers most susceptible to the message; that is, those viewers who do not read newspapers or magazines, so that the message will not duplicate the ads he sees there.

"As a result, free television programs tend to be unimaginative, bland, and uniform. Pay-television would mean that each program would search for its own market, and many specialized markets for specialized audiences would develop—just as highly lucrative specialized markets have developed in the magazine and book publishing field."

It should be clear to all those who will look objectively at the data that regulatory bodies such as the Civil Aeronautics Board, the Interstate Commerce Commission and the Federal Communications Commission serve not the *public* interest, in whose name they were created, but, instead, the very private interests they were intended to regulate—the truckers, the airlines, and the radio and television networks.

Just as government regulation *directly* harms the public in these fields, so a host of other government regulations, imposed by a number of different government agencies, harm the public in other ways—both directly and indirectly.

The fact that government regulations, even in those areas where some possible benefits may be found, cost the taxpayers billions of dollars each year is something which many Americans do not understand.

A study published in February, 1975, *Government Mandated Price Increases* by Professor Murray L. Weidenbaum of Washington University in St. Louis, details many examples of this situation.

Government regulations under the Occupational Safety and Health Administration, for example, require that any cuspidors on the premises be cleaned daily as well as that a lounge area adjacent to women's toilets in work facilities be provided. Professor Wiedenbaum notes that the public is generally unaware that "all government regulatory activities generate costs as well as benefits."

The study, published by the American Enterprise Institute, lists "29 major pieces of regulatory legislation which imposed nonproductive costs on business during the period 1962–1973." Dr. Weidenbaum states that, "There has been a shift to more, rather than less, government intervention and, if this reduces innovation and productivity, it's something to be concerned about."

One of the areas dealt with in the study is that of drugs. Regulations imposed by the Food and Drug Administration, according to the study, delay the introduction of effective drugs by approximately four years, leading to higher prices "on the order of $200 to $300 million a year."

Dr. Weidenbaum declares that, "A second managerial revolution is now under way—a silent bureaucratic revolution, in the course of which the locus of much of the decision making in the American corporation is shifting once again—from the professional management . . . to the vast cadre of government regulators."

The price of the typical new 1974 passenger automobile is about $320 higher than it would have been in the absence of federally mandated safety and environmental requirements. The same is true with regard to many other products. Professor Weidenbaum believes that attention should be focused on this route to inflation for two reasons: "(1) The government is constantly embarking on new and expanded programs which raise costs and prices in the private economy and (2) Neither government decision makers nor the public recognize the significance of these inflationary effects. Literally, the federal government is continually mandating more inflation via the regulations it promulgates. These actions of course are validated by an accommodating monetary policy."

Rather than burden the public treasury with the full cost of cleaning up environmental pollution—which would mean a Congressional vote for added expenditure—we now require private firms to devote additional resources to that purpose. Similarly, instead of spending federal funds to eliminate traffic hazards which, again, would require a vote by members of Congress for huge expenditures, we require motorists to purchase vehicles equipped with various safety features that appreciably increase the selling price.

Exactly the same is true with regard to the effect of regulations promulgated by such bodies as the Occupational Safety and Health Administration and the Consumer Safety Commission. Concerning these, Professor Weidenbaum notes that, ". . . every time OSHA imposes a more costly, albeit safer, method of production, the cost of the resultant product will necessarily tend to rise. Every time that the Consumer Safety Commission imposes a standard which is more costly to attain, some product costs will tend to rise. The same holds true for the actions of the Environmental Protection Agency, the Food and Drug Administration, and so forth."

While many believe that imposing costly regulations upon private business somehow aids the public without costing it anything, this is not the case. The higher prices which are paid by consumers throughout the American economy represent the "hidden tax" which is simply shifted from the taxpayer to the consumer. Dr. Weidenbaum concludes that, "As these government-mandated costs begin to visibly exceed the apparent benefits, it can be hoped that public pressures will mount on governmental regulators to moderate the increasingly stringent rules and regulations that they apply."

At present, for example, a mislabeled product that is declared an unacceptable hazard often must be destroyed. In the future, the producer or seller perhaps will only be required to relabel it correctly, a far less costly way of achieving the same objective.

In February, 1975, President Ford's Council of Economic Advisers called for substantial reductions of federal regulation in the transportation, natural gas and financial industries.

Concluding that existing controls by such agencies as the Interstate Commerce Commission and Civil Aeronautics Board are "imposing significant costs on the economy," the council advocated the formation of a national commission to study the question of regulatory reform.

"Precise estimates of the total costs of regulation are not available," the council said, "but existing evidence suggests that this may range up to 1 per cent of the Gross National Product, or approximately $66 per person per year."

The President's economic advisors stated that there has been a marked trend in recent years toward more rather than less government intervention in directing the operations of many companies. In the process, federal regulators have tended to protect those firms already in business at the expense of innovation and at increasing cost to consumers. To prevent bankruptcies, the council said, regulatory agencies "are thus prone to protect firms from competition—frequently to the detriment of efficient service."

As an example, the council cited the Civil Aeronautics Board, established in 1938. No major airline has gone bankrupt since then, although several airlines "at the brink of bankruptcy" have merged with stronger lines. Regulation by the CAB, said the council, has resulted in air service that is below optimum standards in both quality and price. With fares regulated in Washington, airlines tend to compete only on a basis of scheduling, over which the CAB has no control. The council declared that, "The result is 'excess capacity,' and efforts to raise the regulated fares in order to assure a return on investment greater than the industry's perceived cost of capital serve only to set the stage for further battles over how to fill all the empty seats."

In the current regulatory environment, the Council of Economic Advisers stated, the airlines have not earned windfall profits nor suffered dramatic losses, "but the traveling public has paid higher fares because of the regulation-induced excess capacity," developed at a time when the CAB encouraged more competition on many routes than there was business to support.

This excess capacity, the council argued, provides more frequent departures, less crowding and a better chance of getting seats on preferred flights, but at a value to the nation's economy "almost surely less than its cost."

In surface transportation, the council criticized the lack of challenges by the Interstate Commerce Commission to truck rates set by cartels that have anti-trust immunity. If the trucking industry could be opened up to new firms with free rate competition, said the council, the result would be lower shipping costs.

Railroads present the opposite problem—a lack of freedom to exit from the business. ICC regulation, the council concluded, has prevented rail firms from dropping unprofitable services that truck competition brought about and "impaired the overall financial position of the railroads."

For financial institutions, Mr. Ford's council said that more competition could be created by allowing thrift institutions, such as savings and loan associations, to issue checking accounts. An even more important reform would be elimination of regulatory agency control over interest rates that banks and savings institutions can pay to attract funds. In the field of natural gas, the council warned that over-regulation by the Federal Power Commission has led to shortages of supply—because the government has tried to control the price of a commodity too rigidly, thereby reducing incentives for industry efforts to find new producing wells.

The call for regulatory reform is now being heard across the country and many individuals and publications who once supported the concept of government regulation of various aspects of our economy are now admitting that such regulation has been a failure.

In an editorial entitled "The Need For Regulatory Review," the *Washington Post*, in its issue of February 10, 1975, notes that, "We suspect that much of this regulation no longer serves the purpose for which it was created and needs to be either eliminated or drastically changed. The ICC, for example, was created in 1887 primarily to protect the public against the monopoly power of the railroads. For a long time now, its primary role has been to protect the railroads against competition from other carriers of freight . . . the ICC may be a classic example of an agency that has outlived its useful life by several decades. As far as we can tell, only it and the industries over which it has jurisdiction defend the way in which surface transportation is now regulated."

The *Post* declares that, "The economic problem of this kind of regulation is staggering. There is a growing body of data that suggests it costs far more—not just to the government but in unnecessarily high prices for consumers—than the value of the benefits the regulation brings. The President's economic report says one study puts the costs of government regulation of the surface transportation industry alone at $4 billion to $9 billion a year."

Despite the temporary dislocations which an end to, or radical reform of, government regulatory agencies might entail, the *Washington Post* believes that this is the time to proceed. The *Post* concluded its editorial by stating that, ". . . this seems to us to be the time for Congress to get on with it. If it is true . . . that the hand of government regulation is now a major drag on the economy, and it certainly appears to be true in some areas, ways can be found to ease the transition of business back toward a less regulated situation. To do that, Congress may have to upset some of the theories that have dominated government policies for decades and will have to face up to some of the entrenched special interest groups. But we can think of few greater contributions this Congress could make to a proper celebration of the nation's Bicentennial than a full dress reappraisal of what government is doing in the way of regulating free enterprises and of why it is doing it."

The fact that the *Washington Post* and other liberal publications and legislators have now come to understand the regressive nature of our regulatory agencies, and the manner in which they work against rather than in behalf of the public interest is certainly to be welcomed. Hopefully, they will come to understand that such agencies are not accidentally negative but are inherently so. Unfortunately, some advocates of "regulatory reform" mean by this term not a return to the free market but, instead, the creation of new regulatory agencies to oversee the ones we have at the present time.

Those who advance this viewpoint should remember that government regulations, even before they are actually administered, have a negative effect upon the economy. One impact of federal regulation is what has become known as the "announcement effect." For some time, economists have pointed out the existence of this effect with regard to government spending or taxation. What happens is that potential government contractors may start preparing to bid on a project even before Congress has appropriated funds for it, or consumers may increase their expenditures while a tax cut is still being debated.

The role played by the Occupational Safety and Health Administration provides a case in point. In Illinois, the rumor that OSHA might impose more stringent standards for migrant worker housing caused strawberry farmers to reduce their production. The *St. Louis Post Dispatch* of June 11, 1974, quoted Lester Pitchford, the largest grower in the Centralia area, as stating that, "We don't know if OSHA is coming or not, but when it was even rumored, it put strawberry production out."

The basis for the concern in this case was the possibility that farmers would have to provide migrant workers with the same amenities as permanent workers—100 square feet of living space (the present state standard is 60 square feet), flush toilets and showers in each room. Some Illinois strawberry farmers concluded that the capital investment required could not be justified for a two-week harvest. According to James Mills, an official with the Illinois Department of Public Health, a basic problem is the lack of distinction under OSHA regulations between long-term and short-term migratory farm worker housing. Centralia farmers, he was quoted as saying, "just can't compete and, if OSHA puts the pressure on them, they'll get out of the migrant business completely and go strictly U-Pick," where consumers pick the fruit for their own use for a fee.

The very men and women meant to be helped by OSHA regulations such as this have been the ones most clearly hurt—by losing their jobs. All Americans are hurt by the higher prices they are forced to pay. Now, OSHA has assigned a social scientist to explore the idea of extending occupational health surveillance to management personnel, supposedly to consider psychological stress among executives. *NAM Reports* for July 29, 1974, indicates that the National Institute for Occupational Safety and Health has recommended that it test and certify all personal protective equipment, thus excluding competent private laboratories from the testing process. The institute's proposal also calls for an "absolute guarantee" that a product it had tested would not fail in the marketplace.

In the name of environmental control and safety, federally mandated costs average $320 per new automobile. With new car purchases totalling about 9 million for 1974, American motorists paid approximately $3 billion extra for the governmentally imposed requirements. In addition, the added weight and complexity of the mandated features have increased the operating costs of vehicles, particularly the fuel costs. The cost of the new catalytic converters that will be required on 1975 automobiles is estimated at $150 per vehicle. There is, in addition, recent information indicating that the converters are themselves failures, causing more problems than they correct.

It seems clear that government regulation of industry, particularly in the safety area, has been insensitive to the notion of discovering the least costly way of achieving objectives. Professor Roger L. Miller of the University of Washington has described the problem in these terms: "Now they seem to be insisting that Detroit should begin producing what amounts to overly expensive tanks without giving much thought to some alternatives that are just as effective, while less costly to society. Modification or removal of roadside hazards might eliminate as many as one quarter of all motor vehicle fatalities. Another 10 per cent or so occur when automobiles collide with bridge abutments, or with pier supports or overpasses."

In addition, 60 per cent of drivers in fatal, single car crashes are drunk, as are 50 per cent of the drivers at fault in fatal crashes involving two cars or more. Professor Miller asks the obvious question: "Why should the many who purchase autos end up paying for increased safety in order to prevent fatalities involving the drunken drivers?" He suggests that a far less expensive alternative might be more vigorous legal prosecution of drunken drivers and drunken pedestrians.

Whether we are discussing the Consumer Product Safety Commission, the Environmental Protection Agency, OSHA, the CAB, the ICC, the FCC, or any of the myriad of other governmental regulatory agencies we find a similar story—regulation in behalf of the public which, in the end, costs the public a great deal of money and does the public a significant amount of harm.

Only when the American people recognize that this is the inevitable result of government regulation will we begin to really solve the problem.

The regulatory agencies which we have at the present time are, in fact, remnants of the philosophy of the Progressive Movement, which dominated the American scene in the years from the turn of the century to U.S. entrance into World War I.

Discussing this movement in his book, *The Bewildered Society*, George Roche III writes that, "The Progressive Movement, which dominated the American scene in the years from the turn of the century to United States entrance into World War I, was not primarily a liberal movement . . . in contrast to former American efforts at reform, progressivism was based on a new philosophy, partly borrowed from Europe, which emphasized collective action through the instrumentality of the government."

Dr. Roche states that, "The new political theory of the Progressives borrowed most heavily from bureaucratic thought. The ideal was to achieve a professional staff of government workers who presided over the operations of society in an essentially nonpartisan manner. The old distinctions separating executive, legislative and judicial functions were now to be set aside in favor of 'the public man,' the leader who could take charge of a modern, highly specialized government. Constitutional interferences which stood in the way of this public man were regarded as anachronisms from a previous and less enlightened age."

What the Progressives seemed not to properly understand was that the more they used political authority to defend or restore individual values, the more they created a political and social condition which left steadily less room for the individual. Dr. Roche declares that, "The Progressives were bound to fail in their attempt to destroy a power monopoly by creating a power monopoly."

In 1912 Woodrow Wilson expressed the hope of the Progressives this way: "When we resist the concentration of power, we are resisting the powers of death, for concentrated power is what always precedes the destruction of human liberties." This is a sentiment with which Americans today should find themselves in agreement. Yet, today, the concentration of power which we face is in the hands of the very government to which the Progressives looked for an answer.

The effect of the regulatory agencies established initially during the Progressive era has not been to serve the public, but to serve the vested interests they were created to regulate. A number of historians have made it clear that the primary effect of the new regulatory agencies was to give dominant business groups a greater control over their respective economic interests than they had previously enjoyed. In fact, Professor Gabriel Kolko, in his volume, The Triumph Of Conservatism, insists that it was the dominant business groups themselves who shaped and promoted the "Progressive" reforms as a means of continuing their own dominance.

Professor Kolko writes that, "It is business control over politics (and by 'business' I mean the major economic interests) rather than political regulation of the economy that is the significant phenomenon of the Progressive era . . . Political capitalism is the utilization of political outlets to attain conditions of stability, predictability and security—to attain rationalization—in the economy."

In the Progressive era, government became an ally rather than a foe of entrenched interests, both those of big business and of the large labor unions. Political regulation of economic affairs proved to be designed in most cases by the very interests presumably to be regulated. That is why, when today we discuss the possibility of eliminating such agencies as the ICC, that the major defenders of this agency are the trucking industry and the Teamsters Union—the groups to be regulated who have turned that agency into one which pursues their own interests, and opposes the "public interest."

The classic symptoms of monopoly have been (1) An absence of price competition, and (2) An inability for new competitors to enter the marketplace. Nothing could be a more accurate description of a government-regulated industry. As we have already seen, agencies such as the FCC do nothing more than permit the already established giants in the communications field an absolute monopoly of the area by means of government licensure. The CAB does precisely the same thing for the airlines, and the same can be discovered in other regulated sectors of our economy.

Discussing this unfortunate situation, Professor Yale Brozen of the University of Chicago states that, "The regulatory agencies not only prevent those in the transportation industry from competing with each other—they also protect those in the industry from the entry of additional competitors. You cannot get into the trucking business, the airline business, the bus business as you would enter retailing or manufacturing. You must be certified by the CAB if you wish to enter the airline business. The CAB has not certified an additional scheduled airline in the continental United States since it began operating in 1938. The ICC will certify an additional common carrier truck company to operate on a given route only if it can be demonstrated that adequate truck service is not available on the route in question. The only major city in which you can start a taxi business simply by applying for a taxi license and demonstrating that you carry the necessary public liability insurance and have safe equipment and drivers is Washington, D.C. All other major cities stop any additional taxi operators from entering the business. They even prevent taxi operators from increasing the size of their fleets. Transportation regulation very effectively protects transportation companies from new competition and produces the exact opposite of the situation which our anti-monopoly laws were designed to produce in other industries."

Unfortunately, many businessmen prefer government regulation to the risks which must be taken in the free market. James M. Roche, writing in *The Michigan Business Review*, expresses the view that, "Business and government can ill afford to be adversaries. So mutual are our interests, so formidable are our challenges that our times demand our strengthened alliance. The success of each depends upon the other."

The old warning by economist Friedrich Hayek that socialism in its radical form was not nearly as dangerous a socialism in its conservative form is worthy of serious reconsideration. As George Roche has noted, "When the advocates of state power and the advocates of corporation bigness form an alliance, the resultant form, however conservative, is still socialistic."

While we may understand the reasons for business and labor to support the regulatory agencies which have grown up in the years since the Progressive era, there is no reason for those who are truly concerned with the public interest to do so. Only by permitting the free market to work, by eliminating government-created monopolies, can we give each citizen the opportunity to vote with his dollars for the goods and services he seeks.

The regulatory agencies as they exist today not only eliminate competition but, in that they give government total power over vital sectors of the economy, challenge the very concept of individual freedom as well.

This point was made by the distinguished economist Wilhelm Roepke, in his book, *The Social Crisis Of Our Time*: "An economic system, where each group entrenches itself more and more in a monopolist stronghold, abusing the power of the state for its special purposes, where prices and wages lose their mobility except in an upward direction, where no one wants to adhere to the reliable rules of the market any more, and where consequently nobody knows any longer whether tomorrow a new whim of the legislature will not upset all calculations, an economic system in which everyone wants to live exclusively at the expense of the community and in which the state's budget finally comes to about half of the national income: a system of this kind is not only bound to become unprofitable and thus bound to intensify the scramble for the reduced total profit, but it will moreover in the end suffer a complete breakdown. This is usually called the crisis of capitalism and is used as an occasion for new and revolutionary interventions which complete the ruin and corruption and finally present us with the inexorable choice of either returning to a reasonable and ethical market system or of plunging into the collectivist adventure."

The American society has the opportunity to turn away from its self-destructive policies of governmental regulation of the economy. The place to begin, many in Washington now believe, is with the abuses of the regulatory agencies, some of which have been discussed here. Unless we take these steps now, it may cost us much more to do so in the future. With our economy headed down, with unemployment and inflation mounting at the same time, we can ill afford the counter-productive role being played by regulatory agencies in Washington. Hopefully, an aroused society, carefully examining the available data, will come to this inevitable conclusion.

THE ZITELMAN SCOUT MUSEUM IN ROCKFORD, ILL.

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. ANDERSON of Illinois, Mr. Speaker, Rockford, Ill., heart of the 16th Congressional District, is the site of one of the two Scout museums located in the United States. The same building includes a museum, a meeting room, a film theater, a research library, and a trading post, all dedicated to the history and ideals of Scouting. Boy Scouts, Girl Scouts, Cub Scouts, and other Scouting organizations are represented.

The extensive collection on display was opened to the public in May of 1974. Hundreds of artifacts have been added to the thousands already collected, providing the visitor with hours of pleasure. Items of interest include all eight editions of the Boy Scout handbook, the golden eaglet badge from the Girl Scouts, a 1910 scoutmasters uniform, all five issues of eagle badges, a 1915 order of the arrow totem among other mementos of Scouting.

The museum is entirely supported by private donations, and is a testimony to the dedication and idealism of the Rockford citizens involved in the great adventure of Scouting. Helping young people grow into mature, resourceful, and self-sufficient citizens is their goal, and the Scouting Museum is a conspicuous reminder of the stirring history of the worldwide Scouting movement. Recently the museum received a contribution of a set of Scouting uniforms from Iran, and the supporters of the museum would be very interested in obtaining similar Scouting artifacts from across the Nation or from other foreign countries.

My colleagues and their constituents are cordially invited to visit our fine Scout Museum at 708 Seminary Street, the next time they have the pleasure of visiting the city of Rockford.

THE GIRL SCOUTS, U.S.A.

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. NATCHER. Mr. Speaker, no group is as highly held in the affection of the American public as our Girl Scouts—the Girl Scouts of the United States of America. Their national week begins this year on March 12 and I am sure my colleagues here today will want to join me in tribute to our country's largest organization for girls as they observe this annual event.

It has been 64 years since Juliette Gordon Low, a woman of extraordinary vision, founded Girl Scouting in the United States. An idealistic woman, yet a practical one, she believed in the ability of girls. Confident of their potential, she nurtured a movement that was to touch and influence girls in every corner of our Nation, from every segment of our population, and for every year that was to follow.

Mr. Speaker, we can look but will not find, any organization that wants more the realization of our national dream—the dream that has challenged us for two centuries now that life in this great country should be, and can be, good and worthwhile. No organization embraces loftier ideals and none is more aware of the trust we, as a people, were given by those stalwart men who met 200 years ago at Independence Hall.

Girl Scouts of the U.S.A. 1976. Frontier girls of the Western plains, 1876. Pioneer girls of our 13 colonies, 1776. Centuries apart they may be, but each a person of their time, each a product of their era. Each a daughter of our country, do we not find in them a common attribute? Do we not see in the Girl Scouts of the seventies the spiritual and ethical values of her foresisters? Do we see in the Girl Scouts today the same insight into what needs to be done? And is there not the uncommon ability to meet these needs?

The Girl Scouts we know are no less concerned for the future of their Nation and fellow man than were the girls who helped to carve our country from the dense forests and raw soil of the colonies. They are no less involved than those who endured the hardships of our westward movement and helped to expand our Nation until it reached from shore to shore.

Only the time and circumstances are different, Mr. Speaker. In 1976 the Girl

Scouts, as their contribution, are active in all types of community service. They seek to protect our environment. They work to conserve our national resources and strive for better understanding among all our people.

Resilient and determined, irrepressible and funloving, our Girl Scouts of the United States of America are one of our greatest assets. As they go now into their 65th year, I offer my best wishes and pledge them my continued support.

THE HIGH COST OF FEDERAL REGULATION

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. ASHBROOK. Mr. Speaker, almost 200 years ago this Nation was founded on a number of principles. One of the main ones was the concept of limited government.

The virtues of limited government seem to have been forgotten by many political leaders. Government bureaucracy has grown. Regulations stifle more and more aspects of life. Regulation by Government has taken on awesome dimensions. Proof of this can be seen in the regulatory agencies.

Federal agencies have steadily grown in number, in size, in complexity and in the number of regulations issued forth. Just stop and think a minute. There is the EPA, FCC, FPC, FTC, ICC, EEOC, OSHA, CAB, CPSE, FAA, and the SEC. And this is only a partial list. I am sure that if you gave a few more seconds thought, you easily could add another half dozen to the list.

Since first being elected to Congress I have opposed burdening the American taxpayer with unnecessary regulation. I have opposed those bills creating new agencies which in my opinion had more costs than benefits. It is heartening to see that others in Government are beginning to realize these problems.

In this Congress I offered an amendment and introduced legislation that would create a precedent to make agencies responsible for damages as a result of wrongful actions.

The costs of Federal regulation are astounding. It has been estimated that Government regulations and restrictions cost American consumers $130 billion or about an average of $2,000 per family.

Even some of the agencies doing the regulating admit that their agencies add more dollars to the price tags of goods and services. Last summer a special staff report of the Civil Aeronautics Board had this to say on airline fares:

> The present system of regulation causes higher than necessary costs and prices, which in turn suppress demand. The undesirable effects outweigh the benefits of such regulation.

Numerous "snafus" can and do result. One section of an agency can be ordering one action that another part of the same agency then outlaws. Or two different agencies can be working at cross-purposes: If a company follows one agency's regulations, it may soon find itself running afoul of another agency's rules.

Agencies even find themselves running afoul of their own regulations. Dr. Murray Weidenbaum, a respected economist, tells how the Consumer Product Safety Commission bought 80,000 buttons to encourage toy safety. The buttons were decorated with lead paint which can be lethal if licked by children. The Commission had to get rid of its own buttons.

Some regulations are ridiculous. Last year it was reported that OSHA had regulations covering spittoons.

Other agencies have run into problems with each other. The EPA restrictions on pesticides harm some Department of Agriculture programs to eradicate certain insects. A number of other examples exist.

Recent studies have also questioned the efficacy of much Federal regulation. Last year a study on "Regulation of Pharmaceutical Innovation" had the following to say on the 1962 drug amendments:

> Treated as a group, consumers seem clearly to have lost on balance from the amendments. Their annual gains and losses break down as follows:
>
> (1) missed benefits (consumer surplus) from the reduced flow of new drugs, producing a loss of $300–$400 million;
>
> (2) reduced waste on purchases of ineffective new drugs, producing a gain of under $100 million; and
>
> (3) higher prices for existing drugs because of reduced competition from new drugs, producing a loss of $50 million.
>
> These measurable effects add up to a net loss of $250 to $350 million, or about 6 percent of total drug sales. There are additional gains from the screening, through added testing, of especially unsafe new drugs from the market and additional losses from delay in marketing especially beneficial innovations. Since neither type has been proposed or marketed since 1962 and their probable incidence without the amendments is difficult to measure, the gains and losses must be conjectural. If an incidence of one of each type per decade is assumed, and the amendments are assumed to eliminate all especially unsafe drugs, the gain is well under $50 million and the loss about $200 million annually. The latter figure is conservative, given the rate at which unusually beneficial drugs were introduced before 1962 and the magnitude of existing major health problems.

Another study, completed in 1973, even questioned the regulation of advertising by the FTC. The author of the study wrote:

> On balance, one may doubt whether the benefits from the commission's efforts to prevent false advertising actually exceed the costs.

The great abundance of Government regulations harm the consumer and the businessman. When business is faced with the costs of meeting Government regulations, those costs are passed on to the consumer. The consumer pays for the regulations in two ways: In higher prices for products and more of his tax dollars going to pay for the bureaucracies necessary to carry out the regulations. It costs more than $4 billion a year to fund all the regulatory agencies.

Small businessmen also are harmed by the great amount of regulation. They have neither the staff nor the finances to be able to handle the great amount of regulations. The result is some are forced to close their doors. They are unable to compete with big business in various areas. This has been particularly true in the defense industry.

In the past several years 300 to 350 foundries have closed, many of which were smaller ones unable to meet Federal regulations. These closings resulted in more unemployment in those areas affected.

For too long Government regulation has been viewed as a positive force with little questioning of its costs and effects. It is necessary to find out what the costs and benefits of regulations are and by that yardstick determine which are needed.

The issue is clear. A number of proposals have been made and bills introduced by myself and others. It is up to the present congressional leadership to start taking action on these to give proof that the Congress is facing up to its responsibility in this whole area of overpowering and overcostly Government regulation.

CHARLES CARROLL OF CARROLLTON

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. BYRON. Mr. Speaker, there has been a great deal of publicity recently regarding various Revolutionary War heroes and signers of the Declaration of Independence. One of the most important signers was a distinguished citizen of Maryland, Charles Carroll of Carrollton, who laid his life and his fortune on the line in July 1776.

There have been several important displays in the Washington-Baltimore area in this Bicentennial Year regarding the life and works of Charles Carroll of Carrollton. I think, however, that it is important to remember that the appelation, "Charles Carroll of Carrollton," was a result of Mr. Carroll's estate in Frederick County, Md. This fact has not, perhaps, received adequate exposure.

Ellen Hart Smith's biography, Charles Carroll of Carrollton, states:

> Charles Carroll of Annapolis made over to his son Carrollton Manor, a large tract of land in Frederick County. He also put the entire estate at his disposal; but this manor was peculiarly the younger Carroll's own, and from it he took the title—Charles Carroll of Carrollton—which he needed at once to distinguish him from the flock of Charles Carrolls in and around Annapolis. Thus he signed his letters almost from the day of his arrival in Maryland.

Maryland and the Nation are justly proud of his contributions to American history. Charles Carroll of Carrollton risked the largest fortune in America to support the Revolution. He added his great intellectual talents and business skills to the benefit of the young struggling country he helped to found. His connections with Frederick County, Md., played an important part in the formulation of his life and his works.

INFLATION AND THE DEFENSE BUDGET

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. McDONALD of Georgia. Mr. Speaker, Mr. R. W. Komer recently wrote an excellent article for the Washington Post that appeared on January 6, 1976. The great critics of defense spending overlook the inflation factor, they overlook the "cost overruns" on cars and other consumer items, and they consistently overlook and underestimate the gigantic armed services of the Soviet Union. Since Mr. Komers article was published, the Central Intelligence Agency has been caught with its Soviet defense budget estimating pants down and now concedes that the Soviet Union has been spending a great deal more on defense than it was willing heretofore to concede. The critics also overlook the cost of manpower, now that we are "buying volunteers and abandoning the concept that service in the military is an obligation of citizenship. Mr. Komer's thoughtful article, as reproduced by the American Enterprise Institute News Digest of January 7, 1976, follows:

INFLATION AND THE DEFENSE BUDGET

(By R. W. Komer)

"In constant dollars, with inflation removed, our defense budget has been going down, not up. It is also way down as a percentage of GNP and as a percentage of the federal budget. The truth is we're spending a lot less, not more, for defense. While Hill critics keep talking of the 'record' FY 1976 defense budget request of almost $100 billion, the fact is that in constant dollars this is the lowest level of defense outlays since the pre-Korea Louis Johnson defense budget of FY 1950, which gave a signal some believe contributed to North Korea's decision to attack the South soon afterward.

"In a brilliant series of articles in Foreign Policy, unfortunately ignored by the rest of the media, Albert Wohlstetter lashed out at the way false mythology dominates the arms debate. He showed how such widely used rhetorical imagery as 'arms races,' 'steadily climbing defense budgets,' 'record defense spending' and the like obscure more than they reveal. Focusing primarily on the U.S. and Soviet strategic nuclear 'arms race,' he wondered how the United States at least could be regarded as racing, when its effort was declining rather than increasing in real terms.

"... Drawing on CIA analyses, [James] Schlesinger asserts that if U.S. spending on retirement pay is excluded, the U.S.S.R. is now spending almost 50 per cent more on defense than the United States. Comparative analyses of U.S. and Soviet defense spending are very difficult to make, depending as they do on complex ruble-dollar conversion ratios which can be quite misleading. We know all too little about Soviet defense costs; hence, we must do large extrapolations. Finally the two superpowers often spend their money on quite different things. But whatever the frailties of the analytic process, it is quite adequate for showing trends—and the Soviet trend is clearly up while ours is distinctly down. If there is an arms race, it is hard to see that we are running fast, as Wohlstetter brings out.

"This is not to say that the United States is now militarily inferior to the Soviet Union, especially in nuclear capabilities. Nor does Schlesinger even claim this. What worries him is rather that if this trend continues over time, the United States might find itself in a serious inferior position.

"Schlesinger's concerns have been poohpoohed by Sen. William Proxmire (D-Wis.), who trotted out some reservations by U.S. intelligence chiefs over the accuracy of the U.S.-U.S.S.R. budget comparisons in order to throw cold water on them as overstating the Soviet budget. But a close reading of CIA head William Colby's and DIA Chief Lt. Gen. Daniel Graham's testimony, reinforced by their subsequent assertions, shows that, on the contrary, both insist we have probably been understating it.

"It is often suggested that in calling attention to the growing disparity between U.S. and Soviet strength, Schlesinger has been opposed to detente, in contrast to Henry Kissinger. But as Stephen Rosenfeld of The Post points out, actually they agree on detente as a goal. The difference he sees is that Schlesinger has thought that 'the stick of a strong defense posture would more likely induce Soviet reasonableness'—on SALT as well as other issues.

"While we're on the subject of defense costs, it is well to look at another favorite whipping boy—cost overruns. As so often used, this term suggests that the military simply can't control costs. There's unquestionably too much gold plating and other waste in defense procurement, but it's not the crucial factor in cost overruns. Straight inflation is the biggest single cause. Moreover, as people like Rep. Les Aspin (D-Wis.) well know, the very term 'cost overrun,' with its connotation of the spendthrift military exceeding well conceived initial cost estimates, is a misnomer. Initial predevelopment estimates of what highly sophisticated and unique weapon systems might cost when produced 5–10 years later are a far cry from estimating whether next year's auto or TV models will cost 5 percent to 10 percent more to produce. In those frequent cases where novel advances in the state of the art are being undertaken, cost estimates cannot be more than educated guesses.

"Another characteristic of congressional and media analysis of defense outlays is that it tends to focus largely on expenditures to develop or procure high technology items, which take less than a quarter of the defense budget. There is little focus on manpower costs, which absorb well over half the budget, or operations and maintenance, which take the next biggest chunk. The fact is that more than three-fourths of the defense budget goes for maintaining the existing forces, without taking into account any outlays for new equipment or munitions. These costs have increased so much that the existing forces have had to be cut back sharply . . . the number of uniformed personnel has been reduced no less than 585,000 from the level in 1964, the last pre-Vietnam year. The number overseas is down about 250,000 over the same period. These facts are also relevant to how much security we are getting from the still enormous sums we spend for defense. But where do we find a cogent exposition of possible tradeoffs between force structure, readiness and modernization?

"My purpose is not to argue for higher defense spending—though I think a case could be made. It is to plead for more than superficial sloganeering and misleading rhetoric in the annual defense debate. How much is enough for national defense is a serious issue, on which the electorate is entitled to more illumination than it gets. We should not ignore inflation where it applies to the defense budget, while citing it constantly as a crucial cause of higher outlays in every other case. Nor should we cynically dismiss as just the usual budget-time propaganda those analyses showing the declining proportion of real resources being devoted to defense, or the growing gap between total U.S. versus U.S.S.R. military spending. These are by no means the only valid determinants of what constitutes prudent defense outlays. But they are not irrelevant. Hence Schlesinger was only doing what his job called for when he said the public must be informed about such trends. Apparently the administration found him too much of a Cassandra on this score, but as he remarked 'some years from now, somebody will raise the cuestion why were we not warned, and I want to be able to say, indeed, you were.'"

ARIZONA OLD-TIME FIDDLERS ASSOCIATION

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. STEIGER of Arizona. Mr. Speaker, when an 82-year-old fiddle player can get a standing ovation from an audience whose age averages less than half of his, it says a lot for the man and his music.

Mr. Horace Crandall, of Mesa, Ariz., was the recipient of such a tribute recently. It came toward the end of a 2½-hour performance by the Arizona Old-Time Fiddlers Association at the post theater at Fort Huachuca, a U.S. Army base in southern Arizona.

Mr. Crandall was one of several performing members of the association, a nonprofit organization dedicated to the preservation and advancement of traditional fiddling.

The fiddlers association was organized in 1974 in Payson, Ariz., and is growing in numbers and in stature. Membership is open to anyone, whether he plays fiddle or not, and I am proud to be a member of such an enthusiastic and civic-minded group.

Mr. Jay Belt of Phoenix is president and has done an outstanding job. Other officers are William Chilecost of Mesa, vice president; Linda Willet of Phoenix, secretary; Chuck Crabdree of Payson, treasurer; Viola Goodnow of Payson, membership secretary; Lyman Keeling of Apache Junction, publicity chairman; and Irv Phillips, editor. Board members are Sol Rudnick of Phoenix; Russell Burris of Mesa; Tom Wing of Payson; and H. B. "Mac" McCloud of Phoenix.

The performance at Fort Huachuca was the association's first attempt at a road show, and it was tremendously successful. Sixty members made the trip, and a second show was staged the following day at the Pinal County Fairground, between Casa Grande and Coolidge.

Many of the members do not read music, but can play traditional and modern tunes for 3 hours without repeating a song. Rules of the association prohibit the use of electrical or amplified instruments in contests, which are growing in popularity.

The fiddlers association is making significant contributions to Arizona's bicentennial observances and is also contributing its talents to civic and charitable endeavors.

The association's monthly magazine, the Arizona Fiddler, is one of the outstanding publications of its kind in the Nation.

JIM FARLEY SIZES UP THE PRESIDENTIAL RACE

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. MURPHY of New York. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following article by former Postmaster General James A. Farley, one of America's most distinguished public servants and beyond a doubt the foremost Democrat on the political scene during the last 50 years:

WILL 1976 BE A RERUN OF 1932?

(By James A. Farley)

The late John F. Kennedy once said, "Mothers may still want their favorite sons to grow up to be president, but they do not want them to become politicians in the process." JFK, a shrewd leader, was painfully aware that the word politician had come to have a double meaning to many Americans. Even current dictionaries recognize this.

On the one hand, a politician is somebody who's skilled in running a government. Politician can also mean someone whose interests are primarily selfish—personally or in a partisan sense.

Gerald Ford is a nice fellow. Personally I like him. But, I am afraid to say, he just doesn't seem to have the knack, the spark, the personality to get the country behind him.

I think Ford was weaned on small-town, midwestern conservative politics—that's all he ever practiced during his 25 years as a U.S. congressman—and he just doesn't seem to be able to represent any other constituency.

Herbert Hoover was the same way, you know. He was a fine man, an honorable man; he served the country well after he left office. He even had some pretty good ideas for getting the country out of the throes of the Great Depression during the latter days of his administration. But all his efforts seemed half-hearted. They didn't go far enough. He just couldn't convince the public, the working man, the farmer, that he was genuinely concerned about their plight. He was too remote, too distant, too old guard, as it were. I think Ford has the same image problem.

Now, you take FDR—well, he was a plutocrat. A country gentleman, raised in privilege. It wasn't easy for him to understand and empathize with laboring people. But as President, he achieved a remarkable metamorphosis. Roosevelt was determined to be the leader of *all* the people, and all the great social legislation of the first 100 days—during which time, in my view, he saved the economic order—was designed to be humane, principled, to save people's dignity.

The Public Works Administration, for instance, provided meaningful work. Thousands of idle hands were set to such tasks as building Boulder Dam, the Triborough Bridge in New York, a new sewage system for Chicago and the aircraft carriers Enterprise and Yorktown, as well as many airports, rural roads and new post offices.

The Works Progress Administration set musicians to work making music, artists to painting pictures, actors to acting and writers to turning out books. The results were free concerts, courthouse murals, performances of Shakespeare and a marvelous series of guides and folklore collections for every state in the union.

The C.C.C. civilian work camps sent young men out on reforestation and fire-prevention projects, and so forth, in exchange for board, lodging, recreation and a small monthly stipend. Sure, a part of this might have been leaf-raking, as some critics called it, but it took idle young men off the city streets and away from rural porches and provided meaningful tasks.

These things, the W.P.A., the P.W.A., the C.C.C., did not in and of themselves solve the depression woes, but they helped raise people's morale, they got people believing in America again. Depressed spirits began to soar with new hope. Instead of just collecting a check and sitting around moping, men and women were able to use their skills, their energy, their creativity.

Sure, I know today is different from the '30s. Maybe we have all the bridges, all the dams, all the roads we need. But there are other huge tasks that need doing. What about cleaning up the environment, flood reclamation, new energy plants? Why doesn't Ford create public service programs in these areas for some of the unemployed? I'll tell you why, because he views those eight or nine million out of work as statistics, not people.

In 1930, when one-fourth of all Americans were without jobs, FDR said, "America calls for government with a soul. Unemployment is a problem of the entire community . . . it is a social tragedy." I don't think the Ford administration has evidenced much commitment in getting people back to work. How can people trust or have faith in a government which doesn't move, which doesn't act?

Speaking as a political animal—which I am—I see the White House role today as one of creating policy, bread-and-butter programs to put Americans back to work. Finding employment for idle auto workers, construction laborers and white collar professionals, that's where the challenge is now. If FDR were around today, he would call in all the legislative leaders and give them hell. He would hold up every patronage job and pork barrel project in the country until Congress acted.

But what do we have instead? Ford and government economists arguing that high unemployment is the price we have to pay for curbing inflation. Rot. Try and sell that to a man with a wife, kids and a mortgage. This country is rich enough to give everyone a decent share of the pie.

They said that the depression proved that the capitalistic system doesn't work. At least that was what a lot of economists said in the 1930s. But we licked the depression, created dignity for the working class and brought millions of American families out of the doldrums and provided them with comfort and security.

And we did all this by giving people the social reforms that were needed, unemployment insurance, bank-deposit insurance, the minimum wage, government old-age pensions, stock market regulations, guaranteed collective bargaining, low-cost housing and farm subsidies.

In fact, I don't think it would be an exaggeration to say that these social reforms are what's keeping the country afloat today. It has become popular to knock the New Deal, to say that now people have come to expect the government to solve all their problems. Well, I say that *only* the federal authorities have the capacity to permanently change the country for the better.

The New Deal may have had its shortcomings. Some programs failed. Some cost too much. Some good ideas were badly administered. But we left a legacy that is serving the country well. Under the conservative Ford administration there is a moratorium on new government programs. There is a paring down of public service jobs. We are reducing federal services to the poor.

We are turning our backs on the problems of the cities. We are stifling social and humane legislation but spending more on defense appropriations. Can anyone truthfully say that such policies will build a better and more equitable society? I think not. The country cannot rally behind such negative strictures, such callous indifference to the needs of the masses.

The concept that aroused the greatest public support for FDR's programs was the National Industrial Recovery Act of 1933. It permitted industry to make price agreements and fix production quotas, subject to government approval.

It also required fair practice codes that would raise wages, improve working conditions and, for the first time, guarantee collective bargaining. Although it was knocked down by the Supreme Court, it left a lasting mark on industrial labor relations. Perhaps more important—at the time—because it promised a new sense of fairness and equity in the marketplace, it mobilized the support of millions, employers and employees alike. For a time, the Blue Eagle was more on display than the flag. *We Do Our Part* became the motto of the day.

Compare this with President Ford's disastrous WIN program. NRA was a needed gut reform measure backed by a dedicated federal authority. It promised that every man's concern was the government's concern. WIN, on the other hand, was a public relations gimmick, a plea for support by a President without any clearly defined objectives.

Sometimes I think that the public has become more sophisticated than its leaders. They are certainly savvy enough to know the difference between a strategy and a stratagem, between a meaningful concept and a slogan.

Politics today are different than they were in my day. Leaders stood for something back in the '30s and '40s. Even the much maligned political bosses; they may have had their cronies, made deals, even clipped the public purse a little, but they stayed home and grappled with the issues.

Look at Ford, constantly barnstorming the country, running for re-election a year ahead, adopting a conservative stripe one day in one place, a middle-of-the-road position another day in another place. He seems to have forgotten that those he campaigned for in 1974 mostly lost, including the candidate in his own home district. Is it any wonder the public is turned off politics and politicians? Is this all they can expect from the nation's chief executive—a traveling circus—during the present crunch?

Ford's Cabinet—after Butz, Simon, I can't even name them. What are their nostrums for dealing with inflation, recession, the energy crisis? I tell you, Roosevelt had a genius for picking talented aides, people like Frances Perkins, Harold Ickes, Cordell Hull, Henry Morgenthau, Jr. Every one of them contributed to the flood of New Deal innovations. Roosevelt wouldn't tolerate yes men, hacks. He demanded, and got new formulas for vexing issues.

Then there was the so-called Brain Trust, outstanding individuals like Raymond Moley, Rex Tugwell, Adolph Berle, Judge Sam Rosenman, Hugh Johnson. They hadn't any government background, and they were immediately labeled "starry-eyed visionaries" and "crackpot reformers." What isn't so well known today is that most of the concepts they worked on were incubated in New York State by FDR, Al Smith and Bob Wagner.

The Brain Trust were from academia, they were not pols, but they were zealous, confident men who, when given their heads by Roosevelt, did devise fresh pathways through the economic underbrush. Far from being idle dreamers, they were pragmatic men who created solid ground for the needy, the poor, the disenfranchised to stand on.

Despite today's problems, the Republicans will have a chance to go to the voters for another mandate in 1976, but I don't think they'll get it. The Democrats have an excellent chance to regain the White House. The key is party unity no split between reformers and regulars. If Ted Kennedy and Gene McCarthy had given more help to Humphrey in 1968, we could have beaten Nixon. I think either Humphrey or Muskie would be the strongest consensus candidates. Labor likes them, and bread-and-butter issues should dominate the campaign.

When the Democratic Convention opens at Madison Square Garden next summer, I am hoping to be appointed a delegate-at-large from New York. If that happens, I'll be there when the gavel comes down. There are always delegates coming to me for advice, and I'll be around to give it—as I've done for 50 years.

PROTECTING AMERICAN JOBS IN THE SPECIALTY STEEL INDUSTRY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. ASHBROOK. Mr. Speaker, since first being elected to Congress I have sought to protect basic American interests. One of the most basic is American jobs.

A number of American industries have seen their domestic markets shrink because of foreign imports. The result has been a loss to American workers and business.

In particular, the specialty steel industry has been hard hit on a double front. Last fall liberals in the Congress once again attempted to reimpose the ban on Rhodesian chrome which is used in the manufacture of American specialty steels. We were successful in fighting off this attempt.

If it had been successful, this country would have become dependent on Soviet chrome at higher prices. The result would have been less American jobs—right here in our own 17th Congressional District in such places as Mansfield and Coshocton. As I previously stated, the American specialty steelworker has also been under attack from unfair foreign competition. In the words of the U.S. International Trade Commission's report, foreign imports were "a substantial cause of serious injury to the domestic industry."

What is happening is all too painfully clear. The American specialty steel industry has been faced with high unemployment. At least part of the blame can be placed at foreign producers.

Foreign countries have exported their unemployment to this country. It is estimated that more than 70 percent of the world's steel capacity is either government-owned or heavily subsidized. Foreign competitors are often subsidized by their governments. They do not have to worry about their economic balance sheet as American companies do. In simple language, these foreign countries are engaged in dumping their products on the American market at artificially low prices.

Once again in this area we see the double standard. While American companies are prohibited from such practices in this country and in foreign countries, foreign countries can get away with them. While other countries feel free to restrict American products in their own lands, they bitterly oppose being treated the same way in this country. It is long past time that this country should put up with such practices which rob American workers of their jobs.

I urge the President to support the recommendations of the International Trade Commission. Those recommendations are, at least, a step in the right direction.

ARMS SALES CEILING SUPPORTED

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. BONKER. Mr. Speaker, surely one of the more important components of the House bill on security assistance that we will be taking up shortly concerns the matter of arms sales. The House Committee on International Relations, of which I am a member, has recommended extending the Nelson amendment—which permits disapproval by concurrent resolution of certain proposed arms sales—so as to cover all arms sales. Reporting requirements would be tightened and broadened. But above all, the House bill would set a ceiling on the total amount of arms sales that our Government or commercial concerns may transact.

I am proud to have cosponsored this measure during committee markup. Unfortunately, arms sales could still amount to an exorbitant $9 billion—last year's level—but it would certainly be an improvement, and hopefully just a first step.

I want to commend to the attention of my colleagues an editorial in yesterday's New York Times supporting this position:

CUTTING ARMS SALES

> The shameful expansion of American arms sales abroad from less than $1 billion in 1970 to an estimated $12 billion in the fiscal year ending next June raises political and moral issues neither the Administration nor the Congress can ignore.
>
> The United States has become the munitions king of the world, selling to virtually all non-Communist buyers. With profits and the balance of payments the chief guide, the United States now sells more arms abroad than all other countries combined. It also has become a major supplier of both sides in both of the Mideast's dangerous arms races—that between the Arabs and Israelis and that between Iran and the Arab states bordering the Persian Gulf.
>
> In the past, arms grants were under the control of Congress, which had to vote the funds, and the Administration limited shipments primarily to allies and to other areas where American foreign policy and security interests were felt to be at stake. Later, Congressional opposition reduced arms gifts to the vanishing point. But cash sales, essentially out of control, soared to levels many times higher than the gift shipments Congress found objectionable.
>
> A little over a year ago, under the Nelson Amendment, the Congress asserted the right of prior review and veto over the bulk of American arms sales abroad, which have tripled since 1973. But arms sales continued to rise. Congress exercised its veto power only once, in the projected sale of Hawk anti-aircraft missiles to Jordan. The more extensive review authority voted by the Senate last week in the new Arms Export Control Act is also likely to be insufficient.
>
> A more effective way for Congress to reduce participation in the arms trade by the United States is to impose a ceiling on export licenses. The version of the Senate bill approved last week by the House International Relations Committee would do just that. It would limit the yearly transfer of American-made weapons to foreign countries to $9 billion. That figure is still far too high, but it is a beginning toward sanity.
>
> A statutory limit would force the Administration to request Congressional authorization if it wants to go above the ceiling, something that either house then could block. Under the present law and the new Senate bill, both houses of Congress have to pass a concurrent resolution to veto any individual arms contract. That is difficult to achieve, except in unusual circumstances. But with an overall ceiling, this capability might prove sufficient.
>
> At present, Congress must act within twenty days to veto an arms sale. The Senate's new bill would extend Congress's veto power, hitherto limited to government-to-government transactions, to commercial arms sales, which reportedly have tripled to $2 billion in the past year as a result of efforts to avoid Congressional review. It would permit Congress, as well as the President, to veto the resale of American arms to third countries by the original recipients. And it may impede bribery in weapons deals abroad by requiring all gifts, fees and commissions paid in connection with overseas weapons sales to be reported to the State Department and Congress.
>
> All these reforms are badly needed, and so is the ceiling voted by the House committee.

NATIONAL FFA WEEK

HON. EDWARD MEZVINSKY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. MEZVINSKY. Mr. Speaker, this week has been chosen National Future Farmers of America Week. This is an altogether fitting tribute for a fine organization.

FFA members learn by doing—whether it is practical work experience, competitive livestock judging, or learning how to take a leadership role in the community. They perform all the tasks that they can expect as farmers in an increasingly sophisticated agricultural environment.

Iowa's program has been outstanding,

a fact that is underscored by its growth. Now in its 48th year, Iowa FFA membership has surpassed 13,000.

I commend the FFA and their contribution to the goals of their theme—a future for America.

SENATOR CHURCH SAYS HE IS ABOUT TO ANNOUNCE HIS CANDIDACY FOR PRESIDENT

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. WYDLER. Mr. Speaker, Senator Frank Church says he is about to announce his candidacy for Democratic candidate for President. There are so many such potential candidates that he is lost in the crowd. Many of these potentials are Senators, but Church alone seems to be basing his candidacy on his unrelenting, headline-seeking investigation of our country's CIA and other security agencies and his destructive exposure of American business interests overseas.

It is true that not much of this impresses the public unless it makes a daily headline. Otherwise, it is quickly forgotten. But the effects of this could have dramatic effects on our economy—not only on our Nation's economic health in general, but on the loss of thousands of jobs on Long Island and the destruction of our aerospace business.

The Church committee, having bruised and battered the intelligence community, has turned to attack the business community and its overseas operations.

In the manner in which it has operated in pointing out payments made by U.S. companies overseas, the committee has sent a number of friendly governments reeling and will likely cause the collapse of more than one. The successor governments will surely be unfriendly to us. Some large American companies have been adversely affected and a few face possible bankruptcy.

The charges concern the payment of money by American concerns to persons in the countries where the American firms are doing business.

Some of these payments are legal and proper. Some may not be. But the present procedure of lumping the good and bad together is a smear on the business community that can only hurt our country.

The payments made must be judged by the laws of the country in which they are made. If a foreign country requires a domestic partnership, there is no reason for our businessmen to leave the business to other nations.

We have found that we cannot force other nations to adopt our form of democracy, and we cannot force others to abide by our business laws or customs.

The classic case is Grumman. It has been accused of "something" and its contracts with Iran are in danger as a result. The fact that it has flatly stated that "all Grumman actions have been legal and that a U.S. audit has found proper the payments to representatives" is ignored.

Grumman did use brokers in arranging the sales of F–14's to Iran. These were proper arrangements and similar to arrangements the company made elsewhere in the world. It is a form of commission agreement that most Long Islanders would recognize as similar to paying a broker's commission on the sale of a house.

The result of the publicity could be the cancellation of contracts, the loss of hundreds of millions of dollars to Grumman, the loss of thousands of jobs on Long Island and a disaster for the Long Island economy.

All so that Frank Church can run for President? Would not the better way be to turn over any evidence of wrong-doing to the Attorney General for prosecution? Or informing the Defense Department to recover any funds that were improperly paid? Perhaps, but that apparently is not the stuff on which Presidential campaigns are based.

An appropriate cartoon for this Bicentennial Year would be Senator Church banging Uncle Sam over the head with a hammer marked "Senate Committee" and the caption being Uncle Sam saying: "I wonder why I don't feel so good?"

SECOND WORLD CONFERENCE ON SOVIET JEWRY

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. DRINAN. Mr. Speaker, I was honored to be a participant in the Second World Conference on Soviet Jewry held in Brussels on February 17–19 .

I would like to share with my colleagues some of my reflections on this historic gathering:

REMARKS BY ROBERT F. DRINAN

As the chartered flight with 180 Americans made its final approach through gray, leaden skies and landed at Brussels, the intense and immense security forces became apparent to everyone. Heavily armed soldiers and groups of police officers surrounded the plane and the buses waiting for its passengers. I felt acutely at that moment the fear and anger which inevitably arises in the heart of any Jew who attends an international conference where almost certainly there will be the presence or the threat of violence by Arab demonstrators or the Palestine Liberation Organization (PLO). Many reports had circulated in Brussels for several weeks that the PLO would have a counter-conference during the dates of February 17–19 when more than 1200 Jews from 34 nations attended the Second World Conference on Soviet Jewry. The PLO group did not materialize but announced that they had postponed their "conference" until the spring.

The participants in the Brussels conference will have indelibly on their minds some unforgettable vignettes of the moving events of this global gathering. I recall at one supper a four year old boy whose father is a Russian refusenik and whose mother came from Israel with little Jacob to plead for freedom for her husband, whom she left more than two years ago with the hope and expectation that Soviet officials would allow him to follow her to Jerusalem.

I remember also the beautiful 72 year old mother-in-law of Vladimir Slepak. I had met this dear lady in Israel in August, 1975. She came sick and alone to Israel leaving her married children in their native Russia, whose government has consistently denied them the right to emigrate. This valiant woman's plea to the Brussels conference for the relief of her children reminded some observers of Rachel and caused almost every listener to shed tears.

I remember the dynamic Stanley H. Lowell, the Chairman of the U.S. National Conference on Soviet Jewry, speaking to the 400 American delegates on the first morning of the conference, reminding them that it was the First Brussels Conference precisely five years ago that was the direct and to some extent the exclusive reason why 115,000 Soviet Jews have been able to emigrate from Russia since that time.

One could go on enumerating all of the dramatic, moving and unforgettable scenes and experiences of Brussels II. But the presence of some 40 Christians at Brussels II should not be omitted. At Brussels I, a deliberate decision was taken to make that gathering an all-Jewish meeting. The Christians who were invited to Brussels II composed and issued a statement of solidarity and support which reinforced the compelling statement made by the 1500 delegates on the last day of the conference. One can hope that the Christian presence at Brussels II is a foreshadowing of another more intense Christian-Jewish involvement in Soviet Jewry.

I would like to report on the three issues that dominated Brussels II—(1) the success which the conference has already had. (2) the implications of the Helsinki agreement of August 1, 1975, signed by Russia, the United States and 33 other nations, and (3) the future of the Jackson-Vanik Amendment as a technique to accelerate the emigration of Russian Jews.

BRUSSELS II IS ALREADY A SUCCESS

On February 20, the day after Brussels II ended, the Soviet Union published a 4,000-word article in the Communist paper, Pravda, seeking to justify the Kremlin's performance on human rights. The highly authoritative article sought to refute the charges of the Communist parties in Italy, France and Britain that the repression in the Soviet Union is a reflection of the Marxist concept of the "dictatorship of the proletariat".

The editorial in Pravda talked about the hitherto unmentionable trials of political dissidents and their commitment to mental hospitals without medical cause.

Pravda sought to reject all these allegations as slanderous and reasserted once again the canard that 98.4 percent of those who asked to emigrate between 1970 and 1975 had been allowed to leave.

Another indication of the growing sensitivity of the Kremlin to the charges of repression in the USSR can be seen in the recent slight reduction of the cost of exit visas. Another indication is the announcement in Moscow that 18 Western newspapers will be available in Russia; only a token number of copies has as yet been reported, but at least Russia is conscious of the obligation imposed by the Helsinki agreement to permit freedom of access to all types of information.

Just before the Brussels conference, Russian officials granted a number of visas to Soviet Jews. One individual with whom I spent an evening in August, 1975 in Moscow, Dr. Alexander Luntz, was finally given permission to leave. Soviet authorities undoubtedly knew that further agitation about Dr. Luntz would have been made by myself and others at the Brussels conference. It may be, of course, that the KGB, whose agents pursued Dr. Luntz relentlessly, may have recommended his departure, since he was a natural leader who brought remarkable unity and spirit to the 180 Moscow refuseniks.

The deep concern of the Kremlin over the adverse impact on Russia of the publicity coming out of Brussels II prompted Soviet officials to stage a press conference a few days before Brussels opened, at which seven Soviet Jews who had journeyed to Israel proclaimed to the world that they had made a mistake and were delighted to be back in Moscow.

The consensus at Brussels was that these seven individuals were "plants" and had in all probability emigrated to Israel with instructions by the USSR to collect information on the unfavorable aspects of Israeli life with a view to publicizing these after their planned return to Moscow. Elie Wiesel movingly stated at Brussels that one of the most heinous things which a totalitarian government can do is to force Jews to tell mistruths about their fellow Jews.

Despite the signs, however, that Brussels II has had some impact, the dim fact remains that according to the best estimates, 165,000 Soviet Jews are waiting for visas. Israel has extended 285,000 invitations to Russian Jews. The reduction in the number of exit permits has been drastic; from 33,000 in 1973, the number was reduced to 20,000 in 1974 and to 13,000 in 1975.

The forthcoming 25th Congress of the Soviet Communist Party has been reminded dramatically that close to one-fourth of all of the Jews of the world reside in Russia.

The question kept recurring at Brussels why Russia, with one-sixth of the earth's surface and a country of 250 million people speaking 100 different ethnic tongues, with an economy that produces more coal, oil, cement, and steel than the United States, must in the 59th year of Communist rule insist that the three million Soviet Jews cannot be allowed to emigrate to the unique nation of Israel.

Soviet officials can be proud of what they have achieved in Russia since November 7, 1917. They have transformed the most backward nation in Europe to a super-power. Will they now understand that there is no need to deny the right to emigrate to Soviet Jews who constitute less than one percent of the total population of the USSR?

THE PROMISE AND POTENTIAL OF THE HELSINKI AGREEMENT

When President Ford spoke to the world in Helsinki on August 1, 1975, he bluntly reminded the Russians that "history will judge this conference not by what we say today, but what we do tomorrow—not by the promises we make but by the promises we keep".

Russia and the 34 other signatories agreed to "act in conformity with the purposes and principles of . . . the universal declaration of human rights". That universal declaration states in Article 13–2 that "everyone has the right to leave any country, including his own, and return to his country".

Although it is true that the Helsinki document is not a treaty in the formal sense, it is, nonetheless, a solemn declaration of intent in which the participating states promised, for example, that they "will respect, recognize, promote . . ." the provisions of the agreement. One of the last sections of the Helsinki declaration states, moreover, that "all the principles . . . are of primary significance and, accordingly, they will be equally and unreservedly applied, each of them being interpreted taking into account the others".

At Helsinki, Leonid Brezhnev, himself, stated that the principles of the document must be "made a law of international life, not to be breached by anyone". In a speech in Warsaw subsequent to the signing of the Helsinki agreement, Brezhnev criticized those who "pick out little bits and pieces" of the Helsinki agreement which happen to be "tactically convenient" to various states.

The participating states agreed in the Helsinki document to implement the provisions of the agreement through unilateral, bilateral and multilateral action. Although no formal mechanism for supervision or enforcement exists until after the next meeting of the 35 nations in Belgrade in 1977, each state at this time is free to adopt its own method of monitoring the implementation.

I am happy to say that I am a cosponsor of a bill in the House of Representatives (H.R. 9466) that provides for the establishment of an appropriate watchdog committee.

The sentiment at the Brussels conference was not to wait for the meeting next year in Belgrade before seeking to monitor and to implement the provisions of the Helsinki covenant. The Soviets obtained in the Helsinki document the legitimization of the geographical boundaries of Eastern nations—an objective sought for many years by the Kremlin. But these provisions are inseparable from the guarantee of the right to emigrate, which the USSR also agreed to. It must continuously be pointed out, therefore, to the Soviets and to the entire world that detente, which motivated the Western nations to validate the boundaries of Eastern European countries, will be seriously jeopardized if the Soviets continue to defy the important humanitarian measures to which they committed themselves at Helsinki.

Mr. Brezhnev, in other words, should be reminded regularly of the following statement which he made at Helsinki:

"We assume that all countries represented at the conference will implement the undertakings reached. As regards the Soviet Union, it will act precisely in this manner."

Brussels II was a pageant, a great drama, and a spectacle for the world. But underlying all of the drama was an exhaustive discussion in countless workshops of the several immensely important implications of the Helsinki agreement. The people of the world will always be grateful to Brussels II because almost for the first time it focused global attention on the plight of Soviet Jews. The world will always be grateful for Brussels II because it was the first worldwide conference which alerted humanity to the possibility that the agreement reached by 35 nations on August 1, 1975 might possibly be as important as the Magna Charta or the American Bill of Rights.

SHOULD THE JACKSON-VANIK AMENDMENT BE MODIFIED?

In a press conference after a brilliant address to the Brussels conference, Senator Frank Church stated that the Jackson Amendment, designed to force increased emigration by Soviet Jews, had been a mistake. Senator Church noted that the adverse Soviet reaction to the Jackson-Vanik Amendment had cut down on Jewish emigration. There was, however, no unanimity on this question at Brussels. Mr. Stanley H. Lowell, the Chairman of the U.S. National Conference on Soviet Jewry, stated in his address that "there are those who say that the Jackson Amendment was counter-productive". Mr. Lowell then goes on to state that: "But the history of the last 50 years, and of mankind from the beginning of recorded time, demonstrates that one must stand strong to achieve results". Indeed, Senator Frank Church, himself, cited an excellent example where the U.S. stood firm against discrimination in Russia and won. In 1911, the United States abrogated a potentially lucrative U.S.-Russian trade accord because the Czarist Russian government refused to grant visas to American Jews.

Any modification of the Jackson-Vanik Amendment appears to be most unlikely at this time. Only a plausible alternative to the approach followed in the Jackson Amendment could win the votes of the U.S. Congress.

One proposal put forth before and at Brussels is the repeal or modification of the congressionally imposed ceiling of $300 million in credits to Russia through the Export-Import Bank. The Senate added this Stevenson-Packwood Amendment in order to give the Congress some control over the amount of subsidized trade that would be available to Russia. The limitation was designed to support and supplement the Jackson Amendment rather than to supplant it. Understandably, the USSR looks upon the $300 million ceiling as a discrimination against Russia and as an insult to a super-power. When I was in Moscow in August, 1975, the hostility of highly-placed Russian officials to this limitation was vehement.

Brussels II ended on what appeared to many as an uncertain note. No specific strategy was agreed upon by the conferees or the eight sponsoring organizations. Clearly, the delegates at Brussels were uneasy about detente; every unfavorable reference to detente brought enthusiastic applause. But dissatisfaction with detente does not automatically produce a more promising alternative.

But if Brussels II ended without any great list of strategies to emancipate Soviet Jews, the determination to bring about this objective was deepened and intensified.

The finale of the World Conference on Soviet Jewry heard these dramatic words by Golda Meir:

"We cannot accept that teaching Hebrew is counter-revolutionary. We cannot accept that three million Jews have no right to have a theater, have no newspaper. The second greatest power in the world—what are you gaining from this policy?"

The former Israeli Prime Minister concluded:

"We just refuse to disappear. No matter how strong and brutal and ruthless the forces against us may be—here we are. Millions of bodies broken, buried alive, burned to death. But never has anyone been able to succeed in breaking the spirit of our people."

Mrs. Meir's dramatic words were echoed in the final declaration of Brussels II. The statement was a call to action as well as a warning to all of humanity. The declaration said in part:

"We call on all men and women of conscience, and all governments cherishing humanitarian ideals, to speak out on behalf of Jews in the USSR. We have the right and duty to say to them, a generation after the holocaust, that they dare not remain silent in the face of renewed threats confronting the Jewish people. History has taught that these threats imperil human rights everywhere."

The influence and impact of Brussels II have hardly yet begun. There is reason to hope that the Brussels conference in 1976 may have dramatized those moral principles from which the liberation of Soviet Jews can be brought about within the near future.

ESTONIAN INDEPENDENCE DAY

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. MINISH. Mr. Speaker, February 24, 1976, was the 58th anniversary of Estonian Independence Day. Commemoration of this event is marked by sobriety for, as we know, Estonian freedom was short lived. As Americans begin their Bicentennial celebration, I urge them to reflect upon the Estonian experience.

The size of Estonia's land area is in sharp contrast to the immense spirit possessed by her countrymen. Since June

17, 1940, the indigenous people have continued to preserve their national identity. Courage and patience have and will withstand political oppression, economic exploitation, religious persecution, Russification, and the destruction of human rights.

Today, the area of Estonia may claim the highest national income per capita in the Soviet Union. Christopher Wren, journalist, has written, "Estonia is western in its cultural and architectural traditions despite 35 years of Soviet rule."

Enough tribute cannot be paid to the perseverance displayed by the Estonian people. Their achievement in the face of adversity is as commendable as their circumstance is tragic. As we call to mind the glorious American Revolution, let us not forget the sacrifice and suffering still endured by Estonians today.

SCHLESINGER'S THOUGHTS ON NATIONAL DEFENSE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. LaFALCE. Mr. Speaker, I would like to take this opportunity to call to the attention of my colleagues an important article contributed to Fortune by former Secretary of Defense James R. Schlesinger—February 1976 issue. I rarely submit articles for the Record, but I believe Mr. Schlesinger's commentary and the issues he raise here warrant the close attention of every Member of Congress. As Mr. Schlesinger notes, the Soviet devote at least 15 percent of their national effort to defense activities while the percentage of U.S. expenditures on defense, both as a percentage of GNP and of total Government expenditures, has been declining steadily. In our efforts to trim needless spending from the Federal budget, we should pause to consider Mr. Schlesinger's thesis that we are taking our national defense for granted and that the day may come when we will not be able to respond to aggression in a limited tactical capacity, increasing the risks that the limits of our Defense Establishment will leave us only the last resort of nuclear retaliation or a policy of appeasement.

I do not endorse the acquisition of military might for the sake of power alone. However, the possession of power is necessary if its use is to be unnecessary. If we do not realize that, we are not fulfilling our responsibilities as recipients of the public trust. We can no longer afford to view the U.S. defense posture in a vacuum—we must realistically appraise the strength of our potential opposition and make some difficult decisions about whether we are devoting enough of our national resources to the national defense.

I do not feel that Mr. Schlesinger's commentary is uncontestable on every point. For example, his limited focus on a strictly bipolar world and his underplaying of American economic might detract somewhat from his analysis. But the central questions that he outlines about our response to the growth of our potential enemies' defense posture simply must be reckoned with in the real world of today.

I commend his essay to you as absolutely necessary reading:

[From Fortune Magazine, February 1976]

A TESTING TIME FOR AMERICA

(By James R. Schlesinger)

A specter is haunting Europe: not the specter of Communism evoked in these famous words by Karl Marx in 1848, but the specter of Soviet hegemony. That specter arises from the steady expansion of the military power of the Soviet state. But it remains contingent upon the faltering of American purpose, as America, wounded by the internal travail and external setbacks of the last decade, becomes preoccupied with its internal problems and internal divisions.

Other margins of the Eurasian continent—Japan, Korea, the Middle East—are similarly exposed to the growing reach of Soviet military power and the psychological aura it increasingly conveys. Such power may be employed directly for intervention or seizure, but is more likely to be exploited indirectly to extract political, economic, or military concessions. To avoid such concessions, deterrence through countervailing military power remains an indispensable requirement. In the area of the Persian Gulf, the resources of which remain critical to the economies of the industrialized world, the possibilty of Soviet military preponderance poses not only a direct threat, but also through potential control of energy supplies, an indirect threat to the independence of the economies and the social order of the industrialized world.

The decade ahead will be a testing time for the Western democracies. The outcome will critically depend on the role the United States assumes, on its ability to attain renewed consensus and common purpose, and on its willingness to maintain a sufficient margin of military power to preserve a military balance in those sectors of the Eastern Hemisphere vital to our security.

Concern about the implications of Soviet military and political power has waxed and waned in the years since 1945. It started with the overrunning of Eastern Europe, the coup in Czechoslovakia, and the Berlin blockade. In that now distant epoch, however, the task of countering Soviet power was far simpler. The United States alone possessed nearly half of the world's productive capacity; it possessed a monopoly of nuclear weapons; and the Soviet Union, backward and badly damaged by World War II, had but a fraction of the potential military power of the United States. The direct military threat therefore remained manageable. The fundamental task was to stabilize the societies of Western Europe, to revive their economies, and to provide the prospect of economic growth and trade expansion in occupied Japan.

Nonetheless, in the period of the Marshall plan and the formation of NATO, concern remained deep. Though the problems were tractable, the solution required a transformation of previous American attitudes and a major commitment of American power. That alteration in attitude did occur. The American commitment was made, and a remarkable degree of stability was attained.

THE WEST IN DISARRAY

Yet in that time Barbara Ward could write a book entitled *The West at Bay*. Today, despite a widespread complacency, conditions are inherently worse. The West is clearly in disarray, and within a few years could actually be at bay. Our current problems are inherently less tractable than those of the early postwar years.

The underlying reality is that at no point since the 1930's has the Western world faced so formidable a threat to its survival. As then, the military balance is deteriorating, but the trend in large measure goes unnoticed because the Soviets today, though expansion-minded, speak in less bombastic and threatening terms than the Nazis did. The economies in the industrialized nations are now more vulnerable to external pressure than in the 1930's. The growth of economic interdependence, notably in energy supply, implies that the industrailized world cannot survive without imports, massive in volume, from the less developed nations. These nations are no longer under Western political control and are exhibiting increasing hostility to the Western world and Western concepts of governance. The harsh words used in the United Nations are but a surface manifestation of this growing Western vulnerability and, at base, reflect a perception of growing Western powerlessness.

Economic difficulties, once again, afflict all the industrialized nations—and are again the principal preoccupation. Driven by the dramatic change in the price of oil, the unavoidable deficits incurred by oil-importing nations imply a fundamental disequilibrium in payments balances, placing the international financial mechanism under severe strain. Structural problems result in unacceptable rates of inflation accompanied by a level of unemployment probably inconsistent with long-run political stability. Yet the gravest danger remains a mixture of fatalism and complacency regarding this congeries of interrelated problems facing the Western world.

TAKING SECURITY FOR GRANTED

For too many Americans, security—not only the physical security of the United States and its closest allies, but also the security of the delicate web of economic relations—has come to be accepted as the order of nature. For more than a decade no problem of international conflict other than Vietnam, which was perceived as an American error and excess, has deeply penetrated the American consciousness. The Cuban missile crisis, the last episode to galvanize the American public, now seems remote. The invasion of Czechoslovakia in 1968 was all too readily dismissed with regard to its longer-run implications for East-West relations. The fundamental conflicts in the Middle East, which resulted in the 1973 war and the subsequent oil embargo, are widely believed to be on the way to resolution through a change in American tactics and diplomatic stance.

Security has too widely been viewed as *given*. America's involvement in the external world, on which our amenities and satisfactions are so dependent, has appeared to be a matter of simple choice reflecting nothing more fundamental than our tastes or moral preferences. Too little is it appreciated that the stability we still enjoy is a reflection and legacy of past American involvement and active leadership. For the younger generation in particular, security has appeared to be a matter of right, rather than something earned through continuing effort.

As with other legacies, this one is being consumed improvidently. Worldwide stability is being eroded through the retrenchment of American policy and power. This growing instability reflects visible factors such as the deterioration in the military balance, but also, more immediately, such invisible factors as the altered psychological stance of the United States, a nation apparently withdrawing from the burdens of leadership and power.

The political mechanism, as in all democracies, remains the sensitive barometer of the public mood. The illusion is widespread that America can obtain the benefits of international order without paying the costs. Americans are comforted either by a belief that the nation's power has not declined or by a belief that its power can decline without untoward consequences.

These soothing notions represent a flight from reality. The external world and the weight of responsibility unavoidably placed on the United States will not disappear merely because the American public has become tired or has become absorbed in its domestic concerns. The foreign and security policies of the United States require painstaking attention and careful thought—something more than a post-Vietnam recoil from the policies and posture of the last quarter century.

The United States today still represents the only potential counterweight to the military and political power of the Soviet Union. There is no one else waiting in the wings. There will be no *deus ex machina*. That the United States alone has the power to serve as counterweight to the Soviet Union continues to be an ineluctable fact—just as it has in the entire period since 1945. We may resent that fate or accept it soberly, but it remains the fundamental reality of global politics.

For a great power such as the United States, refraining from action carries consequences as surely as taking action. The failure of the United States to bear the responsibility, which it alone can bear, would create a void into which Soviet power would move. And, despite the brief respite afforded by a period of quiescence, the longer-term problem will become intensified. Unchecked expansion of Soviet power would create a psychological momentum, and most nations in the Third World and, indeed, some of our erstwhile allies will prefer to be with the apparent winner.

Global realities have trust us into a role that we might have preferred to avoid. But unless we are prepared gradually to withdraw to the Western Hemisphere and ultimately to the North American continent—to become in the process a beleaguered and mean-spirited nation—we shall have to face up to these global realities as they are and not as we might wish them to be. We shall be judged in the future, not on the basis of our irrelevant or petulant preferences, but rather on how well we acquit ourselves in discharging our unavoidable responsibilities.

The destiny for this nation was shaped in the aftermath of World War II by the evolution of world politics, by the decline of the European powers and Japan, and by our own decisions. It is not a destiny about which one can express much jubilation. The mood it entails is markedly different from the exuberance that characterized the nineteenth-century vision of manifest destiny. Indeed, from the standpoint of historic American aspirations it is an odd and unenviable fate. Yet it must be faced soberly; there is no escape.

WEAKNESS, TOO, CAN CORRUPT

Power remains the ultimate sanction in dealing with potential conflict. Where power exists and is respected, it will not have to be exercised. Through power one can deter the initiation of an unfavorable chain of events. To be sure, military power is not the only form of power, but it remains an irreplaceable element in the total mix of power; without it, the disadvantageous turn in events would be swift and sure.

Nations that cannot deter the Soviet Union either on their own or with our support will, of necessity, conciliate the Soviet Union by making concessions, initially at the expense of our interests and ultimately at the expense of their own. To the extent that we fail to deter the Soviet Union, either jointly with others or on our own, we shall suffer continuing losses, as the process of accommodation continues. Contrary to a newly fashionable view, there is no incompatibility between a strong military posture and idealism. Given all that the Western and democratic world has to protect, only through the security afforded by adequate military strength can we assure reasonably free play to our own aspirations.

Disenchantment with Vietnam has led to the view that errors of policy, presumed to be the result of excessive strength, could be avoided through weakness. Whatever the limitations of a position of strength, however, a position of weakness provides a wholly unsatisfactory substitute. Countless nations in the course of history have learned to their sorrow the consequences of weakness. Lord Acton's dictum that power tends to corrupt has, to be sure, an abiding relevance for the actions of individual men and of institutions. Yet, in the larger context of the affairs of nations, it is readily misapplied, for it neglects an equally important truth. Weakness also corrupts—and can do so fatally.

American ambivalence on the subject of power is long-standing. Power must continually be justified in relation to the specific uses to which it will be put. By contrast, Soviet leaders have consistently valued power in general, aside from specific uses, and have steadily sought an increase in their nation's relative power. In the Soviet Union there is keen appreciation of the relationship between power and influence. It is deeply etched in party doctrine, and is evident in the emphasis on "objective factors." For the Soviet leadership, the accretion of military power is an indispensable element in the success of the Soviet state. It is reflected in the persistent rise in real Soviet military expenditures—at 3 or 4 percent per year. That steady growth has continued in recent years despite the spirit of detente—just as it did in the spirit of Geneva, the spirit of Camp David, the spirit of Glassboro. Nor should it be at all surprising that the actions of the Soviets match their doctrinal views.

CONFRONTATION IN ANOTHER GUISE

In the Soviet view, detente itself is a *consequence* of the growth of Soviet power, which has forced the West to grant concessions. Detente reflects the shift in the "correlation of forces"—the estimate of the objective factors, incorporating political and economic elements in addition to the military balance. Far from sharing the Western view of detente as gradual reconciliation, with hope of ending the possibility of conflict, the Soviets view detente as rich with opportunities for major gains—in short, as confrontation in another guise. There is little here of a live-and-let-live attitude—with principal emphasis on vistas of expanding trade and peaceful exchanges. To the contrary, the Soviets bluntly declare that detente requires an intensification of the ideological struggle.

In bilateral relations with the United States, that struggle, of course, may be covert rather than overt. Elsewhere the ideological contest is intensely pursued—vigorously so in Western Europe, but even more violently in the support for "wars of national liberation" in Southeast Asia, in the Middle East, or in Africa. On Christmas Eve, 1975, an editorial in *Izvestia* succinctly expressed the Soviet view: "Detente does not mean and cannot mean a freezing of the social status quo . . . Support of national liberation movements is one of the most important principles of Soviet foreign policy."

Soviet action in the political realm or in the economic realm (the encouragement of the oil embargo in 1973–74, for example) as well as the persistent expansion of Soviet military power pose a continuing challenge to the West. Yet leadership groups in the West have not fully appreciated the more subtle challenge in the absence of the bombast of the Khrushchev or Stalin periods.

Among our leadership groups, the business community has been particularly utopian regarding the prospects of detente. Historically the business community, focusing on the narrower problems of production and sales, has been inept in politics generally, and insensitive to the clash of social forces—the central feature of interest to Communist party elites. For the Soviets the innocence of Western businessmen (reflected in the gibe attributed to Lenin, that the bourgeoisie would gladly contract to sell the rope with which to hang themselves) remains a byword and a source of steady amusement.

Trade is no panacea for achieving international stability. History is replete with instances of nations going to war with major trade partners—perhaps most prominently Germany and Russia in two world wars. The failure to fatten up the profit-and-loss statement through the sale of technology to the Soviets may be a loss to an individual company; it is not likely to be a loss to the West. The sale of refrigerators, soft drinks, or consumer goods generally will solve no political problems. It is scarcely a substitute for a stable balance in the "correlation of forces."

The gravest problem for the Western world is without question the loss of vision, of moral stamina, of national purpose. It is also important, however, to examine the trend in the physical instruments of power—i.e., the military component of the "correlation of forces." In the United States during the last decade, the defense effort has been cut approximately in half, on a proportional basis. This declines has been reflected in every relevant measure—share of G.N.P., share of government spending, and so forth.

A DRAMATIC REORDERING OF PRIORITIES

The share of public spending that this nation devotes to defense, for example, is at the lowest point since two years before Pearl Harbor. While some profess to believe that the share-of-G.N.P. data convey little in terms of military capability, the sharp relative decline in defense spending in the last decade points to a dramatic reorienting of priorities. It points also to a major reduction in the share of the total labor force devoted to defense activities—a reduction far too severe to be offset by an increase in productivity. These trends are reflected in the data on military manpower, Army divisions, tactical air squadrons, and Navy ships.

Since fiscal year 1968, U.S. military manpower has declined by 1.5 million men. It is now approximately 600,000 men below the pre-Vietnam level. Indeed, it is almost 500,000 men lower than during the Eisenhower years, when the nation possessed overwhelming nuclear strength and declared its reliance upon a military strategy of massive retaliation. Even during the pell-mell demobilization following World War II, and during 1949–50, when Secretary of Defense Louis Johnson was "cutting fat and not muscle" before the Korean war, this nation maintained a higher ratio of its population under arms.

Defense investment, which covers procurement of new equipment, research and development, and construction, is perhaps the most revealing figure. Excluding, as it does, current operations and personnel compensation, it suggests the direction for the defense establishment in the future. In constant dollars, defense investment has shrunk to less than half of the 1968 level and 35 percent below the pre-Vietnam level.

THE CARRIERS NEVER REACHED THE SCENE

The strength of the Navy is perhaps the most dramatic case in point. In the face of a major expansion of Soviet naval forces, which has altered the character of the naval balance, the size of the U.S. fleet has diminished sharply. In fiscal year 1968 the Navy had 976 ships. This fiscal year it will be down to 483 ships. The shrinkage reflects the disappearance from the fleet of vessels constructed during the World War II period, some thirty years ago. It also reflects the postponement of naval construction during the Vietnam war, and the present lack of shipyard capacity. Naval commitments in the Far East and in the Mediterranean have not shrunk commensurately. As a result, the smaller fleet of today is overworked in the attempt to maintain those commitments. The consequence has been a distressing decline of the material readiness of the fleet.

The decay in the condition of the fleet was dramatically underscored during the response to the *Mayaguez* incident. The thirty-one-year-old carrier *Hancock*, which had been operating without one of its four shafts, limped belatedly from Subic Bay toward the Gulf of Thailand at twenty-three knots, but never reached the scene. The helicopter carrier *Okinawa*, with part of its boiler plant off the line, crept along at thirteen or fourteen knots; it also never arrived at the scene. The escort vessel *Holt*, the first ship at the scene, had power supply problems, and consequently its main battery was down the night before the engagement. Clearly, this nation cannot for long tolerate the present readiness condition of the U.S. Navy, if we are to continue to rely on it for rapid response.

As the American defense establishment's manpower, force structure, resources, and support have dwindled, how has the Soviet Union responded? By steadily expanding its forces both qualitatively and quantitatively. Since 1960, Soviet military manpower has grown from approximately three million men to 4.4 million—more than twice the size of the U.S. military establishment. The Soviets devote at least 15 percent of their national effort to defense activities. This is one area in which they have never skimped. In every category of military hardware except helicopters they are outproducing the United States—dramatically so in the area of ground forces equipment, in which the ratios run about six to one. Even leaving aside the massive Soviet reserve structure, the Soviet combat ground forces outnumber those of the United States by roughly three and a half to one.

The United States continues to have a significant qualitative edge in tactical air. Yet in recent years the Soviets have begun to deploy newer types of aircraft such as the Flogger, Foxbat, Fencer, and Backfire in substantial numbers. By the end of the decade their tactical-air order of battle will be an impressive one. In fighter aircraft, production rates exceed those for the U.S. Air Force by a factor of four. (The USAF this year procured a total of 181 aircraft of all types: at that rate it would be unable to maintain a modernized fighter inventory.) In addition the Soviets have been upgrading their airlift capabilities as part of a dramatic improvement of their mobility forces, which in the future will be able to intervene well beyond the boundaries of the Soviet Union—in areas such as the Middle East.

Since 1965 the character of the Soviet Navy has been altered in significant ways. Previously it had been designed primarily as a coastal defense and interdiction force. Now, with the introduction of more capable classes of ships, it has become a formidable blue-water navy challenging that of the United States. Soviet fleets operate increasingly in the Indian Ocean, have begun to edge out the United States in the seas around Japan, and in certain respects have become a match for the U.S. Sixth Fleet in the Mediterranean, formerly an American lake.

TROUBLING BUDGET TRENDS

According to intelligence estimates, the Soviets now outspend the United States in virtually all major categories of defense activity. In the aggregate, the CIA estimates, the Soviets outspend the United States in dollar equivalents by about 45 percent. In this era of conjoined illusion and skepticism, the hope has been expressed that such estimates are on the high side. To the contrary, my own experience in developing these estimates suggests that the procedures employed are highly conservative—and undoubtedly result in understatement of the Soviet effort. For one thing, the Soviet defense ministry receives a lot of external support. Soviet industry bears the cost of the massive reserve establishment. Other ministries absorb much of the costs of health, education, and housing for defense personnel—costs that are internal to the U.S. Department of Defense. Inclusion of such items would appreciably increase the estimate of the Soviet defense effort relative to our own.

Even more significant, however, than the existing discrepancy in expenditures are the relative budget trends. From the American standpoint, these have been highly adverse. While the Soviet Union has been increasing its military expenditures in real terms at 3 percent or more per year, the United States has in recent years been shrinking its expenditures at approximately the same rate. Because the estimate for the Soviet Union is necessarily an approximation, one can question the precision of the figures for any single year. No one, however, can validly challenge the overall trends or their long-term implications. A continuation of such trends over a period of years would leave the United States markedly inferior to the Soviet Union in gross military power.

The United States, of course, is not alone. Its NATO allies maintain forces far more potent than the forces maintained by the Soviet Union's Warsaw Pact allies. In terms of the overall balance, moreover, the estrangement between the Soviet Union and the People's Republic of China has probably been the single most significant strategic development of the last decade. It has meant that the worldwide military balance has not yet been upset. But it has made the Western position dependent upon continuing Soviet-Chinese tensions. At the same time, the apparent American weakness since the fall of Vietnam has made the Chinese increasingly wary of dependence on the United States, for they quite naturally value us only as a *reliable* counterweight. We have lately seen the first tentative signs of a possible Chinese reconciliation with the Soviet Union. The irony is that undue American reliance on the China connection reduces its value to the Chinese and so increases the likelihood of its weakening.

EATING INTO CAPITAL

The shifting of the military balance and the implications of the adverse trends are increasingly clear to other nations, if not to ourselves. The policy inferences should be obvious. There should be no further attrition of the U.S. force structure and readiness posture. We should be prepared to increase the real program value of our defense effort by 2 or 3 percent per year, and to maintain, approximately, the share of national output going to defense. In the longer term, policy should be governed both by future Soviet actions and by the course of Sino-Soviet relations.

Currently the United States operates on a narrower and narrower military margin. With the alteration in the military balance, the latitude for error has dwindled. As the United States devotes less and less to defense relative to the other superpower, there is increased need for accurate information both to assess the nature of the military capabilities arrayed against us and to avoid the misuse of our own resources. It should be obvious that the value of intelligence has increased as our preponderance of power has evaporated. Yet here again we have been inflicting damage on ourselves. We have had revelations not only of questionable activities but also of sources and methods of intelligence collection that it took a great investment of time and cost to acquire. Again we have improvidently been eating into capital.

The ability to use our resources wisely, the ability correctly to assess the threat, in fact, the very ability to monitor arms-control agreements is in process of being compromised. At the very moment when we need accurate intelligence more than ever, we have chosen to indulge in a destructive orgy—endangering our own assets, compromising our relationships, and weakening the entire intelligence effort. It has caused delight and derision among our potential foes, concern among our friends, and wonderment on the part of all.

Intelligence is our nation's first line of defense. It would seem imperative therefore that we start now to rebuild a structurally sound and operationally secure intelligence establishment.

A PREFERENCE FOR BLINDERS

The basic facts regarding the current status and the comparative trends in Soviet and American defense efforts would seem to be plain enough. Nonetheless, there exists a widespread disposition to bury one's head in the sand, to believe in the continuing preponderance of American power, to assume that, irrespective of our own actions, American military strength will remain "second to none." Why is this?

Undoubtedly, in the existing political climate, many people really do not want to know the facts. Acceptance that the balance is indeed tipping implies difficult decisions. It might require this nation to do something that many would prefer not to do: to maintain or enhance our military posture rather than reduce the defense burden. To review the comparative statistics without blinders runs against the grain of the prevailing compulsion to cut defense spending and to ignore the implications.

Does the tipping of the military balance matter at all? In the age of detente, can we not rely upon Soviet goodwill and forbearance? Such questions provide the ultimate rationalization for allowing the military balance to deteriorate further. The answer relates once again to the inescapable element in the current structure of world power. The United States remains the indispensable counterweight to Soviet military preponderance in the Eastern Hemisphere. Without the strength and support of the United States, no combination of nations can provide the requisite military power to withstand Soviet political and military pressures. Even the nations of Western Europe are but a collection of small and medium-size states that require the help of American power to serve as both the backbone and the adhesive of the Alliance. By themselves they cannot counter the full weight of the Soviet superpower.

But to sustain the margin lands of the Eurasian continent—in Europe, the Middle East, and Northeast Asia—the United States must be able to operate over distances of many thousands of miles and close to the sources of Soviet power. If one views the map from the perspective of a planner in the Kremlin, it will convey how fragile the military balance can become on the margins of the Eurasian continent.

As the military balance tips more directly toward the Soviet Union, its neighbors will increasingly recognize the imbalance of power and some will become more willing to acquiesce in demands or to offer concessions. Deterrence has thus been weakened. The gradual disappearance of American strategic nuclear superiority has already reduced the inhibiting influence on Soviet policy those forces provided. The unavoidable corollary, if an adequate deterrent posture is to be maintained, is increased reliance on the other, nonstrategic components of the force structure—the so-called general-purpose forces, mainly conventional.

Under the circumstances, further weakening of American and allied general-purpose forces relative to those of potential opponents implies acceptance of a rising level of risk. In addition, it also means that we must accept increasing reliance on the threat of early recourse to nuclear weapons in the event of major conventional assult. That is a strategy we should seek to push further away, rather than to embrace. Because of its ostensibly low cost, it is a poor man's strategy, but it might better be characterized as a rash man's strategy. It would certainly require courage, if not rashness, to employ nuclear weapons in response to less than all-out assault.

Moreover, because there will be doubts regarding the will to use such weapons, such a strategy could invite the very types of confrontations that we should seek to deter. A potential opponent could reasonably conclude that nations lacking the courage to tax themselves sufficiently to provide the conventional elements of an adequate deterrent posture might well lack the courage to employ weapons inherently so much riskier and more destructive.

A QUESTION OF AMERICAN WILL

Yet beyond these basic issues of force structure and strategy, of military posture and military risks, of the actions necessary over the long run to maintain deterrence and a military balance, lies a question even more fundamental. Our allies and dependents overseas recognize their reliance on the firmness of American policy—and the will of the American public to continue to fulfill our historic responsibilities. The deterioration of the military balance both draws upon and contributes to the loss of will. In that loss of will—with all that it reflects regarding the decline in confidence and moral stamina—lies the not-so-hidden crisis of Western civilization.

Some years ago, in the final words of his memoirs, Arthur Krock confessed to a visceral fear "that the tenure of the United States as the first power in the world may be one of the briefest in history." I trust that this will not be the case. But on the basis of the present evidence, it is not easy to dismiss his apprehension.

In a democracy such as the United States, foreign policy will reflect domestic politics. Our internal preoccupations and our political divisions of recent years have at least suggested a growing infirmity of American policy. For much of mankind the continuation of American firmness remains the decisive question. How America responds to its unenviable historic destiny will determine the shape of the international community in the last quarter of the twentieth century.

Many have pondered the question whether or not a long recessional of American power will succeed the long recessional of British power. They quite rightly fear the consequences, were that indeed to be the case. The continued deterioration of the military balance would ultimately leave the Western world in a position in which its only serious foreign-policy course would be retreat or appeasement.

The bicentennial year should not coincide with a further weakening of our acceptance of our responsibilities to the external world and to ourselves. If we seek to preserve a satisfactory condition for the United States in the world, if we seek the survival of freedom elsewhere than in North America, if indeed we value what our civilization represents, American strength remains indispensable. Without enduring American strength, Western civilization will not survive.

IMMIGRATION AND NATURALIZATION SERVICE CAUTIOUS WHEN DESCRIBING "NUMBERS OF ILLEGAL ALIENS" IN OUR COUNTRY

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. BADILLO. Mr. Speaker, as many of my colleagues know, I have been very concerned and angry about the approach used by the Immigration and Naturalization Service—INS—in its public relations campaign on the problem of illegal immigration. The INS estimates of persons in the country without documentation have been extremely irresponsible and have fanned the fires of prejudices and discrimination against Hispanics as a class. I was gratified to read in the written testimony of Gen. Leonard F. Chapman, Commissioner of the Immigration and Naturalization Service, before the Subcommittee on Appropriations for the Department of Justice on February 23, 1976 that he has become more cautious in his estimates regarding illegal aliens.

Previously, General Chapman had been known to say that 80 percent of the illegal aliens in the country were Mexican nationals and then proceed to toss out estimates of their numbers that doubled the entire Hispanic population in the country according to the 1970 census. In his written testimony before the Appropriations Committee he now refers to "massive numbers of illegal aliens." I must concede that this is a considerable improvement over his past actions. I believe one of the reasons for the Commissioner's new cautious approach is due to the unanimous criticisms from unbiased sources of his INS-Lesko report which have been circulating among groups and individuals interested in our immigration policy. As you may know, the Lesko Study was prepared under contract to the U.S. Immigration Service—INS—Office of Planning and Evaluation, and is entitled "Final Report: Basic Data and Guidance Required to Implement a Major Illegal Alien Study during Fiscal Year 1976." This report is the beginning of a $1 million study into the characteristics of "illegal aliens." I hope that the rest of the money which will be spent on research provides more accurate information.

The following letter from the Bureau of the Census indicates that the 8 million person estimate by the INS-Lesko Study is "based on weak and untenable assumptions, and adds very little to our knowledge of the size of the illegal alien population."

The letter follows:

U.S. DEPARTMENT OF COMMERCE,
BUREAU OF THE CENSUS,
Washington, D.C., December 29, 1975.

Hon. HERMAN BADILLO,
House of Representatives,
Washington, D.C.

DEAR MR. BADILLO: In further response to your letter of November 12, 1975, we have examined the Lesko Study and analyzed the formula used to estimate the current illegal Mexican alien population of the United States. In our opinion the estimates of the current illegal alien population shown in the study are based on weak and untenable assumptions, and add very little to our knowledge of the size of the illegal alien population.

The overall estimate of 8 million for the illegal alien population residing in the United States, derived by using the Delphi process, should be regarded as conjectural at best. The wide range of the initial set of responses given by the panel of "experts," from 2.5 to 25.1 million illegal aliens living in the United States, demonstrates the great uncertainty about the size of the illegal alien population even among those working most closely with the problem. The final range of 4 to 11 million offered by the panel of experts was still quite wide, and it is perhaps not coincidental that this range agrees with the range of estimates that have been most frequently mentioned by various Federal and local officials around the country and reported in the news media.

The formula for estimating Mexican illegal immigration for 1970–1975 in the Lesko report is based on the unsupported assumption that illegal immigration is consistently related to the number of aliens apprehended at points other than at entry and that this ratio has remained at the level estimated for the 1960–1970 decade. The estimating formula, complex as it may appear, can be reduced to a function of the estimated change in the number of illegal residents between 1960 and 1970 and a portion of the number of apprehensions during the decade. In effect, this relationship amounts to saying that Mexican illegal immigration is equal to some multiple of the number of Mexican aliens apprehended at other than entry points. For 1960–1970, this factor was estimated to be 2.1. The same factor was arbitrarily assumed to apply to the 1970–1975 period. Many variables, including increased efficiency of the Immigration Service, can affect the number of apprehensions. These variables may have no effect on illegal immigration or may cause an increase or decrease in illegal immigration.

The estimates of illegal immigration from Mexico for 1970–1975 and of the overall size of the Mexican illegal population in 1975 are based on an estimate of 1.6 million illegal Mexican immigrants during the 1960–70 period presented in a research paper prepared by Howard Goldberg to fill the requirements for the graduate program in demography at Georgetown University. Complex demographic techniques are used to derive the results given, but a number of major assumptions had to be made. Some of these are: The number of persons missed in the 1970 Census of Mexico equaled the number of persons missed in the 1960 Census of Mexico; the life table survival rates for 1960–70 used in the calculations reflect accurately the actual mortality in this period; all of the emigration from Mexico was destined for the United States; the United States census data for 1960 and 1970 on country of birth, particularly the data on persons born in Mexico, are accurate and consistent. Changes in any of these assumptions can have an important effect on the estimate of illegal immigration from Mexico. If, *for example*, the 1960 and 1970 censuses of Mexico each missed five percent of the population, this would mean that the 1970 census missed 700,000 more persons than the 1960 census and, hence, that the net emigration from Mexico between 1960 and 1970 should be about 830,000 less than estimated in the Goldberg paper.

The Goldberg paper is a good piece of research, given its purpose. However, much more research needs to be conducted, including particularly sensitivity tests to evaluate the effect on the results of alternative assumptions, before any particular estimate is selected for use as was done in the Lesko Study.

Because the Lesko Study is being funded by the Immigration and Naturalization Service, which is likely to be interested in any evaluation of the study, we are sending a copy of this letter to Mr. Leonard F. Chapman, Jr., Commissioner, Immigration and and Naturalization Service.

If we can be of further assistance, please let us know.

Sincerely,

Vincent P. Barabba,
Director, Bureau of the Census.

HOKULE'A, THE SPIRIT OF HAWAII '76

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. MATSUNAGA. Mr. Speaker, during this Bicentennial Year, each of our States is planning events with which to commemorate our country's beginning. As each observance differs from the other, they serve to emphasize the diverse cultural backgrounds that combine to form that anomalous national, the American.

In my State of Hawaii, where no one culture or ethnic group constitutes a majority, the peoples of Asia and the Pacific have combined with those of European background to form that special kind of person, the Hawaiian American. It is therefore fitting that a Hawaiian bicentennial event should commemorate the beginning of our State's history.

I refer to the voyage this year—voyage plans to begin sometime during April–May 30—of Hokule'a, a 60-foot double hulled canoe that will sail from Hawaii to Tahiti, using only the ancient navigational aids of wind, wave, star, and bird. The canoe will be piloted by Elia K. Kawika Kapahulehua, a fullblooded Hawaiian from the island of Niihau, with David Lyman, a part Hawaiian and descendant of a missionary from the big island of Hawaii, as his assistant. They are now in the process of training a crew for their historic voyage.

Kokule'a is sponsored by the Polynesian Voyaging Society. This is a nonprofit group, formed in our State of Hawaii for the sole purpose of proving that more than 1,000 years ago, the Polynesian ancestors of today's Hawaiians deliberately chose to sail across unknown waters to find new land. In addition to not using any modern instruments, the Hokule'a crew will subsist only on the same provisions for the sea, roots, fruits, nuts, fish, and water-filled gourds as did their Polynesian forebears.

Mr. Speaker, I think my colleagues will agree with me that this is a most exciting Bicentennial event. It will not only prove—and disprove—many scientific theories regarding Polynesian navigation, but will also perpetuate the spirit of '76 as displayed by those American—and Polynesians—who dared to challenge the unknown.

Mr. Speaker, I insert into the Record an article which appeared recently in the Honolulu Advertiser, describing more in detail the pending voyage from Hawaii to Tahiti:

[From the Honolulu Advertiser, Dec. 12, 1975]

SKIPPER SELECTED FOR HOKULEA

(By Bruce Benson)

Elia K. Kawika Kapahulehua, long-time professional sailor and an ukulele-playing Hawaiian from Niihau, was named yesterday as captain of the canoe Hokulea for the historic voyage to Tahiti and back in 1976.

Kapahulehua, 45, said he took the assignment for the Polynesian Voyaging Society because the trip represents a chance for all of Hawaii to learn how the first Hawaiians managed to begin deliberate round-trip voyages between North and South Polynesia a thousand years ago.

The Voyaging Society was formed as a nonprofit effort to dispel the notion among some armchair scholars that the earliest Hawaiians arrived here on accidental drift voyages. The trip is intended to help bring proper historical credit to the Polynesians for their ability to navigate long distances.

Appointed as relief captain of the canoe Hokulea was David Lyman, 32, a part-Hawaiian who is descended from the pioneer Hilo missionary, David Belden Lyman.

Kapahulehua said yesterday, "We would like to stress that we're still looking for crew that would be able to take off and go on the trip. We're figuring that mid-January through February is very critical for training crew from being just ordinary persons to true sailors."

Herb Kane, a founder of the Voyaging Society and skipper during inter-Island training cruises when the canoe was introduced to the public this past summer, said yesterday, "I'm just delighted with Kawika's selection. He'll do a superb job. He's got a tremendous amount of deepwater sailing experience."

Kapahulehua grew up speaking Hawaiian as his first language. He moved to Niihau with his family when three months old. He is employed by Western Airlines as a cargo sales and service representative. Western has granted him a leave of absence so he can participate in what is an official bicentennial project.

Kapahulehua is a long-time associate of Hawaii catamaran designer Rudy Choy, and has sailed cats with Choy for more than 25 years. At present, Kapahulehua is skipper of the Ale Ale Kai V catamaran on sunset dinner cruises for Choy. He holds a 100-ton master's license from the Coast Guard, and is on the board of directors of the Pacific Maritime Academy as well as the Voyaging Society.

He said, "We are going to move the crew to Molokai in March for extensive training, plus isolating everyone in order to get used to the food to be used on the trip."

Lyman, relief skipper, was graduated from Punahou and the California Maritime Academy. He holds a Coast Guard license as master for vessels of any tonnage, any ocean.

HOUSE DEMOCRATIC LEADERSHIP COSPONSORS KENNEDY-CORMAN HEALTH SECURITY ACT

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. CORMAN. Mr. Speaker, I am very pleased to announce that House Majority Leader Thomas P. O'Neill, Jr., of Massachusetts, has today cosponsored and strongly endorsed the National Health Security Act (H.R. 21).

It is very encouraging that the majority leader has taken the extraordinary step in cosponsoring the National Health Security Act. The distinguished gentleman's cosponsorship is particularly valued because with his leadership responsibilities he is very selective in extending support for specific legislative programs.

With the majority leader joining the other Democratic leaders, notably Majority Whip John McFall, Democratic Caucus Chairman Phillip Burton, and Democratic Study Group Chairman Bob Eckhardt, the prospects are enhanced for charting in this Congress a unified course of action for comprehensive national insurance.

The 105 House Members who now support the Health Security Act are the largest number ever to do so. As the Presidential and congressional campaigns progress, the public's support for the health security program will be increasingly evident and contribute to a growing congressional consensus on this vital issue.

"REFORM OF THE CIA?" AN ESSAY BY ARTHUR SCHLESINGER, JR., IN THE WALL STREET JOURNAL

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. BRADEMAS. Mr. Speaker, I believe that Members of the House of Representatives and Senate will read with interest the following essay by Arthur Schlesinger, Jr., the distinguished Albert Schweitzer professor of the humanities at the City University of New York and winner of Pulitzer Prizes in history and biography.

Professor Schlesinger's article appeared in the February 25, 1976 issue of the Wall Street Journal of the board of contributors of which he is a member.

The article follows:

REFORM OF THE CIA?

(By Arthur Schlesinger, Jr.)

The nation is in debt to the Church and Pike Committees for forcing the administration to come up with a reorganization of the national intelligence business. The White House has known about the CIA abuses for a very long time. Another sort of President would have proposed remedial action many months ago. Had Mr. Ford done so, he could have averted the frustration that came to pervade the congressional hearings. It was this frustration that led some of the congressional side to turn to leaks as a means of creating pressure for reform. But Mr. Ford chose to delay. For all we know, he might never have done anything at all without the committees barking at his heels.

The President's proposals, though belated, are considered and deserve a careful hearing. He was emphatic—and rightly so—about the importance of the intelligence community. Of course we must have something like the CIA, with capability for covert political (but not paramilitary) action as well as for intelligence collection. He was less emphatic about the way the agency has misused its power, perhaps because he thinks enough has been made of this elsewhere, perhaps because he does not feel all that strongly about it himself. Indeed, he plainly displays a good deal more indignation about congressional leaks than about CIA abuses. This may not be the best mood in which to approach the problem. Surely any dispassionate observer is bound to conclude that the abuses have harmed the Republic considerably more than the leaks.

The problem of oversight must be considered in three levels. One level is congressional oversight. Here Mr. Ford wisely recommends a single oversight committee, thereby agreeing with Sen. Church rather than with Sen. Tower of his own party. But he insists on the right to control the oversight committee's use of classified information. This would have the practical effect of making the committee informed but impotent. Sen. Church's bill (S. 2893) proposes a different procedure. If the committee thinks that the national interest requires disclosure of classified information, the President is given 10 days to explain why he disagrees; then, if he fails to persuade the committee, the President can carry the question to the full Senate for consideration in executive session. Perhaps in this case the Senate should make its decision, not by the majority vote assumed in the Church bill, but by the two-thirds required to override a presidential veto. All this presupposes that the information would not leak along the way; but the experience of the Joint Atomic Energy Committee suggests that congressional committees, when they do not feel hopelessly frustrated by the Executive, can behave responsibly.

MR. FORD'S NEW LAWS

Mr. Ford also wants the Congress to pass some laws. These laws, far from reducing the scope of CIA activities, would give the agency new power and protection. He spoke peculiarly in his press conference about statutes providing "judicial safeguards *against* electronic surveillance and mail openings"; but his legislative proposals in fact seek judicial safeguards *for* these things, and his executive order expands CIA authority in other ways.

Most ominous is his call for legislation to make it a crime for those with authorized access to intelligence secrets to reveal such information improperly. This sounds plausible enough on the face. However, it assumes the infallibility of the system of security classification. Yet, if we know anything, we know government's penchant for the misuse of classification to conceal not only official schemes that could hardly survive the light of day but incompetence and even corruption. Think for a moment what Messrs. Nixon, Haldeman and Ehrlichman could have done with Mr. Ford's law! Throughout American history aggrieved government employes have felt themselves morally justified in violating a system of secrecy invoked (as they have conscientiously believed) by government against the national interest. In many of these instances history has vindicated those who thought that Congress and the people ought to know what their government was doing.

The only excuse for Mr. Ford's proposal would be a dire and desperate state of national emergency. Yet we went through the Civil War and two world wars without such a law. No disaster resulted. If we did not need it in those infinitely more dangerous times, we certainly do not need it now.

A second level of oversight is within the Executive Branch. Here Mr. Ford proposes to formalize and tighten the process by which covert operations are authorized, replacing the old Forty Committee by a new Operations Advisory Group. The new group, like the old, will consist of overworked and harried officials whose primary responsibilities mainly lie elsewhere. One hopes rather wanly that the formalization of the process may induce them to take these decisions more seriously than they have done in the past. One hopes too that the CIA will submit all covert operations to the new group. It has not bothered to do so in the past.

Then there will be the three outside wise men. The Intelligence Oversight Board, one gathers, will not be a fulltime job but will meet periodically to review control mechanisms and to receive reports from inspectors-general. The basic idea here is sound, but it loses credibility when it is exclusively a presidential instrument. It would be a far, far better idea if it had a statutory base and if the statute required bipartisan representation on the board and senatorial confirmation for its members. Such a statute should also, as Mr. Ford's executive order does not, explicitly enjoin employes who think their agencies may be violating the law to carry their suspicions to the Oversight Board and assure them thorough protection when they do so. They would of course be rather more likely to blow their whistles to a board established by Congress than to one appointed solely by the Executive.

A third level is within the CIA itself. The record makes it indisputable that the agency has been singularly and fatally defective in its mechanisms of internal control. The CIA pretends to have an inspector general, but this officer, the Rockefeller Commission conceded last year, "was sometimes refused access to particularly sensitive CIA activities." The Intelligence Branch of the CIA was never asked to estimate the probable reaction of the Cuban people to the Bay of Pigs. John McCone was never told about the Castro assassination projects until, two years after he had become CIA Director, he read in a newspaper article that his agency had a relationship with a Chicago gangster. Even then he was given to understand that the projects had been terminated, though in fact they were continuing. No one, within the CIA or without, appears to have known at all times all the things the CIA was doing.

MR. BUSH'S QUALIFICATIONS

In this connection, I must dissent from those who question George Bush's qualifications for the CIA job. He has, in my judgment, the right qualifications—and I mean not just his service at the UN and in Peking but also his service in the House of Representatives and even at the Republican National Committee. What the CIA needs above all is top leadership responsive to Congress and to public opinion and both accustomed and committed to our democratic process and constitutional order. The trouble with professional intelligence operatives—William Colby was a refreshing exception—is that their prolonged immersion in the isolated, self-contained, self-justifying, hallucinatory world of deception and secrecy tends to sever their links to reality. One reads with concern that Mr. Bush's new responsibilities will leave the day-to-day management of the agency in the hands of his deputy director. I trust that this does not mean the recapture of operational control by the professionals.

In sum, this does not appear a very impressive plan of reform. Would Mr. Ford's changes have in fact prevented the abuses the Church and Pike Committees have so usefully put on the record? The answer is probably not. A Nixon Intelligence Oversight Board might well have facilitated the Watergate cover-up. No penalty is proposed for those who ignore the clearance process, as it was so flagrantly ignored in the past; the assassination projects, for example, never came up before the Forty Committee or its predecessors. If Mr. Ford wants to define new crimes, he would be better advised to request a law making it a crime when an official authorizes a covert operation in violation of the procedures set forth in his executive order. Nor, so far as I can see, is there any provision to strengthen the inspector-general system that has performed so lamentably in the past. Nor does the Ford plan do much to make government safe for whistle-blowers.

Moreover, the President totally ignores the most effective way of bringing the CIA under control. That is, of course, to cut its budget. For the obvious fact is that the intelligence community has far too much money. One consequence of having too much money is the temptation to rush into bizarre and profligate projects, like Howard Hughes and the Glomar. Another consequence is a lot of people sitting at a lot of desks and trying to justify their existence by thinking up things to do—like, for example, dusting Castro's shoes, in case he left them outside his hotel room, with thallium salts in the expectation that this would cause his beard to fall out and destroy his charismatic appeal. All the Parkinsonian objections to bureaucracy apply in spades to the intelligence bureaucracy.

Cutting the CIA budget in half would eliminate most of this nonsense, release mindless covert operators for jobs as Hollywood script writers and compel the CIA to concentrate thereafter on serious matters, such as the collection and analysis of intelligence.

PANIC OVER THE CHILD AND FAMILY SERVICES ACT

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. EMERY. Mr. Speaker, I call to your attention an editorial by Howard Flieger in the March 1, 1976, issue of U.S. News & World Report, outlining the incredible fear campaign being waged throughout the country against H.R. 2966, the Child and Family Services Act. Many of my constituents, out of concern for the welfare of their children, have written me about this bill. These people do not understand the intricacies of the legislative process, and are not remotely familiar with either the bill's contents or its sponsors. They have been horribly misled and cruelly frightened by a fanatic campaign designed to convince parents that they will surely lose influence over their children, and that their moral and religious standards will be dictated by the Government.

Certainly, no responsible Congressman would ever support such a bill if it existed. The point is, it does not.

There are many reasons why I could not support the Child and Family Services Act in its present form—the expense is simply too great for this Congress to fund. However, I am appalled at the many untruths that have been circulated about this bill. I believe that legislative decisions must be based on facts and not on hysteria.

The editorial follows:

FALSE ALARM

(By Howard Flieger)

Every now and then a reader writes us in words of terror to warn that a Marxist plot is afoot in Congress to "nationalize" our children—take them away from the protection or control of their parents and destroy the American family, utterly and forever.

The volume of mail received here is not a patch on the sacks of it that have been hitting some congressional offices.

The writers are alarmed over what they've been informed is an insidious scheme to give youngsters the legal right to disobey their parents, and thus become pawns of Government—an all-powerful Big Brother to mold their training, conduct and beliefs.

Strange.

It is strange because there isn't a word of truth in it. No such legislation is before this Congress, or ever has been.

The specific bill that has so many people disturbed is "The Child and Family Services Act of 1975." Its authors are Sen. Walter Mondale (Dem.), of Minnesota, and Rep. John Brademas (Dem.), of Indiana. It is "S. 626" in the Senate, "H.R. 2966" in the House. Read it before you panic.

In its present form, the legislation is both innocent and impotent: innocent because it would do none of the things attributed to it; impotent because it isn't going anywhere.

Briefly stated, the proposal is to make federal funds available to help States and communities provide certain public services for children and their families.

These would include such things as prenatal care, food where needed, part or full-time day care for children of working mothers, tutoring at home where deemed useful, medical examination and treatment for certain handicapped children, and training for parents and about-to-be-parents.

There is nothing compulsory about the legislation now before the Congress. Even if the bill were enacted, anyone who felt like it could ignore each and all of its provisions.

Nothing in it says—or implies—that youngsters have a legal right to disobey their parents or guardians.

Nowhere does it forbid parental guidance, advice or preference in religious training. The subject isn't mentioned.

In fact, it says in specific words:

"Nothing in this act shall be construed or applied in such manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents."

So why all the excitement? It is puzzling to Senator Mondale, one of the chief sponsors, who says the measure "is being subjected to one of the most distorted and dishonest attacks I have witnessed in my 15 years of public service."

There is another practical thing to keep in mind about The Child and Family Service Act: It would cost a lot of money. Estimates are that an initial annual expense of 150 million dollars would grow to almost 2 billion by the third year of operation.

This present Congress is in no mood to add such a burden on taxpayers who already are making angry noises about waste and the high cost of Government. Since this is election year, the measure probably has less chance now than a year ago, when it was introduced—and that means practically none.

Also, remember the President is demanding that Congress do more to hold the line on spending. It is a keystone of his campaign to be against this bill, and any like it.

So everybody can stand at ease.

The bill doesn't provide all those wild things the letter-writers fear. It has no realistic chance of adoption. And even should it overcome its rating as one of the longest shots in history and somehow be enacted by Congress, it would be vetoed almost the minute it reached the White House.

The furor is a false alarm. Forget it.

FULL EMPLOYMENT AND THE REDUCTION OF CRIME

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. RANGEL. Mr. Speaker, I am pleased to share with my colleagues an article that appeared in the Boston Globe on January 3, 1976, that deals with the correlation between unemployment and crime. The author Paul Parks—who is the secretary of educational affairs in Massachusetts—does a fine job of describing the phenomenom of a rising crime rate which is caused by our present economic condition.

Mr. Parks points out the need for a Government policy that embraces full employment. As you know, I am a cosponsor of H.R. 50 the full employment bill which would provide a job for every American willing and able to work. I believe that this is the kind of legislation that Mr. Parks is calling for. Full employment is the key to a reduction in our Nation's crime rate.

I commend Mr. Park's article to the attention of all my colleagues:

FULL EMPLOYMENT POLICY VITAL TO REDUCTION IN CRIME

(By Paul Parks)

"Things aren't bad; they are worse than bad."

This often-heard remark raises further questions. Why is the crime rate rising at such a dramatic pace? Why is unemployment escalating so rapidly? What is the cause of the inflation we all feel?

While I don't have a simple solution to the rising crime rate, I feel there is a relationship between it and spiraling inflation and unemployment.

We live in a society which, as a matter of practice, equates the worth and value of a person with the "things" that he or she has acquired. Those who do not have the commodities and services that give status are made to feel valueless. The feeling of valuelessness spreads and rises as more people, out of work or left with shrinking real income, find that the "things" that they need and wish to acquire are out of their reach.

We are now in the throes of a recession that may mask the real structural problem. For it is the upper middle and upper income groups that will rise to the surface, if and when the current recession eases. The poor and lower-middle to middle income groups will rise much more slowly, if at all. The effect will be that significant numbers of people who historically have had goods and services within easy reach will find them increasingly impossible to acquire.

Black people, who had briefly begun to make economic progress during the late 1950s and the 1960s, will continue to slide back into poverty, anger and frustration. Many poor and middle income people are beginning to ask why they should accept their economic conditions while others have all the things they dream of having. Their judgment is that there is no justification for such deprivation and consequently no reason to support or acquiesce in the system that condones their deprivation.

The phenomenon of a rising crime rate rests in part on just such judgments. Youngsters, black and white, steal to acquire the things they feel can provide them status and equality. They steal things that will give them the notice, esteem and applause of their peers. Others rip off society to punish it for bypassing or excluding them. And, many are just trying to survive.

The issue is not one of supporting or approving such activities, but rather one of dealing with reality of fact. If we are to solve our current problem of rising crime, we will have to find a solution to the increasing poverty that is a structural feature of our economy.

We must confront the issues directly and coherently and beware of analyses that offer simplistic solutions. One such analysis is that increases in crime indicate the police are not doing their job. The fact is that the more people decide to break the law, the less effective the police become. If the number of crimes per police officer rises, the apprehension and deterrence rate falls.

The problem we face is an economic and social one and its solution is dependent on changing the chronic inequities that are at the root of our present economic conditions. The tap root is current employment policy. There is no economic or social solution without full employment. Those who would think otherwise ignore the reality that the maintenance and stability of our democratic society depend on the progressive elimination of the forces that make for a permanent population of have-nots.

Realization of a full employment policy does not obviate the necessity to pursue vigorously the reduction of crime. We have a responsibility to secure a safe environment for all. But we must remember that a society that allows the numbers of have-nots to approximate the numbers of haves has already sown the seeds of destructive individual behavior and ultimate revolution.

No one will long work and do without in order to allow others to enjoy the good of society. The imperative is to provide equal access and means to enjoy society's goods and services to all people. Not to do this is to say we believe in self destruction.

V. O. FIGGE

HON. EDWARD MEZVINSKY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. MEZVINSKY. Mr. Speaker, V. O. Figge is almost an institution in eastern Iowa. The president of one of the largest banks in the area, he is considered by many to be a financial wizard.

I respect V. O. Figge's opinion on any issue, whether I agree or not, and when he talks about fiscal responsibility, I think it is worth sharing with my colleagues in the Congress. I have excepted the following remarks from what I consider to be a rather unique annual statement to his stockholders:

This country cannot afford to provide all things for all people, either at home or abroad. There must be priorities, and those priorities must be adhered to. There surely is a limit to our ability to carry the load.

Politicians and statisticians are suggesting that inflation is being brought under control. Perhaps as a direct result of the current recession, there has been some easing in its impact for the moment, but, to prove that it is still with us, all the average individual has to do is to check the everyday living costs for himself and his family—clothing, food, and all of the necessities of life—and including, last, but not least, the cost of a respectable roof over his head.

There are basic principles in banking, and there are also basic principles in the handling of our government's affairs, our corporate affairs, and, surely, our personal affairs as well. If there is any straying far afield from those time tested rules or principles, the penalty will be found to be severe.

LEGISLATION TO BLOCK IMPLEMENTATION OF EPA BEVERAGE CONTAINER GUIDELINES

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. MOLLOHAN. Mr. Speaker, on January 29, 1976, I introduced H.R. 11616 to prevent the final publication and implementation of beverage container guidelines that were printed in proposed form by the Environmental Protection Agency—EPA—on November 13, 1975. Mr. McEwen and Mr. Risenhoover joined me as original cosponsors of H.R. 11616.

Every Member should be aware of these proposed guidelines and what they represent because their short-term and long-term ramifications pose a very genuine threat to business, labor, industry, labor, and consumers in every part of the United States.

The short-term effect of these guidelines, Mr. Speaker, is to ban the sale of beverages in nonrefillable containers in all Federal facilities and installations. And from this stepping stone could evolve an attempt to to develop a nationwide ban on the sale of beverages in one-way cans and bottles.

As its authority for drafting these guidelines, EPA cites the Solid Waste Disposal Act of 1965—Public Law 89-272—as amended by the Resources Recovery Act of 1970—Public Law 91-512—and specifically sections 209 and 211 of the amended act. In addition, EPA cites section 211 and executive order 11752. as making the guidelines, upon final publication, mandatory upon all Federal agencies.

Section 209(a) of Public Law 91-512 directs the Administrator of the Environmental Protection Agency:

> . . . to recommend for appropriate agencies and publish in the Federal Register guidelines for solid waste recovery, collection, separation and disposal systems.

Furthermore, sections 209 and 211 of the act specify that EPA has jurisdiction over "solid waste recovery, collection, separation and disposal systems."

By such specific enumeration of jurisdictional areas, other areas are, by legal tenet, excluded from EPA jurisdiction under these paragraphs. EPA has not, in these sections, been given jurisdiction over generation of waste, marketing procedures, or containerization. Yet, these regulations, as proposed, restrict sales and marketing procedures and containerization; they exceed the authority granted to EPA by the specified provisions of the law and, thus, are neither in accordance with the intent of Congress nor the letter of the law.

EPA's legal authority to issue these guidelines has been challenged by many organizations, agencies and individuals. Perhaps the most persuasive argument that EPA has exceeded its authority in drafting these proposed guidelines was made recently by Senator Jennings Randolph, my distinguished colleague from West Virginia and chairman of the Senate Committee on Public Works, which drafted the Resource Recovery Act of 1970.

On January 29, 1976, Senator Randolph wrote EPA Administrator Russell Train. In his letter, the Senator said:

> As the principal author of the Resource Recovery Act of 1970, I reemphasize that the management authority provided in Section 209 was never intended to encompass such guidelines. While agency lawyers interpreting the statute find the authority in their analysis of its words, I stress that such an interpretation was not our intent.
>
> The evidence presented to the Agency, together with your own understanding of the situation demonstrates that this is indeed a far-reaching step with ramifications which go beyond the guidelines. Such a policy issue is therefore one which the Congress itself should address.
>
> In view of the prospect that the Congress will consider Solid Waste-Resource Recovery legislation during the 2nd Session of the 94th Congress and the likelihood that a container proposal will be voted on, I urge you to withdraw the proposed guidelines.

Senator Randolph's contention is supported by the Department of Defense, whose battery of lawyers have thoroughly researched this matter in view of the tremendous impact mandatory implementation of these guidelines would have on the military establishment.

At my request, the Department of Defense has estimated what it would cost the Department to comply:

> The Department of Defense thru its military exchanges, commissary stores, and clubs and messes experiences approximately $300 million in annual beverage sales. This represents over 95% of all beverages sold on Federal facilities and less than 3% of national beverage sales.
>
> We anticipate that, as a matter of convenience, customers who have historically purchased beverages on Federal property will turn to the easily accessible and unaffected commercial market. This action will not only do little to achieve the objectives of the guidelines but will also have a significant impact on the sales and profits of the military resale system.
>
> We have estimated the first year costs of fully implementing the guidelines to be $30.1 million to the Department of Defense. Specifically this economic impact is broken down as follows:

[In millions]

Element:	*Cost*
Additional space requirements	$5.8
Additional personnel	8.1
Breakage and pilferage	3.5
Cooperage (initial deposit outlays)	.9
Profits Loss on Sales Loss	11.8
Total	30.1

> In addition, an initial investment will be required to convert vending machines and the associated cost of storage racks. This has been estimated at $16 million. These increased costs and losses in profit will reduce by a like amount the funds available for welfare and recreational activities for the military.
>
> Defense personnel, military and civilian, will not enjoy being virtually the only Americans subject to these rules. The adverse effect on morale, while unmeasurable, is indeed anticipated.

On September 11, 1975, the Department of Defense transmitted to EPA, under the signature of George Marienthal, Deputy Assistant Secretary of Defense for Environmental Quality, the following legal analysis of EPA's authority to promulgate container guidelines:

> . . . A review of the Resource Recovery Act as well as a thorough investigation of (the) Recovery Act's legislative history, confirms the conclusion which we reached in our 6 August memorandum—that EPA has no authority pursuant to section 209 to promulgate these regulations.
>
> The basis for the conclusion of the above referenced memorandum was an analysis . . . which focused on the key words in section 209 which described the regulations which it authorized to promulgate, *viz.* "guidelines for solid waste recovery, collection, separation and disposal systems."
>
> The analysis applied section 205, the definition section of the Act, to the key words. In so doing, it became clear that section 209 limited the regulations which it authorized EPA to promulgate to regulations which prescribed some form of treatment of *solid waste*, that is, discarded solid materials. Hence, we concluded that salable items (as well as their packaging) were not regulable under section 209.

Yet, despite this very thorough Department of Defense analysis and despite the fact that the chairman of the Senate Public Works Committee has emphatically pointed out to EPA that it does not have the authority to issue these guidelines, the Agency pushes blindly forward with them like an uncontrolled juggernaut.

EPA insists that the guidelines, as published in proposed form, do not represent a ban on the sale of beverages in nonrefillable containers. Yet, in the introduction to the proposed guidelines, there is this pearl of EPA contradiction:

> Both refillable and nonrefillable containers may be returnable. However, it is recommended that Federal facilities comply with the guidelines by utilizing refillable containers, because a system for their return is presently in operation and because such a system is the most satisfactory means of achieving the objectives of the guidelines.

What does this mean? Simply this: While EPA pays lipservice to the fact that nonrefillable containers can be returned and recycled, EPA, in its fountain of collective wisdom, has decreed that the best way for Federal agencies to meet the proposed guidelines is not to permit further sale of beverages in nonrefillable containers.

The Agency has tried to lowkey the impact of these guidelines by stressing that beverage sales on Federal facilities constitute only about 5 percent of the total volume of annual beverage sales. Thus, according to the Agency propaganda line, the implementation of the guidelines will have a negligible effect on canners, bottlers, distributors, brewers and others involved in producing or marketing nonrefillable beverage containers.

While this may be true, in general, EPA is very conveniently overlooking the fact that in some areas, the impact on bottlers, canners and distributors would be quite severe, particularly in the vicinity of major military installations, such as San Diego, Norfolk, Charleston, S.C., and so forth.

The immediate impact of these guidelines is cause for genuine concern, but of equal consideration is long-range impact and implication. Quite simply, Mr. Speaker, the guidelines represent the first step in the development of a nationwide ban on the sale of beverages in nonrefillable containers.

EPA will try to dance a semantic jig when you ask whether the Agency actually supports a nationwide ban on the sale of nonrefillable beverage containers. But no matter how many fast shuffles the Agency tries to pull, the fact remains that EPA would like nothing better than to see the nonrefillable beverage container removed from the marketplace.

The proof of the pudding is in the following statement made by EPA Deputy Administrator John R. Quarles on May 7, 1974, before a Senate Commerce Subcommittee:

> We would . . . favor the adoption on a nationwide scale of a mandatory deposit system to eliminate differences in beverage container programs from State to State and to assure a uniform and equitable program for manufacturer, bottler, laborer and consumer alike.

My colleagues should keep in mind that "a mandatory deposit system" is just another euphemism for "ban-the-can" and "ban-the-bottle" legislation.

The detrimental economic consequences of a nationwide ban on nonrefillable containers would truly be something to behold. If this were to come to pass, we in the Congress would have to approve a special "impact aid" bill to bail out communities where glass, steel and aluminum plants would be crippled or closed down.

The Department of Commerce, in a 1974 report entitled "The Impacts of National Beverage Container Legislation," estimates that banning nonrefillable containers would cost the economy at least 82,000 jobs in the bottle and can manufacturing industries and in the metals and fabrication industries.

Such a ban would also require an outlay of between two and three billion dollars to convert plants into the sole production of refillable containers.

And what would we save by banning nonrefillable containers? A paltry $70 million per year, according to EPA's figures. That would include a doubtful $35 million annual savings in litter control, $15 million annual savings in solid waste management and perhaps a $20 million annual savings in energy costs required for production of nonrefillable containers.

On this issue, EPA is clearly venturing into waters not charted by Congress and is taking it upon itself to map its own course of action. That is why I firmly believe this issue must be addressed legislatively.

The bill I have introduced is forthright and uncomplicated. It would prevent EPA from promulgating these guidelines in final form. My bill also has a retroactive feature that would render the guidelines null and void should they be published for effect prior to passage of the legislation.

Mr. Speaker, nearly every Member of this body has constituents who would be adversely affected by these proposed guidelines or by development of any nationwide ban on nonrefillable containers. Bottlers, canners, steelworkers, brewers, distributors, aluminum workers, glass companies, military personnel, commissaries—all of these groups, and more, are the victims of EPA's arbitrary and unjustified beverage container guidelines.

Therefore, I urge my colleagues to examine this matter closely. I am hopeful that many of them will join me in challenging EPA's unwarranted usurpation of power by supporting H.R. 11616.

For Member's further information, the text of H.R. 11616 is printed below. Following that is a very excellent article called "EPA's Mandatory Deposit Rule: Tempest in a Pop Bottle," which appeared in the February 1976, issue of Government Executive. I believe my colleagues will find it a very balanced, thorough and disturbing overview of the issues surrounding EPA's proposed beverage container guidelines:

H.R. 11616

A bill to amend the Solid Waste Disposal Act to prohibit the promulgation of certain regulations respecting beverage containers sold, offered for sale, or distributed at Federal facilities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 209(a) of the Solid Waste Disposal Act (42 U.S.C. 3254c(a)), relating to recommended guidelines, is amended by adding the following at the end thereof: "Notwithstanding the preceding provisions of this subsection, no rule or regulation (including any final rule or regulation promulgated on the basis of proposed solid waste management guidelines published on November 13, 1975 (40 Fed. Reg. 52968)) may be promulgated under this subsection respecting the sale, offering for sale, or other distribution of beverage containers at any property or facility to which section 211(a) applies; any such regulation promulgated before the date of the enactment of this sentence shall cease to apply upon such date of enactment.".

EPA's Mandatory Deposit Rule: Tempest in a Pop Bottle

HIGHLIGHTS

Environmental Protection Agency's (EPA) proposed guideline will require a 5-cent deposit on all beer and soft drinks sold in bottles and cans on Federal facilities.

EPA may not have the authority to impose it; the claimed reduction in litter will be minimal at best; and the alleged cost and energy savings are probably just the reverse; but they're charging ahead anyway.

With almost no one on their side, EPA's attempts to impose a "forced march" may well earn them the "long term damage" their own Deputy Administrator, John Quarles, has cautioned them to avoid.

The "Returnable Beverage Container" guidelines EPA (Environmental Protection Agency) proposes to impose on the rest of the Federal Government—and urge State and local governments to adopt—have stirred up a storm of protest.

Defense, Commerce, General Services Administration, Veterans Administration, Federal-employee consumers, the AFL-CIO and individual unions including steel and aluminum workers and glass bottle blowers and, of course, the Nation's brewers and soft drink manufacturers all have objected, many with considerable bitterness.

Considering the large and mounting image problem EPA has already (see *Government Executive* "Free Enterprise" series, started in October, 1975), many of these angry critics wonder why EPA has chosen to fight on this particular battleground.

According to a variety of expert estimates, beverage containers make up only 6% of total municipal solid waste—and the last count done on solid waste generated by Federal facilities alone showed only 3% of that was the beverage container pile.

And, with $300 million in beverage sales annually (through mainly commissaries, post exchanges and vending machines) the Defense Department is presumably, says EPA, 95% of the bottle-and-can source. (In turn, Defense Deputy Secretary William Clements has told EPA Administrator Russell Train, "We in Defense do not have a significant litter problem on military installations.")

SIDE DOOR EFFORT

What the critics suspect is going on is that the "bottle deposit" advocates in—and on the outside pressuring—EPA are trying to "slip a fast one past the intent of Congress." Snorts the National Soft Drink Association (NSDA), "Both in intent and enactment, it represents a devious and appalling standard of Federal conduct."

The authority EPA is acting under in promulgating their guidelines is the Solid Waste Recovery Act which, in 1970, called for EPA:

". . . in cooperation with appropriate State, Federal, interstate, regional, and local agencies, allowing for public comment by other interested parties . . . recommend . . . guidelines for solid waste recovery, collection, separation and disposal systems."

Congress added that Federal agencies, as the "largest single institutional consumer in the Nation," should "exercise leadership" in carrying out the law's intent. Further, Congress defined solid waste as "garbage, refuse and other discarded materials."

SHOTGUN APPROACH

While all that seems clear enough, the turmoil seems to start from EPA's interpretation of how far back up the consumer cycle it can go, in its search for solid waste. In short, it has added to "recovery and collection" something called "source reduction," i.e. cutting down on the sources of waste before they even enter the stream of commerce.

If successful in this "returnable bottle" program, of course, EPA could conceivably go after just about every product line in America. The push has not been entirely their own doing. (Even today, in EPA, there are executives who think the agency ought to be concentrating on far more important chunks of the Nation's garbage.)

To many environmentalist groups, beverage bottles and cans have become a symbol of the "irresponsible throw-away society" they'd like to shake. In 1974 in California, three of them (The Sierra Club, National Resources Defense Council, and Environmental Action, Inc.) filed suit in California court, demanding they publish bottle-and-can guidelines.

EPA got a postponement of the district court judge's decision by promising they would. But they were, and still are, faced with a serious obstacle. First, nothing in the Act even suggests, as both Defense and Commerce Departments have pointed out, that they have authority to go after something until it has actually been discarded.

Secondly, the law governing EPA, itself, places limits on its ability to wheel through society, wielding its regulatory power in violation of the democratic process. Even EPA Deputy Administrator John Quarles said recently:

"If this agency attempts to impose a wide range of forced-march changes on society on a strictly legal or regulatory basis, overriding in some instances general public disapproval and resistance, then the long term damage is likely to outweigh any immediate benefits."

And, of more than 1000 bills introduced

in State and local legislatures since 1970 to restrict beer and soft drink packaging, "bottle bills" have passed in only Oregon, Vermont and South Dakota (the latter to take effect in July, 1976.)

Evidently, say critics, EPA has opted to end-run that resistance by getting Federal agencies on a returnable bottle economy, hoping it will then spread into local communities. Indeed, an EPA inter-office memorandum proposes:

"Another possibility is to focus on a state which has a large number of commissaries and exchanges, and which is a prime candidate for returnable bottle legislation. California is such a State."

"Discriminatory," Defense has snapped. But the morale problem is more than that to the military. Total beer/soda drink sales in military exchanges, commissaries, vending machines and clubs and messes were $305 million last year.

Requiring a 5-cent-a-bottle-or-can deposit, they estimate would cost them $68.2 million in sales or $11.8 million in profit—and the profits from these operations are used to pay for welfare and recreational programs. Moreover, military-base women's clubs, Boy Scout troops, etc., pick up additional operating income collecting recyclable cans which probably would disappear if a "bottle regulation" were enforced.

EPA counters that it is not prohibiting the use of throw-away containers (directing procurement practices has been ruled beyond its authority, anyway); only that all containers must carry a deposit. That, say commissary operators, "is a specious argument."

For one thing, they point out, when Oregon passed its bottle bill, the percent of the market served by aluminum, steel, and bi-metal cans dropped from 30% to 3%. For another, closer to home, "If our customers can't buy something here at less cost and greater convenience than they can in the local market, they'll go to the local market."

EPA's answer: "Our analyses show that beverages sold in refillable bottles are less expensive to the final consumer than beverages sold in one-way containers. Therefore, a shift by military exchanges towards selling more refillable bottles should reduce overall cost to military personnel."

That, says Defense, is like looking at a mountain through a microscope. For one thing, while the bottle re-used may be less costly, more total bottles would have to be put in the pipeline. Reason: peaks and valleys, the "float" in professional vernacular, can't be predicted day to day with any precision.

For another, that doesn't cover the cost of building additional storage space, paying additional personnel for hauling and security, breakage, etc.—an estimated $15 million-plus annually—would have to be added in to the operation. So, they say, would $22.4 million in estimated labelling costs—to make sure the PX was paying back a nickel only for the bottles it sold in the first place.

(EPA, in claiming the labelling cost could be "as low as $1 million," belied its naivete about the can-and-bottling market by stating most returnable bottles are already identified that way—which they are not.)

POOR COST BENEFITS

The commissary operators' argument seems to have been born out in both Oregon and Vermont. Coca-Cola wholesale and consumer prices on returnable bottle soft drinks in other "Coke" domestic subsidiary. (Port-Oregon are substantially higher than in any land's *wholesale* price, for instance, is 30% higher than the *retail* price Chicago consumers pay.)

In Vermont, retail handling charges have gone up 24 cents a case; retail premium beer prices increased an average 15 cents a six-pack; and wholesale handling charges 34 cents a case to cover their additional costs—all in addition to the deposit charge.

Moreover, in Vermont's bottle bill's first year, packaged beer sales dropped 23%; Oregon's per capita consumption of beer and soft drinks went down even though population increased. Cans virtually disappeared from Oregon retail shelves as did nearly all foreign beer brands.

As to EPA's claim of energy savings, the U.S. Brewer's Association points out "less than ½ of total national energy usage goes into making beer and soft drink containers"; so "any energy savings would be infinitesimal." Adds Clements, "I am not convinced that a program directed solely at the Federal agencies will achieve any meaningful energy savings."

Moreover, a whole range of experts contest EPA's building its cost and energy-saving economies on an estimated 10 times a bottle would be returned. Oregon experience, they point out, has been more like five or six—and a Commerce Department study done last October says, without at least a seven-time return, the whole idea is a net loss.

EPA's proposed guidelines have attracted a batch of other strong objections: severe limit on consumer choice; Federal creation of market advantages for beer-and-can competitors (powders, ades, etc.); sanitation problems; several billion dollars in capital investment for brewers and soft-drink bottlers to comply if "returnables" became a national standard (and the likelihood they would simply drop out of the military market if that's all the farther the guidelines progress).

LITTER TRANSFERENCE

Commerce even pointed out that the guidelines, as currently written, don't distinguish between "returnable" and "reusable." The result of this, they said, "would appear to be less litter in one place and more in another, the place where the containers are finally discarded."

And, they add, "The 5-cent deposit is not explained or justified" as related in any way to some economy involved. "Apparently then" it was picked "merely because of its nuisance value."

Another largely ill-considered problem, critics say, are unattended vending machines. How does the customer get his deposit back when he returns "the empty" to a machine that is serviced maybe once a week by a delivery man coming around to refill it?

At *Government Executive* presstime, the deadline for final submission of comments to the proposed guidelines was due. Concerned organizations had asked for an extension, including a request for public hearings, primarily because consumer, retailer and wholesaler groups were complaining they have had no chance to be heard. EPA turned them down.

ELECTION IMPACT OF LARGE UNIONS

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. FRENZEL. Mr. Speaker, there is an excellent article on union election influence in the March 1, 1976, issue of U.S. News & World Report which includes the following table.

As the Committee on House Administration begins its review of the election law, particularly its review of political action committees operated by corporate managers, one of its goals will be to insure fairness and equal opportunity in political fund raising.

As the selected figures below indicate, the labor unions have not seemed to have any difficulty in assembling enormous amounts of money under the current law. The more than $2½ million disseminated by organizations on this list occurred in a nonelection year. The nearly $4 million on hand will, of course be greatly increased in this election year.

The table follows:

EXAMPLES OF UNION CONTRIBUTIONS TO PRESIDENTIAL AND CONGRESSIONAL CANDIDATES LAST YEAR, AND FUNDS ON HAND AT THE BEGINNING OF 1976

	1975 political spending	On hand Jan. 1, 1976
United Auto Workers	$148, 652	$978, 184
Communications Workers of America	231, 315	178, 910
Marine Engineers	173, 384	273, 113
Marine Engineers Pensioners	401, 982	78, 784
International Association of Machinists	238, 893	256, 269
Teamsters	53, 975	7, 394
Seafarers International Union	138, 457	69, 353
Masters, Mates & Pilots	37, 536	491, 293
United Transportation Union	185, 884	411, 705
United Steelworkers	71, 075	458, 225
National Education Association	107, 699	176, 385
United Mine Workers	5, 839	17, 486
International Ladies' Garment Workers	223, 926	229, 717
Amalgamated Clothing Workers	30, 495	45, 000
American Federation of Teachers	6, 763	64, 566
AFL-CIO Committee on Political Action	614, 116	51, 431
American Federation of State, County & Municipal Employes	50, 525	12, 082

Source: Federal Election Commission.

HOMER AND MYRTLE MACY REGISTER MORE THAN 6,000 PEOPLE

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. STEIGER of Arizona. Mr. Speaker, the retirement community of Sun City, Ariz., has one of the highest voter turnouts of any city in America, and much of the credit must go to Homer and Myrtle Macy, who have registered more than 6,000 persons to vote in the past 4 years.

This husband-wife team achieved this remarkable record, which I suspect is a world record, by simply devoting a tremendous amount of hard work to the task.

Mr. and Mrs. Macy donate 6 hours every Thursday to registering voters in the Thunderbird Bank in Sun City, and they also register voters in their home.

When they were approaching the 6,000 mark, Mr. Macy redoubled his efforts. He went door to door for 2 weeks, working 6 to 7 hours a day, for 4 days per week to find unregistered voters.

I want to emphasize that in Arizona, a deputy voter registrar is a voluntary nonpaying job. A registrar is required by law to register voters of all political parties. While Mr. and Mrs. Macy are Republicans, they are totally impartial in their voter registration activities.

Mr. Macy, who is retired from Sears,

Roebuck & Co., is a firm believer in the American system of government and citizen participation in that government by working in the political parties .

He is active in the Sun City Republican Club and has signed up more than 170 members in that organization since the first of the year.

I want to recognize the fine work done by Homer and Myrtle Macy and to share my enthusiasm for their fine work with others.

HEARINGS BEFORE UTILITY RATE HIKES

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. ZEFERETTI. Mr. Speaker, in the past several years, utility rates have risen and risen again all across the Nation, striking with particular severity at the elderly, the unemployed and the average working person. In my district, tens of thousands of working families and people on fixed incomes have been hard hit by such price hikes for utility services.

What is particularly unacceptable to me is that often such utility price increases have been processed and put into force without any kind of required public hearings in many jurisdictions around the Nation.

Usually, it is proper procedure for a utility to file a request for price hikes with the appropriate agency, in this case the Federal Power Commission, which possesses authority to pass on these requests when the sales of power are interstate by nature. Public hearings are then scheduled. However, in this process, the Federal Agency seems to almost always grant the price increase as requested and move it along through the proper channels.

The purpose of these public hearings is to discover whether or not the price rise is justified. It is also to allow all parties to make their arguments, pro and con, in a proper forum before any decision is rendered. What is actually happening, then, is a series of events which increasingly are making a mockery out of the concept and intent of the public hearing process. In more than a few cases around the Nation, price hikes have gone into force before hearings have been held. Citizens of various jurisdictions have found themselves in the position of being hit with a higher utility rate without ever having had a chance to protest the company request and take full advantage of legitimate adversary procedures.

Legislation has been introduced to prohibit the Federal Power Commission from granting any rate increases for interstate sale of electricity by generating companies without first holding public hearings. The intent of this bill is to provide all electric utility consumers an opportunity to hear and give testimony before the average consumer is asked or required to pay higher rates. This long overdue piece of legislation has my support and I am pleased to be able to join in sponsoring it in the House.

It is alarming to note the insensitivity characterizing rate increase procedures in question here. Again and again the price of electricity has gone up without even perfunctory consideration for consumers. Yet, the burden of these costs has grown heavier, almost to an intolerable point in recent months. It is difficult to even pick up and read a national paper without hearing of some utility seeking or obtaining a significant rate increase.

Our people know they cannot cope with this situation. Their utility bills remind them of this truth monthly. Yet, instead of seeking greater consultation and consumer input, the industry, with the aid from the Federal Power Commission, has sought to lessen public input. In this day and age, such a syndrome is both inexcusable and intolerable. People cannot and will not put up with such policies. It is my hope that the Congress, knowing this to be a nationwide problem of serious proportions, will act accordingly and make this legislation a public law.

ANNUAL QUESTIONNAIRE RESULTS

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. YOUNG of Florida. Mr. Speaker, last month I mailed questionnaires to residents of the Sixth Congressional District of Florida. This questionnaire contained 13 questions on subjects most often asked of me at appearances in my district. Mr. Speaker, as you can see, in some cases the questions were very specific. In some others, because specifics have not been established the question of necessity was somewhat general, but in either case knowing the general feelings of the people of my district makes me a far more representative Congressman.

These questions represent an excellent sampling of some of the current issues before the Congress and also of importance to the American people. Mr. Speaker, more than 38,000 people responded to my questionnaire with each questionnaire being individually hand-tabulated by volunteers working out of my district office.

I would like to share with my colleagues the responses of my constituents to these questions. The questions and tabulation are as follows:

ANNUAL QUESTIONNAIRE

1. Should the United States relinquish its treaty rights of jurisdiction and control over the Panama Canal Zone:

Yes, 6 percent; no, 90 percent; undecided, 4 percent.

2. Should secret activities of Government agencies like the CIA and FBI be made public?

Yes, 12 percent; no, 86 percent; undecided, 2 percent.

3. Do you agree with those Members of Congress who feel they have the right to reveal classified and top secret national security information?

Yes, 8 percent; no, 90 percent; undecided, 2 percent.

4. In view of the shortage of oil, would you favor an effort to increase the use of coal as an energy producer where possible?

Yes, 89 percent; no, 9 percent; undecided, 2 percent.

5. Do you agree that deficit spending policies of the Federal Government are the major contributors to inflation?

Yes, 85 percent; no, 9 percent; undecided, 6 percent.

6. To fight inflation, would you support substantial reductions in Federal spending programs, even if it meant holding down spending on some popular Government programs?

Yes, 84 percent; no, 12 percent; undecided, 4 percent.

7. Should the United States maintain a position of military superiority in the world?

Yes, 87 percent; no, 11 percent; undecided, 2 percent.

8. Do you support America's foreign aid program?

Yes, 15 percent; no, 80 percent; undecided, 5 percent.

9. Do you believe the Federal Government should assume financial responsibility for cities like New York whose own spending programs have brought on bankruptcy?

Yes, 12 percent; no, 83 percent; undecided, 5 percent.

10. Do you believe there is too much government regulation of business and industry?

Yes, 62 percent; no, 33 percent; undecided, 5 percent.

11. Should Government employees be given the right to strike?

Yes, 12 percent; no, 83 percent; undecided, 5 percent.

12. Would you support pending legislation to prohibit abortions?

Yes, 25 percent; no, 66 percent; undecided, 9 percent.

13. Would you support bills which have been introduced in Congress to prohibit or restrict ownership of hand guns by private citizens?

Yes, 43 percent; no, 53 percent; undecided, 4 percent.

LITHUANIAN INDEPENDENCE

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. BELL. Mr. Speaker, I recommend for the attention of my colleagues the following resolution adopted on the 58th anniversary of Lithuanian independence by the Lithuanian Americans of the Los Angeles area.

The complete text of the resolution follows:

[Lithuanian American Council]

RESOLUTION

We, the Lithuanian Americans of the Greater Los Angeles area, assembled this 15th day of February, 1976 at John Marshall High School, 3939 Tracy Street, Los Angeles, California, to commemorate the restoration of Lithuania's independence, do hereby state as follows:

That February 16, 1976 marks the 58th anniversary of the restoration of independence to the 725 year old Lithuanian State, which was won and protected by the blood sacrifices of the Lithuanian people during the wars of independence of 1919–1920, and recognized by the international community of States; and

That the Republic of Lithuania was forcibly occupied and illegally annexed by the Soviet Union in 1940, in violation of all the existing treaties and the principles of international law; and

That subjection of peoples to alien domination and exploitation constitutes a denial of the right to self determination which is one of the fundamental human rights; and

That such an act is contrary to the Charter of the United Nations and to the stipulations of the Helsinki agreement, and is an impediment to the promotion of world peace and cooperation; and

That so many countries under foreign colonial domination have been given the opportuntity to establish their own independent states, while Lithuania, having enjoyed the blessings of freedom for centuries, is now subjugated to the most brutal Russian oppression and is nothing but a colony of Soviet empire; and

That through the continuing efforts to change the ethnic character of the population of Lithuania and suppression of religious freedom the Soviet invaders have not been able to suppress the aspirations of the Lithuanian people for freedom and the exercise of their human rights,

Now, therefore, be it resolved, That we demand that the Soviet Union withdraw its military forces, administrative apparatus and the imported Russian colonists from Lithuania and allow the Lithuanian people to govern themselves freely;

That we demand inmmediate release of all Lithuanians who are imprisoned for political or religious reasons, and who for years are lingering in various Soviet jails and concentration camps or kept in psychiatric wards;

That in expressing our gratitude to the United States Government for its firm position of non-recognition of the Soviet occupation and annexation of Lithuania, we request an activation of the non-recognition principle by stressing at every opportunity the denial of freedom and national independence to Lithuania and the other Baltic countries;

That the Soviet Union, in seeking a policy of detente with the United States, shall be requested to demonstrate its good faith and good will by restoring freedom and national independence to Lithuania, Latvia and Estonia;

That we are sincerely grateful to the House of Representatives of the United States for passage of a new resolution expressing a sense of the House relating to the status of the Baltic States, and we ask the President and Members of Congress of the United States for their support of the cause of freedom for the Lithuanian nation;

That this resolution be forwarded to the President of the United States, and copies thereof to the Secretary of State to the United States Senators and Members of the House of Representatives from the State of California, and to the news media.

V. CEKANAUSKAS,
Chairman.
BR. DUDA,
Secretary.

CHILD AND FAMILY SERVICES ACT

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. BROYHILL. Mr. Speaker, I am sure that my colleagues have in recent weeks been deluged with mail from their constituents expressing opposition to H.R. 2966, the Child and Family Services Act. Much of this mail has been generated by an unsigned flyer circulating throughout the country purporting to outline the purposes and effects of this legislation.

I am opposed to H.R. 2966. I voted against similar legislation in 1971, and I will do so again. It places responsibilities on the Federal Government which I do not believe are the Federal Government's responsibilities. It would make the Federal Government responsible for virtually all the health and nutritional needs of the children involved in the Federal day care program. It would put the Federal Government increasingly into the baby-sitting business.

The potential cost would be virtually unlimited. Indeed, no less an authority than the director of the Congressional Budget Office, Ms. Alice Rivlin, stated in a letter to the Washington Post in 1971 that the funding for such a program could rise to as much as $10 billion annually.

Certainly, I am aware of the need to provide adequate child care for the children of working mothers. I am aware of the fact that many mothers now on welfare would have some incentive to go to work if they knew their children were receiving proper care and nourishment. However, I do not believe this legislation is the solution to those problems. Certainly, if it is a solution, it is a solution which under present financial circumstances the Federal Government cannot afford to undertake.

If there is a Federal role in assisting working mothers with child care problems; a more constructive alternative to H.R. 2966 would be to allow working parents a tax deduction for child day care as a legitimate business expense. In that way, parents would have the freedom of choice in selecting child care centers plus a financial incentive.

If there are to be standards for child care centers, they should be State standards rather than Federal standards. We have seen to often the hardships created by Federal standards when individual States standards would have been more flexible and dealt with the peculiar needs and problems of individual States.

Yes, I am opposed to H.R. 2966, and I will make every effort to persuade my colleagues to adopt a more rational approach to the problems this bill is supposedly designed to solve. However, I cannot condone efforts by unknown opponents of this legislation to spread false information about the contents and effects of this bill. The unsigned circular alleges that if this bill is passed, parents will not be allowed to require their children to go to Sunday school and church or to take out the garbage. There are no such provisions as these in this bill.

This false and unsigned flyer has alarmed the citizens of my district considerably. Regretfully, they have fallen easy prey to those utter fabrications because their confidence in Government is at an alltime low. This lack of confidence is due in part to the difficult economic times our Nation has experienced, and in part to the fact that so often their Government has promised more than it had the resources to deliver.

In closing, let me repeat that I oppose this bill. Its cost to the already overburdened taxpayer is excessive. It would make Uncle Sam the Nation's babysitter. It would allow HEW to exercise control from Washington over standards of local child care services. It is poorly drawn legislation that should be defeated on the basis of facts and not fiction.

I would commend to my colleagues a recent article by Howard Flieger in March 1, 1976 issue of U.S. News & World Report entitled, "False Alarm." It puts in proper perspective the correct current status and true intentions of the Child and Family Sevices Act. I respectfully insert this excellent article in the RECORD.

[From U.S. News & World Report, Mar. 1, 1976]

FALSE ALARM

(By Howard Flieger)

Every now and then a reader writes us in words of terror to warn that a Marxist plot is afoot in Congress to "nationalize" our children—take them away from the protection or control of their parents and destroy the American family, utterly and forever.

The volume of mail received here is not a patch on the sacks of it that have been hitting some congressional offices.

The writers are alarmed over what they've been informed is an insidious scheme to give youngsters the legal right to disobey their parents, and thus become pawns of Government—an all-powerful Big Brother to mold their training, conduct and beliefs.

Strange.

It is strange because there isn't a word of truth in it. No such legislation is before this Congress, or ever has been.

The specific bill that has so many people disturbed is "The Child and Family Services Act of 1975." Its authors are Sen. Walter Mondale (Dem.), of Minnesota, and Rep. John Brademas (Dem.), of Indiana. It is "S. 626" in the Senate, "H.R. 2966" in the House. Read it before you panic.

In its present form, the legislation is both innocent and impotent: innocent because it would do none of the things attributed to it; impotent because it isn't going anywhere.

Briefly stated, the proposal is to make federal funds available to help States and communities provide certain public services for children and their families.

These would include such things as prenatal care, food where needed, part or full-time day care for children of working mothers, tutoring at home where deemed useful, medical examination and treatment for certain handicapped children, and training for parents and about-to-be-parents.

There is nothing compulsory about the legislation now before the Congress. Even if the bill were enacted, anyone who felt like it could ignore each and all of its provisions.

Nothing in it says—or implies that youngsters have a legal right to disobey their parents or guardians.

Nowhere does it forbid parental guidance, advice or preference in religious training. The subject isn't mentioned.

In fact, it says in specific words:

"Nothing in this act shall be construed or applied in such manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents."

So why all the excitement? It is puzzling to Senator Mondale, one of the chief sponsors, who says the measure "is being subjected to one of the most distorted and dishonest attacks I have witnessed in my 15 years of public service."

There is another practical thing to keep in mind about The Child and Family Service Act: It would cost a lot of money. Estimates are that an initial annual expense of 150 million dollars would grow to almost 2 billion by the third year of operation.

This present Congress is in no mood to add such a burden on taxpayers who already are making angry noises about waste and the high cost of Government. Since this is election year, the measure probably has less chance now than a year ago, when it was introduced—and that means practically none.

Also, remember the President is demanding that Congress do more to hold the line on spending. It is a keystone of his campaign to be against this bill, and any like it.

So everybody can stand at ease.

The bill doesn't provide all those wild things the letter-writers fear. It has no realistic chance of adoption. And even should it overcome its rating as one of the longest shots in history and somehow be enacted by Congress, it would be vetoed almost the minute it reached the White House.

The furore is a false alarm. Forget it.

CONCERN FOR CHILDREN IN PLACEMENT

HON. RICHARD F. VANDER VEEN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. VANDER VEEN. Mr. Speaker, I would like to call the attention of my colleagues to the outstanding efforts put forth by the people of Kent County, Mich., in developing a project to improve the care of, and planning for, children who must be placed in foster homes or institutions. This project entitled "Concern for Children in Placement" was inaugurated in Kent County under the leadership of juvenile court Judge John P. Steketee in 1971. Now, with the aid of a $200,000 grant from the Edna McConnell Clark Foundation, it has been expanded to a national program involving 12 courts under the aegis of the National Council of Juvenile Court Judges.

We are all aware of the thousands of unfortunate children in the United States who are dependents and wards of our judicial system, who, through some tragic circumstance are deprived of their birth right, a warm secure position in their own families. It is possible for delinquent, dependent, and neglected children to remain for many years in court-ordered placement, foster care, or institutions without a judicial review of their status. These children may be shuttled through a succession of foster homes or institutions never knowing a permanent, secure family life and to all intents and purposes forgotten by the society which set out to help them.

Seeking to change this pattern Kent County Juvenile Court Judge John P. Steketee in 1971 emphasizing two facets of a child care program. The first was annual judicial review of the case of each child remaining a ward of the court; the second was to focus on finding permanent placement for children remaining in foster homes or institutions.

The annual review is accomplished by melding the technological efficiency of the computer with the humane insights of community volunteers. The volunteers are trained to gather comprehensive data on the status of each child remainiing in the court's jurisdiction for use in the annual review. Storage of the data in a computer assures complete review of all cases under the courts' jurisdiction when the data is asked for.

In the process of reviewing each child's situation and needs, the possible alternatives for permanent placement in the community are examined and emphasized. This has the effect of speeding up the movement of children from foster and institutional care to permanent home status. It also increases consideration of older and impaired children for adoption. Finally it permits improvement of a temporary placement when a child is suffering.

Mr. Speaker, in this era of even more leaning on government for the resolution of social ills I speak with pride of Judge Steketee and his volunteers in Kent County and their self-help efforts to relieve the plight of neglected and dependent children through the concern for children in placement project.

SILVER ANNIVERSARY AND BICENTENNIAL CELEBRATION OF LOCAL 463, IUE, AFL–CIO

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. WOLFF. Mr. Speaker, during this Bicentennial Anniversary of the Colonists' victory over foreign tyranny, we all must look around to observe the same battles lingering today.

Twenty-five years ago, James Trenz led members of the former UE Local 1227 in a revolt against this formerly Communist-dominated organization. From the depths of rebellion has grown Local 463 IUE–CIO, a union based upon American trade union principles.

I was able to participate in, and speak at the silver anniversary of the Local 463, UE, AFL–CIO. This anniversary and Bicentennial celebration brought to view the similarities between the birth of our democratic country and the union's success over tyranny.

Since its inception this new, democratically run and ruled union has been guided by its president, James Trenz, who was the original fighter and organizer of the local. The following is Mr. Trenz' silver anniversary message as founder and president:

> 25 years ago I had the high privilege of leading the rank and file revolution against Communist domination in the old UE, which resulted in the founding of Local 463 IUE–CIO. The breaking point for us was the issue of "support for our boys in Korea," which we demanded the UE Local endorse. Purged for our patriotism, my associates and I were even barred from an appeal to the Membership, thus destroying the last pretense of trade union democracy in the UE. As a former Business Agent, I led the disaffiliation from UE Local 1227 of 1,000 workers in 20 shops in a single dramatic operation. Determined to return to the mainstream of the American Labor Movement, we chose to affiliate with the IUE–CIO, although we also had offers of a charter from other Unions as well.
>
> Starting out in a store front, which wasn't even our own, Local 463 IUE began to operate. We had no treasury, no office equipment of our own, and I was the only full time Union official. Dues were collected by hand, out of which we paid our expenses and per capita from the start, and we have been paying our own way ever since.
>
> On the occasion of this 25th Anniversary of that victory for patriotism, we also celebrate the Bicentennial of the American Revolution, and the Colonists' victory over another form of foreign political tyranny.
>
> We fought to establish a Union based on American trade union principles, with democratic rank and file control, and dedicated to the economic interests of the workers. The extent to which we succeeded in achieving those goals, over the last quarter Century, can be seen in the pages that follow. They depict the highlights of the activities in which we engaged, and in which we are still very much involved.
>
> Over the last 25 years we have substantially improved the quality of life of our Membership and their families. We believe that our record is truly one of "25 years of Pioneering in Progress." It hasn't been easy. It required hard work, considerable tension and sometimes much sacrifice for our members. We don't expect that formula for achievement to change much in the years ahead. We have lived through two wars, survived four Recessions since 1951, and even now are suffering from the latest and worst Recession and Unemployment since the Great Depression.
>
> Born in struggle, built through struggle, Local 463 continues the struggle for a better life for our people, our Nation and in the world.
>
> I want to express my thanks to that small dedicated band of pioneers who were with me 25 years ago. And thanks also to the many who have joined us over the years since then. The accomplishments we celebrate tonight are those all of us have achieved together.
>
> With pride in our past, together we look forward confidently to even greater progress in the future.
>
> Fraternally,
>
> JAMES TRENZ,
> *President.*

OUR RICH HERITAGE

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. HARKIN. Mr. Speaker, in this Bicentennial Year, we are hearing a lot about our Bicentennial heritage. Brian Bergquist, a senior at Abraham Lincoln High School in Council Bluffs, Iowa, has done one of the best jobs I have seen of explaining the importance of that rich heritage.

Brian is the statewide winner in the Veterans of Foreign Wars' Voice of Democracy contest, in Iowa, this year. I would like to share his speech with my colleagues, as he explains so well why we are all proud to be Americans.

The text follows:

OUR RICH HERITAGE

(By Brian Bergquist)

> Hundreds of years ago, the first Europeans landed on the shores of North America, after fleeing from religious persecution in their

homelands. They set up towns and colonies, and lived and grew together in peaceful harmony. They learned to love their new found freedom, and came to cherish it more than life itself. They formalized their commitment to freedom two hundred years ago, by creating a nation, our nation, a nation of free and independent people, working together unselfishly for the good of all mankind.

Looking back over these two hundred years, one quickly realizes that no specific incident shows every facet of the American way. Each is unique and shows a certain aspect of America. Also, our heritage is not simply an event of the past, but a continuing legacy for our future generations.

The past and the future of this great and unique country are entwined in the very essence of each and every American. For instance, our traditions are not restricted to those of a single nationality, but span the entire spectrum of customs and folklore. The reason for this is simple. America has always welcomed the immigrant with open arms, and as they came to these shores, they brought with them the smells, tastes, feelings, and love of freedom that has made our country what it is today, a country abounding in happines, variety, and success.

No other country in the world can claim near the success that the United States has had. Our businesses profit both the owner and the worker, something unheard of in many places in the world. Our educational facilities are open to every child, and free. Their quality is undeniable. Our people live in conditions unsurpassed in any segment of the globe. They eat their fill, enjoy a good life, and can go to bed safe in the knowledge that when they wake up, they will have just as much to look forward to as they did the day before.

Of course, this success did not occur overnight, or without bloodshed. Our forefathers designed a government that could stand the trials of time, that could change as the world changed. It has lasted through scandals and depressions, drouth and disaster, and it is still going strong, repairing it's faults, and working to promote freedom for all.

Many Americans were willing to fight for this freedom, and, although the battle was usually on foreign soil, our fathers, our brothers, and our sons were willing to give their very lives so that others would have a chance to take a deep, sweet, clean breath of freedom.

Americans are also willing to sacrifice in other ways. They are willing to give away food so that others may eat. They are willing to spend years of their lives in foreign countries teaching illiterate farmers and peasants how to grow crops, and how to find the better life.

Perhaps that is one of the greatest things about America, the fact that we are willing to show others how to grow crops, and how to find the better life.

Americans are a truly great race. We are willing to give, yet at the same time we must take criticism, both from within and without. That is one of the things our forefathers wanted. If we can take this criticism, we will never become too proud. Therefore, we must never allow our liberty of free speech to be taken away from us, or harmed in any way. It is a gift from the past, a gift that is more precious each time we use it, today, tomorrow, and on into the next century.

All of these things are part of my heritage, and all make me feel a certain deep satisfaction. This satisfaction, however, is not all that I get out of my bicentennial heritage. I get a definite warmth and glow; a positive reaction to the pride and faith I have in America.

I know that my country has lasted two hundred years, and am confident that it will last for at least two hundred more. I know that never before has a country achieved such heights of liberty, brotherhood, freedom, and friendship as these United States. I know that my country will forever help the less fortunate, the oppressed, and the enslaved. I know that my government and our people will continue to function successfully as I grow to take my part in the future.

It can be summed up very simply. No matter where I am in the world, no matter who I am with, I can think of the stars and stripes, of the men who fought and died for our country, of our founding fathers and their great foresight and wisdom, and can confidently say, I am proud of my American heritage, and I am proud to be an American.

THE SUPREME COURT AND ILLEGAL ALIENS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. EILBERG. Mr. Speaker, in a decision handed down yesterday, DeCanas against Bica, the U.S. Supreme Court held that a State can constitutionally legislate prohibitions on the employment of illegal aliens. Although the decision raises some question as to the desirability of diverse State laws on the subject as opposed to a uniform Federal approach to the illegal alien problem as contained in H.R. 8713 which has been favorably reported by the Judiciary Committee, the case does indicate that the State of California has a strong governmental interest in protecting the job security of its residents.

In the opinion delivered for a unanimous Court, Justice Brennan described the nature of the illegal alien problem as follows:

> Employment of illegal aliens in time of high unemployment deprives citizens and legally admitted aliens of jobs; acceptance by illegal aliens of jobs on sub-standard terms as to wages and working conditions can seriously depress wage scales and working conditions of citizens and legally admitted aliens; and employment of illegal aliens under such conditions can diminish the effectiveness of labor unions. These local problems are particularly acute in California in light of the significant influx into that State of illegal aliens from neighboring Mexico.

The Court also pointed out that the employment of illegal aliens in California has had a deleterious effect on the State's economy and on the efforts of that State to protect its "fiscal interests and lawfully resident labor force." The Court's views on the scope of this problem are entirely consistent with the findings of my Subcommittee on Immigration, Citizenship, and International Law as a result of 3 years of extensive hearings on the subject.

The Supreme Court also discussed the illegal alien problem at length in the case of Brignoni-Ponce which was rendered last June. In that case, the Court described the magnitude of the problem in the following manner:

> Whatever the number, these aliens create significant economic and social problems, competing with citizens and legal resident aliens for jobs, and generating extra demand for social services. The aliens themselves are vulnerable to exploitation because they cannot complain of substandard working conditions without risking deportation.

In a concurring opinion in Brignoni, Justices White and Blackmun noted the ineffectiveness of current Federal efforts to intercept the "millions of aliens who enter and remain illegally in this country," and added that:

> Perhaps the Judiciary should not strain to accommodate the requirements of the Fourth amendment to the needs of a system which at best can demonstrate only minimal effectiveness as long as it is lawful for business firms and others to employ aliens who are illegally in this country.

Consequently, the need for legislation to control the illegal alien problem has been recognized by all three branches of Government, and I am hopeful that H.R. 8713 which represents a reasonable and humane approach to the problem will be enacted into law during the 94th Congress.

WORLD BANK LOAN TO CHILE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. HARRINGTON. Mr. Speaker, the recent U.S. vote in the World Bank to loan $33 million to Chile for the rehabilitation of the nation's copper industry is the most recent indication of the continued U.S. determination to strengthen and preserve the Chilean junta.

Indeed, if we consider the record of the World Bank loans before, during, and after the Allende regime, we notice a very familiar pattern. While the loans negotiated in 1969, before the establishment of the Allende Government, total almost $20 million, there are no additional Bank loans until the 1974 Technical Assistance Loan of $5 million. And the policy reversal continues in 1975 with an extension of $20 million for agricultural credit. The recent allocation of $33 million reinforces this substantial upswing.

Certainly, the rationale that the Allende loan applications were denied because Chile's economy was "not creditworthy" is equally applicable at present, when we consider the current rate of Chilean inflation in excess of 300 percent, and thus we are led to the conclusion that political rather than economic considerations substantially influence World Bank decisions.

These actions reflect a similar pattern set by U.S. bilateral aid policies to Chile during the same period. Chile's present status as the prime recipient of U.S. economic aid in the hemisphere stands in stark contrast to the meager aid aggregate provided for the Allende regime. Both records reveal an obvious intent to destabilize the Allende Government and to prop up the present junta.

I would like to take this opportunity to familiarize my colleagues with the most recent Chilean aid allocation by inserting the World Bank discussion of the loan along with commentaries offered by Mary McGrory and Anthony Lewis on this issue:

$33 MILLION LOAN FOR CHILE'S COPPER INDUSTRY REHABILITATION

The World Bank has approved a $33 million loan to assist in financing a project aimed at maintaining, rendering more efficient and, in a few cases, slightly expanding Chile's existing capacity to process copper ore and by-products.

The loan will support investment subprojects to be undertaken by two Government agencies, the Chilean Copper Corporation (CODELCO), and the National Mining Company (ENAMI). Under the project, technical assistance will also be provided to strengthen both agencies' management and to improve planning and policy-making to help formulate an overall development strategy for the sector. Total investments by both CODELCO and ENAMI are estimated at $76.8 million. Implementation of the overall project is expected to be completed by early 1979.

The copper industry accounts for approximately 75% of the country's foreign exchange earnings. Chile is currently the world's third largest producer of copper, after the United States and the Soviet Union, with about 12% of world production. In 1974 Chile was the world's second largest copper exporter, slightly behind Zambia, and its exports of 860,000 metric tons accounted for about 20% of net world copper exports. Chile's copper markets are well diversified and about half of its exports go to Japan, West Germany, the United Kingdom and the United States. Decreased demand in the world copper market has affected Chilean foreign exchange income. Expectations of a gradual economic recovery in industrial countries would help raise copper prices from their present low levels, and Chile's economic position would improve accordingly. Once completed, the World Bank-supported project is expected to raise foreign exchange earnings to over $100 million a year by 1980.

Note.—Money figures are expressed in U.S. dollar equivalents.

$33 MILLION FOR BRUTAL CHILE REGIME

(By Mary McGrory)

WASHINGTON.—The night before the World Bank sanctioned a $33 million loan to the brutal government of Chile, bank president Robert S. McNamara received a visit from eight American citizens who tried to talk him out of it.

They were: Rep. Tom Harkin (D. Iowa), Rev. Thomas Devlin, a Holy Cross priest who spent 16 years in Chile; Esteban Torres of the U.A.W., Tom Quigley of the U.S. Catholic Conference, Rev. Joseph Eldridge, a Methodist minister and former missionary in Chile; Tom Jones of Amnesty International, Jack Conway of the American Federation of State, County and Municipal Employees, and Prof. Richard Falk of Princeton.

The meeting was arranged by Conway, who knew McNamara from another life. Conway, often negotiated labor contracts with the then Secretary of Defense.

It was the kind of group that McNamara wishes to think well of him, and he was cordial, although not to be quoted.

He explained that his son, over his objections, had gone to work in Chile during the brief rule of Marxist Salvador Allende. He expressed his own antipathy to the repressive junta now in charge.

But, he said, the loan was a drop in the bucket of the $1.2 billion in financial assistance that Chile is receiving from other sources such as the United States and the United Nations. The money would free $100 million in foreign exchange, enabling the generals to provide food for the poor-members of that 40 percent of the deprived to whom McNamara has pledged allegiance.

His visitors told him that the loan would help stabilize the regime, exactly as withholding of loans had helped to "destabilize" the Allende government. The $33 million would be another step toward legitimacy and respectability for a government which tortures its own people as a matter of policy, is committed to "up-rooting" all dissidents, outlaws political parties and forbids union meetings.

McNamara told them that the determination had been made on "purely economic grounds." The World Bank, by its charter, is forbidden to be "political."

He stopped the paramount question: Why yes to the generals after so many noes to Allende?

McNamara related that upon Allende's succession, he had sent a message assuring the newly elected president that he would find no ideological hostility at the bank. In 1973, he met Allende and conferred with him about a loan request that was pending.

"It was a disarming performance," Prof. Falk related, "rather like what he did on Vietnam. He said one set of things privately to assuage his conscience while doing another set of things in an institutional role to carry out the logic of his career."

Allende's applications, somehow got stalled among the technocrats of the World Bank. They were never quite right—perhaps because he refused to discuss the indemnification of the US owned copper mines, which the loan will help to rehabilitate.

The junta application, which was postponed twice because of a certain squeamishness inside the bank, fared better.

Bank apologists protested that it is unfair to say that the loan was an extension of US policy toward Chile. No US official has ever criticized the excesses of the junta, which the British Foreign Secretary recently called "uncivilized," and every effort has been made to ease its path with loans and grants.

"It was simply regarded as a good investment," says the defender.

Allende was turned down because his economy was in a downward spiral—a spiral, the defender failed to add, that was vigorously assisted by the CIA, which spent $11 million to strangle the economic life of the first elected communist government in the western hemisphere.

Actually, the junta has fared worse, and might have been turned down, on the merits, in the absence of US pressure.

The inflation rate is double the worst of the Allende years. Unemployment is somewhere between 18 and 24 percent.

On Tuesday, the board of directors voted for the $33 million, amid a record number of abstentions from our West European allies: England, France, Holland Belgium, Italy, Portugal and Spain. The United States has the largest voting block, 22.71, and carried the day with the help of Japan, Canada, Latin America, Africa and India.

The World Bank has decreed that Chile is just another little Latin-American country trying to get along. That's what Allende tried to tell them, but he was a threat to the "balance of power" that is the moral base for US foreign policy.

A LOAN FOR CHILE?

(By Anthony Lewis)

WASHINGTON.—The World Bank has before it a proposal to lend $33 million to the Chilean Government for investment in copper-mining facilities. The bank's president, Robert S. McNamara, has recommended the loan. It is scheduled to go before the board of directors for final approval next Tuesday.

Some will find it surprising that a respected international institution should want to assist a regime just described by the British Foreign Secretary as "uncivilized" and "brutal." The military junta that governs Chile has made murder and torture its policy. Despite promises to ease its cruelty, it continues to practice torture and holds thousands of political prisoners who have not been charged with any crime.

Inside the World Bank, the proposed loan to Chile is a sensitive subject. Embarrassment is evident in some quarters. But there is also an understandable hesitation about having the bank apply political standards to its loans.

"That is dangerous territory," one ranking figure at the bank said—"making loans depend on a regime's political character. On that basis Tanzania might not get any loans now, because the United States does not like its Government's atttiude."

The bank has followed the practice of talking in strictly economic terms. Its reports are "sanitized," in the words of the staff, to keep out politics. But of course the line between economics and politics is not always so clear. If those guiding the bank are strongly antagonistic to the particular government, it may be denied credit on the ground that it is inefficient or a bad risk.

World Bank lending to Chile stopped abruptly when Salvador Allende's left-wing Government took office in 1970. The stated reason was Mr. Allende's failure to negotiate with the former owners of nationalized property, in violation of a bank requirement. But it is also true that the United States put on heavy pressure to delay any loans to Chile. One is said to have been under consideration when Mr. Allende was killed in 1973.

At some point a government plainly could be brutal enough to affect the bank's attitude toward it, whatever the explanation. The bank would not lend to a Hitler, efficient though he might be. It has not in fact made any loans to Uganda since Idi Amin took over and his mass murders became known. Some would regard the behavior of the Chilean junta as of similar character.

But the proposed loan to Chile also raises important questions in terms of the bank's own lending policy. Mr. McNamara defined that in a speech in Santiago in 1972, setting out two major aims. He said the bank must encourage both economic growth and "more equitable income distribution" in developing countries, to improve the lot of the poorest 40 percent. What counts in the end, he said, is "improvement of the individual lives of the great masses of people."

The World Bank staff report on the Chile loan, approved by Mr. McNamara, does not dwell on how it may benefit lower-income people. The report recites economic developments since the 1973 coup, with no reference to the accompanying human realities. It is all so dry that one expects to find a note about the trains running on time.

The report and a supporting memorandum do make reference to economic privation in Chile today. Industrial production is down 22 to 25 percent from a year ago, and unemployment in the Santiago area is at 16.6 percent. But the report argues that there is no better alternative economic policy.

"Heavy sacrifices are being required of the Chilean people," the report says. But its cold recital omits a fundamental truth: Privations of the kind being suffered by Chileans today can only be imposed by repression of a severe kind.

In any event, it would be hard to argue that such a loan to Chile under present circumstances would be likely to reduce income disparities or help the poorest 40 percent. That most conservative British weekly, The Economist, wrote recently that the junta's "heavy-handed" economic policy had "brought many thousands to the brink of starvation."

It is said of judges that they must not be blind to what all others can see, and the same rule might apply to the World Bank. A loan now, awarding a badge of respectability to the Pinochet Government, would come at a moment when there is some pressure for change. Members of the junta itself are reportedly trying to force General Pinochet out and moderate policy. Eduardo Frei, the Christian Democratic leader, has just opened an attack on the regime, and particularly on its economic policy.

In the World Bank, as elsewhere, bureaucratic momentum has its effect. Chile's Finance Minister, Jorge Cauas, formerly headed the bank's Development Research Center and has given strong support to this loan. The board of directors rarely withholds approval when a loan proposal has come so far. But economic considerations along with others urge that, this time, the bank think again.

"FAMILY," A NEW TELEVISION SERIES

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. REES. Mr. Speaker, at this time when television is under constant attack for ills both real and imagined and particularly for programing which many consider unsuitable for family viewing, may I take this opportunity to call your attention to a new television series titled "Family," which will be televised by the ABC Television Network beginning March 9 at 10 p.m.—eastern time—for 6 successive weeks.

Rarely has any television program or series of programs boasted as awesome an array of creative talents as that which is responsible for "Family." Its executive producers, Aaron Spelling and Leonard Goldberg, head one of the industry's most successful production companies. Its producer, Mike Nichols, is acknowledged to be one of the foremost producer-directors of stage and screen today. "Family" marks his first entry into television.

The series' story consultant, Jay Presson Allen, is considered by many to be our leading feminine screen writer, two of whose notable successes in recent years having been the screenplays for "The Prime of Miss Jean Brodie" and "Cabaret." Also involved are Mark Rydell, a director whose motion picture credits include "Cinderella Liberty," "The Rievers," and D. H. Lawrence's "The Fox," and Harry Morris, an editor who has won the Emmy, the highest award given by the National Academy of Television Arts and Sciences.

The cast of "Family" includes two notable stars of stage, screen and television, Sada Thompson and James Broderick, as well as an exceptional young talent, John Rubinstein, who both composed the score and is importantly seen as an actor. Incidentally, he is the son of our greatest living piano virtuoso, Artur Rubinstein.

"Family" deals with the problems, hopes, fears and joys of an American mother, father and their three children. It is intelligently written, skillfully directed and produced and masterfully acted. It pulls no punches when it has something of import to impart. In short, it is honest and true to life. What "Family" seeks to do—and does—is to provide empathy for every member of the viewing audience. If it has any basic message, that would be the importance of the family as a unit; the need for its members to achieve understanding through communication; the concept that the generation gap can be bridged if people are willing to listen; the idea that while, in certain circumstances it may not be possible to forget, it is necessary that one forgive.

"Family" is a series which will both bring laughter and tears to all who watch it. Today, when one of our greatest problems is the breakdown of the family unit, this series may well serve to keep intact many families which may be on the verge of breaking up but which may be afforded new insight, new tolerance, new incentive to live and let live—together.

"Family" is a credit to television, to ABC, to Spelling-Goldberg Productions, to all who worked so diligently to make the 6 hours of the series come alive. I, for one, hope that "Family" will be on the air next season and for many seasons to come. I cannot help but believe that those of you, as well as the viewing audience, will share with that hope, once you have been privileged to see this exceptional series.

PUBLIC WORKS JOB BILL

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. HAWKINS. Mr. Speaker, I would like to submit the following editorial printed in the Los Angeles Times on February 23, 1976, for the consideration of my colleagues in the House. The editorial discusses Mr. Ford's successful veto of the Public Works Employment Act and calls on the President to admit at last that unemployment is a problem of sufficient magnitude to require Government action. As the Members prepare a new public works employment bill, I hope they will consider this editorial's admonitions.

The article follows:

JOBS: PEOPLE AND POLITICS

President Ford engaged in some distortion last week after his veto of the $6.1 billion public works employment bill was narrowly upheld in Congress.

Speaking at campaign appearances in New Hampshire, Ford said the defeated legislation was "pork barreling of the worst kind" and "election-year politics."

On the contrary. The bill had its faults and its excesses, but it proposed no pointless handouts or make-work schemes. It was one way to get useful and needed work done on construction of lasting projects for state and local governments.

The bill was shaped by many persons' concerns over the depth and the durability of America's unemployment problem. So in an incumbent President's denial that joblessness is still a major problem for millions of Americans.

"The best and more effective way to create new jobs," Ford said, "is to pursue balanced economic policies that encourage growth of the private sector without risking a new round of inflation. This is the core of my economic policy." Of course it is. It is the core of every major candidate's economic policy. That's not at issue.

America's dilemma is that unemployment is too high for anyone's good, and the nation is paying billions of dollars in unemployment benefits and in welfare benefits to people who would rather be working. If these people were in jobs they could be accomplishing things and projects for the benefits of all. The public works bill was one attempt to reach that end.

The bill had faults. It proposed to pay top union scale wages to all workers on jobs it supported. That meant fewer workers would be able to benefit from the measure. Also, the legislation's biggest employment impact would come when the jobless rate had declined.

But the bill's faults and the President's veto have in no way reduced the urgency of finding answers to the nagging national problem of jobs.

Even White House economists' optimistic forecasts do not envision a quick end to the nation's acute shortage of jobs—not even if the economic recovery proves stronger than expected. The private job market simply cannot absorb more than 8 million seekers of work in a matter of months. It will take years.

Now Senate Democratic leaders are said to be working on another public works bill that they think will win the President's support. Good. Ford owes the nation a forceful attempt to reduce unemployment. He could start by admitting that unemployment is a problem, and that government action is needed to solve it.

DON'T STOP METRO NOW

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. FISHER. Mr. Speaker, recently the question of whether to restudy the appropriate length for the Washington Metro subway has become a topic for public debate. As someone who has been involved with the Metro project from its start both as a county official and Metro board member and now as a Member of Congress, I have a great interest in this issue. I commend to my colleagues an editorial that appeared recently in the Washington Star opposing a further study as a costly, and possibly fatal, delay in this much-needed project:

DON'T STOP METRO NOW

That mordant old coot, Ambrose Bierce, could have compiled his *Devil's Dictionary* with little more raw material than the history so far of our rapid-transit adventure here.

"Re-study"—as in the recent clamor over whether the entire system should be built after all—he might have defined as: "The desperate refining of yesterday's late decision to send for a doctor into tomorrow's assertion that the deceased had lost his enthusiasm for life anyway."

It would be redundant to say that the Metro system is in crisis. It was conceived in crisis and scarcely has known a placid month during infancy. It is accurate to say that the financial pressures on the transit agency are probably as severe as yet faced.

But that this could be seen as invalidating the concept and design of the 100-mile rapid transit system, with 46 miles already built or under construction, is a queer bit of logic. The problems which Metro was, at best, to alleviate have not significantly changed—if anything, the rapid-transit role in our transportation network has become more imperative.

Francis Francois, of Prince Georges County, was installed as chairman of the Council of Governments last month, and promptly called for a re-study of the system, though not persuasively, in our view. That mischievous notion was derailed Wednesday when COG instead approved only a rapid review of ways and means to complete the system.

Then there popped up a quick study, commissioned by Representative Romano Mazzoli, D-Ky., who chairs the House District subcommittee on fiscal affairs. Representative Gilbert Gude charged that the study was secretly commissioned and was tipped toward a conclusion against Metro by the use of consultants who favor the automobile over mass transit. It recommended that construction be halted for six to nine months until a closer study can be made. Studies beget studies.

The further financial strain that would be generated by the six to nine-month delay—which quite likely would stretch to double that period—would be formidable.

The Mazzoli study claims that by 1990 only one in five workers will use rapid rail transit, as compared to the one-of-three ridership predicted by Metro. But to dismiss even the one-of-five ridership—assuming it is anywhere near precise—could be the difference between a bearable transportation crush and a near breakdown of daily urban movement.

The Washington Center for Metropolitan Studies a few weeks ago reported that in the first five years of this decade, car ownership in the metropolitan area increased dramatically: "The number of households with two cars at their disposal increased by 31 per cent. The number with three or more cars approximately doubled. Meanwhile, the number of households without a car decreased. So did those with only one automobile." Those additional cars are not purchased to sit in garages.

Finishing the rail system will be expensive. But it is an expenditure we cannot afford not to make. President Ford's tepid endorsement of Metro has been disappointing, though we will take tentative reassurance in Transportation Secretary William Coleman's recent comment that it would "be a breach of faith" to the people of the metropolitan area if the federal government does not exert itself to see the system completed.

Transfer of interstate highway money, as has been done in the District, appears to be a feasible course. Maryland has demonstrated a willingness in this direction. Virginia has been marvelously unhelpful—Richmond is much farther from Washington than a crow's flight plan indicates.

For years, we have urged construction of the full rapid-rail system. We see no reason to amend that thesis. Representative Mazzoli's subcommittee next week will hold public hearings on Metro construction. We hope that the debate over a new study will be perfunctory, and progress can be made to hammering out a solid and expeditious financing procedure.

LEWIS GRASBERGER, AGENT OF THE YEAR

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. RYAN. Mr. Speaker, it has been brought to my attention that Mr. Lewis J. Grasberger of Millbrae, Calif., is being honored as the Lincoln National Life Insurance Co.'s "Agent of the Year." In a company which is as large and as competitive as the Lincoln National Life Insurance Co., such a distinction is certainly in the tradition of the American free enterprise system.

I have known Mr. Grasberger for a number of years and consider him to be a good and personal friend. It is particularly appropriate that Mr. Grasberger should receive this honor during his company's most successful year and that the honor is being presented during our Bicentennial Year. I can think of no instance which better illustrates the fundamental principles of the American constitutional system than Mr. Grasberger's profession and of his work within that profession. The honor reflects on the city in which he lives and in which he has served as a member of the city council. It also brings honor to the 11th Congressional District which I am proud to represent.

I am told, Mr. Speaker, that Mr. Grasberger will have the further recognition of having his name engraved in granite at the company headquarters in Fort Wayne, Ind. Additional accolades will be accorded him during the company convention in Florida. I have no doubt that his example will serve as a standard and an incentive to the thousands of Lincoln National representatives throughout our country and especially to the several hundred representatives in northern California.

The award to Mr. Grasberger was presented in a special ceremony on February 13, 1976, at the St. Francis Hotel in San Francisco by Mr. Gathings Stewart, president of the Lincoln National Life Insurance Co., and Mr. Howard E. Steele, president of the Lincoln National Sales Corp., both of Fort Wayne, Ind.

CONNECTICUT'S HAMDEN AND WEST HAVEN HIGH SCHOOL HOCKEY TEAMS TO COMPETE

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. GIAIMO. Mr. Speaker, from March 8 through March 17, Connecticut's Hamden and West Haven High School hockey teams will compete in an international tournament in Sweden, sponsored by the Swedish-American Hockey Association.

The selection of these two schools to represent the State of Connecticut in the international tournament is, first of all, entirely appropriate in view of the teams' extraordinary winning records over the years and, second, a source of tremendous pride to my constituents and to me for I am privileged to have both Hamden and West Haven in the Third Congressional District which I represent.

This event has a twofold significance. The tournament brings together young athletes from Sweden, Czechoslovakia, Finland, Russia, Germany, and the United States in healthy, vigorous, and useful competition. Moreover, the tournament provides a setting for the development of international goodwill, fraternity and friendship which can serve as building blocks to future world understanding.

I congratulate the organizers and sponsors of the ice tourney on their vision and purpose. On a personal level, I offer my deep congratulations to the members of the Hamden scholastic hockey team and to Coach Lou Astorino and his assistants, and to the members of the West Haven scholastic hockey team and to Coach Art Crouse and his assistants for the honor they have achieved for themselves personally and their schools in being chosen as representatives of the great State of Connecticut and our Nation to the tournament.

Let me say that these selections were well deserved. The Hamden High School hockey team has won the Connecticut State interscholastic hockey championship in 9 of the last 12 years, including the last 3 in a row, and was in the final playoff game in the remaining 3 years. Since 1960, Coach Astorino has compiled an impressive record of 222 wins, 85 losses, and 2 ties. Similarly over the last few years, the West Haven High School hockey team, under Coach Art Crouse, has compiled one of the most impressive winning records in Connecticut and has been in the State championship playoffs many times. These records are a tribute to the skills of the skaters, to their dedication to the hockey program, to the coaches, and to the support of the schools administrations, students, and parents and friends of the players.

Mr. Speaker, I also want to express my admiration for the people of Hamden and West Haven who not only provided encouragement to the home teams during the season but also after a successful season rallied the support needed to make the overseas trip possible.

Mr. Speaker, I extend my best wishes for a successful tournament to the Hamden and West Haven High School hockey teams and to all participants in this exciting event. I know they will give the spectators a demonstration of good hockey and fine sportsmanship.

COAST GUARD ENFORCEMENT OF 200-MILE LIMIT

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. LENT. Mr. Speaker, within a short time, legislation to establish a 200-mile economic zone will become law. The enactment of this law can only have positive results if the Coast Guard is given adequate means to enforce it. Regrettably, the proposed budget for fiscal year 1977 provides, in my estimation, too little money for Coast Guard airborne patrol capabilities. The Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries is presently considering H.R. 11670, the

Coast Guard authorization bill, and I include in the Record at this point my statement before the subcommittee on the 200-mile limit issue:

Statement

(By Representative Norman F. Lent)

Re H.R. 11670, to authorize appropriations for the U.S. Coast Guard to insure adequate patrol capabilities in the 200-mile economic contiguous zone.

Thank you for allowing me this opportunity to address the matter of Coast Guard preparation for enforcing the law in the 200-mile economic zone which becomes effective next year.

While I note that the Administration appears to have planned for the increased need for Coast Guard surface capabilities, by increasing the requested authorization for medium and high endurance cutters from $47,500,000 to $49,000,000, I am concerned over the dollar amount requested for Coast Guard airborne patrol capabilities.

The bulk of the patrol duties which will fall to the Coast Guard once the 200-mile limit becomes effective will be carried out by aircraft, and of these duties, the most demanding will be those patrols to monitor pollution in the 200-mile zone. Patrol duties related to fisheries, I am told, are relatively simple, even in an expanded fisheries jurisdiction, primarily because fish follow established seasonal migratory patterns, and fishermen, of course, follow the fish. This makes the Coast Guard's job that much easier, and accounts for the fact that the Coast Guard's need for more equipment is not proportionately increased with the expansion of American jurisdiction over fishing areas.

From a budgetary point of view, it is unfortunate that the same does not hold true for the Coast Guard's responsibilities in monitoring pollution by vessels in transit through the 200-mile zone. The American coast is dotted with ports and harbors, and the tonnage of goods entering these harbors has been increasing every year. With the prospect of new deep-water ports, and expanded drilling for oil and gas on the outer continental shelf, the possibilities of such pollution are also increasing. Unlike the case with fishing vessels, where violations can be monitored on the basis of established patterns, violations of the pollution standards by commercial ships are more surreptitious, and generally occur outside of established shipping lanes. The need for vigilance in the complete expanded area of American coastal jurisdiction is obvious.

How, we may ask, will the Coast Guard discharge its responsibilities in conducting these wide-ranging pollution monitoring patrols? The American coast line is 12,383 miles long, and this means the Coast Guard will be required to patrol an area of 2,467,600 square miles of water.

The obvious answer is for the Coast Guard to expand its current airborne pollution patrol activities, and the Coast Guard already has a workhorse suitable to the task, the C130 aircraft.

The C130 high-endurance aircraft has a patrol range of approximately 3,000 miles, which, by way of perspective, is sufficient for trans-Atlantic flight. Assuming a generous visibility range of 15 miles on each side of the aircraft, it would require 28 C130's to patrol the whole area of the 200-mile zone at any given time. Assuming further that the Coast Guard will seek to minimize fuel consumption by flying their patrols in fixed areas, rather than by moving their aircraft about, say from North Atlantic patrol to South Atlantic patrol, to Gulf Coast duty, and so on, under this scenario it would require 6 C130's to patrol the East Coast, 4 for the Gulf Coast, and 18 for the Pacific Coast, including Alaska. At present, the Coast Guard has only 21 C130 aircraft.

But the Coast Guard has not asked for money to procure additional C130-type aircraft. Instead, they and the Department of Transportation have asked for funds to install a piece of equipment known as side-looking radar, which will greatly expand the Coast Guard's ability to patrol large expanses of water. Side-looking radar is a technical innovation which modifies standard front-looking radar to pick up shadows from either side of the aircraft. I am advised that this new radar can discern not only ships or aircraft out to a range of 30–50 miles, but can also distinguish between relatively rough, normal water, and calmer patches of water covered with oil.

Under the assumption that the Coast Guard could have as many C130 aircraft equipped with side-looking radar as were necessary to patrol the whole 200-mile zone, it would appear that with a side-looking range of approximately 40 miles on each side of the plane, a total of 11 such radar-equipped C130's could regularly patrol the zone. Two would be required for the East Coast, two for the Gulf Coast, and seven for the Pacific. This figure represents an optimum capability. Obviously, because of budget constraints, lead times in procurement, and eventual need to acquire more modern high-endurance aircraft, the Coast Guard will have to move gradually toward this optimum capability over a period of years. The initial request for authorization by the Coast Guard and the Department of Transportation for four side-looking radar units in Fiscal Year 1977 represents the first phase of this capital procurement project.

In my own evaluation of the amount requested to be authorized by the Coast Guard for these four radar units, I found it instructive to examine how the figure of four units was arrived at. Including the four side-looking radar units which the Coast Guard and DOT have requested, a total of 17 aircraft would be required for ocean patrol over the 200-mile zone. Of these 17 aircraft, four would be equipped with the new radar, while 13 would be conventional C130's. At this level of patrol capability, the Coast Guard would have sufficient equipment to patrol over ocean waters, and still provide two aircraft for patrol dues over the Great Lakes, with two aircraft held as back-up craft during other C130 "down times", or available in the event of an emergency.

The Administration's Office of Management and Budget, however, cut in half the Coast Guard and DOT's request for four units. Under the OMB figures, 19 C130's would be required for ocean patrol, leaving two aircraft for patrol on the Great Lakes, and no back-up capabilities whatsoever. This, of course, means deferral of maintenance, or spotty patrol surveillance, and raises the possibility that the Coast Guard might find itself in an emergency situation requiring a plane with radar capability for a search and rescue mission without any available craft.

While OMB's actions are undoubtedly taken in the spirit of economy, it occurs to me that the costs in future years of maintenance deferred on the Coast Guard's reliable, but aging, C130's may eventually offset whatever budget economies we might realize by deferring installation of the two extra units of side-looking radar until next year, or the year after that.

The Department of Transportation and the Coast Guard obviously felt similarly on this matter in requesting four units rather than two, and I would urge that the Committee seriously consider the trade-offs in both patrol efficiency and deferred maintenance involved in the OMB cut, and take action to restore the cut of $856,000 to allow the Coast Guard to complete installation of four side-looking radar units which are necessary to ensure adequate patrol capabilities in the 200-mile zone. This is a relatively small price to pay for the improved protecton of American fishermen and sailors, and for the conservation of our marine resources.

If the United States asserts jurisdiction to 200-miles, we must enforce that limit. "Paper" enforcement, like a "paper blockade," will only provoke contempt and violations by foreign vessels. Congress has legislated an extended limit, and I believe the Congress has a concomitant responsibility to authorize sufficient Coast Guard strength to maintain and enforce that limit.

PANAMA CANAL: THE STRUGGLE TO PRESERVE U.S. SOVEREIGNTY AND JURISDICTION WILL CONTINUE

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mrs. SULLIVAN. Mr. Speaker, the people of the United States have been concerned about the fate of the Panama Canal for many years. That concern has been magnified in recent months due to a number of revealing public events, including the eruption of political turbulence in the Republic of Panama, the recent visit of Panama's chief of government with Fidel Castro and continued speculation about the probability of a new draft treaty extremely disadvantageous to the United States.

There are many of our countrymen interested in the Panama Canal who are searching for answers to some important questions:

Does the recent political turbulence in Panama signal a turn to the extreme left and a more clamorous position for the Government of Panama in treaty negotiations?

Does that political turbulence foreshadow more anti-U.S. rhetoric in Panama?

What was the meaning of Fidel Castro's offer of unconditional support for the canal objectives of Panama's Gen. Omar Torrijos?

Does the Communist Party and its members in Panama have an increasing influence on the present Panamanian Government?

Will a new draft agreement leave the United States with all the liabilities of the canal and very little of the influence over it?

These are just a few of the people's important questions. The citizens of this country expect us in this body and the other body to get the answers to these questions. At the same time, the people of this country are equally anxious that we express their deeply held belief in the absolute necessity of U.S. sovereignty and jurisdiction over the Panama Canal and Canal Zone.

The colloquy in which Members of this Chamber engaged on December 9, 1975, stands out as a particularly important occasion in the articulation of the necessity for U.S. sovereignty and jurisdiction. On that occasion the scholarly gentleman from Pennsylvania (Mr. Flood) presented a moving address entitled

"Panama Canal Surrender Proposal: A Major Geopolitical Pearl Harbor". The address of the gentleman from Pennsylvania, and the remarks of his colleagues here in this Chamber, cover in a complete fashion the major points in the canal equation.

As far as I know, no major U.S. newspaper reported on the December 9, 1975, colloquy in this Chamber. I was happy to see, however, that on December 24, 1975, the Times of the Americas, a Washington, D.C., newspaper with a wide circulation in Latin American countries, presented the highlights of the colloquy. In order to bring this news story to the attention of all the Nation and to remind our citizens that their beliefs about the Panama Canal will not be forgotten, I am inserting the news article at this point in my remarks:

[From the Times of the Americas, Dec. 24, 1975]

FLOOD FIRM IN HIS STAND ON PANAMA

A staunch United States stand on the Panama Canal has no more articulate or consistent champion than veteran Congressman Daniel J. Flood of Wilkes-Barre, Pennsylvania. He spoke out again on the floor of the House on December 9, and some of his colleagues took the opportunity to join in his remarks. Congresswoman Leonor Sullivan, Missouri Democrat, and Chairman of the House Committee on Merchant Marine and Fisheries, said that "those who have studied the history of the Panama Canal know that its successful construction, maintenance, and usage are dependent upon the full exercise of U.S. authority. Those with a total perspective on this issue know that the continuance of U.S. authority is an important test for the nation."

Republican Orval Hansen of Idaho said that "the people of the Nation consider it to be as American as the Statue of Liberty." And Democrat John J. Murphy of New York says "there can be no compromise on the Panama Canal. It is as simple as that."

But it is still Mr. Flood himself who, through the years, has maintained vigil over the U.S. presence in the Zone, and who has made his stand on the issue clear and unvarying.

"In a realistic sense, the Panama Canal is not only a part of the coastline of the United States but also the jugular vein of the Americas. Its existence and efficient operation have shortened the distances of the world and greatly strengthened the commercial ties of Europes, the Americas and Asia."

Some 70 percent of its traffic, reported Mr. Flood, either originates or terminates in the United States. And Canal costs have been enormous. The 1970 widening of the Gaillard Cut, for example, from 300 to 500 feet cost $95 million, which means that modernization costs have climbed to $171 million.

Total Panama Canal costs since 1904, based on an estimate of the Secretary of the Army, total $6,880,370,000.

For that amount of money, in Mr. Flood's opinion, we must have bought something. And he cites an impressive list of thirteen impressive reasons why he is sure we did.

There's a 1922 treaty with Colombia, for example, in which that country recognized the title to the Panama Canal and Railroad as vested "entirely and absolute."

And there are two later treaties with Panama in which "the basic sovereignty rights and obligations under the 1903 treaty were twice reaffirmed": The 1936–39 Hull-Alfaro Treaty, and the Eisenhower-Remon Treaty of 1955.

Congressman Flood has never wavered in his insistence that U.S. rights in this Zone remain intact. Pearl Harbor is quiet today, he says, but "the canal and its indispensable protective framework of the Canal Zone are both the objects of monstrous propaganda assaults in the United States spearheaded by our own Department of State."

Mr. Speaker, one of the surest evidences that the Panama Canal issue has not been dismissed by the general public is its continual appearance in "Letters to the Editor" columns in newspapers all over the country. I have received a copy of one very thoughtful and particularly pertinent letter on the Panama Canal question. This letter was written by Mr. Robin Ficker of Bethesda, Md., in response to one by Mrs. Irvin Mason which appeared in the Washington Star. Since one of these two letters illustrates the misconceptions and pseudologic on the canal issue which characterize the thinking of a few Americans, and since the other clears up these misconceptions and poor logic, I am inserting both here for the Congress and the public:

[From the Washington Star, Saturday, Jan. 17, 1976]

"I AM SO DEEPLY ASHAMED . . ."

As an American citizen, I bitterly resent the conditioned reflex of the military which causes it to spew forth diatribes every time the words "Canal Zone" or "Panama" appear in print. I, for one, am so deeply ashamed of our role in the subjugation of an entire nation of human beings that I must raise my voice in protest.

Citizens of Panama are human beings. They see, hear, taste, touch and smell. They bear families, have homes, wishes and desires, just as we. Their aspirations parallel ours.

Yet, for a period in excess of half a century, these same human beings have been subjected to an elite group of Americans, the majority being American military personnel, who have lost all sense of reality. An arrogance, an insensibility, exists which would be intolerable if flaunted before their countrymen here at home.

I would ask how many of us would tolerate the daily sight of magnificent quarters, servants, the best of merchandise at cost—all within walking distance—and be forbidden to enter them, let alone use them? I would ask how many of us would tolerate foreigners forbidding us to enter our own territory, without their express approval?

How many of us would tolerate a portion of our country belonging to foreigners who subjected us to their laws if we entered—indeed could arrest us, try us and ship us to another country to prison if we should violate their laws? Suppose their laws were in direct contravention to ours. Yet, this analogy relates to what can be done to citizens of Panama by Canal Zone officials. It happens all the time.

Perhaps our grandparents were subjected to injustice which led them to settle in America. Their deeds enabled our parents to toil to free us sufficiently to implant dreams in our children—and our youngsters have risen up in anger against injustice. Is it so strange that other human beings to the south of us have evolved in the same pattern? And is it so strange that their youngsters will no longer tolerate the conditions their own grandparents labored to overthrow?

Yet the United States military, acting in my name (and in yours), refuses to enter the new era. The status quo is too comfortable. Decency, honor and integrity are not to be extended to others living on another part of this globe.

We should long ago have discarded as unworthy the mentality that insists on maintaining a country club at the expense of other human beings, human beings who collectively form the tiny nation of Panama.

These factors are among the intangibles necessitating an immediate change in our dealings with Panama. My children would not wait. Neither will theirs.

MRS. IRVIN H. MASON.

Reston, Va.

BETHESDA, MD.,
Jan. 22, 1976.

LETTERS TO THE EDITOR
The Star,
Washington, D.C.

DEAR EDITOR: Despite the fact that a multiplicity of reliable polls have shown that 80% of Americans oppose giving our sovereign territory, the Panama Canal, to Panama, Mrs. Irvin Mason (Letters, Jan. 17) says she is "so deeply ashamed of our role in the subjugation" of the "tiny nation of Panama."

The facts are that Panama Pobrecita received during 1974 more than $236 million, directly or indirectly, from the Canal operation and the amount will be larger this year and increase in the future. From 1947–1974, inclusive, it received from the "Yanqui Oppressor of the North," upwards of $342 million in foreign economic and military aid. Thus the total benefits to Panama from those two sources exceeds a quarter of a billion dollars each year.

Added to the above, must be the lavish amount bestowed upon Panama and its people by the United States as the result of the 1936 and 1955 revisions of the Hay-Bunau-Varilla Treaty of 1903, plus what Panama extorted during World War II from the U.S. in payment for military base sites acquired by the U.S. to defend the Canal Zone and the Canal.

In my opinion, Mrs. Mason and the Star, with reference to the propaganda now emanating from the State Department concerning the Canal, would profit greatly were they to read Stanza 8 of Alfred Lord Tennyson's lines in The Grandmother:

> "That a lie which is half a truth is ever the blackest of lies,
> That a lie which is all a lie may be met and fought with outright,
> But a lie which is part a truth is a harder matter to fight."

Thank you.
Sincerely,

ROBIN FICKER,
Attorney-at-Law.

Mr. Speaker, I hope that my remarks will remind our policymakers that in my opinion the people and the Congress will not now or ever compromise the integrity of the very important principles—sovereignty and jurisdiction—which have always been the basis of our construction and operation of an interoceanic canal.

CONGRESS' ROLE IN REGULATORY REFORM

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. HARKIN. Mr. Speaker, this past January I held a series of small business conferences in my congressional district to provide an opportunity for Iowa businessmen and businesswomen to meet with representatives of various Federal Government agencies. The conferences were well attended and furnished some valuable communication between our local business communities and Government officials.

Out of these conferences emerged a very widespread and growing concern among the participants: Government power to control and influence the decisions of business threatens the very existence of many small business firms. There is a very strong feeling that Washington is snatching much of the vital decisionmaking power away from businessmen and businesswomen and handing it over to a growing Federal bureaucracy. The big problem, they point out, is that more and more of the decisions of business management that affect profit and loss are being controlled and influenced by Government agencies which are insulated from the pressures of management responsibility. These people are concerned, and rightfully so.

Yet, the majority of those I have talked with do not advocate merely abolishing those agencies which they find to be the most burdensome. Instead, they honestly believe that some Government regulations are necessary in certain areas. But they want to see the manner in which rules and regulations are proposed and adopted improved in a way that will take sufficient account of their own problems in the operation of their businesses.

To make necessary changes, according to those with whom I have spoken, it must be the Congress who plays the major role. For Congress to do this, I see the following steps as most important:

First. Creation of an independent "Regulatory Reform Commission" which would study the Federal regulatory agencies for a period of time to determine the impact of their rules and regulations upon small businessmen, State, and local governments and consumers, and to present a list of proposals to make necessary changes.

Second. Congress must then take steps to reassert its control and responsibility over the operation of our Federal regulatory agencies. To do this, Congress should:

Establish continuing oversight of administrative rulemaking, whereby certain rules and regulations proposed by Federal agencies could not take effect for a period of time during which either the House or Senate could disapprove of the proposed rules by simple resolution.

Require that all congressional committees include in their legislative reports on a specific bill a statement which estimates the projected extent and cost of Federal paperwork which would be generated by enactment of such a bill.

Provide periodic review of the performance of each existing federal regulatory agency so that problems which arise in the operation of that agency can be dealt with on a regular basis.

Provide a similar mechanism for terminating federal regulatory agencies after a stated period of time unless they can demonstrate to Congress that they have served and will continue to serve a legitimate public need.

Establish an independent organization that would actively represent the interests of consumers and small businessmen in Federal regulatory proceedings in Washington.

Most of these proposals have already been introduced in Congress or have at least been discussed from time to time. It is clear to me, however, that because it was Congress who created these Federal regulatory agencies in the first place, Congress must now begin to reevaluate the performance of our regulatory system and make necessary changes so these agencies can become more effective and efficient, and thereby reduce the pressures on small businessmen and businesswomen, as well as on consumers.

Too often, I am afraid, Congress establishes laws which do not take sufficient account of the possible unfavorable consequences on the marketplace.

What is far worse, however, is that for too many years Congress has abdicated its lawmaking authority to the Federal bureaucracy. Congress passes legislation almost daily which instructs the agencies to make their own rules, in effect interpreting the intent of Congress. Far too many times the intent of Congress is entirely changed by these bureaucratic rules and regulations. Before we can make an honest effort to return a greater amount of decisionmaking to businessmen, we must halt this procedure. The steps I have outlined above indicate the action Congress must take to reverse this trend.

NATIONAL AMNESTY WEEK

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Ms. ABZUG. Mr. Speaker, February 22–28 is National Amnesty Week, so proclaimed by State Governors and mayors throughout the Nation. In New York City and San Francisco, Baltimore and Detroit, Charlottesville, Va., and Louisville, Ky., Americans are holding seminars and workshops, meetings, and rallies to promote an Indochina amnesty.

After each American war, there has been an amnesty for war resisters and deserters. It is ironic that after the most unpopular foreign war in American history—a war eventually repudiated by the American people and the Congress—those who resisted our involvement in Indochina have to remain in exile, in hiding, or in fear of prosecution.

Who are the people in need of amnesty? They are 637,000 veterans who received less-than-honorable discharges from the military because of protest against the Indochina war. Most of these discharges were given administratively, with no semblance of due process, and the great majority were for "offenses" that have no parallel in civilian life.

They are 4,200 persons still classified as "deserters at large" by the military. However, the actual number of those still in exile because of desertion is estimated to be up to 40,000.

They are up to 500,000 people who never registered for the draft in protest against the Indochina war, but still face a possible sentence of 5 years in prison and a $10,000 fine.

They are at least 7,500 American men who acquired Canadian citizenship, and about 15,000 who have acquired citizenship in other nations. These people can be permanently excluded from entering the United States even if they are not charged with any "crime" simply on the basis of their new citizenship and a section of the Immigration and Nationality Act which excludes as undesirable aliens those foreign citizens who appear to have left the United States to avoid or evade service or training in the Armed Forces.

They are 8,619 persons who have already been convicted for Indochina-era Selective Service violations and who need their convictions expunged from the record.

In addition, they are hundreds of thousands of civilians who hold Federal felony or misdemeanor records for acts of opposition to the war. These people may have destroyed draft files, failed to obtain proper permits for demonstrations, or have violated one of several other Federal statutes relating to demonstrations in opposition to the Indochina war.

Many resisters who are in exile have gathered in Canada and in Sweden, and have worked in concert toward a just Indochina peace and toward amnesty for all Indochina era resisters. They are not alone, for in America tens of thousands of people from all walks of life, including Vietnam Gold Star mothers and fathers, hard-hats and professors, Republicans and Democrats have worked for a just and complete amnesty.

The Presidential Clemency Board created by President Ford was merely a token gesture and proved to be a failure. Of the more than 113,000 individuals deemed eligible for clemency under the Presidential edict, only 19 percent applied, and many were rejected. Fewer than 15,000 have been granted even a limited or conditional amnesty. More than 1,500,000 American men and women would be affected by a general amnesty.

When young men write to me asking why our Government opened its heart and its pursestrings to the Vietnamese refugees and welcomed them to our country, but shows no similar compassion for American war resisters, whose lives were completely disrupted by the war, I cannot but agree with them that this is deeply unfair.

I am the author of one of the several bills now in the Congress which would grant amnesty. My bill, H.R. 1229, grants total amnesty for all those who violated American law for engaging in any nonviolent activity or activity justified by deeply held moral or ethical belief in opposition to the involvement of the United States in Indochina. I agree with Vernon Jordan, a member of the Clemency Board, that the only fair solution is a general and unconditional amnesty. My bill will provide a restoration in full of all civil, political, property, and other rights for Indochina war dissenters.

The war in Indochina produced the

greatest number of dissenters of any American war. Now that the war has been over for a year, now that we celebrate the 200th anniversary of our founding as a free nation, it is certainly time to heal the wounds and to restore this very large group of Americans to a place in our society.

RUNNER-UP IN THE NATIONAL PUBLIC SPEAKING COMPETITION

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. RHODES. Mr. Speaker, it was with a great deal of pride that I received in my office yesterday Mr. Joseph T. Cusack, of Scottsdale, Ariz., who was runner-up in the national public speaking competition sponsored by the Boy Scouts of America.

Now in its 66th year, the Boy Scouts of America is an organization dedicated to building young men strong in both body and spirit. At a time when some Americans are cynical about the country and the system, the Boy Scouts have consistently represented all that is good and noble about the United States. It is an organization of high ideals, one that does important work for the country.

I am proud of Scottsdale's Joe Cusack for his outstanding achievement and extend to him my personal congratulations for a job well done.

At this point, Mr. Speaker, I am inserting into the Record an article by Mr. Ron Shaffer which appeared in the Washington Post yesterday:

SCOUTS, IN TIME OF CHANGE, ACCENT NATION'S TRADITIONS

(By Ron Shaffer)

Joseph T. Cusack, a 17-year-old member of the Boy Scouts of America visiting Washington from Scottsdale, Ariz., didn't sleep well Monday night.

He was "pretty well nervous," he said yesterday while waiting at the Washington Hilton Hotel to stand in front of 200 executives of the scouts to try to win the organization's annual public speaking contest.

Sitting at the head table, while some of the executives introduced each other, Cusack fidgeted a little. " I wiped my hands on my trousers so much I think it got stains on them," he said. He ignored his lunch.

A spotlight focused on him for the introduction. He launched into the speech he had memorized and written and already delivered victoriously in local, area, regional and national semifinal competition against other scouts.

Cusack, in his neatly pressed olive drab uniform, talked about the goals of our forefathers and the decline of morals in America. Speaking intensely to an audience of mostly somber-looking men over 40 years old, he talked about the fall of Rome and the need for each American to uplift morals. Then he told the audience that the country's 200th anniversary is next year.

Cusack got his years mixed up, he said later, because he wrote the speech last year and forgot to update it.

"As soon as I said it I looked down at the judges and they started writing things down; I thought "There it goes." Cusack finished strongly, but lost out to his competitor, Keith Sevedge, 17, of Kansas City, Kan., for first place. Sevedge won a $2,000 scholarship and Cusack received a $1,000 scholarship for second place.

Joe C. Bishop of Albany, Ga., took first among the Explorers, making a more effective American Heritage theme presentation, in the opinion of six judges, than Joan McElvenny of Braintree, Mass.

"This exemplifies what scouting really means, getting the expression of youth," said one of the graying executives, Ernest B. Hueter of Kansas City, Kan. "As far as I'm concerned this nation needs more of this. There's too little press given to the good and too much to the bad."

The Boy Scout organization, now 66 years old, is changing. The corporate name still is Boy Scouts of America, but members now are called Scouts because of resentment to the word "Boy" in inner cities, officials said.

Scouts also are called "young adults" instead of "teen-agers," and women have been admitted to the ranks of Explorers. Much tradition remains, including yesterday's visit to the White House for the annual meeting with the President.

"It's awesome, meeting the President," Bishop said enroute to the White House. "I kind of put the President on a pedestal—it's not like he's another human being."

In the White House, President Ford shook hands with each of the Scouts, with routine greetings, and in front of press cameras, received a report on this year's achievements of Scouts. He told the press that scouting was important to him.

A COMMUNIST TAKEOVER OF CHILE?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. McDONALD of Georgia. Mr. Speaker, the role of Cuban troops in the Marxist takeover in Angola makes it clear that Cuba has moved beyond exporting revolution by subversion. Communist revolutions are now to be effected by direct military action, with Cuba supplying the troops and the Soviet Union supplying the weapons. The extent of the presence of Cuban troops in foreign countries is summarized in the following article, "Castro's Globetrotting Gurkhas," from time magazine of February 23.

Cuba's new display of military aggression raises serious questions about our foreign policy, particularly with respect to Latin America. As Time points out:

> The obvious question is where will they move next? Latin American leaders are convinced that some of Havana's troops will soon be helping their revolutionary brothers much closer to home. One possible target could be Peru, which already has a left-wing military junta. Cuba maintains a mysteriously large embassy staff in Lima, and the foresighted Cubans are training Peruvian pilots at San Antonia de los Banos and Yuri Gagarin air bases outside Havana—just in case Lima decides to buy some MIGs from Moscow. Peru, in one scenario, could even be the springboard for a new Gurkha maneuver all the way along South America's west coast.

Well, most of South America's west coast is occupied by Chile, an historical enemy of Peru. Since "Allende's Marxist experiment" failed, will the next move be to take over Chile by direct military force?

All the ingredients are there. Peru is the first country in the Western Hemisphere, outside of Cuba, to receive Soviet military assistance. Begun 2 years ago, Peru is still cashing in on Soviet military credits, having already received large quantities of modern, highly sophisticated weapons. For example, our State Department estimates Peru to now have 250 Soviet T–54/55 tanks. In comparison, Chile's 76M–4 Sherman tanks are no match.

In fact, Peru has an overwhelming superiority in military material over Chile. This is true not only in armor, where the superiority is about 6 to 1, but also in terms of submarines and airpower. All of Chile's planes, for example, are subsonic, while Peru has Mirage bombers capable of conducting raids on Santiago from Lima. The only area where Chile is on a par is in terms of naval power where its surface fleet may even have a slight advantage.

Peru's military superiority coupled with Cuba's obvious willingness to commit troops becomes particularly ominous in light of our present stance regarding military assistance to Peru and Chile. The President's request for foreign security assistance contains $20 million for Peru this year, but nothing for Chile. In addition, actions by the Senate and the House International Relations Committee would ban all military aid to Chile in this year's security assistance legislation. The Senate version would ban not only credit sales, but any private sales and even cash sales contracted for 2 years ago. This includes a cash contract for 18 Northrop F–5E jet fighter planes which are indispensable if Chile is to retain air power anywhere near that of Peru.

Thus we have the absolutely incredible situation of the United States teaming with the Soviet Union and Cuba to build up a vast military machine for a leftist military dictatorship, while at the same time denying a neighboring country any means of protecting itself from aggression. Considering that Chile is the most pro-American country in Latin America and Peru possibly the most hostile, this situation is absolutely outrageous.

At the very least we ought to allow Chile to purchase military equipment on a cash basis. Chile is in no condition to engage in aggression against any foreign country and no one has even suggested such a possibility. Peru, however, is. And we have no business sending them military equipment, on credit no less, while denying such assistance to Chile. The Time article follows:

[From Time magazine, Feb. 23, 1976]

CASTRO'S GLOBETROTTING GURKHAS

"The M.P.L.A. did not score a military victory [in Angola]," said Henry Kissinger at a Washington press conference last week. "Cuba scored a military victory, backed by the Soviet Union." On the eve of a nine-day, six-nation visit to Latin America, the Secretary of State implicitly raised a question that is bound to be asked at every stop along the way: What is the meaning—and the potential danger—of Cuba's armed intervention in Angola?

Havana's African display of military

prowess disturbs many Latin American leaders, including some who had only recently argued that the danger of subversion from Havana was over. Venezuela, for example, led a fight within the Organization of American States to drop hemispheric sanctions against Havana. Now President Carlos Andrés Péres frets over reports of several hundred Cuban soldiers in nearby Guyana, a socialist state with which Venezuela for many years had a border dispute.

The Cuban menace extends well beyond Latin America. Havana's most visible presence, of course, is in Angola, where 12,000 Cuban troops are serving the Marxist government in Luanda. The Cubans have been responsible for most of the M.P.L.A. victories, but at some cost. There are estimates that 300 have been killed and 1,400 wounded; at least 100 have been taken prisoner. Such losses may have an impact at home, where only within the past month have Cubans been formally told by Premier Fidel Castro what their men have been doing for nearly a year.

Much of the fighting force was airlifted, despite some notable logistical handicaps. Initially, Cuban planes refueled for the long transatlantic flight at Barbados, but the U.S. pressured that island's government to stop such military flights. The Portuguese government eventually refused to let the Cubans refuel in the Azores. Meanwhile, Ottawa has been mildly embarrassed by reports that Cuban planes landing to refuel at Gander Airport in Newfoundland are ferrying home the dead and wounded from Angola. While Prime Minister Pierre Trudeau has stressed that Gander is not being used as a Cuban "staging point," Canadian officials have not gone aboard the planes to learn if the stories are true.

SPECIAL FORCES

More than 2,000 Cubans are on loan to African nations other than Angola. Troops provided by Havana form part of President Sékou Touré's bodyguard in Guinea. Cuban bureaucrats supervise government operations in both Equatorial Guinea and Somalia. In Tanzania, 500 Cubans are reportedly training guerrillas to harass the Rhodesian government. In the Congo (Brazzaville), 150 others form a rear echelon for Angola; in Guinea-Bisseau, says a grateful govenment spokesman, "they showed us how to make the terrain work for us and against the Portuguese."

Cubans are also active in a number of Arab states. They train *Polisario* guerrillas from Western Sahara in Algeria. In South Yemen, there are more than 3,000 advisers and special forces, including MIG-flying pilots. By far the largest detachment is in Syria: 3,500 to 4,000 men, including an entire armored brigade (with 94 Russian T–62 tanks), two commando battalions, perhaps 30 or more MIG pilots.

RADICAL HOSTS

One disturbing aspect of the Cuban presence is the vast amount of military hardware that the Soviets have been sending to Syria. Some intelligence experts believe the weaponry is far in excess of what Syria could possibly use in another war with Israel. Thus, these experts contend, Syria has become a sort of stockpile from which Soviet planes, guns or tanks can be drawn for service in trouble spots like Angola. The Cubans go along to man the equipment. U.S. Ambassador to the United Nations Daniel P. Moynihan recently described them as "the Gurkhas of the Russian empire," a reference to the fierce Nepalese soldiers who for long moved about the world to fight on Britain's behalf.

Havana's overseas forces—as well as as Middle Eastern and African intelligence operations, handled by Section V of the *Direction General de Intelligencia,* Cuba's CIA—are under the stern control of Raul Castro, Fidel's younger brother and the country's defense minister. The Cubans are still eager to export their brand of Marxism, but they no longer attempt to create a revolutionary atmosphere, as Che Guevara tried unsuccessfully during the late '50s and '60s in the Congo (now Zaire), the Dominican Republic, Panama and finally Bolivia, where he died. The new Cuban strategy seems to be to take advantage of revolutionary conditions already created by friendly, radical host governments.

The obvious question is where will they move next. Latin American leaders are convinced that some of Havana's troops will soon be helping their revolutionary brothers much closer to home. One possible target could be Peru, which already has a left-wing military junta. Cuba maintains a mysteriously large embassy staff in Lima, and the foresighted Cubans are training Peruvian pilots at San Antonio de los Banos and Yuri Gagarin air bases outside Havana—just in case Lima decides to buy some MIGs from Moscow, Peru, in one scenario, could even be the springboard for a new Gurkha maneuver all the way along South America's west coast.

FULL EMPLOYMENT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. HAWKINS. Mr. Speaker, I would like to call the Members' attention to the following letter from Dr. Benjamin Laureano Luna, the distinguished president of the Executive Federal Council of the Mexican Front for Human Rights, which expresses this organization's enthusiasm for H.R. 50, the full employment equal opportunity bill, and its belief that this legislation will have international benefits:

MEXICAN FRONT FOR HUMAN RIGHTS: AN ORGANIZATION THAT COLLABORATES WITH THE U.N., EXECUTIVE FEDERAL COUNCIL,

Mexico, D.F., January 9, 1976.

U.S. Congressman AUGUSTUS F. HAWKINS,
Chairman, Subcommittee on Equal Opportunities, Washington, D.C.

DEAR MR. CHAIRMAN: The "Consejo Federal Ejecutivo del Frente Mexicano Pro Derechos Humanos" (Executive Federal Council of the Mexican Front for Human Rights) is a nongovernmental organization that was created in Mexico in 1951 for the purpose of spreading, developing, carrying out and defending the principles of the United Nations Universal Declaration of Human Rights for which reason we are interested in all sorts of activities that are related to the fundamental rights and freedom of man.

Of course, it always has been our concern to assure each individual of his right to work. We know that you are the person who started the effort to guarantee each person in the United States the right to work, a right that is considered a human and inalienable right.

Your H.R. 50 "Full Employment Bill" has attracted our attention. The bill has been cosponsored by the well-known members of the U.S. Congress Hubert Humphrey and Henry S. Reuss.

We believe that you and the cosponsors Congressman Reuss and Senator Humphrey are not only fighting for the prosperity of the people of the United States but that also the people of Mexico will profit from your bill.

Two hundred years ago the Revolution in the United States led to the independence of that nation and inspired at the same time the Indoamerican people to fight colonialism which vigorously helped bring about the Republic. Now thanks to the aforementioned bill you and your colleagues Reuss and Humphrey have placed the United States in the forefront of the countries fighting for the respect of freedom and have checked the imperial [istic] acts and colonial domination carried out by other U.S. politicians.

People in Mexico have taken an interest in and are enthused about your activities on behalf of our Chicano brothers whose name comes from the native word "mexica" or "mexicano"; we wish to applaud your efforts to put a stop to the discrimination from which the Chicanos have been suffering in the field of education, employment, administration of justice and in other aspects of life. Yet, your fight for the return of land to the Chicanos has aroused even more enthusiasm, that is, the return of those lands of which they were dispossessed more than a century ago. Those in the U.S. of Mexican descent are your best friends.

We wish to point out that the "Full Employment Bill" assures the rights of the Mexicans who live in the United States.

The relations between the people of different nations often become difficult because of the fact that the progressist groups in each nation do not know one another. We know that the most important, forceful and active group for the advancement of civil rights in the United States is the "Black Caucus" that is, the 17 black Congressional members of whom you are one of the most outstanding.

We consider that the "Black Caucus" and other sectors of the people in the United States will be interested to know what Lic. José López Portillo, candidate of the "Partido Revolucionario" (Revolutionary Party) for the Mexican Presidency stated on October 5:

The right to work is the right to eat, to clothe oneself, the right to a decent life, the right to enjoy social security, educate one's children, and the right to participate in cultural and recreational activities. The full exercise of those social rights logically leads to the expansion of the internal market and encourages new investments and savings. It transforms needs into effective demands. It creates justice and prepares the necessary basis for self-sufficiency."

The aforementioned "Consejo Federal Ejecutivo del Frente Mexicano Pro Derechos Humanos" respectfully wishes to know whether the "Black Caucus" and, in particular, you, as chairman of the Subcommittee on Equal Opportunities desire to invite Lic. José López Portillo to visit the U.S. Congress for the purpose of strengthening the relations between our two peoples and further the development of the human rights which is an essential part of democracy, friendship and peace.

With cordial greetings, I remain.

Yours,

BENJAMIN LAUREANO LUNA,
President.

THE SELLOUT AT CBS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. HARRINGTON. Mr. Speaker, the Central Intelligence Agency appears to be scoring a major victory in its area of prime expertise—the manipulation of opinion and events by skillful use of the mass media. What is remarkable is that this public relations coup is occurring not in some obscure banana republic but here in the United States, where a vigorous free press has historically prided itself on its resistance to Government pressure. A year that began with sensational exposés of intelligence agency abuses has ended with editorial outcries against congressional "security leaks" and with a major news organization suspending one of its finest reporters for taking the first amendment too seriously.

That Daniel Schorr has become the target of a witch-hunting House of Representatives is certainly no great surprise. This Chamber has shown its colors clearly enough in its decades of kowtowing to national security bureaucrats. What is harder to fathom or forgive is the equally shabby treatment of Mr. Schorr at the hands of his own CBS. With the network's news chief Richard Salant ducking and running in this fashion, we have the clearest signal yet that the journalistic retreat which began with the flacking of the Welch assassination has now gone into full swing.

In an excellent article in the New York Times of February 24, Tom Wicker discusses the Schorr episode with a welcome respect for the facts. I am inserting his observations in the Record at this point in the hope that some of my colleagues will renew the effort to shift the intelligence debate back to where it belongs—to questioning the activities of the CIA:

Defending Dan Schorr

(By Tom Wicker)

In suspending Daniel Schorr from his reporting duties, CBS News has succumbed to a campaign launched within the Ford Administration to picture the Central Intelligence Agency as an erring but basically worthy victim of those who leak its vital secrets and reporters who print them.

Mr. Schorr has conceded that he made a copy of the House Intelligence Committee's report available for publication in The Village Voice, a New York weekly. The charge against him is that he "sold" a document that not only disclosed national security information but which the House of Representatives had voted not to publish. The "selling" charge arises from Mr. Schorr's suggestion that The Voice make a contribution to the Reporters' Committee for Freedom of the Press.

Anyone who knows Daniel Schorr knows also that it is absurd to suggest that he sought to profit materially from publication of the House committee report. The facts are that Mr. Schorr did not suggest payment for himself, but to a cause he considered worthy. He first determined, as a CBS reporter, that the broadcast possibilities of the report had been exhausted. When the possibility of book publication fell through, Clay Felker, publisher of The Voice, offered to print the report.

"I had then to consider," Mr. Schorr wrote the editors of The New York Times, "since taking money was unthinkable to me, whether Felker should be the sole beneficiary. If our system inevitably creates profits, should Felker enjoy them exclusively? So, I suggested it would be appropriate for him to make some gesture to the free press idea which had animated me by a 'voluntary' contribution to the Reporters' Committee." In fact, the arrangement was so "voluntary" that the contribution has not been made.

This arrangement may well have been an error of judgment. But Mr. Schorr deserves to have acknowledged that there was no "sale" of the committee report nor any arrangement designed for his personal enrichment, or that of anyone; and that he at least thought he was precluding a "profit" even for The Village Voice.

The other major question concerning publication of the committee report is whether Mr. Schorr should have turned it over to The Voice in any circumstances. Did not the House vote to keep it secret? Has not George Bush, the new C.I.A. director, said publication damaged national security?

In fact, Mr. Bush took refuge in the ancient governmental dodge of saying, in effect, "if you only knew what I knew . . . but of course I can't tell you what I know." When the Government made the charge about publication of the Pentagon Papers in 1971 that the national security had been damaged in ways it could not publicly discuss, Federal Judge Murray Gurfein was unable in a secret session to elicit from Government witnesses a single specific instance of actual damage to the national security.

This history, of course, proves nothing about the committee report except that statements like Mr. Bush's should be regarded with much skepticism—particularly since (a) most of the report's major points had previously been published, so that at worse any security damage already had been done; (b) other reasonably knowledgeable persons, including the House committee and its staff, believed that, as Mr. Schorr said, it contained "nothing more of national security significance, certainly nothing that would endanger any individual."

Besides, Mr. Bush himself, appearing on "Meet the Press," conceded that "the fundamental question is that Congress voted by almost two-to-one that the report not be made public, and it was made public . . . that's just plain wrong." This is the basic charge against Mr. Schorr, but it is George Bush who is just plain wrong.

How is it different for the House to vote to suppress a public document than for a President to suppress it? If President Ford, for example, had decided not to make public the report of the Rockefeller Commission he appointed to study C.I.A. abuses, would that have made it "just plain wrong" for a good reporter like Dan Schorr to get hold of it and put it on the public record?

Of course not, for to say so would be to say that either a President alone or the House by majority vote can decide what a free press may or may not publish. In the Pentagon Papers case, the Supreme Court specifically ruled against any such doctrine—contravening, as it would, the First Amendment—although it left open the possibility that some narrowly specified matters might be of such immense and immediate security importance as to warrant "prior restraint."

No one has suggested that the House committee report is even remotely such a matter; and after a year-long investigation conducted at public expense, it was in fact a document that belonged where Dan Schorr put it—on the public record.

H.R. 12106

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. RINALDO. Mr. Speaker, I have introduced legislation (H.R. 12106) which, if enacted, would result in a significant step forward in America's effort to achieve energy independence.

This bill, the Solid Waste Energy and Resource Recovery Act, would provide grants to municipalities for obtaining the technological and managerial expertise necessary to plan, install, and operate waste treatment plants. Implementation grants and loan guarantees would then be targeted for the actual construction of the energy recycling systems. In addition, the Environmental Protection Agency would be directed to place increased emphasis on their research, development, and demonstration efforts in the waste recovery area.

Clearly, this approach has been underutilized in the United States. Trash-fueled electricity and steam-generating plants have been successfully producing power from municipal and solid waste for as long as 20 years in Europe and Japan. Unfortunately, as a result of our Nation's abundant fuel supplies prior to the Arab oil embargo, little effort has been made to utilize this resource.

A quick examination will indicate exactly how valuable this technology can be to the United States.

Given an all-out effort by the Federal Government, the equivalent of 400,000 barrels of oil per day could be converted from municipal solid waste. On a nationwide basis, this alternative source of fuel could supply more than 6 percent of the energy needs of this country's utilities. My home State of New Jersey alone could receive 9.2 percent of its energy supply for power generation from refuse.

Other States would do just as well, or better. California could receive 11.6 percent; New York, 13.6 percent; Minnesota, 10.3 percent; and Massachusetts, 12.9 percent. Had resource recovery systems been operating in standard metropolitan statistical areas—SMSA's—in 1971, the equivalent of 390,000 barrels of oil could have been recovered from solid waste. This is equivalent to 5.5 percent of the fuels consumed by all utilities in 1970. The U.S. Environmental Protection Agency estimates that the equivalent of 400,000 barrels of oil could eventually be recoverable from trash.

This development would improve our balance of payments. The U.S. deficit would be decreased by about $1.7 billion on an annual basis for the 390,000-barrel figure. Eventually, this figure could top $2 billion and mean the equivalent of 500,000 barrels of oil daily.

Moreover, U.S. cities would gain by this development at a time when many are in financial straits. The plight of New York is known to us all, but other cities—Detroit, New Orleans, and San Francisco—are also in financial danger. One reason is annual expenditures for trash disposal. The National League of Cities and the U.S. Conference of Mayors reported that in 1973 it cost $6.4 billion to dispose of their garbage and trash; this means about 135 million tons of solid waste. Presently, less than 1 percent of the resources in municipal waste is being reclaimed. The rest of the solid waste goes into dumps, landfills, and incinerators—or out to places like the "Dead Sea" off Sandy Hook, N.J. My legislation signals a change in attitude: It is a demonstration that we will use our technology and our drive for energy independence to recover energy from trash.

Mr. Speaker, we should begin work on this project immediately. There has been a great deal of controversy surrounding the Nation's energy policy, and there have been substantial disagreements about what approach that policy should take—whether we should deregulate natural gas prices, decontrol the price of oil, or remove oil import quotas.

But there has been substantial and bipartisan agreement that our Nation should concentrate its resources on developing alternate sources of fuel. Geothermal and solar energies have both received attention. It is now time, however, to begin recovering energy from solid waste materials.

I urge my colleagues to join with me in this effort to utilize to the greatest extent possible our natural resources and our advanced technology.

THE POLITICS OF TRANSFORMATION

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. DOMINICK V. DANIELS. Mr. Speaker, the mid-February 1976 issue of Man Not Apart, published by the Friends of the Earth, contains a thoughtful essay by William Orphuls entitled "The Politics of Transformation." This essay was originally presented at the "Limits to Growth, '75" conference held in Houston, Tex.

In his essay, Orphuls explores the conceptual, institutional, structural, and political obstacles to effective environmental management, including the complex trade-offs involved in achieving a greater energy self-sufficiency.

The author compares our industrial society to a masterless supertanker which is heading toward dangerous economic and environmental shoals at an alarming speed.

Can we muster the political will required to avert a potential disaster? This is the essential question confronting policymakers today.

The answer is elusive, given our propensity toward equivocation on controversial policy issues.

No one is comfortable with hard choices—least of all politicians who are cautious about adverse public reaction.

Thus, we favor delaying hard choices until they become inescapable.

This is the very root of our crisis orientation—denial of the inevitable until the problem threatens to overwhelm us.

As La Fontaine said, "We believe no evil till the evil's done."

The most unfortunate aspect of a crisis orientation is that it diminishes the variety of choices that are available to meet a challenge. We reduce our options to an "either/or" proposition.

The earlier we begin to look at a potential problem, and start to plan for it, the more varied are the choices we can make.

This would seem to be a far more sensible approach, and I am encouraged that increasing numbers of policymakers see the inherent wisdom of foresight and long-range planning.

Mr. Speaker, while I do not subscribe to all of Mr. Orphuls' ideas, I believe that there is considerable merit in a number of his recommendations. Accordingly, I would like to share this thought-provoking essay with my colleagues, in the hope that it will add further dimension to their personal studies on the economic and environmental issues confronting the 94th Congress.

Mr. Speaker, Mr. Orphuls' essay is included at this point in my remarks:

THE POLITICS OF TRANSFORMATION

(By William Ophuls)

Thanks to the enormous amount of attention that has been lavished on the physical limits to growth over the last few years, most would now concede that indefinite material growth on a finite planet is not possible. Moreover, the time separating us from various major physical limits keeps shrinking. Those who once said we had centuries to adjust, now acknowledge that some of the critical limts, such as gross climatic perturbations, may be only a generation or two away. Many of the lesser physical limits are, in fact, already constraining us. The attention devoted to physical limits seems to have partially obscured an important fact, however; namely, that further growth is likely to be blocked by institutional obstacles well before we reach the physical limits of the planet. The two main types of institutional obstacle are administrative incapacity and lack of political will.

Those who argue against the imminence of the physical limits to growth rely heavily on technology to keep ahead of human demand. Even assuming that scientific discovery and technological innovation prove equal to the task, however, which is by no means assured, abstract technological solutions are worthless unless they can be implemented. As the pressures of exponential growth begin to press simultaneouly on us from all directions in the coming decades, implementation of technological solutions will place a staggering burden of planning and management on our decision-makers and institutional machinery. For instance, the rates of growth now prevailing require us to double our capital stock, our use of materials, our capacity to control pollution, our agricultural productivity, and so on, every 15 to 30 years. Since we already start from a very high base level, at least in the "developed" countries, the increment of new construction and new invention required will be gigantic, eventually reaching ludicrous proportions if material growth continues for too much longer. Even if there were no physical limits, one would have to question whether our institutions could rise to this challenge.

In brief, technology cannot be implemented in a vacuum. Something like the ecological "law of the minimum"—which states that the factor in shortest supply governs the rate of growth in the system as a whole—applies to social systems as well as ecosystems. Technological fixes cannot run ahead of the human capacity to plan, construct, fund, and man them. Delays or failures of planning or implementation abound, even today.

Already, for example, the construction of nuclear power plants is impeded by numerous bottlenecks and constraints—conflicts over siting, awesome capital requirements, a lack of manpower of appropriate quality to build and operate the plants, difficulties in disposing of waste heat and spent fuel, safety problems so severe that they seem insoluble to some authorities, and the like. Such problems can only become worse in the future.

Because of unreliable and out-of-date data, inadequate intellectual tools for dealing with complexity, managerial styles that are grossly ill-adapted to the task of environmental management, and many other factors, the current managerial regime is incapable of operating in real time—much less with the 30- to 50-year time horizons that have become necessary. In short, the task of environmental management is already running away from us.

Moreover, our complex technological systems are making us exceedingly vulnerable to accident, error, and sabotage. Naturally, the principal cause for concern is the especially dangerous nuclear technology now beginning to be deployed. This problem pervades an advanced industrial civilization, however, for many other technologies are also intrinsically dangerous. Even a sustained power failure or a prolonged strike by sewage workers or garbage collectors could cause serious human and ecological damage.

Some put forward the space program as evidence of how much better we will be able to do in the future. Reaching the moon was a triumph of relatively pure technical engineering, however; environmental management involves a host of social and other "soft" factors that make it conceptually and practically far more difficult than the space program. Moreover, the claim conveniently overlooks the fiery death of three astronauts and the near disaster of Apollo Thirteen, to mention only the American program. Besides, we have neither the money nor the manpower to turn all our technological acts into a simulacrum of a moon shot.

Not Apollo but the supertanker best symbolizes an already mammoth technological society confronted with further growth. These massive oil barges are maritime disasters looking for a place to happen. Cheaply and fragilely built to minimum standards and without the ability to stop or maneuver within any reasonable distance, supertankers scandalously flout nearly all the canons of good seamanship acquired over centuries of experience. Like these ponderous vessels, modern industrial civilization has grown beyond the bounds of prudence to a point where catastrophic breakdown is ever possible. And like the men on supertankers' bridges, we must wonder who is really in control—us, or our technological creations.

There is abundant evidence that we are approaching or have already reached the limits of managerial capability and cannot reasonably expect to grow very much longer no matter what the physical limits to growth are. The attempt to do so, moreover, may lead toward self-destruction.

LACK OF POLITICAL WILL

Should we by chance possess sufficient managerial capacity, this may avail little without the matching political will to use it. There is, for example, absolutely no technical or practical reason why anybody should starve today, but millions do because those who have the food and the capacity to distribute it are not willing to feed the world's hungry. What we can do in theory and what we can do in practice, once political realities are taken into account, may be very different.

The political aspect of the task of environmental management contains two dilemmas. First, although economists extoll the virtures of the market as a means of regulating economic demand to ecological supply, they concede that numerous forms of market failure produce the opposite outcome—such as the discounting that makes potentially priceless future resources worth almost nothing to current decision-makers, or the abuse of "common property resources" that produces the "tragedy of the commons."

As things stand now, the market is part of the problem rather than part of the solution, and to turn this situation around will require major political and economic reforms. Unfortunately, these reforms are certain to be vigorously resisted, for their effect will be to make people pay more for the same goods and to reduce the profits and power of producers. Understandably, therefore, enthusiasm for the kinds of fundamental reforms that would be necessary to convert the market into a useful tool of environmental management is not widespread. Any kind of hardship tends to anger the electorate, so politicians have traditionally gone to considerable lengths to shield the populace from unwelcome market impacts. That is what they seem inclined to do today with policies—such as the all-out effort to keep energy cheap and abundant—that are designed to stave off anti-growth pressures for just a little longer. Beyond the next election, at least.

The second dilemma is that the growing size, complexity, and interdependence of technological society as it confronts the task of environmental management means more centralization and planning, as a short-term expedient if not a long-term goal, and therefore more government intervention in the economy and invasion of private rights. This is an ominous prospect. How well are governments coping with even their current agenda of problems? Leaving the outcome to our habitual *laissez faire* and ad hoc muddling through would ordain an intolerable degree of environmental degradation, however, so we may have little alternative. Ultimately, of course, the revolutionary challenge of ecological scarcity will oblige us to give up our free-for-all style of wealth-getting and all the associated political, economic, and social values, practices, and institutions predicated on superabundance, but any current movement in this direction is political anathema. Meanwhile, the lack of political will to take genuinely constructive steps to deal with our environmental predicament leaves us simply paralyzed.

NO ENERGY POLICY

Energy policy in the United States is an all-too-perfect illustration. The U.S. has no genuine energy policy, much less a coherent one. For the past three years, there has been almost continual dithering and muddle, bureaucratic infighting, near-total lack of coordination, and a succession of futile reorganizations—in short, chaos. The stage is therefore set for a repetition of the 1973–74 "energy crisis" in the short term and, in the long term, for a general collapse of a U.S. energy economy heavily dependent on petroleum.

To continue the analogy, not only are we embarked on a monstrous supertanker over which our control is at best tenuous, but the ship is practically masterless. As we sail toward the rocks and shoals threatening to wreck a powerful but vulnerable industrial civilization, we lack the will, if not the ability, to pick a safe course through them.

The possibility of significant future growth must be questioned even if the physical limits to growth are not intrinsically insurmountable; we may be too human and fallible to deal with problems in the real world as opposed to the world of abstract analytical and technological solutions.

The reaction to a discussion of seemingly insuperable institutional obstacles is likely to be feelings of impotence and despair. A smooth, gradual, relatively pain-free transition to the steady state appears to be hopelessly out of the question. But despair is inappropriate. As Whitehead noted, the very developments that advance civilization all but destroy it in the process. There is no escape from this law; destruction is a precondition of rebirth. We should therefore regard the coming time of troubles not as the end of the world (although it will certainly mark the end of the world as we have known it), but rather as a grand opportunity to share in the creation of a new and potentially higher, more humane, form of post-industrial civilization.

Unalloyed optimism or pessimism are useless as stances from which to confront the future, for the former inclines to complacency and the latter to apathy. We need what the French call *optimisme tragique*—that is, cheerfulness and hopefulness combined with utter realism about the human condition. We have little alternative but to put forth our best effort day by day, making whatever contribution to a better future we are capable of making, however modest—without becoming unduly concerned whether or not we will succeed. Any pretensions we may have of determining the future according to our own egotistical designs are absurd. Yet we know that an honest, positive effort—like the Biblical bread cast upon the waters—does indeed bring eventual increase and give heart to others in the process. Reason enough to make the effort. By keeping us safe from the sterile extremes of Panglossian optimism and apocalyptic despair, *optimisme tragique* will enable us to do our clear-headed best, and more important, to preserve our sanity, our sense of humor, and our capacity for joy even if the future does not turn out quite the way we would have wanted.

WHAT CAN BE DONE?

Yes, but what can we or should we *do?* Unfortunately, the scope for action at this time is limited. The system must first topple of its own weight before genuine change is possible, and trying to change it prematurely by fighting fire with fire is likely simply to add to the conflagration. (Some confrontation for the purpose of slowing down the juggernaut of blind "progress" and preventing as much ecological damage and unwise resource depletion as possible is, of course, essential.) The immediate possibilities for constructive action seem to lie in three broad areas.

First, we need responsible and relevant utopian theories and visions. To convert the current civilization crisis into a grand opportunity, the majority must become convinced that the industrial era was a necessary (but in too many respects ugly and disagreeable) phase in human history—*and* that a well-ordered steady state incorporating the best of the industrial and pre-industrial past could be a more pleasant, humane, and moral society.

Second, we must promote the spread and success of alternative- or counter-institutions that exemplify the new human posibilities of the steady-state society. Fortunately, many of the right kind of counter-institutions already exist, reflecting a wide array of psychospiritual, intellectual, and practical alternatives to the current "paradigh." These organizations and the ones yet to be founded are the seeds from which the new civilization will grow.

Third, our primary focus must be on bringing about fundamental consciousness change, or "metanoia." The current, self-destructive world view regards the earth as little more than a banquet at which we are free to gorge—and *apres nous le deluge*. Its replacement by a new world view based on—or at least congruent with—ecology and the realities of the human ecological predicament, is thus indispensable. Once metanoia occurs, practical and humane institutional solutions will emerge almost as a matter of course. Anything that casts the myths and shibboleths of industrial civilization in a dubious light is a contribution, and *The Limits to Growth* is one example of what can be done to deliver a jolt to the world's psyche.

Given what people want and believe today, this may seem a counsel of despair—especially if one believes that time is probably our scarcest resource. It should not be forgotten, however, that only a little more than a century ago, it was legal to treat human being as property. Already, growing numbers of people are finding our attempted enslavement of nature to be stupid at best and morally repugnant at worst. Events of decades to come are bound to swell their number and make inescapably plain how critical the health of the biosphere is to the quality of human life. Those who work for a humane steady-state society founded on a harmonious partnership with nature, far from being the sterile pessimists and unrealistic dreamers that technological optimists and other defenders of the industrial order ridicule, are the true optimists and realists of our time.

Metanoia is not easily achieved. It is tantamount to religious conversion; utopian visions and exemplary counter-institutions can only carry us part way toward it. As in the revolutionary eras of the past, inspirational leadership will be essential to steer us clear of anarchy and chaos during the transition. The critical question is whether such leadership will be provided by a man on horseback or Big Brother's Ministry of Propaganda, on the one hand, or on the other, by a Gandhi or a group of Jeffersonian "natural aristocrats" resembling the founding fathers of the American republic. Unfortunately, the breadth of mind and nobility of character typical of the latter is not commonly found these days. Our institutions have created brilliant mediocrities whose distinguishing characteristic is Veblen's "trained incapacity" to see beyond their professional blinkers.

Inspirational leadership cannot be provided by those who cling to the past, only by those who have truly embraced the future. Too much of what is written testifies to the author's reluctance to believe that many of the values of modern civilization—rampant individualism, radical egalitarianism, the paramountcy of secular knowledge acquired through endless schooling, man as the measure of all things, and so on—might have to go by the board along with many of the institutions based on them, such as multiversities and welfare bureaucracies. What emerges is a call for change-in-general, or for change in the other fellow, that implies little or no real change or commitment from the author himself. This won't work, and it doesn't deserve to work. The prerequisite of *their* changing is *your* changing. Like charity, reform begins at home. Ultimately, then, even more than exemplary institutions, we need exemplary people to inspire the efforts of others. The career of E. F. Schumacher, for example, shows what can be done by one man. Besides holding a responsible government position, he has contributed substantially to no less than three flourishing counter-institutions; and his Small *Is Beautiful: Economics as if People Mattered* is well on the way to becoming a classic.

Institutional obstacles to change are indeed "insuperable," yet nothing is more certain than that the current institutional order will be overcome by man or nature in the comparatively near future. It is up to us to shape the impending revolutionary change from an industrial to a post-industrial civilization in directions that will produce relatively desirable outcomes while minimizing the traumas of transition. Although there are many ways and styles in which we as individuals can contribute, ultimately it will require a collective effort to condense the drops of individual effort into the water of a new stream of civilization. It is a political task.

Politics is not merely "the art of the possible." Its true vocation is the creation of new possibilities for human progress. Attempting to achieve objectives by working within "the system" is appropriate in normal times. But these are hardly normal times. Only extraordinary politics will suffice—a politics of transformation with men and women to carry it forward. It is not so hard to know what should be done to reach a decent and dignified steady-state society. The critical problem is to inspire sufficient political vision and will to make the necessary changes possible. A genuine politics of transformation is essential if we are to overcome the apparently insuperable institutional obstacles that stand between us and a humane and moral future for humankind.

FRIENDS COMMITTEE ON NATIONAL LEGISLATION'S ENERGY POLICY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. BROWN of California. Mr. Speaker, I have had the opportunity to review position papers by numerous organizations on the complex issues involved in a national and international energy policy during my service in Congress, and during the course of this review I have sometimes had difficulty in distinguishing one position paper from another. This is not the case with the "Energy and Nuclear Policy Statement" recently approved by the Friends Committee on National Legislation. As one of the original public interest groups, the FCNL has a long and important relationship with the Congress and the world community. I have always been impressed with their fairness and humanity in considering complex issues, and I find their energy policy statement is no exception.

Mr. Speaker, I highly recommend the following paper to my colleagues. I believe they will find the perspective presented on the energy situation both refreshing and interesting.

The paper follows:

ENERGY AND NUCLEAR POLICY STATEMENT

Friends' historic testimonies on simplicity have stressed that the quality of life does not depend on material possessions or conspicuous consumption. Waste and extravagance have been opposed because they squander natural resources which should be devoted to helping create a fuller life for present and future generations.

The world's energy problem is a crucial aspect of the struggle for human survival and welfare on a planet of limited resources. Energy policy formation should be global, not determined primarily by nationalistic, military, or corporate interests. The choices are basically moral: what long-term risks are justified—risks of damage to the environment, or radiation damage to health, and of limitation of the life-chances of future generations? There should be open discussion of all alternatives, both at the United Nations and between citizens and the decision-makers of their respective nations.

CONSERVATION

We give high priority to conservation as a significant way to help meet urgent needs of peoples throughout the world. Conserving energy can be accomplished in many ways, including: decentralizing energy systems, thus permitting fuller utilization of energy; using renewable sources including solar; setting more stringent standards for insulation; developing new building techniques to cut energy requirements further; total energy planning for communities, industrial plants, office buildings, and major public facilities; developing mass transportation and carpooling; and developing more efficient types of engines.

RENEWABLE ENERGY RESOURCES

The development of the use of fuels other than nuclear, particularly from non-fossil fuel sources, will do the most to conserve our environment. Solar energy can be of use as a primary source for heating, air-conditioning, and generating electricity. Secondary sources of solar energy include wind energy, hydro, ocean temperature difference, organic waste conversion, and other organic energy sources. All of the above plus tidal and geothermal require increased research and funding.

Food production consumes a large share of the energy budgets of many nations. It is important to step up research on programs which aim to increase the amount of food produced from given amounts of energy expended.

NONRENEWABLE ENERGY RESOURCES

Nonrenewable energy sources—oil, gas, and coal—while important in the short term, should in the long run be conserved and reserved for essential uses other than the production of energy.

To meet the needs of nations which are not now equipped to develop alternative sources of energy for civilian use, we advocate the establishment of a world energy conservation and development fund, with strong leadership from all areas of the world.

FISSION POWER

We believe that U.S. reliance on fission nuclear power to fill the energy needs of an economy characterized by extravagance and waste needlessly mortgages the peace, welfare, and freedom of future generations.

The threat to peace results from the possible diversion of fission fuel materials for nuclear or chemical warfare or terrorist activity.

The threat to welfare results from the risk of catastrophic reactor accidents, from health damage due to low-level radioactive emissions associated with reactors, fuel-processing plants, and waste storage, from the radioactive poisoning of the biosphere, and from environmental damage.

The threat to freedom results from the extreme amount of security required to prevent sabotage and diversion, especially at reactor power plants, fuel treatment plants, and in transporting material between them.

PLUTONIUM

We regard with the greatest apprehension the increased production and use of plutonium, which is the fuel envisoned for nuclear power generating plants in the future when the present limited supply of uranium ore becomes short.

Plutonium is one of the most toxic substances known, has a half life of 24,000 years, and is, of course, the material from which atomic weapons may be made. The utilization of plutonium bombs by increasing numbers of nations or terrorists groups becomes easier.

Fission energy comes from separating a heavy nucleus into two fragments with the release of energy. Fusion energy results when two light nuclei combine to form a single nucleus. Fission is the source of the atomic bombs, and fusion is the principal element in hydrogen bombs.

The task of security policing becomes formidable for untold generations.

We believe that any planning for electrical power generation using plutonium is misguided. The key issues are not technical or economic but social and ethical.

NUCLEAR RADIOACTIVE WASTE

Storage of radioactive wastes for thousands of years is so far an unsolved problem. At present, about 100 mililon gallons of high-level radioactive waste, half liquid, half solid, are stored in the United States. At Hanford in the state of Washington some half million gallons have leaked into the soil as the result of corrosion of the containers, resulting in permanent contamination.

Plans for the future call for solidification of all commercial wastes and their shipment to a "Federal Interim Storage Facility." Plans for permanent storage do not exist, since no truly safe depositories have been located. A reliance on nuclear fission power is thus, in Alvin Weinberg's words, a "Faustian bargain," in which the safety, health, and freedom of future generations are traded for ample and cheap power for ourselves.

MORATORIUM

A moratorium must be secured on all new construction licenses to build new nuclear power plants; and development of fast breeder reactors and plutonium recycling should be suspended pending further study on the political, technical, economic, health, and moral issues.

TRANSITION

We recognize the possibility that increased conservation might not suffice during the moratorium period preceding the widespread use of renewable energy sources. Therefore, to the extent that fossil fuels, and especially coal, might be used during this transition period, such use should be closely regulated to minimize environmental impact.

Use of presently operating nuclear plants and of those for which construction licensee have been approved should be phased out over a period of years, with the substitution of other energy sources, keeping in mind the consideration of environmental effects.

NUCLEAR FUSION POWER

Controlled nucelar fusion research to date suggests that fusion could call on an unlimited store of low-cost fuel and would reduce or eliminate the problems of waste storage, fuel diversion for military use or terrorism, catastrophic accidents, and severe radioactive contamination. Research should examine the potential genetic and environmental hazards. The fund of such research should not be at the expense of harnessing the benign sources of energy.

INTERNATIONAL ATOMIC ENERGY AGENCY

During the period of transition to the elimination of nuclear weapons and the generation of nuclear fusion power, the authority of the International Atomic Energy Agency should be expanded to regulate adequately the transfer and use of highly enriched uranium. We strongly urge U.S. leadership in the negotiation of greatly increased authority for the International Atomic Energy Agency with full participation of all regions of the world.

The widespread use of decentralized energy systems, based on renewable energy sources at a community level, would save energy and capital outlay, reduce pollution, and enhance the freedom and self-reliance of those using it. Tax incentives should be developed to encourage this.

Decentralization would also counteract the increasing concentration of economic and political power in a few giant energy corporations. Decentralization would encourage essentially grass roots efforts involving individual and community action and small businesses, thus giving many people the opportunity to do something effective to help solve the world energy problem.

In conclusion, the United States should seek solutions for the energy problem through conservation, development of renewable energy sources, decentralization of power systems, and consideration of global energy needs. Production of power by nuclear fission involves unacceptable risks. International control of nuclear energy should be strengthened and attention should be focussed on steps toward nuclear and conventional disarmament.

WILL THE FEDERAL PAPERWORK BURDEN BE CUT?

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. STEED. Mr. Speaker, the following article by Henry A. Robinson, general counsel of the House Committee on Small Business, sets forth facts on the opening phase of the activities of the Commission on Federal Paperwork.

He recommends a course to readers that I would like to see generally adopted—that they contact the Commission and provide brief statements on the Federal reporting forms that pose the worst problems and their suggestions for change.

As one of the two House members of the Commission—the other is its distinguished Chairman. FRANK HORTON—I commend this article and its suggested course to Members, to small business friends, their associations and trade groups and indeed to all who feel the effect of unnecessary Federal paperwork.

Mr. Robinson's article appears in the February edition of Personal Selling Today, the publication of the Direct Selling Association.

WILL THE FEDERAL PAPERWORK BURDEN BE CUT?

(By Henry A. Robinson)

As soon as the recently established Commission on Federal Paperwork (CFP) became operational last October, observers began to express a dim view about its ultimate success. They agree that there is a need to control the number of reports, forms and questionnaires that individuals and businesses must fill out for various Federal departments and agencies, but predict that the CFP efforts will be futile.

The writer of an article in U.S. News and World Report cautions "don't get carried away by your expectations." He predicts that the Commission's work will last two years, cost at least $4 million, and expire in frustration.

A member of the Paperwork Commission likewise appears to be pessimistic. In his testimony before a Subcommittee of the House Small Business Committee last December, he described the enormous paperwork deluge and compared the CFP to the little boy "who is going to put his finger in the hole in the dyke."

Other skeptics base their views on the lack of willingness of the Executive agencies to adopt any meaningful reform or to curtail the proliferation of the paperwork. They point to the failure of the Executive agencies to implement the provisions of the existing statute—the Federal Reports Act enacted by the Congress in 1942.

In 1973, a Senate Subcommittee headed by Senator Thomas J. McIntyre, now Co-Chairman of the CFP, concluded that the 1942 Act was ineffective because it did not cover the Internal Revenue Service which generates some 35% of Federal paperwork and because the Office of Management and Budget, charged by law with responsibility to carry out the Federal Reports Act, had not adequately implemented that law.

A report issued in July 1975 by the General Accounting Office, the Government's housekeeper, criticized the Office of Management and Budget and the Department of Labor for inadequate administration of the 1942 Federal Reports Act.

Other sources expressed concern, since the membership of CFP is drawn from diverse and sometimes antagonistic areas such as the Congress, the Office of Management and Budget, the General Accounting Office, State and local governments, and industry, that CFP may encounter difficulty in reaching agreement on what should be done about paperwork.

Considering the enormity and the complexity of the problem, one can readily understand the apprehension of these observers—particularly since the problem, which had not been solved in all these years, has been compounded by a spectacular increase in the paperwork load within the past decade.

In 1965, there were 3,803 different Government reports required of U.S. citizens and businesses—excluding income tax returns. By 1971, the figure had grown to 5,298 and is presently estimated to run over 6,000.

The annual cost to the private sector of filling out Federal forms was officially reported at $4 billion in 1965 and had doubled by 1968 to $8 billion. One budget estimate of the cost to business today comes to $18 billion a year.

The General Services Administration recently calculated that the annual cost to business for filling out Federal agency forms runs more than $20 billion a year—and that it costs the Government another $20 billion a year to read them.

The task of CFP may be a Herculean one—but we all must disagree with those who doubt that the job can or will be done.

Apparently, the skeptics have overlooked or underestimated the power of public opinion and indignation, particularly when it hits the American taxpayer and the small businessman in the pocket.

It can be expected that the investigations and hearings of the CFP will reveal that a good deal of the reporting by businesses can be dispensed with without affecting in the slightest the security, the economy, and the well-being of our Nation.

For example: Social Security Form 941 is one on which employers must list—4 times a year—the name, Social Security number, wages, and status of each and every employee. Admittedly, this information is neither needed nor utilized for tax purposes. It merely helps the Social Security Administration figure out benefits.

In December 1975, just prior to the Congressional Christmas recess, the Congress, in response to strong protests by small business groups over a period of many years, enacted legislation which eliminates the unduly burdensome portions of Form 941 This legislation, which was spearheaded by the Congressional CFP Members Tom Steed and Frank Horton in the House and Thomas J. McIntyre and Bill Brock in the Senate, was approved by the President on January 2, 1976 (Public Law 94–202) to become effective in two years. This legislative enactment will save business firms an estimated total of $250 to $275 million a year.

Continued small business complaints and clamor are expected to inspire further legislative reform and administrative changes as the work of CFP progresses.

An informed source recently expressed the view that CFP investigations will probably reveal that a great deal of the reporting required by the Federal departments and agencies goes for naught—that many forms which individuals and small businesses have sent to the Government under penalty of law, were never recorded or failed—and that some were not even opened. Also, that in many instances, forms are duplicative, redundant and serve little if any useful, valid or essential Government purpose.

The paperwork burden is hurting small business badly—more than ever before. The mounting cost to small business, still reeling from recession, has reached an all-time high.

Public hearings by CFP in the field throughout the country are likely to stimulate public clamor to cut the paperwork burden.

Considering that the total annual $40 billion paperwork expenditure is nonproductive and inflationary and, further, that the Government share of $20 billion is borne by the taxpayer and the private industry share of $20 billion is being passed on to the consumer, one can reasonably expect that the general public will join the small business sector in demanding a change.

An aroused public interest is bound to put the CFP project into high gear soon—most likely within this election year.

In addition, there are a number of other visible signs which forecast success in CFP's mission.

First and foremost is the fact that the Congressional membership of CFP consists of four dedicated advocates of small business who understand and are sympathetic to the problems of small business. They are Representatives Tom Steed and Frank Horton of the House and Senators Thomas J. McIntyre and Bill Brock of the Senate.

Representative Steed is the Ranking Majority Member of the House Small Business Committee. Senator McIntyre is a high-ranking majority member of the Senate Select Committee on Small Business and is also a member of the Small Business Subcommittee of the Senate Committee on Banking, Housing and Urban Affairs. Representative Horton was a Member of long-standing of the House Small Business Committee and is the Ranking Minority Member of the House Committee on Government Operations. Senator Brock also serves the interests of the small business community as a Member of the Senate Select Small Business Committee.

Under their stewardship, CFP is bound to succeed.

Another favorable indication of ultimate CFP achievement is the policy which it established at the outset to examine each specific problem separately and prescribe the remedy immediately instead of waiting until the completion of its overall study to report recommendations.

This technique proved effective in obtaining Congressional enactment and Presidential approval of the Social Security Form 941 reform.

In line with this policy, CFP has just announced that it will have at least six more proposals for change before the end of January.

Another good sign is the June 1975 statement of the President that he wants "very desperately to have small business freed from the excessive Federal paperwork." Administration and Congressional accord should be helpful to CFP in its efforts to obtain legislative and administrative changes.

This good outlook does not mean, however, that the small businessman can now sit back, relax, and wait for changes to take place. Much more is needed to be done—and without delay.

One of the main functions of CFP is to identify those reporting requirements and particular forms which are unnecessary or unduly burdensome and then to make recommendations for their modification or elimination.

This will not be easy. CFP will need all the help it can get from the private sector to do the job quickly and effectively.

In this connection, both the small independent contractor and the large manufacturer in the direct selling field can do their part by writing to their Congressmen and Senators and CFP in support of the CFP program. Their letters should briefly set forth a statement regarding those reporting forms which present the greatest problems to them and their suggestions for corrective action. The address of CFP is 1111-20th Street, N.W., Washington, D.C. 20582.

In so doing, members of the direct selling industry, large and small, will be assisting CFP in its task for the benefit of not only their own industry, but also the entire small business community, the taxpayer, the consumer, and the Nation's economy.

OLYMPIC NATIONAL PARK

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. BONKER. Mr. Speaker, the Olympic Peninsula of Washington State is a unique and isolated landmass, an area of rugged mountains, coniferous rain forests, wildlife, glaciers, lakes, streams, and seascapes that constitute a national treasure house of natural beauty.

Since its creation by Congress in 1938, Olympic National Park has been the prime protector and custodian of the land and water features of national significance on the peninsula.

The National Park Service describes the park as "conceived in controversy, born of compromise and developed amidst constant conflict." This year, via H.R. 11706 and its identical companion measure, H.R. 12075, Congress has the opportunity to resolve the conflict, to still the controversy and, through a genuine compromise of competing interests, to complete at last the 38-year history of the building of Olympic National Park.

Although scenic qualities unique in the United States are at stake, the park boundary revisions proposed are modest. Some 4,600 acres would be added to the park, and nearly 2,300 acres would be deleted. The net gain—about 2,300 acres—is equivalent to less than three-tenths of 1 percent of the current park size of 896,599 acres.

Park expansions involving 10 to 20 times as much land have been seriously suggested by many Washington State residents to accomplish the aims of H.R. 11706, but the urgent need for speedy action prompted a willingness to compromise in return for a proposal that could do the job in timely fashion.

The result is a package, cosponsored by all Members of the Washington congressional delegation, which reflects a series of related compromises between major corporate landowners and conservationists. These oft-conflicting interests support this bill, as does Gov. Dan Evans of Washington State, who helped prepare it. Regrettably, time pressure precluded involving all affected property owners in its drafting. However, a significant number have since expressed support for it, and I am determined to see that all are heard before the bill is reported.

Two proposed additions to Olympic National Park, along with no more adjacent land than is minimally necessary for buffering and protection, are the dominant concerns of H.R. 11706:

The Point of Arches and Shi Shi Beach coastal area, a 7½-mile stretch of wild seascape that encompasses the last section of the Olympic Peninsula coastline that is still both largely untouched by man, and available for public acquisition. A narrow strip of buffering uplands would also be included in this proposed addition, bringing the total acreage involved to about 2,520.

It is here that timely congressional approval is of the essence. In the absence of indications that acquisition will move forward, logging operations could begin this summer to harvest the old growth western red cedar, Sitka spruce, and western hemlock that grow on much of the coastal strip lands. The natural qualities that now qualify these lands so eminently for inclusion in the park would be lost.

The shoreline of Lake Ozette—the largest lowland coastal lake in the State of Washington—Lake Ozette is of national significance as one of the few bodies of water of such character and magnitude that remains essentially unmarred by the presence of man and is, therefore, still suitable for inclusion in the national park system.

The lake is about 9 miles long. The eastern shoreline, comprising something less than half of the total, is already within Olympic National Park. H.R. 11706 would add the remaining shoreline to the park, along with an upland buffer strip of at least 200 feet that, in total, could not encompass more than 1,500 acres of private land. An exact boundary has not yet been determined, although the intent is to include no more land than is minimally necessary to buffer and to protect the lake resources. Preliminary calculations suggest that 1,000 acres or less would be required.

H.R. 11706 also provides for four other additions to and nine deletions from Olympic National Park. All are recommended in the proposed Olympic National Park master plan either to facilitate park administration or to provide commercial-quality timberlands that could be used to minimize the economic and timber supply impacts of the proposed park acquisitions near Point of Arches and around Lake Ozette.

Although the Point of Arches upland strip is narrow—running generally not more than one-fourth to one-half mile and never more than 1 mile inland—it provides a scenic backdrop that is vital to the beaches themselves and encompasses one especially important natural feature, the virgin stands of western red cedar around the shores of Lake Willoughby.

Large cedars will be extinct on nonpark lands on the peninsula within a few years. Almost all the stands now preserved within the Olympic National Park coastal areas are scraggly and stunted by the ocean winds. Lake Willoughby is sufficiently far inland to permit these trees to attain their full magnificence.

Between the Makah Indian Reservation on the north and the existing park boundary on the south, the Point of Arches coastline is currently owned or administered by 2 State agencies, 1 county government, and 26 private individuals or corporations. The immediate Point of Arches area is a registered national nature landmark. The State of Washington has jurisdiction over lands and waters below the mean high tideline. The scores of offshore islands, seastacks, and rocks are managed by the U.S. Bureau of Sports Fisheries and Wildlife as part of the Flattery Rocks National Wildlife Refuge.

Inclusion of this coastal strip within Olympic National Park will simplify administrative complexities and insure more effective use of and protection for its scenic and natural assets. A step will also thereby be taken toward the intergovernmental management agreement that the National Park Service has wisely proposed.

The delineation of the exact boundary of the proposed Lake Ozette addition to the park was provided for in general terms in H.R. 11706 to allow ample time for full consultation with affected property owners and governmental agencies.

The Secretary of the Interior would be authorized to set the precise Lake Ozette line and to revise the park boundaries accordingly within 180 days after notification to Congress and publication of a detailed description in the Federal Register.

Lake Ozette and its shoreline are outstanding physical features that qualify on their own merits as a suitable addition to the park. The high scenic and recreational potential of the lake could lead to impairment of its current quality and down-grade the existing Olympic National Park lands nearby without the unified management that National Park Service administration of the entire shoreline would provide.

As the Washington Environmental Atlas published in January 1975 by the U.S. Army Corps of Engineers notes:

> The shores of Lake Ozette have been suggested for preservation. Lakefront development outside the park is underway and eventually will progress to the point that the lake will bear too much traffic for enjoyment. Increased traffic will also affect the National Park shores with eventual detrimental effects. Every effort should be made to put all of Lake Ozette within the National Park boundary.

Logging clearcuts are within one-half mile of the lakeshore and could compromise the current lake quality in the foreseeable future if inclusion in the park is not accomplished now.

H.R. 11706 contains important safeguards for private owners of property to be acquired. They would, of course, receive market value compensation for their lands, along with opportunities to participate in the appraisal process.

Individuals with existing, noncommercial single family residences would have the option of continued use of these homes for 25 years or life, whichever proves longer.

A 3-year deadline for property acquisition is included to minimize the disruptions that uncertainty can pose for personal lives and corporate planning. Every owner of lands to be acquired would also be protected from loss in values due to changes in land use regulations.

To add flexibility on consummating land exchanges that would serve to reduce the economic impacts of the proposed park additions, the U.S. Forest Service would be authorized to participate in such exchanges. The Washington State Legislature is also considering similar authority for the State department of natural resources.

Finally, to reassure Olympic Peninsula residents concerned about continued expansion of Olympic National Park, the bill abolishes the authority given the President in 1938 to expand the park boundaries by proclamation up to a ceiling of 898,292 acres. Henceforth, enlargement of the park would require congressional approval.

Although only 19 days elapsed between the introduction of H.R. 11706 and its initial hearing before the Parks and Recreation Subcommittee, my office and I have worked diligently to provide all interested parties with copies of the bill, maps of the areas involved and explanatory materials. Such packets were mailed promptly to all identified property owners, and contacts were made with a broad range of local and State government officials and other interested individuals and organizations.

I personally visited the Olympic Peninsula after the introduction of H.R. 11706, discussed its provisions with Olympic National Park personnel, toured the Point of Arches and Lake Ozette areas by air, held an open public meeting with constituents in the vicinity at Forks and was generally available during several other gatherings on the peninsula. H.R. 11706 has also received extensive coverage in the Washington State press.

Mr. Speaker, the Point of Arches coastline hangs in the balance with this proposal. Only here is a critical deadline faced, although in the years ahead the threat of physical alteration looms large for Lake Ozette, too. The basic package of compromises embodied in H.R. 11706 offers the only vehicle for timely action. We cannot risk losing what could be the final opportunity to acquire these scenic treasures for the people of the United States.

COVERUP OF JACK ANDERSON'S WATERGATE INVOLVEMENT?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. McDONALD of Georgia. Mr. Speaker, on February 4, 1976, Accuracy in Media ran a full-page ad in the Washington Post to call public attention to the amount of evidence that columnist Jack Anderson and top officials of the Democratic Party had prior knowledge of the Watergate break-in and bugging.

The AIM report contains a compilation of evidence which I feel my colleagues should take note of, and for their benefit attach the text:

A WATERGATE COVERUP BY THE MEDIA

(Reported as a Public Service by Accuracy in Media—AIM)

A recently published book reveals that there is evidence that officials of the Democratic National Committee and gossip columnist Jack Anderson were among those who had knowledge of the Watergate bugging many weeks before the break-in of June 17, 1972.

The book is *At That Point in Time* and the author is Fred D. Thompson, Chief Minority Counsel of the Ervin Committee, the special committee created to investigate the Watergate scandal.

Thompson devotes an entire chapter to the intriguing evidence that the victims of the Watergate bugging were warned several weeks in advance of what was planned. This evidence was developed by the minority staff of the Ervin Committee. Sworn testimony was taken in executive session from three officials of the Democratic National Committee, columnist Jack Anderson, and the two individuals who gave the warning, A. J. Woolston-Smith, a New York private detective, and William F. Haddad, a former official in the Kennedy and Johnson Administrations.

The staff prepared a summary of its finding, but it was never included in the final report of the Ervin Committee. The majority did not think the findings were sufficiently conclusive. We have learned that a copy of the summary fell into the hands of a reporter for CBS News, but that news organization chose not to divulge the story.

The transcripts of the secret testimony became available to the public, and AIM acquired a set, but the major media showed no interest in them and the story they contained. We have discussed the story with many people, including a number of reporters. The reaction is always one of astonishment and interest. But, with one or two exceptions the reporters have failed to probe the evidence and inform the public about it.

WHO WAS IN THE KNOW?

We will give you the story in some detail so that you may judge its newsworthiness for yourself.

First, we must point out that those who dug into this matter were frustrated by witnesses who contradicted themselves and each other, who had incredible lapses of memory, who claimed to have kept no records or poor records of important matters, and who misplaced important documents. But it is precisely the obvious effort to conceal and confuse on the part of the witnesses that strengthens the conclusion that there was some real fire beneath the clouds of smoke that some of the witnesses were blowing.

If investigative reporters had devoted a fraction of the time they spent on other aspects of Watergate to investigating how the Democrats and Jack Anderson found out about the bugging in advance, it is conceivable that they might have uncovered either a double agent, some counterbugging, or even an unindicted co-conspirator.

Here is the story, partly as told by Fred Thompson, but supplemented by our own analysis of the once-secret testimony.

A private detective in New York named A. J. Woolston-Smith apparently became aware of the Republican plans to bug the Democrats as early as December 1971 or January 1972. He conveyed this information to William F. Haddad, publisher of a small New York weekly, the Manhattan Tribune, who had previously given Woolston-Smith assignments to detect suspected wiretapping. Haddad had held high positions in both the Kennedy and Johnson Administrations. Satisfied that Woolston-Smith had reliable information, Haddad sent this letter to his friend Lawrence O'Brien, then Chairman of the Democratic National Committee, on March 23, 1972:

"I am hearing some very disturbing stories about GOP sophisticated surveillance techniques now being used for campaign purposes and of an interesting group here in New York where some of this "intelligence" activity is centered. The information comes from a counter-wire tapper who helped me once in a very difficult situation in Michigan and who had come to me highly recommended from two lawyers, Gallagon (sic) and Shapiro.

"Can you have someone call me so you can get the info first hand and take whatever actions you deem necessary. If you want, I will go a little deeper into the situation, but I would prefer that you evaluate the same information I have received, and from the same source, before taking further steps."

O'Brien turned the matter over to a member of his staff, John Stewart, the DNC's director of communications, appending this note to Haddad's letter: "Could you follow up on the attached and put in a call to Bill?"

Stewart had phone conversations with both Haddad and Woolston-Smith. A meeting with them was arranged in Haddad's New York office on April 26, 1972. It was attended by Stewart, Haddad, Woolston-Smith, and Ben Winter, the vice president of a New York bank who was a friend of Haddad's. Haddad said Winter had nothing to do with the matter. He just happened to be in his office, and he invited him to sit in on the meeting "to hear something fascinating."

WHAT WAS KNOWN

Woolston-Smith testified that Haddad did most of the talking. Haddad testified under oath that the discussion included plans of the Republicans to bug the Watergate offices of the DNC, the involvement of Cubans, ways which the funding of the espionage operation might be traced, and a Republican organization in New York called the November Group that had some connection with G. Gordon Liddy. He also said that the name of former Attorney General John Mitchell had been mentioned.

Woolston-Smith's sworn testimony also indicated that these were among the matters discussed, but he did not mention John Mitchell's name being brought up. He did, however, say that James McCord, who participated in the Watergate burglary, had been mentioned at the meeting. Woolston-Smith claimed that nearly everything discussed by Haddad was based on his information except for the Cuban involvement. He thought that information could have come from Haddad's friend, Jack Anderson.

Ben Winter, the banker, recalled that Woolston-Smith had displayed a "sophisticated bug" at the meeting and had handed it to Stewart and Haddad. Winter thought Woolston-Smith's information appeared to be hard evidence of surveillance, not just a theory. Woolston-Smith himself tried very hard to put the investigators off with an incredible story that he had presented nothing but a theory. He changed his tune when interrogated a second time, but the staff never felt that he had given them a true statement about the source of his information. He insisted that he did only "defensive wiretapping," i.e., detection of bugging. The bug he exhibited at the meeting, he said, was only a fake model intended to show the type of equipment available in the market.

Two days after this meeting, Haddad addressed a letter to John Stewart, saying that Woolston-Smith had "good information" and that it was his judgment "that the story is true and explosive." Seeming to answer a question from Stewart about whether Woolston-Smith wanted to be paid for continuing his investigation, Haddad wrote: "Yes, he did want to cover expenses. . . ." Haddad said: Instead of pursuing this with money, I decided to see what a good investigative reporting operation could do with it now. So I went ahead along these lines. If they draw a blank, I'll be back to you on how to proceed, and I'll keep you informed."

Haddad testified that he made copies of all the material in his file and sent it to columnist Jack Anderson with a covering letter. Strangely, neither Anderson nor Haddad could locate any copies of the material Haddad sent or of the letter. It had all mysteriously vanished. Haddad says he sent Anderson his "file," everything he had. Anderson said all he received was a one-page letter.

WHAT WAS DONE

Having been warned that there were plans afoot to bug their offices, did the Democrats notify the police, have the office swept for bugs, hire a night watchman, or even ask the staff to take precautions?

The answer is that they did none of these. Officials have given various explanations for the seeming total lack of reaction to the warning. Stanley Griegg, then Deputy Chairman of the National Committee, said that John Stewart had told him that Woolston-Smith had warned that there might be electronic surveillance and possibly breaking and entering, but that what he said was very fragmentary. Griegg said he told Stewart that he could not conceive of the opposition conducting that type of campaign. He said he told him that they did not have money to hire guards or buy sophisticated security equipment.

They took great pains to create the impression that they did not really take the warning too seriously, and that they could not afford protective measures. No one seems to have asked why they did not complain to the authorities, but the answer would probably have been that they lacked hard evidence of any crime. However, the fact was that they did have evidence of crimes. Mr. Griegg testified that the office had been broken into and documents and checks stolen in the first week of May. On another occasion there had been an unsuccessful attempt to force the locks. Under these circumstances, total inaction with regard to the bugging warning would be strange. No one has admitted it, but it is conceivable that a search was made for bugs and that one was found in Larry O'Brien's office. The break-in on June 17 was made because that bug was not functioning properly. Perhaps it did not die a natural death.

ELATION AFTER BREAK-IN

Woolston-Smith testified that the DNC's interest in his information continued right up to the time of the June 17 break-in. He said he was in regular telephone contact with John Stewart—once or twice a week. He said his last discussion before the break-in was along the line of "something is about to happen." He also said that after the break-in Stewart called him and was "elated." Asked what he was elated about, Woolston-Smith said: "Elated that we had more or less called it the way it happened."

When asked to elaborate further, Woolston Smith said: "This enthusiasm seemed to have been, well, we may not have this election, but boy, we have got them in real great position." He said this was because Stewart thought there was definite involvement of the Committee to Re-elect the President. He added: "They are expecting the newspapers to develop it."

John Stewart painted a very different picture. According to his testimony, his contact with Woolston-Smith was extremely limited, and he really obtained no definitive information from him. He indicated that he had only one telephone conversation with him before Watergate. He could not remember any meeting with him prior to June 17. It was only when he was told that the others had testified that Stewart had met with Haddad, Woolston-Smith and Winter prior to Watergate that he would admit that and then only as a possibility. Stewart also had trouble remembering the letter Haddad had sent to him dated April 28, right after the meeting in New York. The letter characterized Woolston-Smith's story as "true and explosive," but Stewart had no recollection of ever having seen it, even though he was sure that he must have.

Stewart insisted repeatedly that his only meeting with Woolston-Smith was after Watergate. He claims to have forgotten about him, but after the burglary he recalled his warning. He had his assistant find his name and number and give him a call. He arranged to meet him in New York, together with Haddad.

While Haddad and Woolston-Smith frequently gave the impression of being fuzzy and less than candid in their testimony, Stewart seemed to go to unusual lengths to downplay his meetings and conversations with Haddad and Woolston-Smith. His testimony was so lacking in credibility that one is bound to wonder what he was afraid of. Would an admission that they took the advance warning seriously be so damaging?

The answer is probably yes. If they took the warning seriously, they would have had to have known more about the source of the information. No one has been willing to come up with a credible story about how Haddad and Woolston-Smith managed to assemble such accurate information in advance. Thompson and his staff were strongly inclined to suspect some leak from the CIA. Or did they have access to information obtained by electronic surveillance? Or was there a double agent within the ranks of the CRP group? Suspicions have fallen on McCord, who bungled the break-in, confessed to Judge Sirica and ended up serving very little time in jail. They have fallen on another member of his team, Alfred Baldwin, the lookout man who was never prosecuted. Baldwin was a flop as a lookout, and he was also the source of extensive information about the Watergate operation that provided the basis for a press conference by Larry O'Brien on September 7, 1972, according to Fred Thompson's book. Thompson was inclined to doubt that Baldwin was a double agent only because he had done so many things that risked compromising the operation.

Finally, if the DNC took the warning seriously, it would be harder to explain why no obvious defense measures were taken. Woolston-Smith did not accept the idea that there was no money for security. He pointed out that field force meters could have been acquired to detect bugs at little cost. He noted that while the committee was saying it could not afford money for security, it was spending $45,000 for a motor launch as a gift. His conclusion was that they had a plan to let the bugging take place and capitalize on it.

THE ANDERSON ANGLE

Haddad, as we noted above, says he turned his file on the bugging plans over to Jack Anderson, expecting that he would be able to develop more detailed information. Anderson admitted that he received some information from Haddad in an article he published in *Parade* magazine July 22, 1973, a little more than a year after the break-in. He also mentioned it in a book he wrote.

Anderson claimed that he was not able to develop any information on the basis of what Haddad had given him. He claimed he ran into a stone wall and just dropped the matter. Unfortunately neither Anderson nor Haddad produced the documents that Haddad says he sent to Anderson. Haddad says that he would have given him everything he had. That would have included the name of McCord. It would have included information about Cuban involvement, if, indeed, that information had not originated with Anderson, as Woolston-Smith seemed to think.

By strange coincidence, Anderson had a very close friend in the Cuban community who knew a great deal about the Watergate matter. He was Frank Sturgis, a member of the burglary team who was caught in the Watergate on June 17. Anderson went personally to the Washington, D.C. jail to see Sturgis as soon as he heard of the Watergate arrests. In fact he got there before the jailers even had Sturgis's correct name. He was still booked under the alias he used, Anderson testified, and he had a hard time finding him. Anderson said he learned of Sturgis's arrest from the papers, and this would suggest that the press had printed his correct name before the jailers became aware of it.

Anderson tried to get Sturgis released to his custody, but he did not succeed. He visited him at his home in Miami while Sturgis was out on bail, and he also testified that he had telephone contacts with him during that period. On the eve of Sturgis's trial, Anderson was at the Arlington Towers Apartment one night while the Cubans were discussing whether they should plead guilty. Anderson testified that he did not participate in that discussion, but from time to time one of the participants would emerge and report to him on what was happening. He offered to bring Sturgis's wife to Washington and have her stay in his home. He visited Sturgis twice in the Rockville, Md. jail. He stayed in contact with Sturgis's attorney after Sturgis was sent to prison in Danbury, Conn. All of this is based on Anderson's sworn testimony.

Why this intense interest in Frank Sturgis? Anderson said he was trying to get an exclusive story. He was trying to find out what Sturgis was up to at the Watergate.

But actually Jack Anderson published very little in his column about Watergate. Despite his unique connection with Frank Sturgis, he seems to have contributed nothing to the breaking of the Watergate story. Indeed, the first column that he wrote on the subject that we were able to find was not published until August 25, 1972, more than two months after the break-in. It dealt with funds used to finance the bugging having been traced to a Minnesota businessman who had also been a financial backer of Hubert Humphrey. That is not the sort of thing Sturgis would have known about.

In December 1972 and January 1973, Anderson did publish three columns about the pressure on the defendants to plead guilty, and he intimated that they might reveal embarrassing secrets if they did not get more help. This appears to have been the only journalistic harvest Anderson reaped from all his attention to Sturgis.

DID ANDERSON MISS THE BOAT?

Anderson's unusual reticence in the treatment of the Watergate story raises an intriguing question. Was he quiet because he knew so little, or was he quiet because he knew so much?

If he had heard in the spring of Cuban involvement in the bugging plans, Sturgis would have been the logical person to whom he would have turned for information. Anderson testified that the first he knew of Sturgis's involvement in the Watergate bugging was when he read his name in the paper after the arrests. But he also testified that he had, by chance, met Sturgis at National Airport in Washington, D.C. on June 16, 1972, as Sturgis was arriving from Miami to participate in the break-in.

This was an innocent chance encounter, the way he described it. But there was a question about why Mr. Anderson was at the airport. Here is how the testimony went.

Q: And were you at the airport to travel yourself, you were leaving town?

A: Yes, I was on my way to keep an engagement in Cleveland.

Q: A speaking engagement?

A: Yes.

Q: Where was that?

A: Cleveland.

Q: Where in Cleveland?

A: I do not recall. I have been to Cleveland three or four times to speak. We have a very enterprising paper there, the *Cleveland Press,* and they are always arranging speaking engagements for me.

A spokesman for the Cleveland Press denied that it had sponsored or arranged for a speaking engagement for Mr. Anderson in June 1972, or at any other time. A search of their files did reveal that Mr. Anderson had spoken in Cleveland on June 1, 1972, at the Park Synagogue. The Cleveland Press had carried a big story about the affair on June 2. But there was no similar evidence of a speech by Mr. Anderson in Cleveland on June 16 or soon thereafter. If Mr. Anderson did not have a speaking engagement in Cleveland on June 16, why did he say that he did? Why did he say the Cleveland Press arranged for the speech? What was he doing at National Airport that day? Those are questions the Ervin Committee investigators did not get around to asking.

The mystery deepens when one notes that The Washington Post of June 22, 1972, quoted Anderson as saying that he "happened to bump into Sturgis at the airport just several days before the bugging incident." Asked about this on a Washington television program, Mr. Anderson stuck to the June 16th date for the encounter and denied that he had ever given a different date.

The June 22nd article discussed a column Anderson had published two days before that had carried highly confidential information about the expense accounts of Lawrence O'Brien, Chairman of the Democratic National Committee. It stated that a spokesman for the Committee said the information in the column could only have come from a file that was missing from the Committee's headquarters at the Watergate. Democratic officials also noted Anderson's close ties to Frank Sturgis. Anderson denied that the information had been provided by Sturgis.

THE PRESS DOES NOT PRESS

Fred Thompson titled his chapter on the prior knowledge aspect of Watergate, "Unanswered Questions." Some of the unanswered questions he listed were these:

1. Did McCord deliberately leave the tape on the door?

2. Did someone alert Shoffler (one of the arresting officers who was voluntarily working overtime when the call about the Watergate break-in came over the radio)?

3. Did the information pass from Sturgis to Anderson to Haddad to the DNC, or had the offices of the November Group been bugged, with information from conversations of McCord or Liddy, or both, combined with Haddad's "other sources" to put the story together before June 17?

4. Or was it some combination of these things?

5. And why had Jack Anderson been so mysteriously quiet?

Thompson said: "We agreed that we had come close but that we had fallen short. To borrow still another Watergate expression, we had been unable to find the smoking gun in anyone's hands."

True enough. But the major missing ingredient was the lack of interest on the part of the press. Thompson's small staff was not up to pursuing every lead and forcing a reconciliation of every contradiction. They let the matter drop, with many intriguing questions unanswered, "and with a gnawing feeling in our stomachs."

The investigative reporters who pursued other Watergate stories so doggedly, showed no interest in probing for the answers to Thompson's questions. Indeed, they had no interest in even reporting the existence of the questions. A reporter for *The Washington Post* told us that he had not pursued the matter because he understood that Senator Howard Baker thought there was nothing to the story. That conflicts with what Fred Thompson says, and he was close to Senator Baker.

An investigative reporter for *The Washington Star* expressed amazement and interest when the story was outlined to him, but he reported back that his editors had dismissed it as "old stuff." He could not say when *The Star* had ever said a word about it.

A reporter for *The New York Times* reacted similarly. He was very excited about the story, especially since he had just written a story about Bill Haddad getting a new job for the New York State Legislature which involved investigating such things as electronic surveillance. But his interest apparently waned quickly. *The New York Times* owns Quadrangle, the publisher of Fred Thompson's book. That gave them access to the galley proofs of the book and the right to a scoop on any news it might contain. Not only has *The Times* not done a news story on the book, but as we go to press it has not even published a review of it. (The same is true of *The Washington Post*).

News is what the editors decide is news. As with Senator Goldwater's story about KGB activities on Capitol Hill, the editors seem to have decided with virtual unanimity that the "prior knowledge" side of Watergate shall not be treated as news. It may be interesting. It may be intriguing. It may be of historical importance. But news it is not. *The Times, The Post,* the wire services, the networks and the news magazines have so decreed.

It is an illustration of a point Leopold Tyrmand makes in his provocative article, "Media Shangri-La," in the winter 1975 issue of *American Scholar*. He writes:

"It took the bloody atrocities of the totalitarian movements to enforce the unanimity of their communication system in the name of faith and orthodoxy. The American media achieved like-mindedness by entrenching themselves as a separate power in the name of freedom and variety of opinion. This cartel of solid, preordained thinking is a threat to democracy, all the worse because it occurs in its name, speckled with bogus paraphernalia, democratic in word but not in spirit."

SEA OF GRAY

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. YOUNG of Florida. Mr. Speaker, an article in the St. Petersburg Times Sunday, February 15, 1976, carried the headlines "In This Sea of Grey, It's Not Wise To Rock the Presidential Boat." During President Ford's visit to St. Petersburg some hecklers tried unsuccessfully to disrupt the speech and make it difficult for the thousands attending to hear the President's remarks. People obviously are getting tired of this kind of tactic, and in this particular case, four elderly ladies and a silver-haired gentleman in a club tie and blue blazer took it upon themselves to squelch the hecklers. The ladies in gray beat the heckler with his own banner, a lady of 90 pounds took on the task of quieting the heckler—all 250 pounds of him.

The young man was bewildered that he was being subdued by a group of silver-haired ladies and a distinguished looking gent at 75. They were pulling his hair, setting on his feet with lawn chairs, beating him in the back, it only took a few minutes before the hecklers decided the battleline was just too much for them, so they sank back into the crowd and gave up. Only then did the ladies settle back down to hear President Ford. Elsie and Parker Stuart, Louise Emerson, and an unidentified lady were the heroes of the sea of gray attack and are to be commended for their action in quietly remedying the situation without any major damage to anyone other than the fact that Elsie lost the heel of one of her good green pumps.

I commend them for standing up and protecting their own rights to hear the President of the United States speak. It appears to me that since little has been done officially to protect the rights of the majority who attend functions to hear speakers, the people are taking into their own hands the task of remedial action. I call the attention of my colleagues to the article and believe they will find it most interesting.

[From the St. Petersburg Times,
Feb. 26, 1976]

IN THIS SEA OF GREY, IT'S NOT WISE TO ROCK THE PRESIDENTIAL BOAT

(By Dudley Clendinen)

In a moment of inspired conservative violence, four little old ladies and a silver-haired gent in a good club tie attacked a mountainous young radical whose bellows were interrupting President Ford's speech in Williams Park Saturday morning, thrashed him soundly, destroyed his banner and drove him from the crowd.

Politics and questions of due process aside, it was a stirring sight to behold, a moment that will quicken the arteries of the elderly here for some time.

It came in the middle of Ford's speech, on a calm, bright morning, to perhaps the largest geriatric gathering of the presidential campaign, a crowd of more than 10,000 of the city's grey-haired elder citizens and winter visitors, jammed shoulder to shoulder to listen to their President stand four-square for Social Security.

It began as a political protest to call attention to the plight of former University of Florida teacher Robert Canney, who was convicted for resisting arrest in an anti-war rally in another city park five years ago. But the protesters had picked the wrong audience.

Immediately it became a clash between young and old, between the different political manners of two generations spread 50 years apart. It ended in a riot.

It was the young man and his partner holding the banner who broke the respectful silence of the crowd. But in their outrage at such a breach of decorum, it was the kindly, rock-ribbed Republican elderly, gentle ladies and a gentleman all, who turned violent in an instant.

The cries of "Shame" and "Quiet" from the crowd nearby turned to cheers as the ladies bent to their task. Veteran reporters of the national press corps and a number of policemen turned their backs on the President to see the fray. The police consulted their walkie-talkies and kept their distance and syndicated political columnist Roland Evans, stooped in conversation nearby with a green-sweatered old man, stood and watched in rapt amusement, a smile flicking at the outline of his mouth.

"The nature of a civilization's advance can be measured in the treatment of its senior citizens," said the President from the bandshell.

Evans, who has heard all this before, was more interested in how many of these Republicans listening to Ford preferred Ronald Reagan. "Any Reagan supporters around here?" Evans asked the man in the green sweater.

Unaccustomed to such lightning political assessments, the old man shifted on the pad he had placed on the hard wooden bench. "Nooo," he said, staring toward the middle distance.

"Not any Reagan supporters?" Evans persisted.

"Nooo," said the man, a little wide-eyed in thought.

"Where do you come from?" Roland Evans asked.

"I'm from St. Pete," said the man.

Off to the right, two young men in blue denim pushed their way through an assortment of little old ladies in necklaces, canes and umbrellas, and raised up their banner. "Free Bob Canney," it said.

"Free Bob Canney," bellowed the mountainous young man later identified as Ronnie Lowe.

President Ford looked toward the noise, and all around, gray heads swiveled in anger. "Free Bob Canney!" yelled the mountainous young man.

Pug-faced, easily 75 inches tall and probably 250 pounds in weight, the mountainous young man towered over the soft blue permanent sets and thinning white heads around him. He was of a size to have his way in a crowd. But he was in the wrong crowd.

He had made the fatal mistake of standing in front of Elsie Stuart. Elsie and Parker Stuart are 75 years old. They have been Republican all their lives, and they have been married for 51 of those years. They come to St. Petersburg every winter from Valley Forge, Pa., and they are not made of thin stuff.

"He said, 'Would you let me through here—I want to raise a banner,' " said Elisie Stuart.

"I said, 'What kind of banner?' "

For answer, the mountainous young man raised his banner. "Free Bob Canney," he yelled.

Well, such disrespect, Elisie Stuart had never seen. She could hardly miss. His broad back and long, limp hair towered almost two feet above her, directly in front.

With all the strength of her somewhat less than 90 pounds, she began to beat him on the back with her open right hand. "Stop that!" she said.

"Free Bob Canney!" bellowed the mountainous young man.

From both sides and behind, wrinkled hands began to pull at the sign. "Tear it down" yelled the crowd.

In front of him, a little lady in Navy blue dress suit turned around and began to flail at him with an olive-wood cane.

Down came the sign, in pieces, Elsie Stuart got one of the sticks with the material still wrapped around it, and began to hit him with that.

"Free Bob Canney!" bellowed the mountainous young man, standing fast.

To his left rear, a lady of fine gray hair and considerable dignity could stand it no longer. She reached up, put both hands in his limp hair and pulled straight down. The mountainous young man yelped and swayed in pain, and pivoted half around. Elsie Stuart stretched her full height, and got another handful above his right ear.

Sitting in front of him, Louise Emerson, a Republican from Turner, Maine, had had all the commotion she cared for. She took her lawn chair by the arms, placed the back legs on the feet of the mountainous young man and began to press down. Hard.

Stumbling under the assault, the mountainous young man swung around, freed his hair, looking as if he would dearly love to punch someone. But he was face to irate face with a batch of outraged little old ladies, and a silver-haired gent in a good club tie and blue blazer, the husband of the woman who had pulled out his hair.

Spectacles flashing, the silver-haired gent assumed the On Guard position, and threw a punch at the mountainous young man, whose face began to assume a look of crazed disbelief.

"Free Bob Canney" he yelled in defiance. That did it for Elsie Stuart. She bent down, stepped out of one of her good, green pumps and began to beat him on the back with the heel of her shoe.

"I think it's time people stopped running down America," the President said from the bandshell.

The mountainous young man and his partner gave up and sank back through the crowd. The yells grew softer and then died away.

Louise Emerson resumed her seat, and when Elsie Stuart put her shoe back on, she discovered she'd broken the heel.

Afterward, St. Petersburg Police Chief Mack Vines was philosophical about the matter of the constitutional right of free speech.

"These things have a way of taking care of themselves," said Vines. "We're not there to make mass arrests, but to protect the President."

"In this particular situation, it may be that their (the demonstrators) First Amendment rights were violated by the people on the bench."

So why didn't the police move in?

"We didn't feel it was necessary," said Vines.

Elsie Stuart and her fellow Republicans took care of it themselves.

She is a lady of considerable resolve. But there was one question in her mind, afterward as she and Parker walked from the park.

"Who is Bob Kennedy?" she said.

"Canney, dear," said her husband. "Canney, with a C."

FOOD STAMP REFORM

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. ARCHER. Mr. Speaker, I have been very concerned with the many problems in the food stamp program. It was encouraging to read of the President's announcement that he is requesting the Secretary of Agriculture to issue regulations to administratively reform the food stamp program. It is also essential that Congress take action to curb the fraud and abuses in this program. The House Agriculture Committee held hearings on legislative reform measures and I had the opportunity to present testimony on the need for a comprehensive reform. I insert this testimony into the RECORD:

Mr. Chairman. I am pleased to have the opportunity to present testimony on the need to reform the food stamp program.

The food stamp program has been presented to the American people as a program to assist and help the poor, but abuses in this program have prevented us from assisting the truly needy. Instead, they have contributed to the growth of our federal deficit, and have resulted in a gigantic rip-off for the American taxpayer.

I welcomed President Ford's comments in his State of the Union message characterizing this program as "scandal-ridden" and urging reforms in this area of federal policy. It has been gratifying to me that Republicans and Democrats in the House and Senate have co-sponsored legislation to eliminate some of the weaknesses in this costly federal program. Citizens from throughout the country are recognizing the fraud, abuses, and skyrocketing costs in this program and are demanding action from their elected representatives to make major changes to cut back food stamps.

The fact is that the food stamp program has become the fastest growing welfare program at the federal level and the program has been plagued with a whole series of wasteful aspects adding to the costs and the number of recipients receiving food stamps.

A mere patchwork approach will not solve the problem. Fundamental reforms must be made if we are to utilize this federal assistance program to help the truly needy while ending abuses and providing relief for the taxpayers.

Food stamps began as an experiment in the early 1960's costing about fourteen million dollars. Within a decade and a half the cost of food stamps has escalated to total over six and a half billion dollars. Unless we place meaningful restraints on food stamps, the program will continue to grow both in cost and in the number of recipients. It is rapidly becoming a "guaranteed income" type of program.

As we discover more about the operation of the food stamp program, it becomes obvious that it is not only the poor who are benefitting. Through a loose eligibility formula, lax administrative controls, and the development of a "welfare ethic" encouraging more people to take advantage of the program as a right, individuals who are nonneedy and may have even substantial resources are benefitting.

I could spend hours listing the specific individual defects. One case involved a father who complained to the Governor's office in California that his son was receiving food stamps while attending college—even though the father earned over $100,000 a year. U.S. soldiers have used food stamps in U.S. commissaries. Thousands of well paid workers have gone on strike—and collected food stamps along with their strike benefits. Individuals with substantial resources have been able to collect food stamps to help out with their food bills. In many communities a "black market" has developed in order to resell food stamps for cash.

And while many of the non-needy have collected food stamps, the Department of Agriculture (with the assistance of our court system) conducts an "outreach" program seeking to add millions more to the list of food stamp recipients.

Governmental and private groups studying the food stamp program have revealed the many abuses built into the program. The U.S. Department of Agriculture responding to a request from a U.S. Senator estimated in October of 1975 that $264 million was wasted in 1974 on overpayments or payments to persons not eligible to be on the rolls. A Washington, D.C. newspaper reporter after a thorough investigation estimated that the figure of waste might be as high as $797 million.

A study by the Department of Agriculture reported in March of 1975 that payment errors were made in 56.1% of the cases sampled. Even after balancing out overpayments and underpayments, the result was a total of 23.3% overpayments.

Recently, an investigation by the *Washington Star* revealed that some vendors have been simply keeping the money they receive from selling food stamps and not turning it over to the nearest Federal Reserve Bank as required by the Agriculture Department regulations. A limited check of vendors showed that eighteen such vendors had not properly deposited $8.7 million which had been received from those who purchased stamps.

Another example of the abuse allowable in this program was reported in a January 22, 1975, story in the *New York Times:* a Bronx grocer had been charged with selling four and a half ounces of marijuana for $300 worth of food stamps.

I have co-sponsored H.R. 8145, the National Food Stamp Reform Act. This bill would provide assistance to the truly needy but it would also make needed reforms which would cut back on the number of non-needy recipients, reform the income determination level, provide for more effective identification to prevent fraud, and close loopholes which have allowed the non-needy to take advantage of this program. Significantly, these reforms would save the taxpayers over one and a half billion dollars.

I urge the Congress to consider the best interest of the country and the taxpayers by passing the meaningful reforms contained in the National Food Stamp Reform Act in order to end the national scandal in the food stamp program.

AMERICA NEEDS US NOW

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. MOTTL. Mr. Speaker, presently our country is facing its 200th birthday. The people of the Nation are raising many questions as to the significance of the Bicentennial Year—is it a time of joy, despair, or challenge?

I am submitting for inclusion in today's RECORD, a sermon delivered at Lakewood Congregational Church, Lakewood, Ohio, by Rev. Donald W. Morgan, reflecting the tenor of our times and offering a constructive outlook for our country. The text of the sermon follows:

AMERICA NEEDS US NOW!

(By Donald W. Morgan)

We're celebrating the Bicentennial these days. We're celebrating the birth of our nation and its first 200 years. We're resurrecting themes of our country's past and recovering a sense of who we are as a people. It is a stirring occasion. It is a time of celebration.

And yet there is an undercurrent of uneasiness to it. There is a certain uneasiness as to whether the observance will prove to be shallow and superficial, another typical American hoopla to dazzle and excite the senses but lacking in substance. Even more, there is a certain uneasiness that the celebration of our first 200 years may be the celebration of our best 200 years, that hereafter—after we've had our fling—it will be a story of disintegration and decline. Could this be our country's "last hurrah"?

When in 1796 Jefferson was elected Vice-President, a Congregational minister in Connecticut included Jefferson in his prayers before his Sunday congregation. "O Lord!" he intoned, "wilt Thou bestow upon the Vice-President a double portion of Thy grace, for Thou knowest he needs it." Could it be that our prayers should be so burdened, beseeching God at this juncture to give us a double portion of his grace, because "Thou knowest *we* need it."?

A parallel has been noted between our present condition as a nation and that of imperial Rome as it moved toward its demise. Earlier this month scholars gathered at the Woodrow Wilson International Center in Washington. They reflected upon Edward Gibbon's great work, the first volume of which was published 200 years ago in 1776, "The Decline and Fall of the Roman Empire." These learned men saw parallels. They made comparisons. Rightly or wrongly, they detected trends among us reminiscent of those among the Romans, suggesting a similar doom for America as pursued and finally overtook the Roman Empire.

What happened to Rome? Despite the genius of its government, the engineering of its highways, the vigor of its commerce, the might of its military power, the confluence of many cultures and peoples, it ran its course. It petered out. It became something for the history books. Why should we think we can avert a similar end?

What happened to Rome? Will Durant in his epic-work, The Story of Civilization, Volume III, Caesar and Christ, portrays the sins, the follies, the downfall of the empire. "Rome," he writes, "was conquered not by barbarian invasion from without, but by barbarian multiplication within." "The essential causes of Rome's decline lay in her people, her morals, her class struggle, her failing trade, her bureaucratic despotism, her stifling taxes, her consuming wars." There it is, in a nutshell! All from within!

What happened to Rome on such a grand scale has happened to countless other societies and civilizations. Historian Arnold Toynbee, whose recent passing has been mourned, observed that of 21 civilizations, 19 died from within, not by conquest from without. It's been noted: "There were no bands playing or flags waving when these civilizations decayed. It happened slowly, in the dark when no one was aware." Does a similar fate await America?

Certainly any thoughtful reflection upon our present state gives us pause. Maybe not all is wrong with America—that would be overstating it, but who can say all is right with America? Are there not symptoms or signs of a nation or a society on the wane? Could we be over the hill as a people? Could we be on the skids?

God knows, our national image has been badly tarnished in recent years! Our adversaries did not do this for us; we did it all by ourselves. We had episodes of atrocities hardly befitting a nation built upon the principles upon which this nation was built. We've had spying and conspiracy and manipulation by governmental agencies working in secrecy against American citizens and alleged plots of assassination contrary to everything and everybody, the good as well as stood to be right and proper. We've had corruption in high places transcending the corruption of any prior era of American history. Criminal elements took charge at the top and then departed with neither shame nor remorse.

God knows, there has been a serious erosion of public confidence in our leadership, our political parties, our structures and institutions. Along with this there has been growing and devastating cynicism about everything and everybody, the good as well as the bad, the finest as well as the worst. This indiscriminate cynicism is hardening us as a people, hardening the arteries of our national life, affecting our capacity to think and to reason, straining the heartbeat of this people.

God knows, there is widespread social disintegration, corruption, immorality. Vulgarity seems to be the highest level to which many aspire in their minds, if not their mouths. Cheapness, crudity, coarseness are in the saddle, while loyalty, steadfastness, and principle have been thrown. Violence is almost the American way of life, and our citizens are armed to the teeth because they no longer trust society to protect them. It's been suggested we ought to say less about our Gross National Product and more about our Product of National Grossness! Of course in one way, we've gone Rome one better. We've spread it out! We've been thoroughly democratic! In the Roman Empire, recalls historian Jaroslav Pelikan of Yale, only a minority could indulge the senses. "Everybody's entitled to be depraved now!"

Are these the qualities of a healthy, up-and-coming society? Or are these the signs of a sick, down and going society? Should we be celebrating our past or mourning our future? Where are you headed, America? What are you doing, Americans?

Let it be noted our reaction could be faulty. We could be seeing some things while missing other things. We could be misreading the message or misdeciphering the trends. We know that. For instance, we could fall into the prophets-of-doom trap, couldn't we? Surely we're needing to retain balance of outlook when we're tempted to say "we're going to the dogs." Have you heard this?

> My granddad notes the world's worn cogs
>   And says we're going to the dogs.
> His granddad in his house of logs
>   Thought things were going to the dogs.
> His dad among the Flemish bogs,
>   Swore things were going to the dogs.
> The cave man in his queer skin togs
>   Knew things were going to the dogs.
> Yet this is what I'd like to state,
>   Those dogs have had an awful wait.

On the other hand, we could be overconfident. That's a risk, too. That has more often been the failing of Americans through the years—cocksure of ourselves, unable to believe the Almighty would not have the best of all destinies ready for us. A la Ali, we are prone to say: "We are the greatest!" Overconfidence could be our downfall. Somebody has said that confidence is that perfectly wonderful feeling you have just before you fall flat on your face!

Well, certainly thoughtfulness, reflection, awareness are in order, wouldn't you say? Without predicting, on the one hand, inevitable decline or, on the other hand, inevitable progress, surely we can see that America needs us and needs us *now*! America needs us not only delighting and celebrating our past, but equally working and striving for our future. America needs us not only doting on the patriots of yesteryear, but equally determining to be worthy patriots ourselves today. America needs *us*. America needs us *now*!

What America needs from us is real effort toward the recovery of the traits of a healthy nation and a wholesome society. What are those traits? What are the emphases needed?

First, we need to place a higher value upon character and worthwhile contribution than upon money and fame. Americans have become notorious for their worship of the almighty dollar. You're at the top if you've got the money. No other test seems applied. No other quality seems expected. This is the one measure of human worth. It's a pretty shaky basis for an enduring society, but, note, it has not always been thus. The founders of this nation looked for other qualities, a higher measure of a man's worth; and so must we.

Second, we need to impose greater self-discipline upon ourselves and desist in overplaying unbridled freedom. Liberty is at the heart of America, but absolute liberty is anarchy and ultimately tyranny. "The absolute freedom of one man," it has been said, "means the serfdom of another." A noted historian of ancient Greece brings to our attention, this: "When the freedom they wished for most was freedom from responsibility, then Athens ceased to be free and was never free again." "A life without self-discipline is not worth living," and a society without self-discipline cannot survive.

Third, we need greater understanding of the importance of law in a civilized society. Law is all that stands between us and savagery, butchery, and barbarism. It is life at the mercy of the mob. Law orders the traffic of life so that everyone might have a chance. The protection of law, imperfect though it may be, is the monumental achievement of the centuries—of ancient Rome, of the Magna Carta and Common English Law, of the Declaration of Independence, the Constitution, and the Bill of Rights.

Destroy it, and centuries of struggle and achievement will go down the drain. So treasure it. Honor it. Uphold it. It's the price of a civilized world!

Fourth, we need a greater civic sense as over against the excessive emphasis upon me and mine. This is statesmanship, with everyone a statesman. It means a larger vision and a longer view. It means an overriding concern for what we call back in Massachusetts the Commonwealth. It means striving for a just society, a compassionate society, a sane society in which everyone has a chance. The disparity between the rich and the poor in present-day America is an ominous sign. There is too little concern for others, too much for me and mine—my group, my type, my business, my neighborhood. "I tremble for my country," wrote Thomas Jefferson concerning slavery, "when I reflect that God is just; that his justice cannot sleep forever." We need a broader and greater civic sense transcending our private interests.

Fifth, we need a greater love for our country—yes, patriotism—as opposed to what appears to be the prevailing attitude just now most accurately, if somewhat indelicately, described as "Who the hell cares?" It's true, things have happened in recent years to give patriotism a bad name. There has been an inexcusable dereliction of duty throughout the ranks. This has given rise to national self-criticism; but self-criticism is one thing, suicide is another. Said someone of enormous wisdom: "I ain't much, but I'm all I've got." Apply that to our nation. We've made our mistakes, but our nation, our country, our republic is all we've got. It deserves our devotion, a heart-warming sense that "This land is my land, this land is your land." At the Rocky River Post Office this past week, I overheard a postal clerk describe the ten-cent stamps he had in stock. He said, "The American flag is all I've got." He spoke a greater truth than he knew!

Sixth, we need a greater place in our lives for religious faith as the ordering, chastening, empowering force of a free people. What has taken over in recent times is a wishy-washy, vague, relativism that holds nothing together. There's been no toughness to it. It's been limp and spineless and sentimental: faith without substance and without cost. We're needing more! We're needing a faith that disciplines us and holds us up to our best, the kind of faith our forefathers had in mind when, in their wisdom, they spoke of the fear of the Lord!

These are the traits, the qualities of a healthy nation and a wholesome society that America needs from us, now!

Two years ago I viewed the remnants of Hadrian's Wall along the northern frontier of England. It was built by Emperor Hadrian around the year 122. It marked the northern most edge of the vast empire, but Rome would go no further, and within the next few centuries Rome declined and finally fell. I mused among those ruins: "Could a similar fate await America?" I asked.

The answer? It lies with a few perhaps—a few who are, a few who understand, a few who persevere, a few never cease holding up the higher traits of a healthy nation and a wholesome society. Following the Civil War, the College of William and Mary was closed for seven years, but every morning President Ewell rang the chapel bell. No matter, there were no students. No matter, there was no faculty. No matter, the abandoned buildings leaked rain. President Ewell still rang the bell. America needs such today, need them now! America needs those who will ring the bell for the best and the finest!

AMNESTY WEEK

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. HARRINGTON. Mr. Speaker, I think most of us in Congress and in the Nation at large have come to regard our involvement in Vietnam as a tragic error of monumental proportions. Whether for pragmatic or for moral reasons, we now realize that Vietnam was one of the United States most unfortunate adventures. The cost was enormous, the cause dubious, and the execution disastrous. But now the question arises, who paid for our national mistake?

Obviously those who sacrificed their lives were the primary victims. But another group paid and continues to pay a staggering price: the American military and civilian war resisters. Is it possible that we are persecuting the very people whose actions of conscience finally awakened the Nation? We owe our eventual disentanglement in part to these people, but ironically we have burdened them with exile, prison sentences, and that lingering stigma, the less-than-honorable discharge. That we acknowledge they were right but persecute them anyway is a national disgrace.

On September 16, 1974, President Ford proclaimed a program of limited clemency for some of those who resisted the war. Citing a "national commitment to justice and mercy," the President said he would throw the weight of his office "on the side of leniency" in the hope that such action would "bind up the Nation's wounds."

Unfortunately, the President's conception of leniency required an admission of guilt and 2 years of "alternative service"; 82 percent of the very limited number of resisters classified as eligible chose not to accept this penance. And literally hundreds of thousands of other resisters were not even extended the offer. The President's clemency program, however well intended, has boiled down to feeble lipservice which has reached no more than 5 percent of Vietnam resisters. And even that 5 percent have been branded with a special form of punishment in addition to the terms required by the President's program: the "clemency discharge." Already the Arizona State Legislature has passed a law which bars holders of this "nonpunitive" release from publicly funded jobs, and other less than enlightened employers can be expected to follow suit. Under the circumstances, then, it would seem that the President's program to "bind up the Nation's wounds" has been a fiasco.

In recognition of this intolerable situation, and as part of the ongoing struggle to truly heal the still festering wounds of Vietnam, this week has been declared Amnesty Week by Governors and mayors across the country. It is to my State's credit that the Honorable Michael Dukakis is among them. His declaration follows:

A PROCLAMATION—1976

(By Michael S. Dukakis)

Whereas: The Indo-China War has ended; and

Whereas: Our Prisoners of War have returned; and

Whereas: The United States has given refuge to 100,000 Vietnamese; and

Whereas: Many hundreds of thousands of Americans and their families still suffer the effects of that war either by separations or social stigma; and

Whereas: Throughout our 200 year history amnesty has been declared after wars in which Americans have fought; and

Whereas: President Nixon was pardoned for acts committed while serving as President; and

Whereas: The wounds of that war will be healed, and we will remember those who have perished and seek peace with those who remain;

Now, therefore, I, Michael S. Dukakis, Governor of the Commonwealth of Massachusetts, do hereby proclaim the week of February 22-29, 1976, as "Amnesty Week" and urge all citizens of the Commonwealth to take cognizance of this event and to participate fittingly in its observance.

SUMNER PIKE, STATESMAN

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. COHEN. Mr. Speaker, funeral services were held in Lubec, Maine, Tuesday for Sumner T. Pike, former member of the Securities and Exchange Commision, an original member of the Atomic Energy Commission, and the beloved elder statesman of Washington County, Maine.

Mr. Pike, who passed away over the weekend at the age of 84, served a dozen years in Washington during the Roosevelt and Truman administrations. But he was at heart a Maine man, and when he returned to Maine in 1951, he was home to stay.

In an interview with Washington correspondent Donald R. Larrabee last spring, Sumner Pike declared—

> I never got infected with Washington fever. If anything, I had a Washington allergy. I always felt I was camping out there.

Once back in Maine, Mr. Pike remained active in government, serving on the Maine Public Utilities Commission as chairman and in the State legislature. Whatever his position, he remained a respected adviser to his Washington County neighbors and State officials.

Mr. Speaker, in fond memory of Sumner Pike, I am inserting here an obituary of Mr. Pike that appeared in the Bangor Daily News, and the column Don Larrabee wrote last spring after his visit with Mr. Pike. These stories tell not only what Sumner Pike did in his life, but who he was as well.

The articles follow:

[From the Bangor (Maine) Daily News, May 31, 1975]

THE REAL POWER

(By Donald R. Larrabee)

LUBEC.—Sumner Pike, elder statesman and citizen of the world, sat in wonderful serenity looking out a window at the birds who gather at his feeder constantly. We were both 20 years younger when we last talked over dinner at the Metropolitan Club in Washington. He seemed even wiser now.

At 84, Sumner Pike is mentally as sharp

as ever. It was a treat to reminisce in the living room of the family home. I had come to Washington County, first time ever, to give the commencement address at the University of Maine in Machias and to visit the Roosevelt Campobello International Park. Sumner Pike—all the Pikes—have contributed to the preservation of FDR's "Beloved Island" and to the beauty of this place.

In my talk at Machias, I noted that most people in government are immersed in their own importance and it is the happy, successful public figure who learns humility at the start and somehow manages to keep it. The best thing Washington-types can do is remind themselves that the real power of America lies not within the geographic bounds of the Federal City but with the people who live beyond it.

Sumner knew power in Washington. He was there for a dozen years, on the Securities and Exchange Commission and with the Atomic Energy Commission in its formative period in the early years of the nuclear age. We wondered if he missed all that excitement.

"I never got infected with Washington fever," he replied. "If anything, I had a Washington allergy. I always felt I was just camping out there."

When he came back to Maine, Pike served in the legislature, resisted temptation to seek the governorship and found pleasure in such pursuits as serving on the International Campobello Commission. Along with Sen. Edmund S. Muskie and Franklin D. Roosevelt, Jr., he was appointed to the original Commission ten years ago.

Last December, physically restricted from traveling far from home, he tendered his resignation to President Ford. Somehow, the fact that he had resigned escaped public notice last winter. Curtis Hutchins, Chairman of the Board of Dead River Co., was named to fill the vacancy.

Sumner unfolded a letter from President Ford: "The Commission has benefited greatly from your experience and judgment, and I am sure it will continue to benefit from your counsel as a neighbor and friend of the Park."

Of that, there can be no doubt. Sumner may not venture far from the old homestead but he has many ways to communicate his ideas, not the least of which is through his devoted brothers and his sisters who are all close enough to gather in the living room for "cocktails" every day at 5. Sumner doesn't indulge any more, but he enjoys the fringe benefits.

We had the delightful experience of getting to know Radcliffe (Rad) Pike, roughly 72 and filled with the joy of living. Rad had just returned from London where he conferred with fellow-naturalists and horticulturists. He is an adviser on landscaping at the University of New Hampshire and ranking authority on the flora and fauna of Washington County and nearby Campobello. Rad was executive secretary of the Park Commission, now serves as naturalist consultant.

Another brother, Moses Pike, at 78, still operates the most successful sardine and fish canneries in an area which has seen them go down the drain, one by one. He is active in business, loves ice fishing and hunting. Alger Pike, 76, is the gardener of the family, with a host of interests as varied as those of his brothers. Sister Marjorie (McCurdy) is 79—"just a girl," says Rad.

When Rad is away, Linnea Calder comes in to cook the meals and keep an eye on things in the Lubec home. Mrs. Calder, who grew up in the Campobello world of the Roosevelts where her mother was the housekeeper, is practically a member of the Pike family.

Here at Passama-Quoddy Bay, where the tides move quickly and more powerfully than anywhere in the world, we couldn't resist asking Sumner Pike about the energy that lies within reach. They've been talking about the Quoddy tidal power project since he was a young man. Did he think Quoddy would ever become a reality?

"We ought to keep it alive," he said, "but, no, I doubt if it will ever be built. With the cost of oil as high as it is, that helps the benefit-cost ratio of the project but, of course, you've got higher construction costs, too. And the impact on the fisheries is something that will concern Canada, perhaps now more than ever."

Rad Pike remarked later that his brother seemed a bit too pessimistic about Quoddy. Rad wouldn't write it off just yet.

The jury also still seems to be out on a refinery for the area—but the Pikes clearly would just as soon not see it come to their beloved Bay. Sumner is slightly amused with the heavy—almost complete—emphasis at environmental hearings on the impact of oil spills from such a project.

"The Pitston people would bring in Middle East oil for desulfurization. The refinery would emit a chemical which when mixed with the fogs around here would become sulfuric acid and that would be sprayed all over the countryside."

Rad Pike winced at the thought. He has found rare ferns and mosses, bushes and shrubs, blossoms and berries in the unique ecology of their homeland that would suffer possible extinction from the daily emissions of such a refinery.

And it comes as a disturbing thought also to a first-time visitor who saw Spring come to the Nation's Capital a few weeks ago—but never with anything like the beauty of its arrival in Washington County. The clean, clear unspoiled grandeur of this garden spot is worthy of the dedication of its native songs and daughters—the Pikes and their neighbors and friends.

No wonder Sumner Pike never let Washington, D.C. get to him. He had Washington County to come back to—and preserve. Little wonder, too, that FDR shed a tear when he realized he could no longer sail these waters and tramp the woods, bogs and beaches of his "Beloved Island."

[From the Bangor (Maine) Daily News,
Feb. 23, 1976]

Ex-AEC Chairman, Sumner Pike, Dead

Lubec.—Sumner Tucker Pike, former member of the Securities and Exchange Commission, chairman of the Atomic Energy Commission under Harry S. Truman, and a former representative in the Maine legislature, died Feb. 20 at his home here. He was 84.

Pike was born in Lubec, attended Hebron Academy and was graduated from Bowdoin College in 1913. He started courses at Harvard Business School, but as he put it "my money ran out just before the Harvard-Yale game."

His career in finance and utilities began when he signed on as a $50-a-month bookkeeper for Stone and Webster, a light and power firm in Boston.

During World War I he served as an artillery officer and officer candidates instructor. Immediately following the war he sold gasoline station equipment in the southwest part of the country.

He became associated with the securities section of Continental Group Insurance in the early 1920s. In 1928 he joined an investment firm, Pomeroy and Co. where he worked his way up to vice president and director.

In 1940, President Franklin D. Roosevelt appointed him to fill a vacancy on the Securities and Exchange Commission, a post Pike held until 1946.

He returned to Lubec only to be called on to serve as chairman of the newly formed Atomic Energy Commission by President Harry Truman. After serving on the atomic energy panel for five years, Pike returned to Maine to become part of the state government scene.

He was chairman of the Maine Public Utilities Commission from 1953 to 1956. He also served on Gov. John Reed's Advisory Committee on the Passamaquoddy Bay and St. John Hydroelectric Project, Gov. Clinton Clauson's Committee on Atomic Development, Gov. Edmund Muskie's Committee on Interstate Cooperation and in numerous consultant positions.

Pike served two terms in the Maine Legislature in 1960 and 1964. Since 1964 he had been in retirement at his Lubec home at 2 Church St.

In retirement Pike continued to be active in various organizations such as the Oceanographic Commission of the National Science Foundation and the Campobello Commission.

Funeral services will be held Tuesday at the Christian Temple in Lubec.

RACIAL DISCRIMINATION IN EMPLOYMENT POLICIES

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. DELLUMS. Mr. Speaker, for the benefit of my colleagues I would like to insert a statement into the Record made by Carlton B. Goodlett, Ph. D., M.D., president, National Newspaper Publishers—the Black Press of America, to Clarence Kelly, Director of the Federal Bureau of Investigation on January 12, 1976:

Remarks by Carlton B. Goodlett, Ph. D., M.D.

Mr. Clarence Kelly, Director of the Federal Bureau of Investigation:

As President, National Newspaper Publishers Association—The Black Press of America, we appreciate this historic meeting. My associates have indicated clearly the disparity between the FBI's performance and the mandate of the Federal Equal Employment Opportunities statutes. We shall not repeat these data describing the FBI's racial discrimination in employment policies.

25 million Blacks-USA are the 26th largest nation in the world with 158 other nations having smaller populations. Blacks-USA are more numerous than 33 of the 36 nations comprising the North and South American Continents, i.e. White-USA (186 million), Brazil (91 million) and Mexico (45 million). Black people in the USA have long been aware of the insensitivity and the evil attitude of former FBI Director, J. Edgar Hoover, in his repeated promulgation that the FBI was interested only in law and order and considered justice irrelevant. The long period of covert and overt harassment and character assassination carried on by Hoover and the FBI were not unknown to knowledgeable blacks in the USA years prior to Watergate. Blacks have always considered the FBI an institution established to maintain the *status quo*. However, with President Johnson's Report on Civil Disorders (the Kerner Report), the nation's sickness, racism, was identified and defined for all times, for all US citizens to see, and the USA was identified as a nation of two people, the white majority and the black minority, separate and unequal.

Blacks know that a racist society hones its every instrument, and especially its law enforcement agencies, to respond to the mandates of racism; even prior to the Kerner Report blacks knew the FBI was a microcosm of racism reflecting the endemic sickness of the nation. Many black visionaries and nonpragmatists believed that the Kerner Report's diagnosis of racism as the national malady would lead to constructive efforts to eliminate this cancerous condition from the body politic.

Eight post-Kerner Report years have demonstrated that the nation still abounds with racism, and the two groups, the white majority and the black minority, are more separate and more unequal.

As a behavioral scientist and a physician, I know that racism, unattended, will destroy the political organism as surely as cancer, unattended, will destroy the human body. As in medicine, radical measures, including surgery, are needed to destroy cancer. Racism which afflicts the white majority will require such heroic measures. Unfortunately, the instruments of government—executive, legislative and judiciary—continue to reflect endemic racism, covertly and overtly, in every governmental act.

Because of the revelations of misdeeds by the FBI in the Watergate scandal, the assassination of President Kennedy, collusions in the murder of Fred Hampton, the murder of four Black Panther members in the Los Angeles and San Diego area, and the FBI machinations against the "U.S." and the Panthers in Southern California, and the collusion of the FBI with Southern mob Klansmen in the Freedom Rides of the 1960's—and more especially, J. Edgar Hoover's efforts of vilification and attempted character assassination of the late Martin Luther King, Jr. These events, and many crimes yet undisclosed have led to a crisis in Black-USA, in its apperception of the continued role of the Federal Bureau of Investigation vis-a-vis Black-USA.

While we come to this meeting with an attitude of forbearance, the Black Press of America requests of you a firm, clear, unequivocal statement on the basic philosophical direction and the organizational procedures which the FBI plans to take in its efforts to build a renewed confidence and trust in Black USA for the Federal Bureau of Investigation. We demand a statement from you that under your leadership the FBI will not be a continuing instrument of oppression in a racist society against all black leaders, black organizations and ordinary black citizens who are determined to continue the struggle against the blight of racism, which daily beclouds the black existence and experience, so as to eradicate from the nation all economic racism, educational racism, housing racism and racism in the administration of justice.

We await with some concern such a definitive statement. The National Newspaper Publishers Association—The Black Press of America—with 140-odd newspapers published in more than 90-odd cities, offers to the FBI a vehicle by which your statement on these pressing matters might be conveyed to the black masses in the USA. As heretofore, we shall continue to support the FBI in the exercise of its statutory mandated functions, and with renewed dedication we shall concern ourselves in the monitoring of activities of this important executive agency.

Moreover, through the Congressional Black Caucus we shall urge that the term of Director of the Federal Bureau of Investigation shall be limited to a term of from 6 to 8 years, with nonreappointment, so that the individual occupying the directorship of the FBI will be beholden to no one, be they President, or Members of Congress, or any other powerful figures, but only to his own conscience and his or her will to develop a Federal Bureau of Investigation which reflects in its deeds a dedication to the cause of the people—that evil shall not thrive amongst us.

This new covenant between the FBI and Black-USA is eagerly awaited. Such a declaration of conscience and principle by you reassuring us that under your directorship the FBI will become an instrument dedicated to the proposition that justice must be the umbrella under which law and order shall prevail. As regards the enforcement of the law, Black USA expects no special treatment; Black USA shall accept no less than equal treatment. We demand that the FBI permit its deeds to approximate the nation's creeds.

Only when blacks have seen manifestations of this new FBI will it be incumbent upon us, individually and collectively, as spokesmen for 25 million blacks, to elevate the FBI and its associated law enforcement agencies to the high pedestal which it once occupied: a federal agency serving the interests of the people, to preserve the law, to preserve order, under the mandate of justice.

ANTIDEFENSE LOBBYISTS TARGET CAPITOL HILL: THE AD HOC COALITION FOR A NEW FOREIGN POLICY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. McDONALD of Georgia. Mr. Speaker, a coalition of radical left organizations which were for the most part previously active in supporting the Vietnamese Communists has shifted its focus in line with changed conditions. Their goal for 1976 is to slash the U.S. defense budget with an eye toward ending the U.S. role as a world power counterbalancing the Soviet Union and toward establishing a new U.S. foreign policy which would rule out any American intervention to assist our allies.

My colleagues will no doubt recall that the so-called "peace" and "disarmament" movement arose in the late 1940's at the beginning of the Soviet Union's cold war of aggression against the non-Communist world. The Soviet strategists had to devise ways of on the one hand nullifying our atomic weapons advantage and preventing American and free world assistance to countries and governments resisting Communist aggression, such as in Korea.

One of the countermeasures was the development of a worldwide propaganda apparatus under the control of the World Peace Council—WPC. The WPC has used the specter of nuclear destruction to manipulate pacifist, religious, and other organizations to take a "better Red than dead" position. At the same time, the WPC apparatus has denounced every nonnuclear American countermove to Soviet-backed Communist oppression as "imperialist" and "increasing the dangers of war."

But then we all certainly recall that the Marxist-Leninists believe that war is the inevitable product of capitalism and that peace will only be achieved with the destruction of the class society and the imposition of the dictatorship of the proletariat under communism. So the World Peace Council and the organizations which follow its lead promote peace—a Communist totalitarian state—when they promote the Vietcong, the Khmer Rouge, the MPLA in Angola, or the aims of the Cuban-backed Puerto Rican Socialist Party in this country.

In the spring of 1975, with the withdrawal of U.S. support for the non-Communist governments in Southeast Asia, the Soviet-controlled "peace movement" in this country launched a drive to drastically slash the defense budget with the excuse that America needed huge domestic welfare spending programs, not overseas bases. The Communist Party, U.S.A., CPUSA-administered U.S. section of the World Peace Council held a Conference for a Drastic Cutback in Military Spending in April 1975, in Chicago, and set up a national center to promote that goal in the WPC's New York offices staffed by CPUSA and WPC members Pauline Royce Rosen and Frances Bordofsky, also known as Fran Bordos.

In June, 1975, the Ad Hoc Coalition for a New Foreign Policy, CNFP, operating from 110 Maryland Avenue, NE., Washington, D.C. 20002 202/546-8400 emerged from the former Coalition to Stop Funding the War with the goal "to keep the pressure on Congress during this key transition period for U.S. foreign policy."

In their Legislative Update, dated spring 1976, the Coalition for a New Foreign Policy states:

> The peace movement is consolidating its forces for a major campaign to cut military spending and reorient U.S. foreign policy.
>
> In the past, peace activists have attempted to change specific foreign policies by attacking their funding support in Congress. So it was with the Cambodia bombing cutoff amendment in 1973, and the series of anti-aid amendments which cut almost a billion dollars out of Nixon's 1975 military assistance request for Saigon.
>
> Now, instead of isolated policies, activists must target broad foreign policy goals and the entire military budget. In this way, the momentum of recent victories can build and contribute to an expanding peace movement.

The CNFP exactly parallels the CPUSA's line in its fronts and in its own editorials when they state:

> The three issues of new foreign policy, cuts in military spending, and increased funding for domestic programs are inextricably linked. They form the basis for a broad movement which can unite many constituencies which have traditionally not worked together. In this potential unity is the historic opportunity for major change in the direction of American foreign policy.

The "new allies" sought by the Coalition for a New Foreign Policy are specified as including some of the major unions, including those who have anti-Communist socialists among their leading officials. The CNFP feels that its calls for major domestic spending programs will attract support from the United Auto Workers, Amalgamated Clothing Workers, Textile Workers, United Steelworkers, United Mine Workers, American Federation of State, County, and Municipal Employees, as well as the CPUSA-dominated International Longshoremen's and Warehousemen's Union.

The coalition has directed its organizers to approach "additional unions that should be open to joining a local campaign" such as the American Federation of Teachers, Building Trades Unions, Communications Workers of America, the International Ladies Garment Workers Union, National Farmers Union, Service Employees International Union, Transport Workers Union, United Farm Workers, and the CPUSA-dominated Hospital Workers Union, Local 1199.

The CNFP opportunists clearly show their bias as they target new groups to be brought into their campaign. Under the command, "join with community and public interest groups," the coalition orders its local organizers:

> A wide range of community and public interest groups oppose the squandering of scarce resources on foreign military adventures and an expanding military budget. They know that only when we rid ourselves of the present interventionist foreign policy will Americans begin to focus on problems at home.

The CNFP then lists as "among those most likely to be interested" in joining them:

Black and Minority Organizations
Environmental and Consumer Groups
Public Interest Research Groups
PTA's, School Boards and Teachers Associations
League of Women Voters
NOW (National Organization for Women) Chapters
Senior Citizens Clubs
Food Cooperatives, Health and Day Care Cente[illegible]
Welfare Rights and Tenants Groups
Chambers of Commerce
Kiwanis, Lions and Rotary Clubs.

The coalition also has targeted local political figures who are looking for massive Federal funding to help them out of financial difficulties as potential allies.

The coalition states that it is a lobbying effort "by national religious, social action, education and peace organizations" which intends "to insure that Congress recognizes the widespread grass roots sentiment supporting a fundamentally new foreign policy."

Despite the fact that the Ad Hoc Coalition for a New Foreign Policy is primarily a lobbying organization, it advertises the fact that the United Methodist Church Board of Church and Society is acting as a tax deductible conduit for contributions.

The CNFP asks:

> How can we forge a successful national campaign to reorient U.S. foreign policy and substantially cut the bloated military budget?
>
> As we learned during the last two years of the Indochina war, we must surface the progressive foreign policy sentiment of millions of Americans and focus that sentiment on Washington. When Congress votes on national spending priorities in the First Budget Resolution (April 26–May 15), every Member must know that the American people support a new foreign policy that will, in turn, "allow" for a major reduction in military spending and a transfer of funds to domestic programs.

CNFP states that having achieved "unity within the peace movement around a common strategy," the activists will "put more pressure on Congress to eliminate controversial weapons systems—B-1 bomber—and to alter costly foreign policies—aid to dictators."

On February 2, 1976, Earl C. Ravenal, now a professor at the Johns Hopkins School of Advanced International Affairs who was previously associated with Richard I. Barnet at the Institute for Policy Studies, IPS, testified on behalf of the Ad Hoc Coalition for a New Foreign Policy before the House Budget Committee.

A summary of the Ravenal testimony prepared by the CNFP states:

> It is feasible, within five years, to consider a Pacific posture with no bases west of Guam and no military assistance to any of our client states in Asia. In Europe, although the process of disengagement necessarily will be more delicate, all 200,000 troops could be withdrawn and deactivated over a ten-year period.

For Ravenal and his cohorts, American allies are mere "client states," and no doubt the "delicacy" of a total American withdrawal from Europe is due to what CNFP members term "outmoded anti-communism" of American and European leaders.

Ravenal and the CNFP call for cutting "only an additional 860,000" U.S. troops. This would be a cut of over 40 percent of the total U.S. defense force. The Soviet Union currently has 4.4 million men in its armed services and the number has been steadily increasing despite the critical labor shortage in the U.S.S.R.

Ravenal asserts that the massive U.S. disarmament would save $12 billion and that "$4½ billion would come from the complete withdrawal of all U.S. forces from Korea, and termination of military assistance to the Park regime." Total U.S. withdrawal from South Korea and complete cessation of economic and military assistance to the South Korean people is being supported by a number of U.S. groups which exhibit a pro-North Korean bias.

One of these, the Center for Defense Information, a project of the Fund for Peace which also runs the Center for National Security Studies, a project doing its best to destroy the intelligence agencies, is calling for U.S. détente with the North Korean Communists and asserting that any new North Korean attack on South Korea should be viewed as purely Korean and "be separated as much as possible from great power involvement." And this as if Kim Il Sung could exist without Soviet and Chinese support.

The object of the Coalition for a New Foreign Policy is clear. They note that our drastically reduced military stance "would force the United States to rely on other means for exerting its influence internationally."

The coalition notes that if we disarmed "friendship and trade would become possible with a large number of countries which we are presently attempting to isolate as a result of existing foreign policy." No doubt CNFP refers to such Communist nations as Cuba, Vietnam, Cambodia, North Korea, and so forth.

Then with a fine sense of the Marxist-Leninist theory of "inevitable progress of socialism," the CNFP notes:

> True, some of the shaky governments completely dependent on U.S. aid would collapse; but that is on the agenda in any event.

CNFP states one of its chief goals is heading off any further foreign military adventures—by which they mean any use of U.S. troops in any part of the world to assist our allies. CNFP characterizes its opponents as "those who pin their hopes for America's future on our ability to repress and control the turbulent changes occurring all over the world." Clearly CNSS opposes U.S. assistance to non-Marxist governments resisting Soviet, Chinese or Cuban backed subversion and terrorism. In a world in which the United Nations forum hails terrorists as "fighters for national liberation," in a world in which the U.S.S.R. and its satellites finance and train terrorists in many countries and send brigades to conquer Angola for the local Communist guerrilla movement, the United States certainly needs to be able to exercise when necessary control over turbulent changes.

The spring campaign by the Coalition for a New Foreign Policy calls for first pressuring the House and Senate Budget Committees "to increase domestic programs and decrease military spending." The CNFP "activist strategy" directive states:

> Pressure Armed Services and other relevant committees to lower their spending estimates to be submitted to Budget committees.

The coalition also has a program calling for local CNFP supporters to send delegations to our district offices during the April recess and to organize for floor amendments to the first budget resolution "aimed at lowering ceiling on military spending."

After recess, the coalition intends to organize telephone and telegraph campaigns from local "community and organizational leaders." They state:

> Generate pressure as your Congressperson to support floor amendments to eliminate or delay particular weapons systems (B-1 Bomber, Trident, AWACS) and reduce troop levels abroad.

The CNFP lists its staff and participating organizations as including:

Administrative Committee: Co-chairpersons: Edward F. Snyder, Friends' Committee on National Legislation; Joyce Hamlin, United Methodist Board of Global Ministries, Women's Division.
Ira Arlook, Campaign for a Democratic Foreign Policy.
Carol Clifford, Friends' of Indochina Organizing Committee.
Sanford Gottlieb, SANE.
John Isaacs, Americans for Democratic Action.
Don Luce, Clergy and Laity Concerned.
John McAuliff, American Friends Service Committee.
Legislative Committee:
Jacqui Chagnon, Vietnamese American Reconciliation Center.
Carol Clifford, Friends of Indochina Organizing Committee.
John Isaacs, Americans for Democratic Action.
Gary Porter, Indochina Resource Center.
Edward F. Snyder, Friends, Committee on National Legislation.
Edith Villastrigo, Women Strike for Peace.
Staff: Jack Nicholl, Brewster Rhoads.

Representatives of the following organizations are cooperating in the program:

Action for World Community.
American Ethical Union.
American Friends' Service Committee.
American Humanist Association.
Americans for Democratic Action.
Bach Mai Hospital Relief Fund.
Business Executives Move for New National Priorities.
Campaign for a Democratic Foreign Policy.
Church of the Brethren.
Clergy and Laity Concerned.
Disciples of Christ, Department of Church and Society.
Episcopal Peace Fellowship.
Friends' Committee on National Legislation.
Friends of Indochina Organizing Committee.
Indochina Mobile Education Project.
Indochina Resource Center.
Jesuit Conference, Office of Social Ministries.
Mennonite Central Committee, Peace Section.
National Council of Churches.
National Student Association.
Network.
Peace and Justice Committee, Leadership Conference of Women Religious Resource Center, United Methodist Office for the United Nations.
SANE.
Union of American Hebrew Congregations.
Unitarian Universalist Association.
United Church of Christ, Center for Social Action.
United Methodist Board of Global Ministries, Women's Division.
United Methodist Church, Board of Church and Society.
United Presbyterian Church, U.S.A.
Vietnamese American Reconciliation Center.
War Resisters' League.
Women's International League for Peace and Freedom.
Women Strike for Peace.
World Federalists, U.S.A.

We recognize a large number of organizations which served as Vietcong propaganda organs, a direct Communist Party operation, and several groups who were previously members of the Communist Party-dominated People's Coalition for Peace and Justice on the list of supporters.

My colleagues should not mistakenly think that the CNFP will give up its efforts when they fail to achieve all their goals this spring. America's enemies have stated repeatedly that they are waging a protracted war on many fronts and using many tactics, including the legislative. States the CNFP, "Only over time can we achieve the explicit changes in foreign policy which we desire."

REVENUE SHARING SHOULD BE RENEWED

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 1976

Mr. ASHBROOK. Mr. Speaker, in 1972 our Nation initiated the general revenue sharing program. This program was enacted in recognition of the fact that the Federal Government had grown too powerful at the expense of State and local units of government. Its purpose was to transfer money and decisionmaking away from the Federal level and back to the local level.

Under this program approximately $6 billion in Federal tax receipts is distributed annually to State and local governments. Between January of 1972 and January of 1976, more than $23 billion was disbursed to about 39,000 State and local units of governments throughout the United States.

Very few restrictions are placed on the expenditure of these funds. Consequently State and local governments have great flexibility in deciding where best to spend the money. This is as it should be.

Unfortunately general revenue sharing now faces extinction. Unless Congress approves new legislation, the program will expire at the end of the year. This would have serious repercussions.

Revenue sharing has proven itself to be extremely valuable. It has strengthened government at the local level. People and their elected officials have been given a chance to determine for themselves local needs.

At a time when so much money and power is vested in Washington, D.C., bureaucrats, it is refreshing to have a program that emphasizes local decisionmaking, I remain firmly convinced that when it comes to local problems and local needs, Washington does not know best. As Secretary of the Treasury William Simon has said:

> There is no way that the Federal Government can spend this money more wisely than the local governments that see and feel the needs of their citizens daily

In addition, revenue sharing is playing a crucial role in many budgets. State, county, city, and township governments depend on revenue sharing funds to finance important projects and services. In fact, revenue sharing accounts for about 15 percent of all Federal aid to State and local governments.

Any discontinuance of these funds would have a devastating impact. Essential projects and services would either have to be discontinued or funded through higher taxes and/or increased indebtedness. Some units of government would be pushed toward financial chaos. In short, the question in many cases boils down to one of solvency or bankruptcy.

Revenue sharing has also made it possible for State and local governments to hold down taxes. Some governing units have been able to avoid new tax increases or even make tax reductions as a result of the program. This is especially beneficial to the overburdened property owner, who has had to endure the crushing weight of high property taxes.

One further point deserves mention. It is essential that when Congress extends revenue sharing that it avoid placing crippling restrictions on how the money is spent.

A key aspect of the program is its flexibility. The money is spent as the people and their elected representatives think best. It would be tragic if the program became loaded down with a host of Federal restrictions. Specific requirements as to how the money will be spent are inappropriate and would destroy the program's flexibility.

Some liberal Congressmen apparently believe they are the only ones who are capable of establishing spending priorities. This is pure hogwash. As Senator BILL BROCK of Tennessee has stated:

> Why is it that we in Congress always feel we have the answers, when in reality there is no single programmatic solution for the thousands of different local communities, each with separate and distinct problems.

Congress must not hopelessly bind revenue sharing in miles of redtape. Washington must not impose its own judgment on how local revenue sharing funds should be utilized. State and local units of government should be left free to make their own decisions on spending.

In summary, Mr. Speaker, we cannot afford to allow the general revenue sharing program to lapse. It is imperative that Congress act immediately to renew the program. It is also essential that Congress not add new restrictions and requirements that would cripple its effectiveness. Our Nation needs a strong and workable general revenue sharing program in the years ahead.

SENATE—*Monday, March 1, 1976*

The Senate met at 12 meridian and was called to order by Hon. DANIEL K. INOUYE, a Senator from the State of Hawaii.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Give attention to the words of the Book of Exodus:

*Six days shalt thou labour, and do all thy work: But the seventh day is the Sabbath of the Lord thy God: * * * wherefore the Lord blessed the Sabbath day, and hallowed it.*—Exodus 20: 9, 10a, 11b.

O Lord, teach us how to live by Thy creative pattern, the alternation between work and rest. Show us anew the divine principle that creative rest leads to productive work. Make sacred the day of rest and worship, the time of renewal, the pause that refreshes. Grant us the hard discipline of waiting, not in passiveness or indifference, but waiting with open heart and mind for Thy grace and wisdom which leads to creative action. With thanksgiving for the day just passed, we lay hold upon the truth of Thy word:

Wait on the Lord: be of good courage, and He shall strengthen Thine heart: wait, I say, on the Lord.—Psalms 27: 14.

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 1, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DANIEL K. INOUYE, a Senator from the State of Hawaii, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. **INOUYE** thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. **MANSFIELD.** Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, February 26, 1976, be dispensed with.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR

Mr. **MANSFIELD.** Mr. President, I ask unanimous consent that the call of the calendar for unobjected-to measures, under Senate rule VIII, be dispensed with.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. **MANSFIELD.** Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. **MANSFIELD.** I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The **ACTING PRESIDENT** pro tempore. The nomination will be stated.

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

The second assistant legislative clerk read the nomination of Jean McKee, of New York, to be Deputy Administrator.

The **ACTING PRESIDENT** pro tempore. Without objection, the nomination is considered and confirmed.

Mr. **MANSFIELD.** Mr. President, I ask unanimous consent that the President be notified of the confirmation of this nomination.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. **MANSFIELD.** Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. **MANSFIELD.** Mr. President, I ask unanimous consent that the Senate proceed to the consideration of items on the calendar, beginning with Calendar No. 623.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES

The Senate proceeded to consider the resolution (S. Res. 368) authorizing additional expenditures by the Committee on Aeronautical and Space Sciences for inquiries and investigations, which had been reported from the Committee on Rules and Administration with an amendment on page 2, line 5, strike "$169,000," and insert "$117,000," so as to make the resolution read:

Resolved, That, in holding hearings, reporting such hearings, and making investigations authorized by section 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Aeronautical and Space Sciences, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, in its discretion (1) to make expenditures from the contingent funds of the Senate, (2) employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $117,000, of which amount not to exceed $27,500 shall be available for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202 (i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1977.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

The amendment was agreed to.

The resolution, as amended, was agreed to.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON AGRICULTURE AND FORESTRY

The Senate proceeded to consider the resolution (S. Res. 352) authorizing additional expenditures by the Committee on Agriculture and Forestry for inquiries and investigations, which had been reported from the Committee on Rules and Administration with an amendment on page 2, line 16, strike "committee." and insert "committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate."; so as to make the resolution read:

Resolved, That in holding hearings, reporting such hearings, and making investigations a authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Agriculture and Forestry, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $330,000, of which amount (1) not to exceed $12,455 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1977.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.

The amendment was agreed to.

The resolution, as amended, was agreed to.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

The Senate proceeded to consider the resolution (S. Res. 387) authorizing additional expenditures by the Committee on Armed Services for inquiries and investigations, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 2, line 7, strike "$40,000" and insert "$20,000";

On page 2, line 20, strike "$568,000" and insert "$581,000,";

On page 2, line 20, strike "$568,000" and insert "$513,000";

On page 4, line 5, strike "$676,000," and insert "$601,000,";

So as to make the resolution read:

Resolved, That in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Armed Services, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 2. The Committee on Armed Services is authorized from March 1, 1976, through February 28, 1977, to expend not to exceed $20,000 for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

Sec. 3. The Committee on Armed Services, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, to expend not to exceed $581,000, to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries in accordance with such succeeding sections of this resolution.

Sec. 4. Not to exceed $513,000 shall be available for a general study or investigation of—

(1) the common defense generally;

(2) the Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force generally;

(3) soldiers' and sailors' homes;

(4) pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces;

(5) selective service;

(6) the size and composition of the Army, Navy, and Air Force;

(7) forts, arsenals, military reservations, and navy yards;

(8) ammunition depots;

(9) the maintenance and operation of the Panama Canal; including the administration, sanitation, and government of the Canal Zone;

(10) conservation, development, and use of naval petroleum and oil shale reserve;

(11) strategic and critical materials necessary for the common defense; and

(12) aeronautical and space activities peculiar to or primarily associated with the development of weapons systems or military operations.

Sec. 5. Not to exceed $68,000 shall be available for studies and investigations pertaining to military readiness and preparedness for the common defense generally.

Sec. 6. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1977.

Sec. 7. Expenses of the committee under this resolution, which shall not exceed in the aggregate $601,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

The amendments were agreed to.

The resolution, as amended, was agreed to.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

The Senate proceeded to consider the resolution (S. Res. 369) authorizing additional expenditures by the Committee on Banking, Housing and Urban Affairs for inquiries and investigations, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 2, line 10, strike "$884,000" and insert "$860,000";

On page 2, line 16, strike "$477,000" and insert "$464,000";

On page 3, line 6, strike "$249,000" and insert "$242,300";

On page 3, line 9, strike "$158,000" and insert "$153,700";

On page 3, line 20, strike "committee." and insert "committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.";

So as to make the resolution read:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Banking, Housing and Urban Affairs or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 2. The Committee on Banking, Housing and Urban Affairs, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, to expend not to exceed $860,000 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries in accordance with such succeeding sections of this resolution.

Sec. 3. Not to exceed $464,000 shall be available for a study or investigation of—

(1) banking and currency generally;

(2) financial aid to commerce and industry;

(3) deposit insurance;

(4) the Federal Reserve System, including monetary and credit policies;

(5) economic stabilization, production, and mobilization;

(6) valuation and revaluation of the dollar;

(7) prices of commodities, rents, and services;

(8) securities and exchange regulations;

(9) credit problems of small business; and

(10) international finance through agencies within legislative jurisdiction of the committee.

Sec. 4. Not to exceed $242,300 shall be available for a study or investigation of public and private housing and urban affairs generally.

Sec. 5. Not to exceed $153,700 shall be available for an inquiry and investigation pertaining to the securities industry.

Sec. 6. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1977.

Sec. 7. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

The amendments were agreed to.

The resolution, as amended, was agreed to.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE BUDGET

The Senate proceeded to consider the resolution (S. Res. 364) authorizing additional expenditures by the Committee on the Budget for inquiries and investigations, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 2, line 4, strike "$1,963,400," and insert "$1,930,000,";

On page 2, line 15, strike "committee." and insert "committee, except that couchers shall not be required for the disbursement of salaries of employees paid at an annual rate.";

So as to make the resolution read:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on the Budget, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 2. The expenses of the committee under this resolution shall not exceed $1,930,000, of which amount not to exceed $65,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganizaton Act of 1946, as amended).

Sec. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1977.

Sec. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

The amendments were agreed to.

The resolution, as amended, was agreed to.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON COMMERCE

The Senate proceeded to consider the resolution (S. Res. 374) authorizing additional expenditures by the Committee on Commerce for inquiries and investigations, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 2, line 19, strike "$2,459,700" and insert "$2,360,000";

On page 3, line 11, strike "$2,199,700" and insert "$2,100,000";

So as to make the resolution read:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Commerce, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The investigations referred to in section 1 shall include, but not be limited to, investigations of (1) national ocean policy, (2) tourism, and (3) regulatory reform. The investigation of national ocean policy shall be conducted in accordance with, and subject to the provisions of, S. Res. 222, Ninety-third Congress, agreed to February 19, 1974. The investigation of tourism shall be conducted in accordance with, and subject to the provisions of S. Res. 347, Ninety-third Congress, agreed to October 10, 1974. The investigation of regulatory reform shall be conducted in accordance with, and subject to the provisions of, S. 71, Ninety-fourth Congress, agreed to July 26, 1975.

SEC. 3. The Committee on Commerce is authorized from March 1, 1976, through February 28, 1977, to expend not to exceed $2,360,000 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries and to the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, amended) in accordance with succeeding sections of this resolution.

SEC. 4. Not to exceed $260,000 shall be available to continue the study of the purpose and current effectiveness of certain Federal agencies auhorized under S. Res. 71, Ninety-fourth Congress, agreed to July 26, 1975, of which amount not to exceed $150,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 5. Not to exceed $2,100,000 shall be available for studies or investigations of all other matters within the jurisdiction of the Committee on Commerce, of which amount not to exceed $200,000 may be expended for procurement of individual consultants or organizations thereof.

SEC. 6. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1977.

SEC. 7. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

The amendments were agreed to.

The resolution, as amended, was agreed to.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE DISTRICT OF COLUMBIA

The Senate proceeded to consider the resolution (S. Res. 367) authorizing additional expenditures by the Committee on the District of Columbia for inquiries and investigations, which had been reported from the Committee on Rules and Administration with an amendment on page 2, line 15, strike "committee." and insert "committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.";

So as to make the resolution read:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on the District of Columbia, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $201,600, of which amount not to exceed $40,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its finding, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1977.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employers paid at an annual rate.

The amendment was agreed to.

The resolution, as amended, was agreed to.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON FINANCE

The Senate proceeded to consider the resolution (S. Res. 349) authorizing additional expenditures by the Committee on Finance, for inquiries and investigations, which had been reported from the Committee on Rules and Administration with an amendment on page 1, line 11, strike "$430,000," and insert "$360,100,"; so as to make the resolution read:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Finance, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, in its discretion (1) to make expenditures from the contingent fund of the Senate, and (2) to employ personnel.

SEC. 2. The expenses of the committee under this resolution shall not exceed $360,100, of which amount not to exceed $15,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1977.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

The amendment was agreed to.

The resolution, as amended, was agreed to.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

The Senate proceeded to consider the resolution (S. Res. 371) authorizing additional expenditures by the Committee on Foreign Relations for a study of matters pertaining to the foreign policy of the United States, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 2, line 6, strike "$1,167,940," and insert "$1,150,000,";

On page 2, line 14, strike "February 29, 1976." and insert "February 28, 1977.";

So as to make the resolution read:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Foreign Relations, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,150,000, of which amount not to exceed $60,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

Sec. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1977.

Sec. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

The amendments were agreed to.

The resolution, as amended, was agreed to.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON GOVERNMENT OPERATIONS

The Senate proceeded to consider the resolution (S. Res. 363) authorizing additional expenditures by the Committee on Government Operations for inquiries and investigations, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 2, line 7, strike "$2,859,785" and insert "$2,800,000";

On page 10, line 14, strike "$275,385" and insert "$265,000";

On page 11, line 16, strike "$296,700" and insert "$250,000";

On page 12, line 11, strike "$125,000" and insert "$122,000";

On page 13, line 18, strike "February 29, 1976." and insert "February 28, 1977.";

On page 13, line 20, strike "$2,859,785," and insert "$2,800,000,";

So as to make the resolution read:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Government Operations, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent funds of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 2. The Committee on Government Operations, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, to expend not to exceed $2,800,000 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries and to the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended) in accordance with such succeeding sections of this resolution.

Sec. 3. Not to exceed $237,200 shall be available for a study or investigation of—

(1) budget and accounting measures, other than appropriations;

(2) reorganizations in the executive branch of the Government;

(3) reports of the Comptroller General of the United States and recommendations deemed necessary or desirable in connection with such reports;

(4) the operation of Government activities at all levels with a view to determining its economy and efficiency;

(5) the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(6) the intergovernmental relationships between the United States and the States, municipalities, and international organizations;

of which amount not to exceed $15,000 may be expended for the procurement of individual consultants or organizations thereof.

Sec. 4. Not to exceed $375,000 shall be available for the continuation of the study authorized under S. Res. 71, Ninety-fourth Congress, agreed to July 26 (legislative day, July 21), 1975, of which amount not to exceed $95,000 may be expended for the procurement of consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended). The date for submission of the joint report of the Committee on Commerce and the Committee on Government Operations on the findings of the study authorized by such resolution is extended to February 28, 1977, and the authority conferred by section 3 of such resolution is extended through February 28, 1977.

Sec. 5. (a) Not to exceed $1,143,000 shall be available for a study or investigation of—

(1) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public: *Provided,* That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of the particiular branch of the Government under inquiry, and may extend to the records and activities of persons, corporations, or other entities dealing with or affecting that particular branch of the Government;

(2) the extent to which criminal or other improper practices of activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(3) syndicated or organized crime which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions which are in violation of the law of the United States or of the State in which the transactions occur, and, if so, the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, what facilities, devices, methods, techniques, and technicalities are being used or employed, and whether or not organized crime utilizes such interstate facilities or otherwise operates in interstate commerce for the development of corrupting influences in violation of the law of the United States or the laws of any State, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activities have infiltrated into lawful business enterprise; and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against the occurrences of such practices or activities;

(4) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety;

(5) riots, violent disturbances of the peace, vandalism, civil and criminal disorder, insurrection, the commission of crimes in connection therewith, the immediate and longstanding causes, the extent and effects of such occurrences and crimes, and measures necessary for their immediate and long-range prevention and for the preservation of law and order and to insure domestic tranquility within the United States;

(6) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(A) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems:

(B) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge, talents, and

(C) the adequacy of present intergovernmental relationships between the United States and international organizations principally concerned with national security of which the United States is a member; and

(D) legislative and other proposals to improve these methods, processes, and relationships;

(7) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(A) the collection and dissemination of accurate statistics on fuel demand and supply;

(B) the implementation of effective energy conservation measures;

(C) the pricing of energy in all forms;

(D) coordination of energy programs with State and local government;

(E) control of exports of scarce fuels;

(F) the management of tax, import, pricing, and other policies affecting energy supplies;

(G) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(H) the allocation of fuels in short supply by public and private entities;

(I) the management of energy supplies owned or controlled by the Government;

(J) relations with other oil producing and consuming countries;

(K) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(L) research into the discovery and development of alternative energy supplies;

Provided, That, in carrying out the duties herein set forth, the inquires of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of the particular branch of the Government under inquiry, and may extend to the records and activities of persons, corporations, or other entities dealing with or affecting that particular branch of the Government;

of which amount not to exceed $20,000 may be expended for the procurement of the services of individual consultants or organizations thereof.

(b) Nothing contained in this section shall affect or impair the exercise by any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(c) For the purpose of this section the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1976, through February 28, 1977, is authorized, in its, his, or their discretion, (1) to require by subpena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recesses, and adjournment periods of the Senate, (4) to administer oaths, and (5) to take testimony, either orally or by sworn statement.

SEC. 6. Not to exceed $407,500 shall be available for a study or investigation of intergovernmental relationships between the United States and the States and municipalities, including the fiscal interrelationship between the Federal Government and State and local governments and the manner in which Federal assistance is disbursed to State and local governments, and including an evaluation of studies, reports, and recommendations made thereon and submitted to the Congress by the Advisory Commission on Intergovernmental Relations pursuant to the provisions of Public Law 86–380, approved by the President on September 24, 1959, as amended by Public Law 89–733, approved by the President on November 2, 1966; of which amount not to exceed $15,000 may be expended for the procurement of the services of individual consultants or organizations thereof.

SEC. 7. Not to exceed $265,000 shall be available for a study or investigation of the efficiency and economy of operations of the Federal Government with respect to—

(1) policies, procedures, and activities affecting—

(A) the accounting, financial reporting, and expenditures;

(B) the oversight of Federal agency and program performance and effectiveness;

(C) the development and effectiveness of fiscal, budgetary, and program information systems and controls; and

(D) the development and improvement of management capability and efficiency;

(2) policies, procedures, and activities affecting—

(A) preparation and submission of Federal regulatory agency budgets to Congress; and

(B) data collection and dissemination by Federal regulatory agencies; and

(3) review and evaluation of procedures and legislation with respect to Federal advisory committees, Federal reports, questionnaires, interrogatories;

of which amount not to exceed $15,000 may be expended for the procurement of services of individual consultants or organizations thereof.

SEC. 8. Not to exceed $250,000 shall be available for a study or investigation of the efficiency and economy of operations of all branches of the Government with respect to—

(1) Federal spending practices, particularly Federal procurement, and the laws, regulations, and procedures governing Federal contracts, grants, transfer payments, and other spending arrangements; the Office of Federal Procurement Policy and other executive branch organizations responsible for Federal spending practices;

(2) the efficiency and economy of Federal spending practices, as applied and used to meet agency statutory charters and program objectives; and

(3) all measures relating to the open public conduct of the meetings of all branches of the Government;

of which amount not to exceed $15,000 may be expended for the procurement of the services of individual consultants or organizations thereof.

SEC. 9. Not to exceed $122,300 shall be available for a study or investigation of the economy, efficiency, and productivity of the operations of the Federal Government with respect to—

(1) the development of—

(A) methods and procedures to effectively oversee the operations of the executive branch; and

(B) methods by which Federal programs may be effectively reviewed and analyzed;

(2) budget measures, other than appropriations, or matters within the jurisdiction of the Committee on the Budget as provided in the Congressional Budget and Impoundment Control Act of 1974, including—

(A) the formulation and submission to Congress of budget recommendations by the President; and

(B) the review and authorization of budget requirements by the Congress; and

(C) the execution and control of authorized budget obligations and expenditures; and

(3) the utilization and disposal of Federal property and administrative services, including the management of Federal records and archives; and

(4) the evaluation of efforts to reduce the volume of Federal paperwork;

of which amount not to exceed $4,000 may be expended for the procurement of services of individual consultants or organizations thereof.

SEC. 10. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1977.

SEC. 11. Expenses of the committee under this resolution, which shall not exceed in the aggregate $2,800,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for this disbursement of salaries of employees paid at an annual rate.

The amendments were agreed to.

The resolution, as amended, was agreed to.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

The resolution (S. Res. 360) authorizing additional expenditures by the Committee on Interior and Insular Affairs for inquiries and investigations, was considered and agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Interior and Insular Affairs, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, and (4) to consent to the assignment of personnel of other committees of the Senate to assist in carrying out the purposes of section 3 of this resolution. Travel and other expenses, other than salary, of any personnel from other committees assigned to the committee pursuant to this paragraph for the purposes of section 3 of this resolution may be paid under this resolution.

SEC. 2. The expenses of the committee under this resolution shall not exceed $659,900, of which amount not to exceed $40,000 shall be available for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. (a) The committee shall continue the study of national fuels and energy policy authorized pursuant to S. Res. 45, agreed to on May 3, 1971. In carrying out the purposes authorized by S. Res. 45, the committee shall make—

(i) a full and complete investigation and study (including the holding of public hearings in appropriate parts of the Nation) of the current and prospective fuel and energy resources and requirements of the United States and the present and probable future alternative procedures and methods for meeting anticipated requirements, consistent with achieving other national goals, including the high priorities—national security and environmental protection; and

(ii) a full and complete investigation and study of the existing and prospective governmental policies and laws affecting the fuels and energy industries with the view of determining what, if any, changes and implementation of these policies and laws may be advisable in order to simplify, coordinate, and provide effective and reasonable national policy to assure reliable and efficient sources of fuel and energy adequate for a balanced economy and for the security of the United States, taking into account: the Nation's environmental concerns, the investments by public and private enterprise for the maintenance of reliable, efficient, and adequate sources of energy and fuel and necessary related industries, and the need for maintenance of an adequate force of skilled workers.

(b) In carrying out the investigations set forth in S. Res. 45, agreed to on May 3, 1971, the committee shall, in addition to such other matters as it may deem necessary, give consideration to—

(i) the proved and predicated availabilities of our national fuel and energy resources in all forms and factors pertinent thereto, as well as to worldwide trends in consumption and supply;

(ii) projected national requirements for the utilization of these resources for energy production and other purposes, both to meet short-range needs and to provide for future demand for the years 2000 and 2020;

(iii) the interests of the consuming public, including the availability in all regions of the country of an adequate supply of energy and fuel at reasonable prices and including the maintenance of a sound competitive structure in the supply and distribution of energy and fuel to both industry and the public;

(iv) technology developments affecting energy and fuel production, distribution, transportation, and/or transmission, in progress and in prospect, including desirable areas for further exploration and technological research, development, and demonstration;

(v) the effect that energy producing, transportation, upgrading, and utilization has upon conservation, environmental, and ecological factors, and vice versa;

(vi) the effect upon the public and private sectors of the economy of any recommendations made under this study, and of existing governmental programs and policies now in effect;

(vii) the effect of any recommendations made pursuant to this study on economic concentrations in industry, particularly as these recommendations may affect small business enterprises engaged in the production, processing, and distribution of energy and fuel;

(viii) governmental programs and policies now in operation, including not only their effect upon segments of the fuel and energy industries, but also their impact upon related and competing sources of energy and fuel and their interaction with other governmental goals, objectives, and programs; and

(ix) the need, if any, for legislation designed to effectuate recommendations in accordance with the above and other relevant considerations, including such proposed amendments to existing laws as necessary to integrate existing laws into an effective long-term fuels and energy program.

(c) In furtherance of the purposes of S. Res. 45, agreed to on May 3, 1971, the chairman and ranking minority member of each of the Committees on Aeronautical and Space Sciences, on Commerce, on Finance, on Foreign Relations, on Government Operations, on Labor and Public Welfare, and on Public Works, or members of such committees designated by such chairmen and ranking minority members to serve in their places, and the ranking majority and minority Senate members of the Joint Committee on Atomic Energy, or Senate members of such committee designated by such ranking majority and minority members to serve in their places, shall participate and shell serve as ex officio members of the Committee for the purpose of conducting the Senate's National Fuels and Energy Policy Study.

(d) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1977.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

RESOLUTION PASSED OVER

The resolution (S. Res. 375) authorizing additional expenditures by the Committee on the Judiciary for inquiries and investigations was announced as next in order.

Mr. MANSFIELD. Over.

The ACTING PRESIDENT pro tempore. The resolution will be passed over.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON LABOR AND PUBLIC WELFARE

The Senate proceeded to consider the resolution (S. Res. 361) authorizing additional expenditures by the Committee on Labor and Public Welfare for inquiries and investigations, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 2, line 4, strike "$2,000,000," and insert "$1,950,000,";

On paqe 2, line 15, strike "committee." and insert "committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.";

So as to make the resolution read:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Labor and Public Welfare, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,950,000, of which amount not to exceed $65,000 shall be available for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1977.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

The amendments were agreed to.

The resolution, as amended, was agreed to.

EXPENDITURES BY THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

The Senate proceeded to consider the resolution (S. Res. 365) authorizing expenditures by the Committee on Post Office and Civil Service, which had been reported from the Committee on Rules and Administration with an amendment on page 2, line 11, strike "committee." and insert "committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate."; so as to make the resolution read:

Resolved, That in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(e) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Post Office and Civil Service, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $165,000.

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1977.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

The amendment was agreed to.

The resolution, as amended, was agreed to.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON PUBLIC WORKS

The resolution (S. Res. 354) authorizing additional expenditures by the Committee on Public Works, for inquiries and investigations, was considered and agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Public Works, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis, the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $926,700, of which amount not to exceed $5,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202 (i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $500 may be expended for the training of professional staff of such committee, or any subcommittee thereof (under procedures specified by section 202(j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1977.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON VETERANS' AFFAIRS

The Senate proceeded to consider the resolution (S. Res. 372) authorizing additional expenditures by the Committee on Veterans' Affairs for inquiries and investigations, which had been reported from the Committee on Rules and Administration with an amendment on page 2, line 16, strike "committee." and insert "committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate."; so as to make the resolution read:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Veterans' Affairs, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $318,600, of which amount (1) not to exceed $60,000 may be expended for the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1977.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

The amendment was agreed to.

The resolution, as amended, was agreed to.

ADDITIONAL EXPENDITURES BY THE SELECT COMMITTEE ON SMALL BUSINESS

The Senate proceeded to consider the resolution (S. Res. 362) authorizing additional expenditures by the Select Committee on Small Business, which had been reported from the Committee on Rules and Administration with an amendment on page 2, line 18, strike "$252,500," and insert "$234,000,"; so as to make the resolution read:

Resolved, That the Select Committee on Small Business, in carrying out the duties imposed upon it by S. Res. 58, Eighty-first Congress, agreed to February 20, 1950, as amended and supplemented, is authorized to examine, investigate, and make a complete study of the problems of American small and independent business and to make recommendations concerning those problems to the appropriate legislative committee of the Senate.

SEC. 2. For purposes of this resolution, the committee, or any subcommittee thereof, is authorized from March 1, 1976, through February 28, 1977, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, (4) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946, and (5) to provide assistance for the members of its professional staff in obtaining specialized training, in the same manner and under the same conditions as any such standing committee may provide that assistance under section 202(j) of such Act.

SEC. 3. The expenses of the committee under this resolution shall not exceed $234,000, of which amount not to exceed $2,500 may be expended for the procurement of the services of individual consultants, or organizations thereof.

SEC. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1977.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

The amendment was agreed to.

The resolution, as amended, was agreed to.

ADDITIONAL EXPENDITURES BY THE SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

The Senate proceeds to consider the resolution (S. Res. 376) continuing and authorizing additional expenditures by the Select Committee on Nutrition and Human Needs, which had been reported from the Committee on Rules and Administration with an amendment on page 3, line 3, strike "committee." and insert "committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate."; so as to make the resolution read:

Resolved, That the Select Committee on Nutrition and Human Needs, established by S. Res. 281, Ninetieth Congress, agreed to on July 30, 1968, as amended and supplemented, is hereby extended through February 28, 1977.

SEC. 2. (a) In study matters pertaining to the lack of food, medical assistance, and other related necessities of life and health, the Select Committee on Nutrition and Human Needs is authorized from March 1, 1976, through February 28, 1977, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to subpoena witnesses and documents, (4) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency, (5) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946, (6) to interview employees of the Federal, State, and local governments and other individuals, and (7) to take depositions and other testimony.

(b) The minority shall receive fair consideration in the appointment of staff personnel pursuant to this resolution. Such personnel assigned to the minority shall be accorded equitable treatment with respect to the fixing of salary rates, the assignment of facilities, and the accessibility of committee records.

SEC. 3. The expenses of the committee under this resolution shall not exceed $439,000 of which amount not to exceed $25,000 shall be available for the procurement of the services of individual consultants, or organizations thereof.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

The amendment was agreed to.

The resolution, as amended, was agreed to.

ADDITIONAL EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

The resolution (S. Res. 373) continuing, and authorizing additional expenditures by, the Special Committee on Aging, was considered and agreed to, as follows:

Resolved, That the Special Committee on Aging, established by S. Res. 33, Eighty-seventh Congress, agreed to on February 13, 1961, as amended and supplemented, is hereby extended through February 28, 1977.

SEC. 2. (a) The committee shall make a full and complete study and investigation of any and all matters pertaining to problems and opportunities of older people, including, but not limited to, problems and opportunities of maintaining health, of assuring adequate income, of finding employment, of engaging in productive and rewarding activity, of securing proper housing, and, when necessary, of obtaining care or assistance. No proposed legislation shall be referred to such committee, and such committee shall not have power to report by bill, or otherwise have legislative jurisdiction.

(b) A majority of the members of the committee or any subcommittee thereof shall constitute a quorum for the transaction of business, except that a lesser number, to be fixed by the committee, shall constitute a quorum for the purpose of taking sworn testimony.

SEC. 3. (a) For purposes of this resolution, the committee is authorized from March 1, 1976, through February 28, 1977, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recesses, and adjournment periods of the Senate, (4) to require by subpena or otherwise the attendance of witnesses and the production of correspondence, books, papers, and documents, (5) to administer oaths, (6) to take testimony orally or by deposition, (7) to employ personnel, (8) with the prior consent of the

Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency, and (9) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same condition as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946.

(b) The minority shall receive fair consideration in the appointment of staff personnel pursuant to this resolution. Such personnel assigned to the minority shall be accorded equitable treatment with respect to the fixing of salary rates, the assignment of facilities, and the accessibility of committee records.

SEC. 4. The expenses of the committee under this resolution shall not exceed $507,000, of which amount not to exceed $20,000 shall be available for the procurement of the services of individual consultants or organizations thereof.

SEC. 5. The committee shall report the results of its study and investigation, together with such recommendations as it may deem advisable, to the Senate at the earliest practicable date, but not later than February 28, 1977. The committee shall cease to exist at the close of business on February 28, 1977.

SEC. 6. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

ADDITIONAL EXPENDITURES BY THE SELECT COMMITTEE TO STUDY GOVERNMENTEAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES

The Senate proceeded to consider the resolution (S. Res. 377) authorizing additional expenditures by the Select Committee To Study Governmental Operations With Respect to Intelligence Activities for an inquiry and investigation relating to intelligence activities carried out by or on behalf of the Federal Government, and extending the date for submission of the final report of such select committee, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 2, line 3, strike "$400,000," and insert "$300,000,";

On page 2, line 4, strike "$15,000" and insert "$5,000";

So as to make the resolution read:

Resolved, That the date for submission of the final report of the Select Committee To Study Governmental Operations With Respect to Intelligence Activities of the results of the investigation and study conducted pursuant to S. Res. 21, Ninety-fourth Congress, is extended to March 15, 1976, and after the submission of its final report the select committee shall have until May 31, 1976, to close its affairs and shall cease to exist at the close of such day.

SEC. 2. The expenses of the select committee from March 1, 1976, through May 31, 1976, shall not exceed $300,000, of which amount not to exceed $5,000 may be expended for the procurement of individual consultants or organizations thereof. Such expenses shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

The amendments were agreed to.

The resolution, as amended, was agreed to.

CONTINUING AND ADDITIONAL EXPENDITURES BY THE SPECIAL COMMITTEE ON NATIONAL EMERGENCIES AND DELEGATED EMERGENCY POWERS

The Senate proceeded to consider the resolution (S. Res. 370) continuing, and authorizing additional expenditures by, the Special Committee on National Emergencies and Delegated Emergency Powers, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 2, line 24, strike "February 28, 1976." and insert "February 29, 1976.";

On page 3, line 4, strike "committee." and insert "committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.";

So as to make the resolution read:

Resolved, That the Special Committee on National Emergencies and Delegated Emergency Powers, established by S. Res. 9, Ninety-third Congress, agreed to January 6, 1973, as continued and supplemented by S. Res. 242, Ninety-third Congress, agreed to March 1, 1974, and S. Res. 10, Ninety-fourth Congress, agreed to July 26, 1975, is continued through April 30, 1976, or thirty days after the bill entitled "An Act to terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies" (H.R. 3884) or other comparable legislation has been enacted into law, whichever shall first occur.

SEC. 2. In carrying out such function, the special committee is authorized from March 1, 1976, through April 30, 1976, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to hold hearings, (4) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (5) to require, by subpena or otherwise, the attendance of witness and the production of correspondence, books, papers, and documents, (6) to take depositions and other testimony, and (7) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 3. For the period from March 1, 1976, through April 30, 1976, the expenses of the special committee under this resolution shall not exceed $12,500.

SEC. 4. The special committee shall make the final report required by section 5 of that S. Res. 9, Ninety-third Congress, and modified by S. Res. 242, Ninety-third Congress, and S. Res. 10, Ninety-fourth Congress, not later than May 31, 1976, instead of *February 29, 1976*.

SEC. 5. Expenses of the special committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the two chairmen of the special *committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.*

The amendments were agreed to.

The resolution, as amended, was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I wish at this time to yield my 10 minutes to the distinguished Senator from Massachusetts (Mr. KENNEDY), after the acting minority leader has been recognized.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. BARTLETT. I yield back my time.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

TAX REFORM: DREAM OR REALITY

Mr. KENNEDY. Mr. President, two prominent economists, Joseph Pechman and George Break, entitled their recent book, "Tax Reform: The Impossible Dream?" In view of the fate of tax reform efforts by Congress in recent years, the question cannot be regarded as simply part of a catchy title. The question is a serious one. A review of the tax legislation enacted since the 1969 Tax Reform Act by and large would suggest that the dream is in fact an impossible one.

True, Congress has enacted badly needed tax reductions for low- and middle-income workers. But apart from these worthwhile structural actions, the tax legislation passed by Congress in the past 6 years has generally been the antithesis of tax reform. Indeed, a major tax reform bill could be enacted if we simply repealed the tax legislation—other than the structural tax reductions—enacted since 1969.

However, the Senate is now presented with the opportunity to turn tax reform from an impossible dream into reality. My purpose in addressing the Senate today is to outline the constructive steps that I believe can and should be taken to give American taxpayers the reality of true tax reform.

THE OPPORTUNITY FOR TAX REFORM

Tax reform is one of the most important domestic issues facing the United States. Perhaps the most important legislation this session of Congress will adopt in 1976 is the major tax bill now pending in the Senate Finance Committee—H.R. 10612, "The Tax Reform Act of 1975." That bill passed the House of Representatives last December. It represents a significant and valuable cornerstone on which the Senate can build. It contains provisions to reform our income tax laws in many critical areas. In several respects, the measures contained in the House bill are close to the reforms that many of us in the Senate have recommended previously, such as the provisions dealing with tax shelters and the minimum tax. Even here, however, the provisions can and should be strengthened and improved.

In the coming weeks, I intend to provide detailed and specific suggestions to insure that the use of syndicated "tax shelters" will be eliminated and that the minimum tax will realize its full potential for insuring that wealthy Americans pay their fair share of income taxes. In addition, I will propose that the Senate add significant reforms in other areas of tax injustice that are in glaring need of change—most notably the taxation of capital gains on transfers at death or by gift.

But for the moment I urge my colleagues to join in recognizing that the House passed bill represents a solid step in the direction of tax reform—a step that gives us a real chance this year for a constructive effort to improve our Federal income tax system. If all we do is extend the tax reductions scheduled to expire this June, the effort will have failed. The opportunity is at hand to do a better job. We owe it to the American people—especially the low- and middle-income workers who pay a disproportionate share of total income taxes—to see that the opportunity is not wasted.

THE NEED FOR TAX REFORM

The data that regularly issue forth from the Treasury and other sources provide continuing evidence of the need for tax reform. In 1973, over 3,000 persons with adjusted gross incomes in excess of $50,000 paid no Federal income tax at all. This privileged group represents the wealthiest one-half of 1 percent of all families in the United States. Yet they paid not one dime in Federal income tax.

What do these data—drawn from dry statistical tables—mean to the average wage earner in real everyday terms? The data meant that average working families making $7,500 to $15,000 per year must pay higher taxes than they should have to pay for Federal programs, or that they must accept reduced Federal services. The average taxpayer does not have to be—and should not be—put to this choice.

The House Ways and Means Committee examined actual returns filed by some of these wealthy "nontaxpayers." The picture painted by these returns constituted a source of discouragement and cynicism for the average worker, who pays his income taxes at the rates prescribed by the Internal Revenue Code. Consider these actual cases:

A corporate executive with $155,000 of income paid no taxes because of tax shelters in movies;

A lawyer with $151,000 of income paid no taxes because of tax shelters in cattle; and

A businessman with $262,000 and a doctor with $105,000 of income paid no taxes because of tax shelters in real estate.

Of course, the operation of income tax preferences and tax shelters is not limited to those instances in which the combination of tax preferences produces no Federal tax liability. These cases are only the tip of the iceberg. Beneath the surface is the massive corrosive influence of many more thousands of wealthy individuals, paying tax at effective rates equal to or lower than those paid by the lowest bracket wage earners in the United States. Other examples tell the story;

The corporate executive with $448,000 of income who paid tax at an effective rate of three-tenths of 1 percent;

The stockbroker with $181,000 of income who paid tax at an effective rate of one-half of 1 percent; and

The corporate executive with $1,875,000 of income who paid tax at an effective rate of 5.3 percent.

Nor is the need for income tax reform confined to the individual income tax. The corporate income tax system reveals equally great inequities. Basically, the corporate income tax provides for a 48-percent rate on net profits by large corporations—historically those with taxable incomes above $25,000. Until last year, small corporations—those with taxable income below $25,000—were taxed at a 22-percent rate. But information filed with the Securities and Exchange Commission reveals how far the reality of the corporate income tax deviated from this norm.

For example, in 1974, Westinghouse, one of the nine largest corporations in the country, paid tax on its net profits at a rate of only 16.1 percent—25 percent less than the rate applicable to small corporations.

The corporate income tax not only fails to operate fairly between large and small companies—it is not even equitable between companies competing in the same market. For example, among banks in 1974, the effective tax rates ranged from 35.7 percent paid by Citicorp, to 18.1 percent paid by Manufacturers Hanover, to 3.6 percent paid by Wells Fargo.

In the weeks ahead, as the Senate moves more deeply into the process of considering the tax reform bill before it, I shall present in more concrete detail the case for Federal income tax reform. But these data, even in this brief form, demonstrate clearly the pressing need for tax reform.

ACHIEVING TAX REFORM

The Senate has the opportunity for tax reform and the need is clear. Let me now turn to the concrete and constructive actions I believe are necessary if tax reform is to become a reality.

First, we must articulate and apply clear and consistent principles in voting for tax reform measures.

Taxation has come to represent a dense and virtually incomprehensible subject to the average American. But it is essential that we speak plainly and simply to the American people if we are to achieve any significant tax reform. The language of the tax laws may be sophisticated and complex, but the principles of tax reform need not be incomprehensible to the ordinary citizen who pays the tax.

We can best achieve this goal if we reaffirm the two basic principles of tax fairness that govern our Federal income tax system:

Persons with the same amount of net income should pay the same amount of Federal income tax; and

Persons with greater amounts of net income should make a relatively greater tax contribution for public needs than persons with lesser amounts of income.

These are simple, clear and straightforward propositions. If the Senate will test proposals that come before it in light of these basic principles, we can readily demonstrate to the American people whether or not we are moving in the direction of real tax reform.

I do not expect us to achieve a perfect income tax system in the current tax bill. I am not urging an utopian approach to tax reform that, upon closer examination, holds out no real hope for progress. But it is helpful to use these principles as signposts to guide us in our tax reform deliberations. We can test particular proposals against them to determine whether they constitute genuine "tax reform."

If the Senate accepts these principles, then it must reject the cynicism that says tax reform "means anything that can muster 51 votes in the Senate." To call a tax measure "tax reform" does not make it so. A measure that secures 51 votes on the Senate floor is not tax reform if it moves in the opposite direction from the principles I have stated. And a measure that gets only one Senator's vote remains a true "tax reform" if it would move toward fulfillment of those principles.

The American people understand that not every change in the tax laws is "tax reform." To create a new tax loophole and then call it tax reform turns the dream of tax reform into a nightmare of tax loopholes. This kind of tax change actually shortchanges millions of average taxpayers, and makes them pay more taxes than they would if the laws were fair and just.

In the coming weeks, the Senate Finance Committee will conduct its hearings and markup of the pending bill. I hope that all Senators will make known to the committee their views on tax reform, and that all Senators will measure the results of the committee action against the standards of true "tax reform"—standards that have guided congressional deliberations on those occasions in the past when Congress has enacted legislation that has produced a fairer tax system.

I also hope that Senators concerned about this issue will be prepared to work together on the Senate floor, to insure that the bill that finally passes the Senate is worthy of the title tax reform.

In this connection, it is important that there be ample opportunity for adequate discussion and debate on the Senate floor. Since the present tax reductions expire on June 30, it is clear that legislation must be enacted before that date. The Senate and the American people are entitled to an unhurried, reflective, and constructive discussion by the full Senate on this bill.

Second, we must develop concrete proposals to build upon tax reform efforts begun by the House. In the weeks ahead, I will offer to the Finance Committee and to the full Senate the specific actions that I believe are essential to insure that H.R. 10612 emerges as an effective tax reform measure.

In broad terms my proposals will fall into four categories. In the first category are measures that the Senate should add to the House bill where it has failed to take needed action, such as taxation of gains at death or upon gifts; repeal of the maximum tax on earned income; and reforms to insure that the major oil companies and the large multinational corporations pay their fair share of taxes, including changes to restrict the use of the deduction for intangible drilling and development expenses and to end the abuses of deferral of U.S. income tax on income earned abroad by such corporations.

In the second category are proposals to improve basically sound actions adopted by the House. We should tighten the tax shelter rules, strengthen the minimum tax, and make the investment and child care credits more equitable and effective.

In the third category are provisions passed by the House that the Senate should eliminate from the bill, such as the expansion of the use of capital losses against ordinary income.

Finally, we must reject proposals to amend the bill—advanced principally in the so-called energy tax bill and by the President and his tax advisers—for the addition of new tax loopholes, such as the massive tax relief for corporate dividend payments.

Third, we must use the reformed congressional budget process to enhance the cause of tax reform. The Budget Reform Act of 1974 formally stated what had been obvious for some time—that the Federal income tax system is itself a vehicle for vast Federal spending programs. These tax expenditures, in the aggregate, disbursing more than $100 billion in Federal funds each year. These tax expenditure programs operate in the same areas as direct expenditures for regular budget items. Therefore, the 1974 Budget Reform Act properly recognized that Congress must deal with both tax expenditures and direct expenditures if it is to achieve effective oversight and control over total Federal spending.

The relevance of budget reform to tax reform is clear when we recognize that almost every tax reform adopted by the House represents a change in a Federal tax expenditure. In some instances, the tax expenditure is reduced in amount. In others, it is increased. But the central point is that when the Senate considers tax reform, it is considering changes in the levels of tax expenditures.

This point has some important implications for tax reform efforts this year. It is essential that Senators interested in tax reform work constructively and cooperatively with the chairman, the ranking minority member, and the other members of the Budget Committee to insure that the first budget resolution provides significant tax reform, and that tax reform proposals presented in the Finance Committee or on the Senate floor are consistent with the resolution.

In 1975, in its first year of operation, the Senate Budget Committee moved with extraordinary effectiveness to hold down direct expenditures, and I urge the committee to do the same this year with respect to tax expnditures. During the past decade, direct Federal spending rose 130 percent. But in the same period, spending via the tax system increased even faster, rising by 180 percent. Tax expenditures now amount to $100 billion, on top of direct spending of $400 billion. Total Federal spending is thus $500 billion a year. If we are concerned about the level of Federal spending, we cannot deal only with direct expenditures. We also have to be concerned with tax expenditures, which are running out of control today and have been out of control for many years.

The Budget Committee clearly understands the need. The committee signaled its intent during debate on the second concurrent resolution for fiscal year 1976 last November. Although that resolution did not deal with tax expenditures, the committee report states the committee's intention to deal with the issue this year:

> The committee believes the Congress should address the issue of major tax reform to promote prosperity and eliminate serious inequities.
>
> Most tax expenditures are enacted for indefinite periods of time and resemble permanent authority for direct expenditures in that they continue in effect year after year at a substantial cost of budgetary resources until they are amended or terminated by specific legislation. Therefore, tax expenditures have important long term impacts on the Federal budget which the Committee will take into account in future resolutions.
>
> The Committee will be examining both tax expenditures and the operations of off-budget agencies. Thus, the Committee will be able to evaluate the economic effects of Congressional action whether or not the action results in a specific budget outlay. These additional dimensions will allow the Committee to take a long-range comprehensive view of national priorities in arriving at its First Budget Resolution for fiscal year 1977.

And, during the Senate floor debate, the committee chairman, Senator MUSKIE, emphasized the committee's "intent to deal forcefully with tax expenditures in the future."

My hope is that the first concurrent budget resolution in fiscal year 1977 will provide for a significant reduction in tax expenditures. It should begin with the $1.5 billion reduction in the House bill, and it should reflect substantial additional reductions to be achieved in the Senate bill.

In the near future, I will submit to the committee a recommended figure for reductions in tax expenditures. My preliminary estimate at this time is that a realistic target, reflecting responsible Senate action on tax reform, would be in the vicinity of a $2.5–$3 billion reduction in tax expenditures for calendar year 1977, representing additional Senate reforms of $1–$1.5 billion over and above the House bill. This calendar year figure for reduction in tax expenditures would translate into a somewhat lower figure in the budget resolution, which applies to the fiscal year.[1]

With respect to many of the proposed reforms, the revenue effects in future years will be substantially larger than in fiscal year 1977, as the reforms are gradually phased in or achieve their full impact.[2]

The fact that tax reform involves changes in tax expenditures also requires that in evaluating a particular tax reform proposal, we ask not only whether it represents a step in the direction of greater tax equity, but also whether the change in Federal spending policy is sound. The same questions must be asked of tax expenditure programs as we routinely ask of direct expenditure programs:

First. Is Federal financial aid needed?

Second. Do the benefits of the program justify its costs?

Third. Are the benefits equitably distributed among income groups?

Some of the tax expenditures that will be considered in the current tax reform bill fail all three tests. In these cases, the Federal tax expenditure should be eliminated. The DISC provision appears to be a prime example in this category, although further study may be appropriate with respect to continuing it for a limited time for small businesses, until a more effective small business export incentive can be developed. The argument presented to the House—that the repeal of DISC will result in a loss of jobs for American workers—now appears to have been a red herring, designed to divert attention from the inequity and inefficiency of the DISC provision.

In other cases, it may be appropriate to reduce or eliminate the tax expenditure program—because its costs outweigh its benefits, or because its benefits are distributed unfairly—but part or all of the revenues saved need to be added to more efficient and more equitable Federal programs in the same budget areas. For example, tax shelters for real estate should be eliminated because they are a source of serious tax inequity and because there is substantial evidence that the tax expenditures involved in real estate tax shelters are inefficient and counterproductive. But, the revenues gained by reducing this tax expenditure must be committed by Congress to direct spending programs for the construction and rehabilitation of low and middle income housing. This simultaneous action is required to meet our housing needs and to insure that needed tax reform does not produce unnecessary disruption in the construction industry.

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[1] The figure is lower in the Budget Resolution because not all of the calendar year 1977 revenues from tax reforms will be received in fiscal year 1977. The full $1.5 billion in House-passed reductions will be received in fiscal year 1977, since the reforms will take effect on January 1, 1976. But the additional Senate reforms will probably take effect on January 1, 1977. Only part of the revenues from such reforms will be received in the fiscal year, which ends on September 30, 1977; the remainder will be received in fiscal year 1978.

[2] With respect to capital gains at death, for example, the current tax expenditure is estimated at $7.28 billion for fiscal 1977, but a realistic reform would in all likelihood produce negligible revenues in fiscal 1977 and more modest revenues in future years.

It is important that we amend the House bill by developing stronger anti-tax shelter rules ready to go into effect. But the House bill wisely delays until 1981 the imposition of its tax shelter rules in the case of the construction of low-income housing. In the interim, Congress should require HUD to develop and submit an alternative direct spending program to encourage construction and rehabilitation of low-income housing.

I will not support any proposal to change the present tax benefits for low-income families until a better alternative program is designed. We can then use the revenues gained from closing down tax shelters to help fund more effective and more equitable methods of providing low-income housing. In this way, tax reform and spending reform can go hand in hand.

In other instances, the tax expenditure techniques may offer the best means of providing Federal financial assistance. I believe that the investment credit is one such provision. But changes can and must be made to insure that this tax expenditure does not operate to violate tax equity. I will propose changes in the investment tax credit—to make it refundable and to insure that it becomes a more effective and equitable Federal program to encourage needed investment, and to insure it will not be a source of tax inequity. I will propose similar improvements in the tax credit for child care expenses.

MAKING TAX REFORM A REALITY

In sum, the necessary ingredients for the Senate to convert the "impossible dream" of tax reform into a reality are present. We have the opportunity, the need, and the tools to do the job. I urge the Senate to act this year to fulfill the long-neglected promise of tax reform to the American people.

ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business for not to exceed 30 minutes with statements limited therein to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BROCK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RETIREMENT OF HON. JOE L. EVINS, A U.S. REPRESENTATIVE FROM THE STATE OF TENNESSEE

Mr. BROCK. Mr. President, I rise today to advise my colleagues of a decision by one of our friends in the House, the Honorable Joe Evins, who has just announced his retirement after 30 years of service in the Congress of the United States. I personally wanted to express my very deep regret at the prospects of not having his service in the years to come in that particular body.

I think every Member of Congress will regret the retirement of Joe Evins. He is something more than just a respected and dedicated public servant. He has been a friend and a counselor. He has been willing to give of himself on countless occasions for our State, for the people of Tennessee, and perhaps most of all to those of us who served as his colleagues in both the House and Senate.

Joe Evins in these 30 years has provided yeoman service to the people of the Fourth District and of the entire State of Tennessee.

As a member of the Committee on Appropriations, as chairman of its Subcommittee on Public Works appropriations, as the chairman of the House Small Business Committee, as chairman of the Subcommittee on Independent Offices and Housing and Urban Development Appropriations Committee, and in his numerous other capacities, he has served with distinction, integrity, and great personal effort to provide a better opportunity and a better life for the people of this Nation.

I personally have a great sense of regret in another sense, too. His wife was one of the most delightful and lovely ladies I have had the privilege to know. I will admit to a certain amount of bias because her father was the brother of my grandmother. We have a personal relationship which I greatly value.

Suffice it to say that I believe Congress is losing one of its most unusual, dedicated, decent, and able Members, and we will miss him greatly.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. Inouye) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PROPOSED FINANCIAL ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION ACT—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. Inouye) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

The education of our children is vital to the future of the United States. From the start, our Founding Fathers knew that ignorance and free government could not co-exist. Our nation has acted from the beginning on the sound principle that control over our schools should remain at the State and local level. Nothing could be more destructive of the diversity of thought and opinion necessary for national progress than an excess of control by the central government.

In recent years, our national sense of fairness and equity has led to an increasing number of Federal programs of aid to education. The Federal government has recognized a responsibility to help ensure adequate educational opportunities for those with special needs, such as the educationally deprived and the handicapped. We have appropriately provided States and localities with added resources to help them improve opportunities for such students. At the same time, we have channeled our aid into too many narrow and restrictive categorical programs. As a result, we have made it more difficult for the schools to educate.

It is time that we reconcile our good intentions with the recognition that we at the Federal level cannot know what is best for every school child in every classroom in the country.

In my State of the Union address, I spoke of the need for a new realism and a new balance in our system of Federalism—a balance that favors greater responsibility and freedom for the leaders of our State and local governments.

Our experience in education demonstrates that those principles are not abstract political philosophy, but guides to the concrete action we must take to help assure the survival of our system of free government. We must continually guard against Federal control over public schools.

I am proposing today the Financial Assistance for Elementary and Secondary Education Act which will consolidate 24 existing programs into one block grant. The focus of this block grant will be on improved educational opportunities for those with special needs—the handicapped and educationally deprived. Federal funds will be provided with a minimum of Federal regulation and a maximum of local control. My proposal is based on the conviction that education needs can be most effectively and creatively met by allowing States greater flexibility in the use of Federal funds.

I am particularly pleased at the extent to which my proposal reflects extensive consultations with individuals, organizations representing publicly elected officials and leaders in the education community. The proposal has been modified and strengthened since the time of my State of the Union message as a result of suggestions we received. I am convinced it represents essential changes in our system of providing aid to education.

My proposals will consolidate programs in the following areas:

—Elementary and Secondary Education
—Education for the Handicapped
—Adult Education
—Vocational Education

To assure that students with special needs receive proper attention the proposed legislation provides that 75 percent of a State's allocation be spent on the educationally deprived and handicapped, and that vocational education programs continue to be supported. The same strong civil rights compliance procedures that exist in the programs to be consolidated are included in this legislation.

Under the proposed legislation, funds will be allocated to States based on a formula which takes into account the number of school-aged children and the number of children from low-income families. No State will receive less money than it did in Fiscal Year 1976 under the programs to be consolidated. Further, local education agencies will be assured that the funds will reach the local level, where children are taught and where control should be exercised.

Vocational education is an important part of our total education system. Here, too, my proposal seeks greater flexibility at the local level while maintaining Federal support. States would be required to spend a portion of the funds they receive on vocational education, giving special emphasis to the educationally deprived and the handicapped.

Non-public school and Indian tribal children would continue to be eligible for assistance under this proposal. Where States do not serve such children, the Commissioner of Education will arrange to provide funds directly, using the appropriate share of the State's funds.

The proposed legislation will require States to develop a plan, with public participation, for the use of Federal funds. All interested citizens, students, parents and appropriate public and private institutions will participate in the development of the plan. States will be required to develop procedures for independent monitoring of compliance with their plan. State progress will be measured against the plan, but the plan itself will not be subject to Federal approval.

For Fiscal Year 1977 I am requesting $3.3 billion for the education block grant. For the next three fiscal years, I am proposing authorizations of $3.5 billion, $3.7 billion and $3.9 billion. For too long the real issue in our education programs—Federal versus State and local control—has been obscured by endless bickering over funding levels. Hopefully, with these request levels, we can focus the attention where it belongs, on reform of our education support programs.

Enactment of this legislation will allow people at the State and local level to stop worrying about entangling Federal red tape and turn their full attention to educating our youth.

I urge prompt and favorable consideration of the Financial Assistance for Elementary and Secondary Education Act.

GERALD R. FORD.

THE WHITE HOUSE, *March 1, 1976.*

REPORT OF THE COUNCIL ON ENVIRONMENTAL QUALITY—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. INOUYE) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Agriculture and Forestry, the Committee on Commerce, the Committee on Interior and Insular Affairs, and the Committee on Public Works, jointly, by unanimous consent:

To the Congress of the United States:

It is a measure of our progress as a Nation that today, in the 200th year of American Independence, we are in the midst of a dynamic movement to restore, protect and preserve our environment and, at the same time, make the most effective use of our natural resources—with the objective of providing a better life for ourselves and for our children and grandchildren.

This society has come a long way since the time when the daily struggle with climate and wilderness dominated our ancestors lives, challenged their spirit and energies, and shaped attitudes that served so well to forge a new Nation. We have learned that our past progress was often achieved without adequate regard for the longer term consequences to our air, water and land. Some have concluded from our past experiences that certain national objectives—such as a strong economy, an adequate supply of energy, and an improved environment—are in conflict and we must choose among them. Others are concluding—and I share their view—that we can make good progress toward all these objectives if our goals are realistic, our resolve is firm, and our steps are deliberate.

The Sixth Annual Report of the Council of Environmental Quality which I am forwarding to the Congress surveys our environmental accomplishments and indicates that we have made much progress indeed.

The Council's summary of environmental conditions and trends describes the encouraging results of our efforts to clean up the air and water. We are beginning to bring our most chronic sources of water pollution under control, and we are improving the quality of some of our most heavily polluted waterways. We have improved air quality significantly in the United States during the past 5 years.

The progress we have made so far is in large measure a reflection of the investment the Nation has made in cleaning up the environment. In 1975 government and industry spent more than $15 billion in capital and operating expenditures to meet the requirements of Federal pollution control legislation. The Federal Government alone has increased its pollution control outlays from $751 million in 1970 to an estimated $4.5 billion in the current fiscal year. Over the next 10 years the Nation will spend more than $22 billion per year to meet Federal control requirements.

We can be proud of the progress we have made in improving the Nation's environmental quality. Yet, we must meet additional challenges over the next few years. We must improve our understanding of the effects of pollutants and of the means and costs of reducing pollution. As we develop new energy sources and technologies we must assure that they meet environmental standards. We also must continue the job of cleaning up pollution from existing sources.

The Council has reviewed the environmental conditions of our coastal zone and on Federal public lands and describes the diverse purposes they serve and the variety of ways in which our people can use and enjoy them. Because of the competing demands upon these areas, we will face a continuing challenge in assuring their best uses and in providing protection of their environmental values.

International activities over the past year have provided a helpful perspective for understanding the global scope of many environmental issues. Our community of nations is beginning to come to grips with this reality and, through the United Nations Earthwatch Program, is making a major attempt to monitor environmental conditions and trends throughout the world.

Our experience and our growing knowledge about the scientific, technical and economic aspects of environmental effects and controls has given us a basis for considering "mid-course corrections" in existing environmental laws. The attention now being given in the Congress and the Administration to a review of the requirements of the Clean Air Act and the Water Pollution Control Act are important examples of this new level of awareness.

In these and other efforts, we must set our goals carefully, pursue them vigorously, and maintain the balance among our national objectives. This is essential if we are to enjoy the continued public support for our environmental objectives that is necessary to future progress.

We have made an excellent start. I am confident we shall continue in this vital area.

GERALD R. FORD.

THE WHITE HOUSE.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the message from the President transmitting the Sixth Annual Report of the Council on Environmental Quality be jointly referred to the Committee on Agriculture and Forestry, the Committee on Commerce, the Committee on Interior and Insular Affairs, and the Committee on Public Works.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL ENERGY PROGRAM—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. INOUYE) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce, the Committee on Interior and Insular Affairs, the Joint Committee on Atomic Energy, the Committee on Finance, the Committee on Foreign Relations, the Committee on Public Works, the Committee on Armed Services, and the Committee on Banking, Housing and Urban Affairs, jointly, by unanimous consent:

To the Congress of the United States:

A little over two years ago, the Arab embargo proved that our Nation had become excessively dependent upon others for our oil supplies. We now realize how critical energy is to the defense of our country, to the strength of our economy, and to the quality of our lives.

We must reduce our vulnerability to the economic disruption which a few foreign countries can cause by cutting off our energy supplies or by arbitrarily raising prices. We must regain our energy independence.

During the past year, we have made some progress toward achieving our energy independence goals, but the fact remains that we have a long way to go. However, we cannot take the steps required to solve our energy problems until the Congress provides the necessary additional authority that I have requested. If we do not take these steps, our vulnerability will increase dramatically.

In my first State of the Union Address last year, I pointed out that our vulnerability would continue to grow unless a comprehensive energy policy and program were implemented. I outlined these goals for regaining our energy independence:

—First, to halt our growing dependence on imported oil during the next few critical years.

—Second, to attain energy independence by 1985 by achieving invulnerability to disruptions caused by oil import embargoes. Specifically, we must reduce oil imports to between 3 and 5 million barrels a day, with an accompanying ability to offset any future embargo with stored petroleum reserves and emergency standby measures.

—Third, to mobilize our technology and resources to supply a significant share of the free world's energy needs beyond 1985.

In pursuing these goals, we have sought to provide energy at the lowest cost consistent with our need for adequate and secure supplies. We should rely upon the private sector and market forces since it is the most efficient means of achieving these goals. We must also achieve a balance between our environmental and energy objectives.

These goals were reasonable and sound a year ago and they remain so today.

Since January of 1975, this Administration has initiated the most comprehensive set of energy programs possible under current authority. This includes actions to conserve energy, to increase the production of domestic energy resources, and to develop technology necessary to produce energy from newer sources.

During this time, I have also placed before the Congress a major set of legislative proposals that would provide the additional authority that is needed to achieve our energy independence goals.

Thus far, the Congress has completed action on only one major piece of energy legislation—the Energy Policy and Conservation Act—which I signed into law on December 22, 1975. That law includes four of the original proposals I submitted to the Congress over a year ago. Eighteen other major legislative proposals still await final action by the Congress.

NATURAL GAS

The need for Congressional action is most critical in the area of natural gas. We must reverse the decline in natural gas production and deal effectively with the growing shortages that face us each winter.

Deregulating the price of new natural gas remains the most important action that can be taken by the Congress to improve our future gas supply situation. If the price of natural gas remains under current regulation, total domestic production will decline to less than 18 trillion cubic feet in 1985. However, if deregulation is enacted, production would be about 25 percent higher by 1985. Natural gas shortages mean higher costs for consumers who are forced to switch to more expensive alternative fuels and mean, inevitably, an increasing dependence on imported oil. Curtailment of natural gas to industrial users in the winters ahead means more unemployment and further economic hardships.

Therefore, I again urge the Congress to approve legislation that will remove Federal price regulation from new natural gas supplies and will provide the added short-term authorities needed to deal with any severe shortages forecast for next winter.

I also urge prompt action by the Congress on a bill I will be submitting shortly which is designed to expedite the selection of a route and the construction of a transportation system to bring the vast supplies of natural gas from the north slope of Alaska to the "lower 48" markets. This legislation would make possible production of about 1 trillion cubic feet of additional natural gas each year by the early 1980s.

We expect imports of liquefied natural gas (LNG) to grow in the next several years to supplement our declining domestic supply of natural gas. We must balance these supply needs against the risk of becoming overly dependent on any particular source of supply.

Recognizing these concerns, I have directed the Energy Resources Council to establish procedures for reviewing proposed contracts within the Executive Branch, balancing the need for supplies with the need to avoid excessive dependence, and encouraging new imports where this is appropriate. By 1985, we should be able to import 1 trillion cubic feet of LNG to help meet our needs without becoming overly dependent upon foreign sources.

NUCLEAR POWER

Greater utilization must be made of nuclear energy in order to achieve energy independence and maintain a strong economy. It is likewise vital that we continue our world leadership as a reliable supplier of nuclear technology in order to assure that worldwide growth in nuclear power is achieved with responsible and effective controls.

At present 57 commercial nuclear power plants are on line, providing more than 9 percent of our electrical requirements, and a total of 179 additional plants are planned or committed. If the electrical power supplied by the 57 existing nuclear power plants were supplied by oil-fired plants, an additional one million barrels of oil would be consumed each day.

On January 19, 1975, I activated the independent Nuclear Regulatory Commission (NRC) which has the responsibility for assuring the safety, reliability, and environmental acceptability of commercial nuclear power. The safety record for nuclear power plants is outstanding. Nevertheless, we must continue our efforts to assure that it will remain so in the years ahead. The NRC has taken a number of steps to reduce unnecessary regulatory delays and is continually alert to the need to review its policies and procedures for carrying out its assigned responsibilities.

I have requested greatly increased funding in my 1977 budget to accelerate research and development efforts that will meet our short-term needs to:

—Make the safety of commercial nuclear power plants even more certain;

—Develop further domestic safeguards technologies to assure against the theft and misuse of nuclear materials as the use of nuclear-generated electric power grows;

—Provide for safe and secure long-term storage of radioactive wastes;

—And encourage industry to improve the reliability and reduce the construction time of commercial nuclear power plants.

I have also requested additional funds to identify new uranium resources and have directed ERDA to work with private industry to determine what additional actions are needed to bring capacity on-line to reprocess and recycle nuclear fuels.

Internationally, the United States in consultation with other nations which supply nuclear technology has decided to follow stringent export principles to ensure that international sharing of the benefits of nuclear energy does not lead to the proliferation of nuclear weapons. I have also decided that the U.S. should make a special contribution of up to $5 million in the next five years to strengthen the safeguards program of the International Atomic Energy Agency.

It is essential that the Congress act if we are to take timely advantage of our nuclear energy potential. I urge enactment of the Nuclear Licensing Act to streamline the licensing procedures for the construction of new power plants.

I again strongly urge the Congress to give high priority to my Nuclear Fuel Assurance Act to provide enriched uranium needed for commercial nuclear power plants here and abroad. This proposed legislation which I submitted in June 1975, would provide the basis for transition to a private competitive uranium enrichment industry and prevent the heavy drain on the Federal budget. If the Federal Government were required to finance the necessary additional uranium enrichment capacity, it would have to commit more than $8 billion over the next 2 to 3 years and $2 billion annually thereafter. The taxpayers would eventually be repaid for these expenditures but not until sometime in the 1990's. Federal expenditures are not necessary under the provisions of this Act since industry is prepared to assume this responsibility with limited government cooperation and some temporary assurances. Furthermore, a commitment to new Federal expenditures for uranium enrichment could interfere with efforts to increase funding for other critical energy programs.

COAL

Coal is the most abundant energy resource available in the United States, yet production is at the same level as in the 1920's and accounts for only about 1[illegible] percent of the Nation's energy consumption. Coal must be used increasingly as an alternative to scarce, expensive or insecure oil and natural gas supplies. We must act to remove unnecessary constraints on coal so that production can grow from the 1975 level of 640 million tons to over 1 billion tons by 1985 in order to help achieve energy independence.

We are moving ahead where legislative authority is available.

The Secretary of the Interior has recently adopted a new coal leasing policy for the leasing and development of more coal on Federal lands. To implement this policy, regulations will be issued governing coal mining operations on Federal lands, providing for timely development, and requiring effective surface mining controls which will minimize adverse environmental impacts and require that mined lands be reclaimed. As a reflection of the States' interests, the Department proposes to allow application on Federal lands of State coal mine reclamation standards which are more stringent than Federal standards, unless overriding National interests are involved.

I have directed the Federal Energy Administration and the Environmental Protection Agency to work toward the conversion of the maximum number of utilities and major industrial facilities from gas or oil to coal as permitted under recently extended authorities.

We are also stepping up research and development efforts to find better ways of extracting, producing, and using coal.

Again, however, the actions we can take are not enough to meet our goals. Action by the Congress is essential.

I urge the Congress to enact the Clean Air Act amendments I proposed which will provide the balance we need between air quality and energy goals. These amendments would permit greater use of coal without sacrificing the air quality standards necessary to protect public health.

OIL

We must reverse the decline in the Nation's oil production. I intend to implement the maximum production incentives that can be justified under the new Energy Policy and Conservation Act. In addition, the Department of the Interior will continue its aggressive Outer Continental Shelf development program while giving careful attention to environmental considerations.

But these actions are not enough. We need prompt action by the Congress on my proposals to allow production from the Naval Petroleum Reserves. This legislation is now awaiting action by a House-Senate Conference Committee.

Production from the Reserves could provide almost one million barrels of oil per day by 1985 and will provide both the funding and the oil for our strategic oil reserves.

I also urge the Congress to act quickly on amending the Clean Air Act auto emission standards that I proposed last June to achieve a balance between objectives for improving air quality, increasing gasoline mileage, and avoiding unnecessary increases in costs to consumers.

BUILDING ENERGY FACILITIES

In order to attain energy independence for the United States, the construction of numerous nuclear power plants, coal-fired power plants, oil refineries, synthetic fuel plants, and other facilities will be required over the next two decades.

Again, action by the Congress is needed.

I urge Congress to approve my October, 1975 proposal to create an Energy Independence Authority, a new government corporation to assist private sector financing of new energy facilities.

This legislation will help assure that capital is available for the massive investment that must be made over the next few years in energy facilities, but will not be forthcoming otherwise. The legislation also provides for expediting the regulatory process at the Federal level for critical energy projects.

I also urge Congressional action on legislation needed to authorize loan guarantees to aid in the construction of commercial facilities to produce synthetic fuels so that they may make a significant contribution by 1985.

Commercial facilities eligible for funding under this program include those for synthetic gas, coal liquefaction and oil shale, which are not now economically competitive. Management of this program would initially reside with the Energy Research and Development Administration but would be transferred to the proposed Energy Independence Authority.

My proposed energy facilities siting legislation and utility rate reform legislation, as well as the Electric Utilities Construction Incentives Act complete the legislation which would provide the incentives, assistance, and new procedures needed to assure that facilities are available to provide additional domestic energy supplies.

ENERGY DEVELOPMENT IMPACT ASSISTANCE

Some areas of the country will experience rapid growth and change because of the development of Federally-owned energy resources. We must provide special help to heavily impacted areas where this development will occur.

I urge the Congress to act quickly on my proposed new, comprehensive, Federal Energy Impact Assistance Act which was submitted to the Congress on February 4, 1976.

This legislation would establish a $1 billion program of financial assistance to areas affected by new Federal energy resource development over the next 15 years. It would provide loans, loan guarantees, and planning grants for energy-related public facilities. Funds would be repaid from future energy development. Repayment of loans could be forgiven if development did not occur as expected.

This legislation is the only approach which assures that communities that need assistance will get it where it is needed, when it is needed.

ENERGY CONSERVATION

The Nation has made major progress in reducing energy consumption in the last 2 years but greatly increased savings can yet be realized in all sectors.

I have directed that the Executive Branch continue a strong energy management program. This program has already reduced energy consumption by 24 percent in the past 2 years, saving the equivalent of over 250,000 barrels of oil per day.

We are moving to implement the conservation authorities of the new Energy Policy and Conservation Act, including those calling for State energy conservation programs, and labeling of appliances to provide consumers with energy efficiency information.

I have asked for a 63 percent increase in funding for energy conservation research and development in my 1977 budget.

If the Congress will provide needed legislation, we will make more progress. I urge the Congress to pass legislation to provide for thermal efficiency standards for new buildings, to enact my proposed $55 million weatherization assistance program for low-income and elderly persons, and to provide a 15-percent tax credit for energy conservation improvements in existing residential buildings. Together, these conservation proposals can save 450,000 barrels of oil per day by 1985.

INTERNATIONAL ENERGY ACTIVITIES

We have also made significant progress in establishing an international energy policy. The United States and other major oil-consuming nations have established a comprehensive long-term energy program through the International Energy Agency—IEA—committing ourselves to continuing cooperation to reduce dependence on imported oil. By reducing demand for imported oil, consuming nations can, over time, regain their influence over oil prices and end vulnerability to abrupt supply cutoffs and unilateral price increases.

The International Energy Agency has established a framework for cooperative efforts to accelerate the development of alternative energy sources. The Department of State, in cooperation with FEA, ERDA, and other Federal agencies, will continue to work closely with the IEA.

While domestic energy independence is an essential and attainable goal, we must recognize that this is an interdependent world. There is a link between economic growth and the availability of energy at reasonable prices. The United States will need some energy imports in the years ahead. Many of the other consuming nations will not be energy independent. Therefore, we must continue to search for solutions to the problems of both the world's energy producers and consumers.

The U.S. delegation to the new Energy Commission will pursue these solutions, including the U.S. proposal to create an International Energy Institute. This Institute will mobilize the technical and financial resources of the industrialized and oil-producing countries to assist developing countries in meeting their energy problems.

1985 AND BEYOND

As our easily recoverable domestic fuel reserves are depleted, the need for advancing the technologies of nuclear energy, synthetic fuels, solar energy, and geothermal energy will become paramount to sustaining our energy achievements beyond 1985. I have therefore proposed an increase in the Federal budget for energy research and development from $2.2 billion in 1976 to $2.9 billion in the proposed 1977 budget. This 30-percent increase represents a major expansion of activities directed at accelerating programs for achieving long-term energy independence.

These funds are slated for increased work on nuclear fusion and fission power development, particularly for demonstrating the commercial viability of breeder reactors; new technology development for coal mining and coal use; enhanced recovery of oil from current reserves; advanced power conversion systems; solar and geothermal energy development; and conservation research and development.

It is only through greater research and development efforts today that we will be in a position beyond 1985 to supply a significant share of the free world's energy needs and technology.

SUMMARY

I envision an energy future for the United States free of the threat of embargoes and arbitrary price increases by foreign governments. I see a world in which all nations strengthen their cooperative efforts to solve critical energy problems. I envision a major expansion in the production and use of coal, aggressive exploration for domestic oil and gas, a strong commitment to nuclear power, significant technological breakthroughs in harnessing the unlimited potential of solar energy and fusion power, and a strengthened conservation ethic in our use of energy.

I am convinced that the United States has the ability to achieve energy independence.

I urge the Congress to provide the needed legislative authority without further delay.

Gerald R. Ford.

The White House, *February 26, 1976.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the message from the President of the United States relating to energy be referred jointly to the Committee on Commerce, the Committee on Interior and Insular Affairs, the Joint Committee on Atomic Energy, the Committee on Finance, the Committee on Foreign Relations, the Committee on Public Works, the Committee on Armed Services, and the Committee on Banking, Housing and Urban Affairs.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 12:02 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (H.R. 12122) to amend section 2 of the act of June 30, 1954, providing for the continuance of civic government for the Trust Territory of the Pacific Islands, and for other purposes, in which it requests the concurrence of the Senate.

The message also announced that the House has agreed to the concurrent resolution (S. Con. Res. 88) authorizing the printing of additional copies of the open hearings and the final report of the Senate Select Committee on Intelligence Activities, without amendment.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the enrolled bill (S. 151) to authorize and modify various Federal reclamation projects and programs, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. Inouye).

HOUSE BILL REFERRED

The bill (H.R. 12122) to amend section 2 of the act of June 30, 1954, providing for the continuance of civil government for the Trust Territory of the Pacific Islands, and for other purposes, was read twice by its title and referred to the Committee on Interior and Insular Affairs.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Inouye) laid before the Senate the following letters, which were referred as indicated:

Proposed Withdrawal of Laos as Beneficiary Developing Country for Purposes of the Generalized System of Preferences

A communication from the President of the United States, notifying the Senate of his intention to withdraw the designation of Laos as a beneficiary developing country for purposes of the generalized system of preferences by amending Executive Order No. 11888 of November 24, 1975; to the Committee on Finance.

Proposed Financial Assistance for Health Care Act

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to consolidate Federal financial assistance to the fifty States, the District of Columbia, and the territories for programs in the field of health, to focus those programs on individuals most in need of them, and to eliminate unnecessary restrictions on the exercise of State responsibility for program administration (with accompanying papers); to the Committee on Finance and the Committee on Labor and Public Welfare, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication transmitted by the Secretary of HEW relative to financial assistance in the field of health care be referred jointly to the Committee on Finance and the Committee on Labor and Public Welfare.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PETITIONS

The ACTING PRESIDENT pro tempore (Mr. Inoye) laid before the Senate the following petitions, which were referred as indicated:

The House Resolution adopted by the Legislature of the State of South Carolina; to the Committee on Interior and Insular Affairs:

"House Resolution 3097

"A House resolution to memorialize the Congress of the United States to expeditiously legislate the establishment of a natural area in the Congaree Swamp

"Whereas, the citizens of South Carolina have recognized the value of, and have sought the protection, of portions of the Congaree Swamp for the last twenty years; and

"Whereas, the Congaree Swamp represents the only bottomland climax forest of its kind which contains at least six national champion trees and twenty-four state champion trees; and

"Whereas, the potential benefits of the Congaree Swamp, and its character and uniqueness, should be preserved; and

"Whereas, the Congaree Swamp has been studied by the South Carolina Wildlife and Marine Resources Commission as a site for a National Preserve because "the geological and biological attributes of the area are in themselves worthy of national recognition and all the more so since they are unique . . ."; and

"Whereas, the use of a portion of Congaree Swamp as a National Preserve or monument would be of significant value to the State of South Carolina for educational, scientific, recreational and wildlife conservation purposes; and

"Whereas, further delay in the consideration of a preserve area in this great swamp may result in irreparable damage to this unique. Now, therefore,

"Be it resolved by the House of Representatives:

"That the Congress of the United States be memorialized to expeditiously legislate the establishment of a natural area in the Congaree Swamp to preserve these historically significant and national champion trees.

"Be it further resolved that a copy of this resolution be forwarded to each member of the United States Congress from South Carolina and to the Clerks of the United States House of Representatives and Senate."

A resolution adopted by the Town of Greenwood, N.Y., disapproving stricter gun laws; to the Committee on the Judiciary.

Senate Joint Resolution No. 140 adopted by the Legislature of the State of Tennessee; to the Committe on Finance:

"SENATE JOINT RESOLUTION NO. 140

(By Nave)

"A resolution to urge Congress to extend federal revenue sharing

"Whereas, The present federal law enacting revenue sharing with state and local governments expires in December, 1976; and

"Whereas, The expiration date falls in the middle of the next fiscal year for Tennessee state government; and

"Whereas, Federal revenue sharing in the past fiscal year provided over 39½ million dollars to the state government, which earned in excess of another ½ million dollars in interest; and

"Whereas, Failure of the Congress to extend federal revenue sharing would result in curtailment of services or a tax increase; and

"Whereas, The Congress should move swiftly on this issue one way or the other, since legislatures now in session need to know what level of funding will be available after December, 1976, so that budgets for fiscal years starting on July 1 can be enacted responsibly; now therefore,

"Be it resolved by the Senate of the Eighty-Ninth General Assembly of the State of Tennessee, the House of Representatives concurring, That the United States Congress is urged to extend federal revenue sharing and to act as quickly as possible.

"Be it further resolved, That a copy of this resolution be forwarded to Vice-President Nelson Rockefeller, Speaker Carl Albert, President Gerald R. Ford and to each member of Tennessee's congressional delegation."

Resolution adopted by the Charter Township of Meridian, Mich., relating to Federal Revenue Sharing; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations, with amendments:

H.R. 9721. An Act to provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes (Rept. No. 94-673).

By Mr. MANSFIELD (for Mr. RIBICOFF), from the Committee on Government Operations, without amendment, referred to the Committee on Rules and Administration, by unanimous consent:

S. Res. 400. A resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes (Rept. No. 94-675).

By Mr. CANNON, from the Committee on Rules and Administration, with amendments:

S. Res. 104. A resolution relative to Select Committee on Small Business (Rept. No. 94-674).

COMMITTEE DISCHARGED FROM FURTHER CONSIDERATION OF S. 2893

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Government Operations be discharged from further consideration of S. 2893, a bill to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes and that the bill be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SCHWEIKER:

S. 3057. A bill to amend the Truth in Lending Act to protect consumers from the unauthorized disclosure of information relating to credit card transactions. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. ALLEN:

S. 3058. A bill to require certain employees of the United States to file a statement of income and net worth annually with the Comptroller General of the United States. Referred to the Committee on Government Operations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHWEIKER:

S. 3057. A bill to amend the Truth in Lending Act to protect consumers from the unauthorized disclosure of information relating to credit card transactions. Referred to the Committee on Banking, Housing and Urban Affairs.

UNAUTHORIZED DISCLOSURE OF INFORMATION RELATING TO CREDIT CARD TRANSACTIONS

Mr. SCHWEIKER. Mr. President, I send to the desk for appropriate reference a bill to amend the Truth in Lending Act to protect consumers from the unauthorized disclosure of information relating to credit card transactions.

The recent hearings of the Privacy Protection Study Commission have produced shocking disclosures. Credit card records have been turned over to Government investigators without court order or customer knowledge, and in some cases private attorneys have been given credit information simply because they asked for it—without any claim of right or privilege. Even foreign governments have apparently been able to get U.S. credit card companies to divulge information about American citizens, again without any notification to the customer.

Mr. President, the incredible extent of this invasion of privacy is nearly beyond comprehension—more than half a billion credit cards are used in this country, accounting for an estimated $120 billion of business each year. If even a miniscule percentage of these credit files have been compromised, then literally millions of Americans have had their privacy invaded. And this is not some abstract theoretical invasion of privacy—David F. Linowes, Chairman of the Privacy Commission, described the impact as follows:

> The universality of credit cards means that information about specific people can be selected and made available merely by punching a few keys in a computer. First, the credit bureaus track down credit-worthiness before cards are issued. Then information continues all along the line—what people buy, where they travel, where they stay, the magazines they subscribe to and the reservations they make.
>
> All of these things get into computer data banks where a profile of an individual can be designed. The resulting picture can show whether an individual is liberal or conservative, his affluence and habits.

In the course of the recent Privacy Commission hearings, American Express announced that, in the future, it will notify its cardholders when their records are subpenaed. BankAmericard said they already attempt to notify their customers by phone. But no one voluntarily endorsed what seems to me the obvious, simple standard that should apply; that is, no one should have access to any information from any cardholder's file, for any purpose, in the absence of a court order or the cardholder's consent.

Certainly that is the standard an overwhelming majority of U.S. credit cardholders would have assumed to be applicable—and that is the standard which my bill today would enact into Federal law. My bill does not attempt to deal with all of the complex questions in the privacy area; the recommendations of the Privacy Commission will do that, when their hearings are complete. But those recommendations may not be made for months, and it may be literally years before comprehensive legislation in this field can be passed. In the meantime, my bill will insure fundamental protection of the privacy rights of American citizens who have credit cards.

Specifically, my bill has the following provisions: First, it amends the Truth in Lending Act to prohibit any disclosure of information relating to a cardholder's account without the consent of the cardholder. Second, it provides that when credit information is disclosed by a card issuer in response to a subpena, the cardholder must be notified. Finally, this measure preserves the right of a merchant honoring a credit card to validate the existence of the credit account, or the account balance, so normal commercial transactions are not in any way complicated by this measure.

Under the Truth in Lending Act which is amended by my bill, the Federal Reserve Board has broad authority to establish implementing regulations, and all Federal banking agencies, as well as the Federal Trade Commission and other specified Federal agencies, have enforcement authority. Federal court jurisdiction exists, and civil penalties for violations range from $100 to $1,000 per violation, plus attorneys' fees and court costs; class actions and criminal sanctions are also possible.

In summary, Mr. President, my bill simply enacts into Federal law the basic standard of confidentiality that every American is entitled to expect in regard to personal financial transactions. It is a standard which can be easily adopted, effectively administered, without serious commercial complications. I urge prompt action on this measure.

I ask unanimous consent that this bill be printed in the Record, together with news articles detailing the abuses disclosed by the Privacy Commission.

There being no objection, the bill and article were ordered to be printed in the Record, as follows:

S. 3057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 2 of the Truth in Lending Act is amended by adding at the end thereof the following new section:

"§ 136. Confidentiality

"(a) Except as provided in subsection (b), a card issuer may not provide any records or information relating to a cardholder's use of that issuer's credit card to a third party without the consent of the cardholder.

"(b) A card issuer may not provide any records or information relating to a cardholder's use of that issuer's credit card to any third party in response to a subpena unless the card issuer notifies the cardholder of the receipt of the subpena.

"(c) A communication between a card issuer and a person who has agreed to honor that issuer's card to validate the existence of a credit card account or to determine the balance of an account does not violate this section."

(b) The analysis of such chapter is amended by adding at the end thereof the following new item:

"135. Confidentiality.".

[From the Washington Post, Feb. 12, 1976]

Credit Privacy Invaded—Data Yielded By American Express Co.

(By Nancy Ross)

New York, February 11.—American Express, which has more than 6 million credit card holders around the world, revealed today that it routinely supplies information about its customers' finances to government agencies and even to private attorneys. Moreover, it declines to notify its card holders who is investigating them.

Executives of the American Express Co. testified today at a hearing on the credit card industry, and related fields, held by the Privacy Protection Study Commission. This body was appointed jointly by the executive and legislative branches in June 1975 to determine whether the provisions of 1974 privacy act should extend to the private sector. The act requires all federal agencies to disclose to the individual concerned what information it may have on him or her and to prevent that information from being used for purposes other than that for which it was collected.

James M. Stetler, vice president for marketing and development of the credit card division, and assistant general counsel Gary Beller declared that American Express receives several hundred subpoenas or court orders a year to furnish information to the Justice Department, the Internal Revenue Service, the Immigration Service, the Drug Enforcement Agency or private atttorneys in matrimonial cases. Information provided by American Express details a cardholder's transactions. From this, for example, an interested party could determine if an individual spent the night in a certain hotel or spent a lot of money in a given store on particular merchandise.

The fact of the investigation is not revealed to cardholder by the company which takes the position that the government agency or other investigator should inform the individual. Some clients, however, apparently do get wind of investigations and demand angrily to know why American Express is releasing such information. When asked by Rep. Edward Koch (D-N.Y.) whether the giving of such information violated the company's fiduciary relations to its customers, the witnesses replied their primary obligation was to obey the law—answer the subpoenas.

Koch pressured further and asked whether the company would be willing to inform customers in advance of such investigations before giving up the evidence, Beller replied, "I can see us getting involved in motions to quash subpoenas. This would add to the cost of our operations."

American Express also requests customers' Social Security numbers, although officials could think of no valid reason for so doing except as proof in fraud cases.

Beller testified that foreign governments—France was the only one he named—have occasionally sought American Express records to discover if their citizens have violated foreign currency regulations.

[From U.S. News & World Report, Feb. 23, 1976]

Credit Cards: Growing Concern Over Your Privacy

New York City.—New disclosures here are fueling suspicions of millions that their private credit-card data may not be so private, after all.

Officials of some of the nation's largest credit-card concerns told a federal commission that tax investigators, law-enforcement authorities and other arms of the Government have been able to get hold of credit information—often without the knowledge of the person under scrutiny.

The company officials insisted that such disclosures are few and are made in response to legal orders.

"Abuse of privacy is the exception, rather than the rule," said James M. Stetler, a vice president of American Express Company, one of the largest credit-card companies. Mr. Stetler and other industry officials testified in hearings held here February 11–13 by the U.S. Privacy Protection Study Commission, set up by the Privacy Act of 1974. The panel is looking into how the multi-billion-dollar industry safeguards confidential information.

The investigation is being conducted with "an open mind," said David F. Linowes, chairman of the Commission. But he warned that the trails credit cards leave behind them could be dangerous. If such information should get into the hands of organized crime, for instance, there could be attempts at blackmail and other misuse, Mr. Linowes noted.

PUNCHING A FEW KEYS

Of special concern to the Commission is the use of credit-card information in computers. Mr. Linowes said:

"The universality of credit cards means that information about specific people can be selected and made available merely by punching a few keys in a computer. First, the credit bureaus track down credit-worthiness before cards are issued. Then information continues all along the line—what people buy, where they travel, where they stay, the magazines they subscribe to and the reservations they make.

"All of these things get into computer data banks where a profile of an individual can be designed. The resulting picture can show whether an individual is liberal or conservative, his affluence and habits."

William Dunkelberg, associate director of the Credit Research Center at Purdue University, estimated that more than a half billion cards for credit, charges or cash transfers are in use in the United States. They account for at least 120 billion dollars in transactions a year, he said.

Many businesses in the credit-card field are disturbed by the Commission's investigation.

At the hearings here, spokesmen for American Express conceded that under subpoena the company releases information on cardholders to the Federal Government and private attorneys without informing their customers. The company later announced it will notify cardholders when records are subpoenaed. Other companies—BankAmericard, for one—said they attempt to notify their customers by phone.

Mr. Stetler told of steps taken by American Express to keep information confidential. Access to a customer's purchasing record is limited to a few key personnel, he said. Further, he testified, the company changes weekly the "password" needed by computer operators to get access to customer records.

John Reynalds, president of Interbank Card Association, which administers the Master Charge card, and Dee W. Hock, Jr., president of National BankAmericard, Inc., asserted that much of the information about the financial condition of their cardholders is decentralized. Customer records for these two bank cards, they testified separatley, are kept at individual banks rather than in a central computer.

Industry representatives said that they do not keep cardholders' billing records over a long period of time because it is too costly to do so. Records are kept only for the month in which the bill is mailed to the customer.

According to the companies, increased supervision by the Government would add to the cost of doing business.

W. Lee Burge, president of Equifax, Inc., an Atlanta company that digs into credit backgrounds for card distributors, told *U.S. News & World Report* that the commission's fears are "farfetched in some respects." Laws already restrict the gathering of data on individuals, he said. Mr. Burge added:

"Most of the criticism that has come our way is a lack of understanding of the need for information in the credit field."

Adds another spokesman for a popular credit-card company: "The only thing we are interested in about an individual is whether he's a deadbeat."

PLANNING TO PUSH ON

The Commission, however, made clear that it intends to pursue its study.

Besides the credit-card companies, witnesses at the New York hearings included representatives of American Telephone & Telegraph, Atlantic Richfield, retail stores, airlines and other companies offering credit.

In nearly all cases, they aimed to dispel the concern described by Representative Edward I. Koch (Dem.), of New York, a member of the Commission. He declared: "There's a gut feeling that lots of people have that their privacy is not being respected."

[From the New York Times, Feb. 12, 1976]

Policies on Privacy Differ in the Credit-Card Industry

(By Richard Phalon)

The Privacy Protection Study Commission was told yesterday that the Bank of America regularly attempts to notify a customer if Federal or other law enforcement agencies subpoena his records, while the American Express Company does not.

Testimony to that effect came from officials of both concerns at the first of a three-day series of hearings into how the credit card industry handles and safeguards confidential information supplied by customers.

The divergent policies followed with the Internal Revenue Service and other governmental agencies came to light when Representative Edward I. Koch, one of the two legislators on the Commission, questioned James M. Stetler, a vice president of the American Express Company, and Kenneth Larken, a senior vice president of the Bank of America.

ACCOMPANIED BY SUBPOENA

Mr. Stetler told the Commission which is operating under a Congressional mandate to look into actual or potential invasions of individual privacy, that American Express does require the Internal Revenue Service and other governmental agencies to produce a subpoena before agreeing to turn over a consumer's records.

The American Express official said requests from private lawyers also had to be accompanied by a subpoena, including those "involved in matrimonial problems."

"Have there been occasions when the Internal Revenue Service has gotten information from American Express without the company informing the account?" asked Mr. Koch.

The question was fielded by Gary Beller, an assistant general counsel for the company who accompanied Mr. Stetler.

"We don't have the practice of notifying the account," he told the Manhattan Democrat, and added "I guess the company has taken the position if notification is required, either the court would notify (the individual)," or the "regulations" would require the I.R.S. itself to provide notification.

"As an attorney you know that's not so," Mr. Koch rejoined.

"No, but there have been a number of cases where people have been informed, even though it's not required," Mr. Beller said.

He also said that American Express had "no fiduciary responsibility" to notify its clients when a subpena was out. Mr. Koch suggested customers would not have time to move to quash a subpoena if they were not warned of its existence.

Mr. Beller also told the hearing which was held at 26 Federal Plaza, that he as "an attorney could see us getting involved in a lot of motions to quash" if American Express followed the same policy as the Bank of America.

As explained to the commission by Kenneth Larken and Susan Hedemann, an associate general counsel, the Bank of America policy is to regularly notify both by telephone and in writing, a customer whose records are being sought by the I.R.S. or law enforcement agencies.

Miss Hedemann told the * * * that two California court cases, one of them decided last December, made it mandatory for the bank and other financial institutions to notify customers if their records had been subpoenaed in civil cases.

REASON FOR DIFFERENCE

State law aside, one major reason for the difference in policy between the two credit card companies may lie in the fact the Bank of America is a bank, whereas American Express is not.

The common law has long put the burden of confidentiality on bank records, but is not so clearly defined in the case of nonbank financial institutions such as American Express.

David F. Linowes, chairman of the Commission, said there had been thus far "no demonstration" of widespread abuses of confidential information in the credit card industry.

Other witnesses who testified yesterday included Dee W. Hock Jr., president of National BankAmericard Inc.; John Reynalds, president of the Interbank Card Association; and Jeremiah S. Gutman, an attorney for the American Civil Liberties Union.

Mr. Linowes said, however, that there was the "potential" for such abuse, and added that in his view "a lot of power was concentrated in very few hands."

The hearing is scheduled to resume today at 10 a.m.

[From the Washington Post, Feb. 13, 1976]

BELL SYSTEM, ARCO GAVE CREDIT DATA

(By Nancy L. Ross)

NEW YORK, February 12.—Telephone and gasoline credit card records are being turned over to the FBI without a court order or the customer's knowledge, a government investigation of privacy invasions was told today. It also learned of a credit bureau that sold information on its subjects back to them on the pretext of protecting them against unlimited access to their files.

On the second day of testimony before the Privacy Protection Study Commission, William Caming, an attorney for American Telephone & Telegraph Co., said the Bell System has tightened its dissemination of credit data in the past two years and no longer discloses unsubpoenaed records—except in certain cases.

Under questioning by a commission member, Rep. Edward I. Koch (D-N.Y.), Caming said that a personal request from the FBI director, his assistant or a congressional committee conducting a formal investigation was sufficient for AT&T to produce records of long-distance calls, and in some cases the names of both parties involved in a collect call. This information also would be produced in cases of national security, Caming said.

Koch demanded to know why AT&T did not require everyone—including the FBI director—to obtain a court order and let a judge decide whether to give out data without telling the card-holder. Caming replied it might not be in society's best interest to do so because it might hinder law enforcement. He spoke of a delicate balance between "considerations for customers and considerations in crime," and said it was up to Congress—not AT&T—to decide to which side the scales should tip. Caming compared the magnitude of deciding on the toll-call information to deciding on wiretapping.

In virtually no situation is an FBI request revealed to the card-holder. Theoretically the company will tell the customer after 90 days, unless the FBI or other official investigator objects, but only if the customer asks who has been seeking information about him. In past practice, the customer almost never found out.

Koch won a promise from Caming to inform anyone who suspects that his past telephone records might have been requested by the government. The company also promised to furnish such information in the future, subject to the 90-day rule. Interested parties need only inquire at their local telephone business office. Caming said later he expected an "avalanche" of inquiries.

Atlantic Richfield Co.'s retail credit manager, Rudolph J. Megaro, declined to give an assurance that his firm would comply with such requests, although he agreed "philosophically" that ARCO customers should have the right to know who is looking into their charge records.

Megaro told the commission ARCO had received 550 requests in 1975 from federal, state and local law enforcements agencies to provide information on customer's accounts. While about 500 of these dealt with stolen or lost credit cards, others concerned mail fraud or civil or criminal cases, he said.

Some of ARCO's requests were from the Internal Revenue Service, the FBI, the Federal Energy Administration and various courts.

Megaro said that ARCO did not supply information on its customers' accounts to other credit card companies or credit reporting bureaus. With a little prodding from Koch, Megaro admitted he felt "queasy" about supplying information to the FBI and the IRS especially without telling the customer. He said industry would be more comfortable with "guidelines," but opposed applying privacy regulations now in effect for the federal government to private industry, mainly because of the cost.

Support for extending the privacy rules beyond government came from Rep. Bella S. Abzug (D-N.Y.), who chaired the congressional subcommittee that oversees the privacy act. Abzug told how a credit bureau in Nashua, N.H., tried to "ransom" credit files by selling them back to the subjects.

The bureau told the subjects it had copies of personal financial information for sale for $7.50, she said. The letter continued, "We have decided to give you a chance to obtain sole possession of your complete file before it becomes part of a large computerized data bank, which may allow unlimited access by thousands of people."

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 3

At the request of Mr. KENNEDY, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 3, a bill to create a national system of health security.

S. 2402

At the request of Mr. FONG, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 2402, a bill to amend section 37 of the Internal Revenue Code of 1954 to make the tax treatment of retirement income comparable to that of social security income.

S. 2960

At the request of Mr. HUMPHREY, the Senator from Idaho (Mr. CHURCH) and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of S. 2960, a bill to provide for quarterly adjustments in the support price for milk, and for other purposes.

S. 3004

At the request of Mr. HUMPHREY, the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Wyoming (Mr. McGEE) were added as cosponsors of S. 3004, a bill to establish a National Commission on Food Costs and Pricing to appraise the food marketing industry.

S. RES. 319

At the request of Mr. CURTIS, the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Wisconsin (Mr. NELSON) were added as cosponsors of Senate Resolution 319, relating to the occupation of certain Baltic Nations by the Soviet Union.

SENATE RESOLUTION 400—SUBMISSION OF A RESOLUTION TO ESTABLISH A STANDING COMMITTEE OF THE SENATE ON INTELLIGENCE ACTIVITIES

(Referred to the Committee on Government Operations.)

(Referred to the Committee on Rules and Administration.)

Mr. MANSFIELD (for Mr. RIBICOFF, for himself, Mr. CHURCH, Mr. PERCY, Mr. BAKER, Mr. BROCK, Mr. CHILES, Mr. GLENN, Mr. JAVITS, Mr. MONDALE, Mr. NUNN, Mr. ROTH, Mr. SCHWEIKER, Mr. WEICKER, Mr. MORGAN, and Mr. HUD-

DLESTON) submitted the following resolution:

S. RES. 400

Resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

Resolved, That it is the purpose of this resolution to establish a new standing committee of the Senate, to be known as the Committee on Intelligence Activities, to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation concerning such intelligence activities and programs. In carrying out this purpose, the Committee on Intelligence Activities shall make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.

SEC. 2. Rule XXIV of the Standing Rules of the Senate is amended by adding at the end thereof a new paragraph as follows:

"3. (a) Six members of the Committee on Intelligence Activities shall be from the majority party of the Senate and five members shall be from the minority party of the Senate.

"(b) No Senator may serve on the Committee on Intelligence Activities for more than six years of continuous service, exclusive of service by any Senator on such committee during the Ninety-fourth Congress. To the greatest extent practicable, at least three but not more than four Members of the Senate appointed to the Committee on Intelligence Activities at the beginning of the Ninety-sixth Congress and each Congress thereafter shall be Members of the Senate who did not serve on such committee during the preceding Congress.

"(c) At the beginning of each Congress, the members of the Committee on Intelligence Activities who are members of the majority party of the Senate shall select a chairman, and the members of such committee who are from the minority party of the Senate shall elect a vice chairman. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the Committee on Intelligence Activities shall at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 6(f) of rule XXV of the Standing Rules of the Senate.".

SEC. 3. (a) Paragraph 1 of rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following new subparagraph:

"(s) Committee on Intelligence Activities, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

"(A) The Central Intelligence Agency and the Director of Central Intelligence.

"(B) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

"(C) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

"(D) Authorizations for appropriations for the following:

"(i) The Central Intelligence Agency.

"(ii) The Defense Intelligence Agency.

"(iii) The National Security Agency.

"(iv) The intelligence activities of other agencies and subdivisions of the Department of Defense.

"(v) The intelligence activities of the Department of State.

"(vi) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

"(vii) Any department, agency, or subdivision which is the successor to any agency named in item (i), (ii), or (iii); and the activities of any department, agency, or subdivision which is the successor to any department or bureau named in item (iv), (v), or (vi) to the extent that the activities of such successor department, agency, or subdivision are activities described in item (iv), (v), or (vi).".

(b) Paragraph 3 of rule XXV of the Standing Rules of the Senate is amended by inserting:

"Intelligence Activities________________ 11"

immediately below

"District of Columbia__________________ 7".

(c)(1) Subparagraph (d) of paragraph 1 of rule XXV of the Standing Rules of the Senate is amended by inserting "(except matters specified in subparagraph (s))" immediately after the word "matters" in the language preceding item 1.

(2) Subparagraph (i) of paragraph 1 of such rule is amended by inserting "(except matters specified in subparagraph (s))" immediately after the word "matters" in the language preceding item 1.

(3) Subparagraph (j)(1) of paragraph 1 of such rule is amended by inserting "(except matters specified in subparagraph (s))" immediately after the word "matters" in the language preceding item (A).

(4) Subparagraph (l) of paragraph 1 of such rule is amended by inserting "(except matters specified in subparagraph (s))" immediately after the word "matters" in the language preceding item 1.

SEC. 4. (a) The Committee on Intelligence Activities of the Senate, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters deemed by the Committee on Intelligence Activities to require the immediate attention of the Senate or such other committee or committees. In making such reports, the committee shall proceed in a manner consistent with paragraph 7(c)(2) to protect national security.

(b) The Committee on Intelligence Activities of the Senate shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such report shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interests. Such report shall be unclassified and shall be made available to the public by the Committee on Intelligence Activities. Nothing herein shall be construed as requiring the disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the sources of information on which such reports are based.

SEC. 5. (a) No person may be employed as a professional staff member of the Committee on Intelligence Activities of the Senate or be engaged by contract or otherwise to perform professional services for or at the request of such committee for a period totaling more than six years.

(b) No employee of such committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing to be bound by the rules of the Senate and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 6. The Committee on Intelligence Activities of the Senate shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 7. (a) The Committee on Intelligence Activities of the Senate may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote.

(b)(1) In any case in which the Committee on Intelligence Activities of the Senate votes to disclose publicly any information submitted to it by the executive branch which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is vital and outweighs any public interest in the disclosure.

(3) The Committee on Intelligence Activities may disclose publicly such information at any time after the expiration of three days following the day on which it receives an objection from the President pursuant to paragraph (2), unless, prior to the expiration of such three days, three or more members of such committee file a request in writing with the chairman of the committee that the question of public disclosure of such information be referred to the Senate for decision.

(4) In any case in which the Committee

on Intelligence Activities votes not to disclose publicly any information submitted to it by the executive branch which the executive branch requests be kept secret, such information shall not be publicly disclosed unless three or more members of such committee file, within three days after the vote of such committee disapproving the public disclosure of such information, a request in writing with the chairman of such committee that the question of public disclosure of such information be referred to the Senate for decision, and public disclosure of such information is thereafter authorized as provided in paragraph (5) or (6).

(5) Whenever three or more members of the Committee on Intelligence Activities file a request with the chairman of such committee pursuant to paragraph (3) or (4), the chairman shall, not later than the first day on which the Senate is in session following the day on which the request is filed, report the matter to the Senate for its consideration.

(6) One hour after the Senate convenes on the first day on which the Senate is in session following the day on which any such matter is reported to the Senate, the Senate shall go into closed session and the matter shall be the pending business. In considering the matter in closed session the Senate may—

(A) approve the public disclosure of the information in question, in which case the committee shall publicly disclose such information.

(B) disapprove the public disclosure of the information in question, in which case the committee shall not publicly disclose such information, or

(C) refer the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the consideration of such matter in closed session, which may not extend beyond the close of the fifth day following the day on which such matter was reported to the Senate, the Senate shall immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph.

(c)(1) No classified information in the possession of the Committee on Intelligence Activities relating to the lawful intelligence activities of any department or agency of the United States which the committee or the Senate, pursuant to subsections (a) or (b) of this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The Committee on Intelligence Activities, or any member of such committee, may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the Committee on Intelligence Activities, or any member of such committee, makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee, which, receives any information under this subsection, shall make the information available to any other person, except that a Senator may make such information available either in a closed session of the Senate, or to another Member of the Senate; however, a Senator who communicates such information to another Senator not a member of the committee shall promptly inform the Committee on Intelligence Activities.

(d) The Select Committee on Standards and Conduct may investigate any alleged disclosure of intelligence information by a Member, officer, or employee of the Senate in violation of subsection (c). At the request of five of the members of the Committee on Intelligence Activities or sixteen Members of the Senate, the Select Committee on Standards and Conduct shall investigate any such alleged disclosure of intelligence information and report its findings and recommendations to the Senate.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of Member, or removal from office or employment, in the case of an officer or employee.

SEC. 8. The Committee on Intelligence Activities of the Senate is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

SEC. 9. Upon expiration of the Select Committee on Governmental Operations With Respect to Intelligence Activities, established by S. Res. 21, Ninety-fourth Congress, all records, files, documents, and other materials in the possession, custody, or control of such committee, under appropriate conditions established by it, shall be transferred to the Committee on Intelligence Activities.

SEC. 10. (a) It is the sense of the Senate that the head of each department and agency of the United States should keep the Committee on Intelligence Activities of the Senate fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency.

(b) It is the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should furnish any information or document in the possession, custody, or control of the department or agency, or witness in its employ, whenever requested by the Committee on Intelligence Activities of the Senate with respect to any matter within such committee's jurisdiction.

(c) It is the sense of the Senate that each department and agency of the United States should report immediately upon discovery to the Committee on Intelligence Activities of the Senate any and all intelligence activities which constitute violations of the constitutional rights of any person, violations of law, or violations of Executive orders, Presidential directives, or departmental or agency rules or regulations; each department and agency should further report to such committee what actions have been taken or are expected to be taken by the departments or agencies with respect to such violations.

SEC. 11. It shall not be in order in the Senate to consider any bill or resolution, or amendment thereto, or conference report thereon, which appropriates funds for any fiscal year beginning after September 30, 1976, to, or for the use of, any department or agency of the United States to carry out any of the following activities, unless such funds have been previously authorized by law to carry out such activity for such fiscal year—

(1) The activities of the Central Intelligence Agency.

(2) The activities of the Defense Intelligence Agency.

(3) The activities of the National Security Agency.

(4) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(5) The intelligence activities of the Department of State.

(6) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

SEC. 12. (a) The Committee on Intelligence Activities shall make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness on planning, gathering, use, security, and dissemination of intelligence—

(1) the quality of the analytical capabilities of United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;

(2) the extent and nature of the authority of the departments and agencies of the executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;

(3) the organization of intelligence activities in the executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;

(4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;

(5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;

(6) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguarding of sensitive intelligence information;

(7) the authorization of funds for the intelligence activities of the government and whether disclosure of any of the amounts of such funds is in the public interest; and

(8) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

(b) The Committee on Intelligence Activities of the Senate shall report the results of the study provided for under subsection (a) to the Senate, together with any recommendations for legislative or other actions it deems appropriate, no later than July 1, 1977, and from time to time thereafter as it deems appropriate.

SEC. 13. (a) As used in this resolution, the term "intelligence activities" includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons. Such term does not include tactical foreign military intelligence serving no national policymaking function.

(b) As used in this resolution, the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this resolution, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence activities now conducted by the department, agency, bureau, or subdivision referred to in this resolution.

SEC. 14. Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

Mr. BAKER. Mr. President, I am gratified by the opportunity to cosponsor the Senate resolution submitted today to establish a Standing Committee on Intelligence Activities, and I commend the several members of the Government Operations Committee and the Select Committee on Intelligence Activities which have participated in this endeavor.

As may be recalled, I declined to cosponsor S. 2893, the Intelligence Oversight Act introduced by my distinguished colleague from Idaho (Mr. CHURCH) and other members of the select committee, because I strongly objected to two provisions of that bill. Specifically, I opposed the provisions requiring prior notice of covert or clandestine operations as a condition precedent to executive action, and allowing declassification of executive documentation over the objection of the President by a majority vote of an individual Senate committee. Consequently, I am pleased that the Government Operations Committee deleted the prior notice requirement in this resolution, while retaining the stricture that the new oversight committee be "fully and currently informed." In my opinion, the former requirement was fraught with practical and constitutional difficulty, and prevented my cosponsorship of the so-called Church committee bill, notwithstanding my active support for congressional oversight legislation and my participation in the drafting of that bill.

I remain concerned about the provisions for disclosure of classified information over the objection of the President as are contained in section 7 of this resolution which I am today cosponsoring. As I indicated in my testimony before the Government Operations Committee, and in subsequent communication with Senator PERCY, I believe that such disclosure over Presidential objection should occur only by a majority vote of the full Senate, at the very least, and preferably by concurrent resolution of the two Houses of Congress. After all, it is the aggregation of the House of Representatives and the Senate that constitute the coordinate branch of Government; and I believe that it would be constitutionally more appropriate for the full Congress to overrule a determination of confidentiality by the President.

To the extent that this resolution provides for disclosure by the proposed new committee, unless three Members thereof object in writing, or disclosure by the committee upon referral by the Senate, I am in disagreement; and I wish to apprise my colleagues that, should these provisions reach the floor of the Senate unaltered, I will attempt to amend the resolution to prohibit disclosure of confidential information over Presidential objection unless such disclosure is authorized by concurrent resolution of the House and Senate.

Other than this remaining objection, I think that this resolution is an appropriate and timely vehicle for enhancing and elaborating congressional oversight of the U.S. intelligence effort. Such proposals have been before the Congress for over 20 years, and I congratulate the Government Operations Committee for its thoughtful and intensive hearings and for its wisdom in reporting this resolution to the Senate. I look forward to further consideration of this proposal and to the views and alternative proposals of my colleagues.

Mr. President, I ask unanimous consent that a letter from me to the distinguished ranking member of the Government Operations Committee (Mr. PERCY) in response to his request for my specific views of S. 2893 be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEBRUARY 17, 1976.

Hon. CHARLES H. PERCY,
Committee on Government Operations,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I am pleased to further elaborate my views of intelligence oversight legislation currently before the Government Operations Committee and, specifically, of S. 2893, the bill introduced by Senator Church and seven other members of the Senate Select Committee on Intelligence Activities.

As I indicated both during the deliberations of the Select Committee and on the floor of the Senate, I consider two provisions of S. 2893 to be highly undesirable. To be precise, I respectfully recommend to the Government Operations Committee that Section 10 be deleted in its entirety and that Subsections (c) and (d) be stricken from Section 13.

With respect to Section 10, and as I have stated previously, I do not believe that information transmitted from the Executive Branch to the Congress should be disclosed publicly, over the objection of the President, other than by a majority vote of the full Senate, rather than by a determination by a committee upon referral as is provided in Section 10. Rather than the adoption of Section 10, I strongly suggest that Rule XXXVI of the Standing Rules of the Senate be amended so as to clarify that disclosure of classified documentation shall not occur over the objection of the President without leave of the full Senate, as expressed by an affirmative vote of the Senate on the issue of disclosure.

I would strike Subsections (c) and (d) of Section 13 because those provisions are fraught with constitutional and practical difficulty. Notwithstanding my support for effective and vigorous Congressional oversight of the intelligence community, and notwithstanding my belief that the conduct of intelligence activities must become a cooperative undertaking between the coordinate Branches of Government, I find that the provision of prior notice to Congress of clandestine operations, as a condition precedent to such undertakings, is incompatible with the President's constitutional powers to conduct foreign policy and to act as Commander in Chief. This sense of incompatibility becomes especially poignant when required prior notice is coupled with the threat of disclosure, thereby constituting an effective veto power.

As I have often stated, the requirement, provided in Section 13(a), that the oversight committee be "fully and currently informed" enjoys the benefit of over 20 years of precedent dating from the passage of the Atomic Energy Act. This requirement has afforded the Joint Committee on Atomic Energy timely and informed notice of sensitive operations and will provide the new oversight committee with a sufficient mandate to require information of the Executive Branch.

I also am disturbed, albeit less strenuously, by the provision in Section 5 of S. 2893 stating that the current jurisdiction of other Senate committees shall not be repealed or diminished by the provisions of that bill. In my opinion, a new oversight committee can be effective only if it is a single-purpose, primary oversight committee which is solely charged with the important business of intelligence oversight. Furthermore, I sympathize with the complaints of the intelligence community that the Central Intelligence Agency currently is required to brief six Congressional subcommittees on intelligence matters; and I think that the retention of dual or concurrent jurisdictions between the existing committees and the new committee will create an unwieldy and unworkable situation.

While I understand that the Government Operations Committee is required to submit a report on S. 2893 not later than March 1 of this year, I also commend to the Committee during its mark-up sessions the approach adopted in S. 317, the Joint Committee on Intelligence Oversight Act introduced by Senator Lowell Weicker and myself. That legislation, as does S. 2893, provides that the new committee should possess exclusive funding authorization jurisdiction and makes clear that the new committee's authorization and oversight jurisdiction encompasses the national security activities of the Federal Bureau of Investigation, authorities which I consider to be integral elements of coordinated, effective oversight.

Additionally, in defining those "intelligence activities" which are subject to the jurisdiction of the new oversight committee, I suggest that your committee take cognizance of ad hoc intelligence operations, such as the infamous Plumbers Group, so as to make clear that the new committee is to receive full and current information of all intelligence activities, whether or not such activities are conducted by those departments and agencies which fall within the committee's primary jurisdiction.

Finally, while I am disturbed greatly by the recent unauthorized disclosures of intelligence information, and while I fully support strengthening the sanctions against such disclosure by Members of Congress and their staffs, I wish to respectfully submit that the establishment of an effective Congressional oversight capability, and the strengthening of prohibitions against "leaks" are not mutually exclusive. I think it unfortunate that the impetus for effective Congressional oversight of the intelligence community has been somewhat diminished by the irresponsible conduct of a few, and I believe that the recent and contemptible experience of Congress in maintaining the confidentiality of information will be at least partially remedied by the establishment of a formal and responsible committee arrangement for intelligence oversight.

Thank you again for requesting and considering my views.

Yours very truly,

HOWARD H. BAKER, JR.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that a resolution (S. Res. 400) submitted earlier be referred to the Committee on Rules and Administration which would, in accordance with the prior unanimous-consent agreement, be under obligation to be reported to the Senate no later than March 20, 1976.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Robert E. Lee, of Colorado to be a member of the Foreign Claims Settlement Commission of the United States for a term of 3 years from October 22, 1975, vice Lyle S. Garlock.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, March 8, 1976, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ANNOUNCEMENT OF CONTINUED HEARINGS IN PREPARATION FOR THE FIRST CONCURRENT RESOLUTION

Mr. MUSKIE. Mr. President, the Senate Budget Committee continues public hearings on the first concurrent resolution on the budget for fiscal 1977 on March 2, 4, 5, and March 9, 10, 11.

These hearings will provide valuable information to the Budget Committee for making decisions on the first concurrent resolution on the budget, which must be reported by the committee to the Senate by April 15. This first concurrent resolution on the budget will set targets for total budget outlays and total new budget authority as well as targets for spending in each major functional category of the budget. The first resolution will also specify targets for revenues for the coming fiscal year as well as the surplus or deficit in the budget which is appropriate in light of economic conditions and all other relevant factors.

On Tuesday, March 2, the topic will be "Retirement Programs and the 1977 Budget." The witnesses will be Commissioner of the Social Security Administration James B. Cardwell; Prof. William Hsiao, an actuary, formerly with HEW; Dr. Robert Ball of the Institute of Medicine and former Commissioner of the Social Security Administration; and Dr. Otto Eckstein, president of Data Resources, Inc.

On Thursday, March 4, the topic will be "monetary policy" and Chairman of the Federal Reserve Board Arthur Burns will testify.

"Foreign Policy and the Budget" is the topic of the hearing on Friday, March 5. Under Secretary of State for Political Affairs Joseph J. Sisco will testify.

On Tuesday, March 9, the topic will be "The Defense Budget." Secretary of Defense Donald H. Rumsfeld will testify at 10 a.m. At 2 p.m., Mr. Paul C. Warnke, former Assistant Secretary of Defense, will testify before the committee.

"Economic Forecast—Projections for Fiscal Year 1977" is the topic for our hearing on Wednesday, March 10. The witnesses will be Senator Hubert H. Humphrey, chairman of the Joint Economic Committee; Dr. Walter W. Heller, former Chairman of the Council of Economic Advisers; and Dr. Paul McCracken, former Chairman of the Council of Economic Advisers.

On Thursday, March 11, the topic will be "Labor and Management View the Budget."

All hearings will begin at 10 a.m. unless otherwise noted in room 357 of the Russell Senate Office Building.

ANNOUNCEMENT OF HEARINGS

Mr. SPARKMAN. Mr. President, I wish to announce that the committee on Foreign Relations plans to hold the first of several hearings on the Treaty of Friendship and Cooperation with Spain (Ex. E, 94–2) on Wednesday, March 3, 1976, at 10:00 a.m., room 4221, Dirksen Building, to hear Ambassador Robert McCloskey and other members of the U.S. negotiating team.

ADDITIONAL STATEMENTS

DR. HERBERT A. STAHL

Mr. HRUSKA. Mr. President, historians no doubt will look back upon this, the 20th century, with mixed feelings. On one hand, the past 75 years have witnessed the greatest technological and scientific advances since the first stirrings of recorded civilization. These great accomplishments should have heralded the dawn of the golden age of mankind. Unfortunately, this has not been the case for, in fact, the 20th century has contained some of history's most butal examples of man's inhumanity to his fellow man.

The details of this century's first 75 years have been well documented. They have included war, genocide, massacres, the mass displacement and movement of countless millions of refugees. I would like to take the opportunity to record one small footnote to this history by relating the case of Dr. Herbert A. Stahl.

Dr. Stahl was born in 1907 in Pressburg—now called Bratislava—of what was then part of the Austrian-Hungary Empire. Bratislavia is situated on the left bank of the river Danube, just 1 hour's drive from Vienna. Across the river, readily seen from the Castle of Bratislava, are a few tiny Austrian villages where most of Herbert Stahl's ancestors came from. On the western horizon, the bluish silhouette of the famed Vienna Woods are cleary discernible. He was a citizen of that empire until 1918 when in the wake of World War I the Hapsburgs were deposed and the modern Czechoslovakian state created.

After the establishment of the new state, Dr. Stahl became a Czechoslovakian citizen. During the census of 1928, however, the citizens of Czechoslovakia were required to register according to their mother language. For Dr. Stahl this meant that he had to register using the language also spoken in Vienna, that is, the Germanic language. This was to have grave consequences in future years.

As the new state prospered and advanced, so did the fortunes of Dr. Stahl who in 1932 had graduated from the University of Prague and was now a scientist and a writer. A 1-year's sojourn in Berlin familarized him with the model German research institutions, particularly as basic and applied research into physics are concerned. During the early 1930's Dr. Stahl busied himself as a free lance writer of articles some of which opposed dictatorship and advocated the concept of a United States of Europe. Later, he was to be a prolific writer publishing, among others, 16 professional essays, in Czech or Slovak language, centering upon the flagrant absence of applied and industrial research in Czechoslovakia. These were well received and recognition of his work resulted in an invitation to be listed in a Czechoslovak Interservice World Engineering Whos Who, published in Prague. In 1937, he coauthored a Jewish cultural encyclopedia entitled "Jews in German Cultural Sphere."

During all these years, Dr. Stahl proceeded in his favorite field of tube electronics centering on the production of neon light devices. In 1933, he became the licensee for a Jewish-owned company founded in Prague by a refugee friend from Berlin, and continued later in the neon department of a huge shoe concern in Alin, Moravia, soon to be dismantled by the owners in a wise foreboding of the rapidly approaching apocalypse.

During this same prewar period Dr. Stahl was by his own initiative instrumental in advancing the concept of a central Czechoslovak Institute for Industrial Research. This productive activity, however, came to a halt as a result of a serious traffic accident in 1938, and the concurrent pre-Munich confusion in Czechoslovakia. As Dr. Stahl laid confined to a hospital bed, the German Army under the pretext of protecting the German minority, marched into the Sudetenland. The rest is well known, within a short time Czechoslovakia was under total German domination, and the world once again was at war.

Recovering from his injuries, Dr. Stahl soon found that there were practically no professional opportunities whatsoever for reasonable work in prostrate, German-controlled, Czechoslovakia. He had now a third citizenship namely that of Slovakia—to become his last one in Europe. As this puppet state was almost totally an agricultural community, Dr. Stahl returned in 1939 to Berlin where he joined the staff of a leading chemical reference work conducting later active scientific research and development in tube electronics.

In 1943, Dr. Stahl left Berlin and went westward to Hanoia near Frankfurt where he conducted similar work, his results being published after the war in Dutch, American, Swiss, and German journals. By now, he was married to a German girl who, as a result of that marriage, had lost her citizenship, to become also a Slovak citizen.

Thus was the situation in 1945 when Germany surrendered to the victorious allies.

The conclusion of World War II resulted in many changes upon the map of Europe. According to some historians, certain of these changes resulted from a deliberate effort on the part of the Allies to eliminate possible sources of future upheavals by moving various ethnic minorities from areas long regarded as their historic homeland to countries where they would be part of a predominant culture. Thus, along with other minority groups caught in the postwar maelstrom of millions of refugees were some 3 million Sudeten Germans who were expelled from their primeval homeland in Bohemia and Moravia. Expelled or not, others were to have their properties confiscated.

Dr. Stahl, who by this time was in Great Britain, had his sizable real estate holdings, including his home in Bratislava with its multilingual library confiscated by the authorities as German reparations. This happened despite the fact that neither he nor his forefathers had ever been citizens of Germany, but of the Danubian Monarchy referred to above. In so doing the Czech Government ignored his stalwart service to the nation in the prewar years, and the oppressing peril throughout the Nazi domination.

Like many other refugees, Dr. Stahl never returned to the land of his fathers. Instead, he came to the United States where he was able to secure a job at the University of Kansas Medical Center. Later, he was to work for Westinghouse and RCA in their electronic tube factories, being mostly engaged in governmental work. In 1957, 5 years after his arrival in this country, he became a citizen.

Since 1962, Dr. Stahl, who had become a senior physicist in optoelectronics, has worked at the Army's Night Vision Lab located at Fort Belvoir, Va.

This story has had a relatively happy ending for unlike millions of others who perished during the turbulent years of the 1930's and 1940's, Dr. Stahl survived, and was able to rebuild his life.

The issue of the moral and legal responsibilities of the Czechoslovak Government which so callously expelled its citizens, and expropriated huge masses of property, however, remains as a thorn in Czech-United States relations to this very day.

NATIONAL POLICY PLANNING: ROOSEVELT TO NIXON

Mr. HUMPHREY. Mr. President, last month Oxford University Press published an important new book by Dr. Otis Graham titled, "Toward a Planned Society: Roosevelt to Nixon." This book by Dr. Graham presents a history of the national planning idea in the United States from the early 1930's through the early 1970's. Publication of Dr. Graham's work could not have occurred at a more timely moment than now when Congress and the Nation are once again considering alternatives for improving our Nation's ability to think ahead, or to conduct long-range planning and integrative policy analysis—an idea which, this time, we must address and implement.

Dr. Graham asserts that the common denominator of the administrations of Franklin Roosevelt, Harry Truman, Dwight Eisenhower, John Kennedy, Lyndon Johnson, and Richard Nixon was their failure, even when they had the will, to systematically plan and coordinate Federal domestic policy. Otis Graham's new book shows that those who tried to establish a policy planning capacity were either frustrated by the bureaucracy, by the Congress, or by the Constitution, or they were diverted from the task by foreign affairs.

Graham presents a history of the national planning idea from the crisis of the Great Depression through the Nixon administration. His thesis are that the Federal Government of the United States of America has never had the institutional capacity to plan national domestic policy in a rational, cohesive way; that the national planning idea has repeatedly appeared in the 20th century White House; that both liberal and conservative Presidents have contributed significantly to the evolution toward a national planning capacity, and that we are at another historic moment when basic choices about national planning present themselves to us for decision.

Graham's account of the evolution toward planning reveals that he clearly believes in the value of planning as a method of public management at the highest level of government. His first 316 pages deal with efforts to organize for policy planning and coordination in the Presidency itself. But even though his emphasis is on planning as an organizational technique, as an approach that can be used by liberals and conservatives alike, he recognizes that planning and rational control of the executive branch with its various bureaucracies mean a more effective executive branch, and to that extent a more powerful executive branch. This requires careful design of democratic planning institutions if planning is to contribute positively to the quality of democratic life in America. The question of whether to plan is an old question we must plan, as every activist President has seen. The real question is how to plan in a democratic society. "How does the public control a government wielding more concentrated power than ever before," asks Graham. "The arrival of Planning," he says, "joins political theory and public administration, urgently requiring a synthesis of the forms of control and means of accountability."

Every President, when beginning his new job, has been faced with the problem of how to manage a bureaucracy that is fragmented, organized in large part on the basis of service to constituencies or interest groups rather than on the basis of function, each agency pursuing its own ends with little or no regard for the purposes and activities of other agencies and often insensitive to Presidential purposes as well. New Presidents have not found waiting for them any institutionalized mechanisms for setting cohesive domestic policy goals, any staff structure for policy analysis, any long-range forecasting capabilities, or any methods for controlling and integrating the actions of individual executive agencies to carry out Presidential purposes.

When FDR entered the White House, says Graham, it was staffed by "a cook, butler, switchboard operators and guards, a handful of secretaries, and two Southern newspapermen whom he enlisted as aides. He could also call upon a Navy doctor. There was no Executive Office of the President, no economic or technical staff. Across the street the real Government began, the 10 departments and scattered agencies of the executive branch. The President had no institutional capacity to see social problems and policy responses as a whole."

The Bureau of the Budget, which had been created in 1921, was the only available tool FDR had for policy control; but this was largely negative or containing control which was not adequate for creating integrated policy. The Cabinet—and the National Emergency Council, a supercabinet whose members were heads of Cabinet and other executive agencies—reflected the fragmentation of the bureaucracies that the Cabinet members headed; it was of little or no help in White House efforts to give some structure to the top executive management of the Federal Government.

In spite of the creation of the Executive Office of the President and the provision of a larger White House staff, FDR left President Truman with the same structural problems he himself had faced. However, Graham says that Truman did not feel his predecessor's frustration over the inability to make coherent and effective domestic policy or his urge to set in motion long-term processes of social change. The structural problems were subsequently passed on to President Eisenhower, who also left the Federal Government's domestic policy structure pretty much as he had found it when he took office. It is interesting that in matters of foreign affairs and national defense President Eisenhower did establish a futures-oriented, policy coordination institution—the National Security Council.

The Kennedy administration began to sense the structural problems of the executive branch with regard to domestic policy, but it was robbed of the chance to do much about them by the assassination. Concern continued into the Johnson administration and led to the establishment of planning-programing-budgeting system—PPBS—as an effort to manage Federal domestic activities after the technique had been so impressively demonstrated by Secretary McNamara at the Department of Defense. It also led to consideration of executive reorganization proposals. Nevertheless, structural problems remained. The Neineman task force, appointed by President Johnson, summed up the situation in its 1967 report, which Graham quotes as follows:

> Federal social program remained badly coordinated in Washington and in the field. . . . The President lacks institutional staff and machinery . . . to anticipate . . . to control and pull together . . . to plan ahead . . . to review.

This was the situation which President Nixon, in his turn, inherited and which he sought to change during his first term by way of highly significant efforts to strengthen White House control of domestic policy. The credit for much of the movement toward establishing a domestic policy planning capacity in the White House appears to belong to the creative and energetic activity of Daniel P. Moynihan and perhaps to John Erlichman. But presidential attention to domestic policy matters was distracted, and when Mr. Nixon resigned he handed to President Ford the same structural problems that have persistently hindered the planning and coordinating of Federal domestic policy.

In response to chronic problems the planning idea has appeared repeatedly since the thirties, but under a variety of names. Sometimes it was called planning, and agencies such as the National Resources Planning Board, the Agricultural Adjustment Administration, and the National Recovery Administration appeared. These New Deal agencies disappeared before the Nation had an opportunity to learn much from these early and infant planning agencies. Planning also appears in the cloak of executive reorganization, one of the most significant appearances of which was under former President Nixon who sought to rearrange executive agencies into groupings based on function. Congress did not approve this proposed reorganization plan, which also included the creation of a supercabinet consisting of White House counselors with broad functional responsibilities and in principle not beholden to any special interest groups or constituencies. Creation of the Domestic Council for coordination of domestic policy was also a manifestation of the planning idea, although it was structurally as flawed and as disappointing in its eventual utility as President Roosevelt's National Emergency Council. The planning idea appeared in the forum of rationalizing expenditure decisions of individual agencies and of the Government as a whole through the method of PPBS under President Johnson, as mentioned earlier, and with the name of "Management by Objective" under President Nixon. Goal setting is also part of the planning idea. Its most recent form was President Nixon's National Goals Research Staff, which was dismantled after it issued its first report.

As Graham's history so vividly depicts for us, conservatives are wrong when they say that planning is a liberal game, that it has no place on the conservative agenda for the Federal Government. Graham shows us that planning is a method, a way of working, that can be used by liberal and conservative alike. As a paradigm for administrative behavior, it has no ideology. The liberal Franklin Delano Roosevelt believed in planning, talked about it, and tried to do it. The conservative Richard Nixon showed his planners' mind in his efforts to make changes in the country's top executive management structure during his first term. In a telling 1962 quote from James Reston, "He attacked planning, but he planned everything."

Movement toward national planning was given a major push in the passage of title VII of the Housing and Urban Development Act of 1970, which declared that the country needed a national urban growth policy and which called upon the President to submit to the Congress biennial reports on national urban growth. President Nixon supported the notion of a national growth policy early in his first term, but the 1972 growth report which his administration prepared was a nullity. The second growth report, due in February of 1974 and also prepared largely during the shreads of his second term, was only a slight improvement.

There is a certain one-sideness built into Graham's history of the evolution toward national planning in America. His book focuses entirely upon the executive branch, mentioning the Congress generally as a demonic force that has interfered with the creation of a planning capacity in the Federal Government.

However, the temper of the Congress is changing significantly. Members of Congress and the congressional leadership exhibit an increasing awareness of the need to set goals, to have a view that stretches beyond the reelection cycle, to foresee problems that will be upon us before we sometimes care to think, and to establish ways to design and coordinate Federal policy and activities in a more rational, coherent way in both the executive branch and in the Congress. Statutory requirements for a Presidential report on national growth, creation of the Congressional Budget Office and the Office of Technology Assessment, expansion of the policy analysis capabilities of the Congressional Research Service and the General Accounting Office, legislative reorganization efforts—including the new congressional budget process—that mandate a futures orientation, the creation of an Advisory Committee on Balanced National Growth and Development, Senator JAVITS's bill to establish a Congressional Office of Regulatory Policy Oversight which would be charged with coordinating, modernizing and planning national regulatory policy, and the proposed Balanced Growth and Economic Planning Act which Senator JAVITS and I introduced in 1975 all show that national planning is no longer taboo on Capitol Hill.

There are a couple of small errors that warrant correction. Graham remarks on the willingness of the Congress, even among conservatives such as Robert Taft, Sr., to provide assistance to local governments for the conduct of planning. But the program, the so-called comprehensive planning assistance programs established by section 701 of the Housing Act of 1954, was not aimed at planning for urban renewal as Graham suggests. Urban renewal got its own planning assistance channels in the community renewal program authorized in 1959. The 701 planning assistance program was created in response to explosive metropolitan growth that was being experienced in the fifties. In its original form, the program provided assistance to small communities, that is, with population of less than 20,000 and to metropolitan planning efforts. The assistance was aimed at increasing the capabilities of governments to comprehensively plan for the suburbanization process that was creating disorderly metropolitan sprawl.

Graham gives us a clearer understanding of the real issues about national planning. For many Americans national planning is something we played with during the Great Depression, something we did in order to mobilize for war; or something undertaken by socialist or Communist countries that lack a market system to allocate resources. This understanding is not false; but it is inadequate. It is too narrow; it diverts us from the real issues; it leads to a myopia that prevents us from seeing that the perennial problem of the Federal Government in our pluralistic, democratic society is how to make coherent, rational domestic policy. Graham's history depicts for us the way this perennial problem has presented itself to each administration since Roosevelt and the way each administration responded.

He shows us that an active Presidency needs to plan—to set explicit goals, to forecast, to coordinate effort, and to monitor results of effort—whether it considers itself liberal or conservative. He shows us that both liberal and conservative Presidents have understood this need and have tried to create a planning capacity, whether they called it planning or something else. President Roosevelt took the first major steps toward planning and began the evolution that was given a second push by the Nixon administration's first term.

I know of no other author that has so vividly shown that national planning should not be a partisan issue. Anyone who has worked on policy in the Federal Government in whatever capacity knows that this country needs a government that is willing and able—and in this context I stress the word able—to set explicit goals, to forecast, to coordinate effort, to control the bureaucracy, and to monitor results of efforts. Ideology, philosophical beliefs, temperament—these will all guide in what we seek to accomplish;

but without institutional capabilities to systematically deal with the needs of our complex society, it may founder. Otis Graham shows us the extent to which this kind of foundering and frustration have occurred, and he makes his case that there are structural deficiencies which must be overcome.

I am delighted that Toward a Planned Society appears at this time. It comes at a moment when national debate on the need and means for planning is again part of the visible public agenda. It comes at a time when there is widespread concern in Congress and among all thoughtful Americans, no matter what their ideological bent, about making some kind of coherent sense out of disconnected, overlapping, and often conflicting Federal policies and programs. Some call for retrenchment, imagining that things will get better simply by turning the Federal back on the problems of our increasingly complex national society. But national problems do not go away. National society does not become less complex. The Federal Government continues to need to come to grips with structural deficiencies that prevent it from planning coherent national domestic policy. Otis Graham, respected historian of progressive efforts in American society and Government during the 20th century, does an effective job of showing us where we stand today.

THE DROUGHT

Mr. DOLE. Mr. President, the Wall Street Journal carried a front-page article on February 27, 1976, describing drought conditions in the Great Plains and California. My State of Kansas has been especially hard hit. Prospects for the 1976 wheat crop are poor throughout much of the western half of Kansas.

This article reinforces the need to maintain an open export market for wheat and other agricultural commodities. Many farmers will have only a fraction of their normal production to sell this year. It, therefore, is doubly important that they receive the highest possible price for the reduced amount of grain they do sell.

Mr. President, this article deserves the widest possible distribution.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DROUGHT IS WITHERING WINTER WHEAT CROP, BUT NOT OPTIMISM

(By Robert L. Simison)

MEADE, KANS.—Farmers hereabouts recall vividly what it was like just a few weeks ago: Howling, 60-mile-an-hour winds blackened the sky with dust rising to 11,000 feet. Highways closed down as vehicles collided in impenetrable darkness. Spongy heaps of black topsoil drifted beside barbed-wire fences and filled roadside ditches.

It was a scene recalling the dust bowl of the '30s.

Although from time to time in the intervening weeks the dust has been matted down by some rain and snow, the drought that has parched much of the nation's Southwest and West lingers on. Its effects may linger on for years.

The drought has significantly, and perhaps severely, reduced the winter wheat crop. It is forcing premature slaughter of cattle, a move that threatens, in future years, to diminish meat supplies and raise prices for consumers. In California, it has hurt the fruit and nut crops, the dairy business and a variety of grain harvests. It is beginning to discourage farmers' purchases of agricultural equipment and supplies and, in fact, of a wide range of goods. And if it inflicts the heaviest damage currently foreseeable, the drought could crimp American grain sales abroad, which are crucial to U.S. foreign trade and to food supplies worldwide.

Yet despite the damage, actual and potential, many experts are surprisingly optimistic.

REASONS FOR OPTIMISM

"With favorable weather conditions from this time on, the (winter wheat) crop could be salvaged," Don Paarlberg, the Agriculture Department's chief economist, says. Besides hoping for more rain, many observers take comfort in an expected increase in carryover wheat stocks from the crop year ending June 30. They note that so far grain prices have been affected only moderately. And they doubt that retail food prices will be increased much, if at all, and only then after a considerable lag.

For months the weather has been disastrously unfavorable. In the Meade area, for instance, rainfall since last August has totaled only 2¾ inches, against five normally. Of the total, 2¼ inches came in November, too late to give the wheat a timely start and too concentrated to do long-term good. The little precipitation that followed caused further damage. A brief thunderstorm recently stirred up a cloud of dust before it and then broke down clods holding the ground in place; thus, the soil was left even more vulnerable to wind. And a violent snowstorm last weekend left the fields bare, with the snow in ditches and covered by dust.

"I've already lost about half my 340 acres of wheat, and it looks like I'll have to destroy some more" to keep the soil from blowing away, laments Henry M. Reimer, who farms 720 acres near here. Like many local farmers, Mr. Reimer has ripped through his winter wheat fields with a tractor-drawn implement called a chisel, which raises a series of ridges to curb wind erosion of topsoil.

HARDEST-HIT AREAS

His plight is common, and much of the nation's winter wheat crop already has been lost. Hardest-hit areas have been Kansas, Oklahoma, western Texas and parts of New Mexico, Colorado and California. In Kansas, the largest wheat-producer, growers estimate their harvest will drop as much as 100 million bushels from last year's 351 million. Texas will produce only 50 million bushels, down from last year's disappointing 132 million John C. White, commissioner of agriculture, predicts. Oklahoma and Colorado expect declines of at least 30%.

In all, the winter wheat crop could drop as much as 300 million bushels, or 18%, from 1975's 1.65 billion, according to the National Association of Wheat Growers. (Winter wheat accounted for three-quarters of the record 1975 total crop of 2.13 billion bushels.) The Agriculture Department's latest forecast, based on December conditions, predicted winter wheat production at 1.5 billion bushels, a 9% drop.

"If dry conditions continue to plague the Great Plains, yields may decline even further, causing (total wheat) production to fall below two billion," the department said.

The poor condition of the wheat is hurting cattlemen, whose herds normally graze on the lush tops of winter wheat plants during the midwinter dormant period that precedes the development of grainheads in the spring. Wheat that, as one farmer puts it, "ought to be long enough to hide a rabbit" shows only a few scraggly blades. Kneeling in a dusty field near Fowler, Kans., Robert Subba digs up an underdeveloped wheat plant and displays roots only an inch or so long and a skinny stem that barely breaks the surface. In Kansas, only 14% of the wheat was good enough for grazing in December, compared with 34% a year earlier.

FINANCIAL IMPACT ON CATTLEMEN

Consequently, many cattleman are either sending animals to feedlots earlier than normal or simply selling them at a loss. For example, Anthony Fields of Hayward, Calif., facing a shortage of feed and water, recently sold off some bulls weighing 1,100 to 1,200 pounds each at 26 cents to 29 cents a pound. He trimmed his herd although he figures that with an additional two months of good grazing, he could have sold the bulls at 1,400 to 1,600 pounds each at 30 cents to 32 cents a pound. The difference; more than $100 a head.

Such drought-induced maneuvers already have cost California cattlemen $265.8 million, the state agriculture department estimates.

Other ranchers simply didn't put yearling calves on pasture last fall. Here in Meade, Daniel Loewen, who usually grazes 100 to 150 head of cattle on his wheat fields, didn't buy any livestock because of the drought. In Texas, the number of cattle on grain pasture at Jan. 1 was 1.1 million, down sharply from 1.7 million a year earlier.

"If the droughts continue, we will see a higher cow slaughter and earlier movements of range cattle to feedlots than normal," says John Welch, an economist for the American National Cattlemen's Association. He adds that although a higher level of cattle slaughter may reduce meat prices for the next six months or a year, excessive liquidation of cattle could cause tighter supplies and higher prices for as long as three years while herds are rebuilt.

In California, the drought damage has spread beyond the wheat and cattle industries to various other agricultural lines. An official report reflecting conditions through the end of January put fruit and nut crop losses at $22.7 million, barley losses at $10.7 million and oat losses at $4.3 million. Dairymen are bewailing the soaring cost of feed; alfalfa hay, for example, rose to as much as $100 a ton from as low as $65 a ton in December. Despite scattered, and sometimes heavy, rains during the past several weeks, drought conditions persist, and about 22 of the state's 58 counties are seeking federal assistance. Moreover, a light snowfall in the Sierra presages a light runoff this summer.

But California's important vegetable crop hasn't been seriously affected; most vegetables won't be planted for another month or so, and most currently in season are irrigated crops.

CUTTING BACK SPENDING

Apart from farmers and cattlemen themselves, the people most affected by drought in agricultural areas are the people who sell goods to them. The market involved is huge. Many farmers already have decided to postpone major purchases, even though some hope to recoup their drought losses by planting new grain crops in the spring.

"We aren't going to starve, but there are things you just won't buy," says Harold Rickers of Meade, who expects to lose most of his 1,000 acres of wheat. "I need a new pickup-truck, but I sure won't get it this year." And Vernon McColm of Bucklin, Kansas., says he will postpone buying a new tractor, which would cost at least $20,000. "A man doesn't stick his neck out in a year like this," he says.

So it isn't surprising that Meade-area farm-implement dealers have noticed a lull in sales. "It's been doggone slow since the end of November. We haven't been able to sell much of anything," says Richard Brady, manager of Brady Implement Co. in Dodge City, a regional trade center. If the slump in farm-implement sales continues, it could be important for the entire economy; the business was one of the strongest sectors throughout the recession.

And even general merchants in Meade have noticed that "the farmers have pulled in their tails now that they don't expect a wheat crop," Dale Lathrop of Lathrop-Suppes furniture store in Meade says; he adds that since the first of the year the store's sales have lagged 10% behind year-earlier levels. Auto retailers present a mixed picture, however; Wolfe's Motor Co., the Ford-Mercury dealer here, notes a business slowdown, but the Ford and Chevrolet dealers in Liberal, Kans., report sharp gains in sales.

In view of the drought's rippling economic impact, surprisingly calm views are expressed by close observers of agricultural problems.

"I don't think the precarious wheat situation will have a very great impact on food prices," the Agricultural Department's Mr. Paarlberg says. "We're not yet predicting any impact on the consumer price index." And Paul McAvoy, a member of the Council of Economic Advisers, says, "I doubt whether there will be any effect" on food prices.

Such optimism is based on three factors: the fact that the winter wheat crop isn't completely lost yet, the farmers' announced intentions to plant record acreage to spring wheat, and the expectation that June 30 carryover stocks will be large enough to offset much of the impact of the reduced crop. Although the official forecast of a wheat supply in the year beginning June 1, about matching the current crop year's 2.46 billion bushels represents something of a disappointment—a gain had been hoped for earlier—officials view it as far from a disaster. And stocks could be higher because of recent softness in the export market.

Only if just about everything goes wrong, in fact, do officials foresee a significant impact on food prices. In such a case, crop prices would be higher in the fall, grain-product prices would be affected late this year and early in 1977, and meat prices would rise in the second half of next year.

But officials view that chain of events as unlikely, and apparently so does the grain trade. On the Kansas City Board of Trade, for example, drought news has bolstered wheat prices, but there clearly isn't any panic. July futures contracts—for the first wheat from the new winter crop—rose only 26 cents a bushel to $4.05 in the first two weeks of this month. Since then, the market has fluctuated and remained slightly over $4 a bushel. Experts indicates a far bigger rise than that would be needed to raise the price of bread.

Similarly, for the drought to crimp grain sales abroad there "would have to be a fairly sizable production decline," says Donald Novotny, the Agriculture Department's director of foreign grain analysis.

Perhaps more worrisome than the drought's short-term impact are some of its long-term implications. Damage from wind erosion, for example, can take a long time to heal. Although crop rotation leaves only about half the Southwest's wheat acreage unprotected by stubble at any one time, the winds strip valuable topsoil from uncovered fields and deposit it on the stubble of nearby fields—and both are damaged for years. The stubble fields suffer because the wind-blown dirt is so fine and packs so tightly that the soil doesn't absorb water adequately again until it has been worked several times. Of the 858 farm units here in Meade County, 525 have applied for federal disaster payments as a result of wind erosion.

And while long-term weather forecasting is notoriously uncertain, some scientists contend that the drought will continue this year and for several more years.

"Climatology for the last 200 years indicates a bad period is coming," warns Stephen Schneider of the National Center for Atmospheric Research in Boulder, Colo. Severe droughts have occurred in the plains every 20 to 22 years for the past 200 years, scientists say; in this century, they started in 1901, 1934, and 1954, and they seem to correspond with years of low sunspot activity—such as the current period.

The possibility of an extended drought worries Mr. Schneider and others who study figures on world food supplies. World-wide wheat stocks have been declining for two years; at the end of the current crop year, world stocks are expected to total 48.4 million metric tons (a metric ton is equal to 1.1 U.S. tons), down from 54.5 million a year earlier, the Agriculture Department says. Mr. Schneider says a crop disaster that reduces the world supply as little as 1% could cause shortages and starvation.

OUR ALLIED HEALTH PROFESSIONS PROTECT OUR HEALTH

Mr. SPARKMAN. Mr. President, the Allied Health Professions Personnel Training Act was landmark legislation. It recognized the important role that allied health personnel had and would continue to have in the delivery of health services to the American public. The enactment of this important law enabled the Federal Government to stimulate the growth of training opportunities in this vital area.

Our needs for more allied health personnel have not let up; they have only become more sophisticated. It is true that from 1960 to 1970 the number going into this profession increased 75 percent to 2.7 million, but recent trends in health services delivery are resulting in further demands for allied health personnel. The emerging emphasis on prevention and early detection programs require a great many more trained individuals specializing in health education, dental hygiene, health outreach programs, vision screening technicians, laboratory sciences, and other allied health professions.

With our increasing worries about environmental pollution, there exists a crucial need for environmental technicians and technologists trained to detect environmental threats before they can cause physical or mental illness. Likewise, with an increasing emphasis on ambulatory care, more staff will need to be trained in this specialty, to enable them to function relatively independently to treat and care for patients in the home.

Finally, our doctors are relegating more duties to paramedical personnel—we desperately need more qualified assistance to free physicians for crucial medical tasks.

Our needs in the area of allied health professions are documented. A recent Department of Health, Education, and Welfare report indicates that the number of instructors for clinical education of allied health personnel is in extremely short supply and that physical facilities devoted to clinical education are unable to keep pace with the rapid increase in enrollments. Moreover, HEW noted that there is an almost 12-percent vacancy rate in occupational therapy, an 8-percent vacancy rate in physical therapy and an almost 7-percent vacancy rate in cytotechnology.

In fiscal 1975, almost $28 million was obligated to allied health areas. The wording of the continuing resolution which allowed funding was "* * * shall spend not less than * * *". In fiscal 1976, the wording of the continuing resolution was changed and no money was requested or provided for by the budget. In the fiscal year 1977 budget, the administration has requested $8 million. Eight million dollars to encompass all these needs and remedy all these shortages. Last summer we enacted S. 66, the Nurse Training Act of 1975, over a Presidential veto. We may have to work just as hard this session to aid our allied health professions. I feel we certainly need more to provide for our crucial needs. By not supporting this critical field, we are limiting our productivity in health areas and diminishing the quality of care that our health care systems can provide. I urge my colleagues to devote their attention to the important fields of our allied health professions—they need our support, and our citizens need the protection this profession can afford.

THE CAPTIVE NATIONS

Mr. HRUSKA. Mr. President, recently my distinguished colleague and good friend Senator Curtis submitted Senate Resolution 319 whose purpose is to reaffirm support for the independence of the Baltic nations from Soviet domination.

It is extremely important that the people of Eastern Europe understand that it is the belief of the Congress of the United States that by signing the Final Act of the Conference on Security and Cooperation in Europe the United States did not change its long-standing position regarding the illegal and oppressive annexation of Estonia, Latvia, and Lithuania.

As my ancestry has its roots in Czechoslovakia, another nation which bears the mark of Soviet oppression, I am particularly sensitive to the desire of the oppressed people within the Soviet Empire to be free.

The future of these captive nations rests in the hope that the West, and in particular America, will continue to support their right to be free.

For their sake, as well as our own, we must not break faith with them.

Mr. President, I am pleased to be on record as a cosponsor of this Senate resolution.

AGRICULTURE AND REMOTE SENSING TECHNOLOGY

Mr. HUMPHREY. Mr. President, I call the attention of my colleagues to an article entitled "Study of Global Climate Urged as Priority in Report to NASA," which appeared in the Washington Post on February 22, 1976.

A NASA study group, set up to suggest

priorities for the United States in space exploration, recommended that more emphasis be given to developing space technologies for global climate prediction. Their report states:

> Much of the present world population depends on a complex, interdependent system by which food and fibre are efficiently grown where climate is favorable. The critical point is that the entire system is predicated on a constant climate; and changes in climate which may occur in a few decades could impair the functioning of the system.

Our food supply is extremely vulnerable to variances in climate; and the more we know about the likelihood of these changes, the more adequately we can plan and lessen their impact. The NASA study group—

> Estimated that even a 1-degree cooling of the earth's annual temperature would mean the loss of $1 billion in wheat and rice production, a $1.4 billion loss in the fish catch, and a $2.2 billion loss in timber and fibre output around the globe.

Obviously, such a change in climate would have a catastrophic effect around the world. This possibility underscores the need to better utilize and further develop remote sensing technology. When used with conventionally gathered information, remotely sensed data adds an otherwise unobtainable perspective.

By using this satellite technology, we hope to be able to provide a more accurate inventory of the availability of resources and the status of crops.

I recently chaired hearings for the Office of Technology Assessment on this subject. The land satellite project—LANDSAT—an experiment using remote sensing satellites to gather global information on the environment and natural resources—and the large area crop inventory experiment—LACIE—a USDA project using this technology to monitor the status of the U.S. wheat crop were discussed.

Many of the technical problems which limit the usefulness of the current remote sensing satellites—such as the inability to penetrate cloud coverage, the need for a higher resolution, measurement of Earth surface temperatures, and improved sensors—will be solved in LANDSAT–C, which is scheduled to be launched in September 1977.

Other problems currently inhibiting the further use of LANDSAT data include the length of time needed before the final data is available and the lack of coordination between the various user groups.

A study released by the General Accounting Office on January 30, 1976, entitled "Land Satellite Project," reached many of the same conclusions as we did in the hearings.

The study identifies a number of important points which I would like to elaborate on. First, there has been much discussion of LANDSAT in terms of cost/benefit studies. A Department of the Interior study released in November 1974 estimated that the costs and benefits of an operational system for use from 1977–66 would vary from a ratio of 1.9:1 to 0.4:1. GAO notes two problems with this analysis: First, it did not include any planned or already existing improvements in the operational LANDSAT, and second, it was based on an extrapolation of the initial results of the first LANDSAT. GAO states:

> These investigators attempted to prove the technical capability of LANDSAT data, not its cost effectiveness.

A cost/benefit analysis done by NASA and released in October 1974 found the ratio for an operational system for 16½ years would be 12 to 1. This study assumed that—

> As much as 74 percent of the total benefits to be derived from an operational LANDSAT system will come for improved agricultural forecasting.

GAO concludes that future cost/benefit analyses would be more realistic if based on the current system and if the assumptions made by the analysts are made clear to decisionmakers.

A second issue that the GAO study discusses is the international implications of collecting global data with remote sensing technology. The Soviet Union, the European Space Agency, Japan, and Canada are progressing in their plans to launch similar satellites. While the United States has a position of open dissemination of LANDSAT data, there have been motions by others in the United Nations to stop remote sensing or limit distribution of this data. Some understanding will have to be reached on this soon.

Many other countries would like to utilize the data collected by LANDSAT on a timely basis but do not want to make the costly investment in the necessary equipment until LANDSAT becomes an operational and continuous program.

One of the major problems identified in the OTA hearings and the GAO report results from the limitation of LANDSAT's being experimental and the lack of any high-level commitment to making it an operational program. GAO notes:

> One of the primary objectives of the LANDSAT project . . . is to gain sufficient knowledge and experience to decide whether there should be an operational earth resources satellite system. This remains the objective of the project, and it seems certain that a decision to go operational would provide the user community with the assurance it needs. A comprehensive long-range plan which includes user requirements has not been developed, however, for deciding whether LANDSAT should become an operational system. Consequently, it is not clear what must be achieved and when it must be achieved before a decision can be made.

A plan identifying the goals and status of this project should be developed as soon as possible so that we can judge what progress has been made and how valuable it is. GAO sugests that NASA take the lead in doing this. In addition, the report states:

> We recognize that such a plan must postulate a Federal Government policy role in satellite-based remote sensing technology. Accordingly, the plan could address (1) the assignments of roles and responsibilities to the involved agencies, (2) interrelationships among oceanographic, meteorological and earth resources satellite systems, (3) alternative organizational arrangements for operational systems reflecting differing degrees of Government, private sector, and international participation, and (4) estimated resource and funds requirements to be filled by the Federal Government.

I would recommend that anyone interested in this subject read the entire GAO report.

Mr. President, I ask unanimous consent that the Washington Post article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Study of Global Climate Urged as Priority in Report to NASA

(By Thomas O'Toole)

The nation should reorder its priorities in space to emphasize the study of the earth's climate to enable scientists to predict global climatic change reliably by the turn of the century.

This was the clear recommendation of a study group formed by the National Aeronautics and Space Administration a year ago to assess where the United States stands in space exploration and where it ought to go.

"Much of the present world population depends on a complex, interdependent system by which food and fibre are efficiently grown where climate is favorable," the study group said in a three-volume report obtained by The Washington Post over the weekend.

"The critical point is that the entire system is predicated on a constant climate; and changes in climate which may occur in a few decades could impair the functioning of the system," it said.

Nowhere in the study did the group call for manned exploration of Mars, which had been the main recommendation of a forerunner study organization seven years ago chaired by then Vice President Agnew.

This time, the recommendation on manned space flight was that the space agency proceed with orderly development of the reusable shuttle and move from there to a permanent manned orbiting space station. One reason to move ahead with space station plan is that the observations of people in orbit would be an important tool in studying global climate.

The study group strongly suggested that a better understanding of climate would help to solve two of the earth's most pressing problems, a shortage of food and the possibility that the atmosphere might be sufficiently changed by pollutants to induce a worldwide change in the weather. Experts have warned that pollution could cause global temperature to drop.

The NASA report estimated that even a 1-degree cooling of the earth's annual temperature would mean the loss of $1 billion in wheat and rice production, a $1.4 billion loss in the fish catch and a $2.2 billion loss in timber and fibre output around the globe.

A 1-degree drop would also trigger a $700 million increase in annual electrical energy demand and a $2.4 billion rise in health costs, excluding the cost of treating a rise in skin cancers that could come from alterations in the earth's atmosphere, according to the study.

The study group recommended development and production of six satellites to identify and assess crop conditions all over the world. Some other satellites would study chemical atmospheric changes, and others would watch the sun for changes that might affect the earth's weather.

Also recommended was a network of four to six large satellites in stationary positions above the earth to observe and assess worldwide ice and ocean conditions, important but unknown determinants of global weather cycles. Three to four satellites should be orbited to measure the earth's radiation balance, which would tell scientists whether any parts of the globe are warming up or cooling down, the study said.

The study group put the total cost of a satellite program at $1.7 billion. It said the entire network could be operated over the next 20 years for $4.6 billion.

While not calling for manned exploration of Mars, the study group said the space agency should undertake a vigorous exploration of the planets with machines.

It called for a planetary program that by the end of the century would send instrumented spacecraft to every planet in the solar system except Pluto, which is too far away to explore with existing technology. It suggested flights in which spacecraft rendezvous with an asteroid and with a comet, preferably in the 1990s.

Included are missions to Mars and Mercury, where spacecraft would land, dig up soil samples and return to earth. The study group also urged an instrumented landing on Venus and orbital flights around Jupiter, Saturn and some of their 21 moons.

The study group estimated the cost of this planetary program at $250 million a year for the next 10 years, peaking in the 1980s, when a Mars sample return mission would take place. It put the total planetary cost at $5.1 billion to the year 2000.

"Human needs are not only physical," the study group said in justifying its program of planetary exploration. "There is therefore a need for intellectual challenge for exploration and for the knowledge by which man can better understand the universe and his relation to it."

IT IS UP TO THE SENATE TO SAVE THE HATCH ACT

Mr. FONG. Mr. President, as the Senate prepares to take up H.R. 8617, a bill to scuttle the Hatch Act, we will be hearing more and more about what the Hatch Act does and does not do. In the process, the facts will probably become obscured by a lot of smokescreen. So when one finds light shed on the subject, cutting through the smokescreen, it is gratifying and encouraging.

In this vein, I am happy to note the Philadelphia Inquirer has just come forth with an editorial title "It's Up to the Senate To Save the Hatch Act."

The editorial clears the air showing how the Hatch Act is in jeopardy because H.R. 8617, if passed by the Senate, would strip away the Federal employees' protections from political exploitation. In the words of the editorial:

> The bill's proponents argue mightily that it is not really a repeal of the Hatch Act at all, but a sort of benevolent reform measure which would give affected civil servants the freedom to "express themselves" politically, while relying on new "protections" against political exploitation.
>
> Nonsense, H.R. 8617 would, purely and simply, make Federal civil servants direct political participants, for the first time in more than 35 years. And anyone who argues that once it is permissible for them to politic, money-raise and otherwise labor in the electioneering vineyards that somehow their bosses won't ask them to—well, anyone who argues that to you is blowing smoke up your leg.

If H.R. 8617 passes, the editorial forecasts:

> The end of the Hatch Act—and the beginning of a patronage system unimagined since Ulysses S. Grant's more power-lustful dreams.

I ask unanimous consent to have the Philadelphia Inquirer's lead editorial of February 22 be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

IT IS UP TO THE SENATE TO SAVE THE HATCH ACT

For more than 35 years, the main categories of federal government employes—now numbering almost 3 million—have been protected from political exploitation by a law known as the Hatch Act. The taxpayers of the U.S. have been, coincidentally, spared the burdens of the sort of patronage abuses which the Hatch Act has prevented. All that is in peril.

The Hatch Act is no simple measure; it wasn't when it was drafted and fought through legislative thickets by reform. Sen. Carl Hatch in 1940; it is less so today, having been compounded and elaborated by some 3,000 regulations and administrative rulings.

But the heart of the law is uncomplicated, and it is strong. It prohibits federal civil servants from managing or running in partisan political campaigns. It thus, more importantly, prevents those civil servants' bosses from requiring such behavior as an implicit condition of employment, promotion or other favors or conveniences.

Since its inception, the Hatch Act and its principle have been attacked vigorously. The strongest current force arrayed against it is the labor movement—which long has argued that the Hatch Act interferes with federal employes' freedom of speech and association.

Led on by that spurious cry—and by the inviting prospect of instant recruitment of 3 million political patronage workers—the House of Representatives last October passed a bill, H.R. 8617, which would end the Hatch Act protections.

The bill's proponents argue mightily that it is not really a repeal of the Hatch Act at all, but a sort of benevolent reform measure which would give affected civil servants the freedom to "express themselves" politically, while relying on new "prohibitions" against political exploitation.

Nonsense. H.R. 8617 would, purely and simply, make federal civil servants direct political participants, for the first time in more than 35 years. And anyone who argues that once it is permissible for them to politic, money-raise and otherwise labor in the electioneering vineyards that somehow their bosses won't ask them to—well, anyone who argues that to you is blowing smoke up your leg.

To its discredit the Senate Post Office and Civil Service Committee has sent to the Senate floor a bill virtually identical to H.R. 8617. If it passes, and there is great pressure being brought for just that, it would be the end of the Hatch Act—and the beginning of a patronage system unimagined since Ulysses S. Grant's more power-lustful dreams.

CITIZENS BAND RADIO

Mr. EAGLETON. Mr. President, a new phenomenon, citizens band radio, is sweeping the country and the Government has been caught by surprise. All the ramifications of the sudden explosion in the use of CB's, as they are called, are not yet known. But it is clear from those effects that are now apparent that the Government should act to adjust its current policies and also should begin to study the phenomenon so as to avoid future problems.

CB's are wireless two-way communication radios. The majority are attached to automobiles, although many units are located in homes and offices. Some are used in boats and airplanes. The most expensive CB's have access to all the 23 frequencies or channels that are available. Less expensive models pick up fewer channels. Car-to-car communications, which account for the majority of the calls, have a range of approximately 5 miles. Stronger radios with larger antennas, which are usually in the home or office, have a range of approximately 15 miles.

At present it is estimated that one in every 28 American families possesses a CB, with between 2 and 3 million being turned out annually by manufacturers—most families own more than one set. The Chrysler Corp. has announced that CB's will be available as optional accessories on its later 1976 models, and other automakers are expected to follow suit. Chrysler believes that CB's may soon be as common as AM car radios.

Clearly, CB's are with us to stay—and in ever-growing numbers. The sudden CB boom has caused a major problem for the Federal Communications Commission, which must license owners. One year ago citizens band radio license applications were running 70,000 a month. Last month alone, more than 500,000 applications were received by the FCC.

The resulting logjam is now causing a frustrating 3-to-4 month wait for the majority of license applicants. At current application rates some 4 percent of our adult population will experience this unnecessary bureaucratic delay during 1976 alone.

For that small percentage whose applications are inevitably mishandled, the waiting period can be 6 months to a year. People calling the citizens band license section of the FCC, because of extraordinary problems find the line busy. According to the telephone company, only 20 percent of the callers are getting through.

The extraordinary proliferation of citizen band radios has caused problems other than the license backlog. Over the last year the Federal Communications Commission has received more than 60,000 complaints of citizens band radios interfering with other electronic equipment such as televisions, radios, and stereos.

Many of the problems are due to the lack of proper filtering mechanisms on the electronic equipment that is experiencing the interference. Some CB operators illegally attach linear amplifiers in an effort to extend the broadcast range of their radio. Their broadcasts block out and replace the sound on televisions, radios, church organs, and ambulance services, and could potentially affect air traffic controllers' communications with airplanes.

Why the sudden CB boom? No one knows for sure. CB's are certainly useful in the event of a breakdown or accident on the highway, when they can be a lifesaving communications channel. During normal driving, a CB unit can provide an update on local traffic conditions, directions to unfamiliar locations, guidance on restaurants and lodgings, or just companionship for a lone driver at night.

Technological changes can have a

great impact on social relationships. Some changes are immediate and obvious, such as the development of the telephone or the automobile and the resulting reduction of rural isolation. Some are less immediate and obvious, such as the growth of air conditioning and the resulting elimination of the front porch and the decline in neighborly conversation.

The growth of CB radios appears in this stage of its development to be having a beneficial effect on America's sociability and neighborliness. Innumerable examples of good samaritanism related to CB radios exist in nearly every community in the country.

The impact of CB's upon what the sociologists call alienation and anomie will take many years of experience and study to determine. But it seems apparent that the neighborliness aspect of CB's is in large measure responsible for their widespread use.

CB's came to national attention during the truckers' strike several years ago and again when the 55-mile-an-hour speed limit was first imposed and truckers began notifying each other on their CB's about speed traps.

Some charge that the growth of CB's will eliminate the value of radar speed enforcement on the highways. Col. S. S. Smith, head of the Missouri highway patrol, and many other law enforcement officers argue that, to the contrary, the net result of the growth of CB radios is a great benefit to law enforcement.

Five months ago Colonel Smith placed CB radios in all 700 of his patrol cars. One channel was reserved for any CB operator wanting to contact the highway patrol or vice versa.

Already, Colonel Smith reports, as a result of CB operators notifying highway patrol cruisers, 671 drunk drivers have been arrested, 61 people driving in the wrong direction on a dual highway have been stopped, and a whopping 20 percent of all auto accidents handled by the highway patrol in that period have been reported by CB operators. Response time to accidents reported by CB's has been cut by 40 percent.

There are many undecided issues surrounding the citizens band radio phenomenon. Should the present 23 frequencies alloted to citizens band be substantially increased in light of the proliferation? Should the regulations controlling CB's be rewritten for more adequate policing and more lenient treatment of first offenders? Can anything be done to discourage the high CB theft rate? Should television, radio, and stereo manufacturers be required to install filtering equipment so that normally powered CB's will not interfere with their use?

Should licensing of CB radios be tightened or eliminated altogether? Or should the licensing procedure be simplified so that licenses can be given to the operator at the store where the CB is purchased and a copy of the purchaser's name and call numbers filed with the FCC?

Clearly, one thing we should do, and quickly, is deal with the license application backup at the FCC.

As a member of the Senate Appropriations Subcommittee on State, Justice, Commerce, and the Judiciary, I will, therefore, introduce an amendment to the second supplemental appropriations bill to provide the FCC with stopgap funding sufficient to bring the license application process down to 20 or 30 days. According to the FCC, an additional $335,000 to cover the remainder of fiscal year 1976 and the transition quarter will accomplish this purpose.

So that the Government can respond immediately to the CB crisis, and not have to wait until the second supplemental passes both Houses of Congress, the FCC has indicated that it will participate in a unique procedure of intergovernmental cooperation. If a sufficient number of my colleagues on the Senate Appropriations Committee sign a letter of intent that I am sending to the Federal Communications Commission, the FCC will immediately reprogram funds from other areas into the CB license program.

I am also sending a letter to the FCC Chairman asking him to relax temporarily the enforcement arm of the citizens band operation until the license application response time is brought under control. Citizens should not be penalized, because of the shortcomings of their Government.

But I also believe that Congress should begin to address the larger questions raised by the CB phenomenon. To that end I have written a letter to the chairman of the Senate Subcommittee on Communications of the Senate Commerce Committee, Senator PASTORE, asking that he consider hearings on this subject. I believe it is something that we in this body should begin to learn a great deal more about.

SENATE GOVERNMENT OPERATIONS COMMITTEE RULES

Mr. PERCY. Mr. President, pursuant to section 133B of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 190a–2), I submit the rules of procedure adopted by the Committee on Government Operations and ask unanimous consent that they be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES OF PROCEDURE ADOPTED BY THE COMMITTEE ON GOVERNMENT OPERATIONS, PURSUANT TO SECTION 133B OF THE LEGISLATIVE REORGANIZATION ACT OF 1946, AS AMENDED

RULE 1. MEETINGS AND MEETING PROCEDURES OTHER THAN HEARINGS

A. *Meeting dates.* The committee shall hold its regular meetings on the first Thursday of each month, when the Congress is in session, or at such other times as the chairman shall determine. Additional meetings may be called by the chairman as he deems necessary to expedite committee business. (Sec. 133(a), Legislative Reorganization Act of 1946, as amended.)

B. *Calling special committee meetings.* If at least three members of the committee desire the chairman to call a special meeting, they may file in the offices of the committee a written request therefor, addressed to the chairman. Immediately thereafter, the clerk of the committee shall notify the chairman of such request. If, within three calendar days after the filing of such request, the chairman fails to call the requested special meeting, which is to be held within seven calendar days after the filing of such request, a majority of the committee members may file in the offices of the committee their written notice that a special committee meeting will be held, specifying the date and hour thereof, and the committee shall meet on that date and hour. Immediately upon the filing of such notice, the committee clerk shall notify all committee members that such special meeting will be held and inform them of its date and hour. If the chairman is not present at any regular, additional or special meeting, the ranking majority member present shall preside (Sec. 133(a), Legislative Reorganization Act of 1946, as amended.)

C. *Meeting notices and agenda.* Written notices of committee meetings, accompanied by an agenda enumerating the items of business to be considered, shall be sent to all committee members at least three days in advance of such meetings. In the event that unforeseen requirements of committee business prevent a three-day notice, the committee staff shall communicate such notice by telephone to members or appropriate staff assistants in their offices, and an agenda will be furnished prior to the meeting.

D. *Open business meetings.* Meetings for the transaction of committee or subcommittee business shall be conducted in open session, except that a meeting or portions of a meeting may be held in executive session when the committee members present, by majority vote, so determine. The motion to close a meeting, either in whole or in part, may be considered and determined at a meeting next preceding such meeting. Whenever a meeting for the transaction of committee or subcommittee business is closed to the public, the chairman of the committee or the subcommittee shall offer a public explanation of the reasons the meeting is closed to the public. This paragraph shall not apply to the Permanent Subcommittee on Investigations.

E. *Prior notice of first degree amendments.* It shall not be in order for the committee, or a subcommittee thereof, to consider any amendment in the first degree proposed to any measure under consideration by the committee or subcommittee unless a written copy of such amendment has been delivered to each member of the committee or subcommittee, as the case may be, and to the office of the committee or subcommittee, at least 24 hours before the meeting of the committee or subcommittee at which the amendment is to be proposed. This subsection may be waived by a majority of the members present. This subsection shall apply only when at least 72 hours' written notice of a session to mark-up a measure is provided to the committee.

F. *Agency comments.* When the committee has scheduled and publicly announced a mark-up meeting on pending legislation, if executive branch agencies, whose comments thereon have been requested, have not responded by the time of the announcement of such meeting, the announcement shall include the final date upon which the comments of such agencies, or any other agencies, will be accepted by the committee.

RULE 2. QUORUMS

A. *Reporting legislation.* Eight members of the committee shall constitute a quorum for reporting legislative measures or recommendations. (Sec. 133(d), Legislative Reorganization Act of 1946, as amended.)

B. *Transaction of routine business.* Five members of the committee shall constitute a quorum for the transaction of routine business, provided that one member of the minority is present.

For the purpose of this paragraph, the

term "routine business" includes the convening of a committee meeting and the consideration of legislation pending before the committee and any amendments thereto, and voting on such amendments. (Rule XXV, Sec. 5(a), Standing Rules of the Senate.)

C. *Taking sworn testimony.* Two members of the committee shall constitute a quorum for taking sworn testimony: *Provided, however,* That one member of the committee shall constitute a quorum for such purposes, with the approval of the chairman and the ranking minority member of the committee, or their designees. (Rule XXV, Sec. 5(b), Standing Rules of the Senate.)

D. *Taking unsworn testimony.* One member of the committee shall constitute a quorum for taking unsworn testimony. (Sec. 133(d)(2), Legislative Reorganization Act of 1946, as amended.)

E. *Subcommittee quorums.* Subject to the provisions of section 5(a) and 5(b) of Rule XXV of the Standing Rules of the Senate, and section 133(d) of the Legislative Reorganization Act as amended, the subcommittees of this committee are authorized to establish their own quorums for the transaction of business and the taking of sworn testimony.

F. *Proxies prohibited in establishment of a quorum.* Proxies shall not be considered for the establishment of a quorum.

RULE 3. VOTING

A. *Quorum required.* No vote may be taken by the committee, or any subcommittee thereof, on any measure or matter unless a quorum, as prescribed in the preceding section, is actually present.

B. *Reporting legislation.* No measure or recommendation shall be reported from the committee unless a majority of the committee members are actually present, and the vote of the committee to report a measure or matter shall require the concurrence of a majority of those members who are actually present at the time the vote is taken. (Sec. 133(d), Legislative Reorganization Act of 1946, as amended.)

C. *Proxy voting.* Proxy voting shall be allowed on all measures and matters before the committee, or any subcommittees thereof, except that, when the committee, or any subcommittee thereof, is voting to report a measure or recommendation, proxy votes shall be allowed solely for the purposes of recording a member's position on the pending question and then, only if the absent committee member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. All proxies shall be addressed to the chairman of the committee and filed with the chief clerk thereof, or to the chairman of the subcommittee and filed with the clerk thereof, as the case may be. All proxies shall be in writing and shall contain sufficient reference to the pending matter as is necessary to identify it and to inform the committee as to how the member wishes his vote to be recorded thereon. (See 133(d), Legislative Reorganization Act of 1946, as amended.)

D. *Announcement of vote.* (1) Whenever the committee by rollcall vote reports any measure or matter, the report of the committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the committee. (Sec. 133(d), Legislative Reorganization Act of 1946, as amended.)

(2) Whenever the committee by rollcall vote acts upon any measure or amendment thereto, other than reporting a measure or recommendation, the results thereof shall be announced in the committee report on that measure unless previously announced by the committee, and such announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment thereto by each member of the committee who was present at that meeting. (Sec. 133(b), Legislative Reorganization Act of 1946 as amended.)

(3) In any case in which a rollcall vote is announced, the tabulation of votes shall state separately the proxy vote recorded in favor of and in opposition to that measure, amendment thereto, or recommendation. (Sec. 133(b) and (d) Legislative Reorganization Act of 1946, as amended.)

RULE 4. CHAIRMANSHIP OF MEETINGS AND HEARINGS

The chairman shall preside at all committee meetings and hearings except that he shall designate a temporary chairman to act in his place if he is unable to be present at a scheduled meeting or hearing. If the chairman (or his designee) is absent ten minutes after the scheduled time set for a meeting or hearing, the senior Senator present of the chairman's party shall act in his stead until the chairman's arrival. If there is no member of the chairman's party present, the senior Senator of the committee minority present shall open and conduct the meeting or hearing until such time as a member of the majority enters.

RULE 5. HEARINGS AND HEARING PROCEDURES

A. *Announcement of hearings.* The committee, or any subcommittee thereof, shall make public announcement of the date, place, time and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearing, unless the committee, or subcommittee, determines that there is good cause to begin such hearing at an earlier date. (Sec. 133A(a), Legislative Reorganization Act of 1946 as amended.)

B. *Open hearings.* Each hearing conducted by the committee, or any subcommittee thereof, shall be open to the public unless the committee, or subcommittee, determines that the testimony to be taken at that hearing may (1) relate to a matter of national security, (2) tend to reflect adversely on the character or reputation of the witness or any other individual, or (3) divulge matters deemed confidential under other provisions of law or Government regulations. (Sec. 133A (b), Legislative Reorganization Act of 1946, as amended.)

C. *Radio, television, and photography.* The committee, or any subcommittee thereof, may permit the proceedings of hearings which are open to the public to be photographed and broadcast by radio, television or both subject to such conditions as the committee, or subcommittee, may impose. (Sec. 133A(b), Legislative Reorganization Act of 1946, as amended.)

D. *Advance statements of witnesses.* A witness appearing before the committee, or any subcommittee thereof, shall file a written statement of his proposed testimony at least one day prior to his appearance, unless this requirement is waived by the chairman and the ranking minority member, following their determination that there is good cause for failure of compliance. (Sec. 133A(c), Legislative Reorganization Act of 1946, as amended.)

E. *Minority witnesses.* In any hearings conducted by the committee, or any subcommittee thereof, the minority members of the committee shall be entitled, upon request to the chairman by a majority of the minority to call witnesses of their selection during at least one day of such hearings. (Sec. 133A (e), Legislative Reorganization Act of 1946, as amended.)

RULE 6. COMMITTEE REPORTS

A. *Timely filing.* When the committee has ordered a measure or recommendation reported, following final action the report thereon shall be filed in the Senate at the earliest practicable time. (Sec. 133(c), Legislative Reorganization Act of 1946, as amended.)

B. *Supplemental, minority, and additional views.* A member of the committee who gives notice of his intention to file supplemental, minority, or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than three calendar days in which to file such views, in writing, with the chief clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views. (Sec. 133(e), Legislative Reorganization Act of 1946, as amended.)

C. *Draft reports of subcommittees.* All draft reports prepared by subcommittees of this committee on any measure or matter referred to it by the chairman, shall be in the form, style, and arrangement required to conform to the applicable provisions of the Standing Rules of the Senate, and shall be in accordance with the established practices followed by the committee. Upon completion of such draft reports, copies thereof shall be filed with the chief clerk of the committee at the earliest practicable time.

D. *Cost estimates in reports.* All committee reports, accompanying a bill or joint resolution of a public character reported by the committee, shall contain (1) an estimate, made by the committee, of the costs which would be incurred in carrying out the legislation for the then current fiscal year and for each of the next five fiscal years thereafter (or for the authorized duration of the proposed legislation, if less than five years); (2) a comparison of such cost estimates with any made by a Federal agency; or (3) a statement of the reasons for failure by the committee to comply with these requirements as impracticable, in the event of inability to comply therewith. (Sec. 252(a), Legislative Reorganization Act of 1970.)

RULE 7. SUBCOMMITTEE AND SUBCOMMITTEE PROCEDURES

A. *Regularly established subcommittees.* The committee shall have five regularly established subcommittees, as follows:

Permanent Subcommittee on Investigations.

Intergovernmental Relations.

Reports, Accounting, and Management.

Federal Spending Practices, Efficiency, and Open Government.

Oversight Procedures.

B. *Ad hoc subcommittees.* Following consultation with the ranking minority member, the chairman shall, from time to time, establish such ad hoc subcommittees as he deems necessary to expedite committee business.

C. *Subcommittee membership.* Following consultation with the majority members, and the ranking minority member, of the committee, the chairman shall announce selections for membership on the subcommittees referred to in paragraphs A and B, above.

D. *Subcommittee meetings and hearings.* Each subcommittee of this committee is authorized to establish meeting dates and adopt rules not inconsistent with the rules of the committee.

E. *Subcommittee budgets.* Each subcommittee of this committee, which requires authorization for the expenditure of funds for the conduct of inquiries and investigations, shall file with the chief clerk of the committee, later than January 10 of that year, its request for funds for the 12-month period beginning on March 1 and extending through and including the last day in February of the following year. Each such request shall be submitted on the budget form prescribed by the Committee on Rules and Administration, and shall be accompanied by a written justification, addressed to the chairman of the committee, which shall include (1) a statement of the subcommittee's areas of activities; (2) its accomplishments during the preceding year; and (3) a table showing a comparison between (*a*) the funds authorized for expenditure during the preceding year, (*b*) the funds actually expended during that year, (*c*) the amount requested for the current year, and (*d*) the number of professional and clerical staff members and consultants employed by the subcommittee during the preceding year and the number of such personnel requested for the current year. (Sec. 133(g), Legislative Reorganization Act of 1946, as amended.)

MAYORS CRITICIZE PRESIDENTIAL VETO OF JOBS BILL

Mr. HUMPHREY. Mr. President, on Wednesday, February 25, three distinguished mayors representing the U.S. Conference of Mayors, testified before the Joint Economic Committee. The mayors—the Honorable Moon Landrieu, mayor of New Orleans; the Honorable Coleman Young, mayor of Detroit; and, the Honorable Kenneth Gibson, mayor of Newark—spoke about the impact of the President's budget and economic policies on central cities.

The mayors expressed many concerns about the fiscal year 1977 budget and its affect on their cities. They pointed out that real grants-in-aid will decline precipitously in fiscal year 1977 and that the President's budget greatly increases the responsibilities of local governments. This "double-whammy" of less money and more responsibility will cause large tax increases and services cutbacks in many cities. The mayors were particularly concerned that the tax increases and service cutbacks caused by the President's budget will precipitate further outmigration of middle-income people and further losses of jobs from the central cities.

However, the most damaging decision for the central cities, according to the mayors' testimony, was the President's veto of the Public Works Employment Act of 1975. They characterized this veto as "a devastating blow in his—the President's—campaign to frustrate the expressed intent of the majority of Congress to provide meaningful, long-term jobs for the jobless." The mayors pointed out that substitute legislation will not meet their pressing needs and called upon Congress to reenact the original bill into law.

Mr. President, I would like to share the mayors' superb testimony with my colleagues to help them understand the current plight of our Nation's cities. I ask unanimous consent to have the mayors' statement and my opening statement printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OPENING STATEMENT OF HON. HUBERT H. HUMPHREY

Today the Joint Economic Committee continues its annual hearings on the Economic Report of the President. Today's hearing will focus on the outlook for state and local governments in the upcoming year and the effect of the President's budget and economic proposals on these governments.

Last year, state and local governments suffered their worst budget squeeze since the Great Depression. Inflation increased expenditures much faster than tax receipts. Then recession administered the second blow of the fiscal double-whammy. It caused enormous revenue shortfalls and increased expenditures for welfare, public health, and other unemployment related purposes. According to the President's own Economic Report, state and local governments lost over $27 billion in revenues in 1975 due to high unemployment.

This year the situation will be mixed. For some states and localities the recovery will mean higher tax revenues and lower expenditures. For these governments, budgets will be balanced although the level of services will remain significantly below pre-recession levels. I emphasize: Budgets may be balanced but services will be reduced.

For other state and local governments, however, this year will mean further fiscal disaster. These governments, particularly central cities and states in high unemployment areas, will be forced to undertake massive tax increases and expenditure cuts. Why does this occur in the middle of an economic recovery? The answer is simple. First, many areas of the country will not participate in the economic recovery. Unemployment will remain high and budget crises will persist. Second, many of these governments are carrying large operating deficits this year. Next year, these deficits will have to be offset with tax increases and expenditure cuts.

I think there is an important lesson to be learned here. Balanced budgets and high bond ratings are not the only way to evaluate the financial health of cities. You've got to look at tax rates, service levels and the quality of life. A city that has balanced its budget with taxes so high that they will drive out industry and expenditures so low that they force out middle income families is not a healthy city. I want to emphasize that point because we've got some "experts" here in Washington, who look at cities like they were corporate balance sheets. Good cash flow is important to a healthy city, but good cash flow alone does not make a city healthy.

On top of all this, the President's new budget is an outright disaster for state and local governments—offering plenty of rhetoric but no money at the bottom line. When you look at the numbers—and that's what budgets are all about—the President calls for a five percent reduction in real grants-in-aid to state and local governments. Program after program has been systematically slashed to cut state and local governments' piece of the pie—only this President calls it "consolidation"

According to analysis done by the JEC staff, the four grant consolidations proposed by the President will reduce total outlays for these programs by $1.4 billion in FY 1977. Sure there's a lot of rhetoric about local control and local discretion, but the Governor and Mayors here today know what's at the bottom line. They know that discretion doesn't meet the payrolls, discretion doesn't operate the schools and discretion won't meet local housing needs.

The President's budget also contains some "sneaky tricks," designed to subtlely increase state and local government costs. First, the President's proposal to increase the social security tax rate would require State and local governments to increase their annual contributions to the Social Security Trust Fund in behalf of their employees by $300 million. Second, the proposal to reduce the portion of transportation block grants that can be used for mass transit operating subsidies from 90 percent to 50 percent could require local governments to increase their own expenditures for mass transit by as much as $250 million. Third, the President's proposal to phase out extended unemployment compensation benefits and public service employment programs could transfer as many as 600 thousand households to the walfare rolls by mid 1977, thus increasing State and local government expenditures for public assistance by as much as $1 billion. That's total of over $1.5 billion. It's not $90 billion but its a lot of money and a step in the same direction.

Finally, the President's budget contains absolutely nothing to stimulate private sector investment in high unemployment regions and cities. His budget has written these areas off as losers and condemned them to a slow death.

As Chairman of the Joint Economic Committee, as one of a hundred Senators and as an American citizen, I am going to fight that policy with every fiber of my body. It's time we call it as it is, a new form of economic oppression, designed to isolate the poor and minorities in the central cities and to slowly tighten the noose.

Today, we will discuss these issues with one distinguished Governor and several distinguished Mayors from major cities. Our first witness will be the Honorable Hugh Carey, Governor of New York. On behalf of the Committee, I would like to extend a special welcome to Governor Carey, because he is a former Member of this Committee. Governor Carey left the hard life in Congress for rest and relaxation in the Governor's mansion in Albany. Governor Carey will be followed by a panel of three distinguished Mayors representing the United States Conference of Mayors: Mayor Moon Landrieu of New Orleans; Mayor Kenneth Gibson of Newark and Mayor Coleman Young of Detroit.

STATEMENT OF HON. MOON LANDRIEU, MAYOR OF NEW ORLEANS, LA., PRESIDENT OF THE U.S. CONFERENCE OF MAYORS; AND HON. KENNETH GIBSON, MAYOR OF NEWARK, N.J., VICE-PRESIDENT OF THE U.S. CONFERENCE; AND HON. COLEMAN YOUNG, MAYOR OF DETROIT, MICH., CHAIRMAN OF THE URBAN ECONOMIC POLICY COMMITTEE OF THE U.S. CONFERENCE

Mr. Chairman, Members of the Joint Economic Committee. I am Moon Landrieu, Mayor of New Orleans and President of the United States Conference of Mayors, the national spokesman for virtually all cities over 30,000 in population. With me today are Kenneth Gibson, Mayor of Newark and Vice President of the Conference of Mayors, and Coleman Young, Mayor of Detroit and Chairman of the Urban Economic Policy Committee of the Conference of Mayors.

When we were invited to come before you today to share with you our analysis of the President's proposed FY 77 budget and how it would impact on the nation's cities, we were confident that the comprehensive anti-recession program, the Public Works Employment Act of 1975, would have been finally enacted into law. The United States Conference of Mayors together with other public interest groups as well as organized labor and citizens' groups worked long and hard with bipartisan members of Congress to implement a sound, comprehensive anti-recession program to provide employment opportunities for thousands of Americans who want and need to return to work.

We suffered a devastating blow last Thursday, January 19, when a minority of the United States Senate joined with the President in his campaign to frustrate the expressed intent of the majority of Congress to provide meaningful, long-term jobs for the jobless. But, last week's defeat is not a final one. It is a call to action for all of us who have worked for more than a year to see this bill become a reality. We are currently examining alternative strategies to assure that our efforts to date have not been in vain. We urge members of this Committee as well as the entire Congress to work with us in enacting a complete anti-recession package immediately.

We stress immediate action. Without such economic stimulation and fiscal assistance to stabilize local government, we are fearful that the President's FY 77 budget with its many cutbacks and phaseouts will permanently cripple many of the nation's urban centers.

THE FISCAL REALITY

President Ford has, once again, refused to develop a coordinated, intergovernmental approach to the nation's economic problems. Last year, prior to the release of the Administration's FY 76 budget, the Conference of Mayors recommended that a balance must be struck between methods to disinflate the economy and methods to stimulate it. We pointed out that urban residents were feeling the negative and inequitabe effects of recession. Unemployment was mounting, welfare case loads climbed, and local government revenues began to drop off substantially. The proposals contained in his FY 76 budget, however, were principally designed to reduce inflationary pressures and to "avoid commitments to excessive growth of federal spending in the long run." His recovery policies were aimed at the private sector—individual and corporate tax reductions and increased assistance to the unemployed—and aid to State and local government was reduced in real terms while defense spending was increased and allowed to take account of future inflation.

Last year's budget forced State and local government to take actions counter to his national economic strategies:

We raised taxes while the national government lowered taxes in the private sector.

We layed off thousands of employees while the national government was attempting to create jobs in the private sector by the cut in taxes; and,

We postponed or cancelled capital projects while the national government encouraged private investment in capital expansion.

The disastrous effects of these local government actions has been documented many times over but perhaps never so clearly as in this Committee's own report of May, 1975, which revealed that State and local governments lost $20 billion in revenues during 1975 due to the recession.[1] These losses necessitated significant budget adjustments by local government. Cities enacted an estimated $1.5 billion in new taxes and reduced expenditures by approximately $1.4 billion in the same year. That is a total of approximately $3 billion taken out of the economy by local government alone, right in the middle of the worst recession since World War II.

The priorities reflected in Congress's second budget resolution adopted in December, 1975, placed greater value on human resource and economic stimulus programs and less to defense and international relations than did the President. We applaud your sensitivity to the domestic needs of this nation. But, Congress has failed to implement its priorities because a minority of its members together with the President have denied the will of the majority. Because Congress has failed to override the continual Presidential vetoes, the future of cities appears bleak since we will have to live with President Ford's budget proposals.

This failure at the national level has had severe repercussions at the local level:

Unemployment levels have climbed to double-digit levels, hitting hardest and most inequitably on the disadvantaged—the youth, the minorities and the untrained.

The revenue/expenditure gap in local budgets widens daily for most, not just a few, of our cities.

Inflationary pressures continue to mount.

Local long-term economic development programs have been diluted and halted as a result of federal actions and inactions.

The gap between what exists today in our cities—a recession and inflation-ridden economy—and what can exist tomorrow—energized local economies—must be bridged.

THE PRESIDENT'S BUDGET

Unfortunately, we find nothing in the President's proposed FY 77 budget which would bridge this gap. Indeed, his proposed cuts in domestic spending and his acceptance of an intolerable level of unemployment with inflation persisting at high rates, serve only to widen the fiscal gaps which exist in our local budgets. More importantly, our residents are being told to bear an additional unfair burden for at least one more year.

Cities are the homes for those in our society most adversely affected by the recession and by the traditional economic policies that have been applied to fight inflation—the unemployed and the underemployed, particularly, the young, the black, the Hispanic, and other minorities, as well as the elderly. The President's FY 77 budget proposals will impact most heavily on our residents:

Proposed increases in Social Security taxes and some Medicare payments will pinch most of the pocketbooks of lower-income people, the disabled, and the elderly.

Proposed elimination, by end of FY 77, of nearly 307,000 full-time public service jobs, 185,000 summer youth jobs, 54,000 other part-time jobs, and 145,000 training slots will serve only to maintain and increase the already double-digit unemployment rates in our cities.

Reduced federal social service expenditures will disproportionately affect certain urban populations.

FISCAL GAP IN LOCAL BUDGETS TO WIDEN

The FY 77 budget will widen local budget gaps between revenues and expenditures in three major ways:

1. The Proposed Cuts in Federal Assistance—

Under the Administration's budget, outlays for federal assistance to State and local government increases by only one percent, while the budget on a whole increases by 5.5 percent. (It should be noted that the one percent overall growth is primarily due to increases in individual transfer payments which are classified with the grants program.) With inflation in the public sector in excess of 8 percent, even a 5.5 percent growth in federal assistance would result in a decrease in the "real dollar" value of funds reaching the State and local level. But the increase is only one percent, and this translates into a $4.1 billion reduction in the "real dollar" value of federal assistance.

Using the Congressional Budget Office projections for the next five years, a similar decrease in federal assistance is revealed. These numbers indicate what will occur if current program commitments are maintained for the next five years. Under the Congressional Budget Office projections, federal grants to State and local governments decline from 12 percent of federal outlays in FY 76 to 9 percent in FY 81. Put in dollar terms, this would result in steadily decreasing assistance, reaching a $16 billion reduction in FY 81.

An example of the Administration's proposed reductions in State and local government assistance is the combining of 14 health programs into a single block grant to States. This consolidation not only reduces the number of categoricals into a single program, it reduces the dollar amount, also. Outlays for the block grant would be $1.5 billion less than the amount necessary to maintain current policy for the individual programs. Similarly, the President's proposed consolidation of ten child nutrition programs into a single State block grant carries with it a funding level reduction of $1.2 billion from what current policy would dictate.

While the nation's cities welcome these initiatives to reform domestic assistance programs, we are deeply concerned that the reduced federal funding, the elimination of state matching requirements and the total reliance upon the State to decide whether to receive the federal block grants, and how to spend them, will only further exacerbate the present fiscal ills of local government. Cities will be faced with the difficult choice of cutting out programs made possible by federal funds or attempting to maintain them by diverting the necessary dollars from some other essential municipal service. Such actions on the part of local officials will only further widen the current revenue/expenditure gap.

Cities need statutory assurance that they will not only receive their fair share of these block grant monies but also will be involved in the state's planning, policy making, resource allocating, program designing, and evaluating processes. Decentralization, simplification, and administrative efficiency must not become the rationalization for a reduced federal commitment to urban America.

2. The Acceptance of Continued High Unemployment and Inflation—

While Administration economists claim that a strong economic recovery is underway and cite the latest drop in the unemployment rate as one positive sign, that recovery remains an illusive, undelivered federal promise in our cities. January, 1975, witnessed not a 7.8 percent level of unemployment but more like a 10 plus percent nationally if the additional "discouraged workers" in excess of one million are added, and part time workers' losses of time are also included. In our cities, even a 10 percent rate is more like a 15 or a 20 plus rate. Therefore, the President's acceptance of a 7.7 percent national rate of unemployment in 1976, a 6.9 percent in 1977 and above 6 percent until the end of the decade is totally unacceptable to those of us who know what the effect of such rates of unemployment are on our residents and on our budgets.

Local revenues, provided mainly through taxes that tend to fall short in times of high unemployment and recession, will continue to decline if the President's levels of unemployment are maintained. In addition, persistent high unemployment in our cities will only add to the already great social, political, economic and fiscal demands on local government. In order to achieve balanced budgets, therefore, cities will have to continue their actions of the past year—raising taxes, laying off personnel, cutting public services, and/or delaying sorely-needed capital improvements.

While the President's budget projects a declining rate of inflation, at the city level the inflationary pressures continue to mount. Cities face a variety of steadily rising costs—inflated payrolls, more costly supplies, equipment, and energy, and capital improvements financed at high interest rates. The capacity of city government to provide essential services has been seriously undermined by inflationary pressures which are much greater on the public sector than they are on the private sector. Not one of the generally available price indexes is an accurate measure of changes in the cost of providing government services—they are not only inadequate on the expenditure side of the fiscal equation but they totally ignore the impact of inflation on revenues. Recently-developed inflation indexes, measuring the impact of inflation on both expenditures and revenues of State and local government reveal that counties, municipalities, and townships together lost about $3.3 billion of purchasing power between 1972 and 1974 due to inflation.[2] This amount is equivalent to roughly 80 percent of their total general revenue sharing entitlement in 1974.

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[1] *Survey of State and Local Finances*, prepared by the Joint Economic Committee, United States 94th Congress, May, 1975.

3. Additional Federally Mandated Costs—Over the years, federal and state governments by executive, legislative and judicial action, have set forth a number of requirements and responsibilities for local government without the necessary accompanying financial resources to meet these responsibilities. These requirements have had a negative, and often severe impact upon local budgets. The question at issue is not whether these regulations and court orders are fair or whether they are unjust. The fact of the matter is they are being enforced and they are costly. Such personnel-related requirements as the minimum wage, workmen's compensation, Old Age Survivors and Disability Insurance, as well as the costs associated with the attainment and maintenance of air and water quality standards, and the impact of the Brooke Amendment on public housing costs are but a few examples of existing federally-imposed burdens without the accompanying financial resources.

The FY 77 Budget contains proposals that would add to these burdens—once again, without the commensurate federal revenues to carry out the mandated responsibilities. For example proposed:

Social Security tax increases would make it necessary for local governments whose employees are in the system to increase their contributions to the trust fund.

Reductions in federal support for water pollution abatement would require local government to increase spending vastly to meet federal standards, unless the standards are relaxed.

Cutbacks in federal mass transit operating subsidies would virtually compel compensating outlays by local governments.

Unemployment compensation changes would displace the responsibility for 26 weeks of benefits presently funded fully by the federal government, leaving local government the option of either providing these benefits or increasing their welfare load.

Cuts in Federal funds for water quality and health planning regulation, or management without any change in elaborate federal requirements for carrying on such activities on an areawide basis probably would oblige local governments to pick up the costs.

Additionally, lack of direct federal funding to local governments, implicit in the Budget's proposed block grants for health, social services, and child nutrition, places the future of existing local direct service programs in jeopardy. If funds are not forthcoming, local government will have to either assume the costs of these programs themselves or suffer the political consequences of eliminating them.

These three depressive features alone of the proposed FY 77 Budget would have severe, adverse impacts locally as well as nationally. Further cuts in State and local fiscal outlays could only have significant negative consequences upon the national economy. Should State and local governments be forced to curtail even further its spending, which represents 16 percent of the gross national product, the negative effect on economic recovery would be severe.

PROGRAMMATIC AREAS OF THE BUDGET

While significant reductions occur in most programmatic areas of the FY 77 Budget, there are two critical exceptions to this trend:

General Revenue Sharing.—First, the Administration continues its strong support of General Revenue Sharing. We commend it for this. The Budget reflects the Administration's legislative proposal for a 5¾ year extension of the revenue sharing program. Revenue sharing funds, however, have been subject to the same inflationary erosion that has occurred throughout the local sector. The Budget calls for continuation of General Revenue Sharing through October of 1982, with an annual funding increase of $150 million, or slightly below 2.5 percent. By 1982, it is estimated the real dollar value of General Revenue Sharing funds will be 24 percent below the 1972 allocations. To compensate for this inflationary erosion, the nation's cities are asking Congress to increase the revenue sharing trust fund by a minimum of $500 million a year.

We urge the Congress to immediately reenact the general revenue sharing program. It is ironic that the Congress, which has so vigorously moved to reform its own budgetary practices, is on the verge of causing major disruptions in State and local government through its delay in reenacting revenue sharing. Cities all across this country are now in the process of putting together their FY 77 budgets. Without immediate approval of the revenue sharing program, they will be forced to reduce their FY 77 revenue sharing funding activities by 50 percent or to increase local property taxes to compensate for the projected revenue sharing deficits. We are extremely pleased that the House Government Operations Committee has finally made a firm commitment to move forward with this legislation, and we are confident that the full Congress will give its final approval at the earliest possible date.

Community Development.—Second, the Administration is honoring its commitment to fund fully the Community Development (CD) Block Grant program. We commend it for this, too. This program, which is now operational throughout the country, provides flexible assistance to local governments. Under CD, seven categorical programs have been consolidated into a block grant, with funds being distributed directly to cities.

The rest of the Budget for direct grants to cities is characterized by restraint and phaseouts. Here are some major examples:

Public Employment—phaseout of 260,000 emergency Public Service Jobs between January, 1977, and October, 1977, and, in addition, a 100,000 summer youth job reduction.

Mass Transit—50 percent ceiling on Urban Mass Transportation Administration (UMTA) grants for operating assistance for mass transit. Currently 90 percent of the formula funds are used for operating costs.

Law Enforcement—decrease of 12.7 percent from FY 76 appropriations.

Construction Grants for Waste Water Treatment Works—no new funding requested to meet existing federal standards.

Economic Development—35.4 percent reduction in Economic Development Administration (EDA) appropriations from FY 76 levels.

Planning and Management Assistance—14 percent reduction from FY 76 appropriation.

Education—cutback of more than $1.3 billion below funding level appropriated by Congress for FY 76.

These proposals would only add to the already substantial fiscal woes of city governments.

We are attaching to our statement a copy of the "Budget Highlights" which are contained in the Federal Budget and the Cities, an analysis prepared by the United States Conference of Mayors and the National League of Cities. These highlights provide our assessment of the major changes in the President's FY 77 Budget. Additional details are contained in our publication which has been mailed to every Member of Congress.

I would now like Mayor Gibson and Mayor Young to highlight several other concerns of the Conference of Mayors as they relate to the President's economic policies and the state of the nation's cities.

THE PRESIDENT'S NATIONAL PRIORITIES

President Ford told us in his message of January 21, that "the Budget reflects my sense of priorities." In sum, his priorities are:

National defense budget increases both in terms of real growth and inflation while budgets for domestic programs, especially human resource programs, are held constant or slashed.

A significant tapering off of outlays to State and local governments.

The roadmap contained in his Budget promises a very smooth road for the well-to-do, a hold-the-line hope for the very poor, a long period of slow recovery for the middle-income, and a very rough time for the working poor.

The very poor, those with incomes below the poverty line—$5,050 per year for a family of four—are promised a continuation of about the same level of help they received in 1975.

The working poor, those who earn more than the government decreed $5,050 but less than the $9,000–$10,000 a family of four must have to make it in our urban areas, will pay more for social security, health services, and will see their children cut from the school lunch programs.

The well-to-do will receive even further tax incentives to invest in stocks while 8 million adult Americans will stand in the unemployment lines throughout 1976.

As a Mayor of a major city whose people have suffered unduly during this recession, I cannot accept these priorities. Neither can the United States Conference of Mayors. The Conference's policy calls for a full employment economy—something we will never achieve if the President's will is allowed to prevail.

A decision must be made by you and every Member of Congress whether you accept President Ford's restrained economic recovery which accepts intolerable levels of unemployment through the end of this decade or whether the national interest would be best served by immediately stimulating the economy sufficiently to provide employment opportunities for the millions of Americans who want to return to work.

We are aware that the call for "fiscal" responsibility and the pejorative term of "deficit" spending will influence decisions made by this Congress this year—election year, 1976. But, let me reiterate a point made by many including some of your colleagues here in Congress. The deficit in the federal budget is not a "spending" deficit. Rather, it has been caused by the severe recession of the past several years.

Consider for a moment the approximate $19.3 billion the federal government is spending this fiscal year for unemployment compensation alone. Add to this costs of increased welfare case loads, greater numbers of food stamp recipients and you arrive at a staggering federal expenditure to fund President Ford's current "jobless" policies to say nothing about similar costs to State and local government. Would it not be better to spend some of this on job creation for which federal revenues in the form of taxes would be realized to say nothing about restoring people's dignity by providing opportunities for meaningful work?

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[2] David Greytak and Bernard Jump, *The Impact of Inflation on State and Local Government Finance, 1967–1974,* Occasional Paper No. 25 (Syracuse, N.Y.; Metropolitan Studies Program, Syracuse University, 1975).

We cannot afford to wait until 1980 for sufficient employment opportunities for our people who reside in our cities. Our cities will not survive that long.

IMMEDIATE ACTION

The United States Conference of Mayors calls upon this Congress to immediately enact a complete public works/anti-recession fiscal assistance for State and local government program to put America back to work. Last week's defeat is not a final one—we will not tolerate a minority of Senators and the President frustrating the will of the majority of Congress and the majority of local officials to provide meaningful, long-term employment opportunities for thousands of Americans.

The President is openly campaigning against the cities of this country. In his recent veto message of the Local Public Employment Act of 1975, the President openly distorted the facts about the legislation. He stated that the jobs would be public jobs and would cost $25,000 each. The facts are that approximately 80 percent of the jobs created would have been in the private sector—which is consistent with his economic policy to stimulate that sector—and the average cost of each would have been about $10,000.

We urge Members of this Committee as well as the entire Congress to work with us now in enacting a solid, anti-recession program immediately.

Unless we are successful, we will find cities across the country confronting the crisis that now besets not only New York but also, my city and many others including Mayor Young's city. I would like him to conclude our presentation by telling you how Detroit is faring.

MIXED-UP JAYCEES

Mr. FONG. Mr. President, a recent editorial in the Honolulu Star-Bulletin aptly reflects what I feel is the true nature of the life-style and relationship between the various ethnic groups in our Aloha State. This amiable intermingling of our citizenry in Hawaii, I am proud to say, gives added meaning to America's Bicentennial Year.

I ask unanimous consent that the editorial, entitled "Mixed-up Jaycees," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MIXED-UP JAYCEES

A young man named Bernie Denham came in the office the other day; he said he represented the Honolulu Chinese Jaycees. He didn't look Chinese, so we asked him how come.

He said he was in the Chinese Jaycees because he'd been invited to join by some of his Japanese-American friends. He also said the Chinese Jaycees have some officers with Japanese names and have Caucasian and Filipino members as well as Chinese. For a recent fund-raiser they had a Portuguese sausage sale.

There are also the Honolulu Japanese Jaycees, with Richard Bauske as president. Bauske, who is Caucasian-Japanese, is one of the few members of his organization who can speak fluent Japanese. He says the Japanese Jaycees also have Chinese, Filipino, Korean, Hawaiian and Caucasian members.

The Honolulu Jaycees used to be primarily a Caucasian outfit, but for some years have had members and officers representing the various ethnic groups in Hawaii.

Bauske thinks it's a fine thing for the Jaycee organizations to be all mixed up among ethnic groups, even though the ethnic names are retained, for historical reasons. We'd have to agree.

BALANCE AND JUDGMENT IN AMERICAN FOREIGN POLICY

Mr. SPARKMAN. Mr. President, more perhaps than in other societies there is a tendency toward excess in the judgments we Americans form toward our dealings with the rest of the world. During the First World War under President Wilson we formulated a concept of idealistic but practical internationalism in the form of a world peacekeeping organization. The concept was sound and wise, but the hopes we attached to it were extreme, and we recoiled from it almost immediately into a sullen, shortsighted and ultimately disastrous isolationism.

Though less far swinging than in the days of Wilson and the isolationism of the interwar years, the pendular pattern has held in our attitudes toward foreign policy. The isolationism of the thirties was followed by a powerful resurgence of internationalism in World War II, so complete that the Senate gave its advice and consent to the United Nations Charter with little debate and almost no dissent. During the cold war years which followed, our commitment to an active foreign policy was almost total and scarcely questioned—its spirit well expressed in the now-famous words of President Kennedy's inaugural—that we would "pay any price, bear any burden, meet any hardship * * * to assure the survival and the success of liberty." The terrible costs of Vietnam put an end to this brave spirit, and many influential Americans seem now to have reverted once again—though in lesser degree—to the view that events and conflicts in distant places are of little importance to the United States.

Throughout the 60 years since Woodrow Wilson's time our attitudes have been constant only in their intensity on one side or the other. The world, we have thought, must be everything to us, or nothing. Every major failure or disappointment seems to have wrenched us loose of our moorings—from self-absorption to all-out internationalism and then, though lesser so, back again. We really ought to try—as Mark Twain said "to get out of an experience only the wisdom that is in it—and stop there. * * *" We are in need of an altered and more constant view of our foreign relations—a view recognizing that some things in the world matter to us greatly, some matter in a lesser degree.

The Congress has paralleled the Nation in its shifts of attitude and outlook. Periods of uncritical acquiescence in the executive's foreign policy have been followed by vigorous—and sometimes vengeful—reassertions of congressional prerogative. Such was the case with the neutrality laws of the 1930's, which tied the executive's hands in foreign policy in such a way as to encourage German and Japanese aggression. There also have been certain excesses—along with much that is constructive—in the reassertion of congressional prerogative in the wake of Vietnam and Watergate. The War Powers Act, the Case Act requiring the reporting of executive agreements, and the new congressional budgeting procedure are solid—perhaps historic—achievements toward more responsible, congressional participation in the making of national policy.

The excesses of recent Congresses have been more of attitude than in specific legislation—a tendency to question the good motives of the executive, to carp at individual officials, and in a few instances to deny the executive necessary latitude in the conduct of foreign policy. My own view—as stated a year ago upon my accession to the chairmanship of the Foreign Relations Committee—is that we in Congress "have neither the authority nor the resources to participate in the day-to-day conduct of foreign policy, but we are entrusted with both authority and responsibility to define the objectives and determine the direction of foreign policy, according to our own best judgment of the national interest." Our proper stance toward the executive is one of judicious independence—skeptical perhaps but friendly, with a continuing awareness that while powers in our system can be separated, the national interest cannot.

The Foreign Relations Committee itself has made several constructive innovations in the last year. The committee has completed action on a new International Security Assistance and Arms Export Control Act which represents the most significant reform in our foreign military assistance since the program began after World War II. In my speech to the Senate a year ago I expressed the hope that the Foreign Relations Committee would "advance upon previous initiatives toward the phasing out of grant military aid" and also devise more effective procedures for the "review and scrutiny of our large and growing military sales."

I am pleased to report today that we have made substantial progress toward both of these objectives. Under the bill approved by the committee all foreign military grant assistance would be terminated by October 1, 1977, except for limited training programs and specific programs authorized by Congress on a country-by-country basis. Under the new Arms Export Control Act devised to replace the old Military Sales Act the emphasis of our arms sales abroad would be shifted from the promotion of arms sales as a matter of business to the imposition of restraints on arms sales—especially congressional restraints—as a matter of sound policy.

Over the years the Foreign Relations Committee has regarded itself as having public educational responsibilities no less important than its legislative duties. For this general purpose—reinforced by the observance of our Nation's bicentennial—the committee is currently conducting a series of highly illuminating hearings on "Foreign Policy Choices for the Seventies and Eighties." In the course of the series thus far we have received testimony from a panel of distinguished public opinion analysts on the views and attitudes of the American people on current foreign policy; we have heard the thoughts of several members of the President's Cabinet on our national goals and values; we have received testimony from a panel of experts on the use of scarce and diminishing resources. We have also heard a far-ranging discussion of national security from the former Secretary of Defense and an equally stimulating presentation of the American labor movement's perspective from the president of the AFL-CIO.

We have received presentations from representatives of the business and farming communities, and we have heard the thoughts and recommendations of several distinguished theologians. Most recently we have met with mayors of major cities and Governors who provided the committee with their views. Further hearings are scheduled through the spring, and we anticipate that the published hearings will be of lasting value to schools and universities around the country as well as to interested citizens in general. Rewarding as this bicentennial educational enterprise is, it would be even more rewarding if the media fully shared the committee's commitment to public education.

It is not my intention in these remarks to cover every region in the world and every major aspect of American foreign policy but only to cite those areas and problems which seem most crucial at the beginning of 1976.

First as always in this nuclear age is the problem of stabilizing peace between the two nuclear superpowers, the United States and the Soviet Union. As the United States reassesses its position in the world in the wake of Vietnam, and its position at home in the wake of Watergate, both friends and adversaries abroad have questioned our resolve, our constancy, and even our self-confidence.

In this as in other contexts it is well for us to remember that the world will not stand still while we regain our bearings—as sooner or later surely we will. In the meantime policies must be made—as to strategic arms control, the Middle East, and Angola, to cite the most pressing issues. Sound policies cannot be expected to emerge in an atmosphere of endless congressional recrimination toward the executive. The fact that major violations of law and ethics have taken place—in the White House and perhaps too the CIA and FBI—does not mean that these agencies have become useless or malign.

So too—and here the Vietnam experience applies—the dispelling of the myth of the Communist monolith must not lead us to conclude that the Soviet Union has become benevolent or even benign. By available indications the Soviet Union both seeks and takes all possible opportunities to expand its power and influence. Limiting and countering Soviet power most assuredly does not require us to intervene wherever they intervene. Far from it—there are often more effective ways of reproving objectionable behavior than by imitating it. But restraining Soviet ambitions most assuredly requires us to maintain an overall balance of military and political power—at a cost which we are able and willing to sustain.

To this end nothing is more crucial than the current negotiation for a second strategic arms agreement. Although the outcome is still in doubt, it appears that Secretary Kissinger made encouraging progress toward a possible new SALT agreement during his January trip to Moscow—for which the Secretary deserves our support and appreciation. It is my hope that sound compromise is in the making over the hitherto deadlocked issues of the Soviet Backfire bomber as against the American long-range cruise missile.

The possibility has been opened for an agreement which would not only put limits on the costly, dangerous rivalry in strategic arms but, by lowering the Vladivostok ceilings, would actually—for the first time—require reductions in the vast nuclear arsenals of the superpowers, starting with the Soviet Union. As Secretary Kissinger said in a speech at San Francisco on February 3,

> If we succeed in turning the Vladivostok accord into a 10-year agreement, we will have crossed the threshold between total, unrestrained competition and the difficult but promising beginning of long-term strategic equilibrium at lower levels of forces.

Let us hope that this promise will be achieved to the extent of a strategic arms agreement submitted to and approved by Congress in this Bicentennial Year.

The Secretary also noted at San Francisco that the United States and the Soviet Union had already agreed that in the next phase of negotiations they would turn their attention to reductions in strategic forces. The executive deserves all possible encouragement from Congress in this enterprise, and as they undertake it, I would commend to their attention the words of former Secretary of State Dean Rusk before the Foreign Relations Committee on September 18, 1974. Recalling his many years of work and study in the field of arms control, Mr. Rusk said,

> I have just about reached the conclusion that, if real progress is to be made, the approach must be wholesale rather than retail and must involve dramatic simplicity.

There are other dimensions to détente besides strategic arms—trade and investment and also cultural relations. The latter are prospering, but we have come to a halt in the expansion of economic relations since the issue of free emigration from the Soviet Union culminated in Soviet denunciation of the trade agreement of October 18, 1972. As a result there seems little prospect for the time being of expanded investment and credits or of nondiscriminatory—or most-favored-nation—trade treatment being accorded the Soviet Union. Rather than revive these difficult issues prematurely, it might be well to make a virtue of necessity by carefully reconsidering for a time the advantages—or lack of them—in expanded economic relations. The mood of Congress is unreceptive to further initiatives. The Russians are not pressing the matter, and it would seem inappropriate in any case for us to offer expanded economic relations at a time when the Soviets are taxing the spirit of détente by their intervention in Angola.

In my Senate speech of a year ago I called for gradually increasing trade and investment between the United States and the Soviet Union with a view to developing the kind of "normal, business-like, cordial dealings which can give nations a vested interest in peace." I also noted at that time that the transactions involved must be economically sound and that the political benefits of trade were always to be regarded as mutual, so that neither side "should demand either special economic treatment or unusual political concessions as the price of its cooperation." Accordingly, it would seem to me that when the trade issue is revived at some future date, we should not try to connect it to the internal practices of the Soviet Union, however greatly we may deplore some of these. At the same time, we should take care not to become dependent on the Soviet Union for essential materials, especially in the field of energy. Dr. Herbert S. Levine, professor of economics at the University of Pennsylvania, offered sound advice to our Government in testimony before the Foreign Relations Committee on August 15, 1974. He said:

> In our economic relations with the Soviet Union, we should be hard bargainers. We should pursue our own interests in economic and political issues. But the commitment to détente should be preserved. It is in the interest of us all that this be done.

I agree. I am for détente, but I think it should have something for us as well as for the Soviets.

It is also—and more urgently—in the interests of all of us that the great powers cooperate to break the dangerous stalemate which once again has settled upon the Middle East. The value of last year's Sinai agreement was less in what it accomplished—a limited withdrawal of forces in the Sinai desert—than in its promise of further, larger steps toward a general settlement. Among the various promises appended to the Sinai accord—it is well to recall—was the following American "assurance" to Egypt:

> The United States intends to make a serious effort to help bring about further negotiations between Syria and Israel, in the first instance through diplomatic channels.

In its Report on the International Security and Arms Export Controls Act of 1976, the Foreign Relations Committee noted that 71 percent of all the funds authorized under the bill were meant to go to the countries in the Middle East. The committee went on to say that:

> It endorses the recent Sinai accord and strongly supports continued efforts to move forward toward disengagement on the Golan and other fronts.

In the Sinai it appears that a modicum of de facto cooperation between the Israelis and Egyptians is taking place. The Israelis have moved back from previously occupied lands, including the captured oil fields, and the United Nations force in the so-called buffer zone has taken new positions. The United States, after the profitable intercession of Secretary of State Kissinger, has sent technicians to man the early warning system to see that no violations of the Sinai accords will take place. Our technicians will advise both sides equally and evenhandedly.

As of now—6 months after the Sinai agreement—no further forward steps are apparent in easing the Israeli-Arab tensions. There have been recurring, but unconfirmed, reports of secret contacts between Israel and Jordan with respect to the West Bank. But it is impossible to tell if these reports indicate anything of significance.

The troubling events in Lebanon, including movements of Palestinian Liberation Army troops from Syria into that deeply divided nation and reports of massacres of Christians and Moslems have added a new and still undetermined quantity to the Middle East equation. At the same time, events in the United Nations, including the anti-Zionist resolution and the January Security Council debate on the Palestinian question has made the outcome of a possible solution even more murky, particularly in regard to the Golan Heights.

We now are in a period calling for quiet diplomacy. In my opinion it is time to have patience, to wait for the right moment for practical peace initiatives, and to discourage any state in the region from preemptorily altering the delicate balance.

Perhaps, therefore, it is just as well to circumvent, for the moment, the intractable issue of the Golan because settlement of it and other issues can be reduced to manageable proportions once a suitable answer is found to the question of Palestinian nationalism.

The United States cannot, should not, and—I am confident—will not acquiesce in final settlement which does not require the Palestinians to recognize Israel's right to exist, "within secure and recognized boundaries" as called for in Security Council Resolution 242.

In the present situation, I believe, it is in the best interests of the United States to privately pursue ideas with all parties which will bring closer to fruition a realistic approach to peace. At the appropriate moment, when there is movement toward accommodation by all sides in the legitimate aspirations of all peoples and nations in the region, and only then should we move overtly to serve as a catalyst for peace.

A closely related, never to be forgotten consideration is our steadily growing dependence on imported oil, especially from the Middle East. While our own domestic oil production has decreased—from a high of 11.7 million barrels per day in 1972 to about 10.4 million barrels per day in 1975, according to the Federal Energy Administration—our overall consumption has continued to rise, reaching 16.7 million barrels per day in 1975. The increasing shortfalls have been met of course by imports, which now account for almost 40 percent of our oil consumption. And of these imports a steadily rising proportion come from the Middle East and North Africa. In fact the proportion of our overall oil imports coming from the Middle East and North Africa doubled between 1967 and 1974—from 10 to over 20 percent. With virtually no prospect of energy self-sufficiency in the next 10 years or more, the United States must almost inevitably rely heavily for the foreseeable future on oil from Saudi Arabia and the other countries of the Arabian peninsula, which together account for almost half—47 percent—of the total known oil reserves of the world.

As our need for Middle Eastern oil increases, so too does our vulnerability to a new embargo. No such embargo is now threatened, but as long as the Arab-Israel conflict remains unresolved the threat will remain. And should there be another Arab-Israel war, an embargo would become virtually certain—as certain as our own resupply of Israel should such a war occur.

It is here that our two vital interests—in the survival and security of Israel and in the oil and friendship of the Arabs—intersect. They cannot be separated, but they can, I feel sure, be reconciled—through a general settlement based on guarantees for Israel, withdrawal from occupied territories, and self-determination for the Palestinian people.

In my Senate speech 1 year ago I said as to Africa and other parts of the developing world that it "makes sense for us to abstain from political intervention and especially from military action or threat." I still think it makes sense for us to abstain from intervention, and—what may be more to the point as events are now unfolding—it also makes sense for the Soviet Union and Cuba to abstain. International law and the United Nations Charter sanctify the principle of the self-determination of peoples and also the principle of nonintervention in the internal affairs of other countries.

Nowhere in the annals of law—or, so far as I know, among the hundreds of resolutions adopted by the United Nations Security Council and General Assembly over the years—is it suggested that foreign military intervention is acceptable or not, depending upon who is doing the intervening and the purpose for which they are doing it. One may not share President Ford's view that Congressmen and Senators "lost their guts" in refusing further aid for the faltering pro-Western factions in the Angolan civil war. But it does seem to me puzzling that so much indignation has been generated here at home against our own limited and probably ill-considered involvement, while the large-scale Soviet and Cuban involvement is accepted with scarcely a ripple.

The issue in Angola may soon be academic as it appears that the Soviet-Cuban backed "Popular Movement for the Liberation of Angola" seems headed for a military victory. It is possible that the MLA would have become dominant even in the absence of all foreign intervention, but we do not know that and probably never will because its current success is directly attributable to large-scale Soviet military supplies and a Cuban army of over 11,000 men. The Organization of African Unity has now recognized the Popular Movement as the government of the "People's Republic of Angola."

The United States has—or should have—no quarrel with any of the competing factions in Angola, and it is regrettable that we were not neutral from the beginning. That, however, is no longer the central issue as far as American national interest, détente with the Soviet Union and world peace are concerned. The central issue now is the precedent set by the unchallenged and successful military intervention of the Soviet Union and Cuba in the civil war of a newly independent African country. With all regard to the hazards of historical analogy, one thinks nonetheless of the Spanish civil war of the thirties, of the German and Italian military intervention which assured Franco's victory, and of the feeble, ineffectual protests of the democracies.

The Ford administration is indeed protesting, and it is justified in doing so. It would do so, however, with greater effect and persuasiveness if we ourselves had not been meddling in Angola, in one way or another, since 1961, mostly on the side of the Salazar dictatorship in Portugal. That association is in part responsible for the disesteem in which we are now held in much of Africa. It also points to a damaging blind spot in our general outlook toward the developing countries, and more particularly toward militant liberation movements in the developing world: that is our tendency to view these struggles in global, geopolitical, cold-war terms, rather than on their own local terms and merits.

All three of the warring liberation movements in Angola are, by available evidence, authentic nationalist movements, each with strong regional tribal support. There is persuasive evidence too that the MPLA is not a Soviet-type Communist movement but a radical nationalist movement headed by a Marxist-oriented elite with no desire to be dominated by the Soviet Union.

We could probably have opened communications with the MPLA leadership some time ago if we had not viewed them through the distorting prism of a cold war perspective. It also seems likely that it will in due course become feasible—and perhaps advantageous—for us to establish normal, even cordial relations with an Angolan government headed by the Popular Movement—even though they will have won their power through Soviet-Cuban military intervention. Indeed, on the basis of previous Soviet ventures in Africa and the Middle East, it seems probable that their clients will soon enough wish to be rid of them, and to that end will also wish—like Egypt, for example—to establish cordial relations with the United States.

The danger of Soviet-Cuban intervention in Angola arises less from the advantages the intervening powers will gain—which are likely to be transient—than from the precedent of successful violation of the letter and spirit of the United Nations Charter. Having purged ourselves of our own recent misadventure in Southeast Asia, we are now in a position to return to—and to reassert—traditional American principles: nonintervention, the self-determination of peoples, and the striving for an international system under the rule of law. In order to assert these principles persuasively and with any hope of success, we must of course abide by them ourselves.

But if we do abide by them, we are also entitled to assert them as international standards—to preach, so to speak, what we practice. We could then remind our fellow members of the United Nations of the principles and purposes of the Charter which they—and we—have so woefully failed to uphold. We could call upon them then to revive and enforce the peace-keeping provisions of the Charter and to begin to make of the United Nations what Woodrow Wilson hoped his League would be—"a permanent clearinghouse where every nation can come, the small as well as the great."

UNEMPLOYMENT: CAUSES AND POSSIBLE CURES

Mr. PERCY. Mr. President, the perceptive careers editor for the Chicago Tribune, Jack Houston, has written a superb series of six articles on the root causes for unemployment and possible remedies for lowering the current high unemployment rate. He draws a bleak picture of the unemployment problems faced by certain segments of our population. The hardest hit group is blacks. For the first three-quarters of 1975, black unemployment averaged 13.9 percent, while for whites, it was 7.8 percent.

Mrs. Helen Ginsburg, a consulting economist, is quoted by Houston as stating that the black teenage unemployment rate has increased six times faster than the unemployment rate for white teenagers in the last 20 years, although the educational gap between the two groups has narrowed. In 1954, white teenage unemployment was 12.1 percent compared with 16.6 percent for black teenagers. By 1974, the white rate was 14 percent while the black rate was a precipitous 32.9 percent.

Mr. Houston also notes that most women—who comprise 40 percent of our labor force—work because their paychecks are needed for rent, food and fuel, not just for pin money. We must be just as concerned about the plight of out-of-work women as out-of-work men, he suggested. For the first three quarters of 1975, the unemployment rate for women was 8.1 percent compared with 6.3 percent for men.

Two other Chicago Tribune articles on the same subject also merit attention. Stanley Ziemba and Monroe Anderson have written stories which bring alive the depressingly high joblessness rates in the inner city of Chicago.

Mr. Ziemba has also written an excellent analysis of an Urban Institute study that suggests that the real unemployment rate is much higher than the rate reported by the Bureau of Labor Statistics.

I ask unanimous consent that these well-documented and finely written Chicago Tribune series and subsequent articles on related topics be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Chicago Tribune, Dec. 7, 1975]

Jobless "Nonproblems" Remain—Only More So

(By Jack Houston)

Little has changed since former Treasury Secretary John Connally defined youth and minority unemployment as a nonproblem before the Joint Economic Committee in Congress.

Little, that is, but the figures: they've gone up.

Today, total unemployment for the first three-quarters of 1975 averages 8.5 per cent. For teen-agers, the rate averages 20.3 per cent. For blacks, it's 13.9 per cent. And for women, it's 8.1 per cent compared with only 6.8 per cent for men.

In their short lifetime, teen-agers have known nothing less than "double-digit" joblessness. While unemployment for whites only has averaged 7.8 per cent the first nine months of this year, black unemployment is nearly twice that rate. In fact, jobless rates for blacks are higher in their "best" years than for whites in their "worst" years of unemployment.

And for women, who comprise nearly 40 per cent of the nation's total work force, unemployment can cause serious financial hardships.

Yet, some government officials, politicians, and business and industrial leaders conclude unemployment is a problem that can heal itself.

Through the years, views similar to Connally's have been rather typical—in fact, prevalent. As a nation, America consistently has tolerated high unemployment, particularly among various subgroups within its society.

Some economists believe such a laissez-faire attitude is good for the country. Unemployment, they say, is a type of bloodletting that purifies the American economic system.

Others, however, content that for a government to ignore such a social problem as unemployment is to invite decay of a system it wants to preserve. Left alone, they say, unemployment can grow unexpectedly and swiftly.

Consider the 12 months ending last March. In that year, the jobless rate rose to 8.7 percent from 5.1 per cent a year earlier. The number of jobless workers rose to 8 million from 4.6 million persons. Thus, in a year's time, 3.4 million workers were out of jobs.

If other workers who dropped out of the labor force too discouraged to keep loooking are included, the number is even larger. And the figures do not include those working part time because they could not find full-time employment.

Thus, some economists estimate the number of job-seeking, discouraged, and involuntary part-time workers last March at as many as 13 million, or 5 million more than the "official" figures show.

Official unemployment figures do show with some accuracy that joblessness strikes disproportionately at teenagers, minorities, and women in the labor force.

Last spring, for example, when unemployment hit its highest level since the Depression years, the average overall jobless rate for the second quarter was 8.9 per cent. But for teen-agers, it was 20.5 per cent.

For blacks and other minorities the same quarter, the average rate was 14.3 per cent, compared with 8.2 per cent for whites. For women, the average rate was 8.5 per cent, compared with 7.1 per cent for men.

Yet, unemployment is detrimental to all workers and should be a major concern, many economists believe. By volume, a greater number of adults, whites, and men are without jobs than teen-agers, minorities, and women, simply because there are more of them in the labor force to begin with.

The current high unemployment seems to be here to stay for awhile. So the time is ripe to re-examine its nature, its causes, and some suggested cures.

Generally, economists recognize three main types for unemployment: normal, structural, and deficient demand.

Normal unemployment occurs even when jobs are plentiful, because workers constantly quit jobs or are fired, and because others are entering the labor force for the first time or re-entering it.

While normal unemployment affects all workers, it is most common among teen-agers, women, and seasonal workers such as farm and construction laborers.

Structural unemployment results from a work force of persons trained in skills not suitable for the available jobs. The existence of this category partly explains how there can be high unemployment at the same time many employers cannot find workers to fill specialized jobs—for any price.

Deficient demand unemployment involves a lack of need for workers during periods of decreased business activity. Also called cyclical unemployment, it occurs when the number of workers available in the labor force grows faster than the number of new jobs.

During a recession, it becomes difficult to keep disadvantaged groups of workers such as teen-agers, minorities, and women from falling even further behind in their careers, Helen Ginsburg, a New York consulting economist, says.

In her monograph, "Unemployment, Subemployment, and Public Policy" [New York University School of Social Work, 1975], she says the limited employment progress such groups may achieve in good times can easily be washed away in recessions.

Under "last hired, first fired" practice, for example, layoffs fall most heavily on those workers most recently hired, who tend also to be, historically, those most often discriminated against—women and minorities.

While interest in the problem and its cure is renewed in recessionary times, solutions are much more difficult to attain, Ginsburg says.

"Making employment breakthroughs is difficult enough even in the best of times," she says. "But when joblessness is widespread and layoffs the order of the day, the power of government agencies to hasten change is frustrated."

But some kind of change is necessary. According to Leon H. Keyserling, a consulting economist and attorney and former chairman under President Truman of the Council of Economic Advisers, this nation is paying for its neglect at an annual rate of about $215 billion in lost gross national product.

This means "a loss of more than $50 billion in public revenues at all levels of government at the existing tax rate," he says.

Jobless workers do not produce goods and services. Neither do they pay taxes. But they do drain the economy of unemployment compensation and other supportive programs such as welfare at an annual cost of about $15 billion.

Meantime, the federal government cuts taxes while local and state governments are raising them, thus counteracting federal attempts at stimulative fiscal policy.

And while the federal government creates a handful of public service jobs, state and local governments are laying off regular employees.

Joblessness Is Story of Teens' Lives

(By Jack Houston)

Our Nation's young people suffer most from lack of jobs—and from government's lack of concern about unemployment.

In their brief lifespan, teen-agers have known nothing less than "double-digit" joblessness. And because "the average American" lives with the problem far below this level, the averages appear to work against our youth.

"Unfortunately," says Helen Ginsburg, a New York consulting economist, "youth unemployment is not necessarily defined as a problem." To officials and politicians in a position to do something about their plight, the young somehow seem less real members of the nation's labor force, she says.

Yet, many labor economists believe there is sufficient reason to take their situation seriously.

John Shea of Hillside knows first-hand the problem of unemployment.

Though he turned 20 last month, the problem shadows him.

Last winter he was laid off his factory job and couldn't find work for months. He entered school but needed a part-time job that would fit his hours and meet expenses.

Finally, he got one, but a few weeks later business turned bad and he was laid off.

After several weeks of summer employment, John earned enough money to enroll at Western Illinois University. Now he's home for the holidays, considering whether to drop out of school and earn the money to meet his college expenses.

His experience is typical.

As a group, teen-agers maintain the highest unemployment rates in the nation, making age differences in the jobless sector even more pronounced than racial differences.

Teen-age unemployment is higher now than it was two decades ago. In fact, it has not fallen below 10 percent since 1953.

Hardest hit within this group are black women.

Last year, before the brunt of recession, unemployment averaged 16.0 percent for all 16 through 19-years olds in the labor force. That was nearly three times the national average for total unemployment in 1974.

By last January, youth unemployment had reached 21.4 per cent. Recent data show teen-age unemployment running at 20.3 per cent, compared with the national average of 8.5 per cent.

Yet despite their difficulty in finding jobs, young people find work an important aspect of their daily lives.

"Work is the primary activity of many teen-agers," notes Mrs. Ginsburg in her monograph, "Unemployment, Subemployment, and Public Policy" [New York University School of Social Work, 1975].

A major reason for high unemployment among young people is their lack of experience. But there are other barriers.

In the last half of the 1950s, for example, the "loose labor market" that prevailed [that is, more job applicants than jobs] helped fuel high youth unemployment. Then in the '60s, the fire was fanned by increasing numbers of young people who were products of the post-World War II baby boom entering the labor force for the first time.

In years of relatively low unemployment, when many young people who would have competed for civilian jobs were in the armed forces, the labor market still was unable to provide a sufficient number of jobs for those seeking them. So youth unemployment remained high.

Many of these same problems, as well as others, persist today. For example, students who must work have difficulty finding part-time jobs that fit into their school schedules. Youths out of school still must compete for jobs with older workers in a labor market where jobs are scarcer than applicants.

Meanwhile, racial barriers tend to compound the problem.

Data from the Bureau of Labor Statistics show that in 1954, teen-age unemployment was 12.1 per cent for whites but 16.6 per cent for blacks. By 1974, the white rate had risen to 14.0 per cent, while the black rate had soared to 32.9 per cent.

Over the two decades the black rate had increased more than six times as fast as the white rate, Mrs. Ginsburg notes. Yet, during the same period, the gap between education levels of both groups narrowed considerably.

"Nor does the unemployment rate tell the whole story," she says. "Teen-age blacks are less likely to be in the labor force whether or not they are enrolled in school. The especially harsh job market conditions faced by [them] has, understandably, made some of them give up."

Sex discrimination adds to the burden, forcing many black women who are willing and able to work onto welfare.

And there are other serious consequences, Mrs. Ginsburg notes.

"For black youngsters, joblessness too often portends the limited opportunities of adult life.

The situation of young black adults is particularly striking when you look at the government figures. Last year, for example, unemployment among 20 to 24-year-old blacks stood at 14.7 per cent for males and 17.4 per cent for females. This compared with 8.5 per cent and 8.2 per cent rates for their white counterparts.

The lack of economic opportunity also has been a key factor in generating youthful crime. A study on crime, youth, and the labor force, made in 1972, linked high crime and low labor force participation in urban areas for 18 and 19-year-old male youths.

"Unemployment retards normal family formation and idleness and absence of legitimate work increase the appeal of illegitimate activities," Mrs. Ginsburg notes.

"Unless many more jobs are provided in our society, the high rates of unemployment for youths in recent years may simply portend escalating unemployment rates further up the age hierarchy and lead to an increase in public dependency."

JOBLESS RATE HIGHEST AMONG BLACKS

(By Jack Houston)

The burden of unemployment leans heavily on the backs of black Americans.

Ernest Frazier, 29, a black from the West Garfield community, got fired from his $90-a-week job during the current recession when he failed to show up for work for two days.

He was out looking for a better job in order to support his three children.

He was earning $2.50 an hour as a materials handler, making boxes and packing hats. When he returned to work, his boss fired him, saying he needed someone on the job every day, so he gave Frazier's job to someone else.

It wasn't the first time Frazier had been out of work. It probably won't be the last. He's been unemployed three times before, the longest time in 1969 when he was out of a job a year.

His best-paying job was in the steel mills—$4 an hour—but in recent years he hasn't been able to match that wage.

"I'm handy with my hands," he said. "I could work on the streets doing home repair, but I don't have the tools."

He used to have a car, but it was demolished in an accident. If he could find another job, it would have to be close to home.

For a black man, Frazier's story is not that unusual.

In recent years, official unemployment rates for blacks were higher in their "best" years than for whites in their "worst" years.

White unemployment since 1954, for example, only reached as high as 6 percent in the recession years of 1958 and 1961. For blacks, the jobless rate never dropped to that level.

"Among black people, unemployment is double that for whites; some ghetto areas have up to half their populations out of work or in marginal jobs," says Vernon E. Jordan Jr., executive director of the National Urban League.

"That, by any definition, amounts to a major depression for black workers."

In other words, what may be a severe recession for most white workers has been an outright depression for blacks and other minorities.

Until this year, white unemployment in the last 20 years has ranged between a low of 3.1 per cent and a high of 6.1 per cent. Black unemployment, however, ranged between 6.4 per cent and 12.6 per cent.

The situation has grown worse during the current recession for both whites and blacks. White unemployment for the first nine months of this year has averaged 7.8 per cent. For blacks, the average reached 13.9 per cent.

Last year, the national average unemployment rate was 5.6 per cent. At the same time the average rate for whites was only 5 per cent while it was 10 per cent for blacks.

Now, in the wake of the sixth post-World War II recession, white unemployment has climbed substantially, but its 7.8 per cent average rate would be considered low for black workers.

The National Urban League as well as other organizations believes the official Bureau of Labor Statistics figures seriously understate the nation's jobless rates. Instead of 14 per cent of the nation's black workers unemployed, the league sets the rate nearer 25 per cent, or one in every four black workers.

The league bases its figures on a formula devised by the Joint Economic Committee that adds to the number of officially unemployed the number of discouraged workers and those part-time workers who want to work full-time.

The league also suggests that in poverty areas the actual jobless rate among blacks is triple that of the official rate.

This same formula was used by the Chicago Urban League in October to set the city's black unemployment rate above 36 per cent.

History shows, however, that black unemployment wasn't always so far ahead of its white counterpart. In fact, between 1948 and 1954, the lowest black unemployment rates actually overlapped the highest white rates.

"In four of the [five] years, annual black unemployment dropped below 6 per cent, and in three of the years to below the white high of 5.6 per cent reached in 1949," notes Helen Ginsburg, a New York consulting economist.

The gap between white and black has continually widened since the end of the Korean War, however. A number of factors contributed to this.

In the mid-'50s, for example, blacks migrating into urban areas from the rural south faced difficult economic conditions unlike their white counterparts in the '40s and '50s, Mrs. Ginsburg says.

During those decades, labor markets were often tight and production work provided expanding employment opportunities, despite discrimination, even for those with few skills and relatively little education. By 1965, manufacturing had replaced agriculture as the leading employer of black workers.

Then, three recessions between 1954 and 1961, combined with the acceleration of technical change, took its toll against blacks. While factory jobs did not disappear, the growth of such jobs became sluggish and the need for production workers was reduced drastically.

Rapid segregation of metropolitan areas, encouraged by government housing and transportation policies, also has contributed to higher unemployment rates for blacks since the late 1950s.

Many cities lost jobs or displayed slow employment growth. At the same time, inadequate public transportation expanded employment opportunities in suburban areas, while making the new jobs inaccessible to inner-city blacks.

Housing segregation based on race and income also helped perpetuate the problem.

Charles C. Killingsworth, a well-known and respected economist at Michigan State University, believes a major cause of the gap between black and white unemployment rates is directly related to the concentration of blacks in inner cities.

"We've got to find some way to move these surplus people to where the jobs are," he says. "We must develop incentives to motivate them out of the urban ghettos."

Mrs. Ginsburg agrees.

"Unfortunately, there is little reason to believe that black unemployment can be brought down very much without specific policies, including maintenance of tighter labor markets, creation of public service jobs, and increased efforts to achieve greater equality in the job and housing markets," she says.

The result of massive and continuing unemployment, says Jordan of the National Urban League, is "decayed cities, personal misery, waste of productive potential, inflation, social unrest, perpetuation of discrimination, and a host of other negative factors. . . ."

The "Pin Money" Myths Prevail Despite Needs of Working Women

(By Jack Houston)

Women—unlike men—do not have to work, it often has been said. Their pay—referred to as "pin money"—really is not essential. For them, work is just a frivolous activity.

Nothing could be further from the truth.

"I'm surprised to hear that myth still persists," says Darlene Stille, chairperson of Women Employed, a local organization seeking better job opportunities for women. The myth, she says, is not borne out by the facts.

"Women work because we have to work. We have to pay our rent. We must buy food and clothing."

While women as well as men may have valid, noneconomic reasons for working, the fact remains that millions of American women also have more compelling economic reasons for seeking jobs.

Unemployment can cause serious financial hardships for them.

Today, women comprise nearly 40 per cent of the nation's civilian work force. Yet last year their unemployment rate was more than a third higher than that of men.

That difference may not look impressive on statistical charts, but many economists believe the gap between the sexes is greatly understated. There is more hidden unemployment among women, they contend. Women are more likely than men to drop out of the job market when they can't find jobs.

Unemployment among women may become even more of a critical problem than it is today, says Helen Ginsburg, a consulting economist in New York.

"Family size is declining and women with smaller families are more likely to participate in the labor force than mothers of large families," she says. "Divorces are on the upswing and divorced women have higher labor force participation rates than women in any other category."

The women's liberation movement in America has stimulated the desire of some women to take on paying jobs. As proportionately more women enter the labor force in coming years, the need for more jobs to absorb them will increase.

If there are insufficient jobs to meet this need, even higher unemployment will occur.

"Since families headed by women are a growing portion of poor families," notes Mrs. Ginsburg, "lack of jobs for women may increase the pain of poverty and cause a greater reliance on welfare."

Government figures show that in 1973 there were 7.7 million single women in the labor force who depended upon personal earnings for support. In addition, there were 2.5 million widows, 2.3 million divorcees, and 1.4 million married women not living with their husbands.

About 4.3 million children under 18 were living in families headed by women in the labor force that same year.

Meantime, there were 19.8 million married women in the labor force who also were living in traditional husband-wife families.

"Wives make an important contribution to family income, Mrs. Ginsburg says. "Their contribution would be even greater were it not for the fact that women tend to earn less than men, even when they do the same kind of work."

"[Their] earnings account for 28 per cent of family income in husband-wife families. Far from being frivolous, a decision for both [marriage] partners to work is strongly based in family economics."

In a monograph prepared for the Center for Studies in Income Maintenance Policy at New York University School of Social Work, Mrs. Ginsburg notes that many families, both black and white, barely make ends meet without two incomes. And unfortunately, she says, black families still require two earners to attain incomes nearly comparable to those of white families.

Government data show that half of the nonfarm wives in the labor force in 1973 were married to men who earned less than $9,144 the previous year. Half the husbands of black women workers earned less than $7,246.

Forty-two per cent of unemployed male family heads had wives who were employed in 1973. The wives' earnings, plus unemployment benefits, helped maintain their family income.

Unemployed women who are heads of families, however, are far less able to rely on other earners in a household than men.

The median income of families with children headed by a jobless woman in 1973 was only $3,540, less than the amount for similar families in which the mother was not in the labor force.

Mrs. Ginsburg says there are several reasons for high unemployment rates among women.

Regardless of their education and training, women still face more restrictive hiring practices by employers than men. Also, the pervasiveness of "sextagged jobs" cuts down the options open to most women entering the labor market.

In areas where there are few female jobs. a wife who wants to work must remain unemployed, because the husband's place of employment usually determines where the married couple will live.

Also, unemployed women tend to move in and out of labor force because many of them, as wives, have been raising families. Once they do find jobs, they are among the first to be laid off in recessions because they have not built up enough job seniority.

"Employers are using the recession as an excuse to wipe out all the gains made by women in recent years under affirmative action programs," according to chairperson Stille of Women Unemployed.

Wilma Stevens, president of the Chicago chapter of the National Organization for Women, says the only solution to high unemployment among women is to create more jobs for everyone. NOW supports House Bill 50, entitled the Equal Opportunity and Full Employment Act of 1976. she says.

The bill was introduced to Congress earlier this year by Rep. Augustus F. Hawkins [D, Cal.] and Henry S. Reuss [D., Wis.]. A similar bill was introduced in the Senate [S50] by Hubert H. Humphrey [D., Minn.].

The bill declares that "only under conditions of genuine full employment and confidence in its continuation is it easier to eliminate the bias, prejudice, discrimination, and fear that have resulted in unequal employment under unequal conditions of women, older people, younger people, members of racial, ethnic, national, or religious minorities, veterans, the physically and mentally handicapped, former drug addicts, and released convicts."

Under the bill, an expanded federal employment service, would be responsible for ensuring a job for every person able and willing to work. Persons unable to find suitable employment would be placed in temporary public service jobs.

Many employers, however, object to the bill because it requires registration of all job openings with the government.

THIRTIES DEPRESSION WAS TURNING POINT

(By Jack Houston)

When unemployment rose sharply this year to its highest levels recorded since the Great Depression, it became an acute crisis within the context of a long-term problem.

Ironically perhaps, that group of Americans who have suffered most from the lack of jobs—our teen-aged youth—know nothing of the economic impact of the Depression of the 1930s.

In fact, to the vast majority of persons under 40 years of age, the current economic recession is the worst job market any of them have faced in their lifetime.

For those persons who can recall, The Great Depression was a traumatic event and a turning point in this nation's economic history.

Unemployment has always been with us, but never so massive or persistent as in the '30s. Who could have guessed in 1929, with only 3 per cent of the labor force unemployed, that four years later unemployment would reach 25 per cent.

During the '30s, joblessness never fell below 14 per cent, and in four of those years it averaged more than 20 per cent.

Karl Marx, father of socialism, contended that depressions and unemployment were inevitable features of capitalism that eventually would contribute to the system's collapse. By the mid-'30s, some began to wonder whether he wasn't right.

History showed that recurrent bouts with unemployment throughout the capitalist world were commonplace. As a result, many theories about its causes and cures were developed through the years.

From the late 18th century, in this country and abroad, a succession of "classical" and "neoclassical" economists stretched into this century. Their theories stressed the transitory nature of unemployment and minimized the extent of involuntary joblessness.

Some classisists even denied the possibility of its existence, except for a temporary phenomenon that could be cured by lowering wages.

They believed the government should keep its hands off the economy, even in times of high unemployment. In times of recession or depression, belt-tightening and slashed government budgets were the answer.

Remnants of this school remain today, but the Great Depression shattered its unchallenged position in the capitalist world. The Depression was worldwide and left no capitalist nation untouched.

To fill the void left by failing classical theory, the theories of John Maynard Keynes began to prevail.

Keynesian theories gave a rational basis for some active government intervention into private economic affairs. His "new economics" gained widespread acceptance and came to dominate economic thought in most of the capitalist world during the Depression years.

Unlike his predecessors, Keynes acknowledged the chronic tendency of advanced capitalism to generate high unemployment. But the problem was not that wages were too high; rather, there was a recurrent sagging demand for workers in the private sector, he said.

Then, as today, some charges that Keynesian theories are simply a guise for socialism yet, Keynesian economists say Keynes, by finding techniques for maintaining "full employment" under capitalism, actually denied orthodox Socialist doctrine.

Keynes believed that unless the government actively intervened in the economy and increased its expenditures during depressions and recessions, unemployment would continue to rise. Given sufficient government expenditures and other policies designed to stimulate demand, he was certain that a private enterprise economy could be pushed toward "full employment."

The term "full employment" does not mean no employment; it means everyone who wants a job can find one in a relatively short period of time.

New Deal policies during the Roosevelt Administration bore remarkable resemblance to those advocated by Keynes.

"With armies of the unemployed clamoring for jobs, for the government not to step in simply was out of the question," says Helen Ginsberg, consulting economist in New York City.

Direct efforts to increase employment centered around numerous government work-sponsored projects, such as the Works Progress Administration [WPA]. But there were also indirect efforts to stimulate employment in the private sector—a kind of pump priming.

Despite these efforts, the Depression did not run its course until after World War II.

The war years, from 1941 to 1945, developed the longest period of extended full employment this nation has ever experienced. The period proved to be a powerful weapon against poverty. Steady paychecks enabled millions of families to leave the ranks of the poor, Mrs. Ginsburg points out.

Still, the war years were insufficient to erase the scars left by the Depression.

Since World War II unemployment has not ceased to be either a serious or a perpetual problem, but it often has succeeded in becoming a neglected one. Compared to what happened during the Depression, contemporary unemployment is relatively simple to ignore.

Some others believe unemployment is relatively simple to cure, as if there were an easy answer. But the problem is "a little like cancer," says Charles C. Killingsworth, reknowned economist at Michigan State University.

"On the surface the problem may look rather superficial, but underneath it is highly complicated," he says.

Since 1946, unemployment has drifted upward. Through last year the average annual unemployment rate has averaged about 4.7 per cent. Since 1957, however, the rate has dropped below that figure only five times.

There have been six recessions since 1946, including the current one. Government figures show that from 1958 to 1964, joblessness was more than 5 per cent and it hovered close to 7 per cent in two of those years. In this decade alone, unemployment has remained near or more than 5 per cent.

"Most disquieting of all has been the association of very low unemployment rates with war and the growth of military expenditures. Since 1948, unemployment has never dipped below 4 per cent, except during the Korean and Viet Nam wars," says Mrs. Ginsburg.

Yet other capitalist nations in the world have attained much lower unemployment rates without huge military budgets, she says. In 1969, when this country was at war in Viet Nam and unemployment at 3.5 per cent, nonwarring nations had even lower rates: Japan, 1.1 per cent; West Germany, .8 per cent; Sweden, 1.9 per cent; and France, 2.1 per cent.

The question facing economists today is how our swords can be turned into plowshares.

Public Pledge First Step on Road to Full Employment

(By Jack Houston)

What can be done about our ailing labor market? Is there any answer?

Certainly one seems overdue. So far this year unemployment is averaging 8.5 per cent for all persons in the labor force. For teenagers alone, the rate is 20.3 per cent.

For black Americans, the unemployment rate is 13.9 per cent, compared with only 7.8 per cent for whites only. And for women, it's 8.1 per cent, compared with a rate of only 6.8 per cent for their male counterparts.

Can anything be done to lower the rates, to alleviate the unequal burden on our youth, minorities, and women? In good times as well as bad?

"The best answer . . . is to provide more jobs," says Helen Ginsburg a New York labor and poverty economist.

"By direct job creation, the federal government could help overcome the persistent shortage of jobs and of decent-paying ones."

Charles C. Killingsworth, professor of labor and industrial relations at Michigan State University, agrees, adding:

"Many economists have been assuming that fiscal and monetary policy has about three times as much effect on the unemployment rate as the facts justify."

While part of the current unemployment problem, which he calls cyclical, can be reduced by fiscal and monetary policy, relying on such policy to control unemployment will not solve structural problems, he believes.

"Adapting the labor force to changes in the supply of jobs is a matter of crucial importance in our society today," he says.

Edward C. Banfield, author of the book, The Unheavenly City [Little, Brown, 1970], contends the crucial factor is "the aggregate demand of the economy for goods and services."

"If demand is high enough, everyone who wants to work can find a job no matter how lacking in skills he or she may be."

To assure full employment, total demand must grow by more than 4 per cent a year just to keep the unemployment figure from rising. To decrease the unemployment rate, the demand must grow even more.

Through the years, an array of proposals have been offered to relieve, if not resolve, the problem of high and persistent unemployment in our nation. Little nationwide commitment to solving the problem is apparent, however.

Since the Great Depression there has been particular interest in diagnosing the illness and suggesting cures. But economists cannot agree on how serious the malady is. They can't even agree on its diagnosis.

In 1961, the Joint Economic Committee of Congress held hearings in an attempt to determine the prominent causes of unemployment.

Is unemployment caused mainly by "structural" factors and the inability of persons in the labor force to adapt to change?

Or is it more the result of an inadequate demand for goods and services?

Since the hearings, the inadequate demand concept has prevailed. But only partly. In this recession Congress has cut taxes, but the Administration has warned it would veto increased government spending.

In fact, in proposing another tax cut for 1976 President Ford asked Congress to cut an equal amount of government spending. Congress is wrestling with that tradeoff, and it remains to be seen what will happen.

Beyond this, however, there is no national commitment to full employment—the concept that every American willing and able to work should have the right to a decent-paying job.

"The failure of the private sector of the economy to generate enough jobs suggests that a large and permanent public service employment program is needed," says Mrs. Ginsburg in her monograph, "Unemployment, Subemployment, and Public Policy [New York University School of Social Work, 1975].

"Such a program [in good times as well as bad] could vastly improve the prospects of workers who normally are disadvantaged in the labor market. It could be a powerful weapon against unemployment and poverty," she says.

Killingsworth agrees, adding that since World War II there has been less demand for low-skilled and poorly educated workers, while the supply of such workers has not decreased as rapidly. Meanwhile, the demand for highly skilled well-educated workers has risen more rapidly than the supply.

The work force must be restrained and educated to meet these new demands, he says.

Full employment cannot be achieved overnight, but it is a goal that the nation should adopt immediately, may believe.

The House Subcommittee on Equal Opportunities is studying a bill that calls for such a commitment. The bill—H.R. 50, The Equal Opportunity and Full Employment Act of 1976—sets the goal that every American willing and able to work should be guaranteed a job.

The bill was introduced to Congress by Rep. Augustus F. Hawkins [D., Cal.] and Henry S. Reuss [D., Wis.]. A similar bill was introduced in the Senate [S 50] by Hubert H. Humphrey [D., Minn.].

The proposal seeks to expand the federal employment service and public service jobs program. If the federal placement service cannot find employment for the jobless in the private sector, then it must provide temporary jobs in the public realm.

It also requires the President to submit a full employment and national purpose budget each year, setting forth his program for reaching full employment goals, which the bill defines as 3 per cent unemployment among full-time workers.

It recommends a $15 billion appropriation to initiate the program.

While the proposal is widely supported by labor and civil rights groups, the business sector has attacked what it considers its major flaw.

According to a survey of 200 major corporate employment managers in the United States, three-fourth concluded that the U.S. Employment Service is useless and ineffective now and should not be expanded. The study was conducted by Deutsch, Shea & Evans, Inc., human resources consultants in New York.

But if not a national commitment to full employment, what kind of alternative? Shall this nation continue to ignore the unemployment problem or refuse to admit it's even there?

Killingsworth says that recently his own views have been "gradually shifting" toward the "radical" view that the government should be an "employer of the last resort."

"When I see what's been going on, this kind of full employment program might be a burr under the saddle. It's virtue is that it could stimulate activity that might not otherwise take place," he says.

[From the Chicago Tribune, Feb. 11, 1976]

Bad to Worse: A Second Look at the Jobless Rate

(By Stanley Ziemba)

Everybody talks about unemployment, but nobody seems to know just how many people are without work.

The Department of Labor's national unemployment rates take into account those who are unemployed and still looking for jobs. But what about the unseen unemployed—people who, for a variety of reasons, are not now working or looking for work who would be in the job market if the economy was running at full steam? How many of them are jobless?

The Urban Institute, a Washington-based nonprofit research organization, has issued a report entitled "The Jobless Rate: Another Dimension of the Employment Picture." It attempts to come to grips with the question of the unseen unemployed.

Ralph E. Smith and Jean E. Vanski, authors of the report, estimate that almost two million people who are not now working or looking for work would be in the labor force if the economy was operating at full capacity. That's in addition to the almost 7.5 million people listed officially as unemployed by the federal government.

Furthermore, almost half—900,000—of the potential workers not seeking jobs are adult females, the authors calculate. Another 700,000 are teen-agers, and about 300,000 are adult males.

In terms of proportions, the authors determined that for December, 10.2 per cent of the nation's potential labor force was without jobs. The figure includes persons who stopped their search for employment during the current hard times and those who are still actively seeking work.

The conventional unemployment rate, by contrast, which counts only those who are actively seeking work, was 8.3 per cent for December.

The two Urban Institute researchers call their measure of labor market conditions "the jobless rate."

They claim it is more comprehensive and better captures what is happening within the labor force than the official unemployment rate. They note, for example, that the jobless rate shows that job losses from the current recession are even larger than indicated by the unemployment rate.

It also gives a better idea of what is happening to particular demographic groups within the labor force, they said.

By figuring out the jobless rate for adult females, teen-agers, and adult males for December, they found that the rates exceeded official unemployment rates for these groups, but by significantly varying amounts.

The jobless rate for adult females in December was 10.4 versus 9 per cent [the official unemployment rate], they noted, 25.9 versus 19.9 per cent for teen-agers, and 7.0 versus 6.5 per cent for adult males.

By determining the jobless rate for various segments of the public, the two authors concluded that the only large group not subject to large cyclical variations in labor force participation during the current recession are white adult males.

Women, youths, and minority members, on the other hand, have all felt severe job losses, they said.

None of these facts are adequately reflected in conventional unemployment rates, they added.

To compute the jobless rate, the authors determine the difference between the number of people who would be available for work [potential labor force] in an economy operating at full capacity and the number who are actually working. They then divide that figure by the potential labor force and multiply it by 100.

In 1974, several months before the unemployment rate began to rise, the jobless rate started to climb, the authors noted. Use of the latter rate would have alerted the nation sooner to the impact of the recession in the labor market, they claim.

[From the Chicago Tribune, Jan. 29, 1976]

31.5 PERCENT OUT OF WORK IN INNER-CITY AREA—UNEMPLOYED RATE HIGHEST IN CHICAGO

(By Stanley Ziemba)

The Oakland community on the city's South Side has the highest unemployment rate in the city, according to a neighborhood-by-neighborhood breakdown of unemployment levels in Chicago for the month of December.

Oakland, bounded roughly by 35th and 43d Streets, Cottage Grove Avenue and the lake, had an unemployment rate of 31.5 per cent—19.8 per cent higher than the citywide average of 11.7 per cent for the month, according to figures released last week by the Mayor's Office of Manpower.

About 1,360 individuals out of the neighborhood's total work force of more than 4,320 were jobless during the month, the study found.

Other neighborhoods suffering unemployment rates far in excess of the city's average, according to the study, are: Riverdale [29 per cent]; Fuller Park [28.7 per cent] and Grand Boulevard [23.7 per cent].

Also East Garfield and North Lawndale [21.9 per cent]; West Garfield, Washington Park, and the Near West Side [20.5 per cent]; Englewood [19.8 per cent]; and Woodlawn [18.5 per cent].

Like Oakland, all are inner-city communities located on the West and South Sides. All are populated predominantly by blacks.

These are communities where even in the best of times residents suffer many obstacles in searching for jobs, officials in the Mayor's Office of Manpower said.

They contain concentrations of people with low skill levels who have suffered barriers in seeking work because of race and other factors, they noted.

By contrast, the neighborhood with the least unemployment in the city is the virtually all-white O'Hare community on the city's far Northwest Side.

Bounded roughly by Belmont Avenue and Higgins Road, the Des Plaines River and the western boundary of the suburb of Norridge, O'Hare had a 4.6 per cent unemployment rate in December—7.1 per cent below the citywide average.

Other neighborhoods with rates far below the average are: Edison Park [5.4 per cent]; Forest Glen [5.7 per cent], and Mount Greenwood [6.4 per cent].

Edison Park and Forest Glen also are on the far Northwest Side. Mount Greenwood is the farthest southwest community in the city.

All three boast a large population of city employes, including police and firemen.

The breakdown of unemployment levels is the third to be compiled and published by the manpower office. Earlier studies detailed employment statistics for October and November for the 76 communities in the city.

The Oakland community had the highest unemployment rate and O'Hare the lowest in October and November also, according to the studies.

The office undertook the studies to pinpoint the communities here most in need of services to improve employment opportunities and to assist the unemployed, said Dennis McAvoy, research director for the agency.

In the past, he said, it was generally concluded that inner-city communities suffer unemployment rates far in excess of the city's average, but officials here were unable to pinpoint areas most in need of services or to identify and analyze trends.

This was particularly damaging, he explained, because so much recent legislation, such as the Federal Comprehensive Employment and Training Act, requires funding formulas based on statistics reflecting dimensions of need.

To achieve a neighborhood-by-neighborhood breakdown of unemployment levels, the agency uses Chicago unemployment rates estimated monthly by the Illinois Bureau of Employment Security. The city agency then calculates statistics for communities through a formula incorporating census data, McAvoy said.

He added that the agency hopes to add indicators of employment by place of work [labor force is based on where workers live] and income levels to its employment studies on communities.

McAvoy warned, however, that the unemployment rates should not be taken as a precise figure but merely an indicative one. Precise figures are virtually impossible, he added, because of the difficulty in computing unemployment statistics and census data, much of which are imprecise to begin with.

"The unemployment rates arrived at are simply our best guess," McAvoy said.

He explained that inner-city neighborhoods like Oakland have high unemployment rates for two reasons:

They contain an unusually large proportion of youths under 24 years of age who, because they are black, traditionally have a harder time finding jobs compared to their counterparts among other racial groups, or compared to other age groups regardless of race. Blacks under 24 make up about half of all the blacks unemployed in the city, McAvoy noted.

Inner-city workers hold proportionately more blue collar jobs than residents of other neighborhoods. The blue collar job market, particularly in manufacturing, has been hit hardest by the economic recession.

The city as a whole, McAvoy said, appears to be recovering from the recession. The citywide unemployment rate for December declined two-tenths of one per cent from 11.9 per cent for the month of October and November, he noted.

The 11.9 per cent level was the highest unemployment rate reached in the city since the Depression.

The total number of unemployed persons in the city dropped about 4,000 between October and December to 165,000 McAvoy said.

[From the Chicago Tribune, Jan. 29, 1976]

IT'S LIFE OF FUTILITY IN RANKS OF JOBLESS

(By Monroe Anderson)

The afternoon was taking its time going nowhere. Carl Jones, who had one eye on the clock and the other on all those people in single file ahead, marked time by shifting from one foot to the other.

He was bored, peeved, and frustrated as he went through what has become a much too frequent ritual in his life: waiting in slow-moving lines.

This afternoon it was a line at the Unemployment Compensation Office, 5030 S. King Dr. Last week it was another job application line.

For the last year, Carl, who is 19 and lives at 4444 S. State St. with his mother, has been waiting out his life in a series of alternating lines. Unemployment. Job application. Unemployment. Job application.

"I hope I don't ever have to go through this again," Carl said. "If I ever get another job, I'm going to keep it."

The last job Carl had was the one he lost as a janitor at Michael Reese Hospital. He had worked there for four years, and before that had worked for City Hall and at the Civic Center. He was not used to being without a job; he had been working since he lied about his age when he was a tall 12-year-old.

"All I want is a job," Carl said. "I'll do anything."

So he had been everywhere. He'd been to the Ritz Carlton Hotel and to Cook County Hospital. He'd been to factories and plants. He'd checked with a janitor who lives in his building in Robert Taylor Homes to see if there are any Chicago Housing Authority jobs available.

But still, for the last year he's been unemployed—and waiting in lines.

"Times are hard," said Sidd Jones, 42, of 4524 S. King Dr. "You go in for a job interview and they tell you they can give you $2 an hour. Now what can you do with $80 a week these days? But when you say you want more money, they say you don't want to work."

Carl agreed. His unemployment checks amounted to $81 a week. But the problem was, there was no predicting when he'd receive them.

"You just can't depend on the checks getting to you," Carl said. "I got things I want to do. I want to get an apartment. I want to get married to my girl friend. I can't do any of that."

Sidd said Carl has the same problem he has; both men are unskilled.

"I look in the classified ads but there's nothing there. You got to have a special skill for those jobs," Sidd said. "The only skill I got was as a military policeman when I was in Korea in the Army, but I can't be a policeman."

So Sidd, who was laid off his job a year ago as a janitor at a metal removing company, said he was going back to school next month to learn to become an automobile mechanic.

It was inevitable that the unemployment benefits would run out soon for both men. And neither has any intention of going on welfare.

"I'm intending to be working before I get on welfare," Carl said. "That's a lady's thing."

"I want a job," Sidd said. "I'm a man. I like to own my own. I don't want nobody to give me nothing."

DEATH OF MRS. EARLE C. CLEMENTS

Mr. FORD. Mr. President, I was deeply saddened last week by the passing of a distinguished former First Lady of Kentucky, Sarah Blue Clements. She was the wife of a close personal friend, both of mine and many of my colleagues in the Congress, Senator Earle C. Clements.

Mrs. Clements died in this city a week ago today at the age of 82, and was buried this past Thursday in her native Morganfield, Ky. She was the beloved mother of Bess Clements Abell of this city, and the devoted wife of more than 49 years to one of Kentucky's most outstanding public servants who served his State and country as Governor, in the U.S. House of Representatives and in the U.S. Senate.

Throughout their life together, Mrs. Clements was the Senator's constant companion. Two years ago a day was held in his honor in Morganfield and, though his wife was unable to be with him because of ill health, he paid tribute to her this way:

> She is always at my side . . . When I try to use the pronoun "I" within myself it becomes "we" to include Sarah.

To Senator Clements and his family, I join with countless others in expressing my sincere and heartfelt sympathy.

AN ASSESSMENT OF NATIONAL POLICY PLANNING

Mr. HUMPHREY. Mr. President, a large body of current literature on the subject of national economic planning is being produced, stimulated at least in part by the Humphrey-Javits balanced growth and economic planning bill, S. 1795.

Many of the articles and essays are valuable and extremely insightful and deserve to be brought to the attention of my colleagues and I intend to do that by inserting them in the RECORD from time to time.

George A. Steiner wrote an article on the subject, entitled "Proposal for a Natitonal Policy Assessment and Action Program," which I believe merits attention.

Dr. Steiner is professor of management and public policy in the Graduate School of Management, University of California, and is also director of the Center for Research and Dialogue on Business in Society. He is widely known for his writings on economics and business and for his Government service.

In his article, Dr. Steiner discusses some of the shortcomings and changes that have taken place in corporate planning programs and, having written a recent book on the subject, he concludes that a number of principles and practices have evolved which can be used to avoid planning failures.

He then goes on to discuss planning in the public sector and I would like to quote the following passage from Dr. Steiner's article:

> We as a nation must be more skilled in identifying major problems that will appear in the future and in taking prompt action to deal with them. With the type of complex, turbulent and surprise-filled socio-economic-political system that is evolving, it would be disastrous for us to pursue our old policies of waiting until crises arrive and then trying to solve them by throwing money at them. We must engage in better long-range planning.

Mr. President, I could not have stated the rationale for establishing national economic planning procedures better or more concisely.

I ask unanimous consent that the article by Dr. Steiner which appeared in the September 5, 1975, issue of Planning Review, published by the North American Society for Corporate Planning, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the Record, as follows:

PROPOSAL FOR A NATIONAL POLICY ASSESSMENT AND ACTION PROGRAM

(By George A. Steiner)

This article is concerned with four major propositions:

1. The next major thrust in long-range planning will come in the public sector, and is a thrust long overdue.

2. Over the past two decades we have significantly improved corporate planning in the private sector. We still have much to learn, but compared with the early efforts we are now high on the learning curve.

3. The fundamental lessons we have learned in the private sector in doing comprehensive long-range planning are applicable to the introduction, development, and success of aggregate integrated long-range planning in the public sector.

4. It is imperative that a dialogue begin immediately between practitioners of long-range planning in the private sector and those in the public sector who are directly involved in the development of this process. Both groups have much to learn from each other, but it is particularly important that those in the public sector be exposed to the first-hand experience of those in the private sector.

THE PAST TWENTY YEARS OF CORPORATE PLANNING

A few events converged some twenty years ago to stimulate the growth of what we today call corporate planning—the type of aggregate integrated long-range planning now pursued, in one form or another, in virtually every large, and many small, companies in the world. A major change in managerial philosophy was enunciated in 1956 by Ernest Breech, then Chairman of the Board of the Ford Motor Company, who said that a company like Ford was no longer helpless in the face of market forces. It could, in some degree, "make trends, not . . . follow them."[1]

The business climate was congenial to this idea. During World War II many business managers had participated in developing and managing a long-range planning process in the federal government. That was a highly successful effort, and the practical applicability of many of the processes to private operations was not overlooked by some of these managers. Also, both the size and number of very large companies had increased substantially in the several decades preceding the war, and leaders of these companies saw the need for some sort of comprehensive long-range planning system to facilitate management of their firms.

Another force stimulating long-range planning was the prospect that economic activity might expand at a reasonably stable rate in the future. Following World War II, thanks in part to the implementation of the Employment Act of 1946, the U.S. economy showed remarkably stable growth in contrast to past wild postwar gyrations. If economic conditions were stable, and not subject to sudden unexpected booms and busts, it was reasoned that comprehensive long-range planning was feasible.

As a result of such factors, many large corporations installed long-range planning systems. These early efforts too often had fatal flaws. For instance, the typical corporate planner found himself four or five tiers below the chief executive, lodged in a back room, and asked to make plans. Despite the ringing philosophy of Breech, top managers too often were reluctant to give the new idea much commitment and proceeded on their old intuitive planning paths without much reference to what the corporate planner was doing. I remember one case in which the planning department worked out a set of plans for the company and presented them to top management with elaborate showmanship in a lovely setting removed from company headquarters. After the show was over one top executive said: "That was just great. Now, let's all get back to our regular jobs." In these early days some people thought there was one best way to do long-range planning and promulgated a "cookbook" approach to do it. Many of us spoke glowingly of long-range planning as being a new tool, a new technique for management.

Corporate planning and corporate planners have matured a great deal since those early days. I no longer speak of corporate planning as a tool or technique, to help managers make better decisions. Today, corporate planning in the better run companies is inextricably interwoven into the entire process of management. It is fused in particular with the major functions of top management. Corporate planners are generally located very close to the chief executive and integrate the planning efforts of others rather than make plans. In the better managed companies long-range planning is done efficiently and effectively.

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[1] Ernest R. Breech, "Planning the Basic Strategy of a Large Company," *in* Edward C. Bursk and Dan H. Genn, Jr., eds., *Planning the Future Strategy of Your Business* (New York: McGraw-Hill, 1956), p. 17.

I am aware of some dissatisfactions with corporate planning, which I have noted elsewhere.[2] These are more the fault of poor management, however, than of the process of planning. For those companies that are not as happy as they should be with planning, I have good news. We really do know those fundamental principles, practices, techniques, and personnel interrelationships that will insure effective planning. We know what to avoid to prevent planning failures. These lessons of experience are available to public authorities and, in my judgment, must be understood if we are to have the planning success which is necessary in these turbulent times. The guides are there for those who will look.

NEW DEMANDS FOR AGGREGATE FEDERAL PLANNING

We as a nation must be more skilled in identifying major problems that will appear in the future and in taking prompt action to deal with them. With the type of complex, turbulent, and surprise-filled socioeconomic-political system that is evolving, it would be disastrous for us to pursue our old policies of waiting until crises arrive and then trying to solve them by throwing money at them. We must engage in better long-range planning.

In 1969 Adolf Berle, a respected thinker about business and government relationships, said that "the time is ripe for a system of national planning—possibly indicative planning like that now used by France." [3] At the present time there is a new flurry of demands for long-range planning in the federal government.[4] The Initiative Committee for National Economic Planning, for example, recommends that an Office of National Economic Planning be established in the White House. Senators Humphrey and Javits have introduced a bill in the Congress, in the form of amendments to the Employment Act of 1946, to provide for long-range national economic planning. Almost every day someone advances a new proposal.

These recommendations for long-range planning will undoubtedly generate widespread debate about long-range planning in the public sector. It is not clear precisely what all the proposals recommend, but in the debates the main thrust will be for some type of overall plan patterned after the French system. Before examining what our experience with corporate planning can lend to this debate. I will describe briefly the major characteristics of the French system.

SOME CHARACTERISTICS OF FRENCH-TYPE AGGREGATE PLANNING

The first French plan was launched in 1946 and was called the Plan of Modernization to indicate that its major aim was to repair the ravages of war. It was stimulated by the Marshall Plan for Europe. Since its inception there have been seven five-year plans, the seventh of which will begin in 1976.

In the successive plans there have been four different conceptions of purpose which have been mixed in varying combinations. These are:

To provide an understanding of alternatives open in using national income;

To specify the structure of production, growth changes in industries, and supply characteristics of the economy;

To lay out programs to correct problems such as transportation and energy; and

To describe conditions needed for full employment with stable prices and a favorable balance of payments.[5]

Planning begins with a gross national product (GNP) target objective. The GNP is then broken down into public consumption, housing, gross capital formation, and so on. Production levels and estimates of required investments in different sectors are then calculated by an input-output analysis. These estimates are given to commissions whose members are drawn from industry, labor, and government. Horizontal commissions are formed to deal with economy-wide matters such as finance, productivity, and manpower. Vertical commissions deal with industrial segments of the economy such as transportation, steel, and chemicals. Plans are integrated, and when a workable synthesis is achieved the results are presented to the Parliament for debate, following which the government approves the plans.

A number of features of this system are of interest to us here:

Plans are prepared for branches of economic activity and not for companies or products. General objectives are set, but individual companies are free to act as they choose.

Planning involves the efforts of thousands of experts from business, professions, government, and industrial associations.

Plans are implemented by a mixture of psychological, structural, institutional, legislative, and administrative methods.

Pierre Massé, a long-time President of the French Planning Commission, used to say that the plan was "less than imperative but more than indicative." The French began with indicative directions, then use persuasion, and then, if required, incentives for direct action. The government intervenes directly only when important imbalances appear to be imminent. Most of the implementation of plans rests on voluntary actions by decision-makers in both the private and public sectors.[6]

Managers of larger firms are influenced by the plans, especially in making their investment and financial decisions. Executives of smaller firms say their decisions are influenced little by the government's plans.

French planning has by no means been considered an unqualified success by observers. Overly ambitious targets induced excessive investment and price inflation in 1957–1958 and again in 1962–1963, for instance. On the positive side, however, the system has produced very useful information, an acceptance of the importance of planning, better communications among major groups about national problems, and improved economic and planning education for decision-makers. The French experience has been a "mixed bag."

APPLICABILITY OF FRENCH NATIONAL PLANNING TO THE UNITED STATES

The United States does not have a national aggregate integrated long-range plan, but it does have many long-range plans which are national in scope. For instance, the Park Service in the Department of the Interior has detailed long-range plans for our national parks. The Federal Aviation Administration has long-range plans for airport and traffic safety improvement. The Bureau of the Census has long-range plans for collecting statistics. Only during World War II did we have in this country anything approaching a national aggregate plan.

We need aggregate integrated planning in the United States, but at this time it should not be of the French type. The reasons for this are as follows:

1. It is highly probable that the type of communication among businessmen typified in the French planning system would be considered illegal in the United States. Our antitrust laws are quite explicit about competitor's discussing and planning to act cooperatively in their economic relationships.

2. The sheer size and complexity of the economy of the United States cautions against any attempt to encompass it all in an overall, integrated long-range plan which presumes to provide guidance for decision-making in both the private and public sectors. It may be useful to try to capture the entire economy in one grand model for statistical purposes, but to use such a model for operational decisions is quite another matter.

3. There are strong psychological aversions to this type of planning that will not easily be overcome. Many people, for instance, would see such planning as the first step toward some type of central government planning and would strongly resist it.

4. There are political and administrative issues that would inevitably create problems. For example, such planning would strengthen the executive branch in comparison with the legislative branch. It would also tend to shift power from executive administrators to staff experts.

5. Our economy is too dynamic for five-year plans to be made and adhered to. Goals established when plans are made may easily become quite unrealistic in the last year of the plan.

Since we need national long-range planning in the United States but the French-type planning is inappropriate, the question is: What should be done?

MAJOR LESSONS OF BUSINESS LONG-RANGE PLANNING EXPERIENCE APPLICABLE TO NATIONAL PLANNING

Before addressing this question, I want to comment on five major lessons of experience with corporate planning that should influence its answer. In presenting these lessons I recognize, on the basis of a number of years of my personal planning experience in both government and business, that there are very great dissimilarities between the planning environment of the federal government and that of even the largest companies in the private sector. There are, however, enough similarities to justify careful consideration of twenty years of experience with corporate planning.

It is also quite important to observe that whatever is done must clearly reflect understanding of these similarities and dissimilarities. The way the planning process is organized must be tailored to the unique characteristics of the federal government's structure, operation, and traditions as well as to the value systems and decision-making styles of dominant personalities in the government.

First, there must be a strong commitment by the President, his cabinet, and congressional leaders to the notion that long-range planning is necessary and that it should become an integral part of decision-making in government. As we learned in corporate planning, it is not enough for top management to be dedicated to long-range planning. Top administrators must convey to others in the organization the depth and strength of their commitment.

Commitment means many things, including becoming involved in the planning process, assuring that the planning process is appropriate to the unique circumstance of the organization, allocating sufficient resources to do the job, and making current decisions on the basis of the plans.

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[2] George A. Steiner, *Pitfalls in Comprehensive Long Range Planning* (Oxford, Ohio: Planning Executives Institute, 1972).

[3] Adolf A. Berle, Jr., "Second Edition/Corporate Power," *The Center Magazine*, January 1969.

[4] Russel E. Train, "Planning to Take Charge of Our Future," *The Conference Board Record*, May 1975.

[5] John Sheahan, "Planning in France," *Challenge*, March–April 1975.

[6] George A. Steiner, *Business and Society*, 2nd ed. (New York: Random House, 1975), pp. 397–399.

Second, experience has taught us that organizations that create a planning system for the first time should "make haste slowly." Eating dinner in one gulp is likely to produce indigestion. We know that the introduction of a planning system into an organization is an event that brings many changes, not the least of which is an alteration of power relationships. Unless the introduction is performed carefully, cautiously, and circumspectively, it can easily create more problems than it solves and the planning system will, at best, be ineffective. Attempting to do too much too soon is a major pitfall to be avoided.

Third, before a long-range planning system is introduced into an organization top management must have a very clear understanding of the purposes of the system and of who is to do what and when. A plan to plan should be prepared. In government the tendency is to lay out a broad policy and then to evolve details in a sort of "muddling-through process." This is not the best way to proceed in launching a long-range planning system.

Fourth, great care should be taken to assure that concern over techniques does not divert planners and managers from the fundamental substantive purposes of planning. If this is not done, the manipulation of numbers becomes more important than their meaning; the process becomes encrusted with formal procedures and rituals. The exercise becomes pedestrian and, as a result, the creativity, innovation, and imagination needed for effective planning erode and disappear.

Fifth, the planning process must be continuous. When modern formal corporate planning first began in the United States, there was a tendency to make five-year plans and not to change them until it became clear that they needed revision. That policy did not work well. Now virtually all companies that have comprehensive formal planning systems evaluate them on a fixed cycle, usually once a year. This should also be the policy for any aggregate planning system introduced in to the federal government.

It is pertinent to note here that, with the exception of the last consideration, the collapse of the Program Planning Budgeting System in the federal government was due in very large part to the fact that each one of these criteria for effective planning was ignored. Some time ago, through an extensive mail survey, I sought to determine the major pitfalls which ought to be avoided if corporate planning was to be effective. The pitfalls discussed above were among the more significant ones identified by practitioners. I also asked respondents how happy they were with their planning systems. My study showed an almost perfect correlation between dissatisfaction with planning and entrapment in these pitfalls.[7]

WHAT SHOULD BE DONE?

If we should not create an aggregate integrated long-range planning system, what should we do? I suggest that we should limit our initial efforts to five areas of action, namely:

Hammering out national goals,

Undertaking a situation audit,

Laying out action programs in selected areas,

Developing better information for long-range planning, and

Developing a public planning consciousness.

NATIONAL GOALS

A primary and obvious task is to develop a set of national goals. President Eisenhower appointed a Commission on National Goals which made its report in 1960.[8] There never was before nor has there been since any comparable effort. The time has arrived to define major national goals and to do so on a continuous basis.

The first set of goals might be prepared by a Presidential Commission, but the function should be lodged in a permanent organization, preferably located in the Executive Office of the President. The goals should cover more than economic targets because our system has a multiplicity of goals that are interrelated. Such a set of aims, together with some estimates of priorities, would serve as a fundamental foundation for planning throughout government and in the private sector.

Major goals should, of course, be divided into subgoals. Care should be taken, however, not to define too many subgoals or to attempt to secure perfect coordination among all goals. As goals are defined more concretely at lower levels of abstraction, new conflicts will continue to appear.

The goals should be set only after public debate. In the process of goal formulation all major groups in society, including business, should be heard. The process of setting goals will stimulate useful national debate and the goals themselves will be used as valued guidelines by those doing planning both in the public and private sectors.

THE SITUATION AUDIT

In business planning making the so-called situation audit involves collecting and analyzing all data relevant to planning and to the identification of major opportunities and threats. It is essential that the areas for which data are to be accumulated, the type of data to be collected, and the depth of analysis to be devoted to specified data be carefully circumscribed. This is because not even the largest and wealthiest company can afford to examine in detail all information which might have a bearing on planning.

So it should be with government. The potential scope of data relevant in a comprehensive national long-range plan staggers the imagination. Hence the boundaries must be carefully defined. The first effort to prepare a situation audit should be narrow and modest.

SELECTED ACTION PROGRAMS

The next step in business planning, following the situation audit, is to choose those opportunities and threats which the company wishes to address. Strategies, policies, and detailed plans of action are then prepared to exploit opportunities and to avoid threats. Similarly, following the situation audit, public long-range planning should proceed to identify those major programs for which detailed plans should be prepared. Again, the scope should be selective rather than comprehensive. Areas such as energy, transportation, housing, productivity, and future raw material shortages should initially be selected for detailed planning. Areas of concentration will change from year to year, and periodically all program plans should be reviewed and modified in light of the changing environment. Plans developed at one point in time should not be expected to be applicable for many years. A one-year cycle may be too short for government; perhaps a two-year cycle would be better. There should also be a reasonable amount of integration among the program plans.

Making program plans is a critical step. In the past we have identified many major problems which subsequently arose. A number of studies, including the Paley Commission Report of 1952, identified the current energy problem.[9] Our problem in this country is not so much identification of problems as determination of what should be done about them when they are identified.

In the future we must agree on specific actions which should be taken to deal with selected opportunities and threats. Again, first efforts should be modest in number and scope.

DEVELOPMENT OF BETTER INFORMATION FOR PLANNING

There is no nation in the world that collects more comprehensive, detailed, and illuminating data about its activities than the United States. Yet there are many gaps in both the availability of needed data and the development of techniques to improve the use of data in planning. For instance, during the energy crisis last year the federal government was embarrassed by the paucity of information it had about the energy industry. In dealing with the recession in early 1975 the government found it had insufficient information about business inventories. Our gross national product measure and our cost of living index are not as reliable as they should be.

There should be an assessment of data needs for better planning and a gradual strengthening of our data base. Here again we should proceed with caution, for data accumulation is expensive and, when poorly conceived, can create all sorts of problems in and out of government.

NEED FOR PLANNING CONSCIOUSNESS AND PARTICIPATION

Even the comparatively modest effort outlined above will not succeed without the development of a new planning consciousness throughout society. We shall be unable to deal with the complex problems of this society without a much better understanding of the meaning and need for long-range planning in the public sector.

A planning consciousness is needed to gain widespread participation in any national planning effort. Not only must there be participation in the process by leaders and staff in the Congress and the executive branch, but there must be citizen participation as well.

Furthermore, planning of an appropriate nature must be pushed down through lower levels in the federal government as well as in state and local governments. Large corporations with diverse and decentralized operations learned long ago that the best results in planning are achieved when planning is decentralized and done on the basis of broad guidelines from central headquarters. Here again government can and should learn from the experience of the private sector.

In the public sector, as in the private sector, it is crucial that new mechanisms be invented to follow these prescriptions in such a fashion as to improve rather than restrain progress in planning. With unimaginative and routine planning processes it is easy to hobble the planning effort.

Among other reasons for the development of a planning consciousness and widespread participation is that we must not allow national planning to be performed exclusively by an elitist group. Only by the leavening influence of many participants, officials and laymen, will the major dangers inherent in national government planning be avoided.

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[7] George A. Steiner and Hans Schollhammer, "Pitfalls in Multi-National Long-Range Planning," *Long Range Planning*, April 1974.

[8] *Report of the President's Commission on National Goals* (New York: The American Assembly, Columbia University, November 1960).

[9] *Report of the President's Materials Policy Commission* (Washington, D.C.: Government Printing Office, 1952).

PLANNING VERSUS NATIONAL POLICY ASSESSMENT AND ACTION PROGRAM

Throughout I have used the word planning, unfortunately, planning is a pejorative word when applied to federal socio-economic activities. There are many reasons for this, not the least of which is the fact that thirty to forty years ago we witnesses the rise of national economic planning systems around the world to strengthen the hands of dictators. Planning became associated with dictatorial governments which functioned in ways quite contrary to our views of the role of government. Because of such deep-seated antipathy to the word planning when applied to government, I suggest that it be discarded and other words be found to describe the process we are talking about here, namely the phrase National Policy Assessment and Action Program. This phrase highlights the fact that it is national policy with which we are concerned. It says, also, that we are not alone concerned with assessment but also with action programs.

THE ROLE OF CORPORATE PLANNERS

Whatever is done to improve national long-range planning in the public sector will be significantly improved if the lessons painfully learned about long-range planning in the private sector are understood and applied. For this reason I propose that a series of dialogues begin between corporate planners and those in the federal government concerned with developing and using a national integrated long-range planning system. I do not have in mind conferences in which each group lectures to the other. Rather, I proposed working sessions in which participants deal with the many problems and issues associated with long-range planning in government.

I do not have in mind a continuous dialogue among the same individuals. This might be acceptable, but I think there are enough different problems and issues to tax the minds of many people in and out of government. So I suggest a somewhat loosely coordinated series of dialogues involving many people in the public and private sectors.

I do not see these conferences as dealing with substantive matters. Rather, discussion should be concerned with techniques, procedures, lessons of experience in organizing the process and in executing it, and matters related to systems operations.

CONCLUSION

I know of no more pressing problem in the United States than that of developing the capability to identify problems that lie ahead and to implement plans to deal with them. There is no reason why we cannot do this. A comprehensive aggregate integrated long-range national plan is not at this time the preferred approach, but we should begin to develop a more selective aggregative approach. In this process the lessons of corporate planning in business can have valuable applicability to government. In this endeavor corporate planners can make a significant contribution by engaging in continuous dialogue with government officials until the program is perfected.

RADIATION IN THE U.S. EMBASSY IN MOSCOW

Mr. ROBERT C. BYRD. Mr. President, I have today written Secretary of State Henry Kissinger, urging that the Soviet Union be denied permission to build a new embassy in Washington until the Soviets halt their radiation bombardment of the U.S. Embassy in Moscow.

This has been a matter of growing concern in recent weeks, and, as recently as Saturday, February 28, a comprehensive article on the Soviet's unconscionable actions appeared in the Washington Post.

I ask unanimous consent that the article and a copy of my letter to Secretary Kissinger be printed in the RECORD.

There being no objection, the article and the copy of the letter were ordered to be printed in the RECORD, as follows:

MORALE LOW AT MOSCOW EMBASSY

(By Peter Osnos)

MOSCOW, February 27.—American diplomats in Moscow have written a "very strong" letter to top State Department officials demanding to be told the full extent of the radiation problem at the embassy here and whether it represents a serious health hazard, sources said today.

Morale in the embassy, one of the largest and most important American posts abroad, has plummeted since reports of the radiation began to circulate three weeks ago, the sources said. Although employees have been briefed, a full explanation of the situation including its causes and its dangers has been withheld.

The letter was drafted last week by the local branch of the American Foreign Service Association and was intended for Secretary of State Henry A. Kissinger. At the request of senior embassy officials, only a copy of the letter was sent to Washington with the original going to Ambassador Walter J. Stoessel.

"People are incensed," said one of those responsible for preparing the letter. So far no response has been received and further action—including possible legal action—is being considered.

At the outset, the impression given to embassy employees was that the radiation was caused solely by Soviet surveillance equipment which included microwave beams focused on the embassy. There have been reports from Washington this week, however, that the purpose of the Soviet radiation was to block American eavesdropping.

In any event, the true story is apparently known to very few people in the embassy, perhaps only Stoessel himself. Kissinger is responsible for the way the matter is being handled, it is understood, and he has stressed on several occasions that it is highly sensitive. He said that "discussions" are under way to solve the problem.

Since Monday, Sam Zweifel, a State Department physician, has been in Moscow performing blood tests on all embassy personnel and their families. It is not clear whether these tests were precipitated by discovery of specific problems at the embassy, as a report from Washington today suggested, or are simply a precaution.

One explanation for Dr. Zweifel's presence is that the regular embassy physician, Thomas Johnson, is on a vacation that was postponed when the radiation issue surfaced.

[In Washington, the State Department said it has sent a medical technician to Moscow to conduct blood tests on U.S. embassy personnel who may have been exposed to the microwave emissions. William Watson, the department's medical director, said: "The medical division has found no medical problems that it believes to be related to the situation at the embassy."]

The report from Washington also said that Stoessel suffered from anemia, which may have been aggravated by the radiation here. The embassy has already denied an earlier report that Stoessel is ill, but the ambassador refused to comment on today's report, he did deny that he plans to leave Moscow for reassignment. Stoessel has been here for two years.

At earlier briefings and again today, embassy officials strongly implied—but did not say directly—that there appears to be no great danger from the radiation to people living in or working at the embassy. But the uncertainty is apparently beginning to have its effect on some embassy personnel and their families.

"We have a need and a right to know what this is all about," said one angly American. "How long is this going to continue?"

U.S. PAID WIDOWER IN RADIATION CASE

The United States compensated the husband of a woman who died of cancer in 1969 after she had been exposed to microwave emissions at the American embassy in Moscow, informed sources said yesterday.

The sources said the woman developed a mole on her face while working as a secretary from 1960 to 1962 in a part of the embassy exposed to microwave emissions believed to be from Soviet radio jamming devices.

The mole developed into melanoma—a usually malignant tumor—and the woman, for whom the sources requested anonymity, died in 1969.

Her husband applied for compensation from the government on the grounds that her death may have been caused by her exposure to microwaves beamed at the embassy, the source said. His claim, for less than $10,000 in lost wages, was honored.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., March 1, 1976.

Hon. HENRY A. KISSINGER,
Secretary of State, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: I am greatly disturbed at the reports of microwave radiation bombardment of our embassy in Moscow by the Soviet KGB. Such conduct is appalling by any diplomatic standards. I urge you to stop efforts currently underway permitting the Soviets to build a new embassy in Washington until this unconscionable action ceases.

The U.S. intelligence community has been subject to a constant barrage of media criticism over the last several months. Some of the information which revealed instances of wrongdoing by U.S. intelligence officials should have been made public in order to prevent future illegal operations. However, the sensationalist attitude which tried to portray legitimate U.S. intelligence operations as vile and morally reprehensible is misleading and potentially damaging.

I would be more reassured if, on the other hand, the true extent of Soviet spying in this country were as well publicized as are operations of U.S. intelligence officials. I am sure the American public would be appalled if the daily activities of Soviet spies—diplomatically disguised as trade, cultural, and press representatives—were exposed.

In this light, I was shocked when I learned of the Soviet spying on our embassy in Moscow with microwave radiation. Since the embassy houses hundreds of American officials and their families, the dangerous radiation is potentially harmful to their health and welfare. Under the cloak of "detente", the Soviets are placing American lives in jeopardy. Such wanton disregard for human safety and health cannot be condoned.

To allow the Soviets to continue such nefarious spying techniques is totally unacceptable. Immediate action must be taken to communicate to the appropriate high Soviet officials the repugnance expressed by many Americans concerning this distasteful episode.

On the floor of the Senate I have already expressed my feelings on this latest spying technique of the Soviet KGB. I have urged that the U.S. take action to halt efforts currently underway which would allow the Soviets to construct their much desired new embassy.

The Soviets' reprehensible actions are

cause for serious reconsideration over this country's policy of detente. Any nation which willingly subjects American officials and their families to possible virulent radiation exposure does not deserve special consideration under the loosely defined terms of detente.

With best wishes.

Sincerely,

ROBERT C. BYRD,
U.S. Senator.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

OKLAHOMA SENATORIAL CONTESTED ELECTION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 572, Senate Resolution 356, and that it be laid before the Senate and made the pending business.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 356) relating to the Oklahoma senatorial contested election.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

RECESS UNTIL 2 P.M. TODAY

Mr. MANSFIELD. Mr. President, in view of the fact that the Committee on Rules and Administration has been meeting all morning and is meeting through the lunch hour in an effort to report a bill affecting the future of the Federal Elections Commission, I ask unanimous consent that the Senate at this time stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate, at 12:29 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DOLE).

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR GARY HART AND SENATOR ROBERT C. BYRD AND FOR A PERIOD FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the completion of any other special order for which permission has already been entered on tomorrow, Mr. GARY HART be recognized for not to exceed 15 minutes, after which I be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMPTION OF UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of routine morning business tomorrow, the Senate resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF SECTION 142 OF TITLE 13, UNITED STATES CODE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 7824, that the bill be considered as having been read the first and second times, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER laid before the Senate H.R. 7824, an act to amend section 142 of title 13, United States Code, to change the date for taking censuses of agriculture, irrigation, and drainage, and for other purposes.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice by title; and without objection, the Senate will proceed to its consideration.

The bill was considered, ordered to a third reading, read the third time, and passed.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will meet at the hour of 12 o'clock noon tomorrow. After the two leaders or their designees have been recognized under the standing order, Mr. STONE will be recognized for not to exceed 15 minutes, after which Mr. GARY HART will be recognized for not to exceed 15 minutes, after which Mr. ROBERT C. BYRD will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes; at the conclusion of which period the Senate will resume consideration of Senate Resolution 356, a resolution relating to the Oklahoma senatorial contested election.

Mr. HATFIELD. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. HATFIELD. As I understand the Senator, the leadership has laid before the Senate the Oklahoma contest, which was initially expected to be taken up at 2 o'clock today. With the problems of the Committee on Rules, do I understand now that it will be the first order of business following the morning hour on tomorrow?

Mr. ROBERT C. BYRD. Yes.

Mr. HATFIELD. I wish to let the leadership know that I feel that perhaps we are getting ourselves into somewhat of a difficult thicket. We are putting great priority, as we should be, on problems related to the Federal Election Commission. That is under some very strict time frame. I believe there was introduced or will soon be introduced the question relating to setting up of an intelligence oversight committee. That, too, will have great priority. I wonder if the Senator could respond to this particular circumstance I outlined as it relates to taking up the Oklahoma contest as of tomorrow?

Mr. ROBERT C. BYRD. Only to say that, as was announced last week, it is the intention of the leadership to move to take up the disputed Oklahoma election contest today. It is before the Senate and it would be the intention of the leadership on tomorrow to resume consideration of that question.

Mr. HATFIELD. I understand.

Mr. President, I should like to put the Senate on notice now that I am certainly flexible on the matter of the time schedule for the Oklahoma contest to be considered by the full Senate. I feel there is certainly great priority on reconstituting the Federal Elections Commission and setting up an intelligence oversight committee.

I want to put the Senate on notice that I am not going to be pressured by these two priority bills that will be coming before this floor to cut short the necessary time that may be required to consider the Oklahoma contest. I have a feeling we are kind of in front of a big freight train here. Somehow we hear this train coming down the track, a freight train with the matters of the Federal Elections Commission and an intelligence oversight committee. I am not ready to jump the track to make ready for the train merely because it is coming down the track. I want to give due notice that, under no circumstance, at least as the manager of the minority side on the Oklahoma contest, will I be steamrollered or will I be pressured to bring the debate to a close or engage in any kind of time agreement, merely because we have these greater priorities stacking up behind us. I want to raise this before we get into Oklahoma so that the Senator will have clear notice that I am willing to cooperate with the leadership in any way possible to handle all these matters expeditiously. I just do not want to be put in the position of their saying, "We have a time limitation on reconstituting the Federal Elections Commission, it has greater national priority than the Oklahoma contest; therefore, we would like to have you enter into some kind of time agreement because of the priority of these other bills."

I think I made it very clear, throughout the entire committee period of discussion of this matter, and also on the floor, in December that, in my estimation, unless there is some way to reach some kind of agreement or understanding prior to taking up this case, we may be engaged in a very long discussion. I just do not want to be put in the position of then being charged with delaying the business of the Senate or of important bills that have stacked up behind Oklahoma.

Mr. ROBERT C. BYRD. Mr. President, I do not know of anybody who is going to charge the distinguished Senator with such. The intelligence oversight matter has been reported from the Committee on Government Operations. It has now gone to Rules, where the Committee on Rules will have something like 20 days in which to consider that matter. So I do not believe that that subject is going to be before the Senate within the next 3 weeks.

As to the Federal Elections Commission legislation, that is just being marked up in the Committee on Rules this afternoon and I do not believe that the Senate will be taking that up, in any event, certainly in the next day or so. I believe that the distinguished Senator from Oregon will have ample time in which to enlighten the Senate as to his views on the Oklahoma election. I do not have a feeling that the intelligence oversight matter is going to be coming along for at least 3 weeks, so I can assure the Senator that no charges are going to be leveled at him, so far as I am concerned, or the leadership on this side.

Mr. HATFIELD. I appreciate the comments of the distinguished assistant majority leader. I only call to mind that it was our expectation that the New Hampshire election matter would be handled in a very brief period of time. I recall that those events did not develop along that line. I just wanted to be in anticipation of circumstances that I visualized could occur and I merely wanted to make a record at this time. I appreciate the comments made by the distinguished Senator from West Virginia.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and, at 2:10 p.m., the Senate adjourned until Tuesday, March 2, 1976, at 12 meridian.

NOMINATIONS

Executive nominations received by the Senate March 1, 1976:

Department of State

Frederick Irving, of Rhode Island, a Foreign Service Officer of Class one, to be an Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

Department of the Interior

William L. Fisher, of Texas, to be an Assistant Secretary of the Interior, vice Jack W. Carlson, resigned.

In the Air Force

Francis Hughes, of South Carolina, to be an Assistant Secretary of the Air Force, vice William W. Woodruff, resigned.

Department of Transportation

Philip Allison Hogue, of Virginia, to be a member of the National Transportation Safety Board for the remainder of the term expiring December 31, 1978, vice Louis M. Thayer.

In the Foreign Service

The following-named person for reappointment in the Foreign Service as a Foreign Service Officer of Class four, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

William R. Brew, of New Jersey.

For appointment as a Foreign Service Officer of Class four, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

James J. Reilly, of Maryland.

For appointment as a Foreign Service Information Officer of Class four, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Sylvia Beatrice Rifkin, of the District of Columbia.

For promotion from a Foreign Service Officer of Class six to Class five:

Thomas M. Widenhouse, of Illinois.

For appointment as Foreign Service Officers of Class five, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Robert Joseph Carlson, of Iowa.
Robert J. Chevez, of California.
Arlene Render, of Ohio.

For promotion from Foreign Service Officers of Class seven to Class six:

Alvin H. Chin, of Texas.
Alan P. Larson, of Iowa.

For promotion from Foreign Service Information Officers of Class seven to Class six:

David L. Arnett, of Louisiana.
William C. Dawson, Jr., of Kentucky.
Don Reed Hamilton, of Oklahoma.
Alfred Haworth Jones, of Minnesota.
John T. Ohta, of Tennessee.
Ralph H. Ruedy, of Iowa.
Arthur L. Skop, of Maine.

For promotion from a Foreign Service Information Officer of Class eight to Class seven:

Rose Susan Berstein, of Rhode Island.

For appointment as Foreign Service Officers of Class seven, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Joseph M. Chudzik, of New Jersey.
Jo Ann Hardee Collinge, of Florida.
Jerry V. Cook, of Texas.
Margaret deF. Dennis, of Maryland.
Robert J. Featherstone, of the District of Columbia.
J. Philippe Grégoire, of Virginia .
Anne M. Hackett, of California.
Donald B. Harrington, of Pennsylvania.
Paul F. Hurley, of Massachusetts.
Bruce W. Keeling, of Michigan.
Allen James Kepchar, of Indiana.
Julien LeBourgeois, of the District of Columbia.
Randall R. LeCocq, of New Mexico.
Jean Anne Louis, of Michigan.
Cheryl A. McDonald, of California.
Joseph R. McGhee, of Pennsylvania.
Thomas J. McMahon, of Indiana.
Richard A. Megica, of Florida.
Thomas Joel Miller, of Michigan.
Christine Shelly Monroe, of Kentucky.
Thomas J. Morgan, of California.
Thomas F. Opila, of Virginia.
John Malcolm Ordway, of California.
Mary C. Pendleton, of Kentucky.
Angel M. Rabasa, of Florida.
R. Ross Rodgers, of Washington.
Robert A. Sarofeen, of Virginia.
Charles R. Schwarck, of Pennsylvania.
Stuart J. D. Schwartzstein, of New Jersey.
Stephen T. Smith, of Nebraska.
Yvonne Frances Thayer, of California.
Stephen H. Thompson, of Arizona.
David G. Wagner, of Pennsylvania.
Neal A. Waldrop III, of Michigan.
Torrey Stephen Whitman, of Pennsylvania.

For appointment as Foreign Service Information Officers of Class seven, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Jeremy F. Curtin, of Virginia.
Daryl A. Daniels, of Illinois.
Alice C. LeMaistre, of Alabama.
Marshall R. Louis, Jr., of New York.
Nicholas Mele, of New York.
David E. Miller, of Pennsylvania.
Priscilla Coit Murphy, of Virginia.
Ray Orley, of California.
Nancy Elaine Rusinko, of Rhode Island.
Pamela H. White, of Massachusetts.

For appointment as Foreign Service Officers of Class eight, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Gary Roy Alexander, of California.
John H. Andre II, of Michigan.
Lewis R. Atherton, of the District of Columbia.
Carolyn H. Ervin, of California.
Carolyn I. Heskin, of North Dakota.
Kenneth R. Jernigan, Jr., of Virginia.
Marianne Matuzic Kunkel, of New York.
Michael A. Leu, of Missouri.
Thomas A. Lynch, Jr., of Maryland.
Allen E. Nugent, of New Jersey.
Lawrence George Rossin, of California.
Joseph A. L. St. John, Jr., of Florida.
Curtis A. Stone, of Washington.
David Dale Trechter, of California.
Steven J. White, of Georgia.
Mark W. Willis, of Massachusetts.
Joseph Charles Wilson IV, of Washington.

For appointment as Foreign Service Information Officers of Class eight, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Anne M. Chermak, of Pennsylvania.
Lynne E. Hart, of California.
Jennifer E. Newton, of Pennsylvania.

Foreign Service Reserve Officers to be Consular Officers of the United States of America:

John D. Manuel, of Florida.
Robert W. Robinson, of Tennessee.

Foreign Service Reserve Officers to be Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Igor N. Belousovitch, of Virginia.
Gloria E. Bozeman, of Illinois.
Richard D. Calder, of Virginia.
Gwen C. Clare, of Maryland.
Robert A. Dishaw, of Washington.
Michael B. Doyle, of California.
Cheryl A. Gregory, of Maryland.
Thomas L. Lauer, of Virginia.
Alphonso G. Marquis, of New York.
Imogene G. McCloud, of Massachusetts.
James L. McJimpsey, of South Carolina.
William D. Murray, of Virginia.
Sterling Persons, of Illinois.
Sally A. S. Sandberg, of California.
Jan L. Wentworth, of Virginia.
Mary L. Williams, of Montana.

Foreign Service Reserve Officers to be Secretaries in the Diplomatic Service of the United States of America:

R. Dennis Jones, of Ohio.
John B. L. Manniello, of New York.
Gordon B. Ramsey, of Utah.
Robert M. Smalley, of Virginia.
Thomas Vrebalovich, of California.
Garnett A. Zimmerly, of Virginia.

Foreign Service Staff Officers to be Consular Officers of the United States of America:

Barbara M. Johnson, of Massachusetts.
Janet Petronis, of New Jersey.

In the Marine Corps

The following named officer of the Marine Corps Reserve for temporary appointment to the grade of brigadier general.

Robert S. Raisch.

IN THE NAVY

The following named officers of the Navy for permanent promotion to the grade of rear admiral:

LINE

James W. Montgomery
John A. Walsh
Lee W. Fisher
Thomas J. Hughes, Jr.
Earl B. Fowler, Jr.
Frederick F. Palmer
Kent J. Carroll
William D. Robertson, Jr.
Claude P. Ekas, Jr.
Norman K. Green
Robert B. McClinton
Albert J. Monger
Murray C. Cook
John H. Alvis
John C. Dixon, Jr.
Donald P. Hall
James B. Linder
Lucien Capone, Jr.
Richard E. Nicholson
Arthur K. Knoizen
Roy D. Snyder, Jr.
Paul H. Speer
Sylvester R. Foley, Jr.
William P. Lawrence
Edward W. Carter, III
Gerald E. Thomas
Bobby R. Inman
Hugh A. Benton
Steven A. White
Robert W. Chewning
"M" Staser Holcomb

SUPPLY CORPS

Leroy E. Hopkins
Ralph H. Murphy, Jr.
Edward M. Kocher

CHAPLAIN CORPS

Withers M. Moore

IN THE ARMY

I nominate the following-named officials for temporary appointment in the Army of the United States to the grade indicated, under the provisions of Title 10, United States Code, Sections 3442 and 3447:

To be brigadier general

Col. George E. Marine, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Donald W. Connelly [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Louis C. Wagner, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Arthur J. Junot [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. David K. Doyle, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Orlando E. Gonzales [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Joseph T. Palastra, Jr. [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John S. Blair [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James H. Mapp, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Charles T. Lynn, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Hugh J. Clausen [redacted], U.S. Army.

Col. Howard F. Stone, [redacted], Army of the United States (major, U.S. Army).

Col. Maxie O. Redic, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Thomas P. Lynch, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Ransom E. Barber, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Norman G. Delbridge, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Fred K. Mahaffey, [redacted], Army of the United States (major, U.S. Army).

Col. Charles W. Dyke, [redacted], Army of the United States (major, U.S. Army).

Col. John P. Casey, Jr. [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Robert S. McGarry, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Robert W. Sennewald, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Drake Wilson, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. James J. Lindsay, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. William C. Moore, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Charles W. Bagnal, [redacted], Army of the United States (major, U.S. Army).

Col. Charles E. Graves, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Richard S. Sweet, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Robert H. Foreman, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James H. Patterson, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Paul F. Pearson, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. William K. Hunzeker, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Joseph H. Kastner, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Corey J. Wright, [redacted] U.S. Army.

Col. Frank P. Ragano, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Emmett Paige, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Theodore S. Kanamine, [redacted], Army of the United States (major, U.S. Army).

Col. Michael N. Bakarich, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Jeremiah J. Brophy, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Frank J. Palermo, Jr. [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Dan H. Williamson, Jr., [redacted], U.S. Army.

Col. Richard M. Wells, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James S. Welch, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Benjamin E. Doty, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Archie S. Cannon, Jr. [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. David W. Einsel, [redacted] U.S. Army.

Col. Theodore G. Jenes, Jr. [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Richard X. Larkin, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Tommie G. Smith, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Richard D. Boyle, [redacted], Army of the United States (lieutenant colonel, U.S Army).

Col. Allen M. Goodson, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Vaughn O. Lang [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Robert L. Herriford, Sr. [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Robert B. Solomon, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

IN THE COAST GUARD

The following graduates of the Coast Guard Academy to be permanent commissioned officers in the Coast Guard in the grade of ensign:

Geoffrey Lee Abbott
John Clark Acton III
Scot Alan Addis
Jerome James Amend
Glenn Wesley Anderson
Michael DuWayne Anderson
John Astley
Steven Keith Barker
David Richard Bean
David Wayne Beard
Lawrence Joseph Bowling
Jerrold Arthur Browne II
William Lawrence Bryant
Wayne Rydquest Buchanan
Jeffrey Scott Buehler
Glenn Craig Burkert
Richard Thomas Burton
James Edward Bussey III
Diosdado Tirol Cabrera
Raymond George Cardwell
John David Carpenter
William Thomas Carraher
John Edward Carroll
Philip Centonze
James Donald Chambers
Gary William Chappell
Raymond John Christian
Thomas Clay Christian
Patrick Edwin Clancy
Evan B. Clark
David Scott Cline
Thomas Joseph Coe
Matthew Scott Compton
Bruce Baldwin Connell
Brian Pierce Cost
Daniel Roland Cox
Carl Andrew Crampton
Michael John Cronin
Kenneth J. Guite
Scott Eugene Davis
Steven Morgan Day
James Wade Decker
Dennis Wayne Del Grosso
Stanford William Deno
William Fred Diaduk
Surran Drew Dilke
Paul Laurence Doherty
Gregory Jon Edge
Lon Norris Elledge
Jay Cranmer Ellis
Milton Hayden Ennis
James E. Evans
Eric Norman Fagerholm
Thomas Grant Falkenstein
Louis Marion Farrell
William Jay Fasel
David Eugene Ferg II
John Stanford Fetterolf III
Erik Jorg Fiske
Patrick Eugene Flanagan
Douglas Edward Fluddy
Albert David Franzone
Alan Richard Freedman
James Franklin Freeman III
Joel Dennis Fujiwara
Robert Ellige Garrett
Harold Burton Gastler
Glenn Edward Gately
Paul Richard Gauthier, Jr.
John Anthony Gentile
Steven Bruce Gerke
Dennis Charles Gibbons
Scott Joseph Glover
John Kevin Grady
Thomas Edward Graf
Anthony Grande

Douglas Frank Grebe
Christopher John Gregus
Asher Benson Grimes
Michael Keith Grimes
Edwin C. Guffy
Glenn R. Gunn
Thomas Emil Haase
Theodore Peter Albrecht Haenlein
Joseph Andrew Halsch
Arthur Herman Hanson, Jr.
James Patrick Harmon
Albert Wilson Hartberger II
James Matthew Hasselbalch
Douglas P. Heatherly
Arn M. Heggers
Dewey Lee Hemba
Jay Elden Hess
Patrick Brian Higbie
Peter James Hill
James Clarence Hillerns
Charles Michael Hince
Eric Arthur Hiner
Robert Joseph Hoey III
Everette Wayne Hollingsworth
Albert William Horsmon, Jr.
David Auld Howell
Jeffery John Huhn
Brian J. Hunt
David H. Hylton
Richard Rayne Ingels
Stephen Marion Jacob
Gary Lee Jacobsen
James Otis Jaczinski
John Joseph Jaskot
Mark Henry Johnson
Steven Eric Johnson
Ronald H. Jones
Terrence Charles Julich
Gilbert J. Kanazawa
Steven Francis Kane
Michael Benjamin Karr
David Martin Keen
Richard Rowan Kelly
Mark Stephen Kern
Paul David Kirkpatrick
Richard Alan Klein
John Michael Krupa
Stephen Joseph Krupa
David Lewis Kuzanek
James Richard Lachowicz
Theodore Frank Lagergren
Robert Francis Lallier, Jr.
Donald Russell Lamb
Edward Albert Lane
Paul Andrew Langlois
David Roy Lawrence
Ricardo Ledesma
Ralph Edward Leighton
Marion J. Lewandowski
Grover Neal Lipe, Jr.
Ivan Talmadge Luke, Jr.
Edwin T. Lynch
Floyd Gabriel Lyssy
Gregory John MacGarva
Robert T. Majewski
Theodore Louis Mar
Kevin L. Marshall
Charles Patrick McCabe III
Timothy Lee McCarty
Jeffrey Alan McDannold
James Anthony McDonough
Robert William McGarry
John Compton Miller
Richard Keith Miller
Paul Arthur Milligan
Jeffrey Steven Mollar
James Robert Mongold
William Derwood Morris
Hal Matthew Mueller
James Francis Murray
Robert Francis Murray
Carl Motoyoshi Nagata
William Joseph Nash
Paul Thomas Neiswander
Eric Raymond Ness
Thomas Alan Nies
Richard William Norris
Frederick Albertus Nyhuis, Jr.
Patrick Michael O'Connor
Alexander Johnson Ogg, Jr.
Arthur Stephen Olsen

John H. Olthuis
James Joseph Orgill
Larrey Arnold Owens
John Randolph Peiffer, Jr.
James Butler Pennewell, Jr.
Joseph Francis Pepe
Craig Dean Peterson
William Wade Peterson, Jr.
Richard Daniel Poore
William John Probert
Michael James Quigley
James Thomas Quinn
Peter Lee Randall
Marshall Scott Reichenbaugh
Thomas Roman Reilly
John Mark Richards
Mark William Richardson
Eric John Rosenbluth
Richard Lukens Rosseau
Samuel Thomas Roudebush
Timothy Michael Rubert
Gary Stephen Scheer
William Joseph Schmitz
Dale Kenneth Schulz
Michael Raymond Shevock
Gene Paul Shriver
Mark Hale Simpson
Alan David Sine
Robert James Slye
Arthur Halsey Smith
Daniel Griffing Smith
Kevin C. Smith
Norman Craig Smith
Robert George Smith
Shawn Matthew Smith
Raymond Haley Smoyer, Jr.
Michael Ray Snider
Robert Douglas Snowball
Michael Scott Sommers
Marc Nicholas Stagliano
James Walter Stark
Robert James Steinhoff
Jeffrey J. Steuer
David Eric Sevens
Albert Rivington Stiles, Jr.
Richard Lee Stoppa II
Larry Glenn Sultze
Douglas Scott Taggart
Jeffery Joseph Tarr
John Richard Thacker
James S. Thomas, Jr.
Gerald L. Timpe
Garrett Jon Tirpak
Brian Brooks Tousley
John Nelson Trimble
Wayne Roland Troxler
Loren Paul Tschohl
Ross L. Tuxhorn
Thomas Joseph Vanak
David Elliot VanPatten
David John Visneski
Richard A. Volkmann
Thomas Robert Vorhort
John Edward Wachter
Jeffry Gardner Way
Edward Dennis Welch
Calvin E. Weyers
Christopher Aaron White
Terry T. White
David Glenn Wilder II
Kim R. Wilhelm
James Dennis Williamson
Glenn Allen Wiltshire
Timothy Slade Winslow
Stephen Paul Wolf
Daniel Richard Wrentmore
Robert Thomas Wright
Stanley Andrew Zdun, Jr.
John Andrew Zedella

The following regular officer of the U.S. Navy to be a permanent commissioned officer in the regular Coast Guard in the grade of lieutenant (junior grade):

Dennis N. Herbert

The following-named officers of the Coast Guard for promotion to the grade of lieutenant:

Thomas X. Worley
William J. Gamble
Joseph T. Kuchin
Alan L. Klingensmith
Richard D. Phillips III
Timothy J. Flanagan
David L. Edwards
Robert W. Slack
David L. Robinson
Charles R. Mumford
Roger L. Haskell
David M. Donaldson
Harrison F. Deitrick
Harry A. Vaughan
Joseph J. Fontana
Terry L. Lott
James D. Manclark
Barry E. Erickson
William A. Dickerson III
James H. Williams
Edward G. Webb
Lawrence H. Walter
Alexandre Legault
James L. McClinton
Charles W. Belsky
Edward M. Howey
Michael J. Haucke
Mark E. Charbonneau
Bernard P. O'Brien, Jr.
Jerry W. Degan
Gaetano Martini
Edward N. Spencer
Douglas R. Halsey
William E. Hensley
Robert A. Taylor
Jon A. Thulin
James W. Cratty
Raymond K. Kostuk
Laird N. Hall
Gordon N. Hanson
John J. A. Murray, Jr.
John T. Sugimoto
Dennis G. Beck
Steven C. Borloz
Benjamin J. Stoppe, Jr.
Larry R. Gansz
Richard R. Mead
Gary L. Frago
Patrick M. Stillman
Dennis M. Egan
Penn F. Shade
David A. Rogers
Bienvenido Abiles
Winston S. Jones
Thomas P. Dolan
Jeffrey A. Hibbitts
Gary B. Coye
Richard A. Knee
Stephen R. Osmer
James W. Norton
Bruce E. Melnick
William R. Armstrong
Robert W. Zider
Charles F. McCarthy, Jr.
Marlin L. Shelton
Edward J. Peak
Thomas H. Gilmour
Richard J. Sellers
Craig P. Coy
William H. Wissman
Christopher G. Burns
Authur E. Crostick
Joseph A. Stimatz
Arthus R. Butler
Norman B. Henslee
Dennis D. Rome
Edmond P. Thompson
Dirk D. Young
Robert J. Wells, Jr.
Terry W. Newell
James W. Gormanson
Harry W. Forster, Jr.
Steve S. Sheek
James H. Richardson
James R. Natwick
Lawrence G. Brudnicki
John S. Merrill
James M. Alderson
Christopher C. Oberst
William M. Bannister
Fredric R. Gill
Jimmy Ng
Danny D. Benefield
John C. Malmrose
Richard T. Buckingham
Walter G. Johnson
Robert G. Mueller
Charles F. Klingler
Joseph M. Kyle
John R. Shannonhouse
Thomas D. Yearout
Charles B. Williams
Clay A. Fust
James F. McCarthy III
James F. McEntire, Jr.
Henry F. Baley IV
Erroll M. Brown
Michael D. Shidle
Hampton E. Beasley, Jr.
Patrick J. Popieski
John W. Whitehouse
Ronald C. Gonski
Philip T. Bird
William B. Wittmeyer
Phillip C. Smith
Herbert R. Williams
Alan D. Summy
Rex A. Buddenberg
Carl R. Smith
Gordon J. Lawrence II
Thomas J. Meyers
James E. Whiting
Francis J. Kishman, Jr.
Jan E. Terveen
James M. Cooper
Joseph H. Jones, Jr.
James W. Meyer
Willard M. Collins
Mark D. Noll, Jr.
Gary M. Heil
Melvin H. Demmitt
Michael D. Hathaway
Frederic F. Litchliter
Tim B. Doherty
Wayne H. Ogle
James W. Underwood
Edwin E. Rollison, Jr.
Woodrow P Vaughn
Hugh T. H. Grant
Danny J. Sanromani
Gary R. Westling
Richard W. Withers
James L. Rohn
Edward E. Page
Dennis J. Gillespie
Bradley J. Niesen
Gary L. Swan
Robert D. Innes, Jr.
Robert W. Vail
William B. Turek
Paul L. Barger
Dean L. Harder
Bruce C. McCurdy
Loren M. Marovelli
Michael W. Ragesdale
William H. Fels
Robert F. Duncan
John M. Gray III
John M. Crye
John G. Calhoun
John W. Larned
Scott L. Anderson
Kevin J. Scheid
Craig A. Leisy
Stephen P Ziomek
Charles A. Farnsworth
William P. Foreman
Thomas C. Paar
Thomas C. Meisenzahl
John K. Synovec, Jr.
Kenneth A. Forsythe
James H. B. Morton, Jr.
David L. Engan
Jeffrey A. Hill
Harold E. Blaney, Jr.
Michael P. Decesare

Robert B. Hallock II
Joseph E. Blanchard
Merritt H. Aurich IV
Steven B. Spencer
Douglas S. Neeb
David L. Walts
Paul J. Howard
Timothy C. Healey
Kirk A. Smith
Francis J. Sambor
Michael M. Matune, Jr.
John J. Giglio
Glenn A. Gipson
Richard W. Fish
Dennis A. Sande
Dennis E. Oldacres
Frederick L. Johnson
Anthony Dupree, Jr.
Ronald L. Endsley
Gary C. Rowland
John L. Congdon
Richard W. Tate
John C. Luther
Grover C. Breckenridge
James D. Jones
James E. Andrews
William H. Bourland
Joseph A. Walker, Jr.
Norman K. McBride
Kenneth R. Grover
William J. Thrall
William E. Thibault
Robert E. Drake, Jr.
Robert G. Winter
Terrence J. Sherman

The following named temporary officers of the Coast Guard to be permanent commissioned officers in the grade of lieutenant (junior grade):

David L. Robinson
Charles R. Mumford
David M. Donaldson
Harrison F. Deitrick
Harry A. Vaughn
Joseph J. Fontana
Terry L. Lott
James D. Manclark
Barry E. Erickson
William A. Dickerson III
James H. Williams
Edward G. Webb
Lawrence H. Walter
Alexandre Legault
James L. McClinton
Charles W. Belsky
Edward M. Howey
Michael J. Haucke
Mark E. Charbonneau
Bernard P. O'Brien, Jr.
Jerry W. Degan
Gaetano Martini
Edward N. Spencer
Douglas R. Halsey
William E. Hensley
Robert A. Taylor
Jon A. Thulin
Ronald L. Endsley
Gary C. Rowland
John L. Congdon
Richard W. Tate
John C. Luther
Grover C. Breckenridge
James D. Jones
James E. Andrews
William H. Bourland
Joseph A. Walker, Jr.
Norman K. McBride
Kenneth R. Grover
William J. Thrall
William E. Thibault
Robert E. Drake, Jr.
Robert G. Winter

CONFIRMATION

Executive nomination confirmed by the Senate March 1, 1976:

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

Jean McKee, of New York, to be Deputy Administrator of the American Revolution Bicentennial Administration.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Monday, March 1, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

O praise the Lord, all ye nations; praise Him all ye people, for His merciful kindness is great toward us; and the truth of the Lord endureth forever. Praise ye the Lord.—Psalms 117.

O God—

"We pray for this great land of ours
Founded by men who put their trust in Thee;
Help us again to find the mighty powers
Of truth and faith and hope, to set us free.
Inspire our leaders, give us grace to find
The people who can steer the ship of state.
In troubled waters, men who are not blind
Through pettiness, self-interest or hate.
And may we pledge, as statesmen long ago,
Our sacred honor, lives, and fortunes, too,
To keep our country free—for well we know
That freedom only comes through serving Thee."

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill and joint resolution of the House of the following titles:

H.R. 11665. An act to rescind certain budget authority recommended in the message of the President of January 23, 1976 (H. Doc. 94–342), transmitted pursuant to the Impoundment Control Act of 1974; and

H.J. Res. 801. Joint resolution making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes.

The message also announced that the Senate insists upon its amendments to the joint resolution (H.J. Res. 801) entitled "Joint resolution making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1976, the fiscal year ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAYH, Mr. MCCLELLAN, Mr. ROBERT C. BYRD, Mr. STENNIS, Mr. MAGNUSON, Mr. PASTORE, Mr. EAGLETON, Mr. CASE, Mr. YOUNG, Mr. STEVENS, Mr. MATHIAS, and Mr. SCHWEIKER to be conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2255. An act for the general revision of the Patent Laws, title 35 of the United States Code, and for other purposes; and

S. 3028. An act to amend sections 5315 and 5316 of title 5, United States Code.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. There are two bills on the Consent Calendar. The Clerk will call the first bill.

HEALTH BENEFITS COVERAGE FOR CERTAIN SURVIVOR ANNUITANTS

The Clerk called the bill (H.R. 11439) to amend title 5, United States Code, to restore eligibility for health benefits coverage to certain individuals whose survivor annuities are restored.

There being no objection, the Clerk read the bill as follows:

H.R. 11439

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8908 of title 5, United States Code, is amended—

(1) by inserting "(a)" immediately before "An employee";

(2) by adding at the end thereof the following new subsection:

"(b) A surviving spouse whose survivor annuity under this title was terminated because of remarriage and is later restored may, under such regulations as the Civil Service Commission may prescribe, enroll in a health benefits plan described by section 8903 of this title if such spouse was covered by any such plan immediately before such annuity was terminated."; and

(3) in the section caption, by striking out "employee" and inserting in lieu thereof "employee and survivor annuitants".

(b) The item relating to section 8908 appearing in the analysis of chapter 89 of title 5, United States Code, is amended to read as follows:

"8908. Coverage of restored employees and survivor annuitants.".

SEC. 2. The amendments made by the first section of this Act shall take effect on October 1, 1976, or on the date of the enactment of this Act, whichever date is later. Such amendments shall apply with respect to individuals whose survivor annuities are restored before, on, or after such date.

With the following committee amendment:

Page 2, line 8, strike out "employee" and insert "employees".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CAREER STATUS FOR CERTAIN FEDERAL EMPLOYEES WITH OVERSEAS LIMITED APPOINTMENTS

The Clerk called the bill (H.R. 11462) to provide for the acquisition of career status by certain employees of the Federal Government serving under overseas limited appointments.

There being no objection, the Clerk read the bill as follows:

H.R. 11462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3304a(a) of title 5, United States Code, is amended by striking out the words "under an overseas limited appointment or".

SEC. 2. The amendment made by the first section of this Act shall take effect on October 1, 1976, or on the date of the enactment of this Act, whichever date is later.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON FOREIGN ASSISTANCE BILL

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the foreign assistance and related programs appropriation bill for fiscal year 1976 and the period ending September 30, 1976.

Mr. SHRIVER reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON HOUSE RESOLUTION 1058

Mr. SLACK. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on House Resolution 1058 disapproving the deferral of certain budget authority relating to the Juvenile Justice and Delinquency Prevention Program of the Law Enforcement Assistance Administration.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

THE LATE HONORABLE FLORENCE P. DWYER

(Mr. RINALDO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RINALDO. Mr. Speaker, I am saddened to report the death of my distinguished predecessor and friend, the Honorable Florence P. Dwyer.

The former Member for New Jersey's 12th District, who retired in 1972 after serving for eight terms, died yesterday in the district she loved and represented so well.

Through more than 20 years of public service in the New Jersey Legislature and with the House of Representatives, Mrs. Dwyer excelled as a forceful and effective lawmaker. She was an accomplished advocate of consumer protection, a constant fighter for women's rights, an early and ardent opponent of U.S. military involvement in Vietnam, and a strong proponent of urban mass transit and urban renewal.

Her insistence on legislative action to protect consumer interests was particularly impressive and effective. Many still remember the day she dramatized her demand for a ban on the sale of flammable children's clothes by displaying and setting fire to a child's dress during a debate in the New Jersey Assembly.

The way flames licked through that dress symbolized Flo Dwyer's burning desire to right obvious wrongs and to get good legislation enacted into law.

As a member of the New Jersey Legislature from 1950 through 1956, and as a Member of the House of Representatives from 1957 through 1972, Flo maintained an exceptionally high standard of service.

She was the ranking minority member of the House Banking and Currency Subcommittee, and as many of her former colleagues will remember, was one of the most active Members of the House.

Mrs. Dwyer was an outstanding Congresswoman. She proved this with the people who sent her to Congress for eight terms. They loved her.

Flo Dwyer set the style. She was incorruptible, and she listened to the people.

When Flo Dwyer retired she gave me every possible help she could in my campaign. She was my friend and adviser, and she always had sound advice to offer.

She will be greatly missed by me and by many others who knew and respected her dedicated public service.

Mr. Speaker, I ask unanimous consent that all Members may express their remarks on the life, character, and public service of the late Honorable Florence Price Dwyer.

GENERAL LEAVE

Mr. RINALDO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the life, character, and public service of the late Honorable Florence P. Dwyer.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

THE LATE HONORABLE FLORENCE P. DWYER

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I rise also to express my sorrow at the death of the Honorable Florence P. Dwyer, a woman who represented her district here so honorably and so well. Her constituents knew where she stood on any issue; she kept their interests at heart; she made Government real to the people of her district. They returned her in every election with an increasing majority. It did not matter how they changed the district, no one could beat Flo Dwyer in the 12th District. She was a remarkable woman, a great public servant, an earnest and dedicated legislator.

Mr. Speaker, I am confident that I express the feelings of all the New Jersey delegation in concurring in the remarks of the gentleman from New Jersey (Mr. RINALDO) who just preceded me.

CONGRESSMAN BURKE OF MASSACHUSETTS RETAINS HIS YOUTH

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURKE of Massachusetts. Mr. Speaker, I take this time to announce to the Members of the House that a little article appeared in the Boston Sunday Globe yesterday, a script that said I dyed my hair brown. Now, the fellow that wrote this story, I understand, is known as Prune Face and they do not call him Prune Face for nothing. He has more wrinkles than an unmade bed. He must be a little bit jealous of me because of my youthful appearance. I would like to give him a formula to regain his youth; that is, have oatmeal every morning and put a spoonful of molasses in that oatmeal about once a week. It is better than Geritol. No, I do not use any dye formula in my hair although it might help Prune Face. The years have not been too kind to him. He is a lot younger than I but his friend tells me he looks a lot older. Jealousy is an awful trait. However, I forgive old wrinkles. I know he did not intend to be this far removed from the truth.

Mr. HAYS of Ohio. Mr. Speaker, will the gentleman yield?

Mr. BURKE of Massachusetts. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Speaker, what is the Boston Globe?

Mr. BURKE of Massachusetts. The Boston Globe is an outstanding and well-known newspaper up in my area. It has been known down through the years for its integrity.

Mr. HAYS of Ohio. Is it slipping a little?

Mr. BURKE of Massachusetts. I think in this particular case it slipped a little.

Maybe I should strike out that part about the gentleman being prune-faced, Mr. Speaker. I do not want to say that about him. It is an unkind remark to make about him, because he is not a bad fellow. He just has problems every time he looks at me. He is 20 years younger and he looks 10 years older. I am 65 years of age and I am proud of it, never denied it and everybody in my district knows it; but I can say one thing, I have never dyed my hair and I can tell him another thing and I do not know whether he can make the same statement; I still have my own teeth.

CRIMINAL JURISDICTION IN INDIAN COUNTRY

(Mr. HUNGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNGATE. Mr. Speaker, the Subcommittee on Criminal Justice will conduct a hearing on Tuesday, March 9, on legislation concerning criminal jurisdiction in Indian country. The bills we will have under consideration are S. 2129, which recently passed the Senate; H.R. 2470, sponsored by Mr. RHODES and Mr. STEIGER; and H.R. 7592, introduced by Mr. RODINO and Mr. HUTCHINSON at the request of the Attorney General.

The hearing will be held in room 2237 of the Rayburn House Office Building and will begin at 10 a.m.

Persons wishing to testify are requested to notify the subcommittee by telephone, 202-225-0406, or in writing by that date.

WITHDRAWAL OF H.R. 8991 FROM SUSPENSION CALENDAR

Mr. PERKINS. Mr. Speaker, I request that the bill H.R. 8991 to amend the Community Services Act of 1974, to make certain technical amendments, be removed from the suspension calendar and that it come up on the next regular suspension date.

The SPEAKER. The bill will not be called at the request of the chairman.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
February 26, 1976.

Hon. CARL ALBERT,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 3:25 p.m. on Thursday, February 26, 1976, and said to contain a message from the President on energy.

With kind regards, I am,

Sincerely,
EDMUND L. HENSHAW, Jr.,
House of Representatives.

ENERGY NEEDS OF THE UNITED STATES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94-385)

The SPEAKER laid before the House the following message from the President of the United States, which was read and referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

A little over two years ago, the Arab embargo proved that our Nation had become excessively dependent upon others for our oil supplies. We now realize how critical energy is to the defense of our country, to the strength of our economy, and to the quality of our lives.

We must reduce our vulnerability to the economic disruption which a few foreign countries can cause by cutting off our energy supplies or by arbitrarily raising prices. We must regain our energy independence.

During the past year, we have made some progress toward achieving our energy independence goals, but the fact remains that we have a long way to go. However, we cannot take the steps required to solve our energy problems until the Congress provides the necessary additional authority that I have requested. If we do not take these steps, our vulnerability will increase dramatically.

In my first State of the Union Address last year, I pointed out that our vulnerability would continue to grow unless a comprehensive energy policy and program were implemented. I outlined these goals for regaining our energy independence:

—First, to halt our growing dependence on imported oil during the next few critical years.

—Second, to attain energy independence by 1985 by achieving invulnerability to disruption caused by oil import embargoes. Specifically, we must reduce oil imports to between 3 and 5 million barrels a day, with an accompanying ability to offset any future embargo with stored petroleum reserves and emergency standby measures.

—Third, to mobilize our technology and resources to supply a significant share of the free world's energy needs beyond 1985.

In pursuing these goals, we have sought to provide energy at the lowest cost consistent with our need for adequate and secure supplies We should rely upon the private sector and market forces since it is the most efficient means of achieving these goals. We must also achieve a balance between our environmental and energy objectives.

These goals were reasonable and sound a year ago and they remain so today.

Since January of 1975, this Administration has initiated the most comprehensive set of energy programs possible under current authority. This includes actions to conserve energy, to increase the production of domestic energy resources, and to develop technology necessary to produce energy from newer sources.

During this time, I have also placed before the Congress a major set of legislative proposals that would provide the additional authority that is needed to achieve our energy independence goals.

Thus far, the Congress has completed action on only one major piece of energy legislation—the Energy Policy and Conservation Act—which I signed into law on December 22, 1975. That law includes four of the original proposals I submitted to the Congress over a year ago. Eighteen other major legislative proposals still await final action by the Congress.

NATURAL GAS

The need for Congressional action is most critical in the area of natural gas. We must reverse the decline in natural gas production and deal effectively with the growing shortages that face us each winter.

Deregulating the price of new natural gas remains the most important action that can be taken by the Congress to improve our future gas supply situation. If the price of natural gas remains under current regulation, total domestic production will decline to less than 18 trillion cubic feet in 1985. However, if deregulation is enacted, production would be about 25 percent higher by 1985. Natural gas shortages mean higher costs for consumers who are forced to switch to more expensive alternative fuels and mean, inevitably, an increasing dependence on imported oil. Curtailment of natural gas to industrial users in the winters ahead means more unemployment and further economic hardships.

Therefore, I again urge the Congress to approve legislation that will remove Federal price regulation from new natural gas supplies and will provide the added short-term authorities needed to deal with any severe shortages forecast for next winter.

I also urge prompt action by the Congress on a bill I will be submitting shortly which is designed to expedite the selection of a route and the construction of a transportation system to bring the vast supplies of natural gas from the North Slope of Alaska to the "lower 48" markets. This legislation would make possible production of about 1 trillion cubic feet of additional natural gas each year by the early 1980s.

We expect imports of liquefied natural gas (LNG) to grow in the next several years to supplement our declining domestic supply of natural gas. We must balance these supply needs against the risk of becoming overly dependent on any particular source of supply.

Recognizing these concerns, I have directed the Energy Resources Council to establish procedures for reviewing proposed contracts within the Executive Branch, balancing the need for supplies with the need to avoid excessive dependence, and encouraging new imports where this is appropriate. By 1985, we should be able to import 1 trillion cubic feet of LNG to help meet our needs without becoming overly dependent upon foreign sources.

NUCLEAR POWER

Greater utilization must be made of nuclear energy in order to achieve energy independence and maintain a strong economy. It is likewise vital that we continue our world leadership as a reliable supplier of nuclear technology in order to assure that worldwide growth in nuclear power is achieved with responsible and effective controls.

At present 57 commercial nuclear power plants are on line, providing more than 9 percent of our electrical requirements, and a total of 179 additional plants are planned or committed. If the electrical power supplied by the 57 existing nuclear power plants were supplied by oil-fired plants, an additional one million barrels of oil would be consumed each day.

On January 19, 1975, I activated the independent Nuclear Regulatory Commission (NRC) which has the responsibility for assuring the safety, reliability, and environmental acceptability of commercial nuclear power. The safety record for nuclear power plants is outstanding. Nevertheless, we must continue our efforts to assure that it will remain so in the years ahead. The NRC has taken a number of steps to reduce unnecessary regulatory delays and is continually alert to the need to review its policies and procedures for carrying out its assigned responsibilities.

I have requested greatly increased funding in my 1977 budget to accelerate research and development efforts that will meet our short-term needs to:

—make the safety of commercial nuclear power plants even more certain;

—develop further domestic safeguards technologies to assure against the theft and misuse of nuclear materials as the use of nuclear-generated electric power grows;

—provide for safe and secure long-term storage of radioactive wastes;

—and encourage industry to improve the reliability and reduce the construction time of commercial nuclear power plants.

I have also requested additional funds to identify new uranium resources and have directed ERDA to work with private industry to determine what additional actions are needed to bring capacity on-line to reprocess and recycle nuclear fuels.

Internationally, the United States in consultation with other nations which supply nuclear technology has decided to follow stringent export principles to ensure that international sharing of the benefits of nuclear energy does not lead to the proliferation of nuclear weapons. I have also decided that the U.S. should make a special contribution of up to $5 million in the next 5 years to strengthen the safeguards program of the International Atomic Energy Agency.

It is essential that the Congress act if we are to take timely advantage of our nuclear energy potential. I urge enactment of the Nuclear Licensing Act to streamline the licensing procedures for the construction of new powerplants.

I again strongly urge the Congress to give high priority to my Nuclear Assurance Act to provide enriched uranium needed for commercial nuclear powerplants here and abroad. This proposed legislation which I submitted in June 1975, would provide the basis for transition to a private competitive uranium enrichment industry and prevent the heavy drain on the Federal budget. If the Federal Government were required to finance the necessary additional uranium enrichment capacity, it would have to commit more than $8 billion over the next 2 to 3 years and $2 billion annually thereafter. The taxpayers would eventually be repaid for these expenditures but not until sometime in the 1990's. Federal expenditures are not necessary under the provisions of this act since industry is prepared to assume this responsibility with limited Government cooperation and some temporary assurances. Furthermore, a commitment to new Federal expenditures for uranium enrichment could interfere with efforts to increase funding for other critical energy programs.

COAL

Coal is the most abundant energy resource available in the United States, yet production is at the same level as in the 1920's and accounts for only about 17 percent of the Nation's energy consumption. Coal must be used increasingly as an alternative to scarce, expensive or insecure oil and natural gas supplies. We must act to remove unnecessary constraints on coal so that production can grow from the 1975 level of 640 million tons to over 1 billion tons by 1985 in order to help achieve energy independence.

We are moving ahead where legislative authority is available.

The Secretary of the Interior has recently adopted a new coal leasing policy for the leasing and development of more coal on Federal lands. To implement this policy, regulations will be issued governing coal mining operations on Federal lands, providing for timely development, and requiring effective surface mining controls which will minimize adverse environmental impacts and require that mined lands be reclaimed. As a reflection of the States' interests, the Department proposes to allow application on Federal lands of State coal mine reclamation standards which are more stringent than Federal standards, unless overriding National interests are involved.

I have directed the Federal Energy Administration and the Environmental Protection Agency to work toward the conversion of the maximum number of utilities and major industrial facilities from gas or oil to coal as permitted under recently extended authorities.

We are also stepping up research and development efforts to find better ways of extracting, producing and using coal.

Again, however, the actions we can take are not enough to meet our goals. Action by the Congress is essential.

I urge the Congress to enact the Clean Air Act amendments I proposed which will provide the balance we need between air quality and energy goals. These amendments would permit greater use of coal without sacrificing the air quality standards necessary to protect public health.

OIL

We must reverse the decline in the Nation's oil production. I intend to implement the maximum production incentives that can be justified under the new Energy Policy and Conservation Act. In addition, the Department of the Interior will continue its aggressive Outer Continental Shelf development program while giving careful attention to environmental considerations.

But these actions are not enough. We need prompt action by the Congress on my proposals to allow production from the Naval Petroleum Reserves. This legislation is now awaiting action by a House-Senate Conference Committee.

Production from the reserves could provide almost 1 million barrels of oil per day by 1985 and will provide both the funding and the oil for our strategic oil reserves.

I also urge the Congress to act quickly on amending the Clean Air Act auto emission standards that I proposed last June to achieve a balance between objectives for improving air quality, increasing gasoline mileage, and avoiding unnecessary increases in costs to consumers.

BUILDING ENERGY FACILITIES

In order to attain energy independence for the United States, the construction of numerous nuclear power plants, coal-fired power plants, oil refineries, synthetic fuel plants, and other facilities will be required over the next two decades.

Again, action by the Congress is needed.

I urge Congress to approve my October 1975 proposal to create an Energy Independence Authority, a new Government corporation to assist private sector financing of new energy facilities.

This legislation will help assure that capital is available for the massive investment that must be made over the next few years in energy facilities, but will not be forthcoming otherwise. The legislation also provides for expediting the regulatory process at the Federal level for critical energy projects.

I also urge Congressional action on legislation needed to authorize loan guarantees to aid in the construction of commercial facilities to produce synthetic fuels so that they may make a significant contribution by 1985.

Commercial facilities eligible for funding under this program include those for synthetic gas, coal liquefaction and oil shale, which are not now economically competitive. Management of this program would initially reside with the Energy Research and Development Administration but would be transferred to the proposed Energy Independence Authority.

My proposed energy facilities siting legislation and utility rate reform legislation, as well as the Electric Utilities Construction Incentives Act complete the legislation which would provide the incentives, assistance and new procedures needed to assure that facilities are available to provide additional domestic energy supplies.

ENERGY DEVELOPMENT IMPACT ASSISTANCE

Some areas of the country will experience rapid growth and change because of the development of Federally-owned energy resources. We must provide special help to heavily impacted areas where this development will occur.

I urge the Congress to act quickly on my proposed new, comprehensive, Federal Energy Impact Assistance Act which was submitted to the Congress on February 4, 1976.

This legislation would establish a $1 billion program of financial assistance to areas affected by new Federal energy resource development over the next 15 years. It would provide loans, loan guarantees and planning grants for energy-related public facilities. Funds would be repaid from future energy development. Repayment of loans could be forgiven if development did not occur as expected.

This legislation is the only approach which assures that communities that need assistance will get it where it is needed, when it is needed.

ENERGY CONSERVATION

The Nation has made major progress in reducing energy consumption in the last two years but greatly increased savings can yet be realized in all sectors.

I have directed that the Executive Branch continue a strong energy management program. This program has already reduced energy consumption by 24 percent in the past two years, saving the equivalent of over 250,000 barrels of oil per day.

We are moving to implement the conservation authorities of the new Energy Policy and Conservation Act, including those calling for State energy conservation programs, and labeling of appliances to provide consumers with energy efficiency information.

I have asked for a 63 percent increase in funding for energy conservation research and development in my 1977 budget.

If the Congress will provide needed legislation, we will make more progress. I urge the Congress to pass legislation to provide for thermal efficiency standards for new buildings, to enact my proposed $55 million weatherization assistance program for low-income and elderly persons, and to provide a 15 percent tax credit for energy conservation improvements in existing residential buildings. Together, these conservation proposals can save 450,000 barrels of oil per day by 1985.

INTERNATIONAL ENERGY ACTIVITIES

We have also made significant progress in establishing an international energy policy. The U.S. and other major oil consuming nations have established a comprehensive long-term energy program through the International Energy Agency (IEA), committing ourselves to continuing cooperation to reduce dependence on imported oil. By reducing demand for imported oil, consuming nations can, over time, regain their influence over oil prices and end vulnerability to abrupt supply cut-offs and unilateral price increases.

The International Energy Agency has established a framework for cooperative efforts to accelerate the development of alternative energy sources. The Department of State, in cooperation with FEA, ERDA, and other Federal agencies, will continue to work closely with the IEA.

While domestic energy independence is an essential and attainable goal, we must recognize that this is an interdependent world. There is a link between economic growth and the availability of energy at reasonable prices. The United States will need some energy imports in the years ahead. Many of the other consuming nations will not be energy independent. Therefore, we must continue to search for solutions to the problems of both the world's energy producers and consumers.

The U.S. delegation to the new Energy Commission will pursue these solutions, including the U.S. proposal to create an International Energy Institute. This institute will mobilize the technical and financial resources of the industrialized and oil producing countries to assist developing countries in meeting their energy problems.

1985 AND BEYOND

As our easily recoverable domestic fuel reserves are depleted, the need for advancing the technologies of nuclear energy, synthetic fuels, solar energy, and geothermal energy will become paramount to sustaining our energy achievements beyond 1985. I have therefore proposed an increase in the Federal budget for energy research and development from $2.2 billion in 1976 to $2.9 billion in the proposed 1977 budget. This 30-percent increase represents a major expansion of activities directed at accelerating programs for achieving long-term energy independence.

These funds are slated for increased work on nuclear fusion and fission power development, particularly for demonstrating the commercial viability of breeder reactors; new technology development for coal mining and coal use; enhanced recovery of oil from current reserves; advanced power conversion systems; solar and geothermal energy development; and conservation research and development.

It is only through greater research and development efforts today that we will be in a position beyond 1985 to supply a significant share of the free world's energy needs and technology.

SUMMARY

I envision an energy future for the United States free of the threat of embargoes and arbitrary price increases by foreign governments. I see a world in which all nations strengthen their cooperative efforts to solve critical energy problems. I envision a major expansion in the production and use of coal, aggressive exploration for domestic oil and gas, a strong commitment to nuclear power, significant technological breakthroughs in harnessing the unlimited potential of solar energy and fusion power, and a strengthened conservation ethic in our use of energy.

I am convinced that the United States has the ability to achieve energy independence.

I urge the Congress to provide the needed legislative authority without further delay.

GERALD R. FORD.

THE WHITE HOUSE, *February 26, 1976.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, *D.C.*,
February 27, 1976.

Hon. CARL ALBERT,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:28 P.M. on Friday, February 27, 1976, and said to contain a message from the President wherein he transmits the Sixth Annual Report of the Council on Environmental Quality.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

SIXTH ANNUAL REPORT OF THE COUNCIL ON ENVIRONMENTAL QUALITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Merchant Marine and Fisheries:

To the Congress of the United States:

It is a measure of our progress as a Nation that today, in the 200th year of American Independence, we are in the midst of a dynamic movement to restore, protect and preserve our environment and, at the same time, make the most effective use of our natural resources—with the objective of providing a better life for ourselves and for our children and grandchildren.

This society has come a long way since the time when the daily struggle with climate and wilderness dominated our ancestors lives, challenged their spirit and energies, and shaped attitudes that served so well to forge a new Nation. We have learned that our past progress was often achieved without adequate regard for the longer term consequences to our air, water and land. Some have concluded from our past experiences that certain national objectives—such as a strong economy, an adequate supply of energy, and an improved environment—are in conflict and we must choose among them. Others are concluding—and I share their view—that we can make good progress toward all these objectives if our goals are realistic, our resolve is firm, and our steps are deliberate.

The Sixth Annual Report of the Council on Environmental Quality which I am forwarding to the Congress surveys our environmental accomplishments and indicates that we have made much progress indeed.

The Council's summary of environmental conditions and trends describes the encouraging results of our efforts to clean up the air and water. We are beginning to bring our most chronic sources of water pollution under control, and we are improving the quality of some of our most heavily polluted waterways. We have improved air quality significantly in the United States during the past five years.

The progress we have made so far is in large measure a reflection of the investment the Nation has made in cleaning up the environment. In 1975 government and industry spent more than $15 billion in capital and operating expenditures to meet the requirements of Federal pollution control legislation. The Federal Government alone has increased its pollution control outlays from $751 million in 1970 to an estimated $4.5 billion in the current fiscal year. Over the next ten years the Nation will spend more than $22 billion per year to meet Federal pollution control requirements.

We can be proud of the progress we have made in improving the Nation's environmental quality. Yet, we must meet additional challenges over the next few years. We must improve our understanding of the effects of pollutants and of the means and costs of reducing pollution. As we develop new energy sources and technologies we must assure that they meet environmental standards. We also must continue the job of cleaning up pollution from existing sources.

The Council has reviewed the environmental conditions of our coastal zone and on Federal public lands and describes the diverse purposes they serve and the variety of ways in which our people can use and enjoy them. Because of the competing demands upon these areas, we will face a continuing challenge in assuring their best uses and in providing protection of their environmental values.

International activities over the past year have provided a helpful perspective for understanding the global scope of many environmental issues. Our community of nations is beginning to come to grips with this reality and, through the United Nations Earthwatch Program, is making a major attempt to monitor environmental conditions and trends throughout the world.

Our experience and our growing knowledge about the scientific, technical and economic aspects of environmental effects and controls has given us a basis for considering "mid-course corrections" in existing environmental laws. The attention now being given in the Congress and the Administration to a review of the requirements of the Clean Air Act and the Water Pollution Control Act are important examples of this new level of awareness.

In these and other efforts, we must set our goals carefully, pursue them vigorously, and maintain the balance among our national objectives. This is essential if we are to enjoy the continued public support for our environmental objectives that is necessary to future progress.

We have made an excellent start. I am confident we shall continue in this vital area.

GERALD R. FORD.

THE WHITE HOUSE, *February 27, 1976.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
March 1, 1976.

Hon. CARL ALBERT,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 11:35 A.M. on Saturday, February 28, 1976, and said to contain a message from the President wherein he transmits the Third Biennial Report on National Growth and Development.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

THIRD BIENNIAL REPORT ON NATIONAL GROWTH AND DEVELOPMENT — MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking, Currency and Housing:

To the Congress of the United States:

I am forwarding herewith the Third Biennial Report on National Growth and Development in accordance with Section 703(a) of the Housing and Urban Development Act of 1970.

GERALD R. FORD.

THE WHITE HOUSE, *February 27, 1976.*

CALL OF THE HOUSE

Mr. LAGOMARSINO. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 72]

Andrews, N.C.
Archer
Badillo
Barrett
Beard, Tenn.
Bell
Biaggi
Boland
Bolling
Bonker
Bowen
Brooks
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burke, Fla.
Chappell
Chisholm
Collins, Ill.
Conlan
Conyers
Corman
Derwinski
Devine
Dingell
Dodd
du Pont
Eckhardt
Edgar
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Flowers
Foley
Ford, Tenn.
Fraser
Fuqua
Goldwater
Gonzalez
Green
Gude
Hammerschmidt
Harrington
Harsha
Hayes, Ind.
Hébert
Heckler, Mass.
Heinz
Hinshaw
Holland
Howard
Hubbard
Jones, N.C.
Jones, Tenn.
Kindness
Landrum
Litton
McCloskey
McCollister
Macdonald
Mann
Matsunaga
Melcher
Metcalfe
Michel
Milford
Mills
Mitchell, Md.
Moakley
Moffett
Mollohan
Moss
Nix
Nolan
O'Neill
Patman, Tex.
Pepper
Pettis
Rhodes
Risenhoover
Rousselot
Runnels
Ruppe
Ryan
St Germain
Scheuer
Shuster
Steiger, Ariz.
Stephens
Symington
Thornton
Tsongas
Udall
Ullman
Vander Jagt
Vigorito
Wampler
Wiggins
Wirth
Wydler
Wylie
Young, Ga.
Zeferetti

The SPEAKER. On this rollcall 328 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FIFTIETH WEDDING ANNIVERSARY OF THE CHAPLAIN, REV. EDWARD G. LATCH, AND HIS WIFE RIETA

(Mr. MAHON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAHON. It is at the suggestion and encouragement of our distinguished Speaker of the House of Representatives, the gentleman from Oklahoma (Mr. ALBERT) that I take the floor today to announce a most memorable event. That event is the 50th wedding anniversary of Edward Gardner Latch and Rieta Latch. A lovelier and finer couple has never inhabited this Capital City. They are admired and beloved by all who know them.

About 10 years ago, the Speaker of the House asked Dr. Latch to become Chaplain of the House, and Dr. Latch was elected to that position. At that time Dr. Latch had completed more than 20 years as pastor of the Metropolitan Memorial United Methodist Church in Washington, a church my wife and I had attended throughout his pastorate.

I know that all Members of the House will want to join in a special salute to Dr. Edward Gardner Latch and Rieta upon this significant day, their 50th wedding anniversary.

Mr. MILLER of Ohio. Mr. Speaker, it is with a great deal of pride that I join my colleagues in the House of Representatives today in paying tribute to our distinguished Chaplain, Dr. Edward Latch and Mrs. Latch upon their 50th wedding anniversary.

Since coming to the Congress, I have deeply admired the leadership and dedication exemplified by Dr. Latch. His prayer opening each session of the House has been a source of inspiration for all who have served in this Chamber. My admiration for Dr. Latch is coupled with equal admiration and respect for his devoted wife, Rieta, and their family.

Reverend and Mrs. Latch—now the proud grandparents of eight—were married on March 1, 1926. Throughout his many years of civic service in the Washington area, Dr. Latch has always drawn inspiration and support from his fine family. Prior to beginning his service in the House, Dr. Latch served as pastor of the Metropolitan Methodist Church in Washington for more than 25 years.

On this momentous occasion, I want to offer my sincerest congratulations to Dr. Latch and his lovely wife, and I want to extend to them my best wishes for many more years of happiness.

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the 1 minute speech just given by the gentleman from Texas (Mr. MAHON) on the 50th wedding anniversary of our Chaplain, Dr. Edward G. Latch and his wife Rieta.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

AUTHORIZING PRESIDENT TO INVITE STATES OF THE UNION AND FOREIGN NATIONS TO PARTICIPATE IN INTERNATIONAL PETROLEUM EXPOSITION IN TULSA, OKLA., MAY 16 THROUGH MAY 22, 1976

Mr. DIGGS. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 296) authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from May 16, 1976, through May 22, 1976.

The Clerk read as follows:

H.J. RES. 296

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to invite by proclamation, or in such other manner as he may deem proper, the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Oklahoma, from May 16, 1976, through May 22, 1976, for the purpose of exhibiting machinery, equipment, supplies, and other products used in the production and marketing of oil and gas, and bringing together buyers and sellers for the promotion of foreign and domestic trade and commerce in such products.

The SPEAKER. Is a second demanded?

Mr. GILMAN. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Michigan (Mr. Diggs) will be recognized for 20 minutes, and the gentleman from New York (Mr. Gilman) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. Diggs).

Mr. DIGGS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the joint resolution before us, House Joint Resolution 296, would authorize the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition in Tulsa May 17 through 21, 1976.

The Committee on International Relations approved this resolution without objection on February 24, 1975.

The Senate passed this resolution in May 1975 and similar resolutions authorizing this exposition were passed in 1965 and 1970.

The International Petroleum Exposition, aimed at expanding U.S. exports and technology in the energy field, has been held every 5 years since 1923. It is sponsored by a nonprofit organization, comprised of oil company representatives, trade associations, and oil trade publications' editors. Randolph Yost, vice president of Standard Oil of Indiana, is the current president of the IPE board of directors.

Only four foreign countries will have exhibits at the International Petroleum Exposition: Britain, France, Germany, and Canada. All others will merely be sending visiting delegations, potential purchasers of U.S. and other European equipment.

While the IPE organizers expect nearly 90 countries to send delegations, only 53 have thus far expressed an interest in attending.

The International Petroleum Exposition affords an unusual opportunity to United States and other European allies to exhibit and increase sales of their products and equipment in the petroleum extraction and energy field to foreign buyers. Selected as one of 17 trade shows endorsed by the Department of Commerce's Foreign Buyers Program, this exposition will require no funding authorization. Although it is difficult to assess the profits in terms of increased sales resulting from these trade shows, George Hines, the project director for IPE at the Commerce Department, suggests a ratio of $500 to $1.

In addition to the economic benefits, the symposium, on energy questions including the nonfossil fuels, which is held concurrently with the IPE, provides a vital forum for the exchange of information and new research in the field of energy.

The IPE will take place at a time when the availability of petroleum products at reasonable prices has accelerated the quest for alternative energy sources.

While the OPEC countries control the oil resources, it is the United States and the West that commands the technology and equipment that make the exploitation of these resources possible. The International Petroleum Exposition can strengthen this symbolic relationship between the holders of petrol and the possessors of needed machinery.

The resolution would not involve any new budget authority and is noncontroversial in nature. I, therefore, urge its adoption.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. Jones).

Mr. JONES of Oklahoma. Mr. Speaker, I want to take this opportunity to thank the chairman and the members of the committee for moving on this resolution.

Mr. Speaker, the International Petroleum Exposition, held every 5 years in Tulsa, is of great importance to the economic and energy development of this Nation.

This resolution involves no dollar costs to the Federal Government, as the IPE is privately funded. This resolution only authorizes and requests the President to formally invite the States and foreign nations to participate in this event.

The International Petroleum Exposition has already been designated as "VIP Trade Show" by the Department of Commerce, and thus far 53 nations have indicated their participation. The countries are diverse, including such nations as France, Russia, Israel, Iraq, and Venezuela. IPE organizers expect up to 90 nations will eventually participate.

Let me share with you some information on the purpose of the IPE, and the educational dialog planned. The IPE focuses on the development and design of new equipment, new methodology, new materials, new technology, and new processes in the petroleum industry. The IPE is at once a trade show and an educational experience.

A vital element of the IPE is the Energy Technical Symposium. This 3-day program includes seminars on such topics as "Improvements in the Field and Petrochemical Processing of Hydrocarbons", "Drilling for Oil and Gas in Hostile Environments (Snow, Deserts, Tundra and Great Depths)", and "Development and Potential of Future Energy Sources."

Many companies will be exhibiting equipment and services used in several division of the industry. Exploration will be represented in 16 percent of the exhibits, drilling in 35 percent, production in 53 percent, pipelines in 50 percent, refining in 37 percent, and petrochemicals in 36 percent.

For the first time in the 53-year history of the IPE, there will be an Energy Science Panorama, with exhibits on oil shale, coal gasification, tar sands, geothermal, solar and wind energy.

The international energy picture has changed dramatically since the last IPE in 1971. It is the very nature of this change than enhances the importance of this resolution. Foreign governments are playing a crucial role in petroleum exploration, and it is essential that we bring together experts from all over the world to share information and technology.

I not only urge my colleagues to support this important event, but I also invite each of you to visit Tulsa during the IPE. You will learn a great deal about energy, about new processes, and about future energy development, not only in America, but in some 90 other nations as well.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleague from Michigan (Mr. Diggs), the chairman of our Subcommittee on International Resource Food and Energy and the gentleman from Oklahoma (Mr. Jones) in support of House Joint Resolution 296, a joint resolution "authorizing and requesting the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from May 16, 1976, through May 22, 1976."

The International Petroleum Exposition, sponsored by a nonprofit organization, is held every 5 years in Tulsa, Okla., for the purpose of exhibiting machinery, equipment, supplies and other products used in the production and marketing of oil and natural gas. In addition, the exposition concentrates on bringing together buyers and sellers for the promotion of foreign and domestic commerce in oil and gas products.

This exposition, which is the oldest and largest in the world has been held continuously in Tulsa since 1923. The event has been certified since 1974 as one of only 17 expositions selected by the Department of Commerce's foreign buyers program for government promotion to match the interest of overseas buyers with American producers at U.S. exhibitions and trade shows.

In lending its full support to House Joint Resolution 296, the Department of Commerce cited "the current universal importance of the energy subject and the general excellence of the International Petroleum Exposition" as factors that will enable the Department to better accomplish its "mission of promoting industry and commerce to effect an improved balance of payments for the United States." In addition, it "will serve the public interest in increasing the awareness here and abroad of the critical nature of the world's energy supply problem.

This year's exposition is expected to draw some 50,000 qualified industrial buyers from 60 different nations and all 50 States of the Union. The 400 individual company exhibits of machinery and equipment are expected to be viewed by as many as 1,000,000 people.

The International Petroleum Exposition, which is a nonprofit organization made up of oil company representatives, trade associations, and oil trade publications editors, has planned the 1976 exposition in three phases: The first being the actual exhibitions to demonstrate new techniques and equipment. The second will feature technical symposiums on such major topics as "Development and

Potential of Future Energy Sources, Developments in the Transportation of Hydrocarbons, and Drilling for Oil and Gas in a Hostile Environment." The third and final phase will be an Energy Science Panorama featuring new and innovative technology representing all forms of energy, including nonfossil fuels and will occupy approximately 30,000 square feet of space.

Both in 1965 and 1970, the Congress passed similar joint resolutions recognizing this activity and authorizing the President to invite the States and foreign nations to participate in the exposition. As in the previous exposition resolutions, this measure does not involve any Federal expenditure for, or participation in, the exposition.

The United States remains the most important producer of machinery, new technology, and equipment for the petroleum industry. In light of the ever-increasing costs of imported fuels, it is in the interest of all Americans to provide an arena for as many foreign buyers as possible, thereby enhancing our balance of payments. In the past these expositions have generated millions of dollars in sales of American industrial products.

For these reasons, Mr. Speaker, I urge all my colleagues to join with me in support of House Joint Resolution 296, a noncontroversial and highly beneficial recognition of the International Petroleum Exposition.

Mr. DIGGS. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. Diggs) that the House suspend the rules and pass the joint resolution (H.J. Res. 296).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the Senate joint resolution (S.J. Res. 59), authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from May 16, 1976, through May 22, 1976, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 59

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to invite by proclamation, or in such other manner as he may deem proper, the States of the Union and foreign nations to participate in the International Petroleum Exposition, to be held at Tulsa, Oklahoma, from May 16, 1976, through May 22, 1976, for the purpose of exhibiting machinery, equipment, supplies, and other products used in the production and marketing of oil and gas, and bringing together buyers and sellers for the promotion of foreign and domestic trade and commerce in such products.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House joint resolution (H.J. Res. 296) was laid on the table.

GENERAL LEAVE

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

RELATING TO TRANSACTIONS BY CERTAIN PUBLIC EMPLOYEE RETIREMENT SYSTEMS CREATED BY THE STATE OF NEW YORK OR ITS POLITICAL SUBDIVISIONS

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11700) relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions, as amended.

The Clerk read as follows:

H.R. 11700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) any pension plan or trust which, on December 5, 1975, was a party to the amended and restated agreement of November 26, 1975, set forth on pages 38906, 38912, and 38913 of the Congressional Record published on such date, and any trust forming a part of such a plan, shall not be considered to fail to satisfy the requirements of section 401 (a) of the Internal Revenue Code of 1954, and shall not be considered to have engaged in a prohibited transaction described in section 503(b) of such Code merely because such plan or trust does any or all of the following:

(1)(A) enters into such agreement or agrees to any amendment of such agreement;

(B) forebears from any act prohibited by such agreement;

(C) acquires or holds any obligation the acquisition or holding of which is provided for by such agreement;

(D) makes any election provided for by such agreement;

(E) executes a waiver of any requirement of such agreement;

(F) after the expiration of such agreement, holds any obligation acquired or held pursuant to such agreement; or

(G) performs any other act provided for by such agreement;

(2) on or after August 20, 1975, and before January 1, 1979, considers, for purposes of determining investments to be made by the plan or trust, the extent to which such investments will—

(A) maintain the ability of the city of New York—

(i) to make future contributions to the plan or trust, and

(ii) to satisfy its future obligations to pay pension and retirement benefits to members and beneficiaries of such plan or trust, and

(B) protect the sources of funds to provide retirement benefits for members and beneficiaries of the plan or trust; or

(3) after December 31, 1978, considers, for purposes of determining whether to retain investments held on December 31, 1978, the factors enumerated in paragraph (2).

For purposes of paragraph (1), the acquisition or holding of any obligation of the Municipal Assistance Corporation for the city of New York on or after August 20, 1975, and before November 26, 1975, shall be considered an acquisition or holding provided for by such agreement.

(b) In the case of—

(1) any amendment to the agreement described in subsection (a) which relates to the application of the factors set forth in subsection (a) to the requirements of section 401(a) or 503(b) of the Internal Revenue Code of 1954 and which is adopted after December 5, 1975, and

(2) any waiver of any requirement of the agreement by a plan or trust after December 5, 1975,

such amendment or waiver shall take effect for purposes of subsection (a) on the date on which a copy of such amendment or waiver is submitted directly to the Secretary of the Treasury; except that, if the Secretary determines, not later than 30 days after such date of submission (or, if later, the date of the enactment of this Act) that the taking effect of such amendment or waiver for purposes of subsection (a) is inconsistent with the considerations set forth in subsection (a)(2), such amendment or waiver shall not be deemed to have been effective for any period for purposes of subsection (a). No amendment to the agreement which has the effect of extending the expiration date of the agreement to a date later than December 31, 1978, shall take effect for purposes of subsection (a).

(c) The trustees of each pension plan or trust described in subsection (a) shall furnish a copy of the annual report filed by such plan or trust with the New York State Insurance Department for each fiscal year of the plan or trust beginning after June 30, 1975, and ending with the first fiscal year in which there are no obligations with respect to which subsection (a) applies, to the Secretary of the Treasury not later than 30 days after the date such report is filed with the New York State Insurance Department, and shall furnish such additional reports and other information as the Secretary of the Treasury may reasonably require. A copy of each such report shall be furnished by the Secretary of the Treasury to the chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate.

(d) The Secretary of the Treasury or his delegate is authorized to prescribe such regulations as may be necessary to carry out the purposes of this Act.

(e) This Act shall be effective on and after August 20, 1975.

The SPEAKER. Is a second demanded?

Mr. CONABLE. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The Chair recognizes

the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, H.R. 11700 is designed to complete the Federal Government's role in assisting the city of New York to achieve an orderly restructuring of its finances.

The bill allows five New York City pension funds to purchase securities from the city of New York, under the agreement worked out between the pension funds, certain sinking funds, commercial banks, and the Municipal Assistance Corporation on November 26, 1975. In that agreement, the pension funds, as part of their commitment to assist the city, agreed to purchase $2.53 billion of New York City serial bonds at an agreed upon schedule.

The legislation is designed to permit the purchases by the pension funds of these bonds without violating the prohibited transactions rules of the Internal Revenue Code, or the requirement that pension plans be for the exclusive benefit of employees and their beneficiaries. If these provisions were violated, the employees covered by the plans could be taxed currently on their vested benefits, the employees would lose estate and gift tax exclusions, and they would not be entitled to special lump-sum distribution rules of the tax law. Under the agreement, the pension funds need not buy the bonds if this would violate either of these provisions of the tax laws. Then, the banks do not need to make their purchase if the pension funds do not, and this would mean an end to the whole plan for the sale of the New York City bonds.

The legislation permits the five pension plans to engage in the following transactions without endangering the tax status of the plans: First, to enter into the November 26, 1975, agreement; second, to acquire and hold securities under the agreement; third, to make elections and waivers under the agreement; and, fourth, to perform other acts provided by the agreement. Also, the legislation permits the plans to take the financial condition of the city into account in making investment decisions.

Amendments and waivers of provisions of the agreement which affect the tax status of the pension plans are to be disapproved by the Secretary of the Treasury if found to be inconsistent with the purposes of the legislation. The Secretary has 30 days after receipt of such proposed amendments or waivers and supporting material to make this determination. Also, reports to the Treasury and the Congress must be furnished periodically on the financial status of the plans.

In providing this exception for the pension plans involved in the November 26, 1975, agreement, the committee weighed the Federal interest in allowing the city of New York to achieve financial soundness again, against possible risks to the pension funds, and the possible precedent that this limited legislation might set. The legislation has been drafted as narrowly as possible to solve the immediate problem, and the committee wishes to be strongly on record that this bill should not be regarded as a precedent either for private pension plans in financial distress or even for other governmental units which find themselves in financial distress.

Mr. Speaker, I know of no opposition to this legislation. It is absolutely essential in order to put into effect the agreement that has been worked out with respect to the financing of New York City.

I urge adoption of H.R. 11700.

Mr. BAUMAN. Mr. Speaker, will the gentleman from Oregon yield for a question

Mr. ULLMAN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, as I understand it, this legislation waives the provisions of the Internal Revenue Code which requires all pension funds to be invested in a prudent manner with adequate security of return and this is being waived in the case of the city of New York. Is it felt by the officials of the city of New York or the pension fund managers that this investment is indeed of such a dubious character that it would fall within the prohibitions of the law as now written; that this is, in fact, a risky investment.

Mr. ULLMAN. The trustees of the pension funds themselves are asking for this legislation in order to make it crystal clear that the prudent man rule is not being violated. Their request makes it a moot question.

Mr. BAUMAN. Well, if the gentleman will yield further, he says it is a moot question. I think it is a rather pertinent question as to whether or not this legislation should be passed. I certainly am not, as a representative of the State of Maryland, primarily concerned with the welfare of the people paying into pension funds in New York, but it seems to me the legislation itself is an indictment of the entire New York aid bill which passed earlier this year.

That leads to my second question: I read in the report an estimate of the need for this bill based on New York's financial position up until December, but I see no discussion of the current status of how this bailout plan is working now. All the news stories I have seen indicate that this plan is going to fail even under its present terms with the $2.3 billion this Congress voted to subsidize New York. Was there any testimony taken on this point?

Mr. ULLMAN. Mr. Speaker, let me say to my friend from Maryland that the Ways and Means Committee shares his concern with respect to this whole problem. But what we have before us here is an implementation of the original plan. In other words, the original agreement that was entered into by all of the various groups that I have mentioned contemplated this precise action as a part of the overall implementation of the plan. If we fail to pass this legislation, then we are not even giving the original plan an opportunity to work. For that reason, the committee feels very strongly that it is absolutely essential to pass this legislation in order to make it possible for the original agreement that was entered into to work.

Mr. BAUMAN. If the gentleman will yield further, I understand the gentleman's answer, and I can understand why he constantly restates that proposition. But my question to him was: Even if we allow this bill to pass and the bail out plan which was authorized 3 or 4 months ago goes into effect, has the gentleman's committee addressed itself to the very real possibility that the entire New York financing arrangement is going to fail anyway, whether or not these pension funds are used?

Mr. ULLMAN. Unless we pass this legislation, we have not even given the original worked-out plan the opportunity to work. And I think that the Congress owes it to the city of New York and to all of the participants in that agreement to pass this legislation, at least give it an opportunity to work. There may be problems ahead and there may have to be further tightening in the period ahead but I think that, if the economy continues to improve in the same manner it has for the past several months, the plan can be made to work, perhaps with some adjustments and New York will not have as serious a crisis as it has had in the past. Of course, I cannot be sure it will work. But I think we owe it to them to pass this legislation and at least give the plan an opportunity to work.

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from New York (Mr. RANGEL), a member of the committee.

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Speaker, in further response to the question of the gentleman from Maryland, the trustees of the five pension funds involved share the same concerns about the funds as the gentleman does. And, further, there is some question in their minds as to whether or not the purchase of the municipal obligations in fact violated the exclusive benefit rule and other provisions in the Internal Revenue Code.

The participation of the pension funds was made with the understanding that the purchase would not jeopardize their tax exempt status. The Internal Revenue Service issued letters of intent which the pension funds relied on as assurance that bond purchases would not constitute prohibited transactions. It was then determined that congressional action would be necessary to avert the loss of tax qualified status of the pension funds.

The Congress manifested its intent to assist the city of New York in December when we adopted H.R. 10481 providing up to $2.3 billion in Federal loans to the city. H.R. 11700 is a necessary part of the total package of measures to save the city from default. We realize that it is now up to the city to effectively restructure its fiscal system to avert a default. Failure to pass this legislation, however, would be a detrimental retraction of the intent previously stated by Congress and would be certain to impede any future progress by the city.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill, which will permit five New York City pension plans to purchase obligations of New York City and the Municipal Assistance Corporation—MAC—pursuant to an agreement dated

November 26, 1975—the agreement—worked out among those plans, a number of New York City banks and sinking funds, and MAC, without such action being considered in violation of the Internal Revenue Code provisions applicable to qualified pension plans. The agreement provides for the purchase by those pension plans of approximately $2.5 billion in bonds of the city, under certain conditions.

Those conditions have included: First, enactment of direct Federal financial assistance to the city; second, enactment by the State of New York of legislation indemnifying the trustees of the pension plans and others from any financial loss arising from suits stemming from purchase by the funds of such city obligations, or from the sale of assets by the funds in order to make purchases; and third, receipt of either a favorable ruling from the Internal Revenue Service, or passage of appropriate legislation by the Congress, to the effect that such purchases would not constitute "prohibited transactions" or otherwise have an adverse impact upon the "qualified status" of the pension funds under the Internal Revenue Code. Participation of the other parties to the agreement, particularly the commercial banks, is conditional upon participation of the pension funds.

In early December 1975, the New York State Legislature passed the appropriate legislation indemnifying trustees and others, as required in the agreement. Also in December, Congress provided financial assistance to the city of New York to smooth out, by direct Federal loans, seasonal fluctuations in the city's budget receipts during the fiscal year. Last, the Internal Revenue Service provided restricted "letters of intent to rule" in December with respect to the acquisition by the funds of additional New York City debt securities.

This legislation is necessary in order to permit the funds to assist the city without endangering their tax qualified status. Specfically, a qualified plan under the Internal Revenue Code must be for the "exclusive benefit" of employees and their beneficiaries. If a plan breaches this requirement, it will be disqualified. Should the New York City pension plans become disqualified, their special tax treatment would end and employees would be taxed currently on the value of vested benefits, special estate and gift tax exclusions would not be available, and lump sum distributions would be accorded no special treatment.

Also, under rules applicable to government plans, a pension fund which engaged in a "prohibited transaction" would lose its tax exemption. Such prohibited transactions would include any in which the trust loaned any part of its income or its principal, without receiving adequate security or a reasonable rate of interest, to the creator of the trust, any person who had made a substantial contribution to the trust, and to certain other persons. A fund could also breach these rules by purchasing in substantial amounts securities or other property for more than adequate consideration, or by engaging in any action which resulted in substantial diversion of income or principal, to such a person.

Given the relationship between these funds and the city of New York, it is clear that performance under the agreement on the part of the pension funds would raise a number of very serious questions regarding whether or not the "exclusive benefit" or "prohibited transaction" rules of the Internal Revenue Code had been violated. In light of these questions, absent this legislation the trustees of the New York City pension funds are faced with possible legal difficulties in performing under the agreement, if they are to act in a prudent manner as fiduciaries. The State of New York has already adopted legislation which permits the trustees to take into account for investment purposes factors other than the exclusive benefit of the employees, including the extent to which investments pursuant to the agreement will maintain the ability of the city of New York to make future contributions to the retirement funds and systems and to satisfy the city's future obligations to pay pension and retirement benefits to members and beneficiaries of the systems and funds.

Under these exceptional circumstances, I believe that the Congress must adopt this legislation in order to permit the pension funds to contribute to the effort to improve New York City's financial situation. This legislation is required in order that the program of Federal aid to New York City which the Congress adopted in December 1975 may be implemented and New York City's financial affairs moved toward a fiscally responsible basis.

I would like to make clear to my fellow Members of the House that this bill applies in these specific circumstances only, and that the committee is not recommending any policy decision with regard to exemption of any other pension funds, public or private, from the "exclusive benefit" or the "prohibited transaction" rules of the Internal Revenue Code. More plainly, this bill should not be regarded as precedent for other situations. I urge its passage.

Mr. ULLMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I rise in support of my bill, H.R. 11700, reported from the Ways and Means Committee to be voted on today.

The bill allows five New York City employee retirement systems to invest $2.5 billion in bonds of the city and the Municipal Assistance Corporation without losing their tax-exempt status under the provisions of the Internal Revenue Code.

The obligation for the pension funds to make such purchases are expressly conditioned under a November 1975, agreement between the pension funds, certain New York City banks and sinking funds and the Municipal Assistance Corporation to secure financing to prevent default of the city while it is restructuring its fiscal system. The participation of the pension funds was made with the understanding that the purchase would not jeopardize their tax-exempt status. The Internal Revenue Service issued letters of intent which the pension funds relied on as assurance that bond purchases would not constitute prohibited transactions. It was then determined that congressional action would be necessary to avert the loss of tax qualified status of the pension funds.

The Congress manifested its intent to assist the city of New York in December when we adopted H.R. 10481 providing up to $2.3 billion in Federal loans to the city. H.R. 11700 is a necessary part of the total package of measures to save the city from default. The bill has the full support of the Treasury. I urge you to give it your support.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 11700, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 298, nays 45, not voting 89, as follows:

[Roll No. 73]

YEAS—298

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Chisholm
Clausen, Don H.
Clay
Cleveland
Cohen
Conable
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Early
Edwards, Calif.
Eilberg
Emery
English
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flynt
Ford, Mich.
Forsythe
Fountain
Frenzel
Frey
Gaydos
Giaimo
Gilman
Ginn
Gonzalez
Gradison
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hanley
Hannaford
Harkin
Harris
Harsha
Hays, Ohio
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Okla.

Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
McClory
McCormack
McDade
McFall
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Martin
Mathis
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mink
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nichols
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Peyser
Pickle
Pike
Poage
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Richmond
Riegle
Rinaldo
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Talcott
Taylor, N.C.
Thompson
Thone
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Yates
Yatron
Young, Alaska
Young, Tex.
Zablocki

NAYS—45

Abdnor
Anderson, Calif.
Armstrong
Ashbrook
Bauman
Brinkley
Carter
Clancy
Clawson, Del
Cochran
Collins, Tex.
Crane
Derwinski
Dickinson
Duncan, Tenn.
Edwards, Ala.
Erlenborn
Gibbons
Goldwater
Goodling
Grassley
Hansen
Hechler, W. Va.
Holt
Hutchinson
Johnson, Colo.
Kelly
Lott
McDonald
Moorhead, Calif.
Mottl
Myers, Ind.
Myers, Pa.
Pressler
Roberts
Satterfield
Schulze
Snyder
Spence
Symms
Taylor, Mo.
Teague
Wilson, Bob
Winn
Young, Fla.

NOT VOTING—89

Andrews, N.C.
Archer
Badillo
Barrett
Beard, Tenn.
Bell
Biaggi
Boland
Bolling
Bonker
Bowen
Brown, Calif.
Burke, Calif.
Burke, Fla.
Chappell
Collins, Ill.
Conlan
Conyers
Devine
Diggs
Dingell
Dodd
du Pont
Eckhardt
Edgar
Esch
Eshleman
Evans, Colo.
Flowers
Foley
Ford, Tenn.
Fraser
Fuqua
Green
Hammerschmidt
Harrington
Hawkins
Hayes, Ind.
Hébert
Heinz
Hinshaw
Holland
Jones, N.C.
Jones, Tenn.
Kindness
Landrum
Litton
McCloskey
McCollister
McEwen
McHugh
Macdonald
Mann
Matsunaga
Metcalfe
Michel
Mills
Mitchell, Md.
Moakley
Moffett
Mollohan
Moss
Nix
Nolan
O'Neill
Patman, Tex.
Pepper
Pettis
Rhodes
Risenhoover
Roncalio
Rousselot
Runnels
Ruppe
Ryan
Steiger, Ariz.
Stephens
Symington
Thornton
Tsongas
Udall
Vigorito
Wampler
Wiggins
Wirth
Wydler
Wylie
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

Mr. Chappell with Mr. Flowers.

Mr. Hawkins with Mr. Ford of Tennessee.

Mr. Pepper with Mr. Edgar.

Mr. O'Neill with Mr. Foley.

Mr. Patman with Mr. Fraser.

Mr. Hébert with Mr. Esch.

Mr. Runnels with Mr. Eshleman.

Mr. Zeferetti with Mrs. Collins of Illinois.

Mr. Mitchell of Maryland with Mr. Eckhardt.

Mr. Diggs with Mr. Beard of Tennessee.

Mr. Macdonald of Massachusetts with Mr. Hammerschmidt.

Mr. Barrett with Mr. Andrews of North Carolina.

Mr. Badillo with Mr. Brown of California.

Mr. Green with Mr. Hayes of Indiana.

Mr. Fuqua with Mr. Bell.

Mr. Nix with Mr. Harrington.

Mr. Symington with Mr. Archer.

Mr. Udall with Mr. Heinz.

Mr. Matsunaga with Mr. Conlan.

Mr. Vigorito with Mr. Jones of North Carolina.

Mr. Wirth with Mr. Burke of Florida.

Mr. Dodd with Mr. Landrum.

Mr. Dingell with Mr. Kindness.

Mr. Bowen with Mr. McCloskey.

Mr. Jones of Tennessee with Mr. Devine.

Mr. Litton with Mr. McCollister.

Mr. Mann with Mr. Mills.

Mr. McHugh with Mr. Moffett.

Mr. Metcalfe with Mr. Boland.

Mr. Moakley with Mr. Mollohan.

Mr. Ryan with Mr. McEwen.

Mr. Roncalio with Mr. Moss.

Mr. Biaggi with Mr. Nolan.

Mrs. Burke of California with Mr. Holland.

Mr. Conyers with Mr. Bonker.

Mr. Evans of Colorado with Mr. Young of Georgia.

Mr. Stephens with Mr. Thornton.

Mr. Risenhoover with Mrs. Pettis.

Mr. Rousselot with Mr. Tsongas.

Mr. Steiger of Arizona with Mr. Ruppe.

Mr. Wampler with Mr. Wiggins.

Mr. Wydler with Mr. Wylie.

Messrs. DANIELSON and HALEY changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FINANCIAL ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94-386)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Education and Labor and ordered to be printed:

To the Congress of the United States:

The education of our children is vital to the future of the United States. From the start, our Founding Fathers knew that ignorance and free government could not co-exist. Our nation has acted from the beginning on the sound principle that control over our schools should remain at the State and local level. Nothing could be more destructive of the diversity of thought and opinion necessary for national progress than an excess of control by the central government.

In recent years, our national sense of fairness and equity has led to an increasing number of Federal programs of aid to education. The Federal government has recognized a responsibility to help ensure adequate educational opportunities for those with special needs, such as the educationally deprived and the handicapped. We have appropriately provided States and localities with added resources to help them improve opportunities for such students. At the same time, we have channeled our aid into too many narrow and restrictive categorical programs. As a result, we have made it more difficult for the schools to educate.

It is time that we reconcile our good intentions with the recognition that we at the Federal level cannot know what is best for every school child in every classroom in the country.

In my State of the Union address, I spoke of the need for a new realism and a new balance in our system of Federalism—a balance that favors greater responsibility and freedom for the leaders of our State and local governments.

Our experience in education demonstrates that those principles are not abstract political philosophy, but guides to the concrete action we must take to help assure the survival of our system of free government. We must continually guard against Federal control over public schools.

I am proposing today the Financial Assistance for Elementary and Secondary Education Act which will consolidate 24 existing programs into one block grant. The focus of this block grant will be on improved educational opportunities for those with special needs—the handicapped and educationally deprived. Federal funds will be provided with a minimum of Federal regulation and a maximum of local control. My proposal is based on the conviction that education needs can be most effectively and creatively met by allowing States greater flexibility in the use of Federal funds.

I am particularly pleased at the extent to which my proposal reflects extensive consultations with individuals, organizations representing publicly elected officials and leaders in the education community. The proposal has been modified and strengthened since the time of my State of the Union message as a result of suggestions we received. I am convinced it represents essential changes in our system of providing aid to education.

My proposals will consolidate programs in the following areas:

—Elementary and Secondary Education
—Education for the Handicapped
—Adult Education
—Vocational Education

To assure that students with special needs receive proper attention the proposed legislation provides that 75 percent of a State's allocation be spent on the educationally deprived and handicapped, and that vocational education programs continue to be supported. The same strong civil rights compliance procedures that exist in the programs to be consolidated are included in this legislation.

Under the proposed legislation, funds will be allocated to States based on a formula which takes into account the number of school-aged children and the number of children from low-income families. No State will receive less money than it did in Fiscal Year 1976 under the programs to be consolidated. Further, local education agencies will be assured that the funds will reach the local level, where children are taught and where control should be exercised.

Vocational education is an important part of our total education system. Here, too, my proposal seeks greater flexibility at the local level while maintaining Federal support. States would be required to spend a portion of the funds they receive on vocational education, giving special emphasis to the educationally deprived and the handicapped.

Non-public school and Indian tribal children would continue to be eligible for assistance under this proposal. Where States do not serve such children, the Commissioner of Education will arrange to provide funds directly, using the appropriate share of the State's funds.

The proposed legislation will require States to develop a plan, with public participation, for the use of Federal funds. All interested citizens, students, parents and appropriate public and private institutions will participate in the development of the plan. States will be required to develop procedures for independent monitoring of compliance with their plan. State progress will be measured against the plan, but the plan itself will not be subject to Federal approval.

For Fiscal Year 1977 I am requesting $3.3 billion for the education block grant. For the next three fiscal years, I am proposing authorizations of $3.5 billion, $3.7 billion and $3.9 billion. For too long the real issue in our education programs—Federal versus State and local control—has been obscured by endless bickering over funding levels. Hopefully, with these request levels, we can focus the attention where it belongs, on reform of our education support programs.

Enactment of this legislation will allow people at the State and local level to stop worrying about entangling Federal red tape and turn their full attention to educating our youth.

I urge prompt and favorable consideration of the Financial Assistance for Elementary and Secondary Education Act.

GERALD R. FORD.
THE WHITE HOUSE, *March 1, 1976.*

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT ON S. 1545

Mr. BERGLAND. Mr. Speaker, I ask unanimous consent that the House Committee on Agriculture have until midnight tonight, Monday, March 1, 1976, to file a report on the Senate bill (S. 1545) to amend the Agricultural Adjustment Act of 1938 with respect to peanuts.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

INCREASE IN THE DEBT CEILING AND FOREIGN AID

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, last Wednesday, I voted against increasing the national debt limit.

One proposal was that of the President and his administration to increase the borrowing power and debt ceiling of the Federal Government by $50 billion, from $595 billion up to $645 billion, between now and September 30. The other proposal, submitted by the House Ways and Means Committee, was to authorize an increase in the debt limit by $32 billion between now and June 30.

Inasmuch as I was opposed to and did not vote for either proposal, I think a word of explanation is in order, that will reveal certain facts which the taxpayers are entitled to know.

I am informed there will be presented to the House, probably this week, a foreign aid bill calling on Uncle Sam to spend billions of dollars in the coming year for 406 new projects in more than 90 different foreign countries around the world.

This foreign aid bill, which I understand will have the support of the President and Secretary of State Henry Kissinger, will have to be paid for, as we all know, by the taxpayers of this Nation. Because of the already huge deficit spending of the Federal Government, this will mean that we will have to borrow the money by issuing still more bonds, and putting our Government still further in debt; thus explaining in part, at least, the huge increase proposed in the Federal debt ceiling.

By contrast with these 406 new foreign aid projects, which American taxpayers will be asked to finance—which constitutes a substantial increase in this Government's foreign giveaway program—I am informed that there is in the President's budget not one penny to start a single new public works project in any of the 50 States of our own country.

This, mind you, is at a time when there are millions of unemployed people right here at home, and while there are many worthwhile public projects already on the drawing board across the Nation which could give work to our people, reduce unemployment, and reduce unemployment compensation payments which are tremendous drains on the tax dollars of the Federal and all 50 State governments.

One other fact is of striking significance. As we have been informed, the national debt now stands at approximately $595 billion. The total amount the United States has spent out of the Treasury in various forms of foreign aid programs, since its beginning, now approaches one-half trillion dollars—$500 billion. It just so happens that this figure is almost the exact amount of the cumulative deficits and resulting debts of the U.S. Government since these foreign aid programs began.

Somehow, some way, we must put the brakes on this waste of billions of dollars of the American taxpayers' money that is going into these foreign aid programs around the world. Indeed, if we would simply determine to cut back on some of these billions of dollars that are now being frittered away on foreign aid—and approve only worthwhile and deserving projects in those nations which are truly our friends—we could immediately cut billions of dollars from our deficit spending, and would have no need for increasing the debt ceiling and borrowing authority of the Treasury by anything like the amount proposed this past week.

Instead, we persist and continue to spend billions of dollars on nations which do not refer to us as Uncle Sam—but perhaps more appropriately as "Uncle Sap"—which indeed we are when by doing so we neglect the needs of our own people and so many of the worthwhile public works projects right here in our own country.

My vote against increasing the debt ceiling, therefore, was simply my way of registering at least one feeble protest against this policy of misplaced priorities, which must be brought to an end.

I think our own taxpayers must begin to receive the full benefits of their hard-earned dollars, and I shall continue to oppose proposals of this or any other administration that would divert money needed for Americans to foreign nations, many of which would not lift a little finger to help us if the situation were reversed.

THE SOCIETY OF FORMER SPECIAL AGENTS OF THE FBI

(Mr. BURLESON of Texas asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. BURLESON of Texas. Mr. Speaker, the Society of Former Special Agents of the Federal Bureau of Investigation was incorporated in the State of New York on July 17, 1937. It has a membership of 6,483 members within the United States and 36 foreign countries. Membership is open exclusively to former FBI agents of good moral character who served with fidelity to their oaths of office, loyalty to the service and to their fellow agents.

Former FBI agents are proud of proven record of devotion and service to the United States. They are equally proud of efforts which earned for the FBI its reputation as the foremost law enforcement agency in the world. The preservation of the security and assuring this Nation's well-being and freedom are of paramount concern to this society and its members.

The society is deeply concerned with the unwarranted attacks and distorted reports of the operations of the FBI which are destroying the confidence and the respect the public has for the FBI at a time when crime is rampant and terrorist activity is increasing.

Mr. Speaker, the attached is the position statement of the society and I wholly endorse and subscribe to it.

POSITION STATEMENT OF THE SOCIETY OF FORMER SPECIAL AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION

The massive volume of one sided adverse criticism of the FBI emanating through the news media at the hands of journalistic opportunists and irresponsible politicians is a threat to the security of the United States.

We urge that congressional hearings not be a forum for unwarranted, baseless attacks on the policies, procedures and personnel of the FBI.

We request the press and the other forms of media to report the proceedings of congressional committees factually and objectively, free of bias or personal opinion.

We recognize the value of constructive criticism of FBI activities and the necessity for clear, reasonable legislative guidelines. These guidelines must not arbitrarily restrict the FBI in discharging its investigative responsibilities as expected by the people under the Federal judicial system and in the best interests of the United States.

We therefore caution that Congress exercise great care in the design of the legislative guidelines and offer the experience of the members of this society as an assistance.

We believe the thinking American public demands a strong, effective intelligence gathering capability adequately manned and sufficiently aggressive to protect the security of this Nation against domestic and foreign threats.

We acknowledge the dedication and contributions to this Nation of John Edgar Hoover, Director of the FBI from 1924–1972, who, guided by the highest motives, created standards of excellence which are legend in all law enforcement.

We commend the leadership of the FBI under Director Clarence M. Kelley and assure our continued solid cooperation and support.

Unanimously adopted by board of directors as duly authorized representatives for the members of the society.

President: Ralph H. Jones, Utah.
President-elect: James L. McGovern, Georgia.
Foundation chairman: William A. Murphy, Texas.
Secretary: Lee O. Teague, Oklahoma.
Treasurer: William J. Hurley, California.
Members at large: John K. Burge, Missouri; Frank L. Price, California; Charles H. Stanley, Arkansas.
Northeast vice-president: Henry W. Anderson, New York.
Mid-Atlantic vice-president: Warren L. Love, Washington, D.C.
Southeast vice-president: Leo M. Nagle, Florida.
North Central vice-president: Joseph E. Thornton, Nebraska.
South Central vice-president: Manning C. Clements, Texas.
Western vice-president: Philip L. Schiedermayer, California.

"PRIVILEGE INDISCREETLY STRETCHED"

(Mr. BROOKS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BROOKS. Mr. Speaker, an editorial from the Washington Star on Friday describes President Ford's effort to block an investigation by the House Government Operations Committee as the most extravagant extension of executive privilege in our history.

I agree. The Subcommittee on Government Information and Individual Rights efforts to learn more about the interception by Government agencies of private overseas communications of American citizens is in full keeping with our oversight responsibilities.

But President Ford has instructed the Government employees who were subpenaed by the Government Operations Committee not to comply with them, and in an unprecedented extension of the claim of executive privilege has even ordered private corporations to refuse to comply with their subpenas.

Mr. Speaker, the Government Operations Committee has always dealt fairly and squarely with the issues before it. We cannot tolerate this unilateral attempt to ignore duly authorized congressional subpenas.

As the Star editorial states:

> Should this elaboration of privilege stand, the investigative powers of Congress will be curtailed to the vanishing point.

I ask unanimous consent to insert the editorial at this point in the RECORD.

[From the Washington Star, Feb. 27, 1976]

PRIVILEGE INDISCREETLY STRETCHED

When the President and Congress can find nothing more productive to fight over, someone can always pick an interesting scrap over what has been known for some 25 years as "executive privilege."

The doctrine that a President may draw a veil of confidentiality over certain executive proceedings, which is older than the label, has been traced to the first collision between an investigating Congress and a protective administration—the effort of a House select committee in 1792 to learn how and why Gen. Arthur St. Clair suffered a military disaster at the hands of the Indians. The committee demanded the records.

It was President Washington's wish, according to Secretary of State Thomas Jefferson, to assure that "so far as it should become a precedent it should be rightly conducted." The Cabinet unanimously concluded, in Jefferson's words, that "the executive ought to communicate such papers as the public good would permit, and ought to refuse those, the disclosure of which would endanger the public. Consequently they were to exercise a discretion." in the event, President Washington co-operated with the House; its report ultimately exonerated General St. Clair.

From that day to this, through the obscure twists and turns of the executive privilege controversy, including Richard Nixon's vain effort to sequester evidence of criminal acts, there has been no more extravagant use of the doctrine than President Ford's order barring a House subcommittee's access to information about telegraph cable interceptions.

Until about a year ago, the FBI and the National Security Agency were routinely obtaining and reading thousands of cables sent overseas by American citizens. The practice lasted for about three decades. It is the sort of thing Congress is certainly entitled to investigate, and for the life of us we cannot understand why "the public interest," in Mr. Ford's words, "requires that the records not be disclosed."

Not only have five present or past public officials accordingly defied the subcommittee's subpoenas; the officials of the private telegraph companies are also, at this writing, expected to decline to furnish the subpoenaed information.

"Not to my knowledge," says Rep. Bella Abzug, the subcommittee chairman, "has a corporation ever sought to claim that it could not produce documents because a President invoked executive privilege."

The briefest reflection on this sweeping new extension of the executive privilege doctrine suffices, we think, to suggest its absurdity. There may be a case for protecting the records of the FBI or the National Security Agency in this matter. But what is the case for dropping the veil of "privilege" over the records of the telegraph companies? In cooperating, no doubt for public-spirited if unreflective reasons, with this violation of personal privacy they were certainly not functioning as executive agencies. Should this elaboration of privilege stand, the investigative powers of Congress will be curtailed to the vanishing point.

The courts have ruled on occasion that congressional investigations can't be mere fishing expeditions, that they must bear some reasonably clear legislative purpose. Fair enough. In this case, however, the legislative purpose is entirely clear. American citizens are entitled to expect that private communications, overseas cables no less than letters, will be protected by law against governmental snooping. Perhaps evidence of criminal behavior would justify exceptions, but only then under the proper legal warrant required by the Fourth Amendment for searches and seizures.

In limited doses, executive privilege remains a valuable safeguard of presidential confidentiality, as Justice Burger noted in his opinion in the Nixon tapes case. But a President ought to remember Jefferson's words and "exercise a discretion." The privilege has been most indiscreetly broadened in this case. Mr. Ford is the victim of bad advice.

LEGISLATION TO AMEND FEDERAL WATER POLLUTION CONTROL ACT

(Mr. JONES of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Alabama. Mr. Speaker, I am introducing legislation today which will amend section 315(h) of the Federal Water Pollution Control Act to provide an additional authorization of $250,000 for the study being conducted by the National Commission on Water Quality.

The Commission was established by the Congress for the purpose of making a full and complete investigation and study of all of the technological aspects of achieving, and all aspects of the total economic, social, and environmental effects of achieving or not achieving, the effluent limitations and goals of the act. A total of $17,000,000 has been authorized for this effort and the Commission has recently published a draft report which has been available for public review and comment.

The additional authorization of $250,000 will allow the Commission sufficient time to fully consider the public's comments in preparing its recommendations to the Congress. Approximately $100,000 of this authorization will be used to replace Commission funds that lapsed before they could be utilized. If these additional funds are authorized, the Commission anticipates that its final report will be completed by April 15, 1976, and transmitted to the Congress by May 1, 1976. This legislation would authorize the necessary additional $250,000.

The bill will be considered by the full Committee on Public Works and Transportation on Wednesday, March 3, 1976, and hopefully will be reported immediately. I intend to bring the bill to the floor as soon as possible thereafter.

PERSONAL EXPLANATION

(Mr. BRECKINRIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRECKINRIDGE. Mr. Speaker, due to the flu epidemic, I was unable to be here for the proceedings on the following days: Wednesday, February 18, Thursday, February 19, Monday, February 23, and Tuesday, February 24. I mised quorum calls Nos. 59, 61, 65, 66. Had I been here, I would have voted "yea" on rollcall No. 60, the House Joint Resolution 801 which made supplemental railroad appropriations for the fiscal year 1976, the transition period ending September 30, 1976, and the fiscal year 1978 and 1979.

I would have voted "nay" on rollcall No. 63, which would have referred House Resolution 1042 to the Committee on Rules.

I would have voted "yea" on rollcall No. 64, House Resolution 1042 requiring that the Committee on Standards of Official Conduct inquire into the circumstances leading to the public publication of a report containing classified material prepared for the House Select Committee on Intelligence.

I would have voted "yea" on rollcall No. 67, House Joint Resolution 811 which provides supplemental appropriations for the legislative branch for the fiscal year ending June 30, 1976.

THE FINANCIAL ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION ACT—A BETTER PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. QUIE) is recognized for 15 minutes.

Mr. QUIE. Mr. Speaker, I have introduced today the Financial Assistance for Elementary and Secondary Education Act. This bill is the President's proposal to consolidate 24 existing programs of assistance for elementary, secondary, handicapped, adult, and vocational education.

Following the release of the President's budget in January, a tentative description of the bill was included in briefings held on the fiscal year 1977 budget. As the result of what I heard at that time, I stated my view that the proposed legislation was not soundly conceived; and I therefore could not introduce it.

Since then I am happy to report there has been a long series of negotiations involving myself, HEW, OMB, and the White House which have resulted in a large number of significant modifications to the description conveyed with the 1977 budget. As a result of those changes, I am now prepared to give this bill my full support.

Among the most significant of those changes is the elimination of the public and college library programs from the bill, and the establishment of separate titles for handicapped and compensatory education on the one hand and vocational education on the other has assured the integrity of those major areas. In addition, the bill provides that States may use funds in title II for the education of adults, for the support of school libraries, for the purchase of instructional equipment, for guidance and counseling services, and for programs of innovation.

Another major change relates to the fact that there are certain functions of a national impact nature which can best be performed by the Office of Education. These include, for example, the support of centers producing captioned films for the deaf and demonstration programs in areas such as vocational education. The bill which I introduced today retains five specific functions to be performed by the Commissioner on a national-service basis. These five programs are included in title IV of the bill for which $69 million has been authorized, an amount equivalent to the fiscal year 1976 appropriation level. These areas include media and captioned films, deaf-blind centers, programs of innovation for the handicapped, regional resource centers, and programs innovation in vocational education.

As my colleagues know, this is not the first attempt to consolidate elementary and secondary education programs, thereby returning a good measure of decisionmaking power to the States which are, after all, constitutionally charged with the provision of education services. My own attempts to restore the balance between Washington and State capitals dates back 10 years. Some success in that area was achieved in 1974 in Public Law 93-380. The bill I introduce today fulfills many of my objectives related to Federal aid for elementary and secondary education. The Federal presence is there; but so, too, is a large degree of local autonomy and a healthy balance of respective roles and goals.

In 1972 consolidation legislation entitled "Education Special Revenue Sharing" was attempted. That legislation failed for a number of good and sufficient reasons, including the failure of the administration to pledge that consolidation would not be used to reduce the Federal commitment to education. One of the most significant things about the bill transmitted today is the fact that the President has agreed to a continued increase in the Federal level of funding if the consolidation legislation is adopted. That should put to rest once and for all the charge that any consolidation bill would only result in a decreased level of Federal support.

For the information of my colleagues, I am including at this point a factsheet on the bill. I commend this proposed legislation to my colleagues and urge them to join me in sponsorship:

FACT SHEET: FINANCIAL ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION ACT

I. BACKGROUND

The Federal Government supports about 7 percent of the total cost of elementary and secondary education. The bulk of that support is channeled through numerous narrow categorical programs. It is distributed through States to local educational agencies through mechanisms that take into account such factors as school age population and income levels of students' families.

The Federal effort has helped to assure that children with special needs receive an equal educational opportunity, but it has also led to the promulgation of layers of rules and regulations and the imposition of administrative burdens at the local level which are unrelated to the development of programs of quality education.

In his State of the Union address the President announced his intention to propose consolidation of a number of education programs into one block grant in order to minimize the intrusiveness and burden of Federal regulations while continuing appropriate Federal support for education.

II. DESCRIPTION OF PROGRAM

This legislation will consolidate into a single block grant authority the following programs:

1. Titles I, II, III, IV, and V of the Elementary and Secondary Education Act of 1965,
2. The Education of the Handicapped Act,
3. The Vocational Education Act of 1963, and
4. The Adult Education Act.

The bill will have four titles.

Title I—contains all the general provisions relating to appropriations, allotments to States, State planning requirements, and other provisions applicable to the entire bill.

Title II—sets forth minimum criteria for that portion of the funds which will be used for elementary and secondary, handicapped, and adult education programs.

Title III—sets forth minimum criteria for that portion of the funds which will be used for vocational education programs.

Title IV—continues a number of existing programs for research and innovation and certain special services relating to vocational education and education of the handicapped.

III. FUNDS

In fiscal year 1977 (school year 1977-1978) there would be authorized for the purposes of this Act $3.3 billion. This authorization would be increased by $200 million annually in fiscal years 1978, 1979, and 1980.

Of the $3.3 billion available in fiscal year 1977, $3.231 billion would be directly available to States under Titles II and III of the legislation. The $200 million annual additional funding would also be directly available to the States in succeeding years. $69 million would be authorized annually for Title IV for the use of the Commissioner of Education on national impact projects for vocational education and for the handicapped.

The legislation continues to assure, as now, that funds are available to the States and localities before the start of the school year.

IV. PROGRAMS CONSOLIDATED

Listed below are the presently existing programs which will be consolidated in Titles II, III and IV of this Act, together with the actual fiscal year 1975 and 1976 appropriations for those programs.

[In millions of dollars; fiscal years]

Elementary and secondary education	Appropriations	
	1975	1976
Title II—Elementary and secondary, handicapped, and adult education programs:		
Grants for disadvantaged	1,900	2,050
Support and innovation grants	173	185
Education for the handicapped:		
State grants (pt. B)	100	110
Severely handicapped projects	3	3
Specific learning disabilities	3	5
Early childhood education	13	22
Regional vocational, adult, and postsecondary education	.6	2
Recruitment and information	.5	.5
Special education manpower development	38	40
Adult education	68	72
Library resources: School libraries and instructional resources	137	147

Elementary and secondary education	Appropriations	
	1975	1976
Title III—Vocational education:		
Basic vocational education	428	423
Programs for students with specific needs	20	20
Consumer and homemaking education	36	41
Work study	10	10
Cooperative education	20	20
State Advisory Council	4	4
Curriculum development	1	1
Research	18	18
Title IV—National impact projects:		
Vocational innovation	16	16
Innovation and development for handicapped	9	11
Deaf-blind centers	12	16
Media services and captioned films	13	16
Regional resource centers for handicapped	7	10
Total	3,030	3,242

The list of programs to be included in the consolidation reflects changes made subsequent to the time the President's fiscal year 1977 Budget was submitted to the Congress. These changes result from discussions which the President directed Administration officials to initiate with leaders in the education community and representatives of State and local officials. These discussions produced a number of helpful suggestions and the President believes they have led to a strengthening of the legislation.

Four programs which dealt with higher education and libraries were deleted from the proposal. They are:

Appropriations

[Dollars in millions]

	Fiscal year 1975	*Fiscal year 1976*
Public Libraries (Library Services & Construction Act)	52	52
College Libraries (Higher Education Act)	10	10
Training & Demonstrations for Libraries (Higher Education Act)	3	2
Undergraduate Instructional Equipment (Higher Education Act)	8	8

A later request will be made to the Congress by the Administration for one-year extension of authorities needed to fund the College Libraries Program. Authority will not be requested for the Training and Demonstration for Librarians or the Undergraduate Instructional Equipment programs. Additional authority is not needed for public libraries.

In the original budget proposal, the Deaf-Blind Centers Program was listed as a separate program. As the legislative proposal was developed, a Title IV, National Impact Program was created, and the Deaf-Blind Centers Program became a part of that Title. A total of 24 programs are now included in the Act.

V. DISTRIBUTION TO THE STATES

The formula for distribution of Federal funds to the States under this Act is based upon the number of children from families below the poverty level and the school-age population (ages five through 17 inclusive) of a State.

Each State would receive as a floor amount either $5 million or the amount it received in fiscal year 1976 for the 24 programs to be consolidated, whichever is less.

Each State would then receive not less than 85 percent of the amount allotted to that State in the preceding fiscal year under the 24 programs now consolidated, less the initial sum referred to in the preceding paragraph.

After these allocations, the remaining funds would be distributed on the basis of 60 percent, on the number of children from families below the poverty level and 40 percent on the basis of school-age population. The sum thus obtained is multiplied by the ratio of the State average per pupil expenditure to the national average per pupil expenditure—however, no State will be treated for purposes of this formula as being at less than 80 percent or more than 120 percent of the national average per pupil expenditure.

No State loses under this formula—all States gain.

In the accompanying detailed analysis, the actions which a State must undertake to receive Federal funding under this Act are described.

In general terms, the State is required to develop a plan for use of Federal funds. That plan must be developed in a public process with ample opportunity for public review and comment. The State plan, as such, is not subject to Federal review, but the progress the State makes as measured against its own plan is subject to Federal review.

The legislation retains in full force all relevant civil rights procedures. It requires service to non-public school children and to Indian tribal children.

The legislation requires that 75 percent of all Federal funds go to serve the needs of the educationally deprived and handicapped. It requires States to pass through Federal funds for use of local educational agencies. It also requires that Federal funds be spent on vocational education needs.

Funds not subject to the requirement for use to serve the educationally disadvantaged or not reserved for vocational education purposes could be used for educational activities such as school libraries, textbooks, educational materials and equipment, guidance, counseling, and testing, innovation and support or for any other educational purpose for which funds could have been used under the programs consolidated by this Act.

Where States do not comply with the requirements of the legislation or meet the commitments set forth in their own plan, the Commissioner of Education has a flexible penalty provision at his disposal.

Finally, Title IV of the legislation would continue the Commissioner's authority to fund certain special projects directly.

VI. STATE PLAN REQUIREMENTS

This legislation will require each State to establish as a matter of State law the structures and procedures of its own planning process. Within that broad flexible authority, each State would be required to:

(1) designate the State agency or agencies to administer the program,

(2) develop and publish a plan for use of the funds,

(3) certify to the Commissioner that it has such a plan, and

(4) certify annually that it has complied with the plan, or inform the Commissioner of any substantial failure to comply with the plan.

Further, States would be required to:

(1) develop procedures for the independent monitoring within the State of compliance with the plan,

(2) submit those procedures to the Commissioner for approval, and

(3) meet certain independent audit, evaluation, and reporting requirements.

The Commissioner's approval authority described in number two above is a limited one. It is granted only to emphasize the importance to the Federal Government of the States establishing the means to comply with their own plans.

With regard to procedures, States would be required to establish means for obtaining the views of appropriate State and local agencies, units of local government, citizens, and private institutions; and establish a means to ensure that the educational needs of all residents of the State are taken into account.

The proposed plan would have to be published at least ninety days prior to the beginning of the program year. Public comment would be accepted for at least forty-five days and the final plan would then have to be published prior to the beginning of the program year. The State would have to summarize and publish the comments received and the disposition thereof.

Finally, the State plan would have to:

(1) set forth objectives of the plan;

(2) provide for the allocation and use of funds within the State in accordance with requirements set forth in Titles II and III;

(3) set forth the policies and procedures used by the State to distribute funds to LEA's (local educational agencies) so that such distribution takes into account the number of handicapped, educationally-deprived, and low-income children in each LEA, with adjustments to reflect the costs in each LEA and the resources available to each LEA for providing services to such children;

(4) set forth the amount of funds to be distributed to each LEA;

(5) describe the organizational structure through which the program will be administered;

(6) describe the process the State will use to ensure adequate planning by local educational agencies for use of these funds;

(7) describe the means by which non-public and Indian tribal school children will be served under the program;

(8) provide that at least 75 percent of the funds is passed through by the State to local educational agencies;

(9) provide that not less than 75 percent of the funds is used to meet the special educational needs of the educationally-deprived and the handicapped; and

(10) provide that the State will not use more than 5 percent of its allocation for administrative purposes, unless a larger percentage of funds under the programs consolidated was available to the State for administration in fiscal year 1976, in which case the State could use up to that amount of funds for administration.

If a State designates a separate State agency to administer its vocational education program under this Act, it could also develop a separate State plan for that purpose. However, that plan would be subject to the same due process provisions as the comprehensive State plan. It would have to be developed in coordination with the comprehensive plan, and be published at the same time and in the same manner as that plan.

VII. COMPLIANCE PROCEDURES

Where a State fails to comply with the above requirements or fails substantially to comply with the provisions of its own plan, the Commissioner has the authority, after notice and opportunity for a hearing, either to make no further payments to the State, or to reduce the amount otherwise payable to the State by up to 3 percent.

The Commissioner could also, after notice and opportunity for a hearing, terminate payments to a State which does not implement or comply with the self-monitoring procedures discussed above. Provision would be made for judicial review of any such determination by the Commissioner.

This provision of the legislation gives the Commissioner new flexibility in applying penalty provsions. Where a State is in substantial non-compliance or indicates refusal to comply, the Commissioner may cut off all funds. Where the non-compliance is of a minor nature and, particularly, where the State is making an effort to comply, the Commissioner will have at his disposal more reasonable penalty provisions.

VIII. CIVIL RIGHTS

If any local educational agency in the State is determined by the Secretary of Health, Education, and Welfare to be out of compliance with Title VI of the Civil Rights Act, Title IX of the Education Amendments of 1972 (relating to discrimination on the basis of sex), or Section 504 of the Rehabilitation Act of 1973 (relating to the discrimination against the handicapped), the State's allotment would be reduced by an amount equal to the percentage which the number of children in the local educational agency is of the total number of children in the State. No funds could be paid to any local educational agency which is out of compliance with those statutes.

IX. NON-PUBLIC SCHOOL CHILDREN

The requirements in this proposal for the participation of non-public school children are similar to those now contained in Title IV of the Elementary and Secondary Education Act. This provision would essentially require that children in non-public schools be given an equitable opportunity to participate in programs assisted by this Act to the extent that they reside in areas served by the programs and have the needs addressed by those programs.

The State would also be required to serve children in Indian tribal schools.

If the State is legally unable, or fails to provide for participation of children as required by the legislation, the Commissioner would arrange for services to such children by contract or otherwise, and deduct the cost thereof from the State's allocation.

X. TITLE II PROVISIONS (ELEMENTARY AND SECONDARY, HANDICAPPED, AND ADULT EDUCATION PROGRAMS)

Title II sets forth minimum requirements for the use of that portion of the funds provided under this Act which would be available for elementary and secondary, handicapped, and adult education purposes. The State's comprehensive plan would have to take into account the special educational needs of educationally-deprived and handicapped children, assess the resources available in the State to meet those needs, and demonstrate reasonable promise of substantial progress in meeting those needs. The plan would also set forth an adult education program.

Under Title II, the State would be required to allocate to each local educational agency in the first fiscal year after enactment at least 85 percent of the amount received by that agency in the preceding fiscal year under Title I of the Elementary and Secondary Education Act and Part B of the Education of the Handicapped Act. These funds must be used to meet the special educational needs of the educationally deprived and handicapped.

Funds not subject to the requirement for use to serve the educationally disadvantaged or not reserved for vocational education purposes could be used for educational activities such as school libraries, textbooks, educational materials and equipment, guidance, counseling, and testing, innovation and support or for any other educational purpose for which funds could have been used under the programs consolidated by this Act.

XI. TITLE III PROVISIONS—(VOCATIONAL EDUCATION)

Title III sets forth requirements for vocational education programs under this Act. Each State would be required to expend for the purposes of vocational education at least the same percentage of its Federal funds received under this Act as the percentage of the State's Federal vocational education funds were of its total Federal funds received under the programs consolidated under this Act in fiscal year 1976.

As an example, if a State received from the Federal Government $30 million for the purposes of vocational education in FY 1976, and this amount represented 10 percent of the total Federal funds received under the programs consolidated under this Act by that State, this proposal would require that henceforth that State can spend no less than 10 percent of the Federal funds it receives under this Act for the purposes of vocational education.

The State's vocational education program would be required to take into account the vocational education needs of the State, to assess the resources available to meet those needs, and to be designed to provide individuals with educational programs that will make substantial progress toward preparing persons for a career or for further advancement in their present employment. At least 25 percent of the amount the State uses for vocational education under this Act must be used to meet vocational education needs of persons with special needs (the educationally-deprived and the handicapped).

The Federal funds which a State uses for vocational education for persons with special needs count toward the 75 percent of Federal funds which Title II requires to be spent on persons with special needs.

XII. TITLE IV PROVISIONS (NATIONAL IMPACT PROJECTS)

Title IV would continue the Commissioner's authority to fund certain special projects and innovation and development activities relating to vocational education and the education of the handicapped. The Commissioner would be authorized to support innovation, development, and dissemination activities in vocational education and the education of the handicapped either directly or through grants or contracts. He would also be authorized to support centers and services for deaf-blind children, regional resource centers, and a loan service for captioned films and other educational media for the handicapped. A total appropriation of $69 million would be authorized for these activities for fiscal year 1977 and each of the three succeeding fiscal years.

BAPTISTS IN RUSSIA

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Texas, Mr. Collins, is recognized for 15 minutes.

Mr. **COLLINS** of Texas. Mr. Speaker, I come before the House today to ask for the support of my colleagues in behalf of Georgi Vins. My concern is with religious freedom in Russia.

The Baptists in our country first spoke up through our Baptist leadership a year ago back on March 5, 1975. The executive director, James E. Wood, Jr., sent an official message to the Ambassador of the Union of Soviet Socialist Republics here in Washington. Mr. Wood is the executive director of the Baptist Joint Committee on Public Affairs and speaks for all Baptist groups including my own Southern Baptist Convention. However, our Joint Affairs Council speaks for all Baptists including: American Baptist Convention, Baptist Federation of Canada, Baptist General Conference, National Baptist Convention, National Baptist Convention, Inc., North American Baptist General Conference, Progressive National Baptist Convention, Inc., Seventh Day Baptist General Conference, Southern Baptist Convention. Within the nine Baptist bodies in Canada and the United States of America, we have a combined church membership of 31 million people. Baptists disagree on minor issues but on the major concern of religious freedom we stand completely united.

Georgi Vins has been sentenced by the Soviet court to 5 years in prison followed by 5 years in exile. The Government of Russia took exception to his religious preaching. He was tried in a court in Kiev, after being held in jail for 1 year following his arrest.

His family had asked for a Norwegian Christian to be his defense lawyer. But no visa for the lawyer was ever granted. Since no Christian lawyer was available in the Soviet for Mr. Vins, he represented his own case.

History tells us that from 1922 to 1945 Christians suffered severely in Russia. But since 1945, we hear that most of the religious persecution has been in the form of limiting personal privileges and being excluded from higher institutions of learning. Christians have also suffered the loss of religious literature.

The Vins' case is pressing. He has already served a 3-year sentence and was released in 1969 in broken health. His father, also a pastor, died in prison camp. Let us all pray that our sick Baptist neighbor will not also die in prison.

This makes the Vins' case even more important because it is not typical of the broadening position of Russia.

Article 18 of the Universal Declaration of Human Rights is the expression of the General Assembly of the United Nations. This expresses the conviction which is accepted and supported by Baptists:

> Article 18: Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Many times in this country we stand quietly by and see our fellow Christians suffer throughout the world. I have admired my Jewish colleagues who have spoken out so eloquently in behalf of persecuted Jews.

I call on all of my colleagues to unite and join with me in a voice of protest for my fellow Baptists in Russia. I ask that the Soviet authorities review this case so that this man can be back with his family and children and enjoy the full religious liberty and freedom which is so important in our world today.

PAY CASH AND SAVE MONEY

The **SPEAKER** pro tempore (Mr. Hall). Under a previous order of the House, the gentleman from Illinois (Mr. Annunzio) is recognized for 5 minutes.

Mr. **ANNUNZIO**. Mr. Speaker, it is now possible for a consumer to walk into a restaurant or store and actually save money by paying cash.

The cash discounts are allowed by the Fair Credit Billing Act which went into effect in October but as yet, they have been largely overlooked by cash-paying consumers who do not know to request them.

As chairman of the Consumer Affairs Subcommittee under whose jurisdiction this act lies, I am concerned that a mechanism which could save consumers millions every year is not being taken advantage of and I am proposing that a public information campaign begin here to help solve this problem.

I want to make it clear that there is no way to force merchants to give cash discounts if they do not want to. However, if just a few restaurants or appliance stores in each community begin advertising that they offer the discounts, competition will automatically make other merchants want to offer the cash discounts for fear of losing the increased cash volume they can generate.

CONCEPT IS SIMPLE

The design of the cash discounts is simple. Say, for instance, a merchant sells a television set for $100 to a consumer who pays with a credit card. All that merchant will receive in return from the credit card company is $93. Seven dollars, or 7 percent, is the charge the merchant will pay to the credit card company for the service of being able to offer instant credit to the customer.

By offering a discount if the customer pays cash, the merchant can sell the $100 television set for $95 and still save $2 for himself. An additional benefit to the merchant in such a case is his not having to worry about the paperwork associated with credit card purchases.

Therefore, both merchant and consumer benefit from cash discounts without jeopardizing the ability of that merchant to offer credit to anyone who still wants to pay with a credit card. It is very dismaying to me, however, that perhaps as much as $5 could be saved on every $100 cash purchase if consumers only knew to ask.

FORMER IMPEDIMENTS REMOVED

Part of the merchants' hesitation to offer cash discounts is due to the fact that until the Fair Credit Billing Act went into effect recently, the Truth in Lending Act required that any discount be disclosed on cumbersome forms. Most merchants simply were not willing to take the time, even if it meant a bolstered cash business volume. Now, however, that rule is exempted for all discounts of 5 percent or under by the Fair Credit Billing Act.

Another provision of this act states also that credit card companies cannot prohibit merchants affiliated with them from offering cash discounts. Now, merchants need not fear that offering the discounts will endanger their standing with the credit card company.

With these two major impediments removed, it appears that only consumer demand can jog the merchants out of their disinterested attitude about cash discounts. I have begun a grassroots level campaign of my own to get the word out about discounts but I would like to call on the aid of my colleagues in this effort. The leadership of the major consumer groups has wholeheartedly endorsed the cash discount idea and public information campaigns are being planned. Also, there are several local groups in various parts of the country who want to start discount campaigns of their own and I am in the process of providing information to them.

To my colleagues who regularly communicate with constituent groups via newsletters, speeches, and media interviews, I encourage you to remember that cash discounts—aside from their money-saving potential, are recent and tangible evidence that this Congress is a consumer-interested one.

Local efforts already begun to encourage cash discounts are promising. The success of organized discount groups such as "student discounts" and "buying clubs" has already demonstrated local merchant enthusiasm for any program which will encourage business, and rarely do merchants have as much vested interest to actually save money as they do in this case.

One citizen action group in Hartford, Conn., came up with the idea of producing a cash discount directory in which all local merchants who would agree to give discounts are listed. The directory will be used both to convince shoppers to go to listed businesses first and to create competition among the merchants for the increased cash business it will generate. Consumers Union has prepared a handbook which could be a great help to any local group interested in preparing such a directory. This guide is called "How to Compile a Directory of Merchants Offering Discounts for Cash," and can be obtained from the CU Book Department in Orangeburg, N.Y.

CREDIT CARDS NOT AFFECTED

Mr. Speaker, I would like to stress that I am not opposed to the use of credit cards. Being able to pay on credit is an important right for the millions of Americans who depend on their credit cards when they do not have enough cash on hand for necessary items. However, merchants who accept credit cards must pay a substantial service fee to the company and it is inevitable that these extra costs will turn up as higher prices. I am for the discounts primarily because they assure that consumers who do not qualify for credit cards or chose not to use them, do not have to subsidize those who do.

In short, cash discounts provide a unique opportunity for both consumers and merchants to save money without impinging on the rights of anyone to use or accept credit cards.

It is a shame that so simple a concept was overshadowed by other provisions of the Fair Credit Billing Act back in October. But I am confident from the enthusiasm I have encountered from consumers already receiving the discounts that very soon, next to the credit card decals on their doors, merchants will be proudly displaying their "We Offer Cash Discounts" signs also.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

[Mr. GONZALEZ addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

FOOD STAMPS: FACTS AND FABLES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 10 minutes.

Mr. PHILLIP BURTON. Mr. Speaker, I recently read a thoughtful paper prepared by Barbara Bode, president of the Children's Foundation and a member of the Food Policy Committee of the Woman's National Democratic Club. The paper, released in January of this year, carefully deals with the current charges against the food stamp program and offers facts that refute them. I am hopeful that it will be of interest and value to my colleagues.

The text of the paper follows:

FOOD STAMPS: FACTS AND FABLES

(By Barbara Bode, president, the Children's Foundation and member, Food Policy, Committee, Woman's National Democratic Club)

With new legislation pending before Congress, it is time to put the charges against food stamps in perspective. Here are some of the current fables about food stamps and the facts that refute them.*

Charge: Non-Needy Middle Class Families Are Getting Food Stamps

This claim is disproved by Department of Agriculture statistics reported to Congress in June, 1975, and by the August, 1974, "Current Population Survey" of the Bureau of the Census. The Department of Agriculture report states that only 13 percent of all families in the food stamp program have take-home pay of more than $6,000 a year. Most of these (87 percent) are in families of five or more persons. The report goes on to show that 92 percent of participants are in households making less than $7,000 a year; 95 percent make under $8,000 a year; 97 percent make under $9,000 a year, and 100 percent have incomes less than $10,000 a year (the number above $10,000 was reported as statistically insignificant.

Not only does the Census Bureau confirm the Department of Agriculture report but its figures show that 81 percent of program participants are from households with gross incomes below $4,800 annually.

Charge: The Food Stamp Program Is "Out of Control".

Critics of the program claim it has ballooned by monumental proportions since its inception in 1962. The truth is that it was a pilot program in 1962 operating in only eight counties, and, following the passage of food stamp legislation in 1964, was available in only 110 counties in 1965.

Today it is a nationwide program administered in more than 3,000 counties. During the 1960's the "surplus food" program (commodity donations) was the main source of food assistance for the poor. This program served some 7.5 million persons in 1,741 counties. Poor people in 1,300 counties across the country, however, had no family food assistance program available to them at all.

Between 1965 and 1971, 1,100 counties started food assistance programs, so that by December, 1971, there were 14.9 million families being aided by food stamps or commodities. From the end of 1971 to August, 1974, there was virtually no growth in family food assistance despite increased eligibility levels and other improvements in the program.

With the nearly four-point rise in unemployment from August, 1974, to April, 1975, and under the impact of the recession, food stamp participation rose substantially to 19.5 million persons. Since then there has been a decline to 18.8 million persons in August, 1975. At present it is at about 18.5 million participants.

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*Much of the following data comes from materials produced by the National Food Stamp Information Committee and can also be found in "Who Gets Food Stamps," a committee print of the Senate Select Committee on Nutrition and Human Needs.

The food stamp program has grown because the counties which previously offered no family food assistance now participate; because the commodity counties nearly all have switched to food stamps; and because the recession forced millions of American out of work. Furthermore, Puerto Rico joined the program several months ago bringing in nearly a million new participants. Claims that the food stamp program has expanded because of mismanagement or overly liberal eligibility standards can only be a willful misinterpretation of these facts.

Moreover, in 1974 the Census Bureau reported that 24.3 million Americans were living below the poverty line. Consequently, far from being "out of control," the food stamp program has failed so far to reach all those most in need.

Charge: Food Stamps Are Costing The Taxpayers Nearly Seven Billion Dollars.

In fiscal year 1975 the food stamp program cost $4.9 billion. Current Department of Agriculture predictions are that the program will cost $5.8 billion in fiscal year 1976. This big increase is attributable primarily to the fact that unemployment, bringing with it increased participation, did not reach current levels until the end of fiscal 1975.

The estimated $5.8 billion is indeed a substantial sum. However, food stamps represent directly spendable income which stimulates the economy. A study in Texas in 1972 of the economic impact of the food stamp program, by the Economic Research Service of the Department of Agriculture, shows that between $1.1 and $1.45 billion of the $5.8 billion presently being spent on the program will be *returned* to the United States Government in tax money alone. The *net* cost of the program is therefore between $4.35 and $4.7 billion. State and local taxes ($16.5 million in Texas in 1972) as well as the other important benefits such as new jobs and new business must also be considered if the cost of food stamps is a concern.

Again applying the findings of the Texas study, the program is presently generating at least $27 billion in new business for the country as a whole and more than 425,000 new jobs nationwide.

Charge: The Food Stamp Program Is Riddled With Fraud—"A Haven for Chiselers and Rip-Off Artists."

Assistant Secretary of Agriculture Clayton Yeutter testified in June, 1973, before the Senate Nutrition Committee that the food stamp program has been "remarkably free from fraud." At that time he reported the percentage of fraud for the first nine months of 1973 as 24/1000 of one percent.

In 1974 the Department of Agriculture reported to the Senate Agriculture Committee a fraud rate of 8/100 of one percent. Current estimates for 1975 are about one percent.

"Error rates" which are widely publicized by the Department of Agriculture are *not* fraud rates. In a recent report the Department stated that over 45 percent of all errors are caused by caseworkers, not participants. Most of the errors are not intentional but are simply a matter of carelessness or lack of understanding of the program.

It should be kept in mind that "errors" apply only to non-welfare households. Families on welfare are by law automatically eligible for food stamps.

The Department of Agriculture "error rate" report released in September, 1975, showed that 4.3 percent of all participating households were found to be ineligible. About half or 2 percent were improperly receiving stamps due to errors made by caseworkers, and 2–3 percent were errors made by participants. Participant errors are often such mistakes as not reporting an increase or decrease in a rent or heat bill, and most, according to the Department, are inadvertent.

It should be remembered that error rates work both ways. Too often needy families receive smaller benefits than they are entitled to or are kept out of the program through case-workers' errors.

Charge: Able-bodied Adults Are Refusing Work and Still Getting Food Stamps.

All able-bodied applicants between 18 and 65 by law must register to work unless they are responsible for the care of children or incapacitated adults or unless they are students at least half-time at an accredited institution. If an adult member of a family refuses a job (paying at least $1.30 an hour or the state or federal minimum wage, whichever is higher), then the entire family is denied food stamps.

Charge: The Food Stamp Program Is Full of Students and Hippies in Communes.

In December, 1974, Congress amended the Food Stamp Act to exclude all students being claimed by a household as a tax dependent if the household itself was not eligible for food stamps. This provision went into effect in September, 1975.

However, even prior to this amendment the Department of Agriculture Survey reported to Congress in June, 1975, that in 99 percent of food stamp households all the members were related. Of the remaining 1 percent many were elderly low-income persons sharing living quarters or mothers on welfare with one or two children sharing one roof. Therefore, only a fraction of one percent should possibly be commune-dwelling hippies or students.

It is possible for students to apply as single-person households but, according to Department of Agriculture statistics, less than one-tenth of one percent of participants are one-person households under the age of 22. Only six-tenths of one percent of the single-person households are between the ages of 22 and 44, most of them presumably too old to be students.

Charge: Families That Own Boats and Planes Are Getting Food Stamps.

For a family that frolics on sea or in the air, it is all but impossible to get food stamps. According to Department of Agriculture regulations a family cannot have more than $1,500 in assets (unless one member of 60 or over and then the limit is $3,000). Boats and planes are classed as assets unless the low-income wage earner is a fisherman or pilot who needs them for his or her work, a situation which happens seldom.

As for assets generally, the Department of Agriculture reports that 20 percent of all low-income families and 30 percent of all unemployed families are denied food stamps because their assets exceed the limitation.

Charge: People Driving Cadillacs Collect Food Stamps.

This charge has been around as long as there have been Federal food assistance programs. It has been shown repeatedly that it is the well-meaning volunteers who purchase stamps for elderly, disabled or house-bound participants who do at times indeed drive Cadillacs or other expensive cars. These same volunteers or others with similar cars often shop for participants as well.

Charge: Unions Can Sign Up Their Members En Masse.

Untrue. Union members must go through the same tedious and often harassing certification process as non-union applicants. Only an officially employed caseworker can certify an applicant for food stamps and then only one applicant at a time.

Regulations published in July, 1974, prohibit caseworkers from going to union halls or union facilities to interview program applicants during a strike. A union card certainly does nothing to help speed the application process.

Charge: Food Stamps Simply Go for Cigarettes and Liquor And So They Don't Do Any Good Anyway.

Untrue. Food stamps cannot be used for anything other than food (or seeds to produce food). They cannot be used for soap or paper products or anything needed for hygiene. If a store is found to be violating these prohibitions the owner may be fined and the certification revoked.

Furthermore, three different Department of Agriculture studies have shown that the food stamp program has a positive nutritional impact.

In its recent report to Congress, the Department noted specific nutritional improvement due to participation in the program. This finding was based on a study in rural Pennsylvania in 1969–71 and on a national study in 1973. A third study, conducted in 1974 by the University of California at Davis, concluded that "results indicate that diets of participants in the food stamp program appear to be nutritionally superior to those of comparable non-participating low-income households."

The facts, then, give the lie to charges about the food stamp program and the poor people who benefit from it. Nevertheless the legislative proposals before Congress all, to a greater or lesser extent, reflect these charges and the public biases which have been perpetrated against the program. The pending legislation should take these refutations of popular myths into account if the food stamp program is to be saved and improved.

LEGISLATION TO PROHIBIT USE OF FEDERAL FUNDS TO DEVELOP CIVILIAN AIRPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 10 minutes.

Ms. HOLTZMAN. Mr. Speaker, today I am introducing a bill to bar the use of any Federal airport and airway development funds to develop a civilian airport at Floyd Bennett Field in the Gateway National Recreation Area.

Gateway National Recreation Area was created by Congress in 1972 as the first national recreation area in an urban location. The 1,050 acres which make up Floyd Bennett Field, a former Navy airport, were included in the Gateway legislation. Floyd Bennett Field is the largest single land mass in Gateway and has an enormous potential for recreational use.

When plans for Gateway were first considered, a dispute arose over efforts by supporters of commercial aviation and the U.S. Department of Transportation to make Floyd Bennett Field an airport for private planes and other light aircraft. The intent of the legislation establishing Gateway was to forbid such commercial air traffic at Floyd Bennett Field. The language of the statute, however, is not sufficiently clear on this point. It needs to be made absolutely unequivocal. My bill will do that.

Commercial air traffic in Floyd Bennett Field would be inconsistent with enjoyment of Gateway as a park, and recreation facilities are desperately needed in New York City. Furthermore, most of the people in my district and the other areas surrounding Floyd Bennett Field oppose commercial aviation, because of the noise, pollution, and safety hazards that such use would pose.

Through my efforts, Floyd Bennett Field was finally officially transferred to the Department of Interior by the Navy in January 1975 and since that time planning for the field's use in Gateway has begun. It is vital that all talk of commercial air traffic to Floyd Bennett Field be put to rest so park planning may proceed promptly.

I urge passage of this bill.

The text follows:

H.R. 12191

A bill to prohibit use of Airway and Airport Development Act funds for a public airport at Floyd Bennett Field in the Gateway National Recreation Area

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Airport and Airway Development Act of 1970 (49 U.S.C. 1701 et seq.) is amended by inserting immediately after Section 27 the following new section:

"Sec. 28. Restriction on Airport Development.

"Notwithstanding any other provisions of this title, no part of any of the funds authorized or authorized to be obligated under this title shall be obligated or expended for airport master planning, airport system planning, or airport development with respect to the development of a public airport at the site known as Floyd Bennett Field within the Gateway National Recreation Area as established in the Act approved October 27, 1972 (P.L. 92–592, 16 U.S.C. 460cc et seq.).

STATEMENT OF JOHN SHAFFER, FORMER ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. Davis) is recognized for 15 minutes.

Mr. DAVIS. Mr. Speaker, I rise to address a situation that has generated clearly drawn battlelines in our Nation. A situation that seems to have no middle ground. On one hand, we have the people who are in favor of the trial flights of the British/French Concorde airplane. On the other hand we have those who are bitterly opposed. Vast amounts of words have been used by both sides to promote their cause and I feel certain that further verbiage is assured. Unfortunately, somewhere along the line I expect truth is surely to be trampled in the onrush to change the hearts and minds of men.

Let us for a moment, examine the almost hysterical outburst that followed Secretary of Transportation Coleman's announcement on the initiation of the Concorde flights. An outcry, by the way, that does not have incontrovertible facts and figures, an allegation that does not have enough merit to stand alone.

Frankly, I support the stand taken by the Transportation Secretary and I base that support on a timely and thoughtful document by a former Administrator of the Federal Aviation Administration Mr. John Shaffer. I feel his statement, made on January 5, 1976, is a pragmatic approach to an emotional issue. It is knowledge speaking out instead of whining halftruths and innuendo. It is a clear assessment of a very touchy issue and I believe it sets aside the hysteria for a cold, hard look at the problem. I would like to commend it to the attention of my colleagues in this House:

Statement of John H. Shaffer, Former Administrator, Federal Aviation Administration

Thomas Jefferson, the principal architect of the Declaration of Independence frequently expressed his firm conviction that a properly informed public will make wise decisions. Prior to this opportunity the public simply hasn't been getting many straight facts on matters relating to ecology and the environment, especially about the airplane and its impact thereon.

In the short time I have I'll first talk to just one of the most frequently repeated myths about supersonic flight—the oxides of nitrogen contributed by aircraft engines—piston, turbo-prop and turbo-jet.

If the modest Concorde fleet be permitted to operate in the Earth's upper atmosphere, some contend we are "doomed" by NO$_x$ and other atmospheric pollutants contributed. In the interest of stripping the emotional appeal from this frequent distortion, I invite all of those interested to ponder on a startling fact. If science could successfully provide the means to remove only the oxides of nitrogen contributed by combustion sources from this planet's atmosphere, the 99% produced by nature would remain. "Doubters" can confirm this if they are honestly interested in fact finding rather than supporting a particular "side" of the ecology debate.

At this point let's enter a further thought-provoking fact into this record—All oxides of nitrogen aren't villians lurking in ambush! The great saltpeter deposits of South America are a result of the perpetual thunder storms over the Andes. The oxides of nitrogen in the rain water react with the minerals and organic compounds in the soil with much of the slurry ending up as "saltpeter" when the water which transports the effluent down the mountains eventually evaporates and recycles to the atmosphere.

The foregoing is preamble to the main thrust of what I'm compelled to say on one of the most misunderstood, under appreciated and badly abused capabilities man has yet developed—flight. And more to the point—Supersonic Flight.

It really doesn't matter that Concorde is largely a British-French product and that the USA hasn't one to offer for sale. It's to the everlasting credit of these two great friendly Nations that they have managed to keep their project alive while they and the rest of the free world's aviation family strive to intelligently structure programs that will permit man and his environment to live in harmony at a cost he can afford.

The day-to-day driving need to increase productivity in the struggle to keep abreast or slightly ahead of our collective desire to maintain the life style and quality of life mankind has come to enjoy and too many take for granted is just one of the "trade-offs" which clearly must be made if we're to generate the necessary capital to finance other badly needed technical innovations for our society.

There are those who desperately want to see Concorde denied operational rights to two essential points of entry in North America—The Greater New York Region where the greatest concentration of people with strong ethnic ties to Europe reside; and Washington—this Nation's and the World's capital. They hope to accomplish this by insuring that Concorde doesn't get the chance to put its best foot forward because they are apprehensive that the public will, if given the opportunity, learn for themselves the true facts of Concorde's environmental impact. They will then lose much of their credibility. And some significant share of whatever public support they've been able to muster—with their frequent warnings based largely on fear or misinformation—will suddenly erode.

Reasonable men are fully capable of insuring that should Concorde operations in and from "gateway" airports such as Dulles and JFK prove to be an onerous as some contend, these few operations could be further curtailed or even suspended. If to the contrary (and this is the view that I hold on this matter and the reason that I am speaking out as a man who understands elementary science and wanting to see "right" prevail for the good of all mankind) Concorde's adverse impacts prove acceptable, the public will quickly grasp that Concorde's benefits clearly outweigh the sum of her disbenefits.

Additionally, I would like to leave this thought for those who would concern themselves unnecessarily with the economic viability of this magnificent "experiment." Within 90 days of her entry into service on the North Atlantic, at least half of all first class travel on that route will be in Concorde and it really shouldn't be any concern of most U.S. citizens whether the $2 billion-plus invested thus far in Concorde was money well spent. Let's reflect for a moment on the $6 billion price tag presently estimated for Washington's Rapid Transit System which is a bird of quite similar plumage in that Concorde and Metro both are, among other things, social programs with considerable public benefit.

The two, however, differ in at least one important respect. Those airlines which operate Concorde on the trade routes of the world will see to it that those who buy the service pay what time saving is worth to the consumer (of their service). On the other hand, there doesn't seem to be the slightest chance that revenues from Washington's Metro will even service its substantial debt much less permit the system to operate at break-even. The foregoing remarks are not intended to convey the thought that Metro isn't either a worthwhile project or in the public interest, but it just an example or illustration from a long list of quite similar projects which have contributed significantly to the quality of life in America, without directly contributing a profit as an enterprise.

I for one embrace the principle that "time is money" and with the serious world shortage of talented managers growing daily the ability to transport these persons from their domicile to where they are needed in half the time, comfortably and safely is a capability that will sell and for which there is a sizable demand worldwide.

Admittedly, Concorde isn't as quiet as its first generation jet transport ancestors.

Importantly, the design also predates (the British-French agreement was consummated in 1962) the quieter wide body aircraft, this adds another dimension to the issue because of the degree of difficulty, and length of development cycle, for producing the ultimate airplane in Concorde's performance regime.

Before there was an Environmental Policy Act (1969) or a Clean Air Act (1970), the aircraft community was clearly doing things protective of the environment. Dulles which was opened in 1962 was built in a virtually unpopulated area on a 10,000 acre site with its runway system and flight line remote from the terminal or "living" areas, in a conscious effort to contain the sound of aviation within the boundary of the airport property in such a way that even the users of the airport would not find the sound level uncomfortable.

It therefore seems to me that the real failing is not that aircraft engineers haven't made the airplane as quiet as we would all like but rather that the job of enlightened land use planning and rigid enforcement of zoning covenants wasn't accomplished by the public officials charged with these responsibilities. At both locations (JFK and Dulles) the photographic history shows the unrelenting encroachment of incompatible development up to the perimeter fences.

Stated differently, for emphasis, the airplane didn't invade these airport neighbors, the communities moved in on the airports in both instances/examples.

Repeating the words of Thomas Jefferson "Properly informed people will make wise decisions." This seems to me to be a once in a lifetime opportunity (in light of media coverage of this issue) for world citizens to decide for themselves what's best for them. I sincerely trust the record of your hearing will help the layman—Mr. Average guy like myself—develop rational perspectives necessary to make balanced judgments on important issues and, if you will on national direction.

I applaud you for providing a forum the record of which will most certainly provide the plain facts on the SST issue for the first time. Whatever conclusion is reached will now be made with the full knowledge of where and how this decision will affect the public interest.

FHA–FMHA TASK FORCE ON HOME APPRAISALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MCFALL) is recognized for 5 minutes.

Mr. MCFALL. Mr. Speaker, I am today introducing legislation that is the first step towards establishing the interchangeability of home appraisals conducted by the Federal Housing Administration and the Farmers Home Administration.

As the situation stands today, a home buyer or seller who wants a particular home to be eligible for both FHA and FmHA loan guarantees or other programs must have an appraisal of that home conducted by both agencies. Not only must two appraisals be paid for, but additionally, this is an example of unnecessary duplication of work by two Federal agencies. I can see no reason why uniform appraisal procedures cannot be established between FHA and FmHA, and thereby allow each agency to accept and use the home appraisals conducted by the other.

The legislation I am introducing today provides for the establishment of a FHA–FmHA interagency task force. This task force would have 240 days after the enactment of this legislation to study current FHA and FmHA home appraisal and inspection procedures and to report back to the Congress. To be included in the task force's report to the Congress will be an analysis of the feasibility of: First, both agencies using the same home appraisal and inspection procedures; and second, both agencies accepting any home inspection or appraisal conducted by the other, and additionally, a statement of what legislative action would be needed to implement a policy of interchangeability between FHA and FmHA home inspections and appraisals.

Upon receiving the task force's report, Congress will be in a position to address through specific legislation the implementation of interchangeable FHA–FmHA home appraisals and inspections. I believe the need for such uniformity in home appraisals and inspections is clear, and I hope that this legislation will receive prompt consideration.

HELEN KELLER NATIONAL CENTER FOR DEAF-BLIND ADULTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, on Monday, February 23, I introduced H.R. 12018, a bill which would provide that the National Center for Deaf-Blind Youths and Adults be renamed the Helen Keller National Center for Deaf-Blind Youths and Adults.

The center was created to provide a national program of rehabilitation services to handicapped people who are both deaf and blind. The programs at the national center also give training for professional staff and personnel working with deaf-blind people and conduct research into the problems and methods of rehabilitating individuals who are handicapped with deafness and blindness.

Mr. Speaker, in renaming the national center after Helen Keller, we will at once indentify its work for deaf-blind persons and honor the remarkable woman whose life was an inspiration to the creation of the national center.

The story of Helen Keller is familiar to all of us—the courageous woman who, herself both deaf and blind, received an education from gifted instructors and graduated cum laude from Radcliffe College. She spent her life working for the betterment of deaf-blind persons everywhere.

Mr. Speaker, Helen Keller's dream was to create a national program which would provide rehabilitation services to deaf-blind people. She was still living during most of the planning for the National Center for Deaf-Blind Youths and Adults and its operation today represents the fulfillment of one of her greatest hopes.

Mr. Speaker, to give the name of Helen Keller to the national center is fitting recognition of her great example and inspiration. It is also timely in that construction work on the center in Sands Point, N.Y., is now completed and the facilities are ready to offer the program's important services. As the Helen Keller National Center for Deaf-Blind Youths and Adults, the center will stand as a model for services to the deaf-blind throughout the world.

FORD ADMINISTRATION BUGS THE IMPACT AID COMPUTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

Mr. HARRIS. Mr. Speaker, an incredible final round in the administration's assault on the education program impact aid has come to light—1976 impact aid payments to local school districts will not be made until May, at the earliest, or possibily July.

The reason is ludicrous—and tragic. According to officials who administer the program, the data processing system which computes and processes the disbursal of funding under the program will not be ready for another 3 months or longer. Because the basic formula for computing impact aid allotments was substantially changed by Public Law 93-389, which became law on August 21, 1974, the computer for determining and disbursing allotments had to be completely revised. That reprograming is not yet ready and will not be for another 3 to 5 months. In other words, funds approved by Congress last July are held up again by the administration, this time by the administration's bungling of a computer. This means that 1976 impact aid money may not get to school districts for a full year after Congress approved them.

To put this in perspective: The 93d Congress enacted the Education Amendments of 1974 which revised and extended the basic impact aid authority. The 94th Congress in July 1975 approved fiscal year 1976 funds for the program in the 1976 education appropriations bill, H.R. 5901—a measure that we separated from the regular Labor-HEW appropriations in order to get needed funds to school districts before the school year began. Ford's answer was a veto, which the House overrode on September 9 and the Senate followed on September 10. Then, the President tried to withhold $97.3 million in impact aid and we defeated that cut on February 10. This Congress has made its intent quite clear three times: Our school districts need these funds and they need them now. Actually, they needed them when school opened last fall.

Now we learn, after fighting and winning three times, that the administration is finagling and delaying once again, this time with the assistance of technology. The reason for the 3- to 5-month lag in sending this money on to our schools is that the computer is not ready. Why is it not ready? Because, the story goes, the new law—enacted 2 years ago—is so complicated that administration officials have not yet gotten the technological apparatus set up to handle the paperwork.

Frankly, Mr. Speaker, I find this to be a ridiculous situation. The administration has had 2 years to prepare for allocating these funds. I am alarmed that after waiting for 8 months, school districts will have to wait 2 to 5 more months because HEW is not ready to make these payments to local school districts. By the time the administration is ready to send these funds to local schools, the school year could be over.

What does this mean for our schools? School officials in my district are quite upset about this bungling and foot dragging. They say it could be "devastating." Most annual school budgets in my district are planned in anticipation of receiving impact aid by early February. They have told me that further delay will mean that local government will have to borrow temporary, supplemental money at high interest rates to make up for the delayed impact aid. Or they will have to cut into their investments and lose interest payments. Or they will have to stop or curtail education programs. One official said, "We might have to close schools for awhile."

School budgets are facing the same strains of the economy as every other budget. Local and State funds are dwindling. Here funds are ready and waiting to be used, but they are snagged by the administration's mismanagement and ineptness. Our schools need the funds now.

To cut back school programs because HEW cannot set up the administrative machinery in a 2-year period would not only be ludicrous, it would be tragic. Schoolchildren should not be made the culprit of administrative mismanagement and poor planning. In my view, what is really going on goes a lot deeper than a computer that just is not ready. Given the administration's efforts to dismantle and underfund this vital program, I believe that this is but another round in the administration's never-ending assault on impact aid. The administration's "program" for impact aid is slow death.

I have written to the Secretary of the Department of Health, Education, and Welfare, David Mathews demanding action. I have urged him to act promptly to process all 1976 impact aid funds immediately, to get those funds out to our schools. I will not tolerate another administration attempt to undercut our schools.

SARAH MILLER, RESERVE, MONT., WINNER IN VOICE OF DEMOCRACY CONTEST

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. MELCHER) is recognized for 5 minutes.

Mr. MELCHER. Mr. Speaker, I would like to share with my colleagues the following winning essay which was written by Sarah Miller of Reserve, Mont., as her entry into the VFW Voice of Democracy Contest. Her concept of a liberty tree which "shelters all of the American people" is a fresh concept and one which I know will be appreciated by the Members of this House.

Sarah is the Montana champion in this national contest and she speaks for all Americans in her forthright essay:

VOICE OF DEMOCRACY ESSAY BY SARAH MILLER, RESERVE, MONT.

My bicentennial heritage can be represented in the figure of a tree . . . a liberty tree which has been growing nearly 200 years and shelters all of the American people.

The seed of liberty was formed the day man was created. As society was developing, it was sown in various types of soil and did not always flourish; yet the seed could not be destroyed because it was sown in fertile soil—the hearts of men. Here and there shoots were appearing, such as the Magna Carta in England. When the settlers came to the New World, they brought the seed with them, and upon finding fertile soil, the seed firmly embedded itself. Our tree of liberty grew rapidly, and when the Revolutionary War was won, it became an undeniable reality—something which could not be stepped on, but must be recognized.

Although the trunk of our tree of liberty is now very sturdy, if we were to take a cross-section of the trunk and examine the rings, we would find that some years it underwent severe hardships. The Articles of Confederation provided little nourishment, and the tree did not make noticeable progress until the Constitution was ratified. Other hardships attacked our tree and severely slowed its growth, such as the Civil War and the Depression. Yet, in each of the 199 rings, some growth did occur, and today our mighty tree of liberty protects not only our country, but many people in other parts of the world.

The main components of the tree are the roots (which represent the government), the leaves (which represent the citizens), and the trunk (which can symbolize all communication between the government and the people). The roots, or government, consist of three major systems—the executive, legislative, and judicial bodies. Each of these three roots are powerful; yet by the system of separation of power as described in our Constitution, they balance each other and provide the most representative government yet put into effect by a nation. The leaves are the people which are represented in the government. These leaves do not represent only one segment of society, but all persons regardless of age, color, or religious beliefs. The trunk carries the communications between the roots and the leaves. The most obvious artery of the trunk is the press and media. However, this also includes direct contact through elections, letters, and campaigning.

Our tree of liberty, although it had been fed by the lifeline of patriotism, would never have survived without the protection of bark—the Constitution. It is the oldest written document of its kind still in effect. It is the foundation of my bicentennial heritage—the source of the family tree of liberty, and because of it, my bicentennial heritage is now a fluorishing liberty tree.

The tree of liberty, when it began, was a lone tree. Never before had such a revolution succeeded. The time was right, the place was ideal, and the people were incomparable. This was not evident at the time, and few had faith in the early dream of a United States of America. Yet today we are one of the world super-powers. As Winston Churchill once said, "Solitary trees, if they grow at all, grow tall."

STATUS OF THE FISCAL YEAR 1976 CONGRESSIONAL BUDGET

(**Mr. ADAMS** asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ADAMS. Mr. Speaker, I rise to inform the House on the status of the fiscal year 1976 congressional budget. As you know the Budget Committee has been notifying the House on a weekly basis about where Congress stands in relation to the ceilings on budget authority and outlays and the revenue floor adopted in House Concurrent Resolution 466.

As of close of business February 27, 1976, there has been no change in the current level of spending since our last notification to the Speaker on February 4, 1976. The status is as follows:

STATUS OF THE FISCAL YEAR 1976 CONGRESSIONAL BUDGET REFLECTING COMPLETED ACTION AS OF FEBRUARY 27, 1976

(No change since February 4, 1976)
[In millions of dollar]

	Budget authority	Outlays	Revenues
Appropriate level	$408,000	$374,900	$300,800
Current level	396,705	370,957	301,100
Amount remaining	11,295	3,943	300

Although current levels of funding remain below the ceilings, caution is in order. This week the House will be considering the foreign aid appropriation bill for fiscal year 1976, and in future weeks will be considering the District of Columbia appropriation bill. Soon we will consider the conference reports for the two recently passed House appropriations bills for ConRail and the Madison Library. As passed by the House, these bills contained the following amounts, which must be counted against the amounts remaining—as shown above.

[In millions of dollars]

	FY 1976	
	Budget authority	Outlays
Supplemental railroad appropriations (H.J. Res. 801)	404	404
Supplemental legislative appropriations (H.J. Res. 811)	33	

In addition to these pending bills, the total budget still remains very sensitive to economic trends and its resultant effect on spending.

In summary, Mr. Speaker, I must warn my colleagues in the House that the current spending level leaves little room for new spending legislation of either the President or Congress which was not contemplated in this year's budget resolution.

COMMUNIST NORTH KOREA STILL SEEKS THE CONQUEST OF SOUTH KOREA

(**Mr. SIKES** asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, there is unwarranted but growing belief in the United States today that the so-called post-Indochina Korean crisis has safely passed and that the North Koreans are unlikely to renew aggression against the south. This is strange doctrine when examined in the context of their own flagrant boasts and hostile acts. It is even more unreal when related to their incessant attempts to foment social unrest in the Republic of Korea through subversive moves.

The North Koreans are encouraged in the belief that aggression will succeed by recalling the *Pueblo* and EC–121 incidents of 1968 and 1969 where Pyongyang got away with direct military assaults on the Americans without suffering a scratch on its part.

They have noted the fall of Indochina and the withdrawal of most U.S. forces from Thailand. They have not fully evaluated the effect of the developments in Indochina on the global position of the United States. Unfortunately, the backdown on Angola directed by Congress, has not helped the U.S. posture even in Asia. However, they recognize the fact that approximately 40,000 U.S. servicemen in South Korea make up a substantial U.S. military presence on the Asian mainland. Despite a continuing clamor by some liberal elements of the news media, a careful study indicates to the North Koreans there is little sentiment in the United States for cutting back on U.S. forces in Korea.

Obviously, it is not a time to further weaken the U.S. military position overseas. The Korean Peninsula is one of the strategically important areas of the world, certainly the most important in Northeast Asia. Bounded on the north by China, on the northeast by the U.S.S.R., lying only 30 miles from the closest Japanese island, Tsushima, and 130 miles from Honshu, it is the one area where the interests of the four great powers—the United States, U.S.S.R., People's Republic of China, and Japan—converge, The fall of South Korea, either because of U.S. withdrawal or inadequate support of the ROK, would unhinge the delicate balance in that area. It could even lead to early cancellation of U.S. base rights in the Japanese home islands and Okinawa, and the Philippines, forcing us to fall back on a forward defense line centered on Guam and Saipan.

At the moment, neither the U.S.S.R. nor the PRC is encouraging Kim to invade the south. Although apparently he has sought help, particularly from Red China, each country is pursuing its own brand of détente with the United States and neither wants to upset its applecart by direct conflict with U.S. interests in the Far East. Thus, the reluctance of either to back Kim in an invasion of the south, coupled with the strength of ROK forces and a U.S. military presence in Korea, makes war in that area unlikely in the near future. However, we have no assurance that either the U.S.S.R. or China regards détente as more than a tactical maneuver. They can discard it at a moment's notice. U.S. armed strength plus a positive indication of support for South Korea is what makes the difference.

There are danger areas even today. Military observers believe the five Yellow Sea islands off the Korean coast would be the most likely places for Pyongyang's Kim to test American resolve to defend the Republic of Korea. North Korea insists that the waters around them are North Korean territorial waters. Their gunboats have attacked South Korean naval vessels and fishing boats in the area and their Mig's have flown over the islands. This is an invasion of South Korea. To the South Korean these islands represent an intrinsic part of the Republic no less important than the Hawaiian Islands and Alaska are to the United States. The North Korean probes or offensive action against the islands may be the most immediate indicator of real danger of hostilities in the area.

Because the consequences of renewed conflict in Korea would be so serious, the United States must avoid actions that would weaken the deterrent to a North Korean attack. No U.S. forces should be withdrawn until there are more positive grounds for confidence that South Korean forces plus a credible U.S. determination to intervene militarily will continue to deter North Korean Premier Kim Il-sung as they have for over 20 years. An additional justification for maintaining the Army's Second Division and a U.S. tactical air wing in South Korea is to reassure Japan of the U.S. commitment to maintaining peace on the Korean peninsula. Withdrawals now would increase the risk of an attack on South Korea by North Korea and cause many more Japanese to seriously consider alternatives to reliance on the U.S. security commitment.

There have been futile attempts by representatives of the North and South Korean Red Cross to set the stage for peaceful reunification of the Korean peninsula. It is abundantly clear that, in the foreseeable future, reunion could take place only on Communist terms that are totally unacceptable to South Korea. Therefore, the Republic of Korea's national objective is to deter a North Korean attack by building superior economic strength and armed forces that ultimately will enable the country to defend itself without outside help.

Any lessening of U.S. support could encourage Pyongyang to believe there is less likelihood of U.S. involvement or retaliation. It is South Korea's obvious need that the United States provide in clear language the Communists fully understand, that any act against South Korea would be resolutely opposed by both South Korea and the United States under the 1953 Mutual Defense Treaty. To discourage Kim Il-sung from military ventures should be a common concern of all peace-loving nations, but the United States remains the key to peace in the area.

SOLAR ENERGY—HERE, NOW, AND FOR THE FUTURE

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, today I am pleased to insert in the RECORD an excerpt from Dr. Barry Commoner's article in the February 9 issue of the New Yorker discussing the great potential of solar energy for the United States. Dr. Commoner examines the short-term and long-term utility of solar energy as a means to both supplement our present energy needs and supplant expensive oil, gas, and nuclear resources in the future.

I commend the article to all of my colleagues who share my interest in the development of a viable alternative energy source program for the coming years.

The excerpt follows:

SOLAR ENERGY

There is a tendency in some quarters—perhaps in reaction to the sweeping denials of the usefulness of solar energy—to regard it as a panacea for the energy crisis. Enthusiasm for solar energy is understandable. In the long run, it does come close to being the perfect energy source. It is renewable; it is available everywhere; its environmental effects are negligible. (The only effect of any solar technology on the environment is that it changes the geographical pattern of the earth's absorption and reradiation of energy. The natural pattern is represented by the weather; this is itself so variable that the effect of any solar device is likely to be lost in the random meteorological fluctuations.) Most recent studies of long-range energy problems conclude that midway through the twenty-first century, or even somewhat sooner, we would obtain all, or nearly all, our energy from the sun.

But immediate use of solar energy by itself is not the solution to our present-day problems. Rather, solar energy now provides a valuable way to make more rational use—economically as well as thermodynamically—of existing energy resources, gaining time while the full development of solar energy gets under way. The need for the catalytic effect of solar energy is evident not only in the matter of producing hot water in St. Louis but also in the more weighty matters of national policy problems: the disastrous rate of inflation, largely impelled by the rising price of energy, which is eroding most families' earnings; unemployment in the automobile and other major industries, much of it worsened by the high cost and threatened shortage of energy; the feelings of frustration and impotence of the citizen or the community confronted with the concentrated wealth that is symbolized by billion-dollar nuclear-power plants; the still unmitigated curse of environmental degradation; the growing demand for capital, especially by energy industries—a demand that is outrunning the supply and that threatens industrial development.

None of these problems can be swept away in a flood of sunlight, but solar energy can play its special part in the effort to solve each of them. Solar energy could at once begin to supply a large part of the energy now used for space heat, hot water, and—with little further development—air-conditioning.

The householder not only would enjoy reduced bills now but also would be relieved of the spectre of constantly increasing ones. In effect, by purchasing a solar heater today the householder can establish a hedge against inflation—investment in goods that will retain their use into the inflated future. And if solar collectors were to be installed on a sufficiently large scale, the resultant decrease in the demand for fuels might, if the law of supply and demand retains any of its force, reduce the rapid escalation of energy prices and help to check the pace of inflation generally. Any major effect to install solar collectors in the nation's sixty million homes would require the construction of equipment costing up to two hundred billion dollars or so. Unlike oil refineries or nuclear-power plants, these systems would be simple to construct and would make an ample demand for diverse kinds of labor.

The devices could be built by automobile workers in idle auto plants or by plumbers, carpenters, and metalworkers in small, community-based shops. Such a program—based, for example, on government loans to support the manufacture and purchase of solar systems—could significantly reduce unemployment.

Nor is the manufacture of solar devices—not only simple collectors but solar steam plants—likely to contribute to the growing shortage of capital. The chief reason for the increasingly intense demand for capital to produce conventional sources of energy is that those sources are heavily affected by the law of diminishing returns. Every barrel of oil that is produced makes the production of the next barrel more difficult, and more costly in invested capital; every new environmental and safety problem that is uncovered in a nuclear-power plant makes the next one more complex, and more demanding of capital. In every conventional energy source, the productivity of capital—the energy produced per dollar of capital invested—has fallen sharply with increased production. By contrast, the capture of solar energy can be continuously expanded with no decrease in capital productivity, because the production of one unit of solar energy in no way makes it more difficult or costly to produce the next. Sunlight falls continuously all over the earth, and its use on one place does not diminish its availability elsewhere—any more than a corn crop growing in the Ukraine interferes with a corn crop growing in Iowa. And so, unlike conventional energy sources, solar energy will not become progressively more demanding of capital as its use expands. What is more, as solar energy replaces conventional sources, they can be gradually phased out, reducing the most intense demand for capital in American industry.

For all these reasons, solar energy is ideally suited to local or regional development. No giant monopoly can control its supply or dictate its uses. And since a large solar installation is not basically different from a smaller one (it is only a larger aggregate of collectors, mirrors, or photovoltaic cells), there are no significant economic advantages to be gained by size as there are in, say, nuclear-power plants. Economically and thermodynamically, solar energy can be effectively applied—at first in judicious combination with conventional sources and eventually alone—to the needs of a single home or a city.

THE NUCLEAR-POWER-TRUTH MAZE

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, yesterday the New York Times carried an extremely thoughtful article by the Nobel Laureate George Wald, of Harvard University. In his article Professor Wald very ably sets out some of the most serious—and often disturbing—features of the current "nuclear, antinuclear" debate.

His plea that judgments leading to public policy should be disinterested, and his recognition that this is unfortunately rarely the case, are strong reasons for those of us in positions of public responsibility to give heightened attention to the ways in which we analyze information and how we reach "conclusions."

His statement that "it helps to know that those opposed to nuclear power have nothing to gain from their position but the public good, that they are indeed willing to sacrifice from their own pockets for the privilege of speaking out," is exemplified by the three nuclear engineers from General Electric and the staffer from the Nuclear Regulatory Commission who quit their jobs because of their concerns about nuclear safety. Not only do these men have nothing to gain by leaving their jobs; they doubtless have lost job security, professional approbation in "establishment" quarters, and stable incomes.

I would like to commend the attention of my colleagues to Dr. Wald's article, "The Nuclear-Power-Truth Maze."

The article follows:

[From the New York Times, Feb. 29, 1976]

THE NUCLEAR-POWER-TRUTH MAZE

(By George Wald)

CAMBRIDGE, MASS.—One of the prevalent myths of our time is that Government policy is based on the best obtainable information—that if the Government knows which policy will most promote the public welfare it will adopt that policy. It is this belief that fosters the constant call for more research.

In fact, almost the opposite is true. A policy having been decided on—usually for economic or political reasons—the information is sought that will support it. That is, information follows policy, rather than the other way around.

As for the information itself, one needs to distinguish advocacy from judgment. Advocacy is what a lawyer does for his client in making a case. It is one-sided; presumably another, perhaps equally able advocate, prepares the other side. But judgment is something else. It must weigh both sides, one hopes impartially. There must at least be no overt bias. A judgment must be disinterested.

These are important considerations in the present public debate involving nuclear power. A bewildered and uneasy public is faced with highly technical problems, far beyond its capacity to evaluate. Hence it is forced to rely upon the opinions of experts. But then it is crucial whether those experts are advocates or judges.

One of the main factors that undermined public confidence in the United States Atomic Energy Commission was the realization that the main thrust of this public agency was to promote the nuclear-power industry and that it was willing to compromise on standards of safety to achieve this end.

It was largely the work of persons outside both Government and industry—indeed, opposed all the way by Government and industry—that eventually forced tighter safety standards and controls.

A bewildered public seeking expert and unbiased opinion hopes to find that in the universities. And rightly so. The entire insistence on academic freedom rests on the assumption that the universities are engaged in an objective and impartial search for truth.

One looks to them for both expertise and disinterestedness; but if one had to make a choice, disinterestedness is the more important. For experts are all about us; industry and Government employ large numbers of them. Disinterestedness is the rare and precious quantity.

I make so much of this because at present the public, trying to reach a position on nuclear power, finds professors on both sides. Whom is one to believe?

It needs to be understood that, as in so many other instances, those professors do not face a symmetrical situation. They must find their way in a heavily biased context.

One outcome, favoring the rapid spread of nuclear power, the relaxation of safety standards, the optimization of benefits and minimization of the risks involved—those views enlist large political and financial support, and are greeted with official approval, eager acceptance and wide publicity.

The other viewpoint, concerned as it is with troubling problems of powerplant safety, control of nuclear pollution, plutonium 239 as a source both of high toxicity and fission bombs, and the still wholly unresolved burden of nuclear-waste disposal that promises to remain a problem for hundreds of thousands of years—that opposition viewpoint offers no reward but its own conviction. It has no client, unless society at large becomes its client.

Early in 1975 a group of 32 "notable scientists," mainly physicists, issued a "Scientists' Statement on Energy Policy" that urged the rapid expansion of nuclear power as the only realistic solution of our coming energy needs. Recognizing potential dangers, it concluded that there exists no available alternative and that with proper care this expansion would involve benefits that far outweigh the risks.

Was this widely disseminated statement advocacy or judgment? One hopes the latter, since these are very distinguished scientists, widely respected by their colleagues. Twenty-six of them, including eleven Nobel Prize laureates, were identified only as professors in major universities.

Hence, it was with some dismay that I read an analysis by a fellow academic physicist that showed that 14 of the 26 academic signers are members of the boards of directors of major United States corporations, including corporations directly and indirectly involved in energy production. I would not question the integrity of any of these persons; yet it must be recognized that such an affiliation in this connection does not suggest—it defines conflict of interest.

The only reprehensive element I would plead in the relationships themselves is in the failure to disclose them. Imagine the difference in impact had these academic signers listed themselves as directors of Exxon, Nuclear Systems, Iowa Electric Light and Power, Detroit Edison and the like!

The business of the energy industry is not to make energy but to make money. In pursuit of that singleminded purpose it continuously lobbies, infiltrates Federal agencies, funds candidates in both major parties, devotes many millions of dollars to "educational" propaganda, and does everything it can to avoid regulation.

We scientists are often asked whether it might be possible eventually to produce nuclear-power safely. That is a technical question, and the answer to it may well be yes. But that is the wrong way to ask the question. The real question we face is whether nuclear power can be produced safely while maximizing profit. The answer to that question is no.

We had a nice instance of the real situation at a news conference in Washington on Aug. 6, 1975, when the Union of Concerned Scientists presented to the Administration and Congress a petition signed by 2,300 scientists and engineers asking restraint on the further construction of nuclear-power plants until problems involving their safety were under better control.

One of the speakers was Rear Adm. Ralph Weymouth, recently retired from the Navy. What had disturbed Admiral Weymouth was the great disparity between safety precautions observed by the Navy in its nuclear installations and those taken by the nuclear industry. The point is simple enough: The Navy operates without regard to profit, whereas the industry bends all its efforts to maximize profit, and regularly cuts corners to achieve that end.

Everyone is an idealist, not just you and your friends but all those on the other side. Just ask them, and they will tell you.

Having to find my way through a maze of frequently conflicting ideals, I finally adopted a rough rule of thumb: If the ideal costs something—in money, privilege, status—that makes it a little more credible. If, on the contrary, it pays off in any or all of those ways, then I fall back on the principle of scientific parsimony: If you have one explanation for a phenomenon there is no need to seek a second explanation.

Those of us who oppose nuclear power in its present forms have nothing to gain thereby but our share in the common good. Our opposition brings us into conflict with all the centers of power. It costs us our own money. It threatens rather than raises our professional status. Lately, three General Electric engineers and a Federal safety supervisor resigned their management jobs in nuclear-power installations. One gets no medals for such behavior, only opprobrium from Govern and industry, only the lasting stigma of not being a team player.

Whom is one to believe? One cannot be sure. But it helps to know that those opposed to nuclear power have nothing to gain from their position but the public good, that they are indeed willing to pay for the privilege of speaking out.

PUBLIC FINANCING FOR CONGRESSIONAL CAMPAIGNS—ESSENTIAL FOR EFFECTIVE CAMPAIGN REFORM

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, one of the major deficiencies in our political system is the excessive influence of money on the electoral process and the extent to which special monied interests receive special treatment as a result. Legislation to regulate the manner in which political campaigns are financed has largely been a piecemeal effort, beginning with the Federal Corrupt Practices Act of 1925.

Although the Revenue Act of 1971 and the Federal Election Campaign Act of 1971 authorized public funds to finance Presidential and Vice Presidential campaigns, nothing has been done to bring equity into the manner in which congressional and senatorial races are financed or of eliminating the corrupting influence of money on congressional elections. Thus, the vast majority of candidates must continue to depend on certain special interests and persons of wealth in order to finance their campaigns. This is especially true for candidates seeking to challenge incumbents. In the 1974 House elections, for example, Common Cause reported that incumbents outspent major-party challengers in about 80 percent of the races.

It is important to note that the Supreme Court has upheld the constitutionality of public financing for Presidential campaigns and held that public financing was the only permissible vehicle for limiting campaign expenditures. Affirmative steps must be taken to extend this procedure to House and Senate campaigns.

Last month Senators Hugh Scott and Edward Kennedy prepared a very timely and perceptive article on congressional campaign financing for the New York Times Op-Ed page. This well-written article not only spells out the effects of the Supreme Court's decision but also makes the very vital point that—

> If public financing was important for Presidential elections, it is even more important for Senate and House elections.

One of the major failings of the present system, as Senators Scott and Kennedy observe, is that—

> By outlawing spending limits, the Court leaves candidates of modest means in a deeper lurch than before against wealthy opponents.

Last Friday, the Court gave the Congress an additional 3 weeks in which to reconstitute the Federal Election Commission in order to meet the standards set by the Court. I am hopeful that our colleagues in both Houses will use this additional time wisely and that they will have the courage to include public financing for congressional elections along with the reestablishment of the FEC.

Mr. Speaker, I insert herewith, for inclusion in the Record, the very astute and thought-provoking article prepared by Senators Scott and Kennedy:

Financing Congressional Elections

(By Hugh Scott and Edward M. Kennedy)

Washington.—Mark Twain is reported to have said that the United States has the finest Congress money can buy. A jest, perhaps, but it has the sting of truth, because of the way campaigns for the Senate and House of Representatives have been financed in the past.

Wealthy campaign contributors and their favored candidates created the appearance—and sometimes the reality—of corruption and conflict of interest, of bribery and extortion, as contributors vied for access, influence and even outright control over candidates for office.

The fund-raising abuses of the 1972 Presidential campaign created the pressures for reform that culminated in the Federal Election Campaign Act of 1974. For the first time, the 1976 Presidential elections are being paid for by the people, through the dollar check-off on the income tax form.

Virtually all the candidates of both parties in the primaries have qualified for matching grants of public funds. All the expenses of the Republican and Democratic nominees in the November election will be paid for completely by public funds. The fat cats are shut out.

But not completely. Congress refused to clean its own stables in 1974. Adopting a "holier than Watergate" attitude to election reform, it left a double standard in the law. It preached public financing for Presidential elections, but practiced only a patched-up version of private financing for itself. Now, opportunity is knocking a second time. Prompt legislation by Congress is required to revive the Federal Election Commission, struck down by the United States Supreme Court.

At the same time, the Court's solid endorsement of the constitutionality of public financing gives Congress a green light to reform its own elections as part of the legislation now being readied.

In fact, the Court's decision adds significant momentum to the drive for Congressional public financing.

By outlawing spending limits, the Court leaves candidates of modest means in a deeper lurch than before against wealthy opponents. The recent ruling appears to give the wealthy candidate a constitutional right to bury an election by spending unlimited amounts from his own pocket, while others must raise funds under the applicable contribution limits—$1,000 from individuals and $5,000 from groups.

Some have suggested resolving this dilemma by raising or abolishing the contribution limits so that candidates may receive private funds in amounts larger than the modest levels now allowed. But the solution would be the antithesis of reform. It would return Congressional election financing to the dark ages of unacceptable influence and corruption. The better answer is public financing, on the model already applicable to Presidential elections and now widely accepted by taxpayers and candidates.

We have long felt that campaign financing abuses were more serious for Congress than for the Presidency. For years, going back in some cases over decades, there has been a connection between campaign contributions and the way Congress works its will. And the connection has become more pervasive and insidious as the role of Congress grows and as Federal laws affect more areas of the nation's life.

We know that even now, as 1976 unfolds, influential interest groups are all dressed up and waiting in the wings. Their campaign chests are the fattest in their history. The alarming proliferation of political-action committees is becoming the most notorious new loophole in the election laws, more notorious even than the spending loopholes opened up by the Supreme Court's decision for rich candidates and rich activists.

Abuses of campaign financing do not stop at the other end of Pennsylvania Avenue. If public financing was important for Presidential elections, it is even more important for Senate and House elections. This obvious reform is the wisest investment a taxpayer can make in the future of the country. It can help guarantee that the political influence of citizens and interest groups on Congress will be measured by their votes and voices, not the thickness of their bankrolls. There is still time to enact this reform for the 1976 Congressional elections. The present debate will tell whether Congress is prepared to make an honest legislature of itself, or whether Mark Twain's sarcastic aphorism still reigns on Capitol Hill.

THE NATIONAL HOUSING CRISIS

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, there is no question that the housing situation in the United States, and particularly in urban areas, is desperate and that this bears directly on the long-standing unemployment crisis, particularly in the construction industry. What is most disconcerting is that it seems that nothing is being done to effectively cope with either of these problems.

Since 1970 there has been an annual increase in households on the average of 1.5 million. However, approximately 500,000 to 700,000 housing units are removed from the inventory each year. In order to simply maintain the inventory and accommodate growth, from 2 to 2.2 million additional units are required. Add to this the necessity to replace the several hundred thousand occupied substandard units and the average annual requirement increases to a range of 2.4

to 2.6 million units of housing. The sad fact is that total production of new housing in 1974 was in the range of 1.4 million units and, last year, this figure fell to a level of about 1.2 million units. Thus, there is presently a deficit of an estimated 1.2 to 1.4 million housing units.

The lack of adequate housing is further exacerbated by the high proportion of housing requiring substantial rehabilitation. Some measures of deficiency in housing units are lack of some or all plumbing facilities, lack of heat, exposed wiring, cracks in ceilings and walls, and roofs with water leakage. In 1973, for example, nearly 3.6 million housing units lacked some or all plumbing facilities. Of the more than 59 million occupied units with heating equipment in 1973, nearly 5 million—or 8.4 percent—were reported to have suffered breakdowns in heating. Further, some 3.3 million—or 5.5 percent—had some rooms closed due to inadequate heating systems. In addition, 2.7 million units had some or all wiring exposed and nearly 5.3 million units were reported to have roofs with water leakage.

Coupled with these urgent housing requirements and gross deficiencies, the Nation's construction industry has demonstrated consistently high levels of unemployment. As of January 1976, 652,000 construction workers were unemployed—reflecting a clearly unacceptable unemployment rate of 16 percent.

The conditions which exist in terms of joblessness in the building trades and longstanding housing needs can be accurately viewed in a microcosm in Westchester County, N.Y. Overall unemployment in the construction industry, for example, is over 50 percent. In certain sectors of this industry it is much higher—approximately 80 percent for operating engineers, 60 percent for bricklayers, and 55 percent for laborers. Unemployment among Westchester carpenters is 30 percent, 25 percent for painters, and 21 percent for electricians.

Consider these very disturbing figures along with the fact that almost 42 percent of the housing in Westchester County is over 40 years old and that an estimated 20,000 to 25,000 housing units in the county are considered deteriorated, that is, units in which the health, safety, and welfare of the inhabitants are jeopardized. Furthermore, between 1973 and 1975 there was a 65-percent decline in housing starts in Westchester and between 1974 and 1975 this figure rose to 73 percent.

Recently the legislative committee of the New York State Association of Renewal and Housing Officials—NYSARHO—has prepared interesting and useful data regarding decreases in community development grants to communities in New York State during the last 3 fiscal years of the program and some very timely and thought-provoking proposals pertaining to the community development program. As the NYSARHO's proposal so aptly notes:

> The Community Development Program is not funded at a scale sufficient to make significant progress towards meeting the goals set forth in the preamble to the Housing and Community Development Act of 1974.

Mr. Speaker, I believe the recommendations of the NYSARHO legislative committee warrant careful and serious consideration by our colleagues. I have already made them available to the able chairmen of the House Banking, Currency and Housing Committee and its Housing and Community Development Subcommittee and to the Secretary of Housing and Urban Development. I insert them herewith for inclusion in the RECORD and commend them to our colleagues' attention:

FEDERAL LEGISLATIVE PRIORITIES OF THE NEW YORK STATE ASSOCIATION OF RENEWAL AND HOUSING OFFICIALS, INC., FEBRUARY 1976

We note that the Congress will this week consider the overriding of the President's veto of the Public Works Employment Act of 1975. We support this important legislation and urge an affirmative vote by the Congress.

Many sections of our State are suffering from severe unemployment, particularly in the construction industry. The economy of the State and inaction have brought about this crisis situation. The failure to adequately fund and expeditiously administer the various federally assisted housing programs has contributed to the high incidence of unemployment. Our municipalities and the State are unable to adequately fund much needed public works improvement programs which would help to revitalize decaying sections of our older communities. This legislation would help to alleviate some of the most severe problems.

We have in the past year communicated with HUD, the Congressional Housing, Legislative, and Appropriations subcommittees, and individual members of our State's Congressional delegation, on many individual housing and community development needs. There are many technical and administrative problems that inhibit the ability of our municipalities to use these programs in an effective way.

Certainly, we do not have federal housing assistance programs that work in terms of new housing construction for low, moderate, and middle-income families. The Community Development Program is not funded at a scale sufficient to make significant progress towards meeting the goals set forth in the preamble to the Housing and Community Development Act of 1974.

Set forth below are our legislative priorities. We have not attempted to highlight all of the technical problems we face. We shall communicate the latter on a case-by-case basis to HUD officials and the Congress. We want to focus here on those items that require early and urgent attention in terms of major legislative actions.

I. Fiscal Year 1977 Community Development Funding Requirements.

For fiscal year 1977, we recommend a program level for the community development block grant program at least equal to the balance of the available authorization—3.148 billion dollars.

II. Fiscal Year 1978–80 Community Development Funding.

That during calendar year 1976, the program authorization level for fiscal years '78, '79, and '80 be established by Congress.

That the Community Development grant formulas under Section 106(g)(2) and 106(h) be adjusted so that no recipient receives less in fiscal years '77, '78, and '79 than was received during the prior three years. For those recipients who were to be phased into higher levels of funding, the formula should remain the same.

As the formula currently provides most of the grant recipients in New York State would in the last three years receive only one-third of what they received in the prior three. This would mean a drop off of over $200 million in grants to those New York State communities. We have prepared a separate report that documents this on a community-by-community basis.

That the amount of program discretionary funds to be made available be increased.

III. Public Housing; Sufficient funding for operating subsidies, modernization and rehabilitation.

Our housing authorities must have sufficient funding to meet increased costs of management and energy and to provide the necessary tenant social services assistance. They are restricted by law as to the rents they can charge and the income levels of tenants. There must be adequate subsidies to meet this gap.

It is far cheaper to modernize or rehabilitate an old unit than to build a new one. Providing substantial funding for this is the most fiscally prudent step that the Congress can take.

IV. The Section 8 New Housing Construction Program doesn't work.

Since the passage of the Act in August of 1974, we have not seen one unit of new Section 8 construction in New York State. Obviously, there are problems.

There are many devices HUD can use to make the program work. These include guaranteeing State and local housing finance agency bonds; a tandem plan for FHA insurance and GNMA purchase of mortgages; combinations of these; review of the allowable fair market rents; a new processing system, among others. We believe HUD knows what most of the problems are and is aware of the many alternatives for solving them. We have yet to see evidence that the program will soon be working.

Until there is evidence that the Section 8 new construction program works, we propose that there be a moratorium on its use on other than a pilot basis.

We propose that the emphasis be shifted back, at least temporarily, to a reliance on the conventional public housing and the 236 programs as the basic new construction tools for housing low and moderate-income families. As soon as the bugs in Section 8 are worked out these old programs can then be slowly phased out, and a viable Section 8 program then substituted for them.

V. The Section 312 Rehabilitation Loan Program.

We request that the Congress extend the 312 program through fiscal year 1977 and provide sufficient new funding authority at a level at least equal to 100 million dollars.

We recommend that, except in unusual cases, the early loan commitment procedures under the 312 program should be abandoned in favor of a system of loan commitments related to actual applications.

We strongly urge that additional HUD staff should be provided and adequately trained to administer the 312 program on a continuing basis.

VI. Orderly Completion of Urban Renewal Projects.

We propose that Congress authorize and appropriate, during the fiscal year 1977 to 1980 period, a minimum of 500 million dollars in Urgent Needs funds for completing urban renewal projects with not less than 100 million dollars available in any given fiscal year.

We propose that HUD, during 1976, require each community to prepare and transmit a study establishing what its needs are for completing urban renewal projects.

We propose that the results of the urban renewal completion survey be transmitted by HUD to the Congress, so that it might revise the authorization based upon hard information.

We propose that HUD institute a policy of making urban renewal-capital grant progress payments in the exact amount of dollars which have been expended locally.

VII. HUD Community Development policy determinations, regulations, and forms.

That HUD regularly issue policy letters to a formal distribution list including all community development recipients and interested community groups.

That HUD issue all new forms and regulations during the July 1st and December 1st period of each year.

VIII. Community Development—Housing Program Relationships.

That HUD restructure the Housing Assistance Plan so that its emphasis is on producing a well-thought-out achievable action program which will meet a broad spectrum of housing needs and will be coordinated in an action framework with the local Community Development Program.

That HUD review and revise all of the regulations and procedures of the various operating housing programs to assure that they give due priority to those related to Community Development and urban renewal programs.

That the existing Section 8 program be revised so as to permit these units to be used by a municipality in a focused program which specifically relates to other Community Development efforts.

IX. Loan Guarantees: A device for helping Community Development to focus on the elimination of slums and blight.

A local government or its designated entity may avail itself of federally guaranteed loans to finance up to 90 percent of payments for land and other major capital outlays eligible as community development activities.

Loans may be amortized over a period of up to 10 years, subject to extension by the Secretary in cases of hardship.

The Secretary of HUD is authorized to accept as the local guarantee a pledge of the local government's annual entitlement to future community development grants to the extent necessary to cover annual carrying charges on outstanding guaranteed loans and/or a locality may also use disposition proceeds of land acquired with Community Development grants or loans, and other revenues for loan amortization.

Where a local governing body so requests by resolution, HUD shall make a loan guarantee available directly to any other local agency empowered by state or local law to make such loans and carry out the purposes of the program.

X. Insuring State Housing Finance Agency Bonds.

These agencies have played a most important role in housing production. They are now effectively shut out of the market-place because of national economic trends.

Congress has enacted legislation which can be used by HUD to make these agencies operative and viable. We ask that these tools be used and that other steps be taken to infuse these agencies with the capital needed to finance Section 8 and middle-income construction.

XI. Expansion of the section 202-8 Senior Citizens Program.

There were applications for over 40,000 units in our region. We were allocated about 1,600 units.

We recommended that the authorization and appropriation be increased so that there are at least 10,000 units available on an annual basis in our region.

XII. The "New" Section 235 Program.

We desperately need a home ownership program for families who cannot afford to purchase decent homes at private market prices.

The "new" Section 235 program will not work in many areas of New York State because it is impossible to produce housing within the permissible mortgage limits. These need to be raised to relate to actual land and construction costs in a given market.

The interest rate for the program is too high and results in a housing cost that is greater than the target market can afford to pay. We propose that the one percent (1%) rate originally set by Congress be reinstated.

XIII. Existing 236, 221-d-3, and Other Assisted Projects.

Many of these projects are encountering financial difficulties through no fault of their own. The original financial structure was not geared so as to be able to absorb the major increases in costs of energy and management. Because of the recession, the incomes of the tenants of these projects have not increased to the extent required for them to be able to absorb rent increases.

There are a number of tools available to HUD and possible steps Congress can take to restore the viability of these projects. These include: operating subsidies, refinancing of mortgages, a moratorium on debt service, an energy adjustment subsidy, among others.

Another step to be considered is a removal of project income limits, with all families paying not less than 25 percent of their incomes (except in hardship cases) for rent up to the necessary economic rent. This would increase rental income to the project and thus develop some subsidy funds for those families who cannot afford to pay the increased rents. It would also further the goals of economic integration and broaden the housing supply for those who cannot find housing on the open market.

New York State Association of Renewal and Housing Officials, Inc.,

Albany, N.Y., February 12, 1976.

Report of NYSARHO Legislative Committee

Re Decreases in C.D. grants to New York State Communities over the last three fiscal years of the program (Fiscal years 1978–1980).

The attached table documents the decreases that will occur unless the C.D. funding formula is changed. They will total $207,264,000 for the State.

NYSAHRO is requesting that Congress change the law so that municipalities who would have suffered a decrease remain at the same level. For those few who will receive increases, we ask that they be allowed to receive these as their needs are great. To accomplish this, and to provide for adequate discretionary funds, Congress will have to increase the total authorization and appropriation.

[In thousands; fiscal years]

	Total CD grants		Total loss in grants over last 3 fiscal years
	1975–77	1978–80	
Albany-Schenectady-Troy SMSA:			
Albany	6,270	5,676	594
Amsterdam	3,582	1,194	2,388
Cohoes	10,701	2,583	8,118
Mechanicville	1,608	536	1,072
Saratoga Springs	4,365	1,455	2,910
Schenectady	4,431	3,469	481
Troy	4,242	3,382	860
Watervliet	1,227	409	818
Binghamton SMSA: Binghamton	15,888	6,635	9,253
Buffalo SMSA:			
Buffalo	33,540	24,188	9,352
Lancaster	1,308	436	872
Lockport	3,027	1,009	2,018
Niagara Falls	4,737	4,113	624
Tonawanda	2,217	739	1,478
Elmira SMSA:			
Elmira	4,827	2,971	1,856
Elmira Heights	2,595	865	1,730
Nassau-Suffolk SMSA:			
Freeport	4,017	1,339	2,678
Glen Cove	11,634	3,878	7,756
Hempstead Town	1,137	379	758
Hempstead Village	3,309	1,103	2,206
Huntington Town	1,029	343	686
Islip Town	1,308	436	872
Long Beach	4,338	1,446	2,892
North Hempstead	7,854	2,618	5,236
Rockville Centre	492	164	328
New York SMSA:			
Greenburgh	2,157	719	1,438
Lewisboro Town	18	6	12
Mount Kisco	1,167	389	778
Mount Vernon	7,618	4,378	3,240
North Tarrytown	33	11	22
Nyack	891	297	594
Ossining Village	2,325	775	1,550
Peekskill	8,916	2,972	5,944
Spring Valley	1,500	500	1,000
Tarrytown	1,821	607	2,214
Tuckahoe	999	333	666
White Plains	11,136	4,900	6,236
Yonkers	15,735	10,491	5,244
Yorktown	1,278	426	852
Poughkeepsie SMSA:			
Beacon	8,241	2,747	5,494
Poughkeepsie	31,936	11,005	20,931
Rochester SMSA:			
East Rochester	1,812	604	1,208
Fairport	1,707	569	1,138
Medina	1,866	622	1,244
Newark	3,441	1,147	2,294
Rochester	41,616	21,483	20,133
Syracuse SMSA:			
Fulton	2,907	969	1,938
Oswego	1,047	349	698
Syracuse	35,193	16,983	18,210
Utica-Rome SMSA:			
Ilion	738	246	492
Little Falls	471	157	314
Rome	4,569	2,815	1,754
Utica	4,653	4,367	286
Nonmetropolitan areas:			
Auburn	408	136	272
Batavia	2,805	935	1,870
Corning	1,302	434	868
Cortland	1,500	500	1,000
Dunkirk	3,177	1,059	2,118
Glens Falls	4,692	1,564	3,128
Gloversville	537	179	358
Hornell	2,616	872	1,744
Hudson	2,757	919	1,838
Ithaca	1,275	425	850
Jamestown	4,764	1,588	3,176
Kingston	4,077	1,359	2,718
Middletown	1,290	430	860
Monticello	2,811	937	1,874
Newburgh	6,438	2,146	4,292
Norwich	171	57	114
Ogdensburgh	1,887	629	1,258
Olean	2,688	896	1,792
Oneonta	1,482	494	988
Penn Yan	87	29	58
Plattsburgh	2,481	827	1,654
Port Jervis	624	208	416
Potsdam	609	203	406
Salamanca	162	54	108
Watertown	999	333	666
Woodridge	117	39	78
Total losses in State			207,264

"NO-WIN" CDC?

(Mr. VAN DEERLIN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, the California Democratic Council, a noted political volunteer organization in my home State, has completed its winter meeting in Los Angeles over the weekend with two remarkable endorsements: Fred Harris for President, and Tom Hayden for U.S. Senator.

Mr. Hayden, the former antiwar radical married to actress Jane Fonda, outpolled incumbent Senator John V. Tunney by a onesided 68.6 to 24 percent.

CDC members are obviously entitled to their opinions, but yesterday's action raises questions about the viability of this once highly regarded organization, founded in the late fifties.

If I did not know and respect individual CDC people as I do, I might harbor a suspicion that this ostensibly liberal Democratic group is in cahoots with the GOP.

Republicans would love to have Hayden win the Democratic nomination. They figure he would be a setup for any Republican nominee—an ideological purist who could not win in November.

Fortunately, rank-and-file Democrats of California do not feel the same way as the CDC. Results of the latest Field poll, coincidentally released this morning, show Senator TUNNEY ahead of Hayden by 55 to 15 percent, a margin of nearly 4 to 1.

These voters appreciate Senator TUNNEY's record of accomplishment on behalf of the State and Nation, and they know he is the man to beat. So do the Republicans.

As for CDC's support of the estimable Fred Harris, granted on a 2 to 1 vote, I think other contenders, such as our House colleague, MO UDALL, have already demonstrated they are far more likely to win not only the Democratic nomination for President but also the Office itself.

The latest CDC endorsements are politically unreal. They show the CDC can safely be ignored by candidates as well as by the electorate.

WHY SOVIET EMIGRATION HAS DECLINED

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, in the New York Times of Thursday, February 26, there is a letter written by four Soviet citizens now in Moscow who, at the risk of their lives, sent a letter for publication in the New York Times to tell what the facts are concerning the decline in Soviet emigration, and refuting an article written by Gen. Boris Shumilin, Soviet Deputy Minister of Internal Affairs. These four men, B. Levich, S. Alber, N. Meiman, and L. Korenfeld, are following the leadership of Solzhenitsyn and Sakharov in speaking the truth even while behind the bars of the U.S.S.R. which today is their prison. I am appending that letter:

[From the New York Times, Feb. 26, 1976]

WHY SOVIET EMIGRATION HAS DECLINED

To the Editor:

The Feb. 3 Op-Ed article about Soviet emigration, written by Gen. Boris Shumilin, Soviet Deputy Minister of Internal Affairs, might have given your readers a distorted impression about the actual state of things.

The author mentions the considerable decrease of the number of emigrants. In particular, the number of Jews who left this country in 1975 turns out to be only about a third of the number that left in 1973. He acknowledged that some categories of people are kept in the country, even produced a figure: 1.6 percent of the total number of those having left the country within thirty years.

That figure evokes our strongest doubts: In 1975 about 2,000, or 14 percent of a total of 13,700 wishing to leave, were refused or the refusal was confirmed.

The procedure of considering applications for exit visas is in fact far from what the author endeavors to present. This is the reality: Persons unknown, guided by instructions unknown and proceeding from motivations unknown, return their verdicts in the absence of those applying. In case of refusal, one is deprived of the right to choose his place of residence, a right established in the General Declaration of Human Rights and solemnly confirmed in Helsinki.

This sentence is indefinite, and there is no appeal. The only right remaining is that of applying again for an exit visa in the hope that the sentence will be changed. But one has to wait at least a year. According to Shumilin, the main reason for refusal of an emigration visa is the knowledge of state secrets, but in the U.S.S.R. all secrets are state secrets. Therefore, any intellectual profession, including work in the most peaceful branch of industry or science, might entail the knowledge of "state secrets." To illustrate: If one goes to a public library and wants to read certain foreign publications, one has to present a permit allowing access to secret documents. Even reading The New York Times in the library requires special permission.

We were also amazed to read that "the fact of the application as a rule does not affect the social position or the official duties performed by an applicant apart from those being engaged in the military industry." In reality the very fact that an application has been submitted damages, immediately and in a most essential way, both the social position and the official function as well as the private life of the applicant and his family.

All this taken together—the uncertainty of one's fate, the hard life of those waiting for years for permission, the fear for the fate of one's children and, finally, disappointment and decreasing hope in the triumph of justice and humanity—these are the genuine causes of emigration decline.

B. LEVICH,
S. ALBER.
N. MEIMAN.
L. KORENFELD.

Moscow, February 6, 1976.

CORRESPONDENCE CONCERNING HUGO BLANCO

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, during the course of a year many Members of Congress receive requests from constituents and organizations seeking their aid in bringing individuals, who have been barred by the State Department, into the United States to lecture and engage in other organizational activities.

It is my practice to pursue these matters so as to ascertain whether the Department of State has proceeded in a reasonable manner. One such matter came to my attention in September 1975 concerning Hugo Blanco. I think the correspondence on this matter will be of interest to our colleagues:

U.S. COMMITTEE FOR JUSTICE TO LATIN AMERICAN POLITICAL PRISONERS,
New York, N.Y., September 22, 1975.

Mr. ED KOCH,
New York, N.Y.

DEAR MR. KOCH: Plans for the important tour of Hugo Blanco, author, internationally known Peruvian peasant-union leader and refugee of the Chile coup have been threatened by the U.S. State Department. For two months the State Department has stalled issuing a visa to Mr. Blanco. Many prominent individuals (see Enclosures) have sent messages to the State Department urging that a visa be granted with no further delay.

In spite of these protests and the growing number of invitations for Mr. Blanco to speak at universities across the nation, the visa still has not been granted. Recently, we have been told that Secretary of State Kissinger has the visa application for review.

Your message protesting this anti-democratic harassment and calling on Mr. Kissinger to immediately issue the visa can be of substantial aid in assuring Mr. Blanco's right to enter and speak in this country.

Yours,

STEVE SCHMUGER,
NYC USLA.

[Newsletter of the U.S. Committee for Justice to Latin American Political Prisoners, September 1975]

STATE DEPARTMENT DELAYS BLANCO TOUR

The long awaited tour of Peruvian peasant leader Hugo Blanco, due to begin Sept. 25th, is being seriously threatened by delaying tactics of the U.S. State Dept. The facts of Mr. Blanco's application for a visa reveal a shockingly deliberate campaign by the State Dept. to prevent his views from being heard here. After receiving numerous invitations from academic depts. of leading universities Mr. Blanco applied in mid-July at the U.S. Embassy in Stockholm, Sweden, for a visa to enter the U.S. on Aug. 15th.

Mr. Blanco complied with all the formalities and was told he would receive an answer in early August. When he checked back in early August he was told that no decision would be made until late August because of unspecified "problems". On Sept. 4th he was told the decision was being put off for another three weeks, which would be the first day of his scheduled tour, Sept. 25th.

With these delays the right of many of the individuals and organizations who have invited him to speak is jeopardized. It also raises the possibility that they may deny him a visa altogether. When it became clear that delay was the policy of the State Dept. many of those who had originally invited Mr. Blanco to speak were joined by prominent individuals in addressing inquiries and protests to the State Dept. over the latter's harassment of the tour. Among those sending protest letters or telegrams were:

Thomas M. Davies, Jr., Chairman, Latin American Lecture Series, San Diego State.

Richard Fagan, Prof. of Political Science, Stanford University.

Richard Falk, Acting Director, Center of International Studies, Princeton Univ.

Rev. G. G. Grant, S.J., Loyola University of Chicago, Jesuit Community.

Congressman Michael Harrington (Massachusetts).

Yates Hofner, Dean, Monteith College, Wayne State University, Detroit.

Tom Hayden, Democratic Candidate for Senator, California.

Phyllis Kahn, State Representative, Minnesota.

Sidney Lens, author.

Froben Lozada, Chicago Studies Dept., Merrit Community College.

Rev. David McGowan, AGAPE House, Univ. of Illinois.

Congressman Parren Mitchell (Maryland).

Deen Peerman, Managing Editor, *Christian Century*.

Michael Predmore, Professor, Univ. of Washington, Seattle.

Leland Rayson, State Representative, Illinois.

Ramona Ripston, Executive Director, ACLU, So. California.

Joining the campaign to defend Blanco's right to tour the U.S. is his U.S. publisher, Pathfinder Press of New York. In a letter to the State Dept. Pathfinder explains that they plan to meet with Mr. Blanco to discuss business matters and express concern over delays or a denial of his visa, pointing out that "continued delay or denial would violate the recent Helsinki Agreement ("The Conference on Security and Co-Operation in Europe, Final Act," issued by the U.S. State Dept., 1975). The Agreement is quite specific regarding the rights to cultural exchange. On page 123 of the Final Act, the first item discussed under the section on access to books we find twelve paragraphs outlining the rights of authors, publishing houses, and audiences to free access, co-operation, and exchange. We find that our rights and Mr. Blanco's have been abridged under seven of these paragraphs (See paragraphs 1, 3, 4, 5, 6, 7, and 10; Final Act, p. 123 and 124)." Pathfinder plans a big campaign in the publishing industry and media in general to defend the right of its author to enter the U.S.

WHY THE STATE DEPT FEARS BLANCO'S IDEAS

This shocking delay can probably be traced to the fact that Blanco's eyewitness accounts of the Chile coup with its brutal repression and the U.S.'s role in it would prove embarrassing to the government at a time when congressional investigations of the CIA machinations in Chile and other sources reveal an ever widening and sinister pattern of U.S. intervention in that country.

HOW TO WIN THE VISA FIGHT

The government must not be allowed to trample on the democratic right of Blanco to speak, or the right of those who invited him to hear him. We can and must defeat this anti-democratic harassment. USLA supporters and other defenders of civil liberties will want to increase the effort to mount pressure on the State Department to grant Blanco's visa. Here are some of the actions that can be undertaken:

Send a telegram or letter of protest to: Leonard F. Walentynowicz, Bureau of Security and Consular Affairs, Department of State, Washington, D.C. 20020

Get other prominent individuals and organizations to do the same. Be sure to send a copy to USLA!

Send a financial contribution to meet the ballooning expenses of the defense effort. Thousands of dollars are needed to mount this effort, in addition to the cost of actually touring Blanco, when the visa is approved.

Ask other supporters of civil liberties for contributions.

Help organize and build the meetings for Blanco in your area. Continue to build large meetings with broad co-sponsorship. This will do two things. First, it will generate more pressure on the State Department since that many more individuals and groups will be angered by the State Department harassment. Secondly it will assure that we will not be caught unprepared when the visa is approved.

Media work is quite important. A special effort to get a press release into the local media, including the campus and Spanish press, will generate much public support for the effort.

WHO SHOULD BE APPROACHED FOR THIS DEFENSE?

There are people from many walks of life who will want to know about Blanco's tour and who will protect efforts to delay granting him a visa. Latin American Studies professors, Chicano, Puerto Rican, and international student groups (especially those of Latin American students), student government and other student groups will have a natural interest. Farm Worker and other unions will be interested after learning of Blanco's extensive work in organizing peasant unions for land reform, or of his history as a trade union organizer in Argentina. Church groups, who often have affiliates in Latin America will prove receptive. Organizations of Native Americans should be approached since Blanco is well known for his work among the Qechua Indians of Peru. There are many who will simply be concerned about any violation of civil liberties who should be approached.

Visit your local Congressperson or their aides and seek their support. A number have already endorsed the campaign. They will often call the State Department right on the spot and register a protest.

With a quick response to the State Department's harassment and stalling by a broad range of individuals and groups we can assure Blanco's right to enter the country and speak.

U.S. House of Representatives,
Washington, D.C., September 24, 1975.

Steve Schmuger,
USLA Justice Committee,
New York, N.Y.

Dear Mr. Schmuger: I have your letter of September 22nd regarding Hugo Blanco.

I have written to the Secretary of State on this matter and as soon as I have any further information, I will be in touch with you again.

Sincerely,

Edward I. Koch.

U.S. House of Representatives,
Washington, D.C., September 24, 1975.

Hon. Henry A. Kissinger,
Secretary of State,
Department of State,
Washington, D.C.

Dear Mr. Secretary: I received the enclosed letter from the U.S. Committee for Justice to Latin American Political Prisoners regarding Hugo Blanco.

I have no knowledge concerning the facts in this case and would appreciate your supplying me with whatever background material is available so that I can become more familiar with this subject.

Sincerely,

Edward I. Koch.

New York, N.Y.,
September 30, 1975.

Congressman Ed Koch,
U.S. House of Representatives,
Washington, D.C.

Dear Ed: I feel indignant about the State Department's denying admission to a speaker whom many want to hear, presumably because he will testify to the brutality of the repression in Chile, and to our government's complicity in bringing it into power.

Kissinger has all the instincts of a thug, coated over with professional pomposity.

Sincerely,

Benjamin Spock, M.D.

Department of State,
Washington, D.C., October 9, 1975.

Hon. Edward I. Koch,
New York, N.Y.

Dear Mr. Koch: Thank you for your letter of September 24 on behalf of the U.S. Committee for Justice to Latin American Political Prisoners regarding the nonimmigrant visa case of Mr. Hugo Blanco.

Mr. Blanco, a Peruvian citizen, presently residing in Sweden, is ineligible for a visa under Section 212(a)(28)(F) of the Immigration and Nationality Act which is quoted in the enclosed information sheet. A decision as to whether to recommend a waiver of his ineligibility to the Attorney General is receiving active consideration. I will write to you again as soon as a decision is reached.

Sincerely,

Robert J. McCloskey,
Assistant Secretary for Congressional Relations.

U.S. House of Representatives,
Washington, D.C., October 17, 1975.

Steve Schmuger,
USLA Justice Committee,
New York, N.Y.

Dear Mr. Schmuger: Enclosed is the response I received from the Department of State regarding the problem with Hugo Blanco.

Apparently the matter is still being given consideration. When I receive the ultimate decision, I will send it on to you.

All the best.

Sincerely,

Edward I. Koch.

U.S. House of Representatives,
Washington, D.C., October 21, 1975.

Dr. Benjamin Spock,
New York, N.Y.

Dear Ben: I apologize for not answering your letter of September 30th until now, but it was not brought to my attention until today. As I understand the matter is still pending, I have sent a letter to the State Department urging that Mr. Blanco be permitted to come to this country.

I do want to note at this time a paradox. I get mail from those on the left supporting the admission into this country of speakers who are on the left and, in many cases, communist. Some of those same people who write me object when someone identified with right wing causes or, in a recent case, Italian facism seeks to come here. I take the position that with the exception of terrorists who publicly advocate murder in pursuit of their goals, those who want to have a full and free discussion of ideas should not be impeded in coming to this country for that purpose. I further believe that in the forum of discussion democratic ideals can establish their superiority over the totalitarian ones of the right or the left. What do you think?

All the best.

Sincerely,

Edward I. Koch.

U.S. House of Representatives,
Washington, D.C., October 21, 1975.

Mr. Robert J. McCloskey,
Assistant Secretary for Legislative Affairs,
Department of State, Washington, D.C.

Dear Mr. McCloskey: I am writing with regard to Mr. Hugo Blanco, a Peruvian who I understand has encountered difficulty in obtaining a visa to enter this country because of his outspoken political beliefs. Though I have no personal knowledge of this case, I believe that, with the exception of terrorists who publicly advocate murder in pursuit of their goals, those who want to have a free discussion of ideas should not be impeded in coming to this country for that purpose. I would, therefore, urge you to allow Mr. Blanco to enter the United States without further delay.

I would appreciate any comments you might care to make regarding this matter.

Sincerely,

Edward I. Koch.

Department of State,
Washington, D.C., November 13, 1975.

Hon. Edward I. Koch,
House of Representatives,
Washington, D.C.

Dear Mr. Koch: Thank you for your inquiry of October 21 about the visa application of Mr. Hugo Blanco.

Mr. Blanco applied for a nonimmigrant visa in order to visit the United States to conduct a lecture tour. He was found to be ineligible for a visa under Section 212(a)(28) of the Immigration and Nationality Act because of his previous terrorist activities and his affiliation with certain communist organizations. Consideration was given as to whether the circumstances of his case would justify the approval of a waiver of his inadmissibility under Section 212(d) (3) (A) of the Act. The Immigration and Naturalization Service, with which ultimate authority rests, has concluded it would not be in the public interest to authorize his temporary admission into the United States. A waiver of his inadmissibility will not, therefore, be granted in his behalf.

Sincerely,

Robert J. McCloskey,
Assistant Secretary for Congressional Relations.

U.S. Committee for Justice to Latin American Political Prisoners,
New York, N.Y., November 18, 1975.

Representative Ed Koch,
U.S. House of Representatives, Longworth House Office Building, Washington. D.C.

Dear Congressman Koch: On October 10 Hugo Blanco was scheduled to address students at the University of Minnesota in the first stop of a tour sponsored by the United States Committee for Justice to Latin American Political Prisoners (USLA). Instead, the audience listened to a taped message from the Peruvian peasant leader, author and revolutionist.

On the day before the tour was scheduled to start, a State Department spokesperson announced that Secretary of State Henry Kissinger had personally decided to bar Blanco from the United States.

Shortly after this decision, the State Department made a similar pronouncement on the visa of Sergio Segre, Italian Communist Party leader. At almost the same time the same State Department gave VIP treatment to Giorgio Almirante, a leader of the neofascist Movemento Sociale Italiano (MSI—Italian Social Movement).

There is an obvious question: how could one person, Hugo Blanco, so threaten the security of the United States that he is denied entrance? Blanco has just finished a tour of Sweden and Canada where no endangering of the public welfare of those countries was reported. The threat, instead, is what Blanco has to say.

Blanco was forced to flee the repressive regime of Chile following the coup there—a coup aided by the CIA as revealed, despite Kissinger's denials, in recent Congressional hearings. The subject of Blanco's tour is "Latin America, a Continent without Justice." Clearly he would have taken up the issue of CIA involvement not only in Chile, but in Argentina, Brazil and Peru.

Blanco's case has received front-page coverage in a Southern Black newspaper, the *Atlanta Voice*. Editorials and stories have appeared in the *St. Louis Post-Dispatch*, *St. Paul Dispatch* and *Pioneer Press*, *Atlanta Journal*, *Library Journal*, *San Antonio Light* and numerous campus papers.

Protests from prominent civil libertarians and organizations were directed at Kissinger's office. These protests include messages from Senator Hubert Humphrey; John Ervin, Jr., publisher of Aleksandr Solzhenitsyn's *Candle in the Wind;* Jules Feiffer; Congresswoman Bella Abzug and Dr. Benjamin Spock.

On November 11 we received word that we had won a victory. Kissinger was forced to reverse himself and recommend to the Justice Department that Blanco's visa be granted. Now it's the Attorney General, Edward Levi, who stands between the American people and our right to hear Hugo Blanco.

What is needed now is a large meeting to focus attention on the issue—that the American people have a "right to know" the full story about "Latin America, a Continent without Justice."

We would like to propose that this meeting take place the evening of Thursday, February 19 at Columbia University and that you and your organization co-sponsor this meeting. Initial sponsors include Americans for Democratic Action; Father Kennedy of the Catholic Council of Churches; Michael Harrington, National Chairman, Democratic Socialist Organizing Committee; Ruth Gage-Colby and Kate Millett.

Clearly what's at stake here is not just one visa case. What's at stake is our right as Americans to hear and consider all views. What's at stake is our right to know—without government interference—the facts about Latin America. Watergate has shown that our right to know is being threatened. We must demonstrate the increasing unwillingness of Americans to accept this kind of censorship.

Sincerely,

Jan Gangel,
USLA Staff.

U.S. House of Representatives,
Washington, D.C., December 1, 1975.

Robert J. McCloskey,
Assistant Secretary for Congressional Relations, Department of State, Washington, D.C.

Dear Mr. McCloskey: I have your letter of November 13th concerning the visa application of Mr. Hugo Blanco.

I am particularly interested in knowing something about his "previous terrorist activities" so that I can refer to them when responding to the various letters that I am receiving which are initiated by groups and individuals espousing his cause.

All the best.

Sincerely,

Edward I. Koch.

December 5, 1975.

Hon. Thomas P. O'Neill, Jr.,
House of Representatives,
Washington, D.C.

Dear Mr. O'Neill: Thank you for your inquiry of November 21 on behalf of Ms. Lorraine Lyman about the visa application of Mr. Hugo Blanco.

Mr. Blanco applied for a nonimmigrant visa in order to visit the United States to conduct a lecture tour. He was found to be ineligible for a visa under Section 212(a) (28) of the Immigration and Nationality Act because of his previous terrorist activities and his affiliation with certain communist organizations. Consideration was given as to whether the circumstances of his case would justify the approval of a waiver of his inadmissibility under Section 212(d) (3) (A) of the Act. The Immigration and Naturalization Service, with which ultimate authority rests, has concluded it would not be in the public interest to authorize his temporary admission into the United States. A waiver of his inadmissibility will not, therefore, be granted in his behalf.

Sincerely,

Robert J. McCloskey,
Assistant Secretary for Congressional Relations.

Department of State,
Washington, D.C., December 11, 1975.

Hon. Edward I. Koch,
New York, N.Y.

Dear Mr. Koch: Thank you for your letter of December 1 about your continued interest in the nonimmigrant visa case of Mr. Hugo Blanco.

The information which renders Mr. Blanco ineligible to receive a visa under Section 212 (a) (28) of the Immigration and Nationality Act is confidential. I regret therefore that the information you requested cannot be divulged.

Sincerely,

Robert J. McCloskey,
Assistant Secretary for Congressional Relations.

U.S. House of Representatives,
Washington, D.C., December 22, 1975.

Robert J. McCloskey,
Assistant Secretary for Congressional Relations, Department of State, Washington, D.C.

Dear Mr. McCloskey: I have your letter of December 11th and I must say your response was unsatisfactory and leaves me in a position where I am not able to respond responsibly to those who have written to me concerning Hugo Blanco.

While I would oppose allowing an individual who has engaged in terrorist activities so as to make him suspect that his coming here will enhance those terrorist activities, I cannot in good conscience say to those writing that the nature of his terrorist activities cannot in any way be described and must be confidential. I think your actions and response give unnecessary support to those who criticize our system and make it unnecessarily difficult for those, like myself, who support our system to defend it in cases of this kind.

I urge you to reconsider this matter and provide me with the information bearing upon Mr. Blanco's alleged terrorist activities so that I, at least, can be better informed on the matter.

Sincerely,

Edward I. Koch.

Department of State,
Washington, D.C., January 29, 1976.

Hon. Edward I. Koch,
Longworth House Office Building,
Washington, D.C.

Dear Mr. Koch: Thank you for your letter of December 22 about your desire to obtain more information in connection with the refusal of a visa to Mr. Hugo Blanco.

Much of the information available to the Department is classified for reasons of security and therefore cannot be divulged under the provisions of Executive Order 11652 dated March 8, 1973, a copy of which is enclosed.

A part of the public record, however, is his declaration that he took full and sole responsibility for the murders of three policemen which occurred during a raid he and his followers made on a police station in Peru during 1962. The *Congressional Record* of December 19, 1975, contains further information about his affiliation with the Fourth International and other groups, as well as quotations from his writings in which he has advocated the use of violence.

I can assure you that Mr. Blanco's case was carefully reviewed. The finding of ineligibility under Section 212(a) (28) (C) and (F) of the Immigration and Nationality Act is mandatory. Mr. Blanco may also be ineligible under Section 212(a) (9) of the Act, which is quoted in the enclosure, because of his conviction for murder.

I hope that this additional information will be helpful.

Sincerely,

Robert J. McCloskey,
Assistant Secretary for Congressional Relations.

U.S. House Representatives,
Washington, D.C.

Dr. Benjamin Spock,
New York, N.Y.

Dear Ben: Enclosed is the response I received from the State Department which, if accurate, would in my judgement be grounds for not allowing Hugo Blanco entry into the United States. Don't you agree that if, in fact, he admitted responsibility for the murder of three policemen and advocates the use of violence that those are grounds for rejection?

In your original letter to me your reference to Secretary Kissinger was "has all the instincts of a thug, coated over with professional pomposity." My question is how would you now characterize Hugo Blanco? If I do not hear from you within two weeks, then I shall assume that the information provided me is correct.

All the best.

Sincerely,

Edward I. Koch.

New York, N.Y.,
February 18, 1976.

Congressman Edward I. Koch,
House of Representatives,
Washington, D.C.

Dear Ed: Thank you for looking into the Hugo Blanco issue. I have no idea where the truth lies. The plea for his entry came from a responsible organization.

Sincerely,

Benjamin Spock, M.D.

CLOSING TAX SHELTER IN OPTION TRADING

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, I am introducing legislation to deal with the situation in which certain taxpayers, trading in stock options or commodities, are enabled, in effect, to create tax benefits for themselves by converting ordinary income into capital gains. This situation results from a recent IRS ruling, privately issued, but widely publicized, to the effect that if a call option is the subject of a closing transaction, any gain or loss resulting from that transaction should be treated as ordinary income or loss. A closing transaction involves the purchase of a call to close out or offset a writer's obligation under an earlier call which he had written.

The tax shelter in this area works as follows. Suppose that a taxpayer buys 100 shares of stock at $200 per share. He then writes a call, for a premium of $2,500. The call, which expires within a definite time period, allows the purchaser to buy 100 shares of the stock at $200 per share from the writer of the call before its expiration. Suppose the shares later go up to $250 per share. The taxpayer buys back the call for $5,000 in a closing transaction and is allowed an ordinary loss of $2,500. He also sells the shares of stock and makes a capital gain of $5,000. If he is in the 50-percent tax bracket, his ordinary loss saves him $1,250 in tax savings, which completely offsets the $1,250 tax on the $5,000 long-term capital gain. Thus, the taxpayer pays no net tax on a transaction in which he has realized $2,500 of economic gain.

The bill I am introducing deals with the problem by providing that in the case of any closing transaction, any gain or loss is to be treated as short-term capital gain or loss. It applies to closing transactions which occur after March 1, 1976.

This problem is potentially quite serious. As this device becomes more and more popular, it could substantially reduce tax revenues.

Accordingly, Mr. Speaker, the bill is intended to serve as public notice, as discussed in the Ways and Means Committee this morning, that Congress intends to look into this situation, and I hope will remove, effective as of today, any unwarranted tax advantages in this kind of situation. Thus, taxpayers should engage in closing transactions only if such transactions make sense from an economic standpoint, and not in reliance on any supposed tax advantages.

I might also add, Mr. Speaker, that Chairman Ullman indicated that the committee will hold hearings on this matter in the very near future.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Patman (at the request of Mr. O'Neill), for this week, on account of illness.

Mr. Jones of Tennessee (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Matsunaga (at the request of Mr. O'Neill), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Sikes, for 30 minutes, tomorrow, March 2, 1976.

(The following Members (at the request of Mr. Hyde) to revise and extend their remarks and include extraneous matter:)

Mr. Quie, for 15 minutes, today.

Mr. Collins of Texas, for 15 minutes, today.

(The following Members (at the request of Mr. Weaver) and to include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Phillip Burton, for 10 minutes, today.

Ms. Holtzman, for 10 minutes, today.

Mr. Davis, for 15 minutes, today.

Mr. McFall, for 5 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Harris, for 5 minutes, today.

Mr. Van Deerlin, for 5 minutes, today.

Mr. Melcher, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Brooks, and to include extraneous matter.

Mr. Melcher, and to include extraneous matter.

Mr. Madden.

(The following Members (at the request of Mr. Hyde) and to include extraneous matter:)

Mr. Jeffords.

Mr. Young of Florida in five instances.

Mr. Wydler.

Mr. Madigan.

Mr. Erlenborn.

Mr. Walsh.

Mr. Brown of Michigan.

Mr. Crane.

Mr. Derwinski in two instances.

Mr. Forsythe.

Mr. Findley.

(The following Members (at the request of Mr. Weaver) and to revise and extend their remarks:)

Mrs. Lloyd of Tennessee in five instances.

Mr. Sisk in two instances.

Mr. Stark in 10 instances.

Mr. Annunzio in six instances.

Mr. Gonzalez in three instances.

Mr. Anderson of California in three instances.

Mr. Eilberg in 10 instances.

Mr. Ullman in 10 instances.

Mr. Obey in 10 instances.

Mr. Rangel in 10 instances.

Mr. Rosenthal.

Mr. Davis.

Mr. Vanik in two instances.

Mr. Rogers.

Mr. Krueger.

Mr. Giaimo in 10 instances.

Mr. Drinan in 10 instances.

Mr. Howard.

Mr. Dodd.

Mr. Van Deerlin in two instances.

Mr. Patten.

Mrs. Spellman.

Mr. Moffett in two instances.

Mr. Rose.

Mr. McDonald of Georgia in four instances.

Ms. Abzug.

Mr. Charles H. Wilson of California.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2255. An act for the general revision of the Patent Laws, title 35 of the United States Code, and for other purposes, to the Committee on the Judiciary.

ADJOURNMENT

Mr. WEAVER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 32 minutes p.m.), the House adjourned until tomorrow, Tuesday, March 2, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2647. A letter from the President of the United States, transmitting a request for supplemental appropriations for fiscal year 1976 for the legislative branch (H. Doc. No. 94–387); to the Committee on Appropriations and ordered to be printed.

2648. A letter from the President of the United States, transmitting budget amendments for fiscal year 1976 and the transition quarter to meet the increased costs of the October 1975 Federal pay raise (H. Doc. No. 94–388); to the Committee on Appropriations and ordered to be printed.

2649. A letter from the President of the United States, transmitting notice of his intention to withdraw the designation of Laos as a beneficiary developing country for purposes of the Generalised System of Preferences, pursuant to section 520(a)(2) of the Trade Act of 1974 (H. Doc. No. 94–389); to the Committee on Ways and Means and ordered to be printed.

2650. A letter from the Architect of the Capitol, transmitting the semiannual report of the Architect of the Capitol for the period July 1 through December 31, 1975, pursuant to section 105(b) of Public Law 88-454; to the Committee on Appropriations.

2651. A letter from the Assistant Secretary of Defense (Manpower and Reserve Affairs), transmitting a report covering calendar year 1975 on special pay for duty subject to hostile fire, pursuant to 37 U.S.C. 310(d); to the Committee on Armed Services.

2652. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of construction projects to be undertaken by the Army National Guard, pursuant to 10 U.S.C. 2233a (1); to the Committee on Armed Services.

2653. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to provide for increased participation by the United States in the Asian Development Fund; to the Committee on Banking, Currency and Housing.

2654. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to provide for increased participation by the United States in the International Finance Corporation, and for other purposes; to the Committee on Banking, Currency and Housing.

2655. A letter from the Secretary of Housing and Urban Development, transmitting the second annual report on the HUD coinsurance program, pursuant to the provisions of section 244(f) of the National Housing Act; to the Committee on Banking, Currency and Housing.

2656. A letter from the Secretary of Housing and Urban Development, transmitting the fourth report on implementation of the Emergency Homeowners' Relief Act of 1975, pursuant to section 111 of the act (Public Law 94-50); to the Committee on Banking, Currency and Housing.

2657. A letter from the General Counsel, Department of Housing and Urban Development, transmitting a draft of proposed legislation to amend the U.S. Housing Act of 1937 to increase the amounts of annual contributions which may be provided thereunder with respect to low-income public housing projects, to specify the manner in which annual contributions authority shall be subject to appropriation acts, to revise the definition of income under the low-income public housing program, and for other purposes; to the Committee on Banking, Currency and Housing.

2658. A letter from the Secretary of the Treasury, transmitting the third annual report on the operation and status of the State and Local Government Fiscal Assistance Trust Fund, pursuant to section 105 (a)(2) of Public Law 92-512; to the Committee on Government Operations.

2659. A letter from the Director of Communication, Department of Agriculture, transmitting a report on the Department's activities under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2660. A letter from the Executive Officer, U.S. Arms Control and Disarmament Agency transmitting a report on the activities of the Corporation under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2661. A letter from the General Counsel, Civil Aeronautics Board, transmitting a report on the activities of the Board under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552 (d); to the Committee on Government Operations.

2662. A letter from the Chairman, U.S. Civil Service Commission, transmitting a report on the activities of the Commission under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552 (d); to the Committee on Government Operations.

2663. A letter from the Governor, Farm Credit Administration, transmitting a report on the activities of the Administration under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552 (d); to the Committee on Government Operations.

2664. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a report on the activities of the Corporation under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. (d); to the Committee on Government Operations.

2665. A letter from the Executive Director Federal Labor Relations Council, transmitting a report on the activities of the Council under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2666. A letter from the Chairman, U.S. International Trade Commission, transmitting report on the activities of the Commission under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2667. A letter from the Secretary, Interstate Commerce Commission, transmitting a report on the activities of the Commission under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2668. A letter from the Acting Executive Director, National Capital Planning Commission, transmitting a report on the activities of the Commission under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2669. A letter from the Executive Secretary, Occupational Safety and Health Review Commission, transmitting a report on the activities of the Commission under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C: 552(d); to the Committee on Government Operations.

2670. A letter from the Executive Director Pension Benefit Guaranty Corporation, transmitting a report on the activities of the Corporation under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2671. A letter from the Chairman, Federal Election Commission, transmitting notice that the Commission will continue not to promulgate certain pending regulations until reconstituted by Congress; to the Committee on House Administration.

2672. A letter from the Secretary of the Interior, transmitting a proposed plan for the use and distribution of the judgement funds awarded to the Yakima Tribes and to the Confederated Tribes of the Colville Reservation in dockets 161, 222, and 224 before the Indian Claims Commission, pursuant to 87 Stat. 466; to the Committee on Interior and Insular Affairs.

2673. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense articles to NATO, pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

2674. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112(b) of Public Law 92-403; to the Committee on International Relations.

2675. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend chapter 23 of title 38, United States Code, to eliminate certain duplications in Federal burial benefits now payable for the same, or similar, purpose; to the Committee on Veterans' Affairs.

2676. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to terminate the authority for the pursuit of flight training programs by veterans and for the pursuit of correspondence training programs by veterans, wives, and widows, and for other purposes; to the Committee on Veterans' Affairs.

2677. A letter from the Fiscal Assistant Secretary of the Treasury, transmitting the 20th annual report on the financial condition and results of the operations of the Highway Trust Fund, pursuant to section 209(e)(1) of the Highway Revenue Act of 1956, as amended (H. Doc. No. 94-390); to the Committee on Ways and Means and ordered to be printed.

2578. A letter from the Fiscal Assistant Secretary of the Treasury, transmitting the fifth annual report on the financial condition and results of the operations of the Airport and Airway Trust Fund, pursuant to section 208(e)(1) of the Airport and Airway Revenue Act of 1970, as amended (H. Doc. No. 94-391); to the Committee on Ways and Means and ordered to be printed.

RECEIVED FROM THE COMPTROLLER GENERAL

2679. A letter from the Comptroller General of the United States, transmitting his review of the deferrals of budget authority and the supplementary reports revising a previously proposed rescission and four previously reported deferrals contained in the message from the President dated February 6, 1976 (H. Doc. No. 94-362), pursuant to subsections 1014(b) and (c) of Public Law 93-344 (H. Doc. No. 94-392); to the Committee on Appropriations and ordered to be printed.

2680. A letter from the Comptroller General of the United States, transmitting the annual report of the U.S. General Accounting Office for fiscal year 1975, pursuant to section 312(a) of the Budget and Accounting Act of 1921 (H. Doc. No. 94-359); to the Committee on Government Operations and ordered to be printed with illustrations.

2681. A letter from the Comptroller General of the United States, transmitting a report on the problems encountered by contractors due to the shortages of processed materials on programs of vital national interest; to the Committee on Government Operations.

2682. A letter from the Comptroller General of the United States, transmitting a report on the financial status of major acquisitions of the U.S. Government which were financed solely with Federal funds as well as those financed jointly with Federal, State, and other funds; jointly, to the Committees on Government Operations, and Armed Services.

2683. A letter from the Comptroller General of the United States, transmitting a report on recommendations to the Secretary of Transportation for improving the licensing of private pilots; jointly, to the Committees on Government Operations, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on Feb. 26, 1976, the following report was filed on Feb. 29, 1976*]

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11124. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the safety and effectiveness of medical devices intended for human use, and for other purposes; with amendment (Rept. No. 94–853). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted March 1, 1976*]

Mr. DIGGS: Committee on International Relations. House Joint Resolution 296. Joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from May 16, 1976, through May 22, 1976 (Rept. No. 94–854). Ordered to be printed.

Mr. FOLEY: Committee on Agriculture. S. 1545. An act to amend the Agricultural Adjustment Act of 1938 with respect to peanuts; with amendment (Rept. No. 94–855). Referred to the Committee of the Whole House on the State of the Union.

Mr. SLACK: Committee on Appropriations. House Resolution 1058. Resolution disapproving the deferral of certain budget authority (D76–98) relating to the Department of Justice, Law Enforcement Assistance Administration, Juvenile Justice and Delinquency Prevention program, proposed in the President's special message of January 23, 1976 (H. Doc. 94–342), transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 94–856). Referred to the Committee of the Whole House on the State of the Union.

Mr. PASSMAN: Committee on Appropriations. H.R. 12203. A bill making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes (Rept. No. 94–857). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN (for himself, Mr. Patman, Mr. Charles H. Wilson of California, Mr. Nix, Mr. Metcalfe, Mr. Edwards of California, Mr. Dominick V. Daniels, Mr. Hawkins, Mr. McKinney, Mr. Harkin, Mr. Blanchard, Mr. Cornell, Mr. Richmond, Mr. Rangel, Mr. Miller of California, Mr. Zeferetti, Mr. Won Pat, Mrs. Collins of Illinois, Mr. Harris, Mr. Harsha, and Mr. Neal:

H.R. 12180. A bill to reform residential electric utility rates; to the Committee on Interstate and Foreign Commerce.

By Mr. ASPIN:

H.R. 12181. A bill to amend title 38 of the United States Code in order to extend the delimiting period for completing programs of education for veterans pursuing such programs at the close of such period; to the Committee on Veterans' Affairs.

By Mr. BROOKS (for himself and Mr. Poage):

H.R. 12182. A bill to amend section 142 of title 28, United States Code, relating to the furnishing of accommodations to judges of the courts of appeals of the United States; to the Committee on the Judiciary.

By Mr. BURLISON of Missouri:

H.R. 12183. A bill to provide that the President, or any other member of the executive branch of the Federal Government, shall limit or prohibit the export of agricultural tools, materials, and machinery as part of any limitation or prohibition of the export of any agricultural commodity; to the Committee on International Relations.

By Mr. COTTER:

H.R. 12184. A bill to require a speedy trial for criminal defendants charged with use of a firearm in the commission of a Federal crime; to the Committee on the Judiciary.

By Mr. D'AMOURS (for himself, Mr. Baucus, Mr. Pattison of New York, and Mr. Solarz):

H.R. 12185. A bill to amend title 38 of the United States Code in order to extend the delimiting period for completing programs of education for veterans pursuing such programs at the close of such period; to the Committee on Veterans' Affairs.

By Mr. FORSYTHE (for himself, Mr. McKinney, and Mr. Eilberg):

H.R. 12186. A bill to amend title 37, United States Code, so as to extend from 1 to 3 years the period that a member of the uniformed services has following his retirement to select his home for purposes of travel and transportation allowances under such title, and for other purposes; to the Committee on Armed Services.

By Mr. HARKIN (for himself and Mr. Mezvinsky):

H.R. 12187. A bill to amend the Internal Revenue Code of 1954 to release the lien for the estate tax on property which is transferred by the executor to a purchaser or holder of a security interest; to the Committee on Ways and Means.

By Mr. HAWKINS (for himself, Mr. Quie and Mr. Perkins):

H.R. 12188. A bill to amend the Community Services Act of 1974 to make certain technical and conforming amendments; to the Committee on Education and Labor.

By Mrs. HECKLER of Massachusetts:

H.R. 12189. A bill to amend section 1951, title 18, United States Code, act of July 3, 1946; to the Committee on the Judiciary.

H.R. 12190. A bill to authorize the Secretary of the Treasury to reimburse State and local law enforcement agencies for assistance provided at the request of the U.S. Secret Service; to the Committee on the Judiciary.

By Ms. HOLTZMAN:

H.R. 12191. A bill to prohibit use of Airway and Airport Development Act funds for a public airport at Floyd Bennett Field in the Gateway National Recreation Area; to the Committee on Public Works and Transportation.

By Mr. HUNGATE:

H.R. 12192. A bill to amend the Internal Revenue Code of 1954 to increase the estate tax exemption and to increase the lifetime gift tax exemption; to the Committee on Ways and Means.

By Mr. JONES of Alabama (for himself and Mr. Harsha):

H.R. 12193. A bill to amend the Federal Water Pollution Control Act to increase the authorization for the National Study Commission; to the Committee on Public Works and Transportation.

By Mr. McFALL:

H.R. 12194. A bill to establish a task force for the purpose of establishing similar procedures to be used by the Federal Housing Administration and the Farmers Home Administration in appraising and inspecting homes; to the Committee on Banking, Currency and Housing.

By Mr. MADIGAN:

H.R. 12195. A bill to amend the Rural Electrification Act of 1936, as amended, to correct unintended inequities in the determination of interest rates for borrowers from the Rural Electrification Administration and the Rural Telephone Bank, to make other technical amendments, and for other purposes; to the Committee on Agriculture.

By Mr. QUIE:

H.R. 12196. A bill to consolidate the administration of certain programs of financial assistance to States for educational purposes; to the Committee on Education and Labor.

By Mrs. SPELLMAN:

H.R. 12197. A bill to amend the Public Health Service Act to provide health care services for pregnant adolescents before and after childbirth; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS:

H.R. 12198. A bill to amend the Uniform Time Act of 1966 to change the period of observance of daylight saving time; to the Committee on Interstate and Foreign Commerce.

By Mr. THONE:

H.R. 12199. A bill to amend the Internal Revenue Code of 1954 to allow persons covered by certain other retirement plans to establish personal savings for retirement; to the Committee on Ways and Means.

H.R. 12200. A bill to amend the Internal Revenue Code of 1954 to provide for the taxfree rollover of certain amounts distributed from pension plans on account of terminations, partial terminations, and the complete discontinuance of contributions under such plans; to the Committee on Ways and Means.

By Mr. WHALEN:

H.R. 12201. A bill to amend the Small Business Act to provide that determinations by the administration of the reasonable assurance of repayment of prospective loans be made on a case-by-case basis and to clarify the eligibility of small business homebuilding firms for assistance under the Small Business Act; to the Committee on Small Business.

By Mr. PASSMAN:

H.R. 12203. A bill making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

By Mr. BRADEMAS (for himself, Mr. Perkins, Mr. Bell, Mr. Dent, Mr. Peyser, Mr. Dominick V. Daniels, Mr. Jeffords, Mr. Hawkins, Ms. Mink, Mr. Meeds, Mr. Gaydos, Ms. Chisholm, Mr. Biaggi, Mr. Andrews of North Carolina, Mr. Lehman, Mr. Benitez, Mr. Blouin, Mr. Risenhoover, Mr. Beard of Rhode Island, Mr. Zeferetti, Mr. Miller of California, Mr. Mottl, Mr. Hall, Mr. Pepper, and Mr. Sarasin):

H.J. Res. 833. Joint resolution to provide for the designation of the second full calendar week in March 1976 as National Employ the Older Workers Week; to the Committee on Post Office and Civil Service.

By Mr. PRESSLER:

H.J. Res. 834. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. ZABLOCKI (for himself, Mr. Bingham, Mr. Findley, and Mr. Solarz):

H. Con. Res. 570. Concurrent resolution with respect to certain arms control and disarmament negotiations; to the Committee on International Relations.

By Mr. DIGGS:

H. Res. 1059. Resolution providing for funds for the expenses of investigations and studies to be conducted by the Committee on the District of Columbia; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

306. The SPEAKER presented a memorial of the Legislature of the State of California, relative to increasing Federal child day care funds; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXIII,

Mr. HEFNER introduced a bill (H.R. 12202) for the relief of Tamas and Julia Oberbauer, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

405. The SPEAKER presented a petition of town board, Attica, N.Y., relative to welfare, which was referred to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10760

By Mr. HAYES of Indiana:

Page 39, immediately after line 12, insert the following new subsection:

(c) Section 402(d) of the Act (30 U.S.C. 902(d)) is amended by inserting immediately before the period at the end thereof the following: ", including any individual who is or was employed in any aboveground mining operation".

H.R. 11963

By Mrs. MEYNER:

Page 6, line 3, immediately after the semicolon insert "and"; in line 5, strike out "; and" and insert in lieu thereof a period and a closing quotation mark; and strike out lines 6 and 7.

Page 12, beginning in line 4, strike out "to international military training provided under chapter 5 of this part,"; and in line 7, strike out the comma.

Page 13, strike out line 22 and all that follows thereafter through line 24 on page 17.

Page 51, beginning in line 17, strike out "; or education and training under chapter 5,".

EXTENSIONS OF REMARKS

JOHN J. PECORARO: A GREAT UNION LEADER

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. PATTEN. Mr. Speaker, last Friday, John J. Pecoraro, a great union leader, retired from the important post of director, department of legislation, International Brotherhood of Painters and Allied Trades—PAT.

John served in that responsible position with real distinction, but that is no revelation, because he has distinguished himself in everything he has done.

His record of action, leadership, and achievement is not only long, but honorable and remarkable. Part of that amazing—and inspiring—record follows in chronological order:

RECORD OF ACHIEVEMENTS

EDUCATION

1929: Graduated Peter Stuyvesant High School.

1950: Enrolled in Rutgers University Extension Division for courses in Economics and Public Speaking, and course in Labor Relations.

1952: Appointed by Dr. Lewis Webster Jones, President of Rutgers University, as labor member of joint Management-Labor School Committee in connection with Rutgers' participation in Marshall Plan.

UNION EMPLOYMENT EXPERIENCE

1939: First Union Membership.

1940–62: Delegate to National Conventions of Brotherhood of Painters, 1940–1945, 1949, 1953, 1958, 1962.

1945–48: Secretary of Local Union 834.

1945–63: Delegate to Building Trades Dept.

1948–58: Delegate to Central Labor Body.

1948–63: Business Manager of Local Union 834.

1949: Cited by City of New Brunswick when under my direction members of L.U. 834 broke world's record by painting a home in 2 minutes and 23 seconds.

1950–62: Chairman, Middlesex County Council Negotiating Comm.

1951–53: Secretary to State Conference Board of Painters.

1954–63: Chairman and Administrator, Welfare Fund L.U. 834.

1955: Elected to Executive Council of N.J. State Federation of Labor, serving until 1962.

1959–62: Chairman of Middlesex County Council of Painters.

1960–64: Chairman, Garden State Labor Management Comm.

1968–69: Administrator, Manpower Development and Training Act—PAT.

1969: National Co-ordinator Jobs Corps—PAT.

1970–76: Director, Dept. of Legislation—PAT.

1976: National Director—Concerned Seniors for Better Government.

1972: Appointed Labor Advisory Comm. on Industrial Safety—U.S. Dept. of Labor.

1974: Reappointed to Advisory Comm.

CIVIC ACTIVITIES

1948–49: Member Board of Directors, Community Chest.

1949–53: Charter member, and member, Board of Directors, United Fund.

1955–62: Member Board of Directors, Cerebral Palsy, Middlesex County.

1958–62: Member Executive Committee, March of Dimes, Middlesex County.

1959–62: Chairman of March of Dimes Drive each year in South Brunswick.

1963: General Chairman of Cerebral Palsy Drive for Middlesex County.

1957: Founder of the Columbine of Middlesex County, and President to date.

1957: Proclaimed "Man of the Year" by the Columbine.

POLITICAL

1960: Elected Municipal Chairman of the South Brunswick Democratic Party, and reelected in each successive year including 1963.

1960: Delegate to Democratic National Convention, Los Angeles.

1962: Appointed as Secretary to Assistant Majority Leader, New Jersey State Assembly.

1963: Appointed Legislative Aide to Majority Leader, New Jersey State Assembly.

1963: Appointed Confidential Secretary to County Clerk of Middlesex County.

Mr. Speaker, for the past 36 years—since 1940—John Pecoraro has dedicated his life to helping people—especially members of the Painters and Allied Trades. Except for his wife and five children, the union is closest to that warm heart of his—a heart full of compassion and love for people. His fine record shows this.

Since 1970, he has provided dynamic leadership as director of the International Brotherhood's department of legislation—from testifying before House and Senate committees on bills, to speaking all over the country on legislation with rare eloquence. I have heard thousands of speakers during my public career, but John Pecoraro ranks in the top 10 best. He speaks with strong conviction because he cares deeply about people—their needs, their problems, and their hopes.

John Pecoraro has accomplished plenty for his union members—and for his country, yet knows that much more must be done before America can truly be called a nation "with liberty and justice for all." But, like Lincoln, John has "a patient confidence in the ultimate justice of the people."

Mr. Speaker, the greatest union leader of them all, Samuel Gompers, spoke of "the necessity of workers to protect and defend themselves from encroachment, injustice, and wrong—to protect the workers in the inalienable rights to a higher and better life; to protect them, not only as equals before the law, but also in their health, their homes, their firesides, their liberties as men, as workers, and as citizens. The attainment of these is the glorious mission of the trade union," Gompers said in his speech in 1898.

Mr. Speaker, for the past 36 years John J. Pecoraro has been on that "glorious mission," and because of his superb leadership, members of the Painters and Allied Trades have attained that "higher and better life—as workers, and as citizens," envisioned by Samuel Gompers. John, who is a former constituent of mine, has helped convert that dream to reality.

I thank him for his magnificent leadership and congratulate him on being appointed to his new post: national director of the Concerned Seniors for Better Government. John Pecoraro will be 65 on November 13, 1976, and I hope he will live at least 65 more years, for he has enriched the lives of so many members and citizens with his rare and talented mind, heart, and spirit.

TOLLESTON JUNIOR HIGH SCHOOL INDIANA STATE CHAMPIONS

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. MADDEN. Mr. Speaker, the 263-member band of the Tolleston Junior High School of Gary, Ind., was honored at a banquet and mass meeting in the city of Gary on the 3d of February, for having won the Indiana State championship of all high school bands in 1975.

Mayor Richard Gordon Hatcher was the master of ceremonies and principal speaker at the banquet honoring the junior high school organization. Dignitaries as well as band enthusiasts from all over the Calumet Region of northwest Indiana and the student body of Tolleston Junior High School were present for the occasion.

I include with my remarks a resolution which pays tribute to the No. 1 high school musical organization in the State of Indiana:

RESOLUTION No. 1314

A resolution commending the Tolleston Junior High School band and Willie L. Horne, director, for excellence in musical interpretation and performance.

Whereas, The Tolleston Junior High School Band and Willie L. Horne, Director, have won distinction as the only marching Junior High School band in the City of Gary; and

Whereas, The Tolleston Junior High School Band, directed by Willie L. Horne, has won numerous awards in the City, State and Region for its demonstration of musical skills, tone quality, and exhibition of disciplined training; and

Whereas, Such involvement broadens the experiences of young people, strengthens their character, develops pride in the school and its educational program, and gives youth a new form of communication; and

Whereas, The Gary Common Council recognizes excellence and accomplishments of students; and

Whereas, The Gary Common Council pays tribute to an outstanding group of supportive parents who work extremely hard to promote the total band program and show the kind of personal concern junior high school parents so often do not exhibit; and

Whereas, The Gary Common Council commends the dedicated efforts of Willie L. Horne, Tolleston Junior High School Band Director; and

Whereas, The Gary Common Council appreciates community spirit and pride in Gary's institutions; and

Whereas, The Tolleston Coalition of Concerned Citizens is planning a salute to Willie L. Horne, Director, and the Tolleston School Band, February 13, 1976, to show its appreciation for such an outstanding record of accomplishment.

Now therefore, Be it Resolved by the Common Council of the City of Gary, Indiana, that the Council Members and other Public Officials of the City of Gary, on behalf of the citizens of Gary, Indiana, do hereby publicly pay tribute to the Tolleston Junior High School Band and Willie L. Horne, Director, for excellence in musical interpretation and performance.

Section 1. This resolution shall be in full force and effect from and after the date of passage.

Adopted by the Common Council of the City of Gary, Indiana, this 3rd day of February, 1976.

ILLEGAL ALIENS: RESTRICTING EMPLOYMENT IS ONLY PARTIAL SOLUTION

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. ROSENTHAL. Mr. Speaker, the Supreme Court yesterday held in Decanas against Bica that a State can constitutionally prohibit the employment of illegal aliens. The Court concluded that California has a strong interest in protecting its residents' jobs. The unanimous decision written by Justice Brennan noted:

> Employment of illegal aliens in time of high unemployment deprives citizens and legally admitted aliens of jobs; acceptance by illegal aliens of jobs on sub-standard terms as to wages and working conditions can seriously depress wage scales and working conditions of citizens and legally admitted aliens; and employment of illegal aliens under such conditions can diminish the effectiveness of labor unions. These local problems are particularly acute in California in light of the significant influx into that State of illegal aliens from neighboring Mexico.

These views of the illegal alien problem are shared by most observers including residents of the Eighth Congressional District in Queens, N.Y., which I have the honor to represent. A task force composed of a representative group of residents recently reported that the "combination of a soaring unemployment rate among citizens and the shrinkage of municipal and State resources has made it essential that Federal policies and practices in this area be totally reevaluated."

The task force had favorable words to say about the outlawing of the employment of illegal aliens. It found, however, that a complete solution to the problem requires a fundamental reorganization of the Federal agencies which enforce the immigration laws. The task force concluded that present enforcement efforts are seriously impeded by the contradictory, outdated and inconsistent policies, procedures and perspectives of Justice's Immigration and Naturalization Service, and State's Visa Office. The citizens group recommended that a separate, independent agency be established to lodge in one body the full responsibility for overseeing aliens.

In October, I introduced H.R. 10182, legislation to establish the Visa and Naturalization Administration. This bill has received bipartisan support in the House and favorable attention from public interest groups. It will be reintroduced this Wednesday with the following additional sponsors: Representatives DINGELL, GILMAN, SCHEUER, DELLUMS, YATRON, KOCH, JOHN BURTON, and MCCORMACK.

I invite any colleague who has any questions or is interested in becoming a sponsor to call Gail Armstrong (52601).

VOICE OF DEMOCRACY CONTEST, VERMONT WINNER

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. JEFFORDS. Mr. Speaker, I have recently read a copy of the speech which won the Vermont State competition for the Voice of Democracy Contest sponsored by the Veterans of Foreign Wars and its Ladies Auxiliary.

The speech was made by Freeman W. Dodge, a 17-year-old resident of Tunbridge, Vt. Capturing the Bicentennial spirit, Mr. Dodge has expressed very articulately the responsibilities of Americans today, in relation to the accomplishments of our ancestors.

Mr. Speaker, anticipating that Mr. Dodge's comments will be of interest to my colleagues, I insert them in the RECORD at this time:

1975-76 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM, VERMONT WINNER

When George Washington, Benjamin Franklin, John Adams and others decided the colonies of England here in America should become free and independent, they were not merely thinking of themselves and their generation but, also, all future generations.

Our founding fathers realized that their native lands, mainly England, had many faults. These men were independents, pioneers of new thoughts in a new land.

England was unjust in laws concerning religion and was very unfair in its control over the colonies. Britain had passed many laws on which we had no say, as we were not allowed a representative in Parliament. The cry arose, "No taxation without representation." At this point men who became America's founders had to make a decision.

This, I believe, is where our bicentennial heritage begins. They realized that colonies under England had neither true democracy nor representative democracy. These men battled constantly with their conscience. Was it right to discard their heritage in England and start anew? In the end they followed their democratic and religious instincts. They wanted government of the people. They felt that everyone should have a right to choose his own religion.

A new nation had to be formed.

Men, such as Patrick Henry, Benjamin Franklin and Thomas Jefferson, whom we think of today as statesmen, were actually revolutionaries of their time. They differed greatly from our "revolutionaries" of today, however. These early men had one common cause and were willing to and did devote most of their lives to the cause of American freedom. They did not waste time proclaiming their innocence for acts committed nor bargaining for lesser sentences in prisons or even their lives. It was quite clear they had but one goal.

In Patrick Henry's famous words "But as for me give me liberty or give me death" and Nathan Hale's "I regret that I have but one life to give for my country", find the thirst for independence that defied any fear of death itself. That was devotion to a cause. Few persons, today, would demonstrate such devotion. Henry and Hale spoke the thoughts of many, including Ethan Allen and our own Green Mountain Boys who left their farms and families to fight for the independence of this new nation.

As the bicentennial approaches, I am aware of my personal responsibility to further the ideals of these forefathers. One cannot look at 200 years of progress in human freedom without expressing amazement, pride and respect. One is compelled to assume his fair share of responsibility in the future.

One responsibility is to be conscious of and active in all current affairs.

Locally in the grass roots, lies the first and greatest opportunity to be alert and active. If I do not discharge my responsibilities at home, in my town and in my state, I will hardly be prepared to serve my nation in other ways.

I have a responsibility to be knowledgeable about all current state issues and to make my opinions known to my district representatives.

National government is what it's all about. If our views on National and international affairs are not expressed, our government cannot deal democratically with our nation's problems. The people, as well as Congressional representatives, must be alert to changing times so as to act promptly and effectively. Further, how can other nations deal with one another without knowing the true opinions of the people? As one of the people, I should continually analyze current problems and make my opinions known.

There are many forms of loyalty to a nation. I should support my country in any way possible, when I believe our policies are correct. If I believe our nation's policies are wrong, I should give constructive criticism whenever possible.

Both forms of loyalty should be practiced from local levels of government through national government.

Our founding fathers had a responsibility to the future. Our bicentennial heritage means our responsibilities to the past and to the future.

Our founding fathers made a monumented decision 200 years ago. They chose to open a new nation based on the strength of individual freedom in a collective democracy. That decision means today that I must strive to preserve their ideals through my individual willingness to act for the common cause.

KATHRYN ANNE GATES WINS MARYLAND VFW VOICE OF DEMOCRACY CONTEST

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. BAUMAN. Mr. Speaker, the Veterans of Foreign Wars of the United States and its Ladies Auxiliary annually sponsor a highly competitive contest as part of its Voice or Democracy program. Five hundred thousand secondary school students from across the country compete for five scholarship prizes. This year, as part of the VFW's Bicentennial celebration, students wrote and delivered speeches on the theme "What Our Bicentennial Heritage Means to Me."

It is with more than regional pride that I call to your attention my State's winning contestant, Kathryn Anne Gates of Chesapeake Beach, Md. The 17-year-old daughter of Lt. Col. Edward and Mrs. Joan Gates has made her mark in music, drama and many other pursuits. However, by her ability to demonstrate in words what all Americans feel but cannot always articulate, she is extraordinary for her age. She is living proof of the fact that America is alive and well in the hearts and minds of many young people today.

I invite each of you to reflect on what this wise and patriotic young lady has to say to us, Mr. Speaker, I include her prize-winning speech in the Record:

What Our Bicentennial Heritage Means to Me

(By Kathryn Anne Gates)

"These are the times that try men's souls." Today, 200 years after these inspired words were written, they are just as relevant as they were when Thomas Paine first put them on parchment. The United States has gone through trial after trial, test after test, and has remained unbeatable! The American spirit is such that even when faced with insurmountable odds, it triumphs. This is what our Bicentennial Heritage means to me.

During the 17th century, people came from many backgrounds and lifestyles to settle in North America. These men and women established the foundation for our nation in that wilderness. For 150 years these people struggled. Some turned back, some grumbled and complained, but many more enjoyed what they had and made the best of their situation. These people had acquired a strong optimistic view of life. This is what gave them the strength to overcome the never-ending problems that confronted them. And this optimism has been handed down for 350 years.

How could a relatively small group of untrained colonial minutemen win the War of Independence against thousands of regimented British soldiers? How did it happen that just when all seemed lost, a leader like George Washington, or Abraham Lincoln, or Franklin D. Roosevelt stepped up and led the American people to victory? How could a few rebellious colonies in the wilderness become one of the world's major powers? The American spirit made all of these impossible dreams realities.

Today, as we celebrate our nation's bicentennial, there are, as ever, problems to be overcome. Inflation is at a peak, fuel supplies are limited, and unemployment rates are climbing, but this is AMERICA! The people of this country will not, after 200 years, dismiss their birthright, their heritage, simply because conditions have developed that require effort and cooperation to resolve. Americans will acknowledge these difficulties, and careful planning and execution will conquer them.

As a teenager in America today, I understand the difficulties my country is facing, but I have great faith in my people. I know that a hundred years from now, my children's children will live in an America where justice and equality still prevail! I, too, will contribute my time and talents to furthering America's ideals and spirit. In this way, I will give of myself so that future generations of Americans may know the same kind of national pride and optimism that I do.

Yes, these times will try men's souls, but all great things must be fought for continually! With 200 years as a nation behind us and all eternity before us, every American should feel the optimism and energetic spirit that is our national heritage. I am an American and, in this Bicentennial year, I can say with no reservations that my heritage is the greatest on earth!

TERROR BOMBINGS DOUBLE YEARLY SINCE 1973

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. McDONALD of Georgia. Mr. Speaker, it has recently become almost a commonplace for Federal and local law enforcement officials to warn of potential terrorist attacks during the Bicentennial celebrations, although as long ago as last summer I published documentary evidence that terrorist and pro-terrorist support groups were planning violent actions to disrupt the Bicentennial.

Now, the Federal Bureau of Investigation has released figures showing that the number of terrorist bombings have doubled each year since 1973. According to the FBI, there were 24 bombings attributable to terrorist activity in 1973, 45 terrorist bombings in 1974, and a shocking 89 terrorist blasts in 1975. Six persons were killed in the bombings and 76 persons were injured. If this trend is not checked, America is in for a Bicentennial of terror.

In reviewing my bombing files, my only criticism of the FBI's report is that it tends to err on the side of caution. For example, the victims of the La Guardia Airport bombing are clearly not included although that explosion is widely believed to have been committed by Palestinian Arab terrorists, although no communique was issued. Only those explosions clearly claimed by a terrorist group were included.

The FBI Police Bulletin, volume IV, No. 1, also contains an excellent brief summary of the currently active terrorist organizations which, since the House Committee on Internal Security has been abolished and the chairman of the Judiciary Committee has refused to assign staff and funds for an internal security subcommittee, my colleagues who are concerned about the threat of terrorism will find useful:

Year-End Summary

TRENDS

Bombings were the primary terrorist tactic in this country last year. There were 89 bombings attributable to terrorist activity in 1975, as compared with 45 in 1974 and 24 in 1973.

Six persons died in terrorist-claimed bombings in 1975 and 76 persons were injured. Five other deaths were reported in other types of terrorist incidents. Monetary damage reported in terrorists bombings exceeded 2.7 million dollars.

The New World Liberation Front, a revolutionary group operating primarily in California, claimed 19 bombings in 1975, primarily targeted against a public utility. The Armed Forces of Puerto Rican Liberation (FALN) claimed 18 bombings, targeted against Government and corporate targets, especially banks, in New York City, Chicago, and Washington, D.C.

FALN

The Armed Forces of Puerto Rican Liberation, or FALN, took credit for the most serious terrorist bombing reported in 1975: the explosion which claimed four lives on January 24 at the Fraunces Tavern in New York City. The group claimed a total of 18 bombings and one attempted bombing in 1975.

The capabilities of the FALN were also illustrated by the simultaneously coordinated attacks against "Yanki government and monopoly capitalist institutions" in New York, Chicago, and Washington, D.C., on October 27, 1975, the "first anniversary of our existence as an organization" in the words of the FALN communique issued in connection with these bombings. (The group's first claimed bombings—against five corporate and banking targets—took place October 26, 1974.)

Half of the FALN-claimed bombings took place in New York in 1975, and half were directed against banks. Weekends or Mondays before business hours were the time of three-fourths of FALN bombings. The group has demanded independence for Puerto Rico and freedom for five Puerto Rican "political prisoners," nationalists convicted of attacks on President Truman and the U.S. House of Representatives in the 1950's.

NEW WORLD LIBERATION FRONT

The New World Liberation Front (NWLF) claimed 19 bombings and one attempted bombing in 1975; all but one of these took place in California. A primary target of this group has been the property of the Pacific Gas and Electric Company. The NWLF has not shown any time pattern in their attacks, but has consistently carried out actions almost every month of the past year.

While previous NWLF actions have attacked targets connected with international issues, i.e., hotels leased by a multinational corporation in protest of alleged corporate actions abroad, recent attacks have focused on local issues. Besides demanding cuts in local utility rates for individuals, as opposed to businesses, recent communiques have concerned "poor people's health" and actions of San Francisco city government. Credit has been taken in NWLF communiques for four recent automobile bombings in San Francisco, aimed at police.

WEATHER UNDERGROUND

This self-described "guerrilla organization" of "communist women and men, underground in the United States" claimed three bombings, and one attempt, in 1975. The first Weather Underground (WU) bombing, on January 29, was against the State Department in Washington, D.C. At the same time, another WU-claimed bomb failed to go off at a Department of Defense facility in Oakland, California.

On June 16, the group claimed the bombing of a New York City bank and on September 5, a bombing that caused $150,000 damage at the Kennecott Copper Building in Salt Lake City was claimed by the WU. This bomb had been placed in a ladies' room; the State Department bomb had also been placed in a wall with access from a ladies' room.

WU published four issues of its newletter, *Osawatomie,* in 1975, and its aboveground support arm, Prairie Fire Organizing Committee, also issued a publication, *Groundswell.* The group demanded: "Stop U.S. aid to the junta in Chile" in the communique claiming the Salt Lake City bombing and each issue of *Osawatomie* has said of the Bicentennial: "The rulers have set the time for the party; let us bring the fireworks."

OTHER GROUPS

Four other revolutionary-type groups claimed significant bombing activities in 1975. Safeway grocery stores have been the targets of two groups. The George Jackson Brigade claimed four bombings in Washington State, half against Safeway. The Emiliano Zapata Unit (EZU) took credit for three Safeway bombings (and one Bank of America bombing) in the San Francisco area since the end of October, 1975. One EZU communique spoke of children suffering from malnutrition and threatened: "We will kill to protect our children."

The Red Guerrilla Family claimed three bombings in California in March, April, and July, targeting Government in two cases. In Denver, Colorado, the Continental Revolutionary Army (CRA) took credit for four bombings in 1975 against primarily Government targets. The last CRA communique attacked U.S. activities aboad—in Panama, Chile, Cuba, Puerto Rico, and North Vietnam.

Black Liberation Army (BLA) activity in 1975 was limited to four escape attempts. A major portion of the group is incarcerated for the numerous attacks on police and bank robberies that have been linked to the BLA since 1971. One of these jailbreak attempts, on May 25 in New York City, resulted in the death of a BLA member when his bed-sheet rope broke during a ten-story descent to the ground.

INDIAN MILITANTS

Indian occupants of two vehicles were arrested November 14, 1975, by Oregon State Police at Ontario, Oregon, after an exchange of gunfire with an officer. It was later determined that Leonard Peltier, charged with the June 26, 1975, murder of two FBI Agents, had been involved in this incident and had escaped. Peltier was later arrested in Canada.

Timing devices and other bomb components were found in the two vehicles, along with nine high-powered rifles, some with serial numbers obliterated, two police-type shotguns, and three heavy caliber pistols. Seven fifty-pound cases of dynamite were seized and there were indications the individuals involved were interested in Bicentennial activities.

American Indian Movement (AIM) leader Dennis Banks has said, on December 16, 1974, in a Sacramento, California, television interview, that a goal of AIM is to "stop the Bicentennial celebration." Another AIM leader Vernon Bellecourt, said in a March 15, 1973, speech at Berkeley, California, that "by 1976, the 200th anniversary of the founding of the U.S., AIM will be powerful enough to blow out the candles on the birthday cake."

CONGRESSMAN WYDLER MAKES SPECIAL REPORT TO OLDER AMERICANS IN THE FIFTH CONGRESSIONAL DISTRICT—WYDLER CONTINUES SENIOR CITIZEN INTERN PROGRAM

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. WYDLER. Mr. Speaker, for the third consecutive year, I will again sponsor my senior citizen intern program for older Americans in the "Fabulous Fifth Congressional District."

This year's program will be held from May 3 through May 14 in Washington, D.C., and is designed to provide two senior citizen representatives from within the district to personally study pending legislation of interest to the elderly and learn more about Federal programs and policies affecting all senior citizens.

Anyone 65 years of age or older who lives in the "Fabulous Fifth District" is eligible. As in the past 2 years, interns should be nominated in a letter from an organized senior citizen club or community organization. The letter should provide the name, address and telephone number of the individual and state his or her qualifications and background. This nomination should be submitted to my district office at 150 Old Country Road, Mineola, N.Y. 11501, no later than April 12, 1976.

Selections will be made by a panel of judges representing the Fifth Congressional District and Nassau County older American organizations.

During their 2-week stay in Washington, each intern will receive compensation in the amount of $200 to cover the cost of food and lodging. Also, each will be provided with round-trip air transportation to Washington, D.C.

INCOME TAX OVERPAYMENT PROTECTION FOR OLDER AMERICANS

In an effort to assist all "Fabulous Fifth Congressional District" older Americans with their income tax returns, I have included in this report a special checklist of itemized deductions and tax relief measures for individual taxpayers which has been developed by Congress.

The checklist, covering everything from pertinent and helpful information on medical and dental expenses, insurance premiums, and retirement income credit should be of immense help in better understanding our tax law and tax form. It will also serve as a safeguard for taxpayers who may not be completely current in tax relief provisions.

The handy checklist can also be used by individuals to determine whether it would be advantageous to compute their tax return on an itemized deduction basis or on the basis of tax tables.

Older American taxpayers who discover that they have overpaid their taxes in previous years have recourse in that they may file an amended return—form 1040X, to claim deductions initially overlooked. The form must be filed within 3 years after the original return was due or filed, or within 2 years after the tax was paid, whichever is later:

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses (unreimbursed by insurance or otherwise) are deductible to the extent that they exceed 3% of a taxpayer's adjusted gross income (line 15, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subjected to the 3% rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 15, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expense (subject to 3% limitation):

Abdominal supports (prescribed by a doctor).
Acupuncture services.
Ambulance hire.
Anesthetist.
Arch supports (prescribed by a doctor).
Artificial limbs and teeth.
Back supports (prescribed by a doctor).
Braces.
Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.
Cardiographs.
Chiropodist.
Chiropractor.
Christian Science practitioner, authorized.
Convalescent home (for medical treatment only).
Crutches.
Dental services (e.g., cleaning, X-ray, filling teeth).
Dentures.
Dermatologist.
Eyeglasses.
Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as substitute for, regular diet; physician's statement needed).
Gynecologist.
Hearing aids and batteries.
Home Health Services.
Hospital expenses.
Insulin treatment.
Invalid chair.
Lab tests.
Lip reading lessons (designed to overcome a handicap).
Neurologist.
Nursing services (for medical care, including nurse's board paid by you).
Occupational therapist.
Ophthalmologist.
Optician.
Optometrist.
Oral surgery.
Osteopath, licensed.
Pediatrician.
Physical examinations.
Physician.
Physical therapist.
Podiatrist.
Psychoanalyst.
Psychologist.
Psychotherapy.
Radium therapy.
Sacroiliac belt (presented by a doctor).
Seeing-eye dog and maintenance.
Speech therapist.

Splints.

Supplementary medical insurance (Part B) under Medicare.

Surgeon.

Telephone/teletype special communications equipment for the deaf.

Transportation expenses for medical purposes (7¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.).

Vaccines.

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).

Wheelchairs.

Whirlpool baths for medical purposes.

X-rays.

TAXES

Real estate.

State and local gasoline.

General sales.

State and local income.

Personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of five classes of items: automobiles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security, Veterans' pension or compensation payments, Railroad Retirement annuities, women's compensation, untaxed portion of long-term capital gains, recovery of costs, dividends exclusion, interest on municipal bonds, unemployment compensation and public assistance payments).

CHILD AND DISABLED DEPENDENT CARE EXPENSES

A taxpayer who maintains a household may claim a deduction for employment-related expenses incurred in obtaining care for a (1) dependent who is under 15, (2) physically or mentally disabled dependent, or (3) disabled spouse. The maximum allowable deduction is $400 a month ($4,800 a year). As a general rule, employment-related expenses are deductible only if incurred for services for a qualifying individual in the taxpayer's household. However, an exception exists for child care expenses (as distinguished from a disabled dependent or a disabled spouse). In this case, expenses outside the household (e.g., day care expenditures) are deductible, but the maximum deduction is $200 per month for one child, $300 per month for two children, and $400 per month for three or more children.

When a taxpayer's adjusted gross income (line 15, Form 1040) exceeds $18,000, the deduction is reduced by $1 for each $2 of income above this amount. For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

Other tax relief measures for older Americans

(Required to file a tax return if gross income is at least)

Filing status:	
Single (under age 65)	$2,350
Single (age 65 or older)	3,100
Qualifying widow(er) under 65 with dependent child	2,650
Qualifying widow(er) 65 or older with dependent child	3,400
Married couple (both spouses under 65) filing jointly	3,400
Married couple (1 spouse 65 years or older) filing jointly	4,150
Married couple (both spouses 65 or older) filing jointly	4,900
Married filing separately	750

Additional Personal Exemption for Age.—Besides the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age.

You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1976, you will be entitled to the additional $750 personal exemption because of age for your 1975 Federal income tax return.

Tax Credit for Personal Exemptions.—In addition to the $750 personal exemption, a tax credit of $30 is available for a taxpayer, spouse, and each dependent. No additional $30 credit is available, however, because of age or blindness.

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met. (1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10% of the mutual dependent's support, *but only one of them*, may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers.—A taxpayer may elect to exclude from gross income part, or under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least 5 years within the 8-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $20,000, an election may be made to exclude part of the gain based on a ratio of $20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within 18 months before or 18 months after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

Retirement Income Credit.—To qualify for the retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received earned income in excess of $600 in each of any 10 calendar years before 1975, and (c) have certain types of qualifying "retirement income." Five types of income—pensions, annuities, interest, and dividends included on line 15, Form 1040, and gross rents from Schedule E, Part II, column (b)—qualify for the retirement income credit.

The credit is 15% of the lesser of:

1. A taxpayer's qualifying retirement income, or

2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxable pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayers age and the amount of any earnings he may have).

If the taxpayer is under 62, the $1,524 figure is reduced by the amount of earned income in excess of $900. For persons at least 62 years old but less than 72, this amount is reduced by one-half of the earned income in excess of $1,200 up to $1,700, plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer if he has requested that IRS compute his tax, he answers the questions for columns A and B, and he completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayer should also write "RIC" on line 17, Form 1040.

SUPPLEMENTAL SECURITY PROGRAM AIDS SENIORS

Another Federal program, Supplemental Security Income—SSI—is designed to help needy older Americans and provides monthly Federal checks to persons who are 65 years of age or older, are blind, or disabled.

In 1974, the supplemental security income program took the place of the former Federal-State assistance programs for aged, blind, and disabled persons. Its basic concept is to assure that everybody who is 65 or older, or blind, or disabled, has a regular cash income every month. Those who do not have enough income from other sources, such as private pensions or social security checks, can get SSI checks as a supplement. Even with the payments, a person can own a home or car of reasonable value, have some savings and earnings from work.

During the calendar year 1975, $694,370,000 in SSI benefits were funneled into the State of New York. Nassau County received $20,831,000 for the aged, blind, or disabled.

SSI checks can be as much as $157.70 for an individual or $236.60 for a couple. Matching these payments in State funds could be as much as $61 for an individual living independently and $76 for a couple. All benefits are dependent on the individual situation of the applicant and are computed accordingly. Persons eligible for SSI payments may also qualify for medicaid, which pays health care expenses.

Individuals who are not currently receiving SSI benefits and believe they may be eligible should contact their nearest Social Security Administration office. Two offices are conveniently available in our immediate area: 59 North Main Street, Freeport, N.Y. 11520 and One Station Plaza North, Mineola, N.Y. 11501.

As your Congressman I will also be happy to assist you in any way that I can. You can write me at my district office, 150 Old Country Road, Mineola, N.Y. 11501, or my Washington office, House of Representatives, Washington, D.C. 20515.

ELIGIBILITY FOR EARNED INCOME CREDIT

Older Americans in the Fifth Congressional District should be aware of the special payment or credit available under the recently enacted Tax Reduction Act of 1975.

This payment, called the earned income credit, is available to persons with total incomes of less than $8,000 during 1975 and the payment can amount up to $400. Total income includes earned income from salaries, wages, tips or other employee compensation, and self-employment earnings.

For individuals with incomes up to $4,000, the refundable credit is 10 percent of their earned income only, to a maximum of $400. Qualified workers with incomes between $4,000 and $8,000 also are entitled to the credit, but the amount of the payment decreases $1 for every $10 of earned income or adjusted gross income over $4,000. No credit is allowable for those with incomes of $8,000 or more.

In addition to the income requirement, taxpayers must have maintained a home in the United States for the entire year for themselves and at least one dependent child who was under 19 years of age or a full-time student.

Additional information on this program can be found in the 1975 Federal tax package, mailed to all taxpayers. Other individuals should contact the Internal Revenue Service for a copy of free publication 596, entitled "Tax Benefit for Low-Income Individuals." In Nassau County, the telephone number is 248-3620.

HEALTH CARE COSTS AND THEIR CONTAINMENT

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. WIRTH. Mr. Speaker, the cost of health care is rising at almost 1½ times the rate for other goods and services in our economy. Various explanations for this phenomenon have been offered. Some experts say that the medical establishment is too dependent on hospital-based care—a type of care which has been encouraged by Federal programs such as medicare and medicaid and the Hill-Burton construction bills. Others suggest that the breakthroughs in medical technology, which enhance doctors' capabilities to sustain life, are too costly and are draining resources from other sectors of the medical services system. Clearly a drastic reevaluation and restructuring of our approach to providing health care is needed.

The materials inserted below present two analyses of the problem of containing health care costs: In an article that appeared in the Denver Post on January 18, 1976, Dr. Henry Foley, executive director of Colorado's Department of Social Services, and his associate, Mr. Michael Shonbrun, explore how the structure of our medical care system contributes to increased costs; and Dr. Kenneth Platt, director of the Colorado Foundation for Medical Care, testifies before the House Commerce Committee's Health Subcommittee about how physicians are getting control of medical care prices through the establishment of PSRO's.

I believe these discussions will be useful to my colleagues and to members of the public who are deeply concerned about this issue.

The articles follow:

[From the Denver Post, Jan. 18, 1976]

A PLAN TO CONTROL HIGH HOSPITAL COSTS

(By Henry A. Foley and Michael Schonbrun)

Americans paid a health bill of $118.4 billion in the last fiscal year.

This year the Medicare-Medicaid portion of that bill will grow to $25 billion. Next year the Medicaid budget will have increased $5.4 billion and addtional annual increases are expected to result in a $52 billion Medicare-Medicaid bill in fiscal year 1981.

Since 1970, public and private health expenditures have increased 43 per cent. Government figures reveal that the rate of inflation in hospital costs is approaching 16 per cent. This rate is greater than that for any of the other major components in the health index: physician fees, dental fees, or drug charges.

A recent survey shows that more than half of the country's Blue Cross and Blue Shield plans lost money in the first six months of 1975 and that private insurors are seeking premium increases ranging from 10 to 60 per cent to cover the increasing costs of claims.

The purpose of reciting this rather depressing litany of statistics is to make the point that the regulation of health costs—whether imposed by private or public agencies, is going to become an issue of increasing national concern in the late 1970s—whether or not a national health insurance program is adopted.

There are several causes for this rampant inflation in the health care field, especially in hospital costs, and they are inherent in the way the present medical care system is organized and financed. The problem is structural, not conspiratorial.

First, hospital cost overruns are not penalized by the reimbursement system utilized for 77 of Colorado's 85 hospitals. High costs are generated by unnecessary duplication of services and a surplus of hospital beds. Underutilization of facilities is not only costly, but also results in a low quality of patient care.

Consumers frequently lack the opportunity and the information to judge the prices and quality of health services and the incentive to shop around because they believe it will be their insurance (not "their own money") which will pay the charges.

The reimbursement system for hospitals in Colorado is based on "reasonable costs" paid retrospectively. It is an open-ended system with no ceiling or constraints. As administered in Colorado and elsewhere in the country, "reasonable costs" have been largely whatever the hospital has claimed.

Second, studies conducted by governmental and private health planners of bed capacity and community need have all consistently found that metropolitan Denver is "overbedded." Their estimates for metropolitan Denver in 1975 range from 420 to 872 unnecessary hospital beds, beds which, after accounting for reasonable fluctuation in utilization, are not necessary to meet the needs of the community. Because of the high proportion of fixed costs for hospitals—salaries of full-time, highly trained personnel required for patient-support services and day-to-day operations (nurses, pharmacists, lab techs, administrators, comptrollers), wages for maintenance personnel, financing costs accompanying the purchase of new medical equipment and the construction of new facilities—the cost of maintaining an empty hospital bed has been reasonable estimated at from 50 to 75 per cent of the cost of maintaining an occupied bed. In Denver, the cost of an unoccupied bed has been conservatively estimated at $30,000 per year.

If the range of estimates regarding the extent of "overbeddedness" is accurate (there appears to be no countervailing evidence), the annual cost to Colorado health consumers is between $12.6 and $22.6 million. Coincidentally, the latter estimate of $22.6 million in unnecessary costs is nearly equivalent to the total costs of providing in-patient hospital care for all Medicaid beneficiaries in the state.

Third, informed consumer decisionmaking, one of the basic reasons why the free market system has been so successful in this country, is essentially absent from the health marketplace. The decision to enter a hospital, to have a certain medication prescribed, or to have specific medical procedures performed, are choices which are not made primarily by the patient.

In addition, when the health of a loved one is at stake, usual patterns of consumer behavior regarding the purchase of an expensive good or service evaporate—time considerations and the opinions of experts then become of paramount importance. The desire to shop around for the best price or to look for an item of equivalent quality but at a lower cost is not a major force in the health marketplace.

Fourth, the pervasiveness of health insurance in the United States (recent surveys indicate approximately between 70 and 80 per cent of Americans have some form of health insurance) also undercuts the usual economic considerations regarding the purchase of goods and services. When the possible need for health care services is raised, the typical consumer question—"is this particular good or service worth the cost to me?"—is replaced by the response made by the patient (or by the health provider prescribing the health service)—"the monthly insurance premiums are being paid regardless of my utilization of health services. I may as well get my money's worth."

This common but fallacious assumption that insurance premium levels are unaffected by claims made or actual utilization levels shields the consumers or providers acting on the behalf of patients (as is the more usual case in the health field) from recognizing the future cost implications of their actions.

Hospital rates in Colorado are among the highest in the western United States and are reportedly close to the highest in the Rocky Mountain area.

This phenomenon of rising health insurance premiums for working citizens and increasing Medicaid-Medicare budgets for the aged and poor will continue into the foreseeable future unless there is appropriate intervention.

Given the failure of the health marketplace to selfregulate health care costs, there is a need for pervasive and extensive cost and rate controls in the medical care sector of the economy.

But with the abolishment of the federal Economic Stabilization Program in 1974 and President Ford's averison to regulations, there is a notable lack of federal response to this national problem. As a consequence, the responsibility to address the issues of spiraling health costs is left to the states. Perhaps this situation is for the best—for if Colorado can control costs, it may prevent massive federal intervention in the health care sector at a future date.

The solution to hospital inflation does not lie in a single approach but several recent research efforts sponsored by HEW and the Social Security Administration indicate that altering the mode of reimbursement from a retrospective to a prospective basis can produce considerable cost savings with no adverse affect evident on hospital quality of care.

Unlike the retrospective system, a prospective payment approach provides the hospital with a fixed budget over a fixed time period. The hospital must live within its means and, barring a catastrophe affecting hospital utilization or costs will be forced to "eat" any deficits which might arise. Under a true prospective system, there are few cost overruns.

The key issue in a prospective payment system is *how* the rates are set. Should these rates be set improperly, hospitals may continue to act in an inflationary mode or, alternately, may be forced into making drastic cuts which will adversely affect patient care.

Prospective rates may be set either by public agency or private organization. Publicly administered programs operate in New York, Maryland, Connecticut, and Massachusetts. Operational private programs exist in Indiana, Ohio, Pennsylvania and Wisconsin.

Evidence from other states has been compiled within the last two years showing the cost containment impact of this new reimbursement system. For example, Blue Cross of Western Pennsylvania asserts that $800,000 was saved in one year for the five hospitals participating in its pilot program. The rate of inflation among all hospitals in the State of New York has reportedly slowed from 19.1 per cent to 10.2 per cent to 6.2 per cent over the last three years. Wisconsin, Rhode Island and Connecticut all report similar savings.

The protection of the citizenry's health has traditionally been within the recognized police powers of the state—the same powers which authorize government to provide police and fire protection.

The continued escalating costs of health care threaten the ability of Colorado's citizens to afford necessary health care services.

Clearly, the private sector in health—the hospitals, nursing homes, physicians, dentists and other independent health providers—has a critical role in addressing this issue of rising costs. But the basic responsibility, the requisite legal authority, and the necessary impartiality to judge among competing claims for the health dollar make it clear that this area is particularly well-suited for public, not private decision-making.

Perhaps this perception might be different if Colorado Blue Cross were having more success with its prospective payment pilot program (a program involving eight hospitals that was mandated by the Colorado legislature 2½ years ago). However, in recent hearings conducted by the State Insurance Commissioner, Blue Cross spokesmen reported they still do not know if the program has been successful. Given that Blue Cross plans and participating member hospitals in other parts of the country have been running successful prospective payment programs without any government involvement which have lowered hospital costs in their areas, it appears that the Colorado Blue Cross plan and/or the involved Colorado hospitals are unable or unwilling to regulate themselves to control hospital cost inflation.

At any rate, there are several excellent reasons for state involvement in over-all hospital budgeting.

(1) The prominence of health and hospital care costs in the family budget—and the importance of good health as a basic need of all citizens—strongly suggests that action should be taken by the state to provide protections which individual citizens cannot achieve acting on their own.

(2) Hospital care by its very nature is not part of a freely competitive and effective marketplace, and hospitals are partially analogous to utilities in terms of their competitive situation.

(3) The government pays a substantial amount of money for medical care through Medicaid and Medicare.

(4) The state is charged with indirectly regulating how much citizens pay for health care through its authority over Blue Cross, Blue Shield and other health insurance rates.

(5) The state is in a position to view individual hospitals' needs, priorities, budgets, and operations in the context of statewide needs, priorities and resources for health care.

From the point of view of hospitals, it would appear that there are several good reasons for having a responsible and flexible state involvement in over-all hospital budgeting.

(1) At the present time, hospitals are often the object of uninformed or misunderstood criticism. Few persons outside of the hospital industry adequately understand hospital budgets and have the necessary data to fairly evaluate them.

(2) In general, both hospitals and critics are caught in the bind where hospitals say "our budgets are efficient and contain no fat, unless you can show they do," critics say "your budgets are inefficient and contain fat, unless you can show they don't," and neither party has an objective and independent place to turn for an unbiased evaluation.

(3) Hospital revenues are increasingly uncertain and threatened by piecemeal, though frequently necessary, state action such as the ceiling on Medicaid rates imposed by the legislature's Joint Budget Committee.

Establishing a strong state health facility cost commission would cost approximately $200,000-400,000 per year. It could be challenged as yet another needless bureaucracy; however, in the field of health care American citizens are more receptive to government intervention than in most other fields. Recent polls indicate significant support for the vigorous regulation of Blue Cross premiums and of hospital charges.

The need for a strong commission with broad authority over all hospital rates and hospital third party payers is well evidenced by the fact that since 1972 Colorado has had a limited prospective payment system through the Medicaid Program which has clearly failed to halt hospital cost inflation in Colorado.

The time to establish a rate control commission is now, during the 1976 Colorado legislative session. Delay only punishes the state's taxpaying consumers, the purchasers of hospital insurance, the poor, and the aged. Prompt action can result in a regulatory mechanism protective of the state's consumers yet equitable to the hospital providers.

TESTIMONY BEFORE THE HOUSE COMMERCE HEALTH SUBCOMMITTEE

Mr. Chairman, Members of the Committee, my name is Kenneth A. Platt. I am a practicing generalist from Westminster, Colorado, serving as the Medical Director of the Colorado Foundation for Medical Care (CFMC) and am here to testify as to the practical results of an operating PSRO and review programs in general. The experience that forms the background for this paper is derived both from my medical directorship of the CFMC and from being involved as the Chief of Staff of two large urban hospitals, and as president of my local and state medical societies. Copies of my oral presentation are available for the Committee's use as well as a few copies of a paper entitled, "Inpatient Quality Assurance From the Viewpoint of the Private Physician" which I prepared for a conference sponsored by the Robert Wood Johnson Foundation at Boston University in November of 1975. It offers a broader perspective on review programs in general than we have time to discuss here today.

In discussing the practical results of an operating professional review program, one must consider both the economic and professional impact of such review. It is understandable in these days of seemingly endless inflation of medical care costs that the economic issues are of more immediate interest and concern to those who bear the burden of those costs. Of equal and perhaps greater long-term importance, however, is the quality assurance aspects of such review activity. All of you are aware of the recent publicity given the oversight committee's statements on the frequency and costs of "unnecessary surgery" and the problems surrounding the identification and correction of the improper or inadequate delivery of medical care. Let me hasten to assure you that the profession is as genuinely distressed by incidents of negligence, gross incompetence or out-right fraud as are members of this august body and just as determined to identify and correct these deficiencies. We believe that the proper implementation of the PSRO and similar review programs will provide us with the mechanisms to accomplish both reasonable containment of costs and assurance of quality.

Although the PSRO program in general is in its infancy, some organizations have been in existence long enough to have acquired data that should be of interest in these deliberations. The CFMC has been involved in PSRO activity since August of 1973. Our initial 15 months of operation was under an experimental grant from the Bureau of Health Insurance and the Colorado State Department of Social Services to set up and operate a PSRO-type review on all Medicaid and Medicare admissions in some 95 general hospitals throughout the state of Colorado. This was accomplished by January, 1974, and since then, we have been operating in these hospitals first as a prototype and then for the past one and one-half years as an officially designated conditional PSRO covering the entire state of Colorado. Our scope of activity is largely the inpatient review of the Medicaid, Medicare and Title V patient, but we are, also, operating an experimental review program covering private patients in one large urban Denver hospital, and are in the process of working with private insurors and the Colorado Hospital Association to broaden this activity. In addition to the inpatient review mentioned above, we have been doing ambulatory claims review for four years. This encompassed the Medicaid program for the Colorado State Department of Social Services, and, also, some 40,000 private patients covered by self-insured or indemnification contracts through private carriers.

The CFMC has also done experimental work under the old EMCRO program in data development and analysis and in the long-term care sector. The knowledge gained from these projects formed the basis for a proposal to do a long-term care project as an operational PSRO in our next contract period.

Having established the background of our professional review activity—what about the results? Are we cost effective? Have we saved money? Is utilization down? Has quality improved? How about physician acceptance and participation?

The data represented by the charts that accompany this presentation was gathered during review activity spanning the years 1972 through 1975 for ambulatory review and 1973 through 1975 for inpatient review. The total federal inpatient admissions reviewed thus far is over 265,000 admissions in 95 general hospitals in urban, suburban and rural settings. The average cost per admission for our review activity has been $12.27 which includes the review procedure and technical back-up such as data profiling, physician advisor time, etc. That means a cost of 3.3 million dollars to review 265,000 federal admissions for 33 months that occurred between August, 1973 and December, 1975. That is a significant expenditure of tax money and the question immediately arises as to its cost effectiveness. To answer that let me first state that we have found that the use of the reduction of the average length of stay as a measurement of our effectiveness is subject to significant error.

Of more importance is the measurement of the number of hospital days used per 1,000 eligibles per year. Why is this so? Initially, the impact on the average length of stay may be quite favorable as your review process weeds out the one to two day diagnostic admission; the four to five day pre-operative workup; and shortens the average stay of the uncomplicated medical or surgical patient and changes the patterns of practice of the chronic over utilizer. Eventually, however, that is accomplished and the average length of stay will stabilize or go up somewhat as the patient mix shifts to the more seriously ill.

Let us look then at the calendar year 1974—the first full year of statewide review activity covering the federal inpatient in Colorado and use the number of days utilized per 1,000 eligibles as our index of effectiveness.

In 1973, the base year, the Medicaid program in Colorado experienced a 3.8% increase in the ratio of patient days per 1,000 eligibles. In 1974 with statewide review activity the program experienced a 9.5% decrease in the ratio of patient days utilized per 1,000 of eligibles, as well as a 9.9% decrease in the ratio of discharges per 1,000 eligibles. This would indicate a decrease both in the ratio of admissions and the days utilized by eligibles under the Medicaid program.

If we examine the Medicare program in Colorado using the same yardsticks, we find that in 1973 the ratio of discharges was up 1.7% per 1,000 eligibles although the ratio of patient days per 1,000 eligibles dropped 3%. In 1974 the ratio of discharges dropped 5.6% and the patient days utilized per 1,000 eligibles dropped 9.5%.

Let us take these figures and extrapolate the percentages based on trend analysis to the number of days of decreased utilization per 1,000 eligibles of both programs times the average charge per day. The results for 1974 as shown in the accompanying tables are as follows:

Medicaid: 154 days/1,000 eligibles=22,824 days.

Estimated cost avoidance (1974), 22,824 × $116.70=$2.7 million.

Medicare: 271 days/1,000 eligibles=55,222 days.

Estimated cost avoidance (1974), 55,222 × $87.57=$4.8 million.

$2.7 million+$4.8 million=Estimated $6.4 million of cost avoidance.

We recognize the immediate reaction is, "Yes, but", and appreciate the variables that may play a role in these results such as the economy; changing treatment modalities, etc. Granted these are of valid concern, it still is of interest to note the favorable comparison of an expenditure of $1.5 million and an estimated cost avoidance of $6.5 million for a 12 month period, and to note that this cost avoidance occurred during the first year of full review operations when all concerned were learning their respective roles. These figures are as accurately portrayed as it is possible to do so given the present state of our data base. The figures mentioned above would seem to indicate a cost/benefit ratio of ¼ which would certainly suggest the program is cost effective if these preliminary figures stand up to further scrutiny.

Let us now examine a broadening of the scope of review activity into ambulatory and long-term care review. We have been involved in doing ambulatory review under the State of Colorado Medicaid program since 1972, and with private patients under individual contracts over a similar period of time. This is an area of great delicacy since it projects the review activity into the physicians' office which, until now, has remained a refuge from increasing governmental and consumer scrutiny. It is a type of review that should not be undertaken lightly and yet we have felt it is an area of proper concern. Certainly, if the emphasis in the future is on increased outpatient care and services, then it will be natural to assume increasing responsibility in reviewing the utilization and quality of these services. Four years of experience has given us hope that this task can be accomplished with a minimum of professional harassment and with a maximum potential for quality impact.

The long-term care sector review is in its infancy and we can only talk in terms of hopes rather than results. In light of what we have learned during our years of experimental research, we believe that this area offers perhaps the greatest potential of all in terms of elevation of the human spirit and improvement in the quality of life for a segment of our population too long neglected by the general public. It is our sincere hope that the financial means will be forthcoming to allow the profession to adequately address this problem.

Lastly, let me comment on the issue of professional acceptance of these review activities and address the quality issue as well. To say that there is general acceptance of PSRO activity by the profession would be incorrect. There is, however, an increased willingness to accept the need for public accountability and professional responsibility in the areas of quality assurance and utilization review. It is my personal belief that the scales have now tipped so that it is the reluctance to adequately fund the program at the federal level that is causing greater delay in its implementation than is professional opposition to its concepts. In our PSRO area, for instance, we have as members some 57% of the licensed practicing physicians with a 66% jump in numbers in 1975. The number of physicians actively participating in the review process is 932 out of approximately 3,808 in the state or almost 25% direct involvement.

The emphasis of their activities and, indeed, of the Colorado PSRO in general will be increasingly devoted to the measurement of quality as the review of utilization becomes standardized and accepted. The issue of quality of care is dear to the hearts of all concerned professionals. The technical and professional difficulties of quality measurement are many, but not insurmountable and through the medical care evaluation studies of the PSRO program and other mechanisms such as the Joint Commission on Accreditation's Professional Evaluation Program will be addressed now and in the future.

In summary then, let me say that the professional community stands ready and willing to join with government and the general public to review the utilization of our medical care resources and to assure the quality of care rendered by practicing professionals. If the climate surrounding this common endeavor is one of mutual respect and trust, then the public can only benefit from professional review activity as embodied in the PSRO approach.

A HERITAGE OF TRUE GREATNESS

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. ROGERS. Mr. Speaker, it gives me great pleasure to take this opportunity to include in the Congressional Record, the very thought provoking speech written by my constituent, Mr. Mitch Danillo Susnor, Mitch Susnor, of Palm Beach, is the Florida State winner of the 29th Annual Voice of Democracy Program sponsored by the Veterans of Foreign Wars of the United States.

Mitch is presently a junior at Cardinal Newman High School. His reflections on our Nation's Bicentennial are timely. The perceptions that he elucidates allow one to evaluate on a personal scale, the rights as well as the responsibilities, that our freedom entails.

I recommend this thoughtful essay to all of my colleagues at this time:

ESSAY BY MITCH DANILLO SUSNOR

Small people meet and discuss other people . . . Concerned people meet to discuss events . . . Great people meet and discuss ideas. . . .

At another time, at another place . . . men of greatness gathered to discuss an idea . . . and that idea framed the boundaries of a nation . . . shaped the destiny of a people . . . and declared a scared value on individual rights.

Today, two hundred years later . . . in this country, every time you hear a new born baby cry . . . or hear a church bell ring . . . or see a day of voting begin, you can believe that the bicentennial soul of that idea lives on . . . and it gains its own peculiar perpetuity because that idea (given to us as a way of life some 200 years ago) has the inherent ingredients of strength, resiliency, and compassion.

The strength of that concept was tried and tested on innumerable times in our history. Through the terrible turmoils of civil strife, it has been pushed and pulled from within . . . its very fibre severely strained . . . but held. It has been further, constantly under surreptitious and open attack from without. But again, the firmness of the fibre refused to rupture, and many times the nations of the world have known the kind, compassionate touch of the concept when there has been unexpected devastation and disaster.

In this year . . . in which we reflect and remember . . . each of us, in our own personal way, knows that the strength, the resiliency, and the compassion emanating from that other time and that other place, are a part of our daily lives. More specifically, however, 200 years ago . . . each and every one of us here today, were granted rights of greatness, from men of greatness. Based on their concept, we now have the right to plan and to pursue . . . the privilege to desire and aspire . . . to reach for the outer limits of our capabilities . . . and most significantly, we have that most coveted of all privileges . . . to privately select and elect, those whom shall govern us. And most importantly of all . . . as it was then . . . as it is now . . . our heritage places a supreme value on our lives, and on our rights.

But, in this, the 200th year of our free existence, we must be both practical and factual. We must recognize that ours is the age of jet-computerize realism. Let us not be lulled to complacency by the candy-coated concept that being born free . . . guarantees that all will be free! This bicentennial time is not an automatic renewal of a passport to paradise . . . we must be prudent and productive . . . striving to benefit individually . . . yet joining hands to improve collectively. If we are strong from within, we will not be provoked from without. This, then, is a time to be vigilant and vigorous, to be alert to abuses, ready to rectify wrongs, to be knowledgeable and practical . . . so that we may accept the challenge of change.

We must step in cadence to the tempo of our time. You . . . and I . . . have a time-tested heritage to uphold, a sacred scale of rights and responsibilities to keep in balance . . . a treasure beyond measure . . . to live for, to die for.

The idea that has traveled from another time and another place is still the envy of the civilized world. It is a heritage of true greatness, a gift that defies the dimension of all greatness.

TRAGEDY IN ANGOLA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. McDONALD of Georgia. Mr. Speaker, as the tragedy of Angola draws to a conclusion, it is time to take a close look at American policy in that area. The Cuban Communist troops have won a military victory over their opponents. A Communist dictatorship is being established in Angola. The foreign press has received orders to leave. As in Vietnam, the atrocities will be carried out by the Communists without having to worry about the foreign press watching.

Henry Kissinger's foreign policy maneuvering has been a total failure. The attempts to appease the Communist dictator in Cuba resulted in a slap in the face to the whole world when Castro ordered his troops into combat in Angola. Castro, as usual, served Soviet, not Cuban, interests.

The tragedy in Angola goes back to the early 1960's when Holden Roberto, the leader of the Communist terrorist FNLA, lost the support of the Soviet Union. Soviet support was transferred to the rival Communist terrorist group, the MPLA. The Chinese Communists and the CIA threw their support to Holden Roberto's terrorists. The question apparently was never raised as to why the United States, if it had to support anybody, could not support responsible people in Angola who opposed terrorism and communism.

It is a subtle form of racism to believe that anyone except the white American deserves to live under Communist totalitarianism. The foreign policy of our Government for many years has consigned millions of people to the horrors of Communist domination. In Angola again we were given the grim choice of the Soviet backed Communist terrorists, or the Red Chinese backed Communist terrorists that had formerly received Soviet backing.

The American people are ready for a great debate on the subject of America's responsibilities to the rest of the world. We have to decide whether American aid abroad is necessary to maintain American freedom. If we decide on a "fortress America" concept and cut off the rest of the world, I believe we would be making a mistake. If we decide that it is necessary to support those who are fighting for their own freedom and ours, then we should not be supporting petty little Communist tyrants such as Holden Roberto. In Angola we did not support a viable alternative. Now is the time to reexamine American support for groups all over the world to determine whether these groups deserve our support.

The possibility exists that the Cuban troops now in Angola will be used in an invasion of Southwest Africa. There is already a Communist terrorist group functioning in that area, the Southwest African People's Organization, SWAPO.

If the Cuban invasion takes place, who will we asked to support? The people of Southwest Africa will be defended by the Republic of South Africa. Will we support some Chinese Communist backed terrorist group that will be chosen as the rival to the Soviet backed SWAPO?

Many of our problems around the world are directly traceable to the State Department-CIA support for Communists, Socialists, and assorted other enemies of the United States. This support must end. If we support anybody, it should be people who fight for their own freedom and ours.

WE MUST NOT LET A DAY OF INFAMY GET US ALL UPSET

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. DERWINSKI. Mr. Speaker, as we enter a week in which we will take up both the international security assistance authorization bill and the foreign assistance appropriation bill, perhaps it is practical for us to appreciate the direction in which the Congress is heading in foreign affairs.

A column which is both interesting and in a clearcut manner analyzes the present Congress was the one which was written by Columnist Michael Kilian and appeared in the Chicago Tribune on February 24, 1976. I insert it in the RECORD and feel that further commentary on my part is unnecessary:

WE MUST NOT LET A DAY OF INFAMY GET US ALL UPSET

(By Michael Kilian)

(Angola has become the fourth nation in a year to fall to Communist or Communist-backed troops. Many experts fear conflicts will erupt in other countries in Africa, but Congress seems little concerned. Was it always thus?)

PEARL HARBOR, December 7.—In an early morning surprise attack, air and naval forces of the Empire of Japan struck United States military installations here today with devastating effect.

Citing Dec. 7 as "a day that shall live in infamy," President Roosevelt called upon Congress for an immediate declaration of war.

Reaction from Capitol Hill was swift.

"Let us not be hasty," said Sen. Goober Gumphrey [D., Minn.]. "As every man, woman, and child in America knows, I stand foursquare behind our great country's defense needs. I deplore the action that Japan took. It's underhanded and sneaky. But, golly, we really ought to think very, very carefully before committing American troops to a land, sea, and air war in the Pacific."

"We shouldn't have been in Hawaii in the first place," said Sen. Forge Ungovern [D., S.D.]. "We seized those islands in an unjust, imperialist coup in 1893 that overturned the legitimate government. Many of the people in Hawaii are of Japanese descent. What right have we to interfere with their self determination? Hawaii isn't worth the life of a single American boy."

Ungovern was denounced by Sen. Bury Coldwater [R., Ariz.], who spoke out in support of the President.

"I say we should defend American territory no matter where we have to go to do it," he said. "I say we should bomb 'em and blast 'em and smash 'em until they realize that America can't be pushed around like that."

Coldwater was in turn denounced by Sen. Beech Buy [D., Ind.], who said American involvement in the Pacific would be "a costly mistake."

"Why, shucks," he said. "Where would it end? Next we'd be in Guam, Saipan, Iwo Jima. America can't afford it. What we need now is jobs, jobs, jobs. A war can't get us out of the Depression. We need to put more money into the WPA and the CCC."

Congressperson Bellow Abzurd [D., N.Y.] called the incident "a hoax."

"Who's to believe?" she said. "If the Japanese are so bad, why aren't the Soviets fighting them?"

Testifying before the Senate Foreign Relations Committee, Actress Jone Honda said we should go to war but on the side of the oppressed Japanese.

"We're against them only because the Japanese are of a different race," she said her eyes filling with tears. "They are a quiet, peaceful people who like to sit on cushions and drink tea."

She said she was leaving for Tokyo at the invitation of Gen. Tojo to see for herself that atrocity stories concerning Japanese treatment of prisoners were untrue.

Sen. Crank Lurch [D., Idaho], chairman of the Senate committee investigating unwarranted paramilitary activities by the Office of Strategic Services, said he had reasons to believe that the administration had arranged the Pearl Harbor raid as a means of justifying American espionage operations in Germany and elsewhere.

Sen. Wily Poxmired [D., Wis.] agreed.

"They're just looking for an excuse for more wasteful military spending," he said. "Next thing you know they'll be asking for Congressional approval for the unneeded, untested B-17 bomber and other useless weaponry. We have more than a sufficient number of biplanes and other aircraft that proved perfectly satisfactory in the last war."

Former Gov. Jimmy Barter said he could see the merits of Roosevelt's argument but, on the other hand, he could understand the other side's point of view, too.

Later in the day, Secretary of State Henny Slickinger called a news conference to say that, in consideration of the U.S.-Japanese rice deal and other matters, the President had modified his position and that a peaceful settlement of the dispute would be sought at talks being held on limiting the size of the American and Japanese Pacific fleets at present levels.

ELAYN HUNT: SHE FOUGHT A GOOD FIGHT

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. LONG of Louisiana. Mr. Speaker, the State of Louisiana has lost one of its most dedicated and valuable public servants. Elavn Hunt as director of corrections put forth all her energy and talent into bringing about needed reforms in Louisiana's penal system. Her presence will be sorely missed.

I wish to share with my colleagues an editorial which appeared in the Shreveport Journal on February 9, 1976, which pays tribute to this great woman:

SHE FOUGHT A GOOD FIGHT

Louisiana's prison reform movement suffered a setback with the death of Corrections

Director Elayn Hunt Tuesday in Baton Rouge.

The trail-blazer—one of only two women in the nation to hold the post of corrections director—actively sought the position she held in order to bring about reforms in the state's penal system. She was named to the post by Gov. Edwin Edwards in 1972.

It didn't take the strong-willed Mrs. Hunt long to discover that funds to effect the reforms weren't forthcoming. Undaunted, she continued to plod on, working with dedication, to secure funds to achieve progress. She met with measured success, but the penal system continued in the role of a step-child when it came to allocations.

At the height of her frustration, a federal judge last year ordered massive and immediate prison reforms in the entire system. Lacking resources to accomplish the seemingly impossible task, Mrs. Hunt considered resigning, but rejected the impulse to continue her fight. All of the things she and then-Warden C. Murray Henderson had been fighting for were contained in the court's order. Everything but funds.

The court's order marked the beginning of prison reform—something that had languished for years due to public apathy, the remoteness of the giant state penitentiary at Angola and a disinterested Legislature. One official pointed out with sarcasm that prisoners don't vote or pay taxes, nor do they have lobbyists working for them in Baton Rouge.

U.S. District Judge E. Gordon West, in his court order, stated that conditions at Angola "not only shock the conscience," but violate the rights of its 4,000 inmates, twice the number for which the institution was designed.

Official reports reaching Judge West indicated conditions at Angola bordered on the barbaric and inhuman, were grossly substandard and constituted an immediate danger to the life and well-being of inmates, and staff. In addition to overcrowding, the guard population was insufficient to maintain order. Violence was a common thing—brutal beatings, homosexual rape, intimidation, stabbings, slashings, shootings and a constant diet of death. Medical facilities were woefully inadequate and inmates were dying for lack of attention. There were serious fire hazards.

It was a small wonder that the jurist became incensed. He ordered the state, in the names of Gov. Edwards, Mrs. Hunt and Warden Henderson to correct the situation by hiring more guards, reducing the inmate population at Angola to 2,600 and decentralization of the prison within a two-year period. He blocked admission of any new prisoners at Angola until the 2,600 figure was reached, putting a strain on jails throughout the state.

The Legislature, which was in session when the court order was signed, ignored the issue, just as it had ignored the penal system for decades. It was an incredible exercise in poor government.

Gov. Edwards has resisted calling a special session of the Legislature to secure funds, possibly as much as $10 million initially, to comply with the court order. He may yet have to go that route if the state's efforts to have Judge West's order overturned are unsuccessful.

Meanwhile, what is the picture at Angola? What has been done in the seven months since the order was handed down? The changes have been slow in materializing, due to a lack of manpower and funds. By the end of the year, the inmate population had gone down to 3,500 and was dropping at a snail's pace. For prisoners who had cheered the judge's order and anticipated immediate improvements, the situation was discouraging.

Despite failing health and a series of setbacks that would have shattered the spirt of even the most determined, Mrs. Hunt worked 16-hour days for months prior to her hospitalization in December.

Mrs. Hunt, who used her maiden name professionally to guard her private life, was married to John Eicher, a Baton Rouge insurance agent. They had three children. There is little question but that Mrs. Hunt saw little of her family during those frantic months after Judge West's order. For that sacrifice alone, the citizens of the state owe the late Mrs. Hunt a debt that cannot be paid.

Mrs. Hunt proposed creation of specialized institutions, not just a series of identical little prisons all over the state. She told the Journal last year, "If you do the geographical location concept so that you're really trying to base that offender as close as you can to his home town, that means in every institution you're going to have to have maximum, medium and minimum security. You're going to have duplication of programming and of staffing. The system I feel will produce the most benefit will be the kind where you're able to transfer that man around as he shows some aptitude, or improvement and becomes eligible for one program or another—so that your staff will be zeroing in on that particular type of program."

Mrs. Hunt has fought the good fight. She has provided the guidelines for bringing Angola out of the dark ages and into the sunshine of reform. The rest is up to the public, the Legislature and state officials.

THE ATLANTIC CONVENTION RESOLUTION

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. FINDLEY. Mr. Speaker, the House International Relations Committee has reported favorably on a voice vote House Joint Resolution 606, the Atlantic Convention resolution.

Here are the facts about the resolution, expressed in responses to questions that are frequently asked.

Question: Why House Joint Resolution 606?

Answer: Several problems are so critical and complex that their management requires more effective unity on the part of NATO nations.

Most urgent is the deteriorated international security situation. It results from the relentless worldwide growth of Soviet military power and influence, and the progressive weakening of NATO's southern flank. The erosion of political will and unity has undermined a once vibrant security system.

Other critical problems relate to energy, nuclear proliferation, monetary trade policy, and the environment.

House Joint Resolution 606 starts a process through which more effective unity may be achieved in the management of these problems.

Question: Why a convention?

Answer: The convention will be a prestigious forum in which delegates from NATO nations will jointly assess these critical problems and focus attention on the necessity for more effective trans-Atlantic unity.

Question: What power will the convention have?

Answer: Only the power to recommend. Nothing more. Any declaration or other statement which may be agreed upon by the convention must be referred back to the U.S. Congress and individual parliaments for consideration.

Question: Is House Joint Resolution 606 a call for Atlantic Federal Union?

Answer: Absolutely not. It can accurately be described as a call for more effective unity of NATO nations. But it is not a call for a specific form of unity. The word federal appears in the resolution but once, and then only as a democratic principle which the convention may, or may not, consider.

The convention will deal with goals, rather than institutional changes. If, sometime in the future, a federal institution should be proposed, it would of course require an amendment to the U.S. Constitution and be subject to approval by the Congress and the States in normal constitutional manner.

Question: Will the U.S. Government or the American people lose any sovereignty—or risk such loss—under this resolution?

Answer: Absolutely not. Moreover, any proposal recommended by the convention would have no force or effect unless later approved by U.S. constitutional process. It should be noted that institutions like the European Community and NATO have had the effect of enhancing sovereignty, not diminishing it. Greater allied unity will protect rather than restrict national sovereignty. As it is, when disunity is exploited by OPEC or the Soviets, we all suffer a net reduction in our freedom.

Question: What will House joint resolution cost?

The 18 U.S.-delegates will serve without pay. The authority for the delegation will expire in 3 years, and in that time aggregate expenses under the resolution cannot exceed $200,000.

Question: What kind of action might be taken by the Convention?

Answer: To begin, it may decide to give first priority to ways of achieving more effective European unity, deferring the larger task of trans-Atlantic institution building until a later date. Or the Convention may elect simply to perfect our existing institutions rather than creating new ones. It may concentrate on better coordination in the field of defense and foreign policy, seeing these as the two most urgent concerns.

Question: Would greater European unity be an advantage to the United States?

Answer: Definitely. Greater European unity would be a wholesome event for U.S. policy and interests. For one thing, it would greatly simplify the conduct of our foreign affairs. It would be easier to coordinate policies with a single entity than with a multitude of states. In the security field, less energy would have to be devoted to reconciling differences of approach, doctrine, organization, and so forth. Once unified, Europe would lose its sense of inferiority and defensiveness vis a vis the United States; this would ease the recurrent strains in our relationship and guard against a renascence of Gaullism, so debilitating to our collective strength. Finally, a united Europe would be a tough nut for our adversaries to crack. No longer could one nation be played off against another, thereby draining the alliance of morale and vigor.

Question: Why is this a good time for such an initiative?

Answer: The build-up of Soviet force levels—both conventional and nuclear—casts ominous and awesome shadows across the entire Atlantic community. We do not know what the Soviets intend to do with this massive force, but we do know its size far exceeds what is required purely for purposes of self-defense or internal control in Eastern Europe. Greater trans-Atlantic unity is an important hedge against this uncertain but growing threat. The symbolic force of our unity can help to deter otherwise promising Soviet adventures, such as in the Balkans after Tito's death. Also, if we delay for much longer, our common problems—nuclear proliferation, environmental protection and monetary policy—may outrun our efforts to solve them.

Question: What does this mean for the less developed nations of the world?

Answer: Greater unity among the industrial democracies will help the interests of other nations. Greater unity means more effective mechanisms for aid, greater reservoirs of resources, and more creativity for dealing with problems of development. It is only natural that nations will do more out of a condition of strength and unity than selfish weakness. Moreover, the symbolic importance of unity among the industrial democracies will illuminate the world in a dramatic sense. Such an example will give sustenance to the forces for democracy in developing states, allowing them to combat the empty rhetoric of Marxism with the reality of a vital and reinvigorated Atlantic community.

Question: What is the significance of this resolution having originated in the Congress?

Answer: The Europeans are greatly impressed that this resolution emanated in the Congress rather than the executive branch. Many were beginning to feel that the Congress was turning inward. The Atlantic Convention resolution looks outward in a positive manner and thereby helps to create confidence in our sense of purpose and guarantees. This result will obtain irrespective of the specific conclusions reached by the convention.

HIP

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. **CHARLES H. WILSON** of California. Mr. Speaker, many of our largest companies, and even whole industries, are being criticized and are receiving bad publicity these days. Today, I would like to share with my colleagues a story that illustrates that there is another side to the coin.

Many large companies have programs that demonstrate their civic responsibility and show that they have a sense of belonging to their local communities. Unfortunately, stories about things such as that have no sensation value and are often considered too dull by newsmen.

Northrop Corp., which is located in Los Angeles and which is one of the largest aircraft builders in the world, is one of those companies that do much for the communities in which they are located.

There is, for instance, Northrop's high school involvement program, called HIP. This spring, 187 high school seniors from Los Angeles schools will participate in an on-the-job training program.

This training program is conducted during regular working hours at Northrop's Aircraft Division plants in Hawthone and Palmdale, Calif.

The HIP program is now in its fifth year. It is a cooperative program, with Northrop and five school districts—Antelope Valley, Centinela, Compton, Inglewood and Los Angeles—participating.

It is designed to help young people develop job skills and work experience in a real world environment that cannot be duplicated in a classroom.

HIP students spend 2 hours each day, from 1:30 to 3:30 p.m., at Northrop plants in a wide range of departments. These departments include engineering, data processing, manufacturing, personnel and finance. Each HIP student is assigned to Northrop volunteer instructor to work with the student on an individual basis.

These apprenticeships also earn the students high school credit for two classes.

The object of the program, of course, is to give these young men and women a chance to develop usable skills and gain self-confidence before leaving school for the working world.

Another facet of the program is that in addition to developing skills, the students are also counselled on how to find and apply for a job. Many HIP participants are students who have indicated that they do not plan to enter college, and thus will soon be entering the job market.

Possible enrollees in the program are first identified by high school career counselors. They are then interviewed by a committee of Northrop employees. The selection criteria include interest, maturity and aptitude for the work selected.

In the past 4 years, more than 600 seniors have completed the 16-week HIP program.

At this time, I would like to congratulate the 187 students who have been selected for this spring's HIP program and I would like to say "well done" to Northrop Corp. executives who have helped to make the plan a success.

LIFE SUPPORT CENTERS

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mrs. **SPELLMAN**. Mr. Speaker, in the debate surrounding the issue of abortion there is one fact upon which nearly all agree: That there are thousands of women with unintended pregnancies who are confused and unsure of the alternatives available to them. The needs of these women exist, and will continue to exist, regardless of how the legal status of abortion is resolved.

And, there is one category of women with such pregnancies who need our help most of all: The pregnant adolescent. There are so many conflicts facing these young prospective mothers, so many risks and even panic, that they turn to abortion without realizing that there are other ways to handle the situation. Although the pregnant teen may be aware of other alternatives, she sometimes encounters difficulty in obtaining the necessary assistance. We owe these young women a real alternative to abortion—one which will allow every prospective mother to consider all the possible avenues for help.

During the Senate hearings on the various proposals for a constitutional amendment to protect the right to life, some startling statistics became evident. Consider, for instance, the fact that one out of every seven girls between the ages of 12 and 17 will give birth to a child next year, and approximately 40 percent of these girls will give birth out of wedlock. This percentage, although a dramatic increase over that of the past decade, is expected to further increase in the next decade due to changing social attitudes toward marriage. Those girls who marry before they give birth may find themselves becoming a part of the alarming statistics that show that two out of three of such teenage marriages will be dissolved within the first 5 years.

According to the Census statistics, the number of teenagers is increasing both numerically and in proportion to the total population. Because changing social mores seems to be resulting in growing numbers of sexually active adolescents and out-of-wedlock births, specialists predict an epidemic of teenage pregnancies and single parent households in the future. One of the problems that will confront these new mothers will be the care of their children.

Of the 85 percent of teenage mothers who currently choose to keep their child at birth, large numbers will find it necessary to relinquish their children, because of economic and social attacks they must face. It is known that such separation often leads to the children suffering from irreversible emotional, and sometimes physical, harm. Likewise, the mother, with feelings of guilt and neglect, may join the growing number of teenage suicides.

Most alarming of the newly acquired statistics is the increase in pregnancies in the under-15-years-of-age group. This group is the only one in the childbearing years which is actually showing an increase in its rate of pregnancy as well as in absolute number of pregnancies.

These teenage mothers, still children themselves, and their children will continue to suffer if we ignore their needs. Despite the efforts of concerned volunteers and agencies and programs such as the Center for Teenage Mothers and Their Infants at Johns Hopkins Hospital in Baltimore, the costs associated with teenage childbearing are as unacceptable as they are unnecessary.

A major area of concern for these unprepared expectant mothers is the health factor. Health risks for the mother as well as the child are great. Medical evidence has shown that the teenage mother has a higher probability of health problems during pregnancy and delivery than any other group except for women 40 and over.

Nutrition should be an area of great concern to the pregnant mother. Normal teenage growth and good heath require increased nutrition, and it is known that the mother's health at the moment of conception plays a decisive role in formulating the expected baby's health. Yet often the teenage mother is unaware and unprepared nutritionally, and her lack of good health may result in pregnancy complications. It has been found that there are increasing incidences of toxemia, prolonged labor and iron deficiency anemia among teenage mothers. Similarly, a child born to a teenage mother, because of its poor health, is much more likely to die in the first year of its life than a child born to an older woman. Children born to mothers under the age of 15 have a mortality rate which is twice that of children born to mothers in their early twenties. Infants born to mothers aged 15 to 19 have a 52-percent higher mortality rate than children born to mothers between the ages of 20 and 24.

Present Federal policies are unfocused and ill-suited to meet problems faced by pregnant adolescents. Current Federal medical assistance programs have eligibility requirements which suffocate attempts of the mother to be self-sufficient, thus forcing the teen mother to go on welfare in order to obtain medical benefits. Since teenage mothers are often punished and expelled from the school systems, their incomplete education and lack of skills make them high risk unemployment candidates, dependent on the welfare public assistance system. Additionally, these mothers, because of the stigma of pregnancy, are forced out of normal social environments.

It is imperative that we help these mothers to adjust to their new life roles and that we help their children. Quite often the parents of the teenage mother cannot afford to help as much as they would like, or they may refuse to help entirely. Because of the confusion and proliferation of services, and because of the myriad eligibility requirements, they may not be able to obtain benefits they could use to stay together as a family; to help their child with her child. If we do nothing other than provide a coordinated series of services, we will have accomplished a great deal.

To begin this effort, I am introducing the Life Support Centers Act. Similar to legislation introduced by Senator BAYH last year, this bill provides health care services for pregnant adolescents before and after childbirth. It establishes national "life support centers" through State health agencies and nonprofit organizations, to provide a coordinated array of medical, social, and counseling services, including nutrition and adoption assistance if desired. Among the services offered through these centers would be: First, health care to the prospective adolescent mother, both pre- and post-natal, and including nutrition programs; second, health care to infants of adolescent mothers during preschool years; third, referral services to other agencies that may service needs, if such referral is deemed necessary; fourth, coordinated social services, including educational, vocational, legal, and social counseling for the mother; and fifth, funds to provide adoption services for adolescent mothers who are considering the voluntary placement of their child in adoptive homes.

This legislation limits the Federal share of assistance to such "life support center" programs to 75 percent of the cost, and authorizes $30 million in appropriations for the next 2 years.

In all the debate on the abortion question, there has been entirely too little emphasis on providing services to sustain life. The legislation which I am introducing today provides those services, to give pregnant adolescents the best possible care so that their children will have the opportunity to survive successfully.

Mr. Speaker, the bill follows:

H.R. 12197

A bill to amend the Public Health Service Act to provide health care services for pregnant adolescents before and after childbirth

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Life Support Centers Act of 1976."

SEC. 2. Title III of the Public Health Service Act (42 U.S.C. 201) is amended by adding after section 319 the following new section:

"SPECIAL SERVICES FOR ADOLESCENTS

"SEC. 320. (a) The Secretary is authorized and directed to make grants to health agencies of any State (or political subdivision thereof) or any other qualified nonprofit agency, institution, or organization (with the approval of the State agency) for originating, continuing, extending or improving programs involved in the provision of—

"(1) necessary health care to prospective adolescent mothers, including, but not limited to—

"(A) tests for pregnancy,

"(B) screening, diagnosis, and treatment of all prenatal and postnatal conditions, including nutritional deficiencies for a period of one year after birth; and

"(c) referral when appropriate to other agencies for treatments not covered under this section;

"(2) necessary health care to infants of adolescent mothers during their preschool years, including but not limited to—

"(A) medical examinations,

"(B) diagnosis and screening of—

"(i) nutritional deficiencies,

"(ii) visual and hearing defects,

"(iii) genetic birth disorders,

"(iv) mental retardation and learning disorders,

"(v) crippling and handicapping conditions, and

"(vi) catastrophic illness,

"(C) referrals when appropriate to other agencies for services not covered under this section;

"(3) family planning services;

"(4) a coordinated program of social services including educational, vocational, legal, social, counseling, and referral services (including adoption counseling) designed for adolescent mothers for the period extending to the point in time that the agency finds that parent and child are capable of caring for themselves; and

"(5) funds to purchase adoption services (approved by the Secretary) for adolescent mothers participating in a program established under this section who are considering the placement of their children in adoptive homes.

"(b) The Federal share of assistance to programs under this section shall not exceed 75 per centum of the cost of such program.

"(c)(1) Applications for grants under this section shall be made in such form and contain such information as may be required by the Secretary.

"(2) The Secretary shall approve only those applications which—

"(A) provide that the project for which assistance is sought will be administered by or under the supervision of the applicant.

"(B) set forth such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of Federal funds,

"(C) provide assurance that it will employ professionals skilled in maternal and child health, public health services, nutrition, and social services,

"(D) provide for cooperation with the State agency administering or supervising the administration of the State plan approved under title XIX of the Social Security Act in the provision of care and services, available under a project, for recipients eligible for such a plan approved under such title XIX, and

"(E) provide for the coordination of health and social services provided by the project with, and utilization (to the extent feasible) of Federal, State, or local health, welfare, and education programs.

"(d) Payments under this section may be made in advance or by way of reimbursement, and in such installments; as the Secretary may determine.

"(e) Nothing in this section shall be construed to require any project receiving financial support to compel any person to undergo any medical screening, examination, diagnosis, or treatment or to accept any other health care or services provided under this section for any purpose, if such person or his guardian objects.

"(f) No individual shall be required as a condition precedent for the receipt of assistance under this Act or any other law to participate in programs established or assisted by Federal funds unless such individual has given their informed consent to such participation.

"(g) There are authorized to be appropriated to carry out the purposes of this section $30,000,000 for the fiscal year ending June 30, 1977, and for each of the next two succeeding fiscal years.".

"'OPINION-MOLDERS' OFTEN FALL SHORT ON FACTS"

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. MADIGAN. Mr. Speaker, Mr. Mike Carr, the farm editor of Lindsay-Schaub Newspapers, has recently written a column which addresses itself to the subject of American grain. I recommend Mr. Carr's article to my colleagues:

"Opinion-Molders" Often Fall Short on Facts

(By Mike Carr)

Jack Mabley has built himself a reputation as a columnist with a concern for the common man.

Unfortunately, as I'm sure Mabley knows, too often one's concern for one common man is in conflict with the needs of another common man.

Mabley built his reputation and his following with the Chicago Today. When that paper folded, he was one of the stars brought over to the parent Chicago Tribune. I assume he brought most of his following with him.

Recently Mabley decided to express his concern for the people of Angola. It was a fine sentiment and a fine column—until the last paragraph.

Then he fell into the same trap that infects almost every big-city opinion molder I read.

Mabley quoted a missionary who formerly worked in Angola. The missionary said, according to Mabley:

"I just got back from South America, and maybe I'm a little out of touch, but I think one senator suggested that we get out of Angola and that we tell the Russians if they want us to send them any more grain, they'd better pull out, too. That makes sense."

Shades of the Meany mentality. Mabley and his missionary should sign on as special consultants to Henry Kissinger. He'd like them. They have the same distorted views as he does.

That makes about as much sense as Mabley telling me that if I don't stop writing derogatory things about him he'll stop sending me the Chicago Tribune. He doesn't own the Chicago Tribune and he doesn't send it to me. I buy it with my own money from a delivery boy who has a working agreement with the circulation department of the corporation.

The U.S. government doesn't send any grain to Russia, and it doesn't own any grain.

The Russians buy it from our large grain exporters who buy it from elevators who buy it from farmers.

And, unlike some of our friends, the Russians pay for it in dollars, gained by selling gold in the international market.

We don't come close to giving them any grain. In fact they don't even qualify for the credit terms we give to those nations who attack us every day on the floor of the United Nations.

But if Mabley and other influential columnists continue to assume that grain is the basic weapon in the U.S. diplomatic arsenal, it will become just that.

Once everyone is ingrained with the idea that all those crops—harvest with the sweat and financial investment of farmers—belong to "us" then the government will, in fact, control that grain.

It's already happening, of course. This year we are selling Russia about 13.2 million tons of grain.

But next year, under the terms of the widely heralded trade agreement negotiated by Kissinger's men, we can only sell them a maximum of 8 million tons.

Kissinger, remember, won't sell this grain. The State Department won't sell it. Gerald Ford won't sell it. Not even Earl L. Butz or the USDA will sell it.

The private grain traders will buy from the farmers a maximum of 8 million tons—perhaps only 6 million—and they will sell it.

The way things have been going lately, there is always the strong chance the Russians might be willing to buy more. That would make the market stronger and encourage the farmers to invest more in production and storage facilities.

But that won't happen. Even though it is a free market in theory, the farmers, through the grain trade, can't sell more than 8 million tons to the Russians.

The reason is that Kissinger and his crew have decided that's all they will allow to be shipped by that free, privately owned grain trade.

And the reason Kissinger and his crew can make such an agreement is because most of the people supporting them think the grain belongs to the U.S. And the reason all those voters in the concentrated masses such as Chicago think they own the grain is because opinion-molders like Jack Mabley naturally assume—in print—that this is true.

Eventually the voters will become so ingrained with that thought, that the government can step in and really take over the crops. Right now the planners don't have to do it with tax money and expensive bins, because they can do it more cheaply through trade agreements.

It is the nature of our business that people like Mabley don't read smaller, less prestigious commentators. So he won't read this.

That leaves it up to the common people to write and tell him the facts. Assuming, of course, you care as much about government encroachment on your marketing as you tell me you do.

CONGRESS SHOULD NOT BOW TO AUTO INDUSTRY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. STARK. Mr. Speaker, the Committee on Interstate and Foreign Commerce in past months has been marking up the Clean Air Act. One section of this bill which is of the utmost concern to myself, my constituents, and Americans everywhere concerns Federal auto emission standards. Each year it seems that an extension is granted to the automobile industry and each year oxides of nitrogen, hydrocarbons, and carbon monoxide levels continue to increase.

Why should the auto industry again be granted a reprieve? In the past, the auto industry has claimed economic infeasibility or technological incapability. The Federal Government has bowed to these excuses and only now, it seems, is seeing these allegations for their real worth.

This year the Clean Air Act approaches the House floor, the auto industry has again clamored for an extension of Federal auto emission standards. They have claimed that antipollution devices attached to cars deplete fuel economy. It is becoming clearer however, that the auto industry is incorrect in that notion. In an article appearing in the Los Angeles Times, February 27, 1976, the California Air Resources Board is reported to have dispelled the auto industry's current excuse for further postponing tighter auto emission standards. Test samples indicate that fuel economy will not be lessened. I commend this article to my colleagues and urge them to reject any new extensions. The facts are stated explicit, the message is clear: Do not capitulate to the auto industry. Clean air and fuel economy are no longer mutually exclusive. The two concepts can live together and we will all breathe a lot easier.

The article follows:

Autos Tested Uphold State's Smog Position

(By Paul E. Steiger)

Washington.—Test samples of automobiles to be sold in California during the 1977 model year indicate that the vehicles will meet next year's tighter state air pollution control standards with little or no loss in fuel economy, an official of the California Air Resources Board said Thursday.

The disclosure by Thomas C. Austin, deputy executive officer, lent support to arguments by environmentalists that Congress should resist pleas from the automobile industry and the Ford Administration to postpone tougher new federal emission-control standards now scheduled to go into effect in 1978.

The Administration wants to put off imposition of the tougher controls at least through 1981. Meeting the standards on schedule, Administration officials argue, would require use of devices that would reduce cars' mileage—thereby increasing U.S. oil consumption and creating greater dependence on imports.

Environmentalists and some congressional Democrats counter that, while some phasing in of the tighter standards may be necessary, total postponement—as the Administration proposes—is not.

Austin made his disclosure of California findings supporting this view at a meeting of key House members and top-level Administration aides. It was called to consider impacts on gasoline and public health of various proposals to stretch out or suspend the 1978 federal standards.

The Congressmen—Reps. Paul G. Rogers (D-Fla.), John D. Dingell (D-Mich.) and James H. Scheuer (D-N.Y.)—are members of the House Interstate and Foreign Commerce Committee, which is expected to finish work on one such measure next week. The Senate Public Works Committee already has approved and sent to the Senate floor a bill that would postpone the emission standards one to two years.

Administration representatives at the session included officials from the Federal Energy Administration, the Department of Transportation, the Environmental Protection Agency and the White House.

Austin said that in 1975, when Califorina imposed emission control standards tighter than the standards now in effect, cars in the state initially were getting an average of 10% poorer mileage than comparable vehicles in the rest of the nation.

The 1976 models, he added, have narrowed the gap somewhat. And on early tests of the 1977 models, the gap is narrower still and should approach zero, even though these cars must meet still-tighter California pollution control standards, Austin said.

Austin acknowledged that allowing the 1978 federal standards—which are even tighter than the 1977 California standards—to go into effect as scheduled could hamper efforts to improve mileage.

But he said the California experience suggests that the national standards could be tightened somewhat without any significant loss in miles-per-gallon efficiency.

The current federal standards for the three main pollutants from automobiles require limiting emissions of hydrocarbons (gasoline molecules in various stages of incomplete combustion) to 1.5 grams per mile, carbon monoxide to 15 grams per mile, and oxides of nitrogen (or NO_x) to 3.1 grams per mile. Next year, the NO_x standard will be automatically tightened to 2.0 grams per mile, with the other two standards unchanged.

The current California standards, by contrast, limit emissions per mile to 0.9 gram of hydrocarbons, 9 grams of carbon monoxide and 2.0 grams of NO_x. Next year, the state standards narrow to .41 gram of hydrocarbon emissions, 9 grams of carbon monoxide and 1.5 grams of NO_x.

The standards required under federal law by 1978 would represent a tightening of both the California and the national limits. The hydrocarbon standard would drop to the 1977 California level of .41 gram per mile, while carbon monoxide would be limited to 3.4 grams and NO_x to 0.4 gram.

At present, both houses of Congress seem disposed to stretch out or soften the 1978 national standards, particularly with respect to NO_x. Diminishing emissions of that pollutant below 1 gram per mile could foreclose massive use of diesel engines in 1980s, a technology that otherwise promises significant gains in mileage per gallon.

The bill voted by the Senate committee, for example would postpone for one year the hydrocarbon and carbon monoxide standards now scheduled to begin in 1978. NO_x would be held at 2.0 grams per mile until 1980, when it would be cut to 1 gram.

ECONOMIC ANALYSIS SHOWS THAT THE SMITH AMENDMENT TO NATURAL GAS LEGISLATION IS COUNTERPRODUCTIVE

HON. ROBERT (BOB) KRUEGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. KRUEGER. Mr. Speaker, recently the House, by a vote of 205 to 201 passed the Smith amendment to H.R. 9464, emergency natural gas legislation. That amendment was offered only 24 hours before the vote was taken, and was advertised as being a "compromise." Yet the only thing compromised by the amendment are the hopes of users to get more gas supplies. These hopes were compromised at the altar of punishing the major energy producers. Punished with them are consumers.

Since it may be possible at some later time this year to consider deregulation again, I am, at the suggestion of several colleagues who were unfamiliar with the Smith amendment, offering an analysis of it.

This analysis approaches the Smith amendment from an economic perspective. By closely examining the justification and methodology of the Smith amendment to H.R. 9464, we can assess its rationale and consequences.

Four major issues will be discussed. The first two issues, windfalls and market power, provide the rationale for field price—wellhead—regulation implicit in the Smith amendment. The discussion of these topics includes an examination of the methods of price control—that is, the segregation between "old" and "new" gas, and between independent and major firms—that spring from the rationale. The second two topics—new criteria for "just and reasonable" regulated prices, and the extension of regulation into the intrastate market—entail sweeping changes that must be carefully considered.

I. CONTROLLING "WINDFALLS AND ECONOMIC RENTS": "OLD" AND "NEW" GAS

The desire to control windfalls and economic rents to producers is implicit in the old/new gas dichotomy in the new subsection (9) proposed in section 4 of the Smith amendment. It is sensible public policy to seek to maximize production for consumers at a cost as low as possible.

The intention behind these old/new definitions is identical to the intentions underlying the Krueger amendment definitions. Both seek to distinguish that gas which would be produced under the regulatory status quo from that gas stimulated by higher prices. I sought in the amendment that I offered to give definitions based on precise physical and legal parameters—such as new wells, and new contracts—while the Smith definitions employ ambiguous notions of geological structure.

Conventionally, the notions of traps, formations, structures, reservoirs, pools, fields, basins, et cetera, are coextensive. The relevant meanings must be extracted from context: A geologist will refer to the relative degree of permeability of the rock in a certain area, a producer will refer to the area to be drained by a well, a regulator will refer to an administrative unit.

While recognizing the complexities of how various terms are used, let us look at the definition of "reservoir" implicit in the intention of the Smith amendment. The Smith amendment seems to assume a definition of "reservoir" similar to that found in FPC form 40:

> A porous and permeable underground formation containing an individual and separate accumulation of producible hydrocarbons which is confined by impermeable rock or water barriers and is characterized by a single natural pressure system.

Once the term has been defined, the problem is that to view a reservoir simply in these terms is to view it in a fashion almost completely uncorrelated with the economics of the industry. Determining the actual cost of recovering natural gas, and allocating the marginal cost of additional units that are recovered as one seeks additional supplies requires one to consider the depth of the reservoir, the amount of gas contained therein, the pressure, the density of the intervening strata, the proximity to pipeline and market, et cetera. The intensity of the exploratory effort is only one of many cost factors, and its importance varies from formation to formation. Many reservoirs have been "discovered" which are uneconomical to produce at regulated prices; the Homestead Act was passed to facilitate development of the American West—the West had been discovered long before.

The term "extension of a reservoir" in the Smith amendment—section 4, paragraph 9C—causes similar problems. Significantly, the terms "extension" and "reservoir" are difficult to compare; while a reservoir is some geological entity, an extension refers to an increase in proven reserves or a well of a given proximity to another well.

If defined simply in terms of proximity to an existing well—say, 1 mile—the extension concept will cause inherent economic distortion. Although it is only rational to define extension in terms of volumetric expansion of proven reserves—producible under current economic and operating conditions—the Smith language could lead to an interpretation of extension as simply the proximity to an existing well. There is no logical reason to separate gas produced from the same reservoir but outside of an arbitrarily defined area surrounding an existing well from that developed within a radius if they truly come from the same reservoir. The economics and conservation requirements of a particular drilling area may prohibit drilling within an arbitrarily defined physical area, and therefore one would not increase the production from that reservoir. Yet if "extension" is defined as a volumetric expansion of proven reserves, there will be expanded drilling as defined by current economic and operating conditions, rather than by an arbitrary definition of area.

Instead of providing greater incentives, such definitions of reservoir and extension compound the uncertainties facing the producer, thereby inhibiting production. First, a natural gas producer, prior to drilling, does not know what he will find. As a result, the producer faces inevitable cost uncertainties. Second, he also cannot determine prior to investment the prospective price of his product if he is a regulated producer under the Smith terms. Compounding the uncertainties of nature and geology with the uncertainty of being unable to negotiate a price for a product is certain to discourage drilling.

One must note, of course, that the Smith distinctions are somewhat more economically rational than the counterproductive current distinction between dedicated and nondedicated reserves. Yet, ignored are the inherent economic deficiencies in the "reservoir" and "extension" concepts; ignored are the problems of repressurizing and reworking older wells which might be abandoned; ignored are the problems of uneconomical discovered reservoirs; ignored are the problems of deep drilling in current reservoirs. All these involve expensive technology that can bring in additional gas; but this gas will be lost by the Smith amendment.

The Smith amendment seems to assume that there is great danger, under even such deregulation as it allows, of unnecessary "infill" drilling; that is, drilling of new wells into dedicated reserves in order to gain a higher, deregulated price from such reserves. Perhaps an aversion to such drilling explains the reservoir and extension concepts found in the amendment. Yet, since the relevant reserves in this case are dedicated to the interstate pipeline—if not, they would automatically qualify under the (9) (a) definition—then, why would the pipeline permit the producer to drill an extraneous well simply in order to qualify for the new price to be paid by the pipeline? There is no reason for the pipeline to conspire in this manner and there is good reason, economically, for the pipeline to resist. Sometimes the fashioners of greater regulation forget that pipelines are purchasers, and, as purchasers, they wish to purchase at as low a price as possible. Further, pipelines, as regulated utilities, seek to expand markets—through low prices—in order to extend their capital base. By so doing they enlarge their income, but they can do so only by extending their capital base. If, however, incentives for unnecessary drilling do exist, why are "independent" exempt producers considered immune from temptation? The amendment passed here reflects a mental attitude in which it is considered more important to punish the major energy firms than it is to develop national policy that makes sense and that gets needed supplies to consumers.

An additional problem with the Smith amendment is that it addresses the problem of potential windfalls in an economically deficient manner. That gas which will not be produced because of the Smith modification of the new well/new contract criteria will result in a windfall loss to consumers. This windfall loss results from the higher cost of substitute fuels and production processes. That such costs are indeed higher than that of incremental gas lost under Smith is unassailable: If these substitutes were not priced higher, there would simply be no market for the gas that would be produced under the Krueger definitions but will not be produced under the Smith definitions. Unnecessary windfall losses to the consumer should be resisted as well as windfall profits to the producer.

The offshore windfall problem is recognized in both bills but treated differently. Windfall profits to the offshore producers who have already secured leases arise from previous windfall losses suffered by the American taxpayers. The billions of dollars of bonus money paid by major companies for offshore leases did not reflect the true value of our offshore resources, because of the low FPC prices. The American people lost potential revenues from offshore resources, because of uneconomically low FPC prices. Under both the Krueger and Smith amendments, holders of current leases will produce under regulated prices. However, under Smith language, future leases will be sold below their true market value. This transfer of income from all American citizens to large energy consumers should be seriously questioned. What would happen is that all citizens of the country will be subsidizing that part of the population that uses the most energy. Those who are concerned about tax loopholes should recognize that here we have a "price loophole" that acts in the same way: the many subsidize the few.

II. MARKET POWER: LARGE AND SMALL PRODUCERS

Monopoly practices did exist at the time of the Phillips decision in 1954—the decision that began the process of wellhead price controls. It has been proven in unchallenged economic studies that there was pipeline monopsony power in the early 1950's: pipelines forced producers to sell gas at subcompetitive prices. The rise in gas prices during the 1950's is generally attributed to an increase in competition driving the subcompetitive price to competitive levels.

Regulation forced many smaller firms out of the field markets so that concentration has increased in natural gas field markets. Offshore leasing practices also fostered higher concentration, because most independent producers lacked the capital to pay large bonuses to obtain leases, and lack the capital for offshore drilling.

Market power is central to the Smith price regulation rationale; that is, the Smith amendment assumes that certain producers have a sufficiently large share of the market to force prices upwards, beyond the price that would exist if proper competition operated. By definition, if such market power does not exist, then prices will be competitive and hence reasonable. If there is market power, we must examine its origins, its effect, and strategies to deal with it. The Smith amendment accepts the notion of market power and segregates producers by production volume—100 million cubic feet per year. Is this distinction economically efficient or simply politically expedient? Techniques for studying industrial organization provide a useful analytical framework for viewing market structure, conduct, and performance.

A. MARKET STRUCTURE

The Smith amendment maintains that firms producing above 100,000,000 mcf per year have market power and other firms do not. Structurally, a division can be discerned in the industry although this division is considerably above the 100,000,000 mcf mark. A careful investigation of the cost implications of scale and the empirical examination of firm structure and behavior yields a conceptual division of the industry into high and low cost sectors. The "low cost" firms appear to specialize in high-risk activities—lease acquisition, research, new technologies, deeper drilling, large geophysical staffs, et cetera—and have individual market shares, in specific field markets, averaging between 5 and 15 percent. The high-cost firms specialize in low-risk activities—easily sellable at determined market values—which employ drilling equipment and field workers, and have individual market shares of less than 1 percent. These two market elements complement the activities of one another in a manner that minimizes risk and maximizes production, just as a diversity of investor types and institutions stabilizes capital markets and minimizes risks.

The period of regulation has allowed us to identify which firms can be considered low-cost firms. Cost advantages accruing from access to capital, experience, and economies of scale allowed only the lower cost, high-risk firms to expand their market shares significantly during the regulatory cost/price squeeze. The period 1961–71 is useful for this investigation because intrastate and interstate prices were at relative parity. The three dominant individual field markets—West Texas/New Mexico, Texas Gulf Coast, and Southern and Offshore Louisiana—should be individually examined. Which firms were significantly able to expand their market shares, betraying possible low-cost tendencies?

First. In West Texas/New Mexico, Gulf, Exxon, and Shell substantially increased their market share while other shares remained relatively constant or insignificant. Overall concentration actually fell, because the largest producer in the region, Phillips, declined. Gulf, Exxon, and Shell collectively increased their share by approximately 10 percent.

Second. In the Texas Gulf region, only one firm was able to expand its market share significantly; Exxon boosted its market share with three huge new contracts.

Third. In the crucial Southern and Offshore Louisiana area, now supplying almost half of interstate production, all of the top eight producers increased their shares slightly with Exxon and Gulf increasing their shares significantly. Exxon and Gulf collectively increased their share by almost nine percent.

So, then, only Exxon, Gulf, and Shell appear to qualify as structurally different firms. This structural difference is due to production advantages such as risk-spreading. Two other top firms, Phillips and Amoco, could not expand their market shares. The other top 10 firms still have insignificant market shares which were only able to increase slightly. After the top 10 firms, shares shrink to an average of less than 1 percent in each field market.

This examination renders the 100,000,000 mcf level unreasonable. Exxon, Gulf, and Shell each produce more than 650,000,000 mcf per year in the interstate market alone. Amoco and Phillips, without strong market share expansion, are also above this threshold. Examining the top 12 firms, after which the market shares in both the national market and individual submarkets rapidly diminish to less than 1 percent, the cutoff would be approximately 250,000,000 mcf in the interstate market alone. Though these figures—based on FPC reports—include some sales made in association with other producers—due to FPC reporting regulations—they do not include intrastate market shares.

In summary, the industry includes firms of diverse size, thereby rationalizing the cost structure. While current distribution is not arbitrary, the 100,000,000 mcf threshold is. The restrictions on the production of firms unnecessarily included in the regulated producer group will easily outweigh any conceivable advantages from regulating the handful of truly low-cost firms.

B. MARKET CONDUCT

Even though the 100,000,000 mcf cutoff is not justified by market structure, is there a justification based on market behavior?

Studies of market conduct usually focus on pricing patterns. If some firms are able to charge higher prices than others for similar services, they must have market power. To a large extent, field price controls have obscured market conduct patterns. However, even under regulation, average interstate prices do vary among firms, as can be seen by studying the annual FPC reports on sales of gas by producers to interstate pipelines. An analysis of FPC average interstate prices by firm statistics reveals that the top 5, top 10, top 25 firms all sell their interstate natural gas at or below the national average price—except for the Canadian firms selling at much higher than the average price. In contrast, many of the smaller producers sell at prices in excess of the national average. The Smith amendment, to the extent that it was successful, would cause an accentuation of this pattern, and all consumers would be subsidizing the independent producers in order to punish the major firms: Congress should surely be able to devise better legislation than that.

The Smith amendment also discourages joint ventures by restricting severely the circumstances under which joint ventures between majors and independents would be profitable. Major firms cannot have an interest larger than 20 percent without bringing the venture under FPC field price regulation. This punitive and irrational approach will discourage many ventures.

Although some proponents of the market power contention believe that joint ventures can result in unsatisfactory market conduct, economic studies indicate that joint ventures minimize risk and maximize capital investment rather than restrict production. Joint ventures are a tool by which medium-size companies can sometimes afford to engage in offshore activity. Significantly, only Exxon has been able generally to "go it alone" in offshore bids. If anything, joint ventures would tend to impede collusion, because such collusion would involve cooperation among many actors. Many firms would have to conspire and risk lease forfeiture.

Offshore leasing policies have caused higher levels of producer concentration. These policies sought to increase public revenues by offering large tracts and requiring large bonus bids instead of high royalties. Had the Government put less emphasis upon large lease bonuses, and more on royalty payments, independent producers—who have less cash—would have been better able to compete offshore. Market conduct should be carefully examined offshore; if abuses are discovered, new leasing policies and strict enforcement of Department of Interior regulations should be pursued.

A primary aspect of market conduct, induced by the uncertainties causing the low-risk/high-risk structural dichotomy previously mentioned, is the prevalent use of farm-out arrangements. In a farm-out arrangement, the major firm provides the geological and geophysical data, the lease, and part of the financing—dry-hole money—while the smaller firm provides the drilling equipment and manpower; proceeds are divided. This arrangement minimizes the risk exposure of smaller firms and allows them to exploit their operational advantages. The constant competition among all firms seeking the best arrangements in any given opportunity insures a highly competitive environment. Specialized skills are best exploited in this manner. The Smith amendments' restriction on the scope of these activities, a 20-percent limit on major firm interests, will distort optimum productivity mixes; economically, the problem is similar to that which would be caused by arbitrary limits on the constitution of investment portfolios. Major firms would be inclined to farm out only their least productive properties; dry-hole moneys will be reduced to the extent that major firm participation in revenues is restricted. The data obtained from farm-out drilling, a major source of small producer exploratory information, will be reduced.

In summary, there is little justification for the extension of regulation under the Smith amendment. Its presumptions of uncompetitive market conduct are not supported by the facts of the industry.

C. MARKET PERFORMANCE

The market performance question is one of appraisal from the perspective of broad public policy goals. It requires an evaluation of the net impact of the market structure alternatives.

Clearly, the Smith amendment would tend to restructure the natural gas producing industry. Some valuable functions of scale—specialization in research overhead, geological and geophysical information, lease acquisition in frontier areas, deep drilling—will be distorted. The Census of Mineral Industries indicates that the minor and independent producers who account for 40 percent of total production, drill, on average, to depths only half as great as those of the top producers; since their wells are shallower, their costs per foot average only 60 percent of that of the major producers. The largest producers, however, consistently account for the new, large discoveries.

These major firms will undoubtedly reduce their exploration and production activities if the Smith amendment becomes law. Royalty owners will naturally be inclined to lease the exempt firms, because the discounted present value of leases to these firms, and therefore the bonuses offered by these firms, will rise. Exempt firms will be able to pay more for drilling equipment and trained manpower than will regulated firms.

Further, exempt firms can be expected to reduce their exploratory budgets once they begin to reach the 100 million cubic foot threshold, since if they exceed that point, they will suddenly have to renegotiate their contracts and come under price controls. Anyone expecting commonsense legislation will be searching for a rational justification and will find only a political one. In theory, new forms of consortia should develop among exempt firms. Yet, except for coordination problems and an inability to muster a secure technological overhead—now provided by major companies—these joint ventures will function as do current ones.

Thousands of natural gas producers already exist. There is scant reason to expect that discriminatory legislation will increase competition. These is a diversity of producer scale—large-scale producers have not arisen by fiat or conspiracy—they fulfill a vital functional role. The real meaning of the Smith approach resides in the symbolic significance which it attaches to small firms. If the beauty of smallness which it presupposes is correct, similar statutory treatment of all industries should be forthcoming. In any case, the symbol is somewhat ludicrous. Current regulations already exempt extremely small producers and 100 million cubic foot per year is hardly a Jeffersonian ideal. If a symbol is desired, all the consequences of valuing that symbol should be examined.

III. THE SMITH NEW REGULATED GAS COST CRITERIA: PROSPECTIVE COSTS AND REASONABLE RETURN

The new section 24(a)(2) offered in section 8 of the Smith amendment defines two general criteria which the Commission shall take into account in establishing the national ceiling for regulated new natural gas. In establishing such national ceiling price, the Commission shall take into account the following:

> (A) the recovery of costs, including prospective costs; and
>
> (B) a reasonable rate of return which will provide incentive adequate to attract capital investment and to provide incentive for further exploration for, development of, and production of, new natural gas.

A. OPPORTUNITY COSTS VERSUS ACCOUNTING COSTS

The economically relevant costs are opportunity costs and not accounting costs. Market prices reflect these opportunity costs—producers will be able to incur and recover costs up to that level where the costs plus normal profit—capital costs plus risk premium—equal the price of substitute commodities. Competition insures this result.

Accounting costs are simply production expenditures. While these production expenditures may be adequate for some utility regulation, they are insufficient guides for new gas pricing.

First. If higher wellhead prices are allowed for natural gas, costs of exploration will also rise because there will be deeper drilling, drilling in frontier areas, new technologies, and so forth. So, in determining what are reasonable prospective costs, one must have a prior notion of what price, and hence what level of supply response, one seeks. This, of course, leads to a circular and irrational reasoning process that is avoided in the market where the supply/demand, price, and cost problems are simultaneously solved in the most efficient manner. The price criteria in the Smith amendment do not specify what are reasonable prospective cost and supply levels. Thus, FPC guessing and gambling, based on the evidentiary rules that have come to define costs in the utility industry, will probably be employed. Used in conjunction with a criterion that supply should equal demand, the prospective cost criteria can be helpful; of themselves, they are not.

Second. The major purpose of exploratory drilling is to improve estimates of the cost of economically developing a gas or oil field. Hundreds of so-called expendable wells are drilled solely for cost information. Cost estimates change daily, from region to region, from depth to depth, and so forth. Administratively, no bureaucracy can cope with this variety of costs. Once price ceilings are set, the FPC automatically inhibits this informational function of drilling if the regulated prices are less than the market prices.

The Smith amendment seeks, in section 24(a)(3) to offer exemptions for especially high-cost wells; however, the exemption is unworkable. Different prices will have to be set for each well depth. Where the dry holes/producing wells ratio is high, higher prices will be warranted. Each new frontier will beg a new price. The case-by-case cost determination procedure has already been tried and rejected. The FPC tried this method from 1954 to 1961, but concluded that even if their staff were to be tripled it would take until the year 2043 to clear its existing case backlog.

B. REASONABLE RATE OF RETURN: REASONABLENESS DEPENDS ON WHERE YOU WANT TO GO

A "reasonable rate of return" is mandated by the Smith amendment that would "provide incentive adequate to attract capital investment and to provide incentive for further exploration for, development of, and production of, new natural gas." The question is, of course: How much capital investment? And how far is "further"?

A third cost criterion could help answer these questions. An optimum level of exploration, development, and production would, first, provide for an equality of supply and demand so that consumers would not suffer windfall losses, and second, provide for a maintenance of reserve levels so that future consumers would not be penalized by current consumers. An additional proviso can be added to insure the avoidance of windfall monopoly returns: A lower price price would be reasonable in an instance where a producer could, by restriction of production—if this is legally possible—significantly raise his profits.

IV. EXTENSION OF CONTROLS INTO INTRASTATE MARKETS

Extension of artificially low, submarket pricing into the intrastate market reduces production and hence results in consumer windfall losses from unnecessary substitutions.

Proponents of the Smith amendment tend to claim that the extent of the FPC regulation will remain basically the same due to the small producer exemption—25 to 30 percent of total production—balanced by the intrastate extension—75 percent of the 40 percent intrastate market share. This distorts the picture and ignores the fact that current new onshore discoveries are almost totally encouraged by and dedicated to the intrastate market. Since the post-1972 rise in intrastate natural gas prices, the great bulk of signficant new gas discoveries—as reported by the American Association of Petroleum Geologists—have entered the intrastate market; the post-1972 rise in drilling was in direct response to high intrastate prices. So it is fair to say that new discoveries will be discouraged relative to the status quo, because of intrastate regulation.

One must also question the consumer welfare basis of intrastate control. The essence of consumer welfare is a wide range of consumer choice. Consumers in the intrastate markets have chosen the market system. Any residential or industrial consumer who prefers this system can reside in those States; any who do not can leave. Instead of limiting intrastate alternatives, it makes sense to expand interstate alternatives by giving consumers facing the curtailments the choices of substitution or higher priced new gas.

V. CONCLUSION: UNANSWERED QUESTIONS, NET IMPACT

A. UNANSWERED QUESTIONS

One. There are uncertainties generated by interpretation of the language which, until clarified, may result in great difficulties. Though sufficient legal grounds exist for some hypothetical small and large producer discrimination, such discrimination can not be arbitrary. Economically speaking, we have seen that the 100 million cubic feet threshhold cannot be justified by unique structural characteristics or market power manifest in market conduct. There is absolutely no discernable discontinuity between firms immediately above and below this threshold. Moreover, the Smith amendment has no legislative history—the rationale for the 100 million cubic feet figure cannot be found in committee or floor proceedings. The Court of Appeals in overturning Order No. 428, *Texaco* v. *F.P.C.* 474 F.2d 416, 430–431 (D.C. Cir., 1972) allowed for the possibility of price discrimination based on special problems and practices of small producers. Again, where is the discontinuity? While the courts have striven to maintain the classes of small firms as competitors, there are, after all, thousands of such firms extant today. Though the courts might uphold the Smith discrimination, it is doubtful that it will escape prolonged litigation. Such litigation would deter any immediate small producer from responding to the Smith incentives, given the highly sensitive venture capital on which these firms rely.

Second. How is one to explain to a consumer that he cannot get gas, because his pipeline reserves are controlled by a major company? How is one to explain to a consumer that his prices are higher, because of the size of the producing firm? How is one to determine which gas can be obtained by which pipeline? Do such practices result in the most efficient allocation of resources? Is conservation enhanced?

B. NET IMPACT

Whether or not the Smith amendment will result in a slight net improvement or loss relative to the status quo is an empirical question contingent on the following variables:

The workability of the old/new gas definitions and the extent of the deviation from economic reality.

The relative balance of windfall gains and windfall losses to the consumer resulting from the ability to continue old gas production versus the inability to obtain new gas from dedicated fields not exempted under the new gas definition.

The extent of the negative impact of the industrial restructuring. The extent of the decrease in research and technological overhead, frontier lease acquisition, et cetera. The disruption of conventional complementary production arrangements between large and small firms.

The actual new gas prices emerging from the new pricing criteria. The extent to which such prices will seek to balance supply and demand and increase reserve levels. The workability of the special prices allowed for high cost and risky production.

The net negative impact of the intrastate extension on new discoveries balanced by the positive impact of the independent exemption. The disruption of producing-State economies and the macroeconomic impact of such disruption.

The efficiency of allocation resulting from such a multplicity of prices and the result of the inevitable litigation with respect to the producer discrimination.

We are being asked to trade in an old car that leaks gas and will not run for an attractive new sportscar that leaks gas and breaks down after the first mile. There should be no sympathy for the old vehicle and no illusions about the new one.

NORTH CAROLINA DRAMATIST, PAUL GREEN, HONORED

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. ROSE. Mr. Speaker, on Thursday, February 26, I participated in North Carolina's bicentennial celebration. The Cumberland County Bicentennial Commission in Fayetteville sponsored a series of activities commemorating the mustering and the marching of the Highland Scots and the Patriots, commanded by Col. Robert Rowan, on the day before the Battle of Moore's Creek Bridge.

The Scottish highlanders and citizens loyal to the British Crown were to join forces with British troops and crush the Revolution in the South. But, the Patriots intercepted the Loyalists at Moore's Creek Bridge and defeated them.

Following this historic commemoration of the mustering and marching out of the troops, I was privileged to attend a presentation of Paul Green's "The Highland Call," a play about this historic battle at Moore's Creek.

PAUL GREEN HONORED

Mr. Speaker, it is not possible for me to list all of Mr. Green's achievements. Since 1920 he has written and produced 68 plays and dramas, 11 screenplays for films, 8 novels, and 6 books of poetry.

In addition to writing "The Lost Colony," "The Common Glory," and

"The Highland Call," he has written seven State bicentennial dramas which are in production, and he is currently working on two others for Maryland and Texas.

A Pulitzer Prize winner—"In Abraham's Bosom"—he has served as president of the National Folk Festival, president of the National Theater Conference, a member of the National Institute of Arts and Letters, a member of the Executive Commission of the U.S. National Committee for UNESCO, a delegate to the UNESCO Conference in Paris, and a member of the Board of Directors of the American National Theater Association.

Mr. Green has received a number of awards, among them the North Carolina Achievement Award, the University of North Carolina Distinguished Alumnus Designation, the 1974 Citation for Distinguished Career in the Theater, from the National Theater Conference, as well as six honorary university degrees.

The Honorable James E. Holshouser, Governor of North Carolina, presented Mr. Green with a Distinguished Citizen's Award on Thursday evening prior to the Fayetteville Little Theater production of "The Highland Call."

THE HIGHLAND CALL

The play is a symphonic dramatization of the battle for independence in the Cape Fear Valley. The Highland Scots, seeking peace and the good life along the river, become embroiled in the battle against their king.

Flora McDonald, the legendary Scottish heroine, along with her family and fellow Scots, seeks to avoid a violent clash with rebellious friends and neighbors who are fighting for freedom. Up and down the Cape Fear River, families struggle with the decision of whether or not to join the Patriots or remain loyal to the King. The tension and the breaking of old loyalties is evident in the play as friendships sever and families split over the coming war for independence. The clash at Moore's Creek occurs when those Scots who choose to support the British, march south toward the coast en route to join British forces there. The Patriots soundly defeat them.

Paul Green wrote "The Highland Call" for Fayetteville in 1939 to recognize the 150th anniversary of the ratification of the U.S. Constitution which occurred there. It is one of his favorite dramas since it takes place in the area settled by his forebearers. It was particularly appropriate for North Carolina's first Bicentennial event since it dealt with one of the major battles of the American Revolution.

Mr. Speaker, I wish to pay tribute to Paul Green. He has served his State and his country well through the past 56 years as he has recorded and dramatized not only where we have been, but who we have been. I am pleased that the Cumberland County delegation to the North Carolina legislature will introduce a bill to make Paul Green the Dramatist Laureate of the State of North Carolina. At this time of celebration for who we were 200 years ago, it is also fitting that we should celebrate and recognize those who are making important contributions today. Paul Green is surely one of the most notable citizens of these United States of America.

ENERGY-SHORT EUROPE PONDERS RESOURCES, SYSTEMS SHARING

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. ULLMAN. Mr. Speaker, the article which follows is from the Sunday Oregonian Forum, Portland, of February 15, 1976. It is the first in a series concerning problems and alternative solutions to them that confront every one of us. I hope Members will find it as useful and informative as I do:

ENERGY-SHORT EUROPE PONDERS RESOURCES, SYSTEMS SHARING TO MEET EVER-GROWING NEEDS OF POWER-THIRSTY HUMANITY

(By Forrest E. and John W. Rieke)

This Nation is struggling with energy problems of immense size and complexity—a dilemma shared with other industrialized nations, all facing energy uncertainties of the future.

Citizens and governments throughout the world are engaged in a debate on available choices of energy systems, such as fossil, geologic, nuclear or solar. Sharp differences are expressed on the amount of energy required and the safety and feasibility of alternative resources.

Paramount in the minds of those entrusted with energy planning is this: Will there be enough energy to fuel the voracious factories, transport systems, communities and mechanized farms?

Advocates of one energy form or another seem polarized, often on single issues; they speak for growth or no growth, limitation of population, conservation, or a single energy source. And discussion, often, has been laced with fear or exaggeration by special interests.

During our visit to Western Europe to study energy systems, it became obvious that whatever energy solutions the world chooses, the United States will be implicated. All those interviewed agreed that the outcome of the great energy debate will strongly affect America's economic patterns, lifestyles, health and relations with other nations.

Energy debaters are frustrated by issues that span centuries, involve rich and poor nations throughout the world, and subsume a diverse array of highly technical fuel systems.

It is clear that Western Europe has made its choice, though the debate may continue elsewhere. All of the small industrialized countries in Western Europe have embraced nuclear technology without flinching and have undertaken management of the associated environmental problems.

Lessons learned by small nations in the European community are relevant to pending U.S. decisions. For most of the years since World War II, these countries have lived with scarce resources and energy. Lean plans and unpalatable alternatives have been accepted as the price of survival.

Boundaries and political enmities have been submerged in favor of cooperation, resource pooling and, to some extent, research sharing. These nations have combined money and talents in joint planning, research and technical development. Systems of communication, transport and power transmission have been integrated.

Our visit to Western Europe last fall is an extension of a similar 1972 trip in which we examined health and environmental aspects of coal and nuclear power generation in the United Kingdom. We returned to this task burdened with several assumptions:

That equitable sharing of energy supplies is needed because some countries have the advantage of great rivers, constant sunshine or large supplies of oil or coal, while others are chronically starved for energy.

That even with the best conservation practices, nuclear, solar and other substitutes for fossil fuels will be needed due to the gradual depletion of accessible fuels and increasing world energy demands.

That a reduction in the use of energy will trigger explosive changes in habitat, transport and social configurations. The United States has thrived on change, but social metamorphosis has been spread over many decades. An open society can alter an energy intensive system, but it will require unusual understanding and self-discipline by the public, and time.

That U.S. decisions on energy await a national consensus on the level of personal consumption, modes of travel, the extent of mechanization and acceptable environmental damage. Only within such parameters can appropriate energy plans be defined.

But the choice is not wholly ours. U.S. options are tied to decisions in developing nations that expect to receive a much larger share of energy and its concomitant food and labor-saving machines. We shall have to share and probably do with less.

That human health, comfort and progress are affected by the availability or shortage of energy. These are powerful motivators; wars have been fought over supplies of energy and peace is more certain if energy can be equitably shared between nations.

With these assumptions in mind, we visited England, Scotland, Belgium, France, Switzerland and West Germany, focusing our inquiry on the following items:

Anticipated energy resources; formulation of national energy policy; plans for the acquisition and use of fossil and nuclear fuels; production and management of nuclear fuel and reactor products; safety and safeguards for new reactor systems, for plutonium and other transuranic elements; and cooperation between nations in resolution of world-wide problems of fuel management and environmental protection.

What we learned, at nuclear, research and educational centers, newspapers, associations and government offices, is that each nation in the European community shares common energy denominators. Following are some overview observations:

Each nation in Western Europe suffers in differing ways from rapid, unanticipated escalation of the cost of energy. Impact of OPEC (Organization of Petroleum Exporting Countries) actions in 1973 has been profound, but muted by two successive mild winters and depressed industrial demand.

In face of scarce indigenous fuel and soaring fuel prices, each of these nations has turned to nuclear power generation as an alternative source of energy.

There are 29 operable power reactors in the United Kingdom, 10 more in France, 3 in Switzerland, and 6 in West Germany, with several dozen more under construction or on order. The nuclear commitment is irrevocable.

Based on their experience and research, these countries assert that radioactive fuel wastes and reactor products, such as plutonium, are and will continue to be managed safely. Radioactive debris and fuel wastes are in long-term storage; studies are underway to determine the best mode of solidification and site for permanent storage.

Singly and in combinations, the U.K., France and Germany anticipate profitable business in the manufacture and reprocessing of nuclear fuel. Their commitment, then, to the nuclear alternative is not only one of increasing energy supplies for themselves, but also one of marketing nuclear techology to others as a money-producing export.

Breeder reactors and high converter reactors are considered essential "next steps" in the development of a nuclear-based economy. Uranium ores and enriched uranium are costly and finite; fuel stocks of plutonium and residual uranium-238 are relatively abundant, so each nation is moving quickly toward development of the breeder which uses those elements as fuel.

Breeder reactors, either developmental or in prototype, are operating in the U.K., France and West Germany (as well as in the United States). Each of these nations is sharing symbiotically in technical developments, in metallurgy, fuels, engineering and validation of safety standards. But the Europeans are counting heavily on access to continuing large scale nuclear research in U.S. laboratories and are somewhat troubled by increasing delays and slippages in the U.S. breeder program.

There is sharing of research and development among nations, but there is also intense competition between them for a share of the world market in reactor technology and components. For most of these European nations, substantial sales of nuclear hardware and technology could mean an economic windfall that could significantly improve their balance of payments position.

Within the European Economic Community and sub-groups, multinational corporations and agreements have emerged to permit costly nuclear development. These "consortiums" have been formed to pool money and technology for the production and reprocessing of fuel, development of new types of reactors and integration of power systems.

In spite of limited resources, each nation has committed impressive sums of capital to research and development of advanced nuclear technology—a spending priority at least proportionate to our (the U.S.'s) own nuclear-related emphasis as seen in the annual Energy Research and Development Administration (ERDA) budget.

Scientists, engineers and administrators, both governmental and corporate, are in close touch with the official U.S. nuclear establishment and U.S. private industry. Many European leaders and technicians participated in the Manhattan Project or were trained in U.S. nuclear centers. European reliance on U.S. nuclear expertise was readily seen.

Under heavy economic pressure, each European nation has established a top-level board, special commission or ministerial task force to review energy resources and utilization, relative to population growth, employment needs, environmental effects and total economic impact of project development. Deadlines are short. There is a sense of urgency that is missing in the United States.

In administering and governing nuclear research and power production, authorities and agencies of several European countries accept parameters set by international bodies, such as the International Atomic Energy Agency, an arm of the United Nations.

Tightened security is in vogue for pipelines, transport systems and fuel centers, forced by political unrest and efforts to sabotage.

One nation (Germany) is examining feasibility of a single site for breeder reactors, fuel production, fuel reprocessing and subsurface storage of solidified nuclear wastes.

Opponents to nuclear power have a small, but growing influence in each nation on licensing, decision-making and the rate of growth of nuclear power. Within governments and the nuclear industry, these antinuclear groups are considered an "undesired U.S. export."

Barriers between historical rivals have been lowered by attempts to solve shared energy problems. Prolonged dialogue and mutual interdependence in governing nuclear energy systems has created a genuine community of interests in Western Europe.

Steadily growing nuclear industries of Europe, Japan and elsewhere have addressed their own energy needs and have turned eagerly to manufacture and sale of entire nuclear systems to many other nations.

These vendor nations have ruptured constraints on nuclear proliferation. They have agreements with purchasers which interdict diversion of reactor products to military purposes. In the present climate of commercial expansion, however, these "agreements" have little or no significance.

The U.S. government must continue to search for an international system of shared management of reactor fuels, radioactive wastes and nuclear weapons. Future generations of reactors will produce products which must be successfully managed; technology exists from such management, according to Western European scientists, but political determination to enforce security measures is not in evidence.

Doubts are encountered among research leaders that fusion power generation will prove economically workable. These doubts, combined with recent successes in breeder prototypes, strengthen the commitment in Western Europe for the breeder alternative.

COMMUNITY BASED HIGHER EDUCATION

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mrs. LLOYD of Tennessee. Mr. Speaker, Dr. Ann Ackourey, executive director of Cumberland College in Lebanon, Tenn., recently addressed the annual meeting of the National Council of Independent Junior Colleges. Dr. Ackourey's statement is a thoughtful and penetrating analysis of the future of education, particularly the role and importance of community based higher education. I believe my colleagues will find much to think about in Dr. Ackourey's words:

The Open Curriculum: A Futurist View to Performance-Oriented and Community-Based Education

We are halfway between World War II and the beginning of the 21st century. Society is undergoing change at an incredible rate. The amount of technical information available doubles every sixty years. One hundred thousand magazines are published annually in sixty languages, and the number has doubled in the last ten years. Ninety per cent of all scientists who have ever lived are now living. The physical-social-psychological conditions of life—especially in industrial societies—change markedly every decade or less. This headlong acceleration of change has taken a greater toll of education than most people realize. These are some of the trends of today that are affecting us now and will most likely affect our future as two-year colleges. As Rilke once said, "The future enters into us in order to transform itself in us long before it happens."

According to the report of the Carnegie Commission, "Purposes and Performance of Higher Education in the United States: Approaching the Year 2000," too many functions have been taken on by those in higher education. Consequently, the effective development and operation of academic programs have often been bungled. Many of us who work in the two-year college also recognize that 19-century curricula, classrooms, teaching staff patterns, and organizational structures are simply not appropriate to current or to future demands and situations. With the potential market for higher education hovering around 104 million persons aged 18 to 60, it is clear that they do not and will not provide the types of learning experiences that tomorrow's student needs to meet. If we do not do something about this situation we could very well be faced with future decreases in enrollment. The Task Force of the National Council of Independent Colleges and Universities, for example, claims the number of students over a nine year period in fourteen states has decreased markedly.

According to our best known futurists such as Robert Theobald, Herman Kahn, Dan Bell, and Alvin Toffler, several societal considerations need to be made right now by us in our two-year colleges. These include the rise of the:

1. service economy.
2. knowledge society.
3. impact of political power.
4. leisure ethic.

In actuality, these imply that society now and one prepared for the future will demand as sustained effort at individual skills renewal and intellectual reorientation. The decisions of commerce and industry have and will continue to have a greater impact than any other American institution. By the year 2000 the socio-economic profile of each central city will be much closer to that of its metro area than is the case today. And only ten percent of the work force will be growing and manufacturing all the goods produced by our national economy. Most of our society will be engaged in service activity rather than factory production. We will be affected by what Toffler calls the "eco-spasm"—an economic and ecological upset. We will be undergoing more education and will have more leisure. And as a result of the service, knowledge society, political power, and leisure ethic trends, the time will come when our colleges working with society will not permit the misuse or abuse of our land, water, air, and mineral resources.

Many books have been published about future trends for the two-year college. In the main, these have stated that colleges will tie plansite classrooms to televised instruction originating on the campus and will make available audio-video tape instruction or computer instruction on relevant subjects for the community. Apprenticeship, internship, and in-service training will be used more widely than today. Learning pavillions will be designed and operated to encourage and facilitate independent adult learning, and these will be developed in urban centers and in areas that are far removed from colleges. Public libraries and museums will become central sources for guidance and independent study to meet the objectives of the college.

Since accepted facts of one era even one decade, then, usually become outgrown misconceptions in the following one, the student's first and most important step will be to learn how to be self-directing in the areas and subjects he has chosen. He will learn to locate problems, pose questions about them, collect data, formulate and test hypotheses—much like the scientist and historian. Basically, the development of these skills is what the Open Curriculum is all about. It replaces the "delivery service" provided by traditional educators with a laboratory designed to stimulate experimental discovery of new dimensions of knowledge and experience. The Open Curriculum aims to help a student start his own probing for patterns in experience and principles of organization which will have a universal application. The concept of deferred satisfaction, a cherished middle-class tenet that stipulates that education prepares one for the future, is very much in question today. For many it has failed to produce the "good life" in terms of vocational opportunity and life style. The Open Curriculum not to be confused with the Open Classroom will have some of the following characteristics:

1. Community facilities and resources will be used in the college's services. Programs will be made available in industrial plants, churches, business establishments as well as in college classrooms.

2. The two-year college will serve as "broker" in seeing to it that identified post-secondary educational needs will be met either through its services or other appropriate institutions.

3. Since half our population will be fifty years old or older by the year 2000, college programs will be performance-oriented. Retirees will become a potentially powerful gerontocracy. Frequent entry and exit points will be required. The student will be expected to move into and out of the college or institution as he has needs and opportunities. Higher education will be recognized not as a task to be completed but a process to be continued.

The Open Curriculum model to be effective, then, requires the efforts of all three college components: the student, the faculty member, and the administrator. These must be more functionally interrelated than they typically are now and focused continuously and realistically on current social realities. As David Riesman wrote in "Education in the Age of Science," "We try to bring together and connect things that are often kept apart, whether these be disciplines of orders of data or methodical ways of thinking."

Let's look at some of these futurist views as they affect the student, the faculty, and the administrator. What are the implications of the Open Curriculum for the student? In terms of flexibility, he will be able to identify and freely choose the kinds of learning that seem to make sense because of their relations to what he already knows or wants to know. The question is not one of authority; when educators give up authority, the student's freedom is not necessarily increased. Freedom of choice is not motion in a vacuum—it is motion in a continuum.

He will become adept at using reference books, periodicals, paperbacks, old textbooks, new ones, cassette recorders, head phones, opaque projectors, filmstrips, filmstrip projectors, slides, slide projectors, screens, maps, video tapes, to name some. The student will be responsible for meeting certain stated criteria for mastering a subject, as opposed to the traditional method of information exchange and testing for understanding of that information.

What, then, are the implications of the individualization and flexibility of this kind of curriculum for the student's professor? The professor who is not satisfied with the way the student is learning will put less emphasis on what the department chairman, dean, and president want the student to know, and will try to find out what the student himself wants to know. A teacher entrusted with the responsibility of teaching will not permit grades, reading speed, standardized tests, quizzes, final examinations, percentiles, schedules, memoranda, fifty-minute periods, or assigned books to computerize, standardize, compartmentalize, or mesmerize him. He will rely solely on where the indices place the student; he will be concerned with finding out where the student's personal time and place and thinking are.

More specifically, he will see to it that the activities and experiences mutually planned by him and the student are executed well. He will identify the blocks and values of the student so as to get past his defenses and be able to communicate with him on several levels. His directions, explanations, and demonstrations will exhibit a sound philosophy of order and structure. His method for assigning students to groups will be based on the social backgrounds of the students, identified student problems, and variations in student abilities.

As the student demonstrates his readiness, the faculty member will introduce the self-management phase of his learning. He will review student progress in terms of a linear curriculum and administer the evaluation system flexibly and individually, so as to encourage each student's strengths, his individual development of skill or understanding. Finally, he will be a facilitator or learning companion instead of a learning director but will still maintain control by virtue of his role as a guide, advisor, listener, and resource person.

Kahlil Gibran in "The Prophet" summarized these points when he wrote: "If he (teacher) is indeed wise, he does not bid you enter the house of his wisdom, but rather lead you to the threshold of your own mind."

Now, where does the administrator fit into this futurist plan? His role is that of a substantive planner. His basic job will be to provide the conditions—physical, fiscal, and institutional—which will permit and encourage teachers and students to cope with change and to renew themselves as always, personally and professionally. The Newman Report, "Report on Higher Education," the Worth Commission Report on Education, "A Choice of Futures," and documents from various UNESCO meetings suggest the key part the administrator plays in an effective academic program.

The administrator will be one who balances the numbers and the quality of those numbers, whether they refer to class size, student-faculty ratios, classroom utilization, student credit hours produced, or cost per unit. He will help to establish college priorities by re-assessing fundamental college goals and reviewing strategic and tactical planning decisions. He will link the college's plans to the surrounding community, the feeder school system, and other colleges and universities. He will involve to a greater degree students, faculty, and the community in resource management decisions. He will educate citizens of his state that the two-year college saves the taxpayer money by reviewing public policy to expand state-supported institutions while two-year college facilities lie underutilized. His overall aim will be to bring about a dynamic, self-renewing, two-year college.

The administrator, then, will be an enthusiast—one whom B. C. Forbes describes as a "man consumed with earnestness of purpose, with confidence in his powers, and the worthwhileness of his endeavor." To that he adds, "Enthusiasm is the electric current which keeps the engine of life going at top speed."

The Open Curriculum, then, is flexible; it is based on team work—students, faculty, administrators, and staff all working together to gain mutually determined objectives. Its success will not depend on any specific structure of bricks and mortar or on a complex table of organization. It will be adaptable to either traditional or "newer" patterns. The cost will be no more; instead of new college facilities, facilities on site are or will be used. No additional faculty will be needed since regular faculty will be reassigned from their home base and by personnel from community-based institutions.

A community or junior college that elects the Open Curriculum is a place in search of reasonable means to adapt to future changes for a better society. Most importantly, the student is guided by individuals who are people-oriented; he is not just processed through a system girded by bureaucratic structuring. Structure is not sacred; people are.

In conclusion, the principles underlying the Open Curriculum as a futurist's view to performance-oriented and community-based education suggest answers to some important questions:

Who is a student? A human being, not an instrument.

Who is a professor? A facilitator of learning, not a manipulator of fact-finding.

Who is an administrator? A master of teaching, not a master of teachers.

What is learning? A life-long journey, not a one-stop destination.

What is discovery? Questioning the answers, not merely answering the questions.

What is the process? Discovering ideas, implementing values, not only covering theory and principles.

What is the goal? To open minds, not to close issues.

What is the test? Searching, discovering, being and becoming, not just looking, answering, viewing, and reviewing.

And the two-year college? A place in which all of us work and respect each other to make it what we want it to be!

CUTBACK IN KOREA FOUND TOO RISKY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. DERWINSKI. Mr. Speaker, some of our colleagues have been pressing for years for various amendments to our military assistance bills which would withdraw our troops from the Republic of Korea at this critical juncture. I have opposed such moves in the past since I believe our troops there are essential to preserving the peace on the Korean peninsula. I would like to call to the attention of our colleagues, a new book entitled "Defense and Deterrence in Korea," by Ralph N. Clough, professor of international relations at American University. This study was published by the Brookings Institution, a Washington "think tank" well-known for its generally liberal views on public policy questions.

A summary of Professor Clough's conclusions was recently published in the February 13 issue of the Washington Star. I should like to insert this article in the RECORD at this time and urge all of our colleagues interested in our national defense to read it:

CUTBACK IN KOREA FOUND TOO RISKY

(By Vernon A. Guidry, Jr.)

With the fall of Indochina and the withdrawal of most U.S. forces from Thailand, the approximately 40,000 U.S. servicemen in South Korea make up the last substantial U.S. military presence on the Asian mainland Is it ripe for a reduction?

A study of the issue finds little sentiment in Washington for cutting back on U.S. troops in Korea and, according to analyst Ralph N. Clough, there are good reasons for that.

The study was conducted for the Brookings Institution by Clough, a Brookings consultant who is professor of international relations at American University.

"Because the consequence of renewed conflict in Korea would be so serious, the United States should avoid taking actions that would weaken the deterrent to a North Korean attack," Clough wrote. "No U.S. forces should be withdrawn unless there are good grounds for confidence that South Korean forces plus a credible U.S. determination to intervene militarily will continue to deter (North Korean Premier) Kim Il-sung, as they have for over 20 years."

As Clough points out, the main justification for maintaining the army's Second Division and a U.S. tactical air wing in South Korea is to reassure Japan of the U.S. commitment to maintaining peace on the Korean peninsula.

"No matter how vigorously the United States argues that (its) withdrawals did not significantly affect the military balance in Korea, it would probably be impossible to blunt the political impact," Clough writes.

Withdrawals now, Clough continued, "would increase the risk of an attack on South Korea by North Korea and cause many more Japanese than in the past to seriously consider alternatives to reliance on the U.S. security commitment.

"This danger appears to be generally recognized in Washington," the study reads. "Pressure in Congress for an early reduction of U.S. forces in both Europe and Northeast Asia has slackened. It seems widely accepted that time is needed to evaluate the effect of developments in Indochina on the global position of the United States before deciding whether it is advisable to further weaken the U.S. military position overseas."

South Korean President Chung Hee Park has said he expects South Korea to be militarily self sufficient in four to five years. Clough proposes that the United States maintain the forces it now has in Korea for at least two years. After that, he continues, planned reductions in U.S. ground forces could be made after consultation with "South Korea and Japan."

Even at that, Clough recommends that U.S. air power remain in South Korea until tensions have been so sharply reduced that neither the government in the South nor Japan feels a U.S. presence is necessary.

"There is no satisfactory substitute for a significant U.S. combat force stationed in Korea as an earnest of U.S. intentions," Clough maintains.

The question of U.S. tactical nuclear warheads on the peninsula is another matter, however.

"Tactical nuclear weapons were introduced into South Korea when a combined Chinese-North Korean attack seemed a possibility," Clough says.

"At present, however, when the possibility of direct Chinese military intervention is discounted, the need for a tactical nuclear weapon against North Korean forces fighting alone is questionable."

Clough acknowledges that domestic American support for a policy of continued U.S. military presence will depend in part on easing of the oppression of human rights in South Korea.

BEA SOLOMON'S BICENTENNIAL SALUTE

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. WALSH. Mr. Speaker, one of the purposes of the Bicentennial celebration is to look back and study the history of this great country. However, that is not the only purpose for the observance of our Nation's 200th birthday, because one of the things Americans should also do this year is look ahead to the future.

What is in store for this, the greatest and most highly technological country in the world?

What can we expect from the coming years?

Bea Solomon, president of the Syracuse Symphony Opera Club, has put into words and music the feelings of many Americans during this Bicentennial Year about the future. The song she has written, entitled "What Will They Say?" is the theme of "An American Birthday Party," a day-long event celebrating the Bicentennial to be held in Syracuse in the spring. The presentation will trace the involvement of an American family and their descendants through 200 years with emphasis on 1776, 1876, and 1976.

Ms. Solomon, producer of the event, is a member of the Syracuse Symphony Orchestra corporate board of directors, director of the Opera Theatre of Syracuse, participates in the Syracuse Ballet Theatre, the Syracuse Federation of Women's Clubs, and the Syracuse Club of Zonta International, of which she is Bicentennial chairman.

She is New York State honorary chairman of the Muscular Dystrophy Association of America and is the recipient of the Syracuse Press Club trophy and citation as Central New York's First Lady of the Theater. She is also an honored Syracuse Post-Standard Woman of Achievement in Musical Theater.

The words to "What Will They Say?" evoke deep national pride and are very patriotic. We should reflect on them as we look toward our bright future. In words and music, Bea Solomon expresses her own love and devotion to this great country. I am pleased to share this spirit with my colleagues.

"WHAT WILL THEY SAY?"

What will they say about our country someday,
What will they say about the USA?
And when today becomes a yesterday,
Then tell me, what will they say?

What do we say today about our yesterday,
What do we say about the USA?
Searching for truth ev'rywhere in ev'ryway,
Tell me, what do we say?

Wo say:
That in the first '76 we did awake,
Declaring rights never to forsake.
"Independence for one and all to take!"
This promise we did make.

That in the next '76 we gathered 'round,
Our voices ringing out as one in sound:
"When words become deeds they will be found
On American ground!"

That in the third '76 we pledge this nation
Allegiance with a new dedication!
"Bicentennial celebration
Brings true consecration!"

So, what will they say about our country someday,
What will they say about the USA?
Then—when today becomes a yesterday,
Oh, we pray, *that* is what they too will say.

A BILL TO REGULATE TOXIC SUBSTANCES

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. MOFFETT. Mr. Speaker, there is currently pending in the House Commerce Committee a bill that would comprehensively regulate toxic substances and require that new chemicals be tested in the laboratory as opposed to being tested on the populace. Congress has attempted twice before to enact legislation to deal with this area and has unfortunately failed. I trust this time we will be successful.

I find it persuasive evidence of the growing public anxiety over the problem of environmentally caused cancer that, on March 5, the Hartford, Conn., unit of the American Cancer Society in conjunction with Westledge School is going to sponsor a symposium on cancer and the environment—a Connecticut challenge. This will be a step toward educating the public to the realities of the causative relationship between the toxic chemicals being introduced into the environment and the rising toll of human cancers.

Daily it becomes clearer that a depressingly high percentage of these cancers are environmentally caused, perhaps as high as 70 percent. Therefore, I would like to place in the RECORD, for the solemn consideration of my colleagues, excerpts from an article written by Samuel S. Epstein, M.D., Swetland Professor of Environmental Health and Human Ecology at Case Western Reserve School of Medicine, and made available by the Environmental Study Conference:

1. THE NATIONAL TOLL OF CANCER

Cancer is now a major killing and disabling disease of epidemic proportions. More than 53 of the 210 million U.S.A. population (25%) will develop some form of cancer, and approximately 20% of Americans now die from cancer.

It is estimated that 665,000 new cancer cases were diagnosed and that there were 365,000 cancer deaths in 1975. Thus, cancer deaths in 1975 alone were eight times higher than the total U.S. military deaths in the Viet Nam and Korean war years combined.

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No age, sex, or ethnic group is spared from cancer. Cancer is a leading cause of premature death at all ages, including infancy and childhood. Cancer has also been induced following maternal exposure to carcinogens, as recognized in post-adolescent girls whose mothers had been treated in pregnancy with diethylstilbestrol.

The total economic impact of cancer is massive. Estimates indicate that in 1969, the direct costs for hospitalization and medical care for cancer exceeded $500 million. It appears that the total direct costs for a particular patient range from $5,000 to over $20,000. The direct and indirect costs of cancer, including loss of earnings during illness and during the balance of normal life expectancy, were estimated at a total of $15 billion for 1971.

2. THE RECENT INCREASING INCIDENCE OF HUMAN CANCER

The rate of recent increases of cancer deaths is more rapid than the rate of increase in population, and is even more rapid than the increase in the overall rate of death. It is of interest to note that there are only three major causes of death which have significantly increased in the recent past; these are cancer, homicide, and cirrhosis of the liver. This increase in new cancer cases is real and is over and above that due to any increase from age alone. The cancer death rate appears to have approximately tripled since the beginning of this century, in spite of advances in diagnosis and cure. It is of interest to note that the major improvements in 5-year cancer survival rates occurred prior to 1955, and appear to reflect advances in surgery, blood transfusion, and antibiotic therapy, rather than in cancer chemotherapy.

The earliest year for which cancer death rates are available is 1900. These rates were crude, not adjusted for age, and were based on approximately half of the United States population living in 153 cities in 10 states. The mortality data from the National Center for Health Statistics, created in 1933, are based on the total U.S. population and are age adjusted. Overall crude cancer death rates since 1933 have increased annually by about 1% until 1975, when the increase for the first seven months was reported to be about 5%; the reality of the 1975 increase appears to have been independently confirmed by Metropolitan Life Insurance data. A substantial proportion of this increase since 1933 has been from lung cancer and is due to smoking. Similar large increases have been noted in other organs, particularly in Blacks, in whom some of this increase could well be apparent and reflect the increased availability of diagnostic facilities. In spite of the increase in overall cancer rates and the increase of various specific organ rates, there have been significant declines in rates for other such organs as stomach and cervix (included in Uterus in Table III); it is of interest that there is evidence of a recently increasing incidence of cervix cancer, which possibly may be associated with the use of estrogens by post-menopausal women. The "spotty" changes in cancer incidence and death rates over the past few decades have, in fact, provided major epidemiological clues as to environmental causes of cancer in various organs.

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It is of particular interest that a recent National Cancer Institute (NCI) atlas on cancer mortality rates, in different counties, has demonstrated marked geographical clustering of rates for various organs in the U.S. White population in heavily industrialized areas. Such data are presumptive of associations between cancer rates in the general community and the proximity of residence to certain industries.

Apart from the importance of occupational factors in the incidence of cancer in the population-at-large, specific occupational exposures are a major cause of cancer deaths, particularly in males. Various estimates have indicated that approximately 10% of all current cancer deaths in males are occupational in origin. These include lung cancer and pleural mesotheliomas in insulation workers and in others, such as construction workers, exposed to asbestos; bladder cancer in the aniline dye and rubber industry, induced by such chemicals as 2-naphthylamine, benzidine, 2-aminobiphenyl, and 2-nitrobiphenyl; lung cancer in uranium miners of Colorado, in coke oven workers, and in workers even briefly exposed to bischloromethylether; skin cancer in cutting and shale oil workers; nasal sinus cancer in wood workers, cancer of the pancreas and lymphomes in organic chemists; and angiosarcoma of the liver, besides other cancers, in workers involved in the manufacture and fabrication of polyvinyl chloride.

The toll of cancer in particular occupational exposures is overwhelming. For instance, it has been estimated that about 50% of asbestos insulation workers die of cancer, and that 20% of all long-term asbestos workers die of lung cancer. Approximately 30% of all premature deaths in uranium miners are due to lung cancer. Many other occupational groups are at high cancer risk, including steelworkers, miners and smelters, rubber workers, and workers in a wide range of petrochemical industries.

3. ENVIRONMENTAL CHEMICAL CARCINOGENS AS A MAJOR CAUSE OF HUMAN CANCER

There is now a growing consensus that the majority of human cancers are due to chemical carcinogens in the environment and that they are hence ultimately preventable (See Supportive Reference Nos. 7, 12, 27 and 84, Appendix). Numerous estimates by expert national and international committees indicate that 70–90% of human cancers are environmentally induced; the Director of the NCI recently concurred in these estimates, and placed a figure of 90% as the incidence of environmental cancer. The basis for such estimates largely derives from epidemiological studies, in large community populations over extended periods, which have revealed wide geographic variations in the incidence of cancer of various organs. In some of these studies, the role of specific environmental carcinogens has been implicated or identified.

There is also now general agreement that the U.S. population and workforce has been and is being continually exposed to a wide range of known and identified chemical carcinogens in their air, water, and food, besides, in all likelihood, to a greater range still of unknown or untested carcinogens. Potent new chemical agents are being synthesized and introduced into commerce and the workplace at an exponential rate, generally in the absence of adequate testing for carcinogenic and for other adverse public health and ecological effects.

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5. CONSTRAINTS TO A MAJOR REDUCTION IN THE INCIDENCE OF HUMAN CANCER

a. *Absence of Toxic Substances Legislation—*

There seems to be strong a priori grounds for associating recent increases in cancer mortality rates with the increasing synthesis and usage of industrial chemicals, and concurrent exposure of large human populations, over the last four decades.

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Such increases are likely to have occurred in other industrialized countries, although perhaps later and less dramatically than in the U.S.

It is not possible now to estimate the proportion of these novel chemicals which pose carcinogenic, besides other, hazards to man. Except for some special-purpose regulations in the area of pesticides, food additives, and drugs, however, this massive post-war efflorescence of petrochemical technology has occurred largely unrestricted by national, much less international, controls. There has been no general requirement for pre-testing of chemicals, prior to manufacture or use, for carcinogenic or other adverse effects. As a consequence, it is likely that many carcinogens have been in wide use, whose effects may only manifest now, or in the next few years or decades. The case of vinyl chloride may well be a harbinger of other carcinogens from this generation of materials. Recently recognized as an occupational carcinogen, vinyl chloride was originally introduced into large scale production in the 1950's, and synthesis grew at about 15% per year until about four billion pounds were manufactured in the U.S. in 1970. Of the vinyl chloride workers identified by June, 1974 with confirmed diagnoses of hepatic angiosarcoma more than half, however, had received their first exposure prior to 1950. It is interesting to note that the chronology of the development of recent data on the carcinogenicity of vinyl chloride has been recently reviewed in a report of the AAS Committee on Scientific Freedom and Responsibility (Edsall, 1975). This report documents the suppression of carcinogenicity data by the Manufacturing Chemists Association (MCA), allowing continued exposure without warning of tens of thousands of workers to high concentrations of vinyl chloride.

Toxic substances legislation is critically required to enforce the requirement for toxicological testing, in general, and for carcinogenicity testing, in particular, of new chemical agents prior to their introduction to commerce and the workplace. Failure to enact such legislation is likely to result in still further increases in the incidence of cancer in the coming decades. It is of interest to note that various adverse economic impact analyses of such legislation, in general, have failed to consider or reflect the very substantial, and hitherto externalized, costs of human cancer. Illustrative, is the Congressional testimony of 7/11/75, by the MCA and Foster D. Snell Co. who expressed "—concerns on the huge costs and inflationary pressures—", inherent in such legislation.

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Currently, the federal government is meeting the bill for carcinogenicity testing of potentially profitable chemicals and products through the NCI bioassay program, through the NCI program on "safe cigarette testing", and through limited federal intramural programs, such as in the FDA. Clearly, national policies should be established to shift these costs appropriately from the public to the private sector, allowing industry to pay for testing in NCI monitored and licensed laboratories.

* * * * *

d. *External Pressures on Scientists—*

Pressures on industry scientists to develop and interpret data on chemical carcinogenesis to be consistent with short term marketing interests, have resulted in a wide range of mythologies, which appear calculated to minimize the significance or reality from the effects of human exposure to particular chemical carcinogens. While these mythologies cannot withstand elementary scientific scrutiny, they have been vigorously and effectively advocated at a wide range of recent arenas including Congressional Hearings, proceedings of the 1973 OSHA Standards Advisory Committee on Occupational Carcinogens, EPA suspension Hearings on Dieldrin, and the more recent EPA Suspension Hearings on Chlordane and Heptachlor.

* * * * *

Apart from possible problems of conflicts between corporate loyalty and scientific freedom and social responsibility, as recently discussed in an AAAS report (Edsall, 1975), it is of particular interest to note that at public hearings on September 11, 1973, on the proposed standards for the 14 occupational carcinogens, a lobbyist, representing the major manufacturers of those chemicals, stated that the corporate scientists on the Committee were not qualified in regulatory problems, which were the exclusive respon-Hearings on Chlorodane and Heptachlor.

* * * * *

Recently and more disturbingly, there are growing indications of attempts to re-write established principles of chemical carcinogenesis to suit alleged regulatory needs. Illustrative, appear to be the activities of a newly created Carcinogen Assessment Group (CAG) of EPA, and a sub-committee of the National Cancer Advisory Board (NCABO), charged by the NCI, on 9/19/75, to develop recommendations on the scientific basis for the regulation of environmental carcinogens.

It is of interest to note that the CAG group and a parallel group, formed to assess "benefits" of carcinogens were formed in partial response to the representations of a senior EPA official who claimed that the "scientific credibility" of the Agency had been threatened by the actions of the Office of General Counsel in Suspension proceedings on Dieldrin, and on Chlordane and Heptachlor; these proceedings were largely based on the unequivocal demonstration of carcinogenicity of these pesticides, for which no human carcinogenicity data are available.

* * * * *

A now apparently standard response by certain sectors of industry to attempts by regulatory agencies to promulgate standards limiting environmental and occupational exposure to chemical carcinogens is to forecast, generally on the basis of procured reports, major economic disruption and unemployment attendant on compliance. Apart from the questionable economic validity of such forecasts, they do not appear to address themselves to the externalized costs, economic and otherwise, of carcinogenic and other toxic effects due to human exposures to carcinogens.

Estimates in the summer of 1974 by A. D. Little, under contract to the Society of Plastics Industry (SPI), and by Foster D. Snell, under contract to OSHA, on the impact of proposed occupational standards for vinyl chloride predicted costs as high as $65 billion and losses up to 1.6 million jobs. It is clear that such estimates are gross distortions, as most PVC producers are now in compliance, in the absence of major economic disruptions (Rattner, 1975). Illustratively capital costs of B. F. Goodrich Co. for compliance approximate to $34 million. Furthermore, this industry is considering leasing its "cleanup" technology and has found that the installed compliance technology actually cuts labor costs. Of further interest is the fact that a Union Carbide official has recently expressed surprise as to the ease of current compliance, in the absence of economic disruption, with the 1 part per million (ppm) standard. However, it should be noted that the corporation had in fact documented, at a much earlier date, the economic advantages of compliance by recycling of recovered vinyl chloride. It should be further noted that the 1 ppm standard, equivalent to 2,600 ug/m^3, is far from stringent and that commercially available equipment can monitor down to 1 part per billion (ppb), which should more properly be the current standard.

* * * * *

6. CONCLUSIONS

a. The incidence of human cancer is rising dramatically and we are now experiencing a major epidemic of cancer which is killing one in five Americans. The economic costs of cancer are minimally $15 billion annually, and are clearly inflationary.

b. The majority of human cancers are environmental in origin and hence preventable.

c. Apart from a wide range of chemical carcinogens already contaminating our air, water, food and the workplace, new carcinogens are being synthesized and introduced into commerce in increasing numbers and in a largely unregulated manner.

d. Constraints to a major reduction in the incidence of human cancer appear to be largely political and economic, rather than scientific.

e. Toxic substances legislation is a critical element in developing national policies aimed at reducing the incidence of human cancers. Such legislation should also be associated with development of more coherent policies for regulation of environmental carcinogens by Federal agencies.

f. The NCI, and other Federal agencies, should direct higher priorities to research on environmental cancer.

g. Federal agencies should regulate environmental carcinogens more vigorously.

h. Scientific research on chemical carcinogenesis in industry, the NCI and in other Federal agencies must be insulated from political and economic pressure, if principles of chemical carcinogenesis are not to be further subverted by considerations including short-term marketing interests and alleged regulatory needs.

i. The regulation of environmental and occupational carcinogens is clearly consistent with long term industrial and national interests. Such interests are threatened by economic analyses designed to distort costs and unemployment attendant on compliance with carcinogen standards.

LETTER TO GAO ON SSI ADMINISTRATIVE COSTS CHARGED TO SOCIAL SECURITY TRUST FUNDS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. VANIK. Mr. Speaker, on February 23, I sent the following letter to the General Accounting Office regarding the possible improper use of social security trust funds to finance supplemental security income administrative costs:

COMMITTEE ON WAYS AND MEANS,
Washington, D.C.

HON. ELMER B. STAATS,
Comptroller General, General Accounting Office, Washington, D.C.

DEAR MR. COMPTROLLER GENERAL: Since September 8, 1975, the Ways and Means Oversight Subcommittee has been holding a series of hearings on the operation of the Social Security Administration's Supplemental Security Income program for the aged, blind, and disabled. In our hearings, it has become quite clear that the placement of this new program in Social Security has created an enormous and difficult burden on that agency. Social Security has made a commendable effort to improve the operation of the program by committing an enormous amount of manpower to the administration of SSI.

Of course, the Supplemental Security Income program does not have the insurance features of the other, traditional programs administered by Social Security. As a result, Congress mandated that the expenses of administering SSI—which is very clearly a welfare program and is not conditional on work experience and payroll contributions to Social Security—were to be reimbursed to Social Security from the general Treasury.

I believe that there is strong reason to suspect that the Social Security Funds (which finance the OASDO-H (part A) programs) are not being adequately reimbursed for the cost of administering SSI. From a study of our hearings and the Federal budget appendices, I believe that several hundred million dollars may have been used and gone unreimbursed from the trust funds to administer the SSI.

If so, this is a very serious matter. As you know, the financial soundness of the trust funds is under debate and the President has suggested that to deal with a short-range problem, the Social Security tax base and tax rate should be increased and that some benefit provisions should be eliminated. In addition, the trust funds face a 21st century funding problem which must be dealt with in the decades ahead. Therefore, the trust funds are in no position to make unnecessary expenditures and it is important to ensure that they be reimbursed for non-trust fund financed expenditures.

Second, the workers who contribute to the Social Security trust funds do so in the belief that they are building up credits and retirement income for themselves. Social Security is not a welfare program; it is a nationwide social insurance program. It is vital for continued support of the Social Security system that workers have confidence in the fact that their contributions go to maintain a defined set of retirement, disability, survivor, health programs for themselves and their families. Other programs must in no way be financed out of the Social Security trust funds.

Third, it is generally agreed that the Social Security taxes are more regressively based than are the taxes which supply the general Treasury. Therefore, to be financing the administration of a welfare program out of the Trust Fund tax system is to place an additional regressive tax burden on American workers.

In view of the importance of maintaining the distinctiveness and soundness of the trust funds, I request the GAO to determine whether Social Security does indeed have in operation adequate procedures to ensure that the administrative costs associated with the Supplemental Security Income program (and other non-trust fund programs, such as the Black Lung benefits program) are adequately determined and that full reimbursement for such administrative expenditures is indeed obtained from general revenues.

Section 201(g) of the Social Security Act (as amended through January, 1975) states:

"During each fiscal year or after the close of such fiscal year (or at both times), the Secretary of Health, Education, and Welfare shall analyze the costs of administration of this title, title XVI and title XVIII during the appropriate part or all of such fiscal year in order to determine the portion of such costs which should be borne by each of the Trust Funds and (with respect to title XVI) by the general revenues of the United States and shall certify to the Managing Trustee the amount, if any, which should be transferred among such Trust Funds in order to assure that (after appropriations made pursuant to section 1601, and repayment to the Trust Funds from amounts so appropriated) each of the Trust Funds and the general revenues of the United States bears its proper share of the costs incurred during such fiscal year for the part of the administration of this title, title XVI, and title XVIII for which the Secretary of Health, Education, and Welfare is responsible."

Is the Department of Health, Education and Welfare complying with the law relating to reimbursement for SSI expenses?

The following quotes, statistics, and data are the basis for my belief that hundreds of millions of dollars should be reimbursed to the Social Security trust funds to replace monies improperly spent on the Supplemental Security Income program:

"SSI represented during the first year about 12% of our caseload, and we had about 70% of our manpower resources directed to it, and the result was that it subtracted from our capacity to serve the regular, entitled beneficiaries, and the shock of that to the agency has not yet settled down, but I think it is gradually settling down."

Cardwell before Public Assistance Subcommittee June 3, 1975;

"In fiscal year 1974, SSA actually suffered a loss in productivity for the first time since 1961—a loss of 2.4 percent."

Cardwell before Flood Subcommittee April 23, 1975;

"In order to keep our earnings record operation current, we will require an additional 638 man-years in 1976. In addition, to the normal workload increase of 13,000,000 items, SSA expects to process 20,000,000 items that we had to backlog in 1975."

IBID

The above quotes by Commissioner Cardwell before other Congressional Committees, if accurate, indicate how disruptive SSI was to the regular SSA staff. According to the Commissioner, "70 percent of our manpower" was devoted to SSI, so much so that the productivity of the whole agency declined and SSA had to "backlog" twenty million earnings record transactions in 1975.

As the attached data, obtained from the budget appendices for FY 1976 and FY 1977 show, SSI's administrative cost varies from 19.5% of all Social Security Administration administrative costs in its first half of operation to approximately 20.6% of all Social Security Administration administrative costs in FY 1975 and FY 1976. How are these proportions reconciled with Commissioner Cardwell's statement that "during the first year . . . we had about 70 percent of our manpower resources directed to (SSI) . . ."?

Commissioner Cardwell also stated in the October 20, 1975, Oversight Subcommittee hearing that—

"SSI initial claims offer another example of how much initial estimates of production rates were understated. We estimated that an initial SSI claim for an aged individual would require 62.1 minutes in the district office in the 1974 budget request to Congress. Our fiscal year 1975 experience shows the time to be 246.3 minutes."

He also stated in the September 8th Oversight Subcommittee hearing:

"In fact, during the period of January through May or June 1974, we were spending probably 50 or 60 percent of our manpower on SSI and there is no question but that during that period, we borrowed heavily from regular social security services."

The implications of these figures are interesting. Either the amount of staff time used was four times what was originally estimated, (yet the budget for SSI administration does not increase four-fold), or the work did not get done. Certainly, fewer SSI beneficiaries were enrolled than anticipated; but—and Social Security is to be commended for this—the lines of people at the door were enrolled. This means, I believe, that other OASDI work was not done. This means that much of the administrative cost attributed to the other Social Security programs during much of FY 1974 and most of FY 1975 should have been attributed to SSI.

Attached is a response which the Oversight Subcommittee received from Social Security concerning overtime and staffing. What was there in regular Social Security programs to cause a 3.6 million hour increase in overtime between FY 1973 and FY 1974? The allocation of overtime provided in this answer makes no rational sense. I believe, from interviews that the Subcommittee staff has had with Social Security management, District Directors, and employees, that virtually all of this overtime is attributable to SSI.

In FY 1976, Social Security was authorized some 23,800 positions, approximately 30% of Social Security's total work force, to administer SSI. Yet the salaries and expenses data in the budget appendices indicates that SSI is attributed with only 20.8% of the total administrative cost of the Social Security Administration's salaries and expenses.

Finally, I include the attached table from the Subcommittee's October 20th hearing. This table shows that at the Miami and the Cleveland inner-city Social Security offices, more workers perceived that they spent more time on SSI cases than on any other type of case. These workers were polled in mid-October, 1975. The quotes of the workers conflict with the fact of Social Security's allocation of only 20.6% of its total administrative cost to the Supplemental Security Income program.

The American worker must be able to have trust in the soundness and integrity of the Social Security Trust Funds. In view of the questions raised by the above data, I hope you will give this request every consideration.

Sincerely yours,
CHARLES A. VANIK,
Member of Congress.

LIMITATIONS ON SALARIES AND EXPENSES

[In thousands; fiscal years]

	1974	1975	1976 estimate
Old-age and survivors	579,433	677,519	711,954
Disability	338,824	381,855	463,584
Health:			
Hospital (pt. A)	174,529	189,563	232,178
Supplementary medical insurance (pt. B) repayment to trust funds from Treasury and enrollee payments	349,582	379,126	464,355
Supplemental security income	292,100	459,518	493,660
Total	1,734,468	2,095,621	2,370,731

ADMINISTRATIVE COSTS

[In thousands; fiscal years]

	1974	1975	1976
Old-age and survivors	762,342	813,817	913,833
Disability	214,560	240,366	277,530
Hospital insurance	250,618	293,418	321,518
SSI repayment to trust funds	292,756	459,518	493,660
Supplementary medical insurance (pt. B) repayment to trust funds from Treasury and enrollee payments	367,714	468,980	519,937
Total	1,887,990	2,276,099	2,526,478

STAFFING

8. How much has been spent in overtime for SSI work? How much does that amount to in terms of hours? (According to one source, about $50–60 million has been spent and that amounts to 9 million hours.) Are there any offices which have an overtime requirement? Are there reports that so much overtime has been demanded that productivity is declining?

Workload processing operations of the many programs administered by the Social Security Administration are highly integrated especially in the district offices where most employees may work during the course of a day in operations involving all programs, e.g. retirement, disability, or health insurance, supplemental security income, black lung etc. In fact in many instances a district office employee may take one action which simultaneously affects several programs, e.g. claims from one individual for old-age or disability benefits under both the social security insurance program and the supplemental income program. Because the operations of all SSA programs are thus integrated it is not possible to account exactly for the amount of overtime applicable to the various programs.

The following table shows the total overtime hours worked by Social Security employees and an estimate, based on SSA's allocation procedures, and the volume of overtime worked on the SSI program only. The cost figures shown in the table are those for the additional cost of overtime—that is, the approximate difference between straight time and overtime, which is the true extra cost of overtime.

OVERTIME HOURS AND COST

Fiscal year	Hours worked: SSA total	Hours worked: SSI portion	Added cost: SSA total	Added cost: SSI portion
1973	5,741,000	163,000	$9,627,000	$273,000
1974	10,945,000	1,601,000	18,354,000	2,685,000
1975	11,378,000	2,522,000	19,080,000	4,230,000

As a percent of total man-years SSA employees worked far less overtime in 1973, 1974 and 1975 than they did when SSA implemented the Medicare program as indicated in the table below:

TREND IN USE OF OVERTIME

Year	Total man-years	Overtime man-years	Percent of Total man-years
1965	35,345	816	2.3
1966	48,473	6,372	13.2
1967	49,650	3,728	7.5
1968	54,770	4,165	7.6
1969	54,405	2,714	5.0
1970	53,648	2,902	5.4
1971	55,438	2,757	5.0
1972	56,443	1,490	2.6
1973	59,542	3,189	5.4
1974	77,956	6,083	7.8
1975	86,168	6,360	7.4

No region had a "regionwide" policy requiring mandatory overtime. In the past, and presently, however, the huge workloads dictated the need to order overtime in certain heavily impacted offices. We have followed, we think, a very sensible overtime policy in that mandatory overtime is held to a bare minimum and limited to the very heavy workload areas. Substantial amounts of voluntary overtime have been made available and individual district managers have used overtime as needed and demanded by the various office workloads. In all cases, district managers have coordinated overtime planning with local union representatives to insure equitable distribution of the hours and prevent undue employee hardships. Even when overtime is mandatory, individual employees can be excused for personal reasons.

Your question about the relationship between overtime and productivity is a good one, but we do not have the data to answer it. Up to a point productivity is better on overtime, because the more experienced employees are usually working. However, there has to be a point of diminishing returns. When overtime becomes a continual way of life it is undesirable. It is, however, a reasonable way to deal with nonrecurring and peaking workloads.

	Is more training needed?		More employees?	
	Yes	No	Yes	No
District of Columbia:				
A	82	18	100	0
B	75	0	100	0
C	100	0	100	0
D	88	2	98	0
E	80	20	85	15
F	100	0	100	0
Cleveland:				
City	83	10	93	7
Suburb	69	24	86	14
Miami:				
City	84	9	97	3
Suburb				

	Does your office need more—		
	Space	Equipment	Supplies
District of Columbia:			
A	82	82	82
B	0	100	88
C	86	100	86
D	69	76	38
E	50	75	30
F	100	88	66
Cleveland:			
City	79	79	52
Suburb	41	52	41
Miami: Total	100	95	77

	Have you participated in outreach previously? (percent yes)	Currently? (percent yes)
District of Columbia:		
A	55	27
B	63	50
C	43	0
D	52	5
E	45	5
F	77	0
Cleveland:		
City	41	7
Suburb	62	3
Miami: Total	40	18

PERCENT OF TIME SPENT ON DIFFERENT CATEGORIES OF CASES

	Number of respondents per percent category			
	0 to 10 percent	11 to 30 percent	31 to 50 percent	Over 50 percent
Washington	(1)	(1)	(1)	(1)
Cleveland:				
Inner City:				
Old-age and survivors	14	10	2	0
Disability	7	5	15	0
Medicare	24	2	0	0
SSI	0	4	15	9
Suburb:				
Old-age and survivors	2	6	12	9
Disability	6	16	7	0
Medicare	19	9	1	0
SSI	28	8	0	2
Miami (total):				
Old-age and survivors	19	15	8	1
Disability	19	17	7	0
Medicare	31	9	1	----------
SSI	5	6	17	1

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[1] Data not available at this time.

THE SO-CALLED EXPERTS ARE ALWAYS SURPRISED—WHAT NEXT IN RED CHINA?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. McDONALD of Georgia. Mr. Speaker, the world's press professed to be shocked and surprised at the accession of Hua Kuo-Feng to the post of Premier in China. The London Daily Telegraph of February 8, 1976, had noted that his name was not even included among a recent list of "Leaders of the People's Republic of China" prepared for President Ford by his experts. However, anyone who follows the Communist world knows the head of the secret police always has the potential to grab the reins of power. We need only to recall the brief, but fatal try of Lavrentiy Beria for supreme power in the U.S.S.R. in the immediate post-Stalin period. To the best of my knowledge, however, the only periodical to predict that this might happen in Red China was Review of the News in its January 28, 1976, issue on page 53 in the "Overseas" feature written by Hilaire du Berrier in an item entitled: "Red China: After Chou, What?" The item is reprinted below for the edification of my colleagues:

RED CHINA: AFTER CHOU, WHAT?

China specialists in the intelligence services of Western Europe are assiduously studying incoming reports, looking for indications, counting straws in the wind, measuring anything that might provide answers.

There is only one certainty: Mao Tse-tung will shortly follow Chou En-lai "to meet Marx," as the great mass murderer puts it. Then come the unknowns. About 400 veterans of the Long March of 1934 are still alive. Younger men are pressing the old timers. Mao is still the buffer between First Vice Premier Teng Hsiao-ping and officials who rose during the cultural revolution by denouncing the upstart Teng. Will Teng move to settle scores when Mao is no longer there to restrain him? Will those who denounced Teng close ranks to get him first? Or will both Teng and those who tried to get his head ten years ago lie low out of fear of the Army?

The military is powerful enough in 20 of Occupied China's 29 provinces to return the countryside to the days of the warlords as soon as the politicians provide an excuse by causing trouble. Teng is the Chief of Staff of China's military machine, but Chang Chun-chiao, the Second Vice Premier, has his own supporters among the generals and it was he who led the Cultural Revolution which humiliated Teng. The Armed Forces control all cable and telephone communications, including radio, between Peking and the provinces and between towns and villages. Red China is divided into eleven military regions commanded by what is known as "the eleven marshals," though in theory military rank is nonexistent. Hua Kuo-feng, the 57-year-old security chief, may hold Red China's destiny, and Teng's, in his hands.

Only one thing is certain: American recognition of the illegal Peking dictatorship must not be granted. Even Kissinger doesn't know which criminal is in charge. Our friends in China based in the Province of Taiwan are the legal Government and they are anxious to free the Mainland from Communist dictatorship of any kind.

MEDIC ALERT CELEBRATES ITS 20TH ANNIVERSARY

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. SISK. Mr. Speaker, today marks the 20th anniversary of the creation of Medic Alert Foundation International which provides a unique emergency medical identification system to the people of, not only the United States, but to the world.

It is a source of great pride to me that my district is the home of Medic Alert Foundation, a nonprofit, charitable and tax-exempt organization. It is an exemplary organization structured totally to serve mankind. Medic Alert does this by saving lives, by lessening suffering, and by providing security to its members who know that should they ever need its protection, the foundation will be there to help them.

Like many great things, Mr. Speaker, Medic Alert grew out of a seemingly minor event, but one that nearly turned into a tragedy. Linda Collins, the teenage daughter of Dr. Marion C. Collins of Turlock, cut her finger in a backyard game and was taken to the hospital. There, a doctor routinely performed a sensitivity test to tetanus antitoxin. Linda immediately went into anaphylactic shock and her life hung in the balance for days.

With her recovery, Linda's extreme allergy to this drug was a constant concern to Dr. and Mrs. Collins who considered every possibility of having this knowledge immediately available should Linda ever be involved in another emergency. In early 1956, the Medic Alert concept that we know today began to evolve. And on March first of that year, the family devised a bracelet with the medical profession's insignia on the front, and the words "Medic Alert" and her allergy engraved on the back.

Out of that single act has come the Medic Alert of today, protecting over 620,000 members in the United States and over 930,000 throughout the world. There are affiliate organizations on four continents. Each member wears an emblem of protection like the one Linda Collins first wore 20 years ago. That emblem, by the way, has been retired and today is on permanent display at the Smithsonian Institution here in our Capitol City.

Medic Alert's emergency medical identification system is designed for individuals with any medical problem or condition that cannot be easily seen or recognized. The American Medical Association estimates that one out of every five people falls into this category and is, therefore, a candidate for Medic Alert membership. Extending this throughout the Nation, there are over 40 million Americans who have hidden medical problems and who should consider acquiring the protection offered by the foundation.

Of the more than 200 common reasons for membership in Medic Alert, the most frequently named are severe allergies, diabetes, heart conditions, epilepsy, taking anticoagulants and wearing contact lenses.

Mr. Speaker, tragic or even fatal mistakes can be made in emergency medical treatment unless the special problem of the person is known. A diabetic, for example, could be neglected and die because he was thought to be intoxicated. A shot of penicillin could end the life of an individual with an allergy to that drug. In case of an emergency, emergency medical personnel should know that individuals are on certain medications in order that they can continue to receive them.

Emergencies, Mr. Speaker, are the times when Medic Alert is most valuable. When a person cannot speak for himself because of unconsciousness, shock, hysteria, loss of speech, or perhaps the person is not yet old enough to talk, the Medic Alert emblem speaks for him loudly.

In operation, the Medic Alert system is virtually a foolproof system of protection. The alerting device, in either bracelet or necklace form, has engraved not only the hidden medical problem of the wearer, but his membership number and the telephone number of Medic Alert's emergency answering service.

This basic "altering" device is supplemented by a wallet card that is issued annually for the life of the member. It contains the latest medical and personal information that has been provided by the member who can update his emergency record at any time. The card is dated so that emergency personnel know they are working with information not more than a year old.

The third part of the system is the computerized emergency record of each member located at the foundation's Turlock headquarters. By calling the emergency telephone number engraved on the emblem and printed on the card, and by using the member's individual identification number, emergency personnel have immediate access to all the medical and personal information in that person's emergency record. The number may be called collect from anywhere in the world, at any hour of the day, every day of the year.

Proof that the Medic Alert system of emergency medical identification works is seen in the fact that in a recent 12-month period, over 2,000 individuals wrote to the foundation saying that Medic Alert had provided significant assistance to them. In many instances, lives have actually been saved.

As we recognize this unique foundation today, we do so with the knowledge that it has grown because of two reasons. First, Medic Alert has provided a needed service in an efficient, straightforward manner. Second, it has grown and is fulfilling its destiny because of extremely strong leadership that has, from the first, been totally committed to providing the finest and most complete emergency medical identification system at a cost within the reach of most individuals.

Initial leadership came from Dr. and Mrs. Collins who formed a strong board to help guide the foundation's growth. As in all cases, the reins of leadership pass to others with time, and here Medic Alert has been most fortunate. First, one of our country's outstanding businessmen, John D. McPherson, became president upon the recent retirement of Dr. Collins and he has now been joined by one of our Nation's most noted physicians, Luther L. Terry, M.D., former U.S. Surgeon General, as chairman of the board. Both men have served Medic Alert for years as members of the board. Mr. McPherson, additionally, has served as board chairman and chairman of the finance committee for approximately half the life of the foundation. The board today is stronger than ever before as great strides are being made to fullfill the foundation's commitment to the people: to provide the protection of Medic Alert to every individual with a hidden medical problem.

The commitment, Mr. Speaker, is worldwide in scope. Today there are 14 affiliate organizations, a number that is expected to grow by several more before the end of this year.

Mr. Speaker, the members of Medic Alert are to be found in every walk of life throughout the Nation, including some of the honorable Members of this body. For example, during a recent meeting of the Medic Alert board in this city, two of our prominent colleagues attended as longstanding members. They were the Honorable WILLIAM A. STEIGER, Republican from Wisconsin, and the Honorable JOHN E. MOSS, Democrat of California. Mr. Moss in his remarks said:

> Medic Alert gives a person a great sense of assurance that should an allergic reaction occur anywhere it does give the attending physician that much mode advanced information by calling to his attention the allergic situation.

Medic Alert's value, of course, extends well beyond these Halls. Daily, individuals are helped by the Medic Alert system of protection. Take, for example, a gentleman from Hamilton, Mont., whose hidden medical problems are emphysema, bronchial asthma, and he uses a breathing machine. "While traveling through Colorado, I stopped at a service station where I suffered a bad attack and could not catch my breath as I had not been using my breathing machine for several days. I passed out. The attendant saw my Medic Alert emblem, noted my medical problem, and tried to take me in his car to the hospital, but he was not strong enough to move me. He then called an ambulance which had a monitor and oxygen. When the paramedics read the engraving on my emblem, they began immediate treatment. I am thankful my doctor advised me to become a Medic Alert member."

Here is the statement from another member of Medic Alert:

> I was rushed to the hospital by ambulance unconscious with a temperature over 106 with bladder and kidney infection and because of my diabetic condition it resulted in blood poisoning. I had become 30% anemic from loss of blood. My wife was unable to identify my medication. I am also allergic to penicillin. Noting my Medic Alert emblem, the hospital doctor assured my wife he could get all the information he needed by calling Medic Alert, which he did. Between my wife, Medic Alert, and a wonderful staff of doctors, my life was spared. Thank you for your assistance.

Endorsed by hospitals and medical professions as well as police, fire, and other emergency services, Medic Alert is today growing at a rate faster than ever before. It is anticipated that by the end of this year, another 75,000 members will have joined. They learn of Medic Alert through the vast volunteer movement which involves thousands of individuals, working in groups and alone. Mr. Speaker, I am proud to be one of those supporters and to bring this message of Medic Alert to you today on this special occasion.

EQUAL OPPORTUNITY: THE HOPE AND THE REALITY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. RANGEL. Mr. Speaker, more than a decade has now passed since the Equal Employment Opportunity Commission was established under title VII of the Civil Rights Act of 1964. The passage of that act gave hope to black Americans and others who had suffered centuries of discrimination—hope that they would finally be guaranteed the equal treatment that they had been denied over the past two centuries.

But the experience of the past 10 years has shown that despite the passage of the Civil Rights Act, the American legacy of racism and sexism continues to be a national outrage. Instead of carrying out effective programs to achieve equal job opportunities, we have been force fed a policy of benign neglect. Instead of numerical goals for hiring being seen as a necessary means to overcome class discrimination, they are being mocked and misunderstood. And instead of accepting and implementing the decisions of the judiciary that have struck down discriminatory practices, we are wallowing in the deceptive emotional rhetoric about "forced busing," "quotas," and "reverse discrimination."

In a thoughtful address marking the 10th anniversary of the establishment of the Equal Employment Opportunity Commission, Mr. Herbert Hill has examined some of the reasons that the equal opportunity legislation and judicial decisions of the past decade have fallen short of their goals.

Mr. Hill, the national labor director of the National Association for the Advancement of Colored People, distressingly but, I think, perceptively notes that we are "participating in a memorial service for the second American reconstruction."

Mr. Speaker, I urge my colleagues to read and reflect on Mr. Hill's address, the first part of which follows. The conclusion will appear in tomorrow's Extensions of Remarks:

AFFIRMATIVE ACTION AND THE QUEST FOR JOB EQUALITY

(By Herbert Hill, National Labor Director, National Association for the Advancement of Colored People)

We are participating in an enormous historical irony as we celebrate the first decade of the Equal Employment Opportunity Commission. Congressional adoption of the Civil Rights Act of 1964 with Title VII which authorized the Commission's existence, was widely hailed as a turning point in the history of the nation. It appeared to be the most important, if delayed, legislative response to the new era of constitutional law on race ushered in by the Supreme Court exactly ten years earlier in *Brown* v. *Board of Education*.

The Civil Rights Act of 1964 was debated and eventually enacted into law during a time of turmoil and upheaval. For a brief period, a part of the white population joined with black Americans in expressing a vast outrage against the crimes of racism. During the mid-1960s, as a result of direct confrontation with the forces of segregation and discrimination, together with the emergence of a new body of constitutional law, a great hope was born. A hope that the legacy of centuries of slavery and racism would finally be abolished and that America, at long last, would become a just, decent, and compassionate society.

But that hope was not yet to be realized. In retrospect, it is evident that the high moral outburst of the 1960s was but a passing spasm. The memory of that period has already receded and diminished into a remote past and black people, once again, are left to fight the battle alone. We are now celebrating the tenth anniversary of the Equal Employment Opportunity Commission, but we are also participating in a memorial service for the Second American Reconstruction.

A major manifestation of the sharp turning away from the goal of racial equality is to be found in the shrill and paranoid attacks against affirmative action programs. The effort to eliminate the present effects of past discrimination, to right the wrongs of many generations was barely underway when it was aborted. And now, even the very modest gains made by black men and women through affirmative action are being erased, as powerful institutions turn the clock of history back to the dark and dismal days of "separate but equal."

Judging by the vast outcry, it might be assumed that the use of numerical goals and timetables to eliminate racist job patterns has become as widespread and destructive as discrimination itself. As with the much distorted subject of busing, the defenders of the racial status quo have once again succeeded in confusing the remedy with the original evil. The term "quota" like "busing" has become another code word for resistance to demands for the elimination of prevailing patterns of discrimination.

This issue is now a major national controversy and because it has become the focus of conflicting forces in current civil rights struggles it is necessary to identify, within the limits of this paper, the leading opponents of affirmative action. The attack comes from many places, among these are the academic community and the educational bureaucracy, big business and organized labor, white ethnic organizations and, of course, the federal government itself. Although worthy of a far more extensive examination, a few examples will suffice.

The clarion call in the ideological war against affirmative action was sounded by Professor Sidney Hook in a widely quoted article that appeared on November 5, 1971 in the New York Times, followed by his article in *Freedom At Issue* and other publications. Hook denounced affirmative action programs in institutions of higher learning and called upon his colleagues to resist all such demands from civil rights groups. He was soon joined by many distinguished academicians and the Committee for a Rational Alternative emerged (later known as the University Center for Rational Alternatives) followed by the Committee on Academic Non-discrimination and Integrity. These groups, using the names of some of the most prestigious figures in academia and with virtually unlimited access to the media have conducted a steady drumbeat of attack against affirmative action programs in colleges and universities. Since January 1972 the pages of *Commentary* magazine, which described the EEOC as the "quota commission," have been repeatedly filled with self-righteous denunciations of affirmative action by the ideologues of the new atack upon racial equality. (See for example, Earl Raab, "Quotas by Any Other Name," Paul Seabury, "HEW & the Universities," *Commentary*, February 1972; "The Pottinger Papers: An Exchange on Affirmative Action," *Commentary*, May 1972, Elliott Abrams, "The Quota Commission," *Commentary*, October, 1972; Paul Seabury, "The Idea of Merit," *Commentary*, December 1972.

The Anti-Defamation League of B'nai B'rith and the American Jewish Congress both condemned affirmative action requirements imposed by the federal government on educational institutions and on June 20, 1972 called on the Department of Health, Education and Welfare to repudiate "preferential treatment" in federally funded programs. On August 4, 1972, the American Jewish Committee in an open letter to President Nixon urged him to "reject categorically the use of quotas and proportional representation" in civil rights programs, and on January 12, 1973 six national Jewish organizations charging "reverse discrimination" against white males sent a protest to the Department of Health, Education and Welfare urging it to "prevent or eliminate preferential treatment."

Typical of the position of most labor unions is the resolution adopted by the AFL-CIO Building and Construction Trades Department which stated:

"Racial quotas, under any guise are repugnant to all Americans. When a proposal is made to establish racial quotas as public policy, honest men must protest . . . We prefer the free choice of free men and we are certain that the vast majority of Americans, white and nonwhite alike prefer such freedom."

Spokesmen for corporate enterprise issued equally sanctimonious expressions of outrage and in March of 1973 Fortune magazine further distorted the issue by warning against the dangers of job quotas. Its executive editor, Daniel Seligman, wrote, "For a democratic society to systematically discriminate against 'the majority' seems quite without precedent."

Another major source of organized opposition to the mandate of affirmative action developed in litigation under Title VII, comes from the newly emerging network of groups based on the white ethnic working class population. The undeniable fact that the white working class is exploited has in the recent past been solemnly rediscovered in a variety of books and articles. But those who engage in these idealized portrayals of the white proletariat conveniently forget that the black working class is the most systematically discriminated against and exploited group in American society; that the victimization of blacks has been different in kind from anything known by the white ethnics. Furthermore, the past and present deprivation suffered by white workers of various ethnic backgrounds can in no way justify their intense opposition to black advancement, nor can their violence and racism be excused on the grounds that they too have suffered.

Michael Novak, a leading spokesman for the "unmeltable ethnics," to use his term, sought recently to warrant the intransigent response of these white workers to black demands for equality by blithely explaining that current racial problems are due to ". . . special weaknesses in the culture of American blacks." This attempt to make the victims responsible for their condition while exonerating the actions of those who firebomb buses carrying black children and engage in other acts of racist violence is, of course, obscene but typical of the current attitude. Whatever lofty sentiments are spouted by those who try to excuse white working class racism, the truth about the new ethnic revivalism is revealed on the streets of Boston, Brooklyn, Louisville, and elsewhere. After all the pieties are stripped away, the real reason for the existence of these groups is made clear by their oft repeated cry "stop the niggers."

The diverse forces united in their intense opposition to affirmative action programs deliberately distort the issue by equating affirmative action based upon numerical goals with a fiction called the "quota system" and "reverse discrimination." But there is a fundamental distinction between quotas and numerical goals. Quotas are used to exclude, while numerical goals are a means to include those workers who have been systematically excluded in the past. Quotas establish a ceiling—that is a maximum. Numerical goals used in affirmative action establish only a minimum which can, and often should, be exceeded. In short, quotas have been used as a limitation, while numerical goals represent the exact opposite.

Those who attack the use of numerical goals often argue that affirmative action programs will penalize innocent whites who are not responsible for past discriminatory practices. This argument turns on the notion of individual rights and sounds very moral and high-minded, indeed. But it ignores basic social reality. For example, black workers have not been denied jobs as individuals but as a class—no matter what their personal merits and qualifications. Women have not been denied training and jobs as individuals, but as a class regardless of their individual talent or lack of it. Correspondingly, while males as a class have benefitted from this systematic discrimination. Wherever discriminatory employment patterns exist, hiring and promotion without affirmative action perpetuates injustice.

The federal courts have recognized in Title VII ligitation that employment discrimination is by its nature class discrimination. This was established in *Parham* v. *Southwestern Bell Telephone Company*, *Oatis* v. *Crown Zellerbach Corporation* and *Bowe* v. *Colgate-Palmolive Company*, among many other cases. It was also established that relief must go to the entire injured class and the use of specified numerical goals can be most effective in achieving compliance with the law.

Common to most attacks upon affirmative action programs is the assumption that such approaches constitute "reverse discrimination" and that the quality of performance and work standards will be severely diminished as a result of the employment of nonwhites and women. The *a priori* assumption that no "qualified" blacks or women exist is implicit in this argument. Also implicit in the assumption that if blacks and women were to be employed, the allegedly high standards now in force would be diminshed. But in reality, the so-called merit system operates to give preference to mediocre or incompetent whites at the expense of highly talented blacks, as well as at the expense of mediocre and incompent blacks.

In *Chance* v. *Board of Examiners* (in which the United Federation of Teachers, AFL-CIO, filed a brief amicus curiae against the black and Puerto Rican plaintiffs and against "infamous quota systems") a federal court ruled that New York City must stop using its traditional examinations for selecting school principals because the tests had the "effect of discriminating significantly and substantially against qualified black and Puerto Rican applicants." The court concluded that the procedures of the Board of Examiners, allegedly based upon the merit system, could not be justified as being reasonably related to job performance. The United Federation of Teachers in New York City and its parent organization the American Federation of Teachers AFL-CIO, have been among the most active opponents of affirmative action. See for example, Albert Shanker, "Strong Voices Against Ethnic Hiring" New York Times, January 12, 1975, Section 4. (Paid Advertisement of United Federation of Teachers.)

A similar conclusion was reached by the Court of Appeals for the District of Columbia in two recent decisions where the court held that the District's Police Department test and the Federal Service Entrance Examination were illegal. In these cases as in so many others, so-called "merit systems" were revealed to be discriminatory systems.

To argue that the merit approach operates in the building trades, as spokesmen for organized labor frequently do, is to depart from all reason and sanity. As has been demonstrated in many lawsuits throughout the country, the worst forms of nepotism and favoritsm prevail. Excerpts from two federal court decisions, one in Louisiana and the other in New York, indicate the national pattern.

In *U.S.* v. *Local 52, Asbestos Workers*, in New Orleans, the United States Court of Appeals for the Fifth Circuit stated:

"In pursuing its exclusionary and nepotistic policies, Local 53 engaged in a pattern and practice of discrimination on the basis of race and national origin both in membership and referrals. It was found to be Local 53's practice to refer white persons of limited experience and white journeymen of other trade unions as mechanic asbestos workers. It was also found to be its practice to refuse to consider Negroes or Mexican-Americans for membership and to refuse to refer Negroes for employment or to accept Negroes for referral for employment. This policy and various acts of discrimination, both prior to and after the effective date of the Civil Rights Act of 1964, were admitted at trial and on this appeal."

In *U.S. v. Local 46, Lathers Union*, in New York City, the district court found that:

"There is a deep-rooted and pervasive practice in this Union of handing out jobs on the basis of union membership, kinship, friendship and, generally, 'pull.' The specific tactics, practices, devices and arrangements just enumerated have amounted in practical fact to varying modes of implementing this central pattern of unlawful criteria. The hirings at the site, the by-passing of the lists, the use of the hiring hall, when it was used at all, as a formality rather than as a place for legitimate and non-discriminatory distribution of work—all reflected the basic evil of preferring Local 46 members, relatives, friends or friends of friends in job referrals. And since the membership of this Local has for so long been almost exclusively white, the result could have been forecast: the jobs, and especially the more desirable jobs, have gone disproportionately to whites rather than blacks."

Commenting on the relationship between nepotism and racial discrimination, the Court added a sharply worded statement:

"Because courts may know what all the world knows, practices of nepotism and favoritism like those disclosed here could, and probably should, be condemned as inevitably discriminatory. . . . the Government has shown in case after case the preference of whites over blacks on grounds of nepotism or acquaintanceship. The officers of the Local did not merely acquiesce in this state of affairs; many, if not all of them, have been active participants in the pattern of favoritism and its inevitable concomitant, racial discrimination."

Under the guise of defending "merit systems" that in reality do not exist, the opponents of affirmative action are, in fact, attempting to maintain unstated but traditional discriminatory practices that result in the exclusion of blacks, women and others from desirable, high-paying, skilled jobs. A major factor in the resistance to new legal remedies is that white male expectations, based on the systematic denial of the rights of minorities, have become the norm. Thus any alteration of this norm is considered "reverse discrimination."

It should be evident that what is really involved in the debate over affirmative action programs is not that blacks and women will be given preference over white males, but that a substantial body of law now requires that discriminatory systems which operate to favor white males at the expense of women and blacks must be eliminated.

VOCATIONAL TESTS ARE MILITARY RECRUITING DEVICE

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. FORSYTHE. Mr. Speaker, I am aware of an increasing amount of controversy throughout the Nation, with regard to the military's practice of offering the armed services vocational aptitude battery—ASVAB—as a free service to high school graduates.

Personally, I have no objection to an active recruiting campaign—it is infinitely preferable to returning to the draft.

My worry is that parents and students are not being properly informed that the ASVAB is part of the recruiting campaign. Instead, efforts are frequently made to portray ASVAB solely in terms of its possible value as a tool for career and guidance counseling. This being the case, I do not see how we can expect individuals and communities to reach objective decisions or to provide informed consent.

Our distinguished colleague from Ohio, Mr. MOSHER, first called this problem to the public's attention in October, 1974, and has since followed the issue more closely than any other Members of Congress. In addition to committing his own staff resources to an ongoing investigation of ASVAB, he also initiated studies by the General Accounting Office and the Government Operations Committee.

Last November, Mr. MOSHER issued a special report entitled, "Armed Services Vocational Aptitude Battery—A Wolf in Sheep's Clothing?" Although that report received considerable coverage in a number of professional journals and newsletters, it did not get much attention in the national news media.

I think that we all should be aware of the findings contained in Mr. MOSHER's special report. In his November 6 statement, the gentleman from Ohio points out that at least $3 million of the ASVAB program's $4.8 million annual cost comes directly out of the Pentagon's recruiting budget.

He also identifies several problems in the way the test is promoted to school administrators and parents, and he proposes several very constructive changes that should be made immediately in the ASVAB program.

In order to bring our Ohio colleague's report to the attention of the House, and to make it more readily accessible to all members of the public, I will insert the Mosher report in the RECORD at this point:

ARMED SERVICES VOCATIONAL APTITUDE BATTERY—A WOLF IN SHEEP'S CLOTHING

(A special report by Congressman CHARLES A. MOSHER, Republican of Ohio)

For the past year, I have been taking a very close look at the vocational aptitude tests that the federal government makes available for use in high school guidance counseling programs. These are the Armed Services Vocational Aptitude Battery (ASVAB) and the Labor Department's General Aptitude Test Battery (GATB).

My curiosity was first aroused by an inquiry I received from a constituent in the fall of 1974. Since then, my staff has been conducting an on-going investigation. Also, at my request, the General Accounting Office (GAO) undertook a special inquiry, and several independent groups have furnished me with detailed reports.

This past summer, I asked the House Committee on Government Operations to follow up on the GAO report by exploring several specific questions. In particular, I wanted to know what distinctions there are between the two tests and to what extent coordination occurs between the Labor and Defense Departments on this issue.

Further, I asked the Committee to look into questions raised about the possible violations of students' rights to privacy and also the propriety of military personnel administering tests to civilian students.

Last week, I received a letter from Congressman Floyd Hicks (D-Wash.), Chairman of the Manpower and Housing Subcommittee, transmitting to me a report by his Committee staff on ASVAB and GATB.

Essentially, the committee's staff found that the two tests are distinctly different, serve different purposes and probably should be kept separate.

In his cover letter, Mr. Hicks told me, "The Department of Labor and the Department of Defense have made no effort to coordinate these two testing programs. These tests were developed at different times and for different purposes . . . the tests are not interchangeable and neither department believes that the tests or results of the other is useful for its own purposes."

The Labor Department's GATB was developed shortly after World War II as a tool to help counsel persons seeking to enter the civilian job market. Through the U.S. Employment Service, it is made available at cost (about 60 cents per pupil plus administrative expenses) to local high schools. Extensive and very detailed studies have been done correlating GATB scores to every possible sector of the civilian labor force.

In sharp contrast, the Defense Department's ASVAB was originally developed to aid in assigning recruits and draftees to the various Armed Forces training programs.

As the GAO reported to me, the military uses this test as a very effective recruiting device. Approximately $4.8 million was spent by the Pentagon on ASVAB last year, with at least $3 million of this money coming directly out of recruiting budgets.

The Government Operations Committee staff report finds:

"A major shortcoming of the ASVAB program is that there have not been any studies showing possible correlations between the civilian job categories and the ASVAB scores. Yet, the ASVAB is promoted on the basis that it will be of great value in career counseling, even if the student decides to enter the civilian work force. Certainly, the ASVAB scores are helpful in steering the student in the right direction, but not much more than that can be said for the ASVAB if the student decides to enter the civilian work force.

"On the other hand, if the student decides to enlist, the ASVAB is very useful. . . . The ASVAB was designed to determine whether high school students would qualify for enlistment in general and the individual [Armed Services] training courses in particular. . . .

Later, the report makes this statement:

". . . ASVAB does not cover the entire range of occupations found in the civilian sector. The ASVAB has been validated against success in military training courses, not against success in occupations found in the civilian sector. To the extent success in military courses correlates with success in certain civilian occupations, the ASVAB is a valid career counseling tool. The problem at this time, is the dearth of studies on this relationship."

On the matter of invasion of privacy, the Subcommittee's staff report found that through a legal technicality, the Defense Department avoids being in violation of the Buckley Amendment (The Educational and Family Privacy Act of 1974).

However, the report does call attention to the fact that there presently is no requirement that the school obtain parental consent for dissemination of ASVAB scores for use in military recruiting.

The staff report is critical of a Defense Department booklet, "Time for Decision," which students are given to take home to their parents, explaining ASVAB.

The staff report finds:

"The pamphlet states that: "There is no military recruiting in conjunction with the administration of ASVAB." This is technically correct, since recruiting is not allowed while the students are assembled to take the exam.

"However, the whole purpose of the testing program is to pinpoint for the recruiter the students who are mentally qualified for service so that time and money will not be wasted on recruiting the underqualified.

"Further, it gives the recruiter the information needed to contact the student, information which the Services had difficulty in obtaining before the ASVAB program went into effect.

"Finally, the recruiter can use the ASVAB scores to sell the student on a particular program which he knows the student has an aptitude for and in which he can guarantee a spot. . . ."

In previous public statements I have questioned the lack of "informed consent" from students and parents, regarding ASVAB. In July I noted that while the GAO study found most school officials aware of the recruitment purposes of ASVAB, there seemed to be little pass-through of this information to the public at large. This latest report serves to confirm my feelings about the need for better and more explicit information being given to the public.

I believe there should be a clear statement, made in advance, to students and parents that they should expect that the ASVAB scores will be used by the military as part of an overall recruiting program. There is nothing inherently evil in that fact, but I do think the public, and especially parents, have a right and a need to know about its specific uses.

Thus far, the findings of these various studies consistently show a lack of candor in the dialog with students and parents. This is most unfortunate.

Moreover, the Subcommittee's staff study reveals a certain disingenuousness in the military's dealings even with school officials. I truly doubt that many school officials appreciate that there is not a single known study that correlates ASVAB scores with civilian occupational skills. If so, this is incredible!

Having been in public office for a long while, and being familiar with the budget problems that beset most school districts, I do understand how seductively attractive the 'free" ASVAB tests can be. And I do concede that the schools that use ASVAB (15,847 schools gave the test to approximately 1.3 million students last year) do seem satisfied with the results.

Nonetheless, I urgently suggest that every school official involved in the decision-making process should weigh carefully the fact that the ASVAB testing programs has no proven value to anyone other than the Armed Forces.

And I believe each community should make a conscious, careful decision whether it is willing to accept covert military recruiting activity carried out with the official sancton of the school as the price it must pay for this "free" testing service.

I suspect that when these hidden costs are taken into account, then the GATB does not appear to be such an expensive alternative after all.

As far as I am concerned, ASVAB seems to be a wolf in sheep's clothing. I will continue my investigation of this program and I am giving active consideration to the introduction of corrective legislation, should that step prove necessary.

REMARKS OF CONGRESSMAN JOHN BRADEMAS AT CENTENNIAL COMMEMORATION, JOHNS HOPKINS UNIVERSITY

HON. PAUL S. SARBANES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. SARBANES. Mr. Speaker, on February 21, 1976, our distinguished colleague, the gentleman from Indiana, the Honorable John Brademas, took part in a symposium during ceremonies marking the 100th anniversary of the founding of the Johns Hopkins University in Baltimore, one of the outstanding centers of higher education in the world.

The moderator of the symposium, on "The Future of the American University" was the president of the university, Dr. Steven Muller.

Other participants in the discussion were the Rev. Theodore M. Hesburgh, C.S.C., president of the University of Notre Dame; Hedley Donovan, director and editor in chief, Time magazine; Dr. David Rogers, chairman of the Robert Wood Johnson Foundation; and Marcus Raskin, of the Institute for Policy Studies.

Mr. Speaker, I insert at this point in the Record the text of Congressman Brademas' perceptive remarks concerning the education community on this occasion:

Remarks of Congressman John Brademas, University-Wide Symposium: "The American University: The Second Hundred Years", Johns Hopkins University, 100th Anniversary Commemoration, Baltimore, Md., February 21, 1976

I am honored to have been invited by my old friend and Oxford contemporary, Steve Muller, to take part in the ceremonies marking the one hundredth anniversary of the Johns Hopkins University.

Even as I salute Steve on the splendid leadership he is giving to Johns Hopkins, I join my distinguished colleagues in this symposium in paying tribute to one of the outstanding centers of learning in the world.

Our subject this afternoon is "The Future of the American University".

Although my father was born in Greece, I hope that I shall not be charged with ethnic chauvinism if I begin these remarks with the first lines of a poem by that extraordinary Greek, Constantine P. Cavafy, one of the translators of which, by the way, Steve, was another Oxford classmate, Edmund Keeley.

Wrote Cavafy: "Ordinary mortals know what's happening now, the gods know what the future holds because they alone are totally enlightened. Wise men are aware of future things just about to happen."

As I look at my colleagues on this panel, I must say that, measured by Cavafy's test—awareness of "future things just about to happen", President Muller has assembled some very wise men indeed and none wiser, may I note, than my friend and constituent, Father Hesburgh.

In preparing these comments on the future of the American university, I thought of a similar discussion in which I took part nearly two years ago at the Woodrow Wilson Center at the Smithsonian Institution, where the distinguished Polish Sociologist, Jan Szczepanski, spoke with considerable pessimism about the future of higher education.

Szczepanski feared that the university would be not able to adjust rapidly enough to changing social, technological and economic trends and that such adjustments might best be made in research institutions outside the traditional universities, institutions organized, for example, by business and industry.

Higher education, Szczepanski predicted, would in the future no longer serve its classic functions as creator and communicator of knowledge and preparer of persons for careers but would be left with but one role, transmitter of cultural heritage.

I am, I confess, not so despairing as Professor Szczepanski about the future of the university, at least in this country.

And yet I believe that there are certain concerns or questions that must be raised about higher education in the United States, the answers to which will determine what kinds of universities we shall have, let us say, during the rest of this century.

So let me focus on just four of these concerns. I must insist that my list is in no way meant to be exhaustive; there are many other issues which our symposium subject raises. The ones I have chosen are, however, chiefly the product of my own experience as a Member of Congress concerned with Federal education legislation.

THE ECONOMICS OF HIGHER EDUCATION

First point. The American university community must give more attention to the economics of higher education.

In 1972 Members of Congress seeking to write a program of general institutional aid to colleges and universities were frustrated by our inability to obtain from leaders of American higher education thoughtful, reasoned analyses of the issue. For example, when we tried to get a definition of financial distress, or even financial need, our inquiries fell on stony ground.

Our reaction was the principal cause of our creation in the 1972 law of a National Commission on the Financing of Postsecondary Education.

The Commission, on which I served, determined not to fashion a laundry list of bills Congress should pass to help higher education. Rather, we set ourselves the more formidable, but more necessary, task of constructing an analytical framework which hopefully would help policymakers—all those with responsibility for spending money, public or private, on higher education—do their jobs more intelligently.

I have not time here to rehearse our Commission's effort for you. I only cite this experience to make the point that if we are to justify increased expenditures on higher education, especially from public but also from private funds, at a time when there will be rising demands on scarce resources from all quarters, there must be much more reasoned, thoughtful argument, evidence and analysis about higher education than we have had before.

With respect to shaping public and private policies to support the institutions designed to advance human reason, there must be a greater degree of reason.

LINKAGES BETWEEN THINKERS AND DOERS

Second point. I believe that the future of our society as well as that of the university depends in large part on our developing more, and better, linkages between, to use an imprecise shorthand, the thinkers and the doers.

I know that some thinkers do and that some doers think.

What I am talking about, more concretely, is the spectrum of issues raised by what President Johnson used to say: "My problem is not so much doing what is right as knowing what is right."

I have in mind specifically the challenge to public policymakers, both elected and appointed, to shape some sort of sensible, viable policies for dealing with the extraordinary range of issues which confront the American government.

Here are just a few examples from my own experience and observation.

How do you measure the differing costs of educating children with different handicaps?

How do you define the "financial need" of a college or university?

What are the best ways to provide a compensatory education for disadvantaged children?

How can beleaguered Congressmen have some sensible notion of what is in a $100 billion plus defense budget and why it is there?

How can we sort out competing claims on the part of champions of various measures for energy conservation and production?

I am not so innocent that I do not know that nearly all these questions are shot through with a political dimension.

But I would also assert that a keener understanding of the substance of the issues on the part of decisionmakers, especially in government, can increase the likelihood of policies at once more rational—and so more effective—in terms of coping with the real problem, and more acceptable—and so more possible—in terms of public support.

And the future shape of the university if not the future of the university itself will be significantly affected by the kinds of linkages, or non-linkages, there are between the worlds of thought and action.

As a practicing politician often desperate for intelligence that is at once relevant and accessible, I have made my bias clear. Woodrow Wilson put the matter succinctly in a 1910 address to the American Political Science Association· "The man who has the time, the discrimination and the sagacity, to collect and comprehend the principal facts and the man who must act upon them must draw near to one another and feel that they are engaged in a common enterprise."

VALUES AND THE UNIVERSITY

Third point. Values and the university.

In the wake of Vietnam and Watergate and the wave of revelations about the enthusiasm of American free marketers for bribery both foreign and domestic, one could fairly ask, "What are our values and how do we teach them in modern America?"

I shall, however, confine myself to the observation that although I realize that the question of values and the university is a minefield, it cannot be avoided for, as Robert McAfee Brown has put it, "Colleges and universities are . . . in the values game, whether they like it or not. We decide all the time that some things are more important than other things and we make those decisions on the basis of at least an implicit value structure: a gym is more important than a new wing on the library . . ."

So, says Brown, "the task .. . . is to smoke out the value assumptions behind the decisions we make . . .", and he warns that "many of the values by which colleges and universities operate are covert rather than overt."

I know that this question of values has deeply concerned Father Hesburgh and that he is undertaking some experiments at Notre Dame that may prove helpful to our appreciation of this issue.

I, at least, have little doubt that the question of how to understand values and whether to teach them and if so, how—is crucial to the future of the university and, indeed, of our entire society.

EDUCATION FOR CITIZENSHIP AND PUBLIC SERVICE

Fourth and last point. A little special pleading.

Henry Steele Commager has declared that it is time to "revive the passion for public enterprise that animated the generation of the Founding Fathers."

And he is right.

At least part of the answer to the tragedies of Vietnam and Watergate is more politics, not less, not only more informed and knowledgeable politics but more open, spirited, feisty public life.

The American university must nurture the Greek sense of civic responsibility in every person who pretends to be educated while at the same time giving far more attention to preparing talented men and women for careers in public service.

Derek Bok of Harvard only last month reminded us that "universities have never provided the education and the preparation for public service that they have traditionally offered to the major professions of law, business and medicine." And Bok asserted that "there is no more important task than the effort to provide vigorous training for officials at all levels of government."

These, then, are just four questions I would raise about the future of the American university, and my observations on them are both predictive and prescriptive: 1) better analysis of the economics of higher education; 2) more linkages between the realms of thought and action; 3) greater sensitivity to values; and 4) deeper commitment to education for citizenship.

I would be willing to hazard the proposition that the future of the university in this country will in no small degree be shaped by the awareness on the part of the university that all four represent, in Cavafy's definition of wisdom, "future things just about to happen."

LABOR AND HEW OPPOSE BLACK LUNG BILL

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. ERLENBORN. Mr. Speaker, as you know, H.R. 10760, the proposed Black Lung Benefits Reform Act, is scheduled to come to the floor next week. I oppose this bill, and during the debate will share with my colleagues the reasons for my opposition. For the present, however, I would like to call to the attention of my colleagues a letter sent to me by the Secretary of Health, Education, and Welfare David Mathews and the Secretary of Labor W. J. Usery, Jr. Both oppose this bill and their letter outlining their reasons follows:

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
THE SECRETARY OF LABOR.

Hon. JOHN N. ERLENBORN,
House of Represenatives,
Washington, D.C.

DEAR MR. ERLENBORN: This letter is prompted by a review of the provisions of H.R. 10760, as ordered reported by the Committee on Education and Labor, by the Departments of Labor and Health, Education, and Welfare. We strongly oppose this bill and wish to convey to you some of the major concerns of both Departments regarding the proposed changes in title IV of the Federal Coal Mine Health and Safety Act. H.R. 10760 would create an industry-financed trust fund to replace part C of the black lung program and would considerably extend the Federal liability under the part B program.

When enacted, the black lung program was intended to be a temporary compensation program designed to afford the States an opportunity to work with employers in developing and implementing programs in which the industries where the hazards exist would be responsible for supporting appropriate benefits. This original intent is consistent with this Administration's philosophy that the responsibility for occupational hazards belongs primarily with the employers in the industries where such hazards exist. H.R. 10760 would depart from this original intent of the program and instead further extend the Federal responsibility.

The major portion of the extended Federal responsibility would emanate from the proposed automatic entitlements for coal miners based solely on a minimum number of years of service. Such entitlements would not tie benefits to disability, as was intended when the program was enacted, but instead would provide compensation to coal miners for years of service. These disability compensation benefits should be based on disability and should not be made available without medical evidence that establishes an occupationally related respiratory or pulmonary disease. The programs currently administered by the Departments of Labor and Health, Education, and Welfare are designed to assure that miners and the survivors of miners with medically identifiable occupational diseases are fairly compensated.

Since the changes proposed by H.R. 10760 would cost the Federal Government an amount far in excess of the present program, they must be carefully weighed in light of increased pressures on the Federal budget. Generally, we are distressed by the provisions of this bill that would greatly expand Federal financial responsibilities for black lung compensation. H.R. 10760 would also dramatically broaden the eligibility criteria for black lung benefits under both parts B and C. This additional Federal cost would greatly exceed any Federal savings that would be realized by the establishment of the trust fund. This increased Federal cost is based on current estimates. We would note, however, that the actual costs of operating the black lung program have vastly exceeded the initial estimates, even discounting the cost effects of 1972 amendments.

In addition to the financial burden that H.R. 10760 would impose, the administrative problems that the bill would precipitate deserve your careful scrutiny. The Social Security Administration (SSA) is already laboring with severe backlogs in its other programs, which have resulted in long delays in processing claims and appeals. Under H.R. 10760, the Social Security Administration would be required to review 180,000 previously denied claims and process the subsequent hearings and appeals that would occur in light of new eligibility requirements. SSA would also have to launch another intensive search for potential black lung claimants, despite the large-scale public information program conducted since the beginning of the black lung program.

We are also opposed to the provisions of H.R. 10760 which would establish a trust fund. As you know, proposals to establish a national workers' compensation program are currently being considered by the Congress. The Interagency Workers Compensation Task Force, in which both our Departments participate, is engaged in a major program of research and is expected to report in 1976. Included in the research agenda on which the report will be based is the important topic of occupational diseases. In addition, further study must be completed in the area of financing benefits for occupationally incurred diseases before any changes should be made in present systems. There is then no basis to establish a trust fund for one occupational disease at this time.

Finally, we are opposed to the section of the bill added by the Committee which would provide lifetime benefits to the survivors of miners who died in mine accidents if the miner had worked in coal mines 17 years or more. This provision would be primarily an indemnity for long service followed by death in a coal mine. Like the 25 year (and 30 year) entitlement provision in the bill, the payments would bear no direct relationship to black lung disease and would be totally inappropriate in a program designed to compensate survivors of miners who died as a result of a specific disease.

The Department of Health, Education, and Welfare estimates that enactment of H.R. 10760 would cost $204 million in additional black lung benefit payments payable under part B in the first year alone, assumed to be fiscal year 1977, and $779 million during the first five years. The Department of Labor's liability for black lung benefits would be eliminated if the bill were passed, resulting in a saving of $82.25 million over five fiscal years (FY 77–FY 81). Under the bill, the Department of Labor would have an outlay to the trust fund of $35.7 million in the first six months after enactment, but this amount would be repaid with interest from the trust fund within five years. After discounting the savings to the Treasury resulting from the creation of the trust fund, H.R. 10760 would still increase Federal benefit costs by $696.75 million in five years at a time when the President is urging that we reduce the rate of Federal spending growth.

In light of these considerations, we respectfully urge you and your colleagues to oppose enactment of this bill. We are sending identical letters to Representatives Rhodes, Perkins, Quie, and Dent.

The Office of Management and Budget advises that there is no objection to the presentation of this report, and that enactment of H.R. 10760 would not be in accord with the program of the President.

Sincerely,

David Mathews,
Secretary of Health, Education, and Welfare.
W. J. Usery, Jr.
Secretary of Labor.

INAUGURAL ADDRESS BY THE HONORABLE JOSEPH P. RILEY, JR., MAYOR OF THE CITY OF CHARLESTON

HON. MENDEL J. DAVIS

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. DAVIS. Mr. Speaker, I would like to present to the membership of this body a recent inaugural address of the new mayor of Charleston, S.C. The Honorable Joseph P. Riley, Jr., was recently elected to serve as chief executive officer of our great city of Charleston.

I think he sets the tone of the future direction of his administration in his inaugural address which I would like to present at this time to the Members of the House:

Inaugural Address

Two hundred years ago Charlestonians refused to subordinate their political liberty to the British King or Parliament, and their leaders signed the Declaration of Independence, pledging their "Lives," "Fortunes," and "Sacred Honor" to the cause of freedom. Our City paid dearly in blood and treasure for her part in the American Revolution; her homes were bombarded by cannon, her people killed, and her streets were occupied. Our forebears in Charleston and throughout the nation paid dearly for the right to declare: "All men are created equal."

We celebrate today, therefore, this democratic form of government—hard won and vigorously defended by all of us—Democrats, Republicans, Independents, black and white, rich and poor, young and old. And further, we celebrate a decision made by our citizens in this election to reject division, polarization and prejudice—a decision to take the high and difficult road to mutual trust and respect. Fundamentally, we are but one people committed to the right to choose the directions our government will take. We celebrate this commitment in this ceremony, for this deeply-held belief in self-determination which guided our revolutionary forebears, this ancient and venerable form of government, is very much alive in Charleston today. And for that we should all give thanks.

The Revolution which gave birth to our democracy was caused by the colonists' fear of oppression by a government in which they were not properly represented. Today, two hundred years later, the nature and extent of representative government is still a changing and dynamic concept. The new City Council represents small and distinct districts—single member districts—and not the electorate at large. Some among us fear this change. We should not fear it—we should welcome it. Free and full debate, a hearing of all varieties of political opinion is the healthiest method of government. We have nothing to fear from honest disagreement about how people should govern themselves. Jefferson stated two centuries ago that: "Sometimes it is said that man cannot be trusted with the government of himself. Can he then be trusted with the government of others?"

Let us begin, therefore, pledging as our forebears did two hundred years ago, our lives, fortunes, and sacred honor to the principle of representative government in our City, to full and free debate, to honest differences of opinion and to a tolerant, open and respectful attitude toward all who participate in our municipal democracy.

I want to stress that our community needs, and deserves, civility, courtesy, kindness, and tolerance in the government of this City. We are faced, tragically, with long standing urban problems in a period of economic recession. The easy way would be for our community to divide, for each faction or segment to retreat into its shell and ignore its neighbor's problems. The easy way would be to take narrow and selfish positions and never compromise, to leave the problems of housing to the East Side, to leave the problems of transportation to West Ashley, to leave preservation to downtown, and to leave the redevelopment of our central business district to the merchants. But I reject, and I believe our community in this past election rejected, that approach. Because we are but one community and those things that affect one segment directly, indirectly affects us all. We must take the hard way—the patient, sometimes trying approach of listening to our neighbors, of hammering out solutions in an atmosphere of concern and tolerance.

What do we hope to accomplish in the next four years? What must we accomplish?

Crime in our streets has reached such proportions that it threatens, like a cancer, the very fabric of our society. No government and no society can exist with crime at epidemic proportions. I will propose a comprehensive anti-crime package in the early days of this administration. Solutions to the problem of crime have eluded the best minds in the nation. Plato wrote long ago, "Justice would be a simple matter, if men were simple." But we must find solutions in the neighborhoods, in storefront police stations, in the team patrol concept, in safety codes to make our homes and businesses more crime-proof, in improved police-community relations, in more police on the street, in judicial reform, and improved recreational and job opportunities for our young. A government which is unable to protect its citizens does not deserve the name of government at all.

This Administration will be committed to the economic progress and development of all of our citizens. In this recession economy, we must search for more and better jobs, we must seek out profitable, appropriate and environmentally acceptable businesses to locate in our City.

Our concern with housing will be a deep and continuing concern. This Administration will be vigorous in pursuing every dollar of federal and state assistance to improve our housing, develop our neighborhoods, and thereby improve the health and environment of our citizens. We will vigorously enforce the housing and building codes to insure that our citizens receive decent, safe and sanitary housing.

This Administration promises innovation on King Street—downtown and uptown. There are no miracles in redevelopment, but our goal is a lively, interesting, enjoyable and dynamic central shopping district. A city must have life and activity, and a shopping district that is safe, lively and innovative is high on our list of priorities.

To our neighbors North and West of our City and on James Island, we offer a special pledge: to consider annexation carefully with our eyes open. The City of Charleston has much to offer you and, after careful study and deliberation, and, after both of us have debated and considered the issues, hopefully we will find annexation to be in both of our interests. Charleston must grow and you deserve the better government services that we can make available.

This Administration is vitally concerned with transportation. The speedy building of the James Island Bridge and the completion of the Inner Belt Freeway are matters which this Mayor will attend to immediately. We will not neglect long range solutions either—in the form of improved public transportation.

Government often wrongly concentrates on the construction of public buildings and ignores the need to first build the human spirit. What good is a gymnasium if the neighborhood children cannot find within its walls a concerned coach, a constructive program, a willing volunteer? What good is a swimming pool without instructors, community interest, healthy competition, and a feeling of achievement and belonging? What good is an art gallery if all of our children, black and white, rich and poor, do not have full access to its facilities? And what good are any facilities if we cannot attend community programs because we fear to walk our streets? The monuments to this Administration's accomplishments may not be visible in marble or brick; rather in fewer of our children falling prey to a life of crime and more, many more in constructive jobs and professions; increased business in our shopping district, and a lively and exciting atmosphere on King Street; a citizenry that has trust and confidence in government. We shall seek—"unwritten memorials . . . graven not so much on stone as in the hearts of people."

There will be increased participation in this Administration by all. Our City Boards, Commissions, and personnel must reasonably reflect our population. There will be more blacks and more women in positions of authority. As Martin Luther King wrote from a Birmingham jail, "Too long has our beloved Southland been bogged down in a tragic effort to live in a monologue rather than a dialogue." We are all mutually dependent in Charleston. None can lose in a joint effort to solve our civic ills; none can gain from hatred and intolerance. Dr. King's daughter in a recent speech put it more poetically: "We may have come over in different ships, but we are all in the same boat today."

I pledge to maintain an open administration where all voices can be heard and considered. I invite responsible and constructive criticism for this will strengthen and improve our government.

And even as we contemplate the problems and the solutions, we should count our blessings. The historic district of our City is a tribute to the care with which we have conserved our buildings and houses. I pledge a continual effort to conserve this great asset and to encourage greater and wider use of conservation techniques. The bulldozer and insensitive development are as inappropriate in our historic district as they are on the East Side. Charleston pioneered preservation efforts in America, passing the first historic district ordinance in America. We need to bring this pioneering and creative spirit to all of our neighborhoods so that all the nation will learn from Charleston that respect for neighborhoods and comfortable houses are not limited only to the wealthy. The pleasing physical features of our City are important, but our community spirit, our attitudes—that our City must be alive and progressive, humane, as well as beautiful—are essential: Rousseau said, "Houses make a town, but Citizens make a city."

Yet, we must realize that progress and preservation are not mutually exclusive terms. Too often we have allowed ourselves to become polarized on this issue. Our City needs life, new residents and new businesses. We cannot let it become a museum, for it will surely die; but we must insure that development in our old and historic district, as well as in any neighborhood of our City, be done in balance with the surroundings. And this can be done.

We should never forget that we live in a noble city, a city which fought for liberty and the equality of man in the American Revolution, a city which has known devastating defeat in the Civil War and lived on hope in the aftermath—yearning as Du Bose Heyward phrased it for "an ancient, beautiful city that time had forgotten before it destroyed." Because we have no illusions, we can plan the future realistically, and because we have known frustration and defeat, we can plan the future humanely.

Today we assume our offices in the most difficult of times. It is becoming increasingly difficult for our cities to be able to provide the level of services our citizens require. Fiscal responsibility must be our watchword. Yet we cannot allow the difficulties of the times to withdraw from responsibility and creativity. Dante wrote "that divine justice weights the sins of the warm hearted and the cold-blooded on a different scale. Better the occasional sins of a government living in the spirit of human compassion than the constant omissions of a government frozen in the ice of its own indifference." We cannot afford to, and we will not, be indifferent to the need to eliminate our ghettos that breed not only crime, but contribute to the vicious cycle of poverty and ignorance. We cannot be indifferent to the alienation felt by many of our citizens to whom government has never been responsive. We cannot be indifferent to the fears of our citizens who our City is not safe. We cannot be indifferent to the thousands of our citizens snarled in traffic jams every day. We cannot be indifferent to our youth who are on the streets because our recreational programs are insufficient and for whom there are too few job opportunities. We cannot be indifferent to a central business district that is sick and needs to be revitalized.

For the question asked of us is nothing less than "Can our City survive as a safe, happy, economically vigorous and fiscally responsible place for human beings to live and work together?"

Our present diversity should be our strength, not a weakness and, as this new chapter in Charleston's history opens, I call upon all of you to join with me and with City Council in a new age of tolerance, harmony and creativity.

The successes of this Administration will be earned not by this Mayor and City Council, but rather by the collaborative efforts of an aroused and enlightened community. Every citizen must assume part of the responsibility, to contribute the time, energy, spirit, and imagination that is needed to solve our urban problems. The word "citizen" will take on new meaning today in Charleston, for this Administration will be seeking more participation and more dedication from each Charlestonian than ever before.

And finally, as a great leader once said, "With a good conscience our only sure award, with history the final judge of our deeds, let us go forth to lead the City we love asking His blessings and His help, but knowing that here on earth God's work must truly be our own."

MONTHLY LIST OF GAO REPORTS

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The February 1976 list includes:

MONTHLY LIST

Audit of Federal Crop Insurance Corporation Fiscal Year 1975. FOD–76–8.

Examination of the Rural Telephone Bank's Financial Statements for Fiscal Years Ended June 30, 1975 and 1974. FOD–76–9.

Identification of Food Stamp Issues. OSP–76–10.

Selected Views and Issues Related to Regulatory Reform in the Transportation Industry. OPA–76–13.

Department of Transportation's Cargo Security Programs. B–169347.

Career Education: Status and Needed Improvements. MWD–76–81.

Improvements Needed in Administration of Benefits Program for Injured Workers under the Longshoremen's and Harbor Workers' Compensation Act. MWD–76–56.

Progress and Problems in Allocating Funds under Titles I and II—Comprehensive Employment and Training Act. MWD–76–22.

Summaries of Conclusions and Recommendations on the Operations of Civil Departments and Agencies. MWD–76–57.

Federal Employees Need Better Information for Selecting a Health Plan. MWD–76–83.

Part-time Employment in Federal Agencies. FPCD–75–156.

Alleged Improper Personnel Practices at the Drug Enforcement Administration. FPCD–76–27.

Financial Disclosure System for Employees of the Food and Drug Administration Needs Tightening. FPCD–76–21.

No Apparent Need to Regulate Commercial Preparers of Income Tax Returns. GGP–76–8.

Occupational Taxes in the Alcohol Industry Should Be Repeated. GGD–75–111.

Progress and Problems of the Government's Utility Conservation Program. LCD–76–311.

Examination of Financial Statements for the Year Ended December 31, 1974. FOD–76–4.

Why NASA's Property Accounting and Control System Should Be Improved. FGMSD–75–27.

Space Telescope Project. PSAD–76–74.

Land Satellite Project. PSAD–76–74.

Need for More Uniform Application of the Presumptive Disability Provision of the Supplemental Security Income Program. MWD–76–2.

Financial and Legal Aspects of the Agreement on the Availability of Certain Indian Ocean Islands for Defense Purposes. ID–76–30.

U.S. Dependence on Imports of Five Critical Minerals: Implications and Policy Alternatives. ID–75–82.

Review and Evaluation of the Office of Inspector General of Foreign Assistance. ID–75–81.

Tax-Free Salaries of the International Development Banks Exceed Those of All Member Governments. ID–76–38.

Role of the International Atomic Energy Agency in Safeguarding Nuclear Material. ID–75–65.

Summaries of Conclusions and Recommendations on Department of Defense Operations. PSAD–76–68.

Subcontracting by Department of Defense Prime Contractors: Integrity, Pricing and Surveillance. PSAD–76–23.

The F–15 is an Example of How Weapon Systems Support Cost Can Be Reduced. LCD–76–403.

Implementation of Emergency Loan Guarantee Act. PSAD–76–63.

Fuel Savings and Other Benefits Achieved by Diverting Department of Defense Passengers from Chartered to Scheduled Overseas Flights. LCD–75–231.

Problems Resulting from Management Practices in Recruiting, Training, and Using Non-High-School Graduates and Category IV Personnel. FPCD–76–24.

The Air Force Should Use Both Contract and In-House Services for Maintaining Military Family Housing at Dover Air Force Base. FPCD–76–34.

Reduction of Civilian Personnel at New London, Connecticut, Naval Installations. FPCD–76–22.

Southeastern Federal Power Program—Financial Management and Program Operations. RED–76–47.

Federal Programs for Research on the Effects of Air Pollutants. RED–76–46.

Improvements Needed in the Land Disposal of Radioactive Wastes—A Problem of Centuries. RED–76–54.

Implications of Deregulating the Price of Natural Gas. OSP–76–11.

Federal, State, Local and Public Roles in Constructing Waste Water Treatment Facilities. RED–76–45.

The Integrated Grant Administration Program—an Experiment in Joint Funding. GGD–75–90.

Additionally, letter reports are summarized including:

GAO comments on deferrals and proposed rescissions of fiscal year 1976 budget authority totaling $63.2 million. ACG–76–13.

Release of $202.8 million of impounded budget authority for the Department of Agriculture and the Environmental Protection Agency. ACG–76–14.

Release of impounded funds for the Department of the Interior's Columbia Basin Irrigation Project. ACG–76–15.

GAO comments on proposed impoundments of $32.1 million in budget authority for the Departments of Health, Education, and Welfare; and Housing and Urban Development, ACG–76–16.

Estimates of the effects on the price of first-class postage of various subsidies in fiscal years 1976, 1977, and 1978. GGD–76–19.

Information on cost-effectiveness studies for the B–1 bomber. PSAD–76–60.

Impact of a proposed change in the rate of progress payments made to Department of Defense contractors. PSAD–76–7.

Defense Contract Audit Agency decision to close its Milwaukee, Wisconsin, branch office. FPCD–76–30.

Reasonableness of estimates of the cost to install new wings on the C-5A aircraft. PSAD-76-15.

Costs of the proposed Toxic Substances Control Act. OPA-76-12.

Government Buy American policies regarding stainless steel tableware. PSAD-76-40.

Improvements needed in Defense Fuel Supply Center procedures to assure that the Department of Defense buys petroleum at fair and reasonable prices. PSAD-76-51, PSAD-76-52.

Has police training been terminated at the U.S. Army School of the Americas in Panama? ID-76-27.

Department of Defense implementation of the concept of line-item control of contractors' independent research and development and bid and proposal costs. PSAD-76-54.

Retirement disability benefits paid by the Department of Defense and compensation paid by the Veterans Administration to retired general and flag grade officers. MWD-76-47.

Accuracy and completeness of 1972 National Science Foundation staff memo on Individualized Science Instructional System. MWD-76-78.

Benefits and costs of the Corps of Engineers' Big Pine Lake Project. RED-76-27.

Availability of surplus military jeeps for sale to the public. B-168492.

Provisions in the Foreign Assistance Act for cutting off aid and loans to countries involved in narcotics trafficking. B-176095.

Government Printing Office's procurement procedures. LCD-76-409.

Constituent's problem in obtaining the Federal Register. B-114829.

Cost to taxpayers for printing transcripts of Presidential tapes submitted to the House Judiciary Committee. B-133209.

Constituent's complaints about distribution of the Federal Register. B-156248.

Information on print orders awarded by the Government Printing Office. B-114829.

How the Government Printing Office handles requests for publications. B-114829.

The Air Force's Medical Materiel Accounting System is operating in accordance with the system design approved by the Comptroller General. FGMSD-76-35.

Validity of exemptions granted Hewlett-Packard Company from requirement for submission of certified cost or pricing data in support of proposed prices. PSAD-76-62.

The Department of Defense needs to set quality standards for X-ray film used in military hospitals. MWD-76-75.

The Department of Defense could save money and fuel by shipping cargo on scheduled commercial flights instead of using charter flights. LCD-76-214.

Observations on the Department of Agriculture's centralized travel advance and travel payment operations. FGMSC-76-38.

Ways to improve the Social Security Administration's program of paying benefits to disabled workers. MWD-76-82.

The Environmental Protection Agency needs to determine whether an accreditation or inspection program is necessary to insure that nongovernment laboratories provide accurate, reliable, and objective safety and efficacy data on pesticides. RED-76-63.

The Department of Defense could save about $1.3 million annually by using Government-owned, rather than commercial warehouses for storing household goods of military personnel in the San Francisco and San Antonio areas. LCD-76-210.

The Monthly List of GAO Reports and/or copies of the full texts are available from the U.S. General Accounting Office, room 4522, 441 G Street NW., Washington, D.C. 20548. Phone (202) 275-6241.

Summaries of significant legal decisions and advisory opinions of the Comptroller General issued in January 1976 are also available as follows:

Contractor's Alleged Misuse of Another Firm's Proprietary Data. B-182991, B-182903.

Revised Cost Data Renders Technical Proposal Unacceptable. B-183677.

Surplus Dealer Entitled to Equality with Manufacturer in Government Competition. B-183075.

Agency Held to Constructive Notice of Change in SBA Size Standard. B-184430.

Use of Counterpart Funds by Congressional Committee.

Travel Between Home and Office for Voluntary Overtime on Non-Work Days. B-171969.

Government Payment of Expenses of New Community Developers. B-170971.

Eligibility for Temporary Quarters Subsistence. B-184024.

Use of Indirect Cost Rates for Sea Grant Funds. B-158371.

If you need further information regarding these or other decisions, please call (202) 275-5028 or write to the General Counsel, U.S. General Accounting Office, Washington, D.C. 20548.

HUMAN RIGHTS AND DEMOCRACY IN NORTH AND SOUTH KOREA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. CRANE. Mr. Speaker, the International Security Assistance Act of 1976, as just reported from the International Relations Committee contains provisions for the termination of U.S. military assistance to any nation which persistently engages in gross violations of human rights—as determined by certain international organizations—unless the President certifies overriding reasons why aid should be continued.

There has been considerable discussion in this Congress regarding this issue. I believe all of us in this body are concerned about the protection of human rights in all nations and would like to see a world in which all men and women enjoyed the same rights that Americans have secured for themselves.

I would like to call to the attention of our colleagues a perceptive essay on this question in relation to a specific nation, one of our allies, the Republic of Korea.

Mr. Jeffrey B. Gaynor, director of foreign policy studies for the Heritage Foundation and Mr. James Streeter, legislative assistant to Senator JAMES McCLURE, are the authors of "Human Rights and Democracy in North and South Korea" which will be published this month by the Council on American Affairs in a volume entitled "Korea in the World Today." I might add that this study will also include chapters by Senator JAKE GARN, of Utah, and Congressman JOHN MURPHY, of New York.

Gayner and Streeter have analyzed the issues involved in this long-standing controversy and have compared the status of human rights in North and South Korea. They point out that while the South Korean Government does have some restrictions on civil liberties the Government of North Korea on the other hand is probably the most repressive in the world.

I believe this is a timely, careful, and balanced study and I commend it to our colleagues:

HUMAN RIGHTS AND DEMOCRACY IN NORTH AND SOUTH KOREA

(By Jeffrey B. Gayner and James Streeter)

INTRODUCTION

In the summer and winter of 1974 and again in the spring and summer of 1975 subcommittees of the House International Relations Committee held a series of hearings on the status of human rights in Korea. Even with the collapse of resistance to communist aggression in Indochina and the shirt in strategic analysis to Korea as a potential source of major power confrontation, the major interest in the Congress, when they formally dealt with Korea, continued to focus upon the issue of individual liberty. Similarly the two most influential newspapers in Washington, the *Post* and the *New York Times*, as well as the great television network troika have also provided extensive treatment of the human rights issues.

I. THE NATURE OF INDIVIDUAL LIBERTY IN KOREA

Various terms most frequently used to discuss the status of liberty or the nature of repressive regimes include "human rights," "civil liberties," "civil rights," or "political prisoners." All but the first of these terms are usually misleading because civil rights or liberties consist of those freedoms explicitly guaranteed by the responsible governing authority. Similarly, most countries, whether North or South Korea or the Soviet Union or the United States, maintain that they never imprison people simply for their "political beliefs" but instead because they violated some specific law. Only "human rights" are sufficiently vague to be defined in a universal and arbitrary manner.

In testimony before the House International Relations Committee, Donald L. Ranard referred to questions "regarding human rights" in Korea as "principles which are embodied in our Constitution, and in the universal Declaration of Human Rights."[1] In a like manner various church groups have taken a keen interest in developments in Korea and have used a similar standard for judging the actions of the Park government. Speaking before the same House committee, the President of the National Council of Churches, Rev. Dr. W. Sterling Cary referred to one of his organization's pronouncements that even more broadly stated: "Denials of rights and freedoms that inhere in man's worth before God are not simply a crime against humanity; they are a sin against God." He then proceeded to denounce "the excessively repressive conduct of the government of President Park."[2]

Of all the testimony submitted to the Congress, undoubtedly the most detailed documentation concerning human rights in South Korea was presented by William Butler, an attorney acting as an official for Amnesty International. In this case Butler accumulated evidence and testimony over a period of two weeks in Seoul. He received substantial cooperation from the government and interviewed numerous dissidents in Korea and attorneys for many of the persons either standing trial or imprisoned. His report clearly demonstrated that in numerous cases persons have been arrested, tried, and found guilty of violating the emergency decrees issued by Park under authority granted him in the Yushin Constitution.

In his report he contended that he had numerous stories relating the use of torture,

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Footnotes at end of article.

however, "Specific evidence . . . of prisoners physically maimed, except in one instance, is most difficult to find."[3]

Overall, his report cited a total of 1600 arrests over a period of two years for what he considered political crimes. Of those arrested, 1100 were then "incarcerated in civilian and military prisons throughout the Republic of Korea."[4]

Thus in a country of 33 million a relatively small number of people are involved in the controversy surrounding the deprivation of human rights; although each case when depicted by an individual person acquires a very compelling human dimension.

Both the standards used to judge the government in Seoul and the list of abuses of those standards derive from a perspective of events in the United States which has a two hundred year, somewhat spotted, tradition of observing her own Bill of Rights. Moreover, the United States does not have an enemy nation with approximately equal military force located 30 miles from Washington. Thus the most basic question seldom squarely faced is whether one can expect South Korea to reflect John Stuart Mill's views of a liberal democracy given the exigencies of their present and historical situation.

The South Koreans will point out that the war has never officially ended and only an uneasy truce prevents a restoration of hostilities. They note that during the American Civil War Lincoln arbitrarily suspended the writ of habeas corpus and frequently stretched or ignored other portions of the American Constitution. More recently during World War II the American government forcibly interned American citizens of Japanese ancestry with no legal scruples. And within the past few years the British have enacted an internment policy in Ireland that clearly ran counter to their common law tradition. President Park himself has alluded to "a grim fact of modern history. Democracy is like a plant that is very sensitive to its environment. It cannot grow the same in every soil and in every climate."[5]

Naturally rather arbitrary and conflicting judgements arise over the particular circumstances that exist on the Korean peninsula and whether they justify the measures undertaken by the Park government in recent years. Rep. Donald Fraser, Chairman of the House subcommittee investigating human rights has pointedly asked: "Does the Government of Korea underscore the threat from the North to justify the deprivation of human rights upon the Korean people?" Responding to this question on behalf of the State Department, Hon. Philip C. Habib, Assistant Secretary of State for East Asian and Pacific Affairs replied that the Korean "perception of the threat" is "valid."

Park's own personal honesty has helped sustain his broad public support. In an article in *Foreign Policy*, Selig Harrison reflected on the importance of Park's personal prestige: "The saving grace for Park has been a degree of insulation from attack provided by his long-standing reputation as a man of spartan probity who has avoided personal corruption."[6] One may well question Park's perception of the situation, but he appears motavited more by genuinely nationalistic considerations rather than the pursuit of personal aggrandizement.

II. DEMOCRACY IN SOUTH KOREA

Rather than the heavy handed seizing of more and more power for himself, Park has gone to the people on five separate occasions and received their vote of confidence. This aspect of Park's rule has never been sufficiently examined. The basic authority that Park has used in order to restrain some groups from publicly opposing the government have been adopted by the people as part of the law of the land. Park himself secured election to the office of President three times. In what even his critics acknowledge were fairly open democratic elections Park initially won by a narrow margin of only 1.5% of the vote in 1963, but his majorities rose to 1,162,000 in 1967 and 900,000 in 1971.

In 1972, however, he declared martial law, dissolved the National Assembly and promulgated the Yushin Constitution. Even in this instance he took his case before the people in a referendum in November, 1972, in which 91.9% of the electorate participated. The new Constitution received approval from 92.8% of the Korean voters. Some questions have been raised about the nature of this election, but a team of United Nations observers declared the vote a fair one.

In another referendum on this same constitution in February, 1975, 80% of the people participated with 74% expressing support. Park secured overwhelming approval everywhere in the country except the major cities, such as Seoul, where a majority voted against the document.

The magnitude of the majorities and subsequent events in Korea indicate that most Koreans approve of the present system of government which has vested much greater authority in the President. Opponents clearly exist, but they constitute a minority of the people. The new democratic party and other opposition groups now hold about a third of the seats in the National Assembly; they strongly criticize some of the government's policies while even more strongly supporting a free independent South Korea. Newspapers also do not hesitate to attack the government, though some have been restricted on National Security grounds. Thus the great democratic dilemma may well be posed in Korea as a clear majority expresses its democratic will by voting extraordinary powers on a President that can constrain open political activities, for the sake of National Security.

Regardless of the wishes of most of the people of South Korea, with the opposition centering in Seoul, the capital, they seem to receive a disproportionate amount of attention. As an American professor of Korean ancestry has testified, "Korea is a very elitist and centralized country, and when you talk about politics and economy, Seoul is really the center of it and it is really the most important area."[7] Prof. Franz Michael has referred to the great need in Korea for a "reconciliation between two types of elites"—those in the government and those in the intelligentsia.[8] The Rev. Michael McFadden, who has spent most of the past twenty years in a rural parish in Korea, complains that too much attention has gone to "the intellectual elite mainly in Seoul." This has led to "an emotional summary of dissident factions and elements" dominating discussion of Korea. On the other hand, in the countryside where 75% of the people live "you find most of the people for President Park because of the tremendous economic gains that have been made through the Saemual Movement. In all of the committee reports that I have read, I haven't seen one bit of emphasis put on the Saemaul Movement."[9]

Besides the intellectual dissent against park centered in Seoul, the capital also serves as headquarters for the main opposition political organization—the New Democratic Party. The leader of this party, Kim Young Sam, rather freely attacks President Park. In an interview with a reporter from the *Christian Science Monitor* last summer, Kim agreed that "as a result (of the Communist victory in Indochina), we have engaged in less criticism, but we remain unchanged in our aim of obtaining the restoration of democracy . . . and more freedom." He stated that "The government should stop oppressing the people and should let them support the government voluntarily, with their own minds and hearts, and should let the people devote their lives to the cause of the nation of their own will."[10]

Other opposition parties also exist which attack Park and his policies, such as the Democratic Unification Party, headed by Yang El Dong. But even before Park assumed extraordinary powers his opponents have spent more time fighting among themselves than uniting to form a viable political alternative to Park.

Given the circumstances in Korea, as a former American Foreign Service officer and staff member of the Council on Foreign Relations has written, "The mere fact of the existence of a democratic opposition in Korea is a success story."[11]

III. THE NATURE OF THE NORTH KOREAN GOVERNMENT

Ironically, one of the main defenders of democracy in South Korea is none other than the North Korea President Kim Il Sung. He has maintained that prior to the restoration of discussions with South Korea, the Park government must restore democracy. In an interview with the Tokyo daily *Mainichi Shimbun*, Kim argued: "If they really want to achieve national reunification they should not arrest citizens working for democracy and keep them in jail." The struggle between the two sections of Korea, according to Kim, "is a struggle between patriots and traitors, not a struggle between communism and democracy."[12]

The comments by Kim Il Sung and the nature of his government help bring a sense of proportion to the question of human rights and democracy in Korea. In a cover story last year in the *Far Eastern Economic Review* devoted to North Korea, the authors concluded that "no matter how authoritarian Park's administration may be, it is the personification of perfect democrary compared with the Byzantine power-play in hermetically sealed Pyongyang."[13]

Rough parallels exist between the two countries that do prove quite illuminating. While Park has ruled the South for the past 15 years and been elected three times to office, Kim Il Sung has been the only ruler of North Korea since its founding in 1945 under the guidance of the Soviet Union. Only Enver Hoxha in Albania and Tito in Yugoslavia have ruled longer than Kim in the communist world. Kim has never stood for an open election but instead has simply maintained power through rigid control over the communist apparatus in the country.

While Park has foresworn personal adulation, Kim has consciously created a personality cult about himself that even surpasses that accorded Mao Tse-tung at the height of the Chinese cultural revolution. Moreover, he has been credited with the ability "to fly over the sky at will by utilising a method to contract space."[14]

Rather than establishing rule according to Marxian principles, Kim has developed nepotism to an extent never before seen in the communist world. Not only has Kim groomed his son, Kim Jung Il for the number two spot in the government, but his younger brother holds the sixth position in the politburo. More broadly the governing apparatus resembles something of a monarchy: Kim's second wife is chairman of the Central Committee of the Women's League.

"Vice President Kany Yong Wook is Kim's grandfather-in-law. A female cousin, Kim Jung Sook, is deputy chairman of the North Korean Labour Federation. Her husband is Huh Dam, a prominent figure in the Central Committee and a Cabinet Member. Her sister is Kim Sin Sook, deputy director of the ideological Institute of National Social Science Research. This woman's husband is Yang Hyung Sup, a Central Committee member, Politburo candidate, and KWP secretary for ideology."[15]

The rigid authoritarian regime of Kim has intruded into every aspect of the people's

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Footnotes at end of article.

lives in North Korea. Private property has been nearly abolished. The Government has suppressed the practice of Buddhism, Confucianism, Christianity and animism. In order to break up the ancient family traditions in Korea the lineage records have been burned. Previous forms of culture have been replaced with the revolutionary opera which simply further reinforces the reigning ideology. In the anti-American opera "A True Daughter" the heroine is a Korean war nurse whose dying words are, "Comrade party cell chairman, here's my monthly party fee." [16] A mixture of class hatred and adulation for Kim Il Sung dominates all forms of theater in North Korea.

The enormous dose of ideology impregnating all aspects of society has lead to an extremely sterile existence in North Korea and effectively thwarted any substantial economic progress. Thus even though the northern half of Korea has abundant natural resources compared to the south, they have continued to fall further and further behind economically.

Thus in the status of both liberty and economic advancement the gap between the North and the South grows wider. However, in hearings on human rights and wire and television reporting on Korea, mention is seldom made of the situation in North Korea compared to the South.

FOOTNOTES

[1] Washington Post, June 30, 1975, p. A22.

[2] "Human Rights in South Korea: Implications for U.S. Policy," Hearings before the Subcommittee on Asian and Pacific Affairs and on International Organizations and Movements of the Committee on Foreign Affairs, House of Representatives 93rd Congress, 2nd Session 1974, p. 104.

[3] Ibid., p. 74.

[4] Ibid., p. 36.

[5] Edwin F. Black, "Korea: Land of Interim Peace.", Asian Affairs, Sept.-Oct. 1975, Vol. 3, No. 1, p. 10.

[6] Selig S. Harrison, "One Korea," Foreign Policy, Winter, 1974-75, p. 45.

[7] Jai Hyon Lee, Hearings, 1975, p. 258.

[8] Ibid., p. 251.

[9] Ibid., p. 250-51.

[10] Daniel Southerland, "Political Foes Lie Low in South Korea," Christian Science Monitor, July 8, 1975.

[11] Zygmunt Nagorski, Jr., "Standing Up for Korea," New York Times, June 14, 1975 (Op-Ed page).

[12] Atlas World Press Review, February, 1976, p. 19.

[13] "Kim: Keeping the North in the Beloved Family," Far Eastern Economic Review, May 16, 1975, p. 28-29.

[14] "North Korea," Asia Yearbook, 1976, p. 237.

[15] "Kim: Keeping the North in the Beloved Family," pp. 31-32.

[16] John M. Lee "Opera in Pyongyang Is Revolutionizing Experience," New York Times, May 18, 1972.

TESTIMONY GIVEN BEFORE THE SUBCOMMITTEE ON THE HANDICAPPED

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. DODD. Mr. Speaker, at this time I include in the RECORD the text of testimony which I gave yesterday before the Subcommittee on the Handicapped of the Senate Committee on Labor and Public Welfare.

The subcommittee is holding a series of oversight hearings on the Rehabilitation Act of 1973 in order to determine if the act needs amending to protect the handicapped from job discrimination by Federal contractors, entities receiving Federal financial assistance, and the Federal Government itself.

Mr. Speaker, my investigations have clearly demonstrated to me the need to amend this act, and therefore, I hope my colleagues will give this matter their consideration.

The text follows:

STATEMENT OF U.S. REPRESENTATIVE CHRISTOPHER J. DODD BEFORE THE SUBCOMMITTEE ON THE HANDICAPPED OF THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

Good morning: I want to thank you for allowing me to testify before you this morning, on the Rehabilitation Act of 1973, specifically the civil rights provisions of this legislation—sections 501, 503, and 504.

It is my belief that we as a nation have been grossly negligent in failing to act to eradicate the barriers of discrimination which the mentally and physically disabled face in both the public and private sectors of our society.

The Rehabilitation Act of 1973 stands as an affirmative step by the Congress to remove these discriminatory barriers at least from the Federal Government, Federal contractors, and recipients of Federal financial assistance.

However, we must go beyond the protections afforded the handicapped in the Rehabilitation Act, and prohibit private discrimination in the areas of employment, architecture, housing, and transportation.

To this end, last year I introduced legislation to prohibit discrimination against the mentally and physically disabled in housing and employment, and last fall conducted an extensive hearing on private employment discrimination to develop a background record of the problems that the handicapped face in this area.

I have requested, and will continue to work for hearings before the House Judiciary Subcommittee on Civil and Constitutional Rights, to which I belong, on discrimination against the mentally and physically disabled in the areas of housing and employment.

Unfortunately, even with the civil rights provisions already enacted by Congress in the Rehabilitation Act of 1975 specifically sections 501, 503, and 504, there has been little elimination of discrimination against the handicapped. This is a result of (1) an utter lack of enforcement by the Federal Government of these sections and (2) the failure of these laws to provide adequate complaint procedures and penalties so as to insure compliance with them.

At my request, the General Accounting Office undertook a study of the implementation of sections 503 and 504 of the Rehabilitation Act of 1973. This report issued last August, disclosed that three years after enactment there has been minimal enforcement of section 503, and that no enforcement mechanism has yet been devised by the executive branch to implement section 504.

As you know, section 503 requires all Federal contractors with contracts in excess of $25,000 to take affirmative action regarding employment of the handicapped. Section 504 prohibits discrimination against an otherwise qualified handicapped individual by any recipient of Federal financial assistance.

It is a disturbing and disheartening commentary on the commitment of the executive branch to civil rights for the handicapped that the President can expediently devise an executive order making major changes in the intelligence operations in this country, but be unable or unwilling to issue an executive order to provide an enforcement mechanism for section 504.

Besides the only recent preparation by HEW to issue proposed regulations regarding section 504's application to its programs, there has been no positive action by the executive branch to enforce section 504 since its enactment.

It took a letter from five Members of Congress specifically requesting action to enforce section 504, for the White House to even recognize there were problems in the enforcement of section 504.

After agreeing with us that the Federal Government had failed in its civil rights responsibilities toward the handicapped, the White House then informed me it was beginning work on an executive order to correct these enforcement deficiencies.

Yet more months have passed since that exchange, and despite repeated followup with the White House, there still is no executive order.

And while some of the indications from the White House sound promising I seriously question whether it would be responsible for us in the Congress to let the civil rights of the handicapped rest on either promising rumors, or administrative inertia of the executive branch.

The executive has ignored the will of Congress as expressed in section 504, and has taken advantage of the lack of specific enforcement mechanism in the act to sit back and do nothing for three years.

In light of the fact that your subcommittee is presently conducting oversight hearings on the Rehabilitation Act, I would respectfully suggest that perhaps the most effective way to insure that the mandate against discrimination is carried out in section 504, is to amend the act.

I would suggest an amendment to provide a specific procedure for the enforcement of the rights afforded the handicapped under this section, similar to the enforcement mechanism provided by section 2000d(1) of title VI of the Civil Rights Act of 1964.

Section 2000d(1) states that each Federal department and agency which is empowered to extend Federal financial assistance is authorized and directed to effectuate the provisions of section 2000d of the title which prohibits discrimination by recipients of Federal financial assistance.

Compliance is effected by termination of or refusal to grant assistance where there is a finding made on the record, after opportunity for a hearing, of failure to comply with such a non-discrimination requirement.

However, no action may be taken by any agency, until it has been determined that compliance cannot be secured by voluntary means.

While it is true that termination of funds has been very infrequent under title VI, the real strength of the enforcement mechanism is the deterrent effect it provides by its very existence, as well as the strides made in the voluntary compliance stage of the enforcement procedure.

While I believe that the rights of the handicapped can be effectively provided for through a mechanism modeled on title VI, I would strongly urge you not to exclude employment practices from the coverage of section 504.

Eradication of barriers of discrimination against the handicapped in employment is essential to the handicapped assuming their proper place in society. Further, inclusion of employment within the ambit of section 504 is all the more crucial, since the handicapped are presently not afforded protection under Federal law against private discrimination in this area.

One additional point with regard to the enforcement mechanism of section 504, I believe that there should be included a provision for the right of an individual to bring a private action for a section 504 violation.

Such a right has been read into title VI by the court undoubtedly as a result of its recognition that even with a statutory enforcement mechanism, to rely entirely on the executive branch for the protection of one's civil rights in these days of bureaucratic quagmires can also render one's rights illusory at best.

One additional suggestion, I would like to make regarding section 504 is that it be amended to specifically provide that Federal financial assistance for the purposes of this section includes Federal revenue sharing funds.

The Revenue Sharing Act prohibits discrimination on the basis of race, religion, color, and national origin by recipients of federal financial assistance, and the regulations set up a mechanism of enforcement of these prohibitions.

Basically the coverage of the anti-discrimination prohibition of the Revenue Sharing Act tracks the language of title VI. While it is true that section 504 was not enacted until a year after the Revenue Sharing Act was passed, you will undoubtedly agree with me that section 504 on its face should be read to cover revenue sharing funds.

Unfortunately, the director of the office of revenue sharing refused in hearings before the Subcommittee on Civil and Constitutional Rights to recognize section 504's applicability to revenue sharing funds. As a result, the report of the House Judiciary Subcommittee on Civil and Constitutional Rights to the House Government Operations Committee on the Civil Rights Aspects of Revenue Sharing, recommends that the act be amended to bring the anti-discrimination provisions into line with the mandate of section 504.

Hopefully the House Government Operations Committee will act positively to ensure the rights of the handicapped in this area. However, given the wide-ranging uses of these revenue sharing funds, such as for capital improvements, police and fire protection etc., and the resultant increased rights of the handicapped if these rights are recognized as within the ambit of section 504, it seems as desirable to amend section 504, to specifically provide that revenue sharing funds are to be included in its coverage.

A further personal experience of mine underscored the failure of the executive agencies to take the civil rights laws of the handicapped seriously, and pointed out what I regard as another section of the Rehabilitation Act which would benefit from strengthening—section 501.

Last September when I conducted a meeting in my office between representatives of the National Federation of the Blind and the State Department concerning the State Department's exclusion of the handicapped from employment in the foreign service. The State Department has refused to hire the blind as regular foreign service officers.

What recourse does a blind person who wants to work in foreign service have? Under present law the only protection afforded the handicapped vis a vis the federal government is section 501 of the Rehabilitation Act. However, the coverage of 501, as well as the lack of a true enforcement mechanism renders it a statute of limited application, as well as one of limited effectiveness.

Section 501 establishes an interagency committee on handicapped employees to further the goals of the handicapped within the federal government. Further, it requires submission of yearly affirmative action plans by each executive agency for the hiring, placement, and advancement of handicapped individuals in such department, agency or instrumentality.

However, there exists no strong enforcement provisions in section 501, which may be brought to bear upon an agency failing to submit or follow their plan. Furthermore, the interagency committee itself is now operating within the Civil Service Commission without a separate budget of its own.

Thus, 501, is a paper pushing operation with the agencies free under the present statute to simply ignore the commission. With the State Department, for example, the only means of proceeding for the commission is to suggest certain affirmative action steps—it cannot require anything. Further there is no provision for an aggrieved employee or applicant to bring a complaint as exists under section 717 of title VII.

In order to make section 501 an effective guarantee of civil rights of the handicapped in federal employment, I urge the committee to amend this section to give it the "teeth" I have mentioned it now lacks.

At the present time, the White House appears to be moving ahead positively in its planning for the White House Conference on the Handicapped, to be held this December. This gathering, which is being held to further this Nation's endeavors to better help its handicapped citizens help themselves, is mandated by P.L. 93–516.

Regrettably, the executive branch has failed to provide an equal commitment of effort to enforcement of section 504, section 503, and section 501 of the Rehabilitation Act of 1973. And to accord the handicapped a right, but to fail to provide an effective means of enforcement of this right, is to fail to give any right at all.

What this administration, and many people in this country, fail to realize, is that the way the disabled will assume a meaningful, productive role in our society will only be through the removal of the barrier which "shut them out" from the rest of the world.

You know and I know, Mr. Chairman, that the handicapped people of this Nation are capable of working in all sectors of the labor market, and that they are as capable as many without handicaps to excel in many occupations. Certainly the handicapped people in this room today, and throughout the United States, know this is the case.

It is not the physical or mental handicaps of these people which holds them back from such wholly productive lives today. Rather it is the discriminatory barriers thrown in their way by the misinformed prejudices of so-called "normal" citizens; by the legal prohibitions incorporated in unfair housing or zoning ordinances; by the physical obstacles erected by insensitive architects, builders, and transportation planners; and by the lack of commitment on the part of the Federal, State and local governments to protect their rights.

In this, our Bicentennial Year, Mr. Chairman, I think it is appropriate and important that this Congress re-affirm this Nation's commitment to protect and guarantee these rights.

I think Congress should do so by ensuring that the laws for the handicapped which already exist are vigorously enforced, and by strengthening and expanding these laws further to provide even greater protections for the rights of the handicapped.

Not only should the Federal Government strive mightily to "put its own house in order" to afford the handicapped the rights which they deserve and other Americans already enjoy fully. The Government should expand its efforts into the private sector to remove this discrimination as it exists in non-Federal settings.

I respectfully suggest that the amendments which I have talked about today will go an important first step forward toward this reaffirmation of our Government's commitment to equal rights for its handicapped citizens. I urge their inclusion in whatever legislation your committee formulates, Mr. Chairman, and I thank you in advance for your consideration of them.

WHO'S BRIBING WHO?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. McDONALD of Georgia. Mr. Speaker, the reaction to alleged payoffs by Lockheed to officials and politicians in various foreign countries demands that certain questions be raised. The first is: Who is bribing whom?

This question was, in effect, answered by Patrick Buchanan in a column appearing in the Chicago Tribune on February 17, 1976, when he said:

> Another question arises with respect to the Washington double standard: Why is an action either ignored or hailed as enlightened policy when done by the Government, but denounced as unethical when done by an American company?

Consider the reaction to the alleged Lockheed payoffs, as described by Mr. Buchanan:

> There are arguments on Lockheed's behalf. Quite obviously, aerospace executives did not travel to the capitals of the non-Communist world asking local politicians and officials to partake of Lockheed's cash. These gentlemen were, literally, shaden down. They were told greasing the palms of local bigwigs was a necessary condition of doing business. No tickee, no laundry. By complying, Lockheed got the orders, saved the company and kept thousands of their people off unemployment and relief rolls.
>
> This is not a brief for bribery; it is an argument for understanding. American businessmen traveling abroad are either selling the products of American workers, or buying resources to run the U.S. economy. They do not draw up the rules locally; they play by them or not at all.
>
> Official Washington is, as usual, officially horrified. Dr. Arthur Burns of the Federal Reserve believes bribery of foreign officials on foreign soil should be made a federal crime. The President is calling for a blue-ribbon panel to investigate.
>
> Ron Nessen is especially incensed. Lockheed, he suggests, may be denied the right to bid on future government contracts.
>
> Here, surely, is a clever idea. The Congress has guaranteed $250 million in loans to Lockheed. Now, Nessen suggests the aerospace giant be frozen out of the government market, which would mean rapid bankruptcy, forfeiture of the loans, liquidation of assets, huge losses to United States stockholders and wholesale aerospace unemployment.

Notice the cavalier manner with which a great American company and its employees is treated by official Washington in its mad dash to denounce unethical practices. But, as I have pointed out before, if payoffs to foreign officials to gain favor are unethical, then why the strange silence regarding the more than $300 billion in foreign aid given to foreign officials by our Government since 1946? If foreign aid is not a payment to gain favor with forern governments, what is it?

Not only is this outrageous double standard applied in the case of foreign aid, but also when any alleged unethical activity arises with respect to Congress. As Mr. Buchanan further discribes:

> We have no obligation in the U.S. to clean up politics in Tokyo or The Netherlands. We do, however, have a duty to root out corruption in the U.S. In that light, one must be less impressed with Frank Church's enthusiasm for exposing Lockheed payments abroad than with Congress' lassitude in investigating illegal corporate contributions and payoffs on Capitol Hill.
>
> When is the Senate Ethics Committee going to begin looking actively into cash payments by Gulf Oil to the Senate minority leader, members of the Watergate Committee and two Democratic candidates for President of the United States?

If official Washington expects to have any credibility with respect to unethical practices, it had better put its own house in order before denouncing American companies which have done nothing illegal.

SENATE—*Tuesday, March 2, 1976*

The Senate met at 12 meridian and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, who changest not, we submit our changing scene to Thy higher rulership. In days of uncertainty, keep us ever sure of Thee. In days which are dark, be our Light and our Guide. In days of waiting keep us strong in spirit. In days when we must act, help us to act in accordance with Thy law. Here may we love the Lord our God with our whole mind and soul and strength, and seek ever to know and do Thy will.

In the Redeemer's name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 2, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, March 1, 1976, be dispensed with.

The PRESIDING OFFICER (Mr. NELSON). Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time allocated to the distinguished Senator from West Virginia, the assistant majority leader, Mr. ROBERT C. BYRD, be divided between Senators EAGLETON and CLARK and that the order allocating time to Senators EAGLETON and CLARK precede the order for the recognition of Senator GARY HART.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, I yield back my time.

SUPPLEMENTAL LEGISLATIVE APPROPRIATIONS, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 646, House Joint Resolution 811.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

> A joint resolution (H.J. Res. 811) making supplemental appropriations for the legislative branch for the fiscal year ending June 30, 1976, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Appropriations with an amendment, as follows:

On page 2, beginning with line 1, insert the following:

SENATE

ADMINISTRATIVE PROVISION

> (a) The Sergeant at Arms and Doorkeeper may fix the compensation of the Procurement Officer, Auditor, and Deputy Sergeant at Arms at not to exceed $39,909 per annum. This subsection does not supersede (1) any provision of an order of the President pro tempore of the Senate authorizing a higher rate of compensation, and (2) any authority of the President pro tempore to adjust the rate of compensation referred to in this subsection under section 4 of the Federal Pay Comparability Act of 1970.
>
> (b) Subsection (a) shall take effect on January 1, 1976, and, notwithstanding any other provision of law, any increase in compensation made under authority of such subsection may take effect on that date or any date thereafter as prescribed by the Sergeant at Arms and Doorkeeper at the time of making such increase.
>
> (c) Effective on the date of the enactment of this resolution the title of the Procurement Officer, Auditor, and Deputy Sergeant at Arms is changed to Deputy Sergeant at Arms and Doorkeeper.

Mr. HOLLINGS. Mr. President, House Joint Resolution 811 makes supplemental appropriations for the legislative branch amounting to $33 million in order to complete the construction of the Library of Congress James Madison Memorial Building. The committee recommends approval of the full $33 million and has also inserted an administrative provision that would retitle the position of the Deputy Sergeant at Arms and increase the maximum salary of the position from $35.298 to $39,909.

With regard to the committee's amendment, the position of Deputy Sergeant at Arms has not been adjusted, except for the general pay raises for inflation, since 1955. During that time the responsibilities of the Office of the Sergeant at Arms have been greatly expanded, as the Senate has installed a computer system and enlarged the other service responsibilities of that Office. These expansions over the intervening 20-odd years have tripled the number of employees in the Office of the Sergeant at Arms and has increased the funds approved to that Office by more than 10 times and impact heavily on the Deputy Sergeant at Arms, who has the procuring and auditing duties. Let me add that in no way will the duties of the Deputy be modified by the simplification of the position title. In the opinion of the committee, the change in title and in annual salary is both obvious and warranted.

Now with regard to the Library of Congress James Madison Memorial Building. Construction commenced on this building in 1971 under a three-phase program for which $90 million was authorized and appropriated. However, it was subsequently decided to finish the interior of the building as phase IV. Competitive bids were opened on July 23, 1975, for phase IV and it was determined that an additional $33 million would be required to complete the building.

The committee was informed that there is some $44 million of the $90 million already appropriated available for phase IV and the Architect of the Capitol has provided some alternatives for awarding a bid within that amount. However, these are merely schemes that would for example, postpone the finishing of the fourth and fifth floors of the building. So it is the conclusion of the committee that the additional $33 million must and should be allowed.

There is detail of the additional costs in the committee's report and it should be noted that approximately $16 million of this additional amount is for work not included in the original construction program. For example, at the time the original plans were drawn water damage to the great national collections to be housed within the building was feared almost as much as fire. Consequently, no sprinkler system was in the original program. The restoration of the great works damaged by the flood in Florence, Italy, have proved the ability to restore water damage works. A sprinkler system is now part of the new program as are significant changes in the security of the building and in the smoke control and fire alarm systems.

As I indicated earlier, the bids were opened by the Architect on July 23, 1975. The delay over the intervening 7 months was occasioned by the desire of the House of Representatives to take over the Madison Building. This demand was later reduced to partial use of the building, but I am pleased to say that these demands have been completely rejected. The prohibition on the use of the Madison Building for general office building purposes in Public Law 91-214 still stands.

There is a great urgency to approve House Joint Resolution 811 as two of the five bidders have agreed to time extensions for acceptance of their bids from September 21 of last year until November 21, and then to January 21 of this year, and again until February 21, and more recently until March 3. The Architect of the Capitol has obtained a further extension to March 10 but to avoid any further delays in completing this building it is imperative that the Senate take immediate action.

Mr. **HRUSKA.** Mr. President, I rise to speak in favor of House Joint Resolution 811, making supplemental appropriations for the Library of Congress James Madison Memorial Building. As a former member of the Memorial Commission and a member of the Senate Appropriations Committee I have taken a special interest in this legislation.

For nearly 30 years, the Library of Congress has attempted to obtain additional quarters to house its valuable collections and staff. Let there be no misunderstanding regarding the urgent need for a new building. The priceless 31 million piece Library of Congress collection is deteriorating due to the lack of space with which to store books and other materials under the proper conditions. At the same time our knowledge and legislative activity are increasing at an unprecedented pace. It is vital that the Library of Congress, which serves not only the Congress but also the people of this country, keep pace with these developments.

As many of my colleagues are undoubtedly aware, a problem developed when the leadership of the other body in an effort to solve its own space shortage attempted to take over the Madison Building as a fourth House office building. Fortunately, the majority of the other body, in a fine act of statesmanship, put aside parochial interests and recognized the importance to the country of this new building by blocking efforts to use it for any other purpose.

This, of course, was the wise and proper course of action and in complete accord with the authorizing legislation, as amended by Public Law 91-214, which contains the following prohibition:

> SEC. 2. Nothing contained in the Act of October 19, 1965 (79 Stat. 986), shall be construed to authorize the use of the third Library of Congress building authorized by such Act for general office building purposes.

It is especially fitting that, in this our Bicentennial, we pass this legislation appropriating funds to complete the James A. Madison Memorial Building. For it was Madison, the fourth President of our country, a father of the Constitution, who first proposed, nearly 200 years ago, that there be a Library of the Congress.

The **PRESIDING OFFICER.** The joint resolution is open to further amendment. If there be no amendment to be proposed, the question is on the engrossment of the amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 811) was read the third time, and passed.

ORDER OF BUSINESS

The **PRESIDING OFFICER.** Under the previous order, the Senator from Florida (Mr. STONE) is recognized for not to exceed 15 minutes.

IMPENDING ENERGY CRISIS

Mr. **STONE.** Mr. President, the Nation has been aware of an impending energy crisis for many years. After the oil embargo 2 years ago, we Americans conducted what amounted to a national debate over energy policy. Finally, in December, Congress passed and the President signed the Energy Policy and Conservation Act of 1975.

The new legislation has been generally greeted with feelings of relief that at long last some positive action has been taken. But I am deeply concerned that Americans have been deluded into thinking that this law is, in fact, the comprehensive energy policy so badly needed. And I am equally concerned that they will consider this our final word on the subject.

I am certain that this will not, indeed, cannot—be our final word on energy. The threat of another embargo will remain as long as America depends as heavily on foreign sources of oil as it does today. The relationship between our domestic energy and economic policies and the international energy situation is critical and requires constant review and analysis.

As a member of the House-Senate conference committee which worked for many weeks seeking agreement on a compromise energy program, I signed the final conference report and voted for its adoption on the Senate floor. I believe that this legislation was probably the best compromise possible given the widely divergent views on energy policy and the unfortunate partisanship which has continually plagued the national debate on energy.

Nevertheless, I am compelled to say that I have little confidence that the Energy Policy and Conservation Act will prove effective in solving our Nation's energy problems. It may represent a necessary and reasonable political compromise, but I doubt that it incorporates a sensible, national energy policy.

I am particularly concerned, Mr. President, about the impact this act will have on our ability to reduce America's dependence on foreign sources of petroleum. The pricing policy of the act, while promising some measure of short-term price relief for the consumer, may spell long-term disaster for our capacity to obtain greater domestic supplies of petroleum. And, unless we move rapidly and effectively to assure increased domestic petroleum production, we will continue to risk another embargo and continue to live under the lingering threat of an international oil blackmail.

I might add, Mr. President, that at a time when short-term supply appears to be abundant and the price at the pump is falling, we are in a particularly strong position to experiment with other approaches to our energy problem than continued price regulation.

The act simply cannot be described as the comprehensive energy policy we need because it falls far short of what a policy ought to be—a commitment and a blueprint to meet present and future requirements. Price rollbacks and controls may masquerade as positive policy, but in the long run they will do very little to achieve what the Nation really needs—an increase in the domestic supply of energy, balanced by major efforts to use energy more efficiently.

I believe we must monitor our energy situation on a continuous basis. Having passed the legislation, we need to know if it is leading us in the right direction, or the wrong direction. Are we moving toward energy independence, or are we becoming more dependent than ever on imports? Is OPEC's ability to set world prices weakening, or simply growing stronger? Is the domestic energy supply picture improving, or is it growing worse? Are we conserving energy, or wasting it?

We need to know more about the relationship between our energy policies at home and the international energy situation. Consequently, we must analyze on a continuing basis the movement of OPEC prices, the oil pricing formulas and arrangements between OPEC members and consumer nations, and the ability of OPEC to maintain or increase oil price levels.

Obviously, we need to have the answers to such questions so that we can determine if the new law is working, or if it needs to be amended or altered in some way. And we need to do it in a timely fashion.

I believe we need some kind of a distant early warning system on energy—a series of indicators that will let us know if the law is working or not.

I have no idea of how many signals ought to be built into such a warning system. It might consist of as many as 15 or 20 different indicators. But just as we have leading economic indicators to send up storm signals or good news about the economy, so we need a sensitive set of signals to forecast our energy situation.

Some of the indicators that might be built into an energy distant early warning system come readily to mind.

Capital outlays made by the petroleum industry for exploration and development, for example, ought to be considered a useful warning bell.

According to the Chase Manhattan Bank, which surveys the financial performance of 29 petroleum companies on a continuing basis, major oil companies stepped up their capital spending substantially last year. In the first three quarters of 1975, the companies spent $18.4 billion—25 percent more than in the same period the previous year. More than half that amount was spent on searching for and developing additional oil and gas reserves.

It remains to be seen how the new law, with its pricing provisions, affects those investment levels. Historically, there is a strong relationship between profit levels in the petroleum industry and the amount the companies invest. For every $1 of domestic profit, the companies have spent an average of $1.95 on capital and exploration—and that ratio has been maintained for 25 years. If capital outlays for exploration and development should ever start to level off or taper off, that would surely be an important warning signal. Lower capital expenditures for domestic exploration and development would obviously lead to a lower supply of petroleum in the future than might otherwise be the case.

Another and related indicator is the number of seismic crews active in the United States. Any severe dropoff in seismic activity could well indicate that disincentives to add to gas and oil reserves are too severe—that the new law is simply counterproductive.

The number of seismic crews at work has been falling off in recent months. In December 1975, there were 259 crews at work. That was the 4th month in the row that seismic activity declined. And that figure of 259 is about a 14-percent drop from a year ago. There is a strong possibility that we are already getting a warning signal that anticipated disincentives were causing some pullbacks. Any further drastic drop in the numbers surely must be viewed with deep concern.

Another trend to watch is the number of heavy duty drilling rigs in operation, as well as the number of such rigs on order. Any substantial change in the numbers would indicate the extent of present and future drilling in high risk areas, such as the Outer Continental Shelf. Since the companies will have to go into these high risk areas for any significant discoveries, the number of rigs on order comprises a visible signal about future supplies.

At the moment there appears to be an oversupply of heavy duty rigs. According to an article in Oil and Gas Journal dated February 2, the oversupply of heavy offshore rigs is expected to continue for another 1 or 2 years. If the oversupply lingers beyond reasonable expectations, or if the number of idle rigs increases, that would certainly alert us to supply problems in the future.

Still another important index is the rate of decline in the production of so-called old oil.

Crude oil production in the United States has declined steadily since 1970. In that year, U.S. production amounted to more than 9.6 million barrels per day. From that point on, oil production went into a slide that saw production fall steadily over the successive years to an estimated 8.3 million barrels daily in 1975.

Those figures include all types of oil sold at controlled and uncontrolled prices. Even more significant for our purpose is the amount of oil flowing from old oil wells. If it could be determined how much oil has been produced from old wells in recent years, we would have a benchmark against which we could measure future declines. The rate of decline, of course, would tell us whether incentives to produce old oil are adequate. Any unusual drop or change in the pattern ought to be a clear signal that price incentives to produce oil from those wells is lacking.

Another important signal related to domestic production is stripper well activity.

Stripper well production—those oil wells producing 10 or fewer barrels of oil a day—could comprise one of the most sensitive of all barometers.

In 1974—the latest full year figures available—there were about 366,000 (366,095) stripper wells in the United States. Those wells produced an average of 3.8 barrels per day. Stripper well production is an important part of total domestic production. In 1974, stripper wells accounted for nearly 13 percent (12.9 percent) of total domestic production.

All the stripper well figures I have mentioned—number of wells, daily average, and percentage of total production—represent increases over 1973. Stripper well production has been exempt from price controls for the past few years.

Stripper well activity is a particularly sensitive barometer, because the most immediate impact of the price rollback under the new energy pricing law will probably be greatest on stripper wells that have only marginal value. An oil well that can produce only two or three barrels a day has significant importance in the total energy picture; but if the return is not worth it to the individual producer, he will simply shut the operation down. A rise in the average production from stripper wells would be a sign that marginal wells are shutting down—thus raising the average, while lowering total production.

Therefore, we should carefully monitor stripper well production for signs of impending problems in our total energy picture.

Then I think we should certainly monitor the increase in domestic demand. We need to know by how much the mandated price stabilization will actually encourage the use of more energy.

For many years—most of the 1950's and 1960's—demand for oil in the United States grew at an annual rate of about 3 percent. But beginning in the 1970's, the rate of increase just about doubled. The combination of an energy binge, a booming economy, demand for natural gas, and a variety of other factors accounted for the increase. That lasted, of course, until the embargo. In 1974, demand actually dropped. In 1975, it rose to about 16 million barrels per day (16,629,000) slightly more than it was in 1973.

An improving economy is going to mean an increase in demand for oil for industrial use, transportation, and electricity. In fact, taking into account the general increase in consumer spending and in general economic activity, demand for oil is expected to rise in 1976 by more than 5 percent. That is slightly more than 17 million barrels per day.

The demand figures must be watched very carefully. Every additional barrel of oil which is needed but which cannot be produced in the United States must, of course, be imported. The upturn in oil demand in the months ahead must be carefully evaluated to determine how much can be attributed to the improving economy, and how much to the average price plan approach of the new energy pricing law.

Rising demand for oil in this country will mean—as I have indicated—a further increase in imports.

The percentage of petroleum imports to meet domestic demand has been climbing steadily, and reveals increasing dependence on foreign oil. This ratio of total petroleum imports to domestic demand in 1975 was 36 percent; in 1974, 36.2 percent; in 1973, 35.4 percent. While domestic demand was reduced by 5.9 percent in 1975, when measured against the 1973 level, the U.S. dependency on foreign oil increased to 36 percent from 35.4 percent. Comparing 1975 and 1974 in the same manner, the trend is similar. Demand was down 1.3 percent, but imports remained at approximately the same level, 36 percent versus 36.2 percent. With the continuing decline in domestic crude oil production, these figures show that any increase in domestic demand can only be met by a larger influx of imports.

This rising percentage of imports is a particularly important indicator because of our increasing reliance on OPEC for imported oil.

Canada's policy of reducing petroleum exports is reflected in the import figures over the past 2 years. Imports from Canada amounted to about 1 million barrels per day in 1974, and that dropped to 809,000 barrels per day in 1975. On a percentage basis, United States Canadian imports were off 18.7 percent in 1974 and 40.1 percent in 1975 when compared with 1973.

All this has resulted in an increase in imports from OPEC countries. Those averaged 2.8 million barrels per day in 1973; 3 million in 1974; and 3.4 million in 1975. What is more, imports from the embargo members of OPEC have been stepping up rapidly. Measured against domestic demand, imports from embargo countries increased more than 35 percent from 1973 to 1975.

We already know that our country is too dependent on these uncertain sources of oil. Any further increase in this dependence is unacceptable.

Watching the import figures carefully can tell us the degree of our vulnerability to another oil embargo. It can also tell us whether we are doing anything at all as a matter of national policy to encourage greater domestic production of oil and thereby, to reduce our dependence on imported oil.

Along with import figures we should also closely monitor OPEC prices.

The lack of a comprehensive oil policy during the past few years is one reason for the continuing strength of OPEC and the inordinate rise in oil prices. I regret to say that it is unlikely that OPEC will consider the new energy pricing law as any kind of threat to its continued ability to dictate world oil prices.

But there is a way to find out for certain: measuring OPEC's ability to sustain those high prices, or to raise them further.

That ability, in recent months, has been seriously eroded. The last price increase—an increase of 10 percent—was announced by OPEC in late September 1975. But as a result of lowered demand—largely due to the worldwide recession—some OPEC members have found it difficult to sustain the increases. Iran, Kuwait and Venezuela reportedly are considering deals that would—in effect—mean lower prices. In fact, Iran has recently announced a $0.09 decrease in its price for certain categories of oil.

This means that Iran is coming to grips with a reduced worldwide demand for petroleum and, as a consequence, is bringing its previously higher prices into line with the Saudi Arabian light crude scale. Even as these countries respond to worldwide economic conditions, they will react—one way or another—to an effective American energy policy. The unanswered question is what our Government will do to take full advantage of the present international oil market. We must look for signs of further weakening on the part of OPEC's ability to maintain the present price level and have both the wisdom and courage to respond with an effective energy policy.

OPEC prices, therefore, should serve as a barometer of the effectiveness of the new energy pricing law. If the OPEC cartel regains its ability to set and maintain higher prices, some of that increased strength can probably be attributed to flaws in the new energy pricing law.

Finally, if the Energy Policy and Conservation Act results in higher levels of imports—as many believe it will—that effect will be reflected in rising dollar flows to OPEC countries.

Thanks in large part to the volume drop in imports last year, the Nation's imported oil bill rose only 2 percent—to $25 billion in 1975. As I have already mentioned, the new law makes it a certainty that imports from OPEC countries will rise. Some believe that under the pricing provisions of EPCA—if extended to 1985—imports would be doubled over what they might be if price controls were completely lifted. Most of that oil would come from the Persian Gulf area. And if OPEC raised prices by only $1 per barrel each year, this would mean an oil import bill on the order of $91 billion by 1985.

The oil import cost, therefore, ought to serve as another useful tool in determining if we are headed toward energy independence—or in just the opposite direction—which would mean the export of jobs along with U.S. dollars.

This by no means exhausts the possibilities of indices that could be developed to monitor our energy situation under the new law. I am sure additional ones might be developed. But however it is accomplished, we badly need some way to develop warning signals that will tell us—far enough in advance to take action—whether our energy situation is improving or worsening.

If energy problems can be flagged in a timely fashion, we may still be able to develop the comprehensive energy policy that the Nation has needed for so many years—and still needs after EPCA. I call upon the Federal Energy Administration to monitor effectively the implementation of EPCA and to make the results available to the Congress on a regular basis. Monitoring data as outlined above is not always easy. Nevertheless, without such a review it will be impossible for us to know the real impact of the 1975 Energy Policy and Conservation Act.

Public debate on energy must continue because this Nation continues to face an energy crisis. It may not now appear on the front pages of our newspapers or be discussed much during the current Presidential campaign, but this crisis remains. We cannot assume our problems have gone away, because the price of gasoline at the pump has temporarily gone down. We cannot assume that the solution to these problems has been found in the Energy Policy and Conservation Act of 1975. Unless a thoughtful dialog continues on energy, we will not be able to develop the comprehensive energy policy which will ultimately be necessary for this Nation's survival and well-being.

Mr. President, the Senator from Florida believes that there is an opportunity that faces our economy now to break the OPEC price controls on the price of oil it exports to us. Iran has felt the pressure of worldwide recession, and lowered its price 9.5 cents a barrel, though reluctantly and irritatedly. Venezuela is now negotiating in sensitive negotiations with the same U.S. oil companies whose properties that country nationalized recently, urging those companies to increase production and purchases from Venezuela, because Venezuela is feeling the financial heat of a worldwide recession.

There are a number of foreign oil producing companies that are concealing what amounts to substantial price decreases in special concessions and deals. An interesting riptide is developing. On the upper side of the tide, these prices, even including some prices by major U.S. oil companies at the gasoline pump, are going down.

Underneath that riptide is a current in which U.S. imports from OPEC countries are increasing, and our dependence on them is increasing. Yet, while our dependence on OPEC exporters is increasing, including the most unreliable to our economy among them, at the same time the worldwide recession has sensitized those very OPEC countries, and required some, and many, of them to make special deals or to cut prices generally, and otherwise to respond to these conditions. At the same time that our dependence on them is increasing, their dependence on us is increasing, because we are the only oil-importing nation substantially increasing and paying for its imports; and so they are sensitive, considerably more than they ever were in the past.

We have what I think is a window—the same kind of window that the space technicians use to launch ships to the Moon or to the planets. There is a short period of time in which all of the trajectories work; and during this short period of time when the OPEC is faced with a worldwide recession, with increased market dependence on the United States, we have, during this short period of time, a window in which constructive action on our part can decrease OPEC's prices to us, and maybe even give us a chance to loosen their iron-fisted control of world market prices, an end much to be desired.

If we sleep on our chances and let the entire year go by while we observe the Presidential election, that time may be gone forever in the very foreseeable future.

In the hotel business, once a room-night has passed with the room being unoccupied and vacant, that hotel can never recapture that room-night. We have this chance now, but when the time has gone by, Europe recovers, and the world economy recovers, it is possible, even likely, that for foreseeable future our room-nights will have fled in vacancy, and we will not have used this opportunity to get a decent supply and demand relationship with the foreign oil-producing companies.

What do we need to do? We need to rekindle our interest in a national debate leading to substantial reforms in addition to the compromise bill we passed at the end of last year. We cannot sweep it under the rug; or if we do, the chance we have now may well go, and yet, with some additional conservation, and with some consideration for effective incentives to increase domestic oil and gas production, that little extra pressure on those foreign oil-producing countries may be all that it takes to break this iron control—a prospect that we have every duty to try for.

So the Senator from Florida urges that we seek a renewed debate on energy policy in this body, in Congress, and in the country, and do everything we can to find out what is not working and change it, to find out what is working and accentuate it, and what we can do in addition to what we have done to improve our conservation and our incentive situation, and increase the pressure on OPEC, to the end that we might possibly prevail and obtain a lead toward a relatively free market situation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa (Mr. CLARK) is recognized for 7½ minutes.

Mr. CLARK. I thank the Chair.

SENATE RESOLUTION 401—SUBMISSION OF A RESOLUTION RELATING TO THE TREATY OF FRIENDSHIP AND COOPERATION WITH SPAIN

(Referred to the Committee on Foreign Relations.)

Mr. CLARK (for himself and Mr. EAGLETON) submitted the following resolution:

S. RES. 401

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty of Friendship and Cooperation Between the United States of America and Spain, signed at Madrid on January 24, 1976, together with its Seven Supplementary Agreements and its Eight Related Exchanges of Notes, subject to the declaration that—

(1) the United States, recognizing the aspiration of Spain to achieve full participation in the political and economic institutions of Western Europe, and recognizing further that the development of Spanish democracy is a necessary aspect of her full integration into European life, hopes and intends that this treaty will serve to support and foster Spanish progress toward democracy and toward complete Spanish participation in the institutions of Western European political and economic cooperation; and

(2) the United States, while recognizing that this treaty does not expand the existing United States defense commitment in the North Atlantic Treaty area or create a bilateral defense commitment between the United States and Spain, looks forward to the development of such an expanded relationship between Western Europe and a democratic Spain as would be conducive to Spain's full cooperation with the North Atlantic Treaty Organization, its activities and mutual defense obligations.

Mr. CLARK. Mr. President, I now submit a resolution by which the Senate would give advice and consent to ratification of the treaty with Spain, subject to a condition which can properly be labeled a declaration. The effect of this declaration is not to place a reservation upon the Senate's consent, thus requiring further negotiation. Rather, the effect and purpose of this declaration is to reiterate and make explicit certain important aspects of the treaty relationship to which the Senate would be giving its approval.

Over the weeks ahead, the Senate will be considering the recently negotiated treaty of friendship and cooperation with Spain, with a view to giving advice and consent to its ratification—ratification being the act by which signatory governments place a treaty into effect once their respective constitutional processes have been satisfied.

I yield at this point, Mr. President, to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I want to say how pleased I am to join the distinguished Senator in submitting this resolution.

I would like to propound a question, if I may, to my colleague from Iowa. Is it his opinion that this declaration would make no material change in the treaty in the legal sense—that it would not change the terms of the treaty?

Mr. CLARK. Yes, that is correct. The treaty would not have to be renegotiated. It is simply a declaration on the part of the Senate that we wish to make two additional points very clear. They are; namely, that we are concerned about encouraging progress toward a more democratic society and more democratic government in Spain, and we wish to emphasize that although this treaty does not expand the existing U.S. security commitment, we would hope that as Spain progresses toward a fuller democracy it might achieve full cooperation with NATO.

Mr. EAGLETON. I agree fully with the Senator's comment. He has described very well the purpose of our resolution.

As the Senator has indicated, Spain is undergoing process of change. Realizing how difficult it is to predict future events, would the Senator agree that we should not, by our approval of this treaty, convey an endorsement of the politics of the current Spanish regime?

Mr. CLARK. Absolutely. What we wish to do with the declaration is to make very clear that we are interested in further progress toward democracy, and that we in no sense in ratifying this treaty believe that the present government has yet really made the necessary progress with which we would be completely satisfied.

Mr. EAGLETON. That is very good.

I shall read into the record at this point what I consider to be the most significant portion of the Clark-Eagleton resolution.

> The United States . . . hopes and intends that this treaty will serve to support and foster Spanish progress toward democracy and toward complete Spanish participation in the institutions of Western European political and economic cooperation; . . .

We are, in other words, offering encouragement to those who aspire to complete democracy in Spain. And, we are recognizing the fact that, until that day comes, Spain will not be able to participate fully in the cooperative institutions of the West.

Mr. President, if I have remaining any time allotted to me I yield said time to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator has 7½ minutes.

Mr. EAGLETON. I yield that time to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. CLARK. I thank the Chair and Senator EAGLETON.

Mr. President, contrary to common conception the Senate will have available to it alternatives other than simply approving or disapproving the ratification of this treaty. It is my purpose here to discuss briefly what alternatives exist and then to introduce for the Senate's consideration a resolution, cosponsored by Senator EAGLETON, which represents one of these alternate choices.

THE ADVISE AND CONSENT FUNCTION

Mr. President, the Constitution requires the President and the Senate to share responsibility for the making of treaties—article II, section 2. The President's responsibility is to negotiate such agreements; the Senate's is to give consent or to refuse to give consent to their ratification. During this process, however, the Senate may condition or qualify its consent to a treaty; and the Constitution binds the President to make the Senate's qualification on consent effective if he wishes to bring the treaty into force.

The method by which the Senate may condition its consent is by making a statement. Such a statement may be designated a "reservation," an "understanding," a "declaration," or be described by still another term. By tradition, such a statement is rendered as a part of the resolution of consent to ratification, though other methods are available.

The actual effect of such a statement, however, is determined neither by what term is used to describe it nor by the means through which it is rendered, but rather by its substance. The crucial distinction is whether the Senate's statement—its condition—is or is not consistent with, and within the scope of, the intent of the negotiators. If such a condition clearly is in accord with the intent of the negotiators, it does not have the effect of requiring further negotiation of the treaty. If, on the other hand, the Senate's statement places a condition on the Senate's approval which extends beyond or contradicts the negotiators' intent, then the Senate will have placed a reservation on its consent; and further negotiation will be necessary to determine whether the signatories will allow the Senate's condition to be incorporated into the content of the agreement.

It is clear, Mr. President, that Spain is now embarked on a period of fundamental change. After four decades of dictatorial rule by General Francisco Franco and isolation from the mainstream of European life, Spain is now a monarchy, openly aspiring to be integrated fully into the Western European institutions of political, economic, and military cooperation. The precondition for such an assimilation, Mr. President, has been made explicit by the European nations. Spain must achieve genuine progress toward developing her own institutions of democratic participation before she will be welcomed as a full partner in the multilateral institutions of Western Europe and the Atlantic Alliance.

Mr. President, I believe that the proper role of the United States is to assist this process of Spanish evolution toward democracy, and toward integration into Europe, in every way possible. And I believe further that the United States can do so within the context of Spanish-American economic and military cooperation envisioned by this treaty. Indeed, so long as Spain seeks acceptability in Europe, and so long as the United States and Spain maintain a cooperative relationship, our Nation will be able to exert a positive influence over the process of Spanish change.

There are, however, aspects of this agreement which the Senate must consider with special care. Unlike previous agreements with Spain, this agreement has been cast as a treaty; and what the treaty form signifies, unfortunately, is subject to misinterpretation. As I have stressed on numerous occasions, there is, between a treaty and an executive agreement, no inherent difference as to content or obligation. Both forms entail a commitment by the United States to adhere to whatever has been agreed. Both have the same force in international law. Only in the realm of American domestic process is there a difference, the treaty form and the Senate's consent to ratification being an explicitly stated constitutional requirement for all agreements of significant consequence.

With regret I must, of course, acknowledge that the constitutional treaty requirement has not in the past been scrupulously heeded, and that significant agreements have been contracted without the Senate's constitutionally specified participation. Indeed, it is only because proper constitutional procedure was not followed in the contracting of previous agreements with Spain that the new agreement now represents a departure. It thus bears emphasis that it is the treaty form which constitutes the "norm," and that the aberration lies in past practice. Yet, while I shall continue to stress the constitutional reality that the treaty form signifies no more than an overdue compliance with proper procedure, I also recognize the political reality that many people, not attuned to these constitutional considerations, will attach special significance to the treaty form. To many observers, this agreement—because of its form and also because of its timing—represents a new, stronger bond between the U.S. Government and the Spanish regime. And that perception, Mr. President, constitutes a potential liability which the Senate cannot ignore.

The liability, Mr. President, consists in the way this agreement may be perceived, or misperceived, by the Spanish establishment and by the Spanish opposition. If, by the Spanish establishment, this new treaty is interpreted self-servingly as an American blessing of the Spanish status quo, it could as a result have the dangerous effect of encouraging Spanish governmental intransigence against those forces in Spanish life seeking to advance toward democracy. And if Spaniards who are laboring for such progress draw the same conclusion—that the United States has alined itself complacently with an obdurate Spanish Government—then this treaty could become the focus and genesis of a bitter anti-Americanism that would seriously endanger the future of Spanish-American relations, particularly after Spanish democracy is finally attained.

There are many changes yet to come in Spanish life, Mr. President, probably in the near future. And it would be the saddest irony if our Government, by rushing pellmell to solidify its relations with post-Franco Spain, were to alienate those very democratic forces whose future success is so fundamentally necessary for the full realization of Spanish-American friendship. The United States cannot afford to be—or to be perceived as—an obstacle to progressive change in Spain; and it is vitally important that this Treaty of Friendship and Cooperation be clearly and widely understood to constitute an American bond not simply with the current Spanish Government but with the Spanish nation as a whole.

We cannot of course dictate the way in which our actions are perceived. But we can do our best to make clear what we intend. There is, according to my understanding, very little criticism in Spain, even among elements of the Spanish opposition, concerning the content of this treaty. There is only apprehension about what the treaty may signify. And it is this which the Senate can clarify through a straightforward declaration of American interest and intent.

This resolution, Mr. President, would put forward the American position on two important counts. First, it would affirm that it is a fundamental interest of the United States to see Spain move expeditiously toward the creation of democratic institutions, and that it is the intent of the United States that this treaty support, not impede, the process.

Second, it would emphasize that this treaty does not constitute a defense commitment to Spain, and that any such commitment, which would be made within the NATO context, is contingent on Spain's progress toward democracy. Both of these ideas Mr. President, need to be promulgated with emphasis, and this resolution provides a means. With the Spanish press now much less restricted than it was even a few months ago, our actions will be followed by Spaniards on all sides of Spanish life; and I believe that, at such time as this treaty is approved, the American concern for Spanish democracy, and not just for Spanish bases, should be read throughout Spain.

Mr. President, in closing, I wish to note that neither Senator EAGLETON nor I, in sponsoring this resolution, intends to indicate unqualified support for the treaty at this time. Indeed, it is our intention to reserve judgement until after the Foreign Relations Committee has completed a thorough process of hearings and deliberation on the treaty's substantative merits. The sole purpose of introducing the resolution now is to provide, for the Senate's consideration, the kind of legislative vehicle which Senator EAGLETON and I believe should be employed if and when Senate approval of this treaty is finally granted.

I yield the remainder of my time.

Mr. EAGLETON. Mr. President, this resolution adds an important condition to the Senate's consent to ratify the Treaty of Friendship and Cooperation with Spain.

In remarks before this body on February 5, I recommended that the Senate carefully consider the impact of this treaty on the political change now going on in Spain. I said then that the adoption of the treaty form—as opposed to the too frequently used executive agreement—would enable our Government to express in explicit terms its hopes and intentions with respect to our continuing relationship with Spain.

This treaty, for which the Executive has requested our advice and consent, is the formal representation of that relationship. If ratified, it will remain the instrument of reference between the United States and Spain for 5 long years.

As we dust off the "advice and consent" power, long ignored by imperial presidents and dormant congresses, we could be assigned no more difficult task. We are being asked to consent to the terms of this treaty at the outset of a new era in Spain—an era which will bring unpredictable change to the political landscape of that country. We are being asked to consent without reservation to the President's judgment that this treaty will serve to preserve U.S. interests over the next 5 years.

Mr. President, we will put the administration's judgment to the test in the coming weeks. The Foreign Relations Committee will begin hearings on this important treaty tomorrow. In my view, our most challenging task will be to consider the impact this treaty will have on the political evolution now going on in Spain.

The most visible aspect of this agreement is the defense relationship and the renewal of arrangements to base U.S. forces in Spain. The changes made in these arrangements—the withdrawal of the 98th Strategic Wing of tanker aircraft and the phased withdrawal of our nuclear submarine squadron—reflect changing attitudes in Spain toward the U.S. military presence. This treaty reflects the growing concern of the Spanish people over the prospect of being drawn into the much feared East-West confrontation without benefit of full membership in the North Atlantic Alliance.

These attitudes cannot be ignored as we assess the risks and the benefits of this treaty. The effect of such strongly held attitudes during the relatively stable period during which the treaty was negotiated caused the Spanish Government to push for major modifications in the defense relationship. But what new pressures will emerge as Spain moves to open its political process?

Because none of those who ultimately will take responsibility for this treaty can answer that question today, I say we must give minimal weight to the short-term military benefits this agreement offers. We cannot be placed in a posture wherein we appear in the eyes of whatever new Spanish leadership emerges to be sacrificing democratic principle to gain restricted access to three marginally important military bases.

This treaty can and should be a vehicle to foster a much more positive relationship than the current alliance of convenience between our two countries. Whether assessing our relations in military, political or economic terms, the United States will have a much closer affinity with a democratic Spain, a Spain which has been accepted by the cooperative institutions of Western Europe. This treaty must convey that message to the Spanish people.

Mr. President, that is exactly what Senator CLARK and I seek to accomplish by the "declaration" we put forward today. In a very important way this statement puts the face of principle on this treaty.

This declaration recognizes the stated aspirations of the Spanish Government to participate fully in European life, and it recognizes the key criterion for such participation—the development of democracy in Spain.

This criterion has not been arbitrarily set by the United States acting alone. It has been set by the nations of Western Europe and by the overwhelming and acknowledged public sentiment of today's Spain.

As I have stated previously, I believe that the alternative to this treaty is a break in United States-Spanish relations. Such a break in my view would not be in the best interests of the United States, nor would it advance the cause of democracy in Spain. It might even strengthen the hand of those who wish to perpetuate the Franco system.

In general, therefore, I support this treaty, though I will reserve final judgment until the Foreign Relations Committee completes its work. Nonetheless, if the Senate ratifies this agreement, I want the U.S. position on democracy in Spain to be clear—and I want that position to be preserved for the next 5 years as a formal declaration of intent.

Mr. President, soon after Franco's death, when the eyes of the world were on Spain, the new King, Juan Carlos, declared a partial amnesty for political prisoners. Soon thereafter a number of those released were rearrested as they participated in demonstrations urging complete amnesty. Opposition leaders were quoted as saying that "liberalization had lasted only until the foreign statesmen and television cameramen had left."

The same charge is being leveled with respect to the proposal for political reform put forth by the Spanish Government a month ago. The government is on good behavior, it is said, while the U.S. Senate considers whether to ratify the treaty. As soon as ratification is voted, the pressure will be off.

Although I have more confidence in the intentions of the current Spanish Government, I am concerned about reports that the right wing is seeking to sabotage the reform proposal.

We cannot ignore the perceptions of the Spanish opposition. We cannot risk the possibility that our ratification of this treaty will be seen as the act which relieves the government of its obligation to press forward to achieve democracy.

The resolution we submit today will keep alive the strong desire of the United States that Spain keep moving toward the development of democratic institutions. It represents the same sentiment expressed by President Ford in his letter of transmittal. In that letter of February 18, 1976, the President expressed this hope:

> . . . (that) the Treaty would serve to provide a firm basis for a new stage in United States-Spanish relations, reflecting United States support for and encouragement of the important evolution which has begun in Spain. . . . The treaty reflects the mutual conviction of Spain and the United States that the proper course of this evolution should include, as major objectives, the integration of Spain into the institutions of Europe and the North Atlantic defense system and should include a broadly based cooperative relationship with the United States in all areas of mutual interest.

Mr. President, the United States has too often placed short-term gain, usually in the name of one cold war strategy or another, ahead of the principles which we hold as a nation. In country after country, we have been accused of stifling democracy to preserve a geopolitical position in the effort to contain communism. And, in the long run, our interests have suffered—we have lost ground.

It is my sincere hope that through this resolution we can send a strong message to the people of Spain that we understand their aspirations and that we endorse them. If we fail to do that, we may well find ourselves on the outside, the victim of democratic forces we, of all nations, should be able to harness.

Mr. GARY HART and Mr. CURTIS addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado is recognized for not to exceed 15 minutes.

SPECULATION AND FACTS: A REPLY TO SENATOR GOLDWATER

Mr. GARY HART. Mr. President, my statement here today is not by way of stimulating controversy or opening up wounds with one of my colleagues, but rather by way of clarifying the record with regard to a very important issue.

I am speaking today to voice my shock and disappointment at the unfounded statements made recently by the able Senator from Arizona (Mr. GOLDWATER), concerning President John F. Kennedy. I refer to Senator GOLDWATER's claim, reported in the press in recent weeks, that the Select Committee on Intelligence has attempted to cover up evidence implicating President Kennedy in the CIA's assassination attempt against Fidel Castro of Cuba.

This is utter nonsense. I am astounded that the Senator from Arizona seeks at this time to discredit the findings presented in a carefully researched report which bears his own signature. Where were his complaints and criticisms when the work was being done, when the witnesses were testifying and the drafts of the report being written? Who are the witnesses he claims have changed their testimony? Where is his evidence?

Surely, if there was any such evidence, Senator GOLDWATER would have included it in his own "Additional Views" appended to the committee's assassination report. He did not do so. Instead, he referred vaguely to circumstantial evidence received by the committee that Robert Kennedy and, therefore, President Kennedy knew about the attempts on Castro's life before, during, and after they occurred.

Neither I nor any other member of the committee that I know of has heard or seen any evidence that lends credence to Senator GOLDWATER's accusations. In the press releases I have seen, for example, Senator GOLDWATER cites a witness who said that a CIA official was asked by the White House during the Kennedy administration: "When are you going to * * * do something about Cuba?" From this, Senator GOLDWATER apparently jumps to the conclusion that President Kennedy ordered an assassination. The facts do not support that conclusion.

Senator GOLDWATER is quoted in the press as saying that following this statement by the witness, the select committee began an effort "to get the blame away from the Kennedys." This is simply not true. Apparently, other members of the committee do not think it is true either. Senator TOWER, the ranking Republican on the committee, told the press he did not know what GOLDWATER was talking about. Senator WALTER HUDDLESTON of Kentucky, another committee member, called Senator GOLDWATER's statement "ridiculous" in an interview reported in the Washington Post.

Perhaps the Judith Campbell matter and Senator GOLDWATER's own personal theories on executive chain of command lie behind his unfortunate statements. As the committee's chairman, Senator CHURCH, has explained many times, the committee decided, by unanimous vote, not to dwell on the Campbell case in the assassination report after we had examined the evidence carefully and assured ourselves that this matter had nothing to do with the mandate of the select committee. Of course, we could have interviewed Frank Sinatra, Howard Hughes—if there is a Howard Hughes—Lawrence Welk, and Captain Kangaroo, for that matter. All would have been equally irrelevant. Our purpose was not to stage a headline-grabbing soap opera, but rather a probe of CIA assassination attempts. When the Campbell trail did not lead in this direction, the committee saw no point in pursuing the irrelevant. Senator GOLDWATER certainly voiced no interest in handling the Campbell case in any other fashion.

Senator GOLDWATER seems to have

reached an a priori conclusion that Presidents simply must have been behind the various assassination attempts. As he told a group of reporters last week, "It had to be on orders of the Government. There is no other way." Gesturing toward the White House, Senator GOLDWATER reportedly concluded: "Everything points right down there." In his additional views to the assassination report, Senator GOLDWATER expressed his view that—

> Since World War II, Presidents have directly or indirectly approved of all actions taken by the CIA which have been the subject of the Select Committee investigation.

These are most serious charges. The Senator from Arizona has implicated the names of every recent President in plots to assassinate Fidel Castro and others without firm evidence—all apparently because he believes "there is no other way."

These are Senator GOLDWATER's views and opinions. Now let us review the evidence. The facts are these: None of the committee's witnesses could say with any assurance that any President had ordered an assassination. High ranking CIA officer Richard Bissell, for example, said that he guessed President Kennedy knew about the attempts against Castro but, he added—

> I have no direct knowledge, first-hand knowledge of his (President Kennedy's) being advised.

When Bissell was asked if he had informed anyone outside the CIA that an effort to assassinate Castro was underway, he replied, "Not to my recollection." He added he was never told that any official outside the Agency had been made aware of such an effort.

Richard Helms testified that he inherited the program to assassinate Castro from Mr. Bissell, and, because of its sensitive and unsavory character, it was not the type of program one would discuss in front of high officials. When asked specifically if President Kennedy had been informed of any assassination plots, Helms pointed out that—

> Nobody wants to embarrass a President of the United States by discussing the assassination of foreign leaders in his presence.

Helms also testified that he never told Attorney General Kennedy about any assassination activity. He stated that he never informed McCone or any other official of the Kennedy administration of the assassination plot.

Secretary of State Dean Rsuk testified—

> I never had any reason to believe that anyone that I ever talked to knew about any active planing of assassination underway.

Secretary of Defense Robert McNamara stated that he had "no knowledge or information about plans or preparations for a possible assassination attempt against Premier Castro."

Roswell Gilpatric, Deputy Secretary of Defense under McNamara, said that killing Castro was not within the mandate of the special group, which he construed as having been only to weaken and undermine "the Cuban economy."

Gen. Maxwell Taylor, who later chaired special group meetings on Operation Mongoose, stated that he had never heard of an assassination effort against Castro, and that he never raised the question of assassination with anyone.

McGeorge Bundy stated it was his conviction that "no one in the Kennedy administration, in the White House, or in the Cabinet, ever gave any authorization, approval, or instruction of any kind for any effort to assassinate anyone by the CIA."

Walt W. Rostow, who shared national security duties with Bundy before moving to the Department of State, testified that during his entire tenure in Government he never heard a reference to an intention to undertake an assassination effort.

All of this sworn testimony is reprinted in the committee's assassination report. On the basis of testimony and documentary evidence, the committee could find no link betwee the White House and the plots to assassinate Castro. Yet, as the report stated, White House officials were clearly at fault for giving vague instructions and for not explicitly ruling out assassination. Further, as the report concluded, the system of executive command and control was so ambiguous that it is difficult to be certain at what level assassination activity was known and authorized.

This does not, however, give anyone the liberty to make wild accusations about Presidential involvement—unless, of course, they are prepared to lay down the hard facts to support their claims. I invite Senator GOLDWATER to do so. If there is evidence in the committee's secret testimony to indicate Presidential involvement in the plots to assassinate Castro, as Senator GOLDWATER has suggested there is, I will join with the Senator in voting to have that testimony publicly released. If this testimony exists, the public has a right to see it.

ROUTINE MORNING BUSINESS

The **PRESIDING OFFICER.** Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 5 minutes each.

PAROLE COMMISSION AND REORGANIZATION ACT—CONFERENCE REPORT

Mr. **BURDICK.** Mr. President, I submit a report of the committee of conference on H.R. 5727, and ask for its immediate consideration.

The **PRESIDING OFFICER** (Mr. NELSON). The report will be stated by title.

The second assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5727) to establish an independent and regionalized U.S. Parole Commission, to provide fair and equitable parole procedures, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend to their respective Houses this report, signed by all of the conferees.

The **PRESIDING OFFICER.** Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of February 23, 1976, beginning at page 4063.)

Mr. **CURTIS.** Mr. President, reserving the right to object, may I inquire from what committee this comes?

Mr. **BURDICK.** From the Committee on the Judiciary.

Mr. **CURTIS.** Does the ranking member of that committee approve this conference report?

Mr. **BURDICK.** Yes, he does.

Mr. **CURTIS.** Very well.

Mr. **BURDICK.** Mr. President, the conference report before the Senate for adoption today to reorganize the U.S. Board of Parole into a Parole Commission is a final legislative step in a process that has taken more than 3 years. I do not believe it is necessary to recite the history of these efforts, except to say that the Parole Board and the Department of Justice have been deeply involved in the process that brings us here today.

This legislation provides a statutory basis for a regionalized organization of Federal parole activities, it clarifies the independence of parole decisionmaking, and it recognizes the importance of parole guidelines as a basis for structuring the broad discretion given the Agency. These decisionmaking guidelines are to be published in the Federal Register, where they may be seen and commented upon by interested agencies, by Members of Congress, and by concerned citizens.

Although exceptions to these guidelines would be permitted when the Parole Commission can establish reason that warrants it, it is anticipated that most decisions to grant or deny parole will be based upon guidelines. After a prisoner has been heard by hearing examiners, and the examiners have recommended a disposition of the case, decision on parole is in the hands of a Presidentially appointed commissioner. The decision of the Commission in each case includes opportunity for review and appeal to protect the integrity of the parole process. The bill gives statutory recognition to the importance of guidelines in parole decisionmaking, but also requires the Commission to make discretionary determinations concerning accountability and protection of the public welfare before any prisoner may be released on parole.

When a decision has been made, the parolee is told the decision and the particular reasons for that decision. The prisoner who is denied parole is told how the Commission assesses his case against the guidelines, in particular the severity of his offense and the probability of his success on parole as judged from his past behavior.

It is the intention of the conferees not to require institutional parole determination proceedings for prisoners serving concurrent State and Federal sentences in State custody until such time as they have been granted parole on the

State sentence. To require otherwise would mean performance of meaningless proceedings as the prisoners would remain in custody. The legislation provides for judicial review of the Commission's rulemaking procedure, but also carefully preserves existing limitations on judicial review of individual parole decisions.

The individual granted parole would be released under conditions that serve as a guide to his future behavior, which require that he commit no other criminal offenses, and that he live under other limitations that are reasonably related to protecting the public welfare.

Although the vast majority of Federal parolees complete their period of supervision successfully, the parole of some is revoked and they are returned to prison. For those whose parole would be revoked for crimes committed subsequent to their release on parole, the statute recognizes that the full criminal process is available to the individual in connection with the new charges, but permits a full revocation hearing where warranted by the circumstances of the case. This legislation also provides for appointment of counsel, and it is intended that rates of payment remain consistent with present rates.

The legislation also provides new parole criteria which come into effect when the prisoner has completed two-thirds of his sentence, which are designed to complement the present statutory provisions for good time, and assure that prisoners with long sentences have at least some period of supervision in their community before total release from Federal custody. For those prisoners whose parole has been revoked and who have been returned to prison, it is intended that the two-thirds be based upon time remaining to be served when they are reimprisoned.

The legislation establishes certain deadlines for the Commission's decisionmaking, but the conferees acknowledge that from time to time extraordinary reasons may result in delay in making any of the decisions. If a legal remedy is necessary in the absence of good faith effort on the part of the Commission, the remedy available to the prisoner or parolee is to compel the decision, not release from custody.

This legislation is prospective in its application. Decisions to grant, deny, modify, or revoke parole made by the parole agency prior to the effective date of this act are to be carried out pursuant to the law in effect at the time of the decision. Examples of prospective application of the provisions of this legislation include, but are not limited to, the length of time between hearings for a prisoner denied parole—section 4208 (h)—and computation of time remaining to be served for individuals whose parole has been revoked—section 4210(b)—and provisions relating to termination of parole supervision—section 4211. Prospective application does not preclude parole consideration for persons with sentences of more than 30 years, including life terms pursuant to section 4205(a); however, it is the intent of the conferees that where such terms have been imposed consecutively, the minimum term of parole ineligibility shall also be applied consecutively.

Mr. HRUSKA. Mr. President, I rise in support of the pending measure, the conference report on H.R. 5727, a bill to establish an independent and regionalized U.S. Parole Commission, to provide fair and equitable parole procedures, and for other purposes.

I would also like to express my personal gratitude to the Senator from North Dakota for his dedication and tireless efforts as chairman of the Subcommittee on National Penitentiaries in drafting this legislation to reform the Federal parole system.

Mr. President, parole is not a new concept to the field of corrections, but the use of parole as an extension of the sentencing process has significantly changed and expanded in recent years. Parole authority has provided a means of balancing the interests of protecting society from criminal offenders through incarceration, and providing a means for prisoners to achieve credit for good behavior and shorten their time in prison. This bill goes a long way in accomplishing this balance.

The purposes of parole are subject, of course, to the operation and structure of the Parole Commission. This measure addresses the standards and safeguards necessary to guide the Parole Commission, while at the same time expanding the tools of the Commission to handle a growing caseload of parole decisions complicated by due process considerations and the presence of counsel at revocation proceedings.

Mr. President, this legislation creates an independent, nine-member Parole Commission within the U.S. Department of Justice. The Commissioners serve a term of 6 years under Presidential appointment by and with the advice and consent of the Senate. The Commission has authority to set guidelines and procedural rules within its own policy boundaries and the provisions of the instant bill.

This legislation, among other things, provides that a prisoner serving a sentence of more than 1 year is eligible for parole consideration after having served one-third of his sentence; or in the case of a prisoner sentenced to life or more than 30 years, after serving 10 years of his sentence. In addition, individuals sentenced to a maximum term or terms of more than 6 months, but not more than 1 year, shall be released at the end of their sentence less good time earned.

Conditions of parole are another aspect of the bill which represents new approaches to corrections philosophy. The Commission may impose conditions of parole that limit the parolee's liberty, if in the Commission's judgment such conditions are reasonably necessary to protect the public welfare. Such conditions may also be specific so that the parole may have a guide in his behavior and supervision in the community.

Mr. President, there are numerous other provisions in H.R. 5727, which can be found in the conference report accompanying the bill. It is a well-written document, Mr. President, because it gives detailed and exhaustive treatment to the thinking of the conferees on this measure. I commend it to my colleagues who may have a special interest in this legislation.

Mr. President, many of the provisions of this bill are substantially incorporated into S. 1, the bill to revise and codify the Federal Criminal Code. Although the Judiciary Committee is proceeding in a deliberate but quickening manner to bring an acceptable bill to the floor, this bill should not be delayed until after the passage of S. 1. I think it is good that the Congress act on this measure at this time and I commend the conferees for working so diligently to get agreement on the bill.

Mr. President, the conference report should be adopted.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

SENATE CONCURRENT RESOLUTION 96—CONCURRENT RESOLUTION AUTHORIZING CORRECTIONS IN ENROLLMENT OF H.R. 5727

Mr. BURDICK. Mr. President, I submit a concurrent resolution and ask for its immediate consideration.

This concurrent resolution authorizes correction of certain typographical errors in the conference report, and provides that the Senate recede from its amendment to the title of the bill.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The second assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 96) to authorize certain corrections in the enrollment of H.R. 5727.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill H.R. 5727, to establish an independent and regionalized United States Parole Commission, to provide fair and equitable parole procedures, and for other purposes, the Clerk of the House of Representatives is authorized and directed, in the enrollment of said bill, to make the following corrections:

In section 4203(c)(3), as amended by section 2, strike out the word "delegate" and insert in lieu thereof "may delegate"; in section 4204(a)(5), as amended by section 2, strike out the semicolon the second time it appears in such section and insert in lieu thereof a comma; in section 4204(b)(3), as amended by section 2, strike out the period at the end of such section and insert in lieu thereof a semicolon; in section 4205(d), as amended by section 2, strike out the comma the first time it appears in such section; in section 4211(c)(3), as amended by section 2, strike out the word "paragraph" and insert in lieu thereof "subparagraph".

SEC. 2. That the Senate recede from its amendment to the title of H.R. 5727.

AGRICULTURAL PEST CONTROL—CONFERENCE REPORT

Mr. TALMADGE. Mr. President, I submit a report of the committee of conference on S. 1617 and ask for its immediate consideration.

The **PRESIDING OFFICER** (Mr. NELSON). The report will be stated by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1617) to clarify the authority of the Secretary of Agriculture to control and eradicate plant pests, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The **PRESIDING OFFICER**. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the REPORT of February 9, 1976, beginning at page 2859.)

Mr. TALMADGE. Mr. President, S. 1617 broadens and strengthens the authority of the Secretary of Agriculture to carry out programs designed to eradicate and control plant pests.

The bill was originally introduced to provide authority for a cooperative control program against an infestation of the Mediterranean fruit fly in Central America which was detected in the spring of 1975. Current law authorizes cooperation in plant pest control only with Mexico.

As originally passed by the Senate, S. 1617 authorized the Secretary of Agriculture to cooperate in plant pest control with the governments of all countries of the Western Hemisphere. However, the House-passed version restricted the extension of the Secretary's authority to: First, certain countries in Central America and the Caribbean; and, second, international organizations or associations. The Senate asked for a conference because of the need for greater flexibility in dealing with plant pest problems.

I am pleased to report that the conference committee agreed to the Senate language authorizing the Secretary of Agriculture to cooperate in plant pest control with the governments of all countries of the Western Hemisphere. The conference committee also agreed to that part of the House amendment authorizing the Secretary to cooperate in plant pest control with international organizations and associations.

S. 1617, as passed by the Senate, made it clear that the Secretary's authority to cooperate with certain Western Hemisphere countries in animal disease control extends to carriers of animal diseases. The conference substitute retains the Senate provision and the House amendment extending the Secretary's authority to: First, the Bahama Islands, the Greater Antilles, and the Lesser Antilles, and second, international organizations or associations.

Mr. President, I ask unanimous consent that a summary of S. 1617, as adopted by the conference committee, be printed in the RECORD at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TALMADGE. Mr. President, S. 1617 affords many benefits to American agriculture. The bill is also desirable from the standpoint of our relations with the governments of the other countries of the Western Hemisphere.

I move the adoption of the conference report.

EXHIBIT 1

SUMMARY OF S. 1617, AS ADOPTED BY THE CONFERENCE COMMITTEE

S. 1617, as adopted by the Conference Committee, would broaden and strengthen the authority of the Secretary of Agriculture to control and eradicate agricultural pests. The bill would—

(1) Permit the Secretary of Agriculture to carry out eradication and control programs with respect to plant pests not now covered by the Organic Act of 1944. Such pests would include spider mites, slugs, and snails. Specific authority is provided for the detection of plant pests in the United States.

(2) Extend the Secretary's authority to cooperate with foreign governments in carrying out eradication and control programs. The bill would (i) permit the Secretary to cooperate with the governments of all the countries of the Western Hemisphere or the local authorities thereof, and with international organizations or associations, and (ii) cover "plant pests" in general. Existing law authorizes cooperation only with Mexico and for specified pests.

(3) Make discretionary the Secretary's authority to provide phytosanitary inspection and certification service for domestic plants and plant products for export, and extend such authority to inspection and certification of any plants or plant products offered for export or transiting the United States.

(4) Repeal provisions in the Act of October 6, 1917, for cooperation with Mexico and adjacent States in the extermination of pink bollworm infestations in Mexico, and related operations. The Organic Act, as amended by the bill, would contain such authority.

(5) Make it clear that the Secretary's authority to cooperate in animal disease control extends to the carriers of animal diseases. The bill also extends the Secretary's authority to cooperate in animal disease control to the Bahama Islands, the Greater Antilles, and the Lesser Antilles, and international organizations or associations. Existing law authorizes such cooperation only with the Central American countries, Canada, Mexico, and Colombia.

Mr. FONG. Mr. President, I rise to speak in favor of adoption of the conference report. The bill as reported extends the authority of the Secretary of Agriculture to enter into cooperative agreements with governments of the Western Hemisphere for the programs against plant pests. This authority is urgently needed to initiate a control program against a Mediterranean fruit fly infestation in Central America which threatens to spread up through Mexico and into the United States. This pest represents a very serious economic threat to our citrus and deciduous fruit industry. I am personally familiar with the damage this pest can inflict because of an infestation in the State of Hawaii which, along with two other fruit flies—the Oriental fruit fly and the Melon fly, have had an enormous effect on my State's agricultural industry.

Mr. President, as ranking minority member of the Agriculture and Related Agencies Subcommittee of the Senate Committee on Appropriations, I have sought greater funding of critically needed research on this and other plant pests to develop the technology required for effective and efficient control programs. I am very pleased that in a recent infestation in Los Angeles, Calif., the findings of this research were utilized in what currently appears to be a thoroughly successful eradication effort.

I hope that the technology being developed will find similar application and success in controlling the Central American infestation of Mediterranean fruit fly. Additionally, as this technology becomes more refined, I fully anticipate an eradication program to be undertaken against the frut flies in Hawaii which, as in the case of Central America, represent not only a serious threat of infestation to the continental United States but also require the continual expense of a plant quarantine program.

Mr. President, I have only one reservation over the bill we have before us today. As originally drafted, S. 1617 would apply only to Central America—as indeed it is my understanding that the Mediterranean fruit fly infestation in Honduras was the primary reason for the bill. The bill as approved by the conference committee, however, extends this authority to all countries of the Western Hemisphere. My concern, of course, is whether this greatly expanded authority will result in a dilution of our current plant protection program because of a combination of fiscal constraints coupled with a number of new foreign plant pest control programs.

Mr. STONE. Mr. President, the distinguished senior Senator from Hawaii has made a very important point. May I say that in the consideration of this bill, we closely examined this very issue and I believe it should be made clear that the authority provided in this bill is discretionary authority and in no way compels the Department of Agriculture to enter into cooperative agreements.

The Department has informed Congress that a study is underway "to systematically evaluate the implications of alternative Federal roles in cooperative insect control activities, to select the most appropriate alternative and to develop procedures and criteria for assessing the benefit/cost relationships." This study will aid the Department in evaluating the relative merits of future control programs in foreign countries and utilizing the authority provided in S. 1617 to the maximum benefit for the protection of our agricultural industry from plant pests.

Mr. President, currently the Department has no latitude in addressing threats posed by plant pests not specified by country and species under existing legislation. S. 1617 will enable the Department to take action more expeditiously without having to run back to Congress every time this country is confronted with a serious new plant pest in the Western Hemisphere.

Mr. FONG. Mr. President, mindful of the vulnerability of our agricultural industry to new plant pests, I believe this legislation is needed. I fully intend to follow the implementation of the new authority provided by it to assure that the Department utilizes this authority sparingly and in situations which do represent serious threats to American agriculture. I thank the distinguished Senator from Florida for his clear explanation of the bill and for his dedicated hard work to assure its timely consideration. I know that he is fully mindful of the need to take those actions required to protect our agricultural producers from these plant pests.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REHABILITATION ACT EXTENSION OF 1976—CONFERENCE REPORT

Mr. RANDOLPH. Mr. President, I submit a report of the committee of conference on H.R. 11045 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11045) to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations contained in such act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the Record of February 5, 1976, beginning at page 2619.)

Mr. RANDOLPH. Mr. President, the measure agreed to by the conferees extends the Rehabilitation Act of 1973 for one additional year, through September 30, 1977. However, there is a provision which states that should legislation not be enacted by April 15, 1977, then there is an automatic 1-year extension through the next fiscal year; that is fiscal year 1978. This agreement was made, Mr. President, because of a commitment by the Subcommittee on the Handicapped at the time the act was last amended to explore the formula for the allocation of basic program funds to the States. At the same time, we were aware of the necessity for States to know the amount of available Federal funds as early as possible in order for that State to appropriate its matching funds. It is our belief that the April 15 deadline satisfies our commitment to come to grips with the formula at the earliest possible date; it gives the States the time to appropriate the funds necessary to be eligible for money under this act; and it allows the appropriate subcommittees to complete their work for the Budget Committee review.

The conference report contains the following specific authorization levels: In fiscal year 1977: $740 million for basic State services; $25 million for innovation and expansion grants; $30 million for research; $25 million for training; $600,000 for secretarial responsibilities; and $1.5 million for the architectural and transportation barriers compliance board. In fiscal year 1978: $760 million for basic State services, $25 million for innovation and expansion grants; $30 million for research; $30 million for training; $600,000 for secretarial responsibilities; and $1.5 million for the compliance board. All other provisions for the authorization of appropriations carry "such sums as are necessary." The total authorization figures for fiscal year 1977 amount to $822.1 million and for fiscal year 1978 amount to $847.1 million. This contrasts with an authorization of $848.1 million for fiscal year 1976, pursuant to which an appropriation of $800.7 million was enacted.

Mr. President, as I am sure my colleagues are aware, the Subcommittee on the Handicapped recently joined the Select Subcommittee on Education in hearings during which most witnesses requested that indepth oversight hearings be held this year on substantive issues and possible amendments. A thorough review of the rehabilitation law and and its implementation is a desire on the part of most organizations representing handicapped Americans and, I believe, the Congress. The Subcommittee on the Handicapped expects to begin oversight hearings in February in order to explore a number of major issues. It is my hope that these hearings will enable us to determine objectively the progress in implementing the Rehabilitation Act of 1973, as amended and to expeditiously adopt changes in the law, if such be desirable, that will strengthen the rehabilitation program.

Finally, I express appreciation to our able colleagues, Mr. Stafford, ranking minority member of the Subcommittee on the Handicapped, Mr. Williams, chairman of the Committee on Labor and Public Welfare; Mr. Javits, ranking minority member of the full committee; Mr. Cranston, Mr. Pell, Mr. Kennedy, Mr. Mondale, Mr. Durkin, Mr. Taft, Mr. Schweiker, and Mr. Beall for interest in this vital legislation. I also thank the managers on the part of the House, Mr. Perkins, chairman of the House Education and Labor Committee; Mr. Brademas, chairman of the Select Subcommittee on Education; and Mr. Quie, ranking minority member of the committee and subcommittee and the other House managers, for their cooperation in coming to an agreement. In the final analysis, we are all working toward the same goal; to enable handicapped Americans to live their fullest potential and enjoy satisfying, fulfilling lives.

Mr. STAFFORD. Mr. President, I urge my colleagues to support the conference report to extend the Rehabilitation Act through fiscal year 1977 with a contingent extension of the act for an additional year if legislation has not been enacted to extend it for a longer period of time.

Mr. President, the Subcommittee on the Handicapped of the Committee on Labor and Public Welfare, of which I am the ranking Republican member, began hearings last month which will continue through March and April to look into the provisions of this act adopted in 1974 and in the 1975 amendments. There is an extraordinary amount to be done in these oversight hearings, and it will take an extended period of time to cover all the areas of this most major Rehabilitation Act written by the Congress since 1955. We must find out how the programs that were put in place are being implemented. There are many witnesses who have been asked to testify. That testimony will have to then be analyzed in order to know what areas need to be dealt with.

All of this, Mr. President, will take time, and thus we are passing this extension today in order to give us that time.

There is only one specific area in the conference report which I would like to call to the attention of my colleagues. Because of the passage and subsequent funding of the Developmentally Disabled Assistance and Bill of Rights Act—Public Law 94–103—last year, there is some confusion as to the funding levels which will be available for certain special projects under section 304 of the Rehabilitation Act—Public Law 93–112—as amended by Public Law 93–516.

Due to the funding transfer provided for in the recent Labor-HEW Appropriations act from section 304 to the new Developmentally Disabled Assistance and Bill of Rights Act, the conferees on the Rehabilitation Act extension now before the Senate adopted a "such sums" authorization level for section 304. This is the only place in the bill where a previous specific level of authorization had been set that such an approach was taken in the Conference.

As the joint explanatory statement of the committee of conference points out:

> The managers expect, notwithstanding the elimination of specific dollar authorizations, that special projects be funded at a level comparable to past years' appropriations

In addition, Senator Cranston, the ranking majority member of the subcommittee, and I, who were responsible for floor managing both the 1973 and 1974 acts in the Senate, inquired of the Department of Health, Education, and Welfare as to what their intentions for funding for fiscal years 1977 and 1978 would be. As a result of that inquiry, we were assured that such funding would be continued.

Mr. President, I ask unanimous consent that the exchange of correspondence between my colleague from California (Mr. Cranston) and I and the Department of HEW be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. STAFFORD. Finally, Mr. President, I hope that the subcommittee will keep its commitment to move thoroughly and thoughtfully through the oversight process in the months to come so that if there are substantial revisions needed in the act, we may bring them to the Senate for full consideration. This Senator pledges to work with the chairman of the subcommittee, Senator RANDOLPH, and the administration, to bring into the hearings all elements that need to be explored. I urge, therefore, that we adopt this measure today and move on with a more substantive look at the program.

EXHIBIT 1

COMMITTEE ON LABOR
AND PUBLIC WELFARE,
Washington, D.C., December 19, 1975.
Hon. STANLEY B. THOMAS, Jr.,
Assistant Secretary for Human Development, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: In connection with legislation before the Congress to extend the authorizations of appropriations in the Rehabilitation Act of 1973, it would be most helpful to us if you could provide clarification with respect to the Department's intention regarding both the continuation and the level of funding of special projects presently being carried out under section 304 of that Act: namely, projects with industry, projects to serve severely handicapped individuals, technical assistance projects, client assistance projects, and migrant projects.

Our view with respect to the status under the authorizing law and pending appropriations measures, as well as the FY 1976 Continuing Resolution, were set forth, along with those of Senator Randolph, Chairman of the Subcommittee on the Handicapped, during floor consideration of the Supplemental Appropriations Act for FY 1976 (H.R. 10647, at pages 39681–84 and 39686, December 10, 1975). According to a statement, apparently from the Comptroller of H.E.W., entered into the *Record* by Senator Magnuson on December 15, 1975, during Senate consideration of the conference report on H.R. 10647 (at page 40609), the Department apparently does not agree with our legal analysis of this matter. Senator Magnuson suggested at that point that we consider asking the General Accounting Office to resolve the problem. Such a request to G.A.O. may be unnecessary, however, depending on the Departmental intentions with respect to funding action.

Under our interpretation of the authorizing law and appropriations action (assuming enactment of H.R. 10647), the amounts to be allocated to the five types of special projects, under either the Continuing Resolution or the Labor/H.E.W. conference report (H.R. 8069), would be as follows:

Type of project	Continuing resolution for fiscal year 1976 (Public Law 94–41—fiscal year 1975 level)	Fiscal year 1976 Labor-HEW Appropriations Act (H.R. 8069)
Projects with industry	$950, 000	$950, 000
Technical assistance	113, 000	170, 000
Severely disabled	1, 870, 000	2, 345, 000
Client assistance	1, 000, 000	1, 000, 000
Migrants	792, 000	820, 000
Total	4, 725, 000	5, 285, 000

Under our analysis, only $11,115,000 would be available for the developmental disabilities (D.D.) service projects from the funds appropriated under section 304 to be carried out under the Developmentally Disabled Assistance and Bill of Rights Act (Public Law 94-103).

However, even if our interpretation is not followed—and we certainly continue to believe, as does Senator Randolph, that it is the correct one—the Department still has ample authority to fund the above section 304 special projects at the above levels under two alternative lines of reasoning. First, both the House and Senate Appropriations Committee reports on H.R. 10647 are clear that "the use" of the section 304 funds for D.D. service projects under the authority of Public Law 94–103 is not directed but only "authorized". Under this construction, thus, you could still choose to retain under section 304 sufficient funds to meet the above levels.

Alternatively, even if the full $18.5 million were (improperly and not in accordance with the law, in our views) to be used to fund D.D. service projects under the new law, we believe that the new special project grant authority in part D of that law is sufficiently broad for the Department to use such funds to provide some or all of the funding for some of the section 304 special projects listed above insofar as they relate to persons with developmental disabilities.

As the floor managers on the part of the Senate in connection with both the Rehabilitation Act of 1973 and the Rehabilitation Act Amendments of 1974, we stress the keen interest of the conferees in working out authorization levels in connection with section 304 special projects and particularly the client assistance and migrant project earmarks. As noted in Senator Cranston's floor statement referred to above, there certainly was no intention on the part of the authorizing Committees' conferees that the level of support for these section 304 special projects should be diminished in any way, and, significantly, we are aware of no statement in the legislative history regarding either H.R. 8069 or H.R. 10647 which in any way suggests that the funding level for section 304 special projects is to be so reduced.

It is our understanding that you have advised our staffs that it is the Department's intention to continue the present level of funding for client's assistance and migrant special projects in both FY 1976 and FY 1977. We would greatly appreciate receiving at your earliest convenience a confirmation of this intention as well as a statement of your intention with respect to continued funding in FY 1976 and 1977 at the levels shown above of the other three section 304 special project activities.

We greatly appreciate your cooperation in this matter and on so many other issues.

Sincerely,

ROBERT T. STAFFORD,
ALAN CRANSTON.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., January 22, 1976.
Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: I am responding to your letter of December 19 regarding the continuation of the level of funding of special projects carried out under Section 304 of the Rehabilitation Act. After a careful review of your letter and the legislative history of P.L. 94–103, we have concluded that your analysis of the level of funding available for developmental disabilities is correct.

Since the FY–76 appropriation request for activities to be supported under Section 304 of the Rehabilitation Act includes $1,385,000 for client assistance and migrant projects, this amount is to remain available to the Rehabilitation Services Administration to continue the level of support for these projects this year. I trust that this answers your concerns about the future of these activities.

Sincerely,

STANLEY B. THOMAS, Jr.,
Assistant Secretary for Human Development.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. RANDOLPH. I thank the Chair.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON NATIONAL GROWTH AND DEVELOPMENT — MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Banking, Housing and Urban Affairs:

To the Congress of the United States:

I am forwarding herewith the Third Biennial Report on National Growth and Development in accordance with Section 703(a) of the Housing and Urban Development Act of 1970.

GERALD R. FORD.

THE WHITE HOUSE, *February 27, 1976.*

MESSAGES FROM THE HOUSE

At 12:03 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed, without amendment, the joint resolution (S.J. Res. 59) authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from May 16, 1976, through May 22, 1976.

At 2 p.m., a message from the House of Representatives delivered by Mr Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 11439. An Act to amend title 5, United States Code, to restore eligibility for health benefits coverage to certain individuals whose survivor annuities are restored;

H.R. 11462. An Act to provide for the acquisition of career status by certain employees of the Federal Government serving under overseas limited appointments; and

H.R. 11700. An Act relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the enrolled joint resolution (S.J. Res. 59) authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from May 16, 1976, through May 22, 1976.

The enrolled joint resolution was subsequently signed by the Acting President pro tempore (Mr. METCALF).

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 11439. An act to amend title 5, United States Code, to restore eligibility for health benefits coverage to certain individuals whose survivor annuities are restored. Referred to the Committee on Post Office and Civil Service.

H.R. 11462. An act to provide for the acquisition of career status by certain employees of the Federal Government serving under overseas limited appointments. Referred to the Committee on Post Office and Civil Service.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on March 1, 1976, he presented to the President of the United States the enrolled bill (S. 151) to authorize and modify various Federal reclamation projects and programs, and for other purposes.

The Secretary of the Senate reported that on today, March 2, 1976, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 59) authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from May 16, 1976, through May 22, 1976.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

Report on the Emergency Homeowners' Relief Act

A letter from the Secretary of Housing and Urban Affairs, transmitting, pursuant to law, a report on the Emergency Homeowners' Relief Act (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

Notice of Modifications, Supplements and Additions to the Designations of Rail Properties Adopted by the United States Railway Association

A letter from the Chairman of the Board, United States Railway Association, transmitting, pursuant to law, a notice of modifications, supplements or additions to the designations of rail properties in the final system plan adopted by the association (with accompanying papers); to the Committee on Commerce.

Report of Activities Pursuant to the Emergency Rail Services Act

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report of activities pursuant to the Emergency Rail Services Act and an evaluation of the financial condition of railroads which have outstanding certificates guaranteed under the act (with an accompanying report); to the Committee on Commerce.

Reports of the Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the need of the Small Business Administration to improve its 7(a) loan program (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on improved controls needed over private pilot licensing, Federal Aviation Administration, Department of Transportation (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on status and progress toward implementing a national supply system, Department of Defense, General Services Administration (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on stopping U.S. assistance to foreign police and prisons, Department of Defense and State, Agency for International Development (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the Trans-Alaska Oil Pipeline—progress of construction through November 1975, Department of the Interior (with an accompanying report); to the Committee on Government Operations.

PROPOSED DOCUMENT DISTRIBUTION SYSTEM

A letter from the Assistant Administrator for Administration, Energy Research and Development Administration, transmitting, pursuant to law, a proposed document distribution system (with accompanying papers); to the Committee on Government Operations.

Report of the Geological Survey

A letter from the Secretary of the Interior, reporting, pursuant to law, on activities carried on by the Geological Survey during the reporting period January 1 through December 1, 1975; to the Committee on Interior and Insular Affairs.

Proposed Project "In Situ Leaching Studies of Uranium Ores"

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Westinghouse Electric Corp., Pittsburgh, Pa., for a research project entitled "In Situ Leaching Studies of Uranium Ore" (with accompanying papers); to the Committee on Interior and Insular Affairs.

Proposed "Development of a Low Coal, Automated, Remote Controlled Resin Cartridge Inserter Roof Bolt Bender/Inserter and Roof Bolt Spin/Thrust Hold Assembly"

A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a proposed contract with the Bendix Corp., Denver, Colo., for a research project entitled "Development of a Low Coal, Automated, Remote Controlled Resin Cartridge Inserter Roof Bolt Bender/Inserter and Roof Bolt Spin/Thrust Hold Assembly" (with accompanying papers); to the Committee on Interior and Insular Affairs.

Report of the Federal Power Commission

A letter from the Chairman, Federal Power Commission, transmitting, pursuant to law, a report on the administration of the Freedom of Information Act (with an accompanying report); to the Committee on the Judiciary.

Report of the Selective Service System

A letter from the Director, Selective Service System, transmitting, pursuant to law, a report of the Selective Service System on the administration of the Freedom of Information Act (with an accompanying report); to the Committee on the Judiciary.

Amendments to Regulations for the Program "Support for Improvement of Postsecondary Education"

A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, amendments to the regulations for the program of "Support for Improvements of Postsecondary Education," (Section 404 of the General Education Provisions Act; 45 CFR Part 1501) (with accompanying papers); to the Committee on Labor and Public Welfare.

Final Funding Criteria for Fiscal 1976 for Applications for Awards Under the Vocational Education Act

A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final funding criteria for fiscal year 1976 for applications for awards under section 131(a) of part C, Vocational Education Act of 1963, as amended (20 U.S.C. 1281(a)) (with accompanying papers); to the Committee on Labor and Public Welfare.

Proposed Legislation To Terminate Authority for Pursuit of Flight Training Programs by Veterans

A letter from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to terminate the authority for the pursuit of flight training programs by veterans and for the pursuit of correspondence training programs by veterans, wives, and widows, and for other purposes (with accompanying papers); to the Committee on Veterans' Affairs.

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

The following report of a committee was received during the adjournment of the Senate:

By Mr. HOLLINGS, from the Committee on Appropriations, with an amendment:

H.J. Res. 811. A joint resolution making supplemental appropriations for the legislative branch for the fiscal year ending June 30, 1976, and for other purposes (Rept. No. 94-676).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. 3065. An original bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes (Rept. No. 94-677).

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

Mr. CANNON. Mr. President, I submit an original bill approved by the Committee on Rules and Administration and ordered reported to the Senate on March 1, 1976.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD and that the report of the committee to accompany the bill, together with supplemental and minority views, may be submitted not later than midnight on Thursday, March 4, 1976.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 3065), ordered to be printed in the RECORD, is as follows:

S. 3065

A bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC. 101. (a)(1) The second sentence of section 309(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(1)), as redesignated by section 105 (hereinafter in this Act referred to as the "Act") is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and six members appointed by the President of the United States, by and with the advice and consent of the Senate.".

(2) The last sentence of section 309(a)(1) of the Act (2 U.S.C. 437c(a)(1)), as redesignated by section 105, is amended to read as follows: "No more than three members of the Commission appointed under this paragraph may be affiliated with the same political party.".

(b) Section 309(a)(2) of the Act (2 U.S.C. 437c(a)(2)), as redesignated by section 105, is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of six years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977,

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979, and

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

"(B) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(C) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c)(1) Section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, is amended by adding at the end thereof the following new sentences: "Members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission shall terminate or liquidate such activity not later than one year after beginning to serve as such a member.". The amendment made by this paragraph takes effect two years after the date of enactment of this Act.

(2) Section 309(b) of the Act (2 U.S.C. 437c(b)), as redesignated by section 105, is amended to read as follows:

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive and primary jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.".

(3) The first sentence of section 309(c) of the Act (2 U.S.C. 437c(c)), as redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following: ", except that the affirmative vote of four members of the Commission (no less than two of whom are affiliated with the same political party) shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

(d) The last sentence of section 309(f)(1) of the Act (2 U.S.C. 437c(f)(1)), as redesignated by section 105, is amended by inserting immediately before the period the following: "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates".

(e)(1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until a majority of the members of the Commission are appointed and qualified under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section. Until a majority of the members of the Commission are appointed and qualified under the amendments made by this Act, members serving on such Commission on the date of enactment of this Act may, exercise only such powers and functions as are consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary of the United States Senate, et al. (numbered 75–436, 75–437) January 30, 1976.

(f) The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, which prohibit any individual from being appointed as a member of the Federal Election Commission who is, at the time of his appointment, an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

(g)(1) All personnel, liabilities, contracts, property, and records determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Federal Election Commission under title III of the Federal Election Campaign Act of 1971 as such title existed on January 1, 1976, or under any other provision of law are transferred to the Federal Election Commission as constituted under the amendments made by this Act to the Federal Election Campaign Act of 1971.

(2)(A) Except as provided in subparagraph (B) of this paragraph, personnel engaged in functions transferred under paragraph (1) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for one year after such transfer.

(3) All laws relating to the functions transferred under this Act shall, insofar as such laws are applicable and not amended by this Act, remain in full force and effect. All orders, determinations, rules, advisory opinions, and opinions of counsel made, issued, or granted by the Federal Election Commission before its reconstitution under the amendments made by this Act which are in effect at the time of the transfer provided by paragraph (1) shall continue in effect to the same extent as if such transfer had not occurred.

(4) The provisions of this Act shall not affect any proceeding pending before the Federal Election Commission at the time this section takes effect.

(5) No suit, action, or other proceeding commenced by or against the Federal Election Commission or any officer or employee thereof acting in his official capacity shall abate by reason of the transfer made under paragraph (1). The court before which such suit, action, or other proceeding is pending may, on motion or supplemental petition filed at any time within twelve months after the date of enactment of this Act, allow such suit, action, or other proceeding to be maintained against the Federal Election Commission if the party making the motion or filing the petition shows a necessity for the survival of the suit, action, or other proceeding to obtain a settlement of the question involved.

(6) Any reference in any other Federal law to the Federal Election Commission, or to any member or employee thereof, as such Commission existed under the Federal Election Campaign Act of 1971 before its amendment by this Act shall be held and considered to refer to the Federal Election Commission, or the members or employees thereof, as such Commission exists under the Federal Election Campaign Act of 1971 as amended by this Act.

CHANGES IN DEFINITIONS

SEC. 102. (a) Section 301(a)(2) of the Act (2 U.S.C. 431(a)(2)) is amended by striking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301(e)(2) of the Act (2 U.S.C. 431(e)(2)) is amended by inserting "written" immediately before "contract".

(c) Section 301(e)(4) of the Act (2 U.S.C. 431(e)(4)) is amended by inserting after "purpose" the following: ", except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or chapter 95 or 96 of the Internal Revenue Code of 1954, but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b)".

(d) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(1) by striking out "or" at the end of clause (F) and at the end of clause (G); and

(2) by inserting immediately after clause (H) the following new clauses:

"(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), but all such costs shall be reported in accordance with section 304 (b); or

"(J) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provision of this title or of chapter 95 or 96 of the Internal Revenue Code of 1954, but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b);".

(e) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) by striking out "and" at the end of paragraph (m);

(2) by striking out the period at the end of paragraph (n) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(o) 'Act' means the Federal Election Campaign Act of 1971 as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976; and

"(p) 'independent expenditure' means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, and is not at the request or suggestion of, any candidate or any authorized committee or any authorized committee or agent of such candidate.".

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 103. (a) Section 302(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(b)) is amended by striking out "$10" and inserting in lieu thereof "$100".

(b) Section 302(c)(2) of such Act (2 U.S.C. 432(c)(2)) is amended to read as follows:

"(2) the identification, the occupation (but not the name of such person's employer, firm, business associates, customers, or clients), and the principal place of business or employment (if any) of every person making a contribution in excess of $100, and the date and the amount of such contribution;".

(c) Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a)(1) of the Act (2 U.S.C. 434(a)(1)) is amended by adding at the end of subparagraph (C) the following: "In any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions totaling in excess of $5,000, or made expenditures totaling in excess of $5,000, and such reports shall be complete as of the close of such calendar quarter; except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph.".

(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee.".

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by inserting after "occupation" in paragraph (2) the following: "(but not the name of such person's employer, firm, business associates, customers, or clients)";

(2) by inserting after "business" in paragraph (2) the following: "or employment";

(3) by inserting after "occupations" in paragraph (5) the following: "but not the name of the employers, firms, business associates, customers, or clients)";

(4) by inserting after "business" in paragraph (5) the following: "or employment";

(5) by striking out "and" at the end of paragraph (12);

(6) by redesignating paragraph (13) as paragraph (14); and

(7) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of expenditures in excess of $100 by a political committee other than an authorized committee of a candidate expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9), stated in a manner which indicates whether the expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and".

(d) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended to read as follows:

"(e)(1) Every person (other than a political committee or candidate) who makes contributions or expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. Any expenditure, including but not limited to those described in subsection (b)(13), of $1,000 or more made after the fifteenth day, but more than forty-eight hours, before any election shall be reported within forty-eight hours of such expenditure.

"(3) The Commission shall be responsible for expeditously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including but not limited to those reported under subsection (b)(13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely pre-election basis.".

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431–441) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively.

POWERS OF COMMISSION

SEC. 106. (a) Section 310(a) of the Act (2 U.S.C. 437d(a)), as redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code" and inserting in lieu thereof "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954"; and

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b)(1) Section 310(a)(6) of the Act (2 U.S.C. 437d(a)(6)), as redesignated by section 105, is amended to read as follows:

"(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 313(a)(9)), or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

(2) Section 310 of the Act (2 U.S.C. 437d), as redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) Except as provided in section 313(a)(9), the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ADVISORY OPINIONS

SEC. 107. (a) The text of section 312(a) of the Act (2 U.S.C. 437f(a)), as redesignated by section 105, is amended to read as follows: "Upon written request to the Commission by any individual holding Federal office, any candidate for Federal office, the Democratic Caucus and the Republican Conference of each House of the Congress, any political committee, or the national committee of any political party, the Commission shall render an advisory opinion, in writing, within a reasonable time with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.".

(b) Section 312(b) of the Act (2 U.S.C. 437f(b)), as redesignated by section 105, is amended to read as follows:

"(b)(1) Notwithstanding any other provision of law, any person with respect to whom an advisory opinion is rendered under subsection (a) who acts in good faith in accordance with the provisions and findings of such advisory opinion shall be presumed to be in compliance with the provision of this Act, or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, with respect to which such advisory opinion is rendered.

"(2)(A) Any advisory opinion rendered by the Commission under subsection (a) shall apply only to the person requesting such advisory opinion and to any other person directly involved in the specific transaction or activity with respect to which such advisory opinion is rendered. The provisions of any such advisory opinion shall be made generally applicable by the Commission in accordance with the provisions of subparagraph (B).

"(B)(i) The Commission shall, no later than thirty days after rendering an advisory opinion with respect to a request received under subsection (a) which sets forth a rule of general applicability, prescribe rules or regulations relating to the transaction or activity involved if the Commission determines that such transaction or activity is not subject to any existing rule or regulation prescribed by the Commission. In any such case in which the Commission receives more than one request for an advisory opinion, the Commission may not render more than one advisory opinion relating to the transaction or activity involved.

"(ii) Any rule or regulation prescribed by the Commission under this subparagraph shall be subject to the provisions of section 315(c).".

(c) Section 315(c)(1) of the Act (2 U.S.C. 438(c)(1)), as redesignated by section 105, is amended by inserting "or under section 312(b)(2)(B)" immediately after "under this section".

(d) The amendments made by subsection (a) shall apply to any advisory opinion rendered by the Federal Election Commission after October 15, 1974.

ENFORCEMENT

Sec. 108. Section 313 of the Act (2 U.S.C. 437g), as redesignated by section 105, is amended to read as follows:

"ENFORCEMENT

"Sec. 313. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

"(2) The Commission, upon receiving a complaint under paragraph (1), or if it has reason to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this section.

"(3) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate. Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall afford any person who receives notice of an alleged violation under paragraph (2) a reasonable opportunity to demonstrate that no action should be taken against such person by the Commission under this Act.

"(5)(A) If the Commission determines that there is reason to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute an absolute bar to any further action by the Commission, including bringing a civil proceeding under paragraph (B) of this section.

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the person against whom such action is found, resides, or transacts business.

"(C) In any civil action instituted by the Commission under paragraph (B), the court shall grant a permanent or temporary injunction, restraining order, or other order upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation under section 329(a), or a knowing and willful violation of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to the limitations set forth in subparagraph (A) of this paragraph.

"(6) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has been committed, any conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (A) $10,000; or (B) an amount equal to 300 percent of the amount of any contribution or expenditure involved in such violation. The Commission shall make available to the public the results of any conciliation attempt including any conciliation agreement entered into by the Commission and any determination by the Commission that no violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred.

"(7) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (B) an amount equal to 300 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5)(A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

"(8) In any action brought under paragraph (5) or paragraph (7) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

"(9)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within ninety days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

"(B) The filing of any action under subparagraph (A) shall be made—

"(i) in the case of the dismissal of a complaint by the Commission, no later than sixty days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than sixty days after the ninety-day period specified in subparagraph (A).

"(C) In such proceeding the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with that declaration within thirty days, failing which the complainant may bring in his own name a civil action to remedy the violation complained of.

"(10) The judgment of the district court may be appealed to the court of appeals and any such order of the district court shall be the judgment of the court of appeals affirming or settling aside, in whole or in part, final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(11) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

"(12) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5), it may petition the court for an order to adjudicate that person in civil contempt or, if it believes the violation to be knowing and willful, it may instead petition the court for an order to adjudicate that person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than sixty days after the date of Commission refers any apparent violation, and at the close of every thirty-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.".

DUTIES OF COMMISSION

Sec. 109. (a) Section 315(a)(6) of the Act (2 U.S.C. 438(a)(6)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320, and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

(b) Section 315(c)(2) of the Act (2 U.S.C. 438(c)(2)), as redesignated by section 105, is amended—

(1) by striking out "thirty legislative days" in the first sentence and inserting in lieu thereof the following: "thirty calendar days or fifteen legislative days, whichever is later,", and

(2) by inserting immediately after the second sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

ADDITIONAL ENFORCEMENT AUTHORITY

Sec. 110. Section 407 of the Act (2 U.S.C. 456) is repealed.

CONTRIBUTION AND EXPENDITURE LIMITATIONS

Sec. 111. Title III of the Act (2 U.S.C. 431–441) is amended by striking out section 320 (2 U.S.C. 441), as redesignated by section 105 of this Act, and by inserting after section 319 (2 U.S.C. 439c), as redesignated by such section 105, the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"Sec. 320. (a)(1) Except as otherwise provided by paragraphs (2) and (3), no person shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed $1,000.

"(2) No political committee (other than a principal campaign committee) shall make contributions to (A) any candidate with respect to any election for Federal office which, in the aggregate, exceed $5,000; or (B) to any political committee (other than a political committee authorized by a candidate to receive contributions on his behalf which contributions are, under paragraph (4), treated as contributions to that candidate) in any calendar year which, in the aggregate, exceed $25,000. Contributions by the national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States shall not exceed the limitation imposed by the preceding sentence with respect to any other candidate for Federal office. For purposes of this paragraph, the term 'political committee' means an organization registered as a political committee under section 303 for a period of not less than six months which has received contributions from more than fifty persons and, except for any State political party organization, has made contributions to five or more candidates for Federal office. For purposes of the limitations provided by paragraph (1) and this paragraph, all contributions made by political committees established, financed, maintained, or controlled by any person or persons, including any parent, subsidiary, branch, division, department, affiliate, or local unit of such person, or by any group of persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fund-raising efforts; (B) this sentence shall not apply to a political committee established, financed, or maintained by the national committee, or to a political committee established, financed, or maintained by the State, district, or local committee of a political party, and (C) a political committee of a national organization shall not be precluded from contributing to a candidate or committee merely because of its affiliation with a national multi-candidate political committee which has made the maximum contribution it is permitted to make to a candidate or a committee.

"(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution was made, is considered to be made during the calendar year in which such election is held.

"(4) For purposes of this subsection—

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(B)(i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

"(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

"(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

"(5) The limitations imposed by paragraphs (1) and (2) of this subsection (other than the annual limitation on contributions to a political committee under paragraph (2)(B)) shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

"(6) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(b) No candidate for the office of President of the United States who is eligible under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

"(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $200,000; or

"(B) $20,000,000 in the case of a campaign for election to such office.

"(2) For purposes of this subsection—

"(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

"(B) an expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by—

"(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(c)(1) At the beginning of each calendar year (commencing in 1976), as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

"(2) For purposes of paragraph (1)—

"(A) The term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1974.

"(d)(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

"(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of the President of the United States.

"(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

"(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

"(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

"(ii) $20,000; and

"(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

"(e) During the first week of January, 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, eighteen years of age or older.

"(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for Presidential nomination for use in two or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

"Sec. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention, or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section, or for any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

"(b)(1) For the purposes of this section 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. As used in this section and in section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 791(h)), the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; or the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization.

"(2) It shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction.

"(3) It shall be unlawful for a corporation or a separate segregated fund created by a corporation to solicit contributions from any person other than its stockholders, executive or administrative personnel, and their families or for a labor organization or a separate segregated fund created by a labor organization to solicit contributions from any person other than its members and their families.

"(4) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted to corporations, shall also be permitted to labor organizations.

"(5) Any corporation that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available, on written request, that method to a labor organization representing any members working for that corporation.

"(6) For purposes of this section, the term 'executive or administrative personnel' means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking or supervisory responsibilities.

"(7) For purposes of this section, the term 'stockholder' includes any individual who has a legal or vested beneficial interest in stock, including, but not limited to, an employee of a corporation who participates in a stock bonus, stock option, or employee stock ownership plan.

"CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

"Sec. 322. (a) It shall be unlawful for any person—

"(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under, or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

"(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund.

"(c) For purposes of this section, the term 'labor organization' has the meaning given it by section 321.

"PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

"Sec. 323. Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails, and other similar types of general public political advertising, such communication—

"(1) if authorized by a candidate, his authorized political committees or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication has been authorized; or

"(2) if not authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, the case of a political committee, the name of any affiliated or connected organization required to be disclosed under section 303(b)(2).

"CONTRIBUTIONS BY FOREIGN NATIONALS

"Sec. 324. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

"(b) As used in this section, the term 'foreign national' means—

"(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term 'foreign national' shall not include any individual who is a citizen of the United States; or

"(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

"PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

"Sec. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

"LIMITATION ON CONTRIBUTIONS OF CURRENCY

"Sec. 326. No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

"ACCEPTANCE OF EXCESSIVE HONORARIUMS

"Sec. 327. No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

"(1) any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or

"(2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than $24,000 in any calendar year.

"FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

"SEC. 328. No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

"(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

"(2) willfully and knowingly to participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

"PENALTY FOR VIOLATIONS

"SEC. 329. (a) Any person, following the enactment of this section, who knowingly and willfully commits a violation of any provision or provisions of this Act which involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than one year, or both.

"(b) It shall be a complete defense in any criminal action brought for the violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, for the defendant to show that—

"(1) the specific act or failure to act which constitutes the offense for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under section 313,

"(2) the conciliation agreement is in effect, and

"(3) the defendant is, with respect to the violation for which the defense is being asserted, in compliance with the conciliation agreement.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 112. Section 319 of the Act (2 U.S.C. 439c), as redesignated by section 105, is amended by adding at the end thereof the following sentence: "There are authorized to be appropriated to the Federal Election Commission $8,000,000 for the fiscal year ending June 30, 1976, $2,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $8,000,000 for the fiscal year ending September 30, 1977.".

SAVINGS PROVISION

SEC. 113. Except as otherwise provided by this Act, the repeal by this Act of any section or penalty shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such section or penalty, and such section or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 114. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304(a)(1)(C)," the following: "304(c),".

(b)(1) Section 310(a)(7) of the Act (2 U.S.C. 437d(a)(7)), as redesignated by section 105, is amended by striking out "313" and inserting in lieu thereof "312".

(c)(1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(2) Section 9032(a) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections of chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES FOR PAYMENTS

SEC. 301. Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

"(d) EXPENDITURES FROM PERSONAL FUNDS. In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in a Presidential election shall certify to the Commission, under penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000.

"(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

PAYMENTS TO ELIGIBLE CANDIDATES

SEC. 302. Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

REVIEW OF REGULATIONS

SEC. 303. (a) Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,"; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

(b) Section 9039(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,"; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed with consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

ELIGIBILITY FOR PAYMENTS

SEC. 304. Section 9033(b)(1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

QUALIFIED CAMPAIGN EXPENSE LIMITATION

SEC. 305. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended—

(1) in the heading thereof, by striking out "LIMITATION" and inserting in lieu thereof "LIMITATIONS";

(2) by inserting "(a) EXPENDITURE LIMITATIONS.—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000"; and

(4) by adding at the end thereof the following new subsection:

"(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item:

"Sec. 9035. Qualified campaign expense limitations.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 306. (a) Section 9008(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended—

(1) by striking out "section 608(c) and section 608(f) of title 18, United States Code," and inserting in lieu thereof "section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971"; and

(2) by striking out "section 608(d) of such title" and inserting in lieu thereof "section 320(c) of such Act".

(b) Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

"(4) Provision of legal and accounting services.—For purposes of this section, the payment by any person, including the national committee of a political party, of compensation to any individual for legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on Presidential nominating convention expenses.".

(c) Section 9034(b) of the Internal Revenue Code of 1954 (relating to limitations) is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

(d) Section 9035(a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as so redesignated by section 305(a), is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports were submitted:

By Mr. **TALMADGE**, from the Committee on Finance:

George H. Dixon, of Minnesota, to be Deputy Secretary of the Treasury.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. **WILLIAMS**, from the Committee on Labor and Public Welfare:

Daniel Edward Leach, of Virginia, to be a member of the Equal Employment Opportunity Commission.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. **SPARKMAN**, from the Committee on Foreign Relations:

Edward W. Mulcahy, of Arizona, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tunisia.

STATEMENT OF POLITICAL CONTRIBUTIONS OF EDWARD W. MULCAHY

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Edward W. Mulcahy.

Post: Tunisia.

Nominated: February 17, 1976.

Contributions, Amount, Date, and Donee

1. Self: Edward W. Mulcahy, None.

2. Spouse: Kathleen (Lyon) Mulcahy, none.

3. Children and Spouses: Anne K. Mulcahy, none; John L. Mulcahy, $10, Aug. 1974, Democratic Telethon; Eileen M. Mulcahy, none; Kevin E. Mulcahy, none; Brian M. Mulcahy, $2, May 1975, Democratic Telethon.

4. Parents: John Mulcahy, Sr., none; Mary A. (Duffy) Mulcahy (Deceased).

5. Grandparents: John Mulcahy (Deceased); Josephine (Butler) Mulcahy (Deceased); Edward F. Duffy (Deceased); Catharine (Hackett) Duffy (Deceased).

6. Brothers and Spouses: John M. and Irene (Serues) Mulcahy, Jr., none; Robert T. and Barbara (Ferson) Mulcahy, none; William J. and Catharine (Sullivan) Mulcahy, none.

7. Sisters and Spouses: Herbert A. and Joan (Mulcahy) Hutson, none; Sister Martin Marie, $5, May 1975, Democratic Telethon; Elbert J. and Elizabeth C. (Mulcahy) McKeon, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

EDWARD W. MULCAHY.

Marquita M. Maytag, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Nepal.

STATEMENT OF POLITICAL CONTRIBUTIONS OF MARQUITA M. MAYTAG

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Marquita M. Maytag.

Post: Ambassador to Nepal.

Contributions, amount, date, and donee

1. Self: Schedule attached.

2. Spouse: Divorced Aug. 1967.

3. Children and Spouses: None.

4. Parents: Both deceased; records unavailable (Father's estate still in probate, he passed away June 17, 1974—Mother; 1961).

5. Grandparents: Both deceased.

6. Brothers and Spouses: Brother deceased (1971).

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

MARQUITA M. MAYTAG.

Political contributions 1972–76

1. Jan. 11, 1972: Republican State Central Committee of Calif., $24.

2. Feb. 8, 1972: Ashcraft for Calif. Assembly Campaign, $50.

3. March 28, 1972: Friends of Cliff Hansen, $50.

4. March 28, 1972: American Friends of John Rarick, $50.

5. March 28, 1972: Committee To Re-elect Congressman Rousselot, $50.

6. May 30, 1972: Ron Del Principe for Calif. Assembly, $1,000.

7. Sept. 5, 1972: Cliff Hansen for Senator Committee, $500.

8. Sept. 20, 1972: Financial Committee to Re-elect the President, $1,000.

9. April 26, 1973: Salute to Gov. Reagan, Dinner Committee, $500.

10. Oct. 17, 1973: Californians for Lower Taxes, $100.00.

11. Jan. 13, 1975: Goldwater-Miller "non-inaugural" dinner, $37.50.

I have never given any cash contributions ("in hand").

MARQUITA M. MAYTAG.

Robert Strausz-Hupe, of Pennsylvania, to be the U.S. permanent representative on the Council of the North Atlantic Treaty Organization, with the rank of Ambassador Extraordinary and Plenipotentiary.

STATEMENT OF POLITICAL CONTRIBUTIONS OF ROBERT STRAUSZ-HUPE

Contributions, amount, date, and donee

Self: Robert Strausz-Hupe, $500, 7–3–72, Republican Convention Gala; $50, 7–30–74, Republican State Committee of Penn.

Spouse: Eleanor Cuyler Strausz-Hupe, $500, 7–3–72, Republican Convention Gala; $50, 7–30–74, Republican State Committee of Penn.

Children and spouses—Peter and Pamela (Crane) Walker (stepson and wife), none.

Joseph and Averell (Penn), Smith Walker (stepson and wife), none.

Peter and Eleanor (Walker) Seyffert (stepdaughter and husband), none.

Parents: deceased.

Grandparents: deceased.

Brothers and spouses: none.

Sisters and spouses: none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

2. I have this date sent via international air mail an updated form JF–1, to your attention, showing no change in the information contained therein since the previous form filed on June 17, 1975.

3. On January 29, 1976 I appeared before Frederick Hassett, embassy consular officer with notarial powers and swore to the above report.

STRAUSZ-HUPE.

1. I am obliged to amend my earlier declaration on contributions to include a report just received directly from my stepson, correcting an earlier indirect report. Correct as follows under children and spouses:

Joseph and Averell (Penn-Smith) Walker (stepson and wife):

Amount, date, and donee

$50, 10-28-71, Pennino for supervisor.

$1,250, 3-2-72, Peabody for VP campaign.

$1,800, 6-30-72, Peabody for VP campaign.

$200, 9-29-72, Repub. Committee, Chester Co., Pa.

$150, 10-10-72, Finance Committee to re-elect Nixon.

$150, 10-10-72, Chester Co. Repub. Party.

$100, 10-27-72, Roy Hill for Congress.

$100, 10-27-72, Scott for Senate.

$700, 5-3-73, Peabody Fund Committee.

$100, 4-4-74, West for Congress.

$900, 5-2-74, West for Congress.

$10, 8-5-75, Repub. Committee Chester Co., Pa.

$50, 9-23-75, Repub. Natl. Fin. Committee.

2. On February 2, 1976 I appeared before Eugene D. Schmiel, American Vice Consul with Notarial Powers, and swore to the above report.

STRAUSZ-HUPE.

Amendment

Spouse: Eleanor Strausz-Hupe, $25, December 19, 1975, Gerald R. Ford Victory Fund.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

ROBERT STRAUSZ-HUPE.

William W. Scranton, of Pennsylvania, to be the representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the representative of the United States of America in the Security Council of the United Nations.

STATEMENT OF POLITICAL CONTRIBUTIONS OF WILLIAM W. SCRANTON

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: William W. Scranton.

Contributions, amount, date, and donee

(If none, write none.)

See attached.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

WILLIAM W. SCRANTON.

Contributions

Self: $1,000, May, 1972, Lawyers Committee for Civil Rights Under the Law; $500, April, 1975, Common Cause; $250, June, 1975, President Ford Committee; $1,000, July, 1975, Pennsylvania Republican Governors Club; $351.43, 1976, President Ford Committee; $5,000, 1976, Republican National Committee.

Spouse: Mrs. William W. Scranton, $1,000, October, 1975, President Ford Committee.

Children and Spouses—

Mr. and Mrs. Richard Wolf (Susan is Mr. Scranton's daughter), $25, 1972, Citizens for McGovern.

William W. Scranton III (Mr. Scranton's son), $20, 1972, Citizens for McGovern.

Joseph Scranton (Mr. Scranton's son), $10, 1974, Democratic Telethon.

Peter K. Scranton (Mr. Scranton's son), none.

Sisters and Spouses: Mr. and Mrs. Albert G. Issaacs, Jr.

The Issaacs are vacationing and not able to give specific data but Mrs. Issaacs has said "I have given every year to federal candidates or committees but in no year did the total come to more than $2000."

Dr. and Mrs. H. M. Rozendaal—

$50, 1972, Finance Committee to Reelect President.

$50, 1973, State Republican Dinner.

$25, 1974, Committee to Reelect Javits.

$1000, 1976, Pledge to Upstate Finance Committee for Ford.

Mr. and Mrs. James A. Linen III—

$500, 1972, Connecticut Republican Key Committee ($250 each).

$500, 1972, Governors Club of New York.

$1000, 1972, Businessmen for Percy (Mr. Linen).

$500, 1972, Reelect Congressman McKinney (Mr. Linen).

$500, 1972, Reelect Mark Hatfield (Mr. Linen).

$500, 1972, Committee for Senator Case (Mr. Linen).

$500, 1972, Citizens for Boggs Committee (Mr. Linen).

$500, 1972, Brooke Committee (Mr. Linen).

$1,000, 1972, Etherington Fund (Mr. Linen).

$100, 1974, Javits Reelection Committee (Mr. Linen).

$100, 1974, McKinney's 5000 (Mr. Linen).

$25, 1974, The Ripon Forum (Mr. Linen).

$100, 1974, Republican National Committee (Mr. Linen).

$100, 1974, Javits Dinner Committee (Mr. Linen).

$100, 1975, Fair Campaign Practices Committee (Mr. Linen).

$100, 1975, Republican Congressional Booster Club (Mr. Linen).

Leon Sloss, of the District of Columbia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

(The foregoing nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BUCKLEY (for himself and Mr. Javits):

S. 3059. A bill to amend the Regional Rail Reorganization Act of 1973 to extend the period provided for certain designations made in the final system plan. Referred to the Committee on Commerce.

By Mr. NELSON (for himself and Mr. Weicker):

S. 3060. A bill to amend chapter 33 of title 44, United States Code, to change the membership and extend the life of the National Study Commission on Records and Documents of Federal Officials, and for other purposes. Referred to the Committee on Government Operations.

By Mr. CURTIS (for himself, Mr. Fannin, Mr. Hansen, and Mr. Roth):

S. 3061. A bill to amend title XX of the Social Security Act to strengthen the ability of the States to support social services in their communities. Referred to the Committee on Finance.

By Mr. EAGLETON:

S. 3062. A bill for the relief of Chao-Hsiung Chang. Referred to the Committee on the Judiciary.

By Mr. McCLELLAN:

S. 3063. A bill designating Ozark Lock and Dam on the Arkansas River as the "Ozark-Jeta Taylor Lock and Dam." Referred to the Committee on Public Works.

By Mr. GRAVEL:

S. 3064. A bill for the relief of Allen D. Ray. Referred to the Committee on the Judiciary.

By Mr. CANNON (from the Committee on Rules and Administration):

S. 3065. An original bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes. Placed on the Calendar.

By Mr. STONE:

S. 3066. A bill to amend the Older Americans Act of 1965 to provide nutrition programs for handicapped dependents of older Americans. Referred to the Committee on Labor and Public Welfare.

By Mr. STEVENSON:

S. 3067. A bill to authorize funds for comprehensive planning and management assistance under section 701 of the Housing Act of 1954. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. JAVITS:

S. 3068. A bill to authorize appropriations for the National Science Foundation. Referred to the Committee on Labor and Public Welfare.

By Mr. BUCKLEY:

S. 3069. A bill to prescribe the conditions with respect to affirmative action programs required of Federal grantees and contractors in complying with nondiscrimination programs, to prescribe the necessary requirements for a finding of discrimination in certain actions brought on the basis of discrimination in employment and to prescribe reasonable limits on the collection of data relating to race, color, religion, sex, or national origin, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. PERCY:

S.J. Res. 174. A joint resolution to authorize the President to designate the period from March 7, 1976, through March 14, 1976, as "National Nutrition Week." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUCKLEY (for himself and Mr. Javits):

S. 3059. A bill to amend the Regional Rail Reorganization Act of 1973 to extend the period provided for certain designations made in the final system plan. Referred to the Committee on Commerce.

COMPETITIVE RAIL SERVICE IN THE NORTHEAST

Mr. BUCKLEY. Mr. President, the U.S. Railway Association's, USRA's, final system plan for rail service in the Northeast recommended that certain profitable railroads purchase property of the bankrupt carriers for the purpose of offering rail service which would be competitive with that to be provided by the newly created ConRail Corporation.

There were two obstacles which had to be surmounted before these purchases could take place. First, the private railroads desired deficiency judgment protection in the event that the courts were to award damages to the creditors and owners of the bankrupts on the grounds that USRA's "net liquidation value" of the properties was unconstitutionally low. This deficiency judgment protection was granted in the recently enacted Railroad Revitalization and Regulatory Reform Act of 1976—implicitly subject to the February 12, 1976, deadline for the profitable carriers to give final acceptance for their purchases of the properties.

Another obstacle to the provision of competitive rail service was the statutory need for the profitable railroads to reach an agreement with the unions representing employees of the bankrupt carriers. The hopes of those of us who were looking forward to the availability of competitive rail service were shattered when the unions and the railroads were unable to reach an agreement by the February 12, 1976, deadline for acceptance by the profitable carriers.

However, despite the passage of this deadline, the parties involved have a public service obligation to go the last mile in their efforts to reach an agreement. The people of the State of New York and other States as well can hardly be expected to look forward to a monopoly—ConRail—which will have no competitive incentive to provide adequate rail service.

Some changes in the recently-enacted rail legislation will be necessary to insure that the purchases by the profitable carriers would be legal in the event that they can reach an agreement with the unions. I have prepared legislation, which I now send to the desk, which would give the profitable lines and the unions until April 19, 1976, to reach an agreement. Of course, the deadline for delivery of the final plan to the special court would also have to be extended. This will give the parties sufficient time to reach an agreement—if there is any common ground at all—but will not unduly delay the startup of ConRail.

Mr. President, I am aware of the fact that Secretary Coleman and others oppose any delay in implementing the ConRail plan beyond April 1, because of the high cost. I believe, however, that the importance of the matter warrants the additional expense required to allow the parties to reconsider their positions, and to reassess the importance of yielding to the clear public interest.

Mr. President, because my bill deals with railroad issues, I would assume that it will be referred to the Commerce Committee. I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 206(d)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(4)) is amended by striking out "7 days" and inserting in lieu thereof "45 days".

Sec. 2. (a) Section 209(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(c)) is amended—(1) by striking out "March 12, 1976" and inserting in lieu thereof "April 12, 1976", and (2) by striking out "February 17, 1976", and inserting in lieu thereof "March 27, 1976".

Sec. 3. Notwithstanding any provision of law in effect prior to the date of enactment of this Act which provided for the termination of designations made in the final system plan, the amendment made by the foregoing provisions of this Act shall take effect as of the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210).

By Mr. NELSON (for himself and Mr.WEICKER):

S. 3060. A bill to amend chapter 33 of title 44, United States Code, to change the membership and extend the life of the National Study Commission on Records and Documents of Federal Officials, and for other purposes. Referred to the Committee on Government Operations.

Mr. NELSON. Mr. President, on December 19, 1974, the Presidential Recordings and Materials Preservation Act became law. It was enacted to nullify the controversial agreement between the Ford administration and Richard Nixon, which acknowledged the former President to be the owner of the tapes and papers of his administration and gave him a broad license concerning the control and disposition of those materials. Congress overrode that agreement in title I of the act, instructing the General Services Administration to take custody of the Nixon tapes and papers to guarantee their preservation and promulgate regulations making the materials available for use by the Watergate Special Prosecutor and for access by the public while safeguarding Mr. Nixon's legitimate interest in them.

The termination of the Nixon presidency was of course unique, and the possible destruction of Nixon presidential materials could not be discounted. However, even while responding rapidly to an emergency situation, Congres recognized that Nixon's agreement with the Ford administration posed basic questions about the ownership and disposition of vital historical materials which had remained unresolved far too long. For this reason, in title II of the Materials Preservation Act, Congress established the National Study Commission on Records and Documents of Federal Officials. This Commission was charged with the responsibility of studying the problems involved in the ownership and disposition of records and documents of all Federal officials and recommending appropriate legislation and rules. The report of the Committee on House Administration suggested the complexity of the task:

> The issues that should be considered by the commission are both philosophical and procedural. They include a review of procedures to insure maximum preservation of useful historical material and procedures to assure earliest practicable accessibility of these historical materials to scholars for their use and interpretation. The commission should also consider the extent to which procedures for gaining early access to these materials may affect the willingness of officials to preserve to the maximum extent useful historical matter. H.R. Rep. No. 93-1507, 93rd Cong., 2d Sess., p. 9.

The composition of the Commission was designed to insure that the viewpoints of officials in all three branches of Government, as well as those of historians and archivists, would all be expressed. Its membership includes two Members of the House of Representatives; two Senators; three appointees of the President, selected from the public on a bipartisan basis; the Librarian of Congress; one appointee each of the Chief Justice of the United States, the White House, the Secretary of State, the Secretary of Defense, the Attorney General, and the Administrator of General Services; and three other representatives, one each appointed by the American Historical Association, the Society of American Archivists, and the Organization of American Historians. I am privileged to represent the Senate on the Commission, along with the Senator from Connecticut, Mr. WEICKER.

The Commission met for the first time on December 15, 1975, at the call of its chairman, the distinguished former Attorney General of the United States, Herbert Brownell. At that meeting, it became apparent that several amendments to title II of the Materials Preservation Act were needed for the Commission to properly discharge its responsibilities. Accordingly, I am introducing, for myself and Mr. WEICKER, three amendments to the statute which the Commission perceives to be necessary. I believe that these amendments are noncontroversial, and I am hopeful that the Congress and the President will approve them quickly.

The first amendment would extend the life of the Commission for an additional year. The act provided that the Commission would report to Congress and the President by March 31, 1976, and cease to exist 60 days thereafter. It is now evident that this deadline cannot be met, and this legislation would amend the act by extending the due date of the Commission's report to March 31, 1977.

This extension is necessitated by the fact that substantial delays occurred in the appointment of the Commission members. The three Commissioners chosen by the President by and with the advice and consent of the Senate—including Chairman Brownell—were not confirmed by the Senate until early November 1975. Once confirmed and designated chairman, Mr. Brownell moved swiftly to convene the Commission and begin the search for a staff director, but the statutory deadline was scarcely 5 months away and obviously no longer realistic.

Actually, even if the Commission members had been chosen immediately, an extension of time for the Commission would probably still have been advisable. Immediately after the Materials Preservation Act became law, Mr. Nixon filed a lawsuit in the U.S. District Court for the District of Columbia challenging its constitutionality. In that suit, he contended, among other things, that in taking custody of the papers and tapes of his administration, Congress violated the doctrine of executive priviledge and infringed on his rights of personal privacy and political association. These arguments were rejected by a three-judge district court which upheld the constitutionality of the basic statutory scheme on January 7, 1976.

However, in all probability, Mr. Nixon will appeal the decision to the Supreme Court. Given the nature of the constitutional claims involved, a Supreme Court decision would undoubtedly provide important guidance for the Commission. Conceivably, if the Commission had finished its work, and then the Court ruled on Mr. Nixon's claims, some of the Commission's recommendations might have been undermined. For this reason, a 1-year extension of the Commission's deadline appears to be desirable as well as necessary.

The second amendment we are submitting involves a change in the way one of the members of the Commission is to be chosen. At present, the Commission is to include "one Justice of the Supreme Court, appointed by the Chief Justice of the United States." A Justice was included because the Commission is charged with studying the problems relating to the disposition of the papers of members of the Federal judiciary. However, Chief Justice Burger has advised the Commission that because of the likelihood that litigation concerning the constitutionality of the act would reach the Supreme Court, he believes that the appointment of a Supreme Court justice to sit on the Commission would be improper.

The Chief Justice has suggested to the Commission that it would be preferable for him to appoint another member of the Federal judiciary to the Commission, if that would be acceptable to Congress. It is the consensus of the Commission that the judiciary should be represented, as Congress intended, and that the Chief Justice's suggestion is sound. Consequently, this legislation would amend the relevant subsection to include on the Commission "one member of the Federal judiciary appointed by the Chief Justice of the United States." The possible candidates would include all circuit or district judges, in active or senior status.

The final amendment is of a technical nature. At present, the act provides that "while away from their homes or regular places of business in the performance of service for the Commission, members of the Commission shall be allowed travel expenses in the same manner as persons employed intermittently in the service of the Federal Government are allowed expenses under section 5703(b) of title 5, United States Code." Because of a 1975 amendment, the provision governing travel expenses for a person employed "intermittently in Government service as an expert or consultant" is now section 5703, rather than section 5703(b). Accordingly, this third amendment would simply substitute "5703" for "5703(b)" in the proper subsection of the Materials Preservations Act.

The task before this Commission is formidable. Our system of Government requires that some confidentiality be accorded the thoughts of policymakers so they will state their views in a complete and uninhibited way. However, the public understanding of Government necessary to a democracy requires that the historical record be as complete as possible and that access be permitted to the record within a reasonable period of time. It is these potentially conflicting demands of the governing process and the historical record which the Commission must balance and resolve.

By Mr. CURTIS (for himself, Mr. Fannin, Mr. Hansen, and Mr. Roth):

S. 3061. A bill to amend title XX of the Social Security Act to strengthen the ability of the States to support social services in their communities. Referred to the Committee on Finance.

FEDERAL ASSISTANCE FOR COMMUNITY SERVICES ACT

Mr. CURTIS. Mr. President, I am today introducing the proposed Federal Assistance for Community Services Act, which was transmitted to the Congress by President Ford on February 23, 1976. I am pleased to announce that Senators Fannin, Hansen, and Roth, who serve with me on the Finance Committee, have joined with me as cosponsors of this legislation. The purpose of this legislation is to improve the social services programs now funded under title XX of the Social Security Act.

Under present law, $2.5 billion in Federal funds is allocated annually to the States, and apportioned on the basis of population, for social services programs. These social services include day care, family planning, foster care and many others. States receive funds on the basis of a 75–25 percent matching formula.

The new legislation would consolidate into a single block grant program the title XX social services programs together with State and local training activities related to social services. As under existing law, a total of $2.5 billion would be available to the States on a population basis, but the requirement of State matching funds would be eliminated. Also, the proposed legislation contains requirements designed to assure that, as in present law, low-income individuals and families would be the principal beneficiaries of these social services programs. Generally, 75 percent of the Federal funds will go to individuals with incomes below the poverty line, or to those who receive benefits under the AFDC, SSI, or medicaid programs. Moreover, except for information, referral, and protective services, no Federal funds may be expended for the benefit of families with income exceeding 115 percent of the State's median income.

A major change embodied in the proposed legislation is that many of the existing requirements and prohibitions with respect to the use of Federal funds will be eliminated. Thus, for example, the existing title XX restrictions on the use of Federal funds for health and institutional services will be eliminated, as will the controversial child day care staffing ratio standards. However, States will be required to have day-care standards of their own, and an agency responsible for monitoring them. Moreover, fees will not be mandated by Federal law and there will be no ban to fee charging. One additional salutary effect of eliminating many of these requirements and prohibitions is that the burden of State reporting to the Federal Government will be greatly reduced.

The proposed legislation also seeks to strengthen and improve the social services planning process, including the provisions of present law governing public review and comment on the annual State plan. These administrative plan requirements are generally retained, but with reduced Federal monitoring. These requirements include a fair hearing process, protection of information, a merit system of State design, and monitoring by States of their standards for child care and institutions. States will be required to assess the implementation of their services plan, to have an independent audit of expenditures, to monitor compliance with procedures in the administrative plan, and to report publicly on the results of the assessment and audit. A State which fails to comply with these administrative plan requirements is subject to a partial, and perhaps complete, loss of Federal funding.

Mr. President, I am pleased to sponsor this legislation as to have a number of my distinguished colleagues on the Committee on Finance as cosponsors. Our States both want and need greater flexibility and responsibility in the utilization of Federal social services funds. Our States are far better prepared than are we to determine their own social services priorities and to design programs to meet those priorities and not merely to meet Federal regulations. Enactment of this legislation would be an important signal to our States that we in Congress recognize that the States have an important and vital role to play and to make clear an implicit promise in title XX to remove unnecessary vestiges of remote control of State and local social services programs from Washington.

For these reasons, Mr. President, I urge prompt and favorable consideration of the proposed Federal Assistance Community Services Act.

By Mr. STONE:

S. 3066. A bill to amend the Older Americans Act of 1965 to provide nutrition programs for handicapped dependents of older Americans. Referred to the Committee on Labor and Public Welfare.

Mr. STONE. Mr. President, I am today introducing S. 3066, a bill to amend the Older Americans Act of 1965 to include the handicapped dependents of older Americans, who qualify for elderly nutrition programs, as "eligible individuals" for such programs. I believe that this bill is a realistic and humane measure that will eliminate problems presently being faced by individuals who legally qualify for such elderly nutrition programs, but deprive themselves of the opportunity due to consideration for their handicapped children.

That this amendment is necessary is evidenced by the unyielding nature of this family bond. To detail accurately the full implications of this situation, it is necessary that we understand:

First. The living circumstances of older Americans who qualify for elderly nutrition programs.

Second. The excellent services that are available through these programs.

Third. Two specific cases in the State of Florida which graphically exemplify this tragic situation.

First, by virtue of the eligibility requirements of nutrition programs for elderly, all participants must be aged 60 or older and unable to eat adequately because, first, they cannot afford to do so; second, they lack the skills to select and prepare nourishing and well-balanced meals; third, they have limited mobility which may impair their capacity to shop and cook for themselves; or fourth, they have feelings of rejection or loneliness which obliterate the incentive to prepare and eat a meal alone. Therefore, in view of these specifications, it should be immediately evident that the forfeiture of benefits which may be derived from elderly nutrition programs by qualifying individuals is not due to the lack of need.

Second, the funds allotted to any State during any fiscal year will only be disbursed by the State agency to recipients of grants or contracts who agree: First, to establish a "nutrition project" which provides at least one hot meal per day and any additional meals, hot or cold, 5 or more days per week; second, to furnish a site for such a nutrition project in as close proximity to the majority of eligible individuals as is feasible; third, to utilize methods of administration that will assure that the maximum number of eligible individuals will be served; fourth, to provide special menus for those with particular dietary needs for health, religious or ethnic reasons; fifth, to expand the nutrition project to include, as part of the project, recreational activities, informational, health and welfare counseling and referral services; sixth, to provide training for personnel as may be necessary to carry out the provisions of the project; seventh, to establish and administer the nutrition project with the advice of persons competent in nutritional fields, the elderly participants, and persons who are knowledgeable with regard to the needs of the elderly; eighth, to provide periodical evaluations of all aspects of the nutritional project; ninth, to give preference to persons aged 60 or older for staff positions that they may qualify for and to encourage the participation of volunteer groups; and, tenth, to comply with such standards as the Secretary of Health, Education, and Welfare may by regulation prescribe.

Without question, these standards define the excellent services available to qualifying senior citizens. It should be clear, therefore, that forfeiture of benefits, which may be derived from such a useful elderly assistance program, does not stem from inadequacies within the nutrition programs.

Finally, several cases which can be used as examples of this family situation in the State of Florida have been brought to my attention. In particular, I find two of these cases especially noteworthy.

The first case was reported to me by Mr. A. T. Holloman, Jr., chairman of the Jacksonville Nutritional Advisory Council. Mr. Holloman made reference to a variety of incidents in which a qualified parent, in absolute need of the services, refused to take part in area nutrition projects since he would have to leave his hungry handicapped child at home in the process. In addition, Ms. Naomi Benson, project director of the Jewish Vocational Service Nutrition Project of Miami, has informed me that similar problems have arisen about a half-dozen times in the last 18 months. Ms. Benson went on to site a specific case in which a local philanthropist is temporarily paying for the meal of the 53-year-old daughter of an 82-year-old woman in order that the mother, who is very poor and almost blind, will participate in the area nutrition project.

Certainly, these are only two of many similar cases in the State of Florida, yet their tragic message clearly represents the basic dilemma. In effect, the hardships of already unfortunate family circumstances are compounded by the threat of separating family units for preservation's sake.

The support that this bill offers for the maintenance of the family unit, in relation to participation in elderly nutrition programs, is by no means an entirely original concept. To imply the contrary would be to demean the wisdom of the authors of title VII—Nutrition Program for the Elderly—of the Older Americans Act of 1965—since, at the time of its writing, provisions were made to include the spouses of qualifying older Americans as "eligible individuals" for elderly nutrition programs. This is, of course, in keeping with my basic premise that such elderly nutrition programs must not compel "eligible individuals" to choose between family and survival.

In conclusion, it is evident that the combination of first, the unfortunate living conditions of older Americans who qualify for elderly nutrition programs and second, the excellent services available through elderly nutrition programs, constitutes an extraordinarily painful sacrifice on the part of those who deprive themselves of such benefits. This bill will respond to the needs of these older Americans who would rather starve than alienate their handicapped children, by including their handicapped dependents as "eligible individuals" for elderly nutrition programs.

By Mr. STEVENSON:

S. 3067. A bill to authorize funds for comprehensive planning and management assistance under section 701 of the Housing Act of 1954. Referred to the Committee on Banking, Housing and Urban Affairs.

COMPREHENSIVE PLANNING AND MANAGEMENT ASSISTANCE

Mr. STEVENSON. Mr. President, I am today introducing legislation to provide the comprehensive planning and management assistance program—popularly known as section 701—with an authorization of $125 million for fiscal year 1977. The 701 program came into existence in 1954 as a result of a recommendation by President Eisenhower's Advisory Commission on Urban Housing Policy. Since that time it has provided assistance for comprehensive planning—and more recently for management as well—to States, cities, counties, and regional planning agencies and councils of government in both metropolitan and nonmetropolitan areas.

The 701 program requires that recipients who receive funds engage in a comprehensive planning process including, at a minimum, the preparation of a land use element and a housing element as a part of that process. Recently, amendments which I sponsored and which were enacted as title IV of the Housing and Community Development Act of 1974, permitted 701 funds to be used for management activities necessary to implement planning and for the development of a policy-planning and evaluation capacity, including staff assistance, for recipient jurisdictions and their chief executives.

The program does not impose substantive requirements on recipients but asks them to engage in a process of planning to meet their needs however they define them. The 1974 amendments in particular placed a heavy stress on the development of a planning process and on the implementation of goals and objectives set through that process rather than on the production of one-time static master plans.

The Federal Government's interest in the comprehensive planning program is twofold. First, it provides States, localities, and regional bodies with the capability to plan for and guide their future development. Second, it provides these jurisdictions with the ability to coordinate their various activities, including the large number of functional Federal grant programs, so that these activities are consistent both with each other and, where desirable, with the activities of neighboring jurisdictions. The A–95 mechanism, the primary device by which localities within a metropolitan area or nonmetropolitan region coordinate the various Federal programs they are engaged in, is funded primarily through the 701 comprehensive planning assistance program.

The 701 program thus provides the overarching framework within which a State, locality, or region can plan, coordinate, and evaluate its activities, both from its own sources and from Federal funds. It differs sharply from functional planning attached to specific programs—the community development plan attached to the community development block grant program or health planning—which plans for activities only within one specific substantive area and does not attempt to coordinate the program with other activities or place the program within the context of the broader needs of the jurisdiction.

I would have hoped that a relatively inexpensive program whose intent was to foster sound and rational planning and management processes and to strengthen State and local governmental institutions would have been embraced by the Ford administration. Unfortunately this is not the case. Rather than cutting government spending selectively, the administration has engaged in a meat-axe approach, and useful programs such as 701 have suffered. The Housing and Community Development Act of 1974 authorized, through my amendment, $130 million in fiscal year 1975 and $150 in fiscal year 1976 for the section 701 program. The administration requested an appropriation of $110 million for fiscal year 1975, then when Congress enacted an appropriation of $10 million less than that request, the administration unaccountably requested a deferral of $50 million of that amount. Congress denied the request. In fiscal year 1976, the administration asked for an appropriation of $75 million which it received, and for the coming fiscal year it is asking for a new authorization of only $25 million and an appropriation of equal amount.

The effect of the administration's actions is to slowly strangle a viable and productive program. Since there is a 1-year lag in the program between appropriation and outlay, the impact of the budgetary stringency has not yet been fully felt in State, local, and regional planning activities. It will be soon. At a time when the evident need is for more coordination, efficiency, and advance planning, we shall be receiving less. Program outlays—the amount of money actually spent each year—have been between $95–$110 million each year since fiscal year 1974, but they will fall to $75 million in fiscal year 1977, and to $25 million in fiscal year 1978, if the administration has its way.

My legislation is an effort to reverse this trend by providing an authorization for the comprehensive planning program sufficient to permit it to at least continue, after accounting for inflation, its present level of activity.

By Mr. JAVITS:

S. 3068. A bill to authorize appropriations for the National Science Foundation. Referred to the Committee on Labor and Public Welfare.

NATIONAL SCIENCE FOUNDATION AUTHORIZATIONS, 1977

Mr. JAVITS. Mr. President, as the ranking minority member of the Labor and Public Welfare Committee, I introduce today the administration's bill to authorize the activities of the National Science Foundation for fiscal year 1977. The special subcommittee on the NSF will review fiscal year 1977 NSF authorization in detail at hearings scheduled in March.

The bill authorizes a total of $802 million in new budget authority for the coming fiscal year. It also contains a provision for $10 million in deferred fiscal year 1976 funds, primarily in the science education area.

The $812 million budget for NSF represents an 11-percent increase for the agency over its fiscal year 1976 program. Since 1968 Federal support for basic research has declined some 23 percent in constant dollars. The proposed NSF program seeks to reverse that trend. I approve the administration's decision to move in this direction before the damage to our great scientific establishment proves irreversible.

The National Science Foundation, as the only Federal agency charged with overall responsibility for the health of our Nation's scientific research and the quality of its scientific manpower, has a key role to play in this effort. It is the principal Federal agency concerned with assuring that the United States maintains its world leadership in science and technology—a leadership that has enabled the quality of American life to become one of the most stable, productive, and humanitarian in the world.

There is a more important reason than the status quo for support of science. The challenges of the future will tax man's ability to meet basic human needs while maintaining the delicate and complicated balance of Earth, oceans, and atmosphere necessary to preserve the quality of life on this planet for the generations to come. Thus it is vital today that this Nation continues its strong support for basic scientific research.

The proposed program for the National Science Foundation for fiscal year 1977 represents a major effort on the part of the administration to strengthen basic research. The budget request will provide support for research programs in all major fields of science and engineering, not only to counter the impact of inflation over the past several years, but to move ahead strongly in basic scientific research, especially in the universities. This represents an improvement over the trend in recent years in which the administration has requested a level of funds which, in my judgment, did not adequately meet the vital nature of the need.

Significant highlights of the fiscal year 1977 budget include:

First. A 10.5 percent increase in support for basic research. The total requested for this area will be $624.9 million, providing funding for the mathematical and physical sciences, engineering, astronomical and atmospheric sciences, earth and ocean sciences, and the biological sciences.

Second. A continuation of the Research Applied to National Needs—RANN—program, designed to focus U.S. scientific and technical resources on selected problems of national importance. This includes funding for the Intergovernmental Science and R. & D. Incentives to help insure the integration of science and technology at the State and local level.

Third. A program of science education aimed at improving the quality of the Nation's science manpower.

Fourth. Support of foreign policy objectives through expanded international cooperative science activities.

Mr. President, I have long worked to insure that the small businessman has a chance to be considered. I am pleased to note that the NSF does not ignore the small researcher—the individual or firm requesting only a few thousand dollars for a project. Consistent with congressional intent the National Science Foundation has begun a vigorous program to encourage small businesses with research capabilities to apply for funding, especially in the RANN area.

I note that the administration has requested a 1-year extension of the NSF authorization. While this has been the practice since 1968, I would like to take this opportunity to suggest that both Congress and the administration begin consideration of extension of the authorization of NSF programs for longer periods of time. A 2-year authorization would render greater program stability to the NSF, while enabling Congress to devote more time to its oversight responsibility and less to the more routine reauthorization matters.

Mr. President, I ask unanimous consent at this pont to include in the Record the text of the administration's NSF authorization for fiscal year 1977, a section-by-section analysis of the bill, and an NSF summary of the fiscal year 1977 budget request.

There being no objection, the bill and material was ordered to be printed in the Record, as follows:

S. 3068

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated to the National Science Foundation for the fiscal year ending September 30, 1977, to enable it to carry out its powers and duties under the National Science Foundation Act of 1950, as amended, and under Title IX of the National Defense Education Act of 1958, out of any money in the Treasury not otherwise appropriated, $796,000,000.

Sec. 2. Appropriations made pursuant to authority provided in sections 1 and 4 shall remain available for obligation, for expenditure, or for obligation and expenditure, for such period or periods as may be specified in Acts making such appropriations.

Sec. 3. Appropriations made pursuant to this Act may be used, but not to exceed $5,000, for official consultation, representation, or other extraordinary expenses upon the approval or authority of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

Sec. 4. In addition to such sums as are authorized by section 1, not to exceed $6,000,000 is authorized to be appropriated for fiscal year ending September 30, 1977, for expenses of the National Science Foundation incurred outside the United States to be paid for in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States.

Sec. 5. (a) (1) Sections 1869a and 1882 of Title 42, United States Code, are hereby repealed; and

(2) Section 2(b) of Public Law 94–86 (89 Stat. 427) is hereby repealed.

(b) (1) The notes appearing at section 1864 of Title 42, United States Code, which refer to the directions to the Director of the National Science Foundation to prepare comprehensive plans for establishing a "Science for Citizens Program" and for facilitating the participation of members of the public in the formulation, development, and conduct of the National Science Foundation programs, policies and priorities, are hereby struck from the Code; and

(2) The note appearing at section 5820 of Title 42, United States Code, referring to the coordination of all National Science Foundation project awards in the conduct of energy research and development activities with the Administrator of the Energy Research and Development Administration or his designee, is hereby struck from the Code.

Sec. 6. This Act may be cited as the "National Science Foundation Authorization Act, 1977."

Statement of FY 1977 Budget

A total of $812 million, $802 in new funds and $10 million in proposed FY 1976 deferrals, is included for the National Science Foundation (NSF) in the Budget of the United States for Fiscal Year 1977.

The $80.4 million increase in overall budget authority, 11 percent above the program level for FY 1976, is aimed primarily at strengthening Federal support of basic research in all major fields of science.

Dr. H. Guyford Stever, Director of the NSF, said, "The National Science Foundation's proposed program for FY 1977 represents a major effort on the part of the Administration to bolster science and to ensure for the United States a strong basic research program in all major fields of science and engineering. A specific aim of this program is to counteract the gradual decrease of Federal support for basic research which has declined about 23 percent in terms of constant dollars since 1968. Other Federal agencies are also increasing their commitment to basic research, where the research is tightly coupled to the agency's mission objective.

"Since much of the basic research of the nation is conducted in colleges and universities, where about 87 percent of the NSF program is performed, NSF support is a key to the effectiveness of the college and university system in expanding the frontiers of knowledge. This new knowledge is expected to strongly underpin the activities of some other Federal agencies. In this sense, the NSF research program will serve to balance the total Federal R&D effort."

In FY 1977, the NSF program will contribute significantly to the Nation's scientific strength by:

Increasing support for basic research in FY 77 to $624.9 million—nearly 19.5% over the FY 76 level. Included in this increase are higher funding levels for Mathematical and Physical Sciences and Engineering; Astronomical, Atmospheric, Earth and Ocean Sciences, and Biological, Behavioral and Social Sciences.

Continuing at an effective level Foundation programs—primarily Research Applied to National Needs—focusing U.S. scientific and technical resources on selected problems of national importance for the purpose of contributing to their timely, practical solution.

Providing education programs designed to help assure the quality of the Nation's science manpower and the availability of quality science education to the public.

Increasing support of foreign policy objectives through expanded international cooperative science activities.

For FY 1977 the NSF program will include:

An increase of $39.9 million for Mathematical and Physical Sciences and Engineering to a total of $233.2 million. Subactivity totals for FY 1977 are: mathematical sciences, $20.9 million; computer research, $15.8 million; physics, $55.45 million; chemistry, $42.35 million; engineering, $44.65 million; and materials research, $54.1 million.

Expanded computer sciences research will explore technical aspects of privacy and security, techniques for improving the quality and reliability of computer software, the best steps towards solving complex problems with ordinary and micro-computers, and other areas.

Increases in physics support will permit greater use of nuclear accelerators in studies of newly discovered particles, and a more concentrated effort in the investigation of plasmas—a state in which most of the matter of the universe exists but many of whose properties are unknown.

Increased engineering research on two-phase fluid systems, such as solid and gaseous components in combustion by flames, will be supported to help solve problems involving energy and the environment. Additional research related to extremely small optical and electronic devices is expected to lead to small lasers and computers and open the way for optical communication and other information processing systems.

Astronomical, Atmospheric, Earth and Ocean Sciences will increase from $219.3 million to $245 million with the following area support: astronomical sciences, $54.7 million; atmospheric sciences, $51.4 million;

earth sciences, $32.2 million; and ocean sciences, $56.4 million; U.S. Antarctic Research Program, $45 million; Arctic research program, $5.3 million.

New emphasis in astronomy will be placed on observational and theoretical research related to the unusual processes occurring at the centers of galaxies that can generate energy at the rate of ten billion billion times that of the sun, on research related to pulsars, quasars, black holes, and on a search for stars with planetary systems.

Construction, installation, and testing of additional components of the Very Large Array will continue. The four-meter optical telescope at the Cerro Tololo Inter-American Observatory, in Chile, placed in operation January 12, will be in full-time use.

Expanded atmospheric sciences studies will continue to focus on investigations of the basic chemistry of the upper atmosphere, on large and small-scale motions of the atmosphere and stratosphere, as well as on major international cooperative projects.

The Climate Dynamics Program, increased to $4.9 million, is an increasingly concentrated effort to improve our understanding of global climate as a basis for predicting climate variations and assessing their impact on matters important to man.

The increased support for earth sciences will be used to initiate or emphasize selected research in support of the U.S. Program for the International Geodynamics project. In addition, new emphasis will be placed on earthquake research as part of the national effort in earthquake prediction and hazard reduction.

The highly productive Ocean Sediment Coring Program continues with its international phase during FY 1977.

The International Decade of Ocean Exploration will continue in FY 1977 with large international projects focused on the role of the oceans in climate, food production, pollution, energy, and natural resources.

An increase in support of Biological, Behavioral and Social Sciences from $110.4 million to $132.3 million. Area support totals are: physiology, cellular and molecular biology, $54.2 million; behavioral and neural sciences, $24.4 million; environmental biology, $32.5 million; and social sciences, $21.2 million.

Research in the plant sciences, particularly in photosynthesis and nitrogen fixation, will be expanded as will investigations in genetics and differentiation where new cell structure capabilities have opened opportunities.

Studies of key aspects of behavior and the nervous system during early development, and research on brain structure and its function in cognitive processes will be increased in FY 1977. Increased emphasis will be placed on studies of social psychology in real life settings.

Research in environmental biology will be expanded to increase our understanding of population biology, physiological ecology, aquatic ecosystems and other areas.

Provisions will be made for increased study of economic theory and advanced measurement for techniques to analyze inflation, energy, resources, productivity, and international economic problems.

Fundamental research will be continued to increase our understanding of how human beings and man-made organizations and institutions function.

Support for Science Education will provide $65 million, including $10 million in funds proposed for deferral from FY 1976, for programs aimed at providing training for scientists and engineers, including the increased entry into science of women and minorities historically under-represented in those fields. A strong effort in three new programs started by the Congress—Comprehensive Assistance to Undergraduate Science Education (CAUSE), Research Initiation and Support (RIAS) and Science for Citizens—will be continued. Programs aimed at strengthening science education and research training capabilities of schools, colleges and universities will be continued with a small increase in funding to $26.9 million.

Support of efforts to identify and develop technologies, methods, and course materials to increase the effectiveness of science instruction at all levels will continue at the same level as in FY 1976. A program to increase the amount and quality of communication between the scientific community and the public and the use of science by the public will continue with an increase from $3 million to $3.4 million.

Research Applied to National Needs (RANN) efforts will continue to be applied to selected problems of national concern in five major program areas: resources, environment, productivity, intergovernmental science and R&D incentives, and exploratory research and problem assessment. The level of RANN support is reduced from $73.6 million in FY 1976 to $64.9 million in FY 1977, reflecting phase down and shift of responsibility of energy resources and environmental effects of energy to the Energy Research and Development Administration and phase down and transfer of fire research to the Department of Commerce.

RANN resources research will apply $10 million to research designed to lead to improvement of the Nation's management of its natural resources through the development of alternative solutions to emerging scarcity problems before a crisis stage is reached.

Special emphasis in the $24.5 million RANN environmental program is placed on chemical threats to the environment and man, regional environmental management, earthquake engineering, weather modification and societal response to natural hazards. $24.4 million will support policy research and experiments with new technologies to help improve productivity of public and private sectors of the economy.

In Scientific, Technological, and International Affairs an increase of $1.69 million will provide for regionally oriented international cooperative programs as well as increased support for 21 ongoing cooperative programs. A reduction of $1.9 million in science assessment, policy, and planning is made in anticipation of the establishment of the White House Office of Science and Technology.

Sectional Analysis

A Bill to authorize appropriations for activities of the National Science Foundation, and for other purposes.

Section 1. Authorizes appropriations for fiscal year 1977 in the amount of $796,000,000 which equals the amount shown in the President's Fiscal 1977 Budget.

Section 2. Provides that appropriations made pursuant to sections 1 and 4 to remain available for obligation and expenditure for such period, or periods, of time as may be specified in appropriations acts.

Section 3. Authorizes an allowance of up to $5,000 for official consultation, representation, and other extraordinary expenses to be expended at the discretion of the Director.

Section 4. Authorizes, in addition to the funds appropriated by section 1, an appropriation for fiscal year 1977 not to exceed $6,000,000 for expenses of the National Science Foundation incurred outside of the United States to be financed from currencies which are determined by the Treasury Department to be in excess of normal requirements of the United States.

Section 5. Repeals sections 1869a and 1882 of Title 42, U.S. Code, and strikes certain notes appearing at sections 1864 and 5820 of Title 42, United States Code. Section 2(b) of P.L. 94–86 is also repealed.

Section 6. Permits the citation of the Act as the "National Science Foundation Authorization Act, 1977."

By Mr. BUCKLEY:

S. 3069. A bill to prescribe the conditions with respect to affirmative action programs required of Federal grantees and contractors in complying with nondiscrimination programs, to prescribe the necessary requirements for a finding of discrimination in certain actions brought on the basis of discrimination in employment and to prescribe reasonable limits on the collection of data relating to race, color, religion, sex, or national origin, and for other purposes. Referred to the Committee on Labor and Public Welfare.

AFFIRMATIVE ACTION

Mr. BUCKLEY. Mr. President, 12 years ago, the United States made it illegal to discriminate in employment on grounds of race, color, religion, sex, and national origin. That was accomplished when the Civil Rights Act of 1964 became law, and it was properly heralded as the end of one era and the beginning of another. What had been a readily accepted element of the American tradition, equality of opportunity, was made a matter of legal right for all Americans.

There is no question but that some Americans, most notably for reasons of race, were being denied equality of opportunity. This legislation not only defined legal rights and duties, but it also proved to have a profound and largely beneficial social impact on the United States. Whatever enforcement problems have subsequently developed, the case for the passage of the law has, it seems to me, been fully vindicated. But, unfortunately, there is more to the story of the Civil Rights Act of 1964 and the national commitment to end discrimination.

To understand the present problem one must go through the details of the legislation in question. First, title VI of the Civil Rights Act of 1964 requires that any program or activity, including State and local government, which receives Federal financial assistance must, as a matter of law, treat all participants equally without regard to race, religion, color, sex, or national origin. The act, in title VII, further prohibits any Federal contractors, private employers, or labor organizations from discriminating against applicants for employment on any of the above grounds. In effect, the Congress in passing the legislation was abstracting the social policy articulated in Brown against Board of Education, the landmark school segregation case handed down in 1954 by the U.S. Supreme Court, and extending it to Federal programs and private employment. The policy was one in which discrimination on grounds of race, religion, color, sex, or national origin was prohibited as constituting the antithesis of the principles of individual equality, individual dignity, and individual justice on which the American Nation was founded; principles which the civil rights movement was designed to translate into full practice.

The second step in the process was taken on September 24, 1965, when then President Lyndon Johnson issued Executive Order No. 11246 requiring Federal contractors to take affirmative action "to insure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin." Later a sex discrimination prohibition was added to the affirmative action requirements.

The point was clear: The policy of the U.S. Government was not only to prohibit discrimination on the grounds of race, religion, color, sex, or national origin, but to force action to end inherently discriminatory practices. There would be no substantial issue today if, in the intervening years, the Federal Government had not changed its policy. While the civil rights law has not been amended with respect to any of the antidiscrimination provisions and while the Executive orders have not been revised in any substantial way, the policies of the Federal Government have changed substantially. It is to this change that the legislation I am today introducing is addressed.

Lest there be any doubt about congressional intent behind the Civil Rights Act, and specifically on the question of the nature of discrimination, the Senator from Minnesota (Mr. HUMPHREY), a leading supporter of the act, stated that there "must be an intention to discriminate" before one could be held to have violated the law. He also stated that the act "does not require an employer to achieve any kind of racial balance in his work force by giving any kind of preferential treatment to any individual or group—the express requirement of intent" would prevent de facto circumstances from being manipulated into a finding of discrimination. Senators CASE of New Jersey and CLARK of Pennsylvania joined Senator HUMPHREY in that analysis.

The first notable change came in Febrary 1970, when the Department of Labor adopted regulations which included the language:

> An affirmative action program is a set of specific result-oriented procedures to which a contractor commits himself to apply in good faith. The objective of these procedures plus such efforts is equal employment opportunity.

It is important to make note of the point that within this rather obscure rhetoric is the redefinition of "opportunity" to mean "result." The transposition of Federal policy occurred when opportunity was defined in terms of result, or in the later language of composition.

A more explicit change in Federal policy came about in late 1971 with the adoption of revised order No. 4 by the U.S. Department of Labor, which was adopted pursuant to both the Civil Rights Act and the Executive order. In revised order No. 4, there is no attempt to define "discrimination," as such. A reading of the order requires the conclusion that for purposes of affirmative action requirements, discrimination is equated with "underutilization," which is defined "as having fewer minorities or women in a particular job classification than would reasonably be expected under their availability." The order then details a long series of factors which are to be relied upon in determining whether there is "underutilization."

But the unreasonableness or lack thereof of the criteria begs any serious questions of public policy. Wherever in the law did the doctrine of "underutilization" become the controlling factor in determining whether a party subject to the Civil Rights Act was in violation of the act?

The change came about subtly, through the use of the relatively anonymous mechanism of rulemaking whereby an enforcing agency, such as the Department of Health, Education, and Welfare—HEW—can expand and even redefine the essence of the law it is supposed to enforce. The legal requirement which was initially intended to guarantee equality of opportunity was now being defined as specifically requiring the manipulation of results. It is at that point that the prohibition against discrimination was turned into a positive duty to discriminate. There is no way to insure a certain result other than by discriminating.

There are a number of examples which illustrate the point. One of the most striking is to be found in the case of the University of California, at Berkeley, of all places, where the Federal Government relied solely upon the racial and sex composition of the work force to prove a violation of the Civil Rights Act. In June 1971, HEW descended upon the campus to conduct a compliance review. The study lasted for 1½ years.

Berkeley personnel did their best to supply all of the data HEW requested. The review culminated in a demand that the university adopt an affirmative action hiring program, although the university was never specifically charged with having discriminatory hiring practices. Nor was the university told what it had to do. The frustration of the university was best expressed by Robert Kerley, the vice chancellor for administration, who said:

> It was a bit like being in a ballgame against a team that was making up the rules as it went along.

The university never really had the benefit of a clearcut Government position. There was never any explicit charge or specific demand.

The responsibility for developing an "acceptable"—to HEW—affirmative action program was on the university. What the university was required to overcome was not a charge of discrimination, but of "underutilization" of minorities, a determination that was in part based upon the population composition of the bay area. What that had to do with Berkeley's hiring practices is unclear, but it was part of the utilization formula against which the university was judged by bureaucrats having the discretionary power to withhold substantial Federal funding.

In order to come into compliance with the Civil Rights Act, as implemented by HEW and its guidelines, and to retain the $2.8 million in Federal contracts which the university held, the campus administration commenced to gather the necessary data in order to develop "goals"—quotas—which would bring the school up to full "utilization." The project was costly, consuming the time of 10 staff members and countless hours of many others connected with the university. But the first Berkeley plan did not satisfy the HEW officials and the threat to cut off the Federal contracts was carried out, resulting in the delay of $2.8 million in contracts and no doubt creating severe administration problems with staff payroll and other budgetary obligations. Still HEW did not take an overt position on what would constitute "compliance."

Faced with such an intolerable situation, the university had its own statistics department develop plans for hiring minority personnel, with specific goals and timetables. The plan was acceptable to HEW. The utilization formula which was agreed to called for, among other things, certain goals which implied that the university was "under-quota" or "underutilizing" minority personnel. Included in the plan was the university's commitment to hire 1.38 black professors in the social welfare department and 1.39 Spanish surnamed and Native Americans—Indians—as professors in the civil engineering department. Monitoring the affirmative action program continues to cost the university at least $400,000 per year. We must remember all this comes against a background wherein the university was not charged with discrimination. But in order to come into "compliance," the university would most certainly have to discriminate and expend substantial resources.

In a less complex situation, but one which is just as outrageous, Congresswoman Edith Greene, in November 1972, testified in a House of Representatives hearing regarding her own city of Portland, Oreg., which was found to be in noncompliance by HEW. Portland, with a black population of 5 percent of the total, had minority representation in the school system of 15 percent of the whole. But because Portland did not have 15 percent representation in each and every job classification within the school system, the city was found to be guilty of discrimination as defined by HEW.

As recently as August 1975, HEW made a computer run to determine what school systems, if any, assigned faculty to schools in majority/minority patterns that did not mathematically reflect the ratios within the school system in which they were employed. Ninety school systems, including Buffalo, N.Y., were indicted by computer for no reason other than the fact that the school administrations had not kept the ratios relatively uniform in schools throughout the system. Here there was not even a charge of underutilization. It was asserted that random assignment was per se discrimination. In Buffalo, and perhaps elsewhere, HEW withheld Federal funds under the authority of the Civil Rights Act.

In another recent case, the Department of Justice, using the goals and guidelines theory of discrimination developed by the Departments of Labor and HEW, filed a civil rights suit against the Sheet Metal Workers Union, Local 28, of New York City. The suit charged the union with discrimination. The allegation of discrimination relied upon the composition of the union membership for proof of discrimination. A court-ordered quota has been set requiring the union to hire minorities until the membership in the union has been brought up to 29 percent minority. But again, as in the cases brought under agency guidelines, there was no charge of discrimination as such. Underutilization was held to be discrimination, pure and simple.

A second element, in the case of the Sheet Metal Workers Union, was a test administered by the union as part of the application process for apprenticeships. In the landmark Griggs against Duke Power Co. case, the Supreme Court held that when a test eliminates more minorities than nonminorities, it becomes the duty of those administering the test to prove its relevance to the job. But since that decision, EEOC and others have moved Federal Government policy to the point where validation of the test is a practical impossibility. Prof. Nathan Glazer's research in "Affirmative Discrimination"—New York Basic Books, 1975—forced him to conclude that the only test which could be safely administered was a typing test, and the Equal Employment Opportunity Commission is not entirely sure about that. But because minorities in New York City did not do as well as nonminorities in the test scores, the Court upheld that the minorities had been "victimized" and ordered the union to eliminate the test and to pay back pay to those allegedly victimized. But all of this happened in spite of section 703(h) of the Civil Rights Act, where the clear meaning of the language restricts the review of tests to the question of whether they are "designed, intended, or used to discriminate because of race, color, religion, sex, or national origin."

To comply with the Federal district court order, the Sheet Metal Workers Union has been ordered to discriminate, even against those longstanding members presently unemployed and standing by until construction work again becomes available. Nothing in the court's decision addressed the rights of those who would now be discriminated against and the justice due them. Again, this is all against a background where there is no charge of discrimination.

There is also the problem of costs. The Congressional Research Service has, at my request, been collecting what data there is on the question of the financial costs of the affirmative action programs now being imposed. CRS found that the costs of affirmative action for the Federal Government alone in fiscal year 1976 are estimated at, unbelievably, $329,296,367. The estimated costs to higher education for the academic year 1974–75 was more than $75 million. The study is not complete, but the initial indication is that the costs are literally astronomical.

After having complained to the executive agencies over the past years over these distributors of the concept of civil rights, I am now convinced that the only solution rests with the Congress of the United States. While it seems to me that the 1964 act makes the congressional intent crystal clear, others in the Federal Government, courts and agencies alike, have succeeded in perverting the law to the point of rendering it unrecognizable.

Discriminatory hiring practices have no place in our country. America should pride itself upon guaranteeing each of its citizens an equal opportunity to earn a decent living. To benefit one man at the expense of another, for reasons no more relevant than sex, or race, or national origin, is a perversion of civil rights. Reverse discrimination is discrimination, and it was discrimination the Congress prohibited 12 years ago.

Consequently, today I am introducing the Antidiscrimination Act of 1976. The legislation is designed to reinforce the 1964 law and to clarify any ambiguities which may have been created through agency rulemaking and overly broad court decision.

The bill contains three major provisions:

First. It would reaffirm the Federal Government's role in requiring as a condition of receipt of any grant or contract that the recipient submit an affirmative action program which assures nondiscrimination on the basis of race, religion, color, national origin, or sex, along the lines of Executive Order No. 11246. Such programs would not be allowed to impose the establishment of employment goals, timetables, or quotas based on race, religion, color, national origin, or sex.

Any affirmative action program undertaken by contractors, grantees, private employers, or labor organizations, whether fashioned by a Federal agency or a Federal court, would be limited to attempts to expand the pool of applicants or participants. Plans could include an expansion of recruiting practices, including, but not necessarily limited to the expansion of normal advertising and promotion methods, consistent with the financial ability of the concerned parties to undertake such a program. Such programs could—in fact should—preclude any qualifications that are unrelated to job requirements, and hence a potential vehicle for discrimination.

The goal would be to insure that no particular group would encounter any unusual difficulty in seeking out information regarding the opportunity which is advertised, or in being judged on the basis of qualifications alone.

Second. In all cases arising under the law of the United States, or any Federal regulation or Executive order, where the Federal Government seeks a finding of discrimination, no finding would be allowed solely on the basis of the composition of the workforce or membership in the business, union, or program. Such statistical data would be admissable as evidence, however, in any hearing before an appropriate agency or court.

Third. The Antidiscrimination Act of 1976 would prohibit the Federal Government from requiring that data be collected regarding race, color, religion, sex, or national origin. The acceptance by the Government of such information would be limited to discovery proceedings under the direction of a Court.

There is a certain difficulty in offering this legislation. The plain meaning of the original legislative language does not need changing. Moreover, this legislation would not be offered but for the actions taken and interpretations made by the various departments and agencies charged with enforcing the law.

The challenge before the Congress is to do away with quotas, goals, and timetables which necessarily result in discrimination against some for the benefit of others. There is no suggestion made by me that we as a nation withdraw one iota from our commitment to end discrimination on the grounds of race, religion, color, sex, or national origin. To the contrary, the legislation I am offering today will, if enacted into law, reinforce the principles of nondiscrimination and equality of opportunity that are essential to a just and free society.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3069

A Bill to prescribe the conditions with respect to affirmative action programs required of Federal grantees and contractors in complying with non-discrimination programs, to prescribe the necessary requirements for a finding of disscrimination in certain actions brought on the basis of discrimination in employment and to prescribe reasonable limits on the collection of data relating to race, color, religion, sex, or national origin, and for other purposes

Be it enacted by the Senate and House of Representatives of the United of America in Congress assembled, That (a) in carrying out the provisions of—

(1) title VI or title VII of the Civil Rights Act of 1964,

(2) Executive Order No. 11246, issued September 24, 1965, as amended by Executive Order No. 11375, issued October 13, 1967 and Executive Order No. 11478, issued October 8, 1969, or

(3) any other provision of Federal law or regulation relating to non-discrimination on the basis of race, color, religion, national origin, or sex, each department and agency of the Federal Government may require that any grantee or any contractor subject to a grant or contract made by that department or agency and any employer, employment agency, or labor organization subject to such title VII shall submit as a condition of such a grant or contract or as a condition of relief an affirmative action program if that affirmative action program is in accordance with the provisions of this act.

(b) No affirmative action program authorized by this Act may require—

(1) provisions relating to quotes or ratios of individuals on the basis of their race, color, religion, national origin or sex as a portion of the statistical composition of the business enterprise, labor organization, association, society, or other entity of that grantee or contractor; or

(2) provisions for goals or objectives for that grantee or contractor designed to establish quotas or ratios as described in clause (1) of this sentence.

(c) Affirmative action programs authorized by this Act shall be designed to expand, on the basis of individual or aptitude qualification and without regard to race, color, religion, national origin, or sex, the pool of applicants and participants in the program, membership, or enterprise which is subject to the provisions of such a plan. Any such affirmative action plan may include provisions for the expansion of normal advertising and promotional methods reasonably designed to assure that no special group of individuals classified on the basis of race, color, religion, national origin, or sex would encounter any unusual difficulty in obtaining information regarding the opportunity for employment or participation in the program, membership, or enterprise subject to such a plan, if the provisions relating to such advertising or methods are consistent with the financial ability of the employer, employment agency, labor organization, association, society, or other entity which is subject to the affirmative action plan.

SEC. 2(a) Notwithstanding any other provision of law in carrying out or enforcing the provisions of—

(1) title VI or title VII of the Civil Rights Act of 1964,

(2) Executive Order No. 11246, issued September 24, 1965, as amended by Executive Order No. 11375, issued October 13, 1967 and Executive Order No. 11478, issued October 8, 1969, or

(3) any other provision of Federal law or regulation relating to nondiscrimination on the basis of race, color, religion, national origin, or sex, no officer or employee of any department or agency of the Federal Government and no court of the United States shall make any finding of discrimination based solely on the composition of the work force or the membership of an employer, employment agency, or labor organization.

(b) In any action brought to enforce the provisions of any law specified in subsection (a) of this section before an appropriate department or agency of the Federal Government or in any court of the United States, statistical data on the composition of the work force or membership of any employer, employment agency, or labor organization is admissible.

(c)(1) In any action brought to enforce any law specified in subsection (a) of this section before an appropriate department or agency of the Federal Government or in any court of the United States, no relief shall be granted unless that department or agency or court finds that an act of discrimination has been committed by the employer, employment agency, or labor organization.

(2) No department or agency and no court may grant any remedy to enforce the provisions of law specified in subsection (a) of this section if that remedy includes the establishment of—

(A) quotas or ratios of individuals on the basis of their race, color, religion, national origin, or sex as a portion of the statistical composition of the business enterprise, labor organization, association, society, or other entity of that employer, employment agency, or labor organization;

(B) goals, timetables, or objectives for that employer, employment agency, or labor organization designed to establish quotas or ratios described in clause (A) of this paragraph.

SEC. 3. No department or agency of the Federal Government may require that any employer, employment agency, labor organization, or grantee or contractor which is or may be subject to any provision of law specified in the first section of this Act collect data regarding the race, color, religion, national origin, or sex of any employees, members or program participants, or accept such information, except as a result of discovery procedures under the order of a court of the United States after reasonable grounds have been established that discrimination exists with respect to that employer, employment agency, labor organization, grantee or contractor.

SEC. 4. For the purposes of this Act, the term—

(1) "contractor" includes any contractor subject to part II or part III of Executive Order No. 11246, issued September 24, 1965, as amended;

(2) "employer" means the United States, any employer subject to the provisions of title VII of the Civil Rights Act of 1964, and any employer subject to part II or part III of Executive Order No. 11246, issued September 24, 1965, as amended;

(3) "employment agency" means any employment agency subject to the provisions of title VII of the Civil Rights Act of 1964;

(4) "grantee" includes any person subject to the provisions of title VI of the Civil Rights Act of 1964; and

(5) "labor organization" means any labor organization subject to the provisions of title VII of the Civil Rights Act of 1964.

SEC. 5. This Act shall be referred to as the "Anti-Discrimination Act of 1976."

By Mr. PERCY:

S.J. Res. 174. A joint resolution to authorize the President to designate the period from March 7, 1976, through March 14, 1976, as "National Nutrition Week." Referred to the Committee on the Judiciary.

NATIONAL NUTRITION WEEK

Mr. PERCY. Mr. President, I am introducing a joint resolution to mark the week of March 7, 1976, through March 14, 1976 as "National Nutrition Week."

For the past 4 years the American Dietetic Association has promoted good nutrition through commemoration of a National Nutrition Week. This year the theme is the Bicentennial. Throughout the year, historical events pertaining to dietetics and nutrition will be spotlighted. National Nutrition Week provides an opportunity for the American Dietetic Association, with the cooperation of the food industry and allied organizations, to work toward improving nutrition for the Nation.

I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 174

Joint resolution to authorize the President to designate the period from March 7, 1976, through March 14, 1976, as "National Nutrition Week."

Whereas every American has the right to optimum nutritional health; and

Whereas every American has the right of access to a variety of safe foods that will promote good nutrition and improve resistance to disease; and

Whereas every American has the right to nutrition education, to make informed choices from available foods, and, to have protection against food and nutrition misinformation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the period from March 7, 1976, through March 14, 1976, as "National Nutrition Week," and calling upon the people of the United States and interested groups and organizations to observe that week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 12

At the request of Mr. MCCLELLAN, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of S. 12, a bill to improve judicial machinery by providing benefits for survivors of Federal judges comparable to benefits received by survivors of Members of Congress, and for other purposes.

S. 953

At the request of Mr. STEVENSON, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 953, a bill to amend the Export Administration Act of 1969 to clarify and strengthen the authority of the Secretary of Commerce to take action in the case of restrictive trade practices or boycotts.

S. 969

At the request of Mr. HARTKE, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 969, a bill to amend chapter 34 of title 38, United States Code, to extend the basic educational assistance eligibility for veterans under chapter 34 and for certain dependents under chapter 35 from 36 to 45 months.

S. 1911

At the request of Mr. HARTKE, the Senator from Georgia (Mr. TALMADGE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from California (Mr. CRANSTON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Wyoming (Mr. HANSEN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 1911, a bill to amend title 38, United States Code, to provide certain persons insured under servicemen's group life insurance (SGLI) with a choice of conversion to either an individual term or whole life insurance policy or veterans' group life insurance policy upon the expiration of their servicemen's group life insurance coverage, and for other purposes.

S. 2489

At the request of Mr. JAVITS, the Senator from Alabama (Mr. SPARKMAN) was added as a cosponsor of S. 2489, the Allied Services Act of 1975.

S. 2525

At the request of Mr. HARTKE, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 2525, a bill to provide for the coverage under medicare of dental care, eye care, dentures, eyeglasses, and hearing aids.

S. 2572

At the request of Mr. MCCLELLAN, the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 2572, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal death benefit to the survivors of public safety officers.

S. 2598

At the request of Mr. PACKWOOD, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2598, a bill to require that imported meat and meat food products made in whole or in part of imported meat be labeled "imported," to provide for the inspection of imported dairy products, to require that imported dairy products comply with certain minimum standards of sanitation, and to require that imported dairy products be labeled "imported," and for other purposes.

S. 2789

At the request of Mr. Taft, the Senator from Mississippi (Mr. Eastland) and the Senator from Washington (Mr. Jackson) were added as cosponsors of S. 2789, a bill to amend title 38, United States Code, to provide counseling for certain veterans; to permit acceleration of monthly educational assistance payments to veterans; to revise the criteria for approval of nonaccredited courses; and for other purposes.

S. 2910

At the request of Mr. Schweiker, the Senator from Pennsylvania (Mr. Hugh Scott) was added as a cosponsor of S. 2910, a bill to establish the National Diabetes Advisory Board and to insure the implementation of the long-range plan to combat diabetes.

S. 2939

At the request of Mr. Schweiker, the Senator from Alabama (Mr. Sparkman) and the Senator from Tennessee (Mr. Baker) were added as cosponsors of S. 2939, a bill to provide a special program for financial assistance to Opportunities Industrialization Centers.

S. 2945

At the request of Mr. Hugh Scott, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 2945, a bill to amend the act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations for the Smithsonian Institution for carrying out the purposes of said act.

S. 2946

At the request of Mr. Hugh Scott, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 2946, a bill to amend the act of July 2, 1940, as amended, to remove the limit on appropriations.

S. 2949

At the request of Mr. Hugh Scott, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 2949, a bill to authorize the Smithsonian Institution to construct museum support facilities.

S. 2962

At the request of Mr. Hugh Scott, the Senator from Kentucky (Mr. Ford), the Senator from Texas (Mr. Bentsen), the Senator from New Mexico (Mr. Domenici), the Senator from Mississippi (Mr. Eastland), the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), the Senator from Oregon (Mr. Hatfield), the Senator from Nebraska (Mr. Hruska), the Senator from Louisiana (Mr. Johnston), the Senator from Vermont (Mr. Leahy), the Senator from Minnesota (Mr. Mondale), the Senator from Pennsylvania (Mr. Schweiker), the Senator from Alaska (Mr. Stevens), the Senator from Texas (Mr. Tower), and the Senator from North Dakota (Mr. Young) were added as cosponsors of S. 2962, a bill to amend title 39, United States Code, to require the U.S. Postal Service to make certain considerations prior to the closing of third and fourth class post offices.

S.J. RES. 161

At the request of Mr. Taft, the Senator from North Carolina (Mr. Helms) was added as a cosponsor of Senate Joint Resolution 161, a joint resolution regarding the conduct of recent negotiations concerning the International Monetary Fund (IMF) and the position of the United States with respect to future sales of IMF gold and a proposed trust fund.

S.J. RES. 163

At the request of Mr. Nelson, the Senator from South Dakota (Mr. Abourezk), the Senator from Tennessee (Mr. Baker), the Senator from Indiana (Mr. Bayh), the Senator from California (Mr. Cranston), the Senator from New Mexico (Mr. Domenici), the Senator from Arizona (Mr. Fannin), the Senator from Kentucky (Mr. Ford), the Senator from Michigan (Mr. Griffin), the Senator from Maine (Mr. Hathaway), the Senator from Minnesota (Mr. Humphrey), the Senator from New York (Mr. Javits), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Georgia (Mr. Nunn), the Senator from Rhode Island (Mr. Pell), the Senator from Wisconsin (Mr. Proxmire), the Senator from Pennsylvania (Mr. Hugh Scott), the Senator from Alabama (Mr. Sparkman), the Senator from South Carolina (Mr. Thurmond), the Senator from Connecticut (Mr. Weicker), and the Senator from New Jersey (Mr. Williams) were added as cosponsors of Senate Joint Resolution 163, a joint resolution to authorize and request the President to issue a proclamation designating the week beginning May 9, 1976, as "National Small Business Week."

SENATE JOINT RESOLUTION 168

At the request of Mr. Hugh Scott, the Senator from Utah (Mr. Moss) was added as a cosponsor of Senate Joint Resolution 168, a joint resolution to provide for the reappointment of James E. Webb as a citizen regent of the Board of Regents of the Smithsonian Institution.

AMENDMENTS SUBMITTED FOR PRINTING

OKLAHOMA SENATORIAL CONTESTED ELECTION—SENATE RESOLUTION 356

AMENDMENT NO. 1420

(Ordered to be printed.)

Mr. CANNON proposed an amendment to Senate Resolution 356, a resolution relating to the Oklahoma senatorial contested election.

VETERANS OMNIBUS HEALTH CARE ACT OF 1976—S. 2908

AMENDMENT NO. 1421

(Ordered to be printed and referred to the Committee on Veterans' Affairs.)

Mr. STAFFORD submitted an amendment intended to be proposed by him to the bill (S. 2908) to amend title 38, United States Code, to improve the quality of hospital care, medical services, and nursing home care in Veterans' Administration health care facilities; to require the availability of comprehensive treatment and rehabilitative services and programs for certain disabled veterans suffering from alcoholism, drug dependence, or alcohol, or drug abuse disabilities; to make certain technical and conforming amendments; and for other purposes.

ENERGY CONSERVATION IN BUILDINGS ACT OF 1975—H.R. 8650

AMENDMENT NO. 1422

(Ordered to be printed and to lie on the table.)

Mr. TOWER (for himself, Mr. Garn and Mr. Morgan) submitted an amendment intended to be proposed by them, jointly, to the bill (H.R. 8650) to assist low-income persons in insulating their homes, to facilitate State and local adoption of energy conservation standards for new buildings, and to direct the Secretary of Housing and Urban Development to undertake research and to develop energy conservation performance standards.

Mr. TOWER. Mr. President, today, I am submitting an amendment to H.R. 8650. It is my intention to call up this amendment when we consider this bill. This amendment would strike section 205 from title II of the Building Energy Conservation Standards Act of 1976. The effect of this amendment would be to remove the sanctions embodied in section 205. Presently, section 205 requires each community in the United States to adopt a minimum building energy conservation standard which would be developed by FEA. Should the community not adopt such a standard, then all lending institutions in that community would be precluded from making any kind of a loan for the construction of any new residential or commercial building. In my opinion, this sanction is too harsh. The role of the Federal Government should be to encourage compliance with a building energy conservation standard. The Federal Government should not mandate such compliance, as a failure to comply with the standards would mean bringing to a halt all new construction in a community.

Mr. President, in addition to title II of this bill, as I have stated in the additional views in the report filed with H.R. 8650, I have serious concern about the provisions of title I of this bill, the Residential Insulation Assistance Act of 1976. I find that I am not alone in doubting many of the provisions of this title. I have recently received a letter from Mr. Frank Zarb, Administrator of the Federal Energy Administration, the agency that originally proposed this legislation. In his letter, Mr. Zarb cites 13 major defects he has found in title I. He strongly thinks that no bill should be passed which contains these objectionable provisions, and urges support of a Residential Insulation Assistance Act as passed by the House. Mr. President, I ask unanimous consent that my amendment and Mr. Zarb's letter to me of February 23, 1976, be printed in the RECORD.

There being no objection, the amendment and letter were ordered to be printed in the RECORD, as follows:

Beginning with page 39, line 15, strike out all through page 41, line 18.

Redesignate succeeding sections accordingly.

On page 42, line 4, strike out "or State certification procedures".

On page 42, line 5, strike out "of section 205".

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., February 23, 1976.
Hon. JOHN G. TOWER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TOWER: The purpose of this letter is to convey the Administration's position on Title I of H.R. 8650, as reported by the Senate Banking, Housing, and Urban Affairs Committee and which the Senate is expected to consider shortly.

As passed by the House on September 8, 1975, the Weatherization Assistance Act, Title I of H.R. 8650, is a modification of an Administration proposal submitted one year ago as part of a comprehensive energy bill. The purpose of this energy conservation program is to encourage the development and implementation of weatherization programs for the dwellings of low-income persons in each State. The fuel savings from such programs will lower heating bills of low-income persons and lessen our dependence on imported fuels. The bill as proposed by the President and passed by the House allows the States maximum flexibility in determining how to best administer the program within their own jurisdictions, and at the same time keeps administrative burdens to a minimum.

The House-passed bill, which was strongly supported by the Administration, has been considerably modified by the Senate Committee on Banking, Housing, and Urban Affairs. The Senate bill contains objectionable provisions which, among other things, could seriously delay program implementation and place unnecessary bureaucratic burdens on the States. FEA strongly recommends that such provisions be removed before final passage of the legislation. Our major objections of the Senate bill follow:

Dual Concurrence on Regulations.—Section 105(a)(1) of the Senate bill requires that the Administrator of FEA obtain the concurrence of the Director of the Community Services Administration (CSA) on weatherization program regulations. FEA has been working closely with an interagency task force that includes CSA, and has received helpful advice from many of the participants. We intend to continue this process, but object strongly to a requirement for concurrence of another agency in regulations regarding the weatherization program. Such a requirement is administratively burdensome, diffuses responsibility, spawns bureaucratic entanglement, and generates delays in providing assistance to the needy.

Dual Oversight.—Section 108 of the Senate bill gives both the FEA Administrator and the CSA Director the authority to monitor, evaluate and provide technical assistance. Reference to the "Director" should be struck since only one Federal agency should be accountable and the States should be responsible to only one Federal agency. For the same reasons, reference to the "Director" should also be removed from Sections 109(c) and 113 which provide, respectively, for audit authority and for an annual report to the Congress and the President.

Transfer of Funds.—Section 105(d) of the Act permits the Administrator of FEA to transfer funds to the Director of CSA for programs under Section 222(a)(12) of the Community Services Act of 1974. The Administration believes that this program is designed to foster State action and enable States to integrate the program within their borders to best meet their own local needs. This is best accomplished by the development and funding of State plans, not by Federal interagency fragmentation.

CAA Funding Mandate.—Section 107(b) requires FEA to guarantee that on a national basis the Governors will allocate fifty percent of program funds to CAA's. While CAA's doing effective conservation work should, of course, be eligible for funds through the States, inclusion of this mandatory restrictive clause in the legislation will not only limit State flexibility, but will require the institution of an administrative procedure whereby FEA would have to delay funding any State application until all applications are received, in order to guarantee that the requirement of the provision is met. FEA would prefer to fund meritorious State applications as received.

Role of Local Community Action Agencies.—Section 105(c) requires FEA to bypass a State and contract with CAA's upon application if the State has not properly applied within 150 days after enactment of the legislation. As originally conceived, the legislation was designed to encourage State leadership in this field. It is anticipated that States will be able to supplement Federal funds and continue the program with State funds after Federal developmental funds are awarded. By inserting this provision, the Senate bill punishes States who may, for some legitimate reason, not be able to submit an application within 150 days. If this did happen and the CAA's were awarded a State's funds, serious geographical inequities would result because CAA's do not cover all of the Nation's poor population.

Moreover, the provision is defective in that the time limit would start running upon enactment of the legislation rather than on the date that the regulations are promulgated. This severe restraint would inhibit the States from accepting the responsibility of carefully planning an effective weatherization program.

Application Procedures.—Sections 106 and 107, in general, place unnecessary bureaucratic burdens on the States, restrict the administrative discretion of the Governors and will require submission of very lengthy applications that will be of little help in promoting program success. FEA believes in giving the Governors reasonable administrative latitude in the planning and implementation of the program, emphasizing output requirements rather than mere promises on how the program will be run. The House language should be retained.

Standards.—Section 105(b)(2)(A) of the Senate bill requires that FEA "prescribe standards of insulation materials, energy conservation techniques, and the combinations thereof," subject to approval by the National Bureau of Standards. The weatherization program should not be burdened with national standards issued in Washington. States are better equipped to adjust the program to their varying needs and conditions. To achieve agreement on national standards could potentially delay program implementation. Furthermore, while FEA has contracted with NBS for retrofit studies, it is only one of many contractors used by the agency in this field. We do not believe there is a single set of standards for weatherization that should be promulgated for the Nation as a whole. Accordingly, the requirement for development of Federal insulation standards with NBS approval should be deleted.

Definition of Low-income.—Section 104(7) of the Senate bill contains a definition of "low-income" that would open the provisions of the Act in many areas to persons with incomes above the national average and would thus dilute the targeting of funds away from the truly needy. At the same time, families with incomes below the poverty level in very poor areas of the Nation could be excluded from receiving assistance under the Senate definition. We do not believe that the objectives of the weatherization program are well served by the perverse outcome of inclusion of this definition applied on an area basis.

In contrast, the House definition, by using established Government property level statistics, would not create these inequities.

Transfer of Funds for Native Americans to Other Federal Departments or Agencies.—Section 105(a)(2) authorizes the FEA Administrator to transfer funds to other Federal departments or agencies to serve native Americans. This provision is objectionable because it treats native Americans as a distinct group apart from other citizens. It assumes that the Administrator and the States will not assure that native Americans are treated like other citizens and receive their fair share through the regular procedures under the weatherization program.

If special provision is made for native American communities we believe it would be preferable to adopt the approach and definitions in section 104 of the Older Americans Amendments of 1975 that would allow the Administrator to grant funds for weatherization directly to an Indian tribal organization if he determines that members of the tribe are not receiving benefits equivalent to those provided other persons in the State and that the members of the tribe would be better served by direct grants.

Mandatory Public Hearings.—Section 107(c) mandates funding of CAA's in a State unless sufficient reasons for non-funding are shown through public hearings by the Governor. Such a provision adds nothing positive to accomplishing the purposes of the Act but would create unnecessary delays and conflicts in program administration. In addition, this provision is contrary to our position of granting flexibility for each State to determine how best to deliver weatherization services. States should not be dissuaded from selecting the best delivery systems for weatherization assistance because of a requirement for a presumptive service deliverer.

Use of the Terms "Supplementary" and "Supplant".—The idea appears several places in the bill that the new weatherization program would be supplementary to other programs. The proposed FEA weatherization program is not a supplement to any other legislation but is a major independent initiative to assist low-income people to save energy by weatherizing their homes. The wording of these sections should be conformed to reflect the true characteristics of the new program.

Materials.—Section 104(6) contains too broad a definition of materials, in our view, by including mechanical equipment. FEA prefers the House language under which items such as furnace filters could be purchased but items such as portable heaters could not. FEA also prefers the House language to that contained in Section 107(a) of the Senate bill, which would make it possible for FEA and the States to spend less than ninety percent of the funds on materials; FEA believes that sufficient volunteer, trainee and occupant labor can be mobilized to assure that the largest number of homes are winterized without the unnecessary expenditure of funds on non-material costs.

Definitions.—In Section 104 FEA is concerned that the Senate has placed less emphasis on the most needy elderly as a priority population by broadening the definition from persons 65 years or older to 60 years or older. Moreover, the term "state" has been broadened to include the Virgin Islands and Puerto Rico, neither of which have significant needs for this program in light of the temperature climates of those possessions.

We urge the Senate's consideration of these matters.

The Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the program of the President.

Sincerely,

FRANK G. ZARB,
Administrator.

NOTICE OF HEARINGS

Mr. METCALF. Mr. President, in accordance with the rules of the Committee on Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 2 weeks:

MARCH 2

Parks and Recreation Subcommittee—10 a.m., room 3110, hearing: S. 72, S. 1092, to designate land in the Pinnacles National Monument as wilderness; S. 1093, S. 2472, to designate certain lands in the Point Reyes National Seashore as wilderness; S. 97, S. 1099, to designate certain lands in Yosemite National Park as wilderness.

MARCH 2

Energy Research and Water Resources Subcommittee—10 a.m., room 1318, DSOB, hearing: Continuation of hearings re ERDA authorization for fiscal year 1977.

MARCH 3

Full Committee and National Fuels and Energy Policy Study—10 a.m., room 3110, hearing: S. 1864, Energy Information Act.

MARCH 4 AND 5

Indian Affairs Subcommittee—9:30 a.m. on March 4 and 10 a.m. on March 5, room 3110, hearing: S. 2010, repeal of Public Law 280 which allows the Federal Government and Indian tribes to ressume jurisdiction of civil and criminal matters in Indian country.

MARCH 8 AND 9

Full Committee and National Fuels and Energy Policy Study—10 a.m., room 3110, hearing: S. 1864, Energy Information Act.

MARCH 10

Parks and Recreation Subcommittee—10 a.m., room 3110, hearing: Oversight hearing on park concessions.

MARCH 11

Environment and Land Resources Subcommittee—10 a.m., room 3110, hearing: Omnibus wildlife refuge wilderness bills.

MARCH 12

Full Committee and National Fuels and Energy Policy Study—10 a.m., room 3110, hearing: S. 1864, Energy Information Act.

MARCH 15

Indian Affairs Subcommittee—9:30 a.m., room 3110, hearing: S. 2634, Community College authorization.

NOTICE OF HEARINGS

Mr. HATFIELD. Mr. President, at the request of the Senator from Wyoming (Mr. MCGEE), chairman of the Appropriations Subcommittee for the Department of Agriculture and Related Agencies, I ask unanimous consent that a statement in reference to the subcommittee's schedule for congressional and public witnesses be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR MCGEE

I wish to advise all who are interested that the Agriculture and Related Agencies Subcommittee of the Appropriations Committee has scheduled final hearings for March 23, 24, and 25. By that time the Subcommittee will have concluded its hearings on Departmental witnesses and these days have been set aside for public and Congressional witnesses.

If any Senators wish to testify they should contact Dudley Miles, the staff member on 224-7272, and I am certain that we can accommodate all Members who wish to testify during that 3-day period.

In view of the time constraints facing the Appropriations Committee this year I hope that we can have the cooperation of all of my Colleagues. We hope to close the hearing record and send it to final printing shortly after the March 25 hearing and I hope we can have all statements and comments by that time.

ADDITIONAL STATEMENTS

A STRONG UNITED STATES ESSENTIAL TO PEACE AND STABILITY

Mr. BENTSEN. Mr. President, President Ford yesterday announced that détente no longer describes United States-Soviet relations and that the United States would deal with the Soviet Union from a position of strength. I applaud the President's recognition of the realities of United States-Soviet relations. There is much to be said for his new approach.

As the President indicated, the only way to build an effective and lasting peace is through the maintenance of a strong defense and a realistic, hard-nosed bargaining position. I support the continued pursuit of better relations with the Soviet Union but, as I have frequently insisted, that relationship must be a more balanced one with mutual benefits to both parties and a clearer understanding of the goals and methods of implementing that policy.

Few would argue with the need to lessen tensions between the United States and the Soviet Union. The Cold War dragged on for far too long. Indeed feuds and tensions among nations serve the interests neither of peace nor economic stability.

At the same time I believe it is important to analyze the Soviet position on détente. Contrary to the belief in this country that détente would lead to an era of peace and relaxing of tensions between our two countries, the Soviets have quite a different view. They have frequently emphasized that for them détente is confrontation by other means. They have called for the intensification of ideological warfare and have stated that détente is itself a reflection of their growing military prowess. In addition, recently Secretary General Leonid Brezhnev endorsed détente only to the extent that it advances communism. In view of these statements the United States can draw little comfort for the future of peaceful equilibrium in United States-Soviet relations.

It behooves us all, Mr. President, to be more aware of the revolutionary theme which has dominated Soviet foreign policy for several decades and which continues to dominate it. We should certainly be more realistic about Soviet tactics and foreign policy goals.

I support the continued pursuit of better relations with the Soviet Union but, as I have frequently insisted, that relationship must be a more balanced one with mutual benefits to both parties and an agreed interpretation of détente. Indeed, the balance sheet on détente is at best a murky one. We have only to remember the startling transfer of technology to the Soviet Union highlighted by recent revelations that the United States may have provided the Soviets the means to develop MIRV capability or at the very least substantially speeded up their MIRV development; the bellicose Soviet role in the Middle East and its support for the 1973 Arab oil embargo; the SALT I agreement which gave the Soviets a strategic edge; the rapid expansion of Soviet military capability; and Soviet support for the Cuban involvement in Africa.

A strong United States is essential to international peace and stability. The best means of achieving that peace and stability is through a position of strength. It is imperative that we replace the illusions of détente with the reality of a strong U.S. defense posture tempered with a readiness to negotiate effective realistic agreements to achieve real peace.

MIHAJLO MIHAJLOV, IMPRISONED YUGOSLAV WRITER

Mr. PELL. Mr. President, on the Op-Ed page of the New York Times of March 1, 1976, Thomas Fleming, an American historian and novelist, describes the tragic plight of the Yugoslav author Mihajlo Mihajlov, who is near death in a Yugoslav prison. We, in this country, are often told that the Yugoslav brand of communism is different from the forms practiced in the Soviet Union and elsewhere in Eastern Europe—that Yugoslav communism is, in effect, communism with a heart.

Judging from the Yugoslav Government's treatment of Mr. Mihajlov, however, it appears that the only difference between the Yugoslav and other Communist parties is that the Yugoslav party is not subservient to a foreign government. As regards human rights, it seems that "communism is communism is communism." Mr. Mihajlov has committed a sin which is considered just as unpardonable by Tito as it would be by the hardest of the Soviet hardliners—he criticized his country's one-party system and controlled press.

Last year, Mr. Mihajlov was sentenced to 7 years' hard labor for disseminating "hostile propaganda" about Yugoslavia and was placed in solitary confinement in a virtually unheated prison cell and denied books and writing materials. In desperation, he began a hunger strike in December and is near death today.

Tito has refused to grant Mr. Mihajlov

permission to emigrate. Even the supposedly more repressive Soviet Union, faced with a similar dilemma in dealing with Solzhenitsyn, allowed that writer to leave the country. It is ironic in this regard that Tito has taken a line reminiscent of his arch-foe Josef Stalin.

I agree with Mr. Fleming that with every day that Mr. Mihajlov spends in jail, American friendship and admiration for Yugoslavia is declining. In refusing to allow Mr. Mihajlov to emigrate, Yugoslavia is jeopardizing the substantial good will which it has enjoyed in the United States.

Mr. President, I ask unanimous consent that the New York Times article cited above be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Mar. 1, 1976]

As Mihajlov Nears Death

(By Thomas Fleming)

For over a decade the writer Mihajlo Mihajlov has been struggling to make the freedom of expression promised by Yugoslavia's Constitution a reality. This has led him to criticize his country's one-party system and controlled press. Unable to publish his articles at home he sent them abroad, where they appeared in a number of European and American publications, among them The New York Times. In 1975, Mr. Mihajlov was sentenced to seven years' hard labor for disseminating "hostile propaganda" against Yugoslavia. He was placed in solitary confinement in a virtually unheated prison cell and denied books and writing materials. Visits from his wife and lawyer have been limited to the vanishing point. In desperation, he began a hunger strike in December. Today he is near death.

The American Center of P.E.N. as part of its commitment to free expression everywhere has tried to persuade the Yugoslav Government to permit Mr. Mihajlov to emigrate to this country, where a teaching post has been offered him. Marshal Tito has stonily refused, ignoring pleas from over 40 distinguished United States writers. Worse, the Yugoslavs have lied about the conditions of Mr. Mihajlov's imprisonment and the reason for his sentence.

Toma Granfil, the Ambassador of Yugoslavia, informed P.E.N. by letter on Oct. 7, 1975, that the report of Mr. Mihajlov's being in solitary confinement was "inaccurate and without foundation." The rest of his letter is worth reading in part:

"M. Mihajlov, by his activities through contacts with the émigré quarters abroad, hostile to the Yugoslav Constitutional order, has committed a criminal act punishable under the Yugoslav Law. . . . The current campagin pursued on behalf of the American Center of P.E.N. cannot be considered otherwise but as an attempt of political pressure on the Socialist Federal Republic of Yugoslavia. . . . Yugoslavia has never succumbed to such and similar pressures wherever they come from. Accordingly, Yugoslavia will not succumb to the current pressures, either. Finally, I wonder whose interests and objectives this organized and concerted campaign against socialist Yugoslavia should promote?"

In response to this question P.E.N. replied: "Whose interest is served by keeping Mr. Mihajlov in jail? Certainly not Yugoslavia's interests. Every day that he remains in jail, Americans, who have long been friends of Yugoslavia, feel that friendship cooling, their admiration declining."

His reply was more of the same rhetoric and an attempt to link Mr. Mihajlov with terrorist acts by Yugoslav émigrés. Abandoning diplomatic niceties, P.E.N. told the Ambassador that this was "bunk, pure and simple." Meanwhile, a writer was dying.

Thomas Fleming, historian and novelist, is a past president of the American Center of P.E.N.

GEOTHERMAL HEAT COST SAVINGS

Mr. PACKWOOD. Mr. President, I have addressed the need to emphasize geothermal energy as a viable energy source often before the Senate. Whether we are considering major energy legislation, research, and development appropriations, or working on individual grants to individuals and organizations working on geothermal energy, I have supported these efforts.

Recently, it was reported that the Klamath County Museum had reduced its normal $1,000 natural gas heating bill to $4.19 during the month of January 1976, because the museum has adapted geothermal heat in its main heating system.

This is certainly a fine example of innovation and use of available natural resources. Moreover, it shows the cost savings of using geothermal heat in those areas where it is readily available. I commend the county and city officials, and those involved in this effort. I take my hat off to them because they have written another page in the development of a viable geothermal heat foundation for Klamath Falls, for Oregon, and for the Nation.

Mr. President, I ask unanimous consent that an article which appeared in the Herald and News, Klamath Falls, on February 5, 1976, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Klamath Falls (Oreg.) Herald and News, Feb. 5, 1976]

Geothermal Heat Reduces County Gas Bill

(By Chris Beeson)

A normal $1,000 bill of natural gas during January was reduced to $4.19 last month because geothermal energy is now being used to heat the Klamath County Museum, Harry Drew, museum curator, told county commissioners Wednesday.

"January was the first month that we have used geothermal energy to heat the museum," Drew reported during the regular monthly public hearing of commissioners. "Our previous bills for natural gas during January have been around $1,000. Our bill for January of this year was $4.19. The added electricity needed to operate with geothermal heat has increased our power bill by about $5. So our average winter heating bill is about $10 a month."

AIRBAG PASSIVE RESTRAINT SYSTEM

Mr. MOSS. Mr. President, within the next few weeks, the National Highway Traffic Safety Administration will be proposing revised requirements for occupant restraint devices for motor vehicles. While the merits of various occupant restraint systems have been the subject of intense public debate since the late 1960's, the tide of support is shifting toward the adoption of passive restraint systems.

Most recently, the National Association of Insurance Commissioners have issued a resolution which supports the airbag passive restraint system. Mr. President, I ask unanimous consent that the letter and resolution of the association be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

National Association of
Insurance Commissioners,
Carson City, Nev., January 30, 1976.

Hon. William T. Coleman,
Secretary of Transportation,
Washington, D.C.
Dr. James S. Gregory,
Administrator, National Highway Traffic Safety Administration, Washington, D.C.

Gentlemen: As Chairman of the Executive Committee and President of the National Association of Insurance Commissioners, we take this opportunity to forward to your attention the attached resolution which has been adopted by the National Association of Insurance Commissioners.

With the critical condition facing the industry in regard to increased rates as a result of injuries and property damage, the insurance commissioners of this country feel that they have a responsibility to the citizens of this country to urge that all safety factors be considered in an attempt not only to stabilize the insurance rates that are necessary to compensate injured parties, but more importantly for the protection of those persons who may be injured victims of automobile accidents.

Yours respectfully,

Lester L. Rawls,
Chairman, Executive Committee, NAIC, Insurance Commissioner, State of Oregon.

Dick L. Rottman,
President, NAIC, Insurance Commissioner, State of Nevada.

Resolution

Whereas, thousands of motor vehicle occupants are killed each year and nearly two million are seriously injured causing an intolerable level of human pain, suffering, anguish, and bereavement, and billions of economic loss;

Whereas, this tragic toll of death and injury will substantially increase in the next ten years as a result of the increased use of compact and subcompact automobiles in order to meet our nation's fuel conservation goals;

Whereas, the national tragedy of death and injury on our highways and anticipated increase from the growing use of such compact and subcompact automobiles will increase the costs of automobile insurance for the American automobile and will place a heavier burden on the health care resources of our nation;

Whereas, air bag passive restraint systems promise to substantially increase the protection against such highway deaths and injuries;

Whereas, the Department of Transportation has earlier proposed passive restaints (air bags) as standard equipment for 1972 model year, postponed to 1974 model year, postponed to 1976 model year, and again effectively postponed to 1978 model year, with no final standard yet issued;

Now, therefore, be it resolved, that the National Association of Insurance Commissioners urge the Department of Transportation to: (1) promulgate without further delay Motor Vehicle Safety Standard 208, requiring air bag passive restraint systems to be installed on all new automobiles sold in this country at the earliest practicable date; or (2) satisfactorily explain to the American public why such regulation is not adopted.

SIHANOUK'S FORMER CHIEF AIDE EXPLAINS NONRETURN TO CAMBODIA

Mr. FONG. Mr. President, on November 14, 1975, I made a statement in this Chamber concerning the deplorable conditions in Cambodia. At that time, I advised my colleagues that Marshal Lon Nol, President of the Khmer Republic before its collapse under the Communist onslaught, had written me about his appeal to the United Nations to condemn the massacres by the new Khmer Rouge regime in Cambodia. Both Marshal Lon Nol's letter to me and his letter to the United Nations were printed in the Congressional Record then.

Marshal Lon Nol, who now resides in Hawaii, wrote me again recently, expressing his appreciation of the efforts of the senior Senator from Hawaii to keep the Congress informed about the situation in Cambodia. This time, Marshal Lon Nol has also provided me with a copy of a letter sent to Le Figaro, a French newspaper, by Mr. Buor Noll, former chief aide-de-camp to Prince Norodom Sihanouk, the titular chief of state of Cambodia.

In way of background, soon after the fall of Cambodia last year, there was great confusion concerning the fate of many of Cambodia's former political and military leaders. Initially there were reports that former Premier Long Boret and General Lon Non, previously interior minister and brother of Marshal Lon Nol, were killed by enraged mobs. Before long, bits of information began to trickle through to the outside world and were later confirmed by Prince Sihanouk's associates and staff that there were in fact deliberate executions going on in Cambodia. Both Premier Long Boret and General Lon Non were victims of such "out of hand" executions, we subsequently learned.

Mr. President, you will recall that about 50 members of the staff that served under Prince Sihanouk during his exile in Peking became concerned that their future and ultimate fate in Cambodia, should they choose to return there with their leader, might become untenable. On October 17 last year, Prince Sihanouk's former press secretary Nouth Cheoun told the Far East Economic Review in an interview in Hong Kong that the Khmer Rouge had double-crossed Sihanouk. Those former aides of Prince Sihanouk, protesting the actions of the new Cambodia regime to suppress basic freedoms, decided to seek political asylum in Europe.

News from Cambodia is still sketchy. According to a radio report from Pnom Penh on January 5 this year, Prince Sihanouk presided at a Cabinet meeting in Cambodia on January 3. He had again returned to his homeland in the last days of 1975—after having left there for extended travels abroad just 3 weeks following his earlier end of exile in China and return to Cambodia on September 9, 1975.

My colleagues will recall that Prince Sihanouk addressed the United Nations General Assembly on October 6 and then returned to Peking on October 12 last year. According to an Agence France-Press report out of Pyongyang, North Korea, in August 1975, Prince Sihanouk was said to be wary of going back to Cambodia the first time because the new regime there did not welcome the return of Sihanouk's entourage with him. Thus it is unclear as to the real role and power that Prince Sihanouk will have in his country in the future.

I certainly hope that normalcy and freedom will someday return to Cambodia. The situation there is still in a state of flux. Turmoil seems to persist. Mr. David Andelman of the New York Times reported from Thailand on January 19 this year that, according to refugees pouring across the border to Aranyaprathet in Thailand, residents of Pnom Penh and other towns were being forced by the "hundreds of thousands" to relocate to the less populated regions of northwestern Cambodia. Meanwhile, the Khmer Rouge has reportedly established a "People's Representative Assembly" under a new constitution. I read that nationwide elections are to be held March 20—this month. It is difficult to foretell how the future government of Cambodia will shape up. However, I am concerned about the millions of people in Cambodia who have been suffering so much under the new regime.

In the months ahead, more news may yet come out of Cambodia. Since the press there is tightly controlled, any news from Cambodia will undoubtedly represent an outpouring of propaganda.

As a point of illustration, just last Friday, February 27, Radio Pnom Penh fabricated an outrageous story, accusing the United States for the bombing of Siem Reap, a provincial capital 150 miles northwest of Pnom Penh, by jets described as "F-3 jets." According to press dispatches out of Thailand, it was believed that the Cambodian broadcast was referring to F-111 bombers, some of which used to be based in Thailand during the Vietnam conflict. Radio Pnom Penh further asserted that the warplanes made two bombing raids, allegedly killing 15 people and wounding 40.

The U.S. Embassy and military authorities in Thailand said the "report is ridiculous and without truth," according to a news dispatch by United Press International. A Pentagon spokesman too denied the charge and said: "The report is totally false, it is a damn lie."

It was further reported that foreign diplomatic sources in Thailand were puzzled by the Cambodian allegation because United States F-111 aircraft had already been withdrawn from Thailand last June. In fact the last U.S. warplanes left Thailand in December 1975. So much for background and recent developments in Cambodia.

Mr. President, in my judgment, it will be constructive for the Congress and everyone to have an awareness of the feelings, aspirations, and fears harbored by those who were closest to Prince Sihanouk during his exile in China. They have expressed their disapproval of the inhuman acts of the new leaders in Cambodia. Mr. Buor Noll explained in his letter to Le Figaro, the French newspaper—to which I alluded earlier in my remarks—as to why he and certain of his compatriots decided not to accompany Prince Sihanouk in going back to their homeland. Mr. Buor Noll pointed out that Prince Sihanouk himself gave his aides his blessings and approval of their actions in refusing to return to Cambodia.

I believe my colleagues would benefit from the insight of Mr. Buor Noll and the explanation he gave in his letter. I ask unanimous consent that the translations of both Marshal Lon Nol's letter to me and the text of Mr. Buor Noll's letter to Le Figaro be printed in the Record at the end of my remarks so that all may learn of the views of Marshal Lon Nol and especially the views of Mr. Buor Noll with respect to Cambodia. I wish to express my appreciation to the Congressional Research Service of the Library of Congress for having made the translations for me.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FONG. Mr. President, I have on a number of occasions in the past commented upon the truly alarming erosion of freedom in the world. On November 15 last year, when I was addressing a gathering of scholars, diplomats, and officials at the Embassy of the Republic of China in commememoration of the birthday of Dr. Sun Yat-sen, the founder of the Republic of China, I made an observation on the erosion of freedom as follows:

> Since the end of World War I the light of freedom has been extinguished for more than 30 once-free nations and more than 1.2 billion people. In 1975 alone, two nations, South Vietnam with some 20 million people and Cambodia with its 7½ million people, have lost their freedom. Laos, with 3.3 million people, is in mortal peril. Thailand's 36.3 million people and South Korea's 35 million people are in perpetual danger. Portugal is torn apart in a struggle to determine if her 8.6 million people will live under totalitarian rule. Israel's 3.4 million live in constant fear of attack.

The alarming trend that I cited a scant 3½ months ago had not improved. In fact it has become worse. In Laos, the Pathet Lao has emerged supreme; the Laotians lost their freedom. Now Angola and its 5.8 million people too have lost their freedom under the onslaught of the MPLA—Popular Movement for the Liberation of Angola—aided and abetted by the Soviet Union and Cuba. I close by repeating what I said last November 15, that no people, including Americans, should delude themselves that freedom will last forever. We must remain ready and prepared to take those steps that are necessary to maintain strong defenses and to preserve our freedom and independence.

EXHIBIT 1

[Translation—French]

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., January 12, 1976.

HAWAII, *December 15, 1975.*

His Excellency HIRAM L. FONG,
Senator, U.S. Congress,
Washington, D.C.

YOUR EXCELLENCY: Thank you very much for your speech in the U.S. Congress, an excellent account of which, published on page 36732 of the Congressional Record of 14 November 1975, reached me four days ago, together with a French translation of it by my assistant Chhang Song.

I wish to stress here again the impression made by the facts which I had presented earlier, by sending you, attached herewith, an open letter addressed to Figaro, the French newspaper, by a companion of Prince Sihanouk (his former Chief aide-de-camp), stating why he and other companions of the Prince (about forty people) chose to renounce life in their Country and voluntarily seek political asylum either in France or Yugoslavia.

The U.S. Congress will gain from knowing these facts, for your country honors liberty on which it is founded.

Your Excellency, your speech in the U.S. Congress informed the Congress of the awful massacres by the Khmers Rouges of the Khmer people, after the white flag of ceasefire of 17 April 1975 had been raised and before their triumphant entry into the U.S., to sit there among so-called civilized countries of the 20th century, who [despite their acts] adopted a charter full of international rights and democratic principles.

Your action, Honorable Senator, is historic and will remain forever in the annals of world civilization, and in the memory of the Khmer people, who will not forget this and who thank you solemnly through me.

Many Khmers at present live outside their country; they know that it was a mistake to have chosen peace and the white flag, and they only wait, like the French during the Second World War, for a favorable opportunity to liberate their vanquished country.

Kindly accept your Excellency, the assurance of my very high esteem and my very high regard for you.

MARSHAL LON NOL,
President of the Khmer Republic.

PARIS, *October 29, 1975.*

DIRECTOR OF THE NEWSPAPER LE FIGARO,
14 Rond Point des Champs Elysee,
75380 Paris Cedex 08.

DEAR SIR: I have read in your newspaper, dated 27 October 75, an article on the statement made by the Royal Embassy of Cambodia in the People's Republic of China, condemning as traitors to the Nation and the Pracheachon people, members of the suite of Prince Norodom Sihanouk, Chief of the State of Cambodia, [members] who decided to seek exile abroad instead of returning to their Country. We have even been branded as CIA agents, infiltrating the Funk to sow discord within Funk-Peking itself.

Indeed, members of the Royal Embassy in Peking had been forced to make this statement to hide the real image of their chiefs in Phom Penh and to mislead international opinion and that of all our Cambodian brothers, having been strongly impressed by the refusal of all the members of Prince Norodom Sihanouk's suite to return to Cambodia.

We wanted, indeed, to emphasize our total disapproval of the inhuman, fascistic acts of the leaders at present in power in the interior of Cambodia and have decided to go into exile to France or Yugoslavia, leaving the People's Republic of China, with, furthermore, the approval and blessings of our very respected and beloved Chief, Prince Norodom Sihanouk, Chief of State and President of the United National Front of Cambodia.

Think of the suffering of thousands of Cambodians (women, children, the old, and the sick who had been driven out of hospitals), who had gone through five years of war and who are forced to leave their homes, to live huddled together like animals in the streets, to walk hundreds of kilometers in order to reach the sites of their animal-like pens, without food, water, or medication, and separated, furthermore, from their families.

National and international opinion will be the judge as to who among us are traitors to the Nation and the Pracheachon people—the members of the suite of Prince Sihanouk, who had decided to seek exile abroad, or the present Khmer Rouge leaders who are in power and who engage in fascistic acts in their encounters with the innocent inhabitants of the Capital and the provincial capitals, acts confirmed by Mr. Khieu Samphan himself at a conference held recently in Peking with members of the FUNK-PEKING (first, out of fear of American bombardment, secondly because not having enough food to feed the three million inhabitants of Phon Penh, he was obliged to take all the people from Phon Penh into the country to have them fed there by the people of the Pracheacon countryside).

If we are traitors, then the followers of Sihanouk in Cambodia, who were deported and massacred for their loyalty to the Prince, are also traitors, as are the masses of innocent Khmer victims of exoduses and summary executions, as well as those belonging to the most venerated religious orders who had been driven from their pagodes and dishonored and killed, and also the thousands of Cambodians who had fled in blind terror and who are now suffering and dying in the camps of Thailand—and finally, the little motherless children, who have lost their parents, they too are traitors.

Testimony abounds; our enemies, our friends, the indifferent, the entire world is learning the truth, no denying will change anything, and we are now in shame for this horror perpetrated by Cambodians on our Cambodia.

The FUNK, i.e. the United National Front of Kampuchea, had been a movement of national resistance made up of many factions (the followers of Sihanouk, progressive nationalists, communist Khmer Rouges)—all fighting for a common goal: to win the war against Lon Nol's tyrannical and fascist regime and institute a well-defined political program.

But after total victory, that is the fall of Phnom Penh on 17 April 1975, the Khmers Rouges, as soon as they seized power, engaged in fascist actions contrary to the fundamental liberties of the political program of the FUNK, thus deliberately undermining that program.

It is for this reason that I decided to go into exile and ask for asylum in France.

I am not a communist, nor am I against the communists. I had never sold out and never will sell out to the CIA (I had been arrested and imprisoned by the Lon Nol regime for a period of 3 years for not agreeing to collaborate with a regime arising from a coup d'etat), but I am against the criminal abuses perpetrated on the Cambodian people by the present Khmer Rouge leaders.

I am not afraid of working the earth, but I love my freedom and I always want to remain free and to work in freedom. I also want my Country, Cambodia, to regain the peace and joy of life that it had before the war.

Thanking you in advance, I beg you, Mr. Director, to accept my expression of gratitude.

BUOR NOLL,
Former Chief Aide-de-camp of Prince Norodom Sihanouk, Chief of State and President of the United National Front of Cambodia.

GE ENGINEERS TESTIFY ON HUMAN FACTOR IN NUCLEAR SAFETY

Mr. GRAVEL. Mr. President, in last Wednesday's CONGRESSIONAL RECORD, the testimony of three former General Electric nuclear engineers was printed.

The testimony concerned specific design deficiencies which compromise the safety of power reactors in the United States. It was the first section of a 70-page paper prepared for the Joint Committee on Atomic Energy.

In the second part of the paper, the engineers described other problems they have observed in our nuclear energy program. One of these—that of human error—is especially important because, unlike the correctible technical difficulties cited in the first section of the paper, human error is going to be with us no matter how nearly perfect our machines may be.

And human error can cause nuclear catastrophe. The closest we have come to a nuclear power disaster was the fire at the Brown's Ferry reactor. Brown's Ferry was considered the best, the safest of our reactors—but human error brought it close to a catastrophic meltdown accident.

Of particular interest, I believe, are the letters of resignation written by the three engineers: Dale Bridenbaugh, Richard Hubbard, and Gregory Minor. These letters are attached at the end of the paper.

Mr. President, I ask unanimous consent that these materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS OF TESTIMONY OF GE ENGINEERS

NRC QUALITY ASSURANCE PROGRAM REQUIREMENTS ARE INADEQUATE

A total Quality Assurance Program has many aspects. The Quality Assurance Program should encompass all activities involved in the design, manufacture, installation and operation of the safety-related equipment.

A. NRC Inspection of Manufacturers Inadequate

The ASME Codes were initially developed in 1911 to protect the public from boiler explosions in public facilities such as schools, auditoriums, and office buildings. In the 1960's, Section III of the Code was developed and applied to nuclear power plant components, such as primary pressure-bearing portions of the reactor system, including the reactor pressure vessel, incore instrument guide tubes, and primary loop valves.

These procedures apply only to those items covered by the ASME Code. A problem exists with respect to non-Code safety-related equipment. NRC requirements for safety-related equipment are less stringent than for the ASME Boiler Code items. Because nuclear power plant accidents pose potentially the greatest risk to the health and safety of the public, NRC inspection of all (Code and non-Code) safety system items should be at least as strict as those developed by ASME. The following comparison illustrates the problem:

Quality Assurance Program Requirement	*Section III, ASME Code*	*NRC Regulations Non-Code Safety-Related Items*
1. Certification of design specification.	1. Certified by a Registered Professional Engineer by the owner or his agent.	1. No requirement for certification by a Professional Engineer.
2. Certification of stress report.	2. Certified by a Registered Professional Engineer by the manufacturer.	2. No requirement for certification by a Professional Engineer.
3. Review of stress report.	3. Transmitted to owner or his agent for review.	3. No requirement for review by the owner or his agent.
4. Q.A. Program and Program changes.	4. Detailed implementation Q.A. Program surveyed and approved by the ASME. No changes can be made in the program prior to receiving approval from the Engineering Specialist of the Authorized Inspection Agency.	4. NRC surveys program to the generic program document, for instance for GE, Section 17 of the GESSAR. No requirement for prior NRC approval of changes to documents that implement the program.
5. Material verification.	5. Authorized Inspector reviews all material certifications prior to release of the material for processing.	5. No requirement for third-party review of materials.
6. Review of manufacturing process sheets.	6. Authorized Inspector reviews manufacturing process sheets and places his checks and hold points in the process.	6. No review of manufacturing process sheets. No check or hold points.
7. NDE (non-destructive examinations).	7. Authorized Inspector witnesses or reviews the records of all NDE examinations.	7. No witness or review of NDE examinations.
8. Final acceptance tests-hydrostatic or pneumatic tests.	8. Final acceptance tests witnessed by Authorized Inspector.	8. No requirement for third-party witness of final acceptance tests.
9. Repair of nonconformances.	9. Repair procedures reviewed by the Authorized Inspector.	9. No requirement for third-party review.
10. Release for shipment.	10. Final review and release by Authorized Inspector.	10. No requirement for third-party review and release.
11. Internal audit of Q.A. Program.	11. Results of internal audits are reviewed with the Authorized Inspector.	11. No requirement for review of internal audit results with the NRC.

There is a lack of adequate regulation and enforcement by the NRC. For non-Code safety-related equipment, the NRC should immediately implement a program of detailed third-party inspection similar to the disciplined program presently conducted for ASME Code items.

B. NRC regulation of product qualification is inadequate

Underwriters Laboratories, Inc. ("U.L."), founded in 1894, was chartered to establish, maintain, and operate laboratories for the investigation of materials, devices, products, equipment, constructions, methods and systems with respect to hazards affecting life and property. Many household electrical appliances receive the third-party review by the U.L.

In contrast, the NRC has no requirement for independent third-party evaluation and product proof testing of the Class I safety-related electrical equipment that controls and protects a nuclear power plant.

The public has a right to know that an electrical appliance, such as a toaster or hair dryer, has more stringent safety checks than the electrical instruments that control a nuclear plant. This is a clear demonstration of the inadequate attention given by the NRC towards protecting the public safety.

If the manufacturer of a commercial appliance should desire to redesign or change the process requirements for a U.L.-listed device, the Underwriters Laboratories must review the proposed change to determine if the listing is still valid, or if requalification testing is required. But here again, the NRC regulations contain no similar requirement for third-party review to safeguard the public from the effects of improper product changes.

For all safety-related equipment, the NRC should immediately implement a program of third-party product qualification which is at least as stringent as is required for commercial products listed by U.L.

C. NRC regulations must be amended to prevent common-mode failures of safety-related items

The NRC Quality Assurance Program, as defined in 10 CFR 50, Appendix B, requires that the identification of the safety-related item is maintained by heat number, part number, serial number, or other appropriate means. When malfunctioning devices, such as protective system relays, are detected in service, other like devices can be identified and repaired or replaced. But this is only part of the problem. An acceptable Quality Assurance Program should be designed primarily to prevent problems, not just identify the problems after they occur.

In the manufacture of any control and instrumentation equipment, as well as mechanical systems, there is the constant problem of subassemblies with quality deficiencies reaching the manufacturing floor without being detected. This may be due to a change by the vendor of a parameter of the subassembly which would be undetected in normal screening, but which may eventually affect the performance of the equipment.

The risk involved in this practice is the potential danger of common-mode failure of several safety-related devices of a similar type which would result in rendering of critical safety systems inoperative.

For example, early reactor designs relied heavily on the use of GE-type H.F.A. relays as logic elements in the safety systems and the core cooling systems. These relays had been considered infallible.

They had been used for a sufficient number of years without serious problems and no one considered the possibility of common-mode failure of such a trustworthy device. However, because of inadequate parts and process control, these relays proved to be subject to a common-mode failure on more than one occasion. In one case, at the Monticello plant, varnish appeared on the pole faces of the relay, which, when heated and then cooled, produced a substance sticky enough to hold the pole face down and not allow the relay to de-energize as required to perform its safety functions. Thus, a potential common-mode condition existed where, if a number of these relays in the final logic circuit had experienced the stuck pole face, the actual output condition of the logic would not be able to be achieved.

These same relays experience additional problems with aging of coils and with the cracking of the bobbins on which the coils are wound. All of these problems have been detected and have been reviewed in the field to make sure they are not continuing safety problems. However, they point up the ever-present danger of common-mode failures in the critical safety systems.

NRC regulations, 10 CFR 50, Appendix B, should be revised to require that changes in the design or fabrication of subassemblies of safety-related devices by the original manufacturer can only be accomplished in a disciplined system requiring appropriate device design reverification and performance requalification.

D. NRC should require reporting and analysis of all field failure data

Identification of in-service parts failures and an analysis of the causes of failure are key ingredients in a total Quality Assurance Program. With the exception of the requirements to report "significant deficiencies," as defined by 10 CFR 50-55e, the NRC does not require plant owners to report field failures.

Field failure data is presently reported informally by some of the nuclear plant owners to the Edison Electric Institute which issues reports to the manufacturers. Excessive filtering of data and data omissions are inherent in the present undisciplined procedures. The present field failure identification and analysis system lacks the discipline and regulatory attention appropriate to its importance.

All field failure data should be reported to the NRC. The NRC should inform the appropriate manufacturers of the failures, failure trends affecting plant safety should be analyzed by the NRC, and the manufacturers should be required to analyze the failures and report on the appropriate corrective actions.

10 CRF 50, Appendix B, should be revised by the NRC to incorporate the requirements for a disciplined, NRC-managed, field failure identification and analysis system.

E. NRC regulation and enforcement of the control of replacements is inadequate

All of the efforts that were put into the initial design, manufacture, and construction of a nuclear plant may be abrogated during the replacement of parts.

For example, at most plants, instruments are added to control panels after installation of the panels at the site. Metal chips are strewn throughout the panels as holes are added in the panel steel; seismic response spectrums are changed by the weight of the additional instruments; and potential heat sources unanticipated by the original designer are added to the panel. Design responsibility is now splintered.

During operation, parts fail. The regulatory process does not ensure that the replacement materials and parts are equivalent to the original equipment, that the replacement is installed in accordance with an adequate process procedure, and that the item with its replacement parts is adequately proof tested. Responsibility for authorizing substitutions for obsolete or unavailable materials and parts is not clear.

Existing industry standards provide inadequate guidance. A statement concerning "replacements" is just now being added to the ASME Code. An IEEE standard on replacement parts for Class I electrical equipment was initiated in late 1975, but has still not resulted in a first draft of the standard.

As equipment design improvements are developed by the original manufacturers, inadequate procedures exist to ensure that the plant owner is notified of all design improvements and that the owner has incorporated into his equipment all of the recommended equipment alterations.

Increased NRC regulations and in-plant inspections are needed in order to maintain plant safety levels during replacements.

NUCLEAR POWERPLANTS CANNOT BE DESIGNED TO ELIMINATE THE IMPACT OF HUMAN ERROR IN OPERATION

Every technology is replete with tales of human error. Nuclear technology is no exception—except for the immeasurably greater impact that the nuclear accident, from whatever cause, has on our society.

The effects of human error in operation of nuclear powerplants are well known:

1. Jumpered safety interlocks at the Vermont Yankee plant in 1973 were used during a refueling outage to permit an extra rod to be withdrawn. Removal of the jumper was subsequently overlooked. The result was an unplanned criticality of the core with the head off and personnel on the refueling platform. Only a quick scram function prevented injury in this situation.
2. Dresden 2 blowdown in 1971, where the reactor operator relied on a defective reactor water level instrument, when other instruments were available to check the operation. The results were overfilling the vessel, reactor blowdown into the containment, and considerable common-mode failures of instrument cables.
3. Millstone seawater intrusion in 1972, where seawater was pumped into the reactor and primary system, resulting in damage to critical components such as control rods, incore neutron sensors, and other high stressed stainless steel components and may have resulted in substantial weakening or incipient cracking of primary systems.
4. Brown's Ferry fire in 1975, where human error in the design of wall penetrations for the cables resulted in the use of flammable foam sealant, failure to comply with the wire and cable separation criteria, and failure to understand and implement emergency procedures. Another human error in testing the penetration caused the fire which narrowly missed causing a melt down of the core.
5. Inversion of control rods where, through human error, control rods were assembled upside down in the control blades—an error not discovered until the rods were in operation at several plants.
6. Rancho Seco control rod drives in 1975, where operator error resulted in the common mode failure of 59 control rod drive motors, thereby disabling the control feature of the rods.
7. Release of radioactive wastes. There are many examples where human error has resulted in release of radioactive wastes into the environment. The most recent was at the Millstone plant last week.

The issue is not the fact of human error—but the realization that despite nuclear reactors being designed to account for human error, innumerable events have occurred where human error has seriously jeopardized plant and public safety.

There are a number of specific areas where the likelihood of human error can and must be reduced.

A. Design of control rooms should be standardized

A critical need for design standardization to minimize human error is in the control room design. At this vital interface, the operator must make the critical decisions which determine whether the plant will operate, shut down, ride through a transient, or experience further difficulties due to human error.

The control rooms in today's operating reactors contain as much as 70 feet of operator control panels. Here, the operator interacts with more than 50 systems (Nuclear Steam Supply and Balance of Plant) through several thousand devices and functions. The operator is expected to evaluate the data presented, decide on his action, and respond quickly to keep the plant on line. Experience has shown that there is too much information to read, comprehend and respond effectively to, particularly in a crisis.

Another factor is the variation of utility operating practices. Different utilities require different types of switches, lights and controls. Some utilities (e.g., Pennsylvania Power & Light) require the operator to stand up so that he will be alert and on his feet. Other utilities (e.g., Commonwealth Edison) require him to sit down so that he won't get too tired. As a result, there is little consistency from one control room to the next.

One example which is particularly conducive to introducing human error is a plant where two control boards in adjacent units of a two-unit plant (Dresden 2 & 3) are mirror images of each other. To complicate the hazard, operators are not restricted to operate in only one of the two plants. Thus the operator one day may be working on a control board where his feedwater control is on the left and his turbine control is on the right; the next day he may be working on a similar board with identical dials, but his turbine control is on the left and his feedwater control is on the right.

Standardization of control rooms is a vital element of safety and, as a minimum, needs to be implemented across the plants which any one operator may be expected to operate. Without standardization, we are increasing the likelihood of a serious human error in operations.

B. Control room simulators should be updated

Some control room simulators represent a design of a control room which is over 10 years old (for example, the General Electric simulator at Morris, Illinois). The outdated simulators no longer represent the control philosophy which has evolved over the 10 years into a different form; specificially, in the type of equipment, presentation of data, and the form of the operator's control board. Yet this is the place where operators are trained to respond to the accident conditions which may occur in a nuclear plant. The operators must be able to make the transition from the simulator training to actual control room conditions where they must use that knowledge to mitigate the consequences of any safety danger to the operating plant and the public.

It is unrealistic to expect an operator to make the transformation from the simulator to actual control room, and to remember the accident procedures through time without very frequent update. Tests on operators have shown that for a majority of operators this information is not retained for requisite periods of time, and the retraining periods are too infrequent to keep the operator aware of his special procedures under accident conditions.

To prevent human error in critical operating control room conditions, it is essential that up-to-date simulators be available and that retraining be a more frequent activity for operators.

C. Strengthening of procedural requirements

Most human errors in reactor plants result from one of two causes: inadequate procedures or insufficient knowledge of existing procedures. Here again, the Brown's Ferry fire is a prime example. The emergency fire procedures were not known to responsible authorities. On the other hand civilian evacuation procedures were not known to responsible authorities. It is recommended that the NRC review operational and maintenance procedures to ensure adequacy of both scope and content. Secondly, it is recommended that the NRC surveillance of training processes be stepped up to ensure the procedures are fully understood and implemented.

THE OPERATION, MAINTENANCE AND DECONTAMINATION OF NUCLEAR POWER PLANTS REQUIRES EVER-INCREASING EXPOSURE OF PERSONNEL TO EVER-INCREASING LEVELS OF RADIATION

A. Normal operation and maintenance requires increased personnel radiation exposure

The NRC/AEC in recent years has begun to accumulate radiation exposure data for in-plant operating and maintenance personnel. These data, which correlate radiation history with plant operating time, were documented in WASH 1311 "A Compilation of Occupational Exposure From Light Water Cooled Nuclear Power Plants 1969–1973". This four-year study indicates a substantial increase in personnel radiation exposure required to operate and maintain nuclear plants, indicating a substantial build up of radiation levels in the plants. The major use of these statistics to date has been in commercial presentations by the reactor vendors in order "to prove" that theirs is a superior system for minimum personnel radiation exposure.

The data are limited, but a distinct trend has emerged. In 1969, the average nuclear plant required a total of 188-man rem per year exposure to perform all necessary operation and maintenance functions. By 1973, the average had increased to 544-man rem per year (404 cumulative average). Almost all of the increase in exposure occurred during the maintenance activities experienced at the plants. It seems certain that as plants get old, requiring more maintenance, exposures will increase to a much higher level. Experience in some foreign plants has been even more disturbing. The Tarapur plant in India reportedly has required the mass utilization of more than 1,000 support personnel to operate and maintain that plant.

If a concerted effort is made to back-fit operating plants with necessary safety improvements, personnel exposure will increase to an even higher level. This presents the utility and the country with a real personnel health dilemma. It is absolutely essential that plant safety levels be improved to ensure that the "incredible" accident does not occur, yet performing the modifications will require the exposure of technicians and mechanics to a relatively higher level of radiation, particularly those with special skills such as nondestructive testing and welding. The plant management staff is faced with the moral dilemma of making decisions affecting employees' health and welfare as counterbalanced by improved safety to the public. The labor unions have a similar dilemma in deciding whether or not to work under those conditions.

Individual exposures of many skilled personnel will average close to the maximum of five rem per year. Yet, no design standards have been enforced to make the plant designs compatible with minimum personnel exposure.

Material selection is made with little thought given to its effect (for example, stellite valve seats are commonly used—a high source of Cobalt 60).

Scientists have recently indicated uncertainty in levels of biologically allowable radiation. The Environmental Protection Agency (EPA) has recently been petitioned by the NRDC to reduce the current occupational maximum of five rem per year to a maximum of 0.5 rem per year. The uncertainty involved in exposure limits and management provides a large uncertainty in the continued viability of the nuclear power program. Certainly there is a question as to whether or not such exposures should be allowed. With more and more plants going on line, and radiation levels increasing, this situation will become even more critical in the near future. A serious effort must be launched to minimize, to the extent possible, the impact of in-plant radiation exposure.

B. Decontamination

1. Personnel Radiation Exposure

Decontamination of the nuclear system poses another risk of radiation exposure to personnel. To date little attention has been paid to the total decontamination of reactor primary systems.

Chemical decontamination is a proposed but untested procedure that may jeopardize the integrity of the primary system, since the chemicals required to remove the radioactive deposits may also result in cracking and failure of the primary system materials themselves. No successful total decontamination of a commercial reactor has been attempted, although Commonwealth Edison Company has proposed decontamination of their Dresden 1 station. Decontamination will be required one or more times during the life of most nuclear plants, and as yet it has received little, if any, attention on an industry-wide basis.

2. Radioactive Waste

Decontamination of nuclear plants also brings about the problem of generation and safeguarding of thousands of gallons of highly corrosive, highly radioactive chemical solutions. The radioactive waste systems currently installed at nuclear plants are not designed to handle this type of material, and no design criteria has been developed for the design of such systems. Further, the reactor systems themselves have not been designed to be chemically cleaned.

Even if effective chemicals and procedures are developed, the removal and disposal of more highly radioactive corrosive products can only aggrevate the existing radioactive waste storage dilemma.

3. End of Plant Life

Another aspect of nuclear plant decontamination is the problem of what to do with the plant at the end of its useful life, normally expected to be 30–40 years. Nuclear plant construction permits and operating licenses generally anticipate that no permanent on-site waste burial will be permitted. Permanent burial of radioactive materials is planned only for appropriately licensed facilities. To effectively decontaminate, the total plant site must be capable of being returned to a completely clean, uncontrolled condition. This will require that all waste materials be removed from the storage tanks on site. The entire nuclear primary system, including structures, foundations, drain systems, piping systems, must ultimately be cleaned up, disassembled and packaged to meet necessary shipment regulations, and hauled to permanent waste burial grounds for longterm storage.

Virtually nothing has been done to develop the procedures to do this work.

What plans exist to enable normal operation and maintenance and necessary retrofit of nuclear plants without exceeding the personnel radiation exposure limitations imposed by law?

What plans or programs exist for decontamination of nuclear power plants at the end of their 30–40 year life?

VI. OLDER NUCLEAR PLANTS SHOULD BE REQUIRED TO RETROFIT TO MEET CURRENT SAFETY REQUIREMENTS; THE NRC PRACTICE OF "GRANDFATHERING" (WAIVING OF CURRENT SAFETY REQUIREMENTS FOR OLDER PLANTS) SHOULD CEASE

The investigation and analysis of each accident at any operating nuclear plant results in an advance in the state of the art of nuclear plant safety.

Despite the accumulation of new safety data, neither the NRC nor the industry has a consistent and cohesive policy with respect to incorportaion of such data into not only the design and operation of older nuclear plants, but also plants currently being constructed.

Most of the incidents which gave rise to design safety evaluation are well known. The question is will the NRC require the revised safety criteria to be incorporated into plants being constructed and older nuclear plants; and, if not, why not?

Here are but a few examples of recently discovered safety issues which raise the question of "grandfathering".

A. Improved Cable Separation—To avoid the loss of redundancy as in the Brown's Ferry fire.

B. Cable Insulation Modification—To prevent propogation of fire and to avoid the conversion of burned polyvinyl chloride insulation to the highly toxic and corrosive HCL, as happened at Brown's Ferry.

C. Provide Improved Remote Shutdown Capability—Again, a lesson learned from Brown's Ferry, but not included in most plants built before that plant.

D. Redesign of Cable Spreading Room—To decrease the vulnerability of this critical area where cabling is concentrated to acts of terrorism, sabotage, fire or accident which result in disablement of plant safety systems, again, as happened at Brown's Ferry.

E. Installation and Improvement of Emergency Core Cooling Systems—Two of the first commercial nuclear plants, Commonwealth Edison's Dresden 1 and Consolidated Edison's Indian Point No. 1, were built and placed in operation in the early 1960's with no provision for emergency core cooling to preclude core melt down if a loss of coolant accident should occur. Dresden 1 plant continued to operate without an emergency core cooling system until 1972 when it was modified, but it still is not adequate by today's standards, lacking in redundancy and other aspects. Indian Point No. 1 unit to this day has no ECCS system installed and is currently shut down for an extensive period of time during which an emergency core cooling system is to be installed. Each of these two plants operated for upwards of 12–13 years with no ECCS system in place, giving reason for deep concern over the NRC's policy toward "grandfathering" of difficult safety issues. The policy is of even greater concern when the retrofit required for safe operation is technically difficult or very expensive to install.

F. Seismic Criteria—Current standards call for multi-frequency, multi-axis, testing or suitable seismic analysis of major components, particularly those in the safety systems. The purpose is to consider transient loads due to the seismic events and to find the simultaneous effect of the loads from different frequencies and different directions of excitation. Experience has shown that the results of a seismic test of a major reactor component are generally quite different from analytical results and often difficult to reconcile. Older plants have been designed to less severe design basis earthquake criteria, and modeling of the reactor buildings was less sophisticated in the early days, resulting in a lower expected excitation at some of the floor locations where the safety related equipment was mounted.

The risk is that an older plant would experience earthquake loads in actual operations which would be much greater than the original design criteria due to any of several causes: (1) inadequate modeling, (2) the effect of combined loads compared to single frequency tests, and (3) design criteria changes after the design basis is set. This can be brought about by advancements in the state of the art or specific site criteria changes due to new information. For example, because of the discovery of the previously unknown earthquake fault at the Diablo Canyon Plant, the design is possibly inadequate and the plant should not load fuel until its seismic capability is reconciled.

A generic study should be conducted by the NRC of older plant designs to see that they are safe to operate under the known conditions of seismic loading established by current techniques. It is further recommended that generic studies be conducted by the NRC to prove the validity of the models used in determining seismic loads for the different plants, including the impact of multi-frequency and multi-axis excitation on older equipment designs.

G. Effluent Discharge and Waste Systems—All early commercial reactors had minimal liquid waste treatment systems and had little or no treatment other than elevated release for gaseous radioactive waste discharge handling. Over the years, and as the technology has improved, substantial improvements have been made in the effluent handling systems, most notably the development of near-zero release systems which provide substantial hold-up times in the discharge cycle of radiogases and bring to nearly zero the discharge of liquid radio-active wastes to the environment. In some cases, these improvements have been retroactively applied to operating plants, but no consistent policy has been adopted and utility response has been one of primarily responding to random pressure by NRC or environmental groups. Reduction of radioactive releases to the environment for new plants has been regulated to a condition of "as low as practicable" but it certainly has not been uniformly applied to existing operating plants. Examples of this are found at PG&E's Humboldt Bay No. 3, Commonwealth Edison's Dresden and Quad Cities Plants, of where required operation of backfitted offgas systems has been extremely slow or at Consumer's Powers Big Rock Point where it has been non-existant.

The NRC should initiate a strict policy of enforcing this requirement.

H. Safety and Relief Valve Discharge Venting to Wet Well—Commonwealth Edison's Dresden 2 and 3 are examples of the generation of boiling water reactors that were constructed without piping the discharge of safety valves to the pressure suppression wet well. Subsequent plants, BWR–4's and later BWR–5's and 6's have all safety-relief valves piped to the suppression pool to minimize the possibility of accidental steam pressurization and thermal cycling of the primary containment dry well and enclosed equipment. In 1971, two events at the Dresden plant resulted in opening of safety valves to the dry well and resulted in extensive damage to wiring within the containment. These events prompted investigation by the State of Illinois. The recommendations of that investigation may or may not have been made public, but implementation of the piping of the discharges to the wet well has not been performed on these or similar plants. NRC should investigate this situation and a safety evaluation be made as the desirability of such plant modifications.

VII. SUMMARY AND RECOMMENDATIONS

For all of the reasons stated in this testimony, we believe that the continued operation of nuclear power plants creates severe hazards to the public.

Some of the design defects and deficiencies alone create severe safety hazards. For example, the possibility of failure of the Mary I pressure suppression containments. But the one most important point, and the point we want to emphasize to this Committee, is that the cumulative effect of all design defects and deficiencies in the design, construction and operation of nuclear power plants makes a nuclear power plant accident, in our opinion, a certain event. The only question is when, and where.

It is for this imperative reason that we submitted our resignations and are now totally committed to educating the public about the truth regarding nuclear power.

The most probable response to many of our concerns from the NRC and from the industry will be that the concerns are not new—and, indeed, many of them are not. Certainly, it is true that intensive efforts are underway to resolve many of the problems. But the level of effort now being expended to resolve the problem has not made the problem go away.

We, therefore, recommend:

1. That, as an urgent matter, the Mark I pressure suppression containment problem be evaluated and the wisdom of continued operation of all 19 domestic nuclear plants containing a Mark I system be reconsidered;

2. A thorough review of the total effect on the in-vessel components of flow-induced vibration, particularly with respect to the failure of feed water spargers and the Local Power Range Monitor;

3. A study of the distribution of cooling water over the hot core, which is the basis for the effectiveness of the core spray cooling system, giving particular emphasis to the result of the European studies of this phenomenon;

4. A study of the full effects of the End of Cycle SCRAM Reactivity Effect;

5. That control rod life be determined and the technical specification requirements be established to ensure that shutdown margins are adequately tested to account for these effects;

6. That the "rod drop" accident be thoroughly reevaluated and satisfactory systems to prevent or mitigate the accident be developed:

7. That the current study of pressure vessel integrity be intensified, with particular emphasis on the possibility of nozzle break between the vessel wall and the biological shield, the problem of excessive loading of the pressure vessel pedestal resulting from pressure waves in the suppression pool, and the structural integrity of the pedestal concrete;

8. That the continuing study of the Mark I containment system give particular emphasis to the effect of seismic slosh and continued erosion of design margins, the corrosion allowance and material thickness, and difficulties with containment electrical penetration seals, and with the wet well/dry well vacuum breakers. It is recommended that full-scale tests be performed on the adequacy of the steam generators to withstand the pressure reversal under LOCA conditions and, if not adequately demonstrated, that pressurized water reactor plants be shut down until it can be verified;

9. That the NRC immediately implement a program of detailed third-party inspections for non-ASME Code safety-related items which is at least as stringent as is required under the ASME Code; and a third-party product qualification procedure for safety-related electrical equipment which is at least as stringent as is required for commercial products listed by the Underwriters Laboratories;

10. That NRC regulations be amended to prevent common-mode failure of safety-related items by requiring that changes in the design or fabrication of subassemblies or safety-related devices can only be accomplished in an NRC-disciplined system requiring appropriate device design verification and performance requalification;

11. That NRC institute a disciplined NRC-managed field failure identification and analysis system, and replacement parts control system;

12. That the design of control rooms be standardized and that NRC require more frequent retraining on updated control room simulators to increase the proficiency of control room operators;

13. That the NRC begin immediately to study the problem of increased personnel radiation exposure required in the operation, maintenance and retrofit of the existing plants, and develop plans and programs for the decontamination of existing plants, and for disposal of radioactive wastes resulting from the decontamination, and for disposal of the decontaminated plant itself;

14. That the NRC practice of waiving current safety requirements with respect to older plants cease, and that older nuclear plants be required to retrofit as is necessary to meet current safety requirements; and

15. That plants currently under construction should not be permitted to start up and become radioactive until all design issues are resolved. This is particularly important with regard to the seismic criteria controversy at PG&E's Diablo Canyon Plant.

EXHIBIT A

Dale G. Bridenbaugh, Manager, Performance Evaluation & Improvement; Manager, Mark I Containment, Nuclear Energy Division, General Electric Co.

Responsible for establishment and management of systems to provide for the monitoring and measurement of Boiling Water Reactor (BWR) equipment and system performance and for the development of performance improvement modifications.

For the past 10 months on special assignment as Manager of Mark I Containment, a special project formed to evaluate the safety and adequacy of the primary containment of 25 nuclear power plants in the United States.

Mr. Bridenbaugh has been involved with nuclear power plants since 1958 when he was assigned as Field Engineer on the installation and startup of the first large-scale commercial nuclear power plant—Commonwealth Edison's Dresden 1 near Chicago, Illinois.

Employed by General Electric Company: 1953–1976.

Degree: GSME, South Dakota School of Mines & Technology.

Richard B. Hubbard, Manager, Quality Assurance, Nuclear Energy Control & Instrumentation Department, General Electric Co.

As Manager of the Quality Assurance Section, Nuclear Energy Control and Instrumentation Department, Mr. Hubbard is responsible for developing and implementing quality plans programs, methods, and equipment which assure that products produced by the Department meet all quality requirements as defined in NRC 10 CFR 50. He is involved in the manufacture of radiation sensors, reactor vessel internals, fuel handling and servicing tools, nuclear plant systems, and control room panels.

With GE, he has held a variety of technical and supervisory positions in the application, manufacture and marketing of instrumentation and control systems for nuclear power plants.

Mr. Hubbard is an active member of the IEEE Standards Subcommittee on Quality Assurance and has published several papers on income neutron detection systems and quality assurance programs.

Employed by General Electric Company: 1960–1976.

Degrees: GSEE, University of Arizona, MBA, University of Santa Clara.

Gregory C. Minor, Manager, Advanced Control & Instrumentation, Nuclear Energy Division, General Electric Co.

Mr. Minor has 16 years of experience in the energy systems business, designing, building and managing control and instrumentation systems.

Mr. Minor began his career with General Electric in 1960 when he was assigned to a position at Hanford, Washington. In 1963 he served as an Electronic Design & Development Engineer in the Nuclear Power Generation Control Department in San Jose. There, he was responsible for design of major instrumentation channels and control systems.

He has served as Manager of Reactor Control Systems Engineering where he was responsible for the design of protection, containment, and related control systems.

Since 1971 he has been Manager of Advanced Control & Instrumentation, responsible for the design of safety systems, control systems, and control room configuration.

Employed by General Electric Company: 1960–1976.

Degrees: BSEE, University of California; MSEE, Stanford nUiversity.

EXHIBIT B

FEBRUARY 2, 1976.

Mr. N. L. FELMUS
Manager, BWR Services,
General Electric Co.,
San Jose, Calif.

DEAR NEIL: This letter is to advise you that I am resigning from the General Electric Company effective immediately.

My reason for leaving is that I have become deeply concerned about the impact—environmentally, politically, socially and genetically—that nuclear power has made and potentially can make to life on earth. As we have discussed in the past, there is an inherent close intertie between commercial power and weapons technologies and capabilities. I am strongly opposed to the deployment of such capabilities and I fear the implications of a plutonium economy. The risk involved in such a system is far too great for the short term benefit. I see no way for us to develop the ability to maintain the perfect human and technical control needed for the long periods of time necessarily involved with the highly toxic materials we are producing. This problem is not something I wish to pass on to my children and to succeeding generations to control. Contributing to the advancement of such proliferation now seems immoral and is no longer an acceptable occupation for me.

Furthermore, in my recent assignment as the Project Manager of the Mark I Containment assessment, I have become increasingly alarmed at the shallowness of understanding that has formed the basis for many of the current designs. It is probable that many more problems will emerge with severe consequences, impacting either the safety or the economic viability of the nuclear power program.

It is hard for the mind to comprehend the immensity of the power contained in the relatively small reactor core and the risk associated with its control. In the past we have been able to learn from our technological mistakes. With nuclear power we cannot afford that luxury!

Much has been entrusted to the corporate and regulatory decision makers and the tremendous cost, schedule, and political pressures these humans experience have made unbiased decisions, with true evaluation of the consequences, very difficult to achieve. This is not meant as an indictment of any specific individuals; it is just a statement of the human imperfection which leads, ultimately, to the imperfection of the complex technological system. Nuclear power has become a "technological monster" and it is not clear who, if anyone, is in control.

In summary, I am no longer convinced of the technical safety of nuclear power and I fear the high risk of political and human factors that will ultimately lead to the misuse of its byproducts. This makes it impossible for me to work in an objective manner in my current position and I, therefore, have decided that my only choice is to get out of the nuclear business. This seems the only course of action for me to take if I am to be fair to my associates, the Company, to you, and to myself.

I also must tell you that I have become so convinced that nuclear power is not right for this country or for this world, that I have decided to volunteer my time for the next several months to work in support of the California Nuclear Safeguards Initiative. Following this, I will be looking for a job either in a non-nuclear area or, if possible, where I can use my experience to help safeguard the substantial nuclear legacy that has already been created.

I am sorry that I have been unable until now to fully confide in you the concerns I have had. This has not been an easy decision for me to make, but I finally came to the conclusion that it is something I must do. Perhaps my action will cause other people to consider the vast implications of the nuclear power program before it is too late.

I have come to believe very deeply that we cannot afford nuclear power and I intend to do whatever I can to get the message to the public where the decision on its continuation must ultimately be made.

Sincerely,

Dale G. Bridenbaugh,
Manager, Performance Evaluation and Improvement
Manager, Mark I Containment Program.

Mr. Abdon Rubio,
General Manager, Nuclear Energy Control & Instrumentation Department, General Electric Co., Nuclear Energy Systems Division, San Jose, Calif.

Dear Don: During the past year and a half I've experienced a series of events which have forced me to question the continued operation and proliferation of nuclear power plants. I see that we have become an industry of narrow specialists with little comprehension of the total impact of our individual actions. I feel it is imperative that the people of California know the truth about nuclear power and know that there are people within the industry who have serious doubts and reservations about continuing our present course.

Consequently, I have decided effective today, February 2nd, to terminate my employment with General Electric and to devote myself full time to the task of educating my fellow Californians on the moral and technical issues encompassed by the Nuclear Safeguards Initiative.

When I joined the nuclear division in 1964 I was very excited about the promise of the new technology—the promise of a virtually limitless source of safe, clean and economic energy for this and future generations. Like many of my colleagues, I consciously chose to bypass the technical and financial glamour of the defense/aerospace industries, and instead to pioneer in the infant nuclear industry. There was a common sense of excitement in the industry that approached a missionary zeal in those early years. Now, twelve years later, the vision has faded and the promises are still unfulfilled.

I have seen too many instances where engineers did not consider all the relevant parameters, where craftsmen did not follow the prescribed manufacturing and construction methods, where the plant operator acted in error when called upon for a split-second decision, and where plant maintenance decisions were based on continued power production—not plant safety. I know that very few people are aware that one of the plant wastes, plutonium, must be safeguarded from the biosphere for nearly 500,000 years; that there are presently no long-term radioactive waste storage facilities; that the genetic effects of the wastes challenge our continuing existence; and that the disposal safeguard record of the existing government weapons and submarine fuel facilities is replete with failures.

In addition to the ecological significance of the radioactive legacy, the global political impacts of a plutonium energy economy must be faced. India's construction of an atom bomb from nuclear fuel clearly demonstrates that nuclear power plants and nuclear weapons are inseparable. If the forecasted nuclear power plants are constructed in the U.S. and if the rush to export the nuclear technology to the emerging nations continues unabated, the plutonium will be readily available for weapons diversion, hijacking, sabotage, and ransom. The power of the atom will be available to any tyrant or dissident group. We Californians cannot ignore our global interdependence.

I have struggled hard in arriving at today's decision. I considered continuing in my position, hoping that technology could somehow overcome all the obstacles. After my experience, I am now convinced that businesses and individuals can no longer take the risk of contaminating our environment, upsetting the ecological balance, or take any other steps which could irreversibly affect future generations. The limited comprehension of the present technology, coupled with the technological requirement for 100% human perfection, is a situation I can no longer rationalize as responsible or acceptable.

I came to San Jose with the vision and hope that I could benefit mankind through my contributions in harnessing the atom. Now I sense an even greater purpose—the sharing of the knowledge gained in this pursuit to help awaken the people to the dangers and to the imperative to act now in order to preserve our planet. The issue we face is not the survival of an industry, rather it is the survival of mankind.

Sincerely,

Richard B. Hubbard,
Manager, Quality Assurance.

February 2, 1976.

Mr. Harry H. Hendon,
Manager, C & I Engineering, General Electric Co., San Jose, Calif.

Dear Harry: This is to inform you that I am resigning from the General Electric Company effective today.

My reason for leaving is a deep conviction that nuclear reactors and nuclear weapons now present a serious danger to the future of all life on this planet.

I am convinced that the reactors, the nuclear fuel cycle, and waste storage systems are not safe. We cannot prevent major accidents or acts of sabotage. I fear the continued nuclear proliferation will quickly consume the limited uranium supply and force us into a plutonium-based fuel economy with even greater dangers of genetic damage and terrorist or weapons activity.

From my earliest days at Hanford, I have been deeply concerned about the dangers of radioactivity. I can still remember my wife's shock of having a container for urine sampling placed on our front doorstep for the use of our family. I wonder now, if that police-state atmosphere at Hanford wasn't an omen for all people for the future.

I cannot be a part of an industry that promotes a policy that would lead our generation to consume 30 years of nuclear power for our own selfish purposes and leave behind radioactive wastes that will be a health hazard for thousands of generations to come.

In recent months I have become increasingly dismayed at the industry's opposition to the Nuclear Safeguards Initiative. I have seen the attempts to confuse and whitewash the issues by claiming that there are no unsolvable problems and appealing to individual's fears for their jobs. The public must be told that there are many problems. I am confident that an informed public—given the truth—will decide against continued nuclear proliferation.

I am also sure that there are others in the industry who share my concerns and I hope my decision will cause them to stop and consider the enormous implications and dangers of the nuclear legacy we are creating.

Sincerely,

Gregory C. Minor,
Manager, Advanced Control & Instrumentation.

EMPLOYMENT OF ILLEGAL ALIENS

Mr. PACKWOOD. Mr. President, last Wednesday, the U.S. Supreme Court unanimously reversed a California court decision holding a California law prohibiting the employment of illegal aliens unconstitutional. The California law read as follows:

> Section 2805 of the California Labor Code:
>
> (a) No employer shall knowingly employ an alien who is not entitled to lawful residence in the United States if such employment would have an adverse effect on lawful resident workers.
>
> (b) A person found guilty of violation of subdivision (a) is punishable by a fine of not less than two hundred dollars ($200.000) nor more than five hundred dollars ($500.000) for each offense.
>
> (c) The foregoing provisions shall not be a bar to civil action against the employer upon a violation of subdivision (a).

The substance of the Court's decision is basically threefold:

First. Only Congress has jurisdiction of immigration matters, but merely because a State statute deals with aliens does not mean it confronts congressional immigration jurisdiction.

Second. It is within a State's police power to regulate the employment relationship and Congress in enacting immigration laws has not manifested an intent to exclusively preempt States from legislation affecting the employment of illegal aliens.

Third. A California law prohibiting employers from hiring illegal aliens is, therefore, not unconstitutional on its face and it is for California courts to construe the law and determine whether the law as applied would conflict with Federal immigration laws or regulations.

It should be pointed out that while the Court's decision might open the way for States to deal affirmatively with the matter of illegal alien employment, it does nothing to diminish the responsibility of Congress to come to grips with this problem now. Indeed, States are going to have a supremely difficult time if they try to limit the incidence of illegal alien employment without Federal help. In the first instance, States have no way of determining who illegal aliens are. Those not entitled to employment have that status by virtue of Federal not State laws. When such laws are violated by aliens the U.S. Government has the services of the Immigration and Naturalization Service to locate and apprehend them. In turn, INS utilizes the services of other Federal agencies such as the Social Security Administration in their search for illegal aliens. Further, INS itself has a vast store of information they have collected over the years on literally millions of aliens who have attempted to thwart our immigration laws, many of whom are repeated offenders. How a State is going to locate those not entitled to employment within its borders and prosecute employers for hiring them without any of these resources is beyond my comprehension.

Last year I introduced legislation that proposed a partnership between the Federal Government and employers for the purpose of finding those aliens illegally employed in this country at the present time and discouraging such employment in the future. S. 1928 prohibits the hiring of illegal aliens but recognizes the limited role that employers, like States, can assume in assisting the Federal Government in carrying out this objective. Under this legislation employers are entitled to use a form, which, when completed at the time of hiring an employee, puts the Government on notice as to whether that person might not be entitled to employment. Furnishing employers with such a simple and expedient means of satisfying their responsibility not to hire illegal aliens has the additional benefit of significantly reducing the likelihood of discrimination against employees who, because of appearances or language, might appear to be illegal aliens.

Legislation to prohibit the employment of illegal aliens must call for action by the Federal Government to be effective. Determining who is illegal and sending them home is a job only the Federal Government can do. States and employers can help, but illegal aliens are on the job to stay until Congress decides to do something about it.

SENATOR CANNON BEGINS 18TH YEAR IN THE SENATE

Mr. MOSS. Mr. President, I would like to take this opportunity to call attention to the fact that our distinguished colleague, Senator HOWARD W. CANNON of Nevada, recently began his 18th year of service in the Senate. As one who has known Senator CANNON for many years—we passed the Utah bar exams together—and who has worked closely with him, serving with him on two major committees, the Space Committee and the Commerce Committee, I feel impelled to cite the really outstanding record of his service to the people of his State and to the Nation. Indeed, I have long considered him one of the most forceful, and able, and effective Members of the Senate.

Since his election to a first term in 1958, Senator CANNON has consistently upheld the Democratic principles on which this Nation was founded 200 years ago, and he has consistently fought for the best interests of the people of Nevada and of the United States. He has, as we well know, sponsored, adopted, espoused, and worked very hard for legislation to favor the development of his State's resources, to conserve its water, to improve its schools, expand its airports, build its business and industry, improve its highways, support its agriculture, foster the tourism so vital to Nevada's economy, and otherwise improve the quality of life for all who live there. And this service to the people of his State has been a benefit to the country as a whole.

Senator CANNON authored, for example, the Airport and Airways Development Act of 1970, a major piece of legislation providing the whole country with the means of expanding and maintaining an adequate national air transportation system vital not only to his State's basic tourist industry, but to our Nation's whole economy. His subcommittee has just reported the 1976 Airport and Airways Development Act.

A much decorated military pilot in World War II, a pilot with thousands of hours of flying time in everything from Piper Cubs and 747's to the F–111 and F–15, the distinguished Senator from Nevada still covers much of his vast State as his own pilot, and has long been recognized as a national authority on aviation safety and on the problems of this major national industry. In 1970, in fact, he won the Wright Memorial Award for his years of outstanding service to aviation in the United States. And he has, since then, remained in the forefront, fighting, for example, for one-stop charter tours and their lower fares which have done much to spark air travel during these months of continuing recession. He is also foremost in perceiving and in fighting for recognition of general aviation's role in tying together the smaller towns and cities of our vast rural areas with the major air transportation hubs in our urban centers of commerce and industry.

There is a reason why Senator CANNON is known as Mr. Aviation not only here in the Nation's Capitol, but in Nevada and throughout the country. His outstanding expertise and hard work in this field alone complements his chairmanship of the Commerce Committee's Aviation Subcommittee. He also sits on four other Commerce subcommittees, all dealing with issues of vital importance to the Nation: Foreign Commerce and Tourism, Consumer Protection, Communications, and Surface Transportation.

On the Senate Armed Services Committee, he is chairman of both the Tactical Air Power and increasingly important National Stockpile and Naval Petroleum Reserves Subcommittees. He is also a member of the Military Construction Subcommittee.

But that is not all. The enviable record of this distinguished Senator includes chairmanship of the Rules and Administration Committee and of three of the four Rules subcommittees on which he sits. He is further, as I have indicated, a member of the Aeronautical and Space Sciences Committee in which, as in the Commerce Committee, it has been my good fortune and my pleasure to work with him on many key issues of national importance.

Let me, if I may, cite some other of the many key issues in which Senator CANNON has been closely involved. These include the hearings confirming the nominations of both the Honorable Gerald Ford and NELSON ROCKEFELLER as Vice President of the United States, and a broad range of legislative efforts for the Federal Election Campaign Act bill, the comprehensive budget reform bill, consumer protection, revenue sharing, and pension reform, to name but a few.

In his years of close and effective association with former Nevada Senator Alan Bible, Senator CANNON helped to engineer legislation and funds for continuing development of the Lower Colorado River Basin and the vital southern Nevada water and the Washoe reclamation projects, so important to all the Southwestern United States.

Over the years, he has worked hard to develop and support military facilities for the Hawthorne Ammunition Depot, Nellis Air Force Base, and the naval air station at Fallon, in his home State. He worked as hard for the Nevada nuclear test site as he did for the expansion and improvement of McCarran International Airport in Las Vegas and Reno International and other airports throughout Nevada.

Senator CANNON is, as you know, also chairman of the Senate Select Committee on Standards and Conduct, vice chairman of the Joint Committee on Printing, chairman of a similar Joint Committee on the Library of Congress.

One might observe, that there is no limit to the range of his interests or to the Senator's willingness to serve on any matter, great or small, of importance to his people. Over and over again, during his 18 years of distinguished membership in the Senate he has proved himself a rock of strength and determination, a man of profound integrity, an astute and powerful antagonist. He is a colleague which it is my pleasure and honor to commend.

REMARKS OF SENATOR MATHIAS AT WORCESTER COUNTY LINCOLN DAY DINNER

Mr. BROOKE. Mr. President, recently the distinguished senior Senator from Maryland was in Worcester, Mass., to address the Worcester County Lincoln Day dinner. In his thoughtful speech, Senator MATHIAS discussed the prevailing mood of a voter alienation and disillusionment, which has adversely affected not only the Republican and and Democratic Parties, but indeed the entire political process. And he suggests what must be done if we are to restore confidence in our two-party system. I would like to share his perceptive and provocative remarks with the Senate.

Mr. President, I ask unanimous consent to have Senator Mathias' remarks printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Worcester County Lincoln Day Dinner

Tonight we come together to honor our first Republican President, Abraham Lincoln.

Lincoln was a man I think each of us would like to have known personally. There are not many great figures in history you can say that about. But it would be comfortable to sit in the living room with Abraham Lincoln and to talk with him about the problems of *your* day, maybe swap a few stories, or listen to him figure out answers to *his* problems.

One of the problems that preoccupied Lincoln in the early days of the Civil War was how to get General George McClellan moving in the direction of the enemy. His solution has always delighted me.

McClellan (who, incidentally, was a Democrat) was in charge of the Peninsular campaign. Though his troops far outnumbered General Lee's, he was constantly being outskirmished, outflanked and outfoxed by Lee.

Eventually, McClellan was pushed back to the banks of the Potomac where he made camp, as if for the duration, or so it seemed to Lincoln. Nevertheless, dispatches from this camp were invariably and arrogantly headed: "McClellan—Headquarters in the South". Finally, an exasperated Lincoln fired off a dispatch of his own. It read "McClellan, I believe your headquarters are in your hindquarters. Please advance."

Each of us, I'm sure, would enjoy the company of the man who wrote that dispatch. In fact, we could pass a delightful and instructive evening here simply recalling Lincoln anecdotes, each one illustrative of some facet of his richly diverse nature.

Tonight, however, I have a broader purpose in mind. It is one which I think you will agree is appropriate both to the place and to the occasion.

We have gathered here in Worcester to honor the memory of Lincoln. But with all the honor we pay him, we should each of us take to heart that just as the President as chief of state is not the nation, so even President Lincoln as head of the Republican party was not the party.

In our party, as in our nation, there are many jobs for every citizen and many responsibilities for average grass roots Republicans.

And so, in honoring Lincoln tonight, I would like to think about another founder of the Republican party, a man whose political career "took off" in Worcester, a man central to the formulation of the principles of the party: Senator Charles Sumner of Massachusetts.

First, though, let me sketch in a little background. To appreciate Sumner's importance to the party, you should bear in mind that Lincoln was a cautious politician. It took a lot of pushing before he became a Republican. At the close of 1854, Lincoln was still a whig and still believed a whig could be elected to the U.S. Senate in Illinois. Two years later, in the presidential campaign of 1856, the whig party expired.

Actually, the Whig Party only lasted about 20 years as a force in the American political arena. Twice during that time—in 1840 and again in 1848—it managed to elect presidents. It is the 1848 election that has particular significance to the genesis of the Republican Party and to the city of Worcester as well.

By the late 1840's Whig leadership was faltering. The party's achievement has been compromise. But, compromise on the issue of slavery or freedom, was an achievement few prized—least of all, men of conscience, or the conscience Whigs as the abolitionists of the free states were called.

The alienation of the conscientious men of Massachusetts expressed itself on June 28, 1848 when a mass convention was held here in Worcester to protest the Whig Party nomination of General Zachary Taylor a slaveowner as its presidential candidate. (The Democrats had nominated General Cass who also straddled the slavery issue).

To the conscience Whigs of Massachusetts there seemed no choice. From the office of Charles Sumner a call went forth for a convention of all the citizens of the Commonwealth who opposed both Taylor and Cass.

Some five thousand people impelled by their common devotion to freedom, showed up. Their numbers overflowed the city hall so they gathered on the Worcester Common where speakers expressed the general determination to stand by conviction even if it meant renouncing old party ties.

Last to speak was the meeting's chief organizer Charles Sumner. "I was a Whig," he said, "because I thought the party represented the moral sentiments of the country—that it was the party of humanity. It has ceased to sustain this character. It represents no longer the moral sentiments of the country. It is not the party of humanity."

"A party which renounces its sentiments," he continued, "must expect to be renounced. In the coming contest I wish it understood that I belong to the party of freedom—to that party which plants itself on the declaration of independence and the Constitution of the United States."

These words, spoken here in Worcester, were the seeds of a new party which would eventually become the Republican Party—named, some say, by Horace Greeley, others say by Allan Bovay—founded, some say, in Ripon, Wisconsin; others in Ohio, still others in Worcester.

Theodore Roosevelt maintained that establishing the paternity of the Republican Party was almost as difficult as nailing jelly to a wall. Establishing the party's principles, however, is not difficult. As a life-long Republican, I revere the principles on which our party was founded. It was the "party of humanity." It did reflect the "sentiments of the American people." It stood for the principles of equality, equal opportunity, freedom and justice that were hammered out for us in the Constitution by our Founding Fathers.

Charles Sumner had no difficulty identifying these principles to the throngs assembled on Worcester Common that June day when our party was aborning. He was an impressive figure—6'4'' tall with a deep resonant voice—he later became famous for his oratory.

"The Constitution was the crowning labor of the men who gave us the Declaration of Independence," he told the crowd, "it was established to perpetuate, in organic law, those rights which the declaration had promulgated, and which the sword of Washington had secured. 'We hold these truths to be self-evident: that all men are created equal; that they are endowed by their creator with certain unalienable rights; that among these are life, liberty and the pursuit of happiness.' Such are the emphatic words which our country took upon its lips, as it first claimed its place among the nations of the Earth. These were its baptismal vows. And the preamble to the Constitution renews them, when it declares its objects, among other things to 'establish justice, promote the general welfare and secure the blessings of liberty to ourselves and our posterity.'

"Mark this," Sumner emphasized, "not to establish injustice; not to promote the welfare of a class, or of a few slaveholders, but the general welfare; not to foster the curse of slavery but the blessings of liberty . . . it was lately said . . . that the movement in which we now are engaged is the most important since the American Revolution. Something more may be said. It is a continuance of the American Revolution. It is an effort to carry into effect the principles of the Declaration of Independence, and to revive in the administration of our government the spirit of Washington, Franklin and Jefferson—to bring back the Constitution to the principles and practices of its early founders—to the end that it shall promote freedom . . ."

Sumner's exhortation has a very contemporary flavor, doesn't it? He was disillusioned with political parties, he was turning his back on them and he was seeking a reaffirmation of basic principle.

Today we too face such a crisis. The Republican party can claim the allegiance of less than 18 percent of our registered voters. Less than one voter in five wants to own up to being a Republican. If our showing is this poor among registered voters—the people who care enough to participate in the election process—imagine where we must stand with the tens of thousands of Americans who have grown too cynical, too apathetic and too frustrated by the political shadowplay of our times to even register.

They are the real warning sign, they are the unknown, a vast threatening amorphous growth on the political scene.

It's not that they are turning to the Democratic party either. That might even be a healthy sign, for at least then we could say that the inevitable pendulum swing of our two-party system might turn back our way someday.

Rather, it appears that the growing numbers of unaffiliated independents are simply disillusioned with the entire political process.

They're disenchanted and disappointed by the way our government operates, or more precisely doesn't operate.

They see a political system that has failed to live up to its promise and that has failed to live up to its principles.

This alienation is not a fad. It's not merely an aberration brought about by the post-Watergate blahs. It's not a temporarily-out-of-order sign.

I believe it is rooted in growing mistrust of our political institutions' ability to respond to the needs of the people, and in the fear that government cannot resolve any of our problems either.

The litany of our probems is indeed long and discouraging. Our schools don't work. Our prisons don't work. Our cities don't work. Our economy keeps getting blown up like some gargantuan innertube that's been glued and patched with old bicycle tape—every couple of years it hisses and blows another patch. There are seven and a half million Americans out of work, and most of them are young, black, uneducated and desperate. Our Constitution is being trampled on by invasions of privacy and evasions of court orders. Thirty million Americans have no health insurance and face financial ruin should serious illness strike. Our taxes march onwards and upwards simply to put another patch on the hissing innertube. And across this great land of ours there is the oppressive knowledge that life is losing its quality, that it will grow worse in our time, and much worse in our children's time, if something is not done to reverse the process of deterioration.

Meanwhile, seemingly oblivious to it all, too many politicians are falling all over each other in New Hampshire and elsewhere, obsessively intent only on getting a shot at the brass ring, with no apparent idea of what to do with it once it's had.

It seems to me that both the Republican Party and the Democratic Party have sacrificed principle to expediency. I suggest they both are more concerned with whom they can get elected than with why they should be elected. The people sense this and probably would agree with Theodore Roosevelt's 1912 remark: "It is not I who have left the party, it is they who have left me."

Our situation today is discouraging but I don't believe it is irretrievable. In plotting our future course, we can learn much that is instructive from the example of Charles Sumner. From that June day in Worcester, when he issued his clarion call to freedom and justice for all, to the very moment of his death, Charles Sumner never lost sight of the principles of the Constitution and Declaration of Independence. He dedicated his life to securing them for all Americans and, on one occasion, came close to losing it by his vehement pursuit of principle.

Sumner was elected to the United States Senate in 1851. There he led the opposition to slavery and to the spread of slavery in America. He was mercilessly vilified by his southern colleagues who, on one occasion, even tried to have him expelled from the Senate but failed to get the two-thirds vote necessary. They called him, among other things, a "miscreant" and a "sneaky, sinuous, snake-like poltroon."

You'll not be surprised to hear that in these verbal exchanges Sumner gave as good as he got. This is how he defended himself against Senator Douglas, of Illinois:

"No person with the upright form of a man can be allowed, without violation of all decency, to switch out from his tongue the perpetual stench of offensive personality. Sir, that is not proper debate, at least not on this floor. The noisome, squat, and nameless animal to which I now refer is not the proper model for an American Senator. Will the Senator from Illinois take notice?"

I can assure you debate on the Senate floor today provides no such tangy rhetoric.

But, unfortunately, these matters weren't limited to rhetoric.

On May 22, 1865, infuriated by Sumner's speech of two days earlier denouncing the Kansas-Nebraska bill and its southern advocates, a member of the House of Representatives from South Carolina accosted Sumner on the Senate floor. The Senate was not in session but Senator Sumner had remained at his desk writing letters. Contemporary accounts report that Senator Sumner looked up and saw a "perfect stranger, who said, 'I have read your speech twice over carefully. It is a libel on South Carolina and on Mr. Butler who is a relative of mine.'" He then set upon Sumner, who was pinned under his desk, with a heavy cane and beat him insensible. Sumner was incapacitated for the next three and a half years but, to its everlasting credit, the Massachusetts legislature returnd him to his Senate seat by a near unanimous vote nonetheless.

When Sumner resumed public life, it was, of course, to pursue his fixed principles. In October 1861 at the Massachusetts Republican convention he became the first statesman of any prominence to urge emancipation. To Sumner belongs the credit for public acceptance of the emancipation proclamation when it was finally issued.

Early in the second year of the Civil War, Sumner already had begun work to secure civil rights for all citizens, regardless of race, creed or color. Looking to the future he insisted that states which had seceded must have inserted in their constitutions provisions for equal suffrage for whites and blacks before they would be accepted back in the Union.

As the Civil war ended the two most influential men in public life in America were Lincoln and Sumner. Time has dealt differently with them and I think it is good in this place and on this occasion to redress the balance a little. I think Mr. Lincoln would approve.

There was a close bond between these two remarkable, principled men. When Sumner heard the news of Lincoln's assassination he went straight to him. A witness described the scene:

"Senator Sumner was seated on the right of the president's couch, near the head, holding the right hand of the President in his own. He was sobbing like a woman with his head bowed down almost on the pillow of the bed on which the President was dying".

Several days later Sumner received from Mrs. Lincoln the President's cane with the following note: "Your unwavering kindness to my idolized husband and the great regard he entertained for you prompt me to offer for your acceptance this simple relic."

Sumner had lost a powerful ally in his fight for civil rights. In response, he redoubled his own efforts. Eulogizing Lincoln in Boston shortly after his death, Sumner used the occasion to press his point that Negro suffrage was essential to lasting reconstruction. Of Lincoln he said:

"The inevitable topic to which he returned with the most frequency and to which he clung with all the grasp of his soul was the practical character of the declaration of independence in announcing liberty and equality to all men. No idle words were there, but substantial truth, binding on the conscience of mankind."

Sumner carried on the struggle for equal suffrage to the very moment of his death. His next to last words as he lay dying, were to admonish his friend Judge Hoar:

"You must take care of the Civil Rights Bill,—my bill—the Civil Rights Bill,—don't let it fail."

His last thoughts though were of Ralph Waldo Emerson. "Judge, tell Emerson how much I love and revere him," he said.

Emerson himself described Sumner as having "the whitest soul of any man I ever knew." He declared him to have been "the conscience of the Senate."

Perhaps I have dwelt too long on the example of Charles Sumner but it seems to me a particularly apt one. Sumner's great work was not so much in framing laws but in kindling moral enthusiasm, in inspiring courage and hope. His fearlessness in denouncing compromise and in demanding equal justice for all was a major force in the struggle that ended slavery.

What is lacking in America today and what is most needed, it seems to me, is just such moral enthusiasm. No one is sounding the call to greatness. No one is inspiring courage and hope. No one is kindling moral enthusiasm.

I do not believe we, the American people, are ready to write off the Republic as a noble experiment that failed. The American people are not prepared to abandon the hopes and aspirations of our declaration of independence. But we are desperate for someone to listen to us and to rekindle our faith in the system and in ourselves.

The lack of creative thinking in our highest offices, the failure to listen, the failure to keep up with the people, much less inspire and lead them—these are the reasons the Republican party is losing its mandate.

It's not just the bright young liberals who are deserting our party. It's the thousands of thoughtful, concerned moderate men and women of every age and every walk of life.

At the bottom line, I believe our party has to be true to its principles or there can be no party.

This is not simply a matter of restating our goal and then of redoubling our promises. We've got to examine and define those goals. We've got to determine our priorities and then we must address them in a positive, realistic way.

There is work at hand for Republicans to do!

We can, if we work hard enough at it, provide an income floor so that all Americans can achieve a minimum standard of living.

We can provide decent housing for people, housing they can afford—if we work hard enough at it and decide we want it.

We can provide jobs for everyone who wants to work—if we work hard enough at it.

We can improve our educational system so that it does educate.

We can improve our prisons so that they re-educate and rehabilitate rather than destroy the hearts and minds of those inside.

We can become blind to race.

We can protect all our families from the financial disaster of illness.

We can provide new hope for older Americans and new challenges for younger Americans.

And we can improve the quality of life and its significance in our cities, in our suburbs and in our small towns across the land.

We can do all these things if we work hard enough at it and if we decide that we want to do them.

There is a conservative task for us as well—we must prevent big government from opening our mail, eavesdropping at our windows, tapping our telephones and clandestinely entering our homes and our offices.

If being a conservative does not mean eternal opposition to these violations of the Constitution, then I think the words "conservative" and "republican" have lost their meaning and I think the Constitution is no longer familiar to us or understood.

Every task I have mentioned here is dictated to us by the traditional and fundamental principles of the Republican Party which include the belief, best stated by your own John Adams that: "The proper end of government is the happiness of society."

All of our challenges can be measured and met if we have the courage, the compassion and the creative spirit to do it.

Think back for a moment to Senator Sumner, lying insensible on the Senate floor, felled for pursuing principle. Now, ask yourselves whether we are giving principle the place it deserves in party life? How can we live up to the principles of Abraham Lincoln and of Charles Sumner, if we are not responsive to the disillusioned, the angry and the frustrated millions who have left us, or who believe we have left them?

Americans have a unique capacity for bouncing back. We are resilient. We can change. We can bend. We can absorb blows and come back with renewed spirit. Nothing yet—not the Civil War, not the riots in our cities, not Watergate, has been able to destroy the essential toughness of our spirit.

When Charles Sumner addressed those five thousand freedom seekers here at Worcester he urged:

"Come forward, men of all parties. Let us range together. Come forth, all who thus far have kept aloof from parties. Here is occasion for action. Men of peace, come forth. And we call especially upon the young. You are the natural guardians of freedom. In your firm resolve and generous souls she will find her surest protection."

I can think of no better exhortation with which to end my talk. Let me only add that no amount of eloquence can rally people to a cause that sacrifices its past and its principles to expediency. We *were* the party of humanity—let us once again *be* the party of humanity.

KUWAIT INDEPENDENCE DAY FEBRUARY 25, 1976

Mr. HARTKE. Mr. President, since Kuwait achieved independence in 1961, the country has experienced an era of unprecedented prosperity. The per capita income exceeds $3,700 and it has a highly developed welfare program.

Kuwait's broad range of government social services perhaps surpasses that of the Scandinavian countries in sheer scope and paternalism.

Year after year, Kuwait has expressed such views in various international forums. In recognition of Kuwait's active role in this field of development, its membership to the Governing Board of the United Nations Development Programme has been renewed for 3 more years after 4 years service on the board. Kuwait is also active in several other committees of the U.N. Economic and Social Council, the U.N. Industrial Development Organization, the U.N. Conference on Trade and Development and various other United Nations agencies dealing with development. Kuwait's contributions to the various U.N. agencies totalled $14,955,077 in 1974.

To match its words with deeds, Kuwait initiated an aid program a long time ago—a program which had developed and expanded with the passage of years.

Expressing his country's views on the development of the third world, Kuwait Foreign Minister, His Excellency Sabah Al-Ahmad had this to say in a statement before the U.N. General Assembly 5 years ago:

> My country, which takes pride in the role which has enabled it to assist effectively in promoting the economic and social development of sister and friendly developing countries, attaches special importance to the Second Development Decade. It is not sufficient to lay down broad objectives. We must also define policy measures and programs of action. Commitments therefore must be very precise and of binding character. The strategy should emphasize the interdependence of the world economy and the necessity of making the opportunities equally available to all nations, especially the developing countries.

Since its independence, Kuwait has been evolving its own international identity and has joined a number of specialized agencies including the International Bank of Reconstruction, the United Nations and the International Monetary Fund.

Kuwait is the largest contributor to the Special Arab Fund for Africa and has contributed over $70 million for special projects.

We wish the State of Kuwait, His Highness Shaikh Sabah Al Salim Al Sabah, and the people of Kuwait, continued peace and prosperity on their day of Independence—February 25, 1976.

DR. GLEN P. WILSON

Mr. MOSS. Mr. President, it is not often that we recognize the contributions made by the dedicated individuals who comprise the professional staffs on our committees. And so when other institutions give special recognition to their achievements, then it is altogether fitting that the Senate takes time to recognize their distinction as well.

It is my sincere pleasure to announce to my colleagues the award presented to Dr. Glen P. Wilson, who has served on the professional staff of the Senate Committee on Aeronautical and Space Sciences since its inception in 1958.

At the Annual Honors Night Banquet of the American Institute of Aeronautics and Astronautics, he was given the following award:

> JANUARY 29, 1976.
>
> SPECIAL AIAA PRESIDENTIAL CITATION
>
> Trained as an aeronautical engineer and psychologist, Congressional Staff Member of extraordinary dedication, Glen P. Wilson is hereby cited by his AIAA colleagues for his thoughtful counsel to the Institute, since the formative years of the nation's space program, on the importance of helping legislators and government officials understand the policy implications of developments in aerospace technology.
>
> GRANT HANSEN,
> *President, American Institute of Aeronautics and Astronautics.*

Dr. Wilson, we salute your service to the Senate and to the Nation.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I wish to report that, according to current U.S census approximations, the total population of the United States as of March 1, 1976, is 215,169,680. This represents an increase of 1,710,407 since March 1 of last year. It also represents an increase of 66,841 since February 1 of this year; that is, in just 1 short month.

Thus in this last year we have added enough additional people to our population to fill Columbus, Ohio, Denver, Colo., and San Antonio, Tex., combined. And in 1 month our population has expanded enough to fill an additional city the size of Boulder, Colo.

GEORGE WASHINGTON PEACE ACADEMY

Mr. HARTKE. Mr. President, I invite the attention of my colleagues to an editorial written by Howard Flieger that appeared in the U.S. News & World Report, December 29, 1975, issue concerning the George Washington Peace Academy as established in my bill, S. 1976.

The article is very thought provoking and raises questions which will be answered by distinguished scholars at hearings to be held on the bill by the Senate Subcommittee on Education in March. However, I believe that Mr. Flieger set the tone for the hearings and consideration by the country of the Academy when he charged:

> It would almost take a warmonger to find fault with the goals of "Senate Bill 1976."

As I have stated before, the Academy will not lessen nor abate the role or posture of the Defense Establishment in this country. When peace initiatives have failed, and there is no other course to protect the foundations of democracy then the military services will be there when called upon just as they have been in the past.

It was my great pleasure this past Monday, February 16, to read in the Senate Chamber the farewell address written by George Washington announcing his retirement from the Presidency.

As we celebrate the birthday of our first President, George Washington, we should look to his writings and conclusions for sound reasoned evaluations of policies for the United States. In a circular to the States, June 8, 1783, George Washington wrote:

> As there can be little doubt but Congress will recommend a proper Peace Establishment for the United States.

And in another circular to the States in the same year, George Washington believed peace should be a pillar—a cornerstone of the new Republic:

> There are four things, which I humbly conceive, are essential to the well being, I may even venture to say, to the existence of the United States as an Independent Power . . . Thirdly, the adoption of a proper Peace Establishment.

It is vitally important that this country give full discussion to the establishment of the George Washington Peace Academy during our Bicentennial Year in order to set the direction our country takes during the next 100 years.

I ask unanimous consent to have printed in the RECORD an editorial by Howard Flieger appearing in the U.S. News & World Report of December 29, 1975.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

> THE PEACE ACADEMY
>
> (By Howard Flieger)
>
> It would almost take a warmonger to find fault with the goals of "Senate Bill 1976."
>
> The proposal, whose sponsors want it to be the first order of business of the Bicentennial year, is for peace on earth. It was introduced by Senator Vance Hartke (Dem.), of Indiana, with two others, Mark Hatfield (Rep.), of Oregon, and Jennings Randolph (Dem.), of West Virginia, as co-sponsors.
>
> They want the Government to establish a "George Washington Peace Academy," much along the lines of the present military academies operated by the Army, Navy and Air Force. The purpose of the new academy would be to train specialists in the arts of peace, as the others do in the arts of war.
>
> It is hard to imagine a higher objective. But, to be realistic, it is equally difficult to figure out just what a peace academy would do. How do you teach peace?
>
> One can yearn for it—presumably most people do—and pray that it will be everlasting. But how can the subject be refined to a course of study? And by whom?
>
> Dictionaries define "peace" as freedom from war, the absence of hostilities. History has made it an abstraction.
>
> War—ugly and inhumane—is a positive force with real, physical components. Its terrible skills can be taught.
>
> Peace is the state of the world in the historically rare interludes when nobody is shooting up the place. It is, in other words, a negative. And negatives are difficult to teach, even harder to set in motion.
>
> The student body of the Peace Academy would be composed of candidates nominated by members of Congress and appointed by the President, much the same way most of those at the military academies are selected for careers in the Army, Navy and Air Force.
>
> After graduation, peace cadets would be expected to spend two years in public service—either in Government or with non-profit organizations. They would be encouraged to make peace their life work.
>
> But how can a faculty be put together for such an institution? What constitutes a discipline in peace?
>
> The most dedicated disciples of peace disagree on how to attain it. Some would turn

the other cheek. Others argue peace is power that comes out of the barrel of a gun. Still others see it as the product of compromise that entices potential adversaries onto an unstable but becalmed plateau.

One man's peace is another's poison.

Senator Hartke, in a statement accompanying the bill, told his colleagues:

"The Academy will train individuals in the development of a posture which would serve to relieve the tension of a conflict situation. The arts of negotiation, arbitration, mediation and conciliation will be explored so as to extrapolate from their methodologies a new art of resolution to be utilized. It will present the facets and factors of any given dispute in the appropriate intercultural context by an international communication system before the appropriate forum to determine a peaceful or nonviolent resolution of the difference."

In simpler words, the academy would teach people and nations how to settle their differences without rattling a saber.

The same thing is the Charter goal of the United Nations, though its approach is parliamentary rather than academic. Its purpose—at least, the purpose of its founders—was to replace war with peace. At best, its record barely rates a passing grade.

The objectives of a peace academy are ennobling. A nation schooled in the ways of peace is an ideal that, once attained, could be civilization's greatest achievement.

But history and human nature being what they are, one is justified in crossing fingers. A peace academy would be only a first step toward a cherished but elusive goal.

A MESSAGE FROM A NURSING HOME RESIDENT

Mr. FONG. Mr. President, as ranking minority member of the Senate Special Committee on Aging, I have received a heartwarming communication from Mr. Walter Gardner, a nursing home resident, which I believe should be brought to the attention of other Members of the Senate.

During the past several years I have shared with my fellow members of the Committee on Aging, and its Subcommittee on Long-Term Care, deep concern about the evidence of fraud and abuses, including mistreatment of patients and inadequate care, in some of the Nation's nursing homes. It is gratifying, therefore, to also receive word which confirms, as has been the committee's opinion, that not all nursing homes are bad and there are a number which actually provide the kind of tender, loving care which all incapacitated and enfeebled older Americans should receive.

I have been informed that Mr. Gardner, a former newspaper writer, is in his late seventies and afflicted with arthritis. What the printed record cannot show is the legible and attractive quality of his handwriting which reflects his pride in self and his determination to live successfully despite his handicap.

Mr. Gardner's letter is in two parts, both of which are worthy of attention. The first part is an expression of appreciation for the high quality of care and concern offered to the 180 residents of Whitewood Manor in Waterbury, Conn. The second part is a brief essay, appropriate to our Bicentennial, "The Stars and Stripes Forever." This reflects Mr. Gardner's great love for this country and its history.

I ask unanimous consent that the material I have referred to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHITEWOOD MANOR,
Waterbury, Conn., February 7, 1976.

Hon. Senator HIRAM L. FONG,
The Honorable Senator from the State of Hawaii, Honolulu, Hawaii.

DEAR SIR: I am a native New Yorker, but I now live at beautiful Whitewood Manor, a nursing home for 180 aged and disabled people. This is a superior place in a fine location in Waterbury. Mrs. Margaret Hobart, who is our very able administrator, makes every possible effort to insure that this nursing home remains the same. All of us appreciate and are grateful for the type of living provided. The cheerful attitude of the nursing staff, the kindness and thoughtful care shown us are the orders of each day. We would indeed—consider it a delight and high honor if you could some day pay us a visit. A reception and dinner would be planned for this occasion, by our dependable recreation people. We wish you well and ask God's blessing on you and those dear to you.

May Divine Providence guide you and intercede for you in your association with others.

THE STARS AND STRIPES FOREVER

Long ago our flag had but thirteen stars representing the States of the Union. Our country was young then and has grown so mighty that today it boasts of fifty stars on its field of blue. We must all respect the flag. It is a symbol of our birthright, our heritage, the freedom for which countless men have fought and died. Let us revere the memory of the Unknown Soldier. It is important to remember that we are the greatest nation on earth, a nation under God, and a democracy. Loyalty to it means protection of it no matter what the cost. But we must respect the rights of other nations and a brotherhood of all men. Let us take an imaginary trip into space and there build a reviewing stand for our famous leaders. Imagine the thrilling spectacle now ready to unfold before our eyes. Sitting on the stand are Washington, Madison, Lincoln. Now the largest parade ever assembled is putting on a display never to be forgotten. Marching by are the men of the Army, Navy, Marine, the brave of all years past who sacrificed to ensure our liberty. Now the National Anthem is being played. This was written under bombardment during war time. Now we hear the greatest of all band marches, The Stars and Stripes Forever. What patriotic feelings that stirs in all hearts. All regimental flags are being proudly carried by the standard bearers to the rousing music. Standing erect are those in the reviewing stand. All briskly salute the red, white, and blue. Suddenly there is silence and a complete blackout. The stars disappear from the sky and the marching heroes fade, and finally the impressive figures of Washington, Madison and Lincoln vanish. Reluctantly we return to earth in our space ship. All that is left in the sky is the reviewing stand. This experience will be long remembered. It is to be hoped that something of our leaders' spirit will rub off on us. Let us cherish our proud flag and all it stands for. It should never be destroyed or desecrated, but be regarded as something sacred in its symbolism. Let us be proud that it was the first to be implanted on the moon and of the valiant men that made that possible. Long may it wave there over our land and in the hearts of all Americans! God bless America!

Please excuse penmanship and mistakes, my hands are disabled.

WALTER GARDNER.

DISTRICT OF COLUMBIA COMMITTEE RULES

Mr. EAGLETON. Mr. President, in accordance with the Reorganization Act of 1947, as amended, I ask unanimous consent that the rules of the Committee on the District of Columbia be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES AND PROCEDURES OF THE SENATE COMMITTEE ON THE DISTRICT OF COLUMBIA

Rule 1. Unless the Senate is meeting at the time, or it is otherwise ordered, and notice given, the Committee shall meet regularly at 10:30 a.m. on the second Friday of each month. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary, or at such times as a quorum of the Committee may request in writing, with adequate advance notice provided to all members of the Committee. Subcommittee meeting shall not be held when the full Committee is meeting.

Rule 2. The rules of the Senate and the provisions of the Legislative Reorganization Act of 1970, insofar as they are applicable, shall govern the Committee and its Subcommittees. The rules of the Committee shall be the rules of any Subcommittee of the Committee.

Rule 3. The Chairman of the Committee, or if the Chairman is not present, the ranking majority member present, shall preside at all meetings. A majority of the members of the Committee shall constitute a quorum of the Committee. However, the Committee may authorize a quorum of one Senator for the purpose of taking testimony.

Rule 4. Unless otherwise determined by a majority of the Committee, written proxies may be used for all Committee business, except that proxies shall not be permitted for the purpose of obtaining a quorum to do business. Committee business may be conducted by a written poll of the Committee unless a member requests that a meeting of the Committee be held on the matter.

Rule 5. There shall be kept a complete record of all Committee action. Such records shall contain the vote cast by each member of the Committee on any question on which a yea or nay vote is demanded. The record of each yea and nay vote shall be released by the Committee either at the end of the executive session on a bill or upon the filing of the report on that bill as a majority of the Committee shall determine. The clerk of the Committee, or his assistant, shall act as recording secretary on all proceedings before the Committee.

Rule 6. All hearings conducted by the Committee or its Subcommittee shall be open to the public, except where the Committee or the Subcommittee, as the case may be, by a majority vote, orders an executive session.

Rule 7. The Committee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 72 hours before a hearing and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee.

Rule 8. Should a Subcommittee fail to report back to the full Committee on any measures within a reasonable time, the Chairman may withdraw the measure from such Subcommittee and report that fact to the full Committee for further disposition.

Rule 9. Attendance at exceutive sessions of the Committee shall be limited to members of the Committee and the Committee staff. Other persons whose presence is requested or consented to by the Committee may be admitted to such sessions.

Rule 10. The Chairman of the Committee shall be empowered to adjourn any meeting of the Committee if a quorum is not present within 15 minutes of the time scheduled for such meeting.

Rule 11. Subpoenas for the attendance of witnesses and for the production of memoranda, documents, and records may be issued by the Chairman or by any other member designated by him. The subpoena shall briefly state the matter to which the witness is expected to testify or the documents to be produced. All witnesses subpoened before the Committee who are to testify as to matters of fact shall be sworn by the Chairman or another member.

Rule 12. Accurate stenographic records shall be kept of the testimony of all witnesses in executive and public hearings. The record of a witness' own testimony, whether in public or executive session, shall be made available for inspection by witneses or by their counsel under Committee supervision; a copy of any testimony given in public session or that part of the testimony given by a witness in executive session and subsequently quoted or made part of the record of a public session shall be made available to any witness at his expense, if he so requests. Witnesses not testifying under oath may be given a transcript of their testimony for the purpose of making minor grammatical corrections and editing, but not for the purpose of changing the substance of the testimony. Any question arising with respect to such editing shall be decided by the Chairman.

Rule 13. Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended, or suspended at any time, provided, however, that not less than a quorum of the Committee so determines in a regular meeting with due notice, or at a meeting specifically called for that purpose.

WHAT HAS CONGRESS BEEN DOING?

Mr. GOLDWATER. Mr. President, a friend of mine in California, Mr. John Murphy, has sent me a very interesting summation of what Congress has done in the last several months. While my colleagues might not agree with it entirely, it points out an interesting interpretation by an American citizen of just what we have been up to and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRATULATIONS

(By John F. Murphy, Jr.)

In the last few months, "our Congress" has successfully accomplished the following (objectives??):

(1) Decimated the morale and effectivity of our counter intelligence agencies. This was performed by publicizing its errors (not its accomplishments), and providing the ammunition for ridicule to irresponsible agents of the press.

(2) Provided the agencies of foreign, non-friendly, countries with the identity of our agents. This has resulted in the assassination of *at least* one American agent.

(3) Exposed the systems, inner workings, and budgets of the agencies. This has saved "our enemies" incalculable monies and efforts.

(4) Established monetary controls to prevent the future recovery of the agencies.

(5) Started the process of imposing a politically motivated and incompetent group of overseers to guarantee future ineffectual operation of the above agencies.

(6) Fomented anti-Americanism in nations where these agencies operated. This was done on the pretext that the nations involved would appreciate your efforts to help "save" them. The heads of the affected Governments were already aware of these acts and had no need for your publicity and the resultant turmoil.

(7) Imposed the purportedly high sense of congressional morality on our international commercial dealings, thereby seriously handicapping the sales efforts of U.S. based companies. Our foreign competition does not abide by these ideas of "fair play".

(8) Imperiled the continuation of the operations of the Lockheed Aircraft Corporation. The effort to divest the Congress of any responsibility for this potential economic collapse by foisting it off as a result of the subject payments is ludicrous.

(9) Created havoc and the potential collapse of friendly Governments in Japan, Italy, the Netherlands, etc. The enemies of the free world could do no better

(10) Forced, through embarrassment, the cancellation of over two billions of dollars in U.S. aircraft sales. Untold billions of dollars in foreign sales which were not firm are also in jeopardy.

(11) Eliminated the potential for thousands of jobs for Americans through the above actions.

(12) Motivated, through political pressure, the resignation of numerous highly placed, brilliant and respected business leaders. The resulting "shake-ups" will surely decrease the efficiencies of the operations involved and result in more unemployment.

(13) Invited the Communists to establish a major foothold in Africa by refusing to accept responsibility. Those who wished to take a share of the responsibility were quashed by congressional restrictions imposed through emotional fervor.

(14) Impressed political intervention on free enterprise as regards foreign military sales. The result can only be fewer sales, higher unemployment and weaker allies.

(15) Supposedly seduced the public into believing that the socialist experiment currently failing in Great Britain will be our salvation.

(16) Attempted to justify the United States being a second rate power on the basis of the "kill capacity" of our nuclear arsenal which can only be used for Armageddon. (It is ironic that Lockheed was a prime source for a large portion of this arsenal.)

(17) Implied that the 20-year-old B–52 bombers are being scavenged to keep a porstitute an adequate bomber force. These bombers are being scavenged to keep a portion of them flying. Complete overhaul and renovation would cost as much as the B–1 with a resultant inferior weapon.

(18) Allowed the false hope of S.A.L.T. and detente to blind the people and encourage increases in social welfare at the expense of an adequate military force.

Our enemies could do no better in destroying this nation. Examine your conscience and motivation in light of the possible results of your actions. Is re-election worth it? True divergence of opinion seems to be lost to the sense of expedient self-fulfillment. Is loyalty to one's Country a thing of the past?

ARMS RACE

Mr. CLARK. Mr. President, if we are ever to achieve lasting arms control, we will need the support of a wide variety of interests in the international community, not the least of which is the scientific community. Scientists can play a valuable role in alerting the public to the dangers of the continuing arms race. A recent article in the New York Times by William Epstein discusses this point most persuasively. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 18, 1976]

SCIENTISTS AND ARMS

(By William Epstein)

The spiraling arms race is no longer a race of numbers but of technology. The strategic-arms-limitation and Vladivostok agreements set numerical ceilings on the number of strategic nuclear weapons and delivery systems. These quantitative limits were set fantastically high, since the Americans and the Russians were already able to wipe out each other's major cities (over 100,000 in population) by 36 times and 12 times respectively.

No limitations whatsoever have been placed on the development of new offensive strategic weapons or conventional ones. Most experts now regard the strategic-arms agreements as mere blueprints for continuing the nuclear arms race under agreed terms and conditions.

President Dwight D. Eisenhower, in his farewell address, warned the nation not only against the "military-industrial complex" but also against the danger of a "scientific-technological elite."

All the weapons of destruction were conceived in the fertile brains of scientists. They invented the atomic bomb, the hydrogen bomb, intercontinental ballistic missile (ICBM's) and submarine-launched ballistic missiles (SLBM's). They invented MIRV's (multiple independently targetable re-entry vehicles) and are now busy MARVing (MARV's are maneuverable re-entry vehicles) the MIRV's, so that they can be maneuvered right onto their targets, and are developing cruise missiles.

They dreamed up biological and chemical weapons, laser-guided "smart" bombs, and the electronic battlefield. We cannot foresee the terrible doomsday weapons that scientists may yet develop.

Current estimates are that over 25 percent of all scientists and engineers in the United States and Soviet Union are engaged in weapons work of some kind. Less than one-hundredth of 1 percent are directly engaged in arms control or disarmament.

Scientists have a truly awful burden of responsibility for the ongoing arms competition. Science may be neutral and amoral, but scientists are not. Though politicians and government officials make the decisions, scientists cannot escape responsibility. They have a moral duty to use their capabilities for the benefit of humanity and not for its destruction.

Scientists must examine the human and social implications of their work. They should refuse to participate in developing new weapons or launchers. They should check their work with other scientists in social, environmental and related fields. They should create some organizations authorized to evaluate their research and to bar weapons work. They should refuse to undertake secret work and insist on their right to publish the results of their research freely and openly.

Since scientists and engineers have greater knowledge of the dangers to human survival, they should intensify their activities for alerting the public and officials to the perils of the continuing arms race. They should become more deeply involved in educational work and in political efforts to achieve arms control and disarmament.

If scientists and engineers were to establish, both nationally and internationally, a code of conduct along these lines, and unite their efforts behind a sort of "Hippocratic oath" not to engage in developing new means of mass murder, they could have great influence. International organizations, associations of scientists and other professional bodies can provide publicity, moral support and tangible assistance to scientists and engineers, even in dictatorial countries, where imprisonment or harassment might result from their adhering to such standards.

We are losing the race to control the arms race. Scientists can and should take the lead in developing ways and means of stopping that race.

NUCLEAR POWER CONTROVERSY

Mr. BAKER. Mr. President, yesterday morning in the Washington Post, Tom Braden discussed America's energy needs and shortcomings as he saw them under the title of "Nuclear Power: The Ugly Facts." Mr. Braden reaches the same conclusion asserted recently in New Yorker magazine by Barry Commoner:

> The entire nuclear program is headed for extinction.

I am somewhat reminded at this point of the response of Mark Twain when informed that the press in America was reporting the occurrence of his untimely demise during a trip abroad. "The reports of my death," cabled Mr. Twain from London, "are greatly exaggerated."

I feel the same sort of comments can be made regarding America's peacetime nuclear power program. It seems to me that there were two or three comments in the article this morning which seemed particularly deserving of response. First, after recounting the testimony of Messrs. Minor, Bridenbaugh, and Hubbard, formerly of General Electric, and after describing in brief detail the past 25 years of the nuclear power industry in this country, Mr. Braden advances the notion that nuclear power has succeeded because it received 60 times more Federal subsidy than its potential alternatives, such as solar energy. What he fails to note, however, is that, while receiving some 60 times as much Federal subsidy by his own analysis, nuclear power has produced at least a 1,000 times more usable energy during that same span than have alternative sources.

As a matter of fact, the successes of other energy sources such as solar, geothermal, wind, et cetera, are infinitesimally small by comparison. Furthermore, those associated with these alternative programs tell us they are receiving all the funding they can reasonably absorb. At a time when nuclear power is generating some 9 percent of America's total electricity output and as high as 30 percent in some of our more populated States such as Illinois, it behooves us to pay special heed to the situation that might exist without nuclear power.

This leads me to my second point, and one to which the article gave special heed this morning. Mr. Braden is very concerned about the growing realization that "the responsibility will seem too great a burden to bear" for Congressmen and others who must make decisions regarding nuclear energy. I would suggest that the problems and the responsibilities are no less great now in regard to support of this program than they have ever been.

As a matter of fact, I, too, have gone through the same soul searching and introspection that some of those who have recently testified before the Joint Committee on Atomic Energy are now going through. I have never suggested that there are no risks associated with atomic energy, but that the risks, when compared to America's energy needs, are risks that should be taken. An equally sobering risk is what will happen to this country if Congressmen and Senators do not act to solve or, at least, address America's energy requirements? I do not believe that either I or my colleagues will shirk a program that we believe to be in the public interest simply because the burden of responsibility attached to it may seem to grow. I would encourage those on both sides of the nuclear debate to pay special attention to the body of testimony which supports, as well as detracts from, the successes of the nuclear power industry.

In closing, Mr. President, there is a final comment by the writer of the Post article to which the Congress needs to address itself. Mr. Braden acknowledges talk in some corridors regarding the abolition of the Joint Committee on Atomic Energy in favor of a Joint Committee on Energy which could more specifically address all energy problems, including those associated with alternative fuel programs. While this Senator is convinced that the overall effort and impact of the Joint Committee on Atomic Energy has been a positive one, I am certainly not opposed to the establishment of a joint committee which could survey and address America's total energy needs. As a matter of fact, on a number of occasions, I have bemoaned the fact that the congressional approach to America's energy needs is too piecemeal and evasive. Perhaps, one of the outgrowths of the current nuclear debate might be not only to focus attention on the nuclear segment, a still relatively small, but yet important, part of America's energy program, but to enable the Nation to come to grips with the entire set of energy dilemmas which confront us.

In the spirit of fair play and open discussion of issues, Mr. President, I ask unanimous consent that a copy of the article by Mr. Braden be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 1, 1976]

NUCLEAR POWER: THE UGLY FACTS

(By Tom Braden)

High over the floor of the U.S. Senate there is a windowless hearing room—an early architectural tribute to the needs of security—where there took place last week a confrontation more important than the one in New Hampshire.

On the one side were three men who had resigned their jobs because they honestly believed that what they were doing was too dangerous to their country to keep on doing.

On the other were 18 senators and representatives—members of the Joint Atomic Energy Committee who were facing up to their own fears and failings.

The testimony of the witnesses was dramatic and the kleig lights captured the drama for television news clips. But what they couldn't capture was the history which must have been running through the minds of the congressmen and senators who sat there and listened. After 25 years, after lavish federal subsidies, after almost unanimous support from successive legislatures and Presidents, the promise of safe, reliable nuclear power—"power too cheap to meter," it was once predicted—was going aglimmer in the words coming out of the mouths of the witnesses.

"My reason for leaving the program," said Gregory G. Minor, the General Electric Co.'s manager for advanced controls and implementation, "is my deep conviction that nuclear reactors and nuclear weapons now present a serious danger to the future of all life on this planet."

Dale G. Bridenbaugh, General Electric's manager for performance evaluation and improvement, testified as follows: "The magnitude of the risks, the uncertainty of the human factor and the genetic unknowns have led me to believe that there should be no nuclear power."

And Richard B. Hubbard, General Electric's manager for quality assurance, said this: "There is no way you can continue to build the nuclear plants and operate them without having an accident."

Congressmen and senators asked questions. What they were thinking cannot be recorded. But the thoughts must have ranged from the wistful to the sad. Some of these men and their predecessors through the years built careers supporting nuclear power. They have advanced it as a self-fulfilling prophecy. They have seen to it that nuclear power received 60 times more federal subsidy than its potential alternatives such as solar energy. And until recently, at least, they have all believed that they were presiding over the development of an energy supply that would make the nation independent, no longer a partial hostage to the oil-exporting countries.

Now they were facing reality, recited to them articulately, in dry and measured tones. It cannot have been pleasant.

They will probably thrash around for a while, which is what men usually do when confronted with ugly facts. They will try to find other experts who will try to cast doubt upon the doubts.

But the responsibility for continuing with a program which might lead to disaster is a very grave responsibility. As the testimony sinks in and the doubts grow, the responsibility will seem too great a burden to bear.

There is talk in the corridors now of abolishing the Joint Atomic Energy Committee in favor of a Joint Committee on Energy and of putting money into alternative programs. As energy expert Barry Commoner reported in a recent three-part New Yorker series on the country's energy policies, "The entire nuclear program is headed for extinction."

INEFFICIENCY AT THE COMMUNITY ACTION AGENCY

Mr. MOSS. Mr. President, in past months I have become increasingly aware of the extensive administrative inefficiencies in our Government agencies. One of those agencies with which I have encountered an inordinate amount of inefficiency in recent months is the Community Action Agency.

I recently received from a constituent who must necessarily deal with that agency, a copy of correspondence which once again describes with great clarity the inefficient administration and waste of money at the Federal level.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD so that all of my colleagues might be made aware of one more example of the Community Action Agency's waste of program dollars for inefficient administration, dollars which could well be spent on the needs of those for whom the agency has been established, the less fortunate and poor people of our communities.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BEAR RIVER ASSOCIATION
OF GOVERNMENTS,
Logan, Utah, January 27, 1976.

MR. DAVID MATHEWS,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. MATHEWS: The Bear River Association of Governments has become increasingly concerned in recent months over the many problems, undue expenses, and appalling bureaucratic hindrances resulting from poorly written federal legislation, inflexible program regulations, and insensitive interpretations made by at least some Denver regional office personnel.

The Bear River Association has gone on record as vigorously protesting these types of legislation enacted by Congress, and the subsequent inept involvement of regional bureaucrats, which wastes large sums of taxpayers' money needlessly on program administration. This diverts untold financial resources from their intended use.

One atrocious example of this is the Equal Opportunity Act of 1964 and its successor the Community Services Act of 1974 which funds our public Community Action Program. On July 1, 1974, after considerable effort, time, and involvement on the part of state, local and federal officials, a State of Utah Community Action Agency was created with liaison with all local delegate Community Action agencies. Among other reasons, the purpose of the change was to make the program more responsive to local needs and less expensive to the taxpayers by maintaining an efficient and economical relationship between the local Community Action Agencies and the federal Regional Office in Denver. At that time, the change was endorsed and encouraged by the federal Region VIII Office of Economic Opportunity in Denver.

With the involvement of representatives from the Denver Regional Office, a very conscientious and effective state of Utah CAA Board of 18 public officials, citizens, and participants was organized. A capable State staff to provide close and economical liaison with local delegate agencies was hired. After meeting regularly for a few months (involving from 20 to 30 people) it became clear that the legality of the State Agency was being questioned by some, and the Denver CSA office was asked to clarify the status of the Board and the State as the Agency.

The request for clarification was made formally a number of times by Governor Calvin Rampton, and by others informally. There was, in our opinion, an inexcusably slow and generally incompetent response to this request. A request which should have taken a few weeks to resolve took five or six months. In the meantime, the Board was frustrated, programs were in limbo, the poor people of the State of Utah suffered, State and Board decisions were ignored or reversed at the regional level, and a gross insensitivity to those involved at the State Board level was exhibited.

After being declared in technical violation of the Equal Opportunity Act by legal council of the Community Services Administration (which was party to and encouraged its creation), the State Board was disbanded, after much time, effort and expense had been unnecessarily expended because of, in our opinion, loose and inefficient administration from the Denver regional office.

After this declaration, we were informed that representatives from the Denver Regional Office would need to meet with each of Utah's seven regional associations of government and explain the alternatives for redelegating CAA on a local level. In spite of protests this was done! A telephone call would have sufficed after all of the previous information and discussions had been held. State staff could have handled it very adequately. Regardless, three people flew from Denver to Salt Lake, drove 256 miles round trip from Salt Lake to Garden City, Utah, attended our Bear River Association of Governments meeting, and were of absolutely no help whatsoever! We knew in general what needed to be done, and the details could have been handled by telephone and mail. A gross waste of time and money.

To compound this atrocious fiasco, we were then informed that staff from the Denver regional office would need to attend hearings required to be re-held in order to re-designate local administering units of CAA's. Ridiculous, but this was done. A Denver representative came to the Bear River Association hearing and made absolutely no helpful contribution. Again, anything needed could have been handled by telephone or mail.

If this method were repeated, and we understand it substantially was, in the other several regional areas of the State, consider the waste of time, energy and money. If one to three people from Denver attended each of the seven regional association meetings twice this would be from 14 to 42 round trips from Denver to the various associations in the State of Utah, and 28 to 84 days lost by Denver regional office personnel to perform a very questionable service.

Estimating air fare, per diem, in-state travel, and other expenses at about $200 per trip x 14 to 42 trips, and wages and fringe benefits and lost service from the Denver office at about $100 per day x 28 to 84 days, it would cost between $5,600 and $16,800 *just* to administer or monitor a state program, less efficiently and less effectively, from the Denver regional office. The poor people of the State could use this money to much greater advantage.

We would consider these estimates very minimal. Multiply these by the other states involved, and by the other similar federal programs, and the costs multiply inexcusably. When this is happening, state and local integrity, authority, initiative, and responsibility is being undermined and weakened, not strengthened, and an ineffectual bureaucratic regional system perpetuated. In our opinion a regional office should perform the sole function of expediting the fund flow as efficiently as possible to states, and provide program assistance and *minimal* monitoring only as needed or requested by state or local units. This is a very important principal, one which we intend to press at every level and on every occasion possible.

Another example of poorly written and inflexible legislation and poor interpretation is the Health Planning and Resources Development Act of 1974 (P.L. 93–641). Considerable staff time at the state and local level has already been expended trying to interpret the law and design a health planning structure that will both meet Utah's needs and comply with the law.

One example, and only one, of unduly rigid program regulations pertaining to Title III of the Older American Act requires a "full-time" director in each Area Agency on Aging. It is our experience that a full-time planner on aging is unnecessary and ridiculous in rural areas of Utah. Again, at best an unwise, if not grossly wasteful use of money.

It is the determination of the Bear River Association of Governments that all federal legislation should have flexibility similar to that contained in Title XX of the Social Security Act. Title XX has allowed state and local governments an opportunity to tailor human service planning and programs to meet local needs. It generates interest and develops expertise at the local level. It helps strengthen local initiative and accountability. It places the decision making at a level where it must be in order to combat the trend toward perpetuating an extremely top-heavy bureaucratic structure which we feel will eventually lead to the destruction of the self-governing principles of this nation.

We expect, or at least hope, you will take into account our concerns, even to the point of investigating why it was necessary for *three* people to attend the Bear River Association of Governments' meeting held at Garden City, Utah on November 19, 1975, who they were, and who paid their way.

We appreciate very much your consideration of our concerns. Thank you.

Sincerely,

DON E. CHASE,
Chairman, Bear River Association of Governments.

ADMINISTRATION OF ERISA FOR THE BENEFIT OF AMERICAN WORKERS—II

Mr. JAVITS. Mr. President, as coauthor of the Employee Retirement Income Security Act of 1974 and as ranking minority member of the Senate Labor and Public Welfare Committee I would like to supplement my report of last Thursday on ERISA administration.

Recently the administration of the Pension Reform Act by the executive agencies has been under attack by a vocal minority of the pension community who fought pension reform from the beginning. Because the basic elements of pension reform remain so important to the vital interests of the many millions of Americans affected by the Act, the controversy regarding the "bureaucratic red tape" should not serve as a smokescreen for those who would reverse the course of pension reform.

It is crucial to remember that after a decade of hard work in Congress ERISA was drafted to impose strict standards on pension plans with respect to: First, vesting, the guaranteed right to a pension after a reasonable period of pension plan participation; second, funding, the imposition of financial standards and safeguards to insure that the pension plan is financially capable of meeting its pension obligations; third, fiduciary standards, a statutory code of ethics which mandates that trustees, administrators, and pension plan advisers owe an uncompromising loyalty to pension plan participants and retirees in the day to day business decisions they make on their behalf; fourth, reporting and disclosure, the absolute right of pension plan participants and retirees to know precisely how their plan operates, the benefits to which they are entitled, and the financial condition of their pension plan; and fifth, termination insurance, a quasi-governmental insurance program which insures pension benefits in the event of pension plan termination.

While the critics of ERISA initially charged that the administration of the act is leading to excessive costs I note that recent studies have indicated that the administrative and professional cost impact of ERISA administration has been minimal while the reform described above has been monumental. The critics of ERISA maintained that 5,000 pension plans terminated in 1975, as a direct result of ERISA. I note that the PBGC has stated that the number of terminations while initially estimated at 5,000 is in actuality closer to 4,000 either of which is less than 1 percent of the pension plans covered by the act. Moreover the PBGC has indicated that the vast majority of pension plans terminated due to the lagging economy rather than complaints about pension reform. Indeed the Labor Department has just reported that the number of companies that have terminated pension plans in the wake of the Pension Reform Act was much smaller than was initially anticipated.

With the protection of pension reform fully engraved in Federal law we must continue to work for perfection of the act's administration. However, we must work to insure that criticism directed at administration of the act is not used as a vehicle to alter substantive reform.

Mr. President, I ask unanimous consent to have printed in the Record the article I coauthored with Senator Williams that appeared in the New York Times on February 29, 1976 which addresses the arguments made by critics of pension reform along with two supporting letters from readers of the Times and a February 24, 1976, article that appeared in the Milwaukee Journal Business News concerning ERISA administration.

There being no objection, the material was ordered to be printed in the Record, as follows:

In Defense of the Pension Reform Act—Senators Javits and Williams Say the Protection Is Already Better

Note.—The following article was written by Senator Jacob K. Javits, Republican of New York, and Senator Harrison A. Williams, Jr., Democrat of New Jersey, who were co-authors of the Employment Retirement Income Security Act.

The pension reform law of 1974—formally titled the Employee Retirement Income Security Act and commonly known as ERISA ("eerissa")—established a comprehensive framework of safeguards guaranteeing the private pension rights of 35 million American workers. Now, it is under attack from a vocal minority, one which has opposed the legislation since its inception.

There have been allegations recently that pension plan terminations in 1975 were attributable to ERISA and the alleged bureaucratic logjam of executive agencies responsible for its administration. The loudest critics of the act are those consulting firms, actuaries and other members of the pension industry who fought reform in the first place, and now may think they have found a new way to undermine its credibility.

The vital interests of so many millions of Americans in this fundamental reform do not deserve a renewal of past hostilities, but an objective analysis of the performance of the law to date.

In 1973, the year prior to the enactment of the reform law, 4,130 pension plans were terminated, according to Employee Benefit Plan Review, a pension industry publication. While precise figures for 1974 are not available because of the changes in bureaucratic administration, we do know that the number of terminations in 1975 was smaller than the 5,000 that is commonly cited by the critics and was initially reported by the Pension Benefit Guaranty Corporation, the new Federal agency created by ERISA to insure private pension plans.

In fact, administrative errors inflated the number of terminations last year. Those errors included double counting, mistaken filings and other mistakes that accounted for more than 700 false terminations.

While less than 1 percent of the 600,000 pension plans affected by ERISA in 1975 were terminated, more than 33,000 applications for new pension plans were received by the Internal Revenue Service during the same period. It must be noted that the terminations of 1975 occurred during the longest and deepest of the post-war recessions.

During recent hearings held jointly by the Senate Small Business and Finance Committees to investigate the causes of terminations in 1975, Internal Revenue Service and Pension Guaranty Corporation officials testified that their studies indicate the vast number of pension terminations were caused by business mergers, the substitution and establishment of new pension plans, and the recession.

Bureaucratic burdens created by the initial administration of ERISA were not cited as an important cause.

Specifically, a recent Pension Benefit survey found that "37 percent of the terminating plans cited adverse business conditions, 18 percent showed the termination of all or a portion of the employer's operations, and 13 percent listed change of ownership. Adoption of another plan was the reason in 16 percent of all the cases." The number of terminations during 1975 is not surprising in light of preliminary statistics received verifying that the bulk of plans were very small and very new.

The major tests for ERISA in 1975 occurred when two household names—Grant's and REA Express—went out of business after more than 50 years of existence.

Late last year, 650 retirees of the bankrupt REA Express Company began to receive their monthly pension checks in the mail. The checks were not signed by REA Express but by the Pension Benefit Guaranty Corporation. Without ERISA, those retired workers would have no pension today.

While the Grant bankruptcy is being resolved in Federal court, the P.B.G.C. is going forward in processing Grant's pension plan coverage respecting its retirees.

To date, 1,700 participants are receiving a total of approximately $250,000 in monthly benefits from the corporation. In addition, more than $35 million of insurance premiums have been collected as a reserve to protect employees in terminated pension plans.

After nearly a decade of hard work in Congress, ERISA was drafted to create comprehensive standards of protection for workers with respect to vesting, funding, fiduciary standards, reporting, and disclosure and termination insurance. These key elements of pension reform were the product of spirited bipartisan Congressional support and the result of worker dissatisfaction with widespread abuses in private pension plans.

As we review the current outcry from pension reform critics, Congress must be careful not to let any controversy over regulations and administrative requirements serve as a smoke screen for those who would reverse the course of pension reform.

We are concerned that ERISA be administered and enforced efficiently and effectively by the executive branch. And we do not condone the executive department's delay in promulgating regulations and exemption procedures in order to provide pension plans with appropriate guidance and administrative relief.

But we should not conclude that criticism of administrative procedure warrants cutting back on the essential protection provided to the 35 million American workers for whom these reforms were intended.

Comments From Two Readers

The article "Backing Out of Paying Pensions" which appeared in this section on Feb. 8 elicited several responses from readers, the burden of which was that pension reform efforts have been unfairly maligned. Following are two of those letters.

Let's take a look at some of the problems often raised by articles about Employee Retirement Income Security Act.

"We can't afford to fund it now" is one common plaint. More than 5,500 private pension programs have been terminated since the passage of the act. Only 1,250 were originally anticipated. Upon closer examination, however, we find that economic conditions since Sept. 2, 1974, when ERISA became law, have been the real reason for perhaps one-half of the terminations.

Many small plans were already in deep trouble due to poor administration, ignorance of pre-ERISA rules, imprudent investment practices and a fear of additional reporting requirements of the Internal Revenue Service or the Labor Department. As a result many "sick" plans, became "terminal".

"The cost of administration is expected to go up from 50 percent to 100 percent," is another common cry. Such blanket statements are misleading and either create or feed a sense of panic. Some plans require minimal service, both pre-ERISA and post-ERISA. Reporting forms for the I.R.S. and Labor Department are in any case not going to be that much different or more detailed that they would justify doubling service charges.

A related complaint arises from the fact that the new law is administered by the two agencies, whereas before only I.R.S. was involved. Additionally, regulations to guide administrators either have not been issued or are being challenged. This is true, but it is no justification for any healthy pension plan to terminate.

So far, the men in responsible Government positions in both Labor Department and I.R.S. have shown themselves to be flexible and understanding about the administrative problems.

For the plans in trouble, there are often solutions other than termination ranging from the adjustment of details to a complete redesign of the plan. Sure, expense will be involved, but it is strictly a one-time charge. Thereafter it may involve service charges only slightly higher than in the past.

The single most costly aspect of the new law is said to involve the accelerated vesting schedule stipulated in the act. This may be true for very large, collectively bargained plans, but for the average small plan it is not all that costly.

In the last 10 pre-ERISA years, with very few exceptions, I.R.S. district offices have refused to approve newly submitted plans unless a fairly liberal vesting schedule was included in the program, As a result most small plans entered into in the recent past will not be too strained in the area of vesting.

As for reporting and disclosure requirements imposed by ERISA, admittedly new and unfamiliar forms have been and will be developed by Government agencies. As in any new system, these newly designed forms will require patience and time to become familiar with them. However, once around the reporting cycle and they will be old-hat.

Government has responded to needs of the public in a cooperative fashion. Of the close to 600,000 plans known to exist in the United States, slightly more than 90 percent involve programs with less than 100 participants. Simplified reporting has been developed in some areas for this 90 percent and probably will be developed in others.

For example, pre-ERISA reporting required annual submission to the I.R.S. of forms 4848, 4848 Schedule A (four pages), 4849 990P and 990P. Schedule A. A form 5500C is to combine in simplified form the information formerly reported on all those older forms, which are to be discontinued. To be sure, additional reporting forms may be forthcoming, but a determined effort is being made to keep them as simple as possible.

To sum up, it is time to accentuate the positive. Given a fair chance, ERISA will turn out to be a highly effective program nowhere near as expensive as early estimates predict. With full cooperation from both private and public sector, the goal of economic security in retirement will be realized by far more people.

Henry A. Spivack,
Pension Director, Bleichroeder, Bing & Company, New York City.

As one who has worked long and diligently for pension reform legislation, and who at 75 years of age finds himself the victim of much-reduced benefits due to pre-reform abuses, I feel that several factors in the pension situation are being overlooked. Consider the following:

The moral and financial deprecations flagrant in the private pension area prior to the enactment of ERISA in 1974 were so numerous that it is unrealistic to expect rectification overnight. To think otherwise is the same as believing that the racial inequalities of many generations can be eradicated overnight.

All of the affected agencies are now in the process of setting up procedures and engaging manpower in an effort to enforce the new pension law. They must be given a reasonable period of time to produce.

Furthermore, Congress is already involved in looking into weaknesses in the new law so that if, after a trial period, changes are needed they can be identified and made.

It is undoubtedly true that in some few cases the red tape and expense of enforcement make it necessary for a company to bow out of the pension situation. But, based on years of familiarity with the subject, I respectfully submit that this is just the excuse given by those who find that with the previous loopholes plugged they no longer want to continue their pension plans.

The vast majority of workers affected by the pension plan withdrawals that are occurring have in fact lost nothing tangible. Their pension plans represented false promises based on false premises in the first place.

Moriz M. Dreyfus.

Pension Cutoffs Discounted

(By Gordon L. Randolph)

The number of companies that have terminated pension plans in the wake of the pension reform act "is much smaller than we anticipated," the Labor Department official in charge of administering the department's functions under the law said in Milwaukee Monday.

While James D. Hutchinson said a report that 5,000 firms had terminated pension plans "is about right," he said "there has been a great deal of misunderstanding about so-called terminations."

His office is still analyzing the terminations, Hutchinson said, but he added that results so far showed that "well below one-third of the terminations" were related to the pension law and often the law was one of several factors involved.

Hutchinson's official title is administrator of the Office of Employe Benefits Security in the Labor-Management Services Administration.

TWO APPEARANCES HERE

He administers the Labor Department's responsibilities for pension and welfare benefit programs under the new law, officially known as the Employe Retirement Income Security Act of 1974 (ERISA).

Hutchinson was interviewed before speaking at the first of a series of courses that will be held at the Marc Plaza Hotel for Labor Department personnel throughout the U.S. who will help administer the pension law.

The program will include 11 weeks of instructions, consisting of one and two week courses. It is sponsored by the International Foundation of Employe Benefit Plans, which is headquartered in Brookfield.

Hutchinson also spoke later to members of the Wisconsin Retirement Plan Professionals and the Association of Private Pension Plans at Stouffer's Top of the Marine.

SWITCHED PLANS

A former law clerk for Chief Justice Warren E. Burger of the U.S. Supreme Court, Hutchinson was associate deputy U.S. attorney general before his Labor Department appointment.

Many of the companies which have filed termination notices, Hutchinson said, in fact failed to change from one type of pension plan to another. And many of the plans that were terminated were small, established by companies when the labor market and the economy was more favorable, he said.

Smaller firms, particularly, have complained that earlier vesting of pension rights and other requirements of the pension law would make the costs of their pension plans prohibitive.

Hutchinson said that the Labor Department had relaxed most reporting requirements, including audited financial reports to the department.

SIMPLIFIED REPORT

Firms with fewer than 100 pension plan participants are now able to use a simplified financial report form he said, without going to the expense of a detailed audit.

About 600,000 small plans, or 90% of the total, have been exempt from full filing, he said. The other 10% cover 90% of the employes under employer pension plans, he added.

Hutchinson said that before changes in the pension law are legislated, administrative regulations and revisions should be given a chance to work, at least through 1976, "the year most plans will have to come into compliance."

He said the law would have an impact on labor negotiations coming up this year.

While he acknowledged that there were some strong business protests initially about the law, Hutchinson said "things are beginning to settle down a bit."

EDUCATIONAL PROCESS

It is a joint educational process, he said. As employers come to understand the law better, he said, and see some changes can be made administratively, employers "realize we are really willing to work with them."

It takes time to sort out such a complicated scheme of regulation, Hutchinson said, especially "in situations not contemplated by Congress."

Hutchinson said that the Labor Department's main areas of responsibility were reporting to the department and disclosure to employes, and investigation and litigation in the fiduciary matters—seeing that persons administering pension plans perform their responsibilities properly.

The Internal Revenue Service has primary responsibility for enforcing minimum standards for employe participation, vesting and funding of pension plans, he said, but the Labor Department also has some responsibilities in these areas.

NOT ALL PLANS INSURED

Hutchinson said that the Pension Benefit Guaranty Corp., created to protect employes if a pension plan fails or a loss of pension in case of company mergers, covers only plans which provide what are called defined (fixed amount) benefits that are determined by various formulas.

The corporation does not protect employes covered by defined contribution plans, such as profit sharing, which do not provide a fixed benefit for employes. Employes often contribute to such plans, as well as employers.

It has been anticipated that defined contribution plans will become more popular among corporations.

Hutchinson said that the insurance corporation initially guaranteed pension payments up to a maximum of $750 a month but with a cost of living adjustment the figure is now about $800.

RECENT EVENTS REVEAL NEED FOR MORATORIUM ON NEW NUCLEAR CONSTRUCTION

Mr. GRAVEL. Mr. President, last Thursday morning I had the pleasure of joining Representative Hamilton Fish of New York in testifying before the Subcommittee on Energy and Environment of the House Interior Committee.

The subcommittee is continuing its year-long inquiry into the problems of nuclear power, and I believe these hearings will prove more valid than ever as the Nation's nuclear debate intensifies.

I ask unanimous consent that my testimony and that of Representative Fish, with attachments, be printed at this point in the Record.

There being no objection, the Material was ordered to be printed in the Record, as follows:

[Senator Mike Gravel, Testimony, February 26, 1976]

Nuclear Power: Still No Answers To Old Questions

Thank you, Mr. Chairman, for the opportunity to testify. National concern over the desirability of nuclear power has become increasingly intense since this committee began investigating the subject a year ago. These hearings are more than ever timely, as Congress considers the future of nuclear power and the nature of the environmental, social and genetic risks of atomic energy.

I would like to describe very briefly for the committee my own reaction to recently-publicized questions about our nuclear program—and my belief that a five-year moratorium on the construction of reactors is the best action Congress can take in the face of these questions.

Two problems of nuclear power have been especially prominent in the news since the first of this year.

One is the unbreakable relationship between peaceful nuclear power and the proliferation of nuclear weapons materials. This problem is so severe that David Lilienthal, first Chairman of the Atomic Energy Commission, told the Senate Government Operations Committee that nuclear exports should be stopped altogether until effective safeguards are agreed upon.

The other problem is the long-debated subject of reactor safety. Three nuclear engineers resigned from General Electric this month, saying that despite assurances to the contrary, power reactors are not safe enough. And a fourth engineer left the Nuclear Regulatory Commission, saying one reactor that is sited within 25 miles of New York City is "an accident waiting to happen."

The engineers have also described other concerns:

The long-term genetic effects of radiation;

The storage of high-level radioactive wastes;

The economic viability of nuclear power generation and of nuclear fuel reprocessing;

The size of the nation's uranium reserves;

The possibility of nuclear terrorism, and the effects of extensive plutonium safeguards on our traditional civil liberties.

The salient fact about these problems is that they are *not* new. They have been well-known for ten years and longer within the nuclear industry and the government agencies concerned with atomic energy. But despite this, and despite the years of effort that have been spent addressing these problems, they are still with us.

I myself believe this is evidence that the problems simply cannot be solved, and I ask the committee to consider whether this may not indeed be the case. I am not disparaging the technical ingenuity of our scientists. What I am saying is that, however nearly-perfect a scientist's design may be, his machine must operate not in what Dr. Hannes Alfven has called a "technological paradise," but rather in the real world of human error and malice—and in the case of nuclear power, the consequence of error could be beyond anything in peace-time history. So that even if we could answer "Yes" to the question "Is nuclear power safe enough for man?" I believe we must answer "No" when we ask "Is man safe enough for nuclear power?"

In the matter of weapons proliferation, for example, it is now reported that the safeguards required by nuclear exporters will be strengthened. But as repeated testimony indicated at the Government Operations Committee hearings last month, it is only the lack of weapons grade material, not written assurances or plutonium accounting, which can assure that a nation will not build nuclear weapons. And if we consider the failure of our own nation in trying to extricate itself from the apparent "need" for nuclear weapons, how can we conclude that other nations—possessing weapons materials and perceiving national threats—will refrain year after year from building a nuclear arsenal?

Even if my estimate of the human factor seems too negative, I think the recent developments in the nuclear power controversy point unmistakably to the fact that our nuclear power program has grown lopsided. Reactor construction has gone too far too fast, while the great supporting network of social and environmental safeguards has lagged dangerously. The General Electric engineers have cited some two dozen design deficiencies in current reactors—their analysis is reprinted in yesterday's Congressional Record. These deficiencies have occurred because reactors are being constructed too rapidly. The modifications needed in new reactors cannot be made, because there has not been time to observe the deficiencies in previous reactors. Perhaps the most alarming instance they cite is in cable spreading rooms. The fire at the Brown's Ferry reactor was a near disaster because so much of the reactor's control could be knocked out in a single place, due to poor cable routing. But cable routing in most U.S. reactors, according to the engineers, is similar to Brown's Ferry—or worse.

Another well-known evidence that our nuclear program is out of balance is the failure to close the so-called nuclear fuel cycle. The economics of fuel reprocessing now appear dubious. And despite years of effort, no final waste disposal site has been found or method of disposal decided upon.

Recent events and recently-publicized questions about nuclear safety, therefore, call into question the ability of man to safely use nuclear energy—and they show that our nuclear program is out of balance.

I believe the appropriate response of Congress to these facts is a five-year moratorium on the construction of new reactors. During this period, we may seek to restore the balance that is needed in our nuclear program; we can better calculate the need for fission power and the potential of alternative energy sources; and a better-informed Congress can debate the wisdom of bringing into our imperfect world unimaginable quantities of radioactive poisons and nuclear explosives.

REMARKS BY THE HONORABLE HAMILTON FISH, JR. BEFORE SUBCOMMITTEE ON ENERGY AND ENVIRONMENT, HOUSE INTERIOR COMMITTEE, THURSDAY, FEBRUARY 26, 1976

Mr. Chairman, I am grateful for the opportunity to be able to express today my deep concern over this nation's cilivilan nuclear power program.

Nuclear power involves literally dozens of health, environmental, social, economic, moral and national security problems—any *one* of which is sufficiently serious, in my opinion, to justify a halt in construction and operation of such facilities. The two areas I wish to address specifically today involve the threat nuclear power poses to our national security and well-being due to sabotage and terrorism, and the role of human error in a possible nuclear accident.

The terrorism/sabotage threat—Mr. Chairman, almost daily we are remined that there are groups and individuals in the world that are ready, willing, and able to engage in the most horrendous activities in pursuit of their goals, whether those goals be right, wrong, trivial, cr even non-existent. The recent bombing at LaGuardia Airport, involving totally innocent members of the general public, is but one recent example of such terror.

The production of plutonium through nuclear power introduces a new age of *atomic* terrorism. It is estimated that 100,000 pounds may be in commercial circulation by 1985. Only 20 pounds or perhaps less is needed to produce an atomic bomb. Nuclear advocates admit that the production of plutonium poses the risk that some will be diverted for non-peaceful purposes. They respond by saying "We're taking extra precautions to prevent that. Besides, we don't live in a riskless society."

Unfortunately, those "extra precautions" to prevent theft of just one five thousandth (0.002%) of this plutonium, year in and year out, represent a staggering and clearly unattainable security problem that could seriously compromise the civil liberties we as Americans deserve to enjoy, and *still* fail to prevent atomic terror. Richard Hubbard, one of the three nuclear engineers who quit General Electric in protest of nuclear power recently, said in his letter of resignation: "The power of the atom will be available to any tyrant or dissident group."

I agree with the nuclear advocates when they say that we don't live in a risk-free world. But I consider it the height of foolishness and irresponsibility to deliberately and needlessly increase the level of risk by several orders of magnitude.

On the basis of plutonium production alone, we should call a halt to the nuclear power program.

I will now briefly turn to the problem of direct sabotage of our nuclear facilities. By occupying and threatening to induce a massive release of radioactive poison from one of our nuclear power plants, each of which produce annually the radioactive equivalent of about 1,000 Hiroshima weapons, a group could hold millions of people hostage for virtually any demand they may conjure up. Even if their demands, no matter how outrageous, are granted, such a group might still carry out their threat through accident, panic or sheer malice. A recent report to the Nuclear Regulatory Commission (The Threat to Licensed Nuclear Facilities—Mitre 7022) by a prestigious group of terrorism experts, including six former FBI officials, states: "Even small groups today might acquire the potential to inflict massive destruction through the use of nuclear bombs or through the sabotage of nuclear facilities. Acting alone, or in concert with foreign groups, they could wreak havoc."

I would like to note here that such an individual or group need not be from the "outside." Employees of nuclear utilities have special opportunities to commit nuclear sabotage, for a variety of goals. Worker sabotage created havoc for General Motors when disgruntled workers purposely built defects in Vega automobiles. While such activity in most industries may be expensive and inconvenient, it is downright dangerous in the nuclear industry.

This issue is of particular interest to me since the Indian Point #2 plant in my district was the first in the nation to be subjected to serious sabotage when a disgruntled employee set fire to the plant, causing $7 million in damages and severely compromising the safety of the plant because short cuts were taken in repairing the damaged electrical cables.

There is no doubt that nuclear power plants will become increasingly attractive targets for sabotage. What other industrial plant offers saboteurs such a huge threat to our population? As Gregory Minor, another of the General Electric engineers who resigned said in his letter of resignation: "We cannot prevent . . . acts of sabotage." It doesn't make any sense at all for our country to spend billions upon billions of dollars to prevent a nuclear attack, while we foster an industry which offers saboteurs the capability to kill and injure millions of persons.

The role of human error—Mr. Chairman, all 3 of the engineers who resigned from General Electric have stressed the role that human error plays in the nuclear industry. Despite its relative infancy, the nuclear industry has already suffered the consequences of human error. The most startling example is, of course, the Brown's Ferry fire which the Committee has heard much about. The accident is well-chronicled in an article by William Lanouette in the *National Observer* for the week ending August 23, 1975 entitled "Frightful Log of a Nuclear Near-Miss." A copy is attached to this statement and I respectfully request that the article be printed in the hearing record at this point.

I have also attached "Common Sense about Nuclear Electricity", a brief flyer, which I respectfully request be reprinted at the end of my remarks, by the Committee for Nuclear Responsibility (Box 332, Yachats, Oregon 97498). The flyer, while rather amusing, is a very serious warning about the role human error plays in all our activities, including nuclear power. I hope every Member of this Committee will take a few minutes to read this flyer and carefully consider the issues it raises. I think you will agree with me that we simply must acknowledge that human beings are imperfect, and will certainly make mistakes—no matter how hard we try to train reactor operators and the thousands of other personnel throughout the nuclear fuel cycle. Such errors could result in disastrous nuclear accidents and permanent contamination of our planet with radioactive garbage—indefinitely. And as we increase our exports of nuclear reactors to foreign countries, we increase the chances of this contamination occurring. In fact, Bob Pollard, the project manager at Indian Point, who has recently resigned, stated on the program Sixty Minutes: "In my opinion, it will

be just a matter of luck if Indian Point doesn't sometime during its life have a major accident."

On the basis of human error, we should call a halt to the nuclear power program.

An issue that can be won and finished—Mr. Chairman, I believe that nuclear power expansion poses a tremendous threat to mankind. Fortunately, thanks to the growing citizen uprising against nuclear power and the awareness generated by the sacrifice of promising careers by G. E. engineers, Dale Bridenbaugh, Richard Hubbard, and Gregory Minor and by Robert Pollard of the NRC, I believe we are going to see a re-evaluation of nuclear power in this nation and abroad. I am determined to do my best to help this process, and in turn substitute a responsible policy of energy conservation, reasonable fossil fuel development, and prompt introduction of solar energy, our only truly clean and inexhaustible source of power.

I urge my colleagues on the Committee to examine and cosponsor the Nuclear Energy Reappraisal Act which now has 33 House sponsors. This bill is a very reasonable approach to the problem; allowing plants presently operating or under construction to continue, but prohibiting construction of new ones until the problems are assessed and resolved to the satisfaction of Congress. I believe this legislation is the *only* legislation pending in the Congress that begins to adequately deal with the nuclear problems we face.

Again, I want to thank the Committee for granting Senator Gravel and myself the opportunity to be here today. These hearings represent an admirable effort to gather vital information and views.

[From the National Observer, Aug. 23, 1975]

Frightful Log of a Nuclear Near-Miss—Candle Starts a Fire, Shake Faith in Safety Systems at Powerplants

(By William J. Lanouette)

It began with a candle, which accidentally lit some flammable insulation, burned some cables, and nearly caused one of the most serious nuclear-power plant accidents possible—a "meltdown" of the heat-producing, radioactive core.

From the Browns Ferry Nuclear Plant near Athens, Ala., where the seven-hour blaze began, warnings and misinformation fanned through the emergency network of the Tennessee Valley Authority (TVA), the plant's owner, to state and Federal officials in nearby cities. One official recalls reports that the plant's reactors were "wiped out" and that the only way to keep the radioactive fuel from melting was "to bring in river water and circulate it to and from ditches for cooling."

That's history now, although the March 22 fire sparked a controversy about the safety and reliability of nuclear power that is sure to smolder for years. And while some public officials and nuclear-industry executives were angered with the spread of misinformation about the accident, they are equally disturbed about coming so uncomfortably close to serious trouble.

THE OTHER CLOSE CALL

How close? A spokesman for the Nuclear Regulatory Commission (NRC) now considers the March fire at Browns Ferry to be of the two most serious accidents in the U.S. nuclear-power industry's 18-year history. The other close call was a partial core melt-down at the Fermi fast-breeder reactor near Detroit in 1966. But in many ways the shadow cast by the candle at Browns Ferry may be darker. For that fire has raised new questions about the reliability of the safety systems that protect the nation's 53 nuclear-power plants.

In the hours and days after the accident, the Browns Ferry fire was reported as just that—a fire. No members of the public received abnormally high radiation doses, the NRC reported. No plant employes were seriously injured, the TVA said. And it appeared for a while last spring that the most serious public impact of the $50 million accident fell on TVA's customers. The utility must spend an extra $10 million a month to buy the 2 million kilowatts of electricity that the Browns Ferry units can't produce.

Now the NRC has released a 463-page report on the fire, based on a four-month investigation, and its details reveal just how close the Browns Ferry reactors were to bring "wiped out" and how they were saved from core meltdown. What follows is an account of the fire based on the NRC's report and augmented by Observer interviews with NRC inspector and administrators, TVA officials, nuclear engineers, representatives of the General Electric Co. (the plant's designer), and spokesmen for groups that favor and oppose the spread of nuclear power.

MAINTAINING A VACUUM

To prevent escape of radioactive air around a reactor's core, nuclear-power plants use a vacuum to maintain a "negative pressure" in the buildings that surround the core. Then, if a radiation leak develops, air would rush in to those buildings, not out.

Whenever wires, pipes, and cables pass through the concrete walls of the reactor building, the space around them must be sealed to prevent air from constantly rushing in. At many nuclear plants, including Browns Ferry, the wires and cables that monitor and control the reactor go through the reactor building's walls, into the adjacent cable-spreading room, and then to the control room one floor above.

On March 22, several plant workers were in the cable-spreading room testing the polyurethane foam used as seals around cables that pass through the walls of the unit-one reactor.

A common method to find air leaks at the Browns Ferry plant was to hold a lighted candle up to the wall openings, then watch to see if rushing air moved its flame. It was 12:20 p.m. when, as one engineering aide remembers:

HORIZONTAL FLAME

"We found a 2-by-4-inch opening . . . with three or four cables going through it. The candle flame was pulled out horizontal, showing a strong draft. [An electrician] tore off two pieces of foam sheet for packing into the hole, but he could not reach the opening. I inserted them as far as I could into the hole. . . . I rechecked the hole with the candle. The draft sucked the flame into the hole and ignited the foam, which started to smolder and glow.

[The electrician] handed me his flashlight, with which I tried to knock out the fire. This did not work and then I tried to smother the fire with rags. Someone passed me a CO2 [carbon dioxide] extinguisher . . . which blew right through the hole without putting out the fire, which had gotten back into the wall. Then I used a dry-chemical extinguisher, and then another, neither of which put out the fire. . . In the past, on three or four occasions, I have had fires started by the candle . . . which [were] readily extinguished."

Another electrician ran out to a guard post nearby and returned with a fire extinguisher. This alerted the guard to report the fire by telephone. But he dialed the wrong number. The person who answered in turn dialed the control room, warning the unit-one operator about the fire. In the control room, an assistant shift engineer flipped on the fire alarm. It was 12:34 p.m.

REINFORCEMENTS

The assistant shift engineer then grabbed a dry-chemical fire extinguisher and ran into the reactor building. Flames were shooting along the cables through the air leak.

Recalling that fires had been set by the use of candles before, another engineering aide said later, "The flames were always easy for me to extinguish with my gloved hand." At least two other employes interviewed by the NRC also recalled setting fires with candles, but these were always contained by using gloves, extinguishers, or bare hands.

A candle fire two days earlier had been noted in the plant's operating logs, and some supervisors said later they were concerned about continuing this method of testing for leaks. It appears that concern hadn't reached senior administrators, however, for as one assistant superintendent told NRC investigators, "I do not know of any requirement to make written reports of small fires."

At about 12:40 p.m. the spreading-room fire began affecting the plant's operations. Unit two's operator lost power in half the systems used to shut down the reactor. But he managed to control his unit.

"CONDITIONS UNSTABLE"

Unit one was another story. Just after 12:40 p.m. the control-panel instruments indicated that the two pumping systems of the unit's emergency core cooling system had begun to run automatically. "I checked, but the pumps were not running," the operator said. He called for help at the control panel because, he said, "conditions were unstable."

Alarms signaled that two more unit-one pumps were running, yet the operator's panels didn't show it. The unit-one operator remembers that "the lights on the [cooling-system] panel . . . began getting bright and then getting dim. These were more unknown conditions." Smoke began drifting up from behind the cooling-system panel. "Numerous alarms occurred on all control panels and the unit [was] in unstable swing," according to the operator's log.

At 12:51 p.m. the operator said, "Let's scram the unit." A "scram" is the sudden shutdown of a nuclear reactor. "Safety rods" are inserted between the radioactive fuel elements to interrupt the heat-producing process of nuclear fission. A scram is not enough to prevent the radioactive core from melting, however, because the radioactive fuel still generates much "decay heat."

The core must constantly be cooled by circulating water.

If the fuel had melted from its own heat—"a meltdown"—it could have destroyed the building that contained it, released plumes of radioactive clouds and steam, and endangered people for miles around.

CONFIRMING A "SCRAM"

Just as the unit-one operator confirmed that the scram had occurred, he lost his ability to monitor the core's radiation and heat.

Then pressure began building rapidly within the steel chamber that surrounds the core. Water must be continuously pumped into this chamber to replace what is boiled away as steam by the core's heat. Electrical failures had limited the operator's choices to two pumping systems, then to one as 7 of the 11 relief valves used to lower pressures were also lost.

At 12:59 p.m. the water level in the chamber began to drop. Normally the radioactive core is covered by more than 16 feet of water, but in the next half hour this level fell to less than 4 feet above the top of the fuel, which always must be covered by water. "At this time I knew the reactor water level could not be maintained, and I was concerned about uncovering the core," the operator said later.

At 1:35 p.m. an assistant operations supervisor recalls, the control room "was full of smoke and the operators were wearing Scott Air Paks." Adds an assistant shift engineer: "I saw people forcing rags in holes under the electrical operator's desk. CO2 was coming through them."

Meanwhile, the first continued to run along the cable trays, in the cable-spreading room, and further into the reactor building. In the cable-spreading room, the plant's fire fighters couldn't turn on an overhead CO2 spray system because metal construction plates, in which the system had been shipped to the plant, could not be removed without a screwdriver. "A wheeled dry-chemical cart had been brought . . . [in] but its nozzle was broken off . . .," an assistant shift engineer recalls.

"I hit my mask against something and got a leak," he continued. "I got quite a bit of smoke and passed out. . . . I remember reviving on top of a table in the lunchroom. I didn't know how I got there. I rested a bit and, since the first-aid room was locked . . . went back to the control room."

AIR PACKS FAIL

"The whole fire-fighting effort was hindered due to the lack of air," a reactor operator said later. Many of the air packs were designed to provide 30 minutes of breathing, but because of the recharging equipment was broken, the refills diminished as the afternoon wore on. Some men were forced to use 10-minute air supplies.

Just after 1 p.m. the Athens Fire Department was called. The department's chief said later that he recommended putting water on the fire in the cable-spreading room, but the plant's superintendent, who was in control, objected because he didn't want water used on electrical wires. The chief said it was not an electrical fire. "Throughout the afternoon I continued to recommend use of water," the chief said.

When the plant superintendent agreed, there were still problems. Firefighters didn't pull a water hose completely from its rack, restricting water pressure for several minutes. With the nozzle on the plant's hose, water couldn't reach to all the burning trays, but when Athens firemen tried a substitute nozzle they found that the thread didn't match. Nevertheless, once the use of water was authorized, the fire was extinguished in 20 minutes—at about 7:45 p.m.

Throughout the afternoon's firefighting efforts several more problems arose. At 1:57 p.m. the control room lost its phones and public-address system to the rest of the plant, making it difficult for supervisors to dispatch men to manually open and close various valves. At times as many as 75 people were in the 40-by-100-foot control room, an eyewitness remembers.

A computer needed to monitor events during the accident ran out of tape. Electrical fuses blew. Attempts to record all telephone calls in and out of the plant failed because of faulty recording equipment. Some valves that had been opened manually had to be wired to prevent closing.

With widespread electrical failures throughout the plant it also became impossible to monitor automatically for possible releases of radioactivity to the atmosphere. Some air samples were taken at a meteorological tower near the plant beginning at 5:14 p.m., but at 6:05 p.m. the tower was abandoned as smoke headed toward the tower.

Other samples showed that radiation levels were within NRC limits.

At 5:45 p.m. TVA's health-laboratory director reported that environmental air sampling for possible radiation had started in Athens, 10 miles northeast of the plant; in Hillsboro, 10 miles southwest; and in Rogersville, 25 miles northwest. "The sampler at Decatur, Ala., [20 miles southeast] was thought to be inoperable," the NRC staff reported, and ". . . at 7:50 p.m. there was no air sampler available at Decatur," a city of 40,000 directly downwind from the plant.

No radiological samplers were available at Decatur that evening, the NRC notes although an air-pollution sampler was set up there at 9 p.m. At 8:37 p.m. the aircraft-warning lights on the plant's 600-foot stack went out.

DELAYS IN REPORTING

NRC investigators also discovered some serious gaps in the response of public-safety officials. Limestone County's (Athens) sheriff heard about the fire after it was out, and said he would rely on the county's civil-defense coordinator for information about possible public evacuations. The county's civil-defense co-ordinator said he heard about the fire two days later, and thinks the plant's emergency plan needs updating and revision.

And the sheriff of Morgan County (Decatur) said he heard about the fire that afternoon, but "I was asked to keep quiet about the incident to avoid panic. . . ."

How close was unit one to a meltdown? Opinions vary. "It gets awfully fuzzy to play 'what-if' on this," says Norman Moseley, director of the NRC's Atlanta regional office. "There are just too many variables." A TVA spokesman says, with a nervous chuckle, that "all that would have had to occur is to lose all cooling water." But, he insists, unit one always had at least one high-pressure and one low-pressure cooling pump working. Adds a spokesman for General Electric, the plant's designer: "We really weren't very close, but I'd just as soon not be that close again."

COMMON SENSE ABOUT NUCLEAR ELECTRICITY

Its time to listen to your own common sense when you hear the claims that nuclear electric power will be "clean" and "safe", or that the odds on a catastrophic nuclear-power accidents are "one-in-a-billion".

In order to keep the promise of safety when nuclear plants will be producing as much radioactivity as *a million Hiroshima atomic explosions every year,* the nuclear industry will have to contain its radioactive poisons with *better than 99% success.* Total poisoning of the planet is a certainty if just 1% of the long-term radioactivity escapes into the environment. There is no disagreement over that.

No one denies the *requirement* for perfect performance in the nuclear power industry. The argument is over the likelihood of *meeting* the requirement and *keeping* the promises.

1. How many industries come *close* to 99% perfection in performance?

2. What about mistakes and carelessness *already* occurring in the civilian nuclear program?

3. What about the performance record with nuclear *submarines?* (Please see inside page.)

4. Why won't the insurance industry underwrite nuclear plants if they are as safe as they are claimed to be?.

MANY MISTAKES ALREADY . . .

"Review of the operating history associated with 30 operating nuclear reactors indicated that during the period 1/1/72 to 5/30/73 approximately 850 abnormal occurrences were reported to the Atomic Energy Commission (AEC). Many of the occurrences were significant and of a generic nature requiring follow-up investigations at other plants. Forty percent of the occurrences were traceable to some extent to design and/or fabrication-related deficiencies. The remaining incidents were caused by operator error, improper maintenance, inadequate erection control, administrative deficiencies, random failure and combination thereof . . .

"The large number of reactor incidents, coupled with the fact that many of them had real safety significance, were generic in nature, and were not identified during the normal design, fabrication, erection, and preoperational testing phases, raises a serious question regarding the current review and inspection practices both on the part of the nuclear industry and the AEC." (Source: *AEC Task Force Report: Study of Reactor Licensing Process,* by AEC Asst. Director of Regulation, L. V. Gossick and 7 additional AEC experts, the *October* 1973 version; see also *Study of Quality Verification,* AEC, Jan. 1974, p15–17)

In 1974 1,421 abnormal occurrences were reported, up from 861 in 1973. The Atomic Energy Commission was dissolved in January, 1975, its credibilty destroyed through years of misleading the public. In its place two agencies, mostly staffed by AEC veterans, were created: the Energy Research and Development Administration and the Nuclear Regulatory Commission.

[Washington Post, August 27, 1973]

A SHORT AMAZING STORY

The *Guinness Book of World Records* lists park ranger Roy Sullivan as the "only living man to be struck by lightning four times". On August 7, 1973, he stepped out of his truck and was zapped for the *fifth* time; he suffered second-degree burns.

"The bolt struck me right on the head, set my hair on fire, traveled down my left arm and leg, knocking off my shoe but not untying the lace," he explained to the Associated Press in Waynesboro, Virginia.

Sullivan was first hit in 1942, when a bolt clipped off a toenail. In 1969, lightning burned off his eyebrows and knocked him unconscious. In 1970, lighting struck and burned his shoulders. In 1972, another bolt burned off his hair.

NUCLEAR SUBMARINES

The captains of our nuclear submarines are key-pins in our policy of deterring nuclear war, and surely they are more alert than the average man-in-the-street. You would expect them to know when a freighter is right on top of them. Nevertheless, on Oct. 6, 1972, one of our nuclear submarines—the USS Tullibee—collided with the West German merchant ship Hagen 150 miles off the coast of North Carolina. "First reports indicate the collision involved a glancing blow on the upper part of the submarine bow with no internal damage. At that time, the Tullibee apparently was operating just below the surface. . . ." (Release issued in Norfolk, Virginia, by the Commander in Chief, Atlantic.)

Nuclear submarines, which are supposed to survive the problems of wartime attack, are not supposed to sink under peacetime conditions. However, in 1963, the USS Thresher vanished and was found at the bottom of the sea. The causes: faulty pipe joints and an inadequate deballasting system, according to the Navy. In 1968, the USS Scorpion also went down forever. And imagine the Navy's dismay when a nuclear submarine sank at *dockside* in May 1969. Fortunately, the nuclear power plant had not yet been installed in the USS Guittaro when it suddenly flooded and sank at the Mare Island Shipyard in California. The odds?

As for the submarine *missiles,* in August 1973, Rear Admiral Levering Smith acknowledged that 58% of the Poseidon missiles on nuclear submarines had failed their operational tests, and that "essentially all of the missiles" would have to be recalled.

Nuclear submarines have even sent false alarms about attack. On Jan. 16, 1974, the United Press carried this story: "Emergency transmitters on Polaris submarines mistakenly signaled they had been 'sunk by enemy action' on two occasions in 1971, and raised the threat of accidental nuclear war, Rep. Les Aspin (D-Wis.) said yesterday. The signals set off general military alerts until the subs themselves surfaced and advised by regular radio signals that the buoy-borne emergency transmitters had malfunctioned, Aspin said. . . . The Navy confirmed that the two incidents took place. . . . Spokesmen declined direct comment, however, on whether alerts resulted."

The accident record in the nuclear submarine program is a real-life warning about what we must expect in the civilian nuclear power program. When 2 out of 125 operating nuclear submarines have completely failed to perform (just stay afloat) during peacetime, what are the odds that *no* civilian nuclear power plant will *ever* experience a disastrous failure to contain its radioactivity?

The answer: As of June 1, 1975, there were 53 nuclear reactor plants licensed to operate (far fewer were actually *in* operation), 68 more under construction, and 128 on order (planned). The industry hopes to have 280 licensed for operation by 1985, and 1,000 by the year 2000 (an average of twenty to a state). *If* we permit a thousand plants to operate, and *if* the probability of a major accident were *really* one-in-a-million per reactor per year, then the probability of a major accident during the 40-year lifespan of the plants would be about one-chance-in-25.

As for the one-chance-in-a-billion claim, it is important to notice *who else* disbelieves it. The greatest experts of all on risk—the insurance industry! With odds as good as a billion-to-one, insurance companies would hustle to sell as much nuclear insurance as they possibly could. Instead, they refuse to sell you insurance against "safe" nuclear power, and they carefully insert a nuclear "exclusion clause" into your home, auto, and other property insurance policies.

Short Amazing Stories

1. Not very likely: What are the odds that, in an 8-vehicle collision on Los Angeles' Golden State Freeway, *four* of the vehicles will be fuel trucks? It happened, on January 8, 1974 . . . and in the middle of a fuel shortage.

2. Then there were two: "With what one observer called a 'tremendous cracking sound', a 9-month-old, $12 million tanker operated by the Ingram Corp. split down the middle and sank in Port Jefferson Harbor on New York's Long Island. The 620-foot ship, which had cruised unscathed through two hurricanes, had already unloaded its cargo of 6 million gallons of gasoline and fuel oil, and authorities suggested that the tanker might have been under unusual stress amidships from improper ballasting." (*Newsweek*, 1/24/72) The odds? Human error somewhere?

3. Designed to produce a better product: After several months of investigation and 300 controlled tests, the Campbell Soup Co. discovered how lethal bacteria got into some chicken vegetable soup in the summer of 1971. On Nov. 20, 1971, Campbell's president, W. B. Murphy, announced that the botulism occurred by "several unusual conditions happening simultaneously—above average viscosity of the can contents, over-fill of the can, and incomplete hydration of the dry ingredients, coupled with a new process designed to produce a better product."

Said Dr. Willis Irvin, USDA inspector at the Campbell plant, "We have our men spread pretty thin. . . . It's a very large and complex plant, but I doubt if having another inspector would have prevented this. . . . It was a combination of very obscure things that no human being would have picked up." (*Washington Evening Star*, 11/20/71)

4. Could never happen to us: Remember the hapless bank clerk in Idaho who inadvertently shredded 8,000 *un*processed checks worth an estimated $850,000? The bank president appeared on national news saying, "We never dreamed it could happen to us," while a team of clerks were seen in the background trying to fit the right pieces back together with scotch tape. (From the CBS evening news, 7/21/71)

5. This is an emergency action: If there is one system whose credibility must be protected at all cost, it is the Army's system to warn the nation of a military emergency. Nevertheless, in February 1971, the Army's National Warning Center sent out this fully authenticated national emergency alert instead of the routine test message: Message authenticator, hatefulness-hatefulness. This is an emergency action notification directed by the President. Normal broadcasting will cease immediately. Scores of radio and TV stations broadcast the emergency.

It took the Associated Press and United Press International only 10 minutes to find out the alert was a dud, but it took the Army 37 minutes to cancel it. The first cancellation message had no authenticator—the necessary code word. The second cancellation message had the *wrong* authenticator. On the third try, the Army got the right code word: IMPISH-IMPISH, and officially called off the national "emergency", which was nothing more than one human who had the wrong pre-punched teletype tape.

6. Tender loving care: Although thousands of Americans, from people soldering circuits to computer programmers, felt personally responsible for the safety and success of the Apollo astronauts, two out of seventeen Apollo missions failed not from outer-space surprises, but from simple human errors (1967, 1970).

7. Wide open spaces: Although pilots try harder than anything not to run into other airplanes, two airliners traveling in the same direction collided in the mid-morning skies over the Grand Canyon July 1956. The odds? Pilots also try to avoid well-known buildings. On an August morning in 1945, a bomber flying *under* a 900-ft. ceiling, flew smack into the Empire State Building.

8. A perfect record . . . until: Leon Moisseiff, the famous engineer who designed and built the Manhattan, Triborough, and George Washington bridges, also built a giant suspension bridge across the Tacoma Narrows. The bridge collapsed 4 months after completion. "Moisseiff said only that the bridge failed because engineers do not yet know enough about aerodynamics." (*Time* magazine, 11/18/40)

9. The molasses tidal wave: In all of human history, there may have been one killer tidal-wave made of molasses. On Jan. 15, 1919, an "incredible" 15-foot wave of molasses killed 21 people and demolished a two-block area of Boston immediately after the rivets began popping from a tank holding 2.2 million gallons of the sticky goo. Damage was $2 million. (*Boston Evening Globe*, 8/12/71) Even the AEC might have said, when the 21 victims were born, that the odds were EXCEEDINGLY REMOTE that they would die in a molasses tidal-wave. But that is how they died. Many more died in 1912 when, in defiance of all mathematical probabilities, the "unsinkable" Titanic sank on her maiden voyage.

One-Chance-in-a-Billion

Several stories inside this flyer show that statistically "impossible" events happen frequently, and that extremely complex systems like moon rockets (or nuclear power plants) can be destroyed by something as common as faulty wiring or valves, a bad welding job, or a person simply doing the wrong thing. Hardly had the AEC published its one-in-a-billion odds on a bad accident, per plant year, when a nuclear plant suffered a nearly catastrophic "impossible" accident. In March 1975 at the Browns Ferry plant in Alabama, workers who were testing air flows *with a candle* ended up setting fire to the cable room under the control room. Operators in the control room received false signals, or none at all, from two giant nuclear reactors. In addition, simple emergency equipment like valves, pumps, diesels, failed to operate. For hours, the plant was visiting the brink of disaster. One chance in a billion?

SUCH FIGURES HAVE NO MEANING

The first reason is the difficulty of predicting either the frequency or the consequences of human errors or malice; either could instantly reduce the catastrophe-odds from one-in-a-billion to near certainty. The Brown's Ferry fire would be so unlikely as to be considered impossible by the AEC studies.

Estimates about the small chance of a nuclear disaster depend on the reckless and groundless assumption that the operators of nuclear plants will make no serious errors during emergencies. They also must assume that no hostile criminal or terrorist activity will ever be aimed at nuclear installations.

The second reason is the lack of experience with operating nuclear hardware. Most of the plants now being built or planned are in the 1000 MWe range and over; the industry has fewer than 10 reactor-years of experience with plants on this scale—reliability estimates on this hardware can be nothing more than conjecture. Furthermore, for four years in a row, the AEC was forced to scold and to levy wrist-slap fines on nuclear equipment firms, engineering firms, and utilities for unacceptably sloppy quality-control. Today this is the responsibility of the NRC: in May, 1975, it fined Virginia Electric Power Company $60,000 for lying to the AEC regarding a geological fault underlying a nuclear plant complex; Commonwealth Edison of Chicago, which operates seven reactors, committed 311 violations of the AEC and NRC regulations from January 1974 to April 1975.

The third reason is the unjustifiable assumption that nuclear safety systems (some of them never tested) have been properly designed. This assumption denies all the recent nuclear "surprises" which show that nuclear engineers are failing to foresee all the design problems. If the design of a safety system is defective, even perfectly working hardware will fail to contain an emergency.

The fourth reason is the flaw of assuming that all possible paths leading to a catastrophe have been recognized and considered. In October, 1973, L. Manning Muntzing, then the AEC's Director of Regulation, told the Joint Committee on Atomic Energy.: "I'm really concerned with some of the surprises we see". How many unsuspected paths to catastrophe are still waiting to be discovered?

HUMAN ERROR

Reactor Operating Experiences in the journal "Nuclear Safety" show over and over that a human decision is required on a number of occasions.

When there are enough reactors operating, the total number of occasions requiring a human judgment will increase appreciably.

Let's play with some numbers which I think grossly minimize the danger to be faced.

Suppose you have 500 nuclear power reactors in operation. Let's further suppose that a serious human decision is required once in ten years for each reactor; a study of the literature might show that the frequency is far greater. This means 50 serious decisions requiring human judgment per year.

Suppose further that the judgments are 98 percent right and 2 percent wrong, which is a very optimistic estimate.

This finally gives us one reactor per year suffering the consequences of wrong judgment on a serious matter. Clearly if the judgmental error results in a nuclear meltdown, that's a disastrous event. Even less than melt-down accidents could be very, very serious.

The requirement for a human judgment is a source of immense weakness in nuclear safety. Even if all other safety problems could be solved, the human factor all by itself means that nuclear power makes no sense.

JOHN W. GOFMAN, Ph.D., M.D.

SOME NUCLEAR "SURPRISES"

Discovery in 1972 that nuclear engineering firms have built the Prairie Island and Kewaunee plants with steam lines running underneath the control rooms, where a rupture of a line could destroy the controls and kill the nuclear plant operators; extensive modifications will be required in about six plants.

Unexpected densification of nuclear fuel, one of the most tested elements of the whole nuclear power system; this discovery forced the AEC to cut back permissible power levels by 5 to 25 percent at 10 nuclear power plants on August 24, 1973.

Failure of the vital emergency core cooling system to provide AEC experts with assurance of effective performance; the system, which has never had a large-scale test, failed six out of six miniscale tests in late 1970.

As of Fall 1975, the emergency cooling system has never had a successful large-scale test.

Discovery in 1971 that the allegedly watertight salt mine chosen for radioactive waste storage in Kansas was full of holes; the AEC has been forced to improvise "surface storage" plans.

Confirmation by the National Academy of Sciences in November 1972 that low-level radiation exposure is at least 500 percent more harmful than the experts had previously admitted; this surprise had already forced the AEC to suggest drastically reduced "permissible emissions" from nuclear power plants.

Discovery by the North Anna Environmental Coalition in August 1973 that two nuclear power plants in Virginia have been built on an earthquake fault in undeniable violation of AEC policy.

Apparently nuclear experts did not foresee, either, that on November 11, 1972, three skyjackers would threaten to bomb the nuclear reactor at Oak Ridge, Tenn.; helpless, the AEC shut down its reactor and evacuated. The skyjackers did not carry out their threat.

LABOR'S POLITICAL POWER

Mr. GOLDWATER. Mr. President, from time to time I have raised the subject on the Senate floor of the rise of union power and union influence in the seats of government. In this regard, I have read with great interest the many stories originating from Bal Harbour, Fla., where the union bosses of the AFL–CIO have held their lengthy annual meeting. It is especially interesting to observe that the predominant thrust of these news items has been the steps that the big unions in this Nation plan to take in order to elect candidates of their choice in the 1976 elections.

If one believes half of what these articles say about the AFL–CIO power, influence and strategy, then we must assume that a government run by a labor union bosses will be a reality after January of 1977. Last Wednesday, I placed in the CONGRESSIONAL RECORD one of these news items, entitled "Unions Strategy for Putting Man They Want in White House." Many similar reports have come to my attention and I have done some independent research of my own on the subject which unfortunately confirms the massive scope of labor's attempt to influence elections. Today I would like to discuss some of this additional information.

One aspect of labor's effort to control the election, which has ominous overtones to any one interesetd in fair election practices, is the maneuvering by union bosses to have the Federal Election Campaign Act rewritten so as to prevent corporate political committees from being able to solicit voluntary contributions from company employees to be utilized for political purposes. The Supreme Court in its recent decision regarding key provisions of the act upheld the provision of law permitting corporations, and labor unions, to establish segregated funds for political action purposes as an important means of enhancing a major purpose of the first amendment, which is to secure the widest possible discussion of public issues and of the qualifications of candidates. By allowing employees of corporations to collectively make substantial contributions to candidates through the combined effect of their individual contributions to political action funds, the Supreme Court held that section 610, which permits voluntary contributions to corporate funds as well as to union funds, enables citizens to be free to engage in political expression.

In other words, any clamp on the ability of corporations to seek voluntary contributions of funds which in turn may be contributed to particular candidates is a serious denial of the freedom of political expression enjoyed by the individual persons who may wish to make such contributions. Any proposed law which would treat employees of corporations as second-class citizens, who may not be contacted regarding their right to make contributions, would not only be an improper restriction on the right of expression but constitute an unconstitutional classification of such citizens in violation of their right to due process of law.

The 1974 campaign finance law specifically authorizes the setting up of political action committees by corporations, as unions have done for years. Last November 18, the Federal Election Commission ruled that company PAC's could solicit employees as well as stockholders. Seizing on the necessity for prompt action by Congress in order to restructure the Federal Election Commission, which the Supreme Court held in its January 30 decision on the campaign law to be unconstitutionally constituted, big labor now has proposed that corporations be restricted from soliciting company employees for voluntary political contributions. Moreover, labor wants to use the legislative vehicle of any bill that gives a new lease on life to the Federal Election Commission as a means to sneak into law authority for unions to use a check-off system from their members' wages to collect political contributions for union political action committees, a goal which union boses have long sought.

Mr. President, it is very interesting to me that labor has found a champion for these goals. Congressman WAYNE HAYS, who is chairman of the House Administration Committee which has jurisdiction over the Federal Election Commission and election campaign legislation, has announced that he will introduce legislation to accomplish these union ends. Mr. HAYS announcement followed a visit he made to Florida during the AFL–CIO annual meeting. A thoughtful editorial discussing this development appeared in the Washington Star of February 23 and in view of its importance to understanding the potential of union power, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE CONVERSION OF MR. HAYS

Representative Wayne Hays's switch on the Federal Election Commission issue is being marveled at on Capitol Hill as akin to the conversion of St. Paul on the road to Damascus.

We're not sure how much the light flashed or the heavens rolled, or whether Mr. Hays wound up on the ground temporarily blinded by revelation. We rather suspect that his conversion came simply from some old fashioned political arm-twisting by House heavyweights, combined with a few choice words of advice from George Meany.

Mr. Meany and his cohorts at the AFL–CIO, who dole out millions of campaign dollars and have cadres of volunteer campaign workers at their disposal, can be most persuasive with Democratic committee chairmen. At any rate, after Mr. Hays had traveled the road between Washington and Miami, where the AFL–CIO convention was in progress, he miraculously had been converted from an opponent to a supporter of the Federal Election Commission.

Whatever the reasons for his switch, it is welcome. Now Congress ought to be able to reconstitute the commission in time to prevent a shambles from overtaking the presidential primary financing process. Mr. Hays, who had wanted to kill the commission, is instead having his House Administration Committee put together a bill that will satisfy the shortcomings the Supreme Court found with the commission's operation. Instead of a body appointed jointly by Congress and the President—which the court held cannot constitutionally enforce and administer the election laws—the Hays proposal will transform it into an executive agency whose members will be appointed by the President and confirmed by the Senate. That's what nearly everyone, except Mr. Hays, wanted to do in the first place.

With the Ohioan's cooperation, Congress should be able to come close to getting the legislation enacted by the March 1 deadline set by the Supreme Court for the commission to be reconstituted or lose its powers. If there is likely to be a delay of more than a few days beyond that date, Congress ought to ask the court to extend the deadline.

Even with his conversion on the major question, Mr. Hays still has his stinger out for commission members. He's trying to add a provision to the bill that would bar any outside work by commission members. He says the members get $40,000 a year and that ought to make their jobs full-time. The provision would affect at least two commission members, including the chairman, who practice law part-time.

Mr. Hay's proposal is not a bad idea. But it seems to us that he ought to apply the same principle to members of Congress. If $40,000-a-year commission members should be required to spend full-time looking after the election laws, it is equally logical to insist that $44,625-a-year House and Senate members spend full-time looking after affairs of the nation, instead of spending a large share of their time—as many of them do—practicing law or running businesses back home.

Another questionable provision in Mr. Hays's legislative package—an item that he apparently picked up at the Miami meeting with his labor friends—would prohibit corporate political action committees from soliciting funds from employes. The Election Commission earlier ruled that corporations could establish political committees that could solicit money for candidates from stockholders, management officials and company employes. Under Hays's bill, the solicitation would be limited to management and stockholders.

That's dandy for George Meany and Co., whose millions of workers still will be able to ante up for labor's political action pot. But in fairness, the Hays restriction on corporate solicitation ought to be removed from the bill.

It would be a good idea, in fact, for Congress to subject the Hays bill to a microscopic examination when it emerges from his committee and remove any zingers it may have. While the gentleman from Ohio got religion on the big item—reconstitution of the Election Commission—his conversion apparently wasn't total.

Mr. GOLDWATER. Next, I wish to discuss some specifics about the vastly important, but generally overlooked matter of in-kind contributions, which big labor contends does not come under any of the restrictions or safeguards of the Federal election campaign law. These contributions which go unreported, include such things as manpower, mailing facilities and other expensive items of campaign work.

For example, we can see how effectively it was used in the New Hampshire special Senate election. Federal Election Commission records show that labor contributions to the Democratic candidate, now the junior Senator from New Hampshire, Mr. DURKIN, totaled $90,000. What was not reported, however, was union in-kind contributions. The significance of this is described in an article in the New York Times of September 22, 1975, which states:

> Durkin spent less than the overall $220,000 campaign ceiling than did Wyman, but Durkin was able to target his spending more effectively because thousands of dollars worth of labor support fell outside the ceiling.

Putting together various items that have been disclosed in public sources, such as newspapers, it is possible to reconstruct a reasonably accurate estimate of the amount of in-kind contributions which labor made to the Democratic candidate in the New Hampshire special election. In fact, I have come across an expert opinion that union in-kind contributions through the special election ran to an estimated $151,900. This, plus the reported contributions of $90,000, means that labor spent close to a quarter of a million dollars in seeking to win this single Senate election.

The following is an item by item breakdown by this in-kind effort by labor:

Estimated nonreported organized labor efforts for the Democratic candidate in the 1975 New Hampshire special Senate election

Registration of union members and "get-out-the-vote" drive	$9,700
Telephone bank operation:	
Telephone banks	13,450
Set-ups & disconnect cost (includes salaries of COPE personnel)	4,500
Computer input and printouts, analyzing and tracking critical precincts	12,200
Mailings:	
Two (2) mailings to 53,000 union members (AFL–CIO plus others). This includes whole packet	27,500
National union mailings into New Hampshire	7,200
Ads and newsletters promoting Durkin (pro-rated)	6,850
Indirect support such as National Council of Senior Citizens which is funded largely by labor	3,000
Personnel:	
Estimated cost (salaries and expenses) of personnel outside New Hampshire (not reported)	34,000
Polling not reported (estimated)	20,000
Brochures and material	3,500
Election day activities:	
Poll watchers (includes training), material distribution, phone calls to all who had not voted by 4 p.m., carpools to polls, baby sitters, etc	8,500
Absentee ballot distribution and identification	1,500
Total	151,900

Mr. President, these figures are an example of just one of organized labor's efforts at influencing public elections. In all, it is estimated that labor will probably spend upward of $70,000,000 in direct contributions, man hours and in-kind contributions to carry out its strategy of winning overwhelming control of the Congress and the Presidency in 1976. If we look at the scale of this union activity across the entire Nation and observe the already giant power of labor bosses, there is serious cause for alarm by the American people at the possibility that elements of organized labor will make good on their goal of controlling the executive and congressional branches of government.

We can find proof of union power in the words of union officials themselves. For example, Al Barkin, director of the AFL–CIO-COPE is quoted in the Time magazine of March 1, 1976, as stating that COPE's million dollar computer "is filled with the names of 14 million union members and can turn up almost anything." He is also quoted in the same article as boasting that—

> We're [A.F.L–C.I.O.] going to have the best organized, best financed political force in the history of organized labor.

As further proof of the enormous resources which feed union power, an article by Damon Stetson in the New York Times of January 18, 1976, states:

> In 1974, the labor federation reported 1,110,000 volunteers contributed millions of hours to C.O.P.E. programs at the community level during register-and-vote campaigns, staffing telephone banks, polling, canvassing, checking registration, distributing materials and getting out the vote.

According to Mr. Stetson, the AFL–CIO told its affiliates and members that unions remain free to engage in the following activities:

> To use Treasury funds, derived from members' dues, to communicate with their members and their families on political issues and candidates;
>
> To use union treasury funds in nonpartisan registration and get-out-the-vote campaigns;
>
> To contribute treasury money and union manpower to the national Committee on Political Education or to state or local central body political education committees to be used to communicate with or register union members and their families.
>
> To use Treasury funds to solicit voluntary contributions for a political fund and for the establishment and administration of such a fund;
>
> To use treasury funds to pay union personnel doing political work as long as they work under union direction and control, and are engaged in political activity aimed at union members and their families.

And, to obtain further proof of the reach of union power, all we have to do is look at just a few areas where unions made direct contributions in 1975. The following Senators, as an example, received in excess of $30,000 each in 1975 from union political action groups toward their 1976 reelection races. Mind you, that these sums, large as they are, do not include any contributions as yet during this election year.

Senator Harrison Williams (D-N.J.)	$63,875
Senator Edward Kennedy (D-Mass.)	40,350
Senator Vance Hartke (D-Ind.)	32,600
Senator John Tunney (D-Calif.)	30,420

Mr. President, the amazing statistics run on and on. Organized labor contributed $114,500 to the Democratic congressional dinner committee in early 1975. These moneys were then contributed to the Democratic Senate and congressional campaign committees.

Moreover, the National Education Association-political action committee gave the Democratic National Committee $25,000 on May 30, 1975, which was two-thirds greater than the sum they gave the Republican National Committee on July 15, 1975.

Also in 1975, the Democratic National Committee received $35,000 from the United Auto Workers; $25,000 from the Machinists NPPL; $21,400 from the communications workers; and $10,200 from the American Federation of State, County, and Municipal Employees.

As I recently disclosed in the Senate, organized labor contributed $2,449,170.51 to Members of the House of Representatives who voted for the common situs picketing bill. The Democrats voting for that bill received 30 times what the Republicans voting for the bill received. Senators who voted for the bill received $3,222,155.13 from labor during their last election races. Democrats received $2,871,992.44, while Republicans voting for the bill received $350,162.69 from organized labor. Again, I should caution that these figures only reveal the minimum amounts reported to recording agencies for the 1974 campaign or the last election and do not include in-kind contributions.

Mr. President, I am compelled to believe that all who are concerned with the integrity of our governmental system should be shocked at the activities of organized labor bosses who are working to control the Congress and the Office of the President. We have only to look at Great Britain to see a poignant example of what happens to a country once labor dominates the government. The economic gloom and dismal failure of the welfare society in Britain can be traced to the fact that no labor-controlled government can successfully resist the pressure of unions, first for a welfare state, and then against the restraints which are needed to pull a country out of the disastrous course that their programs have gotten it into.

Historian Arnold Toynbee wrote that trade unionism is a "quasi-military form of social organization" that has proved so successful that "it has reversed the balance of power." Speaking of the situation of Great Britain in 1974, Toynbee concluded that:

> The trade unions showed that they have the upper hand not only over landowners and captains of industry, but over the government too.

He added:

> The consequence seems likely to be tragic.

If some future historian is not to make a similar finding about the once great giant of America, we Americans must wake up to the serious ramifications of the vast and growing contributions to liberal political candidates by organized labor.

JOURNALISTS EXPOSE SCARE CAMPAIGN

Mr. MOSS. Mr. President, public trust in government institutions and rational debate on issues of public policy depend not only on a free press but also on an alert and critical press. We are all familiar with the anonymous scare campaign being waged against the child and family services bill. I have not supported the legislation, but I believe that it should be considered on its merits. Fortunately, a number of journalists are beginning to tell the public the facts. I wish to commend and bring to the attention of the Senate three recent editorials on this subject.

Gordon White, who has covered Washington for the Salt Lake Deseret News for 18 years, points out in his column of February 23 that the controversy over S. 626 is not an isolated example of the "big lie" technique to stir up public emotions. A 1968 Gemini photograph was widely claimed to show a smoke pall from the Four Corners powerplant. The cloud turned out to be a series of jet contrails.

The Salt Lake Tribune of February 29 describes the circular campaign against the child care bill as a "victimization of public opinion" and urges readers to be wary of charges by unknown or unfamiliar sources.

Finally, in the current issue of U.S. News & World Report, Howard Flieger explains, in simple and direct terms, what many of us have been trying to tell our constituents about S. 626. The bill, he says, is "innocent and impotent: innocent because it would do none of the things attributed to it; impotent because it is not going anywhere."

I ask unanimous consent that these articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Salt Lake City (Utah) Deseret News, Feb. 23, 1976]

"Big Lie" in Smoke, Family Bill

(By Gordon Eliot White)

Washington.—The "big lie" technique has long been a prime tool of propagandists, although it was Joseph Goebbels who defined it 40 years ago.

More recently, environmentalists attacked power plant development in the western U.S. with the canard that smoke from the Four Corners power plant was "the only sign of human life" that the Gemini 12 astronauts saw from space.

This month opponents of a child day care bill have alleged that measure is an attempt to have the state enter American homes and take children from their parents.

For those readers who have not seen the explanation of the 1968 Gemini photo that was widely described as showing a smoke pall from the Four Corners power plant, I will repeat findings by meteorologist Loren W. Crow that were made in 1971. They have never gotten wide publicity, and as recently as last month the Washington Star again "reported" that the Gemini astronauts photographed smoke from the Four Corners power plant.

The picture, taken by James A. Lovell Jr., and Edwin E. Aldrin, was part of a sequence involving the tether line to the Agena docking module. The photo lay unremarked to National Aeronautics and Space Administration files until 1970, when an anti-powerplant witness stumbled across it and showed it at a Senate Interior Committee hearing in Durango, Colo.

The photo, NASA #S-66-62796, does indeed show a thin 320-mile-long plume of haze, stretching across the landscape from Tuba City, Ariz., to Alamosa, Colo. Time Magazine picked up the item and gave it wide publicity as evidence that the power plant at Four Corners was a "tremendous polluter."

The New Mexico Public Service Co., stung by the pollution charge, couldn't believe that the photo showed smoke from their plant and the company turned to meteorologist Crow to find out whether the cloud was smoke or some natural phenomenon.

Crow, using detailed charts and the NASA photo, determined that the plume did extend from Tuba City, 190 miles southwest of the power plant near Farmington, to Alamosa, 170 miles northeast of the plant. Wind records for Nov. 13, 1966, showed a stable air mass moving from the west-southwest at about 35 miles an hour. Clearly, smoke from Four Corners could not be blowing west to Tuba City and east to Alamosa from Farmington that day.

But what did make the cloud? It seemed too long and regular to be natural. A little more research turned up the fact that the "smoke" lay along jet air routes J-64 and J-110. On that day, air traffic controllers were sending air liners along the corridor at a rate of one every four minutes. At jet altitude the temperature was more than 39 degrees below zero, cold enough for the ice crystals to make jet contrails to form behind the aircraft. Later, ground weather observations that noted presence of jet contrails were found to corroborate Crow's calculations.

Crow later told the Denver Post that he could place the cloud at an altitude well above 9,000 feet, too high for any power plant smoke poll.

The attack on the family services bill is equally erroneous. In reality, the measure, co-sponsored by Sen. Walter F. Mondale, D-Minn., and Edward Kennedy, D-Mass., is an updated version of a day care measure vetoed in 1971 by President Nixon. When in full operation, it would cost $1 billion a year, perhaps more. It would provide centers where working mothers could leave their children during the day while they work.

Although the bill is clearly controversial both because of its steep cost and because of its possible effect of encouraging more women to put their offspring in federally-supported centers and go to work, it is in no way a "commune" measure which would take children from their families involuntarily.

But opponents, still anonymous, have charged that the bill would appoint federal specialists who could enter homes and, if they decided the children were not "properly" cared for, could direct their care and education—even force parents to place their children in federal centers.

Charges have also been made that the bill would give children "rights" to refuse parental directions such as to take out the garbage. According to the smear letters that have gone out, the bill would give children the right to refuse religious training and encourage children to report a parent's religious or political opinions to federal authorities.

The truth is that the passages that have been quoted from the Congressional Record by the bill's opponents have nothing to do with the Mondale-Kennedy bill at all. They were lifted from a speech by Sen. Carl T. Curtis, R-Neb., in which he commented on a British "Charter of Children's Rights," which has not even been seriously proposed in socialist Great Britain.

Whatever the merits or demerits of the bill, the "big lie" has been an effective weapon against it. Utah members of Congress have received hundreds, possibly thousands, of letters in opposition. Ironically, those letters have had less impact because they are almost all based upon smear sheets and false premises. If they had been based upon a clear understanding of the actual bill, they would be far stronger opposition.

The Polish "attack" on Germany, communists in the U.S. Army, the missile gap, smoke plumes, and now Sovietization of our children: all propaganda victories for the big lie technique.

[From the Salt Lake (Utah) Tribune, Feb. 29, 1976]

Scare Tactics

It's persistently reported that many Americans have lost confidence in their institutions of government. A recent incident, on the other hand, could prompt U.S. Senators and Representatives to wonder about perceptiveness among the constituency.

Members of Congress have been receiving a flood of letters from people demanding defeat for a bill which would take away control parents have over their children. This has caused consternation and considerable perplexity, since no such bill exists.

The situation was created by anonymous notices filled with distortions and falsehoods, mailed to people throughout the nation. It was an obvious attempt at stirring up emotions, and it worked.

Target of the circular campaign is a measure which, if passed, would expand federally-assisted day care centers, places where low income, working mothers can leave children

while earning a wage which could help keep the family together. The service would be fully voluntary, affecting no one not using it.

With an appalling disregard for fact, the unsigned circulars warn that Congress is considering laws granting youngsters some kind of new rights. Also, that these entitlements would permit children to ignore normal family obligations, such as "taking out the garbage," and sue parents that violate "these rights." It's so obviously ludicrous the wonder is so many people were taken in.

Nonetheless, Senators and Representatives report receiving alarmed letters by the "tens of thousands." Apparently, all anyone wanting, for their own purpose, to victimize public opinion need do is concoct a fearful sounding tale, couch it in official terms, then pin it on vaguely described government intent. They don't even have to identify themselves or give accurate references for their assertions before otherwise reasonable people are overcome by blind panic.

Once upon a time, anyone making outlandish statements was required to back them up with substantial proof. But the country seems to have entered a period when, the more crazy-sounding a notion, the more it is apt to gain instant following.

There's ample cause to be skeptical of government-proposed programs. But it's just as good an idea to be wary of charges against government that don't square with common sense. Especially if the origin for such accusations is an unknown, unfamiliar or obscure source.

[From U.S. News & World Report,
Mar. 1, 1976]

False Alarm

(By Howard Flieger)

Every now and then a reader writes us in words of terror to warn that a Marxist plot is afoot in Congress to "nationalize" our children—take them away from the protection or control of their parents and destroy the American family, utterly and forever.

The volume of mail received here is not a patch on the sacks of it that have been hitting some congressional offices.

The writers are alarmed over what they've been informed is an insidious scheme to give youngsters the legal right to disobey their parents, and thus become pawns of Government—an all-powerful Big Brother to mold their training, conduct and beliefs.

Strange.

It is strange because there isn't a word of truth in it. No such legislation is before this Congress, or ever has been.

The specific bill that has so many people disturbed is "The Child and Family Services Act of 1975." Its authors are Sen. Walter Mondale (Dem.), of Minnesota, and Rep. John Brademas (Dem.), of Indiana. It is "S.626" in the Senate, "HR.2966" in the House. Read it before you panic.

In its present form, the legislation is both innocent and impotent: innocent because it would do none of the things attributed to it; impotent because it isn't going anywhere.

Briefly stated, the proposal is to make federal funds available to help States and communities provide certain public services for children and their families.

These would include such things as prenatal care, food where needed, part or full-time day care for children of working mothers, tutoring at home where deemed useful, medical examination and treatment for certain handicapped children, and training for parents and about-to-be-parents.

There is nothing compulsory about the legislation now before the Congress. Even if the bill were enacted, anyone who felt like it could ignore each and all of its provisions.

Nothing in it says—or implies—that youngsters have a legal right to disobey their parents or guardians.

Nowhere does it forbid parental guidance, advice or preference in religious training. The subject isn't mentioned.

In fact, it says in specific words:

"Nothing in this act shall be construed or applied in such manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents."

So why all the excitement? It is puzzling to Senator Mondale, one of the chief sponsors, who says the measure "is being subjected to one of the most distorted and dishonest attacks I have witnessed in my 15 years of public service."

There is another practical thing to keep in mind about The Child and Family Service Act: It would cost a lot of money. Estimates are that an initial annual expense of 150 million dollars would grow to almost 2 billion by the third year of operation.

This present Congress is in no mood to add such a burden on taxpayers who already are making angry noises about waste and the high cost of Government. Since this is election year, the measure probably has less chance now than a year ago, when it was introduced—and that means practically none.

Also, remember the President is demanding that Congress do more to hold the line on spending. It is a keystone of his campaign to be against this bill, and any like it.

So everybody can stand at ease.

The bill doesn't provide all those wild things the letter-writers fear. It has no realistic chance of adoption. And even should it overcome its rating as one of the longest shots in history and somehow be enacted by Congress, it would be vetoed almost the minute it reached the White House.

The furore is a false alarm. Forget it.

MARIHUANA DECRIMINALIZATION

Mr. JAVITS. Mr. President, the case for the early enactment of S. 1450, my bill to decriminalize personal possession and use of 1 ounce or less of marihuana has been further strengthened by the announcement of new Federal research on the effects of marihuana use.

As a former member of President Nixon's National Commission on Marihuana and Drug Abuse and as one who is thoroughly familiar with many of the studies undertaken regarding the effects of long-term use of marihuana, the latest findings are only the most recent in an ever growing body of scientific opinion on this subject. In this connection, I would like to bring to the Senate's attention a recent article by Edward Edelson of the New York Daily News.

Mr. Edelson's article points out that at a recent conference on chronic cannabis use, sponsored by the New York Academy of Sciences, studies showed that even long-term users of marihuana were found to have no brain damage, loss of drive, or other serious effects. I urge my colleagues to keep in mind these facts and the results of numerous favorable studies on this subject while considering this legislation.

Mr. President, I ask unanimous consent that Mr. Edelson's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Pot Without Prison—An Idea Whose Time Is Coming

(By Edward Edelson)

One of the great divisive issues of the 1960s, the question of legalizing marijuana, apparently is being settled by a compromise that gives the pro-marijuana forces almost everything they were asking for.

The marijuana victory is neither complete nor certain. A majority of Americans still oppose total legalization of marijuana and people will still be going to jail in some states for possession of the drug. But the time is rapidly approaching when the use of a small amount of marijuana will have the same legal status as jaywalking, at least in many states. And New York probably will be one of those states.

It was a sign of the times when Gov. Carey, delivering his State of the State message, won applause by saying he wanted to decriminalize marijuana "to free up our criminal justice system so that it may concentrate on crimes more harmful to society."

Such a statement—and such a favorable reaction—would have been impossible for any major politician a few years ago, when the American people were by and large convinced that marijuana was a "killer drug," capable of causing brain damage, inciting smokers to violence, destroying will power and leading innocent users on to harder drugs.

SUBTLE CHANGE

Several things have happened to change things. For one, the issue of legalization has been changed subtly to the issue of "decriminalization," which substitutes petty fines for jail sentences in cases where users possess small amounts of marijuana, leaving the way open for more severe measures against large-scale dealers in the drug.

More important, trustworthy research carried out by scientists and physicians from a number of institutions has provided solid information indicating that marijuana is by no means as damaging as was once believed.

The latest summary of that information came last week, at a Conference on Chronic Cannabis (marijuana) Use held by the New York Academy of Sciences. The word that came out of the meeting was, if anything, too soothing.

"The best evidence is that chronic use of cannabis does not seem to be accompanied by serious consequences," said Dr. Alfred M. Freedman, chairman of the New York Medical College's department of psychiatry and a cocnairman of the conference.

That "best evidence" comes from several studies in which long-time, heavy users of marijuana—people who smoked two or three marijuana cigarettes a day for 10 to 25 years—were compared with people of comparable age and social status who did not use marijuana.

Those studies have been done overseas, in countries such as Costa Rica, Greece and Jamaica, for several reasons: marijuana is accepted as a normal part of life for some social groups in these countries, and it is not easy to find marijuana-using Americans who limit themselves to pot alone; use of other drugs confuses the issues.

Going overseas creates some problems: The people being studied are peasants or manual laborers who cannot easily be compared to middleclass American users. But the basic points about physical and mental damage seem clear: None has been detected. No brain damage, no loss of drive, no severe physical damage that can be attributed to marijuana alone.

NOT TROUBLE-FREE

Researchers at last week's conference warn that marijuana cannot be regarded as trouble-free. Every drug causes trouble, and this one should be no exception. But the degree of trouble seems to be much smaller than had been anticipated.

On the legal side, Oregon, in 1974, became the first state to decriminalize. The results are reassuring to those who believe that marijuana would be endemic if the laws were eased. A survey done by the Drug Abuse Council found no significant difference in marijuana use patterns before and after decriminalization.

Oregon has since been joined by Alaska, California, Colorado, Maine and Ohio.

In New York, Gov. Carey's proposal has not gone much beyond the bare statement made in his address. An aide said that a decriminalization bill is being prepared for submission to the Legislature. There is no reading yet on sentiment there. If public sentiment as gauged by the Harris poll is any indication of legislative leanings, the bill might squeeze through. A poll this month found a narrow 43%-45% split against decriminalization nationwide, but Easterners were in favor, by 50% to 37%.

And if decriminalization does not come now, wait a while. The opposition is concentrated in older age groups; the under-29 group is 59% in favor. If you're for marijuana, time is on your side.

PROPOSED CHANGES IN REVENUE SHARING

Mr. BAKER. Mr. President, in March of 1967, I dedicated my maiden speech in this Chamber to the establishment of what was then called the Tax Sharing Act of 1967, a measure designed to permit an immediate beginning of sharing Federal revenues with the States. It was not, however, to be "immediate," as over the succeeding several years, I introduced, sponsored, and cosponsored a number of bills with a similar intent. Finally, over 5 years after that initial introduction, general revenue sharing became a reality with the enactment of the State and Local Fiscal Assistance Act of 1972. This was the culmination of not only my own, but of the bipartisan efforts of many of my colleagues in both of the Houses of the Congress. I am, nevertheless, pleased that I was able to play a part in the passing of that legislation.

I am also pleased, Mr. President, that the intervening years since its passage have proven the wisdom of revenue sharing both in principle and in practical effect. The principle is that, although the Federal Government has the greater capacity to generate revenues, it is the State and local governments that are more perceptive and responsive to the immediate needs of the citizen-taxpayer and that, therefore, at least a small percentage of tax-generated revenues should be made available to meet those needs. It is an effort, albeit small, to prevent the deterioration of federalism in the concentration of all the governing power in one central government. It is one of these measures that, although not mandated in the Constitution, is at least consistent with the inherent logic of the system embraced by the Constitution.

In practice, general revenue sharing has made at least a beginning toward the equalization of States and localities of varying degrees of wealth and resources to provide the necessary services required by their citizens. In addition, and I believe this to be important, the revenue sharing program has bolstered the abilities of the poorer governments without, at the same time, detracting from the abilities of the more affluent governments. The program, therefore, has provided more aid where it is most needed, and less where it is least needed. Finally, I am encouraged that the program enjoys with virtual unanimity the support of those involved across the board spectrum of State, local, and municipal governments.

The question now is where to go from here. It appears to be fairly certain that sooner or later the Congress will extend the life of the revenue sharing program. My concerns in this regard are twofold: First, whether the form of that extension will be consistent with the underlying principles of revenue sharing; and, secondly, whether the Congress will be able to act with sufficient quickness to avoid imposing undue uncertainty in the budgetary planning of our State and local governments.

In the past year, there have been numerous proposals to extend, change dramaticaly, or modestly modify the general revenue-sharing program. It is my belief that revenue sharing, as presently constituted, has been a successful program and, consistent with its original purposes, represents a program of substantial benefit to the citizens without the usual overwhelming amount of bureaucratic redtape and interference. I believe that we should make every effort to keep those laudable characteristics a part of the revenue-sharing program.

Early in 1975, Senator BROCK and I, and a number of our colleagues, introduced an amendment to the State and Local Fiscal Assistance Act of 1972, that would, with minor modifications, make revenue sharing a permanently enacted program. In May of 1975, the administration's proposal to extend revenue sharing, again with modest modifications, was introduced. I believe that there are meritorious elements in both proposals; and, therefore, I am preparing an amendment that will embody the best elements of each.

Briefly, my proposal will embody the major elements of the proposal of the administration with one notable exception. That exception pertains to the manner in which the level of funding for the revenue sharing trust fund is determined. I propose, as we did in S. 11, to require the Secretary of the Treasury to transfer to the trust fund seven-tenths of 1 percent of the total adjusted gross income of the United States as determined by that year's income tax returns. This proposal was first recommended by the Advisory Commision on Intergovernmental Relations, and I believe strongly that any extension of revenue sharing should contain therein this proposal.

First, it acknowledges once and for all that revenue sharing is an indelible element in the Federal scheme; and, until the Congress commits itself to the permanence of the program, the State and local governments cannot, with confidence, include revenue sharing as a factor in their long-term planning and budgetary processes. For the most effective and efficient use of these revenues, I believe that the confidence is important.

Moreover, a revenue-sharing program indexed to the total existing adjusted gross income of the American taxpayers would more accurately reflect the rate of growth in the national economy and more realistically represent the appropriate level of Government support for this program. It is important to note that, although seven-tenths of 1 percent of the 1974 AGI approximates the actual trust fund distribution based on that year, it will grow at a rate that more accurately compensates for the effects of inflation than does the arbitrary $150 million annual increase included in the administration's proposal.

The second change I would make, and this was in neither the administration's proposal, nor in the proposals of S. 11, is in the area of distribution, that is, the formula by which revenue sharing funds are allocated between the State governments and the local municipal governments. The problem here is to relate the program's distribution formula to the varying degrees of need present in State and local government throughout the country. The present formula, although arbitrary to the extent that, in many instances, it does not accurately reflect local fiscal realities and is mechanistic in nature, has worked fairly well and has provided for a measure of cooperation between State and local governments.

The administration has proposed to raise gradually the maximum distribution to local and municipal governments from 145 percent of the average allocation to 175 percent after a 5-year period. Although I endorse this proposal, I would go one step further and allow the States to generate individually a formula that more accurately reflects their particular need distribution. Unless the States deter that there is a need to revise the formula, the funds would continue to be distributed in accordance with the present formula.

In my mind, the advantage of giving the States this option is that it emphasizes the Government's commitment to the primary underlying principle of revenue sharing, and that is that the State and local governments are in the best position to determine where Federal aid may be most effectively utilized.

The remainder of the administration's proposal I would leave intact. There are two features of that program that I think are particularly important. First, although it eliminates the present ineffective restrictions on the manner in which local governments may utilize revenue sharing funds, it strengthens the Government's commitment to insure that no revenue sharing funds are used to perpetuate discrimination on the basis of race, color, national origin, or sex. Basically, the proposal, and I endorse this principle, emphasizes the commitment of the Federal Government to vest in the State and local governments a measure of trust that funds so freely given will be well and wisely spent, and not in ways that run counter to the public mores to which this Nation is dedicated.

If they are spent in ways that discriminate against anyone, the Secretary of the Treasury is empowered not only to request the Attorney General to initiate appropriate civil actions under title VI of the Civil Rights Act, but also to impound revenue sharing funds allocated to those governments who are in violation of the prohibition against discrimination and to demand repayment of those funds already distributed and which have been used in a discriminatory manner.

Second, the administration proposal brings greater emphasis to bear on the importance of public participation in the local budgetary process. I think this is important because again it emphasizes revenue sharing, and I do not believe that we can emphasize this too much—that is, decisions on how best and how most usefully the taxpayers' money can be spent can best be made to the taxpayer. The more the public can be encouraged to participate in the local budgetary process, the more closely we approach the fulfillment of that basic tenet.

Earlier, I mentioned that I had two primary concerns regarding revenue sharing: the first being that the program be extended in a manner most consistent with its underlying principles, the second being to insure that the program is extended expeditiously so as not to disrupt the budgetary processes of the recipient governments. As many of you know, approximately 50 percent of State and local governments operate on a fiscal year basis, the other 50 percent on a calendar year basis. To those governments whose financial year begins on the first of July, the insouciant slowness of Congress to come to grips with the revenue sharing problem must appear to be the height of indifference to and disregard for the problems of formulating a budget with a question mark where an approximate revenue-sharing figure should appear. Prior to the Christmas recess, I was visited by local government officials from the Cumberland Plateau area of Tennessee; and, when I asked them at what point the delay in extending revenue sharing would pose a problem for them, they replied in their rather direct way, that the problem was already critical. I do not believe that it is appropriate for us to wait any longer.

It is my understanding that the Senate Finance Committee has decided to await House action on revenue sharing before it will begin to consider the Senate proposals. Thus, the earliest that we could expect committee consideration of this program is mid-to-late March, and probably even later than that. I very seriously question the wisdom of further delays. I have considered, and for that matter, I still am considering, a motion to discharge the revenue sharing extension from the committee. I have also considered expediting the process by offering the revenue-sharing extension as an amendment to a bill that appears to be progressing through the congressional maze more expeditiously. I would not want to do either, but I am beginning to think that some fairly drastic action is necessary even if only to call to the attention of my colleagues the seriousness of this problem.

For the time being, I will keep such measures in abeyance. But I would urge my colleagues to consider seriously the predicament in which we are placing a large number of our State and local governments. I would urge that we would redress this problem in the very near future and that we do so in a manner consistent with the principles that motivated us to enact this legislation in the first place.

U.S. INTERESTS IN THE PANAMA CANAL

Mr. HARRY F. BYRD, JR. Mr. President, the Panama Canal has belonged to the United States for 72 years. It is U.S. territory.

Yet our State Department is currently involved in negotiations, with the Government of Panama, designed to end U.S. control over that territory.

I think that would be a very serious mistake.

The Panama Canal is a valuable economic and defense asset and I am persuaded that any new treaty compromising our rights in the Canal Zone would not be in the interest of the United States.

A recent editorial in the Richmond News Leader argues concisely why "this is not the time to give the canal away. Not now. Not ever." And a recent article by Lt. Gen. V. H. Krulak, in Strategic Review, presents an excellently argued, and comprehensive presentation of why the United States should not sign away its sovereign rights over the Panama Canal.

I ask unanimous consent to have these articles printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Richmond (Va.) News Leader, Feb. 3, 1976]

Keep the Canal

The negotiation of a new Panama Canal treaty—one that would give Panama eventual control over the waterway—is proceeding with all deliberate speed. State Department negotiators say that nothing much will happen before the end of the year. Why? Because 1976 is an election year, and moving the talks along quickly (a) would generate publicity, (b) publicity would stir a fuss in Congress, and (c) that sort of a political squabble proponents of a new treaty do not need.

Likewise, Panamanian strongman Omar Torrijos and his adviser, Fidel Castro, seek no fight. Last month, Torrijos journeyed to Havana. He came, he saw, and he concurred with Castro that, in Panama, time is running out for the United States and its sovereignty over the canal. Advised Fidel: Don't press the issue. So, from Torrijos, there were no denunciations of the dread *Yanquis* and all their works, no diatribes against the wicked imperialists. Said Torrijos: "Panama will have the last word. We are—remember this—in a process of liberation and one of the means by which that can be reached is through negotiations." Plainly, Torrijos would rather talk than fight.

Castro's support for Torrijos' policy of patience will do much to defuse the violence-potential of restive Panamanian "students," who seek immediate takeover of the canal. These students remain the only domestic danger that Torrijos faces, but they follow orders. Castro's support helps Torrijos wait out the American elections, and win a treaty to his liking. (Still on the agenda are (1) the amount of territory—if any—to be left under U.S. jurisdiction; (2) U.S. defense rights and obligations during the duration of the treaty; (3) what that duration will be; and (4) how much the U.S. will give Panama in rent, in addition to the $2.3 million it pays now.

The Torrijos scenario has one serious flaw: It is contingent on President Ford or a like-minded Democrat occupying the White House until 1980. Unfortunately, for Torrijos, Ronald Reagan already has made the canal a campaign issue by charging that the talks indicate an American sellout. For Torrijos, Reagan's attentions are unwelcome: Fourteen Panamanians—businessmen, lawyers, and radio broadcasters—already have been expelled from their country. Their crime: vague links with Reagan.

Supporters of "Panamanianization" of the canal argue that the American presence in the zone rubs Latin sensibilities raw, and that the canal is obsolete—an "aging utility," according to Ambassador-at-large Ellsworth Bunker, who heads the American negotiating team. Yet thousands of ships use the canal each year, and 70 per cent of the waterway's traffic either originates or terminates at U.S. ports. Moreover, a tough stand in Panama would draw the line against other Third World demands on the West—demands that, too often, are thinly-masked thrusts of Soviet imperialism.

The United States spent billions to build and maintain the canal, and to defend it. For Torrijos, waiting out an election may be a clever ploy, but for the American people, the realization must come that this is not the time to give the canal away. Not now. Not ever.

[From Strategic Review, Winter 1976]

Panama: Strategic Pitfall

(By Lt. Gen. V. H. Krulak, USMC, ret.)

(The author: General Krulak is a Director of the United States Strategic Institute. From 1964 to 1968 General Krulak served as Commanding General, Fleet Marine Force, Pacific. He is now Director of Editorial News Policy of the Copley Newspapers and President of the Copley News Service, San Diego, California. General Krulak's article, "Mainland China: The View from Taiwan," was published in the Summer 1975 issue of Strategic Review.)

IN BRIEF

The case for giving up the Panama Canal rests on three points: that the Canal Zone is really Panamanian property; that the United States pressured Panama into giving us the Canal Zone in 1903; and that the United States is exploiting the Panamanians, robbing them of Canal operating profits that are rightfully theirs. In fact, the 1903 treaty granted the United States perpetual sovereignty over the Canal Zone. It is more accurate to say that Panama pressured the United States because Panamanians were fearful that a canal would be built across Nicaragua instead of Panama. The United States paid Panama for the right to build the Canal and for clear title to the Canal Zone, and currently voluntarily pays Panama $2 million a year, although the Canal has been a losing venture during the past few years. Due largely to Canal-related employment, Panamanians have a living standard equalled by few other Latin American states. The Canal is still strategically important to the United States and economically important to the United States and to the world. Only because of the Canal is the United States able to risk what amounts to having a bare bones, one-ocean navy. There is no indication from their current behavior that the Panamanian dictator and his Marxist military government would not capriciously bring about major changes in the economy and security of our nation if they were ever in a position to exercise authority over the operation of the Canal. Most Latin Americans understand these factors as do the American people at large.

We live in a time when revisionists serve up historical fiction to meet every ideological need. No current issue of importance has undergone more distortion of historical fact or present reality than is represented by the massive campaign afoot to popularize U.S. relinquishment of soverignty in the Panama Canal Zone.

This should surprise no one. A principle of the greatest importance is involved here. It is the latest pressure-point for erosion of U.S. prestige as well as the ability to control its future. With the Soviets gaining port facilities of the greatest strategic importance all around the globe to serve their growing naval power, Panama, apart from the Canal as a strategic asset, must be viewed as a key location in the Western Hemisphere.

Basically, the drumfire of propaganda in both the U.S. print and electronic media rests its case on three points:

First, the contention that the Canal Zone is really Panamanian property and that the Republic of Panama never relinquished its sovereign rights to the area;

Second, that the United States pressured Panama into giving us a position on the Isthmus of Panama in 1903, using deception, force and threats to accomplish something that contravened the desires of most Panamanians themselves;

And finally, that the United States is even now exploiting the Panamanians, robbing them of Canal operating profits that are rightfully theirs.

All three of these contentions are contrary to fact. None has any basis in truth.

SOVEREIGNTY

As to the matter of sovereignty, there is no question whatever. The Canal Zone is not in any sense Panamanian territory. The 1903 Hay-Bunau-Varilla Treaty with Panama was unequivocal in this regard, granting the United States "perpetual sovereignty over the Canal Zone to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

The treaty is in no way less positive or final than the treaty of 1803 through which President Jefferson bought Louisiana from Napoleon, or the treaty of 1867 which formalized the purchase of Alaska from Czarist Russia.

The reality is that the 558 square mile Canal Zone is United States territory, a fact that the United States Supreme Court subsequently confirmed in a formal opinion—(*Wilson v. Shaw*, 204 U.S. 24, January 7, 1907).

Among other things, the lengthy Court opinion says,

"The title to what may be called the Isthmian or Canal Zone, which at the date of the act was in the Republic of Columbia, passed by an act of secession to the newly formed Republic of Panama. The latter was recognized as a nation by the President. A treaty with it, ceding the Canal Zone, was duly ratified, 33 Stat. 2234. Congress has passed several acts based upon the title of the United States, among them one to provide a temporary government, 33 Stat. 429; another, fixing the status of merchandise coming into the United States from the Canal Zone, 33 Stat. 843; another, prescribing the type of canal, 34 Stat. 611. These show a full ratification by Congress of what has been done by the Executive. Their concurrent action is conclusive upon the courts."

The Supreme Court opinion in this area is summarized in the words, "It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this Nation. . . ."

Second, the United States did not pressure the Panamanians. It would be more accurate to say that they pressured us.

Following liberation from Spain at the beginning of the nineteenth century, Panama joined Venezuela and Ecuador in uniting with Colombia. The union did not work. Venezuela and Ecuador split off first and Panama subsequently became disenchanted with the behavior of Colombia because of its exploitation of the people of the Panamanian region. Beyond this, the Panamanians were fearful that a canal would be built across Nicaragua instead of Panama, because of Colombian incompetence and lethargy. Consequently, the Panamanians were more than glad to negotiate a profitable agreement with the United States.

As an element of their agreement with the United States, Panama was paid fairly for both the right to build the Canal ($35 million) and for clear title to the Canal Zone ($160 million). The country has flourished in the ensuing seventy-two years and now, largely due to Canal-related employment, the one and one-half million Panamanians have an annual per capita income of $1,000 and a living standard equal by few other Latin American states.

Finally, the allegation that the U.S. is robbing Panama of Canal revenues is totally without foundation. We give Panama a voluntary $2 million a year payment (up from an original $430,000). And there are no profits. Although toll collections exceed $114 million annually, the Canal has been a losing venture for us during the last few years.

SIGNIFICANCE OF THE CANAL

Quite apart from the sophistry and characterizes the campaign of those who want to see us out of Panama, Americans need to take a hard look at just what it would mean to us were the authority over this vital lifeline actually conveyed to the present government of Panama.

It is a Communist government. The Communist Party is the only party recognized in the country. Others are outlawed. The principal government officials are all Marxists—including the chief of state, Omar Torrijos, a National Guard lieutenant colonel who seized power by force from the elected president, Dr. Arnulfo Arias, in 1968.

Freedom of speech and of the press have been totally stifled, the Church harassed, the national Congress closed, and national elections have been suspended indefinitely.

Hatred and defamation of the United States are as much a national policy as are close ties with the Communist world, most particularly the Soviet Union and Cuba.

The attitude of the military government is one of inflexible determination to achieve total authority over the Canal, or to punish everyone involved if this effort is unsuccessful. In late 1974 the acting ambassador to the United States from Panama, speaking in a television interview, was unequivocal. He said that if the Panamanian government is unsuccessful in its treaty negotiations with the U.S. "there will be no Canal for anybody, not for us, not for the United States, not for the world."

Torrijos mirrored this view last August, when he said, "We're going to make ourselves independent. What we have to decide is at what price. The day the people begin acts of sabotage nobody can control them. Because the Canal is as indefensible as a newborn child."

All of this is a thinly disguised threat of violence that neither the United States nor the rest of the world can tolerate, for the 14,000 ships that transit the Canal annually are an important element of the world's lifeline.

The fact is, Torrijos and his followers cannot be regarded as responsible men, and if they were ever in a position to exercise authority over the operation of the Canal, they could capriciously bring about major changes in both the economy and the security of the United States. Nor is there any indication from their current behavior that they would not be willing to do so.

By jacking up the Canal tolls to American shipping they could add substantially to transportation costs, and thus to the cost of end items in our marketplace.

Alternatively, by closing down the Canal at their own whim, they could double the cost of maritime fuel for a voyage from the west to the east coast of the United States, and more than double the average transit time from coast to coast. When it is realized that fully 8,000 ships a year carry cargo through the Canal, destined for U.S. ports, the resultant increase in retail costs of the commodities is evident.

A common argument is that the Canal has largely lost its strategic value to the United States because our principal combatant ships are too large to get through the locks. Actually, a total of only thirteen ships in the U.S. Navy have beams too great to permit passage through the waterway. The remainder of the fleet, some 470 ships—not to speak of an equal number in reserve—can use the Canal, and do so, beneficially.

In the past two and one-half years some 750 U.S. Navy ships transited the waterway bound east or west on affairs related to our national security. Had all these ships—for any reason—been obliged to take the Cape Horn route, the increased fuel requirement would have been on the order of 26,000 barrels, which is to say about $20 million worth of precious petroleum. And were a combatant crisis also involved, the additional thirty to thirty-five days of steaming could well be of decisive tactical importance.

In truth, the Panama Canal is an essential link between the naval forces of the United States deployed in the Atlantic and in the Pacific. It is only because of the waterway that we are able to risk having what amounts to a bare bones, one-ocean navy.

However, without absolute control of the Canal and the essential contiguous land, the United States could not accept the hazard of a one-ocean navy. It would be essential at once to initiate construction of fleets independently able to meet a crisis in either the Atlantic or the Pacific—a massive expenditure which we are now spared only because of our control of the Canal.

These factors are appreciated throughout Latin America, where all but the far left governments see it as something quite different from the issue of anticolonialism that has swept around the world. The Canal Zone does not share the history of Portuguese, French or British mercantile colonialism in Africa. It is not a Nigeria or a Chad. The Panama Canal is a sensitive trust—one which the United States has never sought to exploit for its own exclusive advantage.

Most Latin Americans understand this. In their own interest they realize that the critical strip, measuring only 5 per cent of the total area of the Republic of Panama, must never be permitted to fall into irresponsible hands.

STRATEGIC REALITIES

At a recent meeting of the Inter-American Press Association in São Paulo, Brazil, the attitude of Latin American publishers and editors was cold and clear. It was best expressed by a Chilean who said, "You would be doing yourself and us a major disservice if you were to back off one centimeter from your present position in Panama."

And a Venezuelan, in speaking of the concessions the U.S. has already offered, made pointed reference to the futility of appeasing communism, quoting Aleksandr Solzhenitsyn on the subject of what he calls "short-sighted concession; a process of giving up and giving up and giving up, and hoping that perhaps at some time the wolf will have eaten enough."

Even more to the point, these strategic and economic realities are generally understood by the American people at large and, through this understanding, there is a very substantial popular sentiment against any action which would diminish our sovereignty over the Canal Zone.

What is less well known is the fact that since 1968 the United States has been involved in negotiations with Panama over our position in the Canal Zone. Between 1970 and 1975 the U.S. has proposed a number of concessions—relinquishment of the "in perpetuity" clause of the 1903 treaty, increase in dollar payments and cession of certain port facilities. Then, in 1974, the U.S. agreed to sit down with representatives of Panama and work out a comprehensive agreement that would initially give the Panamanians jurisdiction over the Canal Zone and, ultimately, would actually transfer both ownership and operating responsibility of the Canal to Panama.

We are doing exactly that right now. Ambassador Ellsworth Bunker, operating under those guidelines, is at work on a Caribbean island, developing the details with representatives of Panama.

Ultimately, of course, it will all have to come before the U.S. Congress for ratification, and no American legislative body in history has had a more sobering task than the one the legislators will face when they contemplate a treaty that diminishes or relinquishes our precious sovereignty in Panama. If the Congress concludes that the U.S. can risk sharing those fifty vital miles of lifeline with a hostile Communist government; even worse, if it agrees to give the Canal away, it will have done this country more harm than a dozen succeeding Congresses could repair.

DÉTENTE AND CONTAINMENT—THE DANGERS OF SEMANTICS

Mr. GARN. Mr. President, hardly a day goes by without some positive or negative comments in the daily press on the political consequences of America's current policy of détente. Our colleague, the distinguished junior Senator from Tennessee (Mr. Brock) brings clarity to the debate in an article published in the January issue of the Journal of Social and Political Affairs dealing with the problems of excessive rhetoric and publicity generated in support of détente.

In a brief review of 40 years of American-Soviet relations, the Senator shows how the political pendulum swung back and forth, causing at each turn contradictory efforts of the decision makers to influence America's public opinion. The recognition of the Soviet Government in 1933 was accompanied by exaggerated praise of Soviet domestic accomplishments. Subsequently, the revelations of Stalin's purge trials acted as a counter-irritant.

Again, after Pearl Harbor, it appeared expedient to disregard the distasteful aspects of communism and to convince the American people of the essential "goodness" of the Russian ally. A few years later when Soviet expansionism caused a new American posture, the containment policy was overadvertised as a panacea. Now "détente" is upon us with the result that many consider a "no-risk" policy the only desirable course of action.

Senator Brock effectively refutes this idea, as he suggests that relations with Russia should be considered a continuum consisting of efficient and friendly negotiations interrupted when necessary by confrontations.

Because of the significance of his comments, I ask unanimous consent that his article, "Détente and Containment—The Dangers of Semantics" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

DÉTENTE AND CONTAINMENT—THE DANGERS OF SEMANTICS

(By William E. Brock III, U.S. Senator)

The public debate about the positive and negative elements of detente is currently gaining force. Whereas under the influence of an inflated rhetoric, detente was initially welcomed by a vast body of American public opinion as a progressive development, since it seemed to end an era of cold war confrontations, it now appears that second thoughts are gaining the upper hand. Questions are being raised as to whether the implementation of the new concept is not actually playing into Soviet hands. Some wonder whether American negotiators are not always given the short end of the bargain, while others warn that the Russians, under the umbrella of detente, might be able to achieve the goals which cold war policies have prevented them from attaining.

In America, detent is often seen as an end in itself. By contrast, it has been pointed out that in the USSR it is considered an effective tactical strategy for achieving long-term strategic objectives such as the breakup of the Western alliances, the termination of United States military presence in Europe and worldwide Soviet political, military and economic hegemony. According to this view, the policy of detente actually has facilitated the Soviet military build-up. Russia's naval expansion, SALT I and more recently the Helsinki agreements are usually cited as examples to demonstrate the pitfalls of the new concept.

Scholarly critics, moreover, have been referring to detente as a policy of "strategic drift" promoted by America's "national uncertainty, indecisiveness and self-doubt." They have been stressing fundamental contradictions between the current conduct of American foreign policy and the Secretary of State's earlier doctrines enunciated while he was teaching at Harvard University. As a Professor, Dr. Kissinger once described an American "no-risk" policy vis-a-vis the Kremlin as self-defeating. It has been charged that under the label of detente he is now actually pursuing such a no-risk policy.

In the early days of containment the State Department stressed the revolutionary character of Soviet communism, asserting that Russian rulers sought security only in a patient but deadly struggle for total destruction of the rival power, yet never through compact or compromises. Today, Americans find the inhabitants of the Kremlin portrayed as conciliatory and reasonable members of the family of nations. It is hardly surprising then that the validity of the alleged transformation is being questioned. In this connection, Secretary Kissinger's often quoted rejoinder, "What is your alternative to detent?" has not been very helpful. If anything, it tended to obfuscate the fundamental issues. The public debate has so far remained inconclusive; accordingly, a brief review of four decades of American-Soviet relations might provide some helpful guideposts.

The United States was one of the last industrial powers of the West to recognize the Communist government of Russia. Franklin D. Roosevelt, who regarded the absence of diplomatic relations between the two countries as counter-productive, hastened to correct this state of affairs after taking office. He was encouraged by William C. Bullitt who, as Woodrow Wilson's emissary, had visited Russia in 1919 in an attempt to reach a modus vivendi with Lenin's government. Although unsuccessful in this regard, Bullitt was greatly impressed by the dynamic personalities of Russia's revolutionary leaders and from then on constantly pressured for recognition of the new regime. The resulting Roosevelt-Litvinov agreement of 1933 entailed a Soviet acknowledgement of the Czarist debts, provisions against communist propaganda and pledges to assure the freedom of religious worship for Americans living in the Soviet Union.

It became William Bullitt's task as America's first ambassador to the Soviet Union to follow the implementation of the agreement. To his dismay, he soon learned, however, that only the last mentioned provision was duly observed. Contrary to the spirit of the agreement, the Comintern never ceased to work toward one of its ultimate goals, the overthrow of the United States Government. And when Bullitt protested, Litvinov brazenly declared that the Cominterm was a private organization in no way connected with the Soviet Government. In a similar fashion the carelessly drafted debt agreement was flouted.

Russian non-fulfillment of the principal provisions of the Roosevelt-Litvinov agreement could have taught the United States a few important lessons. Unfortunately, though, Soviet talents for utilizing the fine print and for interpreting ambiguities in the text of their own satisfaction were soon forgotten. It took numerous additional demonstrations of Soviet craftiness before American representatives fully grasped the nature of and problems in negotiating with the Kremlin.

William Bullitt soon left Moscow, a thoroughly disillusioned man, and many Americans who had regarded the Roosevelt-Litvinov agreement as a progressive development shared his feelings. Reports of Stalin's purge trials which reached the West shortly thereafter added to America's apprehensions about the Soviet system. When a few years later Hitler's legions invaded Russia, Senator Harry Truman's public comments probably reflected the views of many Americans. Truman not only expressed satisfaction at the spectacle of the two dictators hacking away at each other, but he also suggested that aid should be given to the exhausted side in order to attain complete annihilation of both systems. His comments were of questionable appropriateness for a U.S. Senator, but they were in line with America's attitude toward the two belligerents at the time. Stalin's purge, Hitler's racial persecutions, the involvement of both in the Spanish Civil War and finally the Molotov-Ribbentrop Pact had been effective in eliminating most of the sympathies held for either of the two systems among the American people. As one would expect, Soviet propagandists promptly seized on the occasion and recited Truman' remarks whenever the wickedness of the United States had to be shown.

Pearl Harbor ended this situation overnight. Willy-nilly, the United States found itself suddenly in the same camp with the Soviet Union. Moreover, the spirit of self-preservation obliged the United States to make the best of the resulting configuration of forces. To any objective observer in 1942 it was clear that the Axis powers could only be defeated by the combined and uninterrupted efforts of the newly formed East-West Alliance. A defection of Soviet Russia, i.e. a separate Soviet-German peace settlement, would have required an extraordinary war effort on our part and probably been tantamount to an indefinite stalemate. There is evidence that Franklin Roosevelt recognized this danger.

Today we find many historians who are critical of FDR's accommodating policies toward the Kremlin. In particular, the President's lend-lease policies and his "generosity" toward the Soviet Union have frequently come under fire. As I see it, most of this criticism is based on the wisdom of hindsight. Bismarck's Reinsurance Treaties with Imperial Russia, the Rapallo Treaty, the subsequent training of the German Reichswehr on Russian soil and the Molotov-Ribbentrop Pact demonstrated that the two nations often were able to overcome elements of division and to join forces when this seemed expedient from the standpoint of their respective national interests. Besides, moral inhibitions were not part of the dictators' vocabulary.

Roosevelt's "naive" comments on future American-Soviet cooperation have found many critics, but I often have wondered whether such remarks were not, at least in part, offered for public consumption. Our self-interest at that time made it necessary to convince the American people of the essential "goodness" of the Russian ally; by the same token, it was not possible for America's leaders to express publicly any inner fears about the reliability of the Kremlin. Accordingly, there had to be an unrestricted and even lavish flow of lend-lease supplies and an uncompromising demand for unconditional surrender. If Russia still defected, at least the man in the White House would have done his best to prevent such a disastrous course of events. Considering the role of public opinion in the conduct of American Foreign affairs, it therefore seems only natural that an all-out effort was made to secure a nationwide acceptance of wartime cooperation with the Soviet Union. Accordingly, memories of Russia's collectivization, of Stalin's purge-Trials and unfulfilled agreements were "forgotten" and the democratic elements of the Soviet system—whatever could be found—were moved to the foreground. The resulting "war romanticism," as John Foster Dulles later put it, over-idealized the Soviet Government's actions as well as its objectives.

The benevolent image of Russia's rulers promptly began to wane when victory over Hitler came in sight. In case any Western leaders had been carried away by their own wartime propaganda, Yalta should have given them a fore-taste of Soviet postwar posture. Undoubtedly, the configuration of military power played a decisive role in February 1945. In the West, political and military leaders had barely recovered from the shock of a threatening German breakthrough to Liege and Antwerp which would have split apart the American-British forces. In the East, most of Poland was in Russian hands and the Soviet armies were advancing rapidly. Accordingly, Soviet leaders yielded little, especially on the key question of Poland's political future. Moreover, the wording of the Yalta agreement was general enough to permit contradictory interpretations.

Subsequently, when public opinion demanded that "our boys be brought home," and, as a result, the American army in Europe literally disintegrated, the Kremlin was not slow in recognizing the green light: most of the agreements on Eastern Europe were promptly flouted. As Stalin, in an unguarded moment, explained to Harry Hopkins: "The Soviet Union always lived up to its commitments—except in very rare extreme emergencies." History is, of course, full of examples of big or small powers violating international law, but I do not recall any instance when this was done more brazenly.

It took some time to convince the American people of the fact that wartime cooperation had come to an end and that a new phase of American-Soviet relations was in the offing. Soviet demonstrations of intractability hastened the process and by the end of 1947 the American public by and large had accepted the new policy of containment. In essence, the concept ought to be seen as an understandable reaction to the widespread public desire for a return to "normalcy," to a general unawareness of Soviet Russia's diplomatic and political methods, and to the United States' lack of political preparedness. The containment concept accordingly entailed a strong emphasis on the need for power and the demonstrated willingness to use it when dealing with the Kremlin. Russian retrograde reactions to the United States' firm posture on Iran and Turkey showed the merits of the new approach.

A less desirable facet of containment on the other hand was the emerging reluctance in Washington to search for settlements to explore the possibilities of a detente and to pursue actively Soviet feelers for compromises. As it seems in retrospect, we may have missed some opportunities to maintain the wartime alliance beyond 1947. Whereas American public opinion by and large accepted the dark image of the men in the Kremlin, a negative aspect of containment, namely, the reluctance to negotiate with Communist rulers, was promptly challenged by Walter Lippman—"For a diplomat to think that rival and unfriendly powers cannot be brought to a settlement is to forget what diplomacy is all about. There would be little for diplomats to do if the world consisted of partners enjoying political intimacy and responding to common appeals."

In sum then, the protagonists of wartime cooperation with Russia as well as the apostles of containment went overboard in their respective efforts to convince a hesitant populace. During the years 1942–1943, considerable efforts and "war romanticism" were seen as necessary to create the essential climate for wartime cooperation. Naturally, Soviet performance on the battlefield aided the progress. In a similar vein, as of 1945 all the negative aspects of Soviet Communism have to be stressed to prepare public opinion for the unavoidable confrontations. Again, Soviet expansionist policies and violations of the Yalta and Potsdam agreements expedited American public reaction, fostering an appropriate climate for the beginning of the Cold War.

Today, there is a tendency to identify containment as a policy of risky confrontations. This definition does not follow Webster, nor does it correspond to reality. As to the former, containment is "the policy of attempting to prevent the influence of an opposing nation or political system from spreading." As to the historical past, there were actually more incidents under containment where confrontations were evaded than faced. When General Clay in the early stages of the Berlin Blockade recommended the dispatch of an armored convoy, he was promptly over-ruled and the airlift organized instead. Had there still been a sufficient number of American combat-ready divisions in Europe, I believe neither a convoy nor an airlift would have been necessary to secure our access to Berlin—not because they would have been used, but because of Soviet perceptions of U.S. strength. As it turned out the airlift provided a temporary solution to a long-term problem but it also signaled to the Kremlin our reluctance to engage in risky confrontations—a message subsequently confirmed in the course of the uprisings in East Berlin, Poland and Hungary—and on the occasion of the erection of the Berlin Wall. Soviet analysts accordingly were surprised at our energetic reaction to the invasion of South Korea, especially since Secretary Acheson a few months early had failed to list Korea as within the defense perimeter of the United States. Their strange, yet not quite illogical, conclusion was that Acheson's speech had been a "ruse" and that the USSR had been "tricked" into the Korean venture.

From today's vantage point, the Cuban missile crisis will be seen as the watershed of the Cold War. While Soviet leaders had some reasons to be surprised at America's strong reaction to the invasion of South Korea, it took the mentality of a political gambler to assume that the Russians might get away with extending their aggressive policies to the borders of this country. The resulting confrontation had not only the short-run result of demonstrating to the world the limits of American patience, but the tense days which the two adversaries spent at the nuclear brink drove home the fact that all possible efforts should be made to avoid future dangerous encounters.

A number of unrelated but equally significant developments followed. The previously rumored rift between the Soviet Union and China came into the open and made it clear that the theory of monolithic communism was only a myth. In the United States a President with a strong anti-communist record and a commitment to extricate the United States from Vietnam took office. And in Russia the Brezhnev-Kosygin team, which for more than five years had been trying to achieve a more balanced and improved pattern of economic growth, was encountering a serious impasse. Its initial efforts to rebuild the Soviet economy in accordance with the much publicized program of the Soviet economist Lieberman apparently had failed because of the emasculating influence of the Soviet bureaucracy.

When surveying the domestic economic scene the politburo had to recognize that although Russia's gross national product was second only to that of the United States and its military program in successful competition with ours, a substantial part of the Soviet economy was still underdeveloped. The unbalanced growth of the economy had resulted in near parity with American production in some sectors of heavy industry, but the technical backwardness in consumer goods industries, as well as in agriculture, was very much in evidence. Moreover, and most important, large reserves of minerals, fuels and timber remained unexploited.

Soviet ruling circles therefore faced the difficulty of choosing between continued relative regression, or accepting new methods of economic development, or seeking help from abroad. There are a number of reasons why the second choice was a difficult one for the Soviet leadership to make. Almost since the creation of the Soviet State, the Kremlin had used its labor and capital resources quite extravagantly in order to obtain the fastest possible growth rate. This approach, while highly successful at the beginning, was, of course, facilitated by the huge reserves of manpower which existed in Russia's rural areas. By the middle of the sixties, however, this source of labor supply had been exhausted with the result that the growth rate of the Soviet Union began to fall off. The combination of these circumstances left the Kremlin with the choice of reorganizing the Soviet economy from the bottom up by doing away with firmly entrenched institutional arrangements such as strict party control, central planning, arbitrary pricing, etc. through the introduction of a competitive market or accepting the third option, namely large-scale assistance in the form of capital and technology from the West. The USSR's current emphasis on detente indicates what the decision of the Politburo was.

In other words, there were a number of evolutionary developments in the USSR as well as in the USA which prepared the ground for the establishment of a new American-Soviet relationship. Against the background of the preceding phases of history, the term "detente" was indeed appropriate for the new state of affairs because—literally translated—it simply meant a lessening of tension without any connotation as to the depth or permanency of the process.

As is well known, the Soviet leaders do not have the public relations problems of American administrations. They can switch at a moment's notice from confrontation to detente and back whenever this seems expedient, and have only to remind the Russian people to keep up their guard. Accordingly the influential Soviet journal "Problems of Peace and Socialism" defined peaceful coexistence as "a specific international form of class confrontation linked to the people's struggle not only for peace but also for revolutionary transformation of society to a strengthening of the Socialist community and to mass action against imperialism." F. D. Kulakov, a member of the Politburo declared in 1972 that "peaceful coexistence is the best base for practical solidarity with the revolutionaries of the whole world." And IZVESTIA stressed in 1973 that detente "does not put an end to class struggle on the international arena, as it does not abolish the political and ideological struggle, nor the economic competition between the two systems."

In America, by contrast, in order to maintain the necessary positive climate for political and economic negotiations with the Soviet Union, President Nixon felt obliged to state in June 1974 "we have moved in the last two years from confrontation to coexistence to cooperation." It is not surprising, then, that we find the terms peaceful coexistence, detente, approachment and friendship used quite indiscriminately. Detente, however, is not peace; as a French writer recently pointed out, "otherwise it would be called peace." Similar to the days of "war romanticism" the undesirable features of the Soviet system are currently pushed into the background and the appearance of a Solzhenitsyn in the United States is needed to remind the American people that the fundamental features of Soviet communism have not changed.

There can be little doubt that the American-Sino rapprochement further generated Soviet interest in better relations with this country. Accordingly, President Nixon's visit to Peking four years ago actually heralded the beginning of a new era. It is yet too early for a thorough analysis of the new policy, especially since one cannot quantitatively document the confrontations that were avoided nor the crises which failed to occur. A few concrete benchmarks of détente nevertheless stand out: SALT I, the Wheat Deal, and the Helsinki declarations. Regarding the complex details of SALT I, the opinion of experts is about evenly divided as to whose benefits are greater. There seems to be a consensus, however, that both countries benefitted by agreeing to forego territorial defense against offensive missiles. Naturally the treaty did not remove all the dangers in the American-Soviet military relationship, but it demonstrated to both sides that their people remain highly vulnerable to missile attack. As I read it, this in itself should provide a great impetus to continued peaceful negotiations.

The unfortunate wheat deal, on the other hand, has caused an understandable public uproar in this country accompanied by statements that the Soviets are a tricky lot and that we again have been had. I must subscribe to the second part of the comment but prefer to reserve judgment on the first. The General Accounting Office, following a Congressional request, conducted a thorough investigation of the circumstances surrounding the wheat deal. It revealed bureaucratic neglect and inefficiency as well as questionable business ethics on our side, but offered scant criticism as far as the Soviet Government was concerned.

An examination of the record shows that in this transaction the Soviets held all the trump cards. They knew that their grain harvest would be very poor, they were thoroughly familiar with the market conditions and commercial methods in this country, they knew when and how much American wheat they would have to buy and, most importantly, they had the benefit of a unified command structure. While official negotiations between the two governments in Moscow and in Washington were still underway, Soviet buyers proceeded to sew up the market and when our Department of Agriculture began to realize what was going on, it was too late. Bureaucratic inefficiency moreover permitted the payment of export subsidies at a time when they were not any longer required. Under these circumstances it is difficult for me to find fault with the Russians. I rather think it is about time that we wake up and learn to take care of ourselves.

It clearly would be foolish on our part to allow trade with Russia to follow the vagaries of the market place while on the Soviet side it is firmly controlled by the government. In other words, we cannot deal with a country which has a government monopoly of foreign trade in the same way we are dealing with one which has not. I might also add that it is not clear to me why large and long term government credits are necessary to facilitate exports to the Soviet Union. Are such credits really justified, if one considers the financial expenditures incurred by Russia's extensive arms shipments to the Third World?

Finally, as to the Helsinki resolutions, the Soviet Union has tried for almost 25 years to get this conference underway, and I feel certain that by now the men in the Kremlin must wonder whether the final result justifies their long struggle. Similar to the United Nations' Human Rights resolution, the Helsinki agreement is a moral commitment at best, without any legally binding force. The United States has pledged not to attempt to change the European boundaries by force, a statement which actually only acknowledges the essence of our European policies during the last forty years. The Soviet Union, on the other hand, has committed itself to permitting a free flow of information into the Soviet Union, to more liberal emigration policies and to non-interference in the domestic affairs of other countries.

The Helsinki agreements are only a few months old but, typically, there have been already a number of incidents causing public complaints about Russian non-compliance. I would not be at all surprised if additional embarrassing incidents for the USSR would follow.

Finally, it is often overlooked that the Soviets had originally insisted that the conference ought to be an exclusively European affair and that the United States as a Non-European power should not participate. The fact that the United States is a signatory and that the Soviets thereby accepted a permanent U.S. presence at the Soviet borders in Europe reveals the fallacy of the view that Helsinki was a totally Russian triumph. Perhaps it is more realistic to wonder if there are any "winners," or whether in fact there were losers on both sides—most of all the people of Eastern Europe.

It seems to me that a few fundamental conclusions can be drawn from this review of American-Soviet relations: First, Soviet expansionary aims have not changed, and the downfall of economic freedom is still the Kremlin's ultimate goal. Second, the Soviet government respects only an opponent with adequate power and the unquestioned national will to use it. Third, when negotiating with the Russians it is never possible to bank on good will. Our traditional approach to negotiations accordingly must be modified, because as seen from Moscow, there are no good or bad guys on the other side, but only strong or weak opponents. Fourth, every deal with Russia has to stand on its own and no concession should be made for good will's sake.

In sum, then, there are four basic requirements for dealing successfully with the Soviet Union: precision, power, patience and perseverance.

Nothing will be found in these conclusions that was not applicable throughout the last forty years; they remain equally valid today. Whereas the essential features of long term Russian political designs remain unchanged, it would be nevertheless a mistake to overlook those factors which expedited the arrival of a new era and which impose constraints on the unfettered variability of Soviet actions. They include the recognized consequences of atomic warfare, the emergence of China as an anti-Soviet power, and the growing awareness in the Kremlin that not all communist successes are necessarily beneficial to Mother Russia. It seems that the Soviets have begun to realize that the spread of communism does not always serve their national interests, and that the conversion of some larger countries to communism may be a mixed blessing.

While these three elements without doubt precipitated Soviet willingness for a better relationship with the United States, I believe that our current public efforts to draw a sharp line between containment and detente are misguided. As a ranking State Department official recently remarked, "Detente ought to be seen as a dynamic process of enormous complexity rather than as a simple state of relaxation. It has to be hardheaded and multifaceted effort to temper antagonism with restraint, confrontation with negotiation, and the impulses of power with the incentives of responsibility. At the same time we must always remember that interests will be respected only if it is clear that they can and will be defended. "The Soviet Government in this regard continues to give its people the true facts of life and to stress that the long term aspects of the conflict between the two systems remain unaltered. Consequently, it seems unwise to me not to communicate in a similar mature fashion with our people. I was, therefore, pleased to read President Ford's warning in Helsinki about "empty words and unfulfilled pledges" as well as his recent caveat that "detente is not a license to fish in troubled waters."

In the past, desirous of convincing the American people of the need for containment, we probably missed some worthwhile opportunities for ameliorative actions. Today in the endeavor to persuade Americans that friendship with the Soviet Union is around the corner, we may be promoting an equally undesirable no-risk policy.

In my judgement, Americans would be better served if relations with Russia were shown as a continuum consisting of negotiations interrupted on occasion by confrontations.

Good sense militates against the theory, "the only way to bargain with the Russians is to push them to the wall every time." That is not only extremely dangerous, it simply won't work. On the other hand, forty years of American-Soviet relations should have taught us that it is not possible to carry over some credit from one negotiation to the other. Moreover, it would be calamitous to ignore the incredible strength we possess and to yield simply "for detente's sake."

The United States has the most awesome power ever placed in the hands of one people. It is composed in part by a military capacity for destruction. It is more essentially composed by an economic capacity for production. And it is welded together by our heritage, our values, our spiritual commitment to freedom. If we will accept the fact of this strength, and use it with the maturity and integrity of judgment inherent in those values, these United States will continue to remain the one nation standing between the freedom of mankind and a return to The Dark Ages.

NO-FAULT INSURANCE

Mr. MOSS. Mr. President, I would like to call to the attention of my colleagues an excellent article on automobile no-fault insurance that appeared last week in the Schipps-Howard newspapers. This article, written by Ann McFeatters, makes clear that no-fault automobile accident insurance is working. It is compensating seriously injured automobile accident victims in cases where there would be no recovery under the traditional tort system, it is doing so faster, and it is returning a higher percentage of the premium dollar to accident victims rather than to lawyers and insurance companies.

This article shows that recent increases in insurance premiums are not a result of no-fault but are attributable primarily to soaring car repair costs. Recovery of such costs remains under traditional fault-based insurance in most States as well as in the Federal standards for the no-fault bill currently before the Senate. Ms. McFeatters shows that despite inflation and higher medical costs, the portion of the insurance premiums attributable to bodily injury has not increased at all or has not increased as fast in no-fault States.

The article cites facts that one by one refute the arguments that are being made against the Federal standards for no-fault bill. The author reports that no-fault is not driving insurance companies out of business, that State officials are pleased with their no-fault experience, and that national standards are needed to correct deficiencies in State plans and to remove the burden on interstate travel caused by conflicting State laws.

Finally, the article notes that the major opponent of national standards for no-fault is the Association of Trial Lawyers of America whose members receive $1.8 billion per year from auto injury lawsuits, and who have set up a $400,000 campaign war chest to elect Members of Congress who oppose Federal no-fault. Lined up against the trial lawyers are consumer groups, labor unions, and many insurance companies.

I urge my colleagues to pay serious attention to this article, and I am hopeful that they will conclude as I do—that the time has come to enact Federal no-fault standards to reduce the tragic human loss on our highways and to insure that automobile accident victims are compensated fully, quickly, and equitably.

I ask unanimous consent that Ms. McFeatters' article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Article

(By Ann McFeatters)

Washington, February 3.—Contrary to recent published reports, data obtained by Scripps-Howard News Service shows no-fault auto accident insurance is working.

It is compensating seriously injured victims more equitably than insurance which depends on determination of fault; reducing delays in payments to victims and holding premiums down. There are these examples:

Pamela, 17, was permanently paralyzed from the waist down, when the pickup truck she was riding in smashed into a tree. Before Michigan required insurance companies to provide no-fault, she would have received nothing because of a state law which says the driver is not liable for a guest's injury unless he is guilty of gross negligence. Under no-fault, her father's insurance will pay $65,000 for all her medical bills, rehabilitation, a special car and remodeling of her home for a paraplegic.

Harry, 41, stepped from between two parked cars and was struck by a car, paralyzing his lower body. Because he apparently was at fault and had no accident insurance, in most states he would have been hospitalized at public expense, recovered no lost wages—putting his family on welfare—and received little rehabilitation. Because he lives in Michigan, his expenses of more than $250,000 are being picked up by the driver's no-fault insurance.

It was George's fault that while on vacation in Illinois he struck the car in front of him. This caused the other car's gasoline tank to explode, severely burning George's baby.

Under an ordinary auto liability insurance policy, the baby's medical costs of $33,000 so far would have come out of George's pocket. Because he was a Michigan no-fault policy, those costs, plus $25,000 more for additional surgery and the costs of special schooling if the accident has caused the child brain damage will be paid by George's insurance.

True no-fault insurance provides that all medical and rehabilitation costs are paid by the insured's own insurance company, regardless of who was at fault in an accident. Certain additional benefits for loss of income, funeral services and survivors' benefits also are included in a model no-fault plan. Legislation is required to set statewide standards and require private companies to write no-fault insurance.

Damages to vehicles and other property, however, remain under fault insurance. And it is soaring car repair costs, up 20 per cent in one year, that have been causing overall insurance premiums to rise, not just liability for bodily injury. Bodily injury insurance accounts for 40 per cent of the premium dollar.

Michigan has had—since Jan. 1, 1973—the country's strongest law providing for no-fault, and 23 other states and Puerto Rico have adopted varying, weaker laws requiring no-fault compensation for injuries from auto accidents.

Statistics published recently have purported to show the plans are failing. But insurance company data and reports of state insurance commissioners show just the opposite—the strongest no-fault plans work well and the weakest ones, most like the current fault system, cause the most problems.

For example, opponents of no-fault insurance say it has raised premium costs to consumers instead of lowering them as expected. But an analysis of premiums shows that despite inflation and higher medical costs, under no-fault bodily injury insurance they have not increased or have not increased as fast as in fault-insurance states.

According to Aetna Life & Casualty Co., its bodily injury premium rates in eight of 10 no-fault states have declined since no-fault went into effect.

Before no-fault was enacted in 1973 in Connecticut, the average annual base rate for a family policy for bodily injury insurance was $71.95. It now is $64.98. In Georgia the rate has declined from $47.44 before the law to $38.92. In Minnesota the rate went from $92.25 to $72.27. In Michigan the rate went from $69.59 to $58.23. State Farm Insurance Co., the largest auto insurer; supports no-fault. It estimates that nationwide the rates of all its auto insurance premiums, including collision, property damage and bodily injury coverage, went up 10.9 per cent in 1975 for all states. The increase in fault states, however, was 12.2 per cent while the increase for no-fault states was only 9.8 per cent.

The company also refutes the argument that no-fault is driving insurance companies out of business. During five years of experience with state no-fault plans, State Farm says it has paid out $300 million in dividends to policy holders.

Herman Brandau, associate counsel for State Farm, said in Bloomington, Ill.: "Bodily injury rates are starting to go up, although not so much as they would be without no-fault. But nobody promised that no-fault would repeal inflation."

States with no-fault experience are almost uniformly pleased.

In Massachusetts, which has the longest experience with no-fault since its plan went into effect in 1971, Gov. Michael S. Dukakis said : "Our no-fault bodily injury laws have been an unqualified success."

According to his statistics, the number of injury claims filed in Massachusetts has been reduced from 116,426 to 57,933, indicating the law has weeded out fraudulent claims. Bodily injury rates in Boston fell from $117 to $45 in 1975 for a male driver over 25. (A rate increase of two per cent has been approved for 1976.)

Philipp K. Stern, actuary for New Jersey, told Congress that under no-fault there more people are being compensated for economic loss and getting paid faster.

New York's insurance department said that, despite a current 20 per cent increase in personal injury insurance rates, these rates still are lower or about the same as they were before no-fault went into effect in 1974.

Thomas C. Jones, Michigan's insurance commissioner, said: "The time lag between injuries and payments has virtually disappeared. Gross inequities in settlements have been virtually eliminated. Coordination with health insurance coverage allows policyholders the possibility of 20 per cent savings."

Proponents of no-fault concede flaws in the state-by-state approach, however. A driver in one no-fault state may get all his medical expenses paid while a driver in another state might get only $1,000.

A driver in Florida can sue for additional damages if his medical expenses go above $1,000. A driver in New Jersey may sue if his expenses exceed $200.

"It's amazing no-fault has worked as well as it has," said Peter Kinzler, counsel for the House consumer protection subcommittee which is considering a bill to authorize no-fault nationally.

His and others' major dissatisfaction with state laws is the generally low threshold on when accident victims can sue. For example, most states allow a victim to sue if medical damages exceed $500—only a couple of days in a hospital in New York.

Kinzler argues this puts back into the insurance system all the costs of legal action that no-fault is designed to eliminate and that original reductions in premiums here based on.

He and others also argue the low threshold for suit promotes fraud. In Florida's Dade

County (Miami) a grand jury reported a small group of lawyers, physicans, osteopaths, chiropractors and hospitals have been working together to "inflate or outright falsify personal injury claims."

Gary R. Frinks, lawyer and lobbyist for the National Committee for effective No-Fault, which coordinates the pro-no-fault position, says the way to combat this type of fraud is to enact a federal law limiting the right to sue to those disabled for 90 days or more, or for death or serious or permanent injury.

For the last five years there have been unsuccessful attempts in Congress to pass a federal law to require all drivers to have insurance which would pay all their own medical costs, rehabilitation costs and lost wages up to $15,000 in event of an accident.

A renewed drive in Congress to pass a national plan will probably see a vote in the Senate within weeks. A House committee is likely to act later.

Backers of a national approach include labor unions, consumer groups, some insurance companies such as State Farm, and the American Insurance Association whose members write one-third of all auto insurance.

They cite the following statistics as the basis for a national law!

Fifty-two percent of all those injured in auto accidents under the fault system never get a dime for their medical costs, rehabilitation, lost wages or future inability, according to the Department of Transportation.

An auto accident victim who is seriously injured and does collect gets only 30 percent of expenses. Under the fault system the victim most likely to recover damages is the questionable whiplash victim, or those with minor injuries. On these the insurance company is willing to settle out of court rather than accept the expense of a trial.

Accident victims get less return on their bodily injury insurance premium dollar than do victims collecting on any other insurance, according to the government—about 25 cents.

The major opponent of a National no-fault approach is the Association of Trial Lawyers of America, whose members derive $1.8 billion a year from auto injury lawsuits. The trial lawyers last fall set up a $400,000 campaign was chest to elect members of Congress who support them.

Also opposed is President Ford. He is supported by Attorney General Edward H. Levi but opposed by Transportation Secretary William T. Coleman, Jr.

The American Bar Association, the American Mutual Insurance Alliance (whose members write 10 percent of auto insurance), the National Association of Independent Insurors (whose members write 40 percent) and a majority of state insurance commissioners also oppose a national no-fault law.

The lawyers' position, explained by their top staff aide and testimony to Congress, is that the federal approach raises a host of constitutional issues and unfairly deprives the slightly injured victim of the right to sue for pain and suffering.

The lawyers also contend auto insurance problems in Manhattan differ from those in Montana and each state should solve its own. And they say it is not fair to pay the person who causes an accident for his medical costs the same as the innocent victim.

They argue further that while no-fault states have seen sharp drops in the number of lawsuits, the size of money awards on settlements is larger.

Backers of no-fault counter that under the current system, the innocent victim is often not compensated and if the guilty driver is not paid by his insurance the public must pick up his bills. They also argue the settlements should be larger because of inflation and higher medical costs, and because the small claims no longer exist under no-fault.

Frink, whose father was killed in an auto accident and who says his mother had to wait two years for less than $7,500 after attorney's fees, says he believes that if no federal law is passed this year the federal government will take over auto insurance.

"What we can no longer ignore in all this debate is the human tragedy that occurs every day," he said.

THE LOGAN ACT

Mr. GOLDWATER. Mr. President, since I have made the statement that the Logan Act applies to Mr. Nixon, I thought it would be appropriate to briefly discuss the law and its origin. It is possible that some of my colleagues are not aware of the interesting historical background of this law and I would like to clear it up for them.

Mr. President, the Logan Act has its origin in the early years of our Republic. In 1798, at a time of crisis in our relations with France, Dr. George Logan, a Philadelphia Quaker whom Thomas Jefferson regarded as the best farmer in Pennsylvania, went to France with the blessing of the Jeffersonians to discuss matters of state with foreign minister Talleyrand. Logan traveled to Paris in a private capacity, but with letters of introduction from Jefferson. As viewers of the television series, "The Adams' Chronicles," will know this incident occurred during a period in history when John Adams was President and a man who was not of his administration or political party, Thomas Jefferson, was Vice President. Therefore, Logan was not authorized to make his visit, even though the Vice President had an interest in it.

The President, John Adams, had been engaged in a long effort at negotiations with France regarding protection of American shipping, if at all possible without becoming involved in an allout war. The official U.S. commissioners to France had been rebuffed in the infamous XYZ affair, the code letters for the agents of France who had demanded that our commissioners give Talleyrand a large bribe and promise the French Government in advance a huge loan from the United States before the French Directory might agree to formally receive our mission.

Our officials, John Marshall, C. C. Pinckney, and Elbridge Gerry, refused to bow to the demands of France. They refused to buy peace with a bribe or to surrender their Nation's independence of action to a foreign power. Their courage was toasted in America with the now famous words:

> Millions for defense, but not a cent for tribute.

It was in this setting that Logan set out on his unauthorized, private mission to Paris. Obviously, the French were pleased to deal not with the persistent men who had refused to buy peace, but with a pro-French citizen, who claimed he was the true representative of the American people. Logan returned to the United States with the message that France would respond to a spirit of accommodation and that America should not continue military and naval preparations for its own defense.

It was in order to prevent future unofficial consultations and discussions of this type by private individuals with foreign governments that the Congress passed the law in 1799 that is known as the "Logan Law" and that is still on the books. The primary purposes of the law, in the actual words of its supporters during congressional debate, were "to punish a crime which goes to the destruction of the Executive power of the Government" and "to guard by law against the interference of individuals in the negotiations of our Executive with the governments of foreign countries."

Whether these purposes have application to ex-President and now private citizen Nixon's trip to China is a judgment I will let my colleagues and the American public decide for themselves on the historical record. I have stated my personal opinion that the law does cover Mr. Nixon's trip. The law is founded upon a recognition of the fact that the unauthorized actions of private individuals have a potential of interfering with and disturbing the ability of the Executive to make and carry out foreign policy, and if it has application to any situation it must be this one.

Mr. President, I ask unanimous consent that the text of the Logan Act be printed in the RECORD.

There being no objection, the Logan Act was ordered to be printed in the RECORD, as follows:

THE LOGAN ACT—TITLE 18, UNITED STATES CODE, SECTION 953

PRIVATE CORRESPONDENCE WITH FOREIGN GOVERNMENTS

Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than $5,000 or imprisoned not more than threee years, or both.

This section shall not abridge the right of a citizen to apply, himself or his agent, to any foreign government or the agents thereof for redress of any injury which he may have sustained from such government or any of its agents or subjects.

BAILING OUT THE RAILROAD INDUSTRY

Mr. STONE. Mr. President, on Thursday, February 26, 1976, the Senate approved House Joint Resolution 801 which provides $2.293 billion in supplemental appropriations for a new federally subsidized railroad system. I voted against this supplemental appropriation for the same reason that I voted against the bill which established the new rail system. While I certainly favor the rehabilitation of our Nation's railroads, I am opposed to legislation which in effect bails out an industry that has been crippled mainly because of poor management.

Legislation which seeks to bail out our faltering rail transport system rests upon the belief that if the Government gives any industry enough money it will overcome its problems and regain financial stability. This, of course, is not necessarily the case. Management has little incentive to take the hard measures needed for efficient operation when they know Federal money will be pumped in at the first sign of trouble.

A recent editorial in the Tallahassee Democrat expressed some of the same misgivings that I share about the recent railroad legislation:

> There is no assurance at this point the taxpayers will get anything in return for their money. They are offered only promises which may or may not be fulfilled. It seems to be another scheme to throw vast sums of public money at a serious national problem in hopes it will eliminate the problem.
>
> The federal expenditures will help the struggling railroads which will be combined into a new railroad called Con Rail, but the money won't do anything to eliminate the basic causes of the present situation.

HON. SIR PETER RAMSBOTHAM, KCMG, BRITAIN'S AMBASSADOR TO THE UNITED STATES, ADDRESSES THE COLLEGE OF WILLIAM AND MARY

Mr. HARRY F. BYRD, JR. Mr. President, last month Britain's Ambassador to the United States, the Honorable Sir Peter Ramsbotham, KCMG, spoke to the College of William and Mary, upon receiving an honorary doctorate of law from the college.

The speech was entitled "Taking Strength From History." In his speech Ambassador Ramsbotham spoke of the significance of this, our Bicentennial Year, and its implications for the special Anglo-American relationship that has existed through our history.

Ambassador Ramsbotham said his country could join with the United States in celebrating our country's Bicentennial without embarrassment. The United States, said Ambassador Ramsbotham—

> . . . sought independence because it seemed to them to be the only way in which they could maintain their rights as Britons, and fulfill the very ideals which had inspired—and would continue to inspire—the people of Britain, in the search for a more representative and democratic type of parliamentary government and for the full expression of the freedom of the individual under law.

In looking at the significance of our country's Bicentenary, Ambassador Ramsbotham made the following observation:

> Throughout your Bicentenary, the people of Britain will, with you, be focusing on the events of the last two hundred years, on the endurance and the determination of the young nation; on the frontier spirit, the self-reliance and the drive which opened up the whole vast continent in such an amazingly short space of time; on the consolidation of one nation after a bitter struggle; the emergence of the sleeping giant to play the decisive role in two world wars; on the unprecedented technological achievements made possible by the accumulation of great wealth; and on the compassionate idealism which has informed this country's assumption of her responsibility as a global power.

But, as Ambassador Ramsbotham also recognized, the importance of history is tied to its meaning for the present and the future. Commenting on this point the Ambassador offered the following thought:

> But we must also be looking into the future, into this new era of the last quarter of the twentieth century, which will surely bring startling changes. We must re-examine the role of government in a free society, to ensure that democracy flourishes in an age where government is becoming increasingly complex, and pervasive.

I found Ambassador Ramsbotham's speech most thoughtful and his concluding comments particularly pertinent:

> Our two countries, rich in past experience, represent a structure of stability on which the free world can base its hopes for the future. Our long association, our shared wisdom, our deep respect for law and liberty, provide a fund of strength. As the younger and the more resourceful partner, you in America now carry the main responsibility on your shoulders.
>
> So retain your confidence in this great nation. Do not neglect the fact that America is the leader of the Western world; and that we shall be looking to some of you in this hall to lead us, in the years to come, to the assurance of a more contented life.

Mr. President, Ambassador Ramsbotham has served his country faithfully, and with great accomplishment, and I am most pleased that one of our country's most distinguished institutions of academic learning, the College of William and Mary, awarded the Ambassador an honorary doctorate of law.

Later this year Her Majesty, Queen Elizabeth, and her husband, Prince Philip, will be visiting the Commonwealth of Virginia, and I would like to take this opportunity to also express my pleasure at this visit. In this, our Bicentennial Year ,no visit from a foreign dignitary would be more significant.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million. Upon such notification, the Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the Record the notification I have just received.

There being no objection, the notification was ordered to be printed in the Record, as follows:

Washington, D.C., February 27, 1976.

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding herewith Transmittal No. 76–41, concerning the Department of the Air Force's proposed Letter of Offer to NATO for E–3A Airborne Early Warning Aircraft estimated to cost $2.2 billion. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. Fish,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

Transmittal No. 76–41, Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Foreign Military Sales Act, as Amended

a. Prospective Purchaser: NATO.

b. Total Estimated Value: $2.2 billion.

c. Description of Articles or Services Offered: Thirty-two (32) E–3A Airborne Early Warning Aircraft, training, spare parts and support equipment.

d. Military Department: Air Force.

e. Date Report Delivered to Congress: February 27, 1976.

REGULATORY REFORM: PRIORITY ATTENTION TO BANKING AND FINANCE

Mr. PERCY. Mr. President, there is an urgent need for swift and comprehensive reform of the entire Federal regulatory structure.

Excessive regulation is prodigiously wasteful, fuels inflation, and stifles competition. S. 2812, the Regulatory Reform Act of 1976, introduced jointly by my distinguished colleague Mr. Robert Byrd and myself, addresses itself to precisely this problem. The action-forcing procedures of that bill are designed to induce Congress and the President to agree on a thoroughgoing reform of Federal regulation in the major areas of our economy over the next 5 years.

The first area to be dealt with under S. 2812 is banking and finance. There are several reasons for this:

Banking and finance impact on all levels of our economy. The pervasive influence of this sector makes it a natural starting point for efforts to reform and rationalize Federal economic regulation.

There is an unusually high degree of agreement among eminent economists, leaders of the banking industry, and the regulators themselves, about the issues involved, the viable policy options, and the underlying need for prompt and thorough reform.

The existence of a large body of expert technical knowledge and empirical data bearing on this sector insures that proposals for significant positive reforms can be expeditiously formulated.

The high probability of successful reform in this area is instrumental to the development of a momentum for regulatory reform. Such momentum will be a crucial factor in the success of further efforts to reform federal regulation in the other important areas of the economy.

The banking and finance industry is one in which problems with Federal regulation have, in recent weeks, been everywhere apparent. Recent disclosures by the media have revealed regulatory agency "problem lists" of banks and savings institutions. This came on the heels of the three largest bank failures in our history—those of U.S. National, Security National, and Franklin National Banks. All of this points to a need for timely reform.

In this regard, I would like to call attention to an article from the February 8, 1976, Washington Post, entitled "Bank Regulators Head Congress' 'Problem' List." In that article, Jack Egan presents a pointed criticism of the Nation's "multiheaded bank regulatory structure," namely, that it is a "crazy quilt of overlapping jurisdictions, allowing banks to choose their own supervisor and to play the regulators off against each other in what is often referred to as a 'competition in laxity.' "

It is imperative that we rationalize the regulation of banking and finance in this country. Quite bluntly, the current system of regulation is not being conducted in the Nation's best interests. There is growing evidence to support this conclusion, and more and more people are joining in the call for prompt reform. S. 2812 recognizes this as a first priority, if the underpinning of our economy is to be set straight. It provides a logical process for thinking through and developing an orderly procedure for regulatory reform.

I am pleased to note that several timely efforts have been undertaken in the Congress to highlight and help rectify the problems with Federal regulation of banking and finance. Special thanks are due to our colleagues on the Senate and House Banking Committees for the important hearings which they have held on this subject.

Mr. President, I ask unanimous consent that the February 8, 1976, Washington Post article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Bank Regulators Head Congress' "Problem" List

(By Jack Egan)

New York.—Congress has put the federal banking regulators on its own "problem" list in the wake of recent reports about the difficulties some of the nation's biggest banks are having with their loan portfolios.

The spate of disclosures, coming on top of the three biggest bank failures in U.S. history (U.S. National, Franklin National and Security National) and concern about the adequacy of bank capital in an aggressively expansionary period of banks, has raised the question of why the regulators let the situation get out of hand in the first place.

And it has given weight to longstanding criticisms of the nation's multiheaded bank regulatory structure: That it is a crazy-quilt of overlapping jurisdictions, allowing banks to choose their own supervisor and to play the regulators off against each other in what is often referred to as "a competition in laxity."

As a result, legislative proposals introduced in both the Senate and House to rationalize and consolidate bank supervision have received a strong boost. And passage of some kind of legislation this year is now considered likely.

Under the country's "dual" banking system, which grew up in the 19th century when a premium was placed on expansion rather than stability of the system, banks can seek to be chartered either at the state or federal level.

There are at present no less than three sets of federal bank regulatory agencies (plus the Securities and Exchange Commission which oversees disclosure to investors) and 50 state bank supervisors.

The office of the Comptroller of the Currency has authority over nearly 5,000 nationally chartered banks, and conducts yearly examinations of each. (The three large banks that failed all were national banks under the Comptroller's jurisdiction.)

All national banks must also belong to the Federal Reserve System, the nation's central bank which sets monetary policy and reserve requirements for member banks. The Federal Reserve Board also has examination responsibility for the approximately 1,000 state-chartered banks that are members of the system.

In addition, the Fed has sole authority over all bank holding companies (corporations with a bank as its main subsidiary which also engage in nonbanking activities), even if the banks are not regulated by the Fed.

The Federal Deposit Insurance Corporation (FDIC), set up in 1934 after the wave of Depression bank failures cut the nation's banks in half, insures deposits at nearly all of the nation's 14,700 banks. It also has more direct supervisory authority over more than 8,000 state-chartered banks that are not members of the Federal Reserve System.

The 50 state banking regulators meanwhile oversee and examine banks chartered in their states.

All of this leads to what Fed Chairman Arthur F. Burns calls " a jursidictional tangle that boggles the mind" and Senate Banking Committee Chairman William Proxmire (D-Wis.) says is "regulation at the lowest common denominator."

"Even viewed in the most favorable light, the present system is conducive to subtle competition among regulatory authorities, sometimes to relax constraints, sometimes to delay corrective measures," Burns told the American Bankers Association in an October, 1974, speech.

Proxmire, who has been holding hearings on legislation to combine the regulatory and supervisory functions of the Fed, the Comptroller and the FDIC in a single new Federal Bank Commission, claims "the structure of supervision and regulation at the Federal level has been the major reason why unsafe or unsound conditions in our banking system have been allowed to proliferate."

Weaknesses in the banking system have spread "because the bankers have been able to play the fragmented structure, shifting back and forth among supervisory authorities who they have thought would best accommodate their views," Proxmire said in a Senate speech when he introduced his bill.

He gave the example of a banking institution in one state which switched "to the jurisdiction of a particular supervisor for the purpose of having a particular merger transaction approved. After the merger was approved and consummated, the banking institution switched back again to its original supervisor where it believed the merged operation could be conducted on a more economic basis for the bank."

There is also some concern about too much regulatory power being concentrated in a single agency, and the House Banking Committee has decided to pursue a somewhat less sweeping reorganization tack.

The House proposal, outlined Thursday to the Democratic caucus by committee chairman Henry Reuss (D-Wisc.), would create a five-member Federal Banking Commission to take over the Fed's regulatory functions and absorb the Office of the Comptroller which would be abolished.

The FDIC would remain as a separate agency, retaining its deposit insurance function and some supervisory powers over state-chartered banks.

The original proposal advanced last fall would have consolidated all federal regulation of financial institutions—including savings and loans, mutual savings banks and credit unions—into one agency, so the revised plan represents some backing off in this respect.

The House proposal is part of a sweeping revamping of the entire financial system which would eliminate most distinctions between commercial banks and thrift institutions and put them on a more equal competitive footing. Such reorganization legislation has already passed the full Senate (except for the consolidation of the regulatory agencies) and seems headed for congressional passage this year.

Although several of the federal regulators concur in the view that the present supervisory system is too confusing and leads to jurisdictional rivalries, they differ with the Congress and with each other on what reforms should be made to clear the regulatory thicket and where the power should be consolidated.

Fed chairman Burns, who triggered much of the present reform momentum in his stinging 1974 speech, would not like to see the Fed stripped of its (bank) regulatory powers but has instead proposed that the Comptroller's office be folded into the Fed.

Critics view Burns' position as a move to further expand the already substantial power vested in the Fed and believe that regulation and supervision of the banking system is best kept separate from the power to create and regulate the country's money supply.

FDIC chairman Frank Wille, who leaves his post next month, has proposed that the duties of the FDIC be divided and handled by a federal supervisor of state-chartered banks and by a five-member federal board. The board, similar to what the House has proposed, would also draw regulatory powers from the other federal banking agencies.

But Wille, in a speech last fall, said the present dual system of state and federal chartering "has resulted in significant benefits to the American public" by developing new financial services and "when it functions properly . . . is both pro-consumer and pro-competitive."

A split system also provides "significant protection against unreasonable, inflexible or arbitrary regulatory conduct," Wille said.

LITHUANIA INDEPENDENCE DAY

Mr. STEVENSON. Mr. President, I am happy to again recognize the proud Lithuanian people who observe the 58th anniversary of their declaration of independence and the establishment of a republican government.

But the grim truth is this year also marks the 36th year of the Soviet Union's forcible annexation of the Lithuanian Republic. Despite the long years of oppression, the Lithuanian people remain confident that they and the people of the neighboring Baltic states will again know freedom.

The determination and dignity of the Lithuanian people in the face of oppression deserve the admiration and support of free people everywhere. Sustained by their great spirit, Lithuanians have resisted continuous pressure and remain faithful to their language, tradition, and religion.

The much heralded détente between the United States and the Soviet Union has not changed the reality of the oppression which Lithuania endures. If détente is to become a serious and successful relationship, it must include a relaxation of curbs on religious and personal freedom in the Soviet Union.

Firmness with the Soviet Union can promote peace and enhance human rights. Senate Resolution 319 expresses the sense of the Senate that there has been no change in the U.S. policy of nonrecognition of the lawless occupation of the Baltic States. I am a cosponsor of this resolution and urge its early adoption.

Mr. President, I am proud to join with

the Lithuanian community in the United States in expressing renewed support for the aspirations of all who yearn for freedom and basic human rights.

COMMITTEE ON PUBLIC WORKS ACTIVITIES IN 1975

Mr. RANDOLPH. Mr. President, the legislative activities of the Committee on Public Works were extensive during the first session of the 94th Congress. Bills were prepared and oversight carried out in all of our areas of jurisdiction. In some instances, major legislative initiatives—notably in air pollution and highway transportation—were started last year and will be brought to completion during 1976.

In the first 12 months of the 94th Congress, the Committee on Public Works considered 151 bills and reported 28 of these. Nine measures reported by the committee had become public laws by the end of the first session. Eighty-six days of hearings were held, including nine outside Washington. In addition, there were 17 full committee and 42 subcommittee meetings to consider legislation. All meetings of the committee and its subcommittees were open to the public.

Eight Executive nominations were received and considered by the committee. These included the nomination of James F. Hooper, III, of Columbus, Miss., to be a member of the Board of Directors of the Tennessee Valley Authority. To resolve questions raised in connection with this nomination, the committee conducted a 3-month investigation of the nominee's business background. Personnel from the General Accounting Office were assigned to the committee on a temporary basis to assist in this investigation.

The committee for the first time became involved in the spending plans of agencies with programs under its jurisdiction. Under the requirements of the Congressional Budget Act, the committee must advise the Senate Budget Committee of its evaluation of the adequacy of agency budget requests. To help us fulfill this responsibility, the Public Works Committee held a series of hearings in the spring to examine agency spending proposals and their relationship to program needs.

The committee also held 6 days of general oversight hearings on the programs and policies of the Tennessee Valley Authority in April and May. Witnesses representing the Authority, labor and industry associations, environmental and citizen organizations discussed issues including the energy, economic and environmental consequences of the TVA power program, coal purchasing policies, employment practices and rate structure.

The two-volume record of these hearings will be of great assistance to the Committee in reviewing the responsiveness of the TVA to national and local needs in these areas of concern.

Mr. President, I will now review in detail the work of the subcommittees during 1975:

SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION

During 1975, the activities of the Subcommittee on Environmental Pollution, chaired by Senator EDMUND S. MUSKIE, were focused in large part on an evaluation of the Clean Air Act, based on the 5 years of its implementation.

Fourteen days of public hearings were held during which testimony was received from 60 witnesses on the health basis for the air quality standards, nondegradation, transportation controls, stationary source compliance, enforcement, Federal preemption, and auto emissions questions.

Witnesses included the Administrators of the Environmental Protection Agency and the Federal Energy Administration, Secretary of Interior Morton, State and local elected officials, health scientists, representatives of the power, copper, steel, oil, auto and real estate industries, State environmental agencies, manufacturers of stationary and mobile source emission control equipment and environmentalists.

In addition, the subcommittee staff conducted a 4-day field investigation in Detroit.

The latter half of 1975 was devoted to 24 subcommittee markup sessions of clean air amendments. A subcommittee bill was reported on November 3, after which 12 full committee markup sessions were conducted before the end of the year on the amendments.

The subcommittee held 3 days of hearings on water pollution issues. One hearing reviewed the status of the wastewater treatment facility construction grant program; one hearing was held to consider Senate Resolution 70, a resolution to disapprove the deferral of wastewater treatment construction grant funds; one hearing was held in Gardiner, Maine, to consider the impacts of the water pollution control program on small communities.

On November 18, 1975, the committee ordered reported an original bill, S. 2710, to extend nonresearch authorizations of the Federal Water Pollution Control Act amendments which had expired at the end of fiscal year 1975. S. 2710 was reported to the Senate on November 20, and passed by voice vote on December 1.

H.R. 7108, which contained extensions of research, development, and demonstrations authorizations for the Federal Water Pollution Control Act, the Noise Control Act, the Clean Air Act, and Solid Waste Disposal Act, was reported to the Senate on November 20, and then rereferred on December 1 to the Commerce Committee for consideration of issues within that committee's jurisdiction.

At the same time, the committee also ordered reported H.R. 5272, extending the nonresearch authorization of the Noise Control Act through September 30, 1976. H.R. 5272 was approved by the Senate on December 1, and awaits resolution of the differences between the House and Senate bills.

On December 15, the Panel on Environmental Science and Technology conducted a hearing entitled "Choosing Our Environment: Can We Anticipate the Future?"

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT

The Subcommittee on Economic Development, chaired by Senator JOSEPH M. MONTOYA, is responsible for two statutes relating to economic development: The Public Works and Economic Development Act of 1965, as amended, and the Appalachian Regional Development Act of 1965, as amended.

It is responsible for oversight of the programs authorized by these acts and the agencies established to administer these programs. The agencies are: The Economic Development Administration, the Appalachian Regional Commission, and seven Federal/State regional action planning commissions.

The principal purpose of these programs administered by these agencies is economic development in areas of the Nation characterized by high unemployment, outmigration and low family income.

During 1975, 9 days of hearings were held; 3 days were required to mark up the Emergency Public Works Authorization and Appalachian title V legislation; and 6 days were devoted to conference committee meetings on the Public Works Employment Act of 1975.

A principal activity of the subcommittee was the extension of the Appalachian Regional Development Act. While the Committee proposed, and the Senate initially passed, a 2-year extension of the legislation (S. 1513), the Congress ultimately accepted the 4-year extension passed initially by the House upon recommendation of the administration. Important amendments to the act initiated by the subcommittee relate to the quality and frequency of participation of member Governors and the planning process from local-to-State-to-Federal levels. The legislation became Public Law 94-188.

The subcommittee acted also to extend to the title V regional action planning commissions authorized under the Public Works and Economic Development Act comparable authorities relating to transportation, vocational and technical schools, and health and nutrition projects presently authorized under the Appalachian legislation. New authority for energy demonstration projects was also provided to both ARC and the title V Commissions.

During 1975, the recession, with 8 and 9 percent unemployment levels, brought special interest in public works programs as a means to create jobs for the unemployed. The subcommittee recommended passage of S. 1587, a $2.1 billion antirecession bill.

The bill passed the Senate in late July. A Senate-House conference to resolve differences with an earlier—May—passed House bill (H.R. 5247) met during November and December before agreement was reached. The Senate passed the compromise bill during the closing days of the first session in December.

The subcommittee devoted considerable effort to design antirecession programs that met the major criticisms of using Federal public works programs to counter recessions. To meet the allegation that such programs are not practicable because of "long lead times," a community facilities grant program was designed to shorten lead times by making eligible only those projects the engineering and planning phases of which had been completed. Such projects are to receive 100 percent Federal funding, the processing time may not exceed 2 months, and onsite labor must be in place 90 days after approval.

A major floor amendment was added to the public works antirecession bill on the Senate floor, sponsored by Senator MUSKIE, a member of the Economic Development Subcommittee.

Called the local government assistance amendment, it would inaugurate a program of direct Federal cash payments to fiscally hard-pressed State and local governments. The conference report provided approximately $1.5 billion for five calendar quarters, beginning April 1, 1976.

An amendment affecting the distribution of water pollution control funds was also added to the bill on the Senate floor. The amendment substantially altered current allocations to States. The conference report overcame the objection that some States would gain at the expense of others by providing new a $1.4 billion authority to be distributed to those States that would have gained a similar amount in the original Senate amendment.

The bill also contained an extension of the job opportunities program, sometimes referred to as "title X." This special antirecession program to create jobs as an alternative or complementary program to the public service jobs programs first became law the last day of 1974. A half-billion dollars was authorized for calender year 1975. The entire amount was appropriated during the year, and the last of those funds was obligated on December 31, 1975.

H.R. 5247 contained a new half-billion dollar authorization for this program for the period to September 30, 1976.

The subcommittee devoted a good deal of time to oversight of the title X program during 1975. Congress rejected administration efforts to have the first $125 million appropriation transferred to the Labor Department and then it rejected a recession proposal.

The remaining $375 million was contained in a large antirecession appropriation bill (H.R. 4481) which the President vetoed and the Congress sustained. It was finally appropriated in an end-of-the-fiscal-year appropriation measure. However, funds were not apportioned to the Economic Development Administration by the Office of Management and Budget until the last possible moment, with the result that the generating, processing, and scoring of more than 10,000 applications was hurried.

When the allocations of the job opportunities program were made to the various agencies, criticism began to grow, based on the short leadtime to prepare applications, the haphazard procedures used in notifying eligible applicants, and the scoring system used that emphasized labor intensive projects to the near exclusion of more traditional construction type projects.

The subcommittee held a hearing on the title X program on November 5. The hearing made clear, based on examination of administration witnesses, that OMB had played a major and determining role in altering the direction of the program to more public service type projects than those aimed at improving community facilities. Provisions in the new authorization (H.R. 5247) are designed to change that emphasis.

In February the committee held a hearing on and subsequently recommended the nomination of Wilmer "Vinegar Bend" Mizell to be Assistant Secretary of Commerce for Economic Development. The Senate promptly confirmed Mr. Mizell.

The subcommittee staff throughout 1975 continued, on an informal basis, oversight activities relating to new programs authorized for EDA in the 1974 amendments to the Public Works and Economic Development Act. The new economic development planning grant programs to States and cities received principal attention. The title IX economic adjustment program was also periodically reviewed. Agency officials made numerous presentations to the subcommittee staff on these programs.

During 1975, the appropriation for EDA and the title V commissions for fiscal year 1976 was significantly increased over the President's request. More than $70 million was added by Congress to the measure for EDA. More than $20 million was added to the title V regional action planning commission appropriation. Justification for these increases was based on the severity of the recession.

The subcommittee will hold 3 days of hearings on S. 2228, a bill introduced by Senators RANDOLPH, MONTOYA, and BAKER to extend the Public Works and Economic Development Act for a period of 3 years. The administration recommended a 3-year extension during 1975.

During the year, the subcommittee staff will continue oversight of new EDA programs such as sections 302—State and urban planning—and 304—State supplemental grant authority—the economic adjustment program under title IX, the business development program under title II, and the economic development district program. Also, new authorities given the title V commissions and Appalachia will be closely monitored, with emphasis on the planning process.

SUBCOMMITTEE ON WATER RESOURCES

The Subcommittee on Water Resources, chaired by Senator MIKE GRAVEL, has primary responsibility for the civil works program of the U.S. Army Corps of Engineers. This program includes the study, construction, operation, and maintenance of projects for improvement of the Nation's waters in the interests of navigation, flood control, municipal and industrial water supply, beach and streambank erosion control, hydroelectric power, and recreation.

Certain Soil Conservation Service projects as defined by the Watershed Protection and Flood Prevention Act are also under subcommittee jurisdiction. This program provides for the installation of small upstream dams and other flood and soil erosion prevention works in relatively small watershed areas. It also provides for the installation of measures for irrigation, drainage, municipal and industrial water supply, recreation, and fish and wildlife development.

During 1975 the Subcommittee on Water Resources held 8 days of hearings on legislative and other matters, and one markup session.

The major piece of legislation considered by the subcommittee in 1975 was S. 2270, a bill authorizing additional funds for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and other purposes. This measure authorized $186 million for the continuation of work in four river basins for which existing funds were expected to run out in the near future.

Subcommittee hearings were held on July 25, 1975. S. 2270 was reported by the Committee on Public Works on July 31, and passed the Senate on September 4. The measure passed the House on September 19 and became Public Law 94-101 on October 2, 1975.

Action was also taken on S. 2533, a bill to designate the reservoir formed by the Jones Bluff Lock and Dam in Alabama in honor of R. E. "Bob" Woodruff. This measure was reported on November 20 and passed the Senate on December 1, 1975. It was subsequently referred to the House Committee on Public Works and Transportation. No action had been taken by the House prior to the end of the 1st session of the 94th Congress.

Oversight activities received substantial subcommittee attention in 1975. Hearings begun in 1974 on the civil works program of the U.S. Army Corps of Engineers were continued with an indepth examination of the corps navigation program. The subcommittee held 5 days of hearings on this topic. Washington hearings were held on May 9, June 19 and 20, and October 8. Topics covered included the history, accomplishments, problems, and projected future of the navigation program.

As a part of this oversight endeavor, the subcommittee made a 4-day investigation tour of selected portions of the inland waterway system. A hearing in Vicksburg, Miss., on May 16, was held, as well as onsite inspections of existing locks and dams, those under construction, and those scheduled for replacement. The subcommittee also toured the Waterways Experiment Station of the Corps of Engineers in Vicksburg, Miss.

A field hearing was held in Council Bluffs, Iowa, on September 27 to consider S. 1799, a bill authorizing dredging and related activities on the Missouri River Oxbow Lakes, with particular attention to Lake Manawa.

Testimony at the hearing demonstrated that there was no authoritative evidence establishing the effect of Missouri River Corps projects on these lakes, and thus no justification for Federal participation in the renovation of lakes such as Lake Manawa. Subsequent to the hearing, therefore, the Committee on Public Works approved a resolution authorizing the Corps of Engineers to review an existing study of the area in order to determine the effect of Federal Missouri River projects on the Oxbow Lakes, particularly Lake Manawa.

In addition to the Oxbow Lake resolution, the committee adopted 14 other resolutions requesting the Corps of Engineers to study selected areas with specific problems. Such resolutions are the nucleus of future water resources projects, and provide the basis upon which project justification rests.

On December 9, 1975, the committee adopted its first "section 65" resolution. Section 65 of the Water Resources Development Act of 1974 provided that, in authorized projects containing water quality storage as a project purpose, if the Environmental Protection Agency determines that such storage is not needed, or is needed in a different amount, a modification can be made by committee resolution if the benefits attributable to water quality do not exceed 25 percent.

Such a determination was made with regard to the Kehoe Lake project in Kentucky. Accordingly, on December 9, 1975, the Senate Public Works Committee adopted a resolution approving the deletion of water quality storage from the Kehoe Lake project. The House Committee on Public Works and Transportation adopted an identical resolution on December 11.

A hearing was held on July 25 on Harris Fork Creek, a proposed 201 project on the border of Tennessee and Kentucky. Local sponsors testified that they could not meet the costs of certain bridge relocations associated with the project. In view of the fact that local interests were unable to comply with cost-sharing requirements, the committee determined that the project could not be authorized as a 201 project and action was not taken. Subsequent to that time legislation was introduced which addresses this aspect of the Harris Fork Creek project. Subcommittee consideration will be given to this measure during preparation of the next omnibus water resources bill.

A hearing was held on October 3 on S. 1224, a bill to amend the Watershed Protection and Flood Prevention Act to remove the existing monetary limitation on emergency projects in individual watersheds in any 1 year. Testimony was also received on nine pending watershed work plans transmitted to the committee under Public Law 566. Action was not taken on either the legislation or the work plans prior to the end of the year.

During the second session of the 94th Congress, the Water Resources Subcommittee expects to complete consideration of the pending Soil Conservation Service work plans mentioned above, as well as examination of an additional 20 to 30 work plans which will be received from the administration.

Other major activities will include examination of nearly 400 Corps of Engineers projects which will be recommended for deauthorization pursuant to section 12 of the Water Resources Development Act of 1974.

The subcommittee expects to spend several months of 1976 in development of the next Omnibus Water Resources Act. Extensive hearings will be held on pending legislation and on project reports which will be received during the first part of the year from the administration.

SUBCOMMITTEE ON TRANSPORTATION

During the first session of the 94th Congress, the Subcommittee on Transportation, under the chairmanship of Senator LLOYD M. BENTSEN, held 15 days of hearings on various transportation issues, and developed several highway-related bills, including the Federal Aid Highway Act of 1975 (S. 2711).

Accumulated highway funds totaling $9.1 billion that had been withheld from obligation by the executive branch were released by the passage on April 24 of Senate Resolution 69. This action was taken under the provisions of the Congressional Budget and Impoundment Control Act of 1974.

On April 30, 1975, the subcommittee held a hearing on S. 952, a bill to increase the Federal matching share of a limited time on Federal-aid highways and mass transportation projects approved under title 23, United States Code. This measure was in response to the unemployment conditions in the construction industry coupled with the States' desires to use previously impounded moneys for accelerated highway construction. The increased Federal share of up to 100 percent, in force for 7 months, included a State payback requirement not to extend beyond January 1, 1977. The bill was signed into law (P.L. 94-30) on June 4, 1975.

On May 5, 1975, a joint hearing was held by the Transportation Subcommittee and the Interior Committee. The subject of discussion was whether to allow the States of Vermont, Connecticut, and New York to proceed with projects on the basis of environmental impact statements prepared, evaluated, and approved in the same manner as required in other States. The issue—addressed in H.R. 3130—was raised by a Second Circuit Court of Appeals ruling on preparation of environmental impact statements. The committee reported the measure on April 22, 1975. An amended version was signed into law (P.L. 94-83) on August 9, 1975.

On May 19, 1975, 1 day of hearings was conducted on legislation relating to timber sales contracts involving road construction (S. 364).

This hearing addressed the question of allowing a purchaser of national forest timber to transfer unused purchaser credit for permanent road construction from one of his sales to another of his sales in the same forest, to be used in payment of timber harvested. This type of activity was seen to be beneficial in long-range timber-harvest planning and effective utilization of wood resources. After the Senate agreed to a House amendment, the measure was sent to the President and was signed—Public Law 94-154—on December 16, 1975.

On August 1, the Public Works Committee considered and reported S. 1245, a bill which resolved a question raised by the Canadian Government over the control of right-of-way for reconstruction of the Alaskan and Haines cutoff highways. The measure gave Canada control of the right-of-way provided for the highways in question within its boundaries. The provision became law—Public Law 94-147—on December 12, 1975.

Continuing its commitment to developing new energy policies with regard to transportation, on October 1, 1975, the subcommittee held testimony on a bill (S. 2049) permitting vehicles to turn right on red signals, unless specifically prohibited by signs. It was felt that permitting this type of maneuver might result in significant energy savings by reducing engine idle time at traffic signals.

Beginning in mid-May, the Transportation Subcommittee initiated a series of three field hearings intended to identify regional transportation problems in different areas of the Nation.

On May 24, 1975, a hearing was conducted in Minot, N. Dak., to determine the ability of our rural road system to carry agricultural products, and move people safely and efficiently. The subcommittee on June 16, 1975 met in Albany, N.Y., receiving testimony on the ability of the current rural road network to handle the increased weight in bulk agricultural and industrial products. In Las Vegas, Nev., on November 24, 1975, the subcommittee turned its attention to alleviating congestion and improving traffic flow in urbanized areas, and heard testimony on the use of high-capacity connectors as a means to solve that type of problem.

Using the first two field hearings as a springboard, on July 14, 1975, the subcommittee started a comprehensive series of hearings on the future of the highway program, to be used as a base for drafting major transportation legislation.

The first 2 days of hearings were set aside for focus on Federal domain roads—primarily forest highways—and on July 17, for the Secretary of Transportation to present the administration's highway proposal. The hearings, however, were not structured solely to concentrate on highways. They covered the key issues surrounding total transportation policy needed to make sound decisions on the national highway program. Subject areas explored were: First, factors affecting urban and rural transportation; second, the role of the Federal Government in implementing a highway program; third, safety; fourth, procedural delays; and fifth, the direction and development of a national transportation policy. Approximately 123 witnesses testified during the 12 days of hearings on the future of the highway program and written statements and supporting material came from an additional 86 sources.

At the conclusion of the Senate hearings in late July, it became apparent to the subcommittee that final passage of highway legislation during the first session of the 94th Congress was unlikely. It has also been emphasized in the highway hearings that many States had exhausted their 1976 interstate apportionments, or nearly so. Since the Federal-Aid Highway Act of 1973 had authorized money for the interstate system through 1979, the Secretary could apportion funds for these fiscal years upon receiving congressional direction to do so.

On September 4, 1975, the Public Works Committee reported Senate Concurrent Resolution 62, giving the Secretary of Transportation authority to apportion fiscal year 1977 interstate funds to the States. The concurrent resolution passed the Senate on September 8, and the House on December 16, 1975.

The Federal-Aid Highway Act of 1975 (S. 2711) was reported by the Public Works Committee on November 20, 1975, and passed the Senate on December 12. The bill authorizes approximately $9.6 billion for the transition quarter and next 2 fiscal years. To permit congressional consideration of proposals relating to future financing and structure of the total highway program, the committee limited authorizations to 2 years. Two principal modifications were made by the bill in the highway program: The first is a new formula for allocating Interstate funds to the States. Second, the bill realines the existing highway systems, and consolidates highway categories. Other major features include: First, revision of State-city relationships for urban projects; second, permits funds transferred from interstate projects to be used for other highways as well as public transportation; third, continues the rural public transportation demonstration program and the special bridge replacement program; fourth, allows States to adopt safety standards different from those in Federal regulation; and, fifth, mandates the Department of Transportation study alternative methods for financing the remaining Interstate system.

The House of Representatives passed its version of the highway bill on December 18, 1975.

The top priority of the Subcommittee on Transportation during the first part of the second session of the 94th Congress will be to secure conference agreement on the Federal-Aid Highway Act of 1975.

The subcommittee may, during the second session of the 94th Congress, consider hearings on: First, State-urban highway planning relationships; and, second, programs contained in chapter 2 of title 23, United States Code. The subcommittee will also continue to monitor the progress being made by the General Accounting Office on the report being prepared by that Agency on transportation planning and coordination in rural areas.

SUBCOMMITTEE ON DISASTER RELIEF

The past 12 months marked the first full year of experience with the new programs and procedures authorized by Public Law 93-288, the Disaster Relief Act Amendments of 1974. The Subcommittee on Disaster Relief, chaired by Senator QUENTIN BURDICK, initiated this major revision of natural disaster relief laws and has since maintained an active informal oversite program encompassing all facets of its administration.

In 1975, 38 major disasters and 6 emergencies were declared by President Ford under the auspices of the new law. Over 92,000 families were given assistance and counseling to help alleviate the trauma caused by a natural calamity. An estimated $443.3 million in Federal help was made available to these disaster victims, their States and their local governments by the Federal Disaster Assistance Administration, and some 20 other Federal agencies.

The scope of the Government's disaster-related activity in 1975 underscores the importance of efficiency in the administration of relief programs. The subcommittee is acutely aware of its continuing responsibility to assure the orderly functioning of disaster relief programs and the fair distribution of our Nation's resources to those suffering from the effects of a natural disaster. The subcommittee plans to continue its leadership of efforts to improve disaster preparation plans, warning systems, delivery of emergency relief and distribution of longer range recovery benefits.

SUBCOMMITTEE ON BUILDINGS AND GROUNDS

The Subcommittee on Buildings and Grounds, chaired by Senator ROBERT MORGAN, is responsible for activities concerning Government agency space needs and related legislation. This involves supervision and oversight of the Public Buildings Service, General Services Administration, whose function is to provide required space through construction, purchase, or leasing as appropriate. Such transactions are governed by numerous public laws, executive orders, and Federal regulations which have become increasingly complex since the subcommittee's inception, due to new construction and management techniques, materials shortages, environmental and energy conservation requirements, inflation, budgetary restrictions, and various other unforeseen developments.

During 1975, the subcommittee implemented significant new procedures for evaluating prospectuses. As a result, formats have been revised to provide more explicit data and facilities review by members. Also, more attention has been focused upon major policy considerations than heretofore, ranging from elimination of architectural barriers that affect the physically handicapped, through greater emphasis on fire protection, increased involvement in environmental and economic impact of projects on communities, and also application of energy conservation practices in the design, construction, renovation, and maintenance of public buildings. More intensive efforts to achieve cost reductions in the public buildings program have been pursued, and to ascertain the relative merits of acquiring Federal space through leasing as opposed to new construction or alteration of existing buildings. It is the subcommittee's intent to continue its active interest in these subjects of concern throughout 1976, or until improvements have been made.

Among important legislative activities of the subcommittee during 1975 was the expediting of a bill (H.R. 6151) which authorized an additional appropriation to Interior Department for services necessary to nonperforming arts functions of the John F. Kennedy Center in Washington, D.C. This became Public Law 92–119 on October 10, 1975.

H.R. 4241, designating a Federal building in Chicago the "John C. Kluczynski Federal Building," became Public Law 94-84 on August 9, 1975. A similar bill, S. 999, designating the Federal office building in Dover, Del., the "J. Allen Frear Building," was passed but no further action had been taken at the time Congress recessed on December 19, 1975.

Another bill, H.R. 12, after passage in both the House and Senate, was vetoed by the President on November 29, 1975. This would have amended title 3, United States Code, to provide for protection of foreign diplomatic missions, increase the size of Executive Protective Service, and for other purposes. An amended version became Public Law 94–196 on December 31, 1975.

S. 865 was passed in the Senate on August 1, 1975, which would promote more efficient use of the Nation's construction resources, foster preservation of historic or architecturally significant buildings, and enhance social and economic environment within and surrounding Federal office buildings. Action has not been completed by the House.

Pending at recess were S. 1392, S. 2045, and S. 2095, insuring that buildings financed with Federal funds utilize the best practicable measures for conservation of energy, implementing innovative technology in design, construction, repairs, maintenance, and operation, including retrofitting with solar devices, and initiating demonstration programs. Preliminary hearings were conducted on November 4 and 5, 1975, which will be resumed in 1976.

A committee resolution on July 2, 1975 directed the General Services Administration to conduct a survey and determine the need for a new Federal office building in Albuquerque, N. Mex.

The subcommittee met 10 times during 1975 to discuss proposed legislation and other matters. In addition, formal conferences were conducted with officials of General Services Administration, General Accounting Office, Social Security Administration, Treasury Department, Civil Service Commission, Securities Exchange Commission, Federal Trade Commission, Department of Transportation, Interior Department, Government Printing Office, Architect of the Capitol, Capitol Police, and others.

Public hearings were held on February 25 and March 17 in connection with proposed construction of two new Social Security Administration buildings at Baltimore, Md. A hearing on GSA's proposed Public Buildings Service fiscal year 1976 budget was conducted February 26. Other hearings were held May 19 and June 9 on S. 865, H.R. 12, and H.R. 6151, respectively. Another was conducted on June 11 regarding a proposed new Government Printing Office, which will be continued in early 1976. Further hearings were held November 4 and 5, for the purpose of discussing S. 1392, S. 2045, and S. 2095, which also will be continued. Additional hearings were held in connection with building prospectuses on March

18, June 9 and 11, November 12, and December 12 and 15, 1975.

Four field trips were made by subcommittee staff at the chairman's direction, in conjunction with proposed projects at Baltimore, Philadelphia, and Charlottesville, Va., respectively.

During 1975, the subcommittee reviewed and approved 20 building prospectuses, at a total estimated cost of $311,207,600 which includes $53,629,000 requested to correct cost overruns for previously authorized projects. Of the remainder, four were now building prospectuses totaling $213,345,200; nine were for alterations totaling $37,715,400; and five for new leases and extensions totaling $6,518,000 annually.

ECONOMY, NOT ERISA, SPURS PLAN TERMINATIONS

Mr. WILLIAMS. Mr. President, there has been a great deal of uproar generated by the number of pension plan terminations in 1975. Many critics of pension reform blame this situation on employer dissatisfaction with the requirements of the Employee Retirement Income Security Act of 1974.

As a chief sponsor of ERISA, I believe this criticism overlooks the real cause of plan terminations. Let us not forget that terminations in the private pension system are by no means a recent phenomenon. In fact, while the number of plan terminations has increased, the rate of plan terminations has consistently remained around 1 percent of the active plans each year.

Studies by the Senate Subcommittee on Labor prior to ERISA found thousands of employees lost their pension credit when companies were sold, merged, or dissolved. The classic case in point occurred when the Studebaker plant closed in 1964 leaving 4,500 workers with a few cents on their pension dollars.

Passage of ERISA in 1974 coincided with America's deepest recessionary period since the 1930's. The Federal Reserve characterized this period as the "longest and deepest of the postwar recessions." The current pressure of pension costs is undoubtedly more attributable to this economic instability than to the new law.

Before ERISA, the employee plan participant was just out of luck when his plan terminated without adequate assets to cover the pension obligations. But now, we have the new Federal insurance program—the Pension Benefit Guaranty Corporation—created by ERISA to insure private plans. While the recessionary effects of 1975 cost millions of workers their jobs, ERISA protected their pensions.

To date, 1,700 participants are receiving a total of approximately $250,000 in monthly benefits from the PBGC. In addition, more than $35 million in insurance premiums have been collected as a reserve to protect employees in terminated plans.

Several recent articles have explored these issues in some depth. I recently joined with my distinguished colleague, the gentleman from New York (Mr. Javits), in a statement to the New York Times on this matter.

Mr. President, I ask unanimous consent that our statement to the New York Times of February 29 and articles from the Institutional Investor and the Washington Star be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, Feb. 29, 1976]

Senators Javits and Williams Say the Protection Is Already Better

The following article was written by Senator Jacob K. Javits, Republican of New York, and Senator Harrison A. Williams, Jr., Democrat of New Jersey, who were co-authors of the Employment Retirement Income Security Act.

The pension reform law of 1974—formally titled the Employee Retirement Income Security Act and commonly known as ERISA ("eerissa")—established a comprehensive framework of safeguards guaranteeing the private pension rights of 35 million American workers. Now, it is under attack from a vocal minority, one which has opposed the legislation since its inception.

There have been allegations recently that pension plan terminations in 1975 were attributable to ERISA and the alleged bureaucratic logjam of executive agencies responsible for its administration. The loudest critics of the act are those consulting firms, actuaries and other members of the pension industry who fought reform in the first place, and now may think they have found a new way to undermine its credibility.

The vital interests of so many millions of Americans in this fundamental reform do not deserve a renewal of past hostilities, but an objective analysis of the performance of the law to date.

In 1973, the year prior to the enactment of the reform law, 4,130 pension plans were terminated, according to Employee Benefit Plan Review, a pension industry publication. While precise figures for 1974 are not available because of the changes in bureaucratic administration, we do know that the number of terminations in 1975 was smaller than the 5,000 that is commonly cited by the critics and was initially reported by the Pension Benefit Guaranty Corporation, the new Federal agency created by ERISA to insure private pension plans.

In fact, administrative errors inflated the number of terminations last year. Those errors included double counting, mistaken filings and other mistakes that accounted for more than 700 false terminations.

While less than 1 percent of the 600,000 pension plans affected by ERISA in 1975 were terminated, more than 33,000 applications for new pension plans were received by the Internal Revenue Service during the same period. It must be noted that the terminations of 1975 occurred during the longest and deepest of the post-war recessions.

During recent hearings held jointly by the Senate Small Business and Finance Committees to investigate the causes of terminations in 1975, Internal Revenue Service and Pension Guaranty Corporation officials testified that their studies indicate the vast number of pension terminations were caused by business mergers, the substitution and establishment of new pensions plans, and the recession.

Bureaucratic burdens created by the initial administration of ERISA were not cited as an important cause.

Specifically, a recent Pension Benefit survey found that "37 percent of the terminating plans cited adverse business conditions, 18 percent showed termination of all or a portion of the employer's operations, and 13 percent listed change of ownership. Adoption of another plan was the reason in 16 percent of all cases." The number of terminations during 1975 is not surprising in light of preliminary statistics received verifying that the bulk of plans were very small and very new.

The major tests for ERISA in 1975 occurred when two household names—Grant's and REA Express—went out of business after more than 50 years of existence.

Late last year, 650 retirees of the bankrupt REA Express Company began to receive their monthly pension checks in the mail. The checks were not signed by REA Express but by the Pension Benefit Guaranty Corporation. Without ERISA, those retired workers would have no pension today.

While the Grant bankruptcy is being resolved in Federal court, the P.B.G.C. is going forward in processing Grant's pension plan coverage respecting its retirees.

To date, 1,700 participants are receiving a total of approximately $250,000 in monthly benefits from the corporation. In addition, more than $35 million of insurance premiums have been collected as a reserve to protect employees in terminated pension plans.

After nearly a decade of hard work in Congress, ERISA was drafted to create comprehensive standards of protection for workers with respect to vesting, funding, fiduciary standards, reporting, and disclosure and termination insurance. These key elements of pension reform were the product of spirited bipartisan Congressional support and the result of worker dissatisfaction with widespread abuses in private pension plans.

As we review the current outcry from pension reform critics, Congress must be careful not to let any controversy over regulations and administrative requirements serve as a smoke screen for those who would reverse the course of pension reform.

We are concerned that ERISA be administered and enforced efficiently and effectively by the executive branch. And we do not condone the executive department's delay in promulgating regulations and exemption procedures in order to provide pension plans with appropriate guidance and administrative relief.

But we should not conclude that criticism of administrative procedure warrants cutting back on the essential protection provided to the 35 million American workers for whom these reforms were intended.

Comments From Two Readers

The article "Backing Out of Paying Pensions" which appeared in this section on Feb. 8 elicited several responses from readers, the burden of which was that pension reform efforts have been unfairly maligned. Following are two of those letters.

Let's take a look at some of the problems often raised by articles about the Employee Retirement Income Security Act.

"We can't afford to fund it now" is one complaint. More than 5,500 private, pension programs have been terminated since the passage of the act. Only 1,250 were originally anticipated. Upon closer examination, however, we find that economic conditions since Sept. 2, 1974, when ERISA became law, have been the real reason for perhaps one-half of the terminations.

Many small plans were already in deep trouble due to poor administration, ignorance of pre-ERISA rules, imprudent investment practices, poorly designed programs and a fear of additional reporting requirements of the Internal Revenue Service or the Labor Department. As a result many "sick" plans became "terminal".

"The cost of administration is expected to go up from 50 percent to 100 percent," is another common cry. Such blanket statements are misleading and either create or feed a sense of panic. Some plans require minimal service both pre-ERISA and post-ERISA. Reporting forms for the I.R.S. and Labor Department are in any case not going to be that much different or more detailed that they would justify doubling service charges.

A related complaint arises from the fact that the new law is administered by the two agencies, whereas before only I.R.S. was involved. Additionally, regulations to guide administrators either have not been issued or are being challenged. This is true, but it is no justification for any healthy pension plan to terminate.

So far, the men in responsible Government positions in both Labor Department and I.R.S. have shown themselves to be flexible and understanding about the administrative problems.

For the plans in trouble, there are often solutions other than termination ranging from the adjustment of details to a complete redesign of the plan. Sure, expense will be involved, but it is strictly a one-time charge. Thereafter it may involve service charges only slightly higher than in the past.

The single most costly aspect of the new law is said to involve the accelerated vesting schedule stipulated in the act. This may be true for very large, collectively bargained plans, but for the average small plan it is not all that costly.

In the last 10 pre-ERISA years, with very few exceptions, I.R.S. district offices have refused to approve newly submitted plans unless a fairly liberal vesting schedule was included in the program. As a result most small plans entered into in the recent past will not be too strained in the area of vesting.

As for the reporting and disclosure requirements imposed by ERISA, admittedly new and unfamiliar forms have been and will be developed by Government agencies. As in any new system, these newly designed forms will require patience and time to become familiar with them. However, once around the reporting cycle and they will be old-hat.

Government has responded to needs of the public in a cooperative fashion. Of the close to 600,000 plans known to exist in the United States, slightly more than 90 percent involve programs with less than 100 participants. Simplified reporting has been developed in some areas for this 90 percent and probably will be developed in others.

For example, pre-ERISA reporting required annual submission to the I.R.S. of forms 4848, 4848 Schedule A (four pages), 4849, 990P and 990P Schedule A. A form 5500C is to combine in simplified form the information formerly reported on all those older forms, which are to be discontinued. To be sure, additional reporting forms may be forthcoming, but a determined effort is being made to keep them as simple as possible.

To sum up, it is time to accentuate the positive. Given a fair chance, ERISA will turn out to be a highly effective program nowhere near as expensive as early estimates predict. With full cooperation from both private and public sector, the goal of economic security in retirement will be realized by far more people.

HENRY A. SPIVACK,
Pension Director, Bleichroeder, Bing & Co., New York City.

As one who has worked long and diligently for pension reform legislation, and who at 75 years of age finds himself the victim of much-reduced benefits due to pre-reform abuses, I feel that several factors in the pension situation are being overlooked. Consider the following:

The moral and financial deprecations flagrant in the private pension area prior to the enactment of ERISA in 1974 were so numerous that it is unrealistc to expect rectification overnight. To think otherwise is the same as believing that the racial inequalities of many generations can be eradicated overnight.

All of the affected agencies are now in the process of setting up procedures and engaging manpower in an effort to enforce the new pension law. They must be given a reasonable period of time to produce.

Furthermore, Congress is already involved in looking into weaknesses in the new law so that if, after a trial period, changes are needed they can be identified and made.

It is undoubtedly true that in some few cases the red tape and expense of enforcement make it necessary for a company to bow out of the pension situation. But, based on years of familiarity with the subject, I respectfully submit that this is just the excuse given by those who find that with the previous loopholes plugged they no longer want to continue their pension plans.

The vast majority of workers affected by the pension plan withdrawals that are occurring have in fact lost nothing tangible. Their pension plans represented false promises based on false premises in the first place.

MORIZ M. DREYFUS,
Philadelphia.

[From the Institutional Investor,
February 1976]

THE COSTS OF ERISA

It has become almost a truism to say that the Employment Retirement Income Security Act has not proved a major burden for most corporations. And while that statement is justified, the law has nevertheless meant changes and readjustments that for some have been little more than a nuisance and for others have added up to a considerable expenditure of time and money—as this month's survey of pension officers participating in *Pensionforum* makes clear.

About three-quarters of the funds reporting have felt no need to hire additional staff. Interestingly enough it is the large funds—those over $100 million in size—that have tended to add personnel; almost a third have done so. It is probably both a matter of "larger assets, larger problems" and the general axiom that a smaller asset pool doesn't justify additional expenditures.

The most widespread need in adjusting to the law, as was predicted, has been for increased reporting to the government and participants. Not far behind is the onus of compliance in the benefit administration area—such matters as keeping track of part-time help. Three-quarters of the corporations that have added staff because of ERISA have done so for those two reasons; additional personnel on the investment side has been a minor factor.

About 80 per cent of the funds say that they felt no need to turn to outside consultants for help in meeting ERISA's requirements. Of the remainder, some that did not use an outside performance measurement service are now subscribing to one. But most probably decided it was advisable to meet with a consulting firm to discuss specific aspects of their benefits, planning and investment policy.

The law's main impact on investments has been in a re-evaluation of approach and philosophy. Very few have made any changes in their outside managers, though some have added managers, particularly bond managers and those with a different style, like market timing, to comply with the law's diversification requirement. Similarly, those who decided more portfolio diversification was needed increased bond holdings or broadened the list of names of equities held.

Since most established plans have been making contributions to their funds on a schedule that already satisfies the law's stipulations, their additional costs have been largely for administration and reporting. And for almost 40 per cent of the corporations, the result has been cost increases of less than 2 per cent; and for almost 80 per cent, of less than 5 per cent. Only 7 per cent have found that costs have risen 10 per cent or more, and in such cases, increased contributions to meet funding and vesting requirements are probably involved. There could be additional future expenditures, however, such as increased trustee fees, as banks find their end of the reporting process onerous. And, of course, there are other questions—like fiduciary responsibility and decisions about future benefit levels—that are costing corporations time and possible anxiety though not necessarily additional dollars.

Personnel, consultants and portfolios

The immediate effect of ERISA naturally varies from corporation to corporation, but the added cost for the large majority of corporations responding to this month's *Pensionforum* can be fairly classified as nominal. And most of the money seems to be going toward administrative and reporting expenses. Long-term, the major impact of the law may not be additional costs but rather changes in sponsor approach to pension asset management generally.

The following are some specific comments of pension officers gathered by Assistant Editor Janice Holling:

William Tierney, Director, corporate compensation and retirement plans, Avco Corp.: $152 million (divided between five managers).

We have several different retirement plans and we have not had to increase our contributions for funding because of ERISA. However, we are currently discussing the feasibility of modifying some plan provisions to avoid additional costs in the future. Overall, our main current cost will be in the administrative area. We don't have any reliable figures yet, but I wouldn't be surprised if our record-keeping and reporting costs were to go up considerably. We aren't planning to change or increase the number of portfolio managers we use, but we are currently reviewing our portfolio mix. ERISA is a factor in our decision to undertake a re-evaluation, but the performance of the equity market over the past few years is an equally important reason.

Glenn Kent, Manager, investments and investor relations, Honeywell, Inc.: $200 million (divided among six managers).

After a thorough review of our situation, we found that we were already set up quite well to comply with ERISA. As of the end of last year, we hadn't really seen any appreciable cost increase that we could directly relate to the law. The primary matter affecting us has been an increase in the vesting contribution for one of our three plans—but it is a very modest increase. We are anticipating some additional costs on the administrative side, however, when we have to complete all the reports the Department of Labor requires. ERISA was the reason we have taken on some fiduciary liability insurance, which is in addition to the officer and director liability coverage we already had. Internally, we have had some changes that relate to ERISA, but are not a direct outgrowth of it. Specifically, we established a pension retirement committee, which will have the full responsibility for our plans ranging from the plan benefit design on through fund payments. Previously this was a board of directors' function, but we anticipate this new committee will be able to spend much more time on pension matters.

Raymond Colotti, Director of pension asset management, Sperry Rand Corp: $600+million (divided among ten managers, plus internal administration).

The additional costs that our fund has incurred as an outgrowth of ERISA have been minimal. The little we've had have been hidden administrative costs, such as the preparation of reports for the government. One effect of ERISA in general, however, has been to make us, like corporations everywhere, become a little more involved in watching how our fund is managed. We constantly review how our money managers are doing. At the moment, at least, we are fully satisfied with their quality and the number we have, so we aren't planning to make any changes in our current managers. In addition to our outside bond managers, we had established an in-house bond fund sometime before ERISA's passage—it's now about $50 million—not only for the purpose of diversification but to gain some first-hand experience about what money managers face. It has worked out quite well for us. So, we think we have sufficient investment diversity and we aren't going to make any changes here as a result of ERISA either.

Peter Sherwood, Assistant Treasurer, Uniroyal, Inc.: $175 million (8/30/75) (divided among three managers).

Over the past year, we have had various additional costs which we can directly attribute to the passage of ERISA. Only a modest amount has been incurred on the actual payout side, involving any increase in contributions. It is on the administrative side that we have had substantial cost increases. First, there has been all the paperwork required for reports to the government and to participants of our plan. Another significant cost, which will occur on a one-time basis only, arose when we redrafted our plans so they fully complied with ERISA. We have been working exclusively on this problem for some months in an attempt to complete the amendments and changes by early this year. Our third cost that is a direct result of ERISA will occur this year when we expect to hire a consultant. His function will be to advise us concerning our investment mix and the appropriate number of money managers as well as in setting investment guidelines.

Douglas Weyrauch, Director, investment funds, Owens-Illinois, Inc.: $300 million (divided among six managers).

Our total cost increases as a result of ERISA have been insignificant, whether you consider contributions or service and administration. The law has motivated us like others to give more attention to our fiduciary responsibility, but we've always considered it an important factor, and there have been no concrete changes. On the investing side, however, we recently had a meeting with our portfolio managers to present some new actuarial data and projections of our costs over the next ten years, which we expect to go up because of projected benefit improvements. Our investment committee and board have also recently approved some revised investment policy guidelines for our managers. The main difference is in our rate-of-return goal, which is now set at around 8 percent. This is more modest than our previous one, which we decided involved us in too high a rate of risk. Another new guideline will ask our managers to seek a minimum 4 percent cash return on average book value. This rule was incorporated as a result of the market's volatility over the past few years. So while measuring our performance on total return, we are in essence now building up the fund on a book value basis. Otherwise, our managers have full discretion to invest our portfolio in whatever equity and fixed-income investments the economic outlook dictates.

	Fund size		
	Less than $100,000,000 (42.1 percent)	More than $100,000,000 (57.9 percent)	Total
Has your corporation made any additions to staff as a result of ERISA?			
Yes	20.8	31.8	27.2
No	79.2	68.2	72.8
If yes, for which of the following functions was staff added?			
Investment supervision	6.7	18.8	14.9
Benefit administration	33.4	37.5	36.2
Government and participant reporting	53.3	37.5	42.6
Other	6.7	6.2	6.3
Has your corporation added any outside consultants as a result of ERISA?			
No	80.0	79.1	79.5
Yes; we have subscribed to a performance measurement service	6.0	4.5	5.1
Yes; we have hired a consultant to help us select money managers		3.0	1.7
Yes; other	12.0	13.4	12.8

	Fund size		
	Less than $100,000,000 (42.1 percent)	More than $100,000,000 (57.9 percent)	Total
Has your corporation made any changes in money managers as a result of ERISA?			
Yes	2.1	6.1	4.4
No	97.9	93.9	95.5
Have you made any changes in portfolio mix as a result of ERISA?			
No	73.6	75.4	74.6
Yes; more bonds	15.1	17.8	17.2
Yes; more real estate			
Yes; more diversification within common stock portfolio	9.4	5.8	7.4
What is the impact of ERISA on your corporation's pension costs including administrative and reporting costs, termination insurance premiums, etc?.			
Costs have increased:			
Less than 2 percent	33.3	43.9	39.5
2 to 5 percent	43.8	33.3	37.7
More than 5 percent but less than 10 percent	12.5	9.1	10.5
10 percent or more	6.2	7.6	7.0
No answer	4.2	6.1	5.3

[From the Washington Star, Jan. 22, 1976]

FEDERAL AGENCY PROTECTS PENSION

(By Sylvia Porter)

This past Christmas, 650 retired employes of the bankrupt REA Express Co. received their monthly pension checks in the mail. Instead of being signed by REA, though, these checks carried the signature of the Pension Benefit Guaranty Corp.—the new federal agency created to insure private pension plans.

Before this agency was established, roughly 16 months ago, under the historic pension reform act, it would have been just too bad for these REA workers if they had lost the benefits they had been counting on for their retirement years.

The PBGC is similar to the Federal Deposit Insurance Corp., which protects bank depositors in the event of a bank's failure. If your private plan fails, the PBGC is authorized to pay each individual covered by the plan up to $750 a month—just as the FDIC reimburses up to $40,000 in deposits to each individual deposit account in a covered bank that goes under.

The REA Express Co.'s plan is one of 15 private pension plans the PBGC has taken over since it opened its doors in the fall of 1974. Since then, more than 4,000 private pension plans have been terminated—1,148 in December 1975 alone.

Most of these terminated plans have been young (five to 10 years old), have involved fewer than 10 workers, and have been healthy, with the plan containing enough assets to meet its liabilities.

In general, such plans terminate because the firm is going out of business, is merging, or simply finds the costs of administration so prohibitive that it opts to end the benefit.

Where the terminating plan's assets are sufficient, the problems are relatively few. The PBGC is informed in advance of the proposed termination date. It then appoints a case officer to determine why the plan is ending and whether it has enough funds to meet its obligations.

If everything is in order, the plan administrator himself generally winds up the plan. He may make nominal lump-sum payments to new workers whose benefits are so small that the costs of managing them outweigh the benefits. For other plan beneficiaries, he may purchase retirement annuities from a private insurance company.

But when a pension plan is not adequately funded and can't meet its liabilities, the problems multiply—as in the case of REA.

As my associate, Brooke Shearer, traced the story, the company notified the PBGC it was in serious financial trouble last March—so bad it had failed to mail out two months of benefit checks.

The PBGC immediately got involved in REA Express' problems. First, it persuaded the firm to resume its benefit payments and to mail out checks for the two months it had skipped. By November, when the firm had been declared bankrupt, the corporation had had itself appointed trustee of the REA pension plan.

As trustee, PBGC took over the plan's remaining assets, first to make sure that payments to retired workers were not interrupted again. Within a week of REA's bankruptcy ruling, the PBGC had retirees' benefit checks in the mail, along with a letter explaining to the plan's 1,650 participants the corporation's responsibilities and the benefits it would guarantee.

Most plans are not as large as REA's, however, and instead resemble that of the small, New England auto-part manufacturing firm that went under last February.

In this case, the PBGC left the assets of the firm's plan under the management of the same bank that had handled them previously. It merely took over the mailing of the monthly benefit checks to about 100 retired workers.

But the PBGC has not yet drawn on its own insurance fund. That insurance fund serves as a backup in the event a failed plan can't pay its covered retired workers. It is financed by some 120,000 private plans which paid premiums in 1975 of about $34 million.

The premium rates now are $1 a year per person in a single-employer plan and 50 cents per person if the plan is funded by two or more employers.

These rates are to rise when the corporation begins to provide big multiemployer plans with the same protection it gives such single-employer plans as REA.

CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER.** Is there further morning business? If not, morning business is closed.

OKLAHOMA SENATORIAL CONTESTED ELECTION

The **PRESIDING OFFICER.** Under the previous order, the Senate will now resume consideration of the unfinished business, Senate Resolution 356, which will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 356) relating to the Oklahoma senatorial contested election.

The Senate resumed the consideration of the resolution.

RECESS UNTIL 2 P.M.

Mr. **GRIFFIN.** Mr. President, with the approval of the distinguished majority leader, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate, at 1 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LAXALT).

OKLAHOMA SENATORIAL CONTESTED ELECTION

The Senate continued with the consideration of the resolution (S. Res. 356) relating to the Oklahoma senatorial contested election.

Mr. **MANSFIELD.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. **CANNON.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **CANNON.** Mr. President, I ask unanimous consent that the following staff members be granted the privilege of the floor:

William M. Cochrane, Edwin K. Hall, Peggy L. Parrish, Richard D. Casad, and James Schoener, minority counsel, and Aubrey Sarvis, of my staff.

I also ask unanimous consent that during the consideration of Senate Resolution 356 relating to the Oklahoma senatorial contested election—

First, the contestant, Mr. Edmondson, shall be admitted to the floor of the Senate;

Second, the attorneys for Mr. BELLMON, John Coffey, Kevin Hays, and Bert McElroy, and the attorneys for Mr. Edmondson, Morris Levin, James Edmondson, and John Claro, shall be admitted to the floor of the Senate;

Third, under the supervision of the Sergeant at Arms, two tables shall be placed in the rear of the Senate Chamber, one for the use of the attorneys for Mr. BELLMON and one for the use of the attorneys for Mr. Edmondson;

Fourth, under the supervision of the Sergeant at Arms, charts, photographs, and similar exhibits may be displayed in the Senate Chamber;

Fifth, under the supervision of the Sergeant at Arms, two voting machines used in Tulsa County, Okla., in the contested election may be displayed and demonstrated in the Senate Chamber; and

Sixth, the experts who testified before the Committee on Rules and Administration, Dr. Howard Penniman, Dr. Walter DeVries, Dr. Warren Miller, and Dr. Samuel Kirkpatrick, shall be admitted to the gallery reserved for employees of the Senate.

Mr. **HATFIELD.** Will the Senator add the name of Larry Smith?

Mr. **CANNON.** Please add Larry Smith of the committee staff.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BARTLETT.** And will the Senator add the name of Don Cogman of my staff?

Mr. **CANNON.** Please add Don Cogman.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BARTLETT.** And also the name of Charlie Waters from the staff of Senator BELLMON.

Mr. **CANNON.** I add the name of Charlie Waters to that list.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

RECESS UNTIL 2:15

Mr. **MANSFIELD.** Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2:15 p.m. for the purpose of carrying out the request of the chairman of the committee, the distinguished Senator from Nevada (Mr. CANNON).

There being no objection, the Senate, at 2:06 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LAXALT).

The **PRESIDING OFFICER.** The Senator from Nevada is recognized.

Mr. **MANSFIELD.** Mr. President, will the Senator yield to me briefly?

Mr. **CANNON.** I yield.

Mr. **MANSFIELD.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. **MANSFIELD.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **CANNON.** Mr. President, the Senate today begins consideration of Senate Resolution 356, which was reported on January 27, 1976. That resolution contains certain findings and declarations relating to the contested election for a seat in the U.S. Senate from the State of Oklahoma. These are discussed at great length in the report of the Committee on Rules and Administration submitted to the Senate, together with minority and supplemental views of committee members.

Senate Resolution 356, approved by the committee by a vote of 5 yeas to 3 nays, with one member rescuing himself, requires:

> That the Senate of the United States exercise its constitutional responsibility under Article I, section 5, of the Constitution, as the Judge of Elections of its own Members to determine the outcome of the contested election of November 5, 1974, for the office of United States Senator from the State of Oklahoma, and, if unable to so determine, declare a vacancy exists in such office in order to enable a special election to be held in accordance with the laws of the State of Oklahoma governing special elections.

As the committee report sets forth in detail, the Oklahoma Senate election of November 5, 1974, resulted in a declaration of victory for Republican HENRY BELLMON over Democratic candidate Ed Edmondson by a margin of 3,835 votes.

Mr. Edmondson challenged the results in Tulsa County, and filed a contest with the State election board under the laws of Oklahoma. The matter was initially heard by a State district judge. Mr. Edmondson claimed that the election laws of Oklahoma had been violated in that, first, the voting machines used in Tulsa County listed the contest for U.S. Senator after 14 State contests, in violation of Oklahoma law; second, these voting machines did not have devices for straight party voting, in violation of Oklahoma law; and, third, that 545 of the 640 voting machines used in Tulsa County prominently displayed erroneous and misleading instructions for straight party voting, which could not be followed because of the absence of the straight party levers.

Mr. President, the statutes alleged by Mr. Edmondson to have been violated are set forth on pages 3 and 4 of the committee's report, as are the voting instructions which my colleagues can observe prominently displayed on the "Tulsa" voting machines.

I might say that the Tulsa and Amarillo voting machines, one of each, are on display here in the Senate Chamber. A photographic blowup of the ballot arrangement is on the side over on my right. On my left are photographic blowups of the misleading instructions that appeared on 545 of the 640 machines.

The Oklahoma district court sustained a demurrer by representatives of Senator BELLMON to the question of the placement of the senatorial race on the ballot, refusing to consider any evidence as to the effect of such ballot placement on the outcome of the election. The district court also did not find that there was a violation of the law requiring a straight party lever since it found that a voter could vote a straight party ticket by moving all the various selectors on the machine to candidates of one party. The district court upheld the legality of the election.

Mr. Edmondson then petitioned the Supreme Court of Oklahoma, which first of all clearly found that the voting machines in Tulsa County were not programed so as to permit straight party voting, as required by section 274 of the Oklahoma statutes.

Second, the court assumed:

> Arguendo, that a candidate for the United States Senate is a candidate for a national office, and that the placement of the United States congressional candidates in Column 6, instead of Column 3, where the candidates for state offices were placed, conflicts with the *mandatory* provisions of Section 277(c) of the Oklahoma Statutes.

Finally, the court found that—

> Since the machines were not programmed to permit straight party voting by using a single lever per column of the ballot, and in fact, no such lever was on the machines, the contested instructions were clearly erroneous.

The Oklahoma Supreme Court thus found in favor of Mr. Edmondson's position that laws had been violated. However, the court held that Mr. Edmondson failed to establish by competent or sufficient evidence that these violations of law were sufficient to void the election or make it impossible to determine with mathematical certainty which candidate received the greater number of statewide votes and was entitled to a certificate of election.

On January 9, 1975, Mr. Edmondson filed with the Senate a petition and complaint, and on January 13, 1975, Senator BELLMON filed with the Senate a motion to dismiss the Edmondson petition and complaint, together with an answer. On January 14, 1975, Senator BELLMON was seated by the Senate "without prejudice" to the Edmondson contest, and the matter was referred to the Committee on Rules and Administration.

After the New Hampshire contest was resolved the committee commenced the consideration of the Oklahoma contest and authorized a staff investigation and staff hearings which were conducted in Tulsa, Okla., on August 12, 13, 14, and October 15 and 16, 1975. Opportunity was provided for both sides to present or offer witnesses and majority and minority staff reports were filed with the committee. Hearings were held by the committee on November 17 and 18, and December 4, 1975, with both sides invited to submit names of desired witnesses. On December 12 and 15, 1975, the committee met to consider the contest. The resolution and report before the Senate reflect the committee's determination that the violations of Oklahoma law and erroneous instructions, considered cumulatively, could well have affected the outcome of the Oklahoma Senate race, and that the committee was not able to determine with any degree of certainty the winner in the contest.

Mr. President, the volume of hearings and meetings on the Oklahoma contest—consisting of 1,281 pages, including various legal memorandums and exhibits—contains a full and complete record of the committee's actions in this contest. It will show that the investigations and hearings of the committee and its staff have been conducted in an impartial manner with an opportunity for all interested parties to be heard and present a complete picture of the facts and law, as they affected both sides of the controversy, to the committee.

Mr. President, we have before the Senate evidence which conclusively demonstrates that at the election of November 5, 1974, the election machines of Tulsa County, Okla., were not in conformance with the laws of the State of Oklahoma. The law required that candidates for U.S. Senator be listed in first place, but instead they were listed after 14 State contests. The law required that the voting machines have straight party voting devices, and it is undisputed that none existed in Tulsa County. Finally, it is undisputed that 545 of the 640 voting machines had affixed prominent instructions as to the use of straight party voting devices which were not available for use by the voters—thus the instructions were erroneous and misleading.

The Oklahoma Supreme Court concluded that Mr. Edmondson had not presented competent evidence to show that the irregularities, singly or together, and I use the court's language, "caused at least 3,835 voters who participated in the Tulsa County election to forgo or fail to record a vote in the U.S. Senate race."

That is in the hearings at page 243.

Although the court used the term, "irregularities," it is clear that there were two violations of Oklahoma law as well as the use of erroneous and misleading instructions.

It is established precedent, Mr. President, that the Senate is not bound by the findings of the Oklahoma Supreme Court, as the Senate is the sole judge of the elections, returns and qualifications of its own Members, under article I, section 5 of the Constitution. However, Mr. President, the committee has not totally rejected the holdings of the Supreme Court of Oklahoma, and does not ask the Senate to do so. The committee considered the court's findings and, indeed, is in agreement with its essential conclusions that Oklahoma law was not complied with on November 5, 1974, in Tulsa County. The committee considered, as must the Senate now, the court's findings, together with all the other evidence submitted, and concluded from all this evidence that the violations of law and misleading instructions, considered together, could well have affected the outcome of the election, thus making it impossible to determine with any degree of certainty, much less mathematical certainty, the rightful winner of that election. Furthermore, in this contest, substantial new evidence was presented to the committee, and is now before the Senate, which was not available to the Supreme Court of Oklahoma. This new evidence is set forth at pages 8 through 12 of the committee report.

The fact that Oklahoma law was violated in Tulsa County by the absence of a straight party lever and the placement of the Senate contest after 14 State offices rather than in first place is clearly established here. Also established is the fact that 545 of the 640 voting machines in Tulsa County had erroneous and misleading instructions. Had a voter followed instruction No. 1 on 545 of the Tulsa voting machines, he or she would have cast a vote only for the bottom candidate. If a voter had, however, followed those instructions in their entirety, his or her vote would have been canceled out completely. Thus, the question before the Senate is, Did these violations of the law and misleading instructions affect the outcome?

Mr. President, in this case substantial evidence was offered to the committee, and is now before the Senate, on behalf of Mr. Edmondson that the results of the election were, in fact, affected, and were it not for the violations of law and misleading instructions, Mr. Edmondson would have received sufficient votes in Tulsa County to win in the statewide election.

Dr. Samuel A. Kirkpatrick, a professor of political science and director of the Bureau of Government Research at the University of Oklahoma, testified as a qualified expert on Oklahoma elections, voting behavior, and voting patterns, that—

> Without the irregularities associated with voting machines in the November 1974 election, there is a high probability that Ed Edmondson would have received sufficient votes in Tulsa County to win in the State-wide election.

Dr. Warren E. Miller, a qualified expert on voting patterns and the behavior of citizen participation in national elections, and the director of the Center for Political Studies of the Institute for Social Research at the University of Michigan, testified before the committee that, in his opinion, it was "most likely that Mr. Edmondson would have indeed won, had these irregularities not occurred."

The opinions of these expert witnesses and the evidence they presented to support their conclusions are all set forth at length in pages 12 through 17 of the committee's report.

The committee also received evidence on behalf of Senator BELLMON disputing the methodology and conclusions of Mr. Edmondson's witnesses. Dr. Howard R. Penniman, professor of government at Georgetown University, concluded that there was, "no reason to doubt the validity of the outcome" of the election. However, Dr. Penniman was unable, it appeared, to categorically conclude that the violations of law and misleading instructions had absolutely no effect on the election results, as evidenced by his acknowledgment that it was possible that several voting irregularities, when combined, might have made a difference in the election results.

Dr. Walter DeVries testified on behalf of Senator BELLMON that the violations of law and misleading instructions made no difference at all in the results of the election.

Mr. President, the crux of the question before us is, did these violations of law affect the outcome of the election? From my own experience, I would certainly have to disagree with Dr. DeVries' strong position that the absence of straight party levers made absolutely no difference in the outcome. In my own State of Nevada, one of the basic reasons for doing away with straight party voting was to make people think and vote in each race, rather than casting one vote for their party designation. From my own experience, I am personally convinced that voters are more inclined to vote a straight party ticket if such a mechanism is available.

Leaving aside the merits of straight party voting, we cannot walk away from the fact that it was required by Oklahoma law and not provided for in Tulsa County.

I am certain we will hear some discussion later in these proceedings, with respect to the Chavez case in which our colleagues on the Republican side, who were then in the majority, voted 7 to 1 in support of the proposition that I am advancing here. They took the position that any violation of law alone, independent of any other fact or information, was sufficient to void the election.

Mr. President, I ask the Senate to review carefully the evidence before it in this contest and determine whether the violations of Oklahoma law, and the erroneous and misleading instructions on the voting machines affected the outcome of this election.

Mr. President, these are the questions we are to determine here; either the matter should go back for a new election or that it should not, that the violations of law did or did not affect the outcome of the election, and whether or not Mr. BELLMON should be seated permanently.

AMENDMENT NO. 1420

Mr. President, I offer an amendment to the resolution that is on file.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an amendment.

Strike out all after "*Resolved,*" and insert the following: That the Senate of the United States, in the exercise of its constitutional responsibility under Article I, Section 5, of the Constitution as the Judge of Elections of its own Members, does hereby declare its inability to determine the outcome of the contested November 5, 1974, election for the office of United States Senator from the State of Oklahoma, and does declare as of 1976, a vacancy to exist in such office as of such date, such vacancy to be filled in accordance with the laws of the State of Oklahoma.

Mr. CANNON. Mr. President, I yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I ask unanimous consent that during debate and any rollcall votes on Senate Resolution 356, relating to the Oklahoma election contest, the following members of Senator BELLMON's staff be granted privileges of the floor: Robert Haught, Fred Davis, and Charles Waters; and Karleen Millnick of the Rules Committee staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I yield to the Senator from Oklahoma.

Mr. BELLMON. I thank the distinguished Senator from Oregon for yielding to me.

Mr. President, it is not my intention to stand before the Senate to plead my case. Senator HATFIELD, the distinguished ranking minority member of the Budget Committee, and my colleague from Oklahoma, Senator BARTLETT, and others have graciously undertaken to fully inform the Senate as to the lack of merit in the challenge to my reelection.

My purpose, Mr. President, is to call to the attention of the Senate the precedent which could be established if this matter is sent back to Oklahoma for a new election. The fact is that no charges of misconduct on the part of either candidate or their supporters have been made. No request for a recount was filed and there is no question as to the number of votes received by either candidate.

The simple fact is that it was a close election, and the election officials, who were not members of my own party, conducted the election in a way they felt to be both fair and lawful.

Should the Senate establish the precedent of calling for new elections in cases of this kind, there is every reason to believe that from this point forward numerous close elections will be appealed to the Senate for final determination.

There has rarely been an election held in this country where technicalities of State election laws or procedures could not be differently interpreted. Such questions should properly be settled by the courts. This has already been done in the Oklahoma case, and again predominantly by members of the Democratic Party. Upholding a lower court ruling, the State supreme court in a unanimous opinion ruled the election was neither "illegal nor void."

For the Senate now, 16 months after the election, to reverse the decision of the Oklahoma voters and of the Oklahoma courts, would in my opinion establish a precedent that would haunt this body for decades to come.

Mr. President, it is my hope that the Senate will not establish such a precedent.

Mr. HATFIELD. Mr. President, 8 months ago, in June of 1975, the U.S. Senate began the lengthy debate on the contested New Hampshire Senatorial contest. There are those of us here today, and I include myself in this category, who hope and pray that the Senate's consideration of the Oklahoma contest is not as prolonged. There are those of us here today who believe the Senate's time should not be consumed by the considerations of this frivolous case. However, our desires did not prevail in the Rules Committee, and the Senate now finds itself in the midst of another hotly contested election.

While there are virtually no comparisons to be made between the New Hampshire contest and the Oklahoma contest, I believe a comparison can be made in terms of the position held by the minority members on the Rules Committee, and I would hope, the minority members of the Senate. It has been our consistent position that the Senate's considerations of these contests be in a fair and equitable fashion, and the rights of the people be preserved. This was the intent and purpose of our effort in the New Hampshire case, and it will be a central part of our participation in the Oklahoma case.

As members of the minority, we will not hesitate to utilize every right within our power to see to it that all issues are heard and discussed fully. To permit the Senate to do otherwise than as stated would be an abdication of our responsibility as members of the minority, and as representatives for a portion of the American people in this legislative body.

Some Members of the Senate have predicted that once the Oklahoma case reaches the Senate floor, a decision will be rendered by this great deliberative body within the matter of hours or days. Mr. President, may I respectfully remind my colleagues that we heard this same call, this same ring, when we first considered the New Hampshire Senatorial contest in January of 1975, and we now know how false, how hollow, those predictions were. None of us know how long the Senate will spend on the Oklahoma contest, but one prediction, one prophecy if you will, will remain true to the very end—that is the members of the minority intend to be as deliberate as is required to make sure that the Senate gives this issue a fair hearing, and that it disposes of this contest properly—by dismissing the petitioner's complaint.

Mr. President, while I believe the respective reports of the majority and the minority provide a rather complete outline as to the specifics of this case, I would like to review for my colleagues in the Senate some of the facts of this particular contested election.

The results of the 1974 Oklahoma senatorial contest are well known to all of us:

HENRY BELLMON, 390,997 votes; Ed Edmondson, 387,162 votes; Paul Trent, 13,650 votes.

More pertinent to this case, however, are the results of the contest in Tulsa County:

HENRY BELLMON, 72,145 votes; Ed Edmondson, 49,775 votes; Paul Trent, 1,789 votes.

In other words, Mr. President, HENRY BELLMON defeated Ed Edmondson in Tulsa County by 22,370 votes.

Mr. President, just as there is no dispute over the actual votes cast for each candidate in Tulsa County, or for that matter the entire State, there is also no dispute over the fact that in Tulsa County the Democrats outregister the Republicans by some 19 percent. We find, however, that the registration lists in Tulsa County are just as deceiving as they are in other parts of the country. I would like to bring to the attention of my colleagues the fact that Republican candidates have a history of doing well in Tulsa County, in spite of the 19 percent registration advantage Democratic candidates enjoy over their Republican opponents. Republican candidates have consistently won in Tulsa County, and have won big.

First. Tulsa County has voted for a Republican President every time since 1940.

Second. The Republican candidate for Governor has carried Tulsa County every time since 1940 except 1958.

Third. Former Democratic Senator Mike Monroney lost four times in Tulsa County.

Fourth. Former Democratic Senator

Fred Harris lost Tulsa County in 1964 and 1966.

Fifth. Ed Edmondson, the Democratic Candidate for the U.S. Senate in 1972 and 1974, lost in Tulsa County both times.

Mr. President, let there be no mistake—HENRY BELLMON's 22,370 margin over Ed Edmundson was not unusual nor out-of-line with past races.

Now, Mr. Edmondson has presented testimony, and apparently with some effectiveness, since a majority of the members on the Rules Committee have accepted, at least in part, his arguments that there was a certain amount of confusion at the polls due to:

First. The absence of straight-party levers on the Tulsa voting machines.

On the blown-up picture of the machine at the rear of the Chamber, Senators can see that the placement of names, with Ed Edmondson first and HENRY BELLMON second. Any voter had to pull that lever down past Edmondson's name in order to vote for HENRY BELLMON.

I think that is a point we ought to bear in mind about this argument, this fallacious argument, that somehow, the voters got confused because there was not straight party voting. Every voter, Democrat or Republican, had to vote the same way, and every voter faced that same situation, where Ed Edmondson's name was first and HENRY BELLMON's name was second.

Second. The attachment of straight-party lever voting instructions on the machines.

Third. The erroneous placement of the congressional races behind the statewide races on the machine ballots.

Mr. Edmondson's experts testified before the Oklahoma judicial system and the Senate Rules Committee that without the confusion associated with these irregularities, "There is a high probability that Ed Edmondson would have received sufficient votes in Tulsa County to win in the statewide election."

Mr. President, what Mr. Edmondson is saying, what these so-called experts are saying, is that Democratic voters become confused much more easily than Republican voters. I, as a Republican, am not willing to make this particular indictment or charge against good Oklahomans of either party.

I might add that the Oklahoma Supreme Court did not find this to be true, nor did the minority members of the Rules Committee accept this thesis. If there was any confusion, which still has not been proven, let alone properly documented, then such confusion would have been evenly divided among Republican and Democratic voters alike.

Mr. President, no one from the minority has argued or will argue that the irregularities pointed out by Mr. Edmondson did not take place. We all know that irregularities are a part of the history of every election contest. Additionally, we all know that HENRY BELLMON had nothing to do with these election irregularities and, in fact, Ed Edmondson knew 4 days prior to the election that the straight-party levers would not be on the voting machines in Tulsa County.

Had Mr. Edmondson been concerned about the voting rights of Tulsa County citizens, then he would have certainly sought a court order to stay the November 4 election until a later date when either the levers could have been placed on the machines, or until paper ballots could be printed. One wonders if Mr. Edmondson would have been so concerned about these voting rights had he won the election instead of losing it.

Mr. President, we also know that the Oklahoma Supreme Court, comprised of eight Democrats and one Republican, held the following unanimously:

> The record will not support a finding that any voter was deprived of his right to vote in the United States Senate race or failed to vote in the race because he could not vote a straight-party ticket, or because they could not find the lever to vote a straight-party ticket . . .
>
> Considering the irregularities together and their cumulative effect, Edmondson simply failed to establish by competent evidence that these irregularities singularly or together caused at least 3,835 voters, who participated in the Tulsa County election, to forego or fail to record a vote in the United States Senate race. Since Edmondson did not present sufficient evidence to establish this essential fact, and since the court may not indulge in presumptions, the candidate receiving the most statewide votes for the office of United States Senator can be determined with mathematical certainty and that candidate is entitled to be issued a certificate of election. Bellmon is that candidate.

Mr. Edmondson, Mr. Edmondson's experts, and some members of the Committee on Rules are asking the Senate to make presumptions as to the probable outcome of the race, had not these irregularities taken place. They are asking the Senate to make presumptions that Ed Edmondson won the race, even when the Oklahoma Supreme Court said that it could not indulge in such presumptions. I respectfully suggest that the U.S. Senate should not find itself in the position of having to make presumptions as to who should have won an election under a different set of unknown circumstances. And, if we do get into the presuming business, as Mr. Edmondson would like us to do, then I am afraid that the Senate will find in 1977 a lot of disappointed senatorial candidates making many presumptions and, at the same time, asking the Senate to listen and ultimately accept these presumptions, as the Senate is being asked to do in this case.

The burden is upon Mr. Edmondson to prove that it is impossible to determine, with mathematical certainty, which candidate is entitled to be issued a certificate of election. It is going to take a lot of presuming on the part of the Senate to wipe away HENRY BELLMON's 22,370 vote margin in Tulsa County. I submit to the Senate that Mr. Edmondson has failed to meet this test—the burden of proof.

After the Oklahoma Supreme Court had said that Mr. Edmondson's experts had failed to provide "competent evidence" to show that any voters were deprived of their rights to vote, these experts went back to their computers to develop, to formulate, to manipulate, if you will, new statistics to prove or support their thesis before the Senate Committee on Rules of an Edmondson victory in the 1974 election. It is this new material which finds itself in the majority report under the subtitle, "new evidence." It is this new evidence that some members of the Rules Committee can point to as their excuse to totally reject the unanimous finding of the Oklahoma Supreme Court.

The majority report states:

> The conclusions of both of the expert witnesses testifying on behalf of Mr. Edmondson before the Rules Committee, as well as a substantial portion of the data upon which they based their conclusions, were substantially different than that presented by the same witnesses to the Oklahoma Courts.

Mr. President, I submit to the Senate that some of the observations, data, and conclusions presented by Mr. Edmondson's experts to the Rules Committee in November would be substantially different even today if they were given the opportunity to appear before the Senate.

I believe that, if given another chance, these experts would appear before the Committee on Rules and would offer up a new set of statistics in order to support their original conclusions presented to the Oklahoma District Court. Their conclusions were false in Oklahoma, and they were false in Washington.

Many times a political scientist's study is as deceptive when first heard as is a legal brief defending a complex issue. It is only after you have dissected the legal brief or the political scientist's study do you find the true meaning of what is being presented.

We do not argue with the point that Mr. Edmondson's expert witness, Dr. Warren Miller of the University of Michigan, did not have the 1974 data available when he testified before the Oklahoma District Court. What concerns us on the minority is that Dr. Miller's representations of the 1974 study were clearly misleading, and that our brothers on the Rules Committee were misled.

Later on in this debate, we will show the Senate how cleverly deceptive the Miller report was, and how there was so little foundation for Dr. Miller to make the assertion that it was, "most likely that Mr. Edmondson would have indeed won had these irregularities not occurred."

The majority report goes on to say, on pages 14 and 15, that "Both of the 1956 and the 1974 surveys which formed the underlying data upon which Dr. Miller based his opinion before the Rules Committee, included two precincts in Tulsa County."

Now, please listen carefully, because this is the very heart of the matter when the majority of the committee comes on this Senate floor with the recommendation it does, based upon new evidence.

When Dr. Miller was asked to identify the two Tulsa County precincts he used in his 1974 study, he wrote to Senator Cannon on February 4, 1976, to say that he was in error. In referring to the sampling areas as precincts, Dr. Miller said in his letter:

> I should note that in my letter to Mr. Levin I erred in referring to the jurisdictions as "precincts"—an error I did not make in my statement prepared for your committee. The jurisdictions were, in fact, counties, not precincts.

Mr. President, the Rules Committee was led to believe in the hearings by Dr. Miller that his position regarding the 1974 senatorial contest was based, in part, upon the voter survey information obtained from Tulsa County. Next, we were told the study included, "two precincts in Tulsa County." Now, we are told that the areas were not precincts but jurisdictions, and that the jurisdictions were, in fact, counties—one being Tulsa County, and the other being Osage County.

Now, it is very difficult for me to understand how an expert like Dr. Miller could become so confused over his own study as to whether it included jurisdictions, precincts, or counties. Furthermore, I cannot understand how Dr. Miller can use data from Osage County, a paper-ballot county, to formulate a position as to the voting trends of voters in Tulsa County, a voting machine county.

Dr. Miller also mentions that the 20 participants—and let me underscore that—from Tulsa County could not have their identity disclosed because they were assured of their privacy when they initially participated in the poll. Mr. President, I think this explanation by Dr. Miller seems quite reasonable, and I would certainly not want to intrude upon the privacy of these citizens. But, just as these citizens want their privacy to be protected, I cannot believe they would want the data they furnished Dr. Miller to be misrepresented, wilfully or unwilfully. Ample evidence will be provided later which will expose these misrepresentations and inaccuracies.

First though, Mr. President, I think the Senate needs to know about some of the games which were played concerning Dr. Miller's expert testimony. Around December 1, after Dr. Miller had testified before the Rules Committee on November 18, James Schoener, minority counsel on the Rules Committee's Subcommittee on Privileges and Elections, called Dr. Miller to ascertain some background information on the doctor's testimony and 1974 study. After waiting for a period of 2 weeks to receive the material requested of Dr. Miller, Mr. Schoener once again called Dr. Miller on December 15, but unfortunately Dr. Miller was not in his office. A message was left with Dr. Miller's secretary to the effect that the material requested on December 1 had not yet arrived. On that same day, December 15, the Rules Committee met to vote on a resolution offered by Chairman Cannon to refer the Oklahoma matter to the Senate. Before the committee voted on the resolution, I mentioned that the committee was going to be making a judgment on a contested election on the basis of a study by a political scientist, especially when only a synopsis of the study had been provided to the committee. Mr. President, if I may, I would like to read a portion of the hearing record which covers this very discussion.

> Senator Hatfield. Mr. Chairman.
>
> The Chairman. Senator Hatfield.
>
> Senator Hatfield. I would like to point out to the committee that the very study upon which the Chairman relies so heavily has never been presented to this committee. We have only had a synopsis of that study.
>
> He was asked to supply to this committee the full basic study from which he drew his conclusions. And unless I have been misinformed, none of our staff on the minority side has ever received any material—is that correct, Mr. Duffy?
>
> Mr. Duffy. We don't have any.

Parenthetically, I would add, Mr. Duffy was counsel for the majority.

> Senator Hatfield. We do not have the study. So here we are asked to make a determination of a whole new election on the basis of a synopsis of a study, when the full study was asked for—and not a single member of this committee has read the study because the study has not been provided.
>
> Senator Griffin. May I add that the request was made three weeks ago for the study.
>
> Senator Hatfield. That is right, specifically.
>
> Senator Griffin. And the fact that it was not available, of course, made it impossible for the experts who were testifying on behalf of Mr. Bellmon to challenge or question their conclusions.
>
> Senator Hatfield. I think that should be a very clear point made for the record, that when the Chairman is asking for this kind of determination and, in effect, rejecting the Oklahoma Supreme Court ruling, by substituting new evidence by some study made by a professor of political science. We don't even have the study. We only have a synopsis. We only have some highlights that this professor gave us in oral testimony.
>
> And he was asked specifically at that time for the full study, because I indicated that, having seen many studies, I wanted to see the detail, and particularly the raw material, the raw data—three weeks ago. And we have yet to get that study, the very evidence that is now supposed to substitute for the Oklahoma Supreme Court.

Immediately afterwards, the committee voted 5 to 3 to report out the Cannon resolution. It was after this vote that more discussion took place regarding the report requested of Dr. Miller. I once again quote from the record:

> Senator Williams. Mr. Chairman.
>
> The Chairman. Senator Williams.
>
> Senator Williams. The point has been made here several times that there was a synopsis of a report—I gather it was Dr. Miller's synopsis of his own report.
>
> Senator Hatfield. That is right, Dr. Miller—and the staff said it has not been received.
>
> Senator Williams. You said that his report was asked for and not received. I would hope, after this voting is over, that we would find out about that report—whether a request was made, where it is, whether that shouldn't be made available to the Senate, if this should go to the Senate.
>
> Senator Hatfield. After the fact.
>
> Senator Williams. Well, I thought that you were hoping that this would be hard evidence to be used by members to make a decision. If this goes to the Senate, I would hope this would be before it, if it is available.
>
> Senator Hatfield. I had hoped that the committee might want evidence before it sent something to the floor of the Senate. Obviously, the committee doesn't want it.
>
> Senator Williams. I have been inquiring informally here of the staff, and it doesn't recall a request having been made on the record for this report.
>
> Senator Griffin. It wasn't made on the record, I am told by staff, but it was made.
>
> Senator Williams. I see. I am content.
>
> The Chairman. I would find it very difficult to understand why it is not made on the record, if such a request were made. I frankly don't have any recollection of it. If there had been a request, I would have thought that I would in fairness have requested it, although raw data—we had the best evidence here, which was the gentleman testifying as to the results of their study and what the study showed. They testified as expert witnesses.

Mr. President, since the vote and the discussion by the committee were very important, both Mr. Edmondson and his attorney, Mr. Morris Levin, as well as Senator Bellmon's attorney, Mr. John Coffey, were in the hearing room. The importance of the discussion regarding the Miller report was quite evident. And all in the hearing room were aware of the tension at this time between the majority and the minority members of the committee.

Much of the misunderstanding over this report, which I might add continued for several weeks, could have been cleared up had Mr. Edmondson's attorney, Mr. Levin, asked to address the committee in order to enlighten it regarding the facts of the case, as he had done on so many other previous occasions. However, Mr. Levin, Mr. Edmondson's attorney, elected to remain silent.

Again, on December 18, James Schoener called Dr. Miller to inquire about the requested information. Dr. Miller reported to Mr. Schoener that he had forwarded part of the requested material over 2 weeks ago to Mr. Edmondson's attorney, Mr. Levin, for transmittal to the committee. Mr. Schoener immediately called Mr. Levin, and Mr. Levin reported that he had, quote, forgotten, unquote, about Dr. Miller's letter.

In a letter to Senator Cannon, dated December 19, Mr. Levin wrote the following:

> I received a telephone call on Thursday, December 18, 1975, from Dr. Warren Miller, Center for Political Studies, the University of Michigan, Ann Arbor, Michigan. Dr. Miller stated that he had just received a telephone call from James Schoener, minority counsel, Subcommittee on Privileges and Elections. Mr. Schoener reminded Dr. Miller that he had called him on or about December first, and requested of Dr. Miller certain information. At or about the same time, I had been in touch with Dr. Miller regarding the scheduling of Doctors Penniman and Devries as expert witnesses for Senator Bellmon. I advised Dr. Miller at that time to send me the materials requested, and I would forward them to Mr. Schoener.
>
> The materials did arrive at my office, with a covering letter from Dr. Miller, on or about December 5, 1975. At that time, I was working on my memorandum in lieu of argument,

> to be submitted to the committee on December 8, 1975, and I put the letter from Dr. Miller to one side. In the telephone conversation of December 18th, Mr. Schoener apparently repeated his earlier requests, and Dr. Miller told him he had sent these materials to me. Mr. Schoener also called me on December 18th, and I assured him I would provide the materials sent to me. I am, therefore, now submitting Dr. Miller's letter dated December 2, 1975, with enclosed materials to the committee, with my sincere apologies for the delay, which was unintentional.

As far as we know, Mr. Levin delivered Dr. Miller's material to the majority staff of the Rules Committee on or about December 19. The Miller material finally reached the minority staff on January 9, or approximately 5 weeks after it was requested of Dr. Miller.

Mr. President, Mr. Edmondson's attorney forgot Dr. Miller's letter even though he discussed the matter with Dr. Miller on the telephone; Mr. Edmondson's attorney forgot the letter even though he was present in the hearing room when the committee discussed this very request by members of the minority.

I would respectfully suggest to the Senate that Mr. Levin's memory failed because he knew that Dr. Miller's study could not stand up under close scrutiny. Mr. Edmondson's attorney knew that if all the raw data on the Miller study, being sought by members of the minority, reached the committee, then Dr. Miller's generalizations that, "Ed Edmondson probably would have won the election had the irregularities not occurred," would fall on their face—just as they did in Oklahoma.

Mr. President, I said earlier that conclusive evidence would be provided later on by the minority to show that Dr. Miller's study was in error, and that his expert testimony and his conclusions were in error. I would, however, at this time like to open up this can of worms just a little bit to give my colleagues a view of what is to come.

Dr. Miller, in his February 4, 1976, letter to Senator CANNON, wrote on page two that, "The number of respondents in the two Tulsa jurisdictions totaled 20." First, let me remind my colleagues that the so-called two Tulsa jurisdictions in the 1974 study Dr. Miller writes about happen to be Osage County and Tulsa County. How Dr. Miller could base a part of his analysis on Tulsa County with data obtained from respondents from Osage County just does not make sense.

But, the major point I want to make here is the magic number of 20 respondents. Let me repeat for my colleagues—Dr. Miller says in a letter to Senator CANNON that, "The number of respondents in the two Tulsa jurisdictions totaled 20."

Dr. Miller comes to the Senate citing a national study on voting trends that he compiled, which included a sampling of only 20 respondents from Tulsa and Osage counties. And then says to the committee and to the Senate that, based upon his study, "Ed Edmondson probably would have won the election had such and such not occurred."

Five members of the Rules Committee are saying to the Senate they believe the outcome of the 1974 Oklahoma senatorial race is in doubt based upon expert testimony received in the committee. This expert testimony, which is identified in the majority report as "new evidence," basically is a national study which Dr. Miller says included 20 citizens from Oklahoma, and not all of them from Tulsa County.

Mr. President, some of my colleagues in the Senate may be persuaded to vacate this Oklahoma Senate seat on the basis of a poll alleging to involve 20 respondents, but if they do, it will be a sad day for the U.S. Senate. I wonder how many Members of this legislative body would believe a poll involving only 20 respondents if it were their race or seat in jeopardy. I cannot believe there would be one man or woman in the Congress who would base his or her political campaign on data obtained from a poll involving only 20 participants in the district or State.

On February 14 of this year, the minority members finally received some of the more pertinent information needed to properly analyze Dr. Miller's 1974 study.

Mr. President, I hold in my hand some of the raw material, the raw data, from the computer as well as from his study which represented what he cranked into the computer.

We were very surprised to learn, to see for ourselves, from Dr. Miller's computer printout that despite what this political scientist said in his letter to Senator CANNON, only 14 respondents, not 20, were used in this study—1 respondent from Osage County, and 13 respondents from Tulsa County, for a total of 14 upon which this professor of political science makes his broad-based and general conclusions.

Mr. President, what is even more important—and this is the next step—is the fact that Dr. Miller's own computer printout shows that 6 of the 13 respondents from Tulsa County did not even bother to vote in the 1974 election. So, now after wiping away all of the political science jargon, we find that in truth Dr. Miller really only based his conclusions on data obtained from seven voters in Tulsa County.

Seven voters in Tulsa County led him to make this broad, profound observation that if those voting irregularities had not occurred Mr. Edmondson might have been elected to the U.S. Senate.

In Tulsa County, 125,189 citizens voted in the 1974 election, and Mr. Edmondson and his expert witnesses are suggesting on the basis of polling seven of those voters that the 22,370 vote margin HENRY BELLMON received in Tulsa County be wiped from the election books. With seven voters out of 125,000 votes passed of which Mr. BELLMON won by 22,370 votes, he is making a broad-based conclusion of the voting trends of the people of Oklahoma and, more specifically, of Tulsa County. Seven voters is the base for his material and his study. Here in my hand is the computer printout to prove the point.

Mr. President, the Senate is being asked to vacate the Senate seat held by HENRY BELLMON, when no fraud or criminal wrongdoing has been charged, on the basis of a national study which we now find only includes 13 participants from Tulsa County, six of whom did not even bother to vote in the election in question.

If the Senate accepts and bases its judgment on such flimsy, totally insubstantial expert testimony, then every close Senate election in the future will have to be settled in this Chamber. There is not one Senator in this Chamber today who has not been elected to political office without some sort of irregularities, referred to by the courts as ministerial in character, at least, in the election machinery in his home State. If the arguments suggested by Mr. Edmondson float in this Chamber, then anything will float in 1977.

To force a man, elected by the people of his State and certified by the highest court of his State, to leave the Senate and run for the Senate in another election on the basis of a poll involving only seven actual voters in one county, upon which the majority bases its "new evidence," would be to make a mockery of the U.S. Senate and the electoral process of our entire Government.

Mr. President, I am not asking my colleagues at this time to make a decision as to how they will vote on the Oklahoma contest. I have only touched upon a portion of the discrepancies in Dr. Miller's 1974 study. The test of these discrepancies will be made known to the Senate during the course of this debate. However, after my colleagues have heard the rest of these discrepancies, I believe they will be able to vote to dismiss the rest of the petitioner's complaint with a clear conscience, and with the feeling that justice has been done. I feel it was important to offer only one discrepancy at a time, and those I have offered today carry the base upon which this new evidence rests.

Mr. President, I sincerely hope the Senate will throw Mr. Edmonson's petition out of this Chamber. To accept it, to endorse it, is an open invitation to every loser of a Senatorial race to come into this building and make any sort of charge, without regard to reasonableness or validity, and ask for a new election, especially if he can bring in a political science professor with the kind of a study presented here today.

Mr. President, in closing I can only repeat the words of Senator Thomas Hennings, Democrat of Missouri, when he wrote the minority views in the Chavez case. Senator Hennings wrote:

> Every Senator should ask himself this question. Would he be content to have his own election judged under the circumstances and theories advocated by the majority report?

Mr. President, I am not content with the assertions made by Mr. Edmondson or some of the members of the Rules Committee. I believe, as I hope my colleagues will come to believe, that Henry Bellmon, without question, was the man elected by the people of Oklahoma to represent them here in the U.S. Senate. The Senate, the Rules Committee, and Henry Bellmon have spent enough time on this case. Mr. Edmondson, the petitioner, should be dismissed, and the Senate should once again turn its attention to the business of the Nation.

Mr. BARTLETT. Mr. President, as we begin this very important debate, I think it is most important that we look at the record of the race between Senator BELLMON and Mr. Edmonson. I believe very strongly that Senator BELLMON should be seated, not because he is a good Senator, not because he is a Republican, but because he won the election; and because, having won the election, the courts in Oklahoma ruled according to Oklahoma law that he had won the election. And finally, of course, the Supreme Court reaffirmed the judge who had been assigned to hear the case. As my distinguished friend from Oregon has done, I wish to talk a little about the expert testimony.

On November 18, 1975, Warren E. Miller, professor of political science at the University of Michigan and Samuel A. Kirkpatrick, professor of political science at the University of Oklahoma, were called to testify before the Committee on Rules and Administration, as expert witnesses on behalf of Ed Edmondson.

Professor Miller based his testimony on 1956 and 1974 national sample surveys. Professor Kirkpatrick based his testimony on Oklahoma and Tulsa County vote totals in 1974 and in previous years. Both testified that, based on their research, they were of the opinion that had it not been for the voting machine irregularities in Tulsa County, there is a high probability that Mr. Edmondson would have won the election.

Concerning these two expert witnesses, the majority report states:

> The Committee has found the evidence presented to it by Drs. Kirkpatrick and Miller to be competent and sufficient to cast serious doubt upon the efficacy of the election results and the ability to determine with "mathematical certainty" who won.

At the time the majority wrote their report the committee had not yet seen the base data from which Dr. Miller drew his conclusions, nor did they have before them the official Oklahoma voting statistics upon which Dr. Kirkpatrick relied in drawing his conclusions.

In the weeks which followed this testimony, minority members of the Rules Committee attempted to secure Professor Miller's 1974 survey base data for the purpose of analyzing the same in light of his testimony.

Only within the past 2 weeks was Professor Miller's underlying data provided to the committee in the form of computer printouts and code books.

In the ensuing months, minority members were also able to secure from the Oklahoma State Election Board and the Tulsa County Election Board much of the raw vote total data upon which Professor Kirkpatrick based his conclusions.

For the past 2 weeks, the minority members have spent a considerable amount of time analyzing this underlying data. Their findings are contained in this supplemental report which I now have before me, which the distinguished Senator from Oregon showed to Senators then on the floor, and which I now ask unanimous consent to have printed in the RECORD.

There being no objection, the supplemental report was ordered to be printed in the RECORD, as follows:

SUPPLEMENTAL MINCRITY REPORT OF MESSRS. HATFIELD, SCOTT OF PENNSYLVANIA, AND GRIFFIN OKLAHOMA SENATORIAL ELECTION CONTEST

INTRODUCTION

On November 18, 1975, Warren E. Miller, Professor of Political Science at the University of Michigan, and Samuel A. Kirkpatrick, Professor of Political Science at the University of Oklahoma, were called to testify before the Committee on Rules and Administration, as expert witnesses on behalf of Petitioner Ed Edmondson.

Professor Miller based his testimony on 1956 and 1974 national sample surveys. Professor Kirkpatrick based his testimony on Oklahoma and Tulsa County vote totals in 1974 and in previous years. Both testified that based on their research, they were of the opinion that had it not been for the voting machine "irregularities" in Tulsa County, there is a high probability that Mr. Edmondson would have won the election.

Neither Professor Miller nor Professor Kirkpatrick provided the Committee with the base data upon which they based their conclusions.

In the weeks which followed this testimony, Judge James F. Schoener, Minority Counsel for the Rules Committee, attempted to secure Professor Miller's underlying data for the purpose of analyzing the same in light of his testimony. Professor Miller first responded to this request by letter dated December 2, 1975, addressed to Morris J. Levin, Mr. Edmondson's attorney (see Appendix A–1). Judge Schoener finally received this letter on January 9, 1976, together with coverletter from Mr. Levin, explaining the delay (see Appendix A–2). Thereafter, on January 22, 1976, Judge Schoener wrote to Professor Miller requesting more specifically the base data which he thought he had requested previously, which request Professor Miller had apparently misunderstood (see Appendix A–4).

By letter dated February 4, 1976, addressed to Senator Cannon, Professor Miller responded to Judge Schoener's January 22, 1976, request, providing us with computer printouts and code books relevant to his testimony before this Committee (see Appendix A–5).

In the ensuing months, we have also been able to secure from the Oklahoma State Election Board and the Tulsa County Election Board much of the raw vote total data upon which Professor Kirkpatrick based his conclusions.

After a careful analysis of this base data, we found a multiplicity of inconsistencies between the data used and the testimony presented. We have also located numerous mistakes in calculations made by these experts.

In what follows, we have attempted to set forth our findings in this regard, in an effort to make clear the invalidity of the conclusions reached by these expert witnesses.

ANALYSIS OF PROFESSOR MILLER'S TESTIMONY

1. *Professor Miller's testimony re: his 1956 Survey.*

In his testimony before this Committee, Professor Miller first reiterated the testimony which he had presented to the Oklahoma Trial Court as an expert witness and to the Oklahoma Supreme Court in the form of an affidavit attached to Mr. Edmondson's Brief filed therein. This testimony was based solely on a 1956 national sample survey which Miller claims showed that 77% of all voters voted a straight party ticket in jurisdictions providing a straight party lever (or party circle on paper ballots), but that only 65% of all voters voted a straight party ticket in jurisdictions where each race had to be voted individually. This 12% difference (77%–65%), Miller claimed, was the direct result of the presence or absence of straight party levers. While Miller has never provided the Committee with the base data which he gathered from his 1956 survey, such data is really not necessary to show the inapplicability of this survey to this election contest.

Miller testified that his 1956 survey showed that the absence or presence of a straight party lever did not affect Democrats any more than it affected Republicans. Thus, Miller's *sole* basis for concluding that Mr. Edmondson was hurt more than Mr. Bellmon by the absence of the straight party levers in Tulsa County, based on his 1956 survey findings, was the fact that Democratic registration in Tulsa County was approximately 60% in 1974 while Republican registration was only 40%. In applying his 1956 survey results to Tulsa County, Miller simply *assumed* that 60% of the people going to the polls in Tulsa County were registered Democrats.

This assumption, that Democrats and Republicans did in fact turn out in numbers equal to their respective registration rates, is wholly inconsistent with Miller's own testimony before the Rules Committee (*Hearings*, p. 70):

"Mr. MILLER. There are two constancies, one of which is less important now than it was 20 years ago, having to do basically with the different social-economic advantage of Democrats and Republicans, with the Democrats, of course, traditionally being less well placed in society and simply responding less enthusiastically to politics. But interestingly, over time, even when you take that into account, *you still tend to find a noticeable Republican edge with regard to* such things as party solidarity and with regard to *turnout or participation. There apparently is something about being a Republican that gives one a little more spirit and a little heavier rate of participation.*" (Emphasis added)

In light of this belief, why then did Miller not assume, in applying his 1956 survey results to the 1974 Senate election in Tulsa County, that these "spirited Republicans" would have had a heavier rate of participation in Tulsa County?

There are several other reasons why Miller's 1956 survey cannot validly be applied to Tulsa County. His 1956 survey did not include the type of ballot configuration used in Oklahoma (i.e., separate National, State, County and Local Ballots with one straight party lever or party circle per ballot), as Miller admitted under questioning (*Hearings*, pp. 53 and 54):

"Senator GRIFFIN. Because you just finished discussing the significance and importance of a single-lever straight-party voting situation. And if I recall the testimony yesterday—correct me if I am wrong—even if there had been no irregularity with respect to these machines in Tulsa County, that you would not have had a single party lever, is that correct?

"Mr. MILLER. Correct; yes, indeed, sir.

"Senator GRIFFIN. That under the laws of Oklahoma, it would have required a lever for the National ticket, the State ticket, the local ticket—there would have been three or four levers; is that correct?

"Mr. Miller. Yes, sir.

"Senator Griffin. I just want to be sure that I have that correct.

"Mr. Miller. That is quite true. Mr. Penniman makes the same point in his statement. *And that is true, that our 1956 study was confined to a comparison of the single party lever as against all other varieties.*" (Emphasis added.)

Further, Miller's survey yielded only *National averages* which cannot validly be applied to any single electoral jurisdiction to predict voting behavior.

Finally, political motivation data collected in 1956 simply cannot be validly applied to an election held in 1974. To do so one would first have to assume that voters have not changed at all in nearly 20 years; that television, higher levels of education, higher income levels and younger voters have had absolutely no effect on the electorate's political motivations. Surely, Dr. Miller would not seriously contend that voters have not changed at all in 20 years, yet this is exactly what he necessarily must assume when he attempts to apply his 1956 data to a 1974 election.

2. *Professor Miller's Testimony re: His 1974 Survey.*

Professor Miller next testified concerning the results of another national sample survey. This survey, Miller claimed, showed that in 1974, the absence or presence of a straight party lever affected only Democrats (i.e., 14% more Democrats voted a straight ticket when a party lever was present) but had no effect whatsoever on Republicans or Independents. Miller also claimed that his survey showed that when the Senate race was in the first position on the ballot, more people voted straight (he did not distinguish between the effect on Democrats versus Republicans in this instance).

As noted in the introduction hereto, Professor Miller has only recently, and after several requests, provided the Committee with the base data from which he claims to have derived the conclusions stated above.

After a careful analysis of this data, we are astounded that any valid conclusions could be reached at all, much less the conclusion reached by Miller.

The numerous inconsistencies which we have found between Miller's testimony, his data, and his subsequent correspondence wholly invalidate any conclusions which were drawn by Professor Miller.

In what follows we have attempted to list only the most glaring of these inconsistencies:

a. In Miller's letter to Mr. Edmondson's attorney, Morris J. Levin, of December 2, 1975 (written in response to Judge Schoener's inquiry (see Appendix A–1)), Miller states that:

"*I am enclosing* a copy of one of the North Carolina ballots as well as *an interesting copy of the Tulsa machine ballot. The Tulsa ballot, of course, makes it appear that there were indeed five party levers. Consequently, in our coding of the information, Tulsa is included as one of the multiple ballot, straight party lever jurisdictions.*" (emphasis added)

A copy of the "Tulsa machine ballot" which Miller provided is attached hereto as Appendix A–6. This "ballot" is apparently the sole source of information which Miller had about the makeup of the Tulsa County machines. *However, while consulting with Senator Bellmon's attorneys, we were astonished to learn that this "Tulsa machine ballot" was not a ballot at all but was a mock-up Exhibit which had been prepared by Senator Bellmon's attorneys as an appendix to their brief filed with the Oklahoma Supreme Court.* (See Appendix A–7.) The purpose of the Exhibit was to show the location of the straight party levers had they been on the machines.

With this knowledge in mind, on January 22, 1976, Judge Schoener, on our behalf, wrote to Dr. Miller and specifically requested him to provide us with the following information (see Appendix A–4):

"6. Where, when and how you obtained the ballot configuration from Tulsa County, how you classified it, and the reasons for such classification."

By letter of February 4, 1976 (Appendix A–5) addressed to Senator Cannon, Miller responded to this request as follows:

"I am unable to provide all of the information requested in item six. I am, however, sending a xerox of the copy of the ballot that we coded. Our classification can, of course, be obtained from the printout of electoral jurisdictions. As copies of ballots, sample ballots or other descriptive information was *returned to us by the various election officials,* the material was usually detached from covering letters, if such were included. *I am sorry that I cannot tell you where, when and how we obtained the ballot, but from the torn upper left corner, I would presume that it was mailed to us with a covering letter which was subsequently detached as we coded and processed the information.*" (Emphasis added.)

Subsequent questioning of Danny McDonald, Secretary of the Tulsa County Election Board and Harmon Moore, Chief Clerk of the Tulsa County Election Board, reveals that neither Dr. Miller, nor any other person associated with the Center for Political Studies, Institute for Social Research, the University of Michigan, ever requested information about the ballot form used in the 1974 General Election in Tulsa County (see Appendices A–8 and A–9).

The question of where Dr. Miller actually obtained his "Tulsa machine ballot" is not important to a determination of the issues raised by Mr. Edmondson. What is important, however, is that the use of the "ballot" by Dr. Miller casts serious doubt on the reliability of his ballot form data from other jurisdictions. If Miller relied on an unofficial mock-up Exhibit used in a Court proceeding for demonstrational purposes only to provide him with his sole source of information about the Tulsa County ballot form, one must wonder how he collected the rest of his data on ballot forms.

b. In his testimony, Miller claimed that his survey included ballot form information from 285 electoral jurisdictions. He further claimed that of these 285 electoral jurisdictions, four types of straight party voting mechanisms were identified as follows:

Number of choices needed to vote a straight party ticket and number of jurisdictions having this type of mechanism

(1) Single party lever or box (one choice)	53
(2) 1 per ballot	6
(3) 1 per race	153
(4) Modified single party lever (use of party lever does not preclude voting for candidates from other parties)	73

An examination of the data which Miller provided the Committee, however, reveals that Miller only had ballot form information from 281 jurisdictions, and that these 281 jurisdictions were coded quite differently than his testimony indicated. The actual data is as follows (see Appendices B–1 and B–2, Miller's "Ballot Form Study" Code and his computer printout of ballot form information).

Number of choices needed to vote a straight party ticket and number of jurisdictions having this type of mechanism

(0) Data missing	70
(1) Single party lever or box (one choice)	35
(2) 1 per ballot	0
(3) 1 per race	125
(4) Modified single party lever	51
(5) Modified, 1 per ballot	0

Thus, Miller's data clearly shows that he did not have any information about the type of straight party mechanism used in *70* of his 281 electoral jurisdictions, roughly ¼ of this total. Further, Miller testified that 6 electoral jurisdictions used in his survey provided for the one lever per ballot type of straight party voting. Yet not one of the electoral jurisdictions shown in his data printout is coded as such.

c. Miller states in his letter of December 2, 1975, that, "in our coding of the information, Tulsa is included as one of the *multiple ballot, straight party lever* jurisdictions," yet the data which Miller provided the Committee shows quite the contrary (see Appendices B–1 and B–2). Miller's data shows that Tulsa County was divided into four preliminary sampling units, (psu's), numbered 3951, 3952, 3953 and 3956 (3952 actually being in Osage County). His data further shows that the ballot forms used in these four psu's were as follows (see Appendices B–1 and B–2):

Variable 4 separate ballots for U.S. Senate or Senate and House of Representatives

PSU:	
3951	No (code 5)
3952	Yes (code 1)
3953	No (code 5)
3956	Data Missing (code 0)

Variable 7 number of choices needed to vote a straight party ticket

PSU:	
3951	Data Missing (code 0)
3952	Data Missing (code 0)
3953	Data Missing (code 0)
3954	Data Missing (code 0)

It is thus clear that Tulsa County ballot form information was not coded as "multiple ballot, straight party lever", as Miller claims. The fact is, as seen from Miller's computer printout, he simply did not know whether Tulsa had straight party levers or not. Further, even if Miller would have coded the Tulsa data as he says he coded it, it would have been wrong. The three psu's in Tulsa County should have been coded as "multiple ballot, one per race" and the one Osage County psu should have been coded "multiple ballot, one per ballot." Not only did Miller not have the proper sample ballot from which to gather his information, it appears that he cannot even correctly read the printout from which he claims to have based his testimony.

d. Besides the numerous errors made by Miller with respect to his coding of the Tulsa ballot form, it is evident that similar miscoding occurred for other jurisdictions as well. In his December 2, 1975 letter Miller indicated that Pitt County, North Carolina, and Watauga County, North Carolina, were jurisdictions where "voting can be accomplished with a straight party lever for each of a number of ballots." From the "sample ballots" which Miller attached to his letter it appears that this statement is entirely true (see Appendix B–3). *However, this is not how Pitt County and Watauga County, North Carolina were actually coded in Miller's base data.*

From his base data it is really seen that the three psu's in Pitt County (5071, 5072 and 5073) and one psu in Watauga County (5372) were coded as "single party lever or box." But the sample ballots provided by Miller clearly show they should have been coded as "one per race." Once again, the data was not coded as Miller said it was coded and the way it was coded was clearly in error.

e. In his December 5, 1975 letter Miller states that the Currituck County, North Carolina, falls "in the category that we defined as the 'single level, unmodified.'" Miller's data does show that this is in fact how the Currituck County ballot was coded. However, once again, his coding is obviously in error. The Currituck County ballot which Miller enclosed with his letter (see Appendix B–4) clearly shows that Currituck County was a "multiple ballot" jurisdiction. Thus, it should have been coded as a "1 per ballot" in the straight party level category (i.e., if a jurisdiction has separate ballots for National, State, County and local offices, it cannot have a "single lever" which would cast a straight party vote on all four ballots—it must necessarily be classified as "1 per ballot", "1 per ballot modified" or "1 per race"). Miller's own coding is inconsistent. He codes Currituck County (psu 5471) as having a separate ballot for U.S. Senate Race but then goes on to classify it as "single party lever or box", which is simply not possible when you have a separate ballot setup.

Miller further, in coding the Currituck County ballot form, programs as "missing data" the question of whether a party symbol was present on the ballot. Yet the copy of the Currituck County ballot which Miller attached to his December 2, 1975 letter clearly shows that the Currituck County ballot did not have party symbols.

f. In his letter of February 4, 1975, Miller states that, "The number of respondents in the *two* Tulsa jurisdictions totalled *20.*" (Emphasis added) Miller's data shows (see Appendix B–5) that the number of respondents in the *three* Tulsa jurisdictions (psu's) totalled only *13* (7 in psu 3951, 3 in psu 3953 and 3 in psu 3956). There was only one person interviewed in Osage County, Oklahoma (psu 3952).

g. Finally, in coding his ballot form information for several electoral jurisdictions in Oregon, Miller actually shows that the winner of the 1974 Oregon Senatorial Contest was the Democrat, Betty Roberts, when in fact the Republican candidate, Senator Packwood, was the victor.

ANALYSIS OF PROFESSOR KIRKPATRICK'S TESTIMONY

1. *Professor Kirkpatrick's "citation" of authority.*

Dr. Kirkpatrick began his testimony before the Committee with "a brief review of scholarly findings about the impact of ballot and voting machine arrangements on the pattern of electoral outcomes." *Six out of the eight articles which he cited had previously been cited to the Oklahoma Supreme Court* in the form of an affidavit, prepared by Kirkpatrick, and attached to Edmondson's brief in the Oklahoma Supreme Court case.

The first "new" authority which Kirkpatrick cited was Warren E. Miller's "Preliminary Report of Findings from Analysis of the Impact of Variations in Voting Procedures and Ballot Form," Center for Political Studies, Institute for Social Research, University of Michigan, 1975 (*Hearings*, pp. 85–86). *In subsequent communications with Professor Miller, he has stated that no such "report" has been prepared by him or his institute* (see Appendix A–3).

The only other "new" authority which Kirkpatrick cited were pre-1960 articles (Kamin, Basin and Hecock) which conclude that "candidates listed lower on a ballot receive significantly fewer votes than higher candidates, and the top name on the ballot is also favored on nonpartisan elections" (*Hearings*, p. 87).

With respect to these authorities, Dr. Howard R. Penniman, one of the expert witnesses called on behalf of Senator Bellmon, correctly pointed out in his testimony before the Committee:

"The points of the Kamin article and the Bain and Hecock book are at best ambiguous in terms of their application to the Oklahoma scene. Kamin is talking about persons competing for the same office, while Bain is talking about top names on each column of a ballot but he is referring to nonpartisan elections. If there is a carryover to partisan elections, then any advantage in the listing of candidate names on the Tulsa County ballot presumably went to the top name that is, to Mr. Edmondson." (*Hearings*, p. 133)

In summarizing the relevance of all of Kirkpatrick's authorities, Dr. Penniman notes:

"In general, the articles have contributed to our understanding of voter attitudes and practices, but they are not directly related to the election questions before this committee." (*Hearings*, p. 132)

This is precisely the position taken by the Oklahoma Supreme Court—i.e., this "evidence" is simply not competent to establish that any of the irregularities complained of did in fact affect the outcome of the U.S. Senate race in Tulsa, Oklahoma.

2. *Dr. Kirkpatrick's 'evidence" re: "increased ticket splitting" in Tulsa County in 1974.*

Dr. Kirkpatrick then moved on to present his 'evidence" which he claimed supported his three conclusions, i.e. (1) that there was more ticket splitting in Tulsa County in 1974 than there had been in the past; (2) that this increase in ticket splitting in Tulsa County was greater than the increase in ticket splitting in the rest of the state (*NOTE:* Kirkpatrick recognized that ticket splitting in 1974 *increased* in *both* Tulsa County and the rest of the state—he only claimed that the *increase* in ticket splitting was greater in Tulsa County); and (3) that this greater increase in ticket splitting in Tulsa County was a direct result of Tulsa County not having straight party levers.

a. *Kirkpatrick's Table 1.*

Kirkpatrick's first piece of "evidence" is his "Table 1." (See Appendix C–1) What Kirkpatrick has done in this table is to take the percentage Republican vote in the offices of Governor and Senator, broken out by "Tulsa County only" and "Statewide Balance" (excluding Tulsa County) categories, for each year in which the Gubernatorial and Senatorial races appeared simultaneously on the ballot back to 1930. The purpose of his exercise, Dr. Kirkpatrick stated, was as follows (*Hearings*, pp. 76 and 77):

"The question addressed is the following: Is the Republican vote increase (lead) in Tulsa County over the balance of the State for U.S. Senate discrepant or different from Tulsa County's Republican percentage lead for Governor—and if so, is it more discrepant than in previous years with coterminous Senate/Governor races where party levers/circles were used on machines/ballots?"

To translate this into English Kirkpatrick first recognized that in the Senatorial and Gubernatorial races in Oklahoma, the Republican candidates have always run better in Tulsa County than they have in the rest of the state. For example, (refer to Table 1), in 1966 the Republican candidate for U.S. Senator from Oklahoma captured 57.2% of the Tulsa County votes but only captured 44.4% of the votes in the rest of the state, i.e., Republican Senatorial candidate ran 12.8 percentage points better in Tulsa County than he did in the rest of the state.

* * * * *

This is a relatively simple task to undertake (and one that no doubt Kirkpatirck did undertake but did not include the results in his report). Using Kirkpatrick's figures, we see that over the years, *on the average* Republican candidates for Senate have run 13.8 percentage points better in Tulsa County than in the rest of the state. Thus, if Tulsa County would have been true to form in 1974, Henry Bellmon, the Republican candidate for Senate would have run 13.8 percentage points better in Tulsa County than he ran in the rest of the State. Since he captured 47.7% of the vote in the rest of the state, he should have captured 61.5% of the vote in Tulsa County. But he didn't. He only captured 58.3% of the vote. *If, as Kirkpatrick claims, this discrepancy is due to Tulsa County not having party levers, then the conslusion which Kirkpatrick should have reached—the only logical conclusion using Kirkpatrick's assumption—is that Henry Bellmon not Ed Edmondson was hurt by the absence of straight party levers.*

b. *Kirkpatrick's Table 2.*

Kirkpatrick next turned to a discussion of the data presented in his Table 2 (see Appendix D–1), which he claimed to show magnitudes of ticket splitting between Tulsa County and the rest of the state over the same period of time as his Table 1. Kirkpatrick arrived at his figures in the following manner: He first looked at the raw vote totals in Tulsa County for all contested statewide offices (see Appendix D–3). He next calculated the percentage of the vote each Republican candidate received. Referring to Appendix D–3, it is seen that the Republican candidate receiving the highest percentage of vote in Tulsa County in 1974 was the Republican candidate for State Treasurer (63.1%), while the Republican candidate receiving the lowest percentage of the vote was the Republican candidate for Lieutenant Governor (34.0%). The difference between these two percentages is 29.1%, as seen in Kirkpatrick's table. Kirkpatrick calls this figure a measure of ticket splitting, i.e., he would say that in Tulsa County, 29.1% of those people who voted for the Republican candidate for State Treasurer, turned around and split their tickets by voting for a Democratic candidate for Lieutenant Governor.

Kirkpatrick performed the same calculations for the rest of the state and for Tulsa back to 1930. His conclusion is that while *both* Tulsa County and the balance of the state evidenced an increase in ticket splitting in 1974 (Tulsa's 29.1 and state balances' 21.3 are *both* the highest in their respective columns), Tulsa County's *increase* was greater than the remainder of the state's *increase*, i.e., Tulsa's 1974 figure (29.1) was 10.7 percentage points greater than Tulsa's 1962 figure (what Kirkpatrick found to be second highest—18.4), while the "state balance's" 1974 figure (21.3) was only 4.2 percentage points greater than its 1942 figure (second highest—17.1).

From this data, Kirkpatrick concludes that:

"The data presented in Table 2 confirm the impact of the absence of party 'levers' in Tulsa County in 1974. The amount of ticket-splitting in Tulsa County that year is substantially larger than it had ever been in Tulsa County or the rest of the state in any previous years in over four and one-half decades."

The reason Kirkpatrick's conclusion cannot be accepted is that his data for the year 1966 is incorrect. In fact, when Kirkpatrick's own analysis is applied to the correct data, it is seen that the increase in ticket splitting in the balance of the state in 1947 was greater than the increase in ticket splitting in Tulsa County.

As seen from Appendix D–7, which contains data provided by the Oklahoma State Election Board, the percentage point difference between the highest and lowest Republican candidate in Tulsa County in 1966 is 26.4, not 16.6, as Kirkpatrick's table shows. Further, as seen from Appendix D–6, the "State Balance % difference" for 1966 should be *13.4*, not 8.9, as shown in the Kirkpatrick table.

When this corrected data is used, it is seen that Tulsa County's "ticket splitting figure' 'of 29.1 in 1974 was only *2.7* percentage points greater than its "ticket splitting figure' 'in 1966 (26.4). When compared to the "state balance" increase, (4.2) (as correctly calculated by Kirkpatrick), Tulsa's 3.3 percentage point increase is seen to be *smaller not larger*. Thus, using Kirkpatrick's methods, but with the correct figures, it is apparent that Kirkpatrick's conclusion is not only erroneous, it is directly the opposite to what the correct figures show the case to be, i.e., the increase in ticket splitting in Tulsa County for 1974 was in fact *less* than, not greater than the increase in ticket splitting in the remainder of the state in 1974.

In addition to Kirkpatrick's use of erroneous data, he also refused to look at what happened in Oklahoma County in 1974.

When the use of erroneous data had resulted in the appearance that Tulsa County's increase in ticket splitting in 1974 was greater than the increase in the state balance-ticket splitting in 1974, Kirkpatrick immediately attributed the greater increase to Tulsa County's lack of straight party levers.

As seen from Appendices D–4 and D–8, Oklahoma County's ticket splitting figure increased from 19.7 in 1966 to *34.4* in 1974, or an increase of 14.7 percentage points.

How would Kirkpatrick explain this high increase in ticket splitting, not to mention the high *degree* of ticket splitting (34.4), in Oklahoma County where the machines used did have straight party levers?

Clearly, Dr. Kirkpatrick's "evidence" of the effect of the "discrepant ballot conditions" in Tulsa County does not constitute sufficient "evidence" to come to *any* valid conclusions, much less the conclusions which Kirkpatrick has attempted to draw.

3. *Dr. Kirkpatrick's evidence re: erroneous party vote instructions—the "bottom lever theory."*

Kirkpatrick next turned to the question of whether there is any statistical evidence to support Mr. Edmondson's "bottom lever" theory. Mr. Edmondson has theorized that many voters were so confused by the "straight party vote" instructions which had been permanently affixed to the "Tulsa" machines that they failed to vote in the Senate race. His theory is that voters, reading these instructions (which told voters to "*raise* lever at bottom of column until arrow on lever points to desired party"), mistook the selector tab in the bottom race in each column for the "party lever" (which wasn't there) and *lowered* this bottom race selector tab to the desired candidate thinking they were casting a "straight party vote" for the entire column. If a voter performed this feat, a vote only would have been cast for the desired candidate in the last race in the column. No votes would have been cast for *any* candidates in races above.

a. *Kirkpatrick's Tables 3, 4 and 5.*

In his Tables 3, 4 and 5, Kirkpatrick first attempted to present evidence to support Edmondson's "bottom lever" theory by contrasting the vote totals of Tulsa County * * *

Kirkpatrick then looked at the differences in the vote totals among the various races in Columns 3, and 4 and 11, broken down by "Tulsa" machine totals and "Amarillo" machine totals. His theory is that if the erroneous party vote instructions which appeared only on the Tulsa machines did in fact cause voters to vote only in the races located at the bottom of the columns, then the vote totals for these uncontested bottom position races, as compared to other uncontested races above them, should be relatively greater on the "Tulsa" machines than the "Amarillo" machines.

It should first be noted that Kirkpatrick's figures are simply in error in at least 10 instances (see the attached Appendices E–6 and E–7 which show the corrected figures as calculated from data provided by the Tulsa County Election Board). His findings of 0.50%, 0.89% and 0.60% differences between the two machines are so miniscule that it is almost amusing that Kirkpatrick is actually placing some significance in them.

Further, when one considers that the unopposed candidates received votes in the same rank order on both the "Tulsa" and "Amarillo" machines (the "Amarillo" machines having no "erroneous instructions," there would have been no reason for a voter to have attempted to vote a "straight column" vote by voting only in the race at the bottom of the column) *and* on absentee ballots (where all state officers were in *a single* column, not two columns), it becomes impossible to put any credence in Kirkpatrick's "bottom vote total evidence." (See Appendices E–9, E–10 and E–11.)

b. *Kirkpatrick's Table 6.*

Any conclusions drawn from Kirkpatrick's Table 6 (Appendix F–1) are simply incredible. Apparently Kirkpatrick has not even bothered to look at the 1966 ballot because the races which he shows in his table as being all in one column were actually distributed in *two* columns. Further not even one of the races shown in Kirkpatrick's Table 6 was in the bottom position in either column. (See Appendix F–2, for the actual positions of these races in 1966.)

c. *Kirkpatrick's Table A.*

In his "Table A" (Appendix G–1), Kirkpatrick purports to present evidence that the presence of the erroneous instructions on the "Tulsa" machines caused voters not to have their votes counted on the "Tulsa" machines ("the Jones and return" theory, as the CHAIRMAN calls it).

Kirkpatrick points out that while 99% of the voters going to the polls at precincts containing "Amarillo" machines vote in the Governor's race, only 97.9% of the voters going to the polls in precincts having "Tulsa" machines voted in the Governor's race.

Kirkpatrick concludes that these figures: "strongly suggest that a disproportionately larger number of voters were effectively disenfranchised by the presence of confusing instructions; that such voters were attempting to cast straight party votes; and that Mr. Edmondson was disproportionately and negatively affected by it."

While it will be shown below that there is simply no reason to find a causal connection between the erroneous instructions and the voter participation rates, it should here be pointed out that Kirkpatrick is once again showing his illogical and unprofessional bias. Even if such a causal connection could be made, there is simply *nothing* in the figures presented in Table A which would serve as a basis for his statement that Mr. Edmondson would be any more greatly affected than Mr. Bellmon.

However, to put Kirkpatrick's finding of a causal connection to rest, one needs only look at the "voter participation" figures shown on the attached Appendix G–2.

As Kirkpatrick recognizes, the "Amarillo" machines were all located in precincts contained in State House Districts 23 and 78. The "Tulsa" machines with the purported "confusing straight party vote instructions" were located in precincts making up the rest of Tulsa's State House Districts.

When the respective "voter participation rates" (percentage of voters who went to the polls and voted) for the Governor's race are broken down by the 16 State House Districts located in Tulsa County (see Appendix G–2), it is seen that these voter participation rates range from a low of 92.2% in House District 73 to a high of 99.2% in State House District 76, both of which house districts contained "Tulsa machines".

It can also be seen that State House Districts 23 and 78, which contained the "Amarillo" machines, had 99.1% and 98.9% figures. Thus, to lump these two "Amarillo" machine House Districts together, compare them to the rest of the House Districts and conclude that any differences are *caused* solely by the party vote instructions being on the "Tulsa" machines is simply not borne out by the evidence.

d. *Professor Kirkpatrick's Table 7.*

Lastly, in his Table 7 (see Appendix H–1) Kirkpatrick has used the same faulty reasoning as he used in Table A. Again he is comparing the "Amarillo" machine precincts to the "Tulsa" machine precincts to arrive at his conclusion that because Mr. Edmondson ran 0.6% better in the "Amarillo" machine precincts, than in the "Tulsa" machine precincts, such difference was the direct result of the erroneous instructions on the "Tulsa" machines.

Appendix H–2 quickly puts this argument to rest. Looking at the wide variances in Mr. Edmondson's percentages from House District to House District it is clear that there is simply no justification for attributing any differences to the instructions. Once again, Kirkpatrick has attempted to create "evidence" where none exists.

CONCLUSION

In the Resolution prepared by the Majority, the following statement, which is the heart of the Resolution, is made (*Report*, p. 2):

"That the evidence offered on behalf of Petitioner, Ed Edmondson, is that the results of the election were in fact affected by the violations of the laws of the State of Oklahoma, and that were it not for the violations of law, there is a high probability that Ed Edmondson would have received sufficient votes in Tulsa County to win the statewide election;"

It is thus clear that the Majority is basing its conclusion that it is unable to determine the winner of the United States Senate race in Oklahoma solely on the testimony of Mr. Edmondson's "expert" witnesses.

However, as demonstrated herein, when the testimony and underlying data of these "expert" witnesses is closely scrutinized, it becomes readily apparent that the "evidence" upon which the Majority relies is hardly worthy of being called evidence, much less evidence sufficient to overturn a duly held election and unseat a duly elected and sitting Senator.

MARK O. HATFIELD,
HUGH SCOTT,
ROBERT P. GRIFFIN.

EXHIBIT A–1

INSTITUTE FOR SOCIAL RESEARCH,
Ann Arbor, Mich., December 2, 1975.

MORRIS J. LEVIN,
Counselor and Attorney at Law,
Washington, D.C.

DEAR MORRIS: The information that Schoener wants is pretty much as follows:

First, he wanted the identification of the six jurisdictions where voting can be accomplished with a straight party lever for each of a number of ballots. There were six precincts located in Tulsa County, Oklahoma, Pitt County, North Carolina, and Watauga County, North Carolina. I am enclosing a copy of one of the North Carolina ballots as well as an interesting copy of the Tulsa machine ballot. The Tulsa ballot, of course, makes it appear that there were indeed five party levers. Consequently, in our coding of the information, Tulsa is included as one of the multiple ballot, straight party level jurisdictions.

Mr. Schoener appeared to be surprised that there were ballot forms with which, if one voted straight party ticket, it was then impossible to "scratch" and vote for selected candidates from another party. I am enclosing copies of the Taylor County, Texas ballot and the Currituck County, North Carolina ballot which fall in the category that we defined as the "single lever, unmodified". On those two ballots as well as on ballots from places such as Phoenix, Arizona, Abilene, Texas, and Louisville, Kentucky, attempts to split one's ticket are at best left unrecognized if the party lever has been used, and at worst are thrown out as invalid ballots.

The "single lever, modified" form is represented by the ballot from Davis County, Utah in which it is clear that you can vote a straight ticket *and then* modify it for selected candidates. As you will recall from my testimony, the single lever jurisdictions were almost evenly divided between those in which it was possible to scratch your ticket following the casting of a straight party vote (party lever, modified) and those in which a straight vote could not be modified (party lever, unmodified).

Schoener was also apparently confused about my testimony. I thought I made it clear that the analysis basically contrasted settings where a straight ticket vote was possible with a single party lever (whether subsequently modifiable or not) and those settings in which no provision was made for straight ticket voting and a straight ticket could be voted only by choosing the same party's candidates as votes are cast for each successive office. With this comparison, of course, the question of whether differences between the office block form and the single unmodified party lever were greater than differences between the office block and the multiple ballot form was not a basic point of argument even though the first comparison, of course, produces the largest differences. Somehow Schoener had the impression that I was contrasting the six situations in which there was a single lever for each of several ballots with the office block situation. Since so few jurisdictions in our sample used the multiple ballot form, we did not have any substantial base on which to make that comparison.

I might note in passing, that it takes only a little exposure to the staggering variety of ballot forms in use to get a gut sense of how confusing the voting situation must be for many voters. Even the task of separating the single lever unmodified from the single lever where scratching is permitted is a difficult task to accomplish in the quiet of a research office.

Schoener's third request was for a copy of my memorandum of June 2 to you. Given the fact that it has some glaring errors in it, none of which were repeated in my statement or testimony, I think there is little to be gained from a wider distribution of that memorandum. If I can provide any further information, please let me know.

Best wishes.

Sincerely,

WARREN E. MILLER,
Director, Center for Political Studies.

Enclosures.

EXHIBIT A-2

MORRIS J. LEVIN,
COUNSELLOR AND ATTORNEY AT LAW,
Washington, D.C., December 19, 1975.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I received a telephone call on Thursday, December 18, 1975, from Dr. Warren Miller, Center for Political Studies, The University of Michigan, Ann Arbor, Michigan. Dr. Miller stated that he had just received a telephone call from James Schoener, minority counsel, Subcommittee on Privileges and Elections. Mr. Schoener reminded Dr. Miller that he had called him on or about December 1st, and requested of Dr. Miller certain information. At or about the same time, I had been in touch with Dr. Miller regarding the scheduling of Drs. Penniman and DeVries as expert witnesses for Senator Bellmon. I advised Dr. Miller at that time to send me the materials requested, and I would forward them to Mr. Schoener.

The materials did arrive at my office, with a covering letter from Dr. Miller, on or about December 5, 1975. At that time I was working on my Memorandum in Lieu of Argument, to be submitted to the Committee on December 8, 1975, and I put the letter from Dr. Miller to one side.

In the telephone conversation of December 18th, Mr. Schoener apparently repeated his earlier requests, and Dr. Miller told him he had sent these materials to me. Mr. Schoener also called me on December 18th, and I assured him I would provide the materials sent to me. I am, therefore, now submitting Dr. Miller's letter dated December 2, 1975, with enclosed materials to the Committee, with my sincere apologies for the delay, which was unintentional.

Please note that in the first full paragraph of Dr. Miller's letter, he has again stated that his national survey included two (2) precincts in Tulsa County. It is my understanding of the remainder of Dr. Miller's letter and enclosures, that they do not provide so much base data, as answers to specific inquiries made by Mr. Schoener.

I must add two further matters with regard to Dr. Miller's testimony and his letter to me. First, Dr. Miller has assured me that Mr. Schoener has never requested the backup or raw data on which Dr. Miller based his testimony. Dr. Miller stated that no such request was made by Mr. Schoener in his earlier telephone call or his call of December 18th. In fact, Dr. Miller advised me that he has not to date received a request from Mr. Schoener or from any person connected with the Committee for raw or base data, or any other materials from his study other than the matters covered in his letter to me. Should there be any other question regarding this, I will supply an appropriate affidavit from Dr. Miller.

Finally, the last paragraph of Dr. Miller's letter of December 2, refers to a memorandum from him to me, dated June 2, 1975. This memorandum is no longer available, since I threw it away when I received his testimony for the Committee, some time prior to any phone calls or inquiries from Mr. Schoener. To the best of my recollection, the memorandum was a precis of Dr. Miller's proposed testimony, which I found to be inadequate. It was, in effect, a summary presentation which later proved to be inaccurate, and did not bear upon Dr. Miller's ultimate testimony to the Committee. The errors referred to by Dr. Miller in his letter of December 2, 1975, are not known to me, but since they were not repeated in his testimony before the Committee, they are irrelevant to the Committee's consideration of this matter.

If I may be of any further service, please advise, and I will make every effort to comply.

My best wishes for the holiday season.

Sincerely,

MORRIS J. LEVIN.

Enclosure.

EXHIBIT A-3

INSTITUTE FOR SOCIAL RESEARCH,
Ann Arbor, Mich., January 19, 1976.

Mr. JAMES SCHOENER,
Minority Counsel, Subcommittee on Privileges and Elections, Senate Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. SCHOENER: I am writing to you at the suggestion of Mr. Roderick Daane, General Counsel for the University of Michigan. As you know, Mr. Daane has become involved in the question of my relationship with the Senate Rules Committee because your complaints to Justice Lindemer of the Michigan Supreme Court were forwarded to University of Michigan's Vice President Pierpont's office and, in his absence from the University, were passed on to Mr. Daane.

First, may I repeat in writing the regret I expressed in our last telephone conversation at your confusion over the question of whether I withheld from you a report which you apparently still believe exists. Given the persistence of your belief, I can only repeat my earlier assertion to you that my testimony before the Senate Rules Committee was not based on any such report, confidential or public, prepared for Mr. Edmondson or his counsel or anyone else. As I told you in our telephone conversation, my written statement to the Committee was prepared by me working directly from computer printout consisting of tabulations of data. It is regrettable that your query concerning such a report was not transmitted as a formal request from the Rules Committee. If I had given my response directly to the Committee, no question would now be raised concerning its veracity.

I must also tell you that I am most distressed to have had charges of unprofessional, if not unethical, conduct by me conveyed to University of Michigan officials based on this misunderstanding. I do not appreciate being referred to as "the Democrats' hired gun" with the insinuation, if not direct accusation, that my testimony had been purchased. Although you have not raised the matter directly with me, let me try to set the record straight as to all transfers of money in which I have been involved in this case.

I agreed to appear as an expert, non-partisan witness in the Tulsa hearing, November, 1974, because a professional journal article I had co-authored in 1957 was thought to be relevant to Mr. Edmondson's argument in the special hearing that was to be conducted on the votes cast in Tulsa County for the U.S. Senate race earlier that month. In response to a request from Mr. Edmondson, I agreed to appear as an expert witness and to testify, on the basis of the research reported in 1957, that the presence or absence of party levers on voting machines influences the amount of straight party ticket and split-ticket voting in a general election. I travelled to Tulsa on November 11, 1974, testified and returned to Ann Arbor on November 12. Inasmuch as my preparation consisted solely of re-reading the 1957 journal article while en route to Tulsa, on my return to Ann Arbor I submitted an expense statement to Mr. Edmondson itemizing only my expenditure of $303.34 in out of pocket costs. Subsequently, I received a check, dated December 23, 1974, from "Oklahomans for Edmondson" in the amount of $350.00. No other funds, or remuneration in any other form, have been received by me relating to the Tulsa hearings or any other aspect of the case.

I have also been told by University officials that you believe I misrepresented the policies of my organization in my Oklahoma testimony insofar as payment for our professional services is concerned. Although I am not totally clear about the nature of your allegations to Justice Lindemer, I would guess two considerations might be relevant. The first concerns the conditions under which we would undertake research, the second concerns the research on which my testimony before the Rules Committee was based.

In my testimony in Tulsa, which is a matter of public record, Counsel for Mr. Edmondson attempted to establish my status as a non-partisan, expert witness by the following exchange, appearing on page 126 of the copy of the transcript of hearing testimony which I have: "Q. (by Mr. Claro, Counsel for Mr. Edmondson) Are you customarily hired by political parties?

A. No. Badly as we need money for research, not so because all of our research is non-confidential. Consequently, we do not do work for the political parties or political candidates.

Q. For whom do you ordinarily do project research?

A. We do project research for ourselves. The funding, however, comes from a variety of sources such as (the) National Science Foundation, the Rockefeller Foundation, Carnegie Corporation (or) Ford Foundation—by and large federal and private foundations responding to our requests for research grants. We do virtually no contract work."

Counsel for Senator Bellmon was apparently not reassured by this brief response and, under cross examination, the following exchange took place, recorded on pages 147–149 of my copy of the hearing transcript:

"By Mr. McElroy (Counsel for Senator Bellmon) Doctor, in the early part of your testimony you referred, in answer to some questions, that had to do with your employment and who uses your services.

At one point you said we do not customarily, and the question did say customarily, are you customarily employed by political parties. You said, "customarily we are not."

Now, who is "we"?

A. By we I meant the organization of which I am director, the Center for Political Studies. I could have been more precise and said we have never been.

Q. All right. That's the Center for Political Study?

A. Yes.

Q. That's part of the University of Michigan or affiliated with?

A. It is part of the University of Michigan.

Q. And so would be your Institute of Social Research?

A. Yes.

Q. And those two organizations, as I understand it, seek funds from non-partisan or so-called non-partisan agencies. So when you speak of "we" and "we ourselves" you are referring to those two agencies, not you, individually?

A. I meant to refer most specifically to the Center for Political Studies.

Q. All right. Have you on occasions past served as consultant to different political groups or organizations?

A. We have given assistance to both parties.

Q. Are you speaking "we"—I'm talking about "you", not "we".

Have you, Dr. Warren Miller, in the past, have you been employed, retained—or retained as a consultant or as an advisor to political party organizations and groups?

A. Not to the best of my recollection, no, sir.

Q. You would remember if you had been retained by the Democratic National Committee?

A. I think I would.

Q. Or the Senatorial Campaign Committee?

A. I think so.

Q. And you are telling us that you have not been?

A. That is clearly true."

Had I been given the opportunity, I would have preferred to make my position and situation more explicit and complete. Within the Institute for Social Research, research activities are sanctioned only if they serve the interests of academic scholarship. If it were clearly in the interests of our programmatic research needs within the Center for Political Studies, Institute policy would permit us to do research for a political party or candidate, as we do on behalf of the policy needs of governmental agencies. However, this would be possible *only* if the Institute's basic policy of doing *no* confidential research could be preserved. Given the fact that we have seldom been approached by a party organization or candidate who would agree to open access for their opponents to data we might collect, prior to the present situation we have never undertaken any research financed by a party organization or candidate.

The present circumstances also illustrates all too clearly the second consideration that may be relevant concerning your understanding of the funding of our research. Since our research funding rests on non-partisan agencies, we have been most anxious to avoid any suggestion that our work is designed to serve one set of partisan interests against another. Consequently, we have been pleased to have been asked at various times by both the Republican and the Democratic parties to provide informal (i.e., unremunerated) consultation, election data (at cost) and professional (i.e., expenses paid) services. Beyond welcoming the occasional requests for professional assistance from both parties, we believe that the best protection against charges of bias in our research work is provided by a policy of open access to the data on which our conclusions rest. Indeed, both our professional competence and our personal prejudices can best be determined by the freedom of others to challenge our conclusions with complete access to the data on which those conclusions are based.

This policy is of immediate importance because, following the Tulsa hearings, I suggested to Mr. Edmondson that it would be of interest to us, and possibly useful to him, if we could repeat for 1974 the 1956 study on which my Tulsa testimony was based. I could not in any way promise that the results in 1974 would serve his interests, but I was, and am, convinced that the collection of the 1974 data would serve the interests of the social science research community. Mr. Edmondson agreed that an updating of the 1956 research should be carried out. With staff assistance, I subsequently concluded that $2,000 and some free clerical assistance would enable us to collect, codify and process the information necessary for such a replication. My interest was, and is, to add the data to our 1974 data file and thereby make it possible for other scholars to pursue their own research interests wtih these added data resources.

In March, 1975, a graduate student recruited by Mr. Edmondson arrived in Ann Arbor to assist us in the collection and processing of information about ballot forms, voting procedures and election administration under which the respondents in our 1974 election study had voted. With his help we assembled the full array of information that might be of possible interest to research scholars, including the information on procedures for straight ticket voting and on the location of the U.S. Senate race in the ballot that was of interest to Mr. Edmondson. All of these data will become a part of our 1974 election study data file and will be available to the entire national research community interested in such matters.

Our business office records indicate that on April 15, 1975, a check numbered 423 for $2,000 from "Oklahoma for Edmondson", identified with University of Michigan cash receipt number 41524 was credited to ISR Sundry Account 489388 under the projects title, "Voting Machine Analyses". The check may or may not have been mailed to my home address, I simply don't remember. On the basis of telephone conversations with Mr. Edmondson, I had expected the $2,000 to be provided by the Democratic Senatorial Committee. However, inasmuch as my Tulsa expenses had been paid by "Oklahoma for Edmondson", the receipt of the $2,000 from the same source did not seem an occasion for concern.

To this date, the personal reimbursement of $350.00 and $2,000 payment to the Institute for Social Research are the only monies we have received. On December 1, 1975 I submitted an itemized expense statement for $957.34 to Mr. Morris Levin, Mr. Edmondson's Counsel, for payment by the Senate Committee on Rules and Administration. I had been told to include a professional fee for services rendered the committee, and that item totaled $750.00 out of $957. Although I have been reassured that the bureaucracy is working on my statement, I have not as yet been reimbursed by the Senate Rules Committee or from any other source. If the reimbursement includes the $750.00 fee, that fee will also be deposited in ISR Sundry Account 489388 for use in Center research activities.

Even if we are ultimately paid the $750.00 by the Committee, I think the record indicates the "Democratic hired gun" appellation is totally inappropriate. Although I appreciate and regret the confusion that has followed your misunderstanding concerning the non-existent report, I am most unhappy with the other charges you have apparently made against me. If I have been misinformed about those charges or have otherwise misunderstood your intervention with Justice Lindemer and the administrative officers of the University of Michigan, I would certainly welcome receiving a letter from you that would correct the record.

Sincerely,

WARREN E. MILLER,
Director, Center for Political Studies.

EXHIBIT A–4

U.S. SENATE,
Washington, D.C., January 22, 1976.

Mr. WARREN E. MILLER,
Director, Center for Political Studies Institute for Social Research, The University of Michigan, Ann Arbor, Mich.

Re: Background Material for Testimony befor the United States Senate

DEAR MR. MILLER: I am in receipt of your letters dated December 2, 1975 and January 16, 1976.

In your letter of January 16th, you allude to several matters which I think should be corrected initially. First, I called Justice Lindemer (a former Regent of the University of Michigan) to find out who, at the University, would be able to assist me in obtaining the information I needed. Nothing further than the name of Vice President Pierpont as requested nor given. In the absence of the Vice President of the University of Michigan, in response to my call, Roderick Daane contacted me. Mr. Daane assured me that the underlying data would be sent to me.

You also seemed offended at the "hired gun" characterization, but I was not referring to you but to the remarks made publicly against Dr. DeVries. I pointed out that if $2,000 or other funds had been paid to you the same characterization could possibly be made against you.

The material you transmitted to Morris Levin on December 2, 1975, for delivery to me finally reached me on January 9, 1976. Although I was on vacation during that period, my secretary was supposed to have forwarded it to me when (or if) it arrived. Anyway, the material submitted, I am sure you will admit, does not come near to the requested information.

I previosuly asked you for the underlying data that would give the basis for your conclusions. Certainly, in the 1956 study you gave such information, and I assume you had the same for your 1974 update.

The scant information given in your December 2, 1975 transmittal and the January 16th letter would hardly seem relevant to the Tulsa problem, as far as I can see, nor did it answer my numerous requests. Specifically, I wonder (and hope you will answer speedily) if you compare paper ballot configurations in Texas and North Carolina to machine configurations in Tulsa?

You further refer to two precincts in Tulsa County, Oklahoma, as being part of your survey. Would you please identify the precincts used and the number and names of the respondents. I would also request the names and background of the interviewers in Tulsa. Please advise when your study of Tulsa was started and completed. Were there any other counties in Oklahoma studied in 1974 or 1975? If so, please advise.

In order to understand your approach, I thought I had made it clear that I needed this material when I called you on December 1, 1975. I specifically asked for the June 1974 unpublished data referred to by Dr. Kirkpatrick. Morris Levin, on December 19, 1975, transmitted your letter to me to Chairman Cannon, and in that letter, Levin says:

"Dr. Miller has assured me that Mr.

Schoener has *never* requested the backup or raw data on which Dr. Miller based his testimony."

I believe that I did request precisely that backup material and/or raw data in my calls to you, but if I did not make myself clear, perhaps this letter will help to clarify the request.

Specifically, in order to do a decent study of your testimony, *in addition* to the above items, I need:

1. The list of the 1974 and 1975 electoral jurisdictions studied, and the number of persons interviewed both before and after the election.

2. The number of persons interviewed in 1974 and 1975, and how they were selected in each jurisdiction.

3. The breakdown of 1974 electoral jurisdictions, by party registration, and how they compare with the 1956 jurisdictions, specifically by state and county and by party registration.

4. A copy of the 1974–1975 questionnaire used before the election and after the election and the total tabulation in the nationwide study. Please advise if the questionnaires were conducted by personal interview or by telephone.

5. The voting configuration (submit copy) of each 1974 jurisdiction studied, whether by paper ballot, by punch card, or by machine (identifying the type and setup of the machine).

6. Where, when, and how you obtained the ballot configuration from Tulsa County, how you classified it, and the reasons for such classification.

7. A copy of your June 2, 1975 memorandum to Mr. Levin with your explanation of the errors in it if you desire to point them out.

8. You refer to the assistance of a graduate student furnished by Mr. Edmondson. Please furnish his name, address, and his background qualifying him to do the duties assigned.

I am sure that in accordance with your letter of January 16, 1976 the Institute policy of "open access to the data on which your conclusions rest" would seem to allow me to have this data.

Some of the Senators have suggested that this task is such that it might be better if I came to Ann Arbor along with the Chief Counsel and the attorneys for the parties. We could arrange to obtain this material by deposition rather than by correspondence and telephone. I have been requested to obtain this information by several of the Minority Senators before Floor debate to properly evaluate your testimony both in the Committee and at the trial in Oklahoma. Their request was publicly made at the Committee hearing on December 15, 1975.

I will be interested in your suggestion and reply to the last alternative.

Very truly yours,

JAMES F. SCHOENER,
Minority Counsel.

EXHIBIT A-5

INSTITUTE FOR SOCIAL RESEARCH,
Ann Arbor, Mich., February 4, 1976.

Hon. HOWARD W. CANNON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CANNON: Thank you for your letters of January 29 and February 3. I have delayed responding to Mr. Schoener's letter of January 22 until hearing from you and receiving assurance that my response will be understood as being offered as an expert witness for the Committee. May I also say, that I appreciate very much your expression of concern over my personal situation. I am distressed at the turn events have taken but my response to Mr. Schoener's intervention was offered in some detail because my personal scholarly reputation and our institutional reputation are matters of considerable importance to me. I am now pleased to respond as directly as possible to Mr. Schoener's letter of January 22.

Contrary to the assertion in his letter, the material that I transmitted to Mr. Levin was, I thought, fully responsive to every detail of the request Mr. Schoener had transmitted in his telephone conversation with me. First, Mr. Schoener only asked for the location of jurisdictions we had classified as places where there was a straight party lever for each of a number of ballots. As I indicated in my December 2 letter to Mr. Levin, the jurisdictions were located in Tulsa County, Oklahoma, Pitt County, North Carolina and Watauga County, North Carolina. I should note that in my letter to Mr. Levin I erred in referring to the jurisdictions as "precincts"—an error I did not make in my statement prepared for your committee. The "jurisdictions" were, in fact, counties, not precincts. More precisely, they were "sample segments" within the primary sampling units (usually counties or aggregations of contiguous counties) on which our national probability sample of the electorate is based. Mr. Schoener did not ask for the identity of the Tulsa County precincts; had he done so my response would have been then, as it must be now, that our respondents are not located by precinct so, I do not have that information. The two jurisdictions associated with Tulsa County were two segments, one in Tulsa County and one in Osage County, that have mapped boundaries but are not identified by lesser political subdivision.

Mr. Schoener's second request was for evidence that there were indeed jurisdictions in which if one voted a straight party ticket it was then impossible to "scratch" and vote for selected candidates from another party. Inasmuch as his question was apparently only an inquiry as to whether there were in fact any such situations, I simply responded illustratively with copies of ballots from Taylor County, Texas and Currituck County, North Carolina. I also pointed out that there were other jurisdictions as well where the voting instructions indicate that attempts to split one's ticket will either go unrecognized or will result in invalidating the ballot.

Mr. Schoener's third and final request was for a copy of a report which he assumed was the basis for my written statement presented in testimony before the Committee. I explained to him that no such report existed, and that I had, in fact, prepared the written statement directly from computer printout. Inasmuch as no other analysis of data had been completed, for me or for Mr. Edmondson, I told Mr. Schoener that my assumption was that Dr. Kirkpatrick's reference to agreeing with the results of our study was doubtless a reference to the conclusions presented in my prepared written statement which, of course, Dr. Kirkpatrick had seen before either of us testified.

Mr. Schoener's request for these three pieces of information was simply a verbal request made over the telephone. I have no written record that proves that he did not ask for additionl information. I simply repeat to you, Sir, that prior to the receipt of his letter of January 22, I had not in fact received any request for information beyond the three specific items I have just mentioned. I am most willing to reply to the other requests made in Mr. Schoener's letter of January 22, but it should be understood that those are all requests for new information and can scarcely be construed as "clarifications" of an earlier request.

To begin at the top of page two of Mr. Schoener's letter, and taking his requests in sequence: in our analysis we categorized voting procedures precisely as I indicated in my testimony. *All* situations with provisions for straight party voting with no "scratching", whether or not executed on more than one ballot, were indeed treated as comparable. In a similar manner, all situations in which a straight party vote *could be* modified and the ballot "scratched" for a candidate of a different party were treated as constituting a second category, and all situations in which the office block format was used with no option for straight ticket voting (as in the Tulsa situation) were treated as a third category. In these categorizations both paper ballots and machine configurations could appear under any one of the three categories.

The number of respondents in the two Tulsa jurisdictions totalled 20. I must respectfully decline to give the names of the respondents. Interviews were taken with the guarantee of confidentiality and it would be a clear violation of our promise to reveal their names. This is, of course, in accord with the standards followed by all responsible pollsters as well as by all academic researchers.

The names and backgrounds of our Tulsa interviewers could be made available to the Committee if the Committee desires. At this point I am reluctant to provide the information unless assured that it is the Committee's wish.

It would be possible to reconstruct the dates between which interviewing was carried out in Tulsa following the 1974 election. This would, however, require some additional clerical work and I would prefer to carry it out only if the Committee desires it as a part of the much larger task that would be involved in securing some of the other information that would have to be collected and assembled to meet all of Mr. Schoener's requests.

Interviews were conducted in both Tulsa County and Osage County but nowhere else in Oklahoma. For the purposes of construction of our national sample, the two counties were treated as a single unit and constitute one of the primary sample units. As Counsel for Senator Bellmon made clear during the Tulsa hearings, this primary sampling unit was selected to represent all similar primary sampling units within the region, and it in no way constitutes a sample of the State of Oklahoma. The role which the Oklahoma data play in our national study is perhaps best described in an attempt to provide a partial response to item numbered "2" on page two of Mr. Schoener's letter. To that end, I am enclosing a document entitled "The Survey Research Center's National Sample of Dwellings" by Professor Leslie Kish and Ms. Irene Hess, Head of the SRC sampling section. Although the document may contain more information than is necessary for the committee's purposes, pages one through four and seven through fourteen give a non-technical description of the role of the primary sampling unit (PSU) in our national studies.

The other part of the answer to item number two, as well as the answers to item number one and items number four and five, is provided in most complete detail by the two copies of printout that I am enclosing. The smaller of the two lists the electoral jurisdictions included in our 1974 study. The listing identifies each location by PSU and place within PSU. It provides the number of respondents attached to each jurisdiction, and it provides all of the information on ballot configuration and voting procedures that we collected. The key to this information is provided by the codebook which provides a verbal description of the content associated with the numerical codes assigned to each piece of information or "variable". In response to item four, the longer listing presents the total tabulation of relevant data from the nation-wide study. It is comprised of information from the interviews with individual respondents along with the ballot form and voting procedure information applicable to each respondent. Item number five can be extracted from the short listing of electoral jurisdictions.

To correct a misunderstanding, it should be recognized that no separate survey was undertaken by us in 1975; and, in 1974 only a single interview was conducted. That one interview was carried out after the election in November and December, 1974, so that respondents would indeed be able to tell us who they voted for in each of the several offices of interest to us.

We are unable to provide the information requested in item three. Although our archives contain county level election returns for both 1956 and 1974, we do not attempt a systematic collection of party registration data. Some of that information might be obtained from the reports of Secretaries of State, but practice varies widely from state to state, as you know, and it would be a formidable task to reconstruct the party registration figures for any significant portion of our national sample in the two years.

In response to item four, I am enclosing a copy of the 1974 post-election interview schedule. All of the interviews were personal, confidential interviews conducted, in almost every instance, in the respondent's home.

I am unable to provide all of the information requested in item six. I am, however, sending a xerox of the copy of the ballot that we coded. Our classification can, of course, be obtained from the printout of electoral jurisdictions. As copies of ballots, sample ballots or other descriptive information was returned to us by the various election officials, the material was usually detached from covering letters, if such were included. I am sorry that I cannot tell you where, when and how we obtained the ballot, but from the torn upper left corner, I would presume that it was mailed to us with a covering letter which was subsequently detached as we coded and processed the information.

All of the information that we have in our possession pertinent to questions one through six is being transmitted to you. The printouts contain the total tabulations relevant to my analysis and are interpretable through the use of the accompanying codebook. I should note that the tabulations and codebook were prepared specifically for the Committee and do not present the full body of data from the 1974 study. I am, however, enclosing a separate copy of the full codebook for the complete survey portion of that study. The document on sampling procedures, the interview schedule and the xerox of the Tulsa ballot form provide the remaining information requested.

Inasmuch as the June 2 memorandum to Mr. Levin was no more than a three page preliminary report confirming the fact that the findings from our 1956 study were apparently replicated, and it did not constitute the tabulations on which my written statement was based, I do not see the relevance of that personal communication to the Committee's deliberations. There was, moreover, as I immediately reported to Mr. Levin, a gross internal error consisting of an inexplicable assertion (belied by the preliminary data that were reported in the same page) that all jurisdictions in our national sample made some provision for straight party voting.

I am unable to give you the information concerning the graduate student recruited by Mr. Edmondson. Inasmuch as he provided voluntary assistance and was not on our payroll, we don't have any of the pertinent information on file beyond his name, Mr. Paul Rumler. I would imagine, however, that Mr. Edmondson could provide the desired information.

Given the difficulties that have already arisen concerning reimbursement for services to the Committee, I am somewhat hesitant to conclude this letter on the same note. Nevertheless, I should point out that a number of hours of research assistance and a small amount of computer time have been consumed in providing the information that I am submitting and in ascertaining the non-availability of other information. If it is appropriate, I would appreciate being permitted to submit a statement covering those expenses.

If I can be of further service to the Committee, please let me know.

Sincerely,

WARREN E. MILLER,
Director, Center for Political Studies.

EXHIBIT A-7

AFFIDAVIT

State of Oklahoma, County of Tulsa: ss.

I, J. Kevin Hayes, of lawful age, after having been duly sworn upon oath, do now state: that I was one of the attorneys who represented Senator Henry Bellmon in the election contest District Court Hearings in Tulsa, Oklahoma, and before the Oklahoma Supreme Court.

I do further state that I personally prepared the "Exhibit A-4" mock-up of the Tulsa County voting machine elective office panel, a copy of which is attached hereto, and that such mock-up was attached as an exhibit to a Reply Brief filed on behalf of Senator Bellmon in the Oklahoma Supreme Court proceeding.

J. KEVIN HAYES.

Subscribed and sworn to before me this 28th day of February, 1976.

MARY KAY BENTSON,
Notary Public.

My commission expires September 13, 1979.

EXHIBIT A-8

AFFIDAVIT

State of Oklahoma, County of Tulsa: ss.

I, Danny McDonald, of lawful age, after having been duly sworn upon oath, do now state: that I am currently and have been since July 1, 1974, Secretary of the Tulsa County Election Board; that at no time prior to or subsequent to the 1974 General Election held in Tulsa County did Warren Miller or any other representative of the Center for Political Studies, Institute of Social Research, the University of Michigan, request information from me concerning the type of ballot arrangement in use in Tulsa County in the November, 1974 General Election.

I further state that I had never seen, until today, the copy of the Tulsa machine ballot attached hereto, and did not therefore provide Warren Miller or anyone else with a copy of said ballot.

DANNY MCDONALD.

Subscribed and sworn to before me this 27th day of February, 1976.

MARY KAY BENTSON,
Notary Public.

My commission expires: September 13, 1979.

(SEAL)

EXHIBIT A-9

AFFIDAVIT

State of Oklahoma, County of Tulsa: ss.

I, Harmon Moore, of lawful age, after having been duly sworn upon oath, do now state: that I am currently and have been since May 15, 1974, Clerk of the Tulsa County Election Board; that at no time prior to or subsequent to the 1974 General Election held in Tulsa County did Warren Miller or any other representative of the Center for Political Studies, Institute of Social Research, the University of Michigan, request information from me concerning the type of ballot arrangement in use in Tulsa county in the November, 1974 General Election.

I further state that I had never seen, until today, the copy of the Tulsa machine ballot attached hereto, and did not therefore provide Warren Miller or anyone else with a copy of said ballot.

HARMON MOORE.

Subscribed and sworn to before me this 27th day of February, 1976.

MARY KAY BENTSON,
Notary Public.

My commission expires: September 13, 1979.

(SEAL)

EXHIBIT B-1

CODEBOOK FOR COMPLETE TABULATION OF BALLOT FORM DATA

1974 ELECTION

(Prepared for Senate Subcommitte on Rules and Administration, Center for Political Studies, The University of Michigan, February 11, 1976)

BALLOT FORM STUDY

Description

Variable:

1. PSU—See upper left of ballot.

2. Type of ballot coded:

1. Machine
2. Paper
3. Absentee
4. Votomatic—punch card
7. *Prototype or unclear (make card)

3. Ballot forms:

1. Party Column
2. Office Block
7. *Other (make card)

4. Separate ballot for U.S. Senate or Senate and House of Representatives:

1. Yes
5. No
9. *NA
0. *No Senate Race

5. Party Symbol:

1. Present
5. Not present
9. *NA

6. Separate ballot for the Governor's race or Governor's race and other state legislative races:

1. Yes
5. No
9. *NA
0. *No Governor's race

(NOTE: * denotes that these codes have all been programmed as missing data and are 0's in the present listing of the data.)

7. Number of choices needed to vote a straight party ticket:

1. Single party lever or box (one choice)
2. 1 per ballot
3. 1 per race
4. Modified single party lever (use of party lever does not preclude voting for candidates from other parties)
5. Modified, 1 per ballot
7. *Other (make card)
8. *Not clear
9. *NA.

8. Order of candidates (Senate):

1. Party of governor or other incumbent determines order of candidates within office column or row
2. Senatorial incumbent first
3. Random or alternating system
4. Local discretion
0. *No Senate race
7. *Other (make card)
9. *NA

9. Order of candidates (Governor):

1. Party of incumbent to some office (usually Governor or Secretary of State)
2. Incumbent first
3. Random of alternating system
4. Local discretion
0. *No Governor's race
7. *Other (make card)
9. *NA

10. Position of Senate race on ballot (column or row number of race):

1-7. 1-7 column or row (code actual number)
8. Column or row 8 or lower on ballot
9. *NA—or separate ballot (see #4)
0. *No race

11. Position of Governor's race on ballot (column or row number of race):

1-7. Column or row 1-7 (code actual number)
8. Column or row 8 or lower on ballot
9. *NA—or separate ballot (see #6)
0. *No race

12. Position of Democratic Senate candidate within block 1-7 column or row 1-7 (code actual number):

8. Column or row 8 or lower on ballot
0. *No race
9. *NA

13. Position of Democratic Gubernatorial candidate within block 1–7 column or row 1–7 (code actual number):
8. Column or row 8 or lower on ballot
0. *No race

14. Party of winner—Senate race (determined from *CQ*, Vol. 32, No. 45, No. 9, 1974, pp. 3084–3091):
1. Democrat
2. Republican
3. Other
0. *No Senate race

15. Party of winner—Governor's race (see 14 for source):
1. Democrat
2. Republican
3. Other
0. *No Governor's race

16. Party of candidate indicated:
1. Yes
5. No
9. *NA

17. Incumbency indicated:
1. Yes.
3. Indicated only for some offices on ballot.
5. No.
9.* NA.

18. Elections Held:
1. Both Senate and Gubernatorial elections held.
2. Only Senate race held.
3. Only Gubernatorial elections held.
4. Neither Governor nor Senators up for re-election in 1974.

19. Weighted count of the number of interviews corresponding to each ballot coded.

EXHIBIT C-1

TABLE 1.—DIFFERENCE BETWEEN TULSA COUNTY'S REPUBLICAN PERCENTAGE LEAD OVER THE BALANCE OF THE STATE FOR COTERMINOUS GUBERNATORIAL AND SENATORIAL RACES: 1930–74

[In percent]

	State balance Rep.	Tulsa County Rep.	Difference
1974:			
Senate	47.7	58.3	10.6
Governor	33.2	51.5	18.3
			7.7
1966:			
Senate	44.4	57.2	12.8
Governor	53.3	69.2	15.9
			3.1
1962:			
Senate	44.9	55.6	10.7
Governor	53.7	65.3	11.6
			.9
1954:			
Senate	41.9	56.0	14.1
Governor	39.6	53.3	13.7
			−.4
1950:			
Senate	45.5	59.2	13.7
Governor	46.4	65.4	19.0
			5.3
1942:			
Senate	53.5	66.1	12.6
Governor	45.9	62.7	16.8
			4.2
1938:			
Senate	32.7	49.6	16.9
Governor	29.1	32.8	3.7
			−13.2
1930:			
Senate	46.5	62.6	16.1
Governor	39.6	57.1	17.5
			1.4

EXHIBIT D-1

TABLE 2.—PERCENTAGE DIFFERENCE BETWEEN THE HIGHEST REPUBLICAN PERCENT OF THE VOTE FOR A STATEWIDE OFFICE AND THE LOWEST REPUBLICAN PERCENT OF THE VOTE FOR A STATEWIDE OFFICE IN TULSA COUNTY COMPARED TO THE BALANCE OF THE STATE: 1930–74

[In percent]

Year	Tulsa County difference	State balance difference
1974	29.1	21.3
1966	16.6	8.9
1962	18.4	17.0
1954	8.1	7.3
1950	10.5	11.5
1942	15.3	17.1
1938	16.8	3.6
1930	17.9	13.9

EXHIBIT D-2

1974 VOTE TOTALS

"STATE BALANCE" (ALL OKLAHOMA COUNTIES EXCEPT TULSA)

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate [1]
Governor	453,692	225,967		679,659	33.2
Lt. Governor	465,884	167,404		633,288	[2] 26.4
Sec. of State	344,839	263,412		608,251	43.3
Auditor					
Atty. General	439,648	186,697		626,345	29.8
Treasurer	342,250	284,331		626,581	45.4
Pub. Instr					
Exam./Insp	322,104	289,788		611,892	47.4
Mine Insp					
Labor Comm	321,374	283,876		605,250	47.0
Insur. Comm					
Char./Correct	387,448	209,248		596,696	35.1
Corp. Comm	410,800	204,996		615,796	33.8
U.S. Senator	337,387	318,852	11,682	668,091	[3] 47.7

[1] Difference between high and low: 21.3 percent.
[2] Low.
[3] High.

EXHIBIT D-3

TULSA COUNTY ONLY

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate [1]
Governor	60,697	64,492		125,189	51.5
Lt. Governor	79,802	41,041		120,843	[2] 34.0
Sec. of State	47,833	69,203		117,036	59.1
Auditor					
Atty. General	67,388	52,036		119,424	43.5
Treasurer	44,159	75,535		119,694	[3] 63.1
Pub. Instr					
Exam./Insp	43,877	70,447		114,324	61.6
Mine Insp					
Labor Comm	41,579	70,337		111,916	62.8
Insur. Comm					
Char./Correct	61,047	46,681		107,728	43.3
Corp. Comm	62,894	49,012		111,906	43.8
U.S. Senator	49,775	72,145	1,798	123,718	58.3

[1] Difference between high and low: 29.1 percent.
[2] Low.
[3] High.

EXHIBIT D-4

OKLAHOMA COUNTY ONLY

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate
Governor	85,625	57,770		143,395	40.3
Lt. Governor	92,291	41,289		133,580	[2] 30.9
Sec. of State	50,483	75,165		125,648	59.8
Auditor					
Atty. General	86,749	44,965		131,714	34.1
Treasurer	55,142	76,478		131,620	58.1
Pub. Instr					
Exam./Insp	45,593	80,057		125,650	63.7
Mine Insp					
Labor Comm	42,967	80,910		123,877	[3] 65.3
Insur. Comm					
Char./Correct	66,094	55,500		121,594	45.6
Corp. Comm	67,042	58,068		125,110	46.4
U.S. Senator	59,125	74,897	4,821	138,843	53.9

[1] Difference between high and low: 34.4 percent.
[2] Low.
[3] High.

EXHIBIT D-5

PAPER BALLOT COUNTIES

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate [1]
Governor	368,067	168,197		536,264	31.4
Lt. Governor	373,593	126,115		499,708	[2] 25.2
Sec. of State	294,356	188,247		482,603	39.0
Auditor					
Atty. General	352,899	141,732		494,631	28.7
Treasurer	287,108	207,853		494,961	42.0
Pub. Instr					
Exam./Insp	276,511	209,731		486,242	43.1
Mine Insp					
Labor Comm	278,407	202,966		481,373	42.2
Insur. Comm					
Char./Correct	321,355	153,748		475,103	32.4
Corp. Comm	343,758	146,928		490,686	29.9
U.S. Senator	278,262	243,955	7,031	529,248	[3] 46.1

[1] Difference between high and low: 20.9 percent.
[2] Low.
[3] High.

EXHIBIT D-6

1966 VOTE TOTALS

"STATE BALANCE" (ALL OKLAHOMA COUNTIES EXCEPT TULSA)

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate[1]
Governor	266,016	306,616	2,813	575,445	[2] 53.3
Lt. Governor	288,599	249,248	2,409	540,256	46.1
Sec. of State	268,533	237,688		506,221	47.0
Auditor	269,694	231,233		500,927	
Atty. General	248,392	266,569		514,961	51.8
Treasurer	314,251	208,955		523,206	[3] 39.9
Pub. Instr					
Exam./Insp					
Mine Insp					
Labor Comm	255,039	243,163		498,202	48.8
Insur. Comm					
Char./Correct	265,632	232,483		498,115	46.7
Corp. Comm	278,026	223,916		501,942	44.6
U.S. Senator	303,487	242,513		546,000	44.4

[1] Difference between high and low: 13.4 percent.
[2] High.
[3] Low.

EXHIBIT D-7

TULSA COUNTY ONLY

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate[1]
Governor	30,310	70,462	1,039	101,811	[2] 69.2
Lt. Governor	39,981	56,805	1,035	97,821	58.1
Sec. of State	38,264	55,409		93,673	59.2
Auditor	39,572	52,413		91,985	57.0
Atty. General	30,396	65,461		95,857	68.3
Treasurer	54,760	40,967		95,727	[3] 42.8
Pub. Instr					
Exam./Insp					
Mine Insp					
Labor Comm	34,252	55,829		90,081	62.0
Insur. Comm					
Char./Correct	34,772	56,222		90,994	61.8
Corp. Comm	41,881	46,525		88,406	52.6
U.S. Senator	39,670	53,072		92,742	57.2

[1] Difference between high and low: 26.4 percent.
[2] High.
[3] Low.

EXHIBIT D-8

OKLAHOMA COUNTY ONLY

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate[1]
Governor	43,989	73,817	1,338	119,144	62.0
Lt. Governor	52,661	59,410	1,018	113,089	52.5
Sec. of State	44,784	59,429		104,213	57.0
Auditor	45,054	55,745		100,799	55.3
Atty. General	38,827	67,673		106,500	[2] 63.5
Treasurer	60,299	46,959		107,258	[3] 43.8
Pub. Instr					
Exam./Insp					
Mine Insp					
Labor Comm	41,503	60,321		101,824	59.2
Insur. Comm					
Char./Correct	44,576	56,202		100,778	55.8
Corp. Comm	48,477	54,038		102,515	52.7
U.S. Senator	52,273	56,026		108,299	51.7

[1] Difference between high and low: 19.7 percent.
[2] High.
[3] Low.

EXHIBIT D-9

PAPER BALLOT COUNTIES

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate[1]
Governor	222,029	232,799	1,475	456,303	[2] 51.0
Lt. Governor	235,938	189,838	1,391	427,167	44.4
Sec. of State	223,749	178,259		402,008	44.3
Auditor	224,640	175,488		400,128	43.9
Atty. General	209,565	198,896		408,461	48.7
Treasurer	253,592	161,996		415,948	[3] 38.9
Pub. Instr					
Exam./Insp					
Mine Insp					
Labor Comm	213,536	182,842		396,378	46.1
Insur. Comm					
Char./Correct	221,056	176,281		397,337	44.4
Corp. Comm	229,549	169,878		399,427	42.5
U.S. Senator	251,214	186,487		437,701	42.6

[1] Difference between high and low: 12.1 percent.
[2] High.
[3] Low.

EXHIBIT D-10

1962 VOTE TOTALS

"STATE BALANCE" (ALL OKLAHOMA COUNTIES EXCEPT TULSA)

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate[1]
Governor	282,531	329,929	1,771	614,231	[2] 53.7
Lt. Governor	309,548	247,437		556,985	44.4
Sec. of State	307,087	221,773		528,856	41.9
Auditor					
Atty. General	315,908	222,606		538,514	43.3
Treasurer	296,673	259,262		555,935	46.6
Pub. Instr					
Exam./Insp					
Mine Insp					
Labor Comm					
Insur. Comm	338,750	196,587		535,337	[3] 36.7
Char./Correct	311,967	222,707		534,674	41.7
Corp. Comm	314,723	210,195		524,918	40.0
U.S. Senator	315,015	258,643	2,482	576,140	44.9

[1] Difference between high and low: 17 percent.
[2] High.
[3] Low

EXHIBIT D-11

TULSA COUNTY ONLY

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate[1]
Governor	32,826	62,387	319	95,532	[2] 65.3
Lt. Governor	38,303	52,304		90,607	57.7
Sec. of State	39,987	46,937		86,923	54.0
Auditor					
Atty. General	43,721	44,951		88,672	50.7
Treasurer	34,971	54,074		89,045	60.7
Pub. Instr					
Exam./Insp					
Mine Insp					
Labor Comm					
Insur. Comm	46,286	40,832		87,118	[3] 36.9
Char./Correct	39,450	48,436		87,886	55.9
Corp. Comm	42,088	43,569		85,657	50.9
U.S. Senator	38,875	49,323	374	88,572	55.7

[1] Difference between high and low: 18.4 percent.
[2] High.
[3] Low.

EXHIBIT D-12

OKLAHOMA COUNTY ONLY

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate[1]
Governor	52,779	74,470	682	127,931	[2] 58.2
Lt. Governor	61,076	58,010		119,086	48.7
Sec. of State	60,799	51,932		112,732	46.1
Auditor					
Atty. General	64,234	52,801		117,035	45.1
Treasurer	54,597	63,155		117,752	53.6
Pub. Instr					
Exam./Insp					
Mine Insp					
Labor Comm					
Insur. Comm	71,326	44,391		115,717	[3] 38.4
Char./Correct	61,998	52,347		114,345	45.8
Corp. Comm	63,488	48,132		111,620	43.1
U.S. Senator	57,738	50,385	629	108,752	46.3

[1] Difference between high and low: 19.8 percent.
[2] High.
[3] Low.

EXHIBIT D-13

PAPER BALLOT COUNTIES

Race	Votes cast for Democratic candidate	Votes cast for Republican candidate	Votes cast for other candidates	Total votes cast in race	Percent of votes cast for Republican candidate [1]
Governor	229,752	255,459	1,089	486,300	[2] 52.5
Lt. Governor	248,472	189,427		437,899	43.3
Sec. of State	246,284	169,841		416,125	40.8
Auditor					
Atty. General	251,674	169,805		421,479	40.3
Treasurer	242,076	196,107		438,183	44.8
Pub. Instr					
Exam./Insp					
Mine Insp					
Labor Comm					
Insur. Comm	267,424	152,196		419,620	[3] 36.3
Char./Correct	249,969	170,360		420,329	40.5
Corp. Comm	251,235	162,063		413,298	39.2
U.S. Senator	257,277	208,258	1,853	467,388	44.6

[1] Difference between high and low: 16.2 percent.
[2] High.
[3] Low.

SUMMARY TABLE.—PERCENTAGE DIFFERENCE BETWEEN THE HIGHEST REPUBLICAN PERCENT OF THE VOTE FOR A STATEWIDE OFFICE AND THE LOWEST REPUBLICAN PERCENT OF THE VOTE FOR A STATEWIDE OFFICE

Year	Tulsa County percent difference	State balance percent difference	Oklahoma County percent difference	Paper ballot County percent difference
1974	29.1	21.3	34.4	20.9
1966	26.4	13.4	19.7	12.1
1964	18.4	17.0	19.8	16.2

EXHIBIT E-1

TABLE 3.—STATEWIDE, OKLAHOMA COUNTY, AND TULSA COUNTY VOTE TOTALS FOR STATE OFFICERS (COL. 3 OF TULSA BALLOT), NOVEMBER, 1974

Office	State-wide [1]	Oklahoma County	Tulsa County		
			Tulsa total	Amarillo machines	Tulsa machines
Governor	804,848	143,395	125,189	19,390	103,744
Lieutenant Governor	754,131	133,580	120,843	18,854	99,978
Secretary of state	725,287	125,648	117,036	18,406	96,657
Auditor (unopposed)	NA	57,652	87,957	14,436	72,276
Attorney general	745,769	131,714	119,424	18,700	98,733
Treasurer	746,275	131,620	119,694	18,723	98,971
Public instructor (unopposed)	NA	56,574	88,642	14,556	72,839

[1] NA equals not available on a statewide basis,

EXHIBIT E-2

TABLE 4.—STATEWIDE, OKLAHOMA COUNTY, AND TULSA COUNTY VOTE TOTALS FOR STATE OFFICERS (COL. 4 OF TULSA BALLOT), NOVEMBER, 1974

Office	State-wide [1]	Oklahoma County	Tulsa County		
			Tulsa total	"Amarillo" machines	Tulsa machines
Exam./Insp	726,216	125,650	114,324	18,082	94,303
Mine Insp. (unop.)	NA	55,081	87,703	13,859	69,626
Labor Comm	717,166	123,877	111,916	17,766	92,245
Insur. Comm. (unop.)	NA	61,020	90,138	14,771	74,092
Char./Correct	704,425	121,594	107,728	17,017	88,841
Corp. Comm	727,702	125,110	111,906	17,685	92,303
D.A	NA	57,037	91,344	14,855	75,175

[1] NA=Not available on a Statewide basis.

EXHIBIT E-3

TABLE 5.—STATEWIDE, OKLAHOMA COUNTY, AND TULSA COUNTY VOTE TOTALS FOR JUDICIAL OFFICERS (COL. 11 OF TULSA BALLOT), NOVEMBER, 1974

Office	State-wide [1]	Oklahoma County	Tulsa County		
			Tulsa total	"Amarillo" machines	Tulsa machines
Supreme Ct. No. 2	573,247	80,431	96,237	15,553	79,114
Supreme Ct. No. 5	557,361	78,911	94,447	15,316	77,583
Supreme Ct. No. 6	553,485	76,357	98,472	15,903	80,847
Supreme Ct. No. 7	547,229	76,240	92,902	15,031	76,318
Supreme Ct. No. 8	546,727	76,494	92,813	15,076	76,281
Supreme Ct. No. 9	545,351	75,519	92,302	14,870	75,890
Criminal App. No. 1	558,792	77,290	92,804	15,078	76,149
Remainder of Oklahoma County ballot:					
Dist. 7, No. 1		84,792			
Dist. 7, No. 3		79,184			
Dist. 7, No. 5		77,338			
Assoc. Dist. No. 1		93,861			
Assoc. Dist. No. 2		83,334			
Remainder of Tulsa County ballot: Dist. 14, No. 4			104,187	16,516	85,897

[1] Remainder of ballot varies by locale.

EXHIBIT E-6

TABLE 3.—STATEWIDE, OKLAHOMA COUNTY, AND TULSA COUNTY VOTE TOTALS FOR STATE OFFICERS (COL. 3 OF TULSA BALLOT), NOVEMBER 1974

Office	State-wide [1]	Okla-homa County	Tulsa County		
			Tulsa total	"Ama-rillo" machines	Tulsa machines
Governor	804,848	143,395	125,189	19,385 [19,390]	103,749 [103,744]
Lieutenant Governor	754,131	133,580	120,843	18,854	99,978
Secretary of State	725,287	125,648	117,036	18,409 [18,406]	96,654 [96,657]
Auditor (unopposed)	(1)	57,652	87,957	14,436	72,276
Attorney general	745,769	131,714	119,424	18,700	98,733
Treasurer	746,275	131,620	119,694	18,723	98,971
Public Instr (unopposed)	(1)	56,574	88,642	14,556	72,839

[1] Not available on a statewide basis.

Note: Bracketed figures denote matter stricken out.

EXHIBIT E-7

TABLE 4.—STATEWIDE, OKLAHOMA COUNTY, AND TULSA COUNTY VOTE TOTALS FOR STATE OFFICERS (COL. 4 OF TULSA BALLOT), NOVEMBER 1974

Office	State-wide [1]	Okla-homa County	Tulsa County		
			Tulsa total	"Ama-rillo" machines	Tulsa machines
Examiner/Inspector	726,216	125,650	114,324	18,082	94,303
Mine Inspector (unopposed)	(1)	55,081	84,703	14,059 [13,859]	69,426 [69,626]
Labor Commissioner	717,166	123,877	111,916	17,766	92,245
Insurance Commissioner (unopposed)	(1)	61,020	90,138	14,771	74,092
Char./Correct	704,425	121,594	107,728	17,107 [17,017]	88,751 [88,841]
Corp. Commissioner	727,702	125,110	111,906	17,785 [17,685]	92,203 [92,303]
District attorney	(1)	57,037	91,344	14,855	75,175

[1] Not available on a statewide basis.

Note: Bracketed figures denote matter stricken out.

EXHIBIT F–1

TABLE 6.—*Tulsa County judicial ballot vote totals, Nov. 1966*

Office:	*Total Votes*
Supreme Court No. 1	88, 752
Supreme Court No. 2	84, 343
Supreme Court No. 6	87, 924
District 14, No. 1	90, 234
District 14, No. 2	91, 488
District 14, No. 3	89, 930

EXHIBIT G–1

TABLE A.—TOTAL VOTES CAST FOR MOST POPULAR CONTESTED OFFICE (GOVERNOR) AND TOTAL NUMBER OF VOTERS SIGNING SIGNATURE BOOKS IN PRECINCTS USING VOTING MACHINES WITH NO PARTY VOTING INSTRUCTIONS COMPARED TO THOSE PRECINCTS USING MACHINES WITH CONFUSING INSTRUCTIONS

	Total votes cast for Governor	Total number of voters	Difference between votes cast and voters	Percent of voters casting votes for Governor
Precincts without confusing instructions	19, 390	19, 578	188	99.0
Precincts with confusing instructions	103, 744	105, 975	2, 231	97.9

EXHIBIT G–2

TOTAL VOTES CAST FOR MOST POPULAR CONTESTED OFFICE (GOVERNOR) AND TOTAL NUMBER OF VOTERS SIGNING POLL BOOKS, BROKEN DOWN BY STATE HOUSE DISTRICTS IN TULSA COUNTY

State representative District No.	Total votes cast for Governor	Total number of voters	Difference between votes cast and voters	Percent of voters casting votes for Governor
76 "Tulsa" machine	10, 456	10, 543	87	99. 2
23 "Amarillo" machine	10, 182	10, 272	90	99. 1
80 "Tulsa" machine	11, 391	11, 507	116	99. 0
69 "Tulsa" machine	8, 900	8, 991	91	99. 0
78 "Amarillo" machine	9, 203	9, 306	103	98. 9
79 "Tulsa" machine	9, 743	9, 872	129	98. 7
71 "Tulsa" machine	9, 485	9, 619	134	98. 6
70 "Tulsa" machine	9, 178	9, 335	157	98. 3
77 "Tulsa" machine	5, 463	5, 565	102	98. 2
68 "Tulsa" machine	6, 044	6, 171	127	97. 9
66 "Tulsa" machine	5, 406	5, 559	153	97. 2
74 "Tulsa" machine	3, 635	3, 746	111	97. 0
72 "Tulsa" machine	4, 190	4, 324	134	96. 9
67 "Tulsa" machine	10, 492	10, 838	346	96. 8
75 "Tulsa" machine	5, 607	5, 810	203	96. 5
73 "Tulsa" machine	3, 759	4, 075	316	92. 2
Total	123, 134	125, 533	2, 399	

TOTAL VOTES CAST FOR 2D MOST POPULAR CONTESTED OFFICE (U.S. SENATOR) AND TOTAL NUMBER OF VOTERS SIGNING POLL BOOKS. BROKEN DOWN BY STATE HOUSE DISTRICTS IN TULSA COUNTY

EXHIBIT G–3

State representative District No.	Total votes cast for U.S. Senator	Total number of voters	Difference between votes cast and voters	Percent of voters casting votes for U.S. Senator
80 "Tulsa" machine	11, 300	11, 507	207	98. 2
76 "Tulsa" machine	10, 357	10, 543	186	98. 2
23 "Amarillo" machine	10, 082	10, 272	190	98. 2
69 "Tulsa" machine	8, 822	8, 991	169	98. 1
67 "Tulsa" machine	10, 624	10, 838	214	98. 0
78 "Amarillo" machine	9, 101	9, 306	205	97. 8
77 "Tulsa" machine	5, 422	5, 565	143	97. 4
71 "Tulsa" machine	9, 935	9, 619	260	97. 3
70 "Tulsa" machine	9, 063	9, 335	272	97. 1
79 "Tulsa" machine	9, 575	9, 872	297	97. 0
66 "Tulsa" machine	5, 323	5, 559	236	95. 8
74 "Tulsa" machine	3, 580	3, 746	166	95. 6
75 "Tulsa" machine	5, 517	5, 810	293	95. 0
68 "Tulsa" machine	5, 863	6, 171	308	95. 0
72 "Tulsa" machine	4, 074	4, 324	250	94. 2
73 "Tulsa" machine	3, 636	4, 075	439	89. 2
Total	121, 698	125, 533	3, 835	

EXHIBIT G–4

EXHIBIT "D"

	Total number of voters signing poll books	Total number of votes cast in Senate race	Percent of total votes cast in Senate race to total signing poll books
Tulsa County:			
1974	127, 588	123, 718	97.0
1972	168, 358	162, 933	96.8
1968	153, 437	145, 820	95.0
1966	104, 976	92, 742	88.3
1964	141, 955	132, 854	93.6
1962	101, 248	88, 572	87.5
Oklahoma County:			
1974	145, 904	138, 843	95.2
1972	210, 326	190, 244	90.5
1968	189, 819	173, 674	91.5
1966	124, 162	108, 299	87.2
1964	177, 113	165, 712	93.6
1962	129, 344	108, 752	84.1
Paper ballot counties:			
1974	548, 534	529, 248	96.5
1972	678, 712	651, 971	96.1
1968	620, 473	589, 625	95.0
1966	466, 380	437, 701	93.9
1964	630, 262	613, 608	97.3
1962	494, 382	467, 388	94.5

EXHIBIT H–1

TABLE 7.—VOTE TOTALS AND PERCENTAGES FOR 1974 SENATORIAL RACE IN TULSA COUNTY PRECINCTS USING VOTING MACHINES WITH NO PARTY VOTING INSTRUCTIONS COMPARED TO THOSE PRECINCTS USING MACHINES WITH PARTY LEVER INSTRUCTIONS

	Precincts without instructions		Precincts with instructions	
	Total vote	Percent	Total vote	Percent
Edmondson	7, 848	41.6	49, 204	41.0
Bellmon	11, 020	58.4	70, 735	59.0

EXHIBIT H–2

Shows percentage of votes received by Mr. Edmondson in each State representative district located in Tulsa County

State representative district No.	*Democratic percent of votes cast in U.S. Senate race*
73	74. 0
74	58. 5
72	56. 2
75	55. 7
77	55. 3
66	52. 8
68	52. 2
23*	42. 2
78*	39. 5
69	37. 2
79	37. 0
70	32. 8
76	32. 8
71	31. 0
80	28. 7
67	28. 3

*Denotes that "Amarillo" machines were used in all precincts within district. "Tulsa" machines were used in all others.

Mr. BARTLETT. Mr. President, I am submitting this report for the RECORD so that my colleagues will have the opportunity to review, as I have done, the facts set forth in this report.

Even the most cursory glance at the report will reveal the glaring inconsistencies and mistakes in the data used by these experts and even more glaring mistakes and inconsistencies in the conclusions reached by relying on the erroneous data.

Obviously, I do not wish to belabor this Chamber with a reading of the report in its entirety, but I would like to briefly highlight some of the more significant findings.

THE TESTIMONY OF PROFESSOR MILLER

The only "evidence" Professor Miller presented to the committee which had not been previously presented to the Oklahoma courts was his testimony with respect to a 1974 national sample survey, which he claims he conducted.

Miller testified that based on the data gathered in this national survey he had concluded that straight party levers affected only Democrats—that they had no effect whatsoever on Republicans or Independents.

Mr. President, I call the attention of the distinguished Senator from Rhode Island and the distinguished Senator from Nevada to that particular statement, that straight party levers affected only Democrats, that they had no effect upon Republicans or Independents.

Obviously, Dr. Miller has not consulted with the politicians of Oklahoma, or the politicians of Oklahoma certainly have not read of Dr. Miller's finding and agreed with him, because in 1969, when I was Governor of the State of Oklahoma, the Democratic legislature passed and submitted to my desk a proposition to eliminate straight party voting on voting machines, which meant eliminating straight party voting in Tulsa and Oklahoma Counties.

Why? Did they do this for any reason of evening up voting between the two parties? No, they did it because it was generally agreed between Republicans and Democrats in Oklahoma, and certainly in the legislature and by those running statewide, that straight party voting does have an effect, that it does have an effect favorable to Republicans in Oklahoma and Tulsa Counties, because of the straight party lever on the voting machines, and that it has an effect favorable to Democrats in the rural counties.

This contention, I want to emphasize, is completely inconsistent with the thinking of those running for office in Oklahoma, as far as Tulsa County is concerned. In 1971, I know, the members of the Rules Committee were well aware that the legislature in Oklahoma, with a Democratic majority did pass a bill which did permit, under certain circumstances, that there need not be a straight party lever under certain conditions in Tulsa County.

When I ran for office in 1972, for the U.S. Senate, the voting machine was programed just exactly the way it was for 1974 as far as the Republican candidate for the Senate was concerned.

In 1972, there was not a requirement that there be a straight party lever.

In 1974, there was a requirement, but, as far as the position on the panel and as far as erroneous instructions were concerned, it was exactly the same.

The point I am making is that the Democrats and Republicans in our State do believe that there is an effect of straight party voting where voting machines are used with a lever for straight party voting, but they are also in agreement that if this lever is lacking, then the party benefited is the Democratic candidate, not the Republican.

This was reaffirmed in 1974, as the members of the committee know, when the legislature passed another bill which does not permit straight party voting in Tulsa County beginninig in 1975, and I believe it was January 1.

So, straight party voting on the voting machines in Tulsa County, both at the Tulsa and Amarillo machines, are outlawed at the present time for any future elections. This was done by a Democratic legislature, a Democratic Senator, and certainly was not done for the benefit of the Republican candidates running in Tulsa County. It was done for the benefit of Democratic nominees.

So I find it impossible to have any credibility in the statement made by Dr. Miller that straight party levers affected only Democrats and not Republicans or Independents.

Dr. Miller also testified that his survey data showed him that when the Senate race occupied the first place on the ballot more people voted straight tickets.

If these two "findings" seem a little odd to my fellow colleagues, and they seemed more than a little odd to me when I first heard them, they become at least a little more understandable when we look at the quality of data used by Dr. Miller to arrive at these conclusions.

There is a phrase used in the computer business—"garbage in—garbage out"—it simply means if what you feed into the computer is garbage, then you had better expect that garbage is what you are going to get out.

As this minority report clearly shows, Professor Miller simply made the mistake of putting "garbage" in his computer.

To cite only a few examples from the report:

First, Professor Miller had testified that as a part of his survey he had gathered information about the various ballot forms and arrangements for straight ticket voting in various parts of the county. When questioned as to how he gathered this information, Dr. Miller responded in a letter to the chairman that the information was taken from copies of ballots, sample ballots, and other descriptive information provided by various election officials. Dr. Miller was then specifically asked how he gathered the information about the ballot forms used in Tulsa. He responded, again in his letter to the chairman, that he did not know, he assumed it was from election officials and enclosed a copy of the "Tulsa machine ballot" from which he took his information about the Tulsa setup.

Mr. President, here is a copy of the ballot which Dr. Miller says he used in feeding his computer with information about Tulsa.

I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the copy of the ballot was ordered to be printed in the Record, as follows:

[Due to the unavailability of reproducible copy the exhibit is not printed in the Record.]

Mr. BARTLETT. Mr. President, what is so strange about this "ballot," as the report points out, is that it is not a ballot at all.

This "ballot," which Dr. Miller used as the sole source of his information about Tulsa, it turns out, is actually a copy of a mockup exhibit which was prepared by Senator Bellmon's attorneys as an exhibit to a brief filed in the Oklahoma Supreme Court case.

We will see that down at the bottom of each column the words "party lever" have been typed in. Of course, these "party levers" were not on the machines in 1974. The reason they are shown on the exhibit is that the exhibit was for the purpose of showing the court where the levers would have been had they been on the machines.

But Dr. Miller apparently did not know this. Because he used this "ballot," Dr. Miller says in his letter to the chairman, he classified Tulsa as a "straight party lever" jurisdiction.

This is how Dr. Miller says in his letter he classified Tulsa. But as the report points out, this is not how Miller's data shows he did classify Tulsa. What does Dr. Miller's data show? It shows that he did not have any information one way or the other. Under the column on his computer printout which shows the type of straight party voting mechanism used in each sample jurisdiction, Tulsa County has been coded as "data missing." If you tell your computer that you do not know what type of ballot was used in Tulsa County, how can you expect your computer to tell you anything about how the Tulsa ballot affected the Tulsa County voters? The fact is you cannot.

What about the information Dr. Miller fed his computer about types of ballots used in other jurisdictions? We know that his information about Tulsa was incorrect—that he relied on a mockup exhibit used by Senator Bellmon's attorneys for demonstration purposes only—and, incidentally, which the minority found out was not provided to him by anyone at the Tulsa County Election Board. Can we assume that the information he gave his computer about ballot forms in other jurisdictions was any more reliable?

While the report cites numerous other instances of mistakes and inconsistencies in Dr. Miller's testimony and data, I shall cite one more right now. In feeding his computer information about the great State of Oregon—and I think the distinguished Senator from Nevada, which is near Oregon, and the distinguished Senator from Oregon would be very interested in this particular bit of information—Dr. Miller made a mistake which I am sure would be of interest to the distinguished Senator from Oregon (Mr. Packwood).

Dr. Miller's computer printout shows that Senator Packwood was defeated in his recent election by the Democratic candidate, Betty Roberts. Based on this same "expert evidence," should we now entertain a motion to unseat Senator Packwood?

PROFESSOR KIRKPATRICK'S TESTIMONY

With respect to the testimony of Mr. Edmondson's second expert witness, the report goes into great detail, pointing out the numerous flaws in Kirkpatrick's data, his assumptions, his calculations, and his conclusions.

Dr. Kirkpatrick basically had testified that his figures showed there was a greater increase in ticket splitting in Tulsa County, which did not have straight party levers, than in the rest of the State which did have straight party levers or circles for the various separate ballots.

But as this report points out, based on official Oklahoma election returns, Dr. Kirkpatrick simply used the wrong figures in many instances. When the corrected figures are used, it turns out that, contrary to Dr. Kirkpatrick's assertion, there was actually a greater increase in ticket splitting in the rest of the State than there was in Tulsa County.

I do not wish to belabor the point any further, as I think the findings contained in this report speak for themselves.

To quote from the report:

> When the testimony and underlying data of these "expert" witnesses is closely scrutinized, it becomes readily apparent that the "evidence" upon which the Majority relies is hardly worthy of being called evidence, much less evidence sufficient to overturn a duly held election and unseat a duty elected and sitting Senator.

Mr. President, I shall talk a little further about straight party voting in Oklahoma and will make some references to the various influences on elections.

I think the distinguished Senator from Nevada would agree with me that there are a number of matters affecting the outcome of elections. Straight party voting is one of them; the weather; the respective candidates; the issues, national and local and State; money; the home town of the candidates; the experience of the candidates; the media; and, certainly very important, the organizational effort and efficiency.

When conclusions are drawn from scattered national returns and then compared to Tulsa County, Okla., there is the assumption, I believe, first, that the conditions of weather, candidates, issues, money, the home town of the candidate, the experience of the candidate, the media, and the organizational effort are not important at all and have absolutely no relationship, but just that the straight party voting has this effect. So, what Dr. Miller and Dr. Kirkpatrick are assuming is that they are utilizing data which is affected by many things and claiming that the only effect on it is straight party voting.

How can one isolate just straight party voting and somehow establish values and influences to the weather, to the candidates, to the money, and all the rest? It cannot be done.

So I think that the Senator from Nevada will agree with me that you cannot take average data from all over the country, including Oregon, which is incorrect, and then draw conclusions in Oklahoma about straight party voting. As I said, I agree that straight party voting has its effect in this particular election. The effect of there not being the levers was to help Mr. Edmondson.

It has been brought out that in Tulsa County the registration is roughly 60 percent Democratic and 40 percent Republican. I have run countywide in Tulsa County four times and am a resident of Tulsa County. I have run statewide three times—all three times, of course, in Tulsa County. On one other occasion, I ran in a district in Tulsa County.

I am very much aware that the ratio is 1½ to 1—1½ Democrats to 1 Republican; 60 percent Democrats, 40 percent Republicans. But those running in Tulsa County, I say to the distinguished chairman, are very much aware that the breakdown of registrations and actual desires with respect to voting is like this: 40 percent Republican, more or less; 20 percent registered Democrats voting Republican, 40 percent registered Democrats voting Democratic. So the ratio in actual voting habits is 60 percent Republican, 40 percent Democratic.

Mr. President, I have in my hand the results of 13 statewide elections, beginning in 1962, including all the Governor, Senate, and Presidential elections for the ensuing years, for a total of 13 elections. In each election, the Republican nominee received more than half the votes. The average is 61.6 percent Republican during that 13-election period. So when I say that the voting habits are 60 percent Republican and 40 percent Democratic, it is borne out by what actually has happened.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the results of elections in Tulsa County between 1962 and 1974.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TULSA COUNTY ELECTION RESULTS

	Percent
1962	
Bellmon	65.5
Crawford	55.9
Average	60.7
1964	
Wilkinson	60.5
Goldwater	55.5
Average	58.0
1966	
Patterson	57.1
Bartlett	69.7
Average	63.4
1968	
Nixon	71.0
Bellmon	57.4
Average	64.2
1970	
Bartlett	62.0
1972	
Bartlett	59.3
Nixon	77.8
Average	68.5
1974	
Bellmon	58.3
Inhofe	51.5
Average	54.9
Total average, 13 Republican candidates	61.6

Mr. BARTLETT. Mr. President, if the voters are going to vote a straight party vote with the lever in Tulsa County, which they have done, the 40 percent Republicans are going to tend to have that opportunity and vote a straight party ticket, Republican; but so are the 20 percent reigstered Democrats who normally vote Republican. There is no reason to assume that the manner in which that lever will be utilized, if there is a lever, is going to be in the ratio of 60 percent Democrats to 40 percent Republicans, when the actual voting, on the average, in 13 statewide races in Tulsa County was 61.6 percent.

So I think it is very clear that Drs. Miller and Kirkpatrick have had no causal effect relationship with their arguments. They are not showing any meaningful contribution to the understanding of this race and are claiming that their evidence is of an expert variety.

Mr. President, I might add that after hearing the facts brought out in this report, the only serious doubts which my fellow Senators should have should not be with respect to the outcome of the Oklahoma election, but as to the accuracy and sufficiency of the expert testimony relied on so heavily by the majority.

Mr. PELL. Mr. President, once again the Senate has before it the grave constitutional responsibility of serving as judge of elections and qualifications of two highly qualified men who seek a seat in the U.S. Senate from the State of Oklahoma.

In January, 1975, the issue was referred to the Committee on Rules and Administration after Mr. Ed Edmondson filed a petition and complaint with the Senate. Accordingly, under the chairmanship of Senator CANNON, the committee conducted an extensive investigation which included staff hearings in both Oklahoma and here before the full committee. Results of the committee's efforts has been ably summarized by the senior Senator from Nevada, and are set forth in detail in the committee's report and in the 1,281-page volume of hearings.

Mr. President, it is incumbent upon the Senate to serve as judge of the evidence presented to it. This is mandated by the Constitution. The committee was directed to investigate and receive evidence in the matter of the contested seat; it did so, and it has now discharged its responsibility and made its report. It can do no more. The matter now rests squarely before the Senate and we must deal with it on the basis of the evidence before us.

As a member of the Committee on Rules and Administration, I want to emphasize and clarify some of the evidence which the Senate must consider.

At the outset of this debate, we must all be very clear on one critically important aspect of this contest—it is that Mr. Edmondsons' petition is not in any way a frivolous one.

There is no question that substantive election laws of the State of Oklahoma were violated in Tulsa County on November 5, 1974.

Oklahoma law required that candidates for the U.S. Senate be listed in first place on the ballot. Instead, candidates for the U.S. Senate were placed on the voting machine ballots after 14 State contests. As we can see from observing the voting machines themselves, a voter would have to cast his or her vote for 14 different State contests prior to consideration of the Bellmon-Edmondson contest. If these ballots had been arranged as required by Oklahoma law, the U.S. Senate contest would have been the very first one for the voters to consider in casting their votes.

Oklahoma law further required that Oklahoma voting machines have a device to enable the voter to cast a straight party vote on each ballot. It is undisputed that this law was not complied with and straight party voting devices were not available to the voters in Tulsa County on election day.

Mr. President, a third critical fact in this contest, which is also undisputed, is that of the 640 voting machines in Tulsa County, 545 had affixed upon them prominent instructions as to the use of the straight party voting devices which were not available at the election. We can all see these instructions, as they existed on election day, by looking at the Tulsa voting machine which has been brought to Washington. A brief examination of these machines will show that had a voter followed instruction No. 1 on the machines, he or she would have cast a vote only for the bottom candidate on each column. However, of even further importance, if that very same voter had followed these instructions completely, his or her vote would have been canceled out entirely by returning the lever to the original position. This extremely confusing situation, of course, would not have existed had the straight party voting levers been affixed to the machine at the bottom of each column, as required by Oklahoma law.

The Committee on Rules and Administration has received testimony and affidavits from many witnesses as to how and why Oklahoma law was violated on election day in Tulsa County and on the question now before the Senate as to whether the violations of law, considered cumulatively with the presence of these misleading and erroneous instructions, affected the outcome of the election. In considering this very important question, Mr. President, I would like to emphasize that there is absolutely no evidence or suggestion of any wrongdoing or responsibility of any kind on the part of either of the candidates involved in this contest, both of whom I greatly admire and respect.

Although the Oklahoma Supreme Court found it possible to determine with mathematical certainty which of the two candidates received the greater number of statewide votes and was entitled to a certificate of election, we are not and cannot be bound by that decision. We must consider the evidence before us in its entirety, which, I would like to point out, includes additional evidence which was not available to the Oklahoma Supreme Court when it made its determination.

Mr. President, the evidence is set forth in detail in the committee's report, and I would urge all to review it and the hearing record carefully. I have reviewed the evidence in this matter, I have heard the testimony of the witnesses and have weighed all this very carefully and, Mr. President, it is impossible for me to conclude with mathematical certainty which candidate received the greater number of votes on November 5, 1974.

Expert witnesses, well-qualified to give their opinions on matters of this nature, were in disagreement before the committee. One such expert, Dr. Samuel Kirkpatrick, was of the opinion that without the irregularities associated with the voting machines in the November election in 1974, there was a high probability that Mr. Edmondson would have received sufficient votes in Tulsa County to win the statewide election.

Another expert, Dr. Warren Miller, was of the opinion that Mr. Edmondson would have indeed won had these irregularities not occurred. Still another, Dr. Howard Penniman, concluded that there was no reason to doubt the validity of the outcome of the election in question, while Dr. Walter DeVries took an extremely strong position that the violations of law and the erroneous instructions made absolutely no difference in the outcome.

Mr. President, we must consider these qualified opinions. We must also consider the other testimony and evidence submitted on behalf of both Senator BELLMON and Mr. Edmondson. If the outcome of the election could have been affected by what happened in Tulsa County on November 5, 1974, then the voice of the people of that fine State has not been heard. In a situation such as this, where neither of the contestants has offered evidence or arguments which logically compel a conclusion in his favor, beyond any doubt, where there is evidence in the case on both sides, and where it is possible to conclude, as we have in the committee, that the violations of law and the misleading instructions, considered cumulatively, could well have affected the outcome of the election, then in such a difficult situation, I believe that the Senate has no alternative but to refer the matter back to the voters of the State of Oklahoma since any doubt in this matter should be resolved in favor of and by the voters of the State of Oklahoma.

Mr. BARTLETT. Will the Senator yield?

Mr. PELL. Certainly.

Mr. BARTLETT. I ask the distinguished Senator from Rhode Island, is it correct, in reference to the matter he mentioned of straight party levers, that the Supreme Court of Oklahoma said, in its decision:

> We hold that while the use of the voting machines, which did not permit straight party voting as required by statute, constitutes an irregularity, it did not constitute such an irregularity as to void the election or to make it impossible to determine with mathematical certainty which candidate received the greater number of Statewide votes and is entitled to a certificate of election.

Mr. PELL. That is correct.

Mr. BARTLETT. Will the Senator yield further?

Mr. PELL. Certainly.

Mr. BARTLETT. Did not, then, in the proceedings, the matter come up as to whether the point in the question was to determine whether there were irregularities, or was not the point made that the real question is to decide whether the irregularities affected the outcome of the election?

Certainly, irregularities existed. The Senator mentioned that there were irregularities because of the manner in which the Tulsa County Election Board conducted the election. I certainly agree with that. So does the supreme court. But I think it is also noteworthy that the membership on that board is two Democrats and one Republican, is that not correct?

Mr. PELL. That is their party affiliation, as they are registered.

Mr. BARTLETT. I wish to ask the distinguished Senator another question with regard to erroneous instructions. Did not the supreme court say the following in its conclusions:

> We also hold the erroneous instructions did not void the election, or make it impossible to determine with mathematical certainty which candidate received more statewide votes and entitled to a certificate of election?

Mr. PELL. That is the opinion of the supreme court. As the Senator well knows, under the Constitution, that is an advisory opinion for us to consider. In our view, having heard this matter, we think there is an element of doubt in it.

I must say that I started out not convinced on it. Then, as time went on, I rather came to the conclusion that there really was a very real element of doubt here, that if the instructions had been followed, and if there had been straight voting levers, it is quite likely that Mr. Edmondson would have been elected.

Mr. BARTLETT. If the Senator will yield, is it not the responsibility of this body to decide this question considering the Oklahoma law and the supreme court decision?

Mr. PELL. Right.

Mr. BARTLETT. Because was the election not held under Oklahoma law? It was.

One final question as to the position of the Senate race on the ballot: Did the Supreme Court of the State of Oklahoma not decide the following:

> Assuming that the failure to place the U.S. Senate race in the upper left panel does constitute an irregularity, it is not such an irregularity as would vitiate or invalidate the Tulsa County election. This irregularity does not make it impossible to determine with mathematical certainty which candidate received a greater number of statewide votes and is entitled to a certificate of election?

Then ultimately—

> The candidate receiving the most statewide votes for the office of U.S. Senator can be determined with mathematical certainty and that candidate is entitled to be issued a certificate of election. Bellmon is that candidate.

Is that not part of the final decision of the Supreme Court of the State of Oklahoma?

Mr. PELL. My understanding is that the supreme court did not have before it all the evidence that came to us in the full committee. I think that is correct.

Mr. BARTLETT. I think that is correct, and I think the Senator is also aware that the additional evidence is interpretive evidence based on 1974 data, scattered all over, that is affected by every kind of thing, including the weather, the respective candidates, the amount of money, the personal effort, the organization and all the other things that affect an election. Somehow, this is analyzed—incorrectly, but nonetheless analyzed—then somehow determined that, because straight party voting is one thing that affects an election, the straight party voting was effective in this particular election and, contrary to what all the politicians believe in Oklahoma, that this effect was against Mr. Edmonson and for Mr. BELLMON; whereas, the politicians in our State, I shall advise the distinguished Senator, feel that straight party voting being denied in this election was harmful to Senator BELLMON, not to Mr. Edmonson.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. PELL. I would like to complete my statement, but carry on.

Mr. HATFIELD. I would like to ask the Senator a question. I understood the Senator to say that we are not required to take the ruling of the State Supreme Court of Oklahoma that tried this case, it is only advisory in nature. Obviously, if we do not take the advice or counsel of the Supreme Court of Oklahoma, we have to take some other advice, make some other base upon which to come to this conclusion the Senator has come.

I would like to know what other base the Senator has used in rejecting the supreme court counsel for what other counsel.

Mr. PELL. As I went through the testimony and heard some of the witnesses, in fact, nearly all of them—they did not all testify before the supreme court—I came to the conclusion it could be either way, which was not the conclusion I had when I started out.

Mr. HATFIELD. Based upon what?

Mr. PELL. Based upon the evidence of Messrs. Miller and Kirkpatrick, and the other evidence before us.

Mr. HATFIELD. Did not the Senator also say there was a division between the experts?

Mr. PELL. There was.

Mr. HATFIELD. But there was the unanimous decision by the supreme court.

Mr. PELL. That is correct.

Mr. HATFIELD. So that in rejecting the unanimous decision by the supreme court we are now asked, as I understand the Senator, to accept as a basis for judgment conflicting testimony. If the Senator had been on the floor he would have heard my analysis of that very testimony that was given on behalf of Mr. Edmondson.

Mr. PELL. I was on the floor.

Mr. HATFIELD. I understand the Senator is now asking us to accept as a basis for judgment the conflicting evidence as presented by experts; is that correct?

Mr. PELL. That is what I am accepting, together with all the other evidence presented to the committee. I am not asking the Senator to accept anything.

Mr. HATFIELD. All right.

Mr. PELL. I find the contest is open to doubt.

Mr. HATFIELD. Would the Senator be open to a question? The Senator mentioned the placement of these names as an irregularity, which was rejected by the supreme court as a mathematical irregularity, but that it was merely a ministerial irregularity.

Does the Senator know how the names were placed upon the ballot for the primary and for the runoff election which preceded the general election?

Mr. PELL. I presently do not recall.

Mr. HATFIELD. I think the record will show they were placed in the same position as they were in the general election. Does that raise any question in the Senator's mind whether there was really a significant issue then, whether it tended to confuse voters if they had gone through a primary and a runoff election prior to a general election with the names in the same positions?

Mr. PELL. It would if it had been raised at the time, but it was not raised at the time.

Mr. HATFIELD. I see, it was not raised. The Senator is correct.

I would like to ask the Senator a further question as to how we make a decision or judgment as to how many of the voters were confused either as to the placement or of failure to have a straight party vote or because of instructions. Does the Senator have any estimate of how we can make a judgment as to how many of the voters were confused?

Mr. PELL. I know I would have been confused to have seen the instructions, if I wanted to vote a straight ticket, did that, and then nullified my own vote.

Mr. HATFIELD. Did we have any evidence before the committee as to voters who had been confused by this?

Mr. PELL. I do not at present recollect the specific evidence.

Mr. HATFIELD. I do not think the record will show we did.

But I would like to also ask the Senator if he is aware of the voting trends since 1962 that show in this last election the highest percentage of Tulsa people turned out to vote, 97 percent, as compared to the 1972 senatorial election of 88 and the 1962 of 87. Would that not raise a question in the Senator's mind that, perhaps, with this extraordinary increase in voter activity there must not have been any great confusion?

Mr. PELL. It would show a more informed electorate than across the country, certainly a more active participatory one. As the Senator knows, the average is 60 percent.

Mr. HATFIELD. I would like to ask a last question. The Senator said he was impressed, I believe, that neither candidate had made a solid and completely overwhelming case or something to that effect. Let me ask the Senator who has the burden of proof in a case before our Rules Committee or before a court?

Mr. PELL. I think when there is a real element of doubt, as there is in this case, then the decision should be rendered by the people of the State.

Mr. HATFIELD. But the question is before that decision can be made there has to be some proceeding before the committee. My question has to do with before the committee makes its decision who has the burden of proof coming before the committee?

Mr. PELL. I am not talking about the Senator's mind or anybody else's mind. I am talking about my own mind. In my mind there is enough doubt created by the evidence submitted on behalf of Mr. Edmondson to make me believe, this should be sent back to Oklahoma.

Mr. HATFIELD. I think the Senator is completely right. His opinion and my opinion are really peripheral to this thing, to the question I am asking, but what does the Constitution and due process require?

Mr. PELL. The Constitution says we are the judges of our own Members.

Mr. HATFIELD. No, I mean as far as the burden of proof goes.

Mr. PELL. I am not a lawyer, nor is the Senator.

Mr. HATFIELD. I know that elementary political science 101 would teach someone that the burden of proof is on the petitioner.

Mr. PELL. Well, in this case sufficient evidence has been presented by the petitioner to create enough doubt in my mind to think that the contest should be referred back to the State.

Mr. HATFIELD. In other words, the Senator is not requiring the burden of proof to be placed upon the petitioner.

Mr. PELL. He has complied—if that is the Senator's question—with that requirement and enough doubt therefor has been cast on the election so that it should be sent back to the State.

I recognize, as the Senator made his presentation earlier, the difficult precedent that has been caused with other close elections.

Mr. HATFIELD. Would not the Senator agree that it should be convincing evidence rather than a question of doubt?

Mr. PELL. My view is it should go back. I do not understand what the Senator is pressing at.

Mr. HATFIELD. The point I am pressing is there are certain rights which any citizen has before any body, even before the U.S. Senate.

Mr. PELL. Right, I agree.

Mr. HATFIELD. We do not divest people of basic rights which they have when they have a contest or when they make a challenge before the law or under the law. My only question is when the Senator has made a statement that neither candidate presented convincing, overwhelming evidence, I am merely asking the Senator under the rights of the Constitution which any citizen of this country has, who has the burden of proof to present overwhelming, convincing evidence rather than opinion, that there may be doubt, convincing evidence that the case is for his side or that it is against the defendant?

Mr. PELL. As I have said before, the plaintiff's presentation has put into my mind enough doubt so that I want it referred back.

Mr. HATFIELD. I accept the Senator's statement. The Senator, I understand, then says it is doubt rather than evidence.

Mr. PELL. Doubt in my mind.

Mr. HATFIELD. Rather than evidence.

Mr. PELL. The evidence has produced the doubt.

Mr. HATFIELD. I see. I just wanted to get clear as to upon what basis the Senator was making his judgment.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. PELL. I would like to finish my statement.

Mr. BARTLETT. I thank the Senator for yielding.

I think we agree that straight party voting is influential in the campaign in Tulsa County. I think we agreed that straight party voting does have an effect upon an election in Oklahoma, and in Tulsa County.

I submitted for the record—and I do not have it in front of me, but I think the Senator has heard me talk about it—13 elections, all the statewide elections, national, Senate and Governor, starting in 1962 for a total of 13, with an average vote in Tulsa County of 61.3 percent for the Republican candidate, the balance for the Democratic or other candidates.

Let us call that 60 percent Republican voting and 40 percent Democratic voting. I know the Senator realizes that the registration is somewhat the reverse of that, roughly 40 percent Republican and 60 percent Democratic. I also know the Senator will agree that people do not vote, fortunately, and I think this is good for both parties, exactly the way the precedent show.

The record shows the standard voting average is 61.3 percent Republican.

Would the Senator answer the question that perplexes me as to how, basing his decision on the expert testimony that the lack of straight party lever—benefits Mr. Edmondson—I mean hurts Mr. Edmondson rather than being harmful to Senator BELLMON when the majority voting in this election was 58 percent and nearer the 60 percent on the average?

Mr. PELL. I had the good fortune to run the Democratic registration drive in 1956 as national chairman. My recollection of that time in getting out the vote is that as a general rule the Democrats were less good than the Republicans were about being registered to vote; that when they did vote they tended to vote the straight lever more often than the Republicans did, and, as a general rule, the straight party voting is of greater advantage to the Democrats. This is my view.

Mr. BARTLETT. Will the Senator explain that when we have in this election 58 percent of the voters registered Democratic, at least 20 percent and certainly not more than 38 percent of the 40 percent of Republicans voting for the Republican candidate, all having the equal opportunity to vote the straight party ticket if there was one? Since there was not a lever in this case, how is it that the lack of the lever was beneficial to Senator BELLMON rather than being harmful to him?

Mr. PELL. I think I can reply and then I would like to finish my statement. Everybody else had had the chance to make a statement. I would like to finish it, if I could.

In reply to the question, I believe the Senator said earlier about 40 percent of the people were registered Republican who voted Republican, about 40 percent voted Democrat, and another 20 percent who were registered Democrats voted Republican. My point is those who voted the straight party ticket would more likely come out of the 40 percent who were Democrats than out of the 20 percent who were Republicans who would vote Democrat because they would probably split.

Mr. CANNON. Will the Senator yield?

Mr. PELL. I yield.

Mr. CANNON. I would like to answer the Senator from Oklahoma on this point. I think it is quite obvious that the Senator from Oklahoma has not read the works of political scientists in this country. I would quote from a book coauthored by Walter DeVries, who was one of the expert witnesses for Mr. BELLMON in this particular case. It is entitled, "The Ticket Splitter, a New Force in American Politics," by Walter DeVries and Lance Tarrance.

This is a well-known fact. It is recognized by virtually all political scientists. What they say is:

> National sample survey data indicates that lower socioeconomic voters are more likely to be Democrats and Democrats are more inclined to vote a straight ticket.

That is the answer. There are more Democrats here. If there is the opportunity for them to vote a straight ticket, they are more likely to vote a straight ticket. This is a common finding of virtually all political scientists.

Mr. BARTLETT. Will the Senator yield?

Mr. CANNON. No, I will not yield until I finish my statement.

This fact is well recognized by political scientists in this field and it explains very precisely why Mr. Edmondson is disadvantaged in this case. Democrats and the lower socioeconomic group people, who are traditionally Democrats, could not vote a straight party ticket. This results in confusion.

Mr. BARTLETT. Will the Senator yield?

Mr. CANNON. I am sorry I am not going to yield until I finish my statement, if the Senator will please accord me that privilege.

That explains one of the reasons why there is a problem here. People went in there to vote and they are more likely to be confused, as they are in the lower socioeconomic status. They cannot vote a straight party ticket because the level is not on there to permit them to do so. As a result, they start searching and increased ticket splitting results.

If the Senator will read the testimony of all four of the experts who appeared before the Rules Committee he would find that position is pretty well supported.

I thank the Senator for yielding.

Mr. HATFIELD. Will the Senator yield?

Mr. PELL. May I finish my statement or is there a burning question now?

Mr. BARTLETT. If the Senator from Nevada will yield——

Mr. PELL. I have the floor. Is the question to me?

Mr. BARTLETT. Yes; I would like to ask a question of the Senator from Rhode Island, and I asked it earlier: Why is it when 58 percent in an election vote for the Republican candidate, leaving 42 percent who voted for the Democratic candidate, could a majority of those voting in the election be disadvantaged in favor of the Republican when the lack of a straight party lever certainly could have its effect, and if it does have an effect it is going to have its effect against Republicans, because there were 58 percent of the people who voted for him? There was no lever. This only leaves 42 percent Democrats. On the other side there are 40 percent Republicans but 20 percent Democrats who also can vote a straight party vote.

The point I am trying to make is the percentages of Democrats. I do not agree with what was said as far as Tulsa County is concerned. What we are talking about here is the percentage of those voting in the election, not percentages of Democrats or percentages of Republicans. I am claiming that those who could not vote the straight party ticket in that election were 58 percent voting Republicans, consisting of 40 percent, roughly, registered Republicans, and 20 percent, roughly, registered Democrats.

Obviously, those Democrats who voted Republican were not in any way disadvantaged to hurt Mr. Edmondson. The disadvantage there of voting a straight Republican ticket, which they could also do in a general election, would have worked to the detriment of Senator BELLMON.

Mr. PELL. The question the Senator raises is exactly the one he raised before. I would like to answer it, to repeat myself as the Senator repeated himself. I say that the reason for it is that the Democrats tend to take more advantage of voting the straight party ticket. The Republicans would probably vote the little lever, ping, ping, ping, right down, and the Democrats tend to vote the big lever.

I yield only for a question.

Mr. BARTLETT. Even taking the fact that there would be a slightly higher percentage of Democrats, which I do not believe, there are 20 percent of the Democrats voting with the Republicans. Are those Democrats going to be less likely to vote a straight party ticket for the Democrats than the 40 percent for the Republicans?

Mr. PELL. Absolutely. A voter is much more selective when he goes back and forth in a zig-zag.

Mr. BARTLETT. I am talking only about registered Democrats. I do not think the statistics recited by the distinguished chairman broke down those registered Democrats who voted Republican from the registered Democrats who voted Democrat. What I am saying is there are 40 percent who voted Democrat from the registered Democrats, and 20 percent who voted Republican. In addition, we have 40 percent voting as registered Republicans. Certainly, the 60 percent is going to be unfairly treated more than the 40 percent. This is the point I am trying to make, because they could all vote a straight party Republican ticket, whether they are registered Republican or Democrat.

Mr. PELL. To again repeat myself and

answer the same point which has been made several times, I think that the Democrats benefit more by the straight party ticket.

Mr. BARTLETT. If the Senator will yield further, I respectfully say the Senator is not addressing the question based on the fact that we have Democrats voting on both sides.

Mr. PELL. Right. But I am talking about those who register Democrat and vote Democrat. They would more likely take advantage of the straight lever.

Mr. BARTLETT. But then we have the 40 percent Republicans. I do not think the Senator's case holds water.

Mr. PELL. I submit that it does, but that is a question of opinion and what we are debating here now.

Does the Senator from Oregon have a question?

Mr. HATFIELD. If I could ask the Senator a question when he completes his statement, I would appreciate it.

Mr. PELL. I thank the Senator.

The burden thus far has been upon Mr. Edmondson, who brought this contest, and he has presented strong evidence which, if accepted in its entirety, would well nigh mandate a return of this question to Oklahoma for a new election.

Strong evidence has also been presented on behalf of Senator BELLMON, which cannot be ignored by the Senate. I know, like, and respect Senator BELLMON very much, as do so many of his colleagues on both sides of the aisle.

The arguments on each side are closely balanced. I have worked on this matter from the beginning, constantly evaluating and reevaluating evidence and arguments printed on behalf of the contestants. I can only conclude that what happened in Tulsa County on November 5, 1974, could well have been the determining factor in the election on that date.

Under such difficult circumstances, I believe the Senate has no other alternative than to declare that a vacancy does exist in that seat, thereby allowing the voters of the State of Oklahoma to express their will again—this time in full conformance with the election laws of their State—and return to the Senate the duly elected candidate of their choosing.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. PELL. Certainly.

Mr. HATFIELD. I assume the Senator heard the distinguished chairman quote from a book written by Walter DeVries, who was before our committee as an expert witness on behalf of Senator Bellmon.

Does the Senator from Rhode Island agree with that thesis, as expressed by the chairman of the committee, as quoted from the book by Walter DeVries?

Mr. PELL. That those of less education are more likely to vote a straight party ticket?

Mr. HATFIELD. Yes.

Mr. PELL. Yes, I do agree with that.

Mr. HATFIELD. And the Senator, from his experience as chairman of the voter registration program in 1956, found this to be true?

Mr. PELL. Yes.

Mr. HATFIELD. Was this on a nationwide basis?

Mr. PELL. Yes. I was more concerned with registration. What I noticed was that in any area where it has been found, as a general rule, that more Republicans were registered than Democrats in relationship to the total pattern, a registration drive designed equally to benefit both parties usually benefited the Democrats more than the Republicans.

Mr. HATFIELD. And the straight party voting was more effective for the Democrats?

Mr. PELL. I was more concerned with registration, but when you get to the voting, in my own State, I think there is more emphasis upon straight party voting by the Democratic Party.

Mr. HATFIELD. And the lack of a straight party lever would tend to inhibit Democratic voters from voting a straight party ticket, and therefore was a disadvantage to Mr. Edmondson; is that what I understand the Senator's position to be?

Mr. PELL. This is obviously disagreed with by others. It was one of the elements that caused problems here.

Mr. HATFIELD. But this is basically the issue upon which the study was made, and the reason why the search for new evidence, based upon new information the majority had asked for, returned to the voters of Oklahoma; is that correct?

Mr. PELL. Plus the placement on the ballot.

Mr. HATFIELD. And the other irregularities?

Mr. PELL. And the other irregularities.

Mr. HATFIELD. Then I would like to ask the Senator, if that be so, as the Senator knows, the straight party lever in Tulsa County went out with the election of 1966; before that time there was a straight party lever for the citizens in Tulsa County. Therefore, I would like to ask the Senator why the voting pattern in Tulsa County was the same before, when they had a straight party lever, as it is now, when they do not have a straight party lever, and why, therefore, there is a disadvantage for Mr. Edmondson.

Let me remind the Senator, as I did earlier, that in spite of the straight party lever, every Presidential candidate on the Republican ticket has carried Tulsa County since 1940, and with the exception of 1958, the Republican candidates for Governor carried Tulsa County, at times when they had a straight party lever and later when they did not have a straight party lever. I would like to ask the Senator why Senator Harris lost Tulsa County in 1964 and 1966, or why Mike Monroney lost Tulsa County four times when they did have straight party levers, if we are being asked to reject this election because Mr. Edmondson could not win in Tulsa County except by a straight party lever.

Mr. PELL. I cannot give the Senator an answer as to why the results turned out one way or the other.

Mr. HATFIELD. Would it not raise a question in the Senator's mind as to whether or not some national voting pattern might have very glaring exceptions when it came down to specific localities, counties, and States?

Mr. PELL. Surely. We have that all the time in our own area.

Mr. HATFIELD. Yes. Therefore, would it not be inconsistent to use a national study as the basis for rejection of a local result?

Mr. PELL. As the sole basis for rejection of a result, yes.

Mr. HATFIELD. The other bases are placement on the ballot and the instructions——

Mr. PELL. The placement on the ballot.

Mr. HATFIELD. What placement on the ballot? The 2,820 votes——

Mr. PELL. No, the placement on the ballot, the placement of the instruction, and the lever.

Mr. HATFIELD. As the Senator says, the lever could be questioned, because it might be one of the exceptions to a national pattern, as I understand the Senator.

Mr. PELL. Yes.

Mr. HATFIELD. So then we are reduced to really only two valid points.

Mr. PELL. The study and the additional evidence that came in to us.

Mr. HATFIELD. What was that additional evidence?

Mr. PELL. The Miller findings and——

Mr. HATFIELD. But that was a national study.

Mr. PELL. Right.

Mr. HATFIELD. Based upon seven voters in Tusla County.

Mr. PELL. Then there is other evidence from Dr. Kirkpatrick that related to Oklahoma, that was not just national.

Mr. HATFIELD. But let me remind the Senator that Dr. Kirkpatrick's material was based upon the study of Professor Miller. So, if, as I believe, there is valid reason to question Dr. Miller's study, there is reason to throw out Dr. Kirkpatrick's material, which was based on the study of Mr. Miller.

I thank the Senator.

(Mr. GRIFFIN assumed the Chair as Presiding Officer.)

Mr. BARLETT. Mr. President, will the Senator yield for a question?

Mr. PELL. I yield.

Mr. BARLETT. As I understand, in Tulsa County, the voters in this election were divided approximately 40 percent Republicans voting Republican, 20 percent Democrats voting Republican, and 40 percent Democrats on the other side. What percentage of the Democrats vote the straight party ticket, on the average, and what percentage does he say did so in Tulsa County?

Mr. PELL. I have no idea how many would have if they could have. There is a disputed declaration.

Mr. BARTLETT. But how many do in this mockup of 40, 20, and 40?

Mr. PELL. I do not know.

Mr. BARTLETT. I was just doing some figuring; and using the figure of, say, 20 percent of the Democrats who normally vote the State party lever, if we have 40 percent of them, then, voting Democratic, that would be 20 percent voting a straight party ticket on the Democratic side, and the other 20 percent of the Democrats voting a third party ticket or on the Republican side. That amounts to 10 percent, but then there are 40 percent of the Republicans voting; let us assign them 6 percent who normally vote the straight party ticket, considerably less than the Democrats, which the Senator contends is the case nationwide and in Tulsa County. This would be 16 percent, if you add the 6 and 10, and you would have on the average 26 percent of the voters voting Republican who would vote the straight party ticket, versus 20 percent of those voting Democratic.

So I think if the Senator is going to base the matter on this kind of a trend, he would want to have the figures from Tulsa County. I can assure the Senator, and I hope he believes it, that the politicians in Oklahoma very strongly do believe that straight party voting affects the outcome of elections, and that is why the Democrats, who are in the majority, have made an effort, and successfully so, to eliminate straight party voting. As the Senator knows, it is now eliminated in any future election in Tulsa County. That was not done, by a legislature the great majority of which was Democratic, and a Governor who was Democratic, for the purpose of helping Republicans. So I think the weight of the evidence is very strong that the lack of straight party levers in this election hurt Henry Bellmon.

Mr. CANNON. Mr. President, I would like to respond to the Senator from Oklahoma for a moment, and I am glad to see he is apparently going to be in the Chair.

(At this point, Mr. BARTLETT assumed the chair.)

Mr. CANNON. The Senator, I am sure inadvertently, is obscuring the issue. I think if he had read Dr. Miller's testimony, he would find that issue clarified. I am going to read a part of it into the RECORD, and then yield to the Senator from Nebraska (Mr. CURTIS) on another matter.

I quote Dr. Miller:

> My earlier testimony in the case presented before Trial Judge J. Knox Byrum in Tulsa, Okla., November 12, 1974, and supplemented in an affidavit submitted December 13, 1974, focuses almost entirely on the significance of the presence or absence of a party lever on the Tulsa County voting machines. Subsequently, I would indeed, as I suggested earlier, appreciate being able to comment on Mr. Penniman's statement, which refers to my work, and in that comment I do want to expand the substantive area beyond the question of the sheer presence or absence of the party lever.
>
> The question that we asked and attempted to answer earlier was whether the absence of a party lever affected the propensity of the voters to vote a straight ticket ballot or to split their ticket among candidates from two or more parties. The information now associated with our 1974 election study, collected following the earlier testimony, permits an examination of one additional feature that appears to be relevant to the contest between Mr. Edmondson and Senator Bellmon. This pertains to the location of the senatorial contest on the ballot.

(At this point, Mr. GRIFFIN assumed the chair.)

Mr. CANNON. Will the Senator from Oklahoma listen to this?

> The 1956 study had concluded that the presence or absence of a single lever by which a straight party vote could be cast made at least a 12 percent difference in the frequency with which straight party votes were cast. For example, considering first the most highly motivated voters, in States where a multiple choice across races was necessary to achieve a straight party vote, 65 percent of the highly involved voters cast a straight ticket; among comparably motivated voters in States providing for a single party choice, with the party level, 77 percent voted a straight ticket. Among weakly motivated voters, however, the impact of the presence or absence of the party level was somewhat greater. For those relatively disinterested citizens who nevertheless managed to get to the polls in 1956, the proportion of straight ticket voting varied from 27 percent in the multiple-choice States to 45 percent in the single-choice States. The same analysis indicated that the presence or absence of the party level made little or no impact on loyal party supporters. The impact of the party level was reserved for weak partisans or, most particularly, for independents who voted. For them, the comparable proportions voting straight ticket were 27 percent in multiple-choice States and 46 percent in single-choice States. These data are described in much fuller detail in the article I just cited, page 304 and page 306 of that issue of the Political Science Review. Turning to the application of the findings—

And these are the 1956 findings.

> to the contest for the Senate in Oklahoma, and recognizing that turnout in offyear elections, such as 1974, is low precisely because the least motivated of the citizens do not bother to vote, it seemed reasonable to assume that the voters in Tulsa County were by and large highly motivated voters. The presence or absence of a party lever on the Tulsa voting machines could, therefore, very conservatively be assumed to have made a difference of some 12 percent in the total amount of straight-ticket voting in the elections of 1974. This, again, would be presuming the hypothetical presence of the single lever.
>
> The 1956 data indicated there was no difference in the way in which Democrats and Republicans responded to the absence or presence of the party lever."

Which is what the Senator was querying about.

> Consequently, votes lost by virtue of ticket splitting would disadvantage a candidate of one party while advantaging his opponent only if the potential supporters of the first candidate out-numbered those of his opponent.
>
> . . . The January 1974 registration figures in Tulsa County suggest that Democratic candidates did indeed have such potential for greater support; Democratic registration out-numbered Republican registration by approximately 119,000 to 81,000. Approximately 61.7 percent of those registered actually cast votes the following November—127,000 out of 205,000.

Incidentally, if I may depart from that testimony, the Senator said earlier that 97 percent of the registered voters voted in Tulsa County, if I understood him, in 1974. That is not correct. It was 97 percent of those voting who voted in the Senate race in Tulsa County in 1974. Maybe I misunderstood the Senator.

Mr. BARTLETT. The Senator from Oklahoma made no mention of 97 percent of which I am aware.

Mr. CANNON. The Senator used the 97-percent figure, but maybe I misread his application of it.

Back to the testimony:

> If Democrats and Republicans turned out at reasonably similar rates, some 73,500 Democrats would have voted against some 50,050 Republicans. If that in fact was the case, the net effect of reducing straight-ticket voting would reduce to the question of the impact of the absence of the party lever on the 23,450-vote margin separating Democrats from Republicans.
>
> The Tulsa machines, with the party levers removed, became prototypes of the machines (or paper ballots) classified as multiple choice ballots in our 1956 study. Presumably the addition of a party lever would have increased the straight-party voting by 12 percent. The 12-percent increase in straight-ticket vote among 50,000 Republican votes would, of course, have constituted an increase of 6,000 more straight-ticket Republican votes. A 12-percent increase among the 73,000 potential Democratic supporters would have produced an additional 8,800 straight-Democrat votes. The Democratic candidates who were disadvantaged because of ticket splitting would, therefore, have picked up an additional 2,800 votes—simply the difference between the straight-ticket voting that would accrue to both parties, or 12 percent of the 23,450 would produce, more precisely, and probably with an undue degree of implied precision, 2,814 votes.

Since these are all votes that must go to one side or the other, the gain of 2,800 for the Democratic side would result in a Republican loss of 2,800, for the resultant shift of 5,600 Democratic.

The net shift is visibly larger than the margin of 3,835 votes by which Mr. Edmondson lost to Senator BELLMON in the Oklahoma contest.

The Senator from Oregon was pointing out a little earlier there was no way that Mr. Edmondson could have won in Tulsa County. That was not the contention, that Mr. Edmondson could have won there. The contention was that, by the inability to vote straight party tickets as required by law, plus the placement on the ballot in a place that was in violation of the law, plus the very misleading instructions on the machines for voting, cumulatively these factors could have affected a difference or a shift of more than 1,918 votes. 1,918 votes was the break point for a shift for Mr. Edmondson to have won. Not a winning of some 18,000 or 21,000 in Tulsa County, but a shift of 1,918 votes.

If the Senator will read the balance of Dr. Miller's testimony I think it explains it very clearly and answers the questions that he was asking about earlier.

EXECUTIVE SESSION

Mr. CANNON. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering a nomination reported earlier today by Mr. Talmadge for the Committee on Finance.

The PRESIDING OFFICER. Is there objection?

Mr. CANNON. Mr. President, I yield to the Senator from Nebraska.

Mr. BARTLETT. Mr. President, reserving the right to object, and I shall not object. I wish to have an understanding with the distinguished Senator from Nevada that as soon as this matter is taken up he will yield to me.

Mr. CANNON. Certainly.

There being no objection, the Senate proceeded to the consideration of executive business.

DEPARTMENT OF THE TREASURY

Mr. CURTIS. Mr. President, on behalf of the Senator from Georgia (Mr. TALMADGE), from the Committee on Finance, I call up the nomination of George H. Dixon, of Minnesota, to be Deputy Secretary of the Treasury, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the nomination.

The second assistant legislative clerk read the nomination of George H. Dixon, of Minnesota, to be Deputy Secretary of the Treasury.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. CURTIS. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. CANNON. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

OKLAHOMA SENATORIAL CONTESTED ELECTION

The Senate continued with the consideration of the resolution (S. Res. 356) relating to the Oklahoma senatorial contested election.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, I ask unanimous consent that Mr. Jerry Statkus of Senator HANSEN's staff have access to the floor during deliberations of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. CANNON. I yield to the Senator.

Mr. BARTLETT. I thank the distinguished Senator for quoting from the report.

The first part of that report that he referred to was a 1974 report, which is the one that shows that Senator PACKWOOD in Oregon in his race lost the election.

Mr. CANNON. I have not seen that. I wonder if the Senator will furnish me something about that.

Mr. BARTLETT. I will furnish that information. That is in the information that was turned in, but it is in a very voluminous submission, and we will isolate that particular information for the Senator's attention.

Dr. Miller testified that his 1956 survey showed that the absence or the presence of a straight party lever did not affect Democrats any more than it affected Republicans; thus Dr. Miller's sole basis for concluding that Mr. Edmondson was hurt more than Senator BELLMON by the absence of the straight party lever in Tulsa County, based on his 1956 survey findings, was that the Democratic registration in Tulsa County was approximately 60 percent in 1974 while the Republican registration was 40 percent.

But the point that I was making earlier is that that is not the way the voting goes.

The voting consistently goes 60 percent Republican, consisting of roughly 40 percent registered Republicans and 20 percent registered Democrats.

In applying the 1956 survey results to Tulsa County, Dr. Miller simply assumed that 60 percent of the people going to the polls in Tulsa County were registered Democrats. This assumption that Democrats and Republicans in fact turn out in numbers equal to their respective registration rates is wholly inconsistent with Dr. Miller's own testimony before the Rules Committee, at page 70 of the hearings.

> Mr. MILLER. There are two constancies, one of which is less important now than it was 20 years ago, having to do basically with the different social-economic advantage of Democrats and Republicans, with the Democrats, of course, traditionally being less well placed in society and simply responding less enthusiastically to politics. But interestingly, over time, even when you take that into account, you still tend to find a noticeable Republican edge with regard to such things as party solidarity and with regard to turnout or participation.

In light of this belief why, then, did Dr. Miller not assume, in applying his 1956 survey results to the 1974 Senate election in Tulsa County, that the spirited Republicans and obviously more spirited registered Democrats voting Republican would have had a heavier rate of participation in Tulsa County and in fact would have, if they had the opportunity, voted a straight party ticket to a greater extent than the 40 percent registered Democrats?

Mr. CANNON. Dr. Miller did precisely that. I am sorry the Senator did not read where I suggested he read, in Dr. Miller's testimony, or he would have known that, so I will read it to him:

> To carry this example one step further, one way of approaching the problem is to specify turnout conditions under which at least 1,918 Democrats who voted for Senator Bellmon on a split ticket rather than Mr. Edmondson on a straight Democratic ticket might have voted for Mr. Edmondson, with the 1,918 being, of course, the minimum number that would have to shift in order to overturn the results of the election.
>
> Now, the previous argument assumed equal rates of turnout, approximately 62 percent, both for registered Democrats and registered Republicans.

That is precisely the point that the Senator was raising.

> If, however, turnout varies by party, with Democrats turning out less than Republicans, the net shift might have been smaller than the 5,600 votes specified above. In fact, the limit for 1,918 Democrats shifting from a split Republican vote to a straight Democratic vote would be reached if only 60.1 percent of the 119,167 registered Democrats voted. A 60.1 percent vote for the Democrats would produce 71,619 votes—while 68.5 percent of the 81,117 Republicans voted . . .

The Senator was using 60 percent a little while ago, but he uses 68.5 percent, with 81,117 Republicans voting, producing 55,565 votes. The resulting 16,054 plurality of voting Democrats would have produced an added 1,926 straight party Democratic votes if a party lever had been added to the voting machines.

That is only one of the three issues—the lever permitting the straight party vote.

That completely disregards the placement on the ballot. Anybody who has had any experience in the field of political science knows that makes a difference, because every candidate wants to be on the highest spot on the ballot. He knows that he gets away from voter fatigue; if he is the first man on there, and he is more likely to get the higher percentage of votes. This completely disregards that factor. Also, it completely disregards the erroneous and misleading instructions that were on the machines.

So I think that if the Senator had read that part, he would not have raised the questions he was raising a few moments ago, because it answers specifically the questions he was raising.

Mr. BARTLETT. Mr. President, if the Senator will yield, I have found that the information in the 1974 record that he cited earlier, so far as Dr. Miller's testimony is concerned, which has in it that Senator PACKWOOD lost the election, is in the computer printout we have. So we will help the Senator find that. That is in the information that has been available to the majority which was supplied to the minority.

As to the second point, if the Senator takes the breakdown of 40 percent Republicans, 20 percent Democrats voting Republican on the average, and 40 percent Democrats voting Democratic, and he assigns a factor of 50 percent to the Democrats who vote Republican and Democratic, he will come up on the Democratic side with 20 percent voting a straight party ticket. If he assigns to the Republicans even 30 percent, instead of 50 percent, he will come up with 12 percent of the Republicans. Added together, these come to 22 percent.

So what the Senator is not doing and what Dr. Miller has not done is to realize that registered Democrats, who in our State frequently vote for Republicans, can also vote a straight party ticket. When you then talk about denying that opportunity of voting a straight party ticket in Tulsa County and Oklahoma County, the one being hurt is the Republican candidate.

Can the Senator answer this question: Why is it that in 1969, the Democratic legislature in our State passed a bill to do away with straight party voting in the two counties with voting machines?

Mr. CANNON. I do not have the slightest idea why the legislature in the State of Oklahoma, the Senator's own State, did something that he says they did. I am not even sure that they did it.

However, as to the previous set of circumstances that he has advanced here, I say that is truly hypothetical, purely hypothetical nonsense, because there are no statistics, either in the testimony of his witnesses or in the testimony of Mr. Edmondson's witnesses, to justify the so-called 40-20-40 split he has been talking about. That is purely hypothetical, picked out of the air by the Senator from Oklahoma. If we are going to stick to statistics, we should go by some of the studies that have been made an that are recognized.

To get back to the question the Senator asked me, I cannot account for why the legislature of Oklahoma did something, any more than I can account for why they took action after this election to try to change the law. They did not change it. The Senator said earlier that they changed the law so that you do not have to have a straight party lever on the machine. That is not correct. There are some qualifications on that.

The revised statute has not eliminated the requirement for straight party levers and does not even touch on placement on the ballot or the need for correct instructions, the two other items. The amended statute says:

> Said voting machines must be programmed so as to permit straight party voting as well as split or mixed tickets, unless existing machines are so constructed as to make straight party voting impossible without substantial modification of the machines.

Mr. BARTLETT. The Senator knows, from the testimony he has received, that what the Senator from Oklahoma said is correct—that with the provisions that were written into that bill, this applies to Tulsa County, unequivocally. That was the purpose of it. This is what the people of Oklahoma believe. I do not know what the Senator from Nevada thinks of it, but that is the fact.

The Senator referred to my information as being hypothetical nonsense. I say that what I have been talking about is in the real world of politics in Oklahoma; that the people of Oklahoma have believed for years and believe today that straight party voting benefits the Republican, if it takes place in Oklahoma County or Tulsa County, and if it takes place in the rural areas on paper ballots, it benefits the Democrats. This is accepted by both sides.

So the effort in 1969 and 1971 and 1974 has been to remove the straight party voting where election machines exist, or some machines exist, for the purpose of helping the Democrats, not the Republicans.

I favored removing straight party voting on voting machines and paper ballots when I was Governor, but I did not have any takers in the legislature to the extent of passing a bill to do that.

I cannot agree that what I have said is hypothetical nonsense. What I have been talking about is what the people who are fighting the battles between the Republicans and the Democrats in Oklahoma believe in. That is what they believe.

Mr. CANNON. I cannot vouch for what the people of Oklahoma believe on that subject. I do not know anything to support it. I do not know what they believe. However, I cannot believe that the people of Oklahoma are any different from those in any other part of the country.

There are two counties in my State that are inclined to be Republican counties. There are counties that register one way and vote another. I think that is pretty typical throughout the country. I do not think that one can necessarily say that one county in one particular part of the country is so much different from many other counties.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. BARTLETT. If the Senator has in his State a county that consistently votes 60 percent Republican and 40 percent Democratic and it has a registration ratio of 40 percent Republican and 60 percent Democratic, and if the Senator believes in straight party voting—which he does, as do I—that straight party voting can be effective in an election, and if straight party voting is denied in that county and the votes cast in that election are 58 percent for the Republican and the remainder for Mr. Edmondson, more or less, with some votes for a third candidate, would he say that in his State the effect of not having straight party levers is going to be beneficial to the Republican?

Mr. CANNON. Mr. President, I am not going to engage in a sheer exercise in speculation, that has no purpose as far as what we are discussing here, as to what might happen in my State. I will say this as a flat statement: I think that political scientists will all bear me out that Democrats are more likely nationally—and I think that would be true in every State—to vote a straight party ticket than Republicans are. They come generally from a lower socioeconomic class, and those people are more inclined to vote a straight party ticket, if they have the opportunity, than people who are in a higher socioeconomic class. I do not know of any political scientist that disagrees with that statement or that philosophy. If they do, I should be very interested to listen to what they have to say or read what they have to say.

Mr. BARTLETT. Will the Senator yield?

Mr. CANNON. Yes.

Mr. BARTLETT. The Senator says he wants to use expert testimony and real facts; yet he talks about the whole United States and what that result is, in his opinion, according to certain experts. What is important is what goes on and what went on in Tulsa County, not across the country.

Mr. CANNON. The Senator is absolutely right.

Mr. BARTLETT. Yet this was not done in this case.

Mr. CANNON. The Senator is not correct. I have been pointing out for the benefit of the distinguished Senator that in Oklahoma, the consensus is very clear among those who are interested in this and who are political experts in both parties—at least to the extent of knowing what influences there are on voting—it is generally agreed that straight party voting in the two larger countries in the voting machines is helpful to the Republican nominee.

Mr. CANNON. I think that Dr. Kirkpatrick is a recognized authority in Oklahoma, from the Senator's statement. He did testify on the Oklahoma patterns. He testified on the results of the 1956 study and the results of the update with the 1974 information. I am sorry to hear the Senator downgrade, or attempt to downgrade, a recognized expert in this field from his own State who has made a study of Oklahoma voting patterns and who has related precisely the voting patterns—I think they went back to the 1930's, up to the present time.

Mr. BARTLETT. Will the Senator yield?

Mr. CANNON. Yes; I shall yield.

Mr. BARTLETT. The Senator was very kind, when I was referring earlier to Dr. Kirkpatrick's evidence and testimony and statements, when I referred to inaccuracies in the material that were included in the record. I shall be happy, in the future, to relate additional examples of inaccuracies in his information. I think it is unfortunate that Dr. Kirkpatrick did give testimony and information to the majority on the Committee on Rules that cannot be borne out by the facts.

Mr. CANNON. Mr. President, it certainly seems to me that it is borne out by the facts. I suggest that the Senator from Oklahoma read Dr. Kirkpatrick's testimony on page 89 and that he review the chart on page 90 that goes back to 1930, and that he read the testimony on page 91. I shall help him with a little bit of it, to be sure that he does listen to part of it:

> The data presented in table 2 confirm the impact of the absence of party 'levers' in Tulsa County in 1974. The amount of ticket-splitting in Tulsa County that year is substantially larger than it had ever been in Tulsa County or the rest of the State in any previous years in over 4½ decades.

That is Dr. Kirkpatrick from Oklahoma. That is using the statistics of the results of the election in Tulsa County in 1974.

> Its value (29.1) is 10.7 percentage points higher in 1974 than ever before in Tulsa County, and ticket-splitting in the remainder of the State was only 4.2 percent higher than ever before.

If that is not using statistics in the State of Oklahoma and in Tulsa County, I certainly do not know what is.

To finish that paragraph,

> In addition, the average ticket-splitting for all observations in table 2 where party levers/circles were used (State balance and Tulsa values without 1974) is 13.6—a full 15.5 points lower than the one current case without party levers.

Now, I yield to the Senator.

Mr. BARTLETT. I thank the Senator and I appreciate his interest in Dr. Kirkpatrick's information. I trust that he will read the information that we have submitted and areas in which we have pointed out errors and inaccuracies.

As this report that we submitted points out, based on official Oklahoma election returns, Dr. Kirkpatrick simply used the wrong figures in many instances. When the corrected figures are used, it turns out that, contrary to Dr. Kirkpatrick's assertion, there was actually a greater increase in ticket splitting than there was in Tulsa County. I recognize that we can talk about that point right now without either one of us going over the information. But I do want to go over this information with the distinguished Senator from Nevada or ask him to do so and then refute tomorrow my statement that I just made.

Mr. CANNON. I shall certainly be glad to receive and review any additional information the Senator has to submit. But I am reading from the hearing record, as I said, on pages 89, 90, and 91, although I was reading from 91. That relates to table 2 on page 92, and also the information relates to table 1 on page 90, which is helpful, but not precisely the binding factor on that. I shall be glad to review any additional information.

Mr. BARTLETT. I thank the Senator and I shall submit this information to him.

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that Charles Warren of my staff may have the privilege of the floor during the consideration of Senate Resolution 356.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I again suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CULVER). Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees have been recognized under the standing order, Mr. BARTLETT, Mr. PACKWOOD, and Mr. ROBERT C. BYRD be recognized each for not to exceed 15 minutes, and in that order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND CONSIDERATION OF UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of Senators under the orders previously entered, there be a period for the transaction of routine morning business on tomorrow of not to exceed 15 minutes with statements limited therein to 5 minutes each, at the conclusion of which the Senate will resume the consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD H.R. 11700 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 11700, relating to the Internal Revenue Code, be held at the desk until the close of business on Friday, March 5, 1976.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF REFERENCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent on behalf of Mr. HARTKE that H.R. 8507, a bill to revise the per diem allowance authorized for members of the American Battle Monuments Commission when in a travel status, be discharged from the Committee on Interior and Insular Affairs and referred to the Committee on Veterans' Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. In connection with this matter, I ask unanimous consent that a statement by Mr. HARTKE be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR HARTKE

On October 30, 1975, the House Committee on Veterans' Affairs unanimously reported H.R. 8507, a bill to revise the per diem allowance authorized for members of the American Battle Monuments Commission when in travel status. That legislation subsequently passed the House unanimously under suspension of rules on November 4, 1975 and was referred in the Senate to the Committee on the Interior and Insular Affairs, ably chaired by the distinguished Senator from Washington (Mr. JACKSON). Of course, the Veterans' Affairs Committees of both houses conduct general oversight of the operations of the American Battle Monuments Commission. Although the cost impact of this bill is minor—the first full year cost is estimated at less than two thousand dollars—it nevertheless has occasioned considerable interest since there is general agreement that current per diem structures simply do not provide fair reimbursement to members of the American Battle Monuments Commission. Thus, in an effort to expedite action on this measure, which appears to be meritorious, Senator Jackson as Chairman of the Committee on the Interior and Insular Affairs has agreed that he has no objection in having H.R. 8507 discharged from that Committee and referred to the Committee on Veterans' Affairs for appropriate and prompt action.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at the hour of 12 o'clock noon. After the two leaders or their designees have been recognized under the standing order, Mr. BARTLETT, Mr. PACKWOOD, and Mr. ROBERT C. BYRD will be recognized, each for not to exceed 15 minutes, and in that order. Following that, there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each, at the conclusion of which the Senate will resume consideration of the unfinished business, Senate Resolution 356, a resolution relating to the senatorial contested election in Oklahoma. Also on tomorrow, or soon, it is hoped that the Senate can take up H.R. 7688, an act providing for the continuance of civil government for the Trust Territory of the Pacific Islands; in addition thereto, H.R. 8650, an act to assist low-income persons in insulating their homes, and other measures that may be cleared and ready for action at any time.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and at 5:09 p.m., the Senate adjourned until Wednesday, March 3, 1976, at 12 meridian.

NOMINATIONS

Executive nominations received by the Senate March 2, 1976:

THE JUDICIARY

Gerald L. Goettel, of New York, to be U.S. District Judge for the Southern District of New York, vice Arnold Bauman, resigned.

Charles S. Haight, Jr., of New York, to be U.S. District Judge for the Southern District of New York, vice Murray I. Gurfein, elevated.

CORPORATION FOR PUBLIC BROADCASTING

Louis P. Terrazas, of Texas, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for the remainder of the term expiring March 26, 1978, vice Neal Blackwell Freeman, resigned.

IN THE NAVY

Rear Admiral Patrick "J" Hannifin, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of Title 10, United States Code, Section 5231, for appointment to the grade of vice admiral while so serving.

CONFIRMATION

Executive nomination confirmed by the Senate March 2, 1976:

DEPARTMENT OF THE TREASURY

George H. Dixon, of Minnesota, to be Deputy Secretary of the Treasury.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Tuesday, March 2, 1976*

The House met at 12 o'clock noon.

Rev. Claude E. Smithmier, national chaplain of the American Legion, offered the following prayer:

For our country, its citizens, its leaders and the blessings of freedom, justice and democracy, we thank You, Father.

Bless our Representatives as they seek to maintain a climate where hope, love, and freedom to worship are the right and privilege of every individual.

Enable us to be faithful to the principles upon which America stands. Increase our devotion to the ideals of brotherhood.

Grant us wisdom to seek first Your kingdom that we may enjoy the advantages of our spiritual heritage.

Use us to build a better world where Your will shall prevail and all people work together for common good.

Guide us in our places of responsibility and in our worship of You to know the path that leads to peace for all the Earth. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 7824. An act to amend section 142 of title 13, United States Code, to change the date for taking censuses of agriculture, irrigation, and drainage, and for other purposes.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

FIDEL GROSSO-PADILLA

The Clerk called the bill (H.R. 6817) for the relief of Fidel Grosso-Padilla.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AUTHORIZING SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LANDS IN MADERA COUNTY, CALIF., TO MRS. LUCILLE JONES

The Clerk called the bill (H.R. 1404) to authorize the Secretary of the Interior to convey certain lands in Madera County, Calif., to Mrs. Lucille Jones, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 1404

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to convey to Lucille Jones, Madera, California, all right, title, and interest of the United States in and to a tract of land in Madera County, California, more particularly described as the northeast quarter of the northwest quarter of section 29; the south half of the southwest quarter of section 20; and the southeast quarter of the southeast quarter of section 19, all in township 9 south, range 20 east, M.D.B. & M., Madera County, California, consisting of one hundred and sixty acres, more or less. Such conveyance shall only be made if Lucille Jones makes application therefor, and, within one year after the date of this Act, makes payment of the fair market value of the land as of the date of this Act, less any enhancement in value brought to the land by Lucille Jones or her predecessors on the land, as determined by the Secretary of the Interior. Lucille Jones shall bear any administrative expenses, including appraisal, filing, and recording fees, arising from the conveyance.

Mr. JOHNSON of California. Mr. Speaker, it is my privilege to sponsor this legislation on behalf of Mrs. Lucille Jones. I have had the pleasure of working with Mrs. Jones for several years in an attempt to clarify ownership of the land which she and her family have occupied since 1893.

The property was originally patented to Mrs. Jones' father in 1893. Recent searches of land records brought to light the fact that the land was returned to the United States under a trespass judgment in 1904. This information was never noted by the Madera County clerk's office which recorded the patent in 1909.

Because the land was listed in the name of Mrs. Jones' father, the family continued to live on the land and paid full and prompt taxes on it up to the present.

Upon learning that the land did, indeed, belong to the United States, she sought to purchase the land which she had always assumed belonged to her family. Because there is no administrative provision which would allow Mrs. Jones to buy the land without having to bid for it in open sale, I have introduced the legislation which has been reported to the House by the Interior and Insular Affairs Committee.

This legislation would not give the land to Mrs. Jones. It simply gives Mrs. Jones the first option to purchase the land. She must pay fair market value for the land and must pay all administrative costs involved.

Mrs. Jones, herself, has lived on and occupied the land in question for approximately 65 years. She, and her father before her, have paid complete taxes on the land. Since the Federal Government has declared the land surplus, Mrs. Jones simply seeks to purchase the land which she knows as home. I think that equity lies with Mrs. Jones on this matter and hope that my colleagues will agree by passing this legislation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Private Calendar.

REV. CLAUDE E. SMITHMIER

(Mr. FLYNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLYNT. Mr. Speaker, our guest chaplain today is pastor of Skyland United Methodist Church in Atlanta, Ga., and the national chaplain of the American Legion. Rev. Claude E. Smithmier, a veteran of the Korean war, has also served as his American Legion district chaplain and as chaplain of the Department of Georgia. He has also served in other important positions in the American Legion at the national level, including membership on the National Economic Commission and chaplain of the National Legion Press Commission.

A distinguished theologian, Reverend Smithmier earned a bachelor of science degree from Memphis State University, Memphis, Tenn., a bachelor of divinity degree from the Chandler School of Theology, Emory University, Atlanta, Ga., where he also received his master of divinity in 1972.

Reverend Smithmier is also active in civic matters in his community. He is a member of the board of directors, Greater Atlanta chapter, Memphis State Alumni, a member of the Leroy Duncan Lodge No. 262, F. & A.M., Atlanta, the Sardis Lodge Royal Arch Mason, Atlanta, and the Dekalb Commandery No. 38, Decatur, Ga.

Reverend Smithmier and his wife live in Atlanta, Ga., and are the parents of two daughters.

Mr. Speaker, it is my pleasure to welcome Reverend Smithmier to our midst today.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION AND ITS SUBCOMMITTEES TO MEET FOR REMAINDER OF WEEK

Mr. **WRIGHT**. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation and its subcommittees may be permitted to meet while the House is in session for the remainder of this week.

The **SPEAKER**. Is there objection to the request of the gentleman from Texas?

There was no objection.

TODAY COMMEMORATES THE INDEPENDENCE OF THE REPUBLIC OF TEXAS FROM MEXICAN EMPIRE

(Mr. **WRIGHT** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **WRIGHT**. Mr. Speaker, today is March 2, a day doubly sanctified in this Bicentennial Year, for Texans, and for all Americans.

It was 140 years ago today, on March 2, 1836, that a ragtag group of frontiersmen assembled themselves in a little town called Washington on the Brazos and officially declared the independence of the Republic of Texas from the Mexican Empire.

Coincidentally, this date also commemorates the 183d anniversary of the birth of that giant who strode through 19th century American history, the victor of San Jacinto—a citizen of four nations and president of one, elected to Congress from two States, elected Governor of two States, and at one point in his career the Ambassador to the United States from the Cherokee Nation—the Honorable Sam Houston.

With those two commemorative dates in mind, it behooves all of us to think of March 2 with especial appreciation in this Bicentennial Year.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO FILE CERTAIN PRIVILEGED COMMITTEE RESOLUTIONS

Mr. **THOMPSON**. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may have until midnight tonight to file certain privileged committee resolutions.

The **SPEAKER**. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

TODAY COMMEMORATES THE INDEPENDENCE OF THE REPUBLIC OF TEXAS FROM MEXICAN EMPIRE

(Mr. **PICKLE** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **PICKLE**. Mr. Speaker, I would like to add my remarks to those made by the distinguished gentleman from Texas (Mr. WRIGHT) with respect to the fact that today marks the commemoration of Texas independence day.

Mr. Speaker, Texas is one of many States which gave us some of our greatest leaders. We are proud of that fact. Not simply in honor of that fact, but because of this occasion, today we are serving bowls of venison chili in the House restaurant to all those who might want to participate. It is "two alarm" chili made by the famous Wick Fowler recipe.

Mr. Speaker, I invite the Members to help themselves to this chili. It will be a refreshing, invigorating experience. I think the participants will enjoy it, especially since it is in memory of those great Texans who helped make this country the great Nation it is today. Eat it, and think of those peppery Texans who keep up the tradition and head for the water trough.

DISCHARGE OF COMMITTEE ON POST OFFICE AND CIVIL SERVICE FROM FURTHER CONSIDERATION OF H.R. 10133 AND REREFERRAL TO COMMITTEE ON AGRICULTURE

Mr. **HENDERSON**. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the bill (H.R. 10133) and that the bill be rereferred solely to the Committee on Agriculture.

The **SPEAKER**. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. **MADDEN**. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The **SPEAKER**. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 10760, BLACK LUNG BENEFITS REFORM ACT OF 1975

Mr. **MADDEN**. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1056 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1056

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10760) to amend the Federal Coal Mine Health and Safety Act to revise the black lung benefits program established under such Act in order to transfer the residual liability for the payment of benefits under such program from the Federal Government to the coal industry, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI, are hereby waived. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The **SPEAKER**. The gentleman from Indiana (Mr. MADDEN) is recognized for 1 hour.

CALL OF THE HOUSE

Mr. **ALLEN**. Mr. Speaker, I make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present. Without objection, a call of the House will be ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 74]

Andrews, N.C.
Barrett
Boggs
Bolling
Chappell
Collins, Ill.
Conyers
Coughlin
Dellums
Diggs
Dingell
Dodd
Esch
Eshleman
Fraser
Gibbons
Guyer
Harsha
Hébert
Hinshaw
Jones, Ala.
LaFalce
Landrum
Lehman
Metcalfe
Patman, Tex.
Pepper
Pike
Pritchard
Rees
Reuss
Rinaldo
Risenhoover
Runnels
Ruppe
Scheuer
Sebelius
Shuster
Sisk
Solarz
Stanton,
  James V.
Symms
Udall
Ullman
Wilson, C. H.
Wilson, Tex.
Young, Ga.

The **SPEAKER**. On this rollcall 385 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 811. Joint resolution making supplemental appropriations for the legislative branch for the fiscal year ending June 30, 1976, and for other purposes.

INVITATION FROM CONGRESSIONAL FLYING CLUB TO ATTEND CLASSES EACH TUESDAY EVENING

(Mr. DON H. CLAUSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DON H. CLAUSEN. Mr. Speaker, tonight in room 2253, Rayburn House Office Building, the Congressional Flying Club is starting a 12-week ground school. The classes will be held each Tuesday evening from 6 to 8:30. Several instructors from the Federal Aviation Administration have generously volunteered their time to help the members of the club conduct the school.

Last year the ground school was a big success and we are looking forward to having many more aviation enthusiasts attend this year.

The distinguished senior Senator from Vermont, Senator BOB STAFFORD, is the president of the flying club and I have the pleasure of being the vice president. We invite everyone interested in aviation, pilots and nonpilots alike, to attend the classes each Tuesday evening.

BLACK LUNG BENEFITS REFORM ACT OF 1975

The SPEAKER. The Chair recognizes the gentleman from Indiana (Mr. MADDEN).

Mr. MADDEN. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1056 provides for an open rule with 2 hours of general debate on H.R. 10760, a bill to amend the Federal Coal Mine Health and Safety Act to revise the black lung benefits program established under such act in order to transfer the residual liability for the payment of benefits under such program from the Federal Government to the coal industry, and for other purposes.

House Resolution 1056 provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment, and all points of order against the substitute for failure to comply with the provisions of clause 5, rule XXI—prohibiting appropriations in a legislative bill—are waived. This waiver is necessary because section 9 of the committee substitute establishes a fund in the Treasury and permits payments from that fund without a prior appropriation and because some of the funds now available for payment of black lung benefits under existing law may possibly become available for payment of benefits under the program established by this bill.

By surveys and studies carried on throughout the United States, it has been established that black lung has been the scourge of the mining industry and the mortality rates among coal miners has been phenomenal. In the past the risk of death among coal miners has been nearly twice that of the general population and higher than any other occupational group in the United States.

Contributing greatly to this condition has been the deaths from accidents and respiratory diseases. The excess of this disease's deaths increased sharply with the age of a miner which suggests the importance of the environmental factors. Mortality rates of coal miners for other reasons are also high.

The latest study available from the year mortality rates of the U.S. coal miners contrasts sharply with mortality rates in Great Britain. In that country, mortality rates for coal miners for all causes is only about 15 percent above the general population but in certain areas of Great Britain they do show fatality excesses as much as 50 percent.

In determining the validity of black lung claims under this part, all relevant evidence shall be considered, including, where relevant, medical tests such as blood gas studies, X-ray examination, electrocardiogram, pulmonary function studies, or physical performance tests, and any medical history, evidence submitted by the claimant's physician, or his wife's affidavits, and in the case of the deceased miner, other appropriate affidavits of persons with knowledge of the miner's physical condition, and other supportive materials.

H.R. 10760 is designed to liberalize black lung benefits and create an industry-financed trust fund to pay black lung benefits. Mr. Speaker, I urge the adoption of House Resolution 1056 so that we may proceed to the consideration of this important legislation.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the outset let me say that I certainly have compassion for individuals who are afflicted with black lung disease. Under the present law these individuals are eligible to draw benefits, and for these individuals to draw those benefits, we do not need a change in the present law.

Let us lay to rest immediately what this bill is all about. Under this bill one does not have to have black lung disease to draw benefits; all one has to have, if he works in an anthracite coal mine, is 25 years of service, and in all other types of mines he has to have 30 years of service. In such cases, he does not have to prove that he has black lung disease. All he has to do is to prove his length of service and he is automatically entitled to benefits.

So let us not try to kid ourselves or kid the American people into believing that we are doing something to extend black lung disease benefits by passing this bill. We are just extending coverage under the black lung program to anyone working or who has worked in a coal mine—whether they have black lung disease or not—if they had worked 25 years in anthracite mines or 30 years in any other types of mines.

Mr. Speaker, I know it is going to be argued here today that this is not going to cost the taxpayers much because this is going to be put on the coal producers. But let us ask, where are the coal producers going to get this money? From the consumers. Somebody is going to pay the bill, and it will be the consumers who are going to pay most of this bill.

I am amazed at the lack of attention to this bill from all these consumer groups across the country who are constantly writing your office and my office about inflation and about the high cost of this, that, and the other thing. We have heard nothing from them about the effect this bill will have on inflation and the price of coal. They are going to carry the load or the bulk of the load, along with taxpayers who do not use coal.

There are many people who are saying, "I do not use coal, I do not burn coal, so, therefore, I am not going to have to pay the bill." Yet these same people turn on their electrc lights. They use those electric lights, they pay utility bills, and those utility bills in most States, including mine, are now going up automatically on the basis of the cost of the fuel. The utility companies usually do not even have to go to the public utilities commissions to prove these increased costs when raising their rates. They are more or less automatic.

Let us not try to hoodwink the American consumers into believing that they are not going to pay the cost of this bill.

Mr. Speaker, let me say one other thing about this bill. It violates the spirit, if not the letter, of the new Budget Act. I know that most of us want to see this Budget Act work.

Under the new Budget Act, we pledged that we were going to get rid of backdoor spending.

There is backdoor spending in this bill.

I might say that this bill was reported on the last day of last year, and that is why we have it here today.

Had it been reported on the first day of this year, it would not have been here today. In my humble opinion, this bill violates the spirit, if not the letter, of the Budget Act and I would like to confirm this with the chairman of our committee, the gentleman from Washington (Mr. ADAMS).

Mr. Speaker, I would like to yield to him and get his thinking on this matter as to whether it does not violate the spirit of the Budget Act as far as backdoor spending is concerned.

Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. ADAMS) for that purpose.

Mr. ADAMS. Mr. Speaker, I rise to comment on the pending rule for H.R. 10760, from the viewpoint of the Budget Act not on the merits of the bill. The report of his bill was filed in calendar year 1975 to be effective in fiscal year 1976. Thus, under section 401 of the Budget Act, there is no statutory bar to House consideration of the measure at this time. As I point out in my attached letter to Chairman PERKINS it may have to wait until after May 15 in the Senate.

From the point of view of the congressional budget process, it would be more appropriate to consider this bill after Congress establishes budget targets for fiscal year 1977 in the first budget resolution this spring, but there is no legal bar to considering it.

The Congressional Budget Office estimates that the outlay impact of this measure in the current fiscal year would be $37 million budget authority and $8 million in outlays. This comparatively low estimate reflects the fact that the new entitlement is assumed to be effective only 2 months before the end of this fiscal year. No funds were specifically included in the budget resolutions this year for this bill.

In future years, the costs will be more substantial. Fiscal year 1977 costs are estimated by CBO to be $284 million in budget authority and $217 million in outlays. It should be noted that both budget authority and outlays are in part offset by the $133 million in revenue which is estimated to result from assessments on coal operators. Thus, the net costs of this bill in fiscal year 1977 would be $151 million in budget authority and $84 million in outlays. The CBO estimates are that a conversion to the trust fund concept contained in this bill will result in total savings of $237 million in outlays compared to present law in the next 5 years.

I would also like to comment on the committee amendment, which I understand will be offered, to insure that this bill will be treated as an on-budget activity. This amendment has no impact on the real costs of this bill. What it does is to insure that the program will receive legislative and budgetary oversight like any other Federal program. I commend the committee for offering this amendment, which is consistent with the intent of the Budget Act, and hope that it will be approved.

Under section 606 of the Budget Act, the Budget Committee is given the responsibility to study provisions of law which exempt agencies, or their activities or outlays, from inclusion in the budget. This provision was included in the Budget Act to curb the trend evident over the past few years of excluding Federal programs from the unified budget in order to make their costs less visible. In fiscal year 1977, the administration estimates that outlays from off-budget Federal agencies will be $11.1 billion and that outlays from Government-sponsored enterprises, which are not included in the budget totals, will be an additional $14.6 billion.

COMMITTEE ON THE BUDGET,
Washington, D.C., February 9, 1976.

Hon. JOHN H. DENT,
Chairman, Subcommittee on Labor Standards, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.

DEAR JOHN: This is in response to your letter of January 29th concerning the Black Lung Benefits Reform Act of 1975. We have just received revised cost estimates from the Congressional Budget Office and have forwarded a reply to Chairman Perkins. I am attaching a copy of that reply for your information.

Very truly yours,

BROCK ADAMS,
Chairman.

COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C., January 29, 1976.

Hon. BROCK ADAMS,
Chairman, Committee on the Budget, Rayburn House Office Building, Washington, D.C.

DEAR BROCK: I am writing in respect of Chairman Perkins' letter to you of January 28, 1976, regarding our desire to bring to the floor at the earliest opportunity the Black Lung Benefits Reform Act of 1975 (H.R. 10760).

We, of course, do not believe the bill would offend the ceilings set by the FY 76 budget resolution, and look forward to soon having the benefit of your advice on that question.

With every kind regard, I remain

Sincerely yours,

JOHN H. DENT,
Chairman.

COMMITTEE ON THE BUDGET,
Washington, D.C., February 9, 1976.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.

DEAR CARL: This is in response to your letter of January 28, regarding H.R. 10760, the Black Lung Benefits Reform Act of 1975. We have now received a new cost analysis from the Congressional Budget Office and can respond more specifically to the questions you raised.

As your letter indicates, H.R. 10760 contains new spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act. Since the bill was reported in the House in calendar year 1976, there is no statutory bar to House consideration of the measure at this time. However, I hope you are aware that if no companion bill was reported in the Senate last year, Senate floor action would most likely have to await May 15, absent a Budget Act waiver.

We do not dispute the Congressional Budget Office estimate that the outlay impact of this measure in the current fiscal year would be $8.47 million. This low estimate reflects the fact that the new entitlement is assumed to be effective only two months before the end of this fiscal year. The costs in future years are necessarily far more substantial. Budget authority for fiscal year 1977, for example, is estimated at $284 million, if the program is treated as a federal trust fund. Thus, it would be more appropriate from the point of view of the Congressional budget process, to consider this matter after Congress establishes budget targets for fiscal year 1977 in the first budget resolution this spring.

I want to advise you that there is another aspect of this bill which must be of concern to the Budget Committee. That is the apparent intent to treat the black lung trust fund as an off-budget item. As you may know, section 606 of the Budget Act gives the Budget Committee the responsibility to study provisions of law which exempt agencies, or their activities or outlays, from inclusion in the budget. We have reviewed the implications of treating the black lung trust fund as an off-budget agency.

Since the trust fund which would be created by H.R. 10760 clearly fulfills a public function similar to that of the railroad retirement and unemployment compensation trust funds, I can see no reason why the proposed fund should receive different treatment and be excluded from the budget. As a result, I would hope that the Education and Labor Committee will introduce a floor amendment to clarify the intent of Congress to include the trust fund in the budget.

With warmest regards,

BROCK ADAMS,
Chairman.

COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C., January 28, 1976.

Hon. BROCK ADAMS,
Chairman, House Committee on the Budget, Cannon House Office Building, Washington, D.C.

DEAR BROCK: The Black Lung Benefits Reform Act of 1975 (H.R. 10760) was reported on December 31, 1975. It would provide new spending authority as described in Section 401(c)(2)(C) of the Congressional Budget Act of 1974.

H.R. 10760 would become effective for spending purposes on the date of its enactment. I intend to arrange for its consideration in the House during the last week of February, 1976. It is contemplated that the Congress will complete action on H.R. 10760 so that it will take effect in FY 1976.

Consideration in the House in February or March 1976 would not be out of order under Section 401(b)(1) of the Budget Act because the bill was reported to the House in calendar year 1975 to be effective in the fiscal year which began in such calendar year. The effect of the bill on budget authority and outlays, however, needs to be related to the ceilings set by the budget resolution for FY 1976. The Congressional Budget Office is preparing an estimate of the costs of the Black Lung Benefits Reform Act of 1975 on the basis of its becoming effective on May 1, 1976. When that estimate is available, may I have your advice whether the budget ceilings for 1976 would embrace the expenditures authorized by the new bill. A rough estimate for budget authority and outlays for FY 1976 is approximately $25 million each.

Sincerely,

CARL D. PERKINS,
Chairman.

I thank the gentleman for yielding to me. I thank the chairman of the Committee on Rules, the gentleman from Indiana (Mr. MADDEN) for having asked that I comment on this. I have tried to be as fair as possible in indicating the effects of this bill.

Mr. LATTA. Mr. Speaker, I thank the gentleman from Washington for his comments.

I would just like to add further that since this is a precedent shattering piece of legislation in that you do not have to prove black lung disease in order to draw benefits after 25 years in the anthracite mines and after 30 years in other mines we are opening up a Pandora's box as far as other hazardous occupations are concerned. Are we not going to be flooded with requests to set up other special funds, for example, the asbestos workers, after 25 years? Perhaps they should be regarded as totally disabled, even though the medical records do not so indicate, after this period of service and they also should have some special pension awarded to them. Or the farmers should be awarded some special pension for their many years of faithful service?

I question whether or not it is the proper thing to set such a precedent. I just wonder how soon it is going to be before we are going to have requests from other occupations from around the country for similar benefits.

I hope the Members will keep this in mind when they prepare to vote on this rule. I do not believe we should venturing into this type of legislation.

Mr. MADDEN. Mr. Speaker, I yield 3 minutes to the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Speaker, there are more coal miners, more miners' widows and more retired coal miners in my congressional district than in any congressional district in the Nation.

In 1969 when the Congress enacted the Federal Coal Mine Health and Safety Act, there were numerous attempts here on the floor to defeat the black lung compensation provisions of the bill.

I recall that some of those attempts were led by the then Republican leader of the House who is now the President of the United States.

President Nixon waited until the very last and 10th day before signing the bill on the 30th of December 1969. In his statement signing the bill, President Nixon raised some serious questions about both the costs and the validity of the black lung compensation provisions.

It seemed pretty clear from the start that the Nixon and Ford administrations both had a negative attitude toward black lung compensation. It is for this reason, I believe, that despite the fact that we have had a professed law and order administration under Attorney General Mitchell, the intent of the Congress was not followed out in administering the 1969 law.

Many, many people have raised the question why did we have to come back for amendments to the back lung compensation law in 1972? Why do we have to come back today in order to insure that the law give just compensation? I contend that if the 1969 Coal Mine Health and Safety Act had been enforced in accordance with the intent of the Congress, we would not have to be coming back today.

The 1969 law says in its preamble, and I have a copy of it in front of me:

> . . . the first priority and concern of all in the coal mining industry must be the health and safety of its most precious resource—the miner; . . .

The most precious resource, the coal miner.

It does not say the bureaucrats. It does not say the lawyers. It does not say the doctors. It does not say the person who gets in there as a contract specialist and rereads X-rays and creates additional paperwork. The first priority must be the coal miner, according to law.

Secondly, the dust level in the mines has not indeed been reduced since 1971. On June 30, 1971, the law required the dust level to be reduced to 2.0 milligrams per cubic meter of air. But the excellent December 31, 1975 study by the General Accounting Office eloquently testifies to the fact that the dust levels have not been cut to 2.0. We should not cut off the time of the miners for black lung compensation at June 30th, 1971. This is particularly true if we require 25 or 30 years of work in the mines before automatic entitlement to black lung compensation. Personally, I have worked for a 15-year rule, and believe that 25 or 30 years is too long a time for a coal miner to wait while the terrible disease of black lung gets worse and worse.

The **SPEAKER.** The time of the gentleman has expired.

Mr. **MADDEN.** Mr. Speaker, I yield 1 additional minute to the gentleman from West Virginia.

Mr. **HECHLER** of West Virginia. Mr. Speaker, we have before us a bill that has many good features. I commend the chairman, and I commend the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. DENT) for including such a far-reaching feature as the black lung disability insurance fund because if we do put the burden on those coal operators who maintain high dust levels, there is going to be pressure to bring those dust levels down to protect miners.

In conclusion, Mr. Speaker, I urge support of this bill with amendments which are going to be brought up. Particularly I will bring up an amendment to prevent the rereading of X-rays. I challenge this Congress to meet the energy needs of the Nation to provide the necessary manpower to dig the coal, and we are not going to get that manpower unless we protect the people who mine the coal.

Mr. **LATTA.** Mr. Speaker, I yield 6 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. **ANDERSON** of Illinois. Mr. Speaker, I strongly oppose this rule which would make in order a bill which flagrantly violates the spirit, if not the letter, of the 1974 Budget Act and thereby threatens to undermine this whole new process.

Section 401 of the Budget Act was our attempt to bring backdoor spending under control. Section 401(a) prohibits the consideration of any new contract or borrowing authority which is not subjected to the annual appropriations process. Section 401(b) was aimed at bringing under control another form of backdoor spending, legislation containing new entitlement authority. This is defined in section 401(c)(2)(C) as follows:

> * * * make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

Section 401 makes quite clear that the term "new spending authority" is not limited to new programs established after the March 1, 1975, effective date for this section. Section 401(c) states, and I quote:

> For purposes of this section, the term "new spending authority" means spending authority not provided by law on the effective date of this section, *including any increase in or addition to spending authority provided by law on such date.*

Mr. Speaker, there can be no question that the part B black lung benefits program is one of the mandated payment programs as defined by section 401(c)(2)(C) of the Budget Act. Moreover, there can be no question that section 2 of H.R. 10760 would greatly increase payments under that program by expanding benefit eligibility to all miners who have worked for 30 years or more in the mines.

The question thus arises, how is it that the Education and Labor Committee can come in here today with this type of backdoor spending bill? The answer is that the Budget Act has still left that backdoor slightly ajar, and you can mark my word that if we adopt this rule today and pass this bill, it would not be long before our other committees will be driving Mack trucks through that door. Let me read for you section 401(b)(1) of the Budget Act:

> It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c)(2)(C) (or any amendment which provides such new spending authority) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.

What this means is that this bill would clearly not be in order for consideration today if it had been reported from committee this year, since the law clearly prohibits consideration of such a bill if it is to take effect before the first day of the fiscal year in the calendar year in which it is reported.

But lo and behold, H.R. 10760 was reported on December 31, 1975, the very last day of the last calendar year. Now presumably, section 311 of the Budget Act should take care of situations like this, since it permits a point of order against the consideration of any bill brought up after the adoption of the second concurrent resolution on the budget if its enactment would break the aggregate spending or revenue levels established by that second budget resolution. So why would not a section 311 point of order lie against this bill? The answer is that the new black lung entitlement authority provided by this bill does not become payable until the date of enactment. And since this fiscal year will practically be over by the time this is enacted, the amount of benefits involved in fiscal 1976 will be minuscule. It would therefore be impossible to make a case that the fiscal 1976 impact of this bill will break the fiscal 1976 ceilings set in our second concurrent resolution on the budget. Let me quote from a February 9, 1976, letter, from House Budget Committee Chairman BROCK ADAMS to Chairman PERKINS on this point:

> We do not dispute the Congressional Budget Office estimate that the outlay impact of this measure in the current fiscal year would be $8.47 million. This low estimate reflects the fact that the new entitlement is assumed to be effective only two months before the end of this fiscal year. *The costs in future years are necessarily far more substantial.* Budget authority for fiscal year 1977, for example, is estimated at $284 million, if the program is treated as a federal trust fund.

Chairman ADAMS goes on to write, and again I quote:

> Thus, it would be more appropriate from the point of view of the Congressional budget process, to consider this matter *after Congress establishes budget targets for fiscal year 1977 in the first budget resolution this spring.*

Chairman ADAMS has also conceded in his letter to Chairman PERKINS that since the bill was reported in calendar year

1975, "there is no statutory bar to House consideration of the measure at this time." But he goes on to note the following, and I quote:

> However, I hope you are aware that if no companion bill was reported in the Senate last year, Senate floor action would most likely have to await May 15, absent a Budget Act waiver.

Mr. Speaker, the fact is that the appropriate committee in the Senate did not report a companion bill last year, and has not even reported one yet this year. What this means, if we adopt this rule today and pass this bill, is that we will be forcing the Senate into a position of having to waive the Budget Act if this is to take effect in this fiscal year. So, even if consideration of this bill in the House today is technically in compliance with the Budget Act since it was reported on the last day of last year, we are nevertheless inviting the other body—indeed pressuring them—to set aside the Budget Act.

Mr. Speaker, I think Chairman ADAMS has given us very wise advice on this matter. Rather than permit this toe in the backdoor this year so that we will have no control over letting the rest of this giant through in fiscal 1977, let us wait to act on this until after we have adopted our first budget resolution for fiscal 1977 so we can more reasonably determine whether we can indeed afford this monstrous new entitlement. We just will not have that choice in fiscal 1977 if we act on this now and force the Senate to waive the Budget Act in order to pass it as well.

But a more compelling reason for defeating this rule today is the need to uphold the integrity of our new budget process and what we are attempting to do in it—and that is to get a firm grip on this backdoor spending problem. If we flout the spirit of that act today, you can bet your last nickel, and then some, that other committes will soon be rushing through this loophole. The precedent will have been set. Whoopee, we have found a way to circumvent the budget process. All you have to do is come in with a small backdoor program at the end of a fiscal year, and you are home free for the rest of your days.

I would be extremely shocked and dismayed if we today allowed such trickery to subvert the integrity and discipline of our new budget process. I would be especially disappointed if this House, which so prides itself on its special prerogatives for controlling the purse strings under the Constitution—if we were the ones who took the first step to cut those strings and invite the other body to waive the Budget Act right out the window. I think the American people expect a little better of us today when we are attempting to demonstrate to them that the Congress can act responsibly and exercise a coequal role in managing our National's fiscal affairs. I therefore urge defeat of this rule.

Mr. MADDEN. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, if we intend to vote against the rule, I hope it will not be because of the arguments just made by the gentleman from Illinois (Mr. ANDERSON). When the rules were laid down as to when and what time to have the report in or have a rule, it did not say the 1st of January. It did not say the 22d of December. It said the calendar year.

Now, let us look at the facts. I know that the gentleman from Illinois has an open mind when the facts are given to the gentleman and I would hope the gentleman would exercise that openness of mind in this case.

First of all, the bill passed the committee on December 9. On the same day we asked Social Security to give us the cost estimates. On December 30 we received the cost estimates from Social Security. The cost estimates had to go into the report, so there was no way under the Sun that we could have gone before the Committee on Rules and been equipped to ask for a rule, such as we did on the last day of the year.

That does not in any way coincide with the remarks of the gentleman on the other side of the aisle. If the rule was that we had to have it in by the 4th of July, and we come in with it on the 3d of July, it would not appear to be as bad as it does now, in the view of the gentleman from Illinois, when it came in on the last day of the year.

Let us talk about cost estimates now. The gentleman said that the report from the chairman of the Budget Committee stated it would cost in the first year, 1977, $284 million. That is the outlay, but let us look at the facts. The facts are that the Congressional Budget Office said that in fiscal year 1977 it would be $122 million; HEW, $204 million; but the trust fund savings would be $38 million. This actual cost in money across the board because of the passage of this bill would be $84 million.

Now, let me point out something to this House: When I was on the floor when we first passed this bill, I said that this particular legislation, unlike any other compensation law ever passed, would cost a declining amount every year. While we added hundreds of new cases last year—I think 700 some new cases last year—the amount of outlay—the amount of outlay was $50 million less. Now, if we divide that into the amount of compensation paid to the individual, and we have the total numbers of miners who died last year, or their dependents, so that every year there will be a greater number of them dying because these are not young men in the flower of their youth. These are men who grew old and sick in the coal mining industry.

The intent of this law was never just to pay out black lung benefits; it was to get rid of the cause of black lung disease. Much of the cost to the industry has been because of the fact that the industry is charged with the obligation of getting rid of the cause, the dust.

When this bill is finally passed and signed by the President, the costs will all revert back to the operators for future payments of black lung benefits that was promised to this House. The only reason it came out of the Treasury was because there was not any way that anyone could trace the responsibility to a single, or to more than one, operator for that particular black lung victim. Thousands of operations have gone out of existence. Many of them have been taken over by the major corporations. The identity of the original operators is lost in the long, dim past, but the stricken miner has not been lost in the long, dim past. He is with us today.

When we will talk about a major print in the discussion of the bill, I am saying to the Members that in 1984—in 1984, we will be at a point where there will be a minus $3 million as the real cost of this legislation. In 1977, it is $84 million. In 1978, $34 million. We are talking exactly about the truth as it was given to the Members the day the law passed. That was, that the cost would decline and be nonexistent at some day in the future.

This is the only type of compensation that we can say that about. The reason that will be given later on for the amendments we have made will be based upon the facts, the logic and reasoning that is sound not only because of the history of black lung but because of the facts as they are contained in the operation of the black lung law since its enactment.

I would urge the Members to vote for the rule.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of the bill, H.R. 10760, to amend the Federal Coal Mine Health and Safety Act to revise the black lung benefits program. The need for revision of the Federal Coal Mine Health and Safety Act of 1969 has been, I believe, apparent to all Members of Congress who represent the coal mining areas of America.

Mr. Speaker, I wish it were possible for each Member of the House of Representatives to spend at least one shift in an underground coal mine of our Nation. If this were to happen, Mr. Speaker, I am convinced that the passage of this legislation would be assured—perhaps without a single dissenting vote.

Coal mining is a dangerous occupation even under ideal conditions. We have come a long way in promoting the health and safety of coal miners in America but much remains to be done.

Mr. Speaker, I was one of the original supporters in the Congress of legislation that led to the final enactment of the basic black lung law, the Federal Coal Mine Health and Safety Act of 1969. I also vigorously supported and voted for the 1972 amendments to the act, as well as subsequent black lung legislation. I am a cosponsor of the bill before us today. To me and the coal miners of my congressional district, their widows and dependents, this is most important legislation.

Southwestern Virginia continues to be a major coal producing area. Many of my constituents, their families and the widows of former miners, fortunately, have benefited from the passage of the original act and today are receiving black lung benefits.

Unfortunately, Mr. Speaker, altogether too many of our eligible miners and widows do not receive benefit payments envisioned by the Congress in the passage of this law. The committee's hearings during the past 2 years and the appeals of our constituent miners and their families attest to the urgent need for reform to correct inequities in claim determinations for the widows of former miners and the miners themselves. We have seen the efforts that have been necessary to reconstruct work records or medical records of past or present conditions to prove technical eligibility requirements to obtain these benefits. We know of cases where widows have had to exhume the bodies of their deceased husbands, who spent a lifetime in the mines, to prove their eligibility to a widow's pension. In our congressional offices we have seen our case work on appeal to decisions of Social Security Administration grow and grow, until it has become our biggest single effort. The law as now written and administered has frustrated many of the most deserving of our citizens.

Since the inception of black lung benefits in 1970, through June 1975, a total of 28,900 Virginia residents made claims for benefits. This total represented the claims of 9,250 miners and 19,050 dependents, such as widows and orphans, according to the Social Security Administration. As of June 1975, a total of 16,400 had been approved for benefits. The Social Security Administration also informs me that Virginia claimants have received a total of $200 million in black lung benefits since 1970 for a statewide monthly average in payments of $3,797,700.

It is the inequities in the approximately 12,500 claims that have been denied, plus the untold number of claims that have not been applied for in my State, as well as like amounts in other coal mining States, that this bill seeks to correct.

To correct these inequities in the law, the committee has wisely questioned the practice of the Department of Health, Education, and Welfare to base its decisions on claims for black lung disabilities on the reliability of an X-ray examination. Under the bill, the Department of HEW would be required to take into account the consideration of all relevant evidence, including all X-ray examinations. Moreover, the evidence is overwhelming that the probability of a coal worker contracting pneumoconiosis increases sharply with the age of the miner and the number of years he has been exposed to coal dust in the mines. Nothing that there is already an 80.9-percent approval rate on part B claims involving miners with 30 years or more underground, H.R. 10760, the committee bill, guarantees black lung benefits to all miners—or their survivors—who, as of June 30, 1971, had worked in an underground mine, or surface mine with similar conditions, for 30 years; or an anthracite mine for 25 years. The establishment of a definite period of time to automatically guarantee black lung benefits means that entitlements would be more objectively applied, administration of the program would be simplified, and medical disputes and litigation would be sharply reduced. In this regard it is my intention to support Mr. SIMON's amendment to have the 25-year automatic entitlement apply to all coal miners. An argument in support of automatic entitlement after completion of 25 years in the mines is a recent black lung study concluding that at least 52 percent of those that actively work in the coal mines with 11 or more years in the mines had X-ray evidence of pneumoconiosis.

In this regard, Mr. Speaker, any person who has experience in the coal mine has witnessed the coal-dust-covered miners coming out of the mines or off the job. This lung hazard is being underestimated by the public at large and the opponents of this bill. Unfortunately the effort to reduce mine dust content by utilization of test equipment has not materialized as expected. This is still a fruitful area toward eventually reducing dust in the mines and thus reducing the chance that mine workers will be exposed to this dreadful, crippling disease. Efforts to develop dust sampling devices should be expanded by the Federal Government.

Other provisions of the bill which improve the work-environment of coal miners are: precluding the dollar offset from black lung benefits because the miner may be receiving payments under a State workmen's compensation program for unrelated impairments; precluding the denial of a claim simply by reason of a miner's employment status at the time of filing a claim; preventing the Social Security Administration from appealing adverse claim determinations; requiring the Government to affirmatively notify potentially eligible claimants of their right to apply for black lung benefits; and other provisions.

I shall also support two other amendments to the bill. They are: Mr. HAYES' amendment to expand the definition of miner to include any miner involved in a surface mining operation and the amendment to eliminate the 1971 cutoff date for participation in part B of the program.

Mr. Speaker, a total of 159,744 underground and surface miners and related workers produced over 600 million tons of coal in 1975. To supply this Nation with energy during the next 10 years our country is going to ask the bulk of these men to double coal production. These men have always done their job for their country. They want to do it now, but they want some assurances that they will be protected for continuing their extremely hazardous and dirty work.

Mr. Speaker, if any of my colleagues are in doubt or have second thoughts as to whether or not this bill should be enacted—I personally invite them to come to the coal mines of southwestern Virginia and see for themselves. I feel confident that the other Members who also represent coal districts in Pennsylvania, West Virginia, Kentucky, Ohio, and Tennessee, would also join in extending this invitation to the House membership.

Mr. Speaker, I include Senate Joint Resolution No. 47 of the Virginia General Assembly memorializing the Congress of the United States to enact the Black Lung Benefits Reform Act of 1975:

SENATE JOINT RESOLUTION NO. 47

Joint resolution memorializing the Congress of the United States to enact the Black Lung Benefits Reform Act of 1975

Whereas, pneumoconiosis, also known as "black lung", is a dreaded disease that afflicts many Virginians; and

Whereas, the Congress of the United States is presently considering the Black Lung Benefits Reform Act of 1975, (H.R. 10760), which would reform and simplify the "black lung" benefits procedures, especially for those most seriously affected by the disease; and

Whereas, the prompt passage of the Reform Act will speed the benefits to Virginia coal miners afflicted with "black lung" and to their dependents; now, therefore, be it

Resolved by the Senate of Virginia, the House of Delegates concurring, That the Congress of the United States is hereby requested to enact promptly the Black Lung Benefits Reform Act of 1975, (H.R. 10760); and, be it

Resolved further, That the Clerk of the Senate of Virginia is directed to send copies of this resolution to the Speaker of the House of Representatives of the United States, the President of the Senate of the United States and to the Virginia delegation to Congress.

Mr. HECHLER of West Virginia. Mr. Speaker, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. I thank the gentleman for yielding.

Mr. Speaker, I would like to commend the gentleman from Virginia (Mr. WAMPLER), whose district adjoins mine, for his statement.

Is it not true that there would be less expense to the taxpayers if we had the automatic benefits, thereby reducing a lot of bureaucracy?

Mr. WAMPLER. That is my understanding, and I think the distinguished gentleman from Pennsylvania (Mr. DENT), in his earlier remarks, made that eminently clear.

Mr. Speaker, I think one of the most important things before us today is to consider equity. I recognize there are those who have objections to this bill but let us consider it and let the House work its will. I think this course of action is in keeping with the best traditions of the House of Representatives.

Mr. HECHLER of West Virginia. Mr. Speaker, I thank the gentleman for his remarks.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. Mr. Speaker, I take this time to ask a question of my colleague and good friend, the gentleman from Pennsylvania (Mr. DENT).

I understand this bill levies a tax on all coal mines across the country, and that this tax will amount to a uniform rate per ton. Is this true?

Mr. DENT. Mr. Speaker, if the gentleman will yield, that is right.

Mr. ANDREWS of North Dakota. Mr. Speaker, I will ask the gentleman if he has any estimate as to about how much the tax will be. Will it be 50 cents or $1?

Dr. DENT. The estimate is that it will be about 14 cents a ton.

Mr. ANDREWS of North Dakota. And that will be levied, though, across the country on all coal irrespective of the Btu units of the coal or the value of the coal?

Mr. DENT. The gentleman is correct.

Mr. ANDREWS of North Dakota. In other words, if coal sells for $2 a ton, it will be assessed at the same tax rate as coal that sells for $40 a ton?

Mr. DENT. Of course, the coal could be assessed at that rate if the price got down to $2 a ton, but the contributions to the welfare fund itself would amount to $2 in a couple of years, so we know that the coal is not going to sell for $2 a ton.

I assume the gentleman is talking about cheaper grades of coal?

Mr. ANDREWS of North Dakota. That is right. In my own State there is coal which sells for about $2 a ton, and my question is whether the rate will be the same for that coal as for the other types.

Mr. DENT. The cost will be the same across the board. We know of no other way to go about it.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, I rise in opposition to the rule. I join with my colleague, the gentleman from Illinois (Mr. ANDERSON), in suggesting there is good reason to vote against this rule based upon procedure and based upon its violation of the spirit of the Congressional Budget Act, and I would also add that there is good reason to vote against this rule on the basis of substance.

This bill is wholly and completely without merit. It has been suggested that those with black lung disease ought to be compensated and that unless we do that, we are not giving equity. We have a Black Lung Compensation Act on the books. There are 508,000 recipients of black lung disease benefits who are receiving approximately $1 billion a year from the Federal Treasury.

The question was raised a minute ago in colloquy as to what the cost of the tax would be. That is the term as it was used in colloquy. In the bill it is called an "assessment" in one case and a "premium" in another case, but I think it is in effect a tax, and in that respect I believe the bill really invades the province of the Committee on Ways and Means.

The question was asked as to how much that tax would be, and the gentleman from Pennsylvania (Mr. DENT) said it would be 14 cents a ton. I recall so well in 1969 when the gentleman from Pennsylvania (Mr. DENT) and I were debating on the floor as to what the basic bill would cost. I said, "Based on the social security estimate, it might be as much as $350 million."

The gentleman from Pennsylvania (Mr. DENT) laughed. He laughed and said:

> Why, if we gave full benefits to every ex-coal miner and a fur coat to every widow, it could not be more than $40 million or $50 million a year.

It now costs $1 billion a year.

So let us bear that in mind when the gentleman assesses 14 cents a ton as the cost of this bill.

Mr. Speaker, there are so many reasons why we should be against this bill that I just do not have time to detail all of them in the few minutes I have at my disposal. There are many good reasons to oppose this bill, and I would like to reiterate some of those that I set forth in a "Dear Colleague" letter to all the Members of the House.

Another concept that has been used to justify this bill is that somehow we are going to shift the burden from the Treasury onto the industry, and the question is asked: Is this not fair?

My goodness, the first bill we passed provided that after the initial claims were approved the burden would go to the industry. Then back in 1972, against the arguments that I made on the floor, the majority which is now sponsoring this bill extended the Federal responsibility and removed the responsibility from industry for a period of years. But that responsibility under the law does now exist. Claims that are approved now are the responsibility of industry.

So there is no shift by this bill to take the responsibility away from the Federal Government and put it on industry. It is the obligation of industry now.

This bill would also say that in drawing black lung benefits one could in addition receive worker's compensation, with no offset, if the worker's compensation was granted for some other disability.

How often can one be totally disabled, more than once?

The law on the books today says a man can draw black-lung compensation with no offset against social security disability. How many times can one be totally disabled, three times?

The law on the books today is overgenerous. This bill would make it a retirement program.

In the future, if this bill passes, a man will not even have to pretend to have black lung. All one has to do is show that he has 25 or 30 years of service and he will have an entitlement. He will not even have to cough and pretend to have black lung.

If this bill passes and an applicant for black lung disease is granted his benefits, nobody can appeal the decision. There is not even due process in the bill. If he is denied it, he can appeal.

Mr. Speaker, for so many good reasons this rule ought to be rejected, because there is no valid reason for us to consider a bill that is so unfair and so inequitable to other coal miners who do not qualify for the black-lung benefits and to other workers who are in equally hazardous occupations.

Mr. Speaker, I ask for the rejection of the rule.

Mr. LATTA. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois (Mr. ERLENBORN) in order to ask him a question.

Mr. ERLENBORN. Mr. Speaker, I thank the gentleman for yielding.

Mr. LATTA. Mr. Speaker, the gentleman mentioned a retired worker who would be getting workmen's compensation.

Mr. ERLENBORN. Yes; workmen's compensation under State law for another disability.

Mr. LATTA. Is it not true that the United Mine Workers have some sort of pension plan that pays $215 a month?

Mr. ERLENBORN. They do.

Mr. LATTA. And one could also get social security, is this correct? A man could actually end up with four different sources of revenue at age 65; is this not correct?

Mr. ERLENBORN. That is correct.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, let me say to the gentleman from Illinois (Mr. ERLENBORN) that the figures with respect to black-lung payments, in the case of a man with three dependents, amount to about $393 a month; the mine workers' pension, about $240 or $250 a month. On the other hand, the coal miner is making more than $1,200 a month; and unless he has this dreadful disease, he is not going to sacrifice the amount that he is making for a social security disability pension and black-lung benefits.

Mr. ERLENBORN. Mr. Speaker, I thank the gentleman for his comments.

Mr. PERKINS. He is not going to forego the amount of money that he is making if he can possibly continue to work in the mines.

Mr. MADDEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, the gentleman from Illinois (Mr. ERLENBORN) has treated the Members now on the floor to virtually the same speech that he has made in committee on numerous occasions.

It is interesting to note that he, on the one hand, is urging us to reject this rule because the cost of the program is now so extraordinary that we cannot, in this coming year, afford the expense. On the other hand, he is decrying the fact that the bill does not go far enough because he says it discriminates against some coal miners.

Inasmuch as he does not suggest that we are presently paying black lung benefits to people who do not have the dreaded disease that this legislation is directed toward, it therefore follows that he feels that there are other people with the disease who should be receiving benefits but who are not going to be reached by this legislation.

Mr. Speaker, the gentleman cannot have it both ways, although it is not unusual for him to attempt to have it both ways.

The gentleman repeatedly tells us about the error he made in judgment at the time that he opposed this legislation when it was first passed, in thinking that it was going to cost about $350 million, only to find that he misjudged it by almost 300 percent.

I do not know what the gentleman from Illinois (Mr. ERLENBORN) has said today that would convince me or anyone else either that his judgment has improved any since then because his motivation is still the same, and that is to kill the legislation at any cost and to say whatever is necessary to try to confuse the issue and avoid the real issue, which is whether or not we are going to respond to the social cost that the individual States are unable to bear for this terrible disease.

Certainly the gentleman does not suggest that the black lung recipients are freeloaders who go out and deliberately tear up their lungs and shorten their lives and live out their last days in agony just so that they can get these generous benefits.

Mr. LATTA. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER. The Chair will state that the gentleman from Ohio has 2 minutes remaining.

Mr. LATTA. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, since the matter of cost has arisen here, I have in my hand the Congressional Quarterly of January 17, 1976, wherein it is estimated that H.R. 10760 could drive up the cost of a ton of coal from $1 to $4. It gives credit to this estimate to the National Coal Association.

I do not know whether the figures are correct, but they are at wide variance from the figures stated by my friend, the gentleman from Pennsylvania (Mr. DENT) of 14 cents a ton.

Let me say further, Mr. Speaker, that the proponents of this legislation have skirted completely my real objections to this piece of legislation, and that is that after 25 years of working in the anthracite mines, and another 30 years in other mines, miners will be entitled to these benefits notwithstanding the fact that they do not have black lung disease.

We can talk about this dreadful disease from now to breakfast, but it is covered under the present law. So if we are concerned about people with the disease, they do not have to have 25 years in anthracite mines and 30 years in other mines to get benefits under the present law. This is the way it should remain.

Mr. MADDEN. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, I would just like to suggest to the gentleman from Ohio that there are somewhere around 600 million annual tons of coal mined. Is the gentleman from Ohio stating to us that it is going to cost from $600 million to $2,400,000,000 for the beneficiaries of this act?

Mr. MADDEN. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appear to have it.

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 275, nays 118, answered "present" 1, not voting 38, as follows:

[Roll No. 75]

YEAS—275

Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Ashley
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Chisholm
Clay
Corman
Cornell
Cotter
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Dickinson
Diggs
Dingell
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Green
Gude
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hillis
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Jacobs
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kelly
Keys
Koch
Krebs
LaFalce
Lehman
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKay
Madden
Maguire
Mahon
Mann
Mathis
Matsunaga
Meeds
Melcher
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Peyser
Pike
Price
Quillen
Randall
Rangel
Reuss
Richmond
Riegle
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Shipley
Shuster
Simon
Skubitz
Slack
Smith, Iowa
Spellman
Spence
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, C. H.
Wirth
Wolff
Wright
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—118

Abdnor
Adams
Anderson, Ill.
Archer
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Bell
Bowen
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burleson, Tex.
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Derrick
Derwinski
Devine
Emery
Erlenborn
Fenwick
Fish
Forsythe
Fountain
Frenzel
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Haley
Hansen
Harsha
Hicks
Hightower
Holland
Holt
Horton
Hutchinson
Ichord
Jarman
Jeffords
Jenrette
Johnson, Colo.
Jones, Okla.
Kasten
Ketchum
Kindness
Krueger
Lagomarsino
Latta
Lent
Lott
McCollister
McDonald
McEwen
McKinney
Madigan
Martin
Mazzoli
Michel
Milford
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mosher
O'Brien
Pettis
Pickle
Poage
Pressler
Preyer
Pritchard
Quie
Regula
Rhodes
Roberts
Robinson
Rousselot
Russo
Satterfield
Schneebeli
Schulze
Sebelius
Sharp
Shriver
Sikes
Smith, Nebr.
Snyder
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Talcott
Taylor, Mo.
Treen
Waggonner
Walsh
Wiggins
Winn
Wydler
Wylie
Young, Alaska

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—38

Andrews, N.C.
Aspin
Barrett
Bolling
Bonker
Burton, John
Cederberg
Chappell
Collins, Ill.
Conyers
Dodd
Edwards, Ala.
Esch
Eshleman
Guyer
Hébert
Hinshaw
Kemp
Landrum
Leggett
Macdonald
Metcalfe
Patman, Tex.
Pepper
Railsback
Rees
Rinaldo
Risenhoover
Runnels
Ruppe
Sisk
Solarz
Staggers
Symms
Udall
Wilson, Bob
Wilson, Tex.
Young, Ga.

The Clerk announced the following pairs:

Mr. Barrett with Mr. Hébert.

Mr. Chappell with Mr. Railsback.

Mr. John L. Burton with Mr. Cederberg.

Mr. Runnels with Mr. Esch.

Mr. Staggers with Mr. Kemp.

Mr. Patman with Mr. Landrum.

Mr. Sisk with Mr. Edwards of Alabama.

Mrs. Collins of Illinois with Mr. Andrews of North Carolina.

Mr. Dodd with Mr. Rinaldo.

Mr. Macdonald of Massachusetts with Mr. Bob Wilson.
Mr. Pepper with Mr. Risenhoover.
Mr. Solarz with Mr. Eshleman.
Mr. Metcalfe with Mr. Guyer.
Mr. Conyers with Mr. Aspin.
Mr. Bonker with Mr. Udall.
Mr. Leggett with Mr. Ruppe.
Mr. Young of Georgia with Mr. Symms.
Mr. Rees with Mr. Charles Wilson of Texas.

Mr. PRESSLER and Mr. MOORE changed their vote from "yea" to "nay."

Mr. GREEN changed his vote from "present" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DENT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10760) to amend the Federal Coal Mine Health and Safety Act to revise the black lung benefits established under such act in order to transfer the residual liability for the payment of benefits under such program from the Federal Government to the coal industry, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. Dent).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10760, with Mr. Gibbons in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. Dent) will be recognized for 1 hour, and the gentleman from Illinois (Mr. Erlenborn) will be recognized for 1 hour.

The Chair recognizes the gentleman from Pennsylvania (Mr. Dent).

Mr. DENT. Mr. Chairman, I yield 10 minutes to the gentleman from Kentucky (Mr. Perkins).

Mr. PERKINS. Mr. Chairman, we had hoped with the passage of the black lung provisions of the Coal Mine Health and Safety Act of 1969 that the national neglect for the unredressed suffering of disabled coal miners had at long last been faced up to and met. It was true then and, unfortunately, for many of the claimants for pneumoconiosis benefits it is true now. The risk of death and disability among coal miners is twice that of the general population and higher than that of any other occupational group in the United States.

I came before the House in 1972 because the 1969 black lung benefits provisions, title IV of the act, were bogged down by extremely harsh application of the criteria to determine whether or not a miner had the disease or whether or not a miner had died from the disease. Unfortunately, the state of medical knowledge as to the diagnosis of black lung is such that often it cannot be determined until an autopsy has been performed.

Not all lungs respond in the same fashion to the inhalation of dust particles. Some whose lung X-rays clearly evidence the disease to a disabling extent do not appear to be disabled. The lungs of others with a long history of service in an underground coal mine produce only inconclusive X-ray findings yet manifest obvious respiratory difficulties and render such miners unemployable.

Thus, the 1976 amendments to title IV become necessary first of all because justice needs to be done to disabled miners. Second, the 1976 amendments are necessary in order that a sound, long-range plan may be established, payable from the proceeds derived from the extraction of coal, thus relieving the general taxpayer from this burden.

Coal is important to our Nation's economy. Coal is an essential source of energy for this Nation confronted with a long-range energy need. The Nation needs the production of coal, more abundant in its energy-producing potential than the massive Middle East oil reserves, so as to be energy independent of foreign sources.

Just as the Nation needs a sound energy policy recognizing our coal reserves, it needs a sound compensation policy not only for protecting the lives of miners who extract it but of compensating those and their dependents who become exposed to the disease-producing effects of the inhalation of coal dust.

H.R. 10760 seeks simply to accomplish these objectives. It does so by the following changes in the law.

First of all, it creates an entitlement for black lung compensation for the anthracite miner who has been employed in an underground mine for 25 years or more, and for bituminous miners who have been so employed for 30 years or more. Recent data show that 81 percent of the claims involving miners involved in the mining of coal for 30 years or more have been allowed. Investigation by the Labor Standards Subcommittee shows that many more miners obviously disabled because of respiratory ailments who have had similar periods of underground employment are disabled from employment by any objective standards even though their claims for black lung compensation have been denied. Because of a strict and rigorous determination process established by both the Social Security Administration and the Department of Labor in the processing of black lung claims, claimants who are disabled by any objective criteria are put to lengthy examination, trial, rehearing, administrative review and other processes in their claims determinations. These procedures involve expense to the taxpayer, time of the administration, expense to the claimant, all of which can be readily eliminated by recognition of the fact that service in a coal mine prior to the date when the Federal law mandated safe dust levels, if such service period was at least 30 years in the case of a bituminous miner, 25 years in the case of an anthracite miner, produced a respiratory disease which at that point was disabling and irreversible. Hence, the first major change made in title IV by the bill H.R. 10760.

Under the existing law, State workmen's compensation benefits paid to a miner as well as unemployment compensation may be offset against Federal black lung benefits. H.R. 10760 would make these offsets applicable only with respect to a disability payment to the miner on account of pneumoconiosis. This provision makes part B of title IV comparable to the provisions of part C so that only State benefits received due to pneumoconiosis and not those received due to an unrelated condition may act to reduce Federal benefits.

Often a miner who would under any other circumstances be considered totally disabled because of his pneumoconiosis is forced to continue to work in a mine in order to support his family because of the administrative time in processing a black lung claim and the doubt with respect to the disposition of the claim by the administrative agency. We sought in the 1972 amendments not to have a miner's continued employment operate as evidence of his possible employability to work against his claim for disability because of black lung. Despite the efforts to eradicate this situation in 1972, claims have continuously been denied solely on the basis that the miner is or was working in a mine, and with no consideration given to that fact as to the type of work the miner was performing. In this regard, section 4 of the bill provides that claim for benefits may not be denied solely on the basis of employment as a miner if: First, the location of such employment has recently been changed to a mine area having a lower concentration of dust; second, the nature of such employment has been changed so as to involve less rigorous work; or third, the nature of such employment has been changed to employment which receives substantially less pay. The act is further amended by this section to provide that a miner may file a claim for benefits whether or not he is employed at a coal mine at the time he files.

No administrative action demonstrates more clearly the administration's reluctance to carry out the intent of Congress with respect to the compensation of disabled miners than the practice of the administration of forcing an appeal of every administrative law judge's decision approving the claim of a miner but not requiring the review of denials. Section 5 of the bill amends section 413 (b) of the act. Any decision by an administrative law judge in favor of a claimant may not be appealed or reviewed except on motion of the claimant himself.

Section 6 of the bill adds new provisions to the act requiring the Secretary of Health, Education, and Welfare to disseminate information to individuals who are likely to be eligible for benefits and who have not applied for a claim. Individuals thus informed, if a claim is filed no later than 6 months after receiving such information, shall be entitled to have his claim considered on the same basis as if it had been filed on June 30, 1973.

Section 7 of the bill amends section 402(f) of the act to provide that the regulations of the Secretary of Health, Education, and Welfare relating to total disability shall not provide more restrictive criteria for claims filed after June 30, 1973, than those applied before that date.

In many instances, despite affidavits on the part of a widow or a miner as to the miner's physical condition prior to his death, in the case of a miner with a long history of service in the mine, claims have been denied even though there is no medical evidence to contradict this evidence of the diseased condition of the miner.

Section 8 of the bill would provide that such affidavits shall be considered to be sufficient to establish that the miner was totally disabled because of pneumoconiosis or that his death was due to pneumoconiosis.

The final major feature of the bill, Mr. Chairman, involves the creation within the Treasury of a trust fund into which assessments on the mining of coal will be paid and out of which compensation to miners disabled from pneumoconiosis will be paid. This represents a change from the existing law which anticipates that for those States whose workman's compensation laws do not meet the standards prescribed by the law for recognition of the compensatory nature of the disease nor the level of benefits, coal producers would be covered by the Longshoremen and Harbor Workers Compensation Act. Where no responsible employer could be found at the time the claim was filed this could be the burden of the Federal taxpayer. The new provisions provided by H.R. 10760 by creating the trust fund for the payment of claims places the burden upon assessments levied upon each ton of coal mined in all instances in which a claim may arise due to disability because of pneumoconiosis. In the light of the fact that no State workman's compensation law meets the Federal standards at this time and 7 years has elapsed since this requirement was written, this further change in meeting future liabilities is essential.

Mr. Chairman, in conclusion, let me say that legislation that I introduced early in this Congress would have liberalized claim determinations in a much broader sense than the legislation that I present to this Committee today. This legislation does not go as far in that respect as I would like to go myself. However, I am persuaded at this time that they may well alleviate the problems now facing the processing of claims. My colleagues on the Committee believe that they will. If they for some reason do not, I will most certainly introduce legislation with the hope that it might be acted upon in the future.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut (Mr. SARASIN).

Mr. SARASIN. Mr. Chairman, the Congress of the United States has as its chief responsibility the needs and interests of the American public. We have consistently sought to isolate problems, resolve them, and provide help to those who have been harmed or are in need. To assist citizens in their retirement years, we enacted the social security program and have consistently attempted to improve it; the lack of nutritious meals for our Nation's children was met with the School Lunch Act and child nutrition program. Indeed, there is almost an endless list of programs designed to help people in our country.

Sometimes we have been overzealous in our efforts given our financial capabilities, but we have always had justification for our actions—real needs, legitimate needs. Unfortunately, H.R. 10760, the Black Lung Benefits Reform Act of 1975, cannot even meet the test of fiscal responsibility let alone that of necessity. I fully support the black lung benefits program, and I sincerely believe that we must help those who suffer the tragedy of pneumoconiosis as a result of their work in providing America with coal, an essential source of energy.

However, I must question whether or not we are being wise in diverting our money into a program such as that proposed in H.R. 10760. Absolutely no proof of an occupationally-incurred disease is necessary; an individual need only have worked a certain number of years to be eligible to receive so-called black lung benefits. Does medical data indicate that an overwhelming percentage of coal mine workers succumb to pneumoconiosis after 25 to 30 years? The answer is simply "No." According to Department of Labor estimates, fewer than 25 percent of miners who work with either bituminous or anthracite coal incur black lung disease. The committee, fully aware of this medical documentation, studiously avoided the idea of a presumption of black lung in order to receive the benefits.

However, if this is not a presumption, then what is it? A pension? An annuity? Simply compensation? But compensation for what? The answer cannot be because coal miners are involved in an occupation with a serious health risk, for if that were the case, we would have to open the doors for Federal payments to those who work with asbestos, vinyl chloride, berillium, and a host of other highly dangerous elements.

There would be a great deal of logic in increasing benefits for those who have been diagnosed as having black lung, for directing greater amounts of funding into research for a cure or for the design of better protective equipment. There would be logic in directing Federal funds into improved diagnostic techniques for pneumoconiosis. There is, however, simply no logic behind this particular approach.

If a lack of rationale does not serve as sufficient reason for defeating this measure in its present form, there are several other arguments that are almost as pressing. H.R. 10760 would establish a trust fund, this despite the fact that the Interagency Workers Compensation Task Force is engaged in a major program of research and is expected to report in 1976. Included in that research is the entire spectrum of occupational disease. It makes little sense to establish a trust fund for one occupational disease at this time. Coupled with this is the fact that adequate studies have not beer conducted into the best methods for financing benefits for occupationally incurred diseases.

The Committee further added a provision providing lifelong benefits to survivors of miners who die in mine accidents. There is no correlation between this provision and black lung and raises the specter of a precedent of compensating those who die in any number of dangerous, yet vitally necessary industries.

Finally, we must come to the inescapable question of money. This measure will cost the Federal Treasury $696.75 million during the next 5 years at a time when almost all of us are addressing the issue of fiscal responsibility, when the vast majority of our constituents are demanding that we keep our spending of their money at the lowest possible level. We place enough pressure on inflation by funding programs that are necessary; we certainly do not need to compound this problem by funding those where no justification whatsoever exists.

H.R. 10760 must be defeated and sent back to the Education and Labor Committee with the mandate that a sensible approach for meeting the problems of black lung disease be developed.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Chairman, the bill we are considering today, H.R. 10760, the Black Lung Benefits Reform Act of 1975 is a case of good intentions gone astray.

As the Members of this body well know, the aim of the black lung program is to provide assistance to miners who have been disabled by pneumoconiosis. This legislation goes beyond that premise, and in effect establishes an automatic pension program for anyone who has worked 25 years in anthracite mines, or 30 years in other coal mines.

It establishes a new, permanent Federal liability to compensate coal miners through a black lung disability insurance fund financed by a production tax on coal.

When the Federal Coal Mine Health and Safety Act of 1969 was before the House, I supported it, with the understanding that it was to be a one-shot Federal program to help those who suffered disability from working in the mines. It was expected that the States would work with coal mine operators to assure compensation for subsequent incidence of black lung.

During the debate that preceded its passage, the sponsors assured us that Federal responsibility would be temporary. One of our colleagues said at that time: "This is a one-shot effort. This is not a continuing compensation arrangement to establish Federal-based compensation for this or any other industry."

Of course, the 1972 amendments liberalized and continued the act, to the extent that in 1973, payments to miners were one-fifth of all workers' compensation nationwide. Today, the Social Security Administration handles claims. Benefits are being paid to those not totally disabled, and there is no offset for social security payments.

Now we are being asked to extend Federal responsibility forever. The bill is in truth a pension program since it provides automatic benefits with no regard to employability, with tenure as the sole qualification for Federal payments. No medical evidence of occupational disease would be required. It also establishes new survivor benefits relating to mine accidents.

The question here is not whether miners who are disabled should receive benefits. Few would question the rightness of that concept. There are currently over half a million coal miners receiving nearly $1 billion a year in benefits under our present black lung program. The real question is whether we are going to further expand the Federal involvement in this ongoing program.

I believe it would be patently unfair to ask other working men and women to put up $200 million more for alleged black lung benefits, without requiring any proof that black lung has affected the recipients.

Thirty years in the mines is a long time, but to assume that after a mining career the worker is automatically disabled is not fair to taxpayers who may have worked as hard or as long in other occupations, with no such presumption of disability or automatic compensation.

What it boils down to is the fact that this bill is misnamed. It is not really a black lung bill. It is a miner's supplemental pension program, being tacked on to a disability benefits program. During this time when Federal revenues are being stretched to the limit to cover our Nation's governmental needs, I do not believe we should saddle the taxpayers of this Nation with this new Federal obligation.

Disability payments should go to help the disabled. Under H.R. 10760 this is not the case. The public will have to pay the $2.50 per ton assessment for the trust fund in the form of higher electric power bills or higher prices for manufactured goods.

Mr. Chairman, this bill would establish a poor precedent. If we are going to offer automatic Federal compensation to the able simply because they have worked in the coal industry, how long will it be before other workers demand equal treatment? How far can the Government go in expanding benefits unrelated to disability?

This is not sound legislation, and I urge my colleagues to reject this attempt to federalize pensions for coal miners.

Mr. DENT. Mr. Chairman, I yield 3 minutes to the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Chairman, all too often coal miners who apply for black lung compensation are put into the position of an adversary proceeding. All too often it feels like the giant bureaucracy against the individual—the United States of America versus the coal miner—is that fair or just?

All too often, lawyers have enriched themselves because of the very complexities of this process and procedure. Do the Members know that it takes an average of $700 per claim to adjudicate a black lung claim now? What a terrible waste of taxpayers' money.

Mr. Chairman, the provisions of this bill take long steps in the right direction toward correcting some inequities. I certainly hope that we can provide equal treatment for bituminous and anthracite miners. I say to my good friends from Pennsylvania that I certainly hope we can get that amendment through.

There are several other improvements that should be made in this legislation. One of the best features of this bill is the Black Lung Disability Insurance Fund. There is no reason why people in States that do not mine coal should be paying for the tremendous burden of black lung compensation. I will offer and hope will be accepted an amendment that will stop this indiscriminate re-reading of X-rays by people who have no knowledge of local conditions in the coal fields.

Mr. Chairman, the coal fields are a tinderbox today. This very day, there may be as many as 6,000 or 7,000 miners out on wildcat strikes. The United Mine Workers of America does not condone any of those strikes. But I say to the Members that unless this Congress brings justice to the miners by passing legislation which not only compensates those who deserve compensation, but also genuinely reduces the dust level, as designed in the 1969 act, there will be strikes and violence in the coal fields.

Mr. ERLENBORN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. McEWEN).

Mr. McEWEN. Mr. Chairman, I appreciate this opportunity to comment on this legislation.

No one denies the terrible, physical suffering endured by a coal miner with black lung disease. In addition, of course, he and his family suffer economically.

Nor can anyone deny that other miners and their families suffer in the same way. In my district many talc miners, who are not covered by the benefits provided by the bill before us today, suffer from silicosis which is also a crippling disease.

When the talc mine near Gouverneur, N.Y., in which most of them had worked all their lives, closed in May 1974, they were faced with a dilemma. The alternatives were to file for unemployment benefits, workmen's compensation, or social security disability benefits. However, in some cases, the State employment services office took the position that the miners were medically unable to work, thus disqualifying them for unemployment benefits since to be eligible one must be able to accept employment. Then, again in some cases, the State workmen's compensation board denied their claims for these benefits on the grounds that the miners could perform in other types of nonmining jobs. Fortunately, after the long procedures involved and the many months without income, most of these men have been able to obtain social security disability benefits, although there are still some miners who have no income from any of these programs.

Although I have serious reservations about the cost of this bill to the American taxpayer, it seems to me that from the standpoint of equity and law talc miners are as deserving of assistance of the type envisaged by this bill as are those unfortunate coal miners stricken with black lung disease. In addition, it seems there is little difference medically speaking since the talc miners and coal miners suffer from various types of pneumoconiosis.

I have sent to the chairman of the Education and Labor Committee and the ranking minority member copies of stories which have appeared in the Watertown, N.Y., Daily Times over the last 2 years which very well illustrate the problems and frustrations faced by these talc miners and their families. I am grateful to the chairman, the gentleman from Kentucky (Mr. PERKINS), and the ranking minority member, the gentleman from Minnesota, (Mr. QUIE), for the interest they have shown in the plight of the talc miners in my district. I am hopeful hearings will be held to give these men an opportunity to make their case for equal treatment under the law.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I would imagine that 10 years from now I will be able to say, "I told you so," but what good is that? It is a little like saying, when a fellow goes down the third time, "If I had only dived into the water when he went down the second time, I may have saved him from drowning."

Mr. Chairman, whenever we mix emotionalism, whenever we add emotionalism and politics, that usually equals bad legislation. Certainly, in this legislation that is what we have added, emotionalism and politics, and the end result has to be bad legislation.

I would like to read a few sentences from a study by the National Academy of Sciences, and I quote:

> From this and other evidence discussed earlier, it is evident that the current black lung benefits program rests on an unsupportable presumption, namely, that all of the respiratory diseases that may befall a coal miner are due to his occupational exposure.

I continue to read:

> If this legislation is approved, it would be reasonable to suggest that similar benefits be extended to workers in other occupations which may be equally or even more hazardous—

Equally or even more hazardous——

> to the lungs than coal mining. A partial list of beneficiaries might include workers in cotton mills, asbestos workers, hard rock miners, coke oven workers and steel workers, to mention a few.

And I continue:

> If the benefits were extended to workers in other industries, the costs might range from $20 billion to $100 billion annually. Undoubtedly, they would force new and fundamental decisions on society regarding pension and benefit programs.

Mr. Chairman, I do not think there is any question that the program in 1969 was a good program. It was the humanitarian thing for the U.S. Congress to do, because there was not available to coal miners workmen's compensation for fourth stage disabling pneumoconiosis, which is exactly what the 1969 legislation was to take care of, fourth stage disabling pneumoconiosis.

But I think when we talk about a prototype for all future type legislation—and that has been mentioned—that we should ask ourselves a few questions. No. 1, will we as the Federal Government now set up all retirement and pension programs, or should labor and management negotiate these? And in our type of society, I think it should be the responsibility of management and labor to negotiate retirement programs, not the Federal Government setting them up and demanding them.

The second question we should ask is, will we as the Federal Government tell industries that they will set up a trust fund as we determine it should be, or again should labor and management make those decisions and determinations?

The thing that worries me in all of these legislative matters that we get involved in emotionally and politically is this: We only have so much money to spread around. We only have so much money available to try to help people and develop programs that will help people truly in need. And then my question would have to be: Will this legislation so dilute the effectiveness of all of our efforts to help those in need that none will be helped?

Mr. Chairman, my answer to that would be: I believe it will do just that.

Mr. DENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I take the floor to discuss some of the remarks that have been made about this bill before they get too cold. First of all, let me say that this legislation was not designed without the input of all affected parties.

On March 17, 1975, the industry trade association said:

> We recommend that legislation be enacted to establish an industry-financed, industry-administered trust fund to pay for claims arising under part C, title IV of the Coal Mine Health and Safety Act of 1969.

To attack this bill on the grounds that it may set a precedent and other industries will look toward the Government for occupational disease obligations, that we are thus establishing some kind of a benchmark in the treatment of injured workmen, is the converse of what we are doing today. We established that when we first passed the bill that recognized on a Federal basis that a miner could be incapacitated from working in the mines. For many years States had laws that did not allow mention in the medical report or death certificate that a miner was sick or that he had died from the effects of coal mining.

They knew many years ago that the culprit was dust, and so we tied it to this legislation. When we put in the dust standards, we tied in compensation for injury. We did not go the route of Great Britain where they provided for partial disability payments. We went the route of getting the man out of the working place when he was affected by the first stages. We went the route of trying to save the man from total pneumoconiosis.

The British established a system that provided they would get a couple more dollars a week after they had the first stages of the disease, a couple more dollars after the second stage, and a couple more after the third. Then it was too late for them, and they stayed in the mines and got a few more dollars and worked until they were totally disabled. Sure, a man can work with crippling total pneumoconiosis. Thousands of them did work until they died. That is why this Congress passed the first bill that recognized the obligation of the Nation itself to those miners and their families who had worked in the mines during the years when there was no protection whatsoever for them.

Why did we put in safety legislation for the mines? Why did we outlaw open-claim lands? Why did we get away from shooting in the face? Why did we do these things? Because explosions were killing miners.

When we put workmen's compensation on coal miners, we then made the operators understand that if they did not have safe places to work, they were going to pay the bill. That is why we put the dust standards into this legislation, and that is why we put this on the backs of the operators. We do this now after we, the citizens and the taxpayers, have taken the great bulk and great numbers of coal miners affected by this disease and paid for this out of the Treasury because we could not trace the responsible operators.

Sure, in 1969 and again in 1972 we decided in our legislation that the responsibility would go back to the States and the States or responsible coal operators would have to pay the claims. But the States refused to pass enabling legislation, and the Treasury was stuck with the bulk of these claims as well.

Mr. Chairman, I had the distinct pleasure and privilege of being the floor leader in the Senate of the State of Pennsylvania when we passed the first black-lung bill under my sponsorship. We were told it was going to break the coal industry and it was going to do everything else that was bad. It did not, and it will not. To suggest that it will cost $1 billion or $2 billion by adding these particular items to the legislation is simply misleading.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the distinguished chairman of the committee.

Mr. PERKINS. Mr. Chairman, let me say to my distinguished colleague, the gentleman from Pennsylvania, that he has made an outstanding statement.

I would like to ask the distinguished gentleman from Pennsylvania if it is not correct that the death and disability rate for coal miners is twice that of the general population of this country and much higher than in any other occupation.

Mr. DENT. Mr. Chairman, the gentleman is absolutely correct. It is something we cannot see. One can see a physical injury because it is exposed.

The idea that this concept may flow to other industries that have occupational problems should not prevent us from voting for this legislation. We should remember that the first workmen's compensation law was passed in the State of Pennsylvania in 1916. In 1936, when I went over to the Senate in that State, I reviewed the arguments, and the arguments that were made then were the same arguments that are being made now.

We passed the first amendments to that act. We did not say that if one got a broken leg or a broken arm or a broken back or a crushed skull in the rubber industry, another worker should not get paid for the same injury because it happened in a steel mill.

We separated coal from all the other industries in Pennsylvania because the loss ratio was so great in coal that at one time they were paying 55 percent of payroll for the compensation payments.

Mr. Chairman, there have been 358,000 miners awarded black lung payments under the legislation for total disability. Yet, workmen's compensation costs many times the cost of black lung legislation.

What have we done in this act? We took from the relief rolls. We took beneficiaries, 508,000 of them, in the main, who were getting paid out of relief, a degrading way of paying a person who, through no fault of his own, worked in a mine.

Mr. Chairman, let me tell the Members what working in the mines means. This is my father's paycheck. It is all withered and torn, but it is still legible. Let me cite my father's paycheck and then let someone tell me what he should have done to prepare himself for black lung in later years so that he and those like him would not have to come to Washington with cap in hand, to this body.

Forty-five wagons were loaded at 65 cents a wagon. Let me give the Members a little bit of history. In those days coal was loaded with a fork with 2-inch tines, a 2-inch space between the fork prongs. Anything that fell down through the tines the miner picked up and loaded the car with it, or a car and a half. Sometimes the miner loaded more coal than he got paid for—for nothing.

Mr. Chairman, 45 wagons, during a month's work, at 65 cents each gave my father a total payroll of $29.25. Then he had to pay the company store $22. If he did not buy at the company store, he would not be loading any wagons. Then he had to pay 30 cents to the blacksmith to sharpen his tools, his augers; and he had to pay $1.40 for the explosive, causing the dust that would give him black lung. He had a total take-home pay for 1 month of $1.55, for my mother, my father, and 12 kids.

Mr. Chairman, I defy anybody to say that I have one thing in this legislation that is not beneficial to the coal miner. That is what the bill is all about.

There are those who would want to go further, and there were those who wanted to go further in 1900.

In 1961, when I first started to introduce the legislation, I had not learned the lesson that I was taught by John L. Lewis. He said:

> You get your foot in the door and then slowly bring the other one up. Keep moving, and the door opens for you.

Yes, we got our foot in the door. Is this entitlement of 30 years in the bill logical?

This legislation establishes the entitlement on the basis of 81-percent approval of all miners who worked 30 years or more in the coal mines. Of the 19 percent that were not approved, you can rest assured there is a substantial likelihood of error in those denials.

I know some of the Members feel they have to try to reduce it. Yes, we have the 25-year test for the anthracite mines, but why? Because the incidence of black lung both in time and in the period of work and the incidence of total disability from black lung is as much as seven times that of those miners in the bituminous mines because it is a different structured coal.

Everything we have done has been done after all of the research has been in our hands. Everything we have done we have done after receiving all of the facts we could get together. Also do not forget this, it is going to be a declining obligation. I have said it, and I cannot say it often enough, these miners are dying every day.

We have in the anthracite mines about 3,500 workers who are working in the mines and about 13,000 to 14,000 workers that are not working in the mines. I would venture to say that in a proper examination there are few in that area that have been turned down by improper examination for black lung. So we have established a 25-year entitlement in light of their special circumstances. I know they say this is different, this is something that does not belong. I heard the Republican floor leader say it does not belong in conversation. When you have a situation like this, you must find some other criterion to bolster the claim of the crippled man. I cannot defend this under part C for years worked after 1971 because that would have knocked my whole argument down the drain, because I can only argue that those miners before the dust standards were properly set could possibly come under such an entitlement. But no miner is denied the right of examination and application even if he only worked a few days in the mines. We do not close the door on the 15-year miner, the 10-year miner, or the 20-year miner.

We say in this instance if we are going to keep it a compensation bill, and I can defend it as such, then we have got to make it so that you can defend the entitlement provisions. Do the Members think we have not tried exceedingly hard? Do they think that the son of a coal miner would not, if he could, have found some ground of safety to stand on, some ground that he could at least defend if it has to go before the courts? And I assure the Members that it will, and that the courts will find that we acted reasonably and rationally and within our power.

But I do not want any mistaken idea around here that anybody that is voting against this is voting because of the entitlement provision, because they are voting against it, in plain English language, as they have voted since the first compensation bill was ever introduced into any legislative body.

I hate to say this but it is true, and the testimony is right on my desk, because the business climate is against it. The National Coal Association is making noises against it. The Chamber of Commerce is against it.

We can go back through the years, in my 43 years as a legislator and you can take every instance, and we cannot find any single amendment to any compensation act, and you will find this is so, all you have to do is to take the testimony, know where it comes from, just take that testimony and strike out the date it was given and put in the date that it is given on that amendment, and strike the name of the person, because those people change about every 3 or 4 years, and you will find exactly the same testimony for the last 43 years of my life as a legislator in compensation law.

Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman has 24 minutes remaining.

Mr. DENT. Mr. Chairman, I would suggest that the other side, if they have additional requests for time, yield time now.

Mr. HYDE. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committe appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred and one Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call will be considered as vacated.

The Committee will resume its business.

Mr. ERLENBORN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to H.R. 10760, the socalled Black Lung Benefits Reform Act of 1975.

Mr. Chairman, I think the only way one could call this bill a reform would be if one were willing to say that black is white, that falsehood is truth, and other things that are so contrary to human understanding.

I think a little bit of historical background would be helpful in assessing how we got to where we are today and what the meaning of this bill for the future might be.

In 1968 there was a coal mine disaster in Farmington, W. Va. Many miners lost their lives in that disaster. That was just one of the more outstanding disasters. Many more lives were included than the kind of roof falls, explosions, and other disasters that occur in mines on a fairly regular basis.

Understandably, the Congress reacted. And in 1969 legislation was considered on the floor of the House to help prevent accidents like that from occurring in the future. It was controversial in some of its safety aspects, but not all that controversial. Some things were done to require permissible equipment in nongaseous mines that I think were questionable, and I would still question them today. But generally speaking, there was widespread and understandable support for improving the safety standards in coal mines to prohibit disasters like that from occurring again.

As a part of that effort, it was suggested that we compensate those who had pneumoconiosis or so-called black lung. The argument was made that up until recent years at that time black lung or pneumoconiosis was not identified as an industrial disease.

It has been called by other names such as silicosis and sometimes it had been diagnosed as heart attack, but in very rare cases had it ever been identified as an industrial disease; therefore, it had not been compensable under State workmen's compensation laws.

The argument was made that now that we have identified this as a disease, it should be made compensable in the future, that claims should be processed just as other workmen's compensation claims were processed, and that the same sort of benefits should be paid to coal miners who had this disease as were paid to other workers who had industrial diseases.

This was a logical argument. We should prior to that time have recognized this as an industrial disease and made it compensable just as other industrial diseases are compensable.

So the argument was made that in the future these coal miners should be treated like other workers and they should receive the same sort of benefits. But it was impossible to look back over the course of years and determine who would have been the responsible employer during the years when this was not recognized as an industrial disease, and, therefore, it was determined it would have to be a Federal responsibility to do equity and to give compensation to all those who were rightfully entitled to it even though the law did not recognize it.

So it was said time after time in the hearings, in our committee, before the Committee on Rules, on the floor of the House, and in the conference committee that this was a one-shot deal to bring equity and we would take on this responsibility through the Federal Treasury to take care of all those old claims and then in the future equity would be done and coal miners would be treated as other industrial workers were treated.

I, among others, felt that this could have provided a very bad precedent for changing the nature of workmen's compensation from that which it is today and was at that time and altering the program as it was operated in each of the 50 States. I felt it would be a precedent for making workmen's compensation or, as it is called today, worker's compensation a total Federal responsibility.

We were assured that, no, this is not the intent, that there is no precedent. The law was enacted.

Then a strange thing happened on its way to enactment. Both the House and the Senate bills provided, as was only logical and as was sustained by the medical evidence, that only progressive fibrosis, the last and only progressive stage of pneumoconiosis, would be compensated. This was consonant with the medical testimony; it was consonant with the determination of the International Labor Organization that set the standards for determining the various stages of pneumoconiosis based upon X-ray evidence. But even though each House in passing its bill determined that only disabling, last-stage pneumoconiosis would be compensated, in the conference the word, "complicated" was taken out, and it was left so that even simple first-stage pneumoconiosis, which by nobody's standard under any medical evidence is disabling, could also be compensable.

As a result of that and some other shenanigans in the conference, I switched from one Member who supported the bill to one who voted against the conference report. The conference report, however, was adopted, and the President did, after much soul-searching, sign the bill on the last day.

In 1972 we amended the pneumoconiosis compensation law. At that time under the 1969 act it was to become the industry's responsibility for future claims through the State workmen's compensation system. In those days those Members who are the sponsors of the bill here today said, "Well, let us extend this as a Federal responsibility a little bit longer. Let us take the burden off the back of the industry."

I did not agree. How often have we heard it said that Republicans are the friends of big industries and that Democrats are the friends of the workingmen?

It seemed to me that the Democratic sponsors of this bill were bailing out the coal industry in those days and extending the Federal responsibility, with the result that the Federal Treasury and therefore all the taxpayers would pay additional hundreds of millions or perhaps billions of dollars.

Yet, that bill did pass. Some other nice little sweeteners were put in that bill. One was the assumption that once a man had worked 15 years in the coal mines, if he had any sort of lung problem, it was pneumoconiosis and therefore, compensable, and another, contrary to the usual practice, one could draw full social security disability payments and black lung compensation at the same time, without the one offsetting the other. Therefore, we began to treat those getting black lung compensation more generously than the one who was physically disabled by the result of a mine disaster.

Mr. Chairman, that is true today under the present law and would be exacerbated if this law today were passed.

Not satisfied with that, the same people are back here today with an additional amendment.

If this bill is enacted, no longer would one have to even claim to be disabled. No longer would he have to pretend that there is something that makes it difficult or impossible for him to earn a living. All he would have to have is a certain number of years in the coal mines and then he will be able to draw compensation. If this bill passes, one can draw that compensation and he will not even have to quit working. He can continue to work to draw the compensation.

Mr. Chairman, if this bill passes, a man will be able to draw, if he is not working, disability compensation for one disability; black lung compensation for black lung, even though he does not have it; social security disability; and the United Mine Workers pension as well.

There are cases where people are drawing combined benefits exceeding what they made when they were employed.

I have two examples which were given to me of actual cases, given to me by HEW, where 103 percent in one case and 106 percent in another of pre-disability earnings are being drawn in compensation, various forms of compensation. If this bill is passed, those figures will increase to over 150 percent of pre-disability compensation in those two cases.

Mr. Chairman, in the name of simple equity, we are treating coal miners in this bill in a way that is altogether different from the way we treat all other employees in hazardous occupations.

As the gentleman from Pennsylvania (Mr. Goodling) pointed out, without any encouragement on the part of anyone that I am aware of, the National Science Foundation has taken a look at this bill and has said that if we were to extend this concept of compensation to all other workers in hazardous professions, the cost would be as much as $100 billion annually to our economy.

As I said when we were debating the rule, when we were talking about cost, the gentleman from Pennsylvania (Mr. Dent) assured us that this could not be more than $40 million or $50 million annually. It is now running to $1 billion out of the Treasury. If this bill is passed, that would increase to $1.2 billion or $1.250 billion over the next 5 years annually, as well as creating this new industry-supported trust fund, out of which additional payments will be made.

Mr. Chairman, the true total cost of this bill is really not known. It is difficult to contemplate.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield briefly.

Mr. ERLENBORN. I yield briefly to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Does the gentleman in the well really know of anybody who is getting rich because of black lung compensation? The gentleman mentioned a number of cases of what he called double compensation, but I have yet to find in the coalfields any individual who is really getting rich on black lung compensation other than the lawyers.

Mr. ERLENBORN. Mr. Chairman, in answer to the gentleman, I certainly would not say that anybody drawing compensation was getting rich. That is not the point I was trying to make. If the gentleman was listening, I said these workers are getting more than others who are actually disabled. I think equal disability deserves equal compensation.

Mr. Chairman, I am not talking about people getting rich. Do not let the gentleman twist my words because I did not say that. However, if we are talking about equity, equal disability deserves equal compensation.

Why should not the coal miner who is hurt in a roof fall get as much compensation as one who is supposedly a victim of black lung disease? Why should one coal miner who is hurt in a roof fall in a coal mine and in consequence is a quadriplegic, draw less compensation than another coal miner who does not have black lung disease but who has had 30 years in the coal mines? That is not equity. Those who support this bill and call it simple equity cannot sustain their case when those are the facts and they know those are the facts.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I would ask the gentleman from Illinois if there is any other disease that we fund from the Federal level that pays benefits to those who can be shown are not afflicted with that disease?

Mr. ERLENBORN. Mr. Chairman, in answer to the inquiry of the gentleman from California (Mr. Rousselot) I would say no.

This is totally new ground being plowed, as it was in 1969—and we were afraid then it might be a precedent.

Mr. ROUSSELOT. So that the gentleman's point about equity clearly is true, we do it for no other diseases imposed by industrial conditions, and we do it in no other Federal case. I think that the gentleman's point about equity is well taken.

Mr. ERLENBORN. I thank the gentleman. I am happy the gentleman from California sees my point and agrees with the principle.

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the gentlewoman from Nebraska (Mrs. Smith).

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in opposition to H.R. 10760, the Black Lung Benefits Reform Act.

No one can deny the seriousness of pneumoconiosis, or black lung, nor the need to recognize this seriousness by assisting those afflicted with black lung. The legislation before us today, however, is anything but a solution to the problem. It is, in fact, yet another example of the Federal Government turning its back on the causes of a serious and complex problem by throwing money at it over its shoulder.

While present law provides compensation to those who suffer from black lung, H.R. 10760 goes even further in authorizing Federal payments. But consider for a moment what it ignores:

No medical evidence of black lung is required before benefits are paid.

Limits the right of appeal to those claiming benefits.

Does not recognize other compensation—State or Federal—that a claimant may be receiving. In some cases, it is possible that an individual could receive more by not working.

By-passes the collective bargaining process by imposing a settlement by Federal fiat.

Discriminates against workers in other hazardous occupations by unfairly singling out miners for compensation.

Disregards the hearings now underway on legislation to improve compensation for all workers.

Violates the spirit of the Budget Control Act by obligating the "back door" expenditure of massive amounts without prior consideration.

Mr. Chairman, any Member who is honest with himself will recognize this bill for what it is: A special interest handout worse, even, than the Lockheed loan bill of several years ago.

I urge my colleagues to defeat this proposal so that we on the Education and Labor Committee can go back and develop a responsible solution to the problems caused by pneumoconiosis. The Congress should take the lead in developing a model workmans' compensation program—one that adequately and fairly compensates those no longer able to work, while at the same time attacking those conditions, such as excessive coal dust, which cause disability.

A "no" vote today will give us the opportunity to exercise our responsibility to legislate for the good of all.

Mr. ERLENBORN. Mr. Chairman, I thank the gentlewoman from Nebraska for her contribution.

Mr. Chairman, there are additional reasons why the Members should be against this bill. As a matter of fact, I find nothing redeeming in the provisions of the bill at all.

At the present time we have presumptions in favor of those who are claimants for black-lung compensation. We have medical testimony before our committee that has been ignored—that only 14 percent of the long-term coal miners are disabled by complicated pneumoconiosis and yet 64 percent of those claims that have been filed have been approved.

We have in this bill such unconstitutional provisions as when a claim is allowed no one may appeal from the administrative law judge but if the claim is disallowed, the claimant may appeal.

The gentleman from West Virginia (Mr. HECHLER) has informed me that he is going to offer an amendment that would do something similar with the reviewing of X-rays. If the claim is allowed, then the X-rays may not be reviewed but if the claim is denied, of course, they could be reviewed.

We are going even further, given every presumption that this is a program that is overly generous, we are going to entitlements. Entitlements have nothing to do with disability. Those who draw entitlements because of their years of service are getting a pension. There is no justification for that in this legislatiton.

It would also require the Social Security Administration under this bill, to open up and review 180,000 claims already denied, most of which have already been reviewed as a result of the 1972 amendments, claims filed under the 1969 act, reviewed under the 1972 amendments, would be reviewed again under more liberal criteria.

Already, the General Accounting Office, in looking over the criteria used under part B, said that the Social Security Administration is using criteria more generous and more liberal than the law allows, and this bill would take those criteria and establish them as the criteria for part C, so that the discredited criteria would now be applied to the industry's responsibility.

Mr. Chairman, as I pointed out during the debate on the rule, the arguments that we ought to compensate disability are answered by saying that we do. We are compensating even those who are not disabled today because they do not have to prove disability.

The arguments that we ought to shift responsibility to the industry are false because that responsibility is there today under part C.

There are no arguments that justify this bill.

It even becomes sort of an insurance bill that would give benefits to the widows of miners who are killed in a coal mine accident if those miners had worked in that coal mine for 17 years or more, and no proof would be required that he ever had any expectation of pneumoconiosis is necessary.

It passes on the cost of these liberalized benefits through a tonnage tax on coal, and an obligation against the coal mine operator that will appear on that part of your utility bill called fuel adjustment costs.

Somebody supporting the bill said he did not feel for those who do not live in coal mining States ought to have to pay the cost of pneumoconiosis compensation.

Our fuel-adjustment costs will appear on our utility bills in no matter what State we might live.

Mr. Chairman, there is no validity to this bill.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield to the gentleman from Pennsylvania.

Mr. DENT. I thank the gentleman for yielding.

For many years I voted for farm subsidies of all kinds—peanuts, tobacco, and others. I did so because I thought it was right. But many a city fellow could never understand why he had to pay farm subsidies when they did not pay anybody within the cities.

Mr. ERLENBORN. I think the gentleman raises an interesting point. Farm subsidies were meant to keep up farm prices, and we paid as taxpayers to keep up farm prices, so we had the privilege of paying higher prices as consumers. That never made much sense to me, I might say.

I do not think we ought to make the same kind of mistake here by giving a pension to one segment of industry in the guise of disability compensation and pass the cost on to the utility consumer throughout the country.

Mr. Chairman, I hope this bill will be defeated.

Mr. DENT. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. HUBBARD).

Mr. HUBBARD. Mr. Chairman, I rise to speak briefly in behalf of H.R. 10760, a bill I am proud to be a cosponsor of, and a bill which I strongly endorse.

During these 14 months that I have had the privilege of serving as a Congressman in the 94th Congress, I have heard much about the energy needs of our country. In fact, some who have spoken in opposition to this bill today have our energy needs the No. 1 issue of the 94th Congress. I have heard Congresmen urge that the United States should be independent as to our energy resources. I have heard so much about the importance of coal, and that coal is the best answer to our energy needs. I have seen important environmental legislation vetoed by the President and then sustained by the House because of the arguments as to the need for more coal production in the United States.

However, I think it is high time, Mr. Chairman, that we rise and come to the help of the coal miners, those forgotten persons who actually mine this important product within our United States. In the name of simple equity, I would urge my colleagues to consider the plight of the coal miners and would remind the Members of Congress that they enacted the original black lung benefits legislation as recognition of the national debt we owe the men and women who for years have gone, and continue to go, into the mines of our Nation to produce this precious and valuable resource.

I hope the time has passed when any question remains about the pluses of this benefits program. Coal miners deserve financial security and health benefits for their contribution to the energy needs of this Nation. Despite advanced technology, we again recognize our need for coal, and just as the miner must still go underground to mine it, the coal dust is still there to greet him. Mining remains the most dangerous profession in our Nation.

I have been in the Chamber today and have heard opposition to this bill as expressed by a distinguished colleague from Connecticut, and yet I have heard that same colleague emphasize the need for more money by the Federal Government for the Penn Central Railroad, and the need for more Corps of Engineers projects in Connecticut.

I am here as a Congressman from western Kentucky to say it is about time to recognize some of the people who produce the coal in these United States. The gentleman who spoke before me, my distinguished colleague from Illinois, and of course the entire delegation from Illinois, were all in favor of a coal gasification plant going to Illinois. Yet when it comes time to reimburse and take care of the coal miners of this country, we find opposition from parts of Illinois.

I close these remarks by simply urging my colleagues to realize that as we talk about coal production, energy needs and equity, that we should remember the coal miners.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, on December 30, 1970. I received an urgent call from Hyden, Ky. There had been a mine disaster. That night I was there. I saw them as they brought 38 blackened and burned bodies out of that coal mine. I heard the distressed cries of the widows and orphans. I want to say that it is the most hazardous profession that we have in the United States today.

In Lynch, Ky., the United States Steel Co. has a mine which goes back under the mountains from 6 to 9 miles. These people go back there each day and stay 8 hours under that mountain back in that black hole. Any man in this country who has served 25 years back in a mine, back in a hole, deserves something for having done that. I think any miner who goes back under the mountains of Kentucky and digs coal to keep us warm in the winter, a man who stays there for 30 years, does deserve something.

I feel that, without a doubt, each one of these men in Kentucky or Pennsylvania, or wherever it may be, will show an X-ray with stippling and fibrosis in the lungs, which shows he has pneumoconiosis.

Over the years I have visited throughout the mining area of my State and it is just a very common thing when I see hands on those men with a missing finger or two fingers. I see them often with only one leg. I see them walking on crutches as the result of slate falls.

Just last week I saw a miner in Whittey City, Ky., which is in McCreary County. The man was disabled. I noticed his heaving respiration. His wife was with him and they thanked me for assisting them in getting their benefits.

His wife told me:

> My father was killed in a mine. My two brothers were killed in the mines.

This is what happens to so many of our people. They are killed. This is the most hazardous occupation that we have, from the viewpoint of accidents, accidental death, terrible death, fire, gas, cave-ins, slate falls; there is nothing to compare with it.

Now, I would hope that this House in its good judgment would not be so cold and calculating as to deny these people who go down into the bowels of the Earth to get the energy by which we keep warm in the winter, I hope that they will not be so cold as to forget these men who each day work that we may be warm or that we have the energy that we consume every day. As we know, the future of the energy supply of this country depends upon coal. As one of my good friends from Pennsylvania said, "C-O-A-L, coal."

We have not gone to the gasification, to the liquefaction of coal, but we must do so immediately so that this country can be eternally independent of the OPEC nations. Coal is the source of our future supply of energy. Why this House has delayed passing the gasification and liquefaction bill is beyond me. We must protect those men who supply our source of energy at the risk every day of their lives.

Mr. ALLEN. Mr. Chairman, will the distinguished gentleman from Kentucky yield?

Mr. CARTER. I am happy to yield to my good friend from Nashville.

Mr. ALLEN. Mr. Chairman, I would like to associate myself with the remarks of a man who not only is a distinguished Member of this body, but who is a distinguished member of the medical profession and a man who knows whereof he speaks. I concur 100 percent in the sentiments and remarks he has expressed before this Committee.

Mr. CARTER. I want to thank the distinguished gentleman for his very kind remarks.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I am happy to yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I too would like to associate myself with the remarks made by the distinguished gentleman from Kentucky. He has spoken with wisdom and with compassion. I fully support his case, and associate myself with him.

Every one of us who has had the privilege of representing a coal mining district has had the experience of witnessing the human tragedy of miners who were old and who were ill, for whom there was no help prior to the passage of this basic legislation. There are still people in need whose needs will be met by the strengthening of this legislation, which we can do this day.

I believe the gentleman to be speaking the truth medically. I have never known a person who has worked for 25 or 30 years in a coal mine who did not have a health problem or a breathing problem. Perhaps it can be so, but I have never met that man.

Mr. CARTER. I must agree with the distinguished gentleman from Alabama. I do not believe it is possible for a man to work 25 years in an anthracite mine or 30 years in a bituminous mine without severe pneumoconiosis.

Mr. BUCHANAN. I thank the gentleman for his remarks.

Mr. DENT. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman and my colleagues of the House, I join my distinguished predecessor from Kentucky (Mr. CARTER), who hit it right on the head, along with the gentleman from Alabama. I heard my colleague from Pennsylvania (Mr. GOODLING)—I do not see him right now—say that this is an issue where there should be no emotionalism. It is pretty hard for me not to get a little emotional when I talk to coal miners who worked 20, 25 years, and they have health problems. There is just no question about it.

My friends who do not represent coal mining areas can talk in theory: I am talking facts.

But, let us talk statistics then if we want to avoid emotionalism. One is the reality mentoned by the gentleman from Kentucky (Mr. CARTER), Mr. Chairman, that coal mining is dangerous. There are 160,000 coal miners, roughly, in this country. Last year, 155 coal miners died. That means that one out of every thousand died in a coal mine accident. Further, 16,000—1 out of every 10—were injured in one way or another. Nine thousand—1 out of every 17—suffered a disabling injury. This is aside from pneumoconiosis, black lung, and this is January through October 1975 on injuries.

We are talking about a serious problem aside from black lung. Now, my good friend from Connecticut has said that this is unsound financially. The reality is, we are proposing a program that is eminently sound financially. The black lung recipient receives $2,800 a year against an average of $14,000 if he is mining. No one who is in good health is going to choose $2,800 in income when in fact he could otherwise get $14,000 in income. This bill does it in a sound way, putting it on a ton of coal mined, 14 cents a ton. Let us just assume that we are 100 percent wrong in that assessment of what the cost would be.

Let us assume that it is 28 cents a ton. So it is 28 cents a ton. Is that a reason to deny justice to people who eminently deserve that justice?

The CHAIRMAN pro tempore. (Mr. LLOYD of California). The time of the gentleman from Illinois has expired.

Mr. DENT. Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, I will close in 1 minute.

The national coal workers autopsy study—and that is the real way to find out whether there is a problem—shows that 90 to 95 percent of the coal miners, where an autopsy has been performed, who had worked at least 20 years, had pneumoconiosis. I have some other facts here, but I would finally close with just an appeal that was sent to me by a Federal judge, who said:

> Somehow, something has to be done. I have to rule against these coal miners and their widows, when I know that simple justice requires just the contrary.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Pennsylvania (Mr. Goodling).

Mr. GOODLING. I thank the gentleman for yielding.

Mr. Chairman, I want to correct the Record. I said that emotionalism plus politics equals bad legislation. That was my statement.

Mr. SIMON. I stand corrected. I am pleased to have that corrected. I think emotionalism plus good sound facts will dictate that we adopt this legislation.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. The Chair would remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of the proceedings is a violation of the rules of the House.

Mr. DENT. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. Hayes).

Mr. HAYES of Indiana. Mr. Chairman and members of the committee, I thank the chairman of the subcommittee for yielding to me this time. In view of the objections which have been voiced to this legislation, I think it is very necessary to point out what the real purpose of the bill is and then simply to decide whether we support or oppose that basic, bottom line purpose.

Mr. Chairman, in 1969, when the Coal Mine Health and Safety Act was reported by our Committee on Education and Labor, the report said that the health standards were hoped to accomplish the elimination of conditions in mines which caused pneumoconiosis. So, the elimination of harmful conditions is and should be the root of this compensatory legislation, and in fact we know that is the root of all compensatory legislation, whether it has been here or whether it has been on the European continent or in England. That is the background of compensatory legislation. It is absolutely obscene to suggest that the cost of disease to the labor portion of mining should not be added to the cost of the coal. It is economic brutality to infer that the human suffering which is a byproduct of our industrial society should not be computed as part of the overhead of mining and left out of that overhead cost. To make the argument that our insensitivity to disease in asbestos workers, our insensitivity to disease in steelworkers, our insensitivity to disease in cotton mill workers should justify willful and wanton neglect of disease in coal miners is an attitude that I think I have only recognized before in the literature of Dickens when he discussed the economic conditions in the 19th century in England.

This, I say to the Members of the House, is the 20th century in America. As a matter of fact, it is 25 years just previous to the 21st century.

This legislation is very simple. Its basic premise is that the disability of proved disease which is incurred by the human beings who are extracting the coal from the ground is going to be computed as one part of the overhead of taking it out, if one needs to put it in cold, calculated, economic terms. We would calculate that if we were dealing with a draft animal. And, consequently, we must calculate that if we are going to deal with a human being.

So if the Members are opting to do anything less on this bill, then what we are failing to understand is that it is only compensation for this disease that will provide the incentive to eliminate the conditions which caused the disease in the mines in the first instance.

Mr. Chairman, I will have an amendment which will insure even further that some thousands more of workers in surface mines will be covered. I urge the Members to pay attention to that debate, and I would like to request that Members support that amendment.

Mr. ERLENBORN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I sat here in just absolute amazement listening to the gentleman who preceded me and who spoke from the well.

Either the gentleman was displaced in time back to 1969 and is a victim of a time warp or else the gentleman is just terribly misled and undereducated and is not aware that we already do compensate this disease, that the cost of it is now upon the coal-mine operators, and that if they bear the cost, they must pass that cost on to the consumers. I do not see how the gentleman who spoke in the well can say that we are going back to Dickens' time if we deny compensation.

Anybody who has the disease is allowed compensation under the current law.

The gentleman says the simple thesis of this legislation is to compensate proven disability. I suggest that the gentleman has not then read the bill, because the bill says that one would only have to work a certain number of years in order to get this compensation. They do not even have to claim to be disabled; they can continue to work and yet draw the benefits.

Mr. HAYES of Indiana. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Indiana.

Mr. HAYES of Indiana. Mr. Chairman, what the gentleman from Illinois fails to understand and what the coal operators of this country fail to understand is that a matter of proof is also a presumption. Evidence is a presumption.

Therefore, I urge the gentleman to take a look at every one of the harpooning amendments he has and take a look at his own minority report and then tell me whether he wants full and open compensation in this area. The fact is that he wants procedural safeguards in order to make sure that nobody collects when it becomes necessary for them to collect. He wants them to be burdened down with every possible lawyer's gimmick; he wants them to be burdened down with every administrative logjamming conceivable.

Mr. ERLENBORN. Mr. Chairman, I refuse to yield any further.

Mr. HAYES of Indiana. I suggest that that is what the gentleman wants.

Mr. ERLENBORN. I refuse to yield any further, and I ask for regular order, Mr. Chairman.

The gentleman from Indiana again is just terribly, terribly misled. He talks of my amendments. I propose no amendments.

The gentleman says that proof is a presumption. I do not understand what the gentleman means. His English is apparently not like mine.

Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. Ashbrook).

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I would like to ask my distinguished friend, the gentleman from Illinois (Mr. Erlenborn), how many able-bodied miners he knows, miners of either anthracite or bituminous coal, who have worked in the mines 25 or 30 years and who are still able to go about their business and to work at anything, let alone work in the depths of a mine.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield so I may reply?

Mr. ASHBROOK. I yield to my colleague, the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I think the question the gentleman from Kentucky should more properly be zeroing in on is the question of whether or not these people are entitled to a pension after working for long periods of time, and I think, yes, perhaps they should be. The simple justice of the situation would indicate that a pension should be made available to those who have spent long years in the coal mines, and many of the arguments that have been made on the floor have been made on that basis.

If we were talking about a coal mine pension bill and it were a bill that gave equal justice to all who worked in hazardous occupations, we might have some reason to be conducting this debate. But the fact is, Mr. Chairman, that all the medical evidence before our committee indicates that periods of service in the coal mines bear no relation to disability based on complicated pneumoconiosis.

Mr. CARTER. Mr. Chairman, the gentleman has not yet answered my question as to how many able-bodied men he knows of who have worked for 25 years in an anthracite mine or for 30 years in a bituminous mine. If he can show me one, I would like to see him, and I would like to see one who is not disabled. I would like to locate that one man. It is my feeling that 25 years as an anthracite miner or 30 years as a bituminous miner will cause pneumoconiosis.

Mr. ASHBROOK. Mr. Chairman, I will vote against H.R. 10760, the Black Lung Benefits Reform Act of 1975. This bill inappropriately expands the Federal responsibility for black lung compensation.

I certainly believe that coal miners suffering from pneumoconiosis should be compensated. Miners who have this disabling disease deserve adequate compensation for their disability.

The bill before us today, however, goes far beyond that. It would establish as a matter of law that a miner has black lung because of time of service whether or not he has the disease.

Coal miners in bituminous mines for 30 years or anthracite mines for 25 years would be entitled to black lung benefits without having to show disability caused by the disease. Widows of miners killed after 17 years of service would also receive these benefits.

No longer would benefits be linked to disability, as was intended when the program was first enacted. In fact, no showing of disability would be necessary at all. Instead, benefits would flow based solely on time of service.

Such action is unprecedented and wrong. What we are being asked to approve is little more than a federally financed retirement program for coal miners. I cannot support this concept.

I cannot justify forcing the taxpayers of our Nation to compensate people who do not have black lung. Yet H.R. 10760 would do exactly that at a cost of hundreds of millions of dollars per year. It has been estimated that this bill could run $1 billion or more during the next 5 years. Considering that our budget deficit is in the $70 to $80 billion range for fiscal year 1976 alone, any further increases in Federal spending would be extremely unwise.

Neither can I justify establishing a retirement program for coal miners when similar benefits are denied to workers in other hazardous occupations. Why should coal miners be accorded preferential treatment by the Federal Government over these other workers?

I firmly believe that compensation under the black lung program should continue to be based on disability. Benefits should be limited to the truly deserving rather than being open to everyone whether he has the disease or not.

Frankly, I do not believe that the majority has been honest with us on this issue. When the Coal Mine Health and Safety Act of 1969 was debated on the floor of the House, proponents of the legislation stressed that Federal involvement was a limited, one-time-only affair. In no way was it intended to federalize the workman's compensation program.

According to Congressman DENT:

> This is a one-shot effort. This is not a continuing compensation arrangement to establish Federal based compensation for this or any other industry. We are only taking on those who are now afflicted with pneumoconiosis in its fourth stage—complicated pneumoconiosis.

Congressman BURTON referred to it as a "* * * temporary one-shot black lung pay provision * * *" that would not run "* * * the risk of federalizing in some way the workman's compensation program."

Well, now we are being urged to do exactly what we were promised would not happen in 1969. The limited, one-shot program would become expanded and permanent. A further step would be taken toward federalization of workman's compensation. In fact, according to the majority, this legislation could become the prototype of future federalization of occupational disease programs.

This is exactly what I warned against in my 1969 minority views. As I stated at that time:

> The second provision (Federal benefits for coal miners with black lung), in actual effect, establishes a system of Federal workmen's compensation for a special and relatively small category of occupational damage to workers. Hence, it is not only discriminatory as to all other injured or ailing workers, but an intrusion by the Federal Government into the field of workmen's compensation which since its inception about a half century ago, has always been the exclusive jurisdiction of the several States. It thereby represents a foot in the door, a possible first step toward the ultimate federalization of the entire system of workmen's compensation.

Mr. Chairman, H.R. 10760 has been termed "special interest legislation," and we have been exhorted to appeal to reason and not emotion. However, I believe the legislation is more than "special interest"—it is nothing less than outrageous and nothing more than a ripoff. And, I feel that I have been more than reasonable in signing, thereby endorsing, the minority views, a study of reason and not emotion. Despite that logic and despite our calm reason, this piece of outrageously liberal legislation to benefit only the constituents of a few Members is allowed to be brought to the floor under the guise of rational purpose. If reason and logic fail to thwart this discriminatory action, will emotion prevail? Surely, if we allow this Black Lung Benefits Reform Act to pass this House, it is obvious that emotion and demagoguery will prevail over reason and logic.

The black lung benefits began at the end of 1969 with enactment of title IV of the Federal Coal Mine Health and Safety Act. At that time, it was pointed out that the program established a system of Federal workmen's compensation for a special and relatively small category of occupational damage to workers. The argument was made then, and is as true today, that the program is not only discriminatory as to all other injured or ailing workers' compensation, which had traditionally been the exclusive jurisdiction of the several States. The argument made then that the program was a foot in the door, a possible first step toward the ultimate federalization of the entire system of workmen's compensation, was prophetic in view of the report of H.R. 10760 that the trust fund concept is a "prototype for future legislative treatment of other occupational diseases."

I urge the Members of this body to vote against expanding Federal responsibility for black lung compensation. It is, after all, the States and the coal industry that should bear primary responsibility in this area.

Mr. DENT. Mr. Chairman, I yield 3 minutes to the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. Mr. Chairman, I rise to urge my colleagues to give their support to a bill that is of paramount importance to thousands of families in our Nation.

I am speaking of the legislation currently before the House, the Black Lung Benefits Reform Act of 1975, H.R. 10760, of which I am a cosponsor.

Having been born the son of a coal miner in northwest Alabama, I know firsthand of the pain many coal miners have endured as the result of various black lung diseases. In that respect, I also know that for many years the miners had no alternative but to accept the risk of black lung that goes along with working in underground mines.

Hopefully, that deplorable situation is gone forever. The black lung benefits program, begun in 1970, has meant new hope for thousands of miners and their families, who for many years were doomed to poverty when the heads of households became unable to work as a result of black lung.

But while the black lung program has meant so much to so many people, there is still a long way to go. That is where the legislation that confronts us today comes into the picture.

As you know, this bill seeks to transfer the residual liability for black lung benefits from the Federal Government to coal operators.

The legislation would establish a coal industry trust fund for the payment of benefits to coal miners disabled by pneumoconiosis and their widows and expand the eligibility for benefits.

This trust fund would be supported by coal operator contributions. I am particularly supportive of this part of the legislation because it takes the responsibility for black lung benefits out of the Federal Government and places it in the hands of the coal industry, which is where I believe it belongs.

All coal operators would pay a premium into the trust fund based on the number of tons of coal mined to cover benefit payments which cannot reasonably be assessed to an individual coal operator. The trust fund will be administered by trustees elected by the coal operators who will have the power to invest the funds, enforce its obligations, and contest various claims.

I believe this legislation is much needed to help get the black lung program out of the bureaucratic bounds it has been the victim of in recent years. Literally thousands of deserving coal miners have found themselves disabled with little means of financial support as a result of the tremendous amount of redtape which has been associated with this program in recent years. I am of the opinion this legislation can play a significant role in insuring that all entitled miners are rewarded with the black lung benefits they deserve.

Several amendments which are designed to strengthen this legislation will be offered here in the House.

One amendment which I strongly recommend will be offered by my distinguished colleague from Illinois, Congressman TIM L. HALL. This amendment would eliminate the proposed 1971 cutoff date for entrance into the program.

I am of the opinion that the 1971 cutoff date is both arbitrary and discriminatory. It discriminates against miners who began their careers after July 1, 1941, and against miners who interrupted their mining careers to serve our Nation during World War II and the Korean war. This provision is arbitrary because July 1, 1971, holds no significant relationship with the possible contraction of black lung disease.

There has been much medical evidence that points out that miners who did not have any sign of pneumoconiosis prior to July 1, 1971, or who began work since July 1, 1971, have since contracted black lung.

The argument that mines are less dirty now that 30 years ago is often heard regarding the 1971 cutoff date. This is simply not true. With all the technical advances that have taken place in the mining industry over the last few decades, many mines today actually produce more dust that those of 30 years ago.

It has been estimated that a disabled miner who qualifies for black lung benefits can, at best, expect only about 50 percent of what he would probably be able to earn in his regular mining job, were he able to work. This percentage is also taking into account various union pensions. I believe this argument successfully rebuts the theory that the black lung program is merely a pension plan.

The Black Lung Benefits Reform Act seeks to provide relief for miners and their families who have seen their purchasing power literally destroyed as a result of black lung.

I have seen what black lung diseases can do to a miner and his family. It is with this grim reminder that I urge you to support this legislation aimed at reforming the black lung benefits program.

Mr. ERLENBORN. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. DENT. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Pennsylvania (Mr. MORGAN).

Mr. MORGAN. Mr. Chairman, I am in complete support of the objectives of H.R. 10760, which is designed to assure that the Federal black lung benefits program is administered in an equitable manner. There is no justification for denying benefits to men who have toiled many years in one of the most polluted atmospheres imaginable. There is no excuse for refusing benefits to widows who cannot supply medical records of their husbands' disabilities. It has become patently evident that unless we enact this legislation, persons will continue to be denied benefits which were earned through backbreaking labor and debilitating respiratory and pulmonary impairment.

I am in complete agreement with the committee's desire to create a trust fund which will be financed totally by contributions from coal operators. It is time the industry accepted responsibility for the ravages of black lung which has been precipitated by unhealthy working conditions. Compared to the millions of taxpayers' dollars paid to black lung claimants, the industry's financial obligation for residual claims will be insubstantial.

There are other features of the bill which will enable claimants to establish eligibility without being subjected to restrictive regulations and arbitrary determinations. Heretofore miners' claims have been rejected merely because the miner was employed at the time of filing.

No consideration is given to the fact that the miner may be involved in less rigorous work because of the disability he suffers from black lung or the fact that he is forcing himself to work to support his dependents. The bill would prohibit these threshold denials and give the claimant the opportunity to establish disability.

Under the bill widows will no longer be denied because, through no fault of their own, they are unable to produce medical evidence of their husbands' suffering. The legislation also will cease the unconscionable practice whereby claimants are given a favorable decision by an administrative law judge then their expectations are shattered by an appeals council reversal of that favorable decision.

I hope my colleagues will consider the plight of the miners who have labored in the most hazardous and physically debilitating occupation so that the Nation could depend upon a continuous supply of an inexpensive yet vital energy resource. It is my sincere hope that we not reduce this debate to an equation of lives and dollars. I for one do not think I have the divine power to place a monetary value on physical suffering or untimely death due to an insidious disease.

Mr. Chairman, I want to pay tribute to my good friend the gentleman from Pennsylvania, JOHN DENT. He has spent a lifetime working for the people who labor in the mines, mills, and all forms of labor in this Nation. This is a good bill and should be supported to help the people who risk their lives to produce our greatest source of energy.

Mr. DENT. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Chairman, it so happened that when the bill in 1969 was being presented here on the floor of the House that I had the honor of sitting in that chair and presiding as Chairman of the Committee of the Whole and, as such, could not speak on the bill, although I come from Pennsylvania.

As my friend, the gentleman from Kentucky who is a great Congressman and a great doctor has said, "Come with me," he said, and I say to you now, come with me, if you worry about black lung disease in the hard coal fields, come with me to a company town in the summer—and it will be on the first floor because the miner cannot walk to the second floor—and the window will be up and you do not need a doctor and you do not need X-rays because you can hear black lung disease just by listening, you will hear the terribly desperate deep breathing, uh-huh—uh-huh—uh-huh.

Mr. DENT. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I would like to congratulate the gentleman from Pennsylvania (Mr. DENT) and the gentleman from Kentucky (Mr. PERKINS) the chairman of the full committee, for presenting this bill to the floor of the House today.

I was the cosponsor of another bill along with the gentleman from Kentucky which is a little more lenient than this bill. It was presumed that 15 years was a sufficient time of working in the mines to assume that you had pneumoconiosis.

In addition, I think, since it has been mentioned that the money has been accounted for in our Budget Committee, and also that the money will be appropriated by the Committee on Appropriations, that it is only a humanitarian gesture that we should pass this bill to attend to those who work in our mines and help supply the energy needs of this Nation.

I would like to say to the Members of the House that those who have not been down in a mine ought to go down. I think it would be an education just to go down and go through the mine and see what a miner has to go through. I know there are many Members of this House who have not had that opportunity, and I think they should have. I think they would be more lenient then and be more humanitarian in their vote on this bill.

Mr. ERLENBORN. Mr. Chairman, I reserve the balance of my time.

Mr. DENT. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. PHILLIP BURTON).

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. I thank the gentleman for yielding.

I wish to commend the gentleman from Pennsylvania (Mr. DENT), whom I worked with for many years, particularly for this bill for western Pennsylvania. In my district we do not have many working coal mines; however, we do have the aftermath; that is, the people who have worked these mines for years, many suffering from black lung. I commend the gentleman for doing the right thing at the right time in sponsoring this legislation.

Mr. PHILLIP BURTON. I thank the gentleman.

Mr. Chairman, my remarks are going to be more informal than substantive, perhaps, and a reminder of the time 7 years ago when the gentleman from Pennsylvania (Mr. DENT), the gentleman from Kentucky (Mr. PERKINS), the gentleman from Pennsylvania (Mr. FLOOD), the gentleman from Pennsylvania (Mr. MORGAN), and others gave so much time and effort to this, along with our friends, the gentlemen from West Virginia (Mr. STAGGERS, Mr. SLACK, Mr. MOLLOHAN, and Mr. HECHLER); as well as Congressman JOE GAYDOS and the gentleman from Pennsylvania (Mr. JACK MURTHA)—the original author of the 15-year rule.)

We were told then that it could not be done, but the Congress did enact a black lung benefit bill. As the author, I knew then it was inadequate, but it was a good start.

We strengthened the bill here a few years ago. Once again today we are correcting some long overdue inequities.

I think if we are going to look at the history of the bill, we must acknowledge the help that we received from the outside, from Jock Yablonski and Arnold Miller, who at that time were not in the official top position of leadership of the UMW, but who played a decisive role in eliminating the confusion that existed when we first tried to enact this provision. I think it also fair to note, without leaving out any of my colleagues, that the addition of two new members of the Committee on Education and Labor, the gentlemen from Illinois (Mr. HALL, and Mr. SIMON), have also given this added thrust in the development of this legislation.

The black lung benefit program has done more to correct injustices for those who worked in the coal fields of this country, for their widows and orphans, than any other comparable piece of legislation applied to workers anywhere in this country.

I agree with an earlier speaker who said perhaps we should take a look at byssinosis and asbestosis. Some day we will do that and some day the brown lung and white lung workers will also get their just due.

But the fact of the matter is today we have a reasonable bill. It is a bill carefully designed to improve the benefits justifiably. I hope the bill will be supported by my colleagues so that we can then have the Senate act on it and go to conference.

There will be some amendments offered today that I am going to find with a heavy heart that I may have to oppose—oppose not because I think they do not have some merit, but oppose mainly out of concern that if we sweeten the legislation a little too much, we may ultimately imperil the likelihood that it may become law.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. I thank the gentleman for yielding.

I think that the gentleman from California now in the well should be added to the long list of heroes that he has just enumerated.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. MURTHA. Mr. Chairman, as many people know I was the first Member of Congress to introduce legislation calling for automatic payment of benefits for men who had worked a certain number of years in the mines.

It was August 21, 1974, when I first introduced that bill. It has taken a lot of hard work by a lot of dedicated people to bring this issue to the House floor. Even though many changes have been made from that bill I initially introduced, I am proud to be a cosponsor of the bill before the House today, because I believe it takes major steps in helping our Nation's miners and their families.

There were seven key points in the bill I originally introduced. The legislation before us today deals effectively with six of those points. The bill before us would:

For the first time establish a principle to pay miners benefits after having worked a set number of years in the mines, and make these payments automatic without the redtape that has characterized the present system;

Improve the situation for widows;

Allow lay evidence and affidavits rather than only medical evidence to be the basis for a claim;

Make the black lung program permanent;

Extend funding for black lung medical clinics; and

Eliminate present employment or employment at the time of death as a cause for denying benefits.

In June 1975, when I testified before the House Labor Standards Subcommittee and its extremely talented and dedicated Chairman JOHN DENT in support of black lung reform legislation, I listed two additional areas that I felt needed changed. I am glad to note that one of those—taking steps to speed the hearings of appeals—is included in the legislation before us.

But the key to this legislation is in what it means to our citizens, to the brave, proud mining families of our Nation that have often provided generation after generation of men who have gone into the mines.

As I said in my testimony in June:

> These men and their families deserve better treatment than they have received. There are entirely too many widows collecting black lung benefits because their husbands have died. There are even more widows not collecting anything, although their husbands couldn't breathe after working for as many as 30 years in the mines. And there are simply too many hard-working men who have died because of the shortness of breath that is an occupational hazard.

Mr. Chairman, this bill does not accomplish everything I want or everything the mining community in my area would like to see. It is a positive step forward. It is a major step in the right direction. It is an important step toward properly recognizing the contribution of these men.

One final word to my colleagues. If we are to become energy independent we will have to rely on coal. Coal production has not increased significantly in the last 2 years. The Project Independence energy report called for increasing coal production to 663 million tons last year and jumping to 1,247 billion by 1990. We can improve coal mining methods, we can use more machinery, but if we are to open all the new mines and increase production as projected by these figures, the inescapable fact is that we will have to attract more men to mining. There are many things we need to do to reach this goal, but one is that we have to let the miner know we will take care of him and his family for his efforts in breathing the dust day after day that will ruin his health and shorten his life. Improvements in the black lung system are essential to our national energy commitment.

Mr. Chairman, I urge a "yes" vote on this bill for black lung reform.

Mr. WIRTH. Mr. Chairman, although coal no longer plays the role in the economy of Colorado's Second District that it once did, many miners still reside in the area, chiefly in the Boulder County towns of Longmont, Louisville, Superior, and Lafayette. In talking with them, I have found a reservoir of frustration and confusion because of the administration of the black lung benefits program. The rules, tests, and standards of proof used by the administrators are so complicated, and take so long to process, that some miners' wives have to wait for autopsy results before getting confirmation that their husbands suffered from black lung.

When I asked the General Accounting Office to look into the situation in Colorado, many of the complaints were verified. Surely Colorado is not alone in this regard. Surely elsewhere there are miners who have trouble threading their way through the tunnels of the bureacracy.

This bill, the black lung benefits reform bill, would streamline the process by setting a strict timetable for processing claims as well as eliminating the requirements of medical proof for miners who can show that they have worked 30 years in the mines at the time when dust standards were not in effect. This approach is not only sensible and humane, but also represents a step away from the overregulation that has been a feature of Government activity in recent years.

The second major provision of the bill is the creation of an industry-financed trust fund to meet payments for claims. This removes much of the financial burden from the Government, and means that the cost of the program will actually decline over the years as industry and coal consumers assume this burden. That industry will pass on the increased costs, is of course entirely appropriate. The price of coal—the so-called cheap fuel—should reflect its hidden human costs.

Mr. McDADE. Mr. Chairman, I rise in support of H.R. 10760, the Black Lung Reform Act of 1975. I commend the Committee on Education and Labor, especially the chairman of the subcommittee, my good friend from Pennsylvania, Mr. DENT, for his diligence in producing this bill. I was pleased to cosponsor with him and several other colleagues a bill, H.R. 8, which embodies many of the necessary reforms contained in the legislation we are considering today.

Mr. Chairman, those of us who represent coal mining States have spent many hours attempting to refine and improve the black lung benefits provision of the Coal Mine Health and Safety Act. But we have spent many more hours in casework attempting to help our black lung miners, their widows, and families to attempt to receive greater justice in the way their claims are handled. I believe this bill will go a long way toward providing that justice.

One of the most pressing problems facing the widows of black lung miners in Pennsylvania is the great difficulty in obtaining medical records. Some coal companies who kept them have gone out of business and the records have been destroyed. Other coal companies never kept records in the first place. These widows and their families watched their husbands die of respiratory ailments and now they cannot meet the act's strict criteria for eligibility. Section 8 of H.R. 10670 gives these families some relief by clarifying the law to provide that where there is no medical evidence relating to a miner's condition, reliable lay evidence alone will be enough to establish the widow's claim. In most instances in the anthracite area, this is the only evidence that a widow can produce with no records.

Another insurmountable problem has been the widow whose husband was killed in a mine accident, yet suffered from black lung at the time of his death. There is simply no way under present law that she can obtain the benefits to which she may be entitled, because her husband had the double misfortune of having contracted black lung and having been killed in a mine accident. I suggest that we have an obligation to provide fair treatment for such a case. Section 14 of this bill would grant entitlement to such a widow after proof that her husband had worked in a mine for 17 years. I commend the committee for its foresight in recognizing this problem.

Mr. Chairman, there are numerous other desirable provisions that will clarify the law and improve the lot of our black lung miners and their families: No reinterpretation of positive or favorable decisions by administrative law judges, making the black lung program a permanent Federal responsibility, allowing a coal miner to apply for benefits while working, a 25-year presumption for anthracite miners, placing the burden for black lung benefits on the coal industry, and more black lung clinics, all of these are positive reforms and they are deserving of our support.

Mr. Chairman, today we will hear much debate over the idea of a presumption schedule. It may be difficult for a Member who does not represent a coal mining State and who has not seen the debilitating effects of black lung, or who has not heard the coughing or gasping for breath, or who has not seen the effects of a simple act like walking a flight of stairs upon a deep miner, to accept the notion of an irrebuttable presumption of black lung. As a Member who has seen such tragedies, I have no difficulty accepting the validity of the miners' claims. I have seen firsthand the equally devastating effects upon men who worked as boilermen, in strip pits, and in the breakers and whose lungs suffered the ravages of pneumoconiosis. This legislation will assist in expediting their legitimate claims for benefits.

To its eternal credit, the Congress has acted to clean up the intolerable safety conditions and to reduce the hazards of dust in the Nation's coal mines. But for the men and the families we are attempting to help today, there is nothing but a lifetime of suffering and the promise of a small financial benefit from the Government. I believe we owe these people that debt, because they sacrificed much so that this Nation could have the fuel it needed.

With this bill, we have an opportunity to give them a greater measure of justice and I hope the Members of this body will take that step by voting for H.R.10760.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I rise in support of H.R. 10760, the Black Lung Benefits Reform Act of 1975.

The amendments proposed by this legislation rest upon a comprehensive analysis of the black lung compensation program since its inception. They are remedial in nature—and anyone who has studied the misapplication of the original legislative intent can testify to the need for such remedies.

I have read the hearing record on H.R. 10760, and the legislation which preceded it, and I commend the work of the distinguished chairman of the committee, Mr. Perkins, and my esteemed colleague, Mr. Dent, chairman of the Subcommittee on Labor Standards. They have listened to widely varying views on how the program should be modified, and I am happy to report that despite resistance from some quarters, they have listened with special care and compassion to hundreds of coal miners and miners' widows whose black lung compensation claims have been denied for technical reasons.

Anyone who has sat in a room with a coal miner who has been down in the mines for 20 or 30 years should believe the testimony of his own ears. You do not need a medical degree to know that the man is sick. There is no mistaking the sound of that tortured breathing.

Well, the actuaries and the scientists can quibble about whether that slow, choking wheeze is emphysema, industrial bronchitis, or complicated pneumoconiosis. The simple fact of the matter is, that the lungs of a human being have been ravaged by years of working in choking, coal dust.

Some would argue about the danger of setting up precedents with regard to irrebuttable presumptions of occupational disease after 25 years of exposure of an anthracite miner or 30 years of exposure of a bituminous coal miner.

I suggest to those who hold this view that the horrid working conditions of American coal miners prior to the passage of the Coal Mine Health and Safety Act, were unique—if that polite term may be used.

We sent men down into those mines during World War II—and the conditions down there were hardly better than the most bloody battlefield of Europe or the Pacific theater.

The miners were heroes then—cutting the coal that helped us win the war.

Well, like most heroes, their glory was short lived—but their agony goes on and on.

Congress recognized the special nature of the debt this country owed to coal miners when it first passed the legislation creating the black lung compensation program. That debt continues and it must be paid—in full.

I believe the full payment of that debt was what Congress intended.

But there is often a big gap between the ideal and the actual. And there is such a gap in the black lung compensation program. And the great and continuing tragedy is that hundreds of coal miners' widows have fallen into it.

Mr. Chairman, I would like to quote briefly from the committee report on H.R. 10760, citing some of the experience of the subcommittee during the extensive hearings that were conducted on the black lung compensation program:

> The subcommittee conducted an oversight hearing in Eastern Kentucky, a major coal-producing area, and received testimony from more than 100 miners and widows who generally alleged wrongful denials of their benefit claims. Virtually all who appeared testified with regard to claims involving coal mining work exposures well in excess of 30 years. It was immediately apparent to the subcommittee that the greater number of the miner-witnesses were severely and dramatically handicapped by respiratory difficulties. And it was equally apparent that the widows were testifying about the disabilities of husbands arising out of work experiences identical to those of the miners who appeared before the subcommittee. Subsequent investigation revealed that the eastern Kentucky universe was not unique in that respect; indeed, that many seemingly allowable claims involving miners with extended coal mining work experiences were curiously being denied. The justifications given in individual cases more often turned on disputed or unavailable medical evidence; and proved ultimately unsatisfactory to the subcommittee and thereafter, to the full committee as well.
>
> In recognition of the historically demonstrated and exceedingly high probability of total disability (80.89%), and out of concern for an equally probable risk of error in the remaining cases, an objective test was established to simply provide part B benefit payments to all claimants whose claims had been denied and who could demonstrate 30 or more years of underground mining experience.

Mr. Chairman, I commend both the subcommittee and the full committee for this rational and reasonable approach to this tragic human problem. I commend the legislation to my colleagues, and urge them to vote with me in support of H.R. 10760.

Mr. Chairman, I would like to add one note of qualification. I view the black lung compensation program to be singularly unique and I wish to stress that the program that has been created to recognize the enormous debt owed by this Nation to its coal miners and their surviving widows, should not be construed as setting up precedents or influencing the direction of any future workmen's compensation legislation.

The black lung problem is a unique problem, and the program that has been designed to compensate its victims is also unique. I would just like to insure that the special characteristics of this program are perceived to be separate and apart from any future legislative initiatives undertaken by the Congress in the area of workmen's compensation.

Mr. Chairman, again, I wish to express my full support for the legislation before us, H.R. 10760, and hope that my colleagues will agree that the time has come to inject rationality and compassion into a program that was designed to fulfill an obligation to a special class of American workers who performed greatly needed services during the time of great national need.

Mr. MINISH. Mr. Chairman, I rise in strong support for H.R. 10760, a bill to revise and to reform the Coal Mine Health and Safety Act.

As one who has had personal and tragic experiences relating to coal mining, I want to commend the committee, and particularly my good friend, the subcommittee chairman (Mr. DENT) for reporting such a meritorious and much-needed piece of legislation to the full House.

The legislation before us today would liberalize black lung disease benefits and create an industry-financed trust fund to pay benefits for disabled and deceased miners. These provisions are absolutely necessary in order to redress years of exploitation of our Nation's miners by greedy and unscrupulous mineowners.

The bill would provide black lung benefits automatically for miners—and their widows and dependents—who worked 30 years or more in an underground mine—25 years in an anthracite mine—or in a surface mine where HEW determines conditions were substantially similar to conditions in an underground mine. The Federal Government would be responsible for all claims filed prior to December 31, 1973, if the date of the miner's last exposed employment occurred before December 30, 1969. To be eligible for the industry-financed benefits, the last employment must have been prior to June 30, 1971. The bill also repeals the 1981 termination date for industry-provided benefits.

If there is no medical evidence available to support the case that a deceased miner with less than 30 years employment was disabled, affidavits submitted by either the miner's widow or by other individuals with knowledge of the miner's physical condition would be sufficient to establish disability.

The provision calling for automatic payment of black lung benefits after 30 years is especially significant because by establishing objective criteria for determining entitlement, the bill eliminates the current bureaucratic and often medically unreliable testing procedure that results in inequitable denials of claims.

The preponderance of medical evidence demonstrates that long-term exposure to dust irreparably damages the lungs; statistically, 81 percent of claims filed involving miners who have worked for 30 years or more have been approved. The adoption of this simple, straightforward "30-year rule" would take the doctors and lawyers out of the black lung business and would constitute a humane social policy that declares that human lives have at least as much value as profit.

H.R. 10760 also requires that in those instances in which a State's workmen's compensation law does not meet the standards established by the Department of Labor, black lung benefits would be provided for those claims filed after December 31, 1973, by the Black Lung Disability Insurance Fund. This fund would consist of assessments paid by individual coal mine operators in those instances where it can be determined which coal operator is responsible for a claim, premiums which would be paid by all operators based on tons of coal mined, and any penalties recovered as a result of violations of this bill. The fund would be controlled by seven trustees—two selected by small mine operators having an annual payroll less than $1.5 million and five elected by all mine operators. The trustees could invest the income of the fund in accordance with corresponding provisions of the Employer Retirement Income Security Act of 1974. Neither the fund trustees nor the individual operators could participate or intervene in any proceeding held for the purpose of determining the validity of a claim.

This provision, Mr. Chairman, will finally end the Federal Government's lingering liability for the costs of an occupational disease that should properly be borne by the industry that is responsible for it. In addition, the coal industry is more likely to take the necessary steps to reduce coal dust levels if it is forced to pay black lung benefits.

Mr. Chairman, I urge all my colleagues to support the Black Lung Benefits Reform Act of 1975 and to oppose any weakening amendments to the legislation.

Mr. LUJAN. Mr. Chairman, I rise in support of the Black Lung Benefits Reform Act and my reasons are quite simple. I have seen young men gasping for breath in a hospital bed, men who would die within days or weeks, men who should have had 30 or 40 years of life to look forward to. These men, some in their thirties and forties, were the victims of black lung, a horrible and foul disease which every coal miner faces every day of his working life.

The real tragedy is that these men, because of their occupation, are forced to accept the possibility of a shortened life at worst, or the very real possibility of the many secondary effects of black lung. Ideally, we should come up with a way to prevent this choker of life. Short of that, we should develop a cure for those afflicted. Unfortunately, neither of those options is at hand and neither is part of the legislation being considered today. The next best thing is the present bill, which seeks to compensate miners and their families who have had black lung and who have been affected by it.

This is a good piece of legislation for the compassionate response it makes to the terror of black lung and it is also good legislation because it seeks to remove the entire question of compensation from the hands of the Federal Government and place it under the authority of those who are the most knowledgeable—the miners themselves. The idea of a black lung disability trust fund financed by mine operators is truly placing the burden where it belongs.

But I must return again to the most important part of this issue, the human element, for that is what we have to consider more than anything else. A man goes into the mines because that is his way of life and it was his father's way of life and his grandfather's way of life. He goes in knowing that chances are he will, within a very few years, suffer from some ill effect of black lung and yet he has no option. This Nation needs coal and he is a coal miner. He does his job. Should not the rest of us, the ones who use the end product of this man's labor be concerned? Should we not feel a need to do what we can to help those who did their jobs and as a result have lungs coated with coal dust? I think we have that obligation and I think that this bill does a good job of fulfilling a big part of the obligation. I certainly intend to vote for it.

Mr. DENT. Mr. Chairman, does the gentleman from Illinois have any further requests for time?

Mr. ERLENBORN. Mr. Chairman, I have no further requests for time and reserve the balance of my time.

Mr. DENT. Mr. Chairman, I yield myself the balance of the time remaining, which is around 3 minutes, I think.

The CHAIRMAN pro tempore (Mr. LLOYD of California). The gentleman from Pennsylvania is recognized for 4 minutes.

The Chair will ask now whether the gentleman from Illinois (Mr. ERLENBORN) yields back the balance of his time?

Mr. ERLENBORN. Is that required, Mr. Chairman? I said I would reserve the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania is entitled to close the debate.

Mr. ERLENBORN. Well, I do not intend to upstage the gentleman. I do not intend to use my time. If the gentleman is finished and has no further time, then I will yield back the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania has 4 minutes.

Mr. DENT. Mr. Chairman, I just want to take these few minutes to thank all those who started with me some many years ago. We believe this legislation now shifts the full burden to the operators. It puts them in a position where problems in this industry will be handled as they have been handled in other areas of labor relations between the operators and the miners.

I want to thank those who joined the fight after we got into the position of offering legislation. Particularly I want to first apologize because the time does not allow us to have all those who requested time to be able to present their views.

I would be remiss if I did not thank the chairman of the full committee whose unselfish, untiring support, all along the line has been very great. If at any time I started to slack up in my enthusiasm or my efforts in this legislation, the gentleman from Kentucky (Mr. PERKINS) would call me back into line.

To all of those who worked so hard, I want to thank them personally because I know the pressure they were under; but I would say this is not an unlimited compensation act. If a miner receives compensation for black lung and if he takes an outside job, that amount will be deducted from his compensation payments. We have tried to follow the rule of fairness and the rule of sound legislative doctrine. If we are opening this up to field of other occupational disease legislation, we are doing no more than was done starting back in 1916 in the field of seeable, visible injuries in occupations. It is no less crippling and no less painful to a worker who had kidney poisoning from working in some heavy chemical industry. Would any man or woman in this room deny to a Kepone industry worker who has a fatal illness that was also brought home to his wife and family this kind of remedy? We saw 8- and 9-year-old children shaking in their eyes and quivering, already on their downward path to the grave. Would we not say that is an obligation of society?

What we have done in the cutoff dates we have established and in the years of service we have establised, we are on sound ground, because we have the record before us. We have the record of the passage of legislation for the first time in history that established standards, the same as the safety standards were established to stop the visible, seeable injuries, on miners. When we stopped the open-flame lamps, when we got away from the carbide lamps that my father worked with and hundreds of thousands of miners, when we realize with the strictest kind of examination a few slipped through; but when 507,000 miners and their dependents have been judged by both the social security and the Labor Department as being eligible for these payments, it is a small, small price. Remember, this is a price that has been paid after 100 years of neglect.

As I said before, it will die because the miners will die.

The CHAIRMAN pro tempore (Mr. Lloyd of California). Pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 10760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Black Lung Benefits Reform Act of 1975".

ENTITLEMENTS

Sec. 2. (a) Section 411(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 921(c)), hereinafter in this Act referred to as the "Act", is amended—

(1) in paragraph (3) thereof, by striking out "and" at the end thereof;

(2) in paragraph (4) thereof, by striking out the next to the last sentence thereof, and by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(5) if a miner was employed for thirty years or more in one or more underground coal mines such miner (or, in the case of a deceased miner, the eligible survivors of such miner) shall be entitled to the payment of benefits; and

"(6) if a miner was employed for twenty-five years or more in one or more anthracite coal mines such miner (or, in the case of a deceased miner, the eligible survivors of such miner) shall be entitled to the payment of benefits.

The Secretary shall not apply all or a portion of any requirement of this subsection that a miner shall have worked in an underground mine if the Secretary determines that conditions of such miner's employment in a coal mine other than an underground mine were substantially similar to conditions in an underground mine.".

(b) Section 412(a)(1) of the Act (30 U.S.C. 922(a)(1)) is amended—

(1) by inserting immediately after "pneumoconiosis," the following: "or in the case of a miner entitled to benefits under paragraph (5) or paragraph (6) of section 411(c) of this title,";

(2) by striking out "disabled" the first place it appears therein; and

(3) by inserting immediately after "disability" the second place it appears therein the following: ", or during the period of such entitlement,".

(c) Section 414(a) of the Act (30 U.S.C. 924(a)) is amended by adding at the end thereof the following new paragraph:

"(4) A claim for benefits under this part may be filed at any time on or after the date of the enactment of the Black Lung Benefits Reform Act of 1975 by a miner (or, in the case of a deceased miner, the eligible survivors of such miner) if the date of the last exposed employment of such miner occurred before December 30, 1969.".

(d) Section 414(e) of the Act (30 U.S.C. 924(e)) is amended by inserting immediately after "pneumoconiosis" the following: ", or with respect to an entitlement under paragraph (5) or paragraph (6) of section 411(c) of this title,".

(e)(1) Section 421(a) of the Act (30 U.S.C. 931(a)) is amended by inserting immediately after "pneumoconiosis" the second place it appears therein the following: ", and in any case in which benefits based upon eligibility under paragraph (5) or paragraph (6) of section 411(c) are involved,".

(2) Section 421(b)(2)(C) of the Act (30 U.S.C. 931(b)(2)(C)) is amended by inserting immediately before the semicolon at the end thereof the following: ", except that such standards shall not be required to include provisions for the payment of benefits based upon conditions substantially equivalent to conditions described in paragraphs (5) and (6) of section 411(c)".

(f) Section 430 of the Act (30 U.S.C. 938) is amended by inserting "and by the Black Lung Benefits Reform Act of 1975" immediately after "1972", by inserting immediately after "section 411(c)(4)" the following: "and the applicability of entitlements based upon conditions described in paragraphs (5) and (6) of section 411(c),", and by striking out "whether a miner was employed at least fifteen years" and inserting in lieu thereof the following: "the period during which the miner was employed".

OFFSET AGAINST WORKMEN'S COMPENSATION BENEFITS

Sec. 3. The first sentence of section 412(b) of the Act (30 U.S.C. 922(b)) is amended by inserting immediately after "disability of such miner" the following: "due to pneumoconiosis".

CURRENT EMPLOYMENT AS A BAR TO BENEFITS

Sec. 4. (a) The first sentence of section 413(b) of the Act (30 U.S.C. 923(b)) is amended by inserting immediately before the period at the end thereof the following: "or solely on the basis of employment as a miner if (1) the location of such employment has recently been changed to a mine area having a lower concentration of dust particles; (2) the nature of such employment has been changed so as to involve less vigorous work; or (3) the nature of such employment has been changed so as to result in the receipt of substantially less pay".

(b) Section 413 of the Act (30 U.S.C. 923) is amended by adding at the end thereof the following new subsection:

"(d)(1) A miner may file a claim for benefits whether or not such miner is employed by an operator of a coal mine at the time such miner files such claim.

"(2) The Secretary shall notify a miner, as soon as practicable after the Secretary receives a claim for benefits from such miner, whether, in the opinion of the Secretary, such miner—

"(A) is eligible for benefits on the basis of the provisions of paragraph (1), (2), or (3) of subsection (b); or

"(B) would be eligible for benefits, except for the circumstances of the employment of such miner at the time such miner filed a claim for benefits.".

APPEALS

Sec. 5. The last sentence of section 413(b) of the Act (30 U.S.C. 923(b)) is amended by inserting immediately before the period at the end thereof the following: ", except that a decision by an administrative law judge in favor of a claimant may not be appealed or reviewed, except upon motion of the claimant".

INDIVIDUAL NOTIFICATIONS

Sec. 6. Part B of title IV of the Act (30 U.S.C. 911 et seq.) is amended by adding at the end thereof the following new section:

"Sec. 416. (a) For purposes of assuring that all individuals who may be eligible for benefits under this part are afforded an opportunity to apply for and, if entitled thereto, to receive such benefits, the Secretary shall undertake a program to locate individuals who are likely to be eligible for such benefits and have not filed a claim for such benefits.

"(b) The Secretary shall seek to determine, in cooperation with operators and with the Secretary of the Interior, the names and current addresses of individuals having long periods of employment in coal mining and, if such individuals are deceased, the names and addresses of their widows, children, parents, brothers, and sisters. The Secretary shall then directly, by mail, by personal visit by a delegate of the Secretary, or by other appropriate means, inform any such individuals (other than those who have filed a claim for benefits under this title) of the possibility of their eligibility for benefits, and offer them individualized assistance in preparing their claims where it is appropriate that a claim be filed.

"(c) Notwithstanding any other provision of this part, a claim for benefits under this part, in the case of an individual who has been informed by the Secretary under subsection (b) of the possibility of his eligibility for benefits, shall, if filed no later than six months after the date he was so informed, be considered on the same basis as if it had been filed on June 30, 1973.".

DEFINITIONS

Sec. 7. (a) Section 402(f) of the Act (30 U.S.C. 902(f)) is amended by adding at the end thereof the following new undesignated paragraph:

"With respect to a claim filed after June 30, 1973, such regulations shall not provide more restrictive criteria than those applicable to a claim filed on June 30, 1973.".

(b) Section 402 of the Act (30 U.S.C. 902) is amended by inserting immediately after paragraph (g) the following new paragraph:

"(h) The term 'fund' means the Black Lung Disability Insurance Fund established by section 423(a).".

EVIDENCE REQUIRED TO ESTABLISH CLAIM

Sec. 8. (a) Section 413(b) of the Act (30 U.S.C. 923 (b)) is amended by inserting immediately after the second sentence thereof the following new sentence: "Where there is no relevant medical evidence in the case of a deceased miner, such affidavits shall be considered to be sufficient to establish that the miner was totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis.".

(b) The last sentence of section 413(b) of the Act (30 U.S.C. 923(b)) is amended by striking out "and (1)," and inserting in lieu thereof "(1), and (n),".

CLAIMS FILED AFTER DECEMBER 31, 1973

SEC. 9. (a) (1) The first sentence of section 422(a) of the Act (30 U.S.C. 932(a)) is amended—

(A) by inserting immediately before the period at the end thereof the following: ", or with respect to entitlements established in paragraph (5) or paragraph (6) of section 411(c) of this title"; and

(B) by inserting immediately after "except as otherwise provided in this subsection" the following: "and to the extent consistent with the provisions of this part,".

(2) The last sentence of section 422(a) of the Act (30 U.S.C. 932(a)) is amended—

(A) by striking out "benefits" and inserting in lieu thereof "premiums and assessments"; and

(B) by striking out "to persons entitled thereto".

(3) Section 422(b) of the Act (30 U.S.C. 932(b)) is amended by inserting "(1)" immediately after "(b)", and by adding at the end thereof the following new paragraph:

"(2) (A) During any period in which a State workmen's compensation law is not included on the list published by the Secretary under section 421(b) of this part each operator of a coal mine in such State shall secure the payment of assessments against such operator under section 424(g) of this part by (i) qualifying as a self-insurer in accordance with regulations prescribed by the Secretary; or (ii) insuring and keeping insured the payment of such assessments with any stock company or mutual company or association, or with any other person or fund, including any State fund, while such company, association, person, or fund is authorized under the laws of any State to insure workmen's compensation.

"(B) In order to meet the requirements of clause (ii) of subparagraph (A) of this paragraph, every policy or contract of insurance shall contain—

"(1) a provision to pay assessments required under section 424(g) of this part, notwithstanding the provisions of the State workmen's compensation law which may provide for payments which are less than the amount of such assessments;

"(2) a provision that insolvency or bankruptcy of the operator or discharge therein (or both) shall not relieve the carrier from liability for the payment of such assessments; and

"(3) such other provisions as the Secretary, by regulation, may require.

"(C) No policy or contract of insurance issued by a carrier to comply with the requirements of clause (ii) of subparagraph (A) of this paragraph shall be canceled prior to the date specified in such policy or contract for its expiration until at least thirty days have elapsed after notice of cancellation has been sent by registered or certified mail to the Secretary and to the operator at his last known place of business.".

(4) Section 422(b) (1) of the Act, as so designated by paragraph (3), is amended—

(A) by striking out "benefits" and inserting in lieu thereof "premiums and assessments"; and

(B) by striking out "section 423" and inserting in lieu thereof "section 424".

(5) Section 422(c) of the Act (30 U.S.C. 932(c)) is amended to read as follows:

"(c) Benefits shall be paid during such period under this section by the fund, subject to reimbursement to the fund by operators in accordance with the provisions of section 424(g) of this title, to the categories of persons entitled to benefits under section 412(a) of this title in accordance with the regulations of the Secretary and the Secretary of Health, Education, and Welfare applicable under this section, except that (1) the Secretary may modify any such regulation promulgated by the Secretary of Health, Education, and Welfare; and (2) no operator shall be liable for the payment of any benefit (except as provided in section 424(f) of this title) on account of death or total disability due to pneumoconiosis, or on account of any entitlement based upon conditions described in paragraphs (5) and (6) of section 411(c), which did not arise, at least in part, out of employment in a mine during the period when it was operated by such operator.".

(6) Section 422(e) of the Act (30 U.S.C. 932(e)) is amended—

(A) by striking out "required" and inserting in lieu thereof "made"; and

(B) by adding "or" immediately after the semicolon in paragraph (1) thereof, by striking out ", or" at the end paragraph (2) thereof and inserting in lieu thereof a period, and by striking out paragraph (3) thereof.

(7) Section 422(f) (2) of the Act (30 U.S.C. 932(f) (2)) is amended—

(A) by inserting "paragraph (4), (5), or (6) of" immediately after "eligibility under";

(B) by striking out "section 411(c) (4)" the first place it appears therein and inserting in lieu thereof "section 411(c)";

(C) by striking out "from a respiratory or pulmonary impairment"; and

(D) by striking out "section 411(c) (4) of this title, incurred as a result of employment in a coal mine" and inserting in lieu thereof "any of such paragraphs".

(8) Section 422(h) of the Act (30 U.S.C. 932(h)) is amended by striking out the first sentence thereof.

(9) Section 422(i) of the Act (30 U.S.C. 932(i)) is amended to read as follows:

"(i) (1) The Secretary shall promulgate regulations providing for the prompt and expeditious consideration of claims under this section.

"(2) (A) The Secretary shall promulgate regulations providing for the prompt and equitable hearing of appeals by claimants who are aggrieved by any decision of the Secretary.

"(B) Any such hearing shall be held no later than forty-five days after the date upon which the claimant involved requests such hearing. A hearing may be postponed at the request of the claimant involved for good cause.

"(C) Any such hearing shall be held at a time and a place convenient to the claimant requesting such hearing.

"(D) Any such hearing shall be of record and shall be subject to the provisions of sections 554, 555, 556, and 557 of title 5, United States Code.

"(3) (A) Any individual, after any final decision of the Secretary made after a hearing to which he was a party, may obtain a review of such decision by a civil action commenced no later than ninety days after the mailing to him of notice of such decision, or no later than such further time as the Secretary may allow.

"(B) Such action shall be brought in a district court of the United States in the State in which the claimant resides.

"(C) The Secretary shall file, as part of his answer, a certified copy of the transcript of the record, including the evidence upon which the findings and decision complained of are based.

"(D) The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the case for a rehearing. The findings of the Secretary as to any fact, if supported by the weight of the evidence, shall be conclusive.

"(E) The court shall, on motion of the Secretary made before he files his answer, remand the case to the Secretary for further action by the Secretary, and may, at any time, on good cause shown, order additional evidence to be taken before the Secretary, and the Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm his findings of fact or his decision, or both, and shall file with the court any such additional and modified findings of fact and decision, and a transcript of the additional record and testimony upon which his action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision.

"(F) The judgment of the court shall be final, except that it shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this paragraph shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.".

(10) In the case of any miner or any survivor of a miner who is eligible for benefits under section 422 of the Act (30 U.S.C. 932) as a result of any amendment made by any provision of this Act, such miner or survivor may file a claim for benefits under such section no later than three years after the date of the enactment of this Act, or no later than the close of the applicable period for filing claims under section 422(f) of the Act (30 U.S.C. 932(f)), whichever is later.

(b) Section 423 of the Act (30 U.S.C. 933) is amended to read as follows:

"SEC. 423. (a) (1) There is hereby established in the Treasury of the United States a trust fund to be known as the Black Lung Disability Insurance Fund. The fund shall consist of such sums as may be appropriated as advances to the fund under section 424(e) (1) of this part, the assessments paid into the fund as required by section 424(g), the premiums paid into the fund as required by section 424(a), the interest on, and proceeds from, the sale or redemption of any investment held by the fund, and any penalties recovered under section 424(c), including such earnings, income, and gains as may accrue from time to time which shall be held, managed, and administered by the trustees in trust in accordance with the provisions of this part and the fund.

"(2) Fund assets, other than such assets as may be required for necessary expenses, shall be used solely and exclusively for the purpose of discharging obligations of operators under this part. Operators shall have no right, title, or interest in fund assets, and none of the earnings of the fund shall inure to the benefit of any person, other than through the payment of benefits under this part, together with appropriate costs.

"(b) (1) (A) The fund shall have seven trustees. Except as provided in subparagraph (B), trustees shall serve for terms of four years.

"(B) Of the trustees first elected under this subsection—

"(i) four shall be elected for terms of two years; and

"(ii) three shall be elected for terms of one year.

The Secretary shall determine, before the date of the first election under this subsection, whether each trustee office involved in such election shall be for a term of one year or two years. Such determination shall be made through the use of an appropriate method of random selection, except that at least one trustee nominated under paragraph (2) (A) shall serve for a term of two years.

"(C) Any trustee may be a full-time employee of an operator, except that no more than one trustee may be employed by any one operator or any affiliate of such operator.

"(2) (A) Two trustees shall be nominated and elected by operators having an annual payroll not in excess of $1,500,000 (hereinafter referred to as 'small operators').

"(B) Five trustees shall be nominated and elected by all operators.

"(3) No later than 60 days after the date of the enactment of the Black Lung Benefits Reform Act of 1975, all operators shall certify to the Secretary their payrolls for the 12-month period ending December 31, 1974. The Secretary shall then publish a list setting forth the number of votes to which each small operator and each operator is entitled, computed on the basis of one vote for each $500,000 or fraction thereof of payroll Trustees shall be elected no later than 180 days after the date of the enactment of such Act.

"(4) Candidates seeking nomination for election to the office of trustee under paragraph (2) (A) shall submit to the Secretary petitions of nomination reflecting the approval of small operators representing not less than 2 per centum of the aggregate annual payroll of all small operators. Candidates seeking such nomination under paragraph (2) (B) shall submit petitions reflecting the approval of operators representing not less than 2 per centum of the aggregate annual payroll of all operators.

"(5) The Secretary shall promulgate regulations for the nomination and election of trustees. Such regulations shall include provisions for the nomination and election of trustees, including the nomination and election of trustees to fill any vacancy caused by the death, disability, resignation, or removal of any trustee. The Secretary shall certify the results of all nominations and elections. Two or more trustees may at any time file a petition, in the United States district court where the fund has its principal office, for removal of a trustee for malfeasance, misfeasance, or nonfeasance. The cost of any such action shall be paid from the fund, and the Secretary may intervene in any such action as an interested party.

"(6) The trustees shall organize by electing a Chairman and Secretary and shall adopt such rules governing the conduct of their business as they consider necessary or appropriate. Five trustees shall constitute a quorum and a simple majority of those trustees present and voting may conduct the business of the fund.

"(c) (1) The trustees shall act on behalf of all operators with respect to claims filed under this part.

"(2) (A) Except as provided by subparagraph (B), the fund may not participate or intervene as a party to any proceeding held for the purpose of determining claims for benefits under this part.

"(B) (i) If the fund is dissatisfied with any determination of the Secretary with respect to a claim for benefits under this part, the fund may, no later than thirty days after the date of such determination, file with the United States court of appeals for the circuit in which such determination was made a petition for review of such determination. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his determination, as provided in section 2112 of title 28, United States Code.

"(ii) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, except that the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary thereupon may make new or modified findings of fact and may modify his previous determination, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(iii) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(iv) Any finding of fact of the Secretary relating to the interpretation of any chest roentgenogram or any other medical evidence which demonstrates the existence of pneumoconiosis or any other disability respiratory or pulmonary impairment, shall not be subject to review under the provisions of this subparagraph.

"(3) No operator may bring any proceeding, or intervene in any proceeding, held for the purpose of determining claims for benefits under this part.

"(4) It shall be the duty of the trustees to report to the Secretary and to the operators no later than January 1 of each year on the financial condition and the results of the operations of the fund during the preceding fiscal year and on its expected condition during the current and ensuing fiscal year. Such report shall be included in a report to the Congress by the Secretary not later than March 1 of each year on the financial condition and the results of the operations of the fund during the preceding fiscal year and on its expected condition and operations during the current and next ensuing fiscal year. The report of the Secretary shall be printed as a House document of the session of the Congress to which the report is made.

"(5) (A) The trustees shall take control and management of the fund and shall have the authority to hold, sell, buy, exchange, invest, and reinvest the corpus and income of the fund. All premiums paid to the fund under section 424(a) (1) shall be held and administered by the trustees as a single fund, and the trustees shall not be required to segregate and invest separately any part of the fund assets which may be claimed to represent accruals or interests of any individuals. It shall be the duty of the trustees to invest such portion of the assets of the fund as is not required to meet obligations under this part, except that the trustees may not invest any advances made to the fund under section 424(e). The trustees shall make investments under this paragraph in accordance with the provisions of section 404(a) (1) (C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104 (a) (1) (C)).

"(B) Any profit or return on any investment or reinvestment made by the trustees under subparagraph (A) shall not be considered as income for purposes of Federal or State income taxation.

"(6) (A) Amounts in the fund shall be available for making expenditures to meet obligations of the fund which are incurred under this part, including the expenses of providing medical benefits as required by section 432 of this title, and the operation, maintenance, and staffing of the office of the fund. The trustees may enter into agreements with any self-insured person or any insurance carrier who has incurred obligations with respect to claims under this part before the effective date of this paragraph, under which the fund will assume the obligations of such self-insured person or insurance carrier in return for a payment or payments to the fund in such amounts, and on such terms and conditions, as will fully protect the financial interests of the fund.

"(B) Beginning on the effective date of this paragraph, payments shall be made from the fund to meet any obligation incurred by the Secretary with respect to claims under this part before such effective date. The Secretary shall cease to be subject to such obligations on such effective date.

"(7) The trustees shall keep accounts and records of their administration of the fund, which shall include a detailed account of all investments, receipts, and disbursements.

"(8) At no time during the administration of the fund shall the trustees be required to obtain any approval by any court of the United States or by any other court of any act required of them in connection with the performance of their duties or in the performance of any act required of them in the administration of their duties as trustees. The trustees shall have the full authority to exercise their judgment in all matters and at all times without any such approval of such decisions. The trustees may file an application in the United States district court where the fund has its principal office for a judicial declaration concerning their power, authority, or responsibility under this Act (other than the processing and payment of claims). In any such proceeding, only the trustees and the Secretary shall be necessary or indispensable parties, and no other person, whether or not such person has any interest in the fund, shall be entitled to participate in any such proceeding. Any final judgment entered in such proceeding shall be conclusive upon any person or other entity claiming an interest in the fund.

"(9) The trustees may employ such counsel, accountants, agents, and employees as they consider advisable. The trustees may charge the compensation of such persons and any other expenses, including the cost of fidelity bonds and indemnification and fiduciary insurance for trustees and other fund employees, necessary in the administration of the fund, against the fund.

"(10) The trustees shall have the power to execute any instrument which they consider proper in order to carry out the provisions of the fund.

"(11) The trustees may, through any duly authorized person, vote any share of stock which the fund may hold.

"(12) The trustees may employ actuaries to such extent as they consider advisable. No actuary may be employed by the trustees under this paragraph unless such actuary is enrolled under section 3042(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1242(a)).".

(c) Section 424 of the Act (30 U.S.C. 934) is amended to read as follows:

"SEC. 424. (a) (1) During any period in which a State workmen's compensation law is not intended on the list published by the Secretary under section 421(b), each operator of a coal mine in such State shall pay premiums into the fund in amounts sufficient to ensure the payment of benefits under this part.

"(2) The initial premium rate of each operator shall be established by the Secretary as a rate per ton of coal mined by such operator. Beginning one year after the date upon which the Secretary establishes initial premium rates, the trustees may modify or adjust the premium rate per ton of coal mined to reflect the experience and expenses of the fund to the extent necessary to permit the trustees to discharge their responsibilities under this Act, except that the Secretary may further modify or adjust the premium rate to ensure that all obligations of the fund will be met. Any premium rate established under this subsection shall be uniform for all mines, mine operators, and amounts of coal mined.

"(3) For purposes of section 162(a) of the Internal Revenue Code of 1954 (relating to trade or business expenses), any premium paid by an operator of a coal mine under paragraph (1) shall be considered to be an ordinary and necessary expense in carrying on the trade or business of such operator.

"(4) For purposes of this subsection—

"(A) the term 'coal' means any material

composed predominantly of hydrocarbons in a solid state;

"(B) the term 'ton' means a short ton of two thousand pounds; and

"(C) the amount of coal mined shall be determined at the first point at which such coal is weighed.

"(b) The Secretary shall advise the Secretary of the Treasury or his delegate of premium rates established under subsection (a)(1). The Secretary of the Treasury or his delegate shall collect all premiums due and payable by operators under subsection (a)(1), and transmit such premiums to the fund. Collections shall be effected by the Secretary of the Treasury or his delegate in the same manner as, and together with, quarterly payroll reports of employers. In order to ensure the payment of premiums by all operators, the Secretary, after consultation with the Secretary of the Interior, shall certify, not less than annually, the names of all operators subject to this Act.

"(c)(1) In any case in which an operator fails or refuses to pay any premium required to be paid under subsection (a)(1), the trustees of the fund shall bring a civil action in the appropriate United States district court to require the payment of such premium. In any such action, the court may issue an order requiring the payment of such premiums in the future as well as past due premiums, together with 9 per centum annual interest on all past due premiums.

"(2) An operator who fails or refuses to pay any premium required to be paid under subsection (a)(1) may be assessed a civil penalty by the Secretary of the Treasury or his delegate in such amount as such Secretary or his delegate may prescribe, but not in excess of an amount equal to the premium the operator failed or refused to pay. Such penalty shall be in addition to any other liability of the operator under this Act. Penalties assessed under this paragraph may be recovered in a civil action brought by such Secretary or his delegate, and penalties so recovered shall be deposited in the fund.

"(d) The Secretary shall be required to make expenditures under this part only for the purpose of carrying out his obligation to administer this part. All other expenses incurred under this part shall be borne by the fund, and if borne by the Secretary, shall be reimbursed by the fund to the Secretary.

"(e)(1) There are hereby authorized to be appropriated to the fund such sums as may be necessary to provide the fund with amounts equal to 50 per centum of the amount which the Secretary estimates is necessary for the payment of benefits under this part during the first twelve-month period after the effective date of this section. Any amounts appropriated under this paragraph may be used only for the payment of benefits under this part.

"(2)(A) Sums authorized to be appropriated by paragraph (1) shall be repayable advances to the fund.

"(B) Such advances shall be repaid with interest into the general fund of the Treasury no later than five years after the first appropriation made under paragraph (1).

"(3) Interest on such advances shall be at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield during the month preceding the date of the advance involved, on marketable interest-bearing obligations of the United States of comparable maturities then forming a part of the public debt rounded to the nearest one-eighth of 1 per centum.

"(f)(1) During any period in which section 422 of this title is applicable with respect to a coal mine an operator of such mine who, after the date of the enactment of this title, acquired such mine or substantially all the assets thereof from a person (hereinafter in this paragraph referred to as a 'prior operator') who was an operator of such mine on or after the operative date of this title shall be liable for and shall, in accordance with this section and section 423 of this title, secure the payment of all benefits for which the prior operator would have been liable under section 422 of this title with respect to miners previously employed in such mine if the acquisition had not occurred and the previous operator had continued to operate such mine.

"(2) Nothing in this subsection shall relieve any prior operator of any liability under section 422 of this title.

"(g)(1) The fund shall make an annual assessment against any operator who is liable for the payment of benefits under section 422 of this title. Such assessment against any operator of a coal mine shall be in an amount equal to the amount of benefits for which such operator is liable under section 422 of this title with respect to death or total disability due to pneumoconiosis arising out of employment in such mine, or with respect to entitlements established in paragraph (5) or paragraph (6) of section 411(c) of this title.

"(2) Any operator against whom an assessment is made under paragraph (1) shall pay the amount involved in such assessment into the fund no later than thirty days after receiving notice of such assessment.

"(3) The provisions of subsection (c) of this section shall apply in the case of any operator who fails or refuses to pay any assessment required to be paid under this subsection.".

(d) Section 421(b)(2)(E) of the Act (30 U.S.C. 931(b)(2)(E)) is amended by striking out "section 422(i)" and inserting in lieu thereof "section 424(f)".

CLINICAL FACILITIES

SEC. 10. The first sentence of section 427(c) of the Act (30 U.S.C. 937(c)) is amended by striking out "of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975" and inserting in lieu thereof "fiscal year, and $2,500,000 for the period beginning July 1, 1976, and ending September 30, 1976".

MEDICAL CARE

SEC. 11. (a) Part C of title IV of the Act (30 U.S.C. 931 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 432. The provisions of subsections (a), (b), (c), (d), and (g) of section 7 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 907 (a), (b), (c), (d), and (g)) shall be applicable to persons entitled to benefits under this part on account of total disability or on account of eligibility under paragraph (5) or paragraph (6) of section 411(c), except that references in such section to the employer shall be considered to refer to the trustees of the fund.".

(b) The Secretary of Health, Education, and Welfare shall notify each miner receiving benefits under part B of the Black Lung Benefits Act on account of his total disability who the Secretary has reason to believe became eligible for medical services and supplies on January 1, 1974, of his possible eligibility for such benefits. Where the Secretary so notifies a miner, the period during which he may file a claim for medical services and supplies under part C of such Act shall not terminate before six months after such notification was made.

TRANSITIONAL PROVISIONS

SEC. 12. (a) The Secretary of Health, Education, and Welfare, and the Secretary of Labor shall disseminate to interested persons and groups the changes in the Black Lung Benefits Act made by this Act. Each such Secretary shall undertake a program to give individual notice to individuals who they believe are likely to have become eligible for benefits by reason of such changes.

(b)(1) The Secretary of Health, Education, and Welfare (with respect to part B of the Black Lung Benefits Act) and the Secretary of Labor (with respect to part C of such Act) shall review each claim which has been denied, and each claim which is pending, under each such part taking into account the amendments made to each such part by this Act. Each such Secretary shall approve any such claim if the provisions of either such part, as so amended, require such approval.

(2) Each such Secretary, in undertaking the review required by paragraph (1), shall not require the resubmission of any claim which is the subject of any such review.

SHORT TITLE FOR ACT

SEC. 13. Section 401 of the Act (30 U.S.C. 901) is amended by inserting "(a)" immediately after "SEC. 401." and by adding at the end thereof the following new subsection:

"(b) This title may be cited as the 'Black Lung Benefits Act'.".

MINE ACCIDENT WIDOWS

SEC. 14. (a) If a miner was employed for seventeen years or more in one or more underground coal mines, and died as a result of an accident in any such coal mine which occurred on or before June 30, 1971, any eligible survivor of such miner shall be entitled to the payment of benefits under part B of the Black Lung Benefits Act.

(b) For purposes of this section, benefit payments to a widow, child, parent, brother, or sister of any miner to whom subsection (a) applies shall be reduced, on a monthly or other appropriate basis, by an amount equal to any payment received by such widow, child, parent, brother, or sister under the workmen's compensation, unemployment compensation, or disability laws of the miner's State.

EFFECTIVE DATES

SEC. 15. (a) This Act shall take effect on the date of its enactment, except that—

(1) the amendments made by section 2 shall be effective on and after December 30, 1969, except that claims approved solely because of the amendments made by section 2, which were filed before the date of the enactment of this Act, shall be awarded benefits only for the period beginning on such date of enactment;

(2) the amendments made by sections 4, 5, and 8 shall be effective on and after December 30, 1969;

(3) the amendments made by section 6 shall not require the payment of benefits for any period before the date of the enactment of this Act; and

(4) the amendments made by section 9 shall take effect on January 1, 1976, except that (A) the Secretary of Labor shall establish initial premium rates for operators under section 424(a)(1) of the Black Lung Benefits Act, as added by section 9(c) of this Act, no later than January 1, 1976; and (B) such Secretary shall make the estimate required by section 424(e)(1) of such Act, as added by section 9(c) of this Act, as soon as practicable after the date of the enactment of this Act.

(b) In the event that the payment of benefits to miners and to eligible survivors of miners cannot be made from the Black Lung Disability Insurance Fund established by section 423(a) of the Act, as added by section 9(b) of this Act, the provisions of the Act relating to the payment of benefits to miners and to eligible survivors of miners, as in effect immediately before January 1, 1976, shall remain in force as rules and regulations of the Secretary of Labor, until such provisions are revoked, amended, or revised by law. Such Secretary shall make benefit payments to miners and to eligible survivors of miners in accordance with such provisions.

Mr. DENT (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENTS OFFERED BY MR. DENT

Mr. DENT. Mr. Chairman, I offer a series of amendments.

The Clerk read the amendments as follows:

Amendments offered by Mr. DENT: Page 34, line 22, insert "(1)" immediately before "Section".

Page 35, immediately after line 5, insert the following new paragraph:

"(2) The Secretary of Labor shall be responsible for the administration of the provisions of section 414(a)(4) of the Act (30 U.S.C. 924(a)(4)), as added by paragraph (1)."

Page 55, strike out the quotation mark and final period in line 12, and insert after line 12 the following:,

"(d) Nothing in this Act or in the Black Lung Benefits Reform Act of 1976 shall be construed as exempting the fund, or any of its activities or outlays, from inclusion in the Budget of the United States Government or from any limitations imposed thereon.".

Page 62, line 3, strike out "Health, Education, and Wel-".

Page 62, strike out line 4.

Page 62, line 5, strike out "and the Secretary of".

Page 62, line 5, insert "part B and" immediately after "with respect to".

Page 62, line 5, strike out "such" and insert in lieu thereof "the Black Lung Benefits".

Page 62, line 9, strike out "Each such" and insert in lieu therefo "Such".

Page 62, line 12, strike out "Each such" and insert in lieu thereof "Such".

Page 62, immediately after line 14, insert the following new paragraph:

"(3) Such Secretary shall establish such procedures as he considers necessary or appropriate to determine whether a claimant whose claim is reviewed under this subsection has met the requireemnts of section 411 (c) of the Act (30 U.S.C. 921(c)) relating to years of employment, as amended by section 2(a) of this Act, except that such Secretary shall seek to make any such determination, to the extent practicable, without seeking to obtain access to any record or other information maintained by the Secretary of Health, Education, and Welfare."

Page 63, immediately after line 10, insert the following new subsection:

"(c) The Secretary of Labor shall be responsible for the administration of the provisions of this section."

Page 63, immediately after line 10, insert the following new section:

ADMINISTRATION OF BLACK LUNG BENEFITS ACT

SEC. 15. (a)(1) The Division of Coal Mine Workers' Compensation is hereby transferred to the Office of the Secretary of Labor.

(2) The Secretary shall act through the Division in carrying out the provisions of the Black Lung Benefits Act.

(b)(1) The Secretary, in carrying out the Black Lung Benefits Act, shall establish and operate such field offices as may be necessary to assist miners and other persons with respect to the filing of claims under such Act. Such field offices shall be established and operated in a manner which makes them reasonably accessible to such miners and other persons.

(2) The Secretary, in connection with the establishment and operation of field offices under paragraph (1), may enter into arrangements with other Federal departments and agencies, and with State agencies, for the use of existing facilities operated by such departments and agencies.

(c) For purposes of this section—

(1) the term "Division" means the Division of Coal Mine Workers' Compensation established in the Office of Workers' Compensation Programs by the Assistant Secretary of Labor for Employment Standards under the Secretary's Order No. 13-71 (36 Federal Register 8755); and

(2) the term "Secretary" means the Secretary of Labor.

And redesignate the following section accordingly.

Mr. DENT (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DENT. Mr. Chairman, I will just say that the amendment first read is the amendment to be construed as not exempting the fund, or any of its activities or outlays, from inclusion in the budget of the U.S. Government or from any limitations imposed thereon. This is recommended by the Budget Committee as a desirable amendment.

The rest of the amendments are generally at the request of the Ways and Means Committee for taking the overburden off of Social Security and putting it into the Labor Department.

It has been very difficult for Social Security to carry on their normal functions under the Social Security Act and other programs by being burdened with the additional responsibilities of these amendments.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. Chairman, I understand that one of the amendments being considered en bloc transfers certain functions that the bill would place in the Secretary of Health, Education, and Welfare, and transfers them to the Secretary of Labor. But I am advised, if the gentleman will look at page 61 of the bill, line 21, section 12(a), the provision for dissemination of information about the changes in the act and the program to give notice to individuals who they believe have become eligible for benefits is not being transferred to the Secretary of Labor.

I would like to know why the gentleman would not transfer those functions, as well, because they would constitute a very great burden on the Social Security Administration that already suffers under the burden of the supplementary security income program.

Mr. DENT. It was done because of the fact that the Secretary had in the earlier days of this law performed these very functions for certain coal companies. And he is best qualified to know which ones have already been done and which ones have not been performed. That is all. It is because that Department is better equipped to handle that particular function.

Mr. ERLENBORN. If the gentleman will yield further, I think that what is left, even after the amendment of the gentleman is adopted, still is going to impose a great burden on the Social Security Administration. I am sorry the gentleman did not transfer all of these functions.

Mr. DENT. We may be able to do that before we get through over in the Senate, because they are talking to each other, the two Departments, to see whether or not they can ease more of the burden of Social Security, and we are both agreed that that should be done.

Mr. Chairman, I urge adoption of the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. DENT).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia:

On page 39, after line 23 insert the following new subsection:

"(c) The second sentence of section 413 (b) of the Act (30 U.S.C. 923(b)) is amended by striking the period at the end thereof and inserting a colon and the following: '*Provided*, That unless the Secretary has good cause to believe (1) that an X-ray is not of sufficient quality or an autopsy report is not accurate, to demonstrate the presence of pneumoconiosis, or (2) that the condition of the miner is being fraudulently misrepresented, the Secretary shall accept such report, or in the case of the X-ray, accept the opinion of the claimant's physician, concerning the presence of pneumoconiosis and the stage of advancement of pneumoconiosis.' "

Mr. HECHLER of West Virginia. Mr. Chairman, I shall not take the full 5 minutes, because this amendment is very clear on its face. It corrects an evil which occurs in the rereading of X-rays, primarily by contract specialists who frequently have no acquaintance whatsoever with the condition of the miner.

Mr. Chairman, the condition of the miner afflicted by pneumoconiosis is such that a local doctor, a local radiologist, and those who examine the miner, have a much clearer idea of the total picture by the use of X-rays, breathing tests, blood gas tests, physical examination, as well as the physical profile and history of the miner. These are the kinds of evidence that are vital determining factors in deciding whether or not a man has black lung.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to my friend, the gentleman from Virginia.

Mr. WAMPLER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I hold a copy of the United Mine Workers Journal No. 2 of the 87th year, dated January 1976. On page 12 there is an article entitled, "X-Ray Re-Reading Used To Deny Black Lung Claims." I include the article at this point, as follows:

X-Ray Re-Reading Used To Deny Black Lung Claims

When a coal miner applies for black lung benefits, he is routinely sent for a chest X-ray. If the coalfield doctor who examines the miner reports that his X-ray shows pneumoconiosis, the Social Security Administration then sends the X-ray film to a doctor of their own choosing, who is usually what is known as a "B" reader. When there is disagreement between the coalfield doctor and the "B" reader, Social Security either accepts the opinion of the "B" reader or sends the film to another "B" reader.

This practice of re-reading X-rays in black lung cases has been criticized for months by the UMWA and the Black Lung Associations. Social Security has defended its practice, saying that the "B" reader program assured that X-rays from all over the country will be read uniformly by a highly trained group of experts.

However, a recent article in the Whitesburg, Ky. Mountain Eagle revealed that the Department of Health, Education and Welfare has systematically excluded doctors from the "B" reader program if they are too liberal in reading coal miners' X-rays.

Doctors qualify to be "B" readers by passing a test in which they interpret a set of 100 sample X-rays. According to the Mountain Eagle, documents from the National Institute for Occupational Health and Safety (NIOSH), which was involved in development of the test for "B" readers, show that the test is biased against doctors who diagnose black lung often.

A study performed in NIOSH in May, 1974, showed that the doctors who passed the test to the "B" readers saw far less black lung on the sample X-rays than the doctors who failed the test. The study, made by the Department of Radiology at the Johns Hopkins School of Medicine, indicated that "an excessive overreading tendency" was "characteristic" of the 29 candidates who failed the test during the period covered by the study.

The Mountain Eagle article quoted one coalfield doctor who passed the test on the second try by adjusting his interpretations downward to the scores he learned were acceptable to the test graders.

Most "B" readers do not live or work in the coalfields. The April, 1975, roster of "B" readers listed 54 doctors who live outside the coal fields, including 10 in Los Angeles, Cal., 2 in Saranac Lake, N.Y., and 1 in West Auburn, Me. Only 26 doctors on the list practiced anywhere in the coalfields.

H.R. 3333 as introduced by Rep. Carl Perkins (D-Ky.) contained a provision that would have barred Social Security and the Department of Labor from having X-rays re-read in most cases. This provision was taken out of the black lung amendments which were approved last month by the House Committee on Education and Labor. BLA and UMWA lobbyists plan to ask the Senate to put this provision, or one like it, back into the black lung bill.

"There is an obvious bias against coalfield doctors in the X-ray re-reading program," said Gail Falk, UMWA staff attorney. "You would think that the coalfield doctors should be given the greatest credibility since they constantly have an opportunity to re-check their interpretations by comparing notes with the internist or family physican, by following the miner over a period of many years, and finally checking their X-ray interpretations against autopsy results after a miner dies.

"Instead," she said, "Social Security acts as if the coalfield doctor is suspect just for knowing the miner's symptoms or how long he worked in the mines. Coal miners know all to well that most coalfield doctors aren't going to go out of their way to be too favorable when it comes to diagnosing black lung."

Even the government's own studies indicate that the "B" readers may seriously under-read for pneumoconiosis. At a UMWA-sponsored training session for black lung counselors last July in Washington, Pa., Dr. Jerold Abraham, then chief pathologist at the federal government's Appalachian Laboratory for Occupational Respiratory Disease (ALFORD), presented some findings of the "National Autopsy Study." When autopsy results were compared with X-ray interpretations by government-certified doctors of the same miner's lungs, the autopsies showed that the miners had more black lung than was diagnosed by X-rays.

Why then has Social Security adopted a system which so many people feel is biased against coal miners and coalfield doctors and which even its proponents cannot fully defend? (The Department of Labor, which administers miner's claims filed after July 1, 1973, also uses the "B" reader as the final authority.)

The 1972 amendments to the Federal Coal Mine Health and Safety Act of 1969 provided that no miner could be denied benefits solely on the basis of a negative chest X-ray. However, under the Social Security program, the easiest way to qualify is still on the basis of a chest X-ray. Also, miners with less than 10 years' coal mine work usually have trouble proving coal mining caused their lung disease without X-ray proof of pneumoconiosis. Also the X-ray can be decisive if the miner applies while still working, or in the case of a widow whose husband died while employed by a mine.

More than $3 billion has been paid out in federal black lung benefits since the program began in 1970, but during the past 18 months the rate of new black lung claims approved has slowed to a trickle. The X-ray re-reading system looks fair at first, but in practice it is a way for the government to deny claims they would otherwise have to pay.

Social Security has never made public any figures on the result of the re-reading program. Labor Department officials estimate that their "B" readers read down (see less pneumoconiosis than the coalfield doctor saw) twice as many X-rays as they read up. Virtually all observers agree that, in the Social Security program, "B" readers read down an ever higher proportion.

The "B" reader system is not only important to miners claiming black lung benefits. The "B" reader system is also used to evaluate whether a miner has a right to transfer to a less dusty job. A miner who has worked more than 10 years in the mines can transfer only if his X-ray shows pneumoconiosis category 2 or more. Regulations of the Public Health Service provide that all X-rays of working miners are to be read by a "B" reader, and that the "B" reader's opinion is final.

Mr. Chairman, I want to commend my colleague, the gentleman from West Virginia (Mr. Hechler), for offering this amendment. The universal complaint I hear among my constituents who have been denied their black lung claims concerns the practice followed by the Department of Health, Education, and Welfare in rereading X-rays and failing to consider all competent medical evidence in considering their claims.

I think this is one of the most frustrating aspects of the implementation of title IV of the Federal Coal Mine Health and Safety Act which does grant Federal payments to those suffering from complicated coal workers pneumoconiosis. It would seem to me that the gentleman's amendment addresses itself to one of the areas where there is too much bureaucratic denial of rightful and legal claims, thus adding to the frustration of disabled workers.

Mr. Chairman, I hope the gentleman's amendment will be adopted. Who knows better the condition of any disabled person than his own physician who sees him on a regular basis and is able to see him as a human being rather than on the sole basis of data or evidence that is submitted?

I think the gentleman's amendment addresses itself to a real need, and I hope it will be adopted. I commend the gentleman for offering it.

Mr. HECHLER of West Virginia. Mr. Chairman, I thank my colleague, the gentleman from Virginia, for his contribution.

There have been many outstanding pulmonary authorities, such as Dr. Donald Rasmussen of the Appalachian Pulmonary Clinic, and Dr. Charles Nelson, who have indicated very clearly to the committee that this is one of the worst features of the present administration of the bill. Those contract specialists who are rereading the X-rays frequently have never visited the coalfields, nor do they have any concept of what a local doctor or radiologist knows about the condition of a miner. It is also a fact that the rereading of X-rays is being assigned to those who will come up with outrageously high rates of disapproval.

Mr. Chairman, I urge adoption of my amendment.

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment is offered, I am sure, in the spirit of the entire bill, and that is to add one presumption on top of another presumption in order to prevent evidence that could disqualify a claim from getting into the record. Specifically, the sponsors of the bill and the gentleman from West Virginia have done this sort of thing before, so I guess I am not surprised.

What this would say is that if one's own physician is willing to certify that one has pneumoconiosis, nobody else can look at the X-rays to disprove that finding. It is amazing how far some people will go to make certain that everyone who applies for a claim gets his claim allowed without the interference of other medical evidence.

As a matter of fact, in the coal mine areas much pressure has been put on these readers of X-rays. I am acquainted with one gentleman, a physician of repute who is an expert in this area, who was the subject of direct interference from the United Mine Workers and some of its officials in an effort to have him fired from his job from a West Virginia university because he read these X-rays according to the criteria of the International Labor Organization and sometimes suggested that the coal miners were not entitled to compensation. Not being satisfied with trying to get this man's job taken from him, they were then later successful in getting NIOSH to withdraw a contract from the University of West Virginia where the gentleman was employed.

The tactics that have been used to make certain that every claimant gets his claim allowed are numerous, and this is just another one of them.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Chairman, I think the doctor to whom the gentleman is referring is a doctor who once said that cigarette smoking was the principal cause of lung disease and pneumoconiosis and not the coal dust from the mines, and so I think there may be good reason back of that action.

Mr. ERLENBORN. Mr. Chairman, I do not know if the gentleman is accurate or not in his statement, but I can say that many doctors have said that much of the difficulty experienced by those who have claimed to have pneumoconiosis is the result of cigarette smoking. There is no question about the fact that people who work in coal mines are subject to the same diseases that others are subject to such as chronic bronchitis, emphysema, and cancer of the lung from the smoking of cigarettes.

Yet, this compensation program is being used to provide compensation for people who are the subjects of those diseases and not necessarily disabled by pneumoconiosis.

Mr. DENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the usual 5 minutes.

There have been two statements made, one by the offeror of the amendment and the other by the opposition.

I want to find out how this really fits into the legislation.

Of course, I am very interested in the statement made by the gentleman from Illinois (Mr. Erlenborn) because we have predetermined that the X-rays shall not be the sole examination or the determining factor in granting or not granting that there is pneumoconiosis.

Therefore, Mr. Chairman, I will not ask for the defeat of the amendment at this time, but I will reserve the right to study it in the contest of the rest of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. Hechler).

The question was taken; and on a division (demanded by Mr. Hechler of West Virginia), there were—ayes 30, noes 10.

So the amendment was agreed to.

AMENDMENTS OFFERED BY MR. SIMON

Mr. SIMON. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendment offered by Mr. Simon: Page 33, beginning on line 17, strike out "a semicolon" and insert in lieu thereof "; and".

Page 33, line 20, strike out "thirty" and insert in lieu thereof "twenty-five".

Page 33, line 24, strike out "; and" and insert in lieu thereof a period.

Page 34, strike out line 1 through line 4.

Mr. SIMON. Mr. Chairman and members of the committee, this amendment does a very simple thing in the interest of justice and equity, and that is that it takes away the differentiation that is in the bill right now between anthracite and bituminous miners and makes it uniform as to the 25 years.

I have great respect for the gentleman from Pennsylvania (Mr. Flood), who fought for his anthracite miners. I commend him for doing that. It has been a noble fight.

Mr. Chairman, I think that anthracite miners should get benefits in 25 years, but I also believe that bituminous miners are and should be eligible for that in 25 years.

The medical evidence shows that there is some variation from region to region and also from job to job in the coal mines, depending on the kind of work that is done; but the medical evidence also is very clear in this respect—and I mentioned this before—the National Coal Workers autopsy study shows that of 400 miners examined who worked more than 20 years underground, between 90 and 95 percent had pneumoconiosis.

Therefore, Mr. Chairman, what we are saying is that in 25 years—and I frankly think it ought to be 20—but in 25 years anyone who has worked in the mines for 25 years would be eligible. That, it seems to me, is simple justice, and I ask the Members to listen to our two colleagues in this body who are physicians, the gentleman from Pennsylvania (Mr. Morgan) and the gentleman from Kentucky (Mr. Carter), both of whom have spoken this afternoon.

Mr. Chairman, I think simple justice demands that this ought to be 25 years across the board. When we do that, we will be doing a favor not only to the miners but to all Americans. We want coal, we want energy; but we do not want to suck out the breath and destroy the health of the miners in doing it.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I will be happy to yield to my colleague, the gentleman from Alabama (Mr. Buchanan).

Mr. BUCHANAN. Mr. Chairman, I rise in strong support of this amendment and commend the gentleman from Illinois (Mr. Simon) on both the gentleman's amendment and upon his statement that I believe to be the simple truth of the matter. I urge the adoption of his amendment.

Mr. SIMON. I thank the gentleman.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Illinois (Mr. Simon) and would add one further comment, and that is in relation to who the miners are and who submit applications for black lung benefits. In my district we have miners who work in coal mines at very high altitudes and who have to submit themselves to the tests which were developed for miners who have worked in coal mines at lower altitudes. There is a great deal of controversy that has arisen as to whether or not the same test should be applied to miners who work at high altitudes as is applied to miners who work at lower altitudes, and whether the results of the same test given at both high altitudes and low altitudes would reflect the correct truth of the matter concerning the possibility of having developed pneumoconiosis if they have both worked in the mines for the same length of time.

Also, this amendment provides for a means of eliminating a large number of cases that are pending from controversy. Both the Social Security offices and the Department of Labor have huge backlogs of cases pending determination. This huge backlog of claims is almost impossible for the people handling them to do so within a reasonable time. The gentleman's amendment would help eliminate these backlogs. Many of these 25-year claimants have had to wait to have their claims passed on for 2 or 3 years. Since so many of them have black lung the gentleman's amendment is fair to them and as they are removed from the list of pending cases it will expedite the disposition of the remaining cases.

So I rise in support of the gentleman's amendment and hope that the other Members of the House will accept the amendment.

Mr. SIMON. Mr. Chairman, if I may just add one further comment and that is that I am holding in my hands a mask, worn by a coal miner, and it happens to be a mask that was worn for 4 hours on February 11. Most miners cannot wear a mask because of the nature of their work, so if you have to breath in that dust for 25 years, then you ought to be entitled to the option of retirement at $2,800 a year instead of $14,000.

I hope my colleagues will support my amendment.

AMENDMENTS OFFERED BY MR. MYERS OF PENNSYLVANIA AS A SUBSTITUTE FOR THE AMENDMENTS OFFERED BY MR. SIMON

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer amendments as a substitute for the amendments.

The Clerk read as follows:

Amendment offered by Mr. Myers of Pennsylvania as a substitute for the amendment offered by the gentleman from Illinois, Mr. Simon: Page 33, line 24, strike out "; and" and all that follows through page 34, line 4, and insert in lieu thereof a period.

Page 34, line 15, strike out "or paragraph (6)".

Page 35, line 9, strike out "or paragraph (6)".

Page 35, line 15, strike out "or paragraph (6)".

Page 35, line 22, strike out "paragraphs (5) and (6)" and insert in lieu thereof: "paragraph (5)".

Page 36, line 4, strike out "paragraphs (5) and (6)" and insert in lieu thereof: "paragraph (5)".

Page 40, line 6, strike out "or paragraph (6)".

Page 43, line 1, strike out "paragraphs (5) and (6)" and insert in lieu thereof: "paragraph (5)".

Page 43, line 16, strike out "paragraph (4), (5), or (6)" and insert in lieu thereof: "paragraph (4) or (5)".

Page 60, line 3, strike out "or paragraph (6)".

Page 61, line 6, strike out "or paragraph (6)".

Mr. MYERS of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MYERS of Pennsylvania. Mr. Chairman, these amendments go a little more into detail than did the Simon amendment and essentially reverse that amendment. I believe they take care of all the technical correcting amendments that the Simon amendment did not do, in the succeeding paragraphs.

This amendment eliminates the differences between the anthracite and the bituminous coal miners and places them both in the 30-year category instead of going in the opposite direction which the Simon amendment did by placing both under the 25-year category.

I think that this is one of the big difficulties with the bill, the fact that the anthracite coal miners have been given special treatment.

I am looking for a black lung bill which I can support.

I have discussed this problem with the coal miners in my district. I think we all must recognize the fact that we are dealing with a bill here that could run the same risks of a veto that the public works bill did that passed here a couple of weeks ago. In that case we had too successful a lobbying activity with the result that too much was placed on the bill, it lost its buoyancy and it sunk and nobody received anything.

As I say, we have talked to the coal miners in my district, and I believe that if this is geared at 30 years that it has a much higher chance of passing than the one which would be geared at 25 years. In regard to the problems of those who served 30 years as coal miners, I think we owe it to them to bring to the floor of the House the bill which has the possibility of passing.

I think that equalizing these factors of the coal producing miners for 30-years service is going to make a stronger bill for them or for their widows. I think what we are talking about here is not what the gentleman from Illinois (Mr. SIMON) mentioned—sucking out the breath of the miners as we increase production of coal in the future. What we are talking about here is the work that has been done prior to 1971, not after 1971.

As the bill stands right now, a cutoff date of 1971 is established. What we are working for is a bill that will compensate those persons who have spent their 30 years in the mines, and I think the commitment that we should make is one of providing benefits for them. Certainly anyone can see that the more that this bill is laden with costs, the less chance we are going to have of getting any black lung improvements this year.

Mr. Chairman, I yield back the remainder of my time.

Mr. DENT. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, the easiest thing for me to do would be to oppose the substitute and support the amendment. But I assure this House—and I think those of us who have suffered with me for many years in this House know—that I never have made a statement where I did not have the full facts at my command.

Mr. DENT. Mr. Chairman, the easiest thing for me to do would be to oppose the substitute and support the amendment. But I assure this House—and I think those of us who have suffered with me for many years in this House know—that I never have made a statement where I did not have the full facts at my command.

I am telling the Members now that we are treading on dangerous ground by taking either one of these amendments, because we have behind our position the facts of record, and the facts of record are very plain and easily understood. We can stand on the history of those cases that have been already approved involving 30 years of mining—over 80 percent.

Second, medical evidence before the committee was not ignored as has been said on the floor. It was given thorough and serious consideration by the committee. What does it say?

A study of the National Institute of Occupational Safety and Health of the United States Public Health Service said this:

> Complicated pneumoconiosis is nearly 7 times more prevalent among anthracite miners in Appalachia, than Appalachian bituminous miners, and infinitely more prevalent compared to Midwestern and Western bituminous coal miners.

So we have a base for a 5-year differential. We have a sound base that we can argue in court, if necessary, or before the President of the United States.

Let me take the history of the anthracite region. My friends from the anthracite region know better than I do, but I did have the privilege of sponsoring anthraconiosis, black lung legislation, years ago. I know something about the industry. Seven times to one is the incidence of black lung in anthracite. It is 3.5:1 in the crippling stages of simple pneumoconiosis. The facts are ours.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. DENT was allowed to proceed for an additional 2 minutes.)

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, I would like to ask the gentleman if just upon the number of cases that have come up in anthracite if that is actually a fair comparison? Is it not a feature of this bill when we have the problem that perhaps in the Appalachian region, where there is mostly soft coal, what we should be doing is communicating with people that do not know about the benefits, and because anthracite is more centrally located it is more easily communicated and, therefore, far more of them are apprised of it.

What I would like to ask the gentleman is if the percentage of black lung benefits, as opposed to the number of applicants, is higher for anthracite as opposed to soft coal?

Mr. DENT. Yes, very much so; and that is relevant. The point also is that not only, as I said earlier in my debate on the floor, not only the incidence numerically of many more anthracite miners, but the incidence of elapsed time and it is carried right here in the report as I read a few minutes ago:

> In the potentially crippling stages of simple pneumoconiosis, the relevant comparisons are approximately 3.5:1 and 8:1, respectively. When years of employment are related to the prevalence of CWP according to region, it is observed that a similar pattern of increased prevalence among anthracite miners occurs over their bituminous counterparts in all other regions. The study report also contains the following relevant excerpts:
>
> * * * it is [also] evident that anthracite miners are not only at an increased risk of contracting the disease, but once they have developed category 1 (simple pneumoconiosis), they may also be more likely to progress to the more advanced stages more often than are their bituminous counterparts. * * * [I]t is difficult not to conclude that there is something in the environment of the anthracite miners that puts them in special jeopardy. However, it is doubtful that the quantity of respirable dust alone is responsible.

So we did not pick this out of the air and the gentleman from Illinois knows that.

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

(By unanimous consent, Mr. DENT was allowed to proceed for an additional 2 minutes.)

Mr. DENT. Mr. Chairman, I believe the bill is going to go to court, I know that and I am ready with all the facts to defend the bill as it is; but if we go into court and we can say that a miner who has worked 15, 20, or 25 years, automatically gets benefits, I am concerned that we may not be on quite the same legal footing as we are with our carefully reasoned and rational 30-year provision.

I also want to get rid of the disease. I want there to remain an adequate incentive to maintain legal and effective dust standards.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to my colleague from Pennsylvania.

Mr. MYERS of Pennsylvania. I thank the gentleman for yielding. It seems like rather weak documentation. From the report here, Dr. Lapp says:

> We are not certain (what would cause that).... It could be something different about anthracite dust.

That is on page 8 of the report, at the top of the page. It does not sound like a strong documentation. Miners who work in bituminous—soft coal—facilities are rarely at that much of a disadvantage, according to Dr. Lapp.

It is my concern that we might end up with a bill that cannot be supported, that will go down, because we are trying to do more than the general Congress is willing to fund. That is the intention of my amendment. I think I should not ignore the fact that I believe that bituminous workers should be held equal with anthracite workers, the same as I believed, when the strip mining bill came through, the bituminous and anthracite miners should have to address that problem equally also.

Mr. SIMON. Mr. Chairman, I move to strike the last word, and I rise in opposition to the substitute amendment.

Mr. Chairman, members of the Committee, I rise in opposition, with all due respect, to the substitute amendment. It seems to me that the substitute amendment is going in the wrong direction, and I wish at the same time to respond to my good colleague from Pennsylvania who has spoken on the bill as it is right now.

I think 25 years on the basis of the autopsy reports we have certainly does not work an injustice on the public. It is a bill that the President, when he measures the matter, I hope and believe must sign.

As far as any difference here, I support the views of the gentleman from Pennsylvania who offers the substitute amendment, although I do not support his amendment. In fact, the difference is nowhere near what has been suggested by the gentleman who is the chairman of my subcommittee. What is true is that X-rays pick up anthracite particles much more clearly than bituminous.

Second, it is true that the average anthracite miner is older than the average bituminous miner, so that the incidence of black lung is higher. I would refer the Members to an article in Environmental Health of October 1973, an article by a whole series of doctors, which has a graph which shows that the prevalence of coal workers' pneumoconiosis in U.S. coal mines contain little difference between bituminous and anthracite. What does make a difference is the years of service. I think the 25 years of service I have suggested in my amendment is a reasonable time period, so I would urge rejection of the substitute amendment.

Mr. DENT. Mr Chairman, will the gentleman yield?

Mr SIMON. I yield to the gentleman from Pennsylvania.

Mr. DENT. Virtually every miner that has been examined in the anthracite fields with 25 years of service in the mines has been awarded. The miners in the bituminous, 81 percent of those with 30 years or more have been awarded. Each year down under that, there are more and more and more rejections. We are not trying to pass legislation in a spirit of trying to do more than what we can support and defend. It would do no good for us to make it 20 years or 15 years, as I have said so many times before, and to have the whole ball of wax thrown out by the courts.

How can the gentleman say that he has established standards that eliminate in time? I want to make those dust standards work. I want to charge the operators with the cost. I want them to put in the cost of eliminating equipment. That is what it is, because we suffered with the disease in our homes, some of us. We are not interested in receiving the compensation.

We are interested in sweeping it out.

Mr. SIMON. I concur in that, I say to my good friend from Pennsylvania. Whatever figure we pick is a somewhat arbitrary figure.

Somewhat arbitrary, in that it will work an injustice. If we pick 25 years, there will be a coal miner who will have 24 years and 10 months in. We have to draw the line somewhere. I suggest that drawing the line at 25 years is much more equitable than drawing it at 30 years.

Mr. MYERS of Pennsylvania. If the gentleman will yield further, we have to get back to the basic point. If any miner approaches the 25 years who has black lung, he will get his benefits. What we are trying to do is get a cutoff date where we can assume everyone who is over that has a significant amount of it, so that neither the miners are unfairly put upon nor the Federal Government nor the coal industry. But if a miner or his family can prove that prior to 1971 the conditions were such that he got it, certainly he could get it after 25 years, and I do not think we should lose sight of that.

Mr. SIMON. I do not know if the gentleman was here when I mentioned the autopsy reports. They show that 90 to 95 percent of the miners who have had 20 years in the mines have pneumoconiosis.

Mr. MYERS of Pennsylvania. And the disability rate?

Mr. SIMON. I do not know the disability rate, but the autopsy rate shows that that disability is there after 20 years.

Mr. MYERS of Pennsylvania. If the gentleman will yield further, I have worked 19 years in the steel mill, and I imagine if they did an autopsy on me, perhaps they might say something was wrong with my lungs which was directly associated with breathing in steel dust.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Simon) has expired.

(On request of Mr. Myers of Pennsylvania, and by unanimous consent, Mr. Simon was allowed to proceed for 2 additional minutes.)

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield further?

Mr. SIMON. I yield to the gentleman from Pennsylvania (Mr. Myers).

Mr. MYERS of Pennsylvania. I thank the gentleman for yielding.

Mr. Chairman, clearly we are going to have this problem. Just on my own experience, I could have blown my nose at five different times in 5 minutes, and I could have filled up a handkerchief with the same black dust that the gentleman has there. Some has chromium in it, some has molybdenum in it, a number of different compounds in it. We are just going to look at the same situation. I think we want to be fair with everybody, and I think 25 years, and pinning that against no promise for steelworkers, chemical workers, or one thing and another, is sometwhat relatively unfair.

Mr. SIMON. I say this with all due respent, that I have represented both steelworkers and coal miners, and it is like comparing apples and oranges. There are some breathing impairments for steelworkers. I represented the Granite City Steel and the General Steel and the LaClede Steel areas, thousands and thousands of steelworkers, and there is just no comparison.

I think we have to recognize that the breathing impairment in a coal miner is much more severe.

Mr. MYERS of Pennsylvania. If the gentleman will yield further, would the gentleman say the potential for lung damage is higher for a man who works in the coal industry on the surface or for an individual who works in a hot mill that is creating a significant amount of dust, where he is really up against the equipment?

Mr. SIMON. I think it depends upon where he is working at the surface.

Mr. MYERS of Pennsylvania. Would the gentleman also concede that some people do not experience the rate of exposure or hazard that many people in other industries are experiencing?

Mr. SIMON. I do concur in that, but how can we get justice for 90 percent of the people?

Mr. FLOOD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to speak about black lung. Black lung, you see, is native to my district. It is indigenous. Like oranges in Florida. Or redwood trees in California. Or corn in Iowa. But we have black lung. In Pennsylvania we have coal and where you have coal you have black lung. And we have plenty of both. It is a simple fact.

And after 1969 the Congress passed legislation to make the mines safe and to compensate the miners—the so-called black lung law. Before then the mining of coal was a death-defying dead-end job. No one wanted to be a miner and you could not blame them.

But in 1969 the distinguished chairman, Mr. Dent, and I started all this and we were among the very few who could even pronounce the name of the disease—coal workers pneumoconiosis—so-called black lung. We have all come a long way since then.

In the anthracite fields we always called it miner's asthma or anthrasilicosis but today it is black lung.

Here in Washington and in the coalfields it is called black lung. But in the coalfields I represent there is a basic, fundamental, and critical difference from the coal workings elsewhere. In my district we have anthracite coal—not bituminous. We have hard coal.

There is a difference. In Washington, many times, they cannot even spell anthracite.

Anthracite is mined in eight counties in northeastern Pennsylvania—accounts for under 6 million tons annually in production, and is found very rarely anywhere else in the world. It is very special coal. And it is very unique coal. For our purposes it is unique in a more important way. Anthracite is more deadly than bituminous to the miner. It is a more deadly form of coal. This is an undisputed medical fact. Anthracite—with its harder nature and higher silica or glass content—produces higher incidence of disease over a shorter period of time than bituminous. In an anthracite mine—simply stated—you get black lung disease faster and more severely than in a bituminous mine.

And now my proof. I have relied on the experts. On February 27, 1975, Dr. Leroy Lapp of the West Virginia Medical Center testified before the House Labor Standards Committee. He was asked:

> Is there a heavier incidence in the anthracite miners than in bituminous miners of pneumoconiosis.

Dr. Lapp answered:

> Yes, there is a higher prevalence of abnormal respiratory function in anthracite miners than bituminous miners.

On that same day, Dr. Keith Morgan testified in response to a question from the gentleman from Illinois (Mr. ERLENBORN) that—

> . . . In the anthracite area of Pennsylvania 14 percent of working coal miners had complicated pneumoconiosis. In Utah and Colorado it was around one tenth of one percent. . . .

Complicated pneumoconiosis is PMF—pulmonary massive fibrosis—black lung disease in its most severe form.

PMF occurs most severely, at a higher rate, and much sooner after exposure in the anthracite mines as contrasted to bituminous. Dr. Murray B. Hunter, medical director of the Fairmont Clinic, Fairmont, W. Va., testified before the committee on March 12, 1975. He posed his own question as follows:

> Do coal miners have an increased prevalence of potentially disabling respiratory disease as compared to general population. The answer is unequivocally yes. The issue is one of the magnitudes of difference. This difference is highest for anthracite miners least for miners in the Western States.

Mr. Chairman, if I may repeat, "highest for anthracite miners."

And there is more proof. A study was conducted under the direction of the National Institute of Occupational Safety and Health of the U.S. Public Health Service. The study is entitled, "The Prevalence of Coal Workers' Pneumoconiosis—CWP—in U.S. Coal Miners" and was published in the Archives of Environmental Health, a publication of the American Medical Association, in October 1973. It is the definitive work on the subject. The study clearly, and unequivocally concluded that anthracite coal miners consistently risk a greater chance of contracting a more severe form of black lung disease than do bituminous miners.

Mr. Chairman, as bad as black lung disease is in the soft-coal or bituminous areas, we in the anthracite region have it much worse. The medical evidence is overwhelming. The human toll from black lung disease is overwhelming—be it in the soft-coal or hard-coal regions. This Congress has done much to alleviate the suffering of the stricken miners and I, for one, will not turn my back on them in the hour when their needs are greatest and when we as a Nation need them the most as well.

Mr. Chairman, the problem, as a matter of law, is in picking an arbitrary figure. This we cannot do, because we know, as plain as the nose on our face, if we do that we are doing a patently unconstitutional act. That we cannot do. Any first year law student would tell us that. That cannot be done.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. I thank the gentleman for yielding.

Mr. Chairman, I am glad the gentleman made that statement, because it has been said that any figure we pick is arbitrary. That is not so. We did pick an arbitrary figure. We picked figures that we can defend. For instance, in the NIOSH study referred to, relationship of prevalence of pneumoconiosis by region to years of underground exposure. Between the years of 20 to 29 years of service in the anthracite, 64 percent of the miners had total pneumoconiosis.

In the Appalachian bituminous, which is our coal, it is 42 percent in that age group. In the Midwest bituminous it is 31 percent; that is the area served by the gentleman from Illinois (Mr. SIMON). In the Western bituminous, it is 16 percent.

Now, this is between 30 and 39 years. Between 30 and 39 years, this is 75 percent of all the anthracite workers with total pneumoconiosis. In the Appalachian bituminous, 54 percent of all miners who worked and who were between 30 and 39 years had fatal pneumoconiosis. In the Midwest bituminous, it is 42 percent. There is a decline in Western bituminous, and that is between 16 and 25 percent.

So the years and the anthracite area do have something to do with the disease in this respect, and that is why we are establishing another basis of determining the amount of disability from an injury that cannot be seen. That is what we must keep in mind, that this is something we cannot see.

Mr. FLOOD. And, Mr. Chairman, the main thing is, for heaven's sake, let us not do anything to jeopardize this law. We have before us a sound piece of legislation. I have been hearing this kind of thing a good bit. We could jeopardize what is best being done.

In all the years I have been here on coal legislation I have never before in any manner, here or anyplace else, heard the suggestion made that there is no distinction between anthracite and bituminous coal. Anthracite is hard coal—h-a-r-d. That is hard coal. Bituminous is soft coal, and I assume we can all spell "soft." That is soft coal.

So there we are. There is no doubt about the distinction, there is no doubt shown in the X-rays, and there should be no doubt in anybody's mind here today that there is such a difference. Historically, medically, and in every other way this difference exists. It is a special kind of coal. This is a hard coal.

A few minutes ago we talked about Dr. Lapp. Before this committee Dr. Lapp was asked the question: Is there a heavier incidence of pneumoconiosis in the anthracite miner than in the bituminous miner? Dr. Lapp answered, "Yes." He said, y-e-s, yes, there is a higher prevalence of abnormal respiratory dysfunction in anthracite miners than in bituminous miners.

Then on the same day Dr. Keith Morgan, a very famous doctor, testified in response to a question asked by the gentleman from Illinois (Mr. ERLENBORN) that in the anthracite area of Pennsylvania 14 percent of the working coal miners have complicated pneumoconiosis. In Utah, in Colorado, and around the rest of that area, it is one-tenth of 1 percent. That is 14 percent compared to one-tenth of 1 percent.

Now, those are the figures. This is medical history; this is medical testimony. This is not just pulling figures out of a hat; this comes out all through the history and through the medical evidence.

In the coal workers' presentation, the CWP, in the workers' pneumoconiosis, for U.S. coal miners, in all their own archives they establish this beyond the peradventure of doubt. Let us just remember that when we look at this here today at a quarter of 5.

Let us not do anything unconstitutional that would endanger this. This is the law. If we do, we are asking for a lawsuit, and we will lose just as sure as God made little apples. Let us not pick out an arbitrary figure. The figure given by the chairman of the committee here is justified by law and by medical evidence, so let us not disturb that.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was interested when the gentleman from Pennsylvania (Mr. DENT) was referring to a chart, a copy of which I also have. It is contained in book published by the National Academy of Science, entitled "Mineral Resources and the Environment."

The chart the gentleman was referring to shows that after 30 years in the coal mines in the anthracite region any stage of pneumoconiosis, not complicated or disabling pneumoconiosis but only some stage of it, reached 60 percent in the anthracite region.

That is after 30 years. Yet, this bill would say that everybody, 100 percent, would get compensation even though not more than 60 percent have even the first stage.

In the Appalachian region the comparable figure is about 45 percent for even the simplest first stage. Yet, this bill would say that after 30 years, 100 percent would get compensation.

What is even more interesting is the preceding page. It refers to prevalence of coal workers' pneumoconiosis in major geographic regions. They break it down to anthracite in Appalachia, in the Midwest, and in the West. They also break it down as to the categories.

Remember again that only progressive massive fibrosis under all of the medical testimony before our committee is disabling. In the anthracite region, the gentleman from Pennsylvania (Mr. FLOOD) would be, I think, encouraged by these figures in the position that he takes. The incidence of coal workers' pneumoconiosis is the greatest there. The incidence there is as high as 60 percent, but even there, only 14.3 percent have progressive massive fibrosis, the disabling disease.

In Appalachia the prevalence is approximatley 30 percent, but only

2.1 percent have progressive massive fibrosis, the medically disabling disease.

As to the Midwest and the West, 25 percent or less in the Midwest have the least evidence of the disease and the figure is 10 percent in the Far West for any stage of the disease; and there is no statistically significant number who have progressive massive fibrosis in either area.

Mr. Chairman, here we are talking about the region where the incidence is the highest and where the greatest number get the disabling stage of the disease, the highest number in the anthracite region, 14 percent. Yet, this bill would extend compensation after a period of years to 100 percent of the workers.

The current law is giving compensation across the board, across the country, to 65 percent of the workers, while in the Midwest and in the West they do not even have a statistically significant incidence of the compensable disease.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Pennsylvania.

Mr. DENT. Would the gentleman from Illinois please give me the date of the report?

Mr. ERLENBORN. It is 1973.

Mr. DENT. The gentleman from Illinois (Mr. Erlenborn) was in the committee, I believe, when the NIOSH report was given to us, and that was only recently. It has a completely different set of figures. The records of the Department itself coincide more with the NIOSH report. If it were only 14 percent, we would not have to pay 360,000 miners because 360,000 miners comes pretty close to being 65 or 75 percent of all of the miner claimants.

Mr. ERLENBORN. If the gentleman will permit me, this was published in 1976. I think it is the same report that the gentleman is talking about. The chart is from 1973.

What the gentleman is confusing is the question of how many people are being compensated for the disease and how many are being truly disabled by the disease. There is a vast difference between those figures.

Mr. DENT. If the gentleman will yield further, is he saying that the Departments have been liberal and that they are paying miners who do not have pneumoconiosis?

Mr. ERLENBORN. The Comptroller General and I agree on that, yes; many are being compensated who do not have it.

Mr. DENT. I am not sure that anyone else has made that claim.

Mr. FLOOD. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Pennsylvania.

Mr. FLOOD. Mr. Chairman, the best argument I have heard so far to establish the line of distinction between hard coal and soft coal, between anthracite and bituminous, is the very eloquent statement that the gentleman from Illinois (Mr. Erlenborn) just made. It is the best that has been made today.

Mr. ERLENBORN. Mr. Chairman, I am sure that the gentleman from Pennsylvania (Mr. Flood) would be heartened by those figures. I think that if we would follow them closely, we would see that 14.3 percent of those who have worked in the anthracite region for 25 years or more should be given compensation.

Mr. FLOOD. However, the gentleman has made the distinction very clear and very well.

Mr. FLOWERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if I may engage in a discussion with the subcommittee chairman, the gentleman from Pennsylvania (Mr. Dent), let me say that I come from a region that is blessed with natural resources. We have massive amounts of reserves of bituminous coal, of which we are proud, and many of our coal miners have been aided by the black lung legislation, which I fully supported, and I intend to support this bill today. However, I have a problem. We are also blessed with another natural resource in our region, as the gentleman from Alabama (Mr. Buchanan) knows fully as well as I do, and that is iron ore.

We have fellow Alabamians, some of whom suffer from black lung disease and others who suffer from red lung disease. The black lung disease man, or his surviving family, is taken care of in some respects by the legislation this Congress has passed, but the family of a man who might be just as severely afflicted by the disease contracted from his many years of mining underground in an iron mine, where he has developed pneumoconiosis, or silicosis, occasioned from the particles of the red iron ore, has no such benefits.

I have a hard time, Mr. Chairman, explaining this to my constituents, as I am sure my colleague, the gentleman from Alabama (Mr. Buchanan) has, and as do many of our other colleagues from Alabama, and also there are a few other regions in our Nation who historically have had the iron ore problem as well as the coal dust problem.

I have introduced legislation in two succeeding Congresses to include iron ore miners under benefits given under the program for the black lung disease.

I am wondering, since we have been talking about arbitrariness of years and arbitrariness of this, that, and the other thing, it seems to me there is a certain amount of arbitrariness here, Mr. Chairman, in that when this legislation was being first considered that we chose the coal mining industry. And I can understand that because it is an industry that is national in scope, where the situation I speak about in my area is more regional in scope. But to those people who are afflicted by a disease such as this, it is just as serious in scope as that of the coal miner, and it is hard for them to understand why they are not covered.

I wonder if the gentleman from Pennsylvania has considered this and has any comments to make?

Mr. DENT. Mr. Chairman, if the gentleman has introduced such legislation—and I know that the gentleman has done so because the gentleman has said that he has—it was not referred to my subcommittee.

Mr. FLOWERS. The number of the bill is H.R. 1285.

Mr. DENT. It did not come before my subcommiteee. I do not have that matter. We have been dealing only on the basis of coal. The jurisdiction on that may be in the subcommittee headed by the gentleman from New Jersey (Mr. Dominick V. Daniels). I will discuss this with the gentleman tomorrow and find out what has happened to it.

As far as I am concerned, we have to take up these diseases one by one because each is historically different and we have got to work with them one at a time rather than trying to make one black lung bill.

My honest opinion would be it would have to be separated because its characteristics are so different in the type of disease when they are inflicted upon a person but, nevertheless, it is of course serious enough.

As I say, I will be happy to discuss this with the chairman of the proper subcommittee.

Mr. PHILLIP BURTON. Mr. Chairman, if the gentleman will yield, I would like to commend our colleague, the gentleman from Alabama (Mr. Flowers) for noting that there are a number of occupational diseases, more particularly involving lung function diseases in other job occupations than just in coal that we have not looked at and that we should look at. Because we do find ourselves with an inequity in the sense that though we have done some minimal level assistance in terms of those who work in the coal fields, there are others who work in other industries who have lung and respiratory problems. It is an area that needs searching and obvious attention.

Again I commend the gentleman in the well for the leadership he has given in this matter.

Mr. FLOWERS. I will say to my distinguished friends, the gentlemen from Pennsylvania and Alabama, and my other friend here, that the only difference really is in terms of severity to the individual. There are sufferers of the red lung disease and white lung disease who suffer as individuals.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Flowers was allowed to proceed for 3 additional minutes.)

Mr. FLOWERS. In fact, many suffer more that those who have the black lung disease.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Alabama.

Mr. BUCHANAN. I thank the gentleman for yielding.

As a cosponsor of the gentleman's legislation, I, too, want to commend him for his leadership in this matter. I associate myself with the case he is making. As the gentleman knows, this is my first year on the Committee on Education and Labor, but since that is the case, I want to assure the gentleman that I will join with the distinguished gentleman who has pledged to pursue this matter with the appropriate subcommittee chairman and the gentleman from California, and I hope that we can get some action on this issue because it deserves the attention of our committee and of the Congress.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. I thank the gentleman for yielding.

I think he has made salient points. I do want to inform him of certain committee action by the gentleman from New Jersey (Mr. Dominick V. Daniels) and his committee. I am serving on his Subcommittee on Education and Labor.

We in this committee are now considering the National Federal Standards for Workmen's Compensation in this country. I think this is the area where the gentleman's district problem, and mine in my district, will be solved. I am speaking of coke oven emissions. We are talking about this type of problem along with chemical companies throughout the 50 States and territories. I believe the gentleman raises a good point. I think this is the wrong place to raise the question because we do not want to do anything to impair the passage of this legislation. I would welcome his help in supporting this legislation when it comes to the floor.

Mr. FLOWERS. Do I have at least a warm ear from my friends here that this is a matter that merits consideration of the Committee on Education and Labor?

Mr. GAYDOS. If the gentleman will yield further, we do have a report from a national commission setting forth the need for this type of legislation to be considered.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Pennsylvania.

Mr. DENT. I just want to state, if the gentleman will note, what the progress has been. I think we have worked on this legislation, and we now have a body of knowledge. We now have a course that can be pursued, and it can be pursued upon facts. It can be pursued expeditiously, and I assure the gentleman that everything we have in our subcommittee will be made available to the gentleman from New Jersey (Mr. Dominick V. Daniels) and his ranking member, and I assure the gentleman it will be considered.

Mr. FLOWERS. We have one other problem. We no longer mine red ore in the United States. These people are mostly old people. The ore mines have been long since closed up and the owners have gone away. Unless we help these people soon, there will be no one left to help other than their widows and children. So, the need for early attention in this area is urgent.

Mr. DENT. I will assure the gentleman that we will do the best we can.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Myers) as a substitute for the amendment offered by the gentleman from Illinois (Mr. Simon).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MYERS of Pennsylvania. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred one Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its sitting.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand by the gentleman from Pennsylvania (Mr. Myers) for a recorded vote.

A recorded vote was refused.

So the amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Simon).

The question was taken; and on a division (demanded by Mr. Simon) there were—ayes 22, noes 27.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. PEYSER

Mr. PEYSER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Peyser: H.R. 10760, as reported, is amended by adding at the end thereof a new section to read as follows:

"WHITE LUNG STUDY

"Sec. 16. (a) The Committee on Education and Labor of the House of Representatives is authorized and directed to conduct a study of white lung disease, also known as silicosis or talcosis, including, but not limited to, the extent and severity of the disease in the United States; the relationship, if any, between white lung disease and black lung disease; the adequacy of current workman compensation programs in compensating victims of white lung disease; a review of current mine safety and Occupational Safety and Health regulations relating to talc mining to determine whether such regulations are adequate to protect the safety and health of talc miners; and the need, if any, for Federal legislation to protect the safety and health of talc miners or to provide additional compensation for the victims of white lung.

"(b) The Committee shall report their findings and any legislative recommendations to the Congress not later than one year after enactment of this Act."

Mr. PEYSER (during the reading). Mr. Chairman, I ask unanimous consent that the amendmeint be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. PEYSER. Mr. Chairman, this is a very simple amendment, but it is one of great concern to many people in this country and particularly to people in upstate New York. This question of white lung has been one of great concern to me.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, I do not know whether the minority Members have looked at this amendment, but I have. I see absolutely nothing wrong with it. The committee will be happy to give consideration to a study of the white lung situation.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, the gentleman from New York has an amendment pending that refers to something called white lung. What in the gentleman's opinion is the technical name of that disease?

Mr. PEYSER. Mr. Chairman, the technical name is silicosis or talcosis. Those are the names given in the medical terminology, and then there are several others. I suggest the gentleman refer to the copy of the amendment he has in front of him.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield further, the textile industry has something called byssinosis, which is also referred to as white lung. I understand there is also red lung, and I do not know how many other colored diseases there might be.

Would the gentleman not want to provide for studying all lung diseases rather than just one designated by a nontechnical name?

Mr. PEYSER. Mr. Chairman, I thank the gentleman for his comment. Before answering, I wish to yield to the gentleman from Alabama (Mr. Buchanan) for a moment because I think what he has to tell us may make sense, and I think the gentleman from Pennsylvania (Mr. Dent) will be interested as well.

Mr. BUCHANAN. Mr. Chairman, I thank the gentleman for yielding.

I wonder if the gentleman from New York would be willing to modify his amendment to include red lung disease. I think the gentleman from Illinois (Mr. Erlenborn) has spoken sensibly in indicating this might be in order. The chairman of the subcommittee had indicated something along this line earlier in the colloquy.

Mr. PEYSER. Mr. Chairman, I would like to ask the gentleman from Pennsylvania (Mr. Dent) if that would present a problem to him, if I would modify the amendment to include a study of the total picture?

Mr. DENT. Mr. Chairman, if the gentleman will yield, there is legislation already introduced on that subject, and as I have said several times on the floor, we will have to isolate each one of these and take them up separately so we can get the facts. Otherwise we will overload any bill.

We ought to be studying the entire picture, yes, but let us not try to study the whole universe at one time. If we have the talc industry and the iron ore industry on our hands right now in addition to this, I think the committee will have more than it can handle at this stage. We are willing to do it, but let us do it in an orderly fashion.

Mr. Chairman, I am willing to accept the amendment as it is.

Mr. PEYSER. Then, Mr. Chairman, I understand the red lung disease is going to be handled in a separate committee, in the Committee on Education and Labor. If I understand the gentleman, apparently that would suffice, and in that case I thank the gentleman for his support and look forward to speedy action on this program. I yield back the balance of my time.

Mr. FLOWERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am not sure about this. First I saw it, and then I did not. I thought we had the red lung disease included and that we had the attention of the committee, and then the white lung disease slipped in in front of us somehow.

I wonder if that is the case or not. Let us get back to No. 1 and see where we are at this point.

Mr. DENT. Mr. Chairman, if the gentleman will yield, I wish to state that the gentleman's bill is in committee. This amendment provides for a request that this committee study the talc industry, that is all, and the gentleman's bill is already being considered by the proper committee. I assure the gentleman we will include red, white, and black before we are through.

Mr. FLOWERS. But, Mr. Chairman, the fact is that the red lung started it off.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. PEYSER).

The amendment was agreed to.

Mr. DENT. Mr. Chairman, I would like to know whether we can arrive at some agreement on time.

I understand that there are five amendments at the desk and only one has been printed in the Journal.

Mr. Chairman, I would ask unanimous consent that we end all debate in 1 hour or, rather, at 20 minutes after 6. This will allow more than 10 minutes for each one of the amendments to be placed before the House. Some of them will not take that long. They are very simple.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I am generally not in favor of time limitations because I think that anyone who has an amendment ought to have an opportunity to have the amendment considered.

As the gentleman from Pennsylvania said, only one has been printed in the RECORD. It would be possible, under some limitation of time, that one of the amendments may not have any opportunity for debate at all.

Mr. Chairman, I personally will not object, but if any of those who intend to offer any amendments would object, I would support them.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. MYERS of Pennsylvania. Mr. Chairman, reserving the right to object, I would like to ask the chairman if he would be willing to make his request on the basis of 1 hour rather than to state a specific time, so that we will not be penalized by quorum calls.

Mr. DENT. If the gentleman will yield, I would be happy to do that. I will not ask for any quorum calls if the gentleman will not.

Mr. MYERS of Pennsylvania. I may.

Mr. DENT. The gentleman makes it very difficult to comply with his very simple, reasonable request; but I will comply with it and ask unanimous consent to end all debate on amendments in 1 hour's time.

Mr. MYERS of Pennsylvania. Mr. Chairman, I would like to say to the gentleman from Pennsylvania that this is an important bill. I believe there is going to be a series of amendments here that are important, and I would like to give everybody an opportunity, in the interest of fairness.

Mr. Chairman, I will agree to an hour in total time.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. SKUBITZ. Mr. Chairman, reserving the right to object, may I ask the gentleman from Pennsylvania a question?

Mr. DENT. Yes.

Mr. SKUBITZ. Is the gentleman limiting the time just to the amendments that are at the desk at this moment?

Mr. DENT. All of them.

Mr. SKUBITZ. The gentleman is limiting it to all amendments?

Mr. DENT. Yes.

Mr. SKUBITZ. In other words, Mr. Chairman, I have an amendment that is not at the desk. I have been tossing it around in my own mind as to whether I really want to present it.

Mr. DENT. The gentleman has an amendment?

Mr. SKUBITZ. I have an amendment, yes.

Mr. DENT. In an hour's time it will be after 6 o'clock, and I would have no complaint if the gentleman would send his amendment to the desk at this point.

Mr. SKUBITZ. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania that all debate cease in 1 hour on the committee amendment and all amendments thereto?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. DENT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DENT. As a point of information, Mr. Chairman, would the Chair establish the time basis?

The CHAIRMAN. The Chair will state to the gentleman that it is 1 hour of time on the committee amendment and all amendments thereto.

Mr. DENT. And each one will be allocated 10 minutes; is that correct?

The CHAIRMAN. That leaves each speaker 5 minutes.

Mr. DENT. Mr. Chairman, 10 minutes for each amendment was the request I made.

The CHAIRMAN. No. The gentleman requested 1 hour on all amendments.

The Chair will state, for the gentleman's information, that there are 12 speakers who were standing at the time the request was made, and there is only 1 hour allotted, each speaker will have 5 minutes, and that is all.

Mr. DENT. That is all right, I say to the Chair; but does that include all amendments being given an opportunity to be heard or only one amendment? I do not want to deny anybody the right to offer an amendment.

The CHAIRMAN. The Chair will state that Members who have amendments may offer them, if they are on the Chair's list they will be heard.

PARLIAMENTARY INQUIRY

Mr. HAYES of Indiana. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HAYES of Indiana. Mr. Chairman, it is my understanding that the time limitation, while generally applying, will not exclude any amendment that was printed; is that correct?

The CHAIRMAN. The Chair will state that debate on any amendment that has been printed in the RECORD will be in order, yes.

Mr. HAYES of Indiana. I thank the Chair.

PARLIAMENTARY INQUIRY

Mr. MYERS of Pennsylvania. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MYERS of Pennsylvania. Mr. Chairman, in utilization of the 5-minute allotment, will the speakers be allowed to divide it up into different periods and reserve time back and forth?

The CHAIRMAN. The Chair will state that by unanimous consent, Members may do that, yes.

Mr. MYERS of Pennsylvania. But it would take unanimous consent?

The CHAIRMAN. That is correct, it would take unanimous consent.

Mr. MYERS of Pennsylvania. The Chairman is then saying it takes unanimous consent to reserve time for later usage?

The CHAIRMAN. The Chair will state that the Members will be recognized for 5 minutes each. If the gentleman from Pennsylvania wishes to reserve a portion of his 5 minutes, then it requires unanimous consent to do so.

Mr. MYERS of Pennsylvania. I thank the Chairman.

AMENDMENT OFFERED BY MR. HALL

Mr. HALL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HALL: Page 36, beginning on line 1, strike out "by inserting immediately" and all that follows through line 7, and insert in lieu thereof the following: "and by striking out ': *Provided*, That' and all that follows through 'one or more underground mines'."

Mr. HALL. Mr. Chairman, at the outset I want to thank the distinguished chairman of the subcommittee for his excellent and diligent work in bringing this bill to the floor. No other Member of this House has done more for coal mine health and safety than the distinguished gentleman from Pennsylvania (Mr. DENT) and I would also add the name of the distinguished chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS).

Mr. Chairman, the amendment I offer will strengthen H.R. 10760. It will eliminate the arbitrary and unjustified cutoff date of July 1, 1971, in making the presumption a miner suffers from black lung disease. It will affect only a few hundred miners a year and its cost will be minimal with no additional cost to the Federal Government. Although its impact will not be great, equity for those affected miners calls for passage of the amendment.

Under part B of the 1969 act, a miner with 15 years of underground service and who is totally disabled by a respiratory disease is presumed to have black lung. Under part C, that part funded by the coal industry, a miner in order to qualify for that presumption must have completed 15 years of service prior to July 1, 1971. July 1 was the date when Federal standards for regulating respirable dust levels in the mines were to become totally effective.

The legislation now before us would extend this 71 cutoff to the application of the 25- and 30-year presumptions in part C claims. Mr. Chairman, I submit the expectations prompting the 1971 cutoff have not been realized and it is now time to revise our thinking.

I have here a recent GAO report which tells us the hopes and good intentions that the 1969 Coal Mine Health and Safety Act would eliminate black lung after the effective date of July 1, 1971, have not been realized. The title of the report, "Improvements Still Needed in Coal Mine Dust-Sampling Program" reveals one of the conclusions of the study.

Mr. Chairman, I quote from the GAO report which was issued December 31, 1975: The Department of the Interior reported that 94 percent of the active underground coal mine sections were meeting the 2 milligram standard established by Congress as the acceptable dust level. GAO found many weaknesses in the dust-sampling program affecting the accuracy and validity of the results and making it virtually impossible to determine how many mine sections were in compliance.

If we needed more evidence that there is no justification to believe that July 1, 1971, should be maintained as a cutoff, we have it in a statement of the research supervisor of the dust control and life support group made to the Director of the Bureau of Mines in late 1974. He stated:

> Coal mine personnel are being permitted to be exposed to grossly excessive amounts of respirable dust.

He added:

> It is evident that a grave health hazard still exists in our coal mine environments.

Mr. Chairman, we must of course continue to work for an effective program of dust control but until we have solid evidence—and we have none today—that dust control is effective throughout the industry, we should not penalize those miners with service after July 1, 1971. I urge the adoption of the amendment.

The CHAIRMAN. Are there any Members who wish to speak on the pending amendment?

Mr. DENT. Mr. Chairman, I ask unanimous consent that I may reserve 3 of my 5 minutes and only consume 2 of the minutes in speaking on this amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DENT. Mr. Chairman, I rise in opposition, of course, for the simple reason that the gentleman says that the 1971 date is picked at random and is arbitrary. That is the date that we instituted effective dust limits. Let us see what has happened to the end of December 1974, based on mine samples. Less than 260 of the 3,200 underground mines examined failed to meet the dust requirement of 2 milligrams. In the same test that was given, of 55 percent of the sections reported, less than 1 milligram of dust was given. How are we going to go to court and have a mine operator pay for a disease that is alleged to have occurred under such circumstances?

The gentleman is saying that for a miner who started to work last week and works 30 years in a bituminous mine and 25 years in an anthracite mine, when the dust standards have been down to below 2 milligrams, that operator has to pay for black lung whether the miner has black lung or not.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Illinois.

Mr. HALL. I thank the gentleman for yielding.

The whole basis of my argument, and the rationale behind this whole argument, has been that the 1971 cutoff date meant that the standards had been complied with, and there would be no more black lung after that. The GAO is an agency all of us depend on, regardless of party, we all depend upon their research. I think this study leaves a great question about the standards having been met.

Mr. DENT. Mr. Chairman, I have only 2 minutes. I did not test the gentleman from Illinois on the matter. That is the second time I have gotten stuck today.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PERKINS. Mr. Chairman, I yield the remainder of my time to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, I yield myself 1 more minute of my increased time.

Of course, that is not the point. The 1971 date has two bases in history in the legislation. We already have a 15-year presumption for over 15 years of working in the mines prior to 1971, by placing the responsibility on the mine operator to prove that the miner does not have black lung. That is already in the law, so the date has been set. It has not been contested. It has been in operation, and we know it is constitutional, in our opinion, as is this provision in the bill, which has the same basis in fact.

To say that we open it up from now on into eternity, and a miner can start working 10 years from now, and ultimately claim benefits notwithstanding the circumstances of his employment is, we believe, a very shaky foundation. As the bill stands, the only years counted are those during which we know that no mine exercised or was required to exercise effective dust control.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from Illinois (Mr. HALL).

The amendment was rejected.

AMENDMENT OFFERED BY MR. BUCHANAN

Mr. BUCHANAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. BUCHANAN: Page 36, lines 2 to 4, strike all the language on lines 2 and up to and including the comma on line 4, and substitute therefor the following: "after 'June 30, 1971,' the following: 'and for the purpose of determining the applicability of entitlements based upon conditions described in paragraphs (5) and (6) of section 411(c) to claims filed under part C of this title, no period of employment after the effective date of the Black Lung Benefits Reform Act of 1975,' ".

Mr. BUCHANAN. Mr. Chairman, my amendment is much more modest in what it seeks to accomplish; but it goes in the same direction as the gentleman who preceded me in the well. I supported the gentleman's amendment and I would have welcomed a record vote on that amendment.

Mr. Chairman, this simply extends the cutoff date for employment in the entitlement sections of this bill from June 30, 1971, to the effective date of this bill. It is a modest extension. The gentleman who offered the previous amendment has pointed out this is a matter of question and of debate as to whether or not the cleanup that the Department of the Interior said is taking place is taking place. The Interior Department said yes. The UMW has challenged this. The GAO has most recently challenged it.

This gives the benefit of the doubt to miners who still have been exposed in many places. It is an improvement on the present bill in that it simply extends to the date of enactment of this bill, the effective cutoff date.

I think this is a modest request and the chairman of the committee and the chairman of the full committee have rendered great service to the miners across the land in the benefits they have already secured under this basic legislation.

I would hope they would support this modest increase in the bill as a small step that, nevertheless, would bring equity and benefit to at least a small additional group of miners. I urge the adoption of my amendment.

Mr. HEINZ. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. Mr. Chairman, I rise to express my full support for the Black Lung Benefits Reform Act, H.R. 10760, which we are considering here today.

This long awaited legislation, which provides automatic eligibility for black lung benefits to individuals who have served for 30 years or more in the mines, will hopefully put an end to the seemingly endless bureaucratic delays and legal hassles which now face thousands of afflicted miners, and which deny them the benefits to which they are entitled.

Since the inception of the black lung program, it has failed miserably to respond to the needs of black lung victims and their families. The countless black lung appeals which have been handled by my congressional office attest to the fact that the administration of the program is both capricious and arbitrary and an outrage to those of us who are deeply committed to assisting black lung victims.

Mr. Chairman, through the passage of the Black Lung Benefits Reform Act, we can come to the aid of the countless miners who are wracked by black lung, but whose claims for benefits have never emerged from the bureaucratic muddle. We can assist those miners who can barely breathe, but who must continue in the mines because their black lung claims have been repeatedly denied. And we can help the miner's widow, who has been without any income since the death of her husband, who has been denied black lung benefits, and who is still waiting for the outcome of her appeal years after it was initiated.

Through the adoption of the Black Lung Benefits Reform Act, I am hopeful that we can finally eliminate the frustration, the unfairness and the uncertainty characteristic of the current black lung program, and quickly provide black lung victims and their families the benefits to which they have long been entitled.

Mr. DENT. Mr. Chairman, I oppose this amendment on exactly the same grounds as the other. It is not a question of 75, 74, 72. It is a question of a date that was rationally arrived at. Whether we move 1 or 2 years, we might as well move it 15 or 20, because the same legal problem presents itself. We are trying to present legislation that will become law. The bill does not bar any miner, regardless of service, from filing a potentially valid claim. We cannot ask anything more than that if we want the legislation declared constitutional and to benefit thousands of persons in the mining industry.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HAYES OF INDIANA

Mr. HAYES of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAYES of Indiana: Page 39, immediately after line 12, insert the following new subsection:

"(c) Section 402(d) of the Act (30 U.S.C. 902(d)) is amended by inserting immediately before the period at the end thereof the following: ', including any individual who is or was employed in any aboveground mining operation'."

Mr. HAYES of Indiana. Mr. Chairman, this amendment will expand the definition of miner to include any individual who is or was employed in any aboveground mining operation. This bill as it is presently written extends automatic eligibility for black lung benefits under the 30-year rule, which has been well explained, to any miner who did not work in an underground mine, if the Secretary of Health, Education, and Welfare and/or Labor determines that the conditions or his employment in a coal mine, other than an underground mine, are substantially or were substantially similar to conditions found in an underground mine. Thus, surface miners can be eligible, but they are not assured of that eligibility.

The legal language is subject to drastically variable interpretations which depend on many different factors, and it seems that the language is broad enough, in case the Secretary desires to include nearly all surface workers or nearly none on the other hand if he so desires, or he can reach something moderately in between in terms of numbers.

It is this delegation of authority to the Secretary that my language is trying to tighten up. What we are talking about are some thousands of workers in the surface operations or above-ground mining operations such as cleaning plants, shops, yards, all of which may be a little over 35 percent of the total manpower we are involved with.

What is the cost? We are talking about, under part B of the bill, the Federal responsibility of the bill, about an additional 1,200 families that qualify for benefits at a cost of about $3.5 million for the next 10 years. Under part C, the industry portion, there would probably be an additional 2,300 miners immediately eligible at an estimated cost of $6 million to $8 million for the industry on an annual basis.

There are cast into doubt a third of all the workers we are talking about, and that they risk their health and their lives on a daily basis as others do. I ask that we include them, because we really are discussing de minimus in terms of this bill. I would ask the Members to support me on this amendment.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. HAYES of Indiana. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I want to commend the gentleman and join with him and offer my support for his amendment. I think that this act generally has been administered as poorly as any act I have ever seen the Congress pass. I think that strip miners, many of whom have worked in deep shaft mines, if they do not get some automatic help, I think they are going to be left out.

Mr. HAYES of Indiana. The gentleman raises a very excellent point because I think we also must recognize that many of these aboveground workers have mixed underground and surface experience, and so we cloud the issue with that category of miner when we do make this delegation of authority without proper guidelines.

Mr. RAILSBACK. In my district I think that every single claimant we have had has had dual experience, some deep shaft and then some strip mining. I feel very badly that we have had a great deal of difficulty in getting any success under the present administration of those claims.

Mr. HAYES of Indiana. I thank the gentleman for his remarks.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. HAYES of Indiana. I yield to the distinguished chairman of the committee.

Mr. PERKINS. Mr. Chairman, I am sure the distinguished gentleman from Indiana realizes that the present law covers strip mining operations in the event that the dust is as bad as exists in an underground mine.

Mr. HAYES of Indiana. Yes, Mr. Chairman.

Mr. PERKINS. The present act clearly spells that out. How does the gentleman's amendment differ? Is he making less stringent standards for strip mines than he is underground mines?

Mr. HAYES of Indiana. No, what my amendment would do would be to tighten up that delegation of authority which this bill gives to the Secretary of Health, Education, and Welfare and Labor. What we are saying is that he may determine when conditions are the same on the surface as underground. The Comptroller General's report of December 31, 1975, indicates that problems of measuring dust levels are enormous. They have contradictions inside the Mine Enforcement Safety Administration, and they have come to all different conclusions.

We know from experience in our surface mine areas in Kentucky, Illinois, and Indiana that dust measurement procedures there are extremely difficult to harden down into evidence.

MR. DENT. Mr. Chairman, I yield myself 2 minutes.

I would say to the gentleman that if he had discussed this matter with the committee, we would have pointed out to him that the entitlements do apply to a miner's condition of employment in a coal mine other than underground, which is substantially similar to that of an underground mine. A similar situation exists in current law.

In this respect, the committee was considering surface mining where exposure to coal dust was no less intense than that in an underground mine.

There is only one question that the Secretary must determine, and that is whether or not the intensity of the dust is such that it is conducive to black lung.

So the 30-year test applies to every line, upper and lower.

I would not suggest we dilute the Secretary's right to make a judgment on the matter, because we are now operating strip mines in a completely different character of work than they did in the early days, and that is that we have 18-, 20-, 27-yard shovels. We have a man sitting up there 150 feet in the air. He has less chance of getting dust than the gentleman has right here on the floor.

Mr. HAYES of Indiana. I think it is a problem of measurement, and it is that less degree of chance that drives me to put them solely under the 30-year discretion.

Mr. DENT. The gentleman is covering every surface mine worker and the exposure conditions are simply not comparable. We cannot automatically put them under the 30 years.

Mr. Chairman, I would suggest that the Members vote against the amendment.

PARLIAMENTARY INQUIRIES

Mr. ERLENBORN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ERLENBORN. Mr. Chairman, since this amendment was one of the published amendments, 5 minutes in opposition to the amendment is available not counting against the limit?

The CHAIRMAN. The gentleman would be correct if debate on the amendment were outside of the limitation.

Mr. ERLENBORN. Mr. Chairman, may I claim that 5 minutes?

Mr. DENT. If the gentleman will yield how about giving me back my 3 minutes?

Mr. ERLENBORN. Mr. Chairman, I understood the gentleman to yield himself 2 minutes of his own time.

Mr. DENT. Because he did not tell me what to do.

Mr. ERLENBORN. I understood there were 5 minutes in opposition available.

The CHAIRMAN. The gentleman from Pennsylvania had 3 minutes.

Mr. ERLENBORN. Mr. Chairman, may I have the 5 minutes, under the rule?

The CHAIRMAN. It will be counted against the gentleman's time if the gentleman takes it at this time.

Mr. ERLENBORN. Mr. Chairman, I understand there are 5 minutes in opposition that are available, under the rule; and I claim those 5 minutes.

The CHAIRMAN. It is the Chair's understanding that at this point debate on the amendment is under the limitation. The gentleman could claim his 5 minutes under the rule if the amendment were offered, notwithstanding the limitation, but not at this time.

Mr. ERLENBORN. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ERLENBORN. Mr. Chairman, I have 5 minutes, under the time limitation?

The CHAIRMAN. That is correct.

Mr. ERLENBORN. Without using that, am I not entitled to 5 minutes to oppose a published or printed amendment?

The CHAIRMAN. No, because the proponent of the amendment did not take his time under the rule. The gentleman from Indiana (Mr. Hayes) had 5 minutes reserved under the limitation of time. The Chair understands the gentleman from Indiana took his time under the limitation and not under the rule.

Mr. ERLENBORN. I thank the Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. Hayes).

The question was taken; and on a division (demanded by Mr. Hayes of Indiana) there were ayes 9, noes 29.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. MYERS OF PENNSYLVANIA

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Myers of Pennsylvania: Page 62, strike out line 22 and all that follows through line 10 on page 63.

Renumber succeeding sections.

Mr. MYERS of Pennsylvania. Mr. Chairman, I ask unanimous consent to reserve 2 minutes of my time.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Is the gentleman seeking 2 or 3 minutes?

Mr. MYERS of Pennsylvania. Three minutes, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 3 minutes.

Mr. MYERS of Pennsylvania. Mr. Chairman, what this amendment does is it wipes out what we have in this bill as an accident indemnity clause, which has nothing to do with black lung benefits. The bill provides that if a miner prior to 1971 was killed in a mine accident—and it does not even have to be below ground and it does not even have to have been in an anthracite mine—his benefactors can participate in black lung benefits.

I think we ought to reflect back on some of the great statements that were placed in the Record today about the difference between black lung benefits because they involve soft coal or hard coal and how that makes a big difference in how that should be evaluated.

What we are trying to provide is a bill that is fair, fair to the taxpayers as well as fair to the benefactors. There is no provision that says if a steelworker gets killed after 17 years because a piece of metal fell off a hook, his wife or his benefactors should get a pension.

That is essentially what we are dealing with here. I think if we want to be honest about it, there is no justification for including in this bill an accident death indemnity. I think it weakens the bill, and I think it detracts from the intent of the bill.

Mr. Chairman, I would question whether the proponents of the original bill can justify why an accident benefit should be included in this bill, and I ask that the Members support my amendment and withdraw this provision from the bill.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment.

(By unanimous consent, Mr. Dent yielded 2 minutes to Mr. Perkins.)

The CHAIRMAN. The gentleman from Kentucky (Mr. Perkins) is recognized for 2 minutes.

Mr. PERKINS. Mr. Chairman, I was yielded 2 minutes. I had 5 minutes.

Mr. DENT. Mr. Chairman, I ask unanimous consent that I be permitted to yield my remaining total time of 3 minutes to the gentleman from Kentucky (Mr Perkins).

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. Perkins) for 3 minutes.

Mr. PERKINS. Mr. Chairman, let me state that the amendment offered by the gentleman from Pennsylvania (Mr. Myers) is without merit in my judgment.

Section 14 of the bill provides that widows and surviving dependents of miners who had been employed for 17 or more years in the mines, and who were killed in mine accidents on or before June 30, 1971, would be eligible for benefits. Such benefits would be reduced by the amount received through workmen's compensation, unemployment compensation, or disability laws in the miner's State.

The amendment of the gentleman from Pennsylvania strikes this provision from the bill. He suggests that this provision is unrelated to the general purposes of this act. The fact is, as several expert witnesses testified, a great many miners who have worked in the mines for 10, 12, 15, or 17 years have pneumoconiosis. A substantial number of these miners, however, continue working even though their pneumoconiosis has reached the state where it is irreversible. They have reached the state where even regardless of medical treatment and regardless of whether they stay in the mines they will be disabled and die of this dreaded disease.

It is typical of the miner, however, that he remains on the job even when he could be collecting benefits from Social Security under the black lung law or workmen's compensation. Many of the miners who died in accidents prior to 1971 most assuredly were afflicted very severely with this disease. In all fairness their widows and surviving dependents should now be collecting benefits.

We may be reasonably sure that a substantial number of the 78 miners who were buried under the hill at Farmington, W. Va., at the time they died had severe cases of pneumoconiosis. Many others who had this disease lay buried forever, their widows will never be able to prove that they suffered from this disease at the time of their death. There were many others who have been removed from the mines but who, at the time of their death, suffered severe symptoms of chronic lung disease which we can now recognize as black lung.

Cases such as these are relatively few in number, but they represent very substantial hardship to the widows and dependent survivors involved. There may be as many as 1,650 eligible survivors.

The best estimate is that this particular provision would cost approximately $4.25 million in fiscal year 1977. The cost, as laid out on page 29 of the committee report, would rise slightly. By 1984 the 8-year cost of this provision would be only $40 million—an average of $5 million a year.

This relatively small amount of money would be a small price to pay to compensate the widows and surviving dependents of those who have been killed by accidents in the mines. Some of these widows have received workmen's compensation—the amounts of such compensation are relatively small. Such widows may receive only $75 to $150 a month or so, and inevitably they reach the statutory maximum provided by the State workmen's compensation system and even those pitiful amounts are cut off. They are cut off long before the widow becomes eligible for social security benefits and frequently leave her and her dependent children destitute and on welfare if welfare is available. I hope my colleagues will join me in soundly rejecting the amendment.

Mr. ERLENBORN. Mr. Chairman, I ask unanimous consent to reserve 4 minutes of my time.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN) for 1 minute.

Mr. ERLENBORN. Mr. Chairman, I rise in support of this amendment.

The provision now in the bill was added in the full committee. In the markup session it was opposed initially by the gentleman from Pennsylvania (Mr. DENT), I think for good reason.

However, Mr. Chairman, I think the gentleman from Pennsylvania (Mr. MYERS), in offering the amendment, has made an eloquent and obviously well-merited plea to remove this death benefit from the bill.

As a matter of fact, under the terms of the present legislation, if someone was dependent at the time of the death of the coal miner, he gets a lifetime benefit. This looks back without limitation. We may find coal miners who died many, many years ago with, at that time, minor children who are today parents or grandparents themselves and yet may qualify for lifetime benefits under this provision.

Mr. Chairman, it just makes no sense at all. It is even more ridiculous than the other provisions in the bill.

Mr. Chairman, I hope and urge that the amendment will be adopted to take this language out.

The CHAIRMAN. Are there any other Members who wish to be recognized for or against this amendment?

If not, the question is on the amendment offered by the gentleman from Pennsylvania (Mr. MYERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MYERS of Pennsylvania. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to report their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 76]

Ashley
Aspin
Badillo
Bafalis
Barrett
Bergland
Blanchard
Boland
Bolling
Burke, Calif.
Cederberg
Chappell
Collins, Ill.
Conyers
Coughlin
Dickinson
Diggs
Dingell
Dodd
Drinan
Esch
Eshleman
Evans, Colo.
Fish
Ford, Mich.
Gude
Guyer
Harsha
Hébert
Hinshaw
Jarman
Jones, Ala.
Jones, N.C.
Kelly
Landrum
Leggett
Lehman
McKay
McKinney
Macdonald
Mathis
Metcalfe
Mineta
Mitchell, N.Y.
Moorhead, Pa.
O'Hara
Obey
Patman, Tex.
Pepper
Pike
Quillen
Railsback
Rangel
Rinaldo
Robinson
Rosenthal
Runnels
Ruppe
Scheuer
Seiberling
Sikes
Simon
Sisk
Solarz
Steed
Stephens
Symms
Taylor, N.C.
Teague
Udall
Vigorito
Whitehurst
Wilson, Tex.
Young, Fla.
Young, Ga.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. GIBBONS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 10760, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 357 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania (Mr. MYERS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 141, noes 253, answered "present" 1, not voting 37, as follows:

[Roll No. 77]

AYES—141

Abdnor
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Ashley
Bauman
Bell
Bennett
Bowen
Breaux
Brinkley
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Cotter
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Downing, Va.
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Fenwick
Fish
Flynt
Forsythe
Fountain
Frenzel
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Hansen
Henderson
Hicks
Hightower
Hillis
Holt
Hughes
Hutchinson
Hyde
Ichord
Jarman
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kasten
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Lehman
Lent
Levitas
Lott
Lujan
McClory
McCloskey
McCollister
McDonald
McEwen
McKinney
Madigan
Mahon
Mann
Martin
Michel
Milford
Montgomery
Moore
Moorhead, Calif.
Myers, Pa.
Nedzi
Nichols
O'Hara
Pettis
Poage
Pressler
Pritchard
Quie
Roberts
Robinson
Rogers
Rousselot
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Smith, Nebr.
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Treen
Waggonner
Whitehurst
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOES—253

Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bergland
Bevill
Biaggi
Biester
Bingham
Blouin
Boggs
Bonker
Brademas
Breckinridge
Brodhead
Broomfield
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Chisholm
Clay
Conte
Corman
Cornell
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Downey, N.Y.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ind.
Fary
Fascell
Findley
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Green
Gude
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hungate
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keys
Koch
Krebs
LaFalce
Leggett
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McCormack
McDade
McFall
McHugh
McKay
Madden
Maguire
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nix
Nolan
Nowak
Oberstar
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Peyser
Pickle

Pike
Preyer
Price
Quillen
Railsback
Randall
Regula
Reuss
Richmond
Riegle
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Skubitz
Slack
Smith, Iowa
Snyder
Spellman
Staggers
Stanton, James V.
Stark
Steed
Stokes
Stuckey
Studds
Symington
Thompson
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitten
Wilson, C. H.
Wirth
Wolff
Wright
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—37

Alexander
Aspin
Barrett
Blanchard
Boland
Bolling
Chappell
Collins, Ill.
Conyers
Dodd
Esch
Eshleman
Evins, Tenn.
Guyer
Hébert
Hinshaw
Jones, Ala.
Macdonald
Metcalfe
Mills
Obey
Patman, Tex.
Pepper
Rangel
Rees
Rhodes
Rinaldo
Runnels
Ruppe
Sikes
Sisk
Solarz
Symms
Teague
Udall
Wilson, Tex.
Young, Ga.

Mrs. **HOLT**, Mrs. **SULLIVAN**, and Messrs, **LEHMAN**, **DICKINSON**, **ROBERTS**, and **NICHOLS**, changed their vote from "no" to "aye."

Mr. **REGULA** and Mr. **VANDER JAGT** changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The **CHAIRMAN**. The Chair recognizes the gentleman from Iowa (Mr. SMITH).

Mr. **SMITH** of Iowa. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from Pennsylvania (Mr. DENT).

The **CHAIRMAN**. Is there objection to the request of the gentleman from Iowa?

Mr. **ASHBROOK**. Mr. Chairman, I object.

The **CHAIRMAN**. Objection is heard.

The Chair recognizes the gentleman from Iowa (Mr. SMITH) for 5 minutes.

Mr. **SMITH** of Iowa. Mr. Chairman, I yield back the balance of my time.

Mr. **WAMPLER**. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, section 8 of the bill entitled "Evidence Required to Establish Claim" includes the following language:

> Where there is no relevant medical evidence in the case of a deceased miner, such affidavit shall be considered to be sufficient to establish that the miner was totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis.

For the purpose of establishing legislative history, I would like to inquire of the distinguished chairman of the subcommittee, the gentleman from Pennsylvania (Mr. DENT) as to the legislative intent of the committee pertaining to section 8 of the bill, that portion of the bill which permits, where there is no relevant medical evidence, the use of affidavits in order to establish disability claim for pneumoconiosis.

Mr. **DENT**. Mr. Chairman, the purpose of it was that the Secretary has not used affidavits as required by law in our opinion. Therefore, section 8 establishes affidavits of living miners shall be effective evidence in the case of a deceased miner for whom no relevant medical evidence exists.

This was caused by the fact that up until recent years, in some States there was a prohibition against a recognition of pneumoconiosis as a crippling disease or a disease that could cause death, so that no medical records were made by any doctors containing any reference to black lung in any fashion, and no death certificates were allowed to recognize black lung as the cause of death. So, affidavits have been resorted to when such affidavits are from persons who worked in the mines, where affidavits taken by other miners or families in a coal mining town whose families also had black lung payments coming to them, who worked in the same mine.

Mr. **WAMPLER**. Would it be a reasonable interpretation of section 8, that an affidavit which indicated that the deceased miner had the usual symptoms of pneumoconiosis such as shortness of breath, lack of stamina, chronic coughing, may be considered pertinent evidence as a part of the affidavit to support the claim?

Mr. **DENT**. Yes.

Mr. **WAMPLER**. Would it be the opinion of the gentleman from Pennsylvania that a death certificate could be used as relevant medical evidence as it pertained to the cause of death?

Mr. **DENT**. What it really does, the provision just permits the application of knowledge of the miner's physical condition where it supplies the only information.

Mr. **SKUBITZ**. Mr. Chairman, will the gentleman yield?

Mr. **WAMPLER**. I yield to the gentleman from Kansas.

Mr. **SKUBITZ**. Mr. Chairman, I asked the gentleman to yield so that I might direct a question to the gentleman from Pennsylvania.

Is it not true that although under existing law, when the widow of a deceased miner, one who died prior to the passage of this law, the law provides that affidavits could be signed by those who were familiar with the case? No matter how many affidavits were filed by a widow, it seems as though the Social Security Board and those who ruled on these specific cases would come in with a death certificate that might say the deceased died of natural causes or heart failure, and therefore there was no proof or evidence of black lung. Is this correct?

Mr. **DENT**. This is absolutely correct.

Mr. **SKUBITZ**. Is this one of the reasons that the bill here is before us today?

Mr. **DENT**. Exactly.

Mr. **WAMPLER**. I might say to the distinguished gentleman from Pennsylvania that I have examined many death certificates of deceased disabled coal miners who were constituents of mine. Even though many of the death certificates state the immediate cause of death was cardiac failure, I think it is fair to say that there is ample medical evidence to support the theory that while cardiac failure was the immediate cause of death, black lung or serious breathing impairment was the proximate cause of death.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SKUBITZ

Mr. **SKUBITZ**. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment in the nature of a substitute offered by Mr. SKUBITZ: Strike out all after the enacting clause, and insert the following:
>
> That section 411(c) of the Federal Coal Mine Health and Safety Act of 1969 is amended by striking out "and" after paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:
>
> "(5) if a miner was employed for twenty-five years or more in one or more underground coal mines, and if such miner died prior to the effective date of this Act, there shall be an irrebuttable presumption that his death was due to pneumoconiosis or that at the time of his death he was totally disabled by pneumoconiosis. The Secretary shall not apply all or a portion of the requirement of this paragraph that the miner work in an underground mine where he determines that conditions of a miner's employment in a coal mine other than an underground mine were substantially similar to conditions in an underground mine."
>
> SEC. 2. The amendment made by the first section of this Act shall be effective as of the date of enactment of the Federal Coal Mine Health and Safety Act of 1969.

Mr. **SKUBITZ**. Mr. Chairman, my grandfather was a coal miner.

Every uncle worked in the mines. Each entered the mine the day he reached 15—not so much for the coal he could mine—but because of the extra turn grandad received by bringing a new apprentice into the mines.

My father was a coal miner who lied about his age so that he could get a job shooting shots, which paid a few cents more than a coal miner received.

When he was 19 years of age—I was less than 8 months of age and my mother had just turned 16—he was the victim of a mine explosion, a shot backfired.

The ignited gas ignited the fine coal dust in the air, and the air circulating through the mine carried the flame through every entry and room in the mine till it became a blazing inferno.

The force of the explosion thrust him into a sump hole filled with water. That is all that saved his life. But his face and head were burned beyond recognition—the hot flame seared his bronchial tubes.

Thank God, he lived. He always had a severe cough and doctors told him it would never be cured because of the damage to his bronchial tubes and lungs from the explosion. Well, dad died at 54, a young man, but old for his years, and the death certificate read "cause of death" cancer of the bronchial tubes.

I worked in the mines. Mining is hard work—it is dangerous work. If you do not believe it is hard work, crawl under this table and stay there 8 hours. Just use an empty shovel and pretend you are shoveling coal for 4 hours. Act like you are swinging a pick and making a cutting into the solid face for an hour so that the shot you are going to prepare does not backfire.

Pretend for 1 hour you are drilling a hole in order to prepare a shot. But once or twice a month be prepared to go home. Your entry or room is so full of coal dust that you cannot breathe because of poor air. That is what happened at the turn of the century in Kansas in the coal mines where the vein was 2 feet, 6 inches to 3 feet, 2 inchs in thickness. How well I remind miners—all chewing tobacco in order that coal dust be caught in the saliva. Men spitting out gobs of mucous black with coal dust. Handkerchief filled with coal dust, not on the days they worked, but on weekends, the day of rest, no one used them during weekdays.

I supported the Coal Mine Safety Act in 1969.

I supported the amendments in 1972 which liberalized the act and created the rebuttable presumption that any man who worked in the mine 15 years was presumed to have black lung.

But what has happened? Thousands of cases are being held up by the Department of Labor. They have been there for months, ignored. When you call about them you get the same old story, "We have such a backlog."

And when an answer is sent out, it invariably asks for more information, when the claimant has already submitted all the evidence he has to support his claim.

Mr. Chairman, the bill before you is one born out of desperation. I think it goes too far. I question that with the new air standards it is correct to provide that 25 years or 30 years create an irrebuttable presumption that one has black lung. If a man can undergo a medical examination, the tests will show whether black lung exists.

And yet, I have not at this moment decided how I shall vote.

All my amendment proposes to do is place a proviso in the existing law for the widow of the deceased miner who labored in the mines for 25 years prior to the enactment of the law in 1969.

This would create an irrebuttable presumption that the miner died of black lung and the widow would be entitled to benefits.

I am sick at heart for these widows whose husbands worked for starvation wages and now find their claims denied by the Government on the grounds that it was not established that the deceased miner died of black lung, or payment or benefits is denied because the death certificate showed death due to heart failure. Everyone dies of heart failure. The relevant question is, What brought that condition on?

For these reasons I ask for your support in the vote to adopt this amendment.

Mr. MURTHA. Mr. Chairman, I ask unanimous consent that I may be permitted to yield my time to the gentleman from Pennsylvania (Mr. DENT).

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Pennsylvania (Mr. MURTHA).

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, if we adopt the amendment of the gentleman from Kansas (Mr. SKUBITZ), what we will be doing is striking out the entire act after the enacting clause and making only in order the payment of compensation to the widows of any miner who had worked in a mine 25 years before the passage of the 1968 act.

The gentleman's amendment provides for absolutely no transfer of responsibility to the operators. It strikes out the entire legislation before us.

Mr. Chairman, after the very warming speech made by the gentleman from Kansas, I thought he intended to come out and try to do something to help the present day miners, too.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I say to my friend, the gentleman from Pennsylvania (Mr. DENT) that after 30 years, when a miner has black lung, as 60 percent of them do, they ought to be able to establish their case, and they are entitle to it, but the 40 percent that cannot should not be able to do it.

My amendment simply takes care of the people who had black lung after having worked in the coal mines before this act, where there was no medical testimony or evidence available, where the affidavits that are on file were ignored.

Mr. Chairman, these widows will have the opportunity now to have the benefits of this act. That is all my amendment does.

Mr. DENT. Mr. Chairman, I thank the gentleman for his information.

I do not want to hold this up any longer. Exactly what I said is exactly what he is doing. He is condemning a presumption of 30 years, but he establishes a 25-year presumption for accident-killed miners for when we would make compensation for the accident. They died in the mine from known causes, and under this amendment of his, they would then pay the widows, who are the only ones who could collect the compensation.

Mr. Chairman, I suggest that this is not the intent of the act, and I hope that it is not the intent of this Committee.

The CHAIRMAN. Are there other Members who wish to be recognized?

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Illinois (Mr. ERLENBORN) is recognized for 4 minutes.

Mr. ERLENBORN. Mr. Chairman, I sat here a few minutes ago and observed the silence in this Chamber as the distinguished gentleman from Kansas (Mr. SKUBITZ), the author of the amendment, told us the story of his father and his experience in the coal mines. Here is a man who, along with his family, has experienced the difficulties that coal miners and their families do experience. He is a man of compassion, who realizes that medical evidence may not be available for the families, the widows, and survivors of miners who became deceased years ago but were long-term coal miners.

Mr. Chairman, the amendment that the gentleman from Kansas (Mr. SKUBITZ) has offered is, I think, a reasonable amendment, one that could be supported by all the House, and I hope that the amendment will be adopted.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Kansas (Mr. SKUBITZ).

The question was taken; and on a division (demanded by Mr. SKUBITZ) there were—ayes 43, noes 86.

So the amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The question was taken; and on a division (demanded by Mr. DENT) there were ayes 106, noes 38.

So the committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. GIBBONS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10760) to amend the Federal Coal Mine Health and Safety Act to revise the black lung benefits program established under such act in order to transfer the residual liability for the payment of benefits under such program from the Federal Government to the coal industry, and for other purposes, pursuant to House Resolution 1056, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole. If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill.

Mr. ERLENBORN. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. ERLENBORN moves to recommit the bill H.R. 10760 to the Committee on Education and Labor.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. ERLENBORN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 210, nays 183, answered "present" 2, not voting 37, as follows:

[Roll No. 78]

YEAS—210

Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Annunzio
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bergland
Bevill
Biaggi
Biester
Bingham
Blouin
Boggs
Bonker
Brademas
Brodhead
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Chisholm
Clay
Corman
Cornell
D'Amours
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Dent
Diggs
Dingell
Downey, N.Y.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Fary
Findley
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Gaydos
Giaimo
Gibbons
Gilman
Gonzalez
Green
Gude
Hall
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heinz
Helstoski
Hightower
Holtzman
Howard
Howe
Hubbard
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Koch
Krebs
LaFalce
Leggett
Lehman
Litton
Lloyd, Tenn.
Long, Md.
Lujan
McCormack
McDade
McFall
McHugh
McKay
Madden
Maguire
Matsunaga
Meeds
Melcher
Meyner
Mezvinsky
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Peyser
Pike
Price
Quillen
Railsback
Randall
Reuss
Richmond
Riegle
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
St Germain
Sarbanes
Scheuer
Schroeder
Seiberling
Shipley
Shuster
Simon
Slack
Smith, Iowa
Staggers
Stanton, James V.
Stark
Steed
Stokes
Studds
Symington
Thompson
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Wampler
Waxman
Weaver
Whalen
White
Whitten
Wilson, C. H.
Wirth
Wolff
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

NAYS—183

Abdnor
Adams
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Ashley
AuCoin
Bauman
Beard, Tenn.
Bell
Bennett
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Cotter
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Evans, Ind.
Fascell
Fenwick
Fish
Fisher
Flynt
Forsythe
Fountain
Frenzel
Frey
Fuqua
Ginn
Goodling
Gradison
Grassley
Hagedorn
Haley
Hamilton
Hansen
Harsha
Heckler, Mass.
Hefner
Henderson
Hicks
Hillis
Holland
Holt
Horton
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Krueger
Lagomarsino
Landrum
Latta
Lent
Levitas
Lloyd, Calif.
Long, La.
Lott
McClory
McCloskey
McCollister
McDonald
McEwen
McKinney
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Michel
Mikva
Milford
Mills
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Pa.
Neal
Nichols
O'Brien
Pettis
Pickle
Poage
Pressler
Preyer
Pritchard
Quie
Regula
Rhodes
Robinson
Rogers
Roush
Rousselot
Santini
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Sharp
Shriver
Skubitz
Smith, Nebr.
Snyder
Spellman
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stuckey
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Treen
Vander Jagt
Waggonner
Walsh
Whitehurst
Wiggins
Wilson, Bob
Winn
Wright
Wydler
Wylie
Young, Alaska
Young, Fla.

ANSWERED "PRESENT"—2

Andrews, N.C.
Bafalis

NOT VOTING—37

Aspin
Barrett
Blanchard
Boland
Bolling
Burke, Fla.
Chappell
Collins, Ill.
Conyers
Dodd
Esch
Eshleman
Evins, Tenn.
Goldwater
Guyer
Hébert
Hinshaw
Jones, Ala.
Macdonald
Metcalfe
Mosher
Patman, Tex.
Pepper
Rangel
Rees
Rinaldo
Roberts
Runnels
Ruppe
Sikes
Sisk
Solarz
Symms
Teague
Udall
Wilson, Tex.
Young, Ga.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Roberts against.

Mr. Teague for, with Mr. Sikes against.

Mr. Blanchard for, with Mr. Rees against.

Mr. Rangel for, with Mr. Esch against.

Mr. Barrett for, with Mr. Guyer against.

Mr. Macdonald of Massachusetts for, with Mr. Goldwater against.

Mr. Runnels for, with Mr. Eshleman against.

Mr. Conyers for, with Mr. Symms against.

Mr. Boland for, with Mr. Burke of Florida against.

Until further notice:

Mr. Solarz with Mr. Aspin.

Mr. Chappell with Mr. Udall.

Mr. Young of Georgia with Mr. Dodd.

Mr. Evins of Tennessee with Mr. Jones of Alabama.

Mr. Metcalfe with Mr. Charles Wilson of Texas.

Mr. Pepper with Mr. Patman.

Mr. WOLFF changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 10760

Mr. DENT. Mr. Speaker, I ask unanimous consent that the Clerk may be authorized to correct section and subsection designations and punctuation in the engrossment of the bill H.R. 10760.

The SPEAKER. Is there objection to the the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. DENT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

COMMUNICATION FROM THE SERGEANT AT ARMS—U.S. DISTRICT COURT OF NEW JERSEY GRAND JURY INVESTIGATION PERTAINING TO ACCOUNT OF HON. HENRY HELSTOSKI

The SPEAKER laid before the House the following communication from the Sergeant at Arms of the House of Representatives:

March 2, 1976.

Hon. CARL ALBERT,
Speaker, U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Attached please find a copy of a subpoena issued by the District Court of the United States, District of New Jersey, and served upon the Sergeant at Arms, U.S. House of Representatives, March 2, 1976.

The subpoena commands me to appear at the Courthouse, Newark, New Jersey on March 12, 1976 at 10 o'clock A.M. to testify before the Grand Jury and to bring with me certain books, records, and documents pertaining to the account of Honorable Henry Helstoski. These materials and records are property of the U.S. House of Representatives.

I am, therefore, referring the matter to you for whatever action the House, in its wisdom, may care to take.

With kind regards, I remain,
Sincerely,
KENNETH R. HARDING,
Sergeant at Arms.

The SPEAKER. The Clerk will read the subpena.

The Clerk read as follows:

[In the U.S. District Court for the District of New Jersey]

SUBPENA TO TESTIFY BEFORE GRAND JURY

To Sergeant-at-Arms,
U.S. House of Representatives, Washington, D.C.

You are hereby commanded to appear in the United States District Court for the District of New Jersey at U.S. Post Office and Courthouse Bldg. Federal Sq., Room 483 in the city of Newark on the 12th day of March 1976 at 10:00 o'clock A.M. to testify before the Grand Jury and bring with you the books, records and documents set forth in the attached Schedule A pertaining to the account of Henry Helstoski of New Jersey for the periods indicated.

This subpena is issued on application of the United States.

Jonathan L. Goldstein, U.S. Attorney. By William W. Robertson, Assistant U.S. Attorney, Federal Building, 970 Broad Street, Newark, N.J.

ANGELO W. LOCASCIO
Clerk.
By CHARLOTTE BRADBURY
Deputy Clerk.

Dated February 23, 1976.

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 1064) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1064

Wheras in a Grand Jury Investigation pending in the United States District Court for the District of New Jersey, a subpena duces tecum was issued by the said court and addressed to Kenneth R. Harding, Sergeant-at-Arms of the House of Representatives directing him to appear before the grand jury of said court at 10:00 antemeridian on the 12th day of March, 1976, and to bring with him certain documents in his possession and under the control of the House of Representatives: Therefore be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the order of such court or judge, that documentary evidence in the possession and under the control of the House of Representatives is needful for use in any court of justice, or before any judge or legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That when said court determines upon the materiality and relevancy of the records called for in the subpena duces tecum, then the said court, through any of its officers or agents, have full permission to attend with all proper parties to the proceeding and then always at any place under the orders and control of this House, and take copies of those requested papers and documents which are in the possession or custody of the Sergeant-at-Arms; and the Sergeant-at-Arms is authorized to supply certified copies of such documents or papers that the court has found to be material and relevant and which the court or other proper officer shall desire, so as, however, the possession of said documents and papers by the said Sergeant-at-Arms shall not be disturbed, or the same shall not be removed from their place of file or custody under the said Sergeant-at-Arms; be it further

Resolved, That as a respectful answer to the subpoena duces tecum a copy of these resolutions be submitted to the said Court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE SERGEANT AT ARMS—U.S. DISTRICT COURT OF NEW JERSEY GRAND JURY INVESTIGATION PERTAINING TO ACCOUNT OF FORMER CONGRESSMAN JOSEPH J. MARAZITI

The SPEAKER laid before the House the following communication from the Sergeant at Arms of the House of Representatives:

WASHINGTON, D.C., *March 1, 1976.*

Hon. CARL ALBERT,
Speaker, U.S. House of Representatives Washington, D.C.

DEAR MR. SPEAKER: Attached please find a copy of a subpoena issued by the District Court of the United States, District of New Jersey, and served upon the Sergeant at Arms, U.S. House of Representatives, February 26, 1976.

The subpoena commands me to appear at the Courthouse, Newark, New Jersey on March 10, 1976 at 10 o'clock A.M. to testify before the Grand Jury and to bring with me certain books, records, and documents pertaining to the account of Former Congressman Joseph J. Maraziti. These materials and records are property of the U.S. House of Representatives.

I am, therefore, referring the matter to you for action as the House, in its wisdom, may care to take.

With kind regards, I remain,
Sincerely,

KENNETH R. HARDING,
Sergeant at Arms.

The SPEAKER. The Clerk will read the subpena.

The Clerk read as follows:

SUBPENA TICKET

[In District Court of the United States, District of New Jersey]

To Sergeant-At-Arms, U.S. House of Representatives, Washington, D.C.

By virtue of a subpena issued out of the District Court of the United States, you are required to be and appear before the said Court at U.S. Post Office and Courthouse Bldg., Federal Square, Rm. 433 Newark, New Jersey, at 10 o'clock a.m., on the 10th day of March, 1976 then and there to testify on behalf of the Grand Jury and to bring with you and produce the books, records and documents set forth in the attached schedule pertaining to the account of former Congressman Joseph J. Maraziti (P.N.J.) for the period January 1, 1972 through December 31, 1974, and not to depart without leave. If you fail to obey such subpena, you may be fined and imprisoned, as the Court may direct.

GEORGE K. MCKINNEY,
U.S. Marshal.

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 1065), and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1065

Whereas in a Grand Jury Investigation pending in the United States District Court for the District of New Jersey, a subpena duces tecum was issued by the said court and addressed to Kenneth R. Harding, Sergeant-at-Arms of the House of Representatives, directing him to appear before the grand jury of said court at 10:00 o'clock antemeridian on the 10th day of March, 1976, and to bring with him certain documents in his possession and under the control of the House of Representatives: Therefore be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the order of such court or judge, that documentary evidence in the possession and under the control of the House of Representatives is needful for use in any court of justice, or before any judge or legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That when said court determines upon the materiality and relevancy of the records called for in the subpena duces tecum, then the said court, through any of its officers or agents, have full permission to attend with all proper parties to the proceeding and then always at any place under the orders and control of this House, and take copies of those requested papers and documents which are in the possession or custody of the Sergeant-at-Arms; and the Sergeant-at-Arms is authorized to supply certified copies of such documents or papers that the court has found to be material and relevant and which the court or other proper officer shall desire, so as, however, the possession of said documents and papers by the said Sergeant-at-Arms shall not be disturbed, or the same shall not be removed from their place of file or custody under the said Sergeant-at-Arms; be it further

Resolved, That as a respectful answer to the subpena duces tecum a copy of these resolutions be submitted to the said Court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

Mr. O'NEILL. Mr. Speaker, I take this time to announce that on tomorrow we are adding to the program the conference report on H.R. 5727, parole reorganization, and House Resolution 1042, subpena power for the Committee on Standards of Official Conduct. We will then follow with H.R. 11963 international security assistance which has an open rule with 2 hours of debate.

THE 127TH ANNIVERSARY OF THE DEPARTMENT OF THE INTERIOR

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, as the ranking minority member of the House Interior and Insular Affairs Committee, I am pleased to call to the attention of my colleagues the 127th anniversary of the Department of the Interior.

This Department was created during the final session of the 30th Congress on March 3, 1849. Late that evening, the Senate approved a bill creating the Department the House had passed in February 1849.

To commemorate its anniversary, in this Bicentennial Year, the Department has published a historical vignette describing events that led to the dramatic evening of March 3, 1849, when the Senate by a 31 to 25 vote approved the House-passed legislation.

Mr. Speaker, the Department of the Interior has played a most significant role in the history of this Nation. When it was established, it took over the General Land Office from Treasury, the Patent Office from the State Department, and the Bureau of Indian Affairs and Pension Office from the War Department.

It also became responsible for numerous other duties, including supervision of the District of Columbia penitentiary, U.S. marshals, public buildings, the census, and mines.

The Bureau of Indian Affairs and the Land Office, which became the Bureau of Land Management, are still part of the Department, but over the years Interior gave up most of its housekeeping duties and became a conservation department.

Today, the Interior Department is the Federal agency that has major responsibility for parks and outdoor recreation, energy and minerals, fish and wildlife, land and water resources, and for people who live in island territories under U.S. administration.

I commend this historical vignette to you and ask unanimous consent that the text be printed in the Record. It was writted by Charles E. Wallace, a staff member of Interior's Communications Office.

Historical Vignettes 1776–1976—Creation of the Department of the Interior, March 3, 1849

EARLY EFFORTS TO ESTABLISH A HOME DEPARTMENT

In 1789, during a Congressional debate, John Vining of Delaware led an unsuccessful effort to create a Home Department for the new government under the Constitution.

That same year, Congress created three Executive Departments: State or Foreign Affairs, Treasury, and War. It also provided for an Attorney General and a Postmaster General.

Washington's first Cabinet consisted of Secretary of State Thomas Jefferson, Secretary of the Treasury Alexander Hamilton, Secretary of War Henry Knox, Attorney General Edmund Randolph, and Postmaster General Samuel Osgood. The Attorney General first became a full-fledged member of the Cabinet in 1814 and the Postmaster General in 1829. Congress established the Navy Deaprtment in 1798 and its Secretary was made a Cabinet officer.

In the early history of the Nation duties that belonged in a Home, or Internal Affairs, Department were apportioned by Congress among other departments. Thus, Secretary of State Jefferson found the bulk of his time was taken up by domestic matters, particularly in the disposition of patents and operations of the Mint.

The idea of setting up a separate department to handle domestic matters was put forward on numerous occasions during and after Washington's time. President Washington suggested that a special bureau or department would be useful to look after agricultural matters.

Shortly before the War of 1812, a House Committee appointed to study operations and organization of the Patent Office suggested the propriety of establishing a distinct Home Department.

After the War of 1812, pressing administrative problems brought renewed proposals for a Home, or Interior, Department. The Senate, in a move to relieve the situation, instructed Department heads to submit a joint plan for administrative reform. The Secretaries replied in 1816 with a proposal to improve fiscal management, create a solicitorship of the Treasury, and establish a Home Department.

The Cabinet report of 1816 (also known as the "Report of the Four Secretaries"), recommended that the new Home Department supervise territorial governments, construction of Federal highways and canals, and the Post Office, Patent Office and Indian Office.

President Madison praised the Cabinet suggestions and urged creation of a new executive department to assume duties that were overburdening existing departments and other responsibilities not tied to any department.

In January 1817, Senator Nathan Sanford of New York reported to the Senate a bill to establish a Home Department along the lines recommended by the Four Secretaries, but the effort was unsuccessful.

Interest in creating a Home Department lagged during the next decade. Various efforts to establish a Home Department were made between 1827 and 1849, but none proved successful until Secretary of the Treasury Robert J. Walker in December 1848 put before Congress his carefully conceived plan to establish the Department of the Interior.

This vignette is about that effort—and success—especially March 3, 1849, the last day of the 30th Congress, when the Senate in a dramatic night session approved a House-passed bill to create the Department of the Interior to take charge of the Nation's internal affairs.

A flurry of wintry blasts greeted Members of Congress as they sloshed through rain, sleet, and snow to the final session of the 30th Congress Saturday, March 3, 1849.

Gathered in an atmosphere of frenzied activity, the Senate and House wrestled with such important measures as annual appropriations bills, Statehood for California, and a proposal to create the Department of the Interior.

Historians have pointed out that it was an unlikely time to establish a new department of government and they probably are correct, because James K. Polk, a Democrat, was President while the Whigs dominated the House and were strong in the Senate.

Some of the Nation's most illustrious orators were on the Senate floor that day—among them Daniel Webster, Jefferson Davis, John C. Calhoun, and James M. Mason—briskly debating whether to establish the Department of the Interior.

After much maneuvering and lengthy debate, the Senate late in the evening of March 3 approved a House-passed measure and rushed it to the Vice President's room at the Capitol. There, as midnight neared, President Polk signed the measure that ended efforts dating back 60 years to establish a Federal department on internal affairs.

Writing on the issue in 1936, Harold L. Ickes, a long-time Secretary of the Interior (1933–46), said the six-decade delay in establishing the department was due mainly to "States' rights and the ever occurring problem of expenditures in government."

In setting up the new Department, Congress transferred to it the General Land Office from the Treasury Department, the Patent Office from the State Department, and the Bureau of Indian Affairs and Pension Office from the War Department.

The Department also was assigned responsibility for supervision of the Commissioner of Public Buildings, the Board of Inspectors, the Warden of the Penitentiary of the District of Columbia, the Census of the United States, the accounts of marshals and other officers of the United States courts, and of lead and other mines in the United States.

The Department of the Interior came into being from a need to provide adequate administrative machinery to handle increased responsibilities arising out of the Mexican War, duties that were to involve three of Interior's four major divisions. None of this work was a new phase of Government activity, but the Department later experienced a decided increase in functions, undertaking wholly new types of responsibility and raising such new Cabinet units as the Departments of Agriculture, Commerce, and Labor.

Probably the most authoritative history concerning the establishment and early history of the Department—"The Origins and Early History of the United States Department of the Interior"—was written in 1964 by Norman O. Forness at Pennsylvania State University. Forness, after extensive research, concluded that Robert J. Walker, Secretary of the Treasury in the Polk Administration, was mainly responsible for the Department's creation.

"Walker possessed a feeble physical frame that seemed a mismatch for the magnitude of his energy, capability, and ambition," Forness wrote. "But if he was only a 'mere whiffle of a man,' he was also one of the most extraordinary persons ever to sit at the head of the Treasury Department. From this office he laid before Congress the blueprint for the Department of the Interior."

Before appointment to President Polk's Cabinet, Walker moved from Pennsylvania to Mississippi and became a United States Senator from that State. As Chairman of the Senate Committee on Public Lands in the 1830s, he promoted the selling of public lands only to actual settlers to discourage land speculation.

His policy repudiated control of public lands by a few and served as the basis for his plan to establish a new executive department.

By the late 1840s, Walker found the Treasury Department burdened with fiscal duties and did not wish to become involved in managing the vast domain acquired from Mexico.

Secretary Walker knew that the Federal government could not escape dealing with land speculators. He knew also that the power of his department to control and sell public land would increase the risk of corruption and further bog down administrative procedures in the Treasury. Because of these considerations, he recommended a separation of public land administration from the Treasury Department. He desired to escape the political pressures and legal difficulties that frequently plagued the General Land Office and concluded that establishment of a new department was the best way to achieve that objective.

Walker's plan for a Department of the Interior appeared in his December 1848 annual report to the House of Representatives. Expansion of the Nation, Walker said, had made the duties of the Treasury Department greater than it could properly perform.

With the addition of new territories, Walker pointed out, activities of the General Land Office would become more and more associated with mineral lands, private land claims, and conflicting titles in New Mexico and California.

Because decisions by the Commissioner of the General Land Office on land issues could be appealed to the Secretary, the latter faced more judicial, rather than financial questions. Walker reminded the House that he personally pronounced judgment in more than 5,000 land title cases between March 1845 and December 1848.

Walker further warned that unless a new department was soon created, the public interest would suffer from a breakdown of the Treasury Department.

Samuel F. Vinton, an Ohio Whig, reported a bill from the House Ways and Means Committee February 12, 1849, to create a Department of the Interior and remained a key figure in securing its passage. The House Agriculture Committee filed a report the same day urging enactment of the bill reported by the Ways and Means Committee.

"It seemed a most inauspicious occasion to seek the passage of a proposal which had failed on several earlier attempts," Forness wrote. "Sectional bitterness, factionalism, and personal feuds so dominated the session that its enactment of the Interior Department bill is a matter of real wonder. To appreciate the bill's success in this obstreperous session of Congress, some attention must be given to the political situation from which it emanated."

Vinton saw the Interior proposal as a plan to increase the internal strength of the Nation and also help end fraudulent land practices and speculation.

In discussing the bill on the House floor February 12, Vinton said the measure essentially had originated through Secretary Walker and that "no better plan could be devised." He outlined major divisions of the new department and emphasized, in particular, the proposal would relieve the Treasury Secretary from spending four hours each day deciding disputed land cases.

Howell Cobb, a Georgia Democrat, led the House opposition to the proposal, denouncing it as "an attempt to obtain without deliberation passage of a bill intended to change completely the character of an important department of government."

Richard Brodhead, a Pennsylvania Democrat, countered Cobb's charge, pointing out that the proposal, in effect, had been before Congress since the filing of Walker's annual report the preceding December.

Three days later (February 15) the bill again was brought to the House floor and passed, 112 to 78, with 99 Whigs and 13 Democrats voting for it and 74 Democrats and four Whigs voting against it. With only a minimum of debate the House passed an important measure just three days after its first reading.

The Senate Finance Committee reported the bill to the Senate March 3, the last day of the 30th Congress.

"On this memorable day, between debates on a government for California and appropriations for the coming fiscal year," Forness wrote, "the Senate alternately praised and damned, but ultimately passed the Interior Department bill. Although the success of the bill depended very little upon ideas exchanged on the Senate floor, the debate illustrated a variety of beliefs regarding the American system of government."

Once the measure reached the Senate floor, several Senators moved to table the bill, but Senator Jefferson Davis of Mississippi, who strongly favored the measure, pleaded that young States especially wanted the new Department of the Interior.

Davis maintained that the checks and balance system of government applied to departments and that it was a violation of principle for the officer in charge of finding ways and means to operate the government also to have charge of disbursements. "A division of the Treasury Department is essential to rigid economy and just accountability in government," Davis argued.

Mississippi's Henry S. Foote called on the Senate to disregard party considerations and approve the bill, while two other Democrats—Virginia's Robert M. T. Hunter and Ohio's William Allen—attacked the bill on the grounds it would solve nothing and impose additional expenses on taxpayers.

Following those exchanges, Massachusetts' Daniel Webster, long dedicated to the idea of the new department, reminded his colleagues the proposal went all the way back to the days of Madison and Monroe.

Webster supported the measure because he felt the business of government had outgrown the existing administrative system, particularly with regard to public lands, and because he believed it was generally a popular idea throughout the country.

Not all New Englanders shared Webster's opinion. John M. Niles, a Connecticut Democrat, opposed the bill as an improper subject for legislation. Departments, he maintained, grew out of public duties and unless the government assumed new responsibilities, it could not create a new department.

"Now, can you, by law, create a new department where there are no additional public duties to be discharged?" asked Senator Niles. "Why, sir, it is not a new department; it is a new Cabinet officer. What are his appropriate duties? He has no appropriate duties by this bill; and the very fact that the bill provides for this high officer but one clerk proves that he has no duties whatever as the head of a department. It cannot be called a department. This is only a bureau. The officer is to have supervision in case of appeal, but he has no independent judicial department."

Senator Niles made clear his opposition to any change other than reorganization of existing offices and laid the groundwork for further attacks on the bill by strongly questioning the constitutionality of the plan to create the Department of the Interior.

Virginia's Senator James M. Mason followed Niles, asserting that the Federal Government had been established to serve exterior—not interior—affairs of the Nation.

Mason also expressed dislike for the proposal because of additional patronage it would give the incoming Whig Administration, but centered his principal criticism of the bill on the States' rights issue.

Following Mason's speech, in an action signifying eventual victory for proponents of the proposal, the Senate voted, 31 to 22, against tabling the bill.

John C. Calhoun, a former Secretary of War and Secretary of State from South Carolina, saw something ominous in the very expression "Secretary of the Interior," and charged there was no need for the new department.

Senator Foote of Mississippi, refuting charges that the new department was unnecessary and would be a radical innovation, said the bill reflected the growth of the Nation and effected "a judicious and necessary division of labor."

As to encroachment on the rights of States, Foote contended the bill would have the opposite effect by limiting the power of the Treasury Department and making it easier to detect any encroachment.

Four o'clock approached and the Senate temporarily laid aside the Interior proposal to consider pressing appropriations bills. After disposing of those measures it recessed until 6 p.m.

Upon reconvening at six that evening, opponents and proponents of the Interior bill knew it was a race against time, with adjournment only six hours away.

If opponents could tack an amendment to the proposal, the bill would die, because not enough time remained for the House to consider an amended version and settle differences with the Senate.

Virginia's Senator Hunter again took the floor, striking hard at the argument that the Interior measure mainly was to relieve the overworked Treasury and argued, in fact, that most of its bureaus would come from the War and State Departments. Hunter said he especially disliked the idea of removing the General Land Office from the Treasury, since it was involved in both the control and receipt of public revenues.

Hunter supported amendments to cripple the bill, and brought an immediate response from Senator George E. Badger, a North Carolina Whig, who declared a vote for amendments was a vote against the bill.

"The bill may not be as perfect as the ingenuity of wise men can make it," said Badger, "but it is for the purpose of establishing a great and important principle. It is a bill to establish a Home Department against which, upon what principle, can anyone object?"

It was at least 7:30 as supporters of the bill paused, wondering if they could maintain sufficient momentum to pass the bill before adjournment.

Senator Charles G. Atherton of New Hampshire told the Senate he had no intention to delay progress on the bill, but merely wished to submit a Conference Report and supposed it was in order to do so. Informed his move would not be in order, Atherton moved to table the Interior bill so he could submit the Conference Report.

The motion to table again lost, this time 29 to 19.

The Senate then turned down amendments to restrict the Secretary of the Interior's appointive and removal power of clerks and to give the Treasury additional officers.

It was nearly nine o'clock as Senator Mason moved to strike from the bill authority to establish the Interior Department and instead give enacting powers to a new Assistant Secretary of the Treasury. The amendment was rejected, 30 to 23.

Daniel Webster and Jefferson Davis made their final pleas for the bill.

Webster chided the opposition for prolonging the debate and basing their argument on the question of power. "There is not a particle of this bill, not a sentence, for extending the power of the Government," he declared.

Davis said the bill no longer was being debated on its merits, adding that party and patronage issues were irrelevant and that arguments alleging increased power and the Federal Government could not deal with domestic issues were false.

The bill then was reported without amendment and read three times as spectators waited anxiously for a roll call vote.

The results were announced, and by a margin of six votes—31 to 25—the Senate approved the bill to create the Department of the Interior.

Of 31 in favor, 21 were Whigs and 10 were Democrats. Of those opposed, 24 were Democrats and one was a Whig.

Although Democrats supporting the bill apparently did so because they felt it was advantageous to their individual States, their support was crucial to the bill's passage. Also, since they came mostly from the South and border States, their strong support doubtless influenced a wavering President Polk to sign the measure.

March 3rd had been an extremely busy day for President Polk. At his office an hour earlier than usual, he was occupied constantly all day. About sunset, having cleared his desk of all pending business, he left The White House with his family and members of his Cabinet to occupy quarters at the Willard Hotel.

A short time later, President Polk and his Cabinet went to the Capitol, so the President would be available to receive and act on bills presented to him the last night of Congress. In going to the Capitol, he followed the custom of previous Presidents to be on "The Hill" during the final evening of a Congressional session.

It was after eleven o'clock wher the Interior bill reached President Polk, as he awaited Congressional messages in the Vice President's room at the Capitol.

A short time later he signed the measure. Polk wrote in his diary that he did not have enough time to consider the bill carefully, but found no constitutional objections against it. He did reflect apprehensions voiced by some Senators that the Interior Department, through consolidating tendencies, might draw power from the States and extend Federal jurisdiction unduly, but such fears were not strong enough to prevent him from approving on March 3, 1849, creation of a new Federal Department to supervise internal affairs.

Polk remained at the Capitol until after 3 o'clock, when he returned to the Willard. At six in the morning, a joint Congressional Committee delivered the Civil and Diplomatic Appropriations Bill and a measure to extend the revenue laws of the United States over California, which the President signed. The 30th adjourned at 6:30 that morning, March 4, 1849.

The Department of the Interior bill appeared to be of relative unimportance to Polk. He spent several pages in his diary discussing matters he handled that day both before and after signing the Interior bill and then wrote:

"I find that I have omitted to notice the passage by Congress, after night of this day's proceedings, of a bill to establish the Department of the Interior, or Home Department. It was presented to me for my approval late at night and I was much occupied with other duties. It was a long bill containing many sections and I had but little time to examine it."

(This statement seems difficult to reconcile against the fact that one of Polk's top-ranking Cabinet members, Secretary of the Treasury Robert Walker, presented the entire plan in his annual report to the Congress the previous December and undoubtedly provided a copy of that report to Polk. Polk's diary, carefully kept from 1845 to 1849 but not on a daily basis, makes no mention of Secretary Walker's report).

"I had serious objections to it, but they were not of a constitutional character, and I signed it with reluctance. I fear its consolidating tendency. I apprehend its practical operation will be to draw power from the States, where the Constitution has reserved it, and to extend the jurisdiction and power of the United States by construction to an unwarrantable extent. Had I been a member of Congress I would have voted against it. Many bills pass Congress every year against which the President would vote were he a member of that body, and which he yet approves and signs."

Zachary Taylor was inaugurated as President shortly after noon, Monday, March 5. President Polk left Washington by steamboat at three o'clock the morning of March 6 for Nashville, where he hoped to live in retirement. Illness, however, overtook the former President and he died June 15, 1849, a little more than three months after he left office.

The new Department of the Interior emerged not from a *hasty* attempt to solve problems current in 1849, but from the enlarging responsibilities of the federal government for the management of domestic affairs from the days of Washington. The lingering desire for a simple government of limited power had delayed the department's advent, but by 1849 the need for such a department at least loomed larger than any argument of opposition. Because the future augured only increased federal responsibility in domestic affairs, responsible political leaders again undertook to create a Department of the Interior.

NORMAN O. FORNESS,
Historian.

THE NEED FOR A COMPREHENSIVE FOREST POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 30 minutes.

Mr. SIKES. Mr. Speaker, it is common knowledge that the forests of America are one of our greatest assets. Much progress has been made, both in public policy and in private enterprise, toward improving the Nation's forests and in building toward a comprehensive forestry policy. It is surprising to note that, despite this clear acceptance of the great value of forests to the Nation's economy, and their contributions to America's recreational and environmental assets, there is no clear, modern statement of policy for forestry in America. Forestry laws, dating back to the Organic Act of 1897, some of them conflicting, deal only partially with forest policy issues. If we are to meet future national needs from our forests they must be managed to their full capacity. There is no guiding policy or principles as to how our forest resources will be committed or used. To avoid a situation similar to the energy crisis, which resulted largely from the lack of policy, the Congress should decide what is to be done with our forest resources.

The need for action is evident. Court decisions on the Monongahela and Alaskan timber sales have created crisis situations in forest management. Land classification decisions are being made continually without policy direction. There is insufficient guiding direction on appropriation levels for public forests or for Federal assistance to privately owned lands. Is the multiple use philosophy still viable, or should forest lands be classified for their highest and best use and managed intensively to achieve optimum outputs? We must resolve the dispute over how much wilderness there will be and get on with the job of managing the rest. Private landowners must somehow be motivated to take better care of their forest lands. Development and implementation of a balanced program under the Forest and Rangeland Renewable Resources Planning Act of 1974 requires many policy decisions.

The American Forestry Association, which for years has been a leader in this field, recommends two courses of action. First, the adoption of interim legislation that will resolve the Monongahela-Alaska timber sales problems to prevent disruption of the forestry economy and programs. And second, creation by the Congress of a Joint Study Committee to develop a national policy for forests and related resources management. AFA further recommends that this policy be completed within 2 years, with an interim report at the end of 1 year.

The management and operation of the national forests is, of course, a major part of the overall problem to be resolved by the joint committee.

By way of background, there has been introduced into the 94th Congress legislation to amend the National Forest Organic Act of 1897. One bill, S. 2926, by Senator RANDOLPH of West Virginia, is entitled the "National Forest Timber Management Reform Act of 1976." Another by Congressman TAYLOR of North Carolina, H.R. 10364, would establish a moratorium until September 30, 1977, on court order currently limiting the sales of national forest timber or until restrictive language in the National Forest Organic Act is repealed or amended. Still another bill, S. 2851, by Senators STEVENS and GRAVEL of Alaska, would establish a moratorium for Alaskan timber sales alone and a resolution offered by these same Senators calls for an amendment of the Organic Act of 1897 to permit management of the national forests in Alaska according to modern silvicultural techniques. Other legislation, giving Secretary of Agriculture much needed flexibility in timber sales procedure, is contained in a potential administration bill now being circulated for comment by other executive agencies and departments.

The need for new legislation modernizing existing authorizations for timber sales on the national forests has been brought on by the courts' literal interpretation of the Organic Act of 1897 which limits such sales to trees which are dead, physiologically matured, or large growth trees that are individually marked. Such restrictions, possibly valid in 1897 when public forests were being rapidly devastated, are totally unworkable with today's demands for forest products and our knowledge of modern silvicultural techniques. The courts, in fact, called upon the Congress to amend their archaic restrictions in light of today's needs and the conflicts which have developed over sales procedures in many of our national forests. The necessity for some sort of legislative reform is clearly evident when we consider that over one-half of all the merchantable softwood sawtimber in our Nation is on the national forests. In addition to all other multiple-use purposes timber production is and must continue to be a major objective of national forest management.

The importance of legislation to modernize national forest sales procedures is urgent, Mr. Speaker, but the real problem goes much beyond timber sales and the Organic Act of 1897. The court-ordered restrictions on timber sales, which could logically be extended to all national forest sales, only point up the real need for modern comprehensive forest policy in America. This is only one of the problems confronting forest managers, public and private, which should be answered in term of broad forest policy. Here are just a few of the forest policy questions which ultimately must be resolved by the Congress:

First. Limitations on timber sales from the national forests as prescribed by the 1897 Organic Act.

Second. The role of our national forests in meeting projected timber supply needs for the future, and continuing growing demands.

Third. Conflicts in policy direction presented by the Organic Act of 1897, the Multiple Use-Sustained Yield Act of 1960 and the Forest and Rangelands Renewable Resources Planning Act of 1974.

Fourth. Unresolved questions of wilderness classification, both in the East and the West, and their impact on future timber supply.

Fifth. Disputes over allowable cut determinations for the national forests and conflicts about the concepts of even-flow and high-yield forestry.

Sixth. Questions of log exports and our balance of trade.

Seventh. Controversy over clearcutting and its impact on other forest uses and values.

Eighth. The role that private nonindustrial forests will play in future timber production and to what extent the Federal Government will aid the private landowner.

Ninth. Questions over Federal or State regulation of private forest lands and how forest practices relate to air and water quality.

Tenth. Decisions constantly being made by the Congress on single-use withdrawals of forest lands for recreation, wilderness, wildlife, scenic rivers, seashores, and other uses without overall policy.

Eleventh. The absence of any clear policy guidelines for funding of forestry programs in America. Hopefully, this will be answered by the program currently being developed by the administration under the Forest and Rangeland Renewable Resources Planning Act of 1974, but even these decisions should have been preceded by clear policy guidelines.

There are many other examples which could be given to demonstrate our need for new policy legislation, Mr. Speaker, but these few should highlight the inadequacy of existing law. The Environmental Policy Act itself, a much needed new emphasis for forestry and other resources decisions, presents problems and conflicts in implementation that need to be answered. In the final analysis only the Congress can answer these and other forest policy issues. I call upon my colleagues in both the House and the Senate to join with me in sponsorship and support of new legislation to create a joint congressional committee to study forest policy. It would be a mistake to pass permanent new legislation directed at timber sales procedures alone. We should study all of our forestry needs in America and then propose for adoption by the Congress bills encompassing broad, comprehensive forest policy. This, of course, will require time and my bill provides for a joint committee to report its findings and recommendations at the end of 2 years with an interim report after the first year on an overall forestry policy program. The joint committee, with a minimum staff needed to achieve its mission, would be composed equally of Members from both Houses and should contain broad representation, including members from both Agriculture and Interior Committees with forest land responsibilities.

I am pleased, at this point, to call attention to a resolution approved by the American Foresters' board of directors on October 5, 1975, which deals with the subject of a national policy for American forests and related resource management. The resolution states:

> There is an urgent need to adopt a national policy for American forests and related resource management. In order to guide the enactment of needed legislation, the AFA should take immediate and aggressive steps to implore the Congress to establish a Joint Study Committee. This Committee should prepare a policy for Americal forestry and related forestry policy. Partial emphasis of their policy should be directed at providing legislative needs such as those which may be indicated by the Monongahela decision. As a companion measure to establishing a Joint Study Committee, interim legislation should be adopted which will prevent disruption of the national economy and programs. AFA recommends that this policy be completed within two years, with an interim report at end of one year.

ILLEGAL ALIENS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. TALCOTT) is recognized for 5 minutes.

Mr. TALCOTT. Mr. Speaker, the illegal alien situation is rapidly worsening for all parties involved.

The failure of the Congress to enact necessary legislation, or even address the problem, is encouraging a fast growing illegal immigration into this country.

Canny, ambitious, even greedy aliens are taking advantage of the failure of our Government to enforce the immigration and naturalization laws.

A larger and larger number of illegal aliens are swarming into our country, taking more and more, better and better jobs from our citizens and increasing the tax burdens of our taxpayers for welfare, education, and health services by leaps and bounds.

The Supreme Court has recently held that a State law is constitutional which permits punishment of an employer for knowingly hiring an illegal alien. This is unfair for at least three reasons: First, it is an unfair burden upon the employer to require him to determine who is entitled to employment and who is not—unless he is provided a document upon which he can rely, which the California law does not, and cannot, provide; second, it invites pernicious discrimination against the Mexican American or the Spanish surnamed citizen; and third, it penalizes the California employer while employers throughout the other 49 States are just as culpable.

Problems arising from illegal aliens are not limited to the individual States. Coping with illegal aliens should not be the responsibility of the individual States.

We desperately need a national law to accomplish several objectives: to enforce the Federal law; to staunch the increasing flow of illegal aliens into this country and to establish a supervised, legal system of providing employees at peak times when an adequate and competent domestic work force is not available to U.S. industry.

I intend to urge the committees of the House and Senate to report bills to the Congress which will help to enforce our immigration laws; provide employers with an employee-identification document upon which they can rely; punish the smugglers, "coyotes" and illegal aliens; protect the jobs of citizens; reduce the burdens of our taxpayers to provide welfare, education and social services for foreigners; and provide a stable, reliable work force for our essential industries.

We cannot tolerate the increasing illegal immigrations, the increasing costs, the increasing loss of employment, and the increasing pressures to admit every foreign national into our country and to grant amnesty from deportation of illegal aliens and their relatives.

The Congress should act promptly to resolve these urgent problems and growing burdens.

CONGRESS SHOULD PASS A WATERWAY USER TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentlemen from Kansas (Mr. SKUBITZ) is recognized for 5 minutes.

Mr. SKUBITZ. Mr. Speaker, on July 11 of last year, I introduced H.R. 8590, the Waterway User Tax Act of 1975. The purpose of the bill is to produce fairness and equity among the three modes of surface transportation in the country: rail, truck, and barge lines. My bill requires a minimal user charge on our publicly owned and supported waterways on a ton-mile basis and a fee for the use of each lock.

I urged my colleagues in the House, through remarks in the RECORD on July 11 and November 10, 1975—and more recently on February 3 of this year—to give prompt attention to the matter of user charges.

Mr. Speaker, the United States has over 25,000 miles of navigable inland waterways which are at the disposal of commercial barge traffic. Since 1824 the Federal Government has borne the cost of construction, operation and maintenance of these waterways. Under congressional authorization, the U.S. Army Corps of Engineers has improved various segments of the waterway system.

In some instances, this has involved only minor dredging; but for other waterways it has consisted of extensive systems of locks and dams or canals. Annual operation and maintenance costs for these shallow draft inland waterways now run about $73 million annually.

This business of permitting American commercial users to have a free ride began with the Northwest Ordinance of 1787. It said:

> The navigable waterways leading into the Mississippi and the St. Lawrence . . . shall be common highways and forever free . . . without any tax, import or duty therefor.

Tolls or charges for the use of waterways belonging to the Nation were prohibited by the River and Harbor Act of 1909 (33 U.S.C. 5).

Although free waterways might have once been justified to encourage settlement in parts of the country, that justification certainly no longer exists. What this subsidy creates today is strong political pressure for new and more expensive waterways—even though they may be economically unjustified and environmentally disruptive.

Free use of the waterways by barge lines is unfair not only to the taxpayers,

but to the railroads and other transportation competitors.

The February 1976 issue of the Readers Digest carried an article by James Nathan Miller, which was entitled, "Big Dam Decision at Alton." Mr. Miller's article pointedly discusses a single waterway project. But he also examines the significance of the Alton project on the future of our national transportation policy. The project proposed at Alton is another example of how the Federal Government is giving the barge lines a "free ride" at the expense of the American people.

I am inserting a copy of James Miller's article and urge my colleagues to closely examine it.

BIG DAM DECISION AT ALTON

(By James Nathan Miller)

A deceptively quiet battle is now being waged over the building of a dam across the Mississippi River near St. Louis. On the surface, it seems a typical conservation fight between the pro-dam U.S. Army Corps of Engineers and the anti-dam Sierra Club and Izaak Walton League. Just below the surface, however, are two nationally significant issues that have nothing to do with conservation: an attempt by one of Washington's toughest lobbies to pull a multi*billion*-dollar ripoff of the U.S. taxpayer, and a far-reaching Congressional decision on the future of the U.S. transportation system.

Actually, it's not the dam itself that has aroused the conservationists, but the very peculiar design of its two barge locks. To understand why, first take a look at the U.S. barge industry—and, specifically, at how it meshes with the other main gears of the U.S. transportation industry.

The basic fact about these gears is that they do *not* mesh. Because each of our major modes of transportation came on the scene at a different time, Congress never managed to deal with them all as a whole. Instead, it simply took them in the order of their arrival and stuck each mode into whatever government pigeonhole seemed appropriate at the time.

First were the rivers, whose main need in the early days was for engineers who would keep them clear of snags; in 1824, Congress gave the snag-clearing job to the Army. Later, it created the Interstate Commerce Commission to keep watch over the railroads, the Bureau of Public Roads to supervise highway building, the Civil Aeronautics Board to regulate the airlines, and the Federal Power Commission to supervise the transportation of gas by pipeline.

THE SWEETEST DEAL

What it all finally added up to was not a transportation system but a non-system, a tangle of competitive industries governed by conflicting rates, routes and subsidies. In 1966, Congress tried to untangle the mess by putting the scattered executive agencies dealing with transportation into a single Department of Transportation, where they could all fight each other under the same umbrella. But even this mild structural reform had a gaping hole, caused by the refusal of one of the main transportation arms—the barges—to come in under the umbrella.

The reason the barge people refused was simple: they did not want to risk giving up one of the sweetest deals any U.S. industry has ever managed to squeeze out of the government. The deal was this:

In the Depression years of the 1930s, Congress decided to go into the canal-building business on a massive scale. Its aim was to create jobs and to develop competition for the railroads, which in those days were still the much-feared giants of transportation. The Corps of Engineers was given the task of building the canals, and the result was one of the most monumental construction projects in history. Today that system covers 25,543 miles; built at today's prices, it would cost perhaps as much as $20 billion.

What makes this deal so sweet to the barge people is that the entire canal system—the building of it, the maintenance of it, the operation of its locks and signaling systems—is provided to them free as a gift of Congress. Barges are the *only* transportation mode whose right-of-way is 100-percent built and operated at taxpayer expense.

GIVERS AND TAKERS

For years economists have denounced this subsidy (which comes to more than $300 million a year), and every President since Franklin Roosevelt has tried to get Congress to force the barges to pay at least part of the canal costs. But each one has run into a stone wall: the waterway lobby, which exerts its influence through the powerful Corps of Engineers.

What makes the Corps so powerful is the power of the two groups it serves. On the one hand, it acts as adviser to Congress on the appropriations that are dearest to Congress's heart—its annual $2 billion in pork-barrel money. On the other hand, in its role as chief promoter and justifier of waterway projects, the Corps acts as the major pleader in Congress for a vast combine of heavy-construction companies, barge lines, barge-owning coal, oil and grain companies, and the chambers of commerce of hundreds of river-valley and coastal communities. It's this dual role—adviser to the givers and lobbyist for the takers—that makes the Corps a unique, virtually unassailable institution in Washington.

PECULIAR DISCOVERIES

Which brings us to the controversy over the dam on the Mississippi. In 1970, Congress approved a Corps request for $350,000 to draw up plans for repairing an old 1930s' dam at Alton, Ill., about 15 miles north of St. Louis. It was just an obscure item—a fraction of a percent of the Corps' 1970 budget—and at first nobody paid any attention to it. But then some outsiders began probing into the reason for the Corps' interest in Alton—and they discovered a fantastic scheme for sneaking a multibillion-dollar project through Congress without Congress's even knowing about it. Here is how they discovered the attempt:

During the canal-building splurge of the 1930s, one of the Corps' biggest jobs had been to convert the Upper Mississippi into a 29-step staircase of lakes that stretched some 670 miles fom St. Louis to Minneapolis. Each lake was created by building a dam across the river, which backed up water and formed a long, shallow pool. Each pool had a nine-foot-deep channel running down its middle, and each dam was provided with a lock, or locks, for raising and lowering barges.

Although the system had been designed to last for 50 years, in the late 1960s the Corps decided that the 30-year-old dam at Alton should be scrapped and replaced by a new one two miles downstream, at a cost of about $400 million. At this point the conservationists began to get concerned. What worried them was the possibility that the new dams might increase the enormous damage that the old ones had already done to the Upper Mississippi.

In the 1930s, when the free-flowing river was converted into a series of lakes by the original dams, its current had slowed and the lakes had become great entrapment basins for millions of tons of sand that had previously washed downstream. To keep the channel from plugging up, each year Corps dredges sucked three million tons of sand from its bottom and dumped it along the channel's edges, forming levee-like mounds up to 30 feet high on either side of the midstream corridor. Slowly, these barriers began to block off the river's flow from the surrounding water, encouraging the growth in the sidewaters of thousands of acres of rooted aquatic plants.

Today, that growth is so thick in large areas that not even a canoe can penetrate it. Indeed, the Upper Mississippi is eutrophying—that is, starting the aging-and-dying process that eventually fills in and kills every lake in the world. At the present rate, according to Du Wayne Gebken, a Wisconsin State biologist, in 50 years the present open water will be marsh, and the present marsh will be land; the Mississippi will have become, literally, a barge canal.

How could such a massive process be affected by the mere replacement of an old dam by a new one at Alton? This brings us, finally, to the design of the locks. Investigating the Alton project, the conservationists made two very peculiar discoveries. First, where the present dam consists of one 600-foot lock and one 360-footer, the proposed new dam is to have two 1200-foot locks. Even more peculiar, the new locks are to be deep enough to take barges of 11½-foot draft—30-percent deeper than can be accommodated by the system's nine-foot channel. *Yet the Engineers say they have no plans for dredging the channel any deeper*. Then why, the conservationists asked, inject into a 29-dam system one freak set of locks that were twice as long and three feet deeper than all the ones upstream from it?

LEGAL LOOPHOLE

The Corps had answers. Why double-length locks? Delays at Dam 26 are so bad that they're already costing barge operators $165,000 a month in waiting time. Why a 12-foot-deep lock in a 9-foot-deep channel? Ice in the river; it can build up such a thick coating on barge hulls that the extra depth is needed to prevent them from scraping the lock bottoms.

But the conservationists were convinced the Engineers were hiding something. And, sure enough, in searching through the Corps' history they came across a most revealing document—a 20-year-old report about a Corps project on a different river, the Ohio. Here's what the report revealed:

In the early 1950s, at the urging of barge operators, the Corps had decided that it was time to start enlarging the already-existing Ohio River canal. But it faced a serious legal obstacle. When Congress originally authorized the Ohio canal, it specified 600-foot locks and a nine-foot channel. There was nothing in the law saying the Corps could go beyond these dimensions.

But there *was* a loophole. Buried in an old 1909 Rivers and Harbors Act was a provision stating that, if a specific dam was in urgent need of repair to keep traffic flowing, the Corps could go ahead with the necessary work without special authorization from Congress. All it had to do was give Congress what a Corps document calls "an advisory-type letter," and Congress would give its approval. So, in the 1950s and '60s, using the ancient emergency-repair statute, the Engineers began replacing the dams on the Ohio—*and in the process they equipped each new dam with a 1200-foot-long lock deep enough for 12-foot-draft barges*. Today, with the Ohio lock enlargements still only 70 percent finished, the "repair" bill already totals an astronomical one-billion-plus dollars—even though Congress has never authorized a larger canal.

What bearing does all this have on the dam at Alton? That one, too, was proposed under the 1909 law. Despite its enormous size and the fact that it's clearly a brand-new dam, with totally different locks, the Corps insisted that it was merely an urgently needed "reconstruction" of the old one. Not only that, but the Corps was planning to do the same thing on the dams upstream from Alton. This is indicated by another document the anti-dam lawyers turned up in their search through the Corps' records: a schedule showing that, starting in 1978, the next 12 dams upstream will, one by one, experience the same kind of congestion and come to need the same kind of "reconstruction."

"UNWORTHY OF BELIEF"

The whole thing seems almost too daring to believe. Could the Engineers actually be planning to build a 12-foot channel northward from St. Louis to Minneapolis, with almost four times the capacity of the old canal, at a cost of anywhere from $4-to-$10 *billion*—all on the basis of "advisory-type letters," without any sign from Congress that the country wants a new canal? Both the bargemen and the Corps deny it. Says Corps Maj. Gen. J. W. Morris, "The construction of the locks and dam at Alton is not a commitment to a 12-foot channel on the Upper Mississippi."

But by mid-1974 the anti-dam lawyers were pretty sure they could prove otherwise. That August, when Congress voted to give the Corps $22 million to start construction at Alton, the conservationists joined forces with the canal-hating Western Railroad Association and brought suit in federal court to stop it. A month later, federal judge Charles Richey issued his decision. In acid language ("unworthy of belief," "not only unpalatable but also erroneous," "the record is replete with contrary indications"), he flatly rejected the Corps' explanation of the project. The decision to expand Alton's capacity, he said, "is, in essence, the decision to expand the capacity of the entire system." He enjoined the Corps from starting construction until it had applied for and received specific Congressional authorization to build the new dam.

As this article goes to press, the Engineers say they are making their own "independent review" of the project, preparatory to asking Congress for specific authorization. Assuming that this review does not disavow the Corps' own past claims about the crucial need for bigger locks, Congress will soon have to decide whether to spend $400 million to give the barge operators a new dam at Alton. Here are the vital questions it must answer before it votes:

Are larger locks really needed? Not according to a recent Department of Transportation study, which says the railroads, "given modest additional investment," can handle whatever freight the locks can't.

If the waterway is enlarged, who should pay for it? The taxpayers? The barge operators? Congress must soon begin serious debate on this question.

Would a larger canal be environmentally harmful? Given the harm the present one is causing, the answer seems to be obvious.

Why do Army generals have such a decisive voice in setting the nation's civilian transportation policies? This is the fundamental question raised by the uproar at Alton, and the answer is simple: Because in 1824 those snags in America's rivers needed clearing, and the Army got the job.

Clearly, the big decision at Alton involves more than the future of the Mississippi River. It involves as well the future of the central mechanism of the American economy—our national transportation network. That's why it's high time for Congress to take a thoughtful look back at the history of how this network developed—and at how it can be freed from the chaos caused by all those pigeonholes that were created along the way, like the Corps of Engineers.

BILL TO REPEAL CONGRESSIONAL PAY RAISE AND PAY RAISE MECHANISM

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 5 minutes.

Mr. **GRASSLEY**. Mr. Speaker, today I am filing with the Clerk a discharge petition to force the bill to repeal the congressional pay raise and pay raise mechanism, out of the Post Office and Civil Service Committee. Despite the fact that this legislation has over half a hundred cosponsors, the committee has refused to take any action on it for 6 months now. I regret that this action is necessary, but it has become obvious that the committee has no intention of ever allowing the bill to come to the floor of the House for full and fair consideration.

There is good reason to allow this bill to move forward. With the large number of cosponsors it is obvious that the bill has great support among the Members of this body. This fact is underscored by the fact that the legislation of which this pay raise was a part, was adopted by only a single vote margin.

Finally and most importantly, we must remember that our only reason for being here is to work the will of the people. Is there a single Member of Congress who doubts that this pay raise is the most unpopular action taken by this Congress? Is there one Member among us who doubts that the people are tired of excuses for the action taken last summer? I think not. We all know the people want a clear cut vote on this issue so that they can see exactly where their elected Representative stands.

Mr. Speaker, during the next election we are going to hear many of our Members talk of how they are more concerned with the well-being of their constituents than with their own. This petition will prove whether or not we mean what we say. I urge every Member to sign this petition and put their real position on record.

A TRIBUTE TO A FORMER COLLEAGUE, THE HON. FLORENCE PRICE DWYER

The **SPEAKER** pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 10 minutes.

Mrs. **HECKLER** of Massachusetts. Mr. Speaker, I was saddened to learn this week about the death of my colleague and friend, the Honorable Florence Price Dwyer.

My association with Flo Dwyer began in 1967, when I first entered Congress and she was beginning her second decade of service. She took me under her wing and gave me the benefit of her experience—a service for which I have always been grateful.

From the outset, I found her to be an effective legislator and a forceful advocate of women's and consumers' rights. For example, she spearheaded efforts to establish an Office of Women's Rights and Responsibilities in the White House and to create an independent consumer protection agency: activities which exemplify her foresight and strength. For Congresswoman Dwyer was a woman of substance and style: she gained mastery of key issues and promoted them with flair.

Mrs. Dwyer is best known as ranking minority member of the House Banking and Currency Committee, a committee on which I was proud to serve with her. She is less well known for another endeavor: service on the House Veterans' Affairs Committee, on which I now serve. As a member of the committee, she was one of a series of women who have worked in behalf of the veterans of this Nation.

I join my colleagues in mourning Mrs. Dwyer's passing and in expressing sympathy to her son and grandsons of whom she was so proud.

SAUDI ARABIA AND FOREIGN MILITARY SALES

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ROSENTHAL) is recognized for 15 minutes.

Mr. **ROSENTHAL**. Mr. Speaker, I am deeply concerned about the seemingly uncontrolled spread of arms sales, particularly in the most sensitive and volatile part of the world, the Middle East. As the world's foremost arms merchant—a dubious distinction—we are busy fueling both sides of a potential conflagration.

In too many instances our motivation appears not to be the protection of a democratic state and the security of its people but instead the appeasement of potentates and dictators.

That is the case before us today. The administration has announced a $1.25-billion military sales deal with Saudi Arabia that includes construction of naval ports and the purchase of sophisticated arms, including some of our latest "smart" missiles.

I have introduced resolutions of disapproval to veto these sales and they will come up for consideration at Wednesday's meeting of the full Committee on International Relations. Today, I wish to discuss with all of my colleagues these sales and their implications.

Just a couple of months ago, when Saudi Arabia's military purchases reached the $3.5 billion mark, the Pentagon and State Department were telling Congress that purchases for the rest of fiscal 1976 probably would not exceed $4 billion.

Now, with more than a third of the fiscal year remaining, plus the transition quarter, that $4 billion figure has been surpassed by nearly half a billion dollars.

These sales are another giant step in the U.S. construction of a comprehensive military infrastructure for Saudi Arabia, with the United States supplying everything from underwear and epaulets for the Royal Saudi Air Force to some of the most sophisticated weaponry America has.

These are the sales so far in fiscal year 1976:

[In millions]

September 18, Ammunition	$26.5
September 19, Al Batain Cantonment	1,450.0
October 23, National Guard Hq	158.7
December 9, RSAF Uniforms	52.6
December 9, Peace Hawk V	[2] 1,500.0
February 17, Naval Facilities	593.5
February 17, Port Facilities	300.0
February 17, Anti-Tank Missiles	[1] 26.1

February 17, Armored Personnel Carriers	[1]124.4
February 17, Vulcan Anti-Aircraft Cannon	[1]40.7
February 17, Tanks	[1]118.1
February 17, Maverick Missiles	[1]47.0
Total to date	$4,437.6

[1] Although identification of specific equipment and weapons was classified in the notification sent to the Congress, Alfred L. Atherton Jr., assistant secretary of state for Near Eastern and South Asian affairs, publicly identified the equipment and weapons during testimony before the House International Relations Subcommittee on International Political and Military Affairs on February 23.

[2] Lt. Gen. H. M. Fish, director of the Defense Security Assistance Agency, testified on March 1, 1976, before the subcommittee that the Peace Hawk V contract was finally signed for about $1.5 billion, some $300 million below the amount reported to the Congress in December. As reported officially to the Congress, however, notifications received under Sec. 36(b) of the Foreign Military Assistance Act are $4,737.6 billion.

These sales must be viewed in the context of their overall impact on the Middle East balance of power.

Naval facilities: This is the latest part in the $1.2-billion Saudi naval expansion program. It provides authority and funding for the award of construction contracts for supervision and inspection of construction of onshore facilities at Jubail, Jidda, and Riyadh. This will be the Saudi Navy headquarters and two military ports for its growing fleet. The Red Sea base near Jiddah will permit Saudi gunboats to interdict shipping bound for the Israel port of Eilat. Offshore harbor construction already is underway. Although the U.S. Army Corps of Engineers established the specifications and awarded the contracts, the prime contractors are a Greek and a Korean firm. This raises questions about administration claims that such transactions benefit the American balance of payments.

Port facilities: This is a $300 million program calling for the U.S. Army Corps of Engineers to manage the planning, design, procurement, and construction of two major port facilities, one on each coast of Saudi Arabia. A principle purpose of these ports is to improve handling of cargoes needed for construction of the vast Al Batain Army cantonment that is expected to cost as much as $7 or $8 billion over the next several years. These ports, though ostensibly civilian, also will accommodate large military vessels.

Antitank missiles: The Saudis are purchasing several thousand Dragon wire-guided missiles costing $26.1 million. According to one Pentagon expert who testified at last week's hearings, even 10 of these portable, shoulder-fired missiles would constitute a significant threat against a battalion of 5,000 men with 300 tanks. The missile can penetrate up to 2 meters of concrete or more than one-half meter of heavy armor at a range of 1,000 meters, according to its manufacturer. The missile is just being introduced into U.S. forces.

Armored personnel carriers: APC's are used to transport troops as well as to act as a firing platform for mortar and howitzers. The Saudis are buying $124.4 million worth of these, which the administration euphemistically identifies as "nonlethal vehicles."

Vulcan: This is antiaircraft cannon that also was sold last summer to Jordan as part of its program to build a sophisticated air defense system highlighted by the Hawk missile. Saudi Arabia, which is paying $40.7 million for its Vulcans, spare parts and support equipment, already has Hawk missile installations.

Tanks: They are buying $118.1 million worth of M-60 tanks to equip two 5,000-man brigades. Just 5 days before this sale was announced, the Secretary of the Army said the United States will withhold any major tank deliveries to other countries for about 18 months while increased production reduces an Army tank shortage. The Saudi tank sale, however, calls for about 15 percent of the vehicles to be delivered before the 18-month period expires.

Maverick: These TV-guided air-to-ground missiles are among the most sophisticated weapons produced in the United States. The Saudi's are buying $47 million worth to equip the F-5 jet fighters they are purchasing under the Peace Hawk program. It is effective when launched from treetop level or high altitudes and from a distance of a few thousand feet to many miles against maneuvering army tanks.

Pentagon officials privately like to point out to critics of such weapons sales that the Saudi lack the expertise to use all the sophisticated armaments they are buying at this time, and probably will continue that way for the foreseeable future.

However, along with the machinery, the United States is selling the training and technology necessary to provide the capability to use the weapons. In addition, many of the same weapons already are in the arsenals of other Arab States which do have the technical expertise to use them.

Saudi Arabia already purchases weapons for Jordan, Syria and Egypt, the principal confrontation states in the Arab fight against Israel, or gives them the money to buy their own. There is no reason to believe that Saudi Arabia, as an arsenal state, would hesitate to make its latest acquisitions available to other Arab States in the event of another war.

Just this week it was revealed that Saudi Arabia will give Egypt about $1 billion in budgetary assistance to buy U.S. arms. The administration already has been floating trial balloons as a prelude to removing the American embargo on arms to Egypt. The first sale is expected to be six C-130 military transports. The administration obviously hopes such "nonlethal" equipment will set the precedent for bigger sales. President Sadat is known to be interested in purchasing Hawk missiles, TOW antitank missiles, radar, communications equipment, naval patrol boats and F5E jet fighters. Of course, all this would be for use against the U.S.-equipped Israelis.

In addition, Saudi Arabia already has paid for the Jordanian purchase of Hawk missiles and several Syrian and Egyptian arms acquisitions. This raises a question similar to the one evoked by the recent disclosure that the sale to the Soviets of U.S. equipment to manufacture ball bearings made possible that country's construction of MIRV'ed missiles. Saudi Arabia's relationship with Syria, which is close to the Soviets, and with Egypt, which has an on-again-off-again romance with Moscow, in effect makes the latest U.S. weapons technology available to the Soviets.

Of course, contracts for all U.S. arms sales contain the standard provisions regarding transfer to a third country. But even the most ardent administration supporters of uncontrolled arms sales admit that should another war erupt in the Middle East, these agreements will not be worth the paper they are written on. And the Saudis have given every indication that everything they have is available to further the Arab cause against Israel.

Let us not forget where the money is coming from for the Saudi's to buy nearly $5 billion worth of military construction and equipment over the past 5 months. Much of it comes from American consumers who have been forced to pay higher and higher fuel prices.

Saudi Arabia enjoys virtually unlimited financial resources— if it needs more money to buy more arms or to build more bases, it simply will raise oil prices again or pump more out of the ground. Its wells today are operating barely at 50 percent of capacity. There is not a weapons-producing country in the world that is not selling its wares to the Saudis or some other Arab State.

However, only one major nation, the United States, is willing to sell Israel weapons for her defense. A close ally since her creation nearly 28 years ago, Israel has been a true friend of the United States.

We are witnessing, through these ambitious Saudi programs of military construction and weapons purchases, the emergence of Saudi Arabia as an Arab confrontation state.

External threats against Saudi Arabia are minimal, however. Israel has never menaced or threatened the kingdom, although Saudi Arabia has repeatedly sent troops to aid Arab attacks against Israel in past wars and today maintains one Army brigade each in Jordan and Syria.

This latest series of sales of armor, missiles and naval facilities will enhance Saudi Arabia's offensive capabilities. The sheer presence and mass of the weapons and bases in Saudi Arabia invites their use, their unleashing against Israel. This is the clearest lesson of the past 28 years of Arab aggression against Israel. Saudi Arabia's military capability is rapidly approaching a critical mass level—a level from which the momentum toward war can only accelerate.

This infrastructure we are building for the Saudis, combined with the advanced weaponry that feudal kingdom is acquiring, will be a lasting threat not only to Israel, but to our national interest in securing a lasting, meaningful, negotiated settlement to the Arab-Israeli conflict.

An equally important aspect of this series of transactions—and, indeed, our entire relationship with Saudi Arabia—is the issue of discrimination. As I have stated repeatedly in the past, nations which seek our technical assistance should not be permitted to force us to tolerate discrimination against our own citizens. Yet that is exactly what is happening today.

Saudi Arabia has a longstanding, oft-repeated policy of denying visas to anyone it considers "Zionist." In practice that means all Jews. That country also historically has discriminated against blacks and women, although recently it has been allowing in token numbers of the latter two groups in an attempt to isolate its critics.

It is certainly immoral and probably illegal for our own Government to acquiesce in such discrimination against our own citizens. Objection to Saudi policy is not a question of the United States attempting to extend its sovereignty over Saudi Arabia but of the incompatibility of Saudi practice with U.S. laws prohibiting discrimination. For any U.S. Government agency or firm to cooperate in this repugnant policy is, in effect, to violate U.S. antidiscrimination laws.

Mr. Speaker, nations which actively discriminate against American citizens and seek to force others, including our own Government and businesses, to act in a similar manner should not be permitted to obtain American technology, regardless of their wealth. Accordingly, I have introduced resolutions to disapprove the seven sales currently before the Congress, and I will continue to oppose all such sales under the Foreign Military Sales Act until these discriminatory policies are changed.

PERMANENT DAYLIGHT SAVING TIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PATTERSON) is recognized for 5 minutes.

Mr. PATTERSON of California. Mr. Speaker, as you know, on February 25 the Senate passed the Daylight Saving Time Act of 1976. As amended on the floor the bill provides for daylight saving time on a 7 month basis beginning with the second Sunday in March and ending with the second Sunday in October. I am introducing a similar bill in the House today. As with the original Senate bill, my legislation provides for daylight saving time for 8 months and 1 week, beginning with the first Sunday in March and ending with the second Sunday in November. This bill would also provide for daylight saving time on a permanent basis rather than for 2 additional years as provided for in the Senate measure. The proposed bill parallels the legislation passed in 1973, the Emergency Daylight Saving Time Act of 1973. The 1973 act has expired and, therefore, this legislation is necessary to keep the Nation on an 8 month daylight saving time system.

As you will recall, the Emergency Daylight Saving Time Act was enacted as a part of a national effort to conserve energy due to the Arab oil embargo in 1973. As mandated by the 1973 act, the Department of Transportation did a study of the effects of the 2-year trial time change.

The study shows a significant decrease in violent crimes, increased energy conservation, and increased traffic safety. Public opinion polls show a majority of the public favoring an 8-month daylight saving time schedule. More time is available in evening hours for shopping and recreational activities.

The main reason for the Senate amendment to change to a 7-month schedule was a fear of some that there is a hazard for children going to school in the dark during the winter months. The DOT study reported little adverse effect on schoolchildren due to increased traffic fatalities and accidents during the dark morning hours of the winter. In fact, testimony by the Department of Transportation before the Senate Commerce Committee indicates that daylight saving time has resulted in an overall safety improvement for children, since the decline of schoolchildren fatalities in the afternoon has more than offset fatalities in the morning.

No significant effects on agriculture, labor manufacturing, retail trades, domestic and foreign trades were reported.

The Department of Transportation study also indicated that a daylight saving time transition date of the second Sunday in November would cover all election days and would increase daylight during existing polling in more than 90 percent of the Nation's polling places.

The daylight saving time change cannot take effect on schedule unless Congress acts promptly. The Senate has done so and I urge the House to take prompt action to pass this legislation so that our Nation can benefit from the extended daylight saving time this year.

The text of the bill follows:

H.R. —

A bill to amend the Uniform Time Act of 1966 to provide that daylight savings time shall begin on the first Sunday of March and end on the second Sunday of November of each year, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Permanent Daylight Savings Time Act of 1976".

SEC. 2. Section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) is amended (1) by striking out "last Sunday of April" and inserting in lieu thereof "first Sunday of March", and (2) by striking out "last Sunday of October" and inserting in lieu thereof "second Sunday of November".

SEC. 3. (a) The amendments made by section 2 of this Act shall not affect any law of any State which (1) was enacted under section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) to exempt such State or a part of such State from the provisions of such section providing for the advancement of time and (2) was in effect on February 1, 1976.

(b) For the purposes of this section, the term "State" has the meaning given such term by section 7 of the Uniform Time Act of 1966 (15 U.S.C. 267).

SEC. 4. The Secretary of Transportation shall, not later than 2 years after the effective date of the amendments made by section 2 of this Act, submit a report to the Congress on the effects of such amendments. Such report shall give particular attention to such effects on energy usage, traffic safety, including the safety of children traveling to and from school, and school hours. Such report shall include such recommendations for legislation or other action as the Secretary considers appropriate.

SEC. 5. Notwithstanding any other law or any regulation issued under any such law, the Federal Communications Commission shall, consistent with any existing treaty or other agreement, make such adjustment by general rules, or by interim action pending such general rules, with respect to hours of operation of daytime standard amplitude modulation broadcast stations, as may be consistent with the public interest, including the public's interest in receiving interference-free service. Such general rules, or interim action, may include variances with respect to operating power and other technical operating characteristics. Subsequent to the adoption of such general rules, they may be varied with respect to particular stations and areas because of the exigencies in each case.

SEC. 6. The amendments made by section 2 of this Act shall take effect on—

(1) the second Sunday occurring after the date of enactment of this Act; or

(2) the last Sunday in April occurring after the date of enactment of this Act;

whichever occurs first.

THE MYTH OF A PALESTINIAN ARAB NATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 15 minutes.

Mr. BINGHAM. Mr. Speaker, this House will have an opportunity tomorrow to express in concrete terms its intense concern over the situation in the Middle East by authorizing large sums for Israel, Egypt, and nearby states in an effort which we hope will bring peace closer. As we approach this and related tasks, it may be in order to cast certain matters in proper perspective.

The situation in the Middle East is clouded—and many conscientious obsevers are confused—by the carefully cultivated myth that there is such a thing as a Palestinian Arab nation whose rights have been trampled on by the Israelis. I have taken this time today in order to show how totally unfounded is this myth. One of the achievements of Yasir Arafat and the PLO—and they have certainly put themselves on the map in recent years in spite of, or perhaps because of, their record of violence and terror—is the widespread circulation of this myth. It is time for the record to be set straight.

Part of the PLO line has been that a feeling of nationalism among Palestinian Arabs has been prevalent for many years, and that the creation of a Palestinian state was blocked only by the establishment of a Jewish national homeland. But, in fact, Palestinian Arab nationalism was born less than 30 years ago in the Palestinian refugee camps. There it was carefully nurtured by the Arab nations, who have kept tens of thousands of Palestinians isolated and impoverished in these camps to this day. The Arabs have found militant Palestinian Arabs useful in their unrelenting efforts to destroy Israel.

About the time of the breakup of the Ottoman Empire the primary concern of Arab intellectuals was Pan-Arabian unity. Arabs in Palestine identified themselves primarily as part of the larger group of all Arabs. Thus Arabs argued against the establishment of a Jewish homeland in 1946 before the Anglo-American Committee on Inquiry and in 1947 before the United Nations Special Committee on Palestine—UNSCOP—on the grounds that it broke up an ideal Arab State, and not because Palestine was the particular home of Palestinian Arabs.

As far as the Arabs were concerned, Palestine was a part of the larger region known as Syria. The Arabs in Palestine were indistinguishable from those in Greater Syria in terms of language, culture, education, or any other significant respect. The dividing line set up in 1921 between the British mandate of Palestine and the French mandate of Syria and Lebanon was a new and entirely artificial dividing line. As late as May 1956, Ahmed Shukairy, later head of the PLO, told the U.N. Security Council:

> It is common knowledge that Palestine is nothing but southern Syria.

But gradually Arabs began to recognize the weakness in the Pan-Arabian argument against Israel. To lose one tiny bit of land in an Arab Empire that stretches from the Atlantic Ocean through North Africa and the Middle East to the Persian Gulf is not a very dramatic loss. It is a stronger debating point to assert that Palestine is the homeland of Palestinian Arabs.

Article 2 of the Palestinian National Covenant, the charter of the Palestine Liberation Organization states:

> Palestine within its boundaries that existed at the time of the British Mandate is an integral regional unit.

It is noteworthy that the PLO should not only accept but rely on the arbitrary boundaries imposed by the League of Nations on the Middle East in 1921. The problem for the Arabs is that Palestine had no set boundaries. In fact, Palestine did not exist as a political entity between the time of the Jewish Kingdom of Judea and the British mandate, except for a brief period under the crusaders.

During the period between Jewish and British rule, Palestine was controlled by the Romans, the Byzantines, the Persians, the Arabs, the Seljuk Turks, the Crusaders, the Egyptian Mamelukes, the Mongols, and the Ottomans. Palestine was always a provincial subdivision of a larger entity, and by no means always the same subdivision. It had no frontiers, only frequently changing administrative boundaries.

Obviously the historic precedents set by the Jews and the Crusaders were unacceptable to the PLO. They were forced to use the boundaries set by the British because these were the only boundaries they could use: there has never been an Arab Palestine. Arab historian Philip K. Hitti said as much when he told the Anglo-American Committee of Inquiry in 1946, "There is no such thing as Palestine in history." thus, the record shows that Arab interest in the particular region of Palestine is a relatively recent phenomenon.

But if Palestine was until recently nothing special to the Arabs, there can be no doubt about the central role of the land of Israel for Jews. As a matter of fact, in the 1920's the term "Palestinians" was used to refer to the Jews in Palestine, rather than to the Arabs. The modern Zionist movement and the final push for a return to Israel dates from the 19th century, but the idea of returning to the Holy Land has been central to the Jewish faith since the destruction of the Second Temple by the Romans.

These days there is clamor at the United Nations and elsewhere that Israel should return to its pre-1967 boundaries. The Arabs argue that Israel has no right to retain lands gained through military conquest in the Six-Day War. The fact is that Israel took Sinai, the West Bank, and the Golan Heights in response to the Arab attempt to obtain a stranglehold on Israel. The Arabs would have us believe that these occupied lands are as fundamentally Arab as Mecca. But it is important to note that the Arabs' claims to these lands are dubious.

A case in point is the Sinai Peninsula. Sinai is a barren, desolate, and sparsely populated region. Its primary importance to Egypt is strategic: Sinai is a good place to launch attacks on Israel, and from Sharm el-Sheikh the Egyptians could control Israel's water route to the Red Sea and the Indian Ocean. Again, one might suppose that Egypt's ties with Sinai predated the Pyramids. But the fact is that Egypt owes its claim to the Peninsula to the British.

At the beginning of the modern era, in 1517, the Turks crossed the Sinai Peninsula and conquered Egypt. The Turkish Sultan appointed an Egyptian Pasha to rule over Egypt and bits of Sinai, known as Arabia Petrea. In 1841, after several years of political disagreements, the Sultan redefined the Pasha's territory, saying, "I give to thee the Government of Egypt within its ancient boundaries. . . ." In addition to Egypt, the Sultan gave the Pasha the administration of the northwest portion of Sinai, not because Sinai was within Egypt's "ancient boundaries," but to compensate for the Pasha's giving up the administration of Crete. This was an easy maneuver for the Sultan; the Turks owned the entire region, so the Sultan was merely taking a bit of Sinai from one of Turkey's administrative regions and putting it in another.

The British finished the Suez Canal in 1869 and won de facto control of a bankrupt and nominally Ottoman Egypt. In order to protect their new canal, the British wanted a buffer zone between Turkish-owned Palestine and the canal. In a series of diplomatic moves between 1892 and 1906 Britain forced Turkey to take the administration of the entire Sinai Peninsula from various other Turkish territories and give it to Egypt. The final agreement between Britain and Turkey, signed on October 1, 1906, specified that the border was "An administrative line between the Villayet of the Hijaz, the Sanjak of Jerusalem, and the Sinai Peninsula, and not an international border between the Ottoman Empire and Egypt." These diplomatic efforts, directed by the British, are the source of the modern day border. But it is significant that in 1936, when the British signed a treaty with Egypt limiting British military occupation of Egypt to the canal area, the map accompanying the treaty failed to define the border between Palestine and Egypt.

A similar point can be made in regard to the West Bank. From 1948 to 1967, Israel made no effort to challenge Jordan's control of the West Bank. In 1967, when the war started, the Israelis warned Hussein to stay out of the conflict, but he disregarded the warning and attacked; in response to the attack Israel drove the Jordanian Army back across the Jordan River. Today the Jordanians and the Palestinians would like to forget that bit of history.

Except for those 20 years—1948-67—the West Bank has never been part of Jordan. Prior to World War I the whole Levant area was part of the Ottoman Empire. The region was divided into various semiautonomous areas: the Vilayet of Beirut and the Sanjak of Jerusalem, which contained modern-day Israel and the West Bank and the Villayet of Syria, which contained the rest of modern day Jordan. In 1921, after the region was taken from the Turks, the League of Nations mandated Palestine, including what is now called the West Bank to the British. The West Bank was included in the mandate. In view of the 1917 Balfour Declaration, by which Britain promised the Jews a homeland in Palestine, this one large mandated area posed certain problems for Britain. The Arabs were fearful that the whole British Mandate would be turned over to the Jews. For their part the British never intended that the Jewish homeland should extend east of the Jordan River. So in 1922, Britain divided its mandate into two units, with Transjordan on the east side of the Jordan River, and Palestine on the west side. Even the name "Transjordan," meaning "across the Jordan River," emphasized that Transjordan was distinct from everything on the west side of the river.

Eventually, Transjordan was made an independent nation, and Britain turned the question of Palestine over to the United Nations. In 1947 the U.N. adopted the partition resolution, dividing Palestine into a Jewish state and an Arab state. The Arabs rejected the partition plan, and war broke out after Israel declared its independence in 1948. Transjordan invaded Palestine, seizing the West Bank and the Old City of Jerusalem. Two years later the West Bank was formally annexed to Transjordan. At the same time Transjordan took the new name of "Jordan," as the old one was no longer appropriate. Only two nations, Great Britain and Pakistan, ever recognized this as a legal annexation. The United States recognized neither the annexation of the West Bank nor the occupation of the Old City.

The histories of the Sinai Peninsula and the West Bank are illustrative of the tumultuous history of the entire Mideast. The fact is that the Middle East has been a changing and volatile region throughout its history. Due to its position as a land bridge between Africa and Asia, many wandering peoples and invading armies have been in the area at one time or another. None of the borders in the Mideast today are more than 75 years old. Most of them were drawn by the Great Powers following the defeat of the Ottoman Empire in World War I. These borders were drawn for convenience and, arbitrarily, with little regard for their differences.

This is not a region of centuries-old nation-states with well-defined and easily-recognizable frontiers. One cannot assert that a particular piece of land "historically belongs" to any particular group of people. Because depending on where you look in history, you will find a different group of people "owning" that particular piece of land.

Moreover, it is ludicrous that the Russians, in their eagerness to make friends in the Mideast, join the Arabs in asserting that Israel should not be allowed to hold lands taken by military conquest after Israel had been the victim of aggression. Consider the lands incorporated into the Soviet Union after World War II; Estonia, Latvia, Lithuania, Tannu, Tuva, South Sakhalin and the Kurile Islands, and parts of Finland, Prussia, Poland, Czechoslovakia and Romania.

And it is interesting that the Arabs, while constantly reiterating that no nation can legitimately gain territory by military means, are never heard to criticize the Soviets for their huge acquisitions of territory after the defeat of Hitler.

Another myth which the PLO constantly seeks to propagate is that there is one Palestinian people, and that this people is represented by the PLO itself. It is true that a number of Arab States so decided at their Rabat conference, but that does not make it so. The great majority of Palestinians are today living in Jordan or in the West Bank and the Gaza Strip, and there is no evidence whatever that they want to be represented by the PLO and Arafat; indeed there is strong evidence that many of them prefer the idea of a Jordanian-Palestinian federation of some kind to the thought of a small and non-viable Palestinian state located on the West Bank and in the Gaza Strip, dominated by the PLO. This position coincides with that enunciated by the Israeli Government in 1974, as follows:

> Peace will be founded on the existence of two independent states only—Israel, with united Jerusalem as its capital, and a Jordianian-Palestinian Arab state, east of Israel, within borders to be determined in negotiations between Israel and Jordan.

I cannot believe that the needs of the Palestinian Arabs and the Israelis are mutually exclusive. A just solution can and must be found at the negotiating table. But as long as the Palestinian Liberation Organization refuses to recognize the State of Israel or accept UN Resolutions 242 and 338, Israel cannot be expected to deal with the PLO. In the words of former Prime Minister Golda Meir:

> We have no common language with exultant murderers of the innocent and with a terrorist movement ideologically committed to the liquidation of Jewish national independence.

Israel will not be a party to its own destruction.

Let us not forget that the Palestine Liberation Organization is irrevocably committed to the annihilation of the State of Israel. Article 22 of the Palestine National Covenant says:

> [Zionism] . . . is a racist and fanatical movement in its formation; aggressive, expansionist, and colonialist in its aims; and facist and Nazi in its means. Israel is the tool of Zionism. . . . The liberation of Palestine will liquidate the Zionist and imperialist presence.

Article 21 states the PLO's views on negotiations:

> The Palestinian Arab people, in expressing itself through armed Palestinian revolution, rejects every solution that is a substitute for a complete liberation of Palestine, and rejects all plans that aim at the settlement of the Palestine issue.

Some Arab States proclaim that they are ready to accept the permanence of the State of Israel, yet at the same time they support the PLO in spite of its atrocious methods and avowed aims.

Peace in the Middle East is an objective devoutly to be pursued, but it will never come through the propagation of myths and of hatred, but only through the recognition of realities.

FEDERAL JUDGES USURPING AUTHORITY OF CONGRESS IN SEEKING PAY RAISES

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. JACOBS) is recognized for 30 minutes.

Mr. JACOBS. Mr. Speaker, on February 11 this very year 44 U.S. Federal judges filed a law suit known as C. Clyde Atkins, et al. against the United States of America, and in so doing violated article I, section 1 and article III, section 1 of the U.S. Constitution.

The law suit filed by these judges is for the purpose of raising their own salaries at the expense of the U.S. Treasury. And by filing it, in effect, with themselves—no doubt the decision hangs in the balance—bank balance that is—they have usurped the authority of the U.S. Congress to determine whether and when pay raises should be granted to U.S. Federal judges. That is a legislative function which by article I, section 1 of the Constitution of the United States is the exclusive power of the U.S. Congress.

Article III, section 1 of the U.S. Constitution provides that Federal judges shall hold office during good behavior.

Each of these 44 Federal judges, upon taking office, swore to uphold the Constitution of the United States including its clear requirement of separation of powers.

Therefore, I believe it is the responsibility of the House of Representatives to deliver to the other body articles of impeachment against these 44 judges. And this day I introduce a resolution to do so.

These 44 judges are not only out of touch with the Constitution they have sworn to uphold, but they are also out of touch with their fellow Americans, all of whom pay the same high prices and more than 95 percent of whom try to do so on less than the $42,000 these Federal judges are paid by their fellow Americans.

Since these Federal judges are out of touch with the Constitution and out of touch with the people, they ought to be out of office, also.

To all that add this: Though it has nothing to do with the impeachment question, the argument by these judges that the compensation phrase in article III, section 1, "shall not be diminished" means "shall be increased in case the economy behaves badly," is as (shall we say) (Rube) Goldberg as to argue that the phrase, "shall hold their offices during good behaviour" means "shall hold their offices during good behaviour of the economy."

As to whether a pall of doom will fall upon our land if the services of these self-seeking judges are dispensed with by their removal from office, it should be pointed out that in each of their communities both legal and patriotic talent exists which would no doubt be willing to force itself to struggle along on an annual salary of $42,000, talent possessed by men and women who are less inclined to "ask what their country can do for them" than what they can "do for their country."

BUREAUCRATIC CATCH 22 ENSNARES INNOCENT VICTIM

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of Oklahoma. Mr. Speaker, the confusion, irritation, and downright fear that Government redtape and bungling bureaucracy causes to millions of Americans is a prominent reason for today's subsiding confidence in Government.

As a member of the President's Regulatory Reform Commission, I have been studying with alarm how far the bureaucracy has gotten out of hand. I will be taking this floor often in the months ahead to highlight some individual problems which reflect the overall problems that citizens have with their Government.

Today, I want to tell you about a sad case of abuse of an innocent person—a person who faces severe poverty, hunger, and even deportation unless a series of Government mistakes are corrected.

It is the story of Mrs. Lucy Jara Graham.

Mrs. Graham's story is long and complex. Unfortunately, it is not entirely unique.

Lucy Jara was born in the Philippine Islands. She is now 21. She was only 18 when—on December 27, 1972—she married U.S. Air Force Sgt. Virgil Graham.

In 1973, Sergeant Graham was hospitalized, and ordered medically evacuated back to the United States. In the haste of their departure, Mrs. Graham was issued a form I-94 to waive passport and visa so that she could accompany her husband to the United States.

Sergeant and Mrs. Graham arrived in Hawaii on December 29, 1973—only 2 days after their first wedding anniversary. Mrs. Graham was given an alien registration card. She was told to mail her I-94 to the Immigration and Naturalization Service in Dallas so that Immigration could send her the forms that her husband was to complete and file to petition for permanent resident status on her behalf.

It is at this point, that Mrs. Graham's later problems with the bureaucracy began. Mrs. Graham sent the appropriate forms along with her alien registration card to Dallas in March of 1974. She never received a response.

In the meantime, Sergeant and Mrs. Graham were sent to San Antonio and then to Shepherd Air Force Base in Wichita Falls, Tex. Shepherd officials sent Sergeant Graham to the Veterans' Administration Hospital in Oklahoma City. According to the report I received from the Air Force, Sergeant Graham was admitted to the psychiatric unit, and adjudged mentally incompetent on January 18, 1975. In March 1975, Sergeant Graham was permanently retired from the Air Force.

Mrs. Graham contacted me on May 27, 1975. She had one 8-month-old daughter, and was 4 months pregnant. Her only income was from welfare and she was worried about her status with Immigration.

I contacted Immigration on Mrs. Graham's behalf. It was a month before I received a response. I was informed that the Dallas INS Office could not locate Mrs. Graham's file.

After 2 months, the Dallas office informed me that the file had been located—but that it contained no information on Mrs. Graham's alien status.

To date, INS has been unable to locate the papers which Mrs. Graham sent to Dallas in March of 1974.

Following my initial inquiry to INS, in September of 1975 they agreed to have an examiner interview Mrs. Graham about her situation. After a 2-month wait, the interview finally took place.

It then took only 2 weeks, however, for INS to notify Mrs. Graham that she must leave the country by February 18, or face deportation.

Mrs. Graham wrote to Immigration in Dallas appealing the deportation order. She wrote this letter in December. In January, after a month-long delay, she had not received any response. Again, I wrote to Immigration in her behalf.

Two weeks later, we received a response from INS. We were informed that no administrative relief was available for Lucy Graham to remain in the United States.

In the meantime, the welfare office had enlisted the assistance of the Legal Aid Society on Mrs. Graham's behalf. On February 18, the date that Mrs. Graham was to leave the country, her lawyer requested a contested deportation hearing. If the deportation order is not overturned at this hearing, Mrs. Graham could take her case to court. But, especially in our overburdened judicial system, this is both a lengthy and costly proposition.

So, Lucy Graham is left adrift. Her children are both U.S. citizens. But they are infants. They cannot petition for permanent resident status for their mother until they reach age 21.

The problem is that Mrs. Graham and her children cannot afford to wait. Mrs. Graham is an alien. She is prohibited—by law—from taking a job.

So, Lucy Graham and her children are living on welfare.

For this reason, I have introduced a bill to grant permanent resident status to Mrs. Lucy Jara Graham. I hope that my colleagues in Congress will act swiftly and favorably to approve the relief that Mrs. Graham so desperately needs.

But, my story of Lucy Graham's encounter with the bureaucracy is not complete.

Before she came to me, Mrs. Graham had written to the Air Force for financial help. She received in response a letter stating that the Air Force was not even aware she was in the country.

I wrote to the Air Force to request a review of financial assistance for Mrs. Graham. It was then determined that she is eligible for medical care for herself and her children.

I then contacted the Veterans' Administration on Mrs. Graham's behalf.

It took 5 months to get a response. The VA finally notified Mrs. Graham that she and her children had been approved for apportionment of Sergeant Graham's veterans benefits as his dependents.

Mr. Speaker, through no fault of her own, Mrs. Lucy Jara Graham is still an alien in the United States. Through no fault of her own, she is prohibited from taking a job to support her family.

Mrs. Graham is a very sincere young woman, and she wants her children to grow up in the United States—the country of their birth. On behalf of Mrs. Graham, I hope that Congress will act swiftly to approve my bill granting her permanent resident status.

In closing, let me emphasize that Mrs. Graham's case is only one example of the kinds of problems that bureaucracy is causing in our society every day.

Like Mrs. Graham, many people wait months, or even years, to receive a response from Federal agencies. Like Mrs. Graham, many people find they have been given inaccurate or incomplete reports.

My office receives complaints like this every day.

The time has come when we must take positive action to deal with these serious problems. The time has come to eliminate bureaucratic redtape, and to eliminate the inefficiencies and delays which daily erode the confidence of the people in the ability of their Government to get things done.

EXTENSION OF DUTY SUSPENSIONS ON BICYCLE PARTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I am today introducing legislation that would extend the suspension of duty on bicycle parts such as brakes, hubs, and sprockets which are not presently manufactured domestically and on derailleurs which are manufactured in only limited quantity. My bill seeks to extend the duty suspensions until the close of December 31, 1979.

Many of our domestic bicycle manufacturers are forced, because of the absence of American-made component parts, to rely on foreign sources of supply for essential parts. One such company is the Schwinn Bicycle Co. of Chicago which is located entirely within the confines of my congressional district. Unless the continued suspension of the duties is effected, our manufacturers will be assessed a duty of 15 percent on imported parts while their foreign competitiors will be able to bring assembled bicycles made from the same parts into this country at a duty rate of only 5.5 percent. This tariff differential represents a competitive advantage that is enjoyed by foreign manufactures.

According to the Bicycle Manufacturers Association of America in their testimony before the Subcommittee on Trade of the House Ways and Means Committee, in the last 10 years imports have increased their share of the market in this country from 18 percent in 1965 to more than 28 percent in 1974. The domestic production of bicycles has suffered its sharpest decline in shipments in nearly 100 years during 1975. Prospects for the future look only slightly more promising.

For these reasons I strongly urge that the duty suspensions on bicycles and bicycle parts be extended for a 3-year period and that other component parts not manufactured in this country, specifically coaster brakes, alloy butted frame tubing, frame lugs, alloy cotterless crank sets, alloy rims, and parts of all the foregoing be added to the duty suspension list.

The bill reads as follows:

H.R. 12254

A bill to suspend the duties on certain bicycle parts and accessories until the close of December 31, 1979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that:

(a) Item 912.05 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting the words "and parts thereof" immediately after "Generator lighting sets for bicycles".

(b) Item 912.10 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting the words "coaster brakes, alloy butted frame tubing, frame lugs, alloy cotterless crank sets, alloy rims and parts of all the foregoing" immediately after "multiple free-wheel sprockets".

(c) Items 912.05 and 912.10 are each amended by striking out "12/31/76" and inserting in lieu thereof "12/31/79".

(d) The amendments made by this Act shall apply with respect to all articles entered, or withdrawn from warehouse, for consumption after the date of enactment of this Act.

UNEMPLOYMENT STATISTICS MISLEADING

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. DOMINICK V. DANIELS) is recognized for 5 minutes.

Mr. DOMINICK V. DANIELS. Mr. Speaker, unemployment statistics released for last month show a slight decline in the jobless rate. When these figures first appeared, I cautioned my colleagues against a premature assumption that the economy was well on the road to recovery.

Yesterday's Christian Science Monitor contained an article which underscores my concern. According to AFL–CIO chief economist Nathaniel Goldfinger, the Bureau of Labor Statistics figure is an underestimation of unemployment. In fact, Mr. Goldfinger computes the actual rate of unemployment as closer to 10.6 percent.

Mr. Goldfinger maintains that the number of persons forced to work part time because full-time jobs were not available rose by 240,000 in January to 3.5 million. He also claims that the BLS statistics do not factor in 1 million jobless Americans who have become so discouraged that they have stopped looking for work.

Mr. Goldfinger also believes that new seasonal adjustments applied for the first time by the BLS "distorted" the officially reported decline in unemployment.

Mr. Speaker, the President has already vetoed one major piece of legislation that would have created approximately 600,000 jobs in public works projects. In his veto message, the President claimed that the measure was inflationary, and that unemployment figures indicate that a recovery is underway in the U.S. economy.

Well, if the Christian Science Monitor is correct, our unemployment problem is not getting better—in fact, it probably is getting worse. Jobless Americans are exhausting their unemployment compensation benefits at a rapid rate—over 200,000 per month. When these unemployment insurance exhaustees are added to the jobless figures, the picture grows quite somber, indeed.

Mr. Speaker, on February 10, the House passed H.R. 11453, the Emergency Employment Projects Amendments of 1976. This legislation, of which I am proud to be the sponsor, will nearly double the amount of public service jobs funded under title VI of the Comprehensive Employment and Training Act—CETA. The bill now awaits Senate action.

I would hope that my colleagues will agree with me that jobs creation legislation should be among our highest priorities. The Christian Science Monitor article certainly underscores the need for such legislation.

Mr. Speaker, I believe it is important to bear in mind that the January 7.8-percent unemployment figure should give us no cause for rejoicing. It is higher than the peak unemployment rate in any of four previous recessions. And, if it is as high as economist Goldfinger estimates, we are dealing with a potentially explosive socioeconomic problem.

Mr. Speaker, I believe my colleagues would be interested in retaining the Monitor article for their files. I think it will be useful to keep our perspectives in order when the President cites the January unemployment figures as a reason for opposing job-creating legislation.

Mr. Speaker, the article from the Christian Science Monitor is included at this point in my remarks:

LABOR'S SKEPTICS: IS JOB SCENE REALLY AS GOOD AS FORD SAYS?

(By Ed Townsend)

NEW YORK.—Don't look for any marked improvement in the unemployment picture in 1976.

That is the prospect as seen by organized labor's economists, who insist that the modest improvement recorded in January should not encourage brighter hopes for the year.

The national jobless rate dropped during the month to 7.8 percent, a decline of five-tenths of 1 percent. While the rate generally was expected to go down slightly, the drop was more than anticipated.

Government economists cited the decrease as another indication of the general improvement in the national economy, although most cautiously refused to predict—yet—that unemployment would now go down as low as 7 percent by the end of 1976.

President Ford's recent budget statement forecast national unemployment levels of 7.7 percent in 1976, 6.9 percent in 1977, 6.4 percent in 1978, and 5.8 percent in 1979—the predicted cuts in jobless rates being predicated on "hopeful assumptions" of continued improvement in the national economy.

Labor's economists see in the government's January report "no justification for claims that there was a dramatic drop in unemployment." AFL–CIO's official position in a statement by Nathaniel Goldfinger, the federation's chief economist and research director.

According to the AFL–CIO, the Bureau of Labor Statistics figure is an underestimation of unemployment, probably not a manipulation of statistics for political purposes (although some in the federation charge that) but because of the limited statistical data used in figuring the monthly rate.

Unemployment in January was closer to 10.6 percent than the government's estimate of 7.8 percent, says Mr. Goldfinger. Reporting to the recent AFL–CIO executive council meeting in Bal Harbour, Florida, the labor economist noted that "several critical factors were not considered" by the Bureau of Labor Statistics in arriving at the lower rate.

According to Mr. Goldfinger:

The number of persons forced to work part time because full-time jobs were not available rose by 240,000 in January, to 3.5 million, after having remained at about 3.3 million since last July. Labor contends that most of the "underemployed" want and need full-time jobs.

The Bureau of Labor Statistics figure does not include 1 million jobless who have become so discouraged that they have stopped looking for work.

New seasonal adjustments applied for the first time by the Bureau of Labor Statistics "distorted" the officially reported decline in joblessness.

When these and other factors are included, according to Mr. Goldfinger, "a more realistic measure of unemployment would be 10.6 percent."

The quarrel about the measuring of unemployment has strong political implications in this year's presidential campaign. A steady drop in the jobless rate will benefit the Republicans' effort to keep tenancy in the White House, while a continuing high jobless rate will help labor-backed Democrats.

The January 7.8 percent figure, despite the "encouraging" drop reported by the government, was still higher than the peak unemployment rate in any of four previous recessions.

Total employment in January rose by 800,000 to 86.2 million, 2.1 million above the recession low of March, 1975, and very close to the pre-recession peak reached in July, 1974. The AFL–CIO credited the improvement in non-farm employment largely to job-creating programs passed by the Congress.

Total unemployment dropped by 450,000 in January, while the national labor force continued to expand, to 93.5 million.

TAX ADVICE FOR THE ELDERLY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the elderly need tax advice and many cannot afford professional assistance. For that reason, I am trying to bring to the attention of the elderly in my district pertinent tax information which they can use as contained in the following letter. In that same letter, I am including helpful telephone numbers for my senior citizen constituents.

The material follows:

DEAR SENIOR CITIZEN: Do you overpay your taxes?

Congressional hearings have pointed out that many elderly persons each year pay more taxes than they need to. In an effort to help simplify the complexities of the tax law and tax form, I would like to provide you with a few tips on some deductions that might save you dollars. Items on this list have been made available by the Senate Committee on Aging.

WHO IS REQUIRED TO FILE A TAX RETURN?

You are—if your gross income is at least—

Single (under age 65)	$2,350
Single (age 65 or older)	3,100
Qualifying widow(er) under 65 with dependent child	2,650
Qualifying widow(er) 65 or older with dependent child	3,400
Married couple (both spouses under 65) filing jointly	3,400
Married couple (1 spouse 65 years or older) filing jointly	4,150
Married couple (both spouses 65 or older) filing jointly	4,900
Married filing separately	750

Gross income does not include social security benefits. You need not file a return if you receive only social security benefits or if your income, other than benefits, does not exceed the above limits.

If, however, you are contributing to at least half the support of a minor dependent living in your home or in school, and your earned income (other than social security, pensions and dividends) is under $8,000, you should file a tax return, no matter how low your income is, for you may be eligible for an *Earned Income Credit* of up to $400. This is a new provision in the law which can either reduce your tax bill or in fact give you a type of rebate.

If you are uncertain whether you must file a return, check with the IRS by calling 732–0100.

INCREASE IN THE STANDARD DEDUCTION

The percentage standard deduction has been increased to 16% of your adjusted gross income not to exceed $2,300 for single individuals, $2,600 for married persons filing jointly or surviving spouses, and $1,300 for married persons filing separately.

DID YOU KNOW YOU CAN GET A SPECIAL PERSONAL EXEMPTION FOR AGE?

Besides the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age.

You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1976, you will be entitled to the additional $750 personal exemption because of age for your 1975 Federal income tax return.

REMEMBER TO TAKE THE TAX CREDIT

In addition to the $750 personal exemption, a tax credit of $30 is available for a taxpayer, spouse, and each dependent. No additional $30 credit is available, however, because of age or blindness.

ARE YOU ELIGIBLE FOR A DEPENDENCY DEDUCTION?

In some cases, where two or more individuals provide support for an individual and no one has contributed more than half the person's support, one of the individuals may still be entitled to a $750 dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

HAVE YOU SOLD YOUR HOME?

If so, the government will help. A taxpayer may elect to exclude from gross income part, or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least 5 years within the 8-year period ending on the date of the sale. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

YOU COULD BE ELIGIBLE FOR THE RETIREMENT INCOME CREDIT

To qualify for the retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received earned income in excess of $600 in each of any 10 calendar years before 1975, and (c) have certain types of qualifying "retirement income." Five types of income—pensions, annuities, interest, and dividends included on line 15, Form 1040, and gross rents from Schedule E, Part II, column (b)—quality for the retirement income credit.

The credit is 15% of the lesser of:

1. A taxpayer's qualifying retirement income, or

2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxable pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62, the $1,524 figure is reduced by the amount of earned income in excess of $900. For persons at least 62 years old but less than 72, this amount is reduced by one-half of the earned income in excess of $1,200 up to $1,700, plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

YOU CAN LOWER YOUR TAXES IF YOU HAVE HAD HIGH MEDICAL EXPENSES

If you itemize your deductions, a portion of your medical and dental expenses, your medical, hospital or health insurance premiums and drugs and medicines can be deductible.

Back supports, crutches, dentures, eyeglasses, hearing aids and batteries, physicians expenses, wheelchairs and x-rays are some of the other medical expenses which might also be deductible. Be sure to check Schedule A (Form 1040) to see if you are eligible.

HAVE YOU PAID OTHER TAXES?

Real estate taxes, state and local gasoline taxes, general sales taxes, state and local income taxes and personal property taxes that you have paid can be deducted. See schedule A (Form 1040).

HAVE YOU BEEN PAYING INTEREST CHARGES?

Interest paid on home mortgages, auto loans, installment purchases (television, washer, dryer etc.) can be deducted. Also some finance charges on bank credit cards and revolving charge accounts are deductible.

DO YOU CONTRIBUTE TO CHARITY? TO POLITICAL CAMPAIGNS?

In general, charitable contributions may be deducted up to 50% of your adjusted gross income.

If you make political campaign contributions, you can claim either a deduction up to $100 ($200 for couples filing jointly) or a credit with a $25 ceiling ($50 for couples filing jointly). In addition, you can voluntarily earmark $1 of your taxes ($2 on a joint return) for the Presidential Election Campaign Fund.

DO YOU TAKE CARE OF A DISABLED SPOUSE OR A DEPENDENT CHILD?

If so, you might be eligible for a deduction up to $400 a month or $4,800 a year if you have hired someone to care for a disabled spouse, a dependent under 15 or a physically or mentally disabled dependent. If a child is cared for outside the home, the maximum deduction for child care expenses is $200 per month for one child, and $400 per month for three or more children. For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

HAVE YOU PAID MORE TAXES THAN YOU OWED IN OTHER YEARS?

If you discover that you have overpaid taxes in prior years, you may file an amended return—Form 1040X—to claim deductions initially overlooked. Form 1040X must be filed within 3 years after the original return was due or filed or within 2 years after the tax was paid, whichever is later.

DO YOU NEED HELP IN COMPUTING YOUR TAXES?

For any questions concerning any of these or other items, contact your local IRS office at 120 Church Street (Between 8:30 a.m. and 4:00 p.m. or by phone: 732-0100). You may also obtain helpful publications and additional forms by contacting your local IRS office.

The following organizations will also provide free assistance to senior citizens in the preparation of their tax returns:

National Retired Teachers Association, American Association of Retired Persons, 11 West 42nd Street, 758-1411.

Lenox Hill Neighborhood Association, 343 East 70th Street, 744-5905.

Greenwich House, 26 Barrow Street, 675-3065.

YMCA West Side Branch, 5 West 63rd Street, 787-4400.

HELPFUL TELEPHONE NUMBERS

Congressman **Ed Koch, 264-1066.**
Abandoned Cars, 964-1800.
Aging, Service for, 566-0154.
Air Pollution, 966-7500.
Ambulance, 911.
ASPCA, 876-7701.
Block Association Info., 566-1160.
Building and Heating Complaints, 960-4800.
Cars Towed Away, 541-5220.
Child Abuse Complaints, 734-6606.
Civilian Complaint Review Board, 741-9700.
Complaints against Phone Company, 488-5330.
Consumer Complaints, 964-7777.
Dead Animals, 566-5318.
Drug Store (24 hrs.—50th & Broadway), 265-3546.
Doctor's Emergency Service, 879-1000.
Electric of Gas Failure, 473-6262.
Family Court, 460-8772.
Health Dept. Info., 566-8237.
Human Rights Info., 566-5050.
Hydrant, broken or open, 966-7500.
Legal Aid, 227-2755.
Mayor's Action Center, 566-5700.
Medicaid Info., 594-3050.
Noise Complaints, 966-7500.
Parks Information Service, 472-1003.
Poison Control, 340-4494.
Potholes in Street, 964-2110.
Rape (Policewomen answer), 233-3000.
Rent Control Info., 566-5056.
Sanitation Complaints, 964-1800.
Sewer Backup, Street Flooding, 966-7500.
Shelter, Emergency, 344-5241.
Street Light Out, 786-3700.
Street Sweeping, 566-5656.
Suicidal Feelings, 736-6191(2) (3).
Suspected Narcotics Dealer, 941-4811.
Traffic Conditions, 999-1234.
Weather Report, 936-1212.
Welfare-Emergency Info., 344-5241.

SAFETY CONCERNS AND NUCLEAR POWERPLANTS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matters.)

Mr. KOCH. Mr. Speaker, recent disclosures on alleged unsafe conditions at nuclear powerplants have led the public to question industry procedures and Federal safeguards at a time when the administration is calling for the establishment of more powerplants to meet increased energy needs.

Three employees of General Electric in California, Dale G. Bridenbaugh, Manager for Performance Evaluation and Improvement on GE's Mark I Containment, Gregory Minor, Manager of Advanced Controls and Instrumentation in the Nuclear Energy Division, and Richard Hubbard, Manager of Quality Assurance for the Nuclear Control and Instrumentations Department resigned their jobs on February 2 publicaly alleging safety defects in atomic reactors used to generate electric power in many areas in the country. These three engineers have testified that design problems and regulatory difficulties are such that nuclear powerplants are not safe. Dr. Robert Pollard, project manager of Indian Point No. 3 plant in New York has leveled charges at Con Edison and the Nuclear Regulatory Commission on the unsafe conditions at the Indian Point plant.

Because of the lack of public confidence in the Independence of the Nuclear Regulatory Commission and because of the real concern of scientists and engineers involved in the developments of these plants, I believe it is imperative that the Joint Committee on Atomic Energy call as witnesses in its hearings on atomic energy experts not affiliated with General Electric, Con Edison, or the NRC to comment on the charges of unsafe conditions at powerplants. Also, experts outside the Government must be heard, as well as the agency witnesses if the public's fears are to be allayed. It is in the interest of the Congress to be sure that every precaution has indeed been taken to assure safety at the powerplants and that the Federal Commission is not allowing a potentially hazardous condition to continue because of its past acceptance of it.

This is a matter that requires considerable technical expertise to understand and judge. As a Member from Manhattan whose constituents are immediately affected, it is to the Congress and the Joint Committee on Atomic Energy that I must address the basic question of whether we are certain that those in charge of atomic installations have been honest with us, know what is happening and are adequately protecting the public.

Sufficient questions have been raised on the safety of these plants as to require a thorough hearing and that can only be accomplished by calling experts from outside the Government and those immediately associated with the controversial plants, as for example representatives of such public interest groups as North Anna Environmental Coalition in Virginia, the Union of Concerned Scientists in Cambridge, Mass., the Council on Economic Priorities in New York City or Business and Professional Persons in the Public Interest in Chicago to testify before the Joint Comimttee on Atomic Energy.

I have requested Chairman JOHN O. PASTORE and Vice Chairman MEL PRICE to call these witnesses before the Joint Committee on Atomic Energy which is now meeting on this issue. I urge our colleagues to make similar requests.

VOTING RIGHTS AND COMMONSENSE

(Mr. VAN DEERLIN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, surely one of the great laws of our time is the Voting Rights Act of 1965. By ending the systematic discrimination that had denied the vote to millions of our citizens because of their race, the 1965 law transformed the political face not only of the South, but of the entire Nation.

It is all the more unfortunate, then, that the 1975 "language minority" amendments to the voting rights statute seem to be falling far short of the high hopes many of us had held for them.

I supported the 1975 amendments, with some eagerness. My own district is on the Mexican border and it is within San Diego County, a covered jurisdiction, because more than 5 percent of the residents are of Hispanic descent. I believed this new expansion of the Voting Rights Act would encourage many more of our citizens to participate actively in the political process.

First reports from my district on how the new law is working have been disheartening. Rather than bring out substantial numbers of voters, the requirement that ballots and other voting materials be printed in Spanish as well as English appears to have added unduly to costs of conducting local elections—and given people fresh cause to wonder about the intrusion of "Big Brother" in municipal affairs.

Interestingly, complaints have come from cities in my district at opposite ends of the scale of ethnic sensibilities: Coronado, with an infinitesimal Mexican-American population, and National City, where at least two of every five residents are Mexican-Americans.

Coronado is unhappy, because the bilingual requirement will nearly double the costs of municipal elections the city is holding this week. Coronado is not impressed by the elaborate and costly procedures that must be followed in order to win exemption from the requirement. I agree; I do not see why the onus should be placed on this community to clear itself when it has done nothing wrong in the first place.

Mrs. Ione Campbell, city clerk of National City, says her town has always made special efforts to communicate with voters and prospective voters who are happier with Spanish, Tagalog, or some other language other than English. The extra money needed to print ballots in Spanish as well as English is taken from programs of direct benefit to minorities, she points out. And while adding Spanish to the ballot may be a gesture to Mexican-Americans, it ignores another sizeable local language minority, the Filipinos. The conclusion is inescapable: In their application, the Voting Rights Amendments of 1975 are themselves discriminatory.

Mrs. Campbell, the eloquent critic of the 1975 amendments, is herself an elected local official, up for reelection next week.

I think Mrs. Campbell is right. In the San Diego area, the dictates of the 1975 law amount to needless interference in the right of a local community to conduct its own affairs. The law should be radically rewritten, or repealed.

A pertinent article from the Chula Vista Star-News, for February 19, follows:

BILINGUAL BALLOTS: SOME VOTERS CONFUSED BY IT

South Bay residents confused by or objecting to the new bilingual ballots and voting materials may have an ally in a bill now before the U.S. Congress.

National City Clerk Ione Campbell said she has been getting calls from voters—not angry ones, but inquiring ones.

" 'We know it is federal law, and you have to have them,' they say," Mrs. Campbell reports, " 'but what can we do to change it?' "

Writing Rep. Lionel Van Deerlin urging him to support House of Representatives Bill 10990 is the best thing, said Mrs. Campbell.

Rep. Robert McClory (R-Ill.) is proposing repeal of sections of the Federal Voting Rights Act requiring expensive printing of ballots and pamphlets in several languages, said Mrs. Campbell.

Mrs. Campbell said the printing of ballots in both Spanish and English has doubled the city's printing cost for the March 2 election.

Candidates pick up the tab for the Spanish language versions of the campaign statements, said Mrs. Campbell, but the city feels the pinch even there.

The added weight of having two versions of each candidates' statement adds to the city's mailing cost.

"It affects election costs in a lot of ways that you don't realize right away," said Mrs. Campbell. "It is hard to say just how much it increases election costs."

An average National City municipal election costs $7,000 according to Mrs. Campbell, but the costs for the March 2 city election cannot yet be determined.

It costs the city $165 to have candidates' campaign statements translated into Spanish and it also adds to election legal advertising costs to have bilingual public notices.

"Representatives of various minority groups are complaining to congressmen that the multi-language printing is deflecting funds needed in other projects," said Mrs. Campbell.

"In all the years that I have been holding elections," she added, "there has never been a language problem.

In the past, Mrs. Campbell has used bilingual polling place workers in areas like the predominantly Mexican-American West Side, and bilingual election workers have been available at the clerk's Civic Center office to answer questions or go out to polling places if needed, said Mrs. Campbell.

National City has a large Filipino population, but Mrs. Campbell is not required to print the ballots in Tagalog, one of the principal Filipino dialects. Only Spanish presently is required.

The county's population make-up sets the requirements for all cities regardless of their individual demographics. Del Mar recently won an exemption from that since it has only an extremely small Mexican-American population which has indicated the Spanish translations are not wanted.

"It is based on more than just population," said Mrs. Campbell. "It also is based on which minority group exists that is 5 percent or more of the total population with a substantial portion of its members being illiterate, meaning an average of a fifth grade level or less of education.

"Some cities are having to print ballots in Mandarin and Indian dialects, and the expense is getting quite great compared to the number of people who use them."

CONTROL OF TOXIC CHEMICALS

(Mr. VAN DEERLIN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, with alarming frequency, chemical substances in commercial and household use are found to cause serious health or environmental hazards.

As a dramatic example, vinyl chloride has recently been discovered to cause cancer. Unfortunately, the danger of the chemical was not detected until after it had become one of our most widely used chemicals, finding its way into food wrappers, toys, dentures, phonograph records, furniture coverings, and household areosols.

The cancer-causing effect of asbestos was discovered only after hundreds of asbestos workers and their families were exposed to harmful levels of the substance. Now researchers at the Mt. Sinai School of Medicine are discovering dangerous levels of asbestos in office buildings using asbestos construction materials. Consumers using asbestos-containing spackling, patching, and taping compounds may be exposing themselves to dangerously high levels of the substance during home repairs.

We now know that polychlorinated biphenyls, widely dispersed throughout our environment, are highly toxic and may be carcinogenic. For the first time in history, the Hudson River will be closed to commercial fishing, because it has been contaminated with PCB's. Similar threats face commercial fishermen in the Great Lakes area.

These are just a few examples of the irreparable harm chemicals can cause to human health and the environment. Liver, lung, kidney, and central nervous disorders, cancer, gene mutations, and birth defects are others. Repairing the damage caused by chemicals is often not feasible. Prevention is the only logical course of action. It is also a feasible course of action. Our testing and predictive capabilities are sufficiently developed so that we can now prevent harm, rather than merely reacting to it.

But right now there is no requirement that a manufacturer of a potentially harmful new chemical adequately test the chemical for safety before passing it off on the public. Right now, we do not even have a way of knowing what new chemicals are going onto the market. Adequate authority to get known harmful chemicals off the market is lacking.

Past experiences indicate that the risks are too great to continue without effective legislation regulating toxic chemicals. For this reason, Congressmen ECKHARDT, BRODHEAD, and I are sponsoring toxic substances control legislation. Our bill, H.R. 10318, contains the basic features essential for effective control of harmful chemicals. The bill has been approved by the Consumer Protection and Finance Subcommittee. Consideration by the House Interstate and Foreign Commerce Committee should begin in the next few weeks.

Russell Train, Administrator of the Environmental Protection Agency, recently addressed the National Press Club about the need for toxic substances legislation. Mr. Train pointed out that it is time to start testing chemicals, not people, in the fight against cancer and other major diseases. Before people are unwittingly exposed to chemicals that could kill them, we must take the trouble to discover the health effects of the chemical, and we must insist that the public interest be taken fully into account in deciding whether to "go public" with a potentially harmful chemical. Because his remarks so ably illustrate the need for effective toxic substances legislation, I am asking that Mr. Train's speech be included in the RECORD. I think Colleagues will find Mr. Train's comments helpful in considering toxic control legislation.

Mr. Train's remarks follow:

TESTING CHEMICALS, NOT PEOPLE: BRINGING THE CHEMICAL THREAT UNDER CONTROL

W. H. Auden once remarked that: "Today in the technologically advanced countries . . . we have little to fear from nature; our only serious problem is man . . . His mastery over nature has, as it were, brought man back to the same point at which he stood when he was utterly helpless before her."

There are, however, some differences. It is, to begin with, no longer the creatures and forces of the natural world that most threaten us: it is no longer even such historic diseases as the pox or the plague; it is, instead, such strange new creatures of our own making as "bischloromethyl ether" and "nitrosamines" and "polychlorinated biphenyls" and "polyvinyl chloride." They are all around us—in our air, our water, our food, and in the things we touch. When they hit us, we don't feel a thing. Their ill-effects may not show up until decades later, in the form of cancer—or even generations later, in the form of mutated genes—when it is, often, too late to undo the damage.

Most Americans had no idea, until relatively recently, that they were living so dangerously. They had no idea that when they went to work in the morning, or when they ate their breakfast—that when they did the things they had to do to earn a living and keep themselves alive and well—that when they did things as ordinary, as innocent and as essential to life as eat, drink, breathe or touch they could, in fact, be laying their lives on the line. They had no idea that, without their knowledge or consent, they were often engaging in a grim game of chemical roulette whose result they would not know until many years later.

They had no idea until, increasingly over recent years, they picked up the morning paper or turned on the evening news and learned of some new chemical hazard they had been exposed to, often for years and almost always unwittingly. Increasingly, as well, they learned about the appallingly high death rates as a result of cancer and saw people they knew and loved go through the awful agony of a death by cancer. As a result, I think, the American people are deeply concerned both over the pervasive presence of chemical contaminants throughout the environment and over the high death rates from cancer. And they may even make the connection between the two. But I do not think there is, among the public at large, any real understanding of the precise nature and extent of the hazards posed by chemical contaminants—as causes not only of cancer but of other serious ills and afflictions—or of what we can and must do to deal with them.

BENEFITS VERSUS PERIL

Let me highlight some of the most important points we should keep in mind about chemicals and their effects upon human health and life:

1. Over the past few decades, and especially since the end of World War II, we have released into the environment a vast volume of entirely new chemical compounds with little or no knowledge of their health effects and virtually no effort to determine those effects and to regulate the release of many chemicals that might be hazardous.

2. We have reaped enormous benefits from these chemicals—indeed, from the truly marvelous advances in chemical knowledge and technology that we have achieved throughout modern times. We must measure these benefits, not only in the economic terms that are apparent to us all, but in health terms as well. The fact that we are the first generation in human history to be virtually free of the major infectious diseases is, in no small degree, a result of the application of chemical advances to modern medicine and modern life.

3. The World Health Organization estimates that between 60 to 90 percent of all cancers are the result of environmental factors—in the broadest sense of that phrase. National Cancer Institute studies have shown that the highest cancer rates in the country occur in areas with the heaviest concentrations of industrial chemical use and activity. Yet of all the chemical agents in the environment, probably only a very small fraction is responsible for that large share of cancer. Indeed, the odds are that only a relatively small portion of the chemicals in our environment pose any serious health threats.

4. It may take only limited exposure to contract cancer. It typically takes anywhere from 15 to 40 years after that exposure for the first onset of cancer to occur. Because of that long latency period, we have reason to believe that the full impact of the chemical explosion we have experienced over the past 30 years has only begun to show up in our cancer statistics. Yet already, the experts tell us, one out of every four Americans now alive will ultimately contract some form of cancer.

5. A large and growing share of the diseases that cripple and kill us are caused by environmental factors—again, in the broadest sense of that phrase. These diseases are going to take an increasingly heavy toll upon our lives and well-being, unless and until we stop trying to deal with them by treating them after they occur, and start taking serious steps to prevent them from occurring in the first place. Our national health care effort must increasingly stress the prevention rather than the treatment of disease, and effective measures for the assessment and control of potentially dangerous chemicals and other agents *before* they enter the environment must be a key element in this new shift toward preventive medicine.

A VAST EXPANSION

To expand on these points: There are today more than 2 million different known chemicals; every year, this list grows by an estimated 25,000 new compounds. There are today more than 30,000 chemicals in actual commercial production; every year, this list grows by some 1000 new compounds. Of the more than 2 million known chemicals, only a few thousand have been tested for carcinogenicity and—aside from those used in food additives, drugs and pesticides—only a few hundred have been adequately tested. We know, in fact, very little about the health effects even of the 30,000 chemicals already in commercial production. We have no way of systematically screening the chemicals that do go into production; we have no way of knowing precisely which chemicals go into production every year. In other words, we not only don't know whether what's going out there is dangerous—we don't even know what's going out there.

We have, however, learned one thing: it's what we don't know that can really hurt us, even kill us.

Long after they have been loosed upon the world and the public at large, we have learned what an appallingly wide range of disease and death can be caused by chemicals—they can attack the liver, the lung, the kidney, the central nervous system; they can cause cancer, infant mortality, and genetic damage. We have learned, for example, that—

Mercury, lead and cadmium can attack the central nervous system;

Carbon tetrachloride and chlorinated phenols can destroy the liver;

Ethylene glycol and cadmium sulfate produce kidney disease;

Asbestos and beryllium often lead to lung disorders; and

Vinyl chloride and arsenic cause cancer.

We have seen our fish contaminated by phthalates, our cattle poisoned by polybrominated biphenyls, and our horses killed by dioxin. Fluorides have destroyed forest seedlings, chloramines have killed oysters, and zinc has damaged our wheat crops. And now the fluorocarbons may be threatening the ozone belt.

CONTROL BILLS PASSED TWICE

When I became the first Chairman of the Council on Environmental Quality in February, 1970—almost exactly six years ago—my very first directive to our small staff was to develop a legislative proposal for coping with the class of problems presented by chemical and other contaminants. A year later, in February, 1971, this legislation, known as the Toxic Substances Control Act, was submitted by the President to the Congress. Twice, over the past five years, the

Senate and the House have passed versions of this legislation, but have been unable to agree on the same version. Last week, the Senate Commerce Committee reported out Toxic Substances Control legislation for action by the Senate. In the House, the legislation is being considered by a subcommittee of the Interstate and Foreign Commerce Committee.

Over the five years since such legislation was first proposed, we have introduced into the commercial market an estimated 5000 new chemicals. We have done so without any systematic, advance assessment of their potential impact upon public health or our ecological resources. We find ourselves still without the authority we need to cope with such longstanding problems as those posed by polychlorinated biphenyls. Last week, you may recall, it was announced that, for the first time in history, the Hudson River will be closed to commercial fishing because it is contaminated by these chemicals. In the Great Lakes, commercial and sports fisheries that are being restored as the result of massive pollution clean-up efforts are now being threatened by PCB contamination. We remain almost entirely unable to discover how harmful a compound can be until years after it has become a rather commonplace item in our everyday life, even a significant factor in our economy. And, over and over again, we find ourselves engaged in an extremely difficult and drawn-out struggle to protect the public from a hazard to which it has already been exposed while at the same time trying to avoid putting people out of business or out of work.

Polyvinyl chloride, for example, was first introduced commercially some 40 years ago. It is the backbone of much of our plastics industry. Its manufacture, according to industry figures, accounts for one percent of our Gross National Product. Yet it was not until 1974 that we discovered four cases of an extremely rare form of liver cancer among workers in a polyvinyl chloride plant in Louisville. Not until later did we find among these workers excessive cases of more common forms of cancer as well. Only in the last decade or so have we developed the scientific skills and analytic techniques that would enable us to anticipate these effects of vinyl chloride, and a Toxic Substances law enacted several years ago would hardly have helped us prevent this problem. But the odds are that, until we enact such legislation, we will be confronting more and more such situations in the future—and we can be absolutely certain that, until we enact such legislation, we will be unable to prevent them from occurring. I might add that our experience with vinyl chloride as well as with such chemicals as asbestos and, most recently, Kepone underscores the fact that it is on the job and in the workplace that the hazards posed by such chemicals are most immediate and acute. It is the workers, and the families of workers, in the shops and factories where such chemicals are made and used who bear the brunt of the chemical threat and would benefit most from the early enactment of toxic substances legislation.

WE'D BE BETTER OFF

The plain fact is that, had the Toxic Substances Act been enacted five years ago when it was first proposed, we would be a lot further ahead in dealing with some potentially very serious hazards:

We would have begun to reverse the spread of polychlorinated biphenyls which are now destroying some of our valuable fisheries;

We would already have, as we now do not, reliable test information concerning the effects of vinylidene chloride which is widely used throughout the plastics industry;

We would have a greatly improved data base for determining the extent to which benzidine-derived dyes reconvert to free benzidine, a well-known human carcinogen, when these widely-used dyes are accidentally ingested or absorbed;

We would have taken a number of steps to clarify the chronic effects and, as necessary, to limit exposure to tris 2,3-dibromopropyl phosphate, which has mutagenic effects in microbial systems and is widely used as a fire retardant in textile products, including children's pajamas.

I do not think any of us is under the illusion that there is, or is ever going to be, any such thing as a simon-pure, antiseptically safe world. I do not think any of us imagines that there is, or is ever going to be, a real world without very real risks. But there is absolutely no reason why we cannot—there is, in fact, every reason why we must—take sensible steps to exercise some intelligent and effective control over the risks that we ourselves create. The basic aim of the toxic substances control legislation before the Congress is to help us gain that kind of control—to help us protect human health by bringing down to reasonable levels the risks that chemicals pose while preserving their benefits. We are not talking, in other words, of getting rid of all risks from chemicals, but rather of finding out what the risks are and, eventually, of removing "unreasonable" risks. We are saying that, whatever we do with these chemicals, we ought to know what we're doing before we do it, and we ought to do it with our eyes wide open.

We are saying, more specifically, that before people are unwittingly and unwillingly exposed to a chemical that could hurt or kill them, we take the trouble to find out what the health effects of that chemical might be, and we insist that the public interest be taken fully into account in the process by which we determine those effects and decide whether, or in what circumstances, we "go public" with that chemical. These decisions to test and go public cannot—as they now are—be left simply and solely in private hands. The public at large is deeply and directly affected by these decisions, and it must have—as it now does not—a very real say in the process by which they are made. The toxic substances legislation now before the Congress would, for the first time, give the public that say.

ADMINISTRATION SUPPORT

As you might suspect, there is some disagreement about some of the details of the legislation before the Congress. The Administration strongly supports toxic substances legislation, but wants to make certain that it does not impose unnecessary red tape upon industry or government. Inevitably enough, environmentalists are concerned that the legislation will not be nearly strong enough; and industry, or at least some segments of it, is concerned that it will be strong enough to strangle the industry. Sad as it may seem, dull and undramatic as it may appear, the truth lies somewhere in-between. The differences in detail about, and among, the different pieces of legislation before the Congress are far less important than the fact that their common aim is to give public health far more of the weight that it deserves in the decisions by which chemicals enter and spread throughout the human environment—the common aim of giving the American people not only the opportunity to understand and assess the risks and benefits of these chemicals, but a decisive voice in sorting out these risks and benefits.

The legislation before the Congress would give us the authority, which we do not now have—

To get better information about the health and ecological effects, the distribution, the uses, the kinds and levels of exposure, of both known and new chemicals;

To help prevent hazards and harm to human health and the environment from chemicals before we make major economic investments in them;

To balance the various costs, risks and benefits involved before deciding whether, or under what conditions, a potentially hazardous chemical should be introduced into the environment;

To help coordinate the presently fragmentary and piecemeal Federal approach to toxic substances.

I consider it of urgent importance that the Congress act now—in this session—to enact effective toxic substances legislation. Remaining differences should be resolved as rapidly as possible. But it is more important to get legislation on the books now than it is to seek perfection. There will be time to improve legislative authority later as we gain more experience. But we can no longer afford to wait for the basic authority to deal effectively with the problems of chemical pollution.

SUBJECTED TO SCRUTINY

We have done a great deal over the past several years to improve the regulatory process at EPA—in particular, to make it far more open and equitable. Our decisions are subjected to more searching scrutiny, more critical review, from sources inside and outside the Agency and the government, than those of any other agency. We have made a strenuous and increasingly successful effort—most recently in developing our Drinking Water regulations and in setting minimum standards for procurement under EPA grants for the construction of wastewater treatment plants—to get all the major interested and affected parties actively and effectively involved throughout the process of developing a regulation. We also have the most open and rigorous process of economic impact analysis performed by any agency of the Federal government.

It is along these lines, according to these processes, that we would exercise our authority under toxic substances legislation. If the legislation does not require it, I would—on my own—appoint an Advisory Committee which is broadly representative of all major interests to help advise us on implementation of the Act.

It is unfortunate that some segments of the chemical industry, which originally took an extremely constructive approach towards the legislation, have taken to actively lobbying against it. I do not believe that either the public interest, or the interests of the industry, are well served by charges that the legislation could—in the words of one industry spokesman—"cripple" the chemical industry and give the Administrator of EPA "near-dictatorial authority over the introduction of new chemical products." The only real "crippling" that is going on is the kind which this legislation would try to prevent—the crippling of who knows how many Americans every year who contract cancer or some other affliction after exposure to some hazardous chemical agent. Nor has it been on the "near-dictatorial authority" of the EPA Administrator that so many such agents are introduced into the environment without any effort to find out what their health efforts are, much less let the public have any say about whether or not, or in what circumstances, it is willing to be exposed to them. Let there be no mistake: the only kind of authority the legislation before the Congress would give us, and the only kind of authority we would intend to exercise, is the authority to act reasonably and responsibly in the public interest—and that includes the very real interest the public has in a healthy and productive chemical industry.

$100 BILLION IN SALES

The chemical industry has annual sales of over $100 billion. We have estimated that the annual costs to industry as a result of this legislation would range between $79 million and $142.5 million. The Manufacturing Chemists Association has estimated costs ranging from $360 million to $1.3 billion a year, with "start-up" costs of over $100 million. Dow Chemical Company estimates an annual cost of $2 billion. At the request of Congress, the General Accounting Office (GAO) analyzed and assessed these different estimates. The GAO concluded that the Dow Chemical estimates were the "least reliable," and that the EPA estimates were the "most reliable"—although they believed EPA's figures were about 30 percent too low. In testimony before Congress, a GAO spokesman said that "the EPA interpretation is closer than the industry studies to an accurate picture of what the legislation will entail." Indeed, recent developments suggest that real breakthroughs are being made in the development of faster and less costly testing methods. The GAO further pointed out that none of the estimates considered the costs to society in avoidable and unnecessary suffering and death as a result of exposure to hazardous chemicals—the huge expense that society bears because of the failure to invest enough time and money in determining the hazards of chemicals.

I should think, indeed, that industry would reap some very real benefits from the approach this legislation contemplates. The testing of potentially hazardous chemicals before "going public" with them would let us know, not only which ones are likely to be harmful, but which ones are not. Since these tests are by no means fail-safe or foolproof, we cannot precisely give a chemical an absolutely "clean bill of health," but the industry can market and the public can accept it with far greater confidence than they can now. Moreover, the "preventive" approach would increasingly reduce the likelihood that we would have to take action against a chemical after industry has invested extensive resources in its production. Far from "stifling innovation," the legislation should serve to encourage the industry to turn its remarkable skills and resources toward the discovery and use of less hazardous chemicals.

VALUE OF HUMAN LIFE

The issue before us is really very clear: will we continue to set so low a value on human life and health that we will refuse to take the thoroughly sensible and modest steps to protect them that the legislation before the Congress would involve? Will we, instead, bring better balance to the decisions by which chemicals are made and marketed by giving full weight to public health in reaching those decisions?

It is not, as some have suggested, a question of assuming that every chemical is dangerous until proven otherwise—although I would find that a preferable alternative to assuming, as we do now, that every chemical is harmless until we come up with a body count and a clear-cut case. It is a question, rather, of honestly and openly acknowledging that we simply don't know whether a chemical is dangerous or not and that, before we expose the public to it, we should take at least a reasonable amount of trouble to find out.

It is time we started putting chemicals to the test, not people. It is time we gave the people of this country some reason to believe that, every time they take a breath or eat or drink or touch, they are not taking their life into their hands.

It is time that, down here on earth, we took a couple of small, sensible steps on behalf of human health and life.

SHOCKING DIVERSION OF U.S. DISASTER RELIEF TO GUATEMALA

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I know that all my colleagues share with me a strong desire to provide relief to the thousands of unfortunate victims of the recent Guatemalan earthquakes. Thus, I am sure that every Member of the House will be as shocked as I was to hear that news reports and eyewitness testimony coming from Guatemala indicate that our aid is being diverted to enrich privileged people in that stricken country but is not reaching the disaster victims who need it.

In the February 12th edition of Occidente, a Colombian newspaper, an article appeared which described this situation in one small Guatemalan city. That state of affairs is stated to be indicative of the problems which prevail in many other areas in need of disaster relief. Rather than reaching the poor, homeless, sick, the needy quake victims, foodstuffs and other important provisions are being hoarded and wasted by self-appointed relief officials and wealthy landowners.

As a former director of programs for South America in the Peace Corps, I am particularly interested in seeing that our aid gets to those who need it most. In light of the situation described by Occidente, I have asked Secretary of State Kissinger, as well as AID Administrator Daniel Parker—who is also serving as the President's Special Coordinator for International Disaster Assistance—and the appropriate House and Senate committee and subcommittee chairmen, to undertake an immediate investigation of the relief situation and to take whatever action is necessary to insure that relief efforts in Guatemala do reach those people for whom they were and are intended.

As the House International Relations Committee proceeds to consider H.R. 12046, the President's Guatemalan relief proposals introduced by our distinguished colleague from Michigan, Congressman CHARLES DIGGS, it is my hope that the committee will give this problem its most serious consideration. As presently written, H.R. 12046 would give the President authority to provide relief "on such terms and conditions as he may determine." I believe that we ought to add a proviso to this section which would insure that food, water, milk, clothing, and medicines are channeled through the International Red Cross, the American Friends Service Committee, or other organizations experienced in such distribution, rather than on a government-to-government basis.

Last week, I asked the Library of Congress to translate the February 12 article from Occidente to which I referred. For the benefit of my colleagues who are concerned about the Guatemalan situation, I am inserting the text of that translation:

[Source: Occidente, Feb. 12, 1976]

AFTER THE QUAKE: STRUGGLE FOR FOODSTUFFS

(Translated by Wesley Kerney)

A military patrol was dispatched to San Martin Jilotepeque after the government received reports from Cacicazgo about a family that hoarded the supplies sent for the people hit by last week's earthquake, the Emergency Committee reported today.

Members of the Alvarado family in this capital, who have properties in the city of San Martin, got the Emergency Committee to designate them as its representatives in that zone to control the distribution of foods and medicines.

There were reports that they were not carrying out their mission.

"They left hundreds of persons without food," said a press photographer who spent almost 24 hours there. "The Alvarados' eat until they stuff themselves and they throw food away, while hundreds of hungry women and children watch them and wait hours for a handful of grains."

Valente Cotera, Associated Press photographer who was stranded in San Martín because of lack of transportation for returning to this capital, communicated the matter to the authorities and they ordered an investigation.

The Emergency Committee applies severe penalties on those who speculate or try to hoard foodstuffs. Thus far it has evolved a notable effort towards having the assistance reach all the towns and it said that it won't permit private persons to hinder it.

"Yesterday morning the Alvarados' had a 40-egg tortilla made and they opened several dozen cans sent from Mexico", said Cotera.

"They had a big breakfast, they threw away the cans they didn't like, while starving children were watching from outside the barbed-wire fence that surrounds their camp, no one could get to the discarded cans", he added.

It was reported that Edgar Alvarado, 20 years old, heads the family group that imposed the caciqueship. He and his brothers and friends go around armed with up to two pistols each and they have ignored the city authority.

"They treat the natives like beasts", said mayor Abelardo Elías. "They keep them as servants and they order them to do very heavy work. Several times they have left several of those who comprise gangs that do the jobs they order without provisions".

Cotera said that Elías was working with other gangs to try to open the roads now blocked by the landslides, so a military patrol can reach San Martín. The Alvarados' control even the access to the fields where the government helicopters land and those who complain against them haven't been able to denounce them.

San Martín is one of the towns hardest hit by the earthquake. According to officials information, 2,920 of its 3,400 inhabitants died. But it has been repopulated through the immigration of natives from nearby villages.

The city had some 30,000 inhabitants according to the 1973 census.

Many natives interviewed by Cotera said that for two consecutive days they had been without provisions. The majority stands in line up to 12 hours during hand-outs.

Cotera said that Monday night the Alvarados' had a party around a bonfire. They have girl friends with them and they have pressured some United States girls who arrived in San Martin with international assistance corps such as CARE and CARITAS.

Meanwhile, seven injured persons who spent the night out in the weather were complaining. "It was awfully cold", said one of them.

Mayor Elías said that the Alvarado's have taken command away from him by resorting to the commission they obtained from the Emergency Committee.

He added that no one protests because of fear of the weapons which the youths obstensibly carry.

One of the Alvarado's said that the mayor "is a drunkard" and assured that he has the committee's broad support.

Several natives said that at night they load up the jeeps they have in their service and take them out for parts unknown.

The family has farms in the region, one of them 12 kilometers out of San Martín, said the mayor.

IMPACT OF CANADIAN-AMERICAN AUTOMOTIVE AGREEMENT ON EMPLOYMENT IN UNITED STATES

(Mr. DENT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DENT. Mr. Speaker, several weeks ago, the International Trade Commission issued a comprehensive study on the Canadian-American Automotive Agreement. In the report, the Commission concluded that since its implementation in 1965, the Canadian-American Automotive Agreement has primarily benefited the Canadian economy and also the multinational auto manufacturers who dominate both the American and Canadian industry.

Those of us who were here for the debate may well remember that 10 years ago, the Congress of the United States passed the "Automotive Products Trade Act of 1965." (Public Law 89-283), which had as its purpose the implementation of the Agreement concerning automotive products between the Governments of the United States and Canada signed on January 16, 1965. A reading of the RECORD of the proceedings, as well as memories of my own participation as a Member of the House of Representatives at that time, cannot fail to convey the foregone approach with which this Agreement was implemented by law. During the course of congressional consideration, there were many Members of Congress who had serious misgivings about the legislation, not only with respect to actual provisions in the bill (H.R. 9042), but also with respect to the apparent fait accompli by President Johnson, who early in 1965 negotiated and entered into the Agreement with Canadian Prime Minister Pearson, subsequently presenting the Agreement to the Congress for implementing legislation. Consequently, the Congress, if unwilling to comply with the Presidential request, was put in the awkward position of appearing belligerent towards our northern neighbor at a time when trade wars and economic boycotts, particularly with respect to automobiles, were threatened with considerable frequency and obvious effect. There was also prevalent opinion that the measure was designed to placate and satisfy the political administration in Canada, and further, that there were some foreign policy decisions of a defense nature, of which neither the House nor Senate were apprised.

What was readily apparent, however, was that the undertakings were intended to assure the Canadians of a decrease in their auto trade deficit and a guaranted share in the North American automotive products market. The obligations and conditions outlined in the agreement for U.S. duty-free treatment are relatively simple and uncomplicated. On the other hand, those for Canadian duty-free treatment are not. Simply stated, the purpose of the Canadian conditions was and is to use the regular or MFN Canadian duties as leverage to assure increased production in Canada of motor vehicles and original equipment, an economic result that would not otherwise happen. Also, its object was and is to provide an export market in the United States for the increased volume of Canadian production.[1] The ITC report of several weeks ago has confirmed that all these goals have been achieved.

The legislative process that followed the President's request for implementing legislation was characterized by unusually strong arguments. It was obvious that the issue was not an easy one to decide, not for Members personally nor for the Congress as a body.

It was with considerable hope that those of us who opposed the bill would find our objections mitigated by the practical application of the act, and I am sure those who voted for the bill hoped that the economic success for both the United States and Canada, projected by its passage, would materialize.

Unfortunately, neither group's expectations were realized, especially with respect to benefits of APTA to the United States. In retrospect, it is likely that during the 10 years of its life, APTA has contributed to the present unemployment in the U.S. auto industry, or at a minimum, contributed to a decline in growth in the work force. It can be said however, that Canada, its workers, and the multinational auto manufacturers have clearly benefited by APTA; the benefit to the United States and its workers engaged in all phases of auto manufacturing is far less apparent, and, in fact, obfuscated by congressional inattention to the agreement.

One member of the ITC, Commissioner Italo H. Ablondi, has skillfully pointed out in his supplemental views that—

> The relative structures of production within the United States and Canadian markets are governed by decisions made in the corporate offices in Detroit, which are based on the best interests of the multinational corporations irrespective of United States or Canadian national interests. . . . In my opinion, the principal beneficiaries of the agreement are the multinational corporations that control U.S.-Canadian motor vehicle production. . . .

In light of this, a point to be made is that Canada, in an attempt to deal with the American dominance of her industry, has taken steps to insure benefits to her economy and her workers. The United States, on the other hand, has not yet done so. Instead, the United States continues to advocate a trade agreement that has precisely an opposite effect.

The most apparent indicator of APTA's deleterious effects on the United States is our balance of trade with Canada. The United States had traditionally maintained a favorable balance of trade with Canada in auto products, and as late as 1965, the year the pact was implemented, our trade balance with Canada in motor vehicle products, not including parts, was +$57,025,000.[1] That changed abruptly in 1966, the first full year the pact was in effect, when the United States sustained a trade deficit of —$116,176,000, initiating a pattern of trade deficits that reached —$1,296,745,000 in 1973. At the same time, motor vehicle parts have yet to show a deficit, but a pattern of declining surpluses is apparent. Until 1969, presumably while supplying expanding and new United States-Candian subsidiaries, the parts surplus continued to be approximately $600,000,000. However, in 1970, the surplus was halved, and in 1973, after 3 years at $300,000,000, it dropped to $66,725,000.

Just as abruptly in 1974, the parts surplus soared to +$779,822,000, a number not reflective of free market activity, but instead directly indicating the stronger United States-Canadian subsidiaries auto employment situation which necessitated the use of American made parts to assemble cars in Canada, half of which made their way back to the United States.

The overall effect of the pact on the U.S. balance of trade has been to destroy the surplus the United States enjoyed with Canada and create a 1973 trade deficit of —$1,230,000,000, a level more than twice Canada's deficit in 1964, about which it so vigorously protested and upon which it based the necessity for the agreement. Legislative history of the act indicates that its purpose was to "equalize" the balance of automotive products trade. There was certainly never any intention to shift it so overwhelmingly to the Canadians, nor to permit the agreement to remain as such should it prove harmful to the United States, particularly since the sizeable value associated with automotive trade has negatively influenced our total trade balance with Canada and effected a deficit where none existed previously. Moreover, the balance of automotive trade with Canada is not reflective of free trade between two countries, but rather a reflection of the internal needs of the various auto manufacturers, facilitating their own corporate integration for a North American market.[2]

The auto manufacturers are quick to accentuate the large surplus in U.S. parts trade. Notwithstanding the previous discussion with respect to the decline in parts surplus, it is not unreasonable to suggest that the parts manufacturers are captive facilities of the auto manufacturers and the "supplying" of the "demand" that occurs between them is a direct reflection of the need for parts by Canadian subsidiaries. It is by no means a free flow of goods, subject to the ordinary fluctuations of the marketplace. Additionally, it is important to remember that the parts manufacturers in Canada, many of whom are either transplanted U.S. companies, or subsidiaries of them, are not yet developed enough to meet the needs of Canadian manufacturing. Given the Canadian goals as stated in APTA, it is probable that the trade surplus in parts will exist only until the Canadian parts industry is permitted to handle Canadian production demands—presently independent Canadian manufacturers are excluded by captive dominance of the market—at that point, the American surplus in parts will disappear. Our market, unless the terms of APTA are renegotiated, will stay wide open to Canadian auto exports, so that not only will we have lost our auto

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Footnotes at end of article.

export market, but our parts export market as well. In the meantime, the obvious need be said. The greater number of cars produced and assembled in Canada, the greater number of U.S. parts will be exported to supply Canadian assembly. To the extent that the parts are destined for use in cars intended for the Canadian market, the flow of parts is beneficial; to the extent that the parts are intended for cars assembled in Canada but shipped back to the U.S. market, then this country gains nothing by the artificial parts surplus, and, in fact, loses assembly line and other jobs that it very desperately needs. Unfortunately, it is the latter situation that exists as a consequence of APTA.

It is precisely this continued accommodation by your Government of the continental North American integration of auto manufacturing facilities, and its effect on our economy and work force, that is disturbing. Short of facilitating what the multinational corporate decisions and plans for an integrated North American market, what reasons do we as a government have for permitting Canadian workers to assemble U.S. made auto parts into automobiles destined for the U.S. market? More specifically, how can our national trade policy permit Ford of Canada to export 80 percent of its auto production to the United States, permit GM of Canada to export 53 percent of its auto production to the United States, and permit Chrysler of Canada to export 83 percent of its auto production to the United States at a time when each of those three are gearing down their respective U.S. facilities, cutting their work forces, and reducing capital expenditures here.[3]

What is most aggravating is that APTA encourages such Canadian investment, when the reverse should be true if our interests are to be served.

The traditional arguments of consumer demand and competition do not sustain a position favoring continued American participation in APTA, inasmuch as the products are identical, both in price and design.[4] Moreover, it is virtually impossible to ascertain any other benefits of APTA to the United States, whereas Canadian benefits are readily apparent.[5]

The early premises upon which APTA was based have changed: Canada no longer has a trade deficit with the United States; and, after 11 years of the agreement, the Canadian auto industry is established. There is some doubt that the Canadian auto industry, as now established, will survive as successfully without the continued participation by, or protection of, the U.S. Government. This protection, however, exists at the expense and to the detriment of the United States and it is in that framework that we must rethink our participation in APTA. We, as Members of Congress, are responsible to Americans, not Canadians.

In addition, much of APTA's expectations were based on an expanding auto market and economy. That is no longer the case, and testimony before various subcommittees of the Congress indicate two sobering projections: First, that the U.S. auto industry's recovery will peak by 1980, and second, that even in recovery, the 1973 records for production and employment will not be restored. All of which is to say that in 1976, this country is in a very different position than when APTA was negotiated in 1965, so much so that we cannot afford to avoid reconsideration of our agreement with Canada, recognizing in advance that one of our options must be to cease participation as is provided in the act, and, at a minimum, insisting that the American market be supplied by U.S. production and not by Canadian production.

Given the limitations of the North American market, if the United States is excluded, it is unrealistic to project that APTA's goal as a transitional tool will be realized if the status quo is maintained. On the contrary, since the transitional view is not necessarily shared by the Canadians or the multinational auto manufacturers, the move toward free and unfettered trade is likely to be met with considerable resistance by both the Canadian Government and the auto companies. Put another way, free trade, without the Canadian requirements as articulated in the APTA, does not presently occur between the two markets, and inasmuch as the APTA has all the earmarks of a bilateral, government supported cartel, the political disagreements coincidental to restating the terms of the APTA will take considerable resolving. One would be foolhardly to not recognize the enormity of the task required to change something so particularly entrenched, but the size of the job should not act as a deterrent in reexamining U.S. participation in APTA, with a view toward considerable and striking modifications in the agreement that will more readily show the benefits of APTA to the United States.

I have been in Congress too long to engage in sabre rattling:

I am making my recommendations carefully, knowing full well the implications that may flow from them. Nevertheless, it is a subject about which we in the Congress have been silent too long. It is a responsibility that we cannot abdicate, and a move that I personally believe to be in the very best interests of this country.

For these reasons, the Subcommittee on Labor Standards of the Committee on Education and Labor will hold public hearings on April 7, 13, and 14, on the Impact of the Canadian-American Automotive Agreement on Employment in the United States. The hearings will commence at 10 a.m. in room 2261, Rayburn.

FOOTNOTES

[1] From the statement of Mr. Russell Shewmaker, General Council to the ITC. APTA Hearings, International Trade Commission, Detroit, Michigan, Dec. 11, 1975.

[2] There is considerable disagreement concerning data selection, particularly with respect to the reporting of import-export valuation. After much consideration, I am convinced the figures compiled by the International Trade Commission represent the most accurate means of reporting trade balances, particularly because the export-import valuations are accompanied by quantity (unit) reporting and a relationship is established between the two. Moreover, ITC valuations are not "transfer prices" (like those accepted by the Department of Commerce). "Transfer prices" do not represent arms length transactions, but instead recount intraindustry activity. Therefore their validity as accurate figures are suspect. Customs evaluations are also unacceptable because they are based on a constructed cost of production formula that provides for statutory minimums, rather than actual costs for some components in the formula.

There is no question that slippage occurs in the ITC reports. The Subcommittee on Labor Standards' interest in the impact of imports on auto industry jobs is focused primarily on the *quantity* of imports and exports, simply because of the direct relationship between production and employment. For that reason also, the ITC reports are the most informative.

[3] Automotive News, Feb. 17, 1975.

[4] Generally, the cost of producing a car in Canada is higher than in the U.S., but regardless of the fair market value of a car in Canada, the Canadian export is sold at the same price as the U.S. made car. For this reason, Canada is included in this Subcommittee's dumping petition.

[5] APTA Hearings, International Trade Commission. Detroit, Michigan, Dec. 11, 1975.

ASH WEDNESDAY

(Mr. FAUNTROY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FAUNTROY. Mr. Speaker, one of my constituents has arranged, through his church and our Joint Committee on Bicentennial Arrangements, a unique opportunity for each of us to participate in a service of song and penitence on the West Terrace steps of the Capitol tomorrow at 11:50 a.m.

As you know, tomorrow is Ash Wednesday, which is a most appropriate time for us to pause and seek the guidance of God and His forgiveness of our sins. I know that many Members have already agreed to participate, and I just wanted to take this moment to extend an invitation to everyone else.

If we, as Members of the Congress and the embodiment of the Nation, will take a few moments to reflect upon our work, seek the guidance of our God, and set an instructive example to our citizens by doing this, the world will be a better place to live.

THE HELSINKI "FINAL ACT" AND SOVIET JEWRY

(Mr. EILBERG asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EILBERG. Mr. Speaker, during the week of February 16, I attended the Second World Conference of Jewish Communities on Soviet Jewry.

There is no need to remind anyone in this body that the Jews of the Soviet Union are imprisoned in a country which persecutes them relentlessly and that the terror and harassment are increased the moment an individual or family indicates that it wants to emigrate to another country, which in most cases is Israel.

However, it is often forgotten that the Soviet Union is legally bound to permit such emigration and that its continued refusal to permit thousands of persons from leaving is a violation of more than one international agreement including the recently signed Final Act of the Conference on Security and Cooperation in Europe. At this time I enter into the Record a statement by Dr. S. J. Roth, Director of the Institute of Jewish Affairs in London, England.

I had the pleasure of meeting Dr. Roth at Brussels II where he presented his paper.

The statement follows:

The Helsinki "Final Act" and Soviet Jewry

(By Stephen J. Roth)

The signing of the Final Act of the Conference on Security and Co-operation in Europe (CSCE) on 1 August 1975 by 33 European States, the United States of America and Canada, marked the conclusion of an agreement that was hailed, particularly by the representatives of the East European countries, as an event of the greatest importance. The Soviet party leader, Leonid Brezhnev, in his speech at the Helsinki closing ceremony, spoke of the Conference's "historic significance" and of "millions upon millions of people" who were "conscious of the special nature of this event and its political sweep". The Polish leader, Edward Gierek, termed it "a major historic event"; Gustav Husak of Czechoslovakia, a step "unique in history in its significance"; Bulgaria's Todor Zhivkov praised "the remarkable results achieved" which he described as "a victory of benefit to all"; Eric Honecker of the German Democratic Republic called it "a victory of political realism and of reason"; while Hungary's Janos Kadar went so far as to claim that "upon the success of the Conference will depend . . . in no small degree the future of humanity".

This enthusiastic welcome to the Helsinki Declaration—as the Final Act is popularly called—on the part of the leaders of the Soviet bloc countries is not surprising. The Soviets were, afer all, the initiators of the European Security Conference as far back as 1954 when the then Soviet Foreign Minister, V. M. Molotov, floated the idea as a step towards a European collective security pact. The plan was revived by the Polish Foreign Minister, Adam Rapacki, ten years later at the UN General Assembly of 1964. Western reaction was cautious but became more favourable after General de Gaulle proclaimed his vision of a Europe from the Atlantic to the Urals and after the West German Chancellor Willy Brandt embarked on his *Ostpolitik* which considerably relaxed tension between East and West. Acceptance of the idea of a pan-European conference grew with the progress of détente between the United States and the Soviet Union, and ultimately the matter was sealed during the visit to Moscow in September 1972 of Dr. Henry A. Kissinger, at that time still Security Adviser to President Nixon. The preliminary talks on the Conference agenda could now commence in Helsinki in November 1972. The Conference was thus, in every respect, a true child of détente.

However, apart from the general relaxation of tension and the settlement of some related issues—like the Berlin question or the separation of disarmament problems from the scope of an all-European conference and their reference to bloc-to-bloc negotiation without the interference of the "neutrals"—the Western powers attached one other significant precondition to their consent to a European conference. It was that such a conference should deal not only with security, and not only with co-operation in the economic and technical fields, as the Soviets envisaged it, but had also to cover "freer movement of people, ideas and information between the countries of East and West".

This subject of co-operation in humanitarian fields was therefore by no means a side issue but rather a vital requirement of the Conference and an essential element of the agreements reached. In the face of an obvious tendency by the leaders of the Communist bloc to play down this part of the Helsinki Declaration, the Western leaders made it abundantly clear that this issue remained for them a cardinal item. President Ford, in his Helsinki speech, emphatically reminded the heads of the other 34 States or governments of "the deep devotion of the American people and their Government to human rights and fundamental freedoms and thus to the pledges that this Conference has made regarding the free movement of people, ideas and information". The British Prime Minister, Harold Wilson, said that the Conference's work "will be judged by how that spirit [of 'live and let live'] is reflected in the lives of ordinary families, by such issues as the reunification of families, the marriages of citizens of different states, the greater possibilities of travel . . .". Prime Minister Pierre Trudeau of Canada stated that "without intercourse among the people of Europe, without the promise of reunification of families (and the means to redeem that promise . . .), without interchange of ideas and opinions, the new era of harmony that we seek will not be found". Other Western statesmen spoke on similar lines.

This Western emphasis on the humanitarian issue highlights also another essential difference between the interests of the two power blocs in the Helsinki agreements. The Soviet Union and its allies mainly aimed to obtain, through the CSCE, an international recognition of the territorial *status quo* that emerged during and immediately after World War II; in other words, they sought confirmation of results already achieved in the past and to a large extent they obtained this in the principles of "Inviolability of Frontiers," "Territorial Integrity of each of the Participating States" and "Refraining from the Threat or Use of Force" that have been embodied in the Helsinki document. The demand for freer flow of people and ideas on which the West puts its priority, is—on the other hand—something that will have to be realised in the future and therefore, in this respect, the West laid great emphasis on the implementation of the provisions agreed. President Ford was probably voicing the views of all Western countries when he summoned it up in this way in Helsinki:

"History will judge this Conference not by what we say today, but what we do tomorrow—not by the promises we make but by the promises we keep."

This should not mean, however, that for the Soviet bloc the importance of the CSCE has ended with the signature of the Final Act. The Soviets do not cease to emphasize that they regard détente as an evolutionary, dynamic process and they feel—in the words of Brezhnev in Helsinki—that détente and co-operation on a basis of equality . . . will gain, thanks to the Conference and its results, a new strength and an even greater scope." The future objectives of the Communist bloc in the progress of détente are, however, not based on the wording of that delicately balanced Helsinki document. The CSCE provisions on security matters—like confidence-building measures through advance notification of military manoeuvres (in the Declaration's first chapter)—are too limited, and the arrangements on economic and scientific-technological co-operation (second chapter) are too vaguely worded in order to constitute major Soviet interests. The expectations of the Soviet bloc from the progress of détente are partly in its extension to the military field—disarmament through the SALT-2 and the MBFR talks—and partly in actual trade and credits, be it grain sales or acquiring Western industrial know-how. For that reason it is "the spirit of Helsinki" rather than the letter of the document that is invoked by the Soviets.

In the following we analyse the human rights and humanitarian pledges embodied in the Helsinki declaration with a view to assessing what they might mean to the Jews of the Soviet Union, a group whose fundamental rights and freedoms have so often and so callously been denied or violated in the past. Furthermore, half a year after the conclusion of the agreement one can also draw up a tentative balance sheet of the first experiences in implementation.

THE HUMAN RIGHTS CONTENT OF THE "FINAL ACT"

The Helsinki Final Act comprises three main chapters—during the negotiations called "baskets", a fourth chapter on "follow-up" procedures, and a special section on "Questions relating to security and co-operation in the Mediterranean". Human rights and humanitarian matters appear in the Helsinki Final Act partly among the principles adopted to guide relations between the participating States (in Basket I), and partly among the concrete provisions of the document's third chapter ("Basket III"). From a legal point of view there appears to be some difference in application between the principles and the provisions.

There are ten fundamental principles which the signatories "declare their determination to respect and put into practice" as guides to their future relations. The seventh of these principles is "Respect for Human Rights and Fundamental Freedoms, including the freedom of thought, conscience, religion or belief".[1] Its full text is reproduced as Appendix I of this survey. We shall deal further below particularly with those clauses that relate to freedom of religion, the rights of national minorities, and the reaffirmation of the Universal Declaration of Human Rights and the International Covenants on Human Rights.

The concrete "Third Basket" *provisions* on "Co-operation in Humanitarian and Other Fields" regulate "Human Contacts", "Information", "Co-operation and Exchanges in the Field of Culture" and "Co-operation and Exchanges in the Field of Education". In Appendix II the texts of the preamble to the entire humanitarian chapter and of the section dealing with Human Contacts are reproduced. With regard to the rights of Soviet Jews this section deserves special attention but some other provisions are also relevant

THE RIGHT TO LEAVE

The Helsinki document does not use the term "emigration"; the Agenda document, as accepted by the Foreign Ministers of the 35 States in July 1973, spoke of facilitating "freer movement and contacts . . . among persons", with special attention being paid to "reunification of families". This terminology has been retained in the Final Act. In the Human Contacts section of the chapter on humanitarian provisions, the participating States have declared that they would

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[1] The other principles are: Sovereign equality and respect for the rights inherent in sovereignty; Refraining from the threat or use of force; Inviolability of frontiers; Territorial integrity of States; Peaceful settlement of disputes; Non-intervention in internal affairs; Equal rights and self-determination of peoples; Co-operation among States; Fulfilment in good faith of obligations under international law.

"Make it their aim *to facilitate freer movement and contacts*, individually and collectively, whether privately or officially, among persons, institutions and organisations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connection . . ."[2]

Concretely, they expressed their intention to implement the following in regard of "Reunification of Families" (sub-section b):

(a) They ". . . will deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family . . .".

(b) Such applications will be dealt with "as expeditiously as possible".

(c) Charges and fees connected with such applications will be moderate and payable only when the application is granted.

(d) Rejected applications may be renewed within reasonably short intervals.

(e) Persons leaving their country for family reunification will be able to take with them their personal effects and household goods.

(f) The problem of "harassment" is to a certain extent dealt with in the assurance that application "will not modify the rights and duties of the applicants or of members of his family". This provision makes it illegal to dismiss applicants from their jobs or discriminate against them in any other way.

(g) It is further provided that, prior to the actual reunification, people will have an opportunity to be in contact with members of their families abroad and even meet them. Past experiences of Soviet Jews in having letters from members of their families and particularly invitations for reunion intercepted or confiscated by the authorities, would appear to be prohibited by this clause.

Reunification of families does not, of course, cover the entire problem of free emigration; but it is an essential part of Jewish emigration in view of the separation of so many Jewish families as a result of Nazi persecution, war and geo-political changes in Europe. In fact, the emigration of Soviet Jews during the past few years was based on the notion that it is facilitating the reunification of families. This is manifested by the fact that as a first step in the emigration process the applicant must produce a written certified invitation (*vyzov*) from relatives abroad to join them.

But perhaps even more important, and certainly more general, than the "reunification of families" provisions is the following undertaking embodied in the Human Rights principle:

"In the field of human rights and fundamental freedoms, the participating States will *act in conformity* with the purposes and principles of the Charter of the United Nations and *with the Universal Declaration of Human Rights*. They will also *fulfill their obligations as set forth in the international declarations and agreement in this field, including inter alia the International Covenants on Human Rights*, by which they may be bound."

The Universal Declaration of Human Rights, which the Helsinki signatories thus promise to implement, states in Article 13/2:

"Everyone has the right to leave any country, including his own, and to return to his country."

The Soviet Union abstained in the voting on the Universal Declaration when it was adopted by the UN General Assembly on 10 December 1948. However, the Universal Declaration has become part of "customary international law" or of the "law of the United Nations", and in any case the USSR has indirectly approved the Universal Declaration by subsequently voting for international documents that refer to this Declaration. It must, of course, be remembered that the Universal Declaration of Human Rights itself is not a legally binding instrument but merely a "standard of achievement" or an authoritative guide to the interpretation of the UN Charter. This has not, however, prevented both Jews and dissidents in the USSR from effectively basing their campaign for their rights on the Universal Declaration. The undertaking in the Helsinki document to "act in conformity with the Universal Declaration of Human Rights" constitutes an unequivocal acceptance of the Universal Declaration by all Helsinki participants, including the Soviet Union—and in a formulation stronger than that used in the Universal Declaration, so much so that in the Helsinki document the Universal Declaration appears not just as a guide but as a norm for action.

Furthermore, the Helsinki Human Rights principle also pledges fulfilment of obligations under other international agreements. One of these agreements is undoubtedly the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965. Article 5, paragraph A, sub-section 2 of this Convention provides that each Contracting Party to the treaty guarantees "the right of everyone" to enjoy, among others, "the right to leave any country, including his own, and to return to his country".

This Convention is a legally binding instrument which has entered into force. The USSR ratified it on 4 February 1969 and is therefore bound by its provisions.

Specific reference is made in the Helsinki Human Rights principle to the two International Covenants on Human Rights. The one on Civil and Political Rights, adopted on 16 December 1966, also contains a provision on the right to leave. Article 12, paragraph 2, of the Covenant reads:

"Everyone shall be free to leave any country, including his own."

The USSR has ratified this Covenant on 16 October 1973. It is a legally binding instrument which will enter into force on 23 March 1976, three months after the thirty-fifth State has ratified it which has now taken place. It will then be binding in the USSR.

The reaffirmation, in the Human Rights principle, of the observance of existing international instruments is strengthened by another principle of the Helsinki Final Act: Principle X on "Fulfilment in good faith of obligations under international law", in which the participating States pledge themselves to fulfill "both those obligations arising from the generally recognized principles and rules of international law and those obligations arising from treaties and other agreements . . .".

To sum up: The Helsinki Declaration contains:

(a) Pledges to "facilitate freer movement" in general;

(b) Specific provisions on "reunification of families";

(c) Reaffirmation of other international instruments which—whether as a guide or as a legally binding commitment—stipulate the general freedom to leave one's country.

Do these points safeguard the right of Jews in the Soviet Union to leave for Israel, if they so wish? Or are the Helsinki agreements restricted to movement between the 35 participating States?

There can be no doubt that the Human Rights principle is of universal application. The Helsinki Final Act specifically states:

"The participating States declare their intention to conduct their relations *with all other States* in the spirit of the principles contained in the present Declaration."

Application to Israel is additionally safeguarded by the special section in the Final Act on "Questions relating to Security and Co-operation in the Mediterranean". This contains an explicit declaration that the Helsinki principles will be applied to "relations *with the non-participating Mediterranean States*". Since this Human Rights principle reaffirms the duty to observe the Universal Declaration of Human Rights, the Race Discrimination Convention and the Human Rights Covenants, it follows that these documents, with their provision on the "right to leave", have to be observed also in relation to Israel.

The provision on the "reunification of families" is silent about the question of applicability; it does not explicitly extend the provision to *all* (or the Mediterranean) States, but it does not restrict it either to reunion *within* the 35 participants. There are, however, strong reasons to claim that these provisions, too, demand universal application.

Firstly, reunification of families is really but one aspect of the more general "right to leave", upheld in the Human Rights principle. The preambular clause in the chapter on humanitarian co-operation states that such co-operation "should take place in full respect for the principles guiding relations among participating States . . .". If, therefore, one of the rights embodied in these principles is recognised in all relevant international instruments as applying to everybody and everywhere, it would be illogical to contend that a particular form of its exercise (and the one that from a humanitarian point of view is particularly urgent) should be applied more restrictively—unless there were cogent reasons for such a restriction and it was explicitly agreed upon.

Secondly, sub-section (c) in the same section, dealing with "Marriage between Citizens of Different States", is explicitly restricted to marriage with "a citizen *from another participating State*". The legitimate, and indeed customary interpretation of such different formulations in two clauses is that the drafters of the document clearly stated the restriction where they wished it to apply; and, by contrast, where such a restriction is not mentioned, it was not intended.

The first speaker at the Helsinki summit, Prime Minister Harold Wilson of the United Kingdom, certainly spoke in the spirit of a universal interpretation when he said:

". . . There is no reason why, in 1975, Europeans should not be allowed to marry them whom they want, hear and read what they want, *travel abroad when and where they want*, meet whom they want. And to deny that proposition is a sign not of strength but of weakness. . . .

What we have resolved in the work of CSCE should not be confined to this continent. For example, take *freedom of movement* of individuals and families—there has been welcome progress. But I hope that what we have each of us today committed ourselves to within Europe *can apply also to those within our countries who want to go to start a new life outside Europe, whether in the Middle East or elsewhere.*"

These statements were not challenged or contradicted by any of the 34 statesmen who spoke subsequently.

The British Prime Minister was even more specific when he reported on the Helsinki Conference to the House of Commons on 5 August 1975. He stated that he had made clear in Helsinki that free movement of peoples "also relates to the movements of citizens to States beyond European borders. I have in mind, as I have emphasized many times, Soviet Jews being free to move to the Middle East".[3] None of the numerous comments in the Soviet and East European press criticising Western interpretations of

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[2] Emphasis throughout is added.

[3] Parliamentary Debates (Hansard), House of Commons, vol. 897, col. 234.

Helsinki, has taken issue with Mr. Wilson's point.

THE RIGHT TO LIVE AS JEWS

Jews are recognised in the Soviet Union as a national minority (nationality); and the Jewish religion is one of the recognised religions. There are clauses in the Helsinki Final Act that relate to both these aspects of Jewish life and ought to lead to better opportunities for Soviet Jews to live as Jews in the USSR.

(1) *Religion:*

The Human Rights principle contains this paragraph:

"Within this framework [of respect for human rights and fundamental freedoms] the participating States will recognise and respect *the freedom of the individual to profess and practise, alone or in community with others, religion* or belief acting in accordance with the dictates of his own conscience."

The specific reference to religious practice "in community with others" must be seen as an international confirmation of the right of existence of religious communities as such.

In the chapter on humanitarian co-operation there is a specific section on "Travel for Personal and Professional Reasons", which includes the following provision:

They [the participating States] confirm that *religious faiths, institutions and organisations,* practising within the constitutional framework of the participating States, and their representatives *can,* in the field of their activities, *have contacts and meetings among themselves and exchange information."*

If fully implemented, this would mean that Soviet Jews would be free to attend international Jewish conferences, at least on religious subjects.

The re-affirmation, in the Helsinki Human Rights principle (Principle VII) and in Principle X, of other international instruments is also relevant as some of them embody various aspects of the freedom of religion.

(2) *National Minority Rights:*

The Human Rights principle deals specifically also with national minorities:

"The participating States on whose territory national minorities exist *will respect the right of persons belonging to such minorities to equality before the law,* will afford them the *full opportunity for the actual enjoyment of human rights and fundamental freedoms* and will, in this manner, *protect their legitimate interests* in this sphere."

Beyond this pledge of non-discrimination, the sections on culture and education (in the humanitarian chapter) each contain a provision that can be regarded as a lever to promote the cultural and educational activities of national minority groups. The provision reads as follows in the section on "Co-operation and Exchanges in the Field of Culture":

"National minorities or regional cultures. The participating States, recognizing the contribution that national minorities or regional cultures can make to co-operation among them in various fields of culture, intend, when such minorities or cultures exist within the territory, *to facilitate this contribution,* taking into account the legitimate interests of their members."

The text in the section on "Co-operation and Exchanges in the Field of Education" is identical except that it speaks of "contribution . . . to various fields of *education".*

The right of national minorities to cultural self-expression is indirectly confirmed also by the re-affirmation of other international instruments in the Human Rights principle (Principle VII) and in Principle X. Two international agreements are particularly relevant. One is the UNESCO Convention against Discrimination in Education, adopted on 14 December 1960 and ratified by the USSR on 1 August 1962, which in Article 5(c) recognises:

". . . the right of members of national minorities to carry on their own educational activities, including *the maintenance of schools* and, depending on the educational policy of each State, the use or the *teaching of their own language . . ."*

provided this does not affect the ability of minority members to share the culture and language of the country, the standard of minority schools is adequate, and attendance is optional.

The other instrument is the aforementioned International Covenant on Civil and Political Rights; its Article 27 stipulates:

"In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities *shall not be denied the right,* in community with the other members of their group, *to enjoy their own culture, to profess and practice their own religion, or to use their own language."*

The wide range of the Helsinki provisions for co-operation in the field of culture and education at large could also be of considerable benefit to Soviet Jewry. There is, for instance, a special provision "to expand and improve . . . co-operation and links in the field of culture, in particular by . . . contributing to the development of direct communication and co-opertaion among . . . non-governmental organisations" and "encouraging direct contacts and communications among persons engaged in cultural activities . . .". Also "travel and meetings" by "persons active in the field of culture" are to be promoted.

THE FORCE OF THE HELSINKI PLEDGES

The importance of all these pledges has been questioned by the criticism that they are without legal force. The Helsinki Final Act is, in fact, not a treaty, not a binding covenant, but merely a solemn declaration of intent—even though the document is replete with phrases such as: the participating States *"will* respect, recognise, promote, refrain from; *will* fulfill their obligation . . .; *declare their determination . . ., are resolved* to apply, put into practice, carry out . . .". In the concluding chapter the participating States "declare their *resolve . . . to implement* the provisions of the Final Act. . ." and, further, declare *"their determination to act in accordance with the provisions* contained in the above texts. . . ."This is, indeed, language quite unusual in a purely declaratory document, making the Helsinki Final Act a *sui generis* international instrument.

In any event, the fact that the Final Act is not legally binding does not make it valueless or even of little importance. The Universal Declaration of Human Rights, as has been explained above, is also a document without binding legal force. Yet many years' experience has shown what great moral force. and indeed legal effects, this international instrument has had as a standard of behaviour. The Helsinki Final Act can—in the more limited European context—fulfill a similar role, merely on the strength of its moral value. As the British Prime Minister, Harold Wilson, said in Helsinki: it is "a moral commitment to be ignored at our mutual peril."

There is another factor that may be even more powerful than moral, or even legal force—and that is political interest. The Final Act is essentially a political document. It is a product of détente and an essential element in promoting the progress of détente, making it—in the words of the Final Act—"a continuing and increasingly viable and comprehensive process". It was mentioned earlier that the Soviets pursue very concrete and specific objectives through continued détente which they would not easily risk through disregard of the Helsinki agreements. The Soviet Union has been, therefore, particularly forthcoming in regard to the juridical character of the Final Act and has almost vested it with the force of a legal commitment. Party Secretary Brezhnev said in Helsinki:

"We assume that all countries represented at the Conference *will implement the undertakings* reached. *As regards the Soviet Union, it will act precisely in this manner."*

This phrase re-appears almost verbatim in the "Official Announcement on the Results of the Conference on Security and Co-operation in Europe" issued jointly by the Politburo of the CPSU Central Committee, Presidium of the USSR Supreme Soviet and USSR Council of Ministers on 6 August 1975. This announcement also endows the Helsinki agreements with the sanctity of Leninist principles on peaceful co-existence and international co-operation.

Izvestiya added on 8 August 1975 that the Helsinki principles "should be put to practical use and *made a law of international life which is not to be breached by anyone".*

Doubts on the Soviet interpretation arose when Party Secretary Brezhnev was quoted to have said in Yalta on 15 August 1975 to the 18 U.S. Congressmen visiting the USSR that some provisions of the Helsinki Declaration were "of a binding nature", while "others will be fulfilled according to agreements on the part of the States". He referred especially to the freedom of information clause in Basket III, adding "that is to be fulfilled according to agreements. But all this will be seen as time goes on".[4] However, when Terry Sanford, President of Duke University and a U.S. presidential aspirant, two days later asked Soviet Premier Alexi Kosygin for his comments on the impression gained that the Soviets differentiated between various sections of the Helsinki accord, "Mr. Kosygin said that that just was not so and went to some length to stress that they intended to be bound by the total agreement".[5]

Four months later, at the 7th Congress of the Polish United Workers' Party (8–12 December 1975) Brezhnev said once more:

"We stand for consistently *putting the concrete points* of the Final Act of the Conference *into practice."*

A Soviet commentator, Valentin Yaroslavtsev, in the November 1975 issue of the (multi-lingually published) Soviet journal *New Times* went even further by ascribing a definite legal character to the commitment:

"The signatures affixed to the Final Act *have* also *a legal significance—they made it a binding international document."*

Naturally, one is aware that many of these statements are made primarily for propagandistic effect, and some skepticism is therefore justified. But there is no reason why one should not take them at their face value.

The acceptance of the Helsinki accord as a commitment appears not only in Communist speeches and writing but even in the closing communiqué of the first post-Helsinki East-West summit, the meeting between French President Giscard d'Estaing and Brezhnev in Moscow in October 1975. In their joint declaration the two leaders declared on behalf of their countries:

"They declare their resolve to observe strictly and to implement in all fields of their mutual relations the principles of relations between States in the spirit in which they were expressed by the [Helsinki] Conference. . . . *They also express their intention to implement fully all the provisions* of the Final Act concerning . . . co-operation in

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[4] *International Herald Tribune and Daily Telegraph,* 16 August 1975.

[5] Mr. Sanford's press conference, *International Herald* Tribune, 19 August 1975.

humanitarian fields (contacts between people, information, co-operation and exchanges in the field of culture and education)."

HUMAN RIGHTS ARE NOT INTERNAL AFFAIRS

One of the ten Helsinki principles is "Non-intervention in Internal Affairs", that is, in matters "falling within the domestic jurisdiction of another participating State . . .". In the past, the Communist bloc countries have consistently claimed—for instance, in a connection with the analogous Article 2/7 ofthe Charter of the United Nations regarding non-intervention in "essentially" domestic matters—that a State's practices in regard to human rights are its domestic concern. This Communist point of view was always under challenge by others who pointed out that the human rights provisions of the UN Charter and the various international conventions on human rights created international obligations. In the case of the Helsinki Declaration this has been made particularly obvious since the Final Act states:

"*All the principles* . . . are of primary significance and, accordingly, they *will be equally and unreservedly applied*, each of them being interpreted taking into account the others."

Thus, the principle of non-intervention in internal affairs cannot be invoked without taking into account the obligations deriving from the human rights principle. Both principles are a guide to inter-state relations and both are of equal status. The Swedish Prime Minister, Olaf Palme, put this clearly in Helsinki when he said:

"But something has been gained in that it has been possible to include in the Final Act certain principles that also *affect the internal conditions* of participating States. *The respect for human rights has been accepted as a norm of equal rank with other principles of international relations*. We recognize thereby that flagrant violations of these rights cannot but affect the climate of détente. Agreements have been reached on improved human contacts across frontiers and better access to information from each other."

Prime Minister Anker Jorgensen of Denmark defined the interrelation of domestic and international matters in this way:

"Most of the provisions [of the Final Act] *require essentially unilateral implementation*. The fullest implementation by all countries is therefore *basic for the continuation of the multilateral process*."

Leonid Brezhnev himself stated in Helsinki on the CSCE principles (and that includes the Human Rights principle) that they must be "made a law of international life not to be breached by anyone"; but he also said that "no-one should try to dictate to other peoples . . . the manner in which they ought to manage their internal affairs". In his Warsaw speech at the Polish Party Congress he criticised those who "pick out little bits and pieces" of the Final Act as are "tactically convenient" to them; quite obviously, he was referring to Western critics who complain that the Soviets have so far failed to implement the humanitarian provisions.

This seeming contradiction between insistence on non-interference in internal affairs and acceptance of the Helsinki principles as international obligations can be juridically correctly resolved only by accepting that human rights transcend the area of internal affairs.

It was agreed in Helsinki—in Principle X of the Final Act—that:

"In exercising their sovereign rights, including *the right to determine their laws and religions, they* [the participating States] *will conform with their legal obligations under international law;* they will furthermore *pay due regard to and implement the provisions in the Final Act. . . .*"

No doubt it was on this basis that the above-cited Soviet commentary by V. Yaroslavtsev wrote:

"The requirement that the provisions of the Final Act be carried out . . . *relates also* to actions by participating States in the exercise of their sovereign rights moreover *in the sphere of legislation ordinarily not subject to international legislation*."

Soviet laws ought therefore to conform to the provisions of the Final Act. This is the meaning of the Helsinki document and this is its Soviet interpretation. In fact, in the ongoing discussion on the correct interpretation of the Helsinki agreements, Communist spokesmen and commentators have criticised Western concerns with the Declaration's human rights content as taking matters out of balance rather than as interference in domestic matters; and they retort, as did the veteran Politburo member Pelshe at the Moscow anniversary parade of the Revolution on 7 November, that those who "shoot arrows of criticism" at the USSR on the question of human rights "will not find a vulnerable target here. Human rights in our country are quite real and effective, more full and effective than in any capitalist country".

PROCEDURE OF IMPLEMENTATION

The participating States agreed in the Helsinki document to implement the provisions of the Final Act through unilateral, bilateral and multilateral action. But they have provided no mechanism for supervision or enforcement, only agreed to "a thorough exchange of views . . . on the implementation" and to the holding of a meeting of their representatives in Belgrade in 1977 for the discussion, *inter alia*, of implementation. Other meetings may follow at unspecified dates.

However, the unilateral-bilateral-multilateral implementation envisaged in the Final Act need not wait till 1977; that date is only the date of accounting. If matters that lend themselves to unilateral implementation are not acted upon in one State, there is nothing to prevent another participating State from urging such action. Although no control machinery prior to 1977 has been established, each State is free to adopt its own method of monitoring the implementation.

In the USA, for instance, Congresswoman Millicent Fenwick has already introduced a Bill in the House of Representatives (H.R. 9466) providing for the establishment of an appropriate watchdog committee. The Bill has been introduced into the Senate by Senator Case. It is now pending before the Subcommittee on International Political and Military Affairs of the House International Relations Committee. Because of the political nature of the Helsinki document, it is particularly susceptible to democratic pressure by another State or, indeed, public opinion. Such pressure, if it is to be effective, should be persuasive and hortatory rather than accusatory. It should make clear to the Soviets that there is a link between all the issues dealt with in Helsinki and, indeed, all issues covered by the détente process, and that unless there is movement across a broad front, including humanitarian matters, the entire fabric of détente is jeopardized and the Soviets would put at hazard all the benefits they wish to derive from further relaxation of tension.

So far, the first six months since the Helsinki signature have not been encouraging. There has been advance notification of manoeuvres, and in the humanitarian field there has been one tangible concession in the USSR: easing of certain travel restrictions applying to foreign journalists. (This corresponds to a specific provision of the Final Act.) There are also uncorroborated reports that Western newspapers are available in Moscow. But at the same time restrictions have in some respects been tightened rather then relaxed. Reprehensible as this is, it is not entirely surprising to the student of Soviet psychology: The Soviets see an increased danger of Western "ideological contamination" in the improved exchange of information that ought to follow from the Helsinki accord; the purity of the Communist ideology can therefore be preserved and protected only by stamping out all non-conformism. After all, the Soviets made it clear that détente to them does not mean the end of the ideological struggle; they have firmly rejected, for instance, Giscard d'Estaing's suggestion, during his Moscow visit, of an "ideological détente".

In regard to Soviet Jews, the balance sheet is equally disappointing. Official (but alas, not representative) religious Jewish bodies may have been allowed a modicum of contact with Jews abroad but those Soviet Jews who wish to leave the country suffer the same hardship as before. The total number of Jews permitted to leave was down to 13,209 in 1975[6]—a reduction of 33 per cent as compared with 1974 and of 65 per cent as compared with 1973. The rate has not appreciably increased since Helsinki; it was an average of 1,030 per month in the first seven months of 1975 and 1,199 since 1 August, the signing of the Helsinki accord—a difference that is more likely due to administrative vagaries than any conscious policy decision. Harassment and legal prosecution of applicants, on the other hand, has not declined. The Jewish prisoners of conscience, convicted in connection with their attempt to join their families abroad (though the formal charges may have been different), have not been pardoned. Facilities for the exercise of Jewish religious life or minority culture have not been improved; on the contrary, Jewish cultural literature has recently been confiscated from many Jewish "activists".

The first positive sign was the announcement in January 1976 of an amendment to the Soviet "Regulations on Entry to the USSR and Exit from the USSR" which, on the face of it, meant some easing of the procedures, e.g., slight reduction of exit visa fee, abolition of the requirement of a character reference ("*kharakteristika*"). Only the practice will show the actual significance of these changes.

So often in history, the treatment by a country of its Jewish minority has turned out to be the test of that country's decent behaviour. In the case of Helsinki, the application of the humanitarian provisions of the Final Act to Soviet Jews could well be one of the convincing tests of the USSR's good intentions in regard to the document as a whole, and particularly its humanitarian aspects. Soviet Jews, starved of their human rights and of facilities for religious and cultural life, rightly expect that the Soviet authorities consider them an important element in promoting the spirit of Helsinki—and World Jewry shares in this expectation.

Appendix I: Excerpt From the Final Act of the Conference on Security and Co-operation in Europe

Principle VII (guiding relations between Participating States) Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief

The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

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[6] Soviet sources, notably Boris Shumilin, USSR Deputy Minister of Internal Affairs, in an interview with Novosti Press Agency on 22 January 1976 gave the 1975 figure as 11,700. The higher figure is based on Israeli sources.

They will promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development.

Within this framework the participating States will recognize and respect the freedom of the individual to profess and practise, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.

The participating States on whose territory national minorities exist will respect the right of persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere.

The participating States recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation among themselves as among all States.

They will constantly respect these rights and freedoms in their mutual relations and will endeavour jointly and separately, including in co-operation with the United Nations, to promote universal and effective respect for them.

They confirm the right of the individual to know and act upon his rights and duties in this field.

In the field of human rights and fundamental freedoms, the participating States will act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights. They will also fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound.

APPENDIX II: EXCERPT FROM THE FINAL ACT OF THE CONFERENCE ON SECURITY AND CO-OPERATION IN EUROPE

CO-OPERATION IN HUMANITARIAN AND OTHER FIELDS

The participating States:

Desiring to contribute to the strengthening of peace and understanding among peoples and to the spiritual enrichment of the human personality without distinction as to race, sex, language or religion,

Conscious that increased cultural and educational exchanges, broader dissemination of information, contacts between people, and the solution of humanitarian problems will contribute to the attainment of these aims,

Determined therefore to co-operate among themselves, irrespective of their political, economic and social systems, in order to create better conditions in the above fields, to develop and strengthen existing forms of co-operation and to work out new ways and means appropriate of these aims,

Convinced that this co-operation should take place in full respect for the principles guiding relations among participating States as set forth in the relevant document,

Have adopted the following:

1. Human contacts

The participating States,

Considering the development of contacts to be an important element in the strengthening of friendly relations and trust among peoples.

Affirming, in relation to their present effort to improve conditions in this area, the importance they attach to humanitarian considerations,

Desiring in this spirit to develop, with the continuance of détente, further efforts to achieve continuing progress in this field,

And conscious that the question relevant hereto must be settled by the States concerned under mutually acceptable conditions,

Make it their aim to facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connexion,

Declare their readiness to these ends to take measures which they consider appropriate and to conclude agreements or arrangements among themselves, as may be needed, and

Express their intention now to proceed to the implementation of the following:

(a) *Contacts and Regular Meetings on the Basis of Family Ties*

In order to promote further development of contacts on the basis of family ties the participating States will favourably consider applications for travel with the purpose of allowing persons to enter or leave their territory temporarily, and on a regular basis if desired, in order to visit members of their families.

Applications for temporary visits to meet members of their families will be dealt with without distinction as to the country of origin or destination: existing requirements for travel documents and visas will be applied in the spirit. The preparation and issue of such documents and visas will be effected within reasonable time limits; cases of urgent necessity—such as serious illness or death—will be given priority treatment. They will take such steps as may be necessary to ensure that the fees for official travel documents and visas are acceptable.

They confirm that the presentation of an application concerning contacts on the basis of family ties will not modify the rights and obligations of the applicant or of members of his family.

(b) *Reunification of Families*

The participating States will deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family, with special attention being given to requests of an urgent character—such as requests submitted by persons who are ill or old.

They will deal with applications in this field as expeditiously as possible.

They will lower where necessary the fees charged in connexion with these applications to ensure that they are at a moderate level.

Applications for the purpose of family reunification which are not granted may be renewed at the appropriate level and will be reconsidered at reasonably short intervals by the authorities of the country of residence or destination, whichever is concerned; under such circumstances fees will be charged only when applications are granted.

Persons whose applications for family reunification are granted may bring with them or ship their household and personal effects; to this end the participating States will use all possibilities provided by existing regulations.

Until members of the same family are reunited meetings and contacts between them may take place in accordance with the modalities for contacts on the basis of family ties.

The participating States will support the efforts of Red Cross and Red Crescent Societies concerned with the problems of family reunification.

They confirm that the presentation of an application concerning family reunification will not modify the rights and obligations of the applicant or of members of his family.

The receiving participating State will take appropriate care with regard to employment for persons from other participating States who take up permanent residence in that State in connexion with family reunification with its citizens and see that they are afforded opportunities equal to those enjoyed by its own citizens for education, medical assistance and social security.

(c) *Marriage between citizens of different states*

The participating States will examine favourably and on the basis of humanitarian considerations requests for exit or entry permits from persons who have decided to marry a citizen from another participating State.

The processing and issuing of the documents required for the above purposes and for the marriage will be in accordance with the provisions accepted for family reunification.

In dealing with requests from couples from different participating States, once married, to enable them and the minor children of their marriage to transfer their permanent residence to a State in which either one is normally a resident, the participating States will also apply the provisions accepted for family reunification.

(d) *Travel for personal or professional reason*

The participating States intend to facilitate wider travel by their citizens for personal or professional reasons and to this end they intend in particular:

—gradually to simplify and to administer flexibly the procedures for exit and entry;

—to ease regulations concerning movement of citizens from the other participating States in their territory, with due regard to security requirements.

They will endeavor gradually to lower, where necessary, the fees for visas and official travel documents.

They intend to consider, as necessary, means—including, insofar as appropriate, the conclusion of multilateral or bilateral consular conventions or other relevant agreements or understandings—for the improvement of arrangements to provide consular services, including legal and consular assistance.

They confirm that religious faiths, institutions and organizations, practising within the constitutional framework of the participating States, and their representatives can, in the field of their activities, have contacts and meetings among themselves and exchange information.

(e) *Improvement of conditions for tourism on an individual or collective basis*

The participating States consider that tourism contributes to a fuller knowledge of the life, culture and history of other countries, to the growth of understanding among peoples, to the improvement of contacts and to the broader use of leisure. They intend to promote the development of tourism, on an individual or collective basis, and, in particular, they intend:

to promote visits to their respective countries by encouraging the provision of appropriate facilities and the simplification and expediting of necessary formalities relating to such visits;

to increase, on the basis of appropriate agreements or arrangements where necessary, co-operation in the development of tourism, in particular by considering bilaterally possible ways to increase information relating to travel to other countries and to the reception and service of tourists, and other related questions of mutual interest.

(*f*) *Meetings among young people*

The participating States intend to further the development of contacts and exchanges among young people by encouraging:

Increased exchanges and contacts on a short or long term basis among young people working, training or undergoing education through bilateral or multilateral agreements or regular programmes in all cases where it is possible;

Study by their youth organizations of the question of possible agreements relating to frameworks of multilateral youth co-operation;

Agreements or regular programmes relating to the organization of exchanges of students, of international youth seminars, of courses of professional training and foreign language study;

The further development of youth tourism and the provision to this end of appropriate facilities;

The development, where possible, of exchanges, contacts and co-operation on a bilateral or multilateral basis between their organizations which represent wide circles of young people working, training or undergoing education;

Awareness among youth of the importance of developing mutual understanding and of strengthening friendly relations and confidence among peoples.

(*g*) *Sport*

In order to expand existing links and cooperation in the field of sport, the participating States will encourage contacts and exchanges of this kind, including sports meetings and competitions of all sorts, on the basis of the established international rules, regulations and practice.

(*h*) *Expansion of contacts*

By way of further developing contacts among governmental institutions and nongovernmental organizations and associations, including women's organizations, the participating States will facilitate the convening of meetings as well as travel by delegations, groups and individuals.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Johnson of Colorado) and to revise and extend their remarks and include extraneous matter:)

Mr. Talcott, for 5 minutes, today.

Mr. Skubitz, for 5 minutes, today.

Mr. Grassley, for 5 minutes, today.

Mrs. Heckler of Massachusetts, for 10 minutes, today.

(The following Members (at the request of Mrs. Keys) to revise and extend their remarks and include extraneous matter:)

Mr. Gonzalez, for 5 minutes, today.

Mrs. Meyner, for 5 minutes, today.

Mr. Rosenthal, for 15 minutes, today.

Mr. Patterson of California, for 5 minutes, today.

Mr. Bingham, for 15 minutes, today.

Mr. Jacobs, for 30 minutes, today.

Mr. Jones of Oklahoma, for 5 minutes, today.

Mr. Rostenkowski, for 5 minutes, today.

Mr. Dominick V. Daniels, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Johnson of California, prior to passage of H.R. 1404 on the Private Calendar in the House today.

Mr. Eilberg, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,502.

Mr. Wampler, and to include extraneous matter, on H.R. 10760 in the Committee of the Whole today.

(The following Members (at the request of Mr. Johnson of Colorado) and to include extraneous matter:)

Mr. Shuster.

Mr. Shriver.

Mr. Rhodes.

Mr. Lagomarsino.

Mr. Brown of Michigan.

Mr. Sarasin.

Mr. Archer.

Mr. Jeffords.

Mr. Frey.

Mr. Findley in two instances.

Mr. Skubitz.

Mr. Michel.

Mr. Bell.

Mr. du Pont in two instances.

Mr. Whitehurst.

Mr. Peyser.

Mr. Brown of Ohio in two instances.

Mr. Derwinski.

Mr. Don H. Clausen

Mr. Lujan in two instances.

(The following Members (at the request of Mrs. Keys) and to include extraneous material:)

Mr. Drinan in two instances.

Mr. Eckhardt.

Mr. Waxman.

Mr. Gonzalez in three instances.

Mr. Anderson of California in three instances.

Mr. Jacobs.

Mr. McCormack.

Mr. Hall.

Mr. Giaimo.

Mr. Neal.

Mr. Breaux.

Ms. Chisholm.

Mr. Ullman.

Mr. Howard.

Mr. Addabbo in two instances.

Mr. Rosenthal in 10 instances.

Mrs. Sullivan.

Mr. Jones of Oklahoma.

Mr. Aspin in 10 instances.

Mr. Fraser in 10 instances.

Mr. Chappell.

Mr. Dodd.

Mr. Harrington in five instances.

Mr. McDonald of Georgia in five instances.

Mr. Downey of New York in two instances.

Mr. Roe in two instances.

Mr. Solarz in two instances.

Mr. Riegle in two instances.

Mr. Conyers.

Mr. Stokes.

Mr. Mottl.

Mr. de Lugo.

Mr. Edwards of California in two instances.

Mr. Brinkley.

Mr. Zeferetti.

Mr. Jones of Tennessee.

Mr. Risenhoover in five instances.

Mr. Richmond.

Ms. Abzug.

Mr. Jones of North Carolina.

Mr. Wirth.

Mr. Maguire.

Mr. Bevill.

ENROLLED BILL SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 7824. An act to amend section 142 of title 13, United States Code, to change the date for taking censuses of agriculture, irrigation, and drainage, and for other purposes.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled Joint Resolution of the Senate of the following title:

S.J. Res. 59. A joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from May 16, 1976, through May 22, 1976.

ADJOURNMENT

Mrs. KEYS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 45 minutes p.m.) the House adjourned until tomorrow, Wednesday, March 3, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2684. A letter from the President of the United States, transmitting a statement of policy, a renewable resources assessment, and the Secretary of Agriculture's proposed renewable resources program, pursuant to section 7(a) of Public Law 93-378; to the Committee on Agriculture.

2685. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a proposed supplemental appropriation to implement the U.S. Emergency Refugee and Migration Assistance Fund authorized by the Foreign Relations Authorization Act, fiscal year 1976 (H. Doc. 94-393); to the Committee on Appropriations and ordered to be printed.

2686. A letter from the Assistant Secretary of Defense (Manpower and reserve Affairs), transmitting the military manpower training report for fiscal year 1977, pursuant to 10 U.S.C. 138(d)(2); to the Committee on Armed Services.

2687. A letter from the Assistant Secretary for Education, Department of Health, Education, and Welfare, transmitting the annual report of the National Center for Education Statistics on the condition of education in America, pursuant to section 406(d)(1) of the General Education Provisions Act, as amended (88 Stat. 557); to the Committee on Education and Labor.

2688. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on the activities of the Department under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2689. A letter from the Acting Secretary of the Treasury, transmitting a report on the activities of the Department under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2690. A letter from the Assistant Secretary of Defense (Public Affairs), transmitting a report on the activities of the Department under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2691. A letter from the Executive Director, Committee for Purchase from the Blind and other Severely Handicapped, transmitting a report on the activities of the committee under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2692. A letter from the Director, Office of Public Information, Commodity Futures Trading Commission, transmitting a report on the activities of the Commission under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2693. A letter from the Chairman, Equal Employment Opportunity Commission, transmitting a report on the activities of the Commission under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2694. A letter from the Senior Vice President, Export-Import Bank of the United States, transmitting a report on the activities of the Bank under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2695. A letter from the Acting Chairman, Federal Home Loan Bank Board, transmitting a report on the activities of the Board under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2696. A letter from the Acting National Director, Federal Mediation and Conciliation Service, transmitting a report on the activities of the Service under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 522(d); to the Committee on Government Operations.

2697. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting a report of the activities of the Board under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2698. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting a report of the activities of the Federal Open Market Committee of the Federal Reserve System under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2699. A letter from the Chairman, Marine Mammal Commission, transmitting a report on the activities of the Commisison under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2700. A letter from the Executive Secretary, National Mediation Board, transmitting a report on the activities of the Board under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2701. A letter from the Director, Office of Government and Public Programs, National Science Foundation, transmitting a report of the activities of the Foundation under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2702. A letter from the Director, Office of Administration, Nuclear Regulatory Commission, transmitting a report on the activities of the Commission under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2703. A letter from the Postmaster General, transmitting a report of the activities of the Postal Service under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2704. A letter from the Chairman, Renegotiation Board, transmitting a report on the activities of the Board under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2705. A letter from the Acting Director, U.S. Information Agency, transmitting a report on the activities of the Agency under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2706. A letter from the Director, Water Resources Council, transmitting a report on the activities of the Council under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2707. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the act of June 20, 1938, to authorize the purchase of lands for addition to Haleakala National Park on the Island of Maui, in the State of Hawaii, and for other purposes; to the Committee on Interior and Insular Affairs.

2708. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with MSA Research Corp., Evans City, Pa., for a research project entitled "Demonstration of Fire Suppression Systems on Underground Mining Equipment," pursuant to section 1(d) of Public Law 89-672; to the Committee on Interior and Insular Affairs.

2709. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 76-8, finding and determining that it is in the national interest of the United States to sell 100,000 metric tons of wheat/wheat flour to Morocco under title I of the Agricultural Trade Development and Assistance Act of 1954 as amended, pursuant to section 103(d)(3) of the act; to the Committee on International Relations.

2710. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by William W. Scranton, Ambassador-designate to the United Nations, and his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

2711. A letter from the Secretary of Transportation, transmitting a report on the activities of the Coast Guard in regulating vessels carrying certain cargoes in bulk, pursuant to section 203 of the Ports and Waterways Safety Act of 1972 (Public Law 92-340); to the Committee on Merchant Marine and Fisheries.

2712. A letter from the Secretary of Transportation, transmitting the fifth annual report of the Urban Mass Transportation Administration on capital assistance, technical studies, and relocation grants, covering calendar year 1975, pursuant to 84 Stat. 965; to the Committe on Public Works and Transportation.

2713. A letter from the Assistant Secretary of Agriculture, transmitting the comments of the Department of Agriculture on the Federal Trade Commission's "Staff Report on Agricultural Cooperatives"; jointly, to the Committees on Agriculture and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FRASER: Committee on International Relations. House Joint Resolution 606. Joint resolution to call an Atlantic Convention (Rept. No. 94-858). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON: Committee on House Administration. House Resolution 1011. Resolution providing funds for the expenses of the Committee on Standards of Official Conduct (Rept. No. 93-859). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 1014. Resolution providing funds for the expenses of investigations and studies to be conducted by the Committee on Armed Services. (Rept. No. 94-860). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 1021. Resolution providing for funds for the expenses of the investigation and study of the exploration and exploitation of the Outer Continental Shelf to be conducted by the ad hoc Select Committee on the Outer Continental Shelf (Rept. No. 94-861). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 1048. Resolution providing for funds for the further expenses of investigations and studies to be conducted by the Committee on Veterans' Affairs (Rept. No. 94-862). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 1055. Resolution to provide funds for the expenses of investigations and studies authorized by the Committee on Public Works and Transportation (Rept. 94-863). Referred to the House Calendar.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 11504. A bill to amend section 502(a) of the Merchant Marine Act, 1936; with amendment (Rept. No. 94-864). Referred to the Committee on the Whole House on the State of the Union.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 1054. Resoution to provide the Committee on Standards of Official Conduct with subpena power to carry out H. Res. 1042 (Rept. No. 94-865). Referred to the House Calendar.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 1067. Resolution providing for the consideration of H.R. 11124. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the safety and effectiveness of medical devices intended for human use, and for other purposes (Rept. No. 94-866). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 1068. Resolution providing for the consideration of H.R. 11963. A bill to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act to authorize international security assistance for fiscal year 1976, to provide for the termination of grant military assistance programs at the end of fiscal year 1977, and for other purposes (Rept. No. 94-867). Referred to the House Calendar.

Mr. MATSUNAGA: Committee on Rules. House Resoution 1069. Resolution waiving points of order against certain provisions of H.R. 12203. A bill making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1976, and for the period ending September 30, 1976, and for other purposes (Rept. No. 94-868). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California (for himself, and Mr. Waxman):

H.R. 12204. A bill to discourage the use of painful devices in the trapping of animals and birds; to the Committee on Merchant Marine and Fisheries.

By Mr. AuCOIN:

H.R. 12205. A bill to amend the U.S. Housing Act of 1937 for the purpose of providing more incentive for the construction and rehabilitation of units to be leased in connection with the program established by such act; to the Committee on Banking, Currency and Housing.

By Mr. BERGLAND (for himself and Mr. Pickle):

H.R. 12206. A bill to amend the Rural Electrification Act of 1936, as amended, to correct unintended inequities in the interest rate criteria for borrowers from the Rural Electrification Administration, and to make other technical amendments; to the Committee on Agriculture.

By Mr. BERGLAND (for himself, Mr. Madigan, Mr. Poage, and Mr. Wampler):

H.R. 12207. A bill to amend the Rural Electrification Act of 1936, as amended, to correct unintended inequities in the interest rate criteria for borrowers from the Rural Electrification Administration, and to make other technical amendments; to the Committee on Agriculture.

By Mr. BLANCHARD (for himself, Mr. Mineta, Mr. Krebs, Mr. Pattison of New York Mrs. Pettis, Mrs. Meyner Mr. Howe, Mr. Grassley, Mr. Wirth, Mr. Roe, Mr. Blouin, Mr. Hechler of West Virginia, Ms. Burke of California, Mr. Hawkins, Mr. Edgar, Mrs. Spellman, Mr. Hubbard, Mr. Mathis, Mr. Carr, Mr. Johnson of Pennsylvania, Ms. Keys, Mr. Beard of Rhode Island, Mr. Emery, Mr. Fuqua, and Mr. Jones of North Carolina):

H.R. 12208. A bill to provide for the elimination of inactive and overlapping Federal programs, to require authorizations of new budget authority for Government programs and activities at least every 4 years, to establish a procedure for zero-base review and evaluation of Government programs and activities every 4 years, and for other purposes; to the Committee on Rules.

By Mr. BLANCHARD (for himself, Mr. Mineta, Mr. Milford, Mr. Santini, Mr. Yatron, Mr. Neal, Mr. Jones of Oklahoma, Mr. Runnels, Mr. Miller of California, Mr. Charles Wilson of Texas, Mrs. Fenwick, Mr. Bafalis, Mr. Corman, Mr. Fithian, Mr. Baucus, Mr. Treen, Mr. Riegle, Mr. Diggs, and Mrs. Lloyd of Tennessee):

H.R. 12209. A bill to provide for the elimination of inactive and overlapping Federal programs, to require authorizations of new budget authority for Government programs and activities at least every 4 years, to establish a procedure for zero-base review and evaluation of Government programs and activities every 4 years, and for other purposes; to the Committee on Rules.

By Mr. COCHRAN:

H.R. 12210. A bill to amend the Internal Revenue Code of 1954 to exempt from taxation the pay received by members of the National Guard or of reserves components of the Armed Forces to the extent that such pay does not exceed $5,000; to the Committee on Ways and Means.

By Mr. DRINAN:

H.R. 12211. A bill to amend title 38 of the United States Code in order to extend the delimiting period for completing programs of education for veterans pursuing such programs at the close of such period; to the Committee on Veterans Affairs.

H.R. 12212. A bill to amend the Social Security Act to provide that the term "dependent child" includes a needy child living with the father, mother, or any other relative, of such child; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 12213. A bill to eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Okla.; to the Committee on Interior and Insular Affairs.

By Mr. FOUNTAIN:

H.R. 12214. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the estate tax exemption from $60,000 to $200,000; to the Committee on Ways and Means.

By Mr. GUDE (for himself and Ms. Spellman):

H.R. 12215. A bill to authorize the construction of a water diversion structure on the Potomac River, Md., subject to execution of an agreement providing for equitable allocation of available water during low flow periods of the Potomac River; to the Committee on Public Works and Transportation.

By Mr. HAWKINS:

H.R. 12216. A bill to amend the Domestic Volunteer Service Act of 1973 to extend the operation of certain programs by the ACTION Agency; to the Committee on Education and Labor.

By Mr. HELSTOSKI:

H.R. 12217. A bill to amend the Internal Revenue Code to provide for distribution of certain tax-exempt income received by regulated investment companies to shareholders without change in tax-exempt status; to the Committee on Ways and Means.

By Mr. HELSTOSKI (for himself, Mr. Ichord, and Mr. D'Amours):

H.R. 12218. A bill to amend the Tariff Schedules of the United States; to the Committee on Ways and Means.

By Mr. HUGHES:

H.R. 12219. A bill to amend title 5, United States Code, to include service during World War II in the U.S. merchant marine as military service for purposes of the civil service retirement system; to the Committee on Post Office and Civil Service.

By Mr. KEMP (for himself, Mr. LaFalce, and Mr. Nowak):

H.R. 12220. A bill to amend the Regional Rail Reorganization Act of 1973 to extend the period provided for certain designations made in the final system plan; to the Committee on Interstate and Foreign Commerce.

By Mr. McKAY:

H.R. 12221. A bill to provide for the conveyance of certain real property from the Secretary of the Interior to the city of Provo, Utah; to the Committee on Interior and Insular Affairs.

By Mr. MATSUNAGA (for himself and Mr. Won Pat):

H.R. 12222. A bill to amend the State Taxation of Depositories Act, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. MEEDS:

H.R. 12223. A bill to amend title 39, United States Code, to provide that the Postal Service may not close any post office serving a rural area or a small community or town unless such closing is approved by the Congress; to the Committee on Post Office and Civil Service.

By Mr. MIKVA:

H.R. 12224. A bill to amend section 1234 of the Internal Revenue Code of 1954 (relating to options to buy and sell) to provide that gain or loss on closing transactions shall be treated as capital gain or loss; to the Committee on Ways and Means.

By Mr. MIKVA (for himself, Mr. Rangel, Ms. Keys, Mr. Jacobs, and Mr. Rosenthal):

H.R. 12225. A bill to amend title XVI of tthe Social Security Act so as to provide for the referral, for appropriate rehabilitative services under approved State plans, of blind and disabled children who are receiving supplemental security income benefits; to the Committee on Ways and Means.

By Mr. MORGAN (for himself, Mr. Zablocki, Mr. Fraser, Mr. Hamilton, Mrs. Meyner, Mr. Bonker, Mr. Buchanan, Mr. Whalen, and Mr. Biester):

H.R. 12226. A bill to amend further the Peace Corps Act; to the Committee on International Relations.

By Mr. MOTTL:

H.R. 12227. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to require as a condition of assistance under such act that law enforcement agencies have in effect a binding law enforcement officers' bill of rights; to the Committee on the Judiciary.

By Mr. O'NEILL (for himself, Mr. Zeferetti, Mr. Badillo, and Mr. Mitchell of New York):

H.R. 12228. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the disposal of surplus real property to States and their political subdivisions, agencies, and instrumentalities for economic development purposes; to the Committee on Government Operations.

By Mr. PATTEN:

H.R. 12229. A bill to amend the Social Security Act by adding thereto a new title XXI which will provide insurance against the costs of catastrophic illness, by replacing the medicaid program with a Federal medical assistance plan for low-income people, and by adding a new title XV thereto which will encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges, and for other purposes; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. RODINO (by request):

H.R. 12230. A bill to improve the administration of State institutions holding persons involuntarily confined, and for other purposes; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 12231. A bill to amend the Immigration and Nationality Act to increase immigration from Western Hemisphere nations; to the Committee on the Judiciary.

By Mr. SIKES:

H.R. 12232. A bill establishing a joint congressional committee to study existing national forest policy and to make recommendations to Congress with respect to the establishment of national forest policy; to the Committee on Rules.

By Mr. STAGGERS (for himself and Mr. Devine) (by request):

H.R. 12233. A bill to consolidate Federal financial assistance to the 50 States, the District of Columbia, and the territories for programs in the field of health, to focus those programs on individuals most in need of them, and to eliminate unnecessary restrictions on the exercise of State responsibility for program administration; to the Committee on Interstate and Foreign Commerce.

By Mr. TAYLOR of North Carolina (for himself, Mr. Haley, Mr. Don H. Clausen, Mr. Johnson of California, Mr. Udall, Mr. Ruppe, Mr. Phillip Burton, Mr. Kastenmeier, Mr. Lujan, Mrs. Mink, Mr. Meeds, Mr. Sebelius, Mr. Kazen, Mr. Stephens, Mr. Steelman, Mr. Vigorito, Mr. Melcher, Mr. Young of Alaska, Mr. Roncalio, Mr. Bingham, Mr. Bauman, Mr. Seiberling, Mr. Won Pat, Mr. Lagomarsino, and Mr. Eckhardt):

H.R. 12234. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, and to amend the act of October 15, 1966, to establish a program for the preservation of additional historic properties throughout the Nation, as amended, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. TAYLOR of North Carolina (for himself, Mr. Benitez, Mrs. Pettis, Mr. Santini, Mr. Tsongas, Mr. Howe, Mr. Weaver, and Mr. Risenhoover):

H.R. 12235. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, and to amend the act of October 15, 1966, to establish a program for the preservation of additional historic properties throughout the Nation, as amended, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WHITEHURST (for himself, Mr. Badillo, Mr. Conte, Mr. Harrington, Mr. Ottinger, and Mr. Rodino):

H.R. 12236. A bill to require the Secretary of the Interior to make a comprehensive study of the wolf for the purpose of developing adequate conservation measures, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. ABDNOR:

H.R. 12237. A bill to amend the act entitled "An Act authorizing the Secretary of the Interior to arrange with States or Territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes", approved April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.); to the Committee on Education and Labor.

By Mr. BURGENER:

H.R. 12238. A bill to amend the Internal Revenue Code of 1954 to exempt certain agricultural aircraft from the aircraft use tax, to provide for the refund of the gasoline tax to the agricultural aircraft operator, and for other purposes; to the Committee on Ways and Means.

By Mr. CONABLE:

H.R. 12239. A bill to provide that income from certain public entertainment activities conducted by organizations described in section 501(c) (3), (4), or (5) shall not be unrelated trade or business income and shall not affect the tax exemption of the organization; to the Committee on Ways and Means.

By Mr. DERWINSKI (for himself, Mr. Biester, Mr. Conte, Mr. du Pont, Mr. Findley, Mr. Guyer, Mr. Lagomarsino, Mr. Whalen, and Mr. Winn):

H.R. 12240. A bill to provide for relief and rehabilitation assistance to the victims of the earthquakes in Guatemala, and for other purposes; to the Committee on International Relations.

By Mr. DERWINSKI (for himself and Mr. Neal):

H.R. 12241. A bill to revise the pay structure of executive positions in the U.S. Postal Service; to the Committee on Post Office and Civil Service.

By Mr. DEVINE (for himself and Mr. Brown of Ohio) (by request):

H.R. 12242. A bill to amend the Natural Gas Pipeline Safety Act of 1968, as amended, to authorize additional appropriations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 12243. A bill to amend the Federal Energy Administration Act of 1974 to extend the expiration date of such law until September 30, 1979, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GREEN:

H.R. 12244. A bill to make specific provisions for ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States; to the Committee on Ways and Means.

H.R. 12245. A bill to authorize appropriations to the International Trade Commission for fiscal year 1977, and for other purposes; to the Committee on Ways and Means.

By Mr. HAYES of Indiana (for himself, Mr. Baucus, Mr. Cohen, Mr. Howard, Mrs. Keys, Mr. LaFalce, Mr. Litton, Mr. Mitchell of Maryland, Mr. McHugh, Mr. Richmond, Mr. Riegle, Mr. Rodino, Mr. Roncalio, Mr. Simon, and Mr. Thone):

H.R. 12246. A bill to authorize and direct the establishment of a coordinated national program relating to climate, to require an annual report of the program to Congress, and for other purposes; to the Committee on Science and Technology.

By Mr. LUJAN:

H.R. 12247. A bill to authorize the Secretary of the Interior to accept additional land for the Pecos National Monument in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. McDADE:

H.R. 12248. A bill to increase the amount authorized to be appropriated for the elderly housing program established by section 202 of the Housing Act of 1959; to the Committee on Banking, Currency and Housing.

H.R. 12249. A bill to establish a civilian conservation corps in the Departments of Agriculture and Interior, and for other purposes; to the Committee on Education and Labor.

H.R. 12250. A bill to authorize a local public works capital development and investment program, to amend the Public Works and Economic Development Act of 1965 to increase the antirecession area effectiveness of the program, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. McDADE (for himself, Mr. Flowers, Mr. Mollohan, and Mr. Stuckey):

H.R. 12251. A bill to amend section 5701 (a) (2) of the Internal Revenue Code of 1954 so as to change the bracket tax on cigars to an ad valorem tax; to the Committee on Ways and Means.

By Mr. RISENHOOVER:

H.R. 12252. A bill to amend title 18, United States Code, to prohibit the posting of campaign signs on private property without the express approval of the owner or tenant; to the Committee on the Judiciary.

By Mr. RODINO (by request):

H.R. 12253. A bill to amend title 18 of the United States Code as it pertains to the immunity of certain witnesses; to the Committee on the Judiciary.

By Mr. ROSTENKOWSKI:

H.R. 12254. A bill to suspend the duties on certain bicycle parts and accessories until the close of December 31, 1979; to the Committee on Ways and Means.

By Mr. SCHEUER (for himeslf, Ms. Abzug, Mr. Badillo, Mr. Baucus, Mr. Blouin, Mr. Brown of California, Ms. Chisholm, Mr. Downey of New York, Mr. Drinan, Mr. Edwards of California, Mr. Eilberg, Mr. Gude, Mr. Harrington, Mr. Hawkins, Ms. Holtzman, Mr. Koch, Mr. Long of Maryland, Mr. Maguire, Mr. Mitchell of Maryland, Mr. Ottinger, Mr. Rosenthal, Mr. Stark, Mr. Tsongas, and Mr. Neal):

H.R. 12255. A bill to amend the War Powers Resolution to make such resolution applicable in cases where agents or employees of the United States are engaged in hostilities in a foreign country or are advising foreign military forces engaged in hostilities; to the Committee on International Relations.

By Mrs. SCHROEDER (for herself, Mr. Maguire, Mr. Seiberling and Mr. Eilberg):

H.R. 12256. A bill to amend title 38 of the United States Code in order to extend from 10 years to 15 years the period in which veterans' educational assistance may be used; to the Committee on Veterans' Affairs.

By Mr. BRADEMAS (for himself, Mr. Quie, Mr. O'Hara, Mr. Ford of Michigan, Mr. Buchanan, Mrs. Smith of Nebraska, Mr. Abdnor, Ms. Abzug, Mr. Addabbo, Mr. Alexander, Mr. Anderson of Illinois, Mr. Andrews of North Dakota, Mr. Annunzio, Mr. Badillo, Mr. Barrett, Mr. Bedell, Mr. Bergland, Mr. Bevill, Mr. Boland, Mr. Brinkley, Mr. Brodhead, Mr. Brown of Ohio, Mr. Brown of California, Mr. Burke of Massachusetts, and Mr. Carr):

H.J. Res. 835. Joint resolution to provide for the designation of the second full calendar week in March 1976 as National Employ the Older Worker Week; to the Committee on Post Office and Civil Service.

By Mr. BRADEMAS (for himself, Mr. Cohen, Mr. Conte, Mr. Corman, Mr. D'Amours, Mr. Dellums, Mr. de Lugo, Mr. Derrick, Mr. Downey of New York, Mr. Gilman, Mr. Goldwater, Ms. Holtzman, Mr. Helstoski, Mr. Heinz, Ms. Keys, Mr. Karth, Mr. Krueger, Mrs. Lloyd of Tennessee, Mr. McDade, Mr. MacDonald of Massachusetts, Mr. Maguire, Mr. Melcher, Mr. Moakley, Mr. Mollohan, and Mr. Moorhead of Pennsylvania):

H.J. Res. 836. Joint resolution to provide for the designation of the second full calendar week in March 1976 as National Employ the Older Worker Week; to the Committee on Post Office and Civil Service.

By Mr. BRADEMAS (for himself, Mr. Murphy of Illinois, Mr. Natcher, Mr. Mills, Mr. Davis, Mr. Findley, Mr. Fithian, Mr. Fauntroy, Mr. J. William Stanton, Mr. James V. Stanton, Mr. Solarz, Mr. Seiberling, Mr. Rosenthal, Mr. Rodino, Mr. Robinson, Mr. Rinaldo, Mr. Riegle, Mr. Richmond, Mr. Rangel, Mr. Broomfield, Mr. Staggers, Mr. Pickle, Mr. Hannaford, Mr. Sebelius, and Mr. Steiger of Wisconsin):

H.J. Res. 837. Joint resolution to provide for the designation of the second full calendar week in March 1976 as National Employ the Older Worker Week; to the Committee on Post Office and Civil Service.

By Mr. BRADEMAS (for himself, Mr. Pressler, Mr. Lagomarsino, Mr. Bennett, Mr. Young of Alaska, Mr. Young of Georgia, Mr. Won Pat, Mr. Charles H. Wilson of California, Mr. Whitehurst, Mr. White, Mr. Zablocki, Mr Udall, Mr. Traxler, Mr. Thone, Mr. Treen, Mr. Walsh, Mr. Scheuer, Mr. Ottinger, Mr. Roe, Mr. Patten, Mr. Koch, Mr. Lujan, Mr. Diggs, Mr. Danielson, and Mr. St Germain):

H.J. Res. 838. Joint resolution to provide for the designation of the second full calendar week in March 1976 as National Employ the Older Worker Week; to the Committee on Post Office and Civil Service.

By Mr. LAGOMARSINO:

H.J. Res. 839. Joint resolution designating the period March 1, 1976 through March 7, 1976, as National Weights and Measures Week; to the Committee on Post Office and Civil Service.

By Mr. WHITEHURST (for himself, Mr. Badillo, Mr. Conte, Mr. Harrington, Mr. Ottinger, and Mr. Rodino):

H.J. Res. 840. Joint resolution calling for an immediate moratorium on the killing of the eastern timber wolf; to the Committee on International Relations.

By Mr. DUNCAN of Tennessee:

H.J. Res. 841. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. HANNAFORD:

H. Con. Res. 571. Joint resolution expressing the sense of the Congress that former U.S. officials traveling abroad should not be considered to be spokesmen for the United States unless officially designated as such; to the Committee on International Relations.

By Mr. FLYNT:

H. Res. 1060. Resolution to provide for the expenses of the Committee on Standards of Official Conduct, for the investigations authorized by House Resolution 1042; to the Committee on House Administration.

By Mr. HANNAFORD (for himself, Mr. Badillo, Mr. Baucus, Mr. Bonker, Mr. Brown of California, Mr. Conyers, Mr. Edwards of California, Mr. Fauntroy, Mr. Frenzel, Mr. Litton, Mr. Lloyd of California, Mr. Long of Maryland, Mr. McKinney, Mr. Mazzoli, Mr. Mitchell of Maryland, Mr. Oberstar, Mr. Ottinger, Mr. Patten, Mr. Patterson of California, Mr. Pattison of New York, Mr. Reuss, Mr. Rodino, Mr. Scheuer, Mr. Stark, and Mr. Charles Wilson of Texas):

H. Res. 1061. Resolution to develop a multilateral code of conduct to eliminate bribery and other practices which burden multinational corporations; to the Committee on Banking, Currency and Housing.

By Mr. MORGAN:

H. Res. 1062. Resolution to provide for the expenses of the Committee on International Relations for the investigations and studies to be conducted pursuant to rule XI of the Rules of the House of Representatives; to the Committee on House Administration.

By Mr. THONE (for himself, Mr. Bowen, Mr. Jenrette, Mr. Hubbard, Mr. Sebelius, Mr. Stark, Mr. Beard of Rhode Island, Mr. Clay, Mr. Carney, Mr. Mazzoli, Mr. Kastenmeier, Mr. Madigan, Mr. Goodling, Mr. Jeffords, Mr. Emery, Mr. Cleveland, Mr. Rostenkowski, Mr. Traxler, Mr. Blanchard, Mr. Hannaford, Mr. Pressler, Mr. McCollister, and Mrs. Smith of Nebraska):

H. Res. 1063. Resolution to insure that the quality and quantity of free broadcasting service not be impaired; to the Committee on Interstate and Foreign Commerce.

By Mr. JACOBS:

H. Res. 1066. Resolution to impeach certain U.S. Federal judges; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

307. The SPEAKER presented a memorial of the Legislature of the Commonwealth of Virginia, relative to the Black Lung Benefits Reform Act of 1975; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FLOWERS:

H.R. 12257. A bill for the relief of Jonty Skinner; to the Committee on the Judiciary.

By Mr. JONES of Oklahoma:

H.R. 12258. A bill for the relief of Lucy Davao Jara Graham; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

406. The SPEAKER presented a petition of the Town Board, Alden, N.Y., relative to welfare, which was referred to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 11963

By Mr. BEDELL:

Page 7, lines 10 and 11, strike out "$334,000,000" and insert in lieu thereof "$321,000,000"; in the material after line 14, in item (D), relating to the Philippines, strike out "19,600,000" and insert in lieu thereof "6,600,000"; and in line 16, immediately after "country" insert "(other than the Philippines)".

By Mr. JOHN L. BURTON:

Page 59, immediately after line 15, insert the following new section:

LIMITATION ON COVERT ACTIVITIES

Sec. 417. Section 662(a) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by inserting at the end thereof the following new paragraph:

"(2) No funds appropriated under the authority of this Act may be expended (A) for planning or carrying out any assassination, or (B) to finance, directly or indirectly, any foreign political activity or to otherwise influence any foreign election.".

By Mr. STARK:

Page 28, strike out line 21 and all that follows thereafter through line 3 on page 29 and insert in lieu thereof the following:

(b) Section 36 of the Foreign Military Sales Act is amended by adding at the end thereof the following new subsection (e):

"(e)(1) Any concurrent resolution of the type described in subsection (b) of this section shall be subject to the procedures specified in this subsection.

"(2) Paragraphs (3) through (10) of this subsection are enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(3) If the committee, to which has been referred a resolution relating to a letter of offer has not reported the resolution at the end of ten calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the letter of offer which has been referred to the committee.

"(4) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the letter of offer), and debate thereon is limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(5) If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor another motion to discharge the committee be made with respect to any other resolution with respect to the same letter of offer.

"(6) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a letter of offer it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(7) Debate on the resolution is limited to not more than two hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to, recommit the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(8) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a letter of offer, and motions to proceed to the consideration of other business, are decided without debate.

"(9) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a letter of offer are decided without debate.

"(10) If, prior to the passage by one House of a concurrent resolution of that House, that House receives from the other House a concurrent resolution of such other House, then—

"(A) the procedure with respect to the concurrent resolution of the first House shall be the same as if no concurrent resolution from the other House had been received; but

"(B) on any vote on final passage of the concurrent resolution of the first House the concurrent resolution from the other House shall be automatically substituted.".

Amendment No. 1: On page 54, line 10: Strike lines 10 through 17 and insert in lieu thereof:

"(2) The President shall report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate within sixty days after the date of enactment of this section on progress toward full respect for the human and legal rights of all United States citizens detained in Mexico, and every thirty days thereafter until such time as both the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate have adopted resolutions stating that such reports are no longer necessary."

Amendment No. 2: On page 54, line 10: Strike lines 10 through 17 and insert in lieu thereof:

"(2) The Secretary of State shall report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate within 120 days after the date of enactment of this section, and every 120 days thereafter, on progress toward full respect for the human and legal rights of all United States citizens detained in Mexico."

H.R. 12203

By Mr. ALEXANDER:

Page 23, immediately after line 7, add the following new section:

"SEC. 505. No part of any appropriation contained in this Act shall be available for expenditure of obligation to any country which, at the time of enactment of this Act, is in default, for one year (365 consecutive days) or more, of any payment of principal or interest due on any loan or credit received from the United States."

By Mr. RANGEL:

Page 7, line 6, immediately after the comma strike out "$25,000,000" and insert in lieu thereof "$42,500,000"; and on line 8, immediately after the comma strike out "$6,250,000" and insert in lieu thereof "$13,000,000."

EXTENSIONS OF REMARKS

THE UNIVERSITY OF MINNESOTA'S DISCHARGE REVIEW SERVICE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. FRASER. Mr. Speaker, I want to take this opportunity to express my appreciation to the directors and staff of the University of Minnesota's veterans program for their continuing efforts to help Vietnam-era veterans. The University's Veterans Assistance and Outreach Office—VAO—headed by Tom Wincek and Gary Morey, provides an invaluable service, not only to veterans attending the University of Minnesota, but to all Twin Cities veterans.

Through its St. Paul Outreach office the VAO contacts recently discharged veterans and informs them of veterans' benefits they are eligible for. Veterans who need educational counseling are given it at no cost. The VAO makes no effort to recruit students exclusively for the University of Minnesota. VAO counselors who feel a particular veteran would be better served by attending a vocational-technical school, or a 2-year community college, or taking on-the-job training, tell the veteran so. The program is designed to help the veteran, not the university. And more than half the veterans contacted to date have received recommendations to attend schools other than the University of Minnesota.

In December of 1974 the Veterans Assistance and Outreach Office began providing legal advice and administrative assistance to veterans with less-than-honorable discharges who wanted to upgrade their discharges. Many Vietnam-era veterans, some because they were drafted into this Nation's Armed Forces against their will, others because of drug problems picked up overseas, and still others because their politics or skin color was different than their superiors, were spewed out of the military machine with "bad papers." These less-than-honorable discharges add to the normal problems of readjusting to civilian life and handicap the veteran for life. Jobs, already hard to find in America's postwar economy, are even harder to find for those who have to explain why they have "bad papers." Not many people were listening with a sympathetic ear to the plight of these veterans.

The Veterans Assistance and Outreach Office has been listening, however, and their Discharge Review Service has helped veterans with less-than-honorable discharges—many of them arbitrarily given—upgrade those discharges.

To help those veterans who could not afford the necessary trip to Washington, D.C., to appear before Armed Forces review boards hearing their cases, the Discharge Review Service last fall began video taping the testimony of veterans. The taped testimony was flown to Washington, D.C., and presented before the review boards. The program set a precedent and is making history in the field of military justice.

I would like to call to the attention of my colleagues a recent article in the Christian Science Monitor describing this precedent-setting program:

[From the Christian Science Monitor, Feb. 11, 1976]

ARMY MULLS "TRIAL" BY VIDEO-TAPE

(By Robert M. Press)

Like 500,000 other Vietnam-era veterans, Lee came home with a less-than-honorable discharge that made prospective employers wary and complicated his search for education and other benefits.

He had used drugs. But he decided to appeal, he obtained free legal help—and the Army raised his discharge status from "undesirable" to "general." He is now studying electronics at a college in Minneapolis, using Veterans Administration aid to pay the bills.

Such free legal help may be available to many others soon.

The Army's central discharge review board is considering accepting video-taped appeals on a nationwide basis after being pleased with use of such appeals prepared through the veterans program at the University of Minnesota. Gary Morey, director of the program, calls this a "significant breakthrough" that could save costly review board trips to appeal boards.

The Army in mid-February will send its central review board on an experimental multicity circuit to hear cases. Some veterans groups feel the central board is more likely to approve appeals because it has broader acquaintance than regional boards with injustice in the military discharge system.

Regional boards were established last fall by the military branches, apparently in response to pressure from Congress and veterans.

The Department of Labor has made what may be the largest grant of its kind (101,000) to the College of DuPage in Glen Ellyn, Illinois, to provide counseling and transportation for Chicago-area veterans appealing their discharges.

The National Association of Black Veterans (NABV) and other veterans groups in Wisconsin have started helping some Wisconsin prisoners make discharge appeals and teaching them to help fellow prisoners do the same.

There are five categories of discharge from the military. Starting with the best, they are: honorable, general, undesirable, bad conduct, and dishonorable. The top two qualify for VA benefits. The next two can, if approved by the VA. The lowest category merits no benefits.

The Army currently approves about 25 percent of the roughly 800 appeals it receives each month.

Many stemmed from drug use, some from going AWOL (absent without leave) to be with ill relatives. Some, according to black veterans' groups, stem from racism in the service.

It is crucial to make appeals in person and have legal counsel, says June Willenz, executive director of the American Veterans Committee in Washington.

But, according to many groups working with Vietnam-era veterans, most veterans do not realize they can appeal their bad discharges and many of those who do know are unemployed or have low-paying jobs and cannot afford the legal help they need to make a good case.

DECLARATION ON SOVIET JEWRY

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. DRINAN. Mr. Speaker, I attach herewith the final declaration of the Second World Conference of Jewish Communities on Soviet Jewry held at Brussels on February 17–19, 1976.

The final statement, concurred in by 1,200 delegates from 34 nations follows:

DECLARATION OF THE SECOND WORLD CONFERENCE OF JEWISH COMMUNITIES ON SOVIET JEWRY, BRUSSELS, FEBRUARY 19, 1976

We, delegates assembled at this Second Brussels Conference on Soviet Jewry, representing Jewish communities in every continent, declare to our brethren in the Soviet Union:

We are with you in your struggle. We share your faith. We honor your courage. You are not alone!

Together we work towards the same future, identify with the same experiences, respond to the same memories. The Jewish destiny that unites us is one and inseparable, our common tradition indestructible.

We salute those from every sector of society, every race and religion—in government, parliament, science, law, education, the arts, labor, commerce and industry—who have joined with us in the cause of the Jews of the USSR.

We call on all men and women of conscience, and all governments cherishing humanitarian ideals, to speak out on behalf of Jews of the USSR. We have the right and duty to say to them, a generation after the Holocaust, that they dare not remain silent in face of the renewed threats confronting the Jewish people. History has taught that these threats imperil human rights everywhere.

We abhor and condemn anti-Semitism in the Soviet Union, whether under the guise of prejudice towards the Jewish religion or false accusations against Israel and Zionism.

We state that the equation of Zionism and racism by the Government of the Soviet Union and other regimes is a calumny against Israel and against Jews everywhere. Those who exploit this mockery of truth give aid and comfort to the enemies of liberty, peace, justice and human brotherhood.

We declare that Jewish people, deriving immeasurable strength and spirit from the State of Israel, shall resist and overcome those who seek to thwart its rightful aspirations.

We have listened to the messages of our brethren in the Soviet Union, declaring their determination to emigrate to Israel and follow the 100,000 Jews from the Soviet Union who have succeeded in reaching the Jewish state.

We proclaim our faith and pride in their fortitude, which adds new depth to the Jewish spirit.

We have heard the statements and commitments of delegations of Jewish communities from throughout the world. All affirm that the Jewish people has never stood more united in solidarity with the Jews of the USSR and with Israel, where so many of them seek their freedom and fulfillment as Jews,

Now, Therefore, At the close of this Second Brussels Conference, we call upon the Soviet Union:

To respect its own Constitution and laws, to fulfill its obligations as set forth in international declarations and agreements in the field of human rights and fundamental freedom, and to implement the Final Act of the Helsinki Conference on Security and Cooperation in Europe.

To recognize and respect the right of Jews in the USSR to be united with their brethren in the Land of Israel, the Jewish historic homeland.

To remove all obstacles in the way of those who wish to leave and to desist from all harassment and intimidation.

To free forthwith the Assirei Zion—the Prisoners of Conscience incarcerated for their struggle to return to Zion.

To recognize and respect the freedom of our brethren within the Soviet Union to profess and practice their religion and to enjoy and develop their cultural heritage and language.

To end the campaign of anti-Semitism and acts of discrimination against Jews.

To allow Jews in the Soviet Union to establish and maintain ties with the rest of the Jewish people.

On this historic occasion, we remember the ancient oath of our people: "For the sake of Zion, I will not remain silent and for the sake of Jerusalem will not hold my peace."

As heirs of that tradition, we, representatives of the Jewish people, solemnly declare that for the sake of our brethren in the Soviet Union, we shall not remain silent nor shall we hold our peace.

Mr. Speaker, it was most encouraging that at the Brussels Conference on Soviet Jewry a statement by the Christians present at that historic gathering was also issued on February 19.

That statement, entitled "Call to Christian Conscience," was presented on behalf of the National Inter-Religious Task Force on Soviet Jewry by the able director of that group, Sister Ann Gillen. The Christians' statement at Brussels follows:

CALL TO CHRISTIAN CONSCIENCE

Brussels II Conference, February 17th–19th, 1976

We Christians—Catholics, Protestants, Evangelicals—from many parts of the world—meet in Brussels thirty years after the end of the Nazi Holocaust in Europe. We are painfully aware that a majority of our fellow Christians of that generation ignored the ominous signs of the escalating Nazi attacks upon the Jewish people—attacks that culminated in the nightmare of this century: the murder of 6,000,000 Jews. But, today, this generation of Christians will not be silent as we raise our voices in support of the struggle to prevent the cultural and spiritual annihilation of the Jews of the Soviet Union.

We assemble here in Brussels, in concert with our Jewish brothers and sisters, to make our profound anguish and concern about the continued and continuing denial of human rights of Soviet Jews, and of other deprived groups and nationalities.

Our foremost Christian leaders and institutions have all publicly condemned the violation of human rights.

Pope Paul VI has declared:

"Human dignity is rooted in the image and reflection of God in each of us. It is this which makes all persons essentially equal. The integral development of persons makes more clear the divine image in them. In our time the Church has grown more deeply aware of this truth; hence she believes firmly that the promotion of human rights is required by the Gospel and is central to her ministry . . . 'The right of religious liberty': This right uniquely reflects the dignity of the person as this is known from the word of God and from reason itself. Today it is denied or restricted by diverse political systems in ways which impede worship, religious education, and social ministry. We call upon all governments to acknowledge the right of religious liberty in words and foster it in deeds, to eliminate any type of discrimination, and to accord to all, regardless of their religious convictions, the full rights and opportunities of citizens." (October 23, 1974.)

The World Council of Churches at its 1975 General Assembly in Nairobi, Kenya, following a discussion that involved a repudiation of the denial of human rights in the Soviet Union, declared:

"We emphasize the clause referring to fundamental human rights as proclaimed by the United Nations Declaration of Human Rights. The churches have the responsibility to be involved whenever it is necessary to make clear that security and the development of genuinely human relationships across frontiers go together."

We must resound the calls for human rights until they are respected. We believe that when persons perceive themselves incapable of continuing their participation in a society, their decision must be fully respected. In such an eventuality, which always entails for the individuals concerned a difficult and painful predicament, the true character of a society is measured by its understanding and generosity. A government that resorts to coercive methods and force against its citizens demonstrates both its own weakness and its contempt for human integrity. Therefore, we speak now to the leaders of the Soviet Union: Respect the human rights provisions of the Untied Nations Charter. Give the Jews their right to leave for countries of their choice, a right Declaration of Human Rights. We call upon the Soviet Union to implement those provisions of the Helsinki Agreement which relate to freedom of thought, conscience, religion, and belief, as well as to the right of people to emigrate.

We appeal for an end to the wanton kidnapping of Jewish children, removing them to compulsory boarding schools, and thus, cruelly separating them from their families.

We appeal for an end to the drafting of young Jewish men into the Soviet Armed Forces as a punitive measure.

We appeal for an end to the sentencing of innocent men and women to prison terms on false charges.

We appeal for an end to the transfer of persons to psychiatric institutions for alleged "mental illness."

We appeal for an end to the denial of professional status and educational opportunities for Soviet Jews.

We appeal for an end to the denial of exit visas to scientists and soldiers for excessively long periods on the theory that they possess national security "secrets."

We appeal for an end to the harassment of persons by depriving them of employment when they apply for exit visas

We appeal for an end to the exorbitant taxation of gift moneys that are sent to Soviet Jews from abroad for relief.

We appeal especially for an end to the ruthless and brutal imprisonment of all Prisoners of Conscience, both Jewish and Christian, and we urge that all such prisoners be immediately released.

Further, as Christians we appeal to the Soviet authorities to grant religious, cultural, and educational institutions for the perpetuation of Judaism and Jewish culture, the lifting of the prohibition against publishing Hebrew Bibles and prayerbooks, and the production of religious articles; the permission to train rabbis and Jewish teachers in both the Soviet Union and in seminaries abroad; the creation of a representative body of Soviet Jewry with freedom to communicate and associate with their coreligionists in other lands.

While realizing our own failures and shortcomings in the vital area of human rights, we nevertheless cannot remain silent or indifferent in the face of the grave and dehumanizing injustices that have been inflicted upon the Jews and other groups in the Soviet Union.

To all persons denied religious liberty in the Soviet Union, to all who courageously defend human rights there, we pledge our solidarity with them as brothers and sisters. We will stand at their side until their freedom and liberation is realized. We will not rest until human rights and justice prevail in the Soviet Union, and everyplace where humanity, the sacred image of God, is defiled.

> "I the Lord have called you for the victory of justice,
> I have grasped you by the hand; I formed you and set you as a convenant of the people, a light for the nations.
> To open the eyes of the blind, to bring prisoners out from confinement,
> And from the dungeon, those who live in darkness." (42: 6–7.)

We Christians, meeting at Brussels II, keenly aware of the plight of all persons of conscience in the U.S.S.R., and especially pained by the harassment and persecution of our Christian brothers and sisters, nonetheless are convinced that the oppressed condition of our Jewish brothers and sisters is unique and in all specifics more rigorous than that faced by the Christian communities.

We urge our churches to make the Easter season of 1976, the Christian celebration of freedom and liberation, the occasion for demonstrating our solidarity with all believers in the U.S.S.R. and the inauguration of a new exodus.

HON. FLORENCE DWYER

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. RHODES. Mr. Speaker, I know that many Members of this body were saddened to learn of the death of a former colleague, Florence Dwyer, who passed away Sunday in Elizabeth, N.J.

During her many years of public service, in the State legislature, and for eight terms in Congress, she earned great admiration and respect from her fellow Members, on both sides of the political aisle. Flo Dwyer worked hard for the causes she believed in, especially for equal pay for women and for home rule for the District of Columbia. She served on the Banking and Currency Committee, and was ranking Republican on the Government Operations Committee. She served the 12th District, her State and the Nation with distinction.

The House lost an outstanding Member, when she retired in 1972 and now many of us have lost a personal friend, a woman of great talent, a person of charm and warmth, an unabashed patriot, who worked tirelessly for fairness and progress.

Those of us who served with her feel a great sense of personal loss in her passing.

WATER PROBLEMS FOR OKLAHOMA'S WHEAT FARMERS

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. RISENHOOVER. Mr. Speaker, eastern Oklahoma has no choice but to push rapidly toward solving the problem of increasing water demands for Tulsa and western Oklahoma's wheat farmers. If we fail to quickly take positive steps, then it is only a matter of time—perhaps a very short time—before a Federal or State court awards water rights to some other section of the State or region to what it will determine is surplus water in our lakes.

I believe that pushing rapidly toward eliminating natural salt pollution of the Arkansas River offers the best solution to that problem with the greatest economic benefits—not only for Oklahoma, Arkansas, and Tennessee—but for the entire Nation and world.

For a cost of only approximately $225,000,000, an estimated 70 percent of the Arkansas River's pollution can be eliminated, making its water as good as the Illinois and Baron Fork. Keystone Lake would then become a dependable source of water for the future needs of Tulsa, Creek, and Osage Counties, eliminating the prospect of someday pumping water from Lake Tenkiller or damming up the Illinois River north of Tahlequah.

Downstream Muskogee, Sallisaw, Fort Smith, Little Rock, Pine Bluff, and Memphis, Tenn., and all the smaller towns along the Arkansas waterway could realize great economic benefits.

The average daily flow is 31,300 cubic feet per second from Oklahoma into Arkansas. Arkansas is legally entitled to only 12,520 cubic feet per second. That means 60 percent of the present flow across the stateline is identifiable surplus water.

The Cherokee Nation apparently has the water rights to the Arkansas River within its boundaries. If so, Chief Ross Swimmer has indicated to me that the Cherokees would be very interested in considering transfer of surplus water from the Arkansas River to farmers in western Oklahoma. Any number of financing arrangements are available upon determination of costs involved including the possibility of Government loans, Government insured loans, or revenue bonds.

The potential increase in economic benefits from one wheat crop would more than justify the cost of the three retaining structures and diversion channels around the points of pollution on tributaries of the Cimarron River and one on a tributary of the Arkansas River.

Revenues obtained by the Cherokees from the sale of water from the Arkansas River for use in western Oklahoma could provide schools, hospitals, and roads throughout the Cherokee Nation and decrease their dependence on Government subsidies.

The Nation would benefit tremendously from the increased agricultural production which is the single most important factor in maintaining a favorable balance of trade position with the rest of the world. And eastern Oklahoma's lakes would remain secure for the future development of our own industrial capability.

OKLAHOMANS PAY TRIBUTE TO KENNETH A. CLAIN

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. JONES of Oklahoma. Mr. Speaker, all Americans are indebted to that relatively small handful of local individuals who take their citizenship privileges seriously, and consistently participate in the affairs of their respective political parties.

One such individual in Tulsa, Okla., who has contributed countless hours of such volunteer service is Mr. Kenneth A. Clain, a retired member of the Brotherhood of Railway and Airlines Clerks Union, Local No. 2207.

In Kenny's case, his years of service have been dedicated primarily on behalf of candidates representing the Democratic Party. I think it important to note, however, that Kenny's work to register new voters, disseminate literature on current issues, and educate citizens on the importance of voter participation, stands as a vital contribution to all voters, regardless of their particular political affiliation.

I believe Kenny's contributions to participatory democracy in Tulsa and our State serve as an excellent example to younger citizens of our society. He has demonstrated the importance of individual concern and effort to elect the best possible public officials at every level of government, whether they be Republican, Democrat or Independent.

Mr. Speaker, the State Democratic Party of Oklahoma recently adopted a resolution recognizing Kenny's tireless efforts, "on numerous occasions, both upon request and voluntarily." In addition, the resolution took note of Kenny as one of the "most appreciated members and valued friends" of the party.

In addition to the recognition he has received from his own State party, the Tulsa Labor Council has cited Kenny on two separate occasions for his many hours of volunteer service in the election processes of his community. Upon the completion of 5,000 volunteer hours of service, Kenny was presented with a gold watch by the council, and after 10,000 hours of such service, Kenny was recognized with a gift of a diamond tietack, commemorating his many contributions to the civic affairs of our city.

Mr. Speaker, it is a pleasure to join Kenny's many friends and associates in extending our heartfelt gratitude for his dedicated efforts on behalf of better government in Oklahoma. Kenny has demonstrated a very responsible brand of citizenship that each of us should strive for ourselves. He deserves the highest praise and recognition, and I consider it an honor and a privilege to be considered among his many friends.

CHAMPUS BENEFITS

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. WHITEHURST. Mr. Speaker, the following letter to the editor appeared in the Norfolk, Va., Ledger-Star on Wednesday, February 25. It was written by Capt. G. Russell Evans, USCG, retired, who makes some excellent points with regard to the proposed curtailment of CHAMPUS benefits.

I hope that my colleagues will give it their careful attention:

CHAMPUS BENEFITS

TO THE EDITOR:

Your Feb. 19 story about curtailment of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) must have struck the some 200,000 beneficiaries in this area like a bombshell. These beneficiaries are the military and their dependents, active and retired.

Some observations on this precipitous action by our "economy-minded" Congress may be in order:

It would have been nice to have given some advance notice to these people, rather than having them suddenly read about it in the paper. For example, a few months' or a year's warning would have provided time to make alternative hospitalization plans.

Retirees and their dependents are probably the hardest hit. These are the people, substantially on fixed incomes, who, for the past 10 years since CHAMPUS first became effective, have depended on CHAMPUS for their primary hospitalization coverage. They built their plans around CHAMPUS. Now they are some years older, civilian insurance costs are up accordingly, and CHAMPUS is curtailed. This could put many into financial straits.

Congress' plan calls for CHAMPUS beneficiaries to use military medical facilities when available. But the Navy regional medical officer already says there's a shortage of facilities and doctors. So, presumably, CHAMPUS beneficiaries can now expect crowding into wards. Some years ago, this was my experience when my wife had a fatal illness. No amount of persuasion could get her even a semi-private room, so we went to a civilian hospital.

These retirees gave the prime of their lives to serving their country. Curtailment of CHAMPUS is another instance of demoralizing and chopping away of our defense forces.

If our military personnel, active and retired, accept this ploy lying down and betrayal by our liberal, irresponsible Congress, then perhaps they deserve it. If not, a flood of letters, protests and articles could very well change things.

G. RUSSELL EVANS.

THE PERILS OF EXPORT MANIPULATION

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. FINDLEY. Mr. Speaker, political manipulation of agricultural exports is costly to farmers initially. Ultimately, the American consumer and taxpayer also lose.

Warren W. Lebeck, president of the Chicago Board of Trade, understands the perils of export manipulation and why other nations resent our attempts to export inflation through export control. He understands how export controls weaken our reliability as a supplier of goods, not just to the target country, but to other customers as well.

I recommend close attention to Mr. Lebeck's article, "The Perils of Export Manipulation", from the Washington Post, February 24, 1976.

Text follows:

THE PERILS OF EXPORT MANIPULATION

(By Warren W. Lebeck)

When the administration slammed the door on grain and soybean exports to the Soviet Union this past summer, albeit only temporarily, the action drew predictable protests from farmers and praise from such self-appointed consumer spokesmen as Mr. George Meany. In at least one respect, the Russian response was equally as predictable: Faced with an urgent need to make up for a disastrous sunflower crop, it placed orders to buy upward of 50 million bushels of soybeans from Brazil, at a cost of about $6 a bushel.

Ironically it was an ill-advised American soybean export embargo two years earlier that helped position Brazil to reap the benefits of this roughly $300 million sale. On that occasion, a U.S. abrogation of existing sales commitments prompted two of our largest customers, Japan and West Germany, to seek (and reportedly subsidize) a more reliable source of supply. Brazil was able and anxious. In the two years since then it has doubled its annual production and now accounts for one fourth of the world's soybean exports—a market the U.S. could once call virtually private property. By 1980, Brazil is expected to double production again, almost solely for export.

All of this might be just so much statistics except that it illustrates the folly of a continuing political hypothesis that appears, regrettably, to attract a good deal of public applause, namely that bureaucratic manipulation of agricultural exports can be employed effectively and without adverse side effects to combat domestic inflation. Those who would invoke or support such restrictions as a knee-jerk reaction to rising food prices would do well to consider some of the more pertinent facts, facts which clearly say otherwise.

While no one denies some trickle up effect of sizable farm exports on food prices, the net effect of such exports is overwhelmingly anti-inflationary. The reason is this: At a time when this country is navigating in economic shoal waters with regard to its balance of payments, the agricultural sector of our economy is literally "carrying" the less efficient and less competitive non-agricultural sector. A positive U.S. trade balance last year resulted only because a $12 billion agricultural trade surplus more than erased a non-agricultural trade deficit of $10 billion.

There is no reason to view this situation as a temporary aberration. With imported oil continuing to cost us dearly and other nations matching and ever surpassing our industrial productivity, there is little likelihood of maneuvering our non-agricultural trade balance into the black any time soon. The agricultural prospects are considerably brighter. With farm exports of $21 billion and farm imports (sugar, coffee, bananas, etc.) of $9 billion, our agricultural trade is already in the black by a ratio of better than two to one. And it can move even further in that direction in the years ahead if government will refrain from undermining farmers' opportunities and incentives.

What has this to do with inflation and, indeed, the overall health of the American economy? Plenty. For one thing, the purchasing power of the U.S. dollar is linked directly to our balance of payments. Any sharp curtailment of agricultural exports in our present precarious position would send the dollar's value skidding down the same hill as, for example, the British pound. This would, in turn, trigger a potentially steep rise in the dollar cost of everything we import. Considering that we currently import around $100 billion worth of various items each year, the consequences could far outweigh whatever effect agricultural exports of $21 billion a year have on the cost of food.

Moreover, other nations rightfully regard—and resent—the capricious imposition of export controls as an attempt by the United States to "export its inflation." When soybeans were embargoed in 1973 after reaching the political panic point of $11 a bushel, the price on European markets promptly soared to almost $17 a bushel.

In restricting our food exports, we run more than a minor risk of retaliation. And this country is doubly vulnerable. We are vulnerable to actions that would restrict the availability and raise the prices of items we export, including industrial goods. The result in the first instance is an increase in our cost of living and the result in the second instance is a loss of jobs and income.

By refusing to position ourselves as a reliable supplier we eventually destroy our markets. I was in Japan shortly after the disastrous U.S. soybean embargo of 1973. When I discussed it with an official there, no translator was needed to convey his reaction. Like many Japanese who consume soy protein directly in their diets, he was indignant in the nth degree that soybeans were being withheld from Japanese children so that they could be fed instead to American hogs. That the reaction wasn't limited to indignation is evidence by Japan's reliance on a supplier (Brazil) that is regarded as more reliable.

Our government must somehow learn that age-old law of science—that every action has an opposite reaction—can also apply to economics. But in economics, the long-term reaction may not be merely equal to our shortsighted action. It may be worse.

FLORENCE BALLARD: HER LIFE AND ART

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. CONYERS. Mr. Speaker, a week ago Sunday a great woman, who was one of my constituents, passed away. Florence Ballard, formerly of the world-renowned vocal group, The Supremes, died of cardiac arrest. She stood tall in good times and bad. I have lost a dear and good friend, and the country has lost a unique spirit and artistic talent.

The story of her life and of her contributions to our culture is poignantly eulogized by Charles Osgood of CBS News, and I commend it to the attention of my colleagues.

The article follows:

FLORENCE BALLARD: HER LIFE AND ART

(By Charles Osgood)

Everybody has ups and downs in life, but for Florence Ballard the ups were higher and the downs lower than for most people. Florence had been drinking when they brought her into the Emergency Room of Detroit's Mt. Carmel Mercy Hospital on Saturday night. And the drinking was bad, because she had also been taking drugs, medication for controlling her weight and to counteract high blood pressure. It was not so very long ago that Florence and her friends were riding high; they were singing stars with eight gold records and the world by the tail. The three girls, Florence Ballard and her friends, Mary and Diana, grew up in a public housing project: the Brewster Housing Project in Detroit. They were all from poor families, but they could sing. And Florence and Mary and Diana signed on with a new hot recording label there in Detroit called Motown. And the Motown people worked with them and polished their performances and gave them good material to work with, and developed a certain sound for them. Florence and Mary and Diana became stars as the Supremes. The Supremes cut eight gold records in the space of less than two years The group performed throughout the world. In those days, Florence Ballard drove two Cadillacs, a golden Fleetwood and a plum-rose El Dorado. But in many ways success is harder to cope with than failure for some people. There were rumors of dissension, quarrels among the girls. And in 1967 at a certain performance, Diana Ross and Mary Wilson were joined by a new third member by the name of Cindy Birdsong. Florence was out.

She always said, after that, that she had been tricked into quitting the Supremes. She claimed they told her she would get more than a million dollars if she agreed to leave the group. She did leave, but never did get money. There was an $3.7-million lawsuit against Motown, her former lawyer and the Supremes. But the Wayne County Circuit Court dismissed that case in 1971.

Florence Ballard married a former Motown employee named Thomas Chapman. They had two children. But they, too, had trouble. The Chapmans separated in 1973. Last year, that same woman who once owned the golden Fleetwood and the plum-rose El Dorado had lost her home through foreclosure and was living in a two-family flat with her daughters and her mother and her sister. She and the daughters were supported by payments from Aid to Dependent Children, a grand total of $67 a week.

Florence Ballard wanted to make a comeback. She said: "I don't want my children growing up thinking of me as 'My mother, on ADC' ". Her former husband was unemployed, so he wasn't much help at the time, but then things got some better for him and he and Florence got back together, and just recently they moved with the kids to a house on the northwest side of Detroit, and bought themselves a new car and it looked like maybe things were going to be all right, comeback or no.

But then, on Saturday night, Florence was wheeled into the Emergency Room at the Mt. Carmel Mercy Hospital terribly sick. And yesterday she died. Cardiac arrest, they say. Her heart stopped.

One of the biggest records the Supremes ever made was a song called "Where Did Our Love Go?" In love and in life there are good times and bad for everybody. For Florence Ballard there were such giddy peaks, such deep valleys. She was 32 years old.

COL. J. L. "RED" KLEINHANS MEMORABLE OHIO MARINE

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. BROWN of Ohio. Mr. Speaker, with sincere sorrow I announce that a distinguished Ohioan, a popular and indomitable Marine, and a good man, Col. John L. "Red" Kleinhans, has died.

To his wife, Betty, his sister, Dolly Saxbe, and to all his family whom he loved so much, Joyce and I extend our deepest sympathies.

Red Kleinhans fought his last great battle against the impossible odds of unrelenting cancer with the same spirit and courage with which he had lived.

Red enjoyed countless friendships. None was closer than his Marine comrade from Korean service, Colonel Henry Bransom, who kept him company throughout the ordeal of his illness, and to the end. Red deserved such devotion, because he gave of himself so unselfishly to the multitude who came within his circle of friendship. General Lewis W. Walt was a very special friend. Major General Walter Churchill of Toledo shared Red's dedication to youth fitness programs and was close to his Marine Corps League activities. With these and other Marine Corps friends, Red helped pioneer a program of "orienteering" throughout the United States.

One of Red's greatest admirers is our House Minority Clerk, Brigadier General Joe Bartlett, who succeeded Colonel Kleinhans as Commanding Officer of Marine Corps Reserve VTU-4-1 here in Washington. Red was a faithful participant in the Congressional Marines Breakfast group, which I have enjoyed attending, and I have observed how ready he was to respond whenever an extra hand was needed. That is the kind of man Red Kleinhans was, and there are far too few of them in this world.

We mourn his passing, and we will miss him, but we are glad to have shared his friendship along life's way.

Mr. Speaker, I would like to include in my remarks, the following article from the Washington Star of today:

COL. JOHN L. KLEINHANS, 61; MARINE ASSOCIATION OFFICIAL

Retired Marine Corps Col. John L. Kleinhans, 61, an executive vice president of the Leatherneck Association, died Sunday in the National Naval Medical Center. He lived on Edgewater Drive in Falls Church.

Kleinhans retired from the Marine Corps two years ago. At the time of his death he was executive assistant to the director of the Veterans Administration's National Cemetery System.

A native of Ohio, Kleinhans was a star football player at Ohio State University in the 1930s. For many years he was a football recruiting scout for Ohio State coaches Paul Brown and Woody Hayes. He also played basketball at Ohio State.

Kleinhans enlisted in the Marine Corps during World War II and served 14 months before he was commissioned.

He was a member of the American Legion, Veterans of Foreign Wars, the Marine Corps Reserve Officers Association and the Marine Corps League.

He leaves his wife, Betty Jane; a daughter, Ginny L., at the home, and a son, James L., of Blaine, Minn. His sister, Dolly Saxbe, is the wife of the U.S. ambassador to India.

Services will be held at 3 p.m. tomorrow in the Ft. Myer Chapel, with burial in Arlington Cemetery.

The family suggests that expressions of sympathy be in the form of contributions to the American Cancer Society or to the U.S. Marine Youth Foundation, Inc., 3003 Cheltenham Road, Toledo, Ohio, 43606.

FURTHER STUDY OF AEROSOLS NEEDED

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. EILBERG. Mr. Speaker, recent scientific evidence has shown a link between destruction of the ozone layer of the Earth's atmosphere and certain chemicals found in aerosol propellants.

Some researchers indicate that depletion of parts of the ozone will allow more harmful ultraviolet rays from the Sun to reach the Earth, increasing cases of skin cancer. Other harmful effects on both plant and animal life are still under observation.

At this time I would like to share with my colleagues a resolution adopted by the House of Representatives of the Commonwealth of Pennsylvania February 27, 1976, urging further study of fluorocarbon propellants and their possible dangers:

HOUSE RESOLUTION NO. 126

Whereas, The world's invisible shield against skin cancer may be damaged by fluorocarbon propellants used in aerosol cans; and

Whereas, Depletion of ozone in the stratosphere which filters out much of the ultraviolet radiation from the sun, will cause increases in human skin cancer as well as possible harm to plants, animals, and the environment; and

Whereas, The Federal Interagency Task Force on Inadvertent Modification of the Stratosphere has concluded that there is reason for serious concern over the use of fluorocarbon propellants which are suspected of working their way into the stratosphere and depleting the ozone layer; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the Federal Interagency Task Force on Inadvertent Modification of the Stratosphere to continue to study the possible ill effects of fluorocarbon propellants on the atmosphere and on human well being; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the Federal Interagency Task Force on Inadvertent Modification of the Stratosphere and to each Senator and Representative from Pennsylvania in the Congress of the United States.

FLORENCE V. LUCAS DAY

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. ADDABBO. Mr. Speaker, I am pleased to inform my colleagues in the House that on February 22, 1976, Hon. Florence V. Lucas was honored by the Queens region of the National Conference of Christians and Jews for her dedication, work, and faith in the brotherhood of man and her outstanding service to our community. At that time Queens Borough president, the Honorable Donald R. Manes proclaimed February 22 as Florence V. Lucas Day.

Because I am proud to call Florence a personal friend and because I have admired her as an attorney and dedicated community worker through the years, I am placing in the RECORD at this point a copy of proclamation issued on this occasion:

BOROUGH OF QUEENS, CITY OF NEW YORK, PROCLAMATION

Whereas, Florence V. Lucas has led a life of constant self-examination and uncompromising commitment to justice and brotherhood; and

Whereas, her life has been an outstanding example of unselfish service to innumerable community, civic, religious and civil rights organizations; and

Whereas, her life, still open to and challenged by high and meaningful callings, has been crowned by effective and prestigious achievements for her fellowman, especially the disadvantaged, the exploited and the downtrodden; and

Whereas, Florence V. Lucas will be appropriately honored at a dinner by the Queens Region of the National Conference of Christians and Jews, Inc., on Sunday, February 22nd, 1976, at Antun's Restaurant,

Now, therefore, I, Donald R. Manes, President of the Borough of Queens, the City of New York, do hereby proclaim Brotherhood Week Sunday, February 22nd, 1976 Florence V. Lucas Day in Queens in recognition of her dedication, work and faith in the high ideals of the Brotherhood of Man under the Fatherhood of God.

Done at Borough Hall, Kew Gardens, in the City of New York, on this the second day of February, in the year one thousand nine hundred and seventy-six.

NEW YORK TIMES SAYS ST. CROIX TOURISM IS REBOUNDING

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. DE LUGO. Mr. Speaker, in 1972 a bizarre crime was committed by a gang on the island of St. Croix. The incident, an armed robbery which took several lives, sent shock waves through the entire community. But the spectacular crime, so alien to the normal peacefulness of the islands, was sensationalized through the world's news media which misinterpreted its causes as it misrepresented what actually happened.

The consequence of this attention being focused on St. Croix was devastating to the island's tourism economy. Business suffered severely even long after the perpetrators of the crime were securely locked away in prison. Quite naturally, prospective vacationers did not want to travel to relax in a place they thought might be as unsafe as their homes or worse. The fact that St. Croix's problems were not those of constant mass murders as widely misreported was secondary to the island's reputation.

Several Members have inquired about the situation on St. Croix and queried whether social conditions have stabilized since the awful crime of September 1972. We have been appreciative of their interest and sought to assure them of the island's friendliness. But the real problem that remained as a result of the crime was the tarnished image that prompted Members' concern and deterred vacationers.

This problem could only be eradicated by an aggressive public relations effort in the islands as well as on the United States mainland in which the true identity of the problem was promoted. At the same time the actual impediments the island had to rebecoming a tourist haven had to be dealt with.

These rejuvenation efforts have been spectacularly successful and rate more attention than the aberrant incident of 1972. But as "good news" they are less likely to grab headlines than more sensational incidents.

Even so there has been some attention to St. Croix's efforts to rebuild its tourist trade. I was pleased to note last Tuesday a feature article in the New York Times chronicling these efforts.

The article points out that the most successful and influential efforts were those initiated by the citizens of St. Croix themselves. Although government marshaled extensive resources to ameliorate St. Croix's problems and tell the world about that, the most convincing promotions were stimulated by the private sector.

Primarily, these initiatives were the work of Project: St. Croix, under the direction of the very able hotelier, Mrs. Betty Sperber. This group of energetic civic boosters did much to recreate a climate of hospitality on St. Croix and make the world aware of St. Croix's friendliness.

Now their work is paying off as tourists are rediscovering the delights of our largest Virgin Island as indicated in the Times report.

At this point, Mr. Speaker, I should like to include the February 23, 1976 article from the Times for the edification of the Members of this body:

ST. CROIX TOURISM REBOUNDING FROM PLUNGE CAUSED BY '72 CRIMES

(By Ralph Blumenthal)

CHRISTIANSTED, V.I.—Tourism, representing about 55 percent of the economy is abloom again on the United States possession of St. Croix, three years after a series of violent crimes all but shattered the tourist industry and the Caribbean island's confidence in its future.

"Two 707's today, full" John Holly, the American Airlines representative here, exulted as the small, open-air island airport terminal filled with the latest pale arrivals. "That's more than St. Thomas. Man, we're killing them!"

There is a long standing rivalry between St. Croix and its sister island. The third of the United States Virgin Islands, St. John, is smaller and less developed.

In Christiansted, Marcia Weber gleefully contemplated the visitors flocking to her husband's glass-bottom boat, the Reef Queen. "Want to come over tonight when I go over the accounts?" she asked a friend who operates a hotel.

The resurgence has pleasantly surprised some new entrepreneurs. Six weeks ago, David and Tinker Riggs of San Diego took over the gift and gem shop in the King Christian Hotel. Business has been lively. "People come in and ask us if we have lapis lazuli, or some other kind of weird mineral," said Mrs. Riggs. "I say, 'We don't know. Look around and tell us if we do.' "

The bold turnaround is traceable to much hard work by St. Croix's hotel operators and other businessmen and government leaders, to aggressive new marketing techniques and to changing attitudes by Crusans, businessmen and visitors alike.

"We look back on the unfortunate incidents as part of the times," said Dr. Augustus Rimple, Commissioner of Commerce and Tourism for the Virgin Islands. "We figure we lag behind the mainland about a year in our trends. What happened to the black power movement here? What happened to it on the mainland? It came and went."

The comeback could scarcely have been envisioned in the grim days that followed the massacre of eight persons, including two tourist couples, on the dining terrace of the Fountain Valley Golf Club on Sept. 6, 1972. Five young black men, three of them Vietnam war veterans, part of a bizarre forest gang, were convicted a year later for the shootings and are serving life terms.

The motive for the murders is still unclear but robbery and racial hostility were involved. The Fountain Valley attack was followed by a string of other, apparently unconnected shootings that spread panic and cut sharply into the then-flourishing tourist trade on this island of 50,000 residents.

The number of visitors to the island of gently rolling hills and old Spanish settlements plunged.

From 243,000 air arrivals in St. Croix in the 1971–72 fiscal year, the number dropped to 217,000, the following year and to 157,000 in 1973–74. Last year it was up to 159,000.

By September of 1973, at the time of the Fountain Valley trial, recalled Betty Sperber, now owner with her husband Irwin of the King Christian, occupancy at the 38-room wharfside hotel was down to 16 percent. The next month it fell to 13 percent.

At the time, Mrs. Sperber was operating the hotel's gift shop. Revenues there dropped from up to $700 a day to $7. "I couldn't afford to pay the store rent, so I took over the hotel," she said. "At the same time, every store on the waterfront went out. Avis closed. The community went into shock."

"The entire island was up for grabs," recalled a leading banker.

The scene today at Fountain Valley symbolizes the recovery. Visitors casually sip drinks on the terrace where the shootings occurred and more than 125 golfers a day swarm over the rolling wooded course, which is owned by David and Laurance Rockefeller.

"We're seeing a lot of faces we haven't seen since then [the shootings]," said the manager, Euan McFarlane. "We say 'It's good to see you back.' They say, 'It's good to be back.' And that's all anybody says."

The comeback campaign involved three stages, according to Dr. Rimple. "First," he said, "we had to demonstrate the perpetrators would be tried and punished so it didn't appear the government condoned the violence. Next, we set out new public safety priorities, established new security measures. Then we got the message out."

"The message" was that St. Croix was not a jungle after all and the word was carried by an ambitious public relations campaign called "Project St. Croix." The drive brought in thousands of travel agents, at a cost to the Government alone of $350,000, to experience the island for themselves and see that violence had indeed been isolated.

In addition, a women's professional golf tournament was held at Fountain Valley, to help dispel the course's grim image. And all segments of Crusan society—taxi drivers, teachers, merchants, among others—heard lectures on how to deal with tourists.

Project St. Croix was initially chiefly powered, participants agree, by Mrs. Sperber. A 45-year-old former pop record agent who promoted such stars as Jimi Hendrix and such hits as "Simple Simon Says," Mrs. Sperber, everyone interviewed agreed, provided the drive and organization that galvanized the island rehabilitation campaign.

"It took someone like Betty from outside to straighten things out," said Hanne Rasmussen, who with her husband Bent, runs the Top Hat, a popular Danish restaurant here.

Of course, more than just a good public-relations effort was responsible for the turnaround. The mainland economic resurgence gave the island a shot in the arm, as did the Jewish boycott of Mexico after that country's vote in the United Nations equating Zionism with racism—tourists came here instead.

There is also a large bauxite plant and large oil refinery complex here that are aiding the local economy. The Virgin Islands budget is about $117 million a year.

The American administration here remains another powerful drawing card for tourists. "It's just comforting to see that ol' red, white and blue," said Ira Kaplan, a tourist from Highland Park, Ill.

"The world is four years older now, more sophisticated," said Dick Doumang, owner of the Belongo Bay Hotel on St. Thomas, which also suffered from the St. Croix violence. "If the same terrible thing were to happen today, it would have less of an impact. There was a break-in at the hotel. I was devastated, so apologetic. But the guests were cooler than me, they told me stories of break-ins they had had at their pharmacy at home."

The Crusans, too, have changed. Where once the flow of tourist dollars might have been taken for granted, it is now seen as something that can be shut off, with devastating local consequences.

"We learned too," said Bob Armstrong, owner of the Buccaneer Hotel, one of the island's luxury resorts. "All of us learned about salesmanship. We had never done real promoting before. But there's a real danger here. If everybody starts thinking again we've got a toy we can't break, it'll start all over again."

PORT FISHING INSTITUTE SUPPORTS TOXIC SUBSTANCES CONTROL BILL

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. ECKHARDT. Mr. Speaker, it gives me great pleasure to insert the following letter from the Sport Fishing Institute which supports the Toxic Substances Control Act reported by the Subcommittee on Consumer Protection and Finance. The Interstate and Foreign Commerce Committee will soon take up consideration of this bill. In considering the bill, I hope my colleagues will keep in mind the points outlined in this letter.

SPORT FISHING INSTITUTE,
608 Thirteenth Street NW.,
Washington, D.C., February 17, 1976.

Hon. ROBERT ECKHARDT,
1741 Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN ECKHARDT: Your comments regarding the need for passage of your proposed Toxic Substance Control Act (H.R. 10318), which appeared in the January 28, 1976, issue of the CONGRESSIONAL RECORD are warmly applauded by the Sport Fishing Institute.

I would like to take this opportunity to point out that, in addition to the loss of revenues and jobs to commercial fishermen that you noted in your comments, a great loss and potential disaster faces the recreational fishermen and the industry they support in the same waters you discussed. In 1970, about five billion dollars was spent nationally by 33,158,000 habitual recreational fishermen. Without control of toxic substances, recreational fishing is seriously jeopardized.

In 1972 Congress enacted P.L. 92-500 (the Federal Water Pollution Control Act Amendments of 1972) that set as its goal "fishable" and "swimmable" waters by 1983. The time frame may have to be modified, but the goal is achievable. Yet that goal, and all the time and money spent to achieve it, will have proved substantially meaningless if the fish and other aquatic organisms from those waters are not fit for human consumption because of low-level contamination of their flesh by toxic substances! This nation can no longer tolerate the discharge of toxic substances into its water courses. Toxic substances control legislation would greatly enhance the significance of measures carried out under P.L. 92-500 and assure that safe and clean waters will be available for vitally important drinking and recreational purposes.

P.L. 92-500 does, of course, call for strict limitation on toxic substances discharge. The problem is that the Environmental Protection Agency has not implemented that objective because the Agency contends it lacks sufficient authority to apply the kind of restrictions that would serve effectively to curtail such discharges into America's waters. Passage of H.R. 10318 would serve to move the EPA off dead center on this issue.

In addition to providing the EPA with the needed authority for control of toxic substances, there is a great need to spell out the respective roles of manufacturers and governmental agencies in assuring that only *safe* compounds reach the market place. It is hoped you will continue your highly commendable efforts to attain that goal.

The Soviet Fishing Institute strongly supports the principles and objectives embodied in H.R. 10318 and urges its adoption by the Congress at an early date. It will be appreciated if this letter can be included in the record of hearings on this important measure so that our position on the issue will be known by all concerned.

Sincerely yours,
GILBERT C. RADONSKI,
Executive Secretary.

PURSUING THE GREAT WHITE WHALE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. HARRINGTON. Mr. Speaker, one of the most paradoxical figures on the American scene today—or perhaps I should say off the American scene—is the multibillionaire recluse Howard Hughes. While working intimately with the U.S. Government on a variety of major projects and accumulating tremendous wealth and power, he has remained as elusive and enigmatic as the fabled Moby Dick, moving from place to place in a roil of aides and security men, never surfacing completely. Some have seriously suggested that he doesn't exist at all.

Two reporters for the Philadelphia Inquirer played Ahab to this leviathan for several months last year and proved by their efforts that pursuing the Howard Hughes riddle has importance well beyond the simple thrill of the hunt. Exempted from restraints and standards that apply to ordinary mortals, Hughes is the business counterpart to certain privileged sectors of government and organized crime which also lie beyond the law. These three elements not only tend to coexist, the reporters indicate, but sometimes form alliances of tremendous mutual advantage.

The Inquirer exposé, which ran as a series between December 14 and 20, 1975, emphasizes the Hughes-government side of the triangle, tagging the national security bureaucracy as the mogul's "silent partner." The reporters, Donald Barlett and James Steele, deserve high praise for the thoroughness of their work, as does their newspaper for devoting so much space to the subject.

I am inserting the series in the RECORD in daily installments, the first of which follows:

HOWARD HUGHES: HE HAS A SILENT PARTNER—THE U.S. GOVERNMENT

(By Donald L. Barlett and James B. Steele)

In all likelihood, today will be just another normal day in the life of Howard Robard Hughes, the richest recluse on the face of the earth.

No one really knows, of course, just what life is like for Howard Hughes. Only one thing is certain: Before the sun sets on an average day, Howard Hughes, secreted away in a two-story suite atop the Xanadu Princess Hotel on Grand Bahama Island, will have collected nearly $1.7 million more from the United States Treasury than he had when the sun rose in the morning.

That has been the Hughes empire's average daily take from America's taxpayers for 10 years now. Since 1965, Hughes companies have received more than $6 billion in contracts from nearly a dozen different departments and agencies of the federal government.

And that puts Howard Hughes in a class by himself. Hughes and his enterprises, as measured by all the available evidence, receive more American tax money—over $11.6 million a week, every week—than is paid to any other privately controlled business in the world.

When trying to understand the manner in which Hughes has managed, at a cost to taxpayers of billions, to become almost a literal extension of the federal government, it is necessary to think in terms of Howard Hughes' Washington.

Howard Hughes' Washington is a different place than your Washington or Gerald Ford's Washington or even the rest of the defense industry's Washington.

Howard Hughes' Washington is a place of intricate deals, shadowy alliances and quiet understandings, a place from which the millions of dollars flow forth in a never-ending stream—and a place where even the law itself seems to have been suspended, and none of the usual requirements of accountability or performance or competition seem to hold sway.

And each year Howard Hughes' Washington grows larger, and the river of lucrative contracts flows more swiftly.

So much so that in some phases of his business activities, Howard Hughes has become almost a clandestine branch of the federal government, operating in total secrecy, guaranteed secret profits, checked or monitored by no outside force whatsoever.

Scores of employees from more than a half-dozen different agencies of the federal government—from the Federal Bureau of Investigation to the Defense Department—move effortlessly from the government payroll to the Hughes payroll.

At the same time, governmental bodies from the Civil Aeronautics Board to the Internal Revenue Service to, on occasion, the federal courts themselves, again shield and exempt Hughes from the rules, regulations and laws that bind other businesses and citizens.

All this takes place against a shadowy backdrop of occurrences that include: secret political contributions; business dealings punctuated by suicides; stated campaigns to buy and control politicians; sharply inflated markups on government contracts; and the failure of both the Watergate special prosecutor's office and the Senate Watergate Committee to investigate the full range of Hughes' ties to the administration and the associates of former President Richard M. Nixon.

These are but a few of the findings to emerge from an eight-month investigation of Hughes' business operations by The Inquirer—an investigation in which the United States government has gone to extraordinary lengths to protect Hughes.

Federal agencies and departments have engaged in a variety of stalling practices, refusing to answer requests for information, denying the existence of certain documents, wthholding documents the courts have ruled are public records, and even notifying Hughes companies of specific requests for public records that were made by this newspaper.

DATA WITHHELD

On several occasions, Defense Department officials promptly notified executives of a Hughes company—and even a former Hughes executive—of the details of Inquirer requests to examine certain public records. The requests were made under provisions of the Federal Freedom of Information Act.

In one case, Hughes officials advised the Defense Department that they were opposed to the release of the documents; that they, indeed, would consider it "catastrophic." The Defense Department then told The Inquirer that the material could not be made public.

The records requested by the newspaper consist of routine, but secret, audit reports of how Hughes companies have spent $5.7 billion in tax money in connection with military contracts.

The Inquirer investigation, which stretched from New York to Los Angeles and from Miami to Mexico, established that Hughes has received favored treatment from federal agencies and the federal courts, against this background:

The flow of tax money to Howard Hughes. Over the last decade, eight of every 10 contracts entered into with Howard R. Hughes' companies by the federal government were awarded without competitive bidding.

Of $813.2 million in military contracts awarded to Hughes Aircraft Co. in fiscal 1974 alone, 78 percent of the dollar total were awarded without competitive bidding. The average for all other defense contractors was 86 percent.

In the first six months of fiscal 1975, Hughes Aircraft received $622.1 million in military contracts, with 93 percent of the dollar total awarded without competitive bidding. The average for all other defense contractors was 64 percent.

Thus, of the more than $6 billion that Hughes companies have received over the past 10 years from government contracts, more than $1 billion was money American taxpayers could have been saved had the contracts been awarded competitively. The estimate is based conservatively on the federal government's own calculations that non-competitive contracts such as those favored by Hughes average about 25 percent more in cost than contracts bid on competitively.

On one contract alone—that for the Army's TOW missile system, for which Hughes Aircraft Co. is the prime contractor—a General Accounting Office audit shows that costs have gone up 43 percent, from a Defense Department development estimate of $727.3 million to a current estimate of $1.042 billion, even though the higher costs are based on the delivery of fewer missiles than originally planned. This means the Defense Department is paying more, but getting less.

Hughes business and political practices. In a design competition for the building of a new light observation helicopter, 12 aircraft companies, including a division of the Hughes Tool Co., submitted 17 different proposals to the military in January 1961. After studies by technical and evaluation groups, two manufacturers—Hiller Aircraft Corp. and Bell Helicopter Co.—were selected to proceed with the development of prototypes. Hughes Tool Co. was not selected.

Then, in sequence, congressional hearing records show, there followed: A series of friendly meetings between a Hughes representative and a key Army general; the selection of Hughes as an additional company that would build prototypes; the testing of the prototypes and a decision that the Bell machine was least desirable, while the Hiller and Hughes helicopters were about equal; an invitation to Hughes and Hiller to submit bids for building 714 of the helicopters; and, finally, the awarding of the contract to Hughes—despite a charge by Hiller Aircraft that Hughes had obtained the confidential cost data on which Hiller's bid was based. (The Army investigated that charged, but later refused to turn its data over to Congress.)

The flow of tax money to Howard Hughes. The cost of the Navy's Phoenix missile system—for which Hughes Aircraft Co. is the prime contractor—has spiraled from a Defense Department development estimate of $536.4 million to $1.175 billion—an increase of 119 percent.

While the cost of the Hughes system has gone up 119 percent, the cost of 23 other major Navy weapons systems has risen just 40 percent. The unit price of the Hughes system has climbed from $225,000 to $464,000—a jump of 106 percent.

Hughes business and political practices. The Hughes Tool Co., now Hughes' Summa Corp., was awarded the disputed Army contract to build the 714 light observation helicopters in May 1965 on the basis of a low bid of $19,860 per air frame. The bid was at least $10,000 below the cost to Hughes of constructing the machine, according to congressional testimony. In fact, the bid so surprised the Army that it sent a telegram to the company, asking if perhaps a stenographic error had not been made.

There was no error, Hughes assured the Army, and a contract was signed. Then, less than a year later, the Army—in the midst of a steadily escalating Vietnam War—asked Hughes to supply 121 of the helicopters ahead of schedule. Hughes responded by saying the price had nearly tripled, from $19,860 to $55,000. The Army decided it did not want the 121 helicopters rushed off the assembly line after all.

The flow of tax money to Howard Hughes. From 1956 to 1960, Hughes Aircraft Co. delivered modification kits, spare parts and components for aeronautical equipment to the Air Force under a contract for $6.489 million.

A GAO audit shows that based on the costs to deliver the material, the Hughes company realized a 37 percent pre-tax profit on the transaction. In 1974, the 500 largest industrial companies in the United States, measured by Fortune magazine, showed an average pre-tax profit of less than 9 percent on revenues. The Hughes contract was a negotiated agreement with the Air Force, meaning there was no competitive bidding.

Hughes business and political practices. In October 1967, Mikio Morita, the civilian chief of the Japan Defense Agency's equipment bureau, committed suicide by throwing himself in front of a Tokyo express train.

Five months later, in March 1968, Maj. Gen. Jiso Yamaguchi, chief of staff of the Japanese air force general's staff defense section, committed suicide by drowning in a Tokyo reservoir.

The deaths of both men grew out of a scandal—one that went largely unnoticed in the United States—in which secret Japanese defense documents were turned over by a Japanese air force colonel to a representative of Hughes Aircraft Co. Gen. Yamaguchi had been the officer in charge of a Japanese defense project for which Hughes Aircraft was the contractor.

The flow of tax money to Howard Hughes. In June 1960, Hughes Aircraft Co. arranged to purchase a quantity of electron tubes from another manufacturer at a cost of $1.55 per unit. The addition of the company's own related costs and overhead brought the unit cost to Hughes to $1.97.

Five months later, Hughes worked out an agreement with the Air Force under which it would deliver 23,436 electron tubes at a unit price of $5.36—a 172 percent markup over Hughes' cost, according to a GAO audit report. The agreement was a negotiated contract, so there was no competitive bidding.

Hughes business and political practices. In March 1968, Col. Kenhichi Kawasaki, former vice principal of the Japanese Air Self Defense Force's School of Military Science, was arrested and subsequently charged with leaking classified information, including the secret defense electronics plan that he gave to a man identified as the Far East representative for Hughes Aircraft.

Kawasaki ultimately was convicted on charges of divulging state secrets, but the overall investigation was hampered by the suicide of his two colleagues and the departure to the United States of Hughes Aircraft's representative, placing him beyond the reach of Japanese authorities. One sidelight of the scandal were charges that the Hughes Japanese partner in a defense contract had channeled secret political contributions to Japan's premier.

WHY SOUTH AFRICA?

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. FRASER. Mr. Speaker, Nieman Reports is the quarterly publication of the Nieman Foundation for Journalism at Harvard University.

Jim Thomson, Curator of the Nieman Fellowships and editor of the publication, sent me an advance copy of the combined Autumn and Winter 1975 issue because he knows of my interest in South Africa. This issue devotes five articles to the land of apartheid in a special "Focus on South Africa."

I found Thomson's editorial, "Why South Africa?" very thoughtful and wise. It focuses on the South Africans who have been Associate Nieman Fellows at Harvard, but, more importantly, it raises the issue, "Should there continue to be South Africans in the Nieman program?"

Thomson believes there should be. His editorial explains why. His conclusion is that "Total 'shunning'—in the Mennonite sense—seems both unachievable and self-defeating," in the case of South Africa.

Only Jim Thomson's editorial follows, but I believe my colleagues will find the entire issue of interest.

[Nieman Reports, Autumn and Winter 1975, Vol. XXIX, Nos. 3 and 4]

WHY SOUTH AFRICA?

(Editorial by Jim Thomson)

Why an issue of this journal devoted largely to South Africa?

In part because South Africa is a uniquely cruel and unjust society in which one-fifth of the people lawfully subjugate the other four-fifths *solely on the grounds of color*. Such a society deserves special scrutiny.

In part, however, because South Africa's rulers nonetheless tolerate—although with reluctance—the freest and most lively press to be found anywhere on the African continent. It is sometimes a very brave press as well. And portions of that press have served for two decades as the functional equivalent of an opposition party in a *de facto* one-party state.

Fifteen years ago the Nieman Foundation for Journalism began a relationship with South African journalism. At the suggestion of the United States-South Africa Leader Exchange Program (USSALEP), it was agreed that one South African newsman would come to Harvard each year for nine months of study as an Associate Nieman Fellow. USSALEP, a privately funded outfit formed by educators, clergymen, and businessmen from both countries, would nominate and finance each year's fellow.

Since 1960, 16 South Africans (not including the current Fellow for 1975–76) have studied at Harvard on this program. Thirteen have been white, two black, and one—by

South African classification—"Coloured," i.e., of mixed blood.

Of the 14 who actually returned home, all have done well, and some extremely well. One is chief editor of the nation's largest newspaper (*The Sunday Times*); three are also chief editors—of another national Sunday paper and two major dailies; four are deputy editors of other major dailies; one is regional editor for a national magazine, one is political correspondent of the leading Afrikaans newspaper, and one is financial editor of a large Sunday paper. (Two Nieman alumni left journalism and are leaders in the business sector; and a third is information officer for a great university.) In terms of the nation's white linguistic divisions, seven of the journalists now work for English-language media, four for Afrikaans-language media.

As noted earlier, 14 of the 16 returned home. What of the other two?

Well, they were blacks (or "Bantu," as the Pretoria government styles them); and in each case—first in 1960, and then again in 1964—these Nieman fellowship recipients were denied passports and instead granted only one-way exit permits that decreed permanent exile. One, Lewis Nkosi of *Drum* magazine, has remained in exile. The other, Nathaniel Nkasa, also of *Drum*, apparently despondent in the face of exile, committed suicide at the end of his Nieman year.

This year's South African Nieman—Percy Qoboza, editor of *The Daily and Weekend World* (Johannesburg)—is again a black, for the first time in a decade. But thanks to subtle changes within the implementation of *apartheid*, he is traveling on a full-fledged passport, not a one-way exit permit. And he and his wife intend to return home at the end of their Nieman year.

So, the Nieman Foundation has long participated, and continues to participate, in the unique society that is South Africa.

Should it do so?

That was the central question that undoubtedly prompted an invitation from USSALEP for me and my wife to visit that country for three intensive weeks last summer—to see for ourselves and make our own judgments.

Out of that visit has come, for me, a mix of reactions. Among them is a strong sense that the South African English-language press has indeed served well, and sometimes very bravely, as both conscience and critic of the white community, and has acted as a brake against the more brutal excesses of white racism. Among my reactions, too, is some satisfaction in whatever the Nieman program may have done over 15 years to enlarge the understanding and stiffen the spine of the white opponents of *apartheid*.

At the same time, one comes away feeling that indignation is hard to sustain for those whites who live on the scene—and that the press shows that difficulty. It is hard to sustain because life is so extraordinarily comfortable for whites; because *apartheid* has, in fact, succeeded in largely closing down even the tenuous communication between whites and non-whites that existed until the early 1960's; and because it is impossible very long to perpetuate—or to have one's readers tolerate—a crisis mentality.

Having been invited in the hopes that we would note and applaud South African progress, my wife and I disappointed many of our white hosts by being much more shocked by what we saw and heard than we had expected. Yet other whites quietly thanked us for the intensity of our reactions—for reminding them of things to which they had become temporarily numbed.

So, back to the question of "participation" in South Africa. Total "shunning"—in the Mennonite sense—seems both unachievable and self-defeating. Those South Africans who hate *apartheid*—both whites and blacks—need responsive visitors from the rest of the planet. Black workers probably need outside investments to help raise their slave wages, investments by enlightened industrialists who care about using their leverage to benefit the blacks (but how to find and pressure such industrialists?).

And that conscience and critic, the South African press, continues to need exposure to attitudes, learning, and support outside the country. The English-language types need encouragement and some of them, only superficially anti-*apartheid*, need a challenge to their smugness. The Afrikaner journalists—an increasingly restless group, no longer unquestioning in their support of the official ideology—need to be assisted out of their parochialism.

But most of all, the blacks—who own no newspapers, can find few apprenticeships in the media, and are denied any formal education in journalism are those to whom programs like the Nieman Fellowships—and equivalents at other American universities—should especially direct their efforts.

Because some day, sooner rather than later, the black majority will assuredly at least share power and wealth in a transformed South Africa, or more likely will hold the lion's share of both. And at that moment in history it would be salutary for South Africa's new rulers to have as free and lively a press, staffed by men and women of high skills and liberal values and courage, as South Africa's white masters have so long grudgingly tolerated.

FUNDING FOR TICK CONTROL

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. RISENHOOVER. Mr. Speaker, infestations of Lone Star ticks, a devastating menace to wide areas of our country, are increasing rapidly.

Oklahoma ranchers, recreation, the quality of life and our national economy suffer because of ticks. Some 45 pounds of beef per calf can be lost by tick infestation. Deer are weakened. Small animals are killed. Ticks carry diseases to people. Residents often shun their own yards to avoid ticks and tourists and retired people avoid areas of infestation—even though they otherwise are attracted.

Congress voted $180,000 for tick research this year; a commendable increase. In addition, Congress has ordered the Agriculture Research Service to give high priority to tick control.

Dr. Jakie Hair of Oklahoma State University has made great progress in research to control this menace through the use of carbon dioxide as an attractant. He could be on the verge of other breakthroughs in control. Oklahoma State Senator John Dahl and I are championing a $250,000 tick research laboratory in Oklahoma to aid the studies and work.

It is essential that Congress and the Federal Government strengthen efforts to combat the tick problem. This means more funding which must be considered an investment into the health of people, animals and our economy.

BUSING IS STILL THE ESSENTIAL TOOL

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Ms. CHISHOLM. Mr. Speaker, our colleague, Representative Augustus Hawkins, has recently published in the Los Angeles Times an article which states clearly and effectively the continuing need for school busing as an essential tool to achieve school desegregation. While each of us recognizes that no single approach will answer all the difficult questions involved in achieving equal educational opportunity, it is irresponsible to reject a technique which has proven effective in numerous instances simply because the strident voices of racism in some communities have undermined peaceful compliance with court decisions. As chairman of the Subcommittee on Equal Opportunities, Representative Hawkins has a unique understanding of this issue. I commend to you his article.

[From the Los Angeles Times, Thur., Feb. 5, 1976]

Busing Is Still the Essential Tool—Without the Underlying Threat of Court Orders, Desegregation Would Stall

(By Augustus F. Hawkins)

Renewed racial violence in Boston and angry—if peaceful—protests by white parents in Detroit have sparked a new wave of debate over busing in recent weeks. As usual, pontifications of every variety are being voiced. Yet, despite the intensity of the dispute, there is a curious silence on the topic that matters most: the moral and legal obligation of this country to provide black children with equal educational opportunity.

Instead, the nation seems to have become bogged down in arguments over the feasibility of using buses, which is, at best, a side issue. The real issue is—and always has been—desegregation. If our society were really committed to this end, it would matter little if children walked to desegregated schools or were whisked there in flying saucers.

Busing itself certainly is not new to America. The Department of Health, Education, and Welfare has reported that 44 percent of all schoolchildren ride buses to classes. However, only about 3 percent of these were being bused to achieve desegregation. Some antibusing leaders now claim that desegregation is not the core of the problem—a view even espoused by some professed liberals and civil-rights activists. If that were really the case, why has a tiny fraction of students become the focus of so much controversy?

I strongly suspect that the current furore over the means of implementing desegregation camouflages a conscious rejection of the end being sought. If so, then those who back down in the face of pressure from antibusing groups or fail to support busing because of threatened social unrest are actually helping to undermine the power of the courts.

For the law is clear on the question of school desegregation, as it has been since 1954. In Brown vs. Board of Education, the Supreme Court not only outlawed segregated schools as "inherently unequal" but also required state and local school boards to eliminate this inequality "with all deliberate speed."

This clear and uncompromising position was reaffirmed in the Swann decision of 1971, which allowed lower federal courts to order busing as part of a school system's desegregation plans. While subsequent decisions have narrowed Swann's applicability, none prohibited the use of buses or any other legitimate device to attain desegregation.

Yet the assault on busing continues. The U.S. attorney general now says he wants to "rethink" the Swann decision. Antibusing leaders are calling for the "integrity" of neighborhood schools. What is even more distressing, some moderates, liberals and civil-rights advocates are falling all over themselves in their retreat from busing.

California's own Superintendent of Public Instruction Wilson Riles, himself a black, says it is "foolish" to assume that students must ride a bus to get a good education. Even James S. Coleman, the University of Chicago sociologist whose views were once widely used by federal courts to justify enforced desegregation, has now switched his position on the ground that busing contributes to the flight of whites from cities.

Coleman's new position reflects the kind of timidity that has characterized much liberal and moderate white reaction to the political challenges of antibusing groups. Making a distinction between the eradication of legal segregation and the achievement of educational parity by blacks, Coleman now argues it is not the responsibility of the courts to ensure that blacks gain the benefits of integrated classrooms, since striking down legal segregation is progress of itself.

That kind of hairsplitting logic ignores the aim of the courts in outlawing segregation in the first place. By eliminating the "separate but equal" system in law, clearly the justices also intended to eliminate it in fact. Otherwise there would have been no need to insist that Linda Brown—the protagonist in Brown vs. Board of Education—be admitted to a white school or that other systems be desegregated "with all deliberate speed."

The truth is that those who now either back away from busing or offer "alternative solutions" have been cowed by the political power of the opposition. This appears to explain the turnaround by Coleman, who restricts his present support of busing to the "voluntary" kind. He and others who take this position apparently believe that the white majority should decide whether to abide by the Brown decision.

For many years coercion—or the threat of it—has played a critical role in safeguarding the public interest. It is used, for example, to enforce zoning ordinances, tax laws, political redistricting and the right of all individuals to dissent. Who would be so naive as to suggest "voluntary" compliance with laws prohibiting arson or murder?

This is not to say that voluntary busing should be rejected out of hand. Nor do I advocate busing for busing's sake. In fact, I see much hope in a study recently released by Meyer Weinberg, editor of the magazine Integrated Education.

Weinberg believes that "the country is finally starting to deal seriously with the problems of desegregation." He points to Des Moines, where the school board's voluntary plan stresses the need for "affirmative action and leadership." Here in California, according to Weinberg, an advisory commission to the State Board of Education has strongly urged the board to adopt new policies encouraging school districts to implement desegregation measures.

These hopeful signs are, however, a direct outgrowth of pressure from court rulings since 1954. By the same token, desegregation will proceed in neither California nor other states unless school boards and elected officials are convinced the courts will intervene if they fail to take action.

To be sure, social unrest—perhaps even racial violence—will continue in cities where serious attempts are made to desegregate. But just as the nation stood firm behind the Constitution when George Wallace and Birmingham Police Chief Bull Connor tried to frustrate the will of the courts, the public today must be prepared to support busing when and where it is needed to comply with the law of the land.

Skeptics about the purely educational value of busing would do well to think twice before joining the opposition. Indeed, they would better serve their own interests—and their country's—by simply urging school boards to move ahead with desegregation plans. In the final analysis, that is the only way to avoid "forced" court-ordered busing.

It would be foolhardy, however, to expect voluntary measures alone to ensure compliance with the mandate of Brown vs. Board of Education. That 22-year old decision charted a clear course: All Americans must share equal access to educational facilities, and "all deliberate speed" is required to reach that destination. Take away busing as a tool for getting there, and you seriously jeopardize the whole trip.

POST OFFICE CLOSINGS

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. RIEGLE. Mr. Speaker, the Enquirer & News newspaper in Battle Creek, Mich., has published an important editorial concerning the proposed closing of small post offices. I insert the editorial for the interest of my colleagues:

POST OFFICE CLOSINGS

In an age when rising postal rates are not always matched by a corresponding increase in efficiency, it is difficult to criticize the Postal Service for attempting to cut costs.

Last fall the Postal Service took a step toward greater efficiency by announcing that it planned to close unprofitable, small post offices throughout the country.

In response to that statement, 44 members of Congress have sued the Postal Service, asking for a court order against closing those tiny post offices.

Rep. Paul Simon, of Illinois, said the agency is, in effect, "carrying out a massive assault on the country's small communities."

The efforts of the Postal Service would seem commendable and hardly worth criticizing if the small post offices of America merely were places for the sending and receiving of mail.

In many communities, though, the post office is a source of pride, a social center of sorts in places where most other businesses have lost out to the downtown areas and suburban shopping centers of larger cities.

A few years ago a movie equated the death of small towns with the closing of "The Last Picture Show." Indeed, movie theaters are now as rare in small towns as general stores with wooden floors and cracker barrels.

Those institutions, however, were not the end of tiny communities, only steps in that direction.

For it is not until the post offices closes that highway departments, according to guidelines in most states, can legitimately consider removing small communities from the road maps.

And, sentimentality aside, residents of those little towns would miss the kind of personal service that much larger post offices cannot hope to offer.

The Postal Service, then, should reconsider just how it may best cut costs, remembering that, in eliminating a small post office, it is doing more than closing a building.

OFFSHORE OIL DRILLING

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. HOWARD. Mr. Speaker, we are rapidly approaching the date set by the Interior Department for OCS sale No. 40, involving over 800,000 acres of land on the Outer Continental Shelf. Not long ago, I had the opportunity along with many other individuals in the public and private sector to submit testimony on the Interior Department's draft environmental impact statement on the sale. I submit my remarks for the RECORD.

The remarks follow:

OFFSHORE OIL DRILLING

As the U.S. Congressman from the Third District of New Jersey, I have the privilege of representing Monmouth County and parts of Ocean County, the first and second most densely populated New Jersey counties along the Atlantic coast. Because of the heavy concentration of permanent residents—intensified in summer months by out-of-county visitors—and because of the huge volume of business generated by the needs and activities of so many people, it is imperative that any change in the status quo of the area be scrutinized to the point of exhaustion.

Offshore oil drilling is just such a change, requiring input from government officials, businessmen, environmentalists and concerned citizens who stand, in one way or another, to gain or lose from the final outcome.

FISHING

Fishermen, for instance, are certainly more likely to suffer than prosper from offshore oil drilling, in spite of claims by some oil companies that oil drilling platforms are a haven for numerous species of fish. The breeding areas for sport and commercial fin fish, inadequately discussed in the Draft Environmental Impact Statement (EIS) prepared by the Interior Department, are the most vital natural resource of our coast to be threatened by oil spills. Fluke and bluefish, as an example, depend on at least two major fish spawning areas on the New Jersey coast. Fishermen, consequently, depend on the continued popularity of those areas for their livelihood, making an oil spill devastating to fish and fishermen alike. And, anyone who might suggest as it suggested in the draft EIS, that New Jersey over the years has had a poor winter harvest of fish should study reports of the foreign armadas off our shores, depleting our mackerel, whiting and ling with all the efficiency of a floating fish factory.

Many Monmouth and Ocean County fishermen depend on shellfish, such as clams, lobsters and scallops for their income. Lobstermen out of Point Pleasant have already suffered at the hands of the oil company exploratory vessels whose seismic devices have ripped lobster traps from their moorings. Already thousands of dollars in damages have been sustained by these lobstermen, and though the oil companies have responded quickly in reimbursing for damages, the money does not account completely for all the man hours lost. Lobster trapping, in fact, may be a fast-disappearing profession in Ocean County, since foreign trawlers too have succeeded in wiping out much of the lobstermen's equipment. The EIS fails to address the current negative impact of offshore exploratory operations, combined with foreign interference, on our shore-area lobstermen.

PIPELINES

In studying the EIS's long-range predictions of the effects of offshore oil drilling on fish and fishermen, I found that most of the data related to the consequences of an oil spill and only one paragraph (P. 98) was devoted to the effect pipeline burial operations will have on fish, particularly shellfish. Although it is stated that only five to 10 feet along the pipeline will be disturbed, the report does state that:

"A potentially harmful impact would be from intertidal sedimentation from polluted sediments stirred up during pipeline laying. The consequence of this, although believed to be minor in relationship to the total of intertidal communities, is not known." (P98)

The EIS, I believe, should have devoted more space to discussing specifically the quantitative loss of surf clam and lobstering areas as a result of pipeline burial.

Considerable attention was paid to the very hazardous practice of laying pipes in areas of heavy trawling, anchoring and generally dense ship traffic. According to the EIS, 92.31 percent of all oil spilled by pipeline breaks and leaks between 1967 and 1974 was the direct result of ships dragging anchors across pipelines (P. 22). Since virtually all waters off New Jersey in the vicinity of the leasing area have high-density ship traffic, it is unlikely low-risk corridors could be found for the two pipelines it is projected will come ashore in New Jersey.

The EIS fails to cite data on the amount and location of ship traffic and statistics on ship collisions which could, in the future, result in pipeline damage. In fact, the EIS erroneously assumes that increased oil drilling will result in less ship traffic, since it assumes the U.S. will become less dependent on foreign oil shipments. Indications are, however, that unless we embark immediately on a rigid national energy policy, oil from the Outer Continental Shelf will be in addition to, not in place of, imported oil. What can be done—and I will seek legislative solutions if necessary—is to insure strict federal enforcement of 1970 federal safety regulations regarding the construction and burial of pipelines. Already, the enforcement of these regulations has had the effect of cutting by two-thirds the amount of pipeline oil spilled in the Gulf of Mexico. In addition, I urge that adequate policing and marking of the pipeline corridors be made mandatory as part of any leasing contracts entered into by the federal government.

ONSHORE FACILITIES

It is a source of consternation to me that Monmouth and Ocean counties were among the four counties assumed by the EIS to be the logical sites for onshore operations bases or pipeline terminals. The EIS does not specify why these counties were selected or why Monmouth was singled out for the dubious honor of providing both an onshore operations base and a pipeline land terminal. Fortunately, this selection was made only as part of theoretical projections, and in the final analysis such projections may only be academic since it is likely that pipes will come ashore at the location nearest to the drilling operation.

Sadly lacking in the EIS's siting of onshore facilities was input from state and local officials who, for the past few years, have been developing coastal management strategy. How can an environmental impact statement hope to assess onshore social and economic impact without studying the long-range development plans of shore communities? Landing pipelines and constructing onshore facilities in tourist-dependent areas untouched by heavy industry would be disastrous from an environmental and economic standpoint.

It would also be foolish to assume the private and public sector would not join in a united effort to block onshore construction. A case in point involves the Committee Against Bayshore Oilports formed last November in bitter response to a university study singling out Middletown Township as a likely receiving area for proceeds of offshore oil drilling. The Committee is fearful that the Bayshore's heretofore unspoiled land areas will fall victim to "Big Oil." Members are ready to fight with every resource available long before the first line is drawn on the planning board.

TOURISM

The tourist industry, vital to the economy of New Jersey, stands to suffer harsh repercussions in the event of an oil spill. Tourism in New Jersey is a $3.5 billion industry, second only to the petrochemical industry. In Monmouth and Ocean counties, tourism generates $24 million in personal income, $36 million in business receipts from lodgings alone and thousands of jobs for teenagers and adults. As a result, the businessman's interest in an attractive shoreline and clean water goes beyond the ascetic to dollars and cents.

Unfortunately, the EIS does not seek to break down to dollars and cents the economic impact of a major oil spill on the state or on certain smaller regions, such as Monmouth and Ocean counties. This leaves the small businessman at a great disadvantage in trying to determine just how offshore drilling will affect him personally and what safeguards he might take to avoid possible financial losses.

Others before me have noted a great flaw in the EIS in its analysis of the broad impact tourism has on shore communities. Day visitors to the shore who travel less than 100 miles one-way were excluded from the study because, according the the EIS, little data existed on the extent of their contribution to the tourist dollar. The failure to at least acknowledge this group resulted in an underestimation of the economic strain on shore businesses and beach receipts in the aftermath of an oil spill. One need only to travel on Route 36 after a day at Gateway National Park (which has the highest annual visitation rate of the East Coast federal recreation areas listed by the EIS) to be convinced in short order that day trips are the rule rather than the exception in many parts of New Jersey.

LIABILITY FUNDS

It is imperative that before any offshore oil production begins, a comprehensive oil liability fund be established to insure that businessmen and private property owners will not suffer irreparable damage from oil spills. To this end I have co-sponsored and will push for early consideration of the Federal Oil Pollution Liability and Comprehensive Act of 1976. Under the bill, the owner of an oil tanker or oil-producing or storage facility responsible for the spill would be required to pay all the costs of cleaning up a spill, and would be liable in addition for damages to those injured by the spill up to a set liability limit. This limit would be set at $150 a ton for oil tankers, $50 million for onshore and offshore oil producing and storage facilities and $100 million for deepwater ports. Expenses beyond these limits would be borne by the newly-created oil spill liability fund. Financing for the new fund would be accomplished through a limited tax on oil produced in or delivered to this country. It is estimated it would raise the price of a gallon of gas a fraction of a cent, though the tax would be terminated once the fund accumulated $200 million.

LEASING

In our rush to develop a degree of independence in energy, we may have underemphasized the importance of comprehensive exploration of the Outer Continental Shelf. Certainly we should have a solid estimate of how much oil exists in the OCS before we begin leasing acreage to oil companies, but it is evident from the periodically-revised figures on oil deposits compiled by the United States Geological Survey, that not even the experts can guess the size of our deposits. Without more exploration to determine better estimates of our oil and gas reserves, it is impossible to weigh the benefits of offshore oil drilling against the disadvantages.

There has been much debate on the state level and in Congress on revision of federal oil leasing procedures, now conducted on a "front-end bonus" bidding system. This method has two negative effects. First, it discourages smaller companies from competitive bidding because they are unable to match the huge, lump sum bids offered by the larger companies. Secondly, it restricts the amount of money available for exploration by tying up so much capital in the initial bid.

The "net-profit sharing" bidding method endorsed by Gov. Brendan Byrne and other state officials appears to be both fairer and wiser for all parties involved. Under this system, companies would bid on the share the government would receive from actual production, assuring the federal treasury a steady income on producing wells while freeing up private cash for an intensive exploratory effort. This method, which would serve to separate the right to explore for oil from the right to produce it, seems especially wise in view of lower bonus bids offered recently for acreage off California and Texas.

In a few weeks, the House Ad Hoc Committee on the Outer Continental Shelf will be marking up legislation that will require the Secretary of the Interior to utilize a leasing method other than the cash bonus system at least 33 per cent of the time. This is a step in the right direction. The Senate's version is more effective in this respect in that it requires the net profit sharing or other method to be used 50 per cent of the time, though it lacks exploration incentives House committee members are expected to include in the House bill.

In addition to encouraging the optimum amount of OCS exploration, I urge the Department of Interior in its leasing to require oil companies to meet strict safety and environmental guidelines so that oil spills do not result from laxity in construction and operation or simple human carelessness that could easily be avoided. Although there are regulations in effect governing many aspects of offshore drilling, there is nothing that requires oil companies to meet state guidelines as a prerequisite for contract approval. I urge that the Department of Interior assure the states through the issuance of regulations that it will not proceed with leasing until state legislatures and Departments of Environmental Protection are given the opportunity to draw up their own guidelines.

Offshore oil drilling at this stage of our country's quest for new energy supplies must be viewed as unavoidable. What can be avoided, however, are the negative effects of not knowing what kind of reserves and what kind of onshore development can be expected. Through careful exploration, the federal government can get the best return on its sales, and governments, businesses, industries and concerned citizens can better assess the environmental and economic impact involved in the tapping of our offshore energy supplies.

U.S. POSTAL SERVICE

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. RISENHOOVER. Mr. Speaker, one of the keystones of rural America is the small post office. Besides the obviously needed services rendered by these postal facilities, they are a symbol and rallying point of small communities which need to grow—as our society turns away from urbanization and toward balanced growth.

Yet, the U.S. Postal Service has launched a program to close many of these small post offices. I plan to continue fighting each closing in my district and I urge this Congress to join my effort—because closing small post offices is a movement in the wrong direction for our country.

NUCLEAR POWER STILL IMPORTANT

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. ULLMAN. Mr. Speaker, the article which follows is from the Oregonian (Portland) of February 16, 1976. It is the second in a series concerning problems and alternative solutions to them that confront every one of us. I hope Members will find it as useful and informative as I do.

NUCLEAR POWER STILL IMPORTANT TO BRITAIN DESPITE NORTH SEA OIL, GAS DEVELOPMENT

(By Dr. Forrest E. and John W. Rieke)

British hopes for cheaper energy and economic recovery rest heavily on rapid development of North Sea oil and gas deposits, signaling a change in the nation's energy policy that previously projected a mixed fuel economy evenly divided between fossil fuel sources and nuclear energy.

The United Kingdom employs a four-fuel system, primarily coal, plus oil, nuclear energy and natural gas. Hydroelectric generration is minimal.

For centuries British coal has been both a blessing and a bane. It was a secure energy base for industralization, but coal mining devastated large areas of the land, wrecked the health of thousands of miners and fouled the air of the cities.

In the mid-1960s, clean-air statutes were enacted which prohibited use of coal for space heating and cooking; a rush to natural gas and electricity ensued. This posed a serious threat to the livelihood of thousands of coal miners.

To protect mine employment, the government ordered the Central Electricity Generating Board, the national utility in the United Kingdom, to purchase annually 60 million tons of British coal for the production of electricity, a mandate that protected the miners and at the same time committed the U.K. to a coal-based energy economy.

The Central Electricity Generating Board (CEGB) reported in 1974 that coal accounted for 64 per cent of its fuel cost, oil represented 23 per cent of the fuel bill, natural gas, 3 per cent and nuclear fuel, 9 per cent.

During 1974, under intense union pressure, the National Coal Board permitted a 133 per cent increase in the price of coal at the pithead, CEGB fuel costs climbed from $1.35 billion in 1973 to $2.41 billion in 1974. As a result, the CEGB suffered a loss of $80 million instead of an anticipated profit of $20 million.

The CEGB lodged a strong protest and the government agreed to cover the loss from the general fund. Thus, the cost of the coal folly was transmitted to the taxpayer.

New discoveries of oil and gas in the North Sea have brightened British prospects for energy and the fields appear to be rich, indeed. But there are problems.

Oil and gas are piped into the east coast of England and already have changed the fuel supply to that region. But developments farther north are going slowly; costs are high and oil production low.

Meanwhile, the Scots are growing politically restless. Potential oil prosperity has fueled a spirit of separatism which has always smoldered north of Hadrian's Wall. The Scots are demanding a share of the oil harvest and with the promise of increased income are demanding greater autonomy from England.

Scotland's aspirations are receiving serious consideration and will come to partial fruition, the British say. Meanwhile, quiet Scottish cities and hamlets are suffering unaccustomed growth, prosperity and boom-town social disruption. Things may never be the same again in the glens and braes and despite the potential windfall from oil, resentments are building.

With economic pressures increasing as an obstacle to oil exploration and the glory days of coal just about spent (old mines are nearly empty and remaining coal is difficult to reach and costly to produce), the United Kingdom has been forced to plan for supplementary energy from other sources.

Nuclear power still remains an important option for the generation of electricity in the U.K., though there are problems with it, some serious.

Nuclear energy's relative importance is diminished for the time being because of the shift to oil and gas, but the CEGB reports that its eight Magnox (gas-cooled) nuclear power stations are producing electricity much cheaper than either coal- or oil-fired generation.

In fact, on the basis of 1974–75 accounting costs, the Magnox stations (the first generation British reactors) cost $99 million more than coal- or oil-fired plants in depreciation, interest and operating expenses because they are nuclear. But they saved the CEGB $269 million on the fuel bill for a net savings of $170 million in favor of nuclear.

In the integrated power system of the CEGB, there are 146 stations burning fossil fuels—coal, oil, gas or combinations of the three. Obsolescence and replacement are recognized phenomena; fossil stations necessarily operate at about 2,000 degrees-Fahrenheit, a temperature which causes furnace deterioration and gradual loss of thermal efficiency. These and other factors must be accommodated in long range plans for fossil fuel and nuclear stations.

In addition, severe pollution from combustion of coal and oil is all too familiar in the United Kingdom. Most persons encountered during our visit feel that a change to relatively clean nuclear power has been welcomed by Britons as part of a clean-air strategy.

Anxiety over nuclear dangers has been allayed by up to 20 years of power generation at eight Magnox nuclear power stations, all of which have operated without disaster or obvious environmental disruption. There is some vocal opposition to nuclear power, largely centered in London and in northwest England.

Friends of the Earth, Ltd., in London, is the heart of organized nuclear opposition. It was created about five years ago. Its efforts are not limited to programs. The organization, yet a small group, claims to have prevented Rio Tinto Zinc from establishing a copper mine in Snowdonia National Park in Wales, achieved a ban on all imports of whale products (except whale oil), and halted construction of an oil rig depot at Drumbuie Inlet in Scotland.

Friends of the Earth officials say they were the first to sound the alarm over the proposed purchase by the CEGB of 32 American pressurized water reactors, and they have announced their intentions to block British development of its own steam generating heavy water reactor program.

In opposing nuclear expansion, the Friends of the Earth, Ltd. invoke widely used arguments: The danger of radioactive release, questionable operating safety of nuclear plants, unproved waste disposal methods, inadequate security and safety of transuranic nuclides, possible diversion of reactor fuel to weaponry, and other negative implications of "an electronuclear future."

The environmental movement in the United Kingdom, however, stresses somewhat different points than one finds in the United States. A conservancy society in that country is faced with a different set of realities. While the Friends of the Earth are ". . . committed to the conservation, restoration and rational use of the ecosphere . . .", it recognizes that options are limited in the United Kingdom.

Consequently, the environmentalists lean heavily on economic arguments—"Is fission really worth it? . . . The nuclear industry needs your support—can you spare another one billion pounds?"

In the present depressed economy, the British government finds it difficult to think about a distant future. Politicians would rather avoid discussion of a non-nuclear society, but the Friends of the Earth suggest such a society would entail no more radical changes than other available choices. FOE urges political and public evaluation of the costs and benefits for both a low-energy, non-nuclear society and high energy, nuclear society.

The Friends of the Earth reminds the British people that the costs of political mistakes will have to be paid long after elected decision makers have been retired.

While the Friends of the Earth continue limited confrontation with nuclear development, the government and the CEGB have espoused future increase in nuclear use, through a cycle of steam generating heavy water reactors (SGHWRs), a reactor type similar to those being produced in Canada, and a subsequent development of breeder reactors.

Reactor research and construction have been delayed by design problems and faulty workmanship, attributed to disorganized quality control programs. The nuclear systems have functioned well, but trouble has arisen with containment vessel design, pumps, pipes, heat exchange devices and generators.

Coalescence of reactor manufacturers into a single National Nuclear Corp. is a response to uneven quality control from multiple suppliers and the British have chosen to solve design problems through standardization of a quality product. This thinking also reflects a national aspiration to improve market position for reactor sales.

The United Kingdom manufactures nuclear fuel, reprocesses spent fuel and stores high level waste. The government is enlarging its fuel and reprocessing plants with intent to develop a profitable nuclear fuel business in the world marketplace.

High-level radioactive fuel wastes from reprocessing are still maintained as acid solutions in stainless steel tanks at Windscale, on the West Coast of Cumberland. Liquid wastes have been reduced in volume by evaporation, but no serious move toward solidification—as is being done at the Hanford Atomic Works in Washington state—for long-term storage is evident.

The British nuclear industry asserts that safety of the environment and workers is well in hand. Plutonium and similar reactor products are isolated and manipulated by automation or remote handling equipment.

Safety and engineering officials work within standards set by the International Commission of Radiological Protection (ICRP). They are further guided by the opinions of the British Medical Research Council expressed in a 1975 report, "Toxicity of Plutonium." They are encouraged by the recent Los Alamas report on workers carrying excess body burdens of plutonium since 1942–44.

The council reports that accidental occupational deaths from nuclear sources are not occurring among 75,000 radiologic workers. By contrast, annual accidental occupational deaths in the years 1960–70 averaged 350 per year in factories and 100 to 150 per year in underground coal mines.

Meanwhile, the security of nuclear power plants and products is receiving greater attention from government and officials at nuclear centers than ever before. Protection is focused on transport systems (rail and truck) and on reactor products with weapons potential. (The increased security is being applied to other energy supply systems as well; pipelines and transmission lines have been a favorite target of terrorists.)

The recently created National Radiological Protection Board has launched research, surveillance, epidemiological studies and instructional efforts to increase knowledge about radiation hazards and to improve public protection procedures. Results of these studies, no doubt, will be of great value to the United States and other nuclear nations.

Energy issues receive open and broad review in Great Britain; the interested citizen is exposed to vigorous and open discussion of energy issues, in the press, over the BBC airwaves, in published government reports, in special investigative work parties, and in parliamentary debate. Nonetheless, the review process evolves a conclusive decision in rapid order.

The government is in total control of energy planning, financing and choice of energy alternatives. Energy decisions are made at the highest governmental levels, thus tend to be politically motivated. These energy decisions are responsive to rapidly changing economic, social and political tides and affect internal and international affairs at all levels.

The body responsible for production and distribution of electricity to 50 million residents in England and Wales is the CEGB. It sells electricity in bulk to 12 independent regional boards in England and Wales and exchanges power with the Scotland Electricity Generating Board. The regional boards determine their own needs, devise their sales and conservation strategies and distribute electricity to residential and commercial purchasers.

Financial needs of increasing power supply are subject to approval by the secretary of state for energy and submitted in memorandum form for annual review by the Department of the Treasury. The secretary of state for trade and industry has exercised a strong influence on the choice of the steam generating heavy water reactor as the nuclear reactor technology of U.K.'s future.

The government's rejection of the CEGB's desire to purchase light water reactors from the United States in place of British models, illustrates the level at which major energy decisions are made. It also sheds light on the process of decision making, but doesn't indicate whether an energy policy exists in the United Kingdom or who generates or revises it.

Clearly, Great Britain is deeply committed to the use of nuclear power. But nuclear investment has been slowed because of increased availability of oil and natural gas from the North Sea.

One can speculate that participation of the United Kingdom as a major vendor of nuclear hardware is seriously hampered by poor financing, the depressed pound, and deep involvement with new reactor technologies that are slow to mature. In addition, uncertain productive quality of British goods has had negative impact in the marketplace.

These misfortunates have been amplified by opponents. Despite opposition views, those charged with provision of unfailing supplies of energy are determined to live with both fossil and nuclear fuels.

With luck, they say, the United Kingdom may be able to turn a profit sorely needed by converting unwanted nuclear waste to profitable byproducts.

RELIGIOUS GROUPS SUPPORT MEYNER AMENDMENT

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mrs. MEYNER. Mr. Speaker, tomorrow I will be offering an amendment to the International Security Assistance Act of 1976 to strike the new international military education and training program. Today, I was very pleased to receive a letter of support for this amendment from eight representatives of religious organizations. I would like to insert their letter into the RECORD at this time:

MARCH 1, 1976.

Rep. HELEN S. MEYNER,
House of Representatives,
Washington, D.C.

DEAR MRS. MEYNER: We understand that you may offer an amendment to the International Security Assistance Act when it is on the House floor Wedensday to delete the authority for a military education and training program.

We want to indicate to you our strong endorsement of such an amendment.

Although the amount proposed for such a program is relatively modest ($28.15 million), this program is detrimental in that it increases military influence and dominance in developing countries, thus buttressing already existing trends toward authoritarianism and decreasing the importance of the civilian section of society.

This program is also an integral part of the effort to push United States arms sales throughout the world by creating an appetite for United States military equipment, thus diverting scarce national resources in the developing countries from needed economic development projects.

If an additional $28 million is to be used for international education and training, we urge that this money be used to increase food production, promote literacy, strengthen population planning and health, and similar constructive programs.

Sincerely yours,

Edward F. Snyder, Executive Secretary, Friends Committee on National Legislation.

Joyce V. Hamlin, Secretary for Legislative Affairs, Women's Division, Board of Global Ministries, United Methodist Church.

Paul Kittlaus, Coordinator, Washington Office, Center for Social Action, United Church of Christ.

William J. Davis, SJ, Jesuit Conference.

Robert Alpern, Director, Unitarian Universalist Association, Washington Office for Social Concern.

Ralph E. Smeltzer, Washington Representative and Social Justice Consultant, Church of the Brethren.

June Totten, Director of Governmental Relations, American Baptist Churches.

Mary Jane Patterson, Director, United Presbyterian Church, Washington Office.

EQUAL OPPORTUNITY: THE HOPE AND THE REALITY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. RANGEL. Mr. Speaker, I brought to my colleagues' attention yesterday some perceptive remarks by Mr. Herbert Hill, the national labor director of the National Association for the Advancement of Colored People, on the 10th anniversary of the establishment of the Equal Employment Opportunity Commission. Mr. Hill addresses himself to the barrage of emotional attacks against the progressive equal opportunity legislation and judicial decisions of the past decade.

As Mr. Hill notes, the enthusiasm and humanitarian sense of purpose that culminated in the passage of the Civil Rights Act of 1964 has not been sustained. The hope that all Americans would finally experience the liberty and equality espoused in the Constitution has been sabotaged by policies of benign neglect. As a result, de facto discrimination has still not given way to equal opportunity for all.

Mr. Speaker, I would like to again urge my colleagues to consider Mr. Hill's analysis of the quest for job equality. The conclusion of Mr. Hill's address follows:

> During the past quarter of a century, the federal courts have increasingly recognized the validity of numerical goals in eliminating traditional forms of discrimination. The courts have used this approach as a remedy to end systematic discrimination in the selection of juries and it has also been utilized in legislative reapportionment litigation, and in school segregation cases.
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> In *Swann* v. *Charlotte-Mecklenburg Board of Education*, the Supreme Court held that:
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> "Absent a constitutional violation there would be no basis for judicially ordering assignment of students on a racial basis. All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation. The remedy for such segregation may be administratively awkward, inconvenient and even bizarre in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school systems."
>
> Significantly, the Court ruled that mathematical racial ratios could be used as "a starting point in the process of shaping a remedy."
>
> Although the courts have repeatedly spoken on this issue the extensive public discussion of affirmative action programs has ignored the major legal interpretations of the validity of numerical goals and timetables in civil rights enforcement efforts. In the last half of the 1960s, as a result of an emerging body of law relating to employment discrimination, new forms of implementation were developed to obtain compliance with legal requirements. Among the most important of these was the concept of numerical goals to be achieved within stated time frames. The use of numbers expressed in the form of goals and timetables to enforce the legal prohibitions against job discrimination had its origin in a Fourteenth Amendment case, *Ethridge* v. *Rhodes*, initiated by the National Association for the Advancement of Colored

People, and decided on May 17, 1967 by the U.S. District Court in Columbus, Ohio.

In this case, the NAACP proposed the principle that stage agencies require a contractual commitment from building contractors to employ a specific minimum number of black and other minority workers in each craft at every stage of construction. This concept, later incorporated in the Philadelphia Plan, was potentially the most effective means of achieving compliance with the law. The Philadelphia Plan, challenged in the federal courts, was a significant development in contract compliance efforts. It was to become the case that joined the issue and was most important in establishing the legality of the use of numerical goals in federal civil rights enforcement.[1]

In response to the arguments of contractors and labor unions that the plan contained illegal racial quotas, the U.S. Court of Appeals for the Third Circuit stated, "Clearly the Philadelphia Plan is color-conscious. . . . In other contexts color-consciousness has been deemed to be an appropriate remedial posture."

The court further held that:

"The Philadelphia Plan is valid executive action designed to remedy the perceived evil that minority tradesmen have not been included in the labor pool in which the Federal Government has a cost and performance interest. The Fifth Amendment does not prohibit such action."

In this important decision, the appellate court decisively rejected the argument that government imposed goals and timetables for the employment of blacks and other minorities was unconstitutional. On the contrary, the court specifically validated the legality of this approach where necessary and the Supreme Court let stand by refusing to review.

In a later case involving a state government—*Builders Association* v. *Ogilvie*—the Seventh Circuit Court of Appeals in 1972 affirmed the use of job quotas and held that:

"Numerical objectives may be the only feasible mechanism for defining with any clarity the obligation of federal contractors to move employment practices in the direction of true neutrality.

As the courts perceive it, pledges of passive nondiscrimination alter nothing and there is no meaningful measure of change other than numbers.[2]

In this context, federal courts repeatedly recognized that race-conscious injuries require race-conscious remedies. In *Norwalk CORE* v. *Norwalk Redevelopment Agency*, a federal court stated:

"What we have said may require classification by race. That is something which the Constitution usually forbids, not because it is inevitably an impermissible classification, but because it is one which usually, to our national shame, has been drawn for the purpose of maintaining racial inequality. Where it is drawn for the purpose of achieving equality it will be allowed, and to the extent that it is necessary to avoid unequal treatment by race, it will be required."

In *United States* v. *Local 28, IBEW*, it was held that the "anti-preferential treatment" section of Title VII does not limit the power of a court to order affirmative relief to correct the effects of past unlawful practices. According to the Court of Appeals for the Sixth Circuit, "any other interpretation would allow complete nullification of the stated purposes of the Civil Rights Act of 1964."

A similar conclusion was reached by the Court of Appeals for the Ninth Circuit in *United States* v. *Ironworkers, Local 86*. After the district court ordered the defendants in Seattle to comply with an affirmative action program, the labor unions denounced the court's order because it allegedly contained "racial quotas" and "racial preferences." But the circuit court rejected this argument and stated:

"There can be little doubt that where a violation of Title VII is found, the court is vested with broad remedial power to remove the vestiges of past discrimination and eliminate present and assure the nonexistence of future barriers to the full employment of black workers. . . . Without such powers, the district court would be unable to effectuate the desire of Congress to eliminate all forms of discrimination."

In *NAACP* v. *Allen*, a federal court found that defendants had engaged in blatant discrimination. From its inception thirty-five years ago, the Alabama State Highway Patrol had systematically excluded blacks from the force and non-whites were employed in the department only as menials and as common laborers. The court enjoined the State Highway Patrol and ordered:

". . . One Negro trooper for each white trooper hired until approximately twenty-five (25) percent of the Alabama state trooper force is comprised of Negroes. . . . It shall be the responsibility of the Department . . . to find and hire necessary qualified black troopers."

The court further ordered that:

". . . Eligible and promotional registers heretofore used for the purpose of hiring troopers be . . . abrogated . . . to comply with this decree."

In *Carter* v. *Gallagher*, a case involving the Minneapolis Fire Department brought under Sections 1981 and 1983 of the Civil Rights Act of 1866 the district court decreed:

"That the defendants . . . give absolute preference in certification of fire fighters with the Minneapolis Fire Department to twenty/(20) Black, American Indians, or Spanish Sur-named American applicants who qualify for such a position . . ."

The municipality appealed this decision and, in response, the circuit court held that "The anti-preference treatment section of the new Civil Rights Act of 1964 does not limit the power of a court to order affirmative relief to correct the effects of past unlawful practices."

In *Associated General Contractors of Massachusetts, Inc.* v. *Altshuler*, a federal court validated a statewide affirmative action plan requiring building contractors to employ a specified minimum percentage of minority workers. In rather eloquent language the court explained the necessity for such approaches.

"It is by now well understood, however, that our society cannot be completely colorblind in the short term if we are to have a color-blind society in the long term. After centuries of viewing through colored lenses, eyes do not quickly adjust when the lenses are removed. Discrimination has a way of perpetuating itself, albeit unintentionally, because the resulting inequalities make new opportunities less accessible. Preferential treatment is one partial prescription to remedy our society's most intransigent and deeply rooted inequalities."

On November 30, 1973 the First Circuit Court of Appeals sustained the use of "numerical objectives" in all state financed construction projects in Massachusetts and on April 22, 1974 the Supreme Court refused to review.

On the basis of these and other federal court decisions, it is evident that a substantial body of case law has established not only the permissibility, but indeed the necessity, of numerical goals and affirmative action programs to eliminate discriminatory employment patterns. But the opponents of affirmative action persist in their campaign of distortion, deliberately confusing goals with the pejoratively labeled "quotas" and denouncing affirmative action as "reverse discrimination."

A well orchestrated nationwide propaganda operation, based upon systematic misrepresentation and the manipulation of racial fears among whites has succeeded in causing the federal government to retreat on this crucial issue. Administrative enforcement of affirmative action requirements contained in the comprehensive body of civil rights laws and executive orders has, for all practical purposes, ceased and the process of administrative nullification begun under President Nixon continues under President Ford.[3]

The Office of Federal Contract Compliance, for example, has become functionally useless, and the less said about the Office for Civil Rights in H.E.W. the better. The Report of the United States Commission on Civil Rights issued July 1975 sums up the matter:

"Instead of imposing sanctions on contractors who do not follow the affirmative action requirements, the compliance agencies and OFCC devote substantial resources to extend conciliation, which can often stretch out over several years."

The Commission's Report cites many examples of:

". . . the contract compliance program's widespread tolerance of violations of the Executive Orders and its virtual failure to impose any sanctions. The message communicated to government contractors is that there is no threat of debarment or other sanctions, and the effect is to obliterate any credibility in the program."

It is within this context that we must fight to preserve the integrity of the Equal Employment Opportunity Commission. Given a national administration hostile to civil rights progress, and the heightened racism of the society, civil rights advocates must do everything possible to prevent the EEOC from going the way of other civil rights administrative agencies. The disastrous rates of unemployment among the nonwhite populations and the continuing patterns of job discrimination make it imperative that the EEOC function as a vital and aggressive agency in carrying out the mandate of the Civil Rights Act of 1964.

Title VII is meant to operate in bad times as well as in good times, during periods of depression as well as during periods of prosperity, and we reject the argument that whites have a prior right to a job and that black people must wait until there is full employment before they too can work. Thus it may be anticipated that there will be intensified activity under Title VII and that the EEOC's burdens will increase. It is necessary to point out that the Commission's responsibility is not fulfilled by mechanically disposing of charges received. Its purpose under the Act is to eliminate racist and sexist employment patterns throughout the society.

There is every reason to believe that the current unemployment crisis will last for a decade or more. A most important aspect of the long-term economic forecast is that at the same time that the nation is expected to experience a continuing high rate of unemployment many millions of workers will remain on the job. Not everyone will be unemployed. In fact, 85 million are now working. It is clear that the pattern of unemployment is unevenly distributed with black people, as usual, hurt the most. Therefore, the fundamental question now and for the next ten years and perhaps longer will be WHO WORKS? Industry-wide patterns of discrimination based on race and sex are a decisive factor in determining who does or who does not work.

The EEOC, if it is to survive as a viable agency, must reject the pressures to retreat that are exerted upon it by other organs of the federal government, such as the Civil Service Commission, the Department of Labor, and the Department of Health, Education and Welfare, among others. These agencies have crippled civil rights enforcement in their respective jurisdictions and

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Footnotes at end of article.

they have done this by rejecting the concept of affirmative action and substituting instead an abstraction called voluntary compliance. But programs based upon voluntarism, with their expressed or implied promise not to enforce the law, have failed to eliminate discriminatory employment practices.

Voluntary compliance programs avoid the concept that racial discrimination is illegal, that black workers and other minorities have fundamental rights which cannot be bargained away, and that the institutions which discriminate against them are required by law to change their conduct. This, of course, is the basic message delivered by the courts as a result of litigation under Title VII.[4] Voluntary compliance and "good faith efforts" do not work in eliminating job discrimination, and years of experience have demonstrated that the piling of pledge upon pledge not to discriminate by employers and labor unions changes little or nothing.

The record of thirty years of fair employment practice laws and executive orders makes it absolutely clear that the concept of passive nondiscrimination is totally inadequate and obsolete. A ritualistic policy of "nondiscrimination" in practice usually means perpetuation of the traditional discriminatory patterns or, at best, tokenism. Discrimination in employment is not the result of random acts of malevolence; it does not usually occur because of individual bigotry, but rather is the consequence of systematic institutionalized patterns that are rooted in the society. Thus sweeping measures are necessary if racial employment patterns are to be fundamentally changed and affirmative action based on numerical goals and timetables is an essential component in achieving this end.

If we are to realize the potential of Title VII, the broad application of affirmative action programs will be necessary, where performance can be measured by tangible results, not by the proliferation of self-serving statements pledging "equal opportunity," an equal opportunity that always remains beyond the reach of those who are the victims of the dual racial labor system.

In the final analysis affirmative action is an attempt at redistribution, an attempt to achieve a limited but necessary reallocation of jobs and income within the existing legal structure. It is part of a long-term civil rights strategy to make the law operate as an instrument of social change. When the law is permitted to function at its best, it fulfills its historic role of preserving public order while, at the same time, redressing collective grievances and thereby giving the institutions of society an opportunity to change without fatal trauma.

The history of the twentieth century teaches us that if those victimized by injustice are denied relief under law, then the alternative is violence and violence, whatever its motivation, is certain to result in disaster. But the opponents of affirmative action are succeeding in nullifying the law, are confirming the belief that black people are indeed powerless in American society and it is certain that in the perspective of time, history will judge them most harshly.

FOOTNOTES

[1] For data on the development of the Philadelphia Plan and its consequences, see Herbert Hill, "Labor Union Control of Job Training: A Critical Analysis of Apprenticeship Outreach Programs and the Hometown Plans," Occasional Paper, Vol. 2, No. 1, Institute for Urban Affairs and Research, Howard University, 1974. See also, James E. Jones, Jr., "The Bugaboo of Employment Quotas," *Wisconsin Law Review*, Vol. 1970, No. 2.

[2] In discussing the use of "numerical objectives," Charles E. Silberman writes, "A formal policy of non-discrimination, of employing people 'regardless of race, color, or creed,' however estimable, usually works out in practice to be a policy of employing whites only. . . . As soon as we agree that special measures are necessary to overcome the heritage of past discrimination, the question of numbers—of *how many* Negroes are to be hired in what job categories—inevitably arises. Not to use numbers as a yardstick for measuring performance is, in effect, to revert to 'tokenism.' The point is not whether there is some 'right number' of Negroes to be employed—obviously there is not—but simply that there is no meaningful measure of change other than numbers." *Crisis in Black and White*, Randmon House, New York, 1964, p. 241.

[3] For detailed analyses of contract compliance by federal agencies, see the five reports issued by the United States Commission on Civil Rights; *The Federal Civil Rights Enforcement Effort*, October 1970, May 1971, November 1971, January 1973, and July 1975. See also Herbert Hill, "Whose Law—Whose Order? The Failure of Federal Contract Compliance," in Charles V. Hamilton, ed., *The Black Experience in American Politics*, G.P. Putman's Sons, New York, 1973, pp. 325–331.

[4] See Herbert Hill, "The New Judicial Perception of Employment Discrimination: Litigation Under Title VII of the Civil Rights Act of 1964," *Colorado Law Review*, Volume 43, No. 3, March 1972. See also, "Twenty Years After Brown: Equality of Economic Opportunity," A Report of the United States Commission on Civil Rights, July 1975.

RED CROSS CERTIFICATE OF MERIT

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. PATTERSON of California. Mr. Speaker, I would like to bring to your attention a noteworthy act of compassion undertaken by one of my constituents, Mr. William J. Atcheson, Jr., 11472 Woodbury Road, Garden Grove, Calif. Mr. Atcheson was named by the American National Red Cross to receive the Red Cross Certificate of Merit and accompanying pin.

On July 9, 1975, Mr. Atcheson, trained in Red Cross first aid, saw a car stopped at the right side of the road, its engine smoking after having hit a tree. After having radioed for an ambulance, Mr. Atcheson gained access to the locked car's interior by smashing a side window. He pulled the unconscious driver from the car and placed him on the ground. Observing that the victim was not breathing, Mr. Atcheson applied mouth-to-mouth resuscitation continually until help arrived. While the victim has subsequently expired, Mr. Atcheson's efforts in sustaining this life until professional help arrived gave the victim a better chance at survival.

The Red Cross Certificate of Merit is the highest award given by the American Red Cross to a person who saves or sustains a life by using skills and knowledge learned in a volunteer training program offered by the Red Cross in first aid, small craft or watersafety. The certificate bears the original signatures of the President of the United States and the Chairman of the American Red Cross.

Mr. Atcheson's meritorious action exemplifies the highest ideal of the concern of one human being for another who is in distress.

A BICENTENNIAL QUESTION WORTH ASKING

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. SHUSTER. Mr. Speaker, as we proceed into this, our Bicentenial Year, I find it appropriate that we ask ourselves the question, "What Are Our Goals?" In a recent editorial in the Altoona Mirror, a leading newspaper in my congressional district, this question has been posed and I recommend the article to my colleagues for penetrating thought:

WHAT ARE OUR GOALS?

"What are America's goals?" a Soviet newspaper editor asked a group of American editors and publishers on a State Department-sponsored tour of Russia.

According to one of them, the Americans stared helplessly and the Russian said, "You do not know?"

It is hard to understand that American newspaper editors and publishers have forgotten America's goal.

It was—at least until recent years—to make the United States such a shining example of what free men and women could achieve that it would serve as a "flaming beacon" held up for all the world to see, and as an example that would bring the end of serfdom.

Perhaps we have begun to think something like the Russians.

It may be that we have started to believe that it is government's purpose to tell us what to do, to set our goals for us, to make the rules—just as Russia does.

It is little wonder, perhaps. For we are subjected to a steady assault on our American principles. Even in this patriotic Bicentennial year, it comes from such outfits as the radical Left People's Bicentennial Commission which wants to shape us in the Socialist-Communist form.

Only a dictatorship can set rigid goals and rules, as Russia has with its five-year plans, its ten-year plans and other national goals.

It used to be the idea that Americans made their own goals. We based this premise on faith in a government which granted us some freedom to make our own goals and carry them out.

Among all the other Bicentennial celebrations, none could be more meaningful than for America to reaffirm our Declaration of Independendence, not against King George this time but against Americans who are peddling a foreign philosophy to destroy private enterprise, against the excesses in our government that are changing its form.

We must determine to return some decision-making to the people, and get away from the growing control of our lives by a multitude of bureaus and commissions without number that make their own laws to control us.

And while we are denouncing the growing bureaucracy, we must make up our minds to stop running to the government with our hands out every time someone thinks of a bright new service government could do for the people.

We must strengthen the power of the private sector of America, because it is free, private enterprise that is responsive to the needs of the people, and meets these needs most efficiently.

Unless we can persuade Congress to get off the back of business and industry, and allow the private sector to offset the overwhelming power of state and federal government, we shall find that our Bicentennial may be marking the end of freedom in America.

The Bicentennial Year would be a splendid time for the American people to begin putting their government back again within the wise limitations of power.

We shall find that many of these excesses are not constitutional but are the products of steady encroachment—so steady, so bureaucratic that we are accepting them as traditional and lawful.

We can control and limit this centralized power over us if all of us just remember that the power of more than 200 million Americans can do the job.

FOURTH NATIONAL GATEWAY PARK PAGEANT

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. ADDABBO. Mr. Speaker, as the cosponsor of legislation which created the Gateway National Park preserving thousands of acres of valuable recreational resources near Jamaica Bay, Queens, N.Y., I was pleased to receive information concerning the fourth annual Gateway Park Pageant. This event will include a special Bicentennial salute to America and boating.

Since the entire U.S. Congress made this historic environmental effort possible, I am placing in the Record at this point a statement announcing the Pageant issued by Jerome Hipscher, President of the Jamaica Bay Council:

FOURTH NATIONAL GATEWAY PARK PAGEANT

The people on Jamaica Bay and the surrounding areas around John F. Kennedy Airport salute the 1976 Bicentennial year with the Fourth National Gateway Park Bicentennial Environmental Pageant.

The event will take place on Saturday September 18 with an I am an American Day ceremony; and September 19, 1976, a special Bicentennial salute to America and boating.

Having myself received many American and International Honors this Bicentennial Year from Who's Who In America, to U.S. National Environmental Merit Award to the International Men Of Achievement (Cambridge, England). We proudly honor our country and many legislative friends around the Country. To honor our friends we have set up a salute to the fifty States of which the States of Virginia & Delaware are participating with exhibits. The United Nations are invited to join us on the September 19 Salute To America.

Jamaica Bay is a great National Recreation Area and we invite members of Congress both upper and lower Houses to join with us on this occasion.

We will have Mr. Sam Levenson, Ms. Bess Meyerson, Peter Duchin Orchestra, Metropolitan Opera Company Artists, Tony Bennett, Robert Merrill, U.S. Army and Coast Guard Bands, Boy Scouts of America, Senior Citizens, schools, all ethnic groups. Government participation such as the U.S. Post Office Bicentennial History Exhibit, etc.

Come to New York City and see our beautiful wildlife area, our natural beachfront which with your assistance has been restored to a great park.

Gateway National Park has been a dream come true to the local community and the future of this great Urban National Park is exciting, it was your kindness that brought it about.

Members of Congress, we in New York City thank you and invite you to join us on either September 18 or September 19, 1976. Congressman Joseph P. Addabbo is a member of our distinguished committee as he was in 1972.

As the President of Jamaica Bay Council, my name is Jerome Hipscher and I add my personal thanks for working with Congressman Joe Addabbo our long time friend. Thank you.

BILLIONS FOR DEFENSE BUT NOT A DOLLAR FOR WASTE

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. DOWNEY of New York. Mr. Speaker, radio station WGSM, one of Long Island's outstanding communication media, and 1975 winner of New York State Broadcasters Association's Radio Award for Outstanding Editorial or Series of Editorials in New York State, regularly makes sense on the air about major issues of the day. Its editorial view of our Nation's defense budget is no exception.

I'm pleased to offer for printing in the Congressional Record the following overview of defense spending particularly as it relates to our Nation's other pressing priorities.

WGSM Editorial

February 7, 1976

(By Richard J. Scholem, General Manager)

President Ford's military budget is the largest in history, nearly 113 billion dollars. That's a bigger budget than any during World War Two, Korea or Viet Nam. Consequently, the greatest monetary debates will center on the military budget.

In the next few weeks, the American people will again be told that our national security will be threatened if we cut military spending. We will be told that the Russians are arming, building and spending faster than we are. And, we will be told all of this by an administration dedicated to eliminating fiscal irresponsibility, an administration cutting funds for education, senior citizens' medical care, housing and obvious domestic needs.

But look at the military budget and past practices discloses the following: only 25% of it is earmarked for defense. The rest goes to defend other countries, to the American military overseas and to various international military commitments from Spain to Angola, to Egypt and Iran. Additional disclosures indicate that the President padded the Pentagon's budget requests for the fiscal year by 3 billion dollars, anticipating Congressional cuts. The military asked for 110 billion, the President made it 112.7 billion.

Lest you think that Russian paratroopers will descend on Washington if any additional cuts are made, here are some facts. Some of those military funds pay for fly-in fishing camps for officers and their guests, for a 48-foot motor launch that brings generals to work every day at the Pentagon, for thousands of soldiers and sailors who work as cooks, orderlies, guides and cabin boys for the military, for a fleet of limousines that chauffeur admirals, generals and friendly congressmen around Washington and even to Philadelphia for the Army-Navy game, for raises in the pensions of high ranking retired officers: Since the raises are tied to the consumer price index, an admiral who retired four years ago earns more money today than an admiral on active duty. None of this has anything to do with national defense or the national security.

The military budget is and has been the most wasteful and padded submitted annually. Many dollars can be cut from it before our defenses are weakened, and each dollar cut from it can go to national needs within this country that have a higher priority than cost over-runs, weapons that don't work and posh living for admirals and generals.

THE LATE HONORABLE FLORENCE P. DWYER

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mrs. SULLIVAN. Mr. Speaker, I am sure everyone who served with former Congresswoman Florence P. Dwyer of New Jersey during her years of conscientious and effective service in the House shares my deep sorrow at her passing. I have missed her often during the more than 3 years since her voluntary retirement from Congress, particularly when consumer legislation came before the Committee on Banking, Currency and Housing or was being debated on the House floor, or in conference.

Mrs. Dwyer has left a legacy of devotion to consumer causes for which all consumers should be grateful. As I told the House in October 1972, shortly before her retirement, Mrs. Dwyer played a crucial role 2 years earlier in the enactment of the Fair Credit Reporting Act of 1970 and of the amendments to the Truth in Lending Act banning unsolicited credit cards and limiting consumer liability to $50 for the unauthorized use of their credit cards. She was the only House Republican conferee to sign the conference report containing those provisions, providing the bipartisan support necessary in order to achieve their passage under unusual parliamentary circumstances. Her position took great courage and independence of thought and action.

Two years earlier, in 1968, she was a strong proponent in conference of the House position in support of a much stronger Truth in Lending Act than the one passed by the Senate and of the other provisions of the House-passed Consumer Credit Protection Act not included in the Senate's consumer credit bill. Although Mrs. Dwyer had opposed many of these provisions in the Subcommittee on Consumer Affairs and in the parent Banking Committee, once the House had passed the bill, with improvements in the form of some Republican floor amendments which Democrats on the committee had agreed to, all of the House conferees stood solidly together in a remarkable show of unity, under the effective leadership of then Banking Committee Chairman Wright Patman of Texas and the ranking minority member of the committee, former Congressman William B. Widnall of New Jersey. Flo Dwyer had been particularly helpful in working out the provisions of the Truth in Lending Act dealing with the advertising of credit terms.

ORIGINAL AUTHOR OF CONSUMER PROTECTION AGENCY BILL

Perhaps Mrs. Dwyer's greatest contribution to consumer legislation was her introduction, as ranking minority member of the House Committee on Government Operations, of a bill I was proud to cosponsor with her which subsequently became the framework for the bill to establish the proposed Consumer Protection Agency. Offered as an alternative to then-pending legislation to create a Cabinet Department of Consumer Affairs which would have had operating authority over most existing consumer protection programs, the Dwyer-Sullivan bill proposed instead the creation of an agency which would serve as the consumer's official voice within the Government on all regulatory policies affecting consumers, and it was this concept which eventually won consumer support and the endorsement of the Government Operations Committee and of the House. Although blocked by Senate filibusters in both the 92d and 93d Congresses, this approach has now been approved by both the House and the Senate in this Congress and will, I hope, become law before the end of the 94th Congress.

Flo Dwyer was ranking minority member of the Subcommittee on Consumer Affairs of the House Committee on Banking and Currency during much of the period I was the subcommittee chairman. I always enjoyed working with her because she was conscientious, knowledgeable, and hard working. She was a fine person, and I regarded her as a good friend. She served her constituents with honor and dignity and earned the respect of Republicans and Democrats alike, both in her District and in the Congress.

FORTIETH ANNIVERSARY OF THE NATIONAL SERBIAN FEDERATION BASKETBALL TOURNAMENT

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. MOTTL. Mr. Speaker, one of my constituents, Nick Radlick of Parma Heights, Ohio, began a worthy tradition 40 years ago. Mr. Radlick, who is a Parma Heights councilman and an active civic leader, initiated the National Serbian Federation Basketball Tournament.

The tournament has been held for 37 years since then. It was postponed during World War II.

This year the tournament will be held between April 29 and May 2 at the Cleveland State University in Cleveland. I think that is the proper way to celebrate the 40th anniversary of this tournament in that Mr. Radlick organized it back in 1936.

I ask my colleagues from the House of Representatives to join with me in saluting Nick Radlick who so aptly has been named honorary chairman of this upcoming backetball tournament.

THE FOOD STAMP MESS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. ARCHER. The Speaker, it is obvious that the food stamp program needs to be subjected to a thorough examination. Evidence of fraud and abuse has been presented by public officials and members of the media. I would like to call the attention of my colleagues to a very effective report entitled, "The Food Stamp Mess," by Mr. William Randolph Hearst, Jr.

The article follows:

THE FOOD STAMP MESS

(By William Randolph Hearst Jr., Editor-in-Chief, the Hearst Newspapers)

SAN FRANCISCO—Until now, the con men and rip-off artists of the world have defied such inspired cheats as Ponzi, the Boston-based investment swindler in the 1920s, or before him, Kreuger, the Swedish match king, each of whom took unsuspecting speculators for millions. Heretofore, their achievements in the art of swindling the public have been unchallenged.

Now, however, such folks as Ponzi and Kreuger must take a back seat. Now we have the great American federal food stamp plan, exceeding in magnitude anything ever dreamed of by the super cheaters of yesteryear.

The food stamp program, under which the qualifying needy can buy basic necessary foods in surplus supply for about half their retail price, began as a brave experiment in 1962, costing American taxpayers $14 million. This year, in 1976, it will officially cost over $6.6 billion. And that, if my arithmetic isn't too rusty, is a 47,000 per cent increase in a period of 14 years!

It would cost something more than $6.6 billion this year if everything worked the way it should. As it is, because of cheats among the recipients of food stamps and apparent crooks among the vendors of those stamps, the cost will probably be several millions more, perhaps even a billion dollars more. There's a virtually free-riding buyers' market on one side of the program, and a profitable sellers' market on the other.

Conservatives and liberals alike, Republicans and Democrats alike, have been telling us for the past two years that something was horribly wrong with the food stamp program, and somehow neither Congress nor the White House has responded to mounting evidence that it is one of the most grandiose flops of all social schemes.

Almost any shopper who trades in a supermarket has seen people using food stamps who were visibly unqualified to have them. Seeing people carrying stamp-purchased bags of groceries out to their parked latest-model cars is something of a tip-off that all is not well.

By the same token it is obvious in the sadder parts of most of our major cities that the poor, those who need food stamps the most, are not getting them. They simply cannot afford them.

And now, thanks to a good job of investigative reporting by the Washington Star, it is revealed that not only are some recipients of food stamps cheating us taxpayers, but so are the food stamps vendors—the people who sell the stamps to the recipients for about half price.

Apparently, according to disclosures by the Star, some vendors are simply keeping the money they get from selling the stamps to the poor and not turning it over to the nearest Federal Reserve Bank as required by Agricutlure Department regulation.

It has been found that 18 such vendors, out of only a few that have been checked thus far, have not properly deposited $8.7 million that has been received from those who purchased stamps.

Originally, you'll recall, food stamps were available in banks and post offices, places where even the most skeptical government auditor might expect an accurate tally. To make things a little easier for the recipients, the Department of Health, Education, and Welfare (HEW) decided that the outlets should be expanded to include credit unions, check-cashing services, and other small businesses in poor neighborhoods or in rural areas.

There are now 14,119 food stamp vendors who collected $2.6 billion in fiscal 1975 from 29 million people who bought food stamps with a purchase value of $4.4 billion. The program is so big that apparently the auditors in the Department of Agriculture just can't keep up with it. They confess that they do not know how much has been turned back to the government out of the $2.6 billion that many of the nation's poor paid last year in good faith in order to expand their food budgets.

Something should be done and done urgently, not only to stop the unfettered cheating of taxpayers, but to be certain that those who really need help receive it, and that those who are free-loading are kicked out of the program and into the nearest bastille, French for lockup.

Late Friday afternoon I learned that Agriculture Secretary Butz has ordered a sweeping investigation of his department's involvement. Good hunting, Mr. Secretary.

On the one hand we have a single St. Louis business firm called Moneytown, Inc., that is alleged to have failed to deposit almost $2 million in food stamp receipts, according to Leonard H. Greess, the Agriculture Department's director of audit. About half the money was recovered; the rest is said to be "lost."

On the other hand, both HEW and the Agriculture Department admit that because of laxity at the state level, about 26 per cent of those who are buying food stamps are not qualified to receive them because they earn too much money and should be self-supporting.

So we have a 26 per cent fraud among recipients, and an unknown percentage of fraud among those who sell the stamps.

Why should this sloppily administered program continue without challenge from our lawmakers? Of course the deserving should be fed, and no one would deny the urgent need of a federal program to see that food reaches our deprived citizens without red tape, embarrassment or delay. But when a hefty portion of the money spent in this very costly program is drained off by manipulators on one side and cheats on the other, something must be changed.

The law requires that the states must check on the vendors to be certain that any receipts in excess of $1,000 be deposited in a bank within 24 hours of collection. Obviously this is not being done. Money is a valuable asset, even if you hold it only for a short time, for it can make money. Money that is made at the expense of the poor and at the further expense of the taxpayers, is evil loot, indeed.

When the very competent San Francisco businessman Caspar W. Weinberger retired as secretary of the HEW he warned of this very evil within the food stamp system and last August I gave over this space one Sunday to publicize his wise admonition to do something about this run-away, proliferating national scandal.

We have done nothing thus far. Surely these latest facts must prod our representatives in Washington to action. Let's have it as soon as possible, principally not only for the sake of those who need the food, but importantly for the taxpayers of this land who have just about reached their breaking point.

ANOTHER ANTISUBVERSION AGENCY ABOLISHED

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. McDONALD of Georgia. Mr. Speaker, last year by a sleight-of-hand maneuver, the House Committee on Internal Security was abolished. At the time of its destruction, that committee was in the process of investigating international and domestic terrorist threats to American citizens.

The American people created their constitutional form of government to "establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves and our posterity." To fulfill this mandate established in the Preamble to our Constitution to guard the internal and external security of our country requires that both the executive branch and the legislative branch have bodies concerned with security.

Under the separation of powers provided by the Constitution, the executive branch has the Federal Bureau of Investigation, the Secret Service, the Central Intelligence Agency, the National Security Agency and so forth to fulfill the various security functions. But the legislative branch—the branch most directly responsible to the American people—is blind in the internal security area. The House Internal Security Committee has been destroyed, and its counterpart, the Senate Internal Security Subcommittee (SISS) is being viciously attacked and its budget slashed to such levels that it will be unable to fulfill its function.

And I am distressed and amazed to read that the attack on the SISS is being led by Senator HATFIELD of Oregon, a former professor of political science, whom I would think is fully aware of the totalitarian nature of Marxism-Leninism. Senator HATFIELD has been quoted in the press as stating that America's security will be unchanged by abolition of SISS.

Yet the Senator and his staff must also be aware that the most recent SISS hearings have probed the Trotskyist Communists of the Socialist Workers Party, one faction of which supports the use of terrorism now and the other faction of which supports the use of terror at some more favorable future date. And the SWP is active on several campuses in his home State of Oregon.

The Senator from Oregon and his staff must also be aware that the SISS, whose abolition they are organizing, also recently investigated the activities of terrorist support groups on the West Coast. They must have seen the press reports that seven persons alleged to be members of the terrorist New World Liberation Front (NWLF) were arrested last week by the FBI. The NWLF had claimed some 24 bombings during 1975. On Sunday, press reports indicated that among the documents discovered in the NWLF "safe house" were plans for an attack on the water supply system of a large Northwest city—probably Portland, Oreg.

On December 3, 1975, another agency whose work aided the security of the United States as well as that of other countries was killed. The Organization of American States (OAS), with U.S. agreement, abolished its Special Consultative Committee on Security. And the OAS security committee's final report for 1975 on subversion in the Western Hemisphere was prevented from being translated into English.

Only four OAS member states voted against the killing of the Special Consultative Committee on Security. They were Brazil, Chile, Paraguay and Uruguay—all of which have had ample experience with Castro-backed Marxist-Leninist terrorists.

My colleagues who have read my remarks during the past year are aware that the Soviet and Cuban Communists are involved in an attempt to subvert Puerto Rico through the Puerto Rican Socialist Party, that they are backing the leftist dictatorships in Panama and Peru, and that they have provided support for the terrorist revolutionaries in Argentina, Chile and other countries. In light of these and other events, I recommend the Conclusions and Recommendations of the OAS report published in Tactics magazine of February 20, 1976:

PANAMA SHOWED ITS HAND; SO DID U.S. DELEGATE—HOW OAS SECURITY OFFICE DIED

The Special Consultative Committee on Security of the Organization of American States was abolished on December 3, 1975, with the decisive connivance of the U.S. Department of State, in time to prevent its in-depth report for 1975 on communist conspiracy in the Americas from being translated into English.

The devastating, official disclosures conflict head-on with the recommendations of the so-called Linowitz Commission—the Commission on U.S.-Latin American Relations headed by Sol M. Linowitz—that seeks U.S. abandonment of Panama Canal control, and recognition of Red Cuba, an approach that Henry Kissinger as secretary of state is trying to implement.

The virtual network of fake "liberal" papers allied with the Washington Post and N.Y. Times, and radio-television, have simply suppressed news of the report.

TACTICS magazine has had it translated, as well as the minutes of the meeting of the Permanent Council, at which the U.S. delegate undercut anti-communist countries such as Chile, Brazil, Paraguay and Uruguay by voting to abolish the SCCS.

Those four nations voted against its elimination.

SAME TACTIC AS USED IN U.S.

The same maneuver that has been used to destroy U.S. government investigatory groups in the security field, the deprivation of working funds and then using decreased activity as an excuse to abolish the organizations, was extended to the SCCS to kill it, too.

This intrigue is presently being employed against the Senate Internal Security Subcommittee, the last of these U.S. government investigatory bodies.

R. Bartlett Moon, representing the United States, referred to "the cost of maintaining this committee," and joined Peru, where red influence is based against Chile, in voting against the SCC's survival.

The 1975 report contains invaluable analyses and alerts regarding the obvious "psywar" invasion of the American hemispheres by Moscow and Peking.

The next major step following the elimination of the Monroe Doctrine, in effect, some few years ago, was taken during the past year, as brought out in the report, and as ratified, also in effect, by the vote of the U.S. delegate at the OAS Council meeting.

Indeed, its recognition is a repudiation of the entire rationale for the Security committee's existence. This is contained within the innocent-sounding label, "ideological pluralism." This, in effect, is the issue being fought over psychologically, behind the scenes.

The committee was formed "against the subversion of international communism" actually the second part of its title. "Ideological pluralism" implies the acceptance of ideological struggle. This is how the delegate of Panama, for instance, obviously construed it.

Destruction of the committee facilitates acceptance of the so-called neutralization concept in the Panama Canal negotiations, giving Soviet Russia an equal voice in it, and denying the canal to the U.S. in case of war. After all, this is what "neutralization" means. All this, unstated in those words, is embraced by those code words, "ideological pluralism," in the framework of "neutralization." This is "detente," as we are being lured into interpreting it.

The publicizing of this, of course, and the translating of the relevant documentation into English, can overcome this covert operation. That is, if this can be properly brought to the attention of Congress and influential leaders. Candidates for the Presidency and Congress should be pinned down unequivocally on this.

The State Department, in President Ford's name, is said to have assured the pro-red, Panama junta that the giveaway treaty would be forced through the Senate after the election. The Rockefellers are identified with the Center for International Relations, that sponsored the Linowitz report.

WORLDWIDE CONSPIRACY PROVEN

The Conclusion and Recommendations of the report, translated by TACTICS, follow:

The incontrovertible evidence of a worldwide conspiracy against the Americas contradicts Kissinger's "detente" line, and is another reason why we joined in the destruction of the SCCS. One of the major enemy "psywar" successes has been in the suppression of the word, conspiracy, as applied to the communists.

The OAS report is plain-spoken on this matter.

The Conclusions and Recommendations of the report, translated by TACTICS, follow:

CONCLUSIONS

A. In the frame of the politics of "peaceful coexistence," "ideological pluralism," and "detente," and by their help, Marxism-Leninism continues, with its various tactics, to menace the peace and security of the continent.

B. In consequence of the decisions adopted at various Marxist-Leninist conferences, and of international subversion, a recurrence of subversive activities can be expected, particularly in Latin America.

C. In direct relation to what was said before, the 11th Conference of American Armies, held in October of 1975, recommended the development of an aggressive struggle against Marxist-Leninist subversion. At the same time, the conference warned that the joining of a Marxist-governed country to the inter-American security bodies would constitute a serious risk to the security of the continent.

D. The last reports obtained provide evidence of an international coordination in efforts between Marxist and subversive organizations. Likewise, the conclusion arises that Cuba continues to serve as a spring-board for the spreading of revolution in America [the Americas], very often using diplomatic means to this end.

E. Condemnation of subversion and terrorism by the American governments is unanimous, except for Cuba.

RECOMMENDATIONS

Because of the situation that is unfolding in practically all of America, it is recommended:

A. That heed be given the statements and recommendations made by individuals and groups, including the 11th Conference of American Armies, on behalf of their governments, for the strengthening of the inter-American system, in the face of the menace of Marxism-Leninism.

B. To improve, in like manner, the organs of national security, with proper regard for the SCCS, to which the eighth Council meeting of the Ministers of Foreign Affairs assigned the role of advisement and recommendations relating to the Continent. [This refers to South and Central America.]

C. That the improvement of the Special Consultative Committee on Security (SCCS) include at least:

Reform of its statutes, in the manner presented by the SCCS itself.

The naming of all its members [filling of vacant seats on the Committee].

The dissemination of information by all the governments, to achieve a better global appreciation.

November 14, 1975 [The end.]

The reference, in the above recommendations, to the need to fill the vacant seats on the committee, is of special interest. Failure to bring the committee to its full strength was a form of subtle sabotage.

The 1975 report, entitled "Present Subversive Activities by Marxism-Leninism in America"—meaning the Americas—was signed by U.S. Ambassador John Wesley Jones, attached to the committee.

CONTINUOUS AND COORDINATED

The introduction points out that parallel to the efforts to reach a state of detente, "a subversive Marxist-Leninist action unfolds, continuous and at times coordinated, from the extreme north to the extreme south of the American continent [Central and South America].

"As will be seen during the course of this work, this subversion has its base and reason for existence in a strategy of deceit utilized by Marxism-Leninism that the Free World has not understood or has not wished to understand, in spite of its repeated manifestations of violence and of advancement toward its final objective of world domination.

"As happened at the height of so-called 'peaceful coexistence' "—a term disappearing from the language of international politics—so it is happening now, in these days in which the word, detente, gives a new name to the continued Marxist-Lenin strategy of deceit.

"That is to say, subversion marches on, certainly with differences in intensity and in methods with respect to the various countries affected, but always active, and in some of these countries, such as Argentina, Colombia, Chile, Bolivia, El Salvador, Mexico, Guatemala, Uruguay, Nicaragua, Honduras and the Dominican Republic, necessitating the employment of their armed forces, inasmuch as other security forces of a civil character are not capable of neutralizing the wave of vandalism perpetrated by the elements of the extreme left, or when subversion has focused on the organization and use of guerillas in some regions of the aforementioned countries.

"Complex as subversions has manifested itself from its beginnings, it continues to express itself in the form of kidnappings, armed assaults on institutions and persons, crimes utilizing explosives, propaganda, distortion of news, and lies, discrediting of officials, infiltration in public and private organizations, indoctrination, recruitment of sympathizers for training in subversive activities and tactics, threats, coercion and sabotage, and so forth."

"THE PRESENT SITUATION"

The body of the report is entitled, "The Present Situation," and consists of an indepth study of communist hot and cold warfare on the soil of the Americas. Excerpts, translated by TACTICS, follow:

A. 1. The failures suffered by the subversive groups in various Latin American countries pushed them into a revision of their operational strategy, seeking by uniting to overcome the obstacles of their unilateral action. For this reason, the formation of a Revolutionary Coordinating Council was decided upon, and organized in Paris in the beginning of 1974.

Forming this Revolutionary Coordinating junta are the self-named and tragically celebrated Revolutionary Army of the People (ERP) of Argentina, National Liberation Army (ELN) of Bolivia, Revolutionary Leftist Movement (MIR) of Chile, and the National Liberation Movement (MLN)—Tupamaros—of Uruguay. It was decided that the seat of this Revolutionary Coordinating Council be located in Argentina, maintaining ties with a corresponding nucleus in Paris. . . .

5. The objective of this Revolutionary Coordinating Council (JCR) is to develop revolutionary warfare in all America. The fighting fronts which correspond to this type of war—armed and unarmed—are to be maintained by a popular (people's) army and by a popular workers' front respectively. . .

C. In the middle of the current year (1975), a conference of communist parties of Latin America and the Caribbean took place in Havana. More than 20 delegations of pro-Soviet Communist Parties were present, the majority headed by their general secretaries, which is evidence of the importance given to the meeting.

It was resolved in the final declaration that revolutionary activities on the Continent should be raised to new levels. Likewise, it proposed that the national communist parties confine themselves to "united fronts" with other "democratic" parties to confront the North American imperialism [the United States] . . .

F. 1. Last October, on the occasion of the holding of the 11th Conference of American Armies (CEA), Marxist subversion was declared to be continuing to thrive, and to constitute a danger to the security and peace of our countries. And that methods should be sought to check it, preventing it from reaching its objective of using any means to obtain power (the view already expressed by the Inter-American Conference on Defense during its last work on a Continental level).

Consequently, the 11th Conference of American Armies recommended in its conclusions: "aggressive struggle" against subversion; that there should be a control of borders; and that the governments should be alerted to the fact that the admission of countries with Marxist-oriented governments into the inter-American security organizations would be a great risk to the security of the Continent.

2. Based on the information contributed by the Conference, there is evidence that Marxist-Leninist subversion exists in the great majority of Latin-American countries, and that the organizations that carry this out have unquestionable ties between themselves and with extracontinental organizations and states . . .

RELATED FACTS

A. At the 24th Congress of the Communist Party of the Soviet Union, held in Moscow in 1971, directives were issued for the Communist Parties of our Continent, in which it was set that communism should maintain close cooperation with the principal religious sectors of the world, that it should favor the formation of popular fronts, and facilitate Cuba's rejoining the Organization of American States (OAS).

B. The 10th Congress of the 4th International Trotskyite movement held at Paris in the beginning of 1974, while establishing world strategy for the revolution in Latin America, decided on the unification of all revolutionary organizations and activities on the Continent, making Argentina the geographic center from which to radiate, and the Revolutionary Army of the People (ERP) as its most important armed vehicle. A reservoir of assistance thus is also created for the subversive organizations being developed.

Protracted warfare is the adopted method . . .

ANALYSIS

6. Subversion, terrorism and guerrillas have been and are being used by Marxism-Leninism in many countries of America. Marxist Cuba is the product of this combination of factors. Venezuela, Bolivia, Colombia, Argentina, Uruguay, and more recently, the United States are examples, among others, of where some or all of the methods mentioned are being put into practice . . .

D. 1 . . . In this struggle, confrontations of armed forces have been supplanted by ideological warfare that seeks to enslave the minds of the American people by subversive activities carried out by paramilitary groups. In this way, Marxism-Leninism seeks to cement its expansionist objective, disintegrating states from within, undermining the authority and prestige of their governments, and destroying their armed forces that are not prepared for this new modality of undeclared war . . .

E. These menaces to the security and peace of our Hemisphere cannot be neutralized or halted by the so-called "ideological pluralism" adopted as a "plurality of ideologies" by the Organization of American States, in consequence of a conciliatory attitude derived from the democratic conception of our system.

"Ideological pluralism" has become a one-way street inasmuch as America, by means of its inter-American system, has accepted the presence of an ideology differing from the representative democracy that conforms to our system of liberty, without receiving anything in exchange . . .

F. 4. There exist many schools of subversive indoctrination operating in Cuba under the direction of experts from the Soviet Union, Czechoslovakia and Cuba. In these schools, hundreds of Latin Americans (men and women) are being indoctrinated in subversive tactics, in terrorism and in urban and rural guerrilla warfare.

Cuba is the seat of the fugutive Tupamaros and the training and supply center for subversion and terrorism on the American Continent. The Tupamaran guerrillas have shown that would not stop until they liquidated the present government of Uruguay, converting that country into a Marxist-Leninist state, as in Cuba.

There is communist help, by way of Castro, for some groups of the terrorist and guerrila movements in Argentina, that have managed to challenge a government democratically elected by a substantial majority of the people. That terrorist movement is openly in the process of subversion to supplant the government and submit that country to the dictates of international Marxism-Leninism. The subversive war in Argentina is a good example of the so-called "battle of ideas" of which Brezhnev speaks. The same process has taken place in Uruguay, Bolivia and other countries of this Hemisphere.

One of the gravest events with the most serious repercussions for all of our countries has been the handing over by Castro of the Cuban GDI (General Direction of Intelligence) into the hands of the KGB (Soviet secret police). Castroite agents already are infiltrating the structure of the Latin American countries and of the United States, and they also are using Latin American and North American agents in their espionage work, activities and sabotage, in full cooperation with the agents and representatives of the KGB.

Evident military relations exist between Cuba and the Soviet Union, which constitute a grave menace to the security of our countries and tc the peace of America.

This places in crisis the inter-American treaty of reciprocal assistance, the treaty of Rio, the same as Portugal would place NATO in Europe in crisis if it fell under communist control. These military connections of Cuba, with an extracontinental power that is as aggressive and expansionist as the Soviet Union, forces preventive measures to be taken with the urgency that the situation requires . . .

Our Hemisphere faces a challenge that carries with it the survival of our inter-American system, the liberty, security and peace of our countries. America [the American nations] has shown us our responsibility, and history will judge us by the posture we assume. [End of translation.]

The complete document, excerpts of which have been translated above by TACTICS magazine, is obtainable, if at all, only in the Spanish original. The U.S. delegate, obviously reflecting the position of the State Department, joined in the slaughter of this vital agency without arranging that such uncompleted tasks be finished. Indeed, the obvious intent was to hush up such decisive information.

The 61-page document, of the Organization of American States, Washington, D.C. 20006, is listed as OEA/Ser. L/X/II.40, 14 noviembre 1975, Comision Especial de Consulta Sobre Securidad.

The document includes a significant segment of the testimony by Brian Crozier, director of the Institute for the Study of Conflict, London, as presented to the U.S. Senate Internal Security Subcommittee, and published by it as Part 4, May 14, 1975, entitled:

"Terroristic Activity . . . International Terrorism."

The SISS, by a revealing coincidence, is fighting for its survival as this article is being written. What should be obvious is that the killing of such investigative bodies, and the burning of files, is tantamount in this new dimension of war—psychological warfare—to elimination of intelligence services and the burning of their records in orthodox warfare. This would assure the defeat of the target country thus disarmed. Unless this enemy operation is frustrated, the countries of the Americas would become sitting ducks for red military conquest.

What is noteworthy is that this vital commission was destroyed at a time when enemy intrigue and violence are reaching proportions inconceivable a few years ago. This coup can best be understood as part of the "psywar" tactic of providing the utmost security for the forces of totalitarian revolution directed from the outside.

Congress did not ignore this; it was uninformed. Neither was the American people informed by its news sources. That is where primary pressure is needed.

CUMBERLAND COUNTY'S MR. FIXIT PROGRAM

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. HUGHES. Mr. Speaker, in these difficult times of inflation and unemployment, it has become increasingly difficult for our senior citizens and young people to obtain a suitable standard of living. Despite the overwhelming problems faced by these people, a group of Cumberland County senior citizens have banned together to help themselves through a manpower public works project called the Mr. Fixit program.

The Millville Daily, one of the fine newspapers in my district, recently featured an article describing the outstanding performance accomplished by the people involved in this program. I would like, at this time, to share this article with my colleagues.

[From the Millville Daily, Feb. 18, 1976]

THE MR. FIXIT PROGRAM ONE OF KIND IN THE STATE

(By Deborah Wajda)

An 81-year-old woman made a frantic call to the Manpower Office in Bridgeton at 3 o'clock one Friday afternoon. She had no water in her home.

Anthony Cerione took the call, tracked down his Mr. Fixit plumber on assignment in Shiloh and, by the end of the day, water was flowing again.

"She called with tears in her voice to thank us," Cerione recalled.

It is that beyond-the-call spirit by the Manpower employes, combined with a positive response by Cumberland County senior citizens, which has made the Mr. Fixit program a one-of-its-kind in the state and, organizers believe, in the country.

"We have had inquiries about the program from as far away as Colorado," Cerione said.

Funded through the County Office on Aging, Mr. Fixit has served more than 300 eligible elderly homeowners while providing seven senior skilled craftsmen and young apprentices with rewarding employment.

The Mr. Fixit crew handles everything from emergency stopgap repair to major rewiring and re-roofing jobs. The senior citizens must pay for the materials, but Mr. Fixit does the rest.

"The response has been overwhelming," according to Cerione, who is director of all of Manpower's public works projects.

"The people are so glad when you get there," confirmed Fixit coordinator, Richard DeFeo, who makes initial home visits to assess the problems and to suggest necessary materials.

"What we're doing is keeping people from losing their dreams," he explained. "They work hard, buy a house and when they get older, they want to be able to afford to keep it," DeFoe said.

Mr. Fixit workers have no doubt that they sometimes make the critical difference in keeping senior citizens' homes liveable.

Cerione said one homeowner was in desperate need of electrical rewiring which normally would have cost more than $1,000. A Mr. Fixit crew did it for the cost of supplies, $65.

Jane Luther, an Outreach worker assigned to the Office on Aging, makes original contacts with senior citizens in need of home repairs to see if they are eligible according to income guidelines. Under the restrictions, a single senior citizen is eligible if his or her income does not exceed $6,549. The scale rises with a limit for a household of two of $8,565; three, $10,580; and four, $12,595.

Mr. Fixit is not only unique in its service, it is unique in its organization. The crew consists of skilled craftsmen, all aged 55 or older, who work along with young apprentices, usually high school dropouts.

"The skilled craftsmen help along the youths," explained Manpower Director Charles Thomas. "They work as counselors offering constant guidance."

Thomas explained that the youths in the program also are required to study for their high school equivalency certificates while they are learning a skilled trade.

The Mr. Fixit program recently gained the attention of Congressman William J. Hughes when he made a daylong swing through Cumberland County. Cerione indicated plans now call for a senior citizen lawn care service in the summer which may handle as many as 60 customers.

Both Cerione and DeFeo have folders filled with letters of appreciation from satisfied Mr. Fixit customers.

Of the Mr. Fixit crew one man wrote, "They didn't come just to do a job and get it over with. They came as friends to help an 81-year-old man to maintain his home."

Another woman, whose falling down porch was completely restored by the Fixit crew, thanked DeFeo with a big container of homemade spaghetti. "Boy, was that good!" he said.

IMPORTED BEEF

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. RISENHOOVER. Mr. Speaker, the national administration is asking beef exporting countries to voluntarily reduce their shipments to the United States. The response is poor. Secretary Butz predicts that 1976 red meat imports will exceed lawful limits.

I believe the White House and Secretary Butz should get tough and ban imports.

The Midwest now is undergoing a severe drought. Ranchers have suffered losses of winter pasture and if rain does not come—feed grain crops and grasslands have bleak prospects.

Without these feed supplies, ranchers are faced with selling their herds prematurely—which undoubtedly will glut the market and break prices which already are too weak.

The combination of imported beef competition and poor weather conditions are an immediate threat to the livestock industry. The administration should move now and decisively to relieve the problem of imports.

GEN. BERNARD W. ROGERS' ADDRESS TO KANSAS NATIVE SONS AND DAUGHTERS

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. SHRIVER. Mr. Speaker, Gen. Bernard W. Rogers, a native of Fairview, Kans., recently delivered an inspiring message on the occasion of the 115th birthday of the State of Kansas. General Rogers serves as Commander of FORSCOM at Ft. McPherson, Ga. He returned to his native State to give the principal address at the annual banquet of Kansas Native Sons and Daughters in Topeka.

Under leave to extend my remarks in the RECORD, I include excerpts of General Rogers important speech:

Tonight we are celebrating the 115th birthday of our state and doing so during the Bicentennial year of our great nation. I want to talk about both those birthdays tonight and the turbulent times in which both were born, and to do so from a soldier's perspective.

On the 4th of July we celebrate the 200th birthday of our country. However, the Army celebrated its 200th birthday on 14 June of last year. The Army's being 13 months older, of course, is one of the major reasons we were able to not just declare, but also establish, our independence. Before our Army was formed, the colonies depended upon the militia for their protection. Every able-bodied man had to arm and equip himself and be prepared on short notice to protect his property and that of his neighbor. Officers were generally elected, and being a general often depended upon one's status in life. As early as 1675 militia units in the Northeastern colonies took to the field together.

As the decades passed in the 18th century, the colonies began to feel more and more pressure from the British Government. There was the Sugar Act, the Stamp Act, the Tea Tax. All this pressure led to greater resistance and overt opposition. There was the Boston Massacre, the Boston Tea Party, the forced repeal of the Stamp Act. The cry, "Taxation without Representation," rang through the colonies. In March, 1775, in the Virginia House of Delegates, Patrick Henry proclaimd:

"I known to what course others may take, but as for me, give me liberty or give me death."

The stage was set for revolt and the crisis in which our Army was born was just around the corner.

The dry tinder was set to smoldering when a British detachment under Major Pitcairn set forth from Boston for Concord to capture or destroy the military supplies the colonial militia had gathered there. Legend tells us that on that night, 18 April 1775, Paul Revere rode forth towards Lexington to sound the alarm that "the British are coming." The next day, Pitcairn's detachment was fired on at Lexington by 77 Minutemen under Captain Parker, who had declared:

"Stand your ground. Don't fire unless fired upon. But if they want to have a war, let it begin here!"

Blood was spilled at Lexington, but casualties were light and the British detachment continued on to Concord.

At Concord, 500 Minutemen had assembled and they dealt heavily with Pitcairn's detachment. Later, Emerson immortalized that fight with the words:

"By the rude bridge that arched the flood,
Their flag to April's breeze unfurled,
Here once the embattled farmers stood,
And fired the shot heard round the world."

This encounter roused the New England colonists and 16,000 assembled at Boston to protest and resist any further such incursions.

Less than two months later, on 14 June 1775, the Continental Congress formed the Continental Army and placed George Washington in command.

Washington had his work cut out as he tried to pull together the rag-tag units of the militia into what he hoped would be a "respectable" Army. Even he became discouraged and was heard to comment:

"Could I have foreseen what I have and am likely to experience, no consideration upon earth should have induced me to accept this command."

Thirteen months after the Army was organized, the Continental Congress in Philadelphia, on 4 July, 1776, adopted our Declaration of Independence, and our nation was born. One month later 56 signatures, headed by that of John Hancock, the President of the Congress, were affixed to that document which commenced with these words:

"When in the course of human events, it becomes necessary for one people to dissolve the political bonds which connected them with another . . ."

and ended with:

"And for the support of this declaration, and with a firm reliance on the Protection of divine Providence, we mutually pledge to each other our lives, our Fortunes, and our Sacred Honor."

Meantime, the fledgling Continental Army faced some dark days of defeat, some victories, the winter at Valley Forge; discouragement ran high, professionalism low. But assistance came from overseas when foreign professionals such as Von Steuben, Pulaski, Kosciusko, Lafayette and others agreed to help with the training of the Army, its discipline and organization.

Progress was made. By October 1781 the Continental Army was able to defeat Cornwallis at Yorktown and peace followed in 1783. Then the precedent was set which our country has followed after every war: the disobedience to civilian authority—as we now know it—Congress, in 1784, declared:

"Standing Armies in time of peace are inconsistent with the principles of republican government . . . and generally converted into destructive engines for establishing despotism."

With that, Congress reduced the Army to 100 men and officers guarding supplies at Fort Pitt and West Point. Washington was finally able to settle for a small standing Army on the Indian frontier with a portion of the militia grouped together and trained in time of peace to permit prompt mobilization. Therein we find the system established by which we have expanded our forces through mobilization since that time.

As our nation has grown and prospered during its first 200 years, the Army has been there to assist in many ways, to include:

- Fighting in 9 major wars
- Opening the West
- Protecting the settlers
- Guarding the railroads
- Opening the Panama Canal
- Diverting the streams
- Building the harbors
- Putting the first U.S. satellite into orbit
- Being a sociological force in our society
- Adding its weight to the deterrence of aggression.

Down through most of the years of those two centuries of our young country, our Army has also been historically tied to Kansas. I should like now to turn to our state and its beginnings. (I wish to credit the fine Centennial work entitled "Kansas" by Miller, Langsdorf and Richmond, and Nichol's book, "Bleeding Kansas," for much of what follows.)

The birth of our nation and the defeat of British paved the way for Kansas. Twenty years after the Revolutionary War ended, Thomas Jefferson acquired the Louisiana Purchase, which included our future state. Soon thereafter, Captains Lewis, Clark and Pike and Major Long explored the territory. By 1827 Fort Leavenworth was established followed by Forts Scott and Riley. Indian tribes from the East were resettled in Kansas Territory after 1830, and the missionaries and their missions followed. Two major highways, the Oregon and the Santa Fe Trails, crossed Kansas. Despite all this activity, however, for the 300 years from the time the Spanish explorer, Coronado, reached the area of the future Kansas, until 1854, Kansas changed little from the primitive land it had always been.

However, the Kansas-Nebraska Bill of 1854 changed all that and turned the eyes of the young nation on Kansas. That bill organized the two territories of Kansas and Nebraska and, under the principle of "popular sovereignty" authorized the settlers to decide by majority vote whether their territory would become a free or slave state. The next seven years saw the continuing struggle between Free States and Proslavery groups, and Kansas became known as "Bleeding Kansas." Border ruffians from Missouri came over to promote slavery; the New England Emigrant Aid Company promoted settlement by New Englanders who opposed slavery. Proslavery elements sacked Lawrence the first time in 1856; John Brown retaliated by killing five proslavery men in Pottawatomie. A reign of terror set in; the Civil War was on in Kansas. (Incidentally, it was during this period, also, that my wife's great-great grandfather, "Abolition Jones," was active with his underground railroad, moving slaves from Missouri to their freedom in Kansas by way of Atchison.)

Meanwhile, three attempts were made to adopt a constitution so Kansas could become a state. All were unsuccessful. Finally, in 1859 the Constitutional Convention at Wyandotte drafted one in 21 days. The delegates, two to one Republicans over Democrats, voted against extending the state to the Platte River in the North—as a Nebraska delegation had suggested—and decided to reduce the state on the west to its current limits, thereby giving up that portion of Kansas Territory which had extended past the area of Pike's Peak and included the area of the recent gold discoveries. More importantly, the Constitution prohibited slavery. In October 1859 the Constitution was adopted and soon a provisional government was chosen.

However, it was not until the secession of the Southern States, which gave control of the U.S. Congress to the antislavery faction, that the bill admitting Kansas to the Union as a free state was passed by Congress. With President Buchanan's signature on the bill 115 years ago tomorrow, Kansas joined the Union and its natives celebrated. The Elwood Free Press put it as well as any when it stated:

"We are pleased to be able to announce . . . that the Free Press is published in the State of Kansas—we have moved to America."

The Civil War, which Kansas had known and reckoned with for the past seven years, now erupted on a nation-wide scale. Kansas contributed about 20,000 troops to the Union side. Some battles were fought in the state. But more onerous for Kansas than the battles between regulars were the guerilla raids into Missouri and the counter-raids into Kansas. In the raids into Missouri many slaves were "jayhawked" into freedom. The raids reached their zenith in August of 1863 when the Confederate guerilla, Quantrill, sacked Lawrence, killing 183 men and boys and almost annihilating the town.

When the Civil War ended, Indian outbreaks occurred. Forts Dodge, Hays, Wallace, and others were added to the list of military outposts. Lieutenant Colonel George Custer and the 7th Cavalry were at Fort Riley. And Kansas was on the move: the Missouri River towns became booming depots for freighters; crops prospered; colleges were founded; stage coaches were running (for $125.00 one could buy passage from Leavenworth to Denver in seven days); the Pony Express ran for 1½ years, covering the distance from Leavenworth to Sacramento in ten days; the telegraph reached the state and made the Pony Express obsolete. The railroads pushed West—reaching Topeka 110 years ago this month—and further West; the Homestead Act offered 160 acres of land to any citizen over 21, and thousands swarmed the land offices which did "a land office business"; depression, drought and grasshoppers took their toll; industries sprang up; cattle were driven from Texas to rail terminals in Kansas; Wyatt Earp, Bat Masterson, Doc Holliday, the Long Branch saloon became familiar names.

The population growth was tremendous: New Englanders, Virginians, Ohians, Hoosiers, Missourians, Pennsylvanians, and others came. And they also came from Europe: Irish, English, Scandanavians, French, Russians, Scots, Welsh, Dutch, Italians, Poles, Swiss, establishing their own colonies within the state. Religious groups formed their own settlements: Mennonites, Quakers, Dunkards, Mormons, Irish Catholics. A mass migration of blacks from the South to our state also took place.

This heterogeneous group of people, although retaining many of their customs and culture, soon became a homogeneous citizenry of the Sunflower State. Living in their sod huts heated by buffalo chips or in the rather crude frame houses in the towns, they formed the backbone of our state described in 1904 by William Allen White as being:

"A commonwealth of people who came here poor; to establish institutions and pay for them out of the savings of the people, year after year; to justify a credit equal to that of many states three times as old and ten times as rich. This Kansas has done. It has required hard work and pluck to do it. These are the bases of the Kansas character. . . . If there are any unfortunate idiosyncracies in the Kansas people they are only skin deep, and . . . time will remove them."

Kansas has spawned such personalities as Carrie Nation, the saloon-buster; Arthur Capper, Governor and U.S. Senator; Dr. John Brinkley of goat-gland fame; Harry Woodring, Governor and U.S. Secretary of War; Alf Landon; the Doctors Menninger; Dwight D. Eisenhower; and many others. It has become the "nation's bread-basket"; built aircraft; drilled oil and gas wells; raised livestock. And it has had its mettle tested periodically by dust storms, droughts, floods, depressions, grasshoppers, blizzards and tornados. But it has always bounced back with an amazing resiliency.

You and I are very fortunate to be citizens of a great nation and natives of a great state. We are privileged to be the offspring of persons:

Who believed in the virtue of hard work, honesty, and public service.

Who believed in the Golden Rule and respect for fellow man.

Who possessed the attributes of adventurism, self-reliance, courage, fortitude, patience and creativity.

Who sought and fought for freedom, and, once achieved, willingly assumed the responsibility to secure and protect that freedom.

During this year of our Bicentennial and the 115th year of our state, what should be the approach taken by you and me? In my opinion, there are several. I believe that we should examine the issues and the personalities of the times of the Revolution and of "Bleeding Kansas," review those principles for which our forebears fought and try to discover what made them "tick" as individuals. We should reflect upon their sincere dedication to a dream and their transforming it into reality, perhaps, thereby, recapturing the moral climate and the magic of our nation's and our state's births. We should examine the heritage which is ours, underscoring not just what we have done wrong over the past 200 years, but emphasizing the myriad of things that we have done right!

I believe that we must, like our forefathers, accept the responsibilities incumbent upon us if we are to ensure the security of our freedoms, of our "unalienable rights of life, liberty and the pursuit of happiness."

The cost of such security will be high; it always has been. Freedom does not come free. The strength of that security provided by our Armed Forces will depend upon you, the citizens of our country. As Sir John Hackett has said:

"What a society gets in its Armed Services is exactly what it asks for . . . no more and no less . . ."

What those of us in uniform seek is a force which, for the first time in our history, will be at a level of readiness to win the first battle of any future war and not just the last battle. Such a force and such a level of readiness hopefully will deter any aggressor and thereby prevent a war, which is what all of us want. However, such readiness will require adequate resources—men, materiel and money. And I remind us again that since the end of the Revolutionary War, and dream of a continuing peace and our wishful thinking that war will never come again have always caused this country to weaken itself to the point that we have never been properly prepared to enter the next war.

We must not let this happen again! But it will happen unless a very disturbing trend is halted. Required expenditures for defense are trending downward at a disturbing rate by every measure, whether it be percentage of Gross National Product, percentage of the Federal Budget, percentage of total public expenditures, real buying power, or what have you. In terms of real dollar expenditures and manpower our forces are 20 to 25 percent smaller than before Vietnam. The Soviet Union is outspending us by from 20% to 60% in the various categories of defense spending. While our Armed Forces have been reduced by one-third since 1968, the USSR has added an additional one-third to its forces.

I understand and appreciate the desire to increase spending on social services and to reduce spending for security during time of peace. However, as John Slessor has stated:

"It is customary in democratic countries to deplore expenditures on armaments as conflicting with the requirements of social services. There is a tendency to forget that the most important social service that a government can do for its people is to keep them alive and free."

The alternative to adequate strength and readiness may well be the eventual loss of our freedom. Certainly that loss remains the prime objective of the Soviet Union, detente or no. However, when all is said and done, I have confidence that the thinking citizens of our society will ensure that adequate resources are provided our Armed Forces so that we can deter or meet potential aggression.

During this Bicentennial year is the time, I believe, for all of us to stand up for America! We should perpetuate our heritage, celebrate the greatness and goodness of our nation and build on that greatness and goodness, seeking ways to make America—and Kansas—even better. Sure, we have some warts on our national face, our nation's cultural and social cloth has some tears in it. We have had dissention, discord, traumas, attacks upon our institutions, values, morals and our will. Now is the time for each of us to do his part in ensuring the maintenance within our society:

Of high moral standards.

Of a high state of discipline.

Of a high level of performance by public servants.

Of high ethical standards among elected officials.

Of equal opportunity for all.

Of the family unit as the foundation of our society.

All of us share the responsibility to assist in repairing the tears and removing the warts. A democracy can remain a dynamic, vibrant and viable institution only if it has a concerned and involved constituency—you and I.

What about the future? In my opinion we can look forward to our nation's Tricentennial and our state's 215th birthday with confidence.

We have much which is positive going for us.

We can and have learned from our mistakes.

When we have occasionally taken an inappropriate compass heading, we have corrected our course.

We are a creative, innovative, religious society into which has been folded the strengths of all the cultures and backgrounds that comprise the mosaic which is our society.

We are a people ready to accept the responsibilities of our actions, those of our state, and those of our nation.

I believe that we will continue to live in a good and great land, a land of freedom and liberty, a land in which the voice of the people will be heard and must be reckoned with.

Providing perspective and leavening to our national voice will be the citizens of the Middle West, the Topekas, the Fairviews, the Hiawathas, the Cedar Points. Citizens for whom integrity is a way of life, where man's word is his bond, where hardy men and women still know what it means to earn a living by the sweat of the brow and ache of the back. The Middle West, where friendly men and women live by the Golden Rule, believing in and fearing their God; where citizens speak in a forthright manner which has a directness of meaning, easily understood.

Yes, here is where the real America lies. And we, like you, are proud to have sprung from it. What a privilege and honor it is to be an American who was born in Kansas.

GOLDEN WEDDING ANNIVERSARY OF HOUSE CHAPLAIN

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 1976

Mr. BUCHANAN. Mr. Speaker, it gives me great pleasure to take note of the fact that this day marks the golden wedding anniversary of our esteemed Chaplain, Dr. Edward Gardiner Latch, and his wife, Maria van der Vies Latch.

Dr. Latch, a native of Philadelphia and the retired minister of the National Methodist Church in Washington, D.C., has been Chaplain for the House of Representatives since March of 1966. His spiritual guidance has been valuable to all of us, I am sure.

Sunday morning, Dr. Latch brought the sermon at the National Methodist Church, and in the afternoon friends of the happy couple greeted them at a reception at the church.

It is a tribute to the character of Dr. and Mrs. Latch, and a tribute to the love they share, that the vows they took a half century ago have kept them as one.

They have shared laughter and tears and the love of two children. They have great wealth in the friends they have made through the years together.

It is my wish for them that the second half century shall bring them many more riches in the form of love, friendships and accomplishment, and that no matter how good the past has been, the best is yet to come.

ZIONISM: A POSITION PAPER REPRESENTING THE VIEWS OF THE JEWISH COMMUNITY OF DOVER, DEL.

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. du PONT. Mr. Speaker, the November 10, 1975, United Nations vote equating Zionism with racism generated a strong reaction of dismay and outrage in this country. American feeling considered, and rightly so, that the U.N. committed, through its unfortunate vote, a great injustice against Zionism, against Jews of all nations, and against Israel.

In an attempt to respond to the action of the U.N. General Assembly, there have been, since November, many discussions of Zionism, its history, its significance, and its ideals. One of the most thoughtful and enlightening of these discussions is in a paper prepared by Rabbi Norman S. Goldman of Congregation Beth Sholom in Dover, Del. Rabbi Goldman, feeling that the United Nations vote called world attention to issues concerning the vital interests of the Jewish people, Israel, and the moral validity of Zionism, considers a response from the Jewish community to be vitally important. "Since it was Judaism that created Zionism," Rabbi Goldman states in his paper, "the Jews must assume responsibility for its moral character."

I, therefore, submit to the Record, in order that all might have available to them, this thoughtful and profound discussion of Zionism which was prepared by Rabbi Norman S. Goldman and which represents the views of the Jewish community of Dover, Del.:

ZIONISM: A POSITION PAPER REPRESENTING THE VIEWS OF THE JEWISH COMMUNITY OF DOVER, DEL.

INTRODUCTION

Recent developments in the international community and most dramatically at the United Nations has called world attention to several issues concerning the vital interests of the Jewish People and their ancestral homeland, Israel.

One particular question: the moral validity of Zionism requires thoughtful and honest answers from the Jewish community. Since it was Judaism that created Zionism, the Jews must assume responsibility for its moral character. In successive United Nations debates and resolutions Zionism has been vilified as a form of racism; its true nature has been distorted to fit Arab propaganda requirements.

We shall attempt to clarify this issue of Zionism in order to demonstrate that far from being an atavistic racist program, it is an ideology of national liberation and religious creativity.

ZIONISM AND JUDAISM

Contrary to popular opinion, Zionism was not the creation of Theodor Herzl, nor even the product of the Socialist-Jewish milieu of Russia, Germany and Poland. In the sense that Zionism became linked to Socialist ideology it was due to the ferment of laborites in Eastern Europe. However the essential theme of Zionism: the return of the Jewish People to the historic Home in Israel is as old as the first recorded experiences of the Babylonian Exiles, who grieved over the destruction of Jersusalem and began to dream of their eventual return. The liturgy of Judaism is replete with sentiments expressing the indestructible link between Jews and Jerusalem. Phrases such as "our eyes will behold your return to Zion in Mercy" and "speedily rebuild Jerusalem, the holy city, in our own day" have long reflected the Jew's hope for national redemption.

The "political" Zionists such as Herzl, Hess, Nordau, Weizmann or Klatzkin merely translated the sacred hope of the Jewish People into the contemporary idiom of the Nineteenth Century, which saw the emergence of nationalism and political consciousness. These "secular" Jews who maintained little conformity to the main stream of Jewish life, practicing neither ritual nor immersing themselves in the vast literature of Jewish theology and tradition, were, nevertheless, participating in the collective consciousness of Judaism. They were Jews who were not comfortable in traditional Jewish dress, custom or language. Bordering on intellectual assimilation, they found it expedient to translate the Jewish yearning for redemption into their political idiom of statehood and emancipation. Despite this, the inner message remained consistent with the highest ideals of Judaism. The very fact that among the precussors of Herzl and the Zionist Congress there were men such as Rabbi Yehudah Alkalai and Rabbi Zvi Hirsch Kalischer emphasizes the link between tradition and Israel.

Rabbi Alkalai, in his work Minhat Yehudah (the offering of Judah), points out that man must prepare himself to take an active role and thereby assist God in the process of redemption. He places special emphasis upon the renaissance of the Hebrew language.

The approach of Rabbi Kalischer recognized the reality of a strong financial foundation to engage in purchasing lands from Arabs. Kalischer also was aware of the need to re-educate Jews in the physical skills of agriculture as a necessary pre-condition to the settlement on the soil of Israel.

The writings of these "religionists" indicate that the Zionist movement was a continuation of the historical trend in Judaic thought and life which led toward the ultimate emancipation or salvation of the Jewish People.

Arthur Hertzberg, in his introduction to the monumental anthology of Zionist writings, *The Zionist Idea*, refers to the fact that the movement was often referred to as "secular messianism". In this case, however, the Messiah ideal took the form of a "flowering national community in Palestine living as a moral priesthood whose authority is accepted by all mankind" (*The Zionist Idea*, P20).

The basic spiritual-religious thrust of Zionism manifests itself in the essays of Ahad Ea-Am whom Hertzberg refers to as the "Agnostic Rabbi" and in the gallery of religious thinkers which included: Solomon Schecter, Martin Buber, Rabbis Abraham Isaac Kook, Samuel Mohilevor, Abba Hillel Silver and Stephen Wise. The significance of their adherence to Zionist principles affirms the moral-theological essence of the movement.

Thus, for example, Martin Buber writes: "There is no re-establishing of Israel, there is no security for it save one: It must assume the burden of its own uniqueness; it must assume the yoke of the Kingdom of God." Buber, of course, in his commitment to Zionism specifies the humanistic aspect of the movement. He decries what he calls "national egoism" as empty self-assertion. "Israel is not a nation like other nations, no matter how much its representatives have wished it". For Buber the reborn Jewish State must be first of all a religious community.

Solomon Schecter, the real founder of Conservative Judaism in America, saw Zionism as a stimulus toward Jewish consciousness-raising and a needed bulwark against assimilation. The fact that Conservative Judaism embraced Zionism is further evidence that to the "Historical school" of Judaism the love of Zion is consistent with Jewish faith.

The contemporary theologian Mordecai Kaplan, again, re-asserts the centrality of Israel in Jewish life. In his concept of "peoplehood" Kaplan conveys the existential need of the Jewish collectivity to focus around Eretz Israel as the spiritual center of what has become a "Trans-national" people. Although, at times, the spokesmen for Zionism may have employed political terminology the essence of Zionism has always been spiritual.

In his famous open letter to Mahatma Gandhi, Martin Buber, points out that the re-establishment of Jewish life in Israel is part of a Divine obligation. Buber maintained that from a theological point of view God only "lends a portion of the earth" to any particular nation waiting to see what will be done with it. He reminded Gandhi that the Arabs, themselves, were conquerors of Palestine and their claim to the land rests upon their use of force.

In the light of this contest for Palestine, Buber relays the hope of Zionism that Arab and Jew will form a strong bond of mutual friendship and cooperation which may eventually emerge as a near East Confederation. (M. Buber, "Israel and The World.")

The late theologian, Abraham Joshua Heschel in his poetic and moving book, Israel: An Echo of Eternity, describes the powerful bond between the Jews and the Land. Professor Heschel, along with the many other spokesmen for Judaism and that particular expression of it referred to as Zionism, eschews violence and military force. Zionism above all was conceived as a peaceful spiritually endowed movement of reconciliation between the Jew and God symbolized by the regeneration of Israel and Jerusalem.

ZIONISM, CONFLICT AND THE "BIG LIE"

The Messianic hope of a national restoration undergirded the actual settlement of Jews in Palestine. It must be remembered, however, that at no time was Israel devoid of Jews. Somehow they managed to cling to the land in small scattered communities in Jerusalem, Hebron, Safed and Tiberias.

The adventures of Sabbtai Zevi entailed the hope, of a return to Israel. Tragically for many of his followers the illusion he created disintegrated with the revelation that he was an imposter. He arose out of the calamity of Chlemnicki's pogroms bringing a faint glimmer of redemption. He taught a false and dangerous theology of salvation and capitulated into apostasy at the court of the

Sultan. His efforts to rejuvenate an entire people and to lead them to the holy land were aborted. Yet the dream remained intact.

In the 19th century Aliyah began with the creation of the Yishuv, the organization of a Jewish polity in Palestine. These halutzim coming from Eastern Europe with social ideas of labor and agriculture brought a spirit of commitment to reclaim and redeem the swamps and deserts. In Buber's words they came to "serve the land." Throughout the end of the 19th and into the 20th century, they labored building cities out of wasteland, turning deserts into fields and swampland into Kibbutzim and Moshavin.

Their efforts to care for the land were met by Arab marauders and bloodshed. Necessity forced the Yishuv to establish a self-defense agency which was eventually to become the Israel Defense Forces, whose very emblem displays an olive branch entwined around the sword reflecting the hope that peace will eventually replace the need for the sword.

It is a futile endeavor to attempt to decide who started the conflict in the Middle East—because the question: who fired the first shot must necessarily be preceded by the historical query into what conditions brought about the need to fire the first shot. And this questioning can go on fruitlessly forever. For example, the Arabs argue they responded to the great influx of Jews prior to and after the Nazi Holocaust. The tragic plight of European Jewry brought a heightened impetus to the Zionist goal and required and intensified program of immigration and absorption. The Arabs argue that this "Ingathering of the Exiles" is an imperialist threat to their well-being. This argument, as we shall see, is not only ill-founded, it is part of their rejection of the Jewish right to self-determination.

As a consequence of the First World War, Britain was entrusted by the League of Nations to serve as the mandatory power over Palestine. In 1917 the Balfour Declaration promised Palestine as a national home for the Jews. What has become of this Promise? In effect the British reneged on it. Through various political machinations and in a manner whose legality has been questioned, the British bequeathed what amounted to 82.5% of Palestine to what is now called Jordan. The British turned over the entire problem to the United Nations and the United Nations Partition plan accomplished this task, for them, in 1947. We must recall that the Balfour Declaration promised Palestine to the Jews. Thus the legal claim to Palestine on the part of the Jews actually resulted in the greater part of the territory being handed over to the Arabs. (Paul Riebenfield, "The Integrity of Palestine," Midstream, August/September 1975).

In 1919 Feisal had written to Felix Frankfurter saying: "The Jewish Movement is national and not imperialist and there is room in Syria for both of us. Indeed, I think that neither can be a real success without the other." Despite the fact that Feisal had displayed this cordiality to Frankfurter and Weizmann, the Arabs reacted violently and viciously to Jewish settlement. Whereas, the Jews accepted the U.N. partition plan which deprived them of over 80% of land legally and rightfully promised to them, the Arabs refused to reconcile themselves to it. The establishment of the State of Israel in 1948 was greeted by a combined Egyptian, Jordanian, Syrian, Lebanese, Iraqui and Saudi Arabian attack. What provoked this assault? Imperialism, with the Arabs holding 82.5% of the land promised to the Jews? NO. What, in fact, provoked Arab violence was the self-assertion of the Jews, their determination to maintain their collective identity. Arab protestations that they have always lived peacefully with the Jews and that Zionism is distinguishable from Judaism is utterly false. In the period of Islamic hegemony in the Near East, in Spain and North Africa, the "co-existence" of Moslem and Jew was entirely upon Moslem terms. For example, the rule that no Synagogue could stand higher than a Mosque conveyed the message of Arab intolerance of the Jew. An intolerance counter-balanced by the need for Jewish creativity and productivity. As long as the Jew would humbly live under the rule of the Arabs he would be "tolerated". However, the State of Israel representing Jewish pride and self-determination was an affront to Arab theology, social and political philosophy.

The Arabs, failing militarily to destroy the Jewish Community, resorted to diplomatic and economic tactics. Arab propaganda is effective and vociferous. The "big lie" of Palestinian refugees is one such illustration. This lie maintains that during the battles of 1948, the Jewish forces systematically threatened the Arab populace and forced them to flee. The truth is that the Arabs were bombarded from Radio Cairo, Amman, and Damascus with militant progaganda—leave now and return with the victorious Arab armies. The Arabs left of their own accord many thinking they would soon return. The inconsistency of the Arab exodus with Zionist principles is reflected in the statement of the Jewish Community council of Tiberias after the Arabs had unexpectedly departed: "We did not disposses them; they themselves chose this course. But the day will come when the Arabs will return to their homes and property in this town. In the meantime, let no citizen touch their property." The reports of the British Chief of Policy in Haifa, A. J. Bridmead comment on how sincerely the Jews tried to convince the Arabs to stay. Bridmead wrote: "Every effort is being made by the Jews to persuade the Arab populace to stay and carry on their normal lives . . . to be assured that their lives and interests will be safe." Certainly the British, with their officers leading the Jordanian army and their bases in Egypt, were not pro-Jewish. Yet, their testimony to Jewish efforts to head off an Arab exodus indicate the truth of history in this matter. Even I. F. Stone who has since come to swallow Arab propaganda wrote an eye-witness account that the Arabs "very early began to run away. . . . By the end of January the exodus was so alarming that the Palestine Arab Higher Committee asked neighboring Arab countries to refuse visas to these refugees and to seal the borders against them".

As we can see, then, the so called Arab refugee problem was created by the Arabs themselves and developed into a propaganda and diplomatic weapon against Israel.

The Middle East has been the background for a tragic evolution of violence and terrorism. A complicated series of circumstances has forced Israel to resort to military skills in order to defend its population and its very existence against Arab threats of genocide. The current treatment of the so-called Palestinians by Israel reflects military realities rather than Zionist ideology.

As a result of the clashes between the Arab States and Israel, or more precisely as a result of the Arab inability to defeat Israel, the need for para-military units operating outside the jurisdiction of any Arab state became obvious. These guerrilla units would continue to harass Israel and provoke her. Thus the Arabs could disavow any responsibility and at the same time condemn Israeli retaliations against these terrorist units. The myth of the Palestinian refugees provided a raison d'etre for these terrorists. Thus, Yasir Arafat is now fighting for the rights of "homeless Palestinians." He, of course, ignores the fact that prior to the U.N. decision to partition Palestine into an Arab and Jewish State, there was no such legal or national entity as Palestinians. The Arabs living in the territory of Palestine had never attempted to form a political or national consciousness. Furthermore, the British mandate recognized the Jewish polity while seeing no reason to create an Arab polity aside from the already existing Arab states.

The present conflict is, indeed, complicated and the danger of open war is constant. Nevertheless, we must bear in mind certain moral exigencies which transcend the economic and political realities of Arab influence.

ZIONISM: RACISM OR HUMANISM?

It is agreed by all that this mythical entity the Palestinians deserves some sort of justice. However, they have suffered mostly at the hands of their own brothers who refused to accept them in their midst for political and diplomatic reasons. This truth cannot be overlooked. We cannot refrain from the ghettos of Damascus, Bagdad, Cairo, room in the tiny State of Israel to re-settle the masses of Jewish refugees who escaped from the ghettos of Damascus, Bagdad, Cairo, Algiers, Casablanca and Tunis—while the Arabs could not find place in their vast territories to accommodate, what was in 1948 approximately 350,000 persons? Instead, the Arab governments created refugee camps for them which to this day house these people and their children. Why is it that the Arabs preferred to exploit their own brethern as political tools, rather than accept them as brothers? And despite this the Arabs are able to accuse Israel of racist policies.

We remain confident in our knowledge that the ghettos of Syria and Iraq are racist programs directed against Jews, while the Arab citizens in Israel enjoy full civil rights. We also recognize that much of the world is a victim to Arab oil blackmail. The political and military realities of the world, however, are no excuse to malign a noble tradition. The world community has not yet sunk to irredeemable depths. Any policy which would hope to resurrect the moral credibility of these nations would have to be founded upon moral and intellectual honesty. Such integrity would doubtless acknowledge the truth that Zionism is an expression of the loftiest sentiments of the Judeo-Christian tradition and of Western Civilization at its best.

TRIBUTE TO ABRAHAM SPIEGEL

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. WAXMAN. Mr. Speaker, Abraham Spiegel will be honored with the highest Israel Award on March 9 at the Beverly Hilton Hotel. The State of Israel will confer upon him the Prime Minister's Medal which will be presented by Menachen Beigin, M.K., one of Israel's heroic figures.

Mr. Spiegel, Jewish communal leader and philanthropist, is president of the Los Angeles Council of the Jewish National Fund. He serves as a member of the Jewish Federation Council, the coordinating body for communal affairs. He is the founder and member of the board of Ramban Torah Institute. He is a member of the board of trustees of the City of Hope in Los Angeles and is vice president of National Executive Zionists of America. He holds many other positions of prominence and leadership in the American Jewish community and serves as the spokesman for many organizations both here and abroad.

Abraham Spiegel has dedicated a lifetime of service to humanitarian causes. It is indeed fitting that the Prime Minister's Medal is being presented to him, for he possesses a humane sense of understanding which is happily in harmony not only with the noblest teachings of our faith, but also with the finest traditions and ideals of our country.

It is my pleasure to join in paying tribute to Abraham Spiegel.

FEDERAL LOAN TO NEW YORK CITY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. SOLARZ. Mr. Speaker, President Ford's belated, grudging support for a Federal loan to New York City has, for the time being, saved our town from a devastating default.

But, in the long run, there will be little hope for our beleagured city—and other struggling metropolitan areas around the country—until the Federal Government begins to recognize and respond to the larger urban crisis of which New York City's troubles are only the most striking sympton.

Indeed, there are a variety of ways in which the Federal Government can legitimately help our city—and the most important of these is an immediate takeover of the staggering costs of our welfare and social service programs.

The current social welfare costs for New York City total a whopping $4 billion a year. And the city must now fork over an unreasonable $1 billion of that amount from its own tax levy funds.

It seems to me that it is exceedingly unfair to require the city to pay one quarter of the costs of the welfare and medicaid programs when we are in no way responsible for the presence of so many poor people in our midst.

Consider this: When the Mississippi River overflows its banks, inundating the homes, farms, and factories along its shores, who steps in to help? The Federal Government, of course.

Similarly, it should be the responsibility of the Federal Government to help New York City cope with the flood of poor people who have come here from elsewhere in the country.

Federalizing the welfare program would, by itself, enable the city to save enough money to solve the fiscal crisis. And by providing a uniform level of welfare payments to recipients of public assistance, no matter where they live, we would eliminate the incentive which poor people now have to travel from low-benefit to high-benefit States.

Welfare, in short, is a national, rather than a local problem—and it requires a national rather than a local solution. That is why I am supporting legislation which would substitute for the current hodge-podge of programs one Federal income maintenance system which would have the following characteristics:

The consolidation of the existing food stamp, SSI and AFDC programs into a single federally financed cash system providing a floor to the income available to every family, with an appropriate federally funded cost of living escalator;

The equal treatment of intact families and divided families; and

Preservation of incentives to work and a fair level of assistance to the working poor.

Such a national program would only increase the Federal budget by little more than 1 percent, but would reduce New York City's local taxes by nearly 10 percent. In addition, it would end the current chaotic self-defeating welfare system, which discourages people from seeking work and encourages husbands to desert their families.

It is time we ended the current mess which degrades the recipients while wasting the taxpayers money and replaced it with a system that will work.

WE NEED TO SHOW VETS THAT WE DO CARE

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. DOWNEY of New York. Mr. Speaker: On December 10, I introduced H.R. 11097, a bill to expand and enhance the effectiveness of the Armed Forces discharge review procedure.

Recently, the Babylon Beacon, one of the most prestigious weekly newspapers in my district, has published an editorial supporting the measure. I would like to thank the editors of the Babylon Beacon for their support, and hope that the Congress will promptly enact these much needed reforms to our Armed Forces' discharge review procedures. The editorial follows:

SHOW VETS THAT WE DO CARE

Servicemen who served their country during the Vietnam war faced problems that those fighting in previous wars never had to contend with.

This war was different, and those fighting it were different. The people of the country became increasingly opposed to the war, and this opposition affected members of the armed forces.

Drug addiction was rampant, with the average soldier approached many times a day in Vietnam to buy anything he wanted, at a price he could afford.

Many of these men received less than honorable discharges, so they are still paying the price of their war service.

Now Congressman Tom Downey has proposed legislation to help them have their discharges reviewed and upgraded to honorable.

Vietnam veterans are the forgotten members of our society. Even those with honorable discharges are having a hard time finding employment, and for those with less than honorable discharges, the situation is much worse.

No matter how any of us felt about the war, surely we don't want to penalize any further those who fought in it.

The Congressman's bill should pass so that the country can demonstrate to these men that we do care.

CONDITIONS IN CHILE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. McDONALD of Georgia. Mr. Speaker, for those who are interested in learning of the actual conditions in Chile, I offer the following article by John Philip Sousa which appeared in the Times of the Americas on February 4, 1976. As is the case with any honest person visiting Chile after reading news accounts of conditions in that country, Mr. Sousa observes that—

> What I saw and heard bore no resemblance to what I thought I was going to find.

The article follows:

CHILE IS FOUND TO BE NEITHER PARADISE NOR HELL

(By John Philip Sousa)

SANTIAGO (CNS).—Armed soldiers. Violence. Torture. Sad, underfed and poorly dressed people.

That was my image of this isolated nation when I arrived recently and it stemmed from what I had read in America and in Europe.

I was apprehensive.

What I saw and heard bore no resemblance to what I thought I was going to find. Too, I was allowed to travel the length of Chile, free to wander around towns large and small, talk with whomever I wanted to talk, and photograph whatever caught my eye.

If I was followed it must have been invisible gumshoes capable of anticipating my every move.

This is not meant to be an apologia for the military junta that runs Chile, but, rather, a report on the local situation made necessary by the fact that reality here is at odds with a good many of the stories about this country published abroad.

To be sure, Chile is no paradise. But neither is it the bloody hell of fear and violence it is purported to be.

A recent cartoon in the prestigious El Mercurio—Santiago's morning daily and the dean of this country's press—showed two concerned-looking gentlemen. "I long for the days," one of them says, "when we didn't have any international image at all. . ."

The country has been getting press notices most Chileans consider unfair at best and unfounded at worst.

One net result of this negative image, officials here admit, has been a noticeable drop in the number of tourists. Too bad, both for this country and for the traveler. The former, of course, must get by with less of the hard currencies the tourists bring and which Chile needs for purchasing American and other foreign goods. The latter deprives himself of an exciting—and reasonable—travel experience.

Above all, this is a land of spectacular scenic attractions genuinely hospitable people, and tourism facilities at par with the best elsewhere in the Americas. And, significantly in these days of riots, guerrilla warfare and crime, an atmosphere of order and peace as welcome as it is unexpected.

Only a few security types, for instance, can be spotted at the modern skyscraper in the heart of Santiago from where Gen. Augusto Pinochet runs Chile.

Chileans appear happy and well fed. They are surprisingly open and candid when talking with foreigners, and many admit to having been members of the now-banned Communist Party or one of the leftist political groups in power until late 1973 when Pinochet took over.

Shops are not as full of consumer goods as those of, say, Argentina, Brazil or Venezuela—but there is no scarcity of everyday items, such as clothing and food, as there was under the Marxist administration of Salvador Allende.

Restaurants, movie houses and theaters are well patronized. Weekends and holidays find the roads crowded with Chileans bound for resorts near and far.

Seemingly everything's normal.

At midnight, however, you realize there's something a bit unusual about this place. At that hour through the week, or at 1 a.m. Friday and Saturdays, curfew starts.

Everybody, except soldiers on duty or those with a special pass, must be off the streets until dawn.

The curfew is most dramatic—though possibly the only—reminder that a military government is in control and that the state of seige declared when Allende was toppled is still on.

The government claims the curfew has succeeded in denying the Communist guerrillas the opportunity to operate at night. The Pinochet government, after all, is as opposed to anything and anyone slightly leftist as the Allende regime was devoted to Marxism.

What if you're caught on the streets after midnight?

If only a few minutes late you are politely escorted to your residence. Beyond an hour, and if your explanation fails to convince the authorities, you are politely taken to jail, booked, asked to pay a $4 fine—and in the morning, you're sent out to sweep the town's main street.

Several times while going in and out of this beautiful capital city I saw men—their dress evidencing a variety of backgrounds—doing the usual two-hour sweeping stint where Avenide Bernardo O'Higgins becomes a four-lane freeway to Pudahel Airport.

So much for the "torture" of curfew breakers I read about a few months ago in a U.S. publication.

On the subject of torture: for obvious reasons, I asked students, shopkeepers, teachers, cabdrivers and other civilians about it—rather than government officials.

Most of them said that, yes, there might have been some torture and "roughing up" of political prisoners when the present administration took over. But not now, "or we would know about it."

Most Chileans do not believe the charges made by British physician Sheila Cassidy, who was recently expelled from the country after spending two months in jail for refusing to identify a leftist guerrilla she had treated.

Most everyone I talked with expressed dismay at the publicity given the doctor's allegations of mistreatment, particularly in light of both her reportedly known leftist leanings and her failure, so far, to prove that she was indeed tortured.

Noting that little if any coverage is given to the treatment of political prisoners in other South American countries, Eastern Europe and the Soviet Union, many here believe that Chile's bad image springs from what they consider as a well-organized, and Moscow-directed, campaign.

VOTING RECORD

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. DU PONT. Mr. Speaker, while I was away from Congress on Monday, March 1, attending to business in Delaware, I missed one vote in the House of Representatives. Had I been present, I would have voted "Yea" on rollcall No. 73.

FEED MIXING REGULATIONS OF THE EUROPEAN COMMUNITY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. FINDLEY. Mr. Speaker, the pending feed mixing regulations of the European Community are another example of misguided policy by our overprotective European friends. The European Community has proposed that all mixed feed rations consumed in the European countries include 50 kilograms—about 5 percent—nonfat dry milk for each ton of protein material.

Implementation of the proposed regulations to require that rations contain about 5 percent nonfat dry milk will increase the cost of meat for Europeans, hurt demand for U.S. soybeans, and could be the first shot in a trade war between the United States and the European Community. This regulation will require European farmers to place animal protein in feed mixes at twice the cost of vegetable protein.

If I thought this was a one-shot deal, I would be less concerned. But recently the Community increased the price support level of milk. This also bodes ill for the American soybean, cotton, and flax farmer.

In addition, higher feed cost to European farmers will cause them to demand higher subsidies for their exported products such as canned hams. Thus, this new regulation will also cause further agitation in this country for a countervailing duty for ham and other meat products shipped from Europe.

If the Europeans implement this policy, the United States might, for example, require that all wines distributed in this country include at least 5 percent domestic wines. We could create a new agency that would check wine bottles with syringes to assure that imported wines contain the required 5 percent domestic wine supplementation.

The proposed European certification system for implementing their program would make the wine system look simple. It must have been created in Disneyland. It would add a governmental noneconomic burden to the feed system, further discouraging soybean meal consumption.

In fact, I believe that the implementation of the regulation may be interference with the duty-free obligation under GATT. If the Community implements this misguided plan, I intend to urge the President to take the issue to GATT.

I believe that it is time that all nations who have a surplus of dairy production meet to discuss a solution to the problem be solved. Solutions to the problem as proposed by the Community's 5-percent lem. It is time that this recurring prob- rule are unrealistic. Further, the Community's increase in dairy support with the unlimited right to produce is unrealistic. It only adds to the fundamental problem and will lead to other foolish ideas like the 5-percent nonfat dry milk in feed ration proposals.

MAYOR STAN DAILY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. LAGOMARSINO. Mr. Speaker, there is an old saying, dating from Roman times I think, that "the people are the city."

I first came across this phrase some time ago and it came to mind again when I heard that Stan Daily is retiring as mayor of Camarillo. The motto of the city of Camarillo is "Las Personas son La Cuidad," and, in fact, there was an article about a year ago in Family Living with that title, translated into English, of course, and written by Mayor Daily.

If there is anybody who personifies the city and that motto more today than Stan Daily, I'd like to meet him. Stan's family dates back quite a ways in Ventura County—so much so that even Stan, as mayor of a town incorporated only 12 years ago, has to rank as an "old-timer" despite his age.

Stan attributes this to the climate in Camarillo—and in case some of the Members are not familiar with it, it is ideal. In any event, Stan has had the advantage of that climate longer than most, since he was born there. In fact, except for the service, Stan's entire life is tied to the area. He served on the very first city council, and has served continuously through the entire incorporated life of the city. He was twice selected as mayor, and served what undoubtedly is a record apprenticeship for the job—6 years—as vice mayor. Nor has he neglected his professional duties in that time.

Since 1974, he has been chairman of the social science department at Hueneme High School, and for the past 12 years, he has served as adviser to the associated student body at the school. In 1967, he was honored as the year's outstanding master teacher at the school.

In fact, the list of Stan's honors and community service is long even for the CONGRESSIONAL RECORD, and it led to his being named Outstanding Young Man of Camarillo in 1968–69. Everything from streets and highways to architectural heritage in the city has been Stan's concern, and it is for all these reasons that he will be honored at a community dinner March 11. I can think of no finer accolade for Stan, and for his lovely wife, Liz, who has made all of it possible, than to have this body extend its unanimous good wishes and congratulations, along with a hearty "Thank you," for all that he has done. Or as our earlier pioneers would put it, "Gracias, your honor, from the people in the city."

FPC CHAIRMAN WANTS UTILITY RATE INCREASES

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. HARRINGTON. Mr. Speaker, each year our privately-owned utility companies spend tens of millions of dollars of their customers' money justifying utility rate increases. Lately they have been very successful—last year, utility profits were at record levels.

However Richard Dunham, the new chairman of the Federal Power Commission, which allegedly regulates utility rates, evidently feels the utility industry needs still additional help in justifying more rate increases.

Although the FPC is charged with the task of weighing the interest of the public against the interest of the stockholder, Mr. Dunham, after just a few short months on the job, has concluded that the stockholder is to be preferred.

He has therefore, in a letter to FEA Administrator Frank Zarb asked the FEA to help the utilities create a climate of public opinion in which the consumer will accept new rate increases without complaining.

In recent years utility rates have skyrocketed, fueling inflation and creating real hardships for the average consumer, not to mention those of social security or fixed incomes. Unfortunately, Mr. Dunham does not seem to be concerned with the public's ability to pay the higher rates he feels so desirable.

One can only view with a sense of dismay and cynacism, a situation in which the regulator has become the chief spokesman for the regulated. Hopefully, the other members of the FPC do not share their Chairman's zeal for raising the rates on the public they are supposed to protect.

Mr. Speaker, I commend to the attention of my fellow Members the following letter recently sent by Chairman Dunham to FEA Administrator Frank Zarb.

The text of the letter follows:

FEDERAL POWER COMMISSION,
Washington, February 23, 1976.

Hon. FRANK G. ZARB,
Administrator, Federal Energy Administration, Washington, D.C.

DEAR MR. ZARB: Recent reports of lower interest rates and higher stock prices have tended to give the impression that the financial problems of the electric utilities no longer exist. Furthermore, some have argued that the power plant delays, postponements and cancellations which helped mitigate last year's financial problems will have little or no impact on future energy availability or national energy objectives. This latter observation appears to be based on the high average reserve margins now being recorded by the nation's utilities. I take exception to both these conclusions.

Our nation's utilities financial problems continue to exist. Recent load growths have been well below historical levels. While some of this is due to conservation, and price impacts, a good deal of it is the result of the recession and high unemployment rates that the nation is experiencing. In many parts of the country where the economy is returning to more desirable levels, we see utility systems approaching the historic levels of 6 to 7 percent in load growths. The potential of power shortages in the mid-1980's is a real possibility that should be considered today.

Construction of coal and nuclear base load facilities can be justified on the basis of national fuel utilization policies and, in some areas of the country, on the basis of lower costs to consumers. It is also clear that increased capital will be required for plant conversion, based on your ESECA program, as well as the costs to meet the desired environmental objectives of the nation.

Yet another point should be made in this connection. It is my feeling that the cost and risk of having plants on line later than necessary are far greater than having plants on line on time or even early. In some cases, for example, the cost of delaying a nuclear power plant one year is 5 million barrels of oil to the nation, and, to consumers, an additional $100-$200 million in higher capital and fuel costs.

It is difficult for regulators to call for higher prices for consumers today based on the justification of better fuel utilization and greater national security tomorrow. The major part of this burden falls upon the State regulators who are faced with the majority of rate decisions. Their job is a most difficult one and any assistance that your agency or the Administration can provide to them would clearly be in the national interest. The long-range financial stability of the electricity industry and its suppliers depends primarily upon the rate decisions and actions of our State regulatory bodies. To fulfill adequately their responsibilities, they need our support. I look forward to working with you and the State Commissions in the future.

Sincerely,

RICHARD L. DUNHAM,
Chairman.

AURORA KIWANIS CLUB TO HONOR MAJ. ERIC BRITCHER

HON. TIM L. HALL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. HALL. Mr. Speaker, an outstanding citizen in my district, Maj. Eric Britcher of the Salvation Army, is being honored by the Aurora Kiwanis Club. Major Britcher has been named as this year's recipient of the Kiwanis Club's Service to God and Fellow Man Award.

Since his appointment to the Aurora Salvation Army in 1972, Major Britcher has been performing admirable service. Under his leadership, the second Horizon Center for Senior Citizens was initiated with a membership of over 1,500. Between 5,000 and 7,000 persons are served monthly through the center's program.

Also included among Major Britcher's achievements are the homemaker/home health aide service, a doubling of the Christmas assistance program and the expansion of the program to assist mentally retarded adults.

Mr. Speaker, a New Life House for Boys serving teens in need of temporary placement in order to adjust to normal community life is a result of Major Britcher's efforts. A volunteer services program which includes 1,930 persons who annually provide the community some 15,000 hours of volunteer work owes its direction to Maj. Eric Britcher.

Mr. Speaker, in addition to these accomplishments and many others with the Salvation Army, Major Britcher is president of the Aurora Clergy Association and a member of the Kane County CETA Council and a member of the Kane County Nutrition Program Project Council.

Somehow with all these duties and responsibilities, Major Britcher still finds time to serve as pastor of the Salvation Army congregation, preaching three sermons a week, teaching several classes, and fulfilling pastoral duties.

Mr. Speaker, the Aurora Kiwanis Club has made an outstanding selection for this year's award. Maj. Eric Britcher is an indefatigable and industrious advocate working to improve the lives of thousands of his fellow men and women. Major Britcher is most deserving of the tribute planned for him in Aurora on March 9 and it is a pleasure to join with his many friends and admirers in honoring him for his excellent works.

POLISH MEN ARE GENUINE HEROES

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. RIEGLE. Mr. Speaker, the Detroit News has published an excellent editorial concerning Polish Americans entitled "Polish Men Are Genuine Heroes." I would urge my colleagues to read and consider the thoughts it expresses, and I insert it for that purpose:

POLISH MEN ARE GENUINE HEROES—THEY ARE MISTAKEN

A study indicating that the majority of several hundred second-generation Polish-American blue-collar workers surveyed in a Detroit parish have a low self-image is a shock and surprise to those who believe the ethic of hard work and devotion to family and church was the foundation on which this nation was built.

No ethnic group exemplifies these values more solidly than the Polish-Americans of Detroit.

Yet, Detroit anthropologist Paul Wrobel, himself a third-generation Polish-American and son of an auto worker, finds the blue-collar workers he studied are apologetic about themselves, their jobs and their way of life.

"The men view themselves as unintelligent factory workers unworthy of respect and incapable of anything worthwhile except supporting a family through hard work," read part of Wrobel's report to the American Association for the Advancement of Science.

If, "supporting a family through hard work" is grounds for self-depreciation, then something has gone terribly wrong with America's sense of values.

Polish-Americans are justifiably proud of the way the land of their forebears has rebounded in the last quarter century to become the most independent member of the Eastern Europe Communist bloc after Russia's World War II take-over. It has taken courage and devotion for Poland's people to resist so successfully the Russian effort to stamp out worship in the Catholic Church.

But Detroit's Polish-Americans have much to be proud of closer to home. It comes through unwittingly in their interviews with Wrobel. Recurrent are the statements: "All I expect is decent pay for hard work." "You don't get something for nothing" and "Nobody owes me a living."

As Wrobel sums it up: "This Detroit Polish-American is a husband, a father, a factory worker, a Roman Catholic, a parish member and a homeowner, concerned about maintaining the safety of his home and the security of his family."

But the note of tragedy in Wrobel's study is that many of those he interviewed did not realize their belief in and adherence to this work and family ethic may be among the most important contributions Polish-Americans have made to the United States.

It is sad to read that many of those studied, in Wrobel's words, "seem to exist solely to raise children whose lives will be significantly different from their own."

Hoping one's children will "have it better" is an aspiration all parents share, whatever their economic and social background.

But if "better" means the next generation of these Polish-Americans are to lose their respect for hard work, their religious faith and the close family unity of their parents, then the whole nation would be the loser.

The Polish heroes cited in American history books are the Kosciuszkos and Pulaskis, who came to fight for freedom in the Revolutionary War.

But the even more enduring heroes may be those millions of Polish men and women who came to an alien land and by hard work, strong moral values and pride in home and family made it a better nation than they found it.

GAPS IN THE MARXIST CLOUD

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. DERWINSKI. Mr. Speaker, I realize that many Members have been preoccupied with political developments in the United States and the view of the situation in our country as seen by prominent political figures. It is my hope that the 5-hour monolog on the Soviet economy that Leonid Brezhnev delivered to his handpicked audience in Moscow recently receives the attention it deserves.

The Chicago Sun-Times, in an editorial on Thursday, February 26, 1976, very effectively, I believe, analyzes the situation in the U.S.S.R.

The article follows:

Gaps in the Marxist Cloud

Soviet Communist Party leader Leonid I. Brezhnev's speech to the 25th party congress in Moscow was long on time (it took about five hours) but short on innovation. It was a heavily doctrinaire message that, with few exceptions, stressed traditional Soviet themes. But the few exceptions were important, and they leave room for fruitful negotiation and exploitation by the United States.

Brezhnev underscored the policy of detente as a permanent feature of U.S.-Soviet relations. He said, in fact, the Kremlin will pursue detente with "redoubled energy," and he held out "good prospects" for further agreements with this country.

But he also stressed what he and other Soviet leaders have stressed before: that the party is committed to the "revolutionary-democratic, anti-imperialist" movement.

Brezhnev also took a swipe at China, which continues to be the sharpest thorn in the paw of the Russian bear. He stressed the need for greater political orthodoxy by West European Communists. And he reaffirmed resistance to liberalization of Soviet policy toward its ethnic and religious minorities.

But Brezhnev was frank in acknowledging the failures of the Soviet economy. Such candor is exceptional. He didn't dwell at length on those failures, but they have been more than obvious to most foreign observers.

The Soviet agricultural economy has been especially disastrous. There was an 83-million-ton shortfall in the 1975 grain crop, forcing the Kremlin to seek 35 million tons from the United States and other foreign sources. Some of these failures appear to be attributable not only to variables like the weather, but to permanent defects in Soviet agricultural administration.

By publicly admitting the failures of the Soviet economy, Brezhnev may be preparing his country for more active economic cooperation with the United States. He specifically cited his hope to reduce trade barriers between the two nations. Increased U.S.-Soviet trade provides a way of advancing U.S. national interests and the cause of detente generally.

Brezhnev also made a surprising disclosure of Soviet proposals to limit strategic arms. This departure is another signal that the Soviet Union is very much interested in negotiating another strategic arms agreement. The possibilities deserve thorough exploration in Washington.

The speech, in short, contained a few bright gaps in a dark cloud of Marxist orthodoxy. It is in the interest of the United States, and world peace, that these gaps be examined and widened.

ANNOUNCEMENT OF HEARINGS ON EQUAL OPPORTUNITY IN HOUSING

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. EDWARDS of California. Mr. Speaker, I wish to announce that the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary will hold 3 days of public hearings on March 9, 10, and 11 on equal opportunity in housing.

There are strong indications, Mr. Speaker, that discriminatory forces are still operating today to exclude minorities from decent housing opportunities. Moreover, it appears that such continuing discrimination may, at least in part, be the result of failures of the Department of Housing and Urban Development's fair housing enforcement program. Recent reports have documented that HUD has complaint backlogs, fails to conduct adequate compliance reviews, and gives its approval to funding applications which do not meet equal opportunity standards.

There are Federal civil rights mandates which require that HUD act affirmatively to insure the availability of equal housing opportunities to minorities and women. More recently, the Housing and Community Development Act of 1974 was passed to insure that the thrust of federally financed community development be toward the elimination of "slums and blight" and the reduction of housing isolation experienced by minorities and the poor. Although there is substantial evidence which suggests that HUD is not fulfilling these mandates, it is imperative that HUD now undertake vigorous steps to secure decent housing for all by eliminating the pockets of isolated and deteriorated housing to which minorities and the poor have been relegated.

Were it not for the racially polarized housing patterns in this country, we would not need special judicial intervention in order to secure equal municipal and educational services to all areas of a community. HUD must vigorously enforce the law so as to promote the elimination of such separate residential patterns.

It is because of reported deficiencies in HUD's enforcement program that I am calling these March hearings. These hearings will include testimony from HUD and from various public interest organizations. On each of the 3 days, the hearings will commence at 9:30 a.m. and be held in room 2226 Rayburn House Office Building.

FINANCIAL DISCLOSURE

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. ZEFERETTI. Mr. Speaker, in the past several years, as the revelations of the Watergate era unfolded one after the other, a shocked Nation began to suspect all its public servants of some kind of bad faith in their public dealings and handling of public funds. Today, that feeling of distrust is endemic and pervades our national thinking. In all walks of life and at all income levels, the average American feels that standards of public life are not high; that elected public servants are not to be trusted.

This is a potentially disastrous state of affairs, especially in light of the serious problems elected officials are being called upon to solve. Hard choices loom ahead of us, and without public confidence, these choices cannot be made and implemented. No nation is any stronger than its institutions, and no institutions are any stronger than the faith of the people in them. Therefore, it is imperative that public trust, once so willingly given, be restored. To this end, I feel public financial disclosure by elected and high-ranking Government officials is required, and would go a long way toward restoring public confidence and trust in such individuals.

This move is important because it recognizes the right of the public to have access to basic data on any outside financial interests of Government officials. With such disclosure and access, the public will have the best possible assurance that their elected and appointed officials are not abusing their trust and benefiting thereby.

The President and Mrs. Ford took a laudable step in that direction recently with their own financial disclosure, setting an example which I think is worthy of emulation.

Further, a number of State jurisdictions now demand and receive full financial disclosure by such officials. This syndrome is even now extending down to the local level, and it cannot do anything but good. Anyone with private interests to hide does not belong in the affected public offices. Regrettably, however, these other jurisdictions are significantly far ahead of the Federal financial disclosure movement.

A Federal Financial Disclosure Act has been proposed in the form of H.R. 3249. It is a comprehensive and effective piece of legislation which I support and have joined in sponsoring. Congress should enact this measure forthwith, to assure the American people, who have had so many rude shocks, that a new era is possible and that there is strong legislation to back up promises made by those in high places.

FREE FARES FOR SENIOR CITIZENS: AN IDEA WHOSE TIME HAS COME

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. SOLARZ. Mr. Speaker, I would like to take this opportunity to discuss with my colleagues on the subject of "Transportation and the Elderly" which is of deep concern to myself and of critical importance to many of my constituents.

As you may know, I represent New York State's 13th Congressional District which is located in the southern part of Brooklyn and is heavily populated by senior citizens. Persons over the age of 65 comprise 16.8 percent of my constituents, and in some of the neighborhoods in the district older Americans are one-third of the population. These figures make my district the seventh oldest, populationwise, in the Nation, with only a few districts in Florida and California having a larger senior citizen population.

Before being elected to the Congress, I had the good fortune of representing a good many of my constituents in the New York State Assembly. So you can see a good deal of my public life has been devoted to servicing the needs of the elderly. As a result, I have gotten to know very well many senior citizens and I have become acquainted with their problems.

From my experience representing these people, I have come to realize that boredom and loneliness are two of the most pressing problems faced by the elderly. With the demise of the extended family, our old are too often marooned in their central city homes, with few opportunities to lead productive and meaningful lives.

In New York City, nearly one-third of all senior citizens reside alone, and over one-half of all the elderly live without spouses. For these people to engage in the most ordinary sort of social activity, they must go outside of their homes.

To some extent, senior citizen centers have provided a comfortable place to escape from the desolate loneliness of their apartments. However, some senior citizens want and need something more intellectually exciting than the routine provided at these centers. It was for these people that I, as an assemblyman, helped initiate a program at the City University of New York by which senior citizens could enroll, tuition free, in all classes which were undersubscribed.

That program is now more than 3 years old and is considered a success by almost all of the people who have followed its development. I still receive letters from senior citizens telling me how much these classes mean to them. The officials of the City University have not found the program to be an administrative or financial burden, and consider the participation of the elderly in classroom discussion educationally beneficial to the other students and the faculty.

My only disappointment with the program is that too few senior citizens have taken part in it. Of the nearly 1 million persons 60 years of age or older, less than 1,000 have taken advantage of the program.

Similar programs at other universities have produced like results. I have received nearly two dozen letters from administrators of schools that have such programs. All of them describe the program at their school educationally worthwhile and beneficial to all concerned. However, when they reveal the number involved, it is clear that only a small percentage of those eligible to enroll in the program do so.

One of the reasons for the lack of participation in these worthwhile programs is the transportation problems that senior citizens face. In our automobile oriented society many older Americans are unable to take advantage of many of the programs offered to them because they do not have the necessary means of transportation. As a group, persons over 65 are less likely to be part of a household which has a car than persons in any other age group. To some extent this is a result of the relative poverty of the elderly. However, even if we were to give the elderly the financial means to acquire automobiles, a good percentage of them would still have trouble getting around because they no longer have the strength, coordination or eye sight which is needed for safe driving.

It is clear that the solution to the transportation problems of the elderly is ineluctably tied to the upgrading and development of mass transportation in this country. However, much of mass transit is inaccessible to senior citizens. Rising fares have made a bus or a train ride a luxury for many senior citizens and architectural barriers continue to make such a trip physically impossible for other older Americans.

Senior citizens are among the poorest people in our society. Their median income is approximately one-half that of younger persons and a household which is headed by someone over 65 is twice as likely to have an income below $4,000 than is a household headed by a younger individual.

The Congress has been somewhat responsive to the special financial problems the elderly face with mass transit. In 1974, it passed an amendment to the Urban Mass Transportation Act that requires recipients of grants authorized under that legislation to institute a half-fare program for the elderly during off peak hours. While this amendment was a great step forward, in my opinion, it does not go far enough.

The limitation of reduced fares to off peak hours places an unnecessary restriction on senior citizens access to less expensive transportation. The uncomfortable conditions during rush hours would serve as a sufficient deterent to any senior citizen who would wish to make an unnecessary trip during that time period. But, a removal of the current time restrictions would allow senior citizens who must travel during rush hours to do so at a reduced rate.

Nor is a reduction to half fares any longer a guarantee of an affordable fare for senior citizens. Rising costs have made today's half fare greater than yesterday's full fare. In New York City, fares have increased 333 percent in the last 10 years. The current 25 cent fare is 67 percent greater than the 15 cent fare of the midsixties.

Even the history of past increases understates the size of the problem senior citizens will face in New York City. The city's fiscal condition and the Ford administration's latest proposal to limit Federal subsidies for operating expenses threaten to increase the fare even further. Half fares of 35 or 40 cents are no longer a remote possibility but are now a likely probability.

I believe it is time that we looked to a free fare policy for senior citizens. The cost of such a system would be less than most of us would expect it to be. Fare collections only generate approximately $2 billion a year in revenues. I am sure retired senior citizens, who do not use mass transit systems for daily commutation, account for less than 5 percent of the revenues or $100 million. Thus, a Federal subsidy which compensated local transit authorities for the loss of revenues caused by a citizen free system would represent only 0.025 percent of the $400 billion budget.

Nor are free fare systems an untried idea. Such major world cities as Stockholm, Sweden, and Osaka, Japan, have such programs. In our own country, the city of Honolulu has a free fare program for the elderly which has resulted in a threefold increase in the number of senior citizens who used the mass transit system. This dramatic increase in elderly ridership is further evidence that transit fares pose a substantial financial barrier to senior citizens.

However, for many older Americans, money is not the only barrier between them and mass transit. According to a study prepared by the Urban Mass Transportation Administration, one-third of the over 20 million Americans 65 years or older are physically handicapped to the point where mass transportation with its architectural barriers is extremely difficult to use or entirely inaccessible.

A classic example of the existence of mass transit which is of limited use to the elderly is located in my district. With the possible exception of the borough of Manhattan, there are few areas in this country which have better mass transit than does my district. In addition to dozens of bus routes, there are four subway lines and 38 subway stations in my district. However, much of the mass transit is useless to many of the elderly because of architectural barriers.

All three subway lines in the area are elevated. Reaching the train may require the climbing of three flights of stairs. In Brighton Beach, which contains the heaviest concentration of senior citizens in the district, 70 steps separate the sidewalk from the platform. No one suffering from heart disease would even attempt climbing these stairs, and anyone suffering from such age-associated chronic diseases as arthritis and rheumatism could only do so with the greatest of difficulty.

For many of the elderly in Brighton Beach, the subway might as well not exist. The more fragile senior citizens of that community would be better off if the station were torn down. At least then they would be able to enjoy the sun that is now blocked out by this grim structure.

Nor are the elderly of Brighton Beach, who live within the shadows of the train station they cannot use, an anomaly. It has been estimated that there are 700,000 handicapped persons who live within two blocks of public transit, but who cannot make use of its services because of existing physical barriers.

The Congress has shown that it is aware of the plight of these millions of Americans. In the 1970 amendment to the Urban Mass Transportation Act, it "declared to be national policy that elderly and handicapped have the same right as other persons to utilize mass transportation facilities and services." The same amendments also mandated "that special efforts be made in the planning and design of mass transportation facilities and services so the availability to the elderly and handicapped person will be assured."

As usual, however, our legislative rhetoric has greatly exceeded our financial commitment. To be sure, conditions have improved since 1970. Under regulations which were promulgated by the Urban Mass Transportation Administration in February 1975, fixed transportation facilities including terminals and stations that are constructed or altered with Federal funds will have to conform to standards designed to guarantee their accessibility to the elderly and handicapped.

However, these regulations, for all practical purposes, only affect new systems such as San Francisco's BART and Washington's Metro, and do not address themselves to problems of the older systems such as New York's. What is required is a change in UMTA rules to mandate all recipients of its capital assistance grants to file a plan for the eventual upgrading of all existing facilities, so they too can be made to meet the needs of the elderly and the handicapped.

The Federal Government should require each State and local government receiving funds for the purchase of new vehicles or construction of new stations and lines to apply some of this Federal assistance to eliminating architectural barriers in their old facilities. If a local authority is using Federal funds to purchase new trains to service its current customers, or add new lines to attract new riders, I do not see why we cannot require that authority to allocate a portion of its Federal funds toward making mass transit accessible to the elderly and the handicapped along existing lines.

Such Federal requirements of local authorities are not, in my opinion, an unwarranted intrusion into local matters. If the Congress of the United States is going to appropriate a substantial portion of the funds necessary for operation of mass transit systems, as I believe it should—then it should also have a say in developing the priorities of such systems. Since 1970, the Congress has made it clear that equal access for the handicapped to mass transit is a Federal priority; it is now time to put that priority into practice.

However, it is not enough to require local authorities to allocate more of their resources toward meeting the needs of the handicapped and the elderly. Local transit authorities are now starved for funds and local governments do not have the taxing capacities to change that situation. Thus, placing additional requirements on local authorities, without supplying additional resources, is like asking them to rob Peter to pay Paul and to go ahead on one very socially useful project while scrapping another less meritorious but necessary and important undertaking.

The only way out of this dilemma is to increase Federal expenditures for mass transit. It is simply ludicrous that in the year 1976, after so much has been written about the need to conserve energy, that the Federal Government still spends four times as much on highways as it does on mass transit. It is also simply unconscionable that in his proposed budget for fiscal 1977, the President asks for a 16-percent increase in highway expenditures while recommending a cut in Federal subsidies for operating expenses. If we are to begin to address ourselves to transportation problems of the elderly, we will have to reject the President's proposals and develop a sensible balance in our funding of transportation.

FENCE STRADDLERS IN FEDERAL ELECTION CAMPAIGNS

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. RISENHOOVER. Mr. Speaker, I have today introduced legislation to outlaw the use of fence straddlers in Federal election campaigns.

Last year, I signaled my intent to file the bill and stop the practice through a letter which I sent to the Honorable Bob Funston, Democratic Party chairman in Oklahoma.

I said then—and it is applicable now:

> For years, Oklahoma farmers and cattlemen have had their fences torn down and the countryside littered by fence-straddler type campaign signs. The damage to fences is compounded by the practice of some candidates tearing down signs (and often fences at the same time) and leaving litter on the roadside . . .

The bill I have introduced would make the posting of such signs—without the express approval of the owner—punishable by up to a $1,000 fine and 1 year imprisonment.

NOBEL PRIZEWINNER ELECTED TO SCIENCE BOARD

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. DOWNEY of New York. Mr. Speaker, I consider it an honor to pay tribute to a distinguished man who deserves the recognition of being one of the Nation's top physicists. I am proud to congratulate Nobel Prize Physicist and State University of New York at Stony Brook Professor, Dr. Chen Ning Yang, who has been elected to a 4-year term on the board of directors of the American Association for the Advancement of Science. Dr. Yang was born in Hofei, China in 1922, received his college education at the National Southwest Associate University in wartime China, and came to the United States in 1945. In 1948, he received a Ph. D. degree in physics from the University of Chicago. He became a member of the Institute for Advanced Study in Princeton in 1949 and a professor in 1955. In 1966, Dr. Yang became the Albert Einstein Professor of Physics at the State University of New York at Stony Brook where he is the director of the Institute for Theoretical Physics. Dr. Yang won the Nobel Prize for Physics in 1957 for his research into the laws of parity which led to major discoveries concerning elementary particles. Dr. Yang, in addiiton, honors me by serving as a member of my Science Advisory Committee, and has consistently offered his wisdom to our committee in assessing various national scientific issues.

Dr. Yang is a credit to our community and our country, and I am pleased to extend my congratulations to him.

I include the following:

DR. YANG ELECTED TO SCIENCE BOARD

Nobel Prize physicist and State University at Stony Brook professor, Dr. C. N. Yang, has been elected to a four-year term on the Board of Directors of the American Association for the Advancement of Science.

The Setauket professor was co-recipient of the Nobel Prize for Physics in 1957 for his research into the laws of parity which led to major discoveries concerning elementary particles.

Chen Ning Yang was born in 1922 in Hofei, China. He received his college education at the National Southwest Associate University in war-time China and came to the United States in 1945. He received a Ph.D. degree in Physics from the University of Chicago in 1948. He became a member of the Institute for Advanced Study in Princeton in 1949 and a Professor in 1955. In 1966 he became the Albert Einstein Professor of Physics at the State University of New York at Stony Brook. He is director of the Institute for Theoretical Physics at that University.

He is married to the former Chih Li Tu. The Yangs have two sons and a daughter.

Yang is a Nobel Prize winner (1957), a member of the National Academy of Sciences, the American Physical Society, the Society of Sigma Xi, and the Academy of Arts and Sciences.

NBC'S NIS PROGRAMING

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. FREY. Mr. Speaker, there are currently over 8,000 radio stations in the United States, with some 61 million radio households. As the number of radio stations in this country has increased—and with the emergence of television—specialized formats have been created with amazing ingenuity. These formats range from top 40 and country music to religious, event radio, and all-news.

The all-news format deserves special mention because, in my judgment, America's need for timely and accurate information about national and world developments has never been greater. In fact, the contribution which the all-news radio format can make—particularly if made available on the national level—is immense.

In this regard, I would like to call your attention to the National Broadcasting Company's new radio News and Information Service—NIS—which now enables stations from coast to coast to fill the information needs of their listeners around the clock 24 hours a day.

The programing for this unique and enterprising service includes international, national, and regional news, short documentaries, sports highlights, and a wide range of feature presentations. Subscribing stations carry up to 50 minutes of this material an hour, integrating it with local coverage in a total news format. In its first 6 months on the air, NIS has won acceptance in virtually every part of the country.

The all-news radio format as employed up to now has been limited to a relatively small number of stations because of the major costs involved in establishing and maintaining a full-time news operation. This has been something affordable only to the Nation's larger stations, and generally only in major cities.

The significance of NBC's effort is that it offers any number of stations—and stations in smaller population centers—a way to tap the extensive news gathering resources of one major broadcasting organization. Hundreds of stations now have an affordable alternative to standard radio music and talk formats—and millions of Americans who might not otherwise have such a listening choice are the beneficiaries.

We deserve to be informed about national, State, and local issues. Public debate and intelligent decisionmaking require no less.

NBC's NIS programing is providing needed information and should be congratulated for its service.

NEED FOR LEGISLATIVE ACTION TO ALLOW POST-KOREAN CONFLICT VETERANS TO COMPLETE THEIR EDUCATIONS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. DRINAN. Mr. Speaker, when the Congress approved the current GI bill, it provided for the inclusion of those veterans with service after January 31, 1955 who were discharged prior to June, 1966. For the nearly 500,000 veterans in this category who are currently enrolled in programs of education and training benefits will terminate on June 1, 1976.

It may appear that a 10-year period is sufficient time for the completion of a program of study yet I feel that there exist particular considerations for veterans in this category which warrant legislative action to allow them to complete their programs.

When the Congress was looking at the GI bill in 1974 it found that for a number of reasons veterans were not using the educational assistance available to them. At that time it was concluded that the primary reason for nonutilization of benefits was the inadequate level of assistance. Benefit amounts were significantly increased in 1974 and the utilization period was extended from 8 to 10 years.

Many veterans, particularly the post-Korean conflict veterans, were financially unable to attend school until the rates had achieved a more adequate level. Many of these veterans were married and have dependent children. The financial obligations of overall support for their families left them with neither the time or the money to seek programs of education and training despite the fact that some assistance was available.

That participation bears a close relationship to the level of benefits is reflected in part by the number of post-Korean conflict veterans in training in current years. Since 1974 the number of those veterans in training has been greater than the number in training in any other single year since eligibility was granted in 1966. Veterans' Administration statistics show that the most significant increase in utilization of the GI bill occurred with regard to the post-Korean conflict veteran.

Testimony before the Senate Veterans' Affairs Committee also indicated that the lack of aggressive outreach programs added to the nonutilization by post-Korean conflict veterans who were often unaware that they were granted benefits retroactively. Thus these veterans who are currently in progams of study began such programs in relatively recent years due to outreach programs that were strengthened in 1974 and benefit levels that made such endeavors possible.

The opportunity now being used by these veterans is of further importance when we realize that many of them came from educationally disadvantaged economic and social groups. An examination of veterans in this category enrolled in 1974 revealed that those who were discharged prior to 1966 have the highest percentage of nonhigh school graduates, 21 percent as compared to those discharged after 1966 in which the nonhigh school graduate rate is 13.9 percent.

We should also keep in mind that the past years have been marked by high rates of inflation and unemployment, which factors have further prejudiced the educational pursuits of these veterans.

With the upgrading of benefit levels and outreach programs in the past few years the post-Korean conflict veteran was provided with an opportunity that didn't fully exist prior to such actions. The nearly 500,000 of them who seized this opportunity should be allowed to complete their programs.

Recent years have provided more opportunity for basic adult education and post-secondary education than was available following the 1955 to 1966 period. The veterans of that period can now be educationally served more readily and more effectively than at any other previous time. In fairness to them we cannot assume that they have had the same opportunity as their younger counterparts to utilize their educational assistance in these past 10 years.

I am today introducing legislation which will allow these veterans, currently enrolled in programs of education and training, to complete these programs with the continued assistance of the GI bill.

A TRIBUTE TO MAYOR MAE STEWART

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. STOKES. Mr. Speaker, I rise today to pay tribute to a leading official of the Greater Cleveland area.

Mayor Mae Stewart of the city of East Cleveland is a tireless advocate of fairness, honesty, and high standards in municipal government. I am privileged to count this remarkable woman among my closest circle of friends and advisers.

Mr. Speaker, East Cleveland's first black woman mayor had made an indelible impact on the life of this city of 62,000 inhabitants. Though not populous, East Cleveland is as plagued by social and economic ills as any larger metropolis in the United States. Incidentally, it has the highest number of citizens on public assistance in that area of northern Ohio.

Mrs. Stewart is currently serving her second 4-year term on the East Cleveland Commission after having won an overwhelming victory in the elections last fall.

Mr. Speaker, let me cite a typical example of Mayor Stewart's zeal in demanding excellence for her community. Recently, she waged a one-woman battle against the East Cleveland branch of a major national food chain after she got tired of hearing constituent complaints about rude service, poor produce, and general filth. After a storewide inspection, Mrs. Stewart clamped down and mounted a sweeping investigation of store consumer policies, health standards, and discrimination in hiring practices.

As commissioner, Mrs. Stewart has also advocated a restructuring of the East Cleveland police force to make it more responsive to the needs of the residents. Mr. Speaker, Mae Stewart knows how to get the job done and her constituents are behind her all the way.

As with most people who attain high political office, the road to success begins much earlier with involvement on the community level. As the first black PTA president in the East Cleveland school system, Mrs. Stewart instituted many positive changes. Around the same time, she became actively involved in the Roselle Superior Civic Association, an organization which promotes community-based projects and a better working relationship between city administrators and the community. Now that she is an administrator herself, she still maintains those community ties. Let me take a moment to list but a few of her associations:

MEMBERSHIPS

The Twenty-first Congressional District Caucus.

The Ohio Black Women's Leadership Caucus.

The National League of Cities; Human Resources Policy Committee.

Ohio Municipal League, Board of Trustees.

The National Association for the Advancement of Colored People.

The Urban League.

Vice President of the Second Ward Democratic Club of East Cleveland.

Board of Directors of the East Cleveland Police Athletic League.

Volunteer for various community health drives.

CITATIONS

East Cleveland Citizen of the Year, 1970.

Included in Who's Who in Black America.

Recipient of Honorary Degree of Human Relations, 1975, University Forum Academy of Western Reserve University.

Mr. Speaker, for the past 30 years, she has been married to Robert L. Stewart and is the mother of four grown children. She confides to her close associates that her best hours are now spent entertaining her two young grandsons.

My colleagues, Mrs. Stewart's philosophy of life is basically a very simple one. It is also one which all public servants should heed. Mae Stewart firmly believes in what is right, and passionately opposes that which she feels is wrong. She does not backstep, cower, or remain silent when faced with adversity.

Mayor Stewart and all those effective local office holders like her do much to make our legislative work here in the Nation's capital that much easier. Mr. Speaker, I call upon you and the Members of the House here assembled to join with me in honoring Mayor Mae Stewart. Knowing her as I do, she would not care for too much flowery language or high sounding platitudes. Given the chance, Mae Stewart would tell us that the best way to honor her would be to pledge ourselves to the fight against crime, hunger, poverty, and ignorance, and to dedicate ourselves to the struggle for human dignity for all citizens.

This is our Mayor Mae Stewart, Mr. Speaker, and we are proud of her.

COMMEMORATING "ESTONIAN INDEPENDENCE DAY"

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. DODD. Mr. Speaker, just last week many of us throughout this Nation commemorated mankind's continuing struggle for human rights and liberties by celebrating Estonian Independence Day. It is an occasion about which many Americans know a great deal, but unfortunately some know very little. I would like to take this opportunity to increase the awareness of Americans about the valiant fight of Estonians for their cherished independence.

Like its sister Baltic States, Estonia has had to fight throughout its history foreign efforts to conquer it. It was late in the 16th century that the three Baltic States first allied themselves with the Scandinavian countries rather than pay homage to the Russian czars seeking to control them.

Russian dominance over the Baltic Nations began in the early 18th century and continued for nearly 200 years. In November 1917, when the Communists became masters of Russia, the Estonian leaders decided to break away from Russia, taking advantage of the German menace at its borders. On February 23, 1918, German troops entered Estonia, and the Communists fled the country.

The sudden change was a mixed blessing to the people. The presence of the Germans was regarded as the only sure way of evicting the Communists, but Estonian leaders did not welcome the occupation of their homeland by another set of foreigners. But, they were in no position to resist the Germans openly.

Instead, they took a symbolically momentous step: on February 24, 1918, they proclaimed Estonia's independence.

The Germans, of course, refused to recognize the proclamation. They arrested and imprisoned many Estonian leaders, and ruled the country with an iron hand until early November 1918. Meanwhile, many Estonian leaders fled the country and began to carry on a vigorous campaign in the Allied countries, and also in the United States, in behalf of their compatriots in Estonia.

These brave leaders were successful, for on March 1, 1918, France accorded de facto recognition to Estonia as an independent state. Great Britain and Italy did the same on March 20 and May 29, respectively. By the actions of these countries, Estonia was granted limited but important international status while it was still under foreign occupation.

In November 1918, the Germans withdrew from Estonia, but the Soviets once again attacked. The ever ready Estonian people responded quickly to the government order for general mobilization and braced themselves under their brave and capable military leader, Col. Johan Laidoner.

For a few critical weeks they held the Soviets in check in a number of encounters, and they were then helped by the effective aid of the Finns and a British naval squadron, which brought badly needed munitions. Estonia's independence was saved wtih the help of her friends, and we must follow this past example with, at the very least, our own expression of strong moral support for the rights of Estonians to be independent.

When the peace treaty was signed on February 2, 1920, between Estonia and the Soviet Union, the Soviet Union "voluntarily and forever" renounced its sovereign rights over the territory and people of Estonia.

From the day it declared its independence from the Soviet Union until 1940, when the Soviet Union illegally extended its control over the Baltic States, Estonia existed as a free and independent nation. Estonia took its place in the world community of nations. Its contributions to the work of the League of Nations, often as a worthy spokesman of the small, democratic states and always as an ardent advocate of peace, were significant.

The course of catastrophic events very early in the last war spelled tragedy for Estonia, as it did to its neighbors Latvia and Lithuania. But for a people who can keep the hope of freedom and independence alive for as long as Estonians have, freedom will surely come again.

In our own country, Mr. Speaker, the many people of Estonian descent keep this hope of independence for Estonia alive deep in their hearts and uppermost in their minds. They have banded together in societies whch work for the freedom of their ancestral homeland and also contribute greatly to the American communities in which they live.

My own State can point proudly to the Connecticut Estonian Society of Manchester. Under the worthy leadership of Mrs. Vaike Lugus, the Connecticut Estonian Society is a credit to the rich heritage of that Baltic nation, and the new history of our American democratic experience.

It gives me great pleasure and much honor to join together with fine people such as Mrs. Lugus and the others of the Connecticut Estonian Society to commemorate Estonian Independence Day.

NEW BIRDS SING IN SLOVAKIA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. McDONALD of Georgia. Mr. Speaker, after a generation of Communist rule some have expected the spirit of the captive nations to be crushed. To the deep chagrin of their Communist masters, this is not the case, for new birds begin to sing tunes diametrically opposite to Communism within the Communist occupied lands. As an example I would like to cite reports from northern Slovakia, near the Polish border, of "Samizdat" leaflets with national and religious content secretly produced and distributed by young Slovaks. As a result of this spontaneous action the Communist security service sealed off a large portion of the country to search for the young Slovaks responsible for these acts of resistance. The towns searched, in some of which whole blocks of houses were cordoned off, included Namestovo, Dolny Kubin, Spisska Stara Ves, Ruzomberok, Zilina, Trencin, and Nitra.

The spirit of these young Slovaks is characteristic of a new generation throughout Eastern Europe, nationalistic, but not chauvinistic, religious, but not dogmatic, and believers in elected representative government, not the totalitarianism of any party. This new spirit of resistance by young people in Eastern Europe, is beginning to have response in the West. For example, Dr. Kristof Greiner, the distinguished Slovak journalist in exile in West German, editor of the Slovak-language newspaper *Cernakov Odkaz* and director of Slovak broadcasts from Cologne, beams back to Slovakia reports of acts of Slovak resistance so that the whole nation can be informed of different acts of Slovak heroism.

Different exile groups in contact with the resistance in their native lands have begun spontaneous cooperation with each other, based upon the concepts developed by young people behind the Iron Curtain. The Slovak Revolutionary Army, representing continuity from the earliest Slovak opposition to the Soviet occupiers of Slovakia to the new generation, entered into an agreement with the Polish Combat Organization, Wolna Polska, on October 16, 1975. I am pleased to bring to the attention of my colleagues the text of this agreement of cooperation between two significant resistance groups as it appeared in the publication Free Poland of October–November 1975:

JOINT COMMUNIQUE

The Combat Organization Free Poland (Organizacja Bojowa Wolna Polska) and the Slovak Revolutionary Army (Slovenska Revolućna Armada), representing resistance forces of our two neighboring nations, resolve:

To jointly engage in the armed struggle against the alien, dictatorial regimes oppressing our nations;

To consider the freedom, independence and territorial integrity of Poland and Slovakia being essential conditions for both nations;

To coordinate resistance operations to prevent any sanctuary for enemy forces along our common border;

To jointly demand treatment of our combatants under the rules of the Geneva Convention as Armed Forces of National Liberation Movements;

To increase, through common efforts, the revolutionary self-confidence within each of our nations;

To further cooperation between our two nations on behalf of the principle of self-determination of nations inspired by the great national hero of Poland, Marshal Jozef Pilsudski, and the great national hero of Slovakia, General Milan Rastislav Stefanik;

Under the banner For Your Freedom and Ours to jointly oppose the alien Communist ideology which is so repugnant to the national and religious feelings of our nations and to jointly oppose a revival of Fascism, which brought in the past the partition of each of our nations;

Further, as Slavic and Christian peoples we recognize A. I. Solzhenitsyn as a Prophet for our time and extend the hand of friendship on the basis of equality and mutual respect to fighters for freedom and independence from all other enslaved nations;

The Combat Organization Free Poland and the Slovak Revolutionary Army jointly call upon all other National Liberation Movements to join our alliance in order to cooperate and coordinate our actions against the Soviet imperialistic invaders and the Communist ruled "governments" in our countries;

Both parties make it public that several detailed protocols have been signed governing the conduct of revolutionary operations.

(Duly executed signatures of the representatives of both parties appear on the original of this agreement.)

Signed on the 16th Day of October, 1975, in New York, New York.

1975–76 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. JACOBS. Mr. Speaker, as the representative in Congress of the 11th District of Indiana, I am especially proud to insert the inspirational words of my young constituent Jeffrey Douglas Moran.

Mr. Moran composed and delivered the following as a part of the VFW Voice of Democracy Scholarship Prgoram.

The article follows:

1975–76 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM, INDIANA WINNER

To me our American heritage is like a building. Every physical building that stands the test of time, has a foundation of a firm substance. Likewise, our heritage has a resolute foundation. It is steadfast because it was built on the principles that "all men are created equal", that all men have "certain unalienable rights", and that among man's rights as a human being, and as an American citizen, is the privilege to be what you want to be, to accomplish the impossible, to go where no one else has ever been, to see and hear and experience things no one else has ever even dreamed of experiencing, to make your life as full, and rich, and satisfying, and meaningful as possible.

These rights and opportunities have not always existed though. Our forefathers drew up the blueprints of this immense foundation. Each of our colonial ancestors was, in a sense, a draftsman. They had endured all they could, and saw that the British Crown was seated on a wavering and inconstant footing that would crush their lives and the lives of their children should it fall. And so they set out to create a new and better building, one which would not topple at the slightest wind of opposition. They met and decided that their necessities to human dignity and self respect would form the . . . "concrete" which would become, in future years, the groundwork of a great fundamental institution.

Soon after the completion of the base of this building, the lives of the original draftsmen were relinquished. This, though, was not the end of construction by any means. The next generation, feeling that same inner drive and force to excel, then started working on the first floor. Their accomplishments shaped the architecture of the ground floor. When they died, the next group of "construction workers" started on the job. With each generation a section of that building was completed. Now, after 200 years of existence, one might think that the building would be ready to crumble at the slightest jar. But, surprisingly enough, that building is now just as immovable and steady as it was when the work had just begun. However, instead of existing as a simple footing, it is a vast skyscraper, with floor after floor and layer after layer of solid democratic material. One might also think, that such a tall structure would be easily destroyed by angry winds and tempests. And through the years I'll grant you many troubled winds and tremors have tried to loosen the sure foundation of this institution but its creators foresaw its eventual growth and allowed for it in their plans. Just as the original builders added to the structure of this building, it is therefore our responsibility as Americans living in the United States today, to preserve this historic landmark and to meet the challenge: to let our accomplishments form another floor in the American Heritage skyscraper.

AMERICA'S IMAGE ABROAD

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. BELL. Mr. Speaker, I call to the attention of my colleagues an editorial by William Randolph Hearst, Jr., editor in chief of the Hearst newspapers, which was published recently in the San Francisco Examiner on the subject of this country's international image.

Mr. Hearst finds that foreign nations have begun to worry that the United States may not continue to have the will to match our world status as a superpower.

The complete text of his very perceptive and enlightening editorial follows:

OUR IMAGE ABROAD

(By William Randolph Hearst, Jr.)

PARIS.—In three weeks spent talking to people in western Europe of various nationalities and many different walks of life, one thing stands out.

Europeans no longer are sure that the United States possesses the will to match our status as a super power.

In our bicentennial year, America's traditional image as the chief defender of world freedom and stability is growing blurred.

One reason for this is the weakness of the President. The Hearst Newspapers' continental European correspondent Bernard D. Kaplan and I found the belief firmly planted here that Gerald Ford is a prisoner of Congress—and, as a result, the first President since the Second World War without decisive authority to intervene in world affairs.

Of course, this may only prove to be a temporary condition, the consequence of having a non-elected President. Nevertheless, Europeans are worried. This is mainly because what they are calling America's "paralysis" in international affairs coincides with the biggest upsurge of Soviet military power since the war.

France's Foreign Minister Jean Sauvagnargues told us in an interview that he regards the "hamstringing" of Ford by Congress as a greater cause for immediate concern than even the Soviet buildup. As he sees it, the American chief executive "can't do what he wants to do—which is a new fact that we in Europe have never before been confronted with in the postwar world."

The Europeans don't question our power. At least, not yet. Sauvagnargues and others still consider the United States the paramount political and military power, although beginning to lose its margin of superiority over the Russians. They still depend on us. In my view, they may depend on us too much.

Thoughtful Europeans admit that we would all be far better off if countries like France, Britain and West Germany displayed more self-reliance of a genuinely responsible kind. That doesn't mean the cheap, easy carping at America that normally passes over here for demonstrating independence from the U.S. That sort of thing is self-indulgence rather than self-reliance. Sadly, it is what most of the Europeans have been best at in recent times.

Thirty years after the war they are still not willing to take on their fair share in their own defense. Even their alarm at the growth of Russian strength hasn't done very much to make them pitch in more in arms, men and money to the common Western defense effort.

This is because they cannot kick the habit of looking to America for their protection. It is this long-standing tendency that has heightened fears here about American leadership.

On earlier visits I found the Europeans complaining that we Americans were too slow to trust the Russians. Now it's the other way around. They're afraid we are being too trusting.

According to Sauvagnargues, too many Americans have been putting too much reliance on what he regards as a misconceived understanding of U.S.-Soviet detente. He emphasized that it is "nonsense" to consider detente in itself to be a policy, or a substitute for one.

"It is not a remedy for everything," he told us. "It only means that the Americans and Russians have agreed that there won't be a nuclear war. It doesn't mean more than that."

Like a lot of other people we saw, the French foreign minister thinks that America's current irresolution in foreign policy is a product of what happened in Vietnam. "It's a very unfortunate situation for a super power to be in," he said.

It was particularly striking to hear this from a senior French official, sitting cool and self-assured in the regal atmosphere of the Quai d'Orsay, the building that has served as France's foreign ministry for nearly as long as America has been a nation.

European leaders get a lot of vicarious authority from the impressive historical settings in which they operate. One often has to remember that this does not necessarily make what they say any truer or wiser.

On this occasion, though, Sauvagnargues's words were significant because the French, under the late President Charles De Gaulle, were the first in western Europe to urge detente. They pressed ahead with it before America. They extolled Franco-Soviet "friendship." Now, they seem to be among the first Europeans to recognize the limitations of detente.

Kaplan and I were the first newsmen, French or foreign, to learn that France had decided to recognize the pro-Communist MPLA regime in Angola. In disclosing the decision to us, Sauvagnargues explained that it was being done in honor of limiting Russian influence there, at least in the long run, by giving the Angolans the alternative of looking toward the West.

Nobody could fairly accuse Sauvagnargues of being anti-American, which is a refreshing change from some of his recent predecessors. In fact, in spite of misgivings over American policy, I felt an atmosphere of friendliness toward the United States in official French circles that I hadn't encountered here in 20 years.

I'm told that this is the work of President Valery Giscard d'Estaing who ordered French officials to drop their sour attitude, which had become almost second nature during the Gaullist era, and to start acting like America's allies again.

Sauvagnargues has been responsible for carrying out this presidential directive on a day-to-day level and observers here say that he should be given full marks for succeeding. They also give a great deal of credit to our able ambassador, Kenneth Rush. Rush has been helped by the fact that he and the foreign minister are old personal friends—they served together as ambassadors to West Germany—who have a mutual preference for a soft-spoken approach to problems.

But Sauvagnargues's goodwill toward America made what he said about its post-Vietnam frame of mind even more ironic. The French, like other Europeans, are not happy about the impact the loss of the Vietnam war has had on American thinking. Sauvagnargues preferred not to be reminded that it was the Europeans—as it happens, the French were the loudest—who persistently urged us to get out of Vietnam and let the Vietnamese settle it alone. The Americans followed their advice, however belatedly, and now the French don't like the consequences.

Of course, the most immediate consequence was Angola. Pretty much from the start we did there what Europe said we should have done in Vietnam. That is to say, we did little or nothing to stop the Communists.

But it develops that the Europeans are as disturbed by America's non-intervention in Africa as they were by its intervention in southeast Asia. As Sauvagnargues put it, "The United States said too much about Angola and did too little."

To the French, the new fact demonstrated by the Communist win in faraway southern Africa is that Russia is now a world power on exactly the same footing as the United States.

That is, it possesses a capacity to send its forces by air and sea nearly everywhere. At the time of the Cuban missile crisis it lacked that capacity. The thought has been occurring to some people here that the chief aim of Russian policy over the past decade may have been to gain time in which to make good the deficiency.

No one we saw seemed to have a really clear notion of what the Russians will be up to next. The consensus is that Berlin is probably safe for an indefinite period, but not necessarily forever. Soviet intentions in the Mediterranean are judged to be ambiguous. The Europeans feel almost anything could happen in Africa.

Virtually everybody here agrees on one point. Moscow isn't building a two, or maybe three, ocean-sized navy and trying to extend its sway around the southern perimeter of Africa, deep into the Indian Ocean, just for the exercise. As was repeatedly emphasized to us, these are areas where the Russians have never been before.

Sauvagnargues believes the United States "probably" still has naval superiority over the Russians. The French retain a great deal of respect for the Anglo-Saxon naval tradition, based on the numerous times in their history that the British navy beat them. They regard us as having fallen heir to this tradition. In their view, it gives the American fleet an edge that, in a war, would be important.

This sounds reassuring. However, only a few years ago our control of the seas was accepted as an indisputable fact by every European. It was based on confidence that we had a long lead over the Russians in the quantity as well as quality of our ships and sea-going missiles. Like other signs of confidence in America, this one has waned, too.

Britain's control of the sea lanes maintained world order for nearly the whole of the 19th Century. We found apprehension mounting here that America's supremacy on the oceans may be ending after only a generation.

CHICAGO TRIBUNE ENDORSES PRESIDENT FORD

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. MICHEL. Mr. Speaker, Sunday's Chicago Tribune, in an editorial endorsement of President Ford in the upcoming Illinois primary, touched on a number of important reasons why the President is doing a good job, and summed them all up by saying:

> His way is less dramatic, but more likely to work; by most economic indicators, in fact, it is working now.

That is, it seems to me an important point which should not be forgotten in the midst of this year's campaigning. Those who challenge incumbents, for nomination or election, seldom feel reservations about blaming their opponent when the economy is turning down. This year, it is the incumbent's turn to cite the statistics.

Inflation and unemployment are down; the economy as a whole is up.

And Gerald Ford is President.

The article follows:

[From the Chicago Tribune, Feb. 29, 1976]

WHY WE ARE FOR MR. FORD

The contest for the Republican presidential nomination is between two conservative leaders with very similar views on most national issues—inflation, unemployment, crime and public safety, defense, and the need to control spending and reduce the swollen federal bureaucracy. If the political philosophies of Gerald Ford and Ronald Reagan were written out in Basic English and placed side by side, it would take careful scrutiny to decide which statement represented the President and which the former governor of California.

Where Mr. Ford and Mr. Reagan differ markedly is not in philosophy, but in style—their approach to national problems and their way of thinking out solutions. And it is primarily on that basis that we support President Ford for nomination over his rival. His way is less dramatic, but more likely to work; by most economic indicators, in fact, it is working now.

Mr. Reagan's ability to dramatize issues has made him a formidable candidate. He is able to sum up, in an anecdote or a vivid phrase, worries and discontents that millions of Americans feel, and to convince many of us that these difficulties can be ended only by the kind of bold leadership and sweeping plans he offers. In Mr. Reagan's view, moreover, leadership of this kind can come only from those who are "independent of the forces that have brought us our problems—the Congress, the bureaucracy, the lobbyists, big business, and big labor." It must be a leadership "that is not part of the entrenched Washington establishment . . . that will not be fettered by old commitments and old friendships."

These quotations, from a campaign brochure entitled "Reason for Reagan" sum up the theme of his campaign: the picture of one courageous man challenging a faceless army of officialdom. Its appeal cannot be denied. Neither can the truth of Mr. Reagan's principal charge, that the federal bureaucracy has grown so bloated and unwieldy that it can accomplish little more than to go on existing.

As a candidate, Mr. Ford clearly suffers by contrast. He does not offer us bold plans or emergency measures; his policy, in fact, seems to consist largely of denying that there is an emergency.

He seems preoccupied with the tiresome problems rather than the glorious solutions; he thinks in terms of conflicting claims to be balanced, rather than villains to be routed.

Mr. Ford's style seems particularly plodding in an election year. By most rules of political strategy, this is the time for the President to do something dramatic and visible—something that will please large numbers of voters before the November elections, regardless of what happens afterwards. Mr. Ford keeps missing his chance. He talks as if the economy will heal itself with a minimum of interference from Washington. And, perhaps by coincidence, that is just what is happening. Production is increasing, unemployment is edging downward, and living costs are leveling off.

Like Mr. Reagan, the President does not trust federal machinery to work wonders. Unlike him, Mr. Ford evidently thinks its existence is a fact, and that it can't be drastically redesigned without disruption. The point is illustrated by Mr. Reagan's much-disputed plan for transferring federal programs and revenue sources to the states.

This plan has been progressively scaled down since last September, when Mr. Reagan unveiled his dramatic program to cut federal spending "by as much as $90 billion." It has now lost its specific dollar amount and has become a list of programs that "should be carefully considered" for transfer to the states, the likeliest being welfare, education, housing, food stamps, Medicaid, community and regional development, and revenue sharing. Mr. Reagan tends to get testy when questioned on details of his plan.

Mr. Ford's reaction from the first was that this sweeping approach did not solve problems so much as transfer them from federal department heads to governors—a view that seems to be shared by most governors.

The point is not so much the value of this plan as the contrast in approach. Mr. Reagan starts with a spectacular program and finds out about the drawbacks later; Mr. Ford begins with the cautious awareness that ideas, no matter how attractive, must be balanced against given facts—that nothing is quite as simple as it looks at first. And in that, we think Mr. Ford is right. Spectacular plans for taking power away from Washington—much as we agree with the purpose—are likely to prove just as unrealistic as spectacular promises involving new federal programs.

Mr. Reagan was an effective two-term governor, and can rightly take pride in his record. The consensus in California, however, is that he became effective only after he learned to adapt his philosophies to the facts of politics. That is a lesson he now appears to have learned.

We have no quarrel with Mr. Reagan's philosophies. But we do not think the nation needs a President who sees problems as both bigger and simpler than they are; who regards them not as difficult situations that need patient work, but as challenges to dramatic action starring himself. Mr. Ford may be the less glamorous candidate, but he'd be the better President.

AWACS PROGRAM

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. ASPIN. Mr. Speaker, the Pentagon has come up with a new political ploy to foist its ill-conceived and excessively expensive AWAC's program onto the Congress. On February 27, the Pentagon sent to Congress a trumped-up letter of offer for the sale of 32 AWAC's to NATO at a cost of $2.2 billion. No one in the Pentagon expects this letter of offer to be accepted in its current form. It will take many months and possibly even years to negotiate a deal which may never be consummated.

Why then was the letter of offer issued now in its current form? The Air Force hopes that the proposed sale of 32 aircraft will stymie opposition in Congress to this year's proposal to purchase 6 AWAC's at a cost of $474.7 million. In addition, the Air Force is seeking $109.6 million in research funds for AWAC's or a total request of $584.3 million for fiscal year 1977.

Normally, the Pentagon issues a letter of offer as a formality after the main elements of an arms sales have already been negotiated. Checks with Pentagon officials by my staff indicate that negotiations have barely begun on this project. Furthermore, the Pentagon principal argument for this kind of arms sales have always been that the increased production runs through foreign sales will reduce the cost per aircraft. However, a check by my staff with Pentagon officials reveals that, while the Air Force claims that the costs will be cut, they have no idea what the reduced costs will actually be. A check with Boeing also disclosed that they have not calculated a firm dollar savings. A Boeing spokesman did say that as the production sum is increased there is a so-called "learning curve" which reduces the price of each additional unit.

The incomplete information available from the Air Force and early stages of the negotiation all indicate that this letter of offer was thrown together in great haste in an effort to defuse any congressional opposition to AWAC's.

Not only is this letter of offer a "quickie" deal, but the proposal itself is a poor one from the American taxpayers' viewpoint.

First, the price tag for the NATO AWACS appears too low. The purchase of 32 AWACS for $2.2 billion results in a per plane cost of $68.75 million. According to the latest system aquisition report—SAR—submitted to Congress the 34-plane U.S. AWACS program will cost a total of $3.536 billion or $104.1 million per plane. The Pentagon does not have specific data on what savings, if any, will occur on the U.S. program. If there are no savings the price tag of each AWACS for NATO will be "one-third off" the price paid per plane by the U.S. taxpayer.

In addition to any alleged savings from a longer production run, the NATO AWACS per plane cost will be increased by future inflation and an effort by NATO to coproduce about 25 percent of the AWACS components. Pentagon officials say that NATO is willing to accept a 10-percent increase in AWACS costs in order to coproduce 25 percent of the AWACS components. In any case, it appears that NATO will buy AWACS at bargain-basement prices.

Second, the NATO countries will pick up too little of the research costs. The NATO deal calls for the alliance to pay 9 percent or $88 million as a research reimbursement for AWACS. But, the total research costs of the AWACS will be $1.379 billion or 39 percent of the total program cost. Hence, the United States will pay $1.291 billion for research and the alliance only $88 million. If NATO wishes to purchase AWACS and believes that it is important for their security the principal party in both production and research costs should be established.

The third problem with the so-called NATO purchase of 32 AWACS is that the number of planes to be purchased is phony. The United States expects to be responsible for the purchase of approximately 25 percent or 8 of the AWACS planes. Thus, the real NATO purchase will be approximately 24 aircraft. The U.S. buy of 34 AWACS apparently will not be increased as a result of any NATO purchase.

This proposed deal for the sale of AWACS needs much closer examination. I am asking Air Force Secretary Reed to provide additional information on the sale immediately. Unfortunately, under the current law we have only 20 days to consider the sale. The letter to Secretary Reed follows:

CONGRESS OF THE UNITED STATES,
Washington, D.C., March 2, 1976.

MR. THOMAS C. REED,
Secretary of the Air Force, Department of the Air Force, The Pentagon, Washington, D.C.

DEAR SECRETARY REED: I am writing today concerning a letter of offer that was submitted on Feb. 27th for a proposed $2.2 billion sale of 32 AWACS aircraft to NATO.

I hope that you could clarify the impact of the proposed sale on the U.S. AWACS program and raise several questions concerning this sale.

First, the latest selected aquisition report for the AWACS program indicates that the per copy cost of each of the 34 aircraft will be $104.1 million. The letter of offer indicates that 32 of the AWAC's aircraft will be sold to NATO for $68.75 million. It would appear that the NATO countries will purchase the AWACs aircraft for approximately ⅓ less than the U.S. taxpayer.

I hope that you could provide me with a complete explanation of why this huge discrepancy exists between the cost to the U.S. and to NATO. It is my understanding that the AWACs program for NATO is costed in

1975 dollars and there will be some additional inflation. If there will be additional inflation, how much will it be? It has always been the contention of the Department of Defense that increased production runs should lower the per unit cost. Inquiries by my staff indicate that the Air Force has not calculated how much, if any, cost savings there will be on the per unit cost of AWACs. I hope that you could provide me with a specific estimate as soon as possible.

In addition, it is my understanding that the price of AWACs may be increased by approximately 25% co-production of components to the AWACs and that the NATO countries are willing to accept the 10% increase in costs. Is this correct?

In short, I am interested in a complete calculation of the actual cost of AWACs per unit if the letter of offer is signed for the United States and NATO.

It is also my understanding that there is a dramatic discrepancy between the R&D cost of AWACs and the R&D charge assessed on the NATO sale. Four percent or $88 million of the $2.2 billion sales is a reimbursement for R&D costs. But, R&D costs of AWACs total nearly $1.4 billion. It is evident that the NATO sales offer does not include a fair share of the research costs for the size of the purchase. I hope that you could provide me with a Department of the Air Force's rationale for this inequitable distribution of research cost.

The Foreign Military Sales Act requires that a foreign government "pay the full amount of such contracts which will assure the United States government against any loss in the contract." The proposed sale of AWACs at a considerably lower price to NATO than its cost to the U.S. raises a legal question about the propriety of the sale. I hope that your general counsel could examine these questions and render an opinion at his earliest convenience on the legality of the proposed sale in view of the requirements in section 22 of the Foreign Military Sales Act.

Thank you very much for your cooperation in this matter.

Sincerely,

LES ASPIN,
Member of Congress.

ODYSSEY INSTITUTE CHILD ABUSE CAMPAIGN

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. PEYSER. Mr. Speaker, Odyssey Institute, headed by Dr. Judianne Densen-Gerber, has launched a national awareness campaign to combat child abuse. As a coauthor of the Child Abuse Prevention and Treatment Act, I believe that every effort must be made to protect our Nation's children from this terrible disease. Moreover, I believe that it is imperative that oversight hearings on the Child Abuse Act are held as soon as practically possible, as there is every indication that child abuse and Neglect are on the rise, and that more effective programs must be developed to meet this critical problem.

Recently, WCBS radio endorsed the efforts of Dr. Densen-Gerber and the Odyssey Institute in an editorial that I am enclosing for the attention of my colleagues.

CHILDREN'S RIGHTS

Broadcast: February 9, 1976, 5:51, 9:43, 11:51AM, 1:51, 3:51, 7:51PM, February 10, 1976, 1:51AM

"When, in the course of human events, it becomes necessary for one portion of the family of man to seek the respect and protection of the rest. . ." Thus begins the draft of Judianne Densen-Gerber's 'Declaration of Independence for America's Children.'

Doctor Densen-Gerber—best known to New Yorkers for her work in drug rehabilitation as the founder of Odyssey House—is now turning her energies toward what she calls "the most serious children's disease in our Nation's history"—parental abuse and neglect.

America is killing 200,000 of its children every year, she says, and maiming—physically or emotionally—millions more. Dr. Densen-Gerber and her volunteers are seeking a million signatures on their Declaration which they plan to present to the Presidential candidates this Summer. Their hope is to have America's children declared as "our greatest national resource and first priority" with "a cabinet post at all levels of government to insure all children the right to life, liberty and the pursuit of happiness."

Doctor Densen-Gerber admits that much of her effort is symbolic. . .

DENSEN-GERBER: "If we get a basic attitudinal change, if we start to care, if you and I see a mother beating her child in a grocery store, we will feel, 'I am a citizen concerned about children, I will go over and do something to protect that child.' And if I get 4,000,000 people to do that, those 4,000,000 people will protect the 4,000,000 that are in danger."

WCBS supports Doctor Densen-Gerber's mission. In fact, this station's third week-long "A Life To Share" seminar series is now underway in Brooklyn. It's free, everyone is welcome. It's simply an offering of practical, expert guidance in better parenting. . .

DENSEN-GERBER: "I believe that there should be a course in parenting starting as early as the first grade. The most difficult of human tasks is to be a good parent. It's about the only one we don't even license for. We need a license to be a barber, to be a manicurist, to fish, to hunt, to marry—you don't need a license to have a child. It's not easy."

Not easy, but crucial—the freedom of America's last slaves, its children.

That's our view. We welcomes yours. Write: WCBS Radio, New York, 10019.

U.S. OLYMPIANS AT DISADVANTAGE SAYS DR. MAX NOVICH

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. PATTEN. Mr. Speaker, one of my very talented constituents, Dr. Max Novich, is a prominent Perth Amboy, N.J. orthopedic specialist, and chief of staff of the United Hospitals Orthopedic Center in Newark. He has been an amateur boxing official, coach and physician, and accompanied the U.S. team to the Pan American Games in Mexico City last year.

Dr. Novich wrote a very interesting article in the News Tribune, of Woodbridge, N.J., charging that the U.S. Olympians are at a disadvantage. I believe that his criticism is not only constructive, but something for American Olympic officials to think about. Dr. Novich is not only a very fair person, but sincere, so I'm sure that the main reason he wrote the article was because it is true and also with the hope that remedial action will be taken by U.S. Olympic officials.

I hereby insert the article by Dr. Novich, entitled, "U.S. Olympians at Disadvantage":

[From the News Tribune Weekend, Woodbridge, N.J., Nov. 7, 1975]

U.S. OLYMPIANS AT DISADVANTAGE

(By Dr. Max Novich)

Mexico City hasn't changed much since my last visit here for the 1968 Olympics. It is still a very elegant city with the same horrendous traffic jams, noise and clatter unlike anything I have ever seen in New York, London or Tokyo.

Facilities at the Pan American Village were a tremendous improvement over the stable-like conditions of the Pan American Village of the 1971 Games in Cali, Colombia.

The opening games ceremony was indeed the best I have ever seen in the nine international games that I have attended. It will be a hard act for the Russians to follow in Moscow in 1980.

The Cubans, perhaps surprisingly to some, have become a formidabble foe to reckon with. Even after the first several days of the Games, this little country was gathering up medals in sports that were never considered in their domain.

The Cubans were trained superbly and were brought up to tiptop condition by their combined Cuban-Russian trainers, aided by the medical and athletic know-how and backup of their sports doctors.

Also helpful is the fact that the Latin-American countries dominate the referee and judges section. Although there is a great deal of conviviality among the various judges and referees, when the chips are down, the anti-American attitude reveals itself.

I met Jack Kelly, a member of the U.S. Olympic Committee and to his credit he has been trying to get a change in the meaning and understanding of the word "amateur." If we are to continue in these international games we better soon change the meaning of the word ameteur notwithstanding the Curmudgeon amateurism of the late Avery Brundage.

We are at a decided disadvantage if we continue as we are. Canada has socialized its sports. Yet we continue to adhere to the letter of the law about amateurism while the rest of the world does otherwise.

Although it has become obvious to devotees of sports that U.S. dominance has been slipping in many areas, these Pan American Games will show it even more clearly. Unless we get to work and start funding our athletes at the grassroots level, we will become a force not to reckon with any more when it comes to sports.

I believe the dedicated coaches and supervisory athletic personnel of the AAU has done a magnificient job at the grass roots level. However, they are limited because the AAU is a notoriously poor outfit. They don't get the number nor the amounts of the contributions that flow into the coffers of the U.S. Olympic Committee. The word "Olympic" has a charismatic effect on Americans.

I notice that in every international Games that I have ever attended members of the U.S. Olympic Committee hierarchy usually can be found staying at the best hotels in the host city. If these accommodations are being paid for by the Organizing Committee of the Pan American Games, I can understand the Mexican officials desire to show great cordiality and hospitality for their foreign guests. If these accommodations are being paid personally by the members of the U.S. Olympic Committee hierarchy, they are certainly entitled to any tastes they can afford.

However, if our Olympic contributions are being used for this high style of living I object because it means taking considerable money away from the growth and development of our athletic potential for which the public has been contributing.

There has now developed a U.S. Olympic Committee aristocracy which should be looked into by a full time investigative reporter. A great deal of this money might better be used to develop our athletes rather than the expensive tastes of our administrators.

DANIEL SCHORR'S ADDRESS TO THE WASHINGTON PRESS CLUB

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. GIAIMO. Mr. Speaker, the House recently voted for an investigation of CBS correspondent Daniel Schorr arising out of his release of the Report of the Select Committee on Intelligence.

On February 25, 1976, Daniel Schorr addressed the Washington Press Club on this matter, and I believe the careful reading of his address would be helpful to those who are concerned about freedom of the press and excessive secrecy in government. The text of the address follows:

From the events of the past couple of weeks, let me report my preliminary conclusion: the joys of martyrdom are considerably over-rated.

As a non-working reporter, I have been working longer hours than usual, making the necessary legal and other preparations to be a cause celebre. I am tired, I don't have much time with my family, and I'm getting to feel very self-conscious. For me, the world has turned upside down when people keep calling me up to ask me things instead of telling me things.

There is another disagreeable feature of being a cause celebre. To be involved in a great Free Press contest, it seems, one has to start by surrendering some Free Speech. My lawyer, Joe Califano, is master-minding our strategy. And he says that a central feature of his strategy is that I should shut up a lot.

We have worked out this novel system where I write down what I would like to say, and then Joe reads it, and then he tells me if I'm allowed to say it. The system is having its try-out here. Not to beat about the bush, this is my first censored script since I left Moscow eighteen years ago.

Since I've never liked writing for the waste-basket, there are some things I won't try to go into because they are kind of *sub judice*. I cannot talk about the specific facts of the situation that faces official scrutiny—the tangled web woven in an effort to see a text published without commercial taint or personal gain once broadcast requirements had been fulfilled. This will all come out at the proper time, and I'll be glad, for, while not particularly proud of my effectiveness at undercover operations, I'm not ashamed of my intentions.

You may fairly ask, then, what am I going to talk about. Well, I like to think of myself as not just a cause, but still a reporter. And since I do not, these days, broadcast analysis, let me share with you my overall analysis of what I think is going on beyond the peripheral matters.

It is remarkable how much the national climate about secrets has changed in the past few months. In the early post-Watergate period, Americans demanded to know what other secret abuses of power had taken place. Disclosure turned into an imperative, overshadowing secrecy. "National interest" had lost some of its luster after being dragged into Watergate. And "national security" had become tarnished by its employment as a reason to block the investigation of a break-in, or to continue wiretapping someone who had left Government employ months before.

In the post-Watergate era, leaks became routine, and secrets were hard to keep. Who could accept the standards for secrecy if they were being set by those with their own secrets to keep? Who could believe in national security once it had been made synonymous with cover-up? In a reaction to improper concealment, we seemed to enter a period of massive, almost compulsive disclosure.

One phase of disclosure opened around October, 1974, when Seymour Hersh of the New York Times, doing what the Washington Post had done in the earlier Watergate period, forced ajar the closet where some CIA skeletons were locked away. There were muttered protests about intelligence secrets being spilled, but they fell mostly on deaf ears. Congress demanded investigations and so did President Ford. It was what the time seemed to require.

And so, not from leaks, but from official reports of the Rockefeller Commission and Congress, we learned of improper CIA spying on American dissidents, improper FBI provocations, mail-opening and eavesdropping by both these agencies, and more massive electronic surveillance by an agency few had even heard of until then—the National Security Agency. We learned of Americans used as unsuspecting guinea-pigs in LSD experiments, and of exotic poisons squirreled away against Presidential orders. We learned of plots against foreign governments, and we learned of plots—sometimes in unholy alliance with organized crime—against the lives of some foreign leaders.

But, everything runs its course and, in the Media age of the national nightly news seance, it runs its course faster than ever.

There have always been, in our country, two great urges—one towards security, one towards liberty. The pendulum constantly swings between them. When Americans feel threatened in their safety, they sometimes seem willing to sacrifice a little liberty. Then they talk of "cracking down," of giving freer rein to investigative agencies, and approve these agencies operating with greater secrecy.

But, when Americans perceive their freedoms, their privacy, threatened by security agencies, they turn on them, and demand to have them exposed and brought under control. That has recently been happening. Americans, shocked at what has been done in the name of national security and internal security, have been tilting towards disclosure, and our security establishment asserts that it has been harmed.

But security always comes back. And the pendulum appears to have started its return course, helped along by some willing hands. One clear sign of the change could be spotted, at the turn of the year, when a CIA station chief in Athens was tragically murdered, and suddenly disclosure in the broadest sense was made to appear the culprit. Another sign appeared on the horizon when a member of Congress found it necessary to call a news conference to protest that he had not been the source of a leak on the CIA operation in Angola.

Soon we were hearing echoes of 1971 when the Government was claiming—but never proving, even behind closed doors—that the Pentagon Papers had compromised national security.

The answer then was the White House Plumbers. The answer now seems to be pressure against Congress, and particularly against the Press. And, as a further election-year future, against Congress to mount its own campaign against the press.

So, what happened to me? I got hit by a swinging pendulum.

In October, 1974, I was assigned to start investigating intelligence agencies. In February, 1976, they seem to be back investigating me.

In October 1974, the nation seemed to want exposure of intelligence scandals. In February, 1976, the biggest scandal is being made to appear the process of exposure.

That was the background for the lopsided vote in the House of Representatives on January 29th to block the report already approved by its intelligence committee. The substance of the report had already been leaked, but using it after the vote was not the same as using it before. January 29th, if I may put it that way, was a watershed for leaks.

The House, as the saying goes, had worked its will, a phrase that has always awed me. But worked its will on whom? The House has a vital constitutional role. We know it as the body traditionally most sensitive to changes in voter sentiment. And, as much, the House made up its mind about this report.

But, under our Constitution, the Press marches to a different drummer, representing no popular constituency, and sometimes obliged to provide unpopular information. Now; I'm not supposed to discuss my case, but let me see if I can present to you the problem of a hypothetical reporter.

Take a reporter who has gotten a report with the simple hope of being a few days ahead of its scheduled publication. Now, suddenly, he sees all other copies of that report locked up the clerk's safe and—perhaps even more securely—entangled in a parliamentary deadlock about how to get it out of the safe.

In this weirdly accidental situation that has befallen, would you say that it is the function of the reporter to cast what, in effect, would be the final decisive vote for suppression of the report?

Is it the function of the reporter to heed a national security dictate that his common sense—but, more importantly, the parent committee and its expert staff—consider as not valid?

And, finally, if the House appears to be moving, for whatever reasons and under whatever pressures, towards putting the lid back on secrets, is it the function of the reporter to exercise his own prior restraint and to join the secrecy backlash that will hinder the press in the future?

Under the circumstances—unique though these circumstances may have been—it seemed to one reporter that, paradoxically, to NOT publish would have been an act of contempt for the constitutional process. To publish—and it makes no difference where—was the recognition of our separate roles, the normal and natural thing to do. For, if a body of Congress can, in these peculiar circumstances, forbid publication of information that has already escaped its control, then what can it not forbid? And what can it not ordain?

I submit to you that this is not contempt, but a proper respect for the function of Congress in our society, along with what I hope is a proper respect for what the journalist does in society. And apparently that role is now—once again—to be tested.

I do not ask you to approve of how I went about doing what I tried to do—my own agonized critique indicates some possible improvements in the tactics.

I would suggest that if you concentrate too much on these details, however fascinating, you may miss the main action. These fascinating details can sometimes be used to obscure a constitutional threat.

What the Government can do to any journalist, it can do to all journalists.

When you hear the whip, send not to know for whom this backlash cracks. It cracks for you.

THE CHILD AND FAMILY SERVICES ACT OF 1975

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. BREAUX. Mr. Speaker, many of my colleagues, I know, have received strong constituent reaction to "The Child and Family Services Act of 1975." I would like to call attention to a piece which appeared on the editor's page of the March 1, 1976 edition of U.S. News & World Report entitled "False Alarm" by Howard Flieger. I include it in the RECORD for the use of my colleagues:

FALSE ALARM

(By Howard Flieger)

Every now and then a reader writes us in words of terror to warn that a Marxist plot is afoot in Congress to "nationalize" our children—take them away from the protection or control of their parents and destroy the American family, utterly and forever.

The volume of mail received here is not a patch on the sacks of it that have been hitting some congressional offices.

The writers are alarmed over what they've been informed is an insidious scheme to give youngsters the legal right to disobey their parents, and thus become pawns of Government—an all-powerful Big Brother to mold their training, conduct and beliefs.

Strange.

It is strange because there isn't a word of truth in it. No such legislation is before this Congress, or ever has been.

The specific bill that has so many people disturbed is "The Child and Family Services Act of 1975." Its authors are Sen. Walter Mondale (Dem.), of Minnesota, and Rep. John Brademas (Dem.), of Indiana. It is "S. 626" in the Senate, "H.R. 2966" in the House. Read it before you panic.

In its present form, the legislation is both innocent and impotent: innocent because it would do none of the things attributed to it; impotent because it isn't going anywhere.

Briefly stated, the proposal is to make federal funds available to help States and communities provide certain public services for children and their families.

These would include such things as prenatal care, food where needed, part or full-time day care for children of working mothers, tutoring at home where deemed useful, medical examination and treatment for certain handicapped children, and training for parents and about-to-be parents.

There is nothing compulsory about the legislation now before the Congress. Even if the bill were enacted, anyone who felt like it could ignore each and all of its provisions.

Nothing in it says—or implies—that youngsters have a legal right to disobey their parents or guardians.

Nowhere does it forbid parental guidance, advice or preference in religious training. The subject isn't mentioned.

In fact, it says in specific words:

"Nothing in this act shall be construed or applied in such manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents."

So why all the excitement? It is puzzling to Senator Mondale, one of the chief sponsors, who says the measure "is being subjected to one of the most distorted and dishonest attacks I have witnessed in my 15 years of public service."

There is another practical thing to keep in mind about The Child and Family Service Act: It would cost a lot of money. Estimates are that an initial annual expense of 150 million dollars would grow to almost 2 billion by the third year of operation.

This present Congress is in no mood to add such a burden on taxpayers who already are making angry noises about waste and the high cost of Government. Since this is election year, the measure probably has less chance now than a year ago, when it was introduced—and that means practically none.

Also, remember the President is demanding that Congress do more to hold the line on spending. It is a keystone of his campaign to be against this bill, and any like it.

So everybody can stand at ease.

The bill doesn't provide all those wild things the letter-writers fear. It has no realistic chance of adoption. And even should it overcome its rating as one of the longest shots in history and somehow be enacted by Congress, it would be vetoed almost the minute it reached the White House.

The furore is a false alarm. Forget it.

EXPORT MARKET FOR SOYBEANS

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. BRINKLEY. Mr. Speaker, along with my colleagues from Georgia, I am exceedingly proud of the contribution made by the farmers of our State to the regional and national economy. Without them, we would not be where we are, and we salute them every chance we get.

We are concerned, however, that the farmer today is not getting as fair a shake as he always deserves. The farmers themselves express increasing concern over this, and we must listen and act if agriculture is to remain a viable facet of our economy. Evidence that farmers are worried about certain parts of the Government's current and proposed policies was provided me in clear detail recently by a letter from Mr. W. M. Prichard of Louisville, Ga., the distinguished president of the Georgia Soybean Association.

I commend to my colleagues two articles which Mr. Prichard sent, and hope they will shed some light on the situation facing farmers and their justifiable apprehension over it. And, Mr. Speaker, if any of my colleagues need to know why soybeans are important to our economy and trade, I or any of my fellow Georgians who represent rural areas can tell you.

The articles follow:

STATEMENT BY WILLIAM PRITCHARD

To properly set the stage, allow me to go back into recent history. On October 7, 1974, our government imposed a monitoring action on the export market for soybeans and other agricultural products. This action continued until March 6, 1975. During that time and primarily because of that government action, the price of soybeans fell from $8.50 per bushel on October 7, 1974, to $4.72 on March 6, 1975. That's a loss of $3.78, or 44% of the farmers' potential gross income from soybeans.

This past year, a moratorium on shipments of soybeans and grains to Russia and Poland was used as a political weapon in trade negotiations. While the effort was not entirely successful because the U.S. failed to get concessions on shipments of Soviet petroleum products, farmers were again the economic victims. Soybeans were priced at $5.73 when the moratorium started on July 24 and had fallen to $4.91 when the misguided effort was abandoned on October 20.

There was absolutely no reason for soybeans to have been included in the moratorium because farmers had a 1.5 billion bushel crop in the field and 135 million bushels left over from the 1974 crop. Although soybean sales were included in the moratorium, they were not included in the negotiated agreement. Again, soybean farmers lost 82 cents per bushel, or a total of 1.25 billion dollars, on the crop they were harvesting at the moment.

To add insult to injury, Russia bought 55 million bushels of soybeans from Brazil. The U.S. could have supplied that amount and still have had a projected carryover of 300 million bushels as of September 30, 1976. That blunder cost the U.S. economy and soybean farmers in particular 275 million dollars. When you consider that the 600,000 soybean farmers in the nation average 90 acres of beans each, then government interference cost each soybean farmer approximately $11,000 in the past two years. Who has to shoulder this loss? The soybean farmers—the big, the middle-sized and the small, with the small farmer getting hurt the most.

Farmers are a compassionate and patriotic people. When asked by government to produce, they respond. After responding with their time, labor and land plus capital, they do not want to be the victims of capricious and arbitrary actions by government. Farmers believe it is ridiculous for so many of our people to make the presumption that the farm commodities belong to them and the general public. They speak of their wheat, corn and beans. These commodities belong to the people who grow or purchase them. They are not public manna from Heaven any more so than any other articles of commerce.

Observations of the American scene clearly show that more and more sectors of our society use militant and arrogant tactics in achieving their wants and desires. Farmers have no inclination or desire to be mean and arrogant except as a last resort on being treated unfairly by our public institutions. At least 300,000 soybean farmers in 14 states contribute to checkoff funds for market development in foreign nations. We believe in self help for our crop. It would appear asinine for us to continue such efforts to help ourselves and the national economy when obstacles such as export controls, licensing, monitoring and moratoriums are thrown in our path each year after being encouraged to produce from fence row to fence row with assurance by government of no interference in marketing of our production. Yes, the national economy needs agricultural exports in order to have a favorable balance of payments. There is no other sector of U. S. industry that can accomplish this; only agriculture has the efficiency, productivity and competiveness to insure our continued ability to pay for the imports necessary for our standard of living.

We, in agriculture, have no desire to become the American peasantry dictated to by unions, consumer groups and departments of government which have no understanding of our problems.

It is high time that the American people wake up to the fact their survival depends on the American farmer. If the farmers of this nation go bankrupt, there will be a rude awakening as the consumer groups, labor leaders, politicians and bureaucrats berate themselves in dividing up an empty food pot. The mood of the American farmer is one of frustration and desperation. Faith and hope, former bulwarks of the farmer, are not enough anymore. He wants fair treatment in the market place and some appreciation from the nation for his efforts in supplying the highest priority of human needs.

Agricultural policy cannot be determined by the "instant experts" who have little or no knowledge of the problems of production and marketing of farm products. We demand that agricultural policy making be returned to USDA, an agency that has served the nation's people well for quite a long time with the advice and consent of the Congress. A profitable agriculture almost surely guarantees our survival as a nation. A cheap food policy may serve the short-term public interest but will ultimately destroy our most basic industry and our free society.

FARM GROUPS UNITE ON EXPORT STAND

WASHINGTON, D.C.—Spokesmen for every major U.S. grain export commodity and soybeans urged Congress today to "insist that the Administration stop treating farm exports like a faucet that can be twisted on and off by bureaucratic whim."

William M. Prichard of Louisville, Georgia, joined spokesmen for wheat, corn, rice and grain sorghum in a unique panel presentation before the Senate Finance Committee.

"Three times in the past three years the Administration has clamped down on farm exports and each time it has pulled the rug out under farm prices," Prichard said.

Prichard, Vice President of the American Soybean Association, told members of the prestigious Finance Committee, which has jurisdiction over trade matters, that farmers have been "by-passed in decision-making, and must have more input if we expect to make intelligent use of our export capabilities—one of the world's greatest economic assets."

During the panel's presentation the Committee was advised that the National Association of Wheat Growers is setting up a special $1 million fund to bring possible legal action against the government on the grounds that it acted illegally when it put a moratorium on grain sales to Russia and Poland last year. NAWG President, Don Woodward, a wheat producer from Pendleton, Oregon, said a law firm retained by this organization had concluded that the President did not have constitutional authority to enter into the Russian grain agreement. The firm also concluded that the Administration's system of export licensing is inconsistent with the provisions of the Export Administration Act, and that the manner in which the 1975 moratorium on sales was brought about may represent a violation of anti-trust laws.

"The keystone of our government's full agricultural production policy has been the promise of free access to export markets," Woodward said. "Agricultural producers want to be assured that when they go into debt and produce record crops the government won't by-pass statutes and call on grain companies to stop making sales," according to Woodward. "They simply want to be able to place trust in the laws passed by Congress and government policies and know that pledges of market access will not be broken."

ASA Vice President Prichard cited a petition circulated by his association and now signed by more than 40,000 farmers as "clear and convincing evidence that farmers are deeply concerned by what the government is doing." The petition expresses opposition to recent government actions to restrict grain and soybean exports.

BANKRUPTCY ON AFRICA

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. MAGUIRE. Mr. Speaker, Graham Hoveys' excellent colunm in today's New York Times describes perceptively and accurately the misguided, indeed disastrous policies our Government has pursued in southern Africa in recent years.

The article, "Bankruptcy on Africa" is reprinted below for the information of Members:

BANKRUPTCY ON AFRICA

(By Graham Hovey)

United States policy for southern Africa has arrived at dead end. The conspicuous failure of Washington's covert intervention in Angola ought to have made this clear to everyone.

This country must now try to make a fresh start in a part of the world that cannot be ignored, an area largely out of control that has become an object of outside intervention and great-power involvement. It is an area that harbors the rapidly rising risk of catastrophic racial war.

It will not be easy to make a fresh start because the hour is late in the southern African tragedy and because American policy, founded on incredibly wrong premises, was bankrupt long before the Angolan disaster.

Many ingredients helped to bankrupt the policy: our own racism and lingering notions of "white supremacy" business investments in South Africa, Rhodesia and Angola, obsessive hostility for any program that sounded like Communism, obsessive concern for "stability" and benevolence toward regimes, black or white, that promised it.

But the basic premises on which a bankrupt policy was built were those contained in the notorious Option Two of National Security Study Memorandum 39, recommended to President Nixon in 1969 by Henry A. Kissinger. Here was the "tilt" toward white-minority Governments of South Africa and Rhodesia and a Portuguese regime still determined to remain in Angola, Mozambique and Guinea-Bissau.

Option Two called for the United States in southern Africa to "maintain public opposition to racial repression, but relax political isolation and economic restrictions on the white states." Its premise: "The whites are here to stay and the only way that constructive change can come about is through them."

In the Kennedy and Johnson Administrations, the premises for southern Africa were that white minority rule was not—could not possibly be—"here to stay," and that one catalyst for peaceful, rather than violent, progress toward self-determination and majority governments was steady American pressure on the white rulers to accept significant changes while there still was time.

Option Two explains why the Nixon White House, with Mr. Kissinger directing the strategy, made no effort in 1971 to block the Byrd Amendment, which placed the United States in breach of the United Nations sanctions against Rhodesia's racist regime for which this country had voted.

It explains why the White House gave only lip service to subsequent efforts to repeal this cynical legislation that weakened the United Nations and dealt a savage blow at United States credibility with more than just the black Africans.

Mr. Kissinger's Option Two premise was exploded in the overthrow of Portugal's fascist regime in April of 1974 by an army weary of unwinnable colonial wars and determined to negotiate promptly with the liberation movements for the independence of the African territories.

But the attitude underlying Option Two—the philosophy that had governed the actual, as opposed to the rhetorical, American policy in southern Africa since 1969—explains why the American effort in Angola was probably doomed from the outset, whatever Congress did about aid.

It was late in the game for American aid to any liberation movement, but the Soviet Union had been there all along. As an African church leader explained to a newsman, "The Soviets have had a historical involvement with the African liberation struggle against the Portuguese, while the United States was on the other side."

Most black Africans thus viewed American aid for Holden Roberto's National Front as simply a move to counter Soviet assistance for the Popular Movement and an effort to bolster Washington's client and Roberto's sponsor, President Mobutu of Zaire.

American aid for Jonas M. Savimbi's National Union in southern Angola coincided with the intervention of white South African soldiers, provoking black African hostility for Savimbi and suspicions of an American-South African alliance.

Black Africans are disturbed by the massive Soviet-Cuban intervention in Angola, but in light of recent history they will not equate it with a lesser intervention by South Africa's white regime, which most of them regard as Enemy No. 1.

The scene now shifts to Rhodesia, where an expanded guerrilla struggle is gaining momentum against the white regime that Option Two has helped to survive; a regime that is still resisting realistic negotiations looking to majority rule. At the same time, Secretary Kissinger is preparing for his first visit to Africa.

Unless he is ready to tell black African leaders that Option Two was really no option at all and that the "tilt" toward the white minority governments was a ghastly mistake, he ought to stay home.

THE CONSUMER REPRESENTATION PLANS: NO SUBSTITUTE FOR CONSUMER AGENCY

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. RICHMOND. Mr. Speaker, although a bill for an independent agency for consumer protection has been passed by both the House and the Senate, the President has decided to circumvent the expressed will of the Congress by calling on each of the executive agencies to propose their own plans for consumer representation. The USDA's proposed plans are unacceptably vague, recognize no legal authority for consumers and will only further serve to institutionalize the role of the USDA as a servant to agribusiness. National consumer groups have strongly criticized the plan, claiming that it is only another attempt by the administration to thwart the true consumer interest. On Friday, February 27, I submitted my comments on the USDA's proposed plan at a USDA hearing:

STATEMENT OF CONGRESSMAN FRED RICHMOND

Both the House and the Senate have seen the need for a Consumer Protection Agency and have passed legislation calling for its establishment. If this agency were mobilized today, it might very well be busy informing consumers of the deceptive and misleading packaging and labeling of the Ford Administration's latest offering to the public: the Proposed Consumer Representation Plans for federal agencies.

The proposed plan for the USDA is only one more in a long line of empty and meaningless proposals that consumers have been subjected to by the President. The plan carries a deceptive proconsumer label. Obviously, President Ford hopes to use this plan as camouflage on the day he vetoes the bill for a Consumer Protection Agency.

The plans are a totally unacceptable substitute for a Consumer Agency. They are a feeble attempt to cloak the USDA in proconsumer garb while the Department continues to carry out the every wish of Earl Butz and his agribusiness friends, unencumbered by any legitimate consumer advocate.

In these times, when citizens nationwide are suffering from the skyrocketing price of food, the public must be allowed a fair share of input in deciding our country's food policy. We need a plan that will demand equal consumer representation in policy-making decisions. The President's plan will not do this. Instead, the consumer will be forced to continue to stand aside helplessly while the Department reduces food stamp benefits, raises the price of milk and deals with the Russians secretly to sell wheat.

In this bicentennial year, when the President himself has called for limits on big government and a return of authority to the people, we need a plan that will require consumer participation in agency decisions and assure legal rights to consumers. President Ford's plan will not do this. Instead, an unelected President and an unelected executive department have chosen to ignore the voice of Congress and consumer advocates. The public is being asked to settle for plans that are only an administrator's idea of consumer needs.

The USDA's plans are detailed for only two of the 21 agricultural agencies, the APHIS and the Forest Service. The plans for the other 19, which I requested from the Secretary, are so unsubstantial and indefinite as to be totally unworthy of consideration.

The summary of the plan for the Department declares that it is designed to insure that each "agency proceeds in an organized and systematic manner to meet the consumer's desire to be better informed about and more involved in the agency's decision-making process." The Department seems to be most concerned with status, visibility and public relations rather than with actual, meaningful consumer participation. The Consumer Affairs Unit, the Committee for Consumer Responsiveness, the Consumer Advisory Committee and the full-time Consumer Representative all perform mere advisory functions. There is no specifically assigned authority for any of these groups.

The Committee on Consumer Responsiveness is to be chaired by the Assistant Secretary for Marketing and Consumer Services and composed of the Administrators of 11 different agricultural agencies. There is no provision for a member with any expert training or knowledge of consumer affairs. The administrators, who the public has viewed for years as representatives of farmers and industrymen, may not be able to objectively represent consumer viewpoints, while at the same time working to promote the best interests of the agencies they represent.

The most crippling and pervasive problem of the USDA's plan is the generalized, vague language. Agency heads are only *"urged* to consider the impacts and benefits of an agency decision on all citizens . . ." There is no requirement that agency heads considers the impacts and benefits nor is there any guarantee that this consideration will be utilized in the formation of a final decision.

This vagueness continues throughout the plan. One provision, for instance, calls for certain procedures to be applied "sufficiently far in advance of proposed action to permit adequate time for consideration and response by the consumer, except for emergencies requiring prompt action." Who decides how far is "sufficiently far in advance"? How much time is "adequate time"? What qualifies as an "emergency situation"?

Any document that is so indefinite cannot possibly be considered forceful. How effective would our Bill of Rights be if it said "Congress is urged to make no law abridging the right of freedom of speech . . ." or "The accused should enjoy the right to be informed of the nature and cause of the action, except in emergency situation."

The plans have been strongly and consistently condemned by leaders of national consumer groups, who have charged the President with cynical "contempt for consumers." A list of their major objections follows:

1. There are no proposed plans for independent regulatory agencies, even though their activities have an undeniable effect on consumers.

2. Although the USDA is the most decentralized department in the federal government, this proposal makes no plans for any consumer affairs unit outside of the Washington area.

3. The plans include no legal rights for consumers. They are mere suggestions. There is no standing to sue for taxpayers, no power to subpoena information. If we can make the assumption these plans will become regulations, there is still no means for a citizen to see that they are enforced. Carol Foreman of the Consumer Federation of America notes:

"None of the plans require that the agency in question give consideration to the views of the consumer representative. None of the plans require that the individual or office responsible for consumer representation within the agency be informed of action that is likely to substantially affect the interests of the consumer. None of the plans allow for the responsible individual to appeal adverse decisions in the courts."

4. There is no mention of the cost of the plan, although huge expenditures can be expected. Mrs. Virginia Knauer, the President's consumer affairs advisor, has stated the plans will not cost any additional money. However, the APHIS plan for the USDA states that a budget increase will be necessary to cover the cost. Seeing that the President has proposed extensive budget cuts, it is quite possible that even these most inadequate plans will never be implemented.

5. Again, it is the vagueness of the plans that destroy any possible impact they might have. Only a brief examination is necessary to realize that many statements are virtually meaningless. For instance, "Relevant department decision making will be open to effective expression of informed consumer viewpoint." Who determines what is relevant? Who determines what is effective expression? And what qualifies as an informed consumer viewpoint?

Finally, the real intent of these plans can be questioned when one recognizes the contempt and general disregard for real consumer interests that the Administration has demonstrated. In April of 1975, consumer representatives were invited to a meeting with Mrs. Knauer. All the representatives endorsed a paper, drafted by Ralph Nader's Public Citizen, which contained over 40 suggested operating changes. Later, the individual consumer representatives offered specific suggestions in addition to those submitted in the paper. Not one of those suggestions can be found in any of the proposed consumer representation plans.

A series of conferences was held in major cities by the White House to publicize the plans and allow for comments. These conferences were designed so as to avoid any real confrontation with consumers. Any significant comment was ignored.

The proposed consumer representation plan for the USDA has proven itself to be an unfortunate waste of taxpayers' money and the government's time. The President's attempt to disguise this hollow scheme as a meaningful plan has failed, as consumer groups and the public recognize this plan will only insure that agribusiness and the Ford Administration continue to benefit at the expense of the consuming public and family farmer.

A National Food Policy for America cannot be implemented without real consumer involvement. Toothless suggestions are no substitute for a much needed consumer bill of rights. When Secretary Butz finally begins to realize this, perhaps then we can begin to work together to forge this new national policy.

FALSE ALARM

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. JONES of Tennessee. Mr. Speaker, I am sure that all of the Members of this body have been exposed to huge volumes of mail in their offices regarding the inaccurate information being disseminated on H.R. 2966, the Child and Family Services Act.

Certainly, my own office has been deluged with a tremendous amount of mail based completely on the anonymous and totally inaccurate description of the bill. I do not mean to try to defend this bill, but I would like to hear my constituents views on all pieces of legislation that this body considers based on the true contents of each bill.

The smear campaign that surrounded H.R. 2966 is most unfortunate but it is encouraging to see our friends in the press attempting to correct the inaccurate information being put out on this bill.

Recently, I had the opportunity to read such an effort in U.S. News & World Report. I would like to take this opportunity to insert this piece, authored by Howard Fliegler, into the RECORD:

FALSE ALARM

(By Howard Flieger)

Every now and then a reader writes us in words of terror to warn that a Marxist plot is afoot in Congress to "nationalize" our children—take them away from the protection or control of their parents and destroy the American family, utterly and forever.

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The writers are alarmed over what they've been informed is an insidious scheme to give youngsters the legal right to disobey their parents, and thus become pawns of Government—an all-powerful Big Brothers to mold their training, conduct and beliefs.

It is strange because there isn't a word of truth in it. No such legislation is before this Congress, or ever has been.

The specific bill that has so many people disturbed is "The Child and Family Services Act of 1975." Its authors are Senator Walter Mondale (Dem.), of Minnesota, and Rep. John Brademas (Dem.), of Indiana. It is "S. 626" in the Senate, "H.R. 2966" in the House. Read it before you panic.

In its present form, the legislation is both innocent and impotent: innocent because it would do none of the things attributed to it; impotent because it isn't going anywhere.

Briefly stated, the proposal is to make federal funds available to help States and communities provide certain public services for children and their families.

These would include such things as prenatal care, food where needed, part or full-time day care for children of working mothers, tutoring at home where deemed useful, medical examination and treatment for certain handicapped children, and training for parents and about-to-be-parents.

There is nothing compulsory about the legislation now before the Congress. Even if the bill were enacted, anyone who felt like it could ignore each and all of its provisions.

Nothing in it says—or implies—that youngsters have a legal right to disobey their parents or guardians.

Nowhere does it forbid parental guidance, advice or preference in religious training. The subject isn't mentioned.

In fact, it says in specific words:

"Nothing in this act shall be construed or applied in such manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents."

So why all the excitement? It is puzzling to Senator Mondale, one of the chief sponsors, who says the measure "is being subjected to one of the most distorted and dishonest attacks I have witnessed in my 15 years of public service."

There is another practical thing to keep in mind about The Child and Family Service Act: It would cost a lot of money. Estimates are that an initial annual expense of 150 million dollars would grow to almost 2 billion by the third year of operation.

This present Congress is in no mood to add such a burden on taxpayers who already are making angry noises about waste and the high cost of Government. Since this is election year, the measure probably has less chance now than a year ago, when it was introduced—and that means practically none.

Also, remember the President is demanding that Congress do more to hold the line on spending. It is a keystone of his campaign to be against this bill, and any like it.

So everybody can stand at ease. The bill doesn't provide all those wild things the letter-writers fear. It has no realistic chance of adoption. And even should it overcome its rating as one of the longest shots in history and somehow be enacted by Congress, it would be vetoed almost the minute it reached the White House.

The furore is a false alarm. Forget it.

CHEATING SOLAR ENERGY

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. BINGHAM. Mr. Speaker, I am certain that the one aspect of our difficult energy problems on which there is near unanimous agreement is the need to develop and commercialize solar energy as quickly as possible. Solar energy is both clean and infinitely renewable; no other energy technology, save possibly some future version of nuclear fusion, can claim these advantages.

The Ford administration does not disagree, publicly, with the need to develop solar energy. Unfortunately, the proposed ERDA budget for fiscal year 1977 gives low priority to solar energy. To make matters worse, solar funds for fiscal year 1977 were cut well below the level recommended by the head of ERDA's own solar program, John Teems; in fact, contrary to the administration's news release, it was in protest against these cuts in the solar budget that Mr. Teems resigned from ERDA.

I believe that we in Congress should take serious note of Mr. Teems' resignation, and that we would do well to make it the occasion for blowing the whistle on the administration's misplaced energy priorities. In a year when the administration proposes to spend $1.7 billion on highly controversial fission technology, there is no excuse whatever for stunting the development of our only noncontroversial energy source.

The following article, which appeared in the Wall Street Journal on February 26, details the circumstances behind Mr. Teems' resignation from ERDA:

SOLAR-ENERGY PLANNING IS BEING SLIGHTED BY FORD, FORMER CHIEF OF PROGRAM SAYS

(By Les Gapay)

WASHINGTON.—The Ford administration isn't giving solar-energy development the priority it deserves, charged the recently resigned head of the government's solar program.

The official, John M. Teem, former assistant administrator for solar, geothermal and advanced energy systems at the Energy Research and Development Administration, said in an interview that he had significant differences with the White House on the extent and speed with which the government should develop solar energy.

Mr. Teem said that President Ford's budget request to Congress last month for solar programs was far less than the ERDA wanted, and that he also disagreed with the scope and pace assigned by the White House to some of the agency's key solar programs.

"PERSONAL REASONS"

The White House on Jan. 30 routinely announced Mr. Teem's resignation for "personal reasons," and the disagreements on solar policy weren't disclosed.

Mr. Teem said in the interview his resignation wasn't directly because of the disagreements, and that he had several reasons. He added, however, that he differed with officials in the White House and the Office of Management and Budget. "My sense of job satisfaction decreased in view of the detailed management viewpoints being brought into the solar programs by OMB," he said. The management office's heavy involvement in solar energy policy decisions "affected the timing of my resignation," Mr. Teem added.

Mr. Teem said he favored accelerating ERDA programs to demonstrate solar energy in the heating and cooling of buildings; in agricultural areas, such as crop drying, and in various industrial processes.

He also said he was unsuccessful in efforts to increase the ERDA's role in disseminating information on solar technology to industry and the public to speed "bringing solar to the marketplace." Also, Mr. Teem said he favored a wider role for, and faster organization of, a planned solar-energy research institute within ERDA than was acceptable to the White House.

In essence, Mr. Teem said his proposals would have resulted in more government stimulation of the private sector for commercialization of solar energy than the White House and the budget office wanted.

President Ford's budget request for solar research and development programs in ERDA for fiscal 1977, starting Oct. 1, asked for a congressional authorization of $160 million, with projected outlays during the year of $116 million. Mr. Teem said that the ERDA has requested the budget office to ask for $255 million in budget authority and $201.6 million in outlays. In the current fiscal year, the ERDA has a budget authority for solar programs of $115 million and estimated outlays of $86 million. By contrast, the ERDA's requested budget outlays for nuclear programs for fiscal 1977 total $1.7 billion.

Mr. Teems said that solar work in heating and cooling of buildings and in agricultural and industrial processes is scientifically advanced enough so that demonstration programs "could proceed at a more rapid pace" than the budget request outlines. Mr. Teem says that those programs show the most short-term promise for solar-energy use and that "even within a constrained budget" they could have been given more priority.

PROGRAMS CRITICIZED

Congress' Office of Technology Assessment similarly criticized the ERDA's solar programs in a report last October, saying too much emphasis was being put on long-term, space-age type solar research programs at the expense of areas that can become practical sooner.

Mr. Teem said that there is the view at the budget office and the White House that because of advances in solar technology, "the private sector is in a position to undertake more programs now" without government stimulus.

A solar research institute within the ERDA was authorized by a 1974 law to do technical and analytical work to support the agency's solar-energy programs. The National Academy of Sciences had recommended to the ERDA that the institute be given a wide research role, a staff of about 1,500 and an annual budget of about $50 million. ERDA sources said that a compromise had been reached with the budget office on the size and scope of the institute, which won't be on the scale envisioned by the NAS. The sources said the institute will first only do studies, and that its actual laboratory research role will remain undefined for the first few years of operation.

IN MEMORIAM TO DR. WILLIAM MISSONELLIE OF HAWTHORNE, N.J., OUTSTANDING PHYSICIAN, CIVIC LEADER AND GREAT AMERICAN 1906–76

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. ROE. Mr. Speaker, the residents of Hawthorne, my congressional district, State of New Jersey mourn the passing of one of our Nation's finest physicians, leader of our community, and good personal friend, Dr. William Missionellie, who went to his eternal rest on February 7, 1976. I know that you and our colleagues here in the Congress will want to join with me in extending our most sincere condolences to his wife, the former

Barbara Mooney; his sons, William, Jeffrey, Gregory, and Francis, of Hawthorne; daughters, Mrs. Thomas (Barbara) Krainovich, of New York City, and Mrs. Michael (Kathleen) Daskalakis, of Eatontown, N.J.; two brothers, Salvatore and John, of Hawthorne; his sister, Mrs. Frank (Mary) Fiorina, of Haledon, N.J.; and grandchildren Barbara and William Missonellie and Nadia Krainovich.

Dr. Missonellie was a great American and healer of the sick, filled with the greatest compassion and dedication to the good of his fellowman. With your permission I would like to insert at this point in our historical journal of Congress the following memoriam that appeared in the February 12 issue of one of New Jersey's most prestigious weekly newspapers, the Hawthorne Press, which most eloquently eulogizes the quality of his leadership, the richness of his wisdom, his sincerity of purpose and scope of his achievements which have truly enriched our community, State, and Nation. The excerpt from the Hawthorne Press is as follows:

IN MEMORIAM

Dr. William Missonellie, the first doctor born in Hawthorne to set up practice here, died Saturday, February 7 at home. The doctor resided at 404 Lafayette Avenue and had his offices at 400 Lafayette Avenue for more than 40 years, retiring in 1974. He was 70 years old.

HIS BACKGROUND

He received his early education in what are now Franklin and Washington Schools and the former Paterson Central High School. He earned his B.S. degree at the University of Maryland and completed studies for his M.D. at George Washington University, Washington, D.C. in 1929. He completed his internship at St. Joseph's Hospital, Paterson in 1930 and immediately began practicing in Hawthorne.

Dr. Missonellie was a general practitioner who served as school physician, and Hawthorne police and fire physician for many years. He was a member of the Board of Health and the police pension board, until that commissioner post was incorporated with the state board.

During World War II, he served in the office of Price Administration (OPA) and received citations from President Franklin D. Roosevelt and President Harry Truman for his work in this field.

On the county level, he was appointed to the Board of Managers of Preakness Hospital, a Passaic County facility. He served 18 years on this board and was president for three terms, 1959–60, 1965–66 and 1969–70.

He was a member of the following medical associations: the Aerospace Medical Association, the Industrial Medical Association, the American Public Health Association, the American Geriatrics Society, the Association of American Physicans and Surgeons, the New Jersey Hospital Association and the Passaic County, New Jersey and American Medical Associations.

The funeral service for the doctor was held Tuesday at 9:30 a.m. from the Browning Forshay Funeral Home, 557 Lafayette Avenue with a Mass of the Resurrection at St. Anthony's R.C. Church. Father Daniel McGuire, S.J., a personal friend of the doctor from Loyola College, Baltimore, Maryland, celebrated the mass assisted by Monsignor Joseph Brestel. Father McGuire also delivered the eulogy and said the final prayers at the entombment in Calvary Cemetery, Paterson.

The Board of Commissioners noted the passing of the doctor at their meeting Monday night. Commissioner Arthur Brokaw reviewed his contributions to the borough and stated "He was known and loved by many."

The flag at borough hall has flown at half mast as a sign to respect for Hawhorne's first doctor and an honor guard consisting of one policeman and one fireman was stationed at either side of the casket during viewing hours at the funeral home.

Sunday evening Fire Chief James Aldi, Jr., led a contingent of uniformed firemen in a memorial service at the funeral home.

Mayor Louis Bay, 2nd, called the death of Dr. Missonellie "a great loss for the borough. He was a doctor who ministered to many, many people—whether or not they could afford to pay."

"He was a family doctor in the true sense of that term—a man dedicated to helping others, a person of deep compassion.

"Personally, I have lost a very dear friend. He was a man of humble background who pulled himself up from his bootstraps and became a respected member of the community.

"In this age, those who have not endured the hardships of what this country went through cannot understand the bond that exists between us.

"We grew up together in hard times and experienced this part of life together. No one has enough money to rip apart a bond such as this.

"He delivered my daughter, Barbara, who was named after the doctor's wife. I even remember how his mother would come to my uncle with money in cash, so he could send "Bucky" a check while he was in medical school.

"He was just a great guy," the mayor concluded.

Many dignitaries visited the funeral home to pay their last respects to the doctor, among them Rep. Robert Roe, U.S. Congressman from this district and State Assemblyman William Bate.

Hundreds of patients filed in during visiting hours, many broke down in tears for their "Doc". The memories were just as numerous. Though the stories varied from person to person, each expressed a common theme of appreciation.

PATIENTS RECALL HIS COMPASSION AND DEDICATION

One man told how the doctor treated an infection in his hand and would take no fee because he had served in the armed forces. "You did a job for your country. This is the least I can do for you," the former patient recalls being told. Another man told how the doctor came to his home in another town to deliver his daughter. "When it turned out that my wife wasn't really ready to deliver, he slept in the room with her all night, until it was time."

A mother of 10 came in and related that he delivered every one of her children and told how she was in his office nearly every week seeking treatment for childhood injuries or illnesses.

Another patient said "The doc was a real friend. He helped me with more than medical problems. He listened and gave advice when I had personal problems."

A nephew of his remembers driving the doctor on house calls in Hawthorne from early in the morning until nearly midnight day after day. Other patients recall the crowd often present in his waiting room.

In addition to his medical career, Dr. Missonellie had diversified interests, one of which was raising Scotties. He kept a kennel in the backyard in the days before zoning laws prohibited this. He travelled widely, his favorite place being Rome, Italy, where he met Father Dan McGuire during the beatification of Mother Seton. His most recent trip was with a group from the medical profession to Russia in 1973.

Another area of interest was his involvement in *The Hawthorne Press,* which has been in the Missionellie family since 1935—40 out of its more than 50 years of existence. Though his brothers ran the paper, he took over the task of publication when both of them were in the service. The doctor's wife Barbara is currently the publisher of *The Hawthorne Press* and his son, William is the editor.

Besides his wife, the former Barbara Mooney, survivors include four sons, William, Jeffrey, Gregory and Francis of Hawthorne; two daughters, Mrs. Thomas (Barbara) Krainovich of New York City and Mrs. Michael (Kathleen) Daskalakis of Eatontown; two brothers, Salvatore and John of Hawthorne; one sister, Mrs. Frank (Mary) Fiorina of Haledon and three grandchildren, Barbara and William Missionellie and Nadia Krainovich.

Memorials for Dr. William Missionellie have been designated at the Little Sisters of the Poor, 70 Dey Street, Paterson and in the library at Loyola College, c/o Father Daniel McGuire, S.J., Evergreen, Baltimore, Maryland 21210.

Mr. Speaker, it is my privilege and honor to seek this national recognition of Dr. Missionellie's lifetime of good works. He was truly a great American and good friend to all who had the good fortune to know him. I know I will never forget the warmth of his friendship to me and trust that his wife Barbara and all of his family will soon find abiding comfort in the faith that God has given them and in the knowledge that Dr. William Missionellie is now under His eternal care. Our Nation does indeed salute him. He made a difference in the quality of health care and way of life for many, many of our people. May he rest in peace.

CONSTITUENT SERVICE FUND

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. SARASIN. Mr. Speaker, at regular intervals over the past 2 years I have reported to my colleagues in the House and to my constituents an accounting of the receipts and expenditures of a constituent service fund maintained to help underwrite the high cost of maintaining the kind of communications and services I feel the residents of my Fifth District deserve.

The initial report in January 1974 disclosed my intention to establish such a fund and included a lengthy opinion from the Internal Revenue Service which I solicited to make sure the fund met every legal and ethical requirement. This IRS opinion covered every aspect of the plan, including contributions, the type of expenditures to be covered, and tax aspects of the fund.

The constituent service fund was established in compliance with the IRS guidelines and has been of tremendous value in helping me to carry out many programs for my constituents, ranging from newsletters and questionnaires to holding senior citizen and environmental conferences in the district. I certainly want to mention my deep gratitude to those individuals who have contributed to making this program a success.

The basic structure of the fund is based on a maximum $200 contribution from individuals only, with miscellaneous donations ranging from $1 up to the maximum. The following is a full accounting of receipts and expenditures from January 1, 1975 to December 31, 1975:

CONSTITUENT SERVICE FUND

RECEIPTS

Miscellaneous contributions	$ 62.00
46 full memberships at $200	9,200.00
2 (½) year memberships at $100	200.00
Total	9,462.00

EXPENDITURES

Additional staff cost and expenses	508.47
Printing Press, supplies	3,551.53
Mobile Office Expenses	1,881.68
Misc. office expenses	799.06
Forums, Coordinator and Press expenses	605.69
Travel expense reimbursement	1,452.56
Entertainment and Fifth District Functions	629.61
Postoffice Box rental	33.40
Total	9,462.00
Balance	0

AMERICAN OCEANIC ORGANIZATION

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. DON H. CLAUSEN. Mr. Speaker, the history of the United States is one of frontier-pushing. The American people have constantly been on the move to find new lands, explore new areas, and develop new freedoms. Putting a man on the moon is an excellent illustration, but only one example, of our continuing attempts to push beyond established frontiers.

One area which until recently has been either ignored or taken for granted is the ocean. Secretary of the Interior Thomas S. Kleppe recently provided some very interesting remarks on this subject to the American Oceanic Organization. Our Nation's stake in issues such as traditional rights of passage on the high seas, oil on the outer continental shelf, minerals on the ocean floors, and our endangered fishery resources, should be apparent to most Americans, but Mr. Kleppe's concise and comprehensive remarks provide a wealth of detailed information which I think all Members will find informative:

REMARKS OF SECRETARY OF THE INTERIOR THOMAS S. KLEPPE BEFORE THE AMERICAN OCEANIC ORGANIZATION

No man—or woman—is an island.

Never before has this been so evident. Indeed, no nation is an island. No nation and no people can merely look inward in the modern world—and survive.

Some 150 countries will attend next month's Law of the Sea Conference of the United Nations. Their aim is the orderly use and exploitation of the world's ocean resources.

The stakes for the United States are extremely high. We are a nation with long coastlines and we are a worldwide naval and maritime power. Our power as a nation and a people is deeply involved with worldwide resources. We are committed to the freedom of the seas.

You know many of the stakes for America. Let me mention a few:

The traditional rights of passage on and above the high seas—through more than 100 threatened straits . . . . an estimated one and one-half billion barrels of petroleum under the sea floor—a fantastic yet largely untapped energy resource . . . . and endangered fish stock that yields about $18 billion worth of high-protein food each year . . . . and several trillion dollars worth of manganese, copper, cobalt and nickel that are scattered on the deep ocean bed.

We at the Department of the Interior have a voice in that future. I will discuss our role in some detail. However, we would do well to look first at issues and problems here at home and then in the international field.

Our country's energy debate continues in terms of national security and economic stability. Yet, many related bills before the Congress recognize the importance of an accelerated OCS leasing program. This is to meet both our short and long-term objectives.

Last week, I announced that the Interior Department will be leasing oil and gas tracts in the Northern Gulf of Alaska as soon as we complete preparation for a sale. Before making this decision, I eliminated about 40 percent of the tracts from the proposed Alaska sale because they posed environmental risks. Possibly more tracts will be deleted. This procedure, which considers all environmental factors for every tract before we lease, will guide us as Interior carries out its offshore oil and gas program. It will hold true especially for offshore leasing in the Atlantic, where we propose to hold our first sale in about six months. If I approve that sale, it could be followed by two others this year along our East coast.

As you know, there are compelling arguments on both sides of the offshore controversy—so holding an Alaska sale and three Atlantic sales in this bicentennial year would have historic proportions.

There are some concerns on all sides about the results: About the environment . . . cost benefit calculations involving federal, state and local interests . . . federal goals and objectives related to local aims and objectives . . . the tremendous financial risks involving private enterprise.

Let all of us in this room be sure of one thing. Our scale of values must not be balanced to favor one interest over another. We are all working on behalf of the United States and its people. The victory or defeat of one interest is not necessarily the victory or defeat of another. On the contrary, the failure of one interest may well prove to be the failure of all interests.

Let us understand this from the beginning: The OCS and onshore Alaska are the only frontier areas for securing increased domestic oil and gas for the immediate future. At present price levels, other petroleum alternatives—such as oil from shale or coal—are not yet economically attractive to produce. The OCS is our best near-term answer to reducing imports.

Assuming leasing were already approved, the following are estimates about the future of the Atlantic OCS: It may be two years before the first discovery . . . 3½ to 8 years for the first production . . . and 6 to 10 years for any significant production.

Our Department has developed an expanded OCS program. Six sales per year are proposed—primarily in frontier areas. We hope to offer prospects in each frontier area by 1978. I wish to emphasize that this schedule does not represent a decision to lease in any of these particular areas. It represents only our intention to see if opening new OCS areas is reasonable and prudent. Actual sale must follow a number of considerations. I refer specifically to the interests of individuals and states. They have a real voice in the decision-making process before a sale can be made.

Our procedures call for state involvement at the following stages: Tract nominations, tract selection, environmental impact statements, public hearings, pipeline rights-of-way, and the location of onshore facilities. These provide the states the opportunity to participate at every major decision point.

My philosophy on energy represents the consensus of this nation: Something must be done to increase our current domestic energy production. Be cautious. Be prudent. But, above all, be reasonable.

Reason means we must balance our energy and environmental needs.

Our OCS oil and gas-leasing program has not escaped its share of disagreement. Nevertheless, our program is highly positive for the nation:

Offshore oil production can be brought online relatively quickly;

It is relatively inexpensive, and

It has environmental costs which are quite acceptable relative to alternatives.

Some coastal states have raised important questions about environmental impacts. Such impacts are inseparable from increased OCS operations. There is no way to avoid some disturbance.

At the same time, let me emphasize this: Responsible lease management can minimize these occurrences. Effects on marine environment should be limited and highly localized. Chronic pollution from OCS does not—in all probability—pose a serious threat to the Atlantic coast.

Many coastal communities fear major oil spills off their beaches. Yet, evidence from various studies by educational institutions and government agencies indicate this: The risks of oil spills may be greater if oil is imported in tankers than if it is produced offshore and transported to shore in pipelines.

The relative oil spill rate for tankers is forecast at almost twice that of OCS production. It appears reasonable to assume that the risk of oil spills will be significantly reduced whenever OCS production—transported onshore by pipeline—displaces foreign imports carried in tankers.

New OCS production off the Atlantic coast should result, therefore, in decreasing the risk of oil spills. Also, because of the East coast's heavy reliance on imported oil, OCS should bring it these benefits.

Petroleum supply security, increased employment and a general increase in regional investment.

As a result of the Santa Barbara spill, we have built many reforms into our OCS leasing program. They are, perhaps, too long to explain here. However, let me tell you of some excellent results since that spill.

More than 5-thousand wells have been drilled on the OCS. The number of fixed structures there has increased from about 1,600 to some 2,200. The overall result is this: We have witnessed only three significant incidents of environmental damages from offshore operations.

Another environmental concern is expressed—that of onshore support facilities resulting from offshore development. This is where local communities and state governments have far more leverage than the federal government. On such questions as refinery siting and pipeline shoreline siting, local and state officials have the greatest voice.

I would call your attention to a proposal which the Administration recently submitted to the Congress. It would provide assistance to cities and states for extraordinary fiscal impacts resulting from the development of federal energy resources. This billion-dollar program is called the Federal

Energy Development Impact Assistance Fund. The funds are to be used for planning and constructing needed new physical facilities such as roads, schools, and hospitals.

Responsibility is the price that we Americans pay for our independence. For every advance in society, there is some element of hope and fear. We cannot discover energy or discover the oceans if we have our heads in the clouds. We must face our problems as practical men and women. There is no free pass. We must make choices and accept the consequences of those choices. I believe the American people are willing to make the hard choices on energy.

As we look farther into the oceans—beyond our continental shelves to the deep seabed—our mineral resource future grows more and more promising. Enormous quantities of metal-rich nodules pave the world's ocean floors. The Pacific ocean alone is estimated to contain more than 1.5 trillion tons of these nodules. Traces of more than twenty metals are found in these nodules. However, for the immediate future, we estimate that four of these metals—nickel, copper, cobalt and manganese—will attract commercial miners.

Anyone who discusses the mineral potential of the deep seabed should begin cautiously. We do not know a great deal about what is down there. Not much more than three percent of the ocean floors have been surveyed in any systematic fashion. But already, prospectors for manganese nodule deposits have identified many potential mine sites. There are so many that only a small percentage of those sites will be mined by the first generation of ocean miners.

In recent months, our Department has reevaluated private industry's progress toward commercial production of seabed metals. We have always considered the technological leadership of American ocean mining companies as offering an unparalleled opportunity to the United States. An American-led ocean mining industry could generate large, new, secure mineral supplies for our industrial use. American-produced deep ocean minerals would be free from potentially unfriendly political control by other governments. And, we hoped seabed minerals might well be less expensive than minerals from lower-grade land mines on which we would otherwise depend. The results of our studies indicate that we may have been to cautious. American ocean mining companies have moved farther and faster than we expected.

As we meet here today, ocean miners are moving into the final phases of development activities. They have already completed extensive prospecting activity in the North Pacific region. Each principal American-led ocean mining company has identified mine sites capable of supporting commercial production. They have solved most, if not all, of the major technological barriers to the recovery and processing of manganese nodules. As a result, companies are now planning to begin at-sea testing of prototypes of their mining systems.

These test mining operations, expected to begin within a matter of months, could recover as much as 1,000 tons of nodules each day.

These and other technical accomplishments by American companies mean this: If our companies do not encounter any political or legal obstacles, the United States will produce minerals which we are now obliged to import.

American ocean mining companies could begin production early in the 1980's. If that occurs, several companies would produce about three million tons of nodules per year. They would extract nickel, copper and cobalt. At least one company will also produce manganese. Their annual production rate is expected to be about one million tons.

If these plans are followed, the United States will reduce within a decade its nickel import requirements by 50 percent. Our imports of cobalt will be completely eliminated. Managanese imports could fall by 40 percent. Our copper imports will be reduced by as much as one-third. The value of this seabed production would exceed $1 billion.

Without a healthy ocean mining industry, the United States will only become more dependent on imports of these minerals. For the most part, these imports would originate in developing countries where investment conditions are potentially unstable and supply is insecure.

There is a sobering aspect of this rather hopeful picture I have painted. Ocean miners themselves do not face a stable investment climate. To bring an ocean mining operation into commercial production, each company will have to invest between $300 and $600 million. Already our companies have spent approximately $30 million each. Decisions to invest much larger sums will be difficult.

The uncertainty stems from an international legal/political controversy highlighted in the UN Conference on the Law of the Sea. The developing nations—acting as a group—oppose the concept that all nations have a right of guaranteed access to the resources of the seabed. They argue that the United States and other industrial nations must agree to submit our existing rights to those resources to the discretion of an international authority. That authority would be empowered to discriminate against technologically advanced nations, and, indeed, to deny our right to produce minerals. Even if the international organization permits United States companies to operate in the seabed, developing nations would want it to have the power to limit and control production levels in a cartel-like fashion.

Such conditions would not induce American companies to invest in ocean mining. As a result, the United States could be denied the mineral resource benefits of the technological innovations pioneered by our companies.

I understand that since last spring's formal session of the Law of the Sea Conference, there have been indications that some developing countries are willing to work with us to achieve a reasonable treaty. Such a treaty would guarantee our access to seabed resources while meeting the desire of developing countries to participate in the development of ocean minerals. If this is in fact the case, then we can look forward to a new era in international cooperation.

I will not speculate on the outcome of the law of the sea negotiations. But I will tell you what the Department of the Interior has been and will be doing while the diplomats are talking. We have the responsibility within government to foster and encourage the development of domestic mining industries. Ocean minerals are as much a concern to the Interior Department as the coal mines of Appalachia and the copper mines of the southwest.

I can think of no American industry more deserving of encouragement than the pioneering ocean mining industry. We will provide the necessary leadership for that encouragement.

While ocean miners are opening new minerals frontiers, the Interior Department will be right there with them. The Geological Survey and the Bureau of Mines together have more than a century of experience in finding critical mineral resources, learning how they are mined, and understanding the economic obstacles facing mineral industries. No organization in or out of government knows better how to supply today's mineral needs while conserving resources for the future.

As I said earlier, responsibility is the price of independence. We celebrate two centuries of independence because Americans—as few peoples and nations in the world—have accepted responsibility. No nation has been more generous with its national treasure and no people has been more generous in defense of world freedom. We will continue to contribute to the international community. We will also remain a strong, free and independent nation.

BREZHNEV SPEECH PRAISING DÉTENTE SHOULD BE VIEWED WITH CONCERN BY THE UNITED STATES

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. BIAGGI. Mr. Speaker, both the proponents and opponents of détente followed with great interest, this week's speech by Soviet Premier Leonid I. Brezhnev, which came at the opening of the 25th Congress of the Soviet Communist Party. As a leading opponent of détente, I feel Brezhnev's speech should be viewed with extreme concern by the Congress and the American people.

The main theme of the Soviet leader's speech was that détente has aided Soviet growth, which serves to confirm my longstanding contention that détente has largely been a one-way policy based on United States concessions and corresponding Soviet gains. A particularly disconcerting quote from the speech bears special attention, "We make no secret of the fact that we see détente as the way to create more favorable conditions for peaceful Socialist and Communist construction. This only confirms that socialism and peace are indissoluble."

The message of this speech, and an earlier statement which appeared in the Soviet Communist Party newspaper, "Pravda," in which the Soviet Union vowed to keep their military forces at full alert while pursuing détente makes it more imperative than ever, that this Nation seriously reassess the continuation of détente.

The theory of détente has proven to be mere fantasy. The concept of reducing tension between the two superpowers is an admirable one. But, in fact, the tensions have not been dissipated, only reinforced. The United States has rendered itself to an equal, and in some cases inferior, position to the Soviets, in terms of military strength. This situation poses a grave threat to our national security. It is apparent that the Soviet Union has no intention of reducing its own military posture and it is an enigma to me, that this administration feels obliged to continue on the present road of détente knowing full well, the antagonistic intensions of the Soviet Union.

To begin with, the United States should insure that our own military forces and capabilities are maintained at strongest possible levels, to avert any potential or actual threats by our foes. Our defense spending should reflect continued and new development of important strategic weapons, both offensive and defensive in nature, and particularly for those which the Soviet Union enjoys an edge, or has achieved parity with this Nation.

An example of this is the land-based intercontinental ballistic missiles. The defense budget for fiscal year 1977 does not provide for any further production of the Minuteman III, our only land-based ICBM. The failure to provide for production of these weapons was a reflection of our good faith, while the SALT II negotiations were proceeding. But, this action was taken with full knowledge that the Soviet Union is proceeding ahead with the deployment of four new ICBM systems, and a fifth system is underway. For our Nation, the proposed replacement for the Minuteman III is at least a decade away from completion and during this time, the Soviets could forge permanently and dangerously ahead in this key facet of military capability.

We cannot allow our national security to be jeopardized for 1 minute while we await the completion of agreements being made with an adversary who might very well gain militarily from them. It has been stated by American officials, that the SALT I agreement definitely favored the Soviets. The SALT I and II talks have oftentimes been shrouded in secrecy. The Soviets have consistently refused to site inspections of their military stockpiles, and have refused to provide this Nation with a complete accounting of their important weapon systems. Yet we continue to plunge onward in pursuit of these agreements for the good of détente.

In other areas, détente has proven thus far to be a dismal failure. With respect to restoring basic rights to the captive persons under the control of the Soviet Union, détente has betrayed the people of Eastern Europe. We in Congress, continue to champion the rights of free emigration by Soviet Jews, as well as the right of self-determination by the peoples of Eastern Europe. Yet, more often than not, our efforts have been sabotaged by the administration. They strongly fought the amendment to the trade bill which opposed giving the Soviets most-favored-nation trading status, until they relaxed their emigration policy. The administration committed this Nation to favor one of the most objectionable documents ever written, the Helsinki agreement, and the acceptance of present Soviet hegemony over Eastern Europe. It is somewhat ironic to note that both Secretary of State Kissinger and Premier Brezhnev agree on one subject, and that is their criticism of the Congress exercising power in matters of foreign policy.

To paraphrase somewhat, the words of former Soviet Leader Khrushchev, "détente may bury us". Let us not risk the security of this Nation any further. Let us not forget the fact that the Soviet Union is an adversary, politically, militarily, and otherwise. Let us not attempt to play the middle, with respect to our Sino-Soviet relations for we are the ones who will get burned. Let us consider the interests of our own people first, and worry about others later. If the Soviets feel that détente is an opportunity for them to become militarily stronger than this Nation, then let us be sensible and abandon détente, and destroy this opportunity, once and for all.

CHERRY POINT, N.C., NARF WORKERS COMMENDED FOR ANTARCTICA SERVICE

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. JONES of North Carolina. Mr. Speaker, the employees of the Naval Aircraft Rework Facility of the Marine Corps Air Station in Cherry Point, N.C., have always served our country's military forces well. The Cherry Point NARF, which is located in my congressional district, has consistently received efficiency ratings second to none. Recently a team of workers furthered this tradition of exceptional service by accomplishing a repair operation in Antarctica which has been praised as an "epic in naval aviation history".

A pair of damaged LC130 Hercules aircraft had been stranded in Dome Charlie, East Antarctica, for nearly a year. Recovery of these planes necessitated that a special field repair team be flown from the States to Dome Charlie. The team included 16 NARF employees from Cherry Point. The encountered average temperatures of minus 25° and an elevation of 10,549 feet. I can assure you that harsh conditions of this nature require a slight adjustment when you are acclimated to the mild winters and level terrain of eastern North Carolina.

That the mission was an unqualified success is evidenced by the following letter of commendation sent to Col. Neil F. Heffernan, USMC, commanding officer of the Naval Aircraft Rework Facility at Cherry Point, by Capt. E. W. Van Reeth, Commander of the Naval Support Force Antarctica:

> You undoubtedly are aware of the recent successful recovery of two damaged LC-130 Hercules aircraft from Dome Charlie, East Antarctica."

This letter is to acknowledge the significant contribution of NARF personnel in this difficult project. Let me assure you, the efforts of your field repair team were nothing less than magnificient.

From its conception, we knew this operation would be epic in naval aviation history. Never before has an operation been carried out under such bleak, cold, and unforgiving environmental conditions. To simply declare it successful greatly understates the proportionate scope of the task.

Teamwork and planning were the keystones at Dome Charlie. The team of artisans fielded by NARF Cherry Point was second to none. They came well prepared and organized under the foremanship of John C. Allen. Working hand-in-hand with personnel from this command and VXE-6, the team lost no time in setting about the task. Initially, this involved assisting with erection of their own berthing facilities.

During the next 16 days a new chapter in Antarctic aviation history was written. An aircraft damaged in the early days of this season was repaired and flown out. While the VXE-6 repair team was accomplishing this, the NARF field repair team undertook the complex problem of repairing another LC-130 which was extensively damaged in January of 1975.

The technical experts stated that repair of these aircraft would have been difficult even under ideal conditions. At Dome Charlie, the average temperature hovered at 25 degrees below zero Fahrenheit. With an elevation of 10,549 feet, the conditions were equivalent to a standard atmosphere of over 12,000 feet. Working under a temporary windbreak, the team replaced the lower nose section and the nose landing gear and ski assembly. They also repaired the forward fuselage floor and applied exterior skin patches. The entire avionics package required overhaul and replacement.

After thorough ground checkouts and functional reliability tests the aircraft was inspected and declared safe for flight by your Mr. Jim Herman, and flown from Dome Charlie to McMurdo Station on January 14. Although not yet back in the active inventory, the aircraft will undergo major overhaul this summer and be back in service next operating season.

The NARF field repair team was comprised of 16 of the most enthusiastic and expert men ever to set foot on this white continent. They did their job in a truly outstanding manner and have received plaudits from highest Navy and civilian levels. Presenting these men with the Antarctic Service Medal before they departed was only a small gesture of this command's recognition.

Again, allow me to add my personal gratitude and admiration to the field repair team and NARF Cherry Point for an outstanding effort. Please convey my "Well Done" to each man on this exceptional team.

In conclusion, I would like to extend my own personal salute to the entire Cherry Point NARF and in particular to the special field repair team. I am sure that all my colleagues in the Congress join with me in saying congratulations for a job well done.

ESSAY CONTEST WINNER

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. BEVILL. Mr. Speaker, the Veterans of Foreign Wars have sponsored an essay contest, encouraging secondary school students from across the country to express their thoughts on "What our Bicentennial heritage means to me." The winner of the State of Alabama's contest is a constituent of mine; Ms. Miriam Anita Hamiter of Gadsden, Ala. Her essay is an excellent exposition of this theme, and I would like to share it with you:

1975–76 VFW Voice of Democracy Scholarship Program, Alabama Winner Miriam Anita Hamiter

"I have found something!" shouted the archeologist. He immediately felt foolish as his lonesome voice settled over the silent city. He removed the object from where it had been lodged and carefully cleaned it. The object was a small metal disc, no more than two millimeters in diameter. The year is 3076. The place is somewhere in America.

In a narrative written by Samuel Francis Smith and Henry Carey to accompany the hymn "America," the writers pose for us a supposition which deserves our careful consideration. Suppose the United States were destroyed and an archeologist were excavating the ruins of the once mighty America. If he could unearth just one penny, he would immediately recognize the cornerstones on which the American heritage was built.

The wheat on the back of the penny told the archeologist that America had been a rich, agricultural country. He realized that her people believed their excellent crops to be one of the main resources contributing to their prosperity. The archeologist, wondering how they had achieved their superior status in agriculture, might correctly conclude that a policy for a system of work had been adopted. Considering *this* policy, he wondered if the Americans had adopted other policies, of perhaps even a governing body. A closer look at the phrases on the coin gave him his answer.

The words "United States" let him know that the citizens belonged to separate units and societies which were unified under one powerful federated administration. The archaeologist leaned back against a block of cement and let his imagination run free. Recognizing the human nature as it is, the archaeologist dreamed of men debating heatedly over monumental issues, such as how much power the central government should be allowed. Then, since men rarely ever readily agree on important issues, the archaeologist envisioned strife—strife between men of other countries, or even fighting among men of the same country. Startled out of his daydreams by the thought of civil war, he questioned aloud, "What issue would force men to resort to civil war?"

Glancing over the penny, the archaeologist's attention was drawn to the word "liberty". This word let him know that the United States attempted to insure freedom for all her citizens. Snapping his fingers, the archaeologist shouted, "That is it! They sought to guarantee freedom for every man, yet for some reason that freedom was violated. If my liberty were jeopardized, I would certainly fight to preserve what was rightfully mine. I would even give my own life, so that future generations could live in a free nation."

Searching the penny for the last time, the archaeologist saw a phrase he had noticed before. "In God We Trust" appeared to him now as bright as a neon sign. The archaeologist smiled. "Yes, I know this God who shed His grace on thee, America. You put your faith and trust in him and you grew to supremacy under His hand."

The archaeologist rose slowly to his feet. He held the penny before his face, and looked intently upon that small piece of metal. A picture flashed before his eyes of all the citizens, both great and small, who had given their time and talents, even sacrificed their very lives, for the betterment of the United States of America. An emotion which he could not identify swelled his heart. First, with his head bowed, he kicked a pile of rubble. Then, after a moment of stillness, he raised his head to gaze into the empty blue sky and whispered, "Oh God, why did they forsake Thee?"

This supposal is, of course, a fantasy. We, as Americans, must do everything in our power to prevent it from becoming a reality. And what better time to begin than an America's 200th birthday, the Bicentennial year? What does our Bicentennial Heritage mean to me? It means being a part of the continuous growth of the most magnificent nation of all time. It means transforming the hopes and dreams of our founding fathers into actualities. But most of all, it means that during the Bicentennial year, and every year, this land is your and mine. This land is AMERICA!

SAUDI MILITARY SALES

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. ROSENTHAL. Mr. Speaker, Saudi Arabian Crown Prince Fahd today declared his country would go to war against Israel if that country does not withdraw from occupied Arab territories, according to a United Press International report.

This follows an earlier statement by the Saudi Defense Minister that the oil-rich kingdom would throw the sophisticated new American armaments it is buying into any future war with Israel.

These statements are significant in light of some $4.5 billion in foreign military sales to Saudi Arabia over the past 5 months. Included are some of the most sophisticated arms in the American arsenal—the Maverick "smart" TV-guided air-to-ground missile, the lethal Dragon wire-guided antitank missile, the F–5 jet fighter.

The United States is constructing the entire infrastructure of the Saudi military establishment. Many observers are alarmed that Saudi Arabia may be moving into the ranks of the confrontation states in the Arab offensive against Israel.

I am inserting in the Record at this point wire service reports about the U.S. shortage of battle tanks, Saudi plans to finance Egyptian purchases of U.S. arms, and Saudi war plans. I also am inserting descriptions from the authoritative Jane's All the World's Aircraft, and Jane's Weapon Systems, describing some of the equipment currently being offered to the Saudis, plus an article from the Christian Science Monitor about Saudi intentions to use such weapons against Israel.

The sales before us today would provide the Saudis battle tanks at a time when the Secretary of the Army has declared a shortage for our own forces. In addition, they will be receiving armored personnel carriers, Vulcan antiaircraft cannon, Dragon antitank missiles and Maverick "smart" missiles.

The material follows:

[From the Washington Post, Feb. 13, 1976]

Tank Exports Halted Until Shortage Cut

Army Secretary Martin Hoffmann said yesterday the United States will withhold any major tank deliveries to other countries for about 18 months while increased production reduces an Army tank shortage.

Hoffmann said White House and top Pentagon officials have made a commitment that no tanks for other nations will be taken from current limited production or the Army's present depleted stocks except in an emergency.

At a Pentagon news conference, Hoffmann said that current M–60 tank production of about 60 a month is expected to double in the 1978 fiscal year.

Until then, he indicated, tanks rolling off the production line will be devoted to overcoming a U.S. Army tank shortage dating back to the 1973 Mideast war.

Hoffmann said the Army now has about 4,300 tanks.

Saudis Said To Give Egypt $1 Billion in Aid

Beirut, February 22.—Saudi Arabia has decided to extend $1 billion in new aid to Egypt, largely to finance the Egyptians' first arms deal with the United States, the Beirut newspaper Al Anwar reported today.

The report appeared as rulers of the two Arab countries were scheduled to begin their talks in Riyadh, the Saudi capital. Al Anwar has close links to both Egypt and Saudi Arabia.

The paper quoted reliable sources in the Saudi capital as saying $700 million of the new aid would be spent for arms Egypt plans to buy from the United States.

"The rest is designed to help Egypt out of its present economic difficulties," the newspaper said.

Egyptian President Anwar Sadat arrived in Riyadh yesterday to begin a week's tour of oil-rich Arab nations to seek financial assistance.

[From Christian Science Monitor, Dec. 5, 1975]

Saudis May Enlarge Mideast Military Role—Arms Purchased From United States Would Be Used if War Broke Out

(By John K. Cooley)

Beirut, Lebanon.—The Saudi Arabian Defense Minister has indicated the Saudi kingdom would use the sophisticated new arms it is buying from France and the United States in any new Arab war with Israel.

The Minister, Prince Sultan ben Abdel Aziz, told newsmen covering graduation ceremonies for Saudi Air Force cadets at Damman "All we own are at the disposal of the Arab nation and will be used in the battle against the common enemy," (al-adou, the Arabic word always used for Israel), the Saudi radio reported.

LARGER SAUDI ROLE?

This suggests to some analysts here an increased direct Saudi military role. In the October, 1973, war, Saudi King Faisal's actions were mainly political, following up his Oct. 12 "urgent warning" to President Nixon against resupply of Israel by bringing into play the Arab oil embargo.

After conclusion of an arms deal involving deliveries over four years' time worth about $1 billion with France, Prince Sultan said, talks are in progress with the United States. The French deal, he added, includes a mobile, armor-protected missile developed to meet Saudi needs and called the Shahin, after a leading Saudi Air Force pilot.

OIL COMPANY TAKE-OVER

Prince Sultan confirmed that Saudi Arabia would "shortly" take over full control of the Arabian-American Oil Company (ARAMCO). He said Saudi Deputy Defense Minister Prince Turki ben Abdel Aziz was discussing new U.S. arms supplies in Washington. The U.S. "has agreed to provide us with our needs in sophisticated weapons with no strings attached," he added.

U.S. arms sales stipulate that the recipient cannot transfer them. In the past, U.S. planners held that Saudi-Arabia was not a frontline country directly involved in the armed conflict with Israel. More recently, the Pentagon has shown concern that French and British sales to Libya, Saudi Arabia, and Kuwait were being transferred to Egypt.

Prince Sultan said the Saudi force serving in Syria's Golan Heights since fighting in the October, 1973, war will remain there under Syrian command. It is believed to number 2,000 troops. He added that the Persian Gulf area should be "kept free of international pressure zones and alliances," and called Iran "a Muslim and brotherly state."

Before Prince Turki's present Washington mission, there were two weeks of talks on Saudi Arabia's proposed multibillion-dollar new-arms purchases from the U.S.

Western sources here said these centered on secret Pentagon recommendations to add mobility to the Saudi armed forces, including the 25,000-man "White Army" or tribal National Guard now training in Saudi Arabia and Pakistan, primarily as a land force to guard oil installations. Assistant U.S. Secretary of Defense Robert Ellsworth visited Saudi Arabia for these talks.

400 HELICOPTERS

American sources have estimated the Saudis would buy 400 helicopters by 1984 to equip a mobile ground force. Published arms deals with the U.S. this year included $335 million worth of armored cars, which began to arrive last month, a $270 million purchase of new Hawk antiaircraft missiles, a pending $350 million contract for modernizing the Saudi Navy, and a $385 million contract to modernize the National Guard.

During the first nine months of 1974, Saudi Arabia bought about $25 million in new British aerospace equipment. . . . This is pact of a five-year contract worth about $900 million and involving 2,500 British and Commonwealth technicians.

Keen rivalry in the Saudi market between France's Dassault-Breguet Mirage 3 and F–1 and the U.S. McDonnell Douglas Phantom F–4 has resulted in Saudi orders for both French and U.S. jets despite Israeli protests that any of these planes would have the range to strike Israel from Saudi territory.

(United Press International-Dispatch From Damascus, Mar. 2, 1976)

In Beirut, Saudi Arabian Crown Prince Fahd said today his country would resort to war should current peaceful attempts aimed at an Israeli military withdrawal from occupied Arab territories fail.

Fahd's statement was made in Riyadh on the occasion of a meeting of the supreme committee of the Arab authority for military industry. Excerpts of it were broadcast by the Saudi Arabian radio and monitored in Beirut.

The authority—set up by Saudi Arabia, Egypt, Qatar and the United Arab emirates last year to manufacture weapons in the Arab world—began a two-day conference in the Saudi capital monday night.

DESCRIPTIONS

M60 MAIN BATTLE TANK

Description:

M60 is the current main battle tank in service in considerable numbers in the U.S. Army. It is a direct development of M47 and M48, the principal differences being the use of a diesel engine, giving a great improvement in range, a more powerful gun in the form of the British 105 mm gun, and additional armour protection, particularly on the turret. Development started in 1956, and the first production tanks were troop tested in 1959. Later production concentrated on M60 A1, which has a redesigned 'needlenose' turret, and an improved gun control equipment, but is otherwise the same vehicle.

Now that the MBT70/XM803 tank has been cancelled the M60 will undoubtedly continue to be the operational main battle tank of the U.S. Army for considerably longer than was originally envisaged. Consequently the Army has begun a product improvement programme for the M60 A1 version, which will extend over several years.

First stage in the programme was the incorporation of add-on stabilisation in a number of tanks in 1971. Other improvements will include the addition of a laser rangefinder, a solid-state ballistics computer, improved suspension, long-life tracks with replaceable pads, air cleaners and a more reliable engine and electrical systems.

In addition the Army requested funds in the Fiscal Year 1973 budget for prototyping and testing a thermal sight for the M60 A1. This sight, which will be mounted inside the turret and integrated with the fire control system, will help the crew to detect and engage targets in darkness or poor visibility conditions in daytime. The programme was expected to extend over two years and was aimed both at improving the M60 A1 and at establishing a design for subsequent tank development.

The product improvement programme for the M60 A1 has been under way since 1969 and will be carried out in three phases:

Phase 1.—The three main parts of this phase are the add-on stabilisation system, enabling the tank to have a shoot-on-the-move capability, and the new track, designated T–142, which will have twice the life of the T–97 track used at the present time: the vehicle will also be fitted with a top-loading air cleaner which increases engine life by reducing dust and dirt ingestion.

Phase 2.—This phase is scheduled to commence in 1976 and will involve installation of a laser rangefinder that can be used by both the commander and gunner by day and night; a solid-state computer will contain sensors for cross wind, vehicle cant, gun tube wear and ammunition grain temperature. The suspension will also be much improved by fitting the tube-over-bar suspension system, this will give the vehicle a significant increase in cross country mobility, a better gun platform and a smoother ride for the crew. The engine will be modified and improved by fitting a new turbo-charger, pistons and so on, and a new electrical system will be installed. This model will be known as the M60 A3.

Phase 3.—Work has started on this part of the programme and the improvements will include an engine with at least 900 hp coupled to a new four-speed hydrostatic transmission with new final drives. This will increase the acceleration as well as the top speed of the vehicle. Work has also started on a thermal night vision fire control system.

These phased improvements will be incorporated into production vehicles and have also been designed so that M60 A1s at present in service can be retrofitted as and when required.

Status:

The M60 tank family will certainly continue to be the mainstay of the US armoured forces until the late 1970s. It is expected that the M60 A3 will be in production in FY 1975 after which existing stocks of M60 A1 will be progressively converted. In the meantime new procurement of M60 A1 will continue for replacement of obsolescent tanks in the US Army and the USMC.

Characteristics (M60 A1):

Crew: 4 (commander, gunner, loader, driver)

Weight: 48 tons

Size: Height 3.26 m. Length (hull) 6.95 m. Width 3.63 m.

Road speed/range: 48 km/h/500 km

Main armament: 105 mm 51 calibre high velocity gun (British design, US manufacture) (2451.103)

Method of ranging: Monocular coincidence rangefinder with base of 2 m. (But see text)

Armament: 63 rounds mixed APDS, HEAT, and HEP (equivalent to British HESH)

Secondary armanent: 0.5 in commander's MG cupola mounted, with AA capability. 7.62 mm coaxial MG.

Turret rotation: 360° electro-hydraulic or manual control

Engine: Continental 90° V-12 air cooled, twin turbocharged, diesel, 29.3 litres. 750 bhp at 2,400 rpm.

Transmission: Allison hydraulic torque converter

Agility: Ground pressure 0.78 kg/sq cm. Max step 0.91 m. Max trench 2.58 m. Max gradient 60% (1 in 1.7). Ground clearance 0.46 m. Power-to-weight ratio 15.5 bhp/ton

Water crossing ability: Fording to 1.22 m without preparation. An appliqué schnorkel equipment permits fording at 4.11 m

Night vision equipment: A Xenon IR/white light searchlight can be fitted on the mantlet above the gun. Commander and gunner have interchangeable infra red sights. Driver has infra red viewer for use in conjunction with filtered headlights.

NBC protection: Centralised filter system passes filtered air to the individual respirators of crew members.

Derivatives:

1. AVLB—Armoured Vehicle Launched Bridge on M60A1 chassis can launch a 18 m bridge of classification 60 t in less than 2 minutes. Total weight 55 t. 2 man crew.

2. CEV—Combat Engineer Vehicle M728. Carries 165 mm demolition gun, winch with 11 t pull, an A-frame crane with 8 t lift, and bulldozer blade. Total weight 50 t. 4 man crew.

3. The M60A2 (separately described) is indentical to M60A1 below the turret ring.

Status:

The M60 and M60A1 tanks are in service with Austria (120), Iran, Israel, Italy (200 M60 A1s have been built in Italy), Jordan South Korea, Spain, Turkey and the United States. Future orders could came from Australia, Kuwait and Saudi-Arabia. The M60 A1 is in production by the Chrysler Corporation at the Detroit Tank Arsenal, which at the present time is the only tank plant in the USA. In the FY 1974 US Defence Budget a further 360 M60 A1s were to be built for the Army and 120 for the USMC. This total was increased by a supplemental to 613 (partly to cover sales to Israel) plus 155 covered by the proceeds of the sale of older tanks to Israel). For FY 1975 the purchase of 664 tanks—154 M60 A1 for the USMC and 510 improved models for the Army—was proposed at an estimated cost of $229.2 million.

Manufactured by:

Chrysler Corporation, PO Box 757, Michigan 48231, USA.

DRAGON

U.S. Army designation: XM47.

The XM47 Dragon surface attack guided missile system, known originally by the acronym MAW (Medium Anti-tank/assault Weapon system), has been developed for the U.S. Army by McDonnell Douglas as a weapon light enough to be carried and shoulder-fired by one man yet having a warhead large enough to destroy most armour and other infantry targets encountered on the battlefield. It is superior in range, accuracy and hit probability to the 90 mm recoilless rifle which it will replace.

Dragon employs an automatic command-to-line-of-sight guidance system and consists of a tracker, a recoilless launcher and a missile. The tracker includes a telescope through which the operator sights the target, a sensor device and an electronics package. It is re-usable and is attached to a different launcher for each firing. The launcher is a smooth-bore glass-fibre tube, the aft end of which is enlarged to accommodate a propellant container and breech. It is sealed to form the delivery and storage container and is discarded after firing.

The general appearance of the missile is shown in the illustration on this page. It has folding fins which flick open as it leaves the launcher, and carries an infra-red flare, wire bobbin, electronics package, gyro battery and warhead. Its solid-propellant propulsion system is unique, consisting of several pairs of small rocket motors mounted in rows around the missile body.

In operation, the infantryman sights the target through the telescopic sight, then launches the missile. While he holds his sight on the target, the tracker senses missile position relative to his line of sight and transmits command signals over wire to the missile. This causes the appropriate rocket motors, or side thrusters, to fire. As commands are transmitted continuously, the side thrusters apply corrective control forces, being fired at appropriate roll angles so that the missile is automatically guided and propelled throughout its flight.

The first contract for a one-year exploratory development programme, to prove the feasibility of the concept, was awarded to McDonnell in August 1964. The first in a series of flight demonstration tests was conducted successfully at the company's test range at East St. Louis, Illinois, on 13 March 1965. All systems and components worked as required, and the missile hit within inches of the centre of the target. Full-range weapon requirements were demonstrated subsequently at Redstone Arsenal, Alabama, and McDonnell was awarded a development contract as prime contractor for the Dragon missile on 9 March 1966.

This was followed by an engineering-development contract and, in late 1967, the production-engineering phase was begun. Launch-environment testing began at Cape Kennedy in the Summer of 1967, and guided test flights were initiated at Huntsville, Alabama, in the Autumn. In December 1967 the Army announced that a Dragon hits its target with "bull's-eye" accuracy in its first full-range test.

Award to McDonnell Douglas of a contract calling for production engineering and initial production of the Dragon was announced on 28 June 1968. On 5 July that year, the Army announced that the missile hit its target with pinpoint precision in the first of a series of manned, shoulder-fired tests. Previous firings had been unmanned, from a fixed launcher. Five months later the Dragon achieved equal success in its first test against a moving target; and the first manned firing with a live warhead took place at Redstone Arsenal on 21 January 1971.

The first production contract for Dragon, valued at $12,233,000, was awarded to McDonnell Douglas by the U.S. Army on 7 March 1972.

Dragon is produced at the company's Titusville, Florida, plant, and is expected to be used by the U.S. Marine Corps as well as the Army.

Dimensions:

Length overall of a launcher, 3 ft. 8 in. (1•12m).

Length overall of missile, 2 ft. 5•3 in. (0•74m).

Span of fins, 1 ft. 1 in. (0•33m).

Weights:

Complete system, 29–7 lb. (13•47 kg).

Missile, 13–5 lb. (6•13 kg).

MAVERICK

USAF designation: AGM–65.

Development of this air-to-surface missile began in 1966, when Hughes and North American each received a project definition contract to verify preliminary design and engineering studies of the projected weapon and to provide information for development and production contracts.

After evaluation of the results of these contracts, in July 1968, the USAF awarded Hughes a $95 million fixed-price incentive contract to cover development, test and evaluation of Maverick over a three-year period, with options for follow-on production of up to 17,000 missiles.

Maverick has a cyclindrical body, with rounded glass nose and long-chord delta wings, indexed in line with cruciform tail control surfaces mounted close to their trailing-edges. It is powered by a Thiokol TX–481 solid-propellant motor and is television-guided in its initial form.

It can be carried by the A–7D, F–4D and F–4E, normally, in three-round underwing clusters, and has a high-penetration conical shaped-charge warhead, intended for use against pinpoint targets such as tanks and columns of vehicles. Maverick is also carried by Teledyne Ryan BGM-34 RRVs and is intended as armament for the A–10A.

Unlike earlier TV-guided missiles, Maverick is self-homing. The pilot of the launch aircraft first selects the desired weapon station, and a timed indicator light signals completion of the required gyro run-up time. After visually detecting a target, the pilot depresses the uncage switch which removes the protective dome cover from the nose of the missile and activates the video circuitry. The scene viewed by the Maverick TV seeker appears on a high-brightness TV screen in the cockpit. The pilot then maneuvers his aircraft to place his optical sight reticle on the target, or slews the missile seeker head. After depressing the track switch, he waits until the cross-hairs are positioned over the target, then effects lock-on by releasing the track switch and launches the round. Maverick is homed on the target by an electro-optical device in its nose.

The first unguided air launch of the Maverick missile was conducted successfully at Edwards AFB, California, on 15 September 1969. The test was the first of 15 air launches conducted by McDonnell Douglas, with Hughes support, to prove the safe separation of the missile from an F–4 Phantom II throughout the aircraft's flight envelope. On 18 December 1969, a Maverick, complete except for warhead, was launched at medium range from an F–4D in a diving attack against a stripped-down M–41 tank at Holloman AFB, New Mexico. It scored a direct hit in this, its first guided test flight.

During subsequent test at Fort Reilly, Kansas, Maverick was launched at distances ranging from a few thousand feet to many miles from the target, and from high altitudes down to treetop level, against maneuvering Army tanks.

As a result of the success of the first 27 flight tests, the USAF decided in early 1972 to cancel the 13 further launches that had been planned. Production was initiated in 1971, under a $69.9 million contract, and the USAF formally accepted the first of the initial quantity of 2,000 production Mavericks at Hughes, Tucson, Arizona, plant on 30 August 1972.

By October 1973, the number of Mavericks ordered by the USAF had increased to 11,000 in four batches. In that month, the missile was used operationally by the Israeli Air Force during the Yom Kippur war, with results that were described as "quite impressive, although the conditions there were much more favorable for such electro-optical weapons than would be the case in Europe". Other Mavericks have been delivered to Iran.

A major disadvantage of any conventional TV-guided missile is that it is restricted to use in clear-visibility conditions. Considerable research is being devoted to improving the versatility of Maverick, and by the Spring of 1975 four different versions were known to exist, as follows:

AGM–65A. Initial TV-guided version, as already described. Deliveries to the USAF exceeded 7,943 by 24 February 1975, and were scheduled to total 14,534 by the end of November 1975 and the originally planned programme total of 17,000 (including AGM–65Bs) by completion of FY 1976 procurement.

AGM–65B. Basically similar to AGM–65A, but with a modified "scene magnification" TV seeker, making it possible for the pilot to identify and lock on to the target from a longer range or to attack smaller targets. Engineering development completed by January 1975. Order for 4,000 announced in August 1975, with deliveries to begin in December 1975.

AGM–65C. Laser-guided version intended specifically for close air support against designated targets. Capable of day and night use in conjunction with airborne or ground designator. Ten missiles fired during development at Eglin AFB in June–October 1973, using Long Knife airborne designator pod and ILS–NT200 ground designator. Full-scale engineering development scheduled for March 1975.

AGM–65D. Version with imaging infra-red seeker (IIR), which produces an image by sensing small differences in infra-red heat radiated by objects in view, so being suitable for day and night use, even through haze. In early tests, targets such as an offshore drilling rig and oil storage area were detected by a forward-looking infra-red (FLIR) acquisition aid fitted to an F–4D. Handover was then made to the IIR seeker in the missile, for a homing attack. In the Summer of 1974, Hughes received a $10.2 million contract to install eight IIR seekers on Maverick missiles for free flight trials in the Autumn of 1975.

Later development will include adaptation of Maverick to carry the 250 lb (113 kg) MK–19 warhead for possible USAF/US Navy use against larger hardened targets such as command bunkers or ships.

Dimensions (AGM–65A):

Length overall, 8 ft 1 in (2–46 m).

Body diameter, 12 in (30 cm).

Wing span, 2 ft 4 in (0–71 m).

Weight (AGM–65A, approx):

Launching weight, 462 lb (210 kg).

VOTING RECORD OF HON. STEPHEN L. NEAL

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 1976

Mr. NEAL. Mr. Speaker, the House of Representatives has taken some very positive steps toward making public all of its many activities. We have, by and large, thrown open the doors for public inspection. We conduct only a few hearings behind closed doors, and those of necessity. All of our votes are recorded if there is an appropriate request that it be done.

Nonetheless, Mr. Speaker, the public generally is unaware of what we do here, and how we vote here. The voting records of individual Members remain a mystery to most of their constituents, who have neither the time nor the resources to dig them out of the day-to-day records of our proceedings. Therefore, they receive their Congressman's voting record on a highly selective, piecemeal basis which has little value for purposes of overall analysis.

Because I believe my constituents have a right to know how I vote on every issue which comes before the House, I compile a summary of my complete voting record, at 6-month intervals, and supply it to the people of my district. I have today completed this summary for the second 6 months of the first session, and wish at this point to insert it in the Record:

Voting Record

Following are all the recorded votes cast by Rep. Stephen L. Neal during the period of July 1 through December 31, 1975. The "Yes" or "No" indicates Congressman Neal's vote (DNV indicated he did not vote). The next numbers are the yes and no House totals (the yes votes appear first). The numbers in parentheses are the yes-no vote of the North Carolina members of the House of Representatives (the yes votes appear first.)

To extend the Wetlands Loan Act for seven years. Yes. Passed 400–0. (10–0).

To retain jurisdiction of existing Elk Hills naval petroleum reserves within the Navy Department. No. Failed 102–305 (1–10).

Final passage, to transfer control of naval petroleum reserves to Department of Interior. Yes. Passed 391–20 (11–0).

To adopt rule on H.R. 6706 authorizing expense funds and setting staff limits for the White House. Yes. Passed 408–2 (11–0).

To amend the emergency loan provisions of the Consolidated Farm and Rural Development Act to ease credit for disaster loans. Yes. Passed 403–0. (11–0).

Final passage, Arms Control and Disarmament Agency Authorization. Yes. Passed 382–28. (11–0).

Final passage, Council on International Economic Policy Authorization (advisory council to the President). Yes. Passed 345–58. (9–2).

Amendment to maintain the number of White House staff positions above $36,000 level at 54. No. Failed 157–234. (1–8).

Amendment (substitute) to provide open-ended authorization for staff for the president, vice president, and domestic council. No. Failed 146–242. (1–8).

Amendment to prohibit supersonic aircraft which exceed FAA noise standards from landing in U.S. No. Failed 196–214. (2–8).

Final passage, transportation appropriations ($3.75 billion—$220.5 million less than administration request). Yes. Passed 392–13. (10–1).

To authorize $355.7 million for Environmental Protection Agency research and development. Yes. Passed 383–15. (10–1).

To adopt rule on Health Manpower Act. DNV. Passed 351–0. (8–0).

Amendment to Health Manpower Act requiring students receiving aid to repay grant or serve in medically underserved areas. Yes. Passed 209–153. (9–1).

To amend residency training requirements in Health Manpower Act. Yes. Passed 207–146. (7–1).

To authorize $1.76 billion for health manpower, public health, and allied health programs through 1978. Yes. Passed 296–58. (10–0).

To increase Farm Home Administration's revolving loan funds for water development and conservation. Yes. Passed 307–86. (7–4).

To delete farm appropriations for Cotton, Inc. No. Failed 196–199 (0–11).

Motion to recommit Agriculture Appropriations bill. No. Failed 58–333. (2–9).

To appropriate $13.09 billion for Department of Agriculture and related agencies over 15 months. Yes. Passed 353–38. (11–0).

Oil policy: To adopt rule on Energy Conservation and Oil Policy Act. DNV. Passed 261–78. (7–2).

Amendment to abolish Select Committee on Intelligence. No. Failed 122–293. (3–8).

Amendment to abolish existing Select Committee on Intelligence and substitute Joint Select Committee. No. Failed 178–230. (2–9).

Motion to end debate on Select Committee on Intelligence. Yes. Passed 242–162. (9–2).

Conference Report appropriating $7.6 billion for education in fiscal year 1976. Yes. Passed 370–42. (10–1).

Amendment to deny use of education funds to require integration by sex of physical education classes. Yes. Passed 212–211. (10–1).

Amendment to delete from Treasury appropriations a prohibition on use of funds by IRS to deny tax-exempt status or deductibility of charitable contributions to private schools which have failed to prove they are racially nondiscriminatory. Yes. Passed 284–122. (2–8).

Amendment to reduce by ⅔ funds for Council on Wage and Price Stability. No. Failed 167–243. (2–9).

Amendment to limit increase of White House staff. Yes. Failed 141–274.(2–9).

To authorize $6.26 billion in FY 1976 for Treasuy/Post Office. Yes. Passed 393–18. (10–0).

To reduce size of Select Committee on Intelligence. No. Failed 125–285. (2–9).

Amendment to permit members of old select committee to transfer to new reconstituted Select Committee on Intelligence. No. Failed 119–274. (0–11).

Oil policy: To extend oil price controls until Dec. 31, 1975. (Conference report). Yes. Passed 239–172. (8–3).

Education funds: Motion to reverse earlier House vote prohibiting using funds to integrate by sex physical education classes. No. Passed 215–178. (2–9).

Oil policy: To allow presidential plan to ration petroleum take effect if Congress did not disapprove within 60 days. No. Failed 155–231. (5–4).

To repeal exemption from antitrust action so-called "fair trade" laws. Yes. Passed 380-11. (10-0).

To permit VA to award special pay to full-time physicians and dentists. Yes. Passed 382-3. (8-0).

Amendments to Social Security Act to improve child support program. Yes. Passed 357-37. (8-0).

To restore citizenship to General Robert E. Lee. Yes. Passed 407-10. (11-0).

To adopt conference report, legislative appropriations ($827.5 million FY 1976). Yes. Passed 374-37. (9-2).

Oil Policy: To disapprove president's plan to remove existing controls on domestic crude oil prices. Yes. Passed 262-167. (9-2).

Oil Policy: To set price ceiling on all domestic oil, coupled with windfall profits tax. Yes. Failed 94-326. (5-6).

To increase funds for acquisition of wetlands for migratory bird conservation. No. Passed 220-203. (3-8).

Interior appropriations ($5.24 billion for 15 months). Yes. Passed 417-8. (11-0).

Oil Policy: To let Congress determine type tax imposed with any oil decontrol plan. Yes. Passed 236-187. (11-0).

Oil Policy: To decontrol crude oil prices over eight-year period. No. Failed 202-220. (7-4).

Oil Policy: To limit debate on Wilson amendment. Yes. Passed 244-168. (4-6).

Oil Policy: To delete oil pricing section of bill. No. Passed 215-199. (6-5).

To increase unemployment and sickness benefits of railroad workers. Yes. Passed 420-0. (10-0).

To adopt rule on resumption of shipment of military equipment to Turkey. Yes. Passed 419-0. (10-0).

To permit shipment of $185 million in military equipment to Turkey (previously banned by Congress). No. Failed 206–223. (5–6).

To adopt rule on H.R. 5900, Equal Treatment of Craft and Industrial Workers. No. Passed 322–94. (2–9).

To ease credit for agricultural disaster loans. (Conference report.) Yes. Passed 398–0. (9–0).

To forbid "common situs" picketing of construction jobs. Yes. Failed 176–223. (9–1).

To forbid labor picketing in states where state law requires direct or separate contracts on state and municipal projects. Yes. Passed 229–175. (11–0).

To extend prohibiting of above to the private sector. Yes. Failed 176–222. (11–0).

To forbid the extension of product boycotts to an entire construction site. Yes. Passed 204–188. (9–2).

To exempt from "common situs" provisions residential structures three stories or less and without elevators. Yes. Failed 200–202. (11–0).

Final passage, to permit strikes and picketing against any of several employers jointly performing work on a construction project. (Common Situs Picketing). No. Passed 230–178. (0–11).

To extend "most favored nation" trade status to Romania. Yes. Passed 355–41. (11–0).

To agree to Senate version extending Voting Rights Act seven years. Yes. Passed 346–56. (11–0).

To adjourn from Aug. 1 to Sept. 3. No. Passed 293–109. (5–6).

To deny funds for location of nerve gas production line. Yes. Passed 219–185. (6–5).

To delete $64.9 million military funds for beginning of Military Medical University. Yes. Failed 190–221. (6–4).

Final passage, military construction authorization ($3.96 billion for 15 months). Yes. Passed 369–47. (11–0).

To consider extending authority for Consumer Product Safety Commission. Yes. Passed 387–22. (11–0).

Veto: To override veto of Special Health Revenue Sharing Act of 1975. (⅔ required). Yes. Passed 384–43. (11–0).

To accept Senate's language for federal roles in preparing enviromental impact statements for certain federal programs. No. Passed 279–143. (1–10).

To reduce funds for education of handicapped children. No. Failed 116–308. (2–8).

Final passage, to increase funding and extend education to all handicapped children. Yes. Passed 375–44. (9–1).

To fund noise control activities of Environmental Protection Agency. ($26.9 million for 27 months). Yes. Passed 390–35. (9–2).

To retain labeling of firearms authority within Consumer Product Safety Commission. No. Failed 80–339. (0–11).

To adopt conference report, $31.12 billion for military procurement. Yes. Passed 348–60. (9–0).

To adopt conference report, Treasury/Post Office funding. ($7.6 billion for fiscal 1976). No. passed 337–79. (8–3).

$5 million revolving fund for Postal Service for payment to air carriers who cannot collect from foreign governments. No. Passed 217–199. (5–6).

To adopt rule on executive pay increase recommended by President. Yes. Passed 302–124. (9–2).

To authorize cost of living pay increases for the federal judiciary, the vice president, Members of Congress, and certain executive branch and military officers. Yes. Passed 214–213. (5–6).

To recommit to conference committee Federal Rules of Criminal Procedure. No. Failed 167–255. (0–11).

Oil policy: To make "in order" Krueger Amendment to Energy Conservation and Oil Policy Act. Yes. Passed 310–109. (10–0).

Oil policy: To retain controlled price on "old" oil; set control on new oil. Yes. Passed 218–207. (4–7).

Oil policy: To retain price controls as modified by preceding vote. Yes. Passed 231–193. (6–5).

Oil policy: To disapprove the amendment proposed by the president to remove existing price controls relating to crude oil. Yes. Passed 228–189. (8–3).

Oil policy: To extend oil price controls for six months, until March 31, 1976. Yes. Passed 303–117. (8–2).

To continue financial support for military commissaries. Yes. Passed 364–53. (10–0).

To deny subpoena power to Council on Wage and Price Stability. No. Failed 185–237. (6–5).

To extend life of Council on Wage and Price Stability to 1977. Yes. Passed 235–188. (6–5).

Oil policy: To prohibit joint ventures between companies producing 1.6 million barrels a day. Yes. Failed 206–207. (3–8).

Oil policy: To prohibit granting leases on federal lands for development of minerals other than oil to a vertically integrated oil company. No. Failed 158–254. (1–10).

Oil policy: To postpone leasing lands on frontier waters of Outer Continental Shelf. No. Failed 120–286. (0–11).

Motion to adjourn. No. Failed 184–195. (3–7).

Motion to adjourn. No. Failed 156–194. (3–7).

Motion to adjourn. No. Failed 151–198. (3–6).

Motion to adjourn. No. Failed 140–200. (3–6).

Motion to adjourn. No. Failed 137–202. (1–9).

Motion to adjourn. No. Failed 142–205. (1–9).

To adopt rule on National Science Foundation authorization. Yes. Passed 328–73. (10–0).

To adopt conference report ($787 million) funding National Science Foundation. No. Passed 321–79. (5–5).

Oil policy: To further consider Energy Conservation and Oil Policy Act. Yes. Passed 351–44. (10–0).

Oil policy: To limit debate on amendment seeking to strike oil pricing provisions from the bill. Yes. Passed 262–125. (8–2).

Oil policy: To maintain customary pricing levels among the different refiners and establish equitable distribution system among all users. Yes. Passed 235–155. (4–6).

Oil policy: To strike enacting clause. No Failed 123–268. (3–7).

Oil policy: To strike exemption to small refineries from requirements of entitlements program. No Failed 51–331. (0–10).

To provide federal/state funding on equal basis for intergovernmental personnel. Yes. Passed 226–168. (9–1).

To eliminate grants to employee unions for intergovernmental training. Yes. Failed 189–213. (11–0).

To adopt rule of procedure for declaring national emergency. Yes. Passed 382–0. (10–0).

To terminate after two years from enactment all powers under any presidentially-declared national emergency. Yes. Passed 388–5. (11–0).

To adopt rule on establishing U.S. Metric Board. Yes. Passed 342–3. (10–0).

To authorize $160 million over five years for electric vehicle research and development. Yes. Passed 308–60. (8–2).

To create U.S. Metric Board for voluntary conversion to metric system. Yes. Passed 300–63. (8–2).

To adopt rule on establishing American Folklife Center. Yes. Passed 361–6. (11–0).

Final passage, Energy Conservation in Buildings Act. Yes. Passed 258–130. (5–5).

To establish American Folklife Center in Library of Congress. Yes. Passed 272–117. (9–1).

Veto: To override presidential veto of education appropriations bill. (2/3 required). Yes. Passed 379–41. (11–0).

To change Veterans Day back to November 11. Yes. Passed 410–6. (11–0).

To adopt rule on International Development and Food Assistance Act. Yes. Passed 358–41. (10–0).

To forbid assistance to countries which engage in gross violations of human rights. Yes. Passed 238–164. (8–3).

To authorize $1.35 billion in FY 1976 for foreign aid. No. Passed 244–155. (1–10).

To establish select committee to investigate problem pertaining to servicemen missing in action. Yes. Passed 394–3. (11–0).

To abolish Office of Drug Abuse Policy. No. Failed 167–235. (6–5).

To transfer functions of Drug Abuse Office to the National Institute of Drug Abuse in HEW. Yes. Passed 383–11. (11–0).

Oil policy: To delete oil price control provisions of Energy Conservation and Oil Policy Act. No. Failed 151–242. (2–7).

Oil policy: To delete mandatory gasoline allocation saving program and other controls from Energy Act. No. Failed 150–239. (1–8).

Oil policy: To delete requirement that industrial energy consumers comply with energy saving guidelines. Yes. Passed 220–187. (11–0).

Oil policy: To delete provision authorizing the president to be the exclusive purchasing agent for petroleum from foreign countries. No. Failed 146–254. (7–4).

Oil policy: To eliminate 1985 auto efficiency standards. No. Failed 117–284. (2–9).

Oil policy: To require use of alternative fuel in federally owned or leased autos. No. Failed 118–262. (2–9).

To adopt conference report on School Lunch Act. Yes. Passed 380–7. (10–0).

Oil policy: To designate Federal Trade Commission to administer energy efficiency standards for appliances. Yes. Passed 214–165. (5–5).

Oil policy: To delete mandatory standards for appliance efficiency. No. Failed 146–243. (4–6).

Oil policy: To delete FEA authority to prohibit power plants from burning natural gas. No. Failed 93–300. (0–10).

Oil policy: To provide $750 million each year for private industry to start liquefaction and gasification of coal. No. Failed 154–211. (3–7).

To adopt rule on H.R. 6227, "Representation During Questioning." Yes. Passed 321–26. (7–1).

To adopt rule on authorizing voluntary retirement of federal employes after 30 years of service. Yes. Passed 269–72. (5–2).

To authorize new $60 million mint building in Denver, Colo. No. Passed 236–111. (2–7).

Oil policy: To provide strict GAO audits of energy information reported by petroleum companies to federal agencies. Yes. Passed 233–162. (2–8).

Oil policy: To prohibit school buses using gasoline or diesel fuel from transporting students to a school farther than the closest public school. Yes. Passed 204–202. (10–0).

Oil policy: Motion to recommit bill. No. Failed. 171–232. (5–5).

Oil policy: Final passage, H.R. 7014, Energy Conservation and Oil Policy Act. Yes. Passed 255–148. (8–2).

To recommit and instruct conferees to insist on House language in Panama Canal bill. Yes. Failed 193–200. (10–0).

To retreat from disagreement with Senate on Panama Canal bill language. No. Failed 197–203. (1–9).

To prohibit Consumer Product Safety Commission to impose safety standard requiring sampling plan. No. Passed 200–193. (0–10).

To extend requiring certificates of origin for foreign steel products to include those containing chrome. No. Failed 160–237. (3–7).

To permit president to embargo importation of Rhodesian chrome. No. Failed 187–209. (0–10).

To suspend consideration of Consumer Product Safety bill. Yes. Passed 240–133. (7–2).

To adopt rule on Insecticide, Fungicide, and Rodenticide Act. Yes. Passed 369–0. (9–0).

Oil policy: Final passage, to extend until Nov. 15, 1975, the Emergency Petroleum Allocation Act of 1973. Yes. Passed 342–16. (9–0).

To consider Insecticide, etc., Act. Yes. Passed 325–2. (9–0).

To rise from consideration of Insecticide (etc.) Act because of large number of absences. Yes. (Passed 239–66. (5–2).

Motion to adjourn. No. Passed 209–83. (4–2).

To adopt rule on postal authorization bill. Yes. Passed 344–19. (9–0).

To require Postal Service to come before Congress each year for authorization and appropriation of its budget requests. Yes. Passed 267–123. (9–1).

To adopt rule on Defense Appropriations. Yes. Passed 370–11. (10–0).

To add $2 million for military counseling. No. Failed 112–296. (2–9).

To add $12.2 million for military recruitment. No. Failed 177–228. (9–2).

Motion to make federal employee pay raise 5% instead of 8.66%. Yes. Passed 278–123. (9–1).

Amendment to Defense Appropriations prohibiting use of any of the funds for CIA. No. Failed 147–267. (3–8).

To limit to 30 minutes all debate on F–18 amendment to Defense Appropriations bill. Yes. Failed 187–223. (9–2).

Amendment to cut $58.2 million from $122.4 million request for F–18 production. No. Failed 173–243. (3–8).

To prohibit use of Defense bill's funds to move National Oceanographic Office from Maryland to Mississippi. Yes. Passed 219–193. (3–8).

To prohibit use of bill's funds for closing defense installations in Philadelphia and elsewhere, as specified. No. Failed 130–274. (0–10).

Amendment to prohibit use of funds to transfer National Oceanographic Office. Yes. Failed 190–220. (1–9).

Final passage, $112 billion defense appropriations for 15 months ($8.97 billion less than DOD requests). Yes. Passed 353–61. (10–0).

To authorize establishment of self-financing Beef Board to investigate price spread between producer and retail prices of beef, promote consumption of beef, conduct research, and provide consumer information. Yes. Passed 229–189. (9–2).

To limit arms shipments to Turkey to the $184.9 million contracted for by Turkey prior to February, 1975, and to require president to certify easing of plight of Cyprus refugees before shipments could begin. Yes, Failed 187–229. (6–5).

To permit Congress to veto arms shipments to Turkey within 60 days after president submitted report on progress toward Cyprus settlement. Yes. Failed 190–223. (2–9).

To authorize partial lifting of embargo on arms shipments to Turkey. No. Passed 237–176. (6–5).

To adopt conference report on $49.3 billion in FY 1976 to Department of Housing and Urban Development. No. Passed 334–41. (9–2).

To concur in Senate amendment to add $50 million for public housing in HUD appropriations. No. Passed 202–174. (2–9).

To prohibit EPA from promulgating any program to tax, limit or regulate parking not required under subsequent legislation. Yes. Passed 302–77. (11–0).

To regulate USDA concurrence in any EPA action with respect to Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). Yes. Failed 167–175. (10–0).

To extend for one year the existing FIFRA. Yes. Failed 66–272. (10–0).

To end GI Bill for persons entering services after Jan. 1, 1976, and abolish program by Dec. 31, 1987. Yes. Passed 298–106. (11–0).

To provide tax exempt status for American Falls Reservoir District bonds. Yes. Passed 286–111. (10–0).

Veto override: National School Lunch Act and Child Nutrition Act Amendments. Yes. Passed 397–18. (9–0).

To accept Senate language which would reduce U.S. sovereignty over the Panama Canal. No. Passed 212–101. (2–7).

To consider extending U.S. fishing zone from 12 to 200 miles. Yes. Passed 360–47. (11–0).

Construction Industry Collective Bargaining Act (companion to Common Situs Picketing bill). No. Passed 302–95. (1–10).

To adopt rule on Military Construction Appropriations for FY 1976 and transitional quarter. Yes. Passed 399–6. (10–0).

To adjourn from Oct. 9 to Oct. 20. No. Passed 263–136. (3–8).

To add to military construction appropriations $64.9 million for Uniformed Services University of the Health Sciences. No. Failed 161–255. (4–6).

Final passage, $3.88 billion for 15 months, military construction appropriations. Yes. Passed 353–51. (10–0).

To limit to two years the authority to commit technicians to the Sinai early-warning stations. No. Failed 122–287. (4–6).

To authorize stationing of up to 200 U.S. volunteer civilian technicians to man electronic early-warning stations in the Sinai. Yes. Passed 341–69. (9–1).

Conference report suspending the duty on graphite until June 30, 1978. Yes. Passed 383–10. (7–0).

To require USDA concurrence for any action proposed by EPA with respect to Federal Insecticide, etc., Act. Yes. Failed 164–233. (8–1).

To permit EPA to require private applicators (of insecticides, etc.) to complete nonexamination training before certification. Yes. Passed 250–155. (7–2).

To amend and extend Federal Insecticide, Pesticide, Rodenticide Act for one year. Yes. Passed 329–80. (8–1).

To permit President to suspend enforcement of 200–mile fishing limit when deemed in national interest. DNV. Failed 128–196. (2–5).

To extend exclusive fishery zone from 12 to 200 miles. DNV. Passed 208–101. (6–1).

To authorize $10 million for National Women's Conference. (⅔ required). No. Failed 233–157. (2–8).

To reverse an FEC ruling to require filing campaign reports with Federal Elections Commission instead of Clerk of the House. (⅔ required). Yes. Failed 220–169. (7–3).

To authorize $1.2 billion for heart, lung and blood research. Yes. Passed 375–5. (10–0).

To recommit bill liberalizing retirement credit for National Guard technician service. No. Failed 117–261. (2–8).

To permit federal employes to seek election and campaign for candidates for part-time state and local offices. No. Failed 147–260. (4–7).

To limit scope of Hatch Act as it relates to Postal Service employes. No. Failed 81–327. (0–10).

To permit voluntary political activity by federal employes, but prohibit coercion or intimidation of federal employes for political purposes. Yes. Passed 288–119. (7–4).

To increase government share of cost of federal employe life insurance. No. Failed 172–225. (2–8).

To adopt rule on resolution disapproving a ruling by Federal Election Commission. Yes. Passed 390–8. (9–1).

To disapprove rule requiring candidates to file campaign documents in original form with FEC, rather than Clerk of the House or Secretary of the Senate. Yes. Passed 257–148. (8–3).

To strike from Consumer Product Safety bill provisions for flexibility in use of product safety laws. Yes. Failed 204–205. (11–0).

To provide congressional veto power on each rule and regulation of Consumer Product Safety Commission. Yes. Passed 224–180. (10–1).

To permit private suits against Consumer Product Safety Commission. No. Failed 166–230. (4–7).

On agreeing to a quorum call. Yes. Passed 241–149. (8–3).

To strike from Consumer Product Safety bill authority for commission to conduct its own civil litigation. Yes. Passed 209–195. (10–1).

To strike from Consumer Product Safety bill flexibility in use of consumer product safety laws. Yes. Passed 204–198. (11–0).

Consumer Product Safety Commission Improvements Act, final passage. Yes. Passed 313–86. (9–2).

To consider emergency rail jobs bill. Yes. Passed 369–23. (10–1).

To authorize $240 million for wages for repair and rehabilitation of railroad roadbeds and facilities. Yes. Passed 261–129. (3–8).

To permit federal employes under investigation to have lawyer present during questioning. Yes. Passed 217–163. (5–5).

To prohibit inadequate and misleading lease information in lending. Yes. Passed 339–41. (11–0).

To establish National Center for Productivity and Quality of Working Life. (A new agency) No. Passed 208–188. (2–9).

To consider increasing public debt ceiling to $597 billion. Yes. Passed 320–70. (10–0).

To increase public debt ceiling to $597 billion. No. Failed 178–217. (1–9).

To authorize $1.5 billion in addition to public service appropriations for Postal Service. No. Failed 196–207. (4–6).

To repeal statutes which permit only the Postal Service to deliver first class mail. No. Failed 68–319. (1–9).

Motion to recommit Postal Reorganization Act Amendments. Yes. Failed 129–250. (2–8).

Final passage, Postal Reorganization Act Amendments, which provide for including entire Postal Service budget in the federal budget. No. Passed 267–113. (8–2).

Depository Institutions Amendments: to strike permission for negotiable order withdrawal accounts (checking accounts on which interest is paid). Yes. Passed 218–134. (10–0).

Depository Amendments: to strike requirement of disclosure by census tract or zip code the number and total dollar amounts of mortgage loans. No. Failed 152–191. (9–1).

Depository Institutions: To apply mortgage disclosure requirements to just 20 standard metropolitan areas. No. Failed 165–167 (9–1).

Depository Institutions: Final passage, to extend interest rate regulatory authority and require disclosure of mortgage information. Yes. Passed 177–147. (2–7).

To make minor technical revisions in federal rules of evidence. Yes. Passed 360–0. (8–0).

To implement provisions of Patent Cooperation Treaty. Yes. Passed 349–5. (8–0).

To authorize voluntary withholding of state income taxes for Members and congressional employees. Yes. Passed 394–7. (11–0).

To authorize $1.5 million to coordinate and encourage direct marketing of agricultural products. Yes. Passed 299–95. (9–2).

To adjust veterans death and disability pensions and dependency and indemnity compensation. Yes. Passed 400–0. (11–0).

Consumer Agency: To exempt small businesses from the interrogatory powers of Agency for Consumer Protection. Yes. Passed 401–6. (11–0).

Consumer Agency: To abolish all duplicative executive branch functions and transfer them to ACP. Yes. Passed 379–27. (11–0).

Consumer Agency: To strike exemption from ACP purview labor injunction suits and others. Yes. Failed 175–233. (8–3).

Consumer Agency: Final passage, to create an Agency for Consumer Protection to represent the interests of consumers before federal agencies and the courts. Yes. Passed 208–199. (2–9).

To establish Office of Science and Technology to advise president. (A new agency). No. Passed 362–28. (9–2).

To adopt rule on extending Title V of Rural Development Act. Yes. Passed 372–1. (10–0).

To consider Health Maintenance Organizations. Yes. Passed 347–0. (10–0).

To extend Health Maintenance Organizations programs through 1980. Yes. Passed 309–45. (10–1).

To permit Secretary of Commerce to accept state population data. Yes. Passed 356–2. (11–0).

To extend through Sept. 30, 1977, Title V rural development and small farm research and extension programs. Yes. Passed 323–11. (10–0).

To call annual judicial conference to improve operation of courts in District of Columbia. Yes. Passed 337–0. (8–0).

To authorize an additional law clerk for nine judges in District of Columbia Court of Appeals. Yes. Passed 310–21. (10–0).

To authorize transfer of certain land from U.S. to D.C. Redevelopment Land Agency. Yes. Passed 341–0. (10–0).

To retain federal enclave within National Capitol Service Area. Yes. Passed 201–150. (10–0).

To authorize and appropriate funds for operation of Corporation for Public Broadcasting. Yes. Passed 336–26. ((10–0).

Motion to recommit conference report on Transportation Appropriations. Yes. Failed 158–231. (7–3).

To limit total obligation of highway funds to $9 billion for 15 months. Yes. Passed 297–95. (7–3).

To condemn resolution adopted by United Nations which equated Zionism with racism. Yes. Passed 384–0. (10–0).

Budget: To reduce FY 1976 outlays $71.9 billion. No. Failed 127–283. (8–3).

Budget: To set spending levels to accommodate public service jobs and education programs and for administration-requested foreign military and economic aid to meet terms of Sinai agreement. Yes. Passed 213–203. (3–8).

Budget: To lower spending levels, and the projected deficit level to $467 billion. No. Failed 159–257. (7–4).

Budget: Final passage, Second Budget Resolution, setting ceilings on spending and floor on revenues. Yes. Passed 225–191. (3–8).

To bar amendments to Temporary Increase in Public Debt Ceiling. Yes. Passed 221–185. (4–6).

To consider debt ceiling bill. Yes. Passed 257–149. (8–2).

To increase public debt ceiling to $595 billion. No. Passed 213–198. (2–9).

To prohibit food stamps to any family with above-poverty income. No. Failed 159–230. (10–1).

Supplemental appropriations: $7.93 billion for 15 months to various departments and agencies. Yes. Passed 334–47. (10–1).

To designate U.S. Fish and Wildlife Service sole agency for administering National Wildlife Refuge System. Yes. Passed 341–10. (9–0).

To extend for two years programs aimed at maintaining the national defense production base. DNV. Passed 318–1. (8–0).

To amend Real Estate Settlement Procedures Act (RESPA), repealing most of its provisions. Yes. Passed 379–21. (11–0).

Fair Credit: To prohibit sellers from imposing surcharge on credit card purchases. Yes. Passed 398–3. (11–0).

To require approval of Asst. Secretary of Defense for tax-free disability retirement for medical officer. Yes. Passed 398–4. (11–0).

To authorize bonus pay to nuclear-qualified and medical officers. Yes. Passed 372–34. (11–0).

To increase per diem allowances for military personnel. Yes. Passed 351–55. (11–0).

To limit pay for unused leave to 60 days. Yes. Passed 399–3. (11–0).

To authorize $3.59 billion for military construction and family housing. Yes. Passed 349–59. (11–0).

To authorize $869.9 million for State Department, foreign building program, and Arms Control and Disarmament Agency. Yes. Passed 358–52. (10–2).

To adopt conference report on education of handicapped children. Yes. Passed 404–7. (10–1).

To permit farmers to self-certify competence to use certain pesticides if they have completed non-testing course. Yes. Passed 334–76. (11–0).

To create Hells Canyon Recreation Area in Idaho. Yes. Passed 342–53. (10–0).

To increase federal share of financial aid to community action agencies. No. Passed 244–172. (0–11).

To extend for three years various service programs for the elderly. Yes. Passed 404–6. (11–0).

To revise procedures for holding hearings on previously denied applications for social security benefits and to expedite appeals. DNV. Passed 370–0. (9–0).

To permit indemnity protection for foreign art exhibits in U.S. DNV. Passed 253–116. (5–4).

To designate 235,230 acres in Colorado as national forests. DNV. Passed 369–1. (9–0).

To continue nonrecognition of the annexation of Estonia, Latvia and Lithuania by Soviet Union. Yes. Passed 407–0. (11–0).

To adopt rule on New York City aid bill. Yes. Passed 297–118. (11–0).

To provide loans up to $2.3 billion a year for New York City. No. Passed 213–203. (0–10).

To adopt conference report extending Defense Production Act through FY1977. Yes. Passed 404–4. (11–0).

To bar additional amendments to Tax Reform Act. Yes. Passed 219–197. (3–8).

Tax Reform Act: To strike provision permitting capital loss carryback. (Perot amendment) Yes. Passed 379–27. (10–1).

Tax Reform Act; Motion to kill the bill. No. Failed 60–355. (0–11).

Tax Reform Act: To limit artificial loss real estate tax write-offs. Yes. Failed 192–226. (1–10).

Tax Reform Act: To increase number of tax preference income items subject to minimum tax. (Strengthen minimum tax) Yes. Passed 314–107. (10–1).

Tax Reform Act: To strike limitation on artificial losses, minimum tax on individuals, and substitute Minimum Taxable Income concept. (Weakening amendment) No. Failed 85–334. (1–10).

Tax Reform Act: To strike elimination of withholding tax on portfolio income. Yes. Passed 301–119. (11–0).

Tax Reform Act: To revise base period for calculating Domestic International Sales Corporations benefits. Yes. Failed 199–223. (5–6).

Tax Reform Act: To instruct Ways and Means to add $395 billion spending ceiling. Yes. Failed 202–220. (8–3).

Tax Reform Act: Passage of the bill to close some tax loopholes, revise taxation of some forms of income, simplify certain tax deductions and credits. No. Passed 257–168. (7–4).

Motion to recommit (kill) conference report on Health, Education, and Welfare appropriations. No. Failed 156–265. (3–8).

To adopt conference report on $45 billion (15 months) for Health, Education, and Welfare. Yes. Passed 321–91. (9–2).

To lessen anti-busing restrictions in HEW appropriations bill. No. Failed 133–259. (3–8).

To stop HEW from busing children outside neighborhood to achieve racial balance in schools. Yes. Passed 260–146. (11–0).

To remove $560 million limitation of liability for nuclear accident. Yes. Failed 176–217. (1–9).

To permit public to challenge constitutionality of nuclear liability limit. Yes. Failed 131–225. (2–7).

To assure funds for claims arising from nuclear accidents. Yes. Passed 329–61. (9–0).

To consider increased U.S. participation in Inter-American Development Bank. Yes. Passed 353–24. (9–0).

Motion to recommit above. Yes. Failed 140–276. (7–3).

To authorize $2.25 billion for Inter-American Development Bank Shares. No. Passed 249–166. (4–6).

To provide $3.07 billion Foreign Aid. No. Passed 265–150. (2–7).

To revise bankruptcy laws, making changes applicable only to cities of more than 1 million. No. Failed 145–264. (3–8).

To revise bankruptcy laws, directing Federal courts to supervise settlements between cities and creditors. Yes. Passed 373–29. (11–0).

To consider National Women's Conference bill. Yes. Passed 369–71. (11–0).

To consider Overseas Citizens Voting Rights Act. Yes. Passed 394–7. (11–0).

To authorize $5 million for National Women's Conference. No. Passed 252–162. (4–7).

To permit otherwise qualified citizens domiciled overseas to vote by absentee ballot in federal elections. Yes. Passed 374–43. (2–9).

To adopt conference report on common situs picketing bill. No. Passed 229–189. (0–10).

To adopt conference report on Interior Appropriations. Yes. Passed 407–5. (11–0).

To strike $6 billion in loan guarantees in Energy Research and Development conference report. Yes. Passed 263–140. (9–2).

To strike oil shale program from ERDA bill. Yes. Passed 283–117. (10–1).

To adopt conference report on Second Concurrent Budget Resolution. No. Passed 189–187. (2–9).

To adopt conference report on Public Works appropriations. Yes. Passed 339–31. (8–2).

To adopt conference report on Defense Appropriations. Yes. Passed 314–57. (11–0).

To extend Renegotiation Board through June, 1976. Yes. Passed 395–5. (10–0).

To require interest on U.S. deposits in commercial banks. Yes. Passed 391–0. (11–0).

To forbid TV blackout of sold-out sports events. Yes. Passed 363–40. (9–1).

To reduce from $2.3 billion to $1.3 billion funds for New York City. Yes. Failed 187–219. (10–0).

To adopt conference report on $10.43 billion supplemental appropriations. No. Passed 275–130. (2–8).

Oil Policy Act: To strike from conference report $130 million for advancing auto technology. Yes. Passed 300–103. (10–0).

Oil Policy Act: To end debate on Oil Policy Act. Yes. Passed 215–179. (7–3).

Oil Policy: To adopt conference report, thereby pass Energy Conservation and Oil Policy Act. Yes. Passed 236–160. (8–2).

To recommit Beef Research and Information Act to conference. Yes. Passed 263–112. (6–4).

To permit open production of rice at 60% of parity. No. Failed 87–310. (3–8).

To recommit Rice Production Act. Yes. Failed 102–311. (6–5).

To establish two-year rice production program without market quotas, loans at $6 per hundredweight. No. Passed 311–104. (2–9).

To adopt conference report extending 1975 tax cut for six months (⅔ required). Yes. Failed 256–160. (8–3) Later passed by voice vote).

To bar amendment to attach spending ceiling to tax cut extension. Yes. Passed 232–178. (6–5).

To strike office of public counsel from Railroad Revitalization and Reform Act. DNV. Failed 187–224. (6–4).

To disallow small freight forwarders to contract with railroads. Yes. Passed 222–196. (10–0).

To limit debate on Railroad Act. Yes. Passed 258–161. (11–0).

To reduce to 50% federal subsidies to communter rail service. Yes. Failed 181–231. (6–5).

To set dairy support price at 85% or parity. Yes. Passed 307–111. (9–2).

To authorize four-year funding of Corporation for Public Broadcasting. Yes. Passed 313–72. (9–2).

Veto: To override presidential veto of tax cut extension. (⅔ required). Yes. Failed 265–157. (9–2).

To eliminate discretionary highway funds for completing gaps in interstate system. No. Failed 103–309. (0–10).

To specify new cost estimating procedure for substitute highway projects. No. Failed 122–294. (2–9).

To reduce maximum truck weight limit on

highways to 73,280 pounds. No. Failed 139-275. (0-11).

To permit urban officials to submit state-rejected program plans directly to Dept. of Transportation. No. Failed 121-290. (0-11).

Final passage, Federal-Aid Highway Act. Yes. Passed 410-7. (11-0).

To permit use of trust fund money for airport terminal development. Yes. Passed 246-138. (10-1).

To prohibit Concorde SST from landing in U.S. No. Passed 199-188. (0-11).

Final passage, Airport and Airways Development Act. Yes. Passed 368-18. (11-0).

To ease PSRO requirements for review of Medicare hospital admissions. Yes. Passed 371-16. (11-0).

To revise procedures for holding Social Security hearings and appeals. Yes. Passed 380-0. (11-0).

To postpone attempt to override veto of Health, Education, and Welfare appropriations. Yes. Passed 319-71. (10-1).

To expedite consideration of reports. Yes. Passed 247-142. (9-2).

To meet Tuesdays and Fridays, Dec. 19 through Dec. 31. Subsequently, stalemate on tax cut extension was broken and House adjourned sine die. Yes. Passed 255-139. (9-2).

On agreeing to spending language to accompany tax cut extension. Yes. Passed 372-10. (11-0).

To adopt conference report on Railroad Revitalization and Regulatory Reform Act. No. Passed 205-150. (3-8).